



United States  
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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 111<sup>th</sup> CONGRESS, SECOND SESSION

## HOUSE OF REPRESENTATIVES—Thursday, May 6, 2010

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WILSON of Ohio).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
May 6, 2010.

I hereby appoint the Honorable CHARLES A. WILSON to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

### PRAYER

Pastor Tim Alexander, Smith Springs Church of Christ, Nashville, Tennessee, offered the following prayer:

O, God, hear the weary prayers of my beloved Nashville. The floods have moved houses off their foundations. O, God, be the foundation of our hope to rebuild; comfort and sustain us. As the waters recede, let our energies rise as we work together.

O, God, from this place, a young man, Bradley, 21 just yesterday, from our church, was sent to war. Today, in his country's service, Bradley moves in harm's way. Give him courage. Grant his leaders wisdom. Bring him home safe and whole. O, God, bless his parents, Angie and David. Bless his grandparents, Gerald and Lynne and Bettye. Grant them a measure of peace even as he is in danger.

As words have weight, even much more do the names of our sons and daughters have precious worth. Many sons and daughters who bear our names have been sent from this place. You know their names, O, God, and ours. Grant all who command them to be aware of them and of their families and of their names. Grant that leadership is ever tender to people with names.

This I pray in the name of Your Son, Jesus.  
Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from California (Mrs. CAPPs) come forward and lead the House in the Pledge of Allegiance.

Mrs. CAPPs led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 5148. An act to amend title 39, United States Code, to clarify the instances in which the term "census" may appear on mailable matter.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 3111. An act to establish the Commission on Freedom of Information Act Processing Delays.

### WELCOMING PASTOR TIM ALEXANDER

The SPEAKER pro tempore. Without objection, the gentleman from Tennessee (Mr. COOPER) is recognized for 1 minute.

There was no objection.

Mr. COOPER. Mr. Speaker, we are honored to have here today Minister Tim Alexander from Nashville, Tennessee, to offer a prayer for Nashville and for this House.

Minister Alexander is a remarkable man. He and his wife, Polly, have been

married for 26 years. They have two wonderful children: Abby and Ethan. Mr. Alexander has administered the flock at Smith Springs Church of Christ now since 1999 and has been a preacher of the gospel since 1984. He does much good work outside the church for victims of child sexual abuse and for victims of crime in general, so we are deeply honored to have Tim Alexander with us today.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. JACKSON LEE of Texas). The Chair will entertain up to five requests for 1-minute speeches on each side of the aisle.

### FINANCIAL REFORM

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute.)

Mr. GUTIERREZ. Madam Speaker, the old joke around Congress is that the Senate is Washington's legislative hospice: a place where good bills and ideas go to die a slow and quiet death.

I had really hoped that, given the necessity for financial reform today, this joke would have been proven wrong. Unfortunately, many of the reforms passed in the Wall Street Reform and Consumer Protection Act of 2009, including strong consumer protections and much-needed reforms to the industry, are being watered down.

The latest victim of this appeasement and the most egregious example of the Senate's appeasement strategy for Wall Street lobbyists is here, which is the removal this week of the dissolution fund. I made sure that this dissolution fund was included in the House bill. It was intended to act much like your car insurance by discouraging risky behavior.

Let's say that a bank like Goldman Sachs drove a new Ferrari down the road with little regard for traffic or public safety. It would then be assessed more in fees to the fund than a bank

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

that drives safely and observes all the posted signals.

Think again. Under the new plan in the Senate, Goldman can drive its Ferrari any way it wants, and when it crashes, the American public will have to pay.

#### 59TH CELEBRATION OF OUR NATIONAL DAY OF PRAYER

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Madam Speaker, today is the 59th celebration of the National Day of Prayer.

Like most Americans, I believe that the effective and fervent prayer of a righteous man availeth much, and what is true of individuals is also true of nations.

The truth is that America has always been a Nation of prayer. Pilgrims relied on prayer during their first and darkest winter. Our Founding Fathers prayed during the Continental Congress in 1776. President Lincoln offered his famous proclamation for humility, fasting, and prayer at the height of the Civil War, and President Truman named the National Day of Prayer in 1952.

Sadly, voluntary prayer has been under attack of late. It has been driven from our public schools and from our graduation ceremonies by activist courts. Just last month, a Federal court declared this National Day of Prayer to be unconstitutional. That ruling ignored our history, our traditions, and it should be overturned.

During these days of challenge for American families at home and abroad, on this National Day of Prayer, let it be said now more than ever: we are a Nation of prayer.

#### SUPPORTING OUR VETERANS AND THE ARC LEGISLATION

(Mr. WILSON of Ohio asked and was given permission to address the House for 1 minute.)

Mr. WILSON of Ohio. Madam Speaker, this week, I introduced the Appalachian Veterans Outreach Improvement Act to improve access to services and benefits for veterans in Appalachia. My legislation would authorize a cooperative agreement between the Secretary of the VA and the Appalachian Regional Commission, or ARC.

In rural districts like mine, veterans often lack the access and resources necessary to receive the benefits and services that they have earned. Veterans in Appalachia encounter difficult obstacles, like having to travel great distances to get service. This legislation would highlight ARC's unique understanding of the Appalachian region, and it would allow the VA to work with the ARC to provide technical assistance to our veterans.

I urge my colleagues to join me in standing up for this rural veterans act.

#### NICOLE—KIDNAPPED

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Madam Speaker, Brazil has become a haven for stolen children from the United States. There are over 50 kidnapped children in Brazil.

Fox News 26 in Houston, Texas, first brought attention to the story of one little girl who was stolen from her father—my friend and constituent, Marty Pate. Marty lives in Crosby, Texas, and he has not seen his daughter, Nicole, in 4 years. Her mother, Monica, is a native of Brazil. She took Nicole on a trip there in 2006, and she never came back.

Legal documents from Texas give Marty joint custody, and international law requires Brazil to return Nicole to America. Marty wants to see his daughter and have her visit her family in the United States, but officials in Brazil are still stonewalling and are ignoring their legal duty.

Our State Department must pressure Brazil to follow its international treaty obligations, and Brazil must stop sanctioning the kidnapping of American children.

Marty has the right to be reunited with his kidnapped daughter, Nicole.

And that's just the way it is.

#### GULF OF MEXICO OIL SPILL

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Madam Speaker, it is painfully clear that BP's gulf oil spill could dwarf any environmental disaster in our Nation's history.

This tragedy has claimed 11 lives. It has contaminated the water with millions of gallons of oil, and it is impacting the livelihoods of all who make their living from the gulf's resources. But this disaster will be all the more tragic if we fail to learn from it.

The first steps, of course, are to stop the leaks, to contain the spill, and to attend to the devastating consequences of the explosion and of its aftermath. The Obama administration swiftly responded to the BP disaster from day one. It mobilized the government's resources to minimize the harm on the health, economy, and the environment of the coast. Now it is time to ensure the complete scrutiny of this horrible environmental disaster.

Today, I am introducing legislation to establish an independent commission to examine the causes of the BP disaster and to make recommendations to prevent future tragedies. I urge my colleagues to join me in this effort to

make sure a disaster like this never happens again.

#### SUDAN

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Madam Speaker, Sudan—genocide—killing. Many of the household names once engaged on Sudan have moved on to the next cause while the refrain “never again” echoes faintly, but the desperation in Darfur's camps is still a reality.

The CPA which ended Khartoum's brutal 20-year civil war with the south where 2.1 million perished—and where mainly Christians died—hangs in the balance. Against this backdrop, the administration's policy is languishing.

There is an immediate need for renewed, principled leadership on Sudan at the highest levels—leadership which is clear-eyed about the history of the internationally indicted war criminal at the helm in Khartoum. These are the people who gave safe haven to Osama bin Laden from 1991 to 1996.

President Obama must empower Secretary Clinton and Ambassador Rice to take control of this faltering policy. Time is running out. Lives hang in the balance. A stalemate policy in Sudan is not an option. President Obama must act.

#### TAX EXTENDERS/RAIL

(Mr. ARCURI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARCURI. Madam Speaker, improving our rail infrastructure isn't just about getting people and goods from here to there faster and more efficiently. It is the heart of regional economic development, connecting communities, businesses, consumers, and producers to foster the kind of economic growth and job creation we as a Nation need.

Our short line railroads are at the center of this, but because the Tax Extenders Act of 2009 has not been enacted into law, they have been unable to plan vital maintenance work this construction season. The section 45G short line railroad tax credit included in this bill generates 6.9 million work hours of rail maintenance-of-way each year—the equivalent of more than 3,300 full-time jobs nationwide, not to mention the tens of thousands of jobs in America's steel and timber industries that make railroad ties and steel rail.

Our short line railroads are too important to our economic recovery to neglect them any longer. It is time for both the House and the Senate to come to an agreement so we can put Americans back to work and so we can keep our railroads operating smoothly.

□ 1015

AMERICANS SUPPORT  
IMMIGRATION LAWS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, after days of a national media pounding the new Arizona immigration law and highlighting demonstrations against it, guess what? The number of Americans who describe illegal immigration as a serious problem actually increased; and 78 percent feel that the Federal Government should do more to stop illegal immigration, according to a New York Times poll.

Another recent poll found that 84 percent of Americans are concerned that illegal immigrants burden schools, hospitals, and government services; 77 percent say that illegal immigration drives down wages; and 89 percent, 89 percent, feel it is important to halt the flow of illegal immigrants, a USA Today poll found just a couple of days ago.

So despite the media bias against immigration laws, the American people still overwhelmingly want to secure the border, save jobs for those in the country legally, and reduce the burden of illegal immigration.

## DON'T ASK, DON'T TELL

(Mr. QUIGLEY asked and was given permission to address the House for 1 minute.)

Mr. QUIGLEY. Madam Speaker, the Secretary of Defense has asked Congress not to repeal Don't Ask, Don't Tell until the Pentagon has another year to review the policy.

With all due respect, we've been reviewing the policy since its implementation in 1993. To paraphrase the words of Dr. Martin Luther King, here are some reasons why we can't wait:

Another year of dismissals will add to the 13,500 who have already been fired under the law since 1994. Another year will reduce the ranks of mission-critical troops and linguists, harming our national security. Another year will mean we will continue to allow young patriots to lose their lives for us but not allow them to live the lives they choose.

Our troops agree, our allies agree, and leaders of our Nation agree we must repeal this policy now. Dr. King wrote: "The time is always right to do what is right."

Madam Speaker, that is why we can't wait.

## THE COOKIE LADY

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, while they are courageously serving our great Nation overseas, America's brave men and women in uniform are receiving sweet treats from South Carolina's Ms. Janet Cram, the Cookie Lady.

Ms. Cram, a Hilton Head Island resident, has organized Treat the Troops, a baking program to send delicious cookies to troops in harm's way.

She doesn't act alone in this endeavor. Her friends, also known as Crumbs, help her prepare the packages and batter. Baking over 2 million cookies for our troops, Jeanette and her Crumbs started this process in 1990 during the gulf war.

America is in a new era in which our soldiers are working around the world protecting American families at home by preventing additional acts of terrorism. It is uplifting to know that individuals like Jeanette and her Crumbs are doing their part to help our troops and sweeten their days.

In conclusion, God bless our troops, and we will never forget September the 11th in the Global War on Terrorism.

Congratulations on the success of the National Day of Prayer. Welcome, Franklin Graham, to Capitol Hill.

PROVIDING FOR CONSIDERATION  
OF H.R. 5019, HOME STAR EN-  
ERGY RETROFIT ACT OF 2010

Ms. MATSUI. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1329 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

## H. RES. 1329

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5019) to provide for the establishment of the Home Star Retrofit Rebate Program, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on

Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Energy and Commerce or his designee. The Chair may not entertain a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII).

The SPEAKER pro tempore. The gentlewoman from California is recognized for 1 hour.

Ms. MATSUI. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. SESSIONS). All time yielded during consideration of the rule is for debate only.

## GENERAL LEAVE

Ms. MATSUI. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and to insert extraneous materials into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. MATSUI. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Resolution 1329 provides a structured rule for consideration of H.R. 5019, the Home Star Energy Retrofit Act. The rule waives all points of order against consideration of the bill, except those arising under clause 9 or 10 of rule XXI, and provides that the bill be considered as read.

The rule waives all points of order against the bill itself. The rule makes in order the eight amendments printed in the Rules Committee report and waives all points of order against those amendments except those arising under clause 9 or 10 of rule XXI. The rule provides one motion to recommit with or without instructions.

The rule provides that the Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Energy and Commerce or a designee. The Chair may not entertain a motion to strike out the enacting words of the bill.

Madam Speaker, I rise this morning in strong support of the rule for the

Home Energy Retrofit Act and the underlying bipartisan legislation.

I would like to applaud Chairman WAXMAN, Representative WELCH, Representative EHLERS, and my fellow colleagues on the Energy and Commerce Committee for their hard work on bringing this important bill to the floor today.

Madam Speaker, as our Nation moves toward a more energy-efficient economy, it is critical that we adopt policies that enable us to become the world leader in promoting smart energy use and manufacturing energy-efficient products.

As our Nation continues its economic recovery, we must continue to focus on job creation. By increasing energy efficiency, we will not only create jobs and incentivize the emerging clean technology industry but also reduce carbon pollution and cut costs for customers.

H.R. 5019 would increase residential efficiency and create almost 170,000 jobs nationwide, thereby reducing the current 25 percent unemployment rate in the construction sector. Specifically, it would authorize a Silver Star rebate program, which would allow homeowners to buy and install more affordable energy-efficient products. The bill would do this by providing rebates of up to \$1,500 for the installation of energy-efficient improvements, including upgraded installation, duct sealing replacements, and installation of storm windows and energy-saving doors.

This legislation would also authorize the Gold Star rebate program, which would provide rebates of up to \$3,000 to those who make their entire homes at least 20 percent more energy efficient. As a result, the bill will have a meaningful long-term impact on energy use in communities across our country.

Recent estimates indicate that more than 3 million families would participate in a program like this. Such a participation rate would save these families \$9.2 billion on their energy bills over the next 10 years, or the power equivalent of 6.8 million gallons of heating oil.

Madam Speaker, my hometown of Sacramento is poised to be a national leader in clean tech and energy efficiency. Sacramento has received over \$200 million in energy efficiency and clean technology grants through the Recovery Act.

H.R. 5019 would build on the roughly \$11.8 million in Recovery Act investments that have already been delivered to Sacramento to support energy audits and energy efficiency retrofits in residential and commercial buildings. These allocations include \$7.8 million in Weatherization Assistance Program funding, \$19.9 million for the Sacramento Municipal Utility District, \$16.6 million in municipal financing to Sacramento County.

Madam Speaker, it is clear that the Home Star bill is in keeping with our

Nation's commitment to improve the quality of our air, reduce our carbon footprint, lower families' energy bills, and create green jobs. These are all goals that my district has embraced.

Like many areas of the country, Sacramento has demonstrated great leadership on energy efficiency and clean technology. I have been organizing an effort in the Sacramento region to ensure coordination and to advance the energy efficiency and clean-tech industry.

It is imperative that we make energy-efficient products a brand that more and more Americans will purchase. We are lagging behind China and Germany in producing and exporting clean energy products, and that is simply unacceptable.

That is why I recently introduced H.R. 5616, legislation to boost clean-technology exports from the United States. The Home Star Energy Retrofit Act would further expand the market for energy-efficient products.

Madam Speaker, I again applaud Chairman WAXMAN's efforts to bring this bill before the full House today. As our economic recovery continues, it is important that we continue to support the Home Star program and other job creation proposals. H.R. 5019 does not represent the end of our work, but reflects another critical step forward for the American people and for our environment.

I thereby urge my colleagues to support the rule and the underlying legislation.

Madam Speaker, I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, I yield myself such time as I may consume.

I thank the gentlewoman from California for the extension of the time, my friend from the Rules Committee, whom I enjoy working with very much.

Madam Speaker, I rise in opposition to this rule and the underlying bill.

Yesterday in the Rules Committee, the Democrat majority once again shut out good Republican ideas while rolling 15 Democratic amendments into the manager's amendment. These were 15 Democrat requests to add into the bill, and the Rules Committee saw fit to get that done for those Members of the Democratic Party. This is not the way to have an open, honest Congress, as our Speaker, Nancy PELOSI, promised in 2007.

Madam Speaker, what Republicans are going to talk about today is a number of issues, but perhaps key among them is the priority items that are on this floor today that is about more spending, more deficit spending, and against the ideas that this Speaker and the Democratic majority have talked about, about paying for bills.

□ 1030

I think what we are going to learn today, and as we move forward, is the

Democratic Party is having problems making a decision about how they will pay for these bills because we have had so much massive spending, so many new programs, that this majority is incapable of setting any priorities. In other words, if you want something else, the public was sold, that the Democrats would be open to taking it from somewhere else and constantly making prioritization. In fact, that's not true. What it's all about is just adding in more spending and more debt without regard for making tough decisions.

I disagree with that. I think it's a bad policy. I think if you say you are going to require bills to be paid for under PAYGO, you should do that. Once again today we see where that is not true with another bill on the floor that is about spending more money. One hundred percent deficit spending in this bill.

Today I am also going to discuss other issues. And it's really about the bill. This bill is too costly. It raises serious questions about the Department of Energy's ability to effectively implement this program. And it will allow the Federal Government to pick winners and losers in the private sector while all of these companies are trying to take care of making us more efficient, but then picking the winners and losers.

H.R. 5019 would authorize \$6.6 billion for what I am going to call a cash for caulkers program, \$6.6 billion of new deficit spending. This bill would provide tax rebates to participating contractors and vendors who would perform qualifying energy-saving measures that meet efficiency and insulation targets in Federal standards. That's a whole lot of words for a program that in essence is too expensive, unnecessary, and I believe a waste of taxpayer dollars, especially at a time when growing deficits are causing this country to have failing markets and confidence in this government.

Republicans strongly support legislation that promotes effective energy efficiency. But 150,000 jobs, as are being talked about, for \$6.6 billion on the back of the American taxpayer is not a good deal. It's not a fair trade. And to that point, the Democrats on the Rules Committee all voted against allowing my colleague Mr. LATTI, the gentleman from Ohio, from even offering his amendment on the House floor today, which would have suspended the provisions of this bill if it added to the Federal deficit. This majority doesn't even want to have a conversation about controlling spending. And that's why they will continue to shut out Republican Members as they come to the Rules Committee with wise, prudent, and conservative ideas.

This 2-year program will be administered through the Department of Energy, which has already proven to be a



terrible manager of the \$4.7 billion from the economic stimulus weatherization program in which only 30,297 homes have been weatherized, about 5 percent of the stated overall goal of more than 600,000. These are all, I am sure, great ideas and lofty goals, but it's taxpayer spending, taxpayer money, and more deficit spending.

The Home Star Energy Retrofit Program will undoubtedly experience the same administrative problems, implementation problems, and oversight problem for the Department of Energy. What a shame we just didn't give it directly to consumers rather than creating a program that then must be administered following Federal standards, Federal rules, and more and more participation from Washington, D.C. Allowing the Federal Government to get bigger and bloated and to control this process is not an efficient way to run this government or spend the American people's tax dollars.

Additionally, this legislation is not technology-neutral. It is not the role, I believe, of the Federal Government to pick winners and losers in the private sector, yet that's exactly what this bill does. This legislation lists 13 energy-saving measures that qualify for rebates of varying dollar amounts. That's right, we are going to tell people exactly how to do this and what qualifies.

There are many energy products that were left off the list or that will not qualify because of what are considered technical requirements. These are so numerous that we simply cannot effectively have a good program. It should be about effectiveness, saving energy, and allowing a consumer to be engaged in making these decisions so that we assure that the real cost and the delivery of that product was known and understood by the consumer, not just ordering something that came from the Federal Government, having somebody show up at your door, and then being reimbursed by the Federal Government, with the consumer being left out in the cold rather than a demand about what they were after and knowing what their needs are.

Over a year ago, Speaker PELOSI and the President promised that unemployment would not reach 8 percent or above. Since that time, 4 million Americans have lost their job. And that was a promise. We have now reached a 10.2 percent record unemployment rate, and continue to hover well over that promised 8 percent figure.

Madam Speaker, I believe the American people understand what this change has meant. It has meant a bigger Federal Government, record spending, and incredibly high deficits for as far as the eye can see and over the horizon. This is another example of the kind of political agenda that adds to that of the Speaker and the President

that will, if all implemented, net lose over 10 million American jobs. Losing 10 million American jobs from a political agenda is a problem to the Republican Party.

We believe that the ability to make progress and work here in Congress for the best effort of the American people in the creation of jobs, not net loss of 10 million jobs, should be what this Congress should be focused on. You see, Madam Speaker, we think that America should be the employer nation. We believe that America has always led the way, the leader in the world to making sure we are competitive, and to make sure that we have a smaller, more efficient Federal Government, with unlimited opportunity for freedom for citizens back home. This bill effectively takes the citizenry, the consumer, out of the equation and puts the Federal Government central not only in people's lives, but central in paying the bill.

We should work with the investor and the free enterprise system. That is what has made us the global leader for our grandparents, our parents, and this current generation. We only have unemployment and this horrible high debt because of the political considerations of the Democratic Party and their agenda. And the Republican Party is on record again today as saying enough is enough.

The national debt continues to grow rapidly towards \$13 trillion, yet our Democrat majority friends are spending billions of more dollars again today on an excessive program that sets burdensome technical requirements, picks private sector winners and losers, and hands the reins over to the Department of Energy to dole out the funds as it sees fit. Shutting our responsibility, not allowing the amendments in the Rules Committee for commonsense legislation, rolling 15 Democrat amendments into the manager's amendment, and a \$6.6 billion cost that will come directly from deficit spending, which means we have to go borrow and once again go to the world or the Chinese or others to say "please help us" is a bad way to run this business.

Madam Speaker, it is obvious to me that the political agenda is more than the Democrats want than the commonsense attributes of saying, enough is enough, let's know what we're doing.

So I am going to urge a "no" vote. I am going to urge a "no" vote on the rule and a "no" vote on the underlying legislation.

I reserve the balance of my time.

Ms. MATSUI. Madam Speaker, before I yield to my next speaker I just want to say the bill before us today is a strict authorization bill. There is no direct spending contained in it. CBO has said it will not add to the deficit because any money which is spent under the Home Star Program will have to be appropriated through separate legisla-

tion. This is regular order in the purest sense of the term: authorize first, appropriate later.

Madam Speaker, I yield 3 minutes to the gentlewoman from Ohio (Ms. SUTTON), a member of the Energy and Commerce Committee.

Ms. SUTTON. Madam Speaker, I thank Representative MATSUI for yielding the time and for her leadership.

I rise today in strong support of the underlying bill, H.R. 5019, the Home Star Energy Retrofit Act, and I want to congratulate and thank Representative PETER WELCH for his leadership in bringing us to this place.

This is a timely, smart, commonsense bill that will achieve multiple goals. Home Star will help our workers, help our economy, and our environment. Make no mistake, Madam Speaker, this is a jobs bill. And jobs are the highest of high priorities. It's estimated that the Home Star Program will create 168,000 good-paying construction, manufacturing, and retail jobs. And these are jobs that cannot be shipped overseas.

Home Star will help kick-start the construction industry, which has been one of the hardest hit industries during this economic recession. Today more than one in four construction workers remain unemployed. And today those in this Chamber have the chance to vote to change that. Home Star will also stimulate domestic manufacturing and grow jobs, which will strengthen our economy and strengthen our Nation.

There are sustainable building solution companies in my district and across this country that are ready and waiting for the Home Star initiative, employers who are ready to ramp up production, ready to put people back to work. And the positive ripple effects will be felt throughout the retail and distribution sectors.

Home Star will also help millions of families lower energy bills. Improving energy efficiency is one of the easiest, most cost-effective ways for homeowners to reduce energy waste. And Home Star will improve our environment, reduce our dependence on foreign oil, and enhance our national security. Energy efficiency improvements will create jobs and reduce greenhouse gas emissions.

Household energy accounts for more than one-fifth of U.S. carbon emissions. And as we proved with the bipartisan, let me stress bipartisan and successful Cash for Clunkers program, it doesn't have to be jobs or the environment. It can be jobs and the environment. Home Star enjoys broad national support from business leaders, environmental and energy efficiency groups, labor unions, manufacturers, retailers, and construction contractors.

For these reasons I urge a "yes" vote on the rule and the underlying bill because this is a jobs bill, and we need to make jobs the highest priority.

Mr. SESSIONS. Madam Speaker, jobs are the issue, and so is debt. And taking debt of \$6.5 billion to add to this deficit that we have got to pay for should be a priority. Spending five or six generations' worth of money in a year-and-a-half is not a good way to pass on a better America.

Madam Speaker, at this time I would like to yield 3 minutes to the gentleman from Bowling Green, Ohio (Mr. LATTA).

□ 1045

Mr. LATTA. I thank the gentleman for yielding.

Madam Speaker, I rise today to speak against the rule for H.R. 5019. I offered an amendment in full committee markup which would have prevented enactment of H.R. 5019 if there was an impact on deficit neutrality. I withdrew that amendment in committee due to an exchange I had with the chairman, Mr. WAXMAN, where he told me we would continue to work on this amendment so we could pay for this bill before we brought it to the House floor. I do thank the chairman for meeting with me.

There has been no pay-for secured, unfortunately, and therefore I offered a similar amendment in the Rules Committee. The amendment was not accepted in the Rules Committee, and therefore we are not able to have open debate on the issue today on the House floor. It is frustrating that the majority has shut down the opportunity to have a debate on the cost of the legislation and the addition it would be to the Federal deficit.

Very simply, my amendment stated that the provision of this act, including the amendments made by the act, shall be suspended and shall not apply if there is a negative net effect on the national budget deficit of the United States. While this is an authorizing bill, I am concerned that the majority could not give any assurance that this bill will indeed be paid for. I'm very concerned about the \$6.6 billion price tag of this legislation. At a time when there is a national deficit crisis, it is not appropriate to add \$6.6 billion in spending to the deficit. As a Congress, we absolutely must stop this excessive spending.

President Obama submitted his administration's fiscal year 2010 budget proposal with a record-breaking cost of \$3.8 trillion. This budget proposal includes a \$2 trillion tax increase over the next 10 years and projected record deficits. This proposal will double our Nation's debt in 5 years and triple it in 10 years from the levels from fiscal year 2008. CBO has stated that under current spending levels, by 2020, American taxpayers will be paying \$2 billion per day in interest on the national debt. It also estimates that the debt will be \$20 trillion by that year. Our Nation's economic future requires that

this Congress and the administration exercise serious fiscal restraint.

Also, we know there will be devastating effects on the economy due to the recently passed health care bill. The recent CMS analysis concluded that national health care expenditures will actually increase by \$311 billion. This analysis also shows the recently passed health care bill increased health care costs to 21 percent of GDP by 2019. Finally, CBO released figures showing that the "doc fix" will cost \$275.8 billion through 2020, and that is if rates are frozen at current levels. This is a 33 percent increase from the initial figure of \$207 billion.

I'm against this rule and disappointed my amendment was not approved by the Rules Committee for consideration today on the floor.

Mr. DREIER. Madam Speaker, would the gentleman yield?

Mr. LATTA. I yield.

Mr. DREIER. I thank my friend for yielding.

Madam Speaker, I'd like to congratulate my friend from Ohio for his very thoughtful remarks and pursuing as diligently as he did the effort to try and make in order his amendment which would have ensured that this \$6.6 billion, as Mr. SESSIONS has pointed out, is, in fact, paid for. Time and time again, we hear from our friends on the other side of the aisle that the sine qua non is to ensure that everything is paid for.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SESSIONS. Madam Speaker, I yield 3 additional minutes to the gentleman from Ohio.

Mr. DREIER. Will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. DREIER. Madam Speaker, I thank my friend for yielding.

Let me just say that we continually hear that the penultimate, the highest priority is to ensure that everything that we have before us is paid for. Now, to his credit, the chairman of the Energy and Commerce Committee, Mr. WAXMAN, proceeded to engage, as Mr. LATTA has just said, in the goal of trying to come to some kind of agreement.

Now, the thing that I found very troubling—and, again, the American people, for the first time in a long period of time, are focusing on process. And what took place in the Rules Committee last night is, once again, an indication of the arrogance that we continue to see from the leadership of the Rules Committee and of the Democratic majority here in the House.

Let me say that Mr. WAXMAN, again, to his credit, came before the Rules Committee and said the following. Referring to Mr. LATTA, he said, He has submitted to you an amendment that he wishes to offer—these, again, are Mr. WAXMAN's words—and I would like

to express to the Rules Committee that I support his right to offer that amendment. I'm sorry we weren't able to work it out to put it into the manager's amendment, but I just wanted to express that opinion to you.

Mr. WAXMAN was making a request of the Rules Committee. Now, I understand that a committee chairman does not in any way dictate the action of the Rules Committee, but clearly, since the chairman of the authorizing committee indicated that he wanted to have Mr. LATTA's amendment made in order, I found it very troubling when I asked the distinguished chairwoman of the Rules Committee whether or not we would see the Latta amendment, they chose not to make it in order, and I asked why not. I brought up Mr. WAXMAN's words about his interest, his desire to see us consider the Latta amendment here on the House floor, and she responded to me by simply saying that Mr. WAXMAN simply wanted Mr. LATTA to have the right to testify before the Rules Committee on behalf of this. Well, Madam Speaker, every Member of this House knows that every single Member who chooses to come before the Rules Committee to make their case on an amendment has the right to do that.

And so, again, the arrogance, the arrogance, to deny a Member who simply wants to take on the issue of fiscal responsibility and say, when we've got a \$6.6 billion package before us, after we've only expended \$368 million of the \$4.7 billion that was included in the stimulus bill for weatherization, we're going into this entire new program, and Mr. LATTA is saying, At least if we're going to do this, let's pay for it.

Very sadly, Madam Speaker, we have gotten to a point where the negotiations between Chairman WAXMAN and Mr. LATTA broke down and Mr. WAXMAN at least said, Let's have a vote on the House floor about this on this amendment. Again, the arrogance of the committee led the committee to conclude that, in fact, it could not be considered. And it's just plain wrong.

I thank my friend for yielding.

Ms. MATSUI. Madam Speaker, I just want to comment. It's not just the Democrats on the Rules Committee that said that the Latta amendment is unnecessary. The Congressional Budget Office has said so as well. Allow me to read directly from the CBO letter on the Home Star bill: Enacting the bill will not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply. Instead, any actual funding for programs in the bill would have to be appropriated separately by Congress. The amendment essentially is attempting to offset funds that are not spent.

With that, Madam Speaker, I would like to yield 3 minutes to the principal sponsor of the bill, a member of the Committee on Energy and Commerce,

the gentleman from Vermont (Mr. WELCH).

Mr. WELCH. I thank the gentlelady from California. I appreciate her leadership in the committee and also in the Rules Committee. I want to thank Chairman MARKEY and Chairman WAXMAN for their leadership.

Let me talk a little bit about why Home Star makes sense. This is a partnership. Government is putting up some money but homeowners are going to make decisions about refitting their homes and insulating them. Businesses are going to make decisions about taking on those jobs. Our local retail outlets are going to sell the product. Ninety percent of the product they sell is manufactured in America. So it's creating jobs here.

It does the three things that need to be done. It helps us with economic recovery, putting 170,000 folks to work; helps homeowners save money; and it helps us move towards energy independence. A confident nation doesn't shrink from the challenges it faces; it attacks them directly. Energy independence, job creation, cleaning our air, those are all very important.

This is bipartisan, too. I want to acknowledge the extraordinary work that was done by VERN EHLERS in cosponsoring this legislation. I want to thank former Governor of Michigan John Engler, who was an outstanding advocate for this program. I also want to thank Mr. BARTON and the members of the Energy and Commerce Committee, who made a good bill better by their contributions. Mr. BARTON insisted that we engage in this bill. He made positive suggestions that we included. Mr. SHADEGG suggested we add electric tankless hot water heaters. A good suggestion. We included it. Mr. SHIMKUS suggested geothermal heat pumps. We included it. Mr. BUYER included an important study to verify that this works. We did it. Mr. WHITFIELD and Mr. MURPHY both supported this in committee. And I want to say that I appreciate the constructive engagement by my colleagues on the other side of the aisle.

There's been a concern expressed—and a valid concern—about spending. There's wise spending and there's wasteful spending. If we have a family that's on a tight budget and they blow what money they have to go on a vacation they can't afford, that's wasteful. But if that family foregoes the vacation and puts that money into renovating and insulating their home so that they can save some cash, not just this year but next year and the year after, that's wise spending.

This bill will be paid for. This is authorization only. The next step will require that we have a pay-for. The pledge is and the requirement on us will be to make certain that happens. So this will be paid for, but this is in the category, very much, of wise investment and solid investment.

I urge support for Home Star because it is a concrete step that's simple partnership between the government, with a light hand providing an incentive, a point-of-sale rebate that is going to give the upfront money to our homeowners that aren't buying new homes but want to save money by refitting and insulating the homes they have. It puts the local contractors to work. It's our local hardware stores that will make the sales.

Mr. SESSIONS. Madam Speaker, I yield 2½ minutes to the ranking member on the Energy and Commerce Committee, the gentleman from Ennis, Texas (Mr. BARTON).

Mr. BARTON of Texas. I thank my friend from Dallas.

It embarrasses me when my colleague from Vermont says nice things about me, since I'm opposing this bill. I will say before I list some of my concerns that there was a lot of input asked for and received by Republicans both in the committee and outside of the committee.

This is not a terribly bad bill, but it has one fatal flaw: It is not paid for. It, in my opinion, authorizes and, if the authorization is actually appropriated, spends more money than we need to be spending in an era of \$1.5 trillion per year budget deficits.

Mr. LATTA of Ohio did offer a pay-for amendment at committee. It simply said that this bill must not increase the deficit. There was some discussion. Mr. LATTA was asked to withdraw. The chairman, Mr. WAXMAN, said he would work with Mr. LATTA. There were kind of desultory conversations at the staff level, until yesterday, after a markup of another bill, which at that time Chairman WAXMAN did sit down with Congressman LATTA and myself. There were fairly serious discussions yesterday afternoon. Those discussions were not satisfactory to either side.

The end result was that Mr. LATTA went to the Rules Committee and offered his original amendment that he had withdrawn in committee. In its infinite wisdom, the Rules Committee chose not to make the most important amendment requested, in my opinion, in order. They made an amendment in order by myself, which is an okay amendment. So I thank Congresswoman MATSUI and the other Democrats on the Rules Committee for accepting that amendment.

But the crux of it, in an era with \$1.5 trillion annual deficits, any new program, no matter how good, we should pay for it. If it's an authorization bill, we should put in the authorization bill that it should be paid for, that it will be paid for.

Now, the circuitous argument was: since this is an authorization bill, doesn't cost anything, you don't need a pay-for. Well, why not set the precedent? Let's make it a point as this Congress, if we really are concerned about

the deficit, let's say, if we start a new program, we'll pay for it, and tell the Appropriations Committee and the Budget Committee we want this paid for. Now, Republicans want to pay for it by reducing wasteful spending.

I ask for a "no" vote on the rule.

Ms. MATSUI. Madam Speaker, I yield 3 minutes to a member of the Rules Committee, the gentlewoman from Maine (Ms. PINGREE).

Ms. PINGREE of Maine. Thank you to my colleague, Representative MATSUI, for yielding the time, and to my colleague, PETER WELCH, for doing such a great job on this bill.

I want to talk a little bit about how this affects my home State of Maine.

Madam Speaker, with long, cold winters, some of the oldest housing stock in the country, and the highest reliance on oil heat in the country, paying heating bills can be a real struggle for many families in my State of Maine. Recently, I heard from a family with three kids who live in a 100-year-old home. From the street, their house looks like every other house in the neighborhood. In fact, it not only looks like every other house in the neighborhood, it pretty much is just like every other house in the neighborhood: old, leaky, and hard to heat.

□ 1100

By mid-December of last year, they had already gone through two tanks of oil to heat their 1,200-square-foot home, and they were wearing wool hats on the inside. Facing high heating costs and a new mortgage, they are forced to make tough decisions about improvements.

But energy-efficiency improvements can make a world of difference. Another Maine family told me that by removing inefficient fiberglass insulation and replacing it with cellulose insulation, they turned a drafty 200-year-old house into a snug and comfortable home.

Weatherizing homes isn't just good for the homeowners; it's good for the economy. For example, a company called WarmTECH in Yarmouth, Maine, is a strong supporter of this bill. According to the owners, with the creation of the Home Star program, they expect to increase their staff by at least 30 percent and purchase additional equipment.

Thankfully, my State is taking the lead on helping families save money by making their homes energy efficient. Maine has undertaken an aggressive campaign to weatherize every home in the State and half of all businesses by 2030. With the help of the Recovery Act funding, which I was proud to support, my State has created a program to provide rebates of up to \$3,000 for energy efficiency improvements, and it is in the process of setting up a revolving loan fund that will make it easier to finance those improvements and pay them off more quickly.

Improving our Nation's energy efficiency benefits our economy, our national security, and our environment; but much remains to be done, and this bill, the Home Star Energy Retrofit Act of 2010, is one more step in the right direction. By creating rebates and incentives that will make it more affordable to weatherize your home, this proposal will help families start saving money on their heating bills right away and at the same time will create good-paying jobs that can't be exported.

When people are able to invest in making their homes more energy efficient, that creates good business for contractors, energy auditors, and building supply stores. It stimulates the local economy, saves families money, and reduces our dependence on oil. This bill will allow 3 million families to save over \$9 billion on their energy bills over the next decade and create 168,000 of those good-paying jobs right here at home.

Madam Speaker, sometimes I think the word "investment" gets a little overused around here; but the Home Star program is, in the truest sense of the word, an investment, and it is an investment that will begin paying dividends immediately by creating jobs, saving working families money, and reducing our dependence on foreign oil.

I urge my colleagues to support the rule and the underlying bill.

Mr. SESSIONS. Madam Speaker, at this time, I would like to yield 2½ minutes to the gentleman from Auburn, Washington (Mr. REICHERT).

Mr. REICHERT. I thank the gentleman for yielding.

I'm glad there is some bipartisanship here. I think the American people really want us to work together. I mean, that's the bottom line here: we all want to create jobs, we all want to be more energy efficient, and especially in this economy, I think people want to lower their energy costs so they have more money in their pockets.

I think our focus, therefore, is in the right place, but I think there is a more effective way to achieve these goals rather than a rebate check that's before us today. That's why the House should instead take up a bipartisan package of tax incentives that I authored. Again, this is a bipartisan effort by RON KIND, GEOFF DAVIS, EARL BLUMENAUER, CHRIS LEE, and TOM PERRIELLO.

This bill, H.R. 2426, Expanding Building Efficiency Incentives Act, is a more effective approach for several reasons. It puts incentives directly in the hands of the consumers through the Tax Code. It gives the people more choices to meet their needs. It's easier to administer. Tax incentives avoid the expensive and complicated "middle man" structure used to give rebate checks.

When I was the sheriff, we applied for grants. And I know that some of the

grants were from the Federal Government; they passed through the State government. And as they passed through the State government, they cost an additional 20 percent in administrative fees, therefore reducing the amount of money that actually ended up in the hands of the sheriff's office or police chiefs across the country.

I think the administrative costs in this bill we're about to vote on today remove some of the incentives for homeowners. It includes commercial property and new construction as well as home retrofits. Forty percent of the energy used in our country is in buildings like office towers, warehouses, and shopping malls. If we were really committed to creating jobs and saving money through energy retrofits, let's tackle the problem head on, not just a piece of the problem.

Madam Speaker, I am a little disappointed—well, quite disappointed—that the Rules Committee didn't make in order our amendment to consider this bipartisan tax bill, and I ask my colleagues to provide the House with an opportunity to do so.

Ms. MATSUI. Madam Speaker, I just want to reiterate this again: what my colleagues on the other side of the aisle fail to recognize or refuse to admit is that the Home Star Energy Retrofit Act is an authorizing measure; it does not include any appropriated funds. Moreover, there are no earmarks included in this legislation. The Congressional Budget Office has said that enacting the bill would not affect direct spending or revenues, therefore, PAYGO procedures would not apply.

This process is not anything new, and the Republicans routinely approved proposals that authorized programs when they controlled this Chamber and the administration.

Madam Speaker, I yield 2 minutes to the gentlewoman from Illinois (Ms. BEAN).

Ms. BEAN. I thank the gentlewoman for yielding.

Madam Speaker, I rise in strong support of the manager's amendment and the Home Star Energy Retrofit Act of 2010. I want to commend Chairman WAXMAN and particularly Congressman PETER WELCH for their leadership, making energy efficiency more affordable for American families in my Eighth District in Illinois and across the Nation.

Welcome signs of economic recovery and competitiveness in the global economy are directly related to the opportunities emerging as businesses become cleaner and leaner. The same philosophy holds true for American households. Investments in better building materials and technologies can pay for themselves in the form of energy savings, and then some. At the same time, Home Star is a jobs measure. It will provide timely and targeted employment to the skilled trades industry

which is still reeling from the housing bust and economic recession.

Two amendments I authored, included in the manager's amendment, will enhance the job creation potential of Home Star. States will be directed to engage with community colleges to implement the retrofit program. These community colleges are excellent resources for worker education, training, and certification; and they collaborate with area employers to provide dynamic and affordable educational resources to meet workforce needs. The role of community colleges in our clean energy economy will only continue to grow in significance.

I also authored a provision with our colleague, Mr. DRIEHAUS, to expand rebate eligibility to replacement storm windows and doors, which will particularly help historic homes. To improve energy efficiency and maintain the historic integrity of a house, a homeowner may prefer to install storm windows and doors. This amendment will provide families more options to retrofit their homes in a manner that best fits their needs.

H.R. 5019 is a well-crafted measure that will create jobs and boost domestic manufacturing, while saving families money and reducing energy consumption.

I urge my colleagues to support the manager's amendment and this important underlying bill.

Mr. SESSIONS. Madam Speaker, at this time I yield 3 minutes to the gentleman from Clarence, New York, (Mr. LEE.)

Mr. LEE of New York. I appreciate the opportunity to speak out on the rule on the "Cash for Caulkers" legislation before us today because I believe this is the wrong approach. It's another government boondoggle costing taxpayers over \$6.5 billion. Even more frustrating is the fact that last year's so-called "stimulus," we haven't used up the billions of dollars that were allocated for the energy-efficiency programs. So, again, let's just keep spending money that we do not have in this country.

Americans can agree on one issue, that is, that we are facing an energy crisis that demands our attention, and that part of the solution means improving the efficiency of our energy intake. Today, we have an important choice on how we get this done.

Energy-efficiency improvements are best achieved through the use of voluntary, market-based programs through tax incentives which are provided directly to the consumer. I've had the pleasure to work with Representatives from both sides of the aisle on introducing H.R. 4226, a comprehensive, bipartisan package of energy efficiency incentives that will reduce energy costs, save energy, and create long-term energy jobs. For this reason, my colleagues and I offered an

amendment in the nature of a substitute to provide a choice in how we move forward.

While the underlying bill and the substitute amendment both seek to make it easier to retrofit an existing home to achieve energy savings, only one of these bills will allow families and businesses to plan for future retrofit expenses and to make more effective home improvements.

The alternative legislation my colleagues and I supported is more effective in creating jobs and saving energy costs. It includes a predefined 5-year extension of proven successful tax incentives, not another government handout. Our alternative will make it more affordable for homeowners to retrofit their existing homes.

Furthermore, H.R. 4226 includes commercial retrofits, something the underlying bill does not provide. Commercial buildings are in as much need, if not greater need, than many residential buildings. H.R. 4226 would allow small businesses to save more, which would allow them to invest in themselves and create jobs, something that cannot be said about the bill before us today.

H.R. 4226 is an important step towards energy conservation, and it does so in a responsible and meaningful way. Contrast that with the underlying bill before us today, which amounts to a rushed cash handout to the tune of \$6.6 billion that just forces burdensome mandates on taxpayers already struggling to make ends meet.

Unfortunately, today's rule does not allow my colleagues the opportunity to vote on this approach. I encourage all of you to reject this rule and the underlying bill and to support H.R. 4226, which will increase energy efficiency in both domestic and commercial structures in a much more effective, fiscally responsible, market-based approach.

Ms. MATSUI. Madam Speaker, I just want to say before I yield to my next speaker that this bill has been strongly endorsed by a broad range of business, labor, environmental and consumer groups. In fact, the U.S. Chamber of Commerce, the National Association of Manufacturers, and the National Association of Home Builders have formally endorsed this bill. The National Lumber and Building Material Dealers Association, on behalf of its 6,000-member companies nationwide, also recently endorsed this bill. This bill is a perfect example of industry, consumer, labor, and environmental groups all working together to move our Nation toward a more energy-efficient economy.

Madam Speaker, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE of California. I want to thank the gentlelady for yielding and for your leadership in making sure this very good bill moved to the floor. I support the rule, and I want to thank Chairman WAXMAN, Representative

WELCH, Representative MARKEY, and the committee staff for all of their very hard work in getting this bill to us today.

This bill is about more than home improvements. It's about reducing energy demand by expanding the use of cost-effective, energy-efficient technologies, for which my district and the State of California have long been a leader. This bill is about healthier homes and healthier communities, and it's critically important that we recognize that this bill is about the creation of good-paying, high-quality green jobs.

I am pleased that this legislation will incentivize targeted job training and financial assistance to low-income communities and the chronically unemployed, as well as the recruitment of small, women-owned and minority-owned businesses.

I commend my colleagues in the Congressional Black Caucus and our staff, especially Congressman RUSH, who helped to champion the cause for these vital provisions.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Ms. MATSUI. I yield the gentlewoman 1 additional minute.

Ms. LEE of California. Thank you very much.

Let me just acknowledge the role of the Congressional Black Caucus in this and thank our leadership for working with us to make sure that these provisions were included because these provisions will ensure that we serve and that we empower and include those hardest hit by the economic recession and that no one is left behind in this bill, and will really look at how to achieve and rectify historical, environmental injustices. With that in mind, I strongly urge my colleagues to support the rule and this legislation.

Mr. SESSIONS. Madam Speaker, I would like to inquire, if I can, upon the time remaining on both sides.

The SPEAKER pro tempore. The gentleman from Texas has 4¼ minutes remaining, and the gentlelady from California has 9½ minutes remaining.

Mr. SESSIONS. Madam Speaker, I reserve the balance of my time.

Ms. MATSUI. Madam Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MCCARTHY).

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Mrs. MCCARTHY of New York. Madam Speaker, I want to thank certainly my colleague from California for allowing me to go forward with this, and also say thank you to Chairman WAXMAN and Mr. WELCH for all of the work that they have done on the committee.

H.R. 5019 would make important advancements toward the twin goals of improving our country's energy efficiency and adding jobs to our economy. The energy efficiency measures that

are covered under this bill will help to bring down energy costs for our families, reduce overall energy consumption, and reduce our Nation's dependence on foreign energy sources.

Another important effect of this bill, however, that is not addressed as much is the impact of the bill on the quality of life for our constituents. One quality of life issue that this bill will address is the issue of noise reduction. The technology used to make our homes energy efficient can also be used to reduce noise levels.

The amendment I have submitted would require the Secretary of Energy to study what effects the energy efficiency measures installed under this bill have on noise reduction.

My district is located in Nassau County, Long Island, New York, a densely populated area adjacent to John F. Kennedy Airport and several train lines. Due to the close proximity to JFK, many communities in my district are severely affected by noise from airplanes landing and taking off at JFK. Airplane noise can be heard at all hours of the day and night. We have also a lot of noise coming from the trains that run through my district, also at all times.

In this densely populated area of the country, railroad tracks are often close to homes, schools and businesses. This issue affects thousands of my constituents on a daily basis. Noise significantly affects our quality of life. Airplane noise can also have dangerous effects on the health of otherwise healthy individuals. Extended exposure to loud noise levels not only affects the hearing of adults and children, but has also been linked to an increase in blood pressure. And the noise prevents individuals from getting restful nights of sleep.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Ms. MATSUI. I yield the gentlelady 1 additional minute.

Mrs. MCCARTHY of New York. Airplane noise has also been found to have an effect on children's education. Children who are exposed to prolonged periods of airplane noise learn to read at a slower pace than those not exposed to the noise. Noise significantly affects individuals with certain health conditions even more and we need to be very sensitive to the needs of them in future policies we pursue.

I am drafting legislation that would provide a tax credit to people who want to soundproof rooms in their homes or schools due to plane noise. Many of the items that individuals use to soundproof their homes—insulation and better doors and windows—are the same types of investments that this bill provides for. Therefore, the study I have included in this bill will help inform us about the best ways to move ahead with noise abatement activities and also see where we can double our value

by achieving energy efficiency and decreased energy costs for consumers.

By taking action on this bill and the legislation I am drafting, we will do a lot to improve the quality of life for all our constituents. Once again I thank the committee, and I encourage everyone to vote for the rule.

Mr. SESSIONS. Madam Speaker, I will continue to reserve my time.

Ms. MATSUI. Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Madam Speaker, 30 years ago President Carter declared the moral equivalent of war on foreign oil. We have done two things in those 30 years: we have slashed Federal investments in research and development for energy efficiency and renewables by 85 percent; and we have doubled our imports of oil.

In the past 2 years, we have corrected our top down investments. We are investing more in energy efficiency, but we have missed the most critical three words in the debate: return on investment. We need to find ways to make it easier for people to purchase energy efficient windows, to retrofit their homes, and that is exactly what this bill does. It gives consumers rebates of up to \$3,000, it lowers utility bills, and it creates jobs. It creates jobs by allowing people to go to their stores to buy their windows and equipment. That means somebody is going to need to manufacture that equipment and install that equipment. This is a way of creating jobs and enhancing our energy security. It is a way of reducing our dependence on foreign oil. This is a critically important bill from a national security perspective and an economic security perspective. I support it wholeheartedly.

Mr. SESSIONS. Madam Speaker, I yield myself the balance of my time.

The facts of the case are out on the table today. The Federal Government is going to run this program. It will determine the winners and losers. It will decide which of the technologies will be reimbursed. It will decide how this program is going to work. We in essence take the consumer out of the equation. The taxpayer of this country, as the bill is written, will have \$6.6 billion in new deficit and debt that will be on the future of this country, our children and our grandchildren. We will continue to have less ability to effectively have jobs in this country as a result of the continuing debt.

We have heard this story before. We heard about how great the stimulus was. Well, the stimulus, which was called a jobs bill, was about anything but jobs. It was about big government and diminishing the size of the free enterprise system.

The health care bill, oh, it's all about jobs. And we found out just days after that was passed, whoops, you better add another \$600 billion to what the

real cost will be because it was not included, despite the debate and all of the time on the floor. The health care bill was as much about health care as the stimulus was about jobs.

Here we are adding another promise from the Democrat majority: this is about jobs. But what this party fails to talk about is, okay, 150,000 jobs for \$6.5 billion worth of spending, new debt not paid for, not adequately enumerating the things that will really happen in the marketplace. We have already talked about the promises that were made during the stimulus, and of that only 5 percent has materialized out of the Department of Energy. The reason why is because people don't have money. People do not have money because they do not have jobs. We do not have jobs in this country because of the Democratic majority who has made a decision that their political agenda to diminish the size of the free enterprise system is just fine for them.

The three largest political agenda items of this Democratic Party, the Speaker and the President, net lose 10 million American jobs. That's why people do not end up having jobs and why people will not be able to buy into this plan either. Because people are unemployed. They are hurting. They are concerned about how they are going to take care of themselves. Quite honestly, Madam Speaker, this country is afraid. They are afraid of the massive debt, and we are going to pile on another \$6.5 billion today.

We talked about how and when the Democrats took control of this Congress, they promised little job loss, lower deficits, and we have only seen the opposite. Additionally, little to no progress has been made to providing real solutions to the high unemployment rate; 150,000 jobs won't cut it. We are getting ready to lose 300,000 more teachers' jobs because communities can't afford to have the teachers. They can't pay for them. And we are here today to vote on another \$6.6 billion, a spending spree for the Federal Government to manage and pick the winners and losers in the energy saving sector. It is bad policy.

Where are the jobs? Where is the ability of people to make decisions? Nope, we are going to let the Federal Government decide this.

Madam Speaker, Congress, the Democratic Party, believes we can just spend our way out of this economic crisis. We need reforms. We need to work together. We need America to be an employer nation again. Ah, the old days with Republicans, all that debt they caused, not a drop in the bucket compared to what this 4 years of Democrat control has done.

I once again stand up for my party and say no, we are not going to participate in this. We K-N-O-W exactly what this Democrat majority is all about. One-party rule is bad for this country.

Not accepting amendments from the other party is not good for the country.

I encourage a "no" vote on the rule and the underlying legislation.

Ms. MATSUI. Madam Speaker, it is important that we not rewrite history today. The previous administration had the worst fiscal record in American history. When President Bush was inaugurated in 2001, he inherited from President Clinton a budget surplus projected to be \$5.6 trillion over the next 10 years. But over his two terms, through fiscally reckless policies, President Bush squandered that surplus and gave the country 8 years of deficits instead.

We have had to take evasive action to stave off a long-term economic disaster, and no one on my side of the aisle will apologize for boldly confronting one of the worst fiscal and economic crises in our country's history.

Madam Speaker, creating jobs is our top priority, to put more Americans back to work and truly turn our economy around. There is no doubt that the Home Star program will boost our domestic energy efficiency industry and further move our country toward a clean energy economy. By increasing energy efficiency, we will not only incentivize the emerging clean technology industry, but also reduce carbon pollution and cut costs for consumers.

The legislation before us will create nearly 170,000 new green jobs in this country. This bill will create three separate energy efficiency rebate programs to encourage home energy efficiency, cut down on the use of fossil fuels, reduce greenhouse gas emissions, and increase energy security and independence.

As a result, the bill would have a meaningful, long-term impact on energy savings. Together with the ongoing investment by the Recovery Act, the Home Star program will substantially invest in our clean energy economy and spur job creation and economic growth in this country. This Congress must continue to invest wisely in proposals that will train our workers, create new good-paying jobs, grow our economy and rebuild the middle class. This legislation does just that.

This bill has been strongly endorsed by a broad range of business, labor, environmental and consumer groups. In fact, the U.S. Chamber of Commerce, the National Association of Manufacturers, and the National Association of Home Builders have formally endorsed this bill. It is a perfect example of industry, consumer, labor, and environmental groups all working together to move our Nation toward a more energy-efficient economy. Madam Speaker, this is an important bill that will create jobs and move our Nation towards a clean energy economy.

With that in mind, I urge a “yes” vote on the previous question and on the rule.

Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SESSIONS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on adoption of House Resolution 1329 will be followed by 5-minute votes on the motion to suspend the rules on H. Res. 1295; and the motion to suspend the rules on H.R. 1722.

The vote was taken by electronic device, and there were—yeas 229, nays 182, not voting 19, as follows:

[Roll No. 249]

YEAS—229

Ackerman	Edwards (TX)	Levin
Adler (NJ)	Ellison	Lewis (GA)
Altmire	Ellsworth	Lipinski
Andrews	Engel	Loeb
Arcuri	Eshoo	Lofgren, Zoe
Baca	Etheridge	Lowe
Baird	Farr	Lujan
Baldwin	Fattah	Lynch
Barrow	Filner	Maffei
Bean	Foster	Maloney
Becerra	Frank (MA)	Markey (CO)
Berkley	Fudge	Markey (MA)
Berman	Giffords	Marshall
Berry	Gonzalez	Matheson
Bishop (GA)	Gordon (TN)	Matsui
Blumenauer	Grayson	McCarthy (NY)
Bocieri	Green, Al	McDermott
Boren	Green, Gene	McGovern
Boucher	Grijalva	McIntyre
Boyd	Gutierrez	McMahon
Brady (PA)	Hall (NY)	McNerney
Braley (IA)	Halvorson	Meek (FL)
Bright	Hare	Meeks (NY)
Brown, Corrine	Harman	Michaud
Butterfield	Hastings (FL)	Miller (NC)
Capps	Heinrich	Miller, George
Capuano	Hereth Sandlin	Moore (KS)
Cardoza	Higgins	Moran (VA)
Carnahan	Himes	Murphy (CT)
Carney	Hinche	Murphy (NY)
Carson (IN)	Hinojosa	Murphy, Patrick
Castor (FL)	Hirono	Nadler (NY)
Chandler	Hodes	Napolitano
Chu	Holden	Neal (MA)
Clarke	Holt	Nye
Clay	Honda	Oberstar
Cleaver	Hoyer	Obey
Clyburn	Inslee	Olver
Cohen	Israel	Ortiz
Connolly (VA)	Jackson (IL)	Owens
Conyers	Jackson Lee	Pallone
Cooper	(TX)	Pascarell
Costello	Johnson, E. B.	Pastor (AZ)
Crowley	Kagen	Payne
Cuellar	Kanjorski	Perlmutter
Cummings	Kaptur	Perrillo
Davis (CA)	Kildee	Peters
Davis (IL)	Kilpatrick (MI)	Peterson
Davis (TN)	Kilroy	Pingree (ME)
DeFazio	Kind	Polis (CO)
Delahunt	Kirkpatrick (AZ)	Pomeroy
DeLauro	Kissell	Price (NC)
Deutch	Klein (FL)	Quigley
Dicks	Kosmas	Rahall
Dingell	Kucinich	Rangel
Doggett	Langevin	Richardson
Doyle	Larsen (WA)	Rodriguez
Driehaus	Larson (CT)	Ross
Edwards (MD)	Lee (CA)	Rothman (NJ)

Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter  
Sherman

Sires  
Skeltton  
Slaughter  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stupak  
Sutton  
Tanner  
Teague  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Towns

Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining in this vote.

□ 1153

Messrs. POSEY, GARY G. MILLER of California and SCALISE changed their vote from “yea” to “nay.”

Mr. KILDEE changed his vote from “nay” to “yea.”

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. DAHLKEMPER. Madam Speaker, on rollcall No. 249, had I been present, I would have voted “yes.”

### CELEBRATING MOTHERS AND MOTHER'S DAY

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 1295, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and agree to the resolution, H. Res. 1295.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 13, as follows:

[Roll No. 250]

YEAS—417

Ackerman	Brady (TX)	Cole
Aderholt	Braley (IA)	Conaway
Adler (NJ)	Bright	Connolly (VA)
Akin	Brown (GA)	Conyers
Alexander	Brown (SC)	Cooper
Altmire	Brown, Corrine	Costa
Andrews	Brown-Waite,	Costello
Arcuri	Ginny	Courtney
Austria	Buchanan	Crenshaw
Baca	Burgess	Crowley
Bachmann	Burton (IN)	Cuellar
Bachus	Butterfield	Culberson
Baird	Buyer	Cummings
Baldwin	Calvert	Dahlkemper
Barrow	Camp	Davis (CA)
Bartlett	Cantor	Davis (IL)
Barton (TX)	Cao	Davis (KY)
Bean	Capito	Davis (TN)
Becerra	Capps	DeFazio
Berkley	Capuano	Delahunt
Berman	Cardoza	DeLauro
Berry	Carnahan	Dent
Biggart	Carney	Deutch
Bilbray	Carson (IN)	Diaz-Balart, L.
Bilirakis	Carter	Diaz-Balart, M.
Bishop (GA)	Cassidy	Dicks
Bishop (NY)	Castle	Dingell
Bishop (UT)	Castor (FL)	Doggett
Blumenauer	Chaffetz	Donnelly (IN)
Blunt	Chandler	Doyle
Bocieri	Childers	Dreier
Bono Mack	Chu	Driehaus
Boozman	Clarke	Duncan
Boren	Clay	Edwards (MD)
Boswell	Cleaver	Edwards (TX)
Boucher	Clyburn	Ehlers
Boustany	Coble	Ellison
Boyd	Coffman (CO)	Ellsworth
Brady (PA)	Cohen	Emerson

NAYS—182

Aderholt  
Akin  
Alexander  
Austria  
Bachmann  
Bachus  
Bartlett  
Barton (TX)  
Biggart  
Bilbray  
Bilirakis  
Bishop (NY)  
Bishop (UT)  
Blunt  
Boehner  
Bono Mack  
Boozman  
Boswell  
Boustany  
Brady (TX)  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Cantor  
Cao  
Capito  
Carter  
Cassidy  
Castle  
Chaffetz  
Childers  
Coble  
Coffman (CO)  
Cole  
Conaway  
Courtney  
Crenshaw  
Culberson  
Davis (KY)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Donnelly (IN)  
Dreier  
Duncan  
Ehlers  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen

NOT VOTING—19

Gallegly  
Garrett (NJ)  
Gerlach  
Gingrey (GA)  
Gohmert  
Goodlatte  
Granger  
Graves  
Griffith  
Guthrie  
Hall (TX)  
Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hill  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline (MN)  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
Linder  
LoBiondo  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
McCarthy (CA)  
McCauley  
McClintock  
McCotter  
McHenry  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Minnick  
Mitchell  
Moran (KS)  
Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Olson  
Paul  
Paulsen  
Pence  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Schauer  
Schmidt  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuler  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souder  
Stearns  
Sullivan  
Taylor  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (AK)  
Young (FL)

Melancon  
Mollohan  
Moore (WI)  
Reyes  
Schock  
DeGette  
Garamendi  
Hoekstra  
Johnson (GA)  
Kennedy  
Kratovil  
McCollum



Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)

Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loebach  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Oliver  
Ortiz  
Owens  
Pallone  
Pascrell  
Pastor (AZ)  
Paul  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy

Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schradner  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Stupak  
Sullivan  
Sutton  
Tanner  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Blumenauer  
Boccieri  
Boren  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Braley (IA)  
Bright  
Brown, Corrine  
Buchanan  
Butterfield  
Cao  
Capito  
Capps  
Capuano

Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner

Welch  
Westmoreland  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf

Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

Heinrich  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kagen  
Kanjorski  
Kaptur  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kosmas  
Kratovil  
Kucinich  
Langevin  
Larsen (WA)  
Larsen (CT)  
Latham  
LaTourette  
Lee (CA)  
Levin  
Lewis (GA)  
Linder  
Lipinski  
Loebach  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maffei  
Maloney  
Markey (CO)  
Markey (MA)  
Marshall  
Matheson  
Matsui

McCarthy (NY)  
McCotter  
McDermott  
McGovern  
McIntyre  
McMahon  
McNerney  
Meek (FL)  
Meeks (NY)  
Michaud  
Miller (NC)  
Miller, George  
Minnick  
Mitchell  
Moore (KS)  
Moore (WI)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Nadler (NY)  
Neal (MA)  
Nye  
Oberstar  
Obey  
Oliver  
Ortiz  
Owens  
Pallone  
Pascrell  
Pastor (AZ)  
Payne  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Polis (CO)  
Pomeroy  
Price (NC)  
Quigley  
Rahall  
Rangel  
Reichert  
Reyes  
Richardson  
Rodriguez  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar

Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schradner  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Shuler  
Sires  
Skelton  
Slaughter  
Smith (TX)  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stupak  
Sutton  
Tanner  
Taylor  
Teague  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Van Hollen  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wilson (OH)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth

#### NOT VOTING—13

Barrett (SC)  
Blackburn  
Boehner  
Bonner  
Campbell  
Davis (AL)  
DeGette  
Gohmert  
Hoekstra  
Kennedy  
McCollum  
Melancon  
Mollohan

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1203

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### TELEWORK IMPROVEMENTS ACT OF 2010

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 1722, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 1722, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 268, nays 147, not voting 15, as follows:

[Roll No. 251]

YEAS—268

Ackerman  
Adler (NJ)  
Altmire  
Andrews  
Arcuri  
Baca  
Baird  
Baldwin  
Barrow  
Bartlett  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Boccieri  
Boren  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Braley (IA)  
Bright  
Brown, Corrine  
Buchanan  
Butterfield  
Cao  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeFazio  
DeLaunt  
DeLauro  
Dent  
Deutch  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Engel  
Eshoo  
Etheridge  
Farr  
Filner  
Fortenberry  
Foster  
Frank (MA)  
Fudge  
Garamendi  
Giffords  
Gonzalez  
Goodlatte  
Gordon (TN)  
Graves  
Grayson  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Hastings (WA)

Aderholt  
Akin  
Alexander  
Austria  
Bachmann  
Bachus  
Barton (TX)  
Biggart  
Bishop (UT)  
Blunt  
Boehner  
Bono Mack  
Boozman  
Boustany  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Cantor  
Carter  
Cassidy  
Castle  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson  
Davis (KY)  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dreier

NAYS—147

Duncan  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach  
Gingrey (GA)  
Gohmert  
Granger  
Griffith  
Guthrie  
Harper  
Heller  
Hensarling  
Herger  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
King (IA)  
King (NY)  
Kingston  
Kline (MN)  
Lamborn  
Lance  
Latta  
Lee (NY)  
Lewis (CA)  
LoBiondo  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
McCarthy (CA)  
McCaul  
McClintock  
McHenry  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Moran (KS)  
Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Olson  
Paul  
Paulsen  
Pence  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich

Rehberg	Schock	Thompson (PA)
Roe (TN)	Sensenbrenner	Thornberry
Rogers (AL)	Sessions	Tiahrt
Rogers (KY)	Shadegg	Tiberi
Rogers (MI)	Shimkus	Turner
Rohrabacher	Shuster	Upton
Rooney	Simpson	Walden
Ros-Lehtinen	Smith (NE)	Wamp
Roskam	Smith (NJ)	Westmoreland
Royce	Souder	Whitfield
Ryan (WI)	Stearns	Wilson (SC)
Scalise	Sullivan	Young (AK)
Schmidt	Terry	Young (FL)

## NOT VOTING—15

Barrett (SC)	Davis (AL)	McCollum
Blackburn	DeGette	Melancon
Bonner	Fattah	Mollohan
Brady (TX)	Hoekstra	Napolitano
Campbell	Kennedy	Velázquez

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in the vote.

□ 1211

So (two-thirds not being in the affirmative) the motion was rejected.

The result of the vote was announced as above recorded.

## RESIGNATION AS MEMBER OF COMMITTEE ON ARMED SERVICES

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Armed Services:

HOUSE OF REPRESENTATIVES,  
Washington, DC, May 5, 2010.

Speaker NANCY PELOSI,  
House of Representatives,  
Washington, DC.

DEAR SPEAKER PELOSI: I hereby resign my appointment to the House Armed Services Committee so that I might accept the appointment to House Committee on Appropriations.

It has been my distinct honor to serve on the Armed Services Committee these past three years and I feel privileged to have been able to serve under the Honorable Chairman Ike Skelton. However I must resign my appointment to this committee effective immediately in order to begin work on the Committee on Appropriations and continue my work on the House Permanent Select Committee on Intelligence.

Sincerely,

PATRICK J. MURPHY.

The SPEAKER pro tempore. Without objection, the resignation is accepted. There was no objection.

## GENERAL LEAVE

Mr. MARKEY of Massachusetts. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on the bill, H.R. 5019, into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## HOME STAR ENERGY RETROFIT ACT OF 2010

The SPEAKER pro tempore. Pursuant to House Resolution 1329 and rule

XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 5019.

□ 1214

## IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 5019) to provide for the establishment of the Home Star Retrofit Rebate Program, and for other purposes, with Ms. EDWARDS of Maryland in the chair.

The Clerk read the title of the bill.

□ 1215

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Texas (Mr. BARTON) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. MARKEY of Massachusetts. Madam Chair, I yield 3 minutes to the gentleman from California (Mr. WAXMAN), the chairman of the Energy and Commerce Committee.

Mr. WAXMAN. Madam Chair, I rise in strong support of H.R. 5019, the Home Star Energy Retrofit Act of 2010.

This legislation, more than anything, is about jobs. When enacted and funded, Home Star will create 168,000 new jobs here in the United States. These are jobs that won't be outsourced overseas. They are construction jobs in our neighborhoods and our communities. And they're manufacturing jobs for workers at factories in America. Nearly one in four workers in the home construction and services industry has been laid off. Passing Home Star says, "Help is on the way."

Home Star would accomplish this by establishing a rebate program for the installation of energy-efficient home upgrades. These rebates would encourage homeowners to hire contractors to install new, efficient heating and air conditioning, to insulate their homes, and to replace drafty windows and doors. It's an approach that can benefit every contractor in this country, from small independent businesses to contractors associated with large home improvement store chains.

This legislation also saves consumers money, and it cuts pollution. When it is fully funded, Home Star will allow 3 million families to retrofit their homes to be more energy efficient.

Homes in America account for over 20 percent of the Nation's carbon pollution. Existing technologies and practices can cut home energy use by up to 40 percent. That would slash carbon pollution by millions of tons.

This is a bipartisan bill. It was introduced by Representatives WELCH and EHLERS. The legislation was reported favorably from the Energy and Com-

merce Committee last month in a bipartisan vote of 30-17. Representative WELCH and Subcommittee Chairman MARKEY deserve special recognition for their hard work in pushing this legislation to become a reality.

The bill also has support from a remarkably broad coalition that ranges from local contractors to environmentalists to organizations like the National Association of Manufacturers and the Chamber of Commerce. These groups all support Home Star because it's a commonsense program that's good for the country.

One question that was raised when the rule was being debated is whether this will affect our deficit. This is a complete red herring. The legislation we are considering today is an authorization. It does not spend a dollar of taxpayers' funds. That's why the non-partisan CBO says enacting this bill would not affect direct spending of revenues. Once we have passed this legislation, we will need to pass another bill that provides the funds to carry it out. We will do that in a fiscally responsible way.

I urge Members to vote for jobs, for consumers, and for the environment.

COMMITTEE ON OVERSIGHT  
AND GOVERNMENT REFORM,  
Washington, DC, May 4, 2010.

Hon. HENRY WAXMAN,  
Chairman, Committee on Energy and Commerce,  
Washington, DC.

DEAR CHAIRMAN WAXMAN: I am writing to confirm our mutual understanding with respect to the consideration of H.R. 5019, the Home Star Energy Retrofit Act of 2010.

I appreciate your efforts to consult with the Committee on Oversight and Government Reform regarding those provisions of H.R. 5019 that fall within the Oversight Committee's jurisdiction, including provisions related to the federal civil service and acquisition policy.

Given the importance of moving this bill forward promptly, I do not intend to object to its consideration in the House. However, I do so only with the understanding that this procedure should not be construed to prejudice this Committee's jurisdictional interest or prerogatives in the subject matter of H.R. 5019, or any other similar legislation.

I would also request your support for the appointment of conferees from the Oversight Committee should H.R. 5019 or a similar Senate bill be considered in conference with the Senate.

Finally, I request that you include our exchange of letters on this matter in the Congressional Record during consideration of this legislation on the House floor.

Sincerely,

EDOLPHUS TOWNS,  
Chairman.

COMMITTEE ON ENERGY AND  
COMMERCE,  
Washington, DC, May 5, 2010.

Hon. EDOLPHUS TOWNS,  
Chairman, Committee on Oversight and Government Reform, Washington, DC.

DEAR CHAIRMAN TOWNS: Thank you for your letter regarding H.R. 5019, the "Home Star Energy Retrofit Act of 2010." The Committee on Energy and Commerce recognizes the jurisdictional interest of the Committee

on Oversight and Government Reform in H.R. 5019, and I appreciate your effort to facilitate consideration of this bill.

I also concur with you that by forgoing action on the bill the Committee on Oversight and Government Reform does not in any way prejudice the Committee with respect to its jurisdictional prerogatives on this bill or similar legislation in the future, and I would support your effort to seek appointment of an appropriate number of conferees to any House-Senate conference involving this legislation.

I will include our letters on H.R. 5019 in the Congressional Record during floor consideration of the bill. Again, I appreciate your cooperation regarding this legislation and I look forward to working with the Committee on Oversight and Government Reform as the bill moves through the legislative process.

Sincerely,

HENRY A. WAXMAN,  
*Chairman.*

Mr. BARTON of Texas. I yield myself such time as I may consume.

Madam Chair, the bill before us today is not a bad piece of legislation. Mr. EHLERS, for example, of Michigan is one of the Republican cosponsors of it. Mr. WELCH of Vermont has sought assistance across the aisle. Mr. MARKEY, Mr. WAXMAN, the full committee and subcommittee chairmen, have taken a number of amendments in subcommittee and full committee and I think generally worked in good faith.

Having said that, here we go again, Madam Chair. It's Thursday. This is the only bill this week that we are going to have a rule on. This is an authorization bill, as Chairman WAXMAN just said, but it authorizes \$6.6 billion to be spent over a 2-year period, and makes no attempt to find a way to pay for it. So it's another new program with all the right feel-good intentions, but it's all hat and no cattle as we would say down in Texas.

In committee, Chairman WAXMAN, to his credit, did say that the bill should be paid for. He did encourage Congressman LATTA of Ohio, who offered a pay-for amendment that the bill would be paid for, if he would withdraw it he would work with him, and yesterday we did have some discussions with the chairman on how to pay for it. Those discussions did not provide a satisfactory conclusion to either side, so Mr. LATTA went to the Rules Committee and asked that his amendment be made in order. Eight amendments were made in order, but his amendment was not, Madam Chair.

Chairman WAXMAN is correct when he says this is an authorization bill so you don't have to have a pay-for. That is true in a technical sense. But I think it's time for this Congress and certainly our committee, the Energy and Commerce Committee, to show the American people that, if we want to create new programs, we don't want to increase the deficit, borrow money to pay for them. We should be able to find a pay-for.

Just as it's true that it's not technically necessary because this is an au-

thorization bill, it's also true that we could set a precedent and set a practice at least in our committee, the Energy and Commerce Committee, of saying if we are going to create new programs we are going to show where the money should come from.

There is not a real need for this program at this point in time. In the so-called stimulus package earlier in this Congress and in the last Congress, we authorized and I think even appropriated \$5 billion in weatherization funds and grants for the Department of Energy. Now, that program operates a little bit differently than the program in this bill would operate if enacted into law. But we can't tell that the Department of Energy, Madam Chair, has spent any of that money that's already been authorized and appropriated. And that's \$5 billion. Why have another \$6.6 billion program when you haven't successfully implemented the current \$5 billion program? Again, that weatherization program is somewhat different in the way it's structured than the pending bill, but the goals of it are very, very similar to this bill.

The definition of insanity, Madam Chair, is doing the same thing over and over and expecting a different result. That appears to be what we are doing here today with the Home Star Energy Retrofit Act. It's another chapter in saying one thing, trying to put something out that looks good, feels good, but doesn't really have the substance to back it up.

So I have great respect for the authors of the legislation, great respect for the leadership of my committee on the majority side, but I don't believe we should authorize a \$6 billion program without a pay-for or an indication of how we intend to pay for it. I think that's too much, and I think it's bad public policy with a deficit of \$1.5 trillion.

We will support some of the amendments, Madam Chair. There are eight amendments. As the ranking member of the full committee, I believe I am going to recommend a "yes" vote on six of the eight, maybe seven. But on final passage I will recommend a "no" vote.

Madam Chair, we'd be hard-pressed to find a single Member of Congress who thinks energy efficiency is a bad idea. Everybody wants to lower energy consumption because we want to cut our electricity bills. Additionally, manufacturing and installing energy efficient products for the home can be a boon for businesses and jobs across the country. The market works.

Home Star will cost taxpayers \$6.6 billion over the next 2 years. With the tidal wave of spending that has roared out of Washington over the last 18 months, sometimes \$6.6 billion might not sound like much, and that's exactly why we need to start looking at programs like Home Star much more carefully.

Without a payment mechanism in H.R. 5019, what we have is an authorization that

simply instructs the Federal Government to spend \$6.6 billion over the next 2 years. Then we here in Congress are supposed to figure out where to get the money. Who believes that's going to happen? This legislative artifice defies the majority's own Pay-As-You-Go rule, not to mention the public's trust, and it assures that deficits will go on expanding.

It didn't have to be that way. Our newest colleague on the Energy and Commerce Committee, Mr. LATTA of Ohio, offered an amendment in the markup that would apply Pay-Go rules to this legislation. It was withdrawn through an agreement with the committee chairman that spending details would be worked out before H.R. 5019 reached the House Floor. Yet here we are today, still without a way to pay for this program.

This is not the first government program we've examined in the 111th Congress to encourage home energy efficiency. In the so-called Stimulus Bill, Congress authorized \$5 billion for home weatherization funds and grants. After an entire year, the Department of Energy has admitted to accomplishing virtually nothing with this amount of money. How are we to believe DOE can handle \$6.6 billion for a newly-created program when it has proven it can't handle \$5 billion to complement a program that already exists?

Like the \$5 billion in weatherization funds, Home Star is supposed to create jobs. But if past is prologue, we are right to be skeptical of such a claim. While the stimulus bill was being debated, the economic alchemists in the White House told us it would cap unemployment at 8 percent. This was supposed to be achieved partially through dramatic expansion of government programs like home weatherization. But thanks to Obama administration bureaucracy and the built-in inefficiency of all government programs, the money has been spent without taxpayers getting the benefits that their money was supposed to buy.

The definition of insanity is repeating the same action over and over and expecting a different result, and that's precisely what we're doing here today with the Home Star Energy Retrofit Act. It's another chapter in the story of the Obama administration: Excitement followed by spending followed by disappointment.

In a time of exploding deficits, bumbling government and economic recession, Congress could do America a favor by paying for the programs it enacts. We should begin today.

Until we are willing to pay for it, I urge my colleagues to vote "no" on this bill.

With that, I ask unanimous consent that Mr. UPTON of Michigan control the balance of the time on the minority side.

The CHAIR. The gentleman will be recognized.

Mr. MARKEY of Massachusetts. Madam Chair, I yield myself 1 minute at this time.

Madam Chair, this is really a tremendous piece of legislation. It's a win-win-win. It will ultimately wind up with \$9.2 billion worth of energy savings for American consumers because of the installation of these work smarter, not harder, technologies that we

will be helping consumers to purchase. It will create 168,000 new jobs, especially in the construction sector which has upwards of 25 percent unemployment, and it will increase our energy independence by backing out that oil that we import into our country, moving us closer to this energy independence, which should be the goal of our country, using new energy technologies that make it possible for every consumer to participate in this revolution. This is an excellent piece of legislation.

I reserve the balance of my time.

Mr. UPTON. Madam Chair, I yield 3 minutes to the gentleman from Florida (Mr. STEARNS), a member of the committee.

Mr. STEARNS. I thank the distinguished chairman, Mr. UPTON from Michigan.

Here we go again, my colleagues. We are going to spend a lot of money and here we have a huge \$1.5 trillion deficit. I am a member of the Renewable Energy and Efficiency Caucus. I strongly support, obviously, providing property owners with the education, simple education, incentives for them, and resources to voluntarily improve their homes and save energy. But I have a number of significant concerns with this legislation, including the total cost; also questions about the U.S. Department of Energy, their ability to effectively implement this program; and the fact that the Federal Government will be the one picking technology winners and losers, and not the free market, is also a concern of mine.

My colleagues, at a time when we have an increasing national deficit, it's simply irresponsible to add an additional almost \$7 billion in spending. Again the word billion. This spending is in addition to the more than \$10 billion spent by the American taxpayers to implement a weatherization program. There are also significant concerns regarding the Department of Energy's ability to implement this program, especially under the tight deadlines required in this legislation.

In fact, the Department of Energy Inspector General recently issued a report concluding that as of February 2010, of the roughly \$4.7 billion DOE, Department of Energy, has awarded in grants to the States under the Recovery Act weatherization program, only \$368 million, less than 10 percent, had been used by States for this purpose, and only 30,000 homes have actually been weatherized.

This legislation also comes on the heels of the Energy Star fraud that was exposed earlier this month. Countless stories in mainstream newspapers reported the lax standards by which the Environmental Protection Agency approves "energy efficient" devices, allowing 15 phony products to pass inspection. Among those products ap-

proved were a gasoline-powered alarm clock and an air purifier which is nothing more than an upright fan with a feather duster taped to the top. Those are the things the Department of Energy approved, and you are going to give them almost \$7 billion to go and institute and follow along this bill?

H.R. 5019 is simply another multi-billion dollar government scheme that picks winners and losers through cash handouts to mostly, in this case, unionized labor at a time when the Federal Government is already running a \$1.5 trillion annual deficit. So look at this carefully. We don't need to spend more money to do this. There is a lot of fraud that exists at the Department of Energy. They are lax. So I urge a "no" vote.

Mr. MARKEY of Massachusetts. I yield 1 minute to the gentleman from Illinois (Mr. RUSH).

Mr. RUSH. Madam Chair, I also want to thank Chairman WAXMAN and Chairman MARKEY and their very capable staffs for working with my office to ensure that we include tangible benefits in the Home Star Program for all constituents, including those in the lower income communities such as the one I represent on the south side of Chicago.

I also must thank my friend and colleague BARBARA LEE and her great staff, as well as the Home Star Coalition, who collaborated with my office and the Energy and Commerce Committee to strengthen this outstanding, remarkable Home Star Program legislation.

Madam Chair, I am pleased to point to several provisions within the bill that would directly benefit my constituents, including the quality assurance framework, which targets training and employment opportunities for lower income families and workers, and aggressive outreach and financial assistance for our most vulnerable communities to help them take advantage of the energy-and money-saving retrofit opportunities within this bill.

Madam Chair, I fully support this bill, and I urge all of my colleagues to do the same.

□ 1230

Mr. UPTON. Madam Chair, I would yield 5 minutes to the distinguished gentleman from the great State of Michigan (Mr. EHLERS).

Mr. EHLERS. I thank the gentleman for yielding me a generous amount of time.

I rise to speak, because I am the principal Republican—in fact, perhaps the only Republican—cosponsor of the bill. But it's a very worthy bill, and I believe we should present that side of it as well.

I must say, I share the concerns of my Republican colleagues about the cost and where the money is going to come from to pay for it, but I have to also say that I think the value of this

bill is so much greater than many of the other bills we pass that I'm certain we could find the funds for it if we need to.

Let me just comment as a physicist, which is what I am, and say a little bit about energy. First of all, energy is the most basic resource that we have, and there's very little we can do without energy. If you look back through history, you find that the great changes in the history of our planet and the people living on our planet arose with new developments in energy. For example, agriculture never really succeeded until people discovered they could hitch a plow to an oxen or a horse, and use animal energy to supplement human energy. Later on, the Industrial Revolution took place. Why and when did that happen? Because people in developed countries had discovered they could use energy in other forms to perform the work that people had been doing. I'm talking about, for example, hydropower, getting energy from water running over mill wheels and so forth. But also, other types of energy were developed about that time; such as burning coal to extract energy from it or using coal to generate electricity, and use that power to drive the machinery that was necessary in the mills and the factories at that time.

We are now in an era of multiple uses and multiple sources of energy, but the energy we are using is not that abundant. We are depleting our supplies of fossil fuels, particularly oil and coal, and also natural gas. Even though we have found some new gas resources recently, if you look at the numbers you can calculate very precisely when we are going to run out.

The cheapest way to develop new sources of energy is by conserving the energy we use now. I'm just going to say that again because it's so important. If we simply use our energy efficiently, and we conserve energy when we can, we can solve most of our energy shortage problems for the next 30 to 40 years. That's why I think this bill is very important, because it stimulates the use of our ingenuity to reduce the amount of energy that we need to use.

I have had personal experience with this. Some years ago, I got tired of paying exorbitant gas bills to keep our home warm, and so I did the things that this bill advocates; in other words, proper insulation, and doing exactly what you can to prevent loss of energy, et cetera. It worked. Since then, my gas bill for heating my house is down about a third of what it was before. Now that's a lot of money we're talking about, and every American would love to save that amount of money on their utility bill every year. That's what this bill will provide. It also helps educate or train the people who will be installing the energy-saving technology in individuals' homes or in factories, plants, and so forth.

This does work. The EPA did it some years ago, with their Green Lights program. The EPA went around to most of the business buildings in this country, factories or stores or whatever, and did an analysis of the energy that was used to provide lighting for the buildings, and they discovered that they could save a tremendous amount of money. They also calculated what the payback time would be if the owner of the factory or the store implemented their recommendation. The average payback time was on the order of 2 to 3 years. Now, you show a businessman how he can save money and in the process get a payback time for his investment of only a few years, they're going to do it. That program was exceedingly successful. And it worked. That's exactly the type of model we're dealing with here.

So I urge the passage of the bill. I hope it is successful. I hope we can resolve the issue of where the money is going to come from so that we have uniform support of this on both sides of the aisle, all across our nation.

Mr. MARKEY of Massachusetts. We have just heard from the Republican sponsor of the bill, and now we hear from the principal Democratic sponsor, the gentleman from Vermont, who has been giving us the leadership on this issue for the past 3 years. I yield 3 minutes to the gentleman from Vermont (Mr. WELCH).

Mr. WELCH. Thank you, Chairman MARKEY, and thank you, Mr. EHLERS.

Madam Chair, a great nation does not shrink from its challenges. It faces them directly. We face serious challenges to create jobs in a tough economy, to move away from the dirty fuels of the 19th century into the cleaner fuels of the 21st, and using less fuel rather than more is a solid step that's going to help us accomplish that. We need to create manufacturing jobs in this country, where we're losing them by the day. Home Star does all three.

It's going to put our contractors back to work. There's a 25 percent unemployment rate. It's going to allow us to use less fuel rather than more. Vermonters are cheap. They like that. I think that's something that homeowners around the country will like. And it's going to be 90 percent produced—all the things used in Home Star, 90 percent are produced and manufactured in the United States of America.

So this is a partnership between the government, that will help a homeowner with the upfront cost with a point-of-sale rebate, and our retailers, our homebuilders, and our manufacturers. So we're going to be putting America back to work and addressing these challenges of creating jobs and clean energy.

If we're going to be successful in this challenge and others, we really should be doing them on a bipartisan basis. And this is a way of showing how it can

be done. With the leadership of Mr. EHLERS, we have bipartisan support. But we have others.

Mr. BARTON, in the committee, made very constructive suggestions on how we can improve this bill, and they were incorporated in it: A specific number about how much we're going to spend, not open-ended. A sunset, so we can kick the tires after a few years and see how the program is working. Former Michigan Governor, a Republican, John Engler, a strong endorser. Former Secretary of Energy in the Bush administration, Spencer Abraham, fully endorsing this. Why? Because it's practical. It's common sense. It's a partnership between the public and the private sector.

There's been a concern raised about spending, and rightly so. This bill must be paid for. All of us who support this legislation acknowledge that. And we will have to vote on how exactly we're going to have this paid for. And we will. But let's keep in mind that there is a difference between a wise investment and wasteful spending.

When you have a bill that's going to put our 25 percent unemployment rate folks back to work and it's going to allow homeowners to save money, not just this year but next year and the year after and the year after that, that's a wise expenditure of money, where we have our homeowners putting some of their money down and getting some taxpayer help to get the job done. Home Star is that solid investment that is going to achieve that hat trick of energy savings for the homeowner, of moving towards a cleaner environment, and of creating jobs here at home.

Mr. UPTON. Madam Chair, I would yield 2 minutes to the gentleman from California (Mr. MCCLINTOCK).

Mr. MCCLINTOCK. I thank the gentleman for yielding.

I rise in opposition to this measure, which they call Cash for Caulkers, since it's based on the Cash for Clunkers program, and maybe, before we go any further, somebody needs to ask, Well, how did that last one work out? In fact, economists at Edmunds.com did exactly that.

They discovered that of the 690,000 cars sold under Cash for Clunkers, 565,000 sales would have happened anyway, which means the taxpayers ended up paying about \$24,000 for every genuine sale that it actually stimulated. But it gets worse. All the program accomplished was to entice people to move up their purchase decisions by a few months, which then caused below-normal sales in the months that followed. In other words, Congress spent \$4 billion creating a car bubble. With that fresh economic wreckage just behind us, we're about to create a \$6.6 billion home improvement bubble. We can now replace our "Honk if you're making my car payments" bumper sticker

with "Honk if you're paying for my home remodeling."

What is this actually going to accomplish?

First, a lot of fraud. We already know that the Energy Star program approved 15 out of 20 fake products that were submitted to them by the GAO, including a gasoline-powered alarm clock. One can only imagine what home improvement scams taxpayers will fund from this one.

Second, it's going to pay for a lot of remodeling that would have been done anyway. That was the expensive lesson from Cash for Clunkers.

Third, it's going to be paying for remodeling that makes no economic sense except for the rebate. After all, when remodeling actually saves money, people do it on their own. Congressman EHLERS just pointed that out. And if it doesn't save money, why should taxpayers be forced to pay for it in the first place?

The CHAIR. The time of the gentleman has expired.

Mr. UPTON. Madam Chair, I yield 30 additional seconds to the gentleman.

Mr. MCCLINTOCK. Madam Chair, I was just going to point out, Benjamin Franklin pointed out that "experience keeps a dear school, but fools will learn in no other." This bill today offers us a sobering corollary—that there are some people who cannot even learn from experience. We call these people "Congressmen."

Mr. MARKEY of Massachusetts. Madam Chair, I yield 1 minute to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. During consideration of the Home Star Energy Retrofit Act in the Energy and Commerce Committee, I raised concerns that Home Star funding might encounter the same delays we have seen with the ARRA-funded weatherization projects due to the State Historic Preservation Office review required by the National Historic Preservation Act. Since committee markup, I have worked with Chairman WAXMAN and Chairman RAHALL to ensure no historic preservation review will be required for Home Star rebates.

I have a letter from the Advisory Council on Historic Preservation providing a legal opinion that this program would not trigger a review under the National Historic Preservation Act. I will submit this letter for the RECORD.

ADVISORY COUNCIL  
ON HISTORIC PRESERVATION,  
Washington, DC, May 5, 2010.

Hon. BART STUPAK,  
House of Representatives,  
Washington, DC.

DEAR CONGRESSMAN STUPAK: At the request of your Legislative Assistant, Justin Hagel, we are providing the following opinion regarding the applicability of Section 106 of the National Historic Preservation Act (Section 106), 16 U.S.C. §470f, to the Home Star

Retrofit Rebate Program that would be established under H.R. 5019 (Home Star). As the agency responsible for issuing and interpreting the regulations implementing Section 106, we take the position that Home Star would not trigger Section 106 responsibilities for the Department of Energy, Environmental Protection Agency, Department of Commerce, or any other federal agency.

The purpose of Section 106 is to inform federal agency decisions about undertakings that may affect historic properties before such effects take place. The way that Congress has structured the Home Star Retrofit Rebate Program, any effects to historic properties would have already taken place before a federal agency would even be aware of a retrofit project. The Federal Rebate Processing System, as proposed, will not acknowledge that a retrofit has been implemented until after the project has actually occurred.

The contractor will have given the homeowner a discount based on the expected Home Star Retrofit Rebate Program, submitted a request for a rebate to a Rebate Aggregator, and then submitted the claims to the Federal Rebate Processing System. Under such circumstances, a federal agency would not have the slightest modicum of discretion to exercise regarding effects to historic properties when it makes a decision to reimburse a Rebate Aggregator. Likewise, as explained above, the effects to historic properties, if any, would have already occurred.

The reimbursement decision by the Federal Rebate Processing System is arguably ministerial, therefore, not subject to Section 106, since Congress specifically requires reimbursement upon the filing of claims, subject only to random quality assurance verifications. This is similar to the Internal Revenue Service's (IRS) processing of tax deductions and credits claimed on income tax returns. Due to the ministerial nature of the IRS's decision making in their review of those returns, the ACHP does not consider such reviews as triggering Section 106 compliance responsibilities for the IRS.

We appreciate the Committee affording the ACHP an opportunity to review the Home Star Retrofit Rebate Program legislation. If you have any further questions, please contact me.

Sincerely,

JOHN M. FOWLER,  
*Executive Director.*

Congress does not want the Home Star program to trigger reviews that would delay energy efficiency improvements that benefit consumers, manufacturers, and contractors. I want to thank Chairman WAXMAN and Chairman RAHALL for working with me to address this concern.

I also want to thank Chairman WAXMAN for working with me to include the eligibility of energy-efficient wood products in the manager's amendment. This provision strengthens the underlying bill and will help one of the hardest hit sectors of our economy.

I urge my colleagues to support the bill.

Mr. UPTON. Madam Chair, I yield 4 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. I thank the gentleman for yielding.

Madam Chair, I rise today to speak against H.R. 5019. As I discussed earlier

during the rule debate, I have very serious concerns about how we are paying for this legislation. In exchange for withdrawing my deficit neutrality at the full committee markup, Chairman WAXMAN said he would work with me in trying to find a way to pay for this piece of legislation. I do thank the chairman for meeting with me on this matter. Unfortunately, we were unable to find a pay-for during our negotiation.

Although this is an authorization legislation and not an appropriation, I feel that if this program is important enough to authorize, it should be important enough for us to find a way to pay for it. I am concerned that the majority could not give any assurance that this bill will indeed be paid for.

I offered an amendment yesterday regarding the Federal deficit that was not accepted in the Rules Committee, and therefore we are not able to have an open debate on this issue today on the House floor. It is frustrating that the majority has shut down the opportunity to have a debate on the cost of this legislation and the addition it will be to the Federal deficit.

□ 1245

The majority is claiming that this bill does not need to have a pay-for since, again, it is an authorizing bill. However, I believe that the issue of the budget deficit should at least be able to be debated.

While I support the incentives to help provide energy efficiency as well as programs to promote job growth, I am very concerned about the \$6.6 billion price tag of this legislation. In addition, this is duplicative of an existing government program that has not been fully implemented.

Just a little bit ago, the gentleman from Florida stated—but I think it's really important to reiterate—that the Department of Energy recently issued a report concluding that as of February 2010, of the \$4.7 billion DOE has awarded in grants to States under the stimulus weatherization programs, only \$368 million—less than 10 percent—has been used by the States for weatherization programs and only 30,297 homes have actually been weatherized.

Of the 10 States receiving the most money under the \$4.7 billion allocated for the weatherization program under the Recovery Act, only two had weatherized more than 2 percent of the homes covered by the program. The other eight States weatherized fewer than 400 homes each. Because the \$4.7 billion weatherization program has been incredibly slow to implement, I have concerns about the effectiveness of the \$6.6 billion in the Home Star Energy Retrofit program.

This simply is not the right time for a new program. Ohio currently has an unemployment rate of 11 percent, and my district has an average unemployment

rate of 13.5 percent. Individuals in my district are asking, Where are the jobs? And these same individuals are asking how Congress can continue to spend more and more money on government programs rather than cut spending to ensure a better future for our children and grandchildren. They are very concerned about the debt and the deficit that this Congress is amassing. That is why I offered the amendment to the legislation regarding the national deficit and why I wanted to have a debate on this amendment on the House floor in regards to this legislation.

Unfortunately, I cannot support another government-run program that will do nothing to help the constituents of my district. I urge a "no" vote on the bill.

Mr. MARKEY of Massachusetts. Madam Chair, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. I thank the gentleman from Massachusetts, and I second what he said about this bill being a win for all.

I'm sorry there is so much negativity on the other side of the aisle about this bill. This bill takes care of our energy needs and at the same time creates a bold effort to create jobs and to improve the economy.

We cannot rest. Too many Americans are unemployed, and in particular, middle class Americans are still hurting. We must remain focused on revitalizing our economy, and this bill helps to do that.

A smart and effective way to generate jobs is through home retrofits. We can incentivize consumers to weatherize their homes and put our idle contractors and construction workers to work. In turn, many households would save substantial money by weatherizing their homes.

So this Home Star program is a good one. I encourage my colleagues to support this bipartisan legislation, stop with the negativity. Let's move on together.

Mr. UPTON. Madam Chair, may I inquire as to the time remaining on both sides.

The CHAIR. The gentleman from Michigan has 11½ minutes remaining, and the gentleman from Massachusetts has 20 minutes remaining.

Mr. UPTON. Madam Chair, I reserve the balance of my time.

Mr. MARKEY of Massachusetts. Madam Chair, I yield 1 minute to the gentlelady from California (Mrs. CAPPS).

Mrs. CAPPS. Madam Chair, I rise to express my strong support for the Home Star Energy Retrofit Act.

If the unfolding tragedy in the gulf teaches us any lessons, it's that we should be using less energy and getting the energy we need from cleaner sources. This bill is one of several steps taken by this Congress and this administration to achieve these goals that

are so important to our economy, to our environment, to our national security.

The fast-acting Home Star program will create hundreds of thousands of jobs in hard-hit industries like construction and manufacturing, will reduce energy use in millions of homes, and it will save homeowners billions in energy bills for years to come. It will do this by providing homeowners up-front rebates for energy-saving investments like new appliances, efficient windows, and insulation.

Madam Chair, our communities desperately need jobs, and Home Star will help create them. It's a critical step toward building the kind of clean energy economy we need to lift up our communities, spur on sustainable growth, and end our addiction to dirty fossil fuels.

I applaud the bipartisan efforts that have brought Home Star to the floor of the House. I urge my colleagues to vote for its passage.

Mr. MARKEY of Massachusetts. Madam Chair, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Madam Chair, scientists have made an amazing discovery, and that is, we are the Saudi Arabia of energy. We have the ability to power the growth of our economy by finding efficiency right in the walls and windows and doors of our homes, and this bill will unlock that incredible source of energy that is clean. If Americans want to know what we can do to avoid the problem we're seeing in the Gulf of Mexico, it's to take advantage of this bill and make our homes more efficient.

Some of the Republicans don't want to help us on this bill, but they sure had no problem giving \$1 billion of subsidies to the oil companies that are responsible for the disaster in the Gulf of Mexico. If they want to help us in finding a way to pay for this bill, which we are going to find, I hope they will co-sponsor our bill to raise the limit of liability of the companies that are responsible for this to \$10 billion so that they pay for this cost. They will need to abandon their friends in the oil industry, but help the American taxpayer, and we will get the efficiency we deserve.

Mr. MARKEY of Massachusetts. Madam Chair, I yield 1 minute to the gentleman from Utah (Mr. MATHESON).

Mr. MATHESON. Madam Chair, I rise in support of H.R. 5019, the Home Star Energy Retrofit Act; and I want to commend Congressman WELCH for his extremely productive efforts on pursuing this issue. This Home Star program will help support jobs in the construction and home retrofitting sectors, which have been among the hardest hit during this economic recession. In addition, in my home State of Utah, it will help homeowners make the investments necessary to improve energy

efficiency in their homes, which in turn will help them save money on their energy bills.

In my State of Utah, well over half of an individual's residential energy bill goes to home heating and air conditioning, and we have all felt the impact of increased home energy costs on our budgets over the last few years. We know that savings from energy efficiency upgrades are among the best ways homeowners can keep their energy costs low.

This bill is supported by over 1,200 companies and organizations nationwide, including the U.S. Chamber of Commerce, the National Association of Manufacturers, and in my home State, the Utah Clean Energy Coalition and [utahgreenhomes.com](http://utahgreenhomes.com).

I encourage my colleagues to support this bill, and I hope the Cash for Caulkers program can be signed into law soon.

Mr. MARKEY of Massachusetts. Madam Chair, I yield 1 minute to the gentleman from North Carolina (Mr. BUTTERFIELD).

Mr. BUTTERFIELD. Thank you very much, Chairman MARKEY, for your leadership and thank you for bringing this important job-creating bill to the floor today.

Let me just highlight a section of the bill that I worked on to guarantee that all data processing jobs created will be American jobs. Because of this bill, companies and nonprofits will be aggregating data to provide rebates for thousands of energy-efficiency projects created by the act. We have ensured that the work is done right here in the U.S.

The offshoring of data services, which is commonplace in the corporate world, not only kills American jobs, but also presents a security concern as government data could be flowing to parts unknown. The language in this bill ensures that the work remains on American soil with the American worker doing the job.

I am proud to support the Home Star Act and thank the chairman for his leadership. This bill will create jobs and continue to put us on a path to a more sustainable future.

Mr. UPTON. Madam Chair, I yield 1 minute to the minority leader of the House, Mr. BOEHNER of Ohio.

Mr. BOEHNER. Let me thank my colleague for yielding and remind my colleagues that once again we're debating the Cash for Caulkers bill. We are going to weatherize homes around America, and we're going to put Americans back to work once again. The only problem is that we spent almost \$5 billion in the stimulus bill 15 months ago, the States are awash in weatherization funds, and a lot of the money that has been spent has gone to crooked contractors, shoddy work, and there are investigations going on all over the country. But in spite of all of the evi-

dence that this plan is not really working, we're going to authorize \$6.6 billion of money that we don't have so that we can caulk homes.

Now, I think it's a good idea to caulk your home, to weatherize your home, to make our homes more energy efficient; but we have to remember something: 43 cents of every dollar the Federal Government spends this year we're going to borrow. And guess who gets to pay that money back? It's going to be our kids and our grandkids.

The gentleman from Massachusetts is suggesting that we ought to pass this bill, continue this Cash for Caulkers program, and then send the bill to our kids and grandkids. Count me out.

Mr. MARKEY of Massachusetts. Madam Chair, I yield myself 1 minute.

The point here is that what the United States, over the years, has done is to not properly focus upon the things that we can do in order to avoid ever having to import oil from Saudi Arabia, from OPEC. The smartest way to do that is to put in place programs that have the most efficient air conditioners, the most efficient heating systems, the most efficient windows, the most efficient devices that consumers can use in order to reduce their energy bills, reduce the need for us to import energy from overseas, to improve our own American self-sufficiency, and to pass on to the next generation a country that is using our technological genius. That's who we are.

The United States only has 2 percent of the oil reserves in the world; that's our Achilles' heel. Our strength is that we are a technological giant. When we apply our technological genius, we solve problems.

Madam Chair, I yield 1 minute to the gentleman from the State of California (Mr. MCNERNEY).

Mr. MCNERNEY. Madam Chair, I rise today as a proud cosponsor of H.R. 5019, the Home Star Energy Retrofit Act of 2010. And I want to offer a warm congratulations for my good friend and colleague, PETER WELCH, who has shown a tremendous amount of leadership on this issue.

Basically, what H.R. 5019 does is provide incentives for consumers to invest in energy efficiency upgrades to their homes. This is going to create many, many jobs, it's going to create new businesses, it's going to save greenhouse gas emissions, it's going to help homeowners on their energy bills.

I am pleased that an amendment that I offered in the committee to H.R. 5019 was accepted. Basically, what that does is it allows the business community to have confidence that they will get their reimbursement within 30 days, that the DOE will handle that reimbursement within 10 days. So I urge my colleagues to support the Home Star bill.

Mr. MARKEY of Massachusetts. Madam Chair, I yield 1 minute to the gentleman from Vermont (Mr. WELCH).



Mr. WELCH. I thank the gentleman. Two things: one, the concern about weatherization versus this program. This is different. It is a direct engagement by the homeowner. They make the decision, and then they go to the existing infrastructure of retailers and contractors. So there is not layers of government. This is something that Governor Engler of Michigan said made this program very practical and user friendly.

Second, I want to remind folks of the broad basis of support from unusual allies—the National Association of Manufacturers, a key vote; U.S. Chamber of Commerce, key vote; National Lumber and Building Material Dealers Association—that's 6,000 retail businesses; National Association of Home Builders, 175,000 members; the Alliance to Save Energy; the Home Star Coalition; Efficiency First; and the Retail Industry Leaders Association. This has broad support because it's practical and addresses a real-world problem by creating jobs and letting folks save money on their energy bills.

□ 1300

Mr. MARKEY of Massachusetts. Madam Chair, I yield myself 2 minutes.

Mr. WELCH has just gone down the litany of organizations, from the National Association of Manufacturers, to the Chamber of Commerce, the steelworkers, the communications workers, utility workers, American Federation of Teachers. The list goes on and on on both sides. This is the kind of program that the United States should be thinking about at the point at which night after night we see this oil spill down in the gulf because it once again reminds us that the United States only has 2 percent of the oil reserves of the world.

What we do in this legislation is create a program that provides the rebates to homeowners to jump-start the manufacturing, the retail, the construction industry, focusing upon using technologies, manufactured in America, with high standards of efficiency. And by doing so, we say to our country that we are going to turn to our own people, that when America has a plan, America wins.

This is part of a plan. And it is a part of a plan to end dependence upon imported oil. We just can't have half of our trade deficit coming from the purchase of oil from countries that we should not be purchasing it from. We need a plan. This bill is part of that plan. This bill is part of the plan that says that we are going to end business as usual. And what are the companies that we are going to use? We are going to use companies like Whirlpool, and we are going to use companies all across our country that manufacture these items that are 20 percent, 30 percent, 40 percent more efficient than anything that people have in their homes who are going to become a part of this program.

The CHAIR. The time of the gentleman has expired.

Mr. MARKEY of Massachusetts. I yield myself 1 additional minute.

The result of this will be a concomitant reduction in energy bills, in importation of energy, and kind of the sense that America has that we are losing control of our ability to control our own energy agenda.

At this time, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Madam Chair, I appreciate the gentleman's courtesy, as I appreciate his leadership.

This bill is perfectly timed to help American families increase the efficiency of their homes, saving money on their energy bills, and create jobs for those in the construction industry which has been especially hard hit by the recession.

I am pleased that the bill includes incentives for States to support programs where utilities make loans to consumers to make upgrades and repay the cost on their utility bill. This is an important tool. It is especially important in the Pacific Northwest which has pledged to meet 85 percent of our future energy demand with energy efficiency. The Northwest has recognized not only that energy efficient is carbon free, but it costs less than half as much as new power plants.

This bill will provide our region with the tools we need to meet our ambitious targets for a low-carbon, energy-efficient future to revitalize the economy and protect the planet. I am deeply appreciative of this, and look forward to its enactment.

Mr. MARKEY of Massachusetts. Would the Chair inform us as to the order of completion of debate.

The CHAIR. The gentleman from Massachusetts has the right to close.

Mr. MARKEY of Massachusetts. I reserve the balance of my time.

Mr. UPTON. Madam Chair, I yield myself the balance of my time.

Madam Chair, first of all I want to thank the majority for working with a number of Republicans in the committee. The gentleman from Massachusetts (Mr. MARKEY) and Mr. WAXMAN and Mr. WELCH worked with me on allowing home builders to be certified for the work, something that we thought was very important.

They worked with Mr. SHADEGG on an amendment to make sure that tankless water heaters were included, something we know is very important in the process; and Mr. SHIMKUS on geothermal; three amendments that all of us on both sides of the aisle strongly supported. We welcomed that good work.

And to a degree, we also worked on clearing up one of the major objections from the start, and that was the original legislation talked about such sums, which as we calculated was going to be

up to \$23 billion. That objection was looked at and we were able to reduce it significantly, but it is still \$6.6 billion in terms of what that cap may be over the next 2 years.

And if you look at the talking points out there, we are talking about 168,000 jobs and if you divide that by the \$6.6 billion, you come out to about \$39,000 a job and that is just too much.

Mr. LATTI worked in good faith from the time that the full committee ended the markup a couple of weeks ago to try and get an amendment to sunset the act. The legislation would have a negative effect on the Federal budget deficit. He was led to believe that amendment might be in order. Despite the assurances of some on the committee, it appears that the Rules Committee denied that amendment. But we will have a chance. That amendment, as I understand it, will be part of our motion to recommit, and hopefully that motion to recommit with that provision will be included which is one that Mr. LATTI spoke about earlier in support of that amendment.

But the real problem for many of us on our side is that this is really a duplicative program going back to the Department of Energy's stimulus funding. And after a year of that, remember that was adopted in February of 2009, after a year and the money in that stimulus bill, there were promises in fact that that was going to create 87,000 jobs. And a year later, February of this year, it looked as though only 10 percent of that 87,000 figure was recognized, or about 8,500 jobs, not the 87,000. Remember as part of the stimulus, they had to be job ready. Money had to go out the door as quickly as could be. A year later, we were still only 10 percent of the jobs that were promised, far short of that number.

Now, we have a \$1.5 trillion deficit this year. A lot of us on our side think we should be taking the time to go through every program, every program in that budget to look at where we might be able to find some savings, go page by page. The taxpayers deserve no less. Enough is enough. This is a \$6.6 billion new program entrusted to the Department of Energy which after a year could only deliver 10 percent of what they were promising in the stimulus bill from last year.

So our view on this side, many of us say without the Latti amendment to make sure that in fact there is not an impact on the deficit, we would ask Members to vote "no."

Madam Chair, I yield back the balance of my time.

Mr. MARKEY of Massachusetts. Madam Chair, I yield myself the balance of my time.

Madam Chair, again, let me summarize. Home Star is a 2-year energy efficiency program that will save \$9.2 billion in consumer energy costs, create or save 168,000 jobs when our country

desperately needs an increase in the number of people who are working, and increase energy independence across the Nation by sending a signal that we are going to use new technologies, more efficient technologies to back out that oil that we import.

Home Star's Silver Program is a 1-year program to provide rebates for energy efficient materials and installation. It will jump-start manufacturing, retail, and construction jobs.

Home Star's Gold Star program is a 2-year program that allows homeowners to receive rebates for making their homes at least 20 percent more energy efficient, and that includes any measure approved through an energy audit. Gold Star does not pick winners and losers. We just want the most efficient technologies to be used to reduce energy consumption in our country.

Finally, Home Star offers an energy efficiency loan program. This program will offer low-interest loans to help offset a household's 50 percent share of energy retrofit cost.

Again, an all-star cast of supporters. You are not going to see this very often: the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Association of Home Builders, partnered with the steelworkers, with the communication workers, with the laborers, the utility workers, the transit unions, the sheet metal workers. This is what America needs if we are going to put our country back to work again. We should embrace this in a bipartisan fashion so that we can create a plan for our country to reduce energy consumption while we use American workers to accomplish this goal.

Ms. ESHOO. Madam Chair, I rise today in support of H.R. 5019, the Home Star Energy Retrofit Act of 2010. This sensible legislation addresses two of the most pressing issues of our day: our immediate need for jobs and our future energy reliance.

At its heart, the bill is simple—it will provide rebates to homeowners who make energy efficiency improvements to their homes. But the effects of this simple legislation will be anything but modest. Homeowners who participate in the rebate program will purchase American energy efficiency products and employ American workers to install these products, creating almost 170,000 jobs in the construction and clean technology industries.

Homeowners who purchase the improvements will save money in energy costs—nearly \$10 billion over the next decade and the energy equivalent of 6.8 million barrels of oil next year alone. These past few weeks, the oil spill in the Gulf of Mexico has reminded us of the truly destructive power of our energy habits and the urgent need to reduce our dependence on 20th century fuels.

I also know personally just how important energy efficiency renovations can be and how much money they can save. I'm very proud that my District Office in Palo Alto is now the only Congressional office in the country that is Green Certified by the Bay Area Green Busi-

ness Program. The improvements and policies we've introduced in my office save taxpayer money and reduce pollution and energy usage throughout our District.

H.R. 5019 will help homeowners throughout the nation achieve similar improvements, rewarding them with lower costs and providing our nation with more jobs and greater energy independence. It is simple, sensible legislation that will move us forward on two critical priorities.

Mr. ELLSWORTH. Madam Chair, I rise today in objection to ineffective and wasteful government spending, and to thank my Colleagues for accepting my common-sense proposal to the Home Star Energy Retrofit Act of 2010.

As I traveled throughout Indiana's 8th Congressional District over the last few months, I came across many community leaders who expressed concern to me about the wasteful government spending they were witnessing firsthand. In particular, they were alarmed by the numerous boxes full of so called "promotional items" they received from the Census Bureau. Although the local leaders and I both acknowledged the critical importance of the Census count, we could hardly see how government spending on embroidered shirts, coffee mugs, CD cases, and lunch bags was an effective use of taxpayer dollars—all items that were received in large quantities by the communities throughout Indiana's 8th Congressional District.

As a result of this experience, I demanded detailed information on the promotional budgets of several federal departments, including the Census Bureau, in order to raise awareness of this kind of government spending. The results I found were startling on many fronts. For example, I was outraged when I learned the Chicago Region of the Census Bureau alone spent \$3,841,317 on "promotional items."

And I made it a priority to ensure this type of wasteful and ineffective spending never again gets through this Congress.

So today, I had the opportunity to fulfill my commitment through the Home Star bill. I support the overall bill. It will help thousands of my constituents significantly reduce their home energy bills, and it will create many jobs in the home construction and manufacturing sector. However, I was deeply concerned when I found a section of the bill that provided funding for an "Educational Campaign." To me, this section of the bill left open the very real possibility of more wasteful government spending on things like embroidered t-shirts and coffee mugs.

That's why I offered language to ensure this bill will not allow for spending on promotional items, and I want to thank Chairman HENRY WAXMAN and the Energy and Commerce Committee staff for working with me on this important taxpayer protection.

Madam Chair, as we seek to address the many challenges facing our nation, we must be vigilant about putting a stop to ineffective and wasteful spending. Finding new ways—large and small—to trim government spending will play a large part in moving our government in the right direction. I pledge to continue to do my part here in Washington, and I will continue to depend on my constituents to in-

form me of the wasteful government spending they experience in everyday life. We must all work together to restore fiscal sanity to our budget and get our country back on track.

Mrs. DAVIS of California. Madam Chair, San Diegans may have "America's Finest Weather," but when we do use our heating and cooling systems we want to ensure they provide the best cost-benefit for our pocketbooks and our planet.

In fact, one of our major hotels in the Gaslamp District is currently competing against 13 other businesses across our country to see which can retrofit and reduce energy use the most, as part of the EPA's Energy Star National Building Competition.

So I'm pleased that the Home Star Energy Retrofit legislation before us will let the homeowners in my district follow that example.

This is the kind of nuts and bolts legislation we need—it saves homeowners money, puts Americans back to work, and cuts energy consumption—by retrofitting the nuts and bolts of our appliances and our homes.

In fact, we've been calling this retrofitting, but "future-fitting" is a more appropriate name.

We are investing in the future of our country's economy by creating jobs and helping the future of our environment by lowering energy consumption.

This bipartisan legislation makes sense and shows what we can do when we reach across the aisle and work together to create jobs and protect our environment.

Mr. STARK. Madam Chair, I rise today in support of legislation that continues Congress's commitment to making our economy greener while creating good jobs. The "Home Star Energy Retrofit Act" (H.R. 5019) will provide immediate incentives for consumers who renovate their homes to become more energy efficient. This will create good paying jobs while saving families money.

The average American household spends \$2,100 per year on energy costs. Nearly 25% of that can be saved through efficiency upgrades. Unfortunately, many families cannot afford to make the changes needed to achieve savings. Using rebates will bring these upgrades within reach for 3 million families.

Up-front rebates of up to \$3,000 will be provided for the installation of insulation, windows, doors, air and duct sealing, and water heaters. This will not only save families money and reduce energy usage, it will also create an estimated 170,000 jobs in construction, manufacturing, and retail. The legislation also provides seed money to States to support loans to consumers to finance energy efficiency home renovations.

As we are witnessing in the Gulf Coast, our addiction to fossil fuels has real and sometimes disastrous consequences. We must become more efficient and transition to an economy based on clean energy. We must continue to enact policies that invest in clean and renewable energy and energy efficiency and we can do so in a way that creates good-paying jobs. I urge all of my colleagues to vote yes.

Mr. CONYERS. Madam Chair, I rise today in support of the Home Star Energy Retrofit Act, which will provide immediate incentives for homeowners to make their houses more energy efficient. This two-tiered program will

offer rebates for the insulation of houses and other energy-saving measures. By installing energy efficient windows, doors, water heaters and taking other steps to consume less energy, families can expect to save over \$200 in costs each year. Energy audits will allow homeowners to know what other upgrades should be made.

In addition to allowing consumers to take advantage of the potential long-term savings in their heating and cooling costs, this rebate offer will continue the New Direction Congress' focus on creating clean energy jobs. An estimated 168,000 American jobs are expected to be created in the construction, manufacturing and retail industries—all of which have taken a tremendous hit during the current economic downturn.

This legislation, like the funds in the Recovery Act to weatherize low-income homes, shows this Congress' continued commitment to reducing the energy usage of houses across the country, which will keep money in Americans' pockets and decrease air pollution in many communities. While these funds do not provide money for roof repair, which is a serious need in many low-income communities and is something I hope Congress addresses soon, I still think that this bill will do much to improve efficiency in many homes.

The recent disaster in the Gulf Coast provides yet another tragic example of why we should be focusing on energy alternatives that are clean and safe. I am pleased to join labor, manufacturing and environmental groups in being in favor of this bipartisan legislation and I encourage my colleagues to support the bill."

Mr. ETHERIDGE. Madam Chair, I rise today to support the Home Star Energy Retrofit Act of 2010, H.R. 5019. This legislation is an essential step to help Americans save on their energy bills while spurring the creation of good jobs and the development of new green industries that will help drive our nation's economic recovery and help us achieve a degree of energy independence.

I commend Representative WELCH for sponsoring this very important piece of legislation, which is bipartisan and supported by many pro-business and environmental organizations including the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Association of Home Builders, Home Depot, Laborers' International Union of North America, Natural Resources Defense Council, and the Home Star Coalition with over 1000 business and organization members nationwide. These groups agree that Home Star will spur much-needed consumer demand for energy-efficient products and building materials by providing significant and immediate rebates for home energy-efficient renovations. As a result, Home Star will quickly create jobs in the manufacturing, distribution and sale of energy-efficient products. These kinds of jobs are good for America, as construction jobs cannot be outsourced and 90 percent of the energy saving products needed for Home Star, including windows, doors, and insulation, are manufactured in the USA. In fact, according to a study conducted by the management consulting group McKinsey and Company, this legislation is expected to create 168,000 jobs.

Madam Chair, this legislation is a win-win for our economy. It will reduce the grip of for-

eign oil on our nation while spurring economic activity and job creation. I strongly support this legislation and encourage my colleagues to do the same.

Mr. DINGELL. Madam Chair, I am proud to stand in support of HomeStar, which holds much promise in three important areas. First and foremost, it will create jobs. Second, it will lead to greater residential energy efficiency. Third, it has the potential to lead to significant consumer savings.

In terms of jobs, Madam Chair, my home state of Michigan is in a desperate situation. Our current unemployment rate is 14.3 percent and Wayne County has an unemployment rate of 15.7 percent. Between 2001 and 2009, Michigan lost nearly 43 percent of its construction jobs. The bottom line, we need jobs and we need them desperately. This program has the potential to put 168,000 workers back on the job. Not only will this help individual workers, but also small business, which has been a particularly hard hit segment of our economy. We cannot afford not to move forward.

According to the HomeStar Coalition, the energy efficiency gains have the potential to equal the removal of 615,000 cars from the road. This is particularly important since the Senate has yet to act on broader climate change legislation.

Finally, this program will be of great benefit to homeowners. This could save families as much as \$9.4 billion in energy costs over ten years. In addition, it makes homes more valuable. In these economic times, these savings and increased home values cannot be underestimated.

Madam Chair, HomeStar follows on the heels of the wildly successful Cash for Clunkers program in which the federal government provided consumers vouchers to purchase new, more fuel-efficient vehicles. The initial allocation of \$1 billion was exhausted sooner than anticipated and we had to secure an additional \$2 billion in funding for the program. Cash-for-clunkers was responsible for the sale of nearly 700,000 new vehicles in the U.S. during its run, and it added nearly one percent to third quarter GDP growth. Cash-for-clunkers has been hailed as the most successful of all recent government economic stimulus programs. According to the Center for Automotive Research (CAR), cash-for-clunkers created approximately 40,200 new jobs nationally, of which 5,800 were in Michigan.

I urge all my colleagues to support this important legislation.

Mrs. MALONEY. Madam Chair, I rise today to voice my support for H.R. 5019, the Home Star Energy Retrofit Act.

This legislation will help to create jobs, while saving consumers money, and reducing our Nation's energy consumption.

It will also provide an important boost for the construction sector which has been mercilessly pounded by both the recession and the collapse in new housing construction.

In my role as Chair of the Joint Economic Committee, we have been examining the sector-by-sector impact of the Great Recession. The construction sector has seen employment drop by almost 28 percent since the recession began. More than two million jobs—in this sector alone—were lost.

We're not going to get those jobs back overnight, but policies like The Home Star Energy Retrofit Act can play an important role in encouraging growth in construction while speeding our transition to a more energy-efficient economy.

The legislation provides rebates to consumers for purchasing energy-efficient products or materials and for doing renovations to make their homes more energy efficient.

Consumers can get the rebates for buying caulk or insulation at their local hardware store, for example, or working with a contractor on larger projects, such as installing new heating or cooling systems, or replacing windows.

The larger the project, the larger the rebate.

The legislation also creates a new State-Federal program to provide loans to consumers for renovations that improve energy efficiency.

The Home Star legislation builds on the energy efficiency provisions in the Recovery Act, including weatherization programs targeted at low-income families and retrofits of public housing.

The legislation helps us accomplish two key goals—increasing jobs and reducing our energy costs and consumption.

A number of studies have already shown the job creation power of retrofitting homes and buildings.

The Center for American Progress estimated that \$40 billion invested in retrofits would create approximately 800,000 jobs. And these are good, high-paying jobs—construction workers, carpenters, electricians and roofers.

Finally, residential and commercial buildings use 40 percent of the energy in our country and account for 40 percent of carbon emissions.

The Home Star Energy Retrofit Act will speed the pace of home retrofits, speed up the creation of badly needed jobs, decrease our demand for carbon based fuels, and help us move more quickly to a cleaner, brighter, more energy efficient future.

I encourage you to support H.R. 5019.

Mr. THOMPSON of Mississippi. Madam Chair, I come to the floor today in support of the legislation before us, and to talk about companion efforts that can and should be undertaken to create jobs and ensure that people around the country are better protected from natural disasters. I support providing incentives to homeowners to make their homes energy efficient. However, at the same time, I believe we must help Americans make their homes stronger and safer.

I have long been a proponent of disaster mitigation and resiliency measures, and in fact, have sponsored a number of pieces of legislation that would assist families in strengthening their homes. I have also drafted an amendment to the Home Star bill, which though I did not offer, I am hoping can be the basis for discussions with the House, Senate and Administration as this bill moves forward.

Americans across the country are at risk from natural disasters. Though we cannot easily mitigate the disasters themselves, we can mitigate and lessen their impact. Homes can be strengthened to protect from the devastating effects of hurricanes, earthquakes,

flooding, and tornadoes. Strengthening roof attachments, creating water barriers and seals, constructing saferooms, elevating electrical systems, adding storm shutters and roof protection systems are examples of what can be done to save lives and property.

Disaster resiliency not only helps better protect our residents and their property, but it creates jobs and is cost effective. A disaster mitigation program in Florida has found that for every 50 to 75 homes made more resilient, 160 construction jobs are created. Imagine if we were strengthening hundreds of thousands of homes in harm's way. We would create tens of thousands of jobs.

We would also be making a smart investment . . . one that will have significant cost savings. For every \$1 spent to strengthen homes and communities, \$4 is saved in recovery and rebuilding costs. That is not an insignificant cost savings.

Disaster mitigation also decreases energy use and reduces greenhouse gas emissions. South Carolina's state mitigation program found that installing disaster resiliency measures decreased energy usage by almost 30 percent. And, though not immediate, there are significant energy savings from preventing the destruction, and subsequent rebuilding, of homes and other structures.

Pairing disaster mitigation and energy efficiency retrofits makes sense. Federal programs should be making sure that energy efficient upgrades can withstand known risks, including natural disasters. In coastal areas, that means making sure that windows and doors are wind resistant in addition to being energy efficient, and it means making sure that the roof can withstand wind so that the home, and the energy efficiency work, is not wiped away in the next storm. Strengthening and protecting homes and buildings at the same time as we are making the homes energy efficient will help to protect our federal investment.

Providing incentives for disaster resiliency and mitigation has the support of numerous organizations including environmental groups, taxpayer advocate organizations, and affordable housing advocates. I believe there is widespread support for strengthening homes and buildings in harm's way. I look forward to working with my colleagues either on including incentives in Home Star as it moves forward or as a companion piece of legislation.

Mr. GENE GREEN of Texas. Madam Chair, I rise today in strong support of H.R. 5019, the Home Star Energy Retrofit Act, because this Congress must continue to make sure that Americans are getting back to work and that we are continuing to move our economy forward.

In our congressional district, the construction industry is one of the highest sources of income for residents, yet this industry has been especially hard-hit by the recent economic downturn.

Unemployment rates in the construction industry have risen almost 17.4 percent and have shed over 134,000 jobs over the past two years.

The HomeStar program seeks to increase employment in the construction and construction-related sectors and increase building energy efficiency to significantly reduce energy use in America.

It is estimated that the program will create approximately 168,000 more jobs in the construction and manufacturing sectors, while promoting American-made goods and services.

The program also seeks to address the issue of rising home energy costs by improving building energy efficiency.

I have always been a strong supporter of energy efficiency and I am pleased the HomeStar program will build on already existing energy efficient retrofitting programs to save homeowners as much as \$9.2 billion in energy costs over 10 years.

Congress should continue to invest in job creation and energy efficiency measures in order to keep our nation a leader in the global economy.

I urge my colleagues to support this bill.

Mr. FALEOMAVEGA. Madam Chair, I rise in strong support of H.R. 5019, the "Home Star Energy Retrofit Act of 2010." First I want to thank the chief cosponsor Congressman PETER WELCH and all cosponsors for their support. I also want to commend Chairman HENRY WAXMAN of the House Committees on Energy and Commerce, Chairman SANDER LEVIN of the Committee on Ways and Means; and Chairman EDOLPHUS TOWNS of the Committee on Oversight and Government Reform, and House Speaker NANCY PELOSI, for their leadership on this important issue.

Madam Chair, the "Home Star Energy Retrofit Act of 2010" continues the road to economic recovery that was set in motion last year when President Obama and the U.S. Congress approved \$787 billion in stimulus funding. Between January 1 and March 31 of this year alone 682,779 jobs were funded through recovery funding. Yet, more work remains to be done to sustain recovery and strengthen our economy and the piece of legislation before us today pursues this policy objective. It will provide further assistance to . . . facilitate energy conservation in homes across the Nation; create more jobs in the home construction and remodeling industries; promote domestic energy efficient products and equipments; and offer financing for homeowners to improve energy efficiency in homes. Overall, the economic benefits from this bill will provide more support for the many families across the country.

Madam Chair, data shows that American homes account for about 33 percent of the Nation's total electricity usage and an estimated 22 percent of all energy use in the United States. Because of high energy consumption in the country there are substantial economic benefits to be gained from installing energy-efficient improvements in every home across the Nation. A study by the Joint Center for Housing Studies of Harvard University supports this assessment noting that "energy efficiency is one area where the economic benefits of green remodeling are readily apparent," and that "the introduction of green systems could have a tremendous impact on national consumption."

The same study also finds that nearly all of the 130 million homes across the country can be retrofitted with energy efficient improvements to realize savings in energy and utility costs. More significantly, retrofit and renovation work provide significant employment opportunities for the capable workers.

In essence, H.R. 5019 will create a national rebate program that will allow consumers to purchase and install at affordable costs, energy-efficient equipments and materials in existing homes. It consists of two-tracks, Silver and Gold programs, for long term and short term gains. Under the Silver program, rebates are awarded to contractors and vendors that are installing energy efficiency measures and from there the savings are passed on to the consumers. Rebates will apply to the cost of purchase, assembly and installation of insulation, windows, window film, sealants, doors, heating and cooling replacement systems, and water heaters that meet minimum energy efficiency requirements. Overall, the homeowners may get up to \$3000 in rebates.

Under the Gold Star program, rebates are available for energy retrofit works that will result in improvements in energy efficiency by at least 20 percent for the entire home. It rewards homeowners who conduct a comprehensive energy audit and implement a full complement of measures to reduce energy use throughout the home.

Madam Chair, I am pleased that this rebate program will be available in the U.S. Territories including my district of American Samoa. While much remains to be seen on how this rebate program will be administered and implemented, I am glad nevertheless that the federal government is doing its share to help families in American Samoa and throughout the United States.

I urge my colleagues to pass H.R. 5019.

Mr. VAN HOLLEN. Madam Chair, as an original cosponsor of this important legislation, I rise in strong support of the Home Star Energy Retrofit Act of 2010.

As we work to develop and deploy new forms of clean, homegrown energy, we must never lose sight of this central fact: There is no cleaner, cheaper source of energy than the energy you never have to use.

Energy efficiency is literally America's greatest energy resource. Over the past thirty years, energy efficiency and conservation improvements have significantly outpaced our production and import of petroleum and any other single source of energy.

Going forward, we can do even better, and this initiative is part of that future—creating 168,000 jobs across the United States, reducing carbon dioxide emissions by 4.14 metric tons, which is the equivalent of taking 767,000 cars off the road, and saving Americans \$9.2 billion on their energy bills over the next decade.

Finally, in addition to the Silver and Gold level rebates provided to homeowners under this bill, this initiative also includes the establishment of a Home Star Energy Efficiency Loan Program so that states and localities can provide low-cost financing to homeowners wishing to undertake retrofits. While on a smaller scale, this provision is consistent with the Green Bank proposal included the House-passed energy bill and can go a long way towards overcoming the lack of upfront capital that is currently a barrier to many homeowners getting started on making these commonsense improvements in the first place.

Madam Chair, this combination of jobs, energy savings and consumer relief is a perfect trifecta for the American people. I thank my

colleague Representative PETER WELCH for his leadership on this issue, commend the committee for bringing this bill to the floor and urge my colleagues' support.

Ms. JACKSON LEE of Texas. Madam Chair, I rise today in strong support of H.R. 5019, "The Home Star Energy Retrofit Act of 2010."

I would like to thank my colleague Representative PETER WELCH for introducing this legislation as it is important that we embrace programs that create jobs for Americans and help improve energy efficiency in our country.

As a member of the Renewable Energy and Energy Efficiency Caucus I am proud to express my support for this bill. Through the Home Star program, this bill seeks to create new jobs, save energy, and lower families' energy bills. The Home Star program will do this by encouraging home and business owners to update their stock of appliances and electronic devices with new energy efficient devices and appliances. Through the use of rebates and other consumer incentives this program will work in a proactive economic way to promote green technology and innovation.

This bill comes at an important time in our history, Madam Chair. Over the last several decades we have seen national electricity and energy use growing at unprecedented rates. We have also seen massive increases in greenhouse gas emissions and a loss in employment opportunities. This bill seeks to address each and every one of these issues with an approach that would benefit the environment and work towards the improvement of our communities.

The increases in consumer spending we seek to gain from this bill would also have a massive economic impact on our country during these turbulent economic times. By spurring consumer spending we will be creating new opportunities right here in the United States for industrial, economic and jobs growth.

This program is expected to allow 3 million families to retrofit their homes with new energy efficient appliances. Consumers are predicted to save \$9.2 billion on their energy bills over the next 10 years as a result of Home Star's energy efficiency investments. Furthermore, the Home Star program will create 168,000 new jobs here in the United States.

Madam Chair, these jobs are desperately needed as our national unemployment rate has recently hit the 10 percent mark. This legislation would stipulate that construction jobs cannot be outsourced and more than 90 percent of the energy efficiency technologies approved by this bill are also manufactured right here in the United States.

This legislation will also save consumers money and cut pollution. By ensuring that more American homes and businesses are retrofitted with these new energy efficient appliances and fixtures we will be working proactively to cut greenhouse gases and reduce unnecessary use of our vital energy resources. Furthermore, this bill would also help us in our goal of achieving energy independence by further reducing our demand for foreign oil and fossil fuels.

The Home Star program proposed in this bill is authorized at \$6 billion—however, H.R. 5019 will not include any appropriated funds.

In other words, Madam Chair, this bill does not affect direct spending or revenue and will not hurt the American taxpayer.

I stand today with Representative PETER WELCH and other Members of Congress in reaffirming our support for energy efficiency in our nation. I also stand with my fellow members of the Renewable Energy and Energy Efficiency Caucus in supporting this bipartisan legislation. By enacting these types of economic incentives for consumers our nation will be cleaner, more efficient and will have lower levels of unemployment.

I ask my colleagues for their support of H.R. 5019, as well as for their continued support of green technology and the unemployed in our nation. By increasing our support for these types of programs we will ensure that our country remains a leader in energy efficient technology.

Madam Chair, I ask my colleagues to join me in supporting H.R. 5019.

Ms. RICHARDSON. Madam Chair, I rise today in strong support of H.R. 5019, the "Home Star Energy Retrofit Act of 2010." I am a proud cosponsor of this important legislation, which will create thousands of good paying jobs, help millions of consumers and families, and make our nation more energy efficient and independent. This bill is good for business, good for labor, good for families, and good for America. It is little wonder that it enjoys broad based and bipartisan support.

I thank Chairman WAXMAN for his leadership in bringing this bill to the floor. I also thank the sponsor of this legislation, Congressman WELCH, for recognizing the positive effect that home energy retrofitting can have on our economy, our energy supply, and our planet.

Madam Chair, our nation faces a serious energy crisis. We must adopt a comprehensive energy strategy that weans us off of our dependence on foreign oil and ensures our nation's long term prosperity. This strategy has to include becoming more efficient in our everyday use of energy, and that starts in our homes.

H.R. 5019 will spur home retrofits by offering rebates to homeowners who install energy saving products, such as insulation, duct sealing, air sealing, water heaters, and windows. Retrofitting will save homeowners \$9.2 million on their energy bills over the next 10 years. Additionally, investing in the green economy creates jobs. This bill will create 168,000 new jobs by restarting the assembly lines that produce energy-saving devices and creating a demand for home construction and installations. Construction and installation jobs cannot be shipped overseas and 90 percent of energy efficiency technologies are manufactured here in the United States.

As importantly, this legislation will help the individuals in this country who are the most vulnerable. I know individuals in my Congressional district and across the country are struggling to pay their bills as energy costs skyrocket. Many do not know how long they will be able to afford hot water, heat for the winter, or cold air to make stifling summers bearable. This bill will lower energy costs for those individuals and help them ensure that they can afford safe and decent living conditions for themselves and their families.

This bill is supported by a wide-ranging coalition of religious, conservation, and pro-growth

groups. H.R. 5019 is the right thing to do for our economy, our environment, and our communities. I urge my colleagues to join me in supporting H.R. 5019.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Chair, I rise today in support of H.R. 5019, the Home Star Energy Retrofit Act of 2010.

The best way to lower energy costs is to make homes, buildings, vehicles, and infrastructure more energy efficient. Providing American homeowners with incentives to improve the energy efficiency in their homes is a straightforward concept that will spur job growth, protect our environment, and lower residential energy costs.

We must revolutionize our economy and energy infrastructure in order to become more efficient. The growing "Green Economy" presents an opportunity to create large numbers of quality, green-collar jobs for American workers to grow emerging industries and to improve the health of low- and middle-income Americans. Specifically, Home Star will create 168,000 new jobs in an effort to jump start our Nation's struggling economy.

As the cost of energy continues to spiral out of control, Home Star presents a common-sense approach to mitigate costs to American homeowners. During extreme weather conditions, people living in poverty and the low-income elderly shouldn't be overburdened by the cost of energy to heat and cool their homes or the cost to provide food for themselves and their families. This legislation is another, positive step for America in the road towards economic recovery.

Madam Chair, Dallas is ready for this opportunity to make cost-effective investments to rebuild and retrofit our community and our Nation. I urge my colleagues to join me in supporting the Home Star Energy Retrofit Act of 2010.

Mr. CASTLE. Madam Chair, I rise today in support of the Home Star Energy Retrofit Act of 2010 (H.R. 5019), which aims to provide an incentive based program for homeowners who invest in improving their home's energy efficiency.

Energy efficiency is the fastest and cheapest way to reduce our energy consumption in the home, and cut energy costs for American households. According to the Alliance to Save Energy, the average American household spends \$2,100 each year paying for home energy, and could save 25 percent through better energy efficiency. Beyond the benefits of lowering the cost of energy bills for American households, energy efficiency plays a critical role throughout the U.S. by reducing energy consumption, which improves our energy security.

Recognizing that the national debt continues to grow, Congress has the responsibility to pay-as-we-go, and ensure that appropriated funds proceed through the budget process. For this reason, I also support the amendment to sunset the Act if the funding for this program will have a negative net effect on the federal budget deficit.

Because funding under the ARRA for the weatherization program has been slow to implement, I also have concerns regarding the Department of Energy's ability to implement

this new program under the tight deadlines required by the bill. Authorizing this program, instead of providing emergency spending, will hopefully give Congress adequate oversight over implementation of the program, which will still be subject to available funding through the regular appropriations process.

Ms. RICHARDSON. Madam Chair, I rise in strong support of H.R. 5019—Home Star Energy Retrofit Act of 2010. I want to thank my colleague Representative WELCH for bringing this important bill to the floor.

In our current economic crisis we need to seize on opportunities to create jobs, and with our need to find the energy to power our country, we need to find every kilowatt of savings we can. This bill will help accomplish both of those goals.

Home Star is a short-term program to create jobs, save energy, and lower families' energy bills. Home Star will restart the assembly lines at factories that manufacture energy efficiency technologies and will put construction workers back on the job installing these improvements in the homes of millions of American families.

There are huge energy savings available through basic retrofits, which will save people money and reduce our dependence on foreign oil. By encouraging people to help themselves through the installation of specific energy-saving technologies, including insulation, duct sealing, windows and doors, air sealing, and water heaters, we will all benefit.

Home Star is expected to allow 3 million families to retrofit their homes to be more energy efficient. Consumers are predicted to save \$9.2 billion on their energy bills over the next 10 years as a result of Home Star's energy efficiency investments. And Home Star will create 168,000 new jobs here in the United States. Construction jobs cannot be outsourced, and more than 90 percent of energy efficiency technologies are manufactured here in America.

We also must do everything we can to continue to encourage the development of an energy efficiency industry in this country. Foreign countries are threatening to take our market share in manufacturing energy efficient technologies and we cannot let this huge market go offshore. This bill will help create a larger market for these products and solidify our position as a market leader.

This bill is a win-win-win, and I urge all of my colleagues to support it.

Ms. DELAURO. Madam Chair, I rise in support of the Home Star Energy Retrofit Act, an important, commonsense bill that will help promote energy efficiency, conserve our resources, spur job creation and the green economy, and save Americans money.

In my home State, excellent efficiency programs like the Connecticut Energy Efficiency Fund have helped to reduce energy demand, improve air quality, and deliver savings of \$3 to \$4 to customers for every \$1 invested. That is why they enjoy the support of business, industrial, commercial, low-income consumer, and environmental advocates alike.

By taking the idea national, and offering rebates for energy-saving home retrofits like insulation and duct sealing, the bill will create over 168,000 jobs across the country for electrical workers.

I want to thank Mr. WELCH and Chairmen WAXMAN and MARKEY for working with Con-

gresswoman CHELLIE PINGREE and I to include language requiring Home Star implementers to coordinate with existing State efforts like the CEEF. This will help ensure that leading States like Connecticut can maximize their impact, using both State and Federal resources, when it comes to energy efficiency.

This is a great bill, and I urge my colleagues to support it.

Mr. MARKEY of Massachusetts. I yield back the balance of my time.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

#### H.R. 5019

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Home Star Energy Retrofit Act of 2010".*

#### SEC. 2. DEFINITIONS.

*In this Act:*

(1) ACCREDITED CONTRACTOR.—The term "accredited contractor" means a qualified contractor—

(A) that is accredited—  
(i) by the BPI; or  
(ii) under other standards approved by the Secretary, in consultation with the Administrator; and

(B) effective 1 year after the date of enactment of this Act, that uses a certified workforce.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(3) BPI.—The term "BPI" means the Building Performance Institute.

(4) CERTIFIED WORKFORCE.—The term "certified workforce" means a residential energy efficiency construction workforce in which all employees performing installation work are certified in the appropriate job skills under—

(A) an applicable third party skills standard established by—

(i) BPI;  
(ii) North American Technician Excellence;  
(iii) the Laborers' International Union of North America;

(B) an applicable third party skills standard established in the State in which the work is to be performed, pursuant to a program operated by the Home Builders Institute in connection with Ferris State University, to be effective 30 days after notice is provided by those organizations to the Secretary that such program has been established in such State, except to the extent that the Secretary determines within 30 days of such notice that the standard or certification is incomplete; or

(C) other standards approved by the Secretary, in consultation with the Secretary of Labor and the Administrator.

(5) CONDITIONED SPACE.—The term "conditioned space" means the area of a home that is—

(A) intended for habitation; and  
(B) intentionally heated or cooled.

(6) DOE.—The term "DOE" means the Department of Energy.

(7) ELECTRIC UTILITY.—The term "electric utility" means any person, State agency, rural electric cooperative, municipality, or other gov-

ernmental entity that delivers or sells electric energy at retail, including nonregulated utilities and utilities that are subject to State regulation and Federal power marketing administrations.

(8) EPA.—The term "EPA" means the Environmental Protection Agency.

(9) FEDERAL REBATE PROCESSING SYSTEM.—The term "Federal Rebate Processing System" means the Federal Rebate Processing System established under section 101(b).

(10) GOLD STAR HOME ENERGY RETROFIT PROGRAM.—The term "Gold Star Home Energy Retrofit Program" means the Gold Star Home Energy Retrofit Program established under section 104.

(11) HOME.—The term "home" means a principal residential dwelling unit in a building with no more than 4 dwelling units that—

(A) is located in the United States; and  
(B) was constructed before the date of enactment of this Act.

(12) HOME STAR LOAN PROGRAM.—The term "Home Star Loan Program" means the Home Star Energy Efficiency Loan Program established under section 111.

(13) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(14) NATIONAL HOME PERFORMANCE COUNCIL.—The term "National Home Performance Council" means the National Home Performance Council, Inc.

(15) NATURAL GAS UTILITY.—The term "natural gas utility" means any person or State agency that transports, distributes, or sells natural gas at retail, including nonregulated utilities and utilities that are subject to State regulation.

(16) QUALIFIED CONTRACTOR.—The term "qualified contractor" means a residential energy efficiency contractor meeting minimum applicable requirements as determined under section 101(c).

(17) QUALITY ASSURANCE FRAMEWORK.—The term "quality assurance framework" means a policy structure adopted by a State to develop high standards for ensuring quality in ongoing energy efficiency retrofit activities in which the State has a role, including operation of the quality assurance program, while creating significant employment opportunities, in particular for targeted workers.

(18) QUALITY ASSURANCE PROGRAM.—  
(A) IN GENERAL.—The term "quality assurance program" means a program authorized under this Act to oversee the delivery of home efficiency retrofit programs to ensure that work is performed in accordance with standards and criteria established under this Act.

(B) INCLUSIONS.—For purposes of subparagraph (A), delivery of retrofit programs includes field inspections required under this Act, with the consent of participating consumers and without delaying rebate payments to participating contractors and vendors.

(19) QUALITY ASSURANCE PROVIDER.—  
(A) IN GENERAL.—The term "quality assurance provider" means any entity that is authorized pursuant to this Act to perform field inspections and other measures required to confirm the compliance of retrofit work with the requirements of this Act.

(B) CERTIFICATION REQUIREMENT.—To be considered a quality assurance provider under this paragraph, an entity shall be certified through—

(i) the International Code Council;  
(ii) the BPI;  
(iii) the RESNET;  
(iv) a State;  
(v) a State-approved residential energy efficiency retrofit program; or  
(vi) any other entity designated for such purpose by the Secretary, in consultation with the Administrator.



(20) **REBATE AGGREGATOR.**—The term “rebate aggregator” means an entity that meets the requirements of section 102.

(21) **RESNET.**—The term “RESNET” means the Residential Energy Services Network.

(22) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

(23) **SILVER STAR HOME ENERGY RETROFIT PROGRAM.**—The term “Silver Star Home Energy Retrofit Program” means the Silver Star Home Energy Retrofit Program established under section 103.

(24) **STATE.**—The term “State” means—

- (A) a State;
- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico;
- (D) Guam;
- (E) American Samoa;
- (F) the United States Virgin Islands;
- (G) the Northern Mariana Islands; and
- (H) any other commonwealth, territory, or possession of the United States.

(25) **TARGETED WORKER.**—The term “targeted worker” means an individual who is unemployed or underemployed and of an employable age and a resident of an area with high or chronic unemployment and low median household incomes, as defined by the Secretary in consultation with the Secretary of Labor.

(26) **WATER UTILITY.**—The term “water utility” means any State or local agency that delivers or sells water at wholesale or retail through an engineered distribution system.

## **TITLE I—HOME STAR RETROFIT REBATE PROGRAM**

### **SEC. 101. HOME STAR RETROFIT REBATE PROGRAM.**

(a) **IN GENERAL.**—The Secretary shall establish the Home Star Retrofit Rebate Program.

(b) **FEDERAL REBATE PROCESSING SYSTEM.**—

(1) **IN GENERAL.**—Not later than 30 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Treasury and the Administrator, shall—

(A) establish a Federal Rebate Processing System which shall serve as a database and information technology system to allow rebate aggregators to submit claims for reimbursement using standard data protocols;

(B) establish a national retrofit website that provides information on the Home Star Retrofit Rebate Program, including how to determine whether particular energy efficiency measures are eligible for rebate and how to participate in the program; and

(C) publish model forms and data protocols for use by contractors, vendors, and quality assurance providers to comply with the requirements of this title.

(2) **MODEL CERTIFICATION FORMS.**—In carrying out this section, the Secretary shall consider the model certification forms developed by the National Home Performance Council.

(c) **QUALIFIED CONTRACTOR REQUIREMENTS.**—A qualified contractor may perform retrofit work for which rebates are authorized under this title only if it executes a Home Star participation agreement with a rebate aggregator affirming that it meets applicable requirements, including—

(1) all applicable State contractor licensing requirements or, with respect to a State that has no such requirements, any appropriate comparable requirements established under paragraph (6);

(2) insurance coverage of at least \$1,000,000 for general liability, and for such other purposes and in such other amounts as may be required by the State;

(3) agreeing to provide warranties to homeowners that completed work will—

- (A) be free of significant defects;
- (B) be installed in accordance with the specifications of the manufacturer; and

(C) perform properly for a period of at least 1 year after the date of completion of the work;

(4) agreeing to pass through to the owner of a home, through a discount, the full economic value of all rebates received under this title with respect to the home;

(5) agreeing to provide to the homeowner a notice of—

(A) the amount of the rebate the contractor intends to apply for with respect to the eligible work under this title, before a contract is executed between the contractor and a homeowner covering the eligible work; and

(B) the means by which the rebate will be passed through as a discount to the homeowner;

(6) all requirements of an applicable State quality assurance framework by and after the date that is one year after the date of enactment of this Act; and

(7) any other appropriate requirements as determined by the Secretary, in consultation with the Administrator.

(d) **ADMINISTRATIVE AND TECHNICAL SUPPORT.**—Subject to section 112(b) and (c), beginning not later than 30 days after the date of enactment of this Act, the Secretary shall provide such administrative and technical support to rebate aggregators and States as is necessary to carry out this title.

(e) **ADMINISTRATION.**—

(1) **APPOINTMENT OF PERSONNEL.**—Notwithstanding the provisions of title 5, United States Code, governing appointments in the competitive service and General Schedule classifications and pay rates, the Secretary may appoint such professional and administrative personnel as the Secretary considers necessary to carry out this title.

(2) **RATE OF PAY.**—The rate of pay for a person appointed under paragraph (1) shall not exceed the maximum rate payable for GS-15 of the General Schedule under chapter 53 of title 5, United States Code.

(3) **CONSULTANTS.**—Notwithstanding section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), the Secretary may retain such consultants on a non-competitive basis as the Secretary considers necessary to carry out this title.

(4) **CONTRACTING.**—In carrying out this title, the Secretary may waive all or part of any provision of the Competition in Contracting Act of 1984 (Public Law 98-369; 98 Stat. 1175), an amendment made by that Act, or the Federal Acquisition Regulation on a determination that circumstances make compliance with the provisions contrary to the public interest.

(5) **REGULATIONS.**—

(A) **IN GENERAL.**—Notwithstanding section 553 of title 5, United States Code, the Secretary may issue regulations that the Secretary, in the sole discretion of the Secretary, determines necessary to—

- (i) establish;
- (ii) achieve full operational status within 60 days after the date of enactment of this Act for; or

(iii) carry out, the Home Star Retrofit Rebate Program.

(B) **TIMING.**—If the Secretary determines that regulations described in subparagraph (A) are necessary, the regulations shall be issued not later than 60 days after such determination.

(C) **EXCEPTION.**—(i) The Secretary shall not utilize the authority provided under this paragraph to—

- (I) develop, adopt, or implement a public labeling system that rates and compares the energy performance of one home with another; or
- (II) require the public disclosure of an energy performance evaluation or rating developed for any specific home.

(ii) Nothing in this subparagraph shall preclude—

(I) the computation, collection, or use, by the Secretary, rebate aggregators, quality assurance providers, or States for the purposes of carrying out sections 104 and 105, of information on the rating and comparison of the energy performance of homes with and without energy efficiency features or on energy performance evaluation or rating;

(II) the use and publication of aggregate data (without identifying individual homes or participants) based on information referred to in subclause (I) to determine or demonstrate the performance of the Home Star program; or

(III) the provision of information referred to in subclause (I) with respect to a specific home—

(aa) to the State, homeowner, quality assurance provider, rebate aggregator, or contractor performing retrofit work on that home, or an entity providing Home Star services, as necessary to enable carrying out this title; or

(bb) for purposes of prosecuting fraud and abuse.

(6) **INFORMATION COLLECTION.**—Chapter 35 of title 44, United States Code, shall not apply to any information collection requirement necessary for the implementation of the Home Star Retrofit Rebate Program.

(7) **EFFECTIVE PERIOD.**—Paragraphs (1), (3), (4), (5), and (6) shall be effective only for fiscal years 2010 and 2011.

(f) **PROGRAM REVIEW.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall prepare and transmit to Congress a State-by-State analysis and review the distribution of Home Star retrofit rebates under this title.

(g) **ADJUSTMENT OF REBATE AMOUNTS.**—Effective beginning on the date that is 180 days after the date of enactment of this Act, the Secretary may, after not less than 30 days public notice, prospectively adjust the rebate amounts provided for under this title as necessary to optimize the overall energy efficiency resulting from the Silver Star Home Energy Retrofit Program and the Gold Star Home Energy Retrofit Program.

(h) **INDIAN TRIBE PARTICIPATION.**—

(1) **IN GENERAL.**—An Indian tribe, within 30 days after the date of enactment of this Act, may indicate to the Secretary its intention to act in place of a State for purposes of carrying out the responsibilities of the State under this title with respect to its tribal lands. If the Indian tribe so indicates, the Secretary shall treat the Indian tribe as the State for purposes of carrying out this title with respect to those tribal lands.

(2) **TRANSITION OF RESPONSIBILITIES.**—The Secretary may permit an Indian tribe, after the expiration of 30 days after the date of enactment of this Act, to assume the responsibilities of a State under this title with respect to its tribal lands if the Secretary finds that such assumption of responsibilities will not disrupt the ongoing administration of the program under this title.

(3) **COOPERATION.**—An Indian tribe may cooperate with a State or the Secretary to ensure that all of the requirements of this title are carried out with respect to the tribal lands.

(i) **IMPLEMENTATION BY SECRETARY.**—

(1) **IN GENERAL.**—If a State has not indicated to the Secretary within 30 days after the date of enactment of this Act that it is prepared to carry out section 105, or if at any later time the Secretary determines that a State is no longer prepared to carry out section 105, to the extent that no Indian tribe assumes such responsibilities under subsection (h) the Secretary shall assume the responsibilities of that State with respect to carrying out section 105.

(2) **TRANSITION OF RESPONSIBILITIES.**—The Secretary may permit a State, after the Secretary has assumed the responsibilities of that



State under paragraph (1), to assume the responsibilities assigned to States under section 105 with respect to that State if the Secretary finds that such assumption of responsibilities will not disrupt the ongoing administration of the program under this title.

(j) **LIMITATION.**—Rebates may not be provided under both section 103 and section 104 with respect to the same home.

(k) **FORMS FOR CERTIFICATION AND QUALITY ASSURANCE.**—

(1) **IN GENERAL.**—Not later than 30 days after the date of enactment of this Act, the Secretary shall make available on the website established under subsection (b)(1)(B), model certification forms for compliance with quality assurance requirements under this title, to be submitted by—

(A) each qualified contractor, accredited contractor, and quality assurance provider on completion of an eligible home energy retrofit; and

(B) each quality assurance provider on completion of field verification required under this section.

(2) **NATIONAL HOME PERFORMANCE COUNCIL.**—The Secretary, States, and Indian tribes shall consider and may use model certification forms developed by the National Home Performance Council to ensure compliance with quality assurance requirements under this title.

(l) **PUBLIC-PRIVATE PARTNERSHIPS.**—A State that receives a grant under this title is encouraged to form partnerships with utilities, energy service companies, and other entities—

(1) to assist in marketing the Home Star Retrofit Rebate Program;

(2) to facilitate consumer financing;

(3) to assist in implementation of the Silver Star Home Energy Retrofit Program and the Gold Star Home Energy Retrofit Program, including installation of qualified energy retrofit measures; and

(4) to assist in implementing quality assurance programs.

(m) **COORDINATION OF REBATE AND EXISTING STATE-SPONSORED PROGRAMS.**—

(1) **IN GENERAL.**—A State shall, to the maximum extent practicable, prevent duplication through coordination of a program authorized under this title with—

(A) the Energy Star appliance rebates program authorized under section 124 of the Energy Policy Act of 2005 (42 U.S.C. 15821), and any other Federal programs that provide funds to States for home or appliance energy efficiency purposes; and

(B) comparable programs planned or operated by States, political subdivisions, electric and natural gas utilities, Federal power marketing administrations, and Indian tribes.

(2) **EXISTING PROGRAMS.**—In carrying out this subsection, a State shall—

(A) give priority to—

(i) comprehensive retrofit programs in existence on the date of enactment of this Act, including programs under the supervision of State utility regulators; and

(ii) using funds made available under this title to enhance and extend existing programs; and

(B) seek to enhance and extend existing programs by coordinating with administrators of the programs.

(n) **HEALTH AND SAFETY REQUIREMENTS.**—Nothing in this title shall relieve any contractor from the obligation to comply with applicable Federal, State, and local health and safety code requirements.

#### SEC. 102. REBATE AGGREGATORS.

(a) **IN GENERAL.**—The Secretary shall develop a network of rebate aggregators that can facilitate the delivery of rebates to participating contractors and vendors, to reimburse those contractors and vendors for discounts provided to homeowners for energy efficiency retrofit work. The Secretary shall approve or deny an applica-

tion from a person seeking to become a rebate aggregator not later than 30 days after receiving such application. The Secretary may disqualify any rebate aggregator that fails to meet its obligations under this title in a timely and competent manner.

(b) **AVAILABILITY.**—Not later than 30 days after the date of enactment of this Act, the Secretary shall identify at least 1 rebate aggregator in each State ready and able to accept rebate applications from any qualified contractor. Not later than 90 days after such date of enactment, the Secretary shall ensure that rebate aggregation services are available to all homeowners in the United States at the lowest reasonable cost.

(c) **RESPONSIBILITIES.**—Rebate aggregators shall—

(1) review each proposed rebate application for completeness and accuracy;

(2) review all measures for which rebates are sought for eligibility in accordance with this title;

(3) provide data to the Secretary for inclusion in the database maintained through the Federal Rebate Processing System, consistent with data protocols established by the Secretary;

(4) not later than 30 days after the date of receipt, distribute funds received from the Secretary to contractors, vendors, or other persons in accordance with approved claims for reimbursement made to the Federal Rebate Processing System;

(5) maintain appropriate accounting for rebate applications processed, and their disposition;

(6) review contractor qualifications and accreditation and retain documentation of such qualification and accreditation, as required for contractors to be authorized to perform residential energy efficiency retrofit work under this title; and

(7) maintain information regarding contractors' fulfillment of the requirements of section 101(c).

(d) **ELIGIBILITY.**—To be eligible to apply to the Secretary for approval as a rebate aggregator, an entity—

(1) shall be—

(A) a Home Performance with Energy Star partner;

(B) an entity administering a residential energy efficiency retrofit program established or approved by a State;

(C) a Federal power marketing administration or the Tennessee Valley Authority;

(D) an electric utility, natural gas utility, or water utility administering or offering a residential energy efficiency retrofit program; or

(E) an entity—

(i) with corporate status or status as a State or local government;

(ii) who can demonstrate adequate financial capability to manage a rebate aggregator program, as evidenced by audited financial records; and

(iii) whose participation in the program, in the judgment of the Secretary, would not disrupt existing residential retrofit programs in the States that are carrying out the Home Star Retrofit Rebate Program under this title;

(2) must be able to demonstrate—

(A) a relationship with 1 or more independent quality assurance providers that is sufficient to meet the volume of contracting services delivered;

(B) the capability to provide such electronic data as is required by the Secretary to the Federal Rebate Processing System; and

(C) a financial system that is capable of tracking the distribution of rebates to participating contractors and vendors; and

(3) shall include in its application the amount it proposes to charge for the review and processing of a rebate under this title.

(e) **PROMPT PROCESSING OF REBATES.**—Within 10 days after receiving an application for a rebate consistent with this title, a rebate aggregator shall submit a claim for that rebate to the Federal Rebate Processing System. Within 10 days after the Federal Rebate Processing System receives such a submission from a rebate aggregator, the Secretary shall provide the funds to the rebate aggregator necessary to pay such rebates to the qualified contractor or vendor who applied for them and to compensate the rebate aggregator for its services in accordance with this title. Within 10 days of being provided such funds, the rebate aggregator shall pay the rebates to the rebate applicant.

(f) **PUBLIC UTILITY COMMISSION EFFICIENCY TARGETS.**—The Secretary shall—

(1) develop guidelines for States to use to allow utilities participating as rebate aggregators to count the energy savings from their participation toward State-level energy savings targets; and

(2) work with States to assist in the adoption of these guidelines for the purposes and duration of the Home Star Retrofit Rebate Program.

#### SEC. 103. SILVER STAR HOME ENERGY RETROFIT PROGRAM.

(a) **IN GENERAL.**—During the first year after the date of enactment of this Act, a Silver Star Home Energy Retrofit Program rebate shall be awarded, subject to the maximum amount limitations under subsection (d)(4), to participating contractors and vendors, to reimburse them for discounts provided to the owner of the home for the retrofit work, for the installation of energy savings measures—

(1) selected from the list of energy savings measures described in subsection (b);

(2) installed after the date of enactment of this Act in the home by a qualified contractor; and

(3) carried out in compliance with this section.

(b) **ENERGY SAVINGS MEASURES.**—Subject to subsection (c), a rebate shall be awarded under subsection (a) for the installation of the following energy savings measures for a home energy retrofit that meet technical standards established under this section:

(1) Whole house air sealing measures, including interior and exterior measures, utilizing sealants, caulks, polyurethane foams, gaskets, weather-stripping, mastics, and other building materials in accordance with BPI standards or other procedures approved by the Secretary.

(2) Attic insulation measures that—

(A) include sealing of air leakage between the attic and the conditioned space, in accordance with BPI standards or the attic portions of the DOE or EPA thermal bypass checklist or other procedures approved by the Secretary;

(B) add at least R-19 insulation to existing insulation;

(C) result in at least R-38 insulation in DOE climate zones 1 through 4 and at least R-49 insulation in DOE climate zones 5 through 8, including existing insulation, within the limits of structural capacity; and

(D) cover at least—

(i) 100 percent of an accessible attic; or

(ii) 75 percent of the total conditioned footprint of the house.

(3) Duct seal or replacement that—

(A) is installed in accordance with BPI standards or other procedures approved by the Secretary; and

(B) in the case of duct replacement, replaces at least 50 percent of a distribution system of the home.

(4) Wall insulation that—

(A) is installed in accordance with BPI standards or other procedures approved by the Secretary;

(B) is to full-stud thickness; and

(C) covers at least 75 percent of the total external wall area of the home.

(5) Crawl space insulation or basement wall and rim joist insulation that is installed in accordance with BPI standards or other procedures approved by the Secretary and—

(A) covers at least 500 square feet of crawl space or basement wall and adds at least—

(i) R-19 of cavity insulation or R-15 of continuous insulation to existing crawl space insulation; or

(ii) R-13 of cavity insulation or R-10 of continuous insulation to basement walls; and

(B) fully covers the rim joist with at least R-10 of new continuous or R-13 of cavity insulation.

(6) Window replacement that replaces at least 8 exterior windows or skylights, or 75 percent of the exterior windows and skylights in a home, whichever is less, with—

(A) windows that—

(i) are certified by the National Fenestration Rating Council; and

(ii) comply with criteria applicable to windows and skylights under section 25(c) of the Internal Revenue Code of 1986; or

(B) skylights that comply with the 2010 Energy Star specification for skylights.

(7) Door replacement that replaces at least 1 exterior door with doors that comply with the 2010 Energy Star specification for doors.

(8)(A) Heating system replacement of—

(i) a natural gas or propane furnace with a furnace that has an AFUE rating of 92 or greater;

(ii) a natural gas or propane boiler with a boiler that has an AFUE rating of 90 or greater;

(iii) an oil furnace with a furnace that has an AFUE rating of 86 or greater and that uses an electrically commutated blower motor;

(iv) an oil boiler with a boiler that has an AFUE rating of 86 or greater and that has temperature reset or thermal purge controls; or

(v) a wood or wood pellet furnace, boiler, or stove, if—

(I) the new system—

(aa) meets at least 75 percent of the heating demands of the home;

(bb) in the case of a furnace or boiler, has a distribution system (such as ducts or vents) that allows heat to reach all or most parts of the home and qualifies for Phase 2 of the EPA Voluntary Program for Hydronic Heaters; and

(cc) in the case of a stove, replaces an existing wood or wood pellet stove and is certified by the EPA, and a voucher is provided by the installer or other responsible party certifying that the old stove has been removed and rendered inoperable or recycled at an appropriate recycling facility; and

(II) an accredited independent laboratory recognized by the EPA certifies that the new system—

(aa) has thermal efficiency (lower heating value) of at least 75 percent for stoves and at least 90 percent for furnaces and boilers; and

(bb) has particulate emissions of less than 3.0 grams per hour for stoves, and less than 0.32 lbs/mmBTU for furnaces and boilers.

(B) A rebate may be provided under this section for the replacement of a furnace or boiler described in clauses (i) through (iv) of subparagraph (A) only if the new furnace or boiler is installed in accordance with ANSI/ACCA Standard 5 QI-2007.

(9) Air conditioner or air-source heat pump replacement with a new unit that—

(A) is installed in accordance with ANSI/ACCA Standard 5 QI-2007; and

(B) meets or exceeds—

(i) in the case of an air conditioner, SEER 16 and EER 13; and

(ii) in the case of an air-source heat pump, SEER 15, EER 12.5, and HSPF 8.5.

(10) Heating or cooling system replacement with an Energy Star qualified geothermal heat

pump that meets Tier 2 efficiency requirements and that is installed in accordance with ANSI/ACCA Standard 5 QI-2007.

(11) Replacement of a natural gas, propane, or electric water heater with—

(A) a natural gas or propane condensing storage water heater with an energy factor of 0.80 or more or a thermal efficiency of 90 percent or more;

(B) a tankless natural gas or propane water heater with an energy factor of at least .82;

(C) a natural gas or propane storage water heater with an energy factor of at least .67;

(D) an indirect water heater with an insulated storage tank that—

(i) has a storage capacity of at least 30 gallons and is insulated to at least R-16; and

(ii) is installed in conjunction with a qualifying boiler described in paragraph (8);

(E) an electric water heater with an energy factor of 2.0 or more;

(F) an electric tankless water heater with an efficiency factor of .96 or more, that operates on not greater than 25 kilowatts;

(G) a solar hot water system that—

(i) is certified by the Solar Rating and Certification Corporation; or

(ii) meets technical standards established by the State of Hawaii; or

(H) a water heater installed in conjunction with a qualifying geothermal heat pump described in paragraph (10) that provides domestic water heating through the use of a desuperheater or demand water heating capability.

(12) Storm windows that—

(A) are installed on at least 5 existing single-glazed windows that do not have storm windows;

(B) are installed in a home listed on or eligible for listing in the National Register of Historic Places; and

(C) comply with any procedures that the Secretary may set for storm windows and their installation.

(13) Window film that is installed on at least 8 exterior windows, doors, or skylights, or 75 percent of the total exterior square footage of glass in a home, whichever is less, with window films that—

(A) are certified by the National Fenestration Rating Council; and

(B) have—

(i) a solar heat gain coefficient of 0.43 or less with a visible light-to-solar heat gain coefficient of at least 1.1 in 2009 International Energy Conservation Code climate zones 1-3; or

(ii) a solar heat gain coefficient of 0.43 or less with a visible light-to-solar heat gain coefficient of at least 1.1 and a U-factor of 0.40 or less as installed in 2009 International Energy Conservation Code climate zones 4-8.

(c) INSTALLATION COSTS.—Measures described in paragraphs (1) through (13) of subsection (b) shall include expenditures for labor and other installation-related costs, including venting system modification and condensate disposal, properly allocable to the onsite preparation, assembly, or original installation of the component.

(d) AMOUNT OF REBATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the amount of a rebate provided under subsection (a) shall be \$1,000 per measure for the installation of energy savings measures described in subsection (b).

(2) HIGHER REBATE AMOUNT.—Except as provided in paragraph (4), the amount of a rebate provided under subsection (a) shall be \$1,500 per measure for—

(A) attic insulation and air sealing described in subsection (b)(1) or (2); and

(B) wall insulation described in subsection (b)(4).

(3) LOWER REBATE AMOUNT.—Except as provided in paragraph (4), the amount of a rebate provided under subsection (a) shall be—

(A) \$125 per door for the installation of up to a maximum of 2 Energy Star doors described in subsection (b)(7) for each home;

(B) \$250 for a maximum of 1 natural gas or propane storage water heater described in subsection (b)(11)(C) for each home;

(C) \$250 for rim joist insulation described in subsection (b)(5)(B);

(D) \$50 for each storm window described in subsection (b)(12), with a minimum of 5 storm windows and a maximum of 12;

(E) \$250 each for a maximum of 4 electric tankless water heaters described in subsection (b)(11)(F) for each home; and

(F) \$500 for window film described in subsection (b)(13).

(4) MAXIMUM AMOUNT.—The total amount of rebates provided for a home under this section shall not exceed the lower of—

(A) \$3,000;

(B) 50 percent of the total cost of the installed measures; or

(C) if the Secretary finds that the net value to the homeowner of the rebates, as a function of the discount the contractor or vendor provides to the homeowner for the installed measures, is less than the amount of the rebates, the actual net value to the homeowner.

(e) VERIFICATION AND CORRECTION OF WORK.—

(1) REIMBURSEMENT.—On submission of a claim by a rebate aggregator to the Federal Rebate Processing System, the Secretary shall provide reimbursement to the rebate aggregator for energy-efficiency measures installed in a home, subject to paragraphs (2) and (3).

(2) VERIFICATION.—

(A) PERCENTAGE OF RETROFITS VERIFIED.—

(i) IN GENERAL.—Except as provided in clause (ii), not less than—

(I) 20 percent of the retrofits performed by each qualified contractor under this section with respect to a rebate described in subsection (a) shall be randomly subject to field verification by an independent quality assurance provider of all work associated with the retrofit; and

(II) in the case of a qualified contractor that uses a certified workforce, 10 percent of the retrofits performed by that contractor under this section with respect to a rebate described in subsection (a) shall be randomly subject to field verification by an independent quality assurance provider of all work associated with the retrofit.

(ii) EXCEPTIONS.—In the case of a qualified contractor whose previous retrofit work—

(I) the Secretary has found to fail to comply with the requirements of this section, the Secretary may establish a higher percentage of the retrofits performed by that contractor under this section with respect to a rebate described in subsection (a) to be subject to field verification by an independent quality assurance provider; and

(II) the Secretary has found to successfully comply with the requirements of this section, the Secretary may establish a lower percentage of the retrofits performed by that contractor under this section with respect to a rebate described in subsection (a) to be subject to field verification by an independent quality assurance provider.

(B) HOMEOWNER COMPLAINT.—A homeowner may make a complaint under the quality assurance program that compliance with the quality assurance requirements of this title has not been achieved. The quality assurance program shall provide that, upon receiving such a complaint, an independent quality assurance provider shall conduct field verification on the retrofit work performed by the contractor. Verifications under this subparagraph shall be in addition to those conducted under subparagraph (A), and shall be corrected in accordance with paragraph (3).

(3) CORRECTION.—Rebates under subsection (a) shall be made subject to the following conditions:

(A) The installed measures will comply with the specifications and quality standards under this section if a field verification by a quality assurance provider finds that corrective work is needed. Such compliance shall be achieved by the installing accredited contractor not later than 14 days after the date of notification of a defect pursuant to a warranty, provided at no additional cost to the homeowner.

(B) A subsequent quality assurance visit shall be conducted to evaluate the remedy not later than 7 days after notification that the defect has been corrected.

(C) The quality assurance provider shall notify the contractor of the disposition of such visit not later than 7 days after the date of the visit.

(4) ACCESS TO HOME.—In order to be eligible for a discount from a contractor or vendor for which a rebate is provided under subsection (a), a homeowner shall agree to permit such access to the home, upon reasonable notice and at a mutually convenient time, as is necessary to verify and correct retrofit work.

(f) PRODUCTS PURCHASED WITHOUT INSTALLATION SERVICES.—

(1) IN GENERAL.—A Silver Star Home Energy Retrofit Program rebate shall be awarded for attic, wall, and crawl space insulation and air-sealing products that—

(A)(i) in the case of insulation, qualify for a tax credit under section 25C of the Internal Revenue Code of 1986, but with respect to which no claim for such a tax credit has been made; and

(ii) in the case of air sealing products, are sealants, caulks, polyurethane foams, gaskets, weather-stripping, mastics, or other air sealing products described in subsection (b)(1);

(B) are purchased by a homeowner for installation by the homeowner in a home identified by its address by the homeowner;

(C) are accompanied by educational materials on proper installation of the products, including materials emphasizing the importance of air sealing when insulating; and

(D) are identified and attributed to that home in a rebate submission by the vendor to a rebate aggregator.

(2) LIMITATION.—No rebate may be provided under this subsection with respect to insulation or products that are employed in energy-efficiency measures with respect to which a rebate is provided under this section or section 104.

(3) AMOUNT OF REBATE.—A rebate under this subsection shall be awarded for 50 percent of the total cost of the products described in paragraph (1), not to exceed \$250 per home.

(g) REVIEW.—

(1) IN GENERAL.—The Secretary shall determine whether information submitted to the Federal Rebate Processing System with respect to a rebate was complete, and on the basis of that information and other information available to the Secretary, shall determine whether the requirements of this section were met in all respects.

(2) INCORRECT PAYMENT.—On a determination of the Secretary under paragraph (1) that a payment was made incorrectly to a party, or that sufficient information was not submitted to the Federal Rebate Processing System to enable such determination, the Secretary—

(A) may—

(i) recoup the amount of the incorrect payment; or

(ii) withhold the amount of the incorrect payment from a payment made to the party pursuant to a subsequent request; and

(B) shall, to the extent the Secretary determines the benefit of the rebate was not passed through to the homeowner through a discount on the price of the retrofit work, order the contractor or vendor to pay the amount of rebate benefit not previously passed through to the homeowner.

#### SEC. 104. GOLD STAR HOME ENERGY RETROFIT PROGRAM.

(a) IN GENERAL.—A Gold Star Home Energy Retrofit Program rebate shall be awarded, subject to subsection (b), to participating accredited contractors and vendors, to reimburse them for discounts provided to the owner of the home for the retrofit work, for retrofits that achieve whole home energy savings carried out after the date of enactment of this Act in accordance with this section.

(b) ELIGIBLE MEASURES.—Rebates may be provided under this section for—

(1) any measure listed as eligible for Silver Star rebates in section 103; and

(2) any other energy-saving measure, such as home energy management systems, high-efficiency appliances, highly reflective roofing, awnings, canopies, and similar external fenestration attachments, automatic boiler water temperature controllers, and mechanical air circulation and heat exchangers in a passive-solar home—

(A) that can be demonstrated, when installed and operated as intended, to improve energy efficiency; and

(B) for which an energy efficiency contribution can be determined with confidence.

(c) ENERGY SAVINGS.—

(1) IN GENERAL.—Reductions in whole home energy consumption under this section shall be determined by a comparison of the simulated energy consumption of the home before and after the retrofit of the home.

(2) DOCUMENTATION.—The percent improvement in energy consumption of a home under this section shall be documented through—

(A)(i) the use of a whole home simulation software program that has been approved under the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.); or

(ii) a equivalent performance test established by the Secretary, in consultation with the Administrator; or

(B)(i) the use of a whole home simulation software program that has been approved under RESNET Publication No. 06-001 (or a successor publication approved by the Secretary);

(ii) an equivalent performance test established by the Secretary, in consultation with the Administrator;

(iii) a State-certified equivalent rating network, as specified by IRS Notice 2008-35; or

(iv) a HERS rating system approved or required by the law of the State in which the home is located.

(3) MONITORING.—The Secretary—

(A) shall continuously monitor the software programs used for determining rebates under this section; and

(B) may disallow the use of software programs that improperly assess energy savings.

(4) ASSUMPTIONS AND TESTING.—The Secretary may—

(A) establish simulation software program assumptions for carrying out paragraph (2);

(B) require compliance with software program performance tests covering—

(i) mechanical system performance;

(ii) duct distribution system efficiency;

(iii) hot water performance; or

(iv) other measures; and

(C) require the simulation of pre-retrofit energy usage to be determined by metered pre-retrofit energy usage.

(5) RECOMMENDED MEASURES.—Software programs used under this subsection shall have the ability at a minimum to assess the savings associated with all the measures for which rebates are specifically provided under the Silver Star Home Energy Retrofit Program.

(d) AMOUNT OF REBATE.—Subject to subsection (e)(2), the amount of a rebate provided under this section shall be—

(1) \$3,000 for a 20-percent reduction in whole home energy consumption; and

(2) an additional \$1,000 for each additional 5-percent reduction up to the lower of—

(A) \$8,000; or

(B) 50 percent of the total retrofit cost.

(e) VERIFICATION AND CORRECTION OF WORK.—

(1) REIMBURSEMENT.—On submission of a claim by a rebate aggregator to the Federal Rebate Processing System, the Secretary shall provide reimbursement to the rebate aggregator for energy-efficiency measures installed in a home, subject to paragraphs (2) and (3).

(2) VERIFICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), all work conducted in a home as part of a whole-home retrofit by an accredited contractor under this section shall be subject to random field verification by an independent quality assurance provider at a rate of—

(i) 15 percent; or

(ii) in the case of work performed by an accredited contractor using a certified workforce, 10 percent.

(B) VERIFICATION NOT REQUIRED.—A home shall not be subject to field verification under subparagraph (A) if—

(i) a post-retrofit home energy rating is conducted by an entity that is an eligible certifier in accordance with—

(I) RESNET Publication No. 06-001 (or a successor publication approved by the Secretary);

(II) a State-certified equivalent rating network, as specified in IRS Notice 2008-35; or

(III) a HERS rating system required by the law of the State in which the home is located;

(ii) the eligible certifier is independent of the accredited contractor in accordance with RESNET Publication No. 06-001 (or a successor publication approved by the Secretary); and

(iii) the rating includes field verification of all measures for which rebates are being provided.

(C) HOMEOWNER COMPLAINT.—A homeowner may make a complaint under the quality assurance program that compliance with the quality assurance requirements of this title has not been achieved. The quality assurance program shall provide that, upon receiving such a complaint, an independent quality assurance provider shall conduct field verification on the retrofit work performed by the contractor. Verifications under this subparagraph shall be in addition to those conducted under subparagraph (A), and shall be corrected in accordance with paragraph (3).

(D) ACCESS TO HOME.—In order to be eligible for a discount from a contractor or vendor for which a rebate is provided under this section, a homeowner shall agree to permit such access to the home, upon reasonable notice and at a mutually convenient time, as is necessary to verify and correct retrofit work.

(3) CORRECTION.—Rebates under this section shall be made subject to the following conditions:

(A) The installed measures will comply with manufacturer and applicable code standards and the specifications and quality standards under this section if a field verification by an independent quality assurance provider finds that corrective work is needed. Such compliance shall be achieved by the installing accredited contractor not later than 14 days after the date of notification of a defect pursuant to a warranty, provided at no additional cost to the homeowner.

(B) A subsequent quality assurance visit shall be conducted to evaluate the remedy not later than 7 days after notification that the defect has been corrected.

(C) The quality assurance provider shall notify the contractor of the disposition of such visit not later than 7 days after the date of the visit.

## (f) REVIEW.—

(1) **IN GENERAL.**—The Secretary shall determine whether information submitted to the Federal Rebate Processing System with respect to a rebate was complete, and on the basis of that information and other information available to the Secretary, shall determine whether the requirements of this section were met in all respects.

(2) **INCORRECT PAYMENT.**—On a determination of the Secretary under paragraph (1) that a payment was made incorrectly to a party, or that sufficient information was not submitted to the Federal Rebate Processing System to enable such determination, the Secretary—

## (A) may—

(i) recoup the amount of the incorrect payment; or

(ii) withhold the amount of the incorrect payment from a payment made to the party pursuant to a subsequent request; and

(B) shall, to the extent the Secretary determines the benefit of the rebate was not passed through to the homeowner through a discount on the price of the retrofit work, order the contractor or vendor to pay the amount of rebate benefit not previously passed through to the homeowner.

**SEC. 105. QUALITY ASSURANCE.**(a) **QUALITY ASSURANCE FRAMEWORK.**—

(1) **IN GENERAL.**—States that elect to carry out a quality assurance program pursuant to subsection (b) shall plan, develop, and implement a quality assurance framework. The Secretary shall promptly solicit the submission of model State quality assurance framework plans consistent with the requirements of this section and, not later than 60 days after the date of enactment of this Act, shall approve one or more such model plans that incorporate nationally consistent high standards for optional use by States. Not later than 180 days after the date of enactment of this Act, each State electing to develop a quality assurance framework shall submit its plan to the Secretary, who shall then approve or reject such plan within 30 days, providing a detailed statement of deficiencies if the plan is rejected. If a State's plan is rejected, that State may resubmit its plan within 30 days.

(2) **IMPLEMENTATION.**—A State shall—

(A) develop a quality assurance framework in consultation with industry stakeholders, including representatives of efficiency program managers, contractors, community and workforce organizations, and environmental, energy efficiency, and labor organizations; and

(B) implement the quality assurance framework not later than one year after the date of enactment of this Act.

(3) **COMPONENTS.**—The quality assurance framework established under this subsection shall include—

(A) minimum standards for accredited contractors, including—

(i) compliance with applicable Federal, State, and local laws;

(ii) use of a certified workforce;

(iii) maintenance of records needed to verify compliance; and

(iv) use of independent contractors only when appropriately classified as such pursuant to Revenue ruling 87-41 and section 530(d) of the Revenue Act of 1978 and relevant State law;

(B) maintenance of a list of accredited contractors;

(C) requirements for maintenance and delivery to the Federal Rebate Processing System of information needed to verify compliance and ensure appropriate compensation for quality assurance providers;

(D) targets and realistic plans for—

(i) the recruitment of minority and women-owned small business enterprises;

(ii) the employment of graduates of training programs that primarily serve targeted workers;

(iii) the employment of targeted workers; and

(iv) the availability of financial assistance under the Home Star Loan Program to—

(1) public use microdata areas that have a poverty rate of 12 percent or more; and

(II) homeowners served by units of local government in jurisdictions that have an unemployment rate that is 2 percent higher than the national unemployment rate;

(E) a plan to link workforce training for energy efficiency retrofits with training for the broader range of skills and occupations in construction or emerging clean energy industries;

(F) quarterly reports to the Secretary on the progress of implementation of the quality assurance framework and its success in meeting its targets and plans; and

(G) maintenance of a list of qualified quality assurance providers and minimum standards for such quality assurance providers.

(4) **NONCOMPLIANCE.**—If the Secretary determines that a State that has elected to implement a quality assurance program, but has failed to plan, develop, or implement a quality assurance framework in accordance with this section, the Secretary shall suspend further grants for State administration pursuant to section 112(b)(1).

(b) **QUALITY ASSURANCE PROGRAMS.**—

(1) **IN GENERAL.**—A State may carry out a quality assurance program—

(A) as part of a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.);

(B) to be managed by the office or the designee of the office—

(i) that is responsible for the development of the plan under section 362 of that Act (42 U.S.C. 6322); and

(ii) to the maximum extent practicable, that is conducting an existing energy efficiency program; and

(C) in the case of a grant made to an Indian tribe, to be managed by an entity designated by the Indian tribe to carry out a quality assurance program or a national quality assurance program manager.

(2) **NONCOMPLIANCE.**—If the Secretary determines that a State has not provided or cannot provide adequate oversight over a quality assurance program to ensure compliance with this title, the Secretary may—

(A) withhold further quality assurance funds from the State; and

(B) require that quality assurance providers operating in the State be overseen by a national quality assurance program manager selected by the Secretary.

(3) **IMPLEMENTATION.**—A State that receives a grant under this title may implement a quality assurance program through the State or an independent quality assurance provider designated by the State, including—

(A) an energy service company;

(B) an electric utility;

(C) a natural gas utility;

(D) an independent administrator designated by the State; or

(E) a unit of local government.

**SEC. 106. REPORTS.**

(a) **IN GENERAL.**—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on this title—

(1) not later than 1 year after the date of enactment of this Act; and

(2) not later than the earlier of—

(A) 2 years after the date of enactment of this Act; or

(B) December 31, 2012.

(b) **CONTENTS.**—The report shall include a description of—

(1) the energy savings produced as a result of this title;

(2) the direct and indirect employment created as a result of the programs supported under this title;

(3) the specific entities implementing the energy efficiency programs;

(4) the beneficiaries who received the efficiency improvements;

(5) the manner in which funds provided under this title were used;

(6) the sources (such as mortgage lenders, utility companies, and local governments) and types of financing used by the beneficiaries to finance the retrofit expenses that were not covered by rebates provided under this title; and

(7) the results of verification requirements; and

(8) any other information the Secretary considers appropriate.

(c) **REQUIRED INFORMATION.**—

(1) **REQUIREMENT.**—Rebate aggregators and States participating in the Home Star Retrofit Rebate Program shall provide to the Secretary such information as the Secretary requires to prepare the report required under this section.

(2) **NONCOMPLIANCE.**—If the Secretary determines that a rebate aggregator or State has not provided the information required under paragraph (1), the Secretary shall provide to the rebate aggregator or State a period of at least 90 days to provide the necessary information, subject to withholding of funds or reduction of future grant amounts.

**SEC. 107. TREATMENT OF REBATES.**

(a) **IN GENERAL.**—For purposes of the Internal Revenue Code of 1986, rebates received under this title—

(1) shall not be considered taxable income to a homeowner; and

(2) shall supplant any credit allowed under section 25C or 25D of that Code for eligible work performed in the home of the homeowner.

(b) **NOTICE.**—A participating contractor shall provide notice to a homeowner of the provisions of subsection (a) before eligible work is performed in the home of the homeowner.

**SEC. 108. HEATING AND COOLING EFFICIENCY STUDY.**

(a) **IN GENERAL.**—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a study not later than 1 year after the date of enactment of this Act.

(b) **CONTENTS.**—The study shall include a description of—

(1) the efficiency through the life-cycle of air conditioning and heat pump products eligible under section 103; and

(2) a comparison of the efficiency through the life-cycle of air conditioning and heat pump products eligible under section 103 to the efficiency through the life-cycle of air conditioning and heat pump products not eligible under section 103.

**SEC. 109. PUBLIC INFORMATION CAMPAIGN.**

Not later than 60 days after the date of enactment of this Act, the Administrator, in consultation with the States and the Secretary, shall develop and implement a public education campaign that describes—

(1) the benefits of home energy retrofits; and

(2) the availability of rebates for the installation of qualifying energy savings measures under the Silver Star Home Energy Retrofit Program and for whole home energy savings under the Gold Star Home Energy Retrofit Program.

**SEC. 110. PENALTIES.**

(a) **IN GENERAL.**—The Secretary may—

(1) assess and compromise a civil penalty against a person who violates this title (or any regulation issued under this title); and

(2) require from any entity the records and inspections necessary to enforce this title.

(b) **CIVIL PENALTY.**—A civil penalty assessed under subsection (a) shall be in an amount not greater than the higher of—

- (1) \$15,000 for each violation; or
- (2) 3 times the value of any associated rebate under this title.

#### SEC. 111. HOME STAR ENERGY EFFICIENCY LOAN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) **ELIGIBLE PARTICIPANT.**—The term “eligible participant” means a homeowner who receives financial assistance from a qualified financing entity to carry out qualifying energy savings measures under the Silver Star Home Energy Retrofit Program or whole home energy savings under the Gold Star Home Energy Retrofit Program.

(2) **QUALIFIED FINANCING ENTITY.**—The term “qualified financing entity” means a State, political subdivision of a State, tribal government, electric utility, natural gas utility, nonprofit or community-based organization, energy service company, retailer, or any other entity that—

(A) meets the eligibility requirements of this section; and

(B) is designated by the Governor of a State in accordance with subsection (e)(1).

(3) **QUALIFIED LOAN PROGRAM MECHANISM.**—The term “qualified loan program mechanism” means a mechanism for the establishment and operation of a loan program that is—

(A) administered by a qualified financing entity; and

(B) funded in significant part—

(i) by funds provided by or overseen by a State; or

(ii) through the energy loan program of the Federal National Mortgage Association.

(b) **ESTABLISHMENT.**—The Secretary shall establish a Home Star Energy Efficiency Loan Program under which the Secretary shall make funds available to States to support financial assistance provided by qualified financing entities for the installation of qualifying energy savings measures under the Silver Star Home Energy Retrofit Program or whole home energy savings under the Gold Star Home Energy Retrofit Program.

(c) **ELIGIBILITY OF QUALIFIED FINANCING ENTITIES.**—To be eligible to participate in the Home Star Loan Program, a qualified financing entity shall—

(1) offer a financing product under which eligible participants may pay over time for the cost to the eligible participant (after all applicable Federal, State, local, and other rebates or incentives are applied) of installations described in subsection (b);

(2) require all financed installations to be performed by contractors in a manner that meets minimum standards provided under sections 103 and 104;

(3) establish standard underwriting criteria to determine the eligibility of Home Star Loan Program applicants, which criteria shall be consistent with—

(A) with respect to unsecured consumer loan programs, standard underwriting criteria used under the energy loan program of the Federal National Mortgage Association; or

(B) with respect to secured loans or other forms of financial assistance, commercially recognized best practices applicable to the form of financial assistance being provided (as determined by the designated entity administering the Home Star Loan Program in the State); and

(4) undertake particular efforts to make such loans available in public use microdata areas that have a poverty rate of 12 percent or more in a proportion of total loans made at least equal to the proportion the number of residents in such areas bears to the total population of the area served by that qualified financing entity.

(d) **ALLOCATION.**—In allocating 75 percent of the funds made available to States for each fiscal year under this section, the Secretary shall

use the formula used to allocate funds to States to carry out State energy conservation plans established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.). In allocating the remaining 25 percent of the funds made available to States for each fiscal year under this section, the Secretary may vary the result of the formula to recognize and reward those States that make the best progress in providing loans to low-income areas pursuant to subsection (c)(4).

(e) **QUALIFIED FINANCING ENTITIES.**—Before making funds available to a State under this section, the Secretary shall require the Governor of the State to provide to the Secretary a letter of assurance that the State—

(1) has 1 or more qualified financing entities that meet the requirements of this section;

(2) has established, or has required its designated qualified financing entities to establish, a qualified loan program mechanism that—

(A) will use a quality assurance program established under this title or another appropriate methodology to ensure energy savings;

(B) incorporates an effective repayment mechanism, which may include—

(i) on-utility-bill repayment;

(ii) tax assessment or other form of property assessment financing;

(iii) municipal service charges;

(iv) energy or energy efficiency services contracts;

(v) energy efficiency power purchase agreements;

(vi) unsecured loans applying the underwriting requirements of the energy loan program of the Federal National Mortgage Association; or

(vii) alternative contractual repayment mechanisms that have been demonstrated to have appropriate risk mitigation features; and

(3) will provide, in a timely manner, all information regarding the administration of the Home Star Loan Program as the Secretary may require to permit the Secretary to meet the program evaluation requirements of subsection (h).

(f) **USE OF FUNDS.**—Funds made available to States for carrying out the Home Star Loan Program may be used to support financing mechanisms offered by qualified financing entities to eligible participants, including—

(1) interest rate reductions to interest rates as low as 0 percent;

(2) loan loss reserves or other forms of credit enhancement;

(3) revolving loan funds from which qualified financing entities may offer direct loans; or

(4) other debt instruments (excluding securitization instruments) necessary—

(A) to use available funds to obtain appropriate leverage through private investment; and

(B) to support widespread deployment of energy efficiency programs.

(g) **USE OF REPAID FUNDS.**—In the case of a revolving loan fund described in subsection (f)(3), a qualified financing entity may use funds repaid by eligible participants under the Home Star Loan Program to provide financial assistance for additional eligible participants for installations described in subsection (b) in a manner that is consistent with this section.

(h) **PROGRAM EVALUATION.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a program evaluation that describes—

(1) how many eligible participants have participated in the Home Star Loan Program;

(2) how many jobs have been created through the Home Star Loan Program, directly and indirectly;

(3) what steps could be taken to promote further deployment of energy efficiency retrofits;

(4) the quantity of verifiable energy savings, homeowner energy bill savings, and other benefits of the Home Star Loan Program; and

(5) the performance of the programs carried out by qualified financing entities under this section, including information on the rate of default and repayment.

#### SEC. 112. FUNDING.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—Subject to subsection (j), there are authorized to be appropriated to carry out this title \$6,000,000,000 for the period of fiscal years 2010 and 2011, to remain available until expended.

(2) **MAINTENANCE OF FUNDING.**—Funds provided under this section shall supplement and not supplant any prior or planned Federal and State funding provided to carry out energy efficiency programs. To the extent the Secretary finds that a State has supplanted other such programs with funding under this section, the Secretary may withhold an equivalent amount of funding from allocations for the State under this title.

(b) **GRANTS TO STATES.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, of the amount provided under subsection (a), not more than 9 percent is authorized to be appropriated to the Secretary for providing grants to States, to be used for—

(A) administrative costs of carrying out this title;

(B) development and implementation of quality assurance frameworks;

(C) oversight of quality assurance programs;

(D) establishment and delivery of financing mechanisms, in accordance with paragraph (2); and

(E) coordination with existing residential retrofit programs and infrastructure development to assist deployment of the Home Star Retrofit Rebate Program.

(2) **FINANCING.**—Of the amounts allocated to the States under paragraph (1), not less than 60 percent shall be used to carry out section 111.

(3) **DISTRIBUTION TO STATES.**—

(A) **PROVISION OF FUNDS.**—Not later than 30 days after the date of enactment of this Act, the Secretary shall provide to the State energy offices, or such other State entities as are designated by the Governor, of States that are carrying out responsibilities under section 105, 25 percent of the funds described in paragraph (1).

(B) **ALLOCATION.**—Funds described in subparagraph (A) shall be made available in accordance with the allocation formula for State energy conservation plans established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(C) **FUND ALLOCATION PROCESS.**—The Secretary shall allocate the remaining 75 percent of the funds described in paragraph (1) in a manner that may vary from the formula described in subparagraph (B) as necessary to best support the objectives of achieving energy efficiency gains, employment of underemployed workers, and implementing quality assurance programs and frameworks in participating States.

(4) **WITHHOLDING OF FUNDS.**—To the extent that the Secretary assumes the responsibilities of a State under section 101(i), the Secretary shall withhold the portion of the funds otherwise transferrable to the State under this section that are attributable to those State responsibilities.

(5) **INDIAN TRIBES.**—

(A) **IN GENERAL.**—If an Indian tribe acts in place of a State for purposes of carrying out the responsibilities of the State under this title with respect to its tribal lands pursuant to section 101(h), the Secretary shall transfer to that Indian tribe, instead of the State, the proportionate share of funds otherwise transferrable to the State under this section.

(B) **PROPORTIONATE SHARE.**—For purposes of subparagraph (A), the proportionate share shall be calculated on the basis of the percentage of the population of the State that resides within the tribal lands.

(c) **QUALITY ASSURANCE COSTS.**—

(1) **IN GENERAL.**—Of the amount provided under subsection (a), not more than 5 percent are authorized to be appropriated to the Secretary to be used as provided in paragraph (2), in accordance with information provided by the State offices or entities described in subsection (b)(3)(B) with respect to services provided by quality assurance providers.

(2) **DISTRIBUTION TO QUALITY ASSURANCE PROVIDERS OR REBATE AGGREGATORS.**—The Secretary shall use funds provided under this subsection to compensate quality assurance providers and rebate aggregators for services provided under this title.

(3) **COMPENSATION.**—The amount of compensation provided under this subsection shall be—

(A)(i) in the case of the Silver Star Home Energy Retrofit Program—

(I) not more than \$25 to rebate aggregators per rebate review and processing under the program; and

(II) \$150 to quality assurance providers for each field inspection conducted under the program; and

(ii) in the case of the Gold Star Home Energy Retrofit Program—

(I) not more than \$35 to rebate aggregators for each rebate review and processing under the program; and

(II) \$300 to quality assurance providers for each field inspection conducted under the program; or

(B) such other amounts as the Secretary considers necessary to carry out the quality assurance provisions of this title to optimize the overall energy efficiency resulting from the Silver Star Home Energy Retrofit Program and the Gold Star Home Energy Retrofit Program.

(d) **TRACKING OF REBATES AND EXPENDITURES.**—Of the amount provided under subsection (a), not more than 2.5 percent are authorized to be appropriated to the Secretary to be used for costs associated with tracking rebates and expenditures through the Federal Rebate Processing System under this title, technical assistance to States, and related administrative costs incurred by the Secretary.

(e) **PUBLIC EDUCATION AND COORDINATION.**—Of the amount provided under subsection (a), not more than 0.2 percent are authorized to be appropriated to the Administrator to be used for costs associated with public education and coordination with the Federal Energy Star program.

(f) **SILVER STAR HOME ENERGY RETROFIT PROGRAM.**—

(1) **IN GENERAL.**—Of the amount provided under subsection (a), after subtracting the amounts authorized in subsections (b), (d), and (e) of this section, two-thirds of the remainder are authorized to be appropriated to the Secretary to be used to provide rebates and other payments authorized under the Silver Star Home Energy Retrofit Program.

(2) **PRODUCTS PURCHASED WITHOUT INSTALLATION SERVICES.**—Of the amounts appropriated pursuant to this subsection for the Silver Star program, 7.5 percent shall be made available for rebates under section 103(f).

(g) **GOLD STAR HOME ENERGY RETROFIT PROGRAM.**—Of the amount provided under subsection (a), after subtracting the amounts authorized in subsections (b), (d), and (e) of this section, one-third of the remainder is authorized to be appropriated to the Secretary to be used to provide rebates and other payments authorized under the Gold Star Home Energy Retrofit Program.

(h) **RETURN OF UNDISBURSED FUNDS.**—

(1) **SILVER STAR HOME ENERGY RETROFIT PROGRAM.**—If the Secretary has not disbursed all the funds available for rebates under the Silver

Star Home Energy Retrofit Program by the date that is 1 year after the date of enactment of this Act, any undisbursed funds shall be made available to the Gold Star Home Energy Retrofit Program.

(2) **GOLD STAR HOME ENERGY RETROFIT PROGRAM.**—If the Secretary has not disbursed all the funds available for rebates under the Gold Star Home Energy Retrofit Program by the date that is 2 years after the date of enactment of this Act, any undisbursed funds shall be returned to the Treasury.

(i) **SUNSET.**—With the exception of the provisions of section 102(c)(5), (6), and (7), sections 107, 110, and 111, this subsection, and the relevant definitions in section 2 to those provisions, this title shall cease to be effective after December 31, 2012. Nothing in this subsection shall prevent a State from continuing to implement a quality assurance framework established pursuant to section 105.

## **TITLE II—ENERGY EFFICIENT MANUFACTURED HOMES**

### **SEC. 201. ENERGY EFFICIENT MANUFACTURED HOMES.**

(a) **DEFINITIONS.**—In this section:

(1) **MANUFACTURED HOME.**—The term “manufactured home” has the meaning given such term in section 603 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402).

(2) **ENERGY STAR QUALIFIED MANUFACTURED HOME.**—The term “Energy Star qualified manufactured home” means a manufactured home that has been designed, produced, and installed in accordance with Energy Star’s guidelines by an Energy Star certified plant.

(b) **PURPOSE.**—The purpose of this section is to assist low-income households residing in manufactured homes constructed prior to 1976 to save energy and energy expenditures by providing funding for the purchase of new Energy Star qualified manufactured homes.

(c) **GRANTS TO STATE AGENCIES.**—

(1) **GRANTS.**—The Secretary may make grants to State agencies responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) (or such other existing State agency that exercises similar functions as the Governor of a State may designate), to provide owners of manufactured homes constructed prior to 1976 funding to use to purchase new Energy Star qualified manufactured homes.

(2) **ALLOCATION OF GRANTS.**—Grants under paragraph (1) shall be distributed to State agencies in States on the basis of their proportionate share of all manufactured homes constructed prior to 1976 that are occupied as primary residences in the United States, based on the most recent and accurate data available.

(3) **FUNDING.**—

(A) **PRIMARY RESIDENCE REQUIREMENT.**—Funding described under paragraph (1) may only be made to an owner of a manufactured home constructed prior to 1976 that has been used by the owner as a primary residence on a year-round basis for at least the previous 12 months.

(B) **DESTRUCTION AND REPLACEMENT.**—Funding described under paragraph (1) may be provided only if the manufactured home constructed prior to 1976 will be—

(i) destroyed (including appropriate recycling); and

(ii) replaced, in an appropriate area, as determined by the applicable State agency, with an Energy Star qualified manufactured home.

(C) **LIMITATION.**—Funding described under paragraph (1) may not be provided to any owner of a manufactured home constructed prior to 1976 that was or is a member of a household for which any member of the household was provided funding pursuant to this section.

(D) **ELIGIBLE HOUSEHOLDS.**—To be eligible to receive funding described under paragraph (1), an owner of a manufactured home constructed prior to 1976 shall demonstrate to the applicable State agency that the total income of all members the owner’s household does not exceed 80 percent of the area median income in the applicable area, as determined by the Secretary.

(E) **LEASES.**—To be eligible to receive funding described under paragraph (1), an owner of a manufactured home constructed prior to 1976 who intends to place the new Energy Star qualified manufactured home on property leased from another person shall hold a lease to such property of at least 3 years in duration.

(4) **FUNDING AMOUNT.**—Funding provided by State agencies under this subsection shall not exceed \$7,500 per manufactured home from any funds appropriated pursuant to this section.

(5) **USE OF STATE FUNDS.**—A State agency providing funding under this section may supplement the amount of such funding under paragraph (4) by any amount such agency approves if such additional amount is from State funds and other sources, including private donations and grants or loans from charitable foundations.

(6) **SIMILAR PROGRAMS.**—

(A) **STATE PROGRAMS.**—A State agency conducting a program that has the purpose of replacing manufactured homes constructed prior to 1976 with Energy Star qualified manufactured homes may use funds provided under this section to support such a program, provided such funding does not exceed the funding limitation amount under paragraph (4).

(B) **FEDERAL PROGRAMS.**—The Secretary shall seek to achieve the purpose of this section through similar Federal programs including—

(i) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.); and

(ii) the program under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(7) **ADMINISTRATION.**—

(A) **CONTROLS AND PROCEDURES.**—Each State agency receiving funds under this section shall establish fiscal controls and accounting procedures sufficient, as determined by the Secretary, to ensure proper accounting for disbursements made from such funds and fund balances. Such procedures shall conform to generally accepted Government accounting principles.

(B) **COORDINATION WITH OTHER STATE AGENCIES.**—A State agency receiving funds under this section may coordinate its efforts, and share funds for administration, with other State agencies or nonprofit organizations involved in low-income housing programs.

(C) **ADMINISTRATIVE EXPENSES.**—A State agency receiving funds under this section may expend not more than 10 percent of such funds for administrative expenses.

(d) **DECOMMISSIONING.**—A person receiving funding under subsection (c) may also be provided not to exceed \$2,500 for the decommissioning of the manufactured home being replaced.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary to carry out this section \$200,000,000 for fiscal year 2010 and \$400,000,000 for fiscal year 2011, to remain available until expended.

(2) **ADMINISTRATIVE EXPENSES.**—Of the amounts available each fiscal year to carry out this section, the Secretary may expend not more than 5 percent to pay administrative expenses.

The CHAIR. No amendment to the committee amendment is in order except those printed in House Report 111-475. Each amendment may be offered



only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. MARKEY OF MASSACHUSETTS

The CHAIR. It is now in order to consider amendment No. 1 printed in House Report 111-475.

Mr. MARKEY of Massachusetts. Madam Chair, I, as the designee of Mr. WAXMAN, rise to offer an amendment.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. MARKEY of Massachusetts:

Page 3, lines 12 through 14, strike “under other standards approved by the Secretary, in consultation with the Administrator” and insert “under other standards that the Secretary shall approve or deny not later than 30 days after submittal, in consultation with the Administrator”.

Page 4, lines 21 through 23, strike “other standards approved by the Secretary, in consultation with the Secretary of Labor and the Administrator” and insert “other standards that the Secretary shall approve or deny not later than 30 days after submittal, in consultation with the Secretary of Labor and the Administrator”.

Page 5, line 8, insert “or wholesale” after “retail”.

Page 6, line 6, strike “111” and insert “110”.

Page 8, lines 11 through 13, strike “any other entity designated for such purpose by the Secretary, in consultation with the Administrator” and insert “any other entity that is accredited under standards that the Secretary shall approve or deny not later than 30 days after submittal, in consultation with the Administrator”.

Page 10, lines 5 through 9, amend subparagraph (A) to read as follows:

(A) establish a Federal Rebate Processing System which shall serve as a database and information technology system to allow—

(i) rebate aggregators to submit claims for reimbursement using standard data protocols;

(ii) quality assurance reports to be identified with the work for which rebates are claimed; and

(iii) any Home Star loans to be linked to the work for which they are made;

Page 10, line 15, strike “and”.

Page 10, line 16, redesignate subparagraph (C) as subparagraph (D).

Page 10, after line 15, insert the following new subparagraph:

(C) establish a means by which a State may obtain confidential access to records of work performed in that State from the database; and

Page 11, lines 1 through 3, strike “executes a Home” and all that follows through “affirming” and insert “affirms, in each Home Star rebate application submitted to a rebate aggregator,”.

Page 12, lines 8 and 12, redesignate paragraphs (6) and (7) as paragraphs (7) and (8), respectively.

Page 12, after line 7, insert the following new paragraph:

(6) agreeing to cooperate with and comply with the requirements of the quality assurance provider assigned to inspect any work done, subject to any appeals or dispute resolution process described in section 105(b)(4);

Page 12, line 16, strike “112” and insert “111”.

Page 13, strike lines 1 through 3, and insert “the Secretary may appoint and set basic rates of pay for such professional and administrative personnel as the Secretary considers necessary to carry out this title. Such authority shall not apply to positions in the Senior Executive Service. The number of personnel appointed under this paragraph shall not exceed 30 full-time equivalent employees. The terms of appointment of all personnel appointed under this paragraph shall expire upon the termination of the programs established under this title.”.

Page 13, lines 4 through 8, amend paragraph (2) to read as follows:

(2) RATE OF PAY.—The basic rate of pay for a person appointed under paragraph (1) shall not exceed the maximum rate of basic pay payable for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

Page 13, lines 9 through 21, strike paragraphs (3) and (4) (and redesignate the subsequent paragraphs accordingly).

Page 16, strike lines 8 through 10 and insert the following:

(5) EFFECTIVE PERIOD.—(A) Paragraph (1) shall be effective only until December 31, 2010, except with respect to personnel appointed to support the quality assurance and enforcement of the programs established under this title, for which appointments may be made under paragraph (1) until the termination of the programs established under this title pursuant to section 111(i).

(B) Paragraphs (3) and (4) shall be effective only until the date that is 2 years after the date of enactment of this Act, except with respect to regulations and information collection relating to the quality assurance and enforcement of the programs established under this title.

Page 18, lines 1, 3, 6, and 11, strike “section 105” and insert “section 105 or 110”.

Page 18, line 17, insert “unless the energy savings measures installed pursuant to section 103 are excluded from the calculations performed for purposes of section 104 and the total amount of rebates paid for the home does not exceed the maximum rebate available pursuant to section 104” after “the same home”.

Page 19, line 7, strike “section” and insert “title”.

Page 21, after line 10, insert the following new subsections:

(o) INFORMATION HOTLINES.—

(1) CONTRACTORS.—The Secretary shall establish and publicize a telephone hotline for contractors to call to obtain information about the programs under this Act.

(2) HOMEOWNERS.—The Secretary shall establish and publicize a telephone hotline for homeowners to call to obtain information about the programs under this Act.

(p) ONLINE CHAT FUNCTION.—The Secretary shall determine the feasibility and effectiveness of establishing an online chat function through the website established for the Home Star Retrofit Rebate Program, and may establish such a function as appropriate.

Page 21, line 20, insert “, in one or more particular States,” after “any rebate aggregator”.

Page 21, line 21, insert “The Secretary shall consult with States operating existing

residential energy efficiency and retrofit programs on how best to coordinate the Home Star Retrofit Rebate Program with such existing programs, including the designation of rebate aggregators.” after “competent manner.”.

Page 21, line 22, strike “30 days” and insert “60 days”.

Page 21, strike lines 24 and 25, and insert “a sufficient number of rebate aggregators in each State to ensure that rebate applications can be accepted from all qualified contractors.”.

Page 22, line 10, insert “not later than 10 days after receipt of a complete rebate application,” after “(3)”.

Page 22, line 14, strike “30” and insert “10”.

Page 23, line 22 strike “and”.

Page 23, line 25, strike “would not disrupt” and insert “would facilitate coordination with, and not disrupt,”.

Page 24, line 3, insert “and” after the semicolon.

Page 24, after line 3, insert the following new clause:

(iv) whose operational facilities, employees, electronic recordkeeping hardware and facilities, and conventional records used to carry out the responsibilities of a rebate aggregator are located wholly within the United States, to the extent consistent with the international obligations of the United States.

Page 25, line 18, insert “and to the availability of funding pursuant to section 111” after “subsection (d)(4)”.

Page 26, line 9, strike “polyurethane” and insert “insulating”.

Page 26, line 25, insert “, except that a State, with the approval of the Secretary, may designate climate zone subregions as a function of varying elevation” after “structural capacity”.

Page 27, line 6, strike “seal or replacement” and insert “sealing or replacement and sealing”.

Page 27, line 10, strike “, replaces” and insert “and sealing, replaces and seals”.

Page 27, line 17, insert “or adds at least R-10 of continuous insulation” after “thickness”.

Page 28, lines 10 through 21 amend paragraph (6) to read as follows:

(6) Window replacement that replaces at least 8 exterior windows, or 75 percent of the exterior windows in a home, whichever is less, with windows that—

(A) are certified by the National Fenestration Rating Council; and

(B) comply with criteria applicable to windows under section 25(c) of the Internal Revenue Code of 1986 or, in areas above 5,000 feet elevation, have a U-factor of at least 0.35 when replacing windows that are single-glazed or double-glazed with an internal air space of ¼ inch or less.

Page 28, lines 22 through 24, amend paragraph (7) to read as follows:

(7) Door or skylight replacement that replaces at least 1 exterior door or skylight with doors or skylights that comply with the 2010 Energy Star specification for doors or skylights.

Page 29, lines 1 through 3, amend clause (i) to read as follows:

(i) a natural gas or propane furnace with a furnace that has—

(I) an AFUE rating of 92 or greater; or

(II) an AFUE rating of 95 or greater;

Page 29, line 12, through page 30, line 17, amend clause (v) to read as follows:

(v) a wood or pellet furnace, boiler, or stove, if—



(I) the new system—

(aa) meets at least 75 percent of the heating demands of the home; and

(bb) in the case of a wood stove, but not a pellet stove, replaces an existing wood stove, but not a pellet stove, and is certified by the Administrator;

(II) the home has a distribution system (such as ducts, vents, blowers, or affixed fans) that allows heat to reach all or most parts of the home;

(III) in the case where an old wood stove is being replaced, a voucher is provided by the installer or other responsible party certifying that the old wood stove has been removed and rendered inoperable or recycled at an appropriate recycling facility; and

(IV) an accredited independent laboratory recognized by the Administrator certifies that the new system—

(aa) has thermal efficiency (lower heating value) of at least 75 percent for wood and pellet stoves, and at least 80 percent for furnaces and boilers; and

(bb) has particulate emissions of less than 3.0 grams per hour for stoves, and less than 0.32 lbs/mmBTU for outdoor furnaces and boilers.

Page 30, line 23, strike “Air” and insert “Air-source air”.

Page 31, lines 4 and 5, amend clause (i) to read as follows:

(i) in the case of an air-source air conditioner—

(I) SEER 16 and EER 13; or

(II) SEER 18 and EER 15; and

Page 31, line 18, strike “or a” and insert “, or a natural gas or propane storage or tankless water heater with”.

Page 32, lines 9 through 11, amend subparagraph (F) to read as follows:

(F) an electric tankless water heater with an energy factor or thermal efficiency, as applicable, of .96 or more or a thermal efficiency of 96 percent or more, that operates on not greater than 25 kilowatts;

Page 32, lines 17 through 21, amend subparagraph (H) to read as follows:

(H) a water heater installed in conjunction with a qualifying geothermal heat pump described in paragraph (10) that provides domestic water heating through the use of—

(i) a desuperheater; or

(ii) year-round demand water heating capability.

Page 32, line 22, insert “or doors” after “Storm windows”.

Page 32, lines 23 through 25, strike “single-glazed windows that do not have storm windows;” and insert “doors or existing single-glazed windows; and”.

Page 33, lines 1 through 3, strike subparagraph (B).

Page 33, line 4, redesignate subparagraph (C) as subparagraph (B).

Page 33, line 5, insert “or doors” after “storm windows”.

Page 33, line 10, strike “less” and insert “more”.

Page 33, line 16, insert “for installations” after “at least 1.1”.

Page 34, line 18, strike “and”.

Page 34, line 20, strike the period and insert “; and”.

Page 34, after line 20, insert the following new subparagraph:

(C) an air-source air conditioner described in subsection (b)(9)(B)(i)(II).

Page 35, line 1, insert “and per skylight” after “per door”.

Page 35, line 2, insert “and 2 Energy Star skylights” after “Energy Star doors”.

Page 35, line 4, strike “\$250” and insert “\$400”.

Page 35, lines 7 through 15, redesignate subparagraphs (C) through (F) as subparagraphs (D) through (G), respectively.

Page 35, after line 6, insert the following new subparagraph:

(C) \$750 for a water heater described in subsection (b)(11)(B);

Page 35, line 9, insert “or door” after “each storm window”.

Page 35, line 11, insert “or doors” after “storm windows”.

Page 35, line 14, strike “and”.

Page 35, line 16, strike the period and insert a semicolon.

Page 35, after line 16, insert the following new subparagraphs:

(H) \$750 for heating system replacement described in subsection (b)(8)(A)(i)(I);

(I) \$500 for a wood or pellet stove that has a heating capacity of at least 28,000 Btu per hour and meets all of the requirements of subsection (b)(8)(A)(v), except for the requirements of subclause (I)(aa) and subclause (II); and

(J) \$500 for a for a desuperheater as described in subsection (b)(11)(H)(i).

Page 38, line 4, strike “A” and insert “Not later than 1 year after the completion of a project for which rebates are sought, a”.

Page 38, line 7, strike “quality assurance requirements of this title has” and insert “required specifications for each measure or standards for installation have”.

Page 39, line 23, insert “as of the date of enactment of this Act” after “qualify”.

Page 39, line 25 through page 40, line 1, strike “, but with” and all that follows through “has been made”.

Page 40, line 4, strike “polyurethane” and insert “insulating”.

Page 42, line 5, insert “and the availability of funds pursuant to section 111” after “subsection (b)”.

Page 42, line 19, insert “energy-efficient wood products, insulated vinyl siding,” after “temperature controllers,”.

Page 45, line 2, strike “metered” and insert “verified”.

Page 46, line 3, strike “conducted in” and insert “and energy savings projections conducted with respect to”.

Page 47, line 12, strike “A” and insert “Not later than 1 year after completion of a project for which rebates are sought, a”.

Page 48, lines 10 through 19, amend subparagraph (A) to read as follows:

(A) If a field verification by an independent quality assurance provider finds that corrective work is needed, the accredited contractor will correct the work so the installed measures comply with manufacturer and applicable code standards, and reasonably determined energy savings projections indicate compliance with the specifications and quality standards under this title. Such compliance shall be achieved not later than 14 days after the date of notification of a defect pursuant to a warranty, provided at no additional cost to the homeowner.

Page 50, after line 3, insert the following new subsection:

(g) ACCREDITATION SCHOLARSHIPS.—The Secretary may provide up to 0.3 percent of the funding available for carrying out this section for need-based scholarships to individuals to enable them to qualify as accredited contractors. In providing such scholarships, the Secretary shall factor in the number of accredited contractors in the State and their proportion to the State’s population.

Page 52, line 5, strike “minority and” and insert “minority, veteran, and”.

Page 53, after line 2, insert the following new subparagraph:

(F) to the extent practicable, a plan to incorporate existing clean energy and energy efficiency coursework, worker training programs, and worker certification programs at community colleges;

Page 53, line 3, strike “(F)” and insert “(G)”.

Page 53, line 7, strike “(G)” and insert “(H)”.

Page 53, line 16, strike “112” and insert “111”.

Page 55, after line 8, insert the following new paragraph:

(4) APPEALS AND DISPUTE RESOLUTION PROCESSES.—A quality assurance program established under this subsection shall include an expedited and final appeals and dispute resolution process.

Page 57, lines 3 through 14, strike section 107 (and redesignate the subsequent sections accordingly).

Page 58, line 7, insert “(a) IN GENERAL.—” before “Not later than”.

Page 58, line 11, strike “and”.

Page 58, line 16, strike the period and insert a semicolon.

Page 58, after line 16, insert the following:

(3) the benefits of the programs under this title for senior citizens; and

(4) financing options as needed to inform consumers and qualified financing entities of the details of the Home Star Energy Efficiency Loan Program under section 110.

The public education campaign shall not include any distribution of gift or promotional items without direct educational value.

(b) VETERANS.—The Administrator shall coordinate with the Secretary of Veterans Affairs on how to implement an outreach strategy to veterans and veteran service organizations about retrofit rebate programs.

Page 60, line 2, strike “subsection (e)(1)” and insert “subsection (d)(1)”.

Page 60, line 8, strike “and”.

Page 60, line 14, strike the period and insert “; and”.

Page 60, after line 14, insert the following new subparagraph:

(C) limited to financing the homeowners’ portion of a Silver Star or Gold Star project undertaken pursuant to this title.

Page 60, line 17, insert “, subject to the availability of funding pursuant to section 111,” after “the Secretary”.

Page 61, line 22, strike “and”.

Page 62, line 4, strike the period and insert “; and”.

Page 62, after line 4, insert the following new paragraph:

(5) undertake particular efforts to make such loans available to senior citizens living in older homes or living on fixed incomes.

Page 62, lines 5 through 16, strike subsection (d) (and redesignate the subsequent subsections accordingly).

Page 63, lines 22 and 23, strike “manner, all information regarding” and insert “manner—

(A) to the rebate aggregator all information regarding each loan made with respect to a project for which the rebate aggregator accepted a rebate application; and

(B) information concerning”.

Page 64, line 4, insert “solely” after “may be used”.

Page 64, line 6, strike “to eligible participants, including” and insert “The support for qualified loan program financing mechanisms may include”.

Page 64, line 10, insert “or” after the semicolon.

Page 64, line 12, strike “; or” and insert a period.

Page 64, lines 13 through 18, strike paragraph (4).

Page 64, line 20, strike "subsection (f)(3)" and insert "subsection (e)(3)".

Page 64, line 25, insert "Any money that is repaid under a Gold Star or Silver Star loan into a State revolving loan fund after a date 2 years from the date of enactment of this title may be retained by that State and utilized for purposes of providing additional loans for home energy retrofit purposes or to support a State home energy efficiency retrofit program. In the event that the Secretary is carrying out the Home Star Energy Efficiency Loan program in lieu of a State program, such repayments shall be returned to the Treasury." after "with this section."

Page 65, line 19, strike "Subject to subsection (j), there" and insert "There".

Page 66, line 8 through page 68, line 2, strike paragraphs (1) through (3) and insert the following:

(1) DISTRIBUTION TO STATES.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, of the amount provided under subsection (a), 3.6 percent is authorized to be appropriated to the Secretary for providing grants to States, to be used for—

(i) administrative costs of carrying out this title;

(ii) development and implementation of quality assurance frameworks;

(iii) oversight of quality assurance programs;

(iv) establishment and delivery of financing mechanisms, in accordance with paragraph (2); and

(v) coordination with existing residential retrofit programs and infrastructure development to assist deployment of the Home Star Retrofit Rebate Program.

(B) DISTRIBUTION.—

(1) PROVISION OF FUNDS.—Not later than 30 days after the date of enactment of this Act, the Secretary shall provide to the State energy offices, or such other State entities as are designated by the Governor, of States that are carrying out responsibilities under section 105, 25 percent of the funds described in subparagraph (A).

(ii) ALLOCATION.—Funds described in clause (i) shall be made available in accordance with the allocation formula for State energy conservation plans established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(iii) FUND ALLOCATION PROCESS.—The Secretary shall allocate the remaining 75 percent of the funds described in clause (i) in a manner that may vary from the formula described in clause (ii) as necessary to best support the objectives of achieving energy efficiency gains, employment of underemployed workers, and implementing quality assurance programs and frameworks in participating States.

(2) FINANCING.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, of the amount provided under subsection (a), 5.4 percent is authorized to be appropriated to the Secretary for carrying out section 110.

(B) DISTRIBUTION.—

(i) PROVISION OF FUNDS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall provide to the State energy offices, or such other State entities as are designated by the Governor, of States that are carrying out responsibilities under section 105, 75 percent of the funds described in subparagraph (A).

(ii) ALLOCATION.—Funds described in clause (i) shall be made available in accordance with the allocation formula for State energy conservation plans established under part D

of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(iii) FUND ALLOCATION PROCESS.—The Secretary shall allocate the remaining 25 percent of the funds described in clause (i) in a manner that may vary from the formula described in clause (ii) and reward those States that make the best progress in providing loans to low-income areas pursuant to section 110(c)(4).

Page 68, lines 3 and 9, redesignate paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

Page 68, line 23, insert "AND REBATE AGGREGATION" after "QUALITY ASSURANCE".

Page 69, line 4, strike "subsection (b)(3)(B)" and insert "subsection (b)(1)(B)(ii)".

Page 69, line 5, insert "and rebate aggregators" after "assurance providers".

Page 71, line 1, strike "(b), (d)" and insert "(b), (c), (d)".

Page 71, line 13, strike "(b), (d)" and insert "(b), (c), (d)".

Page 72, after line 6, insert the following new paragraph:

(3) HOME STAR ENERGY EFFICIENCY LOAN PROGRAM.—If a State, or the Secretary acting in lieu of a State program, has not disbursed or provided in the form of loans all the funds available for such loans under the Home Star Energy Efficiency Loan Program by the date that is 2 years after the date of enactment of this title, any undisbursed funds shall be returned to the Treasury.

Page 72, line 8, strike "107, 110, and 111" and insert "109 and 110".

Page 72, after line 13, insert the following new section:

**SEC. 113. NOISE ABATEMENT STUDY.**

Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Health and Human Services, shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a study of the effects of the energy savings measures made as a result of this Act on noise abatement.

Page 72, line 15, insert "AND MODULAR" after "MANUFACTURED".

Page 72, line 16, insert "AND MODULAR" after "MANUFACTURED".

Page 73, after line 3, insert the following new paragraphs:

(3) MODULAR HOME.—The term "modular home" means a structure that is—

(A) designed and manufactured to comply with applicable national, State, and local building codes and regulations;

(B) transportable in one or more sections;

(C) not constructed on a permanent chassis; and

(D) designed to be used as a dwelling on permanent foundations when connected to required utilities, including the plumbing, heating, air conditioning, and electrical systems contained therein.

(4) ENERGY STAR QUALIFIED MODULAR HOME.—The term "Energy Star qualified modular home" means a modular home that has been designed, produced, and installed in accordance with Energy Star's guidelines.

Page 73, line 8, insert "or new Energy Star qualified modular homes" after "manufactured homes".

Page 73, line 18, insert "or new Energy Star qualified modular homes" after "manufactured homes".

Page 74, line 18, insert "or Energy Star qualified modular home" after "manufactured home".

Page 75, line 13, insert "or new Energy Star qualified modular home" after "manufactured home".

Page 75, line 18, insert "or modular home" after "manufactured home".

Page 76, lines 3 through 21, amend paragraph (6) to read as follows:

(6) STATE PROGRAMS.—A State agency conducting a program that has the purpose of replacing manufactured homes constructed prior to 1976 with Energy Star qualified manufactured homes or Energy Star qualified modular homes may use funds provided under this section to support such a program, provided such funding does not exceed the funding limitation amount under paragraph (4).

The CHAIR. Pursuant to House Resolution 1329, the gentleman from Massachusetts (Mr. MARKEY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. MARKEY of Massachusetts. Madam Chair, Chairman WAXMAN's amendment strengthens the core functions of Home Star: to save energy, create jobs, and save consumers money. I will highlight just a few of the provisions in the amendment.

The amendment offers additional rebates for super-efficient air conditioners and furnaces. It requires rebate aggregators under Home Star to be entirely employed in the United States. And it includes rebates for storm windows and doors.

The technical changes to the amendment have streamlined the effectiveness of the program. For example, the amendment includes a provision to ensure coordination between existing State energy efficiency programs and Home Star. I think that Chairman WAXMAN's amendment improves significantly the bill. I think it contributes to our overall goals. I ask that the amendment be accepted by the House.

I reserve the balance of my time.

Mr. BARTON of Texas. Madam Chair, I rise in opposition to the amendment.

The CHAIR. The gentleman is recognized for 10 minutes.

□ 1315

Mr. BARTON of Texas. We do oppose the manager's amendment, Madam Chair. It is a good-faith attempt to try to perfect some of the anomalies within it. It's fairly long-winded. It's fairly complicated, because when the government starts to intervene in the marketplace, it has to intervene more and more pervasively to try to handle all of the various things that normally the hidden hand of the market, to quote ADAM SMITH, would correct or take care of.

So, if you support the underlying bill, you should support the manager's amendment because it is trying to correct the problems which those who support it have seen in the underlying bill. If you don't support the underlying bill, which I do not, you should oppose the Waxman amendment because here is a program, again, which is spending \$6.6 billion—or at least is authorizing the spending of \$6.6 billion, which we don't have, which has no pay-for, and

the Department of Energy has a \$5 billion program currently on the books that has been appropriated for which they've not yet handed out the money.

So we oppose Chairman WAXMAN's manager's amendment and would ask for a "no" vote.

With that, I reserve the balance of my time.

Mr. MARKEY of Massachusetts. I yield 2 minutes to the gentlelady from Arizona (Ms. GIFFORDS).

Ms. GIFFORDS. Madam Chair, I rise today to proudly support the Home Star Energy Retrofit Act.

Energy efficiency saves fuel, electricity, and it helps Americans to save money. However, embracing energy efficiency at home isn't just about energy or money. It improves the comfort and quality of life that people experience every day. It actually makes homes better places to live.

I support this bill because it creates jobs in all 50 States, which is a priority of this Congress. Whether you live in sunny Arizona, like myself, or icy Alaska, people will use their local installers to make these upgrades to their homes.

I would like to thank the committee for accepting my amendment, which directs the Secretary of Energy to provide need-based scholarships for training programs to get Gold Star certification. To take full advantage of the Home Star program, we need to grow a workforce that can implement these programs in every State and in any home. The scholarships made possible by my amendment will allow these individuals looking for jobs to get the training that they need so that Americans can fully realize the full benefit of the Home Star program. Training a new generation of skilled workers is a smart investment that will pay dividends in the future.

This bill is about jobs. It's also about training the smart workforce, and it's about saving resources and money for American families at this critical time. That is why I am so proud to support the Home Star Energy Retrofit Act.

Mr. BARTON of Texas. I have no further speakers on this amendment. I request a "no" vote.

I yield back the balance of my time. Mr. MARKEY of Massachusetts. I yield 2 minutes to the gentleman from Missouri (Mr. CARNAHAN).

Mr. CARNAHAN. Madam Chair, I would like to thank Chairman MARKEY for his leadership and all the others involved in this legislation, the Home Star Energy Retrofit Act of 2010, and also, in particular, Representative WELCH and the other sponsors of the bill that have really led this effort.

This is a bill that will help in this tough recession which our country has been going through by also providing incentives to help generate our economy, to get it moving again, and do it in ways that are smart—smart by pro-

viding incentives to encourage homeowners to make their homes more energy efficient by providing up-front rebates for home energy savings investments, such as improved insulation, upgrades to HVAC systems, and energy-efficient windows.

It will also create more green jobs. These are green jobs that can't be outsourced or sent overseas, and most of the products that are used are going to be used by small businesses here that manufacture those products and goods here in our country.

It is going to help grow our economy. It's going to help grow green jobs. It's also going to help as we look at making our environment a better place for all of us going forward. I strongly support it and support the manager's amendment.

Mr. MARKEY of Massachusetts. Madam Chair, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The amendment was agreed to.

#### AMENDMENT NO. 2 OFFERED BY MR. BARTON OF TEXAS

The CHAIR. It is now in order to consider amendment No. 2 printed in House Report 111-475.

Mr. BARTON of Texas. Madam Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. BARTON of Texas:

Page 64, lines 19 through 25, strike subsection (g) (and redesignate the subsequent subsection accordingly).

The CHAIR. Pursuant to House Resolution 1329, the gentleman from Texas (Mr. BARTON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. BARTON of Texas. Madam Chair, this amendment is fairly straightforward. It would strike section 111(g), which provides that funds repaid by eligible participants may be used to provide loans to additional participants under the Home Star Energy Efficiency Loan Program. In other words, under the pending legislation, if people were to get a loan and use that loan, when that loan was paid back, the funds that are paid back could then be relent. My amendment would strike the relending provision so that as the funds are paid back, they would go to the Treasury, hopefully for deficit reduction.

Since section 111 is carved out of the sunset section, section 112(i), this loan program could potentially go on forever with money that is repaid continually being loaned out to new recipients. So we could create, under this new section 111(g) if we don't accept the Barton amendment, a perpetual program, in effect, a new, self-funded

entitlement program. This bill is billed as a 2-year temporary program, but the provision in 111(g) is contrary to the 2-year sunset provision of the overall bill. So I would hope that we would accept this amendment.

With that, I reserve the balance of my time.

Mr. MARKEY of Massachusetts. Madam Chair, I rise in opposition.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. MARKEY of Massachusetts. I yield myself 2 of those 5 minutes.

Madam Chair, people want to save money on their energy bills, but not everyone can afford the upfront costs of an energy retrofit. What the Home Star Energy Efficiency Loan Program is designed to do is to help those people participate in the Home Star program. The loan program is also meant to provide a sustainable source of loan funds for years of future energy retrofits across a broad geographic and economic spectrum. The program will reach out to low-income households that would greatly benefit from reduced energy bills.

Now, if the Barton amendment is passed, it would severely limit the number of people who could participate in Home Star. Without long-term opportunities for efficiency loans, many low-income households will, literally, be left out in the cold.

Home Star will incentivize energy-efficient retrofits. It must also make those retrofits a reality. The loan program offers households a pathway out of crushing utility bills towards a clean energy future.

I urge my colleagues to vote "no" on the Barton amendment.

I reserve the balance of my time.

Mr. BARTON of Texas. I yield myself such time as I may consume, subject to the 5-minute limitation.

As always, Madam Chairwoman, I am deeply moved by my friend from Massachusetts' eloquent words. The problem is nothing he said really directly relates to the Barton amendment. We're not striking the loan program. We're not changing the authorization level. We're not saying that low-income homeowners who wish to use the program cannot borrow funds under this bill if it becomes a law. What we are saying is that once they've borrowed the funds, once they've been spent in the proper fashion, and hopefully once they've been repaid, the repaid funds will go towards deficit reduction.

Since this is an authorization bill, and since it's not funded anyway, according to the distinguished chairman, you would think that they would be willing to accept a small Barton amendment that simply says, if the program is ever funded, and if it actually is implemented, as people use it and pay the money back, that money goes to pay the poor taxpayers back

who have labored long and hard to pay the taxes that make the program possible in the first place.

So, again, I am deeply moved by my friend from Massachusetts, but I hope that he is as deeply moved by my remarks and would change his position and support the Barton amendment.

I reserve the balance of my time

Mr. MARKEY of Massachusetts. I yield myself whatever time is remaining.

The CHAIR. The gentleman is recognized for 3½ minutes.

Mr. MARKEY of Massachusetts. I thank the Chair.

The Barton amendment would eliminate the revolving part of the loan section which requires the money to be dedicated, again, to energy efficiency after it is repaid. Unfortunately, this would limit the ability of the middle class to take advantage of the Home Star program and invest in energy efficiency in the future.

If adopted, the amendment would create a black hole. It leaves unanswered the question of what to do with hundreds of millions of taxpayer dollars that will be repaid in the coming years.

I am concerned that this amendment is not only counter to the goals of the program, but it would leave it vulnerable because of the lack of precision which the actual impact of this amendment would have on the operation of the program in the future. So I continue to urge my colleagues to oppose this amendment.

I reserve the balance of my time.

Mr. BARTON of Texas. May I inquire as to how much time I have remaining?

The CHAIR. The gentleman from Texas has 2 minutes remaining, and the gentleman from Massachusetts also has 2 minutes remaining.

Mr. BARTON of Texas. I yield myself 2 minutes.

Well, my esteemed colleague from Massachusetts is at least talking about my amendment now. That's progress. He used the term "black hole." I'm sure he knows, since scientists at MIT in his home State have investigated black holes extensively, that there is mounting evidence that the universe could not exist without black holes. So I think it would be appropriate in this bill to put at least one black hole in this because it would enhance the viability of the overall program.

Again, we are trying to protect the taxpayers who are putting up the money or the loan officers who are sending the money to the U.S. Treasury in terms of government bonds to pay for this program. We are not attempting to change the loan program. We think the loan program itself is an excellent idea if you're going to have this type of a program. We simply want to protect the taxpayers and also point out, once again, that the underlying bill is a 2-year bill. We don't want a

self-perpetuating loan program that would take on the form of an entitlement.

So vote for the Barton black hole amendment, and let's put some limitation on taxpayer liability.

With that, I am going to reserve what little time, if any, I have left.

Mr. MARKEY of Massachusetts. Madam Chair, I yield myself as much time as I may consume, and that is only to make the point that the way in which the amendment is drafted is that it is just a classic motion to strike. And in striking, it eliminates everything within the subsection that exists without substituting any additional instructions. So the metaphor of a black hole just refers to what is the legislative result of having just a strike section without also additional language in order to substitute for what the intent would be to ensure that the money is then used in a way that did not lead to the law of unintended consequences being invoked.

□ 1330

We are very concerned here about this amendment. As it is constructed inside the legislation, we know what the program is. We know, historically, it has been a very successful and a very popular model that has been used in other laws. In the Clean Water Act, it was used as a revolving loan fund to finance wastewater cleanup for decades. The Safe Drinking Water Act has successfully used this model for the last 15 years.

So, again, my hope would be that Members would reject the Barton amendment.

I reserve the balance of my time.

Mr. BARTON of Texas. How much time do I have remaining, Madam Chair?

The CHAIR. The gentleman has 30 seconds remaining.

Mr. BARTON of Texas. I yield myself the final 30 seconds.

Madam Chair, only my friend from Massachusetts could filibuster in a 5-minute time-limited debate.

Those last comments, as far as I could tell and to the extent they were substantive, were absolutely true. We do eliminate subsection G, and that is all we eliminate. That is the section that creates the reloan provision. So he is right about that. I think he is misinformed about the rest of his comments, and I would hope that he would support the elimination of one little subsection, subsection G.

Vote "yes" on the Barton amendment.

The CHAIR. The time of the gentleman has expired.

Mr. MARKEY of Massachusetts. May I inquire as to how much time I have remaining?

The CHAIR. The gentleman has 30 seconds remaining.

Mr. MARKEY of Massachusetts. Madam Chair, I yield myself those 30

seconds in order to again make the point that this program is central to our ability to ensure that the Home Star program will work and that there will be a democratization of access to the capital which will be needed in order to implement this program. We believe that it will have the impact of ensuring that more and more and more Americans will become aware of it, will use this funding mechanism, and will create this technological revolution which we need in energy efficiency in our country.

The CHAIR. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Texas (Mr. BARTON).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. MARKEY of Massachusetts. Madam Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. NYE

The CHAIR. It is now in order to consider amendment No. 3 printed in House Report 111-475.

Mr. NYE. Madam Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. NYE:

Page 23, lines 13 and 16, redesignate subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively.

Page 23, after line 12, insert the following new subparagraph:

(D) an Armed Forces exchange service in the United States that offers for sale energy savings measures described in section 103;

The CHAIR. Pursuant to House Resolution 1329, the gentleman from Virginia (Mr. NYE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. NYE. I yield myself such time as I may consume.

Madam Chair, I rise today to offer a commonsense, yet important, amendment to the Home Star Energy Retrofit Act which will provide much-needed savings for our military families.

I represent one of the highest concentrations of veterans and service-members of any congressional district in the country, and this amendment is especially important to my constituents in Hampton Roads.

Under the bill, homeowners, renters and contractors will be able to claim a credit for home energy efficiency upgrades and for high-energy-use appliances, such as air conditioners and water heaters. My amendment will simply add Armed Forces exchanges to

the list of qualified entities that can provide these credits instantly to servicemembers and veterans.

Many servicemembers and their families shop at base exchanges because they are one-stop shops for everything from fresh produce to energy-efficient light bulbs and other home needs. Providing them easy access to the great benefits in this bill is a simple and commonsense way to make their day-to-day duties more hassle free.

Madam Chair, we should do all we can to support our military families. Often, it is the families who have the toughest jobs because, really, they are doing two jobs: being strong and supportive for their husbands or wives who are overseas, and also taking care of the families back home and the household finances. Saving them a few hundred dollars a year, if not more, would really provide a boost to their finances. This amendment would make that easier.

I would like to thank Representative WELCH, Chairman MARKEY, and Chairman WAXMAN for their hard work in bringing this legislation to fruition.

Passing the Home Star Energy Retrofit Act will go a long way toward promoting energy efficiencies throughout our country. So I hope my colleagues will join me in supporting this bill and the amendment.

Madam Chair, I reserve the balance of my time.

Mr. BARTON of Texas. I commend the Chair for her fairness in calling that last vote. I appreciate that sincerely.

Madam Chair, I rise to claim time in opposition, although I am not opposed to the amendment.

The CHAIR. Without objection, the gentleman from Texas (Mr. BARTON) is recognized for 5 minutes.

There was no objection.

Mr. BARTON of Texas. Madam Chair, the minority has no objection to this amendment. We support it and would urge its passage.

I yield back the balance of my time.

Mr. NYE. I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Virginia (Mr. NYE).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. BURGESS

The CHAIR. It is now in order to consider amendment No. 4 printed in House Report 111-475.

Mr. BURGESS. Madam Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. BURGESS:  
Page 6, line 6, strike "111" and insert "110".

Page 12, line 16, strike "112" and insert "111".

Page 53, line 16, strike "112" and insert "111".

Page 58, lines 6 through 16, strike section 109 (and redesignate the subsequent sections accordingly).

Page 65, line 19, strike "subsection (j)" and insert "subsection (i)".

Page 67, line 3, strike "111" and insert "110".

Page 70, lines 17 through 21, strike subsection (e) (and redesignate the subsequent subsections accordingly).

Page 71, line 1, strike "subsections (b), (d), and (e)" and insert "subsections (b) and (d)".

Page 71, lines 13 and 14, strike "subsections (b), (d), and (e)" and insert "subsections (b) and (d)".

Page 72, line 8, strike "110, and 111" and insert "and 110".

The CHAIR. Pursuant to House Resolution 1329, the gentleman from Texas (Mr. BURGESS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. BURGESS. Madam Chair, this amendment is relatively simple in construct, but the issue is an important one. The issue is cost savings in our country. This amendment would strike the \$12 million it has designated for advertising that will be paid for by the Federal Government.

Now, let's be honest. Energy efficiency sells itself. If consumers see lower bills, they use less electricity. It is inherently incentivized. The major manufacturers and retailers of the products listed in this bill know how to sell their wares. They have commercials on television, which I see when I'm home in my district every week: You can do it. We can help. They've been doing it for years.

The Environmental Protection Agency does not need to spend money on advertising when these retailers are already doing everything they can to tell people about these rebates and to get customers in their stores. They certainly know how to market Energy Star rebates. Why would this be any different?

If Members think their constituents aren't aware of the program, they can spread the word on their own, much like we did with Medicare prescription drug benefits and with the D-TV program. They can include it in their e-newsletters; they can post it on Twitter; they can post it on their Facebook pages; and they can mention it during their town halls.

Texas had a similar program that dealt with appliances. It was extremely popular. It sold out within the first hour that it was up and running, and this was without spending any amount on State funds to advertise.

Let's be honest with what we are doing. We are overspending to the point of bankrupting this country. Now, not only do we want to spend Federal dollars to help people buy water heaters, but we are going to spend taxpayer money to help the stores advertise to sell those same water heaters to those same people.

In this bill, under the Silver Star program, the \$12 million for adver-

tising could be put to other purposes. For example, it could provide 8,000 extra rebates for attic insulation, 96,000 rebates for new energy-efficient doors, 48,000 extra rebates for new natural gas tanks, 240,000 extra rebates for storm windows, and 24,000 extra rebates for energy-efficient window film installation.

If the goal of this bill is to make America more efficient, let's not begin by wasting \$12 million to advertise the program. Let's use it to help more Americans buy energy-efficient products. It's a no-brainer.

I reserve the balance of my time.

Mr. MARKEY of Massachusetts. I rise in opposition to the amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. MARKEY of Massachusetts. At this time, I yield myself 2 minutes.

Madam Chair, a philosopher once asked: If a tree falls in the middle of a forest and if there is no one around, does that tree make a sound? It is a very deep, profound, philosophical question. Mr. BURGESS' amendment raises a similar question. If there is a great energy efficiency program and if people don't know about it, will it help to actually increase energy efficiency? The answer to that question, I think, is no. We actually need to have a plan to spread the word about Home Star to achieve the best results.

Now, I do agree that Lowe's and Home Depot will have a stake in getting the word out, but the truth is that those large chains aren't the only companies that are going to be part of this program. The local hardware stores will be as well. So we need to create a balance here of ensuring that people in rural America, who might have hardware stores right down the street from them, understand that they can go there as well. We need to make this program as accessible as possible and as successful as possible in this telescoped time frame that the program will be in existence. In a modern American, capitalistic culture, we know that advertising is the central means by which consumers learn about good products.

The gentleman from Texas, I am sure, is an educated consumer, especially about this program. He knows a lot about it. Yet there will be millions and millions of Americans who will not unless we augment what Lowe's and Home Depot might spend as part of their advertising programs.

The CHAIR. The time of the gentleman has expired.

Mr. MARKEY of Massachusetts. I yield myself an additional 30 seconds.

We should augment what Lowe's, Home Depot, and other large chain stores do with programs to ensure that the other tens of thousands of small stores across the country, which will also be able to participate, will have consumers who understand that that is

where they can go. I think it will dramatically enhance the attractiveness and the success of the program.

As a result, I would urge a "no" vote on the Burgess amendment.

I reserve the balance of my time.

Mr. BURGESS. I yield as much time as he may consume to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. I thank the gentleman from Texas. I am not going to consume a lot of time.

Madam Chair, I simply want to say this is a \$12 million advertising campaign for free government money or loans at very low interest rates.

Bees don't need directions to find where the flowers are that they're going to pollinate to get the honey and to go back to the hive. Bank robbers don't need directions on how to find the banks where the money is.

Homeowners and contractors who qualify under this program don't need a \$12 million program to find out where and how to get the money. As Dr. BURGESS pointed out, they will be immediately on the Internet, on the various Web sites, and on the toll-free hotline numbers, and all the other various things finding out how, where, and what the requirements are.

If all else fails, they can call Congressman MARKEY's office, and he will be happy to provide them with free assistance. If his office is overloaded, since mine is right next door, I will put them on a waiting list and will get back to them within 5 to 10 years.

So I support the Burgess amendment, and I would hope that we would adopt it.

Mr. MARKEY of Massachusetts. Would the Chair inform us as to how much time remains on both sides?

The CHAIR. The gentleman from Massachusetts has 2½ minutes remaining. The gentleman from Texas (Mr. BURGESS) has 1 minute remaining.

Mr. MARKEY of Massachusetts. I yield myself as much time as I have remaining, and I will complete debate.

Madam Chair, this amendment will make it very difficult for millions of Americans and for thousands of smaller stores across the country to be able to fully participate in the program. It will put a limit on how ultimately successful and democratic the access and opportunities are to this funding that we are creating in this legislation.

So I would urge a "no" vote on the Burgess amendment so that those smaller Main Street hardware stores all across the country will have the same ability to have it known that their stores are available to participate in the Home Star program in the same way we can be sure that Lowe's and Home Depot are using their incredible advertising capacities to let the public know that they can go there as well. I think if we have that balance this program will be very successful.

With that, I urge the Committee of the Whole to vote "no" on the Burgess amendment.

I yield back the balance of my time.

Mr. BURGESS. Madam Chair, this bill is not funded. It is an authorization bill. It depends upon appropriation. There is no pay-for put forward. It is never going to be appropriated. It is going nowhere. At the very least, let's be honest with ourselves. Save that \$12 million for the American taxpayer.

Do we really believe that Home Depot, Lowe's, and even your neighborhood hardware stores are not at least going to put signs in the windows that these new Energy Star/Silver Star appliances and retrofits are here and available and that Federal money is available to help you install them in your homes?

The fact is that already people are attuned to these giveaways from the Federal Government. Let's not continue to enable these types of programs to waste money from the Federal Treasury when we literally have no money left to spend.

I urge a "yes" vote on the amendment and a "no" vote on the underlying bill.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. BURGESS).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. BURGESS. Madam Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

□ 1345

AMENDMENT NO. 5 OFFERED BY MR. DEUTCH

The CHAIR. It is now in order to consider amendment No. 5 printed in House Report 111-475.

Mr. DEUTCH. Madam Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. DEUTCH:  
Page 21, after line 10, insert the following new subsection:

(O) DISASTER AREAS.—The Secretary shall ensure that a home in an area declared affected by a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) is not denied assistance under the Home Star Retrofit Rebate Program solely because there is no equipment or system to replace due to the disaster.

The CHAIR. Pursuant to House Resolution 1329, the gentleman from Florida (Mr. DEUTCH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. DEUTCH. Madam Chair, I yield myself such time as I may consume.

Madam Chair, the Home Star Energy Retrofit Act is an important bill that

will create jobs, lower energy bills, and reduce harmful greenhouse gas emissions. Improving efficiency is one of the cheapest and quickest ways to reduce pollution, and I am pleased to support a bill that encourages consumers to consider a more energy-efficient option when retrofitting or repairing existing appliances or systems.

Residents of south Florida and other disaster-prone regions know far too well the process of home repair, as my constituents have had to replace roofs and windows after powerful and damaging storms.

The underlying bill offers rebates for renovations, and my amendment simply ensures that the program will still apply if a natural disaster removes or destroys existing equipment. If a repair is required as a result of a hurricane or other natural disaster, the repair may no longer involve existing equipment and would therefore be ineligible for a rebate. For people who are making these repairs, we should ensure that it is our policy to encourage them to consider the most energy-efficient equipment. That is the purpose of this amendment.

The amendment is limited in scope and will not alter the intent of the underlying bill. It will only apply to federally declared disaster areas and only extend eligibility to an appliance or system destroyed by the disaster. For example, if a hurricane takes off a roof, this amendment will ensure that the homeowner still has access to a rebate for purchasing an energy-efficient roof even though there is no longer a roof to retrofit.

Fire season just began in California and hurricane season is right around the corner. We ought to be mindful of the challenges faced by Americans who live in regions vulnerable to natural disasters. This amendment ensures that a south Florida family can rebuild to a higher energy efficiency standard after a disaster and does not have to wonder why they don't receive the same tax incentive offer to any other homeowners who choose to renovate their homes.

I would like to commend Mr. WELCH, Chairman MARKEY, and Chairman WAXMAN for this important energy and jobs legislation and for accepting this amendment. I respectfully request that my colleagues join me in supporting this valuable, commonsense amendment and the underlying bill.

I reserve the balance of my time.

Mr. BARTON of Texas. Madam Chair, I rise in support of the Deutch amendment.

The CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. BARTON of Texas. In the spirit of trying to get Members who wish to catch 3 o'clock planes out of town by 3 o'clock, the minority is prepared to accept the Deutch amendment and would



encourage the majority in the same spirit to limit their comments on the upcoming Republican amendments so that all Members, regardless of party affiliation, may spend the evening at home in their districts with their loved ones.

We support the Deutch amendment.

I yield back the balance of my time.

Mr. DEUTCH. I appreciate the comments and the support, and I ask that my colleagues all support this amendment.

Madam Chair, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. DEUTCH).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. FLAKE

The CHAIR. It is now in order to consider amendment No. 6 printed in House Report 111-475.

Mr. FLAKE. Madam Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. FLAKE:

Page 65, line 19, strike "subsection (j)" and insert "subsections (i) and (j)".

Page 72, after line 13, insert the following new subsection:

(j) PROHIBITION ON EARMARKS.—None of the funds appropriated pursuant to this section may be used for a Congressional earmark as defined in clause 9(e) of rule XXI of the Rules of the House of Representatives.

Page 78, after line 4, insert the following new paragraph:

(3) PROHIBITION ON EARMARKS.—None of the funds appropriated pursuant to this subsection may be used for a Congressional earmark as defined in clause 9(e) of rule XXI of the Rules of the House of Representatives.

The CHAIR. Pursuant to House Resolution 1329, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. Madam Chair, this amendment is similar to amendments I have offered in the past on authorization bills. It simply states that none of the money authorized in this legislation for grant programs or for other purposes can be earmarked later by Members of Congress.

We are often told that we don't plan to earmark this money, but we have seen in the past that many of the grant programs or other moneys that are authorized are later earmarked. For example, the Emergency Operations Center in a FEMA bill, 60 percent of the funds for the grant program were later earmarked.

We can't have this, Madam Chair. If we're going to authorize a program, if we're going to say that moneys are available for specific purposes, we shouldn't come in later and simply take all that money from those accounts through earmarking.

These amendments have been accepted in the past by the majority, and I hope that this one will be as well.

I reserve the balance of my time.

Mr. MARKEY of Massachusetts. Madam Chair, I rise in support of this amendment.

The CHAIR. Without objection, the gentleman is recognized for 5 minutes. There was no objection.

Mr. MARKEY of Massachusetts. Madam Chair, I support the gentleman's amendment.

Home Star must be funded at a level that would save or create 168,000 jobs, save energy in 3 million homes, and save consumers \$9.2 billion over the next decade. These savings will not be realized if the authorization is decreased through earmarks.

I urge my colleagues to support the Flake amendment.

Madam Chair, I yield back the balance of my time.

Mr. FLAKE. I thank the gentleman for accepting the amendment.

Madam Chair, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. GARRETT OF NEW JERSEY

The CHAIR. It is now in order to consider amendment No. 7 printed in House Report 111-475.

Mr. GARRETT of New Jersey. Madam Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. GARRETT of New Jersey:

Page 57, after line 2, insert the following new subsection:

(d) COMPTROLLER GENERAL STUDY.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of a study of—

(1) how much money can reasonably be estimated to be saved by American consumers as a result of the energy efficiency measures undertaken pursuant to this title;

(2) how much energy can reasonably be estimated to be saved as a result of the energy efficiency measures undertaken pursuant to this title; and

(3) whether the savings from the energy efficiency measures undertaken pursuant to this title are greater than the cost of the implementation of this title.

The CHAIR. Pursuant to House Resolution 1329, the gentleman from New Jersey (Mr. GARRETT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. GARRETT of New Jersey. Madam Chair, last year The Washington Post ran a story entitled "Energy Costs Generating Light Bulb Solutions." And the story talked about how energy efficiency programs that are

being employed by local governments and local utilities are working here in D.C. And many of the programs, actually, when you looked into the article, sound a lot like the program that we are creating here today on the Federal level.

For example, according to the article, in Maryland power companies at a local level began offering all customers energy home audits for free if they simply installed power-saving, energy-efficient light bulbs in the house. Later in that article, one of the persons who had taken advantage of the program, D.C. resident Elizabeth Fox, said this: She was thrilled to take advantage of this local program, an existing city program, to get a lengthy, free audit of a 100-year-old drafty house that she lived in in the northwest. She said, "We got a written report we kept referring back to while we were renovating the third floor of the house." She added with that with the new insulation, a super-efficient washer, dryer, hot-water heater, and air conditioner, still her heating bills in the house stayed around \$500. So she said, "I can't say we've stopped the leaky air." As a matter of fact, with the third floor now in use for the first time ever because of all these efficiencies, she said, "Our energy bills actually stayed exactly the same."

So the article raises two important questions today for us here: the first question is if the State and local governments and local power companies have already taken the initiative to create these programs on a local level on their own, why are we creating a redundant program here on the Federal level to do the same thing? Think about it. No doubt, local companies and governments know to a much greater extent than we in Congress whether creating these incentives for energy efficiencies really work from a financial point of view.

But the article also makes a broader point, and this is it: when we improve energy efficiency, we lower the cost of using energy, and, unsurprisingly, this also increases the demand for the energy. This has been documented way back since 1865, and no one has ever refuted it. And as pointed out in this Washington Post article, when she put in all these energy-efficient appliances and what have you, her energy use still stayed the same.

Here is a chart over here which sort of points this out. From 1991 to 2005, energy consumption of major appliances, how much that each use, actually has been going down, down, down for air conditioners, refrigerators, clothes washers, and the like. But look at what U.S. per capita electricity consumption has been. It has basically been going up. And why is that? That's because when you get these appliances that are more efficient, you end up using more of them and for longer periods of time. So U.S. per capita energy

consumption increases even though we get even more energy-efficient appliances.

If you try to achieve energy efficiency on the demand side of the equation, as this legislation would do, we also have to be successful at addressing the supply side. And that's why I approach this issue of "all of the above" when it comes to energy policy.

The Democrat majority may continue to rewrite the laws in this country, but one thing they haven't been able to figure out how to do is rewrite the laws of economics.

So needless to say, I remain skeptical about the benefits of this bill, and that's why I am proposing an addition to this bill, basically a little study by the GAO to conduct an audit of the program to find out one way or the other if the programs created by this bill really work. My amendment would direct the GAO to do a couple of things, do a study over the next 2 years to find out the following: How much money really have we saved after we have spent all this money for efficiency? How much energy was really saved by all this? And finally, putting those together, whether the savings exceeded the cost of implementing this program.

When you consider the claims by the proponents of this legislation that this bill will save money, will save energy, and create thousands of jobs, I hope they won't object to this additional study here. But at a time when we have a trillion dollars in deficits in this country as far as the eye can see, at the very least the American taxpayer should know if his or her dollars are being spent efficiently.

Madam Chair, I reserve the balance of my time.

Mr. MARKEY of Massachusetts. Madam Chair, I rise in support of the amendment.

The CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. MARKEY of Massachusetts. Madam Chair, I yield myself 2 minutes.

I support the gentleman's amendment. The gentleman is seeking to have the GAO determine if the Silver and Gold Star programs are cost effective. We believe that those programs will save consumers \$9.2 billion over the next 10 years. We do believe that it will create 168,000 jobs, saved or created. And we do believe that it will, in fact, save the electricity equivalent to four 300-megawatt coal-fired plants from ever having to be built in our country just in 2011 alone. Home Star is designed to be cost efficient; so I believe that we will find the program to be very successful. But we don't object to a GAO study on the matter, and I would just express my support for the amendment.

Madam Chair, I yield back the balance of my time.

Mr. GARRETT of New Jersey. I appreciate the gentleman's acceptance of the amendment.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from New Jersey (Mr. GARRETT).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MRS. BACHMANN

The CHAIR. It is now in order to consider amendment No. 8 printed in House Report 111-475.

Mrs. BACHMANN. Madam Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mrs. BACHMANN:

At the end of the bill, add the following new title:

**TITLE III—WASTE, FRAUD, AND ABUSE  
SEC. 301. REPORT.**

The Department of Energy's Inspector General shall submit a report to Congress measuring the amount of waste, fraud, and abuse occurring in programs created by this Act, which shall include recommendations to prevent additional waste, fraud, and abuse. This report shall be submitted before July 1, 2012.

The CHAIR. Pursuant to House Resolution 1329, the gentlewoman from Minnesota (Mrs. BACHMANN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Minnesota.

□ 1400

Mrs. BACHMANN. Madam Chair, I yield myself such time as I may consume.

My amendment is founded on the principle that Congress has a certain fiduciary duty and responsibility to ensure that taxpayer dollars are not wasted on ineffectual and inefficient government programs.

My amendment will require the Department of Energy's Inspector General to independently report to Congress on incidents of waste, fraud, and abuse occurring in programs created by this bill. Further, the Inspector General will be required to include recommendations to prevent additional waste, fraud, and abuse.

I would direct our attention, Madam Chair, to the poster that is to my left. This is a phony project that was sent by the Government Accounting Office to the Department of Energy for the purpose of determining whether or not the Department of Energy would actually certify this project. And yes, it is actually a feather duster that had been taped to a space heater. Unfortunately, the Department of Energy did certify this project for the Energy Star program.

My amendment, the Bachmann amendment, would require the Inspector General's report be submitted by July 1, 2012. And as such, Congress would have the opportunity to reevalu-

ate the programs in this act and correct them if necessary. Utilizing Congressional Budget Office estimates, this amendment could enable the effective oversight of over 1.2 billion United States taxpayer dollars.

Madam Chair, in order to improve government accountability and to restore a measure of fiscal integrity in Washington, I would urge my colleagues to join me in supporting this amendment.

I reserve the balance of my time.

Mr. MARKEY of Massachusetts. I rise in support of the Bachmann amendment.

The CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. MARKEY of Massachusetts. I yield myself 2 minutes.

Madam Chair, for nearly 20 years, the Energy Star program has been raising awareness about energy efficiency and helping consumers reduce their energy bills. And I share my colleague's astonishment at the March GAO report that showed how easy it was to obtain Energy Star certification for products that didn't even exist.

We need to do all we can to restore the integrity of the Energy Star program. And I want to assure all of the Members that we have common cause in achieving that goal. But I also similarly want to assure all Members that no similar danger exists for waste and fraud in the Home Star program as opposed to the Energy Star program.

First, only real, proven energy-saving technologies are included in Home Star. A group of technical experts provided extensive input to establish a specific list of Silver Star products. Second, in contrast to Energy Star, which relied on self-certification of products, self-certification, the Home Star program uses an independent third-party quality assurance process to ensure that work is performed as promised.

Finally, Home Star relies on a professional and certified workforce to install energy efficiency measures. Under Silver Star, contractors must be licensed, insured, and warranted. Under Gold Star, contractors must be certified by the Building Performance Institute and other reputable organizations. We must ensure that Home Star lives up to its promises.

The CHAIR. The time of the gentleman has expired.

Mr. MARKEY of Massachusetts. I yield myself 1 additional minute.

I encourage my colleagues to defend the bill's quality assurance and certification provisions to guarantee that this program creates jobs and saves energy, as intended.

I support the amendment of the gentlelady. I think it will add a reinforcement to a program which we have already constructed that ensures that the kind of fraud that might be found

in other kinds of programs are not in fact created in this program.

I urge an “aye” vote on the amendment of the gentlelady.

I reserve the balance of my time.

Mrs. BACHMANN. I thank the gentleman from Massachusetts for his support of my amendment, and I appreciate that, and urge my colleagues also to support the amendment as well.

I yield back the balance of my time.

Mr. MARKEY of Massachusetts. I yield back the balance of my time and encourage Members to vote “aye” on the Bachmann amendment.

The CHAIR. The question is on the amendment offered by the gentlewoman from Minnesota (Mrs. BACHMANN).

The amendment was agreed to.

#### ANNOUNCEMENT BY THE CHAIR

The CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 111-475 on which further proceedings were postponed, in the following order:

Amendment No. 2 by Mr. BARTON of Texas.

Amendment No. 4 by Mr. BURGESS of Texas.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

#### AMENDMENT NO. 2 OFFERED BY MR. BARTON OF TEXAS

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. BARTON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 237, not voting 19, as follows:

[Roll No. 252]

AYES—180

Aderholt	Brown (SC)	Culberson
Akin	Brown-Waite,	Davis (KY)
Alexander	Ginny	Dent
Austria	Buchanan	Diaz-Balart, L.
Bachmann	Burgess	Diaz-Balart, M.
Bachus	Burton (IN)	Dreier
Bartlett	Buyer	Duncan
Barton (TX)	Calvert	Edwards (TX)
Biggert	Camp	Emerson
Bilbray	Cantor	Fallin
Bilirakis	Cao	Flake
Bishop (UT)	Capito	Fleming
Blunt	Carney	Forbes
Boccieri	Carter	Fortenberry
Boehner	Cassidy	Fox
Bono Mack	Chaffetz	Franks (AZ)
Boozman	Chandler	Frelinghuysen
Boren	Coble	Galleghy
Boustany	Coffman (CO)	Garrett (NJ)
Brady (TX)	Cole	Gerlach
Bright	Conaway	Gingrey (GA)
Broun (GA)	Crenshaw	Gohmert

Goodlatte	Mack	Rogers (MI)
Granger	Manzullo	Rohrabacher
Graves	Marchant	Rooney
Griffith	Markey (CO)	Ros-Lehtinen
Hall (TX)	Marshall	Roskam
Harper	McCarthy (CA)	Royce
Hastings (WA)	McCauly	Ryan (WI)
Heller	McClintock	Scalise
Hensarling	McCotter	Schauer
Herger	McHenry	Schmidt
Herseth Sandlin	McKeon	Schock
Hunter	McMorris	Sensenbrenner
Inglis	Rodgers	Sessions
Issa	Mica	Shadegg
Jenkins	Miller (FL)	Shimkus
Johnson (IL)	Miller (MI)	Shuster
Johnson, Sam	Miller, Gary	Simpson
Jones	Mitchell	Smith (NE)
Jordan (OH)	Moran (KS)	Smith (NJ)
King (IA)	Murphy, Tim	Smith (TX)
King (NY)	Myrick	Souder
Kingston	Neugebauer	Stearns
Kirk	Nunes	Sullivan
Kirkpatrick (AZ)	Nye	Taylor
Kline (MN)	Olson	Terry
Lamborn	Paul	Thompson (PA)
Lance	Paulsen	Thornberry
Latham	Pence	Tiahrt
LaTourette	Petri	Tiberi
Latta	Poe (TX)	Turner
Lee (NY)	Posey	Upton
Lewis (CA)	Price (GA)	Walden
Linder	Putnam	Westmoreland
LoBiondo	Radanovich	Whitfield
Lucas	Rehberg	Wilson (SC)
Luetkemeyer	Reichert	Wittman
Lummis	Roe (TN)	Wolf
Lungren, Daniel	Rogers (AL)	Young (AK)
E.	Rogers (KY)	Young (FL)

#### NOES—237

Ackerman	DeLauro	Kagen
Adler (NJ)	Deutch	Kanjorski
Altmire	Dicks	Kaptur
Andrews	Dingell	Kildee
Arcuri	Doggett	Kilpatrick (MI)
Baca	Donnelly (IN)	Kilroy
Baird	Doyle	Kind
Baldwin	Driehaus	Kissell
Barrow	Edwards (MD)	Klein (FL)
Bean	Ehlers	Kosmas
Becerra	Ellison	Kratovil
Berkley	Ellsworth	Kucinich
Berman	Engel	Langevin
Berry	Eshoo	Larsen (WA)
Bishop (GA)	Etheridge	Larson (CT)
Bishop (NY)	Farr	Lee (CA)
Blumenauer	Fattah	Levin
Bordallo	Filner	Lewis (GA)
Boswell	Foster	Lipinski
Boucher	Frank (MA)	Loeback
Boyd	Fudge	Lofgren, Zoe
Brady (PA)	Garamendi	Lowe
Braley (IA)	Giffords	Lujan
Brown, Corrine	Gonzalez	Lynch
Butterfield	Gordon (TN)	Maffei
Capps	Grayson	Maloney
Capuano	Green, Al	Markey (MA)
Cardoza	Green, Gene	Matheson
Carnahan	Grijalva	Matsui
Carson (IN)	Gutierrez	McCarthy (NY)
Castor (FL)	Hall (NY)	McDermott
Childers	Halvorson	McGovern
Christensen	Hare	McIntyre
Chu	Harman	McMahon
Clarke	Hastings (FL)	McNerney
Clay	Heinrich	Meek (FL)
Cleaver	Higgins	Meeks (NY)
Clyburn	Hill	Michaud
Cohen	Himes	Miller (NC)
Connolly (VA)	Hinche	Miller, George
Conyers	Hinojosa	Minnick
Cooper	Hirono	Moore (KS)
Costa	Hodes	Moore (WI)
Costello	Holden	Murphy (CT)
Courtney	Holt	Murphy (NY)
Crowley	Honda	Murphy, Patrick
Cuellar	Hoyer	Nadler (NY)
Cummings	Inslee	Napolitano
Dahlkemper	Israel	Neal (MA)
Davis (CA)	Jackson (IL)	Norton
Davis (IL)	Jackson Lee	Oberstar
Davis (TN)	(TX)	Oliver
DeFazio	Johnson (GA)	Ortiz
Delahunt	Johnson, E. B.	Owens

Pallone	Salazar	Sutton
Pascarell	Sánchez, Linda	Tanner
Pastor (AZ)	T.	Teague
Payne	Sanchez, Loretta	Thompson (CA)
Perlmutter	Sarbanes	Thompson (MS)
Perriello	Schakowsky	Tierney
Peters	Schiff	Titus
Peterson	Schrader	Tonko
Pierluisi	Schwartz	Towns
Pingree (ME)	Scott (GA)	Tsongas
Polis (CO)	Scott (VA)	Van Hollen
Pomeroy	Serrano	Velázquez
Price (NC)	Sestak	Visclosky
Quigley	Shea-Porter	Walz
Rahall	Sherman	Wasserman
Rangel	Shuler	Schultz
Reyes	Sires	Waters
Richardson	Skelton	Watson
Rodriguez	Slaughter	Watt
Ross	Smith (WA)	Waxman
Rothman (NJ)	Snyder	Weiner
Roybal-Allard	Space	Welch
Ruppersberger	Speier	Wilson (OH)
Rush	Spratt	Woolsey
Ryan (OH)	Stark	Wu
Sablan	Stupak	Yarmuth

#### NOT VOTING—19

Barrett (SC)	Faleomavaega	Moran (VA)
Blackburn	Guthrie	Obey
Bonner	Hoekstra	Pitts
Campbell	Kennedy	Platts
Castle	McCollum	Wamp
Davis (AL)	Melancon	
DeGette	Mollohan	

□ 1435

Messrs. SPRATT, SALAZAR, CAPUANO, CONYERS, RUSH, YARMUTH, FATTAH, WILSON of Ohio, SCOTT of Georgia, RANGEL, BRALEY of Iowa, MCNERNEY, ACKERMAN, PASCRELL, BUTTERFIELD, FARR, HODES, SCHRADER, CARNAHAN, BERMAN, KAGEN, CLEAVER, KUCINICH, PERRIELLO, OLVER, MARKEY of Massachusetts and Mrs. CAPPS, Ms. HARMAN, Ms. MOORE of Wisconsin, Ms. SLAUGHTER, Ms. TSONGAS and Ms. SPEIER changed their vote from “aye” to “no.”

Messrs. GALLEGLY, ALEXANDER, MANZULLO, GARY G. MILLER of California and BOEHNER and Ms. MARKEY of Colorado changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

#### AMENDMENT NO. 4 OFFERED BY MR. BURGESS

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. BURGESS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 190, noes 228, not voting 18, as follows:

[Roll No. 253]

## AYES—190

Aderholt Franks (AZ) Myrick  
 Alexander Frelinghuysen Neugebauer  
 Arcuri Gallegly Nunes  
 Austria Garrett (NJ) Nye  
 Bachmann Gerlach Olson  
 Bachus Gingrey (GA) Paul  
 Bartlett Gohmert Paulsen  
 Barton (TX) Goodlatte Pence  
 Biggert Gordon (TN) Perriello  
 Bilbray Granger Peters  
 Bilirakis Graves Petri  
 Bishop (UT) Griffith Platts  
 Blunt Hall (TX) Poe (TX)  
 Boehner Harper Posey  
 Bono Mack Hastings (WA) Price (GA)  
 Boozman Heller Putnam  
 Boren Hensarling Radanovich  
 Boustany Herger Rehberg  
 Brady (TX) Hunter Reichert  
 Broun (GA) Inglis Roe (TN)  
 Brown (SC) Issa Rogers (AL)  
 Brown-Waite, Jenkins Rogers (KY)  
 Ginny Johnson (IL) Rogers (MI)  
 Buchanan Johnson, Sam Rohrabacher  
 Burgess Jones Rooney  
 Burton (IN) Jordan (OH) Ros-Lehtinen  
 Buyer Kilroy Roskam  
 Calvert King (IA) Royce  
 Camp King (NY) Ryan (WI)  
 Cantor Kingston Sanchez, Loretta  
 Cao Kirk Scalise  
 Capito Kirkpatrick (AZ) Schauer  
 Cardoza Kline (MN) Schmidt  
 Carney Lamborn Schock  
 Carter Lance Schrader  
 Cassidy Latham Sensenbrenner  
 Castle LaTourette Sessions  
 Chaffetz Latta Shadegg  
 Childers Lee (NY) Shimkus  
 Coble Lewis (CA) Shuster  
 Coffman (CO) Linder Simpson  
 Cole LoBiondo Smith (NE)  
 Conaway Lucas Smith (NJ)  
 Costa Luetkemeyer Smith (TX)  
 Crenshaw Lummis Souder  
 Culberson Mack Stearns  
 Davis (KY) Manzullo Sullivan  
 Dent Marchant Taylor  
 Diaz-Balart, L. Marshall Teague  
 Diaz-Balart, M. McCarthy (CA) Terry  
 Doggett McCaul Thompson (PA)  
 Donnelly (IN) McClintock Thornberry  
 Dreier McCotter Tiahrt  
 Duncan McHenry Tiberi  
 Edwards (TX) McKeon Turner  
 Ehlers McMorris Upton  
 Ellsworth Rodgers Walden  
 Emerson Mica Westmoreland  
 Fallon Miller (FL) Whitfield  
 Flake Miller (MI) Wilson (SC)  
 Fleming Miller, Gary Wittman  
 Forbes Moran (KS) Wolf  
 Fortenberry Murphy (NY) Young (AK)  
 Foxx Murphy, Tim Young (FL)

## NOES—228

Ackerman Capuano DeLauro  
 Adler (NJ) Carnahan Deutch  
 Altmire Carson (IN) Dicks  
 Andrews Castor (FL) Dingell  
 Baca Chandler Doyle  
 Baird Christensen Driehaus  
 Baldwin Chu Edwards (MD)  
 Barrow Clarke Ellison  
 Bean Clay Engel  
 Becerra Cleaver Eshoo  
 Berkley Clyburn Etheridge  
 Berman Cohen Farr  
 Berry Connolly (VA) Fattah  
 Bishop (GA) Conyers Filner  
 Bishop (NY) Cooper Foster  
 Blumenauer Costello Frank (MA)  
 Boccieri Courtney Fudge  
 Bordallo Crowley Garamendi  
 Boswell Giffords Giffords  
 Boucher Cummings Gonzalez  
 Boyd Dahlkemper Grayson  
 Brady (PA) Davis (CA) Green, Al  
 Braley (IA) Davis (IL) Green, Gene  
 Bright Davis (TN) Grijalva  
 Butterfield DeFazio Gutierrez  
 Capps Delahunt Hall (NY)

Halvorson Markey (MA) Sablan  
 Hare Matheson Salazar  
 Harman Matsui Sanchez, Linda  
 Hastings (FL) McCarthy (NY) T.  
 Heinrich McDermott Sarbanes  
 Herseth Sandlin McGovern Schakowsky  
 Higgins McIntyre Schiff  
 Hill McMahon Schwartz  
 Himes McNeerly Scott (GA)  
 Hinchey Meek (FL) Scott (VA)  
 Hinojosa Meeks (NY) Serrano  
 Hirono Michaud Sestak  
 Hodes Miller (NC) Shea-Porter  
 Holden Miller, George Sherman  
 Holt Minnick Shuler  
 Honda Mitchell Sires  
 Hoyer Moore (KS) Skelton  
 Inslee Moore (WI) Slaughter  
 Israel Moran (VA) Smith (WA)  
 Jackson (IL) Murphy (CT) Snyder  
 Jackson Lee Murphy, Patrick Space  
 (TX) Nadler (NY) Speier  
 Johnson (GA) Napolitano Spratt  
 Johnson, E. B. Neal (MA) Stark  
 Kagen Norton Stupak  
 Kanjorski Oberstar Sutton  
 Kaptur Oliver Tanner  
 Kildee Ortiz Thompson (CA)  
 Kilpatrick (MI) Owens Thompson (MS)  
 Kind Pallone Tierney  
 Kissell Pascarelli Titus  
 Klein (FL) Pastor (AZ) Tonko  
 Kosmas Payne Towns  
 Kratochvil Perlmutter Tsongas  
 Kucinich Peterson Van Hollen  
 Langevin Pierluisi Velazquez  
 Larsen (WA) Pingree (ME) Visclosky  
 Larson (CT) Polis (CO) Wasserman  
 Lee (CA) Pomeroy Schultz  
 Levin Price (NC) Waters  
 Lewis (GA) Quigley Watson  
 Lipinski Rahall Watt  
 Loebach Rangel Waxman  
 Lofgren, Zoe Reyes Weiner  
 Lowey Richardson Welch  
 Lujan Rodriguez Wilson (OH)  
 Lungren, Daniel Ross Wulsey  
 E. Rothman (NJ) Wu  
 Lynch Roybal-Allard Yarmuth  
 Maffei Ruppersberger  
 Maloney Rush  
 Markey (CO) Ryan (OH)

## NOT VOTING—18

Akin Davis (AL) McCollum  
 Barrett (SC) DeGette Melancon  
 Blackburn Faleomavaega Mollohan  
 Bonner Guthrie Obey  
 Brown, Corrine Hoekstra Pitts  
 Campbell Kennedy Wamp

## ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). There are 2 minutes remaining in this vote.

□ 1442

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIR. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SERRANO) having assumed the chair, Ms. EDWARDS of Maryland, Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 5019) to provide for the establishment of the Home Star Retrofit Rebate Program, and for other purposes, pursuant to House Resolution 1329, she reported the bill back to the

House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

## MOTION TO RECOMMIT

Mr. BARTON of Texas. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BARTON of Texas. Mr. Speaker, in its current form I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Barton of Texas moves to recommit the bill H.R. 5019 to the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendment:

Page 6, lines 3 through 6, strike paragraph (12) (and redesignate the subsequent paragraphs accordingly).

Page 11, line 24, through page 12, line 1, strike "notice of" and all that follows through "the amount" and insert "notice of the amount".

Page 12, line 2, insert "on the homeowner's behalf" after "apply for".

Page 12, line 5, strike "and".

Page 12, lines 6 and 7, strike subparagraph (B).

Page 12, lines 8 and 12, redesignate paragraphs (6) and (7) as paragraphs (7) and (8), respectively.

Page 12, after line 7, insert the following new paragraph:

(6) certifying that no employee has been convicted of, or pleaded guilty to, a crime of child molestation, rape, or any other form of sexual assault;

Page 12, line 16, strike "112" and insert "110".

Page 21, after line 10, insert the following new subsection:

(o) INCOME THRESHOLD.—Homeowners with a gross annual household income of more than \$250,000 shall not be eligible for a rebate under this title.

Page 21, lines 14 through 16, strike "to participating contractors and vendors, to reimburse those contractors and vendors for discounts provided to homeowners" and insert "to homeowners to reimburse the homeowners for work provided by participating contractors and vendors".

Page 25, lines 18 through 21, strike "to participating contractors and vendors, to reimburse them for discounts provided to the owner of the home for the retrofit work" and insert "to homeowners to reimburse the homeowners for work provided by participating contractors and vendors".

Page 35, line 24, through page 36, line 1, strike " , as a function of the discount the contractor or vendor provides to the homeowner for the installed measures,".

Page 39, lines 12 and 13, strike "discount from a contractor or vendor for which a rebate is provided under subsection (a)" and insert "rebate".

Page 42, lines 6 through 8, strike “to participating accredited contractors and vendors, to reimburse them for discounts provided to the owner of the home for the retrofit work” and insert “to homeowners to reimburse the homeowners for work provided by participating accredited contractors and vendors”.

Page 48, lines 2 and 3, strike “discount from a contractor or vendor for which a rebate is provided under this section” and insert “rebate”.

Page 49, lines 16 and 17, strike “Secretary” and all that follows through “may” and insert “Secretary may”.

Page 49, lines 18 and 20, redesignate clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

Page 49, line 22, strike “; and” and insert a period.

Page 49, line 23, through page 50, line 3, strike subparagraph (B).

Page 50, after line 3, insert the following new subsection:

(g) EXCLUSION.—For purposes of this section, energy savings measures shall not include the installation or replacement of pool heaters.

Page 52, line 9, insert “and” after the semicolon.

Page 52, line 11, strike “and”.

Page 52, lines 12 through 22, strike clause (iv).

Page 53, line 16, strike “112” and insert “110”.

Page 58, lines 6 through 16, strike section 109.

Page 58, line 17, redesignate section 110 as section 109.

Page 59, line 7, through page 65, line 16, strike section 111.

Page 65, line 17, redesignate section 112 as section 110.

Page 65, line 19, strike “subsection (j)” and insert “subsection (i)”.

Page 66, line 18, insert “and” after the semicolon.

Page 66, lines 19 through 21, strike subparagraph (D).

Page 66, line 22, redesignate subparagraph (E) as subparagraph (D).

Page 67, lines 1 through 3, strike paragraph (2).

Page 67, line 4, redesignate paragraph (3) as paragraph (2).

Page 68, lines 3 and 9, redesignate paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

Page 69, line 4, strike “subsection (b)(3)(B)” and insert “subsection (b)(2)(B)”.

Page 70, lines 17 through 21, strike subsection (e) (and redesignate the subsequent subsections accordingly).

Page 71, line 1, strike “subsections (b), (d), and (e)” and insert “subsections (b) and (d)”.

Page 71, lines 13 and 14, strike “subsections (b), (d), and (e)” and insert “subsections (b) and (d)”.

Page 72, line 8, strike “, 110, and 111” and insert “and 109”.

Page 72, after line 13, insert the following new subsection:

(j) ADMINISTRATIVE EXPENSE PROHIBITION.—No funds provided under this title shall be used for the purposes of conducting travel to gambling or gaming establishments in connection with official duties related to this title.

At the end of the bill, add the following new title:

### TITLE III—DEFICIT NEUTRALITY

#### SEC. 301. SUNSET.

The provisions of this Act shall be suspended and shall not apply if this Act will

have a negative net effect on the national budget deficit of the United States.

Mr. BARTON of Texas (during the reading). Mr. Speaker, I ask unanimous consent to dispense with the reading of the motion to recommit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WAXMAN. I object.

The SPEAKER pro tempore. Objection is heard.

Mr. WAXMAN. Mr. Speaker, I reserve a point of order.

The SPEAKER pro tempore. A point of order is reserved.

The Clerk will continue to read.

The Clerk continued to read.

□ 1445

The SPEAKER pro tempore. The gentleman from Texas is recognized for 5 minutes.

Mr. BARTON of Texas. I thank the distinguished Speaker.

Now that the Members know exactly what is in the motion to recommit—I am sure you all listened to every word that the Clerk read—let me explain it in Texas terms very quickly before I yield to Mr. LATTA.

The first thing that the motion to recommit would do would be to sunset the legislation if it has a negative effect on the Federal budget deficit. Mr. LATTA is going to speak about that in a second.

It would change the rebate mechanism in the pending bill so that the money would go to the homeowner instead of to the contractor. We think this would be more efficient and less susceptible to fraud.

It strikes the \$12 million EPA public information campaign which was the purpose of the Burgess amendment which was defeated earlier.

It strikes the \$324 million Home Star energy efficiency loan program.

It would exclude pool heaters from the Gold Star program. If people have enough money to have a home swimming pool in their backyard, they probably don't need a government program for a home swimming pool heater.

It would disqualify participation by homeowners with a gross annual income of over \$250,000. As President Obama has pointed out, if you make more than \$250,000, you're doing pretty well.

It would require qualified contractors to certify that no employee they employ has been convicted of a crime of child molestation, rape, or any other form of sexual assault.

And, finally, it would prohibit any use of the Home Star funds for folks on government business traveling to areas where there are establishments for gaming.

With that, I would yield to my good friend from Ohio (Mr. LATTA) for him to talk a little more about his specific deficit reduction amendment.

Mr. LATTA. I thank the gentleman for yielding.

Mr. Speaker, I rise today in support of the motion to recommit for H.R. 5019. As I stated earlier during floor debate, I have very serious concerns that my amendment regarding deficit neutrality was not accepted through the rules process. The majority has not allowed the debate to occur regarding this budget deficit issue.

This MTR will ensure that this act is sunsetted if the legislation has a negative net effect on the Federal budget deficit. I feel that if this new program is important enough to authorize, it should be important enough for us to find a way to pay for it. I am concerned that the majority could not give any assurance that this bill will indeed be paid for without increasing the deficit.

While I support the incentives to help provide energy efficiency, I am very concerned about the \$6.6 billion price tag of this legislation. At a time when we are in a national deficit crisis, it is not appropriate to add \$6.6 billion in spending to the deficit. As a Congress, we absolutely must stop this excessive spending. President Obama submitted his administration's fiscal year 2011 budget proposal with a record-breaking cost of \$3.8 trillion. This budget proposal includes a \$2 trillion tax increase over the next 10 years, and projected record deficits. This proposal will double our Nation's debt in 5 years and triple it in 10 years from fiscal year 2008 levels. CBO has stated that under the current spending levels, by 2020, American taxpayers will be paying \$2 billion per day in interest on the national debt. It also estimates that by 2020 the debt will be \$20 trillion.

This simply is not the time for a new \$6.6 billion government program. That is why I offered the amendment to the legislation regarding the national deficit and why I urge you to support the motion to recommit. It ensures fiscal responsibility and ensures taxpayer dollars will be spent wisely.

I urge a “yes” vote on the MTR.

Mr. BARTON of Texas. Mr. Speaker, the substantive parts of the motion to recommit are pretty straightforward. It would sunset the legislation if there is a negative net effect on the Federal budget deficit. That is the Latta language that we have already spoken to.

It would change the rebate mechanisms so that the rebates go to the homeowner and not to the contractor. This would limit fraud and abuse.

It strikes the \$12 million EPA public information campaign. As I pointed out in my floor statement, bees know where the honey is, bank robbers know where the bank is, teenage boys know where the teenage girls are, the public will know how to get this money.

And finally, it strikes the Home Star energy efficiency loan program. We already have record defaults in the home mortgage industry. We don't need to be

leveraging that any bit more. With that, I would ask for a "yes" vote on the motion to recommit.

I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I withdraw my reservation, and I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The reservation is withdrawn.

The gentleman from California is recognized for 5 minutes.

Mr. WAXMAN. Mr. Speaker and my colleagues, this bill is modeled on a law that worked. We called it the Cash for Clunkers bill. It encouraged people to buy cars. It produced more jobs. It produced energy efficiency as newer cars that were purchased were less polluting than the older ones. And the bill we have before us is one that is strongly supported by a coalition of the National Association of Manufacturers, the environmentalists and the Chamber of Commerce.

So what does this motion to recommit do? It undermines the basic structure of the bill. It eliminates the rebates to contractors. It eliminates the loan program. It eliminates the public education campaign. It creates burdensome procedures for consumers to claim rebates, and it creates burdensome income thresholds as well.

We have worked hand in hand with the contractors, the NAM, the Chamber, and others to craft this bill. This motion to recommit is a good thing to vote for if you are against the bill; but otherwise, it is filled with a lot of gimmicks. For example, it says no funds provided under this title shall be used for the purposes of conducting travel to gambling or gaming establishments in connection with official duties related to the title. What is that all about? It was just thrown in. It was never an issue that was raised in committee, in hearings. It was just thrown in there.

If you believe that this bill makes sense because it will provide employment to construction workers, it will make homes more energy efficient, it will save families billions of dollars on their energy bill, if you think that is important, because the construction industry has the highest unemployment rate of any sector in the Nation, one in four are unemployed, stand with the Chamber, the NAM, your local hardware stores, your carpenters, your local contractors and businesses, and vote against this motion to recommit and vote for final passage.

□ 1500

Mr. Speaker, I would now like to yield to the gentleman from Vermont, the author of the legislation.

Mr. BARTON of Texas. Would the gentleman yield briefly for an answer to his question?

Mr. WAXMAN. I'm sorry. I do not have extra time.

Mr. WELCH. Mr. Speaker, may I inquire as to how much time we have remaining.

The SPEAKER pro tempore. The gentleman from California has 2½ minutes remaining.

Mr. WELCH. Mr. Speaker, we have a common goal here, and that is to put the 25 percent of construction workers who are out of work back to work. Home Start helps them do that. It will help homeowners who want to save energy and save on their fuel bills to do that. This bill accomplishes that. And we want jobs in America. Mr. Speaker, 90 percent of all the materials that go into refitting and insulating homes are manufactured in the United States of America, a common goal. This is a good bill.

Mr. Speaker, I want to acknowledge that it is a better bill because of the active contributions and participation of our colleagues on the other side. I can name numerous additions. Mr. BARTON, thank you for the specific sunsets so that we can kick the tires after 2 years. Mr. SHADEGG, electric tankless hot water heaters are in this bill because of you. Mr. SHIMKUS, geothermal heat pumps are a good idea that we incorporated into this bill. Mr. BUYER, you included a study so we can learn from the success of this program. And I want to thank, of course, Mr. EHLERS, who understands that less is more. The less energy we use, the better.

The difficulty with this motion to recommit is all that good work that was done on your side to make this a better bill will kill the bill. It will impose enormous burdens on the homeowner. What makes sense here and why the former Governor of Michigan likes this so much is that it is simple. A homeowner who wants to retrofit, insulate his or her home, all they will have to do is go down to the contractor. They don't have to hassle with paperwork and with government. That's the reason why we designed it this way, to make it easy for people to use and contractors to use.

We have a chance in this legislation to take a practical step to move to use less energy rather than more; and whether you're from a coal State, a nuclear State, a hydro State, that's a good thing. We have a chance to put folks who are out of work back to work. We have red districts and blue districts, but we've got carpenters and plumbers and heaters who are out of work in both districts. We share the goal of those folks going back to work. We've got manufacturers in this country that have capacity and that want to put people back to work in their communities. We can do it with this legislation.

I urge a "no" vote on this motion to recommit and to take that step together in building this country and this economy.

Mr. BLUMENAUER. Mr. Speaker, I will vote against the Motion to Recommit on the Home Star Energy Retrofit Act because it undermines the underlying legislation. The Home

Star legislation will help homeowners, the environment, and the construction industry.

This Motion to Recommit is a political ploy. It aims to solve problems that no one has shown exist. It brings up issues that were never raised in Committee or on the Floor during consideration of the bill.

Specifically, this Motion removes provisions in the legislation that I strongly support, such as the energy efficiency loan program, which provides important tools for states to help consumers make energy efficiency upgrades.

The Motion adds additional burdens for contractors who are performing the work, sowing doubt and confusion in the program. At a time when we are trying to stimulate the economy and create jobs, it doesn't make sense to add additional meaningless procedural hurdles. The authors of the Motion claim to be preventing money from being spent on child molesters and gambling. Money from this bill is not going to be spent on those items anyway. No one has demonstrated that is an issue we need to deal with. If so, there are already anti-fraud provisions in the underlying legislation that would prevent this type of activity. The Motion contains no enforcement mechanisms, so any additional prohibitions are meaningless.

This Motion is another example of how the Republican leadership has chosen to work to score political points instead of taking seriously the challenges facing our country.

Mr. WAXMAN. I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. BARTON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 346, nays 68, not voting 16, as follows:

[Roll No. 254]

YEAS—346

Ackerman	Blunt	Buyer
Aderholt	Bocchieri	Calvert
Adler (NJ)	Boehner	Camp
Akin	Bono Mack	Cantor
Alexander	Boozman	Cao
Altmire	Boren	Capito
Arcuri	Boswell	Capuano
Austria	Boucher	Cardoza
Baca	Boustany	Carnahan
Bachmann	Boyd	Carney
Bachus	Brady (PA)	Carson (IN)
Barrow	Brady (TX)	Carter
Bartlett	Braley (IA)	Cassidy
Barton (TX)	Bright	Castle
Bean	Broun (GA)	Castor (FL)
Berry	Brown (SC)	Chaffetz
Biggert	Brown-Waite,	Chandler
Bilbray	Ginny	Childers
Billirakis	Buchanan	Coble
Bishop (GA)	Burgess	Coffman (CO)
Bishop (NY)	Burton (IN)	Cohen
Bishop (UT)	Butterfield	Cole



Conaway	Kaptur	Platts
Connolly (VA)	Kildee	Poe (TX)
Cooper	Kilroy	Polis (CO)
Costa	Kind	Pomeroy
Costello	King (IA)	Posey
Courtney	King (NY)	Price (GA)
Crenshaw	Kingston	Price (NC)
Crowley	Kirk	Putnam
Cuellar	Kirkpatrick (AZ)	Quigley
Culberson	Kissell	Radanovich
Cummings	Klein (FL)	Rahall
Dahlkemper	Kline (MN)	Rangel
Davis (CA)	Kosmas	Rehberg
Davis (KY)	Kratovil	Reichert
Davis (TN)	Kucinich	Richardson
DeFazio	Lamborn	Rodriguez
DeLauro	Lance	Roe (TN)
Dent	Langevin	Rogers (AL)
Deutch	Larsen (WA)	Rogers (KY)
Diaz-Balart, L.	Larson (CT)	Rogers (MI)
Diaz-Balart, M.	Latham	Rohrabacher
Dicks	LaTourette	Rooney
Doggett	Latta	Ros-Lehtinen
Donnelly (IN)	Lee (NY)	Roskam
Doyle	Levin	Ross
Dreier	Lewis (CA)	Roybal-Allard
Driehaus	Lewis (GA)	Royce
Duncan	Linder	Ruppersberger
Edwards (MD)	Lipinski	Ryan (WI)
Edwards (TX)	LoBiondo	Salazar
Ehlers	Loeb sack	Sarbanes
Ellison	Lofgren, Zoe	Scalise
Ellsworth	Lowey	Schauer
Emerson	Lucas	Schiff
Eshoo	Luetkemeyer	Schmidt
Etheridge	Lujan	Schock
Fallin	Lummis	Schrader
Fattah	Lungren, Daniel	Schwartz
Flake	E.	Scott (GA)
Fleming	Lynch	Sensenbrenner
Forbes	Mack	Serrano
Fortenberry	Maffei	Sessions
Foster	Maloney	Sestak
Fox	Manzullo	Shadegg
Franks (AZ)	Marchant	Shea-Porter
Frelinghuysen	Markey (CO)	Sherman
Gallegly	Marshall	Shimkus
Garamendi	Matheson	Shuler
Garrett (NJ)	Matsui	Shuster
Gerlach	McCarthy (CA)	Simpson
Giffords	McCarthy (NY)	Skelton
Gingrey (GA)	McCauley	Slaughter
Gohmert	McClintock	Smith (NE)
Gonzalez	McCotter	Smith (NJ)
Goodlatte	McGovern	Smith (TX)
Gordon (TN)	McHenry	Smith (WA)
Granger	McIntyre	Snyder
Graves	McKeon	Souder
Grayson	McMahon	Space
Green, Al	McMorris	Speier
Green, Gene	Rodgers	Spratt
Griffith	McNerney	Stearns
Gutierrez	Meek (FL)	Sullivan
Hall (NY)	Meeks (NY)	Sutton
Hall (TX)	Mica	Tanner
Halvorson	Miller (FL)	Taylor
Hare	Miller (MI)	Teague
Harman	Miller (NC)	Terry
Harper	Miller, Gary	Thompson (CA)
Hastings (WA)	Miller, George	Thompson (PA)
Heinrich	Minnick	Thornberry
Hensarling	Mitchell	Tiahrt
Herger	Moore (KS)	Tiberi
Herseth Sandlin	Moran (KS)	Tierney
Higgins	Murphy (CT)	Tonko
Hill	Murphy (NY)	Tsongas
Himes	Murphy, Patrick	Turner
Hodes	Murphy, Tim	Upton
Holden	Myrick	Van Hollen
Hunter	Neal (MA)	Visclosky
Inglis	Neugebauer	Walden
Inslee	Nunes	Walz
Israel	Nye	Wasserman
Issa	Olson	Schultz
Jackson (IL)	Ortiz	Weiner
Jackson Lee	Owens	Westmoreland
(TX)	Pastor (AZ)	Whitfield
Jenkins	Paul	Wilson (OH)
Johnson (GA)	Paulsen	Wilson (SC)
Johnson (IL)	Pence	Wittman
Johnson, E. B.	Perlmutter	Wolf
Johnson, Sam	Perriello	Wu
Jones	Peters	Yarmuth
Jordan (OH)	Peterson	Young (AK)
Kagen	Petri	Young (FL)

## NAYS—68

Andrews	Hastings (FL)	Pingree (ME)
Baird	Heller	Reyes
Baldwin	Hinchey	Rothman (NJ)
Becerra	Hinojosa	Rush
Berkley	Hirono	Ryan (OH)
Berman	Holt	Sanchez, Linda
Blumenauer	Honda	T.
Capps	Hoyer	Sanchez, Loretta
Chu	Kanjorski	Schakowsky
Clarke	Kilpatrick (MI)	Scott (VA)
Clay	Lee (CA)	Sires
Cleaver	Markey (MA)	Stark
Clyburn	McDermott	Stupak
Conyers	Michaud	Thompson (MS)
Davis (IL)	Moore (WI)	Titus
Delahunt	Moran (VA)	Towns
Dingell	Nadler (NY)	Velazquez
Engel	Napolitano	Waters
Farr	Oberstar	Watson
Filner	Olver	Watt
Frank (MA)	Pallone	Waxman
Fudge	Pascarell	Welch
Grijalva	Payne	Woolsey

## NOT VOTING—16

Barrett (SC)	DeGette	Mollohan
Blackburn	Guthrie	Obe
Bonner	Hoekstra	Pitts
Brown, Corrine	Kennedy	Wamp
Campbell	McCollum	
Davis (AL)	Melancon	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1537

Messrs. HOLDEN, POMEROY, ROSS, COURTNEY, Ms. ZOE LOFGREN of California, Messrs. MATHESON, PASTOR, Mrs. HALVORSON, Messrs. SCHIFF, WALZ, LYNCH, BARROW, HARE, Ms. HARMAN, Messrs. WEINER, HEINRICH, PETERSON, DeFAZIO, ETHERIDGE, HODES, POLIS, Ms. SPEIER, Messrs. SMITH of Washington, MEEK of Florida, RAHALL, DRIEHAUS, SALAZAR, COSTELLO, Ms. MARKEY of Colorado, Ms. DELAURO, Messrs. CARDOZA, MOORE of Kansas, WU, LIPINSKI, RODRIGUEZ, Mrs. DAHLKEMPER, Mr. DICKS, Ms. SLAUGHTER, Mr. QUIGLEY, Ms. KILROY, Messrs. SERRANO, KISSELL, PERLMUTTER, HIMES, BACA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. YARMUTH, Mrs. MALONEY, Messrs. SPRATT, KIND, Ms. SUTTON, Mr. KAGEN, Ms. KAPTUR, Mr. BOUCHER, Mrs. DAVIS of California, Messrs. MEEKS of New York, LEVIN, TANNER, GORDON of Tennessee, VISCLOSKY, LARSEN of Washington, PRICE of North Carolina, KLEIN of Florida, LANGEVIN, McGOVERN, CAPUANO, Mrs. MCCARTHY of New York, Mr. CARNAHAN, Ms. WASSERMAN SCHULTZ, Messrs. MILLER of North Carolina, WILSON of Ohio, NEAL, TONKO, LARSON of Connecticut, Ms. SCHWARTZ, Messrs. LUJAN, PATRICK J. MURPHY of Pennsylvania, HIGGINS, KUCINICH, ISRAEL, CUELLAR, BISHOP of New York, Ms. BEAN, Messrs. HALL of New York, AL GREEN of Texas, COOPER, RUPPERSBERGER, DEUTCH, BRALEY of Iowa, BOSWELL, VAN HOLLEN, BERRY, ORTIZ, FATTAH, CARSON of Indiana, SCOTT of Geor-

gia, MURPHY of Connecticut, LOEBSACK, BISHOP of Georgia, GONZALEZ, DOYLE, BRADY of Pennsylvania, Mrs. LOWEY, Messrs. GARAMENDI, TIERNEY, ELLISON, KILDEE, BUTTERFIELD, CUMMINGS, Ms. MATSUI, Mr. JACKSON of Illinois, Ms. CASTOR of Florida, Mr. THOMPSON of California, Ms. TSONGAS, Mr. SESTAK, Ms. JACKSON LEE of Texas, Messrs. JOHNSON of Georgia, SHERMAN, INSLEE, GEORGE MILLER of California, Ms. EDWARDS of Maryland, Messrs. DOGGETT, LEWIS of Georgia, Ms. ROYBAL-ALLARD, Messrs. GUTIERREZ, SNYDER, CROWLEY, ACKERMAN, Ms. ESHOO, Mr. COHEN, Ms. RICHARDSON, Messrs. GENE GREEN of Texas, RANGEL, SARBANES, and GRAYSON changed their vote from “nay” to “yea.”

Messrs. CONYERS and PALLONE changed their vote from “yea” to “nay.”

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. WAXMAN. Mr. Speaker, pursuant to the instructions of the House in the motion to recommit, I report the bill, H.R. 5019, back to the House with an amendment.

The SPEAKER pro tempore (Mr. JACKSON of Illinois). The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN:

Page 6, lines 3 through 6, strike paragraph (12) (and redesignate the subsequent paragraphs accordingly).

Page 11, line 24, through page 12, line 1, strike “notice of” and all that follows through “the amount” and insert “notice of the amount”.

Page 12, line 2, insert “on the homeowner’s behalf” after “apply for”.

Page 12, line 5, strike “and”.

Page 12, lines 6 and 7, strike subparagraph (B).

Page 12, lines 8 and 12, redesignate paragraphs (6) and (7) as paragraphs (7) and (8), respectively.

Page 12, after line 7, insert the following new paragraph:

(6) certifying that no employee has been convicted of, or pleaded guilty to, a crime of child molestation, rape, or any other form of sexual assault;

Page 12, line 16, strike “112” and insert “110”.

Page 21, after line 10, insert the following new subsection:

(o) INCOME THRESHOLD.—Homeowners with a gross annual household income of more than \$250,000 shall not be eligible for a rebate under this title.

Page 21, lines 14 through 16, strike “to participating contractors and vendors, to reimburse those contractors and vendors for discounts provided to homeowners” and insert “to homeowners to reimburse the homeowners for work provided by participating contractors and vendors”.

Page 25, lines 18 through 21, strike “to participating contractors and vendors, to reimburse them for discounts provided to the

owner of the home for the retrofit work" and insert "to homeowners to reimburse the homeowners for work provided by participating contractors and vendors".

Page 35, line 24, through page 36, line 1, strike " , as a function of the discount the contractor or vendor provides to the homeowner for the installed measures,".

Page 39, lines 12 and 13, strike "discount from a contractor or vendor for which a rebate is provided under subsection (a)" and insert "rebate".

Page 42, lines 6 through 8, strike "to participating accredited contractors and vendors, to reimburse them for discounts provided to the owner of the home for the retrofit work" and insert "to homeowners to reimburse the homeowners for work provided by participating accredited contractors and vendors".

Page 48, lines 2 and 3, strike "discount from a contractor or vendor for which a rebate is provided under this section" and insert "rebate".

Page 49, lines 16 and 17, strike "Secretary" and all that follows through "may" and insert "Secretary may".

Page 49, lines 18 and 20, redesignate clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

Page 49, line 22, strike " ; and" and insert a period.

Page 49, line 23, through page 50, line 3, strike subparagraph (B).

Page 50, after line 3, insert the following new subsection:

(g) EXCLUSION.—For purposes of this section, energy savings measures shall not include the installation or replacement of pool heaters.

Page 52, line 9, insert "and" after the semicolon.

Page 52, line 11, strike "and".

Page 52, lines 12 through 22, strike clause (iv).

Page 53, line 16, strike "112" and insert "110".

Page 58, lines 6 through 16, strike section 109.

Page 58, line 17, redesignate section 110 as section 109.

Page 59, line 7, through page 65, line 16, strike section 111.

Page 65, line 17, redesignate section 112 as section 110.

Page 65, line 19, strike "subsection (j)" and insert "subsection (i)".

Page 66, line 18, insert "and" after the semicolon.

Page 66, lines 19 through 21, strike subparagraph (D).

Page 66, line 22, redesignate subparagraph (E) as subparagraph (D).

Page 67, lines 1 through 3, strike paragraph (2).

Page 67, line 4, redesignate paragraph (3) as paragraph (2).

Page 68, lines 3 and 9, redesignate paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

Page 69, line 4, strike "subsection (b)(3)(B)" and insert "subsection (b)(2)(B)".

Page 70, lines 17 through 21, strike subsection (e) (and redesignate the subsequent subsections accordingly).

Page 71, line 1, strike "subsections (b), (d), and (e)" and insert "subsections (b) and (d)".

Page 71, lines 13 and 14, strike "subsections (b), (d), and (e)" and insert "subsections (b) and (d)".

Page 72, line 8, strike " , 110, and 111" and insert "and 109".

Page 72, after line 13, insert the following new subsection:

(j) ADMINISTRATIVE EXPENSE PROHIBITION.—No funds provided under this title shall be used for the purposes of conducting travel to gambling or gaming establishments in connection with official duties related to this title.

At the end of the bill, add the following new title:

### TITLE III—DEFICIT NEUTRALITY

#### SEC. 301. SUNSET.

The provisions of this Act shall be suspended and shall not apply if this Act will have a negative net effect on the national budget deficit of the United States.

Mr. WAXMAN (during the reading). I ask unanimous consent that the amendment be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WAXMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 246, nays 161, not voting 23, as follows:

[Roll No. 255]

YEAS—246

Ackerman  
Adler (NJ)  
Altmire  
Andrews  
Arcuri  
Baca  
Baird  
Baldwin  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggart  
Bilbray  
Bishop (GA)  
Bishop (NY)  
Bocieri  
Boswell  
Boucher  
Brady (PA)  
Braley (IA)  
Bright  
Butterfield  
Camp  
Cao  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Castle  
Castor (FL)  
Chandler

Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Courtney  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeFazio  
DeLauro  
Deutch  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Engel  
Eshoo  
Etheridge  
Farr  
Fattah

Foster  
Frank (MA)  
Fudge  
Garamendi  
Giffords  
Gohmert  
Gonzalez  
Gordon (TN)  
Grayson  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Inslie  
Israel  
Jackson (IL)  
Jackson Lee  
(TX)  
Johnson (GA)

Johnson, E. B.  
Kagen  
Kaptur  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Kissell  
Klein (FL)  
Kosmas  
Kratovil  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
Lipinski  
Loebsock  
Lofgren, Zoe  
Lowey  
Luján  
Lynch  
Maffei  
Maloney  
Markey (CO)  
Markey (MA)  
Matheson  
Matsui  
McCarthy (NY)  
McDermott  
McGovern  
McIntyre  
McMahon  
McNerney  
Meek (FL)  
Meeks (NY)  
Michaud  
Miller (NC)  
Miller, George  
Minnick  
Mitchell  
Moore (KS)  
Moore (WI)

Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Nadler (NY)  
Napolitano  
Neal (MA)  
Nye  
Oberstar  
Olver  
Ortiz  
Owens  
Pallone  
Pastor (AZ)  
Payne  
Perlmutter  
Perriello  
Peters  
Peterson  
Pingree (ME)  
Polis (CO)  
Pomeroy  
Price (NC)  
Quigley  
Rahall  
Rangel  
Reyes  
Richardson  
Rodriguez  
Rohrabacher  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schiff  
Schrader

Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Shuler  
Sires  
Skelton  
Slaughter  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stupak  
Sutton  
Tanner  
Taylor  
Teague  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth

NAYS—161

Aderholt  
Akin  
Alexander  
Austria  
Bachmann  
Bachus  
Bilirakis  
Bishop (UT)  
Blunt  
Boehner  
Bono Mack  
Boozman  
Boren  
Boustany  
Brady (TX)  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Cantor  
Capito  
Carter  
Cassidy  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Costello  
Crenshaw  
Culberson  
Davis (KY)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dreier  
Duncan  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry

Foxx  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach  
Gingrey (GA)  
Goodlatte  
Granger  
Graves  
Griffith  
Harper  
Heller  
Hensarling  
Herger  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
Kanjorski  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kline (MN)  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
Linder  
LoBiondo  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
Marshall

McCaul  
McClintock  
McCotter  
McHenry  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Moran (KS)  
Myrick  
Neugebauer  
Nunes  
Olson  
Pascarell  
Paul  
Paulsen  
Pence  
Petri  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rooney  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Schauer  
Schmidt  
Schock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuster  
Simpson

Smith (NE)	Thompson (PA)	Westmoreland
Smith (NJ)	Thornberry	Wilson (SC)
Smith (TX)	Tiahrt	Wittman
Souder	Tiberi	Wolf
Stearns	Turner	Young (AK)
Sullivan	Upton	Young (FL)
Terry	Walden	

## NOT VOTING—23

Barrett (SC)	DeGette	McCollum
Blackburn	Delahunt	Melancon
Blumenauer	Filner	Mollohan
Bonner	Guthrie	Obey
Boyd	Hastings (WA)	Pitts
Brown, Corrine	Hoekstra	Wamp
Campbell	Kennedy	Whitfield
Davis (AL)	McCarthy (CA)	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. JACKSON of Illinois) (during the vote). There are 2 minutes remaining in this vote.

□ 1544

Mr. BOREN changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1545

## ELECTING MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES

Mr. LARSON of Connecticut. Madam Speaker, by direction of the Democratic Caucus, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

## H. RES. 1334

*Resolved*, That the following named Members be and are hereby elected to the following standing committees of the House of Representatives:

(1) COMMITTEE ON AGRICULTURE.—Mr. Owens (to rank immediately after Mr. Murphy of New York).

(2) COMMITTEE ON APPROPRIATIONS.—Mr. Patrick Murphy of Pennsylvania.

(3) COMMITTEE ON ARMED SERVICES.—Mr. Garamendi (to rank immediately after Mr. Owens), Mr. Boswell (to rank immediately after Mr. Garamendi), Mr. Johnson of Georgia (to rank immediately after Mr. Boren).

(4) COMMITTEE ON FOREIGN AFFAIRS.—Mr. Deutch (to rank immediately after Mr. McMahon).

(5) COMMITTEE ON HOMELAND SECURITY.—Mr. Owens (to rank immediately after Ms. Titus).

(6) COMMITTEE ON THE JUDICIARY.—Mr. Deutch (to rank immediately after Ms. Chu), Mr. Polis.

(7) COMMITTEE ON NATURAL RESOURCES.—Mr. Lujan (to rank immediately after Mr. Heinrich).

(8) COMMITTEE ON SCIENCE AND TECHNOLOGY.—Mr. Garamendi (to rank immediately after Mr. Peters).

(9) COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE.—Mr. Johnson of Georgia.

Mr. LARSON of Connecticut (during the reading). Madam Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Ms. CHU). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## LEGISLATIVE PROGRAM

(Mr. CANTOR asked and was given permission to address the House for 1 minute.)

Mr. CANTOR. Madam Speaker, I yield to the gentleman from Maryland, the majority leader, for the purposes of announcing next week's schedule.

Mr. HOYER. I thank the Republican whip for yielding.

On Tuesday, the House will meet at 12:30 p.m. for morning-hour debate and 2 p.m. for legislative business, with votes postponed until 6:30 p.m. On Wednesday and Thursday, the House will meet at 10 a.m. for legislative business. On Friday, no votes are expected.

We will consider several bills under suspension of the rules. The complete list of suspension bills will be announced by the close of business tomorrow. In addition, we will consider H.R. 5116, the America COMPETES Act.

Mr. CANTOR. I thank the gentleman.

Madam Speaker, I noticed that the gentleman from Maryland, the majority leader, did not mention the budget or the Afghan-Iraq supplemental for next week's schedule. And I know that in our last week's colloquy the majority leader, the gentleman from Maryland, stated that he would consider these two items as soon as possible. So I would ask the gentleman if he has an update about floor consideration for either the budget resolution or the supplemental bill for Afghanistan and Iraq.

Mr. HOYER. We are still working on the budget. I will hopefully bring that forward when it is ready, obviously when the Budget Committee considers it. As it relates to the Afghan-Pakistan supplemental, the President requested, as you know, approximately \$33 billion in his budget at the beginning of the year. The Defense Department says that the money that they have will be depleted sometime this summer. It's important, obviously, therefore, that we move soon. And I hope to do that.

I would hope that when we move this bill forward that we will see bipartisan support for it, obviously to support our troops in harm's way, carrying out a policy that I know, as the gentleman has observed before, the Republican whip himself and others have indicated their support of the President's policy in Afghanistan. This money for Afghanistan and Pakistan will fund those efforts. And I am hopeful when we do bring it forward that we will have bipartisan support for that piece of legislation.

Mr. CANTOR. I thank the gentleman.

Just to clarify, Madam Speaker, does the gentleman expect either of these items to come to the floor prior to the Memorial Day recess?

Mr. HOYER. I am hopeful that that will be the case, yes.

Mr. CANTOR. I thank the gentleman.

I would ask the gentleman also, Madam Speaker, when does he expect the tax extender bill to come to the floor? I know Chairman LEVIN has alluded to it coming to the floor any time within the next 2 weeks. I would further ask the gentleman, Madam Speaker, does he expect that to be a 1- or a 2-year extension?

Mr. HOYER. The committee has not acted, so I can't answer the second question *per se* on the 1 or 2 years. I will tell the gentleman that it is still my expectation, as Chairman LEVIN said, that that bill, the jobs bill with the extenders in it, will come forward within the next 2 weeks.

Chairman BAUCUS and Chairman LEVIN are discussing that bill. I am hopeful that they will reach agreement and can reach agreement on a bipartisan basis in the House and in the Senate. We are working toward that end. We believe this will be an important bill for business, an important bill for job growth, and an important bill to extend some of those items that, as the gentleman knows, some of them will expire in terms of authorization either by the end of this month or by June 2.

Mr. CANTOR. I thank the gentleman for that, and would inquire further, Madam Speaker, from the gentleman, I don't know if I am asking, Madam Speaker, whether it is his sense or preference about the length of the extension and whether we can expect or he would expect there to be a 1- or 2-year extension.

Mr. HOYER. I would prefer that perhaps we do it for a longer period of time than 1 year. Two years would be acceptable. However, the problem, of course, is paying for things. As the gentleman knows, when these bills were considered, one of the things that the minority did with their MTR was to include more spending in and strike the pay-fors, which exacerbated the bill to the tune of about \$100 billion. So I think the committee is dealing with what they can pay for.

There will be some things, obviously, that we have accepted as emergencies caused by the severe economic downturn. But I think the length of time will probably be dictated by the issue of how we pay for things.

Mr. CANTOR. I thank the gentleman.

I would reiterate, Madam Speaker, to the gentleman that Republicans stand ready to work with him in terms of trying to live up to the expectations that families across this country are having to live up to, which is to work in a fiscally responsible manner on a budget blueprint for the year, and am

hopeful that Congress can deliver on that prior to the Memorial Day break.

With nothing further, Madam Speaker, I yield back the balance of my time.

#### HOUR OF MEETING ON TOMORROW

Mr. HOYER. Madam Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. tomorrow, and further when the House adjourns on that day, it adjourn to meet at 12:30 p.m. on Tuesday, May 11, 2010, for morning-hour debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

#### A NEW INTERNATIONAL FISCAL CONSERVATISM

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Madam Speaker, today's volatility in the stock market teaches us two lessons: first, the United States, our Treasury Secretary, and our President must advance a new International Economic Stabilization plan based on tremendous cuts in European government spending. Over 60 percent of Greece's GDP is in the public sector. With debts rising to 100 percent of national income, their ability to repay their debts was inevitably going to collapse.

Spain, Portugal, and Italy may be next. Their debts total trillions, not hundreds of millions. Our U.S. financial system and our stock market depends on what I would call a new international fiscal conservatism that cuts government spending and deficit financing.

Today also teaches us another lesson. The very debts that crippled Europe and shook our stock market are coming to America, fueled by the irresponsible spending of this Congress. We need to cut Federal spending now to reassure markets and assure that America's children will never have to ask this question: "Who will bail out America?"

#### NATIONAL SCHOOL LUNCH PROTECTION ACT

(Ms. CHU asked and was given permission to address the House for 1 minute.)

Ms. CHU. Mr. Speaker, earlier this week I introduced a bill to ensure that scarce Federal resources provided for the National School Lunch Program and the School Breakfast Program are spent to provide nutritious meals to our children.

Every day more than 30 million students receive meals through these pro-

grams. In this recession, more and more families are relying on schools to feed their children at least one healthy meal every school day. At the same time, these programs are facing increased costs.

Unfortunately, some school districts overcharge for the administrative costs associated with implementing these important nutrition programs. This means less money to feed children. That's why I introduced the National School Lunch Protection Act of 2010, to ensure that Federal money for school meals actually goes towards feeding our needy children.

Specifically, this bill requires a Federal study to see what school districts are charging the Federal Government to implement these programs. Armed with this information, the Secretary will implement regulations to protect these important nutrition programs. Once passed, this bill will prevent government waste and will help to feed more hungry children.

#### GULF OIL SPILL

(Mr. TURNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TURNER. Mr. Speaker, as we turn on the news networks and we listen about the oil spill in the Gulf, the American people want to know, how could this happen? As Americans read the news about this particular oil platform having had problems over several years, and how equipment meant to prevent an oil spill malfunctioned, they want to know where was the enforcement of safety regulations to prevent this disaster?

The Obama administration and congressional Democrats have called for an energy policy that includes more drilling. Americans are concerned, however, that if the administration can't manage this current crisis, how can we manage even more drilling?

I agree with most Americans that we need an "all of the above" energy plan that will reduce our dependence on foreign oil. However, the American people expect answers from this administration. How did this happen? How should this have been prevented? Why was there a delay in the administration providing a response to this disaster? And what will the administration do now? Our Nation awaits these answers.

□ 1600

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### THE TIMES SQUARE BOMBER: FIGHTING THEM HERE INSTEAD OF THERE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, every American was troubled to learn about the attempted terrorist bombing in Times Square last weekend, but we should all be heartened and we should all be proud of the swift action by law enforcement authorities to apprehend the suspect. By all accounts, the system worked seamlessly. New York City Police worked in tandem with the FBI, Customs and Border Patrol, the Department of Homeland Security, and other agencies, and the man was in custody by Monday. He was read his Miranda rights and continues to cooperate. And there is reason to believe he can provide valuable intelligence that will allow us to detain other terrorists. Everything by the books. No extralegal coercion. Rule of law and the Constitution upheld. This is the way to combat terrorism, Madam Speaker.

You'll recall that the notion of counterterrorism as primarily a law enforcement operation has often been met by ridicule and by bluster on the other side of the aisle. This isn't police work, they've said. This is war. Well, we've now had 8½ years of war, and in addition to costing us thousands of American lives and hundreds of billions of taxpayer dollars, it has not made terrorism go away. If anything, it has animated and emboldened the people who want to harm America. And as people have watched their home countries invaded and their communities destroyed at the hands of the U.S. military, they've become prime recruits for terrorist networks.

The bottom line is that our current strategy isn't an antiterrorism strategy at all. By its very nature, it's spawning more terrorists than it's killing or detaining.

What if we took just a fraction of our war budgets and used it to make our domestic counterterrorism infrastructure that much stronger? And what if we took another fraction and launched a smart security strategy that emphasized peaceful, civilian, humanitarian outreach instead of military occupation? Because contrary, Madam Speaker, to the assessment of our previous President, it appears that "fighting them here" is exactly the way to go. "Fighting them there," on the other hand, leads to an endless cycle of violence, recrimination, and hatred.

We all owe a debt of gratitude to everyone who played a role in the successful arrest of the Times Square bomber. Now let's give them even more tools, resources, and support. Let's bring the troops home and make the work of our talented law enforcement

personnel the focal point of our struggle against terrorism.

#### NATIONAL DAY OF PRAYER IS CONSTITUTIONAL WHETHER FEDERAL JUDGES LIKE IT OR NOT

The SPEAKER pro tempore (Ms. MARKEY of Colorado). Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Today is the National Day of Prayer. It's the day of the year that is proclaimed that we honor how prayer and how religion has affected our culture as a Nation. Every day, in this very House, we start with a prayer. Down the hallway in the United States Senate, every day, the U.S. Senate starts with a prayer. And then we have the Pledge of Allegiance. The Supreme Court has ruled that it is constitutional for us, the Senate, and all State legislatures, to start every day with a prayer. And so it is throughout the country.

We have the National Day of Prayer today, but it has a long history of establishment here in the United States, where we recognize this very important day. Many Congresses and Presidents have proclaimed days of prayer and fasting throughout our Nation's history. From Washington all the way to Madison and all the way through World War II, Presidents set aside days of national prayer.

In 1952, 58 years ago, a bill proclaiming an annual National Day of Prayer was unanimously passed by the House and the Senate and signed into law by President Truman. It's not often in our history that everything passes this House and the Senate by unanimous consent. The new law required the President to select a day for national prayer every year. In 1988, the day was fixed by Congress as the first Thursday in May of each year. That law was signed by President Ronald Reagan.

Nobody is forced to pray on the National Day of Prayer. However, we now have a Federal judge who has ruled that the National Day of Prayer is unconstitutional, even though this day is set aside to honor God and the role that prayer has played throughout our history. Thanksgiving was set aside by President George Washington to honor the Almighty and to give prayer and thanksgiving for our history and for the work that the Lord plays in our very existence.

Most people are surprised to learn the United States Capitol, this building, was the place where church services were held for a number of years. In fact, before Congress even started assembling here, we had church services before then. But yet a National Day of Prayer has been ruled by a Federal judge to be unconstitutional.

Here's what the First Amendment says, Madam Speaker. It says: Con-

gress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

The First Amendment was written by James Madison, the author of the U.S. Constitution. In fact, he is the author of the first ten amendments. James Madison set in stone, proclaimed, Congress will make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Probably, James Madison knew more about the First Amendment than anybody else since he was the author; yet, in 1813, President Madison proclaimed a National Day of Prayer. It's ironic that the author of the First Amendment, who knew more about the First Amendment than anybody else, certainly Federal judges who live today, proclaimed the National Day of Prayer, and yet today, we have a Federal judge saying it's unconstitutional based upon the First Amendment. How ironic. Federal judges obviously—this particular Federal judge—forgot about the free exercise of religion part. That's why the National Day of Prayer is so important.

The Federal Government sets aside one day a year that honors the First Amendment. People may pray. They don't have to pray. But it recognizes how important prayer is in our culture. It enshrines in the public consciousness the fact that Americans have the right to the free exercise of religious beliefs.

"In God We Trust," Madam Speaker, is above the American flag behind you. It is the national motto of the United States: In God We Trust. Ours is not a secular Nation. It was founded on religious principles.

So I asked this Federal judge, What's next? Are you going to try to abolish Thanksgiving and Christmas as national holidays?

Madam Speaker, the National Day of Prayer is not only a good idea, it is constitutionally legal, whether secular, antireligious Federal judges like it or not.

And that's just the way it is.

#### CURRENCY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. I rise today to talk a bit about our economy and the marketplace which, if anybody has observed, is in shambles. A couple of years ago, we had a financial crisis; basically, a bit of problems in debt with the financial institutions, the banks, and a lot of corporations. That was a rather hectic period of time. But I think what we're moving into now is much, much more serious, and what I see happening is that this is not a financial problem as much as a currency problem. Everybody knows there are major problems in Greece right now because of the debt

load that they have and they cannot finance, and nobody is there at the moment to bail them out.

A lot has been happening. I have been interested in this subject for a long time. As a matter of fact, in 1971, with the breakdown of the Bretton Woods agreement, I became fascinated with economics and politics. At that time, there was a devaluation of the dollar of 3.8 percent, and it was very, very big news. And that's when the dollar was connected to gold and there was a devaluation against gold. This was a major event and ushered in a major amount of inflation in the 1970s. Yet, this process continues. As a matter of fact, the breakdown in 1971 opened up the doors to massive inflation. And that's what we have been doing for 35, 40 years of inflating the currency, creating many and multiple financial bubbles which have burst and have given us a great deal of trouble. But a currency crisis is much worse because people lose confidence in the dollar.

Now, I have talked a lot about the value of the dollar. And somebody might wonder exactly why I would come today and talk about the concern I have for the value of the dollar, because if you look at the dollar, the dollar is a haven. The dollar has been going up sharply in terms of other international currencies. They would say that this is a haven. It's still strong. People are buying our Treasury bills. But I still argue the case that there is a currency crisis going on. Because if you look at the one true money, the one money that has existed for 6,000 years that outlasts all the paper money and all the fiat currency, that is gold. It doesn't look very good and is sending a signal that a lot of inflation lurks in the future.

In the past several years, maybe even 10 or 15 years, the dollar and the gold relationship depended on gold acting as a commodity. It moved with the stock market. It moved with commodity prices. But no longer. Instead of the gold going down when the stocks went down, instead of the gold going down when the commodities go down, instead of the gold going down when the dollar goes up, all of a sudden people are resorting to putting dollars and other currencies in gold. This is sending a signal that the confidence is being lost in the entire fiat monetary system. And the dollar, of course, is the reserve currency of the world and, therefore, a very significant event.

But there are even other statistics to suggest that we're in for a lot more inflation. If we look at what has happened to producer prices in the past 12 months, we find out that producer prices have already moved up significantly. For instance, finished consumer goods are up 8.2 percent in the last 12 months. Finished consumer goods, excluding food, are up 8.3. Finished energy goods are up 20 percent.

Now, that has not yet affected the Consumer Price Index, but, in the months to come, the producer prices will move into the consumer products, so we can expect a lot more inflation.

□ 1615

Now, the way we get in this trouble is due to accepting some notions about money that are false. We have believed since 1971 that there should be no linkage of our money to anything sound as the Constitution mandates. There should be no linkage of the dollar to gold or silver, which then gives the Congress leeway of spending endlessly; deficits don't matter. We can tax and we can borrow; but if we still don't have enough money, we can depend on the Federal Reserve just to print the money.

Now, that has lasted for a long time, and we've been getting away with it; but the market is more powerful than the central bank and the politicians. The market usually rules and they come and say the money isn't worth what it used to be. There's too much mal-investment, there's too much debt, and therefore a correction must occur. This happened with the financial situation: there had to be a correction, the bubble burst, and there are some adjustments.

But everything that we have done over these past several years and even over the last several decades has always been to resort to more inflation, print more money, spend more money, which only produces a problem that delays the inevitable. What I am afraid of is the inevitable is here, and we must do something about it.

#### PROGRESSIVE CAUCUS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Minnesota (Mr. ELLISON) is recognized for 60 minutes as the designee of the majority leader.

Mr. ELLISON. Madam Speaker, my name is KEITH ELLISON, and I'm here to claim this hour on behalf of the Progressive Caucus to deliver what we call the "progressive message."

The Congressional Progressive Caucus is a group of Members of this United States Congress who believe in the essentials of America, ideas like fairness and equality. We are the people who stand up consistently for civil rights and human rights. We believe that issues like color, national origin, and gender should not be a barrier for people to fully participate in the American Dream.

The Progressive Caucus consistently stands up for the rights of the working class, the people who labor every day to make this country run. We're talking about economic justice. We're talking about true health care reform. Many of our members were on the uni-

versal single-payer health care bill and advocated for the public option as the health care debate carried forward.

The Progressive Caucus, this is the group that's consistently arguing to say that humanity, and as a matter of fact as Americans, we can live in harmony with the Earth, we can respect the environment. So when you think about the Progressive Caucus, Madam Speaker, the idea is that there is a body of folks in the Congress who believe in fairness, who believe in equality, who believe in equal opportunity, who believe in equal justice, who believe in peace, and believe that the United States should put its diplomatic foot first and its development foot first and should always, always, always seek to be a force for peace in the world.

Members of the Progressive Caucus made up the large bulk of the people who called for the United States to get out of Iraq and identified Iraq as not the right policy for the United States from the very beginning. Many of us continue to make the demand for peace and say that the proportion of development aid should outweigh the military footprint in Afghanistan and not the reverse.

This is the Progressive Caucus. I'm proud to be a vice chair of the Progressive Caucus and to present the ideas of the progressive message tonight. The progressive message is when we come down to the House floor and we talk about the values of the Progressive Caucus, what we're working on, what we're doing, what we think is important, so, Madam Speaker, that the people who watch C-SPAN and who tune into us know the ideas and thoughts of the Progressive Caucus and know that there is a progressive voice within the caucus. Very, very important.

Tonight, our topic is the economy. What else? The economy. It's what people are focused on nowadays with the dramatic unemployment rates, high unemployment rates, hovering in the neighborhood of 10 percent in many places around this country, about 9.7 percent, as we're seeing some States with dramatically higher and even some with lower; but everybody is concerned about jobs for the American people.

Today we're talking about Wall Street reform which is good for Main Street, meaning that many folks will be thinking, well, what does Wall Street have to do with me? I mean, I own a barber shop on Main Street, I own a mechanic shop on Main Street, I work for the factory down at the other side of the community. I'm not a player on Wall Street; I don't trade in stocks. That doesn't have anything to do with me. Why am I worried about it? The reason is, the progressive message tonight is that people who live on Main Street—people who are the teachers, the firefighters, the police officers, the small business owners—people who

work hard every day and make this country function need to plug into what's happening with this Wall Street reform because it's going on now in the Congress and the interests of us all are at stake.

So this idea of Wall Street reform will be the topic tonight, and the main idea is Wall Street reform is good for Main Street. Main Street needs to be plugged into what's happening. And who can blame people, Madam Speaker, for not really knowing what's going on with this Wall Street reform. I mean, weird terms like "credit default swaps" and "derivatives" and "collateral debt obligations" and things like that, "rating agencies," "too big to fail," all this kind of stuff are things that the American people are trying to get all this stuff clear because folks who don't watch this stuff every day, folks who are not C-SPAN junkies, they're busy, they're raising their kids, they're going to work, they're doing what people normally do, may not know that they really need to plug into this issue of Wall Street reform because it has a lot to do with how people's lives are going to be led, and it has a lot to do with people's well-being, their economic opportunity, and things like that.

So we're going to talk about that tonight, Madam Speaker. And we really want to let you know that we're going to be focusing hard on this issue of Wall Street reform and being good for Main Street. We want folks to absorb this message, and so we're going to be talking about it tonight.

Now, the fact is that if you have any doubt about whether Wall Street reform is important, maybe you thought to yourself, well, you know, I'm not sure it's something that I really need to be concerned about, let me just say that you can sometimes know how important a topic is by how vigorously other people are fighting against it. You may not know the ins and outs of health care reform; but when you find out that some people were spending \$14 million a day with lobbyists to stop health care reform, you know that there are some people with some big bucks and some big stakes in the game who thought the status quo was good for them even if reform was good for the rest of us.

Now, what's interesting is this same scenario is being played out right now with financial reform. I want to start our dialogue tonight about Wall Street reform, not by talking about the intricacies of the bill—because I'm going to talk about the bill—and not by talking about what led us to this crisis, because I'm going to talk about that too, but first by talking about what the people of America are up against and who it is and how it is that people are trying to stop it.



Wall Street is spending billions to kill reform. Look it up. In 2009, the financial industry spent \$465 million lobbying Washington. How much was spent lobbying Washington for school lunches for poor kids? How much was spent on trying to get America out of Iraq and Afghanistan? How much was spent on trying to make sure that college kids could get into college and have an affordable college education for themselves and their family? How much was spent on these things?

\$465 million for lobbying Washington? Now, that's really something, folks. That's putting down a pretty penny to make sure that the interests of the industry are put up first and foremost before Members of Congress. \$1.4 million a day lobbying Congress, not as much as health care reform, but a substantial pretty penny to be per day lobbying Congress; \$1 million per Member of Congress. So in 2009, if \$465 million was spent lobbying Washington, there are about 435 of us, there's actually more than \$1 million spent lobbying each Member of Congress if you just divide it by the number of people in Congress.

So what is the point of this chart? The point of this chart is to say that folks who don't want real reform in the area of financial services are putting their money down to try to stop it. They're deploying, literally, an army of lobbyists to try to convince Members of Congress that their interests are the ones that need to be first, not those of the American people: \$3.9 billion in the last decade, that's a lot of money, and nearly 2,000 lobbyists, 1,726 Washington lobbyists.

Now, this may sound like I'm hard on lobbyists; I'm not hard on lobbyists. I think it's an honorable profession. They help Members of Congress understand issues. But the fact is that every Member of Congress can tell you a lobbyist does not come in to try to persuade you to do something other than their interests, the people who pay them. They're paid to do a certain thing, to convince Members of Congress to do a certain thing. It's not always a bad thing, but it's usually a thing that's going to serve the interests of the people who are sending them there, and sometimes that's not right in line with what the American people want.

So it's important for the American people to know that when we're standing up for consumer protection, that when we're trying to stop bailouts ever again, that when we're trying to make sure that there is real justice and accountability when it comes to too-big-to-fail firms, that there are a lot of folks who want to have it stay their way; but we're trying to push for reform, and the American people need to know that. The American people need to be aware that if they don't pay attention to this debate, they may be

sorry that they didn't. And so we're encouraging people, Madam Speaker, to just stay on top and stay focused on what's really going on.

Now, let me just talk about what financial reform actually means. What does it actually mean? Wall Street reform means policing Wall Street, making sure that Wall Street abides by the rules. Now, Wall Street does a lot of good for this economy. What it basically does is it takes people who have money to invest and unites it with people who need money to capitalize their companies. It takes people who want to invest with companies that have new ideas and some old ideas so they can get together and fund and finance their company. It's a good idea, it's fine, but sometimes it gets out of control. Look, I have knives in my house, and they're very useful for cutting vegetables. But you know what? They still can be dangerous. We need rules about how we deal with these things because they have very, very powerful consequences on people.

So Wall Street reform means policing Wall Street. It means ending bank bailouts. President Obama stood right in this very room not too long ago when he did his state of the Union speech and he said, One thing is for sure, whether you voted for the bailout or not, everybody hated the bailout. I can say he was right on the money. I will tell you that I believed that our economy was in ruin. I thought we were on the brink of disaster back in September, October 2008, and I voted for the bailout. But I will say this about it, I didn't want to, I had to be convinced that it was necessary to do. You should know that much of the money has been recouped and is being recouped every day. And the President is proposing a tax on some of these large financial firms to make sure the American people get all of their money back.

But this is one of those things that you didn't want to have to do, but you had to do. It's like if a friend says I need you to drive me home because I drank too much. You know what? You don't want to have to do that because you would wish that people would be more responsible, but you have to do it. It's something that you don't want to do, but you have to because you're put in that difficult situation.

We want to end the bank bailouts with Wall Street reform. We want to stabilize the economy. This economy, because of this financial trouble created by a lack of deregulation, by tax cuts for the wealthy, by not minding the store, we want to create stability in this economy so people can plan, so they can invest, so they can pursue careers, and so that we can have real economic growth sustained over the long term.

So it's about stabilizing the economy. It's about saying, you know what? The economy is going to be sta-

ble, so you know what? You might be able to make retirement plans. The economy is going to be stable and strong, so you should put some money away because you will be able to afford college for your kids. It's talking about stabilizing the economy—yes, you should start that business because I'm telling you that there will be a stable economy for you to participate in. So that's what stabilizing the economy is all about.

And then, also, we've got to stop gambling with worker pensions. Workers work hard. Workers work their whole lives working hard to make goods and services for people in the United States. They work hard and they put money into their pensions year after year after year. When they get 65 years old, they shouldn't have to worry that people who were gambling with their money on Wall Street have somehow gambled it away. And so this Wall Street reform is about stopping gambling with worker pensions. It's about worker pensions, people who one day want to retire, people who have worked hard and earned the privilege to retire, people who have literally blazed a trail for all of us younger people; and when they get 65, they ought to be able to go and take their retirement.

This is what Wall Street reform is all about. This is what we're trying to do. This is what the purpose is. It has nothing to do with trying to punish the average person. We want to see the economy grow; we want to see businesses invest. We want to see them grow, be competitive and successful; but there's got to be rules of the road so that everybody can be careful.

Cars. Two thousand pounds of steel going fast can hurt you; everybody knows that. They're very useful, but we still have to have rules, which is why we have to have State troopers out there. And in the same sense, Wall Street reform means policing Wall Street, ending bank bailouts, stabilizing the economy, and stop gambling with worker pensions. So that's what Wall Street reform is all about.

I'm going to return to this board in a moment, but before I do, Madam Speaker, I'd like to get up here and put this document that I led off with because I want to elaborate on it again.

□ 1630

Again Wall Street reform, Wall Street is spending billions to kill reform, to stifle reform, to shape reform to their interest, and it is a big deal. But I would like to say just a few specifics.

The fact is there are a lot of people who are former Members of Congress who are here. At least 70 former Members of Congress employed by the financial services industry, at least 70 former Members of Congress here to try to convince their former colleagues

what the industry's perspective is on Wall Street reform, nearly half of the 150 former Members that reported lobbying in 2009.

Let me say about 150 former Members who might be working on anything from energy to forestry, about half of them are working on Wall Street reform. That is a big deal and people should know that. In total, about 125 former aides and lawmakers are now working for financial firms. And so it is not just former Members of Congress, their aides are working on this stuff, too. They are employed and hired to try to convince their former colleagues to do what Wall Street wants to do. Of the industry's revolving door lobbyists, 19 are former Members who served on the Senate Banking or House Financial Services Committees. So they are getting people who are on the committee who know the most about this stuff to persuade their colleagues about what the interest of the industry is, not the American people.

At least 33 additional lobbyists were staffers, as I mentioned before. And you should know, in Congress, some of the most influential people around are staffers. People know the Member of Congress, their name is on the lawn sign and they have commercials during the campaign season with themselves featured in the commercials and sometimes local communities know who the Members of Congress are. You may not know the staffer, but I guarantee you one thing, staffers who are devoted to working on a subject to help a Member of Congress often know more about that topic than the Member of Congress. That's a fact. Many of them, former aides and staffers, are hired to work on this as well.

One of the former Members is former Speaker of the House Dennis Hastert who is working for the industry. Another is Senate majority leader and GOP Presidential nominee Bob Dole. Another one is former Senate majority leader Trent Lott. Another is former House majority leaders Dick Armey and Dick Gephardt. Another is former Appropriations chairman Bob Livingston and former Ways and Means chair Bill Thomas. So they don't have the lightweights and the people who are only here for a few weeks, they have the big heavy hitters here to try to persuade Members of Congress with their former colleagues that the bill needs to reflect what Wall Street wants.

Madam Speaker, that is why we are here tonight talking about Wall Street reform, who is involved, whose interests are at stake. Mostly the American people's interests are at stake, and they need to get well versed on what this bill is all about. I am going to talk about that in a moment.

The fact is that the U.S. Chamber of Commerce spent about \$3 million on

advertising, including commercials slamming the creation of a Federal Consumer Protection Agency. That is unfortunate. Why would any good lender who is trying to offer a good product at a fair price be attacking consumer protection? I thought the customer was always right and you wanted to make sure that the customer was always happy so you would get return business. Why would anybody be afraid of a consumer protection agency that is going to look out for consumers? In fact, I would think industry would be happy about that. The fact is, though, a lot of mishandling of consumers happened. I will talk about that in a moment as well. That is why we need a consumer protection agency. It is very, very interesting that some of these folks want to stop that.

The National Automobile Dealers Association, and I am a big fan of automobile dealers, but the fact is that they contributed \$3 million to Federal candidates in the 2008 election cycle, encouraging dealers to make hundreds of telephone calls to House Members and secure an exemption from the CFPA.

The hedge fund lobby, which calls itself the Managed Funds Association, doubled its spending during the last few months of 2009, according to data recently released by the Federal Election Commission. So the Managed Funds Association, which is the hedge fund lobby, strategically sprinkled more than a million around Washington in the fourth quarter, compared to just \$520,000, a little more than half, spent during the same period in 2008. The fact is \$25 million has been spent on TV ads about Wall Street and financial reform since January. You probably saw some of them yourself.

So with that, we know what we are up against. We know what we are dealing with. Wall Street reform is necessary. Wall Street itself is galvanized and fighting back hard to try to protect its interests, not the American public's interests. So it is important to talk to the American people at this point about what really is in financial reform. What does financial reform contain? What is it about? What's in there? That is the question. The answer is simply this: Wall Street reform is a simple solution to a complex problem and it simply addresses the worst problems associated with the financial breakdown of the last few years.

Let me just talk about the bill, what it is about and some of the key features that we will see with financial reform. Financial reform quite simply addresses certain elements of the financial system and addresses them to make sure that they don't go haywire and harm consumers.

The first thing I want to talk about is the Consumer Financial Products Agency. The Consumer Financial Products Agency, Madam Speaker. One

more time. The Consumer Financial Products Agency is what I want to talk about right now.

What this is is an agency which collects the power of seven other agencies and concentrates it into one agency and says to that one agency: It is your job to protect the American consumer from dangerous financial products like predatory loans and like predatory credit cards and predatory payday lenders and people who would basically rob you of your middle class life-style. That is their job.

They have basically three things that they work on. The Consumer Financial Products Agency has three powers that they can exert, and it is not passed yet, but many of us are working hard on it.

One power it has, it has the power to do examinations, to say to a financial firm, hey, we want to look over what you're doing to make sure you're doing it fairly. They have that power to knock on the door and say, Are you doing the right thing? And if you're doing the right thing, you have little to worry about. But if you're selling financial products that are dangerous to consumers, you might have to worry.

Another power they have is enforcement. Whether it is rules, truth in lending, or some other law or act that is designed to protect consumers, this agency has the power to go in and say, You are selling a product where the terms and conditions are tricky and confusing and you cannot do that any more.

Let me give you an example. Let's just say I went and got a credit card and I had a 30-page contract associated with that credit card. And in that contract, you know, I can't read it, it's all legalese. It's too difficult to understand. I can tell you, I am a lawyer by trade. I practiced law for 16 years before I got this job. I have looked through some of these credit card contracts and can't make heads or tails of them. I know a lot of people who get credit cards, they are trusting that somebody somewhere is making sure that they are getting a fair product. Well, that someone, if we pass this bill, will be the Consumer Financial Products Agency.

Rather than taking the real information that you need, which is the real interest rate you are going to pay, the time you have to pay, the fees that might be associated if you have a default, meaning you are late on your credit card, and putting them way in the back of the credit card application, hidden up behind a bunch of legalese so they can say, "Well, we told them." Because sometimes it is not that they don't tell you, it is they simply drown you with so much information you can't make heads or tails of this thing. The Consumer Financial Products Agency would have the power to say, You have to state the terms and conditions on one page in a clear way so people can make a decision whether they

want your product or not, and they know exactly what they are getting themselves into. So that is the enforcement power.

Another power they have will be something called rulemaking. When Congress passes laws, sometimes there is a lot of space between the laws. What I mean by that is the law will say generally make sure that interest rates are reasonable; make sure that the date on which a payment is due is clearly stated.

Well, the Federal agency may have the power to say exactly what is required, and so the rules are important and the Financial Products Agency will have rulemaking ability, too. So they will be able to enforce the laws as they exist, promulgate rules to protect consumers, and do examinations to make sure that people are doing what they are supposed to do.

Now some people may say examinations, that might be kind of intrusive. Well, let me ask you this question: if somebody was doing an examination on Bernie Madoff, wouldn't that have been a good thing? If somebody said Bernie, open up the books and let me see what is going on.

Let me tell you, today's too-intrusive examination may be tomorrow's salvation of the financial system. So it is a good thing. The Consumer Financial Products Agency, it will be the agency that is there to look out after consumers. Right now we have it all spread out. The Fed has a little bit of responsibility. The Office of Thrift Supervision has a little bit of responsibility. The Comptroller of the Currency has a little bit of responsibility. The FTC, the Federal Trade Commission, has a little bit of responsibility. And it is all kind of spread out.

So what happens when Mom says to her five kids, clean the kitchen? And then she comes back from where she has been and the kitchen is still dirty. All of them say: I thought the other one was going to do it. That is how these things work. When you have dispersed responsibility, you also have dispersed action. So the best thing to do is to say, I want you to do it on this date. Then you have accountability. So we are going to take all of this responsibility for consumer protection and take it from all of these agencies and put it into one agency.

Some people will say, KETH, don't you think that consumer protection should remain under the Federal Reserve Bank? That is where most of it is now; and you know what, they didn't do a good job. They were late on everything. They were slow on everything. In fact, in 1994—and I bet some people watching this broadcast right now, Madam Speaker, were not even born in 1994—the Congress passed a law that said, Federal Reserve Bank, you can enforce the law and protect consumers from tricky terms and conditions in

mortgage lending. You can do something about tricky terms and conditions in mortgage lending. And you know exactly what the Fed did about it: Nothing. They didn't do anything. They did almost nothing.

□ 1645

They did almost nothing. As a matter of fact, it was 2006 and 2007 when they issued guidance on mortgage lending and the terms and conditions that we now know as predatory lending. It was even after that that they came with some guidance on the issue of credit cards.

So the Federal Reserve was given the power. They didn't use it, and we should take it from them. In my view, it's important to focus on this issue because the Federal Reserve already has its hands full dealing with monetary policy. The Federal Reserve Bank has a few important things they have to do. They have to control the money supply and make sure that the economy has enough liquidity so that people can get loans and gain capital for their businesses and so forth, and it also has the responsibility to make sure that the economy doesn't overheat and have inflation. So that's enough for them to deal with.

I don't think it's the right idea to say, Oh, also do consumer protection, because when consumer protection is shoved in there, too, what ends up being the last thing looked at? Well, consumer protection. So consumer protection is important all on its own, and there should be somebody whose job it is to focus on consumer protection. So that is one of the key features and one of the most important things that the financial services bill will protect.

Let me also move on to talk about another key feature of the financial reform bill, and that is putting an end to too-big-to-fail firms. Now, if a bank or a financial firm or a bank holding company is too big to fail, and if they get themselves in trouble, then all of us have to dig into the taxpayers' money to, what, bill them out. So any firm that is too big to fail is too big to exist. Any firm that is too big to fail and too big to have to deal with what happens when you make bad decisions in the marketplace shouldn't be around.

But sometimes we have to—we had to bail out these firms. Why? Because if they fail, they have all kinds of creditors, banks to whom they owe money. And then if they can't pay those folks, then those people who may have borrowed money can't pay the people who they owe. And if we had just allowed these banks to fail, it would have set off a ripple effect throughout the economy that could be in the proportions of the Great Depression. So it wouldn't have been responsible to let banks fail.

We know that the one bank that did fail, Lehman Brothers, caused serious

and catastrophic losses throughout the whole world, not just the United States. Even my own State of Minnesota, their board of investment, their investment board lost about \$58 million from Lehman Brothers' failing.

So the fact is that if we have a too-big-to-fail system, what that means is that the big banks can engage in hazardous, risky behavior, because they know at the end of the day, the American taxpayer is going to ride in to the rescue for them. And this is bad for our economy, bad for everybody else.

But the other thing wrong with too big to fail is it's not fair to smaller players in the market who provide choice, who provide competition, and who live by the decisions that they make. Because if some firms are too big to fail, then some other firms are too small to save. Is that fair?

So, for example, if I'm a huge bank like Citibank and I make some decisions that are poor ones and I start suffering the consequences of those decisions, then I'm going to get saved because I'm big. But if X, Y, Z community bank in Minneapolis makes bad decisions, they get dissolved. That is what FDIC is for, the Federal Deposit Insurance Corporation.

So we can't be in this situation. If we're going to have a mixed economy where we have government regulation and a free market together, we can't have a system where being big and making improper decisions and making risky decisions which costs your business its solvency, you're going to get bailed out, but the smaller ones, they just have to go suffer and deal with what sometimes is referred to as "market discipline," meaning out of business.

So this too-big-to-fail thing, we have to do something about it. And what we do and what financial reform does is to say, Okay, we're going to have what's called a resolution fund, a resolution fund. What is a resolution fund? Well, a resolution fund is to resolve, is to close down, shut down, chop up, sell off, and end a firm that is systemically connected—a too-big-to-fail firm but has done things that are risky, and if they were to fail, they wouldn't be able to meet their creditor obligations, and their creditors would not be able to meet their obligations, and those folks wouldn't be able to make their obligations, and we would have a collapse in the system. So what we say is, look, these big firms have to pay into a fund on the front end, which then, if one of them fails, that fund would be the one to pay creditors so that the whole market doesn't fall, not the American taxpayer.

It's very similar to how the Federal Deposit Insurance Corporation works right now. I think the FDIC, if you have a deposit—money in a bank—you're insured up to about \$250,000 of your money. You know that if this

bank goes down, you're not because there's the FDIC.

Now, the FDIC says, if a bank goes down, the citizens—the depositor's not going to go down because we have the FDIC. But what if a big bank goes down and they owe money all around and, if they can't pay the people who they owe, then those people can't pay the people who they owe, and the next thing you know, the whole economy's going down? No, these people will be paid out of a fund which will then chop them up and will pay the creditors, and then they will be done and over with.

Now, some people argue that there should be a fund after the bank has failed, after there's been a too big to fail fall. In my opinion, that's not a good idea because, if a huge systemically large bank fails, it is going to have an impact on the market. It will drive the market down, and we'll be trying to collect money from people who didn't mess up after they have less money. And I think that's a huge mistake, but that is another point of view people have been sharing.

The fact is we need to have an antibailout fund, which is a fund that calls for a resolution of these systemically large firms when they make big mistakes and don't do the right thing that they should do for their depositors, for their shareholders, or for anybody else.

So we've talked a little bit about too big to fail. Now let's talk about mortgage reform and predatory lending. Many of you would like to know, Where did this whole problem start? It started in the consumer sector, and the consumer sector is where we need to address our energy. The mortgage reform and antipredatory lending section of this bill is to stop predatory and irresponsible mortgage loan practices.

It might shock Americans to know that, despite 2.8 million foreclosures last year, Congress has yet to pass an antipredatory lending bill. Many States have. My State of Minnesota has. But Congress has not yet passed such a bill. That will be part of financial reform as well.

There will be tough new rules on risky practices, practices like, if you buy a mortgage, no-doc and low-doc loans. That means that they don't try to find out whether you can pay the loan before you have to pay it back. They just loan you the money and may not even get documentation and may not even get proper information before they loan you money.

Now, these days, credit is tight, and people can't even hardly remember when money was flowing so freely. You may think to yourself, Why would somebody lend money unless they knew somebody was going to be able to pay it back? The reason is they would take that mortgage, which is documentation, paper, and they would sell that paper, and that would be

securitized on the secondary market. So if I know that I can sell you a mortgage today and then take that stream of income that's supposed to come my way because I have loaned you that money and then sell it to somebody else, I don't really have to worry. It's almost like, as long as you're not the guy who is without a chair when the music stops, you just keep on going around in that game of musical chairs.

So we're going to have some rules to stop this practice to make sure that these risky practices don't continue. We're going to have rules in this bill, Wall Street reform, to curtail excessive speculation and derivatives and growing use of unregulated credit default swaps. And I want to talk about what a credit default swap is in a little while, but now I just want to talk about mortgage reform. We're going to require investment advisers to act for the benefit of the client under the law, exercising the highest care involved.

I have been joined by my friend from Florida, ALAN GRAYSON, who I think is here for another hour but is always welcome to join in on the conversation with me. So I yield to the gentleman.

Mr. GRAYSON. Would the gentleman be so kind as to yield the podium to me? I would like to speak from the lectern, if that's okay with you. Do you mind? Can we switch places for a few minutes?

Mr. ELLISON. That's fine. Come on down.

Mr. GRAYSON. I want to thank the gentleman for yielding his time temporarily and thank the gentleman for bringing up the important subject of the day, which is financial reform in America.

I want to thank the gentleman for this opportunity to talk about one of the key elements of financial reform in both the House bill and the now-debated Senate bill, which is auditing the Federal Reserve. And I want to congratulate the gentleman and, in fact, everyone in America because you now own a hotel chain. Congratulations. It's this one right here. You own the Red Roof Inn.

Now, I know what you're thinking. You're thinking, That's funny. I don't remember buying the Red Roof Inn. But the Federal Reserve Bank, in its wisdom, has done it for you. The Federal Reserve Bank has seen to it that you have the pleasure of ownership of this delightful chain of hotels that extends from sea to shining sea. You, America, you are now the owners of the Red Roof Inn chain. Congratulations.

Let me explain to you how that happened. Deep in the midst of ancient history, going all the way back to 2007, a foreign company decided they wanted to do a leveraged buyout of the Red Roof Inn chain. So they turned to Wall Street, and Wall Street in its magical ability came up with the money, \$500

million, to do that. And part of that money, \$186 million, came from entities that were formed strictly for the purpose of providing money so that somebody could end up controlling the Red Roof Inn other than the people who originally owned it. These foreigners were able to prevail on Wall Street to come up with the financing to buy the Red Roof Inn.

Now, at that point, the question was who was actually going to come up with the money, \$186 million. The answer was Wall Street was going to find some sucker, some fool that would be willing to take \$186 million out of his or her pocket and put it into the pockets of this management company, foreign owners. The problem was an earthquake hit Wall Street in 2008 before they could execute on this deal and hand this liability off to John Q. Public, and this financial hurricane that hit Wall Street prevented them from executing on their plan. They had to find some way to come up with somebody, some sucker who would take over the liability for this \$186 million loan, secured only by this modest hotel chain of limited profitability being sucked dry already by its foreign owners.

So they looked around, and at this point, Bear Stearns was responsible for this. So Bear Stearns looked and looked and looked, tried to find somebody silly enough, unwise enough to stick this \$186 million liability to, and then Bear Stearns, itself, went kaput, taken over by JPMorgan. JPMorgan moved in with the help of the Federal Reserve. The Federal Reserve arranged so JPMorgan could take over Bear Stearns' liabilities in general, but there were some liabilities that were so odorous, so awful that JPMorgan just wouldn't take them over even though the Federal Reserve was stuck with the liability for the great majority of those assets, and those became the Maiden Lane assets. And among those assets, the absolute dead loser assets, the assets that nobody in their right mind would want, the assets that were so terrible that JPMorgan wouldn't take them from Bear Stearns' pocket, from Bear Stearns' dead pocket even if the Federal Reserve was willing to pay for it, among those assets was the Red Roof Inn. And who ended up with that?

□ 1700

That's right, the Federal Reserve Bank—you know, that organization that dictates the money supply in this country, the organization that has this magical ability to make money out of nothing—they simply make notations on their records, and magically, they have more money than they had the day before. The Federal Reserve Bank decided that they would assume responsibility for a \$186 million loan to a hotel chain. The Federal Reserve became the sucker of last resort, and in

doing so, the Federal Reserve made you—you, America—the sucker of last resort.

Let's move on.

After 2008, pretty much nothing happened, because nobody knew about it. Nobody even knew what was inside the Maiden Lane LLC pot. Nobody knew it was the Red Roof Inn or anything else. Nobody knew. Why is that? Because we don't audit the Federal Reserve Bank. All they had to do was come up with a line on their balance sheet that read "Maiden Lane LLC," and for 2 years, nobody knew what the heck was in it.

Then after enormous political pressure from Congress and from this entire country, the Federal Reserve gave us a list of assets and what they called "notional value" for those assets. You know, when you can make money, when you can create it, when you can just make it appear, everything is notional. Everything is notional. That's all there is.

Among those things that the taxpayers now have responsibility for through the Federal Reserve, as we found out at the beginning of this year, is this wonderful, enormously valuable—at least they want you to think this—chain of hotels called the Red Roof Inn. It stretches all the way from California to Maine. In fact, one of the properties happens to be the Red Roof Inn Convention Center property right in Orlando, right in my district. I am so proud. I think I'll stop by there and ask for a free room.

So what happened then?

Well, what do you think? It went bad—it went really sour—because, right now, it's not such a good time for the hotel industry. They leveraged the business to the hilt. They leveraged it up to here—a half a billion dollars—from a series of properties that barely made any money in great times, and now, as you may have noticed, it's not so great times.

So what happened is very simple. They are not paying on the debt. What was debt is now equity because when a company goes bankrupt and when it can't pay its creditors the creditors take over.

Interestingly enough, the Wall Street Journal reported just 2 weeks ago that the major creditors of the Red Roof Inn are moving in. They're saying they're not getting their money from this hotel chain. So the two other entities that put up the money to do this leveraged buyout to this foreign group are moving in. They're taking the hotels over.

They went to Citibank, and they asked, Citibank, what are you doing? They said, Well, we're working it out with them. We're moving in. We're taking over the hotels.

They went to the third entity, and they asked the third entity, What are you doing? Well, we're trying to work it out with them, but we're taking over the hotels. That's the collateral.

Not a single word from the Federal Reserve. Not one single word. Wouldn't it be nice to know what happened to the \$186 million that they put up? We don't know because we don't audit the Federal Reserve, so we can't know. There is no way to know right now. The Federal Reserve may be, for all we know, letting these other sharks, these other Wall Street sharks—Citibank and the other entities—move in and take over all of these hotels. Maybe they're doing nothing to defend the right of the taxpayers to these assets. We don't know. We just don't know because we don't audit the Federal Reserve.

So, America, congratulations. You own a hotel chain. In fact, if you keep this up, America, you'll own a whole bunch of hotel chains because it turned out that of the Maiden Lane LLC pot of money that the Federal Reserve assumed liability for 86 percent of that is called the hospitality business. So, America, before long, take a look. You'll have enough to put a hotel on Marvin Gardens, on Park Place and probably on Boardwalk, too. You'll own all of the hotels in America. Isn't that something? Isn't that something? You didn't even know it.

But look. That's not all the Federal Reserve has put up. The Federal Reserve has put up a half a trillion dollars in mortgage-backed securities. What are "mortgage-backed securities"? They are securities backed by mortgages. They are securities backed by homes.

So guess what, America? Before long, not only will you be owning hotel chains around this country, but you will be owning houses, too—maybe your neighbors' houses, maybe your own houses. Though, not exactly, because, you see, when the Federal Reserve owns an asset, you don't exactly own it. In fact, since we don't audit the Federal Reserve, you don't own it at all. You have no control over it. Actually, what is happening is that when these mortgages go bad the Federal Reserve owns your home, and if you can't make the payments, the Federal Reserve becomes your landlord.

So isn't that interesting?

For all of this time, we've been hearing about socialism, communism, about the creeping government control of our economy, how we shouldn't have the government owning GM, how we shouldn't have the government owning major banks. It has been happening by stealth because we don't audit the Federal Reserve. How else could it possibly be that we could end up owning a hotel chain and not even know about it?

If you are concerned about socialism in this country, if you are concerned about communism, about government control, let's audit the Federal Reserve, and let's find out once and for all who owns the hotels, who owns the houses. This wild beast that creates money out of nothing and jams it into

the pockets of special interests like Maiden Lane, like Bear Stearns, like JPMorgan, and like all of their friends, let's put them under some degree of restraint before it all comes crashing down—these hotels, these houses—before it all comes crashing down on us. Every time the Federal Reserve makes that money, every time they do that, every time they create that dollar by their magic, they are taking the dollar that is in your pocket, and they are making it cheaper—worthless.

Mr. ELLISON. Okay. Let me reclaim my time now.

Mr. GRAYSON. If the gentleman would yield, let me say one last word: audit the Federal Reserve.

Thank you very much.

Mr. ELLISON. Let me just add that the gentleman's presentation is not a part of the Progressive hour. I thought we were going to talk about financial reform. I'm not going to yield back to the gentleman right now, but I thank the gentleman for his presentation. I thought it was informative. Certainly, it is part and parcel of this whole dialogue, of this national debate we're having about financial reform. Certainly, getting to the bottom of our financial situation in America is important. We need to find out all we can about what happens with our banking system, and the Federal Reserve is also extremely important.

So I was talking about the importance of the bill. First, I talked about the Consumer Financial Products Agency. I moved on to discuss further the regulations that would take place in mortgages, so we would focus on making sure that mortgages which are poorly underwritten and which are then sold into the secondary market will be something financial reform will stop. We'll bring that to a close.

Let me now move on to another element of the financial meltdown which will be addressed by this important financial reform: irresponsible compensation practices. The fact is that one of the things we have seen in this whole financial meltdown is that not only have Americans been losing their homes—2.8 million foreclosures last year—but we've been seeing some of the most outrageous compensation from the financial services industry itself, with much of the compensation emerging from the very firms that the American people came together to bail out in the first place.

The financial reform bill addresses perverse pay practices that encourage executives to take excessive risks. If an executive can engage in a practice that is risky and bad for the firm and then can get paid a lot for it and can end up making money, they get the money. Yet, if they don't make any money and drive a firm into the ground and hurt the depositors and creditors in the process, they still make a lot of money. This is not a good practice. So

financial reform talks about executive compensation. It discourages executives who take excessive risks at the expense of their companies, of their shareholders, of their employees, and ultimately, of the American taxpayers.

For the first time ever, shareholders of publicly traded companies will have an annual, nonbinding say-on-pay vote on compensation packages and on golden parachutes for top executives. If you look at the history of Merrill Lynch, this is a company that basically careened into the ground and ended up being in such a financial state of affairs that it was either going to go under or it was going to be bought. It ended up being bought by Bank of America, but the CEO who was guiding that company ended up leaving with \$150 million of compensation. This is not only an affront to the hardworking American people, but it also sets up perverse incentives, the wrong incentives, for people who are at the head of these firms so that they can't make good decisions and do the right thing by American companies.

The bill also requires financial firms with at least \$1 billion in assets to disclose to Federal regulators any incentive-based compensation structures. Federal regulators will then be authorized to ban any inappropriate or risky compensation practices that pose a threat to the financial system and to the broader economy. The legislation also comes in response to a broad consensus among many leading financial experts, including Paul Volcker and others, who believe that compensation structures played a role in the financial crisis of last year.

I also want to talk about investor safeguards. One of the things that financial reform will bring forward are safeguards for people who invest. Now, some people might say, you know, I don't trade stocks, but if you have a 401(k) or if you have a pension, you actually do so indirectly. As a matter of fact, recent events, such as the massive \$65 billion—with a “b”—Madoff Ponzi scheme and the \$8 billion Stanford financial investment fraud, highlight the need for comprehensive reforms of the regulatory system that failed so many investors.

To better safeguard investors in the future, the bill will enhance the SEC's enforcement powers and funding by doubling its authorized funding over 5 years. That means it is going to have more people to do the job—more policing, more cops on the beat. This will enable the SEC to obtain the tools needed to better protect investors and police today's markets.

The financial reform bill will also create a whistleblower bounty program with incentives to identify wrongdoing in our securities markets and with rewards for individuals whose tips lead to successful enforcement actions. With a bounty program, we will effectively

have more cops on the beat for security regulation. The failure to detect the Madoff and the Stanford financial frauds demonstrate deep deficiencies in our existing securities regulatory structure. The bill also calls for an independent, comprehensive study of the entire securities industry to identify reforms and to force the SEC and other entities to improve investor protection.

The Madoff fraud also revealed that the public company accounting oversight board lacked the powers it needed to examine the auditors of brokers and dealers. In addition, it exposed the fault of the Security Investor Protection Act, SIPA, and the law that returns money to customers of insolvent, fraudulent broker-dealers. The bill closes these loopholes, and it fixes these shortcomings. So investor protection is an important part of financial regulatory reform—reforming Wall Street.

So whether we're dealing with too big to fail, whether we're dealing with exploitive and abusive predatory lending practices, whether we're addressing issues with regard to investors or whether we're addressing other markets and consumer protection in general, this financial reform bill is important. It is important for people to know what good it is going to do them and the difficulties that it will present in the future for people who want to keep the status quo.

As for the people who want to keep the status quo, we have already talked about them. There are massive amounts of money being spent to stop regulatory reform. What we need is real reform, consumer protection and financial stability. We need a dissolution authority for too-big-to-fail banks. We need executive compensation reform, say-on-pay. We need investor protections, and we need something called “regulation of derivatives.”

Now, when AIG first hit the news, a lot of people were asking, What is a “derivative”? AIG, American Insurance Group, is a huge insurance company. A unit of this huge insurance company actually was issuing these derivatives known as credit default swaps. In simple language, a “credit default swap” is like insurance. It's not insurance, but it's kind of like it. What it means is that you can buy it as sort of like an insurance policy if the value of interest you expected to receive or the value of the bond is not coming back to you in the way that you thought. So you could buy credit default swaps. If the value of this mortgage-backed security drops, then I am going to collect on an insurance policy that can cover me if this happens.

The only problem is that I say it's like insurance, but it's not. If it were insurance, you would have an insurance regulator who would require that the company would have to have

enough capital in its books to cover losses and claims based on losses.

□ 1715

But in this particular situation, that kind of reform was not in place. That kind of regulatory control was not in place. So when mortgage-backed securities began to decline and people who bought credit default swaps to hedge the risk against them, those people came to make claims, and AIG did not have the money to meet those obligations, which then put the United States taxpayer on the hook, and now we own essentially AIG as well.

This is not a good thing. The market is not supposed to operate like that. And derivative reform is an important part of what we need. Derivatives are an important financial instrument. They will be traded on an open market; and whenever they are not or are not amenable to be traded on an open exchange, they will be required to be reported to the authorities so that there is some transparency and some real information about what is going on in the derivatives market.

#### THE FINANCIAL BAILOUT BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. GOHMERT) is recognized for 60 minutes as the designee of the minority leader.

Mr. GOHMERT. Madam Speaker, it has been an interesting week. It's been an interesting time. And there are things that we agree on between our parties.

I heard my friends across the aisle talking about we need to have an audit of the Federal Reserve, and that is certainly something that I agree with and everybody on my side I know agrees with. We ought to have an audit of the Federal Reserve. As Newt Gingrich has said repeatedly, if transparency is good enough for the CIA, it ought to be good enough for the Federal Reserve. We need to know what they are committing us to. We need to know what they're doing, how much trouble are they getting us in. Those are things that need to be known. So I am delighted to hear my friends across the aisle join us in our cry for an audit of the Federal Reserve.

The difference between friends on this side and friends across the aisle is that my friends across the aisle have the numbers, they have the power to get an audit done of the Federal Reserve. There are a number of things that can be done when you control the House and the Senate and the White House. And even if the White House doesn't agree, which they very well may not because of all the shenanigans that have been going on in the financial realm, the Congress still controls the purse strings. And there are things



that can be done in this House and down the hall in the Senate that would bring this to a head and would have the Federal Reserve crying uncle, uncle, all right, we will go ahead and allow the audit. It ought to be done. Enough of the shenanigans, blaming one side or the other.

Well, the majority party has such a massive majority, it's a real easy thing to get done, and I would be delighted if we had colleagues across the aisle that would come together with us on this side and require that audit of the Federal Reserve so we would know what has actually been going on so we could set some goals and go about fixing this economy, fixing this broken financial system so we could get it back on a road that makes some sense.

Now, I have heard my friends across the aisle talking down here today and as well yesterday evening about the financial bailout, and I was rather disappointed. I know some, like my friend MARCY KAPTUR, have been adamant about the problems going on in the financial system going back to the fall of 2008. And she and I, there are many things we don't agree on, but we are both for complete transparency—she has been there all along—and demanding full responsibility and accountability in the financial sector. And I have been so pleased with things she said in the last couple of years on this issue since the TARP bailout in September, October of 2008.

But then hearing other colleagues across the aisle talk about Republicans are trying to stop financial reform because Republicans are so closely aligned with Wall Street? I mean, that theme has been played long and loud for years. And the Heritage Foundation finally had enough and said let's see what the truth is. So they did some research. And the fact is anybody in America can go on Huffington Post or look at some of these Web sites where you find out who contributed to what, and you find out the real truth. And the real truth is that Wall Street donates to the Democratic Party and to now President Obama about four to one over the Republicans.

Now, you can go to Goldman Sachs and find an officer who has made a maximum donation to Senator Obama and a maximum donation to Senator MCCAIN; but you do a little more research and you check that address and you find out, well, gee, the wife and all the children, though, made maximum donations to Senator Obama and to the Democratic Party. And you find out, gee, there is a financial link here that there have been completely misleading statements about for years. And the truth is now in black and white. Let's forget the misleading statements about who is in bed with whom and just follow the money, and that's all you have to do. And you find out in some cases some of the Wall Street firms, it may

be three to one, some it may be five to one, but average about four to one donations from Wall Street firms to the Democratic candidates, including Senator Obama, now President Obama.

So once you know that is the relationship that exists financially and has for years, then it causes you to look at all this talk about financial reform and making these people accountable. We're going to bring them to bear. We're going to make them account for all of these things, and we're going to make it so that they can't do this and they can't do that. But once you know that the people that are doing this so-called financial reform, what amounts to another bailout bill, once you know that relationship, then you have to look at the bill being proposed more carefully.

Now, I know we have friends that come here to the floor and, just like they did on the "crap and trade" bill, made statements on the floor that this bill will not cause one single person to lose their jobs, that this is going to be a job creation bill. And they got their talking points and they dutifully came to the floor, and they talked about how the crap and trade bill was going to be so wonderful and it was going to create jobs.

And I was able to come to this very spot on the floor and pull out that bill. Of course, we didn't get that last 300 pages until—it seems like it was around 3 in the morning or so. And then actually we did not have a complete bill when that bill passed. Up there at the Clerk's desk, I kept asking for a copy of the full bill assimilated, and we found out there wasn't one. It was in the process of being assimilated; so nobody on this floor could see a complete bill assimilated and know what all it meant together. And yet that got rammed through.

But just on the original about a 1,000-page crap and trade bill, if you went back to 900-and-something in the pages, I was able to point out there was a fund there created in the bill that obviously my colleagues were not aware of because I know they wouldn't come down here and intentionally mislead people, but whether it was the liberal left wing groups that wrote that bill—we know that we had a chairman or two that said they didn't know what was in the bill even though it was coming through their committee. Somebody knew. So since it wasn't the committee Chair, the Members of Congress that were on the committee, since it wasn't Members on the floor because they weren't sure—they were making statements about the bill like nobody losing their job that obviously wasn't true because there was a fund created that would pay people who lost their jobs as a result of that bill.

So whatever liberal left wing group or whatever special interest groups wrote that bill for the Members of Con-

gress that was rushed in here, so much of it, at 3 in the morning when people couldn't read the assimilated bill, whoever wrote that bill knew people would be losing their jobs as a result of that bill, pure and simple. They were losing their jobs.

There was even a fund in there that would provide some remuneration for people who lost their jobs as a result of the bill and had to move to follow the job. But, unfortunately, in that bill, the crap and trade bill, there was no provision to pay for travel to India or China or Argentina or the other places that those jobs were going to likely be going; so they weren't going to be able to follow the bills. The one good thing for those who voted for that disastrous bill here in the House is that I still feel strongly that once people find out what all was in that bill that they voted for, then they will lose their jobs. Many of them will lose their jobs in here as a Member of the House as a result of that bill. So it looks like the good news for those that vote for the bill and lose their job as a result of it is that there's a built-in provision that may provide them with some compensation and travel expense when they lose their job as a result of voters finding out what all is in that bill.

But that is the kind of thing we have dealt with here, people meaning well, getting their talking points, thinking they were telling the truth, coming in here and passionately proclaiming what was put before them, but not reading the bill. That is so important. So when we apply this cynicism, once you know that the people that are pushing this bill are the ones that have benefited four to one in contributions from these very firms that will be so-called "reformed," then you take a more skeptical look at what's in the bill and we get to find out a little bit more about what is in it, because obviously some of my friends have not looked at it thoroughly enough to know what is in it and to know that it's really not the financial reform bill that they thought it was.

It's more of a financial "deform" bill, more of another bailout bill, or I would say perhaps we could rename it the Goldman Sachs monopoly bill. A friend across the aisle had a blowup of some of the monopoly pieces. It applies. That's a perfect, perfect display for this financial bailout bill because it's going to allow certain firms to have monopolies. This bill is going to create some monopolies.

□ 1730

One of the truths about this bill is that there are backdoor bailouts. Despite the rhetoric, there are backdoor bailouts in this financial deform bill, or the Goldman Sachs monopoly bill. The Dodd bill from the Senate, it codifies these backdoor bailouts that were used by the Federal Reserve to pump

money into Bear Stearns. It also was used by the Federal Reserve to pump money into AIG, into Fannie Mae, into Freddie Mac.

And then this thing that troubles me so deeply, systemic risk council. It's in the bill, a systemic risk council. I was hoping 2 years ago, as we got into the TARP business, and some of us actually read that disastrous bill and could see that this was just not something that should be done in America, some of us hoped, well, since we have seen that Secretary Paulson is completely sold out to Goldman Sachs, it's an effort to bail out the buddies at Goldman Sachs, yes, we are bailing out AIG apparently, he wanted to do that, and lo and behold billions of dollars turn around and go straight from AIG to Goldman Sachs. So it did help his friends. But some of us had hoped that Mr. Bernanke might be the level head in all of this.

But having been in meetings with Mr. Bernanke, and having watched him closely on television and read so many of his comments, it appears that he has been caught up as well in this power grab, in this lofty ivory tower he has been placed in with this incredible amount of power without accountability. It was Stalin who said, "With power, dizziness." And we have seen some of that dizziness in the way these financial markets have been handled by people at the top.

But it appears from the things Mr. Bernanke has been saying that he has bought in hook, line, and sinker into this systemic risk business because he could get to say, you know what, this is who I'm naming a systemic risk. And when the Federal Government says this firm or this bank, this company is too big to fail, that means the Federal Government will not let them fail. That means they can go in the red and run their competition out of business, knowing the Federal Government will not let them fail, but their competitors don't have that assurance.

That's why you might as well call it a monopoly bill, because it's going to allow firms to become monopolies. And we saw after the TARP firm, boy, Goldman Sachs got to be a bank in addition to being everything else to all people.

One of the things that concerned me as I read through the TARP bill, when I got toward the end where it said that it was raising the debt ceiling by \$1.3 trillion, and we knew that it was a \$700 billion bill, well, why would you need to raise the debt ceiling \$1.3 trillion if it is a \$700 billion bill? And of course we know there was \$100 billion added to the bill in order to buy enough votes to get it to pass. So it's an \$800 billion bill and yet it raised the debt ceiling \$1.3 trillion. Well, there's a half a trillion dollars there for some reason that was built into that.

So I went back through and I reread the bill, and I kept pleading and beg-

ging with other colleagues, Please, just read the bill. You'll see we don't do this in America. We don't give one man \$700 billion and say, go play with it and fix this and make us better. We never have done that in America since we've had a Constitution. With that qualification.

There was a man in American history that had that type of power that was given by the Continental Congress by a bill that was passed December 27, 1776. His name was George Washington. This was a humble man. This was a man who made the statement, "People unused to restraint must be led. They will not be drove." And so like in the Battle of Trenton or in that 1755 disastrous ambush that the British walked into and didn't listen to Washington, who was in his early twenties, we have seen pictures over and over painted by those there that Washington didn't do as I was taught in the Army, that commanders are normally supposed to stay at the back and command from the back and coordinate things. Washington in some of the worst battles knew he needed to be out front so people would see him and do the right thing.

There was one soldier after the Battle of Trenton that wrote home talking about how afraid he was with so many people dying. He said, "But when I saw bullets flying around that priceless head of our great general, encouraging us as he went, sir, I thought not of myself." Now that was a leader. Not Hank Paulson we're talking about. That's not a leader. We're talking George Washington.

And when the Continental Congress was afraid that the people who had signed up for 6 months' enlistment around July 4th, around the time of the Declaration of Independence, when their enlistment was coming up, they got word these guys may not reenlist. So they passed a bill basically giving Washington the power to make whatever contract, pay whatever he needed to pay. We didn't have a Constitution yet. But they knew this man and said, "You fix it." And they sent a cover letter that in essence was saying that we know you well enough to know our liberty is not at risk. And when you have no further need of this power, you'll give it back. And he did, like no man has ever done before or since in history.

But in 1787 we got a Constitution. Since that Constitution we have never allowed one man to do what Hank Paulson and now Tim Geithner are being allowed to do, and with Bernanke's assistance. It's a disaster. Systemic risk council. We are going to decide who wins and who loses in America? And you want us on this side of the aisle to vote for this bill? And you call it a financial reform bill? It isn't. This is not reforming things. This is taking us away from the free

market principles from which we have been running for far too long.

That TARP bill took us away from it. And some of us prayed that we would have a chance to get back on track, and we have run farther and farther. And it gives no comfort when people on the other side of the aisle say, well, your President started this with a TARP bailout. Yes, and it was wrong then and it's become even worse of a nightmare.

Stop already. Return liberty and freedom back to people. I'm not talking about unregulated financial markets. We have the regulations. Just like we have regulations that would have allowed the President, the executive branch, the administration to monitor more carefully what was going on in the Gulf of Mexico, to monitor more carefully what Madoff was doing, what Goldman Sachs was doing, how the credit default swaps were allowed to be insurance without putting money in reserve to insure against that insurable event out there they were supposed to be taking premiums for.

This is not a financial reform bill. And to stand here on the floor and say Republicans are standing in the way of this, you betcha. I don't want a Goldman Sachs monopoly bill being passed into law and signed into law simply because they gave four to one more money to the Democratic Party than they did to the Republicans. I don't care if they gave four to one to Republicans, it is wrong to give them the kind of monopoly that they have been given through TARP and in the year-and-a-half since. It's got to stop. And this bill is not the bill that will do that.

So don't come to the floor and talk about how this is going to reform things and create accountability because it gives unrestricted leeway to give any nonbank financial company "too big to fail" status. What a disaster for this society, for this incredible gift of a country we have been given.

Now we are not blessed in this body and in this country because of what we ourselves who stand as elected officials today have done. We are not blessed because of what we have done. We have been blessed because of the sacrifices of the Founders and those over the years that worked so hard to make this country into the greatest Nation that has ever existed in the history of mankind. And now we have people that are peeling back the very principles that made this such an incredible place to get to live in.

Well, let's look some more at this financial bailout bill, financial reform bill, whatever you want to call it. There is a 100 percent bailout for creditors in this bill. So a failed firm's creditors and counterparties could recoup far more of their investment, potentially 100 percent, than they would

if they went through a normal bankruptcy proceeding.

We have seen enough of the corruption of the bankruptcy system. The provision for the bankruptcy system was put into the Constitution by those people with such incredible foresight. Unfortunately, it was into the early 1800s before they actually passed laws creating the bankruptcy courts that allowed people to avoid debtors' prisons like the financial backer of the Revolution, Mr. Morris.

But this bill that's being touted as such a great financial reform bill will also allow the FDIC to guarantee debt obligations of failing Wall Street firms without limitation and without congressional approval. You want us to vote for a bill that allows debt guarantees for failing Wall Street firms without this body approving of them and you call that a financial reform bill?

Also under this so-called financial reform bill, what's really more of a financial reform bill, the Secretary of the Treasury is authorized to purchase debt without any limit. You know, Washington gave back the power as soon as the Revolution was won. Four years later we got the Constitution, and we have never allowed this kind of insanity since then.

And yes, Secretary Paulson under a Republican President created this monstrosity and bailed out his buddies effectively, but it's got to stop. It's got to stop. And this bill is just more and more and more of the same.

On May 5, 2010—for people keeping track that is yesterday—Freddie Mac requested an additional \$10.6 billion in bailout funds. Between Fannie Mae and Freddie Mac, the taxpayers have already lost \$126.9 billion bailing out Fannie Mae and Freddie Mac. And now it appears that is just bottomless. It's got to stop. Don't ask us to come in here and pass another further power extension to those who are already dizzy with too much power and no accountability. It's got to stop.

This financial so-called reform bill, this Wall Street future bailout bill is a disastrous mistake. And, heaven help us, we should not pass this bill. We have lost enough rights and power to Wall Street already.

So I hope and pray this Day of National Prayer that those who have been getting the four to one contributions over Republicans from Wall Street firms will say, sorry, guys on Wall Street, we started playing this game and saying Republicans are in bed with you. Oh, yeah, yesterday one of our friends across the aisle said that, gee, these Wall Street firms are having closed-door meetings with Republicans. They may have been. And you can imagine what's being said. They've cut their deals with the people that they've been giving four to one to over Republicans. They've cut their deal. They know they are going to be sitting so

pretty, they're going to have monopolistic ability like never before in history.

□ 1745

So they want to meet privately with Republicans and say, Look, you don't have to worry. We're really getting serious oversight from these Democrats, the ones we give four-to-one over Republicans to. We're really getting serious oversight here in this bill. We just need you to come on board. No telling what kind of things they're telling Republican Senators behind the scenes to try to get them on board with this terrible financial reform bill.

But let me point out something that I did find as I went back through and tried to figure out, well, where could that other \$500 billion, between the \$800 billion designated in the TARP bill and the amount that the debt limit was raised, what loopholes may be in this bill? As I went back through it, one of the things I found was this provision. The all caps title of this little section, title 1, section 101(c)(1), Public Law 110-343. It says:

The Secretary is authorized to take such actions as the Secretary deems necessary to carry out the authorities in this act, including, without limitation, the following:

One, the Secretary shall have direct hiring authority with respect to the appointment of employees to administer this act;

Number two, entering into contracts, including contracts for services authorized by section 3109 of title 5, United States Code;

Number three, designating financial institutions as financial agents of the Federal Government. Such institutions shall perform all reasonable duties related to this act as financial agents of the Federal Government;

Four, in order to provide the Secretary with the flexibility to manage troubled assets in a manner designed to minimize cost to taxpayers, establishing vehicles that are authorized subject to supervision by the Secretary to purchase, hold, and sell troubled assets, issue obligations;

Five, issuing such regulations and other guidance as may be necessary or appropriate to define terms or carry out the authority or the purposes of this act.

Holy cow. What a blank check the Secretary of the Treasury received. When President Obama nominated Timothy Geithner to be Secretary of the Treasury, even though he signed and certified he would pay the taxes that were designated 4 years in a row and he couldn't bring himself to actually pay those, he is in charge. We were told at the time, Yes, but he worked so closely with Paulson on the bailout that he knows what needs to be done and he will be able to continue the same thing. Some of us said, That's a

reason not to confirm the guy. Good grief. But he has all this power.

Well, is it any wonder that the firm that donated four-to-one to President Obama and his party had the biggest profit year in their history last year? That's right. Goldman Sachs, while the rest of America has been hurting and struggling, trying to get back on its feet, Goldman Sachs is on its feet and made a bigger profit than ever, which brings me back to this.

So I have been trying to look for things to see, well, they had the biggest profit year in history. Could that be because the Federal Government is paying them all this taxpayer money to do the things that the Federal Government told America we will do, but actually they farmed it out and paying no telling how much money to Goldman Sachs to do this stuff?

Well, I did find one contract here—this amended and restated investment management agreement between the Federal Reserve Bank of New York and Goldman Sachs Asset Management. The first whereas is: Whereas, the Open Market Committee has approved the purchase by the System Open Market Account of Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and Government National Mortgage Association (Ginnie Mae). So they approved this deal, and in the first paragraph it points out that this is between the Federal Reserve Bank of New York and Goldman Sachs Asset Management, LP, designated as manager.

Then you go through and find out they're appointed to manage, supervise, direct the investment portion and appointed as the Federal Reserve Bank of New York's agent in fact. It's just amazing what all power they're given on behalf of the Federal Reserve Bank of New York. It does point out that they're going to get some nice fees here.

It says that this agent here, this manager, can hire firms to help them carry out their duties. But you have to look at attachment C to see who on exhibit C is authorized to act on behalf of this manager, Goldman Sachs Management, LP. So you flip over and you find exhibit C to this agreement. Well, my goodness, there's Goldman Sachs & Company is authorized counterparty to act on behalf of Goldman Sachs Asset Management, LP. Isn't that wonderful. Because they probably know each other. Well, doesn't that work out well?

Those were good investments they made in this last election, and yet people still continue to come to this floor and talk about how Republicans are in the pocket of Wall Street, even though the Democrats received four-to-one over the amount that the Republicans got.

Well, I know there are people in this body—it doesn't matter what kind of

contributions they got—they're going to vote what is appropriate under their conscience. Unfortunately, we've got groups on Wall Street that are awfully powerful in their persuasiveness and convincing people that giving Goldman Sachs their biggest profit year in the Nation's history, in their history, is the thing that needs to be done. That's the kind of stuff we're talking about. And Republicans are getting blamed for this, for trying to stand in the way of more monopolies on Wall Street.

And if you look at the bailout of the automotive industry with TARP funds—and the truth is, I signed on to all those letters where we said we never intended for TARP to be used to bailout the automotive industry. I signed on to those because I agreed that was not the intent. The trouble is I read the bill, and so I knew that it could be used for whatever the Secretary of the Treasury wanted to use it for, basically. Incredible power given under that bill. And now we're going to follow that up with this new financial reform bill, this new bailout bill.

That's why you've seen Wall Street firms sign on to this business of taking out the \$50 billion bailout fund. That's been done in the last few days. Why would the Wall Street firms sign on to that? Well, if you look at the bill, you find out why. They've still got the potential to be named as systemic risk by the Systemic Risk Council, Mr. Bernanke leading, and get too-big-to-fail status.

And I heard my friends. I couldn't have agreed more when they said we have got to stop this business of creating too big to fail. AIG should have been allowed to file bankruptcy. That's what the bankruptcy laws were for. They should have been allowed an opportunity to reorganize. Goldman Sachs should have been given a chance to reorganize under the bankruptcy laws, not the way they were perverted and destroyed and turned upside down with regard to the automotive industry, but followed the way they're supposed to be.

It didn't happen with the automotive industry, and it didn't happen on Wall Street, as it should have. The firms should have been allowed to go through and try to reorganize. The pain would have been so much more quickly over than when we exacerbate it. But for folks to come in and say, I want to stop this too-big-to-fail business, that's why we've got to pass this bill. They've got to read the bill. It's in there. It's still going to allow that to be going on. It's got to stop. It's in the bill.

So you wonder why you have Republicans standing in the way of the financial reform bill. Well, take out the Systemic Risk Council, take out the too-big-to-fail designation, take out the bailout for firms without going through regular bankruptcy proceedings. Take that out. The auto-

motive industry should have showed us that this is not what you do. You don't turn the law and the Constitution upside down.

People might wonder, Well, how could that have happened? You've got Congress, the executive branch, and you've got the judiciary. These are supposed to be checks and balances. But it didn't happen. The checks and balances didn't work. So you had an auto task force that was appointed by the President. And then the auto task force met in secret and refused to come up here and tell Congress exactly what was going on in those meetings. They said later, Well, we didn't really pick which dealerships would go out of business. We just told them, basically, how many had to go out of business. Why? Why was it their job?

When a firm, a company, an industry goes through bankruptcy, an effort at reorganization, you have to have a plan. And the debtor can propose the plan and you can have creditors come in and propose plans. You have secured creditors that come in and they get first choice. That's the law. That's the law as allowed under the Constitution.

We had an auto task force that put together this plan, and they said, No, we're turning the law upside down. We don't care what the law says. So we're going to take the secured creditors and we're going to give them pennies on the dollar for their secured claims, despite the law saying they get first shot, and unsecured creditors may get little or nothing. They took the unions and said, You know what? You're unsecured under the law. You may get little or nothing. And we made them like secured creditors, the auto task force did, so they own a big hunk of the company, just like the Federal Government does.

You say, Well, how could that be? Well, bankruptcy judges don't sit for life terms. They depend on the good graces of others to appoint them so they can continue to be bankruptcy judges. And many of them aspire to be district judges, where they have lifetime appointments. Who makes lifetime appointments of Federal judges? The President does. So if you're a bankruptcy and you want to one day be a Federal district judge with a lifetime appointment and somebody from the White House says, Here, sign this. It will save you months of hearings, even though the law requires them, and it does kind of turn the Constitution upside down, but just sign here. Things will be good for you in the future. Well, that remains to be seen. But it sure wasn't good for the country.

Despite the head of GM going on TV and saying, We paid back our loans, with interest, ahead of time, I know everybody else in America who has loans would love to have taxpayers loan you money and then take taxpayer money to repay the loans. But to some of us,

that doesn't really feel like a clean payback of this little area because we still own a big interest. You hadn't paid back the Federal Government for all that was put in there to save this so-called company.

□ 1800

Ruth Bader Ginsburg, bless her soul, she put a 24-hour hold on one deal and it gave some of us hope that, okay, Congress completely failed in its duty as a check and balance on the abuse of power from the executive branch, but maybe the judiciary, that third check and balance, they're coming through. Thank goodness Justice Ginsburg did that. But then, apparently, the Justices were persuaded that if you extend this stay more than 24 hours the deal will be gone and this will all go away and everybody will lose their job. You can't extend the stay.

And I'm betting there are Justices who are now saying we should never have allowed them to talk us into just allowing them to turn the law and the Constitution upside down just because maybe this deal with Fiat might not go through. Fiat had no business owning the American company unless they could do it properly, without turning our laws upside down. So the third check and balance went away, and nothing protected the Constitution, nothing protected the laws as they were passed. It's got to stop. It's got to stop.

And yet we see a bill brought before the House and Senate and, lo and behold, the Federal Government is going to take over all student loans. We're taking over the student loan business. Well, I am so grateful that my youngest daughter is graduating within the next 2 weeks. We had to do student loans to do it. My wife and I cashed out all our assets except our home in order to run for Congress, so we had to use student loans to get our girls through college. And to think that anybody in this country might have to be beholden to whoever is in the executive branch, whichever political party is controlling the executive branch is who we have to hope and pray will be kind enough to extend a student loan to us in the future? Do Democrats really want to have to depend on Republicans for their student loans based on who is in the White House? Should Republicans have to rely on who is running the executive branch in hopes that their kids will get student loans? It's the wrong way to go.

And now with the Federal Government having taken over Freddie and Fannie, we've taken over such a big part of the housing, the home mortgages, does either party or independents or tea party or progressive liberal party, do you want to be beholden to another political party in power in order for you to get a home loan or a student loan? This is where we've come. It's got to stop.

I know that in the minority we're a voice crying in the wilderness, but it's got to stop. There are people on the other side of the aisle that know that, who say this. And to my friends, Mr. Speaker, I would hope that they would all go back and read these bills, particularly the "financial reform bill," and find out that it is not as the talking points have represented. It does create the too-big-to-fail problem, and it's got to stop. I hope we will have some Democratic friends who will help us. It's tragic.

I was in a Bible study with a hero of mine, Chuck Colson, a little over 1 year ago. He pointed out that this society is resting on three legs: one is morality, one is economic stability, and one is liberty. And throughout history, as long as you had morality, you could have economic stability. But when you lose morality, it always leads to economic chaos. You have too many Madoffs out there that think it's okay to just live high and wild lives off other people's money that they've stolen. Then you have people get elected that think some people have made too much money, so I want to steal their money. But since I'm in power, I can pass laws that allow me to take their money and spend it the way I want and it won't be called stealing because we'll legalize the stealing because we have the power. And, yes, the power resides in this Congress to legalize stealing of people's money. The power rests here, but the moral authority does not.

And when I hear friends say, well, Christians ought to be helping those who can't help themselves, helping the widows and orphans, Jesus did talk about those things. Even as you have done to the least of these, my children, you have done to me. And we should be doing those individually. But He never said use and abuse your taxing authority to legalize theft of other people's money so you can give to your favorite charity. He was saying, you do it yourself with what you have. You do it. You help individually. Don't go corrupt a governmental system that was put in power, as Romans 13 talks about. If you do evil, be afraid, because God doesn't give the government the sword in vain. The government is not supposed to become a part of doing immoral acts; it's supposed to protect those entrusted to its care, and we've gotten too far away from that.

During the revolution, so many were heard to quote Voltaire—some say he said it, some said he didn't, but he was quoted as saying, I disagree with what you say, but I will defend to the death your right to say it." So many of us heard that, learned that in school. What a noble, moral concept: I disagree with what you say, but I will defend to the death your right to say it, even though it offends me. And look how far we've come.

To some of us who look at the Ten Commandments and say, you know

what? Conduct outside of those, all of us are going to break the commandments because no one—but I believe one—is perfect, but that offends. But people here have the right to, in some cases, lie, in some cases commit adultery, in some cases some of these things are illegal, but that has been changing. And we've changed this society from one in which the Founders said, I disagree with what you say, but I will defend to the death your right to say it, and we've turned it into one where what you say offends me, and not only am I not going to defend to the death your right to say it, I'm going to force you out of your job, I'm going to do everything I can to cause you to lose all of your assets, I am going to do all I can to make your life nothing but misery from now on. How did we get so far from the founding that we would want to destroy people's lives because what they have said offends?

When the Pilgrims came over, when so many of the groups that came over to what they called the New World, they were fleeing from the kind of persecution that has now started. This was a National Day of Prayer, and yet we had Franklin Graham—what a great, great man—he was uninvited from speaking to our military. We had Tony Perkins not long ago uninvited from speaking to the military at Andrews Air Force base even though he served this country's uniformed military services for 6 years because there were some who said in the administration we disagree with what you say and we're going to ruin you and try to do all we can to keep you from speaking.

The military is fighting for people's right to say what they want, and yet we're denying people the right to come speak to the military while they're fighting and dying for the right to speak freely under the First Amendment? How did that ever happen?

From 1800 to 1860, and again intermittently until 1880, there were church services held right down the hall, non-denominational Christian church services. I was asked earlier by a CNN reporter, how do you reconcile the separation of church and state with a group reading through the entire Bible in 5 days over here at the west side of the Capitol? Well, I reconcile it because I know where the phrase "separation of church and state" came from. It came from Thomas Jefferson in his letter to the Danbury Baptists.

There was nothing about preventing people from having church or having religion or praying in Jesus' name, or doing any of those things, or speaking to the military. To the exact contrary. Thomas Jefferson used to ride down Pennsylvania, according to CRS, most of the time—the Congressional Research Service, they've authenticated this—most of the time when he came to the church service every Sunday

here in the Capitol he liked to ride his horse down here, down Pennsylvania. He's the one that codified the phrase "separation of church and state" because it's not in the Constitution. It's so unfortunate that so many of our judges over the years have been so poorly educated about our history.

And then you've got James Madison as President who came to church most every Sunday he was in Washington here in the Capitol, in the House of Representatives, but according to CRS, he was different from Jefferson. Jefferson liked to ride a horse and usually Madison liked to ride in a coach drawn by four horses to come to church in the Capitol. Jefferson—who coined the phrase "separation of church and state"—sometimes brought the Marine band to play hymns for the non-denominational Christian worship service here in the Capitol.

The Constitution's First Amendment was never about discriminating against Christianity as this administration has done by uninviting people to speak to the military who are fighting and dying for the very beliefs that the people were denied the right to come talk to them about. And yet we have people who are so politically correct they're afraid to say that a guy who makes very clear about what he screams before he shoots these other servicemembers, that this is an act of a crazed jihadist, Islamic jihadist.

Thank God that the vast majority of Muslims are not jihadists of that type, but you need to recognize the ones that are and that they're out there and they want to destroy our way of life. And you can speak to moderate Muslims—many of them are afraid to speak out openly because they've become targets—but you speak to moderate Muslims, they know. They're some of the first to be killed when the crazed jihadists take over. They don't like moderate Muslims.

But the Nation was founded on principles such that the church, the Christian church, was at the heart the Declaration of Independence. Over one-third of those who signed the Declaration of Independence were not just Christians, they were ordained Christian ministers, had churches. And the church was behind the effort to abolish slavery because they, just like John Quincy Adams, knew it was so wrong. And as Adams, for about a year and a half, took a young, tall, slender, not very handsome man under his wing down the hall, as Christians, they became so close in that short time, John Quincy Adams affected him so he knew as a Christian that slavery had to end because we could not continue to be blessed by God if we were treating brothers and sisters by putting them in chains and bondage.

And he preached that sermon over and over and over just down the hall. And the churches were preaching—

some weren't, but many were—that was the heart of that movement. And what was Martin Luther King, Jr.? Dr. King was an ordained Christian minister. The church has been behind the great movements here in America, and now we're discriminating against it? We're saying what you believe in a Christian church so offends us, not only are we not going to fight to the death for your right to believe what you believe and say what you want to say, we're going to destroy you and keep you from doing anything publicly that you want to do in observing your religion. How did we go so wrong?

□ 1815

How did we go so wrong? Abraham Lincoln struggled with this terrible war that was going on because he believed in a just God, and yet this thing was going on and so many brothers and sisters were dying and it was a terrible thing. And that is why he said in his second inaugural, How do you reconcile this? He said, Both read the same Bible and pray to the same God, and each invokes his aid against the other. But he goes on and he says, If we shall suppose that American slavery, and you might substitute in there abortion, American abortion, abortion is one of those offenses of which, in the providence of God must needs come but which, having continued through His appointed time, He now wills to remove and that He gives to the North and South this terrible war as the woe due to those by whom the offense came. Shall we discern therein any departure from those divine attributes which the believers in a living God always ascribe to Him. Fondly do we hope, fervently do we pray, said the President, that this mighty scourge of war may speedily pass away. Yet if God wills that it continue until all of the wealth piled up by the bondsman's 250 years of unrequited toil shall be sunk and every drop of blood drawn by the lash, or by the abortion doctor's hand, as was said 3,000 years ago, so must still be said today, Lincoln said, the judgments of the Lord are true and righteous altogether, as he quoted scripture.

We are told it may not be appropriate for the military to hear from somebody who believes the things that Jesus taught. So you have Tony Perkins cancelled. You have Franklin Graham cancelled because they believe the things Jesus taught. You have others who we have been hearing about the last couple of days who have been uninvited to speak to military. And yet I was given by my aunt a Bible that was given to an uncle in World War II. It has this metal front, May the Lord be with you. And inside on the first page, it says at the top: The White House, Washington. As Commander in Chief, I take pleasure in commending the reading of the Bible. That is signed by Franklin D. Roosevelt.

We all need to pray that God will continue to bless America.

#### TAX CUTS

The SPEAKER pro tempore (Mr. ADLER of New Jersey). Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Mr. Speaker, I appreciate the privilege to be recognized here on the floor of the House, and I appreciate my colleague from Texas holding the ground until I come here to hold a little ground with him. I always stand on the same ground as my friend, Judge GOHMERT. In fact, all of the way from wading to shore on a free Cuba to climbing a mountain in the Himalayas, and all that free country in between and a bunch of it that is not.

I came tonight to talk about a couple of subject matters. One of them that is on the front of my mind is the tax situation here in the United States. We are watching and we watched as the two Bush tax cuts were passed over the last 8 or so years, the 2001 and then the 2003 tax cuts. May 28, 2003, is when the effective ones were passed, the reduction in capital gains, dividend taxes and a series of things. And of course the language that is there on the estate taxes which are suspended for this year, and they go on in full force at the end of this year, and nothing has yet been done. Something does need to be done.

I am for a complete abolishment of the estate tax, Mr. Speaker, and I am for the reinstatement or the extension of the Bush tax cuts, if we can get them. But we have watched as the former chairman of the Ways and Means Committee, as he was coming in to be the chair, the gentleman from New York (Mr. RANGEL), traveled around through all of the talk radio circuits and the talk television circuits, and they asked him over and over again, Which of the Bush tax cuts would you like to preserve and which ones would you like to see go away or end?

There never was a definitive answer, Mr. Speaker, but the process of elimination brought people to a conclusion over the period of November 2006 until about February of 2007 that there really wasn't a Bush tax cut that soon-to-be Chairman RANGEL would support. So we are watching now the eventual sunset of those very effective economic stimulating tax cuts that went in on May 28, 2003.

Capital understands when it gets more expensive and less of it gets invested. When less capital is invested, then there are fewer technological advances and the productivity of the American worker goes down and it makes us less competitive as a Nation. It is awfully hard to measure that, but what we can see from that period of time of November 2006 until mid-

late February of 2007, we saw industrial investment go down and the decline in industrial investment was precipitated, the economic decline that came about, about the time that Speaker PELOSI first took the gavel. We can see the data that indicated that there was less capital investment because in part—not entirely but in part—Chairman RANGEL signaled to the investment world that taxes were eventually going to go up, and the cost of capital would go up. There would be less capital invested, and that means with less capital invested, it reduces the productivity of the American worker. Reduction in American worker productivity means we are less competitive as a Nation. That means other cultures, other economies, other civilizations would be ascending and the United States would either slow or diminish its ascent economically or decline. And then we saw the economic crisis.

The calamity that goes back into the seventies with the passage of the Community Reinvestment Act and then on the heels of that came, with the Community Reinvestment Act, the effort to encourage bankers to make bad loans in bad neighborhoods and deal them off on the secondary mortgage market to Fannie Mae and Freddie Mac who had underwriting requirements that were a little too stringent for some groups in the country, particularly a group known as ACORN. And so ACORN came to this Congress and lobbied for a couple of things in the early and mid-nineties under the presidency of Bill Clinton. They weren't having a lot of success under Ronald Reagan, but under Bill Clinton they were successful enough that they were able to get the Community Reinvestment Act rewritten that put even more requirements for the lenders to make more bad loans in more bad neighborhoods and prop up real estate whose asset value couldn't support the mortgage on it.

While that was going on, ACORN was also lobbying here in this Congress, by their view successfully, to lower the underwriting standards for Fannie Mae and Freddie Mac. And they succeeded in doing that. Some in this Congress wanted to tighten the standards and wanted to move them toward complete privatization, which they used to be. And some in this Congress wanted to move Fannie Mae and Freddie Mac to complete nationalization. There was a debate here on this floor. There were several debates on this floor. The one that comes to mind for me was October 26, 2005, when at the time Congressman Jim Leach from Iowa had an amendment on the floor to raise the underwriting requirements for Fannie and Freddie, raise the capitalization requirements for Fannie and Freddie so that they would become a more viable economic institution and to move them away from what appeared to be coming, which would be the Federal Government, the taxpayers, eventually



having to bail out Fannie Mae and Freddie Mac.

Well, that amendment that was offered by Mr. Leach and supported by myself and also Mr. LATHAM of Iowa and others, did fail here on the floor in the face of a very aggressive rebuttal that came to the floor in the form of the current Financial Services Committee chairman Mr. FRANK, who said during that debate, if you are going to invest in Fannie and Freddie, don't count on me bailing them out, I will never vote to do a government bailout of Fannie and Freddie.

Well, "never" is a word that shouldn't be used by people in this business, Mr. Speaker. And I don't bring it up to be particularly critical of the chairman of the Financial Services Committee, Mr. FRANK. I point it out because "never" didn't last very long. It lasted maybe 4 years, moving on 5.

But when President Obama signed the executive order that finally swallowed up all of Fannie Mae and Freddie Mac, and we had to go in and bail them out at the end of the Bush administration, that is true. The Executive order before Christmas swallowed up the rest of this, and the Federal Government, the taxpayers of America, took on \$5.5 trillion in contingent liabilities with Fannie and Freddie. Now they are completely, no longer a quasi GSE, but they are completely owned entities within the Federal Government and the taxpayers are on the hook for all of it.

Now, let's presume that Fannie and Freddie could be operated at a profit. Gee, that would be nice. But we know how government works when it comes to profit. They don't have the right incentives, and eventually it can't work.

So the Community Reinvestment Act was passed in the seventies, refreshed in the nineties under Clinton which put more pressure on lenders to make bad loans in bad neighborhoods. ACORN lobbied for that. ACORN also lobbied to lower the underwriting standards so that Fannie and Freddie could swallow up the secondary market. Fannie and Freddie did that, and today the Federal Government owns more than 50 percent of all of the home mortgages in the United States and the taxpayers are on the hook for the default of those mortgages in the United States.

We also had mark-to-market accounting which was put in place during that same period of time. Mark-to-market accounting is a system whereby on your balance sheet you have to write down the marks and what the actual bids are for those commodities.

So, Mr. Speaker, I would put it this way. I happen to know a bank in the area, in the Midwest, that had \$60 million worth of commercial paper. That commercial paper had always performed, it had always paid and drew a reasonable interest rate. It would be the equivalent of a very effective, well-

established company that had an operating loan that they funded through this commercial paper. It had a market and a value to it, and the value was \$60 million. And that was on the balance sheet of the lending institution.

But when we saw the downward spiral and the threat that could have been a crisis in credit in America, there was not—temporarily there was not a market for that commercial paper. So that lending institution, even though commercial paper had always performed, even though the company was viable and made their loans, the value of that had to be marked from \$60 million down to zero, let me just say, figuratively speaking, overnight; \$60 million down to zero. Now there is no asset value. We had lenders that were being pressured by FDIC regulators coming in to turn up the capitalization requirements to the banks and require them to, let's say, solidify their balance sheets and to make up for the missing \$60 million. It was a temporary situation.

And to make sure, Mr. Speaker, that people can understand what mark-to-market accounting is, I would use this example. I think whether you are a city person or whether you are a country person, whether you are a farm or some other type of economics, you can understand this. I come from corn country, and so let's just say that under mark-to-market accounting rules it would work like this: If a farmer had 100,000 bushels of corn in his bin, stored on his farm, dried, 15 percent moisture in good condition, he would look at that, and let's just say the market price for that corn was \$4 a bushel. So in those bins on storage in the possession of this farming operation, there would be then \$400,000 worth of corn. That is 100,000 bushels at \$4 a bushel. That could go on the farmer's balance sheet at that amount, and you may want to mark it down less shrink and less the basis to the marketplace. But for simplicity sake, \$400,000 worth of corn on the balance sheet, stored in the bin in good condition.

□ 1830

Now, that's all real fine, but along comes a flood, maybe a flood like we've seen in the tragedy in Tennessee, who the folks down there our hearts go out for, Mr. Speaker. But along comes a flood, and it washes out all the bridges all the way around the farm, and it washes out the bridges in the area. So the grain elevator where the bids were coming from at \$4 a bushel is shut down. They're operating. They're in good shape. They've got their generators running, and their grain storage is okay. But no trucks can go to haul any grain. Nothing can move. And so magically, there would be no bids for the corn a day after the flood washed out the bridges, and there would be no bids

for corn until the bridges were put back in place. That could take months, or it could take days, depending. Well, let's just say a couple of months before the bridges can be put back together. In that period of time, that corn would sit there. It would be in good condition. It would be worth \$400,000 someplace else, but not \$400,000 sitting there, because he didn't have a bid where he delivered the corn. He can't get it out. So this farmer that had \$400,000 worth of asset value would have to write that down to zero on his balance sheet.

Meanwhile, the bridge is still open to go to the bank. You need to borrow money to operate from so you can pay your bills. But he couldn't borrow the money because his asset value had gone from \$400,000 down to zero, even though that corn would have some value when the bridges were put back together. That's what mark-to-market accounting does. It accelerates the downward spiral with market trends going down and distorts them and takes us down into the economic decline, or it accelerates the upward spiral and distorts the markets that way, because when you get temporary upticks in the market, then the assets go up almost immediately in direct proportion, which increases the borrowing capacity of that balance sheet.

We need a better system. The mark-to-market accounting system was abolished in 1938. It came back on us again in the Clinton era, and when it did so, it helped set the foundation for the economic crisis that we have been in. And now here we are with the President having spent a couple of trillion dollars or more, taking over the economy of the private sector in the United States—not all of it, but certainly a majority of the private sector activities have been taken over. It started the end of the Bush administration, accelerated in the Obama administration, and we have three large investment banks—AIG, Fannie Mae, Freddie Mac. You've got all of the student loans swallowed up in America, and General Motors and Chrysler were taken over by the Federal Government, with 61 percent of the shares of General Motors owned by the Federal Government. That's the taxpayers' investment.

And when General Motors is running an ad that says they've paid off their loans, yeah, they did that, all right. They paid off a loan. I don't remember the exact amount of that, but it was in the low few billions of dollars. Meanwhile, the taxpayers are still holding 61 percent of the shares. The Canadian Government's holding 12.5 percent of the shares. The unions were gifted 17.5 percent of the shares of General Motors. And we're watching ads that say that General Motors paid us back?

Well, then, why didn't Tim Geithner sell those shares of General Motors into the open market? Why doesn't he divest the Federal Government from



their ownership in General Motors? If this administration doesn't believe that they should be in the private sector, why are they running banks, insurance companies? Why have they taken completely over Fannie and Freddie? Why are they running two car companies? Why did they take over the student loans? Why did they nationalize our bodies?

Mr. Speaker, that's not a misstatement, and it's one perhaps for those who have not heard of this before, they should pay attention a little to the description. But the most sovereign thing we have, the most valuable thing we have is our health, our physical body. And part of our freedom is to be able to buy a health insurance policy that suits our needs and make the demands of the insurance companies that there's a market for what we want to buy so they produce a policy that meets our demands.

Up until a month ago, there were 1,300 health insurance companies in the United States and approximately 100,000 policy varieties that could be chosen from. So if you're a consumer out there on the market, you could look around at those 1,300 companies and decide which one you'd like to do business with, weigh the merits of their policy, settle on the company, look through the variety of policies, and between all those policies, 100,000 policy varieties, choose your policy. That's a lot of choices. You don't have that many choices in the grocery store on how many different kinds of food you want to buy, but it sure looks like choices when you walk into the grocery store. Health insurance in America has a much, much larger selection—or it was—than you find seeing single individual items in the grocery store, because the markets had demanded those kinds of varieties and the companies were seeking to meet the demand.

But now under ObamaCare—in effect, by the year 2014, every health insurance policy in America will be effectively canceled by this government. They will all have to be refreshed and requalified, and there isn't a single policy that exists today that the President of the United States can point to and say, Joe, Sally, your policy, the one I told you, Don't worry, you get to keep it, you can't say that you get to keep it.

Have you noticed that? Have you noticed, Mr. Speaker, there hasn't been a single policy that's been pointed to by this administration, let alone the President of the United States, that they can say to any consumer out there, This is your policy, and you can keep it. And even if they could find a policy that they could tell you you could keep, they can't tell you that it's going to not cost you any more money. They can't tell you that the premium's not going to go up. And when I make

that statement, they will throw up their hands and say, Well, obviously we can't because health care costs are going up. It's a natural thing for them to go up double digits while inflation is going up single digits. But the followup to that is, Yes, you can throw up your hands and say that.

But the other thing that cannot be stated by the President's spokesman or by the President or by this administration or by Speaker PELOSI or HARRY REID or anyone else, no one can make the statement that health insurance policies are not going to be increased because of ObamaCare's passage. Yes, they will be. They certainly will be.

We see a community rating of seven to one today. That means that the cheapest policy is going to be one-seventh the price of the most expensive policy. This pushes it into three to one. That means that that young person that's paying for a health insurance policy that is—let's say, if it's \$100 a month, the most expensive policy out there would be \$700 a month by that comparison. But with this new legislation that's there, for the \$100 a month, the highest then can only be \$300 a month. So we know what happens. The person down on the lower side with the cheaper premiums that is a lower risk will pay a lot more for their premium because the upside of this thing has got to be ratcheted down some.

We saw some numbers, and I can only go to a generalization now because it's far enough back in my memory. These are numbers that had to do with Indiana. We saw a 23-year-old healthy young man's insurance go up almost triple, and we saw the family of four at age 40, two kids and a mom and a dad, we saw their insurance go up a significant amount, and the only people that had a lower premium would be the couple in their early sixties with marginal health that would see their premiums drop off perhaps 11 percent, which is a number I do have confidence is a correct one. So the people with the highest premiums might see an 11 percent reduction. The people with the lowest premiums might see as much as a 300 percent increase in their premiums, and that's why the President can't point to anybody's policy and say, We're not going to increase your costs.

And he can't, either, guarantee that you're not going to lose your policy, because a lot of companies are going under in this. There will not be 1,300 health insurance companies doing business in the United States 5 years from now or 10 years from now. And if the President had his way, there wouldn't be anybody doing business in health insurance in America except the United States Federal Government. And if you wonder if that's a stretch of the imagination, Mr. Speaker, I can give you two examples. One of them is the Federal flood insurance program.

In the early sixties, all the flood insurance in America was private sector.

Property and casualty, if you wanted to insure yourself against a flood, against the river waters coming in and filling up your basement, you went to a private property and casualty insurance company that would write you up a policy and set a premium. But this Congress, "in its wisdom"—and I say that in quotes that this Congress, "in its wisdom," decided that the premiums were too high and the varieties of policies for flood insurance in the early sixties were not great enough, and so they decided to set up a Federal flood insurance program that would provide one more alternative for the consumers to put some competition into the property and casualty business with regard to flood insurance.

Does that sound familiar, Mr. Speaker? I'll submit that it clearly does, because the President said he wanted one more health insurance company to provide competition for the other health insurance companies. He said we didn't have enough competition in health insurance. I don't know why he's forgotten about that. I have not, and I will not. So when the President of the United States says, We just want to add one more competitor, we don't have enough competition, and that competitor will be the Federal Government, as soon as you inject the Federal Government into the private sector—or what was the private sector in this case—then you have an unfair competitor with a comparative advantage. They don't have to be profitable. The Federal Government doesn't have to be. If they run up short, they just tap into the pockets of the taxpayer, and we run up an IOU that might be raiding the Social Security Trust Fund in Parkersburg, West Virginia, where every single dollar has been raided by this Congress. It might be borrowed money from the Saudis or the Chinese, provided they are willing to loan it to us and jack up the interest rates. They will. But the Federal Government does not have to be profitable. And they wouldn't have to be profitable with health insurance, which is an unfair comparative advantage that would drive some of the health insurance companies out, probably lots of them, and take this where the President wants it to go, single payer.

The President, as a candidate, consistently argued that there should be one entity that paid for all health care in America. That would be the Federal Government taking over all of those 1,300 health insurance companies and those 100,000 policy varieties and those hundreds of millions of Americans that have legitimate health insurance programs. Eventually, the President wanted to take it all over, but he had to fall back on an argument of just providing some competition because the American people rejected that.

So we're supposed to believe that the idea of wanting the Federal Government to sell insurance was just an innocent thing that was designed to provide more competition. Well, we rejected that. And by the way, the United States Senate rejected that. So we didn't end up with an ObamaCare package that has a Federal health insurance component to it other than they're regulating every single policy in America, canceling every policy in America, deciding which ones they want to renew, setting up community ratings that go from seven to one down to three to one and driving up the premiums.

But what comes from all of this, Mr. Speaker? I'm taking you then back to property and casualty insurance. The private sector that used to insure all flood insurance in America saw their competitor come in. I think the year was 1963, plus or minus a year. I'm real close. And 1963 is going to hit it, actually.

In 1963, the Federal Government came in and provided us one more flood insurance company to provide a little more competition to level the playing field for the people who lived in the floodplain that didn't have enough alternatives. That sounds exactly like the argument that we have today. So the Federal Government got into that business. And over a few years, the property and casualty companies, those private sector insurance companies that reflected the risks and the market in the premiums that they charged—and yes, they're in it for a profit. Thank God for profit. It's done more for the world than all the missionaries that went anywhere. As much as I believe in faith and the Lord's hand in everything that goes on on this planet, free enterprise capitalism has been a wonderful contribution to the well-being of all humanity, and it was a contributor in the flood insurance and property casualty insurance.

But the Federal Government got in the business in 1963, and over a period of time—and not a very long period of time—slowly those private sector companies realized they couldn't compete with Uncle Sam because they had to make a profit and they had to charge premiums that reflected the risk. So they dropped out, and for a long time, and certainly today, we cannot—no one in America can go out and buy flood insurance from the private sector. It all is sold by the Federal Government.

The Federal Government has taken over the flood insurance program in America lock, stock and barrel, root and branch, all of it. Every single vestige of flood insurance is all controlled by the Federal Government today. They set the premiums not by risk. They set the premiums by whatever bureaucrats think they ought to be, and they don't have to be profitable.

So that would explain why they are \$19.2 billion in the red in the Federal

flood insurance program, and it would explain why in my district, FEMA has come out and has a new ruling that broadens the floodplain dramatically. It's just breathtaking to look at the map of the floodplain that was in blue—and, by the way, national banks that are making loans on mortgages that go into these floodplains require flood insurance to be paid and premiums to be paid.

So when they're in the red \$19.2 billion and they can't figure out how to charge premiums that reflect the risk and be able to get by with it because people probably can't afford those premiums, but they've expanded and developed their real estate in the floodplain based upon those premiums, having trouble raising the premiums on the people that owe the national banks money that had to buy them, so FEMA puts out a new map, a new map that widens the floodplains dramatically. These tiny little narrow areas become wide areas in the whole river valleys. And in one area, just one area within one of my 32 counties, there are 2,200 individual real estate parcels, most of them rural, that are now in a new floodplain created by FEMA's map and ruling, 1,100 property owners, 2,200 new properties, all of them now in a situation where they're going to have trouble expanding and building.

□ 1845

A lot of them are going to have to pay increased premiums for flood insurance that they didn't even have to buy before because they were out of the floodplain, and the Federal Government cashes in. If I take this plan that they're trying to implement in my district and if I multiply it across all the real estate in the United States where it is awfully hard to use, the model that they use goes clear back to the early 1970s. It's nearly 40 years old, this model. The technology that they use is nearly 40 years old, so I can only guess.

If I use what they have in one of my counties as a measure, it looks to me like FEMA will be able to collect enough premiums that they can, maybe, recover their \$19.2 billion and more. Maybe FEMA will make so much money off of this that they'll be able to help subsidize Fannie Mae and Freddie Mac. Don't hold your breath, Mr. Speaker, but this is 40-year-old technology.

We know this: anybody who has ever filled any sandbags and who has fought a flood knows, first, that the adrenalin rushes up in your blood. As the water is coming up, your adrenalin boils up in you, too, and you work harder and more feverishly as the water comes up. Many times, those sandbags along there are just, maybe, high enough, an inch or two, because you're stacking them on there as the water comes up. They're maybe 5, maybe a half an inch or a half a foot, maybe 5 inches or a half a foot—or even a foot.

Do you know, Mr. Speaker, that the FEMA model is so imprecise and of such ancient technology that their accuracy is within plus or minus 10 meters? That's 10 meters. Now, I didn't do the precise multiplier on it, but let's just say it's 30 feet, plus or minus. Let's just say they're right on the average. Let's just say I stand on this floor, and they say, Well, the flood might be here or it could be 10 meters up. Well, in looking at the ceiling of this Chamber, they could be that far off. They could be off more than 30 feet on the elevation of the water that they're predicting.

Meanwhile, we have the Corps of Engineers, which has hydraulic models that can tell us whether we can build in a floodplain and what the flow is and how we might have to construct our structures so that we don't constrict the flow when we have a flood. They can tell us where the 100-year flood event is and where the 500-year flood event is.

Yet who should be surprised that FEMA and the Corps of Engineers can't get together on this and use modern technology? I'm wondering if they have the will or if it happens to be that someone decided that they could just use this 40-year-old model that is plus or minus within 10 meters and impose flood insurance premiums on a whole bunch of Americans, who are unsuspecting and who are probably unable to pay these premiums, to make up for the \$19.2 billion in loss that they've got in flood insurance.

Now, I tell this long story to describe what is in store for us if ObamaCare is not repealed 100 percent—every single bit of it—and done in the shortest order possible at the will of the American people. Though, before I get to how ObamaCare will transform out, it is really worthwhile for us to look back and see how the Federal Government swallows up other formerly private entities.

Back during that period of time when the Federal flood insurance was passed, it was also true that education loans were private sector. If you wanted to go off to college, you went and borrowed the money from the private sector. Then they set up the student loan plan as a means to provide other alternatives so that private lenders weren't handling all of the student loans. The Federal Government came in and did that, by my recollection, at about that same period of time.

What is predictable about this? What is predictable is, if the Federal Government gets into a business to compete, they have an unfair advantage, an illegitimate comparative advantage. They don't have to have profit. They don't have to balance their books. They don't have to be good at it. They just have to drive the competition out. They do what a monopolist would do. If

somebody is trying to become a monopoly, they try to drive all of their competition out by underpricing, and they distort it to the point where nobody else can stay in the business. Then they're the only one in the business. Then they start to jack the prices up again.

Well, it took the Federal Government a long time, but in the dark of the night, in the heat of the ObamaCare battle—in the recision legislation that slipped through this Congress without an opportunity to evaluate it—there was the sneaky piece of legislation that converted what was left of the student loan plans from the private sector into completely the maw of government, itself.

So, in this period of time that I have described, we have seen the transformation of a completely private, independent-standing property and casualty flood insurance that faced a Federal Government that wanted to provide just one more competitor into the marketplace so that people had more choices and a Federal Government that swallowed it all up and that drove everybody out of business and a Federal Government that has done so, the same thing, with the student loan program in the United States. They had to hitch it onto ObamaCare to do it.

What a bunch of cynics that they couldn't do something like that in broad daylight in front of all of America. No. They had to stick it in when they had the major diversionary tactic of another swallow-up of the private sector—remember, a month ago or 6 weeks ago, whatever that date was—of all of the health insurance in America.

Some will say that there are exceptions—Medicare, for example. Medicaid would be another. Then you can argue whether those are insurance policies or government programs to pick people up when they're destitute and to take care of them when they reach retirement age. But for those folks who are under Medicare eligibility or who have incomes outside of Medicaid, we didn't see a Federal health insurance program except for SCHIP, which is the State Children's Health Insurance Program. This was another effort to try to close this gap.

There has been effort after effort for the liberals, for the progressives—for the people who just simply deny the liberty of the American people—to take over the health care in America.

Bill Clinton stood here, I believe, on September 13 in about 1993, and he gave his health care speech. He wanted to take it all over then. He turned Hillary loose with HillaryCare, and Hillary began meeting in private and in public. She actually had more public meetings, I think, than we had this time around. Although, we were quite critical of the private meetings she had, too. She wrote a bill, and that bill was the government takeover of health

care. Well, they couldn't get that done. Bill Clinton came back, and he said, You know, we can't get this done, but we're going to do it incrementally.

I believe in that September 13 speech he actually made the proposal—and I know I can find it in his speeches during that era—when he wanted to lower the Medicare eligibility from 65 to 55. That's when they brought the idea of SCHIP, the State Children's Health Insurance Program, which is set up to buy very, very cheap health insurance for kids. They put that out through the States. In Iowa, it is known as Hawkeye with a little better than a 2 to 1 Federal match.

So, when you're sitting in a State legislature, the Federal Government says, You know, help out with some of these cheap health insurance premiums for these kids who can't afford them. Otherwise, here's what we'll do. If you'll put \$1 down out of your State tax coffers, we'll put \$2 and change down. Let's see. I think it's 70 percent funding by the Federal Government and 30 percent by the States.

The States adopted it because it was—do you remember the phrase?—free money, Mr. Speaker. Well, nothing is free. We know that, but it was viewed as free money by the State legislatures. They adopted SCHIP. In Iowa, it was Hawkeye.

Then at the same time that Bill Clinton would have liked to have dialed the Medicare eligibility age down to 55, you can see what's happening. If you reduce the age of eligibility for Medicare and if they're seeking to expand Medicaid—and they've been doing that and have been lowering the standards for eligibility to Medicaid from the lower income side of the scale—and if you make these kids eligible for SCHIP, you're squeezing this from the outside, from the middle. You're lowering the senior age to 55, and you're making sure you're insuring the kids—pick your age—well into their 20s.

We had States that had as high a percentage as 66 percent of people who were not kids but adults who were on the SCHIP program. Wisconsin would be one of those States. There was another State that went higher than that. It may have been Minnesota. They had a number that went up into the 80s. I think it was 87 percent. So they were using SCHIP to expand it where they could provide health insurance premiums for people because they wanted to have a single-payer plan eventually. That's what was going on with the strategy of trying to establish this single-payer plan.

In the middle of all of this, you know, the Republicans came in, and we fought some of that back. Then Nancy PELOSI was finally elected as Speaker of the House. What did she bring to us here on this floor but an SCHIP program, which had been set at 200 percent of poverty so that a family of four at

200 percent of poverty in my State would be set at about \$52,000, in order to turn it up to 400 percent of poverty. It passed the House at the insistence of the Speaker, and I was the only member of the Iowa delegation to oppose it. It would have gone to 400 percent of poverty, which would have meant that a family of four in Iowa who was making \$103,000 a year would have had the health insurance for their kids paid for by some taxpayer who would probably not be making that much.

While that was going on, there would be people who would have to pay the rich man's tax, the Alternative Minimum Tax. There would be 70,000 families in America who would be paying the rich man's tax, the Alternative Minimum Tax. I have trouble saying "AMT" these days. It's the Alternative Minimum Tax. There would be 70,000 families who would be paying the Alternative Minimum Tax who would still be eligible for the SCHIP funding for health insurance for their children.

Do you see where this goes? If you have the subsidy at the means testing side of this where lower income people are multiplied from 100 percent of poverty, to 200 percent, to 300 percent, to 400 percent—and by the way, we ratcheted it back down to 300 percent—and allowed \$3 billion or more worth of Medicaid funding to go in and fund illegals into the market of all of that, it squeezes it against the middle.

Can you imagine, Mr. Speaker, someone who would be about 45 years old who would watch the eligibility of the Medicare age drop down to 55, who would watch somebody who is collecting SCHIP who is now 35 years old and who would watch those at 400 percent of poverty—families with \$103,000, families of four—having their health insurance premiums paid while they would still be paying the Alternative Minimum Tax? People are looking at this, thinking, Well, the people 10 years older than I get free health care, and the people 10 years younger than I get free health care. I'm the one who's working, who's paying for my own premiums and raising my own family, and everybody else is, too. Why do I try? Do I do that because I'll have higher quality health care?

Yes, that would be a good answer. The people who are responsible should live a little better than those who don't in this country. We have got to leave incentives in place.

That was the strategy—to squeeze the middle, to put such a load on the people who were still paying for their own or who were earning their own health care, their own health insurance at their workplace or wherever their deal might be, that they would just capitulate, throw up their hands and say, Give me the European model. I've got it anyway. I'm paying for it for everybody else. Why am I buying my own with after-tax dollars? That is the strategy.

It is so cynical to crush the spirit of people, to take away their constitutional rights and to impose upon them a national health care act. It was rejected during the Hillary era. They called it HillaryCare. They rejected it in Massachusetts, Mr. Speaker. The people in Massachusetts rejected ObamaCare. Still their hearts were hardened, and still they were determined to come down here and impose the policy on the American people.

Well, I'm not letting it go. I will not let it go for a whole series of reasons, but the constitutional reasons are the most important ones.

It is unconstitutional to require any American to buy a product that is either produced or approved by the Federal Government under penalty of law. It has never happened in the history of this country. It is a violation of a series of components within our Constitution—and don't think I can't come up with them, Mr. Speaker. Certainly, I know what they are. They are four places.

It is a violation of the Commerce Clause because there will be and always have been babies born in States who didn't advantage themselves of any kind of health care whatsoever. They didn't participate in any commerce when it came to health care, and they maybe didn't travel outside of their States at all, so there wasn't even the risk of their going out to be eventually, potentially, picked up by ambulances in other States. The risk didn't exist, so they didn't use health care in the States they lived in. They didn't go outside the States they lived in. They lived lives long or short, healthy or not, and passed away into the next life never having engaged in interstate commerce that had anything to do with ObamaCare, which means it's a violation of the Commerce Clause, swift and certain, without a lot of hard analysis required.

If the Commerce Clause doesn't apply to say that the passage of ObamaCare is verboten under the Constitution, if the Commerce Clause doesn't apply on ObamaCare, then it doesn't apply whatsoever for anything imaginable, and it's no restraint whatsoever. You would believe that if you were an activist judge. I reject that.

The second part is that it's not in the enumerated powers. There is nothing there in the Constitution that defines any power to impose an obligation by any citizen or any person in the United States to buy a product that is produced by the Federal Government or approved by the Federal Government. That's the second thing.

The third thing is that it violates the Equal Protection Clause of the Constitution.

We're going to go to four here, Mr. Speaker.

The Equal Protection Clause of the Constitution says that all citizens

whatsoever shall be treated the same regardless of race, ethnicity, national origin or the color of their skin, which is the whole list of the things that are there within title VII of the Civil Rights Act.

□ 1900

Well, people are treated differently in the States. The Cornhusker kickback notwithstanding, still the legislation treats people differently in Louisiana than it does in the rest of the country, Florida than it does in the rest of the country, several other jurisdictions or something like eight to 11 different areas in ObamaCare that treat people differently depending upon the geography of where they live. That's forbidden under the equal protection clause of the Constitution.

Fourth thing, and this is where we get to, it's a violation of the 10th Amendment. Not only is it not in the enumerated powers to impose this ObamaCare on Americans, but those powers that are not specified in the enumerated powers of the Constitution are reserved for the States or to the people respectively. And this is a violation of the separation of powers doctrine, which is in the 10th Amendment.

Four places, Mr. Speaker. It's not in the enumerated powers; it's a violation of the commerce clause; it's a violation of the equal protection clause; and it's a violation of the 10th Amendment. This Supreme Court will see these cases eventually, and when they do, an honest reading of the Constitution compels the Supreme Court to overturn the ObamaCare legislation. And I understand, and I have not read every word in there, that there's not a severability clause in that. And if that's the case, any component most likely that's found unconstitutional throws the whole business out.

I wish we had a provision that would put all of that paper back in the tree, Mr. Speaker, and give people back their liberty because that's what this bill does. It violates the Constitution and it takes people's liberty.

It takes our freedom to buy a policy that we want. It nationalizes our body. It takes over the most sovereign thing that we have, that's our skin and everything inside it; and the Federal Government manages when we get the tests, what policies we will be able to buy, what the premiums will be. They'll regulate the premiums. They will decide what's offered in the policies, and the Federal Government will impose mandates on those policies that we don't even see in the legislation.

There will be mandates there for contraceptives. There will be mandates there for mental health. There will be mandates there for drug treatment. There will be mandates there probably for physical therapy. And we see also an effort to tax your pop if it's not diet pop, tax your soda if it's not diet soda.

They want to tell you what you can eat and what you can drink. The next thing they'll be doing in this super-uber nanny state is run us across the scales and tax our fat. That will actually be the simplest way. If they're going to tax our diet, I wish they would just let me alone, run me across the scales and tax me by the pound.

But I want the freedom to eat what I want to eat, buy what I want to buy, live the way I want to live. And I want to be able to make my own decisions on whether I am going to exercise or whether I am going to go to a health club. And if my insurance company wants to set up an incentive for that because it's cost effective and they can offer me a lower premium, I'm quite likely to take advantage of that, and I think many Americans would do the same.

But this Federal Government cannot be allowed to continue on becoming even more of a nanny state than it already is. We've got to reject that, Mr. Speaker. We've got to abolish ObamaCare. We've got to pull it out root and branch so that there's not one vestige of it left behind, not one particle, not one cell, not one DNA particle of ObamaCare left in this Federal code because if we leave it, it's the equivalent of going in and removing a malignant tumor and leaving part of it there. It still is at great risk of metastasizing; and when that happens, it's the death knell to freedom and liberty in the United States of America.

We are not some other people. We are not the mirror of Europe with the stirring in of the later generations of more newly arriving immigrants, legal and illegal. We are a unique people. We have a unique character and a unique quality about us where we stand alone, apart from the rest of the world, for a lot of reasons, Mr. Speaker. Some of those reasons are self-evident, and some of those reasons are in the Declaration, and some of them are in the Bill of Rights. Some of them are actually in the Constitution in a broader sense.

But just to enumerate some of those reasons for American exceptionalism, and it's not politically correct to remind people but it's necessary that we do this, that we talk American exceptionalism, a number of them are these: we have the rule of law. The foundation for that is the Constitution. The philosophy for the Constitution is in the Declaration. We have the right to life, liberty, and the pursuit of happiness. And life is the paramount right, and it is paramount to liberty, which is more important than the pursuit of happiness.

So working from the bottom of the scale up, Mr. Speaker, it works like this: someone in the pursuit of their happiness cannot infringe on someone else's liberty because liberty trumps pursuit of happiness. And, by the way,

pursuit of happiness, it was understood by our Founding Fathers to go back to the Greek meaning, which the Greek word for pursuit of happiness is eudaimonia, which in its definition speaks to a search for knowledge, a search for truth, and it implies both the physical and the mental. So to be sound in body and mind and in a search for truth and a search for knowledge, that's the pursuit of happiness because they believed that out on the other end of that scale that ultimate knowledge would provide that ultimate level of happiness. And there's some wisdom in that philosophy. It's Godless, but there's some wisdom in the philosophy of achieving ultimate knowledge. Pursuit of happiness was eudaimonia, that search for knowledge.

But someone in their search for knowledge, in their pursuit of happiness/knowledge, cannot travel on someone else's liberty. Liberty is more important than the pursuit of happiness. And someone in the search for their liberty cannot use that liberty to take someone else's life. Individual life is too precious. It cannot be taken by someone because they say they have a liberty. Neither can someone who is in pursuit of their happiness take someone else's liberty because it makes them happy. Our liberties are guaranteed here, and the infringement upon them is that we have to respect life more than liberty. We have to respect liberty more than the pursuit of happiness. Those are prioritized rights that are self-evident that come from God, endowed by our creator.

And here we sit in the United States with that philosophical foundation in the Declaration that was basis for our Constitution and the rights that are there that made America a great country—freedom of speech, religion, press, the right to peaceably assemble and petition government for redress of grievances, the right to keep and bear arms. Moving up the line, the right to be free from double jeopardy and to be tried by a jury of your peers.

And the right to property in the Fifth Amendment, which has been amended now in the Supreme Court of the United States in the Kelo decision where they struck the words “for public use” out of the Fifth Amendment, which says “nor shall private property be taken for public use without just compensation.” Now the effect of the Kelo decision was that Fifth Amendment has been usurped by the last nine people that should be amending the Constitution, the Supreme Court Justices—it wasn't nine, by the way, and I applaud those that opposed it. But now the Fifth Amendment reads: “Nor shall private property be taken without just compensation.”

Mr. Speaker, I know mentally you put “for public use” in there, but they took it out. Local governments now occasionally, and I hope not routinely,

confiscate private property, individual private property, and they give it over to other private property owners because they think they will get more tax dollars out of it.

But property rights are a foundation of the success in America. And along the way, free enterprise capitalism is another foundation for the success in America.

So you can buy a piece of property and it's yours. As long as you pay for it and pay the property tax on it, you get to keep it. And that can be the basis for your equity that you engage in starting businesses, setting up factories, building homes, expanding farms. Those things that have been the basis of our prosperity are rooted in the rule of law, the right to property, free enterprise capitalism. Also the moral foundation that came over for the freedom of religion rooted in our Judeo-Christian values, which are the thread of our culture today. All of those are reasons why America is a great country.

Another reason is because we have skimmed the cream of the crop off of every donor civilization that has sent legal immigrants to the United States. The cream of the crop, the people with the vigor and the vitality and the dream. And they found a way to get on-board a ship or whatever means they could to come here and enter into the United States through a legal port of entry to chase their dreams.

And some of them came with a significant amount of capital to give it a go. And a lot of them came with the clothes on their back and the possessions they had in their bag, like my grandmother. And as they arrived here, they began to carve out their American Dream with the kind of vision and the kind of vigor that gave them the idea to come here in the first place. This America, this land of almost unlimited natural resources, a land that has the very foundation of liberty and freedom as the essence and the core of its being, welcomed legal immigrants here who were called by that clarion call of liberty and freedom and property rights and unlimited natural resources and unlimited opportunity in a moral society that was rooted in Judeo-Christian values. And they came here and built a Nation in the blink of a historical eye, settled the North American continent, expanded manifest destiny from sea to shining sea. And all of this has attracted people to come to America.

Now, we are either the first generation immigrants that came here, hopefully legally, with that vigor of that dream or the second, third, fourth, fifth, or multiple generations, the descendants of that same dream, imbued with American self-confidence and American can-do spirit and a confidence that we can face any challenge, we can bear any burden. That's the American spirit.

And we cannot be capitulating to the European utopian version that's going to have a social program to fix any ill. We can't be trapped into this idea that we can sit down and produce some kind of a policy that will solve every problem. All we need to do is have our default system come back to the Constitution, come back to free enterprise, come back to individual responsibility. If we do all of those things and adhere to the Constitution itself, free enterprise capitalism, maintain our moral foundation, nurture the family unit as the means through which we pour all of our values, if we do all of that, America will be just fine.

But Jimmy Carter, when he was running for President and as he was exploring the first-in-the-nation caucus and establishing that as a viable route to the Presidency in Iowa, I read in an interview back in those years in the mid-1970s where Jimmy Carter said the people that work should live better than those that don't. Now, I don't know that Jimmy Carter ever actually acted on that, but that's what he said, and it caught my attention. It was a very simple way of describing this. The people that work should live better than those that don't.

Well, that's not the prevailing philosophy in this Congress any longer. It is the people that don't work need to live as well as anybody. So we have 72 different welfare programs, according to Robert Rector of the Heritage Foundation. In the mid-1990s when we reformed welfare—I wasn't here—but when this Congress reformed welfare in the mid-1990s, there wasn't the dramatic drop in the cost in welfare. It reduced it a little bit and then it stayed on a plateau and then it climbed again. The welfare has been climbing at a rate that's comparable to or greater than the rate that it was climbing going into the mid-1990s. And we have accepted this. I don't accept it but this society has.

This society has also accepted rampant drug abuse so that there's a huge demand for illegal drugs coming out of Mexico, from or through Mexico. That is the core of the problem that we have with the border today and the violence on the border today, and whatever we do to help the Mexicans and seal our border, we need to do that. We need to stop the bleeding, but as long as there is a powerful demand in the United States for tens of billions of dollars in illegal drugs, then there will always be the illegal traffic coming across the border.

□ 1915

Mr. Speaker, this is a bit of a rendition on where America is today, a little bit on how we got here, a little bit about the economics of it, a little about the history, a fair amount about what's going on with ObamaCare.

This is my statement and my commitment, that I will not rest. I will

continue to turn the pressure up to get the passage of the repeal for ObamaCare that I have introduced in this Congress and now should have, if I can add this up, 66 cosponsors on this legislation today.

Mr. Speaker, the number of the legislation, should you choose to look it up and sign on is H.R. 4972. That's the legislation that will one day, at least the language of it if not that particular bill number, arrive at the President's desk, where this President would veto it. But with a new majority in 2011, we will have the votes in here to shut off any funding of ObamaCare so that it cannot be enacted.

It doesn't become fully enacted until 2014. So 2011 and '12 this Congress, has to start all spending, by the Constitution. We say, no, there won't be any funding for the implementation of ObamaCare, so we will put it on ice for 2011 and 2012. While that's going, we will put the repeal on President Obama's desk and make him veto it. And when he vetoes it, we can take a look and see if we can override it. That will be very hard, but it's not completely impossible.

But in 2012 we elect a new President and a new Congress. And that new President and new Congress need to take the pledge that I have taken, which is plank number one, full 100 percent abolishment of ObamaCare, all of it, without any hesitation, without any caveats.

And let's put that on the desk of the new President, Mr. Speaker, that will be sworn in January 20 of 2013. And while he stands on the west portico—we will gavel in on January 3, 2013, in here. That's what the Constitution says we do. We will be thy then in a position where we can pass the repeal of ObamaCare, have it sitting there so that when he takes his oath of office January 20, 2013, and puts his hand down as the President of the United States, his first act, Mr. Speaker, can be to put his pen to the bill that repeals ObamaCare and sign that legislation on the spot at the podium on the west portico of this Capitol building and give America back our economic freedom, but more importantly, give us back our human liberty.

That's the goal that we have to follow if we are to achieve the greatness that America has ahead of us. If not, we will be trailing in the dust the golden hopes of men and forever diminishing our opportunities, forever diminishing our potential, taking away human potential, discouraging individual entrepreneurs, people that would never realize their dreams because they would be growing up in a nanny state that has taken over the banks, the investment companies, the insurance companies, the car companies, Fannie and Freddie, the student loans, nationalize our body, our skin and everything inside it, and, by the

way, put a 10 percent tax on the outside if you go into a tanning salon. All of this taken over and the financial institutions. I want it all back. I want it back for the American people, the American workers, and the American entrepreneurs. I want our spirit back.

I am going to work to get it back, Mr. Speaker. I appreciate your attention.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. MCCOLLUM (at the request of Mr. HOYER) for today on account of official business in district.

Mr. BONNER (at the request of Mr. BOEHNER) for today on account of his required presence in his district relating to coordinated oil spill response efforts with constituents and State and Federal officials.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. KLEIN of Florida, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DEFazio, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

(The following Members (at the request of Mr. POE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. JONES, for 5 minutes, May 13.

Mr. POE of Texas, for 5 minutes, May 13.

Mr. GINGREY of Georgia, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, May 11, 12, and 13.

Mr. MORAN of Kansas, for 5 minutes, May 13.

Mr. PAUL, for 5 minutes, May 12 and 13.

#### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3111. An act to establish the Commission on Freedom of Information Act Processing Delays, Committee on Oversight and Government Reform.

#### ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 17 minutes

p.m.), under its previous order, the House adjourned until tomorrow, Friday, May, 7, 2010, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

7351. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Polyglyceryl Phthalate Ester of Coconut Oil Fatty Acids; Exemption from the Requirement of a Tolerance; Technical Correction [EPA-HQ-OPP-2008-0888; FRL-8436-3] received April 16, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7352. A letter from the Deputy Secretary, Department of Defense, transmitting the Department's fourth quarter report for calendar year 2009 as required by the Joint Improvised Explosive Device Defeat Fund; to the Committee on Armed Services.

7353. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to the Kingdom of Morocco pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

7354. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's thirty-second annual report summarizing actions the Commission took during 2009 with respect to the Fair Debt Collection Practices Act, 15 U.S.C. 1692-1692o, pursuant to 15 U.S.C. 1692m; to the Committee on Financial Services.

7355. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report for fiscal years 2007 to 2008 on the Family Violence Prevention and Services Program, pursuant to 42 U.S.C. 10405, section 306; to the Committee on Education and Labor.

7356. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's reports entitled, "The National Healthcare Quality Report 2009 (NHQR)" and "The National Healthcare Disparities Report 2009 (NHDR)", pursuant to Public Law 106-129; to the Committee on Energy and Commerce.

7357. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Transportation Conformity Requirement for Bernalillo County [EPA-R06-OAR-2005-NM-0007; FRL-9140-2] received April 16, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7358. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Visibility Impairment Prevention for Federal Class I Areas; Removal of Federally Promulgated Provisions [EPA-R04-OAR-2010-0150-201009(a); FRL-9138-9] received April 16, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7359. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Revisions to the Kentucky State Implementation



Plan [EPA-R04-OAR-2010-0502-201011; FRL-9139-1] received April 16, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7360. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Revisions to the Export Administration Regulations Based on the 2009 Missile Technology Control Regime Plenary Agreements [Docket No.: 0912031426-0047-01] (RIN: 0694-AE79) received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

7361. A letter from the Secretary, Department of Defense, transmitting the report on Measuring Stability and Security in Iraq pursuant to Section 9204 of the Department of Defense Supplemental Appropriations Act 2008; to the Committee on Foreign Affairs.

7362. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting the Department's annual report for 2009 on Voting Practices in the United Nations, pursuant to Public Law 101-246, section 406; to the Committee on Foreign Affairs.

7363. A letter from the General Manager, Defense Nuclear Facilities Safety Board, transmitting the Board's annual report for FY 2009 prepared in accordance with the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act); to the Committee on Oversight and Government Reform.

7364. A letter from the Secretary, Department of Labor, transmitting pursuant to Title II, Section 203, of the Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act), the Department's annual report for FY 2009; to the Committee on Oversight and Government Reform.

7365. A letter from the President, Inter-American Foundation, transmitting the Foundation's annual report for fiscal year 2009 on the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002; to the Committee on Oversight and Government Reform.

7366. A letter from the Secretary, Department of Health and Human Services, transmitting a petition filed on behalf of workers from the Westinghouse Electric Corp., in Bloomfield, New Jersey, to be added to the Special Exposure Cohort (SEC), pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000; to the Committee on the Judiciary.

7367. A letter from the Secretary, Department of Health and Human Services, transmitting a petition filed on behalf of workers from Area IV of the Santa Susana Field Laboratory in Stana Susana, California, to be added to the Special Exposure Cohort (SEC), pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000; to the Committee on the Judiciary.

7368. A letter from the Secretary, Department of Health and Human Services, transmitting a petition filed on behalf of workers from the Nevada Test Site, Mercury, Nevada, to be added to the Special Exposure Cohort (SEC), pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000; to the Committee on the Judiciary.

7369. A letter from the Secretary, Department of Health and Human Services, transmitting a petition filed on behalf of workers from the Lawrence Livermore National Laboratory in Livermore, California, to be added to the Special Exposure Cohort (SEC), pursuant to the Energy Employees Occupa-

tional Illness Compensation Program Act of 2000; to the Committee on the Judiciary.

7370. A letter from the Secretary, Department of Health and Human Services, transmitting a petition filed on behalf of workers from the Lawrence Berkeley National Laboratory in Berkeley, California, to be added to the Special Exposure Cohort (SEC), pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000; to the Committee on the Judiciary.

7371. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's quarterly report from the Office of Privacy and Civil Liberties, pursuant to Public Law 110-53, section 803 (121 Stat. 266, 360); to the Committee on the Judiciary.

7372. A letter from the Assistant Attorney General, Department of Justice, transmitting the 2008 Annual Report of the National Institute of Justice, pursuant to 42 U.S.C. 3766(c) and 3789(e); to the Committee on the Judiciary.

7373. A letter from the Attorney, Department of Homeland Security, transmitting the Department's final rule — Safety Zones; March Fireworks displays within the Captain of the Port Puget Sound Area of Responsibility (AOR) [Docket No.: USCG-2010-0143] (RIN: 1625-AA00) received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7374. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Dive Platform, Pago Pago Harbor, American Samoa [Docket No.: USCG-2010-0002] (RIN: 1625-AA00) received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7375. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Regulated Navigation Area: Narraganset Bay, RI and Mount Hope Bay, RI and MA, Including the Providence River and Taunton River [Docket No.: USCG-2009-0143 (formerly Docket Nos. D01-05-094 and Docket No. USCG-01-06-052] (RIN: 1625-AA11) received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7376. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Freeport Channel Entrance, Freeport, TX [Docket No.: USCG-2008-0125] (RIN: 1625-AA87) received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7377. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zones; Brazos River, Freeport, TX [Docket No.: USCG-2009-0501] (RIN: 1625-AA87) received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7378. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; NASSCO Launching of USNS Charles Drew, San Diego Bay, San Diego, CA [Docket No.: USCG-2010-0093] (RIN: 1625-AA00) received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7379. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Freeport LNG Basin, Freeport, TX

[Docket No.: USCG-2008-0124] (RIN: 1625-AA87) received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7380. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Mead Intake Construction; Lake Mead, Boulder City, NV [Docket No.: USCG-2009-1031] (RIN: 1625-AA00) received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7381. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Regulated Navigation Area; Hudson River South of the Troy Locks, New York [Docket No.: USCG-2010-0009] (RIN: 1625-AA11) received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7382. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Industry Director Directive #3 LMSB Tier II Issue Section 172(f) Specified Liability Losses received April 15, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7383. A communication from the President of the United States, transmitting a report consistent with the requirements of the National Defense Authorization Act for FY 2009; to the Committee on Homeland Security.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FRANK of Massachusetts: Committee on Financial Services. H.R. 5072. A bill to improve the financial safety and soundness of the FHA mortgage insurance program; with an amendment (Rept. 111-476). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. HOLT:

H.R. 5228. A bill to amend the Help America Vote Act of 2002 to establish standards for the publication of the poll tapes used in elections for Federal office, and for other purposes; to the Committee on House Administration.

By Mr. HOLT:

H.R. 5229. A bill to amend the Help America Vote Act of 2002 to establish standards for the transparent and accurate tabulation of votes and aggregation of vote counts in elections for Federal office, and for other purposes; to the Committee on House Administration.

By Mr. HEINRICH:

H.R. 5230. A bill to direct the Secretary of Defense to carry out a pilot program on collaborative energy security; to the Committee on Armed Services, and in addition to the Committee on Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.



By Mr. SMITH of Texas (for himself and Mr. SCHIFF):

H.R. 5231. A bill to amend the Controlled Substances Act to clarify that persons who enter into a conspiracy within the United States to possess or traffic illegal controlled substances outside the United States, or engage in conduct within the United States to aid or abet drug trafficking outside the United States, may be criminally prosecuted in the United States, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KRATOVIL:

H.R. 5232. A bill to amend title 18, United States Code, to permit a court to sentence an offender who is determined to be sexually dangerous to a term of special confinement for the prevention of sexual predation, and for other purposes; to the Committee on the Judiciary.

By Ms. SHEA-PORTER (for herself, Mr. JONES, Mr. BRADY of Pennsylvania, Mr. FORBES, Mrs. CHRISTENSEN, Mr. AL GREEN of Texas, Mr. HINOJOSA, Mr. MCGOVERN, Mr. PAYNE, Mr. SCHIFF, Mr. GRIJALVA, and Mr. OWENS):

H.R. 5233. A bill to amend title 10, United States Code, to recognize the contributions made by the spouses of members of the Armed Forces who serve in combat through the presentation of an official lapel button, and for other purposes; to the Committee on Armed Services.

By Mr. WEINER (for himself and Mr. MORAN of Kansas):

H.R. 5234. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act, the Internal Revenue Code of 1986, and title XVIII of the Social Security Act to ensure transparency and proper operation of pharmacy benefit managers; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELCH (for himself and Mr. ROGERS of Michigan):

H.R. 5235. A bill to amend title XVIII of the Social Security Act to exempt blood glucose self-testing equipment and supplies furnished by small retail community pharmacies from Medicare competitive acquisition programs; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COHEN (for himself, Mr. DINGELL, Ms. MOORE of Wisconsin, Mr. TANNER, Mr. CHILDERS, Mr. BERRY, Mr. CONYERS, Mr. JOHNSON of Georgia, Ms. GRANGER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PERLMUTTER, Mr. PAYNE, Mr. PASCRELL, and Mr. YARMUTH):

H.R. 5236. A bill to amend SAFETEA-LU to ensure that projects that assist the establishment of aerotropolis transportation systems are eligible for certain grants, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ALTMIRE (for himself and Mr. DENT):

H.R. 5237. A bill to add joining a foreign terrorist organization or engaging in or supporting hostilities against the United States or its allies to the list of acts for which United States nationals would lose their nationality; to the Committee on the Judiciary.

By Mr. BISHOP of Utah (for himself and Mr. CHAFFETZ):

H.R. 5238. A bill to exempt the State of Utah from Federal programs in the areas of education, transportation, and Medicaid so that the State of Utah can undertake innovative methods to manage these government programs using Utah's portion of Federal revenues for these programs, and for other purposes; to the Committee on Education and Labor, and in addition to the Committees on Energy and Commerce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOSWELL (for himself, Mr. BRALEY of Iowa, and Mr. LOEBACK):

H.R. 5239. A bill to amend the Internal Revenue Code of 1986 to provide an additional 25 percent allowance for the deduction of qualified residence interest with respect to a principal residence, and to waive recapture of the first-time homebuyer tax credit with respect to residences purchased during 2008; to the Committee on Ways and Means.

By Ms. CORRINE BROWN of Florida:

H.R. 5240. A bill to provide for child safety, care, and education continuity in the event of a presidentially declared disaster; to the Committee on Education and Labor, and in addition to the Committees on Energy and Commerce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CAPPS (for herself, Mr. MARKEY of Massachusetts, Ms. CASTOR of Florida, Mr. PRICE of North Carolina, Mr. FARR, Ms. MATSUI, Ms. MCCOLLUM, Ms. HIRONO, Mr. SHERMAN, Mr. HASTINGS of Florida, Ms. LEE of California, Mr. MOORE of Kansas, Ms. SPEIER, Mr. BRALEY of Iowa, and Ms. ZOE LOFGREN of California):

H.R. 5241. A bill to establish an independent, nonpartisan commission to investigate the causes and impact of, and evaluate and improve the response to, the explosion, fire, and loss of life on and sinking of the Mobile Drilling Unit Deepwater Horizon and the resulting uncontrolled release of crude oil into the Gulf of Mexico, and to ensure that a similar disaster is not repeated; to the Committee on Natural Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COURTNEY:

H.R. 5242. A bill to direct the Administrator of the Federal Emergency Management Agency to establish a disaster recovery assistance program for businesses, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. CUELLAR:

H.R. 5243. A bill to amend the Patient Protection and Affordable Care Act to clarify that the Act does not affect standards or procedures in medical malpractice actions; to the Committee on Energy and Commerce,

and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DAVIS of Illinois (for himself, Mr. YARMUTH, Mr. ROSKAM, and Mr. DAVIS of Kentucky):

H.R. 5244. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received for services by a student at a work-college; to the Committee on Ways and Means.

By Mr. HOLDEN (for himself and Mr. SHUSTER):

H.R. 5245. A bill to establish minimum standards for engineered glass beads used in reflective markings; to the Committee on Transportation and Infrastructure.

By Mr. KENNEDY:

H.R. 5246. A bill to examine and improve the child welfare workforce, and for other purposes; to the Committee on Education and Labor.

By Mr. LANGEVIN (for himself, Mr. MCCAUL, Mr. RODRIGUEZ, Mr. RUPERSBERGER, Ms. CLARKE, Ms. LORETTA SANCHEZ of California, Ms. MARKEY of Colorado, and Mr. SMITH of Washington):

H.R. 5247. A bill to establish a National Cyberspace Office, and for other purposes; to the Committee on Oversight and Government Reform, and in addition to the Committees on Armed Services, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself, Ms. CASTOR of Florida, and Mr. GARAMENDI):

H.R. 5248. A bill to amend the Outer Continental Shelf Lands Act to prohibit the leasing of any area of the outer Continental Shelf for the exploration, development, or production of oil, gas, or any other mineral; to the Committee on Natural Resources.

By Mr. PERLMUTTER (for himself, Mr. COFFMAN of Colorado, Ms. MARKEY of Colorado, Mr. KAGEN, Mr. ETHERIDGE, Mr. CHANDLER, and Mr. DAVIS of Tennessee):

H.R. 5249. A bill to provide amortization authority in certain situations, for purposes of capital calculation under the Financial Institutions Examination Council's Consolidated Reports of Condition and Income; to the Committee on Financial Services.

By Mr. SABLAN:

H.R. 5250. A bill to direct the Election Assistance Commission to make an election administration improvement payment to the Commonwealth of the Northern Mariana Islands under title I of the Help America Vote Act of 2002, to treat the Commonwealth as a State for the other purposes of such Act, and for other purposes; to the Committee on House Administration.

By Mrs. SCHMIDT (for herself, Mr. CAO, Mr. LAMBORN, and Mr. WILSON of South Carolina):

H.R. 5251. A bill to amend the Internal Revenue Code of 1986 to allow a credit against tax for birth mothers whose children are adopted; to the Committee on Ways and Means.

By Mr. SPRATT:

H.R. 5252. A bill to amend the American Recovery and Reinvestment Act of 2009 and the Internal Revenue Code of 1986 to provide incentives for the development of solar energy; to the Committee on Ways and Means,

and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TIAHRT:

H.R. 5253. A bill to provide for Federal agencies to develop public access policies relating to research conducted by employees of that agency or from funds administered by that agency; to the Committee on Oversight and Government Reform.

By Ms. SPEIER (for herself, Ms. SLAUGHTER, Mr. WU, Mrs. DAVIS of California, Mr. McDERMOTT, Mr. NEAL of Massachusetts, Ms. BERKLEY, Ms. MATSUI, Ms. LEE of California, Mrs. MALONEY, Mr. GRIJALVA, Ms. WASSERMAN SCHULTZ, Mr. PASCRELL, Mr. POLIS, Mr. MORAN of Virginia, Mr. SMITH of Washington, Mr. SPRATT, Mr. CONNOLLY of Virginia, Mr. McNERNEY, Mr. STARK, Mr. THOMPSON of California, Mr. FARR, Mr. GARAMENDI, Ms. KAPTUR, Mr. TONKO, Mr. SCHAUER, Ms. MOORE of Wisconsin, Ms. WOOLSEY, Mr. KIND, Mr. CUMMINGS, Ms. WATSON, Mr. HOLT, Mr. DEFazio, Mr. ACKERMAN, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. McGOVERN, Mr. PLATTS, Mr. FILNER, Mr. LANGEVIN, Ms. SCHWARTZ, Ms. MCCOLLUM, Ms. CLARKE, Mr. SCHIFF, Mr. CONYERS, Mr. CAO, Mrs. CHRISTENSEN, Mr. DICKS, Mr. PALLONE, Ms. CASTOR of Florida, Mr. RAHALL, Mr. SNYDER, Ms. NORTON, Ms. BORDALLO, Mr. HALL of New York, Mr. BERMAN, Mr. SHERMAN, Mr. ALEXANDER, Mr. ROTHMAN of New Jersey, Ms. HIRONO, Mr. WATT, Mr. GUTIERREZ, Mr. YARMUTH, Ms. SUTTON, Mr. HINCHAY, and Mr. HARE):

H. Con. Res. 275. Concurrent resolution expressing support for designation of the week beginning on the second Sunday of September as Arts in Education Week; to the Committee on Education and Labor.

By Mr. ANDREWS (for himself, Mr. GARRETT of New Jersey, and Mr. CULBERSON):

H. Con. Res. 276. Concurrent resolution expressing the sense of Congress relating to a free trade agreement between the United States and Taiwan; to the Committee on Ways and Means.

By Mr. ROE of Tennessee:

H. Res. 1333. A resolution expressing support for the goals and ideals of Children's Book Week; to the Committee on Education and Labor.

By Mr. LARSON of Connecticut:

H. Res. 1334. A resolution electing Members to certain standing committees of the House of Representatives; considered and agreed to.

By Mr. KIRK (for himself and Ms. BALDWIN):

H. Res. 1335. A resolution calling on the Government of the Republic of Malawi to respect the fundamental human rights of its citizens, and for other purposes; to the Committee on Foreign Affairs.

By Mr. SMITH of Texas (for himself, Mr. McCAUL, Mr. DOGGETT, Mr. CARTER, Mr. CUELLAR, Mr. RODRIGUEZ, Mr. HINOJOSA, Mr. GOHMERT, Mr. SESSIONS, Mr. MARCHANT, Mr. OLSON, Mr. PAUL, Mr. BURGESS, Mr. NEUGEBAUER, Mr. THORNBERRY, Mr. BRADY of Texas, Ms. GRANGER, Mr. CULBERSON, Mr. SAM JOHNSON of Texas, Mr. CONAWAY, Mr. HENSARLING, Mr. HALL of

Texas, Mr. GONZALEZ, Mr. POE of Texas, Mr. ORTIZ, Ms. JACKSON LEE of Texas, Mr. BARTON of Texas, Mr. GENE GREEN of Texas, Mr. EDWARDS of Texas, Mr. AL GREEN of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. REYES):

H. Res. 1336. A resolution congratulating the University of Texas men's swimming and diving team for winning the NCAA Division I national championship; to the Committee on Education and Labor.

By Mr. COOPER (for himself, Mr. DAVIS of Tennessee, Mr. ROE of Tennessee, Mrs. BLACKBURN, Mr. DUNCAN, Mr. GORDON of Tennessee, Mr. WAMP, Mr. COHEN, and Mr. TANNER):

H. Res. 1337. A resolution expressing the sympathy and condolences of the House of Representatives to those people affected by the flooding in Tennessee, Kentucky, and Mississippi in May, 2010; to the Committee on Transportation and Infrastructure.

By Ms. MATSUI (for herself, Mr. GEORGE MILLER of California, Mr. PRICE of North Carolina, Mr. PLATTS, Mr. EHLERS, Ms. MOORE of Wisconsin, and Ms. SLAUGHTER):

H. Res. 1338. A resolution recognizing the significant accomplishments of AmeriCorps and encouraging all citizens to join in a national effort to raise awareness about the importance of national and community service; to the Committee on Education and Labor.

By Mr. McDERMOTT (for himself and Mr. LINDER):

H. Res. 1339. A resolution expressing support for designation of May as National Foster Care Month and acknowledging the responsibility that Congress has to promote safety, well-being, improved outcomes, and permanency for the Nation's collective children; to the Committee on Ways and Means.

By Mrs. NAPOLITANO:

H. Res. 1340. A resolution congratulating the California State Polytechnic University, Pomona men's basketball team for winning the 2010 NCAA Division II Men's Basketball National Championship; to the Committee on Education and Labor.

By Mr. RUPPERSBERGER:

H. Res. 1341. A resolution supporting K-12 geography education; to the Committee on Education and Labor.

By Ms. SCHAKOWSKY (for herself, Ms. MATSUI, Mr. ARCURI, Ms. BERKLEY, Mr. BLUMENAUER, Ms. CASTOR of Florida, Mrs. CHRISTENSEN, Ms. CLARKE, Mr. CONNOLLY of Virginia, Mr. COSTELLO, Mr. COURTNEY, Mr. DEFazio, Mr. DEUTCH, Mr. DOGGETT, Ms. FUDGE, Ms. GIFFORDS, Mr. GRIJALVA, Mr. HINCHAY, Mr. HINOJOSA, Ms. HIRONO, Mr. HOLT, Mr. JOHNSON of Georgia, Ms. KAPTUR, Ms. KILPATRICK of Michigan, Mr. KLEIN of Florida, Mr. LARSON of Connecticut, Mr. LOEBACK, Mr. MICHAUD, Ms. MOORE of Wisconsin, Ms. RICHARDSON, Mr. RODRIGUEZ, Ms. ROYBAL-ALLARD, Mr. SCHAUER, Ms. SLAUGHTER, Ms. SPEIER, Ms. TITUS, Ms. TSONGAS, Ms. WOOLSEY, Ms. DELAURO, and Mr. FOSTER):

H. Res. 1342. A resolution entitled the "Seniors Bill of Rights"; to the Committee on Education and Labor.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,  
Mr. DAVIS of Illinois introduced a bill (H.R. 5254) for the relief of Simaya T.K.

Eversley; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 197: Mr. CRENSHAW.  
H.R. 208: Mr. CUMMINGS, Ms. RICHARDSON, and Mr. TIERNEY.  
H.R. 235: Ms. GRANGER and Mrs. DAHL-KEMPER.  
H.R. 275: Mr. WALDEN, Mrs. EMERSON, Mr. TIM MURPHY of Pennsylvania, and Mr. COFFMAN of Colorado.  
H.R. 422: Mrs. DAHLKEMPER.  
H.R. 442: Mr. GOHMERT.  
H.R. 476: Mr. LYNCH.  
H.R. 571: Mr. BISHOP of Georgia and Mrs. EMERSON.  
H.R. 673: Mr. PATRICK J. MURPHY of Pennsylvania.  
H.R. 758: Mr. LYNCH and Ms. NORTON.  
H.R. 949: Mr. RAHALL.  
H.R. 1067: Mr. HINCHAY.  
H.R. 1203: Mr. DEFazio.  
H.R. 1324: Ms. PINGREE of Maine.  
H.R. 1339: Mr. ANDREWS.  
H.R. 1351: Mr. WILSON of Ohio and Mr. BACA.  
H.R. 1522: Ms. WOOLSEY and Mr. RUSH.  
H.R. 1547: Mr. BERMAN.  
H.R. 1587: Mrs. HALVORSON.  
H.R. 1625: Mr. BOYD, Mr. BRADY of Pennsylvania, Mr. HARE, and Mr. ROTHMAN of New Jersey.  
H.R. 1670: Mr. CLAY.  
H.R. 1682: Mr. BILBRAY.  
H.R. 1806: Mr. WILSON of Ohio, Mr. KILDEE, and Mr. RYAN of Ohio.  
H.R. 1829: Ms. SUTTON and Mrs. McMORRIS RODGERS.  
H.R. 1855: Mr. QUIGLEY and Ms. SCHAKOWSKY.  
H.R. 1889: Ms. RICHARDSON.  
H.R. 1894: Mr. JACKSON of Illinois and Mr. LATHAM.  
H.R. 1895: Mr. LEE of New York.  
H.R. 2049: Ms. BERKLEY.  
H.R. 2054: Mr. MEEKS of New York, Mr. PAYNE, Ms. BALDWIN, Mr. ANDREWS, and Mr. RUPPERSBERGER.  
H.R. 2067: Mr. HOLDEN and Mr. BACA.  
H.R. 2084: Mr. HALL of Texas.  
H.R. 2136: Ms. NORTON, Mr. CAO, Mr. WU, and Mr. CARNAHAN.  
H.R. 2142: Mr. PETERSON.  
H.R. 2149: Mr. CHILDERS.  
H.R. 2176: Mr. ALTMIRE.  
H.R. 2212: Mr. POLIS.  
H.R. 2275: Mr. GUTIERREZ, Mr. LYNCH, Ms. SUTTON, Mr. CAO, Ms. DELAURO, Ms. KILPATRICK of Michigan, Ms. BALDWIN, and Mr. GRIJALVA.  
H.R. 2287: Mr. ISSA.  
H.R. 2305: Mr. MORAN of Kansas.  
H.R. 2324: Mr. COHEN.  
H.R. 2336: Mr. WU and Mr. LARSON of Connecticut.  
H.R. 2378: Ms. WOOLSEY, Mr. BOREN, and Mr. HODES.  
H.R. 2443: Mr. BERRY.  
H.R. 2455: Mr. SCHIFF and Mr. TOWNS.  
H.R. 2480: Mr. ALTMIRE.  
H.R. 2485: Ms. ZOE LOFGREN of California.  
H.R. 2521: Mr. PERRIELLO.  
H.R. 2546: Mr. CLAY and Ms. KAPTUR.  
H.R. 2575: Mr. FRANK of Massachusetts.  
H.R. 2582: Ms. RICHARDSON.  
H.R. 2625: Ms. NORTON.  
H.R. 2746: Mrs. MCCARTHY of New York, Mr. GORDON of Tennessee, and Mr. WU.

- H.R. 2791: Ms. RICHARDSON.  
H.R. 2807: Mrs. CAPPS.  
H.R. 2946: Mr. BRADY of Pennsylvania.  
H.R. 2964: Mr. MOORE of Kansas.  
H.R. 3035: Mr. JACKSON of Illinois.  
H.R. 3039: Mr. AUSTRIA.  
H.R. 3048: Mr. WEINER.  
H.R. 3076: Ms. RICHARDSON.  
H.R. 3116: Mr. PASCRELL.  
H.R. 3185: Mr. COURTNEY.  
H.R. 3189: Mr. SCALISE.  
H.R. 3202: Mr. TIERNEY.  
H.R. 3240: Mr. CASTLE and Ms. WATERS.  
H.R. 3286: Mr. WEINER.  
H.R. 3339: Mr. POMEROY, Mr. FARR, Mr. LARSEN of Washington, Mr. GARAMENDI, and Mr. GEORGE MILLER of California.  
H.R. 3353: Ms. RICHARDSON.  
H.R. 3380: Mr. CALVERT.  
H.R. 3408: Mr. HOLT, Mr. CLEAVER, and Mr. LARSEN of Washington.  
H.R. 3492: Ms. HIRONO.  
H.R. 3554: Mr. WEINER.  
H.R. 3615: Ms. GINNY BROWN-WAITE of Florida.  
H.R. 3652: Mr. COHEN, Mr. KIND, Ms. ESHOO, Mr. JACKSON of Illinois, Mr. GARAMENDI, Mr. LARSON of Connecticut, and Mr. NADLER of New York.  
H.R. 3655: Mr. WILSON of Ohio.  
H.R. 3666: Mr. GERLACH and Mr. KAGEN.  
H.R. 3668: Mr. BARROW and Mr. SMITH of Texas.  
H.R. 3705: Ms. CHU.  
H.R. 3745: Ms. MCCOLLUM.  
H.R. 3758: Mr. GRAYSON.  
H.R. 3781: Mr. ROSS.  
H.R. 3787: Mr. BUYER.  
H.R. 3790: Mr. AL GREEN of Texas, Mr. KANJORSKI, and Mr. THOMPSON of Mississippi.  
H.R. 3826: Mr. ROONEY.  
H.R. 3919: Mr. POLIS.  
H.R. 3924: Mr. SCALISE and Mr. BURGESS.  
H.R. 3936: Mr. YARMUTH.  
H.R. 3943: Mr. CALVERT and Mr. GRAYSON.  
H.R. 3989: Mr. BISHOP of Utah and Ms. HIRONO.  
H.R. 3990: Mr. FOSTER.  
H.R. 3995: Mr. COHEN and Ms. PINGREE of Maine.  
H.R. 4034: Mr. WALZ.  
H.R. 4037: Mr. BOUCHER.  
H.R. 4070: Ms. JENKINS.  
H.R. 4109: Mr. JACKSON of Illinois and Mr. PAUL.  
H.R. 4128: Mr. TIERNEY.  
H.R. 4148: Mr. BRADY of Pennsylvania.  
H.R. 4175: Mr. JORDAN of Ohio.  
H.R. 4198: Mr. TERRY.  
H.R. 4263: Mr. PRICE of North Carolina.  
H.R. 4278: Mr. UPTON and Mr. MITCHELL.  
H.R. 4318: Ms. HIRONO.  
H.R. 4324: Mr. BOCCIERI.  
H.R. 4375: Mr. KAGEN.  
H.R. 4396: Mr. KINGSTON.  
H.R. 4399: Ms. RICHARDSON.  
H.R. 4405: Mr. BISHOP of Georgia, Mr. LEWIS of Georgia, Ms. CORRINE BROWN of Florida, and Mr. BACA.  
H.R. 4427: Ms. RICHARDSON and Mr. REHBERG.  
H.R. 4480: Mr. HEINRICH, Mr. KIND, Mr. SKELTON, and Mr. CLAY.  
H.R. 4502: Mr. HILL.  
H.R. 4509: Mr. PUTNAM and Mrs. DAHLKEMPER.  
H.R. 4525: Mr. KLINE of Minnesota.  
H.R. 4541: Mr. BISHOP of New York and Mr. GRAYSON.  
H.R. 4549: Mr. WEINER and Mr. PERRIELLO.  
H.R. 4568: Mr. HOLDEN.  
H.R. 4598: Mr. POLIS.  
H.R. 4601: Ms. EDDIE BERNICE JOHNSON of Texas.  
H.R. 4603: Mr. THORNBERRY.  
H.R. 4632: Mr. GRAYSON.  
H.R. 4689: Mr. GERLACH, Mr. WEINER, Mr. SIREs, and Mr. BRADY of Pennsylvania.  
H.R. 4690: Mr. FILNER.  
H.R. 4693: Mr. NYE.  
H.R. 4694: Mr. QUIGLEY.  
H.R. 4722: Mr. POLIS.  
H.R. 4733: Mr. POLIS.  
H.R. 4748: Mr. LARSEN of Washington.  
H.R. 4755: Ms. BALDWIN and Mr. MAFFEI.  
H.R. 4788: Mr. KENNEDY, Mr. MOORE of Kansas, Mr. GUTIERREZ, Mr. ROTHMAN of New Jersey, Mr. MCNERNEY, Ms. KAPTUR, Mr. GRAYSON, Ms. RICHARDSON, Ms. PINGREE of Maine, and Mr. DEFazio.  
H.R. 4812: Ms. HARMAN, Mr. SPACE, Mr. MCNERNEY, and Mr. DEUTCH.  
H.R. 4844: Mr. PASCRELL.  
H.R. 4859: Mr. EDWARDS of Texas.  
H.R. 4866: Ms. GIFFORDS and Mr. THORNBERRY.  
H.R. 4870: Mr. HARE and Mr. BISHOP of Georgia.  
H.R. 4879: Mr. FILNER, Mrs. MCCARTHY of New York, Ms. WASSERMAN SCHULTZ, Ms. LINDA T. SANCHEZ of California, Mr. JACKSON of Illinois, Mr. MCMAHON, and Mrs. NAPOLITANO.  
H.R. 4888: Ms. BORDALLO and Mr. MCNERNEY.  
H.R. 4920: Mr. HARE, Mr. DAVIS of Illinois, Mr. CLAY, Mr. HASTINGS of Florida, Mr. CLEAVER, Mr. THOMPSON of Mississippi, Mr. MEEKS of New York, Mr. PAYNE, Mr. SCOTT of Georgia, Mr. WATT, Ms. EDWARDS of Maryland, Ms. WATSON, Ms. CORRINE BROWN of Florida, Ms. WATERS, Ms. LEE of California, and Mr. JACKSON of Illinois.  
H.R. 4925: Mr. COHEN, Mr. MOORE of Kansas, and Mr. MAFFEI.  
H.R. 4933: Mr. JACKSON of Illinois.  
H.R. 4940: Mr. BURTON of Indiana and Mr. KILDEE.  
H.R. 4959: Mr. MARSHALL and Mr. FRANK of Massachusetts.  
H.R. 4961: Mr. SCOTT of Georgia, Ms. WASSERMAN SCHULTZ, and Mr. CLEAVER.  
H.R. 4972: Mrs. BIGGERT, Mr. MILLER of Florida, and Mr. CHAFFETZ.  
H.R. 4985: Mr. LATHAM and Mr. BOOZMAN.  
H.R. 4990: Mr. GRAYSON.  
H.R. 4995: Mr. CARTER.  
H.R. 4999: Mr. BOOZMAN.  
H.R. 5015: Mr. TOWNS, Ms. CHU, Mr. BRALEY of Iowa, Mr. CARSON of Indiana, Ms. FUDGE, Mr. GUTIERREZ, Mr. HARE, Mr. PETERS, Mr. QUIGLEY, Ms. SPEIER, Ms. WATERS, Mr. BISHOP of New York, Mr. FATTAH, Mr. RUSH, Mr. POLIS, Mr. WAXMAN, Mr. CLAY, and Ms. VELÁZQUEZ.  
H.R. 5021: Mr. WEINER.  
H.R. 5028: Mr. CONYERS and Ms. WATSON.  
H.R. 5034: Mr. WALZ, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. CARSON of Indiana.  
H.R. 5035: Mr. CAO.  
H.R. 5040: Mr. FRANK of Massachusetts, Mr. MARSHALL, Mrs. NAPOLITANO, and Mr. HODES.  
H.R. 5042: Mr. HODES and Mr. AL GREEN of Texas.  
H.R. 5044: Mr. PETERS, Mr. MCNERNEY, Mr. DEUTCH, Ms. TITUS, and Mr. PERRIELLO.  
H.R. 5054: Mr. GARY G. MILLER of California and Mr. GOODLATTE.  
H.R. 5055: Ms. NORTON.  
H.R. 5065: Mr. GARRETT of New Jersey, Mr. LATTA, and Ms. GINNY BROWN-WAITE of Florida.  
H.R. 5072: Mr. LYNCH and Mr. SHERMAN.  
H.R. 5092: Mr. PAULSEN, Mr. BACHUS, Mrs. BACHMANN, Mr. LATTA, Mr. FORTENBERRY, Mr. TIAHRT, Ms. PINGREE of Maine, Mr. FRELINGHUYSEN, Ms. JENKINS, Mr. KINGSTON, Mr. DENT, Mrs. BLACKBURN, Mr. ALEXANDER, Mrs. SCHMIDT, Mr. SHIMKUS, Mr. POSEY, Mr. BARTON of Texas, Mr. LUCAS, Ms. GRANGER, Mr. JOHNSON of Georgia, Mr. BERMAN, Mr. COLE, and Mrs. LUMMIS.  
H.R. 5093: Mr. RUPPERSBERGER, Mr. SCOTT of Virginia, Mr. GARAMENDI, Ms. CHU, Mr. MEEK of Florida, Ms. WATSON, and Mr. POSEY.  
H.R. 5107: Ms. RICHARDSON.  
H.R. 5111: Mr. PRICE of Georgia, Mr. SMITH of Texas, Mr. GARY G. MILLER of California, Mr. WHITFIELD, Mrs. MILLER of Michigan, Mr. UPTON, Mr. HUNTER, Mr. WESTMORELAND, Mr. WITTMAN, Mr. EHLERS, and Mr. MORAN of Kansas.  
H.R. 5117: Mr. MORAN of Virginia, Ms. SCHAKOWSKY, and Mr. GARAMENDI.  
H.R. 5120: Mr. REICHERT, Ms. BORDALLO, and Mr. MURPHY of New York.  
H.R. 5126: Mr. GOODLATTE.  
H.R. 5129: Mr. MCGOVERN.  
H.R. 5137: Ms. WATSON and Mr. HODES.  
H.R. 5142: Mr. POLIS, Ms. RICHARDSON, and Ms. ESHOO.  
H.R. 5143: Mr. HINOJOSA, Mr. BOUCHER, and Mr. COHEN.  
H.R. 5144: Mr. EDWARDS of Texas and Mr. OLSON.  
H.R. 5145: Ms. BORDALLO.  
H.R. 5156: Mr. SCHIFF and Ms. SUTTON.  
H.R. 5159: Mr. GEORGE MILLER of California, Mr. CUMMINGS, and Mr. STARK.  
H.R. 5173: Mr. BARRETT of South Carolina and Mr. FRANKS of Arizona.  
H.R. 5177: Mr. PENCE, Mr. BOOZMAN, Mr. LATHAM, Mr. KING of Iowa, Mr. SIMPSON, Mr. WILSON of South Carolina, Mr. SKELTON, and Mr. MORAN of Kansas.  
H.R. 5191: Mr. MEEKS of New York and Ms. LEE of California.  
H.R. 5200: Mr. SARBANES and Mr. SESTAK.  
H.R. 5207: Mr. HERGER and Mr. HINCHEY.  
H.R. 5210: Mrs. CAPPS.  
H.R. 5213: Mr. BLUMENAUER and Mrs. DAVIS of California.  
H.R. 5214: Ms. CASTOR of Florida, Mr. HINCHEY, Ms. HIRONO, Mr. HARE, Mr. HALL of New York, Mr. SARBANES, Mr. LANGEVIN, and Mr. CHANDLER.  
H.R. 5220: Mr. SALAZAR, Mr. POMEROY, Mr. ALTMIRE, Mr. YARMUTH, Ms. ESHOO, Mrs. MCCARTHY of New York, Mr. MCDERMOTT, Mr. DICKS, Mr. ROTHMAN of New Jersey, Mr. MOORE of Kansas, Mr. ELLISON, Ms. TITUS, Mr. SESTAK, Ms. BERKLEY, Mr. LUJÁN, Mr. BOSWELL, Mr. MICHAUD, Mr. MELANCON, Ms. SHEA-PORTER, Mr. KILDEE, Mr. WALZ, Mr. TONKO, Mr. DAVIS of Illinois, Mr. DRIEHAUS, Mr. BRALEY of Iowa, Mr. OBERSTAR, Mr. SPRATT, Mr. MATHESON, Ms. KILROY, Mr. RYAN of Ohio, Mr. OLVER, Mr. FOSTER, Mr. HONDA, Mr. STARK, Mr. LOEBACK, Mr. BOREN, Mr. DELAHUNT, Ms. PINGREE of Maine, Mr. MARKEY of Massachusetts, Mr. MINNICK, Ms. WASSERMAN SCHULTZ, Mr. LANGEVIN, Mr. CAPUANO, Mr. DOGGETT, Mr. ELLSWORTH, Mr. COURTNEY, Mr. LYNCH, Mr. QUIGLEY, Mr. CARSON of Indiana, and Ms. SUTTON.  
H.R. 5226: Mr. PERLMUTTER, Mr. MOORE of Kansas, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. MAFFEI, Mr. STUPAK, Mr. RAHALL, Mr. ELLSWORTH, Mr. SPRATT, Mr. ALTMIRE, Ms. RICHARDSON, Mr. SPACE, and Mr. BOUCHER.  
H.J. Res. 42: Mr. GRIFFITH.  
H.J. Res. 61: Ms. VELÁZQUEZ.  
H.J. Res. 76: Mr. KILDEE, Mr. KINGSTON, and Mr. REHBERG.  
H. Con. Res. 30: Mr. SCOTT of Virginia.  
H. Con. Res. 201: Mr. BILBRAY.  
H. Con. Res. 226: Mrs. DAVIS of California.  
H. Con. Res. 230: Mr. FLEMING, Mr. WITTMAN, Mr. COURTNEY, Mr. HUNTER, Mr. DONNELLY of Indiana, Mr. BARTLETT, and Ms. FALLIN.

H. Con. Res. 260: Ms. BEAN, Mr. CALVERT, Mr. YOUNG of Florida, Mr. BACA, Mrs. BLACKBURN, Mr. CRENSHAW, Mr. CUMMINGS, Mr. SCALISE, Mr. ISRAEL, Mr. ARCURI, Mr. PIERLUISI, Mr. LATHAM, Mr. SARBANES, and Mr. ROGERS of Kentucky.

H. Con. Res. 266: Mr. MICHAUD and Ms. EDDIE BERNICE JOHNSON of Texas.

H. Con. Res. 268: Ms. NORTON, Ms. MATSUI, Ms. WASSERMAN SCHULTZ, Mr. MEEK of Florida, Ms. DEGETTE, and Mr. BACA.

H. Con. Res. 271: Mr. BRADY of Texas and Mr. POE of Texas.

H. Con. Res. 274: Mr. CALVERT, Mr. SIMPSON, Mr. GARY G. MILLER of California, Mr. MANZULLO, and Mr. CANTOR.

H. Res. 173: Mr. KANJORSKI, Ms. BALDWIN, Mr. PETERSON, Mr. GARRETT of New Jersey, Mr. ALTMIRE, Mr. MCINTYRE, and Mr. MEEK of Florida.

H. Res. 363: Mr. GRAYSON.

H. Res. 407: Ms. SUTTON and Mr. TURNER.

H. Res. 416: Ms. BALDWIN and Ms. WATSON.

H. Res. 582: Mr. GRIJALVA, Ms. RICHARDSON, and Mr. CONYERS.

H. Res. 584: Mr. WILSON of Ohio, Mr. CAPUANO, Mr. MILLER of North Carolina, Mr. DICKS, Mr. SOUDER, Mr. MORAN of Kansas, Mr. ELLSWORTH, and Mr. DAVIS of Kentucky.

H. Res. 764: Ms. BERKLEY.

H. Res. 873: Mr. BILBRAY, Mr. GORDON of Tennessee, Mr. MCMAHON, Mr. MORAN of Virginia, and Mr. GENE GREEN of Texas.

H. Res. 989: Mr. GRAYSON and Mr. HODES.

H. Res. 1056: Mr. TIBERI and Mr. MURPHY of New York.

H. Res. 1060: Mr. DUNCAN.

H. Res. 1073: Mr. MORAN of Kansas.

H. Res. 1143: Mr. HARE.

H. Res. 1155: Ms. SUTTON.

H. Res. 1175: Mr. JONES.

H. Res. 1211: Mr. MCGOVERN, Mr. HASTINGS of Florida, Mr. MURPHY of New York, Mr. EDWARDS of Texas, and Mr. BACA.

H. Res. 1226: Mr. POSEY.

H. Res. 1229: Mr. YOUNG of Florida.

H. Res. 1251: Mr. EDWARDS of Texas.

H. Res. 1265: Mr. JACKSON of Illinois.

H. Res. 1273: Mr. SMITH of New Jersey, Mr. CULBERSON, and Mr. CANTOR.

H. Res. 1279: Mr. SMITH of New Jersey.

H. Res. 1291: Mr. MURPHY of New York, Mr. TOWNS, Mr. DONNELLY of Indiana, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. ELLSWORTH, Mr. SIRES, Mr. BRALEY of Iowa, Mr. WELCH, Mr. YARMUTH, Mr. MCMAHON, Mr. BISHOP of New York, Mr. WEINER, and Mr. MCNERNEY.

H. Res. 1294: Mr. SHIMKUS, Mr. ROSKAM, and Mr. TAYLOR.

H. Res. 1297: Mr. MEEK of Florida.

H. Res. 1302: Ms. BALDWIN and Mr. YOUNG of Alaska.

H. Res. 1313: Mr. ROE of Tennessee, Mr. LATTA, and Mr. LAMBORN.

H. Res. 1321: Ms. LEE of California.

H. Res. 1330: Ms. BORDALLO, Ms. HIRONO, Mrs. CHRISTENSEN, Mr. MORAN of Virginia, Mr. LEWIS of Georgia, Mr. POLIS, Mrs. MALONEY, Mr. BAIRD, and Mr. FALEOMAVAEGA.

**SENATE—Thursday, May 6, 2010**

The Senate met at 9:30 a.m. and was called to order by the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont.

**PRAYER**

The PRESIDING OFFICER. Our visiting Chaplain today is Father Claude Pomerleau from the University of Portland, OR. Father Pomerleau will lead us in prayer.

The guest Chaplain offered the following prayer:

Let us pray.

O Lord, Master of the universe and everything in it, Your generosity gives us life, gives us hope, gives us the imagination to envision a world where no child weeps, where violence is a dark memory, where peace is the story of every day and year.

As the gift of this day unfolds, as the creative men and women in this Chamber turn their gifts and talents to making laws that seek to elevate and protect the lives of millions of their fellow Americans, do not let them lose the sweet peace and long vision of this first moment. In the face of so many distractions and challenges, may they be filled with grace and generosity, wisdom and wonder, calm and compassion. Open their hearts, Lord, and open their minds, and fill them with Your love, and make of them beacons of Your light, so that their deliberations this day take this country and this sweet planet ever closer to Your peace and Your joy. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable PATRICK J. LEAHY led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 6, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

**SCHEDULE**

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of S. 3217, which is the Wall Street reform legislation. The time until 10 a.m. will be for debate with respect to the Tester-Hutchison amendment dealing with FDIC insurance premiums. At 10 a.m., the Senate will proceed to a vote in relation to that amendment. Additional votes are expected to occur throughout the day in relation to amendments to the Wall Street reform bill. Currently, Shelby amendment No. 3826 regarding consumer protection is pending. The next amendment upon disposition of that amendment will be the Sanders amendment regarding an audit of the Federal Reserve. That is amendment No. 3738.

As a reminder, there will be an all-Senators briefing on the START treaty and related national security issues from 4:30 to 5:30 p.m. today. We will remain in session during that time.

We expect to arrive at a time for voting on the Shelby amendment. If not, there will be a motion to table that amendment. We have a lot of amendments to get through, and we are going to work into the night. We have work we need to do tomorrow. So everyone should be aware, we have a lot of issues we have to resolve on this most important legislation.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from Vermont.

Mr. LEAHY. Madam President, I thank the distinguished Republican leader for letting me step forward ahead of him.

**WELCOMING THE GUEST CHAPLAIN**

Mr. LEAHY. Madam President, I just want to note what a great pride it is in our family to have welcomed the visiting pastor today, Father Claude Pomerleau, who is also my wife Marcelle's brother. He, with the gracious concurrence of our Chaplain, Dr. Black, has opened the Senate on other occasions. But it is with a great deal of pride for both Marcelle and myself when he is here and has a chance to

visit with us. Father Pomerleau is a dear friend of all our family and has been a guide and spiritual leader for our family for decades.

Madam President, I ask unanimous consent that a short bio of him by the University of Portland, which even speaks about his clarinet playing, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAMPUS MINISTRY: REV. CLAUDE POMERLEAU, C.S.C.

Rev. Claude Pomerleau, C.S.C., was born of French Canadian parents in Newport, Vermont on beautiful Lake Memphremagog, a lake that connects geographically and spiritually to the Plains of Abraham in Quebec. He began his academic career studying engineering and philosophy at Notre Dame followed by theology in France and Italy. He earned his Ph.D. in International Relations from the University of Denver in 1975 and has taught at the University of Notre Dame and the University of Chile. Since 1991, he has served as an associate professor in the department of history and political science here at the University of Portland and became department chair in 1994. Fr. Claude also currently serves at the Director of the Social Justice Program and is the Religious Superior of the Holy Cross brothers and priests at UP. He enjoys traveling and observing the universe, but especially visiting the University of Chile where he is a visiting professor in the summer. Fr. Claude is an accomplished clarinet player, sometimes playing loudly and late at night in Tyson Hall where he is grateful to be chaplain to a bunch of wonderfully tolerant students.

Mr. LEAHY. Madam President, again, I thank our leaders, and I yield the floor.

**RECOGNITION OF THE MINORITY LEADER**

The PRESIDING OFFICER. The Republican leader is recognized.

**FINANCIAL REGULATORY REFORM**

Mr. MCCONNELL. Madam President, last night, the Senate took a strong stance on protecting taxpayers from the unintended consequences of a bill that was originally meant to hold Wall Street accountable for its mistakes.

Put aside for a moment the latest talking points the other side is using about Republicans. Our goal throughout the debate has been to protect taxpayers who got burned during the last crisis, and last night's vote showed that those efforts are beginning to yield results.

A \$50 billion fund for failing financial firms that would have distorted the market by encouraging the same kinds

of risky investments that led to the last crisis is now out of the bill.

A provision that would have given investors in failing firms special treatment is out. Congress will now have to approve any government effort to ensure bank debt. So improvements are being made to this financial regulatory bill in the right direction.

Now it is time to focus on what has emerged as another central point of contention, and that is the new government bureaucracy this bill would create over at the Fed. The first thing to know about this new agency is that Congress would not have any power over it. The second thing to know is what it would do. Some of that is still vague, but the ambiguities are part of the problem.

What we do know is that this new agency would be authorized to gather information on banking and purchasing patterns and on anyone—anyone—operating in consumer financial markets. One provision, section 1071, could lead financial institutions to maintain a record on the number and dollar amount that each customer deposits at bank branches and ATMs.

Now, understandably, a lot of Americans and a lot of small business owners have serious concerns about all of this. They are also concerned about the potential of this bill to further dry up credit at a time when they are trying to dig themselves out of a recession.

We received a letter just yesterday from groups representing hundreds of thousands of businesses—from florists to orthodontists to builders to car dealers—all concerned about the potential impact this new agency would have.

Now, let me state the obvious: None of these businesses had anything whatsoever to do with the financial crisis. None of these businesses had anything to do with the financial crisis. Why on Earth would we want to punish them for the reckless behavior we saw on Wall Street? Why on Earth would we want to punish these small businesses for the reckless behavior we saw on Wall Street?

The fact is, this agency is more about using this crisis as an opportunity to slip a vast new European-style regulatory bureaucracy past the American people than it is about holding Wall Street accountable.

I say let's focus on Wall Street and the GSEs and leave ordinary Americans out of this. Let's put the middle-class families and small business owners who shouldered the burden of this crisis ahead of the bureaucratic wish lists in Washington. At a moment of near double-digit unemployment and exploding debts and deficits, let's have at least one Democratic idea for expanding the reach of government on the shelf.

Later today, the Senate will have an opportunity to blunt the potential im-

pact of this agency. Senator SHELBY and I have joined several cosponsors on an amendment that would deflect the focus of this bill from Main Street and back to Wall Street where it belongs. Let's take the bill off Main Street and send it back to Wall Street where it belongs.

The National Federation of Independent Business supports our amendment because, in the place of this new bureaucratic agency, it would establish a new division within the FDIC that would oversee mortgage originators and other big financial service providers. That is where the target should lie—not on the backs of America's small businesses and middle-class Americans who expected to be protected by the bill, not punished by it.

I urge my colleagues on both sides of the aisle not to lose our focus in this debate. I also urge everyone to support the Shelby-McConnell amendment.

Madam President, I yield the floor.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 3217, which the clerk will report.

The bill clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Pending:

Reid (for Dodd/Lincoln) amendment No. 3739, in the nature of a substitute.

Shelby amendment No. 3826 (to amendment No. 3739), to establish a Division of Consumer Financial Protection within the Federal Deposit Insurance Corporation.

Tester amendment No. 3749 (to amendment No. 3739), to require the Corporation to amend the definition of the term "assessment base."

#### AMENDMENT NO. 3749

The PRESIDING OFFICER. Under the previous order, the time until 10 a.m. will be for debate on amendment No. 3749, with the time equally divided and controlled in the usual form.

The Senator from Nebraska.

Mr. JOHANNIS. Madam President, I am just going to speak for 2 minutes this morning, but I would like to stand to take a moment to voice my support for the Tester-Hutchison amendment.

This amendment will ensure that banks of all sizes pay their fair share by broadening the assessment base that is used by the FDIC. The FDIC would determine bank premiums by

basing it on total assets, not just domestic deposits. For far too long, community banks have paid a disproportionate share of the deposit insurance premiums.

This amendment levels the playing field. It is a good piece of policy. It will put community banks on a more equal footing with the large bank conglomerates. So I urge my colleagues to vote for this commonsense amendment.

Let me wrap up by saying, the Independent Community Bankers have looked at this amendment. This amendment would reduce assessments for 98 percent of the banks with less than \$10 billion in assets, keeping nearly \$4.5 billion in the banks—much needed capital to make our economy grow.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mrs. HUTCHISON. Madam President, how much time is on our side?

The PRESIDING OFFICER. Eight minutes.

Mrs. HUTCHISON. Madam President, would you notify me when I have consumed 5 minutes because there is another speaker.

The PRESIDING OFFICER. Yes.

Mrs. HUTCHISON. Thank you, Madam President.

I rise to join my colleague, Senator TESTER, and an increasing number of cosponsors, in support of our amendment which will ensure that banks of all sizes pay their fair share in deposit insurance for the risk they pose to the banking system.

Our amendment is intended to level the playing field for our safe community banks that for far too long have paid assessments into the FDIC insurance fund above and beyond the risk they pose.

The FDIC levies deposit insurance premiums on a bank's total domestic deposits, but domestic deposits are not the best means to analyze the safety of banks. Financial assets other than deposits create risk in the system. Non-deposit assets are held disproportionately by larger noncommunity banks and can be more complex and more risky.

Community banks with less than \$10 billion in assets rely heavily on customer deposits for funding. This penalizes safe institutions by forcing them to pay deposit insurance premiums above and beyond the risk they pose to the banking system.

Despite making up just 20 percent of the Nation's assets, these community banks contribute 30 percent of the premiums to the deposit insurance fund. At the same time, large banks hold 80 percent of the banking industry's assets. Yet they just pay 70 percent of the premiums.

We must fix this inequality. That is what the Tester-Hutchison measure does. It will do so by requiring the

FDIC to change the assessment base to a more accurate measure: a bank's total assets, less tangible capital. This change will broaden the assessment base and will better measure the risk a bank poses.

A bank's assets include its loans outstanding and securities held. One need only look back to the last 2 years to know those are the assets that are more likely to show a bank's exposure to risk than just plain deposits. It wasn't a bank's deposits that contributed to the financial meltdown. The meltdown was caused by bad mortgages which were packaged into risky mortgage-backed securities which were used to create derivatives. These risky financial instruments and the large institutions that created and held them are what led to our financial crisis.

So our amendment is particularly timely because the FDIC has now said banks are going to have to prepay into the insurance fund for 3 years, and all that will be due this year, so a 3-year assessment will be due at the end of this year. It is so important to have a fair assessment ratio, and that is what the Tester-Hutchison amendment will do. It will have a ratio for what a bank owes into the deposit fund that is based on its risk, based on assets minus capital.

I am very pleased to be the sponsor of this amendment. I worked on this amendment in committee. I did the research on it to try to make sure we were doing the right thing. I am pleased Senator TESTER joined me in this effort, and we have a very bipartisan group of supporters of this amendment. It is my hope that we pass by an overwhelming vote this amendment which will put into the law that the FDIC deposit insurance will be based on a standard that levels the playing field for community banks so big banks don't have an advantage over community banks. It is our community banks that are giving the loans to businesses throughout our country. They are the ones that were there in the crisis as best they could to try to put liquidity into the market. They didn't cause the crisis and they certainly shouldn't pay the price for it.

I urge all my colleagues to support the Tester-Hutchison amendment.

Madam President, I was going to suggest we allocate the time being used against both sides. That would be my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut.

Mr. DODD. Madam President, let me commend our two colleagues, Senator TESTER and Senator HUTCHISON, for this proposal. As I said several times yesterday, I think this is a very sound contribution to this bill for the very reasons outlined this morning by Senator HUTCHISON and Senator TESTER earlier—reducing the cost to our com-

munity banks at a time when obviously they are all feeling tremendous pressures under this economy. So I am a strong and ardent supporter of their proposal, and I am confident it will be overwhelmingly supported by our colleagues.

Let me quickly add we are going to be moving on after that vote to the Shelby, et al., amendment regarding consumer protection and complete replacement for the title. My colleague from Texas has written to me along with Jay Rockefeller regarding the Federal Trade Commission's interests, and we have worked that out, I believe, to the satisfaction of my colleagues on the Commerce Committee. But I draw to the attention of Members the amendment we will be voting on does great damage to the FDIC's rulings and abilities in this legislation. I urge people to take a good look at what we are going to be asked to support, as it deprives the FDIC of some of the very authority and rulemaking that I think we want to preserve in our legislation. So I will address the Shelby amendment after the Hutchison-Tester amendment is disposed of.

But let me say in response to the minority leader, one of the strongest features of what has happened to our country over the last several years is we have had seven different Federal agencies that have divisions on consumer protection. They have been around for a long time. The reality is, most of them were asleep at the switch and were treated as second-class operations within their prudential regulator to such a degree that even though we mandated legislatively to protect home mortgages and people, they never even promulgated a single regulation in this area. Small businesses watched credit card rates go through the ceiling. Many people who rely on that ability are watching their rates jump from 5 percent to 22 percent, which is not uncommon.

So the idea that this has been a division between bureaucracy in Washington and what happens on Main Street is a complete aberration. We have seen 7 million people lose their homes, many of them because they were lured into deals they never could afford at the fully indexed price. We saw the outrage expressed by consumers and we saw consumer credit cards again where rates exploded, making it difficult. There are all sorts of features.

This bill covers only financial products and financial services. That dentists and butchers and retailers on the street are going to be affected by this is a complete myth, totally so, and the provisions of the bill couldn't be more clear about it. There are no new regulations. We are taking existing consumer laws, things such as truth in lending, fair credit. Some legislation goes back 50 years to protect con-

sumers and others from the kind of activities people have to worry about every day, in terms of making sure they are not going to be abused by people who would take advantage of them. The question is whether anybody is going to enforce any of this. So by setting up this agency in the Federal Reserve, we are giving them independent rulemaking authority, appointed by the President, confirmed by the Senate as an operation, and then working in consultation with prudential regulators so we don't end up with a conflict between the safety and soundness requirements of our financial institutions and the consumer protection issues.

In the absence of this, what we are confronted with every year is having to draft legislation to deal with one consumer problem after another, and we all know how long that can take, if it ever gets done at all. In the meantime, we see what happens to average citizens who have paid dearly.

As to the whole shadow economy, community banks are right to be annoyed. Here they are located on one street corner, and they have a payday lender on the other corner completely unregulated. Here they are as a community bank having to go through a regulatory process to make sure things are working right and yet the shadow economy operating maybe 100 yards away and no protections. Under this proposed amendment, we require assessments of community banks to pay for the regulation of the nonbanks. Here they go again. Another cost. Our bill does none of that. The cost of the consumer protection agency comes out of Fed money; no assessment, no appropriations to support it. This one requires an assessment. Here we are going to adopt an amendment, the Hutchison-Tester amendment, which reduces the cost to 98 percent of consumer banks, and the next amendment adds an assessment onto them. We have to be a little bit consistent about this.

So that is what the Shelby amendment does. There is an assessment in his bill on community banks, on the nonbank community. So while nonbanks will pay some, the other ones do. We don't do that in our bill. I think there are so many assessments out there already. That shouldn't be the case. We consolidate so you get clarity, not seven agencies telling you what consumer regulation you ought to follow or not. They deserve clarity in thought so there is a consistent line of what is occurring out there and that consultation and cooperation with prudential regulation so we don't have the conflicts.

We spent a lot of time going through this. This amendment, the provision of the bill, is one that was worked on, by the way, on a bipartisan basis as we were drafting it so we could have this feature of the bill.



Again, I am willing to listen to ideas on how we can strengthen this and make it more clear against some of the accusations that we are reaching into Main Street on this legislation. Nothing could be further from the truth. We are not reaching into it at all. Obviously, any proposal deserves to be looked at again and other ideas that can tweak it and make it look better. But the idea that we are going to level assessments—the FTC gets damaged, in my view, as it is presently written. I think people need to read carefully what they are going to be asked to vote on in the Shelby amendment and then walk away from it. It is worse than the status quo in many ways. It takes a huge step back. If there is anything we have learned in the last 2 years, it is those small businesses, those people out there who rely on the flow of credit, the access to capital, to see to it there is going to be someone watching out on a consistent basis to what happens to them, we believe we have a very strong provision in our legislation.

Senator TESTER is here to close on the amendment. I apologize for drifting off into this other area. I see my colleague and friend from Massachusetts. But I know Senator TESTER wishes to be heard on the Hutchison amendment. So I apologize to my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, the Senator from Montana, I believe, is gesturing that the Senator from Massachusetts could have up to 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Thank you, Madam President. Thank you to my colleague from Montana. I have enjoyed working with him very much over the last couple days and the Senator from Texas as well. I know we have been working very hard on this amendment. I wished to commend the Senator who just finished speaking as well—I have privately and publicly—for taking this effort and trying to work through it in a bipartisan manner because, as I have said many times, this is an issue that affects the American people in very serious ways. I don't want to rush in. I want to do it right so we don't have to come back next year or next month and try to fix problems we may have inadvertently created. So I appreciate the Senator from Connecticut allowing me to come and speak to him privately in his office and his staff and work through this and I am hoping we can continue with that bipartisan effort.

As a reflection of that, I have signed on to many amendments, some by my Democratic colleagues and some by my Republican colleagues, and I am thankful the majority leader has said publicly that we are going to get a full and

fair discourse on these issues. The one I am referring to today is the Tester-Hutchison amendment, of which I am also a cosponsor, amendment No. 3749.

For more than 75 years, the presence of FDIC deposit insurance has meant that Americans who deposit savings in insured banks sleep soundly at night. That is kind of the basic small community bank. You know when you are giving your money to a bank it is not going to be treated as a casino; it is going to be protected. But as our banking sector has consolidated and large national banks have emerged, our smaller community banks have been getting squeezed. These small banks pay approximately 30 percent of the total of the FDIC assessments but hold only 20 percent of the Nation's banking assets.

I feel it is time for the larger institutions to pay their fair share. This amendment will improve competition in the marketplace and help small businesses. Everyone knows small businesses across the country are having a hard time getting loans. Lowering the assessments on these community banks, I believe and others who are sponsoring this amendment believe, will help increase loans to small businesses. On a relative basis, our small community banks are far more active in the market compared to larger banks. As someone who was, in a prior life before I got here, involved in representing some of those banks, I can tell my colleagues they are the ones that are continuing to keep the economic engine going in these small towns.

I am pleased the amendment we will vote on today also makes sure the institutional custodial banks and bankers' banks are protected from unfair assessment levels that are not in line with the true role in the financial system. This matters a great deal to my State of Massachusetts—the global hub of institutional asset management—and will allow us to restore fairness to the FDIC assessment system without imposing large, unjustified assessment increases on custodial banks.

So I urge my colleagues to support the amendment. Thank you, Madam President, and the Senators from Montana and Texas.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Madam President, first of all, I wish to thank the Senator from Massachusetts for his comments. I very much appreciate his cosponsorship and support of this amendment. I also wish to thank Senator HUTCHISON for her hard work on this amendment. I very much appreciate her ability to get things done in a fair way, and I thank her very much for that.

Senator HUTCHISON and I have come to the floor several times to talk about this bipartisan, commonsense amendment to hold banks accountable for

their behavior and to preserve the integrity of the FDIC deposit insurance fund. It has been said before that this would direct the FDIC to base assessments on assets rather than deposits, forcing big banks to pay their fair share into the fund. This amendment will ensure that the community banks that make rural America run will pay only their fair share into the fund—no more and no less—fixing the lopsided system we have now. It would also protect the integrity of the deposit insurance fund, which is critically important, ensuring that it has the resources to be self-sufficient and prepared to address any future crises.

Let me say, Senator HUTCHISON and I think this amendment makes a great deal of common sense, as do the other 13 cosponsors of this legislation. I am pleased we are joined by so many of our colleagues on this important amendment and that it is one of the first amendments up for consideration. It is a question of equity. It is a question of making sure the FDIC insurance fund is solvent for years and decades to come.

I wish to thank all the people who have cosponsored it, and once again let me thank Senator HUTCHISON as well as the chairman of the Banking Committee, Senator DODD, for working with us on this amendment.

Madam President, is it appropriate to ask for the yeas and nays?

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

All time is yielded back. Under the previous order, the question is on agreeing to amendment No. 3749.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 132 Leg.]

#### YEAS—98

Akaka	Conrad	Johanns
Alexander	Corker	Johnson
Barrasso	Cornyn	Kaufman
Baucus	Crapo	Kerry
Bayh	DeMint	Klobuchar
Begich	Dodd	Kohl
Bennet	Dorgan	Kyl
Bingaman	Durbin	Landrieu
Bond	Ensign	Lautenberg
Boxer	Enzi	Leahy
Brown (MA)	Feingold	LeMieux
Brown (OH)	Feinstein	Levin
Brownback	Franken	Lieberman
Bunning	Gillibrand	Lincoln
Burr	Graham	Lugar
Burris	Grassley	McCain
Cantwell	Gregg	McCaskill
Cardin	Hagan	McConnell
Carper	Harkin	Menendez
Casey	Hatch	Merkley
Chambliss	Hutchison	Mikulski
Coburn	Inhofe	Murkowski
Cochran	Inouye	Murray
Collins	Isakson	Nelson (NE)

Nelson (FL)	Sessions	Udall (NM)
Pryor	Shaheen	Vitter
Reed	Shelby	Voinovich
Reid	Snowe	Warner
Risch	Specter	Webb
Roberts	Stabenow	Whitehouse
Rockefeller	Tester	Wicker
Sanders	Thune	Wyden
Schumer	Udall (CO)	

## NOT VOTING—2

Bennett  
Byrd

The amendment (No. 3749) was agreed to.

Mr. DORGAN. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. JOHANNES. Madam President, I rise today to discuss the consumer protection piece of the financial reform bill we have been debating.

Let me start by expressing my appreciation for the good work of Chairman DODD and the good work of Ranking Member SHELBY and others who are making their way through a thoughtful process to try to get an overall bill that will work.

This piece of the bill, though, in my judgment, needs a tremendous amount of effort, attention, and work yet. The consumer protection piece has generated a lot of debate. We have all asked the question in Banking Committee hearings and on the floor: What is the best way to protect consumers? Let me underscore that. This has not been a debate about whether we do or not. No one is talking about ignoring this piece of the legislation. No one is advocating that we do nothing on consumer protections. What we are trying to focus on is the best way of doing it. We need to keep that perspective in mind as this debate unfolds and motives and words get distorted and stretched.

The bill before us establishes a consumer protection regime that is going to be housed at the Federal Reserve. But let me emphasize, that does not mean it is under its supervision. It functions like a stand-alone agency.

This new "bureau" will have what I would describe as unprecedented powers. It will reach into nearly every area of our economy with power over nearly everything. Anything that resembles the term "financial in nature" will come within the purview of this bureau.

I must admit, as this debate was going on, I found it surprising, if not shocking, that folks such as car dealers, accountants, and lawyers were showing up at my office to talk about the impact on them. It is no wonder that so many business groups have come out in opposition to this current piece of this legislation. I am not talking about banks. I am talking about business groups.

The Chamber of Commerce sent a letter outlining concerns on April 28 on

behalf of—and I am using their language—"hundreds of thousands of non-financial services businesses." These hundreds of thousands of businesses—many of them small businesses—had absolutely nothing to do with the last crisis. Yet with this new bureau, I believe they will be punished or, at a minimum, tied up in redtape.

There are many pieces of this on which I could spend a lot of time talking on the floor, but what I have tried to do today is to encapsulate my thoughts into five areas, five concerns, if you will.

The first area is the unlimited rule-making authority provided for in this legislation. Because the term "abusive" was added to the unfair and deceptive acts or standards, there is virtually no limit to the kinds of rules this new bureau can write.

We also know that the term "abusive" is entirely subjective. So how do you determine abusive? Will you make each customer take a financial literacy test? Is abusive different for MIKE JOHANNES than it is the next customer? Because "abusive" can be defined so differently from one customer to the next, we can see the unlimited problem that is created.

The second area, no veto power. I consistently said that it is a mistake to separate consumer protection from the issues of safety and soundness of the institution. If a proposed rule will have a negative effect on the safety and soundness of financial institutions, then we need some kind of checks and balances. Checks and balances are good. In this bill under debate, this new agency only has to list the regulator's concerns, not take them into any kind of meaningful consideration.

The third area, privacy rights. While there are a lot of privacy concerns here, two major ones come to mind.

Let me go to the language of the bill itself. Section 1022 mandates the bureau to:

... gather information ... regarding the organization, business conduct, markets, and activities of persons operating in consumer financial services markets.

A person is defined in the bill as an "individual." So do you follow me? What this means is the bureau can look into the business conduct of the average person out there.

Section 1071 requires any deposit-taking financial institution to geocode customer addresses and maintain records of deposits for at least 3 years.

As Jim Harper from the Cato Institute described it:

Think of the government having its own Google map of where you and your neighbors do your banking.

Is that what Americans want out of this bill?

The fourth item is the preemption standard. The current bill really changes current Federal law under the guise of giving States more power over

their consumer protection laws. This worries me. This will wreak havoc for financial companies operating in more than one State. What we would be saying is they will have to comply with a patchwork of 51 State laws, and State AGs will have the power to enforce State and Federal laws against national banks. If this were the way since the beginning of time, one might say: Well, they have adapted to it. But to put them in this kind of regimen is literally to say to them: You are going to have to chew up mountains of capital to try to comply with all these various rules and regulations and laws of the various States.

The fifth item I wanted to mention is the expansive reach. This bill includes what I regard as an overly broad definition of "consumer financial product or service" and "service provider." Specifically, section 1027 will subject numerous merchants to the regulation of this new bureau just because the business provides the ability to their customers to repay in four installments.

Imagine that you order a camcorder for the holidays off a home shopping network. This company provides you with the flexibility of making four installment payments. This new company could be swept under this new bureau. How long do you think companies will continue to provide that kind of flexible option to consumers if they are going to be buried in regulation? That is why the dentists, the lawyers, the advertising agencies, the accountants, and even florists are concerned with this bill and are showing up in our offices saying: What are you doing? I don't know about anyone else, but I can make the case without any hesitation that my local florist doesn't come to mind when I think about the players who brought our economy to the edge.

In response to this expansive and unfettered bureau, I am proud to announce my support for an alternative. This alternative, led by Senator SHELBY, is well thought out, is a reasonable approach and I believe a compromise to a very difficult issue in this legislation. It would establish a consumer protection division within the FDIC, which I believe is a natural fit since this agency is already tasked with protecting consumer deposit accounts. This new division would have authority to make rules relative to consumer protection. All rules, regulations, and orders would receive the approval of the board of the FDIC—an important check and balance. This is a very important distinction in terms of what we are debating today. Board approval will ensure that actions taken by the division appropriately consider safety and soundness of the financial institution, while ensuring that consumer safeguards are in place. While it allows primary supervision and enforcement to exist with the existing

regulators, it does not bring in nonbank mortgage originators for supervision.

I will end on a final thought. Many have claimed that these mortgage insurers acted unfairly and that they preyed upon unsophisticated borrowers during the last crisis. This ensures the mortgage broker operating out of his garage or whatever is going to be regulated.

Finally, this new agency will be able to go after the bad actors, and that is what we should be doing. Anyone who shows a pattern of material violations will be brought under this new FDIC division.

Let me wrap up where I began. I applauded all my colleagues who have spent so much time and energy focusing on the consumer piece of this regulatory reform. Chairman DODD led us through hearing after hearing trying to figure out the best way to protect consumers. Senator SHELBY, our ranking member, worked on those issues in concert. We can get this right, but in my judgment, where we are today, the proposed legislation on the floor does not get it right. Let's focus on getting it right, getting the bad actors.

I believe the approach that is being championed by Ranking Member SHELBY is a reasoned one that elevates consumer protection while keeping safety and soundness as a paramount consideration. I ask my colleagues to support the alternative.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, first of all, if I may, let me acknowledge the contribution of the Presiding Officer, my colleague from New York. Everyone brings value to this Chamber from time to time based on what they have done in their earlier lives. I thank her immensely for bringing her background and experience to this critical debate we are having. She spent a lot of years working in this area of the law, knows it well, and I have come to appreciate her counsel and advice and thoughts on all of this, and I want to acknowledge that, if I may.

Madam President, as I said at the outset, there are four major pieces of this bill of ours, and I will add a fifth, obviously, dealing with the derivative section that was worked on by the Presiding Officer as a member of the Agriculture Committee, BLANCHE LINCOLN being the chairman of the Agriculture Committee. Title VII of this bill deals with that section. The Banking Committee side deals with the four other major parts of this bill, and they are, No. 1, end too big to fail; No. 2, set up an early warning system—and I am being simplistic in describing these—deal with the derivatives and the so-called exotic instruments; and have a strong consumer protection feature to this bill. Those are the four points.

We have resolved, I believe to virtually all of our satisfaction, the too-big-to-fail argument. We did that yesterday. And again, I thank my colleagues, particularly Senator SHELBY and others, for helping us work through that to come to a conclusion that ends the debate as to whether the bill before us ends too big to fail. I think that in itself would be justification for supporting the legislation—knowing that if we adopt this legislation, as I am hopeful we will, and Lord forbid we are confronted with another major economic crisis, we will not be faced with the choices we were in the fall of 2008 where the American taxpayer wrote out a check for \$700 billion to bail out major financial institutions that were on the verge of collapse. We were told that if they did so, the financial system of our country, and possibly globally, would melt down, to use their words. What we wanted to avoid was ever being put in that position again, where you had the implicit guarantee that the Federal Government would write that kind of check. We have done that now in this bill, so let's check that box. Too big to fail is over with, and this bill takes care of that. We need to pass the bill, and we need the President to sign it so that it becomes law. But as of right now, we are far closer to resolving that issue than ever before.

The derivative section of the bill and so forth—I know people are working on this and working with Senator LINCOLN and others on that section of the bill. I respect immensely their efforts to make sure we can arrive at a compromise. We think we have good provisions in the bill, but I think all of us recognize other ideas and thoughts are always welcome. So that is being worked on.

The sort of radar, the look-ahead approach to our legislation, I don't think there is any debate about, so that box has sort of been checked. Maybe someone has some amendments on what they would like to do to strengthen it but not the idea that we have an early warning system so that we pick up these problems far earlier than we did or were willing to acknowledge as they were developing within the residential mortgage market as early as 2005 and 2006, beginning to explode in 2007, and then, of course, watching the events of 2008, culminating in the fall with the decisions we had to make in order to stabilize the financial system in our country. Had we had that early warning system—more than just one set of eyes at the Federal Reserve, which did, to put it mildly, a very inadequate job of picking up what was occurring in the real estate bubble—we would never have found ourselves in the situation we did in our country in the fall of 2008.

We believe the early warning system will be a major step in limiting the kinds of problems we have seen in the

last couple of years. It does not stop the next economic problem. There will be another economic crisis. Future generations will deal with that. There is nothing in this bill that prohibits us or guarantees us that we have once and for all avoided economic crises. First of all, we are no longer in total control of that within our own country. How many more headlines do we have to read about Greece and what is occurring there—the riots in the streets today because of the economic decisions they are making to stabilize their country. These are already having an effect globally. So while we can do a lot to minimize what happens here, we recognize today that we live in a far more interconnected world that poses its own set of risks.

Nonetheless, I think the fact that we have established, on a bipartisan basis—and again, our colleagues MARK WARNER and BOB CORKER, along with other Members, did a great job, in my view, in crafting that part of our bill. So I think we have done a good job there, and I see very little dissent about it.

The fourth piece, the consumer protection, is the one in which we are now engaged. This is a debate that I believe is worth having over the next hour or two and then vote. Let me say to my friend from Alabama, the author of the amendment, and his cosponsors that we have to come and debate this stuff. I am here and will be glad to engage in the debate, but I have one other colleague here right now involved in this question. This is a major part of the bill.

People have told me over and over again that this is a big issue for them. I am willing to accept their determination. I think it is a big issue too. But we have about 100 amendments people want to offer, and we have about 39 legislative days between now and the end of this Congress, with an awful lot to do.

Now, I can't get there for you. I can't get your amendments up if others insist upon elongated times on the consideration of their amendments. We have all been debating consumer protection for years now, particularly over the last 18 months. There is no reason to have a protracted debate on this question. My Republican friends have offered a substitute to my bill on this issue, and I welcome that substitute. We need to now debate it and then vote on it and move on to the next issue.

Madam President, I am delighted to see my good friend, who just arrived to engage in this discussion. So let me address this issue of consumer protections in terms of both what we have in the bill, reading the language of it, and what the alternative would do.

Let me first of all say that I listened to my friend from Nebraska, Senator JOHANNIS, a wonderful member of our committee and a person I have come to

respect very much. He has been very productive and very helpful in the Banking Committee.

But the idea, to use his language, that we are covering florists and accountants and lawyers and dentists—nothing could be further from the truth. I guess the old adage is, if you say something often enough and repeat it often enough and if it goes unchallenged, it becomes a fact. It is not a fact. In fact, it is anything but a fact. I know they wish to use that argument to try to pass their amendment or to defeat the sections of the bill I have included, but I cannot say it any more clearly to my colleagues. I believe it is section 1027 of the bill. You have all got copies of the bill on your desk. Read section 1027 when you come to the floor. It is not complicated legislative language. It says specifically the only reason you would be covered by the consumer protection language in this bill is if you are significantly involved in financial services or financial products.

I realize the word “significantly” is what people want to work on, and I am willing to listen to some ideas as to how we can define that word “significantly.” That is not a bad point. I understand that. But don’t tell me it covers a florist under any definition of the words “significantly involved in financial services and products.” It excludes retailers and merchants across the country. Again, I am willing to debate all sorts of language here but don’t make me debate completely false allegations about what is in the bill.

At any rate, we have been working on our bill for a long time. My compliments and thanks to my colleague from Alabama for the efforts yesterday and so forth. But this is a very important part of the bill. We have worked to create an early warning system, as I mentioned, and of course too big to fail, but consumer protection is critical because it goes to the very heart of what we are trying to do. In fact, it was consumers, small businesses, families, individuals, farms that were adversely affected. Wall Street did fine, as we have seen. Some people lost some jobs along the way. A couple of these large institutions did collapse. But we have heard about the bonuses that went to top executives. The buildings are still there. They have been making record profits over the last couple of years. But what happened to those millions of people who had a home that now is gone? What happened to those 8.5 million jobs? Gone. What happened to those retirees in our country who watched 20 percent of their retirement evaporate? What happened to those people who still have a house but the value of that home has declined by 30 percent in the last year and a half? I don’t know what you call them; I call them consumers, the average person in our country who did not do anything

except try to hold body and soul together, got lured into a bad deal by people who were unregulated and were willing to convince them they could buy a home they never could afford, knowing that the fully indexed adjustable rate mortgage was going to wipe them out.

I talked about Dolores King, who was the first witness I brought to our committee 3 years ago, in January or February of 2007. She was a retiree in Chicago who worked as a librarian for 30 or 40 years. Her husband had died. She had about a \$30,000 or \$40,000 credit card debt and some unscrupulous broker came in and convinced her she needed to rewrite her mortgage and an adjustable rate mortgage would work for her. She lost everything. She lost her home—70 percent of her fixed retirement income went to pay that mortgage.

So when people tell me you cannot get consumer protection, when that automobile company a few weeks ago had to recall its cars because the accelerator got stuck, they got recalled. Did Dolores King get her mortgage recalled because it was faulty, when she lost her home? That is what consumer protection does. If you are in the business of financial services and products, having someone watch out for the average citizen ought not be such a radical idea when we talk about financial reform.

We have this in a way, on a bipartisan basis, I might add, that sets up an independent consumer protection agency housed at the Federal Reserve. Its director is appointed by the President and confirmed by the Senate. It has the authority to write rules on consumer protection in the financial services area where financial products are involved.

Then of course it has examination and enforcement authority—only for those institutions that have assets more than \$10 billion—for enforcement; otherwise, it is done at the local level. The rules are the same. We don’t write any more rules. The rules are there. They have been around in some cases for 50 years—truth in lending, fair credit, RESPA—all of these laws in place. All we are saying, can someone enforce them and examine institutions and determine whether they are living up to them?

Right now there are seven agencies that have a consumer protection division. For a huge part of our economy, no one is watching them. One of the very legitimate complaints our community banks make: We get regulated but that guy down the street, that payday lender, no one is watching out what he is doing every day, and we are disadvantaged. Our bill stops that. If you are a payday lender, you are under the same rules that banks would be under—at least have someone watching out there. That is a major step forward. We recognize a major part of our

economy’s collapse or near collapse was in the shadow area of our economy. Our legislation fills those gaps.

We understand, or should understand, how important having an independent agency with rulemaking authority is. Again, the issue is—wait a minute, you have to be careful, Senator, because you have safety and soundness and the prudential regulators have to be considered in all this. That is a legitimate point. I don’t disagree with that, although I think sometimes the accusation that there is this great conflict is exaggerated. Our bill says the prudential regulators have to examine and look at the rules coming out. If they vote, two-thirds of them, and say that rule creates a conflict or some problem, it does not go into effect. There is not another agency in government that can have its own regulations or rules vetoed by another group of regulators. That was a suggestion, again, by Republican colleagues to include in our bill, to provide the kind of safeguards against potential conflicts of interest between safety and soundness and consumer protection.

Again, that today with seven agencies tasked with consumer protection, not one of which did the job to anyone’s satisfaction in the lead-up to this crisis, ought to be justification alone for what we are trying to do. Our legislation will have an independent director appointed by the President and confirmed by this body, as I said. They will have a dedicated independent budget paid for by the Federal Reserve Board.

The proposal we are being asked to vote on adds additional assessments to banks and to nonbanks. We just got through adopting the Tester-Hutchison amendment regarding assessments, to reduce the assessments on community banks. If you adopt the Shelby amendment, you are going to add assessments on again. Here we vote on one hand to take them away, and now with an amendment—this asks to put them back on and is asking our community banks for additional assessments to cover the activities of nonbanks. I thought I heard my colleagues say around here we ought to be more sensitive to what is happening at the community bank level. Yet this amendment my colleagues are going to be asked to vote for does the opposite. So be very careful when you get up and vote for this amendment to explain why, later, if in fact it gets adopted, this bill does, why we are adding assessments to those banks.

Our bill will have an office of financial literacy to ensure consumers are able to understand the products and services being offered, which was a major problem in the last crisis, and a national toll-free consumer complaint hotline so Americans have somewhere to go when they need to report a problem.

Our bill will make us empowered to write consumer protection rules governing any institution, bank, or payday lender that offers consumer financial services or products, and only those businesses that do that. In short, we are ending the alphabet soup of distracted and ineffective regulators and replacing it with one single, empowered, focused cop on the consumer protection beat.

Again, a complaint, I think legitimately, is when you have seven agencies with consumer protection jurisdiction—I think the lack of clarity is important. My colleagues should understand that. My colleague from Alabama has come out with a Republican substitute for the consumer protection bureau. I am surprised. I know my friends were not going to agree with the consumer protection provisions as strongly as some of the ones in my bill, and in some of my more pessimistic moments I thought they might want to maintain the status quo, but this is worse than the status quo. This is a major step back. This substitute actually goes backward, making it easier for unscrupulous lenders to rip off the American public, businesses, and families. It is a stimulus package for scam artists, that is what it is, this amendment; nothing short of that. For the life of me, I cannot understand, after months of hearings, months of analysis, months of discussion regarding the fact this financial crisis started with a failure of consumer protection, anyone would think that the right solution is less consumer protection. Yet that is exactly what this amendment does.

It is as though we are in a deep hole and we spent a full year debating how to get out and our Republican friends' solution is: Keep digging.

I am going to walk through the provisions of their substitute but, in short, here is why it is simply unacceptable.

First, when it comes to writing new consumer protection rules, the Wall Street substitute—and that is what it is—relies on the same regulators who screwed up the country in the first place. Why would you ask them to do it again?

Second, when it comes to enforcing rules, their plan actually makes things worse, reducing regulators' ability to stop rip-offs and leaving American families even more vulnerable.

Third, the Republicans' substitute wants to raise taxes on community banks and credit unions to pay for the regulation that will not even happen.

Fourth, they want to make it easier to sell Americans mortgages they cannot afford which, if you have been paying any attention at all to what has been going on in the last 18 months, is the very reason we got into this mess in the first place, making it easier to sell Americans mortgages they cannot afford.

Fifth, to top it all off, this substitute eliminates the provision of any consumer protection proposal that targets discrimination in lending. How on Earth could anyone be against ending discrimination in lending? Yet that is also a part of this substitute.

If you look at how we got into the crisis and you conclude that the answer is to weaken consumer protection, you are doing it all wrong. Let me go into a bit more detail, and then I see my colleagues want to be heard as well.

The first important change in the Republican substitute is, instead of having an independent agency write consumer protection rules, it puts the task in the hands of the same distracted and ineffective regulators who failed so badly in the first place.

What would that mean for the consumers? Here is a preview. One of those regulators has already demonstrated itself to be anticonsumer, opposing proposed rules to keep credit card companies from retroactively raising interest rates on outstanding balances.

I can speak firsthand. I am the guy who wrote the credit card bill. The agency that fought me on it now is going to be tasked with the job of protecting people from it. For the life of me, of all the agencies you could have picked to run this in your bill, you picked the one agency that has fought us on credit card reform. It is stunning to me that someone would actually write a substitute tasking this agency, knowing this was the agency that did so much damage, was opposed to the idea that we put limits on interest rates to be charged on outstanding balances. That is not putting consumer protection at the heart of our financial system, that is putting consumer protection in the backseat, where it has been for far too long.

That is not the worst of it. The Republican substitute limits enforcement powers to "large nonbank mortgage originators." Large nonbank mortgage originators—other finance companies will avoid enforcement unless they demonstrate a "pattern or practice" of consumer abuses. In other words, their version of the consumer protection agency will not be allowed to prevent abuses committed by commercial—or banks, or payday lenders, check cashers, credit card companies, debt collectors, car dealers who are involved in the finance business, and a wide range of the worst actors in the subprime mortgage industry, until it is already too late for potentially thousands of consumers to be protected. It is as though they want to create a police department that is allowed to enforce laws against littering. Maybe they will cut down on littering, but to leave the same regulators to deal with the rest of the financial sector, they are essentially turning a blind eye to every other kind of crime out there. In fact, it is like legalizing those crimes

by eliminating the Federal Trade Commission authority to police unfair and deceptive financial practices in these other sectors. The substitute is worse than the status quo, and the status quo is very bad indeed.

Meanwhile, the substitute raises taxes on potentially any nonbank financial services company. It allows the Federal Deposit Insurance Corporation to raise assessments on banks, including community banks and credit unions. In fact, their plan would ask credit unions to pay for the regulation of their nonbank competitors—the same competitors who will be getting a free ride, exempted from any Federal oversight whatsoever.

Our plan is to have the Federal Reserve pay for enforcement. Their plan is to have community banks pay for enforcement, and then do not have the enforcement, of course. That is a tax increase they don't need and one that our depository institutions, so critical to rebuilding our economy, cannot afford.

The amendment also prohibits the establishment of strong mortgage underwriting standards. We all know how important it is to establish better underwriting standards. If we had rules in place 2 years ago that required banks and mortgage lenders to make loans only to people who could show that they have the ability to repay them, we would not be in this mess—if that had been the case.

The amendment before us would prohibit the new division we have proposed to create from issuing common-sense rules like these. If you had to pick one thing in this bill to undermine and ensure that we have another financial crisis, in my view, this would be it.

The substitute also eliminates as an objective of the new consumer division the goal of eliminating discrimination. I believe this goal is essential to restoring America's faith in our markets.

In short, I find it impossible to work with this proposal. There are ideas I am willing to listen to, that we might define "significantly" and things like that. That is fine. I understand that. But this approach does more damage than you can imagine.

Again, to go back to what I said at the outset, we have spent a lot of time talking about what happened to the big firms on Wall Street and what happened to large institutions and large manufacturers. The root cause of the problem we are in began because there was a total disregard for small businesses and families and individuals out there; that they could take advantage of them, as they did, because they could sell off—they could get paid immediately, they securitized these crummy mortgages out there, leaving that home owner in a situation they could never afford to sustain, and the house of cards came tumbling down. And it all began—it all began—with that problem.

I say, respectfully, this proposal goes right at the heart of the very issue we must address in this bill, in addition to all of the other aspects we are talking about. There is no more very important vote we will cast, in my view, in this debate than this one. If we walk away from providing the safeguards for the average American—I do not care what their politics are, what their ideology is, anything else, they deserve to know in this debate, at long last, they are being considered, that watching out for them is part of this.

The outrageous case that this somehow reaches into retailers and merchants is highly offensive to me. It is the last thing I would ever suggest to my colleagues, that we somehow get into the business as Federal regulators of poring over florists and dentists and butchers and accountants and lawyers. Nothing could be further from the truth.

This goes after those businesses involved in financial services and products. It does so in a way that provides clarity, provides an opportunity for those institutions to be regulated, to know what rules they have to follow, and who is in charge of insisting that they meet those obligations.

So with that, I urge my colleagues to vote against this amendment. My hope is we will vote fairly soon. Again, we have hundreds of amendments that people want to be heard on, and we do not have all of the time in the world to deal with it. So we have to move on on these issues.

I think people understand the debate. They can read the amendment. I urge you to read 1027 in our bill, the section dealing with consumer protection, dealing with who is covered. Then we will have a vote.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. DODD. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 789, the nomination of Larry Robinson to be Assistant Secretary of Commerce for Oceans and Atmosphere; that the nomination be confirmed and the motion to reconsider be considered made and laid upon the table; that any statements be printed in the RECORD; the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

#### DEPARTMENT OF COMMERCE

Larry Robinson, of Florida, to be Assistant Secretary of Commerce for Oceans and Atmosphere.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010—Continued

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Madam President, I will join my colleague from Connecticut in opposing the amendment on the floor if it weakens the underlying bill, but I do not come to speak about that proposal at the moment. I wanted to speak about an amendment I have discussed previously on the issue of too big to fail.

There is much yet to do on this subject of too big to fail. I recall, in a room just steps from here, on a Friday, I believe it was, the Treasury Secretary leaning over the lectern in a very stern way saying to the caucus that I was involved in, if within 3 days a three-page bill granting \$700 billion to the Secretary of the Treasury, with which to provide funds to stabilize some of the biggest financial institutions in the country, if that did not come about, our economy could very well collapse completely.

I remember that moment and remember thinking that it was pretty bizarre that our country got to that point: that all of a sudden 1 day, after being told month after month that the economy was strong, the economy was in good shape, that there were some ripples and hiccups here and there, but things were on course and we had confidence in the strength of the economy, that we were now being told the economy may well collapse in days unless the Congress comes up with \$700 billion.

Why was that the case? Because institutions that were so large in this country, at the top of the financial industry, were so important to the economy that their failure could very well result in failure of the entire American economy. That is what is called too big to fail.

Let me show a chart that shows the six largest financial institutions in the country and what has happened to them since 1995. This is their growth as a percentage of GDP. It shows that they are getting larger and larger and larger and much larger. Even during this period of near collapse, the same institutions that were judged too large to fail and judged to represent a grave risk to the entire economy have gotten larger than just too big to fail.

We had a vote yesterday, but that cannot be the end of this discussion about how to address too big to fail. The vote yesterday was rather Byzantine, as far as I was concerned. I was not someone who was a big fan of the \$50 billion to be pre-funded for resolution of too-big-to-fail companies. But

having said that, to decide that the \$50 billion, which would come from the very institutions that are too big to fail, should be abolished, and that the funds instead would come from the FDIC, which are initially funds from the American taxpayer, made no sense to me. Then suggesting that it will be all right because the FDIC will be repaid with the sale of assets—oh, really? Well, firms that are too big to fail that are going to get in trouble in the future are not going to have very many assets. They are going to be in trouble because of dramatic amounts of over-leverage, leverage that goes far beyond their ability to continue to do business. And when the firm comes tumbling down, I fail to see where assets are going to exist in substantial quantity to repay the taxpayer.

But that was yesterday. I did not support that. That was yesterday. This issue of creating a circumstance of early warning on too-big-to-fail firms is not satisfactory to me. The only way to resolve too big to fail is to abolish too big to fail. I mean abolish too big to fail. That means having firms that are not too big to fail, that will not cause a moral hazard or a grave risk to the entire economy should they fail.

Do you believe that is the case with this graph? Is there anything here that—as this graph shows, we have firms that are too big, far too big to fail. Is there anything here that is going to solve that in this bill? The answer is no. The only direct and effective way to address this is to decide, if you are, in fact, too big to fail, then there has to be some sort of divestiture or dissolution to bring that firm back down to a point where in size and scope such firm is not too big to fail and is not causing the kind of dramatic special risk to the country's economy that it would bring the economy down with it.

That is the only direct and effective solution. Is that radical? Well, I have an amendment that requires that if you are determined to be too big to fail, then we begin a process, over 2 years, of breaking away those parts that make you too big to fail. Is it a radical idea? I do not think so.

One-fourth of the Board of Governors of the Federal Reserve Board says we ought to do that. Richard Fisher, president of the Dallas Fed: Too big to fail is not a policy, it is a problem. Too big to fail means too big period. We ought to break them up.

Federal Reserve Bank of St. Louis, James Bullard, president and chief executive officer: I do kind of agree that too big to fail is too big to exist.

The economist, Joe Stiglitz, Nobel Prize winner: Too-big-to-fail banks have perverse incentives. If they gamble and win, they walk off with the proceeds. If they fail, taxpayers, pick up the tab.

Alan Greenspan—I seldom, if ever, agree with Alan Greenspan, but I have

used a quote of his to describe where we are now. He was around sitting on his hands for a good many years while these problems developed, despite the fact that he had the authority to have avoided them. Then he has written a book acting as if he was exploring the surface of Mars while all of this went on.

But now he says: The notion that risks can be identified in a sufficiently timely manner to enable the liquidation of a large failing bank with minimum loss has proved untenable during this crisis, and I suspect in the future crises as well.

Simon Johnson, professor of entrepreneurship, the Sloan School: There is simply no evidence, and I mean no evidence, that society gains from banks having a balance sheet larger than \$100 billion.

I do not know whether I agree or disagree with that. But his point is that too big to fail means too big.

Arnold King, Cato—I seldom quote Cato on the floor of the Senate. But, you know, strange bed fellows: Big banks are bad for free markets. There is a free market case for breaking up large financial institutions—that our big banks are a product not of economics but of politics.

The president of the Federal Reserve Bank of Kansas City, this is the third Fed president: I think they should be broken up. And in doing so, I think you will make the financial system itself more stable, more competitive, and I think you will have long-run benefits over our current system.

We broke up Standard Oil in this country into 23 different pieces. It turned out the 23 pieces were more valuable than Standard Oil was. I am not saying just go in and break up things just for the purpose of breaking up. I am saying this: If there is a standard by which we judge that an institution is too big to fail and causes a dramatic risk to the economy as a whole should it fail, a moral hazard, unacceptable risk to the entire economy, then it seems to me like this issue of creating early warnings and stop signs and sirens and so on is largely irrelevant.

What we need to do is do something direct and effective and something we all knew we should do; that is to say, if you are too big to fail, and judged to be so, and judged to pose those kinds of risks to our economy, then you must break off pieces. We would, over a 2-year period, require that to happen until you are not too big to fail.

Let me show a couple of quick charts. This one shows the top financial institutions: The Big Get Bigger. This chart shows the same thing, measuring assets and liabilities: The Big Get Bigger. Much, much bigger. The first chart I showed today demonstrates why, if we do not pass the amendment I suggest, we can thumb our suspenders and crow all we want in

every hallway in this Capitol Building, but we will have not done what was necessary to be done to address too big to fail. We just will not do it.

So I have an amendment. I am here because I am pestering those who are lining up amendments to make certain I have a chance to debate and vote on that amendment, and that will be the test of whether this Congress has learned a lesson; whether, when someday a Treasury Secretary leans over a lectern and says: If I do not get \$700 billion to bail out the big interests that ran this country into the ditch, our whole economy is going into the ditch.

So I hope very much that we will have the opportunity to both simply and effectively do what is necessary to finally and thoughtfully address this issue of too big to fail.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BENNET. Thank you, Madam President.

I see our chairman and the ranking member over here from the Banking Committee on which I serve, and I want to congratulate them for their hard work in getting this legislation to the floor. We are finally doing some work around here, and we are doing it in a bipartisan way.

I think this bill is going to improve over the course of this debate. It is an enormously important opportunity to safeguard our economy from the reckless danger that got us into this financial mess. I am hopeful we can wade through all this Washington wrangling and get something done to protect America's financial future.

There is a shared understanding of what got us here, and that is the good news. Some on Wall Street took all the risk. Yet it is the American people who paid the price. Small businesses, homeowners, and working families were forced to come in and clean up this mess.

It is our responsibility to learn the lessons from the last collapse to help this economy recover and to head off the kinds of problems that could lead to another financial crisis. In short, we have to fix this economy, ensuring there will never have to be another taxpayer-sponsored bailout.

As someone who sits on both the Agriculture and Banking Committees which share jurisdiction over this bill, I can assure you that this package reflects months of hard work and incorporates ideas and concepts from both political parties. We have examined the problems that brought us to the financial brink nearly 2 years ago, and together these two committee bills created a thoughtful and comprehensive plan to increase transparency, reduce systemic risk, and strengthen our commitment to protecting consumers.

In reviewing the merits of the bill, I think it is important to analyze how it

would have addressed so many of the problems that led to the financial collapse in 2008. Too often, we do not ask the question, What problem is it we are trying to solve, and then we get busy either solving problems that did not exist or creating unintended consequences from our work. I think we have worked hard on this legislation for this not to be so.

Had this legislation been the law of the land, we would not be talking about that \$700 billion taxpayer-funded rescue of our Nation's largest bank holding companies. We would have been able to see many of the dangerous trends develop earlier, and we would have required these systemically risky companies to have more capital and less debt. Had any of these companies failed, we would have resolved them without transforming them into wards of the state, like AIG.

Second, had a strong consumer protection infrastructure existed, we could have stopped the subprime mess before it spiraled out of control. For example, subprime giant Ameriquest would have been subject to meaningful rulemaking and enforcement authority. And while I prefer a wholly independent agency, this bill represents substantial and meaningful progress on a consumer protection front.

Third, had the bill's derivatives reforms been in place, it is much less likely—much less likely—that the Federal Government would have been forced to spend tens of billions of taxpayer dollars to rescue AIG from its own sloppiness and greed.

In total, the plan before us represents a strong and thoughtful measure that rewrites the rules of the road for Wall Street. And through the amendment process, we can make it even better.

For example, I think we need to ensure that certain State-chartered community banks that did little to contribute to the current crisis do not have to change their prudential regulator. In so many of our towns, community banks play an important role in providing credit to our local economies. Many of these small institutions are struggling due to this difficult economy, which means less available credit for families and small businesses. I have concerns that a change in prudential regulation may exert further pressure on these small banks which continue to serve their local communities. It is my hope we can balance the need to reduce regulatory arbitrage while preserving the existing prudential supervisory structure for some of these State-chartered banks.

I also believe it is time for us to take advantage of this opportunity to begin to move away from the last bank bailout, the TARP. While there are 100 opinions in this Chamber about how effective TARP was, there really is a broad consensus here and in the country that it is time to wind down TARP,



recapture what we can for taxpayers, and prevent banks from tapping into the Treasury going forward. That is why in the coming days I will be pushing bipartisan legislation that will do exactly that. It would use recaptured TARP funds, borrowed from our children—\$180 billion so far and counting—for deficit reduction, and it would take important steps to end the TARP.

More broadly, I also think we need to be aggressive about strengthening this bill to further protect consumers. I will be supporting amendments which do exactly that.

When it comes to Wall Street reform, we simply cannot afford to delay any longer. Recently, the TARP inspector general underscored this point better than I could. He stated:

[E]ven if TARP saved our financial system from driving off a cliff back in 2008, absent meaningful reform, we are still driving on the same winding mountain road, but this time in a faster car.

In short, bailing out companies has made the future risk to our financial system even worse, by creating the moral hazard that a financial firm that participates in risky behavior is going to somehow be bailed out by the government, by the taxpayer. This Wall Street reform package takes a strong step toward restoring some degree of sanity in our financial system and making that moral hazard a thing of the past.

Finally, Coloradans and the American people are expecting us to act. I am confident we are going to succeed. Lobbyists may have been able to slow down Wall Street reform temporarily, but the American people want it, as well they should. We are getting closer and closer every day to sustaining a workable bill that can pass this Chamber and that we can eventually send to the President for his signature. We cannot allow the status quo to maintain its grip on our financial system. We have to work together and pass this groundbreaking reform package.

I want to close, again, by thanking the chairman of the Banking Committee, who is here in the Chamber, for his leadership throughout the months, not just on this issue but on health care as well but particularly for sticking with this issue. I do not think we would be having this debate right now were it not for the work the chairman did. As a member of the Banking Committee, I appreciate it very much.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, before turning to my colleague from New York, let me say how fortunate I have been as chairman of the committee to have Senator BENNET as a member of our committee. I want to thank him immensely. He is a new member of the committee, but, again—like the Presiding Officer, like my other colleague

from New York—I cannot tell you how valuable it has been having people who understand this issue and who bring to this Chamber a previous life rich with the experience of understanding these issues. So let me thank the people of Colorado for having the Senator here. What a difference the Senator has made in the consideration of this legislation.

Some of the newest members of the committee—and I think my colleague, the senior Senator from New York, would acknowledge this—some of the newest members of our committee made some of the most valuable contributions to this product, which is further evidence that you do not have to be here that long. In fact, sometimes maybe the shorter time you are here, you bring that kind of fresh experience from our States and across the country.

So I did not want the moment to pass without expressing to MICHAEL BENNET of Colorado my deep, deep appreciation. I say to the Senator, I thank you for your leadership, your thoughtfulness, and the contributions you have made not only to this product but to others during your tenure.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. First, Madam President, I wish to join my friend from Connecticut in praising Senator BENNET, who has had an amazing effect and a steady hand in bringing this bill to the floor. I also thank my colleague from Virginia, Senator WARNER. The new Members have had a tremendous effect on this bill. This reflects the way the Senate works these days, and I think it is all for the better. Having their input and experience has been vital.

But, Mr. Chairman, I would also say that you are full of fresh ideas and vim and vigor. Just because you have been around here a long time does not mean that—

Mr. DODD. Thank you.

Mr. SCHUMER. In fact, you have had the wisdom to encourage some of our new Members to actively participate, and confidence to do that as well.

I also do not want to fail to note my colleague from New York, Senator GILLIBRAND, the Presiding Officer, who has done a fabulous job, too, particularly on the agriculture portion of the bill on the committee on which she sits.

AMENDMENT NO. 3826

Madam President, I come to the floor today and rise against the consumer amendment posed by Senator SHELBY that is before us. I come to the floor to speak about the need for a strong independent consumer watchdog. I am here to talk about the proposal put forward by some of my Republican colleagues to place a new consumer protection division within the FDIC and significantly reduce the ability of that division to carry out its mission.

The amendment before us greatly weakens the bill in terms of consumer protections. In fact, it is not just a step backward from the bill before us, it is a step backward from the status quo. If we were to pass the amendment on the floor, consumer protections, weak as they are today, would be even weaker. This amendment would leave the consumer naked and unprotected. This amendment strips the bill of some of its strongest protections. Not every financial institution preys on consumers, but those that do would be given too free a hand if this amendment were to pass. I urge strong opposition to it.

Let me explain. One of the roots of this financial crisis was, undoubtedly, that total failure of our consumer protection regime. Americans were sold products they did not understand and could not afford by mortgage originators eager for a fee and happy to sell those loans off into the great securitization machine which was given a virtual carte blanche by the credit rating agencies.

After the events of the last several years, no one can argue that fundamental reform of our consumer protection regime is not necessary. No one can argue the status quo is the way to go. The status quo simply will not do. There is no accountability in the current system. Consumer protection is split among seven different regulatory agencies. For that reason, I was an early supporter of efforts to create a truly independent consumer protection agency, and I am still working with many of my colleagues, including Senator JACK REED and Senator DURBIN, to strengthen the provisions of the bill proposed by Chairman DODD.

One of the key authorities of any new consumer protection division or agency is that it must be able to adopt rules to protect consumers without being overruled by banking regulators who would rather allow banks to pad their bottom lines by fleecing consumers with hidden fees.

Some argue that you cannot split consumer protection from safety and soundness. But historically, in the present setup, every time there is a conflict, the consumer loses. Consumers deserve an accountable regulator with oversight of consumer financial products as its primary objective, not as an afterthought.

The Republican proposal being discussed is totally inadequate. It would allow the same bank regulators, who have stood in the way of meaningful consumer protections for years, to veto consumer protection rules proposed by the head of the new division.

For example, the Comptroller of the Currency, who publicly opposed the Fed's new credit card rules, would, under the Shelby amendment, get to vote on future credit card rules. So the regulators who do not really care—

some of them—about consumer protection would be given veto power.

The division would have no examination or enforcement power over any bank of any size or any of its affiliates. Some of the worst actors in the subprime mess were bank affiliates or subsidiaries. Even worse, it could only do examinations of nonbank consumer finance companies if they “demonstrate a pattern or practice of violations” of consumer law—in other words, only after consumers have been harmed repeatedly. That is what one could call too little, too late. Even the Fed recently deleted this requirement from rules governing subprime mortgages because it hampered enforceability of those rules so severely.

Even the banks want the new consumer division to be able to enforce its rules at nonbanks. This is amazing. Some of the most rapacious institutions that prey on consumers are not banks. They operate outside the scope of the Federal regulatory authorities. They are often responsible for many of the most egregious abuses and predatory lending practices. Many of the products provided to consumers by these nonbanks played a direct role in the financial crisis. And many of these businesses—payday lenders, rent-to-own companies—currently operate below the radar screen to prey on vulnerable communities. How can we exempt some of these payday lenders and rent-to-own companies? I have seen them prey on poor people in my State. How can we exempt them from regulation when they often are worse than many of the financial institutions?

The Republican amendment would also prohibit the consumer division from issuing any rules “that affect any underwriting standards” of deposit institutions and their affiliates. After the crisis we just went through, which was in large part created by bad mortgage underwriting standards, I cannot believe anyone can propose this with a straight face because—let me repeat what it does. The consumer division cannot issue rules “that affect any underwriting standards” of deposit institutions. It is saying: Let’s repeat the mortgage crisis. It makes no sense.

If this consumer division were in place in 2008—the one proposed by my colleagues here—it would not have had the power to write the mortgage rules establishing the minimum ability to pay standards the Fed issued. As we know, the Fed was not an extreme watchdog in any sense. I have worked long and hard in the area of consumer protection. I have worked with these regulators. I have seen how slowly they work. It took more than 10 years to get them to go along with the so-called Schumer box, where credit card interest rates were made clear and visible to prospective credit card purchasers. It worked. But why did it take so long? Then, when the banks came with new

ways of getting around the rules, again, it took me forever to get the Fed to move because the Fed, frankly—and Chairman Bernanke to his credit admitted this—did not make consumer protection a high enough priority.

So we need, in my judgment, an independent agency. That would be the best solution. Second best would be an agency, even if it is within the Fed, that is largely independent in both the rules it can promulgate and its enforcement. We need strong, forward-looking financial reform. I have always said I want the reform to be constructive, not punitive. But if we go through all this and fail to leave consumers better protected than they were before this crisis, we will have totally failed in our mission to serve the American people.

I strongly urge that this amendment be rejected by a large and hopefully bipartisan majority.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I am glad the Senate is finally considering the critically important issue of financial regulatory reform. Few things are as important as ensuring we never again suffer the kind of meltdown of the financial markets that shoved our economy into the worst recession since the Great Depression. I think it still remains to be seen if this bill will do that. While it certainly includes some good reforms, more needs to be done, and the track record of Congress in this area is, at best, checkered.

For the last 30 years, Presidents and Congresses have consistently given into Wall Street lobbyists and weakened essential safeguards. As has been the case in so many areas, members of both political parties are to blame. Legislation that paved the way for the creation of massive Wall Street entities and removed essential protections for our economy passed with overwhelming bipartisan support. From the savings and loan crisis in the late 1980s to the more recent financial crisis that triggered the horrible economic downturn from which we are still recovering, those three decades of bipartisan blunders have been devastating to our Nation. The price of those blunders has been paid by homeowners, Main Street businesses, retirees, and millions of families facing an uncertain economic future.

The impact of the recent financial crisis on the Nation’s economy has been enormous. Millions have lost their jobs and millions more who are lucky enough to have a job are forced to work fewer hours than they want and need to work. According to a study done by the Pew Trust, the financial crisis caused American households an average of nearly \$5,800 in lost income. Of course, families lost a significant amount of their personal savings. As a nation, we

lost \$7.4 trillion in stock wealth between July 2008 and March 2009 and another \$3.4 trillion in real estate wealth during that same time. We simply cannot afford to continue down the path policymakers have set over the past 30 years.

The test for this legislation then is a simple one: Whether it will prevent another financial crisis. Central to that test will be how this bill will address too big to fail. This is a critical issue that has been growing for some time now as increased economic concentration in the financial services sector has put more and more financial assets under the control of fewer and fewer decisionmakers.

Years ago, a former Senator from Wisconsin, William Proxmire, noted that as banking assets become more concentrated, the banking system itself becomes less stable, as there is greater potential for systemwide failures. Sadly, Senator Proxmire was absolutely right, as recent events have proved. Even beyond the issue of systemic stability, the trend toward further concentration of economic power and economic decisionmaking, especially in the financial sector, simply is not healthy for the Nation’s economy.

Banks have a very special role in our free market system: They are rationers of capital. When fewer and fewer banks are making more and more of the critical decisions about where capital is allocated, then there is an increased risk that many worthy enterprises will not receive the capital needed to grow and flourish. For years, a strength of the American banking system was the strong community and local nature of that system. Locally made decisions made by locally owned financial institutions—institutions whose economic prospects are tied to the financial health of the community they serve—have long played a critical role in the economic development of our Nation and especially for our smaller communities and rural areas.

But we have moved away from that system. Directly as a result of policy changes made by Congress and regulators, banking assets are controlled by fewer and fewer institutions, and the diminishment of that locally owned and controlled capital has not benefited either businesses or consumers. Of course, most dramatically, taxpayers across the country must now realize that Senator Proxmire’s warning about the concentration of banking assets proved to be all too prescient when President Bush and Congress decided to bail out those mammoth financial institutions rather than allowing them to fail. That was a bailout I strongly opposed.

The trend toward increased concentration of capital was greatly accelerated in 1994 by the enactment of the Riegle-Neal Interstate Banking and Branching Act and especially in 1999 by

the enactment of the Gramm-Leach-Bliley Act, which tore down the protective firewalls between commercial banking and Wall Street investment firms.

Those firewalls had been established in the wake of the country's last great financial crisis 80 years ago by the Banking Act of 1933, the famous reform measure also known as the Glass-Steagall Act.

Prior to Glass-Steagall, devastating financial panics had been a regular feature of our economy, but that changed with the enactment of that momentous legislation, which stabilized our banking system by implementing two key reforms. First, it established an insurance system for deposits, reassuring bank customers that their deposits were safe and, thus, forestalling bank runs. Second, it erected a firewall between securities underwriting and commercial banking so financial firms had to choose which business to be in. That firewall was a crucial part of establishing another protection—deposit insurance—because it prevented banks that accepted FDIC-insured deposits from making these speculative bets with that money.

The Gramm-Leach-Bliley Act tore down that firewall, as well as the firewall that separated insurance from Wall Street banks, and we have seen the disastrous results of that policy. I voted against tearing down the firewall that separated Main Street from the Wall Street banks. I did it for the same reason I voted against the Wall Street bailout: because I listened to the people of Wisconsin who did not want to give Wall Street more and more power. Wall Street was gambling with the money of hard-working families and too many Members of Congress voted to let them do it. I didn't support it before and I will not support it now. We have to get this legislation right and protect the people of Wisconsin and every State—protect them from something such as this ever happening again.

So I was pleased to join the Senator from Washington, Ms. CANTWELL, and the Senator from Arizona, Mr. MCCAIN, in introducing legislation to correct that enormous mistake Congress made in passing Gramm-Leach-Bliley. I look forward to supporting an amendment to this measure based on the Cantwell-McCain-Feingold bill.

The measure before us seeks to make up for the lack of a protective firewall between the speculative investment bets made by Wall Street firms and the safety net-backed activities of commercial banking by imposing greater regulatory oversight. We have seen how creative financial firms can be at eluding regulation when so much profit is at stake. No amount of regulatory oversight can take the place of the legal firewall established by Glass-Steagall. So when it is offered, I urge

my colleagues to support Senator CANTWELL's amendment to restore that sensible protection. Rebuilding the Glass-Steagall firewall is essential in preventing another financial crisis.

But even if we restore Glass-Steagall, there are additional steps we should take to address too big to fail in this bill. I am pleased to be joining the Senator from North Dakota in offering his amendment to address the problem directly by requiring that no financial entity be permitted to become so large that its failure threatens the financial stability of the United States. I am also looking forward to supporting an amendment that will be offered by the Senator from Ohio, Mr. BROWN, and the Senator from Delaware, Mr. KAUFMAN, who is in the Chamber, that proposes bright line limits on the size of financial institutions. The disposition of those three proposals I have just reviewed will go a long way in determining my vote for the final version of this measure. I very much want to craft in this body a bill that can prevent the kind of crisis we experienced in the past, but the bill before us needs some work before we can legitimately make that claim.

I thank the President and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, the Republican side has submitted a consumer protection amendment that can be briefly summarized: Buyer beware because they won't help you. This flows from the very simple premise that they have announced from the very beginning of these discussions and deliberations they do not want an independent consumer protection agency that has the authority to make rules and enforce rules to protect consumers. So what they have suggested is a classic bait and switch. We will create an "agency" within the FDIC, and then we will deny them the power to regulate most of the financial sectors and institutions that affect the daily lives of Americans: payday lenders, car loans, all those things. They are just off the table. So it amounts to a gesture, not good legislative policy.

We are working, and we have been working—and Senator DODD has taken the lead—to ensure that there is real consumer protection built into this Wall Street reform legislation. We believe consumers need information to make good choices. The thrust of our efforts is to ensure that the agency is able to provide that information through simplified forms, through simple products, through those mechanisms that allow men and women who are engaged in raising children, keeping jobs, coaching Little League, to understand what they are putting their resources into.

That is not what the Republican amendment is proposing to do. They

are creating a six-person council within the FDIC with no real independence and even less authority, and one could question why the FDIC is the logical place to put in a council such as this. They would create an oversight agency but exempt, as I said, virtually an entire financial sector or sectors from oversight. It is not like a watchdog; it is like a lapdog. It is bureaucracy with no bite.

The Dodd bill, in contrast, contains a very robust consumer protection provision. It creates a Consumer Financial Protection Bureau with resources—I wish to emphasize resources—and authority to prohibit abusive practices and deceptive financial products, ranging from credit card companies to mortgage brokers to banks and to others. For example, it would hold the credit card companies accountable and eliminate unfair lending practices, such as penalty fees for paying off your debt on time.

One of the big efforts we are undertaking is increased transparency for Wall Street, and this consumer protection agency will provide that protection to consumers. Basic economics, Econ 101: In a competitive marketplace, one of the presumptions is perfect information. We have seen, frankly, that individuals on Wall Street have made billions of dollars operating on imperfect information; in fact, one could even suggest deliberately manipulating products so they have the information and the consumer doesn't.

I think we were all taken aback when we were listening to the hearings conducted by Senator LEVIN which talked about Goldman Sachs, and their trader, Fabrice Tourre, described the system in rather evocative terms. In his words:

More and more leverage in the system, the entire system is about to crumble any moment . . . the only potential survivor the fabulous Fab . . . standing in the middle of all these complex, highly leveraged, exotic trades he created without necessarily understanding all the implications of those monstrosities.

Well, that seems, to me, very chilling—the fact that somebody would admit they didn't even know the products they were selling to consumers—who assumed not only that they knew but also that they would not be deliberately misleading them. That is an example. The example doesn't stop on Wall Street. It extends out to Main Street, to people with credit arrangements, payday lenders, organizations charging huge interest charges, and it is designed to exploit consumers.

The Republican proposal does little, if anything, to prevent that. I hope, on a bipartisan basis, as Senator SCHUMER suggested, we reject this amendment. It is, as they say in some places, all hat and no cattle. We have an agency, but we have no enforcement powers. We have an agency, but they can't enforce their rules and regulations on certain sectors; i.e., most of the sectors. So if

we want to protect consumers and if we want to have efficient markets—I think one of the inaccurate premises that some people are suggesting is that consumer protection somehow is bad for business. I argue strenuously that consumer protection is very good for business.

If you take care of the consumer, if they feel, and you provide, valued and good service—that used to be the American sort of maxim. That used to be the American byword for business: the consumer is always right; the consumer comes first.

In the Republican legislation, the consumer comes last, not first. The consumer should come first. I hope this amendment will be rejected and that we support not only the underlying Dodd bill, but I think it can be improved. I commend the Senator from Connecticut who has done a remarkable job crafting the consumer protection agency. To accept the Republican amendment would be to turn our backs on consumers and reject essentially the old American maxim that the consumer is always right and the consumer comes first, and it will leave everybody in this country where we are today: buyer beware of the monstrosities in the marketplace.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. KAUFMAN. Madam President, I also commend Chairman DODD for his work on this bill. We have a good bill. I will be opposing the amendment presently on the Senate floor. We need a strong, independent consumer product finance protection agency. I have heard many different proposals to put the consumer product finance protection agency here, there, and everywhere. The problem with putting it in any institution like the FDIC or the Fed is that those institutions' No. 1 responsibility is, and should be, the safety and soundness of the banks and financial institutions they are regulating. That is their key charge.

I think the reason the Fed had a consumer product agency, which did not act to help consumers during the recent meltdown, was that they first were concerned about safety and soundness.

At the same time, we have to be very careful we don't put an undue burden on community banks. They were not involved in what happened. We should make sure while we are looking out for consumers that we don't overregulate these local banks.

We have a good bill. I think the too-big-to-fail part we are getting around to. The recent amendments on the resolution that if, in fact, the bank gets in trouble, we can resolve it, is a good approach. I am sure we will be talking about it more. It is a good approach to deal with the too-big part of too big to fail. We have not done enough on the too-big part of too big to fail.

Let me go over a chart that shows how big these banks have become. This is the average assets of our major banks relative to gross domestic product. If you look at this chart—and I encourage comments from my colleague, the Senator from Ohio. If you look at this chart, you will see that just about the time we removed Glass-Steagall, this chart went absolutely through the roof.

When you look at the concentration of the U.S. banking system, you see on this chart that is very similar to the first chart. It shows an exponential increase in concentration. This is not good for the country. This is not organic growth. I hear people say it is organic growth. This is growth from mergers. Neither chart includes the massive mergers that went on during 2008. This is through 2007. It doesn't show that Washington Mutual and Bear Stearns were consumed in JPMorgan Chase. It doesn't show the fact that Wachovia went into Wells Fargo, and Merrill Lynch went into Bank of America. It clearly shows that the incredible concentration just goes on.

Alan Greenspan made a number of decisions and statements while this was going on about how we should proceed during the 1990s and early 2000. He said himself that he thought self-regulation would work and was dismayed that it didn't. He came out with a couple statements recently that I was so incredibly surprised about.

He said this:

For years, the Federal Reserve had been concerned about the ever-larger size of our financial institutions. Federal research has been unable to find economies of scale in banking beyond a modest-sized institution. A decade ago, citing such evidence—

By the way, moderate size, according to Andrew Haldane, the executive director of financial stability for the Bank of England, is \$100 billion. He said he can find no reason to have the need for economies of scale at banks larger than \$100 billion. As you know, the present size of top banks are in the \$2 trillion range, as high as \$2 trillion.

Continuing to quote:

A decade ago, citing such evidence, I noted that megabanks being formed by growth and consolidation are increasingly complex entities that create the potential for unusually large systemic risks in the national/international economy should they fail. Regrettably, we did little to address the problem.

I hear people now talking about: We can't undo this. We need big banks to compete internationally. Alan Greenspan is saying we don't need these for the economies.

Mr. BROWN of Ohio. If the Senator would yield, I thank the Senator for bringing out that there is such broad support, as we are seeing, from economists as conservative as Alan Greenspan and as progressive as Bob Reich, and others, who say too big to fail means simply too big. Our amendment

will only affect the six largest banks—affect their size—and it will affect smaller banks in helping them be more competitive.

You said something on the Senate floor yesterday that, in effect, the size of these banks gives them a subsidy, a roughly 75 basis point or three-quarters of 1 percent advantage in the capital markets. This amendment we have, which is gaining increasing support—we have now 10 or 11 cosponsors to it, and we are working with people on both sides—simply to say too big to fail is too big.

Talk to us for a moment about how these banks get the subsidies. Somebody in my office said in a sense we are giving welfare to the Wall Street banks. Because of their size, they are getting advantage on the capital markets because investors, with their dollars, understand these banks are never going to be able to fail unless we really keep them from getting too big.

Explain that Wall Street welfare that we see with these 50 literally trillion-dollar-plus banks, which they extract from the system.

Mr. KAUFMAN. Sure. I don't come at this from any other area except how important our capital markets are. I am a market guy. I think the two greatest things we have are democracy and our capital markets and the credibility of the markets. So when I want to find out what is going on in a financial area, I don't do a survey of 27 people. I say: What is the market telling us? That is the best way. What does the market tell us about what is going on?

What the market says is, if you are a big bank like one of these top banks—referring to the study I talked about yesterday—if you are one of the big banks, you get a 70 to 80 basis point advantage when you borrow money. You pay less than other people.

Mr. BROWN of Ohio. So that means when one of the huge Wall Street banks—these six banks—is getting a three-quarters percent, roughly, interest rate differential—a bonus, perhaps—that means that banks in Delaware and Ohio that aren't so big are at a competitive disadvantage. I assume that also means those big banks have opportunities to get larger. If the playing field is not level, those toward whom it tilts get other advantages and grow larger and larger, making the point of our amendment that much stronger.

Mr. KAUFMAN. Absolutely. Obviously, that is a key point. I am surprised that more of our smaller banks aren't coming forward and saying this isn't fair. The market says it is not fair.

The second point is the too big to fail. You can argue that you are not too big to fail. But the market thinks you are, and I listen to the market. That is one of the important considerations. Unless people misunderstand—

people say you want to destroy the banks, and the rest of that. But under our amendment, Citigroup would be reduced to the size it was in 2002.

Now, were they able to compete overseas and do all the things they had to do then? Goldman Sachs, which is now at about \$850 billion, under the Brown-Kaufman amendment would be down to a more reasonable level of just above \$300 billion or around \$450 billion if Goldman exits the bank holding company structure. You may say that is a 50-percent decrease and that is going to hurt their opportunity. In 2003, they had \$100 billion in assets. So all we are shrinking Goldman Sachs down to is 3 to 4½ times what they were in 2003.

This is not some draconian effort. The second point we have been focusing on is that we also limit risk. This is not about size; we limit risk. I recommend everybody to read the Washington Post today—that is where I read it—about Jimmy Cayne, former CEO of Bear Stearns. He testified to the Financial Crisis Inquiry Commission that, in his opinion, as CEO of Bear Stearns, they failed because it was leveraged 40 times over its capital base—40 times over its capital base.

Brown-Kaufman would cap leverage at 16 times the capital base. What he is basically saying is that if Brown-Kaufman had been in effect, Bear Stearns would not have failed.

A lot of people have different opinions, but that is what he says. This is not just about size; this is about risk. What we are trying to do is target risk. These banks don't fail—banks are doing great now; profits are out the roof. You don't fail on a nice sunny day. You cannot sit here today and say no problem. That is why regulators don't do anything because, basically, banks are doing well.

Time and again, when we had hearings before the Permanent Subcommittee on Investigations, we heard from Washington Mutual and Goldman Sachs. They said they were doing so well. How can you make them change? The fact that they were doing so well by turning out mortgages that were absolutely doomed to fail is an indication that they should have moved in, but the regulators didn't.

I will not hold this out, but if you want to see what can happen under the worst case, look at Europe today. Look at the mess unfolding in Europe. Greece falters and that affects confidence in other countries such as Portugal, Spain, and Ireland. Europe and other banks have massive exposures to these countries. German and French banks carry a combined \$119 billion in exposure to Greek borrowers and more than \$900 billion to Greece and other vulnerable Euro countries, including Ireland, Portugal, and Spain.

People say: How can we compete with those big banks? Remember, we are only reducing Citibank to its size in

2002. How can we compete with Europe? Why do we want to do that? Why do we want to go in with their megabanks and deal with the problems they have?

The Royal Bank of Scotland had a balance sheet basically 1½ times the size of the UK economy when it failed in the fall of 2008. See these numbers. It is 63 percent right now. Our six largest banks make up 63 percent of the GDP. The Royal Bank of Scotland's was 1½ times the size of the United Kingdom when it failed. People say the big banks didn't fail; it was the small banks that failed.

I keep hearing that J.P. Morgan and Bank of America did not fail. It was Washington Mutual. They say there is no correlation. Megabanks, such as Citigroup, only survived through massive capital infusions, regulatory forbearance, and Federal monetary easing. Even J.P. Morgan has benefited from not having to write down its second lien mortgages and commercial real estate.

The next thing they said when Washington Mutual failed was: How about that, that was a smaller bank. That was a big bank. The reason it went down is because we knew at the time when it failed that JPMorgan Chase would come in and grab it.

I ask the question: Who is going to bail out, if something goes wrong, JPMorgan Chase, Bank of America, or any of these six larger banks? Remember, going back to Citigroup, Citigroup essentially failed and had to be bailed out three times in the last 30 years: in 1982 because of the emerging market deck, 1989–1991 because of commercial real estate, and 2008–2009 because of residential real estate.

Mr. BROWN of Ohio. Madam President, will the Senator yield? I appreciate this analysis. I hear, as we talk about the Brown-Kaufman amendment—and it has gotten increasing attention because an increasing number of people said too big to fail is too big and that if we allow these six banks—that chart the Senator showed originally—the largest six banks in the United States 15 years ago were 17 percent of our GDP and today they are 63 percent and growing, as Senator KAUFMAN mentioned.

Mr. KAUFMAN. Exponentially.

Mr. BROWN of Ohio. Look at the rate of growth. They did not grow a whole lot until the last 10 years, and look what happened. They are going to continue to grow since the Glass-Steagall repeal.

The argument opponents of our amendment use most frequently is: We do not have the largest banks in the world anymore. There are larger banks other places. And how are our banks going to compete with these huge banks?

I am intrigued by that because our banks are trillion dollar banks. I know there are studies that banks with as-

sets of \$300 billion and \$400 billion and \$500 billion have all the economies of scale. Economies of scale do not work forever.

Mr. KAUFMAN. According to Alan Greenspan.

Mr. BROWN of Ohio. A bank that is \$300 billion, \$400 billion, \$500 billion has all the economies of scale as a trillion dollar bank.

The point they make about European—we cannot compete internationally—it is clear from what the Senator from Delaware said, all of our banks, when they were smaller—smaller than the largest banks in the world—could compete internationally 10 years ago, and there is no reason they cannot compete like that today.

I found the huge lumbering bureaucracies, whether they are a bank or whether they are the Center for Medicare and Medicaid Services, are not as flexible and nimble and cannot keep up with the market nearly as well if they are that big.

The Brown-Kaufman amendment, again, does not apply to very many institutions. No more than five or six will be even unwound a little bit. We are not going to split them all up so they are small, little community banks. They are still clearly going to be able to compete. There is no question about it under the Brown-Kaufman amendment. We give 3 years to banks to sell off some of the assets, to spin off a line of business, to sell regional operations they may have in one area of the country to comply with this amendment.

It is clear that as increasing numbers of people say, "Too big to fail is too big," that if we allow these banks to keep getting bigger and bigger—and we see this chart where the six largest banks in total assets end up being 70 percent, 80 percent, 90 percent of GDP—it is hard for me to think that if one stumbles and is about to fail that we are going to let it fail, that government will let it fail because it will have huge repercussions because of the economic power these institutions have.

Mr. KAUFMAN. We all agree the present bill is a good bill and has a good resolution authority that has been worked on for years. My basic concern is we need a little prevention in the mix.

As I said before, when people say we cannot compete overseas, do we want to go where the Royal Bank of Scotland went? The Royal Bank of Scotland was 1½ times the UK economy when it went down. Do we want to get into this mix in Europe? Is this the place we want to be with these banks facing the problems they are going to have right now, as we went through this earlier? Is this the place we want to be?

I think we go back to what Senator DORGAN was saying earlier, and I wish to add to that with a couple comments.

Once again I quote Alan Greenspan. He said: "Too big to fail, too big." "Too big to fail, too big."

The idea that we should turn this over to the regulators and let the regulators set the rates—that is the alternative. The alternative is to let the regulators do it. We have good regulators now. I think that is fine.

Remember several things. No. 1, the regulators did nothing. The regulators had the power to do most of what we are talking about. They did nothing in the past.

The second thing is, we could have a new President come in and adopt the same policy as before that self-regulation works, hire a bunch of regulators to go in there, such as a number of regulators we had in our regulatory agencies—they were not bad people. They were smart people. They just basically believed self-regulation works. To quote Alan Greenspan for the third time in this speech, he said: "I really thought self-regulation would work. I'm dismayed that it didn't."

We can have it come back. There are still people today who believe—we hear it sometimes on the floor—we do not need these regulators. The example I use is a football game where somebody gets up and says: The referees keep blowing the whistle and stopping the play. Let's get the referees off the field and play football. That is what was going on around here.

As many of my colleagues on the other side point out, there was not enough oversight on these regulators. But you pull the football referees off the field, maybe the first pileup will not be bad, but by the time you get to the second and third pileup, I do not want to be in it.

I think we ought to go back to what our colleagues did in 1933, and we should regulate not for 5 years, 10 years, 15 years; we should regulate for generations. Much of the stuff in this bill does regulate for generations. We should put in the bill hardline, adopted by us to send a message for generations that this is not going to happen again. Bear Stearns is not going to be able to leverage up to 40 times their capital base. That is what we need to do. We need to legislate for generations.

Madam President, I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Tennessee.

Mr. CORKER. Madam President, I am here to speak about the consumer protection title in the Dodd bill. I do want to say that while I disagree with my friends from Delaware and Ohio in their approach, I appreciate the way they have conducted themselves. I think the debate we have had on the floor on this bill, I say to the Senator from Connecticut, has been of the highest level that I can remember in a long time. I thank him for setting that tone. I thank my caucus for offering nothing but constructive amendments.

People on both sides of the aisle have tried to do that.

It took a while to get here, but we are on the floor. Obviously, there are a lot of improvements people would like to make to this bill, and I think people are focused on doing that. I thank the Senator for setting that tone.

At the same time, I do want to talk about the consumer protection title on which I wish to see vast improvement. I wish to see consumer protection take place. I think everybody in this body wishes to see that happen. But I believe that the consumer protection title that exists in this bill is one that gets back to the essence of what the White House has said many times, and that is: Never let a good crisis go to waste.

I think the consumer protection title in this bill is a vast overreach. It is my hope—I know we will have a vote later today on a different title. If that is not successful, maybe there will be surgical attempts to deal with some of the problems in this title.

For the first time in our country's history, we will be giving vast powers to an individual to be involved in almost every aspect of any type of financial transaction. Without a board, without any kind of check and balance, the Dodd bill creates someone heading consumer protection who has no one as a check and balance. This person is going to be able to write rules, and this person is going to be able to enforce those rules over our entire economy as they relate to financial transactions.

I know there is a process by which if a rule is felt to be problematic after it is put in place—not before—after a rule is put in place, there is the ability of a board to actually look at those rules. The fact is, if a standard is set so high, it would be very difficult to ever overturn the rules that would be put in by this consumer protection agency.

It has a vast budget. It sets its own budget, I might add. Again, Congress has nothing whatsoever to do with that.

Some of the biggest problems with the consumer protection agency are not just that it has no checks and balance, it writes rules and enforces rules, it sets its own budget. On top of that, it overturns the way our national banking system has worked for years. Congress years ago decided we wanted to have a national banking system, that we wanted the ability of banks to operate across our country in a way that they had consistency, they knew under what rules they would be operating.

The Dodd bill overturns that. It says there is no Federal preemption anymore. If States want to change laws, write laws—we could have a bank that operates in 50 States that has 50 different sets of regulations if this bill passes. That is highly problematic with banks that operate across our country serving companies that operate across

our country. One can imagine a bank that tries to adhere to all of those States laws that might come up as a result of this bill.

In addition, this bill then unleashes 50 attorneys general on these banks. That is something, again, that is not the case today. This is a huge overreach, and it is going to be highly disruptive to our banking system.

What it is going to do, because there is no Federal preemption, is actually encourage general assemblies, State legislators across this country to become hyperactive. One of the things that State banks—not Federal banks, not national banks—one of the things State banks like about our existing laws—by the way, State banks are not these huge megabanks about which my friends from Delaware and Ohio were talking.

I think State banks across the country have enjoyed—again, these are the smaller institutions—the fact there is something called Federal preemption. That has discouraged hyperactivity on behalf of State legislators to create laws that might be populist in nature, that might be done to, in essence, use our financial system for other ends.

One of the things I think is most disruptive about this legislation is that—if you can imagine this—I think all of us realize what led to this last crisis is the fact that we had very poor underwriting of loans. That is the essence of this last crisis. It got spread around the world, the fact we had incredibly poor underwriting.

I hope to fix that, by the way, with an amendment in a few days. I hope it comes up, and I hope it is adopted.

What the Dodd bill does is give to a consumer protection agency loan underwriting standards. If you can imagine that, I would like for people in this body to think about that. A consumer protection agency being involved in setting underwriting standards for loans has to undermine the safety and soundness of our financial institutions. To me, that is a huge problem.

All of us would like to see consumer protection take place. All of us would like to see it, I hope, take place in a way that is balanced, so the consumer protection laws that are put in place are put in place in a way that is balanced against ensuring that our financial institutions across this country are safe and sound; that people know they can go to those institutions and they are going to operate.

I believe the Dodd bill, as it relates to consumer protection, is a vast overreach. I know people on the other side of the aisle have come up to me and said: Look, this is problematic, and if you guys can help us figure out a way to peel this back, we would like to be able to do that.

We are going to have a chance, later today, to vote on a consumer protection amendment that has certainly



brought this more in balance. There may be other ways of getting at it. I would urge the chairman to consider looking at ways to peel this back because I do believe that, again, we are going to awake in this country—if the Dodd bill passes in its present form—in 10 or 15 years and realize consumer protection has gotten out of hand; that consumer protection has been used, in many ways, to create social justice, if you will, in our financial system. To me, that is something that is very dangerous.

Let me just add one other thing. There is a new word in this title that is undefined. It is a word that says they will also be looking to see if practices were abusive. But nobody knows what that means. Nobody knows what that means. Under this bill, by the way, if someone were to come in after the fact and find that something was “abusive,” it would negate the financial transaction that was entered into. So you could have a zealous consumer advocate come in and say: I am sorry, this loan that was made between two parties was abusive, and it would negate that transaction.

This bill is a huge overreach. It obviously goes right along the lines of the White House saying you should never let a good crisis go to waste. This bill is going to be around for a long time, if it passes. So I hope what we can do, over the course of the next several days, during this time when we are having one of the most civil debates I think we have had in the Senate since we have been here—a high level of civil debate—I hope we will be able to put this back in balance.

I know the Presiding Officer is from a State where people care a great deal about their financial institutions. So I hope to work with her and my friend from Minnesota and others to try to achieve that balance.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I will respond more fully a little later because my colleague and friend from Minnesota is on the floor to be heard, but I just wish to say that a lot of work went into this bill on consumer protection.

You don't have to wait 10 or 15 years to find out what can happen. We have watched painfully what can happen over the last several years, when the very people—the prudential regulators—should have been standing and saying: No-doc loans are wrong and dangerous. In fact, it was consumer groups that warned about the real estate bubble. We were being told everything was safe and sound because people were making money, and it looked like it might go on forever.

Of course, everyone has 20/20 hindsight looking back as to what occurred. But had we had in place someone say-

ing: No-doc loans, no downpayments, adjustable rate mortgages at fully indexed prices are going to cripple people's ability to meet those obligations, we wouldn't be in the situation we are in today. None of the seven agencies that have jurisdiction over consumer protection were doing their job very well.

I will address more specifically the alternative idea being suggested, and let me also say I have never claimed our proposal on consumer protection is perfect. I acknowledge the word “abusive” does need to be defined, and we are either talking about striking that word or defining it better. Deceptive and fraudulent cover the ground pretty well, but I thought abusive was a pretty good explanation point. Because it was abusive, in common language.

So I will come back later, but I wished to acknowledge that we have a number of organizations that have endorsed this bill of ours, strongly support our committee bill, ranging from the Americans for Financial Reform, the Consumers Union, Center for Responsible Lending, the Consumer Federation of America, U.S. PIRG, Public Citizen, the National Consumer Law Center, Consumer Watchdog, and AARP.

Of course, we are all familiar with the group representing older Americans. In fact, I ask unanimous consent to have printed in the RECORD, at this point, a letter from AARP, opposing the Shelby substitute on the consumer protection title.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION OF  
RETIRED PERSONS,  
Washington, DC, May 6, 2010.

Re Oppose Shelby substitute Consumer Protection title to S. 3217.

DEAR SENATOR: A key priority for AARP in the financial reform legislation is strengthened consumer protection that will help restore market accountability and responsibility, rebuild confidence, and ensure the stability of the financial markets. Surveys conducted by AARP demonstrate that Americans 50+, regardless of party affiliation, want Congress to act to hold financial institutions accountable.

AARP supports the creation of a Consumer Financial Protection Bureau, as incorporated in S. 3217, that would have as its sole mission the development and effective implementation of standards that ensure that all credit products offered to borrowers are safe. We have been clear that such an agency should be truly independent in its leadership, funding, staff and decision-making; that it should have the authority to oversee all lenders and products in the marketplace; and that it should have broad rulemaking, enforcement and supervision powers over all types of providers. We also have insisted that the states must be the “cops on the beat” with the authority to move against abusive practices that arise locally.

Judged against this criteria, the Shelby substitute Consumer Protection title fails in virtually every instance. The consumer protection agency will not be independent; rath-

er the FDIC Board of Directors must approve all rulemaking. Inadequate resources will cover rulemaking and supervisory expenses only; there is no funding for enforcement. Oversight and enforcement is extremely limited. For example, the new agency will have no enforcement authority over any bank or other type of depository institution. Non-mortgage companies will be subject to supervision only if they demonstrate a pattern or practice of violating the law within the past three years. And, the bill does not give the states the authority to take action where necessary.

We respectfully urge you to vote NO on the Shelby substitute Consumer Protection title when it comes up for a vote today. If you have questions, please feel free to call me or have your staff contact Mary Wallace of our government relations staff at (202) 434-3954 or mwallace@aarp.org.

Sincerely,

DAVID P. SLOANE,  
Senior Vice President,  
Government Relations and Advocacy.

Mr. DODD. So major groups, ones that are consumer oriented as well as those that watch out for older Americans—many of whom have to pay mortgages, are on fixed incomes—are worthy of note.

Again, I wish to thank my colleagues for their comments and thoughts on this amendment, and I will address more of that later, but I will yield the floor.

AMENDMENT NO. 3808

THE PRESIDING OFFICER. The Senator from Minnesota.

Mr. FRANKEN. Madam President, I rise to speak about the need to further address the problems of the credit rating agency industry. Senator DODD has presented us with a very good bill that takes major strides in addressing many of the problems that brought our economy to the brink of collapse. It reins in too big to fail, brings derivatives out of the shadows, and creates a new consumer watchdog that will prioritize consumer protection over Wall Street profits.

Senator DODD's bill includes several provisions on credit rating agencies. It holds rating agencies accountable in court for being reckless in their duties, it requires increased disclosure, creates new complaint systems, and requires raters to use information beyond what is provided by issuers.

These are a few of the many provisions the Dodd bill includes to begin to address issues with credit rating agencies, and they are all good. But one thing it doesn't do is get at the underlying problem—the conflict of interest inherent in the issuer-pays model, where the issuer pays the rating agency.

To root out conflicts of interest completely, we must change the vested interests of each of the players. The central conflict of interest can be boiled down to this: The issuer has an interest in obtaining a high rating so it can sell its product. The credit rating agency has an interest in giving out a high



rating so it can sell its service. Tom Toles, of the Washington Post, depicts the problem quite well in this comical cartoon.

Here we see the rating agencies—he labels them that so you know it is them—giving three 10s to a figure skater—labeled Wall Street, and he is kind of fat there. You see he says: “I pay their salaries.” That is why he is getting three 10s—or a AAA—and yet he is a figure skater and he is dumping trash. We see an apple core, there is a fish head, skeleton, a banana. You don’t want those on the ice. You just don’t want that. That is bad. Then there is a little figure here, the little garbageman. It says: “Somebody else pays to clean the ice.” That, of course, is us—the taxpayers.

I think after seeing this cartoon, if there is anyone who doesn’t support my amendment, I don’t know what to do. Anyway, this actually makes the point very well that the issuer is paying the rating agency and, hence, the AAA.

However, the credit rating agency should have an interest in providing accurate ratings—unlike the triple 10s in this cartoon—so investors are provided with the accurate information they need to make investment decisions. But for the reasons I just described, there are very few incentives to provide accurate ratings. The market simply doesn’t reward accurate ratings.

The best way to fix this problem is to change the way the market works so it rewards accurate ratings. Once we start getting accurate ratings, investors can make better decisions about the products they are selecting for inclusion into pension funds. Having safe products in pension funds protects the retirement security of hard-working Americans.

Let me give you an example of the perverse incentives that have been driving the credit rating agency industry thus far. My friend and colleague Senator LEVIN recently held a hearing in the Permanent Subcommittee on Investigations. His investigators released many e-mails from the industry that reflect the conflicts of interest that drove the system.

Here is a good example. There is a rating agency employee writing to his own rating agency people about a group of theirs, a group within his rating agency.

We are meeting with your group this week to discuss adjusting criteria for rating CDO’s of real estate assets this week because of the ongoing threat of losing deals. Lose the CDO and lose the base business.

So here the credit rating agency is proposing to change its rating criteria to avoid losing business. This is exactly what was at the root of all these AAA-rated, subprime, mortgage-backed securities that were leveraged and had the CDOs on them—these ex-

otic instruments that were rated AAA—and what created this entire mess. It is clear the incentives are to keep customers coming back, to make sure accurate ratings aren’t driving customers into the arms of other rating agencies—don’t want to let accuracy get in the way of more business.

We need to change the incentives. I believe my amendment, No. 3808, will do that. The amendment tasks a board—a self-regulatory organization—with selecting a pool of qualified credit rating agencies. The board would then choose a system to assign, one at a time, one of these qualified credit rating agencies to each request for an initial credit rating. Issuers could no longer shop around for the best rating. They could, however, get a second, third or fourth rating from any agency they choose. But the first assigned rating would provide a check against the next agency inflating its rating.

The amendment would require the board to consider a rating agency’s past performance and could adjust the number of rating assignments based upon demonstrated accuracy. If a small rating agency began performing extremely well, the board could start giving it more assignments, breaking the oligopoly of the big three raters, which served us very poorly, or maybe the big three would get their act together under this new system.

The point is, when the agencies are finally operating in a market in which accuracy is valued, they will compete on the basis of accuracy. When accuracy is driving growth, not preexisting relationships or sweetheart deals, smaller rating agencies will have an opportunity to compete and grow, making the industry more robust.

So properly addressing conflicts of interest in the credit rating agency industry necessitates realigning the interests of rating agencies with the interests of investors. The way to do that is by promoting and rewarding accuracy. My amendment will create these incentives, increase accuracy, promote competition and stability, and restore integrity to the credit rating industry system.

I thank my colleagues, Senator SCHUMER and Senator NELSON, for helping me lead this effort and Senators WHITEHOUSE, BROWN, MURRAY, MERKLEY, and BINGAMAN for joining us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Madam President, I rise today to discuss the amendment that Senate Republicans are offering to greatly improve consumer financial protection.

This amendment recognizes that our existing financial regulatory system fails to adequately provide consumer protection. Our system is broke, and it needs fixing.

The recent financial crisis has revealed that our financial regulators

were asleep at the switch and had neglected to uphold their basic responsibilities for consumer protection.

Far too often, our regulators were more concerned about pleasing the entities they regulated than looking out for consumers. It is clear that we need to refocus the priorities of our financial regulators and ensure that consumer protection gets the attention it deserves.

Make no mistake. Republicans want to strengthen consumer protection.

We need to make sure that consumers get clear and understandable disclosure so that they can make good decisions.

We need to make sure that regulators have sufficient authority to combat fraudulent practices.

We also need to make sure that our consumer protection laws and regulations keep up with changes in our dynamic and innovative marketplace.

Any changes to consumer protection, however, need to reflect that consumer protection does not stand in isolation. It is inherently linked with safety and soundness regulation.

This is most dramatically illustrated by the fact that an ill-conceived consumer protection law, such as allowing for no down payments, could cause banks to fail.

Given that taxpayers are ultimately on the hook for bank failures, it would be irresponsible not to require regulators to consider the impact proposed consumer protections could have on the deposit insurance fund.

After all, one of the most important consumer protections is a healthy financial system, where financial institutions are able to keep long-term commitments to consumers, like annuities, insurance, and retirement funds.

The amendment we are proposing embodies this approach. It would put the FDIC in charge of writing consumer protection regulations. That responsibility currently rests with the Fed.

As a prudential regulator, the FDIC has the experience necessary to ensure that the right balance is struck between consumer protection and safety and soundness.

To raise the status of consumer protection, a new division will be established at the FDIC. The division will be led by a Presidentially appointed and Senate-confirmed director.

The director will serve a term of 4 years and will be required to testify before Congress at least twice a year. This will help ensure that regulators are held accountable for their actions on consumer protection.

In addition, this amendment does not disrupt the century and a half of precedent on preemption with respect to national banks.

We should be very cautious about allowing national banks to be regulated by 50 different States and opening up

the door to needless state litigation that only enriches trial lawyers and raises costs to consumers.

The Republican amendment also grants the FDIC primary supervision and enforcement authority over large nonbank mortgage originators, and other financial services providers that have violated consumer protection statutes.

This will give the FDIC broad authority to clamp down on the worst offenders of our consumer protection laws without needlessly subjecting law-abiding businesses to expensive regulation.

The Republican approach to consumer protection sharply contrasts with the approach of the Dodd bill.

Under the Dodd bill, the Consumer Financial Protection Bureau would issue rules without considering their impact on the safety and soundness of financial institutions.

Need I remind my colleagues that this is the same regulatory model that produced the fiascos at Fannie and Freddie. In that case, HUD wrote rules on their housing goals and underwriting standards, while OFHEO regulated them for safety and soundness.

Do we need a better example of the foolishness of divorcing consumer protection from safety and soundness?

How did that regulatory model help consumers? It certainly left them with a huge tax bill to cover the government bailout.

An examination of the powers and size of the bureau established by the Dodd bill shows further how the Republican approach differs from the approach advocated by the Obama administration and the Democrats.

They start with the assumption that small businesses are, in President Obama's words, "bilking people" and that heavyhanded regulations and an extensive bureaucracy are the only ways to ensure that small businesses do not take advantage of their consumers.

I do not believe that the tens of thousands of small businesses—the florists, the retailers, the dentists, the auto dealers—that fall within the regulatory reach of their new bureaucracy are "bilking" people. I also know that these entities had nothing to do with the financial crisis.

Unfortunately, the Dodd bill would create a massive new bureaucracy with unprecedented powers to regulate small businesses and consumers.

The Consumer Financial Protection Bureau could dictate exactly what forms business must use, who they provide services to, and how they sell their products.

Control over American businesses would shift further from entrepreneurs to bureaucrats in Washington.

Perhaps the most troubling aspect of their approach is that it assumes that consumers need benevolent bureaucrats to make decisions for them. In

order to make that happen, the Dodd bill authorizes the new consumer agency to collect any information it desires.

Small businesses across this country fear the massive and potentially very intrusive new bureaucracy created under the rubric of consumer protection. They have every right to be afraid.

This massive new government bureaucracy has the power to place individuals under oath and demand information about their personal financial affairs.

The new bureaucracy is also required to report to the IRS any information it gets that it believes may be evidence of tax evasion.

Why does their new bureaucracy need these incredible powers? Because their bill envisions the bureau analyzing and monitoring Americans' behavior and then issuing regulations to stop them from doing things the bureaucrats deem "irrational" or "inappropriate."

Just read the writings of the Assistant Secretary of Treasury for Financial Institutions, one of the chief architects of this expansive new bureaucracy. He has written how "regulating . . . appropriately is difficult and requires substantial sophistication by regulators, including psychological insight."

Let me translate this academic jargon.

He is saying that all-knowing regulators should be empowered to make decisions for consumers because benevolent regulators are the only ones who possess the right "psychological" mind set to do things "appropriately."

Think about it a minute.

Regulators are wise and should be heeded; consumers are foolish and should do as they are told. That is what we are talking about here.

The architects of this massive new bureaucracy have long argued for a consumer bureaucracy with the right "culture."

Whether that "culture" focuses on consumer protection and a safe and sound banking system or it becomes a way for community organizers and groups like ACORN to grab Federal resources is left wide open.

One of the strongest proponents for the new consumer bureaucracy has been Treasury's Assistant Secretary for Financial Institutions, as I said.

Allow me to read into the RECORD a couple of quotes from a paper entitled "Behaviorally Informed Financial Services Regulation" coauthored by the Assistant Secretary Barr in October of 2008.

The Secretary writes, "Because people are fallible and easily misled, transparency does not always pay off. . . ."

He writes that: "... regulatory choice ought to be analyzed according to the market's stance towards human fallibility."

On regulation, he writes that: "Product regulation would also reduce cognitive and emotional pressures related to potentially bad decisionmaking by reducing the number of choices. . . ."

He is talking about choices in the market place. Yes, the administration's chief advocate believes that benevolent regulators need to reduce choices for the consumer so that they can be protected from bad decision making and their own inherent fallibility.

He also opines on the topic of disclosures where he states that:

[D]isclosures are geared towards influencing the intention of the borrower to change his behavior; however, even if the disclosure succeeds in changing the borrower's intentions, we know that there is often a large gap between intention and action.

I believe that regulators need to ensure that consumers have the information they need to make their own decisions based on their needs and circumstances.

The proponents of behavioral economics believe, however, that regulators need to influence peoples' intentions and change their behavior so that they make decisions that the regulator deems appropriate for them. As I have said before, this is the nanny state at its worst.

Finally, he writes of a proposal on late fees charged by financial service providers.

He writes:

Under [his] proposal, firms could deter consumers from paying late or going over their credit card limits with whatever fees they deemed appropriate, but the bulk of such fees would be placed in a public trust to be used for financial education and assistance to troubled borrowers.

The translation is that behavioral economists not only believe that they are best positioned to make decisions for us, but they are also best positioned to decide how private companies spend their money.

Needless to say, this is a disturbing perspective, but it does reveal just how much the Obama administration wants to empower bureaucrats.

We should remember that the failure of our existing regulators, primarily the Federal Reserve, to properly enforce consumer protections helped cause the crisis. Yet the Dodd bill's response is to create a bigger bureaucracy and hire more bureaucrats at the Fed.

In contrast, the Republican amendment would make the changes and improvements that we all can agree need to be done, but would do so in a more focused and prudent manner.

The expansive reach of the Dodd bill means that the new bureau is going to be expensive. The budget for the bureau is approximately \$650 million in new taxpayer costs, funded Argentina-style by tapping the central bank's money-printing powers.

In comparison, the budget for the Office of the Comptroller of the Currency, our national bank regulator, is currently \$750 million, and that agency does both consumer protection and prudential supervision.

Under the Republican plan, industry, not taxpayers, would pay the costs of consumer protection.

Despite giving the bureau a huge budget and vast powers, the Dodd bill fails to take any reasonable steps to hold the bureau accountable.

The bureau receives all of its funding from the Federal Reserve, beyond both congressional and executive oversight.

The bureau has complete discretion on how it spends its budget, allowing it to devise programs for backdoor funding of special interest groups like ACORN and other liberal activist groups.

The more we learn about the Dodd bill's approach to consumer protection, the more I believe the Republican approach makes more sense and strikes the right balance.

The Republican amendment wisely places consumer protection in a financial regulator, the FDIC, but enhances the status of consumer protection by creating a new division of consumer protection.

It holds regulators accountable and ensures that repeat violators of consumer protection laws face stiffer penalties and regulation.

The Republican amendment avoids creating costly new bureaucracies and imposing unnecessary costs on small businesses that had nothing to do with the crisis.

We all agree that consumer protection needs to be modernized and given more attention by our regulators.

I believe the Republican approach does this. And it does so without building the expansive and expensive bureaucracy contained in the Dodd bill.

Most importantly, the Republican approach ensures that consumers are protected, but that they, not bureaucrats, are ultimately the ones making decisions for themselves.

I have heard from productive American companies—from tractor manufacturers to beer brewers—from motorcycle manufacturers to public utilities that provide heating fuel to your home—and they strongly oppose this bill because it will increase their operational and risk management.

I have heard small responsible business owners, who offer their customers the convenience of installment payments, express serious concerns about the potential for an out-of-control consumer bureaucracy that the Dodd bill creates.

Although the bill's supporters have and will argue that the fears are unfounded because the bill says that merchants not engaged "significantly" in offering consumer financial services are excluded from the new consumer regulatory bureaucracy.

The bill does not, however, define what the word "significantly" means—leaving that to the discretion of the benevolent bureaucrats.

The supporters of this massive new government agency trust the bureaucrats. I trust American small business owners.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I congratulate the Senator from Alabama for his comments and for his proposal, which he described as a Republican proposal. Of course, what all of us hope is that it becomes a bipartisan proposal as our friends on the other side look carefully at it. That is what happened with the big bank bailout provision we worked on yesterday. Senator DODD and Senator SHELBY worked for a while, Senators CORKER and WARNER had worked before that, and we came up with a conclusion that all but five Senators agreed to. Now we have moved to address two of the other major deficiencies in the Dodd bill that we have wrapped up in one proposal here, and it is really wrapped up with the central issue that is before the American people.

President Obama said in September of last year that the health care bill was a proxy for a larger issue about the role of government in Americans' lives. The President was exactly right about that, and we have seen the issue of government's role over and over again. I don't think it will change between now and the November election. In fact, the President said at our health care summit that is why we have elections, and I think he is correct about that. We have seen a Washington takeover of banks; we have seen a Washington takeover of car companies; we have seen a Washington takeover of many aspects of health care; we have seen a gratuitous Washington takeover of student loans. In this financial regulation bill, instead of dealing with the high jinks of big banks, we are going to take over Main Street lending and, on top of it, create a new czar or czarina to make decisions about millions of transactions across America that are on Main Street.

So what Senator SHELBY's proposal offers—and we hope it receives the same kind of bipartisan consideration that the resolution authority or the big bank bailout discussion did yesterday that we finally agreed on—is that we would like to change this bill in two ways. Republicans would like to say: Let's take Main Street lending out of it. The Senator from Connecticut, Mr. DODD, said it is not in there. But the language makes it look as if it is in there. It looks like we're about to start regulating your daughter's dentist bill, the plumber, and the store owners up and down Main Street who give you flexible credit. In other words, if you say: You can pay me over time—it

looks as if Congress is going to start regulating that transaction.

That is going to make credit harder to get because the dentist or the plumber or the store owner is going to say: I'm not going to fool with it. I don't want to be regulated by some Washington bureau, so if you want to buy my goods, go to the bank and get some money or get another credit card.

And you know what that is going to do? That's going to slow down the economy. That's going to make jobs harder to create because it is going to make credit harder to obtain and credit harder to offer.

Making credit harder to get is not what we need at this time. We just had the reports of the economic growth of our country during the first quarter. It was 3.2 percent. That is not very good. I can vividly remember flying on a helicopter with President Bush when I was Education Secretary in 1992, and the economic growth of the third quarter of the year was better than that; it was 4.2 percent. And Bill Clinton beat George Bush, Sr., on the "It's the Economy, Stupid" campaign. So 3.2 percent is not going to cut it for our country. Most economists say that if our economy continues to grow over the next year, through 2010, at the same rate it grew in the first quarter, the unemployment rate will not change. The unemployment rate will still be about 9 or 10 percent at the end of this year, as it is today.

What can we do to change that? Well, we have to create an environment for job growth. We have done pretty good in creating job growth in Washington. The one place the stimulus has really worked is in Washington, DC. Salaries are up. Jobs are up. There are plenty of new jobs around here. But out across America, we are not creating enough new jobs, and too many of the things we are doing here make it harder to create new jobs.

The health care bill makes it harder to create new jobs because it imposes taxes on job creators and it imposes taxes on investors. Tax increases make it harder to create new jobs. Running up the debt—the President's budget doubled the debt in 5 years and tripled it in 10 years—makes the economy less certain and it makes it harder to create new jobs. And the threat of creating a czar or czarina in Washington, DC, and a new bureau to supervise and make Main Street lending more difficult and expensive makes it harder to create new jobs. We should take it out of the bill.

If the Senator from Connecticut, who is one of our finest Senators, and is well intentioned, wants Main Street lending out of the bill, let's just take it out of the bill. Let's don't leave in there the possibility that someone might come along and interpret "significantly" involved financial activities to include the plumber and the dentist.

This has attracted the attention of a lot of people from Tennessee: community bankers, credit unions, and the National Federation of Independent Businesses. They are talking about office suppliers, jewelers, health professionals, and furniture stores who are all concerned with this bill. The NFIB estimates that about 50 percent of small businesses let you pay over time. In other words, they offer you credit. They make special arrangements. They say: OK, we know you don't have all of the cash right now. You might not want to run up your credit card or maybe your credit card is near the limit, so we will sell you whatever we have to sell you or we will provide the service you need. You can pay us in 6 months. You can pay us in 5 months.

Well, under this bill, if you offer payment plans you could be "significantly" involved in financial activities. Then this czar or czarina in Washington, DC, is going to be regulating you. You might be a very small business and you might not have a lot of extra money to fill out regulatory forms, but you are going to be filling out forms and suffering more regulations. And you are going to be offering less credit and credit will be harder to get up and down Main Street.

If our real intention in this body on both sides of the aisle is to not interfere with Main Street lending, then let's actually do that. That is what the Republican amendment—which we hope becomes a bipartisan—does.

Then there is the second big idea that is in this Republican amendment. So far as I am concerned—we don't need another czar. This bill is supposed to be about big banks, about financial high jinks on Wall Street, about this recession we are in, and about issues that will change the regulations in a sensible way that will avoid as many future recessions as possible and, at the same time, about creating an environment in which we can grow the largest number of good new jobs. But suddenly, we have this new Washington agency not only possibly regulating Main Street lending but creating an unaccountable person at the top to write the rules and the regulations. When I say "unaccountable," that means she or he is just over here at the Fed. Once confirmed by the Senate, this person has no boss. This person doesn't report to the President, doesn't have to come before Congress for appropriations, and has a steady stream of money and really unlimited authority. There is nothing to keep this new czarina or czar from writing the kinds of regulations and rules that got us into trouble in the first place with housing. Nothing to keep this person from writing rules that might encourage irresponsible home ownership. That is what we had before. So the Dodd bill might encourage irresponsible borrowing.

So the second major idea in the Republican amendment is, let's make this person accountable. The President appoints a Director who is confirmed by the Senate, but this person would be in the Federal Deposit Insurance Corporation. This Director would be accountable to other people appointed by the President and confirmed by the Senate and would have to come before the Congress multiple times annually to give us a chance to inquire about things.

I have come to the floor today to say we made an important step in the right direction when we worked on the first part of this bill yesterday across party lines. We addressed one of the five issues we need to deal with.

The issue of, what to do with banks that are too big to fail and get the rest of us into trouble, has been addressed.

But we have four more big issues to deal with here and other smaller issues. Two of the big issues are addressed in this Republican amendment. One is: let's not take over Main Street lending and make it harder to loan money, harder to get money, and harder to create jobs.

No. 2 is: let's not create another czar in Washington. The last thing we need is another Washington takeover and another Washington czar.

We hope our amendment will attract significant bipartisan support, and then we can move on to the other important questions in this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, first, let me thank Senator DODD for bringing forward a strong bill to regulate Wall Street. The bill provides for strict new regulations to stop Wall Street's reckless gambling.

I think one needs to understand the current system and how we got to where we are today. We have eight Federal regulatory entities that oversee the financial sector. Their authority is different, their powers are different, their ability to respond to a particular problem is different, and the entity that is regulated today can shop for the regulator they want by what they call themselves and the types of activities they try to define themselves as. They can shop and look for the regulatory entity they believe they can circumvent the easiest. They can escape and did escape proper supervision.

Well, this legislation ends that practice by a clear regulatory framework in order to regulate all financial institutions. The regulatory entity that does the regulation is based upon size and jurisdiction. And we have the Financial Stability Oversight Board that provides uniformity. No more gaps in the regulatory system. And it provides the tools for the regulators for early intervention. That means we end, once and for all, too big to fail. By early inter-

vention on takeovers, closing down financial institutions, requiring the sale of financial institutions, we can prevent the need for too big to fail. The risk will be on the investors, not on the taxpayers of this country. The Boxer amendment makes that clear.

Tools that are needed for orderly liquidation to minimize the impact on the financial sector and our economy are provided in this legislation.

It recognizes the need for special attention to our community financial institutions. They were not the cause of the financial crisis we went through. We know it came from Wall Street. Our community banks were very much vulnerable as a result of the financial collapse. We need to streamline the regulatory process as it relates to our community banks. Regulation is cost. We have to have regulation. We need regulation. They need regulation. But we need to make sure it is sensible. This bill streamlines the regulatory structure as it relates to our local financial institutions.

We need strong and adequate regulation, and it provides it. We need to write a balance, and this legislation provides that. I might say, there are amendments we have already considered that I think were the right thing in order to make sure this balance is correct. I am sure there will be other amendments we will consider to make sure we get that balance right between adequate regulation and the cost of regulation to small community financial institutions.

This legislation puts the consumer first, as it should, with a strong consumer bureau. Some say: Why do we need that? Isn't the current regulation adequate? The answer is no. All you need to look to is what happened in the residential mortgage marketplace. All you need to look at are the advertisements that were taking place just 2 years ago for no-doc or stated-income loans or no-down-payment loans—loans that provided over 100 percent of the cost. And look at the subprime lending in each of our communities, where home buyers who could have qualified for traditional home mortgages were steered into the subprime market because the mortgage company or the seller made more money by steering them into subprime loans. Well, those practices have to come to an end. Those housing practices sparked, as we know, the trigger for this recession. These practices helped create that bubble that burst and the damage that was caused when it did burst.

We can take a look at the cost of this recession. The Pew Financial Reform Project estimated that just a slowdown in economic growth will cost every family in America close to \$6,000. Well, that is money that will never be made up. We have to make sure it never happens again. The Federal spending, in order to prevent the economic collapse

of Wall Street, is estimated to cost \$2,000 per household. If you look at just the decline in real estate values, in 9 months, from July 2008 to March 2009, the wealth lost equaled about \$30,000 per household in real estate and over \$60,000 per household in the stock market. We lost millions of jobs. I could go on and on. We have an obligation to make sure our economy and our people are protected from that type of financial meltdown in the future.

This legislation properly regulates risky gambling by financial institutions by putting in place prohibitions and disclosures. It puts an end to derivatives markets that have no economic value to our economy. It requires disclosure on the derivatives markets, so we can take Justice Brandeis' advice and use sunlight as the best disinfectant. It provides for the Volcker rule, codifying that, by restricting certain types of high-risk financial activities by banks and bank holding companies.

This legislation regulates credit rating companies. We know credit rating companies—their rating will very much affect the price of a security and the viability of the security.

In this recession, many Marylanders and people from every State in this Nation have lost their homes, their jobs, and savings. We have a responsibility to act to end the reckless practices on Wall Street that helped plant the seeds for this recession. This legislation is a giant step forward.

AMENDMENT NO. 3732

Madam President, I will now speak briefly about an amendment I intend to offer.

I rise to urge the inclusion of amendment No. 3732 to S. 3217. This amendment is a critical part of the increased transparency and good governance we are striving to achieve in the financial industry.

This is a bipartisan amendment that would require all foreign and domestic companies registered with the U.S. Securities and Exchange Commission, the SEC, to report in their annual report to the SEC how much they pay each government for access to their oil, gas, and minerals. Most of the world's extractive industries companies would be covered by this law, setting a new international standard for transparency, for openness.

We have seen the devastating effects of a lack of transparency in this country, what happens when Wall Street is left unchecked and barons cloaked in secrecy make off with millions while others lose their homes. This is why we are addressing openness and transparency in the underlying legislation today. We would be remiss to create this sweeping reform of our financial sector without addressing the need for adding a new layer of transparency to a set of companies already under the SEC's jurisdiction—the oil, gas, and

mining companies that make up the extractive industries.

This amendment would create an environment of transparency to reassure investors, help stabilize global energy markets, and thus support goals of energy security.

Current Federal Accounting Standards Board standards require reports of tax, royalty, and bonus payments to host governments, but the numbers need only be reported in aggregated categories, such as "production costs excluding taxes" and "taxes other than income." These payments are reported on a country level where a company's operations are very substantial, but otherwise they are reported on such a broad basis that a company can simply report on which continent it was operating. Such disclosure is not useful in determining the extent of a company's operations in or its ongoing financial arrangements with a country.

In terms of energy security, the oil, gas, and mining revenues are critically important economic sectors in about 60 developing and transition countries which are paradoxically home to more than two-thirds of the world's poorest people. Despite receiving billions of dollars per year from extractive revenue, these countries rank among the lowest in the world on poverty, economic growth, authoritarian governance, conflict, and political instability. Unaccountable management of natural resource revenues by foreign governments leads to corruption and mismanagement, which in turn creates unstable and high-cost operating environments for multinational companies and threatens the security of the energy supply of the United States and other industrialized nations. So we are talking about in these countries where mineral wealth becomes a mineral curse. It becomes a source of revenue for corruption rather than a source of revenue for economic growth so a country can grow. It runs counter to our foreign policy objectives of good governance and economic growth for the developing world. Transparency will help make sure the mineral wealth goes to the people of that nation.

The provisions of this amendment would apply to all oil, gas, and mining companies required to file periodic reports with the SEC; namely, 90 percent of the major internationally operating oil companies and 8 out of the 10 largest mining companies in the world—only 2 of which are U.S. companies. We are talking about foreign-owned companies, not U.S. companies, by and large. Of the top 50 largest oil and gas companies by proven oil reserves, 20 are national oil companies that do not usually operate internationally. These companies are not registered with the SEC or any other exchange and only operate within their own country, which means these national oil companies do not compete with internation-

ally operating companies. Of the remaining 30 companies that do operate internationally, 27 would be covered by this legislation—27 of the 30. These include Canadian, European, Russian, Chinese, Brazilian, and other international companies.

We currently have a voluntary international standard to promote transparency. A number of countries and companies have joined the Extractive Industries Transparency Initiative, the EITI, an excellent initiative that has made tremendous strides in changing the culture of secrecy that surrounds the extractive industries. But too many countries and companies remain outside this voluntary system.

The notion of transparency has been endorsed by the G8, the IMF, the World Bank, and a number of regional development banks. It is clear to the financial leaders of the world that transparency in natural resources development is key to holding government leaders accountable to the needs of their citizens and not just building up their personal offshore bank accounts.

It is now time to create in law an international standard for transparency. It will only happen if the United States is in the leadership. The international community looks to us to be a leader on this issue.

Investors need to be able to assess the risks of their investments. Investors need to know where, in what amount, and on what terms their money is being spent in what are often very high-risk operating environments. These environments are often poor developing countries that may be politically unstable, have lots of corruption, and have a history of civil unrest. The investor has a right to know about the payments. Secrecy of payments carries real bottom-line risks for investors.

Creating a reporting requirement with the SEC will capture a larger portion of the international extractive industries corporations than any other single mechanism, thereby setting a global standard for transparency and promoting a level playing field.

Investors should be able to know how much money is being invested up front in oil, gas, and mining projects. For example, oil companies often pay very large signature payments to secure the rights for an oilfield, long before the first drop of oil is produced. Such payments are in addition to the capital investment required. In Angola, for example, \$500 million is not an unusual signature bonus that has to be paid for a single field, and a single field can cost more than \$2 billion to develop. Such costs take years for companies to recoup through their production-sharing arrangements with host companies. For this reason, it is in the interest of the investors to know the amount and timing of payments of high-risk operating environments.

When a company they have invested in becomes targeted by a campaign of

misinformation, only the transparency of their financial information will help the investor. Disclosure of payments is one way to address risk, helping companies protect themselves from false or unfair accusations and blame-shifting by host governments that can tarnish their image in the investor community and the general public.

I urge my colleagues to join me in supporting the creation of a historic transparency standard that will pierce the veil of secrecy that fosters so much corruption and instability in resource-rich countries around the world.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Missouri is recognized.

Mr. BOND. Mr. President, Americans have sent Congress a message: Reform Wall Street, hold the bad actors accountable, but do not hurt the folks on Main Street who had nothing to do with the financial crisis. That is what we are debating about here in the Senate this week.

Senators on both sides of the aisle agree on one thing: All of us want to hold Wall Street accountable for the havoc wreaked on Main Street. We all agree we need to enact reform to prevent another financial crisis. But we have some disagreements on what responsible reform looks like.

While we all agree on the need to reform Wall Street to protect Main Street, the current bill, even with amendments so far, does not, in my view, do the trick. We are making progress, but there is still a lot of work to do because, in its current form, the bill is still a massive government overreach, punishing Main Street, hurting families, and costing jobs by stifling small business and entrepreneurs.

Today, I will highlight some of the concerns I have heard from Main Streets in Missouri and elsewhere and some of the amendments that have been filed to improve the bill.

First, on the GSEs, none of us can deny that Fannie Mae and Freddie Mac were significant contributors to the financial crisis. Just like any real reform, to prevent a future financial crisis, we have to deal with Wall Street, and we must also deal with Fannie Mae and Freddie Mac. Unfortunately, this bill totally ignores it. It turns a blind eye to these government-sponsored enterprises, these GSEs which contributed to the financial meltdown by buying high-risk loans banks were directed to make to people who could not afford them.

The irresponsible actions in the marketplace by Fannie and Freddie turned the American dream into the American nightmare for far too many families who faced foreclosure. They then devastated entire neighborhoods with the foreclosed homes and communities where property values diminished. Ul-

timately, it led to a national and international financial crisis. No one—especially those of us who are taxpayers—can forget what happened after Fannie and Freddie got done wreaking havoc on families and neighborhoods. They went belly up. That is right. Over a year and a half ago, the government had to take over the GSEs, leaving taxpayers to foot the bill.

To make matters worse, I am sure everybody read with shock just yesterday when the press reported that Freddie lost \$8 billion in the first quarter. That is a lot of work. Then they had the nerve to request another \$10.6 billion from the American taxpayers and warned that this \$10.6 billion is just a downpayment on the money they will need in the future. Is it time to call a halt? Is it time to get a handle on it? It is well past time.

In case my colleagues need a reminder, this latest \$8 billion Freddie lost is on top of the \$126.9 billion Fannie and Freddie had already lost through the end of 2009. The Wall Street Journal today hit the nail on the head when they referred to Fannie and Freddie as the “toxic twins.” These toxic twins are far and away the biggest losers in the entire financial crisis—bigger than AIG, Citigroup, and all the rest.

So when we focus our anger, let’s not forget our friends at Fannie and Freddie. You talk about doing some damage. Here is where the damage is. Here is where the burden comes, not just on us but on the credit cards of our children and grandchildren, the young people here as pages. They don’t realize how heavy a debt burden we have already put in their wallets. Sorry about that, folks, but you and your generation and generations to come are going to be paying for it.

Taxpayers now and taxpayers in the future will be the biggest losers, since according to the Congressional Budget Office’s optimistic estimates, these toxic twins will cost the taxpayers close to \$380 billion. Even for those of us in Washington, \$380 billion is a big number.

After all this pain to families, neighborhoods, and taxpayers, one would think the oversight of Fannie and Freddie would be a top priority, which is why it is stunning to me that the Obama administration has only recently nominated someone to fill the critically important position of inspector general of the Federal Housing Finance Agency to oversee the GSEs. How can we have proper and effective oversight of Fannie and Freddie when the office has been vacant at the highest level for so long?

The bottom line is, responsible reform must address Fannie Mae and Freddie Mac. Responsible reform would put an end to the taxpayer-funded bailout of Fannie and Freddie and refocus them on affordable housing. Senators

MCCAIN, SHELBY, and GREGG have filed an amendment to protect taxpayers and put an end to the government bailout of Fannie and Freddie. In short, this amendment cuts up the Federal credit card by putting an end to the limitless line of credit Fannie and Freddie currently enjoy, compliments of us as taxpayers.

This amendment puts an end to the conservatorship and requires each to operate eventually without government subsidies and on a level playing field with the private sector.

Next of great importance is seed capital. It is critical in reforming Wall Street that we not punish Main Street and the very specific small business startups that are so critical to job creation. If there is one thing we are worrying about it is, Where are the jobs? Well, I will tell my colleagues where the jobs are. They are the jobs the entrepreneurs and the innovators and the inventors can start. Unfortunately, in the current form of this bill, there are provisions that will kill the business startups. While title IX of the Dodd bill has been little talked about—far too little, in my opinion—it could have devastating consequences. Specifically, this provision would kill small business startups by delaying and eliminating the availability of private investor seed capital, and that is essential for these startups to survive and grow.

According to new regulations by the SEC, innovators and entrepreneurs would be subject to registering with the SEC for a 4-month review; thus, tying up vital venture capital needed for immediate use by new business. This could cripple new businesses.

Next, the bill proposes to add a further requirement to raise the net worth threshold on those who can invest to \$2.3 million and raise the annual household income to \$450,000. This would disqualify two-thirds of current accredited investors, according to the Angel Capital Association.

Small businesses and startup companies are the backbone of our country. They are where we are looking to get the new jobs of the future, and a critical role is played by angel investors in creating and developing new companies, small or large.

I will confess, this is of particular concern to my State of Missouri, where I have been working for a long time to build an agricultural biotech corridor across the State. In Missouri, we have the research institutions, the scientific leaders, and advanced agricultural research and biotechnology. Research in the biotech industry is our best hope for a stimulus to create high-paying, skilled jobs in rural as well as urban Missouri and, I would say, across America.

The stimulus these biotech and research companies are spurring in Missouri is also happening today across the Nation. According to the Kauffman

Foundation, between 1980 and 2005, companies less than 5 years old accounted for all—all—the net job growth in the United States. As a matter of fact, that same study showed that in 2008, angel investors provided roughly \$19 billion to help start up more than 55,000 companies. Why would we want to limit that? The bill, if enacted, would deny immediate access to the capital and, if enacted, would say to these innovators and entrepreneurs: You are too small to succeed, too small to survive—not too big to fail.

But there is good news here, and there is a bipartisan solution in the works. I am very thankful and grateful to Senator DODD, who has agreed to work with me to fix the problem. We both want to protect these small business startups that are vital to job creation across the country. I think we are close to an agreement to fix this, and we hope to have a bipartisan amendment soon. I urge all my colleagues to take a look at it and to join us in supporting it.

Next and finally for today, one of the biggest problems in the bill—which I believe will undoubtedly hurt ordinary Americans who had no role in causing the financial crisis—is the creation of the so-called Consumer Financial Protection Bureau, CFPB. Those initials could, in the future, scare people more than all the combined deadly 10 acronyms, including the IRS, EPA, and SEC. This new massive supergovernment bureaucracy would have unprecedented authority to impose expensive mandates on any entities that extend credit. We are not talking about Goldman Sachs or big Wall Street banks. Instead, this new superbureaucracy could hit hard the community banker, farm lender, local dentist or auto dealer. The pain on Main Street will not just be borne by small business, but the costs will be passed on to consumers, the ordinary Americans the bill seeks to protect. It might even cost them their jobs.

The National Federation of Independent Business, a strong voice for small business, stated their concern clearly when they said:

These small businesses had nothing to do with the Wall Street meltdown and should not be faced with onerous, new, and duplicative regulations because of a problem they did not cause. Further, as the most recent NFIB Small Business Economic Trends survey shows, small businesses continue to struggle with lost sales, and such regulations could make these problems worse, stifling any potential small business recovery.

That is why I have joined with Senators MCCONNELL, SHELBY, GREGG, and others on an amendment to fix the problem. Instead of creating a brandnew superbureaucracy with unlimited authority and reach, our amendment would empower the FDIC to look out for consumers. This makes sense. The FDIC is the one that has a strong record of providing consumer

protections. It has a record of being able to deal with financial institutions. It deals with the financial institutions that get into problems. It is in the banks. Any institution that is regulated by the FDIC, they are in there looking over their shoulder.

Our amendment would create a division of consumer financial protection within the FDIC so they can protect consumers without adding burdensome and duplicative regulations. It would avoid costs being passed on to consumers, the very folks we are trying to protect, not saddle them with new costs. The amendment will ensure that the consumer protection division focuses on the real problems currently operating under the radar—the shadow banking I call it—or, as I like to say, the clicks, not the bricks. These are the people who have preyed on vulnerable Americans.

Before the financial crisis that was brought on by bad loans, especially too-good-to-be-true home loans pushed on families who could not afford the loans, my fax and inbox were cluttered, despite my best spam filters, with 1 percent or no down payment loan offers. These offers were not regulated effectively by State regulators, the SEC, the Federal Reserve or the OCC. They succeeded in escaping effective regulation entirely, although some have later fallen to regulation by U.S. attorneys who filed criminal fraud suits a little bit too late in the game.

Also, it is important this new division be tasked with providing financial literacy, as I will continue to stress. We have to improve consumer education in any and all areas where loans are made. While foreclosure counseling is important—another bipartisan program on which I worked with Senator DODD in December of 2007 and in which we put \$180 million to reach out to financial counseling groups. They are doing a good job trying to help counsel families in danger of losing their home and ways to solve the problem. Those counselors came back to us unanimously and pleaded with us to make available preloan counseling before somebody buys a home, to make sure they understand the terms and can afford to service the loans.

These are just some of the things we need to do.

Missourians and people across America are angry. They are angry bad actors caused the financial crisis that left many of them with a pink slip instead of a paycheck. They are angry Wall Street bad actors left them with a nightmare of foreclosure instead of the American dream of home ownership. They are angry government has committed trillions of taxpayer dollars for rescuing the financial industry when so many of them are still struggling to pay bills. Is it any surprise that Missourians and Americans across the country are skeptical about financial reform?

These folks were made more skeptical when they heard and saw on TV and read in the paper that it is the actors on Wall Street, with whom the bill was supposed to deal and who caused the financial crisis, who are now cheerleading this bill. Missourians ask me how this bill can be real reform when the head of the investment bank Goldman Sachs, who is supporting the bill, said—let me make sure you understand. This is from the head of the largest investment bank on Wall Street: “The biggest beneficiary of reform is Wall Street itself.”

That is a quote about the original bill.

Missourians have asked me not to pass a bill that will bail out Wall Street. We need to take care of Main Street. There is no bailout for struggling families. We don't want anymore Wall Street bailouts. We need to pass a bill that reforms Wall Street and protects Main Street. I believe we have an opportunity to pass real, responsible, and bipartisan reform, if Senators of both parties will listen to the concerns raised by ordinary Americans who didn't cause but are paying for the financial crisis.

I have heard similar concerns discussed by speakers on the other side of the aisle who seem to indicate we share the same concerns. I hope we can work together to get a good, strong reform bill that will deal with the problems that caused the last financial crisis, protect consumers, and ensure the safety and soundness of all financial institutions and not subject them to special interests who may have pushed for the bad loans that caused the last crisis.

I thank the Chair, yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, what is the pending business, or the order?

The PRESIDING OFFICER. Amendment No. 3826, offered by Senator SHELBY, is the pending business.

Mrs. BOXER. Mr. President, I want to take some time to speak out against the Shelby amendment and urge that it be defeated. If that is appropriate at this time, I will use as much time as I may consume.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, this is a pivotal point in the debate on Wall Street reform. We never want to see what happened in this country happen again, where they essentially crashed the stock market. People had been talked into very difficult to understand and exotic subprime mortgages. We had



such greed running rampant on Wall Street, and instruments were created that were even difficult for the Secretary of the Treasury to explain—derivatives that were so complex they were in about the third order.

If we were to adopt the Shelby amendment, we would weaken this bill. As a matter of fact, we will weaken current law, and not only will consumers be hurt but they will actually lose ground—when the purpose of the Dodd bill—our bill—is to elevate consumers, give them protection from these kinds of schemes that brought our economy to its knees and resulted in 700,000 jobs a month being lost then, and the wealth of the average American, who had even a 401(k), was down 20, 30, 40, and maybe 50 percent and, as a result of that, the lack of consumer confidence that followed.

We know our economy is based on consumer confidence. Seventy percent of our economy is attached to consumer spending. When people see the stock market and their wealth going down, and see neighbors losing their homes and jobs, they feel threatened and they pull back, and rightly so. It started from deregulation on steroids on Wall Street, where the regulators didn't even use the powers they had to protect consumers. An essential part of this bill is putting a cop on the beat for consumers, finally. So whether you are a consumer of credit cards, or a consumer in terms of the housing market, or a consumer in terms of the stock market or the commodities market, you are finally going to have a watchdog.

We know the regulators didn't care about consumers. We know that. We know, for example, that the Fed had the authority to intervene in the housing market, if they felt these subprime loans were wrong, and stop them. They didn't do it. We know the SEC was warned about Madoff. There were whistleblowers to that Ponzi scheme, and many more Ponzi schemes were going on. They didn't even follow the lead.

We need to have a strong, independent consumer agency that says to the regulators: You are not doing your job. We are going to make sure you do it.

That is what is in the bill before us. But the Shelby amendment takes us back. The new Consumer Financial Protection Bureau will enforce existing consumer protection laws—those same laws that went unenforced by current regulators. I gave you the example of the SEC and the Ponzi schemes, and of the Fed overlooking the mortgage crisis, and there are many others. It would also ensure clear disclosure to consumers of all the terms and conditions of the financial products they buy.

Believe me, you would have to have a degree in economics and finance and everything else to understand some of

the fine print in a credit card bill. People are stunned to know they are paying 20, 30-percent interest rates on their credit cards, because there is no clear way of knowing.

In this bill, that is over. You have to know the terms and conditions of the financial products you buy. This bill will bring protections to home buyers from the kinds of exotic mortgages that led to the current crisis.

Let me give you an example. People were offered mortgages at a teaser rate—a very low rate—and were not being told in clear terms that in a couple of years that teaser rate would go up and go up and go up.

I have to say, some in the mortgage business were paid more commissions to put unsuspecting consumers into these exotic mortgages. So they pushed those mortgages. That is wrong. We need a consumer protection agency that notes it is wrong and puts a stop to it.

We have a situation that weakens the current law. If you think that is right, if you think, for example, that consumers caused the Wall Street meltdown—I think you are living on another planet—vote for this amendment. We know who caused this crisis. We know the greed on Wall Street. We know even while these companies were getting bailed out, they were paying their people huge bonuses. The word “outrageous” really can be defined by what these people did.

If my colleagues want more of the same—I cannot understand why they would—but if they want more of the same, if they do not want to strengthen consumer protection, then vote for the Shelby amendment.

Let's be clear. This amendment is a gutting amendment. Instead of creating an independent consumer watchdog, the Shelby amendment creates a weak sister, a weak division of the consumer protection in the FDIC. This new idea of Senator SHELBY's, this new division of consumer protection, would no longer be independent. It would be under the FDIC. It would not have any authority to adopt any rule without the approval of the same bank regulators who have routinely ignored or opposed the needs of consumers.

Let me repeat that. The weak consumer protection agency created in the Shelby amendment would have no authority to adopt any rule without the approval of the same bank regulators who have routinely ignored or opposed the needs of consumers. It even would give bank regulators a veto over consumer protection regulations. That is totally unacceptable.

If my colleagues are for Wall Street reform, they have to vote no on the Shelby amendment. This is the moment of truth. Either my colleagues are going to stand with the people of this country who are innocent victims of greed on Wall Street or they are not.

If they want to stand for the greed on Wall Street, if they want to stand for no protection for consumers, a weakening of the protections they already have, which are far too weak, vote for this amendment, and let's go forward with a Dodd bill which has a strong independent consumer protection agency.

I would add that the Shelby amendment would burden the new consumer protection division that he has in his amendment with incredible procedural hurdles—hurdles that have effectively prevented the FTC, that has similar rules, from writing any new rules protecting consumers since 1984.

Mr. President, 1984 was an interesting year for me. It was a long time ago. I was a lot younger. It was before my hair turned blond. In that year, I was in the House of Representatives, and I was pushing the Federal Trade Commission to help consumers. They had too many hurdles. They have not done anything in all those years. Yet this is the template that Senator SHELBY is using for this watered-down consumer protection division.

I see Senator MERKLEY on the floor, and I am going to yield in a minute. He is such a leader on all these issues and such a great populist leader in this Senate.

Maybe my colleagues who support this amendment think the regulators who allowed all of these abuses to happen under their watch, despite repeated warnings, did a fine job and are the best protectors of consumers.

But even if those regulators have somehow had a change of heart and are determined to change their ways, this amendment would leave them with even fewer powers to protect consumers than exist under the current system.

The Shelby amendment would burden the new Consumer Protection Division with the same incredible procedural hurdles that face the Federal Trade Commission—hurdles that have effectively prevented the FTC from writing any rules in the consumer finance area since 1984.

In addition, the amendment would actually prohibit the proposed consumer division from doing any rulewriting under the FTC Act for payday lenders, debt collectors, foreclosure scam operators, mortgage brokers and other nonbank consumer finance companies.

If the new division did somehow manage to get new rules written, the amendment would make sure that they could not be enforced.

Under this amendment, the new weakened consumer division could do examinations of some finance companies only after consumers have been harmed repeatedly.

This after-the-fact authority closes the barn door after the horse is out, and handcuffs regulators from protecting consumers until the harm is already done.

Some of my colleagues want us to believe that the Consumer Financial Protection Bureau that we have proposed in our Wall Street reform bill would harm small businesses.

Nothing could be further from the truth.

Merchants, retailers, and sellers of nonfinancial goods are specifically excluded from the oversight of our proposed new Consumer Financial Protection Bureau.

This includes retailers who provide ordinary credit to their customers to buy their goods.

Even for small businesses that do sell financial products—including community banks and all kinds of small lenders—the Consumer Financial Protection Bureau will have no direct enforcement authority. Enforcement of rules will be handled by the current regulator or State attorneys general.

I will give one more example I think is very important. I told you the template for Senator SHELBY's new consumer protection agency is the FTC. I told you under those rules, the FTC has not done anything since 1984. Let's say they were able to get new rules written. Let's say they were able to do that. Senator SHELBY ensures that the rules they write could never be enforced.

How does he do that? Because he says the only time the weakened consumer division could do any examinations of some financial companies would be after consumers have been harmed repeatedly. This is after-the-fact authority. I have seen too many people crying because of what happened on Wall Street. I have seen too many people crying because they lost their jobs because of what happened on Wall Street. I have seen pictures in the paper of Americans crying because of what Bernie Madoff did to them and their children.

I want this stopped. I do not want it stopped after the fact. Yes, thank goodness Bernie Madoff is in prison where he belongs. But it is very difficult to make the people whole who were harmed by that Ponzi scheme.

We do not want after-the-fact authority; we want before-the-fact authority. We want this consumer protection agency to be on its toes, to intervene, to see if there is a scam going on; to see if there is a credit card scam that leads to 30, 40, 50 percent interest rates; to see if there is a scam on mortgages where people unknowingly walk into a mortgage where the rate goes up to 12 percent.

At the end of the day, we know consumers were hurt hard by Ponzi schemes, by markets in the dark, confusing mortgage options, some bordering on fraud by credit card scams and worse.

Let's take a stand in a bipartisan way and vote no on this amendment and support the consumer protection

agency, the strong one that is in this bill. I can tell my colleagues, if we do that, the American people can take a deep breath and know that they will be protected.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. MERKLEY. Mr. President, I applaud my colleague from California who has been an extraordinary champion of consumers throughout her career. She understands that the basis of a successful nation is successful families. That depends on them having a strong financial foundation. We should not measure the success of our country by the million-dollar bonuses or the billion-dollar quarterly profits on Wall Street. We should measure it by the success of our families.

This bill is absolutely essential to restoring those financial foundations; whereas this amendment before us does the opposite. The Shelby amendment No. 3826 carves the heart out of this bill. This dog don't hunt. In fact, this dog doesn't bite. I don't even think this dog barks. For that matter, I am not so sure it is a dog. That is how bad the Shelby amendment is.

The background is this: Predatory mortgages and securitization of those mortgages on Wall Street built a house-of-cards economy that came falling down last year. The predatory mortgages were done at the retail level, but the securitization and selling of those packages occurred on Wall Street. They built investments that were taken in by every major financial house practically in the world, and those investments, those securities had a 2-year fuse on them, essentially a 2-year teaser rate on every underlying mortgage.

At the end of the 2 years, interest rates doubled, families could not make the payments, securities went bad, and we had financial firms one after another collapse. We had Lehman collapsing. We had Bear Stearns collapsing. We had Merrill Lynch collapsing. We had major problems at Bank of America needing a bailout, a \$4 billion TARP bailout. We had Citibank collapsing. We had Washington Mutual collapsing—all built on predatory mortgage practices, every single piece. That is why consumer protection is so important. That is why it is at the very heart of this bill. And that is why we need a Federal consumer protection agency.

I have friends back in Oregon who write to me, citizens back in Oregon, constituents who will say: Here is what went on, and how can that be fair? Let me just give an example.

A woman from Salem wrote to me and said: I always pay my credit card on time, always have for years and years. But I got my credit card statement, and it had a late fee. So I called up the credit card company, and I said:

How is it possible? I always mail my payment on this day. It should have had plenty of time to get there.

The credit card company said: Yes, as a matter of fact, your payment did come on time. But you know, Madam, we are not required to post your payment on the day we receive it. In fact, in the contract we have, we can sit on your payment for 10 days and then post it, and then your payment is late and we get to charge you this fee. We are just following the rules.

She said: How can that be fair?

It is not fair. Everyone knows it is not fair. Let me give another example.

Citizens wrote saying: Hey, I had a whole series of transactions with my bank, and then the bank changed the order of those transactions to put the biggest transaction first. It so happened that biggest transaction made me \$10 over the funds I had in the bank. I had an overdraft. By putting that big transaction first, it meant instead of one overdraft fee, I have 10 overdraft fees. Instead of only \$35 for one overdraft, I owe \$350 for an overdraft series. How can it be fair that the order of the transactions was changed in order to multiply the fees I owe tenfold?

Everyone knows that is not fair. Everyone knows it. We simply need to have an agency that is able to say that is not OK. We do not want to have a process where something that is unfair goes on for 10 years or 15 years or 20 years before there is legislation to address it.

You cannot address a consumer product's choking hazard by doing it in legislation. You have to empower an agency to say: No, that part is too small. You cannot address lead paint by doing legislation every time something is painted. No, you have to have an agency that says they will test that paint and say lead paint is not OK.

It is the same with consumer financial products. We need the same power to fix traps and tricks in real time for fairness to America's families so they can rebuild their financial foundations because that is what a strong country is, families with strong financial foundations, not million-dollar bonuses, not billion-dollar quarterly profits based on stripping funds from working Americans. It all comes down to the heart of it: fairness in consumer financial documents.

Let's take a look at amendment No. 3826 and why it carves the heart out of this important bill for America's families, America's Main Street families and businesses.

Here is what it does: First, it says virtually no one is covered. Let's look at the list. What is covered under the language of the amendment are large nonbank mortgage originators. Large nonbank mortgage originators do not exist anymore. So it covers firms that do not exist anymore. It is kind of like

saying we are going to have the regulation of safety on cars, but it is only for cars that are powered by gasoline and were built before 1850. No such cars exist. All the other cars, the ones actually on the road, we are not going to cover them.

We have a list. We have commercial banks, not covered; investment banks, not covered; credit card companies, not covered; car lenders, not covered; payday lenders, not covered; nonbanks that sell financial products of a whole sort, not covered.

I think you get the picture that this amendment is meant to make sure nothing is covered. Then, just in case there is some little piece that does get covered, it says: You know what. This agency is not independent. It cannot write rules. It has to have everything it does approved by the financial world—the financial world that brought us all these problems, that brought us to tricks and traps, that stripped wealth from working Americans. They are going to decide what is covered.

I echo my constituent from Salem and say: Where is the fairness in that?

Mr. DURBIN. Will the Senator yield for a question?

Mr. MERKLEY. Certainly.

Mr. DURBIN. Let me ask the Senator: As I understand the amendment of the Republican Senator, it goes back to the old days when there was virtually no consumer financial protection. The bill we have before us here—that Senator DODD and the Banking Committee brought forward—has the strongest consumer financial protection law in the history of the United States. It has an agency with independent authority to protect Americans, but more importantly to empower Americans to make the right decisions when they are taking out a mortgage, a loan for a car, a home loan or a student loan. What the Republicans are suggesting in the Shelby amendment is to go back to the old days when there was no protection, there was no authority.

The argument is made about the fact that when it comes to mortgages, they weren't the problem, the problems were with Wall Street. But at the heart of the issue on Wall Street was the mortgage being signed by the family in Springfield, IL, and Portland, OR. So I ask the Senator: In your State, in your experience, as you look at this, if the Republicans have their way and move us back to the old days when it comes to this consumer empowerment, consumer protection, don't we run the risk of falling into another economic crisis, losing millions more jobs across America? Isn't that the risk we run if we go the route suggested by the Republican amendment?

Mr. MERKLEY. My colleague is absolutely right. Because predatory mortgage practices were at the heart of this

crisis that led to securities that blew up the economy and led to the loss of millions of jobs around our Nation, with an unemployment rate in my State that has been over 12 percent. We not only have the risk of going back there, we are perhaps more at risk because we have fewer larger banks. Many investment houses that were independent are now inside those banks, in a position where, if they blow up, they will blow up the banks as well.

So unless we have this strong consumer financial protection agency, it is like taking this bill before us and sticking it in the shredder, and with it shredding the hopes and aspirations of America's working families to build strong finances in the future.

Mr. DURBIN. If the Senator will yield for another question.

Mr. MERKLEY. Yes.

Mr. DURBIN. Is it not true that last week, on three different occasions, the Republicans filibustered this bill to stop us from even starting the debate on this bill, and it was only when we reached the point after the Goldman Sachs hearing—when there was this embarrassing testimony from executives, telling America what they were up to, and it all became very public—that the Republicans finally backed off their filibuster, backed off their delay of this legislation and let us come forward to debate; and that now, one of the first amendments they offer is to weaken this bill so the financial institutions and the banks are going to have more power over the economy, more power over consumers than this bill provides?

Isn't that the real history of how we got to this moment in this debate?

Mr. MERKLEY. My friend and colleague is absolutely correct; that, indeed, my colleagues across the aisle, the Republicans, voted three times to say they did not want to proceed to the bill, where their ideas would bear public scrutiny. Instead, they wanted to talk behind closed doors. You know what they were looking to do was not to strengthen this bill.

Now that the amendment has come out and been placed before us publicly, we do see that it does what we feared. It is designed to take a knife and carve the heart out of this financial reform.

Mr. DURBIN. I would ask the Senator from Oregon if he would yield for one last question.

Now that we have been through this experience where we have lost \$17 trillion in American value in this economy—\$17 trillion accounted for in the savings accounts of ordinary Americans in Illinois and Oregon, \$17 trillion in businesses that failed and jobs that were lost—isn't it critically important that this bill from the Senate Banking Committee move forward, and that each amendment take this strong bill and make it stronger, instead of the Republican amendments, which clearly

are designed to weaken this amendment and to open us up to the vulnerability of facing more job loss and more economic crisis?

Mr. MERKLEY. Well, my colleague is absolutely correct. The failure of financial rules has become so obvious and had such devastating impact for our families—as my colleague put it, \$17 trillion worth of damage. That means families lost their retirements, families lost their savings for their children to go to college, and it means families have houses under water, if they are lucky. For many families, it means the loss of a job, the loss of income, and the inability to make those mortgage payments, which means they are in foreclosure and have lost their dream at every single level. That is the damage \$17 trillion did to our families, and that is why every amendment to the bill we have before us should seek to say: Here is the bill and here is how we should make it stronger.

With that, Mr. President, I yield the floor.

Mr. DODD. If my colleague would yield quickly, I appreciate everyone wanting to make my bill stronger. We have a pretty good bill here, but every bill could use a little improvement, I admit.

I want to compliment the Senator from Oregon, a member of the Banking Committee. He has been a very valued member of the committee. I mentioned earlier—I say to the majority whip—in the committee meetings we have had, it is by seniority, and so I have this cluster of new members down at the end of that committee table. The Senator from Illinois and I have been in that position at those tables over the years. But Senator TESTER, Senator MERKLEY, and Senator BENNET kind of occupy those last three seats on the Banking Committee.

I say that with great respect to all the rest around the committee. Those three new members on the committee have added tremendous value to our debates, and in particular, the Senator from Oregon has been wonderful in his concern about mortgages, prepayment penalties, what has happened to the 7 million foreclosures in our country, the 8½ million jobs that got lost in our Nation, why we need to address this issue, and why it is so critically important.

I want to make one more point about this Shelby amendment that may be lost on our colleagues, and that is in our bill there is no assessment on a nonbank or a bank, but there are assessments in this amendment. We just went through the Tester-Hutchison amendment to actually lower the assessments on community banks. What a great irony that the next amendment—there will be those having supported the earlier amendment to reduce cost—sets assessments. In fact, it asks community banks to have assessments on the nonbanks out there in

order to pay for their consumer bureau within the FDIC.

So for those who are concerned about the burdens on community banks—and I think it is a legitimate concern, one I think the Hutchison-Tester amendment did a great deal to alleviate—we are going to turn right around on these institutions that are struggling to stay alive to serve their communities and add a financial burden to them. So for all those reasons the Senator from Oregon mentioned, plus that one, the Shelby amendment deserves to be defeated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I want to point out that you have just seen an example of why there isn't bipartisanship in this Chamber. You cannot denigrate the other party and denigrate every single thing they put up as an amendment and suggest there is going to be bipartisanship. The amendment that is before you is an attempt to correct some of the things that are in the bill.

The filibuster was mentioned. Well, the filibuster bought enough time that Senator DODD and Senator SHELBY were able to work out the agreement for the amendment that has passed—a major amendment, a major change, a wanted change, an expected change, and a change that makes the bill far better. If every amendment the Republicans bring up is going to get the kind of treatment this amendment is getting and not looking for that piece in there that might make a difference, we are not going to have much success on this bill.

I heard the other side mention Goldman Sachs. Goldman Sachs said they like this bill; one of the offenders, and they like it. That encourages me that it is a good bill.

I appreciate the Senator from Oregon giving the examples of some things that are terrible in our economy—some of the credit card examples he gave. It absolutely shouldn't happen in America. I don't think this bill fixes it, and I will explain that in a few minutes.

If our amendment is too open-ended, the Democratic amendment raises the possibility of controlling every single thing for middle America—every single thing—and I will explain how that works. I don't think it was what was intended, and that is why we go through an amendment process, to clear up problems such as that.

But I am going to talk today about consumer financial protection. I want to be clear when I speak about this protection that I am talking about protecting consumers from bad actors. I am talking about educating consumers. When I talk about consumer protection, I am not separating consumer protection from the health of the economy. I rise today to talk about what is

flawed in title X—called the Consumer Protection Title—of the financial reform bill, and to raise awareness about an alternative to the current language in title X.

I believe an alternative to this section is desperately needed because the Federal Government should not be involved in our daily lives and everyday decisions. Under the proposed consumer protection title, we would be opening the floodgates of government involvement. The Federal Government could be telling us how we can spend our money, how we save for the future by making decisions for us, and could truly limit financial markets to the point of economic decline. The Federal Government should not operate with the belief that it is protecting us from ourselves. However, that is where title X language begins to work.

From supporters of this bill, we have heard that in order for consumer protection to be truly effective it needs its own independent agency—or bureau now—and that this Consumer Financial Protection Bureau should be free from outside influence. Independence from outside influence is a fine goal, but our government was built on using a system of checks and balances and this bureau would be totally unchecked. It would have unprecedented power and authority to write its own rules—no review. It would have an uncontested budget—no appropriation. And decisions made by the bureau would be made without regard to the impact those rules would have on the health of our economy. Where is the transparency in this power? Where is the accountability of this proposal? I haven't even touched on what the title could do to consumers' personal information or financial decisions.

To achieve independence, this bureau would consolidate all financial protections and efforts from the various Federal Government agencies, all in the name of better protecting consumers. Don't get me wrong, there are issues needing to be addressed for consumer protection. But right now, each Federal agency acts as a check on its neighbor when it comes to consumer protection. My fear is that once this bureau has consolidated power, it will not stop at protecting consumers from fraud or deceptive practices. This agency would only be getting started.

I am deeply troubled about the creation of this bureau because it would place the bureau within the jurisdiction of the Federal Reserve. Too many of my constituents already believe the Federal Reserve gaining additional power is an alarming thought. However, what is most alarming to me is the fact the Federal Reserve would have little authority over this proposed bureau. Mostly, they provide the money.

Right now, as this bill is written, the Federal Reserve would be required—re-

quired—to give the bureau a designated 12 percent of their operating budget. The catch here is that Congress would have no budgetary authority and would not approve this money. And it is adjusted for inflation. If you are going to get a percentage of a budget, how do you adjust a percent for inflation? But aside from that, it is adjusted for inflation. It works up to be 12 percent of the operating budget of the Federal Reserve.

In addition, they can even invest any of the money they do not spend. You will find that on page 1,073. I know it is a huge book, so I didn't want you to have to look through the whole thing. On page 1,074, it even says these aren't government funds. You know why. That way it doesn't cost under the scoring. Even though it will drive up the deficit and the debt, it doesn't count that way. It looks like a free program, but that is not true. So they get to keep the money and invest what they do not spend—I don't know of another entity that gets that right—and it is not considered to be government funds. That provides a little latitude.

The bureau not only has an uncontested budget, but the bureau would be the single most powerful agency in the Federal Government. Not only could the bureau write their own rules for our States' businesses and local banks to follow, it would oversee consumer decisions, and the bureau would be the enforcer of their own rules. No other agency has that kind of unchecked power. Where is the accountability in this? Unchecked power doesn't lend itself to accountability either.

What is important is for the public, for the average American, to know this bill could protect people. But it could also go potentially 10 steps further and take some of their decisionmaking power and transfer it to the Federal Government. We don't do that in America.

For example, as the bill stands, it is so overreaching and ambiguous in areas that it could impact everyday purchases for most Americans. How would they do that? Under the rules they write that nobody takes a look at. There is nothing to hold this bureau in check.

Here is how the bureau would regulate consumer financial products or services, as well as service providers, sweeping thousands of already regulated small businesses into the bureau's purview. Then you add in section 1027 of the bill, and it could penalize anyone who buys or sells something on an installment plan or it could affect any local small business that offers some kind of monthly payment on credit. That is why we are being flooded right now with people who want to be exempted from this bill. They are worried about not being able to provide their service anymore.

Have you ever bought a car and paid for it over a few years with a financing plan from the dealer? Many of us probably have. This bill's language is so ambiguous and unclear that it looks like people who want to pay for a service on an installment plan or those who offer those plans will be penalized and regulated by the new consumer protection agency—I should say consumer protection superagency. Nobody has ever had this kind of power.

Small business owners, regular people off the streets and from our States have been streaming into the congressional offices, looking for these exemptions that I just talked about because of this title in this bill. As drafted, this title is so ambiguous, so far-reaching, that consumers and good actors are being swept up with the bad.

Anyone who ever paid for dental care in installments could, in the near future, be facing the prospect of paying for dental work upfront, as dentists realize they cannot afford to keep up with the new regulations, additional regulators or the cost of compliance with the bureau's demands.

For auto dealers, where financing is hardest to come by in rural towns in small America, this would, in fact, be a direct hit on their business. Right now the financial burdens of the bureau would also be borne by auto dealers that direct clients to available financing but don't originate or authorize car loans themselves. That is pretty far-reaching.

Additionally, though, if a consumer purchases something on an installment plan, whether the loan is for a bike, a minivan, braces, an engagement ring, livestock or a home, if there are more than four installments, the government, through the bureau, would have a say in approving that loan.

The bureau, also in the name of protecting us from ourselves, would require banks to keep and maintain records of all bank account activity and financial activity of their clients for at least 3 years, while also requiring this information be sent regularly to the bureau for safekeeping. I have serious concerns about our Government collecting information on the daily activities of our citizens and equal concerns about the Government approving or disapproving the financial choices of its citizens.

I have just outlined why the Consumer Financial Protection Bureau is bad for consumers, why it is bad for small businesses and our communities, and why it is bad for individual consumer choices and freedoms. I point out all these things to you because there is an alternative to this bureau that is being proposed by my colleagues from Kentucky, Alabama, and Tennessee. This alternative proposal addresses each of the concerns I have just raised about accountability, oversight, consumer protections, consumer

education, and consumer rights. This new proposal keeps our current regulatory infrastructure intact and improves on it. This alternative would not scramble all our current regulators in the name of a change, but, instead, has carefully and thoughtfully made our current system better, creating more effective checks and balances. The consumer protection alternative title would create a consumer protection division to be housed within the FDIC.

The FDIC already oversees consumer deposit protection, so it is a logical step to place consumer protection interests here. While the new consumer protection division is shielded from outside influence and has autonomy, the division is, at the same time, prevented from wielding absolute power like the bureau. When rule changes or actions are proposed, the FDIC Board would be better able to use their regulatory experience to protect consumers, while at the same time ensuring safety and soundness are not disregarded.

This division would still have a Presidentially appointed and Senate confirmed Director who serves a 4-year term in office. Instead of needlessly looping all kinds of small businesses into the fold for additional regulation, the division's mission would be of a proactive consumer education, ensuring consumers are able to receive timely and understandable information on consumer financial products. The division would partner with other agencies, such as the Federal Trade Commission, to develop guidelines for market oversight. Through these types of partnerships, the division would pursue fraudsters and the bad actors in our market. They would be developing best practices for overseeing nondepository mortgage originators and addressing the risk-based supervision of our nondepository institutions.

Very importantly, this new alternative leaves current prudent regulators in place for banks, savings associations, and credit unions. While the division would watch over the large institutions that have already violated consumer protection statutes, this alternative would provide an infrastructure with regulatory experience that would also meet the demands of growing consumer financial protection concerns. This proposal creates a balance between past regulating experience and the call by consumers to have more protection, without losing the rights to make personal financial decisions.

I am a cosponsor of the title X alternative because I believe in its ability to address consumer protection without regulating consumers out of their rights as citizens. I am a cosponsor because I believe this alternative regulates the bad actors without tossing small business into the mix and regulating them out of business.

It doesn't form a new agency that has to go through a whole rulemaking process over a period of time before we even know what they are doing.

Putting this bureau under the Federal Reserve, with all the concerns and pressures focused on the Fed right now, is a very bad idea. Moving consumer protection to an unregulated, non-transparent, not accountable new agency that can write its own rules without review and operate using unchecked money is beyond my comprehension, and I think it is beyond the comprehension of the American people when they find out about it. I am not sure they are aware of it or I think there would be a huge hue and cry across this country. People are more concerned over their freedoms right now than they ever have been, and this will take away freedoms. You have to have the freedom to make your choices and even to make bad choices. But in America that is the way it works and Big Brother is not allowed to hang over your shoulder and decide for you whether you are making a good decision.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. LEMIEUX. Mr. President, I could not have said better what my friend and colleague from Wyoming just talked about in terms of this consumer protection bill. Every Member of this body is in favor of consumer protection. The goal is to get it right, not to do too much and not to do too little.

I think it is important for us to remember what we are trying to address. We are trying to address the financial market meltdown that happened in 2008 and the ramifications that have been so devastating to this economy. They were very devastating in my home State of Florida. But what we should do is address the problem. What we should do is try to make sure the problem does not happen again and not use this crisis as an opportunity to create a huge, new, all-powerful bureau of government that is going to regulate orthodontists and folks who had nothing to do with this financial crisis.

Let's think back about what happened. To me there are three or four parts of this story where you can find culpability, places where we should be regulating, some of which is not done in this bill. One is we know mortgages were given to people who should not have had mortgages—people who had no income and no jobs. They called them ninja loans—no income, no jobs. There were a lot of them in my State of Florida. Why were they written? Many of them were written because they were written by mortgage brokers and banks that did not have to retain any of those mortgages on their books. There were no underwriting standards. They could just ship them off. They had no skin in the game and no responsibility.

Then, on Wall Street, this huge market was created to suck in all these mortgages, to create these new investment vehicles that put all these mortgages together—mortgages that did not have the underwriting standards so you could make sure they were sound. In the need to create more and more investment instruments, they created what are called synthetic investment entities. Those are not even ones that held these actual mortgages. They were just merely a shadow that tracked them. So we compounded the problem into hundreds of trillions of dollars, betting on mortgages that should never, in many ways, have been written in the first place.

Then, what was the third part of the problem? These mortgages got bundled into these mortgage-backed securities, sold on Wall Street, and the world looked to the rating agencies to stamp their approval on them. The Morningstars and the Moody's and the Fitches and the S&P's stamped their rating and said they are AAA, without understanding them, without evaluating them. That is another one of the culprits that caused this financial crash that we had that has devastated our economy. But for those rating agencies putting the AAA grade on these mortgage-backed security investments, I don't believe we would have had the crash that occurred. People would not have placed their confidence in them.

Why did that happen? Why did these rating agencies stamp them? Why did so many people rely upon them? What we come to find out is these rating agencies are written into law. They are written into the Federal law as the way to determine the creditworthiness of investments. The FDIC abdicates its authority and allows rating agencies to be the ones that say something is a good investment or not. That is in the law.

How do these rating agencies get paid? They get paid by the very banks that put products in front of them for them to rate. So here is a real easy way to understand this. We all buy Consumer Reports Magazine. Consumer Reports Magazine evaluates everything from toasters to Toyotas, but they don't take any money from the people they rate. They don't have advertisers. But for these rating agencies, they are paid by the people they rate, by the products these banks bring in front of them. Our law says they are the ones that are going to determine whether something is creditworthy.

I wish to make sure we have, as Senator SHELBY has put forward, a good consumer protection law in this country. But I also wish to make sure we are addressing the problems that caused this failure in the first place, and one of the ways to do that is to make sure we have underwriting on these mortgages so people have some

skin in the game: You are putting a downpayment on your house, you are showing you are creditworthy. That is the way it always was. It is only recently that went away. We need to go back to that.

That is why I join my colleagues, Senator CORKER, Senator ISAKSON, Senator GREGG, on their amendment to put the underwriting back in the mortgage business.

But another thing we need to do, we need to take the credit rating agencies and write them out of the law. They should no longer get their preferential treatment. No longer should the FDIC abdicate its responsibility to determine creditworthiness. The market should take care of this. If people know they can't just rely upon three or four or five rating agencies and they are going to have to do their evaluation themselves, we may prevent this problem from happening in the future and the next way this problem may manifest itself.

I have filed an amendment, amendment No. 3774, which will do this. It will take these credit rating agencies out of law. In that way, I believe we can stop one of the reasons why we had this financial collapse. It is not just me who believes in this. On the other side of this building, in the House of Representatives, this same language was put forward in the package that was passed.

So this should not be a Republican issue, it should not be a Democratic issue because the Democrats in the House supported something very similar to what I am proposing. This just makes common sense. Let's go after one of the problems that caused this financial mess.

I would like to point to the August 21 edition of the Wall Street Journal. In their editorial they say:

When the government ordains Moody's and Standard and Poor's as official arbiters of risk, the damage can be catastrophic because so many people rely on them.

Well, let's no longer abdicate the government's responsibility. Let's no longer enshrine these rating agencies in Federal law. Let's get rid of one of the reasons we had this financial meltdown to start with. Let's not create a whole new huge consumer agency that does way too much, gets involved in too many things that had nothing to do with this financial meltdown. Let's go after the problem, solve that problem.

I believe we can do so by passing the amendment I have introduced today.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I compliment my colleague from Florida. He has addressed an issue which is an important part of this debate; that is, making sure loans that get made in this country, both on the borrower side and the lender side, are responsible loans.

I think the amendment he will offer is one on which we ought to have a debate and on which we ought to have a vote. I hope this body will act in a way that leads to more responsible practices, a higher level of responsibility, both with borrowers and lenders in this country, which was at the heart of why we ended up where we did.

It is interesting to me that we continue to watch the problems we are experiencing in our economy. Probably by far the most important one is the high level of unemployment. That has become sort of a chronic problem. Even though the economy appears to be recovering and growing again, we still continue to see these very high rates of unemployment, certainly worse in some parts of the country than in others, but, nonetheless, something that we cannot tolerate.

We ought to be attacking every single day. Everything we do ought to be focused on what we can do to eliminate this high level of unemployment, to provide incentives to small businesses to create jobs, to grow their businesses and expand, get the economy going again, and, obviously, in my view at least, the small businesses in this country are the economic engine of our economy. They are our job creators.

We ought to be focused on making it easier for them to create jobs rather than harder. That is why I think it is ironic that almost everything the Congress has been doing of late makes it even more difficult for small businesses to do that.

We passed a big, massive expansion of the health care entitlement in the Congress a while back. That is going to impose lots of new taxes, lots of new mandates on small businesses. It is going to raise their insurance premiums, which we are seeing now more and more. The CMS Actuary, with their recent report, suggests what we suggested all along; that is, this is going to drive up the cost of insurance and health care in this country. It is not going to drive it down, it is going to drive it up.

So I think what we are going to see with small businesses across this country is not only a higher tax burden associated with paying for that, and also many of the new mandates that are associated with it, but you are also going to see them having to deal now with higher insurance costs that will be associated and come with this massive health care expansion that was passed, not to mention the fact that, in my view, this is going to end up in a tremendous amount of growth in the debt in the outyears when we realize this is going to cost way more than it was anticipated, and that many of the offsets or pay-fors are probably not going to come to fruition.

But that being said, it seems to me at least that having all of this uncertainty coming out of Washington, whether it is the implementation of

the new health care bill, whether it is questions about a climate change bill that could impose a crushing new energy tax on our economy, questions about what is going to happen with tax rates with regard to dividends and capital gains and marginal income tax rates next year, what is going to happen with the death tax—all of this uncertainty is just hanging a cloud over this economy and making it very difficult for our small businesses to do what they do best; that is, to exercise that entrepreneurial spirit, to grow the economy, to create jobs.

It is very difficult to do that when you pile more and more burdens and more and more costs on top of the very small businesses that we are hoping will lead us out of this recession. That is why I think in all of our efforts we ought to have a very close eye on what impact they are going to have on the small business sector of our economy.

This is no exception. The debate on financial services reform is about some very critical issues, issues that need to be addressed, issues that we should be focused on: how to deal with the issue of systemic risk and make sure that systemically risky enterprises in this country, that that risk is constrained, that there is appropriate oversight, that there is appropriate transparency.

I think there is an important issue to be debated in terms of derivatives, which is a \$600 trillion economy in this country that has been operating in the shadows. The legislation that is before us, I think if it is amended the right way—and I hope it will be on the Senate floor—will bring all of that into the light. There will be transparency, something that I think is desperately needed in that area.

I hope this will be done in a way that does not impose new burdens on end users, those who are trying to legitimately hedge against higher commodity prices, currency rates, and interest rates and those sorts of things. But there is work to be done in this legislation to deal with the issue of systemic risk, to ensure that we take all of the steps we possibly can to avoid and prevent the type of economic collapse and meltdown we witnessed a couple of years ago.

I think it is ironic this legislation does not encompass something that was at the very heart of that economic meltdown; that is, the issue of Freddie Mac and Fannie Mae. It is ironic to me, at least, the focus of this legislation is to deal with the issues that lead to the economic malaise that we found ourselves in and the collapse that we experienced a couple of years ago that would attempt to accomplish the objective of preventing that in the future, absent dealing with Freddie Mac and Fannie Mae, which was a huge contributing factor to what we witnessed a couple of years ago.

So it does not include that. It does get at derivatives; it does address, in

some fashion, the issue of too big to fail. Then it also addresses this issue that we are debating right now, which is the issue of consumer protection. I would argue this is an important part of the debate when it comes to the regulation of our financial markets, perhaps even the most important part; that is, protecting consumers.

Having said that, I think what the recent financial crisis highlighted was the fact that there were a number of bad actors out there in the marketplace who were out for a quick profit, without concern for the consumer, and this consumer protection effort as part of this legislation is designed to correct that, or at least address and get at that problem.

I strongly support some of the consumer protection ideas that have been put forward. There is a Republican alternative amendment that has been offered to the base bill. But as is typically the case in the Congress, instead of just dealing with the issue that needs to be fixed, trying to fix the issue that needs to be fixed, it seems like the pattern is that we try to go beyond that and fix issues that do not need to be fixed; in fact, in this particular case, with a whole new bureaucracy, creating the whole new Consumer Financial Protection Bureau manned with lots of new Federal Government employees with lots of new powers, in my view, extending a reach way beyond what should ever have been contemplated to deal with the important issue of protecting consumers in this country.

Why do I say that? I had in my office last week a bunch of community bankers. I have met with credit unions. I have met with auto dealers. I have met with a lot of small businesses. I would argue these are not the types of entities that led to all of the problems we experienced. Those are not systemically risky entities or companies. These are hard-working, in most cases, small businesses.

When I sat down with my community bankers—I am not talking about big Wall Street banks; I am talking about Main Street banks, local banks, banks that are about their customers because they care about their customers; they are their neighbors; they are the folks they hang out with; their friends and their kids go to school together; these are people who are far removed from Wall Street—they told me about how this bill does not level the playing field and how they are going to be subject to a whole new layer of regulation they cannot afford. They told me stories about how they would make sure their customers are always satisfied and how they cannot afford to make bad loans. In these smaller banks in smaller communities where there is a tremendous amount of accountability, obviously these are not the types of banks at which this legislation should be targeted or directed.

These are banks that provide capital to our farmers, our small business owners. In my State of South Dakota, these are the people who—most of my constituents would rather bank with these big, large chain banks that we talk about when it comes to the issue of systemic risk. The Democrats' bill, in its current form, places new burdens on these banks, costly regulation on banks that are already heavily regulated, that have already proved to be sound financial entities.

I also recently sat down with some car dealers from my State, again small Main Street businesses in South Dakota, who have personal relationships with their customers. They told me how they may have to cut some of the services that they provide to their customers because of the broad authority that is granted to this brandnew agency, this Consumer Financial Protection Bureau.

These business take great pride—when I say “these,” the auto dealers—in the service they provide to their friends and neighbors who come into their businesses to buy a car. To have bureaucrats in Washington, DC, looking over their shoulder does not seem like the right approach to me.

I have heard the arguments that these small banks are somehow not going to be affected because of the \$10 billion exemption, but I think it is important that we point out here, and that we clear up some of the facts on this issue. That \$10 billion exemption is from enforcement and examination authority by the new Consumer Financial Protection Bureau. The new bureaucracy still has the ability to oversee every product and loan and transaction these small banks enter into with their customers.

I have also heard the argument that section 1027 excludes many of the small businesses that are calling me and e-mailing me and coming to my office because they are concerned. However, it seems to me, once a small business decides to give their customers an option to pay for their goods or services over time, this new Consumer Financial Protection Bureau can come knocking on their door. What Washington bureaucrats are going to tell them is what is in the best interest of their customers in South Dakota. So you can imagine the implications of this type of authority. Currently, the legislation provides very few checks on this new bureau's broad new authorities.

I want reforms to our current regulatory oversight structure. We need better protections for our consumers. But the bill that is before us creates a new bureaucracy that has a funding stream outside of congressional oversight with very few checks and balances, and that is not reform.

What I would like to see is this bureau removed from the bill. There are



other ways to provide better protection for consumers without burdening small businesses, which, as I said earlier, are the engine of our economy.

Just to illustrate or to put a fine point on that, I have a letter from the National Federation of Independent Business, which represents businesses all across this country, has a very large membership, including many businesses in my State. They write to express their concerns with certain parts of the bill that are too far reaching and would impose major new costs on small business.

They go on to say:

The establishment of the Consumer Financial Protection Bureau will cover many small businesses strictly because they set up flexible payment arrangements with their customers.

According to a study they did a few years back on getting paid, approximately 50 percent of small businesses offer special terms or credit-type arrangements to allow customers to pay for goods or services. Then they go on to describe the nature of some of those arrangements. But I think it is fair to say a lot of small businesses—and car dealers are probably the most notable example. But as was said earlier, that could extend to furniture stores, jewelers; that could extend to orthodontists and dentists. People who allow their customers to spread out the payments over time to pay on terms and have these flexible types of payment arrangements would be covered by this.

That makes no sense. At a time when we are trying to have our small businesses help lead us out of this recession, start creating jobs instead of dealing with the systemically risky entities that got us into this mess in the first place, we are talking about piling a whole new burden and lots of new costs on top of our small businesses at a time when they can least afford it.

So I would hope the amendment that is being offered, the alternative to the Consumer Protection Financial Bureau in this bill, will be adopted; that my colleagues in the Senate will take steps to improve the way this bill treats consumer protection and in the way it treats small businesses under this bill.

I, frankly, as I said earlier, would like to see this title removed entirely and us deal with this in a way that makes more sense; that does not create a whole new bureaucracy, with all kinds of new government employees with all kinds of new powers. There are certainly ways in which we can address the issue of consumer protection absent having to go to these great lengths and this great cost, expense to the taxpayer, and great new burdens imposed upon small businesses in this country.

So I am one who will be supporting not only the amendment that is before us but other amendments that address

this title in the bill. I have one I am working on that would exempt many of the small businesses that would be covered by this bill, some of which I mentioned in my remarks earlier. But I think this is an issue that is incredibly consequential in this legislation and so far removed—so far removed—from the purpose of this bill in the first place.

As I said earlier, we ought to fix the things that need to be fixed. But we should not try to fix things that do not need to be fixed, particularly when it calls for creating a whole new government bureaucracy in Washington, DC, with new government employees, at great additional cost and, of course, as I said earlier, at great additional expense to America's small businesses, which are the economic engine and job creators in our economy.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I wanted to come to the floor to talk about the Shelby amendment. I think we need to be 100 percent clear about one thing; that is, we need to pass a consumer protection bill—not a Wall Street protection bill—with a strong independent agency that can aggressively defend families in all sectors of the financial industry. That is consumer protection.

A weak agency that cannot defend families against commercial banks, investment banks, credit card companies, car dealers, payday lenders, and entities such as AIG, that is Wall Street protection. That is, in essence, what this amendment does. The fact is, the Republicans' proposal on this issue seems to symbolize America's worst fears about how the powerful operate—the powerful protecting the powerful. The problem isn't that families have too much protection on Wall Street; the problem is they have not been protected enough.

The Shelby substitute is just the status quo. It is a cynical attempt to pretend they are doing consumer protection. In reality, it is meant to make sure there is no meaningful consumer protection at the end of the day. It willfully ignores the lessons we should have learned: that left to their own devices, there are lenders who can and will take advantage of consumers. That is what the marketplace—as it is right now—has taught us.

We absolutely need a muscular, independent agency—however it is configured, wherever it is housed—one that will have full and comprehensive authority to develop and implement real, honest, proconsumer rules so they will no longer be fooled by 30 pages of fine print that no one except bank lawyers could possibly understand; one that has independent rule-writing authority and authority over banks and nonbanks, while maintaining strong State consumer protection laws; one that will

stop the ongoing attempts by credit card companies to circumvent the rules this Senate and Congress have already enacted. They are already working at it.

As Harvard Law Prof. Elizabeth Warren has noted: Thanks to product safety rules, you can't buy a toaster that would burn down your house. But you can buy a faulty mortgage that could take your house away.

The bank regulators have been of no great help because they are looking out for the banks—not for us, not for you, not for unsuspecting families who need the full force protections of robust regulations implemented by a muscular agency that is on your side.

In my view, a new independent agency would provide not only the comfort they need but the protection they deserve. We can argue about details, but I doubt there is much disagreement after what we have been through that Wall Street needs a watchdog, one that has jurisdiction over all financial products no matter who offers them, not just the products offered by big banks.

Chairman DODD has worked very hard over many months to craft the details of an agency that strikes the right balance. I was happy to see that finally our Republican colleagues were saying: We are on the Wall Street reform train. But now I begin to wonder—when I see amendments such as this—that they jumped on the train to strike the emergency brake on consumer protection enforcement.

The Shelby amendment offers nothing in the way of consumer protection. There is no independence. The CFPB would simply be a division within the FDIC with no autonomy of its own. It could not even finalize a rule without FDIC approval. It will not have any resources. And that is how Republicans want it: no resources, no supervisory authority, no enforcement power. Guess who wins in that scenario.

Nonmortgage companies will never be subject to supervision unless they have a pattern or practice of breaking the law within the past 3 years. So what does that mean? "Let's have a lot of people get hurt before we actually would say we should now give them protection." It is not my sense of how the law should operate.

The Shelby amendment would establish the Division of Consumer Protection at the FDIC. It maintains, in essence, the status quo. Consumer protection rule writing will still be under the same authority, the same regulators who routinely ignored or opposed the needs of consumers. The amendment provides no safeguards to prevent the FDIC Chair or board from overriding decisions by the division director.

The amendment would actually prohibit—prohibit—the proposed consumer division from doing any rule writing under the Federal Trade Commission

Act for payday lenders, debt collectors, foreclosure scam operators, mortgage brokers, and other nonbank consumer finance companies. It could only do examinations of nonbank consumer finance companies if they “demonstrate a pattern or practice of violations” of consumer law. So only after the consumer has been harmed repeatedly—after they have been harmed repeatedly—could the consumer division do any examination of the business.

This is simply saying: I am going to tell you that I am going to put a cop on the beat. He has no uniform, he has no equipment, and he cannot stop the bad guys. What a falsehood. We need to defeat this amendment, and we need to have a bill that ultimately gives strong consumer protections for millions of families in this country who have already faced the consequences of the system that is going on unregulated in a way that it allows greed and excesses to take place and that puts protections, yes, for Wall Street but not for Main Street.

Senator DODD has struck the right balance. We need to preserve it. I look forward to supporting him and opposing this amendment.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, let me briefly express my gratitude to my great pal and friend from New Jersey, BOB MENENDEZ, once again. We look around. There are 100 of us here. I do not often acknowledge these things, but if I had to pick one of our colleagues to be in my corner as an advocate, I would pick BOB MENENDEZ every time. He is a strong advocate. When he is focused and passionate about a matter, as he is on this one, there is no better advocate in the Senate. He has been a great member of our committee and a great help over the last few years where we have worked together on a number of bills coming out of the committee.

His understanding of this issue is exactly right. I say, there are ideas people can offer on which they can make a case that they strengthen our particular provision. But I say, respectfully, this is such a step backward, it is even hard to imagine someone could actually conjure up an amendment that would step us this farther away from even the status quo.

I thought I might get an amendment that would strike this and leave the world as it is. Senator THUNE made that argument, that somehow this is not broken, leave it alone. Yet there is not a person I know of in the country who does not recognize this problem all began because there were unscrupulous brokers, there were people willing to put ratings on bundled securities that were worthless, there were bankers willing to turn a blind eye and a deaf

ear, pushing out mortgages they knew people could not possibly afford, luring them into it by promising them they could meet all their obligations.

To suggest the system is not broken—you would almost have to have been living on a different planet over the last few years not to recognize what happened because consumers were forgotten. Safety and soundness, we were told, were in great shape. Institutions were making money. This was a very stable situation.

We had a hearing almost 3 years ago in our committee. It was in June of 2007. A guy by the name of David Berenbaum from the National Community Reinvestment Coalition came before the committee. Let me quote, if I can—this is 3 years ago—from his testimony:

For the past 5 years, community groups, consumer protection groups, fair lending groups, and all of our members in the National Community Reinvestment Coalition have been sounding an alarm about poor underwriting—underwriting that not only endangered communities, their tax bases, their municipal governments, their ability to have sound services and celebrate home ownership—but [underwriting that] was going to impact on the safety and soundness of our banking institutions themselves. Those cries for action fell on deaf ears, and here we are today.

I remember my colleague from New Jersey, almost 3 years ago—I remember his words—I do not have them written down in front of me, but I remember them very clearly. I say to the Senator, your words that day were: This is going to be a tsunami. It was the first time I heard those words used to describe the looming foreclosure crisis.

We were told then there would be maybe 1 million, maybe 2 million foreclosures. Now we know the number is in excess of 7 million that have occurred—not to mention job loss and the like.

The consumer people were arguing for underwriting standards. It was the safety and soundness regulators who were refusing to acknowledge we did not have underwriting standards or were refusing to acknowledge we needed to do something about it. So I wanted to commend my colleague.

Mr. MENENDEZ. Mr. President, if I may ask my distinguished chairman to yield for a moment, the Chairman is absolutely right. As a matter of fact, when I made that comment that we were going to have a tsunami of foreclosures, the administration witnesses at the time—the previous administration, of course—said, with all due respect, that is an exaggeration.

Mr. DODD. Right.

Mr. MENENDEZ. I wish they had been right and we had been wrong. But I think the chairman hits it right on point. In the context of the rating agencies, they were playing coach and referee. When you are playing coach and referee, somehow the game does not work out quite all that well.

I appreciate what the Senator done in that respect here as well.

I think the chairman makes the case very clearly that the definition of insanity is doing the same thing time and time again and expecting a different result. If we want to see what has happened to the American consumer in this country continue—facing the same consequences they have had to face over the last couple years—then we adopt this amendment. But if we want to change that, then we would support the underlying provisions in his bill.

I thank the Senator for his leadership.

Mr. DODD. Mr. President, I thank the Senator.

The last point I want to make on the amendment is, under this proposal, any person who is subject to one of the enumerated statutes could be assessed—under this bill, in section 1015(a)—and this amendment, by the way—talk about a bureaucracy, it is a long amendment—but in 1015(a), it says:

The Chairperson shall establish, by rule, an assessment schedule—

So we are going to assess now these various institutions that are already burdened with assessments—

including the assessment base and rates, applicable to covered persons subject to section 1023. . . .

I know this sounds like a lot of gibberish, but what is section 1023? What does it say? Section 1023 talks about nondepository institutions subject to consumer laws—just consumer laws. One of the complaints about our underlying bill—which is totally false—is that florists and butchers and dentists and accountants and lawyers would be subject to the provisions of this act. Nothing could be further from the truth, and the language in our bill makes it explicitly clear that you must be significantly involved in financial services or products. That is the language of our bill.

Section 1023: Nondepository institutions subject to consumer laws could be levied with assessments. That is your florist, your butcher, your dentist, your accountant, your lawyer. So as to those who argue against my bill and argue for this alternative—in fact, explicitly in here, at least as I read this—it could very well impose assessments on the very people they claim are affected by our legislation.

Again, I invite my colleagues to read it. It is not a speech I am reading. I am reading from the proposed amendment. That section 1023—specifically, you can look it up in here; it is a section of the bill—it speaks about nondepository institutions subject to consumer laws. And the definition, accordingly, is the very people who are not financial institutions, who could be levied with those assessments.

So for all those reasons, respectfully, I would urge my colleagues to reject

this amendment. I do not claim perfection in our underlying consumer protection language. We think we have a very strong bill. I am always anxious to hear from people who think they can make it stronger or better in some way. Fine. But to propose a whole new regulatory structure here, with new people coming on, at great cost, with no power whatsoever to do anything about the very problem that confronts us, seems to me to be the height of what we are trying to avoid: creating a bureaucracy that does not do much. That, it seems to me, is what the American taxpayers want us to avoid.

With that, we have completed on our side the debate against this amendment. Unless there is some further comment, then I would ask for the yeas and nays on the amendment and call for a vote.

Mr. BYRD. Mr. President, I oppose the Shelby amendment.

In our zeal to protect consumers from egregious banking and lending practices, I fear the Senate is paying too little attention to basic constitutional tenets.

The Shelby amendment proposes to create a Division for Consumer Protection within the Federal Deposit Insurance Corporation, FDIC, to exempt that new entity from the congressional appropriations process. The underlying substitute amendment proposes a similar model—a new Bureau of Consumer Financial Protection within the Federal Reserve System, which would also be exempt from the congressional appropriations process. This is in addition to several exemptions proposed in the underlying substitute amendment—an exemption for the Securities and Exchange Commission, and for a new fund for the Securities and Exchange Commission and exemptions for Commodity and Futures Trading Commission fund to reward whistleblowers.

I understand the desire by some to create a new consumer agency, and to elevate its status to that of a banking regulator but, these proposals—the Shelby amendment, and the underlying Democratic substitute—are alarming in the aggregate spending latitude they are recommending for one agency. The usual procedure of executive review by the White House budget office, and public discussion of the President's budget submission through hearings, testimony, questions, debate and amendment—would not apply to the new consumer agency under both the Republican and Democratic proposals. I support stronger consumer protections in the financial services industry, but I do not believe that the elected representatives of the people have to forfeit their constitutional oversight responsibilities in order to make that happen.

We need to remember that the financial regulators have their directors appointed by presidents, and that the

Congress needs to be able to exercise oversight. If enforcement is inadequate, or abusive, the people's most potent weapon to effect change is the congressional power of the purse.

In the bill passed by the House of Representatives last year, the House proposed to create a new consumer protection agency, and to subject its funding—at least in part—to the annual appropriations process. That model is a better way of helping consumers than exempting the budget of the consumer protection agency from congressional review.

Mr. SHELBY. Mr. President, it is my understanding that Chairman DODD has asserted that the Shelby consumer protection substitute would lead to additional assessments on community banks. I want to make it clear for the record that this is not true.

But before doing so, I do want to highlight that the basic thrust of Chairman DODD's assertion is based on the belief that placing the taxpayer on the hook for the costs of regulating Goldman Sachs, Citigroup, and J.P. Morgan is the preferential way of proceeding.

Again, Chairman DODD believes that taxpayers paying the freight for Goldman is the way to go.

But I want to set the record straight about my amendment. First, my provision ensures that any nonbanks that are subject to regulation pay the full cost of that regulation themselves. They get no handouts from the taxpayer.

Secondly, community banks are not presently assessed by the FDIC for the cost of regulation, and my amendment does not provide the FDIC with any new authority to make such assessments.

Funding for the new division will be provided by assessments on nonbank mortgage originators, the other nonbank entities that are subject to regulation and large banking institutions. I would point out that the assessments on large banks will increase considerably following passage of the Tester amendment, which Chairman DODD supported.

Finally, in an effort to protect deposit insurance, my amendment creates a separate consumer financial protection fund which will ensure that funds for deposit insurance and consumer protection are never comingled.

Mr. President, let's be clear about the differences in the funding sources in the two bills. The Dodd bill uses taxpayer funds to give a free ride to Goldman Sachs and the other big Wall Street Banks while my amendment makes big banks and bad actors cover their own costs.

The PRESIDING OFFICER (Mr. FRANKEN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, before calling for the vote, I ask unanimous con-

sent that the Senate now proceed to a vote with respect to the Shelby amendment No. 3826, with no amendment in order to the amendment prior to the vote; further, that the previous order with respect to the Sanders amendment remain in effect, and provided that after the Sanders amendment has been called up and reported by number, Senator MCCAIN be recognized to call up an amendment relating to GSEs; that after the McCain amendment has been reported by number, the Senate then resume consideration of the Sanders amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Mr. President, again, before we get to this vote, let me make this appeal. We are going to have this vote, and then we will go to the Sanders amendment and then to the McCain amendment. Again, we are going to try to go back and forth and move along. The number of amendments now has increased to over 150. I say to my colleagues, there are actually more amendments on the Democratic side than the Republican side—not many more but more. I urge my colleagues, if you have very like minded amendments, it may be in your interests to combine these ideas in a single amendment—maybe rally around one that actually makes the point, to either extract from the bill or add to the bill because we all realize we are not going to be on this bill forever, and I want to accommodate as many people as I can and have the kind of discussion we just had on this amendment. But to do that in the timeframe we have is going to require cooperation and some indulgence on the part of people to not be demanding.

To the extent you have an amendment up, let's try to get to it and have a good discussion but not too long so we give other people a chance to be heard as well. I make that plea to everyone involved.

With that, I yield the floor.

AMENDMENT NO. 3826 TO AMENDMENT NO. 3739

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 61, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—38

Alexander	Brown (MA)	Burr
Barrasso	Brownback	Chambliss
Bond	Bunning	Coburn

Cochran	Hatch	Murkowski
Collins	Hutchison	Risch
Corker	Inhofe	Roberts
Cornyn	Isakson	Sessions
Crapo	Johanns	Shelby
DeMint	Kyl	Thune
Ensign	LeMieux	Vitter
Enzi	Lugar	Voinovich
Graham	McCain	Wicker
Gregg	McConnell	

## NAYS—61

Akaka	Gillibrand	Nelson (NE)
Baucus	Grassley	Nelson (FL)
Bayh	Hagan	Pryor
Begich	Harkin	Reed
Bennet	Inouye	Reid
Bingaman	Johnson	Rockefeller
Boxer	Kaufman	Sanders
Brown (OH)	Kerry	Schumer
Burris	Klobuchar	Shaheen
Byrd	Kohl	Snowe
Cantwell	Landrieu	Specter
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Dodd	Lincoln	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Feinstein	Mikulski	
Franken	Murray	

## NOT VOTING—1

Bennett

The amendment (No. 3826) was rejected.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. SHELBY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me give my colleagues some idea of how we are going to proceed.

Senator SANDERS has the next amendment. We entered into a unanimous consent agreement a few minutes ago. Senator SANDERS has asked for 80 minutes to be equally divided on his amendment. We then turn to the McCain amendment. I am hoping we get a time agreement on that amendment as well.

There are 141 amendments, about equally divided between us. I want to accommodate everybody as much as I can. If some people take too much time, it means others do not get a chance to offer their amendments.

I make a request of my good friend Senator SHELBY to inquire, before we get to the McCain amendment, what kind of time agreement we can have on his amendment. Then my intention is to go to a Democratic amendment and possibly a Republican amendment tonight.

There are going to be votes tomorrow. I am letting my colleagues know we will have votes tomorrow. I gather Monday and Friday of next week are nonvote days. If we have 141 amendments and Members want to be heard—and I want to give them time to be heard and have good debate—obviously we cannot go on forever.

Mr. REID. Will my friend yield?

Mr. DODD. I will be happy to.

Mr. REID. Mr. President, for all the Senators here, we may have 141 amendments, but this is not the first time we have had 141 amendments on a bill. I have looked at a catalog of the amendments, and a lot are on the same subject. What we are trying to do is find out different categories and not have everybody offer the same amendment.

Our goal tonight should be to try to get rid of four amendments. If we could have four amendments out of the way tonight, we could look—and I thank my friend because I told him we are going to have votes in the morning, or at least a vote. I can create a vote. I hope we don't have to start creating votes. I hope they are on amendments people want to debate.

Senator SANDERS has an amendment. Has he agreed to a time?

Mr. DODD. Yes, he has.

Mr. REID. Senator MCCAIN, has he agreed to a time?

Mr. SHELBY. It is on GSE. It will take a while.

Mr. DODD. If everybody demands more time, everyone suffers. There is not unlimited debate. With 141 amendments equally divided between us, we have to provide time for people. I cannot do that if people insist on unlimited time or more time. We know these issues pretty well. It is not as if it is a new bill.

Mr. MCCONNELL. If my friend from Connecticut will yield for an observation, Mr. President, we may have 141 amendments, but they are not all equal. We are going to try to work our way through the major amendments in a serious way. This is a very important piece of legislation. The majority leader and I had a conversation earlier today on how to go forward. We will keep working on it in a systematic way and maximize a way for people to have votes on important amendments.

Mr. DODD. I agree. I say to my friend the Republican leader, we spent 24 hours on one amendment. We have to do better than that. I cannot accommodate people if we are going to spend a day on one amendment. It just does not work. All amendments may not be equal, but all Members are, and all Members deserve an opportunity to be heard.

I appreciate the majority leader's point of trying to consolidate if several Members have the same idea about something. Maybe it can be brought together in one amendment rather than five—I say that to both Democrats and Republicans—as a way of moving the process along, and we can have a good discussion. I cannot spend 24 hours on one amendment and accommodate people. It just is not going to happen. That is my point.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, we are making progress. We might not be making progress as quickly as some

people would like. Maybe we did spend a lot of time on this amendment, but it is very important. We have debated it. I guess it has been disposed of, at least that part of it, now. But there are a lot of other important amendments coming up. We can work together and work through some of them because a lot are duplications to some degree, and some of them we can take. Senator DODD and I can help our staffs on that. Remember, this affects all of our economy—everything.

Mr. DODD. I will take advantage of the moment to say that I will be here all weekend. We are not going to have votes on the weekend. I will be here all weekend. For people who would like to have amendments and would like us to consider them, Senator SHELBY's staff will be around and my staff will be around to work on their amendment to see if we can accommodate it, modify it, or talk about it. I will spend Saturday and Sunday here all day for people to go over their products so maybe we can expedite things next week as well.

Mr. REID. Mr. President, if I may talk to the two managers through the Chair, I know how important everyone thinks their amendment is. But you can have half an hour on each side, an hour for an amendment. Someone can say quite a bit in 5 minutes. I think we are going to have to have some guidelines as to what we are going to do. Everyone thinks their amendment is the most important, and I am sure in their mind it is. We have to set some standard. I have been very accommodating in this last 24 hours because I think so much of the comanager of the bill, Senator SHELBY. We could have moved to table his amendment a long time ago.

Let's understand, there are other ways we can move forward. If somebody says: I need 3 hours on an amendment—there is not an amendment on this bill that is worth 3 hours, OK? We have had a good conversation.

I hope the two managers can give us some guidelines as to what they expect to do tonight and tomorrow because Members have other things to do than listen to the three of us.

Mr. DODD. Senator SANDERS.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 3738 TO AMENDMENT NO. 3739

Mr. SANDERS. Mr. President, I call up amendment No. 3738.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. SANDERS], for himself, Mr. FEINGOLD, Mr. DEMINT, Mr. LEAHY, Mr. MCCAIN, Mr. WYDEN, Mr. GRASSLEY, Mr. DORGAN, Mr. VITTER, Mrs. BOXER, Mr. BROWNBACK, Mr. RISCH, Mr. WICKER, Mr. GRAHAM, Mr. HATCH, and Mr. CRAPO, proposes an amendment numbered 3738 to amendment No. 3739.

Mr. SANDERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the non-partisan Government Accountability Office to conduct an independent audit of the Board of Governors of the Federal Reserve System that does not interfere with monetary policy, to let the American people know the names of the recipients of over \$2,000,000,000,000 in taxpayer assistance from the Federal Reserve System, and for other purposes.)

On page 1525, strike line 20 and all that follows through page 1528 line 3 and insert the following: “to the taxpayers of such assistance.”.

**SEC. 1152. INDEPENDENT AUDIT OF THE BOARD OF GOVERNORS.**

(a) AMENDMENTS TO SECTION 714.—Section 714 of title 31, United States Code, is amended—

(1) in subsection (a), by striking “the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.” and inserting “and the Office of the Comptroller of the Currency.”;

(2) in subsection (b), by striking all after “has consented in writing.” and inserting the following: “Audits of the Federal Reserve Board and Federal reserve banks shall not include unreleased transcripts or minutes of meetings of the Board of Governors or of the Federal Open Market Committee. To the extent that an audit deals with individual market actions, records related to such actions shall only be released by the Comptroller General after 180 days have elapsed following the effective date of such actions.”;

(3) in subsection (c)(1), in the first sentence, by striking “subsection,” and inserting “subsection or in the audits or audit reports referring or relating to the Federal Reserve Board or Reserve Banks.”; and

(4) by adding at the end the following:

“(f) AUDIT OF AND REPORT ON THE FEDERAL RESERVE SYSTEM.—

“(1) IN GENERAL.—An audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks under subsection (b) shall be completed within 12 months of the enactment of the Restoring American Financial Stability Act of 2010.

“(2) REPORT.—

“(A) REQUIRED.—A report on the audit referred to in paragraph (1) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such audit is completed and made available to—

“(i) the Speaker of the House of Representatives;

“(ii) the majority and minority leaders of the House of Representatives;

“(iii) the majority and minority leaders of the Senate;

“(iv) the Chairman and Ranking Member of the appropriate committees and each subcommittee of jurisdiction in the House of Representatives and the Senate; and

“(v) any other Member of Congress who requests it.

“(B) CONTENTS.—The report under subparagraph (A) shall include a detailed description of the findings and conclusion of the Comptroller General with respect to the audit that is the subject of the report.

“(3) CONSTRUCTION.—Nothing in this subsection shall be construed—

“(A) as interference in or dictation of monetary policy to the Federal Reserve System by the Congress or the Government Accountability Office; or

“(B) to limit the ability of the Government Accountability Office to perform additional audits of the Board of Governors of the Federal Reserve System or of the Federal reserve banks.”.

**SEC. 1153. PUBLICATION OF BOARD ACTIONS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Board of Governors shall publish on its website, with respect to all loans and other financial assistance it has provided since December 1, 2007 under the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility, the Term Asset-Backed Securities Loan Facility, the Primary Dealer Credit Facility, the Commercial Paper Funding Facility, the Term Securities Lending Facility, the Term Auction Facility, the agency Mortgage-Backed Securities program, foreign currency liquidity swap lines, and any other program created as a result of the third undesignated paragraph of section 13 of the Federal Reserve Act—

(1) the identity of each business, individual, entity, or foreign central bank to which the Board of Governors has provided such assistance;

(2) the type of financial assistance provided to that business, individual, entity, or foreign central bank;

(3) the value or amount of that financial assistance;

(4) the date on which the financial assistance was provided;

(5) the specific terms of any repayment expected, including the repayment time period, interest charges, collateral, limitations on executive compensation or dividends, and other material terms; and

(6) the specific rationale for providing assistance in each instance.

(b) TIMING.—The Board of Governors shall publish information required by subsection (a)—

(1) not later than 30 days after the date of enactment of this Act; and

(2) in updated form, not less frequently than once annually.

Mr. SANDERS. Mr. President, this amendment, which calls for transparency at the Fed, is, frankly, one of the more unusual amendments I have ever participated in, not so much for its content but for the kind of coalition that has come together around it. How often do you have the AFL-CIO and FreedomWorks supporting the same effort? How often do you have the SEIU, which is the largest trade union in this country, moveOn.org, which I believe has some 5 million progressive members, and Public Citizen striving for the same goal as the National Taxpayers Union or the Eagle Forum or the Conservative Americans for Tax Reform? There is a coalition representing tens of millions of grassroots activists. Some of them are progressive, some where I come from, some of them are conservative, but they are all united around a very basic principle: We need transparency at the Fed, and we need it now.

I want to use this opportunity—and I thank Chairman DODD for allowing me to do this—to talk about the amendment, what it does, and why so many diverse groups are coming together in support of it because you do have to ask yourself: What is bringing together

some of the most progressive groups in the country with some of the most conservative groups, some of the most progressive members of the Senate with some of the most conservative? I also want to tell my colleagues not only what this amendment does but to clarify as best I can what it does not because there has been some distortion about this amendment, and those distortions are blatantly untrue. I want to touch on that also.

The origin for this amendment came on March 3, 2009. That was the date that, as a member of the Budget Committee, I had the opportunity to ask Chairman Bernanke what I thought was a pretty simple question. Chairman Bernanke, obviously, is Chairman of the Fed. What I asked him was: Mr. Chairman, my understanding is that the Fed has lent out some \$2 trillion to some of the largest financial institutions in this country. Would you please tell me and the American people who received that money? I thought that was a pretty simple and straightforward question. Mr. Bernanke said: No. Despite the fact that this was \$2 trillion in zero interest or near zero interest loans, he apparently believes the American people do not have a right to know who received that money.

On that very same day, I introduced legislation requiring the Fed to put this information on its Web site, just as Congress required the Treasury Department to do with respect to the \$700 billion TARP. And here we are today. Whatever one may think of TARP, one can get information as to who received that money, when it was paid back—the details. It is right there on the Internet. I believe that same information should be made available in terms of the Fed's zero interest and near zero interest loans.

What the Fed apparently does not understand—and this is the important point—is that this money, these trillions of dollars, do not belong to the Fed; they belong to the American people. It is incomprehensible to me—and I think to the overwhelming majority of people in our country—that the Fed believes they can keep this information secret.

This amendment not only requires that the Fed tell us who has received the \$2 trillion it lent out, but, similar to the language incorporated in the House bill, it calls for an audit of the Fed by the GAO. That is it. That is what we are attempting to do with this amendment: transparency and a straightforward audit. Who got what when, on what basis, on what terms, who was at the meetings, who made the decisions, and taking a look at possible conflicts of interest—simple, factual questions that people from the State of Vermont ask me and I suspect people from Minnesota ask you, Mr. President, and people all over this country, regardless of their political persuasion, are asking.

I understand this amendment may not be supported by everyone. Some may suggest, inaccurately, that this amendment—and I quote from a statement—“takes away the independence of the Federal Reserve and puts monetary policy into the hands of Congress.” That is one of the charges being made against this amendment.

Let me address that concern by simply reading to the Members of the Senate exactly what is in the amendment so that we know what we are talking about. I quote from page 4 of a six-page amendment. It is not a long amendment. It cannot be clearer than this. This is what it says:

Nothing in this subsection shall be construed as interference in or dictation of monetary policy to the Federal Reserve System by the Congress or the Government Accountability Office.

If there are people who are saying: Oh, we are going to get involved in monetary policy; oh, we are going to be politicizing the Fed; oh, we are going to have, before an election, Congress telling the Fed to raise interest rates or to lower interest rates, that is absolutely inaccurate. That is not what we are doing. That is not, in my view, what we should be doing.

We want an independent Fed. We want them to develop monetary policy. That is not—underline not—what this amendment does. This amendment does not tell the Fed when to cut short-term interest rates and when to raise them. It does not tell the Fed which banks to lend money to and which banks not to lend money to. It does not tell the Fed which foreign central banks they can do business with and which ones they cannot do business with. It does not impose any new regulations on the Fed, nor does it take any regulatory authority away from the Fed. Let's be clear about that.

I think what the opponents of this amendment are doing is equating independence with secrecy, and there is a difference. At a time when our entire financial system almost collapsed, we cannot let the Fed operate in secrecy any longer. The American people have a right to know.

I find it amusing that there are some people who oppose this amendment. As Chairman DODD and the Presiding Officer know, we have had heated debates on the floor of the Senate over a \$5 million amendment, over an \$8 million provision that goes on for hours. Yet where we have trillions of dollars being lent out, there are some people who think the American people don't have a right to know who got that money. I think, frankly, that is absurd.

The American people, as we hear over and over on the floor of the Senate, play by the rules. That is what the average American family does; they play by the rules. Well, what are the rules governing the Fed? Who makes those rules or are they just made up as they

go along and they do not have to tell anybody about it? So I have a problem with that, and that is what this amendment is about.

Here, to my mind—and these are just my issues; others may have different issues, and I am sure they do—are just a few of the questions the American people are asking and why we need a GAO audit of the Fed. These are just a few. Let me throw them out.

Why was Lloyd Blankfein, the CEO of Goldman Sachs, invited to the New York Federal Reserve to meet with Federal officials in September of 2008 to determine whether AIG would be bailed out or allowed to go bankrupt?

When the Fed and Treasury decided to bail out AIG to the tune of \$182 billion, why did the Fed refuse to tell the American people where that money was going? Why did the Fed argue that this information needed to be kept secret “as a matter of national security?”

Here is the point. When AIG finally released the names of the counterparties receiving this assistance, how did it happen that Goldman Sachs received \$13 billion of this money; AIG, \$182 billion; \$13 billion going to Goldman Sachs—100 cents on the dollar of a company that was going bankrupt and that was bailed out. How is that—100 cents on the dollar? Not bad.

Another question people might ask: Did Goldman Sachs use this money to provide \$16 billion in bonuses the next year? Here you have Goldman Sachs getting \$13 billion out of the \$182 billion that AIG got, and the next year they are announcing \$16 billion in bonuses. Did they use some of this money to provide those bonuses?

A GAO audit of the Fed might help explain to the American people if there were any conflicts of interest surrounding this deal. I think the average American would say: Yes, there is a conflict of interest. You have a guy from Goldman Sachs sitting in the room arguing for \$182 billion. They got \$182 billion; he gets \$13 billion. The next year his company gives \$16 billion in bonuses.

Is there a conflict of interest? I think so. That is my opinion. My opinion isn't the important one, but that is what the GAO will be doing if this amendment is passed.

Just another question out there. In 2008, it seems to me—I may be wrong—there was a conflict of interest at the Federal Reserve Bank of New York, when Stephen Friedman, the head of the New York Fed, who also served on the board of directors of Goldman Sachs—let's back it up. The head of the Fed serves on the board of Goldman Sachs, approved Goldman's application to become a bank holding company, giving it access to cheap loans from the Federal Reserve. OK. The head of the New York Federal Reserve, on the board of Goldman Sachs, is applying

for Goldman Sachs to become a bank holding company to gain cheap loans from the Fed.

It looks to me like there may be a conflict of interest, but what do I know? That is what we need a GAO report to tell us.

Here, interestingly enough, is an article from May 9, 2009, in the Wall Street Journal. Let me quote briefly from that article:

Goldman Sachs received speedy approval to become a bank holding company in September of 2008. During that time, the New York Fed's chairman, Stephen Friedman, sat on Goldman's board and had a large holding in Goldman's stock, which, because of Goldman's new status as a bank holding company, was a violation of Federal Reserve policy. The New York Fed asked for a waiver, which, after about 2½ months, the Fed granted. While it was weighing the request, Mr. Friedman bought 37,300 more Goldman shares in December. They have since risen \$1.7 million in value. Mr. Friedman, who once ran Goldman, says none of these events involved any conflicts.

That is the Wall Street Journal article from May 9, 2009. That is what Mr. Friedman says. Well, I kind of disagree with him, but I would like the GAO to take a look at that. Without a comprehensive GAO report, we have to take Mr. Friedman at his word, and I don't think we should. Who got what? When did they get it? On what basis and what terms? Who was at those meetings? Were there conflicts of interest? These are the kinds of questions a GAO audit of the Fed will answer.

As a result of the bailout of Bear Stearns and AIG, the Fed—and this is a beauty, this is quite something—the Fed now owns credit default swaps—listen up on this one—betting that California, Nevada, and Florida will default on their debt. So the Federal Reserve stands to make money if California, Nevada, and Florida go bankrupt. I suspect that the Senators from the great States of California, Nevada, and Florida would be rather interested to know that if their States go bankrupt, the Fed makes money.

On the surface, this looks a little absurd to me, but again, I think this is an issue that the GAO might be taking a look at.

It has been reported that the Federal Reserve pressured the Bank of America into acquiring Merrill Lynch—making this financial institution even bigger and riskier—allegedly threatening to fire its CEO if the Bank of America backed out of this merger. When the merger went through, Merrill Lynch employees received \$3.7 billion in bonuses. Was this a good deal for the American taxpayer? A GAO audit can help us find out.

When the Federal Reserve provided a \$29 billion loan to JPMorgan Chase to acquire Bear Stearns, the CEO of JPMorgan Chase, Jamie Dimon, served on the Board of Directors at the New



York Federal Reserve. Let me repeat that. When the Federal Reserve provided \$29 billion to JPMorgan Chase, the CEO of JPMorgan Chase served on the Board of Directors of the New York Fed. Did this represent a conflict of interest? I think the average American would say yes. Maybe some people would have a different point of view. But I think a GAO audit can help explain all this to the American people.

Currently—and I think we have to appreciate this as well; we have to shed some light on these issues—some 35 members of the Federal Reserve's Board of Governors are executives at private financial institutions which have received nearly \$120 billion in TARP funds, but we don't know how much these big banks received from the Fed. We know what they got from the TARP, not from the Fed. A GAO audit could answer this question.

All of us—I believe all of us—are deeply concerned that small- and medium-sized businesses around this country—I know it is certainly the case in Vermont—are begging for affordable credit. They have the opportunity to expand. We are beginning to see some economic recovery, but they want to expand, they want to create new jobs, and they are finding it extremely difficult to acquire those desperately needed affordable loans. I find it an important issue to ask how much of the trillions of dollars in zero or near zero interest loans that financial institutions received from the Fed went out to those small businesses or, perhaps, as I personally believe is the case, were simply invested in Federal Government bonds, earning an interest rate of 3 or 4 percent.

A number of observers believe—and the GAO can help us discover—the Fed provided zero interest loans to a large bank, which then took that money and bought government bonds at 3 percent. If that was the case, and I suspect it was, you are looking at a huge scam—a huge scam—when small- and medium-sized businesses needed the money. That was the intention of these loans. But I don't know how much of this was invested in growth bonds, you don't know, and the American people don't know. It is time we found out.

This amendment I am offering is virtually identical to legislation that I have offered on this subject that has 33 cosponsors. The amendment, I think, has 20, 22 Democrats and Republicans. The original legislation had 33 cosponsors. Just so you can get a sense of the diversity of ideological opinion behind this amendment, let me tell you the names of the people on board the legislation—not the amendment, the legislation: Senators BARRASSO, BENNETT, BOXER, BROWNBACK, BURR, CARDIN, CHAMBLISS, COBURN, COCHRAN, CORNYN, CRAPO, DEMINT, DORGAN, FEINGOLD, GRAHAM, GRASSLEY, HARKIN, HATCH, HUTCHISON, INHOFE, ISAKSON, LANDRIEU,

LEAHY, LINCOLN, MCCAIN, MURKOWSKI, RISCH, SANDERS, THUNE, VITTER, WEBB, WICKER, and WYDEN.

Those are people who are on the original legislation—33 cosponsors. As you can see, they range from some of the most progressive Members to some of the most conservative Members. The amendment that is now on the floor has, I believe, 22 cosponsors, Republicans and Democrats alike, and I wish to thank all of them for their support.

The American people are asking: Can people work together? Can they come together on important issues? If there is an important issue that people with different ideological backgrounds have come together on, this is that one. So I wished to thank my Republican friends and my Democratic friends who, every other day, are fighting like cats and mice but on this issue have come together, and I appreciate that.

But it is not only the Members of the Senate. In terms of progressive grassroots organizations, this amendment enjoys the strong support of the AFL-CIO; the Service Employees International Union, the single largest union in the country; the United Steelworkers of America; Public Citizen; the New American Foundation; Center for Economic Policy; U.S. Public Interest Research Group; Americans for Financial Reform, which is a coalition of over 250 consumer, employee, investor, community, and civil rights groups. There is a huge amount of support from the progressive community. It also has a huge amount of support from the conservative community.

Let me read, briefly, a letter I received from the legislative director of the AFL-CIO. This is what he says:

On behalf of the AFL-CIO, I am writing to urge you to support the Sanders-Feingold-DeMint-Leahy-McCain-Grassley-Vitter-Brownback amendment to increase transparency at the Federal Reserve. Working people want to know who benefitted from the liquidity provided by taxpayers during the crisis and this amendment will ensure that we receive this information.

I received another letter, which came from the president of the SCIU, the president of the United Steelworkers, the president of Public Citizen and many other progressive groups and this is what they say:

Since the start of the financial crisis, the Federal Reserve has dramatically changed its operating procedures. Instead of simply setting interest rates to influence macroeconomic conditions, it rapidly acquired a wide variety of private assets and extended massive secret bailouts to major financial institutions. There are still many questions about the Fed's behavior in these new activities. The Federal Reserve's balance sheet expanded to more than \$2 trillion, along with implied and implicit backstops to Wall Street firms that could cost even more. Who received the money? Against what collateral? On what terms and conditions? The only way to find out is through a complete audit of the Federal Reserve. That's why we support the amendment to increase transparency at the Fed.

That is from the SEIU, and many other unions.

That is what some of the progressive groups, quite frankly, that I work with quite often have to say about this amendment. But let me quote from some of the conservative organizations that, frankly, I usually do not have very good voting records with. Very often they oppose what I bring forth.

Here is the National Taxpayers Union. I don't know how many folks they have, but they are a big organization. This is what the National Taxpayers Union says:

The National Taxpayers Union urges all Senators to vote "yes" on S. Amendment 3738 to the financial regulatory reform legislation. This amendment, introduced by Senators Sanders and DeMint, would require the Government Accountability Office to conduct an audit of the Federal Reserve. . . .

I like their next sentence.

Transparency is not a Democrat or Republican issue, but rather an issue of right or wrong. If the Senate insists on further expanding the Fed's reach, Americans deserve to know more about the workings of a government-sanctioned entity whose decisions directly affect their economic livelihood. A "yes" vote on S. amendment 3738 [this amendment] will be significantly weighted as a pro-taxpayer vote in our annual Rating of Congress.

That means I may have at least a 1-percent approval vote from the National Taxpayers Union. I appreciate their support. That is from the National Taxpayers Union.

Let me quote from another letter of support I received from a group of conservative organizations that includes the Americans for Tax Reform, the Campaign for Liberty, the Rutherford Institute, the Eagle forum, Freedomworks, and the Center for Fiscal Accountability—again, some of the more conservative groups in the country, groups that usually do not support my issues. This is what they say:

We urge you to vote for Senators Sanders, Feingold, DeMint, and Vitter's Federal Reserve Transparency Amendment. . . . This amendment does not take away the "independence" of the Fed. It simply requires the GAO to conduct an independent audit of the Fed and requires the Fed to release the names of the recipients of more than \$2 trillion in taxpayer-backed assistance during this latest economic crisis. Any true financial reform effort will start with requiring accountability from our Nation's central bank.

Let me thank all of the conservative groups—in this case the Americans for Tax Reform, the Campaign for Liberty, and the others—for their very strong grassroots effort in supporting this amendment. It is an indication, again, that on certain issues progressives and conservatives can come together.

Let me mention this because I think it is possible that some of the Members do not know this. This amendment is not a radical idea. As part of the budget resolution debate in April of 2009, the Senate voted overwhelmingly in



support of this concept by a vote of 59 to 39. I brought that up. It was a non-binding vote, part of the budget resolution, 59 to 39. So many Senators have already gone on record supporting that.

Here is also an important piece of information. In the House of Representatives, this concept passed the House Financial Services Committee by a vote of 43 to 26 and was incorporated into the House version of the Wall Street reform bill that was approved by the House last December.

Again, what we are talking about is something that was passed in the House, and it is in the House bill. There is a variation. We are not the same, to be honest, but the same concept—for a Fed audit—already exists in the Wall Street reform bill passed in the House.

This concept has the support of the Speaker of the House, NANCY PELOSI, who has said Congress should ask the Fed to put this information “on the Internet like they’ve done with the recovery package and the budget.” That is exactly what this amendment would do.

Here is another point many people don’t know. A lot of this language is in the House bill. A lot of this language has already been supported in the Senate last year as part of the budget resolution. But here is an important point many people do not know. Bloomberg News service did a very good job, and they have aggressively demanded, as a news organization, this information about who the Fed lent money to be made public. As a result of their efforts, two Federal courts—not one, two Federal courts—have ordered the Fed to release all the names and details of the recipients of more than \$2 trillion in Federal Reserve loans since the financial crisis as a result of a Freedom of Information Act lawsuit.

So Bloomberg News filed suit and two Federal courts supported Bloomberg. The Fed had argued in court in opposition to Bloomberg that it should not have to release this information, citing, according to Reuters—this is what the Fed said—“an exemption that it said lets Federal agencies keep secret various trade secrets and commercial or financial information.”

However, the U.S. Court of Appeals in New York disagreed. Here is what a unanimous three-judge appeals court panel wrote in their opinion:

To give the Fed power to deny disclosure because it thinks it best to do so would undermine the basic policy that disclosure, not secrecy, is the dominant objective. If the Board believes such an exemption would better serve the national interest, it should ask Congress to amend the statute.

This appeals court decision upheld an earlier ruling by the Southern Federal District Court of New York that also ordered the Fed to release this information. In other words, we now have 59

Senators who, as part of the budget resolution, voted on this issue; 320 Members of Congress, the House, and two U.S. courts that have all told the Fed in no uncertain terms: Give us transparency. That is what we have.

As I wind down and conclude my remarks, let me just simply say that I am thankful for all of the support, all the grassroots support from progressive and conservative groups, and from my fellow Senators. The American people have a right to know when trillions of their dollars are being spent and who gets it. The American people have a right to know whether there are conflicts of interest.

I thank my colleagues—there are so many cosponsors, I will not mention them all—but I thank all of them.

Let me conclude by saying I am very proud to say we have been working with Senator DODD’s office and some other offices.

#### AMENDMENT NO. 3738, AS MODIFIED

I am going to ask that my amendment be modified with the changes that are at the desk. I am proud to say these modifications have been worked out with Senator DODD and would allow the GAO to conduct a top-to-bottom audit of all of the Federal Reserve’s emergency lending activities since December 1, 2007. In addition, the modifications require the Fed to put on its Web site all of the recipients of over \$2 trillion in emergency assistance since December 1, 2007.

The PRESIDING OFFICER (Mrs. SHAHEEN). The amendment is so modified.

The amendment (No. 3738), as modified, is as follows:

At the end of title XI, add the following:

#### SEC. 1159. GAO AUDIT OF THE FEDERAL RESERVE FACILITIES; PUBLICATION OF BOARD ACTIONS.

(a) GAO AUDIT.—

(1) IN GENERAL.—Notwithstanding section 714(b) of title 31, United States Code, or any other provision of law, the Comptroller General of the United States (in this subsection referred to as the “Comptroller General”) shall conduct a one-time audit of all loans and other financial assistance provided during the period beginning on December 1, 2007 and ending on the date of enactment of this Act by the Board of Governors under the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility, the Term Asset-Backed Securities Loan Facility, the Primary Dealer Credit Facility, the Commercial Paper Funding Facility, the Term Securities Lending Facility, the Term Auction Facility, Maiden Lane, Maiden Lane II, Maiden Lane III, the agency Mortgage-Backed Securities program, foreign currency liquidity swap lines, and any other program created as a result of the third undesignated paragraph of section 13 of the Federal Reserve Act.

(2) ASSESSMENTS.—In conducting the audit under paragraph (1), the Comptroller General shall assess—

(A) the operational integrity, accounting, financial reporting, and internal controls of the credit facility;

(B) the effectiveness of the collateral policies established for the facility in mitigating

risk to the relevant Federal reserve bank and taxpayers;

(C) whether the credit facility inappropriately favors one or more specific participants over other institutions eligible to utilize the facility;

(D) the policies governing the use, selection, or payment of third-party contractors by or for any credit facility; and

(E) whether there were conflicts of interest with respect to the manner in which such facility was established or operated.

(3) TIMING.—The audit required by this subsection shall be commenced not later than 30 days after the date of enactment of this Act, and shall be completed not later than 12 months after that date of enactment.

(4) REPORT REQUIRED.—The Comptroller General shall submit a report on the audit conducted under paragraph (1) to the Congress not later than 12 months after the date of enactment of this Act, and such report shall be made available to—

(A) the Speaker of the House of Representatives;

(B) the majority and minority leaders of the House of Representatives;

(C) the majority and minority leaders of the Senate;

(D) the Chairman and Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Financial Services of the House of Representatives; and

(E) any member of Congress who requests it.

(b) AUDIT OF FEDERAL RESERVE BANK GOVERNANCE.—

(1) AUDIT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall complete an audit of the governance of the Federal reserve bank system.

(B) REQUIRED EXAMINATIONS.—The audit required under subparagraph (A) shall—

(i) examine the extent to which the current system of appointing Federal reserve bank directors effectively represents “the public, without discrimination on the basis of race, creed, color, sex or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers” in the selection of bank directors, as such requirement is set forth under section 4 of the Federal Reserve Act;

(ii) examine whether there are actual or potential conflicts of interest created when the directors of Federal reserve banks, which execute the supervisory functions of the Board of Governors of the Federal Reserve System, are elected by member banks;

(iii) examine the establishment and operations of each facility described in subsection (a)(1) and each Federal reserve bank involved in the establishment and operations thereof; and

(iv) identify changes to selection procedures for Federal reserve bank directors, or to other aspects of Federal reserve bank governance, that would—

(I) improve how the public is represented;

(II) eliminate actual or potential conflicts of interest in bank supervision;

(III) increase the availability of information useful for the formation and execution of monetary policy; or

(IV) in other ways increase the effectiveness or efficiency of reserve banks.

(2) REPORT REQUIRED.—A report on the audit conducted under paragraph (1) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period

beginning on the date on which such audit is completed, and such report shall be made available to—

(A) the Speaker of the House of Representatives;

(B) the majority and minority leaders of the House of Representatives;

(C) the majority and minority leaders of the Senate;

(D) the Chairman and Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Financial Services of the House of Representatives; and

(E) any member of Congress who requests it.

(C) PUBLICATION OF BOARD ACTIONS.—Notwithstanding any other provision of law, the Board of Governors shall publish on its website, not later than December 1, 2010, with respect to all loans and other financial assistance it has provided during the period beginning on December 1, 2007 and ending on the date of enactment of this Act under the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility, the Term Asset-Backed Securities Loan Facility, the Primary Dealer Credit Facility, the Commercial Paper Funding Facility, the Term Securities Lending Facility, the Term Auction Facility, Maiden Lane, Maiden Lane II, Maiden Lane III, the agency Mortgage-Backed Securities program, foreign currency liquidity swap lines, and any other program created as a result of the third undesignated paragraph of section 13 of the Federal Reserve Act—

(1) the identity of each business, individual, entity, or foreign central bank to which the Board of Governors has provided such assistance;

(2) the type of financial assistance provided to that business, individual, entity, or foreign central bank;

(3) the value or amount of that financial assistance;

(4) the date on which the financial assistance was provided;

(5) the specific terms of any repayment expected, including the repayment time period, interest charges, collateral, limitations on executive compensation or dividends, and other material terms; and

(6) the specific rationale for each such facility or program.

Mr. DODD. I will just take 30 seconds. I will speak longer on this a little later. But let me thank our colleague from Vermont. He is a remarkable individual who brings great intelligence and passion to this cause. He does not get involved in every issue that comes up on the floor of the Senate. I admire that. Some believe they have to have something to say about everything. But when Senator SANDERS gets involved with something, you better believe he does it with a great deal of conviction and passion and purpose.

I am a cosponsor of this amendment he has just modified. I think it is absolutely correct. On the transparency issues, there are no excuses. When as much American taxpayer money has been exposed as has been, we have the right to know where it is going and who is involved in it. There was a concern about whether the independence of the Fed would be compromised. He has guaranteed in his language that is no longer an issue whatsoever. I thank him for it. It is a great amendment.

I know Senator GRASSLEY wants to be heard, and I yield the floor.

Mr. SANDERS. I thank the chairman.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, you have heard me say many times to my colleagues that the public's business ought to be public. I don't know why that does not apply to the Federal Reserve, at least on its regulatory activities when it gives out money. There are all kinds of reasons it should not apply to monetary policy. But for everything else, the Federal Reserve is acting at the behest of Congress through a law going way back to 1913 giving them certain powers. If Congress exercised these same powers—and under the Constitution we have the authority to do that—it would be the public's business; in fact, even more than what this amendment does. So the public's business ought to be public.

With transparency, and that is what this amendment is all about, you get accountability—it seems to me, with what has happened over the last 10 years, more transparency leading to accountability. If we had that transparency we probably would not have had the bubble in the first place that broke in 2008, which brought us to this recession.

So I rise not hesitantly but forthrightly to support the pending amendment by the Senator from Vermont. I appreciate all of his hard work on making the Federal Reserve more accountable to the people of this country. I am a cosponsor of his stand-alone bill, so I am glad to be a cosponsor of this amendment, to bring sunshine to the Fed.

During the last 2½ years, the Fed has gone well beyond what was viewed as its historical authority. It has taken on more and more risk, in complicated and unprecedented ways. It intervened in the market to prop up certain firms. It intervened in the market to protect these firms from failing, using an unlimited source of taxpayers' dollars to, in effect, pick winners and losers.

The risks they have taken will ultimately be borne by the American taxpayers. So in the interest of accountability, the taxpayers deserve to have answers on who got money and how it was spent.

Under law, the Federal Reserve has lending authority for unusual and exigent circumstances. Under section 13(c) of the Federal Reserve Act, the Reserve can “discount for any individual, partnership or corporation, notes, drafts and bills of exchange when such notes, drafts and bills of exchange are endorsed or otherwise secured to the satisfaction of the Federal Reserve bank.”

Essentially, this means the Fed can lend to any entity or person when it believes there is an emergency. This is

an extraordinary amount of power and discretion, and it should be exercised in the light of day. Transparency, accountability—the public's business ought to be public. Trillions of dollars were provided to financial institutions and corporations since the financial crisis began. The Fed helped rescue Fannie Mae and Freddie Mac. The Fed propped up Bear Stearns and AIG when they were on the brink of failure. They intervened in the business efforts of Lehman Brothers, Merrill Lynch, and Citigroup.

But how much has been doled out and to whom is still a mystery. This amendment would allow the independent arm of Congress, the Government Accountability Office, to review the decisions made by the Federal Reserve. And the Government Accountability Office is nothing but a group of professional people without a political motive and the right group to get the job done and do it on an ongoing basis. An objective review of the Fed's actions will serve our country well in the future.

We can learn from the mistakes that may have been made. We can determine if the losses or profits from the Fed's investments help serve the economy well. Did the Federal Reserve act in an appropriate and ethical manner? Was the relationship between regulators and the financial industry too cozy, hampering the ability to make an objective decision?

Proponents of the Federal Reserve should not consider this as a threat to the independence of the Fed—an independence I support. They should embrace an independent evaluation as an opportunity to improve its operations and, most importantly, strengthen public trust for future generations who may be faced with similar financial crises.

As the Senator from Vermont has made very clear, the intent of his amendment is not to interfere in monetary policy. I share that same feeling he has, and I would not support an amendment that went into monetary policy. But the Fed's extraordinary power outside of monetary policy should be subject to the light of day, transparency and accountability. The public's business ought to be public. We should allow the Government Accountability Office to audit the Fed since they have moved far beyond their traditional and primary mission of conducting monetary policy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. I thank the Senator from Iowa not only for his support but for his long fight for transparency. It has been a pleasure working with the Senator.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I wish to thank my colleagues, Senators SANDERS and DEMINT, for putting forward, bringing this amendment to the floor. I am a cosponsor of this amendment, along with several of my other colleagues.

I would say as well to my colleague from Vermont, my colleague from South Carolina, and others who are sponsors, this is an issue I hear a lot about when I am traveling around my State, which is often. When I am traveling around and listening to people, this is something people are concerned about. They are concerned about the monetary policy. They are concerned about the money system. They are concerned.

I would note to people, and to my colleagues in particular, that the Congress created the Fed, the Fed didn't create the Congress. So the Congress does have control over this issue, and I think we need to look at it and say: Let's look at what is appropriate and what is proper. And this is clearly one piece of it.

I think the Fed has done a number of things quite well and quite right. Yet I don't see any problem whatsoever with having a simple audit; that that is going to somehow reveal the genie in the bottle and let out all of these secrets that are going to be harmful to the development of monetary policy. There seems to me to be a fair amount of overstatement on the other side of the terrible damage this audit would do. That does not seem right to me. It does not seem right to my constituents. My constituents look at this and say: Well, I do not want to harm the development of monetary policy. I want it to be wise and good and sound. But I do not see how it is harmed by an audit of an entity that is created by the government, that is created by the Congress. So why shouldn't we do something like this?

That is why I think this is a prudent amendment. It is a good commonsense amendment, and I think it will be well received by the constituents of this great country who I think are pretty wise on these and other decisions; that as we go around, if we will listen to what people are saying, I think there is a lot of wisdom in that. They are saying we ought to know more about what is taking place in the Fed.

I know we would all like to move forward on financial regulatory reform legislation. I have some serious problems in this bill. I think the consumer financial product piece shouldn't penalize auto dealers and orthodontists and others who did not cause any of these problems.

So I have an amendment. I have other amendments I am a part of as well, along with this one, that I think we need to consider before we move on forward, even though I have some problem with the basis of the bill. I think it

hits more Main Street than it does Wall Street. The difficulty is that we just have different ideas and beliefs about the best way to move forward, and that is normal.

This amendment is not just about the choices, though, that we have on reforming the financial sector. I believe it gets to the heart of a more fundamental issue: what the American people have a right to expect and know from their governmental institutions.

The fact that this amendment is brought forward by the Senator from Vermont, Mr. SANDERS, and the Senator from South Carolina, Mr. DEMINT, two Members who could not be further apart on the ideological spectrum, should be a sufficient warning and measure to make everyone sit up and take notice of what it is that is here that is so troubling.

This amendment isn't about whether the legislation will put an end to taxpayer-backed bailouts. It isn't about whether the legislation will end too big to fail. It isn't even about how to best protect the American people and taxpayer dollars. It is about something I believe is even more fundamental: the accountability of governmental institutions to the people of the United States and to the Congress.

I think it is important, as I stated, to remember—I want to state this again—one single fundamental reality in this debate: Congress created the Federal Reserve, not the other way around. We created the Federal Reserve System to serve the interests of the citizens of this Nation, not to serve the interests of large financial institutions.

In establishing the Federal Reserve, Congress recognized the importance of a central bank that could operate with independence to ensure the orderly functioning of the banking systems and to maintain price stability. That is the core function of the Fed. More recently, the Federal Reserve mandate was expanded to charge them with maintaining price stability and maximum employment. That was an expansion piece that was added.

The Government Accountability Office is also a creation of Congress. GAO is an independent, nonpartisan agency that works for Congress. What is GAO's mission? GAO's mission is to support the Congress in meeting its constitutional responsibilities and to help improve the performance and ensure the accountability of the Federal Government for the benefit of the American people.

In my view, the real issue here is whether you believe the Congress has the right to ask GAO—in many respects, our auditor—to review actions and activities of an institution that we, the Congress, created.

I certainly understand the importance of the Federal Reserve's independence in the execution of monetary policy. I understand and I support that.

I understand the importance of not interfering with the operation of the FOMC. That is not what this amendment is attempting to do. That is not my intention. I am confident, as well, it is not the intention of the main sponsors of this amendment. But I do believe it is relevant to know whether the Federal Reserve is operating in a manner that is consistent with its statutory authority. It is relevant to know whether the Federal Reserve is following its own established rules and procedures or whether it is just making it up as it goes along. I do think it is relevant for Congress to know who was involved in decisions to take extraordinary measures by exercising emergency powers, as well as who was and was not consulted before those actions were taken. Those are prudent and proper things for us to know.

I think it is equally important to know whether the policy statements and subsequent minutes of FOMC meetings accurately reflect what went on in those meetings.

Recent news reports surrounding the release of transcripts from 2004 meetings of the Fed contained some serious, distressing information. Those reports revealed that as far as back as 2004, there were significant concerns raised by regional Reserve Bank presidents about an emerging housing bubble that, indeed, did emerge and burst. Did we see any indication of that in the meeting minutes or the policy statements? We did not. And what that tells me is the minutes did not accurately—I will even say they did not directly portray what went on in the meetings. I do not believe that is right.

Disturbingly, the transcripts reveal that the Federal Reserve Bank president from Atlanta warned that:

A number of folks were expressing growing concern about potential overbuilding and worrisome speculation in the real estate markets, especially in Florida. Entire condo projects and upscale residential lots are being pre-sold before any construction, with buyers freely admitting that they have no intention of occupying the units or building on the land but rather are counting on "flipping" the properties—selling them quickly at higher prices.

That is a direct quote.

Disconcertingly, at the same meeting, the former Chairman of the Board of Governors, Alan Greenspan, made the following statement:

We run the risk, by laying out the pros and cons of a particular argument, of inducing people to join in on the debate, and in this regard it is possible to lose control of a process that only we fully understand.

Let me repeat that quote. This is from former Chairman Greenspan:

We run the risk, by laying out the pros and cons of a particular argument, of inducing people to join in on the debate, and in this regard it is possible to lose control of a process that only we [the Federal Reserve Board] fully understand.

Now, I serve as the ranking member of the Joint Economic Committee.

Senator DEMINT is also a member of our committee. We believe in free markets and a free enterprise system. We recognize the importance of a strong financial system. Yet a fundamental requirement for the orderly operation of free markets is transparency and accurate reporting—information. I think the suggestion that only the Federal Reserve was capable of fully understanding is evidence enough that this amendment is necessary.

Congress needs to demand change and greater accountability so people can have more information. What if the people had known about this debate going on at the Federal Reserve as the housing bubble was developing? How would people have acted? My guess is, they would have acted quite prudently, saying: The Federal Reserve is concerned about this. This is legitimate information. Maybe we should pull back on housing investments. Maybe we should be watching this as well.

I think people can get it; they need the information, though.

While this amendment does not address the issue of the time delay in releasing transcripts, I do believe the current 5 years, which amounts to almost 6 in many cases, is indefensible, between the actual minutes and them being released—5 years between the actual minutes and their being released to the public. In my judgment, that time limit should be reduced to no more than 2 years. Members of this body should have had access to these and other transcripts before we were asked to reconfirm the current Chairman of the Federal Reserve Board of Governors. I would suggest it would have been helpful to have had access to this information before the housing market collapsed and before it turned into a financial crisis.

The American people are mad at Washington. They are mad at the governmental institutions that they view as increasingly unresponsive and unaccountable. Let's take this step in the direction of transparency, accountability, and disclosure of information. The American people have a right to know whether their interests were protected or simply placed on the back shelf. They have a right to know the information.

I urge my colleagues to support this amendment, and I urge the Federal Reserve to work with us to address real concerns about this amendment, rather than trying to defeat it or amend it with the purpose of making it a symbolic and meaningless gesture. Let's remind the Federal Reserve Board of Governors that they are not the only people capable of fully understanding issues on which all of our economic future depends.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. I wish to thank the Senator from Kansas for his remarks

and for his strong support from day one for this concept of transparency of the Fed.

Mr. BROWNBACK. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANDERS). Without objection, it is so ordered.

Mr. COBURN. Mr. President, as we have watched the debate the last 6 days on the financial regulation reform bill, I thought it would be interesting just to raise a few questions. The Congress—both the House and the Senate—created what was called the Financial Inquiry Commission. As a matter of fact, they had a meeting today. The purpose of that Commission—that will turn in their report in December of this year—was to take a thorough and complete look at what happened to us in 2008—the causes, the regulatory failures, the poor incentives—and then make recommendations to the Congress on what we should do.

The question I have for my colleagues is, we have a bill on the floor that has given no credence to the Commission we created, and we are actually, according to the majority leader, going to finish this bill next week without the benefit of that Commission's inquiry. So a couple questions I would ask are, No. 1: Why? Why are we doing that? And, No. 2—by the way, the people on that Commission are learned people with great exposure and great experience in the areas of which we are discussing—Why are we allowing the Commission to continue spending money if we are not going to pay any attention to them? Why don't we just end the Commission, since we have obviously decided what they are going to have to give to us is not of value as we make the decision about what we need to change? I thought that is what we had the Commission for.

So I find it peculiar that in our rush to blame somebody, our rush to take the focus off of where it belongs—by the way, that is right here in the U.S. Congress because 90 percent of what went wrong was our fault—our fault; that is where it lies—in our rush to shield and reflect that away from us, we are going to pass a bill with all sorts of unintended consequences of which we fully do not understand right now. It is a bill that is going to treat the symptoms, not the underlying disease of the financial problems we had. It rings well from a populist standpoint, but in the long run it does a disservice to our country. That does not mean this bill may not hit it 100 percent on what this Commission recommends, but we have no idea what they are going to recommend.

So I think it is a great question for the public to be asking us: Why are we doing that? And why are we continuing a Commission that we obviously are not paying any attention to? One, it was created so we could offload the problem. That is why we created the Commission. We obviously did not care what they thought because we are not going to pay any attention to them. No. 2, we are going to continue to spend money on a Commission that we are not going to value. If we were going to value it, we would at least either give it a mandate to hurry up so we can make appropriate decisions and use their expertise or we would eliminate it.

Now to the bill that is in front of us. What really happened to us. This is my opinion of what happened to us. The Congress created incentives to increase with ease the ability to own a home in this country. Then we created incentives through Fannie Mae and Freddie Mac to do that even greater. Then we created the ability to package and offload what Fannie Mae and Freddie Mac had taken and securitized it.

We wonder why people would take advantage of that. There was not one oversight hearing on the Office of Thrift Supervision, which absolutely failed in terms of loan originators. There was one hearing in 4 years at the SEC that had nothing to do with their oversight of the packaging of these incentives before they became a problem. There was no oversight—significant oversight—on the explosive nature of derivatives trading in this country and around the world. We are so quick to point the finger at the people who took advantage of the incentives we set in motion.

So now what do we have? We have \$6 trillion or \$8 trillion worth of exposure for the U.S. taxpayer in terms of guaranteed mortgages by the Federal Government through Fannie Mae, Freddie Mac, and FHA, and we are hustling along so none of that ends up getting focused on us. We have a bill on the floor that does not address the core problem of what went wrong.

Here is the core problem of what went wrong: There were no mortgage origination standards that were enforced by the Federal Government, as they took American taxpayers, to guarantee what was going to be an asset. What did we find at the Permanent Subcommittee on Investigations? That in the last year before this, for one company alone that originated a vast majority of the loans in California—Long Beach Mortgage—90 percent of the mortgages were based on fraudulent data.

OTS knew it and did not do anything about it. Why did they not do it? Because they got 16 percent of their revenue from Washington Mutual, who owned Long Beach Mortgage.

So we set up all these systems, we incentivized this system, and now that

it blew up in our faces—because we did not look at it, we did not oversight it, we did not do our fiduciary responsibility—we want to be quick and get rid of that blame from us by pointing the finger somewhere else.

We have minimal leverage requirements in this bill. If we are going to create an incentive for people to act badly, at least we ought to put a block somewhere else that will limit the exposure of financial institutions based on capital ratios. We have not done that. We have not accomplished that in this bill. That is something that has to be there. We had companies leveraging to 40 and 50 times their net worth. Yet we are not addressing that issue to a significant extent. It is one small portion of the bill.

Then we are going to take a consumer protection agency—which we created the problems for—and create a massive government bureaucracy that is going to filter all the way down to every small business in this country and isolate that power within one individual who is not accountable to the Congress and not accountable to the President, and we are going to say: You fix it. There will be an unlimited funding stream that is going to be totally out of control that is going to impede and impact the freedom of Americans' ability to make a living in the name of consumer protection.

If you think I am giving a speech to protect the banks, you are wrong. I like them about as much as I like insurance companies. But we have to think about what we are doing, and we ought to be about fixing the real disease. That real disease is us—us not doing oversight, us not being responsible for the legislation we created, and setting up incentives, and then yawn as it goes awry and point our fingers somewhere else.

There is no question we need to change the regulatory structure in this country. But there is something we need to change more than the regulatory structure; that is, the demand on the Congress to start doing its job in terms of oversight. We are quick to whip a bill out when it is politically expedient to do it and create a whipping boy, or several whipping boys, and say we are addressing things. But it is kind of like the pea under the three walnut shells. You never know where the pea is. The reason you never know is because there is not really even a pea there. There was when it started, but it went away. Then it gets put back.

So we are playing the game. We are playing the American people that what we are doing is substantive, and that, in fact, it is going to enhance capital formation, when what we are doing is going to decrease capital formation.

We have one section in this bill that says every small bank in Oklahoma—if they write a mortgage and sell it, forever they have to keep 5 percent of it.

Well, if they are a small capitalized bank, guess what they are going to do. They are never going to create another mortgage in Oklahoma. So we are going to concentrate all the mortgages in the big banks in the country. That is why Goldman Sachs loves this bill. That is why Citibank loves the bill. We are not making the big banks smaller; we are making the big banks bigger. We are going to undercut the small and medium-sized banks in the country because we are going to put a 5-percent retention on every mortgage they write, when, in fact, all we would have to say is: If you write a mortgage and you package it and sell it, there is recourse back to you, the originator of the loan; that mortgage, when it becomes nonperforming, comes back to you. That is all we have to do. That does not tie up their capital. That does not limit their incentive to create housing in our own regional markets that is made available with capital in those regional markets.

No, we are going to make the big boys bigger. All the regulation that is in this bill none of the big banks will ever have a problem with. They already have thousands and thousands of staff to handle government regulation. They will not add a person. But every small community bank in this country, every small financial institution in this country, is going to drown in the requirements of this bill.

I know the chairman of the Banking Committee has worked hard to try to bring a forth bill. I know there have been great deliberations with many from our side of the aisle on the bill. But I think we have thrown common sense out the window. The motives are good. The goal—fix the problem—is good. But if we treat the symptoms of this and convince the American people we have fixed it when, in fact, we have not, when we have not eliminated too big to fail—because we are going to make the big banks bigger—what we are going to see is a further decline in confidence.

In the name of fixing things, we are going to be taking massive amounts of freedom away from small businesses in this country. We are going to take discretion away from capital risk that has minimal risk to the country but has every bit of risk to the person lending the capital. We are even going to take away "sugar daddy" investors who are the only hope for some ideas—not venture capitalists. We are going to take away the ability for somebody to come in and say: I will invest in 40 percent of your business and give you the capital to try something. We have actually created requirements for that.

As we look at what we are about to do, the American people ought to ask three questions, three very important questions: No. 1, does it fix the problem? No. 2, does it grow the government and require increased spending?

And, No. 3, is there anything to make you think—since we were regulating all these industries already—the Congress might oversight the next set of regulations we put out there to fix this problem? I think the answer to that—all three of those questions—is no. I am in a minority, I understand that.

I said previously, I think we ought to change the regulations in this country. I think we also ought to eliminate too big to fail by making those that are too big become so small they won't make a difference if they do fail. We ought to create the market circumstances that would force that to happen. But this bill doesn't do that. This bill won't do that.

So as we go through this rather large bill, which I think has had three or four accepted amendments thus far and which is 1,409 pages long, one of the other questions we ought to be asking is how many Members have read the entire bill. How many Members understand what is in the bill? How many Members can have the capability to anticipate the unintended consequences of what is in the bill? I think we will find the answer to that is zero. Yet we are in a hurry to do this for a political reason.

So I will go back to what I started on. We created the Financial Inquiry Commission. What are we going to do with it? What happens if they come out in December and say everything we did was wrong? Why did we create it? I would love to read back some of the speeches that were given on this floor about why we were creating it, because we had to know what went wrong. Now we have a commission that has been charged to tell us what went wrong, but we are going to ignore them. We are going to pass a bill before they have even completed their hearings.

I think it is no wonder the country has a low level of confidence in our deliberations, because they don't make sense to the average American. They understand the political spin. They understand pinning the tail on the donkey. They understand placing blame so you can deflect it from yourself. They get all that. They see it and they see right through it. But we are creatures of habit.

There are good things in this bill. Let me end on that. The elimination of the Office of Thrift Supervision had to happen. The reason they were ineffective is they got their money from the very people they were supervising and when their biggest customer is doing something wrong, rather than lose some of their revenue, they turn their eye the other way. Consequently, billions and billions and billions of dollars out of Washington Mutual became junk. Most of it was junk to begin with. It is the concept of greed.

Other good things: Changing the rating agencies and what they are accountable for. This bill goes in a direction different than I would have gone,

but the point is there needs to be a change. They need to not get paid by the very people who are asking them to rate something they are getting ready to sell, and they ought to be paid by the person who is getting ready to buy what they are getting ready to sell, so the accountability will be there. But we haven't done that.

We recovered, and our recovery from this financial fiasco is because of the resilience of the American people. The price is enormous, with having 14 million people unemployed. That is a tremendous price to pay. The loss in terms of dignity, the loss in terms of the ability to provide for your family, the loss of losing the skill set you had and no longer can find a job to do it is a tremendous price that has been paid. But the American people are resilient. What they don't want to tolerate, however, is a Congress that fails to recognize and continues to repeat mistakes of the past.

We can say, Well, we have been working on this for 6 months. We have. There have been negotiations going on for a long time. My question is, Do we have the answers? Do we know what the answers are? And if the answer to that question is yes, then let's disband the Financial Inquiry Commission right now. Let's not waste those folks' time. Let's not spend another penny of Federal taxpayers' money if we think we already have the answers. We are going to do just as we do on every other program: We are going to create another one and we are going to keep spending on the first one.

Needless to say, I think this bill is fixable. I think we ought to address the real key issues: Fannie Mae and Freddie Mac. Why are we not addressing them? Because we don't want to put out the bucks, the cost to do that. That is why. That is why we are not addressing it. We know the issues.

We have taken an unlimited amount of our kids' money and put it in exposure and we have given an absolute implicit and implied guarantee to both of those organizations. The President in late December took office, and they are now buying back close to \$400 billion worth of mortgages from the Treasury—nonperforming mortgages—and our kids are going to pay all that back. It will be 20 or 30 years before any of that property actually reaches the level at which it was sold.

So what is coming next? What is coming next is we are going to mandate principal reduction on mortgages across this country. Who does that impact? What that says is that everybody who paid their mortgage on time and kept up with their payments by making tremendous sacrifices other places, guess what. You are going to get to pay for the mortgage of everybody who didn't through your taxes and through your kids' taxes. You acted responsibly, but what is coming down the

pike is we are going to lift the load for those who didn't. You met your obligations. You signed the contract on the bottom line, and those who were less fortunate than you, you now are going to get to pay for them too. That is what is coming. Mark my words. You will hear it before November. That is what is coming through the HAMP, through the 40-percent reduction in the principal amount on many of these mortgages.

So what is going on? We are rushing the financial reform bill that doesn't attack the three major underlying diseases of the financial system, and then right after we pass that, we are going to force principal reductions on hundreds of thousands, if not millions, of mortgages, on which you, the taxpayer, are going to pick up the bill. That is what is coming. We are going to hear that it is not. That is what is coming.

Watch carefully what we do. Watch how we spin things. Watch how we create demons when, in fact, we are the source of the problem. Watch how we point our fingers at others whom we incentivized to take advantage of systems we created and say, Oh, no, we are not culpable at all. Oh, it wasn't us. We did all the oversight hearings. We changed it.

When we saw the writing on the wall, we didn't do any of that. The Congress created this mess, and we are going to continue to act in the same way that is going to create more. Because we are going to create a whole new set of regulations and then we are not going to have the oversight hearings: Are you doing it? Where is the metrics? How do we measure whether you are doing it? Are you, Mr. Bureaucrat, doing what the Congress directed? As a matter of fact, we don't even put in the regulations. We let somebody else write the regulations. We are so knowledgeable that we are getting ready to fix this problem, and besides the fact the Financial Inquiry Commission hasn't said anything to us yet about what the causes are and the potential solutions, but we are not even going to write the regulations, just as we didn't in the health care bill. The Department of HHS is going to write 1,690 regulations on the health care industry in this country. The same thing is going to happen in this bill.

As I say, I hope we can fix the bill because I think we need to make major changes. There are some good things in this bill.

We are in danger of losing what confidence is left of the American people in our actions. We ought to be asking the right questions for the right reasons that shouldn't have anything to do with politics, shouldn't have anything to do with partisanship, and ought to have everything to do with what is the best, right solution for our country in the long run.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have come to speak in support of the Sanders amendment. I am intrigued by my colleague's presentation, so I will respond to a bit of it. There are a couple of areas where we agree and some where I profoundly disagree, but let me start with the agreement.

When my colleague says, If you are too big to fail, you are too big and you ought to get smaller, I fully agree with that. I have an amendment that says if you are too big to fail—judged by the council in this bill that you are too big to fail, at that point you require the breaking up or the paring back of whatever is necessary of that institution to bring it below the level at which its failure would cause a moral jeopardy or an unacceptable risk to this country's entire economy. If we end this process and too big to fail still exists—that is, we have companies that are, in fact, too big to fail—then we will have failed, in my judgment.

Too big to fail means you are too big. We have broken up Standard Oil into 23 pieces and it turns out that 23 pieces are more valuable than the whole. AT&T was broken up. I am not interested in breaking up companies for the sake of it, but I am saying this: We know what has happened.

This chart shows what has happened to the largest financial institutions in this country. It shows that with respect to assets and liabilities, the top six commercial financial institutions in this country have gotten bigger, bigger, bigger, and much, much, much bigger. Does that cause jeopardy to this country? Well, if you have been awake the last few years to watch \$700 billion be pledged to avoid a calamitous event to this economy, then you understand that this is too big and something has to be done about it. Create early warnings? No, I don't think so. Stop signs? How about deciding that if you are too big, you are too big, and you have to pare back those portions of your institution that make you too big to fail and a moral hazard to this country that is an unacceptable risk to the future of this economy.

Here is another chart that shows about the same thing. It shows the growth of these institutions going back to 1995. It is relentless, aggressive growth. If we end this without having addressed it, we will not have been able—we won't be able to tell the American people: We took care of too big to fail. So I agree with the Senator from Oklahoma on that point.

Where we disagree is the notion that the problem here is us. Well, I will tell my colleagues what. The "us" bears plenty of responsibility, but let me talk about the "us." It wasn't the "us" who decided in Countrywide Mortgage, which was the largest single mortgage company in this country, to write



liars' loans, to decide to say to people, Hey, you want to get some money from us? We are a big company. We are making a lot of fees. We are paying a lot of money to our executives and we want you to come to us. In fact, I have an ad they ran, Countrywide, the biggest mortgage company in the country. Here is the ad: Do you have less than perfect credit? Do you have late mortgage payments? Have you been denied by other lenders? Call us. We have money for you. Are you a bad risk? Are you a bad person? You can't pay your bills? Come to us.

It wasn't the Congress that did that, I would say to my friend. This was Countrywide Mortgage. By the way, the guy who ran this organization got off with \$200 million. So he is now under criminal investigation. But don't suggest to me that somehow that was the responsibility of somebody other than the guy running the company that puts up ads such as: Zoom Credit. It says: You have been bankrupt, slow credit, no credit, can't pay? Who cares? That is what was advertised to the American people. That wasn't somebody in this Chamber going out and saying, Hey, how about letting us give you a loan if you have bad credit. Was it somebody in this Chamber who decided we are going to create credit default swaps? That is like saying "the devil made me do it" from the old TV show. No, no, no. It was a group of people who are high fliers, hotshots, wearing silk shirts and monogrammed sleeves, and they go out and create all of these exotic instruments such as credit default swaps, and they weren't enough; they have to do synthetic or naked default swaps with no insurable interest on the other side of the transaction. It was simply wagering. It had nothing to do with investment. It wasn't somebody in this Chamber who said please do this. It was the most unbelievable greed and avarice I have ever seen in the history of this country by a lot of folks. It created big institutions—I am not saying everybody did it, but enough did it to imperil this country's economy and to require emergency action to, as the Treasury Secretary then said, "save the American economy."

All this was going on. Everybody was having a carnival and making lots of money. In 2008, Wall Street had a net loss of \$35 billion and paid bonuses of \$16 billion. I got a master's degree in business. I went to business school. There is no place that teaches that—to go lose a bunch of money and then pay huge bonuses. This was a carnival of greed that went on in this country and steered this country right into a ditch.

When my colleagues say it is government that did that, I am sorry, that is flatout wrong. What government did—and they did it for a number of years in the last decade—is they hired a bunch—and the previous administra-

tion is especially responsible—of regulators who didn't like government and didn't want to regulate. One of the key people who came to this town in a key position of regulatory responsibility said: Hey, this is a new day. This is a business-friendly place. Understand that. We are going to be willfully blind here for a number of years. So do what you want; we won't watch and we don't care.

So the responsibility for regulatory authority is not in this Chamber.

I am not somebody who comes here to blame previous administrations very often, but when the Bush administration came to office—about the same time that Gramm-Leach-Bliley, by the way, with the support of the Clinton administration, repealed Glass-Steagall and said you can create big financial holding companies as big as you want and you can merge investment banks with commercial banks and security sales, and you can do it all—a one-stop financial shop. It will be great, and we will call it modern. About the time that passed—over my objections, as I was one of eight Senators who voted no, and I was out here six, eight times opposing it—about that time, we had a new administration come in and say: We are going to put regulators in place who have no interest in watching what you do, so do what you want. They put out naked credit default swaps and trillions of dollars for them. Who cares? If you want to increase your leverage from 12 times, to 20 times, to 30 times your capital, fine. We will have a meeting in the basement of the SEC, and we will, just like that, approve you to be able to increase your leverage to 30 times your capital. And it will hardly be reported by anybody because we are not watching anything. They were blind regulators—dead blind. Unbelievable.

Don't blame this on someone else. We can blame it on bad legislation a decade ago. That is fair. Those who were making bad loans and taking big checks to the bank and filling it with millions of dollars were doing it because they were greedy and nobody was willing to stop them. That avalanche of greed built into a bubble of speculation that really injured this country and nearly ran it off a cliff.

By the way, at the same time all of this was happening in the last 15 years or so, the financial institutions decided they were going to securitize everything. Doesn't matter; find some debt, and we have people who can roll it into a security. Once they do that, they can sell it three, four times, to an investment bank, to a hedge fund, you name it, and they can get a rating agency—because the investment banks pay the costs of the rating agencies that rate their securities, which is a pretty big conflict of interest—to help roll these forward, and nobody has any skin in the game.

My colleague talks about how unfair it would be to ask somebody to save at least a portion of a loan they are providing. Do you know what? The only way you have proper underwriting of loans in this country is if you sit across the table from somebody who wants to get a loan and look at their credit reports and determine if they are eligible. The only way you ever ensure that happens the right way is to have that kind of underwriting, and you would do that if you are going to have some continuing risk.

But if you are going to give a \$750,000 loan to somebody who makes \$17,000 a year—and it happened, by the way—a liar's loan, requiring no documentation, with no interest or principal paid because he put it all on the back side—if you can sell that in a security to somebody else and you have no further risk, you get your money free and clear. That is what was going on at every single level. It was just the most unbelievable, irresponsible lack of regulation, perhaps, in the history of this country.

I want to say that the government has made plenty of mistakes, but don't blame this Chamber or people who were elected to the Senate for the bad behavior of somebody who takes \$200 million away from the biggest mortgage finance company in this country and was selling liar's loans and advertising that if you have bad credit, no credit, slow credit, and bankruptcy, come to us, we are going to give you money. Don't blame that on somebody else. Put that blame where it rests—the unbelievable greed among the people who should have known better and should not have been able to do it in the first place because the regulators should have been all over them in a moment, saying: You cannot do it. That didn't happen.

This demonstrates the need for effective regulation. The free market system works, but when people try to subvert it, when people commit fouls in the free market system, it needs a referee with a whistle and a striped shirt. That was missing in the last decade.

Mr. President, one final point. Part of this argument is excusing criminal behavior because there wasn't a cop on the beat. Don't excuse the criminal behavior. We need cops on the beat. We need legislation that will make sure we close the loopholes that exist. We need to legislate soberly and thoughtfully and give the American people some notion that this behavior cannot happen again.

By the way, I think the way we do that is to make certain you cannot be too big to fail. By what justification should the major financial companies of this country continue this kind of concentration and escalation of size in a manner that jeopardizes this country should they fail? By what justification should we allow that to continue? The answer is that it should not.



There are two amendments to address that I am aware of—one by Senators BROWN and KAUFMAN, which creates a numerical limit on size, and I fully support. The other one, which I prefer because it has my name on it, is to flatout break up firms that have gotten too big to fail to the point where they are not too big to fail. That is the most effective way, in my judgment, to do this.

I will speak ever so briefly about the Sanders amendment. I got sidetracked by my colleague from Oklahoma, as is so often the case.

My colleague from Vermont has offered a piece of legislation that I think has great merit. Let me tell you what it doesn't do. It does not, as those who fear the amendment say, invoke the tentacles of the U.S. Congress in the construction of monetary policy. That area belongs to the Federal Reserve Board.

The Federal Reserve Board is a creature of legislation that Congress created. If you went back and read the debate, the country was assured that this was not creating a strong central bank. There were just lead pipe assurances to that, but, of course, that turned out not to be the case. Nonetheless, the Federal Reserve Board creates monetary policy, and there is a thought—and I agree with it—that we don't want monetary policy created on the floor of the Senate. We don't want to intrude on the creation or development of monetary policy. We do fiscal policy, the taxing and spending side. The monetary side is the Federal Reserve Board's terrain.

But the Federal Reserve Board ought not be unaccountable to anybody for anything. The Federal Reserve Board, it seems to me, deserves, No. 1, to be audited properly—a Government Accountability Office audit—which the Sanders amendment would require. And I know the Fed is having an apoplectic seizure thinking that maybe this amendment will pass. You know what. It is the right thing to do, to say at long, long last, there should be an audit of the Federal Reserve Board. I am not talking about auditing monetary policy but what it does generally. It is necessary, and I support this and think it is the right policy.

No. 2, this legislation does what I and many others have been pushing the Fed for, for some while. Last July of 2009, I had a letter signed by 10 of my colleagues to Chairman Bernanke saying: You have now used your emergency powers for the first time in U.S. history to open your loan window to investment banks, as never before in the history of our country. Serious financial problems, you say? Open the loan window and come and get some money. So we write and say: OK, you did that on an emergency basis for the first time in our history. What was the result? Who got the money? What were the terms and the conditions?

The American people deserved to have that information. I wrote again on March 19 of this year. On both occasions, we received letters from Chairman Bernanke that were polite, thoughtful, but that said: You know what. We don't intend to provide you or the American people information about what happened at our loan window. We don't intend to talk about the loans we gave to investment banks for the first time in history.

I wonder—and this is idle curiosity—did we have investment banks show up at this window and get near zero interest rate loans and then invest them back into Treasury bonds? How much money did they make on that transaction? I know many of these organizations—the largest investment banks—are now making record profits. But it is not as a result of loaning money to businesses in this country that need the lending; it is by trading securities—once again, right back in the same trench.

This legislation that my colleague, Senator SANDERS, has offered is legislation that will put in law a requirement that the Federal Reserve Board disclose the activities, in a certain period of time, of who received the lending from the Federal Reserve Board, what the conditions were, and what the amounts of funding were.

The Chairman of the Fed, who said this might make it very difficult and it will undermine this and that, undermine these programs, publicly releasing names—look, two Federal courts have required the Federal Reserve Board to do this. Two Federal courts—the district court and the appellate court—have said the Federal Reserve Board does not have the authority to withhold this information. The Federal Reserve Board has once again said: It doesn't matter, we intend to appeal again. They, apparently, intend to keep this tied up in the court system as long as they can. This amendment in this piece of legislation will say to the Federal Reserve Board: You cannot do that. The law requires you to disclose to the American people what you have done.

I come here to say I think this is a good bill. I had introduced a separate amendment on the disclosure by the Fed, but if we pass the Sanders amendment, that will take care of my amendment. Some people talked earlier about duplicates. Mine will be taken care of if we pass the larger amendment offered by Senator SANDERS.

I support the amendment. I know a good many of my colleagues will too. It has been a long time to try to get an audit of the Federal Reserve Board—not an audit of the monetary policy but an audit of the Federal Reserve Board. But if we do that, this will be a significant step forward for those of us who believe that is necessary and important for the country.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from South Carolina.

Mr. DEMINT. Mr. President, I join Senator DORGAN and Senator SANDERS in the amendment to audit the Federal Reserve.

Let me begin with a perspective on what happened in the stock market today. Clearly, someone got it wrong, and it created a domino effect of one thing falling after another, and before we knew it, the stock market was down 1,000 points. Fortunately, it climbed back up before it closed today.

It reminds us how volatile, how vulnerable we are in a world where so many systems are involved with our financial system.

It is good Congress is looking at financial reform. I only regret we are not dealing with the real causes of our financial crisis.

Wall Street is clearly jittery. We can see that from the stock market today. Everyone is waiting for the dominos to fall. We see what is happening in Greece, one country that continued to spend more than it was bringing in until it went bankrupt. Unfortunately, the American people are on the hook for yet another bailout, not even a bailout in this country but billions of American tax dollars are headed for Greece right now.

As other European countries head toward bankruptcy, last year in this Congress we created another credit line for the International Monetary Fund to be drawn down. The real irony is, we are borrowing money from countries such as China in order to bail out other countries in the world at a time when the United States is carrying \$13 trillion of debt and projections of tens of trillions of more dollars in the future. It is clearly unsustainable.

The stock market and investors have a reason to be jittery, and Americans have a reason to be angry. We saw what the failure of large government organizations such as Fannie Mae did and how it cost Americans trillions of dollars. People who had been saving and investing all their lives found out almost overnight that the system they counted on and that we were supposed to oversee was not what they thought it was, and suddenly wealth was gone.

If Fannie Mae could do that much damage to our country, that is small in comparison to what would happen if the Federal Reserve does it wrong.

The Constitution gives Congress the responsibility for our monetary policy. Congress, years ago, delegated that to an independent agency we call the Federal Reserve. But we are still responsible for monetary policy. If something is done wrong with that policy, all we worked for in this country, everyone's savings and investments, everyone's wealth, not only in this country but because we are the reserve currency for

the world, the whole economic system of the world is resting on top of what the Federal Reserve does.

The fact is, while it is our responsibility to oversee monetary policy, we do not know what the Federal Reserve is doing. Keep in mind, we were assured only months before Fannie Mae and Freddie Mac collapsed—and, by the way, we bailed them out and Freddie Mac for another \$10 billion this week—only months before they collapsed, we were told by Chairman Bernanke at the Federal Reserve and many other economic experts that there was no problem. But there was a problem. The real problem was we did not know it, and that was a company created by this Congress. It was our responsibility to oversee it, and we did not carry out our responsibility.

We need an independent Federal Reserve. We do not need political manipulation and second-guessing of our monetary policy. But we do not need a secret Federal Reserve. We have to know what they are doing if we are going to be responsible for what they are doing. It is not going to be enough if they do something wrong and we point our finger at them and say it was their fault because it is our responsibility.

For years, the Federal Reserve has been avoiding any kind of audit, any kind of accountability, any kind of transparency. Every time we ask for any type of disclosure, they say we are violating their independence. We are not violating their independence by this amendment proposed by Senator SANDERS. All we are doing is unclocking the secrecy that exists within the Federal Reserve.

It is important to know what we do know. We know the Federal Reserve has bailed out Bear Stearns and AIG. The taxpayers are stuck holding failed bets on everything from toxic subprime mortgages to strip malls and hotels. Thanks to the bailouts, taxpayers now own stakes in bankrupt Hilton hotels in Malaysia, Russia, and Singapore. I am not sure that is what the Congress had in mind when they started the Federal Reserve.

The Federal Reserve owns part of the Civic Opera building in Chicago and the Crossroads Mall in Oklahoma City. I thought it was bad when the Fed was printing money to keep up the government's shopping spree, but I never expected they would buy a mall to go shopping in.

They say it is over when the fat lady sings. Well, now the Fed has an opera house ready for her singing.

Americans deserve to know if the Federal Reserve is being honest with the Congress and with the American people. We know what they say behind closed doors does not square with what they say publicly.

Recently released transcripts show, in 2004, members of the Federal Reserve publicly downplayed specific con-

cerns they discussed internally about the coming housing crisis. They knew we had a problem. At that time, Chairman Alan Greenspan said, if they were to encourage the public to talk about it "it's possible to lose control of a process that only we fully understand." Meanwhile, they were telling the Congress and the public everything was fine.

By doing that, they cost millions of Americans a lifetime of savings, and they are still struggling. Millions of people are out of work because of mismanagement by the Federal Reserve. Yet they seem to think they require no supervision, no accountability, no transparency. We need to end that with this amendment today.

Within 30 days of the President signing this amendment that has been proposed, the Federal Reserve will have to tell us who got all this bailout money, how much they got and the reasoning for giving it and what terms of repayment there are. It is a pretty simple request. True financial reform must include a full audit of the Federal Reserve and a breakup and a winddown of Freddie Mac and Fannie Mae. But the people who run the government are not willing to hold the government institutions responsible.

Those who understand what happened in this financial crisis know that the easy money policy of the Federal Reserve, Fannie Mae and Freddie Mac buying subprime mortgages and securitizing them and selling them all over the world were a large part of the meltdown of our financial system. Yet this financial reform bill we are talking about does not even address the real causes of our financial meltdown. One thing we can do if we adopt this amendment is make sure there is more transparency, more accountability at the Federal Reserve.

As I already mentioned yesterday, Freddie Mac posted an \$8 billion loss. That is now fully owned by the Federal Government. The Federal Government is clearly mismanaging Freddie Mac, and they asked for another \$10 billion bailout from the taxpayers. This time that does not have to go through Congress. President Obama has taken the caps off anything that can go to these bankrupt companies. Billions of dollars are going to flow from taxpayers directly to these government-owned entities.

Freddie Mac and Fannie Mae together have lost at least \$126.9 billion so far. It is pretty amazing in a time when this country is overcome with debt. There is no end in sight. There is no cap on how much taxpayers can bail them out. Yet they are not even mentioned in this financial reform bill. We heard about greed on Wall Street, but we have not even addressed the greed within the government and within the government agencies.

The Democratic House Financial Services chairman, BARNEY FRANK,

does not think these government-run institutions are good candidates for reform. He wrote a memo to the White House saying they were "being managed responsibly and aren't doing any further economic damage." Fortunately, Senator McCAIN has an amendment to address this issue, and I hope it is adopted. But if there is one place the blame can be placed for this financial meltdown, it comes back to Fannie Mae and Freddie Mac.

Wall Street certainly deserves a lot of the blame for the financial crisis because they took advantage of a lot of the mismanagement in government to their own benefit. But the Federal Reserve, Freddie Mac, and Fannie Mae also deserve a lot of the blame, and they should be addressed as well.

The Sanders amendment at least begins the process in letting us know what the Federal Reserve is doing. The audit-the-Fed amendment has more than 300 cosponsors in the House and 32 in the Senate. It is supported by a broad spectrum of political groups from FreedomWorks all the way to very liberal groups. Within the Senate, if America wants bipartisan activity, it could not be more bipartisan than BERNIE SANDERS and JIM DEMINT.

I encourage my colleagues to support this amendment. Let's reform not only the financial system but our own house, and that includes the Federal Reserve.

I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Virginia.

Mr. WARNER. Madam President, I rise to speak very briefly, following the comments of my colleague from South Carolina on the pending amendment that I know has received broad bipartisan support. I also wish to comment on what happened in the market today.

The stock market was down about 347 points. But what was more telling was the stock market, at one point today, approached a loss of 1,000 points which, if it had held, would have been the largest single-day loss in modern history.

There were a number of causes. My colleague mentioned some clear concerns about the crisis in Greece. What it appears to be in terms of real-time reporting going on right now is that part of this precipitous drop took place because it appears there was a technology glitch on an order put in that had no backguard or safeguards to stop it.

I am going to quickly go into an area that is actually the expertise of Senator KAUFMAN. I know Senator McCAIN's amendment will be up in a moment.

I have heard, while sitting in that chair, my friend, the Senator from Delaware, come to this floor time and again to talk about the challenges that have been created in the marketplace with the increased use of high-speed

trading, flash trading, colocation, sponsored access—a whole series of technical terms but terms that we may have seen the first inkling today with what happens when these tools of technology do not work the way they are supposed to.

I ask my friend, the Senator from Delaware, who has spent time on this issue much more than I, today we saw—and I have become a believer and I know the SEC has started moving forward on the flash trading issue, but there is a series of other activities that as we go through this financial reform bill, we at least need to have more facts. I believe the SEC needs to have the resources to keep up with the marketplace. We saw a living, breathing real-time example of the potential catastrophe that could take place if we do not have the ability to adequately use the technology and have safeguards and realize how some of these firms are using this technology to get an advantage over the everyday Main Street investor.

Mr. KAUFMAN. Madam President, the Senator from Virginia right from the beginning has been sympathetic. Because of his great knowledge on Wall Street and finance, he has been a great source of encouragement to me. I have spoken on this floor repeatedly, and this is not a surprise. If this turns out to be the worst case of what we are talking about—we do not know.

What happened over the years is that we basically went from a market that was a floor-based market to a market that was digitalized and decimalized, where we began to have tenths using decimals as opposed to eighths. What happened is that markets, computer firms—if you want to read a great story, a book called “The Quants,” by Scott Patterson. People came into the market and began to develop these high-speed computers. Human beings were no longer doing the trading, computers were. They developed these algorithms. It ran automatically. It grew and grew, and now it is something like—they went from 30 percent to 70 percent of all the trades on our markets are in this high-frequency trading, using these high speed computers. There is no way to know what is going on. They trade 2,000 to 3,000 shares in a second. No one knows what is happening in the exchanges when this trading is going on. No one knows.

The Securities and Exchange Commission has said—after repeated requests—that we are going to go look at market structure. This is months ago. They say we are going to look into this. Now they are having a group look into it. Right now, there is no way to know what is happening in this marketplace. All we have been requesting from the Securities and Exchange Commission is that they take a look at what is happening.

Remember, you have 2,000 to 3,000 trades a second. The only records that

are kept are of the actual trades. But 90 percent—to let you know how complicated this is—90 percent of the trades are canceled. Why are they doing that? There are a lot of allegations about why they are doing this and what is going on, but right now we have this gigantic business—70 percent of our trading—and we have no idea what is going on.

I will say one final thing, because it reflects on this bill. What will happen if we allow our banks to be mingled with our investment banks and don't put some kind of cap on it? That is my big concern. Investment banks are into high risk things, and that is where most of these things are taking place. If you go back and look at derivatives, what we had under derivatives is a whole lot of money. Nobody argues, derivatives are gigantic. This is now gigantic. You had a lot of change. We went from very few derivatives to massive numbers of them. We went from 30 to 70 percent of all our trades being high frequency trading. We have no transparency as we have with derivatives. We didn't know what was going on in the derivatives market. We had no regulation, because you don't know what the trades are. And what happened? We had this gigantic meltdown.

I am saying that I totally agree with the Senator from Virginia. We have a very dangerous situation.

Mr. WARNER. I will wrap up very quickly.

We saw today, for example, in a matter of a moment or two, Procter & Gamble—one of America's premier companies—fall from \$60 to \$39. We saw another company fall from around \$30 to a penny stock. This was not the result of a market, this was the result of, I believe, some lack of oversight. There is nobody in this Chamber who is more of an advocate of technology and the powerful tool that technology can be, but we are seeing what the Senator from Delaware has been an early leader on. I have listened to his speeches for months, and everything in my gut says he is onto something here.

I have asked the chairman of the Banking Committee to make sure as this piece of legislation proceeds that we make sure that whether it is a study, whether it is an appropriate question of the SEC, this high speed, high frequency trading, colocation, sponsored access, all of these series of tools that seem to give the big guys a slightly bigger advantage over the everyday investor, be an appropriate subject of some additional study.

We may disagree about how we go into the last crisis, but I believe the Senator from Delaware is potentially on to what could be the next crisis. I think we perhaps saw a little window into that possibility today when the stock market got close, for moments in time—based on what appeared to be technology errors and high speed trad-

ing—to perhaps the single biggest loss in modern American history—a thousand point loss for a moment in time this afternoon.

I know the Senator from Arizona wants to talk about his issues as well. But there was a warning sign shot across the bow today, and if we don't deal with this as part of the mix, I think we are not acting appropriately.

Mr. KAUFMAN. I will yield, but this is a case where I think we have to look into this and see what is going on.

I yield for the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I want to discuss amendment No. 3839. This amendment is designed to end the taxpayer-backed conservatorship of Fannie Mae and Freddie Mac by putting in place an orderly transition period and eventually requiring them to operate without government subsidies on a level playing field with their private sector competitors.

Events of the last 2 years have made it clear that never again can we allow the taxpayer to be responsible for poorly managed financial entities which gamble away billions of dollars. Fannie Mae and Freddie Mac are synonymous with mismanagement and waste and have become the face of too big to fail. The time has come to end Fannie Mae and Freddie Mac's taxpayer-backed free ride and require them to operate on a level playing field.

I want to quote from an AP story yesterday entitled: “Freddie Mac seeks \$10.6B in aid after 1Q loss.” Freddie Mac is asking for \$10.6 billion in additional Federal aid after posting a big loss in the first 3 months of the year. It is another sign that the taxpayer bill for stabilizing the housing market will keep mounting. The McLean, VA-based mortgage finance company has been effectively owned by the government after nearly collapsing in September of 2008. The new request will bring the total tab for rescuing Freddie Mac to \$61.3 billion. Freddie Mac says it lost \$8 billion, or \$2.45 a share, in the January-March period. That takes into account \$1.3 billion in dividends paid to the Treasury Department. It compares with the loss of \$10.4 billion or \$3.18 a share, in the year-ago period.

So the beat goes on and the drainage goes on. Here on this chart we have the money yet to be repaid by institutions that received \$10 billion or more in taxpayer bailouts. Obviously, these organizations have paid back. GMAC still has \$16 billion they owe the taxpayer; Citigroup, \$25 billion; GM—despite their PR stunt the other day, where they say they paid back, with TARP money, they paid the taxpayers with taxpayer money—\$43.7 billion; AIG, \$69.8 billion; and, of course, Fannie and Freddie, \$125.9 billion plus.

I wish to begin today by calling my colleagues' attention to an editorial in

this morning's Wall Street Journal, which states:

Fan and Fred owned or guaranteed \$5 trillion in mortgages and mortgage-backed securities when they collapsed in September of 2008. Reforming the financial system without fixing Fannie and Freddie is like declaring a war on terror and ignoring al-Qaida.

I want to repeat that sentence for the benefit of my colleagues. This is from the Wall Street Journal this morning.

Reforming the financial system without fixing Fannie and Freddie is like declaring war on terror and ignoring al-Qaida.

Unreformed, they are sure to kill taxpayers again. Only yesterday, Freddie said it lost \$8 billion in the first quarter, requested another \$10.6 billion from Uncle Sam, and warned that it would need more in the future. This comes on top of the \$126.9 billion that Fan and Fred had already lost through the end of 2009. The duo are by far the biggest losers of the entire financial panic—bigger than AIG, Citigroup and the rest.

From the 2008 meltdown through 2020, the toxic twins will cost taxpayers close to \$380 billion, according to the Congressional Budget Office's cautious estimate.

The numbers, I say to my colleagues, are staggering—staggering.

The Obama administration won't even put the companies on budget for fear of the deficit impact, but it realizes the problem because last Christmas Eve—

Strangely enough on Christmas Eve—

... it raised the \$400 billion cap on their potential taxpayer losses to ... infinity. Moreover, these taxpayer losses understate the financial destruction wrought by Fan and Fred. By concealing how much they were gambling on risky subprime and Alt-A mortgages, the companies sent bogus signals on the size of these markets and distorted decision-making throughout the system. Their implicit government guarantee also let them sell mortgage-backed securities around the world, attracting capital to U.S. housing and thus turbocharging the mania.

Specifically, this amendment does several things:

It provides for a finite end to the current conservatorship period for both government-sponsored enterprises—GSEs—at 2 years of date from the enactment. The Federal Housing Finance Agency has an option to extend conservatorship for 6 months if the FHFA Director determines and notifies Congress that adverse market conditions exist. If at the end of conservatorship a GSE is not financially viable, the FHFA must place that GSE in receivership. If the GSE is financially viable, then it would be allowed to reenter the market under new operating restrictions.

It provides for the following changes to existing operating structure:

It calls for the repeal of the affordable housing goals mandates for the GSEs.

It calls for new limits for mortgage assets held on its books of no more than 95 percent of mortgage assets owned on December 31 of the prior year, reduced an additional 25 percent by the end of year 1, reduced an addi-

tional 25 percent by the end of year 2, and reduced to \$250 billion by the end of year 3.

It strengthens capital standards and allows them to be increased by the FHFA as necessary.

It calls for the repeal of the temporary increases in conforming loan limit and high cost area increases, and a return to the \$417,000 conforming loan limit for the first year, subject to annual adjustments by FHFA.

It provides for a prohibition on the purchase of mortgages exceeding the median home price for that area.

It calls for a minimum downpayment requirement of at least 5 percent for all new loans purchased by the GSE, increasing to 7.5 percent in the second year, and 10 percent in the third year.

It repeals the GSE exemption from having to pay State and local taxes.

I wonder how many of my colleagues and fellow citizens knew that Fannie and Freddie did not have to pay State and local taxes.

It calls for a repeal of the exemption allowing GSE securities to avoid full SEC registration.

In other words, given their enormous clout here in the Congress, Fannie and Freddie were able to have an exemption from their securities falling under SEC registration.

It calls for an assessment of fees on GSEs to recoup full value of the benefit due to guarantee provided by the Federal Government. And GAO will conduct a study to determine current value of government guarantee.

The amendment establishes a 3-year period after the end of conservatorship for GSEs to operate under new operating restrictions until their government charter expires. Upon charter expiration, it provides for a 10-year period with the creation of a separate holding corporation and a dissolution trust fund for any remaining mortgages or debt obligations held by the GSE.

It establishes a Senate-confirmed special inspector general within the Government Accountability Office with responsibility for investigating and reporting to Congress on decisions made with respect to the conservatorships of Fannie Mae and Freddie Mac. The SIG would provide quarterly reports to Congress.

While GSEs remain in conservatorship, it reestablishes the Federal funding limit of \$200 billion per institution for the GSEs and requires the GSEs to reduce their portfolio holdings by 10 percent of the prior year's holdings. It also establishes an approval process for any further agreements that put the taxpayers at risk.

It places Fannie Mae and Freddie Mac as part of the Federal budget as long as either institution is under a conservatorship or receivership.

Again, my colleagues might be interested that Fannie Mae and Freddie

Mac, and what we are doing with them now, is not part of the Federal budget—remarkable.

It requires the FHFA to establish minimum prudent underwriting standards for mortgage loans eligible for government-sponsored entities purchase. Minimum requirements will include verification and documentation of income and assets relied upon to qualify the borrower for the mortgage loan and determination of borrower's ability to repay the mortgage loan.

I might add that the Congressional Budget Office has indicated this amendment would save the taxpayers several billions of dollars annually. I repeat, the Congressional Budget Office states—and, by the way, it has not been given any phony assumptions such as a doc fix—this amendment would save the taxpayers several billions of dollars annually.

During the debate on this financial reform bill, we will continue to hear a lot about how the U.S. Government will never again allow a financial institution to become too big to fail. We will hear continuous calls for more regulation to ensure that taxpayers are never again placed at such tremendous risk.

Sadly, and I say very sadly, the underlying bill completely ignores the elephant in the room because no other entity's failure would be as disastrous to our economy as Fannie Mae's and Freddie Mac's. Yet this bill does not address them at all.

In a recent Opinion Piece in the Wall Street Journal, Robert Wilmsers wrote:

Congress may be making progress crafting new regulations for the financial-services industry, but it has yet to begin reforming two institutions that played a key role in the 2008 credit crisis—Fannie Mae and Freddie Mac.

We cannot reform these government-sponsored enterprises unless we fully confront the extent to which their outrageous behavior and reckless business practices have affected the entire commercial banking sector and the U.S. economy as a whole.

At the end of 2009, their total debt outstanding—either held directly on their balance sheets or as guarantees on mortgage securities they'd sold to investors—was \$8.1 trillion. That compares to \$7.8 trillion in total marketable debt outstanding for the entire U.S. government. The debt has the implicit guarantee of the federal government but is not reflected on the national balance sheet.

The public has focused more on taxpayer bailouts of banks, auto makers and insurance companies. But the scale of the rescue required in September 2008 when Fannie and Freddie were forced into conservatorship—their version of bankruptcy—was staggering. To date, the federal government has been forced to pump \$126 billion into Fannie and Freddie. That's far more than AIG, which absorbed \$70 billion of government largess, and General Motors and Chrysler, which shared \$77 billion. Banks received \$205 billion, of which \$136 billion has been repaid.

Fannie and Freddie continue to operate deeply in the red, with no end in sight. The Congressional Budget Office estimated that

if their operating costs and subsidies were included in our accounting of the overall federal deficit—as properly they should be—the 2009 deficit would be greater by \$291 billion.

The op-ed continues:

All this happened in the name of the “American Dream” of home ownership. But there’s no evidence Fannie and Freddie helped much, if at all, to make this dream come true. Despite all their initiatives since the early 1970s, shortly after they were incorporated as private corporations protected by government charters, the percentage of American households owning homes has increased by merely four percentage points to 67%.

According to a 2004 Congressional Budget Office study, the two GSEs enjoyed \$23 billion in subsidies in 2003—primarily in the form of lower borrowing costs and exemption from state and local taxation. But they passed on only \$13 billion to home buyers. Nevertheless, one former Fannie Mae CEO, Franklin Raines, received \$91 million in compensation from 1998 through 2003.

Amazing.

In 2006, the top five Fannie Mae executives shared \$34 million in compensation, while their counterparts at Freddie Mac shared \$35 million. In 2009, even after the financial crash and as these two GSEs fell deeper into the red, the top five executives at Fannie Mae received \$19 million in compensation and the CEO earned \$6 million.

This is not private enterprise—it’s crony capitalism, in which public subsidies are turned into private riches. From 2001 through 2006, Fannie and Freddie spent \$123 million to lobby Congress—the second-highest lobbying total in the country. That lobbying was complemented by sizable direct political contributions to members of Congress.

Changing this terrible situation will not be easy. The mortgage market has come to be structured around Fannie and Freddie and powerful interests are allied with the status quo.

Nonetheless, Congress must get to work on the reform of Fannie Mae and Freddie Mac. A healthy housing market, a healthy financial system and even the bond rating of the federal government depend on it.

There have been countless warnings about the mismanagement of both Fannie and Freddie over the years. In May of 2006, after a 27-month investigation into the corrupt corporate culture and accounting practices at Fannie Mae, the Office of Federal Housing Enterprise Oversight—OFHEO—the Federal regulator charged with overseeing Fannie Mae—issued a blistering, 348-page report which stated that:

Fannie Mae senior management promoted an image of the Enterprise as one of the lowest-risk financial institutions in the world and as “best in class” in terms of risk management, financial reporting, internal control, and corporate governance. The findings in this report show that risks at Fannie Mae were greatly understated and that the image was false.

During the period covered by this report—1998 to mid-2004—Fannie Mae reported extremely smooth profit growth and hit announced targets for earnings per share precisely each quarter. Those achievements were illusions deliberately and systematically created by the Enterprise’s senior management with the aid of inappropriate ac-

counting and improper earnings management.

A large number of Fannie Mae’s accounting policies and practices did not comply with Generally Accepted Accounting Principles (GAAP). The Enterprise also had serious problems of internal control, financial reporting, and corporate governance. Those errors resulted in Fannie Mae overstating reported income and capital by a currently estimated \$10.6 billion.

By deliberately and intentionally manipulating accounting to hit earnings targets, senior management maximized the bonuses and other executive compensation they received, at the expense of shareholders. Earnings management made a significant contribution to the compensation of Fannie Mae Chairman and CEO Franklin Raines, which totaled over \$90 million from 1998 through 2003. Of that total, over \$52 million was directly tied to achieving earnings per share targets.

Fannie Mae consistently took a significant amount of interest rate risk and, when interest rates fell in 2002, incurred billions of dollars in economic losses. The Enterprise also had large operational and reputational risk exposures.

Fannie Mae’s Board of Directors contributed to those problems by failing to be sufficiently informed and to act independently of its chairman, Franklin Raines, and other senior executives; by failing to exercise the requisite oversight over the Enterprise’s operations; and by failing to discover or ensure the correction of a wide variety of unsafe and unsound practices.

The Board’s failures continued in the wake of revelations of accounting problems and improper earnings management at Freddie Mac and other high profile firms, the initiation of OFHEO’s special examination, and credible allegations of improper earnings management made by an employee of the Enterprise’s Office of the Controller.

Senior management did not make investments in accounting systems, computer systems, other infrastructure, and staffing needed to support a sound internal control system, proper accounting, and GAAP-consistent financial reporting. Those failures came at a time when Fannie Mae faced many operational challenges related to its rapid growth and changing accounting and legal requirements.

Fannie Mae senior management sought to interfere with OFHEO’s special examination by directing the Enterprise’s lobbyists to use their ties to Congressional staff to No. 1, generate a Congressional request for the Inspector General of the Department of Housing and Urban Development (HUD) to investigate OFHEO’s conduct of that examination and No. 2, insert into an appropriations bill language that would reduce the agency’s appropriations until the Director of OFHEO was replaced.

OFHEO has directed and will continue to direct Fannie Mae to take remedial actions to enhance the safe and sound operation of the Enterprise going forward. OFHEO staff recommends actions to enhance the goal of maintaining the safety and soundness of Fannie Mae.

A remarkable report.

So what steps were taken by the Congress to punish Fannie Mae for such deliberate manipulation and outright corruption? Basically: NONE. According to published reports—including Fannie Mae’s own news release—Daniel Mudd, the president and CEO of Fannie

Mae at the time, was awarded over \$14.4 million in 2006—the year this report was issued, and over \$12.2 million in 2007 in salary, bonuses and stock. And Fannie Mae continued their risky behavior—successfully posting profits of \$4.1 billion in 2006.

The blatant corruption reported by the OFHEO led me to come to the Senate floor back in 2006 and call for the immediate consideration of GSE regulatory reform legislation. At the time I said:

For years I have been concerned about the regulatory structure that governs Fannie Mae and Freddie Mac and the sheer magnitude of these companies and the role they play in the housing market. OFHEO’s report this week does nothing to ease these concerns. In fact, the report does quite the contrary. OFHEO’s report solidifies my view that the GSEs need to be reformed without delay.

If Congress does not act, American taxpayers will continue to be exposed to the enormous risk that Fannie Mae and Freddie Mac pose to the housing market, the overall financial system, and the economy as a whole.

Additionally, also in May, 2006, I joined 19 of my colleagues in writing to the majority leader urging him to bring the Federal Housing Enterprise Regulatory Reform Act to the floor for debate.

I ask unanimous consent this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, May 5, 2006.

Hon. WILLIAM H. FRIST, MD,  
Majority Leader, U.S. Senate,  
Washington, DC.

Hon. RICHARD C. SHELBY,  
Chairman, Banking, Housing and Urban Affairs  
Committee, U.S. Senate,  
Washington, DC.

DEAR MAJORITY LEADER FRIST AND CHAIRMAN SHELBY, We are concerned that if effective regulatory reform legislation for the housing-finance government sponsored enterprises (GSEs) is not enacted this year, American taxpayers will continue to be exposed to the enormous risk that Fannie Mae and Freddie Mac pose to the housing market, the overall financial system, and the economy as a whole. Therefore, we offer you our support in bringing the Federal Housing Enterprise Regulatory Reform Act (S. 190) to the floor and allowing the Senate to debate the merits of this bill, which was passed by the Senate Banking Committee.

Congress chartered Fannie and Freddie to provide access to home financing by maintaining liquidity in the secondary mortgage market. Today, almost half of all mortgages in the U.S. are owned or guaranteed by these GSEs. They are mammoth financial institutions with almost \$1.5 trillion of debt outstanding between them. With the fiscal challenges facing us today (deficits, entitlements, pensions and flood insurance), Congress must ask itself who would actually pay this debt if Fannie or Freddie could not?

Substantial testimony calling for improved regulation of the GSEs has been provided to the Senate by the Treasury, Federal Reserve, HUD, GAO, CBO, and others. Congress has the opportunity to recommit itself

to the housing mission of the GSEs while at the same time making sure the GSEs operate in a manner that does not expose our financial system, or taxpayers, to unnecessary risk. It is vitally important that Congress take the necessary steps to ensure that these institutions benefit from strong and independent regulatory supervision, operate in a safe and sound manner, and are primarily focused on their statutory mission. More importantly, Congress must ensure that the American taxpayer is protected in the event either GSE should fail. We strongly support an effort to schedule floor time this year to debate GSE regulatory reform.

Sincerely,

Chuck Hagel; John E. Sununu; John McCain; Elizabeth Dole; Lindsey Graham; Jeff Sessions; Wayne Allard; Mike Crapo; Jim Bunning; Jon Kyl; Rick Santorum; Mel Martinez; Judd Gregg; John Thune; Richard Burr; John Ensign; Larry Craig; Jim DeMint; James M. Inhofe; Tom Coburn.

Mr. MCCAIN. The letter stated in part:

Substantial testimony calling for improved regulation of the GSEs has been provided to the Senate by the Treasury, Federal Reserve, HUD, GAO, CBO, and others. Congress has the opportunity to recommit itself to the housing mission of the GSEs while at the same time making sure the GSEs operate in a manner that does not expose our financial system, or taxpayers, to unnecessary risk. It is vitally important that Congress take the necessary steps to ensure that these institutions benefit from strong and independent regulatory supervision, operate in a safe and sound manner, and are primarily focused on their statutory mission.

More importantly, Congress must ensure that the American taxpayer is protected in the event either GSE should fail.

Sadly, the bill which had passed the Senate Banking Committee under the leadership of then-Chairman SHELBY, with the support of all the committee's Republicans and none of the Democrats, was not brought up for consideration before this body.

It is critical to note, it was in 2005 that the GSEs, which had been acquiring increasing numbers of subprime loans for many years in order to meet their HUD-imposed affordable housing requirements, accelerated the purchases that led to their 2008 insolvency.

If legislation along the lines of the Senate Banking Committee's bill had been enacted that year, many if not all the losses Fannie Mae and Freddie Mac suffered, and will suffer in the future, may have been avoided. I wish to make it clear to my colleagues: Failure of Congress to act could have prevented—if they had acted—many of the failures we are now facing.

Any criticism leveled at Congress for the failures in Fannie Mae and Freddie Mac is very well placed. On October 3, 2008, the Wall Street Journal reported on how Congress pushed Fannie Mae and Freddie Mac to increase the purchases of low- and moderate-income borrowers. They wrote:

Beginning in 1992, Congress pushed Fannie Mae and Freddie Mac to increase their purchases of mortgages going to low- and mod-

erate-income borrowers. For 1996, the Department of Housing and Urban Development (HUD) gave Fannie and Freddie an explicit target—42 percent of their mortgage financing had to go to borrowers with income below the median in their area. The target increased to 50 percent in 2000 and 52 percent in 2005.

For 1996, HUD required that 12 percent of all mortgages purchased by Fannie Mae and Freddie Mac be “special, affordable” loans, typically to borrowers with income less than 60 percent of their area's median income. That number was increased to 20 percent in 2000 and 22 percent in 2005. The 2008 goal was to be 28 percent.

Between 2000 and 2005, Fannie Mae and Freddie Mac met these goals every year, funding hundreds of billions of dollars' worth of loans, many of them subprime and adjustable rate loans made to borrowers who bought houses with less than 10 percent down.

Fannie Mae and Freddie Mac also purchased hundreds of billions of subprime securities for their own portfolios to make money and help satisfy HUD affordable housing goals. Fannie Mae and Freddie Mac were important contributors to the demand for subprime securities. Congress designed Fannie Mae and Freddie Mac to serve both their investors and the political class.

Demanding that Fannie Mae and Freddie do more to increase home ownership among poor people allowed Congress and the White House to subsidize low-income housing outside the budget, at least in the short run. It was a political free lunch. The Community Reinvestment Act, CRA, did the same thing with traditional banks. It encouraged banks to serve two masters, their bottom line and the so-called common good.

First passed in 1977, the CRA was “strengthened” in 1995, causing an increase of 80 percent in the number of bank loans going to low- and moderate-income families. By the way, there is nothing wrong with that as long as they meet the fundamental criteria, that they are borrowing money they can pay back.

Fannie Mae and Freddie Mac were part of the CRA story too. In 1997, Bear Stearns did the first securitization of CRA loans, a \$384 million offering guaranteed by Freddie Mac. Over the next 10 months, Bear Stearns issued \$1.9 billion of CRA mortgages backed by Fannie Mae or Freddie Mac.

Between 2000 and 2002, Fannie Mae securitized \$394 billion in CRA loans, with \$20 billion going to securitize the mortgages. Fannie Mae and Freddie Mac played a significant role in the explosion of subprime mortgages and subprime mortgage-backed securities.

Without Fannie Mae and Freddie Mac's implicit guarantee of government support, which turned out to be all too real, would the mortgage-backed securities market and the

subprime part of it have expanded the way they did? Perhaps. But before we conclude that markets failed, we need a careful analysis of public policy's role in creating this mess. Greedy investors obviously played a part, but investors have always been greedy, and some inevitably overreach and destroy themselves.

Why did they take so many down with them this time? Part of the answer is, a political class greedy to push home ownership rates to historic highs, from 64 percent in 1994 to 69 percent in 2004. This was mostly the result of loans to low-income, higher risk borrowers. Both Bill Clinton and George W. Bush, abetted by Congress, trumpeted this rise as it occurred.

The consequence, on top of putting the entire financial system at risk, the hidden cost has been hundreds of billions of dollars funneled into the housing market instead of more productive assets. Beware of trying to do good with other people's money.

Unfortunately, that strategy remains at the heart of the political process and a proposed solution to this crisis. Congress had the responsibility to ensure that Fannie Mae and Freddie Mac were properly supervised and adequately regulated. Congress failed. The devastation caused by that failure continues to reverberate across the Nation as more and more families face foreclosures every day.

In September 2008, the Washington Post published an in-depth article titled: “How Washington Failed to Rein in Fannie, Freddie. As Profits Grew, Firms Used Their Power To Mask Peril.” It is extremely informative and raised many troubling questions about the culture of corruption which is evident in the operations of both enterprises.

The Post piece begins:

Gary Gensler, an undersecretary of the Treasury, went to Capitol Hill in March 2000 to testify in favor of a bill everyone knew would fail.

Fannie Mae and Freddie Mac were ascendent, giants of the mortgage finance business and key players in the Clinton administration's drive to expand home ownership. But Gensler and other Treasury officials feared the companies had grown so large that, if they stumbled, the damage to the U.S. economy could be staggering. Few officials had ever publicly criticized Fannie Mae and Freddie Mac, but Gensler concluded it was time to rein them in.

“We thought this was a hand-on-the-Bible moment,” he recalled.

The bill failed.

The companies kept growing, the dangers posed by their scale and financial practices kept mounting, critics kept warning of the consequences. Yet across official Washington, those who might have acted repeatedly failed to do so until it was too late.

Blessed with the advantages of a government agency and a private company “at the same time, Fannie Mae and Freddie Mac used their windfall profits to co-opt the politicians who were supposed to control them. The companies fought successfully against



increased regulation by cultivating their friends and hounding their enemies.

The agencies that regulated the companies were outmatched: They lacked the money, the staff, the sophistication and the political support to serve as an effective check.

But most of all, the companies were protected by the belief widespread in Washington—and aggressively promoted by Fannie Mae and Freddie Mac—that their success was inseparable from the expansion of homeownership in America. That conviction was so strong that many lawmakers and regulators ignored the peril posed to that ideal by the failure of either company.

In October 1992, a brief debate unfolded on the floor of the House of Representatives over a bill to create a new regulator for Fannie Mae and Freddie Mac. On one side stood Jim Leach, an Iowa Republican concerned that Congress was “hamstringing” this new regulator at the behest of the companies.

He warned that the two companies were changing “from being agencies of the public at large to money machines for the stockholding few.”

On the other side stood Barney Frank, a Massachusetts Democrat, who said the companies served a public purpose. They were in the business of lowering the price of mortgage loans.

Congress chose to create a weak regulator, the Office of Federal Housing Enterprise Oversight. The agency was required to get its budget approved by Congress, while agencies that regulated the banks set their own budgets. That gave Congressional allies an easy way to exert pressure.

“Fannie Mae’s lobbyists worked to ensure that [the] agency was poorly funded and its budget remained subject to approval in the annual appropriations process,” OFHEO said more than a decade later in a report on Fannie Mae. “The goal of senior management was straightforward: to force OFHEO to rely on the [Fannie] for information and expertise to the degree that Fannie Mae would essentially regulate itself.”

Congress also wanted to free up money for Fannie Mae and Freddie Mac to buy mortgage loans and specified that the pair would be required to keep a much smaller share of their funds on hand than other financial institutions. Where banks that held \$100 could spend \$90 buying mortgage loans, Fannie Mae and Freddie Mac could spend \$97.50 buying loans.

Finally, Congress ordered that the companies be required to keep more capital as a cushion against losses if they invested in riskier securities. But the rule was never set during the Clinton administration, which came to office that winter, and was only put in place nine years later.

The Clinton administration wanted to expand the share of Americans who owned homes, which had stagnated below 65 percent throughout the 1980s. Encouraging the growth of the two companies was a key part of that plan.

“We began to stress homeownership as an explicit goal for this period of American history,” said Henry Cisneros, then Secretary of Housing and Urban Development. “Fannie Mae and Freddie Mac became part of that equation.”

The result was a period of unrestrained growth for the companies. They had pioneered the business of selling bundled mortgage loans to investors and now, as demand for investors soared, so did their profits.

Near the end of the Clinton administration, some of its officials had concluded the

companies were so large that their sheer size posed a risk to the financial system.

In the fall of 1999, Treasury Secretary Lawrence Summers issued a warning, saying, “Debates about systemic risk should also now include government-sponsored enterprises, which are large and growing rapidly.”

It was a signal moment. An administration official had said in public that Fannie Mae and Freddie Mac could be a hazard.

The next spring, seeking to limit the companies’ growth, Treasury official Gensler testified before Congress in favor of a bill that would have suspended the Treasury’s right to buy \$2.25 billion of each company’s debt—basically, a \$4.5 billion lifeline for the companies.

A Fannie Mae spokesman announced that Gensler’s remarks had just cost 206,000 Americans the chance to buy a home because the market now saw the companies as a riskier investment.

The Treasury Department folded in the face of public pressure.

There was an emerging consensus among politicians and even critics of the two companies that Fannie Mae might be right. The companies increasingly were seen as the engine of the housing boom. They were increasingly impervious to calls for even modest reforms.

As early as 1996, the Congressional Budget Office had reported that the two companies were using government support to goose profits, rather than reducing mortgage rates as much as possible.

But the report concluded that severing government ties with Fannie Mae and Freddie Mac would harm the housing market. In unusually colorful language, the budget office wrote, “Once one agrees to share a canoe with a bear, it is hard to get him out without obtaining his agreement or getting wet.”

Fannie Mae and Freddie Mac enjoyed the nearest thing to a license to print money. The companies borrowed money at below-market interest rates based on the perception that the government guaranteed repayment, and then they used the money to buy mortgages that paid market interest rates. Federal Reserve Chairman Alan Greenspan called the difference between the interest rates a “big, fat gap.” The budget office study found that it was worth \$3.9 billion in 1995. By 2004, the office would estimate it was worth \$20 billion.

As a result, the great risk to the profitability of Fannie Mae and Freddie Mac was not the movement of interest rates or defaults by borrowers, the concerns of normal financial institution. Fannie Mae’s risk was political, the concern that the government would end its special status.

So the companies increasingly used their windfall for a massive campaign to protect that status.

“We manage our political risk with the same intensity that we manage our credit and interest rate risks,” Fannie Mae chief executive Franklin Raines said in a 1999 meeting with investors.

Fannie Mae, and to a lesser extent Freddie Mac, became enmeshed in the fabric of political Washington. They were places former government officials went to get wealthy—and to wait for new federal appointments. At Fannie Mae, chief executives had clauses written into their contracts spelling out the severance benefits they would receive if they left for a government post.

The companies also donated generously to the campaigns of favored politicians.

But Fannie Mae wasn’t just buying influence. It was selling government officials on

an idea by making its brand synonymous with homeownership. The company spent tens of millions of dollars each year on advertising.

In tying itself to politicians and wrapping itself in the American flag, Fannie Mae went out of its way to share credit with politicians for investments in their communities.

“They have always done everything in their power to massage Congress,” Leach said.

And when they couldn’t massage, they intimidated. In 2003, Richard H. Baker (R-La.), chairman of the House Financial Services subcommittee with oversight over Fannie Mae and Freddie Mac, got information from OFHEO on the salaries paid to executives at both companies. Fannie Mae threatened to sue Baker if he released it, he recalled. Fearing the expense of a court battle, he kept the data secret for a year.

Baker, who left office in February, 2008, said he had never received a comparable threat from another company in 21 years in Congress. “The political arrogance exhibited in their heyday, there has never been before or since a private entity that exerted that kind of political power,” he said.

In June 2003, Freddie Mac dropped a bombshell: It had understated its profits over the previous three years by as much as \$6.9 billion in an effort to smooth out earnings.

OFHEO seemed blind. Months earlier, the regulator had pronounced Freddie’s accounting controls “accurate and reliable.”

Humiliated by the scandal, then-OFHEO director Armando Falcon Jr. persuaded the White House to pay for an outside accountant to review the books of Fannie Mae. The agency reported in September 2004 that Fannie Mae also had manipulated its accounting, in this case to inflate its profits.

The companies soon faced new bills in both the House and the Senate seeking increased regulation. The Bush administration took the hardest line, insisting on a strong new regulator and seeking the power to put the companies into receivership if they floundered. That suggested the government might not stand behind the companies’ debt.

Fannie Mae and Freddie Mac succeeded in escaping once more, by pounding every available button.

The companies orchestrated a letter-writing campaign by traditional allies including real estate agents, home builders and mortgage lenders. Fannie Mae ran radio and television ads ahead of a key Senate committee meeting, depicting a Latino couple who fretted that if the bill passed, mortgage rates would go up.

The wife lamented: “But that could mean we won’t be able to afford the new house.”

Most of all, the company leaned on its Congressional supporters.

Fannie Mae even persuaded the New York Stock Exchange to allow its shares to keep trading. The company had not issued a required report on its financial condition in a year. The rules of the exchange required delisting. So the exchange created an exception when “delisting would be significantly contrary to the national interest.”

The amendment was approved by the Securities and Exchange Commission. Fannie Mae would remain on the New York Stock Exchange.

As Fannie Mae and Freddie Mac were trying to recover from their accounting scandals, a new and ultimately mortal threat emerged. Yet again, the warnings went unheeded for too long.

The companies had begun buying loans made to borrowers with credit problems.



Fannie Mae and Freddie Mac had been losing market share to Wall Street banks, which were doing boomtown business packaging these riskier loans. The mortgage finance giants wanted a share of the profits.

Soon, the firms' own reports were noting the growing risk of their portfolios. Dense monthly summaries of the companies' mortgage purchases were piling up at OFHEO.

An employee at one of the companies said it was already a constant discussion around the office in 2004: When would the regulators notice?

"It didn't take a lot of sophistication to notice what was happening to the quality of the loans. Anybody could have seen it," the staffer said. "But nobody on the outside was even questioning us about it."

President Bush had pledged to create an "ownership society," and the companies were helping the administration achieve its goal of putting more than 10 million Americans into their first homes.

Fannie Mae and Freddie Mac's appetite for risky loans was growing ever more voracious. By the time OFHEO began raising red flags in January 2007, many borrowers were defaulting on loans and within months Fannie Mae and Freddie Mac would be running out of money to cover the losses.

Finally, as the credit crisis escalated, Congress passed a bill in July of 2008 that established a tough, new regulator for Fannie Mae and Freddie Mac. It was too late.

Americans are hurting. The economic situation remains depressed in my State. Unemployment is at record levels. The time has come to end the taxpayer-funded free ride of the gambling institutions. We cannot afford it anymore.

Mr. President, for us to somehow say we are going to enact significant and meaningful financial regulatory reform without addressing this situation—these hundreds of billions of dollars of toxic assets that still have not been resolved; two government-supported enterprises that have been propped up by the taxpayers of America for too long, while they engaged in the riskiest of enterprises, paying obscene profits to their executives and CEOs, their boards of directors derelict in their duties, criminally so.

We must enact reform of Freddie and Fannie if we are going to perform our duties, albeit too late—too late because of the terrible losses we have inflicted on the American taxpayers. But it is not too late to fix it.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Thank you, Mr. President.

I rise to speak for a moment again about my amendment No. 3746, of which I am delighted that the distinguished Presiding Officer is a cosponsor. I ask unanimous consent that Chairman PATRICK LEAHY, Senator JIM WEBB, and Senator BOB CASEY all be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. Just to recap it briefly, if you go around the country—

Mr. DODD. Mr. President, will the Senator yield for a moment?

Mr. WHITEHOUSE. I will be glad to yield to the chairman.

Mr. DODD. Mr. President, I see my friend from Arizona.

Can I ask the Senator, did he lay down his amendment? I am unclear.

Mr. MCCAIN. I have not laid down the amendment because I understand the Senator from Connecticut would move to table, and there are numerous Members who want to talk on this issue—this multitrillion-dollar issue. So, no, I have not. But I can also assure the Senator from Connecticut, if I propose the amendment, and it is tabled without proper debate, there will be another amendment just like it.

Mr. DODD. Let me say to my friend from Arizona—and he is my friend—I have no intention of immediately tabling anyone's amendment. I have not done that at all in the process. I think most Members appreciate I have been trying to make sure everybody has a chance to be heard and to work out amendments where we can so we can move along.

You can also understand my dilemma, in a sense. We have 100 Members here who basically all have amendments on which they want to get heard. Everyone thinks their amendment is pretty important, and I respect that. All I am trying to look for are some time agreements so we can say: How long do we need? So we can then set up a schedule whereby, with some predictability—Members want to go home tomorrow. Are we going to have votes tomorrow? Are we going to have votes on Monday?

I am just trying to have a schedule so I can accommodate as many people as I can so they can be heard on their matters. That is all I am seeking. I am not trying to shortcut anybody, although I would ask for reasonableness on time so everybody gets a crack at what they would like to do. That is all I am inquiring.

Mr. MCCAIN. In the words of Humphrey Bogart in *Casablanca*, I was misinformed because I was told by several different individuals that you would be moving to table the amendment if it was proposed. I am glad to hear that is not the case. I know of at least 20 Members on this side who want to speak on this issue. I will try to compile that and try to come to the Senator with a list and the time they want to discuss.

With all due respect to all the other amendments—and I do not say this very often—when we are talking about trillions of dollars—trillions of dollars—this is a very important amendment. So I will try to get to the distinguished chairman—I say with sympathy and respect—a list of speakers and the amount of time they may consume as soon as possible.

Mr. DURBIN. Mr. President, will the Senator from Arizona yield for a question?

Can I ask the Senator from Arizona, while he is working out his list and speakers and time, can we move some other amendments?

Mr. MCCAIN. Sure. Absolutely.

Mr. DURBIN. Bring them to a vote on the floor this evening?

Mr. MCCAIN. Absolutely.

Mr. DURBIN. Does the Senator have any objection to that?

Mr. MCCAIN. I have no objection to moving other amendments while I am doing that. None whatsoever.

Mr. DURBIN. On both sides of the aisle I hope we can work to accomplish that.

Mr. MCCAIN. We have to ask our leader but, yes, that is fine. Our two leaders say it is fine. I thank you.

Mr. DODD. I thank the Senator from Arizona.

We have Senator SANDERS' pending amendment, on which I think we have reached a lot of consensus. I would like to see us get a vote on it. I know there are some issues that are—I will not mention them at all, but my hope is my colleagues might let us go to this. Is there any chance of that at all? Would someone get back to me and let me know it we can—

I urge a vote on the Sanders amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DODD. Is there a sufficient second?

The PRESIDING OFFICER. There is not a sufficient second.

Mr. SANDERS. Point of order: How many hands do you need up?

The PRESIDING OFFICER. Twenty.

Ordering the yeas and nays does not force a vote on the amendment.

Mr. REID. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk called the roll, and the following Senators entered the Chamber and answered to their names.

[Quorum No. 3 Leg.]

Alexander	Gregg	Sanders
Bennett (CO)	Hagan	Schumer
Brown (OH)	Isakson	Shelby
Burris	McCaIn	Udall (CO)
Dodd	Murray	Warner
Durbin	Reid (NV)	Whitehouse

The PRESIDING OFFICER. A quorum is not present.

The majority leader is recognized.

Mr. REID. Mr. President, I enter a motion to instruct the Sergeant at Arms to request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the

Senator from South Carolina (Mr. DE MINT), the Senator from Arizona (Mr. KYL), the Senator from Indiana (Mr. LUGAR), and the Senator from Ohio (Mr. VOINOVICH).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 33, as follows:

[Rollcall Vote No. 134 Leg.]

#### YEAS—61

Akaka	Gillibrand	Murray
Baucus	Graham	Nelson (NE)
Bayh	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Hatch	Reed
Bingaman	Inouye	Reid
Boxer	Johnson	Rockefeller
Brown (MA)	Kaufman	Sanders
Brown (OH)	Kerry	Schumer
Burr	Klobuchar	Shaheen
Cantwell	Kohl	Specter
Cardin	Landrieu	Stabenow
Carper	Lautenberg	Tester
Casey	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Dodd	Lieberman	Warner
Dorgan	Lincoln	Webb
Durbin	McCaskill	Whitehouse
Feingold	Menendez	Wyden
Feinstein	Merkley	
Franken	Mikulski	

#### NAYS—33

Alexander	Cornyn	McCain
Barrasso	Crapo	McConnell
Bond	Ensign	Murkowski
Brownback	Enzi	Risch
Bunning	Grassley	Roberts
Burr	Gregg	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Corker	LeMieux	Wicker

#### NOT VOTING—6

Bennett	DeMint	Lugar
Byrd	Kyl	Voinovich

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader is recognized.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I am sometimes a patient person. I am really doing my best to be patient. I am going into this with good faith, as I hope my Republican colleagues are. We have not gotten a lot done. The issue we are working on is very important. But I just tell my friends on the other side of the aisle, we do not need a filibuster by some other name. I am approaching this in good faith.

People have worked very hard. We have a lot to do. I think it goes without saying that we were at a meeting today, and we were told we have to complete the supplemental for the war spending by the time we leave here.

That came from Secretary Gates. We have a lot to do.

My suggestion is that people who want to offer amendments work tomorrow, they work Saturday and Sunday. The Banking staff will be available and the Agriculture staff will be available. If you have amendments, bring them together. We have a lot of amendments, but many of them are on the same subject. Work with the Banking staff and the Agriculture staff to come up with the amendments we can move through as quickly as possible. I want people, if they have something to say, to say it, but we don't need hours and hours to say it.

One of the most important amendments we are trying to do is one that has been talked about by Senators KAUFMAN and BROWN for weeks. And he has agreed to take 5 minutes on it. It has been talked about. We have read it. Senator BROWN has agreed to take 5 minutes. We have read about it in the press. Everybody knows what he is trying to do. So I appreciate very much the Republicans allowing us to move forward on this amendment tonight. But, please, over the next few days we have a lot of amendments that are important, and I understand that, but when it comes time to offer these amendments, you need a lot of work on them. It always happens because it is a complicated bill. And we only need one amendment. We do not need the same amendment offered by five different Senators.

I appreciate everyone's patience tonight. We are trying to work through this. We are not going to have votes tomorrow. We are going to have votes tonight. And it has been hard to get here.

I appreciate the conversation I had with the Republican leader earlier today, and I know how hard this has been for the two managers of this part of the bill, Senators DODD and SHELBY.

Senator SHELBY has been especially gracious during the whole day. This is his birthday. His wonderful wife is waiting for him for dinner. She has been waiting for an hour now, and she is going to have to wait a little while longer, as she has waited for him a long time on other occasions. So we wish him a happy birthday.

I ask unanimous consent that the following be the next amendments in order: Cantwell amendment No. 3786, to be modified with the changes at the desk, and it is my understanding that is going to go by voice; Brown amendment No. 3733, with a second-degree amendment by Senator ENSIGN, amendment No. 3869; that Senator BROWN will have 5 minutes, Senator ENSIGN will have 5 minutes, and Senator DODD will have 5 minutes, and then we will proceed to a vote on that matter. I further ask consent that it be in order for a Democratic side-by-side to the McCain GSE amendment and that the Cardin amendment No. 3840 be considered to-

night, and it is my understanding that amendment will be decided by a voice vote; that after the Cantwell amendment is called and modified, there be 10 minutes of debate with respect to that amendment, with the time equally divided and controlled in the usual form; that upon the use or yielding back of the time, the amendment be agreed to, and that there be no amendments in order to the amendments in this agreement prior to a vote except as we have stated.

The PRESIDING OFFICER (Mr. MERKLEY.) Is there objection?

Mr. McCONNELL. Mr. President, reserving the right to object—I am certainly not going to object; I just wanted to make sure everyone understands. So tomorrow would be debate only?

Mr. REID. Yes, debate only, and the same on Monday.

Mr. McCONNELL. I want to echo the comments of the majority leader with regard to getting amendments prepared. It is to our advantage to have amendment votes. We are going to work hard to get them in the queue and to get them voted on.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recognized.

AMENDMENT NO. 3786, AS MODIFIED, TO  
AMENDMENT NO. 3739

Ms. CANTWELL. Mr. President, I ask unanimous consent that the pending amendment be set aside and call up my amendment No. 3786, as modified.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Ms. CANTWELL], for herself, Mr. WHITEHOUSE, and Mr. SANDERS, proposes an amendment numbered 3786, as modified, to amendment No. 3739.

Ms. CANTWELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 762, between lines 5 and 6, insert the following:

#### SEC. \_\_\_\_ . ANTIMARKET MANIPULATION AUTHORITY.

(a) PROHIBITION REGARDING MANIPULATION AND FALSE INFORMATION.—Subsection (c) of section 6 of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended to read as follows:

“(c) PROHIBITION REGARDING MANIPULATION AND FALSE INFORMATION.—

“(1) PROHIBITION AGAINST MANIPULATION.—It shall be unlawful for any person, directly or indirectly, to use or employ, or attempt to use or employ, in connection with any swap, or a contract of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Commission shall promulgate by not later than 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010.

“(A) SPECIAL PROVISION FOR MANIPULATION BY FALSE REPORTING.—Unlawful manipulation for purposes of this paragraph shall include, but not be limited to, delivering, or

causing to be delivered for transmission through the mails or interstate commerce, by any means of communication whatsoever, a false or misleading or inaccurate report concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, knowing, or acting in reckless disregard of the fact, that such report is false, misleading or inaccurate.

“(B) EFFECT ON OTHER LAW.—Nothing in this paragraph shall affect, or be construed to affect, the applicability of section 9(a)(2).

“(2) PROHIBITION REGARDING FALSE INFORMATION.—It shall be unlawful for any person to make any false or misleading statement of a material fact to the Commission, including in any registration application or any report filed with the Commission under this Act, or any other information relating to a swap, or a contract of sale of a commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, or to omit to state in any such statement any material fact that is necessary to make any statement of a material fact made not misleading in any material respect, if the person knew, or reasonably should have known, the statement to be false or misleading.

“(3) OTHER MANIPULATION.—In addition to the prohibition in paragraph (1), it shall be unlawful for any person, directly or indirectly, to manipulate or attempt to manipulate the price of any swap, or of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity.

“(4) ENFORCEMENT.—

“(A) AUTHORITY OF COMMISSION.—If the Commission has reason to believe that any person (other than a registered entity) is violating or has violated this subsection, or any other provision of this Act (including any rule, regulation, or order of the Commission promulgated in accordance with this subsection or any other provision of this Act), the Commission may serve upon the person a complaint.

“(B) CONTENTS OF COMPLAINT.—A complaint under subparagraph (A) shall—

“(i) contain a description of the charges against the person that is the subject of the complaint; and

“(ii) have attached or contain a notice of hearing that specifies the date and location of the hearing regarding the complaint.

“(C) HEARING.—A hearing described in subparagraph (B)(ii)—

“(i) shall be held not later than 3 days after service of the complaint described in subparagraph (A);

“(ii) shall require the person to show cause regarding why—

“(I) an order should not be made—

“(aa) to prohibit the person from trading on, or subject to the rules of, any registered entity; and

“(bb) to direct all registered entities to refuse all privileges to the person until further notice of the Commission; and

“(II) the registration of the person, if registered with the Commission in any capacity, should not be suspended or revoked; and

“(iii) may be held before—

“(I) the Commission; or

“(II) an administrative law judge designated by the Commission, under which the administrative law judge shall ensure that all evidence is recorded in written form and submitted to the Commission.

“(5) SUBPOENA.—For the purpose of securing effective enforcement of the provisions of this Act, for the purpose of any investigation

or proceeding under this Act, and for the purpose of any action taken under section 12(f) of this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission (except as provided in paragraph (7)) may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry.

“(6) WITNESSES.—The attendance of witnesses and the production of any such records may be required from any place in the United States, any State, or any foreign country or jurisdiction at any designated place of hearing.

“(7) SERVICE.—A subpoena issued under this section may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service of process in a foreign country, except that a subpoena to be served on a person who is not to be found within the territorial jurisdiction of any court of the United States may be issued only on the prior approval of the Commission.

“(8) REFUSAL TO OBEY.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question.

“(9) FAILURE TO OBEY.—Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found.

“(10) EVIDENCE.—On the receipt of evidence under paragraph (4)(C)(iii), the Commission may—

“(A) prohibit the person that is the subject of the hearing from trading on, or subject to the rules of, any registered entity and require all registered entities to refuse the person all privileges on the registered entities for such period as the Commission may require in the order;

“(B) if the person is registered with the Commission in any capacity, suspend, for a period not to exceed 180 days, or revoke, the registration of the person;

“(C) assess such person—

“(i) a civil penalty of not more than an amount equal to the greater of—

“(I) \$140,000; or

“(II) triple the monetary gain to such person for each such violation; or

“(ii) in any case of manipulation or attempted manipulation in violation of this subsection or section 9(a)(2), a civil penalty of not more than an amount equal to the greater of—

“(I) \$1,000,000; or

“(II) triple the monetary gain to the person for each such violation; and

“(D) require restitution to customers of damages proximately caused by violations of the person.

“(11) ORDERS.—

“(A) NOTICE.—The Commission shall provide to a person described in paragraph (10) and the appropriate governing board of the registered entity notice of the order described in paragraph (10) by—

“(i) registered mail;

“(ii) certified mail; or

“(iii) personal delivery.

“(B) REVIEW.—

“(i) IN GENERAL.—A person described in paragraph (10) may obtain a review of the order or such other equitable relief as determined to be appropriate by a court described in clause (ii).

“(ii) PETITION.—To obtain a review or other relief under clause (i), a person may, not later than 15 days after notice is given to the person under clause (i), file a written petition to set aside the order with the United States Court of Appeals—

“(I) for the circuit in which the petitioner carries out the business of the petitioner; or

“(II) in the case of an order denying registration, the circuit in which the principal place of business of the petitioner is located, as listed on the application for registration of the petitioner.

“(C) PROCEDURE.—

“(i) DUTY OF CLERK OF APPROPRIATE COURT.—The clerk of the appropriate court under subparagraph (B)(ii) shall transmit to the Commission a copy of a petition filed under subparagraph (B)(ii).

“(ii) DUTY OF COMMISSION.—In accordance with section 2112 of title 28, United States Code, the Commission shall file in the appropriate court described in subparagraph (B)(ii) the record theretofore made.

“(iii) JURISDICTION OF APPROPRIATE COURT.—Upon the filing of a petition under subparagraph (B)(ii), the appropriate court described in subparagraph (B)(ii) shall have jurisdiction to affirm, set aside, or modify the order of the Commission, and the findings of the Commission as to the facts, if supported by the weight of evidence, shall in like manner be conclusive.”

(b) CEASE AND DESIST ORDERS, FINES.—Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended to read as follows:

“(d) If any person (other than a registered entity), is violating or has violated subsection (c) or any other provisions of this Act or of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing, and subject to appeal as in other cases provided for in subsection (c), make and enter an order directing that such person shall cease and desist therefrom and, if such person thereafter and after the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than the higher of \$140,000 or triple the monetary gain to such person, or imprisoned for not less than six months nor more than one year, or both, except that if such failure or refusal to obey or comply with such order involves any offense within subsection (a) or (b) of section 9 of this Act, such person shall be guilty of a felony and, upon conviction thereof, shall be subject to the penalties of said subsection (a) or (b): Provided, That any such cease and desist order under this subsection against any respondent in any case of manipulation shall be issued only in conjunction with an order issued against such respondent under

subsection (c). Each day during which such failure or refusal to obey or comply with such order continues shall be deemed a separate offense.”

(c) MANIPULATIONS; PRIVATE RIGHTS OF ACTION.—Section 22(a)(1) of the Commodity Exchange Act (7 U.S.C. 25(a)(1)) is amended by striking subparagraph (D) and inserting the following:

“(D) who purchased or sold a contract referred to in subparagraph (B) hereof or swap if the violation constitutes—

“(i) the use or employment of, or an attempt to use or employ, in connection with a swap, or a contract of sale of a commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative device or contrivance in contravention of such rules and regulations as the Commission shall promulgate by not later than 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010; or

“(ii) a manipulation of the price of any such contract or swap or the price of the commodity underlying such contract or swap.”

(d) EFFECTIVE DATE.—

(1) The amendments made by this section shall take effect on the date on which the final rule promulgated by the Commodity Futures Trading Commission pursuant to this Act takes effect.

(2) Paragraph (1) shall not preclude the Commission from undertaking prior to the effective date any rulemaking necessary to implement the amendments contained in this section.

Ms. CANTWELL. I further ask unanimous consent that Senators MERKLEY, BROWN of Ohio, and SHAHEEN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I would like to be added as a cosponsor.

Ms. CANTWELL. I ask unanimous consent that Senator DODD also be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CANTWELL. My amendment strengthens the Commodity Futures Trading Commission's authority to go after manipulation and attempted manipulation in the swaps and commodities markets. It makes it unlawful to manipulate or attempt to manipulate the price of a swap or commodity using any manipulative device or contrivance.

Some people might be thinking: Why do we need legislation like that? Don't we already have something in place? Unfortunately, current law does not have enough protections for our consumers, and we have found in other areas that it is very important to have a strong bright line, a law on the books against manipulation. We want the CFTC to have strong tools to go after this kind of behavior. This amendment is about protecting the integrity of markets for people who rely on them for their business.

Current law makes it very difficult for the Commodity Futures Trading Commission to prove market manipulation. The CFTC has to prove that

someone had specific intent to manipulate, and that is a very difficult standard to prove. Most individuals don't write an e-mail, for example, saying they intend to manipulate prices, but that is currently what the law requires the Commodity Futures Trading Commission to prove: “specific intent” to manipulate. As a result of this, the Federal courts have recognized that with the CFTC's weaker anti-manipulation standard, market “manipulation cases generally have not fared so well.” In fact, the law is so weak that in the CFTC's 35-year history, it has only had one successfully prosecuted case of market manipulation, and that case is currently on appeal in Federal court. I am going to say that again. In the 35 years of its history, the CFTC has only successfully prosecuted one single case of manipulation.

This language in this amendment is patterned after the law that the SEC uses to go after fraud and manipulation; that there can be no manipulative devices or contrivances. It is a strong and clear legal standard that allows regulators to successfully go after reckless and manipulative behavior.

This legislation tracks the Securities Act in part because Federal case law is clear that when the Congress uses language identical to that used in another statute, Congress intended for the courts and the Commission to interpret the new authority in a similar manner, and Congress has made sure that its intention is clear.

In the 75 years since the enactment of the Securities and Exchange Act of 1934, a substantial body of case law has developed around the words “manipulative or deceptive devices or contrivances.”

The Supreme Court has compared this body of law to “a judicial oak which has grown from little more than a legislative acorn.” It is worth noting that the courts have held that the SEC's manipulation authority is not intended to catch sellers who take advantage of the natural market forces of supply and demand, only those who attempt to affect the market or prices by artificial means unrelated to the natural forces of supply and demand.

Mr. President, Congress granted the same antimanipulation authority to the Federal Energy Regulatory Commission in 2005 in the Energy Policy Act. We did this as a result of the Enron market manipulation. I am very proud of this legislation and its ban on manipulation in electricity and natural gas markets. I say that because there was a similar issue of deregulation of energy markets that led to the Federal regulators not doing their job.

Since we have implemented this language in the electricity markets, the Federal Energy Regulatory Commission, since 2005, has used its authority to conduct 135 investigations. Of those 135 investigations, 41 have resulted in

settlements involving civil penalties or other monetary remedies totaling over \$49 million.

Two investigations brought about enforcement actions against manipulation, one against Amaranth for \$291 million—

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator has used 5 minutes.

Ms. CANTWELL. Mr. President, I ask unanimous consent for an additional 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CANTWELL. The alleged market manipulation brought enforcement action against Amaranth for \$291 million in civil penalties and Energy Trading Partners for \$167 million in civil penalties. That is just an example of what a statute with teeth and a regulatory entity can do to actually stop manipulation when given that authority.

So, Mr. President, I hope my colleagues will support this strong antimanipulation standard being inserted into the Commodity Exchange Act. It will truly put a policeman on the beat and stop the kind of manipulation that has occurred in these commodities markets.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. LINCOLN addressed the Chair.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. DODD. Mr. President, as I recall the unanimous consent agreement, there were 5 minutes. Is there time allocated? I do not believe there is any opposition to this amendment; therefore, if there is any, we yield back the time.

I say to the Senator, did you want to be heard on the Cantwell amendment?

Mrs. LINCOLN. Yes.

Mr. DODD. I am sorry.

The PRESIDING OFFICER. There is 5 minutes remaining for debate.

The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I rise this evening in support of my good friend, Senator CANTWELL, and her amendment. I would like to thank the Senator from Washington who has for years been a leader in the Senate on the complicated issue of derivatives and who has been particularly effective at strengthening manipulation standards. There has not been a more effective champion of consumers and efficient markets than Senator CANTWELL.

This amendment comes as a result of hours of thoughtful hard work from Senator CANTWELL and her staff. While the Dodd-Lincoln bill contains a strong antimanipulation authority, Senator CANTWELL came to me and my staff with ideas on how to strengthen the provision, and I was pleased to have listened. We worked through our concerns and built on each other's strengths

and, in the end, came up with an improved product. That is the amendment we are accepting here today.

Market manipulation is an ever-present danger in derivatives trading. Derivatives are leveraged transactions, and it is well known that in these markets there are numerous opportunities for traders to abuse their positions in order to game the market to their advantage. This is unacceptable. These markets are a fundamental part of our economy. They are used to manage risk and for price discovery, and their integrity must be preserved.

The Dodd-Lincoln bill strengthens existing law to target specific market abuses that have arisen in recent years. These abuses are outlawed as disruptive practices in section 747 of the underlying bill.

I wholeheartedly support Senator CANTWELL's amendment, which takes the significant step of adding a new and versatile standard for deceptive and manipulative practices under the Commodity Exchange Act. It addresses false reporting and authorizes private rights of action that will aid the CFTC in its enforcement effort. Senator CANTWELL's amendment will supplement the CFTC's existing standards as the Commission and the SEC work together to regulate derivatives.

The Commodity Exchange Act is a complex statute that covers many trading venues. Senator CANTWELL's amendment will give the CFTC a very important new weapon in its arsenal to combat ever-evolving forms of manipulative trading schemes that undermine public confidence in the proper functioning of these markets.

I am very proud to be a supporter of what Senator CANTWELL has done with this amendment, and I urge all of our colleagues to take a look at it and realize she has really helped to improve the bill, the underlying bill, in her actions.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3786), as modified, was agreed to.

Mr. DODD. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

AMENDMENT NO. 3840 TO AMENDMENT NO. 3739

Mr. CARDIN. Mr. President, under the unanimous consent agreement, I call up amendment No. 3840.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Mr. CARDIN], for himself and Mr. GRASSLEY, proposes an amendment numbered 3840 to amendment No. 3739.

Mr. CARDIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide whistleblower protections for employees of nationally recognized statistical rating organizations)

On page 977, line 19, strike "The Securities" and insert the following:

(a) IN GENERAL.—The Securities

On page 994, between lines 2 and 3, insert the following:

(b) PROTECTION FOR EMPLOYEES OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.—Section 1514A(a) of title 18, United States Code, is amended—

(1) by inserting "or nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c)," after "78o(d)"; and

(2) by inserting "or nationally recognized statistical rating organization" after "such company".

Mr. CARDIN. Mr. President, the Cardin-Grassley amendment extends whistleblower protections to employees of nationally recognized statistical rating organizations, NRSROs. NRSROs are the companies—such as Moody's and Standard & Poor's—which issue credit ratings that the U.S. Securities and Exchange Commission permits other financial firms to use for certain regulatory purposes.

There are 10 NRSROs at present, including some privately held firms. The NRSROs played a large role—by overestimating the safety of residential mortgage-backed securities and collateralized debt obligations—in creating the housing bubble and making it bigger.

Then, by marking tardy but massive simultaneous downgrades of these securities, they contributed to the collapse of the subprime secondary market and the "fire sale" of assets, exacerbating the financial crisis.

In the wake of the Enron, WorldCom, and Tyco corporate scandals, Congress passed the Sarbanes-Oxley Act in July of 2002. One of the provisions in the act was extended whistleblower protections to employees of any company that is registered under the SEC Act of 1934 or that is required to file reports under section 15(d) of the same act. The whistleblower provisions of the Sarbanes-Oxley Act protect employees of the publicly traded companies from retaliation by giving victims of such treatment a cause of action which can be brought in Federal court.

Section 1514(a) delineates which companies are covered by that act and what actions are prohibited. The Cardin-Grassley amendment expands the provision to include employees of the rating companies.

I think it is important we have the whistleblower protection. S. 3217 contains several provisions to improve SEC and congressional oversight of the functioning of the NRSROs. So the underlying bill does provide for the regulatory framework for the rating agencies.

What the Cardin-Grassley amendment does is extend the whistleblowing

provisions—that protect employees—to all of the rating agencies. I would urge my colleagues to support the amendment.

With that, Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Connecticut.

Mr. DODD. Mr. President, I rise in strong support of the amendment offered by our colleague from Maryland, which would protect whistleblowers.

We have all learned, over the many months of discussions since the collapse and fall in 2008, of the culpability of the credit rating agencies—in terms of what was sold in the market place, relying on the reputation of the credit rating agencies and their classification of these bundled mortgages. We have had a lot of discussion about how best to do this, to rein in the credit rating agencies so we get far greater reliability and due diligence out of them.

One thing for certain that would clearly help is the Cardin amendment. It may not solve all the problems with the credit rating agencies, but it is going to be a major opportunity for us to be able to break down the bales that exist.

A significant part of our bill improves, we think, regulation. This bill contains several provisions that will make rating agencies more transparent, accountable, and accurate. That will increase the SEC's regulatory performance, and that will reduce investors' reliance on ratings issued by nationally recognized statistical rating organizations.

Senator CARDIN's amendment complements this provision in the bill, and I commend him for it. It adds employees of nationally recognized statistical rating organizations to a list of already protected whistleblowers. It is a valuable contribution to this bill, and I thank him for it.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 3840) was agreed to.

Mr. DODD. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

AMENDMENT NO. 3733 TO AMENDMENT NO. 3739

(Purpose: To impose leverage and liability limits on bank holding companies and financial companies)

Mr. BROWN of Ohio. Mr. President, I call up amendment No. 3733.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. BROWN], for himself, Mr. KAUFMAN, Mr. CASEY, Mr.

WHITEHOUSE, Mr. MERKLEY, Mr. HARKIN, Mr. SANDERS, and Mr. BURRIS, proposes an amendment numbered 3733 to amendment No. 3739.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Wednesday, April 28, 2010, under "Text of Amendments.")

Mr. BROWN of Ohio. Mr. President, the Kaufman-Brown amendment, with 14 cosponsors, would scale back the six largest banks in the Nation, requiring them to spin off into smaller more manageable banks and maintain sufficient capital to cover their debts.

These six banks' assets total \$9 trillion. Our amendment ends bailouts by ensuring that no Wall Street firm is so big or so reckless that it fails, and then so does our economy. The bill we are considering today is strong, but it needs to be stronger. It focuses on monitoring risk—risk is the biggest problem—and takes action once there are signs of trouble.

But size is also a huge problem. Everyone, from consumer groups, to small business owners, to former directors, Governors of the Fed, Chairmen of the Federal Reserve—two of them—understand what is at stake if we do not pass this amendment.

They have understood because we see it for ourselves that when a few megabanks dominate our financial system, the downfall of any of them can mark the downfall of our entire economy. We have seen millions of jobs lost. We have seen millions of homes lost. We have seen trillions of dollars in savings and wealth drained.

Just 15 years ago—just 15 years ago—the six largest U.S. banks had assets equal to 17 percent of our GDP. Today, the six largest banks have total assets estimated to be in excess of 63 percent. From 17 percent of GDP to 63 percent of GDP—these six largest banks.

Alan Greenspan said too big to fail is too big. Too big to fail is too big. These six banks, in addition to the fact they already have such dominance in our economy, when borrowing money when going into the capital markets, enjoy an 80-basis point advantage over banks in Denver and Cleveland, regional banks in our States, and community banks that are even smaller. They have an 80-basis points advantage ensuring that if we don't pass the Brown-Kaufman amendment, their advantage will only grow because these banks will grow larger, because the playing field is tilted toward them, because they have this interest rate advantage when they borrow money—another reason to understand that too big to fail is too big.

I yield the last 2 or 3 minutes to Senator KAUFMAN.

Mr. KAUFMAN. Mr. President, I want to say to those who say this is

Draconian, think of one thing: Citigroup under this will be the size they were in 2002. They competed internationally. Everything was the same.

In terms of risk, James Cayne said today, after he spoke before the Financial Crisis Inquiry, that Bear Stearns failed because their ratio of assets to capital was 40 to 1. This bill would cap it at 16. Bear Stearns would not have failed. We should not leave this for the regulators. In 1933 our forbears before us made tough decisions after the Great Depression and put in Glass-Steagall. We should do no less. We should be legislating for generations here tonight and support this amendment.

Thank you.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 3898 TO AMENDMENT NO. 3733

Mr. ENSIGN. Mr. President, I have a second-degree amendment to the Brown amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 3898 to amendment No. 3733.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the definition of the term "financial company" for purposes of imposing limits on nondeposit liabilities)

On page 2 of the amendment, strike lines 11 through 15 and insert the following:

(1) FINANCIAL COMPANY.—The term "financial company" means—

(A) any nonbank financial company supervised by the Board;

(B) the Federal National Mortgage Association; and

(C) the Federal Home Loan Mortgage Corporation.

Mr. ENSIGN. Mr. President, I have a very simple second-degree amendment actually supporting the underlying amendment. But what my second degree does is it simply says that Fannie Mae and Freddie Mac will be subject to the same limits. Everybody has been talking about too big to fail. That is one of the problems. All of this interconnectedness of our financial markets, when one is too big to fail, draws the entire market down. That is why TARP was needed. That is why people have justified a lot of bailouts. I don't think there is anybody who can legitimately argue that Fannie and Freddie aren't too big to fail.

What this second-degree amendment says, very simply, is the 3 percent of GDP that we are limiting the banks to, we limit Freddie Mac and Fannie Mae to those same limits.

We saw yesterday afternoon that Freddie Mac said they needed another \$10 million in taxpayer bailouts. There

is no question it is too big. There is no question that if we actually put their debt on our balance sheets, we look much worse, the deficits on our balance sheet, we look much worse. What we are seeing over in Greece with the rioting and how that is affecting our financial markets, we need to be honest in our accounting, but we also need to make sure these things don't continue to get larger and larger.

Back in December the President took the limits off of Fannie and Freddie—took the limits off. That is saying they can grow and keep borrowing and keep doing the irresponsible things they did in the past.

When we look at the root causes of the financial crisis, people took risks they never should have taken because there were implicit guarantees not only in the banks being too big to fail but especially in Fannie and Freddie being too big to fail. It skewed the markets. People took risks they never should have taken.

There are other things I believe that need to be done with Fannie and Freddie, but certainly we can't allow them to get as large as they are now. So the reasonable limits that have been put on the large banks I think need to be put on these GSEs, the government-sponsored entities, and if we do that, I think we will be in better shape in the future for not having another financial collapse.

It is a very simple amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. ENSIGN. Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 5 minutes.

Mr. DODD. I yield 2 minutes to my colleague from Virginia, Senator WARNER, a member of the Banking Committee.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I rise in opposition to both the second-degree amendment and the initial Brown-Kaufman amendment. I understand their goals. I believe the chairman's bill addresses those goals. We have 10 percent total liabilities in the United States in the existing bill right now. We only have 4 of the largest 50 banks in the world that are American domiciled. I believe this arbitrary asset cap size is not the appropriate restriction. The real question should be the level of interconnectedness and the risk taking. We saw in the crisis of 2008 the character of the firms was not simply the largest firms but firms that did undue risk taking.



We have put forward in this legislation two very important ways so that if these firms do take undue risk or if their size is a contributing factor, the Dodd bill does provide the ability for these banks to be broken up, one through the funeral plans, to make sure these large institutions have to show how they can do an orderly unwinding process through bankruptcy. If they can't show that, whether it is due to the international holdings or the domestic holdings, the systemic risk council can break up these institutions.

In addition, there are other parts of the bill that also allow it. If these institutions continue to pose a systemic risk, they can be broken up, so I rise in opposition to both amendments.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I join the Senator in opposition to the Brown amendment, but I wish to speak about the Ensign amendment.

We talk about rushing things through around here. I have heard that mentioned a lot over the last couple of days. This is going beyond rushing through. The entire 97 percent of all mortgages—97 percent of all mortgages in the country today—are going through the GSEs, Fannie and Freddie. Without them, there is no housing market in the country. So before we decide to do this without any alternative in place—and clearly one is needed. I take a backseat to no one on the idea we need to reform how the GSEs are functioning.

As I think my friend JUDD GREGG mentioned the other day, this is far too complex an issue to include in this bill. We already have 1,500 pages. We never intended to deal with every financial issue in the United States, and particularly one where the housing market today is completely dependent on this. Adopt this amendment and, believe me, by tomorrow we will have an economic reaction in the country we won't want to believe.

So with all due respect, we will deal with this. I will have language in this bill that will absolutely guarantee we are going to take up this issue in the coming Congress. It has to be done. But to grapple with that and all of these other matters in the same bill is asking too much. It doesn't minimize the importance of the issue, but this evening, without any other kind of alternative in place, to adopt this amendment and then have the implications—97 percent of all mortgages in the United States go through the GSEs and without them there is no housing market—I urge my colleagues to reject the Ensign amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I think the case has been made that Fannie and Freddie are too big. There is no

question they are too big. We have also had almost 2 years to deal with it, but we haven't done anything.

Mr. DODD. If my colleague would yield, that is untrue. We passed legislation only last year on the GSEs.

Mr. ENSIGN. We have not reformed the GSEs the way we needed to. We haven't done what needs to be done on the GSEs. This is one large step to doing that, and I believe we should. They are too big and they can take this entire economy down, and that is why we have to limit the size of them. I would encourage my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Has all the time been used in opposition?

The PRESIDING OFFICER. The Senator from Connecticut has 2 minutes remaining. The Senator from Ohio has 1 minute 45 seconds, as does the Senator from Nevada.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I don't understand this Brown amendment. Basically what it says is if you are successful—we are not talking about too big to fail here, we are talking about entities, businesses that are big, yes. They are actually not as big as a lot of the international banks they compete with, and that we as a Nation compete with, but they are large and they are successful. You are going to break them up. Where does this stop? Do we take on McDonald's? Do we take on Wal-Mart? Do we take on Microsoft? Do we take on Google? Should we set a standard that we as a body can step in and unilaterally decide that some company has gotten too large and deserves to be broken up, even if it is healthy?

If it is a systemic risk because it has overextended itself and put itself into a situation where we have a question of whether it can survive, then we have the resolution authority to take care of that. But why would we—we 100 people—think we know enough to start breaking up businesses in this Nation which are profitable and which make us competitive as a Nation? It doesn't make any sense to me.

The PRESIDING OFFICER. Who yields time?

Mr. ENSIGN. I yield back the remaining time.

Mr. DODD. I don't think I have any time left, do I?

The PRESIDING OFFICER. The Senator has 45 seconds remaining.

Mr. DODD. I yield it back.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I would only say that Alan Greenspan, not someone who has been on a crusade to break up America's businesses, talking about these banks, said too big to fail is too big. I think that sums it up pretty well.

I yield the remainder of my time, and I ask for the yeas and nays on the Brown amendment.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays on the Brown amendment?

Without objection, it is so ordered.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Parliamentary inquiry, Mr. President: We are voting first on the Ensign amendment, is that correct?

The PRESIDING OFFICER. That is correct.

The yeas and nays have been ordered.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. BUNNING), the Senator from South Carolina (Mr. DEMINT), the Senator from Indiana (Mr. LUGAR), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 59, as follows:

[Rollcall Vote No. 135 Leg.]

#### YEAS—35

Barrasso	Crapo	McConnell
Bingaman	Ensign	Merkley
Bond	Enzi	Murkowski
Brownback	Feingold	Risch
Burr	Grassley	Roberts
Cantwell	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Kohl	Thune
Collins	Kyl	Wicker
Corker	Lincoln	Wyden
Cornyn	McCain	

#### NAYS—59

Akaka	Graham	Murray
Alexander	Gregg	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Bayh	Harkin	Pryor
Begich	Inouye	Reed
Bennet	Isakson	Reid
Boxer	Johanns	Rockefeller
Brown (MA)	Johnson	Sanders
Brown (OH)	Kaufman	Schumer
Burris	Kerry	Shaheen
Cardin	Klobuchar	Specter
Carper	Landrieu	Stabenow
Casey	Lautenberg	Tester
Conrad	Leahy	Udall (CO)
Dodd	LeMieux	Udall (NM)
Dorgan	Levin	Voinovich
Durbin	Lieberman	Warner
Feinstein	McCaskill	Webb
Franken	Menendez	Whitehouse
Gillibrand	Mikulski	

#### NOT VOTING—6

Bennett	Byrd	Lugar
Bunning	DeMint	Vitter

The amendment (No. 3898) was rejected.

Mr. DODD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.



The motion to lay on the table was agreed to.

AMENDMENT NO. 3733

The PRESIDING OFFICER. The question is on agreeing to the Brown amendment No. 3733.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. BUNNING), the Senator from South Carolina (Mr. DEMINT), the Senator from Indiana (Mr. LUGAR), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 61, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—33

Begich	Ensign	Pryor
Bingaman	Feingold	Reid
Boxer	Franken	Rockefeller
Brown (OH)	Harkin	Sanders
Burr	Kaufman	Shelby
Cantwell	Leahy	Specter
Cardin	Levin	Stabenow
Casey	Lincoln	Udall (NM)
Coburn	Merkley	Webb
Dorgan	Mikulski	Whitehouse
Durbin	Murray	Wyden

NAYS—61

Akaka	Gillibrand	McCaskill
Alexander	Graham	McConnell
Barrasso	Grassley	Menendez
Baucus	Gregg	Murkowski
Bayh	Hagan	Nelson (NE)
Bennet	Hatch	Nelson (FL)
Bond	Hutchison	Reed
Brown (MA)	Inhofe	Risch
Brownback	Inouye	Roberts
Burr	Isakson	Schumer
Carper	Johanns	Sessions
Chambliss	Johnson	Shaheen
Cochran	Kerry	Snowe
Collins	Klobuchar	Tester
Conrad	Kohl	Thune
Corker	Kyl	Udall (CO)
Cornyn	Landrieu	Voinovich
Crapo	Lautenberg	Warner
Dodd	LeMieux	Wicker
Enzi	Lieberman	
Feinstein	McCain	

NOT VOTING—6

Bennett	Byrd	Lugar
Bunning	DeMint	Vitter

The amendment (No. 3733) was rejected.

Mr. DODD. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, there are no further votes today. As I understand it, there will be no votes tomorrow. But there will be a session tomorrow for Members to come and to be heard

on the remaining parts of the bill or amendments we still have to consider.

I think we all heard the majority leader, Senator REID, make the point that I made earlier; that is, I intend to be here all weekend. My staff and Senator SHELBY's staff will be as well. So for those Members who still have amendments, we are more than happy to sit down and try to resolve and work together on those amendments to see if we can't reach agreement on some or at least to work with the authors of the amendments or their staffs. So we will be here to do that.

Let me just thank all Members again. Mr. President, it is RICHARD SHELBY's birthday today—my seatmate on the Banking Committee, the former chairman of the Banking Committee—and I would just note that, even though he was late for his dinner with Annette, his lovely wife, we stepped aside around 4 p.m. this afternoon—the members of the Banking Committee, his staff, and I—and we brought out a nice cake for Senator SHELBY. So we celebrated in the midst of the debate.

It is important for the people of the country to know that we have very strong differences—I had strong objections to the Shelby amendment today, and we debated that. Yet despite those very strong differences, and while we disagree with each other on substantive issues, we can enjoy each other's company on a personal level, on a civil level.

So let me, on behalf of all of us today, wish RICHARD SHELBY a very happy birthday on this day. Again, I thank him for his cooperation and that of his staff.

I thank our floor staff today as well, working hard every day. They are here every day early in the morning and they stay here with us until late in the evening. So I want to thank them all for their tremendous work.

With that, Mr. President, I am all done, and I yield the floor.

Ms. COLLINS. Mr. President, I wish to discuss an amendment that would expand the Financial Stability Council established in S. 3217 to include the Chairman of the National Credit Union Administration. It is important that the council incorporate a Federal credit union regulator to ensure consumer regulation protections. Ninety-two million Americans are members of credit unions.

Insofar as S. 3217, section 1023 provides that any member agency of the council may set aside a final regulation or provision prescribed by the bureau, a national credit union representative should sit on the council to ensure fairness for its members.

Moreover, similar legislation passed by the House included the Chairman of the National Credit Union Administration in its Financial Services Oversight Council, so this amendment would make the composition of the council in both the House and Senate consistent.

Finally, given their size, no single credit union poses a systemic risk to the overall U.S. financial system.

I ask unanimous consent to have printed in the RECORD this statement and the supporting letters from the Credit Union National Association, the largest credit union advocacy organization representing nearly 90 percent of America's 8,700 State and federally chartered credit unions, National Credit Union Administration, and the National Association of Federal Credit Unions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CREDIT UNION NATIONAL  
ASSOCIATION,

Washington, DC, May 5, 2010.

Hon. SUSAN COLLINS,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the Credit Union National Association, I am writing in support of your amendment to S. 3217 which would add the National Credit Union Administration (NCUA) to the Financial Stability Oversight Council (the Council). CUNA is the largest credit union advocacy organization representing nearly 90 percent of America's 8,700 state and federally chartered credit unions and their 92 million members.

Because of the relative size of credit unions, we believe no single credit union is large enough to impose any systemic risk on the overall financial system. Nevertheless, we believe there would be value in having the federal credit union regulator on the Council if for no other reason than Section 1023 of the underlying bill gives the members of the Council the authority to petition to stay or set aside rules promulgated by the Bureau under limited circumstances when the rules may put the safety and soundness of the banking system or the stability of the financial sector of the United States at risk. Your amendment would ensure that the credit union regulator has a voice in the review of the consumer regulations.

The House-passed version of this legislation includes the NCUA Chairman on the Financial Services Oversight Council; therefore, your amendment would eliminate a difference between the House-passed version and the Senate bill under consideration and ensure that all of the federal financial regulators are part of the Council.

On behalf of America's credit unions, thank you very much for introducing this amendment. We look forward to working with you to secure its inclusion in S. 3217.

Sincerely,

DANIEL A. MICA,  
President & CEO.

NATIONAL CREDIT  
UNION ADMINISTRATION,  
Alexandria, VA, May 5, 2010.

Hon. SUSAN M. COLLINS,  
Ranking Member, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR COLLINS:

Thank you for your leadership in drafting an amendment to S. 3217, the Restoring American Financial Stability Act of 2010, to add the Chairman of the National Credit Union Administration (NCUA) as a voting member of the Financial Stability Oversight Council (the Council).

I have had the opportunity to review the proposed amendment. I wish to express my strong support for both the amendment and the underlying bill.

As you know, the NCUA was not included as a member of the Council in the legislation as reported by the Senate Committee on Banking, Housing and Urban Affairs. Among other duties and responsibilities, members of the Council may petition the full Council to set aside a rule (or a part thereof) issued by the Bureau of Consumer Financial Protection if that rule threatens the safety and soundness of the U.S. financial sector or our system of depository institutions.

It bears noting that the NCUA Chairman is a designated member of the Consumer Financial Protection Oversight Board in the House-passed measure. If adopted, I believe your amendment would help harmonize the House and Senate bills with respect to oversight of the Consumer Financial Protection Agency or Bureau, particularly in regard to the credit union system.

Thank you again for your leadership on this important matter and for the opportunity to review and comment on your amendment.

Sincerely,

DEBBIE MATZ,  
*Chairman.*

NATIONAL ASSOCIATION OF  
FEDERAL CREDIT UNIONS,  
*Arlington, VA, May 5, 2010.*

Hon. SUSAN COLLINS,  
*U.S. Senate, Dirksen Senate Office Building,  
Washington, DC.*

DEAR SENATOR COLLINS: I am writing on behalf of the National Association of Federal Credit Unions (NAFCU), the only trade organization exclusively representing the interests of our nation's federal credit unions, in support of your amendment to the Restoring American Financial Stability Act of 2010 (S. 3217) that would add the Chairman of the National Credit Union Administration (NCUA) to the Financial Stability Oversight Council established in the underlying bill.

We applaud your efforts to ensure that the voices of credit unions are heard by placing NCUA on the oversight council. As you know, this is an issue of fairness and will enable the NCUA to petition for the review of a rule issued by the Bureau of Consumer Financial Protection. Without passage of this amendment, credit unions would not have the ability to appeal rule making that could have a detrimental effect on the credit union industry.

We thank you and your staff for your work on this amendment as the Senate takes up comprehensive financial regulatory reform. If we can answer any questions or provide you with further information on this matter, please do not hesitate to contact me or NAFCU's Director of Legislative Affairs Brad Thaler at (703) 522-4770.

Sincerely,

B. DAN BERGER,  
*Executive Vice President,  
Government Affairs.*

## MORNING BUSINESS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECOGNIZING NATIONAL PUBLIC GARDENS DAY

Mr. DURBIN. Mr. President, this May 7 is National Public Gardens Day, a day for us to celebrate the important role public gardens play in our communities and throughout our Nation. Across this great country, more than 500 public gardens are keeping our Nation connected to our natural world, our history, and our culture. These public gardens include arboreta, botanical gardens, zoos, historic landscapes, college campuses, and children's gardens. Together they form a web that preserves the beauty and complexity of plants and animals and humanity's interaction with them.

There is a great thirst for the knowledge and experiences public gardens can provide. Gardening is the most popular hobby in the United States, and more than 70 million people visit public gardens annually. People from all backgrounds, age groups, and geographic regions regularly share in the beauty and serenity of natural spaces such as our public gardens.

Here in Washington, DC, just across the street from the Capitol, is the U.S. Botanic Garden. Called "America's Garden," it is a gateway for people to enjoy the beauty of plants while learning about the role plants play in commerce, culture, and kinship. The United States Botanic Garden is also responsible for helping to preserve and maintain the Capitol Grounds, which are enjoyed by over 3 million people who visit the Capitol every year.

In my own home State of Illinois, our 32 public gardens include wonderful and varied institutions, such as the Morton Arboretum and the Quad City Botanical Center, places such as the Cantigny Foundation and the Skokie Northshore Sculpture Park.

Among Illinois' valued public gardens is the Chicago Botanic Garden, which serves nearly 1 million visitors annually. Its classes are attended by 57,000 visitors, well over half of them school-age children. Millions of schoolchildren have been educated by public gardens about the wonders of nature and the important role of plants in our everyday lives, from the food we eat, to the clothes we wear, to the homes we live in. The Chicago Botanic Garden has hosted 22,000 children on field trips in the past year, providing opportunities for them to interact with nature—a special opportunity for some who may never otherwise get to see a real meadow or visit a lake.

Public gardens are not only committed to growing plants; they are committed to growing minds. As a result, public gardens everywhere are partnering extensively with local schools, colleges and universities, nonprofit organizations, and civic associations. Together they have worked on projects ranging from habitat restoration to landscape beautification, as

well as on school-based education programs, public health education programs, and community and school gardens.

The Chicago Botanic Garden is a wonderful example of the partnerships occurring between our public gardens and our colleges. Its Windy City Harvest program partners with City Colleges of Chicago to provide summer jobs and hands-on training for teenagers at sustainable agriculture sites within Chicago. Through this partnership, participants are trained in producing high-value organic produce, which is sold at retail outlets and is made available to local residents. Program participants not only gain important entrepreneurial skills, they learn where their food comes from and the value in nurturing plant life.

We can rely on public gardens to deliver timely and critical resources for plant and water conservation, ecosystem management, green space preservation, and environmental stewardship. Visitors to public gardens have the opportunity to view regionally appropriate landscapes that preserve our precious natural resources—and give them ideas for creating their own.

Public gardens also serve as repositories for rare and endangered plant species. The research conducted by public gardens on these endangered plant species can be crucial to their survival.

Through their conservation and propagation efforts, many plants that would have been lost to us forever through extinction have been saved.

Therefore, this May 7 we should celebrate our public gardens and the many contributions they make to our communities.

## SECRET HOLDS

Mr. FEINGOLD. Mr. President, I am pleased to be joining an effort spearheaded by the Senator from Missouri, Mrs. McCASKILL, to put an end to the practice of Senators secretly holding up legislation or nominations. Senators who want to block a bill or nomination should be willing to state their objection on the record. Many of us thought we had addressed that problem when Congress approved the Honest Leadership and Open Government Act of 2007. Unfortunately, the problem of secret holds persists, and the new rule needs to be tightened.

As with any Senator, there are times when I object to passage of a bill or confirmation of a nominee. It has not been my practice to try to keep my objection secret, however. For example, when the Senator from Arizona, Mr. MCCAIN, and I objected to confirmation of the nomination of John Sullivan to a term on the Federal Election Commission last year, we released a statement publicly stating our action and our reasons. We made clear that, until

the White House nominates replacements for the two other commissioners whose terms have expired, we would not consent to Mr. Sullivan's confirmation. The FEC is currently mired in anti-enforcement gridlock, and the President must nominate new commissioners with a demonstrated commitment to the existence and enforcement of the campaign finance laws.

Similarly, when I had concerns about legislation introduced by the Senator from California, Mrs. FEINSTEIN, S. 132, I discussed my concerns directly with her. I have proposed changes that would make the bill more effective in addressing the serious problem of gang-related violence, and I look forward to passage of the amended bill.

Mr. President, it is not enough to fight for change—you need to lead by example, too. So I will make it my practice to have printed a statement in the RECORD when I object to bringing up legislation or a nomination. And I urge my colleagues to do the same, and to support efforts to eliminate loopholes in the current rule.

#### REMOVING HOLDS

Mr. WYDEN. Mr. President, on April 16, 2010, Senator MERKLEY and I objected to any unanimous consent agreement in connection with the nominations of Sharon E. Burke, to be the Director of Operational Energy Plans and Programs at the Department of Defense; Catherine Hammack, to be the Assistant Secretary of the Army; and Elizabeth A. McGrath, to be the Deputy Chief Management Officer at DOD. At that time, we needed assurance that DOD was taking the appropriate action to address the increasing conflict between national renewable energy policy and national defense.

I am pleased to say that we have dropped our objections to any unanimous consent agreement to consider these three nominations.

I am encouraged with the progress the Department of Defense, along with the Federal Aviation Administration, has achieved to acknowledge the critical nature of our future renewable energy program and its impact to national defense. Both agencies now appear committed to address the systemic process issues associated with siting our renewable energy programs. I hope this commitment continues. Because there is much more work to be done.

I believe we must pursue upgrading hardware and software for all of our radar arrays and adjust the siting permit process so that companies know in advance, not at the eleventh hour, of any DOD objections. But I also believe there is a need for an impartial entity with the authority to consider strategic civilian energy development and national defense needs. I know it won't be easy, but I look forward to working

with the administration and Defense Department to establish such an organization.

#### TRIBUTE TO MAYOR LUKE RAVENSTAHL

Mr. SPECTER. Mr. President, I would like to congratulate Pittsburgh Mayor Luke Ravenstahl, the residents of the city of Pittsburgh and all the citizens of southwestern Pennsylvania on Pittsburgh being recognized yet again, this time by *Forbes*, as the Nation's most livable city.

I have been visiting Pittsburgh every few weeks for over 30 years and I have witnessed its transformation into a progressive metropolitan area. I am pleased to see people from around the United States and around the globe recognize the unique quality of life in the Pittsburgh region. The region has transformed shuttered factories and brownfields into attractive and bustling riverfront developments and a breathtaking skyline.

People have always been aware of Pittsburgh's rich history from the days of the French and Indian wars to the Industrial Revolution and the birth of Organized Labor, but now people are seeing its transformation into the new economy as well. Steel mills are still here, but the region has also embraced and excelled in life sciences, robotics, green buildings, renewable energy and advanced manufacturing. This advancement has been spurred by world class universities and healthcare institutions, fueled by innovative entrepreneurs, and supported by a vibrant foundation and civic community.

The Pittsburgh region enjoys an abundance of natural resources, outdoor amenities, world class arts and cultural institutions, low cost of living, low crime rates, low housing costs, and of course world champion sports teams.

As many of my colleagues understand, we still face many environmental and infrastructure challenges with our postindustrial "Rust Belt" regions, and we must work together to support their rebirth and continued growth. I am pleased to recognize Pittsburgh and its people who exemplify so well the model for 21st century economic growth and recovery in America.

Mr. President, I ask unanimous consent that the *Forbes* article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### PITTSBURGH TOPS LIST OF MOST-LIVABLE CITIES IN U.S.

(By Francesca Levy)

Each year Carnegie Mellon's Tepper School of Business attracts some of the brightest master's degree candidates in the country. But the admissions staff occasionally has to sway prospective students with their choice

of top schools who wonder why they should relocate to Pittsburgh, Pa. "Pittsburgh has a really great cultural scene. We have a great ballet and a great symphony that travels the world and performs to packed houses, and there's a restaurant scene that's much more diverse than it ever was when I was growing up," says Wendy Hermann, director of student services for master's programs and a Pittsburgh native. "And it's an easier sell, now that the Steelers and Penguins won their respective titles."

Indeed, Pittsburgh's art scene, job prospects, safety and affordability make it the most livable city in the country, according to measures studied. The city has rebounded from its manufacturing past. Disused steel mills have been repurposed into multimedia art centers, and amid a struggling national economy, Google Pittsburgh, a test site for the company's new high-speed broadband network, has expanded its offices to accommodate more hires.

Pittsburgh's strong university presence—the city has over a dozen colleges or campuses—helps bolster its livability. In fact, the key to finding the easiest places to live may be to follow the students. Most of the metros on our list—including Ann Arbor, Mich., Provo, Utah, and Manchester, N.H.—are college towns.

"Universities are large employers in their cities," says Alexander Von Hoffman, senior fellow at the Joint Center for Housing Studies at Harvard University. "In the long term, not only do you have that employment, but you have an educated population, and you have a large youthful population which tends to be a consuming population."

In compiling our list, we measured five data points in the country's 200 largest Metropolitan Statistical Areas: unemployment, crime, income growth, the cost of living, and artistic and cultural opportunities.

To find out where jobs were available and incomes were steadily growing, we ranked cities both by their rate of income growth over the past five years and the current unemployment rate, based on data from the Bureau of Labor Statistics. The stronger the income growth trend and the lower the unemployment, the higher each city ranked. Jobs don't mean everything, though: A city is more livable if a family's income goes further. Using cost of living data from Moody's Economy.com, we ranked cities higher that had lower costs for everyday goods.

Some places are inexpensive, but still not desirable, so we included a measure for crime, using the Federal Bureau of Investigation's and Sperling's Best Places reports on the number of crimes per 100,000 residents, ranking low-crime cities higher. We also considered a thriving local culture crucial to livability, so we gave higher rankings to cities that scored highly on the Arts & Leisure index created by Sperling's Best Places. We averaged the rankings for each of these metrics to arrive at a final score.

Ogden, Utah, No. 2 on our list, is home to Weber State University. Unemployment in the metro is below average, and incomes have increased by 3.4 percent over the last five years. Provo, Utah, a city 80 miles away and our No. 3 most livable, is home to Brigham Young University, the country's largest private college. The metro has the highest five-year income growth, 5.2 percent, of all the cities measured. Lincoln, Neb., (No. 9), home to the University of Nebraska's main campus, boasts the lowest unemployment rate, 4.9 percent, of all the metros we surveyed. Unemployment is also at a low 5.9 percent in Omaha, Neb. (No. 5) home to a

University of Nebraska campus and roughly a dozen other colleges.

Cities once driven by jobs in steel manufacturing, railroads and textile mills suffered as those industries dried up in the 1970s. But it's a mistake to write off places like Pittsburgh, Pa., Harrisburg, Pa., and Manchester, N.H., Nos. one, five and seven on our list, respectively. Manchester, once dominated by textile mills, is revitalizing itself, converting its maze of mills and foundries into medical centers, museums and apartment buildings that now drive the local economy. The city has the second-lowest crime rate of all the metros we surveyed, incomes have grown 3 percent in five years, and at 7.7 percent, its unemployment rate is below the national average.

In only a few of our most livable cities does population growth match prospects for employment and inexpensive living. Provo saw an 8 percent population boom between 2000 and 2006, and the head count in Omaha rose by 7.2 percent over the same period. In most of the cities on the list, however, the population has shrunk, or grown only by meager percentages, suggesting that word about the quality of life there hasn't yet gotten out. Being a well-kept secret is just fine for some residents.

"I'm a big proponent of Pittsburgh," says Hermann. "But I don't want to spread the message too much."

#### TRIBUTE TO KATHLEEN MCGHEE

Mr. BOND. Mr. President, today I rise to pay tribute to one of the most widely respected professional staff members in the Senate—Kathleen McGhee. She recently marked her 30th anniversary with the Senate Select Committee on Intelligence and has been serving here longer than I have been serving as a U.S. Senator.

Kathleen joined the committee staff on April 7, 1980, in order to assist the committee's arms control expert. She subsequently provided administrative support to the committee's budget director, minority counsel, and minority staff director. In 1987, Chairman David L. Boren appointed Kathleen as the chief clerk of the Intelligence Committee, a position she has held ever since. She has served 11 chairmen, 12 vice chairmen, and 278 staff members since joining the staff.

Kathleen is the longest serving staff member and the longest serving chief clerk in the committee's history, but you would not know it by looking at her. I have it on good authority that she is just as bright and energetic today as she was more than 20 years ago. If only we all were so fortunate.

In a world where politics often seems to define who we are and with whom we associate, Kathleen transcends those barriers. She has earned the deep respect of Members and colleagues on both sides of the aisle. Her work ethic—as evidenced by long hours and ready availability—and her attention to detail are admired by all.

During my tenure on the Intelligence Committee, and in particular, since becoming the vice chairman, I have benefited from Kathleen's behind-the-

scenes orchestration of committee activities. She supervises the administrative support staff of the committee, manages all of the day-to-day operations, and is responsible for the preparation and implementation of the committee's operating budget. Simply put—the committee would cease to function without Kathleen at the helm; she has kept the place running like a Swiss watch. We all know that the demands of working in Congress often take the greatest toll on those who support us and sustain us in life—our families. For selflessly giving Kathleen to us for so many years, her husband Mike, son Luke, and daughter Molly deserve our gratitude. We thank them for their sacrifices.

Ensuring our great Nation's security is a high calling and one of tremendous responsibility. Through her service to the Intelligence Committee, the U.S. Senate, and the United States of America, Kathleen McGhee has answered this call with outstanding professionalism, integrity, and perseverance. Although I will be retiring at the end of this Congress, it is my hope that Kathleen will continue to honor the Senate with her service for many years to come. May God bless Kathleen and her family.

#### ADDITIONAL STATEMENTS

##### NEW MEXICO'S NATIONAL SCIENCE BOWL WINNER

• Mr. BINGAMAN. Mr. President, today I congratulate a group of middle school students from Albuquerque Academy in Albuquerque, NM, for winning the top prize at this year's National Science Bowl. This is an outstanding and well-deserved achievement after all their hard work throughout this competition, both in Albuquerque and here in Washington, DC.

Every year since 1991 the U.S. Department of Energy has sponsored the National Science Bowl to encourage high school students to excel in mathematics and science. In 2002 a contest was introduced for middle school students, which now involves more than 5,000 students nationwide. This year there was an academic question and answer competition as well as a model hydrogen fuel cell car challenge. By encouraging math and science education, competitions like these are helping to create a technically trained and diverse workforce for this generation and the next.

Teammates Andy Chen, Jason Frank Hou, Ben Zolyomi, Eric Li, Raya Koreh, and their coach Barbara Gilbert came to Washington, DC, to compete against 37 middle school regional Science Bowl champions in the National Finals. On Monday, May 3, they answered many challenging questions

pertaining to biology, geology, and other areas of science. They even answered a few bonus questions from First Lady Michelle Obama, who later awarded them their trophy, along with Secretary of Energy Stephen Chu. I realize how much studying it takes to prepare for a competition as rigorous as this, and I commend them on their hard-earned reward. It has certainly paid off. Their success should be applauded as this truly is a remarkable feat.

When they return home to New Mexico, I hope their fellow students and teachers are as encouraged as I am by their accomplishment. It is vitally important that talent like this doesn't go unnoticed as these young students will likely be among those helping to find solutions to some of the future's most challenging problems. I believe this team's success demonstrates how the United States, and New Mexico in particular, has potential to produce some of tomorrow's scientific leaders and innovators. That is why I hope these students will continue to pursue their intellectual interests and one day join a critical sector within our workforce.

I have always believed that investing in science and technology in our schools is essential in ensuring that the United States maintains a competitive edge to provide for our nation's economic strength and security. Our students' success depends on the quality of their educational opportunities today, and the talent demonstrated by these students makes me very optimistic about the future.

Again, I commend them on this outstanding achievement and wish them the best of luck in the future.●

##### RECOGNIZING EL CAMINO REAL HIGH SCHOOL

• Mrs. BOXER. Mr. President, I wish to recognize the great work and remarkable accomplishments of El Camino Real High School's Academic Decathlon team for winning the 2010 Academic Decathlon and its sixth National Championship. Members of the National Championship team include: Vivian Cheng, Daniel de Haas, Evan Edmisten, Andrew Fann, Audrey Goldbaum, Jessica Lin, Daniel Moreh, Adriana Ureche, Michael Walker, and team coaches John Dalsass, and Stephanie Franklin.

With this win, El Camino Real High School has earned the distinction of becoming six-time Academic Decathlon National Champions and nine-time State Champions. This milestone gives El Camino Real High School the distinction of being the Nation's all-time leader in national academic decathlon championships.

Competing in an Academic Decathlon is a daunting task. The Academic Decathlon's intense two-day national final competitions include multiple-

choice testing in seven different events, speeches, essay writing, and interviewing exercises. Students spend many hours studying, practicing, and competing, often away from their family and friends. I invite all of my colleagues to join me, the Woodland Hills community and the State of California in congratulating California's El Camino Real High School Academic Decathlon team for becoming 2010 National Academic Decathlon Champions.●

#### NATIVE HAWAIIAN AND PACIFIC ISLANDER NURSING GRADUATES

● Mr. INOUE. Mr. President, today I wish to commemorate the graduation of the first 100 Native Hawaiian and Pacific Islander nurses from the University of Hawaii at Manoa. As a proud supporter of the nursing profession, I am pleased to recognize IKE AO PONO, the Workforce Diversity Program for Native Hawaiian and Pacific Islander nursing students at the School of Nursing and Dental Hygiene.

On May 7, 2010, IKE AO PONO will commemorate a historic achievement in celebrating the graduation of the first 100 Native Hawaiian and Pacific Islander nurses from its program in only 6 years, contributing more Native Hawaiian and Pacific Islander nurses to workforce diversity in Hawaii than in the previous 80 years. As an academic support and cultural enrichment program, IKE AO PONO's mission is to increase the number of Native Hawaiian and Pacific Islander nurses in Hawaii to improve health and health care, with special attention to at-risk, underrepresented, and underserved peoples and communities.

IKE AO PONO envisions a lasting improvement, advancement, and promotion of health for Native Hawaiian and Pacific Islander peoples and communities by increasing the number of culturally informed and sensitive health professionals in nursing. This increase in Native nurses will help to address the dire health disparities of both Native Hawaiian and Pacific Islanders who have higher rates of diseases such as cancer, diabetes and obesity, heart disease and an overall mortality rate that is significantly higher than other cultural groups in Hawaii.

While the 2000 census showed Native Hawaiians as 23 percent of Hawaii's population, they represented only 7 percent of the University of Hawaii's students, only 2 percent of the UH faculty and administration, and only 4 percent of the nursing workforce. Therefore, in 2001, IKE AO PONO began as a 3-year pilot program with six Native Hawaiian students. By year 3, the numbers of Native Hawaiian and Pacific Islander nursing students had grown to 66 per semester. Between 2004 and 2010, the number of Native Hawaiian and Pacific Islander nursing stu-

dents increased again to 80 students per semester in both undergraduate and graduate programs. During this time, IKE AO PONO helped graduate the first Native Hawaiian and the first Samoan Ph.D.s in nursing in the 80-year history of the School of Nursing and Dental Hygiene.

Through the IKE AO PONO Program, there are currently 14 times the number of Native Hawaiian and Pacific Islander nurses at the School of Nursing and Dental Hygiene than in 2000, and many are focused on higher degrees in advanced public health, community, health, family health and nurse practitioner fields, as well as, a full range of other nursing specialties.

With the full support of the School of Nursing and Dental Hygiene, the UH Administration and Board of Regents, the Native Hawaiian Councils of Kualii and Pukoa and community partners such as Papa Ola Lokahi, Kamehameha Schools, Queen's Medical Center and the Office of Hawaiian Affairs, IKE AO PONO is also preparing Native nurses to return to their home communities to support the health, well-being and recovery of underserved Native islanders in rural areas throughout Hawaii.●

#### TRIBUTE TO DR. EARL S. RICHARDSON

● Ms. MIKULSKI. Mr. President, I am proud today to recognize one of Maryland's native sons, Dr. Earl S. Richardson, who will retire later this month after a quarter century at the helm of one of Maryland's finest institutions of higher education: Morgan State University.

Situated in the northern part of Baltimore City, Morgan State University has been designated as Maryland's Urban Public University. It is also one of four exemplary public historically Black universities, HCBUs, in the State of Maryland, each of which has been offering students a chance and a choice when it comes to higher ed for more than 100 years.

Institutions like these across the country have been accruing an incredible benefit to African Americans and the communities they serve. Historically Black colleges and universities produce nearly a quarter of our Nation's African-American public school teachers. They also produce almost 40 percent of African-American graduates in physics, math, biology, and environmental sciences.

Morgan State has been no exception. During Dr. Richardson's tenure, the university has seen enrollment increase by 35 percent—margins that exceed any other public college or university in the State. But the quality of applicants has not suffered; Morgan State was able to swell its student ranks while attracting top-notch students. Morgan State now offers 14 doctoral programs and is known nationally and

internationally for its doctoral programs in engineering and the sciences. Morgan consistently graduates a majority of all African Americans in Maryland with Ph.D.s in engineering. These graduates are among the most sought after by American industry. In addition, Morgan's patriotic tradition through its strong Army ROTC program is exemplified by the fact that it has produced more four-star African-American generals in the U.S. Army than any institution in the Nation except West Point.

Over the last 10 years, Morgan State has graduated 10 percent of the Nation's African-American undergraduates pursuing a degree in physics. Also, under Dr. Richardson's leadership, Morgan State currently leads all other public institutions in the State in bachelor's degrees earned by African Americans. The university also leads the State in graduating math, science and engineering undergrads—a critical achievement given our country's need to cultivate graduates ready to enter a 21st century workforce, where mastery of math and science is the name of the game. Morgan is also one of the leading producers of Fulbright Scholars in the Mid-Atlantic region.

Dr. Richardson's vision and leadership didn't end there. He also found time to sit on President Clinton's advisory board on HBCUs, serving as its chair in 1998; was chairman of the National Association for Equal Opportunity in Higher Education, NAFEO; and participate as a member of the American Council on Education, ACE. I have no doubt that his contributions will benefit current and future students from across the Nation for years to come.

But more than all of these accolades, Dr. Richardson's tenure as president of Morgan has been about fighting for opportunity for young people from often economically challenging backgrounds and neighborhoods, many the first in their family to attend college. His steadfast commitment to provide them with an urban university that provides them with the means to a better way of life and a career in the sciences or business or engineering, is a testament to his belief that a college degree is often the helping hand young people need to achieve success and realize their full potential.

I have been a member of the Senate nearly as long as Dr. Richardson has been president at Morgan State, and over the past two decades I have had the pleasure of enjoying this great man's support and friendship.

On behalf of myself, and speaking for the thousands of students who have matriculated at Morgan over the past 25 years, I would like to recognize and thank my friend, Dr. Earl Richardson, for a lifetime of extraordinarily distinguished service in the field of education. Well done!●

## RECOGNIZING WILDER'S JEWELRY

• Ms. SNOWE. Mr. President, this weekend, Americans celebrate Mothers Day, a time to pay tribute to the women in our lives and the incredible work that they do every day. As is frequently noted, women often juggle the dual roles of being a mother and maintaining a professional career. This situation is made even more difficult for the roughly 10.4 million women who are small business owners. Indeed, women-owned small businesses are one of the fastest growing segments of our Nation's economy. To highlight the work of one mother in my home State who is simultaneously running an historic small business in northern Maine, today I recognize the accomplishments of Cathy Beaulieu, the owner of Wilder's Jewelry in Presque Isle, for her steadfast dedication to small business, to her community, and, of course, to her family.

Cathy grew up in the St. John Valley, a stunning beautiful and scenic region at Maine's crest, where she was instilled with the famous work ethic of Maine's strong people. After exploring other places, she returned to Aroostook County—known to locals as simply "the County." She went to work at Wilder's Jewelry store, a fixture in downtown Presque Isle which was originally opened by Ike Wilder nearly 80 years ago. His son, Harry, continued the family business until 1996, when Cathy purchased the business from him, along with the historic building where it is located.

Wilder's sells a wide array of jewelry that will fit any budget, from traditional fine diamonds, rings, and watches to more contemporary costume jewelry, as well as stunning giftware items. Wilder's also offers customers unique, handmade gifts such as "knobstoppers"—golf balls or old door knobs fitted with wine corks—to cap wine bottles. Wilder's purchases some of its products from an organization called Sarah's Hope, which funds microloans to help budding women entrepreneurs hone their craft and grow their businesses. By appealing to everyone, Wilder's has thrived through some of the most difficult economic times our country has seen in decades.

Another reason for her success is Cathy's visible and passionate concern for her community. She has served as the president of the Greater Presque Isle Area Chamber of Commerce, as well as president of the Downtown Revitalization Committee, and she remains active in promoting the well-being of her city, attending city council meetings and speaking out on issues of concern to the community.

Cathy also donates time, money, and resources to numerous charities throughout Aroostook County, from the Wintergreen Arts Center to the Presque Isle Rotary Club's annual Radio-TV auction, as well as a number

of veteran causes. She also frequently sponsors trade shows in the area, and seven years ago helped begin a new annual Presque Isle tradition called Main Street Mania, a block party-style event where Main Street is shut to vehicular traffic while downtown businesses offer bargains to the maze of expectant shoppers. Cathy is also actively involved in a variety of school activities with her three beautiful children.

I have had the pleasure of meeting Cathy Beaulieu on several occasions to hear her views on the difficulties concerning running a small business in Maine, and I have always come away impressed by her passion, determination, and perseverance. By raising a family and running a business at the same time, she is a shining example of Maine's motto, "Dirigo"—or "I lead." Cathy Beaulieu is truly a leader, and I thank her for all of her noteworthy efforts in running a successful business, supporting her community, and raising her family. •

## MESSAGE FROM THE HOUSE

At 10:11 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2421. An act to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 247. A concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

H. Con. Res. 263. A concurrent resolution authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run.

## MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2421. An act to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day; to the Committee on Banking, Housing, and Urban Affairs.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5744. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, notification of the Department's intent to close the Defense commissary store at Mineo, Italy; to the Committee on Armed Services.

EC-5745. A communication from the Deputy to the Chairman for External Affairs,

Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled "Amendment of the Temporary Liquidity Guarantee Program to Extend the Transaction Account Guarantee Program with Opportunity to Opt Out" (RIN3064-AD37) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5746. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 31" (RIN0648-AX67) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5747. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Yolo-Solano Air Quality Management District" (FRL No. 9138-6) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC-5748. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Regulation of Fuels and Fuel Additives: Alternative Affirmative Defense Requirements for Ultra-low Sulfur Diesel and Gasoline Benzene Technical Amendment" (FRL No. 9147-4) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC-5749. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel Standard Program" (FRL No. 9147-6) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC-5750. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Allocation of Essential Use Allowances for Calendar Year 2010" (FRL No. 9147-8) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC-5751. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Disapproval of State Implementation Plan Revisions, South Coast Air Quality Management District" (FRL No. 9146-5) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC-5752. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas



for Air Quality Planning Purposes; Indiana; Redesignation of Lake and Porter Counties to Attainment for Ozone" (FRL No. 9147-2) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC-5753. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans, State of California, San Joaquin Valley Unified Air Pollution Control District, New Source River" (FRL No. 9141-3) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC-5754. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio; Indiana; Redesignation of the Ohio and Indiana Portions of the Cincinnati-Hamilton Area to Attainment for Ozone" (FRL No. 9147-3) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC-5755. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Ohio; General Provisions" (FRL No. 9142-7) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Environment and Public Works.

EC-5756. A communication from the Chief, Branch of Listing, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Revised Critical Habitat for Hine's Emerald Dragonfly (*Somatochlora hineana*)" (RIN1018-AW47) received in the Office of the President of the Senate on May 4, 2010; to the Committee on Environment and Public Works.

EC-5757. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, a report relative to endangered and threatened species expenditures; to the Committee on Environment and Public Works.

EC-5758. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "December 2009 Revision of Form 3115" (Announcement No. 2010-32) received in the Office of the President of the Senate on May 4, 2010; to the Committee on Finance.

EC-5759. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to extending the "Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of El Salvador Concerning the Imposition of Import Restrictions on Certain Categories of Archaeological Material from the Pre-Hispanic Cultures of the Republic of El Salvador"; to the Committee on Finance.

EC-5760. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant

to law, a report relative to the establishment of a Danger Pay Allowance for Ciudad Juarez, Matamoros, Monterrey, Nogales, Nuevo Laredo, and Tijuana, Mexico; to the Committee on Foreign Relations.

EC-5761. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement for the transfer of technical data, and defense services to the United Arab Emirates for modification, test, and certification of Cessna Model 208B Grand Caravans in the amount of \$50,000,000 or more; to the Committee on Foreign Relations.

EC-5762. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, an annual report relative to programs and projects of the International Atomic Energy Agency (IAEA); to the Committee on Foreign Relations.

EC-5763. A communication from the Assistant Secretary for Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a report relative to certifications granted in relation to the incidental capture of sea turtles in commercial shrimping operations; to the Committee on Foreign Relations.

EC-5764. A communication from the Assistant General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a proposed rule entitled "Employee Contribution Elections and Contribution Allocations; Methods of Withdrawing Funds from the Thrift Savings Plan" (5 CFR Parts 1600 and 1650) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-5765. A communication from the Program Manager, Substance Abuse and Mental Health Services Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (RIN0930-ZA04) received in the Office of the President of the Senate on May 3, 2010; to the Committee on Homeland Security and Governmental Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 511. A resolution commemorating and acknowledging the dedication and sacrifices made by the Federal, State, and local law enforcement officers who have been killed or injured in the line of duty.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 714. A bill to establish the National Criminal Justice Commission.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BINGAMAN for the Committee on Energy and Natural Resources.

\*Jeffrey A. Lane, of Virginia, to be an Assistant Secretary of Energy (Congressional and Intergovernmental Affairs).

\*Cheryl A. LaFleur, of Massachusetts, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2014.

\*Philip D. Moeller, of Washington, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2015.

By Mr. LEAHY for the Committee on the Judiciary.

J. Michelle Childs, of South Carolina, to be United States District Judge for the District of South Carolina.

Richard Mark Gergel, of South Carolina, to be United States District Judge for the District of South Carolina.

Catherine C. Eagles, of North Carolina, to be United States District Judge for the Middle District of North Carolina.

Kimberly J. Mueller, of California, to be United States District Judge for the Eastern District of California.

Parker Loren Carl, of Kentucky, to be United States Marshal for the Eastern District of Kentucky for the term of four years.

Gerald Sidney Holt, of Virginia, to be United States Marshal for the Western District of Virginia for the term of four years.

Robert R. Almonte, of Texas, to be United States Marshal for the Western District of Texas for the term of four years.

Jerry E. Martin, of Tennessee, to be United States Attorney for the Middle District of Tennessee for the term of four years.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. WHITEHOUSE:

S. 3320. A bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TESTER:

S. 3321. A bill to establish an advisory committee to issue nonbinding governmentwide guidelines on making public information available on the Internet, to require publicly available Government information held by the executive branch to be made available on the Internet, to express the sense of Congress that publicly available information held by the legislative and judicial branches should be available on the Internet, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. VOINOVICH (for himself, Ms. MURKOWSKI, and Mr. ALEXANDER):

S. 3322. A bill to amend the Atomic Energy Act of 1954 to establish a United States Nuclear Fuel Management Corporation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself and Mr. COBURN):

S. 3323. A bill to improve the management and oversight of Federal contracts, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.



By Mr. BROWN of Ohio (for himself, Mr. SCHUMER, Mr. MERKLEY, Mr. CASEY, and Mrs. HAGAN):

S. 3324. A bill to amend the Internal Revenue Code of 1986 to extend the qualifying advanced energy project credit; to the Committee on Finance.

By Mr. BEGICH (for himself and Mr. GRASSLEY):

S. 3325. A bill to amend title 38, United States Code, to authorize the waiver of the collection of copayments for telehealth and telemedicine visits of veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. CANTWELL (for herself, Mr. KERRY, and Mrs. BOXER):

S. 3326. A bill to provide grants to States for low-income housing projects in lieu of low-income housing credits, and to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of the low-income housing credit, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN (for himself and Mr. BROWN of Massachusetts):

S. 3327. A bill to add joining a foreign terrorist organization or engaging in or supporting hostilities against the United States or its allies to the list of acts for which United States nationals would lose their nationality; to the Committee on the Judiciary.

By Mrs. LINCOLN (for herself and Ms. LANDRIEU):

S. 3328. A bill to examine and improve the child welfare workforce, and for other purposes; to the Committee on Finance.

#### ADDITIONAL COSPONSORS

S. 182

At the request of Mr. DODD, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 182, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 565

At the request of Mr. DURBIN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 565, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. 688

At the request of Ms. SNOWE, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 688, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 752

At the request of Mr. DURBIN, the name of the Senator from Pennsyl-

vania (Mr. CASEY) was added as a cosponsor of S. 752, a bill to reform the financing of Senate elections, and for other purposes.

S. 1011

At the request of Mr. AKAKA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1011, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

S. 1066

At the request of Mr. SCHUMER, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1066, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

S. 1113

At the request of Mr. PRYOR, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1113, a bill to amend title 49, United States Code, to direct the Secretary of Transportation to establish and maintain a national clearinghouse for records related to alcohol and controlled substances testing of commercial motor vehicle operators, and for other purposes.

S. 1151

At the request of Mr. ROCKEFELLER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1151, a bill to amend part A of title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being.

S. 1158

At the request of Ms. STABENOW, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1158, a bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes.

S. 1425

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1425, a bill to increase the United States financial and programmatic contributions to promote economic opportunities for women in developing countries.

S. 1553

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1802

At the request of Mr. BURRIS, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1802, a bill to require a study of the feasibility of establishing the United States Civil Rights Trail System, and for other purposes.

S. 1938

At the request of Mr. ROCKEFELLER, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1938, a bill to establish a program to reduce injuries and deaths caused by cellphone use and texting while driving.

S. 2765

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2765, a bill to amend the Small Business Act to authorize loan guarantees for health information technology.

S. 2881

At the request of Ms. SNOWE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2881, a bill to provide greater technical resources to FCC Commissioners.

S. 3036

At the request of Mr. BAYH, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3036, a bill to establish the Office of the National Alzheimer's Project.

S. 3039

At the request of Mr. UDALL of New Mexico, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 3039, a bill to prevent drunk driving injuries and fatalities, and for other purposes.

S. 3058

At the request of Mr. DORGAN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3059

At the request of Mr. BINGAMAN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 3059, a bill to improve energy efficiency of appliances, lighting, and buildings, and for other purposes.

S. 3079

At the request of Mr. MERKLEY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 3079, a bill to assist in the creation of new jobs by providing financial incentives for owners of commercial buildings and multifamily residential buildings to retrofit their buildings with energy efficient building equipment and materials and for other purposes.

S. 3102

At the request of Mr. MERKLEY, the name of the Senator from Michigan

(Mr. LEVIN) was added as a cosponsor of S. 3102, a bill to amend the miscellaneous rural development provisions of the Farm Security and Rural Investment Act of 2002 to authorize the Secretary of Agriculture to make loans to certain entities that will use the funds to make loans to consumers to implement energy efficiency measures involving structural improvements and investments in cost-effective, commercial off-the-shelf technologies to reduce home energy use.

S. 3211

At the request of Mrs. SHAHEEN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 3211, a bill to amend title XVIII of the Social Security Act to improve access to diabetes self-management training by designating certain certified diabetes educators as certified providers for purposes of outpatient diabetes self-management training services under part B of the Medicare Program.

S. 3265

At the request of Mr. MCCAIN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 3265, a bill to restore Second Amendment rights in the District of Columbia.

S. 3266

At the request of Mr. BENNET, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Nebraska (Mr. JOHANNES) were added as cosponsors of S. 3266, a bill to ensure the availability of loan guarantees for rural homeowners.

S. 3299

At the request of Mr. WYDEN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 3299, a bill to amend the Help America Vote Act of 2002 to allow all eligible voters to vote by mail in Federal elections.

S. 3300

At the request of Mr. WYDEN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 3300, a bill to establish a Vote by Mail grant program.

S. 3305

At the request of Mr. MENENDEZ, the names of the Senator from Delaware (Mr. KAUFMAN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 3305, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills, and for other purposes.

S. 3306

At the request of Mr. MENENDEZ, the names of the Senator from Delaware (Mr. KAUFMAN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 3306, a bill to amend the Internal Revenue Code of 1986 to require polluters to pay the full cost of oil spills, and for other purposes.

S. 3309

At the request of Ms. MURKOWSKI, the name of the Senator from Alaska (Mr.

BEGICH) was added as a cosponsor of S. 3309, a bill to amend the Internal Revenue Code of 1986 to modify the rate of tax for the Oil Spill Liability Trust Fund.

S. 3313

At the request of Mr. ENSIGN, his name was added as a cosponsor of S. 3313, a bill to withdraw certain land located in Clark County, Nevada from location, entry, and patent under the mining laws and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials, and for other purposes.

S.J. RES. 29

At the request of Mr. MCCONNELL, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. RES. 316

At the request of Mr. MENENDEZ, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. Res. 316, a resolution calling upon the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide, and for other purposes.

S. RES. 503

At the request of Mr. WHITEHOUSE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 503, a resolution designating May 21, 2010, as "Endangered Species Day".

S. RES. 511

At the request of Mr. LEAHY, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Res. 511, a resolution commemorating and acknowledging the dedication and sacrifices made by the Federal, State, and local law enforcement officers who have been killed or injured in the line of duty.

AMENDMENT NO. 3733

At the request of Mr. BROWN of Ohio, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Arkansas (Mr. PRYOR) and the Senator from Virginia (Mr. WEBB) were added as cosponsors of amendment No. 3733 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3738

At the request of Mr. DODD, his name was added as a cosponsor of amend-

ment No. 3738 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

At the request of Mr. SANDERS, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 3738 proposed to S. 3217, supra.

AMENDMENT NO. 3746

At the request of Mr. WHITEHOUSE, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Virginia (Mr. WEBB) were added as cosponsors of amendment No. 3746 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3749

At the request of Mr. TESTER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 3749 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3754

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 3754 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3759

At the request of Mrs. HUTCHISON, the names of the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from North Carolina (Mrs. HAGAN) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of amendment No. 3759 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers

from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3765

At the request of Mr. FRANKEN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 3765 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3766

At the request of Mr. DURBIN, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of amendment No. 3766 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3768

At the request of Mr. DURBIN, the names of the Senator from New York (Mr. SCHUMER), the Senator from Oregon (Mr. MERKLEY) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of amendment No. 3768 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3771

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of amendment No. 3771 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3775

At the request of Mr. WYDEN, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Colorado (Mr. BENNET) were added as cosponsors of amendment No. 3775 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end

"too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3778

At the request of Mr. UDALL of Colorado, the names of the Senator from Delaware (Mr. KAUFMAN), the Senator from Oregon (Mr. MERKLEY) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of amendment No. 3778 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3780

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 3780 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3786

At the request of Ms. CANTWELL, the names of the Senator from Oregon (Mr. MERKLEY), the Senator from Ohio (Mr. BROWN), the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of amendment No. 3786 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3799

At the request of Mrs. HAGAN, the names of the Senator from North Carolina (Mr. BURR), the Senator from Virginia (Mr. WEBB) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of amendment No. 3799 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3807

At the request of Mrs. HAGAN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of

amendment No. 3807 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3808

At the request of Mr. FRANKEN, the names of the Senator from Oregon (Mr. MERKLEY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of amendment No. 3808 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3809

At the request of Mr. INOUE, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 3809 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3812

At the request of Mr. HARKIN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of amendment No. 3812 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3823

At the request of Mr. LEAHY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of amendment No. 3823 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3832

At the request of Mr. SESSIONS, the names of the Senator from Texas (Mr.

CORNYN), the Senator from South Dakota (Mr. THUNE) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of amendment No. 3832 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3833

At the request of Mrs. HUTCHISON, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of amendment No. 3833 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3844

At the request of Mr. BROWNBAC, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of amendment No. 3844 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3849

At the request of Mr. WYDEN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 3849 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3852

At the request of Mr. DEMINT, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of amendment No. 3852 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3854

At the request of Mr. REED, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 3854 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3857

At the request of Mr. REED, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of amendment No. 3857 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3858

At the request of Mr. REED, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of amendment No. 3858 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself and Mr. COBURN):

S. 3323. A bill to improve the management and oversight of Federal contracts, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. FEINGOLD. Mr. President, today I am introducing the bipartisan Federal Contracting and Oversight Act. Every year millions of taxpayer dollars are awarded to contractors with a history of poor performance and misconduct because our federal contracting oversight regime, though well-intentioned, is broken.

The problems in our contracting oversight regime were first brought to my attention by my constituents in Wisconsin, several of whom are small businesses that have suffered as a result of misconduct by a Federal contractor. In one case, a Federal contractor that has received over \$6 million in Federal contracts failed to pay small businesses in Wisconsin that

worked as subcontractors. Several years later, the Army finally barred the contractor from receiving Federal dollars, finding that the contractor had "a documented history of failing to pay subcontractors for services rendered pursuant to government contracts." We must ensure that these records of poor performance and misconduct are identified before federal contracts are awarded to contractors, not years later after the damage has already been done.

As I studied the issue further, I learned that similar problems were widespread and well documented. The Government Accountability Office has documented numerous instances of suspended and debarred companies continuing to receive federal contracts. In one case, a company that had been debarred for attempting to ship nuclear bomb parts to North Korea continued to receive millions of dollars on an Army contract. In another case, a contractor that had been suspended after one of its employees was found to have sabotaged repairs on an aircraft carrier was awarded three new contracts a month after the incident.

We must act to ensure that these incidents do not repeat themselves. American taxpayer dollars should be spent responsibly and the flaws of our contracting process should never be allowed to affect our security.

Our Federal contracting process is in urgent need of reform and greater oversight. To that end, I am introducing the Federal Contracting and Oversight Act, which is an important step to prevent the continued Federal patronage of private companies unworthy of our taxpayers' hard-earned dollars.

I am encouraged that Senator COBURN has also taken note of the flaws of the Federal contracting process and has joined me in this effort as an original cosponsor. This bill also has the support of experts that closely track our federal contracting process, including the Project on Government Oversight, the Center for American Progress, Taxpayers for Common Sense, and OMB Watch.

This bill will protect the hard-earned dollars of American taxpayers by improving the federal contracting system in three ways:

First, this bill will make the system more transparent.

Sunshine continues to be the best disinfectant; unfortunately, some of the most important data concerning contractor performance and misconduct is shielded from the scrutiny of the full Congress and American people.

This bill will broaden access to the new Federal Awardee Performance and Integrity Information System, FAPIIS, database, which contains a comprehensive picture of the records of Federal contractors including details of criminal, civil, and administrative proceedings, contract defaults, suspension

and debarments, and other violations of federal acquisition laws.

Under my bill, every member of Congress will be able to access the database in order to review the records of contractors. This is an important step towards greater transparency in our contracting oversight system. Each member of Congress has an interest in monitoring how the taxpayer dollars of their constituents are being spent.

Second, this bill will empower our contracting officers by giving them the tools and resources they need to adequately vet companies seeking Federal dollars.

Contracting officers currently make award decisions with only a limited set of information that is insufficient to support an informed decision. These contracting officers often lack the information they need to adequately review a company's contracting history.

This bill helps ensure that these officers have a more comprehensive picture of a company's contracting history before they make an award decision. Under this bill, the information available to them will include information on a broader range of misconduct, such as that occurring over 5 years ago, pertaining to a wider range of contracts or resulting in a more inclusive list of legal proceedings. This bill also requires companies vying for Federal dollars to self-report essential details about their past performance before they can receive a contract award. Together, these provisions will help ensure that those officials entrusted with awarding Federal contract dollars have all the resources they need to make an informed decision.

Third, this bill will strengthen the current oversight regime by fixing loopholes and shortcomings that have undermined its effectiveness. An oversight regime can only be effective if it is used, and used properly. It is unacceptable that taxpayer dollars continue to go to companies that have already been suspended or debarred, just because contracting officers have failed to either record or check their status.

Accordingly, this bill tasks the Comptroller General with producing an annual report on the extent to which companies that have been suspended and debarred continue to receive federal contracts or waivers to receive federal contracts. This is an important step towards ensuring that the problems in our contracting process receive the congressional and public scrutiny they deserve. This bill also requires the Inspectors General of each federal agency involved in the procurement process to conduct an annual audit to ensure that contracting officials are appropriately considering the past performance and misconduct of contractors.

The source of the oversight regime's ineffectiveness also lies in its design, which is in need of both consolidation and modernization.

When contracting officials begin to review a company's contracting history, the information they need is spread across numerous databases. They have to navigate an unorganized array of databases, including: the Excluded Parties List System, Central Contractor Registry, Contractor Performance Assessment Reporting System, Federal Assistance Award Data System, Federal Awardee Performance and Integrity Information System, Federal Business Opportunities Database, Federal Procurement Data System-Next Generation, Past Performance Information Retrieval System, and USAspending.gov, among others.

We must integrate these databases to ensure that contracting officials have a one-stop source for relevant contracting information. I am pleased that the General Services Administration has taken some positive steps in this direction, but any consolidation must be comprehensive. Accordingly, this bill requires the Office of Management and Budget to develop and submit a plan to integrate and consolidate the nine most important databases into a single searchable and linked network.

Another reason why suspended and debarred companies continue to receive federal contracts in error is because the unique identification system used to track companies is ineffective and in need of modernization. The Government Accountability Office has documented that the current identification system fails to adequately track subsidiaries, spin-offs, shell companies, and other related entities. This weak tracking system permits some suspended and debarred companies to access federal dollars to which they are not legally entitled.

To that end, this bill requires the Inspector General of the General Services Administration to determine whether the existing system of identifying numbers for contractors is adequately tracking Federal contractors, and develop a plan for developing and adopting a new and more robust identification system.

I urge my colleagues to support this bill. The American people entrust us with their hard-earned tax dollars, and we have a responsibility to ensure that their money is being spent appropriately.

By Mr. BEGICH (for himself and Mr. GRASSLEY):

S. 3325. A bill to amend title 38, United States Code, to authorize the waiver of the collection of copayments for telehealth and telemedicine visits of veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. BEGICH. Mr. President, today I rise to introduce legislation to amend title 38, related to this Nation's obligation to provide benefits to our veterans. Specifically, the bill I introduce today with my distinguished colleague,

Senator GRASSLEY of Iowa will waive collection of copayments for telehealth and telemedicine visits for veterans.

More than 42,000 veterans are receiving care in their homes, enrolled in the Veterans Health Administration, VHA, Telemedicine program as one form of treatment. In Alaska, as of March 2010, there were 226 veterans receiving this service. Just over 100 of those live in rural Alaska.

Home Telehealth programs provide needed care for the 2-3 percent of veterans who account for 30 percent or more of agency resources. These men and women are frequent clinic attendees and often require urgent hospital admissions. VHA programs have demonstrated reduced hospital admissions and clinic and emergency room visits, and contribute to an improved quality of life for our veterans.

For no group of veterans is this service more important than for those who live in rural and remote Alaska. Telemedicine has become an increasingly integral component in addressing the needs of veterans residing in rural and remote areas, and is critical to ensuring they have proper access to health care, especially in rural areas.

While the VHA is saving taxpayers money by using telemedicine, currently all telemedicine visits require veterans receiving these treatments to make copayments. My legislation would implement a simple fix. It would waive the required copayments—sometimes up to \$50.00 per visit—to lessen the burden on our veterans, who have sacrificed in service to our great Nation. I believe that waiving these fees may encourage more veterans to take advantage of VHA's telehealth programs, which can be a godsend for rural veterans with few other viable options.

For rural veterans in Alaska, who have to travel by small float planes or boats or even snow machines to get to the nearest clinic for monitoring of their diabetes, high blood pressure, or other chronic conditions, Congress can go a long way in repaying this Nation's debt to our veterans by passing this legislation.

The VHA plans to expand Home Telehealth for weight management, substance abuse, mild traumatic brain injury, dementia, and palliative care, as well as enabling veterans to use mobile devices to access care. I would hate to see these vital services go unused by veterans living in remote Alaskan villages because of the cost of copayments. But, this is not primarily about saving veterans money. This is about the Federal Government doing what is good for our veterans. The monetary benefits for veterans are a plus.

Basically, this legislation will amend title 38 to authorize the waiver of the collection of copayments for telehealth and telemedicine visits of veterans by giving the Secretary the authority to do so.

In closing, I must say it is an honor for me to serve as a member of the Senate Veterans' Affairs Committee. I feel very privileged to be involved with policy formation that helps our veterans, and indeed to be at the same table as the distinguished chairman of the committee, a veteran of World War II himself, Senator DANIEL AKAKA, who throughout his service in Congress has been a true advocate for our veterans. I appreciate the guidance he has provided me, and the assistance his staff has provided mine in preparation of this legislation.

This is a bipartisan bill to address an issue with no partisan connection. I strongly encourage my colleagues to join Senator GRASSLEY and me in co-sponsoring this legislation, and I urge expeditious consideration of the legislation to address a growing need for our rural veterans.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3860. Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, and Mr. JOHANN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 3861. Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, Mr. CORKER, and Mr. JOHANN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3862. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3863. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3864. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3865. Mr. GREGG (for himself and Mr. JOHANN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3866. Mr. WYDEN (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3867. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3868. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3869. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3787 submitted by Mr. BROWN of Ohio (for himself and Mr. KAUFMAN) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3870. Mr. KERRY (for himself, Mr. BROWN of Massachusetts, and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3871. Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3872. Mr. BROWN of Massachusetts (for himself, Mr. KERRY, and Mr. GREGG) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3873. Mr. DEMINT (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3874. Mr. PRYOR (for himself, Mr. BAUCUS, Mr. TESTER, Mrs. SHAHEEN, Mr. JOHNSON, Mr. BENNET, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3875. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3775 submitted by Mr. WYDEN (for himself and Mr. GRASSLEY) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3876. Mr. MENENDEZ (for himself and Mr. BURRIS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3877. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3878. Mr. CASEY (for himself, Mr. BROWN of Ohio, and Mr. HARKIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3879. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3880. Mr. BYRD (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3881. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3882. Mr. CORKER (for himself, Mr. GREGG, Mr. SHELBY, Mrs. HUTCHISON, Mr. LEMIEUX, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3883. Ms. SNOWE (for herself and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3884. Ms. CANTWELL (for herself, Mr. MCCAIN, Mr. KAUFMAN, Mr. HARKIN, Mr. FEINGOLD, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3885. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3886. Mr. ROCKEFELLER (for himself and Mr. BYRD) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3887. Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, Mr. CORKER, and Mr. JOHANN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3888. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3889. Mr. AKAKA (for himself, Mr. MENENDEZ, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3890. Mr. BAYH (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3891. Mr. CASEY (for himself, Mrs. GILLIBRAND, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3892. Mr. BINGAMAN (for himself, Ms. MURKOWSKI, Mr. REID, Mr. BROWNBACK, Ms. CANTWELL, Mr. CORNYN, Mr. WYDEN, and Mr. CORKER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3893. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3894. Mr. CORNYN submitted an amendment intended to be proposed to



amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3895. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3896. Mr. GREGG (for himself, Mr. BROWN of Massachusetts, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3897. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3898. Mr. ENSIGN proposed an amendment to amendment SA 3739 proposed by Mr. BROWN of Ohio (for himself, Mr. KAUFMAN, Mr. CASEY, Mr. WHITEHOUSE, Mr. MERKLEY, Mr. HARKIN, Mr. SANDERS, and Mr. BURRIS) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 3899. Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3900. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3901. Mr. CARDIN (for himself, Mr. ENZI, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3902. Mr. FRANKEN (for himself, Ms. SNOWE, Mrs. MURRAY, Mrs. SHAHEEN, Mr. SCHUMER, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. CASEY, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3903. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3904. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3905. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3906. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3907. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3908. Mr. CHAMBLISS submitted an amendment intended to be proposed to

amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3909. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 3860.** Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, and Mr. JOHANNIS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1086, strike line 3 and all that follows through “Not” on page 1090, line 9, and insert the following:

#### **SEC. 971. PROXY ACCESS.**

(a) PROXY ACCESS.—Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended—

- (1) by inserting “(1)” after “(a)”; and
- (2) by adding at the end the following:

“(2) The rules and regulations prescribed by the Commission under paragraph (1) may include—

“(A) a requirement that a solicitation of proxy, consent, or authorization by (or on behalf of) an issuer include a nominee submitted by a shareholder to serve on the board of directors of the issuer; and

“(B) a requirement that an issuer follow a certain procedure in relation to a solicitation described in subparagraph (A).”

(b) REGULATIONS.—The Commission may issue rules permitting the use by shareholders of proxy solicitation materials supplied by an issuer of securities for the purpose of nominating individuals to membership on the board of directors of the issuer, under such terms and conditions as the Commission determines are in the interests of shareholders and for the protection of investors.

#### **SEC. 972. DISCLOSURES REGARDING CHAIRMAN AND CEO STRUCTURES.**

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 14A, as added by this title, the following:

#### **“SEC. 14B. DISCLOSURES REGARDING CHAIRMAN AND CEO STRUCTURES.**

“Not

**SA 3861.** Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, Mr. CORKER, and Mr. JOHANNIS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to

protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1089, strike line 6 and all that follows through “**SEC. 973.**” on page 1090, line 3, and insert the following:

#### **SEC. 972.**

**SA 3862.** Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

In section 111(b)(1) of the amendment, strike subparagraph (A) and insert the following:

- (A) the Chairperson of the Council, who—
  - (i) shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals having expertise in the financial services industry; and
  - (ii) may not, during such service, also serve as the head of any primary financial regulatory agency;
- (B) the Secretary of the Treasury;

**SA 3863.** Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, between lines 2 and 3, insert the following:

- (I) the Chairman of the National Credit Union Administration; and

**SA 3864.** Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, between lines 2 and 3, insert the following:

- (I) a State insurance commissioner—
  - (i) to be designated using a selection process determined by the insurance commissioners of the States; and



(ii) who shall serve for a term of not longer than 2 years; and

**SA 3865.** Mr. GREGG (for himself and Mr. JOHANNES) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 513, strike line 21 and all that follows through page 515, line 11.

**SA 3866.** Mr. WYDEN (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, add the following:

**SEC. 123. DISCLOSURE OF FINANCIAL INTERESTS IN THE DECLINE IN VALUE OF FINANCIAL PRODUCTS.**

(a) **RECOMMENDATIONS BY COUNCIL.**—Not later than 180 days after the date of enactment of this Act, the Council shall make recommendations to the primary financial regulatory agencies to require any seller of a financial product or instrument to disclose to the purchaser or prospective purchaser of that product—

(1) whether the seller has any direct financial interest in the decline in value of the product; and

(2) whether the seller has any direct financial interest in the increase in value of the product.

(b) **PROCEDURES AND IMPLEMENTATION.**—The procedural and implementation provisions of subsections (b) and (c) of section 120 shall apply to recommendations of the Council under this section.

**SA 3867.** Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1034, strike line 8 and all that follows through line 21, and insert the following:

**SEC. 935. CONSIDERATION OF INFORMATION FROM SOURCES OTHER THAN THE ISSUER IN RATING DECISIONS.**

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7), as amended by this subtitle, is amended by adding at the end the following:

“(v) **INFORMATION FROM SOURCES OTHER THAN THE ISSUER.**—In producing a credit rating, a nationally recognized statistical rating organization shall consider information about an issuer that the nationally recognized statistical rating organization has, or receives from a source other than the issuer or the underwriter, that the nationally recognized statistical rating organization finds credible and potentially significant to a rating decision.”.

**SA 3868.** Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1034, strike line 22 and all that follows through page 1035, line 9, and insert the following:

**SEC. 936. QUALIFICATION STANDARDS FOR CREDIT RATING ANALYSTS.**

Not later than 1 year after the date of enactment of this Act, the Commission shall issue rules that are reasonably designed to ensure that any person employed by a nationally recognized statistical rating organization to perform credit ratings—

(1) meets standards of training, experience, best practices, and competence necessary to produce accurate ratings for the categories of issuers whose securities the person rates;

(2) is tested for knowledge of the credit rating process; and

(3) is required to participate in annual continuing education seminars to maintain the standards described in paragraph (1).

**SA 3869.** Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3787 submitted by Mr. BROWN of Ohio (for himself and Mr. KAUFMAN) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 3 of the amendment, strike lines 11 through 13 and insert the following:

(2) **FINANCIAL COMPANY.**—The term “financial company” means—

(A) any nonbank financial company supervised by the Board;

(B) the Federal National Mortgage Association; and

(C) the Federal Home Loan Mortgage Corporation.

**SA 3870.** Mr. KERRY (for himself, Mr. BROWN of Massachusetts, and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 370, strike line 14 and all that follows through page 371, line 19, and insert the following:

**Subtitle D—Federal Thrift Charter**

**SEC. 341. FEDERAL SAVINGS ASSOCIATIONS.**

Section 5(a) of the Home Owners' Loan Act (12 U.S.C. 1464(a)) is amended to read as follows:

“(a) **IN GENERAL.**—In order to provide thrift institutions for the deposit of funds and for the extension of credit for homes and other goods and services, the Comptroller of the Currency is authorized, under such regulations as the Comptroller of the Currency may prescribe, to provide for the chartering, examination, operation, and regulation of associations to be known as ‘Federal savings associations’ (including Federal savings banks), giving primary consideration to the best practices of thrift institutions in the United States. The lending and investment powers conferred by this section are intended to encourage such institutions to provide credit for housing safely and soundly.”.

**SA 3871.** Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, between lines 6 and 7, insert the following:

(3) **INVESTMENT COMPANIES AND ADVISERS.**—In the event that an investment company required to be registered under the Investment Company Act of 1940, or the registered investment adviser to such a company, is subject to supervision by the Board of Governors, the Council shall, in consultation with the Commission and in lieu of the prudential standards outlined in subsections (b) through (f), recommend to the Board of Governors such alternative enhanced regulatory requirements as are necessary to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress of the investment company or investment adviser. Such alternative requirements shall not include capital requirements.

On page 91, between lines 23 and 24, insert the following:

(3) INVESTMENT COMPANIES AND ADVISERS.—In the case of an investment company required to be registered under the Investment Company Act of 1940, or the registered investment adviser to such a company, that is supervised by the Board of Governors, the Board of Governors shall meet its obligations under this section by adopting the alternative enhanced regulatory requirements recommended by the Council under section 115.

**SA 3872.** Mr. BROWN of Massachusetts (for himself, Mr. KERRY, and Mr. GREGG) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 485, line 25, strike “and” and all that follows through “the term” on page 486, line 1 and insert the following:

“(3) the term ‘insured depository institution’ does not include an insured depository institution—

“(A) the activities of which are limited to providing trust or fiduciary services; and

“(B) that does not—

“(i) accept insured deposits from persons other than affiliates;

“(ii) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act (12 U.S.C. 461(b)(7)); or

“(iii) does not make commercial or consumer loans; and

“(4) the term”.

**SA 3873.** Mr. DEMINT (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, insert the following:

**SEC. \_\_\_\_.** **POINT OF ORDER ON LEGISLATION THAT PROVIDES THE GOVERNMENT WITH NEW POWERS TO GIVE TAXPAYER-FUNDED BAILOUTS OR ANY OTHER PREFERENTIAL TREATMENT TO ANY PUBLIC OR PRIVATE INSTITUTION IN FINANCIAL DISTRESS.**

(a) IN GENERAL.—In the Senate, it shall not be in order to consider any bill, joint resolution, amendment, motion, or conference report that provides the Government with new powers to give taxpayer-funded bailouts or any other preferential treatment to any public or private institution in financial distress.

(b) SUSPENSION OF POINT OF ORDER.—A point of order raised under subsection (a) shall be suspended in the Senate upon certification by the Congressional Budget Office that such bill, joint resolution, amendment, motion or conference report does not provide

the Government with new powers to give taxpayer-funded bailouts or any other preferential treatment to any public or private institution in financial distress.

(c) WAIVER AND APPEAL.—

(1) WAIVER.—This section may be waived or suspended only by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

**SA 3874.** Mr. PRYOR (for himself, Mr. BAUCUS, Mr. TESTER, Mrs. SHAHEEN, Mr. JOHNSON, Mr. BENNET, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 304, strike line 3 and all that follows though page 313, line 21, and insert the following:

(c) CERTAIN FUNCTIONS OF THE BOARD OF GOVERNORS.—

(1) COMPTROLLER OF THE CURRENCY.—Except as provided in paragraph (3), there are transferred to the Office of the Comptroller of the Currency all functions of the Board of Governors (including any Federal reserve bank) relating to the supervision of—

(A) any bank holding company (other than a foreign bank)—

(i) having less than \$50,000,000,000 in total consolidated assets; and

(ii) having—

(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions—

(aa) exceed the total consolidated assets of all subsidiary State depository institutions that are State member banks; and

(bb) exceed the total consolidated assets of all subsidiary State depository institutions that are State nonmember insured banks and State savings associations; and

(B) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (A).

(2) CORPORATION.—Except as provided in paragraph (3), there are transferred to the Corporation all functions of the Board of Governors (including any Federal reserve bank) relating to the supervision of—

(A) any bank holding company (other than a foreign bank)—

(i) having less than \$50,000,000,000 in total consolidated assets; and

(ii) having—

(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State nonmember insured banks or State savings associations; or

(II) a subsidiary that is a State nonmember insured bank or a State savings association

and a subsidiary that is not a State nonmember insured bank or State savings association, if the total consolidated assets of all such subsidiaries that are State nonmember insured banks or State savings associations—

(aa) exceeds the total consolidated assets of all subsidiaries that are Federal depository institutions; and

(bb) exceeds the total consolidated assets of all subsidiaries that are State member banks; and

(B) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (A).

(3) RULEMAKING AUTHORITY.—No rulemaking authority of the Board of Governors is transferred to the Office of the Comptroller of the Currency or the Corporation under this subsection.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to transfer to the Office of the Comptroller of the Currency or the Corporation any functions of the Board of Governors (including any Federal reserve bank) relating to the supervision of—

(A) any State member bank;

(B) any bank holding company (other than a foreign bank)—

(i) having less than \$50,000,000,000 in total consolidated assets; and

(ii) having—

(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State member banks; or

(II) a subsidiary that is a State member bank and a subsidiary that is not a State member bank, if the total consolidated assets of all subsidiaries that are State member banks—

(aa) exceed the total consolidated assets of all subsidiaries that are Federal depository institutions; and

(bb) exceed the total consolidated assets of all subsidiaries that are State nonmember insured banks and State savings associations; or

(C) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (B).

(d) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended by striking paragraphs (1) through (4) and inserting the following:

“(1) the Office of the Comptroller of the Currency, in the case of—

“(A) any national banking association;

“(B) any Federal branch or agency of a foreign bank;

“(C) any bank holding company (other than a foreign bank)—

“(i) having less than \$50,000,000,000 in total consolidated assets; and

“(ii) having—

“(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

“(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions—

“(aa) exceed the total consolidated assets of all subsidiary State depository institutions that are State member banks; and

“(bb) exceed the total consolidated assets of all subsidiary State depository institutions that are State nonmember insured banks and State savings associations;

“(D) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (C);

“(E) any Federal savings association;  
“(F) any savings and loan holding company (other than a foreign bank)—

“(i) having less than \$50,000,000,000 in total consolidated assets; and

“(ii) having—

“(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

“(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions exceed the total consolidated assets of all such subsidiaries that are State depository institutions; and

“(G) any subsidiary (other than a depository institution) of a savings and loan holding company that is described in subparagraph (F);

“(2) the Federal Deposit Insurance Corporation, in the case of—

“(A) any State nonmember insured bank;

“(B) any foreign bank having an insured branch;

“(C) any State savings association;

“(D) any bank holding company (other than a foreign bank)—

“(i) having less than \$50,000,000,000 in total consolidated assets; and

“(ii) having—

“(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State nonmember insured banks or State savings associations; or

“(II) a subsidiary that is a State nonmember insured bank or a State savings association and a subsidiary that is not a State nonmember insured bank or State savings association, if the total consolidated assets of all subsidiaries that are State nonmember insured banks or State savings associations—

“(aa) exceeds the total consolidated assets of all subsidiaries that are Federal depository institutions; and

“(bb) exceeds the total consolidated assets of all subsidiaries that are State member banks;

“(E) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (D);

“(F) any savings and loan holding company (other than a foreign bank)—

“(i) having less than \$50,000,000,000 in total consolidated assets; and

“(ii) having—

“(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State depository institutions; or

“(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are State depository institutions exceed the total consolidated assets of all subsidiaries that are Federal depository institutions; and

“(G) any subsidiary (other than a depository institution) of a savings and loan holding company that is described in subparagraph (F);

“(3) the Board of Governors of the Federal Reserve System, in the case of—

“(A) any State member bank;

“(B) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978;

“(C) any foreign bank which does not operate an insured branch;

“(D) any agency or commercial lending company other than a Federal agency;

“(E) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Financial Institutions Supervisory Act of 1966;

“(F) any bank holding company having total consolidated assets of \$50,000,000,000 or more, any bank holding company that is a foreign bank, and any subsidiary (other than a depository institution) of such a bank holding company;

“(G) any savings and loan holding company having total consolidated assets of \$50,000,000,000 or more, any savings and loan holding company that is a foreign bank, and any subsidiary (other than a depository institution) of such a savings and loan holding company;

“(H) any bank holding company (other than a foreign bank)—

“(i) having less than \$50,000,000,000 in total consolidated assets; and

“(ii) having—

“(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State member banks; or

“(II) a subsidiary that is a State member bank and a subsidiary that is not a State member bank, if the total consolidated assets of all subsidiaries that are State member banks—

“(aa) exceed the total consolidated assets of all subsidiaries that are Federal depository institutions; and

“(bb) exceed the total consolidated assets of all subsidiaries that are State nonmember insured banks and State savings associations; and

“(I) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (H).”.

(2) CERTAIN REFERENCES IN THE BANK HOLDING COMPANY ACT OF 1956.—

(A) COMPTROLLER OF THE CURRENCY.—On or after the transfer date, in the case of a bank holding company described in section 3(q)(1)(C) of the Federal Deposit Insurance Act, as amended by this Act, any reference in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) to the Board of Governors shall be deemed to be a reference to the Office of the Comptroller of the Currency.

(B) CORPORATION.—On or after the transfer date, in the case of a bank holding company described in section 3(q)(2)(D) of the Federal Deposit Insurance Act, as amended by this Act, any reference in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) to the Board of Governors shall be deemed to be a reference to the Corporation.

(C) RULE OF CONSTRUCTION.—Notwithstanding subparagraph (A) or (B), the Board of Governors shall retain all rulemaking authority under the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.).

(3) CONSULTATION IN HOLDING COMPANY RULEMAKING.—

(A) BANK HOLDING COMPANIES.—Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following:

“(h) CONSULTATION IN RULEMAKING.—Before proposing or adopting regulations under this Act that apply to bank holding companies having less than \$50,000,000,000 in total consolidated assets, the Board of Governors shall consult with the Comptroller of the Currency and the Federal Deposit Insurance Corporation as to the terms of such regulations.”.

**SA 3875.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3775 submitted by Mr. WYDEN (for himself and Mr. GRASSLEY) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

#### SEC. \_\_\_\_\_. STOP SECRET SPENDING ACT.

(a) SHORT TITLE.—This section may be cited as the “Stop Secret Spending Act”.

(b) NOTICE REQUIREMENT.—Legislation that has been subject to a hotline notification may not pass by unanimous consent unless—

(1) the hotline notification has been posted on the public website of the Senate for at least 3 calendar days as provided in subsection (c); and

(2) signed statements from every Member of the Senate attesting that they have read the legislation (except for a sense of the Senate measure) and understand its impact including the cost have been submitted to and printed in the Congressional Record using the following format: “I, Senator \_\_\_\_\_, have read [bill number] and understand its impact, including the cost, and support its passage.”.

(c) POSTING ON SENATE WEBPAGE.—At the same time as a hotline notification occurs with respect to any legislation, the Majority Leader shall post in a prominent place on the public webpage of the Senate a notice that the legislation has been hotlined and the legislation's number, title, link to full text, and sponsor and the estimated cost to implement and the number of new programs created by the legislation.

(d) LEGISLATIVE CALENDAR.—

(1) IN GENERAL.—The Secretary of the Senate shall establish for both the Senate Calendar of Business and the Senate Executive Calendar a separate section entitled “Notice of Intent To Pass by Unanimous Consent”.

(2) CONTENT.—The section required by paragraph (1) shall—

(A) include any legislation posted as required by subsection (c) and the date the hotline notification occurred; and

(B) be updated as appropriate.

(3) REMOVAL.—Items included on the calendar under this subsection shall be removed from the calendar once passed by the Senate.

(e) EXCEPTIONS.—This section shall not apply—

(1) if a quorum of the Senate is present at the time the unanimous consent is propounded to pass the bill;

(2) to any legislation relating to an imminent or ongoing emergency, as jointly agreed to by the Majority and Minority Leaders; and

(3) to nominations.

(f) SUSPENSION.—The Presiding Officer shall not entertain any request to suspend this section by unanimous consent.

(g) HOTLINE NOTIFICATION DEFINED.—In this section, the term “hotline notification” means when the Majority Leader in consultation with the Minority Leader, provides

notice of intent to pass legislation by unanimous consent by contacting each Senate office with a message on a special alert line (commonly referred to as the hotline) that provides information on what bill or bills the Majority Leader is seeking to pass through unanimous consent.

**SA 3876.** Mr. MENENDEZ (for himself and Mr. BURRIS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 372, line 2, strike "bank." and insert the following: "bank."

**SEC. 343. WOMEN AND MINORITY ADVANCEMENT.**

(a) DEFINITIONS.—In this section—

(1) the term "covered person" means a person that—

(A) has more than 50 employees; and

(B) makes a proposal to a financial agency for a contract that has a value of more than \$50,000;

(2) the term "Director" means a Director of Minority and Women Advancement appointed under subsection (c);

(3) the term "diversity" includes racial, gender, and ethnic diversity;

(4) the term "financial agency" means—

(A) the Department of the Treasury;

(B) the Corporation;

(C) the Federal Housing Finance Agency;

(D) each of the Federal reserve banks;

(E) the Board of Governors;

(F) the National Credit Union Administration;

(G) the Commission;

(H) the Office of the Comptroller of the Currency;

(I) the Council;

(J) the Bureau; and

(K) the Office of National Insurance established under title V;

(5) the term "financial agency administrator" means the head of a financial agency;

(6) the term "minority" has the same meaning as in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note);

(7) the terms "minority-owned business" and "women-owned business"—

(A) have the same meanings as in section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)); and

(B) include financial institutions, investment banking firms, mortgage banking firms, asset management firms, brokers, dealers, financial services firms, underwriters, accountants, investment consultants, and providers of legal services; and

(8) the term "Office" means an Office of Minority and Women Advancement established under subsection (b).

(b) OFFICE OF MINORITY AND WOMEN ADVANCEMENT.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, each financial agency shall establish an Office of Minority and Women Advancement that shall—

(A) be responsible for all matters of the financial agency relating to diversity in management, employment, and business activities, including contracting and the coordination of technical assistance, in accordance with such standards and requirements as the Director of the Office shall establish; and

(B) advise the financial agency administrator of the impact of policies and regulations of the financial agency on minority-owned businesses, women-owned businesses, and diversity at such businesses.

(2) TRANSFER OF RESPONSIBILITIES.—Each financial agency that, before the date of enactment of this Act, assigned the responsibilities described in paragraph (1) (or comparable responsibilities) to another office of the financial agency shall ensure that such responsibilities are transferred to the Office.

(c) DIRECTOR.—

(1) IN GENERAL.—The head of the Office of a financial agency shall be the Director of Minority and Women Advancement, who shall be appointed by the financial agency administrator of the financial agency.

(2) REPORTING; TITLE.—Each Director shall report directly to the financial agency administrator and hold a title within the financial agency of the Director that is comparable to the title of other senior-level staff members of the financial agency who act in a managerial capacity and report directly to the financial agency administrator.

(3) DUTIES.—Each Director shall—

(A) ensure equal employment opportunity and encourage the racial, ethnic, and gender diversity of the workforce and senior management of the subject financial agency;

(B) work to increase—

(i) the participation rates of minority-owned businesses and women-owned businesses in the programs and contracts of the subject financial agency; and

(ii) the percentage of the amounts expended by the subject financial agency that is expended with minority-owned businesses and women-owned businesses; and

(C) provide guidance to the financial agency administrator to ensure that the policies and regulations of the financial agency strengthen minority-owned businesses and women-owned businesses.

(d) ADVANCEMENT IN ALL LEVELS OF BUSINESS ACTIVITIES.—Each Director shall develop and implement standards and procedures to ensure, to the maximum extent possible, the advancement of minorities and women, and the use of minority-owned businesses and women-owned businesses, in all activities of the financial agency at every level, including in procurement, insurance, and all types of contracting (including, as applicable, contracting for the issuance or guarantee of debt, equity, or security, the sale of assets, the management of assets, the making of equity investments, and the implementation of programs to promote economic recovery).

(e) CONTRACTS.—

(1) IN GENERAL.—Any process established by a financial agency for the review and evaluation of a contract proposal or the employment of a service provider shall give consideration to the diversity of the covered person.

(2) WRITTEN ASSURANCE.—Each covered person shall include in the contract of the covered person with a financial agency a written assurance, in a form and manner that the Director of the financial agency shall prescribe, that the covered person will ensure, to the maximum extent possible, the advancement of minorities and women—

(A) in the workforce of the covered person; and

(B) as applicable, by any subcontractor of the covered person.

(3) REFERRAL SYSTEM.—Each Director shall establish a referral process by which the Director may refer a Federal contractor or subcontractor to the Office of Federal Contract Compliance Programs of the Department of Labor for further investigation, and appropriate enforcement, under Executive Order 11246 (42 U.S.C. 2000e note; relating to non-discrimination in employment by Government contractors and subcontractors), or any successor thereto.

(4) APPLICABILITY.—This subsection shall apply to all contracts of a financial agency for services of any kind, including the services of investment banking, asset management entities, broker-dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services. Nothing in this subsection may be construed to affect the responsibilities or authority of the Office of Federal Contract Compliance Programs of the Department of Labor or the responsibilities of Federal contractors under Executive Order 11246 (42 U.S.C. 2000e note; relating to nondiscrimination in employment by Government contractors and subcontractors), or any successor thereto.

(f) REPORTS.—Not later than 90 days before the end of each fiscal year, the Director of each financial agency shall submit to Congress a report that contains detailed information describing the actions taken by the Director and the financial agency under this section, including—

(1) a statement—

(A) of the total amount paid by the financial agency to covered persons during—

(i) the period beginning on the date of the most recent report submitted by the financial agency under this subsection; or

(ii) in the case of the first report submitted under this subsection, the first fiscal year following the date of enactment of this Act; and

(B) that analyzes the amount described in subparagraph (A) by the type of population involved, as determined by the Director;

(2) the percentage of the amount described in paragraph (1) that was paid to minority-owned businesses and women-owned businesses, analyzed by the type of population involved, as determined by the Director;

(3) the successes achieved and challenges faced by the financial agency in operating outreach programs for minorities and women;

(4) any challenges that the financial agency may face in hiring and retaining qualified minority and women employees and contracting with qualified minority-owned businesses and women-owned businesses;

(5) the efforts that the financial agency has made to ensure that the financial agency recruits diverse talent; and

(6) any other information, findings, conclusions, or recommendations for legislative or financial agency action, as the Director determines appropriate.

(g) DIVERSITY IN FINANCIAL AGENCY WORKFORCE.—Each financial agency shall take affirmative steps to seek diversity in the workforce of the financial agency at all levels of the financial agency, consistent with the demographic diversity of the United States, including—

(1) targeted recruiting at historically Black colleges and universities, Hispanic-serving institutions, women's colleges, and colleges that typically serve majority minority populations;

(2) sponsoring and recruiting at job fairs in urban communities;

(3) placing employment advertisements in newspapers and magazines oriented toward minorities and women;

(4) partnering with organizations that focus on developing opportunities for minorities and women, to place talented minorities and women in internships, summer employment, and full-time positions with the financial agency;

(5) where feasible, partnering with inner-city high schools, girls' high schools, and majority minority high schools, to establish or enhance financial literacy programs and provide mentoring;

(6) ensuring that women and minorities are included in the recruitment process, as staff or in the interview phase of the process; and

(7) using any other form of mass media communication that the Director determines is necessary.

(h) DIVERSITY REPORT CARDS.—

(1) REPORTING REQUIRED.—The Commission, in consultation with the Secretary of Labor and the Equal Employment Opportunity Commission, shall, by rule, require each issuer to disclose in the annual report of the issuer on Form 10-K under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), comparative percentage data, with separate categories for race, ethnicity, and gender, concerning—

(A) the 200 most highly compensated officers, executives, or employees of the issuer (excluding the members of the board of directors of the issuer);

(B) the total compensation of the 200 most highly compensated officers, executives, or employees of the issuer (excluding the members of the board of directors of the issuer);

(C) all employees of the issuer; and

(D) the total compensation of all employees of the issuer.

(2) TOTAL COMPENSATION.—For purposes of this subsection, total compensation shall be determined in accordance with section 229.402(c)(2)(x) of title 17, Code of Federal Regulations, as in effect on the day before the date of enactment of this Act.

#### SEC. 344. PRESERVING AND EXPANDING MINORITY DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 308(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note) is amended by striking “Director of the Office of Thrift Supervision” and inserting “, the Chairman of the Board of Governors of the Federal Reserve System.”

(b) REPORT.—Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note) is amended by adding at the end the following:

“(c) REPORTS.—The Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System shall each submit an annual report to Congress containing a description of actions taken to carry out this section.”

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 3(g) of the Home Owners' Loan Act (12 U.S.C. 1462a(g)) is amended—

(1) in paragraph (1), by striking “; and” and inserting a period;

(2) by striking “include” and all that follows through “any changes” and inserting “include a description of any changes”; and

(3) by striking paragraph (2).

**SA 3877.** Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving account-

ability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 372, between lines 2 and 3, insert the following:

#### SEC. 343. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSES.

The Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is amended by inserting after section 114 (12 U.S.C. 4713) the following:

#### “SEC. 114A. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSES.

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) DIRECTOR.—The term ‘Director’ means the Director of the Community Development Financial Institutions Fund.

“(2) ELIGIBLE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term ‘eligible community development financial institution’ means a community development financial institution (as described in section 1805.201 of title 12, Code of Federal Regulations, or any successor thereto) certified by the Secretary that has applied to a qualified issuer for, or been granted by a qualified issuer, a loan under the Program.

“(3) ELIGIBLE COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSE.—The term ‘eligible community or economic development purpose’—

“(A) means any purpose described in section 108(b); and

“(B) includes the provision of community or economic development in low-income or underserved rural areas.

“(4) GUARANTEE.—The term ‘guarantee’ means a written agreement between the Secretary and a qualified issuer (or trustee), pursuant to which the Secretary ensures repayment of the verifiable losses of principal, interest, and call premium, if any, on notes or bonds issued by a qualified issuer to finance or refinance loans to eligible community development financial institutions.

“(5) LOAN.—The term ‘loan’ means any credit instrument that is extended under the Program for any eligible community or economic development purpose.

“(6) MASTER SERVICER.—

“(A) IN GENERAL.—The term ‘master servicer’ means any entity approved by the Secretary in accordance with subparagraph (B) to oversee the activities of servicers, as provided in subsection (f)(4).

“(B) APPROVAL CRITERIA FOR MASTER SERVICERS.—The Secretary shall approve or deny any application to become a master servicer under the Program not later than 30 days after the date on which all required information is submitted to the Secretary, based on the capacity and experience of the applicant in—

“(i) loan administration, servicing, and loan monitoring;

“(ii) managing regional or national loan intake, processing, or servicing operational systems and infrastructure;

“(iii) managing regional or national originator communication systems and infrastructure;

“(iv) developing and implementing training and other risk management strategies on a regional or national basis; and

“(v) compliance monitoring, investor relations, and reporting.

“(7) PROGRAM.—The term ‘Program’ means the guarantee Program for bonds and notes issued for eligible community or economic development purposes established under this section.

“(8) PROGRAM ADMINISTRATOR.—The term ‘Program administrator’ means an entity designated by the issuer to perform administrative duties, as provided in subsection (f)(2).

“(9) QUALIFIED ISSUER.—

“(A) IN GENERAL.—The term ‘qualified issuer’ means a community development financial institution (or any entity, including a State or local government, designated to issue notes or bonds on behalf of such community development financial institution) that meets the qualification requirements of this paragraph.

“(B) APPROVAL CRITERIA FOR QUALIFIED ISSUERS.—

“(i) IN GENERAL.—The Secretary shall approve a qualified issuer for a guarantee under the Program in accordance with the requirements of this paragraph, and such additional requirements as the Secretary may establish, by regulation.

“(ii) TERMS AND QUALIFICATIONS.—A qualified issuer shall—

“(I) have appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes;

“(II) provide to the Secretary—

“(aa) an acceptable statement of the proposed sources and uses of the funds; and

“(bb) a capital distribution plan that meets the requirements of subsection (c)(1); and

“(III) certify to the Secretary that the bonds or notes to be guaranteed are to be used for eligible community or economic development purposes.

“(C) DEPARTMENT OPINION; TIMING.—

“(i) DEPARTMENT OPINION.—Not later than 30 days after the date of a request by a qualified issuer for approval of a guarantee under the Program, the General Counsel of the Fund shall provide to the Secretary an opinion regarding compliance by the issuer with the requirements of the Program under this section.

“(ii) TIMING.—The Secretary shall approve or deny a guarantee under this section after consideration of the opinion provided to the Secretary under clause (i), and in no case later than 45 days after receipt of all required information by the Secretary with respect to a request for such guarantee.

“(10) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(11) SERVICER.—The term ‘servicer’ means an entity designated by the issuer to perform various servicing duties, as provided in subsection (f)(3).

“(b) GUARANTEES AUTHORIZED.—The Secretary shall guarantee payments on bonds or notes issued by any qualified issuer if the proceeds of the bonds or notes are used in accordance with this section to make loans to eligible community development financial institutions—

“(1) for eligible community or economic development purposes; or

“(2) to refinance loans or notes issued for such purposes.

“(c) GENERAL PROGRAM REQUIREMENTS.—

“(1) IN GENERAL.—A capital distribution plan meets the requirements of this subsection, if not less than 90 percent of the principal amount of guaranteed bonds or notes (other than costs of issuance fees) are

used to make loans for any eligible community or economic development purpose, measured annually, beginning at the end of the 1-year period beginning on the issuance date of such guaranteed bonds or notes.

“(2) RELENDING ACCOUNT.—Not more than 10 percent of the principal amount of guaranteed bonds or notes, multiplied by an amount equal to the outstanding principal balance of issued notes or bonds, minus the risk-share pool amount under subsection (d), may be held in a relending account and may be made available for new eligible community or economic development purposes.

“(3) LIMITATIONS ON UNPAID PRINCIPAL BALANCES.—The proceeds of guaranteed bonds or notes under the Program may not be used to pay fees (other than costs of issuance fees), and shall be held in—

“(A) community or economic development loans;

“(B) a relending account, to the extent authorized under paragraph (2); or

“(C) a risk-share pool established under subsection (d).

“(4) REPAYMENT.—If a qualified issuer fails to meet the requirements of paragraph (1) by the end of the 90-day period beginning at the end of the annual measurement period, repayment shall be made on that portion of bonds or notes necessary to bring the bonds or notes that remain outstanding after such repayment into compliance with the 90 percent requirement of paragraph (1).

“(5) PROHIBITED USES.—The Secretary shall, by regulation—

“(A) prohibit, as appropriate, certain uses of amounts from the guarantee of a bond or note under the Program, including the use of such funds for political activities, lobbying, outreach, counseling services, or travel expenses; and

“(B) provide that the guarantee of a bond or note under the Program may not be used for salaries or other administrative costs of—

“(i) the qualified issuer; or

“(ii) any recipient of amounts from the guarantee of a bond or note.

“(d) RISK-SHARE POOL.—Each qualified issuer shall, during the term of a guarantee provided under the Program, establish a risk-share pool, capitalized by contributions from eligible community development financial institution participants an amount equal to not less than 3 percent of the guaranteed amount outstanding on the subject notes and bonds.

“(e) GUARANTEES.—

“(1) IN GENERAL.—A guarantee issued under the Program shall—

“(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

“(B) be fully assignable and transferable to the capital market, on terms and conditions that are consistent with comparable Government-guaranteed bonds, and satisfactory to the Secretary;

“(C) represent the full faith and credit of the United States; and

“(D) not exceed 30 years.

“(2) LIMITATIONS.—

“(A) ANNUAL NUMBER OF GUARANTEES.—The Secretary shall issue not more than 10 guarantees in any calendar year under the Program.

“(B) GUARANTEE AMOUNT.—The Secretary may not guarantee any amount under the Program equal to less than \$100,000,000, but the total of all such guarantees in any fiscal year may not exceed \$1,000,000,000.

“(f) SERVICING OF TRANSACTIONS.—

“(1) IN GENERAL.—To maximize efficiencies and minimize cost and interest rates, loans

made under this section may be serviced by qualified Program administrators, bond servicers, and a master servicer.

“(2) DUTIES OF PROGRAM ADMINISTRATOR.—The duties of a Program administrator shall include—

“(A) approving and qualifying eligible community development financial institution applications for participation in the Program;

“(B) compliance monitoring;

“(C) bond packaging in connection with the Program; and

“(D) all other duties and related services that are customarily expected of a Program administrator.

“(3) DUTIES OF SERVICER.—The duties of a servicer shall include—

“(A) billing and collecting loan payments;

“(B) initiating collection activities on past-due loans;

“(C) transferring loan payments to the master servicing accounts;

“(D) loan administration and servicing;

“(E) systematic and timely reporting of loan performance through remittance and servicing reports;

“(F) proper measurement of annual outstanding loan requirements; and

“(G) all other duties and related services that are customarily expected of servicers.

“(4) DUTIES OF MASTER SERVICER.—The duties of a master servicer shall include—

“(A) tracking the movement of funds between the accounts of the master servicer and any other servicer;

“(B) ensuring orderly receipt of the monthly remittance and servicing reports of the servicer;

“(C) monitoring the collection comments and foreclosure actions;

“(D) aggregating the reporting and distribution of funds to trustees and investors;

“(E) removing and replacing a servicer, as necessary;

“(F) loan administration and servicing;

“(G) systematic and timely reporting of loan performance compiled from all bond servicers' reports;

“(H) proper distribution of funds to investors; and

“(I) all other duties and related services that are customarily expected of a master servicer.

“(g) FEES.—

“(1) IN GENERAL.—A qualified issuer that receives a guarantee issued under this section on a bond or note shall pay a fee to the Director, in an amount equal to 10 basis points of the amount of the unpaid principal of the bond or note guaranteed.

“(2) PAYMENT.—A qualified issuer shall pay the fee required under this subsection on an annual basis.

“(h) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to the Secretary, such sums as are necessary to carry out this section.

“(2) USE OF FEES.—To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Director may use the fees collected under subsection (g) for the cost of providing guarantees of bonds and notes under this section.

“(i) INVESTMENT IN GUARANTEED BONDS IN-ELIGIBLE FOR COMMUNITY REINVESTMENT ACT PURPOSES.—Notwithstanding any other provision of law, any investment by a financial institution in bonds or notes guaranteed under the Program shall not be taken into account in assessing the record of such institution for purposes of the Community Reinvestment Act of 1977 (12 U.S.C. 2901).

“(j) ADMINISTRATION.—

“(1) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.

“(2) IMPLEMENTATION.—Not later than 240 days after the date of enactment of this section, the Secretary shall implement this section.

“(k) TERMINATION.—This section is repealed, and the authority provided under this section shall terminate, on September 30, 2014.”

#### SEC. 344. QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION BONDS.

(a) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION BONDS TREATED AS STATE AND LOCAL BONDS.—Section 150 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(f) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION BONDS.—For purposes of this part and section 103—

“(1) IN GENERAL.—A qualified community development financial institution bond shall be treated as a bond of a political subdivision of a State.

“(2) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION BOND.—The term ‘qualified community development financial institution bond’ means any bond—

“(A) issued by a qualified community development financial institution (or on behalf of such an institution by a State or local government),

“(B) designated as a qualified community development financial institution bond for purposes of this subsection, and

“(C) issued as part of an issue 95 percent or more of the net proceeds of which are to be used for an eligible community or economic development purpose (as defined in section 114A of the Community Development Banking and Financial Institutions Act).

“(3) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term ‘qualified community development financial institution’ means any organization—

“(A) which is described in section 501(c)(3) and exempt from tax under section 501(a), and

“(B) which is a qualified issuer as defined in section 114A of the Community Development Banking and Financial Institutions Act of 1994, or would be a qualified issuer but for its designation of a State or local government to issue bonds on its behalf.

“(4) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

“(A) IN GENERAL.—The maximum aggregate face amount of bonds which may be designated under paragraph (2)(B) by any issuer shall not exceed the limitation amount allocated to such issuer under subparagraph (C).

“(B) NATIONAL LIMITATION.—There is a national qualified community development financial institution bond limitation of \$500,000,000.

“(C) ALLOCATION OF NATIONAL LIMITATION.—The national qualified community development financial institution bond limitation shall be allocated by the Secretary to qualified issuers receiving guarantees under section 114A of the Community Development Banking and Financial Institutions Act of 1994.

“(5) BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—Bonds which are part of an issue which meets the requirements of paragraph (2) shall not be treated as private activity bonds.”

(b) NO FEDERAL GUARANTEE.—Subparagraph (A) of section 149(b)(3) of the Internal Revenue Code of 1986 is amended—



(1) by striking “or” at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting “, or”; and

(3) by adding at the end the following new clause:

“(v) any guarantee of a qualified community development financial institution bond provided by the Community Development Financial Institution Fund.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to bonds issued after the date of enactment of this Act.

**SA 3878.** Mr. CASEY (for himself, Mr. BROWN of Ohio, and Mr. HARKIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail,” to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1044, between lines 2 and 3, insert the following:

**SEC. 9. STUDY ON TRANSACTION FEE.**

(a) **IN GENERAL.**—The Securities and Exchange Commission and the Commodity Futures Trading Commission, in coordination with the Department of the Treasury, shall conduct a study on the implementation of a transaction fee on all security-based transactions, including swap and security-based swap transactions (except those transactions that are primarily for the purpose of hedging or mitigating risk), stock, debt instruments, and any other security that the heads of the Federal agencies described in this subsection determine to be appropriate to be included in the study.

(b) **PURPOSE.**—The purpose of the study shall be to assess—

(1) past experiences with transaction fees, with an emphasis on fee avoidance or behavior modification, migration of capital, and impact on individual investors and small and medium-sized businesses;

(2) the advantages and disadvantages of the implementation of the transaction fee in the United States alone, as compared to the introduction of the fee on a global basis;

(3) the potential to generate sufficient revenue to reduce the deficit, fund job creation, and meet the humanitarian and global development obligations of the United States;

(4) how a transaction fee needs to be designed in order to mitigate any negative side effects that may result from the indirect assessment on the raising of capital;

(5) the impact, if any, a transaction fee would have on the practice of day trading;

(6) to what extent a financial transaction fee would contribute to the stabilization of the financial markets in terms of the effect of the fee on speculation and on transparency;

(7) whether a transaction fee would prevent a future financial crisis by targeting certain types of risky transactions (which transactions shall be determined by the agencies conducting the study);

(8) the different transaction fee options, with a particular focus on—

(A) the financial transactions tax and financial activities tax, as described in the re-

port entitled “International Monetary Fund Report: A Fair and Substantial Contribution by the Financial Sector”; and

(B) implementing the transaction fee on individuals earning more than \$250,000 and corporations;

(9) whether the transaction fee would assist in building healthy capital, ensuring the ability of the banking system to finance real economy investments; and

(10) whether excessive risk-taking is or would be prevented through implementation of a transaction fee.

(c) **PUBLIC PARTICIPATION.**—The study described in subsection (a) shall be carried out in a manner to provide to the public an adequate period of time to provide comments on the implementation of a transaction fee.

(d) **REPORT.**—Not later than 90 days after the date of enactment of this Act, the Securities and Exchange Commission and the Commodity Futures Trading Commission, in coordination with the Department of the Treasury, shall submit to Congress a report that describes the results of the study.

**SA 3879.** Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail,” to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

**SEC. \_\_\_\_ LEVERAGE AND RISK-BASED CAPITAL REQUIREMENTS.**

(a) **DEFINITIONS.**—

(1) **GENERALLY APPLICABLE LEVERAGE CAPITAL REQUIREMENTS.**—The term “generally applicable leverage capital requirements” means—

(A) the minimum ratios of tier 1 capital to average total assets, as established by the appropriate Federal banking agencies to apply to insured depository institutions under the prompt corrective action regulations implementing section 38 of the Federal Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of that capital requirement, average total assets in the denominator of that capital requirement, and the required ratio of the numerator to the denominator.

(2) **GENERALLY APPLICABLE RISK-BASED CAPITAL REQUIREMENTS.**—The term “generally applicable risk-based capital requirements” means—

(A) the risk-based capital requirements as established by the appropriate Federal banking agencies to apply to insured depository institutions under the agency’s Prompt Corrective Action regulations that implement section 38 of the Federal Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of those capital requirements, the risk-weighted assets in the denominator of those capital requirements, and the required ratio of the numerator to the denominator.

(b) **MINIMUM CAPITAL REQUIREMENTS.**—

(1) **MINIMUM LEVERAGE CAPITAL REQUIREMENTS.**—The appropriate Federal banking agencies shall establish minimum leverage capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies identified under section 113. The minimum leverage capital requirements established under this paragraph shall not be less than the generally applicable leverage capital requirements, which shall serve as a floor for any capital requirements the agency may require, nor quantitatively lower than the generally applicable leverage capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

(2) **MINIMUM RISK-BASED CAPITAL REQUIREMENTS.**—The appropriate Federal banking agencies shall establish minimum risk-based capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies identified under section 113. The minimum risk-based capital requirements established under this paragraph shall not be less than the generally applicable risk-based capital requirements, which shall serve as a floor for any capital requirements the agency may require, nor quantitatively lower than the generally applicable risk-based capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

(3) **CAPITAL REQUIREMENTS TO ADDRESS ACTIVITIES THAT POSE RISKS TO THE FINANCIAL SYSTEM.**—

(A) **IN GENERAL.**—Subject to the recommendations of the Council, in accordance with section 120, the Federal banking agencies shall develop capital requirements applicable to all institutions covered by this section that address the risks that the activities of such institutions pose, not only to the institution engaging in the activity, but to other public and private stakeholders in the event of adverse performance, disruption, or failure of the institution or the activity.

(B) **CONTENT.**—Such rules shall address, at a minimum, the risks arising from—

(i) significant volumes of activity in derivatives, securitized products purchased and sold, financial guarantees purchased and sold, securities borrowing and lending, and repurchase agreements and reverse repurchase agreements;

(ii) concentrations in assets for which the values presented in financial reports are based on models rather than historical cost or prices deriving from deep and liquid 2-way markets; and

(iii) concentrations in market share for any activity that would substantially disrupt financial markets if the institution is forced to unexpectedly cease the activity.

**SA 3880.** Mr. BYRD (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail,” to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which



was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

**SEC. 919C. PENALTIES FOR FAILURE TO DISCLOSE HEALTH AND SAFETY LITIGATION, VIOLATIONS, AND IMPACT INFORMATION.**

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 21A the following new section:

**“SEC. 21B. HEALTH AND SAFETY DISCLOSURE VIOLATIONS.**

“(a) FINDINGS.—Congress finds the following:

“(1) This Act requires issuers of securities to disclose material facts regarding—

“(A) pending litigation;

“(B) unsafe or unhealthy conditions in a high-risk workplace that may reasonably be expected to cause the issuer to face costly wrongful death actions from the heirs of the deceased;

“(C) unsafe or unhealthy conditions in a high-risk workplace, or significant violations of law in such a workplace, that may reasonably be expected to cause reported financial information not to be necessarily indicative of future financial conditions or future operating results; and

“(D) events, trends, or uncertainties that may change the relationship between costs and revenues.

“(2) In numerous industries, including high-risk industries such as coal mining and oil exploration, health and safety conditions have long been incompletely and inconsistently disclosed, discussed, or analyzed by corporations.

“(3) Investors and the public have a right to know, and a reasonable expectation to remain informed, about significant safety and health conditions that could imperil the workforce of publicly-traded corporations, carrying odious consequences for workers, families, and communities, and that can lead to the abrogation of contracts, environmental or other tort liabilities, and tarnished corporate reputations.

“(b) PURPOSE.—The purpose of this section is to strengthen the maintenance of fair and honest markets by requiring disclosure of certain health and safety information and by authorizing elevated penalties for failures to disclose certain categories of information regarding health and safety conditions or violations, given that such failures have too often heretofore been unaddressed.

“(c) JUDICIAL ACTIONS AUTHORIZED.—

“(1) RELIEF AND PENALTIES.—Whenever it shall appear that any issuer has violated subsection (d), the Commission or any shareholder of the issuer may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose—

“(A) equitable relief for the complainant, to be provided by the issuer; and

“(B) a civil penalty to be paid by the senior executive officers or the members of the board of directors of the subject issuer—

“(i) who knew about such violation; or

“(ii) whose duties and decisions affected matters regarding production or safety and who therefore had reason to know about such violation, barring malfeasance by other directors, officers, employees, or agents of the subject issuer.

“(2) COSTS.—Whenever a court issues an order sustaining a shareholder's charges under paragraph (1), a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) that have been reasonably incurred by the shareholder for, or in connection with, the institution and pros-

ecution of such proceedings, as determined by the court, shall be assessed against the issuer. These costs shall be assessed regardless of the amount or means of relief or penalties imposed on the issuer or its directors, officers, employees, or agents.

“(d) HEALTH AND SAFETY-RELATED DISCLOSURE.—

“(1) DUTY TO DISCLOSE.—At least annually, an issuer shall disclose to the Commission and the shareholders the information required under paragraph (2).

“(2) REQUIRED DISCLOSURES.—The disclosures required under this paragraph are the following:

“(A) Any pending litigation concerning a health or safety condition or violation under Federal or State law involving the issuer, other than ordinary, routine litigation that is incidental to the business of the issuer, as determined by the Commission in consultation with the Secretary of Labor.

“(B) Any significant health or safety condition, or significant health or safety violation, at any business unit of the issuer in which routine activities pose risk of loss of life.

“(C) Any significant health or safety condition, or significant health or safety violation, at any business unit of the issuer in which routine activities pose risk of accidents or fatalities, injuries, or illnesses, the occurrence of which could cause reported financial information not to be necessarily indicative of future financial conditions of the issuer, or which could cause a negative effect on operating results of the issuer or any subsidiaries thereof.

“(D) Any trend in health or safety conditions or violations under Federal law, at any business unit of the issuer, that may change the relationship between costs and revenues of the issuer or any subsidiaries thereof.

“(e) MEANS AND AMOUNT OF EQUITABLE RELIEF, DAMAGES, AND PENALTIES.—

“(1) MEANS AND AMOUNT OF EQUITABLE RELIEF AND DAMAGES.—The court shall determine the means of equitable relief for a violation of subsection (d), which may include the immediate disclosure of significant health or safety conditions or significant health or safety violations. If the court determines that a shareholder has sustained damages, the court may assess the damages against the issuer.

“(2) AMOUNT OF CIVIL PENALTY.—

“(A) JUDICIAL DETERMINATION.—The court shall determine the civil penalty for a violation of subsection (d) in light of the facts and circumstances.

“(B) AMOUNT OF PENALTY.—Unless determined otherwise in accordance with subparagraph (A), the civil penalty for a violation of subsection (d) shall be equal to not less than 3 times the amount that may be imposed under other State or Federal law in connection with the underlying safety or health conditions or violations that are required to be disclosed under this title.

“(3) PRIVATE ACTIONS.—If a person other than the United States prevails on a claim alleging a violation of subsection (d), the person shall be entitled to recover 3 times the amount of damages sustained by the person, as determined by the court, in light of the facts and circumstances.

“(f) PROCEDURES FOR COLLECTION.—

“(1) PAYMENT OF PENALTY TO TREASURY.—A civil penalty imposed under this section shall be payable into the Treasury of the United States.

“(2) COLLECTION OF PENALTIES.—If a person upon whom a civil penalty under this section is imposed fails to pay such penalty within

the time prescribed in the order of the court, the Commission may refer the matter to the Attorney General of the United States, who shall recover such penalty by action in the appropriate United States district court.

“(3) REMEDY NOT EXCLUSIVE.—An action authorized by this section may be brought in addition to any other actions that the Commission, the Attorney General, or any shareholder is entitled to bring.

“(4) JURISDICTION AND VENUE.—For purposes of section 27, an action under this section shall be an action to enforce a liability or a duty created by this title.

“(g) DEFINITIONS.—

“(1) IN GENERAL.—The Commission, in consultation with the Secretary of Labor, shall issue rules to define the terms used in this section for which the Commission determines a definition to be necessary.

“(2) DEFINITIONS.—In this section:

“(A) PENDING LITIGATION.—The term ‘pending litigation’ includes a civil action or administrative proceeding for a penalty for violating a Federal or State health and safety law that—

“(i) is being contested before an administrative law judge under the Occupational Safety and Health Review Commission or the Federal Mine Safety and Health Review Commission; or

“(ii) is being otherwise contested or appealed under a State review board or other body.

“(B) SIGNIFICANT HEALTH OR SAFETY CONDITION.—The term ‘significant health or safety condition’ means a condition that a certified worker or manager could identify as reasonably likely to be cited, were the condition to be observed by a Federal inspector, as—

“(i) a significant and substantial health or safety violation under the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.);

“(ii) a serious or repeated violation under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); or

“(iii) another health- or safety-related violation carrying a high degree of gravity under Federal law.

“(C) SIGNIFICANT HEALTH OR SAFETY VIOLATION.—The term ‘significant health or safety violation’ means—

“(i) a significant and substantial health or safety violation under the Federal Mine Safety and Health Act of 1977;

“(ii) a serious or repeated violation under the Occupational Safety and Health Act of 1970; or

“(iii) another health- or safety-related violation carrying a high degree of gravity under State or Federal law.”.

**SA 3881.** Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1062, after line 25, insert the following:

(e) OFFICE OF SERVICE MEMBER AFFAIRS.—

(1) **ESTABLISHMENT.**—The Director shall establish within the Bureau the Office of Service Member Affairs.

(2) **FUNCTIONS.**—The Office of Service Member Affairs shall have such powers and duties as the Director may delegate to that Office, with respect to the drafting and enforcement of any special consumer financial protection rules that apply to members of the Armed Forces.

(3) **ADMINISTRATION OF OFFICE.**—There is established the position of Assistant Director of the Bureau for Service Member Affairs, who—

(A) shall be appointed by the Director; and

(B) shall carry out such duties as the Director may delegate to such Assistant Director.

(4) **DEFINITION.**—As used in this subsection, the term “member of the Armed Forces” means any member of the United States Armed Forces and any member of the National Guard or Reserves.

**SA 3882.** Mr. CORKER (for himself, Mr. GREGG, Mr. SHELBY, Mrs. HUTCHISON, Mr. LEMIEUX, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1045, strike line 12 and all that follows through “**SEC. 942.**” on page 1052, line 3, and insert the following:

(b) **STUDY ON RISK RETENTION.**—

(1) **STUDY.**—

(A) **IN GENERAL.**—The Board of Governors, in coordination and consultation with the Comptroller of the Currency, the Corporation, the Federal Housing Finance Agency, and the Commission, shall conduct a study of the asset-backed securitization process.

(B) **ISSUES TO BE STUDIED.**—In conducting the study under subparagraph (A), the Board of Governors shall evaluate—

(i) the separate and combined impact of—

(I) requiring loan originators or securitizers to retain an economic interest in a portion of the credit risk for any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party; including—

(aa) whether existing risk retention requirements such as contractual representations and warranties, and statutory and regulatory underwriting and consumer protection requirements are sufficient to ensure the long-term accountability of originators for loans they originate; and

(bb) methodologies for establishing additional statutory credit risk retention requirements;

(II) the Financial Accounting Statements 166 and 167 issued by the Financial Accounting Standards Board, as well as any other statements issued before or after the date of enactment of this section the Federal banking agencies determine to be relevant;

(ii) the impact of the factors described under subsection (i) of this section on—

(I) different classes of assets, such as residential mortgages, commercial mortgages,

commercial loans, auto loans, and other classes of assets;

(II) loan originators;

(III) securitizers;

(IV) access of consumers and businesses to credit on reasonable terms.

(2) **REPORT.**—Not later than 18 months after the date of enactment of this section, the Board of Governors shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include statutory and regulatory recommendations for eliminating any negative impacts on the continued viability of the asset-backed securitization markets and on the availability of credit for new lending identified by the study conducted under paragraph (1).

#### **SEC. 942. RESIDENTIAL MORTGAGE UNDERWRITING STANDARDS.**

(a) **STANDARDS ESTABLISHED.**—Notwithstanding any other provision of this Act or any other provision of Federal, State, or local law, the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, shall jointly establish specific minimum standards for mortgage underwriting, including—

(1) a requirement that the mortgagee verify and document the income and assets relied upon to qualify the mortgagor on the residential mortgage, including the previous employment and credit history of the mortgagor;

(2) a down payment requirement that—

(A) is equal to not less than 5 percent of the purchase price of the property securing the residential mortgage; and

(B) in the case of a first lien residential mortgage loan with an initial loan to value ratio that is more than 80 percent and not more than 95 percent, includes a requirement for credit enhancements, as defined by the Federal banking agencies, until the loan to value ratio of the residential mortgage loan amortizes to a value that is less than 80 percent of the purchase price;

(3) a method for determining the ability of the mortgagor to repay the residential mortgage that is based on factors including—

(A) all terms of the residential mortgage, including principal payments that fully amortize the balance of the residential mortgage over the term of the residential mortgage; and

(B) the debt to income ratio of the mortgagor; and

(4) any other specific standards the Federal banking agencies jointly determine are appropriate to ensure prudent underwriting of residential mortgages.

(b) **UPDATES TO STANDARDS.**—The Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development—

(1) shall review the standards established under this section not less frequently than every 5 years; and

(2) based on the review under paragraph (1), may revise the standards established under this section, as the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, determine to be necessary.

(c) **COMPLIANCE.**—It shall be a violation of Federal law—

(1) for any mortgage loan originator to fail to comply with the minimum standards for mortgage underwriting established under subsection (a) in originating a residential mortgage loan;

(2) for any company to maintain an extension of credit on a revolving basis to any per-

son to fund a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan funded by such credit was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a); or

(3) for any company to purchase, fund by assignment, or guarantee a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a).

(d) **IMPLEMENTATION.**—

(1) **REGULATIONS REQUIRED.**—The Federal banking agencies, in consultation with the Federal Housing Finance Agency, shall issue regulations to implement subsections (a) and (c), which shall take effect not later than 270 days after the date of enactment of this Act.

(2) **REPORT REQUIRED.**—If the Federal banking agencies have not issued final regulations under subsections (a) and (c) before the date that is 270 days after the date of enactment of this Act, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) explains why final regulations have not been issued under subsections (a) and (c); and

(B) provides a timeline for the issuance of final regulations under subsections (a) and (c).

(e) **ENFORCEMENT.**—Compliance with the rules issued under this section shall be enforced by—

(1) the primary financial regulatory agency of an entity, with respect to an entity subject to the jurisdiction of a primary financial regulatory agency, in accordance with the statutes governing the jurisdiction of the primary financial regulatory agency over the entity and as if the action of the primary financial regulatory agency were taken under such statutes; and

(2) the Bureau, with respect to a company that is not subject to the jurisdiction of a primary financial regulatory agency.

(f) **RULE OF CONSTRUCTION.**—Nothing in this section may be construed to permit the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation to make or guarantee a residential mortgage loan that does not meet the minimum underwriting standards established under this section.

(g) **DEFINITIONS.**—In this section, the following definitions shall apply:

(1) **COMPANY.**—The term “company”—

(A) has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)); and

(B) includes a sole proprietorship.

(2) **MORTGAGE LOAN ORIGINATOR.**—The term “mortgage loan originator” means any company that takes residential mortgage loan applications and offers or negotiates terms of residential mortgage loans.

(3) **RESIDENTIAL MORTGAGE LOAN.**—The term “residential mortgage loan”—

(A) means any extension of credit primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent security interest in a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling; and

(B) does not include a mortgage loan for which mortgage insurance is provided by the Department of Veterans Affairs.

(4) EXTENSION OF CREDIT; DWELLING.—The terms “extension of credit” and “dwelling” shall have the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

SEC. 943.

**SA 3883.** Ms. SNOW (for herself and Mr. PRYOR), submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . SMALL BUSINESS FAIRNESS AND REGULATORY TRANSPARENCY.**

(a) PANEL REQUIREMENT.—Section 609(d) of title 5, United States Code, is amended by striking “means the” and all that follows and inserting the following: “means—

“(1) the Environmental Protection Agency;“(2) the Consumer Financial Protection Bureau of the Federal Reserve System; and“(3) the Occupational Safety and Health Administration of the Department of Labor.”.

(b) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended by adding at the end the following:

“(d)(1) For a covered agency, as defined in section 609(d)(2), each initial regulatory flexibility analysis shall include a description of—

“(A) any projected increase in the cost of credit for small entities;

“(B) any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any increase in the cost of credit for small entities; and

“(C) advice and recommendations of representatives of small entities relating to issues described in subparagraphs (A) and (B) and subsection (b).”.

“(2) A covered agency, as defined in section 609(d)(2), shall, for purposes of complying with paragraph (1)(C)—

“(A) identify representatives of small entities in consultation with the Chief Counsel for Advocacy of the Small Business Administration; and

“(B) collect advice and recommendations from the representatives identified under subparagraph (A) relating to issues described in subparagraphs (A) and (B) of paragraph (1) and subsection (b).”.

(c) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604(a) of title 5, United States Code, is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(6) for a covered agency, as defined in section 609(d)(2), a description of the steps the agency has taken to minimize any additional cost of credit for small entities.”.

**SA 3884.** Ms. CANTWELL (for herself, Mr. MCCAIN, Mr. KAUFMAN, Mr. HARKIN,

Mr. FEINGOLD, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I, add the following:

**SEC. 171. LIMITATIONS ON BANK AFFILIATIONS.**

(a) LIMITATION ON AFFILIATION.—The Banking Act of 1933 (12 U.S.C. 221a et seq.) is amended by inserting before section 21 the following:

“SEC. 20. Beginning 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010, no member bank may be affiliated, in any manner described in section 2(b), with any corporation, association, business trust, or other similar organization that is engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation stocks, bonds, debenture, notes, or other securities, except that nothing in this section shall apply to any such organization which shall have been placed in formal liquidation and which shall transact no business, except such as may be incidental to the liquidation of its affairs.”.

(b) LIMITATION ON COMPENSATION.—The Banking Act of 1933 (12 U.S.C. 221 et seq.) is amended by inserting after section 31 the following:

“SEC. 32. Beginning 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010, no officer, director, or employee of any corporation or unincorporated association, no partner or employee of any partnership, and no individual, primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities, shall serve simultaneously as an officer, director, or employee of any member bank, except in limited classes of cases in which the Board of Governors of the Federal Reserve System may allow such service by general regulations when, in the judgment of the Board of Governors, it would not unduly influence the investment policies of such member bank or the advice given to customers by the member bank regarding investments.”.

(c) PROHIBITING DEPOSITORY INSTITUTIONS FROM ENGAGING IN INSURANCE-RELATED ACTIVITIES.—

(1) IN GENERAL.—Beginning 1 year after the date of enactment of this Act, and notwithstanding any other provision of law, in no case may a depository institution engage in the business of insurance or any insurance-related activity.

(2) DEFINITION.—As used in this section, the term “business of insurance” means the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary to such writing or reinsuring and the activities relating to the writing of insurance or the reinsuring of risks conducted by persons who act as, or are, officers, directors, agents, or employees of insurers or who are

other persons authorized to act on behalf of such persons.

**SA 3885.** Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 370, strike lines 11 through 13 and insert the following:

(b) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the transfer date.

**SEC. 333. STUDY ON THE IMPACT OF EXCLUDING CORE DEPOSITS FROM TREATMENT AS BROKED DEPOSITS.**

(a) STUDY.—The Board of Governors shall conduct a study to evaluate—

(1) the treatment of core deposits as brokered deposits for the purpose of calculating the insurance premiums of banks;

(2) the potential impact on the Deposit Insurance Fund of ceasing to treat core deposits as brokered deposits;

(3) an assessment of the merits and drawbacks of the treatment of core deposits as brokered deposits, with respect to the economy and banking sector of the United States;

(4) the potential stimulative effect on local economies of excluding core deposits from treatment as brokered deposits; and

(5) the competitive parity between large institutions and community banks that could result from excluding core deposits from treatment as brokered deposits.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Board of Governors shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the results of the study under subsection (a) that includes legislative recommendations, if any, to address competitive imbalances as a result of the treatment of core deposits as brokered deposits.

**SA 3886.** Mr. ROCKEFELLER (for himself and Mr. BYRD) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

**SEC. 919C. REPORTING REQUIREMENTS REGARDING COAL OR OTHER MINE SAFETY.**

(a) REPORTING MINE SAFETY INFORMATION.—Each issuer that is required to file reports pursuant to section 13(a) or 15(d) of the

Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o) and that is an operator, or that has a subsidiary that is an operator, of a coal or other mine shall include, in each periodic report filed with the Commission under the securities laws on or after the date of enactment of this Act, the following information for the time period covered by such report:

(1) For each coal or other mine of which the issuer or a subsidiary of the issuer is an operator—

(A) the total number of violations of mandatory health or safety standards that could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard under section 104 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 814) for which the operator received a citation from the Mine Safety and Health Administration;

(B) the total number of orders issued under section 104(b) of such Act (30 U.S.C. 814(b));

(C) the total number of citations and orders for unwarrantable failure of the mine operator to comply with mandatory health or safety standards under section 104(d) of such Act (30 U.S.C. 814(d));

(D) the total number of flagrant violations under section 110(b) of such Act (30 U.S.C. 820(b));

(E) the total number of imminent danger orders issued under section 107(a) of such Act (30 U.S.C. 817(a)); and

(F) the total dollar value of proposed assessments from the Mine Safety and Health Administration under such Act (30 U.S.C. 801 et seq.).

(2) A list of such coal or other mines that receive written notice from the Mine Safety and Health Administration of—

(A) a pattern of violations of mandatory health or safety standards that are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards under section 104(e) of such Act (30 U.S.C. 814(e)); or

(B) the potential to have such a pattern.

(3) Any pending legal action before the Federal Mine Safety and Health Review Commission involving such coal or other mine.

(b) **REPORTING SHUTDOWNS AND PATTERNS OF VIOLATIONS.**—Beginning on and after the date of enactment of this Act, each issuer that is an operator, or that has a subsidiary that is an operator, of a coal or other mine shall file a current report on Form 8-K (or any successor form), as required by the Commission, disclosing the following regarding each coal or other mine of which the issuer or subsidiary is an operator:

(1) The receipt of an imminent danger order issued under section 107(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 817(a)).

(2) The receipt of written notice from the Mine Safety and Health Administration that the coal or other mine has—

(A) a pattern of violations of mandatory health or safety standards that are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards under section 104(e) of such Act (30 U.S.C. 814(e)); or

(B) the potential to have such a pattern.

(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to affect any obligation of a person to make a disclosure under any other applicable law in effect before, on, or after the date of enactment of this Act.

(d) **COMMISSION AUTHORITY.**—

(1) **ENFORCEMENT.**—A violation by any person of this section, or any rule or regulation of the Commission issued under this section, shall be treated for all purposes in the same manner as a violation of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the rules and regulations issued thereunder, consistent with the provisions of this section, and any such person shall be subject to the same penalties, and to the same extent, as for a violation of such Act or such rules or regulations.

(2) **RULES AND REGULATIONS.**—The Commission is authorized to issue such rules or regulations as are necessary or appropriate for the protection of investors and to carry out the purposes of this section.

(e) **DEFINITIONS.**—In this section—

(1) the terms “issuer” and “securities laws” have the meaning given the terms in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(2) the term “coal or other mine” means a coal or other mine, as defined in section 3 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 802), that is subject to the provisions of such Act (30 U.S.C. 801 et seq.); and

(3) the term “operator” has the meaning given the term in section 3 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 802).

**SA 3887.** Mr. CARPER (for himself, Mr. ENSIGN, Mr. GREGG, Mr. CORKER, and Mr. JOHANNES) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1089, strike line 6 and all that follows through “**SEC. 973.**”

**SA 3888.** Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3217 submitted by Mrs. FEINSTEIN and intended to be proposed to the amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, entitled The Patient Protection and Affordable Care Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ DELAY OF IMPLEMENTATION.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall delay the implementation of the final rule entitled “Lead; Renovation, Repair, and Painting Program; Lead Hazard Information Pamphlet; Notice of Availability; Final Rule” (73 Fed. Reg. 21692 (April 22, 2008)), and the final rule entitled “Lead; Amendment to the Opt-out and Recordkeeping Provisions in the Renovation, Repair, and Painting Program”, signed by the Administrator on April 22, 2010, in each State until such time as accredited certified renovator classes have been held in the State, for a period of at least 1 year, to train contractors in practices

necessary for compliance with the final rules, as determined by the Administrator.

(b) **NOTIFICATION.**—The Administrator shall—

(1) monitor each State to determine when classes described in subsection (a) are offered in the State; and

(2) provide to each Member of Congress representing the State a notification describing—

(A) the location and time of each such class held in the State; and

(B) the date on which the classes have been held for the 1-year period described in subsection (a).

**SA 3889.** Mr. AKAKA (for himself, Mr. MENENDEZ, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 942, strike line 10 and all that follows through page 951, line 13, and insert the following:

**SEC. 913. ESTABLISHMENT OF A FIDUCIARY DUTY FOR BROKERS, DEALERS, AND INVESTMENT ADVISERS, AND HARMONIZATION OF REGULATION.**

(a) **IN GENERAL.**—

(1) **SECURITIES EXCHANGE ACT OF 1934.**—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o), as amended by this Act, is amended—

(A) by redesignating subsection (i) (relating to security-based swap agreements), as added by section 303(f) of the Commodity Futures Modernization Act of 2000 (Public Law 106-554; 114 Stat. 2763A-455), as subsection (j); and

(B) by adding at the end the following:

“(m) **STANDARD OF CONDUCT.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of this Act or the Investment Advisers Act of 1940, the Commission shall promulgate rules to provide that, with respect to a broker or dealer, when providing personalized investment advice about securities to a retail customer (and such other customers as the Commission may by rule provide), the standard of conduct for such broker or dealer with respect to such customer shall be the same as the standard of conduct applicable to an investment adviser under section 211 of the Investment Advisers Act of 1940. The receipt of compensation based on commission or other standard compensation for the sale of securities shall not, in and of itself, be considered a violation of such standard applied to a broker or dealer. Nothing in this section shall require a broker or dealer or registered representative to have a continuing duty of care or loyalty to the customer after providing personalized investment advice about securities.

“(2) **DISCLOSURE OF RANGE OF PRODUCTS OFFERED.**—Where a broker or dealer sells only proprietary or other limited range of products, as determined by the Commission, the Commission shall by rule require that such broker or dealer provide notice to each retail customer and obtain the consent or acknowledgment of the customer. The sale of only

proprietary or other limited range of products by a broker or dealer shall not, in and of itself, be considered a violation of the standard set forth in paragraph (1).

“(3) **RETAIL CUSTOMER DEFINED.**—For purposes of this subsection, the term ‘retail customer’ means a natural person, or the legal representative of such natural person, who—

“(A) receives personalized investment advice about securities from a broker or dealer; and

“(B) uses such advice primarily for personal, family, or household purposes.

“(n) **OTHER MATTERS.**—The Commission shall—

“(1) facilitate the provision of simple and clear disclosures to investors regarding the terms of their relationships with brokers, dealers, and investment advisers, including any material conflicts of interest; and

“(2) examine and, where appropriate, promulgate rules prohibiting or restricting certain sales practices, conflicts of interest, and compensation schemes for brokers, dealers, and investment advisers that the Commission deems contrary to the public interest and the protection of investors.”.

(2) **INVESTMENT ADVISERS ACT OF 1940.**—Section 211 of the Investment Advisers Act of 1940 is amended by adding at the end the following new subsections:

“(f) **STANDARD OF CONDUCT.**—

“(1) **IN GENERAL.**—The Commission shall promulgate rules to provide that the standard of conduct for all brokers, dealers, and investment advisers, when providing personalized investment advice about securities to retail customers (and such other customers as the Commission may by rule provide), shall be to act in the best interest of the customer without regard to the financial or other interest of the broker, dealer, or investment adviser providing the advice. In accordance with such rules, any material conflicts of interest shall be disclosed and may be consented to by the customer. Such rules shall provide that such standard of conduct shall be no less stringent than the standard applicable to investment advisers under paragraph (1) and (2) of section 206 of this Act when providing personalized investment advice about securities, except the Commission shall not ascribe a meaning to the term ‘customer’ that would include an investor in a private fund managed by an investment adviser, where such private fund has entered into an advisory contract with such adviser. The receipt of compensation based on commission or fees shall not, in and of itself, be considered a violation of such standard applied to a broker, dealer, or investment adviser.

“(2) **RETAIL CUSTOMER DEFINED.**—For purposes of this subsection, the term ‘retail customer’ means a natural person, or the legal representative of such natural person, who—

“(A) receives personalized investment advice about securities from a broker, dealer, or investment adviser; and

“(B) uses such advice primarily for personal, family, or household purposes.

“(g) **OTHER MATTERS.**—The Commission shall—

“(1) facilitate the provision of simple and clear disclosures to investors regarding the terms of their relationships with brokers, dealers, and investment advisers, including any material conflicts of interest; and

“(2) examine and, where appropriate, promulgate rules prohibiting or restricting certain sales practices, conflicts of interest, and compensation schemes for brokers, dealers, and investment advisers that the Commission deems contrary to the public interest and the protection of investors.”.

(b) **HARMONIZATION OF ENFORCEMENT.**—

(1) **SECURITIES EXCHANGE ACT OF 1934.**—Section 15 of the Securities Exchange Act of 1934, as amended by subsection (a)(1), is further amended by adding at the end the following new subsection:

“(m) **HARMONIZATION OF ENFORCEMENT.**—The enforcement authority of the Commission with respect to violations of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer shall include—

“(1) the enforcement authority of the Commission with respect to such violations provided under this Act; and

“(2) the enforcement authority of the Commission with respect to violations of the standard of conduct applicable to an investment advisor under the Investment Advisers Act of 1940, including the authority to impose sanctions for such violations, and

the Commission shall seek to prosecute and sanction violators of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under this Act to same extent as the Commission prosecutes and sanctions violators of the standard of conduct applicable to an investment advisor under the Investment Advisers Act of 1940.”.

(2) **INVESTMENT ADVISERS ACT OF 1940.**—Section 211 of the Investment Advisers Act of 1940, as amended by subsection (a)(2), is further amended by adding at the end the following new subsection:

“(h) **HARMONIZATION OF ENFORCEMENT.**—The enforcement authority of the Commission with respect to violations of the standard of conduct applicable to an investment adviser shall include—

“(1) the enforcement authority of the Commission with respect to such violations provided under this Act; and

“(2) the enforcement authority of the Commission with respect to violations of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under the Securities Exchange Act of 1934, including the authority to impose sanctions for such violations, and

the Commission shall seek to prosecute and sanction violators of the standard of conduct applicable to an investment advisor under this Act to same extent as the Commission prosecutes and sanctions violators of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under the Securities Exchange Act of 1934.”.

**SA 3890.** Mr. BAYH (for himself and Mr. MERKLEY), submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, after line 24, insert the following:

## SEC. 122. INTERNATIONAL REGULATORY COORDINATION FOR THE REGULATION AND RESOLUTION OF FINANCIAL INSTITUTIONS.

(a) **DEFINITIONS.**—As used in this section—

(1) **SECRETARY.**—The term “Secretary” means the Secretary of the Treasury.

(2) **LARGE, COMPLEX FINANCIAL INSTITUTION.**—The term “large, complex financial institution” means a bank holding company or company treated as a bank holding company for the purposes of the section 8 of the International Banking Act of 1978 (12 U.S.C. 3106), a company subject to supervision of the Board of Governors under section 113, or such other financial company as the Council may determine, which has the potential to threaten the financial stability of the United States owing to the size or interconnectedness of the institution across more than 1 national jurisdiction.

(3) **MULTILATERAL FINANCIAL FORUMS.**—The term “multilateral financial forums” means the International Monetary Fund, the G20, the Financial Stability Board, the Bank for International Settlement (including the Basel Committee on Bank Supervision), the International Organization of Securities Commissions, the International Association of Insurance Supervisors, the International Association of Deposit Insurers, the International Accounting Standard Board, and other relevant institutions and committees as the Council may determine.

(b) **BIANNUAL REPORTS.**—

(1) **REPORTS.**—Not later than January 30, 2011, and biannually thereafter, the Council shall submit public reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the status of and participation of the United States in international coordination of financial services regulation and supervision efforts at multilateral financial forums.

(2) **TESTIMONY.**—At the request of the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Financial Services of the House of Representatives, the Secretary and representatives of the relevant regulatory agencies charged with international coordination matters, including the agencies charged with the coordination of capital and resolution matters and markets oversight, shall appear before the committee to provide testimony on the reports submitted under paragraph (1).

(c) **CONTENTS OF REPORT.**—Each report submitted under subsection (b) shall contain—

(1) an update on the status of and participation of the United States in international coordination efforts at the multilateral financial forums to set minimum standards for the regulation and supervision of financial services regulation, in particular with respect to large, complex financial institutions, including—

(A) standards on financial firms, including, as relevant—

- (i) capital and leverage requirements;
- (ii) liquidity requirements;
- (iii) consumer protection;
- (iv) resolution plans;
- (v) contingent capital;
- (vi) credit exposure requirements;
- (vii) activity limits;
- (viii) concentration limits;
- (ix) size limits;
- (x) public disclosure;
- (xi) market transparency;
- (xii) executive compensation;
- (xiii) risk management; and
- (xiv) any other relevant regulatory areas affecting banking, securities, derivatives, insurance, and other financial services;

(B) standards on financial markets, including—

- (i) credit and lending markets;
- (ii) securities and derivatives markets;
- (iii) insurance markets; and
- (iv) any other financial service markets, including ensuring the necessary public transparency, integrity, and stability;

(C) standards on the supervision of financial firms and markets, including ensuring national and international regulators have—

- (i) adequate access to real-time information;
- (ii) engaged in adequate coordination with international counterparts; and
- (iii) made adequate preparation for crisis management; and

(D) an evaluation of—

- (i) any gaps in the international coordination of regulation and supervision of financial services; and

(ii) whether international coordination adequately permits individual countries to employ a diversity of regulatory approaches in practice without permitting regulatory arbitrage or other pressures to relax necessary protections;

(2) an update on the status of and participation of the United States in international coordination efforts at the multilateral financial forums to develop adequate cross-border bankruptcy and resolution regimes, specifically for large, complex financial institutions, including the development and maintenance of—

(A) legal regimes at the national and international level that—

- (i) enforce market discipline;
- (ii) deter explicit or implicit reliance on the public treasury; and
- (iii) equitably share burdens in restructuring credit across 1 or more bankruptcy or resolution regimes;

(B) information systems and regulator coordination, including—

- (i) maps of global exposures and cross-exposures emanating from large complex financial institutions;

(ii) charts of the legal structure and regulatory regimes governing various subsidiaries and affiliates of large complex financial institutions; and

(iii) contingency plans for communication and real-time crisis management with respect to the possible failure of each relevant key large complex financial institution; and

(C) information systems to—

- (i) detect and promptly respond to the insolvency or illiquidity of 1 or more foreign or United States large complex financial institutions or markets; and

(ii) mitigate the direct and indirect risks to the economy of the United States from the failure of the institution or market;

(3) the dissenting or divergent views of any members of the Council; and

(4) any other updates the Council determines is appropriate.

(D) CONGRESSIONAL CONSULTATION.—

(1) IN GENERAL.—In addition to any other consultation required by law, before initiating negotiations to enter into any international agreement on financial regulation, supervision, or resolution, and from time to time during such negotiations, the Secretary and representatives of the relevant regulatory agencies shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of financial, fiscal, and economic stability in the United States; and

(C) the implementation of the agreement, including any effect the agreement may have on existing Federal or State laws.

(e) STUDY ON INTERNATIONAL COORDINATION AND DIVERSITY.—Not later than September 30, 2011, the Council shall submit a report to Congress, including any dissenting or divergent views of any members of the Council, regarding risks to the financial, fiscal, and economic stability of the United States presented by foreign or United States large complex financial institutions.

**SA 3891.** Mr. CASEY (for himself, Mrs. GILLIBRAND, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X appropriate place, insert the following:

**SEC. 1078. EMERGENCY MORTGAGE RELIEF.**

(a) USE OF TARP FUNDS.—Using the authority available under sections 101(a) and 115(a) of division A of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a), 5225(a)), the Secretary of the Treasury shall transfer to the Secretary of Housing and Urban Development \$3,000,000,000, and the Secretary of Housing and Urban Development shall credit such amount to the Emergency Homeowners’ Relief Fund, which such Secretary shall establish pursuant to section 107 of the Emergency Housing Act of 1975 (12 U.S.C. 2706), as such Act is amended by this section, for use for emergency mortgage assistance in accordance with title I of such Act.

(b) REAUTHORIZATION OF EMERGENCY MORTGAGE RELIEF PROGRAM.—Title I of the Emergency Housing Act of 1975 is amended—

(1) in section 103 (12 U.S.C. 2702)—

(A) in paragraph (2)—

(i) by striking “have indicated” and all that follows through “regulation of the holder” and inserting “have certified”;

(ii) by striking “(such as the volume of delinquent loans in its portfolio)”;

(iii) by striking “, except that such statement” and all that follows through “purposes of this title”;

(B) in paragraph (4), by inserting “or medical conditions” after “adverse economic conditions”;

(2) in section 104 (12 U.S.C. 2703)—

(A) in subsection (b), by striking “, but such assistance” and all that follows through the period at the end and inserting the following: “. The amount of assistance provided to a homeowner under this title shall be an amount that the Secretary determines is reasonably necessary to supplement such amount as the homeowner is capable of contributing toward such mortgage payment, except that the aggregate amount of such assistance provided for any homeowner shall not exceed \$50,000.”;

(B) in subsection (d), by striking “interest on a loan or advance” and all that follows

through the end of the subsection and inserting the following: “(1) the rate of interest on any loan or advance of credit insured under this title shall be fixed for the life of the loan or advance of credit and shall not exceed the rate of interest that is generally charged for mortgages on single-family housing insured by the Secretary of Housing and Urban Development under title II of the National Housing Act at the time such loan or advance of credit is made, and (2) no interest shall be charged on interest which is deferred on a loan or advance of credit made under this title. In establishing rates, terms and conditions for loans or advances of credit made under this title, the Secretary shall take into account a homeowner’s ability to repay such loan or advance of credit.”;

(C) in subsection (e), by inserting after the period at the end of the first sentence the following: “Any eligible homeowner who receives a grant or an advance of credit under this title may repay the loan in full, without penalty, by lump sum or by installment payments at any time before the loan becomes due and payable.”;

(3) in section 105 (12 U.S.C. 2704)—

(A) by striking subsection (b);

(B) in subsection (e)—

(i) by inserting “and emergency mortgage relief payments made under section 106” after “insured under this section”; and

(ii) by striking “\$1,500,000,000 at any one time” and inserting “\$3,000,000,000”;

(C) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(D) by adding at the end the following new subsection:

“(e) The Secretary shall establish underwriting guidelines or procedures to allocate amounts made available for loans and advances insured under this section and for emergency relief payments made under section 106 based on the likelihood that a mortgagor will be able to resume mortgage payments, pursuant to the requirement under section 103(5).”;

(4) in section 107—

(A) by striking “(a)”;

(B) by striking subsection (b);

(5) in section 108 (12 U.S.C. 2707), by adding at the end the following new subsection:

“(d) COVERAGE OF EXISTING PROGRAMS.—The Secretary shall allow funds to be administered by a State that has an existing program that is determined by the Secretary to provide substantially similar assistance to homeowners. After such determination is made such State shall not be required to modify such program to comply with the provisions of this title.”;

(6) in section 109 (12 U.S.C. 2708)—

(A) in the section heading, by striking “AUTHORIZATION AND”;

(B) by striking subsection (a);

(C) by striking “(b)”;

(D) by striking “1977” and inserting “2011”;

(7) by striking sections 110, 111, and 113 (12 U.S.C. 2709, 2710, 2712); and

(8) by redesignating section 112 (12 U.S.C. 2711) as section 110.

**SEC. 1079. ADDITIONAL ASSISTANCE FOR NEIGHBORHOOD STABILIZATION PROGRAM.**

Using the authority made available under sections 101(a) and 115(a) of division A of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a), 5225(a)), the Secretary of the Treasury shall transfer to the Secretary of Housing and Urban Development \$1,000,000,000, and the Secretary of Housing and Urban Development shall use such amounts for assistance to States and units of



general local government for the redevelopment of abandoned and foreclosed homes, in accordance with the same provisions applicable under the second undesignated paragraph under the heading "Community Planning and Development—Community Development Fund" in title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 217) to amounts made available under such second undesignated paragraph, except as follows:

(1) Notwithstanding the matter of such second undesignated paragraph that precedes the first proviso, amounts made available by this section shall remain available until expended.

(2) The 3rd, 4th, 5th, 6th, 7th, and 15th provisos of such second undesignated paragraph shall not apply to amounts made available by this section.

(3) Amounts made available by this section shall be allocated based on a funding formula for such amounts established by the Secretary in accordance with section 2301(b) of the Housing and Economic Recovery Act of 2008 (42 U.S.C. 5301 note), except that—

(A) notwithstanding paragraph (2) of such section 2301(b), the formula shall be established not later than 30 days after the date of the enactment of this Act;

(B) the Secretary may not establish any minimum grant amount or size for grants to States;

(C) the Secretary may establish a minimum grant amount for direct allocations to units of general local government located within a State, which shall not exceed \$1,000,000; and

(D) each State and local government receiving grant amounts shall establish procedures to create preferences for the development of affordable rental housing for properties assisted with amounts made available by this section.

(4) Paragraph (1) of section 2301(c) of the Housing and Economic Recovery Act of 2008 shall not apply to amounts made available by this section.

(5) Section 2302 of the Housing and Economic Recovery Act of 2008 shall not apply to amounts made available by this section.

(6) The fourth proviso from the end of such second undesignated paragraph shall be applied to amounts made available by this section by substituting "2013" for "2012".

(7) Notwithstanding section 2301(a) of the Housing and Economic Recovery Act of 2008, the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and other territory or possession of the United States for purposes of this section and title III of division B of such Act, as applied to amounts made available by this section.

(8)(A) None of the amounts made available by this section shall be distributed to—

(i) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or

(ii) any organization which employs applicable individuals.

(B) In this paragraph, the term "applicable individual" means an individual who—

(i) is—

(I) employed by the organization in a permanent or temporary capacity;

(II) contracted or retained by the organization; or

(III) acting on behalf of, or with the express or apparent authority of, the organization; and

(ii) has been convicted for a violation under Federal law relating to an election for Federal office.

**SA 3892.** Mr. BINGAMAN (for himself, Ms. MURKOWSKI, Mr. REID, Mr. BROWNBACK, Ms. CANTWELL, Mr. CORNYN, Mr. WYDEN, and Mr. CORKER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 565, between lines 2 and 3, insert the following:

(e) JUST AND REASONABLE RATES.—Section 2(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(C)) (as amended by section 717(a)) is amended by adding at the end the following:

"(vi) Notwithstanding the exclusive jurisdiction of the Commission with respect to accounts, agreements, and transactions involving swaps or contracts of sale of a commodity for future delivery under this Act, no provision of this Act shall be construed—

"(I) to supersede or limit the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.); or

"(II) to restrict the Federal Energy Regulatory Commission from carrying out the duties and responsibilities of the Federal Energy Regulatory Commission to ensure just and reasonable rates and protect the public interest under the Acts described in subclause (I)."

(f) PUBLIC INTEREST WAIVER.—Section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) (as amended by section 721(d)) is amended by adding at the end the following:

"(6) If the Commission determines that the exemption would be consistent with the public interest and the purposes of this Act, the Commission shall, in accordance with paragraphs (1) and (2), exempt from the requirements of this Act an agreement, contract, or transaction that is entered into pursuant to—

"(A) a tariff or rate schedule approved or permitted to take effect by the Federal Energy Regulatory Commission; or

"(B) a tariff or rate schedule establishing rates or charges for the sale of electric energy approved or permitted to take effect by the regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy to consumers within the State or municipality."

**SA 3893.** Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by end-

ing bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1304, line 11, strike "person—" and insert "covered person—".

On page 1305, line 2, strike "practice," and insert "practice that violates this title or applicable rules or orders issued by the Bureau,".

On page 1310, between lines 16 and 17, insert the following:

(3) FEE STRUCTURE.—

(A) IN GENERAL.—Neither an attorney general of a State nor a State regulator may enter into a contingency fee agreement for legal services relating to a civil action or other proceeding under this section.

(B) DEFINITION.—For purposes of this paragraph, the term "contingency fee agreement" means a contract or other agreement to provide services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained.

**SA 3894.** Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 976, strike line 7 and all that follows through page 977, line 17.

On page 1290, strike line 5 and all that follows through page 1291, line 9.

On page 1371, strike line 15 and all that follows through page 1372, line 2.

**SA 3895.** Mr. CORNYN submitted an amendment intended to be proposed to him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

**SEC. 919C. SECURITIES LITIGATION ATTORNEY ACCOUNTABILITY AND TRANSPARENCY.**

(a) DISCLOSURES OF PAYMENTS, FEE ARRANGEMENTS, CONTRIBUTIONS, AND OTHER POTENTIAL CONFLICTS OF INTEREST BETWEEN PLAINTIFF AND ATTORNEYS.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 21D(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-4(a)) is amended by adding at the end the following new paragraphs:

"(10) DISCLOSURES REGARDING PAYMENTS.—

"(A) SWORN CERTIFICATIONS REQUIRED.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications,

which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identify any direct or indirect payment, or promise of any payment, by such attorney, or any person affiliated with such attorney, to such plaintiff, or any person affiliated with such plaintiff, beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (4). Upon disclosure of any such payment or promise of payment, the court shall disqualify the attorney from representing the plaintiff.

“(B) DEFINITION.—For purposes of this paragraph, the term ‘payment’ shall include the transfer of money and any other thing of value, including the provision of services, other than representation of the plaintiff in the private action arising under this title.

“(11) DISCLOSURES REGARDING LEGAL REPRESENTATIONS.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies the nature and terms of any legal representation provided by such attorney, or any person affiliated with such attorney, to such plaintiff, or any person affiliated with such plaintiff other than the representation of the plaintiff in the private action arising under this title. The court may allow such certifications to be made under seal. The court shall make a determination whether the nature or terms of the fee arrangement for any other matter influenced the selection and retention of counsel in any private action arising under this title and, if the court so finds, shall disqualify the attorney from representing the plaintiff in any such action.

“(12) DISCLOSURES REGARDING CONTRIBUTIONS.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies any contribution made within five years prior to the filing of the complaint by such attorney, any person affiliated with such attorney, or any political action committee controlled by such attorney, to any elected official with authority to retain counsel for such plaintiff or to select or appoint, influence the selection or appointment of, or oversee any individual or group of individuals with that authority.

“(13) DISCLOSURE REGARDING OTHER CONFLICTS OF INTEREST.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies any other conflict of interest (other than one specified in paragraphs (10) through (12)) between such attorney and such plaintiff. The court shall make a determination of whether such conflict is sufficient to disqualify the attorney from representing the plaintiff.”.

(2) SECURITIES ACT OF 1933.—Section 27(a) of the Securities Act of 1933 (15 U.S.C. 77z-1(a)) is amended by adding at the end the following new paragraph:

“(9) DISCLOSURES REGARDING PAYMENTS.—

“(A) SWORN CERTIFICATIONS REQUIRED.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such

plaintiff and such attorney, respectively, and filed with the complaint, that identify any direct or indirect payment, or promise of any payment, by such attorney, or any person affiliated with such attorney, to such plaintiff, or any person affiliated with such plaintiff, beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (4). Upon disclosure of any such payment or promise of payment, the court shall disqualify the attorney from representing the plaintiff.

“(B) DEFINITION.—For purposes of this paragraph, the term ‘payment’ shall include the transfer of money and any other thing of value, including the provision of services, other than representation of the plaintiff in the private action arising under this title.

“(10) DISCLOSURES REGARDING LEGAL REPRESENTATIONS.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies the nature and terms of any legal representation provided by such attorney, or any person affiliated with such attorney, to such plaintiff, or any person affiliated with such plaintiff other than the representation of the plaintiff in the private action arising under this title. The court may allow such certifications to be made under seal. The court shall make a determination whether the nature or terms of the fee arrangement for any other matter influenced the selection and retention of counsel in any private action arising under this title and, if the court so finds, shall disqualify the attorney from representing the plaintiff in any such action.

“(11) DISCLOSURES REGARDING CONTRIBUTIONS.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies any contribution made within five years prior to the filing of the complaint by such attorney, any person affiliated with such attorney, or any political action committee controlled by such attorney, to any elected official with authority to retain counsel for such plaintiff or to select or appoint, influence the selection or appointment of, or oversee any individual or group of individuals with that authority.

“(12) DISCLOSURE REGARDING OTHER CONFLICTS OF INTEREST.—In any private action arising under this title, each plaintiff and any attorney for such plaintiff shall provide sworn certifications, which shall be personally signed by such plaintiff and such attorney, respectively, and filed with the complaint, that identifies any other conflict of interest (other than one specified in paragraphs (9) through (11)) between such attorney and such plaintiff. The court shall make a determination of whether such conflict is sufficient to disqualify the attorney from representing the plaintiff.”.

(b) SELECTION OF LEAD COUNSEL.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 21D(a)(3)(B)(v) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-4(a)(3)(B)(v)) is amended by adding at the end the following: “In exercising the discretion of the court over the approval of lead counsel, the court may employ a competitive bidding process as one of the criteria in the selection and retention of counsel for the most adequate plaintiff.”.

(2) SECURITIES ACT OF 1933.—Section 27(a)(3)(B)(v) of the Securities Act of 1933 (15 U.S.C. 77z-1(a)(3)(B)(v)) is amended by adding at the end the following: “In exercising the discretion of the court over the approval of lead counsel, the court may employ a competitive bidding process as one of the criteria in the selection and retention of counsel for the most adequate plaintiff.”.

(c) STUDY OF AVERAGE HOURLY FEES IN SECURITIES CLASS ACTIONS.—

(1) STUDY AND REVIEW REQUIRED.—The Comptroller General of the United States shall conduct a study and review of fee awards to lead counsel in securities class actions over the 5-year period preceding the date of enactment of this Act to determine the effective average hourly rate for lead counsel in such actions.

(2) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study and review required by this section. The Comptroller General shall submit an updated study every 3 years thereafter.

(3) DEFINITION.—For purposes of this subsection, the term “securities class action” means a private class action arising under the Securities Act of 1933 (15 U.S.C. 77 et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

(d) AUTHORITY TO IMPOSE CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—

(1) UNDER THE SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following:

“(g) AUTHORITY TO IMPOSE MONEY PENALTIES.—

“(1) GROUNDS.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil penalty on a person, if the Commission finds, on the record, after notice and opportunity for hearing, that—

“(A) the person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder; and

“(B) the imposition of the penalty is in the public interest.

“(2) MAXIMUM AMOUNT OF PENALTY.—

“(A) FIRST TIER.—The maximum amount of a penalty for each act or omission described in paragraph (1) shall be \$7,500 for a natural person or \$75,000 for any other person.

“(B) SECOND TIER.—Notwithstanding subparagraph (A), if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement, the maximum amount of penalty for each act or omission shall be \$75,000 for a natural person or \$375,000 for any other person.

“(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be \$150,000 for a natural person or \$725,000 for any other person, if—

“(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

“(ii) the act or omission directly or indirectly resulted in—

“(I) substantial losses or created a significant risk of substantial losses to other persons; or

“(II) substantial pecuniary gain to the person who committed the act or omission.

“(3) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the ability of the respondent to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of the ability of the respondent to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon the assets of the respondent and the amount of the assets of the respondent.”

(2) UNDER THE SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amended—

(A) by striking the undesignated matter immediately following paragraph (4);

(B) in the matter preceding paragraph (1), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest and”;

(C) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and adjusting the subparagraph margins accordingly;

(D) by striking “In any proceeding” and inserting the following:

“(1) IN GENERAL.—In any proceeding”; and (E) by adding at the end the following:

“(2) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted under section 21C against any person, the Commission may impose a civil penalty, if the Commission finds, on the record after notice and opportunity for hearing, that such person—

“(A) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(B) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”

(3) UNDER THE INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is amended—

(A) by striking the matter immediately following subparagraph (C);

(B) in the matter preceding subparagraph (A), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest, and”;

(C) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the clause margins accordingly;

(D) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding”; and (E) by adding at the end the following:

“(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (f) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”

(4) UNDER THE INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended—

(A) by striking the undesignated matter immediately following subparagraph (D);

(B) in the matter preceding subparagraph (A), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest and”;

(C) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and adjusting the clause margins accordingly;

(D) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding”; and (E) by adding at the end the following:

“(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (k) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”

**SA 3896.** Mr. GREGG (for himself, Mr. BROWN of Massachusetts, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 320, between lines 11 and 12, insert the following:

(g) PARITY.—Section 10(a)(1)(A) of the Home Owners’ Loan Act (12 U.S.C. 1467a(a)(1)(A)) is amended to read as follows:

“(A) SAVINGS ASSOCIATION.—The term ‘savings association’—

“(i) includes a savings bank or cooperative bank which is deemed by the Director to be a savings association under subsection (1); and

“(ii) does not include an institution described in section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)).”

**SA 3897.** Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 584, line 7, after the first period insert the following:

“(k) CLEARING OF CREDIT DEFAULT SWAPS.—

“(1) SUBMISSION.—It shall be unlawful for any party to enter into a credit default swap

unless that person shall submit such credit default swap for clearing to a derivatives clearing organization that is registered under this Act or a derivatives clearing organization that is exempt from registration under section 5b(i) of this Act.

“(2) PROHIBITION.—Notwithstanding any other provisions in this section or of this Act, if no derivatives clearing organization will accept a credit default swap for clearing, it shall be unlawful for any party to enter into the credit default swap.

“(3) LIMITATION ON SHORT POSITIONS.—

“(A) IN GENERAL.—It shall be unlawful for a protection buyer to enter into a credit default swap which establishes a short position in a reference entity’s credit instrument unless the protection buyer can demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that the protection buyer—

“(i) is undertaking such action to establish a legitimate short position in credit default swaps; or

“(ii) is regulated by the Commission as a swap dealer in credit default swaps, and is acting as a market-maker or is otherwise engaged in a financial transaction on behalf of a customer.

“(B) LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.—A protection buyer’s short position in credit default swaps shall be considered a legitimate short position in credit default swaps if—

“(i) the value of the protection buyer’s holdings in valid credit instruments is equal to or greater than the absolute notional value of the protection buyer’s credit default swaps; and

“(ii) the reference entity or entities for the protection buyer’s credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

“(C) DETERMINATION OF THE COMMISSION.—

“(i) IN GENERAL.—The Commission and the Securities and Exchange Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term ‘valid credit instrument’.

“(ii) CONSIDERATIONS AND REQUIREMENTS.—In defining the term ‘valid credit instrument’, the Commission and the Securities and Exchange Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

“(iii) RULE OF CONSTRUCTION.—For purposes of this paragraph, any instrument with an equity risk exposure or equity-like features shall not be considered by the Commission to be a valid credit instrument.

“(D) REPORTING.—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the Commission, in such manner, in such frequency, and in such form as may be prescribed by the Commission.

“(E) HOLDING OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SWAP DEALERS.—Any swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner

and in such form as may be prescribed by the Commission, that—

“(i) the value of the swap dealer’s holdings in valid credit instruments is equal to or greater than the absolute notional value of the swap dealer’s position in credit default swaps; and

“(ii) the reference entity or entities for the swap dealer’s credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the swap dealer owns.

“(F) PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with the intent of evading the provisions of this subsection.

“(G) AUTHORITY OF THE COMMISSION.—The Commission, in consultation with the Securities and Exchange Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale of credit default swaps.

“(4) DEFINITIONS.—

“(A) IN GENERAL.—In this subsection, the following definitions shall apply:

“(i) CREDIT DEFAULT SWAP.—The term ‘credit default swap’—

“(I) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

“(II) is not a debt security registered with the Securities and Exchange Commission and issued by a corporation, State, municipality, or sovereign entity.

“(ii) CREDIT EVENT.—The term ‘credit event’ includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

“(iii) PROTECTION BUYER.—The term ‘protection buyer’ means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the ‘protection seller’) upon the occurrence of one or more credit events.

“(iv) REFERENCE ENTITY.—The term ‘reference entity’ means any borrower, such as a corporation, State, municipality, sovereign entity, or special purpose entity, which has issued a public debt obligation or obtained a loan that is referenced by a credit default swap.

“(B) FURTHER DEFINITION OF TERMS.—The Commission and the Securities and Exchange Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, further defining the terms ‘credit default swap’, ‘credit event’, ‘protection buyer’, and ‘reference entity’.

On page 808, line 8, after the first period, insert the following:

**“SEC. 3C-1. CLEARING OF CREDIT DEFAULT SWAPS.**

“(a) SUBMISSION.—It shall be unlawful for any party to enter into a credit default swap unless that person shall submit such credit default swap for clearing to a clearing agency that is registered under section 17A of this Act.

“(b) PROHIBITION.—Notwithstanding any other provisions in this section or of this Act, if no clearing agency will accept a credit default swap for clearing, it shall be unlawful for any party to enter into the credit default swap.

“(c) LIMITATION ON SHORT POSITIONS.—

“(1) IN GENERAL.—It shall be unlawful for a protection buyer to enter into a credit default swap which establishes a short position in a reference entity’s credit unless the protection buyer can demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that the protection buyer—

“(A) is undertaking such action to establish a legitimate short position in credit default swaps; or

“(B) is regulated by the Commission as a security-based swap dealer in credit default swaps, and is acting as a market-maker or otherwise for the purpose of serving clients.

“(2) LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.—A protection buyer’s short position in credit default swaps shall be considered a legitimate short position in credit default swaps if—

“(A) the value of the protection buyer’s holdings in valid credit instruments is equal to or greater than the absolute notional value of the protection buyer’s credit default swaps; and

“(B) the reference entity or entities for the protection buyer’s credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

“(3) DETERMINATION OF THE COMMISSION.—

“(A) IN GENERAL.—The Commission and the Commodity Futures Trading Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term ‘valid credit instrument’.

“(B) CONSIDERATIONS AND REQUIREMENTS.—In defining the term ‘valid credit instrument’, the Commission and the Commodity Futures Trading Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

“(C) RULE OF CONSTRUCTION.—For purposes of this subsection, any instrument with an equity risk exposure or equity-like features shall not be considered by the Commission to be a valid credit instrument.

“(4) REPORTING.—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the Commission, in such manner, in such frequency, and in such form as may be prescribed by the Commission.

“(5) HOLDINGS OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SECURITY-BASED SWAP DEALERS.—Any security-based swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that—

“(A) the value of the security-based swap dealer’s long holdings in valid credit instruments is equal to or greater than the absolute notional value of the security-based

swap dealer’s position in credit default swaps; and

“(B) the reference entity or entities for the security-based swap dealer’s credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the security-based swaps dealer owns.

“(6) PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with the intent of evading the provisions of this section.

“(7) AUTHORITY OF THE COMMISSION.—The Commission, in consultation with the Commodity Futures Trading Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale of credit default swaps.

“(d) DEFINITIONS.—

“(1) IN GENERAL.—In this section, the following definitions shall apply:

“(A) CREDIT DEFAULT SWAP.—The term ‘credit default swap’—

“(i) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

“(ii) is not a debt security registered with the Commission and issued by a corporation, State, municipality, or sovereign entity.

“(B) CREDIT EVENT.—The term ‘credit event’ includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

“(C) PROTECTION BUYER.—The term ‘protection buyer’ means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the ‘protection seller’) upon the occurrence of one or more credit events.

“(D) REFERENCE ENTITY.—The term ‘reference entity’ means any borrower, such as a corporation, State, municipality, sovereign entity, or special purpose entity, which has issued a public debt obligation or obtained a loan that is referenced by a credit default swap.

“(2) FURTHER DEFINITION OF TERMS.—The Commission and the Commodity Futures Trading Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, further defining the terms ‘credit default swap’, ‘credit event’, ‘protection buyer’, and ‘reference entity’.

**SA 3898.** Mr. ENSIGN proposed an amendment to amendment SA 3733 proposed by Mr. BROWN of Ohio (for himself, Mr. KAUFMAN, Mr. CASEY, Mr. WHITEHOUSE, Mr. MERKLEY, Mr. HARKIN, Mr. SANDERS, and Mr. BURRIS) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to

protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 2 of the amendment, strike lines 11 through 15 and insert the following:

(1) FINANCIAL COMPANY.—The term “financial company” means—

(A) any nonbank financial company supervised by the Board;

(B) the Federal National Mortgage Association; and

(C) the Federal Home Loan Mortgage Corporation.

**SA 3899.** Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1219, after line 25, insert the following:

“(e) OFFICE OF MILITARY LIAISON.—

“(1) IN GENERAL.—The Director shall establish an Office of Military Liaison, which shall be responsible for developing and implementing initiatives for service members and their families intended to—

“(A) educate and empower service members and their families to make better informed decisions regarding consumer financial products and services;

“(B) coordinate with the unit of the Bureau established under subsection (b)(3), in order to monitor complaints by service members and their families and responses to those complaints by the Bureau or other appropriate Federal or State agency; and

“(C) coordinate efforts among Federal and State agencies, as appropriate, regarding consumer protection measures relating to consumer financial products and services offered to, or used by, service members and their families.

“(2) COORDINATION.—

“(A) REGIONAL SERVICES.—The Director is authorized to assign employees of the Bureau as may be deemed necessary to conduct the business of the Office of Military Liaison, including by establishing and maintaining the functions of the Office in regional offices of the Bureau located near military bases, military treatment facilities, or other similar military facilities.

“(B) AGREEMENTS.—The Director is authorized to enter into memoranda of understanding and similar agreements with the Department of Defense, including any branch or agency as authorized by the department, in order to carry out the business of the Office of Military Liaison.”.

**SA 3900.** Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the finan-

cial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, line 23, strike “and” and all that follows through “(G) any” on line 24 and insert the following:

(G) net potential obligations to third parties in connection with credit derivative transactions between the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) and the third parties that reference the company or obligations of the company; and

(H) any

**SA 3901.** Mr. CARDIN (for himself, Mr. ENZI, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

**SEC. 333. INCREASE IN DEPOSIT AND SHARE INSURANCE AMOUNTS.**

(a) PERMANENT INCREASE IN DEPOSIT INSURANCE.—Section 11(a)(1)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(E)) is amended by striking “\$100,000” and inserting “\$250,000”.

(b) PERMANENT INCREASE IN SHARE INSURANCE.—Section 207(k)(5) of the Federal Credit Union Act (12 U.S.C. 1787(k)(5)) is amended by striking “\$100,000” and inserting “\$250,000”.

(c) REPEAL.—Section 136 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5241) is repealed, effective on the date of enactment of this Act.

**SA 3902.** Mr. FRANKEN (for himself, Ms. SNOWE, Mrs. MURRAY, Mrs. SHAHEEN, Mr. SCHUMER, Mr. BROWN of Ohio, Mr. MERKLEY, Mr. CASEY, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, add the following:

**Subtitle I—Office of the Homeowner Advocate**

**SEC. 1091. OFFICE OF THE HOMEOWNER ADVOCATE.**

(a) ESTABLISHMENT.—There is established in the Department of the Treasury an office to be known as the “Office of the Homeowner Advocate” (in this subtitle referred to as the “Office”).

(b) DIRECTOR.—

(1) IN GENERAL.—The Director of the Office of the Homeowner Advocate (in this subtitle referred to as the “Director”) shall report directly to the Assistant Secretary of the Treasury for Financial Stability, and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.

(2) APPOINTMENT.—The Director shall be appointed by the Secretary, after consultation with the Secretary of the Department of Housing and Urban Development, and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(3) QUALIFICATIONS.—An individual appointed under paragraph (2) shall have—

(A) experience as an advocate for homeowners; and

(B) experience dealing with mortgage servicers.

(4) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as Director only if such individual was not an officer or employee of either a mortgage servicer or the Department of the Treasury during the 4-year period preceding the date of such appointment.

(5) HIRING AUTHORITY.—The Director shall have the authority to hire staff, obtain support by contract, and manage the budget of the Office of the Homeowner Advocate.

**SEC. 1092. FUNCTIONS OF THE OFFICE.**

(a) IN GENERAL.—It shall be the function of the Office of the Homeowner Advocate to—

(1) assist homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary, authorized under the Emergency Economic Stabilization Act of 2008 (in this subtitle referred to as the “Home Affordable Modification Program”);

(2) identify areas, both individual and systematic, in which homeowners, housing counselors, and housing lawyers have problems in dealings with the Home Affordable Modification Program;

(3) to the extent possible, propose changes in the administrative practices of the Home Affordable Modification Program, to mitigate problems identified under paragraph (2);

(4) identify potential legislative changes which may be appropriate to mitigate such problems; and

(5) implement other programs and initiatives that the Director deems important to assisting homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program, which may include—

(A) running a triage hotline for homeowners at risk of foreclosure;

(B) providing homeowners with access to housing counseling programs of the Department of Housing and Urban Development at no cost to the homeowner;

(C) developing Internet tools related to the Home Affordable Modification Program; and

(D) developing training and educational materials.

(b) AUTHORITY.—

(1) IN GENERAL.—Staff designated by the Director shall have the authority to implement servicer remedies, on a case-by-case basis, subject to the approval of the Assistant Secretary of the Treasury for Financial Stability.

(2) LIMITATIONS ON FORECLOSURES.—No homeowner may be taken to a foreclosure sale, until the earlier of the date on which

the Office of the Homeowner Advocate case involving the homeowner is closed, or 60 days since the opening of the Office of the Homeowner Advocate case involving the homeowner have passed, except that nothing in this section may be construed to relieve any loan servicers from any otherwise applicable rules, directives, or similar guidance under the Home Affordable Modification Program relating to the continuation or completion of foreclosure proceedings.

(3) **RESOLUTION OF HOMEOWNER CONCERNS.**—The Office shall, to the extent possible, resolve all homeowner concerns not later than 30 days after the opening of a case with such homeowner.

(c) **COMMENCEMENT OF OPERATIONS.**—The Office shall commence its operations, as required by this subtitle, not later than 3 months after the date of enactment of this Act.

(d) **SUNSET.**—The Office shall cease operations as of the date on which the Home Affordable Modification Program ceases to operate.

**SEC. 1093. RELATIONSHIP WITH EXISTING ENTITIES.**

(a) **TRANSFER.**—The Office shall coordinate and centralize all complaint escalations relating to the Home Affordable Modification Program.

(b) **HOTLINE.**—The HOPE hotline (or any successor triage hotline) shall reroute all complaints relating to the Home Affordable Modification Program to the Office.

(c) **COORDINATION.**—The Office shall coordinate with the compliance office of the Office of Financial Stability of the Department of the Treasury and the Homeownership Preservation Office of the Department of the Treasury.

**SEC. 1094. REPORTS TO CONGRESS.**

(a) **TESTIMONY.**—The Director shall be available to testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not less frequently than 4 times a year, or at any time at the request of the Chairs of either committee.

(b) **REPORTS.**—Once annually, the Director shall provide a detailed report to Congress on the Home Affordable Modification Program. Such report shall contain full and substantive analysis, in addition to statistical information, including, at a minimum—

(1) data and analysis of the types and volume of complaints received from homeowners, housing counselors, and housing lawyers, broken down by category of servicer, except that servicers may not be identified by name in the report;

(2) a summary of not fewer than 20 of the most serious problems encountered by Home Affordable Modification Program participants, including a description of the nature of such problems;

(3) to the extent known, identification of the 10 most litigated issues for Home Affordable Modification Program participants, including recommendations for mitigating such disputes;

(4) data and analysis on the resolutions of the complaints received from homeowners, housing counselors, and housing lawyers;

(5) identification of any programs or initiatives that the Office has taken to improve the Home Affordable Modification Program;

(6) recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by Home Affordable Modification Program participants; and

(7) such other information as the Director may deem advisable.

**SEC. 1095. FUNDING.**

Amounts made available for the costs of administration of the Home Affordable Modification Program that are not otherwise obligated shall be available to carry out the duties of the Office. Funding shall be maintained at levels adequate to reasonably carry out the functions of the Office.

**SA 3903.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1051, line 2, after the comma insert the following: “or, with respect to any such transaction, an institution that sells or transfers assets, either directly or indirectly, including through an affiliate, to the Federal Agricultural Mortgage Corporation for the purpose of securitization.”.

**SA 3904.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 487, line 15, after the comma insert “the Federal Home Loan Bank System, the Federal Farm Credit Banks Funding Corporation, the Federal Agricultural Mortgage Corporation,”.

**SA 3905.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 648, strike line 11 and all that follows through page 649, line 2, and insert the following:

stitutions shall contain a capital requirement that is greater than zero.

**SA 3906.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and

Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 855, strike lines 8 through 20 and insert the following:

tain a capital requirement that is greater than zero.

**SA 3907.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 577, strike lines 5 through 24.

**SA 3908.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 793, strike line 5 and all that follows through page 794, line 3.

**SA 3909.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 612, line 24, strike “burden” and insert “burden on clearing on the derivatives clearing organization”

**NOTICE OF HEARING**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the State and the public that



a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, May 20, 2010, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on S. 2921, to provide for the conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area, to require the Secretary of the Interior to designate certain offices to serve as Renewable Energy Coordination Offices for coordination of Federal permits for renewable energy projects and transmission lines to integrate renewable energy development, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510-6150, or by email to [testimony@energy.senate.gov](mailto:testimony@energy.senate.gov).

For further information, please contact David Brooks at (202) 224-9863 or Allison Seyferth at (202) 224-4905.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 6, 2010, at 10 a.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on May 6, 2010, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on May 6, 2010, at 9:30 a.m., in room 406 of the Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 6, 2010, at 9:30 a.m., to hold a hearing entitled "The Meaning of Marjah."

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate to conduct a hearing entitled "Ensuring Fairness for Older Workers" on May 6, 2010. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON THE JUDICIARY

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on May 6, 2010, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON SEAPOWER

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet during the session of the Senate on May 6, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 6, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HAITI ECONOMIC LIFT PROGRAM ACT OF 2010

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5160, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5160) to extend the Caribbean Basin Economic Recovery Act, to provide customs support services to Haiti, and for other purposes.

There being no objection, the Senate proceeded to consider the measure.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the bill be read a third time.

The bill (H.R. 5160) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. Is there further debate?

If not, the question is, Shall the bill pass?

The bill (H.R. 5160) was passed.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR FRIDAY, MAY 7, 2010

Mr. SCHUMER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, May 7; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 3217, Wall Street reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. SCHUMER. Mr. President, there will be no rollcall votes during Friday's session of the Senate.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SCHUMER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 9:17 p.m., adjourned until Friday, May 7, 2010, at 9:30 a.m.

#### CONFIRMATION

Executive nomination confirmed by the Senate, Thursday, May 6, 2010:

##### DEPARTMENT OF COMMERCE

LARRY ROBINSON, OF FLORIDA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE. THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

## EXTENSIONS OF REMARKS

## OBESITY IS A NATIONAL THREAT

## HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 6, 2010

Mr. MCGOVERN. Madam Speaker, today, Congresswoman JO ANN EMERSON and I will deliver a letter to Speaker PELOSI supporting President Obama's request for \$1 billion per year in additional funding for the Child Nutrition Programs. Two hundred nineteen Members of Congress—Republicans and Democrats—joined together in supporting this historic request. The Education and Labor Committee is working on a bill that will meet this request, but we must be sure they have the proper funding to improve access to and quality of our children's school meals. Last week, former Generals Shalikashvili and Hugh Shelton wrote an Op-Ed on how obesity is now a national security threat. They support President Obama's request because it will make our nation healthier and safer. The Senate is already working on their bill. Unfortunately, their bill is less than half of the President's request. We cannot afford to ignore our children's health. A majority of the House believes we need a Child Nutrition Reauthorization bill that meets President Obama's request.

I include in the RECORD the bipartisan letter signed by 219 Members of Congress and the Op-Ed from the Washington Post authored by Generals Shalikashvili and Shelton.

MAY 6, 2010.

Hon. NANCY PELOSI,  
Speaker, House of Representatives, The Capitol,  
Washington, DC.

DEAR SPEAKER PELOSI, We are writing in strong support of reauthorizing Child Nutrition Programs this year. Under your leadership, this Congress has committed to addressing critical economic and health challenges of a generation. The reauthorization of the child nutrition programs is a crucial legislative component to this effort. President Obama has called for a historic investment in these programs in order to respond to two of the greatest child health challenges of our time, hunger and poor nutrition. Respectfully, we request your leadership in assisting in the identification of possible offsets to support President Obama's call for new investments to properly fund these important anti-hunger and nutrition programs.

President Obama included a \$1 billion increase in funding for the Child Nutrition Programs in both his FY 2010 and FY 2011 budgets. This request clearly highlights the importance of and the need to invest in these programs. Nearly one-quarter of children today live in households that don't always have enough food to feed the family. Furthermore, families that struggle to have enough food often also struggle to access healthful food. Poverty exacerbates children's risk of unhealthy weight gain, but

poor nutrition affects children's health and well-being across all income levels. Today, nearly one-third of all children are overweight or obese. These challenges to children's health are present in every district across the country and are recognized as critical public health concerns.

No child should have to go hungry and all children should have access to enough food, and the right food, to help them to achieve their potential. The federal child nutrition programs are a critical tool for addressing these challenges. These programs provide children access to nutritious food and meals throughout the year through the National School Lunch program, the Child and Adult Care Food Program, and the Summer Food Service Program. These programs fill in critical gaps for families in poverty as well as those who are struggling in this economy. For some children, the meals provided through the child nutrition programs are the only healthy and nutritious meals they will eat each day.

Similarly, the Special Supplemental Program for Women, Infants and Children serves a unique role for low-income women and their children by providing nutrition education, supplemental foods and services to address nutritional risk. The evidence demonstrates that this program provides for a healthier start in life for children.

Today nearly 45 million individuals are served by these programs. While these programs work, there are millions of low-income children who don't have access to these benefits, and more can be done to ensure that these benefits are of high quality, based on current nutrition science. This Congress can continue to improve on their success; however, improving these programs will require a significant investment.

While we recognize the size of the federal deficit and the need to reduce this deficit, we support proper funding—offset and paid for—that allows for critical improvements in access to and the quality of the Child Nutrition Programs. Chairman Miller is working on a reauthorization that will properly marry improved access and nutrition quality to address the priorities outlined in the President's budget. We are committed to working with him on this effort. To support this effort, we are seeking your assistance in identifying offsets to properly fund these improvements.

Thank you for your attention to this matter and we look forward to working with you further on this important reauthorization.

Sincerely,

McGovern; Emerson; Grijalva; Farr; DeGette; Pallone; Stark; Richardson; Snyder; Larsen; Carson; McCollum; Pingree; Hastings (FL); Baldwin; Capps; Polis; Clarke; Fudge; Carnahan; Kaptur; Welch; Capuano; Maloney; Ellison; Moore (WI); Loebbeck; Delauro; Olver; Norton; McDermott; Holt; Filner; Frank (MA); Green, Al; Lynch; McCarthy (NY); Matsui; Grayson; Watson; Wu;

Kucinich; Doyle; Tonko; Chu; Tierney; Pastor; DeFazio; Waters; Woolsey; Boccieri; Shea-Porter; Wasserman Schultz; Hinchey; Schakowsky; Foster; Blumenauer; Quigley; Rush; Towns; Clay;

Lee (CA); Hinojosa; Serrano; Brady (PA); Bordallo; Waxman; Michaud; McMahon; Jackson, Jr.; Hill; Doggett; Sires; Oberstar; Titus; Tsongas; Markey (MA); Neal; Sablan; Castor; Bishop (GA);

Gonzalez; Courtney; Wolf; Boucher; Sutton; Cuellar; Braley; Souder; Faleomavaega; Dahlkemper; Brown; Corrine; Ortiz; Reyes; Bishop (NY); Israel; Scott (VA); Conyers; Sánchez, Linda; Van Hollen; Pierluisi;

Schiff; Heinrich; Delahunt; Johnson, Eddie Bernice; Dingell; Davis (IL); Peters; Fattah; Green, Gene; Rodriguez; Davis (CA); Rothman; Cummings; Payne; Lewis (GA); Yarmuth; Herseth Sandlin; Owens; Kind; Weiner;

Berman; Nadler; Rahall; Edwards (MD); Lofgren; Paulsen; Gutierrez; Teague; Speier; Harman; Slaughter; Schauer; Hirono; Moore (KS); Scott (GA); Cao; Kennedy; Watt; Marshall; Kildee;

Berkley; Garamendi; Moran (VA); Thompson (MS); Sarbanes; Higgins; Sestak; Hare; Andrews; Melancon; Jackson Lee; Kilroy;

Velázquez; Boswell; Roybal-Allard; Young (AK); Halvorson; Cohen; Butterfield; Cleaver;

Kilpatrick; Napolitano; Hall (NY); Honda; Arcuri; Altmire; Langevin; Luján; Lowey; Eshoo; Pascarelli; Ackerman; Christensen; Schwartz; Johnson (GA); Kagen; Connolly; Crowley; Ryan (OH); Perlmutter;

Markey (CO); Engel; Rangel; Kratovil; Space; Calvert; Putnam; Hodes; Barrow; Meeks; Stupak; Meek; Etheridge; Price (NC); Salazar; Schrader; Boren; Murphy (CT); Davis (AL); Visclosky;

Lipinski; Sherman; Berry; Costello; Maffei; Murphy (NY); Deutch; Inslee; Ruppersberger; Matheson; McIntyre; Kissell; Sanchez, Loretta; Schmidt; Driehaus; Wilson (OH); Dicks; Himes.

[From The Washington Post, Apr. 30, 2010]

THE LATEST NATIONAL SECURITY THREAT:  
OBESITY

(By John M. Shalikashvili and Hugh Shelton)

Are we becoming a nation too fat to defend ourselves?

It seems incredible, but these are the facts: As of 2005, at least 9 million young adults—27 percent of all Americans ages 17 to 24—were too overweight to serve in the military, according to the Army's analysis of national data. And since then, these high numbers have remained largely unchanged.

Data from the Centers for Disease Control and Prevention show obesity rates among young adults increasing dramatically nationwide. From 1998 to 2008, the number of states reporting that 40 percent or more of young adults are overweight or obese has risen from one to 39.

While other significant factors can keep our youth from joining the military—such as lacking a high school diploma or having a serious criminal record—being overweight or obese has become the leading medical reason recruits are rejected for military service.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Since 1995, the proportion of potential recruits who failed their physical exams because of weight issues has increased nearly 70 percent, according to data reported by the Division of Preventive Medicine at the Walter Reed Army Institute of Research.

We consider this problem so serious from a national security perspective that we have joined more than 130 other retired generals, admirals and senior military leaders in calling on Congress to pass new child nutrition legislation.

What children eat and drink during school hours constitutes as much as 40 percent of their daily nutrient intake. Properly managed, the school environment can be instrumental in fostering healthful eating habits among our children.

Researchers from Rice University and the University of Houston noted in the journal *Health Affairs* in March that increasing participation in federal nutrition programs "may be the most effective tool to use in combating obesity in poor children."

As a nation, we need to take the next step. Our school districts need the resources to offer our children more vegetables, fruits and whole grains as well as products with less sugar, sodium, fat and calories in school cafeterias and vending machines. Yes, this will mean increasing funding for child nutrition programs. But with our nation spending at least \$75 billion a year on medical expenses related to obesity, we think these steps will pay off over the long term.

We urge Congress to pass a robust child nutrition bill that would:

Get the junk food and remaining high-calorie beverages out of our schools by adopting new standards, based on the latest research, for foods and drinks sold or served in our schools. Standards for school meals are 15 years old. Clearly, they need to be upgraded.

Support the administration's proposal of an increase of \$1 billion per year for 10 years for child nutrition programs that would improve nutrition standards, upgrade the quality of meals served in schools and enable more children to have access to these programs.

Develop research-based strategies, implemented through our schools, that help parents and children adopt healthier lifelong eating and exercise habits.

Military concerns about the fitness of our children are not new. When the National School Lunch Act was first passed in 1946, it was seen as a matter of national security. Many of our military leaders recognized that poor nutrition was a significant factor reducing the pool of qualified candidates for service.

Our country is facing another serious health crisis. Obesity rates threaten the overall health of America and the future strength of our military. We must act, as we did after World War II, to ensure that our children can one day defend our country, if need be.

RECOGNIZING HENRY "HANK"  
PARKER AND HIS HISTORIC CAREER OF PUBLIC SERVICE

**HON. ROSA L. DeLAURO**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Ms. DeLAURO. Madam Speaker, I rise to honor a lifetime of public service to the people of Connecticut by a lifelong friend to me, to

my family, and to the families of our State: Henry E "Hank" Parker.

Born one of seven children in Baltimore, Hank first moved to Connecticut after serving two years in the Army, obtaining a degree from the Hampton Institute in Virginia, and turning down an offer to play with the Harlem Globetrotters. Maryland and Harlem's loss was Connecticut's gain. For the next fifty years, Hank would serve our State ably as an educator, activist, public official and powerful crusader for both social change and fiscal responsibility.

Upon receiving his MS in Education from Southern Connecticut State College, Hank served as Project Director at the First Community School in my hometown and soon became chairman of the New Haven Black Coalition in 1962. Amid the social and political tumult of the ensuing decade, he would become deeply involved in local and community politics, and become known throughout Connecticut as an influential, passionate, and exceptionally keen advocate for social justice.

In 1974, Hank was elected Connecticut State Treasurer, becoming not only just the second African-American to hold the position but the sole fiduciary of the State's then \$3.3 billion pension fund. Among his achievements during his tenure, Hank created Yankee Mac, a \$450 million home mortgage program for the State that emphasized opportunities for urban renewal. He chaired the Governor's Task Force on South Africa investment policies that yielded one of the first model anti-apartheid bills in America. And he chaired the 1977 State Citizen's Committee that recognized Dr. Martin Luther King Jr.'s birthday as a State holiday, seven years before Congress followed suit.

After stepping down in 1986—making him the longest-serving Connecticut State Treasurer in over 150 years—Hank became Senior Vice-President of Atlanta/Sosnoff Capital Corporation. In addition, he continued both his advocacy and community service efforts as a member of many important Boards, and as a lifelong member of the NAACP.

Endorsed by such national figures as Paul Newman and Muhammad Ali over the course of a career of good works, Hank has made a profound transformative impact on our State. For almost my entire life, he and his wife of over fifty years, former State Representative Janette Johnson Parker, have been a veritable institution in New Haven, and in my neighborhood of Wooster Square. I thank Hank, Jan, and their children Curtis and Janet for their service to our Connecticut community, and for their years of friendship to my family. Hank, Jan, Curtis, and Janet, congratulations and thank you to you all.

IN HONOR OF MRS. JOYCE E.  
PERRY

**HON. MICHAEL N. CASTLE**

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. Castle. Madam Speaker, it is with a heavy heart but great honor that I rise today to pay tribute to the life of Mrs. Joyce E.

Perry. Joyce Perry was a woman who put her faith to work by mentoring young people in her community as a coach and as a teacher. A gifted athlete, devoted educator, and loving wife and mother, Joyce greatly advanced the sport of women's basketball in the state of Delaware.

A native of Milford, Delaware, Joyce was an outstanding student athlete at the University of Delaware. Joyce was a trailblazer—co-captaining UD's first women's basketball teams and lettering on their first tennis and field hockey teams. She played a major role in the growth of the university's Athletic Program and is revered as one of its most successful coaches.

Mrs. Perry began her college coaching career as head women's basketball coach at Wesley College in Dover, Delaware, but soon returned to her alma mater by becoming UD's second women's basketball head coach in 1978. Joyce led the Lady Blue Hens for 18 seasons, the longest women's basketball tenure in the school's history. Her 266 career victories remain a UD career record for basketball—in both the men's and women's programs.

During Joyce's tenure, the Lady Blue Hens had a record of 266–212, including six-straight winning seasons from 1987 to 1993, three 20-win campaigns, six East Coast Conference (ECC) regular season titles, and three straight ECC Tournament titles. She coached nine all-conference selections, three conference players of the year, and one conference rookie of the year. Her players earned numerous academic awards, and Mrs. Perry was twice named ECC Coach of the Year, once in 1984 (22–4) and again in 1989 (23–6). In 2004, Joyce was inducted into the University of Delaware Athletics Hall of Fame.

I am honored today to recognize Mrs. Joyce E. Perry—a woman of great compassion and of fierce complete spirit. She will be greatly missed; as a wife to husband Gregg, a former standout football player and current football coach at the University of Delaware, as a mother to sons Rhett and Trey, and as a Delaware athlete, coach, and mentor. Joyce's influence and contributions have reached far and wide, both within and beyond our state; her mark is indelible.

#### PERSONAL EXPLANATION

**HON. ADRIAN SMITH**

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. Smith of Nebraska. Madam Speaker, on May 4, 2010, I was delayed due to circumstances beyond my control after participating in a hearing of the Committee on Agriculture in Cheyenne, WY. Unfortunately I was not present to vote on H. Res. 1307, H. Res. 1213, and H. Res. 1132.

Had I been present, I would have voted "yea" on all three votes.

NATIONAL HUNTINGTON'S  
DISEASE AWARENESS MONTH

**HON. BOB FILNER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. FILNER. Madam Speaker, I rise today to recognize the month of May as National Huntington's Disease Awareness month.

As some of you may know, Huntington's Disease is a genetic, neurodegenerative disease that causes total physical and mental deterioration over a 10 to 25 year period.

It is a rare disease, affecting 30,000 Americans and places another 200,000 at risk of inheriting it from an affected parent. Because it is a genetic disorder, Huntington's Disease profoundly affects the lives of entire families—emotionally, socially and financially.

This devastating disease has no treatment or cure and slowly diminishes an individual's ability to walk, talk, and to reason. Eventually, every person with Huntington's Disease becomes totally dependent upon others for care.

In my home State of California there are more than 117,000 individuals impacted by Huntington's Disease.

Last year, Congressman BILBRAY and I introduced H.R. 678, the Huntington's Disease Parity Act of 2009.

This legislation does two things. First, it directs the Social Security Administration to revise and update the medical criteria for determining disability benefits for people with HD.

The second part of the legislation removes the 2-year waiting period before receiving Medicare benefits. This allows individuals to receive the treatment and care they desperately need.

In honor of National Huntington's Disease Awareness Month, I urge my fellow members of Congress to support H.R. 678 and help families across the Nation receive the critical benefits they need and deserve.

RECOGNIZING THE 25TH ANNIVERSARY OF CHRISTIAN RELIEF SERVICES CHARITIES

**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. MORAN of Virginia. Madam Speaker, I rise today to recognize Christian Relief Services Charities for their 25 years of making a difference in the world to assist in the alleviation of human suffering, misery, disability, and pain by advancing and improving the welfare of all persons and the international community while preserving native cultures, heritages, customs and beliefs.

Christian Relief Services, celebrating their 25th anniversary, oversees and guides a family of nonprofits. It is considered to be among the top charities in the country and is one of the original accredited charities allowed to display the Better Business Bureau Charity Seal on all of its publications.

Americans Helping Americans builds and strengthens American Communities. It pro-

vides vital transitional housing to the homeless and victims of domestic violence in Virginia, and supports programs assisting the needy in a number of states, primarily in Appalachia, with emergency assistance, food, new shoes, blankets, winter coats, home repair, school supplies and efforts of self-sufficiency, assisting approximately 100,000 individuals. It provides affordable housing assistance to low and very low income working families located in Arizona, Kansas, Texas, Ohio and Virginia, and permanent housing for the homeless and chronically mentally ill adults in three group homes that the organization owns, located in Fairfax County.

Running Strong for American Indian Youth and the Cheyenne River Youth Project, provide financial, technical and administrative support to their many programs assisting American Indian families across the nation on and off reservations. They help fund water development, food pantries, youth enrichment programs, shelter, utilities assistance, emergency assistance, food, new shoes, winter coats, home repair, school supplies and supports efforts at self-sufficiency, promoting positive change to 200,000 individuals.

Bread and Water for Africa works with community-based grassroots organizations in Africa to provide basic necessities such as food, water, shelter, medical care, education and vocational training, lifting the despairing, wiping away sparse tears of the children, feeding the malnourished, changing sorrow into hope and benefiting hundreds of communities and many hundreds of thousands of people throughout Africa.

Christian Relief Services Charities has always been there with emergency assistance when the need is the greatest. Recently, they met the huge challenge of the earthquake in Haiti by quickly donating life-saving relief supplies. At a time of economic instability, it is comforting to know that their services serve the 8th Congressional District and beyond.

I am proud to salute the efforts of the staff, volunteers and the board of directors of Christian Relief Services Charities for their outstanding charitable work for a quarter of a century.

HONORING MRS. RAMONA  
HATFIELD

**HON. C.A. DUTCH RUPPERSBERGER**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. RUPPERSBERGER. Madam Speaker, I rise before you today to honor Ramona Hatfield, a finalist for the 2010 Military Spouse of the Year Award by Military Spouse Magazine. She has gone above and beyond the call of duty to support her fellow military families and deserves our utmost gratitude and respect.

Ramona, who lives in Curtis Bay, worked resiliently to create a spouse club to support the morale and welfare of the Coasties in the Greater Baltimore Area, turning an idea and a handful of volunteers into a program that has benefitted thousands of families. Her work has provided emergent day care for families in crisis, holiday parties for families away from

home and scholarships for both spouses and dependent children. Admired and trusted by military commanders, Ramona's colleagues consider her a "go-to" spouse for the things that matter most.

Ramona is instrumental in organizing special care for families in times of crisis. She is working to create a first-of-its-kind facility to provide affordable and reliable childcare for single or dual military families. In addition to coordinating the spouse and dependent scholarships each year, she operates a pantry that has provided free infant and toddler items to 1,500 military families to date.

Ramona's efforts are all the more remarkable considering her responsibilities at home. While caring for her mother, mother-in-law and her own household, Ramona volunteers at her church as a youth minister, belongs to the spouse organization, works full-time and plays an active role in her daughter's high school activities. Her colleagues say that Ramona puts her own needs aside to tend to the needs of others and lives each day to its fullest. Her friends and colleagues describe Ramona as a "ray of sunshine," "trustworthy" and "dependable." She exemplifies the Greater Baltimore Area's Coast Guard Spouse Association motto: unconditional love and support.

Madam Speaker, I ask that you join with me today to honor Ramona Hatfield. Her compassion and dedication to the Coast Guard community and her family is an inspiration to us all. It is with great pride that I congratulate Ramona Hatfield on her exemplary service to her community and our country.

HONORING BISHOP ISIAH L.  
QUALLS

**HON. DALE E. KILDEE**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. KILDEE. Madam Speaker, starting on May 9, Bishop Isiah L. Qualls will be honored by Grace Fellowship Church International in Saginaw Michigan for 40 years of ministry. The congregation is planning to celebrate this milestone over several days.

Born in St. Louis, Missouri, Bishop Qualls was ordained at the age of 16 and began conducting revivals. He received bachelor's degrees in business administration and biblical studies and has a master's degree in divinity.

From the beginning he went on to pastor two congregations and conducts conferences and seminars around the world. Bishop Qualls has been blessed by God with talents for Praise and Worship through music and teaching. He has joined his talents with other singers and musicians, appearing in venues across the globe. Among his gifts is a special call to minister to persons working in ministry with a reuma word of healing and refreshment. Together with his wife, Patricia, Bishop Qualls pastors Grace Fellowship Church International and he is the founding Chief Apostle of Global Ministries International Fellowship of Churches providing apostolic covering to ministries throughout the nation and world.

Madam Speaker, I ask the House of Representatives to rise with me and applaud the

ability, work and healing of Bishop Isiah Qualls. His ministry has blessed the lives of hundreds of people and he has brought countless converts into the love of Our Lord, Jesus Christ, and I pray that he will continue to bless the community for many, many years to come.

HONORING MR. RICHARD P. MILLER, PRESIDENT AND CEO OF VIRTUA

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 6, 2010

Mr. ANDREWS. Madam Speaker, I rise today to honor Richard P. Miller for his contributions to our community through his service and commitment to the non-profit Virtua health care system.

Since 1998, Mr. Miller has served as President and Chief Executive Officer of Virtua. Mr. Miller's hard work has helped Virtua become an international model for effective healthcare management. Virtua has been recognized twice with the New Jersey Governor's Award for Clinical Excellence and has also been honored with the Leadership Award for Outstanding Achievement by Voluntary Hospitals of America. The non-profit was also the recipient of the 2006–2007 and 2007–2008 Consumer Choice Awards by the National Research Corporation.

Mr. Miller's leadership and service within the communities that Virtua serves is evidenced through his civic and community service affiliations, and his awards and recognitions. Mr. Miller is a board member of the March of Dimes of Southern New Jersey and served as chairman of the March of Dimes WalkAmerica Campaign from 1996 to 1999. He is a member of the American Heart Association board and served as chairman of the Arthritis Association Walk for Southern New Jersey in 2004 and 2005. Recently, he received the "Distinguished Citizen of the Year Award" from the Boy Scouts of America and has been named a "Person to Watch" by Philadelphia Magazine. In 2008, Mr. Miller was recognized as the Lean Six Sigma "CEO of the Year". He has served on the NJ Healthcare Access Study Commission and the Governor's Committee on Benchmarking for Quality and Efficiency. To add to the overwhelming list of leadership commitments, Mr. Miller is a Fellow of the American College of Healthcare Executives and serves as a trustee of the National Quality Forum.

Madam Speaker, as President and CEO of Virtua, Richard P. Miller has helped the people of New Jersey by delivering a quality patient experience and a high level of care. I congratulate Mr. Miller on his accomplishments and wish him the best of luck in all of his future endeavors.

### WE NEED AN "ALL OF THE ABOVE" ENERGY STRATEGY NOW

### HON. ADRIAN SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 6, 2010

Mr. SMITH of Nebraska. Madam Speaker, last week this Administration announced it would allow the private investment and development of the Cap Wind Energy Project off the coast of Massachusetts.

This is a step in the right direction, toward a real, comprehensive energy plan.

As higher energy prices hit American families, it becomes once again necessary for Congress to take an "all of the above" approach to our energy policy.

It is absolutely essential we continue to utilize our natural energy resources through research, development, and domestic exploration.

The American Energy Act, which I support, encourages clean and renewable sources of energy such as nuclear power, solar, and wind.

It also lowers fuel costs, reduces our dependence on foreign oil, and creates jobs.

We have delayed an "all of the above" energy strategy for too long. Now is the time to act.

### IN HONOR OF MISS AYNLEY TAYLOR INGLIS

### HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 6, 2010

Mr. CASTLE. Madam Speaker, it is with great pleasure that I rise today to recognize Aynley Taylor Inglis, a Delaware native, who has been selected to compete in the International Ballet Competition this summer. This competition is the most prestigious international competition held in North America, with contestants from around the globe competing every four years in an Olympic style event. This is truly a remarkable accomplishment, as Miss Inglis' selection to this competition distinguishes her as being among the elite professional ballerinas in the world.

As a participant in the International Ballet Competition held in Jackson, Mississippi, Aynley will represent the First State Ballet Theatre, her home State of Delaware, and the United States of America. She will be one of only six American competitors in a field of 39 professional female ballerinas from around the world. According to the USA International Ballet Competition Executive Director, Sue Lobrano, there were a record number of applicants for this year's event, making it the most competitive year in the history of the prestigious competition.

I commend Aynley for her hard work and tireless dedication to achieving excellence within her profession, and because of her commitment to excellence, she is truly deserving of this great honor. I have the utmost confidence that Aynley will make us proud by representing our State and Nation with grace and poise.

### COMMEMORATING THE KIDNEY DIALYSIS SEMINARS KICK-OFF

### HON. JOHN H. ADLER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 6, 2010

Mr. ADLER of New Jersey. Madam Speaker, I rise today to commemorate the Kidney Dialysis Seminars annual 'KDS Kick-Off' taking place on May 6, 2010. KDS is a non-profit organization that provides quality motivational education events for patients on dialysis throughout South Jersey.

I would particularly like to honor KDS for their efforts coordinating this event, and for their tremendous commitment to educating the community about Chronic Kidney Disease and renal disease. The proceeds from the event will support its valuable programs, such as motivational education seminars and cooking demonstrations to encourage patients to adhere to their treatment regimens and enhance their quality of life.

More than 20 million Americans have chronic kidney disease, which if left untreated can lead to End Stage Renal Disease. Complications associated with kidney disease are common, but can be reduced if appropriate education is provided prior to the onset of renal failure. KDS helps people with a number of steps chronic kidney disease patients can take to reduce renal failure and better prepare themselves for dialysis, including making lifestyle changes, learning about renal replacement options, and seeking a compatible kidney donor.

Kidney disease cannot be reversed, but, with appropriate education, its effects can be slowed, improving the quality of life for renal patients. Madam Speaker, please join me in applauding the efforts of the Kidney Dialysis Seminars organization. I am confident that this event will do much to increase support and funding for those whose lives are intimately affected by chronic kidney disease.

### RECOGNIZING THE 50TH ANNIVERSARY OF THE DOERBIRDS OF TRAINING SQUADRON TWO

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 6, 2010

Mr. MILLER of Florida. Madam Speaker, it is my great pleasure to rise and recognize the 50th anniversary of the Doerbirds of Training Squadron Two. Over the years, the Doerbirds have served our country with great distinction and valor. For their commitment to training outstanding student aviators, Training Squadron Two rightfully holds a place in the annals of naval history. For that reason, I am proud to recognize the Doerbirds of Training Squadron Two for their exceptional training and excellent performance over the last 50 years.

The current Doerbirds of Training Squadron Two picked up the torch lit by their predecessors on May 1, 1960. On that day, Training Squadron Two was commissioned with the task of providing primary and intermediate

stage flight training to select student aviators from the United States Navy, Marine Corps, Coast Guard and several allied nations. Each year Training Squadron Two graduates approximately 210 student aviators. Logging nearly 2,000 flight hours each month, they have flown in excess of 1,800,000 flight hours and trained more than 19,000 students since their commissioning.

To mark this great occasion, the Doerbirds will be honoring a great man and one of their own. Major Daniel S. Haworth is one of the many distinguished pilots to be a part of Training Squadron Two. Major Haworth was an instructor pilot with the Doerbirds from 1981 to 1985. While Major Haworth logged over 1,000 hours in the T-34C Turbommentor aircraft and was honored by being named instructor of the month four times, his greatest legacy is one that will always be remembered for its level of courage and selflessness in the face of adversity. On October 4, 1987, Major Haworth was flying a night vision goggle shooting exercise in his UH-1N Huey helicopter. During the exercise, the aircraft suffered a tail rotor malfunction. Sacrificing his life, the courage and composure displayed by Major Haworth at the controls are solely attributed for the survival of all the crewmembers on board.

Madam Speaker, on behalf of the United States Congress, I am privileged to recognize the Doerbirds for going above and beyond the call of duty on their 50th anniversary. To this day, the Doerbirds of Squadron Two continue to provide the highest quality training to student aviators. As they remain resolute and steadfast to doing their part to defend our nation, we must do our part to remember their unwavering commitment with our hearts and minds.

#### A TRIBUTE TO BARBARA CLARK

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Ms. ESHOO. Madam Speaker, I rise today to honor the life and legacy of Barbara Clark, a pillar of the community in East Palo Alto, California who passed away at the age of 79 on April 10, 2010, surrounded by those who loved her.

Barbara was born in East Palo Alto, California on March 16, 1931 to Bert and Clara Richards. She attended Ravenswood Grammar School and graduated from Sequoia High School in 1949. She met her husband, Clyde Clark, EN 1 USN in November 1949 and they married on June 17, 1950. They have 3 sons; David, Glenn and Bert.

Barbara Clark was a friend and mentor to many in East Palo Alto. She was involved in school PTA work, joined the Community Association for the Retarded (now Abilities United), and joined P.A.R.C.A./Special Olympics as a volunteer lunch coordinator overseeing the food distribution for 2000 people for their annual Field and Track event over a span of 25 years.

She joined the California Federated Women's Club of East Palo Alto and later joined the Redwood City Club. Her late husband,

Clyde joined the Veterans of Foreign Wars and she became a member of Auxiliary Post 2310. Barbara was a member of the East Palo Alto Grange for 43 years. In 1993, Clyde founded the Veterans Employment Committee of San Mateo County and Barbara became a charter member. Other positions she held were President for VFW Post 2310/Auxiliary, Chaplain for VFW District 12 Auxiliary, First Vice President for California Federated Women's Club Past Presidents and Board Alumnae, Treasurer for California Federated Women's Club of Redwood City, Correspondence Secretary for the Veterans Employment Committee of San Mateo County and a member of the East Palo Alto Grange #409.

Madam Speaker, I ask the entire House of Representatives to join me in honoring the life and accomplishments of Barbara Clark. How privileged I am to have known this magnificent woman and to have called her friend. Her decades of contributions to her community in East Palo Alto stand as lasting legacies of a life lived to the fullest. She will always be missed, but never forgotten.

#### PRINCESS HIRRIHIGUA DAR CHAPTER OF ST. PETERSBURG, FLORIDA CELEBRATES ITS 100TH ANNIVERSARY

### HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. YOUNG of Florida. Madam Speaker, The Daughters of the American Revolution Princess Hirihiagua Chapter of St. Petersburg, Florida will celebrate its 100th anniversary this Saturday.

This is a milestone event for the chapter's members who take great pride in fulfilling their motto of "Service to God, Family and Country." Indeed, under the leadership of Regent Gayle Freeland, Vice Regent Deborah Magiolo, Chaplain Sarah Osterholt, Recording Secretary Judith Sallows, Treasurer Patricia Strait, Registrar Diana Clemmons, Historian Norma Sandvig and Librarian Mary Nic Dodd, the chapter has done just that.

Chapter members have made it their priority to support our men and women serving abroad with their cards, letters and packages. This is a tradition that has carried forth ever since their founding in 1910 as they have supported our service members in every war and overseas conflict since then. In addition to serving our current heroes, they also serve our heroes of the past at our local VA hospitals in Bay Pines and Tampa.

Named for the famous Princess Hirihiagua Indian Mound on Pinellas Point in St. Petersburg, Florida, the chapter members hold firm to the study of the history of our area and our nation. They provide scholarships to high school students going off to college, they hold an American History Contest for students, they honor Good Citizenship Medals to Junior Achievers, and they provide support to DAR schools for underprivileged students in Florida and three other southeastern states.

Madam Speaker, the women of the Princess Hirihiagua Chapter of the DAR are proud of

our nation's history and of their service to our nation's heroes and they seek to instill that pride in our next generation of citizens. Please join me in congratulating these women for their 100 years of service to our nation and to our heritage.

#### WELCOMING HONOR FLIGHT SOUTH ALABAMA TO WASHINGTON, DC

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. BONNER. Madam Speaker, it is with great pride and pleasure that I rise to commend Honor Flight South Alabama and the 98 World War II veterans this very special organization is bringing to Washington, DC on May 12, 2010.

Founded by the South Alabama Veterans Council, Honor Flight South Alabama is an organization whose mission is to fly heroes from Mobile, Baldwin, Washington, Clarke, Monroe, Covington, and Escambia counties in Alabama to see their national memorial.

Over six decades have passed since the end of World War II and, regrettably, it took nearly this long to complete work on the memorial that honors the spirit and sacrifice of the 16 million who served in the U.S. armed forces and the more than 400,000 who died. Sadly, many veterans did not live long enough to hear their country say "thank you" yet, for those veterans still living, Honor Flight provides for many their first—and perhaps only—opportunity to see the National World War II Memorial, which honors their service and sacrifice.

This Honor Flight begins at dawn when the veterans will gather at Mobile Regional Airport to board a US Airways flight to Washington. During their time in their nation's capital, the veterans will visit the World War II Memorial, Arlington National Cemetery, and other memorials. The veterans will return to Mobile Regional Airport Wednesday evening, where some 1,000 people are expected to greet them.

Madam Speaker, today's journey of 98 heroes from south Alabama is an appropriate time for us to pause and thank them—and all of the soldiers who fought in World War II—for they collectively—and literally—saved the world. They personify the very best America has to offer, and I urge my colleagues to take a moment to pay tribute to their selfless devotion to our country and the freedom we enjoy.

I salute each of the 98 veterans who made the trip today. May we never forget their valiant deeds and tremendous sacrifices.

David Allen, Mordecai Arnold, Herman Bailey, Russell Bartlett, Howard Beach, John Benson Jr., Jerry Bethea Sr., Ernest Bishop, Jean Branum, Melvin Brassfield, Janice Britton, Thomas Brown Jr., Bruce Calder, John Carey, Marvin Carpenter, Richard Cassidy, Frederick Centanne, Joseph Champaign, Sidney Chandler, Edmund Clark, Jean Couch Jr., James Crawford, George Davis, Quentin Davis, Roy deDrew, Daniel Dennis Jr., James DeVaney Jr., Kenneth Duffee, Roy Dye, Philip



English Jr., Vasco Fast Sr., Joseph Ferguson, Leroy Gilley, Johnnie Green, Joseph Greer, William Gross Sr., Willie Hankins, Curtis Hass, Mary Hirschfeldt, Robert Hohl Sr., William Howell Jr., Herndon Inge Jr., Donald Ingraham, William Johnson, William Jones, William Kirkland Jr., Junius Klein, John Klein, Louis Knowles, John Loper, Elaine Lortie, Robert Lowell, Jack Lufkin, Kenneth Marshall, Robert Marshall, Lindsey May, Dallas McElroy, Oscar McKeithen, John McKinley, Robert Meador Sr., Frank Mitternacht Jr., William Molaschi, Bennie Mullins, Robert Nester, Albert Peck, Richard Peterson, Nelson Richardson, Malcolm Roberts, Archie Robinson, Derrel Rochford, Dorothy Rowell, Ernest Rupert Jr., Virgil Russell, William Russell Jr., Wallace Sabin, Robert Scott, Nina Seacrist, Thomas Shell, Odis Shepherd, Patricia Small, Prentiss Spotswood Sr., Thomas Sutton, William Svetkovich, Melvin Tarver, John Terrell Jr., Winters Thomas, Stanley Thurston, Samuel Vaughn Sr., Dale Wagner, William Waller, Dwight Ward, Audie Waters, John Webb, Louis Williams, Benjamin Williams, Harold Winger, Anton Witte and Paul Wyckoff

#### CELEBRATING THE CHEROKEE COUNTY AIRPORT

#### HON. TOM PRICE

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 6, 2010

Mr. PRICE of Georgia. Madam Speaker, I'd like to take a moment to commend the remarkable effort and dedication of everyone involved in making the Cherokee County Airport in Georgia the shining jewel of this county's economic development.

Tomorrow's ribbon-cutting ceremony for the new terminal building will be a celebration of twenty plus years of perseverance and unselfish teamwork. This project is a wonderful example of what can be accomplished when governments at the state, local, and federal level work together with the people of a community to build a stronger economic foundation.

Due to the hard work of so many, our business community will instantly become more competitive. This new terminal and longer runway will attract corporate travel that will spur new business development and create quality jobs for the good people of Cherokee County.

But none of this would be possible without the tremendous efforts of the Cherokee County Airport Authority under the leadership of Chairman Don Stevens. The tireless work of Don and all the current and past members of the Airport Authority is the reason this dream has become a reality.

The assistance of many others was also essential to seeing this long process through to completion. I'd especially like to acknowledge the immense support from the Cherokee County Board of Commissioners, led by current Chairman Buzz Ahrens and past Chairman Mike Byrd. And of course, we have to mention Scott Seritt and the fine folks at the FAA whose contributions from the federal level made the financing for this project possible.

This wonderful new airport is a clear example of what can happen when we work to-

gether to better our community, and the businesses and the people of Cherokee County will surely benefit from this new economic engine. It has been a great privilege to work with the men and women who made this project come to life, and I look forward to our continued efforts to bring greater prosperity to Cherokee County.

#### IN HONOR OF COLONEL BOB DINGEMAN

#### HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 6, 2010

Mr. HUNTER. Madam Speaker, today I rise before the House of Representatives to remember Colonel Bob Dingeman.

If you are lucky enough to visit the San Diego, California neighborhood of Scripps Ranch, you are likely to find Colonel Bob Dingeman everywhere. Colonel Dingeman has been a member, and usually the chair, of virtually every community benefit organization in the 40 year history of Scripps Ranch.

His service to country and community began as an enlisted private and served at Hawaii's Schofield Barracks when it came under attack on December 7, 1941. Following the end of World War II, Colonel Dingeman attended the United States Military Academy at West Point, then served in the Philippines, Korea and Vietnam. He flew helicopters with the call sign "Smiling Tiger," and retired as a highly decorated United States Army Colonel.

Colonel Dingeman, and his wife Gaye, have been married for 65 years and moved to Scripps Ranch in 1976. They have two grown children and several grand and great grandchildren and they are proud of each and every one.

Very seldom does an individual devote such an extended depth and breadth of commitment and expertise to a community. Colonel Dingeman devotes hours of tireless effort to creating and maintaining schools, clean parks and safe streets. He has been honored by Scripps Ranch with a namesake public school—an honor rarely given by any school district to someone still living.

Colonel Dingeman has been a mentor to many community volunteers. With his sage "do-able solutions" advice, he has helped forged new community, business and political leaders who will eventually shape the quality of life for future generations in Scripps Ranch.

Of all his civic accomplishments, Colonel Dingeman takes particular pride in the hundreds of immigrants he has prepared for United States citizenship. He believes that America is the greatest democracy on earth.

Madam Speaker, Colonel Bob Dingeman has been Citizen of the Year in Scripps on multiple occasions and was the initial inductee into the Volunteer Hall of Fame. On the 40th Anniversary of Scripps Ranch, I would like the House of Representatives to join me and honor this outstanding man who is an example to all of us in San Diego on what we can do for our fellow man.

#### HEMP HISTORY WEEK

#### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 6, 2010

Mr. PAUL. Madam Speaker, I rise to speak about Hemp History Week. To celebrate the American heritage of growing industrial hemp, the Hemp Industries Association, Vote Hemp, several American manufacturers, and allied companies and organizations have declared May 17 to May 23 to be Hemp History Week. Throughout the week, people will recognize America's legacy of industrial hemp farming and call for reinstating respect for farmers' basic right to grow industrial hemp.

Industrial hemp was legally grown throughout our country for many years. In fact, George Washington and Thomas Jefferson grew industrial hemp and used it to make cloth. During World War II, the federal government encouraged American farmers to grow hemp to help the war effort.

Despite industrial hemp farming being an important part of American history, the federal government has banned cultivation of this crop. In every other industrialized country, industrial hemp, defined to contain less than 0.3 percent THC—the psychoactive chemical found in marijuana—may be legally grown. Nobody can be psychologically affected by consuming industrial hemp. Unfortunately, because of a federal policy that does not distinguish between growing industrial hemp and growing marijuana, all hemp products and materials must be imported. The result is high prices, outsourced jobs, and lost opportunities for American manufacturing.

Reintroducing industrial hemp farming in the United States would bring jobs to communities struggling in today's economy, provide American farmers with another crop alternative, and encourage the development of hemp processing factories near American hemp farming.

Industrial hemp is used in many products. For example, industrial hemp is used in protein supplements, non-dairy milk, and frozen desserts. Hemp flour is in breads, crackers, chips, dips, and dressings. Hemp seeds may be eaten plain or added to prepared foods. Additionally, hemp oil is used in a number of cosmetic and body care products, and hemp fiber is used in cloths. Industrial hemp is also present in bio-composite materials used in buildings and automobiles.

I first introduced the Industrial Hemp Farming Act, H.R. 1866, five years ago to end the federal government's ban on American farmers growing industrial hemp. In this time, the industrial hemp industry has grown much larger. Despite its American history, industrial hemp is the only crop that we can buy and sell but not farm in the United States. The federal government should change the law to allow American farmers grow this profitable crop as American farmers have through most of our nation's history. Please cosponsor the Industrial Hemp Farming Act and join me in celebrating Hemp History Week.

HONORING LAWRENCE AMENDOLA  
FOR A LIFETIME OF PUBLIC  
SERVICE

**HON. ROSA L. DeLAURO**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Ms. DELAURO. Madam Speaker, I rise to acknowledge the retirement of a great friend to Connecticut workers, a longtime family friend to both me and my parents, and a fixture in the life of New Haven, Lawrence Amendola.

A graduate of Wilbur Cross High School in New Haven, Larry has spent his entire life helping people and improving our City. After three years with Plymouth Electric and two years in the U.S. Army, Corporal Amendola became the manager of the New Haven municipal Golf Course in 1956. This job would mark the start of what would become Larry's continuing passion—to make the City of New Haven both a better place to work and a better place to play.

After ten years with Community Progress, Inc., where he and I worked together for better housing and urban renewal, Larry returned to work for the City in 1973, when Congress passed the Comprehensive Employment and Training Act (C.E.T.A.), a successor to the Works Progress Administration of the New Deal. As a Supervisor, Director of Education & Work Training, and eventually Administrative Director of C.E.T.A. in New Haven, Larry helped match low-income and unemployed Connecticut citizens with short-term work for public and non-profit organizations.

Even after moving to the City's Parks Department in 1984, where he served as a Recreation Program Supervisor until, his retirement last September, Larry continued his commitment to Connecticut's working people. As the longtime President of AFSCME's Local 3144, a position he held for 24 years, he has been a fierce and forthright advocate on behalf of workers and their families. In fact, he was a guiding force as we worked together to forge a management union in New Haven. As any Member of the 3144 can well tell you, Larry is a great fighter for working men and women, and a good man to have in your corner.

To his credit, Larry takes play as seriously as work. He has been active in promoting countless adult and youth sports leagues in Connecticut, and has been involved with the Special Olympics, the New Haven Boys Club, the YMCA & YWCA, A.S.A. Umpires, the Youth Football Association, and dozens of other worthy organizations.

I thank Larry deeply for his service to the City on all of these fronts. Over the course of a long career, he has enriched our lives and our community. And I congratulate him on reaching this milestone. Congratulations, Larry, you have earned it.

HONORING MR. TOM LAMONT

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. CUELLAR. Madam Speaker, I rise today to honor the accomplishments of Mr. Tom Lamont, a recent inductee into the Laredo Business Hall of Fame. Mr. Lamont currently owns Lamont Oil & Gas Company, an oil and gas exploration company.

As a native Texan, Mr. Lamont has dedicated his career and services to the community with his expertise and knowledge in business, oil and gas, and entrepreneurial endeavors. From a childhood grounded in education as a top priority and through the teachings of his parents, Mr. Lamont learned at an early age that hard work and commitment was a way of life. Growing up, he moved from Illinois to Alabama and back to Illinois in Chicago where he attended Marion Catholic High School and met his high school sweetheart and future wife, Marianne Leslie. Throughout high school, Lamont played football, earning a scholarship to college. Mr. Lamont graduated from South Dakota School of Mines in Rapid City with his BA in Geological Engineering in 1977.

Mr. Lamont began his career as a fresh college graduate landing a field operations position in a division of Baker called Exploration Logging. He then accepted another job working for several small independent oil companies over the next five years in Houston. The years of experience and gained knowledge deemed a promotion in Laredo, Texas as area manager for Texas Drilling Company in 1983. For ten years, Mr. Lamont worked day and night with responsibilities to ensure a stable operation. His work ethic and commitment awarded him a promotion to the company's headquarters in Abilene. By this time, Laredo was home for Lamont—he opened up his consulting company for oil and gas companies and mineral owners. He purchased Howland Surveying Company, which surveyed at that time close to 90 percent of oil and gas wells in Webb and Zapata counties in South Texas. With the help of his wife and ten years of hard work, Lamont brought the company from 4 employees to 50. By 2006, he sold the company to his employees.

While Mr. Lamont never strayed from his career in oil and gas business as current owner of Lamont Oil & Gas, he also took up recent efforts in Laredo, Texas to bring new experiences to the area such as promoting a water park and opening up Laredo's only restaurant, bar and arcade named Hal's Landing. Mr. Lamont is a successful entrepreneur and businessman, hunter, and a family man who has contributed to our community greatly.

I am honored to have had this time to recognize Mr. Tom Lamont, a recent inductee into the Laredo Business Hall of Fame. He has exemplified characteristics of a strong work ethic and business savvy, qualities that earn appreciation.

CELEBRATING THE LIFE AND  
CAREER OF ERNIE HARWELL

**HON. JOHN CONYERS, JR.**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. CONYERS. Madam Speaker, on Tuesday May 4th, Legendary Detroit Tigers hall of fame announcer Ernie Harwell died at the age of 92 after a yearlong battle with cancer. Harwell had one of the longest runs of a broadcaster with one major league club, calling Tigers games for 42 seasons.

Harwell had been a big-league announcer for more than 10 years when he joined the Tigers broadcast team in 1960. He called Tiger games for 42 seasons. In 55 seasons of broadcasting big-league baseball, he missed two games, neither because of his health. One was for his brother's funeral in 1968 and the other was for his induction into the National Sportscasters and Sportswriters Association Hall of Fame in 1989.

His career is woven into the fabric of baseball's history. When he was calling games in Atlanta, he interviewed a young impressive hitter from the Boston Red Sox named Ted Williams. As a young man in Atlanta he met Babe Ruth. He was so excited that he didn't realize he had no paper to get an autograph from Babe. He got his autograph though and that experience was the title of his book, *The Babe Signed My Shoe*.

Madam Speaker, I don't know if summers in Detroit will be the same. Even though Ernie retired, his voice echoed in Tiger Stadium, Comerica Park and anywhere the Tigers were discussed. Throughout his time in the booth Ernie was able to bring Detroiters together even in our most trying times. Many Detroiters of my generation know where we were and who we were with when the Tigers won the World Series in 1968. We were all in different places, but we were all with Ernie. He was with us for every great game and every great Tiger's memory.

CONGRATULATING THE TOWER OF  
HOPE ON ITS OUTSTANDING AC-  
COMPLISHMENTS

**HON. ALCEE L. HASTINGS**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. HASTINGS of Florida. Madam Speaker, I rise today to congratulate the Tower of Hope on its great accomplishments and express my best wishes for its fourth annual gala.

The Tower of Hope was created following the September 11th terrorist attacks in an effort to bring about hope and happiness to our wounded veterans. Through tireless and devoted work, the Tower of Hope raises funds to train assistance dogs and helps pair them with wounded veterans at no cost to our veterans.

Thousands of those brave service men and women have been seriously wounded in combat, many of them suffering from brain injuries, single and double amputations, and other traumatic wounds. Providing them with assistance

dogs helps them live more comfortable and independent lives.

Madam Speaker, the Tower of Hope is dedicated to improving the lives of our veterans. Not only have they helped wounded veterans regain their independence, but they have also spread hope and love among those in need and their families. The Tower of Hope has helped veterans and countless others live normal lives, go to college, and support their loved ones. I have the highest respect for the important work they continue to do and the ideals they convey.

My thoughts and wishes are with them on their fourth annual "Lighting the Path" Gala. This event will help raise awareness of the importance of service dogs for wounded veterans and others with disabilities, and educate people about the benefits of such animals. In addition, I am proud of their upcoming initiative, "100 Dogs in 1000 Days," which will raise funds to train 100 service dogs and thus double the current number of service dogs available to wounded veterans.

Throughout the years, this great nation has been shaped by our willingness to help our neighbors in their greatest time of need. This giving spirit that defines our country is embodied in the Tower of Hope. We owe it to our veterans to support the development of a program that inspires hope and strengthens our tradition of compassion to those who need it most.

Madam Speaker, I want to thank the Tower of Hope for its outstanding work, as well as all the volunteers and donors who have made these programs possible through their generosity. I wish the Tower of Hope the very best with their upcoming initiatives and stand ready to provide any assistance and will continue to advocate for America's veterans.

#### NATIONAL DAY OF PRAYER

#### HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. CALVERT. Madam Speaker, I rise today to recognize today as a National Day of Prayer. Congress first established a National Day of Prayer in 1952, and in 1988 set the first Thursday in May as the day for Presidents to issue proclamations asking Americans to pray. From its founding, America has had a rich heritage of affirming religious expression in the lives of its citizens. In fact, many of our nation's leaders make decisions based on a set of moral values, often rooted in their religions or spiritual beliefs. Commander-in-Chief George Washington regularly issued orders for military troops to attend and participate in religious gatherings.

In the midst of the recent health care debate in Congress, I attended Sunday Service at the Capitol. I was particularly moved by the quote that was shared during the service, which was originally given by Chaplain Peter Marshall on the floor of the Senate 63 years ago: "Save us from accepting a little of what we know to be wrong in order to get a little of what we imagine to be right. Help us to stand up for the inalienable rights of mankind and the principles

of democratic government consistently and with courage, knowing that Thy power and Thy blessing will be upon us only when we are in the right. May we so speak, and vote, and live, as to merit Thy blessing. Through Jesus Christ our Lord. Amen."

I found this particularly poignant as I prepared to cast my vote on the health care reform bill. One of many issues within this bill was the role of the federal government in supporting abortion services. I believe federal support for elective abortions is morally wrong, and I know many of my colleagues share similar opinions. Chaplain Marshall's words of caution from so many years ago offered me guidance as I cast my vote against the legislation.

Madam Speaker, the National Day of Prayer continues to stand as a wonderful representation of the religious and spiritual heritage of this great nation. Today I urge Americans to reflect on the significance of prayer in their lives and it is my hope that Americans will always observe the National Day of Prayer with reverence and reflection.

#### HONORING THE LIFE AND LEGACY OF PETER A. REILLY

#### HON. JOE COURTNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. COURTNEY. Madam Speaker, I rise today to honor the life and legacy of Peter A. Reilly of Connecticut who passed away on April 26, 2010.

Peter Reilly, or the "Commish" as he was called to those who knew him best, was a giant in the Connecticut Labor Movement. Peter joined the Iron Workers Local #15 in 1951. After 12 years as a member, Peter took on the role of Business Agent in 1963 before retiring as the Financial Secretary-Treasurer and Business Manager after 35 years of tireless service. Peter always stood up for the little guy, and he never wavered in the fight to protect the interests of Connecticut's working men and women.

Peter was also a dedicated public servant. He was a member of the U.S. Army and Merchant Marines, and served our nation honorably during World War II. In his later years he served in a variety of posts on various state boards and committees during the administrations of Governors Dempsey, Meskill, Grasso and O'Neill, carrying his belief in fair wages and standards for the working men and women he cared so deeply about. He later served as Deputy Commissioner and then Commissioner for the Connecticut Department of Labor under Governor Ella Grasso. On a personal note, I had the privilege to meet Commissioner Reilly as a newly elected state representative in 1987 and he was extremely kind and helpful to me. I learned a lot from him and became his friend for life.

While his dedication to his union brothers and sisters was never far from his mind, it was Peter's family that defined his life. While long days on the job often kept him away from home, his beloved wife Ruby, who stood by him for 54 years, including on the day he passed, his son Ed and his daughters Marie

and Ruby, were never far from his thoughts. He is survived by them and his sister Marge Stempkowski, as well as six grandchildren.

Madam Speaker, the working men and women of Connecticut have lost a great champion, and many like myself have lost a dear friend. I ask that all members join me in honoring the life and service of the "Commish", Peter A. Reilly.

#### IN RECOGNITION OF ADOPT-A-CAT MONTH OF THE AMERICAN HUMANE ASSOCIATION

#### HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mrs. DAVIS of California. Madam Speaker, I am pleased to announce that the month of June has been designated by the American Humane Association as Adopt-A-Cat Month. The American Humane Association, which is headquartered in Englewood, Colorado, was founded in 1877 and is the only national organization dedicated to creating a more humane and compassionate world by ending the abuse and neglect of children and animals. Established in 1975, American Humane's Adopt-A-Cat Month is a time to bring special attention to the need for—and the benefits of—adopting homeless cats and making a commitment to provide them with a lifetime of loving care.

American Humane's Adopt-A-Cat Month serves as a sobering reminder of this staggering reality: every year, approximately 4 million cats and kittens end up in animal shelters in the United States. Each of these cats is in need of a "forever" home, but tragically, only a small percentage will eventually find one. During Adopt-A-Cat Month, American Humane—in partnership with The CATalyst Council—urges Americans to adopt a homeless cat from their local shelter or rescue group and provide it with a lifetime of love, as well as a lifetime of proper veterinary care. By championing cats as lifelong companions who enrich our lives in countless ways, American Humane is continuing its mission to promote the human-animal bond and combat the crisis of pet overpopulation, during Adopt-A-Cat Month and every month of the year.

#### IN RECOGNITION OF EAST KENTWOOD HIGH SCHOOL WIN- NING THE REGION THREE AWARD FOR THE "WE THE PEOP- LE" 2010 NATIONAL FINALS COMPETITION

#### HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. EHLERS. Madam Speaker, I rise today to praise the students, their families and educators at East Kentwood High School, located in my Congressional District, who won the Region Three Award during the national finals of the 2010 "We the People: The Citizen and the Constitution" competition. The students and

teacher participating in this year's program have shown the nation the high standard of talent and education found in West Michigan.

The students studied for months before coming to Washington, DC, for the national finals. The team participated in a mock congressional hearing to demonstrate knowledge and understanding of the principles in the U.S. Constitution. The team won local and state "We the People" contests to qualify for the national competition.

I would like to recognize the following students from East Kentwood High School for their outstanding performance: Tacy Allan, Heather Anderson, Brandon Bilski, Sam Broecker, Austin Calloway, Jessica Dippel, Christian Erwin, Natalie Eyke, Brandon Gafford, Alex Giarmo, Gurgen Grigoryan, Erin Letherby, Ian Macneil, Gwenevere Mueller, Brynley Nadziejka, Julia Nguyen, Taylor Sanchez, and Roger Taylor. Their teacher, Deb Snow, also deserves a great deal of recognition for instilling these students with a passion to learn and providing them with the knowledge they needed to succeed.

I would also like to commend the Center for Civic Education for putting on the "We the People" program and providing resources to schools in my district to help educators teach students about the U.S. Constitution. I cannot overstate how important it is for students to graduate from high school with a comprehensive understanding of how our government works. "We the People" programs should be recognized for promoting civic education, and I am pleased that it has had such a big impact in my district. Also worthy of special recognition are Linda Start and Jim Troost, the state coordinators, and Susan Laninga, the district coordinator who are responsible for implementing the "We the People" program in my district.

I am very proud of the students, their families and teacher at East Kentwood High School for winning the Region Three Award in the "We the People" competition, and I ask my colleagues to join me in congratulating them for their achievement.

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HONORING RALPH ROSS ON HIS  
100TH BIRTHDAY

**HON. JOHN J. DUNCAN, JR.**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. DUNCAN. Madam Speaker, Ralph Ross of Knoxville, Tennessee turned 100 years old on May 3, 2010. I cannot think of a finer father, Christian, or community leader.

Ralph has had an amazing, blessed life. But despite his personal business success, he remains a humble Christian who devotes his resources, time, and heart to others.

Like many of Ralph's generation, he entered into the military during World War II after completing dental school and served admirably as the head of the dental corps at Camp Blanding, Florida.

While safeguarding the health of his fellow soldiers during the war, Ralph met the love of his life. Frances was the head of the nurse's corps at Camp Blanding, and that chance en-

counter would result in a 63-year marriage, two children, and four grandchildren.

Ralph served full time from April 1, 1941, to May 9, 1946. Even after the war, he continued his commitment to the United States, serving in the Reserves through the 1960s and retiring as a Lieutenant Colonel.

Following his military service, Ralph got into the construction business. It takes a lot of hard work, determination, and a bit of luck to get a successful business off the ground. Ralph did it twice.

After getting much of the contract work for construction at Oak Ridge, a subcontractor ran off with most of his supplies and pay for the work. He was left with a shovel, a bulldozer, and no money.

Never one for self-pity, he started from scratch again by joining his brother in the coal business. And once again, he built a very successful business, selling it in 1982.

Ralph is a shining example of how to live a Christian life. Blessed with security on this Earth, he has never stopped giving to those who are not as fortunate.

From serving as President of the North Side Kiwanis Club in Knoxville, to his activities with Campus Crusade for Christ, YOLK Youth Ministries, Young Life, and Shriners International, Ralph spends his time helping others, especially youth. He is also a generous benefactor to the University of Tennessee.

I graduated from high school with Ralph's son Roger and used to frequently play basketball at his house. I have known Roger Ross almost his entire life.

He describes a bulletin board in their home filled with images of his father's generosity. "You name it, he was in it," Roger says. "Being a Christian was Daddy's life."

As a member of First Presbyterian Church in Knoxville, and then later Cedar Springs Presbyterian Church, Ralph served as elder and deacon. He is a very outgoing individual and meeting other people is his favorite thing.

"He always told me not to lie, and he never said a harsh word about anybody. And he would always help people," Roger says. "You ask him for help, or came and asked him for money, and he would give it to you."

Ralph lives by the creed that you always help those in need, even if some folks may try to take advantage of you. "That's life," he always says. "It doesn't mean you stop helping people."

Madam Speaker, Ralph Ross, through his faith in God, continues to live an honorable life. I call his devotion to others to the attention of my colleagues and other readers of the RECORD and wish him a very happy 100th birthday. Roger Ross says of his father, "He just has people everywhere that love him." I think there is no better definition than that of a good life.

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HONORING MS. IMELDA NAVARRO

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. CUELLAR. Madam Speaker, I rise today to honor the accomplishments of Ms. Imelda

Navarro, a recent inductee to the Laredo Business Hall of Fame. Ms. Navarro is currently the Senior Executive Vice President, Chief Financial Officer and Chief Operation Officer of International Bank of Commerce in Laredo, Texas.

Ms. Navarro has contributed to the community of South Texas and the International Bank of Commerce-Laredo, which has its parent company as the largest minority-owned bank in the country, also headquartered in Laredo, Texas. At the age of 16, Ms. Navarro joined the IBC family as a young file clerk through a program offered through Laredo's J.W. Nixon High School. Even after completion of the program, Ms. Navarro continued to work for the bank with an extended, committed twenty-nine year career. She earned her degree in Accounting and earned her Bachelor of Business Administration at the Laredo State University.

The financial and business industry in Laredo prospered with the work ethic and dedication of Ms. Navarro. In the 1980s and 1990s, the IBC began to grow substantially and Navarro continued to learn all the facets of personal and commercial banking, including responsibilities of financial accounting, human resources and bank operations. From her young beginnings as a file clerk to her multiple duties as Senior Executive Vice President currently, Ms. Navarro provides a unique and excellent perspective for the banking industry and business community.

Most recently, she was recognized as one of the Top Hispanic Women in the United States in 2009. In April 2005, Hispanic Business Magazine recognized Ms. Navarro as one of its outstanding women leaders and as one of the 100 most influential Hispanic women in the country. Navarro also helps the community with her services through Texas and International non-profit and professional organizations such as being a member of the Mercy Ministries Development Council. She has served as part of the Laredo Business Professional Women's Association and Financial Women International. She was former director of the Laredo Chamber of Commerce and served as President of the TAMIU Alumni.

Madam Speaker, I am honored to have had this time to recognize Ms. Imelda Navarro inductee to the Laredo Business Hall of Fame. She has shown in her extensive career dedication to the business and financial industry and contributions to the community.

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CONGRATULATING STATE  
SENATOR BOB KREMER

**HON. ADRIAN SMITH**

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. SMITH of Nebraska. Madam Speaker, I rise today to congratulate Senator Bob Kremer on his induction into the Nebraska Hall of Agricultural Achievement for his long and valuable service to agriculture.

The Hall is an organization whose primary purpose is to acknowledge and preserve the records of those citizens of Nebraska who have made outstanding contributions to the well-being of Nebraska's agricultural way of life.

Bob, a farmer and cattle feeder, served in the Legislature from 1999 to 2007. He was Chair of the Agriculture Committee from 2003–2006. Throughout his service to our State, Bob was a leader in policy related to property taxes, grain bonding and warehousing commodity check-offs, and beginning farmer incentives. He is also Chairman of Nebraska 25x25, a coalition dedicated to increasing the use of renewable energy derived from agricultural sources.

I have known Bob for a long time. He has been a tireless advocate not only for Nebraska agriculture, but for America's agriculture industry as a whole. I have always been impressed with his ability to look to the future while holding on to what makes Nebraska's way of life so great. I am anxious to see what he will accomplish next.

I want to thank Bob for his service and once again, congratulate him on this honor.

**CONGRATULATING THE CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA MEN'S BASKETBALL TEAM FOR WINNING THE 2010 NCAA DIVISION II MEN'S BASKETBALL NATIONAL CHAMPIONSHIP**

**HON. GRACE F. NAPOLITANO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mrs. NAPOLITANO. Madam Speaker, I rise to congratulate the California State Polytechnic University, Pomona men's basketball team for winning the 2010 NCAA Division II Men's Basketball National Championship.

On March 27, 2010, the Cal Poly Pomona Broncos defeated the Indiana University of Pennsylvania Crimson Hawks 65–53 in the finals of the National Collegiate Athletic Association, NCAA, Division II Men's Basketball Tournament in Springfield, Massachusetts. The Broncos shot over 50 percent from the field throughout the tournament and played with an impenetrable defense. The Broncos showed tremendous determination by making it to the championship game for the second year in a row after being narrowly defeated last year by Findlay University's last second three point shot in overtime.

The Broncos finished the 2009–2010 season with 28 wins and 6 losses, the best record in school history. This is a great credit to the players as well as the coaching staff, which includes head coach Greg Kamansky, associate head coach Bill Bannon and assistant coach Damion Hill. The trainers, managers, and staff also deserve praise for their outstanding dedication to helping the Cal Poly Pomona Broncos reach the summit of college basketball success.

The team was awarded many individual accomplishments as well. Coach Kamansky was named the NCAA Division II Coach of the Year from both the National Association of Basketball Coaches and the Division II Bulletin. Broncos senior Austin Swift was named Most Valuable Player of the tournament, averaging 17.6 points per game. Broncos senior Dahir Nasser was named All Elite Eight

Choice and scored 12 points in the championship game. The roster of the Cal Poly Pomona Broncos also included juniors Mark Rutledge, Tobias Jahn, and Donnelle Booker; sophomores Matthew Rosser and Dwayne Fells; and freshman Mitchel Anderson, Shaun Norum, and Kevin Ryan.

The Broncos players, coaches, and staff are outstanding representatives of California State Polytechnic University, Pomona, one of the finest and most diverse public universities in the country. Cal Poly is the pride of Eastern Los Angeles County and is widely recognized for its applied research programs and hands-on education.

Madam Speaker, I ask all my colleagues to join me in congratulating the Broncos for playing with great sportsmanship and pride throughout the season, and showing tremendous dedication to their school and appreciation for their fans.

**HONORING MICHAEL J. ABATEMARCO, U.S. PRESIDENTIAL SCHOLARS PROGRAM SEMIFINALIST**

**HON. CAROLYN MCCARTHY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mrs. MCCARTHY of New York. Madam Speaker, I rise today to recognize my constituent Michael J. Abatemarco and congratulate him as he is named a semifinalist in the U.S. Presidential Scholars Program 2010. The U.S. Presidential Scholars Program honors some of the most distinguished graduating high school seniors from across the country. Michael is one of 550 semifinalists.

As the valedictorian of Garden City High School, Michael's superior academic achievements include; National Merit Finalist, AP Scholar with Distinction, Rensselaer Medalist, and Siemens Science Contest semifinalist. In addition to Michael's academic successes, his extracurricular activities reflect a well-rounded student and member of the community through his involvement as drum major of the High School Marching Band, third degree karate black belt, principal baritone saxophonist in the wind ensemble and jazz ensemble, and varsity swimmer and diver. Michael also serves on his school's executive board of Peer AIDS Educators.

As a senior member of the Education and Labor Committee, I am truly impressed by Michael's accomplishments. I am pleased to see that Michael not only values his education, but also shows dedication to community service. Michael is an Eagle Scout with Bronze, Gold, and Silver Palms—awards given only to scouts who have demonstrated spirit, leadership and ability. He also serves as captain and organizer of a Swim Across America team to raise awareness and funds for cancer research. Michael will be working with a nonprofit organization this summer as part of the Bank of America Student Leaders Program and will be attending Harvard University in the fall.

Madam Speaker, it is with pride and the utmost admiration I offer my congratulations to

Michael J. Abatemarco and commend his dedication to education and community service.

**HONORING KARIN WALSER**

**HON. JAMES P. MCGOVERN**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. MCGOVERN. Madam Speaker, I rise today on behalf of Mr. LYNCH, Mr. DELAHUNT, Ms. TSONGAS, Mr. KIND, Mr. MARKEY and Mr. TIERNEY to pay tribute to Karin Walser. Karin is the founder of Horton's Kids, a nonprofit that provides comprehensive services to the children of Washington, DC's Ward 8, improving the quality of their daily lives and nurturing their desire and ability to succeed. For over 20 years, Karin has demonstrated an inspirational commitment to the health and happiness of hundreds of children served by Horton's Kids.

I have known Karin for over 20 years. We both had the honor of serving on the staff of the late Congressman Joe Moakley. Karin founded Horton's Kids in 1989 while working as Congressman Moakley's press secretary. When she stopped at a Capitol Hill gas station late on a Sunday night and several children offered to pump her gas for spare change, the idea for Horton's Kids began to take shape. Karin initially enlisted friends and Congressional co-workers to take a small number of the children on field trips in their personal cars over the weekends. The program next expanded to tutoring sessions on Tuesday nights to encourage academic achievement.

Today, hundreds of children from Anacostia regularly participate in Horton's Kids mentoring and tutoring programs. They also receive dental and eye care, enjoy birthday and holiday celebrations, participate in community service projects, and attend a six-week summer camp dedicated to improving literacy and to preventing the "summer slide." Most importantly, these children benefit from the attention, love, and dedication of over 500 volunteer mentors who help enrich their lives, expand educational opportunities, and offer as much personal attention as possible.

Horton's Kids can help so many kids because of the financial generosity of individuals, corporations, civic groups and foundations. But their greatest resources are the enthusiastic and dedicated volunteers—many of whom work full time on Capitol Hill—and their talented, dedicated staff. Monday and Tuesday night tutoring in Rayburn House Office Building draws Hill staff and professionals from throughout the Washington area. On Wednesdays, a partnership with the U.S. Department of Education brings Horton's Kids to their facilities for a third night of tutoring with Department staff. And in 2008, Horton's Kids added a Wednesday evening academic enrichment program for older students, providing additional mentoring from committed professionals.

Karin Walser has earned numerous well-deserved honors and awards in recent years, including the WJLA-ABC 7 Working Women Award, the Bryn Mawr School Young Alumni Award, and a briefing with former President

Bush followed by a Presidential mention as a "social entrepreneur" in a national speech on mentoring. She was chosen as WETA's Hometown Hero for April 2005 and was featured on NBC Nightly News' "Making a Difference." Karin and the inspirational story behind Horton's Kids were also featured in Allison Silberburg's 2009 book, *Visionaries in Our Midst*.

Karin Walser's continued commitment to the children and families of Washington, DC's Ward 8 has transformed hundreds of lives. The children of Horton's Kids are overcoming obstacles and succeeding: graduating high school, finding internships, and applying to colleges. Their growth is a testament to the dedicated efforts of Karin Walser.

Marquitta Jones became a Horton's Kid as a young girl, attending tutoring programs and Sunday field trips. Now enrolled in college, Marquitta credits Karin Walser for her success. "Karin cared about me and my education when not many did," Marquitta says. "She's made a difference in our neighborhood where the kids need someone to believe in them."

As Marquitta says, "one person can make a difference to children, and Karin has gone above and beyond."

Madam Speaker, Karin Walser is an inspiration to us all. I know that all of my colleagues in the House join me in paying tribute to this remarkable woman.

TRIBUTE TO THE LATE JUDGE  
WILLIAM O. (BILL) ISENHOUR, JR.

**HON. DENNIS MOORE**

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. MOORE of Kansas. Madam Speaker, I rise today to pay tribute to my good friend, the late Judge Bill Isenhour, of Mission, Kansas, who died on April 10.

Bill Isenhour was born in Kansas City, Kansas, where he graduated in 1960 from Wyandotte High School. Bill attended Kansas City University, UMKC, where he was student body president, editor of the newspaper, member of the varsity debate team, including being the undefeated regional champions and participation in the National Debate Tournament in West Point in 1964. He graduated with a BA in speech in 1964. He married Karen Kay Peterson on June 26, 1965. While Karen taught school, he attended law school at UMKC, where he was the recipient of the Dean's Merit Scholarship and graduated in the top of his class in 1968 with a J.D. Bill served as law clerk to Chief Judge Arthur J. Stanley, Jr., U.S. District Court for the District of Kansas, from 1968–1969.

Bill resigned his clerkship to begin private law practice in Johnson County and practiced law with the firm Soden, Eisenbrandt, Isenhour & Gates—which eventually became Soden, Isenhour & Cox—until 1994. In the early 70s, he served as Municipal Judge in Merriam and Mission, Kansas. In 1994, he was appointed by Governor Joan Finney as District Court Judge in the 10th Judicial District in the State of Kansas, Johnson County. Judge Isenhour

served as a civil court judge until 2005, when he became one of the first members of the Johnson County Family Court. He was a member of the Johnson County Bar Association, Kansas Bar Association, the Kansas City Metropolitan Bar Association, the Kansas Trial Lawyers Association, Phi Delta Phi legal fraternity, the American Judges Association, the Association of Family and Conciliation Courts, and was a member of the National Council of Juvenile and Family Court Judges. He presented at numerous legal education programs, primarily in the area of family law. In 2008, he received the President's Award from the Heartland Mediators' Association for the work in his court encouraging mediation. Bill retired from the bench in the fall of 2008.

Judge Isenhour was a member of St. Michael and All Angel's Episcopal Church in Mission, where he served in numerous roles, including Sunday school teacher, usher, lector, stewardship chairman, delegate to diocesan convention, member of the vestry, Junior Warden and Senior Warden. He was involved in helping start Breakfast at St. Paul's—a hot-breakfast program for families in KCK—which serves more than 200 persons each week at the church in which he grew up. Judge Isenhour also served on the boards of the Mission Chamber of Commerce, the Milhaven Homes Association, the Saint Michael's Day School and served as secretary of the Johnson County Bar Association.

Bill loved spending time with his family, his friends from church, traveling—particularly to his cabin in the mountains of Colorado, and spoiling his two grandchildren. He is survived by his wife of almost 45 years, Karen Isenhour; his son, Kirk Isenhour and partner Doug Anning of Kansas City, Missouri; his daughter, Stephanie Price and husband Warren of Overland Park; and two grandchildren, Dillon and Katie Price. He is also survived by his three sisters and brother, Diana Patterson (Jeff) of Merriam; Mary Isenhour (Bill Patton) of Harrisburg, Pennsylvania; Victoria Charlesworth (Jim) of Overland Park; and Philip Isenhour (Ellen Zipf) of Elm Grove, Wisconsin; three aunts, Mary Clark of Kansas City, Kansas, Kathleen Noe of Alexandria, Virginia, and Dee Isenhour of Manteo, North Carolina, along with many loving nieces, nephews and cousins.

Madam Speaker, Bill Isenhour was my good friend and former law partner. I join with his extended family and many friends in mourning his passing and paying tribute to his decades of dedicated service to our community.

A TRIBUTE TO JERRY BLAVAT

**HON. ROBERT A. BRADY**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. BRADY of Pennsylvania. Madam Speaker, I rise today to honor rock-and-roll legend, Philadelphia institution, and my good friend, Jerry Blavat. For 50 years, Jerry has been entertaining audiences in Philadelphia and beyond with his love of music and dedication to good times.

Jerry burst onto the Philadelphia music scene as a dancer on the original Bandstand,

where he soon became a crowd favorite. He transitioned into radio in 1960, hosting his own rock and roll show, which broadcasted in Pennsylvania, Delaware, and New Jersey. With the nickname "The Geator with the Heater", Jerry quickly established himself as a landmark on the Philadelphia airwaves. Today, Jerry continues to host radio shows in a variety of formats that can be heard around the world.

In addition to his prominence on Philadelphia radio, Jerry is a well-known cultural icon. Utilizing his prominence in the music scene, Jerry is able to draw attention to a variety of causes. A huge fan of Motown and doo-wop, Jerry continues to showcase the contributions Philadelphia area artists made to rock and roll. In recognition of his outstanding work and contributions to the music world, Jerry was inducted into the Rock and Roll Hall of Fame in 1998.

Jerry Blavat's long and impressive career showcases his pride in and commitment to his community. Madam Speaker, I ask that you and my other distinguished colleagues join me in celebrating Jerry's 50 years of entertaining others, and honor him for the great work he has done for the people of Philadelphia.

HONORING MR. RODNEY LEWIS

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. CUELLAR. Madam Speaker, I rise today to honor the accomplishments of Mr. Rodney Lewis, a recent inductee to the Laredo Business Hall of Fame. Mr. Lewis is currently President and Chief Executive Office of Lewis Energy Group, L.P.

Mr. Lewis has played an active and outstanding role in the oil and gas industry in the Webb County area. He has contributed his expertise and knowledge to the business community through his tireless efforts towards maintaining and operating his successful company.

Mr. Lewis was born in San Antonio in 1954. As a native Texan, he earned his bachelor's degree in Criminal Justice from Texas A&M University in Laredo in 1976. Mr. Lewis began his professional career as he supervised field production in South Texas for R.L. Burns Corporation and Stampede Energy of Toronto, Canada. In 1982, he purchased his first well. A year later, Mr. Lewis founded Lewis Energy Group, which became a foremost market leader of South Texas in the exploration and production of gas and oil. Through his hands on experience of over twenty-five years, he has gained a reputation as a drilling, completion, and pipeline entrepreneur. With his savvy business skills and know-how in the industry, he sought to build the company upward, attain a stronghold on the market, and buy out the competition resulting in Lewis Energy Group to experience consistent growth over the years. Currently, the company holds approximately 325 employees with over 1,000 wells with a strong presence internationally, as well. Additionally, with the guidance and leadership of Mr. Lewis, the company has never been subject to any Environmental Protection Agency



claims and attains an impressive track record of environmental responsibility.

As a local rancher in Webb and La Salle counties of Texas, Mr. Lewis understands and supports local landowners and the community. He is dedicated to excellence and diligent work ethic, which is synonymous to his business and entrepreneurial endeavors. He is also actively involved in serving on the Board of Directors for the National Air and Space Museum. Currently living in San Antonio with his wife and their four children, Mr. Lewis is an avid aviator and war-bird collector in his spare time.

Madam Speaker, I am honored to have had this time to recognize Mr. Rodney Lewis, recent inductee to the Laredo Business Hall of Fame. He is greatly appreciated in the gas and oil industry and has shown dedication and exemplary work ethic to contribute to the business community.

HONORING SPC. JONATHON M. FRENCH FOR SERVICE TO OUR COUNTRY

**HON. BART STUPAK**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. STUPAK. Madam Speaker, I rise to honor Spc. Jonathan M. French of Chassell, who, despite significant injuries, prevailed in his service to our country. Spc. French is being honored on May 15 as Grand Marshal in the 5th Annual Armed Forces Day Parade of Thanks in Hancock, Michigan. As the community pays tribute to Jonathan, I ask that the U.S. House of Representatives join me in honoring his service.

As a high school student at Saginaw Arthur Hill High School in Saginaw, Michigan, Jonathan was an avid hockey player. He continued the sport while attending Michigan Technological University, in Houghton, Michigan, where he earned a bachelor's degree in geological engineering as well as a master's degree in civil engineering. He went on to play hockey with the Portage Lake Pioneers as part of the Great Lakes Hockey League, which won three national championships.

Then, in 2007 Jonathan made the decision to swap hockey skates for combat boots, enlisting in the Michigan National Guard 1431st Engineer Company (Sapper). Although he was eligible for the officer training program, he chose to retain his enlisted status in order to fight on the frontlines. Shortly after enlisting, Jonathan was deployed to Afghanistan with his unit.

While in Afghanistan Jonathan was severely injured when a rocket propelled grenade exploded. Despite extensive internal and external injuries, Jonathan "finished the fight" he was engaged in—a testament to his Yooper fortitude. He returned home, to face a new fight—a fight for his life—successfully undergoing a series of extensive surgeries.

Jonathan is now in vocational rehabilitation and is transitioning back into his position as a civil engineer and project manager with the Baraga Telephone Company. Throughout it all, his wife Margaret, whom he married on

June 7, 2003, has been by his side when possible and with him in spirit when distance separated them.

Since his decision to enlist, Jonathan has shown grace, courage, humility and bravery. He has continued to serve in his community, volunteering as a Hunter Safety instructor and mentoring local youth. Serving as Grand Marshal in the Parade of Thanks is a fitting tribute for all that Jonathan has given to his country and his community.

Madam Speaker, the Parade of Thanks is a chance to honor the men and women who have answered the call to serve our nation with honor and with dignity. Without their courage and sacrifices, the United States could not be the great nation we are today. Therefore, Madam Speaker, I ask that you and the entire U.S. House of Representatives join me in thanking Spc. Jonathan M. French on his commitment and service and applaud him on being named Grand Marshal of the Armed Forces Day Parade of Thanks.

HONORING MR. GARY MUCHA

**HON. BRIAN HIGGINS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. HIGGINS. Madam Speaker, I rise today to pay tribute to Mr. Gary Mucha as he prepares to retire as Senior Vice President of Integration, Information Management and Performance Excellence for BAE Systems.

A native of Buffalo, NY, Mr. Mucha has over 40 years of distinguished experience in the Aerospace and Defense industry including 30 years of general management line operations experience and over 12 years of Corporate Executive Management responsibilities for BAE Systems. As a senior leader in the company during a period of significant growth, he successfully led the integration of over 20 corporate acquisitions. He has also had primary responsibility for a number of critical functional areas, to include Information Management; Information Assurance; Business Performance Measurement; Safety, Health and Environmental Policy Regulations; Business Continuity; Property and Real Estate; and Strategic Procurement.

As a recognized subject matter expert in his field, Mr. Mucha has made many speaking and lecturing appearances on behalf of BAE Systems at both private and public venues. Most recently, this included speeches at Georgetown University and the University of Tennessee as well as the keynote addresses at the Defense Manufacturing Conference and the Governor of Virginia Global Supply Conference.

In all that he has done, Mr. Mucha has demonstrated both a passion for business excellence and an effective translation of his values and views through his work and appearances in both academia and the public and private sectors during his diverse career. Indeed, his high standards and dedication to excellence exemplify the work ethic and commitment to country of his hometown and all of Western New York. As a result of his commitment to both the growth and development of

future business leaders within the organization, Mr. Mucha often accepted mentoring roles within BAE Systems.

Madam Speaker, I am pleased to recognize the efforts and accomplishments of this outstanding industry leader. I congratulate and thank Gary Mucha for his many years of service to this nation and wish him a happy retirement.

COMMEMORATING THE 90TH BIRTHDAY OF SIR MICHAEL BERRY

**HON. JOHN D. DINGELL**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. DINGELL. Madam Speaker, I rise today to honor a wonderful public servant, an exceptional individual and a patriotic American on the occasion of his 90th birthday. Sir Michael Berry is a prominent lawyer in Dearborn, Michigan whose venture into politics began in 1948 with the first campaign of G. Mennen Williams, who was running for governor of the great State of Michigan. Michael was active in Michigan's 16th Congressional District of the Democratic Party, which he joined in 1950. Michael became a precinct delegate, then a member of the Executive Board, and finally a member of the Democratic State Central Executive Committee, a position he retained until 1964.

Under Michael's leadership from 1964 until 1972, the 16th Congressional District became one of the most powerful congressional districts in the State of Michigan, and grew in the 1960s into the largest in the United States. Michael led the district with an extraordinary sense of fairness and discipline.

Michael was one of the best district chairmen the 16th District ever had. He was smart as all get out, hard-working and he had a great sense of policy and public interest. His sensitivity and honesty always kept the district in good shape. In over 50 years in Congress, the 16th District had many good chairmen, in fact, we have never had a chairman I didn't respect, admire and love, and Michael was amongst the best of them.

Michael Berry went on to serve as the longtime chairman of the Wayne County Road Commission. The International Terminal at Detroit Metro Airport and the Michael Berry Career Center in Dearborn were named in his honor. He was awarded the National Order of Cedar by the Lebanese government on October 21, 1993, and was the recipient of the 1998 Ellis Island Medal of Honor—among many other honors.

Madam Speaker, I ask that my colleagues rise and join me in wishing Sir Michael Berry, a truly great American, a very happy 90th birthday.

## A TRIBUTE TO DAVID L. NICHOLS

**HON. ANNA G. ESHOO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Ms. ESHOO. Madam Speaker, I rise today to honor the extraordinary life and work of my mentor, teacher, and dear friend David Nichols who passed away at the age of 81 on March 11, 2010. David is survived by his four beautiful children . . . Mark of Oregon, Paul of Hillsborough, Beth DeGolia of Alamo, Stu of Los Altos, his beloved seven grandchildren, his daughter-in-laws and son-in-law. His beloved wife Edie preceded him in death.

David Nichols was born in Turlock, California and received his Bachelor of Science and Master's Degree in Business Administration at the University of California at Berkeley. David was the captain of the varsity basketball team at the university and it was also where he met the love of his life and future wife, Edith (Edie) McEwing who was then the Student Body Vice President.

When he graduated from Cal, David took his first job in Contra Costa County as an Assistant Administrative Analyst. This position was followed by a 35 year career of distinguished public service that shaped the lives of residents of Sonoma and San Mateo Counties. In 1955, David went to Sonoma County as an Assistant County Administrator, and in 1968, the Sonoma County Board of Supervisors appointed him Chief Administrative Officer. In January 1977, David became the County Manager of San Mateo County where he remained until his retirement in 1989. There was a point in time when David, as San Mateo County's Manager and his son Paul worked in the same building as a Deputy District Attorney. His son mentioned that even though they worked in the same building they would rarely go out to lunch because David would instead have lunch at home with Edie.

Throughout his distinguished tenure in county government, David was involved in a number of professional organizations, regional governments and regulatory bodies. They include the Association of Bay Area Governments, California Regional Water Quality Control Board, California Coastal Commission, Bay Vision 2020 Commission and the National Association of County Administrators, where he served as President in 1977. While he was actively participating in all these organizations, David remained a staunch supporter of the University of California Alumni Association and the Bear Backers who support athletic programs. Beside his family, Cal was without a doubt, the other great of his life.

Madam Speaker, I ask the entire House of Representatives to join me in honoring the life of David Nichols and that we express our deepest condolences to the Nichols family on their loss. I am especially blessed to have had him as a mentor, a teacher, and friend during the many years I served on the San Mateo County Board of Supervisors, with David as County Manager. David Nichols had a deeply held regard for public service. He treated all employees with respect and made sure those who worked with him were always faithful in the execution of the public trust. He lifted all

of us to a higher standard and it was his unquestioned integrity that established a 'gold standard' in everything we did in service to the people we represented. We are indeed a better country and a better people because of David Nichols and his extraordinary legacy of public service, as well as a life with values. America was blessed to have him as a son and a servant of the people.

## HONORING JOSEPH PETERS

**HON. SANDER M. LEVIN**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. LEVIN. Madam Speaker, I rise today to honor Joseph Peters, who is retiring as Director of the United Automotive Worker's Region 1 in Michigan. Our friendship and working relationship spans the many issues important to working Americans—trade, automotive, and health care—we worked on throughout the years, and it is my pleasure to pay tribute to him today.

Mr. Peters first joined the UAW in 1967 and, in the decades since, has been a tireless advocate for automotive workers. Certainly, the past few years have been ones of tremendous challenge for the automotive industry, and Mr. Peters' dedication to preserving the industry, strengthening it for the future, and supporting the jobs of its employees, was steadfast.

A native of Highland Park, Michigan, Mr. Peters began his career with the UAW Local 400 at the Ford Motor Company Mount Clemens Paint Plant. In 1978, he was elected to serve as the midnight shift committeeman of the Ford Utica Trim Plant and quickly gained recognition for his hard work and dedication: he was elected to the plant bargaining committee in 1981, chairman of the Utica Plant in 1984, vice president of Local 400 in 1985, and president of Local 400 in 1986.

Mr. Peters was appointed to the UAW International Staff in 1988 and served for the next eleven years in the Union's National Ford Department. There, he was responsible for health, safety, benefits and job security issues, and was involved in four national negotiations. He became assistant director of Region 1 in 1999 and was elected the Region's director in 2005.

Despite this accomplished career, Mr. Peters cites as his greatest achievement the "No Child Without Christmas" foundation. This program brings together union workers, community leaders, and businesses to provide clothing, food, and gifts to thousands of homeless, neglected, or abused children each year during the holiday season.

Mr. Peters' commitment to improving the lives of those around him is unyielding. He has a kind heart, an intense focus on what is important to workers and communities, and a loyalty to purpose and people. Madam Speaker, I ask my colleagues to join me in congratulating Mr. Peters on the occasion of his retirement after more than forty years with the UAW and decades of community and public activism. We recognize his many achievements and extend to him and his wife, Ann, and their entire family our best wishes.

TEN-YEAR ANNIVERSARY OF THE  
MILLION MOM MARCH**HON. CAROLYN MCCARTHY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mrs. MCCARTHY of New York. Madam Speaker, I rise in honor of the 10-year anniversary of the Million Mom March and to recognize its efforts to put an end to gun violence. This historic event united approximately three-quarters of a million people, making it the largest protest against gun violence. Celebrating its 10-year anniversary, this event sparked a network of activists supporting a national push to achieve commonsense gun laws. For this, I celebrate the 10th anniversary of the Million Mom March, for its efforts in promoting the safety of our communities.

On May 14, 2000, thousands of activists from all parts of the country arrived in Washington, DC, to promote and defend gun safety. The Million Mom March was made possible by those who tirelessly made calls and campaigned for the importance of their cause. The historic turnout of this day proved that the fight for gun safety is strong and will persevere until commonsense legislation is passed.

On that same day as the march, the Washington Post and ABC News reported that out of 1,068 polled adults, approximately one in ten stated they have been shot at and almost one in four had experienced a gun pointed at them. Since the march, approximately 872,247 people have been killed or injured with guns, but there is no telling how many lives were saved through education and advocacy for gun safety. As the Million Mom March celebrates its 10th anniversary, it is a great time to reflect on the importance of protecting the safety of our community, and educating others on gun safety.

The Million Mom March is an inspiring event in history, and I am immensely proud of all Americans, both past and present, that fight to stop gun violence. I ask my colleagues to join me in expressing the gratitude of the U.S. Congress toward the Million Mom March and the event's ongoing impact on our nation's safety.

RECOGNIZING AMERICAN LEGION  
MILTON L. BISHOP POST NO. 301**HON. BILL SHUSTER**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. SHUSTER. Madam Speaker, I rise today to recognize American Legion Milton L. Bishop Post No. 301 of Connelville for signing the Armed Forces Community Covenant.

In his Second Inaugural Address, Abraham Lincoln urged the country to "care for him who shall have borne the battle." By signing the Armed Forces Community Covenant, the members of Post No. 301 have assumed this high moral obligation. They are committed to improving the quality of life of service members and their families. With this solemn pledge, the members of Post No. 301 recognize the importance of caring for those who

put their lives on the line for our country's safety and freedom. It is a great act of patriotism and human decency.

The Connellsville Legion's commitment to service members and their families is truly admirable. I commend Post No. 301 for volunteering its time and efforts to this worthy cause, and I thank the Post for its devoted citizenship.

**BIPARTISAN RESOLUTION CON-  
DEMNING MALAWI'S HUMAN  
RIGHTS ABUSES**

**HON. MARK STEVEN KIRK**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. KIRK. Madam Speaker, I rise to introduce a bipartisan resolution calling on the Government of Malawi to immediately release two prisoners of conscience—Tiwonge Chimbalanga and Steven Monjeza—and to address the pervasive violation of human rights in the country and the criminalization of consensual sexual conduct by adults.

Messrs. Chimbalanga and Monjeza were arrested at their home on December 27, 2009, after holding a traditional engagement ceremony. These two men now stand accused of "committing acts of gross indecency," punishable by up to 14 years in prison under Malawi's law. They have been repeatedly denied bail and subjected to psychiatric evaluation without their consent. While in prison, Mr. Monjeza's health has gravely deteriorated.

In prosecuting two innocent individuals solely on the basis of consensual sexual conduct, the Malawian authorities have severely violated the fundamental human rights of Mr. Chimbalanga and Mr. Monjeza under international law.

Amnesty International has declared these men "prisoners of conscience", and Human Rights Watch and other organizations have called for their immediate release.

The final ruling that will decide the fate of these men is expected on May 18, 2010.

Today, with my colleague from Wisconsin, Representative TAMMY BALDWIN, I call on the Government of Malawi to immediately release these two individuals and for Secretary Clinton to closely monitor human rights abuses in Malawi.

**HONORING MARIA RODRIGUEZ FOR  
A LIFETIME OF PUBLIC SERVICE**

**HON. ROSA L. DeLAURO**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Ms. DeLAURO. Madam Speaker, I rise to commemorate decades of service to the community by a longtime and dear friend, both to me and my husband and to the children and families of New Haven, Connecticut: Maria Rodriguez.

Elected to New Haven's Board of Aldermen in 1976, Maria has the distinction of being the first Hispanic alderperson in the history of our

city. But that service was only the beginning of her contributions to our city and state. For as long as I have known her, Maria has given of herself to the people around her, and has worked to make New Haven a richer, more vibrant, and more compassionate community.

Indeed, Maria has spent a lifetime doing so. She began her career in the early 1970s as a trained mental health therapist at the Connecticut Mental Health Center, where she worked day in and day out to improve the experience and the quality of life of Hispanic families in the Greater New Haven area. As my husband Stan, Maria, and I worked on so many local political campaigns then, we became great friends. She helped us to forge many wonderful friendships in New Haven's Hispanic community. She is a tireless worker and a strong ally.

After receiving her Masters from Southern Connecticut State University in 1983, and spending a year as a key and valuable aide to my predecessor, Bruce Morrison, Maria soon moved into full-time social work. For over 25 years, through organizations such as the Connecticut Board of Education, Family Counseling of Greater New Haven, and Latino Youth Development, Inc., she provided therapy to families and students in need of mental health care.

In her off-hours, Maria kept on giving. From serving on the board of the YMCA to tutoring students in her free time, she has always looked for more ways to help those in need and to improve our city. And, now that she has decided to retire from the Connecticut Board of Education, I can only expect she is already thinking of new ways to volunteer her time and her effort.

For that is who Maria is. For decades now, she has continued to infuse our community with her warmth and energy, her caring and compassion. I thank her deeply for her service to the families of New Haven, and for her years of friendship to me. And I congratulate her and her family—her husband Alquilino, her son Paul, and daughter-in-law Bunny—on reaching this milestone. Congratulations, Maria, you have earned it.

**HONORING COMMUNITY LEADER  
LAURA BINGHAM**

**HON. BOB ETHERIDGE**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. ETHERIDGE. Madam Speaker, I rise today to recognize a friend to education and a leader among leaders who hails from my home state of North Carolina. Laura Bingham's service as President of Peace College officially began on July 1, 1998, but her leadership skills were forged and honed many years before. Laura was born and raised in Kings Mountain, North Carolina and is a 1977 graduate of Peace College.

My colleagues in the House are well aware of how seriously we take our basketball in North Carolina and Laura Bingham has solid credentials from some of the top hoops institutions around. She earned her B.A. in Political Science from UNC Chapel Hill, a Master of

Arts in Philanthropic Studies from Indiana University and completed coursework at Duke University and North Carolina State University. She cut her teeth in public service by helping lead major health, education, economic, environment and intergovernmental policy initiatives with my friend, former Lt. Governor Bob Jordan. Bingham served as director of a 1983 Governor's Conference on Women and the Economy for Governor Jim Hunt which was considered the first of its kind in the nation that yielded 125 policy recommendations.

Since her appointment as President of Peace College in 1998, student enrollment has increased; the academic curriculum has grown, with Peace offering the first undergraduate major in Leadership Studies in North Carolina and an innovative teacher education partnership with Wake County Schools; and the campus footprint expanded to address the growth and provide enhancements. In 2007, Peace College celebrated its Sesquicentennial and launched a \$30 million fund-raising campaign to boost academic and student endowments and fund new science labs, library renovation, and a campus commons.

Laura plays an active leadership role in civic, business, educational, and philanthropic endeavors, including The Fifty Group and the World President's Organization, and serves as vice chair for the North Carolina Independent Colleges and Universities, as a Director of the Downtown Raleigh Alliance, and in 2008 became the first woman chair of Leadership North Carolina.

As chair of Leadership North Carolina, Laura has helped shepherd the organization through one of the worst financial periods many of us can remember and positioned the program's sustainability for years to come. The measure of a good leader is the legacy they leave behind. Laura Bingham leaves North Carolina with 750 informed and engaged leaders to take the baton and help craft our state's future.

Madam Speaker, at the conclusion of this academic year, Laura Bingham will complete her tenure as President of Peace College and Chair of Leadership North Carolina. We cannot afford a void in leadership at this point in our nation's history and Laura's work at Peace and with Leadership North Carolina has been focused on engaging, challenging and informing future leaders. I join the Board of Directors of Leadership North Carolina in recognizing Laura for her leadership, vision and determination.

As the proud grandfather to two and soon to be three granddaughters, I am grateful for the example Laura has set for women from every corner of our state and the opportunities she has provided through the gift of education. She is the embodiment of our state's motto *Esse Quam Videri*, to be rather than to seem, and I ask all my colleagues to join me in thanking Laura Bingham for her service to North Carolina.

HONORING MS. SYLVIA BRUNI

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. CUELLAR. Madam Speaker, I rise today to honor the accomplishments of Ms. Sylvia Bruni, a recent award recipient of the Liberty Bell Award in Webb County of South Texas. Ms. Bruni is currently working in the Child's Advocacy Center to pursue community engagement in the defense of our children reaching over 5,000 children.

Ms. Bruni has played an active and valuable role throughout the community through her diligent education efforts and sharpened insights towards children. She has dedicated her professional career to developing students' minds and is also involved with community outreach.

For seventeen years, Ms. Bruni taught English in the United Independent School District system to gifted and talented students. She had the opportunity to engage with thousands of students over the years, all of which were unique and special to her in diverse ways. Admirably, she confronted many difficulties throughout the years, yet handled all situations with leadership, guidance, and care for her students. She used her expertise in the field to customize her teaching to help students with limited English or problems in school. She was also Program Coordinator, Principal of Salinas Elementary, Director of Curriculum and Instruction in the school system. Additionally, continuing her passion for education, Ms. Bruni worked at Texas A&M International University as Director for Special Programs for seven years with an array of responsibilities—such as, implementing the University's first Summer Children's Workshop, which continues today. Ms. Bruni continued her endeavors working for Laredo Independent School District as Executive Director for Planning and Development. She worked extensively on Laredo ISD's Strategic Planning Program, a professional development program based on best practices and its award winning National Science Foundation Math and Science Initiative. Further, the closing of her public school career, she served as Laredo ISD's interim-superintendent.

Throughout the years, Ms. Bruni has been honored and recognized for her work in the community. Recently, she was recognized as Honorary Walk Chair by the Juvenile Diabetes Research Foundation, Laredo Branch. She was also awarded the Gary G. Jacobs Award for Higher Education by the League of United Latin American Citizen.

Madam Speaker, I am honored to have had this time to recognize Ms. Bruni, award recipient of the Liberty Bell award. She has been personally invested in the mission of providing life changing experiences for our youth, a strong advocate for children's issues, as well as developing personal relationships with diverse community stakeholders.

HONORING MARY ALTMAN FOR  
SERVICE TO OUR COUNTRY**HON. BART STUPAK**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. STUPAK. Madam Speaker, I rise to honor centenarian Mary Altman of Lake Linden, who has served her county honorably and was a trailblazer for women in the Armed Forces as a First Lieutenant in the U.S. Army during World War II. Mary is being honored on May 15 as Grand Marshal in the 5th Annual Armed Forces Day Parade of Thanks in Hancock, Michigan. As the community pays tribute to Mary, I ask that the U.S. House of Representatives join me in honoring her service.

Mary was born Mary Baril on March 10, 1907 in Lake Linden, located in the Keweenaw Peninsula of Michigan's Upper Peninsula. After graduating from Lake Linden High School in 1927, Mary attended nursing school at Hurley Hospital in Flint, Michigan, graduating in 1931.

Her nursing skills were put to good use when Mary joined the U.S. Army in 1942, following in the footsteps of four of her brothers, two who served in World War I and two who served in World War II. In her rank as First Lieutenant, Mary took charge as chief nurse, leading a group of 18 other nurses in tending to the critically wounded, including amputees, during their rehabilitation at a field hospital in California's Mojave Desert. Following three years working with wounded soldiers, Mary was honorably discharged in 1945.

Mary's dedication to the well-being of others continued after leaving the Army. She served as superintendent of a children's home in Flint and cared for her husband Otto through his illness, until his death.

It is fitting that Mary be honored in the Armed Forces Day Parade of Thanks given her service in the U.S. Army and her devotion to helping improve the lives of those around her. Her personal and professional accomplishments over the past 103 years are a testament to trademark spirit and determination found throughout the Upper Peninsula.

Madam Speaker, the Parade of Thanks is a chance to honor the men and women who have answered the call to serve our nation with honor and with dignity. Without their courage and sacrifices, the United States could not be the great nation we are today. Therefore, Madam Speaker, I ask that you and the entire U.S. House of Representatives join me in thanking Mary Altman for her commitment, recognize her service and applaud her on being named Grand Marshal of the Armed Forces Day Parade of Thanks.

HONORING MS. PRISCILLA  
PENFOLD**HON. BRIAN HIGGINS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. HIGGINS. Madam Speaker, I rise today to pay tribute to the years of service given to

the people of Chautauqua County by Ms. Priscilla Penfold. Ms. Penfold served her constituency faithfully and justly during her tenure as a member of the Dunkirk Town Council.

Public service is a difficult and fulfilling career. Any person with a dream may enter but only a few are able to reach the end. Ms. Penfold served her term with her head held high and a smile on her face the entire way. I have no doubt that her kind demeanor left a lasting impression on the people of Chautauqua County.

We are truly blessed to have such strong individuals with a desire to make this county the wonderful place that we all know it can be. Ms. Penfold is one of those people and that is why, Madam Speaker, I rise to pay tribute to her today.

RECOGNIZING HERITAGE  
FARMSTEAD MUSEUM**HON. SAM JOHNSON**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. SAM JOHNSON of Texas. Madam Speaker, I rise to recognize the Heritage Farmstead Museum, a living-history museum in Texas' third congressional district which maintains an authentic look at 19th century life on the Blackland Prairie of North Texas.

The museum welcomes more than 30,000 visitors annually to its 4.5 acre working farm complex. Guests get a first-hand, educational look at old farming techniques, a blacksmith shop, an original school house, and the 14-room 1890 farmhouse which serves as the heart of the museum.

Heritage Farmstead's visitors range from classes of local school children learning about prairie life to Girl Scout troops on camping adventures and area residents enjoying the museum's Fall Harvest Festival.

Converted from a private home to a public museum in 1972, the Farmstead has been recognized by the Plano Landmark Association and the National Register of Historic Places. It also boasts a State of Texas Historical marker and was just recently reaccredited by the prestigious American Association of Museums.

This designation makes the Heritage Farmstead Museum one of only two accredited museums in Collin County, 39 in Texas, and only 775 nationwide, a tremendous accomplishment.

I am pleased to recognize this outstanding museum from my own hometown of Plano, Texas before the United States Congress today. For its tribute to our past through the education of our children, our future, I tip my hat to the AAM-reaccredited Heritage Farmstead Museum. Congratulations! God bless you, and I salute you.

HONORING DENNIS AND PHYLLIS  
ENGER OF NORTH DAKOTA

**HON. EARL POMEROY**

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. POMEROY. Madam Speaker, I rise today to honor Dennis and Phyllis Enger of Portland, North Dakota. Over the past several years Dennis and Phyllis have dedicated a significant portion of their time honoring and giving back to our Nation's heroes.

Dennis decided to take up woodworking in retirement; this led him to begin making walking sticks. Once he had a few sticks completed he decided to have Dan Stenvold, the President of the North Dakota Vietnam Veterans of America and the Mayor of Park River, to bring the completed sticks to Walter Reed to present to injured soldiers on one of his trips to Washington. This initial gift so touched the families of these soldiers that Dennis and Phyllis decided to continue making walking sticks for our returning soldiers.

The dedication of the Engers to giving back to our soldiers is truly remarkable and deserves to be applauded. The care and attention to detail on each of these walking sticks is remarkable; Dennis and Phyllis travel around the state to pick up scrap wood and work for more than 20 hours on each one. Their efforts have been aided by the Boy Scouts in Portland and the North Dakota Vietnam Veterans who have provided help with funds and help sanding the rough walking sticks. These gifts to our wounded soldiers have deeply touched and are deeply appreciated by those that have received them.

The work of individuals like Dennis and Phyllis Enger who work tirelessly and selflessly to honor our veterans is worthy of our highest respect. I stand today to honor their service and to give my thanks on behalf of the people of North Dakota.

HONORING FRANK P. CALESTINO

**HON. ADAM H. PUTNAM**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. PUTNAM. Madam Speaker, today I rise to recognize an exemplary federal employee from my district, Frank Caestino. Representing the U.S. Department of the Treasury, Mr. Caestino works as the Deputy Director of Intelligence for the Afghan Threat Finance Cell. This is a unique, interagency effort to disrupt the flow of funding from the Afghan opium trade and other terrorist resources. Afghanistan poses a unique threat to our national security and it will take more than military presence to stabilize the region.

The nonprofit, nonpartisan Partnership for Public Service declared Mr. Caestino to be one of 32 finalists for the prestigious Service to America Medals—or Sammies—in 2010. These awards are granted to outstanding federal employees who have made significant contributions to our nation.

Final selection of eight candidates will be made on September 15, and will also include

the Partnership for Public Service's announcement of the Federal Employee of the Year. I am very proud to call Mr. Caestino one of my constituents and I wish him the best of luck in the final announcement and all of his future endeavors.

**ELECTRON BOY**

**HON. DAVID G. REICHERT**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. REICHERT. Madam Speaker, I rise today to thank a special young man, Erik Martin, who helped save the day in Seattle and buoy the spirits of every person who watched or heard of his heroic actions.

Erik, pressed into service by a distress call from Spiderman, transformed into Electron Boy at a moment's notice. He helped release trapped Seattle Sounders FC players at Qwest Field in Seattle, saved a Puget Sound Energy employee stuck in his bucket truck in Bellevue, and then raced back to Seattle to help dozens of people trapped at the top of the Space Needle by his arch nemesis Dr. Dark and Blackout Boy. Electron Boy saved the day and we were all in awe.

Madam Speaker, Erik, Electron Boy, is often unable to get out of bed because of his struggles with liver cancer. No matter how brave and strong Electron Boy is, sometimes even he needs a little more rest. Thankfully, the morning Spiderman needed his special talents, he immediately leapt into action and acted heroically. We can't thank him enough.

Although Electron Boy did most of the work, Madam Speaker, he did have a little help. Therefore, I want to thank the Make-A-Wish Foundation, the Seattle Sounders FC, the King County Sheriff's office, the Bellevue Police Department, Puget Sound Energy and everyone else who helped clear the way to make Electron Boy's heroism a reality. Madam Speaker, Erik Martin is a hero and this whole House thanks him for his ability to transform into Electron Boy. Perhaps one day Electron Boy will come to Washington, DC to save lives. Erik commented that his day of heroic actions was the best day of his life. Well, Madam Speaker, I'm thankful Erik had such a great day because it helped millions of others have a great day as well.

HONORING JUDGE RAUL VASQUEZ

**HON. HENRY CUELLAR**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. CUELLAR. Madam Speaker, I rise today to honor the accomplishments of Judge Raul Vasquez, a recent award recipient of the Liberty Bell Award in Webb County of South Texas. Judge Vasquez is currently completing his third term as the 111th District Court Judge in Laredo, Texas.

Judge Vasquez is a highly respected and distinguished jurist. He has served the youth of our community and dedicated his sense of

justice and fairness to dispose of cases efficiently. His accomplished efforts towards devoting his life to the judiciary have had a great impact and truly benefit the people of South Texas.

As a native Texan, Judge Vasquez was raised in a small historic neighborhood in Laredo. He had a modest upbringing as the sixth child out of seven. In 1972, he graduated from Martin High School and attended Junior College for 2 years. He received his Bachelor of Arts and Juris Doctor Degree from the University of Houston in 1979. Soon after, he started his career as an Attorney at Law for the Laredo Legal Aid. In 1981, he became the youngest Justice of the Peace elected in Laredo and served Precinct 1 for 5 years while at the Law Offices of Raul Vasquez. Judge Vasquez was elected Judge of the County Court at Law #1, serving for 12 years. He was also a faculty member for the Texas College for New Judges, where he lectured on issues regarding domestic violence. The end of this year, Judge Vasquez plans on retiring, bringing a close to his professional career of over 28 years of being a judge. His leadership and successful career have truly benefited the community and courtrooms with fairness and justice.

Not only has Judge Vasquez held an esteemed and honorable career, he also devotes much of his time to community organizations for helping troubled youth. His passion for helping the youth led him to be the Founding Member of the Laredo Youth Conference, Webb County Angel Wish, and Children's Coalition. He also served on Advisory Boards for Communities in Schools, SCAN, and Child Advocacy. Judge Vasquez has been a Member of numerous organizations such as the Webb County Court Administration of Judges, State Bar of Texas, Laredo Bar Association, and Webb County Auditor's Department. Throughout the past 20 years, he has been recognized on various honors. He was awarded the LULAC Tejano Achiever Award, Law Day Honorary Chair, and Crime Stopper Alfa Award.

Madam Speaker, it is my honor and pleasure to have had this time to recognize Judge Raul Vasquez on his career and community involvement. He has contributed his time, knowledge, and efforts to the judiciary and to community outreach for our youth.

PERSONAL EXPLANATION

**HON. BOB FILNER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. FILNER. Madam Speaker, on rollcall 255, I was away from the Capitol due to commitments in my Congressional District. Had I been present, I would have voted "yes."

HONORING THE BROADCASTING  
CAREER OF PEDRO GARCIA AND  
HIS CONTRIBUTION TO THE COM-  
MUNITY

**HON. JOHN B. LARSON**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. LARSON of Connecticut. Madam Speaker, I rise today to commend Pedro Garcia for his 40 years of service to Connecticut and Puerto Rico as a broadcaster and sports commentator in these communities. On May 9, 2010, Mr. Garcia will deservedly be recognized by community leaders in Connecticut for his outstanding career and service to others.

Born in Patillas, Puerto Rico, Pedro Garcia comes from a humble and hardworking family, including his parents Irene Cruz and Enrique Garcia, and his fourteen brothers and sisters. While Mr. Garcia's parents and four of his siblings remain in Puerto Rico, the rest of his family lives in my home State of Connecticut.

Pedro Garcia is widely known throughout the world and respected for his professionalism and tremendous talent as a broadcaster and sports commentator. He first endeared himself to the Connecticut region in his work for WEHW in Windsor, CT beginning in 1968 and for WLVI in Hartford, CT in 1970. He then went on to WLIY and WNEL in Puerto Rico before returning to Connecticut to work for WRYM in Newington for the past two and a half decades.

In addition to his broadcasting career, Mr. Garcia has a long history of involvement in the community. He has served as the Master of Ceremonies for the Puertorriquen Parade in Connecticut and worked with former Connecticut State Representative Maria Sanchez to address the needs of the Latino Community. I also commend Mr. Garcia for his important work with other countries, such as Colombia, the Dominican Republic, and Peru, where he reported on education, health, sports and politics.

Pedro Garcia has touched many lives and is especially loved for his sense of humor and compassion toward others. I commend him for his outstanding career and service to the Greater Hartford and Puerto Rican communities.

HONORING ELOISE GREENLEE FOR  
SERVICE TO OUR COUNTRY

**HON. BART STUPAK**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. STUPAK. Madam Speaker, I rise to honor Eloise Greenlee of Hancock, who has served her country honorably and her community admirably. Eloise is being honored on May 15 as Grand Marshal in the 5th Annual Armed Forces Day Parade of Thanks in Hancock, Michigan. As the community pays tribute to Mary, I ask that the U.S. House of Representatives join me in honoring her service.

Born in Ohio in 1922, Eloise discovered her love of music at an early age. As a young girl

she loved to play the trumpet. Following the United States' entrance into World War II, Eloise enlisted in the U.S. Army on November 9, 1942 and put her musical skills to work. While stationed at Fort Des Moines, Iowa, Eloise was recruited to be a travelling member of the U.S. Army Women's Army Corps Band, playing her beloved trumpet.

The band instilled a patriotic spirit, entertaining those serving in the Armed Forces during the war. Eloise could often be found playing trumpet for the wounded military personnel aboard Red Cross medical ships returning home from the frontlines. She played her music and boosted morale for three years before being honorably discharged on November 9, 1945.

Her time in the Army was just the start of Eloise's service and adventures. In addition to becoming a licensed pilot and writing a book on her travelling experiences, she has volunteered at two local hospitals and continued her love of music forming the Keweenaw Swing Band with her husband Robert. She and Robert have also raised three sons.

The Parade of Thanks is a celebration of those who have served their country. Therefore it is appropriate that Eloise, a woman who has spent the past 88 years celebrating life and service through music, has been given the honor of Grand Marshal.

Madam Speaker, the Parade of Thanks is a chance to honor the men and women who have answered the call to serve our Nation with honor and with dignity. Without their courage and sacrifices, the United States could not be the great Nation we are today. Therefore, Madam Speaker, I ask that you and the entire U.S. House of Representatives join me in thanking Eloise Greenlee for her commitment, recognize her service and applaud her on being named Grand Marshal of the Armed Forces Day Parade of Thanks.

OUR UNCONSCIONABLE NATIONAL  
DEBT

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. COFFMAN of Colorado. Madam Speaker, today our national debt is \$12,943,495,066,136.13.

On January 6th, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$2,305,069,319,842.33 so far this Congress.

This debt and its interest payments we are passing to our children and all future Americans.

HONORING MR. JOHN J. HURLEY

**HON. BRIAN HIGGINS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. HIGGINS. Madam Speaker, I am here today to honor the appointment of Mr. John J.

Hurley as the 24th President of Canisius College. Hurley, a 1978 alumnus who previously served as the college's executive vice president and vice president for college relations, will be the first lay president in Canisius' 140-year history.

A native of Buffalo, John graduated from St. Joseph's Collegiate Institute in Kenmore and received a Bachelor of Arts degree summa cum laude in English and history from Canisius College in 1978. Upon graduation from Canisius, John won a full fellowship to the Notre Dame Law School from which he earned a juris doctor degree in 1981. He served as an associate in the Chicago law firm of Keck, Mahin & Cate from 1981-1984 before returning to Buffalo in 1984 to take a position as an associate (1984-1988) and then partner (1989-1997) at Phillips, Lytle LLP.

In 1997, John accepted Father Cooke's offer to become the college's vice president for college relations and general counsel. Since 1997, he has been the senior development and external relations officer responsible for capital campaigns, planned and annual giving programs, grant services, all external and media relations, alumni relations and college publications. In 2007, Hurley was promoted to the position of executive vice president and took on the additional responsibilities for the coordination of the college's senior leadership team, strategic planning, integrated marketing, and legal and compliance issues. Today, John Hurley succeeds the Rev. Vincent M. Cooke, S.J., who is retiring after a 17-year presidency.

It is my pleasure today to distinguish the unprecedented appointment of John J. Hurley. In recognition of his role as the first lay president of Canisius College, I congratulate John and wish him success in all his future endeavors.

CONGRATULATING STATE  
SENATOR CAP DIERKS

**HON. ADRIAN SMITH**

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. SMITH of Nebraska. Madam Speaker, I rise today to congratulate Senator Cap Dierks on his induction to the Nebraska Hall of Agricultural Achievement for his long and valuable service to agriculture.

The Hall is an organization whose primary purpose is to acknowledge and preserve the records of those citizens of Nebraska who have made outstanding contributions to the well-being of Nebraska's agricultural way of life.

A rancher and veterinarian by profession, Cap was elected to the State Legislature in 1986 and served as the Chair of the Agriculture Committee for 10 years.

I had the pleasure of serving with Cap in the Legislature, and he is extremely deserving of this honor. I've seen his dedication to Nebraska agriculture firsthand, and his spirit and verve were always an inspiration. He was always there with advice or simply a friendly word of encouragement.

I want to thank Cap for his service and once again, congratulate him on this honor.



HONORING MICHAEL A. ROBBINS

**HON. MIKE QUIGLEY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. QUIGLEY. Madam Speaker, I rise today in honor of Michael A. Robbins, who served the City of Chicago and the Chicago Police Department for 22 years before his untimely death on September 13, 2008.

A South Side Chicago native, Robbins enlisted in the Navy shortly after graduating high school and was awarded the Bronze Star for his meritorious service during the Vietnam War. His dedication to public service continued when he joined the Chicago Police Department in 1986 and then went on to serve the United States military in the Navy Reserve.

On September 10, 1994, Officer Robbins responded to a call of shots fired in a neighborhood with a high level of gang activity. When he arrived he was fired upon repeatedly, resulting in 11 bullet wounds. Although he made a strong recovery, three of the bullets remained lodged in his heart.

As a result of this experience Michael Robbins became an avid activist urging better gun control laws. Most notably, he spoke on the issue at the 1996 National Democratic Convention and later served as a victims' advocate for Fight Crime: Invest in Kids.

On September 13, 2008, Officer Robbins was found dead in his home as a result of the bullets still lodged in his heart. Michael Robbins will forever be remembered for his dedication to making the City of Chicago and the United States a safer place.

I rise today, representing the City of Chicago, to express my deepest gratitude and sympathy to Officer Robbins's family for his dedication and courageous commitment to our communities. Officer Robbins will forever be remembered for his heroic sacrifice by the addition of his name to the National Law Enforcement Memorial in Washington, DC on May 15, 2010.

CONGRATULATING THE HONORABLE THOMAS I. VANASKIE ON HIS APPOINTMENT TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

**HON. PAUL E. KANJORSKI**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. KANJORSKI. Madam Speaker, I rise today to ask you and my esteemed colleagues

in the House of Representatives to pay tribute to Judge Thomas I. Vanaskie on his appointment to the United States Court of Appeals for the Third Circuit.

Judge Vanaskie was born in Shamokin, Pennsylvania, in 1953.

He graduated Magna Cum Laude from Lycoming College in 1975 where he was a first-team Academic All-American football player. In his senior year, Judge Vanaskie was named outstanding male student-athlete.

Judge Vanaskie attended the Dickinson School of Law where he was a member of the Dickinson Law Review Editorial Staff and was named to the Woolsack Society for outstanding academic achievement. He graduated Cum Laude in 1978.

After law school, Judge Vanaskie clerked for Chief Judge William J. Nealon of the U.S. District Court for the Middle District of Pennsylvania from 1978 to 1980.

From 1980 to 1994, Judge Vanaskie worked in private legal practice in Scranton, Pennsylvania. He worked in the law firm of Dilworth, Paxson, Kalish & Kauffman until 1992 before leaving to become a principal member of the law firm Elliott, Vanaskie & Riley.

On November 17, 1993 President Clinton nominated Judge Vanaskie to a seat on the United States District Court for the Middle District of Pennsylvania. His nomination was confirmed by the U.S. Senate on February 10, 1994.

Judge Vanaskie was sworn in on March 1, 1994 and served on the U.S. Middle District Court for fifteen years, including as Chief Judge from 1999–2006.

In 2001, Judge Vanaskie began serving on the Information Technology Committee of the Judicial Conference of the United States. In 2005, he was appointed by the late Chief Justice William H. Rehnquist as Chair of the Judicial Conference Information Technology Committee and served in that position until 2008.

Throughout his career, Judge Vanaskie has continued to give back to his community. He is the former Chair of the Scranton Preparatory School Board of Trustees and a Member of the Scranton Community Medical Center Board of Directors.

On August 7, 2009 President Obama nominated Judge Vanaskie to the U.S. Court of Appeals for the Third Circuit. He was confirmed by the U.S. Senate on April 21, 2010 by a vote of 77–20.

Judge Vanaskie was officially sworn-in by Chief Judge Anthony Scirica of the Third Circuit Court of Appeals on April 28, 2010.

He is only the second judge in the 107-year history of the U.S. District Court for the Middle District of Pennsylvania to sit on the U.S. Court of Appeals for the Third Circuit.

Judge Vanaskie resides in Clarks Green, Pennsylvania, with his wife, the former Dorothy G. Williams. They are the parents of three children, Diane, Laura and Tom.

Madam Speaker, please join me in congratulating Judge Vanaskie on this auspicious occasion. His exemplary service throughout his distinguished judicial career demonstrates he is most deserving of this achievement.

HONORING ALEJANDRO VALADEZ

**HON. MIKE QUIGLEY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 6, 2010*

Mr. QUIGLEY. Madam Speaker, I rise today in honor of Alejandro Valadez, who honorably served the City of Chicago as a member of the Chicago Police Department for 3 years before his untimely death on June 1, 2009.

At just 27 years of age, Officer Valadez maintained a strong reputation for outstanding performance and professionalism on the job. Within his three short years of serving the Chicago Police Department he was awarded a department commendation and 22 honorable mentions.

A South Side Chicago native, Officer Valadez lived his life with honesty, integrity, and courage never wavering from the task at hand. Alejandro was known to love his job and gladly served the Chicago police force alongside his brother, sister, and expectant girlfriend.

On June 1, 2009, Officer Valadez made the ultimate sacrifice while protecting the residents of the Englewood community in Chicago. Shortly after midnight, he and his partner were questioning several residents when a vehicle drove up to them and opened fire. Bullets struck Valadez once in the leg and once in the head. He was later rushed to John H. Stroger Jr. Hospital where he died the next morning.

I rise today, representing with the City of Chicago, to express my deepest gratitude and sympathy to Officer Valadez's family for his dedication and courageous commitment to keeping our communities safe. Chicago and the United States will forever remember Alejandro Valadez for his heroic sacrifice by the addition of his name to the National Law Enforcement Memorial in Washington, DC, on May 15, 2010.

## HOUSE OF REPRESENTATIVES—Friday, May 7, 2010

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. DRIEHAUS).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
May 7, 2010.

I hereby appoint the Honorable STEVE DRIEHAUS to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

### PRAYER

Rev. Clete Kiley, Faith and Politics Institute, Washington, DC, offered the following prayer:

Father in Heaven, bless us as we gather today for this meeting of the House of Representatives.

Guide our minds and hearts so that we will work for the common good of our Nation and for the benefit of our people.

Teach us to be generous in our outlook and patient with each other.

Strengthen us to be courageous in the face of the challenges we face as a nation and to be wise in our decisions.

May You, who begin this good work here this morning, bring it to fulfillment according to Your plan.

We thank and praise You, for You are God forever and ever. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned

until 12:30 p.m. on Tuesday next for morning-hour debate.

There was no objection.

Accordingly (at 10 o'clock and 1 minute a.m.), under its previous order, the House adjourned until Tuesday, May 11, 2010, at 12:30 p.m., for morning-hour debate.

### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

7384. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule—Cyromazine; Pesticide Tolerances [EPA-HQ-OPP-2008-0866; FRL-8801-6] received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7385. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule—Difenoconazole Pesticide Tolerances [EPA-HQ-OPP-2009-0162; FRL-8817-3] received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7386. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule—Imidacloprid; Pesticide Tolerances [EPA-HQ-OPP-2008-0722; FRL-8818-5] received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7387. A letter from the Acting Director, Office of Thrift Supervision, Department of Treasury, transmitting a letter on the details of the Office's 2010 compensation plan; to the Committee on Financial Services.

7388. A letter from the Inspector General, Department of Health and Human Services, transmitting Fiscal year 2009 Office of Inspector General Medicaid Integrity Report; to the Committee on Energy and Commerce.

7389. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Revisions to New Mexico Transportation Conformity Regulations [EPA-R06-OAR-2006-0990; FRL-9141-1] received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7390. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule—Designation of Areas for Air Quality Planning Purposes; California; San Joaquin Valley, South Coast Air Basin, Coachella Valley, and Sacramento Metro 8-hour Ozone Nonattainment Areas; Reclassification [EPA-R09-OAR-2008-0467; FRL-9141-8] received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7391. A letter from the Secretary, Department of Transportation, transmitting the

Department's annual report for Fiscal Year 2009 prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174; to the Committee on Oversight and Government Reform.

7392. A letter from the Administrator, General Services Administration, transmitting the Administration's annual report for FY 2009 prepared in accordance with the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act); to the Committee on Oversight and Government Reform.

7393. A letter from the Acting Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; FAR Case 2009-005, Use of Project Labor Agreements for Federal Construction Projects [FAC 2005-41; FAR Case 2009-005; Item I; Docket 2009-0024, Sequence 1] (RIN: 9000-AL31) received April 28, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

7394. A letter from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting the Administration's final rule—National Industrial Security Program Directive No. 1 [FDMS Docket ISOO-09-0001] (RIN: 3095-AB63) received April 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

7395. A letter from the Director, Office of Personnel Management, transmitting the Office's Fiscal Year 2009 Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), pursuant to Public Law 107-174, section 203; to the Committee on Oversight and Government Reform.

7396. A letter from the Assistant Secretary—Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Oil and Gas and Sulphur Operations in the Outer Continental Shelf — Oil and Gas Production Requirements [MMS-2008-OMM-0034] (RIN: 1010-AD12) received April 15, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7397. A letter from the Senior Procurement Analyst, Department of the Interior, transmitting the Department's final rule—Acquisition Regulation Rewrite (RIN: 1093-AA1) received April 15, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7398. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's 2009 Report on the Disclosure of Financial Interest and Recusal Requirements for Regional Fishery Management Councils and Scientific and Statistical Committees, pursuant to Section 302(j) of the Magnuson-Stevens Fishery Conservation and Management Act; to the Committee on Natural Resources.

7399. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's 2009 report on Apportionment of Membership on the Regional

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Fishery Management Councils, pursuant to Section 302(b)(2)(B) of the Magnuson-Stevens Fishery Conservation and Management Act; to the Committee on Natural Resources.

7400. A letter from the Staff Director, Commission on Civil Rights, transmitting notification that the Commission recently appointed members to the Washington Advisory Committee; to the Committee on the Judiciary.

7401. A letter from the Staff Director, Commission on Civil Rights, transmitting notification that the Commission recently appointed members to the New Jersey Advisory Committee; to the Committee on the Judiciary.

7402. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's report detailing activities under the Civil Rights of Institutionalized Persons Act during Fiscal Year 2009; to the Committee on the Judiciary.

7403. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulation; Chester River, Chestertown, MD [Docket No.: USCG-2009-0796] (RIN: 1625-AA09) received April 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OBERSTAR: Committee on Transportation and Infrastructure. House Resolution

1284. Resolution supporting the goals and ideals of National Learn to Fly Day, and for other purposes; with amendments (Rept. 111-477). Referred to the House Calendar.

Mr. GORDON of Tennessee: Committee on Science and Technology. H.R. 5116. A bill to invest in innovation through research and development, to improve the competitiveness of the United States, for other purposes; with an amendment (Rept. 111-478, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

#### DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XIII, the Committee on Education and Labor discharged from further consideration. H.R. 5116 referred to the Committee of the Whole House on the State of the Union.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII,

Mr. FRANK of Massachusetts (for Mr. KANJORSKI, Ms. WATERS, and Ms. MATSUI) introduced a bill (H.R. 5255) to reauthorize the National Flood Insurance Program, and for other purposes; which was referred to the Committee on Financial Services.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 3993: Ms. TSONGAS.  
H.R. 5116: Mr. EHLERS, Mr. LIPINSKI, Mr. CARNAHAN, Ms. EDDIE BERNICE JOHNSON of

Texas, Ms. GIFFORDS, Mr. GARAMENDI, Ms. FUDGE, Mr. TONKO, Mr. BAIRD, Mr. WILSON of Ohio, Mr. MAFFEI, Mr. MARKEY of Massachusetts, Mr. ROTHMAN of New Jersey, Mr. INSLEE, Ms. WOOLSEY, Mrs. DAHLKEMPER, Ms. RICHARDSON, Mr. HOLT, Mr. MILLER of North Carolina, Mr. WU, Ms. EDWARDS of Maryland, Mr. COSTELLO, Ms. ESHOO, Mr. PERRIELLO, Ms. KOSMAS, Mr. ALTMIRE, Mr. MITCHELL, Mr. SALAZAR, Mr. BISHOP of Georgia, Mr. MINNICK, Mr. SPACE, Mr. MOORE of Kansas, Mr. ELLSWORTH, Mr. ARCURI, Mr. BARROW, Mr. SHULER, Mr. BOYD, Mr. HOYER, Mr. MCNERNEY, Ms. ZOE LOFGREN of California, Mr. GEORGE MILLER of California, Mr. LUJÁN, Mr. MATHESON, Mr. HINOJOSA, Mr. CHANDLER, Ms. HARMAN, Mr. MORAN of Virginia, Mr. REYES, Mr. MICHAUD, Mr. SCHIFF, Mr. MEEK of Florida, Mr. SCHAUER, Mr. CARNEY, Ms. TSONGAS, Mr. MARSHALL, Mr. YARMUTH, Mr. LANGEVIN, Mr. CAPUANO, Mr. HEINRICH, Ms. PINGREE of Maine, Mr. HILL, Mr. HARE, Mr. DINGELL, Mr. THOMPSON of California, Ms. CHU, Mr. GRAYSON, Mr. KIND, Mr. VAN HOLLEN, Mr. DAVIS of Tennessee, Mr. PETERS, Mr. MURPHY of New York, Ms. CASTOR of Florida, Mrs. HALVORSON, Ms. SHEA-PORTER, Ms. KILROY, Ms. CLARKE, Mr. CLYBURN, Ms. TITUS, Mr. COURTNEY, Mr. HALL of New York, Mr. TIERNEY, Ms. HIRONO, Mr. CONNOLLY of Virginia, Mr. HOLDEN, Mr. FOSTER, Ms. DELAURO, Mr. MCGOVERN, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. KRATOVIL, Mr. DONNELLY of Indiana, Mr. QUIGLEY, Mrs. BIGGERT, Mr. KLEIN of Florida, Mr. ROSS, Mr. LARSON of Connecticut, Ms. SUTTON, Mr. ELLISON, Mr. DEUTCH, Mr. SCHRADER, Mr. BOCCIERI, and Ms. MARKEY of Colorado.

## SENATE—Friday, May 7, 2010

The Senate met at 9:30 a.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, thank You for life's blessings that You give us from Your open hand and heart. Lord, You have blessed us with the Sun, the stars, the wind, the rain, the sea, the sky, the fields and forests. All of these gifts we too often take for granted.

Thank You for the Members of this legislative body and the many other workers who serve You faithfully away from the spotlight. Empower them to meet the challenges of our times with Your providential power. Strengthen them to perform faithfully and well the work You have assigned their hands to do.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 7, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume

consideration of the Wall Street reform bill. There will be no rollcall votes today or on Monday or on next Friday. The following Monday, we will take a look at that. That is now scheduled as a no-vote day. We may not be able to do that. Other things have come up, not the least of which is a conversation with Secretary Gates yesterday about the supplemental war funding bill.

We are going to do our utmost to finish the bill we are on now next week. We have today and all day Monday for people to work on amendments, and we would hope we can make some progress in that regard. Yesterday, there were a few difficult spots, but late in the evening we were able to get the Senate back on track. We had some important legislation done last night.

I repeat what I said last night: There doesn't need to be long periods of time for debating most of these issues. We have all studied them. This bill has been in the public eye for a long time. SHEROD BROWN had a controversial, important amendment. I supported that amendment. But he spoke for 5 minutes. The opposition spoke for 5 minutes. Everyone understood what they were doing. It was a good vote. I use that as an example. We can move through this stuff much more rapidly.

We want to make sure Senators have opportunities to offer amendments. As I said yesterday, there are lots of amendments. A lot of them are in the same area. We need to focus on these. Senator DURBIN has six amendments. He is going to offer one of his amendments. That is an example for all of us to follow.

Again, we ended the day on a good note. I believe that is important. We have already lined up some things to do when we begin legislative session on Tuesday, but on Monday, the two managers will be ready to do business on work they are doing. A number of these things can be worked out. The two people managing the banking part of this bill are longtime legislators. They have handled many bills on the Senate floor. They will accept a lot of these amendments.

The derivatives part of this bill is, by some standards, a little more complicated, but even there the issues are fairly clear. Senators LINCOLN and CHAMBLISS are ready to work with Senators who have ideas as to how, if at all, they want to change the legislation. They are also ready for business.

I hope people understand the urgency of our agenda. We have many things to do and a very short period of time to do them.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of S. 3217, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Pending:

Reid (for Dodd/Lincoln) amendment No. 3739, in the nature of a substitute.

Sanders/Dodd modified amendment No. 3738 (to amendment No. 3739), to require the nonpartisan Government Accountability Office to conduct an independent audit of the Board of Governors of the Federal Reserve System that does not interfere with monetary policy, to let the American people know the names of the recipients of over \$2 trillion in taxpayer assistance from the Federal Reserve System.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST—H.R. 4899

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4899, FEMA supplemental, the Federal Emergency Management Agency, which legislation is at the desk; that the only amendment in order to the bill be a Reid amendment regarding settlement of lawsuits against the Federal Government and emergency disaster assistance; that the amendment be considered and agreed to; the bill, as amended, be read a third time, passed, and the motion to reconsider be laid on the table; and that any statements related to this matter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Tennessee.

Mr. CORKER. Mr. President, I rise to speak on the bill before us. I know JOHN MCCAIN from Arizona has filed an amendment on Fannie and Freddie, or GSEs, as we call them. I wish to speak on that amendment.

I know I have worked with our Presiding Officer on big pieces of this bill. I very much appreciate the spirit with which we have worked on this bill.

All of us know there are pieces of this legislation that are very appropriate. Certainly, the orderly liquidation title that the Presiding Officer, myself, Senator DODD, Senator SHELBY, and so many others have been involved in is an important piece of this legislation. All of us realize secondarily that the derivatives title, once it gets corrected and is in the right form, is a very important piece of trying to deal with what we as a country have dealt with over these last couple of years. Certainly, some elements of consumer protection are very important. I hope we are able to get that back in balance.

I believe, as with any piece of legislation we pass here, sometimes we take a crisis and use it to cause things to happen that don't necessarily have to do with the crisis itself. I certainly believe that is the case with some of the expense as it relates to consumer protection. But the fact is, I think the orderly liquidation title is something that is a useful tool. Hopefully, we will get the derivatives title right, and we will no longer have a situation where people are hugely money bad and don't settle up on a daily basis and end up with the kind of situation we are all so familiar with as it relates to AIG.

There are still three areas we have not dealt with that are very important. One of them is underwriting. I hope the Presiding Officer and others will be able to work together and come up with an appropriate underwriting title. At the base and the core of this whole crisis, the fact is, what generated this worldwide crisis was the fact that a bunch of bad loans were written that should have never been written. This bill does nothing whatsoever—zero—to deal with loan underwriting. To me, that is a huge oversight. I am hoping that the Senator from Connecticut, the Senator from Virginia, and the Senator from Alabama—many of us will figure out a way to deal with it in an appropriate way.

I have an amendment. It is an approach. I am hoping, over the course of the next week and a half, we will figure out a way to deal with the core issue of this last crisis, which is, no doubt, we wrote a bunch of loans—our country did—mortgages were extended to people who could not pay them back.

Second, credit ratings. The fact is, the credit rating agencies were at the core of this. I know the bill attempts to deal with credit rating agencies by virtue of a pleading standard, making

it so they are more liable for some of the recommendations they put forth. It is my sense what is going to happen, by addressing it that way, is the smaller firms that are just entering the market—that would like to be constructive as it relates to credit ratings—basically are going to be pushed out of the market, and the larger firms will be more consolidated or have a bigger piece of the business because they will be able to withstand some of the litigation that will take place, hopefully, if they make bad recommendations.

But I think there are probably some other ways of looking at this. I know there are people in this body on both sides of the aisle who constructively are trying to figure out a way to deal with that.

But the one glaring, glaring, glaring piece is Fannie and Freddie. I think one of the reasons we, as a body, have not dealt with Fannie and Freddie is they are huge, they are a big part of the market, the housing industry is very dependent upon them, and there has not been a consolidation around what most works to move them away from being such a big piece of the market and such a huge liability for our country.

That is why I so much like the amendment JOHN MCCAIN from Arizona has put forth. I know he has worked with JUDD GREGG and others. But what is outstanding about his amendment is—there are two things. No. 1, the fact is, we actually have to be honest with the American people about the cost, the liabilities we are picking up as it relates to the GSEs. Each year, for budgetary reasons, we will have to allocate moneys for the actual liabilities that exist. I think that is a good thing. I think that is a very important step. There will be some transparency into what those organizations are actually costing our country. I think all of us realize Fannie and Freddie are a huge problem and we need to deal with it.

The second piece of the McCain amendment I like so much is it puts in place a date certain, a certain time by which we, as a body, have to have dealt with them. One of the things I worry about—again, it is pretty hard to believe we have not thoughtfully figured out a way to deal with the GSEs at the time of passage right now. What I worry about is this bill passes and we move on to other topics and still have these huge issues that our country needs to deal with that we know are out of control, that have done incredibly terrible jobs in underwriting and basically have missions that counter each other. The fact is, it has a social mission, it has a business mission. We have tried to put those together, and it has not worked. We all know we have to deal with that in a different way.

What the McCain amendment would do is ensure that we deal with it. Sometimes, again, we move beyond a

crisis, we start thinking about other things, and then we have these festering problems that have not been dealt with.

So let me say this. I am being pretty honest right here on the floor. I realize none of us yet have come up with a silver bullet answer on what to do exactly with the GSEs. How do we move them into the private market without totally disrupting what is happening right now, with them being such a huge part of what is happening?

The McCain amendment would just make sure, by a date certain, we deal with it, and we can do so incrementally. I know some people on the other side of the aisle might take the McCain amendment as a major criticism. I do not. I just look at it as a way for us to move ahead.

So I hope my friends on the other side of the aisle will actually look at the substance. I think it is thoughtful. I truly do. I think it is something that allows us to start accounting for it. But then, within a certain period of time, within the next couple of years, we will have had to deal with Fannie and Freddie or some draconian things will occur, no doubt.

I hope the Senator from Virginia, the Senators from Connecticut, Missouri, and New Mexico, who are in this body today—I hope we can move beyond any partisan thinking. I will say, I think this body has done very well over the last week and a half. It is a complex piece of legislation. I think the Senator from Connecticut has tried to deal with this in a very good way on the floor.

As a matter of fact, we had a vote last night that I think a lot of us were concerned about, and instead of somebody raising an objection and trying to get us to a 60-vote threshold, we had a 51-vote threshold. I thought that was the best of this body last night, and I wish to thank those in charge of escorting this bill through the process for keeping it that way. There could have been a motion to table. Somebody could have asked for a 60-vote threshold.

I know the Senator from Missouri is going to speak next. She has been concerned about the process this year, and I join her in many of those concerns. But so far this process has been about the best I have seen in some time.

So as I move back to the McCain amendment, I know it is being offered by a Republican. I do not offer criticisms toward either side of the aisle for what has happened with the GSEs. Let's face it, in fairness, both sides of the aisle have had a hand in these things being where they are. Administrations on both sides of the aisle have used these GSEs toward ends. There is no question. I am not trying to weigh which side is most responsible. But the McCain amendment allows us to move ahead in a thoughtful way with these organizations.

So I will stop. I do urge my friends to please read the legislation. Maybe there is a second degree that is in order to make it even better. But I do believe it is a way for us to responsibly move ahead and deal with Fannie and Freddie. They cannot continue to exist as they are. Everybody in this body knows that. The American people know that. Let's deal with it. Let's pass the McCain amendment. Let's pass the McCain amendment with a tweak or two, if that is necessary. But let's show the American people we know it is a problem and we have the ability to work across party lines to be able to do so.

I yield the floor, and I thank all of you for listening.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

UNANIMOUS-CONSENT REQUESTS—EXECUTIVE  
CALENDAR

Mrs. MCCASKILL. Mr. President, I rise this morning in the cause of common sense in how the Senate works. We have had so many delays on nominations this year. Just as a quick review of where we stand, we have had over 51 rollcall votes on President Obama's nominations to serve in government under his Presidency. Of those 51 votes, over 80 percent of them were confirmed by overwhelming margins. Yet they sat on the calendar for more than 3 months, on average—overwhelming support, sitting on the calendar for 3 months, on average.

Just for some comparison, at the similar point in the Bush administration, there were eight nominees on the calendar. Right now, we have 107 nominees on the calendar. As I look at the list, I am confused because, as to most of the people on the list, we do not know why they are sitting there. We do not even know who is making them sit there. Enter stage left the anonymous hold—or as I like to call it: Nobody can blame me because they don't know who I am.

There is a law we passed that has a rule in it—very plain language, very easy to understand—that once a Senator makes a unanimous consent request to confirm a nominee, then you have to come out in the sunlight. After 6 session days, after those requests are made in terms of a unanimous consent for their confirmation, then the rule says you must notify your party leader of your hold that you have on the nomination, and it has to be published in the CONGRESSIONAL RECORD.

So last week I came to the floor and made 74 unanimous consent requests on nominations. Who were those 74? This is the amazing part. This is very amazing. Not one of the nominations I made a unanimous consent request on last week had any opposition in committee—none—not a voice vote “no.” No one spoke out and said: I have a problem. They flew out of committee—all 74 of them. But no one knows why

they are sitting there or who has put a hold on them.

I made the request, and in the intervening week we have had a lot of activity in that regard. The first thing that happened is, my friend from Oklahoma followed the rule. He notified his party leader of the holds he had, and it was published in the CONGRESSIONAL RECORD. He has a great habit of reading what we are doing around here. When he read the rule, it was obvious to him the rule said, once the request had been made, you say who your holds are. He has never been afraid, my friend from Oklahoma. He has never been afraid to take accountability. I have seen him with great courage enrage this entire room because he had some principles he was standing on. He is a great role model in that regard—his principled stands; and he owns them. That is all we are talking about. We are talking about owning them.

Nobody in America gets why this stuff has to be secret. I know he has an amendment he wants to offer on secret spending, and I would like, on the record, to say I would like to join him in that amendment. The secret spending that goes on through the hotline process, he is absolutely right—publishing this stuff for 72 hours. He is absolutely right.

But this practice is absolutely wrong. Unlike his other colleagues, he stepped out of the dark and into the sunshine. But no one else did.

So now, a week later, we still have 53 of those 74 names for which we have no idea who is holding them or why. Some of them have been confirmed of the 74 since then—a few. I think the Senator from Oklahoma identified a hold on, I believe, six or seven. So now we still have 53 names for which no one knows who is holding them by people who are avoiding the rule.

I had somebody come up to me the other day and say: Well, there is no enforcement. I said: Who would have thought you would have to make it a misdemeanor for a Senator to identify their hold? They voted for the bill. The vote was 96 to 2, so they voted for it. They just do not want to live by it.

Today, I come back to the floor with my colleagues—and there will be a number of us here—to once again try to trigger the rule. The unanimous consent requests will be made. Today, we have 69 names—the 53 from last week that are still out in the dark somewhere—we do not know who is holding them or why—and additional names that have been added to the calendar since then.

Mr. President, 64 of the 69 nominees we will make a motion on today—64 of the 69 nominees—had no opposition in committee—none. As we will hear over the next hour or so, these are important jobs: National Traffic Safety Board, the inspector general for the EPA. Can you imagine right now not

having an inspector general of the EPA with what is going on in the gulf?

The other good news—let me just briefly talk about this. I am going to yield to my colleague from New Mexico. We have a letter going around, and the letter is very simple. Everyone who signs the letter is taking a pledge—a public pledge—that they will never again participate in a secret hold; and, further, they support abolishing secret holds. If you want to hold somebody, you have to put your name on it.

I am very proud of the fact we now have 59 signatures on that letter, both Republicans—a Republican so far, 2 Independents, and all the Democratic Senators, except 1. I am optimistic we will get the last remaining Democratic Senator, Mr. BYRD, since he cosponsored a resolution in 2003, along with Senator WYDEN and Senator GRASSLEY, who have done yeoman's work on this issue for years. Senator Lott and Senator BYRD, along with Senator GRASSLEY and Senator WYDEN, sponsored a resolution back in 2003 to try to end secret holds, and here we are 7 years later with 53 nominees in the dark after the rule has been triggered.

So I am optimistic. I certainly am hopeful we will have a lot more Republicans sign on the letter. I think we may. The iceberg is moving. We may actually bust up this thing. I am wildly optimistic—which is an unusual thing around here—about reform. It is hard to change the traditions of the Senate, especially when they are bad habits. Once again, my colleague from Oklahoma and I share the same view on earmarks and have tried from a principled position to not participate in those. I think that is also a bad habit. Clearly, we have a lot more people agreeing with us on secret holds than we do on earmarks.

I look forward to making these motions today. I look forward to the Senators reading the rule, understanding the plain language, acknowledging they voted for it, and putting their name on these secret holds. Hold a nominee. The Senator from Oklahoma is holding some nominees. He has the right to do that. But the people we work for have the right to know why and who he is. That is all we are asking for today. We are not asking anybody to give up their holds; we are only asking people to identify who they are, to come into the sunshine for the transparency we all want to have as we serve the great people of this Nation.

With that, for the unanimous consent requests, I will yield to my colleague from New Mexico, Senator UDALL.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, I know our Presiding Officer today is also going to come forward, and we hope to see him down on the floor. I thank Senator MCCASKILL very much for her organizational efforts,

hers and Senator WARNER's, and for working on this issue. This is a very serious issue for the Senate in terms of how we move forward on the rules. I kind of liken it—and I have some history here, and I know everybody has their history when it comes to administrations.

We have this administration elected a little over a year and a half ago, trying to put their people in place. They are trying to put people in place to run, for example—I am going to be talking about the Tennessee Valley Authority and talking about the EEOC, the Equal Employment Opportunity Commission. They are trying to put their people in place to run these agencies and to get the government to work. Sometimes in the past—and my father passed recently, but he used to visit with me about the way they used to do it in the old days. In the old days you got to put your people into place within the first couple of weeks of an administration. I remember my father telling me he took over as Secretary of the Interior in January. Within 2 weeks, he had all of his Presidential appointees in place. He had his team in place. He could start carrying out the responsibilities that had been given him by the President. My understanding is for most of the Cabinet members in President Kennedy's Cabinet, the same thing was true. Within a couple of weeks you had your team in place and you could go out and try to do the things your President had campaigned on.

We are seeing a striking difference between those days back in the 1960s and what happens today. We are seeing incredible obstruction in terms of trying to move forward. It is done through this process, as Senator McCASKILL has brought out, of secret holds.

Since the Obama administration—I saw a figure at the end of the first year—they only had 55 percent of their team in place; 55 percent of their team. What we are talking about is holding up the ability of the President to have his team in place and do his job. I think that is unacceptable. I think one of the areas that is the worst when it comes to this is the hold process, the secret holds.

What is a secret hold? Everybody asks about these secret holds. This means a Senator is able to put a hold on a nomination and not come out in public. We all know that the very best thing is to shine light on the process. I think one of our Supreme Court Justices said it the best: Sunshine is the best disinfectant. With the secret holds, there is no sunshine. As many of us have pointed out on the floor, we want to bring sunshine to this process.

I wish to congratulate Senator COBURN for being the only Senator to step forward in this week-long process of trying to bring people out into the public. I understand Senator McCAS-

KILL's reading of this statute and my reading of this statute is if you have not come forward at this point on this large number of nominees for which unanimous consent has been asked, and there has been an objection, you are in violation of the law. You are in violation of the law. Only Senator COBURN has stepped forward to say I am holding up—I believe he is holding up the Broadcasting Board of Governors. He is holding up six people on the Broadcasting Board of Governors.

Today I am going to try to move—and we are doing this, I say to Senator COBURN, in a bipartisan way. We are not picking just Democrats. We are talking about the EEOC and the Tennessee Valley Authority, and we are moving forward with both Democrats and Republicans. That is why I am doing an en bloc request at this point so we can get both Democrats and Republicans in place.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar Nos.—and this is important, the EEOC—616, Jacqueline A. Berrien, to be a member of the Equal Employment Opportunity Commission; 617, Chai Rachel Feldblum; 619, Victoria Lipnic, to be a member of the EEOC for the remainder of the term expiring July 1, 2010; and 620, Victoria Lipnic to be a member of the Equal Employment Opportunity Commission; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominees be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. Mr. President, reserving the right to object, I wish to make an inquiry of the Chair as to the interpretation of the rule we passed, because it is my understanding that the rule doesn't require you to publish, but it does say the majority and minority leader are no longer obligated to honor your request for a hold if you have not.

I ask for the Chair's opinion on that.

The ACTING PRESIDENT pro tempore. The law being section 512, Notice of Objecting to Proceeding.

In General. The Majority and Minority Leaders of the Senate or their designees shall recognize a motion of intent of a Senator who is a member of their caucus to object to proceeding to a measure or matter only if the Senator—

let me read both of these; I will try to paraphrase:

Following the objection to a unanimous consent to proceeding to, and/or passage of a measure or matter on their behalf, submits the notice of intent in writing to the appropriate leader or their designee; and paragraph 2, not later than 6 session days after the

submission under paragraph (1), submits for inclusion in the CONGRESSIONAL RECORD and in the applicable calendar section described in subsection (b) the following notice—and files a notice of intent.

Mr. COBURN. OK. I will take that reading of the law as an assumption that agrees with the position I put out there.

I would say—if the Chair would give me some time in consideration of my reserving the right to object—I served in the majority for 2 years prior to the Senators who are here on the floor today, and I understand the frustration. I have been there. I was on the other side. It is difficult. In terms of numbers, we have more of President Obama's nominees cleared than President Bush's nominees at the same point in time.

I wish to raise the question. I am going to comply. First, I don't have any problem explaining why I hold somebody. The BBG nominees: The BBG is in such a mess, I want to make sure I visit with every nominee before I give them a clearance to get on that board, because we are wasting three-quarters of a billion dollars there and not doing anything positive for our country as we spend that money.

There are a lot of reasons why we hold people. One of the dangers of coming forward, from my experience as a Senator myself, of putting a hold on and then putting it out there, is this: If I want to do further work or study or have a question, the assumption with a hold is that you don't want them to move, and that may not be the case at all. The reason for a hold oftentimes is I want to look at the history, I want to look at the background, and I want to take the time to meet the individual myself. That fulfills the true obligation of advise and consent.

I would also say we were frustrated when we were in the majority the same way, and we played the same kind of parlance, except with our own nominees. When somebody on our side had a hold, we didn't ever mention that. We didn't ever complain about that. We just complained when the other side did. So the perspective has to be—understanding the frustration; the President deserves advice and consent—but I also know there are 150 nominees right now sitting in committee who haven't been cleared in committee and we are a year and a half, a year and 4 months into this administration. It is not just that.

I intend to object to every one of these, not because I personally have an objection, and I want my colleagues to know that, but one of the considerations of courtesy on the Senate floor is if somebody else does, you will honor that.

The final point I will make is that the majority and minority leader usually work these things out. I think we



passed 28 in the last few weeks, probably because of some of the good effort of my colleagues on the other side of the aisle to apply the pressure and heat. But I plan to object to every one of these because there are those on our side who have a problem with the individual. But I don't disagree that you ought to have the courage to stand up and say who you are holding and why you are holding them. I don't disagree with that. But that isn't our case right now and that isn't the case of the law, as I understand it; it just removes the obligation.

So on that basis I will object to this first package and plan on objecting to every other one in forbearance and as a courtesy to those on my side of the aisle who have a problem with these nominees.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Missouri.

Mrs. MCCASKILL. Mr. President, I am confused. This law was passed in the most bipartisan way possible: 96 to 2. Are we going to pretend this law doesn't say what it says?

Let me make sure I put in the RECORD what it says:

The majority and minority leaders of the Senate or their designees shall recognize a notice of intent of a Senator who is a member of their caucus to object to a proceeding or a measure only if the Senator—

(1) following the objection to a unanimous consent proceeding submits the notice of intent in writing to the appropriate leader or their designee; and

(2) not later than 6 session days after the submission under paragraph (1), submits for inclusion in the Congressional Record and in the applicable calendar section described in subsection (b) the following notice:

I, Senator \_\_\_\_\_, intend to object to proceedings to \_\_\_\_\_ dated \_\_\_\_\_ for the following reasons \_\_\_\_\_.

It says the majority and minority leader can recognize a hold only if the Senator first submits the notice of intent in writing after the unanimous consent request is made, and submits it to the CONGRESSIONAL RECORD.

We are going to try to slice and dice the plain language of this about something as obvious and commonsensical as owning your hold? I know the Senator from Oklahoma doesn't agree with that. He has just said so. He is not doing this. I know he is here as a courtesy to his fellow Members. But with all due respect, it is 107 to 8 on the Executive Calendar.

That is how many were on the calendar in the Bush administration at the same time—eight. There are 107 on the Executive Calendar in this administration. Honestly, we can do this forever. We can say when we were in the majority, we didn't do this and you did it; and when we were in the minority, we didn't do this and you did.

We have a chance to stop it. We had 96 votes to stop it. Are we now going to stand on some kind of notion that the law doesn't say what the law says? I

know part of the amendment of the Senator from Oklahoma is that he wants Senators to sign in writing that they have read what they are passing and that they understand the impact. I will be honest; I am going to cosponsor that, if he will let me, because I agree with the premise of it, although it is a little paternalistic to make Senators sign something saying they understand the impact.

Does anybody believe Senators don't understand the impact of this language? Are we going to stand on some kind of formality that we don't have a way to enforce it. I guess the position the Senator is taking on behalf of the Republican caucus is that the law doesn't say what the law says.

I have had a briefing this week on the standing rule versus the rule versus the law. That is what drives America crazy about this place. The secret hold is wrong. The Senator from Oklahoma knows it, and I guarantee you most of his colleagues do. You would be amazed how many Republicans have come up to me this week and said, "I don't do it, Claire."

I ask the Senator from Oklahoma to join our letter since he doesn't do it either. He has courage. He has guts. He is accountable to the people who voted for him. But to stand on behalf of the Republican caucus on some notion that this doesn't say what it says—that is all we are sent here to do, honestly. Believe me, I know the stuff that goes on here—the equal opportunities—and the Democrats are doing some of this in the majority. But we cleared all the secret holds this week. We had a few—the Democrats had a few—and we cleared them all. I had a couple Democrats come up to me complaining: "I can't believe you made me give up my hold." They were not happy about it. We had some reluctant signatures on the letter.

Do you know what is nice about the letter? I think this is important for the Senator from Oklahoma to understand. It doesn't say we are giving up secret holds for this administration. A lot of my friends on the other side of the aisle have a spring in their step now and think my party is on the ropes and there is a chance that, come next year at this time, Senator MCCONNELL will be the majority leader or that Congressman BOEHNER will be the Speaker. Do you know what. All the names on this letter did not say "while we are in charge." It says "forever." We now have 58 members of this caucus—56 and 2 Independents who caucus with us—and 1 Republican so far who say it is forever; as long as we are Senators, we are not going to do secret holds.

Frankly, my friend from Oklahoma doesn't have to worry next year about secret holds from this side of the aisle. I am proud we have done that. There may be a nomination a future President makes that is a Republican, and if

the people of Missouri are good and kind enough to hire me again, I may not like it. But I guarantee I will have the guts to say so.

Mr. President, I wanted to clarify the plain reading of the law and, obviously, what its intent was. I don't think anybody with a straight face can argue what the intent was. It was to stop this stuff. We can either ignore the intent and stand on a slicing and dicing and parsing of the language and reassure the American people that we completely don't get it or we can have people come out of the shadows on these holds.

I appreciate the Senator from New Mexico for allowing me to respond.

Mr. UDALL of New Mexico. Mr. President, now we have seen demonstrated, I think dramatically, what the process is here. We tried to move on a bipartisan basis for the EEOC to put Democrats and Republicans in that important government agency, an agency that focuses on discrimination. If the people are not in place, it cannot move forward with that very important goal. Our friend on the other side of the aisle, Senator COBURN, has objected to putting Democrats and Republicans in that agency so it can move forward.

I am going to try to move forward, also in a bipartisan way, on the Tennessee Valley Authority. Many people may not know, but in the Tennessee Valley, the power is provided by an agency called the Tennessee Valley Authority. Everybody knows how important power is to the economy. When we look around the world, we see communities being stifled because they have blackouts and brownouts and they don't have the available power. The Tennessee Valley Authority has a number of members who need to be appointed to the board of directors. We are moving today—both Democrats and Republicans—to try to bring home the point that we need to get this board of governors in place.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar Nos. 740, Maryland A. Brown; 741, William B. Sansom; 742, Neil G. McBride; and 743, Barbara Short Haskew, all to be members of the board of directors of the Tennessee Valley Authority; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc; no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominees be printed in the RECORD as if read.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. UDALL of New Mexico. Mr. President, moving forward with some

individual nominees for President Obama to put in place people at the Department of Commerce, at the Health and Human Services Department, at the Treasury Department, at the State Department, and at the Energy Department—all very important government agencies. All President Obama wants is to have his team in place so they can start doing their work. But what we are seeing on the other side over and over again is secret holds and delay.

It is important to remind everybody that at this particular point in time 107 nominees of the executive branch are being held up. At this point in time in the past for President Bush, only 8 nominees were being held. So 107 are being held for President Obama, and for President Bush, there were only 8. You can only think and draw the conclusion that this is about preventing the President from getting his team in place, which is obviously a very important function.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 640, Eric Hirschhorn, to be Under Secretary of Commerce for the Export Administration; that the nomination be confirmed; that the motions to reconsider be considered made and laid upon the table; that no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD, as if read.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. UDALL of New Mexico. Mr. President, now proceeding with an important nomination for Health and Human Services, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 647, Jim Esquea, to be an Assistant Secretary of Health and Human Services; that the nomination be confirmed; that the motions to reconsider be made and laid upon the table; that no further motions be in order; that the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD as if read.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. UDALL of New Mexico. Mr. President, I will proceed with another important position in the Department of the Treasury. We all know the Department of the Treasury supervises everything that is out there in terms of our economy—a very important position.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 652, Michael Mundaca, to be an Assistant Secretary of the Treasury; that the nomination be confirmed; that the motions to reconsider be considered made and laid upon the table; that no further motions be in order; that the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD as if read.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. UDALL of New Mexico. Mr. President, here is another important nomination at the Department of State.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 722, Judith Ann Stewart Stock, to be an Assistant Secretary of State; that the nomination be confirmed; that the motions to reconsider be considered made and laid upon the table; that no further motions be in order; that the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD as if read.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. Reserving the right to object, Mr. President, I want to make it known that I am carrying on a Senate courtesy on my side of the aisle, and these are not necessarily my objections, but they are on behalf of my colleagues. I object.

Mr. UDALL of New Mexico. Mr. President, I say to Senator COBURN that we very much understand that he is doing this for others. We want them to step forward. We want to get rid of these secret holds, as the Senator from Oklahoma has stepped forward on the broadcasting board. He has said he is holding up six people to go on that board of governors. It is out there in public, and it is something that all of us can examine and the media can examine. We can figure out whether his objections are legitimate. But that is the process. That is what is going on—secretly delaying the administration from getting its team in place.

Let's admit what is going on here. The folks who are putting on these holds do not want to see the President have his team in place. If he doesn't have his team in place, I think the expectation is that they think he would not be able to do the job.

Once again, the President nominated somebody important to work with Secretary Chu at the Department of Energy.

Mr. President, I ask unanimous consent that the Senate proceed to execu-

tive session for the purpose of consideration of Calendar No. 726, Patricia A. Hoffman, to be an Assistant Secretary of Energy; that the nomination be confirmed; that the motions to reconsider be considered made and laid upon the table; that no further motions be in order; that the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD as if read.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. UDALL of New Mexico. Once again, they are being held up through secret holds, and Senator COBURN has said he is doing this on behalf of Members on his side—not allowing all of these people to get into the government and do the job. We are talking about important government agencies, such as the Department of Commerce, Health and Human Services, Secretary of the Treasury, Secretary of State, Secretary of Energy—all objected to today.

Many of these nominations have been pending for a while. There are very few objections in committee. This is something that is being put forward for the purpose of delay.

Mr. COBURN. Will the Senator yield for a moment?

Mr. UDALL of New Mexico. I am going to yield to the Senator from Minnesota.

Mr. COBURN. Will the Senator from Minnesota yield?

Ms. KLOBUCHAR. For a minute, sure.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I think the motives ascribed by the Senator from New Mexico are improper. I do not think it is so people can't get into a job to cause President Obama problems. I reject that motive.

With any administration, there is a very big difference of opinion. That is why we have elections. That is why things move like this in our country. It is about whether somebody objects to somebody's either philosophical bent or qualifications for a certain job.

I make the point again that at the same time under a Republican Congress, President Bush had fewer numbers approved than President Obama does at this time.

I hope we would not ascribe that motive. I want President Obama to have, in fact, the people he needs to have in place to effectively run our government. I will give the numbers again. To this date, President Obama has 596 of his nominees confirmed. At the same time, President Bush had 570. In the two previous administrations, President Bill Clinton had 740 and President George H.W. Bush had 700.

I think what my colleagues are fighting for is fine. I agree with them. I am on the team as far as that is concerned. But I think we ought to be careful with the motives we ascribe. I really do not think it is to try to handcuff the administration. I think it is different. Of course, the sign that is being put up is about who is pending. I understand that. Let's be careful on the ascribing of motives. As I talk with my colleagues, I do not really find that motive. Even though they may not be out front with it as I have been, that does not mean they necessarily want the administration to not be effective.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Minnesota.

Senators need to be reminded that Senators may not yield the floor to one another. They must yield only for a question and through the Chair.

Ms. KLOBUCHAR. Mr. President, I thank you for the correction.

I appreciate my colleague's statement about his general support—I assume he meant for getting rid of secret holds, and he can correct me if I am wrong—his general support for changing this process and getting things done.

I will say that when we are in this time of economic challenge, no matter what the motives, I really do not care what is in the heads of my colleagues when they put on the holds. I do not even want to go there. What I care about is getting things done in the government when we have so many people unemployed, when we clearly have to move ahead and do more about small business and exports.

All I know is this: If we want to talk about the difference, at this point, 107 Obama nominees are on hold and being obstructed. At the same time—whether it was because not enough were nominated, I do not really care—at this same point, Bush nominees waiting for a vote—there were eight.

My bigger answer to this is, who cares about who did it or who did what when. What matters to me is that we move ahead and get going.

It is no surprise to me that the Senators who have taken the floor this morning and are surrounding me are Senators who want to see good government, Senators from open States with big blue skies, such as the State of New Mexico, Senator UDALL, who is now the Presiding Officer; or my State, the State of Minnesota, which has always been a leader in open government in moving things ahead; or Senator WARNER, who knows what it is like to manage a large State and knows you have to have your team in place if you want to get things done in the State of Virginia; or Senator MCCASKILL, who has been leading this effort from the Show-Me State, the State of Missouri—show me who is doing these holds.

The bigger issue is not just making sure we can run this government and

getting the government moving and helping people again. The bigger issue for me is that things should not be done in secret. If you are going to put a hold on someone, we should know who and why you are doing it. I said the other day that this reminds me of an Olympic sport, a relay race, passing a baton from Senator to Senator so we cannot figure out who is holding the baton. They rotate who is putting on the holds, and they get around the rule. If delay were an Olympic sport, my colleagues would be getting a gold medal because there has been so much delay with these nominees, and it has to stop.

I want to give a few examples of the kinds of nominees we are talking about and the kinds of nominees we would like to see get confirmed. I want to give some examples of who these are, and I will then go through and make a request to confirm them.

We are right now in the middle of an oilspill of cataclysmic proportions in the gulf. I am going there this afternoon to see it. We are going to have a major hearing in our environmental committee on Tuesday. Do you know who is being held up right now? Michael Tillman, to be a member of the Marine Mammal Commission, is being held up; another guy, Daryl Boness, to be a member of the Marine Mammal Commission. Normally, one might not think this is the most important position in government. I say two things: One, we are dealing with marine issues right now, extreme marine issues of what is going to happen to our wildlife in the oceans. The second thing we are doing with this—why would anyone hold up members of the Marine Mammal Commission?

One guy I actually know—Mark Rosekind, to be a member of the National Transportation Safety Board. He does a good job. Like you, Mr. President, I am a member of the Commerce Committee. We know how important it is.

Earl Weener, to be a member of the National Transportation Safety Board. As we are dealing day-in and day-out with issues of threats to our transportation, the potential of airplanes that have gone down in the sky in the middle of Buffalo, and we have potential terrorist threats to our transportation system, what are we doing? We are holding up the nominees.

We have Toyota putting out cars that basically kill people across the country because the safety measures were not taken. They just paid the biggest fine in the history of this country. What are we doing? There are Members who are secretly holding up members of the National Transportation Safety Board. Why would we do that?

I will start with these.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Cal-

endar No. 592, Mark Rosekind, and Calendar No. 787, Earl Weener, both to be members of the National Transportation Safety Board; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominees be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Again, this is a perfect example. We look at what happened with the Buffalo flight going down. We look at what happened with the Toyota cars. We look at what is going on across this country as we are focusing on terrorism and what happened in Times Square just recently. This is not the time to block nominees to the National Transportation Safety Board. Whatever the motives, whatever the reasons, at this point I do not care. I think the President should be able to have his team in place.

Next, I mentioned the Marine Mammal Commission, as we are dealing with an oilspill across the gulf.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 784, Michael F. Tillman, and Calendar No. 786, Daryl J. Boness, both to be members of the Marine Mammal Commission; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominees be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Very good. Again, marine mammals. We are dealing with animals that are almost certainly going to die because of this oilspill, and there are people on the other side of the aisle who have decided to block these nominations.

Next, Warren Miller, nominated to be the Director of the Office of Civilian Radioactive Waste Management at the Department of Energy. I don't know the reasons this hold was put on, why he is held up, but I do not believe any person in this country believes we should have no person directing the Office of Civilian Radioactive Waste Management.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 404, the nomination of Warren Miller; that the nomination be confirmed, the motion to reconsider be

considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Next we go to Winslow Lorenzo Sargeant, to be Chief Counsel for Advocacy in the Small Business Administration. Mr. President, 64 percent of the jobs in this country are created by small businesses. Wall Street has been making record profits, but small businesses in this country are still suffering. Wall Street got a cold; Main Street got pneumonia. This is the time for a robust Small Business Administration.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 427, the nomination of Winslow Lorenzo Sargeant; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Mr. President, the next one that is being held of these 107 nominations is Benjamin Tucker, to be Deputy Director for State, Local, and Tribal Affairs in the Office of National Drug Control Policy. As a former prosecutor—and I know you do, Mr. President, as a former attorney general—I understand the importance of having people in place to work on our national drug policy and to reduce the illegal drugs in this country.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 556, Benjamin Tucker; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Next, John Laub, to be Director of the National Institute of Justice.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Cal-

endar No. 581, John Laub; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statement relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Mr. President, the next of the 107 nominations being put on hold is P. David Lopez, Calendar No. 618, to be general counsel of the Equal Employment Opportunity Commission.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 618, P. David Lopez; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Mr. President, the next one is Jill Long Thompson, to be a member of the Farm Credit Administration. Coming from an agricultural State, I understand how important it is to have people in place for the Farm Credit Administration, especially during this difficult time. Because of agencies such as the Farm Credit Administration, at least our rural areas have not gone off the cliff and have maintained some stability but are always challenged.

I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 628, Jill Long Thompson; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Mr. President, next, James P. Lynch, to be Director of the Bureau of Justice Statistics. Again, as a former prosecutor, it is incredibly important that we have statistics on crime, that we know what is going on so we can develop the best policies and triage the cases so we can keep our neighborhoods safe.

I ask unanimous consent that the Senate proceed to executive session for

the purpose of consideration of Calendar No. 705, James P. Lynch; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. As a member of the Commerce Committee, again, I am very concerned that we still do not have a Deputy Administrator for the Federal Aviation Administration in place. As we know, there have been many recent incidents. We are trying to get the FAA reauthorization done to finally modernize our airports with NextGen so we can have the next generation of airport control, so we can better process our planes, so we can better land these planes, so we can have more safety, so we can have less congestion at our airports. This is very difficult to do when you don't have in place all of your managers who are supposed to be managing the Federal Aviation Administration. We have had incidents in Minnesota of a plane that overran the airport and ended up in Wisconsin. We have had planes that have been sitting on the tarmac for 6 hours with passengers without food and water.

We have had all kinds of issues with aviation, and yet—and yet—my colleagues on the other side of the aisle, while supportive at times of these efforts to modernize our air traffic control system, are blocking the nomination of the deputy administrator for the Federal Aviation Administration.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 782, Michael Peter Huerta; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Mr. President, another job here that is unfilled—one of the 107 relating to maritime issues, and again we are dealing with an incredibly sensitive and catastrophic issue with this oilspill in our oceans—the Administrator of the Maritime Administration is being held by my colleagues on the other side of the aisle. I don't know what the motives are. Maybe they do

not like this person. We don't know who is holding this. All I know is that a President has to get his team in place when he is dealing with an issue as catastrophic as this BP oilspill.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 783, David Matsuda; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, that no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Finally, Mr. President, we have Arthur Allen Elkins, who has been nominated to be the inspector general of the Environmental Protection Agency. Again, we are dealing with an environmental crisis down in the gulf coast area. Yet we can't even get this inspector general in place.

I know many of my colleagues on the other side of the aisle support having inspectors general in place so we can look at what is going on in government, so we can figure out what is happening and get things right. Yet this nomination is being held.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar No. 794, Arthur Allen Elkins; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. KLOBUCHAR. Mr. President, I see the Presiding Officer has a smile on his face as he realizes I have reached the end of the nominees I am reporting on today. But I will tell you this: Having managed an office of 400 people—a government office, a local county attorney's office—I can't even imagine trying to run that place without having my top people in place and that kind of security.

It is very difficult to cut government spending, to make the kinds of decisions you need to make when you don't have your top team there to get the work done. Worse than that, with these secret holds, it is very hard to even understand why these people are being held, who is holding them. That is why we are working so hard to get rid of this.

As I said, this crop of Senators that has come here in the last 2 years does not like business as usual. We just want to get the business done.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, first, let me thank my colleagues for being here this morning. I am pleased to join this effort. I want to particularly thank my colleague from Missouri, who has been a relentless voice on opening up and bringing a little sunshine to not only this issue but a lot of things that go on here that maybe make some of our colleagues a little uncomfortable, but she is constantly being that voice and pushing and prodding and trying to make sure we improve the process.

I also want to thank my colleague, the Senator from Oklahoma, who—as I think the Senator from Missouri said—we may not always agree with, but there are very few Members in this body who are more straightforward and honest about what they believe in and are more consistent, which probably frustrates some of us. But he is absolutely consistent in what he believes and he holds our feet to the fire. I commend him for bringing forward his holds and being willing to step up and explain them.

Like the Presiding Officer, I am a new guy here. But unlike so many of my colleagues, I have never been a legislator. I was a business guy for a number of years and I had the honor of serving as Governor. Quite honestly, I had a little TV in the Governor's office and whenever the legislature was in, I simply turned it off. So I don't fully appreciate, perhaps, all of the traditions of a legislative body. And I don't, by any means, know the history as well as my colleague from Missouri and my colleague from Oklahoma surrounding holds. But I did a little bit of research, and it seemed to me this "holds" notion came up as a courtesy in the last century because Senators had to travel a long distance to get to the body. They couldn't be here because they were traveling—on horseback—and it would take days or weeks. So somebody might say, as a courtesy, that we are going to set this aside or put a hold on somebody until the Senator can get here and explain himself or herself—I guess himself, at least at that time—in a fuller manner.

It seems to me that some of the traditions of this institution that were used on occasion—whether it is holds or filibusters or what have you—to keep this body functioning, are now being so overused that we seem to be institutionalizing dysfunction. I think the Senator from Oklahoma has made the case that neither side has clean hands, and whatever is up today may be down tomorrow.

One of the things I think the Senator from Missouri in her effort has done is

to say: We are not saying we ought to change the rules for this moment in time. We want to change the rules forever. I can't explain to anybody in the Commonwealth of Virginia why in the 21st century we have something called a "secret hold," where somebody can say: We don't like this guy or gal and we don't want them to be put forward, debated, and voted up or down for some secret, unknown reason.

I know my colleague, the Senator from Oklahoma, has said that most of the Members may have a legitimate reason—because they do not agree with the individual's philosophy or their background, and that is a very legitimate reason to raise—but I do know there has been at least—and I can't ascribe motives—a recent press report about an issue that brought some controversy here to the floor where a Member held one of the President's nominees not because the Member felt there was anything wrong with the nominee's qualifications but as a leverage matter, to try to encourage the administration to change a law with Canada on a totally unrelated matter. That, to me, seems like institutionalizing dysfunction and not—back to what I have at least been able to read about the history of holds—as a courtesy because folks can't get here and make their case in person. Even with our slightly dysfunctional airline system at this point, we can get here within a couple of days, absent storms.

So again commending my colleague from Oklahoma for stepping up on this one, where there is a problem with someone the President is putting forward—this President or any future President—we ought to acknowledge it, we ought to say what is wrong, we should have a spirited discussion, and then we should either vote the person up or down.

I am anxious to listen. If there is something wrong with some of these folks, let's vote them down and tell the President to put up somebody else. But 16 months into this administration—as a former business CEO and a former CEO of the Commonwealth of Virginia, I couldn't imagine having my folks languish in limbo in this kind of skull and crossbones kind of secret hold society stuff. It seems as if it was something that came out of the 18th or 19th century, where certain institutions of higher learning transported this idea of secret holds here to the floor of the Senate. It doesn't seem to make sense.

I am going to finish, because there are other colleagues, and the Senator from Oklahoma is going to have to rise a number of times because there are a lot of folks we have to go through, so I won't go on with this issue. But I am proud to be part of this effort with the Senator from Missouri, and I hope the Senator from Oklahoma will continue to raise issues—particularly around public spending—where I hope to find

lots of places of common cause to join him. I appreciate his willingness to come forward. I sure as heck hope that more Members, on both sides of the aisle, will join this effort.

We can be respectful of the Senate and we can be respectful of its traditions, but it sure as heck seems to me that in the 21st century, the notion of secret holds ought to be one of those traditions that gets left behind. So in that spirit, I have two sets of nominations, both en bloc, since they are both Democrats and Republicans, to try to make the point that, in some small way, this is not about partisanship. It is about process.

Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar Nos. 589, Anthony Coscia; 590, Albert DiClemente; and 788, Jeffrey R. Moreland, all to be Directors of the Amtrak Board of Directors; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements related to the nominees be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to executive session for the purpose of consideration of Calendar Nos. 500, Julia Reiskin, and 501, Gloria Valencia-Weber, both to be members of the Legal Services Corporation; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominees be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Once again, Mr. President, I appreciate the courtesy of the Senator from Oklahoma and the leadership of the Senator from Missouri. We are going to continue to raise this issue, and with the same kind of relentlessness the Senator from Oklahoma raises on public spending. I hope he continues making some progress. I look forward to joining him on some of his efforts, and I hope this list of now 59 Senators will include many Members from both sides. It seems to me to make good common sense.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mrs. MCCASKILL. Mr. President, I listened to my colleague from Oklahoma, and I understand it is difficult to listen to any of us put motives on something when we don't know what the reason is, and ascribing motives is unfair when you don't know. But sometimes my experience as a mother pops up in my brain, and I think of my kids when they were little—and especially as they became teenagers—and I remember one time catching one of my kids. He had sneaked out of the house at night in the dark. I caught him and I said: You know, you are in big trouble, buster. He said: Well, mom, I wasn't doing anything wrong. We just walked around the block. We weren't doing anything you would get mad about. We weren't drinking, we weren't smoking, we weren't chasing down girls. We just walked around the block. I said: Well, you know, if you do it in the dark and you are not willing to tell me about it, then you know what I am going to assume? I am going to assume you are doing something sneaky and underhanded, and you just need to bank on that; that if you think you have to hide something from me, you have to assume I am going to think you are doing something wrong. If you are not willing to talk about it, you are not willing to own it, you are not willing to tell me about it, you are in trouble. End of discussion.

That is why we are ascribing motives. It is only logical to assume. After voting for a bill that clearly says once the unanimous consent motion is made you have to come out of the darkness, you have to explain what you are doing, the fact that these people are not coming forward—I have to tell you, if they were my kids, I would assume this—they are doing something they aren't proud of. I would assume that, if they were doing the sneaky, and that is what this is. This is sneaky, because they are not stepping up—like the Senator from Oklahoma has. Step up, own it, hold for as long as you like. Some of us may agree with your reasons and join you in your hold.

But there are literally names on this list where no one knows why they are being held. The White House does not know, the nominee does not know, maybe Leader MCCONNELL doesn't even know. It is nonsense. It is plain and simple nonsense.

My friend from Oklahoma is absolutely correct, we should not ascribe motives. But it is only human nature, if people are not looking at the plain language of the ethics bill they proudly voted for and doing what the plain language says you are supposed to do, people are going to start thinking something underhanded is happening. The only way to fix that is to step up.

Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 648, Michael W. Punke,

of Montana, to be a Deputy United States Trade Representative, with the rank of Ambassador; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 649, Islam A. Siddiqui, of Virginia, to be Chief Agricultural Negotiator, Office of the United States Trade Representative; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 799, Carolyn Hessler Radelet, of the District of Columbia, to be Deputy Director of the Peace Corps; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 800, Elizabeth L. Littlefield, of the District of Columbia, to be president of the Overseas Private Investment Corporation; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No.

801, Lana Pollack, of Michigan, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 809, Bisa Williams, of New Jersey, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Niger; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 810, Raul Yzaguirre, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 811, Theodore Sedgwick, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Slovak Republic; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating

to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 812, Robert Stephen Ford, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 824, Dana Katherine Bilyeu, of Nevada, to be a Member of the Federal Retirement Thrift Investment Board; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 826, Michael D. Kennedy, of Georgia, to be a Member of the Federal Retirement Thrift Investment Board; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 827, Dennis P. Walsh, of Maryland, to be Chairman of the Special Panel on

Appeals; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER (Mr. WARNER). Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 829, Todd E. Edelman, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 830, Judith Anne Smith, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 832, David B. Fein, to be United States Attorney for the District of Connecticut; the nomination be confirmed—I believe, Mr. President, that the United States Attorney for the District of Connecticut would have jurisdiction over any Federal crimes that may have been committed by the individual who tried to blow up people in Times Square on Saturday night. That man lived in Connecticut. Any activities that he engaged in, in planning this dastardly plot in which, thank God, no one was killed, but we have no U.S. Attorney in Connecticut. That would be the chief law enforcement officer on any Federal crimes that have been committed by this American citizen who has confessed to some of his crimes, but we



may not be aware of other crimes that may have been committed.

The nomination of David B. Fein be confirmed to be United States Attorney for the District of Connecticut, the motions to reconsider be considered made and laid upon the table, that no further motions be in order, and the President be immediately notified of the Senate's action, and any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. Reserving the right to object, I am not sure it is a vacancy in the District of Connecticut at the U.S. Attorney's office. I think this is a replacement nomination. And I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 833, Zane David Memeger, to be United States Attorney for the Eastern District of Pennsylvania; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 834, Clifton Timothy Massanelli, to be United States Marshal for the Eastern District of Arkansas; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 835, Paul Ward, to be United States Marshal for the District of North Dakota; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, there are some nominations on whom the request has not been made. My colleague from Rhode Island has a number of judicial appointments. He will return to the floor to make those unanimous consent requests later—I assume soon. There will be 64 total requests that will be made today that we cannot find opposition for—64 we cannot find opposition.

I am going to now make five requests to which there was opposition. The ones I just made, by the way, the last group I just made, are new. They have been added to the calendar since I made the requests last week. This is going to continue. I am going to do my very best job at impersonating the tenacity of my colleague from Oklahoma. I am going to do my very best job of being a dog with a bone on secret holds. I am not going to give up. I am going to be out here every week, as often as I need to be out here. I am going to get as many colleagues to help me. We now have everybody on this side on board with the exception of Senator BYRD, and I am optimistic we will get Senator BYRD. I am hopeful the next time I will have some of my colleagues on the other side of the aisle, who agree secret holds are wrong, to help make these requests.

The ones I just made were new. As notice to the Senators who may be holding those, they were not made last week. So I urge everyone to check the list and, if they have a hold on them, to notify Leader MCCONNELL and let Leader MCCONNELL know what their objection is and comply with the law they voted on.

Let me make these last ones. I wanted the record to be clear, these are the first ones we made that anybody voiced opposition to—anybody.

Mr. President, I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 552, Jane Branstetter Stranch, to be United States Circuit Judge for the Sixth Circuit; the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. I might note for the record that this nominee was voted out of committee by a vote of 15 to 4, with three Republican Senators supporting her in committee and four Republican Senators opposing her in the committee. The final vote was 15 to 4.

I ask unanimous consent the Senate proceed to executive session for the purpose of consideration of Calendar No. 588, Philip Coyle, to be Associate Director of the Office of Science and Technology; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, that no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. On that nominee, the vote out of committee was 19 to 6—19 to 6. Five Republican colleagues supported this nominee and five Republican Senators opposed this nominee. So it was a 5-to-5 split of the Republicans on the committee to that nominee.

I ask unanimous consent the Senate proceed to executive session for purpose of consideration of Calendar No. 703, Benita Y. Pearson, to be United States District Judge for the Northern District of Ohio; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I object.

The PRESIDING OFFICER. Objection is heard.

I might note this was a voice vote in committee and Senator SESSIONS did raise concerns in committee. So there was not a tally vote. No one requested a rollcall vote on the nominee. It was noncontroversial enough that no one wanted to go on record with a rollcall vote, but we wanted to be very transparent and did want to indicate for the record that Senator SESSIONS did raise concerns in committee about this nominee.

Mr. President, I ask unanimous consent that the Senate proceed to executive session and consider Calendar No. 747, Ari Ne'eman, to be a member of the National Council on Disability. I ask unanimous consent that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, no further motions be in order, and the President be immediately notified of the Senate's action, and that any statements be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mrs. MCCASKILL. I should note that this is a nominee who—once again, it

was a voice vote. Senator COBURN did indicate some concerns with this nominee at the committee level.

Mr. COBURN. I have an appointment with the gentleman to have a discussion.

Mrs. MCCASKILL. We have now gone through the entire list, with the exception of about 10 judicial nominees on whom Senator WHITEHOUSE will be making the requests. I was hopeful that this week we would know who is holding those folks. We still do not know.

If I might make a suggestion, I am not confident it will be accepted, but if the leadership of the Republican caucus wants to hold these nominees, Senator MCCONNELL can put his name on all of them. Then the people of America will know Senator MCCONNELL is holding them and they will see him as the leader of the Republicans and they can judge accordingly. But if Senator MCCONNELL does not have objections to them and is not willing to put his name on them, then the people who have the objections should put their names on the holds. We are going to break this bad habit.

I do want to make a note that there were four judges I made requests on who inadvertently got on the list. They have been confirmed. We will provide for the record those four names so they can be appropriately noted. So instead of doing 69 today, we are only doing 65.

I thank the Senate for its indulgence. I thank Senator COBURN for remaining on the Senate floor. As I said, Senator WHITEHOUSE will be back to make a few more motions. Let's break a bad habit that the people of this country do not agree with.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I ask unanimous consent to speak for approximately 15 minutes as in morning business for myself.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### TRIBUTE TO JANE TREAT

Mr. COBURN. Mr. President, I pay tribute to one of my staff members today. She recently left. She had a child and is being a mom and a civic activist. But she was a trusted adviser and, more than that, a dedicated patriot.

Jane Treat, who has been with me since the earliest parts of 2004, is leaving to become a full-time mother. It is hard to lose her. But I understand the attraction as well as the commitment for a much more important job. She first came to work for me as a volunteer, fresh off her studies at Patrick Henry College.

Since that time she has played a key role on my Judiciary Committee through many intense legislative battles. She spent many long days in the Dirksen Building poring through brief-

ing materials, preparing background notes for me, and negotiating on my behalf with other offices.

She was there during the Roberts and Alito hearings. For a time she also served as my interim chief counsel on the committee, since I had no attorneys and she was a nonattorney as well, which was a rare occasion. Her dedication has never wavered. The fact is, she worked the day she delivered her first child. She prepared negotiations that day for a bill that threatened the second amendment of the Constitution and how it interacted with our veterans. We prevailed that day in no small part because of her efforts. One would be hard pressed to find anyone who cherishes the Constitution and who knows its principles as well as Jane Treat.

My legislative director jokes:

Although Jane did not actually write the Constitution, she is its fiercest defender.

I would have to agree.

For the past 2 years, and after the birth of her daughter, Jane has managed a correspondence team that works in my office, ensuring that every letter that reached my desk was treated with the utmost concern and professionalism. She cared for each constituent as if it were written to a close relative or a neighbor. In that, she has done a terrific job.

There is one last quality of Jane that I commend to everyone in the room, and that is courage. Jane has a keen sense of right and wrong and will not allow an injustice to stand, whether it is policy related or simply human. She fights for everybody.

When she disagrees—I am laughing about this because when she disagreed with me, I was always sure I would hear about it later. She would come to the office and knock on the door, and say: Now we need to have a talk. You were wrong.

Of course, I would remind her that she was not elected and I was and there is some interpretation to the Constitution.

But the quality of having the courage to confront on things that are strongly held beliefs is a great quality that built our country, and she distinguishes herself in it. That is in contrast to what usually happens in this town where we avoid difficult issues rather than confront them.

True to her principles, she will turn her attention toward her new community in Broken Arrow, OK, where she will be a full-time mom. It will not be long, for sure, before she is volunteering again for a cause close to her heart.

Jane, we appreciate you. We thank you for your service, and we thank you for the modeling of your behavior.

#### SECRET HOLDS

Now, I just want to spend a few minutes because what we have just gone through is a challenge to a process that

has been ongoing for a long period of time. The President knows I am in agreement with sunshine. As a matter of fact, the President and I created the Transparency and Accountability Act so that everything we do gets published in terms of what we spend and how we spend it.

I agree we ought to be forthright with the reasons we hold individuals. But let's talk about what a hold is. A hold is saying you do not agree to a unanimous-consent request to pass out an individual. In other words, what is a hold? What does it really say?

It really says, first of all, I either may have some very significant concerns with this individual or I may want to study this individual for a period of time and their record before I agree to it or I may want to debate it, the qualifications of the individual.

I agree on the transparency. But I think it is very important that we go back to say—and not necessarily attune the motive. But when I read the sign about those who are being held now versus in the Bush administration, I am reminded that there were over 100 U.S. attorneys and marshals and 50 judges at the same time who were blocked in committee so they could not even get to the floor at that time.

So it depends on where one takes the snapshot. There are lots of reasons to not agree to people being confirmed. I have no problem with stating my reasons, and I will publish my reasons. I do not have any problem even publishing them. But I am not sure that we want to necessarily impugn the motives of somebody who takes advantage of that.

I agree with the Senator from Missouri. I have no problems with putting it out in the open. But I did ask the question, and at some point in time I think it would be wise for those who think that, that we get a parliamentary ruling on what the rule really means because I think there is some discussion. I do not doubt that the intent of what was passed was exactly what we intended: to put it out there. But I think the interpretation or how it may be read is subject to some debate, and it would be great to have a Parliamentary rule on that.

Finally, I would say, the other side of this issue, which comes back to things that are dear to my heart, is the fact that 94 percent of everything that passes in this body passes by that very process, unanimous consent.

Unanimous consent says: We will not have debate. We will not have an amendment. Things will pass because nobody objects to it passing.

There is a real disadvantage for our country in that. The disadvantage is that the American people never know what we are doing. They do not get a hearing. They do not get to hear the policy debates on both sides of the issue. It is good that we work some

things out, but if you watch the floor, what we know is 40 percent of the floor time is spent in a quorum call.

The real issue we are fighting is the moving, is the reason the majority leader does not move them, because it takes time to move them. Right? That is our problem. Time is our biggest enemy in the Senate. But yet that is exactly what our Founders intended. They wanted it to be very difficult to change what they had put in place, and they set in motion this system that says: We are going to make things thoughtfully, under full consideration, with open debate.

We hear our colleagues all the time say this is the greatest deliberative body in the world. It is, but not all of the deliberation goes on on the Senate floor. I have no doubt there are abuses on both sides. I do not know what the motives are.

When I hold somebody, I hold them because I think they are either not qualified for the job, I think they have a past record that would question their character, or I think, in fact, they will do a terrible job at the position even if they are qualified. And I have the right, as an individual Senator, to say I am not going to support that nomination. So I am all for moving and giving Presidents what they want, but I am not for doing it without the debate and the consideration that needs to be there.

So I am very supportive of people standing up and saying why they are holding up people. Through the courtesy of the Senator from Missouri, she did not list one of the judges that I am sure she was going to ask unanimous consent on because I was the lone Senator in the Judiciary Committee to vote against him. Now, I do not know who is holding him. But the fact is, I do not think he is qualified. I want him to be debated. I want to have a chance to inform the American people why I think he should not be a circuit court judge. And that is my right.

To say we are just going to move him without a debate, without anything but a vote, I am not going to do that on people I think are not truly qualified. So it is not as straightforward as we think. I think we ought to think about how the process is working, that the leaders do work on this process. They move a lot of them forward. I understand the frustration, and I would be giving the same speech if it was turned around. As a matter of fact, I have before.

So I concur with my colleagues. I think sunlight is a wonderful thing. I think there are times where we have the problem, and I will give you three specific examples.

I publish all of my holds. Under the Emmett Till bill, I was immediately accused of being a racist. I held the bill because I wanted it paid for, but as soon as I put out that I was holding the

bill, I was accused of being a racist. So there are reasons for people to work behind the scenes to be able to work on things, to solve the problem with their concerns, without it becoming public, so that you get the ultimate action but do not impugn the integrity of people because they may not agree.

So the potential of letting go of all of this idea that we cannot negotiate before we come, and that we have to expose everything—what happened was the special interest groups attacked me ferociously. I ended up becoming best friends with a very significant individual who drove that. What has happened today is we still have not done it because we did not put the money in to pay for it, which is what I wanted. There is still no special provision. There is still no action. We passed it 2 years ago.

Next thing was the Veterans Care-giver Act.

I hated veterans because I thought we ought to pay for it, and I thought it ought to apply to every veteran who had that kind of injury who served this country. But yet there was a ferocious attack by the interest groups. I am willing to take that heat. That comes with the job. But it is certainly not fair to put yourself in that position. I understand why other Senators will not stand up and say every time why they are holding a bill when we see that kind of attack coming at us.

Same thing on breast cancer. My sister-in-law, a cousin, all with breast cancer, two-time cancer survivor myself, but I hated breast cancer patients. You can see why the idea of objecting to a unanimous consent and then immediately putting it out there will end up with the attack of the special interest groups in this country, because you are trying to make something better but your motives are impugned because you don't agree with the special interest that is running the bill in the first place or, in the case of a nomination, the special interest of the administration. They think this is the individual.

I don't defend. I put it out. I am willing to take that. But I understand that is not always the best way to get something accomplished, because you end up burning a lot of energy defending yourself on something you are totally innocent of in the first place. You want a different result for a different reason, but that never gets covered.

This morning has been great. It is interesting that we have had this debate. My hope is we will have people who will stand up and speak and put up why they believe what they believe, fight for the principles they believe in. I think I can defend my principles to the hilt. In front of 100 commonsense folks in this country, I can get 85 of them to decide with me. I am not afraid to do that. I am willing to be honest and transparent and straightforward. But the impugning of motives worries me,

because it has nothing to do with not wanting President Obama to have his people. It has to do, in many instances, with people who are truly unqualified or truly are divergent on what their past has been versus what they say. Those are legitimate reasons to have debate on individuals who are going to serve a function in this government.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. FRANKEN. Mr. President, I rise to speak about an issue of great importance, the foreclosure crisis, and the fears and frustrations of American families who are at risk of losing their homes. Wherever I go in Minnesota, people tell me horror stories about losing their homes to foreclosure. I am sure the same is true of the Presiding Officer when he goes home to Virginia.

The foreclosure crisis strikes at the heart of the American dream, threatening Americans' life savings, family lives, and what they have achieved. The President took a big step in addressing this crisis when he created the HAMP program which encourages mortgage servicers to modify home loans to help people avoid foreclosure. But it is often difficult to implement complex programs and HAMP is no exception. When HAMP works, it can be great. It can literally save people's homes. But too often homeowners who try to use the HAMP program find themselves involved in a bureaucratic process that is riddled with errors. These are errors that have serious consequences for people's lives.

Take a woman named Tecora who is a homeowner from south Minneapolis. Incidentally, she is someone who actually would have been helped by a Consumer Financial Protection Bureau. Several years ago, she bought a house with an option ARM or adjustable rate mortgage, where the mortgage payments increased dramatically over the years. Someone should have told her that the teaser rate her lender offered her might be misleading. Someone should have told her she might not be able to afford her mortgage payments in the future. But no one did.

A few years ago, Tecora's payments went up, and she fell behind on her mortgage. She entered HAMP hoping to save her home. But 7 months later, she was told by her mortgage servicer that her file was closed because she had "declined a final modification of her mortgage." Here is the only problem: She hadn't. And her mortgage servicer had no record of a conversation or correspondence with her. They had simply marked the file as closed.

Tecora is lucky enough to be working with a wonderful nonprofit in Minneapolis, Twin Cities Habitat for Humanity. They are helping her to fight this mistake. But they have been working on this since March, and the government resources that are available

are not very helpful. In the meantime, Tecora is constantly worried that she may lose her home because her mortgage servicer made a mistake.

Or take Barbara, a homeowner from Minneapolis who fell behind on her mortgage payments because her husband was laid off and her son got cancer, racking up huge medical bills. Talk about someone who might lose their home through no fault of her own. Her mortgage servicer claimed she was not eligible for final mortgage modification, using incorrect information about her financial situation. When she pointed out there was a problem, her servicer told her there was nothing they could do because "once you have been denied for HAMP, you can't be eligible again."

Barbara is fighting this, but someone from the government should have her back.

Yesterday I filed an amendment with Senator SNOWE and seven other colleagues to fix the HAMP appeals process. People at risk of losing their homes are going through enough already. They should not be stuck fighting over mistakes with their servicers without a guarantee that someone will be on their side. Our amendment would create an office of the homeowner advocate, modeled after the very successful Office of the Taxpayer Advocate within the IRS. The advocate's office would be an independent unit within Treasury, charged with helping homeowners, their housing lawyers, and their housing counselors to resolve problems with HAMP. The office would be temporary, lasting only as long as HAMP does. But while it exists, it would have a lot of authority to help homeowners and families around the country. For the first time, homeowners would be able to call an office in the government and know that someone with the authority to fix a problem is actually fighting for them.

Staff of this new advocate's office would be able to make sure that servicers obey the rules of HAMP or risk suffering consequences. Perhaps more importantly, opening a case with the advocate's office would delay a servicer's ability to sell a person's house, giving the office time to resolve the problem before it is too late. The director of the advocate's office would be someone who can truly fight for the rights of homeowners. He or she must have a background as an advocate for homeowners and cannot have worked for either a mortgage servicer or the Treasury Department in the last 4 years. The director will also be able to help those of us in Congress understand what is going on in HAMP. Because the office can collect data about the kinds of complaints and appeals that come in, the director will be in a good place to know what kinds of changes, both administrative and legislative, need to be made to the program and can de-

scribe them to the Treasury Department and to Congress.

Once a year the director will issue a formal report laying out in detail all the problems people have had with HAMP and how they can be resolved and the way such problems could be prevented or better resolved in the future.

I know many of my colleagues on both sides of the aisle are understandably worried about the deficit. I want to be clear about one thing: This amendment includes no new appropriations. The advocate's office will be funded with existing money that is set aside for HAMP administrative costs.

I am pleased to say that our amendment is supported by the Treasury Department itself. In fact, yesterday it was featured on the White House's blog as one of "The Good Guys," 10 simple, straightforward amendments that would strengthen the already good Wall Street reform bill. It is a good guy, this thing.

My amendment is also supported by a large number of groups, including Americans for Financial Reform, the Center for Responsible Lending, National Consumer Law Center, the Leadership Conference on Civil and Human Rights, Consumers Union, Consumer Federation of America, the Service Employees International Union, and National Council of La Raza. I am particularly pleased to say that the amendment is also supported by several of the most important housing groups in my home State of Minnesota.

The idea behind the advocate's office is simple, but the impact could be huge for all the people whom we are here to represent. Please join me in helping to ensure that HAMP actually works for families around the country. We owe it to Tecora and Barbara and to all the working families in our States and around the country.

I also rise to talk briefly about another amendment I am proposing to reform the credit rating industry. This industry is fraught with bad practices and perverse incentives. These incentives have produced inflated ratings which resulted in dangerous junk bonds getting AAA ratings and thus being eligible for public pension funds. In fact, the court ruled last week that a suit on this issue brought by CalPERS, the California public employee pension system, can now move forward. CalPERS represents nearly 1.5 million California public employees, including thousands of teachers and public safety officers. CalPERS has brought suit against the three biggest credit rating agencies—Moody's, Standard and Poor's, and Fitch. CalPERS states that the big three provided "wildly inaccurate and unreasonably high" ratings to products that ended up in their investment fund. When these structured finance products, including securitized subprime mortgages, tanked, CalPERS pension

fund lost almost \$1 billion. That is a loss of \$1 billion for California teachers, police officers, firefighters, and public servants from their health benefits and retirement plans.

CalPERS is not the only group to take action. Private suits have been filed in New York and the attorneys general of Connecticut and Ohio have brought suit against the rating agencies on behalf of the people of their States. Ohio Attorney General Richard Cordray filed suit last fall on behalf of five Ohio public employee retirement and pension funds. Cordray said:

The rating agencies assured our employee public pension funds that many of these mortgage-backed securities had the highest ratings and the lowest risk. But they sold their professional objectivity and integrity to the highest bidder. The rating agencies' total disregard for the life's work of ordinary Ohioans caused the collapse of our housing and credit markets and is at the heart of what is wrong with Wall Street today. The inflated ratings cost middle class families in Ohio nearly half a billion dollars in retirement funds.

But this problem is not limited to California and Ohio and New York. It has affected my home State of Minnesota. It has affected the Presiding Officer's home State of Virginia. It has affected every State in this Nation.

By now, I hope colleagues have heard the details of my amendment to reform the credit rating system. It would limit the pay-to-play model currently used in the credit rating industry. The amendment calls for an independent board to develop an assignment system to match the issuers of complex financial products with a qualified rating agency to provide the product's initial rating. This system would apply only to initial ratings. Issuers could seek a second or third rating from whichever credit rater they prefer. But the initial rating would put a check on any subsequent rater which would be disinclined to provide an inflated pie-in-the-sky rating to a junk product.

By providing for an assignment process, the conflicts of interest driving the system will be eliminated, and the assignment process will allow smaller rating agencies that are performing well to get more business and rating agencies performing poorly to get less. This will hold rating agencies accountable for their work. It will incentivize accuracy and increase competition.

I know many of you agree with me, and the list of cosponsors on this amendment is growing. Most recently, I was particularly pleased to have Senator WICKER join our effort. Of course, I am deeply grateful for the leadership of Senators SCHUMER and NELSON and the support of Senators WHITEHOUSE, BROWN, MURRAY, BINGAMAN, MERKLEY, LAUTENBERG, SHAHEEN, and CASEY. Restoring integrity to the credit rating system will provide real protection for working Americans.

Working people such as Tecora and Barbara are still reeling from the effects of this recession. Our unemployment rate still hangs near 10 percent. Working Americans together have lost nearly \$4 trillion in the value of their homes and about \$3 trillion in the loss of their retirement savings during this economic crisis.

The Wall Street reform bill before us goes a long way to prevent this from ever happening again. But there are a few places where it can be improved. I hope my amendment creating the Office of the Homeowner Advocate will help struggling Americans keep their homes. My amendment calling for an overhaul of the credit rating agency industry will protect millions of Americans from unprecedented losses in their supposedly safe retirement investments. I ask my colleagues for their support on both of these critical amendments.

Mr. President, I yield the floor.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have sought recognition to talk about three amendments pending on the legislation to reform Wall Street. I begin by noting the spirit of bipartisanship which is present on this issue, and I think it is a very important sign. There is too little bipartisanship in this body, and from my travels through my State and elsewhere, I believe the American people are fed up—really sick and tired—with the kind of bickering which is present in the Senate. It took a lot of public pressure and an obvious, great, and serious problem to bring about this bipartisanship. But it is very important that it be present in our efforts to reform Wall Street, and I hope it will be a sign of things to come.

Some time ago, I introduced a bill which would change the decision of the Supreme Court of the United States which held that aiders and abettors were not liable under the Securities Act. I have taken that bill and have submitted it as an amendment with quite a number of cosponsors. It is amendment No. 3776, to allow suits against aiders and abettors of Wall Street fraud, cosponsored by Senators REED, KAUFMAN, DURBIN, HARKIN, LEAHY, LEVIN, MENENDEZ, WHITEHOUSE, FRANKEN, FEINGOLD, and MERKLEY.

Prior to the decision of the Supreme Court of the United States in *Central Bank*, back in 1994, supplemented by the *Stoneridge Investment Partners* decision, the law was that aiders and

abettors were civilly liable for damages. It is a very odd circumstance that aiders and abettors remain liable under the criminal law but are not liable under civil law, and this amendment would reinstate the civil liability for aiders and abettors. It is narrowly drawn to apply only to individuals who knowingly provide substantial assistance to the primary violator. But where you have a stock offering and you have many parties who are working with the principal offerer, the offerer can only carry out the fraud with the assistance of quite a number of people.

This amendment will reinstate what had been the law prior to the Supreme Court decisions I just mentioned. I think it is worth noting that Senator SHELBY had introduced similar legislation back in 2002.

The second amendment I wish to discuss briefly is amendment No. 3794, submitted by Senators LEAHY, GRASSLEY, KAUFMAN, and myself, which would direct the Sentencing Commission to review and amend the sentencing guidelines for securities and financial institutions which engage in fraud, and the guidelines should reflect the intent of Congress that penalties for those offenses should be increased.

Earlier this week, on Tuesday, the criminal law subcommittee held a hearing attended by quite a number of very experienced people in the securities field and in criminology. The predominant view was, where you have a fine imposed, it is not a deterrent at all. It is insufficient as punishment for the perpetrator, but it is insufficient for the gravity of the offense. A fine is simply incorporated as part of the cost of doing business, passed on to consumers.

The provision for a jail sentence would be an effective deterrent. I base my own view on this subject from my experience as district attorney of Philadelphia, where I convicted many white-collar criminals and corrupt political figures, such as the chairman of the Philadelphia Housing Authority, the deputy commissioner of licenses and inspection, the stadium coordinator—to name only a few.

If the perpetrators of fraud know they are going to be going to jail, it will have quite a different impact on their own conduct. One of the witnesses testified to a celebrated case where an individual was fined \$50 million and was willing to pay that but said, simultaneously with the payment of the fine, if he had been charged criminally, he would have fought it tooth and nail because of the concern about going to jail.

The third amendment I wish to discuss is amendment No. 3806, which provides that there should be a fiduciary duty for broker-dealers to avoid conflicts of interest in investments and make such violations a Federal crime.

In the SEC complaint against Goldman Sachs, the gravamen was—and I acknowledge and am explicit that these are only allegations—that the package of mortgages was put together and then was broken up into securities, and an individual who was involved in putting the package together, knowing the details, immediately hedged and sold short. That means he bet against those securities. He thought they would go down.

It is my view that the people who put that transaction together have a fiduciary duty to tell the investors—even institutional investors—as to exactly what is going on; that they should know somebody is simultaneously saying their professional judgment is that the value is going to go down.

DON'T GIVE MIRANDA WARNINGS TO SUSPECTED TERRORISTS

Mr. President, recently Attorney General Holder testified before the Judiciary Committee in our periodic oversight proceedings and testified that it was the policy of the Department of Justice to handle the interrogation of suspects in terrorism cases on a case-by-case basis. It is my view, which I expressed at the time I questioned Attorney General Holder, that that ought not to be the policy of the Department of Justice; that the policy of the Department of Justice ought to be not to give Miranda warnings to people who are suspected of terrorism.

The Miranda warnings coming out of the decision handed down by the Supreme Court of the United States in 1966—and I recall it well. I was in my first year as district attorney in Philadelphia at the time, and it was quite a jolt to the criminal justice system that my office prepared the details to have a card for the police officers by the end of the week, because they interrogate a great many suspects. But the Miranda warnings require the interrogator to advise an individual that he has the right to remain silent; secondly, that anything he says can and will be used against him; third, that he has the right to an attorney, and that if he wants to stop answering questions at any time in the sequence, he can.

When a suspect in a terrorism case is being questioned, there are issues which are much more important than the conviction of that individual. The important thing is to gain information, find out who may be involved, and gather intelligence to prevent future acts of terrorists. I saw this in some detail during my tenure as chairman of the Intelligence Committee back in the 104th Congress. The recent apprehension of the Times Square bomber, who had the bomb positioned to blow up in Times Square and injure many people is illustrative, and the information he gave without Miranda warnings. He was Mirandized, as I understand it from the media reports at some point, but the information he has given has

been very valuable in linking possible coconspirators to the Taliban in Pakistan.

It is not widely understood, but the only consequence of not giving Miranda warnings is that any statements made by the suspect may not be introduced in a criminal trial in a U.S. court. But in the case of the Times Square bomber, as in the case of the Christmas bomber, there was sufficient evidence to move ahead with the convictions. But even if that were not so, the value of getting intelligence information vastly outweighs the interests of convicting the individual in that specific case. Even in that case, there is the potential alternative of being tried by a military commission where the Miranda rules do not apply. So it is my strong recommendation to the Department of Justice, as I had discussed it with Attorney General Holder, as I have communicated it to the FBI Director Bob Mueller, that the policy be changed so that it is not optional with an interrogator to make a decision on a case-by-case basis because the interrogator may make a mistake and decide that this is a case where the Miranda warnings ought to be given, and that may stop the individual from providing information.

Some of the Senators at our Judiciary Committee hearing were of the opinion that the chances of getting information were enhanced by giving the Miranda warnings, and I think that is not only counterintuitive—not what you would expect—but contrary to experience; that the likelihood of a person saying he won't talk if he is advised that he has a constitutional right not to, and then advised that he has a right to counsel, and then advised he will have counsel provided if he doesn't have counsel of his own, and once counsel are in the case, their obligation is to protect the interests of their client. That decision more likely than not will be to remain silent so the individual is not harmed with a potential criminal prosecution. I think the policy of the Department of Justice ought to be to have an absolute rule: No Miranda warnings in cases of persons suspected of terrorism.

There is some suggestion of legislation on this point. I think that raises constitutional issues of separation of power, and what ought to be done is the policy ought to be established now by the Department as an absolute rule not to give Miranda warnings to those suspected of terrorism.

I thank the Chair and yield the floor.  
The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Rhode Island.

Mr. REED. Mr. President, I take the floor today to talk about an amendment which I have been working on with Senator SCOTT BROWN of Massachusetts. I am very fortunate to have Senator BROWN's help, insight, and ad-

vice because of his extensive experience not only as a public servant but as a member of the Massachusetts National Guard. As a lawyer, as a company commander, and as someone who has served in various capacities within the Guard, SCOTT BROWN knows from firsthand experience that young troops particularly, men and women of our Armed Forces, can be exploited by unscrupulous business practices, and that it is essential when we create a Consumer Financial Protection Agency that there be a particular and explicit liaison for military issues.

Many of these young men and women are not in their home towns. In the context of today's operations, they are returning from duty in Iraq or Afghanistan. They have not been spending a lot of money in Afghanistan because there is not a lot to buy, and they come home and they want to buy a new car or they want to do something, and they can be exploited. That exploitation is particularly hard to bear when it is at the expense of a young person who is risking their life in service to his country.

Senator BROWN and I are working on a joint amendment which would create an office of military liaison within the Consumer Financial Protection Bureau. The office would educate and empower servicemembers and their families to make better and more informed decisions, and it would work closely with existing personnel with the Department of Defense and the particular services so there is not only a place to go with a complaint, but also proactive information to avoid some of these missteps.

It would help monitor and respond to complaints by servicemembers and their families, and it would also coordinate efforts among Federal and State agencies, and that I think is absolutely critical. You have local insurance regulators, you have local attorneys general, you have the Better Business Bureau, you have the Department of Defense offices. We have all of these things, but often, particularly for a young soldier, where to go and get comprehensive one-stop help is hard to figure out. Many times they will approach an office and they will be told, well, you have a good case but we don't do that, and they are sent away. Given the time and commitment they have to devote to their service, this is another burden they have to bear, and we hope we can reduce this burden.

Senator BROWN and I are working to develop the details of this office. I think it is absolutely necessary.

We have looked at—and I have been looking at this problem for years now, and communicating with the Department of Defense, Secretary Gates, and others at the Department of the Treasury about how to protect better our service men and women. We think this initiative will help us in that regard.

The Department of Defense and the Government Accountability Office have found that servicemembers are particularly vulnerable to expensive and often abusive products. I will take off my Senate hat and put on my old company commander hat in a paratrooper company. You have 18- and 19-year-old men and women. They receive an enlistment bonus of sometimes \$20,000. They don't have a home. They have bought the most expensive stereo equipment they already can buy. What they are looking for is something they can call their own, and usually that is a big, expensive car or truck. When they walk in the door, I think some of these dealers are aware of their vulnerability: lack of information, the short time they are back from an overseas deployment, the time before they are moving on to a deployment. So they are vulnerable. They are also vulnerable in another sense, not just with respect to products but there are so many families now where one of the spouses is in the military and the other spouse is in the military, and that other spouse is deployed overseas. So you have a member of the U.S. military with children, with a father or mother overseas, and they are struggling. Even with the pay they receive at the end of the month, it is a tough go. They are looking for good deals. There are too many people out there who are looking for people who are vulnerable to good deals. That is the reality today in the military. It is a different military force in terms of Operation TEMPO where I served where you were rather stabilized in one area for 3 years at least and then moved to another. Now you have families where the husband returns and 3 months later the wife deploys. That is a huge burden on the children, but it creates a kind of uncertainty and turmoil where financial problems are much more likely to occur. That is another factor of vulnerability, and we have to recognize that.

We also understand too that some of the more unscrupulous operators out there know these soldiers are getting steady paychecks, but they might not last all the way through the month. So they are a good sort of subject for some of these ploys. They have steady pay. You can go after them legally to try to attempt to do something, subject to the Servicemembers Civil Service Relief Act and all the other laws we try to protect them with. This is a target population in some respects, I hesitate to say, but unfortunately I think it is true.

The Under Secretary of Defense Clifford Stanley, who has been charged to be the champion for quality of life for protecting service families, has stated recently: "The personal financial readiness of our troops and families equates to mission readiness." He reports that 72 percent of military financial counselors surveyed—these are



the individuals at DOT, all the personnel whose job is to talk to troops about their well-being—72 percent surveyed had counseled servicemembers on auto lending abuses in the past 6 months. So this is not an isolated incident in one part of the country; this is across the country, across the Department of Defense, and that is a significant situation.

It is not just auto abuses. Payday loans, for example. As I said, anybody who is working around a military base knows that come the end of the month, that paycheck will probably be deposited into the checking account, so that is a good bet to lend money to. But the interest rates they are lending at, sometimes the APR is up to 800 to 900 percent. That is staggering. But they are doing it, and they are doing it to young soldiers who have their heads, some of them, looking forward to a deployment. Some of them have not even gotten over the last deployment, and we have to be conscious of that.

Rent-to-own loans. This is where you go to a shop and you say I would like to rent a TV for 30 days because you am deploying in 45 days. Then you don't deploy so you keep it, and in some cases you end up paying two to three times the retail price of the appliance. At least individual soldiers have to be informed of those practices and know about it. We have to be sure they are getting that information.

Refund anticipation loan is a classic. You are going to get your tax refund and if you let us give you a loan right now, we will take that tax refund. These turn out in some cases to have APRs reaching as high as 250 percent as you are borrowing against your prospective tax refund.

Automobile title pawns. Short-term loans are given to soldiers—and again, as a company commander, I never—well, let me see. It was more common to see a soldier in debt than to see a soldier investing in bonds and safe investments. It is the nature of being 18 years old, with some money and the feeling that you have to spend it. But automobile title pawns, short-term loans with very high interest rates to give the title of their car to the lender as collateral. Again, the whole notion to some youngsters in the military about what is a title, what is collateral, when they are looking at \$2,000 or \$3,000 on the table, that is only details. But when the time comes to pay the loan, they don't, and they lose their \$25,000, \$30,000 car or truck, and then it is a reality.

I think we have to be conscious of this. All of this is compelling in the abstract. It becomes even more compelling when you listen to the stories of individual soldiers.

Three years ago, Army SPC Jennifer Howard bought a car while she was stationed at Fort Riley, KS. As it turns out, the dealership that arranged her

financing charged her for features on the car that she never got, such as a Moon roof and alloy wheels. You may say to yourself, how could anybody be so gullible? If you are a young soldier who just got back or is getting ready to go and you look at a shiny car and you know you didn't order the alloy wheels and Moon roof but you are not going to take time checking the manifest to see what you are charged with—that has been my experience. A dealer should know that, but apparently, in this case, they charged her anyway.

She says:

The dealership knows that we're busy, we're tired. We don't take the time, because we don't have a lot of time. It's like get in, get out, do what we got to do. If we get taken advantage of later we'll deal with it then.

SGT Diann Traina bought her car from a dealership that didn't actually own it. When it was repossessed, she was stuck with a \$10,000 bill. She said:

Trying to concentrate on my job and the mission in Iraq and then trying to figure out stuff that's going on at home, it was really stressful.

She goes on to say:

If there's some type of regulation or agency that's out there to back you up, you know who to go to to complain about somebody if you're experiencing a problem.

That is what we want to do—coordinate these activities through a military liaison at a consumer financial protection agency. We want to do that because it is the right thing to do and because if we cannot protect the men and women who are protecting us, then we have to ask seriously whether we are doing our job. I know they are doing their job.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I understand that today is set aside just for debate on amendments and on the bill. I certainly understand that, and I, accordingly, will not call up my amendment today.

I do want to talk about an amendment I have filed—amendment No. 3892—so that I can put my colleagues on notice about this amendment and the importance of it. This amendment has a straightforward goal. It is to protect the existing legal structures that ensure that electricity and natural gas rates consumers pay will continue to be just and reasonable and free from manipulation.

I am joined in the amendment by a strong bipartisan group of cosponsors, Senators who, like me, have worked hard over the years to strengthen consumer protections in this area of electricity and natural gas, who have worked cooperatively with me and others on the Energy Policy Act of 2005 to close the so-called Enron loophole.

I want to particularly express my appreciation to Senator MURKOWSKI, who

is ranking member on the Energy Committee that I am privileged to chair; Senator REID of Nevada, who is cosponsoring the amendment, and Senators BROWNBACK, CANTWELL, CORNYN, WYDEN, and CORKER. All of these Senators have cosponsored the amendment we filed last night. I am grateful for their support and the hard work of their staffs in developing the amendment.

The bill currently before the Senate has several important objectives. It improves accountability in the financial system. It provides much needed protections for American consumers of financial services. It also expands the scope of the Commodity Futures Trading Commission's authority with respect to regulating commodity markets. I support all of these objectives. I am very glad to see them included in this bill.

However, I believe a small but vital addition to the bill is needed to ensure that America's consumers of energy products are adequately protected, and that is the issue the amendment I am discussing addresses.

We need to be sure that both under existing law and under the expanded authority being given to the Commodity Futures Trading Commission in this bill, there is no compromise of the role the Federal Energy Regulatory Commission is expected to perform and the role our State public utility commissions are expected to perform to regulate rates and terms with respect to electricity and natural gas markets.

Without this amendment, the bill before us could inadvertently prevent those agencies from exercising their authority and their responsibility to ensure just and reasonable rates for electricity and natural gas consumers. Without this amendment, the Federal Energy Regulatory Commission's ability to exercise antimanipulation authority could be called into question. These are enforcement tools to protect consumers. Congress granted them to the FERC in 2005 as a direct response to Enron's manipulation of markets in California and the West.

The amendment offers a solution that I believe is consistent with the philosophy of consumer protection that underlies other parts of the bill before us. The effect is simple: The amendment preserves the authority of both FERC and the States to ensure that electricity and natural gas rates are just and reasonable. Direct examination of prices is central to each of those agency's mission. In FERC's case, this authority is longstanding; it was established over 70 years ago.

Without this amendment, a critical check on energy prices may be lost. That is true for two connected reasons:

First, the CFTC's so-called "exclusive jurisdiction," which is in the Commodity Exchange Act, could be interpreted to operate to prevent FERC and



State public utility commissions from acting where their jurisdictions intersect the Commodity Futures Trading Commission's jurisdiction.

Second, the CFTC's regulatory mission differs significantly from that of the FERC and from that of the State public utility commissions. The CFTC's mission is to protect market participants and to promote fair and orderly trading on those markets. It doesn't directly examine commodity prices in these markets. It does not consider the reasonableness of rates charged to consumers.

While properly functioning futures markets are important, the Commodity Futures Trading Commission cannot and does not have the authority or responsibility to provide protections that are provided by the Federal Energy Regulatory Commission and the State public utility commissions under their respective authority.

As I have said, I support the bill generally. I believe it is essential to ensuring that consumers are protected. However, both I and my cosponsors on the amendment strongly believe it is necessary to preserve existing consumer protections that may otherwise be lost.

It is a simple, straightforward, tailored amendment that does not create loopholes in jurisdiction. It does nothing to diminish the ability of the CFTC to regulate commodity exchanges such as NYMEX or to require public disclosure of swaps or any other authority they have to regulate the mechanics of commodity markets, including those that trade energy commodities.

Once again, I thank my cosponsors for working to develop this amendment. I urge my colleagues to support the amendment. At the appropriate time, I will seek to call the amendment up and have it voted on by the Senate.

Seeing no other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EMERGENCY SUPPLEMENTAL FUNDING

Mr. WHITEHOUSE. Mr. President, I wish to speak on a couple of subjects. The first is to express my regret that the supplemental funding to help Rhode Island in the wake of its unprecedented, historic flooding was stopped on the floor today by a Republican objection. I would have hoped that when a true emergency happened in somebody's home State, with a Presidential disaster declaration, and Senators were working to remedy that, the traditional deference for emergency spending would be appropriate.

Senator REED, as the senior Senator and a member of the Appropriations

Committee, is the leader on this issue. He and I will continue to work to get this done for Rhode Island. It is regrettable that conditions on the Senate floor are such that emergency spending—while we still have people out of their homes, flood damage, unprecedented in Rhode Island's history—is not something on which we simply could have agreed.

There are floods in other States, and I assume similar rules will apply when they come forward.

#### EXORBITANT INTEREST RATES

The second issue I wish to mention, since I see the distinguished chairman of the Banking Committee, is I continue to hope for and argue for the amendment I have proposed that will do something very helpful for something that bedevils constituents in every single one of our States, which is exorbitant, ridiculous interest rates.

Every day in the mail in every one of our States people are opening offerings from the big credit card companies; proposals that, particularly when certain tricks or traps are triggered, kick them into 30 percent or higher interest rates.

It was not too long ago in all of our lifetimes that a solicitation such as that would have been a matter to bring to the attention of the authorities in our States because it would have been illegal under State law to charge that kind of reprehensible interest rate.

We as a Congress never decided we were going to overrule all those State laws; State laws that have existed since the founding of the Republic, a tradition of interest rate regulation that in our culture goes back to the Code of Hammurabi, goes back to Roman law. We never decided as a Congress: Oh, we are not going to allow States to protect their consumers any longer, protect their citizens any longer against exorbitant interest rates.

It happened in a strange, backhanded, almost inadvertent way. It began with a statute in 1863 that said a transaction was governed by law based on where it was located. In 1863, there was not a lot of interstate banking. So there did not need to be a lot of discussion about what "located" meant. But by 1978, interstate banking was fairly common. The question came to the Supreme Court, what that word "located" in that Civil War statute meant.

In a very unheralded decision at the time, a decision that did not appear to be of any significant consequence, the U.S. Supreme Court said: If you have a bank located in one State and a consumer located in another State, the law is going to be the State of the bank. It had to be one or the other. They chose the State of the bank. The Marquette decision it was called. It involved the Presiding Officer's State, Minnesota. The decision said it is going to be the bank.

It did not seem very controversial. Why not? The problem was that the banking industry began to figure out that there was a loophole. They began to figure out if they could go to the States with the worst consumer protection laws in the country or if they could go to a friendly Governor and say: Hey, I will make you a deal; you clear out your consumer protection laws, and we will come and we will locate a big, high-rise business full of call center people in your State—from that State, they could operate nationally.

Because of this funny 1978 decision from an 1863 law, bit by bit all of the constitutional Federalist States rights protections, where sovereign States have the right to protect their own citizens against outrageous and exorbitant interest rates, became ineffectual. We never decided that as a Congress. If we had that debate, I will venture that it would have gone the other way. It would be preposterous for us as a Congress to look out across America and say: OK, we are going to pass a law that says that the worst State for consumer protection regulation is going to be the State that governs. Obviously, it would create a race to the bottom. Obviously, it would completely disenfranchise home States trying to protect their own citizens from States a country away that, frankly, couldn't care less.

A Rhode Island consumer being victimized is not the problem of the State of South Dakota. It just is not. We would never have passed that law. It would have been an outrageous law to have passed. Yet because of this funny, quirky Supreme Court decision, that is the way the law in practice developed because smart bank lawyers figured out this trick and have taken advantage of it.

It is not just consumers who are getting clobbered as a result. It is also unfair to local banks. A Rhode Island bank is under Rhode Island interest rate laws. But an out-of-State bank, the big Wall Street banks with their big credit card subsidiaries, can play by their own rules, by the worst rules in the country. A Rhode Island bank, a Connecticut bank, a Minnesota bank—they have to play by local rules. It is not fair to local lenders to have this discrepancy, because it is bad for consumers, because consumers all across this country are paying interest rates now that would have been illegal just two or three decades ago, because it is anticompetitive, because it allows the biggest banks to compete unfairly against local community banks, Main Street banks, disadvantaged against these big Wall Street monsters because nobody in Congress ever made a decision nor would we have made a decision that this was OK. It is time we closed this loophole.

I look forward to when we return to have the chance to get a vote on that

amendment. I very much hope it will be a bipartisan vote because the principles that the Republican Party has espoused about local control, States rights, protecting local institutions against big, out-of-State national entities, federalism, and our common interests across this floor in consumer protection all suggest that it is the kind of thing that should not divide us Republican against Democrat. This is closing a loophole that never should have existed, that we never would have voted for if we had the chance to vote for it, and that has resulted in immense harm to the public of all of our States as a result of these exorbitant interest rates.

As I said, the interest rate solicitation that is landing in Minnesota today, that is landing in Connecticut today, and that is landing in Rhode Island today would have been a matter to bring to the authorities but for this loophole.

#### NOMINATIONS

The final issue I wish to talk about—I guess every Member on the other side of the aisle has left town, so there is no Republican in Washington, DC, to come and object to the unanimous consent request I would like to offer for the stalled nominees.

There are now over 100 names on the Executive Calendar, which is the list of everybody who is pending awaiting confirmation by the Senate. At a similar time in President Bush's administration, the number was 20. Those numbers do go up and down, as our Republican friends have said. But just a few days ago, the number was over 80, and the number at the equivalent time in President Bush's administration was 8.

There is a clear, systemic attack on the Obama administration's ability to staff its administration and, thus, govern. What is enabling it is the fact that you do not have to have a reason to oppose a nominee. Why don't you have to have a reason? You don't have to have a reason because you can do it secretly. Nobody even knows that it is you opposing the nominee. If you want to have a systemic attack on a President's ability to govern, what a good thing a secret hold on the President's nominees is.

It has always been around, but it has been abused to a point where we need to be rid of it. We need to be rid of it. The right of a Senator to hold a nominee should be protected, but that Senator should have to stand and say that they are doing it. If they do not have a good enough reason to hold a nominee that they are willing to stand up and disclose it, then that is, frankly, not a legitimate hold. The secret holds have to end.

The situation we are in right now, because there is a Senate rule on point, is that the list of nominees has been read through. Great credit is due Senator MCCASKILL who has read through

the bulk of these—76 of them I think she has been through in the first round. We asked for unanimous consent on all those nominees. We received objections. I received an objection on a nominee that I asked for from a Senator who had voted for that nominee in committee. He voted for the nominee in committee but came to the floor and objected. The nominee had cleared the Judiciary Committee with zero opposition, and yet on the floor, held and held and held, anonymously—secretly.

Under the Senate rules, when you have asked for unanimous consent and you have had that objection, you have 6 days to come clean on your hold. Do you know how many Republican Senators followed that rule? One did. One did. Senator COBURN of Oklahoma disclosed he had been holding six or seven appointees. That still leaves 100 on the Senate floor right now on the Executive Calendar.

We began early this morning calling them up to see if those holds were still there because after 6 days, you are either supposed to have disclosed it or relinquished it. Sure enough, we kept on getting objection and objection and objection.

So only two things can be true: Either they are just flagrantly violating the rule—what are we going to do? There is no enforcement mechanism built into the rule. They are just saying: Make us follow the rule. You can't make us, so we are not going to follow it. We know it is a rule—we voted for it, and it passed with enormous bipartisan support. It is a rule of the Senate, but we just choose not to follow it because we get too much advantage out of secret holds. Senate rules don't really apply to us unless you can make us follow them.

That is a sad place for the Senate to be, if that is where we are on this issue. But there are only two alternatives. The other one is that they still have holds, but it is not a hold by the same Senator who had the hold when the unanimous consent was asked for and, therefore, he has, under the rule, relinquished his hold. But what he has done is gone and found another Senator and gotten that other Senator to take up the hold for him. That has been called a couple of things on the Senate floor. It has been called the hold switcheroo.

For those of us who are prosecutors, it looks a lot like money laundering. It is hold laundering. The person who has the real principal and interest with the hold has gotten someone else to aid and abet their scheme to interrupt the process of nominations and to violate the rules by taking on the hold for them and allowing them to dodge the rule. That is not a great way of doing business either.

So whether we have a direct and outright willful violation of the Senate rules—massive violation of the Senate rules—or a scheme to hold-laundry—to

get people to aid and abet you in your secret hold and dodge the rule that way—neither is a great situation. So we need to fix the rules so this cannot continue. But it is a sad reflection on the use of the secret hold that we are in a circumstance now where the only two possible sets of facts are those two. It just plain isn't right.

If you are here as a Senator, you should follow the rules of the Senate. If you are not prepared to do that, find something else to do. There are plenty of people who would love to serve here. To find another Senator to put a sham hold in to protect your hold so that you can dodge this rule is, frankly, unscrupulous. That is something that, if you could figure out who it was and you could get them in front of a jury and make that case, oh boy. But we don't have the enforcement mechanism. So we have to continue.

But let me tell you who I was going to be asking for. There are two judges for the Fourth Circuit, Albert Diaz and James Wynn. They are a Republican and a Democrat. They are paired for appointment. They cleared the Judiciary Committee with only one opposing vote. One was unanimous and the other was everybody but one. They have been on the calendar now for weeks, and I would like to ask unanimous consent, but I am informed that because there are no Senate Republicans in Washington I am unable to do that right now. But they have been on the calendar for many weeks and there is no reason for them not to be confirmed.

The following judicial candidates, or nominees for a judgeship, are also pending: Jon E. DeGuilo to be a U.S. district judge for the Northern District of Indiana; Audrey Goldstein Fleissig to be a U.S. district judge for the Eastern District of Missouri; Lucy Haeran Koh to be a U.S. district judge for the Northern District of California; Tanya Walton Pratt to be a U.S. district judge for the Southern District of Indiana; Jane E. Magnus-Stinson to be a U.S. district judge for the Southern District of Indiana; Brian Anthony Jackson to be a U.S. district judge for the Middle District of Louisiana; Elizabeth Erny Foote to be a U.S. district judge for the Western District of Louisiana; Mark A. Goldsmith to be a U.S. district judge for the Eastern District of Michigan; Marc T. Treadwill to be a U.S. district judge for the Middle District of Georgia; Josephine Staton Tucker to be a U.S. district judge for the Central District of California; Gary Scott Feinerman to be a U.S. district judge for the Northern District of Illinois; and Sharon Johnson Coleman to be a U.S. district judge for the Northern District of Illinois.

All of these candidates are waiting. They are on the calendar, all pending, all cleared with either unanimous or very strong votes out of the Judiciary Committee, and all blocked. Yet I believe all are supported by Republican

Senators from their home States. These are all district judges.

This is a judge who sits in a local district within a State. These are not people who are setting national policy. These are people who are handling local trials, local motions practice, local Federal court litigation.

If you have the support of your two home Senators, and if you have cleared the Judiciary Committee, that ought to be pretty simple. That ought to be pretty simple. But they are being held, and they are being held for a reason. They are being held because, if the Republicans can force the Democrats to burn floor time, it takes floor time away from the work we need to do to rebuild our economy. It takes floor time away from the work we need to do to clean up Wall Street. It takes floor time away from the bills we need to pass to fund our troops overseas. It takes floor time away from our ability to do the work of governing. It is obstruction, pure and simple.

Because there are only so many hours in a day, there are only so many days in a week, and only so many weeks in a month, it is a zero sum game. You take time and make us spend it on these judges, and it is time we can't spend on floor work on the necessary legislation we have to get through. That is why we see these strange votes where we have cloture demanded and all that procedure; and then when the vote is finally taken we have 98 to 0 or where we have had 100 to 0. Why go through all that trouble when we end on a vote of 98 to 0 or 100 to 0? It is because there are ulterior motives. It is to burn the floor time of the Senate and to give the leader less and less time to accomplish the things that we need to accomplish.

So I can go through many other names, but I will not do that now. I will await the return of a Republican Member of the Senate to Washington so that somebody can be on the floor of the Senate to either object or not object to these nominees. I would hope at this point that we will find they do not object. That would be consistent with the rule.

If they have been on the calendar this long, if they have had their unanimous consent objected to, if the 6 days have run and if nobody has come up and actually said they have a hold on that person, then a unanimous consent ought to pass. Under the rule, a unanimous consent ought to pass. If it doesn't, it is a sign that they are either flatout violating the rule or that they have done this hold laundering scheme with a colleague to dodge out from under the rule. I think neither is credible and we need to work our way through this process. So on the next possible occasion, I will be doing that.

I thank the Presiding Officer for his courtesy and his time. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MOTHER'S DAY

Mr. BYRD. Mr. President, this Sunday, May 9, is Mothers Day in the United States.

Many European nations have long observed "Mothering Sundays," which are also part of the liturgical calendar in several Christian denominations. Catholics observe Laetare Sunday, the fourth Sunday in Lent, in honor of the Virgin Mary and the "mother" church. Some historians believe the tradition of sending flowers on Mothers Day grew out of the practice of allowing children who worked in large houses that day off to visit their families. The children would pick wildflowers to take to their mothers on their way home for the visit. The ancient Greeks celebrated the Vernal Equinox with a springtime festival devoted to Cybele, a mother of many Greek gods. The ancient Romans dedicated the March holiday Matronalia to Juno, mother of the gods, and gave gifts to mothers on that day.

In the United States, the origins of Mothers Day are rooted deep in the West Virginia hills. Anna Jarvis, the daughter of Ann Maria Reeves Jarvis, was born in Webster, WV, on May 1, 1864. Her family moved to Grafton during her childhood. On May 12, 1907, 2 years after her mother's death, Anna Jarvis held a memorial service to honor her mother's memory. From that small event began Anna Jarvis' eventually successful campaign to institute "Mothers Day" as a recognized U.S. holiday.

Today, the International Mother's Day Shrine, located in Grafton, continues to commemorate Anna Jarvis' accomplishment. Yet there are mothers who will not receive cards or flowers, or enjoy a Mothers Day brunch with their husbands and children. In Montcoal, WV, there are 29 families who are grieving the loss of sons, husbands, brothers, and friends. The Nation grieves with them, but that is little comfort for those mothers who will wake on the second Sunday in May to quiet houses and silent phones. Mothers

Day holds little comfort for the wives and mothers who must now get on with raising children and paying bills alone following this tragic event.

Mothers Day is a lonely day as well for the "Gold Star" mothers, wives and families of soldiers lost to battle in Iraq and Afghanistan. First used in World War I, service flags—a blue star on a white background, surrounded by a red border—are hung to signify that the family has a loved one overseas in harm's way. Should the awful news arrive that their loved one had lost his or her life, a gold star replaces the blue star, signaling the supreme sacrifice that has been made.

Miners' mothers and soldiers' mothers, as well as the mothers of anyone facing dangerous working conditions on a daily basis, know well the constant stress and tension of having a dearly loved child in harm's way. Every day is a long, silent, chanting prayer: "Please, God, keep my child safe and bring him home to me."

Tragedy reminds us just how much mothers care, and how much their children mean to them. This Mothers Day, we once again have an opportunity to thank our mothers for that loving care, and to thank all mothers for the great generosity of spirit that marks a caring mother.

#### TIMES SQUARE BOMBING ATTEMPT

Mr. REID. Mr. President, last week-end's close call is a wake-up call. The attempt to bomb New York City's Times Square should remind us both of the vigilance we must maintain to keep Americans safe, and the triviality of political fingerpointing.

I first want to once again thank the men and women who helped avert disaster—and saved untold lives—in one of America's most iconic and crowded spaces. The system in place appears to be working as designed: improved aviation security measures helped authorities apprehend the subject as he attempted to flee, and the suspect is now reportedly providing valuable information that could help disrupt and prevent future attacks. I am confident he and anyone else who contributed to this atrocious act will be held to account.

But I have been disappointed that some have tried to politicize this attempted attack on our homeland. Let's use this opportunity to pursue justice and make sure our law enforcement, military, and intelligence services have every tool they need to do their jobs. Let's also be sure we examine what worked and didn't so we can improve the system. But let's not mistake it as an opportunity to score political points or make baseless accusations that do nothing to ensure our citizens' safety.

A thwarted terrorist attack in the heart of our Nation's most populous

city reminds us that we have enough real enemies—we need not be our own.

Let's also put this latest incident in context: It follows a successful series of steps the administration has taken to protect us here at home.

We have disrupted numerous terrorism plots and prosecuted dozens of terrorist suspects, including the ring-leader of a plan to bomb New York City's subway system last year. Attorney General Holder called that plot "one of the most serious terrorist threats to our nation since September 11th, 2001." That attack never happened; we cannot know how many lives were saved, and our country is safer because of this administration's swift and smart leadership.

Our Nation is also prosecuting David Headley, who is accused of plotting with the Pakistani terrorist organization Lashkar-e-Taiba to launch the devastating terrorist attacks in Mumbai in 2008, as well as to carry out other plots in South Asia and Europe. Attorney General Holder has credited the criminal justice system for achieving both a guilty plea and valuable intelligence about terrorist activities from Headley.

And earlier this year, the FBI disrupted an international network of extremists operating through the Internet to plot attacks, raise funding for terrorism and recruit new terrorists. Two Americans—Colleen LaRose and Jamie Paulin-Ramirez, also known as Jihad Jane and Jihad Jamie—were arrested along with six foreign co-conspirators. The two Americans will soon be tried in Federal court.

That's not all. We have also enhanced intelligence sharing, strengthened aviation security and boosted human-intelligence collection capabilities. We have fully implemented the 9/11 Commission's recommendations. And we have significantly increased funding for the FBI, the Defense Department, the Department of Homeland Security and the intelligence community.

At the same time, we're keeping Americans safer at home by taking the fight to terrorists abroad. In recent months we have helped kill or capture the most wanted terrorist leaders across Iraq, southeast Asia, Africa and the Afghanistan-Pakistan region. We have disrupted al-Qaida's operations, finances and safe havens, and killed or captured more than half of its top 20 leaders. It is widely agreed that al-Qaida is the weakest it has been since 9/11.

We have also begun to reverse the Taliban's momentum in Afghanistan, in part by tripling the number of U.S. troops there. And we have strengthened our partnership with Pakistan, empowering it to mount major offensives against terrorists within its borders.

I am praising the administration's vigilance not because the President is a

Democrat. I am praising it because it is, by any objective measure, successful. America is as prepared as ever to defend against any threat, domestic or foreign.

If, as this past weekend showed us, private citizens, street vendors, law enforcement and intelligence officials can work together in everyone's best interest, I would expect U.S. Senators to be able to do the same.

#### COMMENDING CONGRESSMAN DAVID OBEY

Mr. FEINGOLD. Mr. President, we recently learned that DAVID OBEY, one of the longest serving Members of the other body, a friend, and a fellow member of the Wisconsin delegation, has decided to retire. To come here and try to sum up his record and accomplishments isn't easy to do; Congressman OBEY has achieved so much for Wisconsin, and for this Nation. He has been the dean of the Wisconsin delegation, the chairman of the House Appropriations Committee, and a national leader on many issues affecting hard-working families.

Congressman OBEY understood the concerns of the people of the 7th District of Wisconsin, and he has been their champion for more than 40 years. He and I are both so fortunate to represent this beautiful swath of Wisconsin's north woods, including the magnificent Apostle Islands. In fact, Congressman OBEY and I worked together to protect the Apostles, designating almost 80 percent of the Apostles as federally protected wilderness.

That was just one of many ways that Congressman OBEY and I worked together. Recently, we were also proud to come together to honor our friend, the late Gaylord Nelson, on the 40th anniversary of Earth Day. And through the years, I have had the chance to work with Congressman OBEY in areas where he has shown tremendous leadership, including advocating for veterans, farmers, and seniors.

Wisconsin veterans have a terrific ally in Congressman OBEY, who has stood up for better funding and facilities for our veterans time and again. I have been so pleased to work with him to open new veterans' health clinics, push for more vet centers, and fight for the best possible care for those men and women who have sacrificed so much for our country.

Congressman OBEY has also worked tirelessly on behalf of the farmers of our State. He has fought for country-of-origin labeling and other issues critical to ginseng farmers, worked for emergency appropriations funding for direct payments to help shore up the safety net for dairy farmers in tough times, and pushed to create, extend and improve the Milk Income Loss Contract, MILC, Program. Those are just a few of the many things he has done for

Wisconsin's farmers, and I was proud to join him in those efforts.

He is also a determined advocate for our seniors, and was a critical member of our effort to save the SeniorCare Program in both 2007 and 2009. Congressman OBEY also has a long and distinguished record on a host of other issues. He is committed to strengthening public education, improving our health care system, and a longtime advocate for political and congressional reforms.

There are so many things he has accomplished, and so many reasons he will be missed. I want to take this opportunity to recognize Congressman OBEY's outstanding service in the other body. I wish him all the best, and I thank him for his dedicated work for the people of Wisconsin and for every American.

#### RECOVERY OF SNOWBOARDER KEVIN PEARCE

Mr. LEAHY. Mr. President, Kevin Pearce has been recognized as one of the best athletes that Vermont has produced. Like all Vermonters, Marcelle and I hold him in our prayers and thoughts after a devastating snowboarding accident while preparing for the 2010 Winter Olympics.

We have heard reports from his parents, Simon and Pia, about his recovery and like all Vermonters, and so many other Americans, we are so thankful he is back home and progressing every day in his recovery.

I watched Kevin's interview with Tom Brokaw on "The Today Show" and he discussed how well he was doing with Tom. I also wanted my fellow Senators to see the article about him in The New York Times and ask unanimous consent to have printed in the RECORD that article at the completion of my remarks. I can only image how much Kevin enjoys being home with his parents and his brothers and how much we all appreciate his tremendous courage and abilities.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 3, 2010]

"NO PLACE LIKE THIS FOR SOOTHING CARE"

(By John Branch)

NORWICH, VT.—The renovated barn next to the family house was always one of Kevin Pearce's favorite places. There is a skateboard ramp out back and a giant recreation room inside, with three loftlike bedrooms above.

But Pearce, 22, did not move into the barn until he was a teenager, and soon he was off to snowboarding schools and then on the worldwide circuit. Home, and his room in the barn, became just somewhere to get away for a day or two.

Now it is the ultimate destination.

More than four months after sustaining a traumatic brain injury during a training accident, after missing the Olympics and living in hospitals in Utah and Colorado, Pearce has returned, indefinitely.

"It's the best thing ever," Pearce said Monday, sitting on a living room sofa while holding hands with his mother, Pia. Hand-written "welcome home" posters, balloons and streamers hung about the house. "There's nothing I could think of that's any better than coming back home."

And for a moment or two, it was easy to imagine that nothing extraordinary had happened to Kevin Pearce at all. He laughed with his family. He talked about snowboarding. He discussed the Olympics. He smiled, big as ever.

"Things feel very normal to me," Pearce said.

The past few months, much of which Pearce does not remember, have been anything but normal. On Dec. 31, Pearce, a rising rival to Shaun White who was expected to make the United States Olympic halfpipe team and compete for a medal, fell and hit his head (he was wearing a helmet) while practicing a trick in Park City, Utah.

A helicopter flew Pearce, unconscious, to the University of Utah Hospital in nearby Salt Lake City. The front half of his shoulder-length hair was shaved so the recesses of his brain could be drained of fluid. His family was summoned immediately. Painful questions about whether he would live slowly gave way to uneasy ones about how his life would be.

This is how, for now, Pearce walks without assistance, a little gingerly but sturdily enough to navigate the stairs to the familiar bedroom in the barn. He looks a little different now, too. His hair, after being shaved to one length, has grown back to the top of his ears. He wears bold, dark-rimmed Oakley Frogskin frames with prismlike lenses. The vision in each eye is fine, but the eyes themselves are a bit out of sync, not quite tracking together.

"My eyes are a little sketchy," he said. "But they're better than they used to be. They used to be scary blurry."

Pearce says he does not remember the accident. He does not remember much from the weeks before the injury, including Christmas at home. He remembers nothing after the injury until the first week of February, when he was flown from Utah to Craig Hospital, a brain and spinal cord rehabilitation center near Denver.

He does remember watching White win the Olympic gold medal. Scotty Lago, a good friend of Pearce's who had had far less big-event success, won bronze. It was tough, Pearce admitted.

But there is no memory of the moment when he learned just how severe his injury was.

"I never felt sorry for myself," Pearce said. "This is kind of what I signed up for when I started snowboarding."

He vows that he will snowboard again. "Obviously, I won't be doing all the things I was doing," Pearce said. "Hopefully, I can still do some of the tricks."

Pearce's promising comeback has not included a recalculation of his long-range ambitions. His family is consciously keeping him concentrated on the here and now.

"There is little use thinking about the past, what could have been, or what may be in the future," Simon Pearce, his father, said. "He has stayed focused on the present moment. And it feels like it is working."

For months, Pearce has undergone rehabilitation and therapy, both mental and physical, often for six or more hours a day. More recently, he went to a Denver-area gym, too, riding stationary bikes and playing basketball. He left only after making at

least 7 of 10 free throws. That sort of therapy will continue at Dartmouth-Hitchcock Medical Center in nearby Lebanon, N.H., and at a local athletic club. Pearce's rehabilitation continues to focus on vision, balance and memory.

Pearce cannot fully appreciate how far he has come, however often he watches videos that his family shot of him in the hospital in January. But his parents and three older brothers—Andrew (28), Adam (25) and David (24)—are still amazed.

That hit home when the traveling party—Kevin, Adam, their parents and their snowboarding friend Jack Mitrani—arrived at the airport in Boston. Pearce walked through the airport and carried his own bag.

They arrived at the family home about 9 p.m. Saturday. About 30 friends and family members greeted them with cheers, hugs and a few tears.

On Sunday, after a short hike up Gile Mountain, the family gathered for supper. It was a rare reunion. Simon and Pia generally alternated trips out West. Andrew, a manager for the glass-blowing company founded by Simon Pearce, went back and forth, too. Adam left his job as a snowboarding instructor in Utah and has barely left Kevin's side, even moving back to the barn. (Among other things, Adam provided updates on a get-well Facebook page for more than 48,000 fans.) David, who has Down syndrome and has long provided perspective and inspiration, mostly stayed in Vermont and worked for the family business.

But one horrific accident, and one celebratory homecoming, brought them together again.

"Sitting at the table, for me, was a big thing," Pia Pearce said. "'Wow, here we are, back at our round table, sitting together.'"

On Monday afternoon, everything seemed normal. Kevin Pearce, after taking a nap in his old bedroom in the barn, was sitting in the grass out front with the snowboarder Ellery Hollingsworth. The sun was shining. Pearce was smiling.

Yes, it was good to be home. Awfully good.

#### ADDITIONAL STATEMENTS

##### 50TH ANNIVERSARY OF THE DOSSIN GREAT LAKES MUSEUM

• Mr. LEVIN. Mr. President, I am delighted to recognize the Dossin Great Lakes Museum as it celebrates its 50th anniversary. This institution has graced the shores of Belle Isle, MI, since 1960, when the Dossin family generously helped to transform the deteriorating Maritime Museum into an enduring tribute to the Great Lakes. For 50 years, the Dossin Great Lakes Museum has offered visitors from across the state and beyond the opportunity to explore and experience firsthand much of our State's 300-year maritime narrative.

Michigan's rich history is inextricably linked to the Great Lakes. In fact, Michigan's name is derived from the Ojibwa word for "large water," a root that speaks to the lakes' defining influence on our State's evolution. The lakes are integral to Michigan's social, cultural, and economic character. Native American tribes established trade

routes through these inland seas, which European settlers, led by the French, relied on to develop a thriving fur trade beginning in the late 1600s. During the War of 1812, American and British soldiers fought to wrest control over these precious waterways. Today, the Great Lakes are a superhighway across which giant freighters glide. Some of these great ships have become the stuff of maritime legend, such as the famous *Edmund Fitzgerald*, whose tragic tale has captured the imagination of Michiganders for generations.

The Dossin Great Lakes Museum is a lens through which visitors can study and appreciate the tremendous importance of the Great Lakes. Its permanent exhibits include the enormous bow anchor of the *Edmund Fitzgerald*, the pilot house of the S.S. *William Clay Ford*, and one of the largest known collections of scale model ships in the world. Located on Belle Isle in the middle of the Detroit River, facing the Canadian shore, the Dossin Great Lakes Museum devotes many of its resources to explaining Detroit's prominent role in the rich international history of the Great Lakes. The museum's dedicated staff are committed to providing visitors with an exciting and educational experience, and to ensuring that residents of Michigan and visitors to our State continue to learn about the rich heritage of the Lakes.

For 50 years, this Detroit landmark has served an important role in illustrating Michigan's enduring ties to the Great Lakes. It offers the prospect of adventure and knowledge for those who walk through its doors, and its exhibits tell stories that transport visitors through three centuries of maritime history. I know my colleagues join me in congratulating all those affiliated with the Dossin Great Lakes Museum on its 50th anniversary and in wishing them the best for another 50 years of navigating the course of our history.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGE FROM THE HOUSE

At 10:18 a.m., a message from the House of Representatives, delivered by

Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5019. An act to provide for the establishment of the Home Star Retrofit Rebate Program, and for other purposes.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4899. An act making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; to the Committee on Appropriations.

H.R. 5019. An act to provide for the establishment of the Home Star Retrofit Rebate Program, and for other purposes; to the Committee on Finance.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG (for himself, Mrs. GILLIBRAND, and Mr. BROWN of Ohio):

S. 3329. A bill to provide triple credits for renewable energy on brownfields, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CASEY (for himself and Mr. SPECTER):

S. 3330. A bill to amend title 38, United States Code, to make certain improvements in the administration of medical facilities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. INOUE (for himself, Mr. BEGICH, and Ms. MURKOWSKI):

S. 3331. A bill to establish a Native American Economic Advisory Council, and for other purposes; to the Committee on Indian Affairs.

By Mr. MCCAIN (for himself and Mr. KYL):

S. 3332. A bill to implement a comprehensive border security plan to combat illegal immigration, drug and alien smuggling, and violent activity along the southwest border of the United States; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEAHY (for himself and Mr. ROCKEFELLER):

S. 3333. A bill to extend the statutory license for secondary transmissions under title 17, United States Code, and for other purposes; considered and passed.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. KLOBUCHAR (for herself and Mr. THUNE):

S. Res. 515. A resolution designating the week beginning May 2, 2010, as "National Physical Education and Sport Week"; considered and agreed to.

By Mrs. SHAHEEN (for herself and Mr. DODD):

S. Res. 516. A resolution recognizing the contributions of AmeriCorps members to the lives of the people of the United States; considered and agreed to.

By Mr. LAUTENBERG (for himself, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mr. LIEBERMAN, Mr. SCHUMER, Mr. DURBIN, Mrs. BOXER, Mr. CARPER, Mr. DORGAN, Mr. WYDEN, Mr. BURRIS, Mr. BAYH, and Mr. UDALL of New Mexico):

S. Res. 517. A resolution in support and recognition of National Train Day, May 8, 2010; considered and agreed to.

By Mr. THUNE (for himself, Mr. CASEY, Mr. JOHNSON, and Mr. FEINGOLD):

S. Res. 518. A resolution designating the week beginning May 9, 2010, as "National Nursing Home Week"; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 1012

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1012, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

S. 1275

At the request of Mr. WARNER, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1275, a bill to establish a National Foundation on Physical Fitness and Sports to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports.

S. 1317

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1317, a bill to increase public safety by permitting the Attorney General to deny the transfer of firearms or the issuance of firearms and explosives licenses to known or suspected dangerous terrorists.

S. 3141

At the request of Mr. BINGAMAN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 3141, a bill to amend the Internal Revenue Code of 1986 to provide special rules for treatment of low-income housing credits, and for other purposes.

S. 3288

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3288, a bill to amend the Internal Revenue Code to reduce tobacco smuggling, and for other purposes.

S. 3302

At the request of Mr. ROCKEFELLER, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 3302, a bill to amend title 49, United States Code, to establish new automobile safety standards, make better motor vehicle safety information available to the National Highway Traffic Safety Administration and the public, and for other purposes.

S. 3305

At the request of Mr. MENENDEZ, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 3305, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills, and for other purposes.

S. 3306

At the request of Mr. MENENDEZ, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 3306, a bill to amend the Internal Revenue Code of 1986 to require polluters to pay the full cost of oil spills, and for other purposes.

AMENDMENT NO. 3775

At the request of Mr. WYDEN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 3775 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3808

At the request of Mr. FRANKEN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of amendment No. 3808 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3844

At the request of Mr. BROWNBACK, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 3844 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUE (for himself, Mr. BEGICH, and Ms. MURKOWSKI):

S. 3331. A bill to establish a Native American Economic Advisory Council, and for other purposes; to the Committee on Indian Affairs.

Mr. INOUE. Mr. President, I rise to introduce a bill that would establish a Native American Economic Advisory Council. This Council's primary duties would be to consult, coordinate, and make recommendations to Federal



agencies for the purpose of improving the substandard economic conditions that exist in our Native communities.

Currently, there is no Council, and despite the federal government's "trust" relationship with Native American tribes, Native Americans themselves continue to rank lowest in quality of life standings. As a Nation we need to preserve our Native Communities; they are rich with cultural significance and living history.

Native communities are considered "emerging economies" that have stalled because of the current economic situation. This bill is an attempt to keep these communities moving by educating, empowering, and encouraging our future Native American leaders to create sustainable economic growth programs in their own communities.

In Hawaii, the cost of living ranges from 30 percent to 60 percent higher than the national average. We have to start planning for economic stability in the future and this bill provides an opportunity to do so. I look forward to working with my colleagues on reinvesting in our Nation's future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3331

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Economic Advisory Council Act of 2010".

#### SEC. 2. FINDINGS.

Congress finds—

(1) the United States has a special political and legal relationship and responsibility to promote the welfare of the Native American people of the United States;

(2) evaluations of indicators and criteria of social well-being, education, health, unemployment, housing, income, rates of poverty, justice systems, and nutrition by agencies of government and others have consistently found that Native American communities rank below other groups of United States citizens and many are at or near the bottom in those evaluations;

(3) Native Americans, like other people in the United States, have been hit hard by the deepest recession of the United States economy in over 50 years, causing a significant decline in employment and economic activity across the United States;

(4) Native American communities have been described as "emerging economies" and consequently have been stalled in the efforts of the communities to build sustainable growing economies for the people of the communities and are being adversely affected faster than the rest of the United States;

(5) economic stimulus programs to help Native American communities generate jobs and stronger economic performance will require United States financial and tax incentives to increase both local and expanded investment that is tailored to the unique needs and circumstances of Native American communities;

(6) the impacts of the ongoing recession and the near collapse of the financial and banking systems require a review of assumptions about the future, the need for new growth strategies, and a focus on laying the groundwork for economic success in the 21st century;

(7) there is a continuing need for direct economic stimulus, including needs for improving rural infrastructure and alternative energy in rural and Native American communities of the United States and providing Native Americans leaders with the tools to create jobs and improve economic conditions;

(8) in light of the role of Native American communities as emerging markets within the United States, there are opportunities and needs that should be addressed, including consideration of United States support for the pooling of resources to create an Indigenous Sovereign Wealth Fund that is similar to those Funds created around the world to diversify revenue streams, attract more resources, invest more wisely, and create jobs;

(9) Native Americans should be participants when major economic decisions are made that affect the property, lives, and future of Native Americans; and

(10) Native Americans should fully participate in rebuilding Native American communities and have necessary tools and resources.

#### SEC. 3. PURPOSE.

The purpose of this Act is to authorize and establish a Native American Economic Advisory Council to consult, coordinate with, and make recommendations to the Executive Office of the President, Cabinet officers, and Federal agencies—

(1) to improve the focus, effectiveness, and delivery of Federal economic aid and development programs to Native Americans and, as a result, improve substandard economic conditions in Native American communities;

(2) to build and expand on the capacity of leaders in Native American organizations and communities to take positive and innovative steps—

(A) to create jobs;

(B) to establish stable and profitable business enterprises;

(C) to enhance economic conditions; and

(D) to use Native American-owned resources for the benefit of members; and

(3) to achieve the long-term goal of improving the quality of Native American life and living conditions and access to basic public services to the levels enjoyed by the average citizen and community of the United States by the year 2025.

#### SEC. 4. ESTABLISHMENT OF NATIVE AMERICAN ECONOMIC ADVISORY COUNCIL.

(a) IN GENERAL.—There is established a Native American Economic Advisory Council (referred to in this Act as the "Council") to advise and assist the Executive Office of the President and Federal agencies to ensure that Native Americans (including Native American members, communities and organizations) have—

(1) the means and capacity to generate and benefit from economic stimulus and growth; and

(2) fair access to, and reasonable opportunities to participate in, Federal economic development and job growth programs.

(b) MEMBERS.—

(1) IN GENERAL.—The Council shall consist of 5 members appointed by the President.

(2) INITIAL APPOINTMENTS.—Not later than 180 days after the date of enactment of this Act, the President shall appoint the initial members of the Council.

(3) COMPOSITION.—Of the members of the Council—

(A) 1 member shall be an Alaska Native;

(B) 1 member shall be a Hawaiian Native; and

(C) 3 members shall represent American Native groups and organizations from other States.

(4) CHAIRPERSON.—The President shall designate 1 of the members of the Council to serve as Chairperson.

(c) EXPERIENCE.—Each member of the Council shall be a Native American who, as a result of work experience, training, and attainment, is well qualified—

(1) to identify, analyze, and understand the attributes and background of successful business enterprises and economic programs in Native American communities and cultures;

(2) to appraise the economic development programs and activities of Federal agencies in the context of the goals and purposes of this Act; and

(3) to recommend programs, policies, and needed program modifications to improve access to and effectiveness in the delivery of economic development programs in Native American communities.

(d) VACANCIES.—A vacancy on the Council—

(1) shall not affect the authority of the Commission; and

(2) shall be filled in the same manner as the initial appointments to the Council.

(e) EXPENSES.—Each Member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at the rate authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the homes or regular places of business of the employees in the performance of services for the Council.

(f) STAFF.—

(1) IN GENERAL.—The Council may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other staff as are necessary to enable the Council to perform the duties required under this Act.

(2) COMPENSATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Council may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM AMOUNT.—The rate of pay for the executive director and other personnel of the Council shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(g) DETAIL OF EMPLOYEES.—

(1) IN GENERAL.—An employee of the Federal Government may be detailed to the Council without reimbursement.

(2) CIVIL SERVICE STATUS.—The detail of an employee shall be without interruption or loss of civil service status or privilege.

(h) TEMPORARY SERVICES.—The Council may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(i) ADMINISTRATIVE SERVICES.—The Secretary of Commerce shall provide necessary office space and administrative services for the Council (including staff of the Council).



**SEC. 5. DUTIES.**

(a) IN GENERAL.—The Council shall advise and make recommendations to Federal agencies on—

(1) proposing sustainable economic growth and poverty reduction policies in a manner that promotes self-determination, self-sufficiency, and independence in urban and remote Native American communities while preserving the traditional cultural values of those communities;

(2) ensuring that Native Americans (including Native American communities and organizations) have equal access to Federal economic aid, training, and assistance programs;

(3) developing economic growth strategies, finance, and tax policies that will enable Native American organizations to stimulate the local economies of Native Americans and create meaningful new jobs in Native American communities;

(4) increasing the effectiveness of Federal programs to address the economic, employment, medical, and social needs of Native American communities;

(5) administering Federal economic development assistance programs with an understanding of the unique needs of Native American communities with the objectives of—

(A) making Native American leaders knowledgeable about best business practices and successful economic and job growth strategies;

(B) promoting investment and economic growth and reducing unemployment and poverty in Native American communities;

(C) enhancing governance, entrepreneurship, and self-determination in Native American communities; and

(D) fostering demonstrations of transformational changes in economic conditions in remote Native American communities through the use of innovative technology, targeted investments, and the use of Native American-owned natural and scenic resources;

(6) improving the effectiveness of economic development assistance programs through the integration and coordination of assistance to Native American communities;

(7) recommending educational and business training programs for Native Americans that increase the capacity of Native Americans for economic well-being and to further the purposes of this Act; and

(8) initiating proposals, as needed, for fellowship and mentoring programs to meet the economic development needs of Native American communities.

(b) ADDITIONAL DUTIES.—The Council shall—

(1) prepare a compilation of successful business enterprises and joint ventures conducted by Native American organizations, including tribal enterprises and the commercial ventures of Native Corporations (as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102)) in the State of Alaska; and

(2) periodically sponsor and arrange conferences and training workshops on Native American business activities, including providing mentors, resource people, and speakers to address financing, management, marketing, resource development, and best business practices in Native American business enterprises.

**SEC. 6. ASSESSMENT OF IMPACTS OF LEGISLATIVE PROPOSALS ON NATIVE AMERICAN ECONOMIC PROSPECTS AND OPPORTUNITY.**

In preparing and communicating the comments and recommendations of the President on proposed legislation to committees and

leadership of Congress, the Director of the Office of Management and Budget and the head of a Federal agency shall include an assessment of the impacts of the proposed legislation on the economic and employment prospects and opportunities provided in the proposed legislation to improve the quality of living conditions of Native American communities, organizations, and members to the levels enjoyed by most people of the United States.

**SEC. 7. REPORTS.**

The Council shall—

(1) prepare periodic reports on the activities of the Council; and

(2) make the reports available to—

(A) Native American communities, organizations, and members;

(B) the General Services Administration;

(C) the Office of Management and Budget;

(D) the Domestic Policy Council;

(E) the National Economic Council;

(F) the Council of Economic Advisers;

(G) the Secretary of the Treasury;

(H) the Secretary of Commerce;

(I) the Secretary of Labor;

(J) the Secretary of the Interior;

(K) the Secretary of Energy; and

(L) members of the public.

**SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this Act such sums as are necessary.

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**SUBMITTED RESOLUTIONS**


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**SENATE RESOLUTION 515—DESIGNATING THE WEEK BEGINNING MAY 2, 2010, AS “NATIONAL PHYSICAL EDUCATION AND SPORT WEEK”**

Ms. KLOBUCHAR (for herself and Mr. THUNE) submitted the following resolution; which was considered and agreed to:

S. RES. 515

Whereas the week beginning May 2, 2010, is observed as National Physical Education and Sport Week;

Whereas a decline in physical activity has contributed to an unprecedented epidemic of childhood obesity in the United States, which has more than tripled since 1980;

Whereas regular physical activity is necessary to support normal and healthy growth in children and is essential to their continued health and well-being;

Whereas, according to the Centers for Disease Control and Prevention, overweight adolescents have a 70 to 80 percent chance of becoming overweight adults, increasing their risk for chronic disease, disability, and death;

Whereas physical activity reduces the risk of heart disease, high blood pressure, diabetes, and certain types of cancers;

Whereas type 2 diabetes can no longer be referred to as “late in life” or “adult onset” diabetes because it occurs in children as young as 10 years old;

Whereas the Physical Activity Guidelines for Americans, published by the Department of Health and Human Services, recommend that children engage in at least 60 minutes of physical activity on most, and preferably all, days of the week;

Whereas, according to the Centers for Disease Control and Prevention, only 17 percent of high school students meet that goal of 60 minutes of physical activity a day;

Whereas children spend many of their waking hours at school and therefore need to be active during the school day to meet the recommendations of the Physical Activity Guidelines for Americans;

Whereas, according to the Centers for Disease Control and Prevention, 1 in 4 children in the United States does not attend any school physical education classes and fewer than 1 in 4 children in the United States engage in 20 minutes of vigorous physical activity each day;

Whereas teaching children about physical activity and sports not only ensures that they are physically active during the school day, but also educates them on how to be physically active and the importance of being physically active;

Whereas, according to a 2006 survey by the Department of Health and Human Services, 3.8 percent of elementary schools, 7.9 percent of middle schools, and 2.1 percent of high schools provide daily physical education classes or the equivalent for the entire school year, and 22 percent of schools do not require students to take any physical education classes at all;

Whereas, according to that survey, 13.7 percent of elementary schools, 15.2 percent of middle schools, and 3.0 percent of high schools provided physical education at least 3 days per week, or the equivalent thereof, for the entire school year for students in all grades in the school;

Whereas research shows that fit and active children are more likely to thrive academically;

Whereas increased time in physical education classes can improve children’s attention and concentration and result in higher test scores;

Whereas participation in sports teams and physical activity clubs, which are often organized by schools and run outside the regular school day, can improve students’ grade point averages, attachment to schools, educational aspirations, and the likelihood of graduating;

Whereas participation in sports and other physical activities also improves self-esteem and body image in children and adults;

Whereas children and youth who take part in physical activity and sports programs develop improved motor skills, healthy lifestyles, improved social skills, a sense of fair play, strong teamwork skills, and self-discipline and avoid risky behaviors;

Whereas the social and environmental factors affecting children are in the control of the adults and the communities in which children live, and therefore the Nation shares a collective responsibility in reversing the childhood obesity trend;

Whereas efforts to improve the fitness level of children who are not physically fit may also result in improvements in academic performance; and

Whereas the Senate strongly supports efforts to increase physical activity and participation of youth in sports: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week beginning May 2, 2010, as “National Physical Education and Sport Week”;

(2) recognizes the central role of physical education and sports in creating healthy lifestyles for all children and youth;

(3) encourages school districts to implement local wellness policies, as described in section 204 of the Child Nutrition and WIC Reauthorization Act of 2004 (42 U.S.C. 1751 note), that include ambitious goals for physical education, physical activity, and other

activities addressing the childhood obesity epidemic and promoting child wellness; and

(4) encourages schools to offer physical education classes to students and to work with community partners to provide opportunities and safe spaces for physical activities before and after school and during the summer months for all children and youth.

#### SENATE RESOLUTION 516—RECOGNIZING THE CONTRIBUTIONS OF AMERICORPS MEMBERS TO THE LIVES OF THE PEOPLE OF THE UNITED STATES

Mrs. SHAHEEN (for herself and Mr. DODD) submitted the following resolution; which was considered and agreed to:

##### S. RES. 516

Whereas, since its inception in 1994, the AmeriCorps national service program has proven to be a highly effective way to engage the people of the United States in meeting a wide range of local and national needs and promoting the ethic of service and volunteering;

Whereas, each year, AmeriCorps provides opportunities for approximately 85,000 individuals across the United States to give back in an intensive way to their communities, their States, and the Nation;

Whereas those individuals improve the lives of the Nation's most vulnerable citizens, protect the environment, contribute to public safety, respond to disasters, and strengthen the educational system;

Whereas AmeriCorps members serve thousands of nonprofit organizations, schools, and faith-based and community organizations each year;

Whereas AmeriCorps members, after their terms of service end, are more likely to remain engaged in their communities as volunteers, teachers, and nonprofit professionals than the average individual;

Whereas, on April 21, 2009, President Barack Obama signed the Serve America Act (Public Law 111-13; 123 Stat. 1460) into law, which was passed by bipartisan majorities in both the House of Representatives and the Senate and reauthorized AmeriCorps and will expand AmeriCorps programs to incorporate 250,000 members each year;

Whereas national service programs have engaged millions of people in the United States in results-driven service in the Nation's most vulnerable communities, providing hope and help to people facing economic and social needs;

Whereas, in 2010, as the economic downturn puts millions of people in the United States at risk, national service and volunteering are more important than ever; and

Whereas AmeriCorps Week, observed in 2010 from May 8 through May 15, provides the perfect opportunity for AmeriCorps members, alumni, grantees, program partners, and friends to shine a spotlight on the work done by AmeriCorps members and to motivate more people in the United States to serve their communities: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the contributions of AmeriCorps members to the lives of the people of the United States;

(2) acknowledges the significant accomplishments of AmeriCorps members, alumni, and community partners; and

(3) encourages the people of the United States to join in a national effort to salute

AmeriCorps members and alumni and raise awareness about the importance of national and community service.

#### SENATE RESOLUTION 517—IN SUPPORT AND RECOGNITION OF NATIONAL TRAIN DAY, MAY 8, 2010

Mr. LAUTENBERG (for himself, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mr. LIEBERMAN, Mr. SCHUMER, Mr. DURBIN, Mrs. BOXER, Mr. CARPER, Mr. DORGAN, Mr. WYDEN, Mr. BURRIS, Mr. BAYH, AND Mr. UDALL of New Mexico) submitted the following resolution; which was considered and agreed to:

##### S. RES. 517

Whereas on May 10, 1869, the "golden spike" was driven into the final tie at Promontory Summit, Utah, to join the Central Pacific and the Union Pacific Railroads, ceremonially completing the first transcontinental railroad and therefore connecting both coasts of the United States;

Whereas in highly populated regions Amtrak trains and infrastructure carry intercity passengers and commuters to and from work in congested metropolitan areas, providing a reliable rail option while reducing congestion on roads and in the skies;

Whereas Amtrak ridership in Fiscal Year 2009 reached 27.1 million passengers from 46 states;

Whereas, for many rural Americans, Amtrak represents the only major intercity transportation link to the rest of the country;

Whereas passenger rail provides a fuel-efficient transportation system, thereby providing clean transportation alternatives and energy security;

Whereas, when combined with all modes of transportation, passenger railroads emit only 0.2 percent of the travel industry's total greenhouse gases and one freight train can move a ton of freight 480 miles on one gallon of fuel;

Whereas developing this pipeline of national high-speed and intercity passenger rail projects will revitalize the domestic manufacturing industry and create additional American jobs building on the one million good-paying, middle-class-creating American jobs that can never be off-shored that are already supported by the rail industry;

Whereas ridership on Amtrak grew every year from 2000 through 2008, and is currently on track for 2010 to be its best ridership year ever, further demonstrating the increased demand for intercity passenger rail services; and

Whereas our railroad system is a source of civic pride, the gateway to our communities and a tool for economic growth that creates transportation-oriented development and livable communities: Now, therefore, be it

*Resolved*, That the Senate supports the goals and ideals of National Train Day, as designated by Amtrak.

#### SENATE RESOLUTION 518—DESIGNATING THE WEEK BEGINNING MAY 9, 2010, AS "NATIONAL NURSING HOME WEEK"

Mr. THUNE (for himself, Mr. CASEY, Mr. JOHNSON, and Mr. FEINGOLD) submitted the following resolution; which was considered and agreed to:

##### S. RES. 518

Whereas more than 1,500,000 elderly and disabled individuals live in the nearly 16,000 nursing facilities in the United States;

Whereas the annual celebration of National Nursing Home Week invites people in communities nationwide to recognize nursing home residents and staff for their contributions to their communities;

Whereas the theme for National Nursing Home Week in 2010 is "Enriching Every Day", honoring caregivers who are "enriching every day" for elderly and disabled individuals, adding value to their lives and helping them to overcome many of the infirmities of age and disability;

Whereas nursing homes are intimate communities where acts of caring, kindness, and respect are the norm;

Whereas, when the positive bond that naturally develops between patients and their caregivers is established, patients experience not only better physical care and healing, but also enrichment of the mind, heart, and spirit and an affirmation of their value; and

Whereas National Nursing Home Week recognizes the people who provide care to the Nation's most vulnerable population: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week beginning May 9, 2010, as "National Nursing Home Week";

(2) recognizes that a majority of people in the United States, because of social needs, disability, trauma, or illness, will require long-term care services at some point in their lives;

(3) honors nursing home residents and the people who care for them each day, including family members, volunteers, and dedicated long-term care professionals, for their contributions to their communities and the United States; and

(4) encourages the people of the United States to observe National Nursing Home Week with appropriate ceremonies and activities.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3910. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 3911. Mr. CASEY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3912. Mr. WHITEHOUSE (for Ms. CANTWELL) proposed an amendment to the bill H.R. 3619, to authorize appropriations for the Coast Guard for fiscal year 2010, and for other purposes.

SA 3913. Mr. WHITEHOUSE (for Mr. GREGG) proposed an amendment to the resolution S. Res. 480, condemning the continued detention of Burmese democracy leader Daw Aung San Suu Kyi and calling on the military regime in Burma to permit a credible and fair election process and the transition to civilian, democratic rule.

SA 3914. Mr. CHAMBLISS submitted an amendment intended to be proposed to

amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 3915. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3916. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3917. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3918. Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3919. Mr. CONRAD (for himself, Mr. CRAPO, Mr. BARRASSO, Mr. KERRY, Mr. BROWN of Massachusetts, Ms. SNOWE, Ms. LANDRIEU, Mr. DORGAN, Mr. ROBERTS, Mr. ENZI, Mrs. McCASKILL, Ms. COLLINS, Ms. CANTWELL, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3920. Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. NELSON of Nebraska, Mr. JOHANN, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3921. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 3910.** Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1013, line 18, strike “and” and all that follows through line 20 and insert the following:

“(ii) a description of any internal review of rating procedures and methodologies conducted by the nationally recognized statistical rating organization; and

“(iii) an evaluation of how well the nationally recognized statistical rating organization adheres to the rating procedures and methodologies of the nationally recognized statistical rating organization;

“(iv) a narrative response agreeing or disagreeing with the results of the most recent annual examination of the nationally recognized statistical rating organization carried out by the Commission under subsection (p)(3); and

“(v) a certification that the report is accurate and complete.

On page 1016, line 18, strike “and” and all that follows through line 23 and insert the following:

“(viii) the policies of the nationally recognized statistical rating organization governing the post-employment activities of former staff of the nationally recognized statistical rating organization; and

“(ix) whether the nationally recognized statistical rating organization fully complies with the public disclosure requirements under this section regarding rating procedures and methodologies.

**SA 3911.** Mr. CASEY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, between lines 12 and 13, insert the following:

(5) DISCLOSURE OF REASONS FOR DETERMINATION.—

(A) STATEMENT.—Following an affirmative determination by the Council with respect to any nonbank financial company that is registered pursuant to the Investment Company Act of 1940, the primary financial regulatory agency may request the Council to provide a detailed statement of—

(i) reasons for the determination by the Council that material financial distress at that particular company would pose a threat to the financial stability of the United States; and

(ii) why prudential regulation by the primary financial regulatory agency would be inadequate to prevent such a threat.

(B) REQUESTS FOR RECONSIDERATION.—If the primary financial regulatory agency disagrees with the detailed statement of reasons provided under subparagraph (A), the agency may request the Council to reconsider its determination, or may propose its own prudential standards to address the concerns identified in the statement of reasons in lieu of prudential standards imposed by the Board of Governors, which prudential standards the Council shall accept, unless it determines, by a vote of not fewer than 2/3 of the members then serving, including an affirmative vote by the Chairperson, that such prudential standards would be inadequate to prevent such a threat.

On page 40, line 23, insert after “company,” the following: “including all procedures under subsection (e)(5).”

**SA 3912.** Mr. WHITEHOUSE (for Ms. CANTWELL) proposed an amendment to

the bill H.R. 3619, to authorize appropriations for the Coast Guard for fiscal year 2010, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Coast Guard Authorization Act for Fiscal Years 2010 and 2011”.

#### SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

#### TITLE I—AUTHORIZATIONS

Sec. 101. Authorization of appropriations.

Sec. 102. Authorized levels of military strength and training.

#### TITLE II—ADMINISTRATION

Sec. 201. Authority to distribute funds through grants, cooperative agreements, and contracts to maritime authorities and organizations.

Sec. 202. Assistance to foreign governments and maritime authorities.

Sec. 203. Cooperative agreements for industrial activities.

Sec. 204. Defining Coast Guard vessels and aircraft.

#### TITLE III—ORGANIZATION

Sec. 301. Vice commandant; vice admirals.

Sec. 302. Number and distribution of commissioned officers on the active duty promotion list.

#### TITLE IV—PERSONNEL

Sec. 401. Leave retention authority.

Sec. 402. Legal assistance for Coast Guard reservists.

Sec. 403. Reimbursement for certain medical related expenses.

Sec. 404. Reserve commissioned warrant officer to lieutenant program.

Sec. 405. Enhanced status quo officer promotion system.

Sec. 406. Appointment of civilian Coast Guard judges.

Sec. 407. Coast Guard participation in the Armed Forces Retirement Home system.

Sec. 408. Crew wages on passenger vessels.

Sec. 409. Protection and fair treatment of seafarers.

#### TITLE V—ACQUISITION REFORM

Sec. 501. Chief Acquisition Officer.

Sec. 502. Acquisitions.

#### “CHAPTER 15—ACQUISITIONS

##### “SUBCHAPTER 1—GENERAL PROVISIONS

“Sec.

“561. Acquisition directorate

“562. Senior acquisition leadership team

“563. Improvements in Coast Guard acquisition management

“564. Recognition of Coast Guard personnel for excellence in acquisition

“565. Prohibition on use of lead systems integrators

“566. Required contract terms

“567. Department of Defense consultation

“568. Unidentified contractual actions

##### “SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND PROCEDURES

“Sec.

“571. Identification of major system acquisitions

- “572. Acquisition
- “573. Preliminary development and demonstration
- “574. Acquisition, production, deployment, and support
- “575. Acquisition program baseline breach

#### “SUBCHAPTER 3—DEFINITIONS

- “Sec.
- “581. Definitions”

Sec. 503. Report and guidance on excess pass-through charges.

#### TITLE VI—SHIPPING AND NAVIGATION

- Sec. 601. Technical amendments to chapter 313 of title 46, United States Code.
- Sec. 602. Clarification of rulemaking authority.
- Sec. 603. Icebreakers.
- Sec. 604. Phaseout of vessels supporting oil and gas development.

#### TITLE VII—VESSEL CONVEYANCE

- Sec. 701. Short title.
- Sec. 702. Conveyance of Coast Guard vessels for public purposes.

#### TITLE VIII—OIL POLLUTION PREVENTION

- Sec. 801. Rulemakings.
- Sec. 802. Oil transfers from vessels.
- Sec. 803. Improvements to reduce human error and near miss incidents.
- Sec. 804. Olympic coast national marine sanctuary.
- Sec. 805. Prevention of small oil spills.
- Sec. 806. Improved coordination with tribal governments.
- Sec. 807. Report on availability of technology to detect the loss of oil.
- Sec. 808. Use of oil spill liability trust fund.
- Sec. 809. International efforts on enforcement.
- Sec. 810. Higher volume port area regulatory definition change.
- Sec. 811. Tug escorts for laden oil tankers.
- Sec. 812. Extension of financial responsibility.
- Sec. 813. Oil spill liability trust fund investment amount.
- Sec. 814. Liability for use of single-hull vessels.

#### TITLE IX—MISCELLANEOUS PROVISIONS

- Sec. 901. Vessel determination.
- Sec. 902. Conveyance of the Presque Isle Light Station Fresnel Lens to Presque Isle Township, Michigan.
- Sec. 903. Land conveyance, Coast Guard property in Marquette County, Michigan, to the city of Marquette, Michigan.
- Sec. 904. Offshore supply vessels.
- Sec. 905. Assessment of certain aids to navigation and traffic flow.
- Sec. 906. Alternative licensing program for operators of uninspected passenger vessels on Lake Texoma in Texas and Oklahoma.

#### TITLE X—BUDGETARY EFFECTS

- Sec. 1001. Budgetary effects.

#### TITLE I—AUTHORIZATIONS

##### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for each of fiscal years 2010 and 2011 as follows:

(1) For the operation and maintenance of the Coast Guard, \$6,556,188,000, of which \$24,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(2) For the acquisition, construction, renovation, and improvement of aids to naviga-

tion, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$1,383,980,000, of which \$20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990, to remain available until expended; such funds appropriated for personnel compensation and benefits and related costs of acquisition, construction, and improvements shall be available for procurement of services necessary to carry out the Integrated Deepwater Systems program.

(3) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$1,361,245,000.

(4) For environmental compliance and restoration functions under chapter 19 of title 14, United States Code, \$13,198,000.

(5) For research, development, test, and evaluation programs related to maritime technology, \$19,745,000.

(6) For operation and maintenance of the Coast Guard reserve program, \$133,632,000.

##### SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength of active duty personnel of 49,954 as of September 30, 2010, and 52,452 as of September 30, 2011.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,500 student years for fiscal year 2010, and 2,625 student years for fiscal year 2011.

(2) For flight training, 170 student years for fiscal year 2010 and 179 student years for fiscal year 2011.

(3) For professional training in military and civilian institutions, 350 student years for fiscal year 2010 and 368 student years for fiscal year 2011.

(4) For officer acquisition, 1,300 student years for fiscal year 2010 and 1,365 student years for fiscal year 2011.

#### TITLE II—ADMINISTRATION

##### SEC. 201. AUTHORITY TO DISTRIBUTE FUNDS THROUGH GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS TO MARITIME AUTHORITIES AND ORGANIZATIONS.

Section 149 of title 14, United States Code, is amended by adding at the end the following:

“(c) GRANTS TO INTERNATIONAL MARITIME ORGANIZATIONS.—The Commandant may, after consultation with the Secretary of State, make grants to, or enter into cooperative agreements, contracts, or other agreements with, international maritime organizations for the purpose of acquiring information or data about merchant vessel inspections, security, safety and environmental requirements, classification, and port state or flag state law enforcement or oversight.”

##### SEC. 202. ASSISTANCE TO FOREIGN GOVERNMENTS AND MARITIME AUTHORITIES.

Section 149 of title 14, United States Code, as amended by section 201, is further amended by adding at the end the following:

“(d) AUTHORIZED ACTIVITIES.—

“(1) The Commandant may transfer or expend funds from any appropriation available to the Coast Guard for—

“(A) the activities of traveling contact teams, including any transportation expense,

translation services expense, or administrative expense that is related to such activities;

“(B) the activities of maritime authority liaison teams of foreign governments making reciprocal visits to Coast Guard units, including any transportation expense, translation services expense, or administrative expense that is related to such activities;

“(C) seminars and conferences involving members of maritime authorities of foreign governments;

“(D) distribution of publications pertinent to engagement with maritime authorities of foreign governments; and

“(E) personnel expenses for Coast Guard civilian and military personnel to the extent that those expenses relate to participation in an activity described in subparagraph (C) or (D).

“(2) An activity may not be conducted under this subsection with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.”

##### SEC. 203. COOPERATIVE AGREEMENTS FOR INDUSTRIAL ACTIVITIES.

Section 151 of title 14, United States Code, is amended—

(1) by inserting “(a) IN GENERAL.—” before “All orders”; and

(2) by adding at the end the following:

“(b) ORDERS AND AGREEMENTS FOR INDUSTRIAL ACTIVITIES.—Under this section, the Coast Guard industrial activities may accept orders and enter into reimbursable agreements with establishments, agencies, and departments of the Department of Defense and the Department of Homeland Security.”

##### SEC. 204. DEFINING COAST GUARD VESSELS AND AIRCRAFT.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by inserting after section 638 the following new section:

##### “§ 638a. Coast Guard vessels and aircraft defined

“For the purposes of sections 637 and 638 of this title, the term Coast Guard vessels and aircraft means—

“(1) any vessel or aircraft owned, leased, transferred to, or operated by the Coast Guard and under the command of a Coast Guard member; or

“(2) any other vessel or aircraft under the tactical control of the Coast Guard on which one or more members of the Coast Guard are assigned and conducting Coast Guard missions.”

(b) CLERICAL AMENDMENT.—The table of contents for chapter 17 of such title is amended by inserting after the item relating to section 638 the following:

“638a. Coast Guard vessels and aircraft defined.”

#### TITLE III—ORGANIZATION

##### SEC. 301. VICE COMMANDANT; VICE ADMIRALS.

(a) VICE COMMANDANT.—

(1) Section 41 of title 14, United States Code, is amended by striking “an admiral,” and inserting “admirals,”

(2) The fourth sentence of section 47 of title 14, United States Code, is amended by striking “vice admiral” and inserting “admiral”.

(b) VICE ADMIRALS.—Section 50 of such title is amended to read as follows:

##### “§ 50. Vice admirals

“(a)(1) The President may designate no more than 4 positions of importance and responsibility that shall be held by officers who—

“(A) while so serving, shall have the grade of vice admiral, with the pay and allowances of that grade; and

“(B) shall perform such duties as the Commandant may prescribe.

“(2) The President may appoint, by and with the advice and consent of the Senate, and reappoint, by and with the advice and consent of the Senate, to any such position an officer of the Coast Guard who is serving on active duty above the grade of captain. The Commandant shall make recommendations for such appointments.

“(b)(1) The appointment and the grade of vice admiral shall be effective on the date the officer assumes that duty and, except as provided in paragraph (2) of this subsection or in section 51(d) of this title, shall terminate on the date the officer is detached from that duty.

“(2) An officer who is appointed to a position designated under subsection (a) shall continue to hold the grade of vice admiral—

“(A) while under orders transferring the officer to another position designated under subsection (a), beginning on the date the officer is detached from that duty and terminating on the date before the day the officer assumes the subsequent duty, but not for more than 60 days;

“(B) while hospitalized, beginning on the day of the hospitalization and ending on the day the officer is discharged from the hospital, but not for more than 180 days; and

“(C) while awaiting retirement, beginning on the date the officer is detached from duty and ending on the day before the officer's retirement, but not for more than 60 days.

“(c)(1) An appointment of an officer under subsection (a) does not vacate the permanent grade held by the officer.

“(2) An officer serving in a grade above rear admiral who holds the permanent grade of rear admiral (lower half) shall be considered for promotion to the permanent grade of rear admiral as if the officer was serving in the officer's permanent grade.

“(d) Whenever a vacancy occurs in a position designated under subsection (a), the Commandant shall inform the President of the qualifications needed by an officer serving in that position or office to carry out effectively the duties and responsibilities of that position or office.”.

(c) REPEAL.—Section 50a of such title is repealed.

(d) CONFORMING AMENDMENTS.—Section 51 of such title is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

“(a) An officer, other than the Commandant, who, while serving in the grade of admiral or vice admiral, is retired for physical disability shall be placed on the retired list with the highest grade in which that officer served.

“(b) An officer, other than the Commandant, who is retired while serving in the grade of admiral or vice admiral, or who, after serving at least 2½ years in the grade of admiral or vice admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the highest grade in which that officer served.

“(c) An officer, other than the Commandant, who, after serving less than 2½ years in the grade of admiral or vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade.”; and

(2) by striking “Area Commander, or Chief of Staff” in subsection (d)(2) and inserting “or Vice Admiral”.

(e) CONTINUITY OF GRADE.—Section 52 of title 14, United States Code, is amended by inserting “or admiral” after “vice admiral” the first place it appears.

(f) CONTINUATION ON ACTIVE DUTY.—The second sentence of section 290(a) of title 14, United States Code, is amended to read as follows: “Officers, other than the Commandant, serving for the time being or who have served in the grade of vice admiral or admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued at the grade of rear admiral.”.

(g) CLERICAL AMENDMENTS.—

(1) The section caption for section 47 of such title is amended to read as follows:

“§ 47. Vice commandant; appointment”.

(2) The section caption for section 52 of title 14, United States Code, is amended to read as follows:

“§ 52. Vice admirals and admiral, continuity of grade”.

(3) The table of contents for chapter 3 of such title is amended—

(A) by striking the item relating to section 47 and inserting the following:

“47. Vice Commandant; appointment.”;

(B) by striking the item relating to section 50a;

(C) by striking the item relating to section 50 and inserting the following:

“50. Vice admirals.”; and

(D) by striking the item relating to section 52 and inserting the following:

“52. Vice admirals and admiral, continuity of grade.”.

(h) TECHNICAL CORRECTION.—Section 47 of such title is further amended by striking “subsection” in the fifth sentence and inserting “section”.

(i) TREATMENT OF INCUMBENTS; TRANSITION.—

(1) Notwithstanding any other provision of law, the officer who, on the date of enactment of this Act, is serving as Vice Commandant—

(A) shall continue to serve as Vice Commandant;

(B) shall have the grade of admiral with pay and allowances of that grade; and

(C) shall not be required to be reappointed by reason of the enactment of that Act.

(2) Notwithstanding any other provision of law, an officer who, on the date of enactment of this Act, is serving as Chief of Staff, Commander, Atlantic Area, or Commander, Pacific Area—

(A) shall continue to have the grade of vice admiral with pay and allowance of that grade until such time that the officer is relieved of his duties and appointed and confirmed to another position as a vice admiral or admiral; or

(B) for the purposes of transition, may continue at the grade of vice admiral with pay and allowance of that grade, for not more than 1 year after the date of enactment of this Act, to perform the duties of the officer's former position and any other such duties that the Commandant prescribes.

SEC. 302. NUMBER AND DISTRIBUTION OF COMMISSIONED OFFICERS ON THE ACTIVE DUTY PROMOTION LIST.

(a) IN GENERAL.—Section 42 of title 14, United States Code, is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

“(a) The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed 7,200. This total number may be temporarily increased up to 2 percent for no more than the 60 days that follow the commissioning of a Coast Guard Academy class.

“(b) The total number of commissioned officers authorized by this section shall be distributed in grade not to exceed the following percentages:

“(1) 0.375 percent for rear admiral.

“(2) 0.375 percent for rear admiral (lower half).

“(3) 6.0 percent for captain.

“(4) 15.0 percent for commander.

“(5) 22.0 percent for lieutenant commander.

The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign. The Secretary may, as the needs of the Coast Guard require, reduce any of the percentages set forth in paragraphs (1) through (5) and apply that total percentage reduction to any other lower grade or combination of lower grades.

“(c) The Secretary shall, at least once a year, compute the total number of commissioned officers authorized to serve in each grade by applying the grade distribution percentages of this section to the total number of commissioned officers listed on the current active duty promotion list. In making such calculations, any fraction shall be rounded to the nearest whole number. The number of commissioned officers on the active duty promotion list serving with other departments or agencies on a reimbursable basis or excluded under the provisions of section 324(d) of title 49, shall not be counted against the total number of commissioned officers authorized to serve in each grade.”;

(2) by striking subsection (e) and inserting the following:

“(e) The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy and of the Reserve serving in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be prescribed by the Secretary.”; and

(3) by striking the caption of such section and inserting the following:

“§ 42. Number and distribution of commissioned officers on the active duty promotion list”.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 3 of such title is amended by striking the item relating to section 42 and inserting the following:

“42. Number and distribution of commissioned officers on the active duty promotion list”.

#### TITLE IV—PERSONNEL

##### SEC. 401. LEAVE RETENTION AUTHORITY.

Section 701(f)(2) of title 10, United States Code, is amended by inserting “or a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, 42 U.S.C. 5121 et seq.)” after “operation”.

##### SEC. 402. LEGAL ASSISTANCE FOR COAST GUARD RESERVISTS.

Section 1044(a)(4) of title 10, United States Code, is amended—

(1) by striking “(as determined by the Secretary of Defense),” and inserting “(as determined by the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, with respect to the Coast Guard when it is not operating as a service of the Navy),”; and

(2) by striking “prescribed by the Secretary of Defense,” and inserting “prescribed by Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, with respect to the Coast Guard when it is not operating as a service of the Navy,”.

**SEC. 403. REIMBURSEMENT FOR CERTAIN MEDICAL-RELATED TRAVEL EXPENSES.**

Section 1074(a) of title 10, United States Code, is amended—

(1) by striking “IN GENERAL.—In” and inserting “IN GENERAL.—(1) In”; and

(2) by adding at the end the following:

“(2) In any case in which a covered beneficiary resides on an INCONUS island that lacks public access roads to the mainland and is referred by a primary care physician to a specialty care provider on the mainland who provides services less than 100 miles from the location in which the beneficiary resides, the Secretary shall reimburse the reasonable travel expenses of the covered beneficiary, and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary’s family who is at least 21 years of age.”.

**SEC. 404. RESERVE COMMISSIONED WARRANT OFFICER TO LIEUTENANT PROGRAM.**

Section 214(a) of title 14, United States Code, is amended to read as follows:

“(a) The President may appoint temporary commissioned officers—

“(1) in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine; and

“(2) in the Coast Guard Reserve in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers of the Coast Guard Reserve.”.

**SEC. 405. ENHANCED STATUS QUO OFFICER PROMOTION SYSTEM.**

(a) Section 253(a) of title 14, United States Code, is amended—

(1) by inserting “and” after “considered,”; and

(2) by striking “consideration, and the number of officers the board may recommend for promotion” and inserting “consideration”.

(b) Section 258 of such title is amended—

(1) by inserting “(a)” before “The Secretary”; and

(2) by adding at the end the following:

“(b) In addition to the information provided pursuant to subsection (a), the Secretary may furnish the selection board—

“(1) specific direction relating to the needs of the service for officers having particular skills, including direction relating to the need for a minimum number of officers with particular skills within a specialty; and

“(2) such other guidance that the Secretary believes may be necessary to enable the board to properly perform its functions. Selections made based on the direction and guidance provided under this subsection shall not exceed the maximum percentage of officers who may be selected from below the announced promotion zone at any given selection board convened under section 251 of this title.”.

(c) Section 259(a) of such title is amended by striking “board” the second place it appears and inserting “board, giving due consideration to the needs of the service for officers with particular skills so noted in the specific direction furnished pursuant to section 258 of this title.”.

(d) Section 260(b) of such title is amended by inserting “to meet the needs of the serv-

ice (as noted in the specific direction furnished the board under section 258 of this title)” after “qualified for promotion”.

**SEC. 406. APPOINTMENT OF CIVILIAN COAST GUARD JUDGES.**

Section 875 of the Homeland Security Act of 2002 (6 U.S.C. 455) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) APPOINTMENT OF JUDGES.—The Secretary may appoint civilian employees of the Department of Homeland Security as appellate military judges, available for assignment to the Coast Guard Court of Criminal Appeals as provided for in section 866(a) of title 10, United States Code.”.

**SEC. 407. COAST GUARD PARTICIPATION IN THE ARMED FORCES RETIREMENT HOME SYSTEM.**

(a) ELIGIBILITY UNDER THE ARMED FORCES RETIREMENT HOME ACT.—Section 1502 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 401) is amended—

(1) by striking “does not include the Coast Guard when it is not operating as a service of the Navy.” in paragraph (4) and inserting “has the meaning given such term in section 101(4) of title 10.”;

(2) by striking “and” in paragraph (5)(C);

(3) by striking “Affairs.” in paragraph (5)(D) and inserting “Affairs; and”; and

(4) by adding at the end of paragraph (5) the following:

“(E) the Assistant Commandant of the Coast Guard for Human Resources.”; and

(5) by adding at the end of paragraph (6) the following:

“(E) The Master Chief Petty Officer of the Coast Guard.”.

(b) DEDUCTIONS.—

(1) Section 2772 of title 10, United States Code, is amended—

(A) by striking “of the military department” in subsection (a);

(B) by striking “Armed Forces Retirement Home Board” in subsection (b) and inserting “Chief Operating Officer of the Armed Forces Retirement Home”; and

(C) by striking subsection (c).

(2) Section 1007(i) of title 37, United States Code, is amended—

(A) by striking “Armed Forces Retirement Home Board,” in paragraph (3) and inserting “Chief Operating Officer of the Armed Forces Retirement Home.”; and

(B) by striking “does not include the Coast Guard when it is not operating as a service of the Navy.” in paragraph (4) and inserting “has the meaning given such term in section 101(4) of title 10.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first pay period beginning on or after January 1, 2010.

**SEC. 408. CREW WAGES ON PASSENGER VESSELS.**

(a) FOREIGN AND INTERCOASTAL VOYAGES.—

(1) CAP ON PENALTY WAGES.—Section 10313(g) of title 46, United States Code, is amended—

(A) by striking “When” and inserting “(1) Subject to paragraph (2), when”; and

(B) by adding at the end the following:

“(2) The total amount required to be paid under paragraph (1) with respect to all claims in a class action suit by seamen on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator or the employer of the seamen shall not exceed 10 times the unpaid wages that are the subject of the claims.

“(3) A class action suit for wages under this subsection must be commenced within 3 years after the later of—

“(A) the date of the end of the last voyage for which the wages are claimed; or

“(B) the receipt, by a seaman who is a claimant in the suit, of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.”.

(2) DEPOSITS.—Section 10315 of such title is amended by adding at the end the following:

“(f) DEPOSITS IN SEAMAN ACCOUNT.—By written request signed by the seaman, a seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

“(1) the wages designated by the seaman for such deposit are deposited in a United States or international financial institution designated by the seaman;

“(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

“(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

“(4) while on board the vessel on which the seaman is employed, the seaman is able to arrange for withdrawal of all funds on deposit in the account in which the wages are deposited.”.

(b) COASTWISE VOYAGES.—

(1) CAP ON PENALTY WAGES.—Section 10504(c) of such title is amended—

(A) by striking “When” and inserting “(1) Subject to subsection (d), and except as provided in paragraph (2), when”; and

(B) by adding at the end the following:

“(2) The total amount required to be paid under paragraph (1) with respect to all claims in a class action suit by seamen on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator or the employer of the seamen shall not exceed 10 times the unpaid wages that are the subject of the claims.

“(3) A class action suit for wages under this subsection must be commenced within 3 years after the later of—

“(A) the date of the end of the last voyage for which the wages are claimed; or

“(B) the receipt, by a seaman who is a claimant in the suit, of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.”.

(2) DEPOSITS.—Section 10504 of such title is amended by adding at the end the following:

“(f) DEPOSITS IN SEAMAN ACCOUNT.—By written request signed by the seaman, a seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

“(1) the wages designated by the seaman for such deposit are deposited in a United States or international financial institution designated by the seaman;

“(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

“(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

“(4) while on board the vessel on which the seaman is employed, the seaman is able to arrange for withdrawal of all funds on deposit in the account in which the wages are deposited.”

#### SEC. 409. PROTECTION AND FAIR TREATMENT OF SEAFARERS.

(a) IN GENERAL.—Chapter 111 of title 46, United States Code, is amended by adding at the end the following new section:

##### “§ 11113. Protection and fair treatment of seafarers

“(a) PURPOSE.—The purpose of this section is to ensure the protection and fair treatment of seafarers.

“(b) FUND.—

“(1) ESTABLISHMENT.—There is established in the Treasury a special fund known as the ‘Support of Seafarers Fund’.

“(2) USE OF AMOUNTS IN FUND.—The amounts covered into the Fund shall be available to the Secretary, without further appropriation and without fiscal year limitation, to—

“(A) pay necessary support, pursuant to subsection (c)(1)(A) of this section; and

“(B) reimburse a shipowner for necessary support, pursuant to subsection (c)(1)(B) of this section.

“(3) AMOUNTS CREDITED TO FUND.—Notwithstanding any other provision of law, the Fund may receive—

“(A) any moneys ordered to be paid to the Fund in the form of community service pursuant to section 3563(b) of title 18;

“(B) amounts reimbursed or recovered pursuant to subsection (d) of this section;

“(C) amounts appropriated to the Fund pursuant to subsection (g) of this section; and

“(D) appropriations available to the Secretary for transfer.

“(4) PREREQUISITE FOR COMMUNITY SERVICE CREDITS.—The Fund may receive credits pursuant to paragraph (3)(A) of this subsection only when the unobligated balance of the Fund is less than \$5,000,000.

“(5) REPORT REQUIRED.—

“(A) Except as provided in subparagraph (B) of this paragraph, the Secretary shall not obligate any amount in the Fund in a given fiscal year unless the Secretary has submitted to Congress, concurrent with the President’s budget submission for that fiscal year, a report that describes—

“(i) the amounts credited to the Fund, pursuant to paragraph (3) of this subsection, for the preceding fiscal year;

“(ii) a detailed description of the activities for which amounts were charged; and

“(iii) the projected level of expenditures from the Fund for the coming fiscal year, based on—

“(I) on-going activities; and

“(II) new cases, derived from historic data.

“(B) The limitation in subparagraph (A) of this paragraph shall not apply to obligations during the first fiscal year during which amounts are credited to the Fund.

“(6) FUND MANAGER.—The Secretary shall designate a Fund manager, who shall—

“(A) ensure the visibility and accountability of transactions utilizing the Fund;

“(B) prepare the report required by paragraph (5); and

“(C) monitor the unobligated balance of the Fund and provide notice to the Secretary and the Attorney General whenever the unobligated balance of the Fund is less than \$5,000,000.

“(c) IN GENERAL.—

“(1) AUTHORITY.—The Secretary is authorized—

“(A) to pay, in whole or in part, without further appropriation and without fiscal year limitation, from amounts in the Fund, necessary support of—

“(i) any seafarer who enters, remains, or has been paroled into the United States and is involved in an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard; and

“(ii) any seafarer whom the Secretary finds to have been abandoned in the United States; and

“(B) to reimburse, in whole or in part, without further appropriation and without fiscal year limitation, from amounts in the Fund, a shipowner, who has filed a bond or surety satisfactory pursuant to subparagraph (A) and provided necessary support of a seafarer who has been paroled into the United States to facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard, for costs of necessary support, when the Secretary deems reimbursement necessary to avoid serious injustice.

“(2) LIMITATION.—Nothing in this section shall be construed—

“(A) to create a right, benefit, or entitlement to necessary support; or

“(B) to compel the Secretary to pay, or reimburse the cost of, necessary support.

“(d) REIMBURSEMENTS; RECOVERY.—

“(1) IN GENERAL.—Any shipowner shall reimburse the Fund an amount equal to the total amount paid from the Fund for necessary support of the seafarer, plus a surcharge of 25 percent of such total amount if—

“(A)(i) the shipowner, during the course of an investigation, reporting, documentation, or adjudication of any matter that the Coast Guard referred to a United States Attorney or the Attorney General, fails to provide necessary support of a seafarer who has been paroled into the United States to facilitate the investigation, reporting, documentation, or adjudication; and

“(ii) a criminal penalty is subsequently imposed against the shipowner; or

“(B) the shipowner, under any circumstance, abandons a seafarer in the United States, as decided by the Secretary.

“(2) ENFORCEMENT.—If a shipowner fails to reimburse the Fund as required under paragraph (1) of this subsection, the Secretary may—

“(A) proceed in rem against any vessel of the shipowner in the Federal district court for the district in which such vessel is found; and

“(B) withhold or revoke the clearance, required by section 60105 of this title, of any vessel of the shipowner wherever such vessel is found.

“(3) Whenever clearance is withheld or revoked pursuant to paragraph (2)(B) of this subsection, clearance may be granted if the shipowner reimburses the Fund the amount required under paragraph (1) of this subsection.

“(e) SURETY; ENFORCEMENT OF TREATIES, LAWS, AND REGULATIONS.—

“(1) BOND AND SURETY AUTHORITY.—The Secretary is authorized to require a bond or surety satisfactory as an alternative to withholding or revoking clearance required under section 60105 of this title if, in the opinion of

the Secretary, such bond or surety satisfactory is necessary to facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard if the surety corporation providing the bond is authorized by the Secretary of the Treasury under section 9305 of title 31 to provide surety bonds under section 9304 of that title.

“(2) APPLICATION.—The authority to require a bond or a surety satisfactory or to request the withholding or revocation of the clearance required under section 60105 of this title applies to any investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard.

“(f) DEFINITIONS.—In this section:

“(1) ABANDONS; ABANDONED.—The term ‘abandons’ or ‘abandoned’ means a shipowner’s unilateral severance of ties with a seafarer or the shipowner’s failure to provide necessary support of a seafarer.

“(2) BOND OR SURETY SATISFACTORY.—The term ‘bond or surety satisfactory’ means a negotiated instrument, the terms of which may, at the discretion of the Secretary, include provisions that require the shipowner to—

“(A) provide necessary support of a seafarer who has or may have information pertinent to an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Secretary;

“(B) facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Secretary;

“(C) stipulate to certain incontrovertible facts, including, but not limited to, the ownership or operation of the vessel, or the authenticity of documents and things from the vessel;

“(D) facilitate service of correspondence and legal papers;

“(E) enter an appearance in United States district court;

“(F) comply with directions regarding payment of funds;

“(G) name an agent in the United States for service of process;

“(H) make stipulations as to the authenticity of certain documents in United States district court;

“(I) provide assurances that no discriminatory or retaliatory measures will be taken against a seafarer involved in an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Secretary;

“(J) provide financial security in the form of cash, bond, or other means acceptable to the Secretary; and

“(K) provide for any other appropriate measures as the Secretary considers necessary to ensure the Government is not prejudiced by granting the clearance required by section 60105 of title 46.

“(3) FUND.—The term ‘Fund’ means the Support of Seafarers Fund, established pursuant to this section.

“(4) NECESSARY SUPPORT.—The term ‘necessary support’ means normal wages, lodging, subsistence, clothing, medical care (including hospitalization), repatriation, and any other expense the Secretary deems appropriate.



“(5) SEAFARER.—The term ‘seafarer’ means an alien crewman who is employed or engaged in any capacity on board a vessel subject to the jurisdiction of the United States.

“(6) SHIPOWNER.—The term ‘shipowner’ means the individual or entity that owns, has an ownership interest in, or operates a vessel subject to the jurisdiction of the United States.

“(7) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term ‘vessel subject to the jurisdiction of the United States’ has the same meaning it has in section 70502(c) of this title, except that it excludes a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when that vessel is engaged in commerce.

“(g) REGULATIONS.—The Secretary may prescribe regulations to implement this section.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund \$1,500,000 for each of fiscal years 2010, 2011, and 2012.”

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 111 of title 46, United States Code, is amended by adding at the end the following new item:

“11113. Protection and fair treatment of seafarers”.

#### **TITLE V—ACQUISITION REFORM**

##### **SEC. 501. CHIEF ACQUISITION OFFICER.**

(a) IN GENERAL.—Chapter 3 of title 14, United States Code, is amended by adding at the end the following:

##### **“§ 55. Chief Acquisition Officer**

“(a) IN GENERAL.—There shall be in the Coast Guard a Chief Acquisition Officer selected by the Commandant who shall be a Rear Admiral or civilian from the Senior Executive Service (career reserved). The Chief Acquisition Officer shall serve at the Assistant Commandant level and have acquisition management as that individual’s primary duty.

“(b) QUALIFICATIONS.—The Chief Acquisition Officer shall be an acquisition professional with a Level III certification and must have at least 10 years experience in an acquisition position, of which at least 4 years were spent as—

- “(1) the program executive officer;
- “(2) the program manager of a Level 1 or Level 2 acquisition project or program;
- “(3) the deputy program manager of a Level 1 or Level 2 acquisition; or
- “(4) a combination of such positions.

“(c) FUNCTIONS OF THE CHIEF ACQUISITION OFFICER.—The functions of the Chief Acquisition Officer include—

“(1) monitoring the performance of programs and projects on the basis of applicable performance measurements and advising the Commandant, through the chain of command, regarding the appropriate business strategy to achieve the missions of the Coast Guard;

“(2) maximizing the use of full and open competition at the prime contract and sub-contract levels in the acquisition of property, capabilities, and services by the Coast Guard by establishing policies, procedures, and practices that ensure that the Coast Guard receives a sufficient number of competitive proposals from responsible sources to fulfill the Government’s requirements, including performance and delivery schedules, at the lowest cost or best value considering the nature of the property or service procured;

“(3) making acquisition decisions in concurrence with the technical authority, or

technical authorities, as appropriate, of the Coast Guard, as designated by the Commandant, consistent with all other applicable laws and decisions establishing procedures within the Coast Guard;

“(4) ensuring the use of detailed performance specifications in instances in which performance based contracting is used;

“(5) managing the direction of acquisition policy for the Coast Guard, including implementation of the unique acquisition policies, regulations, and standards of the Coast Guard;

“(6) developing and maintaining an acquisition career management program in the Coast Guard to ensure that there is an adequate acquisition workforce;

“(7) assessing the requirements established for Coast Guard personnel regarding knowledge and skill in acquisition resources and management and the adequacy of such requirements for facilitating the achievement of the performance goals established for acquisition management;

“(8) developing strategies and specific plans for hiring, training, and professional development; and

“(9) reporting to the Commandant, through the chain of command, on the progress made in improving acquisition management capability.”

(b) CLERICAL AMENDMENT.—The table of contents for chapter 3 of title 14, United States Code, is amended by adding at the end the following:

“55. Chief Acquisition Officer”.

(c) SELECTION DEADLINE.—As soon as practicable after the date of enactment of this Act, but no later than October 1, 2011, the Commandant of the Coast Guard shall select a Chief Acquisition Officer under section 55 of title 14, United States Code.

##### **SEC. 502. ACQUISITIONS.**

(a) IN GENERAL.—Part I of title 14, United States Code, is amended by inserting after chapter 13 the following:

#### **“CHAPTER 15. ACQUISITIONS**

##### **“SUBCHAPTER 1—GENERAL PROVISIONS**

“Sec.

“561. Acquisition directorate

“562. Senior acquisition leadership team

“563. Improvements in Coast Guard acquisition management

“564. Recognition of Coast Guard personnel for excellence in acquisition

“565. Prohibition on use of lead systems integrators

“566. Required contract terms

“567. Department of Defense consultation

“568. Undefined contractual actions

##### **“SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND PROCEDURES**

“Sec.

“571. Identification of major system acquisitions

“572. Acquisition

“573. Preliminary development and demonstration

“574. Acquisition, production, deployment, and support

“575. Acquisition program baseline breach

##### **“SUBCHAPTER 3—DEFINITIONS**

“Sec.

“581. Definitions

##### **“SUBCHAPTER 1—GENERAL PROVISIONS**

##### **“§ 561. Acquisition directorate**

“(a) ESTABLISHMENT.—The Commandant of the Coast Guard shall establish an acquisition directorate to provide guidance and oversight for the implementation and management of all Coast Guard acquisition processes, programs, and projects.

“(b) MISSION.—The mission of the acquisition directorate is—

“(1) to acquire and deliver assets and systems that increase operational readiness, enhance mission performance, and create a safe working environment; and

“(2) to assist in the development of a workforce that is trained and qualified to further the Coast Guard’s missions and deliver the best value products and services to the Nation.

##### **“§ 562. Senior acquisition leadership team**

“(a) ESTABLISHMENT.—The Commandant shall establish a senior acquisition leadership team within the Coast Guard comprised of—

“(1) the Vice Commandant;

“(2) the Deputy and Assistant Commandants;

“(3) appropriate senior staff members of each Coast Guard directorate;

“(4) appropriate senior staff members for each assigned field activity or command; and

“(5) any other Coast Guard officer or employee designated by the Commandant.

“(b) FUNCTION.—The senior acquisition leadership team shall—

“(1) meet at the call of the Commandant at such places and such times as the Commandant may require;

“(2) provide advice and information on operational and performance requirements of the Coast Guard;

“(3) identify gaps and vulnerabilities in the operational readiness of the Coast Guard;

“(4) make recommendations to the Commandant and the Chief Acquisition Officer to remedy the identified gaps and vulnerabilities in the operational readiness of the Coast Guard; and

“(5) contribute to the development of a professional, experienced acquisition workforce by providing acquisition-experience tours of duty and educational development for officers and employees of the Coast Guard.

##### **“§ 563. Improvements in Coast Guard acquisition management**

“(a) PROJECT AND PROGRAM MANAGERS.—

“(1) PROJECT OR PROGRAM MANAGER DEFINED.—In this section, the term ‘project or program manager’ means an individual designated—

“(A) to develop, produce, and deploy a new asset to meet identified operational requirements; and

“(B) to manage cost, schedule, and performance of the acquisition or project or program.

“(2) LEVEL 1 PROJECTS.—An individual may not be assigned as the project or program manager for a Level 1 acquisition unless the individual holds a Level III acquisition certification as a program manager.

“(3) LEVEL 2 PROJECTS.—An individual may not be assigned as the project or program manager for a Level 2 acquisition unless the individual holds a Level II acquisition certification as a program manager.

“(b) GUIDANCE ON TENURE AND ACCOUNTABILITY OF PROGRAM AND PROJECT MANAGERS.—Not later than one year after the date of enactment of the Coast Guard Authorization Act for Fiscal years 2010 and 2011, the Commandant shall issue guidance to address the qualifications, resources, responsibilities, tenure, and accountability of program and project managers for the management of acquisition programs and projects. The guidance shall address, at a minimum—

“(1) the qualifications required for project or program managers, including the number of years of acquisition experience and the

professional training levels to be required of those appointed to project or program management positions; and

“(2) authorities available to project or program managers, including, to the extent appropriate, the authority to object to the addition of new program requirements that would be inconsistent with the parameters established for an acquisition program.

“(c) ACQUISITION WORKFORCE.—

“(1) IN GENERAL.—The Commandant shall designate a sufficient number of positions to be in the Coast Guard’s acquisition workforce to perform acquisition-related functions at Coast Guard headquarters and field activities.

“(2) REQUIRED POSITIONS.—The Commandant shall ensure that members of the acquisition workforce have expertise, education, and training in at least 1 of the following acquisition career fields:

“(A) Acquisition logistics.

“(B) Auditing.

“(C) Business, cost estimating, and financial management.

“(D) Contracting.

“(E) Facilities engineering.

“(F) Industrial or contract property management.

“(G) Information technology.

“(H) Manufacturing, production, and quality assurance.

“(I) Program management.

“(J) Purchasing.

“(K) Science and technology.

“(L) Systems planning, research, development, and engineering.

“(M) Test and evaluation.

“(3) ACQUISITION WORKFORCE EXPEDITED HIRING AUTHORITY.—

“(A) IN GENERAL.—For purposes of sections 3304, 5333, and 5753 of title 5, the Commandant may—

“(i) designate any category of acquisition positions within the Coast Guard as shortage category positions; and

“(ii) use the authorities in such sections to recruit and appoint highly qualified person directly to positions so designated.

“(B) LIMITATION.—The Commandant may not appoint a person to a position of employment under this paragraph after September 30, 2012.

“(d) MANAGEMENT INFORMATION SYSTEM.—

“(1) IN GENERAL.—The Commandant shall establish a management information system capability to improve acquisition workforce management and reporting.

“(2) INFORMATION MAINTAINED.—Information maintained with such capability shall include the following standardized information on individuals assigned to positions in the workforce:

“(A) Qualifications, assignment history, and tenure of those individuals assigned to positions in the acquisition workforce or holding acquisition-related certifications.

“(B) Promotion rates for officers and members of the Coast Guard in the acquisition workforce.

“(e) CAREER PATHS.—To establish acquisition management as a core competency of the Coast Guard, the Commandant shall—

“(1) ensure that career paths for officers, members, and employees of the Coast Guard who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of those officers, members, and employees to the most senior positions in the acquisition workforce; and

“(2) publish information on such career paths.

“§ 564. Recognition of Coast Guard personnel for excellence in acquisition

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011, the Commandant shall commence implementation of a program to recognize excellent performance by individuals and teams comprised of officers, members, and employees of the Coast Guard that contributed to the long-term success of a Coast Guard acquisition project or program.

“(b) ELEMENTS.—The program shall include—

“(1) specific award categories, criteria, and eligibility and manners of recognition;

“(2) procedures for the nomination by personnel of the Coast Guard of individuals and teams comprised of officers, members, and employees of the Coast Guard for recognition under the program; and

“(3) procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the Government, academia, and the private sector who have such expertise and are appointed in such manner as the Commandant shall establish for the purposes of this program.

“(c) AWARD OF CASH BONUSES.—As part of the program required by subsection (a), the Commandant, subject to the availability of appropriations, may award to any civilian employee recognized pursuant to the program a cash bonus to the extent that the performance of such individual so recognized warrants the award of such bonus.

“§ 565. Prohibition on use of lead systems integrators

“(a) IN GENERAL.—

“(1) USE OF LEAD SYSTEMS INTEGRATOR.—Except as provided in subsection (b), the Commandant may not use a private sector entity as a lead systems integrator for an acquisition contract awarded or delivery order or task order issued after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011.

“(2) FULL AND OPEN COMPETITION.—The Commandant and any lead systems integrator engaged by the Coast Guard, pursuant to the exceptions described in subsection (b), shall use full and open competition for any acquisition contract awarded after the date of enactment of that Act, unless otherwise excepted in accordance with the Competition in Contracting Act of 1984 (41 U.S.C. 251 note), the amendments made by that Act, and the Federal Acquisition Regulations.

“(3) NO EFFECT ON SMALL BUSINESS ACT.—Nothing in this subsection shall be construed to supersede or otherwise affect the authorities provided by and under the Small Business Act (15 U.S.C. 631 et seq.).

“(b) EXCEPTIONS.—

“(1) NATIONAL DISTRESS AND RESPONSE SYSTEM MODERNIZATION PROGRAM; NATIONAL SECURITY CUTTERS 2 AND 3.—Notwithstanding subsection (a), the Commandant may use a private sector entity as a lead systems integrator for the Coast Guard to complete the National Distress and Response System Modernization Program, the C4ISR projects directly related to the Integrated Deepwater Program, and National Security Cutters 2 and 3 if the Secretary of Homeland Security certifies that—

“(A) the acquisition is in accordance with the Competition in Contracting Act of 1984 (41 U.S.C. 251 note), the amendments made by that Act, and the Federal Acquisition Regulations; and

“(B) the acquisition and the use of a private sector entity as a lead systems inte-

grator for the acquisition is in the best interest of the Federal Government.

“(2) TERMINATION DATE FOR EXCEPTIONS.—Except for the modification of delivery or task orders pursuant to Parts 4 and 42 of the Federal Acquisition Regulations, the Commandant may not use a private sector entity as a lead systems integrator after the earlier of—

“(A) September 30, 2012; or

“(B) the date on which the Commandant certifies in writing to the appropriate congressional committees that the Coast Guard has available and can retain sufficient contracting personnel and expertise within the Coast Guard, through an arrangement with other Federal agencies, or through contracts or other arrangements with private sector entities, to perform the functions and responsibilities of the lead system integrator in an efficient and cost-effective manner.

“§ 566. Required contract terms

“(a) IN GENERAL.—The Commandant shall ensure that a contract awarded or a delivery order or task order issued for an acquisition of a capability or an asset with an expected service life of 10 years and with a total acquisition cost that is equal to or exceeds \$10,000,000 awarded or issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011—

“(1) provides that all certifications for an end-state capability or asset under such contract, delivery order, or task order, respectively, will be conducted by the Commandant or an independent third party, and that self-certification by a contractor or subcontractor is not allowed;

“(2) requires that the Commandant shall maintain the authority to establish, approve, and maintain technical requirements;

“(3) requires that any measurement of contractor and subcontractor performance be based on the status of all work performed, including the extent to which the work performed met all performance, cost, and schedule requirements;

“(4) specifies that, for the acquisition or upgrade of air, surface, or shore capabilities and assets for which compliance with TEMPEST certification is a requirement, the standard for determining such compliance will be the air, surface, or shore standard then used by the Department of the Navy for that type of capability or asset; and

“(5) for any contract awarded to acquire an Offshore Patrol Cutter, includes provisions specifying the service life, fatigue life, and days underway in general Atlantic and North Pacific Sea conditions, maximum range, and maximum speed the cutter will be built to achieve.

“(b) PROHIBITED CONTRACT PROVISIONS.—The Commandant shall ensure that any contract awarded or delivery order or task order issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 does not include any provision allowing for equitable adjustment that is not consistent with the Federal Acquisition Regulations.

“(c) INTEGRATED PRODUCT TEAMS.—Integrated product teams, and all teams that oversee integrated product teams, shall be chaired by officers, members, or employees of the Coast Guard.

“(d) DEEPWATER TECHNICAL AUTHORITIES.—The Commandant shall maintain or designate the technical authorities to establish, approve, and maintain technical requirements. Any such designation shall be made in writing and may not be delegated to the authority of the Chief Acquisition Officer established by section 55 of this title.

**§ 567. Department of Defense consultation**

“(a) IN GENERAL.—The Commandant shall make arrangements as appropriate with the Secretary of Defense for support in contracting and management of Coast Guard acquisition programs. The Commandant shall also seek opportunities to make use of Department of Defense contracts, and contracts of other appropriate agencies, to obtain the best possible price for assets acquired for the Coast Guard.

“(b) INTER-SERVICE TECHNICAL ASSISTANCE.—The Commandant shall seek to enter into a memorandum of understanding or a memorandum of agreement with the Secretary of the Navy to obtain the assistance of the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including the Navy Systems Command, with the oversight of Coast Guard major acquisition programs. The memorandum of understanding or memorandum of agreement shall, at a minimum, provide for—

“(1) the exchange of technical assistance and support that the Assistant Commandants for Acquisition, Human Resources, Engineering, and Information technology may identify;

“(2) the use, as appropriate, of Navy technical expertise; and

“(3) the exchange of personnel between the Coast Guard and the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including Naval Systems Commands, to facilitate the development of organic capabilities in the Coast Guard.

“(c) TECHNICAL REQUIREMENT APPROVAL PROCEDURES.—The Chief Acquisition Officer shall adopt, to the extent practicable, procedures modeled after those used by the Navy Senior Acquisition Official to approve all technical requirements.

**§ 568. Undefined contractual actions**

“(a) IN GENERAL.—The Coast Guard may not enter into an undefined contractual action unless such action is directly approved by the Head of Contracting Activity of the Coast Guard.

“(b) REQUESTS FOR UNDEFINED CONTRACTUAL ACTIONS.—Any request to the Head of Contracting Activity for approval of an undefined contractual action shall include a description of the anticipated effect on requirements of the Coast Guard if a delay is incurred for the purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

“(c) REQUIREMENTS FOR UNDEFINED CONTRACTUAL ACTIONS.—

“(1) DEADLINE FOR AGREEMENT ON TERMS, SPECIFICATIONS, AND PRICE.—A contracting officer of the Coast Guard may not enter into an undefined contractual action unless the contractual action provides for agreement upon contractual terms, specification, and price by the earlier of—

“(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

“(B) the date on which the amount of funds obligated under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

“(2) LIMITATION ON OBLIGATIONS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the contracting officer for an undefined contractual action may not obligate under such contractual action an

amount that exceeds 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), if a contractor submits a qualifying proposal to definitize an undefined contractual action before an amount that exceeds 50 percent of the negotiated overall ceiling price is obligated on such action, the contracting officer for such action may not obligate with respect to such contractual action an amount that exceeds 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

“(3) WAIVER.—The Commandant may waive the application of this subsection with respect to a contract if the Commandant determines that the waiver is necessary to support—

“(A) a contingency operation (as that term is defined in section 101(a)(13) of title 10);

“(B) operations to prevent or respond to a transportation security incident (as defined in section 70101(6) of title 46);

“(C) an operation in response to an emergency that poses an unacceptable threat to human health or safety or to the marine environment; or

“(D) an operation in response to a natural disaster or major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(4) LIMITATION ON APPLICATION.—This subsection does not apply to an undefined contractual action for the purchase of initial spares.

“(d) INCLUSION OF NONURGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefined contractual action by the Coast Guard for spare parts and support equipment that are needed on an urgent basis unless the Commandant approves such inclusion as being—

“(1) good business practice; and

“(2) in the best interests of the United States.

“(e) MODIFICATION OF SCOPE.—The scope of an undefined contractual action under which performance has begun may not be modified unless the Commandant approves such modification as being—

“(1) good business practice; and

“(2) in the best interests of the United States.

“(f) ALLOWABLE PROFIT.—The Commandant shall ensure that the profit allowed on an undefined contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

“(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

“(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

“(g) DEFINITIONS.—In this section:

“(1) UNDEFINED CONTRACTUAL ACTION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘undefined contractual action’ means a new procurement action entered into by the Coast Guard for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action.

“(B) EXCLUSION.—The term ‘undefined contractual action’ does not include contractual actions with respect to—

“(i) foreign military sales;

“(ii) purchases in an amount not in excess of the amount of the simplified acquisition threshold; or

“(iii) special access programs.

“(2) QUALIFYING PROPOSAL.—The term ‘qualifying proposal’ means a proposal that contains sufficient information to enable complete and meaningful audits of the information contained in the proposal as determined by the contracting officer.

“SUBCHAPTER 2—IMPROVED ACQUISITION  
PROCESS AND PROCEDURES

**§ 571. Identification of major system acquisitions**

“(a) IN GENERAL.—

“(1) SUPPORT MECHANISMS.—The Commandant shall develop and implement mechanisms to support the establishment of mature and stable operational requirements for acquisitions under this subchapter.

“(2) MISSION ANALYSIS; AFFORDABILITY ASSESSMENT.—The Commandant may not initiate a Level 1 or Level 2 acquisition project or program until the Commandant—

“(A) completes a mission analysis that—

“(i) identifies any gaps in capability; and

“(ii) develops a clear mission need; and

“(B) prepares a preliminary affordability assessment for the project or program.

“(b) ELEMENTS.—

“(1) REQUIREMENTS.—The mechanisms required by subsection (a) shall ensure the implementation of a formal process for the development of a mission-needs statement, concept-of-operations document, capability development plan, and resource proposal for the initial project or program funding, and shall ensure the project or program is included in the Coast Guard Capital Investment Plan.

“(2) ASSESSMENT OF TRADE-OFFS.—In conducting an affordability assessment under subsection (a)(2)(B), the Commandant shall develop and implement mechanisms to ensure that trade-offs among cost, schedule, and performance are considered in the establishment of preliminary operational requirements for development and production of new assets and capabilities for Level 1 and Level 2 acquisitions projects and programs.

“(c) HUMAN RESOURCE CAPITAL PLANNING.—The Commandant shall develop staffing predictions, define human capital performance initiatives, and identify preliminary training needs for any such project or program.

“(d) DHS ACQUISITION APPROVAL.—A Level 1 or Level 2 acquisition project or program may not be implemented unless it is approved by the Department of Homeland Security Acquisition Review Board or the Joint Review Board.

**§ 572. Acquisition**

“(a) IN GENERAL.—The Commandant may not establish a Level 1 or Level 2 acquisition project or program approved under section 571(d) until the Commandant—

“(1) clearly defines the operational requirements for the project or program;

“(2) establishes the feasibility of alternatives;

“(3) develops an acquisition project or program baseline;

“(4) produces a life-cycle cost estimate; and

“(5) assesses the relative merits of alternatives to determine a preferred solution in accordance with the requirements of this section.

“(b) ANALYSIS OF ALTERNATIVES.—

“(1) IN GENERAL.—The Commandant shall conduct an analysis of alternatives for the asset or capability to be acquired in an analyze and select phase of the acquisition process.

“(2) REQUIREMENTS.—The analysis of alternatives shall be conducted by a federally funded research and development center, a qualified entity of the Department of Defense, or a similar independent third party entity that has appropriate acquisition expertise and has no substantial financial interest in any part of the acquisition project or program that is the subject of the analysis. At a minimum, the analysis of alternatives shall include—

“(A) an assessment of the technical maturity, and technical and other risks;

“(B) an examination of capability, interoperability, and other disadvantages;

“(C) an evaluation of whether different combinations or quantities of specific assets or capabilities could meet the Coast Guard's overall performance needs;

“(D) a discussion of key assumptions and variables, and sensitivity to change in such assumptions and variables;

“(E) when an alternative is an existing asset or prototype, an evaluation of relevant safety and performance records and costs;

“(F) a calculation of life-cycle costs including—

“(i) an examination of likely research and development costs and the levels of uncertainty associated with such estimated costs;

“(ii) an examination of likely production and deployment costs and levels of uncertainty associated with such estimated costs;

“(iii) an examination of likely operating and support costs and the levels of uncertainty associated with such estimated costs;

“(iv) if they are likely to be significant, an examination of likely disposal costs and the levels of uncertainty associated with such estimated costs; and

“(v) such additional measures as the Commandant or the Secretary of Homeland Security determines to be necessary for appropriate evaluation of the asset; and

“(G) the business case for each viable alternative.

“(c) TEST AND EVALUATION MASTER PLAN.—

“(1) IN GENERAL.—For any Level 1 or Level 2 acquisition project or program the Chief Acquisition Officer shall approve a test and evaluation master plan specific to the acquisition project or program for the capability, asset, or subsystems of the capability or asset and intended to minimize technical, cost, and schedule risk as early as practicable in the development of the project or program.

“(2) TEST AND EVALUATION STRATEGY.—The master plan shall—

“(A) set forth an integrated test and evaluation strategy that will verify that capability-level or asset-level and subsystem-level design and development, including performance and supportability, have been sufficiently proven before the capability, asset, or subsystem of the capability or asset is approved for production; and

“(B) require that adequate developmental tests and evaluations and operational tests and evaluations established under subparagraph (A) are performed to inform production decisions.

“(3) OTHER COMPONENTS OF THE MASTER PLAN.—At a minimum, the master plan shall identify—

“(A) the key performance parameters to be resolved through the integrated test and evaluation strategy;

“(B) critical operational issues to be assessed in addition to the key performance parameters;

“(C) specific development test and evaluation phases and the scope of each phase;

“(D) modeling and simulation activities to be performed, if any, and the scope of such activities;

“(E) early operational assessments to be performed, if any, and the scope of such assessments;

“(F) operational test and evaluation phases;

“(G) an estimate of the resources, including funds, that will be required for all test, evaluation, assessment, modeling, and simulation activities; and

“(H) the Government entity or independent entity that will perform the test, evaluation, assessment, modeling, and simulation activities.

“(4) UPDATE.—The Chief Acquisition Officer shall approve an updated master plan whenever there is a revision to project or program test and evaluation strategy, scope, or phasing.

“(5) LIMITATION.—The Coast Guard may not—

“(A) proceed beyond that phase of the acquisition process that entails approving the supporting acquisition of a capability or asset before the master plan is approved by the Chief Acquisition Officer; or

“(B) award any production contract for a capability, asset, or subsystem for which a master plan is required under this subsection before the master plan is approved by the Chief Acquisition Officer.

“(d) LIFE-CYCLE COST ESTIMATES.—

“(1) IN GENERAL.—The Commandant shall implement mechanisms to ensure the development and regular updating of life-cycle cost estimates for each Level 1 or Level 2 acquisition to ensure that these estimates are considered in decisions to develop or produce new or enhanced capabilities and assets.

“(2) TYPES OF ESTIMATES.—In addition to life-cycle cost estimates that may be developed by acquisition program offices, the Commandant shall require that an independent life-cycle cost estimate be developed for each Level 1 or Level 2 acquisition project or program.

“(3) REQUIRED UPDATES.—For each Level 1 or Level 2 acquisition project or program the Commandant shall require that life-cycle cost estimates shall be updated before each milestone decision is concluded and the project or program enters a new acquisition phase.

“(e) DHS ACQUISITION APPROVAL.—A project or program may not enter the obtain phase under section 573 unless the Department of Homeland Security Acquisition Review Board or the Joint Review Board (or other entity to which such responsibility is delegated by the Secretary of Homeland Security) has approved the analysis of alternatives for the project. The Joint Review Board may also approve the low rates initial production quantity for the project or program if such an initial production quantity is planned by the acquisition project or program and deemed appropriate by the Joint Review Board.

#### “§ 573. Preliminary development and demonstration

“(a) IN GENERAL.—The Commandant shall ensure that developmental test and evaluation, operational test and evaluation, life cycle cost estimates, and the development and demonstration requirements are met to confirm that the projects or programs meet the requirements described in the mission-

needs statement and the operational requirements document and the following development and demonstration objectives:

“(1) To demonstrate that the most promising design, manufacturing, and production solution is based upon a stable, producible, and cost-effective product design.

“(2) To ensure that the product capabilities meet contract specifications, acceptable operational performance requirements, and system security requirements.

“(3) To ensure that the product design is mature enough to commit to full production and deployment.

“(b) TESTS AND EVALUATIONS.—

“(1) IN GENERAL.—The Commandant shall ensure that the Coast Guard conducts developmental tests and evaluations and operational tests and evaluations of a capability or asset and the subsystems of the capability or asset for which a master plan has been prepared under section 572(c)(1).

“(2) USE OF THIRD PARTIES.—The Commandant shall ensure that the Coast Guard uses independent third parties with expertise in testing and evaluating the capabilities or assets and the subsystems of the capabilities or assets being acquired to conduct developmental tests and evaluations and operational tests and evaluations whenever the Coast Guard lacks the capability to conduct the tests and evaluations required by a master plan.

“(3) COMMUNICATION OF SAFETY CONCERNS.—

The Commandant shall require that safety concerns identified during developmental or operational tests and evaluations or through independent or Government-conducted design assessments of capabilities or assets and subsystems of capabilities or assets to be acquired by the Coast Guard shall be communicated as soon as practicable, but not later than 30 days after the completion of the test or assessment event or activity that identified the safety concern, to the program manager for the capability or asset and the subsystems concerned and to the Chief Acquisition Officer.

“(4) ASSET ALREADY IN LOW, INITIAL, OR FULL-RATE PRODUCTION.—If operational test and evaluation on a capability or asset already in low, initial, or full-rate production identifies a safety concern with the capability or asset or any subsystems of the capability or asset not previously identified during developmental or operational test and evaluation, the Commandant shall—

“(A) notify the program manager and the Chief Acquisition Officer of the safety concern as soon as practicable, but not later than 30 days after the completion of the test and evaluation event or activity that identified the safety concern; and

“(B) notify the Chief Acquisition Officer and include in such notification—

“(i) an explanation of the actions that will be taken to correct or mitigate the safety concern in all capabilities or assets and subsystems of the capabilities or assets yet to be produced, and the date by which those actions will be taken;

“(ii) an explanation of the actions that will be taken to correct or mitigate the safety concern in previously produced capabilities or assets and subsystems of the capabilities or assets, and the date by which those actions will be taken; and

“(iii) an assessment of the adequacy of current funding to correct or mitigate the safety concern in capabilities or assets and subsystems of the capabilities or assets and in previously produced capabilities or assets and subsystems.

“(c) TECHNICAL CERTIFICATION.—

“(1) IN GENERAL.—The Commandant shall ensure that any Level 1 or Level 2 acquisition project or program is certified by the technical authority of the Coast Guard after review by an independent third party with capabilities in the mission area, asset, or particular asset component.

“(2) TEMPEST TESTING.—The Commandant shall—

“(A) cause all electronics on all aircraft, surface, and shore assets that require TEMPEST certification and that are delivered after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 to be tested in accordance with master plan standards and communications security standards by an independent third party that is authorized by the Federal Government to perform such testing; and

“(B) certify that the assets meet all applicable TEMPEST requirements.

“(3) VESSEL CLASSIFICATION.—The Commandant shall cause each cutter, other than the National Security Cutter, acquired by the Coast Guard and delivered after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 is to be classed by the American Bureau of Shipping before final acceptance.

“(d) ACQUISITION DECISION.—The Commandant may not proceed to full scale production, deployment, and support of a Level 1 or Level 2 acquisition project or program unless the Department of Homeland Security Acquisition Review Board has verified that the delivered asset or system meets the project or program performance and cost goals.

**“§ 574. Acquisition, production, deployment, and support**

“(a) IN GENERAL.—The Commandant shall—

“(1) ensure there is a stable and efficient production and support capability to develop an asset or system;

“(2) conduct follow on testing to confirm and monitor performance and correct deficiencies; and

“(3) conduct acceptance tests and trails upon the delivery of each asset or system to ensure the delivered asset or system achieves full operational capability.

“(b) ELEMENTS.—The Commandant shall—

“(1) execute the productions contracts;

“(2) ensure the delivered products meet operational cost and schedules requirements established in the acquisition program baseline;

“(3) validate manpower and training requirements to meet system needs to operate, maintain, support, and instruct the system; and

“(4) prepare a project or program transition plan to enter into programmatic sustainment, operations, and support.

**“§ 575. Acquisition program baseline breach**

“(a) IN GENERAL.—The Commandant shall submit a report to the appropriate congressional committees as soon as possible, but not later than 30 days, after the Chief Acquisition Officer of the Coast Guard becomes aware of the breach of an acquisition program baseline for any Level 1 or Level 2 acquisition program, by—

“(1) a likely cost overrun greater than 15 percent of the acquisition program baseline for that individual capability or asset or a class of capabilities or assets;

“(2) a likely delay of more than 180 days in the delivery schedule for any individual capability or asset or class of capabilities or assets; or

“(3) an anticipated failure for any individual capability or asset or class of capa-

bilities or assets to satisfy any key performance threshold or parameter under the acquisition program baseline.

“(b) CONTENT.—The report submitted under subsection (a) shall include—

“(1) a detailed description of the breach and an explanation of its cause;

“(2) the projected impact to performance, cost, and schedule;

“(3) an updated acquisition program baseline and the complete history of changes to the original acquisition program baseline;

“(4) the updated acquisition schedule and the complete history of changes to the original schedule;

“(5) a full life-cycle cost analysis for the capability or asset or class of capabilities or assets;

“(6) a remediation plan identifying corrective actions and any resulting issues or risks; and

“(7) a description of how progress in the remediation plan will be measured and monitored.

“(c) SUBSTANTIAL VARIANCES IN COSTS OR SCHEDULE.—If a likely cost overrun is greater than 25 percent or a likely delay is greater than 12 months from the costs and schedule described in the acquisition program baseline for any Level 1 or Level 2 acquisition project or program of the Coast Guard, the Commandant shall include in the report a written certification, with a supporting explanation, that—

“(1) the capability or asset or capability or asset class to be acquired under the project or program is essential to the accomplishment of Coast Guard missions;

“(2) there are no alternatives to such capability or asset or capability or asset class which will provide equal or greater capability in both a more cost-effective and timely manner;

“(3) the new acquisition schedule and estimates for total acquisition cost are reasonable; and

“(4) the management structure for the acquisition program is adequate to manage and control performance, cost, and schedule.

**“SUBCHAPTER 3—DEFINITIONS**

**“§ 581. Definitions**

“In this chapter:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation.

“(2) CHIEF ACQUISITION OFFICER.—The term ‘Chief Acquisition Officer’ means the officer appointed under section 55 of this title.

“(3) COMMANDANT.—The term ‘Commandant’ means the Commandant of the Coast Guard.

“(4) JOINT REVIEW BOARD.—The term ‘Joint Review Board’ means the Department of Homeland Security’s Investment Review Board, Joint Requirements Council, or other entity within the Department designated by the Secretary as the Joint Review Board for purposes of this chapter.

“(5) LEVEL 1 ACQUISITION.—The term ‘Level 1 acquisition’ means—

“(A) an acquisition by the Coast Guard—

“(i) the estimated life-cycle costs of which exceed \$1,000,000,000; or

“(ii) the estimated total acquisition costs of which exceed \$300,000,000; or

“(B) any acquisition that the Chief Acquisition Officer of the Coast Guard determines to have a special interest—

“(i) due to—

“(I) the experimental or technically immature nature of the asset;

“(II) the technological complexity of the asset;

“(III) the commitment of resources; or

“(IV) the nature of the capability or set of capabilities to be achieved; or

“(ii) because such acquisition is a joint acquisition.

“(6) LEVEL 2 ACQUISITION.—The term ‘Level 2 acquisition’ means an acquisition by the Coast Guard—

“(A) the estimated life-cycle costs of which are equal to or less than \$1,000,000,000, but greater than \$300,000,000; or

“(B) the estimated total acquisition costs of which are equal to or less than \$300,000,000, but greater than \$100,000,000.

“(7) LIFE-CYCLE COST.—The term ‘life-cycle cost’ means all costs for development, procurement, construction, and operations and support for a particular capability or asset, without regard to funding source or management control.

“(8) SAFETY CONCERN.—The term ‘safety concern’ means any hazard associated with a capability or asset or a subsystem of a capability or asset that is likely to cause serious bodily injury or death to a typical Coast Guard user in testing, maintaining, repairing, or operating the capability, asset, or subsystem or any hazard associated with the capability, asset, or subsystem that is likely to cause major damage to the capability, asset, or subsystem during the course of its normal operation by a typical Coast Guard user.”

(b) CONFORMING AMENDMENT.—The part analysis for part I of title 14, United States Code, is amended by inserting after the item relating to chapter 13 the following:

“15. Acquisitions .....561”.

**SEC. 503. REPORT AND GUIDANCE ON EXCESS PASS-THROUGH CHARGES.**

(a) COMPTROLLER GENERAL REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall issue a report on pass-through charges on contracts, subcontracts, delivery orders, and task orders that were executed by a lead systems integrator under contract to the Coast Guard during the 3 full calendar years preceding the date of enactment of this Act.

(2) MATTERS COVERED.—The report under this subsection—

(A) shall assess the extent to which the Coast Guard paid excessive pass-through charges to contractors or subcontractors that provided little or no value to the performance of a contract or the production of a procured asset; and

(B) shall assess the extent to which the Coast Guard has been particularly vulnerable to excessive pass-through charges on any specific category of contracts or by any specific category of contractors.

(b) GUIDANCE REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commandant shall prescribe guidance to ensure that pass-through charges on contracts, subcontracts, delivery orders, and task orders that are executed with a private entity acting as a lead systems integrator by or on behalf of the Coast Guard are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor. The guidance shall, at a minimum—

(A) set forth clear standards for determining when no, or negligible, value has been added to a contract by a contractor or subcontractor;

(B) set forth procedures for preventing the payment by the Government of excessive pass-through charges; and

(C) identify any exceptions determined by the Commandant to be in the best interest of the Government.

(2) SCOPE OF GUIDANCE.—The guidance prescribed under this subsection—

(A) shall not apply to any firm, fixed-price contract or subcontract, delivery order, or task order that is—

(i) awarded on the basis of adequate price competition, as determined by the Commandant; or

(ii) for the acquisition of a commercial item, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

(B) may include such additional exceptions as the Commandant determines to be necessary in the interest of the United States.

(C) EXCESSIVE PASS-THROUGH CHARGE DEFINED.—In this section the term “excessive pass-through charge”, with respect to a contractor or subcontractor that adds no, or negligible, value to a contract or subcontract, means a charge to the Government by the contractor or subcontractor that is for overhead or profit on work performed by a lower-tier contractor or subcontractor, other than reasonable charges for the direct costs of managing lower-tier contractors and subcontracts and overhead and profit based on such direct costs.

(d) APPLICATION OF GUIDANCE.—The guidance prescribed under this section shall apply to contracts awarded to a private entity acting as a lead systems integrator by or on behalf of the Coast Guard on or after the date that is 360 days after the date of enactment of this Act.

## TITLE VI—SHIPPING AND NAVIGATION

### SEC. 601. TECHNICAL AMENDMENTS TO CHAPTER 313 OF TITLE 46, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 313 of title 46, United States Code, is amended—

(1) by striking “of Transportation” in sections 31302, 31306, 31321, 31330, and 31343 each place it appears;

(2) by striking “and” after the semicolon in section 31301(5)(F);

(3) by striking “office.” in section 31301(6) and inserting “office; and”; and

(4) by adding at the end of section 31301 the following:

“(7) ‘Secretary’ means the Secretary of the Department of Homeland Security, unless otherwise noted.”.

(b) SECRETARY AS MORTGAGEE.—Section 31308 of such title is amended by striking “When the Secretary of Commerce or Transportation is a mortgagee under this chapter, the Secretary” and inserting “The Secretary of Commerce or Transportation, as a mortgagee under this chapter.”.

(c) SECRETARY OF TRANSPORTATION.—Section 31329(d) of such title is amended by striking “Secretary.” and inserting “Secretary of Transportation.”.

(d) MORTGAGEE.—

(1) Section 31330(a)(1) of such title, as amended by subsection (a)(1) of this section, is amended—

(A) by inserting “or” after the semicolon in subparagraph (B);

(B) by striking “Secretary; or” in subparagraph (C) and inserting “Secretary.”; and

(C) by striking subparagraph (D).

(2) Section 31330(a)(2) is amended—

(A) by inserting “or” after the semicolon in subparagraph (B);

(B) by striking “faith; or” in subparagraph (C) and inserting “faith.”; and

(C) by striking subparagraph (D).

### SEC. 602. CLARIFICATION OF RULEMAKING AUTHORITY.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by adding at the end the following:

#### “§ 70122. Regulations

“Unless otherwise provided, the Secretary may issue regulations necessary to implement this chapter.”.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 701 of such title is amended by adding at the end the following new item:

“70122. Regulations”.

### SEC. 603. ICEBREAKERS.

(a) ANALYSES.—Not later than 90 days after the date of enactment of this Act or the date of completion of the ongoing High Latitude Study to assess polar ice-breaking mission requirements, whichever occurs later, the Commandant of the Coast Guard shall require a nongovernmental, independent third party (other than the National Academy of Sciences) which has extensive experience in the analysis of military procurements to—

(1) conduct a comparative cost-benefit analysis, taking into account future Coast Guard budget projections (which assume Coast Guard budget growth of no more than inflation) and other recapitalization needs, of—

(A) rebuilding, renovating, or improving the existing fleet of polar icebreakers for operation by the Coast Guard,

(B) constructing new polar icebreakers for operation by the Coast Guard,

(C) construction of new polar icebreakers by the National Science Foundation for operation by the Foundation,

(D) rebuilding, renovating, or improving the existing fleet of polar icebreakers by the National Science Foundation for operation by the Foundation, and

(E) any combination of the activities described in subparagraph (A), (B), (C), or (D) to carry out the missions of the Coast Guard and the National Science Foundation;

(2) conduct an analysis of the impact on mission capacity and the ability of the United States to maintain a presence in the polar regions through the year 2020 if recapitalization of the polar icebreaker fleet, either by constructing new polar icebreakers or rebuilding, renovating, or improving the existing fleet of polar icebreakers, is not fully funded; and

(3) conduct a comprehensive analysis of the impact on all Coast Guard activities, including operations, maintenance, procurements, and end strength, of the acquisition of polar icebreakers described in paragraph (1) by the Coast Guard or the National Science Foundation assuming that total Coast Guard funding will not increase more than the annual rate of inflation.

(b) REPORTS TO CONGRESS.—

(1) Not later than one year and 90 days after the date of enactment of this Act or the date of completion of the ongoing High Latitude Study to assess polar ice-breaking mission requirements, whichever occurs later, the Commandant of the Coast Guard shall submit a report containing the results of the study, together with recommendations the Commandant deems appropriate under section 93(a)(24) of title 14, United States Code, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(2) Not later than 1 year after the date of enactment of this Act, the Commandant shall submit reports containing the results of the analyses required under paragraphs (1)

and (2) of subsection (a), together with recommendations the Commandant deems appropriate under section 93(a)(24) of title 14, United States Code, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

### SEC. 604. PHASEOUT OF VESSELS SUPPORTING OIL AND GAS DEVELOPMENT.

Section 705 of the Security and Accountability for Every Port Act of 2006 (Public Law 109-347; 120 Stat. 1945) is amended to read as follows:

#### “SEC. 705. PHASEOUT OF VESSELS SUPPORTING OIL AND GAS DEVELOPMENT.

“(a) IN GENERAL.—Notwithstanding section 12111(d) of title 46, United States Code, a foreign-flag vessel may be chartered by, or on behalf of, a lessee to be employed for the setting, relocation, or recovery of anchors or other mooring equipment of a mobile offshore drilling unit that is located over the Outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)) for operations in support of exploration, or flow-testing and stimulation of wells, for offshore mineral or energy resources in the Beaufort Sea or the Chukchi Sea adjacent to Alaska—

“(1) until December 31, 2012, if the Secretary of Transportation determines, after publishing notice in the Federal Register, that insufficient vessels documented under section 12111(d) of title 46, United States Code, are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations; and

“(2) for an additional 2-year period beginning January 1, 2013, if the Secretary of Transportation determines—

“(A) that, as of December 31, 2012, the lessee has entered into a binding agreement to employ a suitable vessel or vessels to be documented under such section 12111(d) in sufficient numbers and with sufficient suitability to replace any foreign-flag vessel or vessels operating under this section; and

“(B) after publishing notice in the Federal Register, that insufficient vessels documented under such section 12111(d) are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations.

“(b) LESSEE DEFINED.—In this section, the term ‘lessee’ means the holder of a lease (defined in section 2(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(c)), who has entered into a binding agreement to employ a suitable vessel documented or to be documented under section 12111(d) of title 46, United States Code.

“(c) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to authorize employment in the coastwise trade of a vessel that does not meet the requirements set forth in section 12112 of title 46, United States Code.”.

## TITLE VII—VESSEL CONVEYANCE

### SEC. 701. SHORT TITLE.

This title may be cited as the “Vessel Conveyance Act”.

### SEC. 702. CONVEYANCE OF COAST GUARD VESSELS FOR PUBLIC PURPOSES.

(a) IN GENERAL.—Whenever the transfer of ownership of a Coast Guard vessel to an eligible entity for use for educational, cultural, historical, charitable, recreational, or other public purposes is authorized by law, the Coast Guard shall transfer the vessel to the General Services Administration for conveyance to the eligible entity.

(b) **CONDITIONS OF CONVEYANCE.**—The General Services Administration may not convey a vessel to an eligible entity as authorized by law unless the eligible entity agrees—

(1) to provide the documentation needed by the General Services Administration to process a request for aircraft or vessels under section 102.37.225 of title 41, Code of Federal Regulations;

(2) to comply with the special terms, conditions, and restrictions imposed on aircraft and vessels under section 102-37.460 of such title;

(3) to make the vessel available to the United States Government if it is needed for use by the Commandant of the Coast Guard in time of war or a national emergency; and

(4) to hold the United States Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising from use of the vessel by the United States Government under paragraph (3).

(c) **ELIGIBLE ENTITY DEFINED.**—In this section, the term “eligible entity” means a State or local government, nonprofit corporation, educational agency, community development organization, or other entity that agrees to comply with the conditions established under this section.

## **TITLE VIII—OIL POLLUTION PREVENTION**

### **SEC. 801. RULEMAKINGS.**

(a) **STATUS REPORT.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of all Coast Guard rulemakings required (but for which no final rule has been issued as of the date of enactment of this Act) under section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321).

(2) **INFORMATION REQUIRED.**—The Secretary shall include in the report required in paragraph (1)—

(A) a detailed explanation with respect to each such rulemaking as to—

- (i) what steps have been completed;
- (ii) what areas remain to be addressed; and
- (iii) the cause of any delays; and

(B) the date by which a final rule may reasonably be expected to be issued.

(b) **FINAL RULES.**—The Secretary shall issue a final rule in each pending rulemaking described in subsection (a) as soon as practicable, but in no event later than 18 months after the date of enactment of this Act.

(c) **TOWING VESSELS.**—No later than 1 year after the date of enactment of this Act, the Secretary shall issue a notice of proposed rulemaking regarding inspection requirements for towing vessels required under section 3306(j) of title 46, United States Code. The Secretary shall issue a final rule pursuant to that rulemaking no later than 2 years after the date of enactment of this Act.

### **SEC. 802. OIL TRANSFERS FROM VESSELS.**

(a) **REGULATIONS.**—Within 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations to reduce the risks of oil spills in operations involving the transfer of oil from or to a tank vessel. The regulations—

(1) shall focus on operations that have the highest risks of discharge, including operations at night and in inclement weather;

(2) shall consider—

(A) requirements for the use of equipment, such as putting booms in place for transfers, safety, and environmental impacts;

(B) operational procedures such as manning standards, communications protocols, and restrictions on operations in high-risk areas; or

(C) both such requirements and operational procedures; and

(3) shall take into account the safety of personnel and effectiveness of available procedures and equipment for preventing or mitigating transfer spills.

(b) **APPLICATION WITH STATE LAWS.**—The regulations promulgated under subsection (a) do not preclude the enforcement of any State law or regulation the requirements of which are at least as stringent as requirements under the regulations (as determined by the Secretary) that—

(1) applies in State waters;

(2) does not conflict with, or interfere with the enforcement of, requirements and operational procedures under the regulations; and

(3) has been enacted or promulgated before the date of enactment of this Act.

### **SEC. 803. IMPROVEMENTS TO REDUCE HUMAN ERROR AND NEAR MISS INCIDENTS.**

(a) **REPORT.**—Within 1 year after the date of enactment of this Act, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure that, using available data—

(1) identifies the types of human errors that, combined, account for over 50 percent of all oil spills involving vessels that have been caused by human error in the past 10 years;

(2) identifies the most frequent types of near-miss oil spill incidents involving vessels such as collisions, allisions, groundings, and loss of propulsion in the past 10 years;

(3) describes the extent to which there are gaps in the data with respect to the information required under paragraphs (1) and (2) and explains the reason for those gaps; and

(4) includes recommendations by the Secretary to address the identified types of errors and incidents to address any such gaps in the data.

(b) **MEASURES.**—Based on the findings contained in the report required by subsection (a), the Secretary shall take appropriate action, both domestically and at the International Maritime Organization, to reduce the risk of oil spills caused by human error.

(c) **CONFIDENTIALITY OF VOLUNTARILY SUBMITTED INFORMATION.**—The identity of a person making a voluntary disclosure under this section, and any information obtained from any such voluntary disclosure, shall be treated as confidential.

(d) **DISCOVERY OF VOLUNTARILY SUBMITTED INFORMATION.**—

(1) **IN GENERAL.**—Except as provided in this subsection, a party in a judicial proceeding may not use discovery to obtain information or data collected or received by the Secretary for use in the report required in subsection (a).

(2) **EXCEPTION.**—

(A) Notwithstanding paragraph (1), a court may allow discovery by a party in a judicial proceeding of information or data described in paragraph (1) if, after an in camera review of the information or data, the court decides that there is a compelling reason to allow the discovery.

(B) When a court allows discovery in a judicial proceeding as permitted under this paragraph, the court shall issue a protective order—

(i) to limit the use of the information or data to the judicial proceeding; and

(ii) to prohibit dissemination of the information or data to any person who does not need access to the information or data for the proceeding.

(C) A court may allow information or data it has decided is discoverable under this paragraph to be admitted into evidence in a judicial proceeding only if the court places the information or data under seal to prevent the use of the information or data for a purpose other than for the proceeding.

(3) **APPLICATION.**—Paragraph (1) shall not apply to—

(A) any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading; or

(B) any disclosure made with reckless disregard as to the truth or falsity of that disclosure.

### **SEC. 804. OLYMPIC COAST NATIONAL MARINE SANCTUARY.**

(a) **OLYMPIC COAST NATIONAL MARINE SANCTUARY AREA TO BE AVOIDED.**—The Secretary of the Department in which the Coast Guard is operating and the Under Secretary of Commerce for Oceans and Atmosphere shall revise the area to be avoided off the coast of the State of Washington so that restrictions apply to all vessels required to prepare a response plan pursuant to section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) (other than fishing or research vessels while engaged in fishing or research within the area to be avoided).

### **SEC. 805. PREVENTION OF SMALL OIL SPILLS.**

The Under Secretary of Commerce for Oceans and Atmosphere, in consultation with the Secretary of the Department in which the Coast Guard is operating and other appropriate agencies, shall establish an oil spill prevention and education program for small vessels. The program shall provide for assessment, outreach, and training and voluntary compliance activities to prevent and improve the effective response to oil spills from vessels and facilities not required to prepare a vessel response plan under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), including recreational vessels, commercial fishing vessels, marinas, and aquaculture facilities. The Under Secretary may provide grants to sea grant colleges and institutes designated under section 207 of the National Sea Grant College Program Act (33 U.S.C. 1126) and to State agencies, tribal governments, and other appropriate entities to carry out—

(1) regional assessments to quantify the source, incidence and volume of small oil spills, focusing initially on regions in the country where, in the past 10 years, the incidence of such spills is estimated to be the highest;

(2) voluntary, incentive-based clean marina programs that encourage marina operators, recreational boaters, and small commercial vessel operators to engage in environmentally sound operating and maintenance procedures and best management practices to prevent or reduce pollution from oil spills and other sources;

(3) cooperative oil spill prevention education programs that promote public understanding of the impacts of spilled oil and provide useful information and techniques to minimize pollution, including methods to remove oil and reduce oil contamination of bilge water, prevent accidental spills during maintenance and refueling and properly cleanup and dispose of oil and hazardous substances; and

(4) support for programs, including outreach and education to address derelict vessels and the threat of such vessels sinking



and discharging oil and other hazardous substances, including outreach and education to involve efforts to the owners of such vessels.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Under Secretary of Commerce for Oceans and Atmosphere to carry out this section, \$10,000,000 for each of fiscal years 2010 through 2014.

**SEC. 806. IMPROVED COORDINATION WITH TRIBAL GOVERNMENTS.**

(a) **IN GENERAL.**—Within 6 months after the date of enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall complete the development of a tribal consultation policy, which recognizes and protects to the maximum extent practicable tribal treaty rights and trust assets in order to improve the Coast Guard's consultation and coordination with the tribal governments of federally recognized Indian tribes with respect to oil spill prevention, preparedness, response and natural resource damage assessment.

(b) **INCLUSION OF TRIBAL GOVERNMENT.**—The Secretary of the Department in which the Coast Guard is operating shall ensure that, as soon as practicable after identifying an oil spill that is likely to have a significant impact on natural or cultural resources owned or directly utilized by a federally recognized Indian tribe, the Coast Guard will—

(1) ensure that representatives of the tribal government of the affected tribes are included as part of the incident command system established by the Coast Guard to respond to the spill;

(2) share information about the oil spill with the tribal government of the affected tribe; and

(3) to the extent practicable, involve tribal governments in deciding how to respond to the spill.

(c) **COOPERATIVE ARRANGEMENTS.**—The Coast Guard may enter into memoranda of agreement and associated protocols with Indian tribal governments in order to establish cooperative arrangements for oil pollution prevention, preparedness, and response. Such memoranda may be entered into prior to the development of the tribal consultation and coordination policy to provide Indian tribes grant and contract assistance. Such memoranda of agreement and associated protocols with Indian tribal governments may include—

(1) arrangements for the assistance of the tribal government to participate in the development of the National Contingency Plan and local Area Contingency Plans to the extent they affect tribal lands, cultural and natural resources;

(2) arrangements for the assistance of the tribal government to develop the capacity to implement the National Contingency Plan and local Area Contingency Plans to the extent they affect tribal lands, cultural and natural resources;

(3) provisions on coordination in the event of a spill, including agreements that representatives of the tribal government will be included as part of the regional response team co-chaired by the Coast Guard and the Environmental Protection Agency to establish policies for responding to oil spills;

(4) arrangements for the Coast Guard to provide training of tribal incident commanders and spill responders for oil spill preparedness and response;

(5) demonstration projects to assist tribal governments in building the capacity to protect tribal treaty rights and trust assets from oil spills; and

(6) such additional measures the Coast Guard determines to be necessary for oil pol-

lution prevention, preparedness, and response.

(d) **FUNDING FOR TRIBAL PARTICIPATION.**—Subject to the availability of appropriations, the Commandant of the Coast Guard shall provide assistance to participating tribal governments in order to facilitate the implementation of cooperative arrangements under subsection (c) and ensure the participation of tribal governments in such arrangements. There are authorized to be appropriated to the Commandant \$500,000 for each of fiscal years 2010 through 2014 to be used to carry out this section.

**SEC. 807. REPORT ON AVAILABILITY OF TECHNOLOGY TO DETECT THE LOSS OF OIL.**

Within 1 year after the date of enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on the availability, feasibility, and potential cost of technology to detect the loss of oil carried as cargo or as fuel on tank and non-tank vessels greater than 400 gross tons.

**SEC. 808. USE OF OIL SPILL LIABILITY TRUST FUND.**

(a) **IN GENERAL.**—Section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

“(B) not more than \$15,000,000 in each fiscal year shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred by, and activities related to, response and damage assessment capabilities of the National Oceanic and Atmospheric Administration;”.

(b) **AUDITS; ANNUAL REPORTS.**—Section 1012 of the Oil Pollution Act of 1990 (33 U.S.C. 2712) is amended—

(1) by striking subsection (g) and inserting the following:

“(g) **AUDITS.**—

“(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct an audit, including a detailed accounting of each disbursement from the Fund in excess of \$500,000 that is—

“(A) disbursed by the National Pollution Fund Center; and

“(B) administered and managed by the receiving Federal agencies, including final payments made to agencies and contractors and, to the extent possible, subcontractors.

“(2) **FREQUENCY.**—The audits shall be conducted—

“(A) at least once every 3 years after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011 until 2016; and

“(B) at least once every 5 years after the last audit conducted under subparagraph (A).

“(3) **SUBMISSION OF RESULTS.**—The Comptroller shall submit the results of each audit conducted under paragraph (1) to—

“(A) the Senate Committee on Commerce, Science, and Transportation; and

“(B) the House of Representatives Committee on Transportation and Infrastructure; and

“(C) the Secretary or Administrator of each agency referred to in paragraph (1)(B).”;

(2) by adding at the end thereof the following:

“(h) **REPORTS.**—

“(1) **IN GENERAL.**—Within one year after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011, and annually thereafter, the President, through the Secretary of the Department in which the Coast Guard is operating, shall—

“(A) provide a report on disbursements for the preceding fiscal year from the Fund, regardless of whether those disbursements were subject to annual appropriations, to—

“(i) the Senate Committee on Commerce, Science, and Transportation; and

“(ii) the House of Representatives Committee on Transportation and Infrastructure; and

“(B) make the report available to the public on the National Pollution Funds Center Internet website.

“(2) **CONTENTS.**—The report shall include—

“(A) a list of each disbursement of \$250,000 or more from the Fund during the preceding fiscal year; and

“(B) a description of how each such use of the Fund meets the requirements of subsection (a).

“(3) **AGENCY RECORDKEEPING.**—Each Federal agency that receives amounts from the Fund shall maintain records describing the purposes for which such funds were obligated or expended in such detail as the Secretary may require for purposes of the report required under paragraph (1).

“(i) **AUTHORIZATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out subsections (g) and (h).”.

**SEC. 809. INTERNATIONAL EFFORTS ON ENFORCEMENT.**

The Secretary, in consultation with the heads of other appropriate Federal agencies, shall ensure that the Coast Guard pursues stronger enforcement in the International Maritime Organization of agreements related to oil discharges, including joint enforcement operations, training, and stronger compliance mechanisms.

**SEC. 810. HIGHER VOLUME PORT AREA REGULATORY DEFINITION CHANGE.**

(a) **IN GENERAL.**—Within 1 year after the date of enactment of this Act, the Commandant shall initiate a rulemaking proceeding to modify the definition of the term “higher volume port area” in section 155.1020 of the Coast Guard regulations (33 C.F.R. 155.1020) by striking “Port Angeles, WA” in paragraph (13) of that section and inserting “Cape Flattery, WA”.

(b) **EMERGENCY RESPONSE PLAN REVIEWS.**—Within 5 years after the date of enactment of this Act, the Coast Guard shall complete its review of any changes to emergency response plans under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) resulting from the modification of the higher volume port area definition required by subsection (a).

**SEC. 811. TUG ESCORTS FOR LADEN OIL TANKERS.**

(a) **COMPARABILITY ANALYSIS.**—

(1) **IN GENERAL.**—Within 1 year after the date of enactment of this Act, the Commandant, in consultation with the Secretary of State, shall enter into negotiations with the Government of Canada to update the comparability analysis which serves as the basis for the Cooperative Vessel Traffic Service agreement between the United States and Canada for the management of maritime traffic in Puget Sound, the Strait of Georgia, Haro Strait, Rosario Strait, and the Strait of Juan de Fuca. The updated analysis shall, at a minimum, consider—

(A) requirements for laden tank vessels to be escorted by tug boats;

(B) vessel emergency response towing capability at the entrance to the Strait of Juan de Fuca; and

(C) spill response capability throughout the shared water, including oil spill response planning requirements for vessels bound for one nation transiting in innocent passage through the waters of the other nation.

(2) CONSULTATION REQUIREMENT.—In conducting the analysis required under this subsection, the Commandant shall consult with the State of Washington and affected tribal governments.

(3) RECOMMENDATIONS.—Within 18 months after the date of enactment of this Act, the Commandant shall submit recommendations based on the analysis required under this subsection to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The recommendations shall consider a full range of options for the management of maritime traffic, including Federal legislation, promulgation of Federal rules, and the establishment of cooperative agreements for shared funding of spill prevention and response systems.

(b) DUAL ESCORT VESSELS FOR DOUBLE HULLED TANKERS IN PRINCE WILLIAM SOUND, ALASKA.—

(1) IN GENERAL.—Section 4116(c) of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note) is amended—

(A) by striking “Not later than 6 months after the date of the enactment of this Act, the” and inserting “(1) IN GENERAL.—The”;

and

(B) by adding at the end the following:  
 “(2) PRINCE WILLIAM SOUND, ALASKA.—  
 “(A) IN GENERAL.—The requirement in paragraph (1) relating to single hulled tankers in Prince William Sound, Alaska, described in that paragraph being escorted by at least 2 towing vessels or other vessels considered to be appropriate by the Secretary (including regulations promulgated in accordance with section 3703(a)(3) of title 46, United States Code, as set forth in part 168 of title 33, Code of Federal Regulations (as in effect on March 1, 2009) implementing this subsection with respect to those tankers) shall apply to double hulled tankers over 5,000 gross tons transporting oil in bulk in Prince William Sound, Alaska.  
 “(B) IMPLEMENTATION OF REQUIREMENTS.—The Secretary of the Federal agency with jurisdiction over the Coast Guard shall carry out subparagraph (A) by order without notice and hearing pursuant to section 553 of title 5 of the United States Code.”.

(2) EFFECTIVE DATE.—The amendments made by subsection (b) take effect on the date that is 90 days after the date of enactment of this Act.

(c) PRESERVATION OF STATE AUTHORITY.—Nothing in this Act or in any other provision of Federal law related to the regulation of maritime transportation of oil shall affect, or be construed or interpreted as preempting, the laws or regulations of any State or political subdivision thereof in effect on the date of enactment of this Act which require the escort by one or more tugs of laden oil tankers in the areas other than Prince William Sound which are specified in section 4116(c) of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note).

#### SEC. 812. EXTENSION OF FINANCIAL RESPONSIBILITY.

Section 1016(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2716(a)) is amended—

(1) by striking “or” after the semicolon in paragraph (1);

(2) by inserting “or” after the semicolon in paragraph (2); and

(3) by inserting after paragraph (2) the following:

“(3) any tank vessel over 100 gross tons (except a non-self-propelled vessel that does not carry oil as cargo) using any place subject to the jurisdiction of the United States;”.

#### SEC. 813. OIL SPILL LIABILITY TRUST FUND INVESTMENT AMOUNT.

Within 30 days after the date of enactment of this Act, the Secretary of the Treasury shall increase the amount invested in income producing securities under section 5006(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2736(b)) by \$12,851,340.

#### SEC. 814. LIABILITY FOR USE OF SINGLE-HULL VESSELS.

Section 1001(32)(A) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(32)(A)) is amended by inserting “In the case of a vessel, the term ‘responsible party’ also includes the owner of oil being transported in a tank vessel with a single hull after December 31, 2010 (other than a vessel described in section 3703a(b)(3) of title 46, United States Code).” after “vessel.”.

### TITLE IX—MISCELLANEOUS PROVISIONS

#### SEC. 901. VESSEL DETERMINATION.

(a) VESSELS DEEMED TO BE NEW VESSELS.—The vessel with United States official number 981472 and the vessel with United States official number 988333 shall each be deemed to be a new vessel effective upon the date of delivery after January 1, 2008, from a privately-owned United States shipyard if no encumbrances are on record with the United States Coast Guard at the time of the issuance of the new vessel certificate of documentation for such vessel.

(b) SAFETY INSPECTION.—Each vessel shall be subject to the vessel safety and inspection requirements of title 46, United States Code, applicable to any such vessel as of the day before the date of enactment of this Act.

#### SEC. 902. CONVEYANCE OF THE PRESQUE ISLE LIGHT STATION FRESNEL LENS TO PRESQUE ISLE TOWNSHIP, MICHIGAN.

(a) CONVEYANCE OF LENS AUTHORIZED.—

(1) TRANSFER OF POSSESSION.—Notwithstanding any other provision of law, the Commandant of the Coast Guard may transfer to Presque Isle Township, a township in Presque Isle County in the State of Michigan (in this section referred to as the “Township”), possession of the Historic Fresnel Lens (in this section referred to as the “Lens”) from the Presque Isle Light Station Lighthouse, Michigan (in this section referred to as the “Lighthouse”).

(2) CONDITION.—As a condition of the transfer of possession authorized by paragraph (1), the Township shall, not later than one year after the date of transfer, install the Lens in the Lighthouse for the purpose of operating the Lens and Lighthouse as a Class I private aid to navigation pursuant to section 85 of title 14, United States Code, and the applicable regulations under that section.

(3) CONVEYANCE OF LENS.—Upon the certification of the Commandant that the Township has installed the Lens in the Lighthouse and is able to operate the Lens and Lighthouse as a private aid to navigation as required by paragraph (2), the Commandant shall convey to the Township all right, title, and interest of the United States in and to the Lens.

(4) CESSATION OF UNITED STATES OPERATIONS OF AIDS TO NAVIGATION AT LIGHTHOUSE.—Upon the making of the certification described in paragraph (3), all active Federal aids to navigation located at the

Lighthouse shall cease to be operated and maintained by the United States.

(b) REVERSION.—

(1) REVERSION FOR FAILURE OF AID TO NAVIGATION.—If the Township does not comply with the condition set forth in subsection (a)(2) within the time specified in that subsection, the Township shall, except as provided in paragraph (2), return the Lens to the Commandant at no cost to the United States and under such conditions as the Commandant may require.

(2) EXCEPTION FOR HISTORICAL PRESERVATION.—Notwithstanding the lack of compliance of the Township as described in paragraph (1), the Township may retain possession of the Lens for installation as an artifact in, at, or near the Lighthouse upon the approval of the Commandant. The Lens shall be retained by the Township under this paragraph under such conditions for the preservation and conservation of the Lens as the Commandant shall specify for purposes of this paragraph. Installation of the Lens under this paragraph shall occur, if at all, not later than two years after the date of the transfer of the Lens to the Township under subsection (a)(1).

(3) REVERSION FOR FAILURE OF HISTORICAL PRESERVATION.—If retention of the Lens by the Township is authorized under paragraph (2) and the Township does not install the Lens in accordance with that paragraph within the time specified in that paragraph, the Township shall return the lens to the Coast Guard at no cost to the United States and under such conditions as the Commandant may require.

(c) CONVEYANCE OF ADDITIONAL PERSONAL PROPERTY.—

(1) TRANSFER AND CONVEYANCE OF PERSONAL PROPERTY.—Notwithstanding any other provision of law, the Commandant may transfer to the Township any additional personal property of the United States related to the Lens that the Commandant considers appropriate for conveyance under this section. If the Commandant conveys the Lens to the Township under subsection (a)(3), the Commandant may convey to the Township any personal property previously transferred to the Township under this subsection.

(2) REVERSION.—If the Lens is returned to the Coast Guard pursuant to subsection (b), the Township shall return to the Coast Guard all personal property transferred or conveyed to the Township under this subsection except to the extent otherwise approved by the Commandant.

(d) CONVEYANCE WITHOUT CONSIDERATION.—The conveyance of the Lens and any personal property under this section shall be without consideration.

(e) DELIVERY OF PROPERTY.—The Commandant shall deliver property conveyed under this section—

(1) at the place where such property is located on the date of the conveyance;

(2) in condition on the date of conveyance; and

(3) without cost to the United States.

(f) MAINTENANCE OF PROPERTY.—As a condition of the conveyance of any property to the Township under this section, the Commandant shall enter into an agreement with the Township under which the Township agrees—

(1) to operate the Lens as a Class I private aid to navigation under section 85 of title 14, United States Code, and application regulations under that section; and

(2) to hold the United States harmless for any claim arising with respect to personal property conveyed under this section.

(g) **LIMITATION ON FUTURE CONVEYANCE.**—The instruments providing for the conveyance of property under this section shall—

(1) require that any further conveyance of an interest in such property may not be made without the advance approval of the Commandant; and

(2) provide that, if the Commandant determines that an interest in such property was conveyed without such approval—

(A) all right, title, and interest in such property shall revert to the United States, and the United States shall have the right to immediate possession of such property; and

(B) the recipient of such property shall pay the United States for costs incurred by the United States in recovering such property.

(h) **ADDITIONAL TERMS AND CONDITIONS.**—The Commandant may require such additional terms and conditions in connection with the conveyances authorized by this section as the Commandant considers appropriate to protect the interests of the United States.

**SEC. 903. LAND CONVEYANCE, COAST GUARD PROPERTY IN MARQUETTE COUNTY, MICHIGAN, TO THE CITY OF MARQUETTE, MICHIGAN.**

(a) **CONVEYANCE AUTHORIZED.**—The Commandant of the Coast Guard may convey, without consideration, to the City of Marquette, Michigan (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, located in Marquette County, Michigan, that is under the administrative control of the Coast Guard, consists of approximately 5.5 acres, and is commonly identified as Coast Guard Station Marquette and Lighthouse Point.

(b) **RETENTION OF CERTAIN EASEMENTS.**—In conveying the property under subsection (a), the Commandant of the Coast Guard may retain such easements over the property as the Commandant considers appropriate for access to aids to navigation.

(c) **LIMITATIONS.**—The property to be conveyed by subsection (a) may not be conveyed under that subsection until—

(1) the Coast Guard has relocated Coast Guard Station Marquette to a newly constructed station;

(2) any environmental remediation required under Federal law with respect to the property has been completed; and

(3) the Commandant of the Coast Guard determines that retention of the property by the United States is not required to carry out Coast Guard missions or functions.

(d) **CONDITIONS OF TRANSFER.**—All conditions placed within the deed of title of the property to be conveyed under subsection (a) shall be construed as covenants running with the land.

(e) **INAPPLICABILITY OF SCREENING OR OTHER REQUIREMENTS.**—The conveyance of property authorized by subsection (a) shall be made without regard to the following:

(1) Section 2696 of title 10, United States Code.

(2) Chapter 5 of title 40, United States Code.

(3) Any other provision of law relating to the screening, evaluation, or administration of excess or surplus Federal property prior to conveyance by the Administrator of General Services.

(f) **EXPIRATION OF AUTHORITY.**—The authority in subsection (a) shall expire on the date that is five years after the date of the enactment of this Act.

(g) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be

determined by a survey satisfactory to the Commandant of the Coast Guard. The cost of the survey shall be borne by the United States.

(h) **ADDITIONAL TERMS AND CONDITIONS.**—The Commandant of the Coast Guard may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Commandant considers appropriate to protect the interests of the United States.

**SEC. 904. OFFSHORE SUPPLY VESSELS.**

(a) **REMOVAL OF TONNAGE LIMITS.**—

(1) **DEFINITION.**—

(A) Section 2101(19) of title 46, United States Code, is amended by striking “of more than 15 gross tons but less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title”.

(B) **EXEMPTION.**—Section 5209(b)(1) of the Oceans Act of 1992 (Public Law 102-587; 46 U.S.C. 2101 note) is amended by striking “vessel.” and inserting “vessel of less than 500 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of such title as prescribed by the Secretary under section 14104 of such title.”.

(2) **APPLICATION.**—Section 3702(b) of title 46, United States Code, is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(b) **SCALE OF EMPLOYMENT: ABLE SEAMEN.**—Section 7312(d) of title 46, United States Code, is amended to read as follows:

“(d) Individuals qualified as able seamen—offshore supply vessels under section 7310 of this title may constitute all of the able seamen required on board a vessel of less than 500 gross tons as measured under section 14502 of this title or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title engaged in support of exploration, exploitation, or production of offshore mineral or energy resources. Individuals qualified as able seamen—limited under section 7308 of this title may constitute all of the able seamen required on board a vessel of at least 500 gross tons as measured under section 14502 of this title or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title engaged in support of exploration, exploitation, or production of offshore mineral or energy resources.”.

(c) **MINIMUM NUMBER OF LICENSED INDIVIDUALS.**—Section 8301(b) of title 46, United States Code, is amended to read as follows:

“(b)(1) An offshore supply vessel of less than 500 gross tons as measured under section 14502 of this title or 6,000 gross tons as measured under section 14302 of this title on a voyage of less than 600 miles shall have a licensed mate. If the vessel is on a voyage of at least 600 miles, however, the vessel shall have 2 licensed mates.

“(2) An offshore supply vessel shall have at least one mate. Additional mates on an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title shall be prescribed in accordance with hours of service requirements (including recording and record keeping of that service) prescribed by the Secretary.

“(3) An offshore supply vessel of more than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section

14104 of this title, may not be operated without a licensed engineer.”.

(d) **WATCHES.**—Section 8104(g) of title 46, United States Code, is amended—

(1) by inserting “(1)” after “(g)”; and

(2) by adding at the end the following:

“(2) Paragraph (1) applies to an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title if the individuals engaged on the vessel are in compliance with hours of service requirements (including recording and record-keeping of that service) as prescribed by the Secretary.”.

(e) **OIL FUEL TANK PROTECTION.**—

(1) **APPLICATION.**—An offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title that is constructed under a contract entered into after the date of enactment of this Act, or that is delivered after August 1, 2010, with an aggregate capacity of 600 cubic meters or more of oil fuel, shall comply with the requirements of Regulation 12A under Annex I to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, entitled *Oil Fuel Tank Protection*, regardless of whether such vessel is engaged in the coastwise trade or on an international voyage.

(2) **DEFINITION.**—In this subsection the term “oil fuel” means any oil used as fuel in connection with the propulsion and auxiliary machinery of the vessel in which such oil is carried.

(f) **REGULATIONS.**—

(1) **IN GENERAL.**—Not later than January 1, 2012, the Secretary of the department in which the Coast Guard is operating shall promulgate regulations to implement the amendments and authorities enacted by this section for offshore supply vessels of at least 6,000 gross tons as measured under section 14302 of title 46, United States Code, and to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on such vessels. The final rule issued pursuant to such rulemaking may supersede the interim final rule promulgated under paragraph (2) of this subsection. In promulgating regulations under this subsection, the Secretary shall take into consideration the characteristics of offshore supply vessels, their methods of operation, and their service in support of exploration, exploitation, or production of offshore mineral or energy resources.

(2) **INTERIM FINAL RULE AUTHORITY.**—As soon as is practicable and without regard to the provisions of chapters 5 and 6 of title 5, United States Code, the Secretary shall issue an interim final rule as a temporary regulation implementing this section (including the amendments made by this section) for offshore supply vessels of at least 6,000 gross tons as measured under section 14302 of title 46, United States Code, and to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on such vessels.

(3) **INTERIM PERIOD.**—After the effective date of this Act, prior to the effective date of the regulations prescribed by paragraph (2) of this subsection, and without regard to the provisions of chapters 5 and 6 of title 5, United States Code, and the offshore supply vessel tonnage limits of applicable regulations and policy guidance promulgated prior to the date of enactment of this Act, the Secretary may—

(A) issue a certificate of inspection under section 3309 of title 46, United States Code, to an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of

this title if the Secretary determines that such vessel's arrangements and equipment meet the current Coast Guard requirements for certification as a cargo and miscellaneous vessel; and

(B) authorize a master, mate or engineer who possesses an ocean or near coastal license under part 10 of subchapter B of title 46, Code of Federal Regulations, (or any successor regulation) which qualifies the licensed officer for service on offshore supply vessels of more than 3,000 gross tons, as measured under section 14302 of title 46, United States Code, to operate offshore supply vessels of 6,000 gross tons or greater, as measured under such section.

**SEC. 905. ASSESSMENT OF CERTAIN AIDS TO NAVIGATION AND TRAFFIC FLOW.**

(a) **INFORMATION ON USAGE.**—Within 60 days after the date of enactment of this Act, the Commandant of the Coast Guard shall—

(1) determine the types and numbers of vessels typically transiting or utilizing that portion of the Atlantic Intracoastal Waterway beginning at a point that is due East of the outlet of the Cutler Drain Canal C-100 in Dade County, Florida, and ending at the Dade County line, during a period of 30 days; and

(2) provide the information on usage compiled under this subsection to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(b) **ASSESSMENT OF CERTAIN AIDS TO NAVIGATION.**—Within 90 days after the date of enactment of this Act, the Commandant of the Coast Guard shall—

(1) review and assess the buoys, markers, and other aids to navigation in and along that portion of the Atlantic Intracoastal Waterway specified in subsection (a), to determine the adequacy and sufficiency of such aids, and the need to replace such aids, install additional aids, or both; and

(2) submit a report on the assessment required by this section to the committees.

(c) **SUBMISSION OF PLAN.**—Within 180 days after the date of enactment of this Act, the Commandant shall submit a plan to the committees to address the needs identified under subsection (b).

**SEC. 906. ALTERNATIVE LICENSING PROGRAM FOR OPERATORS OF UNINSPECTED PASSENGER VESSELS ON LAKE TEXOMA IN TEXAS AND OKLAHOMA.**

(a) **IN GENERAL.**—Upon the request of the Governor of the State of Texas or the Governor of the State of Oklahoma, the Secretary of the department in which the Coast Guard is operating shall enter into an agreement with the Governor of the State whereby the State shall license operators of uninspected passenger vessels operating on Lake Texoma in Texas and Oklahoma in lieu of the Secretary issuing the license pursuant to section 8903 of title 46, United States Code, and the regulations issued thereunder, but only if the State plan for licensing the operators of uninspected passenger vessels—

(1) meets the equivalent standards of safety and protection of the environment as those contained in subtitle II of title 46, United States Code, and regulations issued thereunder;

(2) includes—

(A) standards for chemical testing for such operators;

(B) physical standards for such operators;

(C) professional service and training requirements for such operators; and

(D) criminal history background check for such operators;

(3) provides for the suspension and revocation of State licenses;

(4) makes an individual, who is ineligible for a license issued under title 46, United States Code, ineligible for a State license; and

(5) provides for a report that includes—

(A) the number of applications that, for the preceding year, the State rejected due to failure to—

(i) meet chemical testing standards;

(ii) meet physical standards;

(iii) meet professional service and training requirements; and

(iv) pass criminal history background check for such operators;

(B) the number of licenses that, for the preceding year, the State issued;

(C) the number of license investigations that, for the preceding year, the State conducted;

(D) the number of licenses that, for the preceding year, the State suspended or revoked, and the cause for such suspensions or revocations; and

(E) the number of injuries, deaths, collisions, and loss or damage associated with uninspected passenger vessels operations that, for the preceding year, the State investigated.

(b) **ADMINISTRATION.**—

(1) The Governor of the State may delegate the execution and enforcement of the State plan, including the authority to license and the duty to report information pursuant to subsection (a), to any subordinate State officer. The Governor shall provide, to the Secretary, written notice of any delegation.

(2) The Governor (or the Governor's designee) shall provide written notice of any amendment to the State plan no less than 45 days prior to the effective date of such amendment.

(3) At the request of the Secretary, the Governor of the State (or the Governor's designee) shall grant, on a biennial basis, the Secretary access to State records and State personnel for the purpose of auditing State execution and enforcement of the State plan.

(c) **APPLICATION.**—

(1) The requirements of section 8903 of title 46, United States Code, and the regulations issued thereunder shall not apply to any person operating under the authority of a State license issued pursuant to an agreement under this section.

(2) The State shall not compel a person, operating under the authority of a license issued either by another State, pursuant to a valid agreement under this section, or by the Secretary, pursuant to section 8903 of title 46, United States Code, to—

(A) hold a license issued by the State, pursuant to an agreement under this section; or

(B) pay any fee, associated with licensing, because the person does not hold a license issued by the State, pursuant to an agreement under this section.

Nothing in this paragraph shall limit the authority of the State to impose requirements or fees for privileges, other than licensing, that are associated with the operation of uninspected passenger vessels on Lake Texoma.

(3) For the purpose of enforcement, if an individual is issued a license—

(A) by a State, pursuant to an agreement entered into under this section, or

(B) by the Secretary, pursuant to section 8903 of title 46, United States Code,

then the individual shall be entitled to lawfully operate an uninspected passenger vessel on Lake Texoma in Texas and Oklahoma

without further requirement to hold an additional operator's license.

(d) **TERMINATION.**—

(1) If—

(A) the Secretary finds that the State plan for the licensing the operators of uninspected passenger vessels—

(i) does not meet the equivalent standards of safety and protection of the environment as those contained in subtitle II of title 46, United States Code, and regulations issued thereunder,

(ii) does not include—

(I) standards for chemical testing for such operators,

(II) physical standards for such operators,

(III) professional service and training requirements for such operators, or

(IV) background and criminal investigations for such operators,

(iii) does not provide for the suspension and revocation of State licenses, or

(iv) does not make an individual, who is ineligible for a license issued under title 46, United States Code, ineligible for a State license, or

(B) the Governor (or the Governor's designee) fails to report pursuant to subsection (b),

the Secretary shall terminate the agreement authorized by this section, if the Secretary provides written notice to the Governor of the State 60 days in advance of termination. The findings of fact and conclusions of the Secretary, if based on a preponderance of the evidence, shall be conclusive.

(2) The Governor of the State may terminate the agreement authorized by this section, if the Governor provides written notice to the Secretary 60 days in advance of the termination date.

(e) **EXISTING AUTHORITY.**—Nothing in this section shall affect or diminish the authority or jurisdiction of any Federal or State officer to investigate, or require reporting of, marine casualties.

(f) **UNINSPECTED PASSENGER VESSEL DEFINED.**—In this section the term "uninspected passenger vessel" has the meaning that term has in section 2101(42)(B) of title 46, United States Code.

**TITLE X—BUDGETARY EFFECTS**

**SEC. 1001. BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

**SA 3913.** Mr. WHITEHOUSE (for Mr. GREGG) proposed an amendment to the resolution S. Res. 480, condemning the continued detention of Burmese democracy leader Daw Aung San Suu Kyi and calling on the military regime in Burma to permit a credible and fair election process and the transition to civilian, democratic rule; as follows:

On page 2, beginning on line 7, strike "the National League for Democracy and other opposition groups," and insert "all political groups and individuals dedicated to democratic ideals,".

On page 3, beginning on line 9, strike "(including the People's Republic of China, the Association of Southeast Asian Nations, and the United Nations Security Council)" and insert ", as appropriate, in order".

On page 3, line 17, strike “the National League for Democracy and”.

**SA 3914.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 539, strike line 14 and all that follows through page 541, line 24, and insert the following:

“(33) MAJOR SWAP PARTICIPANT.—

“(A) IN GENERAL.—The term ‘major swap participant’ means any person who is not a swap dealer, and—

“(i)(I) maintains a substantial net position in swaps for any of the major swap categories as determined by the Commission, excluding—

“(aa) positions held for hedging or mitigating commercial risk, including operating risk and balance sheet risk, of such person or its affiliates; and

“(bb) positions maintained by any employee benefit plan (or any contract held by such a plan) as defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) for the primary purpose of hedging or mitigating any risk directly associated with the operation of the plan; and

“(II) whose outstanding swaps create substantial net counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets; or

“(ii)(I) is a financial entity, other than an entity predominantly engaged in providing customer financing for the purchase of an affiliate’s merchandise or manufactured goods, that is highly leveraged relative to the amount of capital it holds;

“(II) maintains a substantial net position in outstanding swaps in any major swap category as determined by the Commission; and

“(III) whose outstanding swaps create substantial net counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets.

“(B) DEFINITION OF SUBSTANTIAL NET POSITION.—For purposes of subparagraph (A), the Commission shall define by rule or regulation the term ‘substantial net position’ to mean a position after application of legally enforceable netting or collateral arrangements that meets a threshold the Commission determines to be prudent for the effective monitoring, management, and oversight of entities that are systemically important or can significantly impact the financial system of the United States.

“(C) SCOPE OF DESIGNATION.—For purposes of subparagraph (A), a person may be designated as a major swap participant for 1 or more categories of swaps without being classified as a major swap participant for all classes of swaps.

“(D) CAPITAL.—In setting capital requirements for a person that is designated as a major swap participant for a single type or single class or category of swaps or activi-

ties, the prudential regulator and the Commission shall take into account the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in by virtue of the status of the person as a major swap participant.”;

**SA 3915.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 555, strike line 16 and all that follows through page 557, line 2, and insert the following:

“(49) SWAP DEALER.—

“(A) IN GENERAL.—The term ‘swap dealer’ means any person who—

“(i) holds itself out as a dealer in swaps;

“(ii) makes a market in swaps;

“(iii) regularly engages in the purchase and sale of swaps to customers as its ordinary course of business; and

“(iv) engages in any activity causing the person to be commonly known in the trade as a dealer or market maker in swaps.

“(B) INCLUSION.—A person may be designated as a swap dealer for a single type or single class or category of swap or activities and considered not to be a swap dealer for other types, classes, or categories of swaps or activities.

“(C) CAPITAL.—In setting capital requirements for a person that is designated as a swap dealer for a single type or single class or category of swap or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in by virtue of the status of the person as a swap dealer.

“(D) EXCEPTION.—The term ‘swap dealer’ does not include a person that buys or sells swaps for such person’s own account, either individually or in a fiduciary capacity, or on behalf of any affiliates of such person, unless it does so as a market maker and as a part of a regular business.

**SA 3916.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 566, strike line 8 and all that follows through page 584, line 7, and insert the following:

(3) MANDATORY CLEARING OF SWAPS.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by inserting after sub-

section (g) (as redesignated by paragraph (1)(B)) the following:

“(h) CLEARING REQUIREMENT.—

“(1) OPEN ACCESS.—The rules of a registered derivatives clearing organization shall—

“(A) prescribe that all swaps with the same terms and conditions are economically equivalent and may be offset with each other within the derivatives clearing organization; and

“(B) provide for nondiscriminatory clearing of a swap executed bilaterally or on or through the rules of an unaffiliated designated contract market or swap execution facility, subject to the requirements of section 5(b).

“(2) SWAPS SUBJECT TO MANDATORY CLEARING REQUIREMENT.—

“(A) IN GENERAL.—In accordance with subparagraph (B), the Commission shall, jointly with the Securities and Exchange Commission and the Federal Reserve Board of Governors, adopt rules to establish criteria for determining that a swap or group, category, type, or class of swap is required to be cleared.

“(B) FACTORS.—In carrying out subparagraph (A), the following factors shall be considered:

“(i) Whether 1 or more derivatives clearing organizations or clearing agencies accepts the swap or group, category, type, or class of swap for clearing.

“(ii) Whether the swap or group, category, type, or class of swap is traded pursuant to standard documentation and terms.

“(iii) The liquidity of the swap or group, category, type, or class of swap and its underlying commodity, security, security of a reference entity, or group or index thereof.

“(iv) The ability to value the swap or group, category, type, or class of swap and its underlying commodity, security, security of a reference entity, or group or index thereof consistent with an accepted pricing methodology, including the availability of intraday prices.

“(v) The size of the market for the swap or group, category, type, or class of swap and the available capacity, operational expertise, and resources of the derivatives clearing organization or clearing agency that accepts it for clearing.

“(vi) Whether a clearing mandate would mitigate risk to the financial system or whether it would unduly concentrate risk in a clearing participant, derivatives clearing organization, or clearing agency in a manner that could threaten the solvency of that clearing participant, the derivatives clearing organization, or the clearing agency.

“(vii) Such other factors as the Commission, the Securities and Exchange Commission, and the Federal Reserve Board of Governors jointly may determine are relevant.

“(C) SWAPS SUBJECT TO CLEARING REQUIREMENT.—The Commission—

“(i) shall review each swap, or any group, category, type, or class of swap that is currently listed for clearing and those which a derivatives clearing organization notifies the Commission that the derivatives clearing organization plans to list for clearing after the date of enactment of this subsection;

“(ii) except as provided in paragraph (3), may require, pursuant to the rules adopted under subparagraph (A) and through notice-and-comment rulemaking, that a particular swap, group, category, type, or class of swap must be cleared; and

“(iii) shall rely on economic analysis provided by economists of the Commission in making any determination under clause (ii).

“(D) EFFECT.—

“(i) IN GENERAL.—Nothing in this paragraph affects the ability of a derivatives clearing organization to list for permissive clearing any swap, or group, category, type, or class of swaps.

“(ii) PROHIBITION.—The Commission shall not compel a derivatives clearing organization to list a swap, group, category, type, or class of swap for clearing if the derivatives clearing organization determines that the swap, group, category, type, or class of swap would adversely impact its business operations, or impair the financial integrity of the derivatives clearing organization.

“(iii) REQUIRED EXEMPTION.—The Commission shall exempt a swap from the requirements of subparagraph (C), if no derivatives clearing organization registered under this Act or no derivatives clearing organization that is exempt from registration under section 5b(j) of this Act will accept the swap for clearing.

“(E) PREVENTION OF EVASION.—The Commission may prescribe rules, or issue interpretations of such rules, as necessary to prevent evasions of any requirement to clear under subparagraph (C). In issuing such rules or interpretations, the Commission shall consider—

“(i) the extent to which the terms of the swap, group, category, type, or class of swap are similar to the terms of other swaps, groups, categories, types, or classes of swap that are required to be cleared by swap participants under subparagraph (C); and

“(ii) whether there is an economic purpose for any differences in the terms of the swap or group, category, type, or class of swap that are required to be cleared by swap participants under subparagraph (C).

“(F) ELIMINATION OF REQUIREMENT TO CLEAR.—The Commission may, pursuant to the rules adopted under subparagraph (A) and through notice-and-comment rulemaking, rescind a requirement imposed under subparagraph (C) with respect to a swap, group, category, type, or class of swap.

“(G) PETITION FOR RULEMAKING.—Any person may file a petition, pursuant to the rules of practice of the Commission, requesting that the Commission use its authority under subparagraph (C) to require clearing of a particular swap, group, category, type, or class of swap or to use its authority under subparagraph (F) to rescind a requirement for swap participants to clear a particular swap, group, category, type, or class of swap.

“(H) FOREIGN EXCHANGE FORWARDS, SWAPS, AND OPTIONS.—Foreign exchange forwards, swaps, and options shall not be subject to a clearing requirement under subparagraph (C) unless the Department of the Treasury and the Board of Governors determine that such a requirement is appropriate after considering whether there exists an effective settlement system for such foreign exchange forwards, swaps, and options and any other factors that the Department of the Treasury and the Board of Governors deem to be relevant.

“(3) END USER CLEARING EXEMPTION.—

“(A) DEFINITIONS.—In this paragraph:

“(i) COMMERCIAL END USER.—The term ‘commercial end user’ means any person who, as its primary business activity owns, operates, uses, produces, processes, develops, leases, manufacturers, distributes, merchandises, provides or markets goods, services, physical assets, or commodities (which shall include but not be limited to coal, natural gas, electricity, biofuels, crude oil, gasoline, propane, distillates, and other hydrocarbons) either individually or in a fiduciary capacity.

“(ii) FINANCIAL ENTITY END USER.—

“(I) IN GENERAL.—The term ‘financial entity end user’ means any person predominantly engaged in activities that are financial in nature, as determined by the Commission.

“(II) EXCLUSIONS.—The term ‘financial entity end user’ does not include—

“(aa) any person who is a swap dealer, security-based swap dealer, major swap participant, major security-based swap participant;

“(bb) an investment fund that would be an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) but for paragraph (1) or (7) of section 3(c) of that Act (15 U.S.C. 80a-3(c)); and is not a partnership or other entity or any subsidiary that is primarily invested in physical assets (which shall include but not be limited to commercial real estate) directly or through interests in partnerships or limited liability companies that own such assets;

“(cc) entities defined in section 1303(20) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502(20));

“(dd) a commodity pool; or

“(ee) a commercial end user.

“(B) END USER CLEARING EXEMPTION.—

“(i) IN GENERAL.—Subject to clause (ii), in the event that a swap is subject to the mandatory clearing requirement under paragraph (2), and 1 of the counterparties to the swap is a commercial end user or a financial entity end user, that counterparty—

“(I)(aa) may elect not to clear the swap, as required under paragraph (2); or

“(bb) may elect, prior to entering into the swap transaction, to require clearing of the swap; and

“(II) if the end user makes an election under subclause (I)(bb), shall have the sole right to select the derivatives clearing organization at which the swap will be cleared.

“(ii) LIMITATION.—A commercial end user or a financial entity end user may only make an election under clause (i) if the end user is using the swap to hedge commercial risk, including operating risk and balance sheet risk.

“(C) TREATMENT OF AFFILIATES.—

“(i) IN GENERAL.—An affiliate of a commercial end user (including affiliate entities predominantly engaged in providing financing for the purchase of merchandise or manufactured goods of the commercial end user) or a financial entity end user may make an election under subparagraph (B)(i) only if the affiliate uses the swap to hedge or mitigate the commercial risk, including operating risk and balance sheet risk, of the commercial end user or the financial entity end user or other affiliate of the commercial end user or financial entity end user.

“(ii) PROHIBITION RELATING TO CERTAIN AFFILIATES.—An affiliate of a commercial end user or a financial entity end user shall not use the exemption under subparagraph (B) if the affiliate is—

“(I) a swap dealer;

“(II) a security-based swap dealer;

“(III) a major swap participant;

“(IV) a major security-based swap participant;

“(V) an investment fund that would be an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) but for paragraph (1) or (7) of section 3(c) of that Act (15 U.S.C. 80a-3(c)); and is not a partnership or other entity or any subsidiary that is primarily invested in physical assets (which shall include but not

be limited to commercial real estate) directly or through interests in partnerships or limited liability companies that own such assets; or

“(VI) a commodity pool.

“(D) ABUSE OF EXEMPTION.—The Commission may prescribe such rules or issue interpretations of the rules as the Commission determines to be necessary to prevent abuse of the exemption described in subparagraph (B). The Commission may also request information from those entities claiming the clearing exemption as necessary to prevent abuse of the exemption described in subparagraph (B).

“(4) REQUIRED REPORTING.—Each swap that is not cleared by any derivatives clearing organization shall be reported either to a registered swap repository described in section 21 or, if there is no repository that would accept the swap, to the Commission pursuant to section 4r.

“(5) TRANSITION RULES.—

“(A) REPORTING TRANSITION RULES.—The Commission shall provide for the reporting of data, as follows:

“(i) SWAPS ENTERED INTO BEFORE DATE OF ENACTMENT OF THIS SUBSECTION.—Swaps entered into before the date of the enactment of this subsection shall be reported to a registered swap repository or the Commission not later than 180 days after the effective date of this subsection.

“(ii) SWAPS ENTERED INTO ON OR AFTER DATE OF ENACTMENT OF THIS SUBSECTION.—Swaps entered into on or after such date of enactment shall be reported to a registered swap repository or the Commission not later than such time period as the Commission prescribe.

“(B) CLEARING TRANSITION RULES.—Swaps entered into before the effective date of any requirement under paragraph (2)(C) are exempt from the clearing requirements of this subsection.

“(6) REPORTING OBLIGATIONS.—

“(A) SWAPS IN WHICH ONLY 1 COUNTERPARTY IS A SWAP DEALER OR MAJOR SWAP PARTICIPANT.—With respect to a swap in which only 1 counterparty is a swap dealer or major swap participant, the swap dealer or major swap participant shall report the swap as required under paragraphs (4) and (5).

“(B) SWAPS IN WHICH 1 COUNTERPARTY IS A SWAP DEALER AND THE OTHER A MAJOR SWAP PARTICIPANT.—With respect to a swap in which 1 counterparty is a swap dealer and the other a major swap participant, the swap dealer shall report the swap as required under paragraphs (4) and (5).

“(C) OTHER SWAPS.—With respect to any other swap not described in subparagraph (A) or (B), the counterparties to the swap shall select a counterparty to report the swap as required under paragraphs (4) and (5).”.

**SA 3917.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 580, line 1, insert after “commercial end user” the following: “or a lending



institution cooperatively owned by and primarily serving agricultural producers, agricultural cooperatives, or rural electric cooperatives”.

**SA 3918.** Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1272, line 2, strike “services who” and insert “services, but only to the extent that such person”.

On page 1272, line 22, strike “(C)” and insert “(C)(i)”.

On page 1273, strike line 19 and insert the following:

“(C) LIMITATIONS.—

“(i) IN GENERAL.—Notwithstanding sub—

On page 1273, line 20, after “subparagraph (B)” insert “, and except as provided in clause (ii)”.

On page 1274, between lines 2 and 3, insert the following:

“(ii) EXCEPTION.—Subparagraph (A) and clause (i) of this subparagraph do not apply to any merchant, retailer, or seller of nonfinancial goods or services, to the extent that such person is subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.”.

On page 1274, strike line 3 and all that follows through “may” on line 4 and insert the following:

“(D) RULES.—

“(i) AUTHORITY OF OTHER AGENCIES.—No provision of this title shall”.

On page 1274, between lines 13 and 14, insert the following:

“(ii) SMALL BUSINESSES.—A merchant, retailer, or seller of nonfinancial goods or services that would otherwise be subject to the authority of the Bureau solely by virtue of the application of subparagraph (B)(iii) shall be deemed not to be engaged significantly in offering or providing consumer financial products or services under subparagraph (C)(i), if such person—

“(I) only extends credit for the sale of nonfinancial goods or services, as described in subparagraph (A)(i);

“(II) retains such credit on its own accounts (except to sell or convey such debt that is delinquent or otherwise in default); and

“(III) meets the relevant industry size threshold to be a small business concern, based on annual receipts, pursuant to section 3 of the Small Business Act (15 U.S.C. 632) and the implementing rules thereunder.

“(iii) INITIAL YEAR.—A merchant, retailer, or seller of nonfinancial goods or services shall be deemed to meet the relevant industry size threshold described in clause (ii)(III) during the first year of operations of that business concern if, during that year, the receipts of that business concern reasonably are expected to meet that size threshold.

“(E) EXCEPTION FROM STATE ENFORCEMENT.—To the extent that the Bureau may

not exercise authority under this subsection with respect to a merchant, retailer, or seller of nonfinancial goods or services, no action by a State attorney general or State regulator with respect to a claim made under this title may be brought under subsection 1042(a), with respect to an activity described in any of clauses (i) through (iii) of subparagraph (A) by such merchant, retailer, or seller of nonfinancial goods or services.”.

**SA 3919.** Mr. CONRAD (for himself, Mr. CRAPO, Mr. BARRASSO, Mr. KERRY, Mr. BROWN of Massachusetts, Ms. SNOWE, Ms. LANDRIEU, Mr. DORGAN, Mr. ROBERTS, Mr. ENZI, Mrs. MCCASKILL, Ms. COLLINS, Ms. CANTWELL, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 466, line 13, strike “bank” and all that follows through “association” on line 15 and insert the following: “bank having total assets of more than \$10,000,000,000, in the same manner and to the same extent as if the insured State bank were a national banking association. For purposes of determining total assets under this subsection, the Corporation shall rely on the same regulations and interim methodologies specified in section 312(e) of the Restoring American Financial Stability Act of 2010”.

**SA 3920.** Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. NELSON of Nebraska, Mr. JOHANNES, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

**Subtitle C—Fixed Annuities and Insurance Products Classification**

**SEC. 551. SHORT TITLE.**

This subtitle may be cited as the “Fixed Indexed Annuities and Insurance Products Classification Act of 2010”.

**SEC. 552. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress makes the following findings:

(1) Primary jurisdiction for regulating life insurance and annuities is vested with the States and Territories of the United States and the District of Columbia.

(2) Indexed insurance and annuity products offered by insurance companies are subject to a wide array of laws and regulations enforced by States and applicable jurisdictions, including nonforfeiture requirements that provide for minimum guaranteed values,

thereby protecting consumers against market related losses.

(3) Adoption of Rule 151A by the Securities and Exchange Commission, entitled “Indexed Annuities and Certain Other Insurance Products”, 74 Fed. Reg. 3138 (January 16, 2009), interferes with State insurance regulation, harms the insurance industry, reduces competition, restricts consumer choice, creates unnecessary and excessive regulatory burdens, and diverts Commission resources, all of which outweighs any perceived benefits.

(b) PURPOSE.—The purpose of this subtitle is to nullify rule 151A and clarify the scope of the exemption for annuities and insurance contracts from Federal regulation under the Securities Act of 1933.

**SEC. 553. SCOPE OF EXEMPTION FROM FEDERAL SECURITIES REGULATION.**

Section 3(a)(8) of the Securities Act of 1933 (15 U.S.C. 77c(a)(8)) is amended by inserting before the semicolon the following: “, and any insurance or endowment policy or annuity contract or optional annuity contract—

“(A) the value of which does not vary according to the performance of a separate account; and

“(B) which satisfies standard nonforfeiture laws or similar requirements of the applicable State, Territory, or District of Columbia at time of issue, or in the absence of applicable standard nonforfeiture laws or requirements, satisfies the Model Standard Nonforfeiture Law for Life Insurance or Model Standard Nonforfeiture Law for Individual Deferred Annuities, or any successor model law, as published by the National Association of Insurance Commissioners”.

**SEC. 554. NULLIFICATION OF CERTAIN FEDERAL SECURITIES REGULATIONS.**

Rule 151A promulgated by the Securities and Exchange Commission and entitled “Indexed Annuities and Certain Other Insurance Contracts”, 74 Fed. Reg. 3138 (January 16, 2009), shall have no force or effect.

**SA 3921.** Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1267, line 18, insert before the semicolon “, as such amount is indexed for inflation”.

On page 1267, line 20, insert before the period “, as such amount is indexed for inflation”.

On page beginning on line 24, strike “, to support its examination activities under subsection (c), and”.

On page 1268, strike line 24 and all that follows through page 1269, line 19 and insert the following:

(c) ENFORCEMENT.—

On page 1270, line 13, strike “(e)” and insert “(d)”.

On page 1345, beginning on line 1, strike “, 1025, and 1026” and insert “and 1025”.



### NOTICE: PUBLIC FINANCIAL DISCLOSURE REPORTS

The filing date for the 2009 Public Financial Disclosure reports is Monday, May 17, 2010. Senators, political fund designees and staff members whose salaries exceed 120% of the GS-15 pay scale must file reports.

Public Financial Disclosure reports should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, D.C. 20510.

The Public Records office will be open from 9 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224-0322.

### THE CALENDAR

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that it be in order for the Senate to proceed en bloc to consideration of the following calendar items: Calendar No. 261, S. Res. 297; Calendar No. 262, S. Res. 275; Calendar No. 287, S. 1053; Calendar No. 291, S. 1405; Calendar No. 295, H.R. 689; Calendar No. 297, H.R. 1121; Calendar No. 300, H.R. 1442; Calendar No. 305, H.R. 2802.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed en bloc.

Mr. REID. I ask unanimous consent that the resolutions be agreed to en bloc; the preambles be agreed to en bloc; that the committee-reported amendments, where applicable, be agreed to; the bill, as amended, if amended, where applicable, be read a third time and passed, as amended, if amended, where applicable, en bloc; the motions to reconsider be laid on the table en bloc; that the consideration of these items appear separately in the RECORD; and that any statements relating thereto be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### DYKE MARSH WILDLIFE PRESERVE

The resolution (S. Res. 297) to recognize the Dyke Marsh Wildlife Preserve as a unique and precious ecosystem was considered and agreed to. The preamble was agreed to. The resolution, with its preamble, reads as follows:

S. RES. 297

Whereas the Dyke Marsh Wildlife Preserve on the west bank of the Potomac River just south of Alexandria in Fairfax County is one of the largest remaining freshwater tidal marshes in the Greater Washington, DC, area;

Whereas Congress expressly designated the Dyke Marsh ecosystem for protection in 1959, fifty years ago, under Public Law 86-41 "so that fish and wildlife development and their preservation as wetland wildlife habitat shall be paramount";

Whereas the Honorable John D. Dingell of Michigan, the late Honorable John P. Saylor of Pennsylvania, and the late Honorable Henry S. Reuss of Wisconsin were instrumental in passing this legislation and in preventing proposed development along the Potomac River, thereby protecting the Dyke Marsh ecosystem from further dredging, filling, and other activities incompatible with a preserve;

Whereas Dyke Marsh is 5,000 to 7,000 years old and is a unique natural treasure in the national capital region, with more than 6,500 species of plants, insects, fish, birds, reptiles and amphibians contained within an approximately 485-acre parcel;

Whereas the Dyke Marsh Wildlife Preserve is a significant element in the historic character of the Mount Vernon Memorial Parkway;

Whereas freshwater tidal marshes are rare, and the Dyke Marsh Wildlife Preserve is one of the few climax, tidal, riverine, narrow-leaved cattail wetlands in the United States National Park Service system;

Whereas wetlands provide ecological services such as flood control, attenuation of tidal energy, water quality enhancement, wildlife habitat, nursery and spawning grounds, and recreational and aesthetic enjoyment;

Whereas the Dyke Marsh Wildlife Preserve serves as an outdoor laboratory for scientists, educators, students, naturalists, artists, photographers, and others, attracting people of all ages; and

Whereas the Friends of Dyke Marsh is a conservation advocacy group created in 1975 and dedicated to the preservation and restoration of this wetland habitat and its natural resources: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the Dyke Marsh Wildlife Preserve of Fairfax County, Virginia, as a unique and precious ecosystem that serves as an invaluable natural resource both locally and nationally;

(2) recognizes and expresses appreciation for Representative John Dingell's, Representative John Saylor's, and Representative Henry Reuss's leadership in preserving this precious natural resource;

(3) celebrates the 50th anniversary of the Federal legislation designating the Dyke Marsh Wildlife Preserve as a protected wetland habitat;

(4) expresses the need to continue to conserve, protect and restore this fragile habitat, in which a diverse array of plants, animals and other natural resources is threatened by past dredging and filling, a gradual depletion in size, urban and suburban development, river traffic, stormwater runoff, poaching, and non-native invasive species; and

(5) commends the Friends of Dyke Marsh for its longstanding commitment to promoting conservation and environmental awareness and stewardship, so that the Dyke Marsh Wildlife Preserve may be enjoyed by generations for the next 50 years and into the future.

### HONORING THE MINUTE MAN NATIONAL HISTORICAL PARK

The resolution (S. Res. 275) honoring the Minute Man National Historical Park on the occasion of its 50th anniversary was considered and agreed to. The preamble was agreed to. The resolution, with its preamble, reads as follows:

S. RES. 275

Whereas, since September 21, 1959, Minute Man National Historical Park has preserved key sites where the first battles of the American Revolutionary War occurred, and educated millions of people in the United States about the extraordinary events that led to the birth of the United States and the ideals embodied in the courageous actions that led to such events;

Whereas Minute Man National Historical Park encompasses more than 1,000 acres in the historic communities of Lexington, Lincoln, and Concord that were at the center of the American Revolution;

Whereas the events, places, and people recognized by the Minute Man National Historical Park have become enduring testaments to the values of the people of the United States and are among the most celebrated and cherished symbols in the history of the United States;

Whereas the Minute Man National Historical Park includes multiple sites and vistas along the route from Boston to Concord, known as the "Battle Road", where American militia and British soldiers fought several times on April 19, 1775;

Whereas American militia were first ordered to return British fire at Concord's North Bridge, a heroic action commemorated by the United States poet Ralph Waldo Emerson in his poem "The Concord Hymn" as the "shot heard round the world";

Whereas the park celebrates the legendary "midnight ride" of Paul Revere on April 18, 1775, that warned American colonists that British soldiers were marching to Concord to destroy key military stores; and

Whereas more than 1,000,000 people from States across the United States and from around the world visit Minute Man National Historical Park each year to learn about the role that the New England communities of Lexington, Lincoln, and Concord played in the American Revolution: Now, therefore, be it

*Resolved*, that it is the sense of the Senate that—

(1) Minute Man National Historical Park serves an essential role in preserving the sites and vistas in New England where the American Revolution began and in educating the public about these historic events;

(2) Minute Man National Historical Park honors and commemorates the ideals of democracy, liberty, and freedom that are the foundation of the United States and sources of inspiration for people everywhere; and

(3) the creation of Minute Man National Historical Park 50 years ago represents a remarkable achievement that continues to benefit the people of the United States, to preserve the proud legacy of the American Revolution, and to serve as an enduring resource for future generations.

### TO AMEND THE NATIONAL LAW ENFORCEMENT MUSEUM ACT

The bill (S. 1053) to amend the National Law Enforcement Museum Act to extend the termination date, was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

S. 1053

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. NATIONAL LAW ENFORCEMENT MUSEUM ACT.**

Section 4(f) of the National Law Enforcement Museum Act (Public Law 106-492) is amended by striking "10 years" and inserting "13 years".

**LONGFELLOW HOUSE-WASHINGTON'S HEADQUARTERS NATIONAL HISTORIC SITE DESIGNATION ACT**

The bill (S. 1405) to redesignate the Longfellow National Historic Site, Massachusetts, as the "Longfellow House-Washington's Headquarters National Historic Site," was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

S. 1405

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Longfellow House-Washington's Headquarters National Historic Site Designation Act".

**SEC. 2. REDESIGNATION OF LONGFELLOW NATIONAL HISTORIC SITE, MASSACHUSETTS.**

(a) **IN GENERAL.**—The Longfellow National Historic Site in Cambridge, Massachusetts, shall be known and designated as "Longfellow House-Washington's Headquarters National Historic Site".

(b) **REFERENCES.**—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Longfellow National Historic Site shall be considered to be a reference to the "Longfellow House-Washington's Headquarters National Historic Site".

**SHASTA-TRINITY NATIONAL FOREST ADMINISTRATIVE JURISDICTION TRANSFER ACT**

The Senate proceeded to consider the bill (H.R. 689) to interchange the administrative jurisdiction of certain Federal lands between the Forest Service and the Bureau of Land Management, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Shasta-Trinity National Forest Administrative Jurisdiction Transfer Act".

**SEC. 2. TRANSFER OF ADMINISTRATIVE JURISDICTION TO THE BUREAU OF LAND MANAGEMENT.**

(a) **IN GENERAL.**—Administrative jurisdiction over the Federal land described in subsection (b) is transferred from the Secretary of Agriculture to the Secretary of the Interior.

(b) **DESCRIPTION OF LAND.**—The Federal land referred to in subsection (a) is the land within the Shasta-Trinity National Forest in California, Mount Diablo Meridian, as generally depicted on the map entitled "Shasta-Trinity Administrative Jurisdiction Transfer: Transfer from Forest Service to BLM, Map 1" and dated November 23, 2009.

(c) **MANAGEMENT AND STATUS OF TRANSFERRED LAND.**—The Federal land described in

subsection (b) shall be administered in accordance with—

(1) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(2) any other applicable law (including regulations).

**SEC. 3. TRANSFER OF ADMINISTRATIVE JURISDICTION TO THE FOREST SERVICE.**

(a) **IN GENERAL.**—Administrative jurisdiction over the Federal land described in subsection (b) is transferred from the Secretary of the Interior to the Secretary of Agriculture.

(b) **DESCRIPTION OF LAND.**—The Federal land referred to in subsection (a) is the land administered by the Director of the Bureau of Land Management in the Mount Diablo Meridian, California, as generally depicted on the map entitled "Shasta-Trinity Administrative Jurisdiction Transfer: Transfer from BLM to Forest Service, Map 2" and dated November 23, 2009.

(c) **MANAGEMENT AND STATUS OF TRANSFERRED LAND.**—

(1) **IN GENERAL.**—The Federal land described in subsection (b) shall be—

(A) withdrawn from the public domain;

(B) reserved for administration as part of the Shasta-Trinity National Forest; and

(C) managed in accordance with the laws (including the regulations) generally applicable to the National Forest System.

(2) **WILDERNESS ADMINISTRATION.**—The land transferred to the Secretary of Agriculture under subsection (a) that is within the Trinity Alps Wilderness shall—

(A) not affect the wilderness status of the transferred land; and

(B) be administered in accordance with—

(i) this section;

(ii) the Wilderness Act (16 U.S.C. 1131 et seq.); and

(iii) the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98-425).

**SEC. 4. ADMINISTRATIVE PROVISIONS.**

(a) **CORRECTIONS.**—

(1) **MINOR ADJUSTMENTS.**—The Secretary of Agriculture and the Secretary of the Interior may, by mutual agreement, make minor corrections and adjustments to the transfers under this Act to facilitate land management, including corrections and adjustments to any applicable surveys.

(2) **PUBLICATIONS.**—Any corrections or adjustments made under subsection (a) shall be effective on the date of publication of a notice of the corrections or adjustments in the Federal Register.

(b) **HAZARDOUS SUBSTANCES.**—

(1) **NOTICE.**—The Secretary of Agriculture and the Secretary of the Interior shall, with respect to the land described in sections 2(b) and 3(b), respectively—

(A) identify any known sites containing hazardous substances; and

(B) provide to the head of the Federal agency to which the land is being transferred notice of any sites identified under subparagraph (A).

(2) **CLEANUP OBLIGATIONS.**—To the same extent as on the day before the date of enactment of this Act, with respect to any Federal liability—

(A) the Secretary of Agriculture shall remain responsible for any cleanup of hazardous substances on the Federal land described in section 2(b); and

(B) the Secretary of the Interior shall remain responsible for any cleanup of hazardous substances on the Federal land described in section 3(b).

(c) **EFFECT ON EXISTING RIGHTS AND AUTHORIZATIONS.**—Nothing in this Act affects—

(1) any valid existing rights; or

(2) the validity or term and conditions of any existing withdrawal, right-of-way, easement, lease, license, or permit on the land to which

administrative jurisdiction is transferred under this Act, except that beginning on the date of enactment of this Act, the head of the agency to which administrative jurisdiction over the land is transferred shall be responsible for administering the interests or authorizations (including reissuing the interests or authorizations in accordance with applicable law).

The committee amendment in the nature of a substitute was agreed to.

The bill (H.R. 689), as amended, was ordered to be read a third time, was read the third time, and passed.

**BLUE RIDGE PARKWAY AND TOWN OF BLOWING ROCK LAND EXCHANGE ACT OF 2009**

The bill (H.R. 1121) to authorize a land exchange to acquire lands for the Blue Ridge Parkway from the Town of Blowing Rock, North Carolina, and for other purposes, was considered, ordered to a third reading, was read the third time, and passed.

**UTAH LAND SALE ACT**

The bill (H.R. 1442) to provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909, was considered, ordered to a third reading, was read the third time, and passed.

**JOHN ADAMS COMMEMORATIVE WORK EXTENSION ACT**

The bill (H.R. 2802) to provide for an extension of the legislative authority of the Adams Memorial Foundation to establish a commemorative work in honor of former President John Adams and his legacy, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

**COAST GUARD AUTHORIZATION ACT OF 2010**

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 195, H.R. 3619.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3619) to authorize appropriations for the Coast Guard for fiscal year 2010, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. CONRAD. This is the Statement of Budgetary Effects of PAYGO Legislation for H.R. 3619, as amended by S.A. 3912. This statement has been prepared pursuant to Section 4 of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111-139), and is being submitted for printing in the CONGRESSIONAL RECORD prior to passage of H.R. 3619, as amended, by the Senate.

Total Budgetary Effects of H.R. 3619, as amended for the 5-year Statutory PAYGO Scorecard: \$2 million increase in the deficit.

Total Budgetary Effects of H.R. 3619, as amended for the 10-year Statutory PAYGO Scorecard: \$6 million increase in the deficit.

Also submitted for the RECORD as part of this statement is a table pre-

pared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act.

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3619, THE COAST GUARD AUTHORIZATION ACT FOR FISCAL YEAR 2010 AND 2011, AS PROVIDED TO CBO BY THE SENATE COMMITTEE ON SCIENCE, COMMERCE, AND TRANSPORTATION ON MAY 3, 2010

	By fiscal year, in millions of dollars—												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
Statutory Pay-As-You-Go Impact <sup>a</sup>	0	0	0	0	0	0	0	0	0	0	0	2	6

<sup>a</sup> H.R. 3619 would increase by \$4 million over the 2010–2020 period certain annual payments made by the Oil Spill Liability Trust Fund (an increase in direct spending). Provisions of the bill also would reduce offsetting receipts (a credit against direct spending) by about \$2 million over the 2010–2020 period because the bill directs the Coast Guard to donate—rather than sell—certain properties to local governments in Michigan.

#### LIQUEFIED NATURAL GAS FACILITIES

Mr. REED. Mr. President, I rise to engage in a colloquy with my colleague from Rhode Island, Mr. WHITEHOUSE, and my colleague from West Virginia, Mr. ROCKEFELLER.

Mr. President, I want to thank the chairman of the Commerce Committee for his leadership in advancing this bill. As he, Senator WHITEHOUSE, and I have discussed, there is significant concern with respect to the safety and security of proposed liquefied natural gas, LNG, facilities throughout the country. Given the Deepwater Horizon disaster in the Gulf of Mexico, we know that no system for handling volatile substances is fool-proof.

Over the last several years, the people of Rhode Island have been greatly concerned about proposals to develop LNG facilities on or in close proximity to Rhode Island's shores, as well as proposals to transit LNG traffic through our waterways. I have come to the floor on many occasions to express my deep concerns about the wisdom of these projects; not as a matter of reflexive opposition to LNG but as a matter of the appropriateness of siting these facilities with little State control.

This includes a proposal in the Commonwealth of Massachusetts that will have significant impact on the State of Rhode Island, as it calls for vessels to transit through Narragansett Bay and off-load at an offshore berth in Mount Hope Bay just outside of Rhode Island waters. Over the years, members of the Rhode Island and Massachusetts delegations have raised concerns about this project, but the most severe impacts of the vessel traffic and related safety and security measures will be on Rhode Island, which has very little authority to influence the process. The Coast Guard has the responsibility of issuing so-called Letters of Recommendation to establish the suitability of a waterway to accommodate this type of vessel traffic and operation. Its determination is critical in the siting LNG facilities. Unfortunately, Rhode Island, like other states, has little recourse to object to the findings or conditions laid out by the Coast Guard, even though the bulk of the vessel activity will take place in its state waters. I believe the

state should have a say about the appropriateness of activities in its waterways and should be consulted, especially about the broader impacts of LNG facilities and vessel traffic on other waterway users and on communities.

Although the underlying House bill includes a port security title, the substitute does not. While I recognize that and that the Committee will be dealing with port security legislation later this year, I think that it is critical that we act on this issue as soon as possible. I would like to work with the Chairman in crafting that bill, but I would also ask for his commitment to work to address the issues related to LNG facilities during conference with the House on the Coast Guard Reauthorization bill.

Mr. WHITEHOUSE. Mr. Chairman, I share the sentiments of the senior Senator from Rhode Island, Mr. REED.

Rhode Islanders are strongly opposed to this project. Furthermore, the process for siting the LNG facility has afforded us too few opportunities to address the impacts it will have on our state's economy, safety, and environment.

The Coast Guard is charged with the narrow task of determining whether LNG tankers can safely transit Rhode Island waters on their way to an offshore berthing station just on the other side of the state line in Massachusetts. However, the safe transit of these tankers is only one of the many important considerations that can, and should, be taken into account in determining the suitability of such a project. Narragansett Bay is the backbone of the Rhode Island economy, as it sustains our fishing, recreation, and tourism sectors. The proposed LNG facility in Fall River threatens to undermine these pillars of our economy.

I am not opposed to LNG as a fuel source. However, I have serious concerns with the proposal under consideration. The LNG tankers transiting Rhode Island waters must pass through heavily populated communities, under the presence of heavy security. The Coast Guard admits that this will likely displace other users of the bay and disrupt traffic on the bridges the tankers must travel beneath. This is too

high a burden for Rhode Island to carry for a facility that is located in a neighboring state—and I am not convinced this burden is worth the marginal benefits of the proposed LNG facility.

I thank the Chairman of the Senate Commerce Committee, Senator ROCKEFELLER, for his willingness to work with us on an issue critical to the State of Rhode Island.

Mr. ROCKEFELLER. I am aware of both Senators' concerns and I will work with each of you related to LNG facilities during conference with the House on the Coast Guard Reauthorization bill.

Mr. REED. Thank you, Mr. Chairman. I look forward to this issue being addressed in the final Coast Guard Reauthorization bill.

Mr. WHITEHOUSE. I ask unanimous consent that the Cantwell substitute amendment, which is at the desk, be considered and agreed to; the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3912) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 3619) was read the third time and passed.

#### CONDEMNING THE CONTINUED DETENTION OF DAW AUNG SAN SUU KYI

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration and the Senate now proceed to S. Res. 480.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 480) condemning the continued detention of Burmese democracy leader Daw Aung San Suu Kyi and calling on

the military regime in Burma to permit a credible and fair election process and the transition to civilian, democratic rule.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. I ask unanimous consent that the amendment at the desk be agreed to; the resolution, as amended, be agreed to; the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3913) was agreed to, as follows:

(Purpose: To amend the resolving clause)

On page 2, beginning on line 7, strike "the National League for Democracy and other opposition groups," and insert "all political groups and individuals dedicated to democratic ideals,".

On page 3, beginning on line 9, strike "(including the People's Republic of China, the Association of Southeast Asian Nations, and the United Nations Security Council)" and insert ", as appropriate, in order".

On page 3, line 17, strike "the National League for Democracy and".

The resolution (S. Res. 480), as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble reads as follows:

S. RES. 480

Whereas the military regime in Burma, headed by General Than Shwe and the State Peace and Development Council, continues to persecute Burmese democracy leader Daw Aung San Suu Kyi and her supporters in the National League for Democracy, and ordinary citizens of Burma, including ethnic minorities, who publically and courageously speak out against the regime's many injustices;

Whereas Daw Aung San Suu Kyi has been imprisoned in Burma for 14 of the last 19 years and many members of the National League for Democracy have been similarly jailed, tortured, or killed;

Whereas the Constitution adopted in 2008 and the election laws recently promulgated effectively prohibit the National League for Democracy, Buddhist monks, ethnic minority leaders, and Daw Aung San Suu Kyi from participating in upcoming elections, and do not leave much opportunity for domestic dialogue among key stakeholders; and

Whereas the persecution of the people of Burma has continued even though the Department of State has pursued a policy of engagement with the military regime designed to secure the release of political prisoners, foster national reconciliation, and facilitate peaceful transition to civilian, democratic rule: Now, therefore, be it

*Resolved*, That the Senate—

(1) condemns the continued detention of Burmese democracy leader Daw Aung San Suu Kyi and all prisoners of conscience in Burma, and calls for their immediate and unconditional release;

(2) calls on the military regime in Burma to engage in dialogue with all political groups and individuals dedicated to democratic ideals, as well as with ethnic minorities, to broaden political participation in an environment free from fear and intimidation;

(3) calls upon the Secretary of State to assess the effectiveness of the policy of engagement with the military regime in Burma in

furthering United States interests, and to maintain, and consider strengthening, sanctions against Burma if the military regime continues its systematic violation of human rights and fails to embrace the democratic aspirations of the people of Burma;

(4) calls upon the Secretary of State to engage regional governments and multilateral organizations, as appropriate, in order to push for the establishment of an environment in Burma that encourages the full and unfettered participation of the people of Burma in a democratic transition to civilian rule; and

(5) calls on the Secretary of State to support the people of Burma in calling for significant constitutional and election reforms by the military regime, which will broaden political participation, further democracy, accountability, and responsive governance, and improve human rights in Burma.

#### AUTHORIZING THE USE OF THE CAPITOL GROUNDS

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 247 which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 247) authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WHITEHOUSE. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements related to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 247) was agreed to.

#### AUTHORIZING THE USE OF THE CAPITOL GROUNDS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 263, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A resolution (H. Con. Res. 263) authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WHITEHOUSE. I ask unanimous consent the concurrent resolution be agreed to, the motion to reconsider be laid upon the table without any intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 263) was agreed to.

#### ENDANGERED SPECIES DAY

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the judiciary committee be discharged from further consideration of S. Res. 503 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 503) designating May 21, 2010 as "Endangered Species Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 503) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 503

Whereas in the United States and around the world, more than 1,000 species are officially designated as at risk of extinction and thousands more also face a heightened risk of extinction;

Whereas the actual and potential benefits that may be derived from many species have not yet been fully discovered and would be permanently lost if not for conservation efforts;

Whereas recovery efforts for species such as the whooping crane, Kirtland's warbler, the peregrine falcon, the gray wolf, the gray whale, the grizzly bear, and others have resulted in great improvements in the viability of such species;

Whereas saving a species requires a combination of sound research, careful coordination, and intensive management of conservation efforts, along with increased public awareness and education;

Whereas % of endangered or threatened species reside on private lands;

Whereas voluntary cooperative conservation programs have proven to be critical to habitat restoration and species recovery; and

Whereas education and increasing public awareness are the first steps in effectively informing the public about endangered species and species restoration efforts: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates May 21, 2010, as "Endangered Species Day";

(2) encourages schools to spend at least 30 minutes on Endangered Species Day teaching and informing students about—

(A) threats to endangered species around the world; and

(B) efforts to restore endangered species, including the essential role of private landowners and private stewardship in the protection and recovery of species;

(3) encourages organizations, businesses, private landowners, and agencies with a shared interest in conserving endangered species to collaborate in developing educational information for use in schools; and

(4) encourages the people of the United States—

(A) to become educated about, and aware of, threats to species, success stories in species recovery, and opportunities to promote species conservation worldwide; and

(B) to observe the day with appropriate ceremonies and activities.

## NATIONAL PHYSICAL EDUCATION AND SPORT WEEK

### RECOGNIZING AMERICORPS

### NATIONAL TRAIN DAY

### NATIONAL NURSING HOME WEEK

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate now proceed to the en bloc consideration of the following Senate resolutions: S. Res. 515, S. Res. 516, S. Res. 517, S. Res. 518.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. I ask unanimous consent the resolutions be agreed to, the preambles be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 515

Whereas the week beginning May 2, 2010, is observed as National Physical Education and Sport Week;

Whereas a decline in physical activity has contributed to an unprecedented epidemic of childhood obesity in the United States, which has more than tripled since 1980;

Whereas regular physical activity is necessary to support normal and healthy growth in children and is essential to their continued health and well-being;

Whereas, according to the Centers for Disease Control and Prevention, overweight adolescents have a 70 to 80 percent chance of becoming overweight adults, increasing their risk for chronic disease, disability, and death;

Whereas physical activity reduces the risk of heart disease, high blood pressure, diabetes, and certain types of cancers;

Whereas type 2 diabetes can no longer be referred to as “late in life” or “adult onset” diabetes because it occurs in children as young as 10 years old;

Whereas the Physical Activity Guidelines for Americans, published by the Department of Health and Human Services, recommend that children engage in at least 60 minutes of physical activity on most, and preferably all, days of the week;

Whereas, according to the Centers for Disease Control and Prevention, only 17 percent of high school students meet that goal of 60 minutes of physical activity a day;

Whereas children spend many of their waking hours at school and therefore need to be active during the school day to meet the recommendations of the Physical Activity Guidelines for Americans;

Whereas, according to the Centers for Disease Control and Prevention, 1 in 4 children in the United States does not attend any school physical education classes and fewer than 1 in 4 children in the United States engage in 20 minutes of vigorous physical activity each day;

Whereas teaching children about physical activity and sports not only ensures that they are physically active during the school day, but also educates them on how to be physically active and the importance of being physically active;

Whereas, according to a 2006 survey by the Department of Health and Human Services, 3.8 percent of elementary schools, 7.9 percent of middle schools, and 2.1 percent of high schools provide daily physical education classes or the equivalent for the entire school year, and 22 percent of schools do not require students to take any physical education classes at all;

Whereas, according to that survey, 13.7 percent of elementary schools, 15.2 percent of middle schools, and 3.0 percent of high schools provided physical education at least 3 days per week, or the equivalent thereof, for the entire school year for students in all grades in the school;

Whereas research shows that fit and active children are more likely to thrive academically;

Whereas increased time in physical education classes can improve children's attention and concentration and result in higher test scores;

Whereas participation in sports teams and physical activity clubs, which are often organized by schools and run outside the regular school day, can improve students' grade point averages, attachment to schools, educational aspirations, and the likelihood of graduating;

Whereas participation in sports and other physical activities also improves self-esteem and body image in children and adults;

Whereas children and youth who take part in physical activity and sports programs develop improved motor skills, healthy lifestyles, improved social skills, a sense of fair play, strong teamwork skills, and self-discipline and avoid risky behaviors;

Whereas the social and environmental factors affecting children are in the control of the adults and the communities in which children live, and therefore the Nation shares a collective responsibility in reversing the childhood obesity trend;

Whereas efforts to improve the fitness level of children who are not physically fit may also result in improvements in academic performance; and

Whereas the Senate strongly supports efforts to increase physical activity and participation of youth in sports: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week beginning May 2, 2010, as “National Physical Education and Sport Week”;

(2) recognizes the central role of physical education and sports in creating healthy lifestyles for all children and youth;

(3) encourages school districts to implement local wellness policies, as described in section 204 of the Child Nutrition and WIC Reauthorization Act of 2004 (42 U.S.C. 1751 note), that include ambitious goals for physical education, physical activity, and other

activities addressing the childhood obesity epidemic and promoting child wellness; and

(4) encourages schools to offer physical education classes to students and to work with community partners to provide opportunities and safe spaces for physical activities before and after school and during the summer months for all children and youth.

S. RES. 516

Whereas, since its inception in 1994, the AmeriCorps national service program has proven to be a highly effective way to engage the people of the United States in meeting a wide range of local and national needs and promoting the ethic of service and volunteering;

Whereas, each year, AmeriCorps provides opportunities for approximately 85,000 individuals across the United States to give back in an intensive way to their communities, their States, and the Nation;

Whereas those individuals improve the lives of the Nation's most vulnerable citizens, protect the environment, contribute to public safety, respond to disasters, and strengthen the educational system;

Whereas AmeriCorps members serve thousands of nonprofit organizations, schools, and faith-based and community organizations each year;

Whereas AmeriCorps members, after their terms of service end, are more likely to remain engaged in their communities as volunteers, teachers, and nonprofit professionals than the average individual;

Whereas, on April 21, 2009, President Barack Obama signed the Serve America Act (Public Law 111-13; 123 Stat. 1460) into law, which was passed by bipartisan majorities in both the House of Representatives and the Senate and reauthorized AmeriCorps and will expand AmeriCorps programs to incorporate 250,000 members each year;

Whereas national service programs have engaged millions of people in the United States in results-driven service in the Nation's most vulnerable communities, providing hope and help to people facing economic and social needs;

Whereas, in 2010, as the economic downturn puts millions of people in the United States at risk, national service and volunteering are more important than ever; and

Whereas AmeriCorps Week, observed in 2010 from May 8 through May 15, provides the perfect opportunity for AmeriCorps members, alumni, grantees, program partners, and friends to shine a spotlight on the work done by AmeriCorps members and to motivate more people in the United States to serve their communities: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the contributions of AmeriCorps members to the lives of the people of the United States;

(2) acknowledges the significant accomplishments of AmeriCorps members, alumni, and community partners; and

(3) encourages the people of the United States to join in a national effort to salute AmeriCorps members and alumni and raise awareness about the importance of national and community service.

S. RES. 517

Whereas on May 10, 1869, the “golden spike” was driven into the final tie at Promontory Summit, Utah, to join the Central Pacific and the Union Pacific Railroads, ceremonially completing the first transcontinental railroad and therefore connecting both coasts of the United States;

Whereas in highly populated regions Amtrak trains and infrastructure carry intercity passengers and commuters to and from work in congested metropolitan areas, providing a reliable rail option while reducing congestion on roads and in the skies;

Whereas Amtrak ridership in Fiscal Year 2009 reached 27.1 million passengers from 46 states;

Whereas, for many rural Americans, Amtrak represents the only major intercity transportation link to the rest of the country;

Whereas passenger rail provides a fuel-efficient transportation system, thereby providing clean transportation alternatives and energy security;

Whereas, when combined with all modes of transportation, passenger railroads emit only 0.2 percent of the travel industry's total greenhouse gases and one freight train can move a ton of freight 480 miles on one gallon of fuel;

Whereas developing this pipeline of national high-speed and intercity passenger rail projects will revitalize the domestic manufacturing industry and create additional American jobs building on the one million good-paying, middle-class-creating American jobs that can never be off-shored that are already supported by the rail industry;

Whereas ridership on Amtrak grew every year from 2000 through 2008, and is currently on track for 2010 to be its best ridership year ever, further demonstrating the increased demand for intercity passenger rail services; and

Whereas our railroad system is a source of civic pride, the gateway to our communities and a tool for economic growth that creates transportation-oriented development and livable communities: Now, therefore, be it

*Resolved*, That the Senate supports the goals and ideals of National Train Day, as designated by Amtrak.

#### S. RES. 518

Whereas more than 1,500,000 elderly and disabled individuals live in the nearly 16,000 nursing facilities in the United States;

Whereas the annual celebration of National Nursing Home Week invites people in communities nationwide to recognize nursing home residents and staff for their contributions to their communities;

Whereas the theme for National Nursing Home Week in 2010 is "Enriching Every Day", honoring caregivers who are "enriching every day" for elderly and disabled individuals, adding value to their lives and helping them to overcome many of the infirmities of age and disability;

Whereas nursing homes are intimate communities where acts of caring, kindness, and respect are the norm;

Whereas, when the positive bond that naturally develops between patients and their caregivers is established, patients experience not only better physical care and healing, but also enrichment of the mind, heart, and spirit and an affirmation of their value; and

Whereas National Nursing Home Week recognizes the people who provide care to the Nation's most vulnerable population: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week beginning May 9, 2010, as "National Nursing Home Week";

(2) recognizes that a majority of people in the United States, because of social needs, disability, trauma, or illness, will require long-term care services at some point in their lives;

(3) honors nursing home residents and the people who care for them each day, including family members, volunteers, and dedicated long-term care professionals, for their contributions to their communities and the United States; and

(4) encourages the people of the United States to observe National Nursing Home Week with appropriate ceremonies and activities.

#### SATELLITE TELEVISION EXTENSION AND LOCALISM ACT

The PRESIDING OFFICER. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3333, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3333) to extend the statutory license for secondary transmissions under title 17, United States Code, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate will pass the Satellite Television Extension and Localism Act, STELA, of 2010. This legislation modernizes and extends important statutory copyright licenses that allow cable and satellite companies to retransmit the content transmitted by television broadcasters. STELA also includes important Communications Act authorizations that allow for the retransmission of broadcast television signals by satellite and cable providers.

Ensuring that Americans have access to broadcast television content is important, and it is particularly relevant for consumers in rural areas who might not otherwise be able to receive these signals over-the-air. The legislation that the Senate is passing today will ensure that nobody will be left in the dark for the foreseeable future. Broadcast television plays a critical role in cities and towns across the country, and remains the primary way in which consumers are able to access local content such as news, weather, and sports.

Cable and satellite providers help to expand the footprint of broadcast stations by allowing them to reach viewers who are unable to receive signals over-the-air. Vermont is an example of how cable and satellite companies can provide service to consumers in rural areas who might not otherwise receive these signals.

Vermonters will see improved service when this legislation is enacted. Today, DirecTV is permitted to use the licenses to provide Windham and Bennington Counties with stations from the Burlington television market, but DISH Network is not. This legislation will permit DISH to provide their subscribers in southern Vermont with the same service. As soon as DISH Network uses this authority, virtually everyone in the State will be able to ac-

cess the news and information that is truly important to Vermonters.

One other important way that STELA will preserve and improve existing service for consumers is by correcting a flaw in the statutory copyright license for the cable industry. An unintended result of current law is that the cable license requires the cable industry to pay copyright holders for signals that many of their subscribers do not actually receive. This is often referred to as the phantom signal problem. The effect of this anomaly in the law is that Comcast is required to pay copyright royalties based on their subscriber base across the northeast for the Canadian television content that is only provided to subscribers in Burlington, VT.

The bill corrects this flaw by giving the cable industry the flexibility to continue to provide signals that are tailored to local interests—signals that might otherwise have been pulled from cable line-ups. This will benefit industry and consumers. For instance, subscribers in Burlington will still be able to receive programming such as "Hockey Night in Canada," which has been a tradition, without fear that Comcast will have to remove the channel or raise prices because it is being charged royalties based on subscribers in Boston.

In addition, the legislation will expand consumer access to their States' public television programming and low-power, community-oriented stations that will promote media diversity.

This is the third time the Senate will have passed substantially the same reauthorization language. The bill is the product of many hours of hard work and compromise among four committees in both Houses of Congress. No single member or committee chairman would have written it in this exact way, but the final language represents a fair compromise on important issues. For instance, I would have preferred the approach included in the Senate Judiciary Committee-approved bill for providing incentives to DISH Network to launch additional local markets, rather than lifting a court-ordered injunction. As a matter of policy, lifting a court-ordered injunction based on copyright infringement is something I generally do not support, but others insisted upon it and it is part of the compromise embodied in STELA.

Overall, this is a good bill that will preserve and improve the service that consumers across the country are accustomed to receiving. I hope the third time the Senate passes it will be the final time and that it will be considered promptly by the House and signed into law by the President.

Mr. CONRAD: This is the Statement of Budgetary Effects of PAYGO Legislation for S. 3333. This statement has been prepared pursuant to Section 4 of



the Statutory Pay-As-You-Go Act of 2010 (Public Law 111-139), and is being submitted for printing in the CONGRESSIONAL RECORD prior to passage of S. 3333 by the Senate.

Total Budgetary Effects of S. 3333 for the 5-year Statutory PAYGO Scorecard: \$0.  
Total Budgetary Effects of S. 3333 for the 10-year Statutory PAYGO Scorecard: \$0.

Also submitted for the RECORD as part of this statement is a table pre-

pared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act.

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR A BILL TO EXTEND THE STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS UNDER TITLE 17, UNITED STATES CODE, AND FOR OTHER PURPOSES AS PROVIDED TO CBO BY THE SENATE COMMITTEE ON THE JUDICIARY ON MAY 6, 2010

By fiscal year, in millions of dollars—

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
Statutory Pay-As-You-Go Impact <sup>a</sup>	0	0	0	0	0	0	0	0	0	0	0	0	0

<sup>a</sup> The bill would authorize the Copyright Office to charge fees to cable and satellite providers to offset a portion of the costs of operating the copyright licensing program. This provision would increase both revenues and direct spending by \$8 million over the 2010–2020 period.

Mr. WHITEHOUSE. I ask unanimous consent that the bill be read a third time; passed, and the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3333) was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

S. 3333

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Satellite Television Extension and Localism Act of 2010”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—STATUTORY LICENSES

Sec. 101. Reference.

Sec. 102. Modifications to statutory license for satellite carriers.

Sec. 103. Modifications to statutory license for satellite carriers in local markets.

Sec. 104. Modifications to cable system secondary transmission rights under section 111.

Sec. 105. Certain waivers granted to providers of local-into-local service for all DMAs.

Sec. 106. Copyright Office fees.

Sec. 107. Termination of license.

Sec. 108. Construction.

#### TITLE II—COMMUNICATIONS PROVISIONS

Sec. 201. Reference.

Sec. 202. Extension of authority.

Sec. 203. Significantly viewed stations.

Sec. 204. Digital television transition conforming amendments.

Sec. 205. Application pending completion of rulemakings.

Sec. 206. Process for issuing qualified carrier certification.

Sec. 207. Nondiscrimination in carriage of high definition digital signals of noncommercial educational television stations.

Sec. 208. Savings clause regarding definitions.

Sec. 209. State public affairs broadcasts.

#### TITLE III—REPORTS AND SAVINGS PROVISION

Sec. 301. Definition.

Sec. 302. Report on market based alternatives to statutory licensing.

Sec. 303. Report on communications implications of statutory licensing modifications.

Sec. 304. Report on in-state broadcast programming.

Sec. 305. Local network channel broadcast reports.

Sec. 306. Savings provision regarding use of negotiated licenses.

Sec. 307. Effective date; Noninfringement of copyright.

#### TITLE IV—SEVERABILITY

Sec. 401. Severability.

#### TITLE V—DETERMINATION OF BUDGETARY EFFECTS

Sec. 501. Determination of Budgetary Effects.

#### TITLE I—STATUTORY LICENSES

##### SEC. 101. REFERENCE.

Except as otherwise provided, whenever in this title an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of title 17, United States Code.

##### SEC. 102. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 119 is amended by striking “superstations and network stations for private home viewing” and inserting “distant television programming by satellite”.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 119 and inserting the following:

“119. Limitations on exclusive rights: Secondary transmissions of distant television programming by satellite.”

(b) UNSERVED HOUSEHOLD DEFINED.—

(1) IN GENERAL.—Section 119(d)(10) is amended—

(A) by striking subparagraph (A) and inserting the following:

“(A) cannot receive, through the use of an antenna, an over-the-air signal containing the primary stream, or, on or after the qualifying date, the multicast stream, originating in that household’s local market and affiliated with that network of—

“(i) if the signal originates as an analog signal, Grade B intensity as defined by the Federal Communications Commission in section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999; or

“(ii) if the signal originates as a digital signal, intensity defined in the values for the digital television noise-limited service contour, as defined in regulations issued by the Federal Communications Commission (section 73.622(e) of title 47, Code of Federal Regulations), as such regulations may be amended from time to time;”;

(B) in subparagraph (B)—

(i) by striking “subsection (a)(14)” and inserting “subsection (a)(13);”;

(ii) by striking “Satellite Home Viewer Extension and Reauthorization Act of 2004” and inserting “Satellite Television Extension and Localism Act of 2010”; and

(C) in subparagraph (D), by striking “(a)(12)” and inserting “(a)(11)”.

(2) QUALIFYING DATE DEFINED.—Section 119(d) is amended by adding at the end the following:

“(14) QUALIFYING DATE.—The term ‘qualifying date’, for purposes of paragraph (10)(A), means—

“(A) October 1, 2010, for multicast streams that exist on March 31, 2010; and

“(B) January 1, 2011, for all other multicast streams.”.

(c) FILING FEE.—Section 119(b)(1) is amended—

(1) in subparagraph (A), by striking “and” after the semicolon at the end;

(2) in subparagraph (B), by striking the period and inserting “; and”;

(3) by adding at the end the following:

“(C) a filing fee, as determined by the Register of Copyrights pursuant to section 708(a).”.

(d) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—Section 119(b) is amended—

(1) by amending the subsection heading to read as follows: “(b) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—”;

(2) in paragraph (1), by striking subparagraph (B) and inserting the following:

“(B) a royalty fee payable to copyright owners pursuant to paragraph (4) for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of a primary stream or multicast stream of each non-network station or network station during each calendar year month by the appropriate rate in effect under this subsection; and”;

(3) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(4) by inserting after paragraph (1) the following:

“(2) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under this subsection.”;

(5) in paragraph (3), as redesignated, in the first sentence—

(A) by inserting “(including the filing fee specified in paragraph (1)(C))” after “shall receive all fees”; and

(B) by striking “paragraph (4)” and inserting “paragraph (5)”;

(6) in paragraph (4), as redesignated—



(A) by striking “paragraph (2)” and inserting “paragraph (3)”; and

(B) by striking “paragraph (4)” each place it appears and inserting “paragraph (5)”; and

(7) in paragraph (5), as redesignated, by striking “paragraph (2)” and inserting “paragraph (3)”.

(e) **ADJUSTMENT OF ROYALTY FEES.**—Section 119(c) is amended as follows:

(1) Paragraph (1) is amended—

(A) in the heading for such paragraph, by striking “ANALOG”;

(B) in subparagraph (A)—

(i) by striking “primary analog transmissions” and inserting “primary transmissions”; and

(ii) by striking “July 1, 2004” and inserting “July 1, 2009”;

(C) in subparagraph (B)—

(i) by striking “January 2, 2005, the Librarian of Congress” and inserting “June 1, 2010, the Copyright Royalty Judges”; and

(ii) by striking “primary analog transmission” and inserting “primary transmissions”;

(D) in subparagraph (C), by striking “Librarian of Congress” and inserting “Copyright Royalty Judges”;

(E) in subparagraph (D)—

(i) in clause (i)—

(I) by striking “(i) Voluntary agreements” and inserting the following:

“(i) **VOLUNTARY AGREEMENTS; FILING.**—Voluntary agreements”; and

(II) by striking “that a parties” and inserting “that are parties”; and

(ii) in clause (ii)—

(I) by striking “(ii)(I) Within” and inserting the following:

“(i) **PROCEDURE FOR ADOPTION OF FEES.**—

“(I) **PUBLICATION OF NOTICE.**—Within”;

(II) in subclause (I), by striking “an arbitration proceeding pursuant to subparagraph (E)” and inserting “a proceeding under subparagraph (F)”;

(III) in subclause (II), by striking “(II) Upon receiving a request under subclause (I), the Librarian of Congress” and inserting the following:

“(II) **PUBLIC NOTICE OF FEES.**—Upon receiving a request under subclause (I), the Copyright Royalty Judges”; and

(IV) in subclause (III)—

(aa) by striking “(III) The Librarian” and inserting the following:

“(III) **ADOPTION OF FEES.**—The Copyright Royalty Judges”;

(bb) by striking “an arbitration proceeding” and inserting “the proceeding under subparagraph (F)”;

(cc) by striking “the arbitration proceeding” and inserting “that proceeding”;

(F) in subparagraph (E)—

(i) by striking “Copyright Office” and inserting “Copyright Royalty Judges”; and

(ii) by striking “May 31, 2010” and inserting “December 31, 2014”; and

(G) in subparagraph (F)—

(i) in the heading, by striking “COMPULSORY ARBITRATION” and inserting “COPYRIGHT ROYALTY JUDGES PROCEEDING”;

(ii) in clause (i)—

(I) in the heading, by striking “PROCEEDINGS” and inserting “THE PROCEEDING”;

(II) in the matter preceding subclause (I)—

(aa) by striking “May 1, 2005, the Librarian of Congress” and inserting “September 1, 2010, the Copyright Royalty Judges”;

(bb) by striking “arbitration proceedings” and inserting “a proceeding”;

(cc) by striking “fee to be paid” and inserting “fees to be paid”;

(dd) by striking “primary analog transmission” and inserting “the primary transmissions”; and

(ee) by striking “distributors” and inserting “distributors—”;

(III) in subclause (II)—

(aa) by striking “Librarian of Congress” and inserting “Copyright Royalty Judges”; and

(bb) by striking “arbitration”; and

(IV) by amending the last sentence to read as follows: “Such proceeding shall be conducted under chapter 8.”;

(iii) in clause (ii), by amending the matter preceding subclause (I) to read as follows:

“(ii) **ESTABLISHMENT OF ROYALTY FEES.**—In determining royalty fees under this subparagraph, the Copyright Royalty Judges shall establish fees for the secondary transmissions of the primary transmissions of network stations and non-network stations that most clearly represent the fair market value of secondary transmissions, except that the Copyright Royalty Judges shall adjust royalty fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Royalty Judges in accordance with subparagraph (D). In determining the fair market value, the Judges shall base their decision on economic, competitive, and programming information presented by the parties, including—”;

(iv) by amending clause (iii) to read as follows:

“(iii) **EFFECTIVE DATE FOR DECISION OF COPYRIGHT ROYALTY JUDGES.**—The obligation to pay the royalty fees established under a determination that is made by the Copyright Royalty Judges in a proceeding under this paragraph shall be effective as of January 1, 2010.”; and

(v) in clause (iv)—

(I) in the heading, by striking “FEE” and inserting “FEES”; and

(II) by striking “fee referred to in (iii)” and inserting “fees referred to in clause (iii)”.

(2) Paragraph (2) is amended to read as follows:

“(2) **ANNUAL ROYALTY FEE ADJUSTMENT.**—Effective January 1 of each year, the royalty fee payable under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and non-network stations shall be adjusted by the Copyright Royalty Judges to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) published by the Secretary of Labor before December 1 of the preceding year. Notification of the adjusted fees shall be published in the Federal Register at least 25 days before January 1.”.

(f) **DEFINITIONS.**—

(1) **SUBSCRIBER.**—Section 119(d)(8) is amended to read as follows:

“(8) **SUBSCRIBER; SUBSCRIBE.**—

“(A) **SUBSCRIBER.**—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

“(B) **SUBSCRIBE.**—The term ‘subscribe’ means to elect to become a subscriber.”.

(2) **LOCAL MARKET.**—Section 119(d)(11) is amended to read as follows:

“(11) **LOCAL MARKET.**—The term ‘local market’ has the meaning given such term under section 122(j).”.

(3) **LOW POWER TELEVISION STATION.**—Section 119(d) is amended by striking paragraph (12) and redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively.

(4) **MULTICAST STREAM.**—Section 119(d), as amended by paragraph (3), is further amend-

ed by adding at the end the following new paragraph:

“(14) **MULTICAST STREAM.**—The term ‘multicast stream’ means a digital stream containing programming and program-related material affiliated with a television network, other than the primary stream.”.

(5) **PRIMARY STREAM.**—Section 119(d), as amended by paragraph (4), is further amended by adding at the end the following new paragraph:

“(15) **PRIMARY STREAM.**—The term ‘primary stream’ means—

“(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

“(B) if there is no stream described in subparagraph (A), then either—

“(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

“(ii) if there is no stream described in clause (i), then the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.”.

(6) **CLERICAL AMENDMENT.**—Section 119(d) is amended in paragraphs (1), (2), and (5) by striking “which” each place it appears and inserting “that”.

(g) **SUPERSTATION REDESIGNATED AS NON-NETWORK STATION.**—Section 119 is amended—

(1) by striking “superstation” each place it appears in a heading and each place it appears in text and inserting “non-network station”; and

(2) by striking “superstations” each place it appears in a heading and each place it appears in text and inserting “non-network stations”.

(h) **REMOVAL OF CERTAIN PROVISIONS.**—

(1) **REMOVAL OF PROVISIONS.**—Section 119(a) is amended—

(A) in paragraph (2), by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C);

(B) by striking paragraph (3) and redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively; and

(C) by striking paragraph (15) and redesignating paragraph (16) as paragraph (14).

(2) **CONFORMING AMENDMENTS.**—Section 119 is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking “(5), (6), and (8)” and inserting “(4), (5), and (7)”;

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking “subparagraphs (B) and (C) of this paragraph and paragraphs (5), (6), (7), and (8)” and inserting “subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7)”;

(II) in subparagraph (B)(i), by striking the second sentence; and

(III) in subparagraph (C) (as redesignated), by striking clauses (i) and (ii) and inserting the following:

“(i) **INITIAL LISTS.**—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households.

“(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), the satellite carrier shall, not later than the 15th of each month, submit to the network a list, aggregated by designated market area, identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) any persons who have been added or dropped as subscribers under clause (i) since the last submission under this subparagraph.”; and

(iii) in subparagraph (E) of paragraph (3) (as redesignated)—

(I) by striking “under paragraph (3) or”; and

(II) by striking “paragraph (12)” and inserting “paragraph (11)”;

(B) in subsection (b)(1), by striking the final sentence.

(I) MODIFICATIONS TO PROVISIONS FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—

(1) PREDICTIVE MODEL.—Section 119(a)(2)(B)(ii) is amended by adding at the end the following:

“(III) ACCURATE PREDICTIVE MODEL WITH RESPECT TO DIGITAL SIGNALS.—Notwithstanding subclause (I), in determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A) with respect to digital signals, a court shall rely on a predictive model set forth by the Federal Communications Commission pursuant to a rulemaking as provided in section 339(c)(3) of the Communications Act of 1934 (47 U.S.C. 339(c)(3)), as that model may be amended by the Commission over time under such section to increase the accuracy of that model. Until such time as the Commission sets forth such model, a court shall rely on the predictive model as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05-182, FCC 05-199 (released December 9, 2005).”.

(2) MODIFICATIONS TO STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—Section 119(a)(3) (as redesignated) is amended—

(A) by striking “analog” each place it appears in a heading and text;

(B) by striking subparagraphs (B), (C), and (D), and inserting the following:

“(B) RULES FOR LAWFUL SUBSCRIBERS AS OF DATE OF ENACTMENT OF 2010 ACT.—In the case of a subscriber of a satellite carrier who, on the day before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, was lawfully receiving the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as the ‘distant signal’), other than subscribers to whom subparagraph (A) applies, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber’s household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, whether or not the subscriber elects to subscribe to receive the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

“(C) FUTURE APPLICABILITY.—

“(i) WHEN LOCAL SIGNAL AVAILABLE AT TIME OF SUBSCRIPTION.—The statutory license under paragraph (2) shall not apply to the

secondary transmission by a satellite carrier of the primary transmission of a network station to a person who is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

“(ii) WHEN LOCAL SIGNAL AVAILABLE AFTER SUBSCRIPTION.—In the case of a subscriber who lawfully subscribes to and receives the secondary transmission by a satellite carrier of the primary transmission of a network station under the statutory license under paragraph (2) (in this clause referred to as the ‘distant signal’) on or after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber’s household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, but only if such subscriber subscribes to the secondary transmission of the primary transmission of a local network station affiliated with the same network within 60 days after the satellite carrier makes available to the subscriber such secondary transmission of the primary transmission of such local network station.”;

(C) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively;

(D) in subparagraph (E) (as redesignated), by striking “(C) or (D)” and inserting “(B) or (C)”;

(E) in subparagraph (F) (as redesignated), by inserting “9-digit” before “zip code”.

(3) STATUTORY DAMAGES FOR TERRITORIAL RESTRICTIONS.—Section 119(a)(6) (as redesignated) is amended—

(A) in subparagraph (A)(ii), by striking “\$5” and inserting “\$250”;

(B) in subparagraph (B)—

(i) in clause (i), by striking “\$250,000 for each 6-month period” and inserting “\$2,500,000 for each 3-month period”; and

(ii) in clause (ii), by striking “\$250,000” and inserting “\$2,500,000”; and

(C) by adding at the end the following flush sentences:

“The court shall direct one half of any statutory damages ordered under clause (i) to be deposited with the Register of Copyrights for distribution to copyright owners pursuant to subsection (b). The Copyright Royalty Judges shall issue regulations establishing procedures for distributing such funds, on a proportional basis, to copyright owners whose works were included in the secondary transmissions that were the subject of the statutory damages.”.

(4) TECHNICAL AMENDMENT.—Section 119(a)(4) (as redesignated) is amended by striking “and 509”.

(5) CLERICAL AMENDMENT.—Section 119(a)(2)(B)(iii)(II) is amended by striking “In this clause” and inserting “In this clause,”.

(j) MORATORIUM EXTENSION.—Section 119(e) is amended by striking “May 31, 2010” and inserting “December 31, 2014”.

(k) CLERICAL AMENDMENTS.—Section 119 is amended—

(1) by striking “of the Code of Federal Regulations” each place it appears and inserting “, Code of Federal Regulations”; and

(2) in subsection (d)(6), by striking “or the Direct” and inserting “, or the Direct”.

#### SEC. 103. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS IN LOCAL MARKETS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 122 is amended by striking “by satellite carriers within local markets” and inserting “of local television programming by satellite”.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 122 and inserting the following:

“122. Limitations on exclusive rights: Secondary transmissions of local television programming by satellite.”.

(b) STATUTORY LICENSE.—Section 122(a) is amended to read as follows:

“(a) SECONDARY TRANSMISSIONS INTO LOCAL MARKETS.—

“(1) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS WITHIN A LOCAL MARKET.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station’s local market shall be subject to statutory licensing under this section if—

“(A) the secondary transmission is made by a satellite carrier to the public;

“(B) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

“(C) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

“(i) each subscriber receiving the secondary transmission; or

“(ii) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

“(2) SIGNIFICANTLY VIEWED STATIONS.—

“(A) IN GENERAL.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a network station or a non-network station to a subscriber who resides outside the station’s local market but within a community in which the signal has been determined by the Federal Communications Commission to be significantly viewed in such community, pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

“(B) WAIVER.—A subscriber who is denied the secondary transmission of the primary transmission of a network station or a non-network station under subparagraph (A) may request a waiver from such denial by submitting a request, through the subscriber’s satellite carrier, to the network station or non-network station in the local market affiliated with the same network or non-network where the subscriber is located. The network station or non-network station shall accept or reject the subscriber’s request for a waiver within 30 days after receipt of the request.

If the network station or non-network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station or non-network station shall be deemed to agree to the waiver request.

**“(3) SECONDARY TRANSMISSION OF LOW POWER PROGRAMMING.—**

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a television broadcast station that is licensed as a low power television station, to a subscriber who resides within the same designated market area as the station that originates the transmission.

“(B) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

“(C) NO IMPACT ON OTHER SECONDARY TRANSMISSIONS OBLIGATIONS.—A satellite carrier that makes secondary transmissions of a primary transmission of a low power television station under a statutory license provided under this section is not required, by reason of such secondary transmissions, to make any other secondary transmissions.

“(4) SPECIAL EXCEPTIONS.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall, if the secondary transmission is made by a satellite carrier that complies with the requirements of paragraph (1), be subject to statutory licensing under this paragraph as follows:

“(A) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 C.F.R. 76.51).

“(B) STATES WITH ALL NETWORK STATIONS AND NON-NETWORK STATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and non-network stations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of title 47, Code of Federal Regulations).

“(C) ADDITIONAL STATIONS.—In the case of that State in which are located 4 counties that—

“(i) on January 1, 2004, were in local markets principally comprised of counties in another State, and

“(ii) had a combined total of 41,340 television households, according to the U.S. Television Household Estimates by Nielsen Media Research for 2004,

the statutory license provided under this paragraph shall apply to secondary transmissions by a satellite carrier to subscribers in any such county of the primary transmissions of any network station located in that State, if the satellite carrier was making such secondary transmissions to any subscribers in that county on January 1, 2004.

“(D) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

“(i) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and

“(ii) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

“(E) NETWORKS OF NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS.—In the case of a system of three or more noncommercial educational broadcast stations licensed to a single State, public agency, or political, educational, or special purpose subdivision of a State, the statutory license provided for in this paragraph shall apply to the secondary transmission of the primary transmission of such system to any subscriber in any county or county equivalent within such State, if such subscriber is located in a designated market area that is not otherwise eligible to receive the secondary transmission of the primary transmission of a noncommercial educational broadcast station located within the State pursuant to paragraph (1).

“(5) APPLICABILITY OF ROYALTY RATES AND PROCEDURES.—The royalty rates and procedures under section 119(b) shall apply to the secondary transmissions to which the statutory license under paragraph (4) applies.”

(c) REPORTING REQUIREMENTS.—Section 122(b) is amended—

(1) in paragraph (1), by striking “station a list” and all that follows through the end and inserting the following: “station—

“(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a); and

“(B) a separate list, aggregated by designated market area (by name and address, including street or rural route number, city, State, and 9-digit zip code), which shall indicate those subscribers being served pursuant to paragraph (2) of subsection (a).”; and

(2) in paragraph (2), by striking “network a list” and all that follows through the end and inserting the following: “network—

“(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection; and

“(B) a separate list, aggregated by designated market area (by name and street ad-

dress, including street or rural route number, city, State, and 9-digit zip code), identifying those subscribers whose service pursuant to paragraph (2) of subsection (a) has been added or dropped since the last submission under this subsection.”

(d) NO ROYALTY FEE FOR CERTAIN SECONDARY TRANSMISSIONS.—Section 122(c) is amended—

(1) in the heading, by inserting “FOR CERTAIN SECONDARY TRANSMISSIONS” after “REQUIRED”; and

(2) by striking “subsection (a)” and inserting “paragraphs (1), (2), and (3) of subsection (a)”.

(e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—

(1) MODIFICATION TO STATUTORY DAMAGES.—Section 122(f) is amended—

(A) in paragraph (1)(B), by striking “\$5” and inserting “\$250”; and

(B) in paragraph (2), by striking “\$250,000” each place it appears and inserting “\$2,500,000”.

(2) CONFORMING AMENDMENTS FOR ADDITIONAL STATIONS.—Section 122 is amended—

(A) in subsection (f), by striking “section 119 or” each place it appears and inserting the following: “section 119, subject to statutory licensing by reason of paragraph (2)(A), (3), or (4) of subsection (a), or subject to”; and

(B) in subsection (g), by striking “section 119 or” and inserting the following: “section 119, paragraph (2)(A), (3), or (4) of subsection (a), or”.

(f) DEFINITIONS.—Section 122(j) is amended—

(1) in paragraph (1), by striking “which contracts” and inserting “that contracts”;

(2) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively;

(3) in paragraph (3)—

(A) by redesignating such paragraph as paragraph (4);

(B) in the heading of such paragraph, by inserting “NON-NETWORK STATION;” after “NETWORK STATION;”; and

(C) by inserting “‘non-network station,’” after “‘network station,’”;

(4) by inserting after paragraph (2) the following:

“(3) LOW POWER TELEVISION STATION.—The term ‘low power television station’ means a low power TV station as defined in section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term ‘low power television station’ includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.”;

(5) by inserting after paragraph (4) (as redesignated) the following:

“(5) NONCOMMERCIAL EDUCATIONAL BROADCAST STATION.—The term ‘noncommercial educational broadcast station’ means a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.”; and

(6) by amending paragraph (6) (as redesignated) to read as follows:

“(6) SUBSCRIBER.—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.”.

**SEC. 104. MODIFICATIONS TO CABLE SYSTEM SECONDARY TRANSMISSION RIGHTS UNDER SECTION 111.**

(a) **HEADING RENAMED.**—

(1) **IN GENERAL.**—The heading of section 111 is amended by inserting at the end the following: “**of broadcast programming by cable**”.

(2) **TABLE OF CONTENTS.**—The table of contents for chapter 1 is amended by striking the item relating to section 111 and inserting the following:

“111. Limitations on exclusive rights: Secondary transmissions of broadcast programming by cable.”.

(b) **TECHNICAL AMENDMENT.**—Section 111(a)(4) is amended by striking “; or” and inserting “or section 122”.

(c) **STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.**—Section 111(d) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking “A cable system whose secondary” and inserting the following: “STATEMENT OF ACCOUNT AND ROYALTY FEES.—Subject to paragraph (5), a cable system whose secondary”; and

(ii) by striking “by regulation—” and inserting “by regulation the following:”;

(B) in subparagraph (A)—

(i) by striking “a statement of account” and inserting “A statement of account”; and

(ii) by striking “; and” and inserting a period; and

(C) by striking subparagraphs (B), (C), and (D) and inserting the following:

“(B) Except in the case of a cable system whose royalty fee is specified in subparagraph (E) or (F), a total royalty fee payable to copyright owners pursuant to paragraph (3) for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during such period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

“(i) 1.064 percent of such gross receipts for the privilege of further transmitting, beyond the local service area of such primary transmitter, any non-network programming of a primary transmitter in whole or in part, such amount to be applied against the fee, if any, payable pursuant to clauses (ii) through (iv);

“(ii) 1.064 percent of such gross receipts for the first distant signal equivalent;

“(iii) 0.701 percent of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

“(iv) 0.330 percent of such gross receipts for the fifth distant signal equivalent and each distant signal equivalent thereafter.

“(C) In computing amounts under clauses (ii) through (iv) of subparagraph (B)—

“(i) any fraction of a distant signal equivalent shall be computed at its fractional value;

“(ii) in the case of any cable system located partly within and partly outside of the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located outside of the local service area of such primary transmitter; and

“(iii) if a cable system provides a secondary transmission of a primary transmitter to some but not all communities served by that cable system—

“(I) the gross receipts and the distant signal equivalent values for such secondary transmission shall be derived solely on the

basis of the subscribers in those communities where the cable system provides such secondary transmission; and

“(II) the total royalty fee for the period paid by such system shall not be less than the royalty fee calculated under subparagraph (B)(i) multiplied by the gross receipts from all subscribers to the system.

“(D) A cable system that, on a statement submitted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, computed its royalty fee consistent with the methodology under subparagraph (C)(iii), or that amends a statement filed before such date of enactment to compute the royalty fee due using such methodology, shall not be subject to an action for infringement, or eligible for any royalty refund or offset, arising out of its use of such methodology on such statement.

“(E) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are \$263,800 or less—

“(i) gross receipts of the cable system for the purpose of this paragraph shall be computed by subtracting from such actual gross receipts the amount by which \$263,800 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than \$10,400; and

“(ii) the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be 0.5 percent, regardless of the number of distant signal equivalents, if any.

“(F) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are more than \$263,800 but less than \$527,600, the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be—

“(i) 0.5 percent of any gross receipts up to \$263,800, regardless of the number of distant signal equivalents, if any; and

“(ii) 1 percent of any gross receipts in excess of \$263,800, but less than \$527,600, regardless of the number of distant signal equivalents, if any.

“(G) A filing fee, as determined by the Register of Copyrights pursuant to section 708(a).”.

(2) in paragraph (2), in the first sentence—

(A) by striking “The Register of Copyrights” and inserting the following “HANDLING OF FEES.—The Register of Copyrights”; and

(B) by inserting “(including the filing fee specified in paragraph (1)(G))” after “shall receive all fees”;

(3) in paragraph (3)—

(A) by striking “The royalty fees” and inserting the following: “DISTRIBUTION OF ROYALTY FEES TO COPYRIGHT OWNERS.—The royalty fees”;

(B) in subparagraph (A)—

(i) by striking “any such” and inserting “Any such”; and

(ii) by striking “; and” and inserting a period;

(C) in subparagraph (B)—

(i) by striking “any such” and inserting “Any such”; and

(ii) by striking the semicolon and inserting a period; and

(D) in subparagraph (C), by striking “any such” and inserting “Any such”;

(4) in paragraph (4), by striking “The royalty fees” and inserting the following: “PRO-

CEDURES FOR ROYALTY FEE DISTRIBUTION.—The royalty fees”; and

(5) by adding at the end the following new paragraphs:

“(5) 3.75 PERCENT RATE AND SYNDICATED EXCLUSIVITY SURCHARGE NOT APPLICABLE TO MULTICAST STREAMS.—The royalty rates specified in sections 256.2(c) and 256.2(d) of title 37, Code of Federal Regulations (commonly referred to as the ‘3.75 percent rate’ and the ‘syndicated exclusivity surcharge’, respectively), as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010, as such rates may be adjusted, or such sections redesignated, thereafter by the Copyright Royalty Judges, shall not apply to the secondary transmission of a multicast stream.

“(6) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to provide for the confidential verification by copyright owners whose works were embodied in the secondary transmissions of primary transmissions pursuant to this section of the information reported on the semiannual statements of account filed under this subsection for accounting periods beginning on or after January 1, 2010, in order that the auditor designated under subparagraph (A) is able to confirm the correctness of the calculations and royalty payments reported therein. The regulations shall—

“(A) establish procedures for the designation of a qualified independent auditor—

“(i) with exclusive authority to request verification of such a statement of account on behalf of all copyright owners whose works were the subject of secondary transmissions of primary transmissions by the cable system (that deposited the statement) during the accounting period covered by the statement; and

“(ii) who is not an officer, employee, or agent of any such copyright owner for any purpose other than such audit;

“(B) establish procedures for safeguarding all non-public financial and business information provided under this paragraph;

“(C)(i) require a consultation period for the independent auditor to review its conclusions with a designee of the cable system;

“(ii) establish a mechanism for the cable system to remedy any errors identified in the auditor's report and to cure any underpayment identified; and

“(iii) provide an opportunity to remedy any disputed facts or conclusions;

“(D) limit the frequency of requests for verification for a particular cable system and the number of audits that a multiple system operator can be required to undergo in a single year; and

“(E) permit requests for verification of a statement of account to be made only within 3 years after the last day of the year in which the statement of account is filed.

“(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—Any royalty fee payments received by the Copyright Office from cable systems for the secondary transmission of primary transmissions that are in addition to the payments calculated and deposited in accordance with this subsection shall be deemed to have been deposited for the particular accounting period for which they are received and shall be distributed as specified under this subsection.”.

(d) **EFFECTIVE DATE OF NEW ROYALTY FEE RATES.**—The royalty fee rates established in section 111(d)(1)(B) of title 17, United States Code, as amended by subsection (c)(1)(C) of this section, shall take effect commencing with the first accounting period occurring in 2010.

(e) DEFINITIONS.—Section 111(f) is amended—

(1) by striking the first undesignated paragraph and inserting the following:

“(1) PRIMARY TRANSMISSION.—A ‘primary transmission’ is a transmission made to the public by a transmitting facility whose signals are being received and further transmitted by a secondary transmission service, regardless of where or when the performance or display was first transmitted. In the case of a television broadcast station, the primary stream and any multicast streams transmitted by the station constitute primary transmissions.”;

(2) in the second undesignated paragraph—

(A) by striking “A ‘secondary transmission’” and inserting the following:

“(2) SECONDARY TRANSMISSION.—A ‘secondary transmission’”; and

(B) by striking “‘cable system’” and inserting “‘cable system’”;

(3) in the third undesignated paragraph—

(A) by striking “A ‘cable system’” and inserting the following:

“(3) CABLE SYSTEM.—A ‘cable system’”; and

(B) by striking “Territory, Trust Territory, or Possession” and inserting “territory, trust territory, or possession of the United States”;

(4) in the fourth undesignated paragraph, in the first sentence—

(A) by striking “The ‘local service area of a primary transmitter’, in the case of a television broadcast station, comprises the area in which such station is entitled to insist” and inserting the following:

“(4) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The ‘local service area of a primary transmitter’, in the case of both the primary stream and any multicast streams transmitted by a primary transmitter that is a television broadcast station, comprises the area where such primary transmitter could have insisted”;

(B) by striking “76.59 of title 47 of the Code of Federal Regulations” and inserting the following: “76.59 of title 47, Code of Federal Regulations, or within the noise-limited contour as defined in 73.622(e)(1) of title 47, Code of Federal Regulations”;

(C) by striking “as defined by the rules and regulations of the Federal Communications Commission,”;

(5) by amending the fifth undesignated paragraph to read as follows:

“(5) DISTANT SIGNAL EQUIVALENT.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), a ‘distant signal equivalent’—

“(i) is the value assigned to the secondary transmission of any non-network television programming carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming; and

“(ii) is computed by assigning a value of one to each primary stream and to each multicast stream (other than a simulcast) that is an independent station, and by assigning a value of one-quarter to each primary stream and to each multicast stream (other than a simulcast) that is a network station or a noncommercial educational station.

“(B) EXCEPTIONS.—The values for independent, network, and noncommercial educational stations specified in subparagraph (A) are subject to the following:

“(i) Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and

such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to effect such omission and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program.

“(ii) Where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year.

“(iii) In the case of the secondary transmission of a primary transmitter that is a television broadcast station pursuant to the late-night or specialty programming rules of the Federal Communications Commission, or the secondary transmission of a primary transmitter that is a television broadcast station on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals that it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth in subparagraph (A), as the case may be, shall be multiplied by a fraction that is equal to the ratio of the broadcast hours of such primary transmitter retransmitted by the cable system to the total broadcast hours of the primary transmitter.

“(iv) No value shall be assigned for the secondary transmission of the primary stream or any multicast streams of a primary transmitter that is a television broadcast station in any community that is within the local service area of the primary transmitter.”;

(6) by striking the sixth undesignated paragraph and inserting the following:

“(6) NETWORK STATION.—

“(A) TREATMENT OF PRIMARY STREAM.—The term ‘network station’ shall be applied to a primary stream of a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of the primary stream’s typical broadcast day.

“(B) TREATMENT OF MULTICAST STREAMS.—The term ‘network station’ shall be applied to a multicast stream on which a television broadcast station transmits all or substantially all of the programming of an interconnected program service that—

“(i) is owned or operated by, or affiliated with, one or more of the television networks described in subparagraph (A); and

“(ii) offers programming on a regular basis for 15 or more hours per week to at least 25 of the affiliated television licensees of the

interconnected program service in 10 or more States.”;

(7) by striking the seventh undesignated paragraph and inserting the following:

“(7) INDEPENDENT STATION.—The term ‘independent station’ shall be applied to the primary stream or a multicast stream of a television broadcast station that is not a network station or a noncommercial educational station.”;

(8) by striking the eighth undesignated paragraph and inserting the following:

“(8) NONCOMMERCIAL EDUCATIONAL STATION.—The term ‘noncommercial educational station’ shall be applied to the primary stream or a multicast stream of a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.”; and

(9) by adding at the end the following:

“(9) PRIMARY STREAM.—A ‘primary stream’ is—

“(A) the single digital stream of programming that, before June 12, 2009, was substantially duplicating the programming transmitted by the television broadcast station as an analog signal; or

“(B) if there is no stream described in subparagraph (A), then the single digital stream of programming transmitted by the television broadcast station for the longest period of time.

“(10) PRIMARY TRANSMITTER.—A ‘primary transmitter’ is a television or radio broadcast station licensed by the Federal Communications Commission, or by an appropriate governmental authority of Canada or Mexico, that makes primary transmissions to the public.

“(11) MULTICAST STREAM.—A ‘multicast stream’ is a digital stream of programming that is transmitted by a television broadcast station and is not the station’s primary stream.

“(12) SIMULCAST.—A ‘simulcast’ is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

“(13) SUBSCRIBER; SUBSCRIBE.—

“(A) SUBSCRIBER.—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a cable system and pays a fee for the service, directly or indirectly, to the cable system.

“(B) SUBSCRIBE.—The term ‘subscribe’ means to elect to become a subscriber.”.

(f) TIMING OF SECTION 111 PROCEEDINGS.—Section 804(b)(1) is amended by striking “2005” each place it appears and inserting “2015”.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CORRECTIONS TO FIX LEVEL DESIGNATIONS.—Section 111 is amended—

(A) in subsections (a), (c), and (e), by striking “clause” each place it appears and inserting “paragraph”;

(B) in subsection (c)(1), by striking “clauses” and inserting “paragraphs”; and

(C) in subsection (e)(1)(F), by striking “subclause” and inserting “subparagraph”.

(2) CONFORMING AMENDMENT TO HYPHENATE NONNETWORK.—Section 111 is amended by striking “nonnetwork” each place it appears and inserting “non-network”.

(3) PREVIOUSLY UNDESIGNATED PARAGRAPH.—Section 111(e)(1) is amended by striking “second paragraph of subsection (f)” and inserting “subsection (f)(2)”.

(4) REMOVAL OF SUPERFLUOUS ANDS.—Section 111(e) is amended—

(A) in paragraph (1)(A), by striking “and” at the end;

(B) in paragraph (1)(B), by striking “and” at the end;

(C) in paragraph (1)(C), by striking “and” at the end;

(D) in paragraph (1)(D), by striking “and” at the end; and

(E) in paragraph (2)(A), by striking “and” at the end.

(5) REMOVAL OF VARIANT FORMS REFERENCES.—Section 111 is amended—

(A) in subsection (e)(4), by striking “, and each of its variant forms,”; and

(B) in subsection (f), by striking “and their variant forms”.

(6) CORRECTION TO TERRITORY REFERENCE.—Section 111(e)(2) is amended in the matter preceding subparagraph (A) by striking “three territories” and inserting “five entities”.

(h) EFFECTIVE DATE WITH RESPECT TO MULTICAST STREAMS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this section, to the extent such amendments assign a distant signal equivalent value to the secondary transmission of the multicast stream of a primary transmitter, shall take effect on the date of the enactment of this Act.

(2) DELAYED APPLICABILITY.—

(A) SECONDARY TRANSMISSIONS OF A MULTICAST STREAM BEYOND THE LOCAL SERVICE AREA OF ITS PRIMARY TRANSMITTER BEFORE 2010 ACT.—In any case in which a cable system was making secondary transmissions of a multicast stream beyond the local service area of its primary transmitter before the date of the enactment of this Act, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream that are made on or before June 30, 2010.

(B) MULTICAST STREAMS SUBJECT TO PRE-EXISTING WRITTEN AGREEMENTS FOR THE SECONDARY TRANSMISSION OF SUCH STREAMS.—In any case in which the secondary transmission of a multicast stream of a primary transmitter is the subject of a written agreement entered into on or before June 30, 2009, between a cable system or an association representing the cable system and a primary transmitter or an association representing the primary transmitter, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream beyond the local service area of its primary transmitter that are made on or before the date on which such written agreement expires.

(C) NO REFUNDS OR OFFSETS FOR PRIOR STATEMENTS OF ACCOUNT.—A cable system that has reported secondary transmissions of a multicast stream beyond the local service area of its primary transmitter on a statement of account deposited under section 111 of title 17, United States Code, before the date of the enactment of this Act shall not be entitled to any refund, or offset, of royalty fees paid on account of such secondary transmissions of such multicast stream.

(3) DEFINITIONS.—In this subsection, the terms “cable system”, “secondary transmission”, “multicast stream”, and “local service area of a primary transmitter” have the meanings given those terms in section 111(f) of title 17, United States Code, as amended by this section.

#### SEC. 105. CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.

Section 119 is amended by adding at the end the following new subsection:

“(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

“(1) INJUNCTION WAIVER.—A court that issued an injunction pursuant to subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction if the court recognizes the entity against which the injunction was issued as a qualified carrier.

“(2) LIMITED TEMPORARY WAIVER.—

“(A) IN GENERAL.—Upon a request made by a satellite carrier, a court that issued an injunction against such carrier under subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction with respect to the statutory license provided under subsection (a)(2) to the extent necessary to allow such carrier to make secondary transmissions of primary transmissions made by a network station to unserved households located in short markets in which such carrier was not providing local service pursuant to the license under section 122 as of December 31, 2009.

“(B) EXPIRATION OF TEMPORARY WAIVER.—A temporary waiver of an injunction under subparagraph (A) shall expire after the end of the 120-day period beginning on the date such temporary waiver is issued unless extended for good cause by the court making the temporary waiver.

“(C) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

“(i) FAILURE TO ACT REASONABLY AND IN GOOD FAITH.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to act reasonably or has failed to make a good faith effort to provide local-into-local service to all DMAs, such failure—

“(I) is actionable as an act of infringement under section 501 and the court may in its discretion impose the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

“(II) shall result in the termination of the waiver issued under subparagraph (A).

“(ii) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to provide local-into-local service to all DMAs, but determines that the carrier acted reasonably and in good faith, the court may in its discretion impose financial penalties that reflect—

“(I) the degree of control the carrier had over the circumstances that resulted in the failure;

“(II) the quality of the carrier’s efforts to remedy the failure; and

“(III) the severity and duration of any service interruption.

“(D) SINGLE TEMPORARY WAIVER AVAILABLE.—An entity may only receive one temporary waiver under this paragraph.

“(E) SHORT MARKET DEFINED.—For purposes of this paragraph, the term ‘short market’ means a local market in which programming of one or more of the four most widely viewed television networks nationwide as measured on the date of the enactment of this subsection is not offered on the primary stream transmitted by any local television broadcast station.

“(3) ESTABLISHMENT OF QUALIFIED CARRIER RECOGNITION.—

“(A) STATEMENT OF ELIGIBILITY.—An entity seeking to be recognized as a qualified carrier under this subsection shall file a statement of eligibility with the court that im-

posed the injunction. A statement of eligibility must include—

“(i) an affidavit that the entity is providing local-into-local service to all DMAs;

“(ii) a motion for a waiver of the injunction;

“(iii) a motion that the court appoint a special master under Rule 53 of the Federal Rules of Civil Procedure;

“(iv) an agreement by the carrier to pay all expenses incurred by the special master under paragraph (4)(B)(ii); and

“(v) a certification issued pursuant to section 342(a) of Communications Act of 1934.

“(B) GRANT OF RECOGNITION AS A QUALIFIED CARRIER.—Upon receipt of a statement of eligibility, the court shall recognize the entity as a qualified carrier and issue the waiver under paragraph (1). Upon motion pursuant to subparagraph (A)(iii), the court shall appoint a special master to conduct the examination and provide a report to the court as provided in paragraph (4)(B).

“(C) VOLUNTARY TERMINATION.—At any time, an entity recognized as a qualified carrier may file a statement of voluntary termination with the court certifying that it no longer wishes to be recognized as a qualified carrier. Upon receipt of such statement, the court shall reinstate the injunction waived under paragraph (1).

“(D) LOSS OF RECOGNITION PREVENTS FUTURE RECOGNITION.—No entity may be recognized as a qualified carrier if such entity had previously been recognized as a qualified carrier and subsequently lost such recognition or voluntarily terminated such recognition under subparagraph (C).

“(4) QUALIFIED CARRIER OBLIGATIONS AND COMPLIANCE.—

“(A) CONTINUING OBLIGATIONS.—

“(i) IN GENERAL.—An entity recognized as a qualified carrier shall continue to provide local-into-local service to all DMAs.

“(ii) COOPERATION WITH COMPLIANCE EXAMINATION.—An entity recognized as a qualified carrier shall fully cooperate with the special master appointed by the court under paragraph (3)(B) in an examination set forth in subparagraph (B).

“(B) QUALIFIED CARRIER COMPLIANCE EXAMINATION.—

“(i) EXAMINATION AND REPORT.—A special master appointed by the court under paragraph (3)(B) shall conduct an examination of, and file a report on, the qualified carrier’s compliance with the royalty payment and household eligibility requirements of the license under this section. The report shall address the qualified carrier’s conduct during the period beginning on the date on which the qualified carrier is recognized as such under paragraph (3)(B) and ending on April 30, 2012.

“(ii) RECORDS OF QUALIFIED CARRIER.—Beginning on the date that is one year after the date on which the qualified carrier is recognized as such under paragraph (3)(B), but not later than December 1, 2011, the qualified carrier shall provide the special master with all records that the special master considers to be directly pertinent to the following requirements under this section:

“(I) Proper calculation and payment of royalties under the statutory license under this section.

“(II) Provision of service under this license to eligible subscribers only.

“(iii) SUBMISSION OF REPORT.—The special master shall file the report required by clause (i) not later than July 24, 2012, with the court referred to in paragraph (1) that issued the injunction, and the court shall transmit a copy of the report to the Register

of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate.

“(iv) EVIDENCE OF INFRINGEMENT.—The special master shall include in the report a statement of whether the examination by the special master indicated that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement.

“(v) SUBSEQUENT EXAMINATION.—If the special master’s report includes a statement that its examination indicated the existence of substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement, the special master shall, not later than 6 months after the report under clause (i) is filed, initiate another examination of the qualified carrier’s compliance with the royalty payment and household eligibility requirements of the license under this section since the last report was filed under clause (iii). The special master shall file a report on the results of the examination conducted under this clause with the court referred to in paragraph (1) that issued the injunction, and the court shall transmit a copy to the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate. The report shall include a statement described in clause (iv).

“(vi) COMPLIANCE.—Upon motion filed by an aggrieved copyright owner, the court recognizing an entity as a qualified carrier shall terminate such designation upon finding that the entity has failed to cooperate with the examinations required by this subparagraph.

“(vii) OVERSIGHT.—During the period of time that the special master is conducting an examination under this subparagraph, the Comptroller General shall monitor the degree to which the entity seeking to be recognized or recognized as a qualified carrier under paragraph (3) is complying with the special master’s examination. The qualified carrier shall make available to the Comptroller General all records and individuals that the Comptroller General considers necessary to meet the Comptroller General’s obligations under this clause. The Comptroller General shall report the results of the monitoring required by this clause to the Committees on the Judiciary and on Energy and Commerce of the House of Representatives and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate at intervals of not less than six months during such period.

“(C) AFFIRMATION.—A qualified carrier shall file an affidavit with the district court and the Register of Copyrights 30 months after such status was granted stating that, to the best of the affiant’s knowledge, it is in compliance with the requirements for a qualified carrier. The qualified carrier shall attach to its affidavit copies of all reports or orders issued by the court, the special master, and the Comptroller General.

“(D) COMPLIANCE DETERMINATION.—Upon the motion of an aggrieved television broadcast station, the court recognizing an entity as a qualified carrier may make a determination of whether the entity is providing local-into-local service to all DMAs.

“(E) PLEADING REQUIREMENT.—In any motion brought under subparagraph (D), the

party making such motion shall specify one or more designated market areas (as such term is defined in section 122(j)(2)(C)) for which the failure to provide service is being alleged, and, for each such designated market area, shall plead with particularity the circumstances of the alleged failure.

“(F) BURDEN OF PROOF.—In any proceeding to make a determination under subparagraph (D), and with respect to a designated market area for which failure to provide service is alleged, the entity recognized as a qualified carrier shall have the burden of proving that the entity provided local-into-local service with a good quality satellite signal to at least 90 percent of the households in such designated market area (based on the most recent census data released by the United States Census Bureau) at the time and place alleged.

“(5) FAILURE TO PROVIDE SERVICE.—

“(A) PENALTIES.—If the court recognizing an entity as a qualified carrier finds that such entity has willfully failed to provide local-into-local service to all DMAs, such finding shall result in the loss of recognition of the entity as a qualified carrier and the termination of the waiver provided under paragraph (1), and the court may, in its discretion—

“(i) treat such failure as an act of infringement under section 501, and subject such infringement to the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

“(ii) impose a fine of not less than \$250,000 and not more than \$5,000,000.

“(B) EXCEPTION FOR NONWILLFUL VIOLATION.—If the court determines that the failure to provide local-into-local service to all DMAs is nonwillful, the court may in its discretion impose financial penalties for non-compliance that reflect—

“(i) the degree of control the entity had over the circumstances that resulted in the failure;

“(ii) the quality of the entity’s efforts to remedy the failure and restore service; and

“(iii) the severity and duration of any service interruption.

“(6) PENALTIES FOR VIOLATIONS OF LICENSE.—A court that finds, under subsection (a)(6)(A), that an entity recognized as a qualified carrier has willfully made a secondary transmission of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who is not eligible to receive the transmission under this section shall reinstate the injunction waived under paragraph (1), and the court may order statutory damages of not more than \$2,500,000.

“(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS DEFINED.—For purposes of this subsection:

“(A) IN GENERAL.—An entity provides ‘local-into-local service to all DMAs’ if the entity provides local service in all designated market areas (as such term is defined in section 122(j)(2)(C)) pursuant to the license under section 122.

“(B) HOUSEHOLD COVERAGE.—For purposes of subparagraph (A), an entity that makes available local-into-local service with a good quality satellite signal to at least 90 percent of the households in a designated market area based on the most recent census data released by the United States Census Bureau shall be considered to be providing local service to such designated market area.

“(C) GOOD QUALITY SATELLITE SIGNAL DEFINED.—The term ‘good quality satellite signal’ has the meaning given such term under section 342(e)(2) of Communications Act of 1934.”

#### SEC. 106. COPYRIGHT OFFICE FEES.

Section 708(a) is amended—

(1) in paragraph (8), by striking “and” after the semicolon;

(2) in paragraph (9), by striking the period and inserting a semicolon;

(3) by inserting after paragraph (9) the following:

“(10) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 119 or 122; and

“(11) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 111.”; and

(4) by adding at the end the following new sentence: “Fees established under paragraphs (10) and (11) shall be reasonable and may not exceed one-half of the cost necessary to cover reasonable expenses incurred by the Copyright Office for the collection and administration of the statements of account and any royalty fees deposited with such statements.”

#### SEC. 107. TERMINATION OF LICENSE.

(a) TERMINATION.—Section 119 of title 17, United States Code, as amended by this Act, shall cease to be effective on December 31, 2014.

(b) CONFORMING AMENDMENT.—Section 1003(a)(2)(A) of Public Law 111-118 (17 U.S.C. 119 note) is repealed.

#### SEC. 108. CONSTRUCTION.

Nothing in section 111, 119, or 122 of title 17, United States Code, including the amendments made to such sections by this title, shall be construed to affect the meaning of any terms under the Communications Act of 1934, except to the extent that such sections are specifically cross-referenced in such Act or the regulations issued thereunder.

### TITLE II—COMMUNICATIONS PROVISIONS

#### SEC. 201. REFERENCE.

Except as otherwise provided, whenever in this title an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

#### SEC. 202. EXTENSION OF AUTHORITY.

Section 325(b) is amended—

(1) in paragraph (2)(C), by striking “May 31, 2010” and inserting “December 31, 2014”; and

(2) in paragraph (3)(C), by striking “June 1, 2010” each place it appears in clauses (ii) and (iii) and inserting “January 1, 2015”.

#### SEC. 203. SIGNIFICANTLY VIEWED STATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 340(b) are amended to read as follows:

“(1) SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—This section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal from that satellite carrier pursuant to section 338.

“(2) SERVICE LIMITATIONS.—A satellite carrier may retransmit to a subscriber in high definition format the signal of a station determined by the Commission to be significantly viewed under subsection (a) only if such carrier also retransmits in high definition format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station.”.

(b) RULEMAKING REQUIRED.—Within 270 days after the date of the enactment of this Act, the Federal Communications Commission shall take all actions necessary to promulgate a rule to implement the amendments made by subsection (a).



**SEC. 204. DIGITAL TELEVISION TRANSITION CONFORMING AMENDMENTS.**

(a) SECTION 338.—Section 338 is amended—

(1) in subsection (a), by striking “(3) EFFECTIVE DATE.—No satellite” and all that follows through “until January 1, 2002.”; and

(2) by amending subsection (g) to read as follows:

“(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE RECEPTION ANTENNA.—

“(1) SINGLE RECEPTION ANTENNA.—Each satellite carrier that retransmits the signals of local television broadcast stations in a local market shall retransmit such stations in such market so that a subscriber may receive such stations by means of a single reception antenna and associated equipment.

“(2) ADDITIONAL RECEPTION ANTENNA.—If the carrier retransmits the signals of local television broadcast stations in a local market in high definition format, the carrier shall retransmit such signals in such market so that a subscriber may receive such signals by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used to comply with paragraph (1).”

(b) SECTION 339.—Section 339 is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking “Such two network stations” and all that follows through “more than two network stations.”; and

(B) in paragraph (2)—

(i) in the heading for subparagraph (A), by striking “TO ANALOG SIGNALS”; and

(ii) in subparagraph (A)—

(I) in the heading for clause (i), by striking “ANALOG”; and

(II) in clause (i)—

(aa) by striking “analog” each place it appears; and

(bb) by striking “October 1, 2004” and inserting “October 1, 2009”; and

(III) in the heading for clause (ii), by striking “ANALOG”; and

(IV) in clause (ii)—

(aa) by striking “analog” each place it appears; and

(bb) by striking “2004” and inserting “2009”; and

(iii) by amending subparagraph (B) to read as follows:

“(B) RULES FOR OTHER SUBSCRIBERS.—

“(i) IN GENERAL.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a ‘distant signal’), other than subscribers to whom subparagraph (A) applies, the following shall apply:

“(I) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if the subscriber’s satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (F)(i).

“(II) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

“(aa) that subscriber seeks to subscribe to such distant signal before the date on which

such carrier commences to carry pursuant to section 338 the signals of stations from the local market of such local network station; and

“(bb) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).

“(ii) SPECIAL CIRCUMSTANCES.—A subscriber of a satellite carrier who was lawfully receiving the distant signal of a network station on the day before the date of enactment of the Satellite Television Extension and Localism Act of 2010 may receive both such distant signal and the local signal of a network station affiliated with the same network until such subscriber chooses to no longer receive such distant signal from such carrier, whether or not such subscriber elects to subscribe to such local signal.”;

(iv) in subparagraph (C)—

(I) by striking “analog”; and

(II) in clause (i), by striking “the Satellite Home Viewer Extension and Reauthorization Act of 2004; and” and inserting the following: “the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 (and the retransmission of such signal by such carrier can reach such subscriber); or”; and

(III) by amending clause (ii) to read as follows:

“(ii) lawfully subscribes to and receives a distant signal on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, and, subsequent to such subscription, the satellite carrier makes available to that subscriber the signal of a local network station affiliated with the same network as the distant signal (and the retransmission of such signal by such carrier can reach such subscriber), unless such person subscribes to the signal of the local network station within 60 days after such signal is made available.”;

(v) in subparagraph (D)—

(I) in the heading, by striking “DIGITAL”; and

(II) by striking clauses (i), (iii) through (v), (vii) through (ix), and (xi);

(III) by redesignating clause (vi) as clause (i) and transferring such clause to appear before clause (ii);

(IV) by amending such clause (i) (as so redesignated) to read as follows:

“(i) ELIGIBILITY AND SIGNAL TESTING.—A subscriber of a satellite carrier shall be eligible to receive a distant signal of a network station affiliated with the same network under this section if, with respect to a local network station, such subscriber—

“(I) is a subscriber whose household is not predicted by the model specified in subsection (c)(3) to receive the signal intensity required under section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of title 47, Code of Federal Regulations, or a successor regulation;

“(II) is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of such title, or a successor regulation; or

“(III) is in an unserved household, as determined under section 119(d)(10)(A) of title 17, United States Code.”;

(V) in clause (i)—

(aa) by striking “DIGITAL” in the heading;

(bb) by striking “digital” the first two places such term appears;

(cc) by striking “Satellite Home Viewer Extension and Reauthorization Act of 2004” and inserting “Satellite Television Extension and Localism Act of 2010”; and

(dd) by striking “, whether or not such subscriber elects to subscribe to local digital signals”;

(VI) by inserting after clause (ii) the following new clause:

“(iii) TIME-SHIFTING PROHIBITED.—In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the signal of a local network station pursuant to section 338, the carrier may only provide the distant signal of a station affiliated with the same network to that subscriber if, in the case of any local market in the 48 contiguous States of the United States, the distant signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market.”; and

(VII) by redesignating clause (x) as clause (iv); and

(vi) in subparagraph (E), by striking “distant analog signal or” and all that follows through “(B, or (D))” and inserting “distant signal”;

(2) in subsection (c)—

(A) by amending paragraph (3) to read as follows:

“(3) ESTABLISHMENT OF IMPROVED PREDICTIVE MODEL AND ON-LOCATION TESTING REQUIRED.—

“(A) PREDICTIVE MODEL.—Within 270 days after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the Commission shall develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of an antenna, to receive signals in accordance with the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or a successor regulation, including to account for the continuing operation of translator stations and low power television stations. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Commission in CS Docket No. 98-201, as previously revised with respect to analog signals, and as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05-182, FCC 05-199 (released December 9, 2005). The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

“(B) ON-LOCATION TESTING.—The Commission shall issue an order completing its rulemaking proceeding in ET Docket No. 06-94 within 270 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010. In conducting such rulemaking, the Commission shall seek ways to minimize consumer burdens associated with on-location testing.”;

(B) by amending paragraph (4)(A) to read as follows:

“(A) IN GENERAL.—If a subscriber’s request for a waiver under paragraph (2) is rejected

and the subscriber submits to the subscriber's satellite carrier a request for a test verifying the subscriber's inability to receive a signal of the signal intensity referenced in clause (i) of subsection (a)(2)(D), the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct the test referenced in such clause. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such clause demonstrate that the subscriber does not receive a signal that meets or exceeds the requisite signal intensity standard in such clause, the subscriber shall not be denied the retransmission of a signal of a network station under section 119(d)(10)(A) of title 17, United States Code."

(C) in paragraph (4)(B), by striking "the signal intensity" and all that follows through "United States Code" and inserting "such requisite signal intensity standard"; and

(D) in paragraph (4)(E), by striking "Grade B intensity".

(c) SECTION 340.—Section 340(i) is amended by striking paragraph (4).

#### SEC. 205. APPLICATION PENDING COMPLETION OF RULEMAKINGS.

(a) IN GENERAL.—During the period beginning on the date of the enactment of this Act and ending on the date on which the Federal Communications Commission adopts rules pursuant to the amendments to the Communications Act of 1934 made by section 203 and section 204 of this title, the Federal Communications Commission shall follow its rules and regulations promulgated pursuant to sections 338, 339, and 340 of the Communications Act of 1934 as in effect on the day before the date of the enactment of this Act.

(b) TRANSLATOR STATIONS AND LOW POWER TELEVISION STATIONS.—Notwithstanding subsection (a), for purposes of determining whether a subscriber within the local market served by a translator station or a low power television station affiliated with a television network is eligible to receive distant signals under section 339 of the Communications Act of 1934, the rules and regulations of the Federal Communications Commission for determining such subscriber's eligibility as in effect on the day before the date of the enactment of this Act shall apply until the date on which the translator station or low power television station is licensed to broadcast a digital signal.

(c) DEFINITIONS.—As used in this subtitle:

(1) LOCAL MARKET; LOW POWER TELEVISION STATION; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms "local market", "low power television station", "satellite carrier", "subscriber", and "television broadcast station" have the meanings given such terms in section 338(k) of the Communications Act of 1934.

(2) NETWORK STATION; TELEVISION NETWORK.—The terms "network station" and "television network" have the meanings given such terms in section 339(d) of such Act.

#### SEC. 206. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

Part I of title III is amended by adding at the end the following new section:

##### "SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

"(a) CERTIFICATION.—The Commission shall issue a certification for the purposes of section 119(g)(3)(A)(iii) of title 17, United States Code, if the Commission determines that—

"(1) a satellite carrier is providing local service pursuant to the statutory license under section 122 of such title in each designated market area; and

"(2) with respect to each designated market area in which such satellite carrier was not providing such local service as of the date of enactment of the Satellite Television Extension and Localism Act of 2010—

"(A) the satellite carrier's satellite beams are designed, and predicted by the satellite manufacturer's pre-launch test data, to provide a good quality satellite signal to at least 90 percent of the households in each such designated market area based on the most recent census data released by the United States Census Bureau; and

"(B) there is no material evidence that there has been a satellite or sub-system failure subsequent to the satellite's launch that precludes the ability of the satellite carrier to satisfy the requirements of subparagraph (A).

"(b) INFORMATION REQUIRED.—Any entity seeking the certification provided for in subsection (a) shall submit to the Commission the following information:

"(1) An affidavit stating that, to the best of the affiant's knowledge, the satellite carrier provides local service in all designated market areas pursuant to the statutory license provided for in section 122 of title 17, United States Code, and listing those designated market areas in which local service was provided as of the date of enactment of the Satellite Television Extension and Localism Act of 2010.

"(2) For each designated market area not listed in paragraph (1):

"(A) Identification of each such designated market area and the location of its local receive facility.

"(B) Data showing the number of households, and maps showing the geographic distribution thereof, in each such designated market area based on the most recent census data released by the United States Census Bureau.

"(C) Maps, with superimposed effective isotropically radiated power predictions obtained in the satellite manufacturer's pre-launch tests, showing that the contours of the carrier's satellite beams as designed and the geographic area that the carrier's satellite beams are designed to cover are predicted to provide a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

"(D) For any satellite relied upon for certification under this section, an affidavit stating that, to the best of the affiant's knowledge, there have been no satellite or sub-system failures subsequent to the satellite's launch that would degrade the design performance to such a degree that a satellite transponder used to provide local service to any such designated market area is precluded from delivering a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

"(E) Any additional engineering, designated market area, or other information the Commission considers necessary to determine whether the Commission shall grant a certification under this section.

"(c) CERTIFICATION ISSUANCE.—

"(1) PUBLIC COMMENT.—The Commission shall provide 30 days for public comment on a request for certification under this section.

"(2) DEADLINE FOR DECISION.—The Commission shall grant or deny a request for certifi-

cation within 90 days after the date on which such request is filed.

"(d) SUBSEQUENT AFFIRMATION.—An entity granted qualified carrier status pursuant to section 119(g) of title 17, United States Code, shall file an affidavit with the Commission 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

"(e) DEFINITIONS.—For the purposes of this section:

"(1) DESIGNATED MARKET AREA.—The term 'designated market area' has the meaning given such term in section 122(j)(2)(C) of title 17, United States Code.

"(2) GOOD QUALITY SATELLITE SIGNAL.—

"(A) IN GENERAL.—The term "good quality satellite signal" means—

"(i) a satellite signal whose power level as designed shall achieve reception and demodulation of the signal at an availability level of at least 99.7 percent using—

"(I) models of satellite antennas normally used by the satellite carrier's subscribers; and

"(II) the same calculation methodology used by the satellite carrier to determine predicted signal availability in the top 100 designated market areas; and

"(ii) taking into account whether a signal is in standard definition format or high definition format, compression methodology, modulation, error correction, power level, and utilization of advances in technology that do not circumvent the intent of this section to provide for non-discriminatory treatment with respect to any comparable television broadcast station signal, a video signal transmitted by a satellite carrier such that—

"(I) the satellite carrier treats all television broadcast stations' signals the same with respect to statistical multiplexer prioritization; and

"(II) the number of video signals in the relevant satellite transponder is not more than the then current greatest number of video signals carried on any equivalent transponder serving the top 100 designated market areas.

"(B) DETERMINATION.—For the purposes of subparagraph (A), the top 100 designated market areas shall be as determined by Nielsen Media Research and published in the Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication as of the date of a satellite carrier's application for certification under this section."

#### SEC. 207. NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION DIGITAL SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.

(a) IN GENERAL.—Section 338(a) is amended by adding at the end the following new paragraph:

"(5) NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.—

"(A) EXISTING CARRIAGE OF HIGH DEFINITION SIGNALS.—If, before the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier is providing, under section 122 of title 17, United States Code, any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of qualified non-commercial educational television stations

located within that local market in accordance with the following schedule:

“(i) By December 31, 2010, in at least 50 percent of the markets in which such satellite carrier provides such secondary transmissions in high definition format.

“(ii) By December 31, 2011, in every market in which such satellite carrier provides such secondary transmissions in high definition format.

“(B) NEW INITIATION OF SERVICE.—If, on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier initiates the provision, under section 122 of title 17, United States Code, of any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of all qualified noncommercial educational television stations located within that local market.”.

(b) DEFINITIONS.—Section 338(k) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

“(2) ELIGIBLE SATELLITE CARRIER.—The term ‘eligible satellite carrier’ means any satellite carrier that is not a party to a carriage contract that—

“(A) governs carriage of at least 30 qualified noncommercial educational television stations; and

“(B) is in force and effect within 150 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010.”;

(3) by redesignating paragraphs (6) through (9) (as previously redesignated) as paragraphs (7) through (10), respectively; and

(4) by inserting after paragraph (5) (as so redesignated) the following new paragraph:

“(6) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term ‘qualified noncommercial educational television station’ means any full-power television broadcast station that—

“(A) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational broadcast station and is owned and operated by a public agency, nonprofit foundation, nonprofit corporation, or nonprofit association; and

“(B) has as its licensee an entity that is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) of this title.”.

#### SEC. 208. SAVINGS CLAUSE REGARDING DEFINITIONS.

Nothing in this title or the amendments made by this title shall be construed to affect—

(1) the meaning of the terms “program related” and “primary video” under the Communications Act of 1934; or

(2) the meaning of the term “multicast” in any regulations issued by the Federal Communications Commission.

#### SEC. 209. STATE PUBLIC AFFAIRS BROADCASTS.

Section 335(b) is amended—

(1) by inserting “STATE PUBLIC AFFAIRS,” after “EDUCATIONAL,” in the heading;

(2) by striking paragraph (1) and inserting the following:

“(1) CHANNEL CAPACITY REQUIRED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a provider of direct broadcast satellite service providing video programming, that the provider of such service reserve a portion of its channel capacity, equal to not less than 4 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.

“(B) REQUIREMENT FOR QUALIFIED SATELLITE PROVIDER.—The Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a qualified satellite provider of direct broadcast satellite service providing video programming, that such provider reserve a portion of its channel capacity, equal to not less than 3.5 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.”;

(3) in paragraph (5), by striking “For purposes of the subsection—” and inserting “For purposes of this subsection:”;

(4) by adding at the end of paragraph (5) the following:

“(C) The term ‘qualified satellite provider’ means any provider of direct broadcast satellite service that—

“(i) provides the retransmission of the State public affairs networks of at least 15 different States;

“(ii) offers the programming of State public affairs networks upon reasonable prices, terms, and conditions as determined by the Commission under paragraph (4); and

“(iii) does not delete any noncommercial programming of an educational or informational nature in connection with the carriage of a State public affairs network.

“(D) The term ‘State public affairs network’ means a non-commercial non-broadcast network or a noncommercial educational television station—

“(i) whose programming consists of information about State government deliberations and public policy events; and

“(ii) that is operated by—

“(I) a State government or subdivision thereof;

“(II) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code and that is governed by an independent board of directors; or

“(III) a cable system.”.

### TITLE III—REPORTS AND SAVINGS PROVISION

#### SEC. 301. DEFINITION.

In this title, the term “appropriate Congressional committees” means the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and on Energy and Commerce of the House of Representatives.

#### SEC. 302. REPORT ON MARKET BASED ALTERNATIVES TO STATUTORY LICENSING.

Not later than 18 months after the date of the enactment of this Act, and after consultation with the Federal Communications Commission, the Register of Copyrights shall submit to the appropriate Congressional committees a report containing—

(1) proposed mechanisms, methods, and recommendations on how to implement a phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code, by making such sections inapplicable to the secondary transmission of a performance or display of a work embodied in a primary transmission of

a broadcast station that is authorized to license the same secondary transmission directly with respect to all of the performances and displays embodied in such primary transmission;

(2) any recommendations for alternative means to implement a timely and effective phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code; and

(3) any recommendations for legislative or administrative actions as may be appropriate to achieve such a phase-out.

#### SEC. 303. REPORT ON COMMUNICATIONS IMPLICATIONS OF STATUTORY LICENSING MODIFICATIONS.

(a) STUDY.—The Comptroller General shall conduct a study that analyzes and evaluates the changes to the carriage requirements currently imposed on multichannel video programming distributors under the Communications Act of 1934 (47 U.S.C. 151 et seq.) and the regulations promulgated by the Federal Communications Commission that would be required or beneficial to consumers, and such other matters as the Comptroller General deems appropriate, if Congress implemented a phase-out of the current statutory licensing requirements set forth under sections 111, 119, and 122 of title 17, United States Code. Among other things, the study shall consider the impact such a phase-out and related changes to carriage requirements would have on consumer prices and access to programming.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall report to the appropriate Congressional committees the results of the study, including any recommendations for legislative or administrative actions.

#### SEC. 304. REPORT ON IN-STATE BROADCAST PROGRAMMING.

Not later than 18 months after the date of the enactment of this Act, the Federal Communications Commission shall submit to the appropriate Congressional committees a report containing an analysis of—

(1) the number of households in a State that receive the signals of local broadcast stations assigned to a community of license that is located in a different State;

(2) the extent to which consumers in each local market have access to in-state broadcast programming over the air or from a multichannel video programming distributor; and

(3) whether there are alternatives to the use of designated market areas, as defined in section 122 of title 17, United States Code, to define local markets that would provide more consumers with in-state broadcast programming.

#### SEC. 305. LOCAL NETWORK CHANNEL BROADCAST REPORTS.

(a) REQUIREMENT.—

(1) IN GENERAL.—On the 270th day after the date of the enactment of this Act, and on each succeeding anniversary of such 270th day, each satellite carrier shall submit an annual report to the Federal Communications Commission setting forth—

(A) each local market in which it—

(i) retransmits signals of 1 or more television broadcast stations with a community of license in that market;

(ii) has commenced providing such signals in the preceding 1-year period; and

(iii) has ceased to provide such signals in the preceding 1-year period; and

(B) detailed information regarding the use and potential use of satellite capacity for the retransmission of local signals in each local market.

(2) **TERMINATION.**—The requirement under paragraph (1) shall cease after each satellite carrier has submitted 5 reports under such paragraph.

(b) **FCC STUDY; REPORT.**—

(1) **STUDY.**—If no satellite carrier files a request for a certification under section 342 of the Communications Act of 1934 (as added by section 206 of this title) within 270 days after the date of the enactment of this Act, the Federal Communications Commission shall initiate a study of—

(A) incentives that would induce a satellite carrier to provide the signals of 1 or more television broadcast stations licensed to provide signals in local markets in which the satellite carrier does not provide such signals; and

(B) the economic and satellite capacity conditions affecting delivery of local signals by satellite carriers to these markets.

(2) **REPORT.**—Within 1 year after the date of the initiation of the study under paragraph (1), the Federal Communications Commission shall submit a report to the appropriate Congressional committees containing its findings, conclusions, and recommendations.

(c) **DEFINITIONS.**—In this section—

(1) the terms “local market” and “satellite carrier” have the meaning given such terms in section 339(d) of the Communications Act of 1934 (47 U.S.C. 339(d)); and

(2) the term “television broadcast station” has the meaning given such term in section 325(b)(7) of such Act (47 U.S.C. 325(b)(7)).

#### **SEC. 306. SAVINGS PROVISION REGARDING USE OF NEGOTIATED LICENSES.**

(a) **IN GENERAL.**—Nothing in this Act, title 17, United States Code, the Communications Act of 1934, regulations promulgated by the Register of Copyrights under this title or title 17, United States Code, or regulations promulgated by the Federal Communications Commission under this Act or the Communications Act of 1934 shall be construed to prevent a multichannel video programming distributor from retransmitting a performance or display of a work pursuant to an authorization granted by the copyright owner or, if within the scope of its authorization, its licensee.

(b) **LIMITATION.**—Nothing in subsection (a) shall be construed to affect any obligation of a multichannel video programming distributor under section 325(b) of the Communications Act of 1934 to obtain the authority of a television broadcast station before retransmitting that station's signal.

#### **SEC. 307. EFFECTIVE DATE; NONINFRINGEMENT OF COPYRIGHT.**

(a) **EFFECTIVE DATE.**—Unless specifically provided otherwise, this Act, and the amendments made by this Act, shall take effect on February 27, 2010, and with the exception of the reference in subsection (b), all references to the date of enactment of this Act shall be deemed to refer to February 27, 2010, unless otherwise specified.

(b) **NONINFRINGEMENT OF COPYRIGHT.**—The secondary transmission of a performance or display of a work embodied in a primary transmission is not an infringement of copyright if it was made by a satellite carrier on or after February 27, 2010, and prior to enactment of this Act, and was in compliance with the law as in existence on February 27, 2010.

#### **TITLE IV—SEVERABILITY**

##### **SEC. 401. SEVERABILITY.**

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of

such provision or amendment to any person or circumstance shall not be affected thereby.

#### **TITLE V—DETERMINATION OF BUDGETARY EFFECTS**

##### **SEC. 501. DETERMINATION OF BUDGETARY EFFECTS.**

(a) **IN GENERAL.**—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

#### **EXECUTIVE SESSION**

##### **EXECUTIVE CALENDAR**

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 849 to and including 879 and all nominations on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy; that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc; that no further motions be in order; any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

##### **IN THE AIR FORCE**

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

##### *To be brigadier general*

Colonel Kenneth J. Moran

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### *To be general*

Lt. Gen. Edward A. Rice, Jr.

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

##### *To be brigadier general*

Colonel David W. Allvin  
Colonel Balan R. Ayyar  
Colonel Thomas W. Bergeson  
Colonel Jack L. Briggs, II  
Colonel James S. Browne  
Colonel Arnold W. Bunch, Jr.  
Colonel Theresa C. Carter  
Colonel Scott L. Dennis  
Colonel John W. Doucette  
Colonel Sandra E. Finan  
Colonel Donald S. George  
Colonel Jerry D. Harris, Jr.  
Colonel Kevin J. Jacobsen  
Colonel Scott W. Jansson  
Colonel Richard A. Klumpp, Jr.  
Colonel Leslie A. Kodlick  
Colonel Gregory J. Lengyel

Colonel James F. Martin, Jr.  
Colonel Robert D. McMurry, Jr.  
Colonel Edward M. Minahan  
Colonel Jon A. Norman  
Colonel James N. Post, III  
Colonel Steven M. Shepro  
Colonel Jay B. Silveria  
Colonel David D. Thompson  
Colonel William J. Thornton  
Colonel Kenneth E. Todorov  
Colonel Linda R. Urrutia-Varhall  
Colonel Burke E. Wilson

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

##### *To be major general*

Brigadier General Mark A. Barrett  
Brigadier General Michael R. Boera  
Brigadier General Edward L. Bolton, Jr.  
Brigadier General Joseph D. Brown, IV  
Brigadier General Norman J. Brozenick, Jr.  
Brigadier General Sharon K.G. Dunbar  
Brigadier General David S. Fadok  
Brigadier General Jonathan D. George  
Brigadier General Walter D. Givhan  
Brigadier General Mark W. Graper  
Brigadier General James W. Hyatt  
Brigadier General John E. Hyten  
Brigadier General Richard C. Johnston  
Brigadier General James J. Jones  
Brigadier General Bruce A. Litchfield  
Brigadier General Charles W. Lyon  
Brigadier General Wendy M. Masiello  
Brigadier General Kenneth D. Merchant  
Brigadier General Harry D. Polumbo, Jr.  
Brigadier General John D. Posner  
Brigadier General Lori J. Robinson  
Brigadier General Mark O. Schissler  
Brigadier General Margaret H. Woodward

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### *To be lieutenant general*

Maj. Gen. Eric E. Fiel

##### **IN THE ARMY**

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### *To be general*

Lt. Gen. Keith B. Alexander

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601, and to be a Senior Member of the Military Staff Committee of the United Nations under title 10, U.S.C., section 711:

##### *To be lieutenant general*

Lt. Gen. Charles H. Jacoby, Jr.

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### *To be lieutenant general*

Maj. Gen. Daniel P. Bolger

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### *To be lieutenant general*

Lt. Gen. David P. Fridovich

The following named officer for appointment in the Reserve of the Army to the

grade indicated under title 10, U.S.C., section 12203:

*To be major general*

Brig. Gen. Donald C. Leins

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., sections 624 and 3064:

*To be brigadier general*

Col. Nadja Y. West

The following named officer for appointment as Chief of the Dental Corps, and Assistant Surgeon General for Dental Services, United States Army and for appointment to the grade indicated under title 10, U.S.C., sections 3036 and 3039(b):

*To be major general*

Col. Ming T. Wong

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be admiral*

Vice Adm. James A. Winnefeld, Jr.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Rear Adm. Carol M. Pottenger

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Rear Adm. Scott R. Van Buskirk

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Rear Adm. Mark I. Fox

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Vice Adm. David J. Venlet

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral*

Rear Adm. (lh) Elizabeth S. Niemeyer

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. Margaret G. Kibben

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. David M. Boone

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. Robert J. A. Gilbeau  
Capt. Glenn C. Robillard

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Captain John C. Aquilino  
Captain Sean S. Buck  
Captain David M. Duryea  
Captain Peter J. Fanta  
Captain David J. Gale  
Captain Charles M. Gaouette  
Captain Michael M. Gilday  
Captain Patrick D. Hall  
Captain Jeffrey A. Harley  
Captain Ronald Horton  
Captain Philip G. Howe  
Captain Kevin J. Kovacich  
Captain Dietrich H. Kuhlmann, III  
Captain Mark C. Montgomery  
Captain Scott P. Moore  
Captain Kenneth J. Norton  
Captain Tilghman D. Payne  
Captain Jeffrey R. Penfield  
Captain Frederick J. Roegge  
Captain Phillip G. Sawyer  
Captain John W. Smith, Jr.  
Captain David F. Steindl  
Captain Kevin M. Sweeney  
Captain Joseph E. Tofalo  
Captain Michael A. Walley  
Captain Michael S. White

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. Brett C. Heimbigner  
Capt. Matthew J. Kohler

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. James D. Syring  
Capt. Gregory R. Thomas

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. Mathias W. Winter

The following named officer for appointment as Chief of Chaplains, United States Navy, and appointment to the grade indicated under title 10, U.S.C., section 5142:

*To be rear admiral*

Rear Adm. (h) Mark L. Tidd

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Rear Adm. Allen G. Myers

IN THE MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. Duane D. Thiessen

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. Dennis J. Hejlik

The following named officers for appointment in the United States Marine Corps to

the grade indicated under title 10, U.S.C., section 624:

*To be major general*

Brigadier General Ronald L. Bailey  
Brigadier General Jon M. Davis  
Brigadier General David C. Garza  
Brigadier General Timothy C. Hanifen  
Brigadier General James A. Kessler  
Brigadier General Richard M. Lake  
Brigadier General James B. Laster  
Brigadier General Angela Salinas  
Brigadier General Peter J. Talleri  
Brigadier General Robert S. Walsh

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

*To be brigadier general*

Colonel Brian D. Beaudreault  
Colonel Vincent A. Coglianese  
Colonel Craig C. Crenshaw  
Colonel Francis L. Kelley, Jr.  
Colonel John K. Love  
Colonel James W. Lukeman  
Colonel Carl E. Mundy, III  
Colonel Kevin J. Nally  
Colonel Daniel J. O'Donohue  
Colonel Steven R. Rudder  
Colonel John W. Simmons  
Colonel Gary L. Thomas

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN1274 AIR FORCE nominations (16) beginning RANDALL M. ASHMORE, and ending JAMES A. SPERL, which nominations were received by the Senate and appeared in the Congressional Record of December 11, 2009.

PN1534 AIR FORCE nomination of Carolyn Ann Moore Benyshek, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1560 AIR FORCE nominations (11) beginning ELIZABETH R. ANDERSONDOZE, and ending KAREN M. WHARTON, which nominations were received by the Senate and appeared in the Congressional Record of March 10, 2010.

PN1662 AIR FORCE nominations (110) beginning SANDRA S. AGUILLON, and ending SHAWNA A. ZIERKE, which nominations were received by the Senate and appeared in the Congressional Record of April 21, 2010.

PN1674 AIR FORCE nomination of Gerard G. Couvillion, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1675 AIR FORCE nomination of Eric W. Adcock, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1676 AIR FORCE nominations (6) beginning DREW C. JOHNSON, and ending JUSTIN P. OLSEN, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

IN THE ARMY

PN1535-1 ARMY nominations (25) beginning RONALD J. DYKSTRA, and ending ANTHONY T. WILSON, which nominations were received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1561 ARMY nomination of Stephen T. Sauter, which was received by the Senate and appeared in the Congressional Record of March 10, 2010.

PN1562 ARMY nomination of Miles T. Gengler, which was received by the Senate and appeared in the Congressional Record of March 10, 2010.

PN1585 ARMY nominations (61) beginning DINO J. BESINGA, and ending SANG J.

WON, which nominations were received by the Senate and appeared in the Congressional Record of March 25, 2010.

PN1586 ARMY nominations (8) beginning JAMES J. AIELLO, and ending WALTER C. PEREZ, which nominations were received by the Senate and appeared in the Congressional Record of March 25, 2010.

PN1666 ARMY nomination of Ramsey B. Salem, which was received by the Senate and appeared in the Congressional Record of April 21, 2010.

PN1678 ARMY nomination of Douglas B. Guard, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1679 ARMY nomination of Cheryl Maguire, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1680 ARMY nomination of Shirley M. Ochoa-Dobies, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1681 ARMY nominations (2) beginning DAVID W. TERHUNE, and ending PAUL E. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1682 ARMY nominations (3) beginning JUAN G. LOPEZ, and ending ROBERT G. SWARTS, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1683 ARMY nominations (6) beginning CHRISTOPHER T. BLAIS, and ending JILL D. SIMONSON, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1684 ARMY nominations (12) beginning DARRELL W. CARPENTER, and ending MIST L. WRAY, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1685 ARMY nominations (56) beginning JENIFER L. BREAUX, and ending LEON M. WILSON, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1705 ARMY nominations (928) beginning TYLER M. ABERCROMBIE, and ending D010186, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1706 ARMY nominations (501) beginning GREGORY J. ADY, and ending G010044, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1707 ARMY nominations (521) beginning EDWARD V. ABRAHAMSON, and ending D006165, which nominations were received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1724 ARMY nominations (3) beginning CARL E. STEINBECK, and ending JENNIFER M. MCKENNA, which nominations were received by the Senate and appeared in the Congressional Record of April 28, 2010.

PN1733 ARMY nominations (7) beginning JAMES L. CASSARELLA, and ending RONALD A. WESTFALL, which nominations were received by the Senate and appeared in the Congressional Record of April 29, 2010.

PN1734 ARMY nominations (5) beginning ANTHONY ABBOTT, and ending JEFFREY F. WILSON, which nominations were received by the Senate and appeared in the Congressional Record of April 29, 2010.

#### IN THE MARINE CORPS

PN1318 MARINE CORPS nominations (41) beginning DAVID F. ALLEN, and ending MARVIN A. WILLIAMS, which nominations were received by the Senate and appeared in

the Congressional Record of December 21, 2009.

PN1319 MARINE CORPS nominations (663) beginning JOSE M. ACEVEDO, and ending CHAD W. ZIMMERMAN, which nominations were received by the Senate and appeared in the Congressional Record of December 21, 2009.

PN1447 MARINE CORPS nominations (117) beginning WALTER T. ANDERSON, and ending KENNETH M. WOODARD, which nominations were received by the Senate and appeared in the Congressional Record of February 4, 2010.

PN1448 MARINE CORPS nominations (262) beginning STEPHEN J. ACOSTA, and ending LUIS R. ZAMARRIPA, which nominations were received by the Senate and appeared in the Congressional Record of February 4, 2010.

PN1503 MARINE CORPS nomination of Peter W. McDaniel, which was received by the Senate and appeared in the Congressional Record of March 3, 2010.

PN1505 MARINE CORPS nomination of Dean R. Keck, which was received by the Senate and appeared in the Congressional Record of March 3, 2010.

#### IN THE NAVY

PN1536 NAVY nomination of James H. Jones, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1537 NAVY nomination of Enrique G. Molina, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1538 NAVY nomination of Scott A. Carpenter, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1539 NAVY nomination of Christopher C. Richard, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1540 NAVY nomination of Jacob C. Hinz, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1541 NAVY nomination of Stanley E. Hovell, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1542 NAVY nomination of Rivka L. Weiss, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1543 NAVY nomination of Shawn M. Stebbins, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1544 NAVY nomination of Henry D. Lange, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1545 NAVY nomination of Christie M. Quietmeyer, which was received by the Senate and appeared in the Congressional Record of March 9, 2010.

PN1587 NAVY nomination of Beth A. Hoffman, which was received by the Senate and appeared in the Congressional Record of March 25, 2010.

PN1588 NAVY nominations (10) beginning JOHN W. CHEATHAM, and ending NOBURO YAMAKI, which nominations were received by the Senate and appeared in the Congressional Record of March 25, 2010.

PN1589 NAVY nominations (39) beginning GREGORY M. SARACCO, and ending LUKE A. ZABROCKI, which nominations were received by the Senate and appeared in the Congressional Record of March 25, 2010.

PN1629 NAVY nominations (3) beginning JOHN T. FOJUT, and ending ANNE D.

RESTREPO, which nominations were received by the Senate and appeared in the Congressional Record of April 14, 2010.

PN1686 NAVY nomination of Gregory J. Murrey, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1687 NAVY nomination of Patrick V. Bailey, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1702 NAVY nomination of Andrew K. Bailey, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1703 NAVY nomination of Todd J. Oswald, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1704 NAVY nomination of Maria D. Julia-Montanez, which was received by the Senate and appeared in the Congressional Record of April 26, 2010.

PN1725 NAVY nominations (8) beginning WILLIAM T. CARNEY, and ending ANDREA S. STILLER, which nominations were received by the Senate and appeared in the Congressional Record of April 28, 2010.

PN1735 NAVY nomination of Frederick Harris, which was received by the Senate and appeared in the Congressional Record of April 29, 2010.

PN1736 NAVY nomination of Paul N. Langevin, which was received by the Senate and appeared in the Congressional Record of April 29, 2010.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

#### ORDERS FOR MONDAY, MAY 10, 2010

Mr. WHITEHOUSE. I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m., Monday, May 10; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each; that following morning business, the Senate resume consideration of S. 3217, Wall Street reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. WHITEHOUSE. Mr. President, I can announce that there will be no rollcall votes during Monday's session of the Senate.

#### ADJOURNMENT UNTIL MONDAY, MAY 10, 2010, AT 2 P.M.

Mr. WHITEHOUSE. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 1:04 p.m., adjourned until Monday, May 10, 2010, at 2 p.m.

## NOMINATIONS

Executive nominations received by the Senate:

### DEPARTMENT OF STATE

PHILLIP CARTER III, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER—COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COTE D'IVOIRE.

GERALD M. FEIERSTEIN, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER—COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF YEMEN.

PETER MICHAEL MCKINLEY, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER—COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COLOMBIA.

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be lieutenant general*

MAJ. GEN. FRANK J. KISNER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be brigadier general*

COLONEL JEFFREY L. HARRIGAN  
COLONEL JOHN F. NEWELL III  
COLONEL MARK C. NOWLAN  
COLONEL ROBERT D. THOMAS

## CONFIRMATIONS

Executive nominations confirmed by the Senate, Friday, May 7, 2010:

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be brigadier general*

COLONEL KENNETH J. MORAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be general*

LT. GEN. EDWARD A. RICE, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be brigadier general*

COLONEL DAVID W. ALLVIN  
COLONEL BALAN R. AYYAR  
COLONEL THOMAS W. BERGESON  
COLONEL JACK L. BRIGGS II  
COLONEL JAMES S. BROWNE  
COLONEL ARNOLD W. BUNCH, JR.  
COLONEL THERESA C. CARTER  
COLONEL SCOTT L. DENNIS  
COLONEL JOHN W. DOUCETTE  
COLONEL SANDRA E. FINAN  
COLONEL DONALD S. GIERGE  
COLONEL JERRY D. HARRIS, JR.  
COLONEL KEVIN J. JACOBSEN  
COLONEL SCOTT W. JANSSEN  
COLONEL RICHARD A. KLUMPP, JR.  
COLONEL LESLIE A. KODLICK  
COLONEL GREGORY J. LENGYEL  
COLONEL JAMES F. MARTIN, JR.  
COLONEL ROBERT D. MCMURRY, JR.  
COLONEL EDWARD M. MINAHAN  
COLONEL JON A. NORMAN  
COLONEL JAMES N. POST III  
COLONEL STEVEN M. SHEPRO  
COLONEL JAY B. SILVERIA  
COLONEL DAVID D. THOMPSON  
COLONEL WILLIAM J. THORNTON  
COLONEL KENNETH E. TODOROV  
COLONEL LINDA R. URRUTIA-VARHALL  
COLONEL BURKE E. WILSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

### *To be major general*

BRIGADIER GENERAL MARK A. BARRETT  
BRIGADIER GENERAL MICHAEL R. BOERA  
BRIGADIER GENERAL EDWARD L. BOLTON, JR.  
BRIGADIER GENERAL JOSEPH D. BROWN IV  
BRIGADIER GENERAL NORMAN J. BROZENICK, JR.  
BRIGADIER GENERAL SHARON K.G. DUNBAR  
BRIGADIER GENERAL DAVID S. FADOK  
BRIGADIER GENERAL JONATHAN D. GEORGE  
BRIGADIER GENERAL WALTER D. GIVHAN  
BRIGADIER GENERAL MARK W. GRAPER  
BRIGADIER GENERAL JAMES W. HYATT  
BRIGADIER GENERAL JOHN E. HYTEN  
BRIGADIER GENERAL RICHARD C. JOHNSTON  
BRIGADIER GENERAL JAMES J. JONES  
BRIGADIER GENERAL BRUCE A. LITCHFIELD  
BRIGADIER GENERAL CHARLES W. LYON  
BRIGADIER GENERAL WENDY M. MASIELLO  
BRIGADIER GENERAL KENNETH D. MERCHANT  
BRIGADIER GENERAL HARRY D. POLUMBO, JR.  
BRIGADIER GENERAL JOHN D. POSNER  
BRIGADIER GENERAL LORI J. ROBINSON  
BRIGADIER GENERAL MARK O. SCHISSLER  
BRIGADIER GENERAL MARGARET H. WOODWARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be lieutenant general*

MAJ. GEN. ERIC E. FIEL

### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be general*

LT. GEN. KEITH B. ALEXANDER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601, AND TO BE A SENIOR MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS UNDER TITLE 10, U.S.C., SECTION 711:

#### *To be lieutenant general*

LT. GEN. CHARLES H. JACOBY, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be lieutenant general*

MAJ. GEN. DANIEL P. BOLGER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be lieutenant general*

LT. GEN. DAVID P. FRIDOVICH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

#### *To be major general*

BRIG. GEN. DONALD C. LEINS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

#### *To be brigadier general*

COL. NADJA Y. WEST

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF THE DENTAL CORPS, AND ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES, UNITED STATES ARMY AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 3036 AND 3039(B):

#### *To be major general*

COL. MING T. WONG

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be admiral*

VICE ADM. JAMES A. WINNEFELD, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be vice admiral*

REAR ADM. CAROL M. POTTENGER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED

WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be vice admiral*

REAR ADM. SCOTT R. VAN BUSKIRK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be vice admiral*

REAR ADM. MARK I. FOX

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### *To be vice admiral*

VICE ADM. DAVID J. VENLET

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be rear admiral*

REAR ADM. (LH) ELIZABETH S. NIEMYER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be rear admiral (lower half)*

CAPT. MARGARET G. KIBBEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be rear admiral (lower half)*

CAPT. DAVID M. BOONE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be rear admiral (lower half)*

CAPT. ROBERT J. A. GILBEAU  
CAPT. GLENN C. ROBILARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be rear admiral (lower half)*

CAPTAIN JOHN C. AQUILINO  
CAPTAIN SEAN S. BUCK  
CAPTAIN DAVID M. DURYEA  
CAPTAIN PETER J. FANTA  
CAPTAIN DAVID J. GALE  
CAPTAIN CHARLES M. GAUQUETTE  
CAPTAIN MICHAEL M. GILDAY  
CAPTAIN PATRICK D. HALL  
CAPTAIN JEFFREY A. HARLEY  
CAPTAIN RONALD HORTON  
CAPTAIN PHILIP G. HOWE  
CAPTAIN KEVIN J. KOVACH  
CAPTAIN DETRICH H. KUHLMANN III  
CAPTAIN MARK C. MONTGOMERY  
CAPTAIN SCOTT P. MOORE  
CAPTAIN KENNETH J. NORTON  
CAPTAIN TILGHMAN D. PAYNE  
CAPTAIN JEFFREY R. PENFIELD  
CAPTAIN FREDERICK J. ROEGGE  
CAPTAIN PHILLIP G. SAWYER  
CAPTAIN JOHN W. SMITH, JR.  
CAPTAIN DAVID F. STEINDL  
CAPTAIN KEVIN M. SWEENEY  
CAPTAIN JOSEPH E. TOFALO  
CAPTAIN MICHAEL A. WALLEY  
CAPTAIN MICHAEL S. WHITE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be rear admiral (lower half)*

CAPT. BRETT C. HEIMBIGNER  
CAPT. MATTHEW J. KOHLER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be rear admiral (lower half)*

CAPT. JAMES D. SYRING  
CAPT. GREGORY R. THOMAS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be rear admiral (lower half)*

CAPT. MATHIAS W. WINTER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF CHAPLAINS, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5142:

#### *To be rear admiral*

REAR ADM. (LH) MARK L. TIDD



THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. ALLEN G. MYERS

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

L/T. GEN. DUANE D. THIESSEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

L/T. GEN. DENNIS J. HEJLIK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIGADIER GENERAL RONALD L. BAILEY  
BRIGADIER GENERAL JON M. DAVIS  
BRIGADIER GENERAL DAVID C. GARZA  
BRIGADIER GENERAL TIMOTHY C. HANIFEN  
BRIGADIER GENERAL JAMES A. KESSLER  
BRIGADIER GENERAL RICHARD M. LAKE  
BRIGADIER GENERAL JAMES B. LASTER  
BRIGADIER GENERAL ANGELA SALINAS  
BRIGADIER GENERAL PETER J. TALLERI  
BRIGADIER GENERAL ROBERT S. WALSH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COLONEL BRIAN D. BEAUDREAULT  
COLONEL VINCENT A. COGLIANESE  
COLONEL CRAIG C. CRENSHAW  
COLONEL FRANCIS L. KELLEY, JR.  
COLONEL JOHN K. LOVE  
COLONEL JAMES W. LUKEMAN  
COLONEL CARL E. MUNDY III  
COLONEL KEVIN J. NALLY  
COLONEL DANIEL J. O'DONOHUE  
COLONEL STEVEN R. RUDDER  
COLONEL JOHN W. SIMMONS  
COLONEL GARY L. THOMAS

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH RANDALL M. ASHMORE AND ENDING WITH JAMES A. SPERL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 11, 2009.

AIR FORCE NOMINATION OF CAROLYN ANN MOORE BENYSHEK, TO BE COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH ELIZABETH R. ANDERSONDOZE AND ENDING WITH KAREN M. WHARTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 10, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH SANDRA S. AGUILLON AND ENDING WITH SHAWNA A. ZIERKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 21, 2010.

AIR FORCE NOMINATION OF GERARD G. COUVILLON, TO BE COLONEL.

AIR FORCE NOMINATION OF ERIC W. ADCOCK, TO BE MAJOR.

AIR FORCE NOMINATIONS BEGINNING WITH DREW C. JOHNSON AND ENDING WITH JUSTIN P. OLSEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH RONALD J. DYKSTRA AND ENDING WITH ANTHONY T. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 9, 2010.

ARMY NOMINATION OF STEPHEN T. SAUTER, TO BE COLONEL.

ARMY NOMINATION OF MILES T. GENGLER, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH DINO J. BESINGA AND ENDING WITH SANG J. WON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 25, 2010.

ARMY NOMINATIONS BEGINNING WITH JAMES J. AIELLO AND ENDING WITH WALTER C. PEREZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 25, 2010.

ARMY NOMINATION OF RAMSEY B. SALEM, TO BE COLONEL.

ARMY NOMINATION OF DOUGLAS B. GUARD, TO BE MAJOR.

ARMY NOMINATION OF CHERYL MAGUIRE, TO BE MAJOR.

ARMY NOMINATION OF SHIRLEY M. OCHOA-DOBIES, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH DAVID W. TERHUNE AND ENDING WITH PAUL E. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH JUAN G. LOPEZ AND ENDING WITH ROBERT G. SWARTS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH CHRISTOPHER T. BLAIS AND ENDING WITH JILL D. SIMONSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH DARRELL W. CARPENTER AND ENDING WITH MIST L. WRAY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH JENIFER L. BREAUX AND ENDING WITH LEON M. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH TYLER M. ABERCROMBIE AND ENDING WITH D010186, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH GREGORY J. ADY AND ENDING WITH G010044, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH EDWARD V. ABRAHAMSON AND ENDING WITH D006165, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 26, 2010.

ARMY NOMINATIONS BEGINNING WITH CARL E. STEINBECK AND ENDING WITH JENNIFER M. MCKENNA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 28, 2010.

ARMY NOMINATIONS BEGINNING WITH JAMES L. CASSARELLA AND ENDING WITH RONALD A. WESTFALL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 29, 2010.

ARMY NOMINATIONS BEGINNING WITH ANTHONY ABOTT AND ENDING WITH JEFFREY F. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 29, 2010.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING WITH DAVID F. ALLEN AND ENDING WITH MARVIN A. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 21, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH JOSE M. ACEVEDO AND ENDING WITH CHAD W. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE

AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 21, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH WALTER T. ANDERSON AND ENDING WITH KENNETH M. WOODARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 4, 2010.

MARINE CORPS NOMINATIONS BEGINNING WITH STEPHEN J. ACOSTA AND ENDING WITH LUIS R. ZAMARRIPA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 4, 2010.

MARINE CORPS NOMINATION OF PETER W. MCDANIEL, TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATION OF DEAN R. KECK, TO BE LIEUTENANT COLONEL.

IN THE NAVY

NAVY NOMINATION OF JAMES H. JONES, TO BE CAPTAIN.

NAVY NOMINATION OF ENRIQUE G. MOLINA, TO BE COMMANDER.

NAVY NOMINATION OF SCOTT A. CARPENTER, TO BE COMMANDER.

NAVY NOMINATION OF CHRISTOPHER C. RICHARD, TO BE COMMANDER.

NAVY NOMINATION OF JACOB C. HINZ, TO BE COMMANDER.

NAVY NOMINATION OF STANLEY E. HOVELL, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF RIVKA L. WEISS, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF SHAWN M. STEBBINS, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF HENRY D. LANGE, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF CHRISTIE M. QUIETMEYER, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF BETH A. HOFFMAN, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATIONS BEGINNING WITH JOHN W. CHEATHAM AND ENDING WITH NOBURO YAMAKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 25, 2010.

NAVY NOMINATIONS BEGINNING WITH GREGORY M. SARACCO AND ENDING WITH LUKE A. ZABROCKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 25, 2010.

NAVY NOMINATIONS BEGINNING WITH JOHN T. FOJUT AND ENDING WITH ANNE D. RESTREPO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 14, 2010.

NAVY NOMINATION OF GREGORY J. MURREY, TO BE CAPTAIN.

NAVY NOMINATION OF PATRICK V. BAILEY, TO BE CAPTAIN.

NAVY NOMINATION OF ANDREW K. BAILEY, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF TODD J. OSWALD, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF MARIA D. JULIA-MONTANEZ, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATIONS BEGINNING WITH WILLIAM T. CARNEY AND ENDING WITH ANDREA S. STILLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 28, 2010.

NAVY NOMINATION OF FREDERICK HARRIS, TO BE COMMANDER.

NAVY NOMINATION OF PAUL N. LANGEVIN, TO BE LIEUTENANT COMMANDER.

## WITHDRAWAL

Executive Message transmitted by the President to the Senate on May 7, 2010 withdrawing from further Senate consideration the following nomination:

STEVEN L. JACQUES, OF KANSAS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE CATHY M. MACFARLANE, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 29, 2009.

## EXTENSIONS OF REMARKS

BACH FESTIVAL OF WINTER PARK,  
FLORIDA

**HON. JOHN L. MICA**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 7, 2010*

Mr. MICA. Madam Speaker, I rise today to bring special recognition to the Bach Festival Society of Winter Park, Florida. This year 2010 marks the 75th Anniversary of this significant cultural organization and its outstanding music festival.

Over the past decades thousands of people have enjoyed and participated in the special event that highlights and appreciates musical performances and talented artists. This unique event which has been supported by local citizens, state and federal agencies has enriched the lives of countless individuals for three quarters of a century.

This year's 75th Winter Park Bach Festival coincides with the 325th birthday of Johann Sebastian Bach. Although the composer and master of music is long departed, this extraordinary music celebration allows his work and the music of other great masters to live on and be enjoyed today.

Congratulations to all those associated with and supporting this effort, including the festival's host Rollins College and its renowned Knowles Memorial Chapel. Special recognition is also well deserved for the Bach Festival Board of Trustees and its staff who work to carry on this great cultural legacy.

Also it is important to highlight the Festival Society's efforts to promote a young artist's competition that ensures great talent and fosters music appreciation in our future generations.

Madam Speaker, I know my colleagues in the U.S. House of Representatives join me in praising and saluting the special accomplishments and anniversary of the Winter Park Bach Festival and its society members.

A TRIBUTE TO VICKI LEVIN,  
PUBLIC SERVANT

**HON. DAVID E. PRICE**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 7, 2010*

Mr. PRICE of North Carolina. Madam Speaker, I rise to direct the House's attention to Public Service Recognition Week, a time in which we honor the more than 20 million men and women who serve our Nation as Federal, State, county and local government employees.

On May 4, 2010, I joined the Partnership for Public Service at an event they hosted to commend all of our Nation's public servants and to recognize one in particular: the late

Vicki Levin, wife of our colleague from Michigan. The Partnership presented a plaque to Representative SANDY LEVIN with the following inscription: "In memory of Vicki Levin with deep appreciation for three decades of dedicated service to our country." I was pleased to offer the following remarks to commend our Nation's public servants and to honor Vicki Levin. I also wish to enclose in the RECORD a column reflecting on Vicki's exemplary public service, written by the Levins' son, Andy.

REMARKS AT THE PARTNERSHIP FOR PUBLIC  
SERVICE RECEPTION HONORING VICKI LEVIN

Thank you for inviting me to join you at tonight's celebration of Public Service Recognition Week. It's a pleasure to be here and to help acknowledge the contributions of our nation's public servants—and of one very dedicated individual in particular.

As a political scientist by training, I am often asked about how the academic perspective of government compares with the day to day reality. The question itself is as interesting as the answer, because it reveals the tendency of both academics and civilians to view government as a kind of abstract entity. But in a representational democracy, government is very much a living entity. It is intended to be an instrument of our common purpose, and like most instruments, it doesn't play itself. People make government work.

People keep us safe from terrorist threats and food-borne illness; people develop new treatments for diseases; people protect our natural resources. The list goes on and on, and yet, far too often, we overlook—or simply take for granted—these people: America's public servants. And so for all you do to make government work in pursuit of the greater good, let me say thank you.

You stepped up to the plate, and we urgently need to find more people who are willing to take up the mantle of public service. In the next few years, an estimated one-third of the government's top scientists, engineers, physicians, mathematicians, economists, and other highly specialized professionals are expected to retire.

Since a high-quality workforce is the key to success for any organization, we need to both inspire the next generation to enter government service—and make sure we have the tools to compete for the country's best minds. I'm pleased to have worked with the Partnership for Public Service on legislation to do just that: The Roosevelt Scholars Act (H.R. 1161). This legislation would create a much needed pipeline of talent for the federal government by awarding graduate-level scholarships to students who commit to public service.

Another element of our personnel and recruitment efforts must be recognizing public servants and lauding the intrinsic rewards of a career in government service. I believe it is the personal stories of our public servants themselves that will best help us make this case.

One such person is Vicki Levin, the dear wife of our friend and colleague Congressman Sandy Levin, who passed away in September 2008.

The Levin family has a long record of service in our justice and judicial systems both in their home state of Michigan and here in Congress. Sandy chairs the Ways and Means Committee in the House while his brother Carl chairs Armed Services in the Senate; they are the longest-serving brothers in congressional history and one of the few sets ever to serve as chairman simultaneously. And yet Sandy's son, Andy, who oversees workforce development and adult education programs for the state of Michigan, says it was not his father or his uncle who inspired him to choose a career in public service.

Andy wrote a column about his mother shortly after her death, the sort of column any of us would be immeasurably proud to have our children write. Andy says this about the source of his inspiration: "my mom . . . not famous and never elected to office . . . a classic 'Washington bureaucrat'."

Vicki worked for nearly three decades—until health reasons forced her to retire—as a science research officer for a variety of agencies within the U.S. Department of Health and Human Services (DHHS). During her career there, as well as for much of her life, she was a tireless advocate for research on children's mental health. In fact, it was her interest in this issue that prompted Sandy to spearhead an effort to rewrite Michigan's special education laws during the time he was serving as a state senator.

The official description of Vicki's work on an NIH scientific review committee is that she ran a committee of scientists who decided which research proposals to fund in the areas of infant and children's mental health. However, as with many of our public servants, that description simply doesn't give a full picture of what her job really was, or more importantly, what her work meant to the average person.

Since her death, volumes of letters from coast to coast have been sent to the Levin family. Some credited Vicki Levin with helping develop the emerging field of development psychopathology; many highlighted how she improved the lives of children by advancing research on the biological and environmental factors necessary for a healthy childhood; a number of scholars credited her with nurturing and encouraging their work at a critical point; and others told personal stories about how Vicki helped them through a personal situation.

In his column, Andy Levin noted that Vicki "was like so many others among the 21 million federal, state, and local public servants who make sure we have clean water to drink, safe roads and park lands, and who try to protect us from things such as tainted Chinese milk without setting up crippling barriers to international trade."

Vicki Levin serves as a perfect example of the kind of person that conducts government work: someone whose goal is promoting and protecting the common good. Her story is a stirring reminder of the recognition that public service professionals merit, and an inspiration for others to join her son and commit to a life of public service.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

[From the Detroit Free Press, Nov. 27, 2008]  
BE GRATEFUL FOR PUBLIC SERVANTS, MAYBE  
BECOME ONE YOURSELF

(By Andy Levin)

I come from a family of public servants, people who work for the people.

In recent years, this calling has fallen out of public favor. Approval ratings for the federal government sank to 37% this year, from a high of 73% six years earlier, according to the Pew Center. While much of this has to do with the economy and attitudes toward the Bush administration, distrust of "Washington bureaucrats" is an enduring feature of the American polity.

But two developments herald a public service comeback.

The first, of course, was the election—and the campaign—of Barack Obama. More than any other successful presidential candidate since John Kennedy in 1960, Obama placed at the center of his campaign a call for each of us to serve and to sacrifice for the common good.

The second is the financial meltdown. In the last quarter century, Democratic and Republican administrations alike participated in the mechanistic trend of "less government is better" to the point where banks and investment houses could engage in virtually any scheme to make money with no one really responsible for making sure decisions were sound. And the companies were able to pay their executives outrageous sums that bore no relationship to performance.

In this moment of political opening in reaction to economic crisis, people seem to be realizing that we need public servants, people whose goal is promoting and protecting the common good, to build a new financial system that encourages investment, the building of real things and the provision of useful services, and that holds financial decision makers accountable for their actions—the essence of capitalism.

If you've been in Michigan for any time at all, you may recognize my last name from our family's long line of public servants. My grandpa, Saul Levin, served on the Michigan Corrections Commission. Saul's brother, Theodore, was a federal judge, and Uncle Ted's son, Charles, served on the Michigan Supreme Court. My dad, U.S. Rep. Sandy Levin, and my uncle, U.S. Sen. Carl Levin, have quietly become the longest serving brothers in the history of Congress.

But it's none of these men who set me to wondering whether we're about to see a public service renaissance. No, it was my mom, Vicki Levin, not famous and never elected to office. For almost 30 years, until she was forced to retire in the spring for health reasons, Mom worked hard as a federal employee—a classic "Washington bureaucrat."

We kids thought we knew a lot about Mom's career. She ran a committee of scientists who decided which research proposals to fund in the area of infant and children's mental health. We watched her read through mountains of papers, often bringing work home. We watched her sweat in preparation for the thrice-yearly meetings of her committee, making sure all the details were just right.

But I don't think I ever appreciated what her work meant to her and to others, not fully. Back when I lived in the Washington, D.C., area, I tried to convince Mom to retire so she could spend more time with my four kids and her other grandchildren. After all, she was in her early 70s. Why not kick back?

Mom bristled at the idea, saying her work and her relationship with colleagues were central to her life.

When her battle with breast cancer forced her to retire in April, we all learned just what Mom was talking about—and just how much public service can mean. Letters of tribute poured in from colleagues, dozens and dozens of research scientists at universities from coast to coast. (You can read them at <http://eskoink.com/VL/Vickilevin.pdf>.)

Many scholars, some now department chairs, told detailed stories about how they got their research start with Mom's help, or how she co-authored a paper with one scientist that is still her most cited work, or how her committee was the intellectual salon of their field.

Some credit her with helping create the emerging field of developmental psychopathology. More than one said she has made the lives of children everywhere better by helping spawn and nourish path-breaking research on the biological and environmental factors necessary for a healthy childhood. Many of them told personal stories about how Mom had counseled them through a divorce, adoption or rocky situation at the office.

OK, this is my mom, so you can imagine how reading all this felt. But if you step back, Vicki Levin was like so many others among the 21 million federal, state and local public servants who make sure we have clean water to drink, safe roads and park lands, and who try to protect us from things such as tainted Chinese milk without setting up crippling barriers to international trade.

Thanksgiving will be hard for my family this year. Mom died Sept. 4 just a few weeks shy of my parents' 51st wedding anniversary. But as we gather together, and each work privately through our losses and gratitudes, I wonder whether our nation is ready to move on from the simplistic notion that "government is the problem."

Perhaps, with the consequences of unregulated greed staring us in the face this holiday, we are ready to give thanks for the humble public servants, who forgo the greater monetary rewards of the private sector to toil for the good of us all.

#### PERSONAL EXPLANATION

**HON. RUSS CARNAHAN**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 7, 2010*

Mr. CARNAHAN. Madam Speaker, due to being unavoidably delayed, I missed the vote on the Velázquez/Gutierrez Amendment No. 5 to H.R. 2499 (Roll No. 238). I would like the RECORD to reflect that I would have voted against this amendment, which failed overwhelmingly by a margin of 11–387, had I been present to record my vote.

RECOGNIZING THE 10,000TH GED  
"GRADUATE" FROM THE SOUTH-  
WESTERN ILLINOIS COLLEGE  
ADULT EDUCATION PROGRAM

**HON. JERRY F. COSTELLO**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 7, 2010*

Mr. COSTELLO. Madam Speaker, I rise today to ask my colleagues to join me in recognizing the 10,000th GED "graduate" from the Adult Education Program at Southwestern Illinois College.

In 1990, Southwestern Illinois College changed its adult education programming from a general literacy effort to a program focused on preparing students for the GED test and transitioning them into postsecondary education. Martha Giordano, Ph.D., who headed the program then, recalls that "It was like a light coming on. Students wanted a high school completion so they could move on. We had to make everything we did relate to this primary goal." The program revised its curriculum and course scheduling to accomplish that goal.

Martha O'Malley, the St. Clair County Regional Superintendent of Education at the time, also saw the light and decided to help. She made GED testing locally available when she took on the responsibility of testing and persuaded the other district Regional Superintendents to do likewise. GED tests were administered monthly throughout the district and registration for testing became an ongoing activity in the regional offices. This practice continues to the present.

"This combination of intensive, highly focused instruction and frequent local testing accounts for our high numbers," states Giordano. "When students come to our program, they know we will take them from where they are and push them forward until they are ready for that test."

Southwestern Illinois College keeps careful records of the students who pass, and in October 2009, it recorded its 10,000th GED "graduate." This year, at its annual GED Certificate Ceremony—May 19, 2010—the College and District will celebrate this important milestone.

Southwestern Illinois College has one of the largest adult education programs in Illinois. It averages over 500 graduates annually, and last year 573 of its students earned the GED. Over the years 42 percent of these GED graduates have enrolled in undergraduate programs at Southwestern alone. "We see our former adult education students in the halls and classrooms at SWIC and all about town," reports Janice Buchwald, the current GED Director. The program has students who have finished nursing programs, transferred to 4-year institutions and are working as lab technicians, graphic designers, cafeteria managers, salespersons and in a host of other occupations. Undoubtedly Southwestern Illinois College's adult education efforts are having a significant impact on the lives of many district residents.

**7662**

EXTENSIONS OF REMARKS, Vol. 156, Pt. 6

*May 7, 2010*

Madam Speaker, I ask my colleagues to join me in congratulating the board, administration, faculty and students of Southwestern Illinois College as they recognize and celebrate the 10,000th GED "graduate" from their Adult Education Program.

PERSONAL EXPLANATION

**HON. MICHAEL N. CASTLE**

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 7, 2010*

Mr. CASTLE. Madam Speaker, on rollcall No. 252, the Barton of Texas Amendment No.

2 to H.R. 5019, the Home Star Energy Retrofit Act of 2010, had I been present, I would have voted "aye."

## SENATE—Monday, May 10, 2010

The Senate met at 2 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty everlasting God, in Your light we would see life. Open the eyes of our lawmakers so that they can see the path on which You want them to travel. Lord, strengthen them for their daily work and minister to their deepest needs. In their moments of perplexity, fill them with the spirit of Your wisdom so that their decisions will reflect Your guidance. Use our Senators to discover and communicate Your answers to our Nation and world.

We pray in Your holy Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 10, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Tennessee.

### TENNESSEE FLOODING

Mr. ALEXANDER. Mr. President, there is no bigger, no more heart-wrenching, no more inspiring story today than what happened in Nashville in the 48 hours on May 1 and 2, over that weekend, when 2 to 4 inches of rain were expected and up to 17 inches came. As a result of that—from the Opryland Hotel outside Nashville to the Millington naval station near Memphis—all across Tennessee there have been devastating floods.

It is, according to the Weather Service, a 1,000-year rainfall event. I do not know how anybody knows what a 1,000-year rainfall event is—that is a long time—but this was not a 20-year flood or a 100-year flood, this was a 1,000-year rainfall event that overtook the people of Tennessee.

As a result, our Governor, Phil Bredesen, has asked the President to identify 52 counties—from the Nashville area to all the way across our State to the Mississippi River—as disaster areas. The President has responded swiftly. Forty-two of those 52 counties have been designated as disaster areas.

Some people say to me: Well, there has not been so much news about this Tennessee flood. There are two reasons for it. One is, there has been a lot of other news. Greece has been collapsing. A bomber tried to blow up Times Square. There is turmoil over immigration in Arizona. There is the gulf oil-spill which threatens to be the worst in history.

But it is important for the American people to know the Tennessee flood last weekend is by far the largest disaster in our country since President Obama came into office, except for the oilspill in the Gulf of Mexico, and it may be that the Tennessee flood affects more people than what is happening in the Gulf of Mexico.

The other reason we have not heard so much about it is this: Tennesseans have been busy cleaning up and helping each other instead of complaining and looting. So people are hurt. Thousands of people are hurt. But they are going about their business helping themselves and helping others in remarkable and inspiring ways.

I have many images from over the last few days of the visits I have made in Tennessee: being at the Bellevue Community Center on Saturday morning, where there were dozens of volunteers in red T-shirts that were headed out in teams to help people in that

area whose homes have been devastated; the image of 502 soldiers from Fort Campbell—those are the most deployed soldiers in America—yet the commanding officer gave them a day's leave, and 502 of them formed teams and cleaned up three neighborhoods in Clarksville-Montgomery County.

I spent an hour that same day with Mayor Bowers and Congresswoman BLACKBURN and the team that is responding in Montgomery County, and it is an impressive response. I would say the same for Governor Bredesen of Tennessee and Mayor Dean of Nashville, whose metro services have worked overtime.

This is true all the way across our State to Dyer County—badly hurt; thousands of people have homes damaged there—to the Navy's principal personnel and recruiting station at Millington, just outside Memphis, where the Secretary of the Navy saw personally, on Saturday, the damage that had been done there.

According to the Tennessean, the American Red Cross had recorded more than 1,300 volunteers by Friday. Whole congregations, on Sunday, showed up en masse to help at places such as Cross Point Community Church, which had more than 1,600 members of the congregation on Saturday. Hands-On Nashville saw more than 5,100 volunteers log more than 19,000 hours to help out across the city by Saturday.

Our own church, Westminster Presbyterian Church, in Nashville—we had a lot of people going down to help with Katrina and in Gulfport after those disasters—will be the center for people coming in to help the people in Tennessee. If you go through Nashville today—or other parts of Tennessee, all the way down to Memphis—you will see thousands of front yards littered with damage from the basements of homes.

FEMA has been on the ground from the beginning, and I thank them for their prompt response. Unfortunately, we have worked with them before on tornadoes and other disasters, so they know Tennessee pretty well. By Saturday morning, 16,000 persons in Tennessee had registered with FEMA, and there had already been 750 inspections.

I talked with the sheriff of Montgomery County Saturday night. He was flooded out, but he had been in touch with FEMA. He was already registered. He had arranged for his inspection. He was very well satisfied by that.

Channel 4—Nashville television—had a telethon on Thursday night. Vince Gill and a group of stars raised \$2 million in the Nashville area for the victims of the flood. Taylor Swift gave

\$500,000. Bud Adams of the Titans gave \$400,000. So people in large and small ways are pouring out their hearts and their help and their money to help one another.

As we look forward—this is not a time to complain. I did not hear anybody complain this past week. As I said before, maybe that is why there is not so much news about this. But as we look ahead, I want to make sure in the future we make sure we do the best possible job of handling floods, particularly that we have clear and correct information about the rising water, and that we communicate it as broadly as we should.

We have learned how to do that with tornadoes. Using the media, we can tell you whether a tornado is coming across your house in 14 minutes in a remarkable set of cooperation between the National Weather Service and the media broadcasters.

I have asked Chairman BOXER and Ranking Member INHOFE of our committee, the Environment and Public Works Committee, to look at perhaps holding a hearing on how well the Army Corps of Engineers and other Federal agencies and State agencies are delivering accurate, clear information to businesses and individuals who might be hurt by the rising water.

This morning, I flew up to Nashville with a person from Sumner County who was trapped in a Chevrolet Blazer with her 12-year-old son and her husband and nearly killed except they were rescued by emergency services. Another person on the plane lives on a high hill near River Road, and the National Guard helicopters landed four times in her front yard to rescue 50 people who could not get out except in that way.

I have talked with Colin Reed, who is the chief executive officer of the Opryland Hotel, who had to make an evacuation order. They evacuated 1,500 guests rather than risk what happened during Katrina because the water suddenly came into the Opryland Hotel—many people are familiar with that—and the water became 10 feet high. It is still several feet high there. So there is a lot of long-term damage, and I want to make sure we have clear and consistent information.

I would have to add, I thank the Congress for approving my request over the last few years for additional funding to make two of the four dams on the Cumberland River safer. If they had not been made safer, their water levels would have been lower and tons more water would have poured into the Cumberland River, creating millions of more dollars of damages and perhaps taking lives.

I am simply here this morning to say I am very proud of Tennessee, from Nashville to Memphis. There is no bigger, more heart-wrenching, more inspiring story than of these thousands

of Tennesseans who have suffered a 1,000-year flood, thousands of whom have losses they understand will not be fully made whole. But they are busy—not looting, not complaining—they are cleaning up and they are helping one another.

As the days go on, I will be meeting with Senator INOUE and Senator COCHRAN to make certain the Federal accounts that fund FEMA, economic development, the Community Development Block Grant, and other projects and accounts in the Federal Government that respond to natural disasters have enough money in them to meet the Federal part of the responsibility. But so far the President, his Cabinet, and others have been doing very well.

The Governor of Tennessee and the mayors across our State have been doing extraordinarily well. But the people, who are the real heroines and heroes, are the men and women of Tennessee who have been hurt, or their neighbors who have been busy cleaning up and helping one another.

I thank the Acting President pro tempore, and yield the floor.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I thank the Senator from Tennessee for his update on flood damage in Tennessee. The Commonwealth of Kentucky was impacted as well, not quite as severely but in a significant fashion. It was gratifying to get the report from the Senator from Tennessee about the status of the flood damage in his State.

#### NOMINATION OF ELENA KAGAN

Mr. MCCONNELL. Mr. President, I want to congratulate Solicitor General Kagan on her nomination. Senate Republicans will treat Ms. Kagan with the same courtesy and fairness with which we treated Justice Sotomayor when she was nominated to the Supreme Court last year. The rest of the Republican Conference and I appreciated that at the end of her confirmation process, then-Judge Sotomayor recognized that she had been treated fairly by everyone. Unfortunately, that has not always been the case with Supreme Court nominees of Republican Presidents.

The American people know what they want in a Supreme Court Justice. They want someone who will apply the law fairly and impartially “without respect to persons,” as the judicial oath requires. They do not want someone to be a rubberstamp for any administration.

Ms. Kagan is currently a member of President Obama’s administration and serves at his pleasure in a position that

lasts no longer than the administration itself. By contrast, today she was nominated for a lifetime appointment to the Nation’s highest Court. The standard of scrutiny is clearly much higher now. Now we must determine whether someone who is a member of the President’s administration will be an independent and impartial jurist on the Nation’s highest Court.

The American people also want a nominee with the requisite legal experience. They instinctively know a lifetime position on the Supreme Court does not lend itself to on-the-job training. Of course, one does not need to have prior experience as a judge before being appointed to the country’s highest Court, but it strikes me that if a nominee does not have traditional experience, they should have substantial litigation experience. Ms. Kagan has neither, unlike Justice Rehnquist, for instance, who was in private practice for 16 years prior to his appointment as Assistant Attorney General for the Office of Legal Counsel, a job he had at the time of his appointment to the Supreme Court.

But exploring these questions is precisely what the nominations process is all about. Starting today, both parties will begin the process of carefully reviewing Ms. Kagan’s brief litigation experience as well as her judgment and her career in academia, both as a professor and as an administrator. Fulfilling our duty to advise and consent on a nomination of this office requires a thorough process, not a rush to judgment. Senate Republicans will have vigorous debate on the importance of equal justice under law. This principle lies at the very heart of our judicial system. We will diligently review Ms. Kagan’s record to ensure that she shares this principle and that she possesses the requisite experience to serve on the Supreme Court.

Mr. President, I yield the floor.

#### RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

#### SCHEDULE

Mr. DURBIN. Mr. President, today the Senate will resume consideration of the Wall Street reform legislation. There will be no rollcall votes today. Senators should expect votes in relation to amendments tomorrow morning.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. We are in morning business.

## NATIONAL NURSES WEEK

Mr. MERKLEY. Mr. President, in honor of National Nurses Week, I wish to recognize the more than 3 million nurses who work hard day-in and day-out to give patients the care they deserve. Because my wife Mary is a nurse, I have seen firsthand what an enormous impact nurses have on both patients and families. Their compassion and devotion to their patients give families the peace of mind that their loved ones are in good hands. They also play an irreplaceable role in making sure our hospitals and clinics run smoothly. Unfortunately, many nurses are overworked, underpaid, and our hospitals and clinics have trouble retaining them.

Through the Health Care Reform Act Congress passed earlier this year, we made significant strides in addressing many of the challenges nurses face. We expanded the nursing student loan program to help make nursing programs more affordable. We also expanded the nursing loan repayment program and scholarship programs to students who commit to working at an accredited nursing school for 2 years. This will help ensure our nursing schools have the teachers they need to train additional nurses. We invested \$1.5 billion over 5 years in the National Health Service Corps scholarship and loan repayment program for primary care providers, including nurses who practice in underserved areas. In addition, we included \$50 million in grants for nurse-managed health clinics that offer primary care and wellness services to low-income and uninsured Americans.

While we made good progress easing many of the difficulties nurses face, much more still needs to be done. Nurses play such a crucial role in the delivery of care. We need to provide them with the resources they need to do their jobs.

The nursing shortage also remains a serious issue, especially in hard-hit rural areas. To find commonsense solutions to the problems nurses face, I formed the Senate Nursing Caucus with Senator JOHANNIS, Senator MIKULSKI, and Senator SNOWE. I urge all of my colleagues to join the caucus to help strengthen the nursing profession and advance the goals of the nursing community. Together, we will explore ways we can enhance the role nurses play in our health care system and address the nationwide nursing shortage.

I ask my colleagues and my fellow Americans to take a moment during National Nurses Week to show your appreciation to nurses across the country for their hard work, commitment, and dedication to their patients. Their dedication is invaluable to the success of our health care system and, most of all, to the patients who depend on them.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, I wish to join my colleague from the State of Oregon in speaking on behalf of nurses across America.

We know that with the baby boom generation, we are going to need more nurses than ever, and with these nurses, we will have the professional medical care we need across this Nation, but we better get busy. We are falling behind. We don't graduate enough nurses now to take care of the anticipated needs, and we have to change that.

Sadly, in many instances we have been poaching nursing talent from other poor nations around the world. Filipino nurses in Chicago play a major role at many hospitals, particularly inner-city hospitals, and nurses from other parts of the world. Many times, the Philippines, for example, generates more medical professionals and expects they will serve overseas, but some places in Africa lose their best medical professionals to higher and more predictable pay in places such as the United States, England, France, and Germany. So we have to reach a point where we are graduating more nursing students each year. Last year in Illinois, 2,000 qualified nursing applicants were turned down because we didn't have the capacity in our nursing schools.

We don't have enough nursing faculty, enough clinical opportunities. We need to really focus on that. So in addition to lauding the nursing profession—I certainly echo my colleague in that regard—we also need to think ahead to make sure we have more nurses when we need them, and that day is going to be fast upon us. So I thank the Senator from Oregon for his words.

## FINANCIAL REGULATORY REFORM

Mr. DURBIN. Mr. President, for those who are here following the Senate today, as announced earlier, we are resuming consideration of this bill, and, of course, it is the Wall Street reform bill, the Financial Stability Act. It is over 1,400 pages long.

The Senator from Virginia who is presiding over the Senate now is a member of the Senate Banking Committee. Senator MARK WARNER has worked on this bill, and large sections of it are his handiwork in an effort to try to deal with changes on Wall Street which will protect our economy and make certain we don't relive some of the horror stories we have seen over the last several years, and we all know those stories pretty well.

There was a time not that long ago—about a year and a half ago—when, under the previous President, I was brought into a meeting just a few steps away from the Senate floor with the chairman of the Federal Reserve, Ben Bernanke, and the Secretary of the Treasury, Henry Paulson. They basically sat down in the first meeting and

said: We wanted to let you know the largest insurance company in the world, AIG, is about to go broke. When it goes broke, it is going to bring down so many companies and corporations with it that it can literally crater the American economy. At that point, Chairman Bernanke said: So the Federal Reserve is giving \$85 billion to AIG Corporation.

There was a moment of silence in the room, and finally someone in the room—I don't remember who it was—had the nerve to ask: Where did you get \$85 billion at the Federal Reserve?

Chairman Bernanke said something like: Oh, we have our resources.

Someone asked: Where did you get the authority to give it to a private company?

They said: Well, there was a law passed during the Great Depression which said that if it looks as if the economy is going to crater, the Federal Reserve can step in.

So an obscure law that was over 75 years old and a fund of money most Members of Congress had never seen—since they are a separate agency and don't go through our appropriations process—ended up propping up a company. And it didn't cost \$85 billion; I think when it was over it was \$180 billion or somewhere in that range. The reason, of course, we couldn't let that company go down was they had literally insured contracts and corporations all around America, that there would be no default. They insured more contracts than they had a reserve to cover. As the contracts started to fail, they didn't have the reserves to back up their promise of insurance.

That was the first meeting. Only a few days later, they asked us to meet again, and I thought, this ought to be equally interesting, and it was. They brought us to a meeting, and Secretary Paulson, the Secretary of the Treasury, said: Now we are seeing, with the failure of Lehman Brothers and other companies, the potential that many large financial institutions in America are also going to fail. Then Secretary Paulson said: So we need a fund of money immediately, by Friday—and this was a Tuesday meeting—we need a fund by Friday of \$800 billion to buy the so-called toxic assets, TARP funds, toxic assets relief program.

Again, there was a stunned silence in the room because even those of us in Washington who deal with millions and billions on a regular basis were stunned to get a request for \$800 billion in a matter of days.

So the first question that was asked was: Who is going to prepare the legislation that actually asks for the money?

They looked around, and no one had kind of thought of that detail, and we said: We think the White House should. President Bush's White House, with Secretary Paulson, prepared a bill and



sent it to us. The bill was exactly three pages long asking for \$800 billion. Naturally, many of us thought that was not adequate. We needed to put provisions in there about how the money would be spent, the supervisory authority in Congress, and so forth.

Eventually, it was passed on a bipartisan rollcall. People like myself who voted for it did it out of a feeling of desperation. What else could we do? If we were being told by the financial leaders of our government that our economy was about to fail—we had seen it already in the stock market going down in value, and we knew people were losing their jobs and businesses were failing—we felt this was the only way to try to stop this terrible crisis from becoming much worse.

Well, the toxic assets relief program ended up sending billions of dollars to these struggling financial institutions. They were struggling because they made bad judgments. They bought, created, and sold securities, derivatives, and interest which were, in fact, toxic. They were based on a mortgage market and the premises of that market which turned out to be totally wrong. They had made bad business decisions. Their companies were about to fail.

The Federal Government—make that the taxpayers of this country—was expected to step in and save them, which we did. To show their gratitude for this act of mercy—rescuing them from their own bad works—they declared bonuses for one another. They gave one another bonus checks after the Federal taxpayers bailed them out. Is it any wonder people across this country have a bad taste in their mouth about Wall Street, about the TARP program, about the bonuses? Is it any wonder we are here this week considering a bill to make sure we never relive this financial crisis? It is overdue—long overdue.

We know what this crisis cost us in real human terms. The estimates are that it took \$17 trillion out of the American economy—\$17 trillion in value—and it hit almost everybody. Anybody with a savings account, a retirement account knows what I am talking about. The value of the account went down 20, 30, 40 percent or more. So your net worth, your nest egg, your retirement plan was diminished because of this recession.

In addition to that, 8 million people are currently unemployed across America, having lost their jobs by this recession, and another 6 million have been unemployed long term and are not trying as hard as they once did. Even though those numbers are getting better—in fact, last week there was a good report—we know it is still serious. There are still too many people out of work because of this recession.

When we tried to bring this bill to the floor 2 weeks ago, we had a tough time. We had three votes Monday, Tuesday, and Wednesday, 2 weeks ago,

and they were filibustered from the Republican side of the aisle. They refused to let us bring the bill to the floor.

While the filibuster votes were going on on the floor of the Senate, though, on another stage on Capitol Hill, the Permanent Subcommittee on Investigations of the Homeland Security Committee, chaired by Senator CARL LEVIN of Michigan, was holding a historic hearing and bringing in the top leaders of Goldman Sachs, including its CEO, asking them about their practices that had led to financial difficulties at that company and were being questioned now even in a lawsuit that has been brought by our government against that company.

That display and that testimony was happening at the same time the Republican filibuster to stop this reform bill was going on here on the floor. Finally, several Republican Senators spoke up to their leadership and said: That is it. We want to engage in this debate. We want to get it started. We want to do it in a prompt way.

The filibuster finally broke and we started, nominally, the debate last week. You could count, I think, on one hand all the amendments we considered in that week. We could have done much better. We wasted a lot of time. There are important policy considerations that have to be asked and answered by votes on the Senate floor—some from the Republican side, valid questions, and some from our side. What we are looking for—and I think the American people are looking for—is for the Senate to be the Senate, not just a dead end for debate, to deliberate these issues and cast a vote and move forward.

There was an amendment—of great moment—offered by Senator SHERROD BROWN of Ohio and Senator TED KAUFMAN of Delaware as to whether we should limit the size of financial institutions. They had a very catchy mantra, which was: Too big to fail means too big. They would limit the size of financial institutions so you could not have these big giants dominating the scene. There would be more competition and more financial institutions involved in our economy's business. That amendment failed. It got 31 votes. I was 1 of the 31 who voted for it. I was disappointed, but let's be honest, that amendment had its day in court, on the floor of the Senate. We debated it and a vote was taken.

Now we are moving on to other amendments. Senator SANDERS of Vermont will offer an amendment, probably tomorrow, as to whether there should be an audit of the activities of the Federal Reserve. This is a big amendment and one that is somewhat controversial, but I think we have reached a point where Senator SANDERS is likely to prevail. He came up with a bold idea, and now I think we are going to move toward that idea.

The Senate is doing what it is supposed to do. There are other things we need to take up as well.

Senator MCCAIN will offer an amendment about the future of Fannie Mae and Freddie Mac, which are two government-type entities that literally back up the mortgages for most of the homes across America. They are in trouble because so many homes across America are going underwater; that is, the value of the home is lower than the mortgage balance. If that affects one of the homeowners across the country, you can understand that these agencies are going to be in trouble financially. What are we going to do about it? If we eliminate the agencies, the housing market will collapse without this government guarantee. But if there is going to be a government guarantee, how much will the taxpayers be on the line for? It is an important policy issue.

I am glad we are moving into that debate. I wish to offer an amendment on credit cards. Two years ago, we debated credit card reform. At the time, we passed a historic bill that changed some of the rules and gave consumers across America more rights and disclosure when it came to the use of credit cards. If there was one mistake made in that credit reform, it was the argument between the large banks and credit card companies that they could not implement the changes, unless they were given a long lead time before it occurred. They were given that lead time in the bill, and they have used that lead time consistently to raise interest rates on credit cards across America. It was a mistake. We should not have given them that much time. We should have anticipated they would have done the wrong thing during that period of time.

There is another aspect of credit cards I would like to discuss, which I will offer an amendment on, which is the interchange fee. If I reach in my wallet and pull out my credit card at a restaurant in Chicago and use it to pay, I am going to be billed for the cost of that dinner on my monthly bill, and I have to deal with the credit card company about how much interest I would pay on the balance I owe, for example. However, there is another part of the transaction that takes place between the restaurant and the credit card company. If I use a credit card, then the restaurant is going to pay to the credit card company some percentage of the bill for my dinner. It turns out this so-called interchange fee between the retail establishment and the credit card companies has become a serious problem.

Let me give you an illustration. I go to the same restaurant and instead of using a credit card, I pay by check. It used to be done a lot but not much anymore. The restaurant takes your check to their bank and their bank

calls your bank, transfers the funds in, and no fee is involved. However, if you use a debit card, which would take the money directly out of my checking account, the same as with my check, it turns out the interchange fee is applied. So many restaurants and retail establishments are saying: Why is it with a check the bank gets no extra money and with a debit card the credit card company gets money. What is that all about? Should it be the same fee as a credit card?

These are legitimate questions that aren't a minor issue. They turn out to be a major issue. I had the CEO of Walgreens contact me last week. He told me that when they look at the expenses of this national chain of drugstores, the No. 1 expense is compensation of employees, personnel costs; No. 2, mortgage and rent payments; No. 3, health insurance; No. 4, interchange fees. It turns out the fees Walgreens pays to credit card companies is the fourth largest item of cost for their business.

Imagine that instead of being Walgreens, a national chain of drugstores, you are a small town store. Let's think it through. How many times have you gone to the cash register and stood behind as somebody handed them a credit card or a debit card for a pack of chewing gum or something even smaller? I saw it at National Airport. After the person left, I said to the person at the cash register: What is the smallest amount anybody has ever put on a credit card here? He said it was 35 cents.

When you look at the interchange fees, it turns out that the retailer loses money on that sale. Most of these involve a flat fee that is certainly more than the profit they are going to make on a 35-cent or even a \$5 sale and a percentage of the actual item that is charged to the credit card. I would say, when you look at this circumstance, you can understand why some smaller businesses want to say there will be a minimum amount you can charge—not 35 cents but obviously something where they are not losing money. They will lose money if somebody uses a credit card under the current interchange fees.

The major card companies currently—Visa and MasterCard—prohibit companies that accept their credit cards from establishing a minimum amount that can be charged. They are going to make money, and they are not going to give the retail establishments that kind of opportunity.

Of course, they also prohibit that company—that small retailer—from saying: I get a better deal on the interchange fee from Visa than MasterCard, so I will favor Visa. They used to say: If you go to the Olympics, so and so is the official credit card of—they can say that, but the retailer cannot say that. If you own a restaurant and say: I pre-

fer this credit card or that credit card, you violate the agreements of the credit card companies.

With this amendment, we are trying to establish that the fees charged to retailers for debit card usage at their establishments will be reasonable and proportional. It will be monitored by the Federal Reserve, which has that responsibility when it comes to credit card charges for consumers. So there is some parallel thinking here. The Federal Reserve will look at both sides—the retail establishment as well as the retail customer—in terms of the reasonable fees that can be charged by credit card companies.

Secondly, we eliminate the prohibition against what I consider to be competitive practices, where you would say you cannot use a credit card or a debit card at my establishment if your bill is less than \$5 or something of that nature. That is currently prohibited, but it would not be under my amendment. This amendment has the support of some of the largest retailers and small businesses in America. Thousands have come to me and said: Please give us a fighting chance with the credit card companies. They are killing us. I cannot tell you how many speeches have been made on the floor of the Senate—on both sides of the aisle—about small businesses. We believe—I think both parties believe—if we are going to come out of this recession, it will be because of the strength and recovery of small business. This amendment is the No. 1 priority of small businesses across America. I wish to bring this amendment to the floor for a debate and a vote.

My colleagues can decide, do they want to come down on the side of retail establishments and small business or on the side of the credit card companies? Some will say: Wait a minute, what about community banks, the small banks that issue credit cards too? We specifically exempt them when it comes to this question of debit cards. If your establishment has less than \$1 billion in assets—your bank—you will not be subject to this regulation. We are going after the largest banks that make the largest amount of money out of this, not the smalltown banks with local credit cards. We are trying to make this focused and fair and help small businesses.

On Friday, I went to a press conference at a supermarket in downtown Chicago. Potash Brothers have been around for decades, and it is a great success story of a family that came and opened a store. They have two or three and they are well liked and respected. They came and testified at this press conference about what they are going through, the struggle they have to make it as a small business in downtown Chicago—a supermarket that has to pay these high fees to the credit card companies. All they are asking is that the fees be fair.

We know that with the use of a credit card, the credit card company runs a risk that you would not pay off the balance. With the debit card, it comes out of your checking account or it doesn't. There is not a big risk factor involved.

Many people don't realize the size of this credit and debit card involvement in today's economy. Those cards are rapidly replacing cash and checks. There are over 1 billion credit and debit cards in the United States. In a nation of 300 million, that is more than three cards per person in the United States. Last year, Americans conducted \$1.7 trillion in transactions on credit cards and \$1.6 trillion on debit cards.

Credit cards and debit cards are now used in more than half of all retail sales in America, and the number is growing. Yet while paying with plastic may be a convenience for some, it turns out to be a real problem for small businesses. That is why this amendment is so important—to give small businesses a fighting chance. Individual businesses have no chance against the giants. Visa and MasterCard control about 80 percent of all the credit and debit cards in the United States. About \$50 billion in interchange fees were collected in 2008, and about 80 percent of that money went to 10 big banks—the ones we think should be the subject of this requirement that the fees be reasonable and proportional, based on the amount of work that is being done.

It is no surprise these 10 banks hate the Durbin amendment like the Devil hates holy water. They cannot wait to see it defeated on the floor. I wish to debate it on the floor on behalf of retailers and small businesses across America, and I would like my colleagues to have a chance to join me in this effort. I don't think it is unreasonable. The big banks will try to stop this amendment from coming to the floor, but I will fight for it, and we are going to put people on record on how they want to vote on this issue. This will be the first time interchange fees will be taken up, to my knowledge, in the history of the Congress. It is about time. It is a major part of our economy. I think a fair and reasonable fee for the use of credit and debit cards is something we should stand behind and unreasonable charges should be basically prohibited based on the regulation of the Federal Reserve.

I will be offering that amendment this week. Those who want to cosponsor it are welcome to.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### FINANCIAL REGULATORY REFORM

Mr. SESSIONS. Mr. President, I wish to make a few remarks about the financial regulation bill, the Restoring American Financial Stability Act. Certainly, we need to take some steps to deal with the catastrophe we have gone through—the damage and destruction, and the financial mismanagement that has been wreaked on us and from which people are still suffering today.

This crisis exploded in the fall of 2007. It was centered in the housing market and home loans. The question people ask and should ask is: How did it happen? Did Congress know about it? Why didn't Congress do something about it?

There is a false myth out there—many have heard it—that somehow this crisis was a product of Ronald Reagan and his disciple George Bush because they did not believe in regulations, they opposed regulations, deregulation is what caused this and more regulations would have prevented it. And so to the rescue, this myth says, come Democratic colleagues and President Obama with more new regulations that are going to fix the problem.

I believe good regulations can be helpful. Anybody who has lived in the world and been in businesses and governments knows there are bad regulations that drive people crazy every day, that drive up the cost of products, that costs jobs in America, and that should not be on the books. The question is: How do we have a good regulation or a bad regulation?

Let me focus for a second on a critical component of the fundamental problem, which was the housing market, and how our government-sponsored entities, Fannie Mae and Freddie Mac, came to be responsible for half of the housing loans in America—50 percent of the housing market. How did they get involved in that, and how was this the big factor in the economic destruction we suffer?

Fannie Mae, Freddie Mac, the Federal Housing Administration, and the Veterans Administration backed 96.5 percent of home loans in the first quarter of 2010. It used to be you went to your bank and they loaned you the money. If they did not think you were creditworthy, you did not get the money. Some people would complain, but a lot of times people were saved from very unwise decisions because their banker correctly intuited they were not going to be able to make these payments, there was too much risk because they had a better perspective on who could be successful in paying off the loans.

Before Freddie and Fannie collapsed in 2008, they owned or guaranteed \$5.2

trillion in mortgages and mortgage-backed securities, almost half of their \$12 trillion market. Prior to that, Freddie and Fannie were leveraged at twice the rate at Bear Stearns which failed. In other words, they had half the real capital for the loans they made, as did Bear Stearns, which failed.

Because of this improvident policy, Freddie and Fannie have cost the taxpayers \$126 billion. That is an incredible sum of money. Fannie Mae reported a \$72 billion loss for 2009; Freddie Mac reported a \$22 billion for 2009; and it came in last week asking for another \$10 billion.

CBO, our Congressional Budget Office which analyzes these costs, projects Fannie and Freddie will ultimately cost the taxpayers \$389 billion. But that amount is not on the government's books. Because of the way our books are managed, these two institutions are supposed to be somehow quasi-private and thus not affecting the government Treasury. But they did affect the government Treasury.

I asked the question at the beginning: How did it happen? What did Congress know and did not know, and why did Congress not act? These are good questions. I am pushing back a little bit. I am not going to continue to have all this talk that somehow Ronald Reagan is responsible for this crisis.

Let me read a letter. I do not think a lot of people paid much attention to it at the time, but it was very real. I remember reading from it in debate during that time. It is a letter to my colleague from Alabama, Senator RICHARD SHELBY, who was chairman of the Banking Committee. It is dated March 31, 2008, from the Board of Governors of the Federal Reserve System, signed by none other than Alan Greenspan, Chairman of the Federal Reserve.

Remember, at this time, Senator SHELBY and Republicans had become concerned about the health of Freddie and Fannie. They realized they were overleveraged and presented great risk. This was 2004, about 3 years before the collapse occurred. Senator SHELBY felt something should be done about it. My Republican colleague offered legislation to do something about it. This is what Alan Greenspan wrote:

Thank you for requesting the views of the Federal Reserve Board on the legislation you have proposed to improve the supervision and regulation of government-sponsored enterprises.

That is GSEs, that is Freddie and Fannie.

As I stated in my testimony of February 24, the Congress needs to create a GSE regulator with authority on a par with banking regulators, with a free hand to set appropriate capital standards, and with a clear process sanctioned by the Congress for placing a GSE in receivership.

It had begun to dawn on them that these GSEs could go into receivership. They were so overleveraged. They were

on the verge of collapse. That is what he wrote to Senator SHELBY in early 2004.

He goes on to say, and this language is dramatic:

To fend off possible future systemic difficulties, which we assess as likely if current trends continue unabated, preventive actions are required sooner rather than later.

Isn't that a dramatic statement, "To fend off possible systemic difficulties"? Did we not have the whole system go into a spin and we are still suffering from it and may for years to come?

Then he goes on to say:

The Board believes your proposed legislation makes substantial progress toward meeting these objectives.

With regard to the receivership issue, the Board continues to believe that the Congress needs to clarify the circumstances under which a GSE can become insolvent and, in particular, the resulting position—both during and after insolvency—of the investors that hold GSE debt. The process must be clear before it is needed. Leaving the matter unresolved, as it is under current law, only heightens the prospect that a crisis would result in an explicit guaranteeing of GSE debt. In this area, too, your proposal makes substantial strides.

It is basically an endorsement of Senator SHELBY's efforts. Not basically, it is a flat out endorsement. He goes on to say:

With regard to capital, the Board continues to believe that determining the suitable amount of capital for GSEs is a difficult and technical process, and, that a regulator should have a free hand in determining both the minimum and risk-based capital standards for these institutions. Your proposal, which gives the new regulator more discretion in these areas, is an important improvement in this respect.

This was an endorsement by the Federal Reserve Board of Senator SHELBY's efforts to reform. What happened? Senator SHELBY brought it up in the Banking Committee, and it passed the committee on a straight party-line vote. All Republicans voted for increased regulations, increased accountability, increased capitalization of Freddie and Fannie, and every Democrat on the committee voted against it.

When it got to the floor, it was subject to a 60-vote filibuster. It was clear the Democrats had sent word they were not going to support it, and there was no prospect of passing the bill. Although he bill passed in committee, it never actually passed the Senate floor.

I want to say the idea that the only greed, the only mismanagement was with private bankers is not accurate. There was plenty of that. I have no grief to bear for the big guys on Wall Street. They rolled the dice. I voted against their bailout and I do not believe they should have been bailed out at all. They should have suffered the consequences. We would probably be better off today economically because we would have taken the hit and gotten it out of our system. We can dispute that. All I can say is there are

other areas of greed and mismanagement.

But currently, 96 percent of home loans are backed by government institutions—Fannie, Freddie, VA, the Housing Administration. Who is to say they are always perfect? We know, as Senator MCCAIN has pointed out in his amendment to this legislation that is before us today, that we can still do more about it.

Since 96 percent of housing mortgages are now backed by government institutions, why does this legislation not deal with it? Why does it not? It completely sidesteps the issue. Why? Because we would have to deal with how to score and add to our debt another \$400 billion. Is that one reason?

Is another reason because Freddie and Fannie have been so powerful politically that they have been able to fend off the oversight they should have been subjected to from the beginning? Is it a belief somehow because they are quasi-government institutions that they can do no wrong, that only private industries and institutions can do wrong?

I don't know exactly why all of this is so, but it is not dealt with, and it should be dealt with. Senator MCCAIN's legislation will deal with it. He made a speech Thursday in which he delineated the history of how this all occurred. I thought it was very valuable insight. Americans should know about this. When the government comes in and allows politics and governmental policy to override financial reality, then we can get in trouble. If you order agencies or agencies are willing to make bad loans because they think that somehow it is good policy, do people think nobody is going to have to pick up the tab some day in the future? I am afraid they are.

The situation we are in arose from the fact that richly paid GSE executives and their political supporters had no skin in the game on the loans they were making. They were getting their salaries, and they kept getting their salaries even when it became clear the firms were mismanaged and heading for disaster and were going to be bailed out by the American taxpayers. They operated recklessly and they, I believe it is fair to say, were the precipitating cause, frankly, of the collapse of the financial markets; if not the cause, one of the primary causes of it. It is unbelievable and improper that when we propose legislation to restore America's financial stability, we don't fix the Freddie and Fannie problem.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. SESSIONS. I ask unanimous consent for 30 additional seconds.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. The Wall Street Journal wrote that "reforming the fi-

nancial system without fixing Freddie and Fannie is like declaring a war on terror and ignoring al-Qaida."

Fannie and Freddie were at the center of it. They were a cause of it. They need to be reformed, and I am disappointed that the one thing this government should be doing, which is fixing these quasi-government agencies, is not occurring.

I thank the Chair, and I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 3217, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Pending:

Reid (for Dodd/Lincoln) amendment No. 3739, in the nature of a substitute.

Sanders/Dodd modified amendment No. 3738 (to amendment No. 3739), to require the nonpartisan Government Accountability Office to conduct an independent audit of the Board of Governors of the Federal Reserve System that does not interfere with monetary policy, to let the American people know the names of the recipients of over \$2,000,000,000,000 in taxpayer assistance from the Federal Reserve System.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR BOB BENNETT OF UTAH

Mr. DODD. Mr. President, I want to share a few thoughts, if I may, for a minute or so on the pending matter before us. But before I do that—and at a later time I will speak at greater length about this—I want to express my regrets over the decision made in Utah over the weekend regarding BOB BENNETT, our colleague.

I have served with BOB for 18 years. We have been on the Banking Committee together during that time. Obviously, we have differences of opinion on a lot of policy questions. In fact, the majority of policy questions we have

had our differences on. But at critical moments, BOB BENNETT was always someone you could talk to, someone you could approach with an idea or an issue.

He went through a tough battle over the last number of weeks and did not prevail in his convention over the weekend in Utah. But I want to express to him and Joyce how much this institution will miss them in the coming year. He is a thoughtful, considerate individual. He is deliberate in his views and accessible when it comes to others' ideas. In my view, it will be a loss for the institution that he will not be back. That is coming from a Democrat on this side of the aisle.

I realize there is a contest coming up, but I didn't want the day to begin or end without expressing my disappointment over the results in Utah. I know that is probably not appropriate for Democrats, making comments about Republican races, but BOB BENNETT is one fine U.S. Senator, and he has played an invaluable role, a critical role at critical junctures over the last number of years that I have served with him.

Now, Mr. President, I want to make some comments about the bill before us. It has been nearly 7 weeks since the Banking Committee approved legislation to reform Wall Street. It has been more than 3 years since our committee began work on this very important topic. It was in January or early February of 2007 that I became chairman of the Banking Committee for the first time, and, obviously, the news even at that early date was about the mortgage foreclosure issue.

A lot of work has gone on in the Banking Committee. We have literally had dozens and dozens of hearings and meetings with people on how best to address this economic decline that we have suffered—with 8½ million jobs being lost and 7 million homes in foreclosure. In fact, over the weekend there was a report that nearly 4 million households are severely delinquent on their mortgages, and 250,000 homes have been seized—are in foreclosure—since the first 3 months of this.

Even though we have 4 million homes delinquent on their mortgages, which is the largest backlog since the crisis began, there is some positive news on job creation—290,000 jobs in the month of April, which is 121,000 more jobs created in the first few months of the year than were anticipated. We are clearly seeing an economy that seems to be improving. But when we have 4 million homes that are underwater, we also realize we are far from out of this difficulty, particularly if you are a working family.

We also, of course, saw last Thursday a market decline of 1,000 points in almost 17 minutes. The Presiding Officer and I, in fact, talked about this over the weekend, and I appreciate his insights and observations on the matter

as someone who spent time working in this field before getting involved in public life. There are a number of ideas emerging as to how this happened, and my hope is that as early as next week our Banking Committee will have an informal meeting with people from the Securities and Exchange Commission and the Commodity Futures Trading Commission, as well as others, to hear what they think happened and what steps they are taking to minimize that event from occurring again.

Then, of course, over the weekend we had the stories emerging about Europe and the Euro and what was occurring in Greece and other nations in danger of going to default because of the huge debt problems that exist. Tomorrow morning, our committee will be briefed by the Federal Reserve as well as the Secretary of the Treasury on exactly what plans have been put in place in Europe.

I do not want to dwell on either of those points at this juncture except to make this point. Here we have an event totally unrelated to mismanagement of investment banks or financial institutions in the case of a market decline as precipitous as we saw Thursday and events that are beyond the borders of our own nation that will have an impact at home. We are told this is not going to have any kind of severe impact—at least we don't believe it will at this juncture. But we do live in a highly sophisticated, computerized world with this flash trading, as it is called—"high frequency trading," as it is referred to—where literally within microseconds buyers and sellers are matched up. What the system doesn't accommodate for is panic, unfortunately, and apparently the circuit breakers necessary in market-wide exchanges to minimize these kinds of events when they occur and also events that occur in a small country in the Mediterranean—such as Greece or Portugal or Spain or other countries—where their debt situations pose risks globally.

So what is critically important, in my view, is, while our legislation before us is not going to stop crises from occurring, what we try to do is provide our government with the necessary tools so we can respond when crises occur. No one can stop the rain from coming. It will happen. It will happen again and again. What you can do, however, is make sure the roof is going to be solid enough so it doesn't leak or that you are not going to be in a situation where, when things break down in the next crisis, no matter how modest it may be, it endangers the job creation as we saw in this country—as we are today seeing massive losses occurring, retirement accounts declining. The value of homes has gone down some 30 percent in the last several years. Again, there are some indications that things are improving here at home, and

we welcome that news. But if you are one of those 8.5 million who lost a job or home or if you are a retiree who watched your savings disappear overnight, as many did in this country, then this positive news, while it is welcome, is hardly any relief to you.

So it is critically important because we are in no better shape today despite advances and the progress we have made on this bill. If something were to happen tonight or tomorrow in our own country or something happened elsewhere that would have the contagion effect, it is called, to spread here or elsewhere, we have not yet passed this legislation. We don't have any more provisions in place than we did in the fall of 2008 when the problems exploded. While we have written strong provisions in this bill that never would allow an institution to become too big to fail, the fact is that has only been adopted in a bill that has yet to be passed in this body, yet to be reconciled with the language from the other Chamber in this Congress and to be signed into law by the President.

It is important that we get this job done. We have had a good debate up until now. With the guidance of our leadership, we will begin tomorrow to consider some amendments, allowing for some adequate debate—hopefully not too long on each of these ideas. And there are a lot of ideas we have, both Democrats and Republicans. We can have our votes on these matters and either include them or exclude them on the legislation. But we need to get this job done, I hope this week—at the very latest, the end of this week—so we can work with the other body and resolve the differences and get this legislation to the President.

I would be the last one to suggest that what we have written here takes care of every imaginable situation. It doesn't at all. What it does is it ends too big to fail and puts in place a consumer protection bureau that has never existed before in our Nation so that average citizens might have some redress when a mortgage broker or company takes advantage of them. We try to put in place an early warning system so when matters like those that happened in Europe or other places occur, we can respond to them early and adequately so they don't explode and expand to affect everyone else in economy. We also deal with some of these exotic instruments that were totally unregulated and operated in the shadow economy of our Nation.

There are other provisions in the bill, but those are the four at least major goals. As I said a moment ago, I know there are other circumstances people wanted to accommodate in this legislation. But, as my colleague from New Hampshire pointed out the other day, some of these other issues are so complex, they will need adequate study, and trying to sort of hurl them into

this bill or eliminate things without any alternative being proposed is not exactly the wise way to be dealing with matters as important as the financial sector of our Nation.

I am grateful to our colleagues for what they have done already. As many have pointed out, this has been a worthwhile process. It has taken a long time considering the implications—none of us, obviously, want to have the so-called unintended consequences. No matter how good we think our ideas are, we need to make sure what we are doing is not going to provoke its own set of difficulties.

We have to finish our work on this legislation, not just in recognition of what has happened but in preparation for what may happen next. As we have seen in recent days, the shocks to our system are as inevitable as rainfall. Throughout Europe, as we have seen, countries are bracing for the effects of the Greek crisis, effects which respect no boundaries and offer no safe haven for anyone. Right here at home, our market stumbled, as we saw last week with our stock market tumbling hundreds of points before righting itself.

Again, as I made reference to a moment ago, the rain is coming, but we need to fix our roof so we don't all suffer as a result of the inevitability of rain. The issues raised by the crisis in Greece and last week's stock market scare require our attention—and they have it.

I have asked Senator JACK REED of Rhode Island, who chairs the subcommittee dealing with the Securities and Exchange Commission, to prepare for hearings on the stock market issue so we can get to the bottom of what happened.

As I mentioned, our staff is working to ensure our government does its part to help contain the crisis in Europe—at least to watch it and determine whether there are any spillover effects. But these events are reminders that our work on this legislation must look through the windshield at the crises to come, not just in the rearview mirror at the one from which we are now just emerging. They are a further reminder that our work does not end with this legislation.

I urge my colleagues to join us in making a final push to get this bill done so we can move on to those other emerging issues. When we do, we can face these challenges with the knowledge that we have strengthened our financial system; that although we cannot prevent crises from occurring, we can prepare for them so their effects are not felt by ordinary Americans to the extent they have been in the last number of years. That is all we are really trying to do. I always get uneasy when I hear authors of bills claim they are going to solve every problem known to mankind in that issue area. We are not, unfortunately. We do the best we can under the circumstances.

Again, last Thursday's and the weekend's events are a constant reminder that we live in an ever-shrinking world and we are affected by events far beyond our shores. It is not just because some company did something wrong. It can happen far away and yet have implications here. But we need to make sure the next generation will have tools on hand so they can spot problems early on and take steps to minimize their effects here at home when they occur. That is the goal of this bill. It is not an insignificant one; it is an important one.

I thank my colleagues. They have been extremely constructive and thoughtful over the last week or so. We had a good weekend. A lot of people stepped forward, and we were able to work out some language that I think will allow various provisions to be adopted. More work needs to be done, but I am confident we can achieve that goal.

I would be remiss if I didn't acknowledge once again my thanks to the Presiding Officer, a new Member of this body and the banking committee but he has made invaluable contributions to this product. While not a chairman of even a subcommittee yet, he has acted as a very senior Member in many ways because of the knowledge he has brought to this discussion and debate. That has been, as I said, invaluable to this chairman of the committee, and I thank him personally for his efforts in that regard.

I see my friend and colleague from Maine, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, I rise today to speak on behalf of an amendment I filed to direct regulators to impose tough risk- and size-based capital standards on financial institutions as they grow in size or engage in risky business practices. I am pleased to offer this amendment on behalf of Senator SHAHEEN and myself.

Our amendment is aimed at addressing the too-big-to-fail problem at the root of the current crisis by requiring financial firms to have adequate amounts of cash and other liquid assets to survive financial crises without turning to the taxpayers for a bailout. It is critical to our ability to avoid future crises that this amendment be adopted.

I am very pleased that the FDIC Chairman, Sheila Bair, has strongly endorsed our amendment. In a recent letter to me, Chairman Bair called this proposal:

... a critical element to ensure that U.S. financial institutions hold sufficient capital to absorb losses during future periods of financial stress. With new resolution authority, taxpayers will no longer bail out large financial institutions. This makes it imperative that they have sufficient capital to stand on their own in times of adversity.

Chairman Bair also noted the importance of ensuring that bank holding

companies and large nonbanks are held to the same capital and risk standards that are applied to insured banks in order to protect against excessive leverage that could destabilize our financial system. As Chairman Bair put it, "The amendment accomplishes this goal simply and directly."

It makes no sense that capital and risk standards for our Nation's largest financial institutions are more lenient than those that apply to small depository banks, when the failure of larger institutions is much more likely to have a broad economic impact. Yet that is currently the case. We must give the regulators the tools to end and the direction to address this problem. If financial firms, including bank holding companies, were required to meet stronger capital standards, they would be far less likely to fail and to trigger the kind of cascade of economic harm we have been experiencing since 2008.

The Collins-Shaheen amendment directs Federal regulators to impose minimum leverage and risk-based capital requirements on banks, bank holding companies, and those nonbank financial firms identified by the new Financial Stability Oversight Council for supervision by the Federal Reserve. Neither current law nor the bill before us requires regulators to adjust capital standards for risk factors as financial institutions grow in size and engage in risky practices.

The current Senate financial regulatory reform bill also does not require regulators to apply minimum capital and risk measures across financial institutions, as would be required by our amendment. As the FDIC Chairman has noted about the current financial crisis, "Far from being a source of strength to banks . . . holding companies became a source of weakness, requiring financial support."

She went on to caution that "they should not be allowed to operate under consolidated capital requirements that are numerically lower and qualitatively less stringent than those that apply to insured banks."

Our amendment would tighten the standards that would apply to larger financial institutions by requiring them to meet, at a minimum, the standards that already apply to small banks. This only makes sense. If a small bank fails, the FDIC can close down that bank over a weekend, allow it to operate, avoid a run on the bank, and deal with it in an orderly way. But if a large bank holding company fails, it is so interconnected in our economy that it sets off a cascade of dire economic consequences. That was the point that the chairman of the Banking Committee was just making. We live in such an interconnected global financial system now.

So, from my point of view, a view that is shared by the Chairman of the FDIC, it is only prudent for us to em-

power the regulators to impose, at a minimum, the same kinds of capital and leverage requirements and restrictions that apply to small insured banks.

I ask unanimous consent that the letter from Chairman Bair be printed in the RECORD immediately following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Ms. COLLINS. I had the privilege of serving the people of Maine as a financial regulator for 5 years about 20 years ago. This is an issue about which I care deeply and am committed to helping forge a solution to, so that never again can the problems and the excesses of Wall Street have such dire consequences for Main Street.

Increasing capital requirements as firms grow provides a disincentive to their becoming too big to fail in the first place, and ensures an adequate capital cushion in difficult economic times. Our amendment directs the regulators to establish capital standards that take size and risk into account.

Our amendment strengthens the economic foundation of large financial firms, increases oversight and accountability, and helps prevent the excesses that contributed to a deep recession that has cost millions of Americans their jobs.

Let me conclude by thanking the chairman of the Banking Committee and the ranking member of the Banking Committee and members such as the Presiding Officer and Senator CORKER and Senator GREGG for their work on this very complex issue. More than a year ago I introduced a financial regulatory reform bill. I had the pleasure of discussing the bill with the chairman of the Banking Committee, and I am pleased with much of what is in his bill at this point in the debate.

I hope we can continue to make further changes, such as the amendment I have proposed with Senator SHAHEEN, but I do want to salute the members of the Banking Committee. I know this is enormously complex and, at times, a thankless task. But it is so important. In fact, I argued that we should have dealt with financial regulatory reform last year. I think it is that important to the future of our economy. We realize we were operating with regulatory black holes that allowed, for example, trillions of dollars of credit default swaps to develop with no one having oversight or visibility as far as their impact on the financial market.

They were not regulated as insurance, even though I personally believe they act as an insurance product, nor were they regulated by the banking regulators. The creation of the Council of Regulators in this bill has not received a great deal of discussion, but I think it is one of the most important



provisions in this reform, and it is one that has widespread bipartisan support. It was the key feature of the bill I introduced last year. I have discussed it with the Presiding Officer as well.

I personally still believe we need an independent chairman of that council rather than the Secretary of the Treasury. I think we need to broaden the makeup of the council to include some State regulators so that the insurance area is covered, and State securities administrators, since they play such a critical role. I think those State regulators should be brought on to the council in a nonvoting capacity given the constitutional issues. But that council is absolutely critical. I think we should add the regulator for credit unions to that council. What we want is a council with as broad an overview as possible, bringing together everyone who has a role so we do not have these regulatory gaps, these black holes developing in the future, and so that we can bring the collective wisdom of these officials to the table.

So that is an example of a provision of this bill that I think is extraordinarily important. But perhaps because it does have widespread support, it has not generated much discussion on this floor. So I wanted to mention that and salute the committee for what I think is a provision that is going to make a real difference in preventing the kinds of problems we saw that triggered the recession of 2008.

I also want to commend Senator LEVIN and Senator COBURN for their work on the Permanent Subcommittee on Investigations, the Senate's premiere investigative subcommittee which is part of the Homeland Security Governmental Affairs Committee which Senator LIEBERMAN and I have the privilege of leading. They have given us great insight into the role of everyone from sloppy mortgage brokers and bankers who threw underwriting standards out the window and made loans that never should have been made to people who could not possibly repay them.

They have looked at the role of credit rating agencies that also did not perform in the way we would like. They have looked at the role of investment banks such as Goldman Sachs. We need to take the lessons we have learned, the great depth of knowledge in this body, and work together in a bipartisan way. That is what we have been doing in the last couple of weeks.

In closing, let me just say, we have made a lot of progress. I am confident we can get there. Let's not pull the plug on this debate prematurely. There are a lot of amendments that are good-faith amendments that are still out there. Let's work through them and continue to strengthen and improve this bill which has so many excellent features to it.

At the end of the day, I hope we can vote on a bill that will command the

support of 70 Members of this body. I would like it to be all 100, but let's aim for 70. In doing so we can demonstrate to the American people that we can come together and work on an issue that really matters—matters to our economy, to the American homeowners, to our small businesses, to anyone who has a retirement account. It matters to every American.

I yield the floor.

#### EXHIBIT 1

FEDERAL DEPOSIT  
INSURANCE CORPORATION,  
Washington, DC, May 7, 2010.

Hon. SUSAN M. COLLINS,  
*Ranking Minority Member, Committee on Homeland Security and Governmental Affairs,  
U.S. Senate, Washington, DC.*

DEAR SENATOR COLLINS: I am writing to express my strong support for your amendment number 3879 to ensure strong capital requirements for our nation's financial institutions. This amendment is a critical element to ensure that U.S. financial institutions hold sufficient capital to absorb losses during future periods of financial stress. With new resolution authority, taxpayers will no longer bail out large financial institutions. This makes it imperative that they have sufficient capital to stand on their own in times of adversity.

During the crisis, FDIC-insured subsidiary banks became the source of strength both to the holding companies and holding company affiliates. Far from being a source of strength to banks as Congress intended, holding companies became a source of weakness requiring federal support. If, in the future, bank holding companies are to become sources of financial stability for insured banks, then they cannot operate under consolidated capital requirements that are numerically lower and qualitatively less stringent than those applying to insured banks. This amendment would address this issue by requiring bank holding companies to operate under capital standards at least as stringent as those applying to banks.

The crisis also demonstrated the dangers of excessive leverage undertaken by large nonbanks outside of the scope of federal bank regulation. Notable examples included the excessive leverage of the largest investment banks during the run-up to the crisis, and the extremely high leverage of Fannie Mae and Freddie Mac. To remedy this and prevent regulatory gaps and arbitrage, large nonbank financial institutions deemed to be systemic must be held to the same, or higher, capital standards as those applying to banks and bank holding companies. Again, the amendment accomplishes this goal simply and directly.

Finally, and more broadly, the crisis identified the dangers of a regulatory mindset focused exclusively on the soundness of individual banks without reference to the "big picture." For example, an individual overnight repo may be safe, but widespread financing of illiquid securities with overnight repos left the system vulnerable to a liquidity crisis. A financial system-wide view requires regulators, working in conjunction with the new Financial Services Oversight Panel, to develop capital regulations to address the risks of activities that affect the broader financial system, beyond the bank that is engaging in the activity.

We at the FDIC remain committed to working with you towards a stronger financial system. This amendment will be an important step in accomplishing this goal.

If you have further questions or comments, please do not hesitate to contact me or Paul Nash, Deputy for External Affairs.

Sincerely,

SHEILA C. BAIR,  
*Chairman.*

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. DODD. Before my friend and fellow New Englander leaves the floor, let me thank her for her comments, but also let me thank her for this whole notion of leverage and capital standards as well. It is something we feel equally strongly about.

We have provisions in the bill, but anything can be strengthened. We are very interested in the idea that the Senator from Maine and Senator SHAHEEN have brought to the table, and invite, at this moment, their staff and others to get with ours and take a look and see if we cannot—and I will talk to Senator SHELBY as well because it is important.

There has been some debate, and I go back and forth in this regard. I have always resisted the idea that the Senate should set accounting standards. We have had some times in the past on stock options—I recall a few years ago the debate was whether we would set the accounting standard on stock options.

I thought there was a very persuasive argument made by the industry that pointed out that we should probably consider them as a tool to attract, particularly, startup companies. But as attracted as I was to their ideas, I did not want to open the box of beginning to set accounting standards in Congress. We have competency here, but sometimes we get beyond our competency.

The issue was sort of the same on capital leverage, that we have to have stronger leverage and capital standards. The debate is, should we actually set the leverage here or do we say we want strong standards and defer to our regulators to determine exactly what that standard ought to be? Clearly, we need to have better leverage and better capital standards. If we do not, these large institutions—my colleague from Maine is absolutely correct in this regard, that we will end up then having these institutions that are interconnected. If we do not demand greater accountability through that requirement, then we expose ourselves to the very kinds of things we are seeing elsewhere.

So I thank her for this, and over the next day or so let's see if we can take a look at the Senator's amendment and adopt it as well. I thank her for her ideas as well on the oversight council we have crafted. Actually, many of us like the idea of having an independent chair. We had this debate.

The Secretary of the Treasury was not my first choice, the independent chair—but as my colleague from Maine



knows, having chaired committees, when you are trying to get a committee to agree on something, the idea is the one that prevailed—having the Secretary of the Treasury was the one that prevailed, as the Presiding Officer will recall in those discussions. But, clearly, as to the idea of having the credit unions, the Senator makes a lot of sense. It is a major part of our economy, and having the State regulators at least represented at that table makes sense to me as well.

So maybe before this is over we can accommodate some of those additional ideas. But I thank the Senator immensely for her contribution, and I appreciate, as well, that she understands how long and arduous this has been to get to the best we can. When we have 100 of us here dealing with something of this magnitude, it is harder to put that together. But we are getting there. And I agree with her that we ought to be able to finish. It does not mean we are going to satisfy everyone, and it cannot go on forever, but we certainly ought to accommodate as many different ideas as we can and make our judgments on them to include them in the bill.

I thank her immensely for her contribution.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KYL. Mr. President, as the debate over Wall Street enters a pivotal stage, we should ask ourselves, what is financial regulatory reform about? We all agree that one of the main objectives of the legislation is to ensure taxpayers will no longer be forced to bail out or subsidize financial institutions that engage in risky behavior. That means ending so-called too big to fail. Unfortunately, the legislation we are now considering does not mention the two institutions that have come to epitomize too big to fail. I am referring to the two government-sponsored enterprises, the so-called GSEs, Fannie Mae and Freddie Mac, which are currently in Federal conservatorship. The egregious behavior of these two institutions has rippled throughout the entire commercial banking sector and our economy as a whole.

Let's recall how central the two GSEs were to the housing bubble. Fannie and Freddie represent the dangers of what former American Enterprise Institute president Chris DeMuth has described as "fusion enterprise," or the "intermingling of politics and power with finance and commerce." This is a perverse business model that

allows companies to reap enormous private profits while enjoying either implicit or explicit public backing. It is the model that enabled Fannie and Freddie to inflate the subprime mortgage bubble.

For years some of my colleagues and I have urged this Chamber to impose stronger regulations on Fannie and Freddie. As chairman of the Senate Republican Policy Committee, I authored several papers on the threats posed by the size of their mortgage-backed securities portfolios. I was particularly concerned that the government's implicit guarantee of these institutions permitted them to operate without adequate capital, to assume more risk than competing financial institutions, and to borrow at a below-market rate of interest. Of course, that is just what happened. Smaller companies got crushed while Fannie and Freddie engaged in increasingly risky lending with the backing of the Federal Government. Wall Street understood how it worked. So when Fannie and Freddie wanted these toxic loans, the mortgage markets would produce them. Between 2004 and 2007, Fannie and Freddie became the largest buyers of subprime and Alt-A mortgages. And although these two institutions had their own dedicated regulator, the Office of Federal Housing Enterprise Oversight still allowed the situation to spiral out of control. Fannie and Freddie made mortgages available to too many people who could not afford them. That easy credit fueled rapidly rising home prices. As prices rose, so did also the demand for even larger mortgages, so Fannie and Freddie looked for ways to make even more mortgage credit available to borrowers with a questionable ability to repay.

By 2008, the two GSEs held nearly \$5 trillion in mortgages and mortgage-backed securities. They were overleveraged and too big to fail. It was a textbook example of moral hazard on a massive scale. "Worst of all," M&T Bank CEO Robert Wilmers recently wrote in the Wall Street Journal, "are the tracts of foreclosed homes left behind by households lured into inappropriate mortgages by the lax credit standards made possible by Fannie Mae and Freddie Mac."

Congress would have done well to support a bill adopted by the Banking Committee in 2005 under then-Chairman Shelby. The bill would have established a new regulator for Fannie and Freddie and given that regulator authority to make sure the GSEs maintained adequate amounts of capital, had adequately liquidity and reserves, properly managed their interest rate risk, and controlled their asset investment portfolio growth. But the legislation was filibustered. Its opponents included then-Senator Obama.

As American Enterprise Institute scholar Peter Wallison, who has writ-

ten extensively on this topic, concluded:

If legislation along the lines of the Senate committee's bill had been enacted in that year, many, if not all, the losses that Fannie and Freddie have suffered, and will suffer in the future, might have been avoided.

But, of course, we didn't avoid that fate. And today, Fannie and Freddie continue to impose on the taxpayers while accruing massive debt. In fact, their total debt outstanding, the debt held on their balance sheets or as mortgage security guarantees, is an astounding \$8.1 trillion. This is debt that is not reflected on the national balance sheet. Last Wednesday, Freddie Mac announced it will need an additional capital injection of \$10.6 billion. That is from the taxpayers. That is after it lost \$6.7 billion during the first quarter of this year. In 10 of the last 11 quarters, Freddie Mac has lost a total of \$82 billion which is twice the amount it earned over the previous 30 years.

This morning it was reported that Fannie too has asked taxpayers for more money, \$8.4 billion, to cover its soaring losses. The combined government loss for both companies now stands at \$145 billion, according to the Associated Press. Where will this end? Weren't we supposed to end taxpayer liability for entities too big to fail?

The McCain amendment, which we will be voting on hopefully tomorrow, will provide us with another opportunity to target the problems caused by Fannie and Freddie. The McCain amendment would end the conservatorship within 2 years and place both companies into receivership if they are not viable. It would also reduce the companies' mortgage holdings over the next 3 years, reimpose restrictions on the size of the mortgages they can buy, and force them to pay State and local taxes just as private companies do.

As the Wall Street Journal editorialized Thursday:

If the housing giants are no longer subsidized, they will become small enough to fail. That means they will stop lending money to people who can't pay them back, and in turn, they will stop endangering taxpayers. This is a genuine anti-bailout vote.

They were referring to the McCain amendment.

Let's be clear. Every day Fannie and Freddie remain in their current form is a day U.S. taxpayers are subsidizing their activities. Financial regulatory reform must include a restructuring of Fannie Mae and Freddie Mac. That is why I urge my colleagues to support the McCain amendment tomorrow and end too big to fail.

I ask unanimous consent to have printed in the RECORD the Wall Street Journal editorial titled "What About Fannie and Freddie Reform?" by Robert G. Wilmers, to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

WHAT ABOUT FANNIE AND FREDDIE REFORM?

(By Robert G. Wilmers)

Congress may be making progress crafting new regulations for the financial-services industry, but it has yet to begin reforming two institutions that played a key role in the 2008 credit crisis—Fannie Mae and Freddie Mac.

We cannot reform these government-sponsored enterprises unless we fully confront the extent to which their outrageous behavior and reckless business practices have affected the entire commercial banking sector and the U.S. economy as a whole.

At the end of 2009, their total debt outstanding—either held directly on their balance sheets or as guarantees on mortgage securities they'd sold to investors—was \$8.1 trillion. That compares to \$7.8 trillion in total marketable debt outstanding for the entire U.S. government. The debt has the implicit guarantee of the federal government but is not reflected on the national balance sheet.

The public has focused more on taxpayer bailouts of banks, auto makers and insurance companies. But the scale the rescue required in September 2008 when Fannie and Freddie were forced into conservatorship—their version of bankruptcy—was staggering. To date, the federal government has been forced to pump \$126 billion into Fannie and Freddie. That's far more than AIG, which absorbed \$70 billion of government largess, and General Motors and Chrysler, which shared \$77 billion. Banks received \$205 billion, of which \$136 billion has been repaid.

Fannie and Freddie continue to operate deeply in the red, with no end in sight. The Congressional Budget Office estimated that if their operating costs and subsidies were included in our accounting of the overall federal deficit—as properly they should be—the 2009 deficit would be greater by \$291 billion.

Worst of all are the tracts of foreclosed homes left behind by households lured into inappropriate mortgages by the lax credit standards made possible by Fannie Mae and Freddie Mac and their promise to purchase and securitize millions of subprime mortgages.

All this happened in the name of the "American Dream" of home ownership. But there's no evidence Fannie and Freddie helped much, if at all, to make this dream come true. Despite all their initiatives since the early 1970s, shortly after they were incorporated as private corporations protected by government charters, the percentage of American households owning homes has increased by merely four percentage points to 67%.

In contrast, between 1991 and 2008, home ownership in Italy and the Netherlands increased by 12 percentage points. It increased by nine points in Portugal and Greece. At least 14 other developed countries have home ownership rates higher than in the U.S. They include Hungary, Iceland, Ireland, Poland and Spain.

Canada doesn't have the equivalent of Fannie and Freddie. Nor does it permit the deduction of mortgage interest from an individual's taxes. Nevertheless, its home ownership rate is 68%. Canadian banks have weathered the financial crisis particularly well and required no government bailouts.

This mediocre U.S. home ownership record developed despite the fact that Fannie and Freddie were allowed to operate as a tax-advantaged duopoly, supposedly to allow them to lower the cost of mortgage finance. But a great deal of their taxpayer subsidy did not

actually help make housing less expensive for home buyers.

According to a 2004 Congressional Budget Office study, the two GSEs enjoyed \$23 billion in subsidies 2003—primarily in the form of lower borrowing costs and exemption from state and local taxation. But they passed on only \$13 billion to home buyers. Nevertheless, one former Fannie Mae CEO, Franklin Raines, received \$91 million in compensation from 1998 through 2003. In 2006, the top five Fannie Mae executives shared \$34 million in compensation, while their counterparts at Freddie Mac shared \$35 million. In 2009, even after the financial crash and as these two GSEs fell deeper into the red, the top five executives at Fannie Mae received \$19 million in compensation, and the CEO earned \$6 million.

This is not private enterprise—it's crony capitalism, in which public subsidies are turned into private riches. From 2001 through 2006, Fannie and Freddie spent \$123 million to lobby Congress—the second-highest lobbying total (after the U.S. Chamber of Commerce) in the country. That lobbying was complemented by sizable direct political contributions to members of Congress.

Changing this terrible situation will not be easy. The mortgage market has come to be structured around Fannie and Freddie and powerful interests are allied with the status quo. I recall a personal conversation with a member of Congress who, despite saying he understood my concerns about the two GSEs, admitted he would never push for significant change because "they've done so much for me, my colleagues and my staff."

Nonetheless, Congress must get to work on the reform of Fannie Mae and Freddie Mac. A healthy housing market, a healthy financial system and even the bond rating of the federal government depend on it.

Mr. KYL. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRAPO. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MERKLEY). Without objection, it is so ordered.

Mr. CRAPO. Mr. President, I stand today to discuss the McCain amendment as well. We have had a lot of debate about the financial regulatory legislation before us. A lot of the debate has focused on the content of the bill, with concerns being raised by some such as myself about whether we truly are ending too big to fail and truly are ending bailouts and whether we are going too far in creating yet again a big government response to an issue that needs to have a more effective response rather than more government, a response that will hammer Main Street, not Wall Street, and create yet again another big expansion of government in this Congress. We have seen way too much of that in way too many parts of our economy so far, and some of us are concerned about that.

But what I want to talk about today is what is noticeably absent in the bill; that is, the reform of Fannie Mae and Freddie Mac, our government-spon-

sored entities—actually, our government-managed entities now—and the fact that these entities are at the core of the financial crisis we are dealing with and yet are not even touched by this legislation.

Americans remain rightly outraged that their tax dollars were used to bail out irresponsible Wall Street firms and auto companies. I have voted against these bailouts, and I have been working with my colleagues to make sure we do not set the stage for yet more government bailouts. The most expensive government bailouts of all, however, will be those of Fannie Mae and Freddie Mac—the largest housing lenders that purchased home loans, packaged them into investments, and then guaranteed them against default.

I think a little history of how we got to where we are is appropriate. Congress chartered Fannie Mae and Freddie Mac to provide access to home financing by maintaining liquidity in the secondary market. According to Peter Wallison of the American Enterprise Institute:

Their implicit, or assumed, government backing enabled them to drive all competition out of the middle-class housing sector, permitting Fannie and Freddie to acquire over \$5 trillion in mortgages, which they either held in portfolios totaling approximately \$1.5 trillion or securitized as mortgage backed securities.

Continuing his quote:

In pursuing their mission to support low and middle-income housing—also called affordable housing—Fannie and Freddie assumed the credit risk on almost 11 million subprime and other high-risk mortgages and contributed substantially to the growth of a housing bubble. When the bubble began to deflate in 2007, they began to suffer huge losses.

But I want to go back and talk a little bit about the history before 2007, when it became evident to everyone what was happening to Fannie Mae and Freddie Mac in our housing markets, because it did not just become known then. As my colleague, Senator SESSIONS, has already mentioned on the floor today in his earlier remarks, the Banking Committee was heavily engaged in reviewing this issue for several years leading up to this, as was the Office of Federal Housing Enterprise Oversight at HUD and the Fed and a number of other analysts.

Senator SESSIONS quoted a letter. I believe it was from then-Chairman Greenspan of the Fed, who noted we needed to put focus on Fannie and Freddie then—this was back in the 2004 to 2005 timeframe—and that if we did not establish much tighter regulatory control over Fannie and Freddie, their excesses were going to create systemic risk that would put the taxpayer in extreme jeopardy.

The committee itself focused very heavily on this same dynamic. In May of 2006, we had established legislation that would have, had it been able to be

passed on the floor of this Senate, created a strong, new regulator for Fannie Mae and Freddie Mac and begun the process of setting the right capital standards and the right regulatory environment in which we could control this excessive growth and set the process in place for us to take Fannie Mae or Freddie Mac into receivership or into trust if they eventually failed, as it began looking as if they would.

The Office of Federal Housing Enterprise Oversight completed a multiyear special examination of Fannie Mae and issued a report describing OFHEO's findings and recommendations in May of 2006. OFHEO found the following:

Fannie Mae senior management promoted a false image of the enterprise as one of the lowest risk financial institutions in the world.

A large number of Fannie Mae's accounting policies and practices did not comply with generally accepted accounting principles.

Fannie Mae had serious problems of internal control, financial reporting, and corporate governance, resulting in Fannie Mae overstating reported income and capital.

Between 1998 and 2004, Fannie Mae senior management deliberately and intentionally manipulated accounting to hit earnings targets so that senior management maximized the bonuses and other executive compensation they received.

Fannie Mae's board of directors failed to be sufficiently informed, to act independently of its chairman and other senior executives, and to exercise the requisite oversight over the enterprise's operations.

And then the final finding of the report: Despite rapid growth and changing accounting and legal requirements, Fannie Mae senior management did not make investments in accounting systems, computer systems, other infrastructure and staffing needed to support a sound internal control system, proper accounting, and GAAP-consistent financial reporting.

Again, as a result of these findings and of an increasing awareness of the threat that was being posed by the excesses at Fannie Mae and Freddie Mac, the Banking Committee, on which I served then and still serve, developed legislation to address these very excesses and to create the kind of regulatory structure in which we could control these problems.

Along with 26 of my colleagues, in May of 2006 I signed a letter to then-majority leader Bill Frist and to the chairman of the Banking Committee then, Senator RICHARD SHELBY. In the letter, we stated:

We are concerned that if effective regulatory reform legislation for the housing-finance government sponsored entities is not enacted this year—

Remember, this is 2006—

American taxpayers will continue to be exposed to the enormous risk that Fannie Mae

and Freddie Mac pose to the housing market, the overall financial system, and the economy as a whole. Therefore, we offer you our support in bringing the Federal Housing Enterprise Regulatory Reform Act (S. 190) to the floor and allowing the Senate to debate the merits of this bill, which was passed by the Senate Banking Committee.

I might note that when we debated this bill back in 2006, it came out on a straight party-line vote from the Banking Committee—all the Republicans voting for it, all the Democrats opposing it.

As history shows us, we never were able to get that bill to the floor because although we had 55 Republican votes, it takes 60 votes to move legislation on the floor of the Senate in the face of filibusters, and that bill was filibustered. We were not able to get the additional support to get it past the filibuster.

I would like to quote from a recently written editorial about this chapter of the Fannie Mae-Freddie Mac history. Peter Wallison, in an April 20, 2010, editorial in the Wall Street Journal, wrote:

One chapter in this story took place in July 2005, when the Senate Banking Committee, then controlled by the Republicans, adopted tough regulatory legislation for the GSEs on a party-line vote. . . . The bill would have established a new regulator for Fannie and Freddie and given it authority to ensure that they maintained adequate capital, properly managed their interest rate risk, had adequate liquidity and reserves, and controlled their asset and investment portfolio growth.

These authorities were necessary to control the GSEs' risk-taking, but opposition by Fannie and Freddie—then the most politically powerful firms in the country—had consistently prevented reform.

He goes on to say:

The date of the Senate Banking Committee's action is important. It was in 2005 that the GSEs—which had been acquiring increasing numbers of subprime and Alt-A loans for many years in order to meet their HUD-imposed affordable housing requirements—accelerated the purchases that led to their 2008 insolvency. If legislation—

And this is the key part of the editorial—

along the lines of the Senate committee's bill had been enacted in that year, many if not all the losses that Fannie and Freddie have suffered, and will suffer in the future, might have been avoided.

What happened was the bill was stalled. Fannie and Freddie collapsed. When it became evident the losses were going to occur, there was a rush on the floor of the Senate to get back to that bill, and in 2008 the bill passed—after the horse was out of the barn. At least, though, we did get it passed in 2008, and Fannie and Freddie were taken into conservatorship.

Where are we now? The Congressional Budget Office has estimated that in the wake of the housing bubble and the unprecedented deflation in housing values that resulted, the government's cost to bail out Fannie Mae and

Freddie Mac will eventually reach \$381 billion. As we talk on this floor about bailouts, this is the biggest bailout of all. It exceeds, in fact, all of the other bailouts together, by far. Yet it is unlimited. I mean that literally.

Last Christmas Eve, in what was considered by many to be a Christmas Eve taxpayer massacre, the Treasury Department announced it was lifting the \$400 billion loss cap on these two companies, creating a potentially unlimited liability and effectively providing the full faith and credit of the government to support their debt.

To date, the Federal Government has already provided about \$126 billion to \$130 billion to Fannie and Freddie. As I just indicated, the Congressional Budget Office estimates that will ultimately top \$380 billion, and many believe that is a conservative number—direct taxpayer bailouts that are not even mentioned in this bill.

It reminds me of the fight back in 2005 when we were trying to get the legislation to reform Fannie and Freddie passed then, and here we are knowing what we need to do—seeing these bailouts, knowing the American taxpayers want those bailouts to stop—and we are being resisted in trying to bring an amendment just to add Fannie Mae and Freddie Mac—GSE—reform to the bill.

Last week, Freddie Mac announced it had lost \$8 billion, as others on the floor have just said, in the first quarter and has requested another \$10.6 billion to add to this mounting bailout.

As the government has pledged more and more money to cover these companies' losses, it has assured the public that planning is underway for overhauling these firms so that the bailouts will end. In December, the administration said it expected to release a preliminary report on how to remake Fannie and Freddie around February 1. But February 1 has come and gone, and no plan has been provided, and now we are being told it will be another year before the government proposes how to restructure these firms. Eighteen months after they were seized to prevent their collapse, the companies remain wards of the state in what has become the single costliest component of bailouts in our financial system.

In September of 2008, the Federal Housing Finance Agency placed Fannie Mae and Freddie Mac into that conservatorship I talked about, which allows the regulator to establish control and oversight of a company to put it in a sound and solvent condition. Since being placed in conservatorship, Fannie Mae and Freddie Mac have actually become a bigger part of the market, which will make reform of them even more difficult. Last quarter, Fannie Mae and Freddie Mac were responsible for funding two-thirds of all U.S. home loans. That is primarily because there is nobody else able to play

in the markets these days, except for these government—now completely government—controlled and financed entities. When you add in the Federal Housing Administration, the U.S. Government is behind 96.5 percent of all loans.

What we have seen here is literally another government takeover. We have seen the government take over in the health care industry. We have seen the government take over in the auto industry. We have seen the government takeover of AIG and the insurance industry. We have seen the government take over in multiple parts of our financial industries and a greater government takeover being proposed in this bill. Yet we have the literal government control and management of Fannie Mae and Freddie Mac going unabated and unaddressed in the legislation that is before us.

What does the legislation do?

The longer Fannie Mae and Freddie Mac are allowed to operate in their current role—as political rather than business entities—the greater the financial losses will be for taxpayers and, frankly, the greater the risk they will simply continue endlessly in government control and government management, with the government managing yet one other big part of our economy perpetually.

That is why the McCain amendment requires the current conservatorship of the companies to end in the next 2½ years and begin the process of shrinking their portfolios. If the companies are not viable at the end of that period, they would be placed into receivership, which is a form of bankruptcy restriction.

Without a hard deadline, I am very concerned Congress will not act and, just like back in 2005, we will find gridlock here in the Senate stopping us from moving forward and be left with a nationalized Fannie Mae and Freddie Mac.

The amendment would also reestablish the \$200 billion cap and accelerate the 10-percent reductions of the mortgage portfolios, effectively requiring the companies to shrink those portfolios by holding a combined \$100 billion from their current levels. This will also limit the losses taxpayers will face as a result of the blank check given by the administration in lifting all caps on December 24 of last year.

It also includes Fannie Mae and Freddie Mac as a part of the Federal budget as long as either institution is under conservatorship or receivership. This is going to show the American people the true picture of how much of our national debt has increased by the bailout of these institutions.

As an aside here, as most people probably did not realize, the Senate Budget Committee recently acted on a proposed budget for the Congress this year. We were supposed to have de-

clared and created a budget for us to operate under months ago, but because of, I think, an unwillingness to literally put it out there—how much money this government is spending—the committee and the Senate have not acted on a budget yet. But the Budget Committee actually did finally act on one. I didn't vote for it. It is more spending—trying to spend ourselves into prosperity again as the last budget was—but at least we acted.

In that Budget Committee process, I brought forth an amendment to require that Fannie Mae and Freddie Mac debt be added to our national debt calculations. Why would I do that? According to the Congressional Budget Office Director Douglas Elmendorf:

After the U.S. Government assumed control in 2008 of Fannie Mae and Freddie Mac, two Federally-chartered institutions that provided credit guarantees for almost half—

and by the way, as I indicated, now it is two-thirds—

of all the outstanding residential mortgages in the United States, the Congressional Budget Office concluded that the institutions had effectively become government entities whose operations should be included in the Federal budget.

So here we have the Director of the Congressional Budget Office saying we run these companies, we are financially backing these companies, we should at least include them in our budget.

The purpose of my amendment then—and the same language that is in this amendment on the floor today—is to include in the debt calculations of the budget resolution the debt obligations of Fannie Mae and Freddie Mac. This allows the American people to see a true picture of how much our national debt has been increased by the bailout of these institutions. At the end of calendar year 2009, per the financial statements, those figures are \$774 billion for Fannie Mae and \$781 billion for Freddie Mac, for a total of \$1.555 trillion of debt. That is debt the United States holds today that is not being disclosed to the American public as part of our debt because of our interesting budget procedures.

To put into perspective how large these entities are, their combined total books of business are nearly \$5.5 trillion. The Congressional Budget Office has estimated that in the wake of the housing bubble and the unprecedented deflation in housing values that resulted, the government's cost to bail out Fannie Mae and Freddie Mac, as I indicated earlier, will eventually reach \$381 billion, and that estimate may be too optimistic.

I also already mentioned that last Christmas Eve the Treasury lifted the cap. We actually had a cap so that the taxpayer was at least protected at \$400 billion. Last Christmas Eve—and I told my colleagues earlier some called it the “Christmas Eve Taxpayer Masacre”—Treasury lifted that cap so

there now is no limit to the amount of debt we will assume and pay for as taxpayers as a result of this bailout of Fannie Mae and Freddie Mac. According to a January 2010 CBO background paper entitled “CBO's Budgetary Treatment of Fannie Mae and Freddie Mac,” CBO:

believes that the Federal Government's current financial and operational relationship with Fannie Mae and Freddie Mac warrants their inclusion in the budget.

By contrast, the administration has taken a different approach by continuing to treat Fannie Mae and Freddie Mac as outside the Federal budget, recording and projecting outlays equal to amounts of any cash infusions made by Treasury into the entities.

The Office of Management and Budget of the U.S. Government fiscal year 2011 states:

Under the approach in the budget—

This is the President's budget—

all of the GSEs' transactions with the public are nonbudgetary because the GSEs are not considered to be government agencies.

So we have the administration saying they are not considered to be government agencies, and, therefore, we aren't going to consider their debt and their financing, and we have the Congressional Budget Office saying they should be. CBO has included the GSEs in its budget baseline, but does not include the debt in its calculations because of their narrow view of how to calculate the Federal debt.

In light of all these facts, I think it is evident that we need to have transparency and we need to start telling the American people exactly what it means, that we have taken Fannie Mae and Freddie Mac into receivership, and that we are not going to put their finances in the Federal budget.

Going back to what the amendment we are debating here today does, in addition to putting Fannie Mae and Freddie Mac in the budget, it establishes a Senate-confirmed special inspector general within the Government Accountability Office with responsibility for investigating and reporting to Congress on decisions made with respect to the conservatorships of Fannie Mae and Freddie Mac, and this special inspector general would provide quarterly reports to Congress. There is no one politically accountable to the public for the operation of these multitrillion-dollar entities since the President has yet to nominate anyone to officially run the Federal Housing Finance Agency and the Office of Special Inspector General. The office of the Special Inspector General for the Troubled Asset Relief Program has done a good job to inform the public and Congress about TARP, and we should follow this model with Fannie Mae and Freddie Mac. It is not credible to say we are protecting the taxpayer and fixing mortgage financing and do nothing about Fannie Mae and Freddie Mac.

Let me conclude by reading from a couple of editorials. If you scan the news today about this issue, you will see editorials across this country. I think one of them said "the silence on this issue is deafening." Others have said there is a huge hole in the legislation. The title of another one: "Congress Remains Missing In Action on Two Key Causes of the Financial Crisis."

I wish to read from one of the Wall Street Journal editorials on May 6 of this year. In part it says:

One sign that the White House financial reform is less potent than its advertising claims is that it doesn't even attempt to reform the two companies at the heart of the housing mania and panic—Fannie Mae and Freddie Mac. So we are glad to see that yesterday GOP Senators John McCain, Richard Shelby, and Judd Gregg introduced a Fannie and Freddie reform amendment.

Going on, it says:

The Financial Crisis Inquiry Commission spent yesterday focusing on financial leverage using Bear Stearns as an example. But Fannie Mae and Freddie Mac were twice as leveraged as Bear and much larger as a share of the mortgage market. Fan and Fred owned or guaranteed \$5 trillion in mortgages and mortgage-backed securities when they collapsed in September of 2008.

This is a quote that has been read on the floor before, but it is exactly applicable.

Again, quoting the editorial:

Reforming the financial system without fixing Fannie and Freddie is like declaring war on terror and ignoring the al-Qaida. Unreformed, they are sure to kill the taxpayers again. Only yesterday—

this was on May 6—

Freddie said it had lost \$8 billion in the first quarter—

which I have already mentioned.

Going on to another editorial, this one also in the Wall Street Journal by Robert Wilmsers—and I quote just a part of it:

At the end of 2009, their total debt outstanding—either held directly by their balance sheets or as guarantees on mortgage securities they'd sold to investors—was \$8.1 trillion. That compares to \$7.8 trillion in total marketable debt outstanding for the entire U.S. Government. The debt has the implicit guarantee of the federal government but is not reflected on the national balance sheet.

The public has focused more on taxpayer bailouts of banks, auto makers and insurance companies. But the scale of the rescue required in September 2008 when Fannie and Freddie were forced into conservatorship—their version of bankruptcy—was staggering. To date, the federal government has been forced to pump \$126 billion into Fannie and Freddie. That's far more than AIG, which absorbed \$70 billion of government largess, and General Motors and Chrysler, which shared \$77 billion. Banks received \$205 billion, of which \$136 billion has been repaid.

Fannie and Freddie continue to operate in the red, with no end in sight. The Congressional Budget Office estimated that if their operating costs and subsidies were included in our accounting of the overall deficit—as properly they should be—the 2009 deficit would be greater by \$291 billion.

The point is simple. This bill is alleged to be focused on trying to solve the problem of bailouts. We will hear Senators on this floor say day in and day out that this bill will end bailouts and stop too big to fail. Yet the two largest enterprises which were at the core of the financial crisis are exempt from the provisions of the legislation. They are not even mentioned in the legislation. Apparently, they are too big to fail, because we in this Senate will not put them into a track of being resolved properly.

As I indicated earlier, I am concerned that the same outcome is going to happen now that happened back in 2005 and 2006 when we tried before their collapse to put some restraint into place, and that we will not act, the net result of which will be that we will, in effect, nationalize Fannie and Freddie and have a huge portion of our Nation's mortgage market be run by the government.

The McCain amendment will simply give us a track to move forward to stop that result from happening, and I encourage all of my colleagues to consider strongly supporting this amendment. If we don't, then I don't think we can honestly call this a bill that truly ends the bailouts in our country.

Thank you very much, Mr. President.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRANKEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRANKEN. Mr. President, I rise to speak again on the problem of credit rating agencies and the inherent conflicts of interest that drive the industry. The underlying Wall Street reform bill takes some steps in the right direction, but I believe we can go much further in addressing the fundamental problem—the opportunity to shop around for the highest rating.

Currently, a bank that issues a security can shop its product around to one of the three biggest credit rating agencies—all three of them—seeking out the highest possible rating. The credit rating agency promising the highest rating will get hired. This process ensures that the credit rating agency will not just be evaluating the risk of the financial product, it will be weighing its own business interests when offering up a rating. If the agency hands out a AAA rating, the customer will come back again; the banks will come back again. That incentive affects the ultimate rating the product receives. This ratings shopping leads to major conflicts of interest, and it was one of the major causes of the financial meltdown.

You have probably heard of something in our court system called forum

shopping. It is when an attorney seeks out the judge who will be most sympathetic to the case. If a prosecutor is bringing a case against a defendant for drunk driving, that prosecutor might negotiate with the court clerk to get the judge known for being tough on drunk drivers. You can imagine the problems forum shopping has created and the corruption it has bred.

The courts have identified forum shopping as a practice that manipulates outcomes and undermines public confidence in the courts. Given these problems, the courts have sought out ways to reduce forum shopping. In fact, the majority of Federal courts now use some variation of a random drawing to match cases with judges, though each district court has discretion to make its own specific rules. Accommodations can be made for particular circumstances. For example, a subset of qualified judges can be set aside for particularly complex criminal cases, and the caseload of each judge can be taken into account. But overall, the primary selection method in most Federal courts is a rotating assignment system.

This rotating assignment system is used in my home State of Minnesota. New York, the home State of Senator SCHUMER, who is joining me on this amendment, also uses a rotating system. The use of a rotating assignment system limits opportunities for forum shopping, increases public confidence in the court system, and reduces corruption.

Let's return to the problem of credit rating agencies. I have filed an amendment that seeks to reduce the conflicts of interest inherent in the issuer-pays model. In this model, issuers of financial products have incentives to shop around for the best ratings possible. In order to retain business, credit rating agencies will issue ratings high enough to keep issuers coming back, as I said. The system incentivizes high ratings, not accurate ratings.

The same solution used to address forum shopping in the courts can also be applied to reduce ratings shopping in the credit rating industries. My amendment allows for the same types of discretion awarded to individual district courts.

A court can develop special provisions for the assignment of particularly complex cases. My amendment would allow a new credit rating agency board to designate certain ratings agencies as being qualified to rate the most complex products. A court can take into account the existing caseload of a particular judge. My amendment allows the board to take into account the institutional and technical capacity of credit raters.

The rotating assignment model used in the court system can be used in the rating system. It hasn't eliminated every problem, but it has gone a long

way to reduce the corruption and conflicts of interest in selecting judges for particular cases.

My amendment will not eliminate every problem facing the credit rating agency industry, but it will go a long way toward reducing ratings shopping. Ratings shopping is the root of the problem, and it is what allows issuers to bargain with credit raters. If a credit ratee knows the issuer cannot simply walk away and turn to another rating agency, there is no pressure to issue a high rating just to retain the business transaction.

My amendment will not reduce competition, nor does it seek to put any rating agency out of business—quite the opposite. My amendment actually will increase and incentivize true competition. By allowing a board to assign more work to credit raters producing accurate ratings and assign less work to those producing inaccurate ratings, the market will finally reward accuracy and no longer reward ratings inflation, which was the case during this whole fiasco and what led to it. It is only by limiting ratings shopping and adjusting the market's incentives that we will finally have credit rating agencies in which the public can have faith.

The Wall Street reform bill includes many important provisions addressing the credit rating agency problem, such as increased disclosures and improved postrating surveillance, but I believe it doesn't get to the root of the problem. When the stability of such a significant part of our economy is based, for better or worse, on the accuracy of these ratings, we can't take any more chances.

I thank Senator SCHUMER and Senator NELSON for helping me lead this reform and Senator WICKER, who has recently joined our effort. I also appreciate that Senators JOHNSON, WHITEHOUSE, BROWN, MURRAY, MERKLEY, BINGAMAN, LAUTENBERG, SHAHEEN, CASEY, and SANDERS support this approach and have joined as cosponsors. I look forward to other colleagues joining us, and, ultimately, I hope this bipartisan amendment will be taken up and passed by the Senate.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I am going to proceed for a few moments on my leader time.

The PRESIDING OFFICER. The Senator is recognized.

#### TREATMENT OF TERRORISTS

Mr. MCCONNELL. Mr. President, we continue to learn more about the terrorist who attempted to kill scores of

innocent Americans in Times Square earlier this month.

The President's assistant for counterterrorism, John Brennan, now says Faisal Shahzad was working on behalf of the Pakistan Taliban, or TTP, all along.

What this event and the aftermath have shown is that the administration has what can most charitably be described as an evolving strategy on dealing with captured terrorists.

This was perfectly clear over the weekend when Attorney General Holder said in reference to the Times Square bomber that America is "now dealing with international terrorists," and this may require changes to when and how terrorists are issued Miranda warnings.

Now dealing with international terrorists? I remind the Attorney General that we have been very much at war with international terrorism for a long time and that we face threats in this war from those who attacked us on 9/11, al-Qaida's associated groups, those who attack our troops every day in Afghanistan and Iraq, the man who tried to blow up a plane over Detroit on Christmas, and men such as the one who plotted to maim and kill Americans in Times Square.

Once the administration realizes this, a lot of other questions will become a lot clearer. Unfortunately, the administration seems too often to have a trial-and-error approach.

On Guantanamo, they tried to close it and realized it was not that easy. On the question of the proper venue for trials, they announced they would try 9/11 mastermind Khaleid Sheikh Mohammed in New York City and then realized maybe that was not a good idea. When it came to the Christmas Day bomber, they treated him like a common criminal and then realized that might not have been the best route either.

Now, after learning the Times Square bomber is actually a tool of the Pakistani Taliban, they are wondering out loud again if they should revisit their approach to administering Miranda warnings.

Let's make it easy for the Attorney General. Every terrorist—every single one of them—every terrorist should be treated like one.

In the first months of the administration, the President signed Executive orders ending the CIA's interrogation program, demanding the closure of Guantanamo within a year, and essentially putting the Attorney General in charge of the war on terror.

More than a year after these Executive orders were signed and after several failed terrorist attacks on the homeland, the administration finally—finally—seems to realize the war on terror is not a simple matter of law enforcement. A clear and forceful strategy is needed just as much at home as it is needed abroad.

Republicans have been saying this all along. It is time the administration decides on a strategy that recognizes the implications of the war we are in and the dangers we face, not only abroad but right at home.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I wish to take a few minutes, if I may. I listened with some interest this afternoon, as I did last week, to my colleague and friend from Arizona talk about his amendment regarding government-sponsored enterprises, specifically Fannie and Freddie. I wish to respond to some of those comments and some comments today about these two agencies and their value, their present condition, and what needs to be done.

First, there is a little revisionist history in all of this that seems to be important. In 2005, the House Financial Services Committee, under the leadership of Mike Oxley, a Republican from Ohio, chairman of the committee, passed bipartisan legislation dealing with Fannie Mae and Freddie Mac. Senate Democrats picked up that proposal. It stalled in the committee over here despite support for it. The Republican-controlled committee then passed a bill. They never filed it, never brought it up for a vote on the floor of the Senate in 2005.

I became chairman of the Banking Committee in 2007. As the Presiding Officer will recall, when he arrived in 2008, we had a significant number of hearings and discussions about Fannie and Freddie. In the summer of 2008, the Banking Committee passed a comprehensive overhaul of the regulations of Fannie and Freddie, including establishment of a tough new regulator, the FHFA, limited portfolio holdings of Fannie and Freddie, and we increased their capital requirements. The authority to put Fannie and Freddie into receivership was also adopted. We required internal controls and risk management and reviving and approving new products.

The committee voted 19 to 2 on a very strong bipartisan basis in the summer of 2008, and overwhelmingly on the floor, this body supported those efforts by a vote of 72 to 13. That was in the summer and fall of 2008.

When I hear the comments being made that nothing has been done about Fannie and Freddie—Mike Oxley tried and failed. I cannot repeat on the floor of the Chamber the words Mike Oxley used to describe the minority's handling of reform when he was accused later of not having an effective reform package. The Republican chairman of that committee had very strong language to describe the failure of our Republican friends to pick up his efforts, his bipartisan efforts, in 2005. As I say, in 2008, by a vote of 72 to 13, this body adopted the committee's recommendations—adopted 19 to 2 in the Banking



Committee—to put strong regulations over Fannie and Freddie. So that is as a backdrop.

I will be the first to recognize that more needs to be done, clearly, in terms of coming up with a whole new financing structure for the housing market. There is no doubt about that. But as my colleague from New Hampshire has pointed out—and while it wasn't part of the whole reform package included in this 1,400-page bill because it probably would have doubled the size of this legislation—the issue is far too complex at this juncture to include those kinds of reforms in this bill. That is not to suggest they do not need to be done, but it will take a separate undertaking, it seems to me and most who have looked at it, to decide what is that alternative idea.

So when we have the McCain amendment, as in the Ensign amendment the other night, I would urge my colleagues to vote against it. All their amendments do is to get rid of Fannie and Freddie. There is no alternative idea here. The McCain amendment says that in 24 months you have to get rid of Fannie and Freddie. Well, that is a nice idea, but what are the implications if we get rid of it?

Today, 97 percent of all mortgages are backed by Fannie and Freddie. If you want to see interest rates go up, if you get rid of the only entity that is purchasing these mortgages today—and that is Fannie and Freddie, by and large—who will purchase them? If they are not purchased, what happens to interest rates and home values? If you think the market took a plunge last Thursday, adopt the McCain amendment. It is a reckless amendment. There is no alternative whatsoever included in that proposal.

Let me identify the three major problems with it, aside from the fact it doesn't offer any alternative whatsoever as to how we end up with a financing mechanism for housing in this country. Remember, we are the only Nation on the face of the planet today that provides a 30-year, fixed-rate mortgage for homeowners. It is the reason why we have had a relatively high percentage of our population in home ownership. It also is the single largest wealth creator for most families—home ownership—not to mention the value it is to a family, a neighborhood, a community.

When people have an equity interest—when they can accrue equity over time—it leads to long-term financial security, retirement security, and it has made a difference in how middle-income families have been able to afford a higher education for their children. All these benefits accrue. No other Nation on Earth provides that kind of stability and long-term security that we have in the housing market, and it doesn't happen miraculously. It happens because we have had

a financing mechanism that has provided for that kind of assurance at a relatively low cost.

So when you look at the amendment, it severs all Federal involvement with these mortgage securitization, government-sponsored enterprises within 24 months. That is the McCain amendment. Before people jump on board with what a great idea this is, consider the implications and then be prepared to explain them when they happen. There is no reform here. It just gets rid of something without replacing it with anything, except somehow the private market is going to pick up. There is no private market for that today, and we need an alternative idea. Some have mentioned a public utility concept, others have mentioned various other ideas, all of which we have listened to. But, frankly, there is a lot of debate about what that alternative ought to be.

So to draft a bill to take in all these other ideas for housing, frankly, as the Senator from New Hampshire has said, was far too complex, given all the other challenges we are faced with in this legislation, to try to deal with too big to fail, consumer protection, finally getting some clarity and regulation over exotic instruments, providing some long-term radar system, as we describe it, to identify problems as they emerge, whether in Greece or someplace else, not to mention all the other provisions, dealing with underwriting standards, capital requirements, leverage, and all the rest. This bill is 1,400 pages, not to mention the bill passed out of the Agriculture Committee, which adds, of course, a whole other title VII to the bill.

So when you consider what is in here, I hope my colleagues will be careful before they jump on what is a politically charged issue and understand what the implications may be if it is adopted. The McCain amendment, as I said, is reckless, it is poorly thought out, it poses significant risk to the housing markets that have only recently begun to stabilize, by the way. We are seeing just in the last few weeks that finally prices are beginning to move up in the housing area, new stakeholders are occurring, and things are beginning to move in the right direction.

You can say a lot of things, but if you don't have stability in the housing market, this recovery will not occur. It is a critical component of recovery and to pull the rug out from underneath this particular effort right now would be a major blow to our economy and I think would set us back on our heels at the worst possible moment. As I said earlier, major reforms to the housing financing system are clearly necessary. I will be the first to acknowledge that—all should. As we can't go back to the system of the past and the status quo of the GSEs under Federal conservatorship—by the way, Fannie and

Freddie are under conservatorship because of our 2008 legislation—it is untenable. We can't continue with that, and we need to replace it, but such changes must be thoughtful and deliberate.

In the near term, we must ensure that changes affecting the Federal role in Fannie and Freddie do not jeopardize the fragile economic recovery. Over the long term, we must be careful in structuring the housing financing system in a way that guarantees continued mortgage liquidity with minimum economic disruptions.

The McCain amendment falls short in several respects. First of all, it imposes significant risk to our economic recovery. Some 95 to 97 percent of mortgage originations are currently backed by the Federal Government—95 to 97 percent, the vast majority of this coming through Fannie and Freddie. The McCain amendment would cause significant uncertainty among investors and GSE-issued mortgage-backed securities, threatening the primary source of mortgage credit that we have at this time. Pull away the credit we have, what replaces it? In this amendment, nothing, without offering any alternative sources of liquidity. Such a precipitous drop in mortgage liquidity could severely threaten this fragile recovery we are presently feeling.

Second, the McCain amendment fails to ensure sufficient mortgage credit would be available in the future. Private securitization of the GSEs account for, as I said, some \$9 trillion of the \$14 trillion in total outstanding mortgages in the United States today. With the future of private securitization highly uncertain—in fact, that is a mild statement given the present economic circumstances—policymakers seeking to reform the housing financing system must ensure that the system of the future will provide sufficient liquidity to meet the mortgage needs of all Americans. The McCain amendment would eliminate existing sources of mortgage liquidity while remaining silent on the more difficult question of how to replace them.

So you may not like what you have here, but you are replacing it with nothing. What are the alternatives to go to in the housing market?

Thirdly, the McCain amendment neglects to replace the public purposes served by GSEs. The GSEs were poorly run, but they clearly served a number of public purposes, such as making the 30-year fixed-rate mortgage broadly available for American home buyers. This does not go to the question of the underwriting standards. That was a disaster with unregulated brokers and mortgage companies. But putting aside that question, which we address—and there are other ideas on how to further address the underwriting requirements—there is the idea that the average family in this country could purchase and have a chance to get in that



starter home, to put them on the pathway to home ownership and all that means to families—what it has meant to our country to make that available, not just to the affluent and the well-heeled but to families even at the lower end of the economic spectrum—to have that kind of job that could provide that income to support a mortgage; what it means to be able to say to your family: We own our home. This is where we live. We have a vested interest in our community, in our neighborhood.

You can talk to anyone about social policy and home equity interest in a neighborhood, and it changes a neighborhood. It makes a difference. So when you start stripping away, pulling out the rug from underneath the financing scheme for doing this today, the mechanism for doing it, then you undermine the very ability to have that long-term, stable mortgage that a family can count on. Watching their equity grow, under normal circumstances, makes such a difference. It is why this economic disaster we have been through over the last couple years is so harmful.

I said earlier there are 4 million homes today that are underwater—4 million of them underwater—and 250,000 homes in the first 3 months of this year have been seized because of the economic conditions. So housing is critical. It is where this crisis began because of the shoddy underwriting requirements that are out there and luring people into subprime mortgages. By the way, that is the alternative. When you strip away the financing mechanism, what you are left with is subprime lending. That is what goes on, luring people into those circumstances.

So, Mr. President, you are entitled to your own opinion but not your own facts in this debate. The fact is, there was an effort in 2005, led by a Republican chairman in the housing committee in the House, and he has some very choice words for those who suggest that effort wasn't real to make a change here. I regret deeply that Mr. Oxley didn't prevail in his ideas here in the Senate. He passed it in the House, but it was squashed over here.

Then, in 2008, as I said, by votes of 19 to 2 and 72 to 13 on the floor of this Chamber, we did pass legislation that provided for a comprehensive overhaul of the regulation of Fannie and Freddie. It made a substantial change, but far more needs to be done. I acknowledge that, clearly. But let's not, in the face of that acknowledgment, strip away that ability in this bill, within 24 months, without replacing it with anything, putting our economic recovery at great risk. I predict to you, as certain as I am standing here, if the McCain amendment were to pass, that is the outcome, count on it, in my view.

So I caution my colleagues, despite the political mantra associated with

all this, we are in a very delicate time. It is very important that we use our heads and carefully deliberate on how we are moving. By a vote of 59 to 35, we rejected the Ensign amendment last week. It was the right outcome. If we reverse that vote tomorrow or in the next day—whenever the McCain amendment comes up—and we will have a side-by-side amendment, by the way, to explain what the committee is doing further and what needs to be done to get us on the right track so people can be supportive of some alternative ideas here—then I think we will set ourselves back.

In light of what has happened in Europe over the weekend, still may unfold here, right now we don't need to be sending messages to the markets without any alternative ideas in place as to how to come up with a housing finance system that is as worthy of the very people who counted on that ability to have that fixed-rate mortgage, to watch their family prosper and grow and become stable, as this has over the years.

I know others want to be heard on probably other matters, but this is a very important issue, and my hope is my colleagues will pay careful attention to this and not succumb to the temporary temptation to follow because there are some groups out there that have never liked this anyway. They have never liked the idea of this program. Clearly, as I say, reforms are needed.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Oregon.

Mr. MERKLEY. Mr. President, I am honored to rise to address the Volcker amendment, which I am pleased to be able to cosponsor with my colleague and friend who is now presiding over the Senate. I thank Senator LEVIN for the outstanding job he has done in shining the light on the need for financial reform through his Permanent Subcommittee on Investigations.

I also wish to thank Senator DODD for shepherding this important financial reform and bringing such a significant and solid bill to the floor of the Senate, and I thank him for working with several of us to strengthen the approach proposed in the Volcker amendment. I look forward to having a chance to present that on the floor and appreciate very much Senator DODD's support.

The goal of our financial system is to efficiently aggregate and allocate capital. That is sometimes done through banks that make loans, and that is sometimes done through pools of investors who put their money together and ask managers to find the highest return. But these two functions of lending and high-risk investing, although both critical to the capital system of aggregating and allocating our dollars, are in fact very different. This Volcker

amendment is all about creating the right balance between these two so they work collectively to make a more efficient, stronger financial system rather than working at odds with each other.

This bill has three components. The first is to get high-risk trading out of our banks on which families and small businesses depend. The second is to establish higher capital requirements for high-risk investing or hedge funds. The third is to eliminate conflicts of interest, conflicts of interest that have proceeded to undermine the integrity of our securities system.

I want to try to give kind of an analogy so we can all get our hands around these functions; that is, to try to imagine you are collecting fireworks. Fireworks are a wonderful thing, and you might want to have them for the Fourth of July or for New Year's. But you do not store them in your living room because, if they were to accidentally go off, you would burn down your house. The fireworks in this example is your high-risk investing, and your living room represents the lending depository banks that power up our economy by making their loans in our communities to our businesses and our families.

To continue that analogy, you would want those fireworks stored not only not in your living room but not in any of the bedrooms of your house or any of the other rooms. You would want them stored out in your shed, in this case outside the bank holding company, so if the high-risk investments do explode or go down you don't burn down your house. This leads to the second part of the Volcker amendment which says, while you are storing them in your shed, you should make it more fire resistant. Maybe that means putting in a sprinkler system or some other system. That is the second part. But the third part is to say those who design and sell the fireworks should not simultaneously be developing and designing fuses designed to fail and then taking bets that the fireworks would go off prematurely. This is a conflict-of-interest issue on which recent hearings have shined such a bright light.

Turning, then, to this high-risk trading and the challenges it presented to our financial system, what I am putting up right now is a chart that shows the impact of high-risk trading on the meltdown that occurred in 2008 and 2009. We have Lehman Brothers that lost \$30 billion in trading; Merrill Lynch lost \$20 billion in trading; Morgan Stanley over \$10 billion; JPMorgan Chase over \$10 billion, Goldman Sachs over \$4 billion, and Bank of America over \$7 billion. High-risk trading primarily on mortgage securities and derivatives of those securities blew a hole through almost every major Wall Street financial investment institution.

I do not think anyone should, in light of these facts, be able to say that high-risk investing has nothing to do with the current crisis. It has pretty much everything to do with it, and that is why the Government stepped in to provide financial relief to these firms—huge amounts of money. Lehman Brothers went down because we didn't step in to assist them. Merrill Lynch basically was saved by being purchased by Bank of America which had a tremendous bailout; that is, \$45 billion. Morgan Stanley got \$10 billion in TARP funds; JPMorgan Chase, \$25 billion; Goldman Sachs, \$10 billion; and, of course, the list goes on.

This high-risk investing does not belong in our lending depository institutions. A bank that has access to the discount window of the Fed, a bank that has access to insured deposits, deposits insured by Uncle Sam, that bank should not be diverting those funds into the temptation of high-risk investing. Similarly, they should not be proceeding to allow the high-risk investing to blow up the lending side of a financial organization.

The risk of an investment house going down is certainly higher during a recession. It is very high in a severe recession. That is just the time we need banks to be able to continue lending, to not let lending seize up.

I can tell you, back home in Oregon business after business has come forward and said: Our credit line was cut in half or we went to refinance a commercial loan and the bank said we will not do it because the value has dropped or we can't make any more loans in that sector or perhaps we can't make any more loans at all because we have reached our leverage limits.

Lending seized up in America, and it is a key factor in prolonging this recession. These are the reasons that, if you want to have high-risk investing with the money from pools of investors—that is an important part of the capital allocation but do it at a safe distance from the lending depository function.

The second piece of this—and back to my analogy that this is when you put the high-risk investing in the woodshed—is that you also make the woodshed more resilient, and that is enabling the regulators to say that as an investment house becomes more systematically significant those regulators can raise or will raise the capital requirements necessary so that the leverage decreases as the firms become larger. This greatly reduces the chance that an investment house will go down during a recession or go down because of bad loans because they are putting up more capital against those investments.

I want to come to the third part, the conflict-of-interest provisions. They will also be addressed at greater length by my colleague. By the way, I ask unanimous consent Senator LEVIN be allowed to follow directly behind me.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MERKLEY. Mr. President, he will elaborate on these provisions, but I want to put up my third chart because at the hearings my colleague had focused attention on a real challenge. Through those hearings some have observed that Goldman Sachs has become an "iconic image of bankers with conflicts of interest." Let me try to again address that.

If you are selling fireworks, you should not be in the business of designing bad fuses to put on those fireworks and then betting the fireworks will go off accidentally or, as another person has put it, if you are selling cars, you should not be selling cars without brakes and taking out insurance on the owners. That fundamentally undermines the integrity of the market, whether it is the fireworks market or car market. But those are analogies for our financial market.

Integrity is so important. International capital flows to systems with integrity. It was after the Great Depression that we established reforms on Wall Street that led to decades in which the international community saw the American markets as the best organized, best policed safe place—no scams or minimal scams—that they could put their money.

We want Wall Street to be able to continue to attract and aggregate and allocate that capital. That is an essential function.

I note that this group of three commonsense reforms on this chart, going back to these three pieces—getting the high-risk trading out of the banks, increasing the capital requirements for investment firms that become systematically significant, and ending the conflicts of interest in securities—these commonsense reforms have a lot of support.

In addition to Senator LEVIN, I thank 15 cosponsors who have jumped in to join this effort: Senator BROWN, Senator KAUFMAN, Senator SHAHEEN, Senator FEINSTEIN, Senator CASEY, Senator BILL NELSON, Senator BURRIS, Senator BEGICH, Senator INOUE, Senator WHITEHOUSE, Senator MCCASKILL, Senator MARK UDALL, Senator MIKULSKI, Senator SANDERS, and Senator TOM UDALL. I encourage my colleagues on both sides of the aisle to consider jumping in to support these commonsense reforms.

I note also that the supporters for this amendment include Paul Volcker; they include John Reed, the former chair and CEO of Citibank; they include the Independent Community Bankers of America, who recognize that community banks do better if the Wall Street system has integrity in allocating capital. The Main Street Alliance of Small Businesses supports this amendment, the AFL/CIO supports it,

Americans for Financial Reform, and a dozen other organizations.

I also note that a group has solicited support online. Here I have 25,000 individuals from across the country, all 50 States, who sent this petition to the Senate. This is from the Progressive Change Campaign Committee, and these 25,000 citizens say:

The big Wall Street banks gambled away our money on a reckless housing bubble and then insisted we spend more money bailing them out. We need you to support the Merkley-Levin proposal to end this risky gambling and other conflicts of interest.

I conclude by saying we have a responsibility, following this great recession we are in now, to redesign the rules of the road for Wall Street, to increase integrity, to increase transparency, to decrease the conflicts of interest, and to make it work in the most efficient possible way. It is with that spirit these three commonsense proposals have been laid out.

It has been a privilege to partner with the Presiding Officer, Senator CARL LEVIN, in this effort.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MERKLEY). Without objection, it is so ordered.

Mr. LEVIN. Mr. President, first, let me commend the Presiding Officer. Senator MERKLEY has been an avid leader in doing something significantly important to end the role of proprietary trading, which is something that helped create a housing bubble, expanded that bubble, and the bubble burst and helped to sink this economy. This amendment we are offering is aimed at trying to rein in the excesses of those proprietary trades. It does it in a way which makes a lot of sense. A lot of work went into it.

The Banking Committee, Senator DODD, his staff, our staffs, and many other staffs and people outside of this body have worked very hard to make sure this will be a practical amendment. It is. I am proud to cosponsor it with the Presiding Officer, Senator MERKLEY, who has been such a great leader.

As recent hearings that I chaired at the Permanent Subcommittee on Investigations demonstrated, many things caused the financial crisis that started the recession that we are climbing out of. But up and down the financial system—upstream, from mortgage brokers hustling dubious mortgages, to Wall Street firms downstream that sliced and diced securities, betting on those risky mortgages—there were failures and mistakes piled on top of plain old-fashioned fraud.

At its heart, the financial crisis is a story of extreme greed and excessive risk. In the pursuit of ever larger profits, financial institutions took on ever-increasing risk while ignoring the danger that risk represented. When their bets failed and the risks came crashing down upon them, the financial system teetered on the brink of collapse. The economy plunged into what has become known as the great recession. Millions of Americans lost their jobs and homes, and taxpayers had to spend hundreds of billions of dollars to keep things from getting even worse. We cannot allow a repeat.

The bill from Senator DODD is a huge step in avoiding that repeat. We simply must never again allow Wall Street firms seeking to boost their bottom lines, borrowing millions, or billions in this case, of dollars, making risky bets and risky trades, pocketing the winnings when their bets go well, and going to taxpayers for salvation when the bets go south. That is surely true of what is known as proprietary trading.

Too often, before and during the crisis and even today, financial institutions trade financial instruments often using large amounts of borrowed money to make risky bets for their own benefit, not on behalf of their clients.

Today, Senator MERKLEY and I, along with our cosponsors, are introducing an amendment to Senator DODD's financial regulatory reform bill that seeks to limit the damage these proprietary transactions can inflict on our economy and end the conflicts of interest which too often accompany them.

I ask unanimous consent that Senator JACK REED be added as a cosponsor of our amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Proprietary trading brings high amounts of risk directly into the financial infrastructure and has repeatedly and severely damaged the financial system. It was a large part of the banking collapse of 1929, which is why Glass-Steagall restrictions separating investment banks from commercial banks were enacted. In 1998, as Glass-Steagall was being weakened, proprietary trading in complex derivatives left the major Wall Street banks facing billions in losses. The Federal Reserve organized the first massive bailout of a too big to fail nonbank, Long-Term Capital Management. And in our current crisis, proprietary trading in subprime securities and derivatives was the critical factor in the failure of major Wall Street firms in 2008.

By April 2008, the Nation's largest financial firms had suffered \$230 billion in losses based on their proprietary trading. And by the end of 2008, the taxpayers were forced to put up hundreds of billions of dollars in TARP

funds to avoid the collapse of our economy. Lehman Brothers is one example. In 1998, it had "only" \$28 billion in proprietary holdings. By 2007, its proprietary holdings had soared to \$313 billion. When the values of these holdings declined in 2007 and 2008, Lehman Brothers lost \$32 billion, its losses exceeded its net worth, and by September 2008, the firm had collapsed in the largest bankruptcy in history.

Senator MERKLEY and I propose an amendment that addresses these issues in the following ways:

First, commercial banks and their affiliates would be barred from high-risk proprietary trading. The risk to the federal deposit fund is simply too great to allow commercial banks to gamble as they can today.

This prohibition will not inhibit these institutions from serving their customers. Our amendment expressly permits carefully specified client-based transactions. That means that banks, through their broker-dealer affiliates, could buy or sell securities and other instruments as requested by clients. Those affiliates can also, for example, act as underwriter for a client issuing new stocks or bonds, provided those transactions are not allowed to endanger the safety and soundness of the bank.

Second, we limit proprietary trades at the largest nonbank financial institutions. These institutions would be required to keep enough capital on hand to ensure that they, and not the taxpayers, would cover their trading losses. That would limit the size of their proprietary activities. The regulators overseeing the financial system would be tasked with specifying the capital levels these institutions would be required to maintain, as well as limits on the amount of proprietary trading they could do, in order to protect the stability of the system. These restrictions would address one of the chronic problems that led to the crisis, that of financial institutions borrowing heavily to make their risky trades by leveraging their own funds, and jeopardizing the entire financial system when their risks overcame their own funds.

Third, we would address one of the most dramatic findings of our subcommittee's recent hearings, that of firms betting against financial instruments they are assembling and selling. As our hearing on investment banks showed, Goldman Sachs assembled and sold mortgage-related financial instruments, then placed large bets, for the firm's own accounts, against those very same instruments. In one case highlighted at the hearing, involving risky mortgage-backed securities, a Goldman trader bragged in an email that, although the firm lost \$2.5 million when the securities failed, Goldman made \$5 million on a bet placed against those very same securities. The

conflict of interest prohibition in our amendment is intended to prevent firms that assemble, underwrite, place or sponsor these instruments from making proprietary bets against those same instruments.

Assembling and selling financial instruments to its clients while betting against those same instruments did injury to Goldman's clients. The fact that the firm described these instruments, in its own emails, as "junk," added insult to injury. This isn't market making, bringing together two customers, a buyer and a seller, as Goldman executives claimed during our hearing. This is Goldman Sachs acting as its own secret client, betting against its customers. When members of the subcommittee asked Goldman executives about that conflict of interest, they answered by saying that we just understand, that this is how business is done on Wall Street. We understand all too well how business has been done on Wall Street. And that is why we must end the self-dealing and put a cop back on the beat on Wall Street.

Our amendment would protect depositors and taxpayers from the risk of proprietary trading at commercial banks. It will protect taxpayers from the dilemma of having to pay for Wall Street's risky bets, or watch our financial system disintegrate. And it would protect investors and the financial system at large from the conflicts of interest that too often represent business as usual on Wall Street. It will strengthen protections already in place in the bill before us, and add new ones to guard the stability of a financial system on which our economy and American jobs depend.

Senator MERKLEY and I have worked closely with a number of colleagues, including Senator DODD, as well as officials from the Treasury Department and the Securities and Exchange Commission, to ensure that our legislation would address the problems we seek to address without endangering legitimate market activity and activity on behalf of clients. It has been endorsed by former Federal Reserve Chairman Paul Volcker; business leaders such as John Reed, the former Chair and CEO of Citibank; and major organizations calling for real Wall Street reform, including the Independent Community Bankers of America, Americans for Financial Reform, and the AFL-CIO.

There is nothing wrong with Wall Street firms making a profit. What we oppose is the notion that in seeking such profit, these financial institutions can put depositors, clients, taxpayers, and the very safety of our financial system at risk. What we oppose is conflict of interest. I hope our colleagues will support these commonsense safeguards to strengthen the financial system and our economy.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

Mr. DODD. Madam President, I ask unanimous consent that on Tuesday, May 11, after any leader time, the Senate resume consideration of S. 3217, and debate concurrently the pending Sanders amendment No. 3738 and the Vitter amendment No. 3760; that prior to a vote in relation to each amendment, there be a total debate limit of 80 minutes, with 20 minutes each under the control of Senators SANDERS, VITTER, SHELBY, and DODD, or their designees; that upon the use or yielding back of all time, the Senate proceed to a vote in relation to the Sanders amendment, followed by a vote in relation to the Vitter amendment, with no amendment in order to either amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. DODD. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO MARC MORIN

• Mr. GREGG. Madam President, today I wish to recognize Marc Morin of Bow, NH. Since December 20, 2000, Marc has been a member of the New Hampshire Board of Professional Engineers and has ably served as its chairman since July 15, 2004. In August of this year, he will step down from that position, and I would like to take this opportunity to thank him for the professionalism and dedication he has demonstrated over the last 10 years.

The Board of Professional Engineers has the important mission of protecting the public's safety and insuring the State's engineers follow the proper operating rules and regulations. Because of his reputation as an environmental engineer in the private sector, Marc was an excellent choice as board chairman. His educational accomplishments, such as holding a master of science in water resource engineering, underscore his ability to understand and apply the often complex licensing and due process requirements the board must oversee.

My wife Kathy and I have had the pleasure of knowing Marc's wife's family for many years. He has been a great example of the strong commitment to

public service and volunteerism for which New Hampshire is so well known. While his leadership on the Board of Professional Engineers will be missed, I know we can continue to rely on the insight, sound judgments and guidance he displayed on the board. Thank you Marc!•

#### MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

#### PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—PM-53

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

*To the Congress of the United States:*

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)) (the "Act"), the text of a proposed Agreement Between the Government of the United States of America and the Government of the Russian Federation for Cooperation in the Field of Peaceful Uses of Nuclear Energy (the "Agreement"). I am also pleased to transmit my written approval of the proposed Agreement and determination that the proposed Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security, together with a copy of an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Agreement. In accordance with section 123 of the Act, as amended by title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105-277), classified annexes to the NPAS, prepared by the Secretary of State in consultation with the Director of National Intelligence, summarizing relevant classified information, will be submitted to the Congress separately.

The proposed Agreement was signed in Moscow on May 6, 2008. Former

President George W. Bush approved the Agreement and authorized its execution, and he made the determinations required by section 123 b. of the Act. (Presidential Determination 2008-19 of May 5, 2008, 73 FR 27719 (May 14, 2008)).

On May 13, 2008, President Bush transmitted the Agreement, together with his Presidential Determination, an unclassified NPAS, and classified annex, to the Congress for review (see House Doc. 110-112, May 13, 2008). On September 8, 2008, prior to the completion of the 90-day continuous session review period, he sent a message informing the Congress that "in view of recent actions by the Government of the Russian Federation incompatible with peaceful relations with its sovereign and democratic neighbor, Georgia," he had determined that his earlier determination (concerning performance of the proposed Agreement promoting, and not constituting an unreasonable risk to, the common defense and security) was no longer effective. He further stated that if circumstances should permit future reconsideration by the Congress, a new determination would be made and the proposed Agreement resubmitted.

After review of the situation and of the NPAS and classified annex, I have concluded: (1) that the situation in Georgia need no longer be considered an obstacle to proceeding with the proposed Agreement; and (2) that the level and scope of U.S.-Russia cooperation on Iran are sufficient to justify resubmitting the proposed Agreement to the Congress for the statutory review period of 90 days of continuous session and, absent enactment of legislation to disapprove it, taking the remaining steps to bring it into force.

The Secretary of State, the Secretary of Energy, and the members of the Nuclear Regulatory Commission (NRC) have recommended that I resubmit the proposed Agreement to the Congress for review. The joint memorandum submitted to me by the Secretaries of State and Energy and a letter from the Chairman of the NRC stating the views of the Commission are enclosed.

I have considered the views and recommendations of the interested departments and agencies in reviewing the proposed Agreement, and have determined that performance of the proposed Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the proposed Agreement and urge the Congress to give the proposed Agreement favorable consideration.

My reasons for resubmitting the proposed Agreement to the Congress for its review at this time are as follows:

The United States and Russia have significantly increased cooperation on nuclear nonproliferation and civil nuclear energy in the last 12 months,

starting with the establishment of the Bilateral Presidential Commission Working Group on Nuclear Energy and Security. In our July 2009 Joint Statement on Nuclear Cooperation, Russian President Medvedev and I acknowledged the shared vision between the United States and Russia of the growth of clean, safe, and secure nuclear energy for peaceful purposes and committed to work together to bring into force the agreement for nuclear cooperation to achieve this end. The Russian government has indicated its support for a new United Nations Security Council Resolution on Iran and has begun to engage on specific resolution elements with P5 members in New York. On April 8, 2010, the United States and Russia signed a historic New START Treaty significantly reducing the number of strategic nuclear weapons both countries may deploy. On April 13, both sides signed the Protocol to amend the 2000 U.S.-Russian Plutonium Management and Disposition Agreement, which is an essential step toward fulfilling each country's commitment to effectively and transparently dispose of at least 34 metric tons of excess weapon-grade plutonium, enough for about 17,000 nuclear weapons, with more envisioned to be disposed of in the future. Russia recently established an international nuclear fuel reserve in Angarsk to provide an incentive to other nations not to acquire sensitive uranium enrichment technologies. Joint U.S. and Russian leadership continue to successfully guide the Global Initiative to Combat Nuclear Terrorism as it becomes a durable international institution. The United States believes these events demonstrate significant progress in the U.S.-Russia nuclear nonproliferation relationship and that it is now appropriate to move forward with this Agreement for cooperation in the peaceful uses of nuclear energy.

The proposed Agreement has been negotiated in accordance with the Act and other applicable laws. In my judgment, it meets all applicable statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States.

The proposed Agreement provides a comprehensive framework for peaceful nuclear cooperation with Russia based on a mutual commitment to nuclear nonproliferation. It has a term of 30 years, and permits the transfer, subject to subsequent U.S. licensing decisions, of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production. It does not permit transfers of Restricted Data. Transfers of sensitive nuclear technology, sensitive nuclear facilities, and major critical components of such facilities may only occur if the Agreement is amended to cover such transfers. In the event of termination, key nonproliferation con-

ditions and controls continue with respect to material, equipment, and components subject to the Agreement.

The Russian Federation is a nuclear weapon state party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Like the United States, it has a "voluntary offer" safeguards agreement with the International Atomic Energy Agency (IAEA). That agreement gives the IAEA the right to apply safeguards on all source or special fissionable material at peaceful-use nuclear facilities on a list provided by Russia. The Russian Federation is also a party to the Convention on the Physical Protection of Nuclear Material, which establishes international standards of physical protection for the use, storage, and transport of nuclear material. It is also a member of the Nuclear Suppliers Group, whose non-legally binding guidelines set forth standards for the responsible export of nuclear commodities for peaceful use. A more detailed discussion of Russia's domestic civil nuclear program and its nuclear nonproliferation policies and practices, including its nuclear export policies and practices, is provided in the NPAS and in the classified annexes to the NPAS submitted to the Congress separately.

This transmittal shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Act. My Administration is prepared to immediately begin the consultations with the Senate Committee on Foreign Relations and House Committee on Foreign Affairs as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

BARACK OBAMA.

THE WHITE HOUSE, May 10, 2010.

#### MEASURES DISCHARGED

The following bill was discharged from the Committee on Foreign Relations, and referred as indicated:

S.J. Res. 29. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003; to the Committee on Finance.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5766. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Restrictions on the Use of Mandatory Arbitration Agreements" (DFARS Case 2010-D004) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Armed Services.

EC-5767. A communication from the Under Secretary of Defense (Personnel and Readiness), Department of Defense, transmitting, pursuant to law, a report relative to the Foreign Language Skill Proficiency Bonus program; to the Committee on Armed Services.

EC-5768. A communication from the Principal Deputy (Defense Research and Engineering), Department of Defense, transmitting, pursuant to law, a report entitled "Defense Production Act Annual Fund Report for Fiscal Year 2009"; to the Committee on Armed Services.

EC-5769. A communication from the Chief Counsel of the Fiscal Service, Bureau of Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Securities Held in TreasuryDirect" (31 CFR Part 363) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5770. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to the United Arab Emirates; to the Committee on Banking, Housing, and Urban Affairs.

EC-5771. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, a report entitled "Report on Emergency Technology for Use with ATMs"; to the Committee on Commerce, Science, and Transportation.

EC-5772. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicaid Program; State Allotment for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 2009 and Federal Fiscal Year 2010" (RIN0938-AP90) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Finance.

EC-5773. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, including, technical data, and defense services to the United Kingdom for the manufacture of X300 Transmissions, Parts, Components and Accessories to be used in military vehicles in the amount of \$100,000,000 or more; to the Committee on Foreign Relations.

EC-5774. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement for the export of defense articles, including, technical data, and defense services to South Korea, Qatar, United Arab Emirates, United Kingdom, the Netherlands, Thailand, Chile and Malaysia for the manufacture and sale of the Goalkeeper Gun Mount in the amount of \$1,000,000 or more; to the Committee on Foreign Relations.

EC-5775. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement for the export of defense articles, including, technical data, and defense services to Afghanistan to support the Global Maintenance and Supply Services, (GMASS), the M777A2

Sustainment, and the Mine Resistant Ambush Protected Vehicle Programs in the amount of \$50,000,000 or more; to the Committee on Foreign Relations.

EC-5776. A communication from the Regulations Coordinator, Office of the Secretary, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Health Care Reform Insurance Web Portal Requirements" (RIN0991-AB63) received in the Office of the President of the Senate on May 3, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-5777. A communication from the Office Manager, Office of the Secretary, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Early Retiree Reinsurance Program" (RIN0991-AB64) received in the Office of the President of the Senate on May 4, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-5778. A communication from the Executive Analyst, Office of the Secretary, Department of Health and Human Services, transmitting, pursuant to law, (34) reports relative to vacancies in the Department of Health and Human Services; to the Committee on Health, Education, Labor, and Pensions.

EC-5779. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Food and Drug Administration Advisory Committee Vacancies and Public Disclosures for FY 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-5780. A communication from the Secretary of the Department of Health and Human Services, transmitting, pursuant to law, a report relative to the Comprehensive Tuberculosis Elimination Act of 2008; to the Committee on Health, Education, Labor, and Pensions.

EC-5781. A communication from the Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Further Consolidation of CBP Drawback Centers" ((CBP Dec. 10-05) (RIN1651-AA79)) received in the Office of the President of the Senate on May 5, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-5782. A communication from the Department of State, transmitting, pursuant to law, a report relative to the transfer of detainees (OSS Control No. 2010-0668); to the Committee on the Judiciary.

EC-5783. A communication from the Department of State, transmitting, pursuant to law, a report relative to the transfer of detainees (OSS Control No. 2010-0666); to the Committee on the Judiciary.

EC-5784. A communication from the Chief of the Strategic Support Section, Federal Bureau of Investigation, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "FBI Criminal Justice Information Services Division User Fees" (RIN1110-AA26) received in the Office of the President of the Senate on May 5, 2010; to the Committee on the Judiciary.

EC-5785. A communication from the Rules Administrator, Office of General Counsel, Federal Bureau of Prisons, transmitting, pursuant to law, the report of a rule entitled "Inmate Communication with News Media: Removal of Byline Regulations" (RIN1120-AB49) received in the Office of the President of the Senate on May 4, 2010; to the Committee on the Judiciary.

EC-5786. A communication from the Chair, U.S. Sentencing Commission, transmitting, pursuant to law, the amendments to the federal sentencing guidelines that were proposed by the Commission during the 2009-2010 amendment cycle; to the Committee on the Judiciary.

EC-5787. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events" (Notice No. 2010-11) received in the Office of the President of the Senate on May 6, 2010; to the Committee on Rules and Administration.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 3237. A bill to enact certain laws relating to national and commercial space programs as title 51, United States Code, "National and Commercial Space Programs".

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BURR:

S. 3334. A bill to amend the Internal Revenue Code of 1986 to exempt survivor benefit annuity plan payments from the individual alternative minimum tax; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DEMINT:

S. Res. 519. A resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that the primary safeguards for the legal rights of children in the United States are the Constitutions of the United States and the several States, and that, because the use of international treaties to govern policy in the United States on families and children is contrary to principles of self-government and federalism, and that, because the United Nations Convention on the Rights of the Child undermines traditional principles of law in the United States regarding parents and children, the President should not transmit the Convention to the Senate for its advice and consent; to the Committee on Foreign Relations.

By Mr. BAUCUS (for himself and Mr. TESTER):

S. Res. 520. A resolution honoring the 100th anniversary of the establishment of Glacier National Park; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 405

At the request of Mr. LEAHY, the name of the Senator from Florida (Mr.

NELSON) was added as a cosponsor of S. 405, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 428

At the request of Mr. DORGAN, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 428, a bill to allow travel between the United States and Cuba.

S. 669

At the request of Mr. BURR, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 669, a bill to amend title 38, United States Code, to clarify the conditions under which certain persons may be treated as adjudicated mentally incompetent for certain purposes.

S. 777

At the request of Mr. BROWN of Ohio, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 777, a bill to promote industry growth and competitiveness and to improve worker training, retention, and advancement, and for other purposes.

S. 783

At the request of Mr. MENENDEZ, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 783, a bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf in the Mid-Atlantic and North Atlantic planning areas.

S. 891

At the request of Mr. BROWNBACK, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 891, a bill to require annual disclosure to the Securities and Exchange Commission of activities involving columbite-tantalite, cassiterite, and wolframite from the Democratic Republic of Congo, and for other purposes.

S. 941

At the request of Mr. CRAPO, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 981

At the request of Mr. REID, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 981, a bill to support research and public awareness activities with respect to inflammatory bowel disease, and for other purposes.

S. 1214

At the request of Mr. LIEBERMAN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 1214, a bill to conserve fish and



aquatic communities in the United States through partnerships that foster fish habitat conservation, to improve the quality of life for the people of the United States, and for other purposes.

S. 1233

At the request of Ms. LANDRIEU, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1233, a bill to reauthorize and improve the SBIR and STTR programs and for other purposes.

S. 1589

At the request of Ms. CANTWELL, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1589, a bill to amend the Internal Revenue Code of 1986 to modify the incentives for the production of biodiesel.

S. 1611

At the request of Mr. GREGG, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1611, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 2747

At the request of Mr. BINGAMAN, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 2747, a bill to amend the Land and Water Conservation Fund Act of 1965 to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund to maximize the effectiveness of the fund for future generations, and for other purposes.

S. 2869

At the request of Ms. LANDRIEU, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 2869, a bill to increase loan limits for small business concerns, to provide for low interest refinancing for small business concerns, and for other purposes.

S. 2885

At the request of Ms. LANDRIEU, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2885, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide adequate benefits for public safety officers injured or killed in the line of duty, and for other purposes.

S. 3036

At the request of Mr. BAYH, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 3036, a bill to establish the Office of the National Alzheimer's Project.

S. 3058

At the request of Mr. DORGAN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 3058, a bill to amend the Public Health Service Act to reauthor-

ize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3072

At the request of Mr. ROCKEFELLER, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Missouri (Mrs. MCCASKILL), the Senator from South Dakota (Mr. JOHNSON) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 3072, a bill to suspend, during the 2-year period beginning on the date of enactment of this Act, any Environmental Protection Agency action under the Clean Air Act with respect to carbon dioxide or methane pursuant to certain proceedings, other than with respect to motor vehicle emissions, and for other purposes.

S. 3165

At the request of Ms. LANDRIEU, the names of the Senator from New Mexico (Mr. UDALL), the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 3165, a bill to authorize the Administrator of the Small Business Administration to waive the non-Federal share requirement under certain programs.

S. 3202

At the request of Mr. LUGAR, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. 3202, a bill to promote the strengthening of the Haitian private sector.

S. 3213

At the request of Mr. LEVIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 3213, a bill to ensure that amounts credited to the Harbor Maintenance Trust Fund are used for harbor maintenance.

S. 3265

At the request of Mr. MCCAIN, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 3265, a bill to restore Second Amendment rights in the District of Columbia.

S. 3266

At the request of Mr. BENNET, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 3266, a bill to ensure the availability of loan guarantees for rural homeowners.

S. 3305

At the request of Mr. MENENDEZ, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 3305, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills, and for other purposes.

S.J. RES. 29

At the request of Mr. MCCONNELL, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S.J. Res. 29, a joint resolution

approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

At the request of Mrs. FEINSTEIN, the names of the Senator from Maryland (Mr. CARDIN), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S.J. Res. 29, *supra*.

S. RES. 511

At the request of Mr. LEAHY, the names of the Senator from New York (Mr. SCHUMER), the Senator from Utah (Mr. HATCH) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Res. 511, a resolution commemorating and acknowledging the dedication and sacrifices made by the Federal, State, and local law enforcement officers who have been killed or injured in the line of duty.

AMENDMENT NO. 3746

At the request of Mr. WHITEHOUSE, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of amendment No. 3746 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3766

At the request of Mr. DURBIN, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of amendment No. 3766 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3777

At the request of Mr. SCHUMER, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 3777 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3799

At the request of Mrs. HAGAN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of amendment No. 3799 intended to be proposed to S. 3217, an original bill to promote the financial stability of the



United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3808

At the request of Mr. FRANKEN, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 3808 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3812

At the request of Mr. HARKIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of amendment No. 3812 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3854

At the request of Mr. REED, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of amendment No. 3854 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3879

At the request of Ms. COLLINS, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of amendment No. 3879 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3897

At the request of Mr. DORGAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of amendment No. 3897 intended to be proposed to S. 3217, an original bill to promote the financial stability of the

United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3902

At the request of Mr. FRANKEN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of amendment No. 3902 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3919

At the request of Mr. CORNYN, his name was added as a cosponsor of amendment No. 3919 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

At the request of Mr. JOHANNES, his name was added as a cosponsor of amendment No. 3919 intended to be proposed to S. 3217, *supra*.

## AMENDMENT NO. 3920

At the request of Mr. HARKIN, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of amendment No. 3920 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## SUBMITTED RESOLUTIONS

SENATE RESOLUTION 519—EXPRESSING THE SENSE OF THE SENATE THAT THE PRIMARY SAFEGUARD FOR THE WELL-BEING AND PROTECTION OF CHILDREN IS THE FAMILY, AND THAT THE PRIMARY SAFEGUARDS FOR THE LEGAL RIGHTS OF CHILDREN IN THE UNITED STATES ARE THE CONSTITUTIONS OF THE UNITED STATES AND THE SEVERAL STATES, AND THAT, BECAUSE THE USE OF INTERNATIONAL TREATIES TO GOVERN POLICY IN THE UNITED STATES ON FAMILIES AND CHILDREN IS CONTRARY TO PRINCIPLES OF SELF-GOVERNMENT AND FEDERALISM, AND THAT, BECAUSE THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD UNDERMINES TRADITIONAL PRINCIPLES OF LAW IN THE UNITED STATES REGARDING PARENTS AND CHILDREN, THE PRESIDENT SHOULD NOT TRANSMIT THE CONVENTION TO THE SENATE FOR ITS ADVICE AND CONSENT

Mr. DEMINT submitted the following resolution; which was referred to the Committee on Foreign Relations:

## S. RES. 519

Whereas the Senate affirms the commitment of the people and the Government of the United States to the well-being, protection, and advancement of children, and the protection of the inalienable rights of all persons of all ages;

Whereas the Constitution and laws of the United States and those of the several States are the best guarantees against mistreatment of children in this Nation;

Whereas the Constitution, laws, and traditions of the United States affirm the rights of parents to raise their children and to impart their values and religious beliefs;

Whereas the United Nations Convention on the Rights of the Child, adopted at New York November 20, 1989, and entered into force September 2, 1990, if ratified, would become a part of the supreme law of the land, taking precedence over all State laws and constitutions;

Whereas the United States, and not the several States, would be held responsible for compliance with this Convention if ratified, and as a consequence, the United States would create an incredible expansion of subject matter jurisdiction over all matters concerning children, seriously undermining the constitutional balance between the Federal Government and the governments of the several States;

Whereas Professor Geraldine Van Bueren, the author of the principal textbook on the international rights of the child, and a participant in the drafting of the Convention, has described the “best interest of the child standard” in the treaty as “provid[ing] decision and policy makers with the authority to substitute their own decisions for either the child’s or the parents’”;

Whereas the Scottish Government has issued a pamphlet to children of that country explaining their rights under the Convention, which declares that children have the

right to decide their own religion and that parents can only provide advice;

Whereas the United Nations Committee on the Rights of the Child has repeatedly interpreted the Convention to ban common disciplinary measures utilized by parents;

Whereas the Government of the United Kingdom was found to be in violation of the Convention by the United Nations Committee on the Rights of the Child for allowing parents to exercise a right to opt their children out of sex education courses in the public schools without a prior government review of the wishes of the child;

Whereas the United Nations Committee on the Rights of the Child has held that the Governments of Indonesia and Egypt were out of compliance with the Convention because military expenditures were given inappropriate priority over children's programs;

Whereas these and many other interpretations of the Convention by those charged with its implementation and by other authoritative supporters demonstrates that the provisions of the United Nations Convention on the Rights of the Child are utterly contrary to the principles of law in the United States and the inherent principles of freedom;

Whereas the decisions and interpretations of the United Nations Committee on the Rights of the Child would be considered by the Committee to be binding and authoritative upon the United States should the United States Government ratify the Convention, such that the Convention poses a threat to the sovereign rights of the United States and the several States to make final determinations regarding domestic law; and

Whereas the proposition that the United States should be governed by international legal standards in its domestic policy is tantamount to proclaiming that the Congress of the United States and the legislatures of the several States are incompetent to draft domestic laws that are necessary for the proper protection of children, an assertion that is not only an affront to self-government but an inappropriate attack on the capability of legislators in the United States: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the United Nations Convention on the Rights of the Child, adopted at New York November 20, 1989, and entered into force September 2, 1990, is incompatible with the Constitution, the laws, and the traditions of the United States;

(2) the Convention would undermine proper presumptions of freedom and independence for families in the United States, supplanting those principles with a presumption in favor of governmental intervention without the necessity for proving harm or wrongdoing;

(3) the Convention would interfere with the principles of sovereignty, independence, and self-government in the United States that preclude the necessity or propriety of adopting international law to govern domestic matters; and

(4) the President should not transmit the Convention to the Senate for its advice and consent.

#### SENATE RESOLUTION 520—HONORING THE 100TH ANNIVERSARY OF THE ESTABLISHMENT OF GLACIER NATIONAL PARK

Mr. BAUCUS (for himself and Mr. TESTER) submitted the following reso-

lution; which was considered and agreed to:

##### S. RES. 520

Whereas Glacier National Park was established as the 10th National Park on May 11, 1910;

Whereas Glacier National Park is part of the Waterton-Glacier International Peace Park, the world's first international peace park;

Whereas Glacier National Park has a total of 25 named glaciers;

Whereas water originating in the park is considered the headwaters of three major drainages;

Whereas Glacier National Park is the core of the "Crown of the Continent Ecosystem", one of the country's largest intact ecosystems;

Whereas Glacier National Park encompasses over 1,000,000 acres, 762 lakes, more than 60 native species of mammals, 277 species of birds, and almost 2,000 plant species;

Whereas Glacier National Park's lands hold great spiritual importance to the Blackfeet and the Salish and Kootenai native peoples;

Whereas the Park contains 110 miles of the Continental Divide Trail;

Whereas the Going-to-the-Sun Road in Glacier National Park was completed in 1932 and is a National Historic Civil Engineering Landmark;

Whereas in 1976 Glacier was dedicated a Biosphere Reserve by UNESCO;

Whereas in 1995 Waterton-Glacier International Peace Park was designated a World Heritage Site; and

Whereas Glacier National Park receives approximately 2,000,000 visitors a year: Now, therefore, be it

*Resolved*, That the people of the United States should observe and celebrate the 100th anniversary of the establishment of Glacier National Park in Montana on May 11, 2010.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3922. Mr. MERKLEY (for himself, Mr. BROWN, of Ohio, Mrs. BOXER, Mr. FEINGOLD, Ms. SNOWE, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 3923. Mr. SCHUMER (for himself, Mr. REID, Mr. AKAKA, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3924. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3925. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3926. Ms. STABENOW (for herself, Mr. BENNETT, Mr. HATCH, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3927. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3928. Mr. BENNETT (for himself, Mr. TESTER, Mr. ISAKSON, Ms. KLOBUCHAR, Mr. BEGICH, Mr. UDALL, of Colorado, and Mr. LEMIEUX) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3929. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3930. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3931. Mr. MERKLEY (for himself, Mr. LEVIN, Mr. BROWN, of Ohio, Mr. KAUFMAN, Mrs. SHAHEEN, Mrs. FEINSTEIN, Mr. CASEY, Mr. NELSON, of Florida, Mr. BURRIS, Mr. BEGICH, Mr. INOUE, Mr. WHITEHOUSE, Mrs. MCCASKILL, Mr. UDALL, of Colorado, Ms. MIKULSKI, Mr. SANDERS, Mr. UDALL, of New Mexico, and Mr. REED) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3932. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3933. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3934. Mr. SCHUMER (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3935. Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3936. Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3937. Ms. LANDRIEU (for herself, Mr. CHAMBLISS, and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 3922.** Mr. MERKLEY (for himself, Mr. BROWN of Ohio, Mrs. BOXER, Mr.

FEINGOLD, Ms. SNOWE, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD, (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 392, strike line 6 and all that follows through the matter following line 2 on page 409, and insert the following:

“(D) to coordinate Federal efforts and develop Federal policy on prudential aspects of international insurance matters, including representing the United States, as appropriate, in the International Association of Insurance Supervisors (or a successor entity) and assisting the Secretary in negotiating Covered Agreements;

“(E) to determine, in accordance with subsection (f), whether State insurance measures are preempted by Covered Agreements;

“(F) to consult with the States (including State insurance regulators) regarding insurance matters of national importance and prudential insurance matters of international importance; and

“(G) to perform such other related duties and authorities as may be assigned to the Office by the Secretary.

“(2) ADVISORY FUNCTIONS.—The Office shall advise the Secretary on major domestic and prudential international insurance policy issues.

“(d) SCOPE.—The authority of the Office shall extend to all lines of insurance except health insurance, as such insurance is determined by the Secretary based on section 2791 of the Public Health Service Act (42 U.S.C. 300gg-91), and crop insurance, as established by the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

“(e) GATHERING OF INFORMATION.—

“(1) IN GENERAL.—In carrying out the functions required under subsection (c), the Office may—

“(A) receive and collect data and information on and from the insurance industry and insurers;

“(B) enter into information-sharing agreements;

“(C) analyze and disseminate data and information; and

“(D) issue reports regarding all lines of insurance except health insurance.

“(2) COLLECTION OF INFORMATION FROM INSURERS AND AFFILIATES.—

“(A) IN GENERAL.—Except as provided in paragraph (3), the Office may require an insurer, or any affiliate of an insurer, to submit such data or information as the Office may reasonably require in carrying out the functions described under subsection (c).

“(B) RULE OF CONSTRUCTION.—Notwithstanding any other provision of this section, for purposes of subparagraph (A), the term ‘insurer’ means any person that is authorized to write insurance or reinsure risks and issue contracts or policies in 1 or more States.

“(3) EXCEPTION FOR SMALL INSURERS.—Paragraph (2) shall not apply with respect to any insurer or affiliate thereof that meets a minimum size threshold that the Office may establish, whether by order or rule.

“(4) ADVANCE COORDINATION.—Before collecting any data or information under paragraph (2) from an insurer, or any affiliate of an insurer, the Office shall coordinate with each relevant State insurance regulator (or other relevant Federal or State regulatory agency, if any, in the case of an affiliate of an insurer) to determine if the information to be collected is available from, or may be obtained in a timely manner by, such State insurance regulator, individually or collectively, another regulatory agency, or publicly available sources. Notwithstanding any other provision of law, each such relevant State insurance regulator or other Federal or State regulatory agency is authorized to provide to the Office such data or information.

“(5) CONFIDENTIALITY.—

“(A) RETENTION OF PRIVILEGE.—The submission of any nonpublicly available data and information to the Office under this subsection shall not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State court) to which the data or information is otherwise subject.

“(B) CONTINUED APPLICATION OF PRIOR CONFIDENTIALITY AGREEMENTS.—Any requirement under Federal or State law to the extent otherwise applicable, or any requirement pursuant to a written agreement in effect between the original source of any nonpublicly available data or information and the source of such data or information to the Office, regarding the privacy or confidentiality of any data or information in the possession of the source to the Office, shall continue to apply to such data or information after the data or information has been provided pursuant to this subsection to the Office.

“(C) INFORMATION SHARING AGREEMENT.—Any data or information obtained by the Office may be made available to State insurance regulators, individually or collectively, through an information sharing agreement that—

“(i) shall comply with applicable Federal law; and

“(ii) shall not constitute a waiver of, or otherwise affect, any privilege under Federal or State law (including the rules of any Federal or State Court) to which the data or information is otherwise subject.

“(D) AGENCY DISCLOSURE REQUIREMENTS.—Section 552 of title 5, United States Code, shall apply to any data or information submitted to the Office by an insurer or an affiliate of an insurer.

“(6) SUBPOENAS AND ENFORCEMENT.—The Director shall have the power to require by subpoena the production of the data or information requested under paragraph (2), but only upon a written finding by the Director that such data or information is required to carry out the functions described under subsection (c) and that the Office has coordinated with such regulator or agency as required under paragraph (4). Subpoenas shall bear the signature of the Director and shall be served by any person or class of persons designated by the Director for that purpose. In the case of contumacy or failure to obey a subpoena, the subpoena shall be enforceable by order of any appropriate district court of the United States. Any failure to obey the order of the court may be punished by the court as a contempt of court.

“(f) PREEMPTION OF STATE INSURANCE MEASURES.—

“(1) STANDARD.—A State insurance measure shall be preempted if, and only to the extent that the Director determines, in accord-

ance with this subsection, that the measure—

“(A) directly treats less favorably a non-United States insurer domiciled in a foreign jurisdiction that is subject to a Covered Agreement than a United States insurer domiciled, licensed, or otherwise admitted in that State; and

“(B) is inconsistent with a Covered Agreement.

“(2) DETERMINATION.—

“(A) NOTICE OF POTENTIAL INCONSISTENCY.—Before making any determination under paragraph (1), the Director shall—

“(i) notify and consult with the appropriate State regarding any potential inconsistency or preemption;

“(ii) cause to be published in the Federal Register notice of the issue regarding the potential inconsistency or preemption, including a description of each State insurance measure at issue and any applicable Covered Agreements;

“(iii) provide interested parties a reasonable opportunity to submit written comments to the Office;

“(iv) consider any comments received; and

“(v) consider the effect of preemption on—

“(I) the protection of policyholders and policy claimants;

“(II) the maintenance of the safety, soundness, integrity, and financial responsibility of any entity involved in the business of insurance or insurance operations;

“(III) ensuring the integrity and stability of the United States financial system; and

“(IV) the creation of a gap or void in financial or market conduct regulation of any entity involved in the business of insurance or insurance operations in the United States; and

“(B) SCOPE OF REVIEW.—For purposes of this subsection, the determination of the Director regarding State insurance measures shall be limited to the subject matter contained within the Covered Agreement involved.

“(C) NOTICE OF DETERMINATION OF INCONSISTENCY.—Upon making any determination under paragraph (1), the Director shall—

“(i) notify the appropriate State of the determination and the extent of the inconsistency;

“(ii) establish a reasonable period of time, which shall not be less than 90 days, before the determination shall become effective;

“(iii) notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the inconsistency; and

“(iv) cause to be published in the Federal Register notice of the determination and the extent of the inconsistency.

“(3) NOTICE OF EFFECTIVENESS.—Upon the conclusion of the period referred to in paragraph (2)(C)(ii), if the basis for such determination still exists, the determination shall become effective and the Director shall—

“(A) cause to be published a notice in the Federal Register that the preemption has become effective, as well as the effective date; and

“(B) notify the appropriate State.

“(4) LIMITATION.—No State may enforce a State insurance measure to the extent that such measure has been preempted under this subsection.

“(g) APPLICABILITY OF ADMINISTRATIVE PROCEDURES ACT.—Determinations of inconsistency made pursuant to subsection (f)(2) shall be subject to the applicable provisions of subchapter II of chapter 5 of title 5, United

States Code (relating to administrative procedure), and chapter 7 of such title (relating to judicial review), except that in any action for judicial review of a determination of inconsistency, the court shall determine the matter de novo.

“(h) REGULATIONS, POLICIES, AND PROCEDURES.—The Secretary may issue orders, regulations, policies, and procedures to implement this section.

“(i) CONSULTATION.—The Director shall consult with State insurance regulators, individually or collectively, to the extent the Director determines appropriate, in carrying out the functions of the Office.

“(j) SAVINGS PROVISIONS.—Nothing in this section shall—

“(1) preempt—

“(A) any State insurance measure that governs any insurer's rates, premiums, underwriting, or sales practices;

“(B) any State coverage requirements for insurance;

“(C) the application of the antitrust laws of any State to the business of insurance; or

“(D) any State insurance measure governing the capital or solvency of an insurer, except to the extent that such State insurance measure directly treats a non-United States insurer less favorably than a United States insurer and in that case only to the extent of the less favorable treatment of the non-United States insurer domiciled in a foreign jurisdiction that is subject to a Covered Agreement;

“(2) be construed to alter, amend, or limit any provision of the Consumer Financial Protection Agency Act of 2010; or

“(3) affect the preemption of any State insurance measure otherwise inconsistent with and preempted by Federal law.

“(k) RETENTION OF EXISTING STATE REGULATORY AUTHORITY.—Nothing in this section or section 314 shall be construed to establish or provide the Office or the Department of the Treasury with general supervisory or regulatory authority over the business of insurance.

“(l) ANNUAL REPORT TO CONGRESS.—Beginning September 30, 2011, the Director shall submit a report on or before September 30 of each calendar year to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the insurance industry, any actions taken by the Office pursuant to subsection (f) (regarding preemption of inconsistent State insurance measures), the status of international insurance prudential matters and negotiations, including on standard-setting, and any other information as deemed relevant by the Director or as requested by such Committees.

“(m) STUDY AND REPORT ON REGULATION OF INSURANCE.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Government Accountability Office shall conduct a study and submit a report to Congress on how to modernize and improve the system of insurance regulation in the United States.

“(2) CONSIDERATIONS.—The study and report required under paragraph (1) shall be based on and guided by the following considerations:

“(A) Systemic risk regulation with respect to insurance.

“(B) Capital standards and the relationship between capital allocation and liabilities, including standards relating to liquidity and duration risk.

“(C) Consumer protection for insurance products and practices, including gaps in state regulation.

“(D) The degree of national uniformity of State insurance regulation, including the feasibility and costs and benefits of alternative Federal or State actions, such as interstate compacts, that would encourage the States to accomplish the regulatory goal of uniformity that may be identified as being achieved through any proposed Federal regulation of insurance.

“(E) The regulation of insurance companies and affiliates on a consolidated basis.

“(F) International coordination of insurance regulation.

“(3) ADDITIONAL FACTORS.—The study and report required under paragraph (1) shall also examine the following factors:

“(A) The costs and benefits of potential Federal regulation of insurance across various lines of insurance (except health insurance).

“(B) The feasibility of regulating only certain lines of insurance at the Federal level, while leaving other lines of insurance to be regulated at the State level.

“(C) The ability of any potential Federal regulation or Federal regulators to eliminate or minimize regulatory arbitrage.

“(D) The impact that developments in the regulation of insurance in foreign jurisdictions might have on the potential Federal regulation of insurance.

“(E) The ability of any potential Federal regulation or Federal regulator to provide robust consumer protection for policyholders.

“(F) The potential consequences of subjecting insurance companies to a Federal resolution authority, including the effects of any Federal resolution authority—

“(i) on the operation of State insurance guaranty fund systems, including the loss of guaranty fund coverage if an insurance company is subject to a Federal resolution authority;

“(ii) on policyholder protection, including the loss of the priority status of policyholder claims over other unsecured general creditor claims;

“(iii) in the case of life insurance companies, the loss of the special status of separate account assets and separate account liabilities; and

“(iv) on the international competitiveness of insurance companies.

“(G) Such other factors as the Government Accountability Office determines necessary or appropriate, consistent with the principles set forth in paragraph (2).

“(4) REQUIRED RECOMMENDATIONS.—The study and report required under paragraph (1) shall also contain any legislative, administrative, or regulatory recommendations, as the Government Accountability Office determines appropriate, to carry out or effectuate the findings set forth in such report.

“(5) CONSULTATION.—With respect to the study and report required under paragraph (1), the Government Accountability Office shall consult with the National Association of Insurance Commissioners, consumer organizations, representatives of the insurance industry and policyholders, and other organizations and experts, as appropriate.

“(n) DEFINITIONS.—In this section and section 314, the following definitions shall apply:

“(1) AFFILIATE.—The term ‘affiliate’ means, with respect to an insurer, any person who controls, is controlled by, or is under common control with the insurer.

“(2) INSURER.—The term ‘insurer’ means any person engaged in the business of insurance, including reinsurance.

“(3) COVERED AGREEMENTS.—The term ‘Covered Agreements’ means a written bilat-

eral or multilateral agreement entered into between the United States and a foreign government, authority, or regulatory entity after the date of the enactment of the Restoring American Financial Stability Act of 2010 regarding prudential measures applicable to the business of insurance or reinsurance that—

“(A) provides for recognition of other countries' prudential measures with respect to the business of insurance or reinsurance;

“(B) protects insurance consumers in the United States;

“(C) promotes the integrity and stability of the financial system; and

“(D) meets the regulatory goals of the States with respect to the comparable subject matter.

“(4) NON-UNITED STATES INSURER.—The term ‘non-United States insurer’ means an insurer that is organized under the laws of a jurisdiction other than a State, but does not include any United States branch of such an insurer.

“(5) OFFICE.—The term ‘Office’ means the Office of National Insurance established by this section.

“(6) STATE INSURANCE MEASURE.—The term ‘State insurance measure’ means any State law, regulation, administrative ruling, bulletin, guideline, or practice relating to or affecting prudential measures applicable to insurance or reinsurance.

“(7) STATE INSURANCE REGULATOR.—The term ‘State insurance regulator’ means any State regulatory authority responsible for the supervision of insurers.

“(8) UNITED STATES INSURER.—The term ‘United States insurer’ means—

“(A) an insurer that is organized under the laws of a State; or

“(B) a United States branch of a non-United States insurer.

“(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Office for each fiscal year such sums as may be necessary.

#### “SEC. 314. COVERED AGREEMENTS.

“(a) IN GENERAL.—The Secretary of the Treasury is authorized to negotiate and enter into Covered Agreements on behalf of the United States.

“(b) SAVINGS PROVISION.—Nothing in this section or section 313 shall be construed to affect the development and coordination of United States international trade policy or the administration of the United States trade agreements program. It is to be understood that the negotiation of Covered Agreements under such sections is consistent with the requirement of this subsection.

“(c) REQUIREMENTS FOR CONSULTATION.—

“(1) IN GENERAL.—Before initiating negotiations to enter into a Covered Agreement under subsection (a), during such negotiations, and before entering into any such agreement, the Secretary shall consult with the United States Trade Representative, the relevant Congressional committees, and the insurance commissioners of the States and territories of the United States.

“(2) APPLICATION OF APA.—The initiation of negotiations to enter into a Covered Agreement under subsection (a) and the decision to enter into any such Covered Agreement shall be subject to notice and comment rulemaking under the Administrative Procedures Act.

“(d) ENTRY INTO FORCE.—A Covered Agreement under subsection (a) may enter into force with respect to the United States only if—

“(1) the Secretary has made available for public review by posting in the Federal Register a copy of the final legal text of the Covered Agreement; and

“(2) a period of 90 calendar days beginning on the date on which the copy of the final legal text of the Covered Agreement is made available for public review under paragraph (1) has expired.”.

(b) DUTIES OF SECRETARY.—Section 321(a) of title 31, United States Code, is amended—

(1) in paragraph (7), by striking “; and” and inserting a semicolon;

(2) in paragraph (8)(C), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(9) advise the President on major domestic and international prudential policy issues in connection with all lines of insurance except health insurance.”.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 3 of title 31, United States Code, is amended by striking the item relating to section 312 and inserting the following new items:

“Sec. 312. Terrorism and financial intelligence.

“Sec. 313. Office of National Insurance.

“Sec. 314. Covered Agreements.

“Sec. 315. Continuing in office.”.

**SA 3923.** Mr. SCHUMER (for himself, Mr. REED, Mr. AKAKA, and Mr. MENENDEZ), submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1248, strike line 22 and all that follows through page 1249, line 10 and insert the following:

(1) COVERED PERSONS.—This section shall apply to any covered person who is not a person described in section 1025(a) or 1026(a).

On page 1255, line 5, strike “(A) IN GENERAL.—The Bureau” and insert the following:

“(A) NOTICE.—If the Federal Trade Commission is authorized to enforce any Federal consumer financial law described in paragraph (1), either the Bureau or the Federal Trade Commission shall serve written notice to the other of the intent to take any enforcement action, prior to initiating such an enforcement action, except that if the Bureau or the Federal Trade Commission, in filing the action, determines that prior notice is not feasible, the Bureau or the Federal Trade Commission may provide notice immediately upon initiating such enforcement action.

“(B) COORDINATION.—The Bureau”.

On page 1255, line 10, strike “(1)(A)”.

On page 1255, line 19, strike “(B)” and insert “(C)”.

On page 1256, line 15, strike “(C)” and insert “(D)”.

On page 1256, line 19, strike “(D)” and insert “(E)”.

On page 1255, line 10, strike “(1)(A)”.

**SA 3924.** Mr. SCHUMER submitted an amendment intended to be proposed to

amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1522, line 6, strike “date.” and insert the following: “date.”

#### SEC. 1105. FHA MORTGAGE INSURANCE PROGRAMS.

(a) FHA MORTGAGE AMOUNT LIMITS FOR ELEVATOR-TYPE STRUCTURES.—

(1) AMENDMENTS.—Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended—

(A) in section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A))—

(i) by inserting “with sound standards of construction and design” after “elevator-type structures”; and

(ii) by striking “to not to exceed” and all that follows through the semicolon at the end and inserting “by not more than 50 percent of the amounts specified in this subparagraph for each unit size;”;

(B) in section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A))—

(i) by inserting “with sound standards of construction and design” after “consist of elevator-type structures”; and

(ii) by striking “to not to exceed” and all that follows through “(B)(i)” and inserting “by not more than 50 percent of the amounts specified in this subparagraph for each applicable family unit size; (B)(i)”;

(C) in section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I))—

(i) by inserting “with sound standards of construction and design” after “consist of elevator-type structures”; and

(ii) by striking “family unit not to exceed” and all that follows through “design; and” and inserting “family unit by not more than 50 percent of the amounts specified in this subclause for each applicable family unit size; and”;

(D) in section 221(d) (12 U.S.C. 1715l(d))—

(i) in paragraph (3)(ii)(I)—

(I) by inserting “with sound standards of construction and design” after “consist of elevator-type structures”; and

(II) by striking “to not to exceed” and all that follows through “design;” and inserting “by not more than 50 percent of the amounts specified in this subclause for each applicable family unit size;”;

(ii) in paragraph (4)(ii)(I)—

(I) by inserting “with sound standards of construction and design” after “consist of elevator-type structures”; and

(II) by striking “to not to exceed” and all that follows through “design;” and inserting “by not more than 50 percent of the amounts specified in this subclause for each applicable family unit size;”;

(E) in section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A))—

(i) by inserting “with sound standards of construction and design” after “consist of elevator-type structures”; and

(ii) by striking “to not to exceed” and all that follows through “design;” and inserting “by not more than 50 percent of the amounts specified in this subparagraph for each applicable family unit size;”;

(F) in section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A))—

(i) by inserting “with sound standards of construction and design” after “consist of elevator-type structures”; and

(ii) by striking “to not to exceed” and all that follows through “sound standards of construction and design;” and inserting “by not more than 50 percent of the amounts specified in this subparagraph for each applicable family unit size;”.

(b) FHA MORTGAGE AMOUNT LIMITS FOR EXTREMELY HIGH-COST AREAS.—Section 214 of the National Housing Act (12 U.S.C. 1715d) is amended—

(1) in the first sentence—

(A) by inserting “or with respect to projects consisting of more than four dwelling units located in an extremely high-cost area, as determined by the Secretary” after “or the Virgin Islands;”;

(B) by striking “or the Virgin Islands without sacrifice” and inserting “or the Virgin Islands, or to construct projects consisting of more than four dwelling units on property located in an extremely high-cost area, as determined by the Secretary, without sacrifice”; and

(C) by striking “or the Virgin Islands in such” and inserting “or the Virgin Islands, or with respect to projects consisting of more than four dwelling units located in an extremely high-cost area, as determined by the Secretary, in such”;

(2) in the second sentence—

(A) by striking “the Virgin Islands shall” and inserting “the Virgin Islands, or with respect to a project consisting of more than four dwelling units located in an extremely high-cost area, as determined by the Secretary, shall”; and

(B) by striking “Virgin Islands:” and inserting “Virgin Islands, or in the case of a project consisting of more than four dwelling units in an extremely high-cost area as determined by the Secretary, in such extremely high-cost area:”;

(3) in the section heading, by striking “AND THE VIRGIN ISLANDS” and inserting “THE VIRGIN ISLANDS, AND EXTREMELY HIGH-COST AREAS”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to mortgages insured under title II of the National Housing Act on and after the date of enactment of this Act.

**SA 3925.** Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1004, strike line 15 and all that follows through page 1044, line 2, and insert the following:

#### SEC. 931. REMOVAL OF REFERENCES TO CREDIT RATINGS IN FEDERAL LAW.

(a) COVERED FEDERAL AGENCY.—In this section, the term “covered Federal agency” means—

- (1) the Commission;
- (2) the Corporation;

- (3) the Board of Governors;
- (4) the National Credit Union Administration;
- (5) the Federal Housing Finance Agency; and
- (6) the Office of the Comptroller of the Currency.

(b) REVIEW BY COVERED FEDERAL AGENCIES.—Not later than 2 years after the date of enactment of this Act, each covered Federal agency shall—

(1) review all statutes, rules, regulations, forms, and interpretive guidance administered or issued by the covered Federal agency to identify references to the term “nationally recognized statistical rating organization”;

(2) amend the rules, regulations, forms, and interpretive guidance that the covered Federal agency has identified under paragraph (1) to ensure that the rules, regulations, forms, and interpretive guidance neither require nor promote reliance by persons regulated by the covered Federal agency on credit ratings issued by a nationally recognized statistical rating organization; and

(3) submit to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that contains recommendations for amendments to any statute that the covered Federal agency has identified under paragraph (1) to ensure that the statute neither requires nor promotes reliance on credit ratings issued by a nationally recognized statistical rating organization.

(c) REVIEW BY COMPTROLLER GENERAL.—

(1) REVIEW REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall—

(A) review all statutes, rules, regulations, forms, and interpretive guidance administered or issued by each Federal agency that is not a covered Federal agency to identify references to the term “nationally recognized statistical rating organization”;

(B) recommend to each Federal agency that is not a covered Federal agency, and for which the Comptroller General has identified rules, regulations, forms, and interpretive guidance under subparagraph (A), amendments to the relevant rules, regulations, forms, and interpretive guidance to ensure that the rules, regulations, forms, and interpretive guidance neither require nor promote reliance by persons regulated by the Federal agency on credit ratings issued by a nationally recognized statistical rating organization; and

(C) submit to Congress a report that contains recommendations for amendments to any statute that the Comptroller General has identified under subparagraph (A) to ensure that the statute neither requires nor promotes reliance on credit ratings issued by a nationally recognized statistical rating organization.

(2) AMENDMENTS.—Not later than 2 years after the date of enactment of this Act, any Federal agency to which the Comptroller General has made a recommendation under paragraph (1)(B) shall amend any rules, regulations, forms, or interpretive guidance identified by the Comptroller General to ensure that the rules, regulations, forms, or interpretive guidance neither require nor promote reliance by persons regulated by the Federal agency on credit ratings issued by a nationally recognized credit rating organization.

**SA 3926.** Ms. STABENOW (for herself, Mr. BENNETT, Mr. HATCH, and Mr.

LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, strike lines 14 through 20 and insert the following:

(ii) results from—

(I) the merger or whole acquisition of a commercial firm that directly or indirectly controls the industrial bank, credit card bank, or trust bank in a bona fide merger with or acquisition by another commercial firm, as determined by the appropriate Federal banking agency;

(II) an acquisition of voting shares in a publicly traded holding company of a industrial bank if, after the acquisition, the acquiring shareholder (or group of shareholders acting in concert)—

(aa) holds less than 25 percent of the voting shares of the company; and

(bb) has obtained all regulatory approvals required for such change of control under section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) and any applicable State law; or

(III) an internal reorganization of affiliated entities in which the ownership of the industrial bank, credit card bank, or trust bank is transferred from one affiliate to another after receiving all regulatory approvals required for such change of control under section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) and any applicable State law.

**SA 3927.** Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 749, line 17 strike all through page 752, line 11, and insert the following:

“(2) PROHIBITION OF DISCLOSURE OF IDENTITY.—

“(A) IN GENERAL.—Except as provided in paragraph (B) of this subsection, or with the written consent of the whistleblower, the Commission may not disclose the name, identity or identifying information about the whistleblower who has provided information to the Commission.

“(B) NOTICE AND APPLICABILITY TO OTHER GOVERNMENT AGENCIES AND FOREIGN AUTHORITIES.—Whenever the Commission makes a disclosure to other agencies and foreign authorities, it shall provide reasonable advance notice to the whistleblower if disclosure of that person’s identity or identifying information is to occur. Any entity that receives

such as disclosure shall protect the whistleblower’s confidentiality in accordance with this subsection.

On page 990, line 7, strike all through page 993, line 7, and insert the following:

“(2) PROHIBITION OF DISCLOSURE OF IDENTITY.—

“(A) IN GENERAL.—Except as provided in paragraph (B), or with the written consent of the whistleblower, the Commission may not disclose the name, identity or identifying information about the whistleblower who has provided information to the Commission.

“(B) NOTICE AND APPLICABILITY TO OTHER GOVERNMENT AGENCIES AND FOREIGN AUTHORITIES.—Whenever the Commission makes a disclosure to other agencies and foreign authorities, it shall provide reasonable advance notice to the whistleblower if disclosure of that person’s identity or identifying information is to occur. Any entity that receives such as disclosure shall protect the whistleblower’s confidentiality in accordance with this subsection.

**SA 3928.** Mr. BENNET (for himself, Mr. TESTER Mr. ISAKSON, Ms. KLOBUCHAR, Mr. BEGICH, Mr. UDALL of Colorado, and Mr. LEMIEUX) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

#### TITLE XIII—PAY IT BACK ACT

##### SEC. 1301. SHORT TITLE.

This title may be cited as the “Pay It Back Act”.

##### SEC. 1302. AMENDMENT TO REDUCE TARP AUTHORIZATION.

Section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225(a)) is amended—

(1) in paragraph (3)—

(A) by striking “If” and inserting “Except as provided in paragraph (4), if”;

(B) by striking “, \$700,000,000,000, as such amount is reduced by \$1,259,000,000, as such amount is reduced by \$1,244,000,000” and inserting “\$550,000,000,000”; and

(C) by striking “outstanding at any one time”; and

(2) by adding at the end the following:

“(4) If the Secretary, with the concurrence of the Chairman of the Board of Governors of the Federal Reserve System, determines that there is an immediate and substantial threat to the economy arising from financial instability, the Secretary is authorized to purchase troubled assets under this Act in an amount equal to amounts received by the Secretary before, on, or after the date of enactment of the Pay It Back Act for repayment of the principal of financial assistance by an entity that has received financial assistance under the TARP or any other program enacted by the Secretary under the authorities granted to the Secretary under this Act, but only—

“(A) to the extent necessary to address the threat; and

“(B) upon transmittal of such determination, in writing, to the appropriate committees of Congress.”.



**SEC. 1303. REPORT.**

Section 106 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5216) is amended by inserting at the end the following:

“(f) REPORT.—The Secretary of the Treasury shall report to Congress every 6 months on amounts received and transferred to the general fund under subsection (d).”.

**SEC. 1304. AMENDMENTS TO HOUSING AND ECONOMIC RECOVERY ACT OF 2008.**

(a) SALE OF FANNIE MAE OBLIGATIONS AND SECURITIES BY THE TREASURY; DEFICIT REDUCTION.—Section 304(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(g)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

“(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

“(i) dedicated for the sole purpose of deficit reduction; and

“(ii) prohibited from use as an offset for other spending increases or revenue reductions.”.

(b) SALE OF FREDDIE MAC OBLIGATIONS AND SECURITIES BY THE TREASURY; DEFICIT REDUCTION.—Section 306(1)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(1)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

“(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

“(i) dedicated for the sole purpose of deficit reduction; and

“(ii) prohibited from use as an offset for other spending increases or revenue reductions.”.

(c) SALE OF FEDERAL HOME LOAN BANKS OBLIGATIONS BY THE TREASURY; DEFICIT REDUCTION.—Section 11(1)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1431(1)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

“(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

“(i) dedicated for the sole purpose of deficit reduction; and

“(ii) prohibited from use as an offset for other spending increases or revenue reductions.”.

(d) REPAYMENT OF FEES.—Any periodic commitment fee or any other fee or assessment paid by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation to the Secretary of the Treasury as a result of any preferred stock purchase agreement, mortgage-backed security purchase program, or any other program or activity authorized or carried out pursuant to the authorities granted to the Secretary of the Treasury under section 1117 of the Housing and Economic Recovery Act of 2008 (Public Law 110-289; 122 Stat. 2683), including any

fee agreed to by contract between the Secretary and the Association or Corporation, shall be deposited in the General Fund of the Treasury where such amounts shall be—

(1) dedicated for the sole purpose of deficit reduction; and

(2) prohibited from use as an offset for other spending increases or revenue reductions.

**SEC. 1305. FEDERAL HOUSING FINANCE AGENCY REPORT.**

The Director of the Federal Housing Finance Agency shall submit to Congress a report on the plans of the Agency to continue to support and maintain the Nation's vital housing industry, while at the same time guaranteeing that the American taxpayer will not suffer unnecessary losses.

**SEC. 1306. REPAYMENT OF UNOBLIGATED ARRA FUNDS.**

(a) REJECTION OF ARRA FUNDS BY STATE.—Section 1607 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 305) is amended by adding at the end the following:

“(d) STATEWIDE REJECTION OF FUNDS.—If funds provided to any State in any division of this Act are not accepted for use by the Governor of the State pursuant to subsection (a) or by the State legislature pursuant to subsection (b), then all such funds shall be—

“(1) rescinded; and

“(2) deposited in the General Fund of the Treasury where such amounts shall be—

“(A) dedicated for the sole purpose of deficit reduction; and

“(B) prohibited from use as an offset for other spending increases or revenue reductions.”.

(b) WITHDRAWAL OR RECAPTURE OF UNOBLIGATED FUNDS.—Title XVI of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 302) is amended by adding at the end the following:

**“SEC. 1613. WITHDRAWAL OR RECAPTURE OF UNOBLIGATED FUNDS.**

“Notwithstanding any other provision of this Act, if the head of any executive agency withdraws or recaptures for any reason funds appropriated or otherwise made available under this division, and such funds have not been obligated by a State to a local government or for a specific project, such recaptured funds shall be—

“(1) rescinded; and

“(2) deposited in the General Fund of the Treasury where such amounts shall be—

“(A) dedicated for the sole purpose of deficit reduction; and

“(B) prohibited from use as an offset for other spending increases or revenue reductions.”.

(c) RETURN OF UNOBLIGATED FUNDS BY END OF 2012.—Section 1603 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 302) is amended by—

(1) striking “All funds” and inserting “(a) IN GENERAL.—All funds”; and

(2) adding at the end the following:

“(b) REPAYMENT OF UNOBLIGATED FUNDS.—Any discretionary appropriations made available in this division that have not been obligated as of December 31, 2012, are hereby rescinded, and such amounts shall be deposited in the General Fund of the Treasury where such amounts shall be—

“(1) dedicated for the sole purpose of deficit reduction; and

“(2) prohibited from use as an offset for other spending increases or revenue reductions.

“(c) PRESIDENTIAL WAIVER AUTHORITY.—

“(1) IN GENERAL.—The President may waive the requirements under subsection (b), if the

President determines that it is not in the best interest of the Nation to rescind a specific unobligated amount after December 31, 2012.

“(2) REQUESTS.—The head of an executive agency may also apply to the President for a waiver from the requirements under subsection (b).”.

**SA 3929.** Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1223, line 8, strike Sec. 1017, and insert the following:

**SEC. 1017. FUNDING; PENALTIES AND FINES.**

(a) OVERALL OPERATING BUDGET.—

(1) IN GENERAL.—Eighteen months after the designated transfer date, and annually thereafter, the Director shall prepare an operating budget for the Bureau. The Director shall submit the budget to the Board of Governors for approval.

(2) BUDGET ITEMIZATION REQUIRED.—The Director shall include in each budget submitted pursuant to paragraph (1) an itemization of the amount of funds necessary to carry out the functions of the Bureau, including any expenditures necessary to address recommendations or findings of material deficiencies by the Comptroller General of the United States.

(b) FEES AND ASSESSMENTS.—

(1) IN GENERAL.—The Bureau shall establish, by rule, assessment schedules, including the assessment base and rates, applicable to nondepository covered persons described in section 1024(a).

(2) NONDEPOSITORY COVERED PERSONS.—The assessments imposed by the Bureau by rules established pursuant to paragraph (1) shall, with respect to covered persons described in section 1024(a), be set to recover the costs of the Bureau in carrying out its supervisory and enforcement responsibilities described in section 1024.

(3) TRANSFER OF FUNDS FROM BOARD OF GOVERNORS.—To the extent that assessments do not provide funding sufficient to meet the amount subject to the limitation in paragraph (4), funds shall be transferred from the Board of Governors.

(4) LIMITATION.—The assessments imposed by the Bureau by rules established pursuant to paragraph (1) and any funds transferred from the Board of Governors collectively shall not exceed 5 percent of the total operating expenses of the Federal Reserve System, as reported in the Annual Report of the Board of Governors for fiscal year 2006.

(c) FUND ESTABLISHED.—

(1) IN GENERAL.—The Secretary shall establish in the Treasury of the United States, a separate account, to be known as the “Consumer Financial Protection Fund” (referred to in this title as the “CFP Fund”). Fees and assessments collected under this section shall be deposited into the CFP Fund.

(2) RULE OF CONSTRUCTION.—Any amounts deposited into the CFP Fund may not be construed to be Government funds or appropriated monies.



(3) NO APPORTIONMENT.—Any amounts deposited into the CFP Fund shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.

(4) AVAILABILITY.—Funds in the CFP Fund shall be immediately available to the Bureau and under the control of the Bureau, and shall remain available until expended, to pay the expenses of the Bureau in carrying out its duties and responsibilities.

(d) FINANCIAL, OPERATING PLANS AND FORECASTS.—

(1) OPERATING PLANS AND FORECASTS.—The Director shall provide to the Director of the Office of Management and Budget copies of the financial operating plans and forecasts of the Director, as prepared by the Director in the ordinary course of the operations of the Bureau, and copies of the quarterly reports of the financial condition and results of operations of the Bureau, as prepared by the Director in the ordinary course of the operations of the Bureau.

(2) FINANCIAL STATEMENTS.—The Bureau shall prepare annually a statement of—

(A) assets and liabilities and surplus or deficit;

(B) income and expenses; and

(C) sources and application of funds.

(3) FINANCIAL MANAGEMENT SYSTEMS.—The Bureau shall implement and maintain financial management systems that comply with Federal financial management systems requirements and applicable Federal accounting standards.

(4) ASSERTION OF INTERNAL CONTROLS.—The Director shall provide to the Comptroller General of the United States an assertion as to the effectiveness of the internal controls that apply to financial reporting by the Bureau, using the standards established under section 3512(c) of title 31, United States Code.

(5) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the Director to consult with or obtain the consent or approval of the Director of the Office of Management and Budget with respect to any report, plan, forecast, or other information referred to in this subsection or any jurisdiction or oversight over the affairs or operations of the Bureau.

(e) AUDIT OF THE BUREAU.—

(1) IN GENERAL.—The Comptroller General of the United States shall annually audit the financial transactions of the Bureau in accordance with the United States generally accepted government auditing standards, as may be prescribed by the Comptroller General. The audit shall be conducted at the place or places where accounts of the Bureau are normally kept. The representatives of the Government Accountability Office shall have access to the personnel and to all books, accounts, documents, papers, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to or under the control of or used or employed by the Bureau pertaining to its financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, documents, records, reports, files, papers, and property of the Bureau shall remain in possession and custody of the Bureau. The Comptroller General may obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to such audit without cost to the Comptroller General, and the right of the Comptroller General to access to such information shall be enforceable pursuant to section 716(c) of title 31, United States Code.

(2) REPORT.—

(A) REPORT ON ANNUAL AUDIT.—The Comptroller General shall submit to the Congress a report of each annual audit conducted under this subsection, which report shall—

(i) set forth the scope of the audit;

(ii) include the statement of—

(I) assets and liabilities and surplus or deficit;

(II) income and expenses; and

(III) sources and application of funds;

(iii) include any detailed findings of material deficiencies;

(iv) include such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Bureau; and

(v) be presented, together with recommendations with respect thereto, as the Comptroller General may deem necessary and advisable to improve the business practices of the Bureau or correct any material deficiencies.

(B) COPIES.—A copy of each report submitted under subparagraph (A) shall be furnished to the President and to the Bureau at the time such report is submitted to Congress.

(C) FOLLOW-UP REPORT.—The Bureau shall submit to Congress a report following each annual audit conducted under this subsection that includes a detailed explanation of any recommendations or findings of material deficiencies, together with a corrective action plan, including a timeline, for addressing the findings and recommendations of the Comptroller General.

(3) ASSISTANCE AND COSTS.—For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special purposes. Upon the request of the Comptroller General, the Director of the Bureau shall transfer to the Government Accountability Office from funds available, the amount requested by the Comptroller General to cover the full costs of any audit and report conducted by the Comptroller General under this subsection. The Comptroller General shall credit funds transferred to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the audit and report.

(f) TRANSITION.—Until such time as an assessment schedule has been established pursuant to this section and the necessary contributions have been deposited into the CFP Fund, the functions assigned under this section to the Bureau shall be funded in accordance with section 1066(c).

(g) LIMITATION ON DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—None of the funds made available under this title shall be used for or to support private litigation or to fund political activities, nor be provided to any—

(A) organization which has been indicted for a violation under Federal law relating to an election for Federal office; and

(B) organization which employs any applicable individual.

(2) APPLICABLE INDIVIDUALS DEFINED.—In this subsection, the term “applicable individual” means an individual who—

(A) is—

(i) employed by the organization in a permanent or temporary capacity;

(ii) contracted or retained by the organization; or

(iii) acting on behalf of, or with the express or apparent authority of, the organization; and

(B) has been indicted for a violation under Federal law relating to an election for Federal office.

(h) APPEARANCES BEFORE CONGRESS.—The Director of the Bureau shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at semi-annual hearings regarding the reports required under subsection (i).

(i) REPORTS REQUIRED.—The Director shall, concurrent with each semi-annual hearing referred to in subsection (a), prepare and submit to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services.

On page 1210, strike line 1 and all that follows through page 1211, line 19.

**SA 3930.** Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1290, between lines 4 and 5, insert the following:

(s) NO AUTHORITY OVER UNDERWRITING STANDARDS FOR RESIDENTIAL MORTGAGE LOANS.—

(1) RULE OF CONSTRUCTION.—Nothing in this title may be construed as conferring authority on the Bureau to exercise any rule-making or other authority for matters pertaining to underwriting standards with respect to residential mortgage loans, except as otherwise authorized under section 1024.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term “residential mortgage loan” means any extension of credit primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent security interest in a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling; and

(B) the terms “credit” and “dwelling” have the same meanings as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

On page 1430, strike line 8 and all that follows through page 1440, line 21.

**SA 3931.** Mr. MERKLEY (for himself, Mr. LEVIN, Mr. BROWN of Ohio, Mr. KAUFMAN, Mrs. SHAHEEN, Mrs. FEINSTEIN, Mr. CASEY, Mr. NELSON of Florida, Mr. BURRIS, Mr. BEGICH, Mr. INOUE, Mr. WHITEHOUSE, Mrs. MCCASKILL, Mr. UDALL of Colorado, Ms. MIKULSKI, Mr. SANDERS, Mr. UDALL of New Mexico, and Mr. REED) submitted

an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 484, strike line 16 and all that follows through page 497, line 8, and insert the following:

**SEC. 619. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following:

**“SEC. 13. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

“(a) IN GENERAL.—

“(1) PROHIBITION.—Unless otherwise provided in this section, a banking entity shall not—

“(A) engage in proprietary trading; or

“(B) acquire or retain any equity, partnership, or other ownership interest in or sponsor a hedge fund or a private equity fund.

“(2) NONBANK FINANCIAL COMPANIES.—Any nonbank financial company supervised by the Board that engages in proprietary trading or takes or retains any equity, partnership, or other ownership interest in or sponsors a hedge fund or a private equity fund shall be subject by the Board, in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission, to additional capital requirements for and additional quantitative limits with regards to such proprietary trading and taking or retaining any equity, partnership, or other ownership interest in or sponsorship of a hedge fund or a private equity fund, except that permitted activities as described in subsection (d) shall be subject to additional capital and additional quantitative limits as prescribed pursuant to subsection (d)(3).

“(b) STUDY AND RULEMAKING.—

“(1) STUDY.—

“(A) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Financial Stability Oversight Council shall study and make recommendations on implementing the provisions of this section.

“(B) CONTENTS OF STUDY.—Not later than 6 months after the date of enactment of this Act, the Council shall study and make recommendations on implementing the provisions of this section so as to—

“(i) promote and enhance the safety and soundness of banking entities;

“(ii) protect taxpayers and enhance financial stability by minimizing the risk that depository institutions and the affiliates of depository institutions will engage in unsafe and unsound activities;

“(iii) limit the inappropriate transfer of Federal subsidies from institutions that benefit from deposit insurance and liquidity facilities of the Federal Government to unregulated entities;

“(iv) reduce conflicts of interest between the self-interest of banking entities and nonbank financial companies, and the interests of the customers of such entities and companies;

“(v) not unreasonably raise the cost of credit or other financial services, reduce the availability of credit or other financial services, or impose other costs on households and businesses in the United States;

“(vi) limit activities that have caused undue risk or loss in banking entities and nonbank financial companies, or that might reasonably be expected to create undue risk or loss in such banking entities and nonbank financial companies; and

“(vii) appropriately accommodate the business of insurance within an insurance company subject to regulation in accordance with the relevant insurance company investment laws while protecting the safety and soundness of an affiliated insured depository institution and the United States financial system.

“(2) RULEMAKING.—

“(A) IN GENERAL.—Not later than 9 months after the completion of the study under paragraph (1), the appropriate Federal banking agencies, in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission, (unless otherwise provided in this section) shall consider the findings of the study under paragraph (1) and adopt rules to carry out this section.

“(B) COORDINATED RULEMAKING.—

“(i) COORDINATION, CONSISTENCY, AND COMPARABILITY.—In developing and issuing regulations pursuant to this section, the agencies shall consult and coordinate with each other for the purposes of assuring, to the extent possible, that such regulations are comparable and provide for consistent application and implementation of the applicable provisions of this section to avoid providing advantages or imposing disadvantages to the companies affected by this subsection and to protect the safety and soundness of the banking entities and nonbank financial companies supervised by the Board.

“(ii) COUNCIL ROLE.—The chairperson of the Council shall be responsible for coordination of the regulations issued under this section.

“(c) EFFECTIVE DATE.—The provisions of this section shall take effect 18 months after the date of adoption of final rules under subsection (b)(2), but not later than 3 years after the date of enactment of this section.

“(d) PERMITTED ACTIVITIES.—

“(1) IN GENERAL.—Notwithstanding the restrictions in subsection (a), to the extent permitted by other laws or regulations, and subject to the limitations under paragraph (2) and any restrictions or limitations that the appropriate Federal banking agencies, in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission, may jointly determine, the following activities (in this section referred to as ‘permitted activities’) are permitted:

“(A) The purchase, sale, acquisition, or disposition of obligations of the United States or any agency thereof; obligations, participations, or other instruments of or issued by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a Federal Home Loan Bank, the Federal Agricultural Mortgage Corporation, or a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and obligations of any State or of any political subdivision thereof.

“(B) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (i)(4) in connection with underwriting, market-making, or in fa-

cilitation of customer relationships, to the extent that any such activities permitted by this subparagraph are designed to not exceed the reasonably expected near term demands of clients, customers, or counterparties.

“(C) Risk-mitigating hedging activities designed to reduce risks to the banking entity or nonbank financial company.

“(D) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (i)(4) on behalf of customers.

“(E) Investments in one or more small business investment companies or investments designed primarily to promote the public welfare, as provided in paragraph (11) of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24).

“(F) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (i)(4) by a regulated insurance company directly engaged in the business of insurance for the general account of the company and by any affiliate of such regulated insurance company provided such activities are solely for the general account of the regulated insurance company, if—

“(i) the purchase, sale, acquisition, or disposition is conducted in compliance with, and subject to, the insurance company investment laws, regulations, and written guidance of the State or jurisdiction in which each such insurance company is domiciled; and

“(ii) the appropriate Federal banking agencies, after consultation with the Financial Stability Oversight Council and the relevant insurance commissioners of the States and territories of the United States, have not jointly determined, after notice and comment, that a particular law, regulation, or written guidance described in clause (i) is insufficient to protect the safety and soundness of the company or the banking entity or the financial stability of the United States.

“(G) Proprietary trading conducted by a company pursuant to paragraph (9) or (13) of section 4(c), provided that the trading occurs solely outside of the United States and that the company is not directly or indirectly controlled by a United States person.

“(H) The acquisition or retention of any equity, partnership, or other ownership interest in or the sponsorship of a hedge fund or a private equity fund by a company pursuant to section 4(c) (9) or (13) solely outside of the United States, provided that no ownership interest in the hedge fund or private equity fund is offered for sale or sold to a resident of the United States and that the company is not directly or indirectly controlled by a company that is organized in the United States.

“(I) Such other activity as the appropriate Federal banking agencies, in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission, jointly determine through regulation, as provided for in subsection (c), would promote and protect the safety and soundness of the banking entity or nonbank financial company and the financial stability of the United States.

“(2) LIMITATION ON PERMITTED ACTIVITIES.—

“(A) IN GENERAL.—No transaction, class of transactions, or activity may be deemed a permitted activity under paragraph (1) if it—

“(i) would involve or result in a material conflict of interest (as such term shall be defined jointly by rule) between the banking entity or the nonbank financial company and its clients, customers, or counterparties;

“(ii) would result, directly or indirectly, in an unsafe and unsound exposure by the banking entity or nonbank financial company to

high-risk assets or high-risk trading strategies (as such terms shall be defined jointly by rule);

“(iii) would pose a threat to the safety and soundness of such banking entity or nonbank financial company; or

“(iv) would pose a threat to the financial stability of the United States.

“(B) RULEMAKING.—The appropriate Federal banking agencies, in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission, shall issue regulations to implement subparagraph (A) as part of the regulations provided for under subsection (b)(2).

“(3) CAPITAL AND QUANTITATIVE LIMITATIONS.—The Board, in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission, shall adopt rules imposing additional capital requirements and quantitative limitations regarding the activities permitted under this section if the Board determines that additional capital and quantitative limitations are appropriate to protect the safety and soundness of the banking entities and nonbank financial companies engaged in such activities.

“(e) ANTI-EVASION.—

“(1) RULEMAKING.—The appropriate Federal banking agencies, in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission, shall jointly issue regulations as part of the rulemaking provided for in subsection (c) regarding internal controls and recordkeeping in order to insure compliance with this section.

“(2) TERMINATION OF ACTIVITIES OR INVESTMENT.—Notwithstanding any other provision of law, whenever an appropriate Federal banking agency or the Securities and Exchange Commission or Commodity Futures Trading Commission, as appropriate, has reasonable cause to believe that a banking entity or nonbank financial company under the respective agency's jurisdiction has made an investment or engaged in an activity in a manner that is intended to evade the requirements of this section (including through an abuse of any permitted activity), the appropriate Federal banking agency or the Securities and Exchange Commission or Commodity Futures Trading Commission, as appropriate, shall order, after due notice and opportunity for hearing, the banking entity or nonbank financial company to terminate the activity and, as relevant, dispose of the investment; provided that nothing in this subparagraph shall be construed to limit the inherent authority of any Federal agency or state regulatory authority to further restrict any investments or activities under otherwise applicable provisions of law.

“(f) LIMITATIONS ON RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

“(1) IN GENERAL.—No banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c) with the hedge fund or private equity fund.

“(2) TREATMENT AS MEMBER BANK.—A banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund shall be subject to section 23B of the Federal Reserve Act (12 U.S.C. 371c–1), as if such person were a member bank and such hedge fund or private equity fund were an affiliate thereof.

“(g) LIMITATION ON CONTRARY AUTHORITY.—No activity that is authorized for a banking

entity or a nonbank financial company supervised by the Board under any other provision of law may be engaged in, directly or indirectly, by a banking entity or a nonbank financial company supervised by the Board under such authority or under any other provision of law, if such activity is prohibited or restricted under this section.

“(h) RULE OF CONSTRUCTION.—Nothing in this section may be construed to limit the inherent authority of any Federal agency or state regulatory authority under otherwise applicable provisions of law.

“(i) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) BANKING ENTITY.—The term ‘banking entity’ means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, and any affiliate or subsidiary of any such entity.

“(2) HEDGE FUND; PRIVATE EQUITY FUND.—The terms ‘hedge fund’ and ‘private equity fund’ mean a company or other entity that is exempt from registration as an investment company pursuant to section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1) or 80a–3(c)(7)), or such similar funds as jointly determined appropriate by the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

“(3) NONBANK FINANCIAL COMPANY.—The terms ‘nonbank financial company supervised by the Board’ and ‘nonbank financial company’ mean any United States nonbank financial company or foreign nonbank financial company supervised by the Board under section 113 of the Financial Stability Act of 2010.

“(4) PROPRIETARY TRADING.—The term ‘proprietary trading’ means engaging as a principal for its own trading account in any transaction to purchase or sell, or otherwise acquire or dispose of, any security, contract of sale of a commodity for future delivery, any option on any such contract, swap, security-based swap, or any other security or financial instrument that the appropriate Federal banking agencies, in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission, may jointly, by rule, determine.

“(5) TRADING ACCOUNT.—For all banking entities and nonbank financial companies covered by this section, the term ‘trading account’ shall be defined consistent with guidance issued by the Board with regard to financial statements of bank holding companies and shall include any account used for acquiring or taking positions in such items principally for the purpose of selling in the near term (or otherwise with the intent to resell in order to profit from short-term price movements), and any such other accounts as the appropriate Federal banking agencies, in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission, may jointly, by rule, determine.

“(6) SPONSOR.—The term to ‘sponsor’ a fund means to—

“(A) serve as a general partner, managing member, or trustee of a fund;

“(B) in any manner select or control (or having employees, officers, or directors, or agents who constitute) a majority of the directors, trustees, or management of a fund; or

“(C) share with a fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.”.

#### SEC. 619A. STUDY OF BANK ACTIVITIES.

(a) STUDY.—Not later than 18 months after the date of enactment of this Act, the appropriate Federal banking agencies shall jointly review and prepare a report on activities permitted as part of the business of banking under Federal and State law including activities authorized by statute and by order, interpretation and guidance and shall as part of the report review and consider—

(1) the type of activities or investment;

(2) any financial, operational, managerial or reputation risks associated with or presented as a result of the banking entity engaged in the activity or making the investment; and,

(3) risk mitigation activities undertaken by the banking entity with regard to the risks.

(b) REPORT AND RECOMMENDATIONS TO THE COUNCIL AND TO CONGRESS.—The appropriate Federal banking agencies shall submit to the Council, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate the study conducted pursuant to subsection (a) no later than two months after its completion. In addition to the information described in subsection (a), the report shall include recommendations regarding—

(1) whether each activity or investment has or could have a negative effect on the safety and soundness of the banking entity or the United States financial system;

(2) the appropriateness of the conduct of each activity or type of investment by banking entities; and,

(3) additional restrictions as may be necessary to address risks to safety and soundness.

#### SEC. 619B. CONFLICTS OF INTEREST.

The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:

#### “SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.

“(a) IN GENERAL.—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

“(b) RULEMAKING.—Not later than 180 days after the date of enactment of this section, The Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures.

“(c) EXCEPTION.—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities necessary to conduct the underwriting, placement, initial purchase, or sponsorship, provided that this subparagraph shall not otherwise limit the application of section 15(G) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).”.

**SA 3932.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the

financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

**SEC. 1077. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.**

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) by redesignating sections 920 and 921 as sections 921 and 922, respectively; and

(2) by inserting after section 919 the following:

**“SEC. 920. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.**

**“(a) REASONABLE INTERCHANGE TRANSACTION FEES FOR ELECTRONIC DEBIT TRANSACTIONS.—**

**“(1) REGULATORY AUTHORITY.—**The Board shall have authority to establish rules, pursuant to section 553 of title 5, United States Code, regarding any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction.

**“(2) REASONABLE FEES.—**The amount of any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction shall be reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

**“(3) RULEMAKING REQUIRED.—**The Board shall issue final rules, not later than 9 months after the date of enactment of the Consumer Financial Protection Act of 2010, to establish standards for assessing whether the amount of any interchange transaction fee described in paragraph (2) is reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

**“(4) CONSIDERATIONS.—**In issuing rules required by this section, the Board shall—

**“(A) consider the functional similarity between—**

**“(i) electronic debit transactions; and**  
**“(ii) checking transactions that are required within the Federal Reserve bank system to clear at par;**

**“(B) distinguish between—**

**“(i) the actual incremental cost incurred by an issuer or payment card network for the role of the issuer or the payment card network in the authorization, clearance, or settlement of a particular electronic debit transaction, which cost shall be considered under paragraph (2); and**

**“(ii) other costs incurred by an issuer or payment card network which are not specific to a particular electronic debit transaction, which costs shall not be considered under paragraph (2); and**

**“(C) consult, as appropriate, with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Administrator of the Small Business Administration, and the Director of the Bureau of Consumer Financial Protection.**

**“(5) EXEMPTION FOR SMALL ISSUERS.—**This subsection shall not apply to issuers that, together with affiliates, have assets of less than \$1,000,000,000, and the Board shall exempt such issuers from rules issued under paragraph (3).

**“(6) EFFECTIVE DATE.—**Paragraph (2) shall become effective 12 months after the date of enactment of the Consumer Financial Protection Act of 2010.

**“(b) LIMITATION ON ANTI-COMPETITIVE PAYMENT CARD NETWORK RESTRICTIONS.—**

**“(1) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A COMPETING PAYMENT CARD NETWORK.—**A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment through the use of a card or device of another payment card network.

**“(2) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A FORM OF PAYMENT.—**A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment by the use of cash, check, debit card, or credit card.

**“(3) NO RESTRICTIONS ON SETTING TRANSACTION MINIMUMS OR MAXIMUMS.—**A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to set a minimum or maximum dollar value for the acceptance by that person of any form of payment.

**“(c) DEFINITIONS.—**For purposes of this section, the following definitions shall apply:

**“(1) DEBIT CARD.—**The term ‘debit card’—

**“(A) means any card, or other payment code or device, issued or approved for use through a payment card network to debit an asset account for the purpose of transferring money between accounts or obtaining goods or services, whether authorization is based on signature, PIN, or other means;**

**“(B) includes general use prepaid cards, as that term is defined in section 915(a)(2)(A) (15 U.S.C. 1693i-1(a)(2)(A)); and**

**“(C) does not include paper checks.**

**“(2) CREDIT CARD.—**The term ‘credit card’ has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

**“(3) DISCOUNT.—**The term ‘discount’—

**“(A) means a reduction made from the price that customers are informed is the regular price; and**

**“(B) does not include any means of increasing the price that customers are informed is the regular price.**

**“(4) ELECTRONIC DEBIT TRANSACTION.—**The term ‘electronic debit transaction’ means a transaction in which a person uses a debit card to debit an asset account.

**“(5) INTERCHANGE TRANSACTION FEE.—**The term ‘interchange transaction fee’ means any fee established by a payment card network that has been established for the purpose of compensating an issuer or payment card network for its involvement in an electronic debit transaction.

**“(6) ISSUER.—**The term ‘issuer’ means any person who issues a debit card, or the agent of such person with respect to such card.

**“(7) PAYMENT CARD NETWORK.—**The term ‘payment card network’ means an entity that directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct transaction authorization, clearance, and settlement, and that a person uses in order to accept as a form of payment a brand of debit card, credit card or other device that

may be used to carry out debit or credit transactions.”.

**SA 3933.** Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1291, line 15 strike “, **DECEPTIVE, OR ABUSIVE**” and insert “**OR DECEPTIVE**”.

On page 1291, line 20, strike “, deceptive, or abusive” and insert “or deceptive”.

On page 1292, line 1, strike “, deceptive, or abusive” and insert “or deceptive”.

On page 1293, strike lines 3 through 20.

On page 1293, line 21, strike “(e)” and insert “(d)”.

**SA 3934.** Mr. SCHUMER (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 567, lines 7 and 8, strike “, subject to the requirements of section 5(b)”.

On page 727, after line 25, insert the following:

**(C) PRIOR APPROVAL REQUIRED.—**Notwithstanding any other provision of this section, a derivatives clearing organization shall submit to the Commission for prior approval each proposed new rule, or amendment or interpretation of an existing rule, that materially changes the terms and conditions, as determined by the Commission, of—

(i) admission and continuing eligibility standards for members of and participants in the derivatives clearing organization, including the financial resources required for a member of a derivatives clearing organization;

(ii) management of the risks associated with discharging the responsibilities of a derivatives clearing organization; and

(iii) management of events when members or participants become insolvent or otherwise default on their obligations to a derivatives clearing organization.

On page 728, line 1, strike “(C)” and insert “(D)”.

On page 783, lines 5 and 6, strike “, subject to the requirements of section 5(b)”.

On page 881, between lines 6 and 7, insert the following:

**(c) PRIOR APPROVAL REQUIRED.—**Notwithstanding any other provision of this title or of the Securities Exchange Act of 1934, and for purposes of clarification, each proposed new rule, or amendment or interpretation of

an existing rule, of a registered clearing agency, as that term is defined in section 3(a)(23) of the Securities Exchange Act of 1934, shall be filed with the Securities and Exchange Commission for approval in accordance with section 19(b) of such Act, and shall not become effective unless such approval is obtained, to the extent such proposal, amendment, or interpretation would change, in a manner not provided for under section 19(b)(3)(A) of such Act, as determined by the Commission, the terms and conditions of—

(1) admission and continuing eligibility standards for members of and participants in a registered clearing agency, including the financial obligations of a member of a registered clearing agency;

(2) management of the risks associated with the discharge of the responsibilities of a registered clearing agency; or

(3) management of events when members or participants become insolvent or otherwise default on their obligations to a registered clearing agency.

**SA 3935.** Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 632, between lines 4 and 5, insert the following:

“(e) APPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements set forth in subsection (c)(7) and subsection (d)(2) shall only apply to entities from jurisdictions in which a swap data repository is located and only if the Commission determines that such swap data repository does not make all data obtained by such swap data repository available on terms and conditions comparable to those on which a swap data repository registered with the Commission makes data available.”

On page 632, line 5, strike “(e)” and insert “(f)”.

On page 632, line 16, strike “(f)” and insert “(g)”.

On page 633, line 17, strike “(f)” and insert “(g)”.

On page 634, line 18, strike “(g)” and insert “(h)”.

On page 634, line 24, strike “(h)” and insert “(i)”.

On page 844, between lines 2 and 3, insert the following:

“(6) APPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements set forth in subparagraph (G) and subparagraph (H)(ii) shall only apply to entities from jurisdictions in which a security-based swap data repository is located and only if the Commission determines that such security-based swap data repository does not make all data obtained by such security-based swap data repository available on terms and conditions comparable to those on which a security-based swap data repository registered with the Commission makes data available.”

On page 844, line 3, strike “(6)” and insert “(7)”.

On page 844, line 18, strike “(7)” and insert “(8)”.

On page 847, line 1, strike “(7)” and insert “(8)”.

On page 848, line 6, strike “(8)” and insert “(9)”.

On page 848, line 13, strike “(9)” and insert “(10)”.

**SA 3936.** Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 541, strike line 24 and insert the following:

as a major swap participant.

“(E) CONSULTATION; COORDINATION.—In making a determination under subparagraph (B), the Commission shall consult with the members of the Council, and shall seek to establish standards consistent with standards established by the Securities and Exchange Commission, in determining substantial positions for security-based major swap participants.”

On page 767, between lines 10 and 11, insert the following:

“(E) CONSULTATION; COORDINATION.—In making a determination under subparagraph (B), the Commission shall consult with the members of the Council, and shall seek to establish standards consistent with standards established by the Commodity Futures Trading Commission, in determining substantial positions for major swap participants.”

**SA 3937.** Mrs. LANDRIEU (for herself, Mr. CHAMBLISS, and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1273, line 6, insert “significantly” after “extended”.

#### NOTICE OF HEARING

##### COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, May 13, 2010, at 9:30 a.m. in room 628 of the Dirksen Senate Office Building to conduct an oversight hearing entitled “Does Indian School Safety Get a Passing Grade?”

Those wishing additional information may contact the Indian Affairs Committee at (202) 224-2251.

#### DISCHARGE AND REFERRAL—S.J. RES. 29

Mr. DODD. Madam President, I ask unanimous consent that S.J. Res. 29 be discharged from the Committee on Foreign Relations and be referred to the Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HONORING THE 100TH ANNIVERSARY OF THE ESTABLISHMENT OF GLACIER NATIONAL PARK

Mr. DODD. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 520, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 520) honoring the 100th anniversary of the establishment of Glacier National Park.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, all without intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 520) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

##### S. RES. 520

Whereas Glacier National Park was established as the 10th National Park on May 11, 1910;

Whereas Glacier National Park is part of the Waterton-Glacier International Peace Park, the world's first international peace park;

Whereas Glacier National Park has a total of 25 named glaciers;

Whereas water originating in the park is considered the headwaters of three major drainages;

Whereas Glacier National Park is the core of the “Crown of the Continent Ecosystem”, one of the country's largest intact ecosystems;

Whereas Glacier National Park encompasses over 1,000,000 acres, 762 lakes, more than 60 native species of mammals, 277 species of birds, and almost 2,000 plant species;

Whereas Glacier National Park's lands hold great spiritual importance to the Blackfeet and the Salish and Kootenai native peoples;

Whereas the Park contains 110 miles of the Continental Divide Trail;

Whereas the Going-to-the-Sun Road in Glacier National Park was completed in 1932 and is a National Historic Civil Engineering Landmark;

Whereas in 1976 Glacier was dedicated a Biosphere Reserve by UNESCO;

Whereas in 1995 Waterton-Glacier International Peace Park was designated a World Heritage Site; and

Whereas Glacier National Park receives approximately 2,000,000 visitors a year: Now, therefore, be it

*Resolved*, That the people of the United States should observe and celebrate the 100th anniversary of the establishment of Glacier National Park in Montana on May 11, 2010.

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#### APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 94-201, as amended by Public Law 105-275, appoints the following individuals as members of the Board of Trustees of the American Folklife Center of the Library of Congress: Jean M. Dorton of Kentucky and Margaret Z. Robson of New Mexico.

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#### ORDERS FOR TUESDAY, MAY 11, 2010

Mr. DODD. Madam President, I ask unanimous consent that when the Sen-

ate completes its business today, it adjourn until 10 a.m. Tuesday, May 11; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, the Senate resume consideration of S. 3217, Wall Street reform, as provided for under the previous order; and finally I ask unanimous consent that the Senate recess from 12:30 until 2:15 p.m. to allow for the weekly caucus luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

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#### PROGRAM

Mr. DODD. Madam President, Senators should expect two rollcall votes to begin at approximately 11:30 a.m. tomorrow. The votes will be in relation to the Sanders and Vitter amendments to the Wall Street reform bill.

ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

Mr. DODD. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:04 p.m., adjourned until Tuesday, May 11, 2010, at 10 a.m.

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#### NOMINATIONS

Executive nomination received by the Senate:

THE SUPREME COURT OF THE UNITED STATES

ELENA KAGAN, OF MASSACHUSETTS, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, VICE JOHN PAUL STEVENS, RETIRING.

## EXTENSIONS OF REMARKS

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 11, 2010 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

MAY 12

10 a.m.

Homeland Security and Governmental Affairs

To hold hearings to examine Iran sanctions, focusing on why the United States Government does business with companies who do business with Iran.

SD-342

Armed Services

Personnel Subcommittee

To hold hearings to examine Reserve component programs in review of the Defense Authorization request for fiscal year 2011 and the Future Years Defense Program.

SR-222

Judiciary

Terrorism and Homeland Security Subcommittee

To hold hearings to examine espionage statutes.

SD-226

10:30 a.m.

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2011 for the Air Force.

SD-192

Foreign Relations

To hold hearings to examine Sudan, focusing on the Comprehensive Peace Agreement (CPA), Darfur and the region.

SD-419

2:30 p.m.

Homeland Security and Governmental Affairs

Disaster Recovery Subcommittee

To hold hearings to examine Stafford Act reform, focusing on sharper tools for a smarter recovery.

SD-342

Commerce, Science, and Transportation

To hold hearings to examine the future of United States human space flight.

SR-253

MAY 13

9:30 a.m.

Indian Affairs

To hold an oversight hearing to examine Indian school safety.

SD-628

Appropriations

Transportation, Housing and Urban Development, and Related Agencies Subcommittee

To hold an oversight hearing to examine the Federal Housing Administration and its role in the housing market.

SD-138

10 a.m.

Finance

To hold hearings to examine the nomination of Alan D. Bersin, of California, to be Commissioner of Customs, Department of Homeland Security.

SD-215

Judiciary

Business meeting to consider the nominations of Goodwin Liu, of California, to be United States Circuit Judge for the Ninth Circuit, Raymond Joseph Lohier, Jr., of New York, to be United States Circuit Judge for the Second Circuit, Leonard Philip Stark, to be United States District Judge for the District of Delaware, and Kerry Joseph Forestal, to be United States Marshal for the Southern District of Indiana, John Dale Foster, to be United States Marshal for the Southern District of West Virginia, Gary Michael Gaskins, to be United States Marshal for the Northern District of West Virginia, Dallas Stephen Neville, to be United States Marshal for the Western District of Wisconsin, and R. Booth Goodwin II, to be United States Attorney for the Southern District of West Virginia, all of the Department of Justice.

SD-226

2:30 p.m.

Armed Services

To receive a closed briefing on operations in Afghanistan.

SVC-217

Judiciary

To hold hearings to examine the nominations of Scott M. Matheson, Jr., of Utah, to be United States Circuit Judge for the Tenth Circuit, John J. McConnell, Jr., to be United States District Judge for the District of Rhode Island, James Kelleher Bredar, and Ellen Lipton Hollander, both to be United States District Judge for the District of Maryland, and Susan Richard Nelson, to be United States Dis-

trict Judge for the District of Minnesota.

SD-226

Intelligence

To hold closed hearings to consider certain intelligence matters.

SH-219

MAY 17

2:30 p.m.

Homeland Security and Governmental Affairs

To hold hearings to examine the Gulf Coast disaster, focusing on assessing the nation's response to the Deepwater Horizon oil spill.

SD-342

MAY 18

10 a.m.

Energy and Natural Resources

To resume hearings to examine issues related to offshore oil and gas exploration including the accident involving the Deepwater Horizon in the Gulf of Mexico.

SD-366

MAY 19

9:30 a.m.

Energy and Natural Resources

To hold hearings to examine the proposed Constitution of the U.S. Virgin Islands, S. 2941, to provide supplemental ex gratia compensation to the Republic of the Marshall Islands for impacts of the nuclear testing program of the United States, H.R. 3940, to amend Public Law 96-597 to clarify the authority of the Secretary of the Interior to extend grants and other assistance to facilitate political status public education programs for the peoples of the non-self-governing territories of the United States, and H.R. 2499, to provide for a federally sanctioned self-determination process for the people of Puerto Rico.

SD-366

Veterans' Affairs

To hold hearings to examine pending legislation.

SR-418

10 a.m.

Small Business and Entrepreneurship

To hold hearings to examine the nomination of Marie Collins Johns, of the District of Columbia, to be Deputy Administrator of the Small Business Administration.

SR-428A

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 349, to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, S. 1596, to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California, S. 1651, to modify a land grant patent issued by the Secretary of the Interior, S. 1750, to authorize the Secretary of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



the Interior to conduct a special resource study of the General of the Army George Catlett Marshall National Historic Site at Dodona Manor in Leesburg, Virginia, S. 1801, to establish the First State National Historical Park in the State of Delaware, S. 1802 and H.R. 685, bills to require the Secretary of the Interior to conduct a special resource study regarding the proposed United States Civil Rights Trail, S. 2953 and H.R. 3388, bills to modify the boundary of Petersburg National Battlefield in the Commonwealth of Virginia, S. 2976, to designate as wilderness certain land and inland water within the Sleeping Bear Dunes National Lakeshore in the State of Michigan, S. 3159 and H.R. 4395, bills to revise the boundaries of the Gettysburg National Military Park to include the Gettysburg Train Station, S. 3168, to authorize the Secretary of the Interior to acquire certain non-Federal land in the State of Pennsylvania for inclusion in the Fort Necessity National Battlefield, and S. 3303, to establish the Chimney Rock National Monument in the State of Colorado.

SD-366

MAY 20

9:30 a.m.

## Energy and Natural Resources

To hold hearings to examine S. 2921, to provide for the conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area, to require the Secretary of the Interior to designate certain offices to serve as Renewable Energy Coordination Offices for coordination of Federal permits for renewable energy projects and transmission lines to integrate renewable energy development.

SD-366

MAY 25

9 a.m.

## Armed Services

## Airland Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

10:30 a.m.

## Armed Services

## Readiness and Management Support Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

2 p.m.

## Armed Services

## Emerging Threats and Capabilities Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

2:30 p.m.

## Commission on Security and Cooperation in Europe

To hold hearings to examine Holocaust era assets after the Prague conference.

SR-428A

3:30 p.m.

## Armed Services

## Strategic Forces Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

5 p.m.

## Armed Services

## Personnel Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

MAY 26

9:30 a.m.

## Armed Services

## SeaPower Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

2:30 p.m.

## Armed Services

Closed business meeting to markup the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

MAY 27

9:30 a.m.

## Armed Services

Closed business meeting to markup the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

10 a.m.

## Health, Education, Labor, and Pensions

To hold hearings to examine building a secure future for multiemployer pension plans.

SD-430

MAY 28

9:30 a.m.

## Armed Services

Closed business meeting to markup the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

## SENATE—Tuesday, May 11, 2010

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our Father in heaven, You have already endowed our Senators with abilities they can use in faithful service to You and country. Make them faithful stewards of Your gifts, as they live to bring glory to Your Name. Lord, undergird them with Your enabling might so that their labors will produce a rich harvest of meaningful accomplishments. May they be Your candles, illuminating the world around them with the light of Your grace and peace. Empower them to persevere and to fight the good fight of faith. Help them to be open and honest with each other, to mean what they say and to say what they mean.

We pray in Your sacred Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 11, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

ROBERT C. BYRD,  
*President pro tempore.*

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Madam President, today the Senate will resume consideration of the Wall Street reform legislation. There will be up to 80 minutes for debate with respect to the Sanders and Vitter amendments. We will vote on those matters at around 11:30 a.m. today. The Senate will recess from 12:30 to 2:15 p.m. to allow for the weekly caucus luncheons.

### TRIBUTE TO SENATOR JIM BUNNING

Mr. REID. Madam President, this past Sunday, a young pitcher for the Oakland Athletics threw a perfect game. For those of you who do not know baseball, the Oakland Athletics is a baseball team, and throwing a perfect game is truly a big deal. It is such a big deal, it is only the 19th time this has ever happened—and baseball started keeping records in 1880—something—and this is the first time it happened on Mother's Day.

Someone did throw a perfect game on Father's Day. On that Sunday, more than 45 years ago, one of our colleagues made history by accomplishing one of the most remarkable, most elusive, and most coveted accomplishments in all of athletics, throwing a perfect game in Major League Baseball. That pitcher was the junior Senator from Kentucky, JIM BUNNING. He threw the second no-hitter of his Hall of Fame career, and I repeat: this time, a perfect game.

To show how stupendous this game Senator BUNNING pitched was, understand this young man who pitched a perfect game last Sunday did so, I think, throwing 108 pitches, something like that. JIM BUNNING threw 90 pitches. This is unbelievable, that in 9 innings someone could pitch a whole baseball game and throw only 90 pitches. It is a rare occurrence in modern day baseball for someone to complete a game, but to complete a game—and a perfect game—in 90 pitches is truly amazing.

Sometimes in this body, this Senate, our political passions or legislative objectives get in the way of our personal relationships and the respect we show for one another. When that happens, we do a disservice to the citizens we serve. The Senate was created as a place for leaders to work for the American people, and the only way to do that work is to work together, not against each other.

We surely have our differences, just as those we represent do not see eye to eye on every issue. That is inherent in a representative democracy, and none

of us is perfect. As Senator JIM BUNNING once said:

Everybody makes mistakes. The only time I've ever been perfect was for about two hours and 10 minutes on June 21, 1964.

But we should also be able to appreciate those differences and appreciate the distinguished men and women who make up this body, the Senate. We have combat veterans. We have a man who has won the Congressional Medal of Honor for his valor in combat. We have doctors. We have teachers, farmers, entrepreneurs, Governors, Cabinet Secretaries. We have an astronaut, the Senator from Florida, and we have a Hall of Fame pitcher, whom I just talked about.

### WALL STREET REFORM

The day before the perfect game on this past Sunday, a story appeared on the front page of the Washington Post. The story began this way:

Something unusual is taking place on the Senate floor: Republicans and Democrats are working together on a major piece of legislation.

It is a shame that bipartisan cooperation passes for news these days, not to mention front-page news in one of our Nation's largest newspapers.

But I hope that collaboration continues this week as we vote on amendments from both sides, as we move closer to a final vote on this very important piece of legislation. Reforming the rules of the road on Wall Street is critical to our Nation's future. We need to restore the American people's trust in our financial system.

The American people demand we act. Families demand we safeguard their savings. Seniors demand we protect their pensions. They have seen big bankers gamble away so much of their money—not the bankers' money but our money—their retirements, and their home equity, which has been shaken. The last thing they want is for their leaders to waste their time also.

So I still hope we can pass Wall Street accountability reforms this week. I am going to do everything I can to see that happens.

### SUPREME COURT NOMINEE

Let's talk about the Supreme Court for just a short time. We have accomplished much in the first few months of this year. It has been difficult, but we have done a lot. But we have so much more to do. On that list is one of our most important responsibilities as Senators: giving our advice and consent to the President's nominees for the courts and in this instance the Supreme Court.

In the day or so since President Obama asked our Solicitor General,

Elena Kagan, to serve as the Court's 112th Justice, she has received bipartisan praise for her intellect, her dedication to public service, and her ability to bring people together, especially when they disagree. She has produced impressive work as an academic, contributed to lifesaving legislation as a lawyer, and has been a policy aide at the highest levels. She has inspired students as the dean of Harvard Law School and made her country and her fellow citizens stronger as Solicitor General. So I commend President Obama for choosing her to serve on the Supreme Court.

My No. 1 goal for this new Supreme Court Justice—I have stated it publicly before the Judiciary Committee; I have told the President himself—let's stop having judges go on the Supreme Court. I wanted someone who had not worn the robe, someone who had a little common sense separate and apart from the Supreme Court.

I know those Justices have common sense, but they have worn those robes a long time, and I think it is good to get a fresh insight into what is going on in the world. Elena Kagan is a lawyer and scholar so respected because she knows the value of listening to all sides of an argument before making a judgment. In that sense, she is a good role model for her own confirmation process. Let's listen to what she has to say, to what those who know her have to say about her, and to the American people, who demand that the Supreme Court puts the rights of people ahead of the wallets of corporate America.

My Republican colleagues—I have heard some in the media say: Well, she is not experienced enough. I developed a personal relationship with Chief Justice Rehnquist. I developed that respect for him for a couple reasons. No. 1, when I was chairman of the Democratic Policy Committee, I did something for which people said: Why are you bothering? He will never do that. I called him and said: Mr. Justice, would you come over to the Senate and talk to my Democratic Senators? He said: I would be happy to.

Over he comes. What a wonderful meeting we had. He had a great sense of humor. He handled all the questions with ease. Then, shortly thereafter, he was sitting where the Acting President pro tempore is now sitting, as we did the impeachment trial of President Clinton. Again, he had such a good sense of fairness as he worked his way through those very difficult proceedings.

He had a bad back, and he would have to get up once in a while—stand where the Acting President pro tempore is now sitting. When the breaks would be taken, he would go back into one of the rooms back here, and we would all go visit with him—a terrific man. You may not agree with a lot of the direction of his opinions, but they were bril-

liantly written. He had no judicial experience—zero.

One of my favorite Supreme Court Justices, in recent years, has been Sandra Day O'Connor, not because she is a Republican but because she was a good judge. She had run for public office. She served in the legislature in Arizona. That is why she could identify with many of the problems created by us legislators, and she could work her way through that.

I think Solicitor General Kagan will bring a lot of those same views of these two Republicans to the bench; that is, she has fresh ideas. She has been out in the real world recently. I think she is going to be a terrific addition to the Supreme Court.

Would the Chair now announce the business of the day.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 3217, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Pending:

Reid (for Dodd-Lincoln) amendment No. 3739, in the nature of a substitute.

Sanders-Dodd modified amendment No. 3738 (to amendment No. 3739), to require the nonpartisan Government Accountability Office to conduct an independent audit of the Board of Governors of the Federal Reserve System that does not interfere with monetary policy, to let the American people know the names of the recipients of over \$2,000,000,000,000 in taxpayer assistance from the Federal Reserve System.

Mr. SANDERS. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. VITTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3760 TO AMENDMENT NO. 3739

Mr. VITTER. Madam President, I call up the Vitter amendment which is at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER], for himself, Mr. DEMINT, Mr. GRASSLEY, Mr. HATCH, Mr. MCCAIN, Mr. BUNNING, Mr. CRAPO, and Mr. RISCH, proposes an amendment numbered 3760 to amendment No. 3739.

Mr. VITTER. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To address availability of information concerning the meetings of the Federal Open Market Committee, and for other purposes)

At the end of title XI, add the following:

#### SEC. 1159. AUDITS AND OVERSIGHT OF THE FEDERAL RESERVE.

Section 714 of title 31, United States Code, is amended—

(1) in subsection (a), by striking "the Office of the Comptroller of the Currency, and the Office of Thrift Supervision." and inserting "and the Office of the Comptroller of the Currency.";

(2) in subsection (b), by striking all after "has consented in writing." and inserting the following: "Audits of the Federal Reserve Board and Federal reserve banks shall not include unreleased transcripts or minutes of meetings of the Board of Governors or of the Federal Open Market Committee. To the extent that an audit deals with individual market actions, records related to such actions shall only be released by the Comptroller General after 180 days have elapsed following the effective date of such actions.";

(3) in subsection (c)(1), in the first sentence, by striking "subsection," and inserting "subsection or in the audits or audit reports referring or relating to the Federal Reserve Board or Reserve Banks.";

(4) by adding at the end the following:

"(f) AUDIT AND REPORT OF THE FEDERAL RESERVE SYSTEM.—

"(1) IN GENERAL.—An audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks under subsection (b) shall be completed not later than 12 months after the date of enactment of the Restoring American Financial Stability Act of 2010.

"(2) REPORT.—

"(A) REQUIRED.—A report on the audit referred to in paragraph (1) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such audit is completed and made available to—

"(i) the Speaker of the House of Representatives;

"(ii) the majority and minority leaders of the House of Representatives;

"(iii) the majority and minority leaders of the Senate;

"(iv) the Chairman and Ranking Member of the committee and each subcommittee of jurisdiction in the House of Representatives and the Senate; and

"(v) any other Member of Congress who requests it.

"(B) CONTENTS.—The report under subparagraph (A) shall include a detailed description of the findings and conclusion of the Comptroller General with respect to the audit that is the subject of the report.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed—

"(A) as interference in or dictation of monetary policy to the Federal Reserve System by the Congress or the Government Accountability Office; or

“(B) to limit the ability of the Government Accountability Office to perform additional audits of the Board of Governors of the Federal Reserve System or of the Federal reserve banks.”.

The ACTING PRESIDENT pro tempore. The Senator controls 20 minutes.

Mr. VITTER. Madam President, I ask that the Chair notify me after 15 minutes has been used.

The ACTING PRESIDENT pro tempore. The Senator will be notified.

Mr. VITTER. Madam President, I have called up Vitter amendment No. 3760, which is verbatim, word for word, the RON PAUL language that was added to the House bill in committee by a strong bipartisan vote.

In doing so, I also ask unanimous consent to add the following Senators as cosponsors: Senators DEMINT, GRASSLEY, HATCH, MCCAIN, BUNNING, CRAPO, and RISCH.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. VITTER. Madam President, on the Senate side, I have been a strong cosponsor and supporter of S. 604 and Senator SANDERS' amendment on this bill. I present this different amendment because Senator SANDERS decided to modify his amendment late last week, and I thought there was a continuing need to have this language exactly as it now appears in the House bill, as it was included in the House bill by a strong bipartisan vote in the house committee.

First, let me say I support the Sanders amendment. I will vote for it. It is a very important and useful look in the rearview mirror, if you will, a one-time audit of significant Federal Reserve activity, particularly in 2008 and 2009. I welcome that.

That should not be the end of the matter, and it should not be recognized as all we need because it clearly is not. We need to look in the rearview mirror at those important events. That was a very significant period. But we also need to look forward because these events and these debates and these opportunities for bailouts and other actions absolutely continue. The Vitter amendment addresses that—a look forward as well as that important one-time look back.

If we needed any reason to think we need this ability to continue to look forward and look at the detailed provisions of Fed activity, it is in the news right now—absolutely right now—in terms of the Greek and European economic crisis.

Although Chairman Bernanke assured Congress in recent testimony that “we have no plans to be involved in any foreign bailouts or anything of that sort,” very recently, in the last few days, the Fed has announced the opening of significant facilities to central banks in Europe that certainly involve it, at least at the margin, in that activity.

I do not know enough about those recent deals and currency exchange swaps to comment on whether they are a good idea or a bad idea, or to comment a clear conclusion about the extent to which they put U.S. taxpayers at risk. But clearly they are a significant event. Clearly, there is significant action of the Fed. And clearly, they are a perfect and very recent example of why we need to look in detail at what the Fed is doing on an ongoing basis.

With Greece, Portugal, and Spain, all possibly on the cusp of financial crisis, with this significant decision of the Fed, we must go beyond the Sanders amendment. We must look forward and not just one time back to ensure the American people that we all know what our Federal Reserve is doing and exactly why it is doing it.

This Vitter amendment does that. It will bring real reform and accountability to the Federal Reserve. That is essential, given the historic, major actions the Fed has undertaken in the last few years and continues to announce, even as we speak, activities that would not be covered by the Sanders amendment.

There has been a lot of rhetoric about all of the evil and dangerous things my amendment would do at the Fed. Let me directly address and dispel these notions.

First, there has been a lot of suggestion that this will politicize individual monetary policy decisions; that this will have individual Members of Congress bringing undue influence on those decisions. I truly think there are enormous protections in this amendment that will clearly avoid that situation.

Let's start with the clear language of the amendment:

Nothing in this subsection shall be construed as interference in or dictation of monetary policy to the Federal Reserve System by the Congress or the Government Accountability Office.

It is a very clear, very broad, very strong statement. The amendment goes even farther. The other specific language of the amendment is very careful to ensure the audits that the amendment will require will not include unreleased transcripts or minutes of meetings of the Federal Reserve Board of Governors or of the Federal Open Markets Committee.

In addition to the extent any audit deals with an individual market action, such as a change in interest rates, the audit will only be released 180 days after the action occurs.

If this is an attempt for any Members of Congress, any individuals to control individual decisions, to have a direct impact on an individual decision, such as an interest rate decision, it is a pretty dumb, ineffective way to do it because the audit will not be out for half a year. Clearly, it will have no impact on that decision.

Under these protections, the Federal Reserve will still operate monetary

policy independently, but it is reasonable that those actions, after an appropriate lag of time in some cases will be transparent, will be fully understandable and fully open to the American people and to Congress.

Again, I think it is very important to dispel these notions that are flying about that are untrue. I have talked with Chairman Bernanke several times about these proposals. Always, invariably, his stated concern is the opportunity for an audit to try to impact an individual decision, such as an interest rate decision. We have addressed that very directly in the way I explained.

In addition, the GAO cannot review many actions such as discount window lending—direct loans to financial institutions—open market operations and any other transactions made under the direction of the Federal Open Market Committee.

GAO also, under the clear terms of this amendment, cannot look into the Fed's transactions with foreign governments. This, again, is plenty of protection against the concerns announced prior to this debate and vote.

What this comes down to is: Do the American people deserve full information about Federal Reserve decisions or is somehow this beyond the capability of Congress and the American people to digest?

In Federal Reserve Board minutes that were only recently released—these minutes go back to 2004—Alan Greenspan said this:

We run the risk, by laying out the pros and cons of a particular argument, of inducing people to join in on the debate, and in this regard it is possible to lose control of a process that only we fully understand.

It is somewhat amazing to me, but that is a verbatim, direct quote. More than any statistic, more than any other quote, more than any fact, that direct quote is about what this debate and what this amendment is about.

Is this an area of governance that affects all of our daily lives that we should leave purely up to the elites without ever having full transparency and a full opportunity for debate? Alternatively, is this still America, and do Congress and the American people deserve full openness?

Let me read this quote again because it goes to the heart of the issue:

We run the risk, by laying out the pros and cons of a particular argument, of inducing people to join in on the debate, and in this regard it is possible to lose control of a process that only we fully understand.

If you adopt that offensive, in my opinion, elitist attitude, vote against the Vitter amendment. If you think we should have much greater openness and transparency and the opportunity for a full debate, with all of the protections of the individual, interest rate, and other decisions I have laid out, please vote for the Vitter amendment.

Again, Madam President, I will support the Sanders amendment. It is an

important and appropriate one-time look back, one-time look in the rear-view mirror about a very important period of time, particularly 2008–2009 when the Fed was busier and more active with more aggressive policy than ever before. But the opportunity for that aggressive policy is not over. We see that this week, with the Fed participating with European national banks in the crisis in Europe. We need this opportunity on an ongoing basis. We need the Vitter amendment. In addition, we need a full audit, and with all of the protections included, we need that opportunity continuing for full openness and transparency.

Madam President, with that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont. The Senator controls 20 minutes.

Mr. SANDERS. Madam President, let me begin by thanking my colleague from Louisiana, Senator VITTER, not only for his remarks today but for his excellent work throughout this process. I have enjoyed working with him. What we have tried to do in this whole process is to bring together people who come from very different ideologies to basically make the point that the time is now to end the secrecy at the Fed.

Madam President, I would like to yield myself 15 minutes, if the Chair can let me know when 15 minutes has expired.

The ACTING PRESIDENT pro tempore. The Senator will be so notified.

Mr. SANDERS. Madam President, at a time when the Federal Reserve has been provided the largest taxpayer bailout in the history of the world, to the largest financial institutions in this country—trillion-dollar institutions—without the approval of Congress, without the real knowledge of the American people, the Sanders amendment makes it clear that the Fed can no longer operate forever in the kind of secrecy in which it has operated. Under the Sanders amendment, for the first time the American people will know exactly who received over \$2 trillion in zero, or virtually zero, interest loans from the Fed, and they will know the exact terms of those financial arrangements.

Under the Sanders amendment, for the first time, the GAO will be required to conduct a top-to-bottom comprehensive audit of every single emergency action the Fed has undertaken since the financial crisis began. Under the Sanders amendment, for the first time, the GAO will investigate whether there were conflicts of interest surrounding the emergency actions of the Fed.

Madam President, the Fed has been fighting all the way to the U.S. Supreme Court to keep this information secret. Well, this amendment says, in no uncertain terms, this money does not belong to the Fed; it belongs to the American people, and the American

people have a right to know where their taxpayer dollars are going. That is not a difficult concept to get one's arms around. The American people have a right to know.

Specifically, the Sanders amendment does two things: First, it requires the Fed to put on its Web site by December 1, 2010, the names of all of the financial institutions, corporations and foreign central banks—let me repeat, foreign central banks—that received trillions of dollars in taxpayer assistance from the Fed since the beginning of the financial bailout period.

Second, the Sanders amendment requires the GAO—the Government Accountability Office—to conduct a top-to-bottom comprehensive audit of all of the emergency actions the Fed has taken since the beginning of the financial crisis, with a particular focus on all of the potential conflicts of interest within these secret deals. And that, Madam President, is an extremely important point which, by the way, was not in my original amendment.

The fight for a GAO audit of the Fed and to require more transparency has been a long and arduous struggle. There are many people to thank for being at the point we are today. Partisan politics aside, this has been a joint effort on the part of some of the most progressive Members of Congress and some of the most conservative, and some of the most progressive grass roots organizations and some of the most conservative.

I specifically want to thank, in the Senate, Majority Leader REID, Majority Whip DURBIN, Senators DORGAN, FEINGOLD, BOXER, and LEAHY and many others for their leadership on this issue on my side of the aisle, and to thank Senators DEMINT, VITTER, BROWNBACK, MCCAIN, GRASSLEY, and others on the other side of the aisle.

Last week, a number of Senators—Democrats and Republicans—indicated to me they were uncomfortable with my original amendment, which they believed would have allowed Congress to be involved in the day-to-day monetary operations of the Fed. That was never my intention, and I still do not believe my original amendment would have done that. Nonetheless, that is what a number of Senators believed and were concerned about and they came to me about. The chairman of the Banking Committee, Senator DODD, indicated to me if we could clarify this issue, he would not only be supportive of this amendment, but he would co-sponsor it. That is exactly what he did, and I very much appreciate his support.

Let me just very briefly speak to what the principles of this amendment are. No. 1, the Sanders amendment, in terms of transparency, is clear we need to make sure the Federal Reserve releases the names of every single financial institution, corporation, and for-

eign central bank the Fed provided over \$2 trillion in taxpayer assistance to since the financial crisis started and what the exact details of those arrangements were. This information, as a result of this amendment, will be on the Fed's Web site on December 1, 2010, and every single American who has a computer will be able to access that information. That is a major step forward.

Secondly, in terms of the audit, I have always believed the main purpose of this audit was for the GAO to conduct a top-to-bottom comprehensive review of every single emergency action the Fed has undertaken since the start of the financial crisis. That is exactly what this amendment does.

In addition, let me be clear, the modified amendment—the amendment I am offering today—is stronger than my original amendment on one very important point, a point I think millions of Americans are concerned about; that is, it requires the GAO to investigate whether there were conflicts of interest in the establishment of the emergency lending programs at the Fed.

My original amendment would have allowed the GAO to look into conflicts of interest at the Fed but did not require it. This amendment requires it. We are very specific about that.

For example, I want to know—and I think the American people want to know—why Lloyd Blankfein, the CEO of Goldman Sachs, attended a meeting at the New York Fed when the Federal Government decided to bail out AIG to the eventual tune of \$182 billion, allowing Goldman Sachs to pocket \$13 billion of that money. My original amendment would have allowed the GAO to look at this. The new amendment makes it clear this kind of conflict of interest must be looked into by the GAO.

Further, I want to know—and I think the American people want to know—why the head of the New York Fed, Stephen Friedman, was allowed to serve on the board of directors at Goldman Sachs and was allowed to purchase over 37,000 shares of Goldman stock at the same time the New York Fed was approving Goldman's application to become a bank holding company. My original amendment would have allowed the GAO to look into this. The new Sanders amendment requires the Fed to investigate whether conflicts of interest existed in these types of financial deals.

Some 35 members of the Fed's Board of Directors are executives at banks which received over \$120 billion in TARP money. I want to know—and I think the American people want to know—how much these financial institutions received from the Fed and if this represents a conflict of interest. My original amendment would have allowed the GAO to look at this. The new

Sanders amendment requires the GAO to take a look at those potential conflicts of interest.

What is important to point out is, in terms of transparency, I am not the only person—other Members of the Senate are not the only people—who is demanding that the Fed tell us to whom they lent money. I would point out that Bloomberg News has gone to court and, in fact, has won two Federal court decisions against the Fed in which the courts have said the Fed has to release that information. But the Fed persists in saying no. They want to keep that information secret.

So that is where we are today. We are on the verge of lifting the veil of secrecy at perhaps the most important government agency in the United States—an agency which has control of and expends trillions of dollars. They do it behind closed doors, and they do it in ways the American people know very little about. So I ask for strong support for the Sanders amendment so we can go forward and break this veil of secrecy.

With that, Madam President, I reserve the remainder of my time.

Mr. DODD. Madam President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator from Connecticut controls 20 minutes, the Senator from Alabama controls 20 minutes, the Senator from Vermont has 8½ minutes, and the Senator from Louisiana, 9 minutes.

Mr. DODD. Madam President, let me ask how much time my friend needs?

Mr. GREGG. I would ask for 5 minutes.

Mr. DODD. I yield the Senator from New Hampshire at least 5 minutes, unless he needs more.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. Madam President, first off, at this point I congratulate the Senator from Vermont and express my appreciation for his very constructive approach to this issue. I had very serious reservations regarding his original amendment, but he has worked with Members of this side of the aisle, the chairman of the committee, and members of the administration and the Fed and has come up with an extremely responsible amendment.

The Senator's amendment gets to the issues which he is concerned about, which are totally legitimate; that is, the question of transparency and making sure, to the fullest extent possible, the American people know what is happening with this very significant agency that impacts our lives but which we know little about—a lot of Americans don't—and that is the Federal Reserve.

I also wish to congratulate Chairman Bernanke—he and his staff—for stepping forward and aggressively pursuing a resolution to this issue in a manner

which I think will be very positive for both sides.

So I intend to support the amendment of the Senator from Vermont, as amended, and appreciate his offering it and appreciate his responsible effort. I do have, however, deep and severe reservations and strongly oppose the amendment of the Senator from Louisiana. The issue here isn't transparency any longer with the amendment of the Senator from Louisiana. The issue is whether we have a Federal Reserve which can function and can pursue its primary purpose, which is maintaining the integrity of the currency of the United States.

When the Federal Reserve was created back in 1917, there was a huge debate—a huge debate—raging in this Nation, and had been raging since the great depressions of 1897 and 1907—about how to manage the currency of this country. The central figure in that debate was William Jennings Bryan, a man of immense proportions in our history. He was a populist in the extreme, and he believed genuinely that there should be a monetary policy in this country which allowed for free money to be produced, essentially. His Cross of Gold Speech was, of course, historic. His view was, basically, those who were in control of the government—public elected officials—should have control over the currency. But what had been learned over time was if you turn control of the currency over to elected officials, the currency becomes at risk because there is a natural tendency by elected bodies to want to produce money arbitrarily to take care of spending which they deem to be in the public interest.

Thanks to the leadership at that time of a number of thoughtful people, including people such as Woodrow Wilson, the decision was made to create a separate entity called the Federal Reserve, which would manage the currency of the United States and decide how much money was printed. The printing presses would be taken away from elected officials.

This decision has probably been one of the best decisions we ever made as a nation in order to determine a strong fiscal future and a strong economy because it has allowed us to have a currency which has basically been protected from the winds of the politics of the day. That is absolutely critical. It is as important today as it was when the Federal Reserve was created, if not more important today.

We have seen a world where there is a tremendous amount of pressure on the currencies of almost every nation, certainly every developed nation with the exception of a few. That pressure inevitably leads to populist outrage on occasion or to popular decisions which can request that the currency be devalued in order to produce what some people see as a better lifestyle or in

order to address concerns a nation may have. But you cannot do that at the whim of elected officials. It is absolutely critical that the currency of the Nation be protected from the day-to-day activities of politics.

We have created this Federal Reserve System which accomplishes that. The essence of that system is the Open Market Committee, which decides essentially how much money there is going to be in circulation in this country. We have always believed that system should have integrity, be kept separate from the political process; that Members of the Congress should not have the ability, either directly or indirectly, to influence the decision of the printing of dollars in this Nation. It is a good decision and we should not abandon that course of action.

Yet the Vitter amendment, couched in all sorts of—

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from New Hampshire has used the 5 minutes he was yielded.

Mr. GREGG. I ask for 4 minutes out of the time of Senator SHELBY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. The amendment offered by Senator VITTER unfortunately has, as its essence, the disassembling of this independence. It would give the Congress the ability, through the GAO—and because the GAO is an arm of the Congress, our accounting arm—to go in and investigate what happens with the Open Market Committee. That is clearly going to create consequences which would be inappropriate in the decision-making process of the Federal Reserve. It would influence their ability to make decisions in the sense they would be concerned about Congress coming in and investigating them. It would open activities which, if they are not done in some level of confidence, inevitably end up disrupting the markets. So it is absolutely critical that the Congress not be allowed to go into the Open Market Committee and audit that part of the Federal Reserve activities—absolutely critical if we are going to maintain the integrity of the dollar.

Remember, this is about Main Street. Whether that dollar you take on Main Street to buy clothing or food or a car—whether that dollar has the value you think it has depends entirely on whether there is confidence it is not going to be inflated arbitrarily. If the political process starts to influence the decisions as to how much money is printed in this country and therefore affects the inflationary value of the dollar, you will see your dollars devalued as you try to buy items on Main Street. The effect of that will be devastating on your ability as an American citizen to have confidence in the dollars which you earn and what they are going to buy and what they are going to mean when you save them—which is even more important.

We cannot have a system which allows Congress to influence the decisions in this critical area. All the rest of the activities the Federal Reserve undertakes should be open, should be audited by the Congress, and should be available for public inspection on a regular basis. That is essentially what the amendment of Senator SANDERS does. There is already a lot of audit activity at the Fed, but what it does is expand that and make it more transparent and more available to the American people. But in this one area which Congress has specifically by law exempted from review for the very logical and appropriate reason that we do not want the politics of the day to influence the decision as to the value of our currency, in this one area we need to keep the exception and give the Fed that type of protection.

I strongly oppose the Vitter amendment. I hope those who are concerned about maintaining the integrity of our currency will also oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I yield myself 10 minutes on my time, if I may, and reserve 5, if the Chair will let me know when that time has expired.

The PRESIDING OFFICER. The Chair will do so.

Mr. DODD. I thank my friend and colleague from New Hampshire. He is always thoughtful on these issues. I appreciate the history lesson as well. It is always important that Members understand the genesis and history of necessary decisions, so it is an important contribution this morning to what we are trying to achieve. Also, let me say how much I appreciate the efforts of the Senator from Vermont. Occasionally around here you get to make a historic contribution. I don't want to engage in hyperbole, but this is a historic moment the Senator from Vermont has provided us, to be able to do something we have talked about. I want to tell my colleague from Vermont not only do I think we are going to achieve what he wants with his amendment, but we just had a meeting with the Chairman of the Federal Reserve to kind of brief us on these events in Europe over the weekend, and the Federal Reserve, without legislation but clearly under the influence of this proposed legislation, is going to put up on its Web site as soon as possible the contracts between the Fed and other central banks that occurred over the past weekend.

It has also committed the Fed will report weekly on the activity of each of the swaps accounts by the central banks—not in the aggregate, each one of them. The legislation is going to do a lot, but the Senator has already had an influence on the conduct of the Fed in terms of the transparency issues.

I appreciate very much the efforts of Senator SANDERS. He is not new to the

issue. He has raised this repeatedly since he became a Member of this body. I also associate myself with the remarks of the Senator from New Hampshire regarding the Vitter amendment. Again, the central question in many ways is exactly as he has described it, and that is the independence of the central bank, the most important central bank in the world, to be able to operate devoid of the kind of political influences that could ultimately change that Federal Reserve Board from making the kind of decisions that are going to protect the integrity of our currency.

The Open Market Committee's functioning absolutely is critical. So this is a well-crafted proposal, in my view, because it goes to the heart of the issue of transparency, including the requirements now mandated by the Sanders amendment. The previous incarnation of this amendment was a request. I think all of us know where requests end up if there is no will on the other side to engage them. But this now mandates, in fact—we could have potential conflict of interest examined as to when these decisions are made.

I point out that our bill today includes language, if adopted, that will change how the New York Fed president is chosen. Presently he is chosen by the very institutions that office is designed to regulate. In a sense, we change all of that because that on its face seems to be an inherent conflict. When you get to choose your regulator—one of the complaints we have had, legitimately, about regulatory arbitrage is that institutions picked their regulator of least resistance and that contributed to some of the problems we have run into. Under the present construct, without the changes included in our bill, of course that goes on. Imagine, if you can sit around and choose your own regulator if you are lending institutions, financial institutions. That presently is what happens with regional banks. So the very banks that are the subject of the Federal regulation decide who the regulator will be. Our bill changes that as well, and that goes to the heart of exactly what the Senator from Vermont is talking about.

I urge my colleagues to give strong support to the Sanders amendment. I am a cosponsor. I don't cosponsor many amendments for the obvious reason we have a lot of them and I realize some I am supportive of, maybe not as strongly as others. I am a strong supporter of this amendment, and I want my name attached to it, and I appreciate the efforts of my colleague in putting this forward.

I am as strongly in opposition to the Vitter amendment because it undermines, in effect, what the Sanders amendment accomplishes. That would be a tragedy, in my view. The fact is we are going to do something that has

been needed to be done for years, and that is to get the transparency of what occurs at the Federal Reserve, but not engaging in the kind of damage that could occur—particularly at this moment.

We all understand. I think we have made the case over and over again over many days. We are no longer talking about a financial system that is in jeopardy because of what happens in terms of mismanagement of major financial institutions. We now know that events thousands of miles away from our shores, in nation states that have no direct bearing, necessarily, or are directly affected by decisions we make here, can cause the kind of disruptions, economically, around the world. It is that kind of world we live in.

I remember a few years ago a very small exchange, relatively small exchange in Shanghai, China, had a decline of about 12 percent one morning. That exchange represented about 5 percent of the volume of the New York Stock Exchange in Shanghai. Yet that action in that relatively small exchange caused, within a matter of hours, all over the globe exchanges to react to it. My point simply being, without going into the details of what occurred there, events that occur in one part of the world can have a huge implication here as well.

At this very important moment, to undermine the independence of the Federal Reserve with the Vitter amendment would do great damage to our country. I urge my colleagues to be supportive of the Sanders amendment and then join with Senator GREGG and myself and others in our opposition to the Vitter amendment because it undercuts exactly what, in a sense, we are trying to achieve here with this legislation.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. I ask to speak—

The PRESIDING OFFICER. Who yields time?

Mr. DEMINT. I ask to speak under Senator VITTER's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEMINT. Mr. President, there are few things more important to Americans than our money. It represents our life's work, our savings, our investment. When our Founders put this country and the Constitution together, they gave the Congress the responsibility to protect our currency and the value of our money. This is a responsibility that decades ago the Congress delegated to the Federal Reserve, to operate as an independent institution, responsible for protecting our monetary system as well as overseeing employment in our country.

Congress has not paid much attention to what the Federal Reserve has



done. In fact, we have little idea now what they are doing. We do know they are doing many things now that they didn't do even a few years before—trillions of dollars buying toxic assets from various financial institutions. We know they are doing business all over the world, lending money with international banks. But we don't know exactly what they are doing, why they are doing it, or how they are doing it.

We don't know if a lot of these activities could eventually bring down our financial system. We need to be concerned because it is our responsibility as a Congress and if we allow our currency to be undermined anywhere in the world, it is detrimental to every American family, everything we worked for, everything we have saved.

We cannot pass this off. This Congress has established other financial institutions such as Fannie Mae and Freddie Mac to supposedly facilitate the mortgage industry and make it easier for people to buy homes. We were told there was no problem with subprime lending and all the things Fannie Mae and Freddie Mac were involved with. But as a Congress we did not do our job overseeing, asking enough questions. Then when Fannie Mae and Freddie Mac created this huge housing bubble and brought our economy to its knees, millions of Americans lost much of what they had worked for and saved.

But what happened with Fannie Mae and Freddie Mac is small compared to what could happen if the Federal Reserve did something to undermine the confidence in the dollar worldwide.

Congress should not be managing our monetary system. I do not think we can do it in the current political structure. But it is our job to provide accountability and transparency to what is going on at the Federal Reserve.

Last week, I spoke in support of the Sanders amendment. I still plan to support it today, but that amendment has been changed. It narrows the scope of a complete audit. It really cannot be called a complete audit anymore. It is just disclosure on various aspects of what the Federal Reserve does. It does not now include what they would refer to now as monetary policy. My understanding was, that is pretty much what they did at the Federal Reserve. Cutting that takes out a big part of what we need to know about what they are doing. It would block us from finding out what the Federal Reserve is doing with banks all around the world. It would block us from finding out a lot of things that could give us an indication of whether the Federal Reserve is putting our monetary and financial systems at risk.

I think it is important, at least at one point in time, for us to find out what the Federal Reserve is doing and disclose it to the American people in a way that they will have confidence

that what is happening with the Federal Reserve and with our currency is going to create a stable currency out into the future.

Senator VITTER offered the original amendment before it was changed, the same amendment that was passed in the House by an overwhelming majority which will include all aspects of the Federal Reserve—not in real time, but there will be a delay so that we can't meddle in what they are doing. But it opens a full audit of the Federal Reserve so that this Congress can make good decisions about any needed reforms and certainly keeping some accountability over the Federal Reserve.

It makes absolutely no sense to create really the most powerful agency in the world over the Reserve currency for the world and for there to be no accountability over what they are doing. We know they think we are not smart enough to understand what they are doing, and we may not be. But based on what they have told us in the past, they are not necessarily as smart as they think they are either, because only a few months before Fannie Mae collapsed, the Federal Reserve told us there was no problem. Now they are telling us there is no problem and that we don't need to look at what they are doing.

I think it is important that we have full disclosure and accountability and transparency at the Federal Reserve. It is important that the American people trust those who are managing their currency, and right now they don't. A full audit would help restore that trust and help Congress do its job to oversee the Federal Reserve. The Federal Reserve can maintain its independence, but it doesn't have to be independent in secret because if they are operating secretly, Congress is not doing its job.

I encourage my colleagues to support the Sanders amendment but also the Vitter amendment so that we will have a full audit and know for the first time what our Federal Reserve is doing with our money.

I reserve the remainder of Senator VITTER's time.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. I rise today to support the Sanders amendment to bring transparency to the Federal Reserve. I believe this amendment is needed because the Federal Reserve has abused its independence. The Federal Reserve has repeatedly assumed and exercised vast fiscal powers under the guise of "monetary policy." It has sought to escape accountability for these actions by claiming that its independence places it beyond the scope of congressional oversight. To allow any agency, including the Federal Reserve, to exer-

cise the immense powers now wielded by the Fed with so little accountability is simply incompatible with our constitutional system of government.

Congress granted the Federal Reserve independence with respect to monetary policy on grounds that "monetary policy" was a technical, nonpolitical task that did not put taxpayers at risk. Unfortunately, the Fed has failed to stay within the limits envisioned by Congress. Over the past 3 years, the Federal Reserve's balance sheet has exploded to more than \$2.3 trillion, with much of the increase related to actions that had little to do with monetary policy and more to do with bailouts, fiscal policy, and plain politics.

Although the Fed likes to pretend it is independent and removed from politics, the reality here is that the Board of Governors of the Federal Reserve is one of the biggest political players in town.

Ironically, while the Fed is fighting this amendment, the Fed remains silent about other measures that would compromise its independence. Why? The answer is politics. When it serves its politics, the Fed is happy to selectively sacrifice its independence. For example, the Dodd bill compromises the Fed's independence by having the Fed directly fund the Democrats' new consumer bureaucracy. This establishes a dangerous precedent. Anytime Congress needs a funding source, it can now go outside the budget process and have the Fed print money. Yet the Fed has remained remarkably quiet. Why? Again, politics. The Fed's silence should come as no surprise given the close political ties between the Board of Governors of the Federal Reserve and the Obama administration. The Board of Governors has clearly decided to help the Obama administration advance its legislative goals.

The Fed cannot have its cake and eat it too. If the Fed wants to be independent, it should defend its independence consistently but otherwise should stay out of politics. On the other hand, if the Federal Reserve wants to be political, it should not expect Congress to treat it as a so-called independent, nor should the Fed expect that its non-monetary policy actions are exempt from congressional oversight. These activities, even when conducted by FOMC, are fiscal or regulatory actions that involve taxpayer dollars and policy judgments. They are no different from other policy decisions made by the executive branch.

Accordingly, I believe Congress has a constitutional duty to oversee these activities. Unfortunately, the Fed often acts as if Congress should be kept in the dark. It uses this independence as a shield to hide its actions from congressional oversight, including its bailouts of AIG and Bear Stearns. No agency should have the fiscal and regulatory powers exercised by the Fed and not

think it has to be fully accountable to Congress. It should.

It is my hope this amendment will be the first step in moving the Fed back to its more limited and traditional role in our regulatory and constitutional systems.

The PRESIDING OFFICER. Who yields time?

The Senator from Connecticut.

Mr. DODD. Mr. President, I would like to inquire how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut controls 13 minutes; the Senator from Alabama, 4 minutes; the Senator from Louisiana, 3 minutes; the Senator from Vermont, 8 minutes.

Mr. DODD. Well, I am kind of done. I don't know if my colleague from Vermont wants to add any words to all of this. I don't even know whether the leaders want to be heard on this amendment or whether other Members want to be heard. So I guess what I will do is propose that there is an absence of a quorum and that the time be equally extracted from all Members who control time.

Is there a fixed time for the vote?

The PRESIDING OFFICER. The vote will occur at the expiration or the yielding back of the time.

Mr. DODD. I suggest the absence of a quorum and ask unanimous consent that the time be equally charged to all three of the Members who control the time at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I ask unanimous consent that after the McCain amendment is disposed of, the next amendment in order be the Corker amendment—the next Republican amendment—dealing with underwriting.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, just so we are clear, when we dispose of the McCain amendment and related amendments to it, there may be a side-by-side, the next Republican amendment—there will be a Democratic amendment after the McCain amendment. Then the next amendment after that—Republican amendment—will be the Corker amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

The Senator from Vermont is recognized.

Mr. CORKER. I have an inquiry.

Mr. SANDERS. I yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. CORKER. Mr. President, as far as other amendments, I have an inquiry. As far as other amendments, I have a number of what I would call surgical amendments, some of which may be—I just have an inquiry as to other types of amendments. I know we are going in order, Republican and Democrat. I just thought we might talk for a second. I have a number of surgical amendments that improve the bill. None of them are messaging amendments. I actually think some of them are going to be taken in a managers' amendment.

But I would just inquire of the manager of the bill what his thinking is as it relates to sort of time limits and how we might move through some of these other amendments that are here strictly to try to improve the bill and may have strong bipartisan support.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I have yet to meet a Member who didn't think an amendment they offered was going to improve the bill. We can't make that the criteria.

First, I appreciate the Senator raising the issue because it is an important question. I have raised with my colleague and the former chairman, Senator SHELBY, a package of amendments, technical or others, where we think there is agreement, although he will have to take a look at them to make that determination, not as a final managers' amendment but to try and clear out those amendments we think can be adopted without taking up time for votes on individual amendments. I invite any Member who has amendments, including my colleague from Tennessee, to give us the amendments he or she has or to show them to Senator SHELBY, and we will try to accept them where we can.

If there is some problem we can't resolve, then we need to provide the time between now and the conclusion of the bill to consider them. I will do my best to see that happens.

Let me take advantage of the question to make a plea to my colleagues. Obviously, there is not an unlimited amount of time to debate this bill. We have other matters we are all painfully aware of that have to come up before we adjourn for the year. My hope is Members will provide the time and come forward and we will get short time agreements for some amendments, maybe a bit longer for others that are a bit more substantive and require more debate. But we need to move on this. We have submitted, several days ago, a package of what I thought would qualify as a managers' amendment. We need to get some answers on that so we can try to accommodate provisions to this bill that are good contributions offered by Republicans and Democrats—in some cases

both—so we can actually add to the product of this legislation. I appreciate my colleague's suggestion. If we can see them, we will try to agree to all of them. If there is any problem, we will let him know and then thin out that list so we can get to them.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. SANDERS. Mr. President, let me summarize again what the Sanders amendment does. Let me take my colleagues back to a meeting of the Budget Committee, on which I serve, about a year ago. Chairman Bernanke came before that committee. I asked him: Will you tell the committee, me, and the American people which large financial institutions received trillions of dollars of zero or near zero interest loans? I thought that was a reasonable question.

Mr. Bernanke said: No, I will not do that. I will not release that information.

On that day, I introduced legislation to compel him to release the information. This amendment, if passed, on December 1, 2010, would, in fact, contain that information. It is a major step forward.

Secondly, many Americans are beginning to catch on—and some Senators have referred to that today—to the immense power of the Fed. People are demanding transparency at the Fed. People want to know what happens behind closed doors when some of the leaders of the largest financial institutions sit down with the Fed and, lo and behold, programs are developed which benefit those very same large financial institutions. Wouldn't it be nice, wouldn't it be great if small businesses in Vermont could end up with zero interest loans? They can't. But somehow or another, some of the largest financial institutions in this country manage to do that, and we don't know how this process goes on.

Passage of the Sanders amendment is a step forward. I congratulate all those people from both political parties, with very different political ideologies, for coming forward, for pushing this issue forward. This is not the end. This is a beginning. As Senator DODD said a moment ago, this is historic. We are beginning to lift the veil of secrecy on what is perhaps the most important agency in the government.

I urge passage of the Sanders amendment.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I stand to join with a bipartisan group of colleagues supporting the Sanders amendment and also in support of the Vitter side-by-side amendment. These are not mutually exclusive alternatives. Both Senator SANDERS and myself and many others will strongly support both. I

urge all my colleagues, Democrats and Republicans, to do the same.

Particularly since the financial crisis, the American people have been demanding several things. One of them clearly has been openness and transparency about U.S. economic policy, including at the Federal Reserve. That has been a major theme, particularly since the financial crisis. That has been a clear demand of the American people, certainly of Louisianans, particularly since the financial crisis.

Most of us have voted and spoken in strong support of that. If we truly want to make it happen and if we truly want to preserve that record, we need to vote for the Sanders amendment and the Vitter amendment today to get that done.

If we want to continue to support the same push as in the stand-alone Sanders Senate bill, we need to vote for both amendments. If Members want to continue to support their position, if they voted for the Sanders budget amendment a few months ago—and a strong majority of this body did—they need to vote for both amendments. If they want to support the position of the House which, in a bipartisan way, supported exactly the same language as contained in my amendment through an amendment in the Banking Committee, a strong bipartisan vote, they need to support both amendments. Supporting one, walking on the other, is not good enough and will surely be recognized as not good enough.

I urge all my colleagues to support both amendments, to have full openness and accountability and transparency, with all the protections included against politicizing individual Fed decisions.

In many ways, I think it comes down to this one quote by Alan Greenspan from 2004:

We run the risk, by laying out the pros and cons of a particular argument, of inducing people to join in on the debate, and in this regard, it is possible to lose control of a process that only we fully understand.

Imagine, Congress, the American people joining in on the debate. God forbid. Imagine the moneyed elites losing complete control of the process. God forbid. If Members share that Alan Greenspan view of democracy, vote against my amendment. But if they share a very different view, which I believe is embodied in this institution and our Constitution, please support both the Sanders and Vitter amendments.

I yield my time.

The PRESIDING OFFICER. Who yields time? The Senator from Connecticut.

Mr. DODD. Mr. President, I believe there is no more time. Has the time expired for the Senator from Louisiana?

The PRESIDING OFFICER. The Senator from Louisiana has consumed his time. The Senator from Alabama has 4½ minutes.

Mr. DODD. We are prepared to yield back time on our side. I gather the Senator from Alabama is prepared to yield back his time.

I ask for the yeas and nays on the Sanders amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. DODD. I yield back all our time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to amendment No. 3738, as modified.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) and the Senator from West Virginia (Mr. BYRD) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. BINGAMAN) would vote “yea.”

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Alaska (Ms. MURKOWSKI).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 137 Leg.]

#### YEAS—96

Akaka	Ensign	McConnell
Alexander	Enzi	Menendez
Barrasso	Feingold	Merkley
Baucus	Feinstein	Mikulski
Bayh	Franken	Murray
Begich	Gillibrand	Nelson (NE)
Bennet	Graham	Nelson (FL)
Bennett	Grassley	Pryor
Bond	Gregg	Reed
Boxer	Hagan	Reid
Brown (MA)	Harkin	Risch
Brown (OH)	Hatch	Roberts
Brownback	Hutchison	Rockefeller
Bunning	Inouye	Sanders
Burr	Isakson	Schumer
Burr	Johanns	Sessions
Cantwell	Johnson	Shaheen
Cardin	Kaufman	Shelby
Carper	Kerry	Snowe
Cassey	Klobuchar	Specter
Chambliss	Kohl	Stabenow
Coburn	Kyl	Tester
Cochran	Landrieu	Thune
Collins	Lautenberg	Udall (CO)
Conrad	Leahy	Udall (NM)
Corker	LeMieux	Vitter
Cornyn	Levin	Voinovich
Crapo	Lieberman	Warner
DeMint	Lincoln	Webb
Dodd	Lugar	Whitehouse
Dorgan	McCain	Wicker
Durbin	McCaskill	Wyden

#### NOT VOTING—4

Bingaman	Inhofe
Byrd	Murkowski

The amendment (No. 3738), as modified, was agreed to.

#### VOTE ON AMENDMENT NO. 3760

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 3760.

Mr. SHELBY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 62, as follows:

[Rollcall Vote No. 138 Leg.]

#### YEAS—37

Barrasso	Ensign	Risch
Brownback	Enzi	Roberts
Bunning	Feingold	Sanders
Burr	Graham	Sessions
Cantwell	Grassley	Shelby
Chambliss	Hatch	Snowe
Coburn	Hutchison	Thune
Cochran	Inhofe	Vitter
Collins	Isakson	Webb
Cornyn	LeMieux	Wicker
Crapo	Lincoln	Wyden
DeMint	McCain	
Dorgan	Murkowski	

#### NAYS—62

Akaka	Franken	Menendez
Alexander	Gillibrand	Merkley
Baucus	Gregg	Mikulski
Bayh	Hagan	Murray
Begich	Harkin	Nelson (NE)
Bennet	Inouye	Nelson (FL)
Bennett	Johanns	Pryor
Bingaman	Johnson	Reed
Bond	Kaufman	Reid
Boxer	Kerry	Rockefeller
Brown (MA)	Klobuchar	Schumer
Brown (OH)	Kohl	Shaheen
Burr	Kyl	Specter
Cardin	Landrieu	Stabenow
Carper	Lautenberg	Tester
Casey	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Corker	Lieberman	Voinovich
Dodd	Lugar	Warner
Durbin	McCaskill	Whitehouse
Feinstein	McConnell	

#### NOT VOTING—1

Byrd

The amendment (No. 3760) was rejected.

Mr. DODD. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INHOFE. Mr. President, I support Senator SANDERS' amendment No. 3738 regarding Federal Reserve transparency. As a cosponsor of S. 604, the Federal Reserve Sunshine Act of 2009, my support for these efforts is clear. American taxpayers have a right to know how, where, and when their money is spent or put at risk. For too long, they have put up with secrecy and arrogance. That has to stop, and that is why I would have voted for Senator SANDERS' amendment had I been able to do so and why I voted for Senator VITTER's amendment when I arrived in Washington. My travel was detained due to severe weather and tornadoes affecting Oklahoma yesterday.

Mr. DODD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, before we recess, let me say that the next amendment up is the McCain amendment, and while we don't have an agreement yet, I am hopeful one will be agreed to right after we come back after the respective caucus luncheons at 2:15 p.m.

I am urging Members, again, we are trying to line up these amendments so we can have an afternoon full of votes—a short debate on amendments and then votes. I don't want to hear later people telling me, "I didn't have enough time," when in fact we are trying to provide time for people. You can't have it both ways. You can't say you needed more time and then not be here or get the time agreements to allow us to move forward.

With that, Mr. President, I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:33 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010—Continued

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3839 TO AMENDMENT NO. 3739

Mr. MCCAIN. Mr. President, I call up amendment No. 3839 and ask for its immediate consideration and ask to set aside pending amendments.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CRAPO, Mr. CORKER, Mr. BURR, Mrs. HUTCHISON, and Mr. ROBERTS, proposes an amendment numbered 3839 to amendment No. 3739.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(The text of the amendment is printed in the RECORD of May 5, 2010, under "Text of Amendments.")

Mr. MCCAIN. Mr. President, before we continue, I know the distinguished chairman of the Banking Committee and the manager of the bill want us to move forward. I understand that. As we speak, I am compiling a list of those who want to speak on the amendment on this side. I assure him we will try to

get a time agreement completed as soon as possible. I ask my colleagues on this side of the aisle who want to speak on this amendment to call the cloakroom so we can get that done.

Mr. President, I ask unanimous consent that Senators BURR, HUTCHISON, and ROBERTS be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I apologize to my colleagues for giving them false information a couple of days ago. It is not \$125.9 billion that we are now pouring into Fannie and Freddie; it is up to \$145 billion that is now being poured in—\$145 billion. I remind my colleagues again that last Christmas Eve at 7 p.m. was when the Treasury Department decided to lift the cap, which had been at \$400 billion. It is now up—\$145 billion. Here we are addressing financial regulatory reform and not looking at \$5 trillion of toxic assets that have already spent \$145 billion off budget. It is off budget. Incredible.

My distinguished friend from Connecticut pointed out yesterday—he says I want a little revisionist history. He says the House financial committee passed bipartisan legislation. It stalled in the committee over here despite the support for it. The Republican-controlled committee then passed a bill and never filed it, never brought it up for a vote here on the floor of the Senate in 2005. That was my friend Senator DODD's statement yesterday.

The fact is—a little revisionist history—on April 1, 2004, the Senate Banking Committee passed the bill, the Federal Housing Enterprise Regulatory Reform Act. All 12 Republicans voted for it. All Democrats, including the distinguished chairman, voted against it, according to the RECORD. So neither bill was taken on the floor because, as we know, we don't move forward with legislation if it is blocked by the other side.

Then Senator DODD went on to say: I became chairman of the Banking Committee in 2007. We arrived at 2008. We had a significant number of hearings. In the summer of 2008, the Banking Committee passed a comprehensive bill—et cetera, et cetera. The Housing and Economic Recovery Act was finally enacted on July 30, 2008. Just 39 days later, Fannie Mae and Freddie Mac were placed into conservatorship.

I remind Senator DODD that back in 2006, there was a group of us, in response to an inspector general's report, who said we need to fix it and fix it now, and that was blocked by the other side.

Senator DODD said: If you think the market took a plunge last Thursday, adopt the McCain amendment. It is a reckless amendment.

What is reckless is the status quo. What is reckless is to totally ignore \$5 trillion in toxic assets, already \$145 bil-

lion of the taxpayers' money being spent. It is reckless for us to go to the American people and say we are fixing the problem that caused the financial meltdown and yet we are ignoring Fannie and Freddie. We are ignoring the trillions of dollars of toxic assets. And don't worry, we will address it later on. That is what the distinguished chairman is going to say—we will address this later on. Later on? Later on? When we have this already done? And it is not on budget. Remarkable.

What the amendment says is that the conservatorship has to end in 24 months. We will give them 2 years to figure all this out. It is reckless, in my view, to say we are not addressing these trillions of dollars in toxic assets, the hemorrhaging of \$145 billion already of taxpayers' dollars, on which there is no expert who believes we will ever see a return.

Finally, I would like to quote the Wall Street Journal editorial of this morning that says, "\$145 Billion and Counting. Fannie and Freddie lose it all for you."

The editorial says:

These efforts to support the Obama anti-foreclosure program resulted in a doubling of loan modifications compared to the previous—

Let me start from the beginning.

Fannie Mae yesterday announced its 11th consecutive quarterly loss—\$11.5 billion—and asked for another \$8.4 billion in taxpayer assistance.

They lost that. They are asking for \$8.4 billion. That puts us well over \$150 billion.

Fannie Mae is the Cal Ripken of bad real-estate deals, reliably pouring taxpayer money into the housing market. Granted, Fannie faces tough competition from its toxic twin, Freddie Mac, which last week announced its own request of another \$10.6 billion from taxpayers.

Once the checks from the Treasury clear, Fan and Fred will have consumed a combined \$145 billion in taxpayer cash, and the end is nowhere in sight. Both companies warned of further losses triggering more government assistance, which is now unlimited after a 2009 Treasury decision.

The losses are unlimited because the companies are now run by the government not to make money, by deliberately subsidizing housing. In yesterday's press release, CEO Mike Williams didn't even pretend that he's running a profit-making business. "In the first quarter, we continued to serve as a leading source of liquidity to the mortgage market, and we made solid progress in our ongoing effort to keep people in their homes," he said. These efforts to support the Obama anti-foreclosure program resulted in a doubling of loan modifications compared to the previous quarter.

Ramping up modifications makes perfect sense in the upside-down world of Fannie Mae. The company also announced that most of the loans it modified in the first three quarters of 2009 had gone delinquent again within six months.

Does anyone get that? Most of the loans that were modified—at the cost

of \$100-and-some billion of taxpayers money—have gone under again, have gone delinquent again within 6 months.

The Wall Street Journal goes on:

Talk about an exciting business opportunity. In case anyone still hasn't gotten the joke, the company also clarified yesterday that its directors "are not obligated to consider the interests of the company" unless the government tells them to do so.

The real joke is that the Obama Administration and Senator Chris Dodd have collaborated on a financial regulatory reform bill that includes no reform of Fannie Mae or Freddie Mac. Senators should rectify this embarrassment as early as today by voting for John McCain's amendment to end this most costly of all bailouts.

My question to the distinguished chairman is, even if he doesn't accept any of the statements I made, is it true that there are trillions of dollars in toxic assets and, if so, what are we going to do about it and when? If not on this bill, where?

The cynicism out there amongst the American people is at the highest level I have ever seen it in the many years I have been privileged to serve. To go to the American people and say we are going to take measures which will prevent another worldwide fiscal meltdown and we are not going to address trillions of dollars in toxic assets we have already poured \$145 billion into—they lifted the cap on Christmas Eve at 7 p.m., so they think it is going to be in excess of \$400 billion over time, and nothing in this piece of legislation, nothing in it has anything to do with Fannie Mae or Freddie Mac. Don't be surprised at the cynicism of the American people.

I want to tell the manager, because he was not here, that I am trying to get a list of speakers, get time agreements and give him a time agreement at least on this side as soon as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 3938 TO AMENDMENT NO. 3739

Mr. DODD. I see my colleagues here. Let me say to my friend from Arizona, what I am going to do is call up an amendment that will be a side-by-side arrangement. I will not ask for any time on this, and I appreciate him getting back so we can get a time certain.

I call up amendment No. 3938.

The PRESIDING OFFICER. Is there objection? The clerk will report the amendment.

The assistant editor of the Daily Digest read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 3938 to amendment No. 3739.

Mr. DODD. I ask unanimous consent to dispense with the reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Secretary of the Treasury to conduct a study on ending the conservatorship of Fannie Mae and Freddie Mac, and reforming the housing finance system)

On page 1455, after line 25, insert the following:

**SEC. 1077. DEPARTMENT OF THE TREASURY STUDY ON ENDING THE CONSERVATORSHIP OF FANNIE MAE, FREDDIE MAC, AND REFORMING THE HOUSING FINANCE SYSTEM.**

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study of and develop recommendations regarding the options for ending the conservatorship of the Federal National Mortgage Association (in this section referred to as "Fannie Mae") and the Federal Home Loan Mortgage Corporation (in this section referred to as "Freddie Mac"), while minimizing the cost to taxpayers, including such options as—

(A) the gradual wind-down and liquidation of such entities;

(B) the privatization of such entities;

(C) the incorporation of the functions of such entities into a Federal agency;

(D) the dissolution of Fannie Mae and Freddie Mac into smaller companies; or

(E) any other measures the Secretary determines appropriate.

(2) ANALYSES.—The study required under paragraph (1) shall include an analysis of—

(A) the role of the Federal Government in supporting a stable, well-functioning housing finance system, and whether and to what extent the Federal Government should bear risks in meeting Federal housing finance objectives;

(B) how the current structure of the housing finance system can be improved;

(C) how the housing finance system should support the continued availability of mortgage credit to all segments of the market;

(D) how the housing finance system should be structured to ensure that consumers continue to have access to 30-year, fixed rate, pre-payable mortgages and other mortgage products that have simple terms that can be easily understood;

(E) the role of the Federal Housing Administration and the Department of Veterans Affairs in a future housing system;

(F) the impact of reforms of the housing finance system on the financing of rental housing;

(G) the impact of reforms of the housing finance system on secondary market liquidity;

(H) the role of standardization in the housing finance system;

(I) how housing finance systems in other countries offer insights that can help inform options for reform in the United States; and

(J) the options for transition to a reformed housing finance system.

(b) REPORT AND RECOMMENDATIONS.—Not later than January 31, 2011, the Secretary of the Treasury shall submit the report and recommendations required under subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

Mr. DODD. I realize people want to be heard, but I again urge my colleagues, if we can—every amendment has great value. There are about 60 amendments. At some point we have to draw the line, so I urge people to use as little time as necessary—all the time they think they need, but if we can get to a point where we can vote up or

down on these two amendments, I would appreciate it very much.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, first of all, I thank the chairman for allowing us to debate this amendment this afternoon. I think this is one of the most critical amendments that certainly we have talked about to date, and moving forward, unless we address the issue of the GSEs, as I am going to talk about in a minute, I am not sure we have accomplished anything in this bill.

For all of the potential unintended consequences in this financial regulatory restructuring package, at least one will be entirely intentional—failing to address Freddie Mac and Fannie Mae.

Despite the general theme of the increased "overreaching" regulatory power of this legislation, a glaring example of something that was actually left out is a substantive attempt to address one of the most significant causes of the financial crisis—reform of the government sponsored enterprises, or GSEs, such as Freddie Mac and Fannie Mae.

It has been highlighted from this floor that recent market volatility and a faulty trading construct in our financial markets are illustrations that the bill before us is needed now more than ever. Specifically, the sudden significant drop throughout certain exchanges last week has been pointed to as evidence of the necessity for greater regulation of our markets.

However, when news broke last week that Freddie lost \$8 billion in the first quarter and would yet again be knocking on the taxpayer's door for a \$10.6 billion bailout—another bailout after both Fannie and Freddie had already received \$126 billion in taxpayer dollars—I failed to hear calls for reform from the other side.

And just today it was announced that Fannie Mae will ask for another \$8.4 billion after posting a loss of \$11.5 billion for its first quarter. Shouldn't these entities' repeated failures serve as ample evidence that the future of these "bailout behemoths" must be addressed?

Apparently, this administration feels differently, and has for some time. In fact, while it was busy cutting backroom deals over the health care bill and making noise that a government takeover of health care would reduce the deficit, in the quiet of night on Christmas Eve another deal was made—only this one didn't make it out of the backroom.

At the eleventh hour, after the Senate had finished its vote that holiday eve, the administration pledged to the mortgage its current giants unlimited financial assistance—by lifting \$400 billion cap on emergency aid without even seeking congressional approval.

How can we have a serious conversation about overhauling our financial regulatory structure, yet ignore two entities that have exposed the taxpayers to more than \$5 trillion in risk as of today. As the Wall Street Journal put it recently, "Reforming the financial system without fixing Fannie and Freddie is like declaring a war on terror and ignoring al Qaeda."

Many have suggested that now is not the time to restructure these giants; that they will have to be addressed later, indicating that due to the comprehensive nature of their needed reforms, any attempt to address the problems of Freddie and Fannie here would more than double the size of the current financial regulatory reform bill.

Where were these legislative "size standards" when this body was debating health care? That bill was more than 2,000 pages long. Apparently, while we can address too big to fail, these government sinkholes have become too big to legislate.

The fact is that the number of pages in a bill is not the reason Freddie and Fannie are ignored here. And it is not for a lack of understanding the problem. There has been no shortage of hearings on GSEs, in both the House and Senate. The housing policies of this and previous administrations have chained the taxpayers to a self-perpetuating financial illness. Policies such as the Community Reinvestment Act, or CRA, which forces banks to make loans to otherwise unqualified borrowers set the stage for Fannie and Freddie to buy up these bad loans on the secondary mortgage market.

Such backward policies exacerbated the causes of the financial crises. Why would a bank not make these loans knowing they could turn around and sell them to the government? Especially when regulators were encouraging such practices? As a result, Fannie Mae, Freddie Mac and the Federal Housing Administration, or more specifically, the taxpayer, now own or guarantee about half of all outstanding residential mortgages.

It is time we address this enormous problem, the McCain amendment does that and I urge my colleagues to support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, in deference to the chairman, I will be brief. But I come because I feel compelled today because of the two amendments this body will be dealing with: one is the McCain amendment and another amendment later in the day dealing with underwriting. So I will save the remarks on that for when those amendments are pending.

I agree with Senator CHAMBLISS, and I commend Senator MCCAIN. I come from a lifetime in the real estate busi-

ness. So what I talk about, I do understand its cause and effect in the marketplace. We cannot have responsible reform of financial services and leave out Freddie Mac and Fannie Mae.

One of the reasons that, along with Senator CONRAD, I created the Financial Markets Crisis Commission—which is now meeting, by the way, and will report back at the end of December—is I knew there were pervasive and redundant failures in the system that brought about what became a cataclysmic collapse.

I understand the chairman has been under great pressure to bring this legislation forward, and I have great respect for the chairman and appreciate his work. I wish we had waited until the Financial Markets Crisis Commission reported, but we have not. So let me just for a second address Freddie and Fannie and the McCain amendment.

Freddie and Fannie filled the void the savings and loans created when they failed in the late 1980s. There are a lot of people who will hear this speech who will remember savings and loan days. Those were when savings and loans associations were chartered to make home loans. With the exception of FHA and VA, they basically made them all. There were a few players but not too many.

Those entities, by the way, those savings and loans, had 100 percent risk retention of every loan they made because their depositors put in money for the sole purpose of getting a preferred rate of interest and for mortgage loans to be made to generate the income. But they went under. They went under because of a lot of factors. One was the Federal Government changing in midstream the rules under which they operated which caused them to collapse.

Freddie and Fannie immediately filled that void. They did a great job for a long period of time by creating a secondary market for capital to be formed, put into mortgages, the mortgage be securitized, and the securities traded. It worked for a long time.

It worked, quite frankly, until a couple of things happened. One, until the government all of a sudden told Fannie it started having to own a certain percentage of what it called "affordable loans," which later became known as subprime loans. In fact, Fannie Mae became the purchaser of record for the first subprime securities that were created to meet the congressional mandate to end up having these affordable loans, which made a market for those securities which subsequently were sold around the world.

So I wanted to commend the Senator from Arizona. What he brings before us is important. I do not know how we can leave Freddie and Fannie out and talk about real financial services reform in the United States of America. If anything, they need to be a critical part of it.

I recognize this legislation portends there will be a 2-year wind-down unless they improve. Then there will be a liquidation at some point in time. But let me tell you what is going to happen if nothing happens. At some point in time, Freddie and Fannie will have to be liquidated and a new entity will have to be created that will fill the void when that liquidation takes place. We are going to have the mortgage money in this country one way or another because America would not be America without it.

But we cannot tend to have a black hole and an entity that can be used for political purposes, or was used for political purposes, to create a market for securities that ultimately fails and breaks down the financial market.

I commend the Senator from Arizona. I associate myself with the remarks of the other Senator from Georgia. I thank the distinguished Banking Committee chairman for his time.

I yield back my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I wish to rise also and first I want to associate myself with the words from the Senator from Georgia. He is absolutely correct in his history of how Freddie and Fannie got started and what their purpose was and the fact that they are a great idea that went wrong, unfortunately—or went "awry" would be a better term, not wrong. The concept remains a good idea.

I rise to support Senator MCCAIN's proposal because what he is suggesting is a way out of a very deep and dark hole of debt for our Nation and our American taxpayers, which is being generated by the legacy and the present activities of Freddie Mac and Fannie Mae.

Part of this amendment in which I played a role primarily is the issue of bringing on-budget and, therefore, into the light of day just how much the American taxpayers owe as a result of the situation that has occurred in those two businesses. It is estimated that the American taxpayer will end up picking up somewhere around \$400 to \$500 billion in costs as a result of the activities of Freddie and Fannie.

As far as the American taxpayer knows, this will be something that comes out of the sky. I mean, nobody is aware of it. Nobody is thinking about it. Nobody is talking about it. But these are actual debts that are going to get put on our books and which will affect our credit worthiness as a nation and which all Americans will have to pay back.

Why is this going to happen? It is going to happen because during the halcyon days of taking on debt, or taking on obligations in the area of mortgages which were not properly underwritten—and there will be a later amendment by Senator CORKER which I



will support in the area of underwriting—but which were not properly underwritten and which were securitized and basically insured, for all intents and purposes, by Freddie and Fannie, we ended up with a situation where they own a lot of paper which does not have the value it is supposed to have and which is not being paid back at the rate at which it was supposed to be paid back.

Unfortunately, there was a tacit understanding that grew up in the markets that the American taxpayer was going to stand behind that paper. It was never explicit, but it became tacit, and people expected that. Then when the actual event occurred, as these defaults started to accelerate, it became real and the American taxpayer is now having to stand behind all of this debt.

It is certainly going to come as a shock to most Americans that they owe approximately \$½ trillion—\$½ trillion—because of very bad decisions that were made by a group of people who were underwriting and basically securitizing these loans.

Why did that happen? Well, there will be a lot of recrimination on this subject. But the basic reason was that the Congress decided that Americans should own houses whether they could afford the houses or whether the houses sustained the value of their loans, Americans should be able to go out and buy houses. So a lot of houses were sold which did not have the underlying value necessary to support the loans which were made on them, and which the person who bought the house and took out the mortgage did not have the income over the extended period of time of that loan to pay it back. Everybody knew it at the time the house was bought. Everybody knew it at the time the mortgage was made. But they figured: Well, appreciation will always occur in real estate prices. So that will not bother us with the value of the house. Well, maybe this person who got the loan for the house, maybe their income will increase, or when the reset day occurs on that mortgage they will be able to take care of it in some way.

So nobody faced up to the problem at the time, and literally millions, millions of homes were purchased under that basic scenario. That is what caused the implosion, basically, of our financial markets back in late 2008, and Freddie and Fannie are a large part of that implosion. But a lot of the initiative for that came from the Congress, basically asserting that people should be able to get those types of loans, and pushing Freddie and Fannie from using what had been very standard and traditional underwriting standards in the 1990s into much more aggressive standards as they moved into the early 2000 period.

As a result, we had this proliferation of loans which simply did not have the

underlying value and did not have the capacity to be repaid. They were all securitized by Freddie and Fannie. So now the American taxpayer ends up with this huge bill.

I think we have an obligation as a Congress to at least be honest with the American taxpayer on this and tell them this is how big the bill is. And it is huge. It is huge.

So this bill is now hidden in the drawer under the Federal accounting system where we do not even acknowledge that it exists under the Federal budget, even though we know we owe it, even though we know it is going to be put on the books of the Federal Government, even though we know the American taxpayer is going to have to end up picking this up in the long run. We do not even acknowledge it. It is stuck in some drawer somewhere in Washington.

Well, that should not happen any longer. We just had an amendment about transparency with the Federal Reserve. Everybody voted for it. Everybody voted for the transparency amendment on the Federal Reserve. This is the transparency amendment on Freddie and Fannie. This amendment will tell the American taxpayer just how much they really do owe. It will bring on-budget the issue of the debts of these two corporations, which are now the obligations of the Federal Government and therefore the American taxpayer. Absolutely last to be done.

I thank the Senator from Arizona for including in his amendment this language which brings this on-budget the way it should be. It opens the light of day so that the American taxpayer can understand just how much risk has been piled on their backs, how much debt has been piled on their backs as a result of the irresponsible activity, which in large part was initiated by this Congress over the years, forcing out loans and pushing a public policy that these loans should be made.

Secondly, I congratulate the Senator from Arizona for bringing forward an idea, a proposal for how we unwind this situation and how we get out of this situation by putting us on a path, a path toward basically decoupling Freddie and Fannie from the American taxpayer, having those two organizations no longer be dependent on the American taxpayer and having the American taxpayer no longer having to pick up the debts of mistakes made by those two corporations, even when those mistakes were caused, to some significant degree, by the Congress taking actions which were inappropriate—or which were bad policy, not necessarily inappropriate, but definitely bad policy.

So I congratulate the Senator from Arizona. I think this is a good amendment. As has been said, how can we take up financial reform if we do not

take up the single biggest entity, the single biggest two entities, when combined the single biggest entity, that affects the financial markets relative to real estate lending in this country, which is what caused the downturn and the crisis at the end of 2008.

We cannot do it. We cannot claim we have done financial reform if we do not take on and address this issue. I understand that the administration said: Well, we will do it next year. Well, we do not have time. It needs to be done now. We need to address this now. It is a critical issue, and it is at the essence of whether we can get our house right and our ducks in the correct order relative to financial reform.

If we do not straighten out Freddie and Fannie and its relationship to the Federal Government, and specifically its relationship to the American taxpayer, we really have not done anything to solve the long-term problems of how we get our fiscal house in order because that issue of how to make real estate loans in this country is at the essence of how we correct the financial structure of this country.

This amendment, coupled with the amendment that is coming from Senator CORKER on the issue of underwriting, are the two key amendments to this bill which address the two elements which are not addressed but which have to be addressed if we are going to have effective, comprehensive, lasting, and meaningful reform.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, for the information of the manager, I have the following speakers: Senator COBURN for 10 minutes, Senator DEMINT for 10 minutes, Senator THUNE for 10 minutes. I have not been able to nail down Senator SHELBY as to how much time he will take. I would like to sum up for 5 minutes. There will be no more speakers on my side other than those.

Mr. DODD. Mr. President, I can't do the math that fast. I don't know what that amounted to, but if we add 15 minutes for myself—why don't I ask for 20 and then I will yield back. I will take maybe 10. I don't have any requests for speakers at this time, but I may want to leave space in case others may want to be heard. If we could calculate what the time is, find out about Senator SHELBY, and then lock down the time. I don't need any additional time for a side-by-side. I will use 15 minutes. As soon as we get a number on that, we will let our colleagues know.

I thank my colleague from Arizona.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I wish to spend a few minutes kind of general talking. I wish to give an example because this is a very big bill with a lot of hard work by the Banking Committee and their staffs. I want Members to compare this bill to a loved one



who gets pneumonia. They go to the doctor and they have a cough and a fever and chills. They feel terrible. Think about it. If you would take your loved one to the doctor and the answer you would get is: I think I can take care of that. I can give you something for the cough that will suppress the cough and I will give you something to take care of the fever and I will give you a little something to take care of the pain in your chest. You go on home. You come back if you don't get better. Of course, 2 days later your loved one ends up in the hospital with raging, now bilateral pneumonia and sepsis, bacteria in the blood. This bill is kind of like that. It is kind of like a doctor treating symptoms instead of the real disease.

The real disease was Congress. The real disease was poor underwriting standards, actually no underwriting standards. The real disease was Fannie Mae and Freddie Mac, and the real disease was the rating agencies that haven't been controlled effectively by this proposed legislation. This legislation does nothing for the real disease. It treats a lot of symptoms. It grows government gigantically. It will create more bureaucrats and rules than we can shake a stick at. But it does not fix the underlying problem.

When people dispute that, ask the following question: If you are at home, working and paying your mortgage, guess what. The reason we are not fixing Fannie Mae and Freddie Mac is so you can continue to pay more taxes so Freddie Mac can solve those mortgage problems through your tax dollars and other people not being responsible for theirs.

That is what is going on here. That is why you are going to see \$500 billion in additional losses with Fannie Mae and Freddie Mac, because we are going to get them to keep going until we have satisfied all this, not doing the hard work, not recognizing that we are actually going to need \$5 or \$600 billion more in taxes or we are going to borrow that to take care of this problem. So everybody who is out there today who is working hard, paying the mortgage, and keeping up is going to get to pay extra because we are not going to fix Fannie Mae and Freddie Mac in this bill.

That is why this amendment is so important. We decided in this country a long time ago that we were going to set forth a policy to help people own homes, except we overdid it. We created incentives that would bring out the worst nature in people. If you don't believe that, look at Long Beach Mortgage, where 90 percent of the mortgages they wrote prior to them folding were totally fraudulent. Where was the oversight? There wasn't any—the Office of Thrift Supervision, but we didn't oversee the Office of Thrift Supervision. We created the symptom and

a set of incentives and now we want to leave them right there.

This underlying bill does not address the three main diseases that caused the problems we have. Congress genuflects and redirects any criticism from us to the greedy banks or the greedy loan originators, but they never say anything about us not doing oversight. They never say anything about us not reforming Fannie and Freddie when we knew what was coming in terms of their losses and also the financial difficulties they had. We have a bill that doesn't fix it—a lot of hard work, a lot of good intentions, but it doesn't fix the core problems so they will not occur in the future.

As the Senator from New Hampshire said, if you combine strong underwriting standards and transparency associated with limiting the loss the American taxpayer is going to take on with Fannie Mae and Freddie Mac, you will do something. But the way the bill is now, we will have created big theatrics. Everybody will shake hands and holler and dance around when the bill passes, except the dirty little story will be that we didn't fix the real disease. When that loved one in ICU with double pneumonia and sepsis dies, we go after the person who didn't fix it, who should have fixed it, who had the knowledge to fix it, and we say: You are liable.

Well, we are liable. We ought to be fixing this. The very fact is we are not.

The McCain amendment is a commonsense amendment. I understand the reservations. They don't want another \$400 billion of recognized debt. They don't want to account for the losses that are continuing to flow, \$20 billion so far in the first quarter of this year, out of those two institutions. The Senator from New Hampshire way underestimated the cost to the American taxpayer and what it will ultimately be by not fixing this.

My appeal to the chairman of the committee is to seriously look, give us good answers on why we are not fixing Fannie Mae and Freddie Mac. What are the real reasons we are not fixing that? What are the real reasons we are not creating strong, transparent underwriting standards so the problem doesn't occur in the future? What is the real reason? What is the real reason we don't hold accountable the rating agencies and take away the conflict of interest thoroughly—not partially but thoroughly—from the rating agencies?

The rating agencies are supposed to be a check. Had they been doing their jobs, we wouldn't have had all these securities sold that were worthless or were nonperforming. But they don't do their job. We didn't do our job. Fannie Mae and Freddie Mac didn't do their job. Yet we are not going to address the core issues that created the setup and framework we are now experi-

encing as an economy. To me, that creates a tremendous amount of liability on our part. We ought to have to be in explanation of every ounce of our being on why we don't fix the real disease that caused this problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me speak for 5 minutes. I ask the Chair to inform me when I have done so.

First, let me notify my colleagues, we don't have a time agreement yet, but I hope we will shortly on the McCain amendment and the amendment I will offer as a side-by-side on this issue.

I ask unanimous consent to have printed in the RECORD letters from the National Association of Home Builders and the National Association of REALTORS, both of which oppose the McCain amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF  
HOME BUILDERS,

Washington, DC., May 6, 2010.

Hon. JOHN MCCAIN,  
U.S. Senate, Washington, DC.

DEAR SENATOR JOHN MCCAIN: On behalf of the 175,000 members of the National Association of Home Builders (NAHB), I am writing to express our strong concerns with an amendment offered by Senator John McCain (R-AZ) dealing with the future of the housing Government Sponsored Enterprises (GSEs), Fannie Mae and Freddie Mac.

Fannie Mae and Freddie Mac have been, and remain, critical components of the U.S. housing finance system. NAHB is working with Congress to craft a thoughtful approach to the future of these institutions, as well as the future of the housing finance system itself. However, we remain concerned about how to get from the current structure to a future arrangement without undermining ongoing financial rescue efforts and disrupting the operation of the overall housing finance system. Any changes should be undertaken with extreme care and with sufficient time to ensure that U.S. home buyers and renters are not placed in harm's way, and that the mortgage funding and delivery system operate efficiently and effectively as a new system is put in place.

NAHB is concerned that the provisions in the McCain amendment, if the GSEs are deemed viable, dealing with portfolio limitations, loan limit repeals and escalating mandatory down payments would greatly limit the GSEs' ability to participate in the secondary housing market and lead the housing market into recovery. Moreover, NAHB is concerned that the McCain amendment could effectively end the current housing finance delivery system without offering a thoughtful replacement.

Again, NAHB has strong concerns with the impact the McCain amendment would have on the current housing finance system, and urges the Senate to address the future of Fannie Mae and Freddie Mac in a thoughtful and deliberative manner.

Best regards,  
JOSEPH STANTON,  
Senior Vice President and Chief Lobbyist,  
Government Affairs

NATIONAL ASSOCIATION OF  
REALTORS,  
Washington, DC, May 6, 2010.

U.S. SENATE,  
Washington, DC.

DEAR SENATOR: On behalf of more than 1.1 million members of the National Association of REALTORS® (NAR) involved in residential and commercial real estate as brokers, sales people, property managers, appraisers, counselors, and others engaged in all aspects of the real estate industry, I respectfully request that you oppose the Corker-Gregg-Isakson (#3834) and the McCain-Shelby-Gregg (#3839) amendments to S. 3217, the Restoring American Financial Stability Act of 2010.

#### CORKER-GREGG-ISAKSON AMENDMENT

The Corker-Gregg-Isakson (#3834) amendment replaces the risk retention provisions of S. 3217, Title VII, Subtitle D, (b) Credit Risk Retentions—with a study on the feasibility of risk retention requirements for financial institutions and implements residential mortgage underwriting standards that include a mandatory 5% down payment for all mortgages. As our nation continues to recover from the worst economic downturn since the Great Depression, REALTORS® are cognizant that lax underwriting standards brought us to this point, and must be curtailed. However, we caution that swinging the pendulum too far in the opposite direction may reverse our fragile recovery.

Based on data from NAR's 2009 Profile of Home Buyers and Sellers, 11% of all home purchasers surveyed had downpayments of 5% or less. When considering only first-time homebuyers, the percentage utilizing a downpayment below 5% increase to 18%. Improving underwriting to ensure that the consumer has the ability to repay their obligation is in the best interest of everyone, but eliminating the possibility for some credit-worthy consumers to buy a home will have significant detrimental ramifications for American families, the housing sector and those businesses that support it.

#### MCCAIN-SHELBY-GREGG AMENDMENT

The McCain-Shelby-Gregg (#3839) amendment, which creates Title XII to S. 3217, places Fannie Mae and Freddie Mac on the fast track to dissolution. REALTORS® believe that reform of these institutions that have played a pivotal role in the evolution of the U.S. housing market is necessary; however now is not the time for drastic action, especially considering their current role in stabilizing the housing market, and that the McCain-Shelby-Gregg amendment does not offer a replacement to fill the enormous gap that the shuttered GSEs will leave.

As NAR mentioned in our testimony before the House Financial Services Committee, March 23rd, 2010, on the "Future of the Housing Finance", the transition of these organizations to their new form must be conducted in a fashion that is the least disruptive to the marketplace and ensures mortgage capital continues to flow to all markets in all market conditions. The establishment of aggressive timetables for the GSEs to return to profitability, prior to the full recovery of our nation's economy and housing market, predisposes them to failure, and will cause significant angst for homebuyers and the nation's housing markets.

Furthermore, the requirements that this amendment places on Fannie Mae and Freddie Mac, when they become viable, will effectively prohibit them from participating in the secondary mortgage market.

First, the aggressive reduction of their portfolio will prevent them from being an ef-

fective buffer during future economic downturns. A key element of NAR's recommendation for the restructure of the GSEs is that their portfolios should only be large enough to support their business needs and ensure a stable supply of mortgage capital when necessary because of insufficient private investment. The requirements established in this amendment would thwart the GSEs' ability to be an effective buffer.

Second, the amendment repeals all increases to loan limits, both permanent and temporary. The loan limits would return to: \$417,000. Moreover, the GSEs would be prohibited from purchasing homes that had prices over the median-home price, for properties of the same size, for the area in which the property was purchased. This would reduce loan limits to less than \$100,000 in some areas, less than half the current FHA floor.

NAR advocated for the increase of the loan limits for high cost areas and is actively advocating that the current limits be made permanent in order to ensure that credit-worthy homebuyers have access to affordable capital. The housing market remains fragile, and private capital has not returned to either the mortgage or MBS markets to the extent that is needed to support the housing industry. Reducing the GSEs' loan limits to the suggested levels will significantly limit the ability of homebuyers to obtain mortgage funding throughout the country, and damage the business sectors supported by mortgage finance.

Third, the amendment establishes an escalating mandatory down payment percentage that REALTORS® believe unfairly and unnecessarily denies the opportunity to many families who have the potential to succeed as homeowners. Beginning 1-year after the 24-month assessment period, the minimum down payment requirement will be 5%. 2-years out, the downpayment will be 7.5%. After three years, the downpayment will be 10% for conventional-conforming loans.

The removal of flexible downpayment options will significantly reduce the ability of creditworthy consumers to purchase a home. As mentioned with regard to the Corker-Gregg-Isakson amendment, a 5% downpayment requirement excludes 11% of all current homebuyers and 18% of all current first-time homebuyers, based on NAR's most recent homebuyers survey. Increasing the downpayment requirement to 10% would exclude nearly 25% of all current creditworthy borrowers, and up to 37% of current creditworthy first-time homebuyers. Underwriting standards have already been corrected and loans are only available for borrowers who can afford them. There is no reason to over-correct by imposing higher downpayment requirements.

As we have seen, without the GSEs, the current crisis would have been even more catastrophic for the housing market and the overall economy, as virtually no activity would have occurred within the housing sector because little private capital would have been available. REALTORS® support reforming our housing finance system, and the GSEs. However, taking a measured approach is critical to ensuring that our economic recovery remains viable.

I appreciate the opportunity to share with you the views of more than 1.1 million real estate practitioners and respectfully request that you oppose the McCain-Shelby-Gregg (#3839) and the Corker-Gregg-Isakson (#3834)

amendments to S. 3217, the Restoring American Financial Stability Act of 2010.

Sincerely,

VICKI COX GOLDER, CRB,  
2010 President,  
National Association  
of Realtors®.

Mr. DODD. I say this with all due respect, but the McCain amendment says that in 24 months we get rid of Fannie and Freddie. I don't call that reform. They are just getting rid of something. What are the implications of just getting rid of Fannie and Freddie? The fact is, Fannie Mae and Freddie Mac, at this juncture, account for 96.5 percent of all funding for all mortgages today. The amendment could undermine the supply without establishing any alternative, and there is no alternative. It just says in 24 months you get rid of Fannie and Freddie. That is a wonderful conclusion, except for the fact that what you get for that—and I don't make up these numbers—is higher interest rates on mortgages, declining values in properties, the possibility of eliminating the 30-year fixed rate mortgage, which only exists because, frankly, we have had the Fannie Mae and Freddie Mac mortgage program.

This program needs to be fixed. There is no question about it. We need an alternative housing financing system. That is without question. But this amendment doesn't offer any. It just says get rid of the one we have.

As the letter from the National Association of REALTORS reads:

[It] places Fannie Mae and Freddie Mac on a fast track to dissolution. REALTORS believe that reform of these institutions, that have played a pivotal role in the evolution of the U.S. housing market, is necessary; however, now is not the time for drastic action. Especially, considering the current role in stabilizing the housing market. [The McCain] amendment does not offer a replacement to fill the enormous gap that the shuttered GSEs will leave.

That is what we are being asked to do. In the letter from the National Association of Home Builders, they write:

Fannie Mae and Freddie Mac have been, and remain, critical components of the U.S. housing finance system. However, we remain concerned about how to get from the current structure to a future arrangement without undermining ongoing financial rescue efforts and disrupting the operation of the overall housing financing system. Any changes should be undertaken with extreme care and with sufficient time to ensure that U.S. home buyers and renters are not placed in harm's way, and that the mortgage funding and delivery system operate efficiently and effectively as a new system is put in place.

We have to do this carefully. It was the housing problems that got us into this mess. It was not Fannie and Freddie. It was this notion of a deregulated environment that occurred. All the problems emerged in the unregulated sector—unregulated brokers, unregulated mortgage companies. They were luring people into mortgages they could not afford, with no documentation, no background checks whatsoever. That is the genesis of this whole

issue. Read a new book, "The Big Short," if you want a good read about the genesis of this problem. I should not be in the business of promoting books, but that book will lay out what happened. Fannie and Freddie contributed to the problem further out, but the problem began in a totally unregulated environment, an unregulated environment that was promoted by the Chairman of the Federal Reserve and his advocates and supporters over the years. That is the origin of the mess that got us into this. Today there is no backup. If 96.5 percent of mortgages are backed by these two institutions right now, what replaces it? There isn't any with this amendment. We are left in a free fall. Who gets hurt? Average Americans. Clearly, we have to step up. Our amendment that we will offer as a substitute demands within 6 months a plan be laid out. There are a lot of different ideas on how to do it. We have had a lot of hearings and discussions on what ought to replace the present housing financing system. But I don't know of anyone who has come to one single conclusion on what the best alternative is. Some have advocated a public utility concept. That has very attractive features to it and is one I would be inclined to be supportive of. There are other ideas on how to do this, but to just eliminate it altogether, without an alternative, at a time when we are just beginning to get back on our feet, housing values are beginning to creep up, housing sales are beginning to move forward?

Again, if we leave this sector of the economy with the kind of disruption created by this amendment, then we could fall right back into a recession. We have lost 8.5 million jobs, 7 million homes have been lost, 4 million homes today are underwater in the United States, and 250,000 have been seized in the first 3 months of this year. If we want to contribute to that, if that is what our goal is in this bill, to decide on a whim and offering an amendment just to strike these two entities that exist with all their problems, that this is the way to deal with the housing problem, it would be a drastic mistake to make, having an amendment such as this be adopted. That is the reason I feel strongly about it. That does not, in any way, take a backseat to the notion we have to come up with an alternative housing financing system. That is absolutely certain. This amendment does not do that. It just gets rid of the present one without replacing it with anything. That is not the way to engage in the kind of reform that is needed.

I think my 5 minutes have expired.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, before I yield to Senator THUNE, in response to Senator DODD's statement, I am incredulous that we would somehow believe

Fannie and Freddie were not among the prime reasons for this financial meltdown.

Peter Wallison, who is a fellow in financial policy studies at the American Enterprise Institute and is a leading expert on banking and securities regulation, has written extensively about this issue and says:

The roots of the financial crisis date back to 1993, when Fannie Mae and Freddie Mac—

With the encouragement, by the way, of Members of Congress, including the passage of the Community Reinvestment Act, which basically forced people to give home loan mortgages to people who could never pay them back—he goes on to say—

began stocking up on subprime mortgage assets and other risky loans while reporting them as prime. The agencies' conflict of interest between lending to low-income borrowers and minimizing risk-taking activity may be to blame for their behavior, however, it is certain that the government's failure to properly regulate the enterprises has created one of the worst policy disasters in history.

On Christmas Eve, when most Americans' minds were on other things, the Treasury Department announced it was removing the \$400 billion cap from what the administration believes will be necessary to keep Fannie Mae and Freddie Mac solvent. This action confirms that the decade-long congressional failure to more closely regulate these two government-sponsored enterprises (GSEs) will rank for U.S. taxpayers as one of the worst policy disasters in our history.

That is the view of most economists. How in the world someone as knowledgeable as the distinguished chairman of the committee does not recognize this is one of the prime reasons for the failure, this is one of the prime reasons why 48 percent of the homes in Arizona are underwater, where people are throwing keys in the middle of the living room floor because they cannot afford to make the payments.

The enablers were Fannie Mae and Freddie Mac—the enablers of all this. Time after time, this Congress—this Congress—put pressure on them to increase their home loan mortgages to people who could never afford to pay their mortgages. We know that is the cause of it, and how the Senator from Connecticut can somehow allege that Fannie and Freddie were not—as Mr. Wallison says, the "action confirms that the decade-long congressional failure to more closely regulate these two government-sponsored enterprises will rank for U.S. taxpayers as one of the worst policy disasters in our history."

This morning, Mr. Wallison is quoted as saying:

Right now we have a consensus that something needs to be done. The sensible thing to do is to put Congress in a position where they have to act within a certain period of time.

That is what this amendment does. They have to act in a certain period of time. The Senator wants to know who should be making home loans? Community banks. Community banks should

be making home loans to people. They should be able to extend lines of credit to small businesses. But the main thing is, it should not be given to a government-sponsored enterprise to keep it in business, where the hundreds of billions of taxpayer dollars being spent is unlimited.

I yield the floor. Senator THUNE, I believe, has 10 minutes.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from South Dakota.

Mr. THUNE. Madam President, I thank my colleague from Arizona for yielding me time.

I would say Fannie Mae and Freddie Mac is a pox on all of us. But shame on us if we do not try to do something in this legislation to address this issue. What the McCain-Shelby-Gregg amendment does is responsible. It does allow for a wind-down of this conservatorship. But, as the Senator from Arizona has pointed out, it goes squarely at what I think most economists argue was a huge contributor to the meltdown we experienced a couple years ago: the runaway lending and irresponsible lending practices that were involved with the plight we now see with Freddie Mac and Fannie Mae, where they have, up until, I think, this last quarter—or taking the last quarter combined, it is about \$145 billion now that the taxpayers are on the hook for.

As the Senator from Arizona pointed out, last Christmas Eve the administration lifted the cap. There was a \$400 billion cap on the amount of taxpayer assistance that could be provided to these two institutions. But now that cap has been lifted. Imagine the scale and dimension of what we are talking about, when we already have \$145 billion of taxpayer exposure. We assume it could be as much as \$400 billion. But just in case, the administration lifts the cap because it could go well beyond that, which suggests, if history is any indication, it will go well beyond that.

What this does is say we need to exercise some responsibility with regard to the regulation of all the financial institutions in this country. What the Senator from Connecticut, in his bill, does—with the financial services regulation reform bill—is to attempt to get at what contributed, in many respects, to the meltdown we experienced a couple years ago. But it ignores perhaps, as has been pointed out by the Senator from Arizona, one of the biggest contributors to that problem; that is, these two toxic institutions, Freddie Mac and Fannie Mae.

The administration has said they need time to come up with a plan. The side-by-side that is going to be offered by the Democrats is going to be a study. We are going to study this for about 6 months. I think their argument is, it would be dangerous to rush the process. I think the contrary is true. I believe it is dangerous to ignore this

problem any longer. We cannot afford to wait so more taxpayer money can be lost, can be wasted in trying to keep these two entities afloat.

As I said before, last week we were informed that Freddie Mac needs an additional \$10.6 billion in taxpayer funds due to an \$8 billion loss in the first quarter of 2010. Since September of 2008, that brings the taxpayers' invoice for Freddie Mac to \$61.3 billion.

Fannie Mae reported a first quarter loss of more than \$13 billion, needing \$8.4 billion from the government, putting their bill to the American taxpayers at \$83.6 billion.

So the grand total of taxpayer loss from these two entities since their takeover in 2008 is a whopping \$145 billion.

The losses racked up by Freddie Mac and Fannie Mae exceed—exceed—the government's losses on AIG, General Motors, and Chrysler. Yet the current legislation in the Senate is completely silent on these two entities. That is outrageous. We cannot continue to funnel unlimited amounts of taxpayer money into Freddie and Fannie and have no plan to end this siphon.

In a time when we are faced with crushing debt and out-of-control deficits, we are willing to turn a blind eye to a \$145 billion problem, which is going to only magnify over time. Last Christmas Eve, the administration lifted the cap of \$400 billion, which is what initially was put in place that would limit the amount of taxpayer exposure. But what we are now saying is that may not be enough. Yet we do nothing—nothing—in this legislation to remedy this problem.

Obviously, the administration knew there was more bad news ahead when they decided to lift the cap on government assistance on Christmas Eve of last year. The Obama administration decided that taxpayers could afford unlimited funding for Freddie and Fannie rather than keep a \$400 billion cap on assistance in place. It is frightening they believe that \$400 billion is not going to be enough—unlimited funding may not be enough. Who knows where this ends.

That is why I think it is important right now that we deal with this issue, and the McCain-Shelby-Gregg amendment does it in a responsible way by winding down and providing a timeline. It sets a 30-month date out there by which this conservatorship has to be wound down.

If you look at what the current exposure is in terms of Freddie and Fannie, they own or guarantee over 30 million home loans, worth about \$5.5 trillion. The CBO estimates that Freddie and Fannie could cost the taxpayers as much as \$380 billion through 2020. As I said before, my assumption is that because we lifted—"we," the administration lifted—the cap on the \$400 billion of exposure, the assumption is, it is

going to go much higher than that. So I think we have to ask ourselves this fundamental question: Is this the direction in which we want to continue heading or is it time to change course?

The time to change course is now while we are debating a bill that is designed to address the very problems we encountered a couple years ago. Freddie and Fannie, as the Senator from Arizona said, were at the very heart, the very core of that issue.

According to a recent Washington Post article, with the government's conservatorship of Freddie and Fannie and the increase in FHA and VA loans, the government backed nearly 97 percent of home loans in the first quarter of 2010. Madam President, 97 percent of loans are backed by the U.S. Government. Is this where we want to end up? Is this where we want to head? Is this the best course for our housing market? Is this the role the Federal Government should be taking when it comes to housing in this country?

I firmly believe it is time we change course. I think there is great value—we all agree there is great value—in home ownership and helping families achieve the American dream of owning their own homes. But we have to bring personal responsibility back into the conversation. We need to go back to a time when families saved up money to make a downpayment on a house. They went to their banks. They provided the necessary documentation to prove they could pay back their loans, and they bought a house that was within their budgets. Buying and owning a home should be a goal people work to achieve, not a government mandate funded by the taxpayers. That essentially is what we have created.

So I believe it is about time to take responsibility for our actions. My constituents in my State who bought houses they could afford and paid their bills on time want to see Congress start taking some responsibility. I believe the McCain-Shelby-Gregg amendment does just that. It shows our commitment to getting our fiscal house in order in Washington, DC.

As I said, it is a sound plan for winding down the government backstop to Freddie Mac and Fannie Mae. It mandates that conservatorship will end in 30 months or less. Freddie Mac and Fannie Mae will have to reduce their portfolios by 10 percent each year, and if they are not viable enough to exist after the 30 months they will be liquidated. If they are a viable company after the 30 months, they would only enjoy their Federal GSE status for another 3 years.

The amendment repeals the affordable housing goals that persuaded the two entities to enter into the subprime loan business in the first place, which I believe was the slippery slope that got us into all the problems, all the troubles we are facing today.

It creates new underwriting requirements on loans purchased by Freddie and Fannie. Freddie and Fannie will have to reduce their mortgage assets by more than 50 percent within 2 years and increase their capital reserves. It repeals the temporary increase in the conforming loan limit, returning it to \$417,000. The two would have to pay State and local taxes, register with the SEC, and pay a fee to the government to repay their debts to the taxpayer.

These are all responsible reforms. Contrary to the assertions that have been made by the other side, this amendment is the correct way to proceed in dealing with these two giant institutions that have lost their way and are costing the taxpayers literally billions and billions and billions of dollars every quarter that passes that we do not take steps to fix this problem.

The amendment would reinstate the \$400 billion cap that the administration lifted in December so the taxpayers know for certain they are not going to be on the hook for unlimited financial support.

The amendment establishes a new special inspector general at the GAO to investigate and report to Congress on these two entities. Freddie and Fannie would be included in the Federal budget until their conservatorship has ended, which is the fiscally responsible thing to do when we all know they do, in fact, have an impact on our budget and on our debt.

As I said, I have heard the arguments on the other side of the aisle, and I think they are ignoring the clear will of the American people. The American people get this. They know why we are where we are. They are sick and tired of subsidizing the mistakes of Freddie Mac and Fannie Mae. We need to put an end to the taxpayer bailout.

I think it is important to the credibility of our economy and our credibility with the American taxpayers—but it is important to the credibility of the markets and to our economy—that they understand we are serious about solving this problem. That is why the McCain-Shelby-Gregg amendment is the correct way to proceed. We are going to have a vote on that very soon, and I hope we will not leave this subject, that we will not dispose of this financial services regulation reform bill without addressing this very important topic.

To suggest for a minute, as the other side has, that somehow we can do a study, we can put this off for 6 months—and who knows. By the time they complete the study, they will have to think about the results of that study and formulate a plan, and that will take another 6 months or a year. Every single month, every single quarter that goes by, we continue to hemorrhage more and more money at the cost of billions and billions of dollars to the American taxpayers. They have

had enough. We should say we have had enough and we are going to bring some discipline. This amendment does that, and I hope my colleagues will support it.

I yield the remainder of my time.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SHELBY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Madam President, as part of the debate on the McCain-Shelby-Gregg amendment, I wish to take this opportunity this afternoon to discuss the history of Fannie Mae and Freddie Mac from my perspective. By doing this, I want to emphasize past Republican attempts at regulating and reforming these institutions, while also discussing their role in the financial crisis.

The government-sponsored enterprises that we call Fannie Mae and Freddie Mac were key players in the collapse of the U.S. housing market. Their multitrillion dollar portfolios gave them the purchasing power to drive markets. In addition, false presumptions about their housing finance expertise and their connections to the government gave them further power to influence the housing market. And let us not forget the GSEs' nationwide lobbying and public affairs apparatus that was designed to keep reformers at bay and their supporters flush with cash.

When the GSEs began to buy subprime securities, other firms, including most of the Wall Street banks, took this as a signal that subprime mortgage securities were safe and worthwhile investments. In effect, Fannie Mae and Freddie Mac placed the Good Housekeeping "Seal of Approval" on these risky instruments. As a result, the rest of the market engaged in this practice, and the race to the bottom began. Ultimately, the GSEs' collapse lit a wildfire that burned throughout the financial markets.

Due to their miscalculations, Fannie Mae and Freddie Mac have been placed in conservatorship and have already cost the taxpayers well over \$100 billion. Just last week, we learned that the GSEs will need another \$20 billion in taxpayer assistance for their losses during the previous quarter.

This did not have to happen. For years, the warning signs were flashing, and Republicans made multiple attempts to adopt the necessary reforms. Unfortunately, those efforts were opposed by Democrats in the Senate Banking Committee and ultimately caused the many efforts put forth by Republicans to stall in the Senate.

In 2003, as chairman of the Banking Committee at that time, I held multiple hearings on proposals for improving the regulation of the GSEs. I wish to read a portion of my opening statement from one of those hearings. I quote from that time:

The enterprises are large institutions. Collectively, Fannie Mae and Freddie Mac carry \$1.6 trillion in assets on their balance sheets and have outstanding debt of almost \$1.5 trillion. The Federal Home Loan Bank System is not far behind, with combined assets of over \$780 billion and outstanding advances to member institutions of \$495 billion. Due to the importance of the housing GSEs' mission, and the size of their assets, I believe that the enterprises require a strong, credible regulator.

I further read from the statement then:

I remain concerned that the current regulatory structure for housing the GSEs is neither strong nor credible.

At this same hearing, it became apparent that the two parties had very different perspectives regarding the need for reform. One of my Democratic colleagues noted—and it is in the record:

There is an old expression, if it ain't broke, don't fix it. I think some of us here in the Senate believe that when we try to fix things that aren't really broken, we can end up doing more harm than good.

Notwithstanding the mindset on the other side of the aisle, my Republican colleagues and I persevered, and we remained engaged in the effort to reform the GSEs by holding numerous hearings and closely tracking the GSEs' activities at that time.

We decided those who believed "things aren't really broken" were wrong. In the face of strong Democratic opposition and a relentless lobbying campaign by the GSEs and their supporters, we proceeded with a markup of the Federal Housing Enterprise Regulatory Reform Act of 2004.

I wish to again read portions of my brief opening statement from that markup which lays out the issues and the responses we crafted to address the problems of the GSEs then:

This afternoon the committee will consider S. 1508, a bill to address regulation of the housing GSEs.

Today, we are faced with the most important decisions considered by this committee in years—determining the strength, independence and credibility of regulation of our nation's Government Sponsored Housing Enterprises. The strength, independence and credibility of this regulatory system have tremendous implications for the future health and vitality of our housing markets, our capital markets, and the economy as a whole.

I continue to quote the statement:

Freddie Mac and Fannie Mae currently have \$1.7 billion debt outstanding. To provide some perspective, our nation's Treasury debt in the hands of the public stands at just over \$4 trillion. The Federal Home Loan Bank System has also grown significantly since the 1990s and has a vastly expanded membership base.

Its current regulator is not up to the task of providing adequate oversight of its significant role.

My statement continued:

Fannie Mae is the second largest financial institution in the United States. Freddie Mac is fourth. Their debt is held by foreign central banks, insurance companies, money center banks and community banks. Because of the interest rate risk these GSEs must manage, they have an extensive network of derivative contracts. Should one of these institutions encounter significant financial difficulty it could make the S&L crisis pale by comparison.

I was here speaking as an early member of the Banking Committee, as was Senator DODD, during the bailout of the S&Ls. And it was no pretty matter. It ended up costing the taxpayers at least \$130 billion.

I continue:

This experience has only reaffirmed my resolve to ensure such a debacle never revisits the taxpayer. And, quite simply, the real truth is we cannot afford a crisis of the magnitude a failing GSE would pose.

I approach this markup today with a firm appreciation of the gravity and relevance of what we do here today. I state again, as I have before—I support the housing missions of the GSEs. Home ownership is the primary source of wealth for many Americans. It fosters strong communities and promotes stability for children and families.

But, and I believe there is consensus in this Committee on this one point at least, they are not well-regulated and, therefore, pose significant risk to the taxpayer and the markets they serve.

To be clear: they are not well-regulated because the regulatory structures and authorities that Congress created are insufficient and weak by design.

And that is what the draft before us is all about. Reaffirming the important mission of GSEs, creating a regulator that has all the tools and independence that other first class financial regulators require, and protecting the taxpayer. These are the guiding principles that animate the draft that I have put forth before the Banking Committee today.

Unfortunately for the taxpayers of this country, politics got in the way of advancing credible public policy then. Apparently, the Democrats felt it was better to block necessary change, adhere to the status quo, and ignore the risk to the financial system, all while leaving the taxpayers fully exposed.

We, the same Republicans who have been characterized by Democrats as being pro-Wall Street and antiregulation throughout this process, were trying to create a stronger regulator, raise capital standards, reduce risk taking, and put in place a resolution regime that would limit taxpayer exposure in the event of a firm failure.

That was a number of years back. I wish to revisit the words of one of my then-Democratic colleagues who made the following statement—and it is in the record—as we debated the merits of the Republican GSE reform bill at that time:

Lord only knows where the economy would be today if it were not for the stability of the housing market in the midst of so much turbulence and the ability of Americans to draw

down some of their home equity to engage in consumer purchases.

Then, as we stood on the precipice of a housing and financial meltdown, my Democratic colleagues were opposing more regulation and promoting more consumer spending. As if that were not bad enough, we were encouraging homeowners to raid the home's equity to finance their purchases. And look where it brought us.

Another Democrat took issue with the fact that we attempted to give the regulator the power to place a GSE into receivership:

Receivership, first, it does not have to be in the bill, but, second, to allow a regulator who may not like this institution to then sort of dole out little pieces of it one way or another and weaken the fundamental structure of Fannie and Freddie easily leads to its demise.

I am not sure whether my colleagues then understood the basic concept behind establishing an orderly resolution process, but I hope the lesson has now been learned. Ironically, Democratic opposition to strong reform actually produced the exact outcome my colleague feared. When reform stalled in the face of Democratic objections, investors once again viewed Fannie Mae and Freddie Mac as "too big to fail." They were confident that Congress and the U.S. Government would never allow them to go under. This, of course, gave the GSEs a significant financing cost advantage which led to their explosive growth and excessive risk taking.

Finally, and most telling, one of my Democratic colleagues was concerned about how Wall Street might interpret the regulatory changes that Republicans were advocating, stating:

It is a fact that just mere speculation about the prospects of some provisions in the bill is sending shock waves through Wall Street.

Really?

When Wall Street became concerned that our legislation at that time would provide a stronger regulator, require higher capital standards, mandate less risk taking, and establish a well-designed resolution regime, the Democrats came to Wall Street's rescue, not the Republicans.

When the choice was between Main Street and Wall Street, the Democrats made it absolutely clear whose side they were on. They chose Wall Street, and Wall Street ultimately paved the road that led to this collapse.

I ask unanimous consent to have printed in the RECORD a copy of the recorded vote of the proceedings of that day in the Senate Banking Committee. That result was a party-line vote with all 12 Republicans voting for GSE reform and all Democrats opposing it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### MARKUP OF S. 1508, THE FEDERAL HOUSING ENTERPRISE REGULATORY REFORM ACT OF 2004

The Committee met, pursuant to notice, at 2:10 p.m., in room SD-538, Dirksen Senate Office Building, Senator Richard Shelby (Chairman of the Committee) presiding.

Present: Senators Shelby, Bennett, Allard, Enzi, Hagel, Santorum, Bunning, Crapo, Sununu, Dole, Chafee, Sarbanes, Dodd, Johnson, Reed, Schumer, Bayh, Carper, Stabenow, and Corzine.

#### STATEMENT OF CHAIRMAN RICHARD SHELBY

Chairman Shelby. The Committee will come to order.

This afternoon, the Committee will consider S. 1508, a bill to address the regulation of the housing GSEs. I will start by acknowledging the original cosponsors of this bill—Senator Hagel, Senator Sununu, and Senator Dole—and I want to commend them for their dedication and their work, originally, and including putting together what we have today.

Today, we are faced with the most important decisions considered by this Committee in years; that is, determining . . .

I now move and ask a roll call vote on the original bill, the substitute. Call the roll.

The Clerk. Mr. Chairman?

Chairman Shelby. Aye.

The Clerk. Mr. Bennett?

Senator Bennett. Aye.

The Clerk. Mr. Allard?

Chairman Shelby. Aye, by proxy.

The Clerk. Mr. Enzi?

Senator Enzi. Aye.

The Clerk. Mr. Hagel?

Senator Hagel. Aye.

The Clerk. Mr. Santorum?

Chairman Shelby. Aye, by proxy.

The Clerk. Mr. Bunning?

Senator Bunning. Aye.

The Clerk. Mr. Crapo?

Chairman Shelby. Aye, by proxy.

The Clerk. Mr. Sununu?

Senator Sununu. Aye.

The Clerk. Mrs. Dole?

Chairman Shelby. Aye, by proxy.

The Clerk. Mr. Chafee?

Senator Chafee. Aye.

The Clerk. Mr. Sarbanes?

Senator Sarbanes. No.

The Clerk. Mr. Dodd?

Senator Dodd. No.

The Clerk. Mr. Johnson?

Senator Sarbanes. No, by proxy.

The Clerk. Mr. Reed?

Senator Reed. No.

The Clerk. Mr. Schumer?

Senator Sarbanes. No, by proxy.

The Clerk. Mr. Bayh?

Senator Bayh. No.

The Clerk. Mr. Miller?

Chairman Shelby. Aye, by proxy.

The Clerk. Mr. Carper?

Senator Carper. No.

The Clerk. Ms. Stabenow?

Senator Stabenow. No.

The Clerk. Mr. Corzine?

Senator Corzine. No.

The Clerk. Chairman, the ayes are 12, the nays 9.

Chairman Shelby. The bill is adopted.

Mr. SHELBY. Madam President, that was not the end of the story, though. More than 1 year later, we tried again to pass these important reforms. The Banking Committee held more hearings leading to the markup of S. 190, the Federal Housing Enterprise Regulatory Reform Act of 2005. I will not read my entire statement from this

markup, but I will read a part of it that describes the commonsense steps that we were attempting to take with our newest effort to pass then GSE reform. I quote from that markup:

My legislation creates a new regulator with combined oversight for both the safety and soundness and the housing mission of Fannie Mae, Freddie Mac, and the Federal Home Loan Bank System.

The new regulator will have general regulatory authority over all housing GSEs, including enhanced authority over capital requirements, and enforcement and prompt corrective action authorities that are comparable to those of the bank regulatory agencies.

Among other enhanced regulatory authorities, the bill we will consider today includes clear direction on portfolio review for compliance with safety and soundness, mission and systemic risk.

Under this proposal, the enterprises are permitted to hold those assets which promote the enterprises' mission in the housing market.

The bill also transfers the product review function from HUD to the new regulator and creates a two-tier approval process through which the enterprises must receive approval prior to offering any new product.

The bill also establishes new criteria for approval of a product that will ensure the enterprises remain focused on their statutory mission of facilitating a secondary mortgage market.

The new regulator will also have the power to conduct an orderly resolution of a failing or insolvent GSE through a receivership process. This clear and definitive process for dealing with a troubled enterprise is a critical tool for the credibility and strength of a new regulator.

Madam President, unfortunately, the Democrats did not share my view of increasing regulations on the GSEs, and their comments during the second attempt to pass meaningful reforms are telling. One of my Democratic colleagues stated then, "When the sink is leaking, you do not tear down the house, especially if the house has served you well." Another recalled a critique he read of the bill before the markup, which claimed, "It is like trying to cure the common cold with chemotherapy."

In fact, at one hearing, one of my Democratic colleagues expressed an interest in hearing how the roles of the GSEs might be increased, when he explained:

I am not only interested in hearing about the role GSEs currently play in the mortgage market, I am also interested in how their commitment to home ownership and affordable housing can be expanded.

In the end, the result of our 2005 markup was the same as our 2004 markup—a strict party-line vote with all 11 Republicans supporting the reforms and all 9 Democrats opposing them. Unfortunately, the Democrats once again sided with Wall Street and the special interests by rejecting GSE reform and any attempt to move the legislation beyond the Banking Committee.

Madam President, I ask unanimous consent to have printed in the RECORD



a copy of that recorded vote in the Banking Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARKUP OF THE NOMINATIONS OF HON. CHRISTOPHER COX, TO BE CHAIRMAN, U.S. SECURITIES AND EXCHANGE COMMISSION; HON. ROEL C. CAMPOS, TO BE COMMISSIONER, U.S. SECURITIES AND EXCHANGE COMMISSION; ANNETTE L. NAZARETH, TO BE COMMISSIONER, U.S. SECURITIES AND EXCHANGE COMMISSION; JOHN C. DUGAN, TO BE COMPTROLLER, OFFICE OF THE COMPTROLLER OF THE CURRENCY; HON. JOHN M. REICH, TO BE DIRECTOR, OFFICE OF THRIFT SUPERVISION; AND MARTIN J. GRUENBERG, TO BE MEMBER AND VICE-CHAIRMAN, FEDERAL DEPOSIT INSURANCE CORPORATION, AND OF S. 705, MEETING THE HOUSING AND SERVICE NEEDS OF SENIORS ACT OF 2005; H.R. 804, TO EXCLUDE FROM CONSIDERATION AS INCOME CERTAIN PAYMENTS UNDER THE NATIONAL FLOOD INSURANCE PROGRAM; S. 1047, THE PRESIDENTIAL \$1.00 COIN ACT OF 2000; AND S. 190, THE FEDERAL HOUSING ENTERPRISE REGULATORY REFORM ACT OF 2005

The question is on reporting the Committee print of S. 190 as amended here to the full Senate.

The Clerk will call the roll.  
The Clerk. Chairman Shelby.  
Chairman Shelby. Aye.  
The Clerk. Mr. Bennett.  
Senator Bennett. Aye.  
The Clerk. Mr. Allard.  
Chairman Shelby. Aye by proxy.  
The Clerk. Mr. Enzi.  
Chairman Shelby. Aye by proxy.  
The Clerk. Mr. Hagel.  
Chairman Shelby. Aye by proxy.  
The Clerk. Mr. Santorum.  
Senator Santorum. Aye.  
The Clerk. Mr. Bunning.  
Senator Bunning. Aye.  
The Clerk. Mr. Crapo.  
Senator Crapo. Aye.  
The Clerk. Mr. Sununu.  
Senator Sununu. Aye.  
The Clerk. Mrs. Dole.  
Senator Dole. Aye.  
The Clerk. Mr. Martinez.  
Senator Martinez. Aye.  
The Clerk. Mr. Sarbanes.  
Senator Sarbanes. No.  
The Clerk. Mr. Dodd.  
Senator Dodd. No.  
The Clerk. Mr. Johnson.  
Senator Sarbanes. No by proxy.  
The Clerk. Mr. Reed.  
Senator Reed. No.  
The Clerk. Mr. Schumer.  
Senator Sarbanes. No by proxy.  
The Clerk. Mr. Bayh.  
Senator Sarbanes. No by proxy.  
The Clerk. Mr. Carper.  
Senator Carper. No.  
The Clerk. Ms. Stabenow.  
Senator Sarbanes. No by proxy.  
The Clerk. Mr. Corzine.  
Senator Sarbanes. No by proxy.  
The Clerk. Mr. Chairman, the yeas are 11, the nays nine.

Chairman Shelby. S. 190 as amended is ordered reported to the full Senate.

Mr. SHELBY. I would like to point out another bit of irony right now. Many of my colleagues who recently complained about the process regarding consideration of this bill were some of the same people who took every measure to block all consideration of

GSE reform. Actions have consequences, and in this particular instance, they were almost immediate. As soon as it was apparent that GSE reform was dead, Fannie Mae and Freddie Mac took steps to dramatically increase their risk.

The Government Accountability Office, GAO, detailed this in a September 2009 report. The GAO discovered that in 2004 and 2005, the enterprises:

... embarked on aggressive strategies to purchase mortgages and mortgage assets with questionable underwriting standards. For example, they purchased a large volume of what are known as Alt-A mortgages, which typically did not have documentation of borrowers' incomes and had higher loan-to-value ratios or debt-to-income ratios.

Furthermore, purchases of private-label MBS increased rapidly as a percentage of retained mortgage portfolios from 2003 to 2006. By the end of 2007, the enterprises collectively held more than \$313 billion in private-label mortgage-backed securities, of which \$94 billion was held by Fannie Mae and \$218.9 billion held by Freddie Mac.

Recently, Daniel Mudd, Fannie Mae's former chief operating officer and chief executive officer, testified:

While the market was changing, Fannie Mae struggled to meet aggressively increasing HUD goals. The goals were extremely challenging, increased significantly every year, and permitted no leeway to account for the challenging lending environment. Certain mortgages that may not have met our traditional standards could not be ignored.

While Mr. Mudd may be correct that these mortgages aided their ability to meet their HUD goals, it also should be noted that the GAO in this same report did not see these purchases as a benefit to their mission, stating:

The rapid increase in the enterprises' mortgage portfolios and the associated interest-rate risk did not result in a corresponding benefit to the achievement of their housing mission.

Ultimately, this increased risk played a significant role in the demise of Fannie Mae and Freddie Mac.

I would like to read one final section of that 2009 GAO report here this afternoon.

According to the Federal Housing Finance Administration, while these questionable mortgage assets accounted for less than 20 percent of the enterprises' total assets, they represented a disproportionate share of credit-related losses in 2007 and 2008.

For example, by the end of 2008, Fannie Mae held approximately \$295 billion in Alt-A loans, which accounted for about 10 percent of the total single-family mortgage book of business. Similarly, Alt-A mortgages accounted for nearly half of Fannie Mae's \$27.1 billion in credit losses of its single-family guarantee book of business in 2008.

At a June 2009 congressional hearing, former OFHEO Director James Lockhart said that 60 percent of the triple-A rated private label MBS purchased by the enterprises had since been downgraded to below investment grade. He also stated that investor concerns about the extent of the enterprises' holdings of such assets and the potential associated losses compromised their capacity to raise needed capital and issue debt at acceptable rates.

Madam President, we all know what happened once they were unable to raise capital, but let's also remember the consequences that followed our failure to properly regulate Fannie Mae and Freddie Mac.

Charles Duhigg of the New York Times, part of a group of journalists who produced "The Reckoning," a series that explored the roots of the financial crisis, wrote in 2008 that:

The ripple effect of Fannie's plunge into riskier lending was profound. Fannie's stamp of approval made shunned borrowers and complex loans more acceptable to other lenders, particularly small and less sophisticated banks.

James Lockhart supported this conclusion in his testimony before the Financial Crisis Inquiry Commission on April 9 of this year when he observed that the GSEs:

... indirectly encouraged lower standards by purchasing private label securities. They also encouraged lower standards by not aggressively pursuing the obligations to repurchase mortgages if they did not comply with the enterprises' underwriting requirements.

Madam President, during the debate on this bill before us, we have heard numerous times that we need to have a tighter grip on Wall Street to prevent those large Wall Street firms from harming small businesses on Main Street.

If only my Democratic colleagues had been less concerned with Wall Street's reaction in 2004 and 2005, perhaps we could have protected not only those less sophisticated smaller banks on Main Street but also the millions of consumers caught up in the resulting inflated housing market and the millions of taxpayers who have had to foot the bill for the resulting debacle. Instead, the stalling of this legislation by Democrats at that time ended any attempts of meaningful GSE reform until mid-2008, when Fannie Mae and Freddie Mac were already in serious trouble.

The simple truth is that we didn't act when we could have effected real change. Republicans were ready to enact real reform and—unfortunately for the taxpayer—Democrats were not. Let's not make the same mistake again here today.

The McCain-Shelby-Gregg GSE amendment takes several important steps to reform the GSEs. It provides transparency to the conservatorships of the GSEs by establishing much needed investigative oversight. It also requires Fannie Mae and Freddie Mac to be included in the Federal budget as long as they are in conservatorship or receivership status. It reestablishes taxpayer protections that were abolished by the Obama administration last Christmas Eve, and it requires that Congress be involved in any decision to spend additional resources to stabilize the housing markets. Finally, it establishes a definite end to the ongoing conservatorships of Fannie Mae and Freddie Mac and paves a responsible path forward by refocusing their



efforts, installing proper safeguards, and untangling the U.S. taxpayer from this mess.

I urge my Democratic colleagues to ignore Wall Street and the special interests lobbying against this amendment. Join the Republicans in doing something good for the American taxpayer—support the McCain-Shelby-Gregg amendment.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Madam President, I ask unanimous consent that the only debate remaining on the pending Dodd and McCain amendments be 20 minutes, with 10 minutes accorded to each amendment; that upon the use or yielding back of time, the Senate proceed to vote in relation to the Dodd amendment No. 3938, to be followed by a vote in relation to the McCain amendment No. 3839, with no amendment in order to either amendment prior to the vote; further, that upon disposition of the amendments described above and as if in executive session, the Senate proceed to executive session and proceed to vote on confirmation of the following nominations in the order listed: Executive Calendar No. 704 and 729; that upon confirmation, the motions to reconsider be considered made and laid upon the table, any statements relating to the nominees be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then resume legislative session; that after the first vote in this sequence, the remaining votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Well, Madam President, let me now proceed with my time. I know my colleague from Arizona will come over to be heard.

Let me emphasize again to my colleagues that the McCain amendment is opposed by the National Association of Realtors, the homebuilders, and the credit unions for the simple reason that the amendment doesn't do anything except end Fannie Mae and Freddie Mac. That is hardly reform. It replaces it with nothing, so we end up in a free fall in this country when it comes to providing affordable mortgages for middle-income families.

Granted, Fannie Mae and Freddie Mac need to be reformed, and the amendment we will vote on first off—that I will be proposing—in fact requires that the administration, by January, submit a specific plan that would

call for how to reform Fannie Mae and Freddie Mac and what to replace it with in a housing financing system. Not to have a housing financing system, just to leave us without one altogether, as we would achieve with the McCain amendment, just eliminating Fannie Mae and Freddie Mac with no replacement within the year, is hardly what we need to do at this time.

We have been through a lot. This problem began in the housing market, in an unregulated segment of our economy. For years, the previous administration and others advocated a totally unregulated market. Because of those attitudes, we ended up where we did—with brokers and mortgage companies that were providing mortgages to people without any documentation, without any underwriting standards whatsoever, and we ended up, of course, with 7 million homes lost, 4 million underwater today, and 250,000 seized just in the last number of months, since the outset of this year.

The McCain amendment would actually leave us in a very fragile situation, and that is the point the homebuilders, the realtors, and the credit unions are making in their strong opposition to this amendment.

Our amendment lays out a timeframe in which the administration would have to submit a specific set of plans so we could then, in the next Congress, move forward.

As my colleague from New Hampshire has pointed out, the issue of replacing and coming up with an alternative housing finance system is very complex. There are a lot of different ideas out there about which plan ought to replace the one we have working today. Obviously that is something the Congress will have to consider.

I mentioned earlier Fannie Mae, Freddie Mac, and the FHA together account for 96.5 percent of the funding for mortgages today. The McCain amendment would undermine this supply without establishing a reasonable alternative. It is irresponsible public policy at a very uncertain time. As Senator GREGG said earlier, on the debate in the Wall Street reform bill the GSE issue is “too complex to do in this bill.”

The McCain amendment would require the Federal Housing Finance Agency to either end the conservatorship of Fannie and Freddie or disband them, put them into receivership within 2 years. That is all. The amendment poses no alternative to Fannie Mae and Freddie Mac. It would totally privatize the mortgage market other than FHA.

We have had some experience with how the housing market behaves when it is completely privatized. It is called subprime and exotic mortgage markets. As we know, it was this unregulated market, fanned by Wall Street, that pushed out those irresponsible mortgages that they knew people could

not afford which led to our current problems. With a still fragile housing market in dangerous times, the McCain amendment would push us back into this downward spiral.

The amendment would do the following. It results in an increase in mortgage rates for home buyers and homeowners. Try to explain that as you go back to your States, if this amendment were adopted. It reduces the availability of mortgage credit in communities across our country, including communities with relatively low-cost housing. This would result in reductions in existing housing values at a time when the housing market is just starting to recover some value.

Further, this amendment would reduce the availability of mortgage credit to first-time home buyers, to low- and moderate-income families seeking to buy or refinance a home by eliminating housing goals. It goes on by delaying or to put home ownership out of reach to many families. It raises the minimum downpayment requirements to 10 percent. A minimum 10 percent for families starting out, with better underwriting standards, that kind of criterion excludes a lot of young families starting out who wish to buy their first home. It reduces the availability of mortgage credit for affordable rental housing by eliminating the housing goals, and it undermines the efforts to get loan modifications and affordable refinances to homeowners trying to save their homes.

Last, it results in the potential elimination of a 30-year fixed rate prepayable mortgage.

This last point is something I do not think most Americans are aware of. We are the only country in the world that provides a 30-year fixed rate mortgage for families. That is the source of wealth creation for most Americans. It is not buying stocks on Wall Street or getting involved in fancy credit default swaps and over-the-counter derivatives and all of this casino gambling that goes on. Average Americans accumulate wealth when they can afford to buy a home and hold on to that property, watching equity increase. That equity provides a source of income for retirement years, helps provide for the college education of their kids, and equity in a neighborhood provides stability for that neighborhood and strengthens communities. If you eliminate the 30-year fixed rate mortgage, you have dealt a huge blow to working families in this country. I do not think we want to look like Europe when it comes to home mortgages, and that is how we will end up if the McCain amendment is adopted.

For all of those reasons, as I said, homebuilders, realtors, and credit unions oppose this amendment.

Reform of the GSEs—everyone agrees we need to make that reform. However, the homebuilders say in their letter to Senator MCCAIN:

... we remain concerned about how to get from the current structure to future arrangements without ... disrupting the operation of the overall housing finance system. Any changes should be undertaken with care....

I agree. We should keep in mind that the Congress created a strong new regulatory regime for Fannie Mae and Freddie Mac in 2008. Their regulator is maintaining strong oversight of these enterprises, while they continue to provide crucial assistance to the housing market.

Longer term reform of Fannie and Freddie would require a thoughtful reconsideration of the structure of the whole housing finance system. This will require hearings about exactly what structure we want to put in place to finance housing in this country. This will require hearings with many stakeholders and others involved in the serious discussions to determine what that system ought to be.

To wipe out the present system—I have to tell you a quick story. It may seem unrelated to the subject at hand.

Many years ago, when I was the ripe old age of 22, I was a Peace Corps volunteer in the Dominican Republic and I went to one of the mountain villages near the border of Haiti and I asked the people what they thought their needs were. They said, What do you think we need to do, of this young American. I looked over at the old schoolhouse they had, one room, made of palm wood with a dirt floor. I said I think you need a new school. They said that is a pretty good idea. We agree with you. What should we do first? I said, first tear down the old school.

It was my first project. For the next 2 years they had no school in town. It took that long. We didn't know where to build the school. We didn't know where the property was, we didn't have the materials, so we gathered in people's homes to become the school. In effect, that is what the McCain amendment is going to do.

I made a mistake at age 22. Before deciding to build what you are going to have, don't tear down what you have without knowing what you are going to replace it with. Eventually we got a school built in that town, but they went through a rough 2 years because this young American didn't understand that while the old school wasn't great and it was in desperate need of repair, tearing it down and leaving them with no school left that little community without the ability to have a decent place to house and teach their kids. That analogy applies here because what the McCain amendment does is tear down without building anything in its place.

Again, I will take a back seat to no one. Democrats should have done a better job. Republicans—I listen to my colleague from Alabama talk about the history of Fannie and Freddie. Believe me, I have an alternative history. But

we can go back and forth on that endlessly. Let's suffice to say this: We all should have done a better job at this and finger pointing doesn't get us anywhere. We are not in the business of trying to rewrite history today, we are trying to see to how best to ensure the coming generation will never have to go through what this generation has. What we are offering here is a specific idea of how to get us to that new plan of housing finance. You don't get there by eliminating what we have today and putting everything else at risk as a result of what is included in this amendment.

Under our amendment, the Treasury specifically is told not "may" but it "shall" do following things: Come up and tell us how we are going to wind down and liquidate Fannie and Freddie; the privatization of the two GSEs; the breakup of the GSEs into small companies; and other options that may be available.

This is a tough study. This isn't one to kind of paint this over; it demands a report back, "shall," how specifically we can do this in a time certain. It is not perfect. I wish I had some magical reform to offer everyone today.

We have looked at this for weeks and months and there is a significant debate over what that housing financing system ought to be. I can't tell you with any certainty what is the best idea at this juncture. I know this much, to tear down what we have and replace it with nothing would be the height of irresponsibility. It would put our country's economy into a tailspin, in my view, at the very time we are beginning to come out of our difficulties—290,000 new jobs created in the last month alone. In the last previous months, 121,000 more than we anticipated. Housing starts are picking up, values are picking up again. Why at this very hour would we step back?

For all those reasons, I say respectfully, the McCain amendment I hope will be rejected by our colleagues and our substitute amendment will be supported.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I have been around this body for a long time. I have seen the side-by-sides. This is one of the classics that we have seen time after time. If you don't like a tough amendment, then have one that requires a study. Let's study the problem. And the purpose of this amendment as stated, and I quote from the amendment:

To require the Secretary of the Treasury to conduct a study on ending the conservatorship of Fannie Mae and Freddie Mac and reforming the housing finance system.

Reforming the housing finance system—I thought reforming the housing finance system was part of the deal here. I had no idea we were not going

to reform the housing finance system when we advertised this legislation to the American people as to assure them that there would never be another financial meltdown which was caused by the housing finance system.

What does the side-by-side amendment do? It will require the Secretary of Treasury to conduct a study. Do you mean to tell me the Secretary of Treasury, after the greatest financial meltdown in history since the Great Depression, has to conduct a study? He has to conduct a study to figure out why we have just spent \$145 billion, lifted the \$400 billion cap at 7 p.m. on Christmas Eve? The system cries out for reform now. As is stated by literally every expert in America, it was the housing meltdown, abetted by the enablers Fannie and Freddie, that caused the financial meltdown. So we are doing nothing about it except asking the Secretary of Treasury to conduct a study. Remarkable. Remarkable.

Again I want to quote from the Wall Street Journal that says it well enough. It says:

This action confirms the decade-long congressional failure to more closely regulate these two government-sponsored enterprises will rank for U.S. taxpayers as one of the worst policy disasters in our history.

One of the worst policy disasters in our history, and we are doing nothing about it except conduct a study. That ought to do it.

I am not calling for the abolition of Fannie and Freddie. I am calling for them to stop being in the government trough. I am saying that Fannie and Freddie ought to be doing their job in competition with everybody else who finances home loan mortgages in America. The history of these organizations is replete with enabling by the Congress of the United States—including, by the way, incredible compensation for the so-called people who were supervising these organizations as they went into the tank—one of them \$93 million for a year or two of supervising going farther and farther into toxic assets.

All I can say is if we pass this legislation without this amendment, do not look the American people in the eye and say we have reformed the financial system in America. Do not look the American people in the eye and say we will never again have a financial collapse in this country. Do not say we are going to turn off the spigot of Federal tax dollars—already \$145 billion.

Why did the Treasury lift the cap of \$400 billion that we were going to spend to help with these toxic assets of Fannie and Freddie if they didn't think it was going to be more than \$400 billion?

So what are we doing in response? Sitting by and watching hundreds of billions of dollars of the taxpayers' money being used to bail out these two

government-sponsored enterprises to the great cost of the American taxpayer. Again I say to my colleagues: Don't wonder why the American people are fed up. Don't wonder why the American people are in virtual peaceful revolt, when we continue to pour good money after bad, to the tune of hundreds of billions of dollars, without reforming the institutions that caused it. We are not fulfilling our responsibilities to the American taxpayers.

I am asking my colleagues, don't vote for another study. If you are going to vote against my amendment, fine, but let's not continue this charade and vote for another study.

I yield to the Senator from Alabama what time remains.

The PRESIDING OFFICER. The Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, how much time is remaining?

The PRESIDING OFFICER. There is 4 minutes 30 seconds remaining.

Mr. SHELBY. Mr. President, earlier today in the Senate I spoke about the past actions or, rather, inactions of this body that led us to the current situation with Fannie Mae and Freddie Mac. I now will take just a few minutes to discuss the current status of these institutions as Senator MCCAIN has mentioned. I will also explain the specifics of the McCain-Shelby-Gregg amendment and why I believe we must adopt it.

Since September of 2008, we have had to spend more than \$150 billion to bail out these GSEs. By some estimates, this amount exceeds the total cost of the savings and loan bailouts that occurred in the late 1980s and early 1990s. Let me repeat that. Bailing out the GSEs has now cost as much or more than the entire savings and loan crisis, and it is continuing.

Having spent such considerable amounts of taxpayer dollars, one would think that the GSEs would be topic No. 1 as we consider financial reform. Unfortunately, that is not the case. As recently reported by Gretchen Morgenson, a Pulitzer Prize writer of the New York Times:

Freddie [has] warned that its credit losses were likely to continue rising throughout 2010.

Even more troubling, while the GSEs have considerable legacy problems associated with the older loans in their portfolios, they are being used by the Obama Administration to take on additional risks.

On Christmas Day of last year, the Obama administration announced it would relax important taxpayer protections at GSEs, and it would prop them up with unlimited taxpayer funding. That is exactly what they are doing today.

The administration took this step so it would have the flexibility to con-

tinue its efforts to support the housing market. Some now are questioning those efforts. In the New York Times piece I mentioned, Ms. Morgenson quotes Dean Baker, codirector of the Center for Economic and Policy Research, who noted:

I do not understand why people are not talking about it [referring to Freddie's losses] . . . it seems to me the most fundamental question is, have they on an ongoing basis been paying too much for loans ever since they went into conservatorship?

This begs the question of why the GSEs would overpay at this point. What is to be gained? Ms. Morgenson posits a rather compelling theory:

Mr. Baker's concern that Freddie may be racking up losses by overpaying for mortgages derives from his suspicion that the government might be encouraging it to do so as a way to bolster the operations of mortgage lenders.

I hope not. In the past, those huge piles of money that have consistently been spent found their way into the pockets of Democratic operatives such as Frank Raines, Jim Johnson, Jamie Gorelick, Tim Howard, and President Obama's Chief of Staff, Rahm Emanuel. Now similar piles are floating around, not necessarily to Democrats but certainly on behalf of their pet initiatives.

The only constant in either scenario has been the taxpayer has been stuck with footing the bill. I believe this afternoon this must end. It is finally time to protect the taxpayer. The McCain-Shelby-Gregg amendment will do that.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. All time has expired, I hope.

The PRESIDING OFFICER. The Senator from Arizona has 1 minute remaining.

Mr. DODD. I think it is safe to say we can yield back our time.

I ask for the yeas and nays on the Dodd amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The question is on agreeing to the Dodd amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 36, as follows:

[Rollcall Vote No. 139 Leg.]

#### YEAS—63

Akaka	Brown (OH)	Dodd
Baucus	Burris	Dorgan
Bayh	Cantwell	Durbin
Begich	Cardin	Feinstein
Bennet	Carper	Franken
Bingaman	Casey	Gillibrand
Boxer	Collins	Hagan
Brown (MA)	Conrad	Harkin

Inouye	McCaskill	Schumer
Johanns	Menendez	Shaheen
Johnson	Merkley	Snowe
Kaufman	Mikulski	Specter
Kerry	Murkowski	Stabenow
Klobuchar	Murray	Tester
Kohl	Nelson (NE)	Udall (CO)
Landrieu	Nelson (FL)	Udall (NM)
Lautenberg	Pryor	Voinovich
Leahy	Reed	Warner
Levin	Reid	Webb
Lieberman	Rockefeller	Whitehouse
Lincoln	Sanders	Wyden

#### NAYS—36

Alexander	Crapo	Kyl
Barrasso	DeMint	LeMieux
Bennett	Ensign	Lugar
Bond	Enzi	McCain
Brownback	Feingold	McConnell
Bunning	Graham	Risch
Burr	Grassley	Roberts
Chambliss	Gregg	Sessions
Coburn	Hatch	Shelby
Cochran	Hutchison	Thune
Corker	Inhofe	Vitter
Cornyn	Isakson	Wicker

#### NOT VOTING—1

Byrd

The amendment (No. 3938) was agreed to.

Mr. INOUE. I move to reconsider and to lay that motion on the table.

The motion to lay on the table was agreed to.

#### VOTE ON AMENDMENT NO. 3839

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3839.

Mr. MCCAIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 140 Leg.]

#### YEAS—43

Alexander	Crapo	Lugar
Barrasso	DeMint	McCain
Bayh	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Feingold	Risch
Brown (MA)	Graham	Roberts
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burr	Hatch	Snowe
Chambliss	Hutchison	Thune
Coburn	Inhofe	Vitter
Cochran	Isakson	Voinovich
Collins	Johanns	Wicker
Corker	Kyl	
Cornyn	LeMieux	

#### NAYS—56

Akaka	Casey	Johnson
Baucus	Conrad	Kaufman
Begich	Dodd	Kerry
Bennet	Dorgan	Klobuchar
Bingaman	Durbin	Kohl
Boxer	Feinstein	Landrieu
Brown (OH)	Franken	Lautenberg
Burris	Gillibrand	Leahy
Cantwell	Hagan	Levin
Cardin	Harkin	Lieberman
Carper	Inouye	Lincoln

McCaskill	Reed	Tester
Menendez	Reid	Udall (CO)
Merkley	Rockefeller	Udall (NM)
Mikulski	Sanders	Warner
Murray	Schumer	Webb
Nelson (NE)	Shaheen	Whitehouse
Nelson (FL)	Specter	Wyden
Pryor	Stabenow	

## NOT VOTING—1

Byrd

The amendment (No. 3839) was rejected.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I have spoken to the distinguished Republican leader. It is my understanding we are going to do these two judges by voice vote, and following that, it is my understanding the two managers have worked out an arrangement to have a couple more amendments voted on within the next half hour or 45 minutes.

## EXECUTIVE SESSION

TIMOTHY S. BLACK TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO

JON E. DEGUILIO TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF INDIANA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The legislative clerk read the nominations of Timothy S. Black, of Ohio, to be United States District Judge for the Southern District of Ohio and Jon E. DeGuilio, of Indiana, to be United States District Judge for the Northern District of Indiana.

The PRESIDING OFFICER. Is there further debate?

The Republican leader is recognized.

Mr. McCONNELL. Yes. I just want to address the majority leader.

I say to my friend from Nevada, we are having voice votes on two judges?

Mr. REID. Yes.

Mr. McCONNELL. Let me indicate that Senator CORKER is prepared to offer an amendment and take a very short time agreement.

Mr. REID. And Senator MERKLEY has agreed, also, and Senator KLOBUCHAR.

Mr. DODD. If I could just interject, I believe Senator BENNET, after the judges, would be prepared to speak for about 10 minutes on his amendment, and then we could have a voice vote on that amendment. We do not even need a recorded vote on that amendment. It is a bipartisan amendment.

Mr. McCONNELL. Right, and then Senator CORKER and Senator MERKLEY and a vote.

Mr. DODD. And 30 minutes equally divided, I think we are talking about, for both amendments.

Mr. McCONNELL. Yes.

Mr. REID. If we could do the judges now.

Mr. LEAHY. Mr. President, this week, the President nominated Elena Kagan to the Supreme Court. I trust that her nomination will be treated better than President Obama's other judicial nominations, including these. President Obama nominated Jon DeGuilio to fill a judicial emergency vacancy in Indiana last year. He was unanimously reported by the bipartisan membership of the Senate Judiciary Committee in early March. His nomination has been held hostage for 2 months. President Obama nominated Judge Timothy Black last January, and he was reported unanimously in early February. His nomination has been held hostage for 3 months for no good purpose and with no explanation. Republican objection to their consideration has stalled both these nominations. Now that they are finally receiving votes, I suspect they will be confirmed unanimously, as have so many of President Obama's nominations. So why the delay? Why the weeks and weeks, and months and months, of obstruction? This obstruction is of nominees that Senate Republicans support. This is wrong. I have called for it to end, but the Republican Senate leadership persists in this practice.

By this date in President Bush's first term, 56 of President Bush's judicial nominations had been confirmed. Now that President Obama is in the White House, Republicans have allowed votes on only 23 of his Federal circuit and district court nominees.

The two nominations we consider today, that of Timothy S. Black to the Southern District of Ohio and Jon E. DeGuilio to the Northern District of Indiana, should have been considered and confirmed months ago. Both nominations have the support of Democratic and Republican home State senators. Both received positive ratings from the American Bar Association's Standing Committee on the Federal judiciary. Both were reported favorably by the Judiciary Committee months ago by voice vote, without any dissent—Judge Black on February 11 and Mr. DeGuilio on March 4.

As of today, there are 24 of President Obama's judicial nominations favorably reported by the Senate Judiciary Committee stalled on the Senate's Executive Calendar. The Senate has confirmed only 23, even though these nominations were reported as far back as November. Even after the Senate acts today, there will be 22 judicial nominees still pending, and 16 of those nominations were reported without a single negative vote. These should be easy for the Senate to consider in a timely manner and confirm. Yet Republicans continue to stall.

The majority leader has had to file cloture petitions to cut off the Republican stalling by filibuster on President Obama's nominees 22 times. Four times he has had to file cloture to proceed with judicial nominees, only to eventually see those nominees confirmed, two which were confirmed unanimously. This stalling and obstruction is wrong.

We should be doing the business of the American people, like reining in the abuses on Wall Street, rather than having to waste weeks and months considering nominations that should be easily confirmed. Several Senators have gone to the floor in recent weeks and have been outspoken about these delays and secret holds on judicial nominations, as well as scores of other Presidential nominations on which the Republican minority refuses to act. Regrettably, Republicans have objected to live requests for action on these nominations. They have also refused to identify who is objecting and the reasons for the objections, in accordance with the Senate rules.

The action of the Republican minority to place politics ahead of constitutional duty by refusing to adhere to the Senate's tradition of quickly considering noncontroversial nominees reminds me of the 1996 session when the Republican majority considered only 17 of President Clinton's judicial nominations. That was a low point I thought would not be repeated. Their failing to fill judicial vacancies led to rebuke by Chief Justice Rehnquist. But they are repeating this unfortunate history today, again allowing vacancies to skyrocket to over a 100, more than 40 of which have been declared "judicial emergencies" by the Administrative Office of the U.S. Courts.

Despite the fact that President Obama began sending judicial nominations to the Senate 2 months earlier than President Bush, the Senate is far behind the pace we set during the Bush administration. As I noted earlier, by this date in George W. Bush's Presidency, the Senate had confirmed 56 Federal circuit and district court judges. In the second half of 2001 and through 2002, the Senate with a Democratic majority confirmed 100 of President Bush's judicial nominees. Given Republican delay and obstruction, this Senate may not achieve half of that. Last year the Senate was allowed to confirm only 12 Federal circuit and district court judges all year. That was the lowest total in more than 50 years. So far this year, despite two dozen nominations on the Executive Calendar, we have confirmed only 11 more.

The Republican pattern of obstructionism we have seen since President Obama took office has led to this unprecedented backlog in nominations on the Senate calendar awaiting final consideration. We should end the backlog by restoring the Senate's tradition of moving promptly to consider noncontroversial nominees with up-or-

down votes in a matter of days, not weeks and certainly not months. For those nominees Republicans wish to debate, they should come to time agreement to have those debates and votes. It is past time to end the destructive delaying tactics of stalling nominees for no good purpose.

The confirmation of the two nominations we consider today is long overdue.

Judge Black has served the Southern District of Ohio for 6 years as a Federal magistrate judge. Before that, he spent a decade as a municipal court judge, and he also had a long career as a civil litigator. His nomination has the support of both of his home State senators, Senator GEORGE VOINOVICH and Senator SHERROD BROWN, one a Republican and one a Democrat.

Mr. DeGuilio served the Northern District of Indiana for 6 years as its U.S. attorney. In addition, he has more than a decade of experience as a lawyer in private practice, and he also worked as a local prosecutor. He has the support of both of his home State senators, Senator RICHARD LUGAR and Senator EVAN BAYH, one a Republican and one a Democrat.

I congratulate the nominees and their families on their confirmations today. I urge the Republican leadership to restore the Senate's tradition practice and agree to prompt consideration of the additional 22 judicial nominees they continue to stall.

Mr. BROWN of Ohio. Mr. President, I am here today to express my unqualified support for the confirmation of Judge Timothy Black to be U.S. district judge for the Southern District of Ohio.

I am proud to say that I worked closely with my fellow Ohioan, Senator VOINOVICH, to establish a bipartisan selection process that resulted in the selection of Judge Black as a candidate for submission to the President.

I would like to thank the members of the Southern District Judicial Advisory Commission, particularly Mr. Paul Harris, Chair, for all their efforts in vetting numerous candidates for the nomination.

Of all the candidates reviewed for this vacancy, the commission was most impressed with Judge Black. The commission recognized his leadership, his commitment to legal excellence, and temperament as qualities that make Judge Black well-suited to serve in this capacity.

Judge Black has served the Southern District of Ohio with excellence for 6 years as a Federal magistrate judge. Before that, he spent a decade as a municipal court judge, and he also had a long career as a civil litigator.

In addition to his commitment to the legal profession, Judge Black has exemplified a commitment to service through his work as a coconvener of the Round Table, a partnership be-

tween the Black Lawyers Association of Cincinnati and the Cincinnati Bar Association to improve diversity and inclusion in the legal profession.

Additionally, his valiant efforts as vice president and member of the board of ProKids, an organization that represents abused and neglected children—Judge Black's service extends beyond the judges chamber and into neighborhoods and communities in which he lives and works.

President Obama nominated Judge Black last year, stating that he has the "evenhandedness, intellect, and spirit of service that Americans expect and deserve from their federal judges."

Judge Black is more than ready to serve and should be confirmed without delay.

The PRESIDING OFFICER. Is there further debate on the nominations?

If not, the question is, Will the Senate advise and consent to the nominations of Timothy S. Black, of Ohio, to be United States District Judge for the Southern District of Ohio, and Jon E. DeGuilio, of Indiana, to be United States District Judge for the Northern District of Indiana?

The nominations were confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table, the President will be immediately notified of the Senate's action, and the Senate will resume legislative session.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010—Continued

Mr. DODD. Mr. President, I ask unanimous consent that the following be the next amendments in order: Bennet of Colorado amendment No. 3928; Corker amendment No. 3955; Merkley-Klobuchar amendment No. 3962, a side-by-side to the Corker amendment; that the Senate resume consideration of S. 3217; that Senator BENNET of Colorado be recognized to call up his amendment; that after his statement, the amendment be set aside and Senator CORKER be recognized to call up his amendment; that immediately after the amendment is reported by number it be temporarily set aside and Senators MERKLEY and KLOBUCHAR be recognized to call up their side-by-side amendment.

Mr. SHELBY. Mr. President, reserving the right to object, I ask the chairman, after the Corker amendment is disposed of, is it possible to bring up the Klobuchar-Hutchison amendment and have a debate and vote tomorrow?

Mr. DODD. After the side-by-side on Senators CORKER and MERKLEY—after

that, I would be happy to set a time and either debate this evening and vote in the morning, however the Senators want to do it.

Mr. SHELBY. Can we agree on that, to have a vote at what time in the morning?

Mrs. HUTCHISON. Could the vote be at 9:30 in the morning?

Mr. SHELBY. Can they have a vote tonight?

Mr. DODD. I am worried about an obligation that we all have this evening. We are getting pressed. I want to be careful about asking Members to hang around when we all have an obligation—100 of us. I suggest that we enter into an agreement if we can. I am hopeful this can be worked out. There may be a side-by-side. I would be agreeable to setting a time certain tonight—preferably tomorrow, with debate tonight and a vote in the morning—maybe an hour after we come in, or a half hour after we come in. We will have to make sure the leadership is fine with that.

Mrs. HUTCHISON. Mr. President, we could certainly have 30 minutes equally divided on the Hutchison-Klobuchar amendment, and we can agree to vote 30 minutes after we come in, whatever time that is.

Mr. DODD. We will work this out. Let's get the vote here.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized.

AMENDMENT NO. 3928 TO AMENDMENT NO. 3739

Mr. BENNET. Mr. President, I will reserve 2 minutes for Senator TESTER out of my time.

As I mentioned earlier this week, we have an important opportunity to safeguard our economy from the conditions that drove our country into this catastrophic financial meltdown.

The Wall Street reform bill we have before us takes critically important steps forward, helping to stabilize and safeguard our financial institutions, our financial system for consumers and businesses alike. But we should not stop here. This debate must be about making the underlying bill better.

I rise today to suggest one substantial way that we can rebuild the credibility of our financial system, save taxpayers billions of dollars, and finally move to end the TARP.

Mr. President, I have an amendment at the desk, No. 3928, and I wish to call it up and ask unanimous consent to add Senator BROWN of Massachusetts as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado (Mr. BENNET), for himself, Mr. TESTER, Mr. ISAKSON, Ms. KLOBUCHAR, Mr. BEGICH, Mr. UDALL of Colorado, Mr. LEMIEUX, and Mr. BROWN of Massachusetts, proposes an amendment numbered 3928 to Amendment No. 3739.

The amendment is as follows:

(Purpose: To apply recaptured taxpayer investments toward reducing the national debt)

At the end of the bill, insert the following:

# **TITLE XIII—PAY IT BACK ACT**

## **SEC. 1301. SHORT TITLE.**

This title may be cited as the “Pay It Back Act”.

## **SEC. 1302. AMENDMENT TO REDUCE TARP AUTHORIZATION.**

Section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225(a)) is amended—

(1) in paragraph (3)—

(A) by striking “If” and inserting “Except as provided in paragraph (4), if”;

(B) by striking “, \$700,000,000,000, as such amount is reduced by \$1,259,000,000, as such amount is reduced by \$1,244,000,000” and inserting “\$550,000,000,000”; and

(C) by striking “outstanding at any one time”; and

(2) by adding at the end the following:

“(4) If the Secretary, with the concurrence of the Chairman of the Board of Governors of the Federal Reserve System, determines that there is an immediate and substantial threat to the economy arising from financial instability, the Secretary is authorized to purchase troubled assets under this Act in an amount equal to amounts received by the Secretary before, on, or after the date of enactment of the Pay It Back Act for repayment of the principal of financial assistance by an entity that has received financial assistance under the TARP or any other program enacted by the Secretary under the authorities granted to the Secretary under this Act, but only—

“(A) to the extent necessary to address the threat; and

“(B) upon transmittal of such determination, in writing, to the appropriate committees of Congress.”.

## **SEC. 1303. REPORT.**

Section 106 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5216) is amended by inserting at the end the following:

“(f) REPORT.—The Secretary of the Treasury shall report to Congress every 6 months on amounts received and transferred to the general fund under subsection (d).”.

## **SEC. 1304. AMENDMENTS TO HOUSING AND ECONOMIC RECOVERY ACT OF 2008.**

(a) SALE OF FANNIE MAE OBLIGATIONS AND SECURITIES BY THE TREASURY; DEFICIT REDUCTION.—Section 304(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(g)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

“(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

“(i) dedicated for the sole purpose of deficit reduction; and

“(ii) prohibited from use as an offset for other spending increases or revenue reductions.”.

(b) SALE OF FREDDIE MAC OBLIGATIONS AND SECURITIES BY THE TREASURY; DEFICIT REDUCTION.—Section 306(1)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(1)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

“(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

“(i) dedicated for the sole purpose of deficit reduction; and

“(ii) prohibited from use as an offset for other spending increases or revenue reductions.”.

(c) SALE OF FEDERAL HOME LOAN BANKS OBLIGATIONS BY THE TREASURY; DEFICIT REDUCTION.—Section 11(1)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1431(1)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

“(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

“(i) dedicated for the sole purpose of deficit reduction; and

“(ii) prohibited from use as an offset for other spending increases or revenue reductions.”.

(d) REPAYMENT OF FEES.—Any periodic commitment fee or any other fee or assessment paid by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation to the Secretary of the Treasury as a result of any preferred stock purchase agreement, mortgage-backed security purchase program, or any other program or activity authorized or carried out pursuant to the authorities granted to the Secretary of the Treasury under section 1117 of the Housing and Economic Recovery Act of 2008 (Public Law 110-289; 122 Stat. 2683), including any fee agreed to by contract between the Secretary and the Association or Corporation, shall be deposited in the General Fund of the Treasury where such amounts shall be—

(1) dedicated for the sole purpose of deficit reduction; and

(2) prohibited from use as an offset for other spending increases or revenue reductions.

## **SEC. 1305. FEDERAL HOUSING FINANCE AGENCY REPORT.**

The Director of the Federal Housing Finance Agency shall submit to Congress a report on the plans of the Agency to continue to support and maintain the Nation's vital housing industry, while at the same time guaranteeing that the American taxpayer will not suffer unnecessary losses.

## **SEC. 1306. REPAYMENT OF UNOBLIGATED ARRA FUNDS.**

(a) REJECTION OF ARRA FUNDS BY STATE.—Section 1607 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 305) is amended by adding at the end the following:

“(d) STATEWIDE REJECTION OF FUNDS.—If funds provided to any State in any division of this Act are not accepted for use by the Governor of the State pursuant to subsection (a) or by the State legislature pursuant to subsection (b), then all such funds shall be—

“(1) rescinded; and

“(2) deposited in the General Fund of the Treasury where such amounts shall be—

“(A) dedicated for the sole purpose of deficit reduction; and

“(B) prohibited from use as an offset for other spending increases or revenue reductions.”.

(b) WITHDRAWAL OR RECAPTURE OF UNOBLIGATED FUNDS.—Title XVI of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 302) is amended by adding at the end the following:

## **“SEC. 1613. WITHDRAWAL OR RECAPTURE OF UNOBLIGATED FUNDS.**

“Notwithstanding any other provision of this Act, if the head of any executive agency withdraws or recaptures for any reason funds appropriated or otherwise made available under this division, and such funds have not been obligated by a State to a local government or for a specific project, such recaptured funds shall be—

“(1) rescinded; and

“(2) deposited in the General Fund of the Treasury where such amounts shall be—

“(A) dedicated for the sole purpose of deficit reduction; and

“(B) prohibited from use as an offset for other spending increases or revenue reductions.”.

(c) RETURN OF UNOBLIGATED FUNDS BY END OF 2012.—Section 1603 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 302) is amended by—

(1) striking “All funds” and inserting “(a) IN GENERAL.—All funds”; and

(2) adding at the end the following:

“(b) REPAYMENT OF UNOBLIGATED FUNDS.—Any discretionary appropriations made available in this division that have not been obligated as of December 31, 2012, are hereby rescinded, and such amounts shall be deposited in the General Fund of the Treasury where such amounts shall be—

“(1) dedicated for the sole purpose of deficit reduction; and

“(2) prohibited from use as an offset for other spending increases or revenue reductions.

“(c) PRESIDENTIAL WAIVER AUTHORITY.—

“(1) IN GENERAL.—The President may waive the requirements under subsection (b), if the President determines that it is not in the best interest of the Nation to rescind a specific unobligated amount after December 31, 2012.

“(2) REQUESTS.—The head of an executive agency may also apply to the President for a waiver from the requirements under subsection (b).”.

Mr. BENNET. Mr. President, my amendment is based on bipartisan legislation I introduced earlier this Congress called the Pay It Back Act. I was greatly encouraged at that time by the broad bipartisan support in this body for winding down the TARP, getting serious about deficit reduction, and spurring our economy back to health.

As I talk with Coloradans all across my State, I hear the same concerns again and again. People are deeply concerned and worried about the economy. They worry about jobs and they worry about our rising Federal deficit. But mostly they just want a fair shake—a chance to achieve their own vision of success through hard work.

That is why they don't understand the behavior of some of our largest financial institutions. They don't understand how these behemoths could have made bad bets, lose billions of dollars, and then be bailed out by the Federal Government. That doesn't make sense to most people in Colorado, and it certainly doesn't make sense to anybody running a business.

This pay it back amendment takes a big step forward in our efforts to wind down and eventually end the TARP. It prevents further government spending, recaptures taxpayers' investments in financial institutions, and ensures that repaid funds are used for deficit reduction.

It does this in a couple of ways. First, it reduces the TARP's authority by about \$150 billion, which will ensure that unused TARP funds are not used for new government spending.

Chairman DODD's bill sends a strong message to Wall Street and our broader markets that there is no longer an implicit guarantee of government support for excessive and sloppy risk taking. This amendment reinforces this important principle by reducing TARP's authority. In short, it begins to wind down the TARP and ensures that the government doesn't use the excess funding for new spending initiatives. It is a commonsense way forward for a program whose time has come and thankfully is almost gone.

But that is not enough. As we wind down TARP, we need to make sure that taxpayers realize a fair return on their investment. That is why the second element of the Pay It Back Act amendment is that it takes captured, repaid TARP funds and applies them to deficit reduction. It does it by severely restricting TARP's revolving door of credit.

Although some companies have already repaid the money they received, TARP currently allows the Treasury to keep \$700 billion "outstanding at any one time."

Let me make this clear. The Treasury has already received about \$180 billion in repaid funds from banks that are now in a position to repay the taxpayers. But right now, Treasury can turn around and lend that same money to some other financial institution. It can use our money again and again. And since the TARP money is borrowed against our kids' and grandkids' futures, that is using their money again and again and again. I can tell you for sure that my daughters don't want to be stuck footing the bill for keeping the TARP around even 1 day longer than we have to. By supporting my amendment, this body can move forcefully toward ending the TARP and restoring fiscal sanity.

The amendment also creates a sunset for unused Recovery Act funds. Any funds not obligated by the Federal Government by December 31, 2012, will be returned to the Treasury to pay down the national deficit. Congress passed the Recovery Act to jolt our struggling economy back to life and help create and save jobs now. Yet, if funds have not been used by the end of 2012, can we say they have been used to ease our current recession? The taxpayers deserve to see stimulus funds used for real stimulus. If not, they should be used to pay down our debt.

The pay it back amendment sets a schedule for getting the government out of the business of owning businesses. It lets excessive risk takers know that Washington no longer provides a backstop for greed, overleveraging, reckless levels of risk, and irresponsibility. If big financial institutions want to behave that way, they must know that they do so without the TARP—without money from Main Street—to bail them out any longer.

In short, it is time for this assistance to come to a responsible end. At the heart of the Wall Street reform bill is an effort to prevent future bailouts. So let's start by finally winding down the biggest bailout of them all and making sure taxpayers get the best possible return on their money.

I thank my colleagues who are co-sponsors of the bill, and I ask all of my colleagues to support this important amendment. I thank Senator DODD and Senator LINCOLN and the ranking members of the Banking and Agriculture Committees for their hard work to bring Wall Street reform to the floor.

I know the Senator from Montana wants to take a couple of minutes. I will say this. Americans have been watching the news in Europe this week, and they are seeing what is happening in Greece and the rest of Europe. If we don't think that is a canary in the coal mine, we do that at our peril. This bill will not solve our deficit and debt problem, but it takes a stand that says we are not going to leave a legacy of \$12 trillion behind for our kids and grandkids.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. TESTER. Mr. President, I rise to speak in strong support of Senator BENNET's amendment to begin winding down the Wall Street bailout once and for all.

I also want to express my appreciation for Senator BENNET's effectiveness and stick-to-itiveness in working on this for some time and being able to get this through. This is a very important amendment. As Senator BENNET has said, it will not solve our debt problems, but it is a step in the right direction. I appreciate his vision and leadership.

Montanans were disgusted by the reckless actions of big, greedy Wall Street banks that brought this country to the brink of another Depression.

I voted against both the bailouts of Wall Street and the U.S. auto industry because I thought taxpayers were getting a raw deal. I don't believe in bailouts.

Why? Whether you are a family farmer or a hot-shot executive, the opportunity that allows us to fail is the same opportunity that allows us to succeed.

And America's taxpayers—Main Street small businesses and working

families—should never have to pay for the sins of Wall Street.

That is why I am pleased to join Senator BENNET on this amendment to ensure that we get the maximum value for the taxpayer dollars spent through the TARP bailout.

I opposed the bailout then and I oppose it now. But at a minimum, we should recapture taxpayer investments and unused Recovery Act funds to pay down the debt.

This amendment not only achieves that but also begins to wind down TARP by reducing its authority by over \$190 billion. And it prevents the Treasury from redirecting funds for other purposes.

The amendment would also establish a sunset for unused Recovery Act funds and improve oversight of unused funds.

Additionally, it would ensure that the proceeds from taxpayer investments in Fannie and Freddie are used to pay down the debt.

We have a commitment to the American people to spend their hard-earned money as wisely as we would spend our own.

Our national debt is something both parties have ignored for far too long. How do we get our arms around it?

It is going to take smart—and very tough—decisions. It is going to take working together, and it is going to take rebuilding our economy by creating jobs and new opportunities, not more taxpayer-funded bailouts.

This amendment will get things back on track to return taxpayer dollars. And to begin paying down the debt that we have inherited.

Once again, I thank Senator BENNET for his leadership.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, very briefly, I commend our colleague from Colorado for reaching out on this. The amendment is authored by the Senator from Colorado, and he has attracted good bipartisan support from Senators TESTER, ISAKSON, KLOBUCHAR, BEGICH, LEMIEUX, MARK UDALL, and BROWN of Massachusetts on how this ought to be done. The substance of the amendment is critically important. He worked with Treasury to ensure that we are responsibly winding down the TARP and getting the government out of the business of owning businesses. We can all agree with that, and I commend him for that amendment. It also ensures that unused TARP funds are used to pay down the deficit. We have heard a lot of talk about fiscal responsibility and watching what is happening in Europe and other countries and knowing the fiscal problems of those nations are the root cause of a lot of the problems they are going through today.

This amendment actually dedicates these resources to deficit reduction. I think all of us applaud his leadership on it.



There are signs our economy is recovering. In the last 3 months of 2010, our economy added roughly 187,000 jobs a month. Last year, it was 290,000 jobs, which is the largest number in over 4 years. Compare that to the first 3 months of 2009 when we were losing 750,000 jobs a month. In the first quarter, the economy grew 3.2 percent, a swing upwards of nearly 10 percent in 1 year, something many economists say is largely due to the Recovery Act. Just over a year ago, the economy was shrinking about 6 percent on an annual basis.

This amendment is tremendously valuable to this bill. We have all had discussions about it—our colleague from Georgia, Senator ISAKSON, Senator LEMIEUX, and Senator TESTER. Because of the leadership of MIKE BENNET, he has brought us to this point. I thank him immensely. I thank all of our colleagues.

I am prepared to do a voice vote, unless someone objects to a voice vote on the Bennet amendment, so we can move to finalize how we deal with the Corker amendment and the other issues before us.

Mr. SHELBY. We have no objection to the Bennet amendment.

The PRESIDING OFFICER (Mr. PRYOR). Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3928) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 3955 TO AMENDMENT NO. 3739  
(Purpose: To provide for a study of the asset-backed securitization process and for residential mortgage underwriting standards.)

Mr. CORKER. Mr. President, I call up amendment No. 3955.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. CORKER], for himself, Mr. GREGG, Mr. LEMIEUX, Mr. COBURN, and Mr. BROWN of Massachusetts, proposes an amendment numbered 3955 to amendment No. 3739.

Mr. CORKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. CORKER. Mr. President, my understanding is we have about 30 minutes on each side—is that correct—on this amendment—30 minutes on this amendment and 30 minutes on Merkley; is that correct?

The PRESIDING OFFICER. There is no order in effect.

Mr. CORKER. I know Senator ISAKSON, Senator GREGG, and Senator SHELBY wish to speak on our side.

Mr. DODD. Technically, there is no time agreement.

Mr. CORKER. I will be very brief.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that after Senator CORKER finishes his remarks, Senator ISAKSON be recognized and then I be recognized. If Senator SHELBY wants to be recognized, he should be recognized before Senator ISAKSON. Senator SHELBY should start, then Senator ISAKSON, and then myself.

Mr. DODD. If a Member on this side somewhere in the midst of this can be heard as well—

Mr. GREGG. That would be totally reasonable.

Mr. DODD. That was not a sophisticated request.

Mr. CORKER. If we can move along on our side—

Mr. DODD. Move along.

Mr. CORKER. It sounds like there was no objection, Mr. President.

The PRESIDING OFFICER. Is there objection to the sequence the Senator from—

Mr. CORKER. To restate, Senator SHELBY, Senator ISAKSON, Senator GREGG, and then anybody else on our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORKER. Mr. President, the Dodd bill attempts to deal with quarterly liquidation. I know there have been discussions about the pros and cons. There have been attempts to deal with the derivatives title. My sense is, before it is all said and done, there is a chance that may work out well. I think we have overly dealt with consumer protection and hope that somehow in this body we will bring that back into balance.

This bill glaringly does not deal with some of the core issues of this last crisis. We just voted on GSEs, an amendment that would have dealt with that over the next couple of years in a way that does not prescribe exactly a solution but makes sure we deal with it. We just voted it down.

Even more glaring, the Dodd bill does not deal with the essence of what created this last crisis. At the base of this crisis—an inverted pyramid—was the fact that we had a lot of loans that were written that should never have been written. Those loans were done by companies that were leveraged 30, 40, 50 to 1, and then \$600 trillion worth of notional value of these loans that should never have been written were spread across the world. That, in essence, brought down our financial system.

It seems to me if we are going to do a financial regulation bill, we ought to at least deal with the core issue, which is very poor underwriting. I have of-

fered an amendment. I know there is going to be a side-by-side. I might add, the side-by-side—and I want to make sure the people on my side know this—lets the consumer protection agency deal with underwriting, which is pretty incredible to me.

It seems to me that what we want to ensure is that the underwriting we do does not undermine the safety and soundness of our financial institutions and, therefore, should be dealt with by those regulators.

This amendment is very simple. It does some things that have been very basic to making our country strong as it relates to residential lending. Here is what it does: It establishes that there will be a minimum of a 5-percent downpayment. If I was left to my own accord, I might do something more stringent than that. It causes any loan that is written at above an 85 percent loan to value to have private mortgage insurance. It actually requests the persons's income; that this loan has to be fully documented, including credit history and employment history. It seems this is something at a minimum in this country we would like to see happen as it relates to residential lending.

Then there has to be a method for determining the borrower's ability to repay—a no-brainer—considering their debt-to-income ratio.

Those four simple requirements are put into law so we do not have the same type of underwriting problems we just had with this last episode. This does not apply to the VA. VA is an entitlement, something we have given to those who serve our country. It does not apply to rural housing. Regulators have to update the standards no less than every 5 years.

For those people who may be concerned about organizations such as Habitat for Humanity and others that use sweat equity and do not use money down, this gives the regulators the ability to exempt nonprofits that meet certain criteria on a case-by-case basis. So if there is a nonprofit in your community that is involved in allowing people to create sweat equity for housing, they would not be hurt. This requires a review of exemptions every 2 years to make sure they are within that criteria and it prohibits an exemption going to organizations that are prohibited from receiving Federal funding. We know of some of those. This also requires a study of FHA to make sure their underwriting standards are intact.

The way the Dodd bill addresses underwriting, it deals with something called risk retention on securitizations. I think most people realize that is a flawed model. It has nothing to do with the loans underneath those securities. I think Chairman DODD is even trying to find a better solution.

This bill also strikes the 5-percent retention that most people in this room

think is going to actually shut down the securitization process and make less credit available, especially in the commercial areas. This, instead, puts in place a study so we can actually determine the best way to look at securitizations and know what type of risk retention should be in place.

I urge all colleagues on both sides of the aisle to do something that is real, that is substantive, that gets at the heart of this issue, that actually causes us to put in law proper underwriting standards. I cannot imagine there are many people in America who do not think this, at a minimum, ought to be done as part of underwriting home mortgages.

I yield time now to the Senator from Alabama, who may not be here. I divert and yield to Senator ISAKSON from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I thank the Senator from Tennessee. I commend the Senator from Tennessee who has worked tirelessly for months on this legislation but in particular has worked tirelessly on this particular amendment.

I rise to try and make my point as strongly as I can. This body, I know, always wants to do the right thing. We want to address the concerns that made the market begin to collapse 2 years ago. We want to restore confidence in real estate finance. We want to bring back the vibrant housing industry. We do not want to reincarnate subprime loans. And we ought to do one simple thing today: We ought to learn from history. I want to give everybody a small history lesson.

The underlying bill answers the question of better underwriting by putting risk retention as a requirement on a newly originated mortgage, a risk retention of 5 percent. The tier 1 minimum capital requirement of a nationally chartered bank is 8 percent. You are going to tell me the banks of America are going to reserve another 5 percent against the mortgages they originate? No, they are just not going to originate mortgages whatsoever.

Secondly, risk retention is no insurance for a better mortgage having been made. The fact is, in the late 1980s, the American savings and loan industry, which was chartered for the purpose of financing American homes, went under, and they had a 100-percent risk retention.

What causes bad lending is bad underwriting. Risk retention has nothing to do with it if you have bad underwriting or, as we had in late 2007, 2008, 2009, no underwriting at all.

First of all, Senator CORKER's amendment is an outstanding amendment that strikes at the heart of the problem that got us here, while at the same time according the opportunity for the American finance industry to bring

back competitive mortgage lending. If it is not FHA and it is not VA and it is not a Freddie Mac or Fannie Mae loan right now, you are not getting one. We do not have people in the market anymore because they are scared. There is no standard.

This brings us back to a standard of underwriting that is right. It recognizes somebody has a job, has an ability to pay, has reasonable credit, and has some skin in the game so they will pay that loan back. Historically, the default rate on the mortgage industry in the United States of America, outside the last 3 years, was around 1.2 percent to 1.4 percent—very little; in fact, probably the highest best risk investment an investor could make.

What happened was, when underwriting failed and we got into exotic instruments, when Congress told Freddie and Fannie to make affordable loans and they created market subprime loans, the genie got out of the bottle and everything failed.

I want to say to the body, if we let this bill pass with risk retention in it thinking we have done something, the only thing we will have accomplished is a total absence of mortgage money for the American home buyer and American real estate industry. That is a bad mistake.

Facts are stubborn things. If a guy has a job, makes a downpayment, he will repay his loan. If he does not, he might not.

Let's get back to the roots that got us to where we are as a great country. Let's restore home ownership and ability to finance it, but let's recognize the weakness was in underwriting. It was not in the retained risk of the originator.

I commend Senator CORKER, Senator SHELBY, Senator GREGG, Senator LEMIEUX, and the others who have worked on this issue. If this amendment fails, then this entire legislation fails in meeting the standard it set upon itself. That would be a tragedy and a mistake for the United States of America.

I yield to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I wish to join in congratulating Senator CORKER, Senator ISAKSON, Senator SHELBY, and others who have come together around this issue of better underwriting standards.

It is hard for me to understand why this would be resisted in this bill because this has been outlined both by Senator CORKER and by Senator ISAKSON. It was underwriting that created the problems which led our Nation to the brink of a fiscal collapse.

The way I have described it is this: What we had was an inverted pyramid. We had this situation where an individual made a loan to another indi-

vidual or a corporation made a loan to an individual based on the value of a piece of property. Unfortunately, when that loan was made, it was made in a way where nobody looked at the value of the property relative to the loan and nobody looked at whether the person who was getting the loan could pay it back because the system no longer had strong underwriting standards.

Then that loan was taken and it was syndicated, it was securitized, it was synthesized, and it became multiplied, as the Senator from Tennessee said, into \$600 trillion of notional value. We ended up with this huge pyramid of debt built on the basis of this loan down here at the bottom between this corporation and this individual, this loan which was based on value which was not there, and ability to repay, which was not there once the rates of the loan were reset.

Why did this happen? Why was this loan so inappropriately made? It was inappropriately made because we had a breakdown in underwriting standards. I have been through three of these events in my professional career: once in the late seventies when I was involved in representing a bank in New Hampshire, once in the late eighties when I was Governor of New Hampshire, and now. Three major financial disruptions which were created almost entirely by a failure in underwriting standards, where people were making loans that couldn't be paid back based on asset value which wasn't there. It just was aggravated radically this time because of the way the system suddenly took these loans and exploded them through the securitization process and the syndication process.

So if you are going to fix this problem, if you are going to put in place a regulatory reform system which actually fixes the issues which caused the crisis, you have to address underwriting standards. That is why the Corker amendment is so critical, because this bill does not address underwriting standards in any other way, in any significant manner. So if you are going to have a legitimate effort to try to make sure this type of an event doesn't occur again, you have to put in place underwriting standards which establish the rules of the road, which say that in the future America will not allow this sort of proliferation of lending which is not properly secured, where we know that the person getting the loan can't repay the obligation. Ironically, in this situation, these loans were made, in some instances, with the full understanding that this wouldn't happen, that they couldn't repay and the value wasn't there. Why? Because we separated underwriting standards from the process of actually making the loan. The people making loans were only interested in making a

fee. They were not interested in making sure there was value of the security. They weren't interested in making sure the people could repay. They were just interested in the fee.

This should stop. The language Senator CORKER has put before us would accomplish that. It would put in place not unusual underwriting standards, not new underwriting standards, it would simply go back essentially to the types of standards—and they are not quite as strict, honestly—we had at a prior time when we didn't have this kind of risk in the marketplace because people knew when they borrowed money to buy a house they were going to have to put money down, and if they didn't put the full amount of the value down, they would have to have insurance to cover the difference. They knew their creditworthiness was going to be checked, and thoroughly checked, and their ability to pay the loan was going to be checked. So it is a totally reasonable approach.

If you are going to do one thing in this bill to avoid a future event like the one we confronted in late 2008 where basically the entire financial industry of this country almost melted down, if you are going to do one thing to prevent that event, you should adopt the Corker amendment. This should be a bipartisan amendment. I don't understand any opposition to it. I don't understand the concept which would oppose it because it is basically good banking and good lending. It is also good for the people who borrow money because they are not going to get money just arbitrarily but only if they have the value in the asset they are borrowing on and if they have the ability to repay. So I certainly hope this amendment will be approved.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise specifically to support the important steps the Corker amendment takes to establish sound underwriting standards for mortgages. If there is any clear message from the crisis we have been through, it is that much of what went wrong began when loans were made to individuals who couldn't repay them.

The Corker amendment makes commonsense changes. It requires minimum downpayments on mortgages, which makes it more likely that borrowers remain committed to paying their mortgages. It requires, among other things, that lenders verify a borrower's income and their ability to repay these loans. These might sound simple, but remarkably they have been overlooked by the Dodd bill. In the past, they have worked. We used to not have these kinds of problems. The Corker amendment, if we adopt this—and I urge my colleagues to vote for it—will go a long way in taking the right steps to bring common sense to our mortgage market.

Mr. CORKER. Mr. President, how much time remains of our 30 minutes?

The PRESIDING OFFICER. There is 13 minutes 40 seconds remaining.

Mr. CORKER. I yield a few minutes, if I could, to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Mr. President, I wish to congratulate my colleague from Tennessee on his amendment, and I rise in support of it.

In Florida, we know this was the very problem that started this whole crisis. We called them NINJO loans—no income, no job. Underwriting standards went out the window because of the hunger of Wall Street to suck up these mortgages, to bundle them into these large securitized packages and then sell them off. So as Wall Street demanded more and more, underwriting went out the window. And what does the bank or the mortgage broker care if they can just ship off their mortgage and sell it off to Wall Street? What do they care if the person they are giving the mortgage to can't pay it back? What do they care if that person can't afford the home to start with? So we got ourselves into this perfect storm of a situation, and one of the key elements that allowed this to happen was the fact that there weren't underwriting standards.

When I bought my first home back in 1995, I didn't have 20 percent to put down; I had 15 percent. So I had to get mortgage insurance to cover the other 5 percent of my downpayment. Until such time as my family—my wife and I at the time, before we had any of our kids—could make a payoff to get the 20 percent of equity value to the loan, we had to pay for the mortgage insurance. Once we did, we no longer had to pay for that.

Well, in the late 1990s and the early 2000s, that went out the window. No longer were these underwriting standards in place. We now know, looking back on the debacle that happened in 2008, that one of the key reasons it happened, one of the key things that made it fertile for this problem to grow was the fact that there weren't underwriting standards.

What Senator CORKER does in his bill is he puts these mortgage underwriting standards back into law the way they were when everything operated the right way—a 5-percent downpayment, credit enhancement to get you to an 80-percent loan to value, fully documented income, including credit history and employment history, and a method for determining the borrower's ability to repay. All those things make common sense. But that common sense didn't prevail in the mid-2000s.

Last year, in an initiative the Wall Street Journal put forward, it talked about the 20 most important things that could be done to avert the financial collapse that happened, and the

No. 1 most important thing was to strengthen underwriting standards. But this bill we are considering which is supposed to get at the problems that caused this meltdown in 2008—it is 1,409 pages long—doesn't address perhaps the No. 1 biggest reason we had a financial failure in 2008.

Senator CORKER, along with Senators ISAKSON, SHELBY, GREGG, and to a smaller extent myself, have worked on this, and I commend my colleague from Tennessee. There is absolutely no reason not to pass this. If any of our colleagues are serious about really reforming our financial system and preventing this problem from happening again, then they must support this very fine amendment.

I thank the Chair.

Mr. CORKER. Mr. President, not seeing other Senators at this time wishing to speak, I want to recap, if I could.

We spend a year and a half working on financial regulation in this body, and there are a lot of fancy things we are looking at that certainly need to be looked at, no question. We are looking at clearing trades with derivatives. We are looking at all kinds of section 106 issues and other kinds of things, many of which I have issues with. But it is amazing that after all this time, we are still not dealing with the core issue.

It is hard for me to imagine that anybody in this body would think that a 5-percent downpayment on a loan would be something that is extraordinary. This puts in place, as the other Senators have mentioned—and I certainly appreciate those who have joined me in cosponsoring. I have had a couple of folks on the other side of the aisle today come up and say: Look, this makes common sense. I am going to support this. It is amazing to me that we are not focusing on those very things that we think are the core issues.

We had a chance a minute ago to deal with Fannie Mae and Freddie Mac, and, of course, we didn't. I know it is a complex issue, but I felt the McCain amendment gave us a timeframe within which we could deal with Fannie Mae and Freddie Mac. We didn't. We decided to have another study.

But I would say to my friends on the other side of the aisle, while there is an unwillingness to deal with the issues over Fannie Mae and Freddie Mac and some of the problems that exist right now within FHFA, what this amendment would do is to put in place underwriting standards that would at least ensure the mortgages Fannie Mae and Freddie Mac are purchasing themselves would have proper underwriting standards. I think that is very important.

It is amazing that sometimes we will spend a year and a half in this body—a year, 6 months, whatever—on different types of issues, and we focus on lots of things that industry brings us, that other people bring us, but we don't

get down to just the commonsense core issues that Americans know work.

I thank the Senator from Florida and others who have joined in this effort to ensure we have appropriate underwriting standards. Again, let me just recap. These are not Draconian steps. Basically, Federal banking regulators themselves—the regulators of our financial institutions—would set criteria for underwriting. There would be a minimum of a 5-percent downpayment. Any loan that is above 80 percent loan to value would have a credit enhancement—such as has been done for years in the past—of private mortgage insurance. There would be fully documented income—I can't imagine anybody in this body not thinking that wouldn't be a good idea for people taking out a loan that many people expect to pay off over a 30-year period—including a credit history and employment history. There would be a method for determining the borrower's ability to repay. This is something the regulators themselves would get together and lay out. It would also include consideration—imagine this—of the debt-to-income ratio—again, just a basic element of lending. This does not apply to VA, where we have made guarantees to veterans. It does not apply to rural housing.

For those people who may hear from some of the nonprofit organizations that I have worked with and some others in this body have worked with—I helped create one in Chattanooga in 1986 that helped over 10,000 families have decent housing—those types of organizations have the ability to be exempted if they are the types that allow people, through sweat equity and other kinds of things, to have sort of skin in the game in other ways. We applaud those efforts and applaud people who go out and volunteer and take care of their fellow citizens by helping them have homes, helping people who are less fortunate. I know all of us support that. We go to events where we thank people who volunteer in that way. This amendment does nothing other than allow them to operate as they do through exemptions through our regulators.

I know the other side of the aisle, as I mentioned earlier, has tried to deal with this issue, and they haven't figured out a way to deal with it yet. I know we have a side-by-side amendment that is coming up, and I thank those on the other side of the aisle who have put some effort into trying to do this same thing. But this, again, is a commonsense effort. And my guess is that if you laid this out in front of most citizens back home in every State we come from, they would say: You know, this is just basic. If you are going to loan money to someone, these basic underwriting standards ought to be in place.

Mr. President, I urge everyone in this body to please at least look at this se-

riously. This is one thing we can do that is tangible, that is not a study, that is not putting something off and hoping regulators might do something down the road. This is something tangible that we can do to ensure that the core issue that created this financial crisis over the last 24 months is dealt with and that the individual loan that is made from a lender to somebody who is borrowing money is done with proper underwriting standards in place.

Mr. President, I see the Senator from Connecticut is ready to move on to the next issue, so I yield the rest of my time, and I thank the Chair for his patience.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 3962 TO AMENDMENT NO. 3739

(Purpose: To prohibit certain payments to loan originators and to require verification by lenders of the ability of consumers to repay loans)

Mr. MERKLEY. Mr. President, I call up amendment No. 3962, the Merkley-Klobuchar amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. MERKLEY), for himself, Ms. KLOBUCHAR, Mr. SCHUMER, Ms. SNOWE, Mr. BROWN of Massachusetts, Mr. BEGICH, Mrs. BOXER, Mr. DODD, Mr. KERRY, Mr. FRANKEN, and Mr. LEVIN, proposes an amendment numbered 3962 to amendment No. 3739.

Mr. MERKLEY. I ask unanimous consent to dispense with the reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. MERKLEY. I ask unanimous consent Senator KERRY, Senator FRANKEN, and Senator LEVIN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MERKLEY. Mr. President, I thank the bipartisan cosponsors of this amendment, including Senator SNOWE, Senator SCOTT BROWN, and Members on both sides—my colleague, Senator KLOBUCHAR, will be speaking in a moment—Senator BEGICH, Senator BOXER, as I mentioned, Senator KERRY, Senator FRANKEN, and Senator SCHUMER.

I would like to applaud my colleague from Tennessee. Virtually every word that Senator CORKER stated tonight is an argument for this amendment that Senator KLOBUCHAR and I are cosponsoring. I will get into the details later because I want to yield time to my colleague from Minnesota and then my colleague from Connecticut to speak to the bill. Then I will offer my remarks.

I do think it is important to recognize that the bulk of what Senator CORKER addressed goes right to the heart of this amendment as well. There

is a point of distinction between the two amendments, a critical point of distinction; that is, the 5-percent underwriting absolute line. That line is a line of great concern for those of us who have had experience with first-time home buyers, those who have had experience with families who are at the bottom of the income spectrum. I should make it clear that the downpayment is only a portion of the skin in the game that such families have because there are tremendous closing costs associated with these loans that the families must bear as well. So the inflexibility of that standard is a great concern and a great point of distinction between these two amendments.

I will continue on after my colleagues have spoken to address some of the major challenges this amendment addresses, but I would like to yield 5 minutes to Senator KLOBUCHAR.

The PRESIDING OFFICER. The Senator is recognized.

Ms. KLOBUCHAR. Mr. President, I thank Senator MERKLEY for his leadership on this issue. I was proud to work with him on this issue. I thank Chairman DODD as well for advancing this amendment, for the work he has done in this area. I also want to mention my good colleague in the House, Representative ELLISON, who was a leader on this in the State legislature in Minnesota and now in Congress. We worked on this issue in this bill together.

Complex and deceitful lending practices were at the heart of the financial crisis, and as we work to reform Wall Street we must ensure that the homes and the home equity of Americans are not put at unnecessary risk. With 1 in 7 homeowners—1 in 7, who would have ever thought that—delinquent on their mortgage or already in foreclosure, and many home loans delinquent, the housing market continues to slow economic recovery.

It has been estimated that each year predatory mortgage lending results in a loss of \$1.9 billion for American families. It is critical that families have access to safe, fair, and affordable mortgages.

I see my colleague from Illinois, Senator DURBIN, who has seen firsthand in his State people losing their homes, people at the mercy of call-lines where they cannot reach anyone when they are calling for help.

Important borrower protections such as those we have in Minnesota should be a national policy to help safeguard families across the country. A decade ago, just 5 percent of mortgage loan originations were subprime, meaning they were made to borrowers who would not qualify for regular mortgages—only 5 percent. By 2005 it was 20 percent of mortgages that were subprime. It was a disaster waiting to happen.

This expanded home ownership to millions of people, but it also greatly

increased the risk to our financial system. In Minnesota, in 2000 there were 8,347 subprime mortgages issued. By 2005 it had increased more than fivefold to more than 47,000 subprime mortgages. However, we now know that between 60 and 65 percent of people who ended up with subprime mortgages actually qualified for traditional mortgages. We need to make sure this never happens again.

That is why last year I introduced the Homeowner Fairness Act, which is comprehensive housing reform legislation that proposes tough new national standards based on the successes of the Minnesota mortgage lending law passed in 2007. That is why I have joined Senator MERKLEY on an amendment that will ensure several key ideas from this bill are included in the Wall Street reform bill.

These are not radical ideas. The fact that practices were ever allowed to take place should be shocking to those who have not even heard about them.

First, this amendment would require all mortgage originators to verify a borrower has the ability to repay a mortgage before giving loan approval. Let me repeat that. This amendment would require mortgage originators to verify a borrower has the ability to repay a mortgage before they approve the loan. It may just sound like common sense that you wouldn't loan someone money without first figuring out if they were able to pay, but these lenders never intended to keep the loans they originated long enough for it to matter. They simply sold their risky bets to someone else and put the profits on the bank.

Second, this amendment would prohibit a mortgage originator from steering a borrower toward terms that are more expensive than those for which he can qualify. In recent years, loan originators were often paid more if they got borrowers to take out predatory subprime loans, even when the borrower qualified for a prime loan. It is important to remember that the crisis we are addressing today with this comprehensive Wall Street reform bill was first triggered by the downturn in the national housing market. This downturn brought to light the prevalence of unsound lending practices, especially predatory lending tactics in the subprime market.

Ultimately, this disregard for underwriting standards spread risk throughout the financial system as these unsound loans were securitized and sold, chopped up and sold again. No one had any skin in the game.

Although the market for some prime mortgages was less than 1 percent of global financial assets, the faults in the system that started with unscrupulous origination practices allowed the turmoil in the housing market to spill over into other sectors. When sound mortgage loans are made they provide

families with a piece of the American dream. But when loans are made recklessly, without concern for the consumer, these loans become nightmares—not just for the families who are left on the hook but for our entire economy. We need to make sure those abusive and exploitative mortgage practices come to an end.

For far too long, subprime lenders have put the homes and home equity of Americans at unnecessary risk. These commonsense protections are essential to restoring our economy and preventing a future crisis in the housing market.

I ask my colleagues to support the Merkley-Klobuchar amendment, and I yield the floor to my friend and great leader on this issue, Senator MERKLEY of Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I compliment my colleague from Minnesota for the incredibly solid and important work she has done on this topic. It goes right to the heart of building a family's financial foundations. There is a lot of movement that needs to be made to restore a framework that will build those foundations rather than destroy those foundations.

I yield to my colleague from Connecticut if he wishes to make remarks on this amendment?

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, first let me thank my colleague from Oregon and my colleague from Minnesota as well for their contribution. While he has left the floor, I would be remiss if I did not express my gratitude to BOB CORKER from Tennessee. Putting aside whatever differences we may have on this amendment, he has been a very valuable member of our committee.

This bill that is right here, all 1400 pages of it—substantial parts of this bill can be attributed to the work of BOB CORKER of Tennessee. I want my colleagues to know how grateful I am to him, to his staff, and others for some valuable ideas and thoughts. While not every one was included in the bill, he played a consistent role, showing up every time there was a meeting or gathering on this legislation. He spent a lot of hours with our colleague from Virginia, Mark Warner, particularly on titles I and II of this bill. I will say more about Senator CORKER's contribution during debate on this bill, but I wanted at least at the outset of this debate and discussion to thank him for his wonderful efforts on this legislation.

Let me begin and thank, of course, Senator MERKLEY and Senator KLOBUCHAR, as well as their other cosponsors of this, for the bipartisan support for their amendment. I will ask to have printed in the RECORD some correspondence. I have a letter we sent

out in 2006. It will give you an idea—it was 4 years ago. It was signed by myself, Wayne Allard, who is no longer with us, of Colorado, Senator Sarbanes, JIM BUNNING of Kentucky, JACK REED of Rhode Island, and CHUCK SCHUMER.

The letter was pushing the regulators to establish some underwriting guidance for subprime mortgages. That is in 2006 that we sent that first letter. We were in the minority, we Democrats.

In April of 2007 we sent another letter to Chairman Bernanke. Here we said that our committee had held two hearings this year on the problem in subprime mortgage rates. This was in February and March of 2007, 3 years ago.

At the hearings, a number of committee members raised concerns that the regulators have not kept pace with deteriorating credit standards on the growth of abusive, unfair and deceptive lending practices. In addition, we are concerned that the Federal Reserve Board has not exercised its obligations under the Home Ownership and Equity Protection Act of 1994 to issue regulations that address the problems of predatory lending.

The letter goes on for two or three pages. That was signed by myself, Senator REED, Senator SCHUMER, Senator BAYH, Senator CARPER, Senator MENENDEZ, Senator AKAKA, Senator SHERROD BROWN, Senator BOB CASEY, and Senator TESTER.

In December of 2007 we sent another letter to Chairman Bernanke.

In light of the deepening crisis in the mortgage markets, a crisis you correctly attribute to abusive practices and lax underwriting standards in the subprime market, we want to reiterate to you the importance of acting forcefully to protect consumers in the rulemaking the Federal Reserve Board is currently undertaking under the Homeowners Equity Protection Act.

We go on for two or three pages. Again, I say respectfully, but not a single member of our committee from the other side signed that letter or the one in April of 2007. This letter was signed by myself, Senator JOHNSON, Senator REED, Senator SCHUMER, Senator BAYH, Senator CARPER, Senator MENENDEZ, Senator AKAKA, Senator BROWN, Senator CASEY, Senator TESTER, and Senator JOHN KERRY of Massachusetts.

Those are just three pieces of correspondence going back years ago, trying to get some attention to the predatory lending practices that were going on. Had we acted in 2006 or even in 2007, we would not even be close to the disastrous effects that have occurred with 7 million homes lost, 4 million today underwater in the country—in danger of falling into foreclosure, 250,000. A quarter of a million homes this year have been seized in foreclosure proceedings. Here were three pieces of lengthy correspondence signed, in one case on a bipartisan basis in 2006; in 2007 unfortunately on a partisan basis—not because we didn't seek additional signatures on the letter—to highlight

the importance of underwriting standards and the need to step up.

I also want to add at this point a letter from the National Association of REALTORS, expressing strong opposition to the Corker-Gregg amendment. In their letter to the Senate—to all Senators, this letter went—they say the following.

The Corker-Gregg-Isakson amendment replaces the risk retention provisions . . . of the credit risk retention with a study on a feasibility of risk retention requirements for financial institutions and implements the residential mortgage underwriting standards that include a mandatory 5 percent downpayment for all mortgages. As our Nation continues to recover from the worst economic downturn since the Great Depression, REALTORS are cognizant that lax underwriting standards brought us to this point. It must be curtailed. However we caution that swinging the pendulum too far in the opposite direction may reverse the fragile recovery.

Based on data from the National Association of REALTORS, of home buyers and sellers, 11 percent of all home purchasers surveyed had downpayments of 5 percent or less. When considering only first-time home buyers, the percentage utilizing a downpayment of under 5 percent increases to 18 percent of all purchases. Improving underwriting to ensure that the consumer has the ability to pay their obligation is in the best interests of everyone, but eliminating the possibility for some creditworthy customers to buy a home will have significant detrimental ramifications for American families, the housing sector, and those businesses that support it.

Let me take a couple of minutes. I know my colleague from Texas is here, and others, but this is important, that people understand what happened. Because 5 percent sounds pretty reasonable. Why not 5 percent? Let me explain why that provision poses some risk to all of us. The Senator's amendment as offered has two parts to it. They almost kind of run into each other in a way.

The first half of the amendment strikes the government-imposed risk retention requirements in the underlying bill. These requirements, as explained before, and I will in a second again, would result in strong market-based underwriting standards in the residential mortgage market.

Then in the second half of the amendment, the amendment puts in government-dictated, hard-wired underwriting standards that would have very serious consequences, as the National Association of Realtors points out, for first-time home buyers, minority home buyers, and others who are seeking to attain the American dream of home ownership.

Like the earlier debates we have had, it does this at a time, as we all know, that the housing markets are just starting to recover, potentially putting that recovery at risk.

Let me start by discussing the first part of this amendment. The bill, section 941 of our bill, requires securitizers to retain an economic in-

terest in the material portion of the credit risk for any asset that securitizers transfer, sell, or convey to a third party. What does this mean? Very simply put, it is skin in the game. Skin in the game—a skin-in-the-game requirement that creates incentives that encourage sound lending practices, restores investor confidence, and permits securitization markets to resume their important role as a source of credit for households and businesses.

Excesses and abuses in the securitization process played a very major role in this crisis under what is called the "originate to distribute" model. Loans were made expressly to be sold into the securitization pools, which meant the lenders did not expect to bear the credit risk of borrower default.

What does that mean? Well, if you are the broker out cutting the deal, what was the first piece of advice on their Web page to the brokers, the unregulated brokers? The first piece of advice to them was, from their association: Convince the borrower. Convince the borrower you are their financial adviser.

Well, of course, they were anything but their financial adviser. Their job was, of course, to get people to sign up and commit to these mortgages, which they knew, in too many cases, could never, ever be met; that is, they, the borrower, would never possibly meet it.

If you had some skin in the game if you are the broker, you may be a little more careful about that. But, of course, the broker was acting on behalf of the lending institutions. Now you think, well, the lending institution is going to care about this. You know, when I bought my first home back X numbers of years ago, my mortgage stayed at the Old Stone Bank. I signed those papers. I could go down every day and I could pull out that drawer, wherever it was, and look at my mortgage. It did not leave the Old Stone Bank. It stayed right there.

Let me tell you, that fellow at the Old Stone Bank wanted to make darn sure that this young lawyer in Connecticut was going to meet his financial obligations. So they had underwriting standards for me. It did not cost me a lot on a downpayment. I was a new buyer, first-time home buyer. I had just gotten licensed to practice law in Connecticut, so they had a little confidence I might be able to meet my obligations. So they had underwriting standards.

Today it is vastly different. That fellow, a young lawyer today, who goes and gets that mortgage, the lending institution frankly could care less whether you have the underwriting standards. Why? Because it is going to sell that mortgage. That is what securitization is: I am going to sell it. On average they hold your mortgage 8 to 10 weeks. Then they sell it. It goes

right out the door. So the broker could care less. He got me to sign up with a deal I could not afford. The old bank does not care anymore, because they are selling it, and bundling them together and shipping them out the door, and some unwitting investor may be purchasing these. Because they have been branded by the rating agencies as AAA or AA, they think they are pretty good.

So why am I putting skin in the game? Because if you do not have skin in the game, if you do not have a vested interest financially in the outcome, you do not care what happens, unfortunately, in too many cases. You have been paid. You have got out your dollar. You have been compensated as the broker; you have been compensated as the lending institution; you wash your hands of the whole thing.

That is what created this domino effect, because there were not people watching and caring what went on. So in my bill I said: Well, why not keep a little skin in the game or drop the skin in the game but write underwriting standards. You make the choice. But if you have got skin in the game, I suspect you are going to be careful about underwriting standards. If you write the underwriting standards, I do not want to take a pound of your flesh from the lending institution, if you are going to meet those obligations.

That is exactly what Senator MERKLEY and our colleague from Minnesota and others are suggesting here: Let's get good underwriting standards here. That is why I support what they are talking about. So I apologize for going into all of that "originate to distribute," but originate the mortgage to distribute it. That is exactly what it means.

This led to significant, of course, deterioration in credit and loan underwriting standards, particularly in residential mortgages. With the onset of the crisis, there was widespread uncertainty regarding the true financial condition of holders of asset-backed securities, for obvious reasons, freezing interbank lending, constricting the general flow of credit. Complexity and opacity in the securitization markets prolonged and deepened the crisis, and it made recovery efforts that much more difficult.

My proposal in the bill has a measured approach which requires, of course, separate rulemaking requirements for different assets. I will not bother you with all of that.

A lot of people support this, by the way, including the Consumer Federation of America, the Investors Working Group, the America Securitization Forum, CalPERS, the Group of 30, even a former Republican Secretary of the Treasury, John Snow. And he says:

Because of the lack of participant accountability, the originate-to-distribute model of mortgage finance, with its once great promise of managing risk, became itself a massive generator of risk.



A study is not a credible response. I say that respectfully of the amendment of the Senator from Tennessee. He calls for a study in all of this. Our bill provides for comprehensive regulation of securitization markets, to prevent excesses and eliminate a potential source of financial instability.

Let me add quickly, I am a strong supporter of securitization. That has provided liquidity, which has made home ownership more available to more people. But you have got to do it carefully. If you are packaging these mortgages with no regard to whether they are available, and sending them out the door to be sold off, then you jeopardize securitization. If you get good underwriting standards, as the Senator from Oregon and Minnesota are requiring, then you are going to build in some safeguards; then securitization, with proper branding of what they are worth, and you are back on track again, and we can start to see housing improve for everybody.

The Corker amendment also requires, of course, here a 5-percent downpayment for all loans, no matter what the circumstance. That is a government-mandated requirement in a sense in this amendment. Even with FHA loans, hardwiring in statutes that as a requirement is very ill-considered, I would say.

The key cause of the crisis, as I have said many times over the past almost 4 years on the floor of this body, was the unscrupulous mortgage brokers and mortgage lenders who sold unaffordable mortgages to people who could not pay those mortgages.

In the majority of the cases, those loans were refinance loans, they were not even original mortgages. It was refinancing. No downpayments are required in refinancing at all. Downpayments did not even come up or come into play for these borrowers. But the mortgages were still outrageous and unaffordable. They still led to the foreclosures and contributed to the economic crisis we are in.

Why was this? Well, it was because the brokers and bankers had no skin in the game. So they not only did not pay attention, in too many cases they did not even care whether the borrowers had the ability to pay back those loans. The Merkley-Klobuchar amendment specifically addresses this problem, by specifically requiring that lenders take into account the borrower's ability to pay, and laying out important criteria for determining that.

It will end the steering payments that caused so much of the trouble in the first place. And while the 5-percent downpayment may sound reasonable, and in some cases it is, there are many lending programs out there that allow for downpayments that are lower than 5 percent: FHA, which is struggling now, has traditionally allowed for

downpayments less than 5 percent. FHA has been a path to home ownership, as we know, for millions of our fellow citizens. Many nonprofits such as Habitat for Humanity, the Enterprise Foundation, church-related housing groups—in fact, I have a letter signed by a number of these nonprofit organizations in opposition to the Corker amendment. I ask unanimous consent that all these letters I have referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION  
OF REALTORS®,  
Washington, DC, May 6, 2010.

U.S. SENATE,  
Washington, DC.

DEAR SENATOR: On behalf of more than 1.1 million members of the National Association of REALTORS® (NAR) involved in residential and commercial real estate as brokers, sales people, property managers, appraisers, counselors, and others engaged in all aspects of the real estate industry, I respectfully request that you oppose the Corker-Gregg (#3834) and the McCain-Shelby-Gregg (#3839) amendments to S. 3217, the Restoring American Financial Stability Act of 2010.

#### CORKER-GREGG-ISAKSON AMENDMENT

The Corker-Gregg-Isakson (#3834) amendment replaces the risk retention provisions of S. 3217, Title VII, Subtitle D, (b) Credit Risk Retention—with a study on the feasibility of risk retention requirements for financial institutions and implements residential mortgage underwriting standards that include a mandatory 5% down payment for all mortgages. As our nation continues to recover from the worst economic downturn since the Great Depression, REALTORS® are cognizant that lax underwriting standards brought us to this point, and must be curtailed. However, we caution that swinging the pendulum too far in the opposite direction may reverse our fragile recovery.

Based on data from NAR's 2009 Profile of Home Buyers and Sellers, 11% of all home purchasers surveyed had downpayments of 5% or less. When considering only first-time homebuyers, the percentage utilizing a downpayment below 5% increases to 18%. Improving underwriting to ensure that the consumer has the ability to repay their obligation is in the best interest of everyone, but eliminating the possibility for some credit-worthy consumers to buy a home will have significant detrimental ramifications for American families, the housing sector and those businesses that support it.

#### MCCAIN-SHELBY-GREGG AMENDMENT

The McCain-Shelby-Gregg (#3839) amendment, which creates Title XII to S. 3217, places Fannie Mae and Freddie Mac on the fast track to dissolution. REALTORS® believe that reform of these institutions, that have played a pivotal role in the evolution of the U.S. housing market, is necessary; however, now is not the time for drastic action. Especially, considering their current role in stabilizing the housing market, and that the McCain-Shelby-Gregg amendment does not offer a replacement to fill the enormous gap that the shuttered GSEs will leave.

As NAR mentioned in our testimony before the House Financial Services Committee, March 23rd, 2010, on the "Future of the Housing Finance," the transition of these organizations to their new form must be conducted

in a fashion that is the least disruptive to the marketplace and ensures mortgage capital continues to flow to all markets in all market conditions. The establishment of aggressive timetables for the GSEs to return to profitability, prior to the full recovery of our nation's economy and housing market, predisposes them to failure, and will cause significant angst for homebuyers and the nation's housing markets.

Furthermore, the requirements that this amendment places on Fannie Mae and Freddie Mac, when they become viable, will effectively prohibit them from participating in the secondary mortgage market.

First, the aggressive reduction of their portfolio will prevent them from being an effective buffer during future economic downturns. A key element of NAR's recommendation for the restructure of the GSEs is that their portfolios should only be large enough to support their business needs and ensure a stable supply of mortgage capital when necessary because of insufficient private investment. The requirements established in this amendment would thwart the GSEs ability to be an effective buffer.

Second, the amendment repeals all increases to loan limits, both permanent and temporary. The loan limits would return to: \$417,000. Moreover, the GSEs would be prohibited from purchasing homes that had prices over the median-home price, for properties of the same size, for the area in which the property was purchased. This would reduce loan limits to less than \$100,000 in some areas, less than half the current FHA floor.

NAR advocated for the increase of the loan limits for high cost areas and is actively advocating that the current limits be made permanent in order to ensure that credit-worthy homebuyers have access to affordable capital. The housing market remains fragile, and private capital has not returned to either the mortgage or MBS markets to the extent that is needed to support the housing industry. Reducing the GSEs' loan limits to the suggested levels will significantly limit the ability of homebuyers to obtain mortgage funding throughout the country, and damage the business sectors supported by mortgage finance.

Third, the amendment establishes an escalating mandatory down payment percentage that REALTORS® believe unfairly and unnecessarily denies the opportunity to many families who have the potential to succeed as homeowners. Beginning 1-year after the 24-month assessment period, the minimum down payment requirement will be 5%. 2-years out, the down payment will be 7.5%. After three years, the down payment will be 10% for conventional-conforming loans.

The removal of flexible down payment options will significantly reduce the ability of creditworthy consumers to purchase a home. As mentioned with regard to the Corker-Gregg-Isakson amendment, a 5% down payment requirement excludes 11% of all current homebuyers and 18% of all current first-time homebuyers, based on NAR's most recent homebuyers survey. Increasing the down payment to requirement to 10% would exclude nearly 25% of all current credit-worthy borrowers, and up to 37% of current creditworthy first-time homebuyers. Underwriting standards have already been corrected and loans are only available for borrowers who can afford them. There is no reason to over-correct by imposing higher downpayment requirements.

As we have seen, without the GSEs, the current crisis would have been even more catastrophic for the housing market and the



overall economy, as virtually no activity would have occurred within the housing sector because little private capital would have been available. REALTORS® support reforming our housing finance system, and the GSEs. However, taking a measured approach is critical to ensuring that our economic recovery remains viable.

I appreciate the opportunity to share with you the views of more than 1.1 million real estate practitioners respectfully request that you oppose the McCain-Shelby-Gregg (# ) and the Corker-Gregg-Isakson (# ) amendments to S. 3217, the Restoring American Financial Stability Act of 2010.

Sincerely,

VICKI COX GOLDER,  
2010 President,  
National Association of  
REALTORS®.

MAY 11, 2010.

Hon. CHRISTOPHER DODD,  
*Chairman, Senate Committee on Banking, Housing, and Urban Affairs, Russell Senate Office Building, Washington, DC.*

Hon. RICHARD SHELBY,  
*Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs, Russell Senate Office Building, Washington, DC.*

DEAR CHAIRMAN DODD AND SENATOR SHELBY: We write in opposition to amendments to the Restoring American Financial Stability Act that would mandate a one-size-fits-all approach to mortgage underwriting and those amendments that would undercut the current mortgage finance system by eliminating Government Sponsor Enterprises (GSEs) without having a successor system in place.

Certain amendments currently being considered, such as a mandatory 5 percent down payment requirement, would undermine successful first-time homebuyer and workforce housing programs offered by qualified nonprofits and state and local governments. Unlike the broader mortgage market, these nonprofit and government sponsored lending programs require borrower financial education and have very low default rates. For example, the program administered by NYC's Department of Housing Preservation and Development had only five foreclosures out of 17,000 loans. The reason is that programs such as these utilize stringent underwriting standards that were lacking in some segments of the mortgage finance market. Yet, local government and nonprofit loan programs would be virtually eliminated by a national mandate for a 5 percent down payment because these programs utilize alternative down payment requirements to ensure that the homebuyer has "skin in the game." For example, self-help homebuyer programs allow hours spent in building homes to compensate as part of the down payment. Other programs require extensive financial literacy, including pre- and post-purchase counseling, and state or local government issued loans coupled with sound underwriting standards that have proved successful in enabling low income and workforce families to achieve the American dream of homeownership, build wealth, and remain in their homes.

Moreover, buyers who receive financial literacy training and homeownership counseling with traditional loan products, irrespective of the down payment percentage, are critical to our nation's ability to address the foreclosure crisis and stabilize the housing market. A one-size-fits-all approach and flat down payment amounts eliminate the ability for local communities to rely on the

experience and strong track records of local non-profit and government lenders who have built successful homeownership programs that did not contribute to the housing crisis.

In addition to avoiding flat down payments and federally mandated underwriting standards, we also believe that Congress should employ a thoughtful and analytic approach to examining the role of the two Government Sponsored Entities (GSEs) in the mortgage crisis and what the future of the U.S. mortgage finance system should look like versus an immediate wind down of both GSEs. We urge Congress to ensure that a successor system is in place prior to dissolving the two firms. The GSEs have provided critical capital to the housing market, ensuring that more Americans can benefit from homeownership. Though we must be careful only to extend mortgage loans to those who can afford to pay the loans over the life of the mortgage, we must be equally careful not to cut off mortgage lending at a time when the markets are recovering.

The problems in the housing market were caused by a confluence of factors. We must address all of them, instead of singling out one or two reasons or entities, and, inadvertently, making homeownership unattainable for many working families.

Thank you for taking the time to address these concerns.

Sincerely,

Enterprise Community Partners; National NeighborWorks Association; Habitat for Humanity International; Community Resources and Housing Development Corporation; National Community Reinvestment Coalition; Kalamazoo Neighborhood Housing Services, Inc.; Nuestra Comunidad Development Corporation; Manna, Inc; Community Frameworks; UNHS NeighborWorks HomeOwnership Center; Frontier Housing, Inc.; Boston LISC; Chicago LISC; Connecticut Statewide LISC; Duluth LISC; Houston LISC; Jacksonville LISC; Los Angeles LISC; Mid South Delta LISC; New York City LISC; Philadelphia LISC; Pittsburgh Partnership for Neighborhood Development (SWPA LISC); San Diego LISC; Toledo LISC; Virginia LISC; Impact Capital (Washington State LISC); Local Initiatives Support Corporation; Housing Assistance Council; Homes for America, Inc.; Housing Partnership Network; Neighborhood Housing Services of Phoenix; Cambridge Neighborhood Apartment Housing Services; NHS of the Lehigh Valley, Inc.; NeighborWorks Columbus; Ithaca Neighborhood Housing Services; Knox Housing Partnership; NHS of Orange County; Buffalo LISC; Greater Cincinnati & NE Kentucky LISC; Detroit LISC; Hartford LISC; Indianapolis LISC; Greater Kansas City LISC; Michigan Statewide LISC; Milwaukee LISC; Greater Newark & Jersey City LISC; Phoenix LISC; Rhode Island LISC; San Francisco Bay Area LISC; Twin Cities LISC; Washington DC LISC.

Mr. DODD. These are groups, it appears that, in fact, I should say in fairness to Senator CORKER, in the latest version of his amendment, that allows for some exceptions on a case-by-case basis of these nonprofits, where each individual nonprofit has to go to the regulators for such an exemption. But they simply may not get it. They get to apply. It is optional to give that.

Many insured depositors, of course, have mortgage programs that require less than 5-percent downpayments. They are performing well, and have done so in the past. And we want low- and moderate-income families to go to banks and get loans, qualified low- and moderate-income people to have to meet those standards. We do not want to simply shut them off to nonprofits. We want to get them into the financial mainstream.

The Corker amendment would create a new barrier to accomplishing that goal. But the Merkley-Klobuchar amendment provides for those underwriting safeguards, does not put such tight restrictions, even on FHA mortgages, that would make it impossible for an awful lot of people.

I thank my colleagues. I have spoken a long time here. I apologize. But I think it is important to know the history of how we got into the mess and what happened out there that led us to these difficulties, why underwriting is important.

What Senator MERKLEY and Senator KLOBUCHAR have offered is to get back to that sensible requirement here without writing these stringent requirements in this legislation that would be so difficult. So I urge my colleagues to support the Merkley-Klobuchar amendment and respectfully oppose the Corker amendment.

By the way, their amendment is endorsed by a number of our colleagues on both sides of the aisle. I thank Senator SCOTT BROWN of Massachusetts, who is involved with this amendment, by Senator MERKLEY and others. I commend him for it. It is a good proposal.

The PRESIDING OFFICER (Mr. UDALL of Colorado.) The Senator from Rhode Island.

Mr. WHITEHOUSE. May I interject myself in this debate for 1 minute to ask unanimous consent with respect to the Whitehouse amendment that restores States rights to protect against exorbitant, out-of-State lenders doing business in one's own State.

I ask unanimous consent that Senator COCHRAN of Mississippi be added as a cosponsor. I want to take a moment to let him know how much I appreciate his cosponsorship of what is now a bipartisan amendment, and I look forward to continuing to secure additional sponsors from both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

Mr. MERKLEY. Mr. President, before I speak on this amendment, I want to applaud my colleague from Connecticut who spoke so passionately and knowledgeably about the challenge that had been faced by subprime underwriting gone astray.

If only the letters that he and his colleagues wrote in 2006 and in 2007, those multiple appeals, if only those who had the power to establish those

underwriting standards had been listened to, had been followed up on, then we would have a much smaller challenge today. We would not have had this big meltdown in 2008 and 2009, with so many millions of American families having the value of their home destroyed. I applaud him for his advocacy year after year after year.

I am pleased to be able to join him in this effort now. I particularly applaud the efforts to establish standards for skin in the game. This is a very responsible way to create accountability for our mortgage originators. I do want to note that there are three issues that particularly contributed to dysfunction at the retail mortgage level.

The first is liar loans, undocumented income, where a mortgage originator would tell the client: Well, we will just pencil in here that you earn \$150,000. It does not matter. Don't you worry about what you are earning. We will put this in here. That obviously led to a complete corruption of the quality of the mortgage. Certainly the families involved had no prospect of paying for those mortgages and the interest rates they were being signed up for.

A second was to fail to employ basic underwriting measures, measures like loan to value and credit history and employment history, and current obligations and debt to income, and so forth.

These are the types of measures any responsible originator goes through to understand whether this loan makes sense for this family, whether there will be the ability to repay.

The third piece is the incentives that were provided to mortgage originators put those originators 180 degrees out of sync with their customers. Essentially, it worked like this. If a loan was good for a family, it didn't make as much money for the lender. If it was bad for a family, it made a lot of money for the lender. So the lender and the home buyer have different interests; one wants a low-interest mortgage, a fair mortgage; the other wants a mortgage that has hidden clauses, prepayment penalties, and exploding interest rates. But incentive payments, sometimes called steering payments, technically called yield spread premiums—these were paid to the mortgage originators to induce them to sign those families they had taken into their trust into a loan that was good for the lender but not good for the family, corrupting a transaction at the heart of the most important financial moment in a family's experience, the moment of buying their family home.

This amendment addresses all three of these core pieces of dysfunction in the mortgage market. It ends no-documentation or liar loans as they are called, where income is created like writing a work of fiction. It sets minimum underwriting standards related to loan to value, ability to repay, and

ability to repay not based on some teaser rate but on any rate the loan could potentially go up to in the first 5 years. So you make sure, if this has a variable rate clause, that this family will be able to manage those payments in the first 5 years and certainly verification of income in the process. So you have documentation and verification, essentially the sound underwriting process that was in place for decades before it all went awry over the last 10 years.

This amendment will apply to all loans. It amends the Truth in Lending Act or TILA, which applies to all loans. It will base broker compensation on the size of the loan and on the loan value or the loan amount and the volume of loans a broker makes, rather than on the type of loan. We take this impossible situation that mortgage originators were put in, where their interests were 180 degrees reversed from the client. Yet it is a trust relationship, it puts them in sync, where the broker has no incentive to steer a family into an exploding interest rate, no incentive to steer a family into a loan with a prepayment penalty, no incentive to steer a family into a loan that has other hidden clauses designed to strip wealth from working families.

Finally, this amendment provides a safe harbor to make sure mortgage originators are on sound ground if they follow this set of originating principles and, in the process, makes sure they do not do balloon payments or fees that exceed 3 percent, a series of sound business practices that serve the industry and serve the family.

I mentioned before that my colleague from Tennessee has a bill that has many of these mortgage underwriting standards. I applaud him for his long experience and concern in helping families to succeed. But we do disagree about two provisions. One provision is stripping the skin in the game that makes sure mortgage originators have a stake in the quality of the mortgage. The second is to establish a solid line on a 5-percent standard. Many families, when they are buying a modest home, have a significant expenditure in all kinds of closing costs, independent of their downpayment. They may well have thousands of dollars, \$5,000, \$8,000 of skin in the game before they ever get to the downpayment. So we want to create the flexibility for first-time home buyers and for families on the lower end of the income spectrum to be able to get into home ownership.

In fact, frankly, it is these families for whom it is so important we make the mortgage process available. Because a young family who is able to buy that first home and do so with the responsible underwriting principles laid out in this amendment, in 5 years they will be buying their second home, maybe a bit nicer home, maybe an extra bedroom or two for the children,

and maybe later on they are able to move up again to the sort of home they have always dreamed about having or the sort of yard with the trees in it that the treehouse is going into and so forth. That is the American dream, to be able to engage in this progression. You engage in that progression because you build equity. You build equity by getting into home ownership at the start. Having solid underwriting standards but not an inflexible line is the way to go on this.

I do note that the amendment Senator KLOBUCHAR and I are offering is supported by a host of organizations: The Center for American Progress, the Center for Responsible Lending, the National Association of Consumer Advocates, the National Consumer Law Center, the National Fair Housing Alliance, Consumer Action, the Housing Finance Alliance, and Mortgage Insurance Companies of America.

This is a bipartisan sentiment to restore solid mortgage underwriting standards. I appreciate the thoughtfulness and energy that has gone into it from both sides of the aisle to craft ways to approach this. When we vote tomorrow morning, I ask all my colleagues to vote yes for strong underwriting standards. Vote yes for putting mortgage originators in sync with their clients rather than radically oppose the interests of their clients. Vote yes to end liar loans. Certainly, vote yes for the young families and those families with lower income who wish to get into that first home so they can get their share of the American dream.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3759, AS MODIFIED, TO  
AMENDMENT NO. 3739

Mrs. HUTCHISON. Mr. President, I rise to talk about the Hutchison-Klobuchar amendment, which will be in order after votes on the Merkley and Corker amendments. The votes will come tomorrow, but my colleague, Senator KLOBUCHAR, and I are very concerned about the underlying bill only putting Fed supervision over bank holding companies that are \$50 billion and above. One of the key parts of regulatory reform in this financial arena is that nobody wants too big to fail anymore. My colleague, the cosponsor of this amendment, and I wish to assure there is no indication in any way that only bank holding companies that are \$50 billion and above would be having supervision of and access to the Fed.

We want to make sure of two things. First, that there is a level playing field, that everyone who wants to be a member of the Fed, who wants to have access to the Fed, will be able to do that, including State banks.

The underlying bill would prohibit State banks from being able to be members of the Fed. That is a real concern for community bankers all over

America. The second concern is that we have regional Feds. When the Federal Reserve was established, there was a debate about whether we would have regional offices or whether there would just be the Federal Reserve Board sitting in Washington. The decision was made to have Federal banks in key parts all over the country that would be regional banks. The purpose was that we needed to know what was happening all over the country, not only in New York, not only in Washington, DC, but throughout the country, because it is the community banks that are the depository institutions that are the mainstay of our economy and our financial community. If you take the Federal Reserve supervisory authority away from all those community banks around the country and regional banks no longer have input into what is going on in smaller communities, we will have too big to fail in reality, and we will also have a monetary policy that is going to cater to the big financial institutions, which are what utterly failed in the last 2 years in the financial meltdown.

Senator KLOBUCHAR and I have an amendment that would go back to where we are today, that the Fed would have supervisory power over State banks that choose to go into the Fed, and it would be universal for all the holding companies and the banks in the system.

Before my colleague from Minnesota speaks, I wish to submit for the RECORD a couple letters that have been written, one by the Independent Community Bankers of America.

Dear Senator,

On behalf of the nearly 5,000 members of the Independent Community Bankers of America, I write to urge your support for an amendment to S. 3217 to be offered by Senators Hutchison and Klobuchar . . . that would restore the Federal Reserve's authority to examine state-chartered community banks and small bank holding companies.

That is the amendment we are discussing tonight.

I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INDEPENDENT COMMUNITY

BANKERS OF AMERICA®,

Washington, DC, May 6, 2010.

DEAR SENATOR: On behalf of the nearly 5,000 members of the Independent Community Bankers of America, I write to urge your support for an amendment to S. 3217 to be offered by Senators Hutchison and Klobuchar (#3759) that would restore the Federal Reserve's authority to examine state-chartered community banks and small bank holding companies.

The Federal Reserve System comprises 12 regional Federal Reserve Banks overseen by a Board in Washington. The virtue of this structure is that it prevents the Federal Reserve from being focused exclusively on the power-centers of Washington and New York. Through their examination of state-chartered community banks and bank holding

companies, the regional Federal Reserve Banks keep their finger on the pulse of a diverse range of institutions in diverse regional economies and the Main Street small businesses and municipalities served by these institutions. As Chairman Bernanke has testified, the Federal Reserve's authority gives them insight into what's happening in the entire banking system. This insight is crucial not only to the Federal Reserve's exercise of its monetary functions, but to its ability to gauge the impact of banking regulations across diverse institutions.

The Federal Reserve must be the central bank of the United States, not the central bank of Wall Street and a handful of too-big-to-fail institutions. Your support for the Hutchison/Klobuchar amendment will help ensure that the Federal Reserve serves the entire economy.

Thank you for your attention to this matter.

Sincerely,

CAMDEN R. FINE,  
President and CEO.

Mrs. HUTCHISON. I also will include a letter from the Chamber of Commerce of the United States of America, signed by the executive vice president.

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, strongly supports an amendment expected to be offered by Sens. Hutchison and Klobuchar to S. 3217 . . . which would maintain Federal Reserve Board oversight of state member banks and smaller holding companies.

I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAMBER OF COMMERCE OF THE  
UNITED STATES OF AMERICA,  
Washington, DC, May 6, 2010.

TO THE MEMBERS OF THE UNITED STATES SENATE: The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, strongly supports an amendment expected to be offered by Senators Hutchison and Klobuchar to S. 3217, the "Restoring American Financial Stability Act of 2010 (RAFTSA)," which would maintain Federal Reserve Board oversight of state member banks and smaller holding companies.

S. 3217 would focus the attention of the Federal Reserve on just the largest institutions and could serve to limit the Federal Reserve's understanding of the importance of community banks. Federal Reserve supervision enhances the ability of the Federal Reserve to assess credit impact in local communities. Smaller banks tend to fund smaller businesses, which is an important source of jobs for the economy. Removing Federal Reserve supervision of community banks could mean the Federal Reserve would lose timely information about the flow of credit to small businesses.

The Chamber looks forward to working with the Senate on meaningful, bipartisan legislation to ensure that the U.S. financial system is protected and that small businesses continue to have access to the capital they need to sustain, grow, and create jobs.

Sincerely,

R. BRUCE JOSTEN.

Mrs. HUTCHISON. I also wish to read a couple excerpts from a letter by the Federal Reserve Bank of Kansas City to Senator BENNET. It goes into a lot of other things, but the relevant part says:

Unfortunately, if the Senate divides the oversight of the [bank holding companies] between the banking regulators, it will multiply and complicate this oversight significantly. This is hardly an improvement. And, limiting the regional Reserve Banks' source of industry information gained through their contact with all institutions and bank regulators will greatly compromise its ability to understand industry trends and deal with future crises. This is a mistake and I hope you will consider it carefully in your deliberations.

That is signed by Thomas Hoenig, president of the Federal Reserve Bank of Kansas City.

In addition, the President of the Dallas Federal Reserve Bank, Richard Fisher, came to my office to make this point most affirmatively, that he wanted to make sure he still had the supervisory power and the ability to learn from the State banks, the community banks in the whole region where the Dallas Federal Reserve Bank sits.

Last, I wish to read an excerpt from the alert of the American Bankers Association:

As you know, S. 3217, the regulatory restructuring bill, contains language that would move oversight of state banks that are members of the Federal Reserve and their holding companies to the [FDIC]. [The American Bankers Association] is strongly opposed to this provision, as this would take away the Federal Reserve's ability to regulate state member banks and would undermine the Federal Reserve's ability to fully understand small and mid-size institutions and the communities they serve.

As early as Wednesday, May 5, the Senate will consider an ABA-supported amendment . . . by Senators Kay Bailey Hutchison and Amy Klobuchar that would restore current law by returning oversight of state member banks and holding companies to the Federal Reserve.

It is very important that our amendment be passed by the Senate. It will make a great improvement to this bill in that it will restore the law as it is today. It will not have the mixup of the varying regulatory bodies having control in one area, where a bank across the street does not have the ability to go to the Fed and one across the street does. We don't need that. What we want in this regulatory reform is to allow all the banks to be members of the Federal Reserve, to have the same discounts, the same backing of that supervisory authority so Federal Reserve banks all over our country will have the input of the community banks in our system rather than making monetary policy from New York and Washington, DC. The last thing we need is more people who are out of touch with mainstream America doing the regulation of our financial industry.

Mr. President, I commend my colleague, Senator KLOBUCHAR from Minnesota, and would like to ask her to

speak at this time because I think this bipartisan amendment will improve this bill greatly, and I look forward to having the vote tomorrow.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I thank my colleague, Senator HUTCHISON, for her great leadership on this issue. We have worked together from the beginning on this amendment, and you can see there is support for this amendment from the Lone Star State to the North Star State, spanning this country—as you look at the many States across this country that truly believe it is important to have the regional Federal Reserve involved in decisions, not have anything and everything concentrated in Washington and New York City, which we believe got us into lots of this trouble in the first place.

The amendment we have offered is important because what it does is seek to preserve a system that ensures that the institution charged with our Nation's monetary policy has a connection to Main Street, not just Wall Street—Main Street in Benson, MN; Main Street in Austin, TX; Main Street in Denver, CO. That is what we are talking about.

As I have said before, Main Street banks pretty much stayed away from the high flying, way-too-risky deals of the past decade, and when the pavement on Wall Street began to buckle and collapse, these banks—these small community banks—did not panic and run to Washington with tin cups and outstretched hands.

Like the rest of Main Street, they suffered because of bad bets made on Wall Street. But they kept doing their work. They kept serving their customers. So now, with us debating a Wall Street reform that will affect how these small banks, these community banks do business, I think they have a right to speak up. That is what this amendment is about.

I would like to give a lot of credit to Chairman DODD, who is here as usual in the late evening hours, as well as Ranking Member SHELBY, along with the rest of their Banking Committee who worked so incredibly hard. Chairman DODD has been working with us on this amendment and has been working with us on many issues affecting the community banks. I thank him for that.

I think we took another important step yesterday when we passed the Tester-Hutchison amendment that will make sure community banks pay only their fair share when it comes to Federal bank insurance.

But the issue my colleague, Senator HUTCHISON, so eloquently discussed is whether the Federal Reserve will continue to oversee our State member community banks. That issue still remains.

Like I am sure all of you have, I have heard from my community banks. I have heard from the Fed. I have thought about this a lot. I just want to give you an example of what those community banks—the bankers out there in the heartland, who basically are standing out there with their feet firmly on the ground, with their briefcases in their hands. They were not there as these credit default swaps swallowed and swirled around their heads. They were there just doing their job.

Here is what Noah Wilcox, the president of Grand Rapids State Bank in Grand Rapids, MN—Grand Rapids, MN, home of the Judy Garland Museum. If you ever want to go there, you can actually put your head in a cut-out hole of the Tin Man. Yes, you can. The Tin Man—right—needed a heart. The lion needed courage. And the scare crow needed a brain. You could go there to Grand Rapids.

Well, this is what the president of the Grand Rapids State Bank said:

All Senators should be reminded that the Federal Reserve System was created to serve all of America, not just Wall Street.

From the Lone Star State to the North Star State.

When Congress established the Federal Reserve in 1913, Congress purposely created a system of regional banks, overseen by a board in Washington, to ensure that the power of this institution would not be concentrated far from these banks and the communities they serve. That is why I believe Mr. Wilcox's—the guy from Grand Rapids, the banker—statement rings especially true. He was not just advocating for his bank or other banks in Minnesota or across the country. He said the Federal Reserve was created for "all of America."

The Federal Reserve Bank of Minneapolis just does not supervise banks, it also partners with the communities it serves by providing resources and sharing expertise. I will give you one example. We have Art Rolnick, known nationally for the work he has done on early childhood development. He works with the Federal Reserve. He is one of their policy experts. He is retiring this summer. He has literally devoted the last few years of his career looking at early childhood development—the investment. He has put out numbers. He has put out studies straight from the Federal Reserve because he had that information on the ground to show the kind of return of investment you get when you invest in kids early on. I do not think we would see that coming out of the Federal Reserve in Washington. This came out of the regional banks.

This interaction with regional banks can clearly be seen in the interdisciplinary research it conducts in Minnesota with the University of Minnesota and in its partnerships with financial insti-

tutions and community-based organizations to provide investment in low- and moderate-income communities.

Together the regional banks provide a presence across this country that gives the Fed grassroots connections—not just in board rooms in New York, not just in the hallways of Congress in Washington, but right there in Grand Rapids, MN, on Main Street—insights into local economies. What is happening with the timber industry? What is happening with the medical device industry? They know that on the front line. What is happening to the high-tech industry? What is happening with the telecommunications industry in Denver? That is what the regional banks do for us.

They also provide legitimacy when they have to make tough decisions—when the Fed has to make those tough decisions—to have those regional banks out there with legitimacy in the banking community and the business community to say: This is not just about Wall Street; this is also about Main Street.

Their geographic diversity also allows the regional banks to develop unique expertise. For instance, the Federal Reserve Bank in Minneapolis has a wide breadth of knowledge in the agricultural economies of Minnesota and the other States in its district. You are not going to get that in the middle of New York City. You are not going to get that in the middle of Washington, DC. Through the Federal Reserve of Minneapolis, the community banks they supervise have a better understanding of the markets that ultimately aid them in their loan making decisions.

Through their working relationships with community banks, the regional Federal Reserve banks also collect and analyze important information about the movements and trends in local economies. Because community banks interact with so many parts of the economy—from the ordinary folks who bank with them, to the small businesses they provide loans, to real estate developers, and even local governments—their connections to the communities they serve provide a unique perspective for the Fed to tap.

This relationship is a two-way street, as it also provides a voice for our community banks that would be lost if the Federal Reserve were to only supervise the largest banks. A system like this would certainly limit, and potentially distort, the picture the Federal Reserve gets of what is happening in our Nation's banking system.

I repeat, this crisis did not happen because of this little bank in Grand Rapids, MN. It happened because eyes were not watching what was going on on Wall Street. Eyes were not watching what was going on in these big banks. The rest of these guys—these small banks—they were the ones who were the victims of this crisis.

As the president of the Federal Reserve Bank in Minneapolis pointed out in a speech this past March, it would be shortsighted to conclude that the Federal Reserve "can safely be stripped of its role as a supervisor of small banks." As he noted, disruptions in the financial system can come from all sectors and the connection the regional Federal Reserve banks provide to local economies can be vital in ensuring the stability of the financial system.

Opponents will argue that the Federal Reserve does not need to supervise banks to gain insight into them, that they can get this information by other means and through other sources. But, currently, much of the Federal Reserve's interaction with community banks comes from the supervision done by its examiners. Many of these examiners have lived and worked in the districts they serve for many years, and the information they provide is critical to the Fed's understanding of local economies.

This system—a system that serves all Americans—is threatened if we do not act. Currently, the Federal Reserve Bank of Minneapolis—and I am sure you see this in Texas, in Missouri, in Colorado, and the Federal Reserve's banks all across this country—currently, the Federal Reserve Bank of Minneapolis oversees over 600 banks in the Ninth District. Without this amendment, it would oversee one—one—bank.

This is what my friend, the Senator from Texas, is talking about. You would go from 600 banks—in an area that did not cause this financial crisis, that was simply a victim of this financial crisis—you would take 600 banks from them, send them out somewhere in a consolidated way to Washington and New York, and they would oversee one. All they would have is a bank holding company with over \$50 billion in assets. This means connections to over 600 communities will be lost, not just in Minnesota, but in Montana, North Dakota, South Dakota, Wisconsin, and Michigan. That is the region.

The Federal Reserve System was designed to prevent it from being focused just on Wall Street, at the expense of Main Street. That is why the Hutchison-Klobuchar amendment is so important, to put this bill in a place where we not only get the great accountability of the bill, with the great work that is being done in every single sector, so we do not make these mistakes again that were made that brought us to the brink of a financial crisis that allowed all of these banks to be on the verge of collapse—and some of them, in fact, collapsed on Wall Street—that is an important piece—but it is equally important to make sure our Main Street community banks get a fair shake and that the Federal Reserve in the regional areas of this

country—from the Lone Star State to the North Star State—be allowed to continue to get the information they need to do their job.

I urge other Senators to join Senator HUTCHISON and me in supporting this amendment, to make sure the voices of our community banks, the voices of our small towns across the country and the local economies they serve, continue to be heard.

Mr. President, I yield back to Senator HUTCHISON.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I call up the amendment Senator KLOBUCHAR and I have just been discussing, and the amendment, as modified, is at the desk. It is No. 3759, as modified.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment, as modified.

The assistant editor of the Daily Digest read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Ms. KLOBUCHAR, Mr. JOHANNIS, Mr. CORKER, Mr. VITTER, Mr. BOND, Mr. SHELBY, Mr. CRAPO, Mr. BROWN of Massachusetts, and Mr. BENNETT proposes an amendment numbered 3759, as modified, to amendment No. 3739.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

(Purpose: To maintain the role of the Board of Governors as the supervisor of holding companies and State member banks)

On page 299, strike line 3 and all that follows through page 367, line 19, and insert the following:

#### SEC. 312. POWERS AND DUTIES TRANSFERRED.

(a) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the transfer date.

(b) FUNCTIONS OF THE OFFICE OF THRIFT SUPERVISION.—

(1) SAVINGS AND LOAN HOLDING COMPANY FUNCTIONS TRANSFERRED.—There are transferred to the Board of Governors all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision (including the authority to issue orders) relating to—

(A) the supervision of—  
(i) any savings and loan holding company; and

(ii) any subsidiary (other than a depository institution) of a savings and loan holding company; and

(B) all rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to savings and loan holding companies.

(2) ALL OTHER FUNCTIONS TRANSFERRED.—

(A) BOARD OF GOVERNORS.—All rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision under section 11 of the Home Owners' Loan Act (12 U.S.C. 1468) relating to transactions with affiliates and extensions of credit to executive officers, directors, and principal shareholders and under section 5(q) of such Act relating to tying arrangements is transferred to the Board of Governors.

(B) COMPTROLLER OF THE CURRENCY.—Except as provided in paragraph (1) and subparagraph (A), there are transferred to the Comptroller of the Currency all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to Federal savings associations.

(C) CORPORATION.—Except as provided in paragraph (1) and subparagraph (A), all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to State savings associations are transferred to the Corporation.

(D) COMPTROLLER OF THE CURRENCY AND THE CORPORATION.—Except as provided in paragraph (1) and subparagraph (A), all rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to savings associations is transferred to the Office of the Comptroller of the Currency.

(c) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended by striking paragraphs (1) through (4) and inserting the following:

“(1) the Office of the Comptroller of the Currency, in the case of—

“(A) any national banking association;

“(B) any Federal branch or agency of a foreign bank; and

“(C) any Federal savings association;

“(2) the Federal Deposit Insurance Corporation, in the case of—

“(A) any insured State nonmember bank;

“(B) any foreign bank having an insured branch; and

“(C) any State savings association;

“(3) the Board of Governors of the Federal Reserve System, in the case of—

“(A) any State member bank;

“(B) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978;

“(C) any foreign bank which does not operate an insured branch;

“(D) any agency or commercial lending company other than a Federal agency;

“(E) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Financial Institutions Supervisory Act of 1966;

“(F) any bank holding company and any subsidiary (other than a depository institution) of a bank holding company; and

“(G) any savings and loan holding company and any subsidiary (other than a depository institution) of a savings and loan holding company.”

(2) FEDERAL DEPOSIT INSURANCE ACT.—

(A) APPLICATION.—Section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended to read as follows:

“(3) APPLICATION TO BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND EDGE AND AGREEMENT CORPORATIONS.—

“(A) APPLICATION.—This subsection, subsections (c) through (s) and subsection (u) of this section, and section 50 shall apply to—

“(i) any bank holding company, and any subsidiary (other than a bank) of a bank holding company, as those terms are defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), as if such company or subsidiary was an insured depository institution for which the appropriate Federal banking agency for the bank holding company was the appropriate Federal banking agency;

“(ii) any savings and loan holding company, and any subsidiary (other than a depository institution) of a savings and loan holding company, as those terms are defined in section 10 of the Home Owners’ Loan Act (12 U.S.C. 1467a), as if such company or subsidiary was an insured depository institution for which the appropriate Federal banking agency for the savings and loan holding company was the appropriate Federal banking agency; and

“(iii) any organization organized and operated under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.) or operating under section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.) and any noninsured State member bank, as if such organization or bank was a bank holding company.

“(B) RULES OF CONSTRUCTION.—

“(i) EFFECT ON OTHER AUTHORITY.—Nothing in this paragraph may be construed to alter or affect the authority of an appropriate Federal banking agency to initiate enforcement proceedings, issue directives, or take other remedial action under any other provision of law.

“(ii) HOLDING COMPANIES.—Nothing in this paragraph or subsection (c) may be construed as authorizing any Federal banking agency other than the appropriate Federal banking agency for a bank holding company or a savings and loan holding company to initiate enforcement proceedings, issue directives, or take other remedial action against a bank holding company, a savings and loan holding company, or any subsidiary thereof (other than a depository institution).”.

(B) CONFORMING AMENDMENT.—Section 8(b)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(9)) is amended to read as follows:

“(9) [Reserved].”.

(d) CONSUMER PROTECTION.—Nothing in this section may be construed to limit or otherwise affect the transfer of powers under title X.

**SEC. 313. ABOLISHMENT.**

Effective 90 days after the transfer date, the Office of Thrift Supervision and the position of Director of the Office of Thrift Supervision are abolished.

**SEC. 314. AMENDMENTS TO THE REVISED STATUTES.**

(a) AMENDMENT TO SECTION 324.—Section 324 of the Revised Statutes of the United States (12 U.S.C. 1) is amended to read as follows:

**“SEC. 324. COMPTROLLER OF THE CURRENCY.**

“(a) OFFICE OF THE COMPTROLLER OF THE CURRENCY ESTABLISHED.—There is established in the Department of the Treasury a bureau to be known as the ‘Office of the Comptroller of the Currency’ which is charged with assuring the safety and soundness of, and compliance with laws and regulations, fair access to financial services, and fair treatment of customers by, the institutions and other persons subject to its jurisdiction.

“(b) COMPTROLLER OF THE CURRENCY.—

“(1) IN GENERAL.—The chief officer of the Office of the Comptroller of the Currency shall be known as the Comptroller of the Currency. The Comptroller of the Currency shall perform the duties of the Comptroller of the Currency under the general direction of the Secretary of the Treasury. The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Comptroller of the Currency, and may not intervene in any matter or proceeding before the Comptroller of the Currency (including agency en-

forcement actions), unless otherwise specifically provided by law.

“(2) ADDITIONAL AUTHORITY.—The Comptroller of the Currency shall have the same authority with respect to functions transferred to the Comptroller of the Currency under the Enhancing Financial Institution Safety and Soundness Act of 2010 (including matters that were within the jurisdiction of the Director of the Office of Thrift Supervision or the Office of Thrift Supervision on the day before the transfer date under that Act) as was vested in the Director of the Office of Thrift Supervision on the transfer date under that Act.”.

(b) AMENDMENT TO SECTION 329.—Section 329 of the Revised Statutes of the United States (12 U.S.C. 11) is amended by inserting before the period at the end the following: “or any Federal savings association”.

(c) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the transfer date.

**SEC. 315. FEDERAL INFORMATION POLICY.**

Section 3502(5) of title 44, United States Code, is amended by inserting “Office of the Comptroller of the Currency,” after “the Securities and Exchange Commission.”.

**SEC. 316. SAVINGS PROVISIONS.**

(a) OFFICE OF THRIFT SUPERVISION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Sections 312(b) and 313 shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, the Office of Thrift Supervision, or any other person, that existed on the day before the transfer date.

(2) CONTINUATION OF SUITS.—This title shall not abate any action or proceeding commenced by or against the Director of the Office of Thrift Supervision or the Office of Thrift Supervision before the transfer date, except that, for any action or proceeding arising out of a function of the Director of the Office of Thrift Supervision or the Office of Thrift Supervision that is transferred to the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, the Corporation, the Chairman of the Board of Governors, or the Board of Governors by this subtitle, the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, the Corporation, the Chairman of the Board of Governors, or the Board of Governors shall be substituted for the Director of the Office of Thrift Supervision or the Office of Thrift Supervision, as appropriate, as a party to the action or proceeding as of the transfer date.

(b) CONTINUATION OF EXISTING ORDERS, RESOLUTIONS, DETERMINATIONS, AGREEMENTS, REGULATIONS, AND OTHER MATERIALS.—All orders, resolutions, determinations, agreements, regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials that have been issued, made, prescribed, or allowed to become effective by the Office of Thrift Supervision, or by a court of competent jurisdiction, in the performance of functions of the Office of Thrift Supervision that are transferred by this subtitle and that are in effect on the day before the transfer date, shall continue in effect according to the terms of those materials, and shall be enforceable by or against the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as appropriate, until modified, terminated, set aside, or superseded in accordance with applicable law by the Office of the Comptroller of the Currency, the Cor-

poration, or the Board of Governors, as appropriate, by any court of competent jurisdiction, or by operation of law.

(c) IDENTIFICATION OF REGULATIONS CONTINUED.—

(1) BY THE OFFICE OF THE COMPTROLLER OF THE CURRENCY.—Not later than the transfer date, the Office of the Comptroller of the Currency shall—

(A) in consultation with the Corporation, identify the regulations continued under subsection (b) that will be enforced by the Office of the Comptroller of the Currency; and

(B) publish a list of such regulations in the Federal Register.

(2) BY THE CORPORATION.—Not later than the transfer date, the Corporation shall—

(A) in consultation with the Office of the Comptroller of the Currency, identify the regulations continued under subsection (b) that will be enforced by the Corporation; and

(B) publish a list of such regulations in the Federal Register.

(3) BY THE BOARD OF GOVERNORS.—Not later than the transfer date, the Board of Governors shall—

(A) in consultation with the Office of the Comptroller of the Currency and the Corporation, identify the regulations continued under subsection (b) that will be enforced by the Board of Governors; and

(B) publish a list of such regulations in the Federal Register.

(d) STATUS OF REGULATIONS PROPOSED OR NOT YET EFFECTIVE.—

(1) PROPOSED REGULATIONS.—Any proposed regulation of the Office of Thrift Supervision that the Office of Thrift Supervision, in performing functions transferred by this subtitle, has proposed before the transfer date, but has not published as a final regulation before that date, shall be deemed to be a proposed regulation of the Office of the Comptroller of the Currency or the Board of Governors, as appropriate, according to its terms.

(2) REGULATIONS NOT YET EFFECTIVE.—Any interim or final regulation of the Office of Thrift Supervision that the Office of Thrift Supervision, in performing functions transferred by this subtitle, has published before the transfer date, but which has not become effective before that date, shall become effective as a regulation of the Office of the Comptroller of the Currency or the Board of Governors, as appropriate, according to its terms.

**SEC. 317. REFERENCES IN FEDERAL LAW TO FEDERAL BANKING AGENCIES.**

Except as provided in section 312(d)(2), on and after the transfer date, any reference in Federal law to the Director of the Office of Thrift Supervision or the Office of Thrift Supervision, in connection with any function of the Director of the Office of Thrift Supervision or the Office of Thrift Supervision transferred under section 312(b) or any other provision of this subtitle, shall be deemed to be a reference to the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, the Corporation, the Chairman of the Board of Governors, or the Board of Governors, as appropriate.

**SEC. 318. FUNDING.**

(a) FUNDING OF OFFICE OF THE COMPTROLLER OF THE CURRENCY.—Chapter 4 of title LXII of the Revised Statutes is amended by inserting after section 5240 (12 U.S.C. 481, 482) the following:

“SEC. 5240A. The Comptroller of the Currency may collect an assessment, fee, or other charge from any entity described in



section 3(q)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(1)), as the Comptroller determines is necessary or appropriate to carry out the responsibilities of the Office of the Comptroller of the Currency. In establishing the amount of an assessment, fee, or charge collected from an entity under this section, the Comptroller of the Currency may take into account the funds transferred to the Office of the Comptroller of the Currency under this section, the nature and scope of the activities of the entity, the amount and type of assets that the entity holds, the financial and managerial condition of the entity, and any other factor, as the Comptroller of the Currency determines is appropriate. Funds derived from any assessment, fee, or charge collected or payment made pursuant to this section may be deposited by the Comptroller of the Currency in accordance with the provisions of section 5234. Such funds shall not be construed to be Government funds or appropriated monies, and shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or any other provision of law. The authority of the Comptroller of the Currency under this section shall be in addition to the authority under section 5240.

“The Comptroller of the Currency shall have sole authority to determine the manner in which the obligations of the Office of the Comptroller of the Currency shall be incurred and its disbursements and expenses allowed and paid, in accordance with this section.”.

(b) **FUNDING OF BOARD OF GOVERNORS.**—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following:

“(s) **ASSESSMENTS, FEES, AND OTHER CHARGES FOR CERTAIN COMPANIES.**—

“(1) **IN GENERAL.**—The Board shall collect a total amount of assessments, fees, or other charges from the companies described in paragraph (2) that is equal to the total expenses the Board estimates are necessary or appropriate to carry out the responsibilities of the Board with respect to such companies.

“(2) **COMPANIES.**—The companies described in this paragraph are—

“(A) all bank holding companies having total consolidated assets of \$50,000,000,000 or more;

“(B) all savings and loan holding companies having total consolidated assets of \$50,000,000,000 or more; and

“(C) all nonbank financial companies supervised by the Board under section 113 of the Restoring American Financial Stability Act of 2010.”.

(c) **CORPORATION EXAMINATION FEES.**—Section 10(e) of the Federal Deposit Insurance Act (12 U.S.C. 1820(e)) is amended by striking paragraph (1) and inserting the following:

“(1) **REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS.**—The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) or of any entity described in section 3(q)(2) may be assessed by the Corporation against the institution or entity to meet the expenses of the Corporation in carrying out such examinations, or as the Corporation determines is necessary or appropriate to carry out the responsibilities of the Corporation.”.

(d) **EFFECTIVE DATE.**—This section, and the amendments made by this section, shall take effect on the transfer date.

#### **SEC. 319. CONTRACTING AND LEASING AUTHORITY.**

Notwithstanding the Federal Property and Administrative Services Act of 1949 (41

U.S.C. 251 et seq.) or any other provision of law, the Office of the Comptroller of the Currency may—

(1) enter into and perform contracts, execute instruments, and acquire, in any lawful manner, such goods and services, or personal or real property (or property interest) as the Comptroller deems necessary to carry out the duties and responsibilities of the Office of the Comptroller of the Currency; and

(2) hold, maintain, sell, lease, or otherwise dispose of the property (or property interest) acquired under paragraph (1).

#### **Subtitle B—Transitional Provisions**

#### **SEC. 321. INTERIM USE OF FUNDS, PERSONNEL, AND PROPERTY OF THE OFFICE OF THRIFT SUPERVISION.**

(a) **IN GENERAL.**—Before the transfer date, the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors shall—

(1) consult and cooperate with the Office of Thrift Supervision to facilitate the orderly transfer of functions to the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors in accordance with this title;

(2) determine jointly, from time to time—

(A) the amount of funds necessary to pay any expenses associated with the transfer of functions (including expenses for personnel, property, and administrative services) during the period beginning on the date of enactment of this Act and ending on the transfer date;

(B) which personnel are appropriate to facilitate the orderly transfer of functions by this title; and

(C) what property and administrative services are necessary to support the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors during the period beginning on the date of enactment of this Act and ending on the transfer date; and

(3) take such actions as may be necessary to provide for the orderly implementation of this title.

(b) **AGENCY CONSULTATION.**—When requested jointly by the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors to do so before the transfer date, the Office of Thrift Supervision shall—

(1) pay to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, from funds obtained by the Office of Thrift Supervision through assessments, fees, or other charges that the Office of Thrift Supervision is authorized by law to impose, such amounts as the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly determine to be necessary under subsection (a);

(2) detail to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, such personnel as the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly determine to be appropriate under subsection (a); and

(3) make available to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, such property and provide to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, such administrative services as the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly determine to be necessary under subsection (a).

(c) **NOTICE REQUIRED.**—The Office of the Comptroller of the Currency, the Corpora-

tion, and the Board of Governors shall jointly give the Office of Thrift Supervision reasonable prior notice of any request that the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly intend to make under subsection (b).

#### **SEC. 322. TRANSFER OF EMPLOYEES.**

(a) **IN GENERAL.**—

(1) **OFFICE OF THRIFT SUPERVISION EMPLOYEES.**—

(A) **IN GENERAL.**—All employees of the Office of Thrift Supervision shall be transferred to the Office of the Comptroller of the Currency or the Corporation for employment in accordance with this section.

(B) **ALLOCATING EMPLOYEES FOR TRANSFER TO RECEIVING AGENCIES.**—The Director of the Office of Thrift Supervision, the Comptroller of the Currency, and the Chairperson of the Corporation shall—

(i) jointly determine the number of employees of the Office of Thrift Supervision necessary to perform or support the functions that are transferred to the Office of the Comptroller of the Currency or the Corporation by this title; and

(ii) consistent with the determination under clause (i), jointly identify employees of the Office of Thrift Supervision for transfer to the Office of the Comptroller of the Currency or the Corporation.

(2) **EMPLOYEES TRANSFERRED; SERVICE PERIODS CREDITED.**—For purposes of this section, periods of service with a Federal home loan bank, a joint office of Federal home loan banks, or a Federal reserve bank shall be credited as periods of service with a Federal agency.

(3) **APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE TRANSFERRED.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), any appointment authority of the Office of Thrift Supervision under Federal law that relates to the functions transferred under section 312, including the regulations of the Office of Personnel Management, for filling the positions of employees in the excepted service shall be transferred to the Comptroller of the Currency or the Chairperson of the Corporation, as appropriate.

(B) **DECLINING TRANSFERS ALLOWED.**—The Office of the Comptroller of the Currency or the Chairperson of the Corporation may decline to accept a transfer of authority under subparagraph (A) (and the employees appointed under that authority) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character.

(4) **ADDITIONAL APPOINTMENT AUTHORITY.**—Notwithstanding any other provision of law, the Office of the Comptroller of the Currency and the Corporation may appoint transferred employees to positions in the Office of the Comptroller of the Currency or the Corporation, respectively.

(b) **TIMING OF TRANSFERS AND POSITION ASSIGNMENTS.**—Each employee to be transferred under subsection (a)(1) shall—

(1) be transferred not later than 90 days after the transfer date; and

(2) receive notice of the position assignment of the employee not later than 120 days after the effective date of the transfer of the employee.

(c) **TRANSFER OF FUNCTIONS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the transfer of employees under this subtitle shall be deemed a transfer of functions for the purpose of section 3503 of title 5, United States Code.

(2) **PRIORITY.**—If any provision of this subtitle conflicts with any protection provided



to a transferred employee under section 3503 of title 5, United States Code, the provisions of this subtitle shall control.

(d) **EMPLOYEE STATUS AND ELIGIBILITY.**—The transfer of functions and employees under this subtitle, and the abolishment of the Office of Thrift Supervision under section 313, shall not affect the status of the transferred employees as employees of an agency of the United States under any provision of law.

(e) **EQUAL STATUS AND TENURE POSITIONS.**—

(1) **STATUS AND TENURE.**—Each transferred employee from the Office of Thrift Supervision shall be placed in a position at the Office of the Comptroller of the Currency or the Corporation with the same status and tenure as the transferred employee held on the day before the date on which the employee was transferred.

(2) **FUNCTIONS.**—To the extent practicable, each transferred employee shall be placed in a position at the Office of the Comptroller of the Currency or the Corporation, as applicable, responsible for the same functions and duties as the transferred employee had on the day before the date on which the employee was transferred, in accordance with the expertise and preferences of the transferred employee.

(f) **NO ADDITIONAL CERTIFICATION REQUIREMENTS.**—An examiner who is a transferred employee shall not be subject to any additional certification requirements before being placed in a comparable position at the Office of the Comptroller of the Currency or the Corporation, if the examiner carries out examinations of the same type of institutions as an employee of the Office of the Comptroller of the Currency or the Corporation as the employee was responsible for carrying out before the date on which the employee was transferred.

(g) **PERSONNEL ACTIONS LIMITED.**—

(1) **2-YEAR PROTECTION.**—Except as provided in paragraph (2), during the 2-year period beginning on the transfer date, an employee holding a permanent position on the day before the date on which the employee was transferred shall not be involuntarily separated or involuntarily reassigned outside the locality pay area (as defined by the Office of Personnel Management) of the employee.

(2) **EXCEPTIONS.**—The Comptroller of the Currency and the Chairperson of the Corporation, as applicable, may—

(A) separate a transferred employee for cause, including for unacceptable performance; or

(B) terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character.

(h) **PAY.**—

(1) **2-YEAR PROTECTION.**—Except as provided in paragraph (2), during the 2-year period beginning on the date on which the employee was transferred under this subtitle, a transferred employee shall be paid at a rate that is not less than the basic rate of pay, including any geographic differential, that the transferred employee received during the pay period immediately preceding the date on which the employee was transferred.

(2) **EXCEPTIONS.**—The Comptroller of the Currency or the Chairman of the Board of Governors may reduce the rate of basic pay of a transferred employee—

(A) for cause, including for unacceptable performance; or

(B) with the consent of the transferred employee.

(3) **PROTECTION ONLY WHILE EMPLOYED.**—This subsection shall apply to a transferred

employee only during the period that the transferred employee remains employed by Office of the Comptroller of the Currency or the Corporation.

(4) **PAY INCREASES PERMITTED.**—Nothing in this subsection shall limit the authority of the Comptroller of the Currency or the Chairperson of the Corporation to increase the pay of a transferred employee.

(i) **BENEFITS.**—

(1) **RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES.**—

(A) **IN GENERAL.**—

(i) **CONTINUATION OF EXISTING RETIREMENT PLAN.**—Each transferred employee shall remain enrolled in the retirement plan of the transferred employee, for as long as the transferred employee is employed by the Office of the Comptroller of the Currency or the Corporation.

(ii) **EMPLOYER'S CONTRIBUTION.**—The Comptroller of the Currency or the Chairperson of the Corporation, as appropriate, shall pay any employer contributions to the existing retirement plan of each transferred employee, as required under each such existing retirement plan.

(B) **DEFINITION.**—In this paragraph, the term “existing retirement plan” means, with respect to a transferred employee, the retirement plan (including the Financial Institutions Retirement Fund), and any associated thrift savings plan, of the agency from which the employee was transferred in which the employee was enrolled on the day before the date on which the employee was transferred.

(2) **BENEFITS OTHER THAN RETIREMENT BENEFITS.**—

(A) **DURING FIRST YEAR.**—

(i) **EXISTING PLANS CONTINUE.**—During the 1-year period following the transfer date, each transferred employee may retain membership in any employee benefit program (other than a retirement benefit program) of the agency from which the employee was transferred under this title, including any dental, vision, long term care, or life insurance program to which the employee belonged on the day before the transfer date.

(ii) **EMPLOYER'S CONTRIBUTION.**—The Office of the Comptroller of the Currency or the Corporation, as appropriate, shall pay any employer cost required to extend coverage in the benefit program to the transferred employee as required under that program or negotiated agreements.

(B) **DENTAL, VISION, OR LIFE INSURANCE AFTER FIRST YEAR.**—If, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or the Corporation determines that the Office of the Comptroller of the Currency or the Corporation, as the case may be, will not continue to participate in any dental, vision, or life insurance program of an agency from which an employee was transferred, a transferred employee who is a member of the program may, before the decision takes effect and without regard to any regularly scheduled open season, elect to enroll in—

(i) the enhanced dental benefits program established under chapter 89A of title 5, United States Code;

(ii) the enhanced vision benefits established under chapter 89B of title 5, United States Code; and

(iii) the Federal Employees' Group Life Insurance Program established under chapter 87 of title 5, United States Code, without regard to any requirement of insurability.

(C) **LONG TERM CARE INSURANCE AFTER 1ST YEAR.**—If, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or the Corporation

determines that the Office of the Comptroller of the Currency or the Corporation, as appropriate, will not continue to participate in any long term care insurance program of an agency from which an employee transferred, a transferred employee who is a member of such a program may, before the decision takes effect, elect to apply for coverage under the Federal Long Term Care Insurance Program established under chapter 90 of title 5, United States Code, under the underwriting requirements applicable to a new active workforce member, as described in part 875 of title 5, Code of Federal Regulations (or any successor thereto).

(D) **CONTRIBUTION OF TRANSFERRED EMPLOYEE.**—

(i) **IN GENERAL.**—Subject to clause (ii), a transferred employee who is enrolled in a plan under the Federal Employees Health Benefits Program shall pay any employee contribution required under the plan.

(ii) **COST DIFFERENTIAL.**—The Office of the Comptroller of the Currency or the Corporation, as applicable, shall pay any difference in cost between the employee contribution required under the plan provided to transferred employees by the agency from which the employee transferred on the date of enactment of this Act and the plan provided by the Office of the Comptroller of the Currency or the Corporation, as the case may be, under this section.

(iii) **FUNDS TRANSFER.**—The Office of the Comptroller of the Currency or the Corporation, as the case may be, shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Comptroller of the Currency or the Chairperson of the Corporation, as the case may be, and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing any benefits under this subparagraph that are not otherwise paid for by a transferred employee under clause (i).

(E) **SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS.**—

(i) **IN GENERAL.**—An annuitant, as defined in section 8901 of title 5, United States Code, who is enrolled in a life insurance plan administered by an agency from which employees are transferred under this title on the day before the transfer date shall be eligible for coverage by a life insurance plan under sections 8706(b), 8714a, 8714b, or 8714c of title 5, United States Code, or by a life insurance plan established by the Office of the Comptroller of the Currency or the Corporation, as applicable, without regard to any regularly scheduled open season or any requirement of insurability.

(ii) **CONTRIBUTION OF TRANSFERRED EMPLOYEE.**—

(I) **IN GENERAL.**—Subject to subclause (II), a transferred employee enrolled in a life insurance plan under this subparagraph shall pay any employee contribution required by the plan.

(II) **COST DIFFERENTIAL.**—The Office of the Comptroller of the Currency or the Corporation, as the case may be, shall pay any difference in cost between the benefits provided by the agency from which the employee transferred on the date of enactment of this Act and the benefits provided under this section.

(III) **FUNDS TRANSFER.**—The Office of the Comptroller of the Currency or the Corporation, as the case may be, shall transfer to the Federal Employees' Group Life Insurance

Fund established under section 8714 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Comptroller of the Currency or the Chairperson of the Corporation, as the case may be, and the Office of Management and Budget, to be necessary to reimburse the Federal Employees' Group Life Insurance Fund for the cost to the Federal Employees' Group Life Insurance Fund of providing benefits under this subparagraph not otherwise paid for by a transferred employee under subclause (I).

(IV) CREDIT FOR TIME ENROLLED IN OTHER PLANS.—For any transferred employee, enrollment in a life insurance plan administered by the agency from which the employee transferred, immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for purposes of section 8706(b)(1)(A) of title 5, United States Code.

(j) INCORPORATION INTO AGENCY PAY SYSTEM.—Not later than 2 years after the transfer date, the Comptroller of the Currency and the Chairperson of the Corporation shall place each transferred employee into the established pay system and structure of the appropriate employing agency.

(k) EQUITABLE TREATMENT.—In administering the provisions of this section, the Comptroller of the Currency and the Chairperson of the Corporation—

(1) may not take any action that would unfairly disadvantage a transferred employee relative to any other employee of the Office of the Comptroller of the Currency or the Corporation on the basis of prior employment by the Office of Thrift Supervision; and

(2) may take such action as is appropriate in an individual case to ensure that a transferred employee receives equitable treatment, with respect to the status, tenure, pay, benefits (other than benefits under programs administered by the Office of Personnel Management), and accrued leave or vacation time for prior periods of service with any Federal agency of the transferred employee.

(l) REORGANIZATION.—

(1) IN GENERAL.—If the Comptroller of the Currency or the Chairperson of the Corporation determines, during the 2-year period beginning 1 year after the transfer date, that a reorganization of the staff of the Office of the Comptroller of the Currency or the Corporation, respectively, is required, the reorganization shall be deemed a "major reorganization" for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(2) SERVICE CREDIT.—For purposes of this subsection, periods of service with a Federal home loan bank or a joint office of Federal home loan banks shall be credited as periods of service with a Federal agency.

#### SEC. 323. PROPERTY TRANSFERRED.

(a) PROPERTY DEFINED.—For purposes of this section, the term "property" includes all real property (including leaseholds) and all personal property, including computers, furniture, fixtures, equipment, books, accounts, records, reports, files, memoranda, paper, reports of examination, work papers, and correspondence related to such reports, and any other information or materials.

(b) PROPERTY OF THE OFFICE OF THRIFT SUPERVISION.—Not later than 90 days after the transfer date, all property of the Office of Thrift Supervision that the Comptroller of

the Currency and the Chairperson of the Corporation jointly determine is used, on the day before the transfer date, to perform or support the functions of the Office of Thrift Supervision transferred to the Office of the Comptroller of the Currency or the Corporation under this title, shall be transferred to the Office of the Comptroller of the Currency or the Corporation in a manner consistent with the transfer of employees under this subtitle.

(c) CONTRACTS RELATED TO PROPERTY TRANSFERRED.—Each contract, agreement, lease, license, permit, and similar arrangement relating to property transferred to the Office of the Comptroller of the Currency or the Corporation by this section shall be transferred to the Office of the Comptroller of the Currency or the Corporation, as appropriate, together with the property to which it relates.

(d) PRESERVATION OF PROPERTY.—Property identified for transfer under this section shall not be altered, destroyed, or deleted before transfer under this section.

#### SEC. 324. FUNDS TRANSFERRED.

The funds that, on the day before the transfer date, the Director of the Office of Thrift Supervision (in consultation with the Comptroller of the Currency, the Chairperson of the Corporation, and the Chairman of the Board of Governors) determines are not necessary to dispose of the affairs of the Office of Thrift Supervision under section 325 and are available to the Office of Thrift Supervision to pay the expenses of the Office of Thrift Supervision—

(1) relating to the functions of the Office of Thrift Supervision transferred under section 312(b)(1)(B), shall be transferred to the Office of the Comptroller of the Currency on the transfer date;

(2) relating to the functions of the Office of Thrift Supervision transferred under section 312(b)(1)(C), shall be transferred to the Corporation on the transfer date; and

(3) relating to the functions of the Office of Thrift Supervision transferred under section 312(b)(1)(A), shall be transferred to the Board of Governors on the transfer date.

#### SEC. 325. DISPOSITION OF AFFAIRS.

(a) AUTHORITY OF DIRECTOR.—During the 90-day period beginning on the transfer date, the Director of the Office of Thrift Supervision—

(1) shall, solely for the purpose of winding up the affairs of the Office of Thrift Supervision relating to any function transferred to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors under this title—

(A) manage the employees of the Office of Thrift Supervision who have not yet been transferred and provide for the payment of the compensation and benefits of the employees that accrue before the date on which the employees are transferred under this title; and

(B) manage any property of the Office of Thrift Supervision, until the date on which the property is transferred under section 323; and

(2) may take any other action necessary to wind up the affairs of the Office of Thrift Supervision.

(b) STATUS OF DIRECTOR.—

(1) IN GENERAL.—Notwithstanding the transfer of functions under this subtitle, during the 90-day period beginning on the transfer date, the Director of the Office of Thrift Supervision shall retain and may exercise any authority vested in the Director of the Office of Thrift Supervision on the day before the transfer date, only to the extent necessary—

(A) to wind up the Office of Thrift Supervision; and

(B) to carry out the transfer under this subtitle during such 90-day period.

(2) OTHER PROVISIONS.—For purposes of paragraph (1), the Director of the Office of Thrift Supervision shall, during the 90-day period beginning on the transfer date, continue to be—

(A) treated as an officer of the United States; and

(B) entitled to receive compensation at the same annual rate of basic pay that the Director of the Office of Thrift Supervision received on the day before the transfer date.

#### SEC. 326. CONTINUATION OF SERVICES.

Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, that was, before the transfer date, providing support services to the Office of Thrift Supervision in connection with functions transferred to the Office of the Comptroller of the Currency, the Corporation or the Board of Governors under this title, shall—

(1) continue to provide such services, subject to reimbursement by the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, until the transfer of functions under this title is complete; and

(2) consult with the Comptroller of the Currency, the Chairperson of the Corporation, or the Chairman of the Board of Governors, as appropriate, to coordinate and facilitate a prompt and orderly transition.

On page 459, line 17, strike "bank" and insert "nonmember bank, and the Board may, by order, exempt a transaction of a State member bank,".

On page 1045, line 19, insert after "Currency" the following: ", the Board of Governors of the Federal Reserve System,".

Mrs. HUTCHISON. Mr. President, we are restoring section 605 of the underlying bill. But I just think it is so important we take this action. Senator KLOBUCHAR made a great statement about what would happen with the Minnesota Fed going down to one bank. How are they going to have the input to talk to the Federal Reserve Board about monetary policy if their supervision is over one bank? In fact, I understood they might be closing some of the local offices of the Fed because there will be nothing to supervise, and there will be no input, there will be no knowledge of what is going on in some of the communities.

I think the Federal Reserve Bank of Dallas is in much the same situation. It would also go down to one from about over 400. I will get the numbers exactly by tomorrow. But that is just going to make a huge difference in the knowledge base of our Federal Reserve Board. It would be unthinkable to have monetary policy made without the input from all of our States that the regional banks give at this time.

The regional banks do a great job. I have dealt with many of the regional banks. They have great influence on monetary policy. The presidents of the regional banks rotate in the Open Market Committee that makes our Fed decisions, and it is a very good system. It was carefully put together so it would

be a monetary system that represents our whole country. That is probably one of the reasons why our economy has remained so stable through the years since the Federal Reserve was created.

So I appreciate the support of the Senator from Minnesota. This is a truly bipartisan amendment. We have Republican cosponsors, Democratic cosponsors, and I am very hopeful we will have a vote early tomorrow in this mix because I think this will add a lot of support from our community banks to know they are not going to be shut out of access to the Federal Reserve, and that the Federal Reserve banks will not be shut out from the community banks that are so important to the knowledge base of our monetary policy that is made and, frankly, is the main stay of the stability of our economic system.

So I thank the distinguished chairman of the committee for staying and letting us talk tonight, and I look forward to having the vote tomorrow on our amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. First of all, let me just say regarding the Merkley-Klobuchar amendment to the Corker—not amendment to it, but the side-by-side—I wish to thank Senator SCOTT BROWN of Massachusetts and OLYMPIA SNOWE of Maine for cosponsoring that amendment on the underwriting standards. I appreciate that very much.

Let me say to both of my colleagues, Senator HUTCHISON and Senator KLOBUCHAR, as my colleagues know, I started out many months ago with the idea of trying to come down to a single prudential regulator as one of the reforms in this bill. One of my concerns, as my colleagues know, was we had some nine agencies. It was an alphabet soup out there with a lot of overlap in terms of actually who is responsible, who is going to be accountable for things that occur. Obviously, we want to have a dual banking system, the State banks and so forth, that don't want to be drawn into a Federal system unnecessarily. So it began to break down from a single prudential regulator to maybe two.

I say this with great respect, but I would point out that the Federal Reserve Board, of course, never implemented the requirements on mortgage lending that passed in 1994. A lot of the major financial institutions were basically unregulated institutions. My concern has been that the Fed did not exactly live up to its reputation during this period of time and contributed in major ways to the problems we are in today.

So I have great respect for their monetary function, which is the core function; the payment system, which is their core function; their primarily monetary function, determining the

credibility of our currency. We had an earlier debate today on that very issue. The system was established in 1914, 1917, almost 100 years ago.

At some point down the road we are going to need to think about the Federal Reserve System. We have two Federal Reserve regional banks in the State of Missouri. The next one is in San Francisco. So I think the idea of thinking through how to make it more relevant is a legitimate issue. Obviously, we are not going to deal with that in this bill. We will leave that for a later Congress to work on those issues.

I appreciate what my colleagues are trying to do, and I recognize the importance at these regional levels that want to maintain some involvement in all of this for the reasons that Senator KLOBUCHAR and Senator HUTCHISON have identified. Again, I know how we have been talking about how to work on this a bit. Let me just make one plea. One of the major concerns that happened with this proliferation of regulators—it happened with AIG classically and in other cases; it happened back in the thrift crisis days as well—is that industries go out and shop and they look for the regulator of least resistance, the ones they can get away the most with. That was one of the major problems that happened here.

So I want to avoid wherever possible this, what they call regulatory arbitrage; that is, the shopping that goes on: Let me find the regulator that will let me get away with the most. Of course, the Federal Reserve has a lot to demonstrate in the years ahead that they got the message, as they didn't do a very good job when they had the responsibility.

So coming Congresses will have to keep an eye on this to make sure they are going to not only want the job, but also to assume the responsibility in doing this so we don't end up with problems running haywire again. It is true, small banks didn't create a problem. Only about 800 out of the 8,000 are regulated by the Federal Reserve. The overwhelming majority, of course, are not regulated by the Federal Reserve. And, of course, they didn't do much in it because they didn't get involved in subprime lending. So it wasn't a problem. There was a reason they didn't get involved in subprime lending, which is for another day, but nonetheless I understand they got in trouble with commercial loans which was their major problem.

So I hope on the arbitrage issue that we try to create as much of a level playing field as possible so we don't find institutions shopping around because of assessment costs or other matters which can once again find this migration into an area, not because it is a right place to be but because it is where you would prefer to be. The decision by institutions as to where they

want to be ought not be the criteria by which we determine regulation. We have to have a better set of rules than that or we end up back where we were before.

My colleagues have done a great job. They have been faithful in reaching out and trying to find accommodation where they can. So I am very grateful to both of my colleagues and their cosponsors. We look forward to tomorrow having a vote. In the meantime, I have made an appeal to work on a couple of pieces of this thing. We would not go into that right now. I thank them both and I thank my colleagues. It has been a long day. We covered a lot of ground today—some major amendments. We will vote tomorrow and move along.

Again, I make the point that this almost seems like a throwback. When I arrived some 30 years ago, this was the way we did things. We haven't had a single tabling motion. We haven't had a single filibuster. I would argue maybe this is one of the top two pieces of legislation to be considered in this Congress on regulatory reform. It is a major undertaking. The patience and the involvement of my colleagues has been terrific, and I wish to thank them as well.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, can I just commend Senator DODD and Senator SHELBY for setting this tone. There was an article this weekend about how we are working together on a major piece of legislation. As my colleagues can see from the amendment, Senator HUTCHISON and I have a bipartisan amendment, and I appreciate the chairman's openness to this amendment and his kind words. I thank him for his work.

Mr. DODD. I thank you both.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I would also say that this shouldn't be a political bill. This should be a bill that is hammered out on the floor and that does have bipartisan amendments because it is complicated. It does have to fit together a lot of different needs, different regulatory standards, different types of banks and financial institutions and nonbank financial institutions. I hope it is going to be a product that—regardless of how big the vote is—will make the system better. I think this process has been the best I have seen this year in accommodating different concerns that have been raised by both sides.

So I thank the chairman and the ranking member for that. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, there is no more debate this evening.

Mr. LEVIN. Mr. President, I come to the Senate floor today to speak in support of a package of amendments to

the financial reform bill that is a result of an investigation by the Permanent Subcommittee on Investigations, which I chair. I am submitting these amendments with the support of my colleague, Senator KAUFMAN, who is not only a member of the subcommittee but also sat with me through hours of subcommittee hearings over a period of 2 weeks to examine some of the causes and consequences of the crisis that nearly brought down our financial system, that necessitated billions of dollars in taxpayer money to arrest, and that was a principal cause of the worst recession in nearly a century.

We also are submitting the package as eight separate amendments to facilitate their consideration.

Over nearly a year and a half, our bipartisan investigation examined millions of pages of documents, conducted over 100 interviews, and culminated in four hearings during April, with over 2,500 pages of hearing exhibits and more than 30 hours of testimony. The American people, having suffered so much in this crisis and having had to pay so much of their hard-earned money to keep it from getting even worse, deserve to know what happened.

But more than establishing a record of what went wrong, we sought information to help keep us from repeating the same mistakes in the future. Like all of the subcommittee's investigations, our eye was on both establishing a factual record and on using that record to support legislation that would rebuild Main Street's defenses against the excesses of Wall Street.

The recklessness, lax oversight, and conflicts of interest our investigation has uncovered cry out for legislated reform. The hearings revealed that mortgage lenders such as Washington Mutual dumped hundreds of billions of dollars of high risk and sometimes fraudulent home loans into the U.S. financial system; banking regulators, such as the Office of Thrift Supervision, observed and understood the flaws and the risks, failed to stop them, and even impeded the examination efforts of the Federal Deposit Insurance Corporation; credit rating agencies, such as Moody's and Standard & Poor's, gave inflated ratings to risky structured finance products in an effort to keep market share and please their investment bank clients; and investment banks such as Goldman Sachs, assembled, marketed, and sold high risk mortgage-related products, while betting against the very products they created.

That is why I and Senator KAUFMAN have assembled a package of amendments to the financial regulatory reform bill now before the Senate. We believe these amendments would help stop the bad loans, misleading credit ratings, poor quality securitizations, and other problems we saw in our in-

vestigation, as well as slow down the existing revolving door for regulators. They are intended to strengthen an already strong bill that so many of our colleagues have worked so hard to bring to this point. Let me outline briefly what our amendments would accomplish.

**Ban on Stated-Income and Negative Amortization Loans.** First, in response to the hundreds of billions of dollars in high-risk mortgage loans that began this crisis and that were featured in our first hearing, our amendment would sharply limit two of the most dubious practices: stated-income loans and negatively amortizing loans. Stated-income loans, also known as "liar loans," are ones in which lenders allow borrowers simply to state their income on the loan applications without any confirmation of the borrower's income or assets. Negative amortization loans are loans in which lenders allow the borrowers, for a specified period of time, to pay less than the monthly amount needed to cover the interest, resulting in loan balances that increase rather than decrease over time, and then impose a much higher loan payment to make up for the earlier low payments. That leads to payment shock and loan defaults by a large number of borrowers.

Washington Mutual, which was the case history in our first hearing, used stated-income and negative amortization loans with disastrous results, leading to the largest bank failure in U.S. history. Stated-income loans made up 90 percent of its home equity loans, for example, and 70 percent of its option ARMs, adjustable-rate mortgages, which often are negatively amortizing. Because both types of loans default at much higher rates than traditional 30-year fixed rate mortgages, lenders such as Washington Mutual quickly sold them to remove the risk from their books. But those high-risk loans did not disappear; they were packaged into securities and sold to investors, spreading risk throughout the financial system. Eventually, when housing prices stopped rising and borrowers could not refinance their mortgages, the loans defaulted in record numbers, the securities plummeted in value, and the securitization market crashed. Our amendment would ensure that stated-income and negative amortization loans could not again be used to foist high-risk, poor quality loans off on investors in securitizations.

**Skin in the Game Securitizations.** Second, our amendment would strengthen an existing provision in the bill that requires financial firms to retain some of the risk of the mortgage-backed securities they assemble. Too often, lenders such as Washington Mutual and investment banks such as Goldman Sachs were in the business of packaging high-risk mortgages into structured financial instruments, slic-

ing and dicing them in new ways, obtaining credit ratings indicating that portions of these instruments carried no more risk than Treasury securities but significantly higher returns, and then passing the risk to others, selling them to investors without retaining any risk on their books. In many cases, as our hearings showed, these financial institutions knew the products they had assembled were of dubious quality but were happy to sell them so long as they made a fee and knew that none of the risk could come back to harm them. This short-term pursuit of profits, with no concern for customers or for the toxic securities polluting the financial system, so damaged the securitization markets that they are still struggling to recover.

Our amendment would help stop these short-sighted and dangerous securitization practices by requiring financial institutions that securitize mortgages to keep some of their own skin in the game. It would build on an existing provision in the Dodd bill by requiring that securitizers keep an ownership interest in the securities they create. While the existing provision would require securitizers to keep a 5 percent interest in the securitization as a whole, it does not specify whether that 5 percent interest could be concentrated in a single portion, or tranche, of securities, such as the low-risk, supersenior tranche at the top or the high-risk equity tranche at the bottom, which is often what happened during the crisis. Our amendment would make it clear that the ownership interest would have to be distributed throughout the capital structure—not just in a single tranche—so that the securitizer's interests would be aligned with the interests of all levels of investors buying the securities and would give the securitizer a stake in the success of all of the tranches, not just one.

In addition, our amendment would make it clear that regulators could allow lenders to go below the 5 percent requirement only if they are including high-quality, low-risk assets in their securities, such as 30-year fixed rate mortgages. Inclusion of this low-risk standard in the provision allowing lenders to avoid the 5 percent requirement would create an enormous incentive for securitizers to use low-risk loans in their securitizations.

**Gustafson Fix.** Third, we would address the effects of a 1995 Supreme Court ruling in the Gustafson case that has left investors in private securities offerings without protection from material misstatements or omissions in the security's prospectus. The Gustafson ruling interpreted the securities laws as depriving purchasers in private offerings of the same protections against material misstatements or omissions that apply to public offerings. Our amendment would restore

congressional intent and close that loophole.

**FDIC Examination Authority.** Fourth, we would strengthen protections for the Federal deposit insurance fund and against the need for taxpayer bailouts by enhancing the FDIC's authority to initiate bank exams and enforcement actions. Under our amendment, the FDIC's chairperson would have the authority to initiate an exam, authority that now rests solely with the FDIC's board, which is cumbersome and includes other regulators that can prevent FDIC from acting quickly. During the subcommittee's second hearing, documents and testimony showed how the Office of Thrift Supervision thwarted FDIC efforts to participate in examinations of Washington Mutual and take enforcement action to reduce the bank's unsustainable high-risk lending. The Federal agency charged with protecting the deposit insurance fund should not have to jump through hoops to look at bank records or stop unsafe or unsound practices. Our amendment would make it clear that the FDIC can act decisively and quickly to deal with endangered financial institutions before their failure threatens the FDIC insurance fund or the safety of the financial system.

**Credit Rating Agencies.** Fifth, our amendment would strengthen a host of provisions in the Dodd bill dealing with credit rating agencies. Credit rating agencies did not originate the bad loans or risky securities that led to the crisis. But their disastrously inaccurate ratings made those loans and securities easy to sell and helped spread risk throughout the financial system.

The subcommittee's third hearing showed a clear conflict of interest inherent in the credit rating agencies' business model: They are dependent for revenue upon the same financial firms whose products they are supposed to impartially rate. Our amendment would eliminate that conflict by requiring rating agencies to receive their fees through an intermediary to be established or designated by the SEC.

In addition, the amendment would strike the existing statutory ban that prohibits direct SEC oversight of the credit rating models, methodologies, and criteria that failed so catastrophically in this crisis, and would explicitly direct the SEC to oversee them. We would also require the agencies to rate as more risky products that, for example, lack past performance data; that are provided by an issuer with a history of issuing poorly performing instruments; that receive prior credit ratings already subject to downgrade; that consist of synthetic instruments in which no income is being contributed by actual assets; or that consist of instruments whose complexity or novelty make it difficult to reliably predict their performance. We would also build upon a Dodd provision requiring

that certain information be provided about each credit rating issued by an agency, including a requirement that ratings come with an "expiration date" indicating whether they are intended to be effective for more or less than a year. We would also bar credit rating agencies from relying on due diligence reviews of financial products when the agencies have reason to believe that the due diligence is inadequate. Together, these provisions would help ensure that the SEC has the authority it needs to conduct vigorous and meaningful oversight of credit rating agencies, instead of the current system that provides for SEC oversight in theory but denies it in practice.

**Restriction on Synthetic Asset-Backed Securities.** Sixth, we would rein in the pernicious effects of synthetic asset-backed securities on the financial system. These securities contain no real assets. Their value is tied to the assets that they reference, but the securitizer and the investors need not, and often do not, have any economic interest in those assets. Too often, these instruments have amounted to nothing more than bets on whether a security or other asset would go up or down in value. Such transactions, usually embodied in collateralized debt obligations, or CDOs, greatly magnified the damage that resulted when poor quality mortgage-backed securities defaulted and helped bring down storied financial firms such as Lehman Brothers and Bear Stearns.

Under our amendment, synthetic asset-backed securities that lack any substantial or material economic purpose other than speculation on the value or condition of referenced assets could no longer be sold. Wall Street firms that claim a synthetic asset-backed security has a substantial economic benefit apart from wagering on asset values will have an opportunity to prove those claims to the SEC. We must end the pollution of the U.S. financial system with these dangerous financial instruments that spread risk without adding anything of substance to the real economy.

**Slowing the Revolving Door.** Seventh, we would seek to slow down the revolving door between financial regulatory agencies and the financial sector by requiring a 1-year "cooling off" period before a Federal financial regulator could work for a financial institution he or she regulated. In 2005, we enacted a 1-year cooling off period for bank examiners, after Riggs Bank hired the bank examiner who used to oversee its operations and who took some questionable regulatory actions before switching his employment. That law has been on the books for 5 years, providing a healthy deterrent to bank examiners that get too close to the banks they regulate. Our amendment would expand this approach to all Federal financial regulators, from the Fed-

eral Reserve to the SEC to the CFTC to the new Consumer Financial Protection Bureau. It would prevent a regulator who participated personally and substantially in the regulation or oversight of a particular financial institution or took an enforcement action against a specific financial institution from taking a job with the same institution for at least a year.

**Foreign Bank Anti-Tax Evasion Remedy.** Finally, based upon a number of previous subcommittee investigations showing how some foreign banks have been deliberately assisting U.S. clients to evade U.S. taxes, our amendment would give the Treasury Department discretionary authority to take measures against foreign financial institutions or foreign jurisdictions that impede U.S. tax enforcement. Those measures include such actions as imposing additional recordkeeping requirements, refusing to honor credit cards issued by a foreign bank or, in the most extreme cases, prohibiting U.S. financial institutions from doing business with the offending foreign financial institution or jurisdiction. This provision would build upon a Patriot Act provision that has proven highly effective in stopping foreign banks from engaging in money laundering activities and would take the same approach in discouraging foreign banks from aiding or abetting tax evasion.

We offer this amendment in the hope of improving what is already a strong bill, either as a package or divided into its separate elements. It is not all that needs to be done—for example, I have joined with Senator MERKLEY in an amendment submitted to limit proprietary trading and conflicts of interest by financial institutions—additional problems examined during the subcommittee hearings. It is clear that the evidence revealed by the subcommittee's lengthy investigation and four hearings requires Congress to act now to protect Main Street from financial abuses that have so damaged our economy and American families.

Mrs. FEINSTEIN. Mr. President, I rise to speak in support of an amendment I am offering to the Wall Street reform bill.

The Dodd-Lincoln bill, as currently drafted, takes major steps to reform the \$900 trillion derivative markets. It would require every trade to be reported in real time to the CFTC; require all cleared contracts to be traded on an exchange or on a swap execution facility; require speculative position limits set in "aggregate" for each commodity, instead of contract by contract; and require foreign boards of trade to adhere to minimum standards comparable to those in the United States, including reporting requirements—this provision is designed to address the underlying problem of the so-called London Loophole.

I very much support these provisions. However, I am concerned that the bill doesn't go far enough to address the London loophole. This loophole has allowed for the trading of U.S. energy commodities—such as crude oil—on foreign exchanges without strong oversight from U.S. regulators.

This means that there is no cop on the beat to shield U.S. oil prices from manipulation or excessive speculation when they are traded in foreign markets, like commodities exchanges in London or Shanghai.

The amendment I am proposing would allow CFTC to require foreign boards of trade to register with CFTC, which would give CFTC the enforcement authority it needs. This provision was in President Obama's original proposed financial reform bill, and it is strongly supported by CFTC Chairman Gensler.

First, let me explain what has become known as the London loophole.

As Congress has taken steps to improve regulatory oversight of domestic commodity trading markets, Wall Street traders have increasingly turned to offshore markets to electronically trade U.S. energy futures—in order to evade American market oversight and speculation limits.

This new regulatory loophole earned its nickname—the London loophole—because America's most important crude oil contract—known as West Texas Intermediate—is today traded on the Intercontinental Exchange in London. This contract has what is called a price discovery impact because it is commonly referenced as the standard market price of oil.

The practical implication of this is that U.S. traders can use electronic exchanges based overseas to artificially drive up the prices of U.S. commodities—without any consequences from our Nation's market regulators. This is a major problem.

A 2008 CFTC report found that traders using this London exchange to trade U.S. crude oil futures held positions far larger than would be allowed by American regulators. In fact, from 2006 to 2008 at least one trader position exceeded U.S. speculation limits every single week on the London exchange, and British regulators had done nothing about it.

The good news is that some steps have been taken administratively to address this loophole.

In 2008, the CFTC negotiated an agreement with British regulators to bring greater oversight to American commodities contracts traded in London. The agreement called for speculation limits for the electronic trading of U.S. energy commodities—like crude oil—on foreign exchanges, and required recording-keeping and an audit trail. But CFTC has limited legal authority to enforce this agreement.

Bottom Line: We need to make sure the CFTC can oversee trading of Amer-

ican commodities, whether it happens through a computer server located on Wall Street or in Shanghai.

The Dodd-Lincoln bill currently before us does include some important provisions to help close the London loophole. As drafted, the bill will require foreign boards of trade that provide access to American traders to comply with comparable rules enforced by a foreign regulator, publish trading information daily, supply data to CFTC, and enforce position limits.

However, CFTC may be unable to force a Foreign Board of Trade to comply with these requirements.

This is because the CFTC's current method of overseeing foreign exchanges has tenuous legal underpinnings, due to a Commodity Exchange Act provision forbidding CFTC from "regulating" foreign boards of trade.

In many instances, the CFTC can take action against a U.S. trader on a foreign exchange to prevent manipulation or excessive speculation only with the cooperation and consent of the foreign regulator. The other, more controversial option is for the CFTC to completely ban the foreign exchange from all U.S. operations. Not surprisingly, the CFTC often shies away from enforcement, in the face of these regulatory obstacles.

That is why I am offering a proposal to allow CFTC to require foreign boards of trade to register with CFTC, which would give CFTC the enforcement authority it needs.

Here are the benefits of this amendment:

First, the registration process itself would give CFTC the authority to impose appropriate regulatory requirements as a condition of registration.

Second, a formal registration process would assure that foreign boards of trade all follow the same set of rules.

Third, the registration process would provide a much clearer basis for CFTC decisions to refuse or withdraw permission to foreign boards of trade wishing to allow American traders on their exchange.

Finally, and most importantly, all of CFTC's existing enforcement authorities apply to registered entities under the Commodity Exchange Act.

This amendment would therefore allow CFTC to enforce its own statute with regard to foreign exchanges operating in the United States.

This is a very moderate, practical amendment to assure that we give CFTC the authority to enforce the statutory provisions already in the proposed legislation. It would only provide the CFTC with equivalent authority to that held by virtually all foreign futures regulators—including the British.

I have worked for many years to bring about meaningful regulation of the derivatives markets, and that is

why I am so pleased that Senators LINCOLN and DODD have brought forward the strongest derivatives regulatory proposal considered by this Congress.

But as we crack down on traders in our markets, we must be ever vigilant to assure that traders sitting on Wall Street do not avoid our regulations by trading on electronic exchanges with computer servers in London, or Dubai, or Singapore.

This amendment would improve the London loophole provisions in the Dodd-Lincoln bill, by making those provisions more easily enforceable.

It is the final piece necessary to close the London loophole, ensuring that our government has what it needs to protect American markets from manipulation and excessive speculation, no matter where U.S. energy commodities are traded.

I ask my colleagues to support this amendment.

Mr. DODD. Mr. President, I ask unanimous consent that on Wednesday, May 12, following any leader time, the Senate then resume consideration of S. 3217, and that the time until 10 a.m. be for debate with respect to the following three amendments, with the time equally divided and controlled between the leaders or their designees; that at 10 a.m., the Senate proceed to vote in relation to the amendments in the order listed, with no amendments in order to the amendments prior to a vote, with 2 minutes of debate prior to the succeeding votes and with the succeeding votes limited to 10 minutes: Merkley amendment No. 3962, Corker amendment No. 3955, Hutchison-Klobuchar amendment No. 3759, as modified; provided further, that the next two amendments in order would be the Landrieu-Isakson amendment regarding risk retention and the Snowe-Landrieu amendment No. 3918.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

#### SECRET HOLDS

• Mr. BYRD. Mr. President, I recently declined to sign a letter that is circulating, in which certain Senators pledge not to place "secret" holds on legislation and nominations. The letter features a very broad promise by the signers to refrain from asking the leadership to delay Senate consideration of a matter, without a full public explanation of the request.



When a small minority—often a minority of one—abuses senatorial courtesy and misuses anonymous holds to indefinitely delay action on matters, then I am as adamant as any of my colleagues in insisting that Senators should come to the Senate floor and make their objections known. When abuses of this courtesy have occurred, I have supported efforts by others, and proposed some of my own, to ignore holds after a certain period of time. I am ready to support such efforts again.

But I also believe that there are situations when it is appropriate and even important for Senators to raise a private objection to the immediate consideration of a matter with the leadership and to request a reasonable amount of time to try to have concerns addressed. There are times when Senators put holds on nominations or bills not to delay action but to be notified before a matter is coming to the floor so that they can prepare amendments or more easily plan schedules. These are courtesies afforded to all Senators. In many cases, there is nothing nefarious or diabolical about reasonable requests for holds. Certainly, public disclosures are not necessary every time Senators want to slightly alter the Senate schedule for the coming week. Certainly, public disclosures are not necessary every time Senators request consultation or advanced notification on a matter coming to the floor.

I appreciate that some Senators may be frustrated with what they believe are abuses of the Senate rules, but I also hope that Senators will endeavor to understand—before they suggest pledges or propose less than well-reasoned changes—that the rules, precedents, customs, practices, traditions, and courtesies of the Senate have been forged over hundreds of years and after much trial and experience. After all, the benefit of this experience is to preserve the institutional protection of all Senators and their efforts to fairly represent the people of their States. The Senate is not the House of Representatives and was never intended to function as such. The Senate's purpose is to carefully and critically examine, not to expedite.

Unfortunately, when the Senate rules and customs are abused and Senators become frustrated, it can lead to ill-considered changes, and sometimes the pendulum can swing too far. Let us try to keep the institutional purpose of the Senate uppermost in mind. The Nation certainly requires the extended debate and deliberation that those time-honored rules, precedents, and customs are designed to guarantee.●

#### LRA DISARMAMENT AND NORTHERN UGANDA RECOVERY ACT

Mr. LEVIN. Mr. President, for more than 20 years, a group called the Lord's Resistance Army, or LRA, has operated

in central Africa, perpetrating some of the most horrific acts of violence one can envision. The LRA began as a rebel group saying it drew its guidance from the Ten Commandments, but in the two decades since it began, it has routinely violated those commandments in the most gruesome and unimaginable ways. Its continued campaign of violence calls out for Congress and the United States to act.

Recently the United Nations uncovered the latest of the LRA's violent acts, the rounding up and massacring of more than 100 innocent villagers in a remote part of the Democratic Republic of the Congo. The New York Times reported on May 1 that U.N. officials had learned of the massacre, which occurred in February. U.N. officials interviewed several witnesses, including one woman whose lips were cut off by LRA rebels, who told the woman she was talking too much.

The LRA's actions were described in brutally clear terms in a recent Human Rights Watch report entitled "Trail of Death." In it Human Rights Watch investigators describe the typical tactics, techniques, and procedures of this terrible group of people:

The LRA used similar tactics in each village they attacked during their four-day operation: they pretended to be Congolese and Ugandan army soldiers on patrol, reassured people in broken Lingala (the common language of northern Congo) not to be afraid, and, once people had gathered, captured their victims and tied them up. LRA combatants specifically searched out areas where people might gather—such as markets, churches, and water points—and repeatedly asked those they encountered about the location of schools, indicating that one of their objectives was to abduct children. Those who were abducted, including many children aged 10 to 15 years old, were tied up with ropes or metal wire at the waist, often in human chains of five to 15 people. They were made to carry the goods the LRA had pillaged and then forced to march off with them. Anyone who refused, walked too slowly, or who tried to escape was killed. Children were not spared.

The LRA got its start in Uganda, where it has done and continues to do horrific damage. At one time, about 2 million Ugandans were displaced from their homes by LRA violence; the rebels massacred, mutilated and abducted civilians, and forced many into sexual servitude; and an estimated 66,000 Ugandan children were forced to fight for the group.

Uganda is still recovering from the LRA's campaign of violence. Having been forced out of Uganda, LRA bands have moved into neighboring nations, including Sudan, the Democratic Republic of the Congo, and the Central African Republic—countries already ravaged by man-made and natural disasters. As the latest report shows, it is still a grave threat. As John Holmes, the U.N. under secretary general for humanitarian affairs, put it, "they are still capable of wreaking absolute havoc—and they still do."

Because of the havoc the LRA has caused across central Africa, I am one of more than 60 Senators who have cosponsored S. 1067, the LRA Disarmament and Northern Uganda Recovery Act, introduced by Senators FEINGOLD and BROWNBACK. The act would require that within 6 months, the United States develop a comprehensive strategy for dealing with the LRA, including an outline of steps to protect the civilian population against LRA violence. The act would authorize funding to provide humanitarian assistance in areas affected by the LRA. And it would provide assistance for reconstruction and for promotion of justice and reconciliation in areas of Uganda recovering from the LRA's depredations.

This legislation would establish, as a matter of policy, a U.S. commitment to working with regional governments to end the conflict in Uganda and surrounding nations by providing support to multilateral efforts to protect civilians, apprehend top LRA leaders and disarm their followers; providing humanitarian assistance to relieve the immense suffering the LRA has caused; and supporting efforts to promote justice and reconciliation in the region affected by LRA violence.

We have delayed too long in enacting this legislation. The Senate passed this important legislation in March, and the House Foreign Affairs Committee favorably reported the bill to the full House last week. I am hopeful that the committee's approval signals the likelihood of approval by the full House soon. I hope our colleagues in the House will move swiftly to pass this legislation and send it to the President for his signature; to do anything less would be a failure to act with the urgency, and the humanity, that the LRA's campaign of terror demands.

Mr. President, I ask unanimous consent that a recent New York Times article on this incident be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 1, 2010]

U.N. SAYS CONGO REBELS KILLED SCORES IN VILLAGE

(By Jeffrey Gettleman)

KISANGANI, CONGO—United Nations officials said Saturday that the Lord's Resistance Army rebel force killed up to 100 people in a previously unreported massacre in the remote northeastern corner of this country.

Details are still emerging of exactly what happened. But according to John Holmes, the United Nations' top humanitarian official, the L.R.A. struck a small village in February, two months after it killed more than 300 people from several villages in the surrounding area.

United Nations investigators have spoken with several witnesses and victims of the massacre in February, including two fishermen who said they saw dozens of bodies.



But the investigators have been unable to reach the exact location because of the difficulties of traveling in one of the most rugged and isolated corners of Africa.

Mr. Holmes said that while recent military operations may have weakened the L.R.A., "they are still capable of wreaking absolute havoc—and they still do."

He said he learned about the February attack on Saturday, when he met with local authorities and victims in Niangara, an old trading post hidden away in the Congolese jungle that has recently been ringed by roving bands of L.R.A. marauders.

One of the people he met was a young woman whose lips had been sliced off last month. She was attacked by rebels while working in her field, she said Saturday, sitting in a hospital bed, her face a mask of gauze and tape.

"They told me I was talking too much," she said.

The L.R.A. has been waging a brutal and bizarre rebellion for more than 20 years, starting in northern Uganda in the late 1980s.

Originally, it said it was guided by the Ten Commandments, but soon it was breaking every one, massacring and mutilating civilians and becoming notorious for kidnapping young children and turning them into 4-foot-tall killing machines.

The Ugandan Army eventually drove the L.R.A. out of Uganda but the rebels simply marched into neighboring northeastern Congo, where they set up bases in isolated areas.

Recently, the Ugandan military has killed dozens of fighters hiding out in Congo and the Central African Republic, though the L.R.A.'s leader, Joseph Kony, who has been indicted by the International Criminal Court on crimes against humanity, is still on the loose.

In the December massacre, the L.R.A. killed more than 300 people in a brutal recruitment campaign near Niangara, in which a few dozen rebel fighters abducted hundreds of civilians, marching them in a human chain from village to village. Along the way, the fighters beat to death men, women and children they did not want to keep in their ranks.

"For anyone saying that the L.R.A. is finished, I would be careful not to count them out," Mr. Holmes said. "They have an amazing capacity to regenerate themselves, especially by kidnapping children."

#### NATIONAL ALCOHOL- AND OTHER DRUG-RELATED BIRTH DEFECTS WEEK

Mr. JOHNSON. Mr. President, I rise today in recognition of National Alcohol and Other Drug-Related Birth Defects Week. Substance abuse during pregnancy is the leading known cause of birth defects and mental retardation in the United States. Each year thousands of babies are born with the physical signs and intellectual disabilities related to prenatal substance abuse.

Of all the substances of abuse—including heroin, cocaine, and marijuana—alcohol produces the most serious physical and mental effects in the fetus, according to the Institute of Medicine. Referred to as fetal alcohol spectrum disorders, or FASD, the potential outcomes of alcohol abuse during pregnancy include mental retarda-

tion, growth deficits, altered facial characteristics, organ defects, behavioral problems, delayed motor skills, and various learning disabilities.

Researchers estimate that more than 3 million Americans live with an FASD and as many as 40,000 infants are annually born with an FASD. The tragedy of alcohol- and other drug-related birth defects is entirely preventable and must be addressed. We must increase efforts to reach out to all women of childbearing age and connect those most at risk to treatment and counseling services. Increased awareness and education about the effects of substance abuse during pregnancy is the best way to reduce the prevalence of devastating birth defects.

I recently joined Senators MURKOWSKI, INOUE, and LANDRIEU in introducing the Advancing FASD Research, Prevention, and Services Act, in an effort to improve the surveillance, identification, and prevention of FASD. This legislation will make grants available to federally qualified health centers to provide training to health care providers on identifying and educating women who are at risk for alcohol consumption during pregnancy and on screening children for FASD. Through national public and education campaigns, this bill will reach millions and raise awareness of the risks associated with alcohol consumption during pregnancy.

There is no cure for FASD and other drug-related birth defects. Yet the devastating effects are entirely preventable when pregnant women abstain from substance use. It is therefore imperative to reach at-risk women and ensure they have knowledge of the dangers of substance abuse, as well as access to quality reproductive and prenatal care. When we move past the stigma associated with this disease, we can truly help those and their families who are affected get the health, education, counseling, and support services they need and deserve.

I have long supported efforts to put an end to this entirely preventable and destructive disease. In my home State of South Dakota, over 7,800 individuals are suspected of living with an FASD. With the leadership of the health professionals at our esteemed universities, parents, and teachers, among countless others, we have made some important progress in addressing this issue. However, there is more work to be done to prevent alcohol- and other drug-related birth defects in South Dakota and at the national level. The goal is to one day entirely eliminate the heart-breaking, lifelong effects of fetal alcohol and drug exposure.

#### SUDAN

Mr. FEINGOLD. Mr. President, there are many important issues that demand Congress's attention, but one that we cannot afford to neglect the situation is Sudan. We are in the midst

of a decisive period that will determine the future of that country and shape the conflicts that have long besieged its people.

In less than 9 months, the people of South Sudan will hold their referendum on self-determination, with the option to forge an independent state. There are serious challenges involved with the holding of that referendum and any subsequent transition to independence. The potential for instability is high.

Meanwhile, the conflict in Darfur remains unresolved and is likely to get worse. Over 2 million displaced people are still living in camps, and earlier this week, one of the largest rebel groups in Darfur suspended their involvement in peace talks after alleging that the Sudanese Government has launched fresh attacks.

Finally, the peace in eastern Sudan, one of the country's most impoverished regions, continues to be fragile. The dynamics in each of Sudan's regions and the future of the country in general will have profound implications for neighboring countries, as well as the wider region.

Last month, the people of Sudan held their first multiparty elections in 24 years. I join the White House in commending the Sudanese people for their efforts to make these elections peaceful and meaningful, and I am pleased that the voting witnessed no major armed violence. However, I was disappointed by statements of the U.S. Special Envoy in the runup to the election suggesting that the elections would be "as free and as fair as possible." This was clearly not the case.

For months beforehand, many of us had expressed concern about the political, security, and logistical challenges to credible elections. The environment was clearly not conducive for opposition parties to freely operate and campaign, nor was it conducive for all voters to safely and confidently go to the polls. The inability of the government both in the north and in the south—to adequately address the significant infrastructure and logistical challenges resulted in decreased voter access.

There is good reason for the international community to question the extent to which the results reflect the will of the Sudanese people. Furthermore, the fact that the winner of the Presidential election has been indicted by the International Criminal Court for war crimes is problematic. In no way should the international community allow this outcome to take away from the serious charges President Bashir faces.

The White House statement after the Sudanese election was thoughtful and balanced. It acknowledged the significant problems with the process but also distinguished between the credibility of elections and the potential still for democratic progress. These

elections were seriously flawed, but indeed there was evidence of the beginnings of citizen engagement at the local levels that did not exist before. It will be important to build on that momentum going forward.

The White House statement rightly pointed out that continued pressure will be critical to make progress for the civil and political rights of all Sudanese people. That pressure must come first and foremost from within the country, but there remains an important role for the United States and other members of the international community.

Over the last year, I have been concerned at times that the Obama administration has not exerted the requisite pressure to hold Khartoum accountable for a failure to live up to its commitments. There are too many promises, commitments, and agreements broken without consequence. Theoretically, I am not opposed to engaging the Government of Sudan, but I share Nicholas Kristof's concern that our engagement "ends up as a policy to go soft on [Bashir] and to reduce pressure on Khartoum to honor the referendum in the south."

With the election now concluded, the international community must redouble its efforts to prepare for South Sudan's referendum and its outcome, whatever that may be. It is critical that this referendum be held on time and that it be held as fairly and peacefully as possible.

In order for this to happen, there is much work to be done both logistically and politically including efforts to resolve the outstanding issues the CPA, as well as ambiguous postreferenda matters, such as resource allocation and citizenship rights. In the case of separation, these two issues are likely to be the most inflammatory and difficult to address. The international community, as well as countries in the region, has an active role to play in advancing related negotiations and preparations for the referendum. Sudan's neighboring states especially have interests at stake that could be directly affected by either a peaceful separation or a return to conflict.

We must see serious and detailed contingency planning for all possible scenarios, both pre- and post-referendum and they must get underway now. While the most obvious tripwire for a return to war would be a delay of the referendum, planning must also include clear guidance on how to deal with the possibility that the different actors could seek to manipulate, or disrupt, the results of that referendum.

I continue to be concerned that the NCP could foment insecurity in the south as it has done in the past, but I am particularly concerned by the internal security challenges within South Sudan. They are considerable and will not be easily resolved. Human-

itarian organizations reported that over 2,500 people were killed and an additional 350,000 were displaced by inter-ethnic and communal violence within southern Sudan throughout 2009. The Lord's Resistance Army continues to wreak havoc on communities in the southwestern corner of the country. In his testimony to the Senate Intelligence Committee in February, the Director of National Intelligence identified South Sudan as the area in which "a new mass killing or genocide is most likely to occur."

The task of transforming the army and police into modern security organs that protect civilians and respect human rights is daunting but vital. We need to roll up our sleeves and get to work on helping the South Sudanese to accomplish this task, while empowering UNMIS in the meantime to better protect civilians and monitor flashpoints.

Of course security sector reform cannot be separated from the other governance and economic challenges facing the region. Most South Sudanese have not seen much progress in the 5 years since the signing of the CPA. Communities continue to lack access to basic services including water, health, and infrastructure. It is no secret that the Government of South Sudan still has limited capacity, and in some cases limited will, to provide this assistance or manage its own revenues. This lack of will and capacity concerns me particularly because it is closely linked with the growing problem of corruption within the government. A lack of transparency plagues this young government by complicating and undermining efforts to distribute services and reform the security services.

This is not cause for delaying the referendum, as to do so would be a retreat from our commitment as guarantors of the CPA and could be seen as a reason to abrogate the agreement by either party. Instead, it is cause for increasing our efforts in South Sudan and helping the region to reach a basic level of political and economic stability.

I am pleased that the Obama administration is in the process of scaling up our diplomatic and development personnel and activities in South Sudan to prepare for the referendum and its aftermath. I urge other governments to do the same, if they are not already. The regional states and international community all have a stake in facilitating an orderly process and preventing an outbreak of violence. It is in our interest to work together and coordinate our efforts to help the South Sudanese meet the many challenges in front of them.

Finally, as we do this, we should not turn our backs on the other conflicts within Sudan, particularly the situation in Darfur. We have seen in the past how the National Congress Party

can effectively manipulate the international community's narrow focus on one region or conflict at the expense of another. Despite some small successes, the situation in Darfur is unresolved and the events of recent weeks have shown that a peace deal remains elusive. The situation could become more difficult and complex to resolve over time, especially if the CPA collapses and the north-south war is reignited.

The Obama administration must maintain its focus on building a credible peace process for Darfur at the same time that it seeks to shore up the CPA. We need to keep the pressure on to ensure there is a cessation of attacks and to begin seriously addressing the legitimate grievances of Darfurians.

Mr. President, in the critical months ahead, we need to have a bold, comprehensive approach toward all of Sudan that brings resources to bear and ensures consistent, high-level engagement from the White House as well as here in Congress. To that end, I will continue to do my part, and I encourage my colleagues to do the same.

#### ADDITIONAL STATEMENTS

##### RECOGNIZING THE HARRISON PUBLIC SCHOOL DISTRICT

• Mrs. LINCOLN. Mr. President, I wish to congratulate Harrison Public School District for being named to the national "GreatSchools" list by Forbes magazine. Under the leadership of superintendent Jerry Moody, Harrison was named the top public school district in the country for markets of median home price under \$100,000. Harrison was the only Arkansas school district to make Forbes' top 10 list.

Harrison received this designation based on criteria including quality of education, affordable housing, and the unemployment rate. Calling Harrison a "rural gem," the magazine commented that "with its well-developed gifted and talented program and an intimate 12.5-to-1 student-teacher ratio, Harrison offers serious book learning in a mountain idyll."

Forbes has found out what Harrison residents have known for years: that hard work, dedication, and a commitment to education are integral to a community's success. When students, teachers, administrators and parents work together, great things can be achieved.

Along with all Arkansans, I extend my congratulations to each member of the Harrison community. •

##### 2010 NATIONAL DRUG CONTROL STRATEGY—PM 54

The PRESIDING OFFICER laid before the Senate the following message from the President of the United

States, together with an accompanying report; which was referred to the Committee on the Judiciary:

*To the Congress of the United States:*

I am pleased to transmit the 2010 National Drug Control Strategy, a blueprint for reducing illicit drug use and its harmful consequences in America. I am committed to restoring balance in our efforts to combat the drug problems that plague our communities. While I remain steadfast in my commitment to continue our strong enforcement efforts, especially along the southwest border, I directed the Office of National Drug Control Policy to reengage in efforts to prevent drug use and addiction and to make treatment available for those who seek recovery. This new, balanced approach will expand efforts for the three critical ways that we can address the drug problem: prevention, treatment, and law enforcement.

Drug use endangers the health and safety of every American, depletes financial and human resources, and deadens the spirit of many of our communities. Whether struggling with an addiction, worrying about a loved one's substance abuse, or being a victim of drug-related crime, millions of people in this country live with the devastating impact of illicit drug use every day. This stark reality demands a new direction in drug policy—one based on common sense, sound science, and practical experience. That is why my new Strategy includes efforts to educate young people who are the most at-risk about the dangers of substance abuse, allocates unprecedented funding for treatment efforts in federally qualified health centers, reinvigorates drug courts and other criminal justice innovations, and strengthens our enforcement efforts to rid our streets of the drug dealers who infect our communities.

I am confident that if we take these needed steps, we will make our country stronger, our people healthier, and our streets safer. If we boost community-based prevention efforts, expand treatment opportunities, strengthen law enforcement capabilities, and work collaboratively with our global partners, we will reduce drug use and its resulting damage.

While I am proud of the new direction described here, a well-crafted strategy is only as successful as its implementation. To succeed, we will need to rely on the hard work, dedication, and perseverance of every concerned American. I look forward to working with the Congress, Federal, State, and local officials, tribal leaders, and citizens across the country as we implement this Strategy and make our communities better places to live, work, and raise our families.

BARACK OBAMA.  
THE WHITE HOUSE, May 11, 2010.

## MESSAGE FROM THE HOUSE

### ENROLLED BILLS SIGNED

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2802. An act to provide for an extension of the legislative authority of the Adams Memorial Foundation to establish a commemorative work in honor of former President John Adams and his legacy, and for other purposes.

H.R. 5148. An act to amend title 39, United States Code, to clarify the instances in which the term "census" may appear on mailable matter.

H.R. 5160. An act to extend the Caribbean Basin Economic Recovery Act, to provide customs support services to Haiti, and for other purposes.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3347. A bill to extend the National Flood Insurance Program through December 31, 2010.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. COBURN (for himself, Mr. MCCAIN, Mr. FEINGOLD, Mrs. GILLIBRAND, Mr. BENNET, Mr. ENSIGN, Mr. CORKER, and Mr. UDALL of Colorado):

S. 3335. A bill to require Congress to establish a unified and searchable database on a public website for congressional earmarks as called for by the President in his 2010 State of the Union Address to Congress; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. FEINSTEIN (for herself and Mr. BROWN of Ohio):

S. 3336. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of bonds issued to finance renewable energy resources facilities, conservation and efficiency facilities, and other specified greenhouse gas emission technologies; to the Committee on Finance.

By Ms. LANDRIEU:

S. 3337. A bill to amend the Public Works and Economic Development Administration Act of 1965 to establish a program to provide technical assistance grants for use by organizations in assisting individuals and businesses affected by the Deepwater Horizon oil spill in the Gulf of Mexico; to the Committee on Environment and Public Works.

By Mr. NELSON of Florida:

S. 3338. A bill to amend the Internal Revenue Code of 1986 to provide an investment tax credit for advanced biofuel production property; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. CRAPO, Mr. WYDEN, and Ms. SNOWE):

S. 3339. A bill to amend the Internal Revenue Code of 1986 to provide a reduced rate of excise tax on beer produced domestically by certain small producers; to the Committee on Finance.

By Mr. UDALL of New Mexico:

S. 3340. A bill to create jobs, increase energy efficiency, and promote technology

transfer, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CARDIN (for himself, Ms. COLLINS, Mr. AKAKA, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. BINGAMAN, Mr. JOHNSON, Mr. KAUFMAN, Mr. KERRY, Ms. LANDRIEU, Ms. STABENOW, and Mr. WARNER):

S. 3341. A bill to amend title 5, United States Code, to extend eligibility for coverage under the Federal Employees Health Benefits Program with respect to certain adult dependents of Federal employees and annuitants, in conformance with amendments made by the Patient Protection and Affordable Care Act; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DURBIN:

S. 3342. A bill to amend the Richard B. Russell National School Lunch Act to establish a demonstration project to promote collaborations to improve school nutrition; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LAUTENBERG:

S. 3343. A bill to direct the Secretary of the Interior to establish an annual fee on Federal offshore areas that are subject to a lease for production of oil or natural gas and to establish a fund to reduce pollution and the dependence of the United States on oil; to the Committee on Energy and Natural Resources.

By Mr. WHITEHOUSE (for himself, Mr. MENENDEZ, and Mrs. BOXER):

S. 3344. A bill to establish an independent, nonpartisan commission to investigate the causes and impact of, and evaluate and improve the response to, the explosion, fire, and loss of life on and sinking of the Mobile Drilling Unit Deepwater Horizon and the resulting uncontrolled release of crude oil into the Gulf of Mexico, and to ensure that a similar disaster is not repeated; to the Committee on Energy and Natural Resources.

By Mr. WHITEHOUSE (for himself, Mr. MENENDEZ, and Mr. LEAHY):

S. 3345. A bill to amend title 46, United States Code, to remove the cap on punitive damages established by the Supreme Court in *Exxon Shipping Company v. Baker*; to the Committee on Commerce, Science, and Transportation.

By Mr. WHITEHOUSE (for himself and Mr. MENENDEZ):

S. 3346. A bill to increase the limits on liability under the Outer Continental Shelf Lands Act; to the Committee on Energy and Natural Resources.

By Mr. VITTER:

S. 3347. A bill to extend the National Flood Insurance Program through December 31, 2010; read the first time.

By Mr. ISAKSON (for himself, Mr. ALEXANDER, Mr. BARRASSO, Mr. COBURN, Mr. DEMINT, Mr. GREGG, Mr. BURR, Mr. ROBERTS, Mr. WICKER, Mr. JOHANNES, Mr. GRASSLEY, Mr. LEMIEUX, Mr. CHAMBLISS, Ms. COLLINS, Mr. HATCH, Mr. VOINOVICH, Mr. CRAPO, Mr. ENZI, Mr. BROWNBACK, Mr. BUNNING, Ms. MURKOWSKI, Mr. CORKER, Mr. SESSIONS, Mr. LUGAR, Mr. THUNE, and Mr. BENNETT):

S.J. Res. 30. A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Mediation Board relating to representation election procedures; to the Committee on Health, Education, Labor, and Pensions.

## ADDITIONAL COSPONSORS

S. 678

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 678, a bill to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

S. 695

At the request of Ms. SNOWE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 695, a bill to authorize the Secretary of Commerce to reduce the matching requirement for participants in the Hollings Manufacturing Partnership Program.

S. 941

At the request of Mr. CRAPO, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 1072

At the request of Mrs. LINCOLN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1072, a bill to amend chapter 1606 of title 10, United States Code, to modify the basis utilized for annual adjustments in amounts of educational assistance for members of the Selected Reserve.

S. 1317

At the request of Mr. LAUTENBERG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1317, a bill to increase public safety by permitting the Attorney General to deny the transfer of firearms or the issuance of firearms and explosives licenses to known or suspected dangerous terrorists.

S. 1645

At the request of Mr. SPECTER, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1645, a bill to amend the Agricultural Adjustment Act to require the Secretary of Agriculture to determine the price of all milk used for manufactured purposes, which shall be classified as Class II milk, by using the national average cost of production, and for other purposes.

S. 1709

At the request of Ms. STABENOW, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1709, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to establish a grant program to promote efforts to develop, implement, and sustain veterinary services, and for other purposes.

S. 1982

At the request of Mr. BROWN of Ohio, the name of the Senator from Oregon

(Mr. WYDEN) was added as a cosponsor of S. 1982, a bill to renew and extend the provisions relating to the identification of trade enforcement priorities, and for other purposes.

S. 2924

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 2924, a bill to reauthorize the Boys & Girls Clubs of America, in the wake of its Centennial, and its programs and activities.

S. 3055

At the request of Mr. CASEY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3055, a bill to require the Secretary of Commerce to award grants to municipalities to carry out community greening initiatives, and for other purposes.

S. 3102

At the request of Mr. MERKLEY, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 3102, a bill to amend the miscellaneous rural development provisions of the Farm Security and Rural Investment Act of 2002 to authorize the Secretary of Agriculture to make loans to certain entities that will use the funds to make loans to consumers to implement energy efficiency measures involving structural improvements and investments in cost-effective, commercial off-the-shelf technologies to reduce home energy use.

S. 3201

At the request of Mr. UDALL of Colorado, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 3201, a bill to amend title 10, United States Code, to extend TRICARE coverage to certain dependents under the age of 26.

S. 3211

At the request of Mrs. SHAHEEN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 3211, a bill to amend title XVIII of the Social Security Act to improve access to diabetes self-management training by designating certain certified diabetes educators as certified providers for purposes of outpatient diabetes self-management training services under part B of the Medicare Program.

S. 3255

At the request of Mrs. LINCOLN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 3255, a bill to amend title XVIII of the Social Security Act to provide coverage for custom fabricated breast prostheses following a mastectomy.

S. 3295

At the request of Mr. SCHUMER, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 3295, a bill to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal

elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes.

S. 3297

At the request of Mr. FEINGOLD, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 3297, a bill to update United States policy and authorities to help advance a genuine transition to democracy and to promote recovery in Zimbabwe.

S. 3308

At the request of Mr. NELSON of Florida, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 3308, a bill to suspend certain activities in the outer Continental Shelf until the date on which the joint investigation into the Deepwater Horizon incident in the Gulf of Mexico has been completed, and for other purposes.

S. 3315

At the request of Ms. COLLINS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 3315, a bill to amend title XVIII of the Social Security Act to protect Medicare beneficiaries' access to home health services under the Medicare program.

S. 3324

At the request of Mr. BROWN of Ohio, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 3324, a bill to amend the Internal Revenue Code of 1986 to extend the qualifying advanced energy project credit.

S. 3326

At the request of Ms. CANTWELL, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3326, a bill to provide grants to States for low-income housing projects in lieu of low-income housing credits, and to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of the low-income housing credit, and for other purposes.

S. 3329

At the request of Mr. LAUTENBERG, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3329, a bill to provide triple credits for renewable energy on brownfields, and for other purposes.

S. RES. 410

At the request of Mr. BAYH, the names of the Senator from Oregon (Mr. MERKLEY), the Senator from New York (Mr. SCHUMER), the Senator from Ohio (Mr. VOINOVICH) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 410, a resolution supporting and recognizing the goals and ideals of "RV Centennial Celebration Month" to commemorate 100 years of enjoyment of recreation vehicles in the United States.

## S. RES. 511

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. Res. 511, a resolution commemorating and acknowledging the dedication and sacrifices made by the Federal, State, and local law enforcement officers who have been killed or injured in the line of duty.

## AMENDMENT NO. 3730

At the request of Mr. FEINGOLD, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 3730 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3736

At the request of Mr. WEBB, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 3736 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3738

At the request of Mr. SANDERS, the names of the Senator from Massachusetts (Mr. BROWN), the Senator from Massachusetts (Mr. KERRY) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of amendment No. 3738 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 3738 proposed to S. 3217, *supra*.

## AMENDMENT NO. 3746

At the request of Mr. WHITEHOUSE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of amendment No. 3746 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3751

At the request of Mr. NELSON of Florida, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 3751 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3759

At the request of Mrs. HUTCHISON, the names of the Senator from Nevada (Mr. ENSIGN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Wyoming (Mr. BARRASSO), the Senator from Wyoming (Mr. ENZI), the Senator from Indiana (Mr. LUGAR), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oklahoma (Mr. COBURN), the Senator from Georgia (Mr. ISAKSON) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of amendment No. 3759 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3760

At the request of Mr. VITTER, the names of the Senator from South Carolina (Mr. DEMINT), the Senator from Iowa (Mr. GRASSLEY), the Senator from Utah (Mr. HATCH), the Senator from Arizona (Mr. MCCAIN), the Senator from Kentucky (Mr. BUNNING), the Senator from Idaho (Mr. CRAPO) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of amendment No. 3760 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3762

At the request of Mr. LEAHY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 3762 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3767

At the request of Mr. DURBIN, the name of the Senator from Vermont

(Mr. SANDERS) was added as a cosponsor of amendment No. 3767 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3768

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of amendment No. 3768 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3769

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of amendment No. 3769 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3771

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of amendment No. 3771 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3775

At the request of Mr. WYDEN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 3775 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3785

At the request of Mrs. HUTCHISON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 3785 intended to be proposed to S. 3217, an original bill to promote the financial stability of the

United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3804

At the request of Mr. MENENDEZ, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 3804 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3808

At the request of Mr. FRANKEN, the names of the Senator from Delaware (Mr. KAUFMAN), the Senator from Iowa (Mr. GRASSLEY) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 3808 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3811

At the request of Mr. DORGAN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 3811 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3816

At the request of Mr. CHAMBLISS, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of amendment No. 3816 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3818

At the request of Mr. MENENDEZ, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 3818 intended to be proposed to S. 3217, an original bill to promote the financial

stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3839

At the request of Mr. MCCAIN, the names of the Senator from North Carolina (Mr. BURR), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of amendment No. 3839 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3877

At the request of Mr. MENENDEZ, the names of the Senator from New York (Mr. SCHUMER) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 3877 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3879

At the request of Ms. COLLINS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of amendment No. 3879 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3889

At the request of Mr. AKAKA, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of amendment No. 3889 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3897

At the request of Mr. DORGAN, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of amendment No. 3897 in-

tended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3919

At the request of Mr. CONRAD, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of amendment No. 3919 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3922

At the request of Mr. MERKLEY, the names of the Senator from Florida (Mr. NELSON) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of amendment No. 3922 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3928

At the request of Mr. BENNET, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of amendment No. 3928 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3931

At the request of Mr. MERKLEY, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Virginia (Mr. WEBB) were added as cosponsors of amendment No. 3931 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3932

At the request of Mr. DURBIN, the names of the Senator from Vermont (Mr. SANDERS), the Senator from Maryland (Mr. CARDIN) and the Senator from



Pennsylvania (Mr. SPECTER) were added as cosponsors of amendment No. 3932 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself and Mr. BROWN of Ohio):

S. 3336. A bill to amend the internal Revenue Code of 1986 to provide for the treatment of bonds issued to finance renewable energy resources facilities, conservation and efficiency facilities, and other specified greenhouse gas emission technologies; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Private Activity Renewable Energy Bonds Act, legislation to enable low-cost Private Activity Bond financing for businesses and local governments which seek to create renewable, clean and efficient sources of energy.

The bill is cosponsored by Senator BROWN of Ohio. In the United States House of Representatives, Congressman MIKE THOMPSON has introduced a bipartisan companion bill cosponsored by Representatives DEAN HELLER and MARY BONO MACK.

The bill is supported by a host of business and government leaders and renewable energy companies including the Solar Energy Industries Association, Solar Millennium, Nano Solar, the National Association of Energy Service Companies, EnLink GeoEnergy, Johnson Controls, A123 Systems, the Center for Energy Efficiency and Renewable Technologies, and the U.S. Fuel Cell Council, as well as California Treasurer Bill Lockyer.

The bill provides businesses access to low interest tax free Private Activity Bonds, in order to fund projects that generate renewable energy; produce energy or water savings, or; develop highly efficient vehicles.

To promote such activity in a fiscally responsible manner, the legislation caps the value of bonds at \$2.5 billion annually. This represents the investment necessary to replace at least one percent of U.S. electricity generation with renewable sources over the next ten years.

Private Activity Bonds have long been used to generate private involvement and investment in critically important infrastructure for our Nation—from wharves to airports, intercity rail to solid waste disposal facilities and hospitals.

In this century, however, we have new national goals.

Renewable, clean and efficient energy projects will produce jobs, get our economy back-on-track and sustain us as the global leader of a greener century.

These projects, however, require significant front-end capital investment to which the federal government cannot be the sole provider. Private Activity Bonds can prove a critical tool in garnering private investment, because their interest rates typically run a few percent points under commercially available loans.

Investors have long responded to this type of incentive. According to the IRS, Private Activity Bond issuance in 2007 was over \$130 billion—supplying capital to our markets, providing the financing to get projects off the ground.

Projects financed in part by Private Activity Bonds include additions to the San Jose and San Francisco International Airports, the Capitol Beltway High Occupancy Vehicle lanes, infrastructure improvements to the Port of Seattle, and upgrades to Children's Hospital of Orange County, Catholic Healthcare West in San Francisco, and many, many important facilities and projects.

With proper access to capital, we've already seen partnerships between States, municipalities and businesses develop into successful renewable energy programs.

In California, Energy Financing Districts finance residents who choose to install clean energy projects such as distributed solar panels on their homes.

The cost of the solar panel installation or other device is paid back through an increase in property tax only for those property owners who choose to participate in the program.

Now, going solar or installing a geothermal heat pump, which once cost tens of thousands of dollars upfront, has little or no upfront cost to the property owner. It is no wonder why 150 of these programs have been established throughout the country.

This low cost solar opportunity is just one example of the type of programs this bill seeks to support. In partnership, businesses and local governments will develop new and innovative ways to create the new high quality jobs of the 21st century.

This Congress and this President have outlined goals to ensure this country leads the world in the creation of a robust, green economy.

This bill looks to connect that laudable goal with proven financing tools to get us there by aligning private sector investment power and job growth with good public policy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3336

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Activity Renewable Energy Bonds Act".

#### SEC. 2. TREATMENT OF BONDS ISSUED TO FINANCE RENEWABLE ENERGY RESOURCE FACILITIES AND CONSERVATION AND EFFICIENCY FACILITIES AND OTHER SPECIFIED GREENHOUSE GAS EMISSION TECHNOLOGIES.

(a) IN GENERAL.—Section 142(a) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting a comma, and by inserting after paragraph (15) the following new paragraphs:

"(16) renewable energy resource facilities, "(17) conservation and efficiency facilities and projects, or "(18) high efficiency vehicles and related facilities or projects."

(b) RENEWABLE ENERGY RESOURCE FACILITY.—Section 142 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(n) RENEWABLE ENERGY RESOURCE FACILITIES.—For purposes of subsection (a)(16)—

"(1) IN GENERAL.—The term 'renewable energy resource facility' means—

"(A) any facility used to produce electric or thermal energy (including a distributed generation facility) from—

"(i) solar, wind, or geothermal energy, "(ii) marine and hydrokinetic renewable energy,

"(iii) incremental hydropower,

"(iv) biogas and solids produced in the wastewater treatment process, or

"(v) biomass (as defined in section 203(b)(1) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)(1))),

"(B) any facility used to produce biogas, or

"(C) any facility or project used for the manufacture of facilities referred to in subparagraph (A) or (B).

"(2) SPECIAL REQUIREMENTS FOR FACILITIES PRODUCING BIOGAS.—

"(A) IN GENERAL.—A facility shall not be treated as described in paragraph (1)(B), unless the biogas produced—

"(i) is of pipeline quality and distributed into a vehicle for transportation or into an intrastate, interstate, or LDC pipeline system, or

"(ii) is used to produce onsite electricity or hydrogen fuel for use in vehicular or stationary fuel cell applications and has a British thermal unit content of at least 500 per cubic foot.

"(B) PIPELINE QUALITY.—For purposes of subparagraph (A)(i), with respect to biogas, the term 'pipeline quality' means biogas with a British thermal unit content of at least 930 per cubic foot.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)) or from geothermal heat pumps.

"(B) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—The term 'marine and hydrokinetic renewable energy' has the meaning given such term in section 45(c)(10).

"(C) INCREMENTAL HYDROPOWER.—The term 'incremental hydropower' means additional energy generated as a result of efficiency improvements or capacity additions to existing



hydropower facilities made on or after the date of enactment of this subsection. The term 'incremental hydropower' does not include additional energy generated as a result of operational changes not directly associated with efficiency improvements or capacity additions.

“(D) BIOGAS.—The term ‘biogas’ means a gaseous fuel derived from landfill, municipal solid waste, food waste, wastewater or biosolids, or biomass (as defined in section 203(b)(1) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b))).

“(4) SPECIAL RULES FOR ENERGY LOAN TAX ASSESSMENT FINANCING.—

“(A) IN GENERAL.—In the case of any renewable recovery energy resource facility provided from the proceeds of a bond secured by any tax assessment loan upon real property, the term ‘facility’ in paragraph (1) includes—

“(i) a prepayment for the principal purpose of purchasing electricity from renewable energy resource property, and

“(ii) a prepayment of a lease or license of such property, but only if the prepayment agreement provides that it shall not be canceled prior to the expiration of the tax assessment loan.

“(B) TAX ASSESSMENT LOAN.—For purposes of subparagraph (A), the term ‘tax assessment loan’ shall mean a governmental assessment, special tax, or similar charge upon real property.”

(C) CONSERVATION AND EFFICIENCY FACILITY OR PROJECT.—Section 142 of the Internal Revenue Code of 1986, as amended by subsection (b), is amended by adding at the end the following new subsection:

“(o) CONSERVATION AND EFFICIENCY FACILITIES AND PROJECTS.—

“(1) IN GENERAL.—For purposes of subsection (a)(17), the term ‘conservation and efficiency facility or project’ means—

“(A) any facility used for the conservation or the efficient use of energy, including energy efficient retrofitting of existing buildings, or for the efficient storage, transmission, or distribution of energy, including any facility or project designed to implement smart grid technologies (as described in title XIII of the Energy Independence and Security Act of 2007, or individual components of such technologies as listed in section 1301 of such Act),

“(B) any facility used for the conservation of or the efficient use of water, including—

“(i) any facility or project designed to—

“(I) reduce the demand for water,

“(II) improve efficiency in use and reduce losses and waste of water, including water reuse, and

“(III) improve land management practices to conserve water, or

“(ii) any individual component of a facility or project referred to in clause (i), or

“(C) any facility or project used for the manufacture of facilities referred to in subparagraphs (A) and (B).

For purposes of subparagraph (B)(i), facility or project does not include any facility or project that stores water.

“(2) SPECIAL RULES FOR ENERGY LOAN TAX ASSESSMENT FINANCING.—

“(A) IN GENERAL.—In the case of any conservation and efficiency facility or project provided from the proceeds of a bond secured by any tax assessment loan upon real property, the term ‘facility’ in paragraph (1)(A) includes—

“(i) a prepayment for the principal purpose of purchasing electricity from conservation and efficiency property, and

“(ii) a prepayment of a lease or license of such property, but only if the prepayment

agreement provides that it shall not be canceled prior to the expiration of the tax assessment loan.

“(B) TAX ASSESSMENT LOAN.—For purposes of subparagraph (A), the term ‘tax assessment loan’ shall mean a governmental assessment, special tax or similar charge upon real property.”

(d) HIGH EFFICIENCY VEHICLES AND RELATED FACILITIES OR PROJECTS.—Section 142 of the Internal Revenue Code of 1986, as amended by subsections (b) and (c), is amended by adding at the end the following new subsection:

“(p) HIGH EFFICIENCY VEHICLES AND RELATED FACILITIES OR PROJECTS.—For purposes of subsection (a)(18)—

“(1) HIGH EFFICIENCY VEHICLE.—The term ‘high efficiency vehicle’ means any vehicle that will exceed by at least 150 percent the average combined fuel economy for vehicles with substantially similar attributes in the model year in which the production of such vehicle is expected to begin at the facility.

“(2) FACILITIES RELATED TO HIGH EFFICIENCY VEHICLES.—A facility or project is related to a high efficiency vehicle if the facility is any real or personal property to be used in the design, technology transfer, manufacture, production, assembly, distribution, recharging or refueling, or service of high efficiency vehicles.”

(e) NATIONAL LIMITATION ON AMOUNT OF RENEWABLE ENERGY BONDS.—Section 142 of the Internal Revenue Code of 1986, as amended by subsections (b), (c), and (d), is amended by adding at the end the following new subsection:

“(q) NATIONAL LIMITATION ON AMOUNT OF RENEWABLE ENERGY BONDS.—

“(1) IN GENERAL.—An issue shall not be treated as an issue described in paragraph (16), (17), or (18) of subsection (a) if the aggregate face amount of bonds issued by the State pursuant thereto (when added to the aggregate face amount of bonds previously so issued during the calendar year) exceeds the amount allocated to the State by the Secretary under paragraph (2) for such calendar year.

“(2) ALLOCATION RULES.—

“(A) ALLOCATION AMONG STATES BY POPULATION.—The Secretary shall allocate authority to issue bonds described in paragraph (16), (17), or (18) of subsection (a) to each State by population for each calendar year in an aggregate amount to all States not to exceed \$2,500,000,000.

“(B) STATE ALLOCATION.—The State may allocate the amount allocated to the State under subparagraph (A) for any calendar year among facilities or projects described in paragraphs (16), (17), and (18) of subsection (a) in such manner as the State determines appropriate.

“(C) UNUSED RENEWABLE ENERGY BOND CARRYOVER TO BE ALLOCATED AMONG QUALIFIED STATES.—

“(i) IN GENERAL.—Any unused bond allocation for any State for any calendar year under subparagraph (A) shall carryover to the succeeding calendar year and be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

“(ii) UNUSED BOND ALLOCATION CARRYOVER.—For purposes of this subparagraph, unused bond allocations are bond allocations described in subparagraph (A) of any State which remain unused by November 1 of any calendar year.

“(iii) FORMULA FOR ALLOCATION OF UNUSED BOND ALLOCATION CARRYOVERS AMONG QUALIFIED STATES.—The amount allocated under this subparagraph to a qualified State for

any calendar year shall bear the same ratio to all States from the preceding calendar year under subparagraph (A), excluding States which are not a qualified State.

“(iv) TIMING OF ALLOCATION.—The Secretary shall allocate the unused bond allocation carried over from the preceding year among qualified States not later than March 1 of the succeeding year.

“(v) QUALIFIED STATE.—For purposes of this subparagraph, the term ‘qualified State’ means, with respect to a calendar year, any State—

“(I) which allocated its entire bond allocation under subparagraph (A) for the preceding calendar year, and

“(II) for which a request is made (not later than August 1 of the calendar year) to receive an allocation under clause (iii).

“(vi) REPORTING.—States shall report annually to the Secretary on their use of bonds described in paragraph (16), (17), and (18) of subsection (a), including description of projects, amount spent per project, total amount of unused bonds, and expected greenhouse gas or water savings per project with a description of how such savings were calculated. Such reporting shall be submitted not later than November 1 of any calendar year.”

(f) COORDINATION WITH SECTION 45.—Paragraph (3) of section 45(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: “Clause (ii) of subparagraph (A) shall not apply with respect to any facility described in paragraph (16), (17), or (18) of section 142(a).”

(g) COORDINATION WITH SECTION 45K.—Subparagraph (A) of section 45K(b)(3) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence:

“Subclause (II) of clause (i) shall not apply with respect to any facility described in paragraph (16), (17), or (18) of section 142(a).”

(h) COORDINATION WITH SECTION 48.—Subparagraph (A) of section 48(a)(4) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence: “Clause (ii) shall not apply with respect to any facility described in paragraph (16), (17), or (18) of section 142(a).”

(i) COORDINATION WITH SECTION 146(g)(3).—Section 146(g)(3) of the Internal Revenue Code of 1986 is amended by striking “or (15)” and inserting “(15), (16), (17), or (18)”.

(j) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

Mr. UDALL of New Mexico:

S. 3340. A bill to create jobs, increase energy efficiency, and promote technology transfer, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. UDALL of New Mexico. Mr. President, I rise today to introduce the NIST GREEN JOBS Act, to provide NIST Grants for green jobs, improved energy efficiency, and small business growth.

It has never been easy to be an entrepreneur or small business owner, and this is especially true since the recession began 2 years ago. Many small firms in the manufacturing sector, in particular, have struggled during a time of tight credit markets and reduced consumer demand. In the last 2 years, the manufacturing sector lost over 2 million jobs.

Twenty years ago, when Americans worried about how our small companies would compete globally in the face of stiff competition from Asia, Congress established the Hollings Manufacturing Extension Partnership, MEP, Program to assist small manufacturers.

The MEP program has since helped thousands of small- and medium-sized manufacturers across the nation increase their profit-lines and streamline their business processes through lean manufacturing techniques. The National Institute of Standards and Technology, NIST, is the Federal steward for the nationwide MEP network, which has MEP Centers in all 50 States.

The New Mexico Manufacturing Extension Partnership in Albuquerque was one of the first such centers, and it provides small- and medium-sized manufacturers with the tools they need to grow, improve productivity and expand capacity. Since its creation, the New Mexico MEP has helped create or maintain more than 2,600 jobs in the State and achieve \$24 million in annual cost savings for partner companies.

Today, as the U.S. continues to emerge from the worst recession since the Great Depression, the resources and expertise MEP provides manufacturers are more valuable than ever. Our MEP Centers do great work—and I believe they can do even more as companies look for ways to take advantage of new opportunities in a clean energy economy that promotes energy efficiency and independence for our country.

Since manufacturing now plays an increasingly important role in the construction industry, there is an important opportunity for the MEP program to strengthen its support of small manufacturers while also promoting green jobs and energy independence.

Builders today already rely on manufactured components and sub-assemblies. Manufacturing will become even more important to construction as homes are increasingly “assembled” on site from components made in a factory. Now that lean, high-quality manufacturing is applicable to construction, it is not a stretch for MEP Centers to teach the same skills to the construction industry, where small firms are the norm.

Technologies exist today for green building construction and retrofitting that can reduce energy use and greenhouse gas emissions. Yet many small firms, especially in the construction sector, do not have the skills or expertise to take advantage of new technologies to improve the energy efficiency. Moreover, NIST researchers at the Buildings and Fire Research Lab already help develop standards and technologies to improve buildings. Buildings today consume 73 percent of electricity and 40 percent of overall energy.

These companies would benefit from the type of training and business analysis activities that MEP Centers already provide to manufacturers. The MEP system could thus be a powerful and transformational force to create green jobs, increase energy efficiency, and promote technological transfer in the construction industry.

That is why I ask for the support of my Senate colleagues for the NIST GREEN JOBS Act, to fund MEP Center pilot projects for green jobs related to energy efficiency. This proposal builds on provisions already authorized by America COMPETES legislation.

My bill simply broadens this existing competitive grant program for MEP pilot projects to include activities related to energy efficiency. It also allows MEP Centers to extend services to companies in the construction industry working in these areas. Awarded on a competitive basis, these pilot projects could last up to 3 years and would be located in each region of the country. The pilot projects would thus create models for new MEP activities and services that could be replicated at MEP Centers regionally or nationwide.

The NIST GREEN JOBS Act authorizes \$7 million in annual funding for 3 years. This funding would allow at least one MEP Center in each region to conduct a pilot project. The MEP Centers would not need to provide local matching funds for these competitively awarded pilot projects.

I believe this modest proposal would be a positive step toward both helping create and retain jobs in the manufacturing sector and improving our Nation's energy independence.

I therefore urge the support of all my colleagues for this legislation.

By Mr. DURBIN:

S. 3342. A bill to amend the Richard B. Russell National School Lunch Act to establish a demonstration project to promote collaborations to improve school nutrition; to the Committee on Agriculture, Nutrition, and Forestry.

MR. DURBIN. Mr. President, childhood obesity is a growing concern in the U.S. and I am pleased that the President and First Lady have decided to tackle this issue with the goal of solving the problem in a generation. Today, one in three children is overweight or obese, which means that they are at a greater risk of developing diabetes, heart disease and cancer over the course of their lives. We are spending nearly \$150 billion a year to treat obesity-related medical conditions, and this problem will only become worse if we don't do something about it now.

One way that the Federal Government can play an important role in addressing this problem is by helping to make schools healthier. Students spend an average of nearly 7 hours a day at school, and it is one of the places where kids formally learn and then can prac-

tice healthy habits related to nutrition and physical activity. While education is primarily funded by the states, the Federal government plays a significant role in this issue as well because of its funding of the National School Lunch Program. This year, the U.S. Department of Agriculture, USDA, will spend \$10.2 billion on the school lunch program, which serves 31 million children across the country every day. In my home State of Illinois, 1.1 million students in over 4,000 schools participate.

The National School Lunch Program was started after World War II, because our leaders then understood the importance of investing in good nutrition to ensure that the country's youth were well nourished and healthy. When President Harry Truman signed the National School Lunch Act, he said that “in the long view, no nation is healthier than its children.”

Today, we know that the program is making a real difference in millions of kids' lives, by ensuring they don't go hungry during the school day and are ready to learn. We also know that there are some clear nutritional benefits of the program. USDA reports that research on the school lunches consistently shows that participants consume more milk and vegetables at lunch; have higher vitamin intakes; and consume fewer sweets, sweetened beverages, and snack foods than non-participants.

However, much of the difference in vegetable consumption may be due to a higher consumption of French fries and other potato products, and many lunches contain a higher percentage of calories from fat than currently recommended. USDA's current nutrition standards for school meals have not been updated since 1995 and are not in line with the most recent Dietary Guidelines for Americans. I think we need to take President Truman's words to heart, and make long-term investments in this program to ensure that kids are eating healthy meals.

I support the President's goal of increased funding, so that schools can afford to purchase healthier ingredients to make school lunches. However I know that the nutritional quality of school meals varies greatly across the country, and providing every school with adequate funding to improve their meals will be challenging. Some schools have already shown that even with limited resources they can make real improvements in the nutritional quality of their school meals, and make other changes to make school environments healthier.

I would like to build on that concept, which is why I am pleased today to introduce the Healthy School Partnerships Act of 2010. This bill will create a competitive grant program at USDA to allow public schools to explore innovative, sustainable programs that improve the nutritional profile of school

meals and make other improvements to make school environments healthier. The bill authorizes \$2 million per year for 5 years to fund collaborations of academic experts, dietitians and nutrition professionals, community partners, and local schools to implement and evaluate innovative models to improve food quality, student choices in food, and healthy school environments. This could include starting programs to improve the nutritional content of school meals; providing more nutrition education; changing school policies to promote greater access to healthier foods and physical activity; training teachers, school administrators and nurses; or making other changes to make school environments healthier. We need grass roots involvement and real-world models to solve the childhood obesity problem going forward, and this bill provides the funding to develop those.

Childhood obesity is a complex problem, and to effectively tackle it we will need the commitment of the public and private sectors. The Healthy Schools Partnerships Act of is one part of the solution. By tapping local resources and expertise, we can promote collaborations and develop sustainable and replicable models for making systemic changes that promote good nutrition and healthy living among students.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3342

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Healthy Schools Partnerships Act of 2010".

#### SEC. 2. HEALTHY SCHOOLS PARTNERSHIPS DEMONSTRATION PROGRAM.

Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended by adding at the end the following:

"(j) HEALTHY SCHOOLS PARTNERSHIPS DEMONSTRATION PROGRAM.—

"(1) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means a school food authority that demonstrates that the school food authority has collaborated, or will collaborate, with 1 or more local partner organizations (including academic experts, registered dietitians or other nutrition professionals, community partners, or non-profit organizations) to achieve the purposes described in paragraph (2).

"(2) PURPOSES.—The purposes of the demonstration project established under this subsection are—

"(A) to assist schools in improving the nutritional standards of school meals and the overall school environment; and

"(B) to use local resources and expertise to promote collaborations and develop sustainable and replicable models for making systemic changes that promote good nutrition and healthy living among students.

"(3) ESTABLISHMENT.—The Secretary shall establish a demonstration project under

which the Secretary shall make grants to eligible entities to fund collaborations of academic experts, nonprofit organizations, registered dietitians or other nutrition professionals, community partners, and local schools to test and evaluate innovative models to improve nutrition education, student decision making, and healthy school environments.

"(4) APPLICATION.—

"(A) IN GENERAL.—An eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(B) CONTENTS.—In addition to any other requirements of the Secretary, each application shall—

"(i) identify the 1 or more problems that the eligible entity will address;

"(ii) identify the activity that the grant will be used to fund;

"(iii) describe the means by which the activity will improve the health and nutrition of the school environment;

"(iv) list the partner organizations that will participate in the activity funded by the grant; and

"(v) describe the metrics used to measure success in achieving the stated goals.

"(5) PRIORITY.—In making grants under this subsection, the Secretary shall give priority to eligible entities that demonstrate—

"(A) a severe need to improve the school environment, as demonstrated by high numbers of students receiving free or reduced price lunches, high levels of obesity or other indicators of poor health status, and health disparities in the community served by the school;

"(B) a commitment by community partners to make in-kind or cash contributions; and

"(C) the ability to measure results.

"(6) USE OF FUNDS.—An eligible entity shall use a grant received under this subsection—

"(A) to assess the problem of childhood obesity and poor nutrition in the school environment;

"(B) to develop an innovative plan or intervention to address specific causes of the problem in coordination with outside partners, including by developing and testing innovative models to improve student health and nutrition as measured by—

"(i) changes that result in healthier school environments, including more nutritious food being served in cafeterias and available a la carte;

"(ii) increased nutrition education;

"(iii) improved ability of students to identify healthier choices;

"(iv) changes in attitudes of students towards healthier food;

"(v) student involvement in making school environments healthier;

"(vi) increased access to physical activity, physical education, and recess;

"(vii) professional development and continuing education opportunities for school administrators, teachers, and school nurses; and

"(viii) changes in school policies that promote access to healthier food and physical activity;

"(C) to implement the plan or intervention in partnership with outside partners;

"(D) to measure and evaluate effectiveness of the intervention; or

"(E) to assess the sustainability and replicability of this model.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to

carry out this subsection \$2,000,000 for each of fiscal years 2011 through 2015."

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3938. Mr. DODD submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

SA 3939. Mrs. FEINSTEIN (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3940. Mr. BARRASSO (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3941. Mrs. McCASKILL (for herself and Mr. KOHL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3942. Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3943. Mr. REED (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3944. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3945. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3946. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3947. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3948. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3949. Mr. CARPER (for himself, Mr. CORKER, Mr. BAYH, Mr. ENSIGN, Mr. JOHNSON, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3950. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3951. Mr. MENENDEZ (for himself and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3952. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3953. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3954. Mr. JOHNSON (for himself and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3955. Mr. CORKER (for himself, Mr. GREGG, Mr. LEMIEUX, Mr. COBURN, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 3956. Ms. LANDRIEU (for herself, Mr. ISAKSON, Mrs. HAGAN, Mr. WARNER, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3957. Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3958. Mr. REED (for himself, Mr. JOHNSON, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3959. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3960. Mr. SCHUMER (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3961. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3962. Mr. MERKLEY (for himself, Ms. KLOBUCHAR, Mr. SCHUMER, Ms. SNOWE, Mr. BROWN of Massachusetts, Mr. BEGICH, Mrs. BOXER, Mr. DODD, Mr. KERRY, Mr. FRANKEN, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 3963. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3964. Mr. HARKIN (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3965. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3966. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3967. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3968. Mr. TESTER (for himself, Mrs. MURRAY, and Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3969. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3970. Mr. LEVIN (for himself, Mr. KAUFMAN, Mrs. MCCASKILL, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3971. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3972. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3973. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3974. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3975. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3976. Mr. LEVIN (for himself, Mr. COBURN, Mr. REED, and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3977. Mr. LEVIN (for himself, Mr. COBURN, and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3978. Mr. JOHNSON (for himself, Ms. LANDRIEU, Mr. BURRIS, Mr. CARDIN, Mr. BROWNBACK, Ms. MURKOWSKI, Mr. BENNETT, and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 3739

proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 3938.** Mr. DODD submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 1455, after line 25, insert the following:

#### **SEC. 1077. DEPARTMENT OF THE TREASURY STUDY ON ENDING THE CONSERVATORSHIP OF FANNIE MAE, FREDDIE MAC, AND REFORMING THE HOUSING FINANCE SYSTEM.**

##### **(a) STUDY REQUIRED.—**

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study of and develop recommendations regarding the options for ending the conservatorship of the Federal National Mortgage Association (in this section referred to as “Fannie Mae”) and the Federal Home Loan Mortgage Corporation (in this section referred to as “Freddie Mac”), while minimizing the cost to taxpayers, including such options as—

(A) the gradual wind-down and liquidation of such entities;

(B) the privatization of such entities;

(C) the incorporation of the functions of such entities into a Federal agency;

(D) the dissolution of Fannie Mae and Freddie Mac into smaller companies; or

(E) any other measures the Secretary determines appropriate.

(2) ANALYSES.—The study required under paragraph (1) shall include an analysis of—

(A) the role of the Federal Government in supporting a stable, well-functioning housing finance system, and whether and to what extent the Federal Government should bear risks in meeting Federal housing finance objectives;

(B) how the current structure of the housing finance system can be improved;

(C) how the housing finance system should support the continued availability of mortgage credit to all segments of the market;

(D) how the housing finance system should be structured to ensure that consumers continue to have access to 30-year, fixed rate, pre-payable mortgages and other mortgage products that have simple terms that can be easily understood;

(E) the role of the Federal Housing Administration and the Department of Veterans Affairs in a future housing system;

(F) the impact of reforms of the housing finance system on the financing of rental housing;

(G) the impact of reforms of the housing finance system on secondary market liquidity;

(H) the role of standardization in the housing finance system;

(I) how housing finance systems in other countries offer insights that can help inform options for reform in the United States; and

(J) the options for transition to a reformed housing finance system.

(b) REPORT AND RECOMMENDATIONS.—Not later than January 31, 2011, the Secretary of

the Treasury shall submit the report and recommendations required under subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

**SA 3939.** Mrs. FEINSTEIN (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 699, strike line 20 and insert the following:

“(A) REGISTRATION.—The Commission may adopt rules and regulations requiring registration with the Commission for a foreign board of trade that provides the members of the foreign board of trade or other participants located in the United States with direct access to the electronic trading and order matching system of the foreign board of trade, including rules and regulations prescribing procedures and requirements applicable to the registration of such foreign boards of trade. For purposes of this paragraph, ‘direct access’ refers to an explicit grant of authority by a foreign board of trade to an identified member or other participant located in the United States to enter trades directly into the trade matching system of the foreign board of trade.

“(B) LINKED CONTRACTS.—It shall be unlawful

On page 703, line 14, strike “(B)” and insert “(C)”.

On page 703, line 15, strike “Subparagraph (A)” and insert “Subparagraphs (A) and (B)”.

On page 704, line 13, strike “paragraphs (1) and (2) of subsection (b)” and insert “subparagraphs (A) and (B) of subsection (b)(1)”.

**SA 3940.** Mr. BARRASSO (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page \_\_\_\_, between lines \_\_\_\_ and \_\_\_\_, insert the following:

#### **SEC. \_\_. PROHIBITION.**

Notwithstanding any other provision of law, no person or corporation, limited partnership, trust, or affiliate of any such entity chartered as a for-profit or nonprofit entity shall be eligible to sell, purchase, or trade carbon derivatives as the result of the establishment by the Federal Government of a carbon market.

**SA 3941.** Mrs. MCCASKILL (for herself and Mr. KOHL) submitted an

amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1455, line 25, strike the period at the end and insert the following: “.

#### **SEC. 1077. TREATMENT OF REVERSE MORTGAGES.**

(a) IN GENERAL.—The Director shall examine the practices of covered persons in connection with any reverse mortgage transaction (as defined in section 103(bb) of the Truth in Lending Act (15 U.S.C. 1602)) and shall prescribe regulations identifying any acts or practices as unlawful, unfair, deceptive, or abusive in connection with a reverse mortgage transaction or the recommendation or offering of a reverse mortgage.

(b) REGULATIONS.—In prescribing regulations under subsection (a), the Director shall ensure that such regulations shall—

(1) include requirements for the purpose of—

(A) preventing unlawful, unfair, deceptive or abusive acts and practices in connection with a reverse mortgage transaction (including the solicitation or recommendation of a reverse mortgage transaction);

(B) providing timely, appropriate, and effective disclosures to consumers in connection with a reverse mortgage transaction that incorporate the requirements of section 138 of the Truth in Lending Act (15 U.S.C. 1648), and otherwise are consistent with requirements prescribed by the Director in connection with other consumer mortgage products or services under this title, including—

(i) an annual statement of the total available principal and outstanding balance of the reverse mortgage; and

(ii) a statement at the closing of the reverse mortgage of the total projected cost of the reverse mortgage; and

(C) a determination of the suitability of a reverse mortgage for a consumer, taking into consideration—

(i) whether the mortgagor intends to reside in the property on a long-term basis;

(ii) in the case of a mortgagor who plans to use the funds obtained from the reverse mortgage to purchase an annuity or make an investment—

(I) whether the annuity or investment is in the best interests of the mortgagor;

(II) whether the costs of obtaining such mortgage exceeds the anticipated earnings from such annuity or investment; and

(III) whether the date on which the annuity or investment is scheduled to mature is beyond the life expectancy of the mortgagor;

(iii) if the mortgagor is married or has a dependent, the potential impact of a reverse mortgage on the future economic security of the spouse or dependent of the mortgagor and all tenants of the home;

(iv) whether a reverse mortgage will affect the eligibility of the mortgagor to receive Government benefits;

(v) whether the mortgagor intends to pass the residence to an heir and the ability of such heir to repay the reverse mortgage loan;

(vi) whether a resident of the home who is not the mortgagor could be displaced at the maturity of the reverse mortgage against the wishes of the mortgagor; and, if any such resident is disabled, the consequences of the displacement for such resident; and

(vii) any other circumstances, as the Director may require;

(2) with respect to the requirements under paragraph (1), be consistent with requirements prescribed by the Director in connection with other consumer mortgage products or services under this title;

(3) provide for an integrated disclosure standard and model disclosures for reverse mortgage transactions, that combines the relevant disclosures required under the Truth in Lending Act (15 U.S.C. 1601 et seq.) and the Real Estate Settlement Procedures Act, with the disclosures required to be provided to consumers for home equity conversion mortgages under section 255 of the National Housing Act (12 U.S.C. 1715z–20);

(4) prohibit any person from advertising a reverse mortgage in a manner that—

(A) is false or misleading;

(B) fails to present equally the risks and benefits of reverse mortgages; or

(C) fails to reveal—

(i) negative facts that are material to a representation made in such advertisement;

(ii) facts relating to the responsibilities of the mortgagor for property taxes, insurance, maintenance, or repairs and the consequences of failing to meet such responsibilities, including default and foreclosure;

(iii) the consequences of obtaining a reverse mortgage; or

(iv) any forms of default that might lead to foreclosure;

(5) prohibit a mortgagee from requiring or recommending that a mortgagor purchase insurance (except for title, flood, and other peril insurance, as determined by the Director), an annuity, or other similar product in connection with a reverse mortgage;

(6) require that each reverse mortgage provide that prepayment, in whole or in part, may be made without penalty at any time during the period of the mortgage;

(7) require that any mortgagor under a reverse mortgage receive adequate counseling, including—

(A) in the case of a reverse mortgage in which a person was removed from the title to the dwelling, information about—

(i) the consequences of being removed from such title; and

(ii) the consequences upon the death of the mortgagor or a divorce settlement;

(B) general information about the potential consequences of borrowing more funds than are necessary to meet the immediate personal financial goals of the mortgagor;

(C) the responsibilities of the mortgagor relating to property taxes, insurance, maintenance, and repairs and the consequences of failing to meet such responsibilities, including default and foreclosure;

(D) an explanation of the actions that would constitute a default under the terms of the reverse mortgage and how a default might lead to foreclosure; and

(E) any other information that the Director may require; and

(8) require that any person that provides counseling to a mortgagor under a reverse mortgage report to the Bureau any suspected mortgage-related fraud against a mortgagor.

(c) CONSULTATION.—In connection with the issuance of any regulations under this section, the Director shall consult with the Federal banking agencies, State bank supervisors, the Federal Trade Commission, and

the Department of Housing and Urban Development, as appropriate, to ensure that any proposed regulation—

(1) imposes substantially similar requirements on all covered persons; and

(2) is consistent with prudential, consumer protection, civil rights, market, or systemic objectives administered by such agencies or supervisors.

(d) **DEADLINE FOR RULEMAKING.**—The Director shall commence the rulemaking required under subsection (a) not later than 12 months after the date of enactment of this Act.

**SA 3942.** Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 74, between lines 2 and 3, insert the following:

(D) **PROHIBITION ON COLLECTION OF NON-PUBLIC PERSONAL INFORMATION.**—Notwithstanding any other provision of law, the Council and the Office of Financial Research may not require the submission of nonpublic personal information (as that term is defined in section 509 of the Gramm-Leach-Bliley Act (12 U.S.C. 6809)) of any customer by any financial company or in any other manner.

**SA 3943.** Mr. REED (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1219, after line 25, insert the following:

“(e) **OFFICE OF SERVICE MEMBER AFFAIRS.**—“(1) **IN GENERAL.**—The Director shall establish an Office of Service Member Affairs, which shall be responsible for developing and implementing initiatives for service members and their families intended to—

“(A) educate and empower service members and their families to make better informed decisions regarding consumer financial products and services;

“(B) coordinate with the unit of the Bureau established under subsection (b)(3), in order to monitor complaints by service members and their families and responses to those complaints by the Bureau or other appropriate Federal or State agency; and

“(C) coordinate efforts among Federal and State agencies, as appropriate, regarding consumer protection measures relating to consumer financial products and services of-

ferred to, or used by, service members and their families.

“(2) **COORDINATION.**—

“(A) **REGIONAL SERVICES.**—The Director is authorized to assign employees of the Bureau as may be deemed necessary to conduct the business of the Office of Service Member Affairs, including by establishing and maintaining the functions of the Office in regional offices of the Bureau located near military bases, military treatment facilities, or other similar military facilities.

“(B) **AGREEMENTS.**—The Director is authorized to enter into memoranda of understanding and similar agreements with the Department of Defense, including any branch or agency as authorized by the department, in order to carry out the business of the Office of Service Member Affairs.

“(3) **DEFINITION.**—As used in this subsection, the term ‘service member’ means any member of the United States Armed Forces and any member of the National Guard or Reserves.”.

**SA 3944.** Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1089, strike line 6 and all that follows through “SEC. 973.”

**SA 3945.** Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1045, strike line 12 and all that follows through “SEC. 942.” on page 1052, line 3, and insert the following:

(b) **STUDY ON RISK RETENTION.**—

(1) **STUDY.**—

(A) **IN GENERAL.**—The Board of Governors, in coordination and consultation with the Comptroller of the Currency, the Corporation, the Federal Housing Finance Agency, and the Commission, shall conduct a study of the asset-backed securitization process.

(B) **ISSUES TO BE STUDIED.**—In conducting the study under subparagraph (A), the Board of Governors shall evaluate—

(i) the separate and combined impact of—

(I) requiring loan originators or securitizers to retain an economic interest in a portion of the credit risk for any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party; including—

(aa) whether existing risk retention requirements such as contractual representa-

tions and warranties, and statutory and regulatory underwriting and consumer protection requirements are sufficient to ensure the long-term accountability of originators for loans they originate; and

(bb) methodologies for establishing additional statutory credit risk retention requirements;

(II) the Financial Accounting Statements 166 and 167 issued by the Financial Accounting Standards Board, as well as any other statements issued before or after the date of enactment of this section the Federal banking agencies determine to be relevant;

(ii) the impact of the factors described under subsection (i) of this section on—

(I) different classes of assets, such as residential mortgages, commercial mortgages, commercial loans, auto loans, and other classes of assets;

(II) loan originators;

(III) securitizers;

(IV) access of consumers and businesses to credit on reasonable terms.

(2) **REPORT.**—Not later than 18 months after the date of enactment of this section, the Board of Governors shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include statutory and regulatory recommendations for eliminating any negative impacts on the continued viability of the asset-backed securitization markets and on the availability of credit for new lending identified by the study conducted under paragraph (1).

#### **SEC. 942. RESIDENTIAL MORTGAGE UNDERWRITING STANDARDS.**

(a) **STANDARDS ESTABLISHED.**—Notwithstanding any other provision of this Act or any other provision of Federal, State, or local law, the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, shall jointly establish specific minimum standards for mortgage underwriting, including—

(1) a requirement that the mortgagee verify and document the income and assets relied upon to qualify the mortgagor on the residential mortgage, including the previous employment and credit history of the mortgagor;

(2) a down payment requirement that—

(A) is equal to not less than 5 percent of the purchase price of the property securing the residential mortgage; and

(B) in the case of a first lien residential mortgage loan with an initial loan to value ratio that is more than 80 percent and not more than 95 percent, includes a requirement for credit enhancements, as defined by the Federal banking agencies, until the loan to value ratio of the residential mortgage loan amortizes to a value that is less than 80 percent of the purchase price;

(3) a method for determining the ability of the mortgagor to repay the residential mortgage that is based on factors including—

(A) all terms of the residential mortgage, including principal payments that fully amortize the balance of the residential mortgage over the term of the residential mortgage; and

(B) the debt to income ratio of the mortgagor; and

(4) any other specific standards the Federal banking agencies jointly determine are appropriate to ensure prudent underwriting of residential mortgages.

(b) **UPDATES TO STANDARDS.**—The Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development—



(1) shall review the standards established under this section not less frequently than every 5 years; and

(2) based on the review under paragraph (1), may revise the standards established under this section, as the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, determine to be necessary.

(c) COMPLIANCE.—It shall be a violation of Federal law—

(1) for any mortgage loan originator to fail to comply with the minimum standards for mortgage underwriting established under subsection (a) in originating a residential mortgage loan;

(2) for any company to maintain an extension of credit on a revolving basis to any person to fund a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan funded by such credit was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a); or

(3) for any company to purchase, fund by assignment, or guarantee a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a).

(d) IMPLEMENTATION.—

(1) REGULATIONS REQUIRED.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency, shall issue regulations to implement subsections (a) and (c), which shall take effect not later than 270 days after the date of enactment of this Act.

(2) REPORT REQUIRED.—If the Federal banking agencies have not issued final regulations under subsections (a) and (c) before the date that is 270 days after the date of enactment of this Act, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) explains why final regulations have not been issued under subsections (a) and (c); and

(B) provides a timeline for the issuance of final regulations under subsections (a) and (c).

(e) ENFORCEMENT.—Compliance with the rules issued under this section shall be enforced by—

(1) the primary financial regulatory agency of an entity, with respect to an entity subject to the jurisdiction of a primary financial regulatory agency, in accordance with the statutes governing the jurisdiction of the primary financial regulatory agency over the entity and as if the action of the primary financial regulatory agency were taken under such statutes; and

(2) the Bureau, with respect to a company that is not subject to the jurisdiction of a primary financial regulatory agency.

(f) EXEMPTIONS FOR CERTAIN NONPROFIT MORTGAGE LOAN ORIGINATORS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, may jointly issue rules to exempt from the requirements under subsection (a)(2), mortgage loan originators that are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(2) DETERMINING FACTORS.—The Federal banking agencies shall ensure that—

(A) the lending activities of a mortgage loan originator that receives an exemption under this subsection do not threaten the safety and soundness of the banking system of the United States; and

(B) a mortgage loan originator that receives an exemption under this subsection—

(i) is not compensated based on the number or value of residential mortgage loan applications accepted, offered, or negotiated by the mortgage loan originator;

(ii) does not offer residential mortgage loans that have an interest rate greater than zero percent;

(iii) does not gain a monetary profit from any residential mortgage product or service provided;

(iv) has the primary purpose of serving low income housing needs;

(v) has not been specifically prohibited, by statute, from receiving Federal funding; and

(vi) meets any other requirements that the Federal banking agencies jointly determine are appropriate for ensuring that a mortgage loan originator that receives an exemption under this subsection does not threaten the safety and soundness of the banking system of the United States.

(3) REPORTS REQUIRED.—Before the issuance of final rules under subsection (a), and annually thereafter, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) identifies the mortgage loan originators that receive an exemption under this subsection; and

(B) for each mortgage loan originator identified under subparagraph (A), the rationale for providing an exemption.

(4) UPDATES TO EXEMPTIONS.—The Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury—

(A) shall review the exemptions established under this subsection not less frequently than every 2 years; and

(B) based on the review under subparagraph (A), may revise the standards established under this subsection, as the Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, determine to be necessary.

(g) RULES OF CONSTRUCTION.—Nothing in this section may be construed to permit—

(1) the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation to make or guarantee a residential mortgage loan that does not meet the minimum underwriting standards established under this section; or

(2) the Federal banking agencies to issue an exemption under subsection (f) that is not on a case-by-case basis.

(h) DEFINITIONS.—In this section, the following definitions shall apply:

(1) COMPANY.—The term “company”—

(A) has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)); and

(B) includes a sole proprietorship.

(2) MORTGAGE LOAN ORIGINATOR.—The term “mortgage loan originator” means any company that takes residential mortgage loan applications and offers or negotiates terms of residential mortgage loans.

(3) RESIDENTIAL MORTGAGE LOAN.—The term “residential mortgage loan”—

(A) means any extension of credit primarily for personal, family, or household use that is secured by a mortgage, deed of trust,

or other equivalent security interest in a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling; and

(B) does not include a mortgage loan for which mortgage insurance is provided by the Department of Veterans Affairs, the Federal Housing Administration, or the Rural Housing Administration.

(4) EXTENSION OF CREDIT; DWELLING.—The terms “extension of credit” and “dwelling” shall have the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

#### SEC. 943. STUDY ON FEDERAL HOUSING ADMINISTRATION UNDERWRITING STANDARDS.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study evaluating whether the underwriting criteria used by the Federal Housing Administration are sufficient to ensure the solvency of the Mutual Mortgage Insurance Fund of the Federal Housing Administration and the safety and soundness of the banking system of the United States.

(2) ISSUES TO BE STUDIED.—In conducting the study under paragraph (1), the Comptroller General shall evaluate—

(A) down payment requirements for Federal Housing Administration borrowers;

(B) default rates of mortgages insured by the Federal Housing Administration;

(C) characteristics of Federal Housing Administration borrowers who are most likely to default;

(D) taxpayer exposure to losses incurred by the Federal Housing Administration;

(E) the impact of the market share of the Federal Housing Administration on efforts to sustain a viable private mortgage market; and

(F) any other factors that Comptroller General determines are appropriate.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a) that includes recommendations for statutory improvements to be made to the underwriting criteria used by the Federal Housing Administration, to ensure the solvency of the Mutual Mortgage Insurance Fund of the Federal Housing Administration and the safety and soundness of the banking system of the United States.

#### SEC. 944.

**SA 3946.** Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1045, strike line 12 and all that follows through “SEC. 942.” on page 1052, line 3, and insert the following:

(b) STUDY ON RISK RETENTION.—

(1) STUDY.—

(A) IN GENERAL.—The Board of Governors, in coordination and consultation with the Comptroller of the Currency, the Corporation, the Federal Housing Finance Agency,



and the Commission, shall conduct a study of the asset-backed securitization process.

(B) ISSUES TO BE STUDIED.—In conducting the study under subparagraph (A), the Board of Governors shall evaluate—

(i) the separate and combined impact of—

(I) requiring loan originators or securitizers to retain an economic interest in a portion of the credit risk for any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party; including—

(aa) whether existing risk retention requirements such as contractual representations and warranties, and statutory and regulatory underwriting and consumer protection requirements are sufficient to ensure the long-term accountability of originators for loans they originate; and

(bb) methodologies for establishing additional statutory credit risk retention requirements;

(II) the Financial Accounting Statements 166 and 167 issued by the Financial Accounting Standards Board, as well as any other statements issued before or after the date of enactment of this section the Federal banking agencies determine to be relevant;

(ii) the impact of the factors described under subsection (i) of this section on—

(I) different classes of assets, such as residential mortgages, commercial mortgages, commercial loans, auto loans, and other classes of assets;

(II) loan originators;

(III) securitizers;

(IV) access of consumers and businesses to credit on reasonable terms.

(2) REPORT.—Not later than 18 months after the date of enactment of this section, the Board of Governors shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include statutory and regulatory recommendations for eliminating any negative impacts on the continued viability of the asset-backed securitization markets and on the availability of credit for new lending identified by the study conducted under paragraph (1).

#### SEC. 942. RESIDENTIAL MORTGAGE UNDERWRITING STANDARDS.

(a) STANDARDS ESTABLISHED.—Notwithstanding any other provision of this Act or any other provision of Federal, State, or local law, the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, shall jointly establish specific minimum standards for mortgage underwriting, including—

(1) a requirement that the mortgagee verify and document the income and assets relied upon to qualify the mortgagor on the residential mortgage, including the previous employment and credit history of the mortgagor;

(2) a down payment requirement;

(3) a method for determining the ability of the mortgagor to repay the residential mortgage that is based on factors including—

(A) all terms of the residential mortgage, including principal payments that fully amortize the balance of the residential mortgage over the term of the residential mortgage; and

(B) the debt to income ratio of the mortgagor; and

(4) any other specific standards the Federal banking agencies jointly determine are appropriate to ensure prudent underwriting of residential mortgages.

(b) UPDATES TO STANDARDS.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency and the De-

partment of Housing and Urban Development—

(1) shall review the standards established under this section not less frequently than every 5 years; and

(2) based on the review under paragraph (1), may revise the standards established under this section, as the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, determine to be necessary.

(c) COMPLIANCE.—It shall be a violation of Federal law—

(1) for any mortgage loan originator to fail to comply with the minimum standards for mortgage underwriting established under subsection (a) in originating a residential mortgage loan;

(2) for any company to maintain an extension of credit on a revolving basis to any person to fund a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan funded by such credit was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a); or

(3) for any company to purchase, fund by assignment, or guarantee a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a).

(d) IMPLEMENTATION.—

(1) REGULATIONS REQUIRED.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency, shall issue regulations to implement subsections (a) and (c), which shall take effect not later than 270 days after the date of enactment of this Act.

(2) REPORT REQUIRED.—If the Federal banking agencies have not issued final regulations under subsections (a) and (c) before the date that is 270 days after the date of enactment of this Act, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) explains why final regulations have not been issued under subsections (a) and (c); and

(B) provides a timeline for the issuance of final regulations under subsections (a) and (c).

(e) ENFORCEMENT.—Compliance with the rules issued under this section shall be enforced by—

(1) the primary financial regulatory agency of an entity, with respect to an entity subject to the jurisdiction of a primary financial regulatory agency, in accordance with the statutes governing the jurisdiction of the primary financial regulatory agency over the entity and as if the action of the primary financial regulatory agency were taken under such statutes; and

(2) the Bureau, with respect to a company that is not subject to the jurisdiction of a primary financial regulatory agency.

(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed to permit the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation to make or guarantee a residential mortgage loan that does not meet the minimum underwriting standards established under this section.

(g) DEFINITIONS.—In this section, the following definitions shall apply:

(1) COMPANY.—The term “company”—

(A) has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)); and

(B) includes a sole proprietorship.

(2) MORTGAGE LOAN ORIGINATOR.—The term “mortgage loan originator” means any company that takes residential mortgage loan applications and offers or negotiates terms of residential mortgage loans.

(3) RESIDENTIAL MORTGAGE LOAN.—The term “residential mortgage loan”—

(A) means any extension of credit primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent security interest in a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling; and

(B) does not include a mortgage loan for which mortgage insurance is provided by the Department of Veterans Affairs, the Federal Housing Administration, and the Rural Housing Administration.

(4) EXTENSION OF CREDIT; DWELLING.—The terms “extension of credit” and “dwelling” shall have the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

#### SEC. 943.

**SA 3947.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, insert the following:

#### SEC. \_\_\_\_ . PREVENT THE DISSOLUTION OF ANY LARGE FINANCIAL COMPANY BY THE FDIC IF THE DISSOLUTION WOULD INCREASE THE DEFICIT.

The Corporation may not dissolve any large financial company unless the dissolution has been reviewed by the Director of the Office of Management and Budget and the Director has certified that the dissolution will not increase the Federal deficit.

**SA 3948.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, insert the following:

#### SEC. \_\_\_\_ . PREVENT COMPLIANCE COSTS FOR BCFP REGULATION FROM BEING PASSED TO THE CONSUMER.

The Bureau of Consumer Financial Protection may not adopt any regulation unless the regulation has been reviewed by the Director of the Office of Management and Budget and the Director has certified that the regulation will not bear any costs onto consumers.

**SA 3949.** Mr. CARPER (for himself, Mr. CORKER, Mr. BAYH, Mr. ENSIGN, Mr. JOHNSON, and Mr. WARNER) submitted

an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1315, strike line 18, and all that follows through page 1325, line 20 and insert the following:

“(B) the State consumer financial law is preempted in accordance with the legal standards of the decision of the Supreme Court in *Barnett Bank v. Nelson* (517 U.S. 25 (1996)), and any preemption determination under this subparagraph may be made by a court or by regulation or order of the Comptroller of the Currency, on a case-by-case basis, in accordance with applicable law; or

“(C) the State consumer financial law is preempted by a provision of Federal law other than this title.

“(2) SAVINGS CLAUSE.—This title does not preempt, annul, or affect the applicability of any State law to any subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank).

“(3) CASE-BY-CASE BASIS.—

“(A) DEFINITION.—As used in this section the term ‘case-by-case basis’ refers to a determination pursuant to this section made by the Comptroller concerning the impact of a particular State consumer financial law on any national bank that is subject to that law, or the law of any other State with substantively equivalent terms.

“(B) CONSULTATION.—When making a determination on a case-by-case basis that a State consumer financial law of another State has substantively equivalent terms as one that the Comptroller is preempting, the Comptroller shall first consult with the Bureau of Consumer Financial Protection and shall take the views of the Bureau into account when making the determination.

“(4) RULE OF CONSTRUCTION.—This title does not occupy the field in any area of State law.

“(5) STANDARDS OF REVIEW.—

“(A) PREEMPTION.—A court reviewing any determinations made by the Comptroller regarding preemption of a State law by this title shall assess the validity of such determinations, depending upon the thoroughness evident in the consideration of the agency, the validity of the reasoning of the agency, the consistency with other valid determinations made by the agency, and other factors which the court finds persuasive and relevant to its decision.

“(B) SAVINGS CLAUSE.—Except as provided in subparagraph (A), nothing in this section shall affect the deference that a court may afford to the Comptroller in making determinations regarding the meaning or interpretation of title LXII of the Revised Statutes of the United States or other Federal laws.

“(6) COMPTROLLER DETERMINATION NOT DELEGABLE.—Any regulation, order, or determination made by the Comptroller of the Currency under paragraph (1)(B) shall be made by the Comptroller, and shall not be delegable to another officer or employee of the Comptroller of the Currency.

“(c) SUBSTANTIAL EVIDENCE.—No regulation or order of the Comptroller of the Currency prescribed under subsection (b)(1)(B), shall be interpreted or applied so as to invalidate, or otherwise declare inapplicable to a national bank, the provision of the State consumer financial law, unless substantial evidence, made on the record of the proceeding, supports the specific finding regarding the preemption of such provision in accordance with the legal standard of the decision of the Supreme Court of the United States in *Barnett Bank of Marion County, N.A. v. Nelson*, Florida Insurance Commissioner, et al., 517 U.S. 25 (1996).

“(d) PERIODIC REVIEW OF PREEMPTION DETERMINATIONS.—

“(1) IN GENERAL.—The Comptroller of the Currency shall periodically conduct a review, through notice and public comment, of each determination that a provision of Federal law preempts a State consumer financial law. The agency shall conduct such review within the 5-year period after prescribing or otherwise issuing such determination, and at least once during each 5-year period thereafter. After conducting the review of, and inspecting the comments made on, the determination, the agency shall publish a notice in the Federal Register announcing the decision to continue or rescind the determination or a proposal to amend the determination. Any such notice of a proposal to amend a determination and the subsequent resolution of such proposal shall comply with the procedures set forth in subsections (a) and (b) of section 5244 of the Revised Statutes of the United States (12 U.S.C. 43 (a), (b)).

“(2) REPORTS TO CONGRESS.—At the time of issuing a review conducted under paragraph (1), the Comptroller of the Currency shall submit a report regarding such review to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report submitted to the respective committees shall address whether the agency intends to continue, rescind, or propose to amend any determination that a provision of Federal law preempts a State consumer financial law, and the reasons therefor.

“(e) APPLICATION OF STATE CONSUMER FINANCIAL LAW TO SUBSIDIARIES AND AFFILIATES.—Notwithstanding any provision of this title, a State consumer financial law shall apply to a subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank) to the same extent that the State consumer financial law applies to any person, corporation, or other entity subject to such State law.

“(f) PRESERVATION OF POWERS RELATED TO CHARGING INTEREST.—No provision of this title shall be construed as altering or otherwise affecting the authority conferred by section 5197 of the Revised Statutes of the United States (12 U.S.C. 85) for the charging of interest by a national bank at the rate allowed by the laws of the State, territory, or district where the bank is located, including with respect to the meaning of ‘interest’ under such provision.

“(g) TRANSPARENCY OF OCC PREEMPTION DETERMINATIONS.—The Comptroller of the Currency shall publish and update no less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:

“Sec. 5136C. State law preemption standards for national banks and subsidiaries clarified.”

#### SEC. 1045. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES.

Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

“(i) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILIATES OF NATIONAL BANKS.—

“(1) DEFINITIONS.—For purposes of this subsection, the terms ‘depository institution’, ‘subsidiary’, and ‘affiliate’ have the same meanings as in section 3 of the Federal Deposit Insurance Act.

“(2) RULE OF CONSTRUCTION.—No provision of this title shall be construed as preempting, annulling, or affecting the applicability of State law to any subsidiary, affiliate, or agent of a national bank (other than a subsidiary, affiliate, or agent that is chartered as a national bank).”

#### SEC. 1046. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS AND SUBSIDIARIES CLARIFIED.

(a) IN GENERAL.—The Home Owners’ Loan Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 5 the following new section:

#### “SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS CLARIFIED.

“(a) IN GENERAL.—Any determination by a court or by the Director or any successor officer or agency regarding the relation of State law to a provision of this Act or any regulation or order prescribed under this Act shall be made in accordance with the laws and legal standards applicable to national banks regarding the preemption of State law.

“(b) PRINCIPLES OF CONFLICT PREEMPTION APPLICABLE.—Notwithstanding the authorities granted under sections 4 and 5, this Act does not occupy the field in any area of State law.”

(b) CLERICAL AMENDMENT.—The table of sections for the Home Owners’ Loan Act (12 U.S.C. 1461 et seq.) is amended by striking the item relating to section 6 and inserting the following new item:

“Sec. 6. State law preemption standards for Federal savings associations and subsidiaries clarified.”

#### SEC. 1047. VISITORIAL STANDARDS FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.

(a) NATIONAL BANKS.—Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

“(j) VISITORIAL POWERS.—

“(1) IN GENERAL.—In accordance with the decision of the Supreme Court of the United States in *Cuomo v. Clearing House Assn., L. C.*, 5 (129 S. Ct. 2710 (2009)), no provision of this title which relates to visitorial powers or otherwise limits or restricts the visitorial authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring an action in a court of appropriate jurisdiction to enforce an applicable nonpreempted State law against a national bank, as authorized by such law, and to seek relief as authorized by such law.

“(2) EXCLUSION.—The powers granted to State attorneys general and State regulators under section 1042 of the Restoring American Financial Stability Act of 2010 shall not apply to any national bank, or any subsidiary thereof, regulated by the Office of the Comptroller of the Currency.

“(k) ENFORCEMENT ACTIONS.—The ability of the Comptroller of the Currency to bring an enforcement action under this title or section 5 of the Federal Trade Commission Act does not preclude any private party from enforcing rights granted under Federal or State law in the courts.”.

(b) SAVINGS ASSOCIATIONS.—Section 6 of the Home Owners’ Loan Act (as added by this title) is amended by adding at the end the following:

“(c) VISITORIAL POWERS.—The provisions of sections 5136C(j) of the Revised Statutes of the United States shall apply to Federal savings associations, and any subsidiary thereof, to the same extent and in the same manner as if such savings associations, or subsidiaries thereof, were national banks or subsidiaries of national banks, respectively.

**SA 3950.** Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “to big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 706, line 5, strike “transaction” and all that follows through the period on line 9, and insert the following: “transaction to meet the definition of a swap under section 1a.”.

**SA 3951.** Mr. MENENDEZ (for himself and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “to big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 615, line 18, strike “all” and all that follows through line 21, and insert the following: “and the registered swap data repositories all information that is determined by the Commission to be necessary for the Commission and each of the swap data repositories to perform their respective responsibilities under this Act”.

On page 623, line 12, strike “In this paragraph” and insert “Subject to subparagraph (E), in this paragraph”.

On page 624, line 18, strike “With” and all that follows through “subsection (h),” on line 22, and insert the following: “The registered swap data repositories or”.

On page 625, strike line 2, and insert the following: “swap trading volumes and posi-

tions for both cleared and uncleared trades.”.

On page 625, line 3, strike “With respect” and insert “Subject to subparagraph (E), with respect”.

On page 625, line 6, strike “(10)” and insert “(9)”.

On page 630, line 14, insert “on an aggregate basis for both cleared and uncleared trades” after “swap data”.

On page 637, strike line 17 and all that follows through page 638, line 12.

On page 810, line 22, after the first period, insert the following:

“(m) DUTY OF CLEARING AGENCY.—Each clearing agency that clears security-based swaps shall provide to the Commission and the registered security-based swap data repositories all information that is determined by the Commission to be necessary for the Commission and each of the security-based swap data repositories to perform their respective responsibilities under this Act.

On page 835, line 7, strike “In this paragraph” and insert “Subject to subparagraph (E), in this paragraph”.

On page 836, line 14, strike “With” and all that follows through “section 3C(a),” on line 18, and insert the following: “The registered security-based swap data repositories or”.

On page 836, strike lines 23 and 24, and insert the following: “security-based swap trading volumes and positions for both cleared and uncleared trades.”.

On page 837, lines 3 and 4, strike “but are subject to the requirements of section 3C(a)(8)” and insert “pursuant to section 3C(a)(9)”.

On page 842, line 9, before the semicolon insert “on an aggregate basis for both cleared and uncleared trades, including compliance and frequency of end user clearing exemption claims by individual and affiliated entities”.

On page 883, strike line 7 and all that follows through page 884, line 9.

**SA 3952.** Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 510, strike lines 1 through 7.

On page 525, strike lines 5 through 9.

**SA 3953.** Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 553, strike line 18 and all that follows through page 554, line 2, and insert the following:

“(iii) REPORTING.—All foreign exchange swaps and foreign exchange forwards shall be reported to a registered swap data repository described under section 21 within such time period as the Commission may by rule or regulation prescribe.”.

On page 555, line 12, strike “, calculates, prepares, or” and insert “and”.

On page 555, line 13, strike “transactions or”.

On page 555, line 14, strike “and conditions”.

On page 555, line 15, before the period insert “for the purpose of providing a centralized record-keeping facility for swaps”.

On page 575, line 5, strike “such a swap either”.

On page 575, line 6, strike “or” and all that follows through “4r” on line 8.

On page 575, line 24, strike “or the Commission”.

On page 576, lines 7 and 8, strike “or the Commission”.

On page 615, line 18, strike “all” and all that follows through line 21, and insert the following: “and the registered swap data repositories all information that is determined by the Commission to be necessary for the Commission and each of the swap data repositories to perform their respective responsibilities under this Act”.

On page 624, lines 21 through 23, strike “or the Commission under subsection (h), the Commission” and insert “, the swap data repository”.

On page 627, between lines 20 and 21, insert the following:

“(2) REPOSITORY FOR EACH ASSET CLASS.—

“(A) REGISTRATION.—The Commission shall register at least 1 swap data repository for each asset class of a swap, or of a group, category, type, or class of swaps.

“(B) RULEMAKING.—If more than 1 such swap data repository exists, the Commission shall by rule provide for—

“(i) the reporting of consistent data by each registered swap data repository; and

“(ii) timely access, by the Commission and the public, to the data collected and maintained by each such registered swap data repository.”.

On page 627, line 21, strike “(2)” and insert “(3)”.

On page 627, line 25, strike “(3)” and insert “(4)”.

On page 628, between lines 9 and 10, insert the following:

“(B) ADDITIONAL CORE PRINCIPLES.—The Commission may develop additional core principles applicable to swap data repositories, and in developing such additional core principles, the Commission may conform such core principles to reflect evolving United States and international standards.”.

On page 628, line 10, strike “(B)” and insert “(C)”.

On page 628, between lines 18 and 19, insert the following:

“(1) CONSULTATION WITH OTHER REGULATORS.—The Commission shall consult with the Securities and Exchange Commission, and the appropriate Federal banking agencies or the appropriate governmental agencies prior to prescribing standards under this section.”.

On page 628, line 19, strike “(1)” and insert “(2)”.

On page 628, line 23, strike “(2)” and insert “(3)”.

On page 629, line 3, strike “(3)” and insert “(4)”.

On page 629, strike lines 8 through 19, and insert the following:

“(5) INFORMATION ACCESS FOR THE SECURITIES AND EXCHANGE COMMISSION.—The Securities and Exchange Commission shall have direct access to registered swap data repositories that accept data on security-based swap agreements.”.

On page 630, lines 21 through 23, strike “, and after notifying the Commission of the request.”.

On page 631, line 18, strike “AND INDEMNIFICATION AGREEMENT”.

On page 631, line 20, strike “above—” and all that follows through “the swap” on line 21, and insert “under subsection (c)(7) the swap”.

On page 631, line 25, strike “; and” and insert a period.

On page 632, strike lines 1 through 4.

On page 635, between lines 23 and 24, insert the following:

“(h) ACCESS TO SWAP DATA REPOSITORY SERVICES.—

“(1) COMMISSION REVIEW.—Any prohibition or limitation to any person on access to services offered, directly or indirectly, by a registered swap data repository shall be subject to review by the Commission on its own motion, or upon application by any person aggrieved thereby filed within 30 days after such notice has been filed with the Commission and received by such aggrieved person, or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such prohibition or limitation, unless the Commission otherwise orders, summarily or after notice and opportunity for a hearing on the question of the stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments). The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the stay.

“(2) COMMISSION ACTION.—In any proceeding to review the prohibition or limitation of any person in respect of access to services offered by a registered swap data repository, if the Commission finds after notice and opportunity for a hearing, that such prohibition or limitation is consistent with the provisions of this section, and the rules and regulations thereunder, and that such person has not been discriminated against unfairly, the Commission, by order, shall dismiss the proceeding. If the Commission does not make any such finding or if it finds that such prohibition or limitation imposes any burden on competition not necessary or appropriate in furtherance of this section, the Commission, by order, shall set aside the prohibition or limitation, and require the registered swap data repository to permit such person access to the services offered by the registered swap data repository to which the prohibition or limitation applied.

“(i) ADMINISTRATIVE PROCEEDING AUTHORITY.—The Commission, by order, may censure or place limitations upon the activities, functions, or operations of, suspend for a period not exceeding 12 months the registration of, or revoke the registration of, any such swap data repository, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or revocation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this section, and that such swap data repository has violated or is unable to comply with any provision of this section, or the rules and regulations thereunder.”.

On page 635, line 24, strike “(h)” and insert “(j)”.

On page 636, line 10, strike “reported to—” and all that follows through “a swap” on line 11, and insert “reported to a swap”.

On page 636, line 12, strike “; or” and insert a period.

On page 636, strike lines 13 through 17.

On page 637, line 2, strike “or the Commission”.

On page 791, line 11, strike “either”.

On page 791, line 13, strike “, or” and all that follows through “13A” on line 15.

On page 792, lines 4 and 5, strike “or the Commission”.

On page 792, line 10, strike “or the Commission”.

On page 801, lines 22 and 23, strike “or the Commission under subsection (a)”.

On page 810, line 22, after the first period, insert the following:

“(m) DUTY OF CLEARING AGENCY.—Each clearing agency that clears security-based swaps shall provide to the Commission and the registered security-based swap data repositories all information that is determined by the Commission to be necessary for the Commission and each of the security-based swap data repositories to perform their respective responsibilities under this Act.”.

On page 812, line 16, before the semicolon insert “and this title”.

On page 836, lines 17 through 19, strike “or the Commission under section 3C(a), the Commission shall” and insert “, the security-based swap data repository shall”.

On page 839, between lines 19 and 20, insert the following:

“(2) REPOSITORY FOR EACH ASSET CLASS.—

“(A) REGISTRATION.—The Commission shall register at least 1 security-based swap data repository for each asset class of a security-based swap, or of a group, category, type, or class of security-based swaps.

“(B) RULEMAKING.—If more than 1 such security-based swap data repository exists, the Commission shall by rule provide for—

“(i) the reporting of consistent data by each registered security-based swap data repository; and

“(ii) timely access, by the Commission and the public, to the data collected and maintained by each such registered security-based swap data repository.”.

On page 839, line 20, strike “(2)” and insert “(3)”.

On page 839, line 24, strike “(3)” and insert “(4)”.

On page 840, between lines 8 and 9, insert the following:

“(B) ADDITIONAL CORE PRINCIPLES.—The Commission may develop additional core principles applicable to security-based swap data repositories, and in developing such additional core principles, the Commission may conform such core principles to reflect evolving United States and international standards.”.

On page 840, line 9, strike “(B)” and insert “(C)”.

On page 840, line 18, strike “(4)” and insert “(5)”.

On page 840, between lines 18 and 19, insert the following:

“(A) CONSULTATION WITH REGULATORS.—The Commission shall consult with the Commodity Futures Trading Commission, and the appropriate Federal banking agencies or the appropriate governmental agencies prior to prescribing standards under this subsection.”.

On page 840, line 19, strike “(A)” and insert “(B)”.

On page 840, line 24, strike “(B)” and insert “(C)”.

On page 841, line 3, strike “(C)” and insert “(D)”.

On page 842, lines 16 through 18, strike “, and after notifying the Commission of the request.”.

On page 843, lines 11 and 12, strike “AND INDEMNIFICATION”.

On page 843, line 15, strike “(G)—” and all that follows through “the security-based swap” on line 16, and insert “(G) the security-based swap”.

On page 843, line 22, strike “; and” and insert a period.

On page 843, strike line 23 and all that follows through page 844, line 2.

On page 848, between lines 12 and 13, insert the following:

“(9) ACCESS TO SECURITY-BASED SWAP DATA REPOSITORY SERVICES.—

“(A) COMMISSION REVIEW.—Any prohibition or limitation to any person on access to services offered, directly or indirectly, by a registered security-based swap data repository shall be subject to review by the Commission on its own motion, or upon application by any person aggrieved thereby filed within 30 days after such notice has been filed with the Commission and received by such aggrieved person, or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such prohibition or limitation, unless the Commission otherwise orders, summarily or after notice and opportunity for a hearing on the question of the stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments). The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the stay.

“(B) COMMISSION ACTION.—In any proceeding to review the prohibition or limitation of any person in respect of access to services offered by a registered security-based swap data repository, if the Commission finds after notice and opportunity for a hearing, that such prohibition or limitation is consistent with the provisions of this section, and the rules and regulations thereunder, and that such person has not been discriminated against unfairly, the Commission, by order, shall dismiss the proceeding. If the Commission does not make any such finding or if it finds that such prohibition or limitation imposes any burden on competition not necessary or appropriate in furtherance of this section, the Commission, by order, shall set aside the prohibition or limitation, and require the registered security-based swap data repository to permit such person access to the services offered by the registered security-based swap data repository to which the prohibition or limitation applied.

“(10) ADMINISTRATIVE PROCEEDING AUTHORITY.—The Commission, by order, may censure or place limitations upon the activities, functions, or operations of, suspend for a period not exceeding 12 months the registration of, or revoke the registration of, any such security-based swap data repository, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or revocation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this section, and that such security-based swap data repository has violated or is unable to comply with any provision of this section, or the rules and regulations thereunder.”.

On page 848, line 13, strike “(9)” and insert “(11)”.

On page 881, line 19, strike “reported to—” and all that follows through “a security-based swap” on line 20, and insert “reported to a security-based swap”.

On page 881, line 21, strike “; or” and insert a period.

On page 881, strike line 22 and all that follows through page 882, line 2.

On page 882, lines 14 and 15, strike “or the Commission”.

**SA 3954.** Mr. JOHNSON (for himself and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 370, between lines 13 and 14, insert the following:

**SEC. 333. TEMPORARY EXTENSION OF THE TRANSACTION ACCOUNT GUARANTEE PROGRAM.**

(a) TRANSACTION ACCOUNT GUARANTEE PROGRAM EXTENSION.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking “The net amount” and inserting the following:

“(i) IN GENERAL.—Except as provided in clause (ii), the net amount”; and

(B) by adding at the end the following:

“(ii) INSURANCE FOR NONINTEREST-BEARING TRANSACTION ACCOUNTS.—The Corporation shall fully insure the net amount that a depositor at an insured depository institution maintains in a noninterest-bearing transaction account. Such amount shall not be taken into account when determining the net amount due to such a depositor under clause (i).

“(iii) ‘NONINTEREST-BEARING TRANSACTION ACCOUNT’ DEFINED.—For purposes of this subparagraph, the term ‘noninterest-bearing transaction account’ means—

“(I) a deposit or account maintained at an insured depository institution—

“(aa) with respect to which interest is neither accrued nor paid;

“(bb) on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone or other electronic media transfers, or other similar means for the purpose of making payments or transfers to third parties; and

“(cc) on which the insured depository institution does not reserve the right to require advance notice of an intended withdrawal; and

“(II) a trust account established by an attorney on behalf of a client, commonly referred to as an ‘Interest on Lawyers Trust Account’ or ‘IOLTA’.”; and

(2) in subparagraph (C), by striking “subparagraph (B)” and inserting “subparagraph (B)(i)”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2011.

(c) PROSPECTIVE REPEAL.—Effective January 1, 2013, section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)), as amended by subsection (a), is amended—

(1) in subparagraph (B)—

(A) by striking “DEPOSIT.—” and all that follows through “clause (ii), the net amount” and inserting “DEPOSIT.—The net amount”; and

(B) by striking clauses (ii) and (iii); and

(2) in subparagraph (C), by striking “subparagraph (B)(i)” and inserting “subparagraph (B)”.

**SEC. 334. IMPROVEMENTS TO THE DEPOSIT INSURANCE FUND.**

Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(1) in subsection (b)(3)(B)(i), by striking “1.5 percent” and inserting “1.75 percent”; and

(2) in subsection (e)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking “1.5” each place that term appears and inserting “1.75”;

(ii) by striking subparagraphs (B), (C), (E), (F), and (G);

(iii) by redesignating subparagraph (D) as subparagraph (C); and

(iv) by inserting after subparagraph (A) the following:

“(B) LIMITATION.—The Board of Directors may, in the sole discretion of the Board of Directors, suspend or limit the declaration or payment of dividends under subparagraph (A).”; and

(B) in paragraph (4), by striking “paragraphs (2)(D)” and inserting “paragraphs (2)(C)”.

**SEC. 335. ENHANCED ACCESS TO INFORMATION FOR DEPOSIT INSURANCE PURPOSES.**

Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(1) in subsection (a)(2)(B), by striking “agreement” and inserting “consultation”; and

(2) in subsection (b)(1)(E)—

(A) in clause (i), by striking “such as” and inserting “including”; and

(B) by striking clause (iii).

**SA 3955.** Mr. CORKER (for himself, Mr. GREGG, Mr. LEMIEUX, Mr. COBURN, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 1045, strike line 12 and all that follows through “**SEC. 942.**” on page 1052, line 3, and insert the following:

(b) STUDY ON RISK RETENTION.—

(1) STUDY.—

(A) IN GENERAL.—The Board of Governors, in coordination and consultation with the Comptroller of the Currency, the Corporation, the Federal Housing Finance Agency, and the Commission, shall conduct a study of the asset-backed securitization process.

(B) ISSUES TO BE STUDIED.—In conducting the study under subparagraph (A), the Board of Governors shall evaluate—

(i) the separate and combined impact of—

(I) requiring loan originators or securitizers to retain an economic interest in a portion of the credit risk for any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party; including—

(aa) whether existing risk retention requirements such as contractual representations and warranties, and statutory and regulatory underwriting and consumer protection requirements are sufficient to ensure the long-term accountability of originators for loans they originate; and

(bb) methodologies for establishing additional statutory credit risk retention requirements;

(II) the Financial Accounting Standards 166 and 167 issued by the Financial Accounting Standards Board, as well as any other statements issued before or after the date of enactment of this section the Federal banking agencies determine to be relevant;

(ii) the impact of the factors described under subsection (i) of this section on—

(I) different classes of assets, such as residential mortgages, commercial mortgages, commercial loans, auto loans, and other classes of assets;

(II) loan originators;

(III) securitizers;

(IV) access of consumers and businesses to credit on reasonable terms.

(2) REPORT.—Not later than 18 months after the date of enactment of this section, the Board of Governors shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include statutory and regulatory recommendations for eliminating any negative impacts on the continued viability of the asset-backed securitization markets and on the availability of credit for new lending identified by the study conducted under paragraph (1).

**SEC. 942. RESIDENTIAL MORTGAGE UNDERWRITING STANDARDS.**

(a) STANDARDS ESTABLISHED.—Notwithstanding any other provision of this Act or any other provision of Federal, State, or local law, the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, shall jointly establish specific minimum standards for mortgage underwriting, including—

(1) a requirement that the mortgagee verify and document the income and assets relied upon to qualify the mortgagor on the residential mortgage, including the previous employment and credit history of the mortgagor;

(2) a down payment requirement that—

(A) is equal to not less than 5 percent of the purchase price of the property securing the residential mortgage; and

(B) in the case of a first lien residential mortgage loan with an initial loan to value ratio that is more than 80 percent and not more than 95 percent, includes a requirement for credit enhancements, as defined by the Federal banking agencies, until the loan to value ratio of the residential mortgage loan amortizes to a value that is less than 80 percent of the purchase price;

(3) a method for determining the ability of the mortgagor to repay the residential mortgage that is based on factors including—

(A) all terms of the residential mortgage, including principal payments that fully amortize the balance of the residential mortgage over the term of the residential mortgage; and

(B) the debt to income ratio of the mortgagor; and

(4) any other specific standards the Federal banking agencies jointly determine are appropriate to ensure prudent underwriting of residential mortgages.

(b) **UPDATES TO STANDARDS.**—The Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development—

(1) shall review the standards established under this section not less frequently than every 5 years; and

(2) based on the review under paragraph (1), may revise the standards established under this section, as the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, determine to be necessary.

(c) **COMPLIANCE.**—It shall be a violation of Federal law—

(1) for any mortgage loan originator to fail to comply with the minimum standards for mortgage underwriting established under subsection (a) in originating a residential mortgage loan;

(2) for any company to maintain an extension of credit on a revolving basis to any person to fund a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan funded by such credit was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a); or

(3) for any company to purchase, fund by assignment, or guarantee a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a).

(d) **IMPLEMENTATION.**—

(1) **REGULATIONS REQUIRED.**—The Federal banking agencies, in consultation with the Federal Housing Finance Agency, shall issue regulations to implement subsections (a) and (c), which shall take effect not later than 270 days after the date of enactment of this Act.

(2) **REPORT REQUIRED.**—If the Federal banking agencies have not issued final regulations under subsections (a) and (c) before the date that is 270 days after the date of enactment of this Act, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) explains why final regulations have not been issued under subsections (a) and (c); and

(B) provides a timeline for the issuance of final regulations under subsections (a) and (c).

(e) **ENFORCEMENT.**—Compliance with the rules issued under this section shall be enforced by—

(1) the primary financial regulatory agency of an entity, with respect to an entity subject to the jurisdiction of a primary financial regulatory agency, in accordance with the statutes governing the jurisdiction of the primary financial regulatory agency over the entity and as if the action of the primary financial regulatory agency were taken under such statutes; and

(2) the Bureau, with respect to a company that is not subject to the jurisdiction of a primary financial regulatory agency.

(f) **EXEMPTIONS FOR CERTAIN NONPROFIT MORTGAGE LOAN ORIGINATORS.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the

Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, may jointly issue rules to exempt from the requirements under subsection (a)(2), mortgage loan originators that are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(2) **DETERMINING FACTORS.**—The Federal banking agencies shall ensure that—

(A) the lending activities of a mortgage loan originator that receives an exemption under this subsection do not threaten the safety and soundness of the banking system of the United States; and

(B) a mortgage loan originator that receives an exemption under this subsection—

(i) is not compensated based on the number or value of residential mortgage loan applications accepted, offered, or negotiated by the mortgage loan originator;

(ii) does not offer residential mortgage loans that have an interest rate greater than zero percent;

(iii) does not gain a monetary profit from any residential mortgage product or service provided;

(iv) has the primary purpose of serving low income housing needs;

(v) has not been specifically prohibited, by statute, from receiving Federal funding; and

(vi) meets any other requirements that the Federal banking agencies jointly determine are appropriate for ensuring that a mortgage loan originator that receives an exemption under this subsection does not threaten the safety and soundness of the banking system of the United States.

(3) **REPORTS REQUIRED.**—Before the issuance of final rules under subsection (a), and annually thereafter, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) identifies the mortgage loan originators that receive an exemption under this subsection; and

(B) for each mortgage loan originator identified under subparagraph (A), the rationale for providing an exemption.

(4) **UPDATES TO EXEMPTIONS.**—The Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury—

(A) shall review the exemptions established under this subsection not less frequently than every 2 years; and

(B) based on the review under subparagraph (A), may revise the standards established under this subsection, as the Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, determine to be necessary.

(g) **RULES OF CONSTRUCTION.**—Nothing in this section may be construed to permit—

(1) the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation to make or guarantee a residential mortgage loan that does not meet the minimum underwriting standards established under this section; or

(2) the Federal banking agencies to issue an exemption under subsection (f) that is not on a case-by-case basis.

(h) **DEFINITIONS.**—In this section, the following definitions shall apply:

(1) **COMPANY.**—The term “company”—

(A) has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)); and

(B) includes a sole proprietorship.

(2) **MORTGAGE LOAN ORIGINATOR.**—The term “mortgage loan originator” means any company that takes residential mortgage loan applications and offers or negotiates terms of residential mortgage loans.

(3) **RESIDENTIAL MORTGAGE LOAN.**—The term “residential mortgage loan”—

(A) means any extension of credit primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent security interest in a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling; and

(B) does not include a mortgage loan for which mortgage insurance is provided by the Department of Veterans Affairs, or the Rural Housing Administration.

(4) **EXTENSION OF CREDIT; DWELLING.**—The terms “extension of credit” and “dwelling” shall have the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

#### **SEC. 943. STUDY ON FEDERAL HOUSING ADMINISTRATION UNDERWRITING STANDARDS.**

(a) **STUDY.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study evaluating whether the underwriting criteria used by the Federal Housing Administration are sufficient to ensure the solvency of the Mutual Mortgage Insurance Fund of the Federal Housing Administration and the safety and soundness of the banking system of the United States.

(2) **ISSUES TO BE STUDIED.**—In conducting the study under paragraph (1), the Comptroller General shall evaluate—

(A) down payment requirements for Federal Housing Administration borrowers;

(B) default rates of mortgages insured by the Federal Housing Administration;

(C) characteristics of Federal Housing Administration borrowers who are most likely to default;

(D) taxpayer exposure to losses incurred by the Federal Housing Administration;

(E) the impact of the market share of the Federal Housing Administration on efforts to sustain a viable private mortgage market; and

(F) any other factors that Comptroller General determines are appropriate.

(b) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a) that includes recommendations for statutory improvements to be made to the underwriting criteria used by the Federal Housing Administration, to ensure the solvency of the Mutual Mortgage Insurance Fund of the Federal Housing Administration and the safety and soundness of the banking system of the United States.

#### **SEC. 944.**

**SA 3956.** Ms. LANDRIEU (for herself, Mr. ISAKSON, Mrs. HAGAN, Mr. WARNER, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which



was ordered to lie on the table; as follows:

On page 1047, strike line 4 and all that follows through line 20 and insert the following:

“(i) not less than 5 percent of the credit risk for any asset—

“(I) that is not a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer; or

“(II) that is a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer, if 1 or more of the assets that collateralize the asset-backed security are not qualified residential mortgages; or

“(ii) less than 5 percent of the credit risk for an asset that is not a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer, if the originator of the asset meets the underwriting standards prescribed under paragraph (2)(B);

“(C) specify—

“(i) the permissible forms of risk retention for purposes of this section;

“(ii) the minimum duration of the risk retention required under this section; and

“(iii) that a securitizer is not required to retain any part of the credit risk for an asset that is transferred, sold or conveyed through the issuance of an asset-backed security by the securitizer, if all of the assets that collateralize the asset-backed security are qualified residential mortgages;

On page 1051, between lines 3 and 4, insert the following:

“(4) EXEMPTION FOR QUALIFIED RESIDENTIAL MORTGAGES.—

“(A) IN GENERAL.—The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly issue regulations to exempt qualified residential mortgages from the risk retention requirements of this subsection.

“(B) QUALIFIED RESIDENTIAL MORTGAGE.—The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly define the term ‘qualified residential mortgage’ for purposes of this subsection, taking into consideration underwriting and product features that historical loan performance data indicate result in a lower risk of default, such as—

“(i) documentation and verification of the financial resources relied upon to qualify the mortgage;

“(ii) standards with respect to—

“(I) the residual income of the mortgagor after all monthly obligations;

“(II) the ratio of the housing payments of the mortgagor to the monthly income of the mortgagor;

“(III) the ratio of total monthly installment payments of the mortgagor to the income of the mortgagor;

“(iii) mitigating the potential for payment shock on adjustable rate mortgages through product features and underwriting standards;

“(iv) mortgage guarantee insurance obtained at the time of origination for loans with combined loan-to-value ratios of greater than 80 percent; and

“(v) prohibiting or restricting the use of balloon payments, negative amortization, prepayment penalties, interest-only payments, and other features that have been demonstrated to exhibit a higher risk of borrower default.

“(5) CONDITION FOR QUALIFIED RESIDENTIAL MORTGAGE EXEMPTION.—The regulations issued under paragraph (4) shall provide that an asset-backed security that is collateralized by tranches of other asset-backed securities shall not be exempt from the risk retention requirements of this subsection.

“(6) CERTIFICATION.—The Commission shall require an issuer to certify, for each issuance of an asset-backed security collateralized exclusively by qualified residential mortgages, that the issuer has evaluated the effectiveness of the internal supervisory controls of the issuer with respect to the process for ensuring that all assets that collateralize the asset-backed security are qualified residential mortgages.

**SA 3957.** Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 62, strike lines 8 through 10 and insert the following:

(2) the term “financial company” has the same meaning as in title II, and includes—

(A) an insured depository institution, an insurance company, and a nonbank financial company, and any subsidiary thereof; and

(B) any other entity (and any subsidiary thereof)—

(i) as determined by the Director, based on the size, scale, scope, concentration, activities, interconnectedness, or management of critical data, such that the entity could individually or as a group threaten the stability of the United States financial system; and

(ii) that is not excluded from such definition by a 2/3 vote of the Council;

On page 62, line 16, strike “(5) the” and insert the following:

(5) the term “financial transaction” means the explicit or implicit creation of a financial contract, where at least one of the counterparties is required to report to the Office;

(6) the

On page 62, line 21, strike “(6)” and insert “(7)”.

On page 63, line 8, strike “(7)” and insert “(8)”.

On page 63, line 13, strike “(8)” and insert “(9)”.

On page 69, beginning on line 7, strike “and member agencies” and insert “, member agencies, and the Bureau of Economic Analysis”.

On page 70, between lines 12 and 13, insert the following:

(3) REGULATION OF FINANCIAL COMPANIES NOT UNDER COUNCIL MEMBER AGENCY JURISDICTION.—The regulations of the Office shall apply directly to reporting financial companies that are not otherwise under the jurisdiction of a Council member agency.

On page 73, between lines 20 and 21, insert the following:

(iii) COLLECTION OF FINANCIAL TRANSACTION AND POSITION DATA.—The Office shall collect, on a schedule determined by the Director, in

consultation with the Council, comprehensive financial transaction data and position data from financial companies.

**SA 3958.** Mr. REED (for himself, Mr. JOHNSON, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 384, strike line 1 and all that follows through page 385, line 15.

On page 385, line 16, strike “409” and insert “407”.

On page 386, strike line 10 and all that follows through page 387, line 2 and insert the following:

**SEC. 408. STATE AND FEDERAL RESPONSIBILITIES; ASSET THRESHOLD FOR FEDERAL REGISTRATION OF INVESTMENT ADVISERS.**

Section 203A(a) of the of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3a(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

“(2) TREATMENT OF MID-SIZED INVESTMENT ADVISERS.—

“(A) IN GENERAL.—No investment adviser described in subparagraph (B) shall register under section 203, unless the investment adviser is an adviser to an investment company registered under the Investment Company Act of 1940, or a company which has elected to be a business development company pursuant to section 54 of the Investment Company Act of 1940, and has not withdrawn the election, except that, if by effect of this paragraph an investment adviser would be required to register with 5 or more States, then the adviser may register under section 203.

“(B) COVERED PERSONS.—An investment adviser described in this subparagraph is an investment adviser that—

“(i) is required to be registered as an investment adviser with the securities commissioner (or any agency or office performing like functions) of the State in which it maintains its principal office and place of business and, if registered, would be subject to examination as an investment adviser by any such commissioner, agency, or office; and

“(ii) has assets under management between—

“(I) the amount specified under subparagraph (A) of paragraph (1), as such amount may have been adjusted by the Commission pursuant to that subparagraph; and

“(II) \$100,000,000, or such higher amount as the Commission may, by rule, deem appropriate in accordance with the purposes of this title.”.

On page 387, line 3, strike “411” and insert “409”.

On page 387, line 13, strike “412” and insert “410”.

On page 388, line 4, strike “413” and insert “411”.



On page 388, line 16, strike “414” and insert “412”.

On page 389, line 3, strike “415” and insert “413”.

On page 390, line 1, strike “416” and insert “414”.

**SA 3959.** Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 441, strike line 8 and all that follows through “Section” on line 9 and insert the following:

(e) NOTICE PROCEDURES FOR ACQUISITIONS OF NONBANKS.—Section

On page 441, strike line 15 and all that follows through page 442, line 12.

On page 501, line 15, strike the second period and insert the following: “.

#### SEC. 621. INTERSTATE MERGER TRANSACTIONS.

(a) INTERSTATE MERGER TRANSACTIONS.—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end the following:

“(13)(A) Except as provided in subparagraph (B), the responsible agency may not approve an application for an interstate merger transaction if the resulting insured depository institution (including all insured depository institutions which are affiliates of the resulting insured depository institution), upon consummation of the transaction, would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

“(B) Subparagraph (A) shall not apply to an interstate merger transaction that involves 1 or more insured depository institutions in default or in danger of default, or with respect to which the Corporation provides assistance under section 13.

“(C) In this paragraph—

“(i) the term ‘interstate merger transaction’ means a merger transaction involving 2 or more insured depository institutions that have different home States and that are not affiliates; and

“(ii) the term ‘home State’ means—

“(I) with respect to a national bank, the State in which the main office of the bank is located;

“(II) with respect to a State bank or State savings association, the State by which the State bank or State savings association is chartered; and

“(III) with respect to a Federal savings association, the State in which the home office (as defined by the regulations of the Director of the Office of Thrift Supervision, or, on and after the transfer date, the Comptroller of the Currency) of the Federal savings association is located.”.

(b) ACQUISITIONS BY BANK HOLDING COMPANIES.—

(1) IN GENERAL.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(A) in subsection (i), by adding at the end the following:

“(8) INTERSTATE ACQUISITIONS.—

“(A) IN GENERAL.—The Board may not approve an application by a bank holding company to acquire an insured depository institution under subsection (c)(8) or any other provision of this Act if—

“(i) the home State of such insured depository institution is a State other than the home State of the bank holding company; and

“(ii) the applicant (including all insured depository institutions which are affiliates of the applicant) controls, or upon consummation of the transaction would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to an acquisition that involves an insured depository institution in default or in danger of default, or with respect to which the Federal Deposit Insurance Corporation provides assistance under section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823).”; and

(B) in subsection (k)(6)(B), by striking “savings association” and inserting “insured depository institution”.

(2) DEFINITIONS.—Section 2(o)(4) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(o)(4)) is amended—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C)(ii), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(D) with respect to a State savings association, the State by which the savings association is chartered; and

“(E) with respect to a Federal savings association, the State in which the home office (as defined by the regulations of the Director of the Office of Thrift Supervision, or, on and after the transfer date, the Comptroller of the Currency) of the Federal savings association is located.”.

(c) ACQUISITIONS BY SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(e)(2) of the Home Owners’ Loan Act (12 U.S.C. 1467a(e)(2)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (C), by striking “or” at the end;

(B) in subparagraph (D), by striking the period at the end and inserting “, or”; and

(C) by adding at the end the following:

“(E) in the case of an application by a savings and loan holding company to acquire an insured depository institution, if—

“(i) the home State of the insured depository institution is a State other than the home State of the savings and loan holding company;

“(ii) the applicant (including all insured depository institutions which are affiliates of the applicant) controls, or upon consummation of the transaction would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States; and

“(iii) the acquisition does not involve an insured depository institution in default or in danger of default, or with respect to which the Federal Deposit Insurance Corporation provides assistance under section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823).”; and

(2) by adding at the end the following:

“(7) DEFINITIONS.—For purposes of paragraph (2)(E)—

“(A) the terms ‘default’, ‘in danger of default’, and ‘insured depository institution’ have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

“(B) the term ‘home State’ means—

“(i) with respect to a national bank, the State in which the main office of the bank is located;

“(ii) with respect to a State bank or State savings association, the State by which the savings association is chartered;

“(iii) with respect to a Federal savings association, the State in which the home office (as defined by the regulations of the Director of the Office of Thrift Supervision, or, on and after the transfer date, the Comptroller of the Currency) of the Federal savings association is located; and

“(iv) with respect to a savings and loan holding company, the State in which the amount of total deposits of all insured depository institution subsidiaries of such company was the greatest on the date on which the company became a savings and loan holding company.”.

**SA 3960.** Mr. SCHUMER (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1565, after line 23, add the following:

#### TITLE XIII—REGULATION OF DEBT SETTLEMENT SERVICES

##### SEC. 1301. AMENDMENT TO CONSUMER CREDIT PROTECTION ACT.

The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end the following:

#### “TITLE X—DEBT SETTLEMENT SERVICES

##### “SEC. 1001. DEFINITIONS.

“In this title:

“(1) ATTORNEY GENERAL OF A STATE.—The term ‘attorney general of a State’ means the attorney general or other chief law enforcement officer of a State.

“(2) COMMISSION.—The term ‘Commission’ means the Federal Trade Commission.

“(3) CONSUMER.—The term ‘consumer’ means any person.

“(4) CONSUMER SETTLEMENT ACCOUNT.—The term ‘consumer settlement account’ means any account or other means or device in which payments, deposits, or other transfers from a consumer are held or transferred to a debt settlement provider for the accumulation of the consumer’s funds in anticipation of proffering an adjustment or settlement of a debt or obligation of the consumer to a creditor on behalf of the consumer.

“(5) DEBT SETTLEMENT PROGRAM.—The term ‘debt settlement program’ means the actions and activities undertaken by a debt settlement provider and a consumer in connection with the provision of debt settlement service.

“(6) DEBT SETTLEMENT PROVIDER.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘debt settlement provider’ means any person or entity engaging in, or holding itself out as engaging in, the business of providing debt settlement services in exchange for a fee or compensation, or any person who solicits for or acts

on behalf of any person or entity engaging in, or holding itself out as engaging in, the business of providing debt settlement services in exchange for any fee or compensation.

“(B) EXCEPTION.—The term ‘debt settlement provider’ does not include the following:

“(i) An attorney providing a debt settlement service to a consumer who—

“(I) is licensed to practice law and in good standing in the jurisdiction where the consumer resides;

“(II) personally provides such service while acting in the ordinary practice of law;

“(III) puts any advance fee received from the consumer in a client trust account until earned pursuant to the terms of a written agreement that details the work to be performed by the attorney and the fee schedule for the attorney’s work;

“(IV) is engaged in the practice of law through the same business entity ordinarily used by the attorney when providing legal services that are not part of a debt settlement service;

“(V) does not share any fee received for the provision of such service with a person who is not an attorney; and

“(VI) does not provide such service through a partnership, corporation, association, referral arrangement, or other entity or arrangement—

“(aa) that is directed or controlled, in whole or in part, by an individual who is not an attorney;

“(bb) in which an individual who is not an attorney holds any interest;

“(cc) in which an individual who is not an attorney is a director or officer thereof or occupies a position of similar responsibility;

“(dd) in which an individual who is not an attorney has the right to direct, control, or regulate the professional judgment of the attorney; or

“(ee) in which an individual who is not an attorney and who is not under the supervision and control of the attorney delivers such service or exercises professional judgment with respect to the provision of such service.

“(ii) Escrow agents, accountants, broker dealers in securities, or investment advisors in securities, when acting—

“(I) in the ordinary practice of their professions; and

“(II) through the same entity used in the ordinary practice of their profession.

“(iii) Any bank, agent of a bank, trust company, savings and loan association, savings bank, credit union, crop credit association, development credit corporation, industrial development corporation, title insurance company, or insurance company operating or organized under the laws of a State or the United States.

“(iv) Mortgage servicers (as such term is defined in section 6(i) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)(2))) carrying out mortgage loan modifications.

“(v) Any person who performs credit services for such person’s employer while receiving a regular salary or wage when the employer is not engaged in the business of offering or providing debt settlement service.

“(vi) An organization that is described in section 501(c)(3) and subject to section 501(q) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

“(vii) Public officers while acting in their official capacities and persons acting under court order.

“(viii) Any person while performing services incidental to the dissolution, winding

up, or liquidating of a partnership, corporation, or other business enterprise.

“(7) DEBT SETTLEMENT SERVICE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘debt settlement service’ means—

“(i) offering to provide advice or service, or to act or acting as an intermediary between or on behalf of a consumer and one or more of a consumer’s creditors, where the primary purpose of the advice, service, or action is to obtain a settlement, adjustment, or satisfaction of the consumer’s debt to a creditor in an amount less than the full amount of the principal amount of the debt or in an amount less than the current outstanding balance of the debt; or

“(ii) offering to provide services related to or providing services advising, encouraging, assisting, or counseling a consumer to accumulate funds for the primary purpose of proposing, obtaining, or seeking to obtain a settlement, adjustment, or satisfaction of the consumer’s debt to a creditor in an amount less than the full amount of the principal amount of the debt or in an amount less than the current outstanding balance of the debt.

“(B) EXCEPTION.—The term ‘debt settlement service’ does not include services of an attorney in providing information, advice, or legal representation with respect to filing a case or proceeding under title 11, United States Code.

“(8) ENROLLMENT FEE.—The term ‘enrollment fee’ means any fee, obligation, or compensation paid or to be paid by the consumer to a debt settlement provider in consideration of or in connection with establishing a contract or other agreement with a consumer related to the provision of debt settlement service.

“(9) MAINTENANCE FEE.—The term ‘maintenance fee’ means any fee, obligation, or compensation paid or to be paid by a consumer on a periodic basis to a debt settlement provider in consideration of maintaining the relationship and services to be provided by a debt settlement provider in accordance with a contract with a consumer related to the provision of debt settlement service.

“(10) PRINCIPAL AMOUNT OF THE DEBT.—The term ‘principal amount of the debt’ means the total amount or outstanding balance owed by a consumer to one or more creditors for a debt that is included in a contract for debt settlement service at the time when the consumer enters into a contract for debt settlement service pursuant to section 1002(a).

“(11) SETTLEMENT FEE.—The term ‘settlement fee’ means any fee, obligation, or compensation paid or to be paid by a consumer to a debt settlement provider in consideration of or in connection with an agreement or other arrangement on the part of a creditor to accept less than the principal amount of the debt as satisfaction of the creditor’s claim against the consumer.

#### “SEC. 1002. REQUIRED ACTS.

“(a) CONTRACT REQUIRED.—

“(1) IN GENERAL.—A debt settlement provider may not provide a debt settlement service to a consumer or receive any fee from a consumer for a debt settlement service without a written contract described in paragraph (2) that is signed by the consumer.

“(2) CONTRACT CONTENTS.—A contract described in this paragraph is a contract between a debt settlement provider and a consumer for debt settlement services that includes the following:

“(A) The name and address of the consumer.

“(B) The date of execution of the contract.

“(C) The legal name of the debt settlement provider, including any other business names used by the debt settlement provider.

“(D) The corporate address and regular business address, including a street address, of the debt settlement provider.

“(E) The license or registration number under which the debt settlement provider is licensed or registered if the consumer resides in a State that requires a debt settlement provider to obtain a license or registration as a condition of providing debt settlement service in that State.

“(F) The telephone number at which the consumer may speak with a representative of the debt settlement provider during normal business hours.

“(G) A complete list of the consumer’s accounts, debts, and obligations covered under the debt settlement service covered by the contract, including the name of each creditor and principal amount of each debt.

“(H) A description of the services to be provided by the debt settlement provider, including the expected timeframe for settlement for each account, debt, or obligation included in subparagraph (G).

“(I) A clear and conspicuous itemized list of all fees, including any enrollment fee and settlement fees to be paid by the consumer to the debt settlement provider, and the date, approximate date, or circumstances under which each fee will become due.

“(J) A clear and conspicuous statement of a good faith estimate of the total amount of all fees to be collected by the debt settlement provider from the consumer for the provision of debt settlement service under the contract.

“(K) A clear and conspicuous statement of the proposed savings goals for the consumer, stating the amount to be saved per month or other period, the time period over which the savings goals extend, and the total amount of the savings expected to be paid by the consumer pursuant to the terms of the contract.

“(L) A notice to the consumer that unless the consumer is insolvent, if a creditor settles a debt for an amount less than the consumer’s current outstanding balance at the time of settlement, the consumer may incur a tax liability.

“(M) A written notice to the consumer, which includes a form that the consumer may use and the address to which the form may be returned to the debt settlement provider, that the consumer may cancel the contract pursuant to the provisions of section 1006.

“(N) A written notice to the consumer of the cancellation and refund rights set forth in section 1006, including notice of any related rules promulgated by the Commission under section 1010.

“(b) NOTIFICATION REQUIRED.—A debt settlement provider shall, before the earlier of the date of entering into a written contract with a consumer for debt settlement services or rendering debt settlement services to a consumer, provide to the consumer in writing the following:

“(1) An individualized financial analysis of the consumer, including an assessment of the consumer’s income, expenses, and debts.

“(2) A description of the debt settlement service being offered to the consumer by the debt settlement provider, including the following:

“(A) A description of the debt settlement program being offered as part of the service.

“(B) A list of each of the consumer’s debts, creditors, and debt collectors that will be covered under the program.

“(3) A statement containing the following:

“(A) A good-faith estimate of the length of time it will take to achieve settlement of each debt covered under the program.

“(B) The specific time by which the debt settlement service provider will make a bona fide settlement offer to each creditor and debt collector covered under the program.

“(C) The total amount of debt owed by the consumer to each creditor covered under the program.

“(D) An estimate of the total and the monthly savings the consumer will be required to accumulate to complete the program.

“(4) A clear and conspicuous statement that—

“(A) the consumer remains legally obligated to make periodic or scheduled payments to creditors while participating in a debt settlement program; and

“(B) the debt settlement provider will not make any periodic or scheduled payments to creditors on behalf of the consumer.

“(5) A clear and conspicuous notice to the consumer that—

“(A) the utilization of debt settlement service may not be suitable for all consumers;

“(B) the utilization of debt settlement service may adversely impact the consumer's credit history and credit score;

“(C) the consumer may inquire about other means of dealing with indebtedness, including nonprofit credit counseling and bankruptcy;

“(D) the failure to make periodic or scheduled payments to a creditor—

“(i) is likely to affect adversely the consumer's creditworthiness;

“(ii) may result in continued collection activity by creditors or debt collectors;

“(iii) may result in the consumer being sued by one or more creditors or debt collectors, and in the garnishment of the consumer's wages; and

“(iv) may increase the amount of money the consumer owes to one or more creditors or debt collectors due to the imposition by the creditor of interest charges, late fees, and other penalty fees; and

“(E) any savings the consumer realizes from use of a debt settlement service may be taxable income.

“(C) DETERMINATION OF BENEFIT TO CONSUMERS REQUIRED.—A debt settlement provider may not enter into a written contract with a consumer unless the debt settlement provider makes written determinations, supported by the financial analysis, that—

“(1) the consumer can reasonably meet the requirements of the proposed debt settlement program included in the debt settlement service offered to the consumer, including the fees and the periodic savings amounts set forth in the savings goals under the program;

“(2) there is a net tangible financial benefit to the consumer of entering into the proposed debt settlement program; and

“(3) the debt settlement program is suitable for the consumer at the time the contract is to be signed.

“(d) CHOICE OF LANGUAGE.—If a debt settlement provider communicates with a consumer primarily in a language other than English, the debt settlement provider shall furnish to the consumer a translation of the disclosures and documents required by this title in that other language.

“(e) MONTHLY STATEMENTS REQUIRED.—A debt settlement provider shall, not less frequently than monthly, provide each consumer with which it has a contract for the provision of debt settlement service a state-

ment of account balances, fees paid, settlements completed, remaining debts, and any other term considered appropriate by the Commission.

#### “SEC. 1003. PROHIBITED ACTS.

“(a) LOANS.—A debt settlement provider may not make loans or offer credit or solicit or accept any note, mortgage, or negotiable instrument other than a check signed by the consumer and dated no later than the date of signature.

“(b) CONFESSION OF JUDGMENT.—A debt settlement provider may not take any confession of judgment or power of attorney to confess judgment against the consumer or appear as the consumer or on behalf of the consumer in any judicial or non-judicial proceedings.

“(c) RELEASE OR WAIVER OF OBLIGATION.—A debt settlement provider may not take any release or waiver of any obligation to be performed on the part of the debt settlement provider or any right of the consumer.

“(d) RECEIPT OF THIRD-PARTY COMPENSATION.—A debt settlement provider may not receive any cash, fee, gift, bonus, premium, reward, or other compensation from any person other than the consumer explicitly for the provision of debt settlement service to that consumer, without prior disclosure of such to the consumer.

“(e) CONFIDENTIALITY.—In the absence of a subpoena issued to compel disclosure, a debt settlement provider may not (without prior written consent of the consumer) disclose to anyone the name or any personal information of a consumer for whom the debt settlement provider has provided or is providing debt settlement service other than to a consumer's own creditors or the debt settlement provider's agents, affiliates, or contractors for the purpose of providing debt or settlement service.

“(f) MISREPRESENTATION, OMISSION, AND FALSE PROMISES.—A debt settlement provider may not misrepresent, directly or by implication, any material fact, make a material omission, or make a false promise directed to one or more consumers in connection with the solicitation, offering, contracting or provision of debt settlement service, including the following:

“(1) The total costs to purchase, receive, or use the services, or the nature of the services to be provided.

“(2) Any material restriction, limitation, or condition to receive the offered debt settlement service.

“(3) Any material aspect of the performance, efficacy, nature, or central characteristics of the offered debt settlement service.

“(4) Any material aspect of the nature of terms of the seller's cancellation policies.

“(5) Any claim of affiliation with, or endorsement or sponsorship by, any person or government entity.

“(6) Any material aspect of any debt settlement service, including the following:

“(A) The amount of time necessary to achieve settlement of all debt.

“(B) The amount of money or the percentage of the debt amount that the consumer must accumulate before the provider will initiate attempts with the consumer's creditors or debt collectors to settle the debt.

“(C) The effect of the service on a consumer's creditworthiness.

“(D) Whether the provider is a nonprofit or a for-profit entity.

“(g) PURCHASING OF DEBTS.—A debt settlement provider may not purchase debts or engage in the practice or business of debt collection.

“(h) SECURED DEBT.—A debt settlement provider may not include in a debt settlement agreement any secured debt.

“(i) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A debt settlement provider may not employ any unfair, or deceptive act or practice, including the omission of any material information.

“(j) LIMITATION ON COMMUNICATION.—A debt settlement provider may not—

“(1) obtain a power of attorney or other authorization from a consumer that prohibits or limits the consumer or any creditor from communication directly with one another; or

“(2) represent, expressly or by implication, that a consumer cannot or should not contact or communicate with any creditor.

#### “SEC. 1004. FEES.

“(a) TYPES OF FEES PERMITTED.—The types of fees that a debt settlement provider may charge a consumer are the following:

“(1) Enrollment fees.

“(2) Settlement fees.

“(b) TYPES OF FEES PROHIBITED.—All fee types not included under subsection (a) are prohibited, including maintenance fees.

“(c) ENROLLMENT FEE AMOUNTS.—The amount of an enrollment fee charged by a debt settlement provider shall not exceed the lesser of—

“(1) the amount that is reasonable and commensurate to the debt settlement service provided to a consumer; and

“(2) \$50.

“(d) DEBT SETTLEMENT FEE AMOUNTS.—The amount of a settlement fee charged by a debt settlement provider shall not exceed the lesser of—

“(1) the amount that is reasonable and commensurate to the debt settlement service provided to a consumer; and

“(2) the amount that is 10 percent of the difference between—

“(A) the principal amount of that debt; and

“(B) the amount—

“(i) paid by the debt settlement provider to the creditor pursuant to a settlement negotiated by the debt settlement provider on behalf of the consumer as full and complete satisfaction of the creditor's claim with regard to that debt; or

“(ii) negotiated by the debt settlement provider and paid by the consumer to the creditor pursuant to a settlement negotiated by the debt settlement provider on behalf of the consumer as full and complete satisfaction of the creditor's claim with regard to that debt.

“(e) TIMING OF DEBT SETTLEMENT FEES.—A debt settlement provider shall not collect any debt settlement fee from a consumer until—

“(1) a creditor enters into a legally enforceable written agreement with the consumer, in a form prescribed by the Commission, to accept funds in a specific dollar amount as full and complete satisfaction of the creditor's claim with regard to that debt; and

“(2) those funds are provided—

“(A) by the debt settlement provider on behalf of the consumer; or

“(B) directly by the consumer to the creditor pursuant to a settlement negotiated by the debt settlement provider.

#### “SEC. 1005. CONSUMER SETTLEMENT ACCOUNTS.

“(a) TRUST ACCOUNT REQUIRED.—A debt settlement provider who receives funds from a consumer shall hold all funds received for a consumer settlement account in a properly designated trust account in a federally insured depository institution. Such funds shall remain the property of the consumer until the debt settlement provider disburses the funds to a creditor on behalf of the consumer as full or partial satisfaction of the consumer's debt to the creditor or the creditor's claim against the consumer.

“(b) INDEPENDENT ADMINISTRATION OF ACCOUNT.—A debt settlement provider may not hold funds received for a consumer settlement account under subsection (a) in an account administered by an entity that—

“(1) is owned by, controlled by, or in any way affiliated with the debt settlement service provider; or

“(2) gives or accepts any money or other compensation in exchange for referrals of business involving the debt settlement service provider.

“(c) LIMITATIONS.—A debt settlement service provider shall not—

“(1) be named on a consumer's bank account;

“(2) take a power of attorney in a consumer's bank account;

“(3) create a demand draft on a consumer's bank account;

“(4) exercise any control over any bank account held by or on behalf of the consumer; or

“(5) obtain any information about a consumer's bank account from any person other than the consumer, except information obtained with the consumer's permission from the consumer's settlement account as necessary to comply with the requirements of section 1002(e).

#### **“SEC. 1006. CANCELLATION OF CONTRACT.**

“(a) IN GENERAL.—A consumer may cancel a contract with a debt settlement provider at any time.

“(b) REFUNDS.—

“(1) CANCELLATION WITHIN 90 DAYS OR UPON VIOLATION OF THIS TITLE.—If a consumer cancels a contract with a debt settlement provider not later than 90 days after the date of the execution of the contract or at any time upon a violation of a provision of this title by the debt settlement provider, the debt settlement provider shall refund to the consumer all—

“(A) fees paid to the debt settlement provider by the consumer, with the exception of any earned settlement fee; and

“(B) funds paid by the consumer to the debt settlement provider that—

“(i) have accumulated in a consumer settlement account; and

“(ii) the debt settlement provider has not disbursed to creditors.

“(2) CANCELLATIONS AFTER 90 DAYS.—If a consumer cancels a contract with a debt settlement provider later than 90 days after the date of the execution of the contract and for any reason other than for a violation of a provision of this title by the debt settlement provider, the debt settlement provider shall refund to the consumer—

“(A) half of all of the fees collected from the consumer, with the exception of any earned settlement fees; and

“(B) all funds paid by the consumer to the debt settlement provider that have accumulated in a consumer settlement account and which the debt service provider has not disbursed to creditors.

“(3) TIMING OF REFUNDS.—A debt settlement provider shall make any refund required under this subsection not later than 5 business days after a notice of cancellation is made on behalf of the consumer under subsection (d).

“(4) STATEMENT OF ACCOUNT.—A debt settlement provider making a refund to a consumer under this subsection shall include with such refund a full statement of account showing the following:

“(A) The fees received by the debt settlement provider from the consumer.

“(B) The fees refunded to the consumer by the debt settlement provider.

“(C) The savings of the consumer held by the debt settlement provider.

“(D) The payments made by the debt settlement provider to creditors on behalf of the consumer.

“(E) The settlement fees earned, if any, by the debt settlement provider by settling debt on behalf of the consumer.

“(F) The savings of the consumer refunded to the consumer by the debt settlement provider.

“(c) REVOCATION OF POWERS OF ATTORNEY AND DIRECT DEBIT AUTHORIZATIONS.—Upon cancellation of a contract by a consumer—

“(1) all powers of attorney and direct debit authorizations granted to the debt settlement provider by the consumer are revoked and voided; and

“(2) the debt settlement provider shall immediately take any action necessary to reflect cancellation of the contract, including notifying the recipient of any direct debit authorization.

“(d) NOTICE OF CANCELLATION TO CREDITORS.—Upon the cancellation of a contract under this section of the Act, the debt settlement provider shall provide timely notice of the cancellation of such contract to each of the creditors with whom the debt settlement provider has had any prior communication on behalf of the consumer in connection with the provision of any debt settlement service.

#### **“SEC. 1007. OBLIGATION OF GOOD FAITH.**

“A debt settlement provider shall act in good faith in all matters under this title.

#### **“SEC. 1008. INVALIDATION OF CONTRACTS.**

“(a) CONSUMER WAIVERS INVALID.—A waiver by a consumer of any protection provided or any right of the consumer under this title—

“(1) is void; and

“(2) may not be enforced by any other person.

“(b) ATTEMPT TO OBTAIN WAIVER.—Any attempt by any person to obtain a waiver from any consumer of any protection provided by or any right or protection of the consumer or any obligation or requirement of the debt settlement provider under this title shall be considered a violation of a provision of this title.

“(c) CONTRACTS NOT IN COMPLIANCE.—Any contract for a debt settlement service that does not comply with the provisions of this title—

“(1) shall be treated as void;

“(2) may not be enforced by any other person; and

“(3) upon notice of a void contract, a refund by the debt settlement provider to the consumer shall be made as if the contract had been cancelled as provided in section 1006(b)(1) of this title.

#### **“SEC. 1009. ADVERTISING, MARKETING, AND COMMUNICATION PRACTICES.**

“A debt settlement provider shall not state or imply claims, results, or outcomes in any advertising, marketing, or other communication with consumers that represent or reflect results or outcomes, including about the percentage or dollar amount by which debt may be reduced or the amount a consumer may save or the historical experience of its customers with respect to debt reduction, that—

“(1) are materially different from the actual average result or outcome achieved by that debt settlement provider on all of the debt of consumers who enter the program; or

“(2) are not verified by an independent audit that documents that the described result or outcome was achieved for all debt enrolled in the program by at least 80 percent of the customers who began the service in the most recent 2 calendar year period.

#### **“SEC. 1010. RULEMAKING BY FEDERAL TRADE COMMISSION.**

“(a) IN GENERAL.—Notwithstanding title X of the Restoring American Financial Stability Act of 2010, the Commission may prescribe rules with respect to advertising and marketing practices, record retention, provision of accountings to consumers, and such other matters as the Commission considers necessary to improve the consumer experience with debt settlement providers.

“(b) DEBT RELIEF SERVICE RULES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Commission may prescribe rules with respect to the providers of debt relief service not otherwise covered by this title.

“(2) EXCEPTION.—Any rule prescribed under paragraph (1) shall not be applicable to or otherwise include services provided by those persons or entities identified in section 1001(6)(B) or section 1001(7)(B).

“(3) DEBT RELIEF SERVICE DEFINED.—In this subsection, the term ‘debt relief service’ means any service represented, directly or by implication, to renegotiate, or in any way alter the terms of payment or other terms of the debt between a consumer and one or more unsecured creditors or debt collectors, including a reduction in the balance, interest rate, or fees owed by a consumer to an unsecured creditor or debt collector.

“(c) PROCEDURE.—All rulemaking under this title shall be conducted in accordance with section 553 of title 5, United States Code, and shall not be subject to other procedures set forth in section 18 of the Federal Trade Commission Act (15 U.S.C. 57a).

#### **“SEC. 1011. CIVIL LIABILITY.**

“(a) LIABILITY ESTABLISHED.—Any debt settlement provider who fails to comply with any provision of this title with respect to any consumer shall be liable to such consumer in an amount equal to the sum of the amounts determined under each of the following:

“(1) ACTUAL DAMAGES.—The greater of—

“(A) the amount of any actual damage sustained by such consumer as a result of such failure; or

“(B) any amount paid by the consumer to the debt settlement provider.

“(2) STATUTORY DAMAGES.—An amount determined by the court of not less than \$1,000 nor more than \$5,000 per violation.

“(3) PUNITIVE DAMAGES.—

“(A) INDIVIDUAL ACTIONS.—In the case of any action by an individual, such additional amount as the court may allow.

“(B) CLASS ACTIONS.—In the case of a class action, the sum of—

“(i) the aggregate of the amount which the court may allow for each named plaintiff; and

“(ii) the aggregate of the amount which the court may allow for each other class member, without regard to any minimum individual recovery.

“(4) ATTORNEYS' FEES.—In the case of any successful action to enforce any liability under paragraph (1), (2), or (3), the costs of the action, together with reasonable attorneys' fees.

“(b) FACTORS TO BE CONSIDERED IN AWARDING PUNITIVE DAMAGES.—In determining the amount of any liability of any debt settlement provider under subsection (a)(2), the court shall consider, among other relevant factors—

“(1) the frequency and persistence of noncompliance by the debt settlement provider;

“(2) the nature of the noncompliance;

“(3) the extent to which such noncompliance was intentional; and

“(4) in the case of any class action, the number of consumers adversely affected.

**“SEC. 1012. ENFORCEMENT BY FEDERAL TRADE COMMISSION.**

“(a) IN GENERAL.—Notwithstanding title X of the Restoring American Financial Stability Act of 2010, the Commission shall enforce the provisions of this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this title.

“(b) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A failure to comply with a provision of this title or a violation of a rule prescribed under section 1010 shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

**“SEC. 1013. ACTION BY STATES.**

“(a) IN GENERAL.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by the engagement of any person subject to a provision of this title or a rule prescribed under section 1010 in a practice that violates such provision or rule, the State may, as parens patriae, bring a civil action on behalf of the residents of the State in an appropriate district court of the United States or other court of competent jurisdiction—

“(1) to enjoin that practice;

“(2) to enforce compliance with the provision or rule; or

“(3) to obtain damages under section 1011 on behalf of residents of the State.

“(b) ATTORNEYS’ FEES.—In the case of any successful action under paragraph (1), (2), or (3) of subsection (a), the attorney general of the State bringing the action shall be awarded the costs of the action and reasonable attorneys’ fees as determined by the court.

“(c) RIGHTS OF FEDERAL TRADE COMMISSION.—

“(1) NOTICE TO FEDERAL TRADE COMMISSION.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), the attorney general of a State shall notify the Federal Trade Commission in writing of any civil action under subsection (a), prior to initiating such civil action.

“(B) CONTENTS.—The notice required by subparagraph (A) shall include a copy of the complaint to be filed to initiate such civil action.

“(C) EXCEPTION.—If it is not feasible for the attorney general of a State to provide the notice required by subparagraph (A), the State shall provide notice immediately upon instituting a civil action under subsection (a).

“(2) INTERVENTION BY FEDERAL TRADE COMMISSION.—Upon receiving notice required by paragraph (1) with respect to a civil action, the Commission may—

“(A) intervene in such action; and

“(B) upon intervening—

“(i) be heard on all matters arising in such civil action;

“(ii) remove the action to the appropriate district court of the United States; and

“(iii) file petitions for appeal of a decision in such action.

“(d) INVESTIGATORY POWERS.—Nothing in this section may be construed to prevent the attorney general of a State from exercising the powers conferred on such attorney general by the laws of such State to conduct in-

vestigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

“(e) EFFECT OF ACTION BY FEDERAL TRADE COMMISSION.—If the Federal Trade Commission institutes a civil action or an administrative action to enforce a violation of a provision of this title or a rule prescribed under section 1010, no State may, during the pendency of such action, bring a civil action under subsection (a) against any defendant named in the complaint of the Commission for violation of a provision of this title or rule prescribed under section 1010 that is alleged in such complaint.

“(f) ACTIONS BY OTHER STATE OFFICIALS.—

“(1) IN GENERAL.—In addition to actions brought by an attorney general of a State under subsection (a), an action may be brought by officials in a State who are so authorized.

“(2) SAVINGS PROVISION.—Nothing contained in this section may be construed to prohibit an authorized official of a State from proceeding in a court of such State on the basis of an alleged violation of any civil or criminal statute of such State.

**“SEC. 1014. STATUTE OF LIMITATIONS.**

“Any action to enforce any liability under section 1011 may be brought before the later of—

“(1) the end of the 5-year period beginning on the date of the occurrence of the violation involved; or

“(2) in any case in which any debt settlement provider has materially and willfully misrepresented any information that the debt settlement provider is required, by any provision of this title, to disclose to any consumer and that is material to the establishment of the debt settlement provider’s liability to the consumer under this title, the end of the 5-year period beginning on the date of the discovery by the consumer of the violation.

**“SEC. 1015. RELATION TO STATE LAW.**

“This title shall not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the law of any State except to the extent that such law is inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this title if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this title and any subsequent amendments. Nothing in this title shall limit or prohibit a State from prohibiting or otherwise restricting the provision of debt settlement services, or imposing and administering a system of additional requirements, prohibitions, registration, or licensure.”.

**SEC. 1302. INITIAL REGULATIONS.**

(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Federal Trade Commission shall commence a rulemaking to prescribe the following:

(1) The form of the written notices required under subparagraphs (M) and (N) of subsection (a)(2) and subsection (b)(5) of section 1002 of the Consumer Credit Protection Act, as added by section 1301 of this title.

(2) The form of the statement required under subsection (e) of such section 1002.

(3) The form for an agreement described in section 1004(e)(1) of such Act.

(b) DEADLINE.—The Federal Trade Commission shall complete the rulemaking required

by subsection (a) not later than 1 year after the date of the enactment of this Act.

(c) PROCEDURE.—All rulemaking under subsection (a) shall be conducted in accordance with section 553 of title 5, United States Code, and shall not be subject to other procedures set forth in section 18 of the Federal Trade Commission Act (15 U.S.C. 57a).

**SEC. 1303. EFFECTIVE DATE.**

Title X of the Consumer Credit Protection Act, as added by section 1301 of this title, shall take effect on the date that is 60 days after the date of the enactment of this Act.

**SA 3961.** Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “to big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1258, line 7, insert “, as such amount is indexed for inflation,” before “and”.

On page 1258, line 10, insert “, as such amount is indexed for inflation,” before “and”.

On page 1267, line 18, insert before the semicolon “, as such amount is indexed for inflation”.

On page 1267, line 20, insert before the period “, as such amount is indexed for inflation”.

On page 1267, strike line 21 and all that follows through page 1270, line 21, and insert the following:

(b) ENFORCEMENT.—Notwithstanding any other provision of this title, the prudential regulator of a person described in subsection (a) shall have exclusive authority to enforce compliance with respect to such person.

(c) RULEMAKING AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of this title, the prudential regulators may exercise concurrent authority with the Bureau to promulgate regulations under the federal consumer laws with respect to a person described in subsection (a).

(2) PREEMPTION.—A regulation promulgated by the prudential regulators under the enumerated consumer laws shall occupy the field and preempt any regulation promulgated by the Bureau.

(d) CLARIFICATION OF EXISTING AUTHORITY OF PRUDENTIAL REGULATORS.—No provision of this title may be construed as altering, amending, or affecting the authority of the prudential regulators to exercise supervisory or enforcement authority, order assessments, or initiate enforcement proceedings with respect to a person described in subsection (a).

**SA 3962.** Mr. MERKLEY (for himself, Ms. KLOBUCHAR, Mr. SCHUMER, Ms. SNOWE, Mr. BROWN of Massachusetts, Mr. BEGICH, Mrs. BOXER, Mr. DODD, Mr. KERRY, Mr. FRANKEN, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill

S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 1430, between lines 7 and 8, insert the following:

**SEC. 1074. PROHIBITED PAYMENTS TO MORTGAGE ORIGINATORS.**

Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (j) the following:

“(k) PROHIBITION ON STEERING INCENTIVES.—

“(1) IN GENERAL.—For any consumer credit transaction secured by real property or a dwelling, no loan originator shall receive from any person and no person shall pay to a loan originator, directly or indirectly, compensation that varies based on the terms of the loan (other than the amount of the principal).

“(2) RESTRUCTURING OF FINANCING ORIGINATOR FEE.—

“(A) IN GENERAL.—For any consumer credit transaction secured by real property or a dwelling, a loan originator may not arrange for a consumer to finance through the rate any origination fee or cost except bona fide third party settlement charges not retained by the creditor or loan originator.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), a loan originator may arrange for a consumer to finance through the rate any origination fee or cost if—

“(i) the loan originator does not receive any other compensation, directly or indirectly, from the consumer except the compensation that is financed through the rate;

“(ii) no person who knows or has reason to know of the consumer-paid compensation to the loan originator, other than the consumer, pays any compensation to the loan originator, directly or indirectly, in connection with the transaction; and

“(iii) the consumer does not make an upfront payment of discount points, origination points, or fees, however denominated (other than bona fide third party settlement charges).

“(3) RULES OF CONSTRUCTION.—No provision of this subsection shall be construed as—

“(A) limiting or affecting the amount of compensation received by a creditor upon the sale of a consummated loan to a subsequent purchaser;

“(B) restricting a consumer's ability to finance, at the option of the consumer, including through principal or rate, any origination fees or costs permitted under this subsection, or the loan originator's right to receive such fees or costs (including compensation) from any person, subject to paragraph (2)(B), so long as such fees or costs do not vary based on the terms of the loan (other than the amount of the principal) or the consumer's decision about whether to finance such fees or costs; or

“(C) prohibiting incentive payments to a loan originator based on the number of loans originated within a specified period of time.

“(4) LOAN ORIGINATOR.—For the purposes of this section, the term ‘loan originator’—

“(A) means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain, with respect to credit to be secured by real property or a dwelling—

“(i) arranges for an extension, renewal, or continuation of such credit;

“(ii) takes an application for credit or assists a consumer in applying for such credit; or

“(iii) offers or negotiates terms of such credit;

“(B) does not include any person who is not otherwise described in subparagraph (A) and who performs purely administrative or clerical tasks on behalf of a person who is described in subparagraph (A); and

“(C) does not include a person that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person is compensated by a lender or other loan originator or by any agent of such lender or other loan originator.”.

**SEC. 1075. MINIMUM STANDARDS FOR RESIDENTIAL MORTGAGE LOANS.**

(a) IN GENERAL.—No rule, order, or guidance issued by the Bureau under this title shall be construed as requiring a depository institution to apply mortgage underwriting standards that do not meet the minimum underwriting standards required by the appropriate prudential regulator of the depository institution.

(b) ABILITY TO REPAY.—

(1) TILA AMENDMENT.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639), as amended by section 1074 of this Act, is further amended by inserting after subsection (k) the following:

“(1) ABILITY TO REPAY.—

“(1) IN GENERAL.—No creditor may make a loan secured by real property or a dwelling unless the creditor, based on verified and documented information, determines that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance, and assessments.

“(2) MULTIPLE LOANS.—If the creditor knows, or has reason to know, that 1 or more loans secured by the same real property or dwelling will be made to the same consumer, the creditor shall, based on verified and documented information, determine that the consumer has a reasonable ability to repay the combined payments of all loans on the same real property or dwelling according to the terms of those loans and all applicable taxes, insurance, and assessments.

“(3) BASIS FOR DETERMINATION.—A determination under this subsection of a consumer's ability to repay a loan described in paragraph (1) shall include consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio or the residual income the consumer will have after paying non-mortgage debt and mortgage-related obligations, employment status, and other financial resources other than the consumer's equity in the dwelling or real property that secures repayment of the loan.

“(4) INCOME VERIFICATION.—A creditor shall verify amounts of income or assets that such creditor relies on to determine repayment ability, including expected income or assets, by reviewing the consumer's Internal Revenue Service Form W-2, tax returns, payroll receipts, financial institution records, or other third-party documents that provide reasonably reliable evidence of the consumer's income or assets. In order to safeguard against fraudulent reporting, any consideration of a consumer's income history in making a determination under this subsection shall include the verification of such income by the use of—

“(A) Internal Revenue Service transcripts of tax returns; or

“(B) a method that quickly and effectively verifies income documentation by a third party subject to rules prescribed by the Board.

“(5) PRESUMPTION OF ABILITY TO REPAY.—Any creditor with respect to any consumer loan secured by real property or a dwelling is presumed to have complied with this subsection with respect to such loan if the creditor—

“(A) verifies the consumer's ability to repay as provided in paragraphs (1), (2), (3), and (4); and

“(B) determines the consumer's ability to repay using the maximum rate permitted under the loan during the first 5 years following consummation and a payment schedule that fully amortizes the loan and taking into account current obligations and all applicable taxes, insurance, and assessments.

“(6) EXCEPTIONS TO PRESUMPTION.—Notwithstanding paragraph (5), no presumption of compliance shall be applied to a loan—

“(A) for which the regular periodic payments for the loan may—

“(i) result in an increase of the principal balance; or

“(ii) allow the consumer to defer repayment of principal.

“(B) the terms of which result in a balloon payment, where a ‘balloon payment’ is a scheduled payment that is more than twice as large as the average of earlier scheduled payments; or

“(C) for which the total points and fees payable in connection with the loan exceed 3 percent of the total loan amount, where ‘points and fees’ means points and fees as defined by section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)), except that, for the purposes of computing the total points and fees under this subparagraph, the total points and fees attributable to any premium for mortgage guarantee insurance provided by an agency of the Federal Government or an agency of a State shall exclude any amount of the points and fees for such insurance greater than 1 percent of the total loan amount.

“(7) EXEMPTION.—

“(A) The Board may revise, add to, or subtract from the criteria under paragraphs (5) and (6) and subparagraphs (B) and (C) of this paragraph upon a finding that such regulations are necessary or appropriate to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance with this subsection.

“(B) BRIDGE LOANS.—This subsection does not apply to a temporary or ‘bridge’ loan with a term of 12 months or less, including to any loan to purchase a new dwelling where the consumer plans to sell a current dwelling within 12 months.

“(C) REVERSE MORTGAGES.—This subsection does not apply with respect to any reverse mortgage.

“(8) SEASONAL INCOME.—If documented income, including income from a small business, is a repayment source for an extension of credit secured by residential real estate or a dwelling, a creditor may consider the seasonality and irregularity of such income in the underwriting of and scheduling of payments for such credit.”.

(2) CONFORMING AMENDMENT.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639), as amended by this Act, is amended—

(A) by redesignating subsections (k), (l), and (m) as subsections (m), (n), and (o), respectively; and

(B) in subsection (o), as so redesignated, by striking “(1)(2)” and inserting “(n)(2)”.

On page 1430, line 8, “SEC. 1074” and insert “SEC. 1076”.

On page 1441, line 1, “**SEC. 1075**” and insert “**SEC. 1077**”.

On page 1442, line 10, “**SEC. 1076**” and insert “**SEC. 1078**”.

**SA 3963.** Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 387, line 15, strike “by rule” and all that follows through page 387, line 3 and insert the following: “by rule, adjust the financial threshold for an accredited investor, as set forth in the rules of the Commission under the Securities Act of 1933, not less frequently than once every 5 years, to reflect the percentage increase in the cost of living following the date of enactment of this Act.”.

**SA 3964.** Mr. HARKIN (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 557, strike lines 4 through 14 and insert the following:

“swap execution facility” means an electronic trading system with pre-trade and post-trade transparency in which multiple participants have the ability to execute or trade swaps by accepting bids and offers made by other participants that are open to multiple participants in the system, but which is not a designated contract market.”; and

Beginning on page 773, strike line 24 and all that follows through page 774, line 7, and insert the following:

“swap execution facility” means an electronic trading system with pre-trade and post-trade transparency in which multiple participants have the ability to execute or trade swaps by accepting bids and offers made by other participants that are open to multiple participants in the system, but which is not a designated contract market.

**SA 3965.** Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to

protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 691, strike lines 10 through 12 and insert the following:

**CONTRACT MARKETS.**—The governing body of the board of trade shall be constituted to facilitate, consistent with other applicable core principles and duties, consideration of the views and objectives of market participants.

**SA 3966.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_.** **REVOLVING DOOR PROHIBITIONS FOR FINANCIAL REGULATORS.**

(a) **IN GENERAL.**—Section 207(c)(2)(A) of title 18, United States Code, is amended—

(1) in clause (iv), by striking “or” at the end;

(2) in clause (v), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(vi) employed by the Securities and Exchange Commission as an officer, attorney, economist, examiner, or other employee described in section 4802(b) of title 5 and who receives increased pay or additional benefits or compensation under subsection (c) or (d) of that section; or

“(vii)(I) employed by—

“(aa) the Federal Reserve System as an employee described in section 11(l) of the Federal Reserve Act (12 U.S.C. 248(1));

“(bb) the Farm Credit Administration as an employee described in section 5.11(c)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2245(c)(2));

“(cc) the Federal Deposit Insurance Corporation as an employee described in section 9(a) of the Federal Deposit Insurance Act (12 U.S.C. 1819(a));

“(dd) the National Credit Union Administration as an employee described in section 120 of the Federal Credit Union Act (12 U.S.C. 1766);

“(ee) the Office of the Comptroller of Currency as an employee described in section 5240 of the Revised Statutes (12 U.S.C. 482) or section 206 of the Bank Conservation Act (12 U.S.C. 206);

“(ff) the Office of Federal Housing Enterprise Oversight as an employee described in section 1315 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4515);

“(gg) the Office of Thrift Supervision as an employee described in section 3(h) of the Home Owners’ Loan Act (12 U.S.C. 1462a(h)); or

“(hh) the Commodities Futures Trading Commission as an employee described in section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)); and

“(II) who receives increased pay or additional benefits or compensation in excess of

any pay limitation under title 5, as authorized by the board, commission, or agency.”.

(b) **REVOLVING DOOR REGISTRATION.**—

(1) **DEFINITIONS.**—In this subsection—

(A) the term “covered employee” means a former employee of a covered financial regulator who—

(i) received increased pay or additional benefits or compensation in excess of any pay limitation under title 5, United States Code, as authorized by the covered financial regulator on or after the date of enactment of this Act; and

(ii) represents any individual, corporation, or other entity with business before the covered financial regulator that employed the employee; and

(B) the term “covered financial regulator” means—

(i) the Commission

(ii) the Federal Reserve System;

(iii) the Farm Credit Administration;

(iv) the Corporation;

(v) the National Credit Union Administration;

(vi) the Office of the Comptroller of Currency;

(vii) the Office of Federal Housing Enterprise Oversight;

(viii) the Office of Thrift Supervision; and

(ix) the Commodities Futures Trading Commission.

(2) **REGISTRATION.**—

(A) **IN GENERAL.**—Not later than 120 days after the date of enactment of this Act, each covered financial regulator shall establish a website through which a covered employee may register and update information in accordance with subparagraph (B)

(B) **REGISTRATION BY COVERED EMPLOYEES.**—A covered employee—

(i) shall register with the covered financial regulator that employed the covered employee before representing any individual, corporation, or other entity with business before the covered financial regulator, which shall include providing—

(I) the name of the covered employee and the last job title held by the covered employee at the covered financial regulator;

(II) the name of the individual, corporation, or other entity;

(III) a description of the purpose of the representation of the individual, corporation, or other entity;

(IV) a comprehensive list of all matters that the representation of the individual, corporation, or other entity will include;

(V) a comprehensive list of all matters in which the covered employee personally and substantially participated while employed by the covered financial regulator; and

(VI) a description of any restriction on the representation of the individual, corporation, or other entity under Federal law, rule, regulation, or order of the covered financial regulator;

(ii) shall, if any information provided under clause (i) changes, provide updated information to the covered financial regulator; and

(iii) may not, during the 2-year period beginning on the date on which the employment of the covered employee with the covered financial regulator terminates, influence any communication to, or appearance before any officer or employee of the covered financial regulator in connection with any matter on which an individual, corporation, or other entity represented by the covered employee seeks official action by any officer or employee of the covered financial regulator.

(3) **ENFORCEMENT.**—A covered financial regulator may impose a civil monetary penalty



on any person that violates paragraph (2)(B) in an amount not less than \$10,000 and not more than \$100,000 for each violation.

(4) PUBLIC AVAILABILITY.—Not later than 14 days after the date on which information is provided to a covered financial regulator under paragraph (2)(B), the covered financial regulator shall make the information publicly available on the website of the covered financial regulator in a searchable form.

**SA 3967.** Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, line 23, strike “and” and all that follows through “(G) any” on line 24 and insert the following:

(G) potential obligations to third parties in connection with credit derivative transactions between the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) and the third parties that reference the company or obligations of the company; and

(H) any

**SA 3968.** Mr. TESTER (for himself, Mrs. MURRAY, and Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1235, strike lines 6 through 10 and insert the following:

(A) the Bureau shall consider—

(i) the potential benefits and costs to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services resulting from such rule; and

(ii) the impact of proposed rules on covered persons, as described in section 1026, and the impact on consumers in rural areas;

**SA 3969.** Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers

from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 370, between lines 13 and 14, insert the following:

**SEC. 333. FDIC EXAMINATION AUTHORITY.**

(a) EXAMINATION AUTHORITY FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.—Section 10(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(3)) is amended by striking “whenever the Board” and all that follows through the period at the end and inserting the following: “or depository institution holding company whenever the Chairperson or the Board of Directors determines that a special examination of any such depository institution or depository institution holding company is necessary to determine the condition of such depository institution or depository institution holding company for insurance purposes or for purposes of title II of the Restoring American Financial Stability Act of 2010.”.

(b) ENFORCEMENT AUTHORITY.—Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended—

(1) in paragraph (1)—

(A) by striking “based on an examination of an insured depository institution” and inserting “based on an examination of an insured depository institution or depository institution holding company”; and

(B) by striking “with respect to any insured depository institution or” and inserting “with respect to any insured depository institution, depository institution holding company, or”;

(2) in paragraph (2)—

(A) by striking “Board of Directors determines, upon a vote of its members,” and inserting “Board of Directors, upon a vote of its members, or the Chairperson determines”;

(B) in subparagraph (B), by striking “or” at the end;

(C) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(D) by adding at the end the following:

“(D) the conduct or threatened conduct (including any acts or omissions) of the depository institution holding company poses a risk to the Deposit Insurance Fund or of the exercise of authority under title II of the Restoring American Financial Stability Act of 2010, or may prejudice the interests of the depositors of an affiliated institution.”;

(3) in paragraph (3)(A), by striking “upon a vote of the Board of Directors” and inserting “upon a determination by the Chairperson or upon a vote of the Board of Directors”;

(4) in paragraph (4)(A)—

(A) by striking “any insured depository institution” and inserting “any insured depository institution, depository institution holding company,”; and

(B) by striking “the institution” and inserting “the institution, holding company,”;

(5) in paragraph (4)(B), by striking “the institution” each place that term appears and inserting “the institution, holding company,”; and

(6) in paragraph (5)(A), by striking “an insured depository institution” and inserting “an insured depository institution, depository institution holding company.”.

(c) BACK-UP EXAMINATION AUTHORITY FOR ORDERLY LIQUIDATION PURPOSES.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

**“SEC. 51. BACK-UP EXAMINATION AUTHORITY FOR ORDERLY LIQUIDATION PURPOSES.**

“The Corporation may conduct a special examination of a nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010, if the Chairperson or the Board of Directors determines an examination is necessary to determine the condition of the company for purposes of title II of that Act.”.

(d) ACCESS TO INFORMATION FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.—The Federal Deposit Insurance Act is amended by adding at the end the following:

**“SEC. 52. ACCESS TO INFORMATION FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.**

“(a) ACCESS TO INFORMATION.—The Corporation may, if the Corporation determines that such action is necessary to carry out its responsibilities relating to deposit insurance or orderly liquidation under this Act, title II of the Restoring American Financial Stability Act of 2010, or otherwise applicable Federal law—

“(1) obtain information from an insured depository institution, depository institution holding company, or nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010;

“(2) obtain information from the appropriate Federal banking agency, or any regulator of a nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010, including examination reports; and

“(3) participate in any examination, visitation, or risk-scoping activity of an insured depository institution, depository institution holding company, or nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010.

“(b) ENFORCEMENT.—The Corporation shall have the authority to take any enforcement action under section 8 against any institution or company described in paragraph (1) of subsection (a) that fails to provide any information requested under that paragraph.

“(c) USE OF AVAILABLE INFORMATION.—The Corporation shall use, in lieu of a request for information under subsection (a), information provided to another Federal or State regulatory agency, publicly available information, or externally audited financial statements to the extent that the Corporation determines such information is adequate to the needs of the Corporation.”.

On page 1006, strike line 17 and all that follows through page 1007, line 2, and insert the following:

(A) by striking paragraph (2) and inserting the following:

“(2) STANDARDS AND OVERSIGHT.—The Commission shall set standards and exercise oversight of the procedures and methodologies, including qualitative and quantitative data and models, used by nationally recognized statistical rating organizations, to ensure that the credit ratings issued by the nationally recognized statistical rating organizations have a reasonable foundation in fact and analysis. Nothing in this paragraph may be construed to afford a defense against any action or proceeding brought by the Commission to enforce the antifraud provisions of the securities laws.”; and

On page 1019, line 14, strike “with respect to” and all that follows through “organization” on line 18 and insert “to ensure that the qualitative and quantitative data and models used by nationally recognized statistical rating organizations produce credit ratings that have a reasonable foundation in fact and analysis. The rules prescribed under this subsection shall require each nationally recognized statistical rating organization”.

On page 1020, line 25, strike “and”.

On page 1021, line 15, strike the period at the end and insert the following: “; and

“(4) to assign relatively greater credit risk to a financial product or transaction for which—

“(A) the rating organization lacks adequate historical performance data;

“(B) the assets are provided by persons with a history of providing poorly performing assets;

“(C) income from the assets will not be directly contributed to the securitization, product, or transaction;

“(D) publicly available information, including trading information, indicates that a prior rating misjudged the credit risk of the product or transaction;

“(E) the product or transaction is of sufficient complexity or novelty that the performance of the product or transaction cannot be reliably evaluated; or

“(F) there is any other feature that the Commission may specify.

On page 1023, line 5, strike “(A)” and insert the following:

“(A) BASIC INFORMATION.—Each nationally recognized statistical rating organization shall disclose at the beginning of the form developed under paragraph (1) basic information about each of the credit ratings that is the subject of the disclosure, including—

“(i) the latest rating provided for the product or transaction that is the subject of the disclosure;

“(ii) the date upon which the rating described in clause (i) was issued;

“(iii) whether that rating described in clause (i) was intended to be effective for less or more than 1 year after the date of issuance of the rating;

“(iv) the type of asset to which the rating described in clause (i) applies;

“(v) the history and date of any prior rating with respect to the product or transaction during the 5-year period preceding the date of the disclosure; and

“(vi) any other basic information, as the Commission may require.

“(B)

On page 1025, line 19, strike “(B)” and insert “(C)”.

On page 1028 between lines 4 and 5 insert the following:

“(E) NO RELIANCE ON INADEQUATE REPORT.—A nationally recognized statistical rating organization may not rely on a third-party due diligence report if the nationally recognized statistical rating organization has reason to believe that the report is inadequate.

On page 1042, strike line 15 and all that follows through page 1043, line 9, and insert the following:

#### SEC. 939B. ELIMINATING CONFLICTS OF INTEREST THROUGH INTERMEDIATION.

(a) INTERMEDIATION PROPOSAL.—Not later than 180 days after the date of enactment of this Act, the Commission, through the Office of Credit Ratings, shall issue a notice of proposed rulemaking—

(1) to establish a system that—

(A) allows an intermediary to handle the fees provided by issuers to obtain credit rat-

ings from nationally recognized statistical rating organizations, in order to avoid conflicts of interest that arise when an issuer pays for a credit rating with respect to a financial product or transaction that the issuer plans to sell or execute; and

(B) enables such intermediary to receive fees from issuers, direct fees to nationally recognized statistical rating organizations, and create incentives to reward accurate ratings; and

(2) that directs or facilitates the formation of, or identifies, an intermediary to carry out the system described in paragraph (1).

On page 1044, between lines 2 and 3, insert the following:

#### SEC. 939D. STRENGTHENING THE ENFORCEMENT AUTHORITY OF THE COMMISSION OVER NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

(a) REQUIREMENT TO FILE APPLICATIONS AND REPORTS WITH COMMISSION.—Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by striking “furnish to” and inserting “file with”; and

(B) in paragraph (2), by striking “furnished to” each place that term appears and inserting “filed with”;

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking “furnished” and inserting “filed”;

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking “furnish to” and inserting “file with”; and

(C) by striking “furnishing” each place that term appears and inserting “filing”;

(3) in subsection (d)(1), as so redesignated by this Act—

(A) in subparagraph (B), by striking “furnished to” and inserting “filed with”; and

(B) in subparagraph (D), by striking “furnish” and inserting “file”;

(4) in subsection (e)(1), by striking “furnishing a written notice of withdrawal to the Commission” and inserting “filing a written notice of withdrawal with the Commission”;

(5) in subsection (k), by striking “furnish to” and inserting “file with”;

(6) in subsection (l)(2)(A)(i), by striking “furnished” and inserting “filed”; and

(7) in subsection (m)(2), by striking “furnished” and inserting “filed”.

(b) AUTHORITY TO SANCTION ASSOCIATED PERSONS.—Section 15E(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7), as amended by this Act, is amended—

(1) by inserting after “or revoke the registration of any nationally recognized statistical rating organization” the following: “, or take enforcement action against or sanction any person who is or was associated, or is or was seeking to become associated, with a nationally recognized statistical rating organization.”; and

(2) by inserting “bar,” after “placing of limitations, suspension.”.

On page 1047, strike lines 3 through 15 and insert the following:

“(B) require a securitizer to retain an economic interest—

“(i) of not less than 5 percent of the credit risk associated with a pool of assets used to create a series of asset-backed securities, and ensure that such economic interest is applied to multiple credit tranches derived from the pool of assets in a manner reasonably designed to ensure that the securitizer retains an economic interest in the success of each class of securities resulting from the securitization of the asset pool; or

“(ii) of less than 5 percent of the credit risk associated with a pool of assets used to

create a series of asset-backed securities, if and only if each of the assets in the pool pose a low credit risk, the originator meets the underwriting standards prescribed under paragraph (2)(B), and the securitizer conducts a due diligence review reasonably designed to ensure the assets and originator meet the requirements of this paragraph;

On page 1056, line 17, strike the second period and insert the following: “.

#### SEC. 946. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15G, as added by this Act, the following new section:

#### “SEC. 15H. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.

“(a) DEFINITION.—For purposes of this section, the term ‘synthetic asset-backed security’ means an asset-backed security with respect to which, by design, the self-liquidating financial assets referenced in the synthetic securitization do not provide any direct payment or cash flow to the holder of the security.

“(b) RESTRICTION.—

“(1) IN GENERAL.—No issuer, underwriter, placement agent, sponsor, or initial purchaser may offer, sell, or transfer a synthetic asset-backed security that has no substantial or material economic purpose apart from speculation on a possible future gain or loss associated with the value or condition of the referenced assets. The Commission may determine whether a synthetic asset-backed security meets the requirements of this section. A determination by the Commission under the preceding sentence is not subject to judicial review.

“(2) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules to carry out this section and to prevent evasions thereof.”.

At the end of the bill, add the following:

#### SEC. 1221. MORTGAGE STANDARDS.

(a) PROHIBITION ON STATED INCOME AND NEGATIVELY AMORTIZING MORTGAGES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by adding at the end the following:

“(n) PROHIBITION ON STATED INCOME AND NEGATIVELY AMORTIZING MORTGAGES.—

“(1) IN GENERAL.—Any person who sells, transfers, or plans to sell or transfer at least 1,000 mortgages, mortgage-backed securities, or similar financial instruments within a calendar year shall not include or reference in any of such financial instruments any mortgage in which the borrower’s income was not verified or in which the loan balance may negatively amortize.

“(2) JOINT RULEMAKING.—The Chairman of the Board, the Chairperson of the Federal Deposit Insurance Corporation, and the Director of the Bureau of Consumer Financial Protection may issue joint rules to carry out the purposes of this subsection. Rules issued under this paragraph may—

“(A) specify what documentation may be used to verify the income of a borrower under paragraph (1), including tax information, asset statements, prior loan repayment information, or any other documentation that the Chairmen and the Director jointly deem necessary and appropriate; and

“(B) define ‘negatively amortize’, including by making an exception for home equity conversion mortgages, as defined under section 255 of the National Housing Act (commonly referred to as ‘reverse mortgages’) that are otherwise regulated by a Federal or State agency.

“(3) RULE OF CONSTRUCTION.—As used in this section, the term ‘mortgage’ shall not be construed to be restricted or limited only to mortgages referred to in section 103(aa).”

(b) EFFECTIVE DATE.—The requirements under subsection (n)(1) of section 129 of the Truth in Lending Act (as added by subsection (a)) shall take effect not later than 180 days after the date of the enactment of this Act, whether or not any rulemaking under subsection (n)(2) of such Act has been initiated or completed.

#### SEC. 1222. GUSTAFSON FIX.

(a) DEFINITION OF PROSPECTUS.—Section 2(a)(10) of the Securities Act of 1933 (15 U.S.C. 77b(a)(10)) is amended—

(1) by inserting before “except that” the following: “(whether or not such security is offered or sold pursuant to a registration statement or the security or the transaction is exempt from this title or from section 5 of this title pursuant to the provisions of sections 3 or 4)”; and

(2) by striking “at the time of such” and inserting “at the time such”.

(b) CIVIL LIABILITIES.—Section 12(a)(2) of the Securities Act of 1933 (15 U.S.C. 77l(a)(2)) is amended by inserting “(as defined in section 2(a)(10) of this title)” after “prospectus”.

#### SEC. 1223. COOLING OFF PERIOD.

Section 207 of title 18, United States Code, is amended by adding at the end the following:

“(m) ONE-YEAR RESTRICTION ON FEDERAL FINANCIAL REGULATORS.—

“(1) IN GENERAL.—In addition to the restrictions set forth in subsections (a) and (b), any person who—

“(A) was an officer or employee (including any special Government employee) of a covered Federal agency;

“(B) served 2 or more months during the final 12 months of the employment of the person with the covered Federal agency participating personally and substantially on behalf of the covered Federal agency in the regulation or oversight of, or in an enforcement action against, a particular financial institution or holding company; and

“(C) within 1 year after the completion date of the service or employment of the person with the covered Federal agency, knowingly accepts compensation as an employee, officer, director, or consultant from—

“(i) the financial institution described in subparagraph (B), any holding company that controls the financial institution, or any other company that controls the financial institution; or

“(ii) the holding company described in subparagraph (B), or any other financial institution that is controlled by such holding company, shall be punished as provided in section 216 of this title.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘covered Federal agency’ means the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, each Federal Reserve Bank, the National Credit Union Administration, the Financial Stability Oversight Council, the Securities and Exchange Commission, the Commodities Futures Trading Commission, the Bureau of Consumer Financial Protection, and the Public Company Accounting Oversight Board;

“(B) the term ‘financial institution’ means any business or holding company that is registered with or regulated by a covered Federal agency, including any foreign financial

institution or holding company that has a physical location in any State and is registered with or regulated by a covered Federal agency; and

“(C) the term ‘consultant’ means a person who works personally and substantially on matters for, or on behalf of, a financial institution or holding company.

“(3) REGULATIONS.—

“(A) IN GENERAL.—Each covered Federal agency may prescribe rules or guidance to administer and carry out this section, including to define the scope of persons referred to in paragraphs (1) and (2)(C), and the financial institutions and holding companies referred to in paragraph (2)(B).

“(B) CONSULTATION.—A covered Federal agency may consult with other covered Federal agencies for the purpose of ensuring that the rules and guidance issued by the agencies under subparagraph (A) are, to the extent possible, consistent, comparable, and practicable, taking into account any differences in the regulatory and oversight programs used by the covered Federal agencies for the supervision of financial institutions and holding companies.

“(4) WAIVER.—A Federal agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of the covered Federal agency, if the head of the covered Federal agency, or the chairman of its board of directors, certifies in writing that granting the waiver would not impair the integrity of the regulatory and oversight efforts of the covered Federal agency.

“(5) PENALTIES.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever a Federal agency determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with a financial institution, holding company, or other company in violation of this section, the agency shall impose upon such person one or more of the following penalties:

“(A) INDUSTRY-WIDE PROHIBITION ORDER.—The Federal agency may, subject to notice and an administrative hearing, issue an order—

“(i) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the financial institution, holding company, or other company for a period of up to 5 years; and

“(ii) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any financial institution or holding company subject to regulation or oversight by the agency for a period of up to 5 years.

“(B) CIVIL MONETARY PENALTY.—The Federal agency may, in an administrative proceeding or civil action in an appropriate United States district court, impose upon such person a civil monetary penalty of not more than \$250,000. In lieu of an action by the Federal agency under this subparagraph, the Attorney General of the United States may bring a civil action under this subparagraph in the appropriate United States district court.”

#### SEC. 1224. FOREIGN BANK ANTI-TAX EVASION FIX.

Section 5318A of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

**“§5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or impede United States tax enforcement”;**

(2) in subsection (a), by striking the subsection heading and inserting the following:

**“(a) SPECIAL MEASURES TO COUNTER MONEY LAUNDERING AND EFFORTS TO IMPEDE UNITED STATES TAX ENFORCEMENT.—”;**

(3) in subsection (c), by striking the subsection heading and inserting the following:

**“(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE IMPEDING UNITED STATES TAX ENFORCEMENT.—”;**

(4) in subsection (a)(1), by inserting “or is impeding United States tax enforcement” after “primary money laundering concern”;

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting “in matters involving money laundering,” before “shall consult”; and

(ii) by striking “and” at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

**“(B) in matters involving United States tax enforcement, shall consult with the Commissioner of Internal Revenue, the Secretary of State, the Attorney General of the United States, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and”;**

(6) in each of paragraphs (1)(A), (2), (3), and (4) of subsection (b), by inserting “or to be impeding United States tax enforcement” after “primary money laundering concern” each place that term appears;

(7) in subsection (b), by striking paragraph (5) and inserting the following:

**“(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN PAYMENT CARDS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within or involving a jurisdiction outside of the United States to be of primary money laundering concern or to be impeding United States tax enforcement, the Secretary, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon—**

**“(A) the opening or maintaining in the United States of a correspondent account or payable-through account; or**

**“(B) the authorization, approval, or use in the United States of a credit card, charge card, debit card, or similar credit or debit financial instrument by any domestic financial institution, financial agency, or credit card company or association, for or on behalf of a foreign banking institution, if such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument, involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument.”;** and

(8) in subsection (c)(1), by inserting “or is impeding United States tax enforcement” after “primary money laundering concern”;

(9) in subsection (c)(2)(A)—

(A) in clause (ii), by striking “bank secrecy or special regulatory advantages” and inserting “bank, tax, corporate, trust, or financial secrecy or regulatory advantages”;

(B) in clause (iii), by striking “supervisory and counter-money” and inserting “supervisory, international tax enforcement, and counter-money”;

(C) in clause (v), by striking “banking or secrecy” and inserting “banking, tax, or secrecy”;

(D) in clause (vi), by inserting “, tax treaty, or tax information exchange agreement” after “treaty”;

(10) in subsection (c)(2)(B)—

(A) in clause (i), by inserting “or tax evasion” after “money laundering”; and

(B) in clause (iii), by inserting “, tax evasion” after “money laundering”; and

(11) in subsection (d), by inserting “involving money laundering, and shall notify, in writing, the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any such action involving United States tax enforcement” after “such action”.

**SA 3970.** Mr. LEVIN (for himself, Mr. KAUFMAN, Mrs. McCASKILL, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

**TITLE —AUTHORIZING SPECIAL MEASURES FOR JURISDICTIONS, FINANCIAL INSTITUTIONS, INTERNATIONAL TRANSACTIONS, OR TYPES OF ACCOUNTS THAT ARE OF PRIMARY MONEY LAUNDERING CONCERN OR IMPEDE UNITED STATES TAX ENFORCEMENT**

**SEC. \_\_\_\_ . AUTHORIZING SPECIAL MEASURES FOR JURISDICTIONS, FINANCIAL INSTITUTIONS, INTERNATIONAL TRANSACTIONS, OR TYPES OF ACCOUNTS THAT ARE OF PRIMARY MONEY LAUNDERING CONCERN OR IMPEDE UNITED STATES TAX ENFORCEMENT.**

Section 5318A of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

**“§ 5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or impede United States tax enforcement”;**

(2) in subsection (a), by striking the subsection heading and inserting the following:

**“(a) SPECIAL MEASURES TO COUNTER MONEY LAUNDERING AND EFFORTS TO IMPEDE UNITED STATES TAX ENFORCEMENT.—”;**

(3) in subsection (c), by striking the subsection heading and inserting the following:

**“(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE IMPEDING UNITED STATES TAX ENFORCEMENT.—”;**

(4) in subsection (a)(1), by inserting “or is impeding United States tax enforcement” after “primary money laundering concern”;

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting “in matters involving money laundering,” before “shall consult”; and

(ii) by striking “and” at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

“(B) in matters involving United States tax enforcement, shall consult with the Commissioner of the Internal Revenue, the Secretary of State, the Attorney General of the United States, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and”;

(6) in each of paragraphs (1)(A), (2), (3), and (4) of subsection (b), by inserting “or to be impeding United States tax enforcement” after “primary money laundering concern” each place that term appears;

(7) in subsection (b), by striking paragraph (5) and inserting the following:

**“(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN PAYMENT CARDS.—**If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within or involving a jurisdiction outside of the United States to be of primary money laundering concern or to be impeding United States tax enforcement, the Secretary, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon—  
“(A) the opening or maintaining in the United States of a correspondent account or payable-through account; or  
“(B) the authorization, approval, or use in the United States of a credit card, charge card, debit card, or similar credit or debit financial instrument by any domestic financial institution, financial agency, or credit card company or association, for or on behalf of a foreign banking institution, if such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument, involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument.”;

(8) in subsection (c)(1), by inserting “or is impeding United States tax enforcement” after “primary money laundering concern”;

(9) in subsection (c)(2)(A)—  
(A) in clause (ii), by striking “bank secrecy or special regulatory advantages” and inserting “bank, tax, corporate, trust, or financial secrecy or regulatory advantages”;

(B) in clause (iii), by striking “supervisory and counter-money” and inserting “supervisory, international tax enforcement, and counter-money”;

(C) in clause (v), by striking “banking or secrecy” and inserting “banking, tax, or secrecy”;

(D) in clause (vi), by inserting “, tax treaty, or tax information exchange agreement” after “treaty”;

(10) in subsection (c)(2)(B)—

(A) in clause (i), by inserting “or tax evasion” after “money laundering”; and

(B) in clause (iii), by inserting “, tax evasion,” after “money laundering”; and

(11) in subsection (d), by inserting “involving money laundering, and shall notify, in writing, the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any such action involving United States tax enforcement” after “such action”.

**SA 3971.** Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

**SEC. 333. EXAMINATION AND ENFORCEMENT AUTHORITY FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.**

(a) **EXAMINATION AUTHORITY FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.—**Section 10(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(3)) is amended by striking “whenever the Board” and all that follows through the period at the end and inserting the following: “or depository institution holding company whenever the Chairperson or the Board of Directors determines that a special examination of any such depository institution or depository institution holding company is necessary to determine the condition of such depository institution or depository institution holding company for insurance purposes or for purposes of title II of the Restoring American Financial Stability Act of 2010.”.

(b) **ENFORCEMENT AUTHORITY.—**Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended—

(1) in paragraph (1)—

(A) by striking “based on an examination of an insured depository institution” and inserting “based on an examination of an insured depository institution or depository institution holding company”; and

(B) by striking “with respect to any insured depository institution or” and inserting “with respect to any insured depository institution, depository institution holding company, or”;

(2) in paragraph (2)—

(A) by inserting “Chairperson or” before “Board of Directors determines, upon a vote”;

(B) in subparagraph (B), by striking “or” at the end;

(C) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(D) by adding at the end the following:

“(D) the conduct or threatened conduct (including any acts or omissions) of the depository institution holding company poses a risk to the Deposit Insurance Fund or of the exercise of authority under title II of the Restoring American Financial Stability Act of 2010, or may prejudice the interests of the depositors of an affiliated institution.”;

(3) in paragraph (3)(A), by striking “upon a vote of the Board of Directors” and inserting “upon a determination by the Chairperson or upon a vote of the Board of Directors”;

(4) in paragraph (4)(A)—

(A) by striking “any insured depository institution” and inserting “any insured depository institution, depository institution holding company,”; and

(B) by striking “the institution” and inserting “the institution, holding company,”;

(5) in paragraph (4)(B), by striking “the institution” each place that term appears and inserting “the institution, holding company,”; and

(6) in paragraph (5)(A), by striking “an insured depository institution” and inserting “an insured depository institution, depository institution holding company,”.

(C) **BACK-UP EXAMINATION AUTHORITY FOR ORDERLY LIQUIDATION PURPOSES.**—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

**“SEC. 51. BACK-UP EXAMINATION AUTHORITY FOR ORDERLY LIQUIDATION PURPOSES.**

“The Corporation may conduct a special examination of a nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010, if the Chairperson or the Board of Directors determines an examination is necessary to determine the condition of the company for purposes of title II of that Act.”.

(d) **ACCESS TO INFORMATION FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.**—The Federal Deposit Insurance Act is amended by adding at the end the following:

**“SEC. 52. ACCESS TO INFORMATION FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.**

“(a) **ACCESS TO INFORMATION.**—The Corporation may, if the Corporation determines that such action is necessary to carry out its responsibilities relating to deposit insurance or orderly liquidation under this Act, title II of the Restoring American Financial Stability Act of 2010, or otherwise applicable Federal law—

“(1) obtain information from an insured depository institution, depository institution holding company, or nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010;

“(2) obtain information from the appropriate Federal banking agency, or any regulator of a nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010, including examination reports; and

“(3) participate in any examination, visitation, or risk-scoping activity of an insured depository institution, depository institution holding company, or nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010.

“(b) **ENFORCEMENT.**—The Corporation shall have the authority to take any enforcement action under section 8 against any institution or company described in paragraph (1) of subsection (a) that fails to provide any information requested under that paragraph.

“(c) **USE OF AVAILABLE INFORMATION.**—The Corporation shall use, in lieu of a request for information under subsection (a), information provided to another Federal or State regulatory agency, publicly available information, or externally audited financial statements to the extent that the Corporation determines such information is adequate to the needs of the Corporation.”.

**SA 3972.** Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1006, strike line 17 and all that follows through page 1007, line 2, and insert the following:

(A) by striking paragraph (2) and inserting the following:

“(2) **STANDARDS AND OVERSIGHT.**—The Commission shall set standards and exercise oversight of the procedures and methodologies, including qualitative and quantitative data and models, used by nationally recognized statistical rating organizations, to ensure that the credit ratings issued by the nationally recognized statistical rating organizations have a reasonable foundation in fact and analysis. Nothing in this paragraph may be construed to afford a defense against any action or proceeding brought by the Commission to enforce the antifraud provisions of the securities laws.”; and

On page 1019, line 14, strike “with respect to” and all that follows through “organization” on line 18 and insert “to ensure that the qualitative and quantitative data and models used by nationally recognized statistical rating organizations produce credit ratings that have a reasonable foundation in fact and analysis. The rules prescribed under this subsection shall require each nationally recognized statistical rating organization”.

On page 1020, line 25, strike “and”.

On page 1021, line 15, strike the period at the end and insert the following: “; and

“(4) to assign relatively greater credit risk to a financial product or transaction for which—

“(A) the rating organization lacks adequate historical performance data;

“(B) the assets are provided by persons with a history of providing poorly performing assets;

“(C) income from the assets will not be directly contributed to the securitization, product, or transaction;

“(D) publicly available information, including trading information, indicates that a prior rating misjudged the credit risk of the product or transaction;

“(E) the product or transaction is of sufficient complexity or novelty that the performance of the product or transaction cannot be reliably evaluated; or

“(F) there is any other feature that the Commission may specify.

On page 1023, line 5, strike “(A)” and insert the following:

“(A) **BASIC INFORMATION.**—Each nationally recognized statistical rating organization shall disclose at the beginning of the form developed under paragraph (1) basic information about each of the credit ratings that is the subject of the disclosure, including—

“(i) the latest rating provided for the product or transaction that is the subject of the disclosure;

“(ii) the date upon which the rating described in clause (i) was issued;

“(iii) whether that rating described in clause (i) was intended to be effective for less or more than 1 year after the date of issuance of the rating;

“(iv) the type of asset to which the rating described in clause (i) applies;

“(v) the history and date of any prior rating with respect to the product or transaction during the 5-year period preceding the date of the disclosure; and

“(vi) any other basic information, as the Commission may require.

“(B)

On page 1025, line 19, strike “(B)” and insert “(C)”.

On page 1028 between lines 4 and 5 insert the following:

“(E) **NO RELIANCE ON INADEQUATE REPORT.**—A nationally recognized statistical rating organization may not rely on a third-party due diligence report if the nationally recognized statistical rating organization has reason to believe that the report is inadequate.

On page 1042, strike line 15 and all that follows through page 1043, line 9, and insert the following:

**SEC. 939B. ELIMINATING CONFLICTS OF INTEREST THROUGH INTERMEDIATION.**

(a) **INTERMEDIATION PROPOSAL.**—Not later than 180 days after the date of enactment of this Act, the Commission, through the Office of Credit Ratings, shall issue a notice of proposed rulemaking—

(1) to establish a system that—

(A) allows an intermediary to handle the fees provided by issuers to obtain credit ratings from nationally recognized statistical rating organizations, in order to avoid conflicts of interest that arise when an issuer pays for a credit rating with respect to a financial product or transaction that the issuer plans to sell or execute; and

(B) enables such intermediary to receive fees from issuers, direct fees to nationally recognized statistical rating organizations, and create incentives to reward accurate ratings; and

(2) that directs or facilitates the formation of, or identifies, an intermediary to carry out the system described in paragraph (1).

On page 1044, between lines 2 and 3, insert the following:

**SEC. 939D. STRENGTHENING THE ENFORCEMENT AUTHORITY OF THE COMMISSION OVER NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.**

(a) **REQUIREMENT TO FILE APPLICATIONS AND REPORTS WITH COMMISSION.**—Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by striking “furnish to” and inserting “file with”; and

(B) in paragraph (2), by striking “furnished to” each place that term appears and inserting “filed with”;

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking “furnished” and inserting “filed”;

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking “furnish to” and inserting “file with”; and

(C) by striking “furnishing” each place that term appears and inserting “filing”;

(3) in subsection (d)(1), as so redesignated by this Act—

(A) in subparagraph (B), by striking “furnished to” and inserting “filed with”; and

(B) in subparagraph (D), by striking “furnish” and inserting “file”;

(4) in subsection (e)(1), by striking “furnishing a written notice of withdrawal to the Commission” and inserting “filing a written notice of withdrawal with the Commission”;

(5) in subsection (k), by striking “furnish to” and inserting “file with”;

(6) in subsection (l)(2)(A)(i), by striking “furnished” and inserting “filed”; and

(7) in subsection (m)(2), by striking “furnished” and inserting “filed”.

(b) **AUTHORITY TO SANCTION ASSOCIATED PERSONS.**—Section 15E(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7), as amended by this Act, is amended—

(1) by inserting after “or revoke the registration of any nationally recognized statistical rating organization” the following: “, or take enforcement action against or sanction any person who is or was associated, or is or was seeking to become associated, with a nationally recognized statistical rating organization.”; and

(2) by inserting “bar,” after “placing of limitations, suspension.”.

**SA 3973.** Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1047, strike lines 3 through 15 and insert the following:

“(B) require a securitizer to retain an economic interest—

“(i) of not less than 5 percent of the credit risk associated with a pool of assets used to create a series of asset-backed securities, and ensure that such economic interest is applied to multiple credit tranches derived from the pool of assets in a manner reasonably designed to ensure that the securitizer retains an economic interest in the success of each class of securities resulting from the securitization of the asset pool; or

“(ii) of less than 5 percent of the credit risk associated with a pool of assets used to create a series of asset-backed securities, if and only if each of the assets in the pool pose a low credit risk, the originator meets the underwriting standards prescribed under paragraph (2)(B), and the securitizer conducts a due diligence review reasonably designed to ensure the assets and originator meet the requirements of this paragraph.”.

**SA 3974.** Mr. LEVIN (for himself, Mr. KAUFMAN, and Mrs. McCASKILL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1056, line 17, strike the second period and insert the following: “.

#### **SEC. 946. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.**

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15G, as added by this Act, the following new section:

#### **“SEC. 15H. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.**

“(a) **DEFINITION.**—For purposes of this section, the term ‘synthetic asset-backed security’ means an asset-backed security with respect to which, by design, the self-liquidating financial assets referenced in the synthetic securitization do not provide any direct payment or cash flow to the holder of the security.

“(b) **RESTRICTION.**—

“(1) **IN GENERAL.**—No issuer, underwriter, placement agent, sponsor, or initial purchaser may offer, sell, or transfer a synthetic asset-backed security that has no substantial or material economic purpose apart from speculation on a possible future gain or loss associated with the value or condition of the referenced assets. The Commission may determine whether a synthetic asset-backed security meets the requirements of this section. A determination by the Commission under the preceding sentence is not subject to judicial review.

“(2) **RULEMAKING.**—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules to carry out this section and to prevent evasions thereof.”.

**SA 3975.** Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### **SEC. \_\_\_\_ . PROHIBITION ON STATED INCOME AND NEGATIVELY AMORTIZING MORTGAGES.**

(a) **FINDINGS.**—Congress finds the following:

(1) The 2008 financial crisis was caused, in part, by poor quality, high risk mortgages that were included in mortgage-backed securities, and that incurred higher rates of delinquency and loss than traditional mortgages, damaging thousands of financial institutions holding the mortgages. Those poor quality, high risk mortgages included billions of dollars in stated income and negatively amortizing mortgages.

(2) Banks that issue stated income mortgages do not verify the borrower's income or assets, or ability to repay the loan, thereby increasing the risk of loan default. Stated income loans also encourage fraud by the borrowers seeking to obtain the funding and by lenders seeking to earn fees from selling the mortgages.

(3) Negative amortization of mortgage loans leads to increased monthly loan payments for borrowers, which, in turn, increases the risk of loan default. During the recent financial crisis, negatively amortized loans defaulted in record numbers, damaging financial institutions and other investors holding those assets.

(4) Years ago, Federal banking regulators banned negatively amortizing credit card

loans as a threat to the safety and soundness of banking institutions.

(5) Federal financial regulators and Inspectors General have testified before Congress that stated income and negatively amortizing loans pose a threat to the safety and soundness of United States banks, and to the financial markets where these high risk mortgages are sold and securitized.

(b) **PROHIBITION ON STATED INCOME AND NEGATIVELY AMORTIZING MORTGAGES.**—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by adding at the end following:

“(n) **PROHIBITION ON STATED INCOME AND NEGATIVELY AMORTIZING MORTGAGES.**—

“(1) **IN GENERAL.**—Any person who sells, transfers, or plans to sell or transfer at least 1,000 mortgages, mortgage-backed securities, or similar financial instruments within a calendar year shall not include or reference in any of such financial instruments any mortgage in which the borrower's income was not verified or in which the loan balance may negatively amortize.

“(2) **JOINT RULEMAKING.**—The Chairman of the Board, the Chairman of the Federal Deposit Insurance Corporation, and the Director of the Bureau of Consumer Financial Protection may issue joint rules to carry out the purposes of this subsection. Rules issued under this paragraph may—

“(A) specify what documentation may be used to verify the income of a borrower under paragraph (1), including tax information, asset statements, prior loan repayment information, or any other documentation that the Chairmen and the Director jointly deem necessary and appropriate; and

“(B) define ‘negatively amortize’, including by making an exception for home equity conversion mortgages, as defined under section 255 of the National Housing Act (commonly referred to as ‘reverse mortgages’) that are otherwise regulated by a Federal or State agency.

“(3) **RULE OF CONSTRUCTION.**—As used in this section, the term ‘mortgage’ shall not be construed to be restricted or limited only to mortgages referred to in section 103(aa).”.

(c) **EFFECTIVE DATE.**—The requirements under subsection (n)(1) of section 129 of the Truth in Lending Act (as added by subsection (b)) shall take effect not later than 180 days after the date of the enactment of this Act, whether or not any rulemaking under subsection (n)(2) of such Act has been initiated or completed.

**SA 3976.** Mr. LEVIN (for himself, Mr. COBURN, Mr. REID, and Mr. KAUFMAN), submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle I of title IX, insert the following:

#### **SEC. \_\_\_\_ . RESTORATION OF CONGRESSIONAL INTENT THAT PROSPECTUS IS NOT RESTRICTED TO PUBLIC OFFERINGS.**

(a) **DEFINITION OF PROSPECTUS.**—Section 2(a)(10) of the Securities Act of 1933 (15 U.S.C. 77b(a)(10)) is amended—

(1) by inserting before “except that” the following: “(whether or not such security is



offered or sold pursuant to a registration statement or the security or the transaction is exempt from this title or from section 5 of this title pursuant to the provisions of sections 3 or 4"); and

(2) by striking "at the time of such" and inserting "at the time such".

(b) CIVIL LIABILITIES.—Section 12(a)(2) of the Securities Act of 1933 (15 U.S.C. 77l(a)(2)) is amended by inserting "(as defined in section 2(a)(10) of this title)" after "prospective".

**SA 3977.** Mr. LEVIN (for himself, Mr. COBURN, and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**SEC. 1211. COOLING OFF PERIOD.**

Section 207 of title 18, United States Code, is amended by adding at the end the following:

"(m) ONE-YEAR RESTRICTION ON FEDERAL FINANCIAL REGULATORS.—

"(1) IN GENERAL.—In addition to the restrictions set forth in subsections (a) and (b), any person who—

"(A) was an officer or employee (including any special Government employee) of a covered Federal agency;

"(B) served 2 or more months during the final 12 months of the employment of the person with the covered Federal agency participating personally and substantially on behalf of the covered Federal agency in the regulation or oversight of, or in an enforcement action against, a particular financial institution or holding company; and

"(C) within 1 year after the completion date of the service or employment of the person with the covered Federal agency, knowingly accepts compensation as an employee, officer, director, or consultant from—

"(i) the financial institution described in subparagraph (B), any holding company that controls the financial institution, or any other company that controls the financial institution; or

"(ii) the holding company described in subparagraph (B), or any other financial institution that is controlled by such holding company,

shall be punished as provided in section 216 of this title.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'covered Federal agency' means the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, each Federal Reserve Bank, the National Credit Union Administration, the Financial Stability Oversight Council, the Securities and Exchange Commission, the Commodities Futures Trading Commission, the Bureau of Consumer Financial Protection, and the Public Company Accounting Oversight Board;

"(B) the term 'financial institution' means any business or holding company that is registered with or regulated by a covered Federal agency, including any foreign financial institution or holding company that has a

physical location in any State and is registered with or regulated by a covered Federal agency; and

"(C) the term 'consultant' means a person who works personally and substantially on matters for, or on behalf of, a financial institution or holding company.

"(3) REGULATIONS.—

"(A) IN GENERAL.—Each covered Federal agency may prescribe rules or guidance to administer and carry out this section, including to define the scope of persons referred to in paragraphs (1) and (2)(C), and the financial institutions and holding companies referred to in paragraph (2)(B).

"(B) CONSULTATION.—A covered Federal agency may consult with other covered Federal agencies for the purpose of ensuring that the rules and guidance issued by the agencies under subparagraph (A) are, to the extent possible, consistent, comparable, and practicable, taking into account any differences in the regulatory and oversight programs used by the covered Federal agencies for the supervision of financial institutions and holding companies.

"(4) WAIVER.—A Federal agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of the covered Federal agency, if the head of the covered Federal agency, or the chairman of its board of directors, certifies in writing that granting the waiver would not impair the integrity of the regulatory and oversight efforts of the covered Federal agency.

"(5) PENALTIES.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever a Federal agency determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with a financial institution, holding company, or other company in violation of this section, the agency shall impose upon such person one or more of the following penalties:

"(A) INDUSTRY-WIDE PROHIBITION ORDER.—The Federal agency may, subject to notice and an administrative hearing, issue an order—

"(i) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the financial institution, holding company, or other company for a period of up to 5 years; and

"(ii) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any financial institution or holding company subject to regulation or oversight by the agency for a period of up to 5 years.

"(B) CIVIL MONETARY PENALTY.—The Federal agency may, in an administrative proceeding or civil action in an appropriate United States district court, impose upon such person a civil monetary penalty of not more than \$250,000. In lieu of an action by the Federal agency under this subparagraph, the Attorney General of the United States may bring a civil action under this subparagraph in the appropriate United States district court."

**SA 3978.** Mr. JOHNSON (for himself, Ms. LANDRIEU, Mr. BURRIS, Mr. CARDIN, Mr. BROWNBACK, Ms. MURKOWSKI, Mr. BENNETT, and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to

promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 58, line 3, insert after "Council." the following: "Notwithstanding the foregoing, the Federal Housing Finance Agency shall consider, but is not required to adopt, any Council recommendation regarding concentration limits on fully secured extensions of credit by a Federal home loan bank to any member or former member institution made in compliance with Federal Housing Finance Agency regulations."

On page 99, line 14, insert after "risks." the following: "Notwithstanding any other provision of this title, the Board of Governors shall not prescribe standards that limit fully secured extensions of credit by a Federal home loan bank to any member or former member institution made in compliance with Federal Housing Finance Agency regulations."

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on May 11, 2010, at 10 a.m., in room SR-325 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, May 11, 2010, at 2:30 p.m. in room 406 of the Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FINANCE**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 11, 2010, at 10 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled "The President's Proposed Fee on Financial Institutions Regarding TARP: Part 3".

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate to conduct a hearing entitled "Safe Patient Handling & Lifting Standards for a Safer



American Workforce" on May 11, 2010. The hearing will commence at 2:30 p.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on May 11, 2010, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Oversight of U.S. Citizenship and Immigration Services."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON OVERSIGHT AND SUBCOMMITTEE ON WATER AND WILDLIFE

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight and the Subcommittee on Water and Wildlife be authorized to meet during the session of the Senate on May 11, 2010, at 10 a.m., in room 406 of the Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 11, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMEMORATING THE DEDICATION AND SACRIFICES OF FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT OFFICERS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 370, S. Res. 511.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 511) commemorating and acknowledging the dedication and sacrifices made by the Federal, State, and local law enforcement officers who have been killed or injured in the line of duty.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEAHY. Mr. President, I am pleased that today the Senate will unanimously agree to a resolution to honor the service of our Nation's law enforcement officers. With this action we demonstrate the Senate's strong support as we observe and celebrate National Police Week. I thank Senator SESSIONS, ranking member of the Judiciary Committee, for joining me as the lead cosponsor of this resolution, and Senators DURBIN, SPECTER, KOHL, KLOBUCHAR, FEINSTEIN, WHITEHOUSE, GRAHAM, GRASSLEY, FEINGOLD, SCHUMER, HATCH and BOXER for lending their support as well.

This week we will reflect on the extraordinary service and sacrifice given year after year by the men and women of our police forces. As thousands of law enforcement officers arrive in Washington this week to pay tribute to those whose lives were lost in the line of duty, I hope they all know that the Senate stands with them and honors their service and their sacrifice. We welcome these men and women and their families and friends to the Nation's Capital.

This year the names of two brave Vermonters who gave their lives in the line of duty will be added to the Memorial: John Henry Collette of the Addison County Sheriffs Office, died July 17, 1932, and Robert Daniel Rossier of the Vermont Highway Patrol, died September 9, 1935. The inscription of their names on the National Law Enforcement Memorial ensures that their service and sacrifice will not be forgotten.

Once again, I am proud that the Senate has unanimously approved this resolution and formally recognized National Police Week and National Peace Officers Memorial Day.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the resolution be printed in the RECORD, as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 511) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 511

Whereas the well-being of the people of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 900,000 men and women, at great risk to their personal safety, serve the people of the United States as guardians of the peace;

Whereas peace officers are on the front lines in protecting the schools and schoolchildren of the United States;

Whereas in 2009, 116 peace officers across the United States were killed in the line of duty;

Whereas Congress should strongly support initiatives to reduce violent crime and increase the factors that contribute to the safety of law enforcement officers, including—

- (1) equipment of the highest quality and modernity;
- (2) increased availability and use of bullet-resistant vests;
- (3) improved training; and
- (4) advanced emergency medical care;

Whereas the names of 18,983 Federal, State, and local law enforcement officers who lost their lives in the line of duty protecting the people of the United States are engraved on the National Law Enforcement Officers Memorial in Washington, District of Columbia;

Whereas in 1962, President John F. Kennedy designated May 15 as National Peace Officers Memorial Day;

Whereas, on May 15, 2010, more than 20,000 peace officers are expected to gather in Washington, District of Columbia, to join with the families of recently fallen comrades to honor those comrades and all others who went before the peace officers: Now, therefore, be it

*Resolved*, That the Senate—

(1) commemorates and acknowledges the dedication and sacrifices made by the Federal, State, and local law enforcement officers who have been killed or injured in the line of duty;

(2) recognizes May 15, 2010, as "National Peace Officers Memorial Day"; and

(3) calls on the people of the United States to observe that day with appropriate ceremony, solemnity, appreciation, and respect.

#### MEASURE READ THE FIRST TIME—S. 3347

Mr. DODD. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the first time.

The legislative clerk read as follows:

A bill (S. 3347) to extend the National Flood Insurance Program through December 31, 2010.

Mr. DODD. Mr. President, I now ask for its second reading, and in order to place the bill on the calendar under provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

#### ORDERS FOR WEDNESDAY, MAY 12, 2010

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, May 12; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 3217, Wall Street reform, as provided for under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. DODD. Mr. President, there will be three rollcall votes beginning at 10 a.m. Those votes will be in relation to the Merkley amendment No. 3962, the Corker amendment No. 3955, and then the Hutchison and Klobuchar amendment No. 3759, as modified.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DODD. Mr. President, if there is no further business to come before the

Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:01 p.m., adjourned until Wednesday, May 12, 2010, at 9:30 a.m.

## CONFIRMATIONS

Executive nominations confirmed by the Senate, Tuesday, May 11, 2010:

## THE JUDICIARY

TIMOTHY S. BLACK, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO.  
JON E. DEGUILIO, OF INDIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF INDIANA.

## HOUSE OF REPRESENTATIVES—Tuesday, May 11, 2010

The House met at 12:30 p.m. and was called to order by the Speaker.

### MORNING-HOUR DEBATE

The SPEAKER. Pursuant to the order of the House of January 6, 2009, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

### FISCAL RESPONSIBILITY

The SPEAKER. The Chair recognizes the gentlewoman from Arizona (Mrs. KIRKPATRICK) for 5 minutes.

Mrs. KIRKPATRICK of Arizona. Madam Speaker, over the past months, we have witnessed firsthand the potential consequences of allowing the national debt to continue growing out of control. Greece borrowed heavily during the last decade during the boom and the bubble and found itself at risk of default when global credit dried up. Now the country is facing financial disaster.

The crisis should serve as a warning to Washington. This country's debt is now \$12.9 trillion and is approaching unsustainable levels. We must address the fiscal imbalance here before it's too late. Washington must start by making major changes to the budget—changes that go beyond freezing spending and instead look to make significant budget cuts. That means we have to crack down on the consequence-free spending culture in Congress. Washington needs to put a priority on eliminating waste and finding cost-effective ways to achieve this country's goals.

Budget cuts are not always easy or popular, but business as usual in Washington is not working. Greece's rapid spiral shows that it is past time that we start to take serious steps—both big and small—to address our fiscal health.

### NET REGULATION WILL HARM INVESTMENT AND INNOVATION

The SPEAKER pro tempore (Ms. MARKEY of Colorado). The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

Mr. STEARNS. Madam Speaker, a recent announcement by FCC Chairman Genachowski to impose new, burdensome regulation on the Internet and on Internet transmission appears to me to be a political maneuver to regulate the Internet. Several weeks ago, he indicated he was not going to push for net regulation. Now he is. There is no eco-

nomic or legal justification for this move and the result will be a freeze in the investment and innovation we have seen over the past 20 years. The Internet is the most powerful platform for innovation ever created and, by his actions, Chairman Genachowski is endangering the Internet's deployment and ultimately its innovation.

Our current free-market, pro-investment policies have served us well. In fact, according to the FCC's own National Broadband Plan, 95 percent of all Americans have access to broadband and approximately 200 million subscribers have broadband at home today, up from 8 million just 10 years ago. By comparison, it took 90 years to go from 8 million voice subscribers to 200 million under the old Title II Common Carrier Regulations. Ironically, the chairman's laudable goal of maximizing broadband deployment and adoption will be most harmed by his announcement.

Will Rogers once said that, "Things in our country run in spite of the government, not by the aid of it." He was not, of course, talking about the Internet, but his words still ring true today. The rise of the Internet itself is a truly great deregulatory story. What started as a government-run network for sharing research has now exploded into a force for mass communication, entertainment, and commerce, when we turned it over to the private sector and lifted restrictions on its use by commercial entities and the public. The unregulated Internet is now starting to help spur a new technological revolution in this country. Where there were once separate phone, cable, wireless, and other industries providing distinct and separate services, we're now seeing a confluence and a blur of providers all competing against each other for consumers, offering broadband, voice, video services, and much more.

The Apple iPod is a perfect example of the confluence of the Internet, the TV, and the computer, which will then be followed by other exciting products. Lines of technology are being blurred all the time. In fact, a few years ago, you had to have separate platforms for each additional individual TV technology. Now, your computer becomes your TV, your TV doubles for your computer, and your wireless device becomes your TV, your computer, your phone, and camera. We will see more of this convergence in the years to come if we remain on the current deregulatory path. However, the FCC appears to want to change course. In response to

the FCC's announcement, I introduced a bill today, H.R. 5257—the Internet Investment, Innovation, and Competition Preservation Act—that would prevent the FCC from regulating the Internet or Internet transmission, absent a market failure.

□ 1245

My bill would require the FCC to conduct a rigorous market analysis before mandating new network regulations. The FCC would need to prove that regulations are, indeed, necessary. Chairman Genachowski has said on numerous occasions that he wants to make sure that the FCC is the most data-driven agency. Well, let's see the data. Let's see the data showing there's a need for regulation before you do it, Mr. Chairman.

With our economy still struggling, now is the worst time to impose new regulations on the Internet and on Internet service providers; yet, this is exactly what the FCC is going to try to do. Communication companies are among the few companies still investing billions of dollars into our economy in these very difficult financial times. Net regulation will discourage investment and innovation precisely when we need it the most, especially in light of our push to increase broadband deployment in this country.

The FCC's announcement is a perfect example of how regulations meant to help can actually hurt our policy goals while taking more money out of the American taxpayers' pockets. I am reminded again, Madam Speaker, of another Will Rogers quote when he said, "Be thankful we're not getting all the government we're paying for." Our history of communication policy is rife with examples of the best regulatory intentions going awry. More often than not, advances come despite regulation or, as with our Internet policy over the past couple of decades, from our decision not to regulate.

### AVOIDING A SECOND ECONOMIC COLLAPSE: THE NEED FOR FINANCIAL REFORM

The SPEAKER pro tempore. The Chair recognizes the gentleman from Virginia (Mr. CONNOLLY) for 5 minutes.

Mr. CONNOLLY of Virginia. Madam Speaker, the global economy is increasingly interconnected. The current economic crisis may have begun in the United States, but it rapidly spread throughout the world. Now as we stand

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

on the cusp of a sustained economic recovery, we must be mindful of the ripple effects and guard against further threats to our economy.

Last Thursday's historic stock market plunge, initially precipitated by Greece's economic uncertainty, must serve as a stark reminder of what happens when you don't have adequate protections in place. Without proper oversight, Madam Speaker, our financial markets are dangerously exposed.

In the financial chaos that erupted last Thursday, shares of Accenture swung from \$40 to one penny and back to \$40. Shares of Procter & Gamble traded for \$54 on the New York Stock Exchange but only \$39 on the NASDAQ. Those aren't market forces at work. Those are market forces that are broken. Almost 300 trades made under questionable circumstances had to be subsequently canceled by the trading houses. Such wild disparities highlight the dangers of a marketplace left largely to its own devices and the tremendous risk posed to our economy and those who invest in it.

The recession of 2007 began in the financial sector. Its effects were widespread. Millions of Americans lost their jobs. Millions more had their homes foreclosed. Millions more lost their retirement savings, college funds, and emergency reserves. In fact, American households cumulatively lost \$17.5 trillion in aggregate household wealth in the recession.

Now it's true, Madam Speaker, that we're seeing signs of an economic recovery. The Nation's gross domestic product is once again growing at the rate of 5.6 percent in the last quarter of 2009 and another 3.2 percent in the first quarter of this year. After 2 years of job losses, culminating with 741,000 jobs lost in January of 2009, we're finally in the midst of our fourth straight month of job growth, even though the other side of the aisle can't accept good news when they see it. More than 290,000 jobs were created last month, the most since March of 2006. Despite the recent uncertainty, the stock markets are up more than 50 percent since their March 2009 lows.

But it is that lingering uncertainty that we have sought to address with our actions in this Congress. Similar financial sector problems came to a head in 2007, leading to the worst economic recession since the Great Depression. And as last Thursday reminded us, we're still at risk to financial sector uncertainty. Responsible Wall Street reform remains one of the critical components of a sustainable economic recovery.

Madam Speaker, with such an obvious need for reform, why hasn't it been implemented already? Why, for example, is the more than \$700 trillion—that's trillion with a "T"—derivatives market still completely unregulated? We must ensure that this highly specu-

lative market is brought out of the shadows and operates with transparency and responsible oversight. Why are the American taxpayers still faced with the possibility of bailing out financial institutions deemed "too big to fail?" Never again should private risk become a public responsibility.

I was proud to join a majority of my colleagues in this body in supporting passage of Wall Street reform last December to address these systemic problems and protect American families and their savings. We provided for regulation of the shadowy derivatives market. We brought accountability and transparency to the financial sector. We ended the practice of "too big to fail." We established safeguards to ensure that the abuses of the past are never again repeated. Madam Speaker, the House made Wall Street reform a priority.

Although the Senate finally began its own deliberations a few weeks ago, the process thus far has been slow. I am encouraged to see bipartisan negotiations on the bill after a failed filibuster attempt by the minority. After last week, can there be any doubt that we need Wall Street reform now?

Every day of delay is one more opportunity for a recurrence of economic uncertainty and even collapse. Last Thursday's roller coaster on the stock market was a clear reminder that we cannot allow a continued and willful lack of responsible oversight to expose American families, American business, and our whole economy to such potential risk. Madam Speaker, we must have Wall Street reform now.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 50 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DRIEHAUS) at 2 p.m.

#### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, make Your presence known in our midst that we may calm the fears of Your people and bring justice to the land. Fill the Members of Congress with understanding that they may relish our national diversity and gain wisdom by listening to one another. Make of us an instrument of peace in the world by lifting us beyond self-centeredness to a new level of tran-

scendence and transparency. Let Your truth reign in our hearts that we may give You glory both now and forever. Amen.

#### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

#### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas (Mr. POE) come forward and lead the House in the Pledge of Allegiance.

Mr. POE of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 11, 2010.

Hon. NANCY PELOSI,  
*The Speaker, U.S. Capitol, House of Representatives, Washington, DC.*

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 11, 2010 at 10:05 a.m.:

Appointments:  
Board of Trustees of the American Folklife Center of the Library of Congress.

With best wishes, I am  
Sincerely,

LORRAINE C. MILLER,  
*Clerk of the House.*

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,  
Washington, DC, May 7, 2010.

Hon. NANCY PELOSI,  
*Speaker, Capitol, House of Representatives, Washington, DC.*

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 7, 2010 at 11:06 a.m.:

That the Senate passed S. 1053.  
That the Senate passed S. 1405.  
That the Senate passed without amendment H.R. 5160.  
That the Senate passed with an amendment H.R. 689.

That the Senate passed without amendment H.R. 1121.

That the Senate passed without amendment H.R. 1442.

That the Senate passed without amendment H.R. 2802.

With best wishes, I am,

Sincerely,

LORRAINE C. MILLER,  
*Clerk of the House.*

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,  
*Washington, DC, May 7, 2010.*

Hon. NANCY PELOSI,  
*Speaker, Capitol, House of Representatives,*  
*Washington, DC.*

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 7, 2010 at 3:04 p.m.:

That the Senate passed S. 3333.

That the Senate agreed to without amendment H. Con. Res. 247.

That the Senate agreed to without amendment H. Con. Res. 263.

That the Senate passed with an amendment H.R. 3619.

With best wishes, I am,

Sincerely,

LORRAINE C. MILLER,  
*Clerk of the House.*

#### CONGRATULATING THE 2010 MOUNT CARMEL SCHOOL WE THE PEOPLE TEAM

(Mr. SABLAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABLAN. Mr. Speaker, once again the students of Mount Carmel School have won the honor to represent the Northern Mariana Islands in the annual We the People competition. Mount Carmel has a tradition of excellence in speech and debate and this year's group of orators continued that tradition with distinction.

The competition is directed by the Center for Civic Education and funded by Congress through the Education for Democracy Act. This is a program we should continue to support. I watched the Mount Carmel students testify in a simulated congressional hearing on constitutional issues they had studied in the We the People: The Citizen & the Constitution textbook. They are nothing short of impressive in their knowledge and their understanding of the historical basis and the philosophical concepts underlying the document that established our national government.

Let me acknowledge each student by name:

Matthew Aquino  
Geza Baka III  
Maria Balajadia

Ryanne Camacho  
Ericka Celestino  
John Edward Elenzano  
Ji Yeon Kim  
Min Seong Kim  
Savana Manglona  
Ivan Matala  
Nicolli Matala  
Anthony Sablan  
Nicolas Sablan  
Troy Villafuerte  
Brittany Yamagata  
Calvin Yang  
Joseph Yoon.

#### CASH FOR CAULKERS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, first there was a government scheme that offered financial incentives to upgrade to more energy efficient cars—Cash for Clunkers—and that program came in over budget—by 300 percent. Now Congress is trying to do the same thing again with Cash for Caulkers, a program designed to encourage you to make your home more energy efficient.

I support the bill's intent to encourage energy efficiency, but I believe there are other ways to achieve our energy goals without borrowing money we can't afford. This is the people's money, not the government's money. Almost \$5 billion has already been spent on weatherization programs in the spending bill, and there is plenty of evidence that the funds have not been spent as they should. Despite the evidence, Congress decided last week to pile on another \$6.6 billion at a time when Washington must get serious about spending.

The American people cannot afford for Congress to pass another multibillion-dollar bill we can't afford. Tough choices are needed to curb Washington's spending habits and Cash for Caulkers is one such easy choice to forgo.

In conclusion, God bless our troops, and we will never forget September 11th in the Global War on Terrorism.

#### U.S. TO BAIL OUT GREECE

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, the International Monetary Fund, the IMF, is guaranteeing up to \$321 billion in loans to bail out European Union countries, like Greece, Portugal and Spain. That means American taxpayers will be on the hook for billions of dollars for these unsecured loans. We're the IMF's largest contributor.

Also, the European Union was formed to compete economically with the United States. Now it's crashing down

like a socialist stack of cards. So U.S. taxpayers are going to pay to support our international competitor—the EU.

Why should American taxpayers bail out Europe's big pensions—and their government-run health care? Greece is in the EU and it's the EU's responsibility, not ours.

I don't see the IMF coming to the rescue of California and New Jersey. Their economies are bigger than Greece's and they are in financial chaos as well.

Mr. Speaker, the American taxpayer is tapped out. We have 10 percent unemployment. We don't have the money to bail out Greece. It's time Uncle Sam quit being the ATM for the rest of the world, stop spending money we don't have, and stop the bailout nonsense.

And that's just the way it is.

#### MAY IS WORLD TRADE MONTH

(Mr. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Nebraska. Mr. Speaker, this month we are celebrating World Trade Month to honor the nearly 300,000 American businesses which support millions of American jobs. International markets represent 73 percent of the world's purchasing power, 87 percent of its economic growth, and 95 percent of the world's consumers. More than 50 million Americans work for companies which engage in international trade and 1 in 3 acres of American farmland grows food for consumers overseas.

Unfortunately, approval of pending trade agreements with countries such as Colombia, South Korea and Panama have languished, awaiting approval by Congress. Every day we delay, the more ground our Nation and our economy lose to our international competitors. Trade is an indispensable part of American prosperity, and Congress needs to make increasing international opportunities a much higher priority.

#### HEALTH INSURANCE MYTH AND FACT—THE PROOF

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, how many times did we hear during this past year, year and a half, "If you like what you have, you can keep it"—talking about health insurance, talking about your doctor. We even heard the Presidential candidate of 2008 who eventually won the Presidency, "If you like your doctor, if you like your insurance company, nothing about my law will require you to change that."

But now we're finding out an entirely different story. Published on CNN Money, published in Fortune magazine

this past week, "Many companies are examining a course that was heretofore unthinkable, dumping the health care coverage they provide to their workers in exchange for paying a penalty in fees to the government."

Consider this, from CNN Money on May 6:

"Internal documents recently reviewed by *Fortune*, originally requested by Congress, shows what the bill's critics predicted and what its champions dreaded: Many large companies are examining a course that was heretofore unthinkable, dumping health care coverage they provide to their workers."

A large company that employs 300,000 employees spends \$2.4 billion a year on health care coverage. That figure would drop if they simply paid the fines to \$600 million. \$2.4 billion to \$600 million. What choice are they going to make?

#### AMERICAN TAXPAYERS BAIL OUT THE EU

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, on February 24, 2010—just 3 months ago—Federal Reserve Chairman Bernanke told Congress that "We have no plans whatsoever to be involved in any foreign bailouts or anything of that sort."

Now, Mr. Bernanke has changed his own policy statement by agreeing to revive a Fed emergency lending program that will loan American taxpayer dollars to foreign central banks so they can in turn lend this money out to smaller foreign banks, as reported in the *Wall Street Journal* on May 10 of this year.

This decision comes in the wake of the European Union's agreement with the International Monetary Fund to create a \$1 trillion bailout package for the EU in order to deal with that region's ensuing fiscal crisis. The IMF, which is also funded by American taxpayer dollars, will be contributing over €250 million (euro) or \$317 million to this overseas bailout in addition to the Fed's dollar-swap loan program.

The question, Mr. Speaker, is, why did Mr. Bernanke change his policy? Why are American taxpayers now helping to bail out European countries?

#### EXPRESSING CONDOLENCES TO THE FAMILY OF CLARENCE KNIGHT

(Mr. TOWNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TOWNS. Mr. Speaker, I rise to pass on my condolences to the Knight family, Clarence Knight, whom I met in 1952, a very active member in the

community, has worked hard with the tenant association, worked hard with the alumni association, a person who was always anxious and willing to help others.

Mr. Knight passed away yesterday; and, of course, he's going to be missed. So let me say to the family, Pat, Renee, and of course Scrappy and to all the family members that you have my deepest sympathy and, of course, if there's anything that we can do, we will be delighted to be there for you.

#### THE STATE OF THE UNION

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, here is the state of the Union:

Unemployment remains almost 10 percent. Sixteen million people have lost their jobs. Taxes are going up. The health care bill costs \$300 billion more than the American people were told. The Nation's deficit has doubled in the last year because of excessive government spending. Our foreign policy also has run a deficit. The world is a more dangerous place today. Iran is closer to making a nuclear bomb. We have insulted our allies—Western Europe and Israel. There is no victory in Iraq or Afghanistan.

It's time for a change all right. We need a bipartisan balance in Washington, not a one-party monopoly.

□ 1415

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m.

#### ZACHARY SMITH POST OFFICE BUILDING

Mr. TOWNS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5051) to designate the facility of the United States Postal Service located at 23 Genesee Street in Hornell, New York, as the "Zachary Smith Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5051

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. ZACHARY SMITH POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 23

Genesee Street in Hornell, New York, shall be known and designated as the "Zachary Smith Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Zachary Smith Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TOWNS) and the gentleman from Michigan (Mr. MCCOTTER) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. TOWNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and to extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TOWNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the House Committee on Oversight and Government Reform, it is with a heavy heart that I present H.R. 5051 for consideration. This measure designates the United States postal building located at 23 Genesee Street in Hornell, New York, as the "Zachary Smith Post Office Building."

On January 24, 2010, while on patrol in southern Afghanistan, Lance Corporal Zachary Smith, a marine with the 2nd Platoon, C Company, 1st Battalion, 6th Marines, based out of Camp Lejeune, North Carolina, made the ultimate sacrifice for his country. He had been awarded a Purple Heart by President Obama for his selfless service.

Zachary Smith was born on April 2, 1990, to his parents, Christopher and Kim Smith, in Hornell, New York, where he lived along with his brother and sister, Nathaniel and Grace Smith. Zach attended Hornell High School and graduated in 2008. Fulfilling his lifelong dream, Zachary enlisted in the Marines while still in high school. After graduation, Zach left for basic training, but not before marrying his high school sweetheart, Anne Deeks. They were wed on July 25, 2009, and Zach completed boot camp at Parris Island, South Carolina, before going on to graduate from the Marine Corps School of Infantry.

Described as a gifted athlete by friends, Zach was on the Hornell High School football and golf teams throughout his 4 years of high school. He was a member of Twin Hickory Golf Club and also Hornell Golf Club. He enjoyed watching sporting events and especially liked to root for the New York Giants, the New York Yankees, and the Syracuse Orangemen. He was also a member of Our Lady of the Valley Parish and a communicant of St. Ann's Church. Those who knew him say he was a genuine, humorous, and outgoing

young man who enthusiastically embraced life. He always cared more for others than he did for himself and would go out of his way to help anyone who needed his help.

The world would be a better place if it had more young men like Zach. His service to his country is an example we all should follow, and we owe him a debt of gratitude for his service and his sacrifice. Please join me in honoring Zach's memory by supporting this bill. The people of Hornell will be reminded of Zach's courage and valor every day as they pass by the post office building named in his honor.

H.R. 5051 was introduced by the gentleman from New York, Representative JOSEPH CROWLEY, on April 15, 2010. The measure was referred to the Committee on Oversight and Government Reform, which ordered it reported by unanimous consent on May 6, 2010. The measure enjoys the support of the entire New York State delegation. I thank the gentleman for introducing this bill, and I'm sure that it means a great deal to Lance Corporal Smith's family and his friends. I also thank the gentleman from California, Congressman ISSA, and all the members of the committee, especially, that worked to make this a reality and, of course, Mr. ISSA for his support in bringing this measure to the floor today as well.

Mr. Speaker, I urge my colleagues to vote for this measure honoring a fallen soldier who gave his life for his country.

I reserve the balance of my time.

Mr. MCCOTTER. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 5051, designating the United States Postal Service building located at 23 Genesee Street in Hornell, New York, as the Zachary Smith Post Office Building. Funny. Dedicated. Hardworking. These are but a few of the words of praise that arise when friends and family speak of the memory of Lance Corporal Zachary Smith.

Zachary Smith, a native of Hornell, New York, was born on April 2, 1990. A graduate of Hornell High School, he loved sports and played on the football and golf teams. After graduation, Zach followed his lifelong dream of serving our country and enlisted in the United States Marine Corps. He was assigned to the 2nd Platoon, C Company, 1st Battalion, 6th Marines, and deployed to Afghanistan on December 17, 2009. Tragically, after only serving in Afghanistan for 1 month, he gave the ultimate sacrifice for our country in combat on January 24, in the Helmand province. Zach was only 19 years old.

Described by his childhood friend as someone who always lifted everyone's spirits, Zach served his family, community, and country with selfless devotion. He leaves behind his wife, Anne Smith; parents, Chris and Kim Smith; brother, Nate; and sister, Grace. I rise

today in honor not only of a tremendous patriot but an outstanding citizen.

I urge my colleagues to support this resolution in honor of a valiant life that should not, and will not, soon be forgotten by a grateful Nation.

I yield back the balance of my time.

Mr. TOWNS. Mr. Speaker, on that note, I would say to my colleagues that I think this is a very honorable thing to do, and I think we all should applaud Mr. Smith and the Smith family for his outstanding service.

Mr. CROWLEY. Mr. Speaker, I rise today in support of H.R. 5051, a measure to designate the post office at 23 Genesee Street in Hornell, New York. The new name of the post office will be the "Zachary Smith Post Office Building". I would like to thank my colleagues from New York—who en masse sponsored this initiative.

Zachary Smith was a selfless and brave young man who gave his life for his country at the age of 19. He made the ultimate sacrifice on behalf of the American people while serving in Operation Enduring Freedom in Afghanistan, and the U.S. House of Representatives honors both Zachary and his family through this resolution. For those who knew Zachary, January 24, 2010 will be forever remembered as a day of sadness, but also a day of pride—pride in a courageous young man who exhibited the Marine Corps motto: *Semper Fidelis*.

Zachary was not only a soldier—he was an athlete, a brother, a son and a husband. By all accounts, he was an admired member of the Hornell community, setting a strong example for members of his school and his family. He was responsible at home and kind to others where he attended Hornell High School, graduating in 2008. He loved football, golf and spending time with his family.

Zachary's life, and the profound, genuine loss felt by those who loved him, cannot be repaired by designating this post office. However, by supporting this resolution, we can help ensure that future generations will learn of Zachary's integrity and courage. Zachary made his home a better place. Zachary made Hornell a better place. Zachary made America a better place. He can never be replaced, but we can do our part to honor his memory and the ideals he stood for by passing this resolution today and honoring Zachary Smith, a real hometown hero.

Mr. TOWNS. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TOWNS) that the House suspend the rules and pass the bill, H.R. 5051.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### SUPPORTING DESIGNATION OF NATIONAL EXPLOSIVE ORDNANCE DISPOSAL DAY

Mr. TOWNS. Mr. Speaker, I move to suspend the rules and agree to the reso-

lution (H. Res. 1294) expressing support for designation of the first Saturday in May as National Explosive Ordnance Disposal Day to honor those who are serving and have served in the noble and self-sacrificing profession of Explosive Ordnance Disposal in the United States Armed Forces.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1294

Whereas the bomb and mine disposal profession was created in April 1941;

Whereas members of Explosive Ordnance Disposal organizations perform a dangerous and selfless task often without recognition, risking their lives on behalf of the United States;

Whereas the United States will forever be in debt to personnel in the profession of explosive ordnance disposal for their bravery and sacrifice in times of peace and war;

Whereas people in the United States should express their recognition and gratitude for members of the Explosive Ordnance Disposal profession; and

Whereas the first Saturday in May would be an appropriate date to observe as National Explosive Ordnance Disposal Day: Now, therefore, be it

*Resolved*, That the House of Representatives supports the designation of National Explosive Ordnance Disposal Day to honor those who are serving and have served in the noble and self-sacrificing profession of Explosive Ordnance Disposal in the United States Armed Forces.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TOWNS) and the gentleman from Michigan (Mr. MCCOTTER) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. TOWNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and to extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TOWNS. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H. Res. 1294, a resolution supporting the designation of a National Explosive Ordnance Disposal Day in honor of the selfless service and sacrifice of the men and women of the United States armed services who risk their lives every day as explosive ordnance disposal experts. Explosive ordnance removal has always been a profession fraught with exceptional danger and emotional stress. My colleague, the gentleman from California (Mr. ISSA), knows this firsthand from his time as a bomb disposal technician in the United States Army.

Now, as the United States Military is engaged in two unconventional wars, our explosive ordnance disposal teams are under pressure as never before. They must respond on a daily basis to



roadside bombs and land mines that threaten our troops. It is their nerves of steel and high level of technical expertise that keep their comrades safe during ongoing operations in Iraq and Afghanistan. These brave men and women deserve a day of honor and remembrance for the difficult tasks we ask them to carry out in the service of their country. Wherever they may be—patrolling the ring road of Afghanistan or disarming an IED in the streets of Baghdad—they are in our thoughts and in our prayers.

This resolution was introduced by our colleague, the gentlewoman from Florida, Representative GINNY BROWN-WAITE, on April 22, 2010. It was referred to the Committee on Oversight and Government Reform, which reported the measure by unanimous consent on May 6, 2010. This measure enjoys the support of 60 Members of the House. I thank the gentlewoman for introducing this bill, and I thank the ranking member of the Committee on Oversight and Government Reform, Mr. ISSA, of course, and his staff, for their help in bringing this bill to the floor today.

Mr. Speaker, I reserve the balance of my time.

Mr. McCOTTER. Mr. Speaker, I yield such time as she may consume to my distinguished colleague from the State of Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today in support of House Resolution 1294, expressing support for designation of the first Saturday in May as National Explosive Ordnance Disposal Day, to honor those who are serving and those who have served in the noble and self-sacrificing profession of explosive ordnance disposal in the United States Armed Forces. Although clearly a work of Hollywood drama meant for entertainment purposes, the Academy Award-winning film, "The Hurt Locker," has brought new attention to our Nation's EOD technicians. While the action shown in this film is intense and very gripping, there is no question that when it comes to explosive ordnance disposal, truth is even more compelling than fiction. For this reason, I, along with my colleague from Oklahoma, Representative BOREN, introduced House Resolution 1294, to recognize the real contributions that explosive ordnance disposal technicians have made to our Nation's military since the United States first began its bomb disposal program over 69 years ago.

On average, there are over 4,000 brave men and women serving as explosive ordnance disposal technicians within the four services.

□ 1430

EOD techs are responsible for the location, identification, neutralization, and disposal of hazardous explosive items and devices. They are on the front lines in the global war on ter-

rorism, protecting their fellow troops from conventional explosives, nuclear weapons, and improvised explosive devices. As my constituent and the executive director of the EOD Memorial Foundation explains, EOD technicians "are people who voluntarily take that long walk into uncertainty" every time they go to dispose of a bomb.

This resolution also supports observing the first Saturday in May as National Explosive Ordnance Disposal Day. This date was selected to coincide with the annual EOD Memorial Ball. This year's ball, which happens to have been the 42nd annual one, was held in Fort Walton Beach, Florida, on May 1, and I understand that it was a wonderful success, selling out all of the tickets that were available. Because the EOD Memorial Foundation is headquartered in my district in Webster, Florida, I have had the great honor to meet many of these warriors. I have learned that the ties that bind the EOD community together extend far beyond the battlefield. The EOD community is a family, and when even one part of that family is lost, the rest of them come together to support and assist those left behind.

In 2009, 16 EOD technicians lost their lives serving our Nation in battle. Another EOD warrior was killed taking apart an IED just within the last week. This resolution honors those men and women who courageously, selflessly, and graciously face the real dangers posed by traditional and improvised explosives.

With that, I urge my colleagues to join myself and Mr. BOREN in honoring those American warriors and supporting House Resolution 1294.

Mr. TOWNS. Mr. Speaker, I ask my colleagues to honor the brave men and women working as explosive ordnance disposal technicians by supporting this resolution.

I reserve the balance of my time.

Mr. McCOTTER. Mr. Speaker, I wholeheartedly associate myself with the remarks of my distinguished colleagues, Ms. BROWN-WAITE and Mr. TOWNS. I urge all Members to support the passage of H.R. 1294.

I yield back the balance of my time.

Mr. BLUMENAUER. Mr. Speaker, I am proud to support H. Res. 1294, honoring those who are serving and have served courageously as Explosive Ordnance Disposal personnel, as contractors or members of the United States Armed Forces.

At home and abroad, unexploded ordnance (UXO)—bombs and shells that failed to explode during military training, testing, or operations—pose a health and safety risk to communities and restrict opportunities for economic development. These still-dangerous explosives and harmful contaminants are located on or buried in millions of acres of former military lands in every state and Congressional district. Alarming, much of this land now serves as housing, schools, businesses, parks, and playgrounds.

For the past ten years I have worked closely with my colleagues to direct Congressional funding and legislative action on UXO cleanup and increase investment in technology. In 2005, I formed the bipartisan UXO Caucus as part of an ongoing effort to increase Congressional awareness. The purpose of the UXO Caucus is to inform Members of the health, safety, and environmental risks of UXO and to highlight the challenges faced by communities and the federal government to clean up UXO and redevelop former military properties. Due to these bipartisan efforts, the Department of Defense has now named a program manager in charge of remediation, and additional funding has gone to technology that will better determine the location and density of munitions contamination.

UXO technicians and units at home and abroad perform a selfless and dangerous task on behalf of the United States and we will forever be in their debt. Despite risking their lives for the health and safety of our families and communities, these heroes have largely gone unrecognized. I am extremely grateful for their sacrifices and I am pleased that we can honor them with this resolution highlighting National Explosive Ordnance Disposal Day.

Mr. TOWNS. Mr. Speaker, again, I urge my colleagues to join me in supporting this measure, and of course, on that note, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TOWNS) that the House suspend the rules and pass the resolution, H. Res. 1294.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TOWNS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### NATIONAL WOMEN'S HEALTH WEEK

Mr. TOWNS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 268) supporting the goals and ideals of National Women's Health Week, and for other purposes.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. CON. RES. 268

Whereas women of all backgrounds should be encouraged to greatly reduce their risk of common diseases through preventative measures, such as engaging in regular physical activity, eating a nutritious diet, and visiting a healthcare provider to receive regular check-ups and preventative screenings;

Whereas significant disparities exist in the prevalence of disease among women of different backgrounds, including women with

disabilities, African-American women, Asian/Pacific Islander women, Latinas, and American Indian/Alaskan Native women;

Whereas healthy habits should begin at a young age;

Whereas preventative care saves Federal dollars designated for health care;

Whereas it is imperative to educate women and girls about key female health issues;

Whereas it is recognized that offices of women's health within the Department of Health and Human Services, the Food and Drug Administration, the Centers for Disease Control and Prevention, the Health Resources and Services Administration, the National Institutes of Health, and the Agency for Healthcare Research and Quality are vital in providing critical services that support women's health research, education, and other necessary services that benefit women of all ages, races, and ethnicities;

Whereas the annual National Women's Health Week begins on Mother's Day and celebrates the efforts of national and community organizations working with partners and volunteers to improve awareness of key women's health issues; and

Whereas in 2010, the week of May 9 through May 15 is designated National Women's Health Week: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress—*

(1) supports the goals and ideals of National Women's Health Week; and

(2) requests that the President of the United States issue a proclamation calling upon the people of the United States and interested groups to observe National Women's Health Week with appropriate ceremonies and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TOWNS) and the gentleman from Michigan (Mr. McCOTTER) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. TOWNS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and to extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TOWNS. I now yield myself as much time as I might consume.

I rise in support of H. Con. Res. 268, recognizing National Women's Health Week. This week marks the 11th annual Women's Health Week, a weeklong observation of women's health issues. It is a great opportunity for us to discuss and promote research on the benefits of healthy habits, including regular exercise, a nutritious diet, and regular checkups and screenings. I'm heartened that the Department of Health and Human Services' Office on Women's Health takes time every year to coordinate the efforts of national and community organizations to promote healthy choices and educate all Americans on female health issues. I thank them for all of their hard work.

As the resolution notes, it is imperative to educate women and girls about

issues that may impact their health, as they may face unique health risks at any age. Further, the resolution notes that significant disparities exist in the prevalence of disease among women of different backgrounds, including women with disabilities, African American women, Asian Pacific Islander women, Latinas, and American Indian and Alaskan Native women. In order to empower all women to take the necessary measures to be as healthy as possible, we must work to promote health education, research, and healthy lifestyles.

On that note, I reserve the balance of my time.

Mr. McCOTTER. Mr. Speaker, I yield myself as much time as I may consume.

I rise today in support of H. Con. Res. 268, supporting the goals and ideals of National Women's Health Week. National Women's Health Week begins on Mother's Day each year. During this week, individuals, families, communities, businesses, government, and other groups work together to encourage women and their families to increase their awareness of the importance of a healthy lifestyle, regular exercise, and medical checkups. Hopefully others will follow their lead, with children and spouses learning the benefits and fun of regular exercise, good nutrition, and other preventive measures which really do have lifelong positive consequences. I urge my fellow Members to join me in supporting H. Con. Res. 268.

I yield back the balance of my time.

Mr. TOWNS. H. Con. Res. 268 was introduced by my colleague, the gentleman from New York, Representative MAURICE HINCHEY, on April 27, 2010. It was referred to the Committee on Oversight and Government Reform, which reported it favorably by unanimous consent on May 6, 2010. The measure enjoys the support of over 50. I thank the gentleman from New York (Mr. HINCHEY) for introducing this measure, and I hope we can all stand behind it.

I also would like to thank the gentleman from California, Congressman ISSA, and all the staff who worked to make this a reality. I encourage my colleagues to vote for this measure.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in strong support of H. Con. Res. 268 to support the goals and ideals of National Women's Health Week.

As a non-practicing registered nurse, I know from firsthand experience how important it is to lead a healthy lifestyle. Maintaining a good diet, exercising, and making good life decisions are incredibly important to the wellbeing of any person. This week, on National Women's Health Week, we focus our attention on the importance of women's health so that we can encourage women to lead better, healthier, and more fulfilling lives.

Women play vital roles in the family unit as mothers, grandmothers, sisters, and daughters. It is often the case that in offering care

for others, women themselves forget to address their own healthcare needs. It is no surprise that when the health of a mother decreases, so too, does the health of her family. As women take on larger roles in the workplace and are forced to balance the needs of family and career, they are even less likely to place an emphasis on their own needs and health. For this reason, it is incredibly important that we emphasize the importance of women's health during this week.

Women, too, have some very specific healthcare needs that are important to highlight during National Women's Health Week. Breast cancer, heart disease, and osteoporosis are just a few of the major diseases that can affect women, and it is important that they are screened for and receive adequate treatment for these ailments. Additionally, women are disproportionately faced with higher healthcare costs and because of this they many times have reduced access to care compared with men.

Mr. Speaker, National Women's Health Week seeks to address the health needs of women so that all Americans can lead better lives. The role of women in our society is remarkably important, and it is imperative that women understand their own healthcare needs as well as have access to affordable care. Because of this, I ask my fellow colleagues to join me today in supporting this resolution for the betterment of women across the country.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today in support of National Women's Health Week. It is during this week that the Office on Women's Health, within the U.S. Department of Health and Human Services, urges women to focus on their health.

We need to tell all the women in our lives; our mothers, wives, sisters, daughters, aunts and friends how important it is to take time out for their health.

Last year I was honored to be part of a Women's Health Summit on cardiovascular disease, the number one killer of women in the United States. At the summit women heard from leading doctors and researchers how there are simple steps you can take to prevent heart disease, from exercise to diet—small changes can make a big difference.

Additionally, I must recognize that many of the advances in medicine that have been made have come from women working together—as physicians, lawyers, researchers, advocates and Members of Congress. This collaboration has been a powerful catalyst for the advances we have made in the research and treatment of breast, ovarian, and cervical cancer, osteoporosis, and heart disease.

So, today, Mr. Speaker, I want to encourage all of America's women to take a moment to focus on promoting health and preventing disease and illness by taking simple steps to improve their physical, mental, social, and spiritual health.

As we celebrate National Women's Health Week and the achievements made to improve the health and well being of women, I urge my colleagues to take a moment to make a much stronger commitment to promoting women's health in this country.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise today in strong support of H. Con. Res.

268, "Supporting the goals and ideals of National Women's Health Week." First and foremost I would like to thank my distinguished colleague from New York, Representative MAURICE HINCHEY for introducing this bill.

Mr. Speaker, it is vital we recognize that women need to take better care of their health. Starting this week from May 9th to May 15th, families, communities, businesses, government, health organizations and other groups work together to educate women about steps they can take to improve their physical and mental health and prevent disease.

It is crucial that women have knowledge about the health risks that confront them and that greater action is taken to reduce those risks through preventative measures such as a healthy lifestyle and regular medical screenings. With just a small amount of preventative care through exercise and doctor visits, women can drastically cut back on serious health risks that threaten to cut their life span.

Mr. Speaker, I reiterate once again, that it is a very well known fact that improving the health of all women will improve the health of the whole community. It is a well known fact that improving health for women improves health for everyone. Research indicates that when women take care of themselves, the health of their families improves along with theirs.

Women are known to be the caregivers of the family. Women are known to sacrifice their well-being for the sake of their families. During National Women's Health Week it is of great importance we encourage our mothers, sisters, grandmothers, and aunts to go take time out for themselves. It is essential that women educate themselves on different steps to take on improving their lifestyle, health and lower the risks of certain diseases. Some of the most common preventative measures that can be taken are the following: getting at least 2 hours and 30 minutes of moderate physical activity, 1 hour and 15 minutes of vigorous physical activity, or a combination of both each week, eating a nutritious diet, visiting a health care professional to receive regular checkups and preventive screenings, paying attention to mental health, including getting enough sleep and managing stress. In addition, it is important that women start taking care of themselves at an early age. If they start early, they are more likely to stick to these habits, thus in turn, maintaining healthier families and communities.

In Houston and all across America, it is important that women do everything they can do to lead healthier lives. In this spirit, I encourage women to get the necessary check-ups and preventative screenings from their health care providers so they can live long, healthy and productive lives.

Once again it is important to remind our mother's, sisters, grandmothers and aunts that when they take care of themselves, they in turn are taking care of their families and community.

Mr. JOHNSON of Georgia. Mr. Speaker, I rise today to applaud the actions of the House of Representatives in recognizing the importance of women's health in our society. I am proud to be an original cosponsor of H. Con. Res. 268, which empowers women to make their health a top priority.

Mother's Day marked the start of National Women's Health Week. This observance is coordinated by the U.S. Department of Health and Human Services' Office on Women's Health. This resolution encourages women to take small steps to improve their health and reduce their risk for many diseases.

This resolution reaffirms the sense of the House that all women must have access to medical services and receive fair treatment. Many women have faced significant obstacles in caring for themselves and their families. This is why I voted with a majority of the House to pass health care reform. Health care reform has lowered costs for women, and prohibits insurance companies from overcharging because of gender or denying coverage because of a preexisting condition. Health care reform has improved women's access to medical services by requiring new health care plans to cover preventative care, routine screenings, and regular checkups.

During National Women's Health Week, it is important to encourage our wives, mothers, grandmothers, daughters, sisters, and aunts to make time to improve their health, and prevent disease. When women make their health a priority and take small, manageable steps to improve their health, the results can be significant and our entire nation benefits. The health of women is not just a women's issue, but an American issue that affects all of us.

May 10th was National Women's Checkup Day. I urge all women in my district, who have not done so already, to make an appointment with their health care professional. Also, I encourage the women in Georgia's Fourth District to take advantage of the educational events, workshops, and conferences taking place in Atlanta this week.

I encourage my colleagues to support this resolution which encourages women to take simple steps for a longer, healthier, and happier life.

Ms. RICHARDSON. Mr. Speaker, I rise today as a cosponsor of H. Con. Res. 268, which supports the goals and ideals of National Women's Health Week and requests that the President of the United States issue a proclamation calling upon the people of the United States and interested groups to observe National Women's Health Week with appropriate ceremonies and activities. This is an important measure that will increase public awareness of the critical issue of women's health.

I thank Chairman TOWNS for his leadership in bringing this bill to the floor. I would also like to thank the sponsor of this legislation, Congressman HINCHEY, for his dedication to ensuring that women's health is a national priority.

Mr. Speaker, it is important that our nation adopt a heightened focus on the issue of women's health. Women of all backgrounds should be encouraged to reduce their risk of common diseases through preventative measures, such as engaging in regular exercise, eating a nutritious diet, and visiting a healthcare specialist to receive regular check-ups and preventative screenings. These healthy habits begin at a young age and so we must stress the importance of preventative health measures to children in homes and schools across the country.

Unfortunately, there is a high prevalence of disease and health complications among minority women. African-American women, Asian-American women, and American Indian women all face a high risk of contracting diseases. As the representative of a district that is home to large African American and Latino populations, as well as the largest Cambodian population in the country, I understand the crucial importance of improving public awareness about women's health and the unique health challenges for minority women.

Thanks to the historic passage of health care reform, we have taken a giant step in the right direction for women's health. All Americans will have access to affordable, quality care and no longer will women be discriminated against by insurance companies. We owe it to all women in this country—now and in future generations—to continue this effort to increase awareness regarding women's health.

I urge my colleagues to join me in supporting H. Con. Res. 268.

Ms. LINDA T. SANCHEZ of California. Mr. Speaker, I rise today in honor of mothers, sisters, daughters, and friends across America.

This Sunday, as I celebrated my first Mother's Day as a mom, I was reminded of the importance of a healthy family.

As moms, we set a foundation for our families—whether it is putting on the sunscreen or scheduling check-ups—we set the example for our children.

One reason I worked so hard to pass the Affordable Care Act is to empower moms and their children.

Thanks to the healthcare reform law, women will no longer be excluded from insurance for pre-existing conditions, pay higher premiums than men, or forced to pay skyrocketing out-of-pocket costs for basic health services like preventive screenings and maternity coverage.

As a working mom, I know how easy it is to put our own health on the back burner behind work, family, or school.

Mother's Day marked the beginning of National Women's Health Week, a time to encourage women to make their health a top priority and recommit to improving the health of women for generations to come.

Women's health is not just a women's issue. When we have healthy moms, we encourage the vitality of our children and our communities.

Mr. TOWNS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TOWNS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 268.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TOWNS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

# HONORING WILLIAM EARNEST "ERNIE" HARWELL

Mr. TOWNS. Mr. Speaker, I move to suspend the rules and pass the resolution (H. Res. 1328) honoring the life and legacy of William Earnest "Ernie" Harwell.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

## H. RES. 1328

Whereas William Earnest "Ernie" Harwell was born in Washington, Georgia, in 1918, graduated from Emory University, and began his career as a copy editor and sportswriter for the Atlanta Constitution and as a regional correspondent for The Sporting News;

Whereas Ernie Harwell served four years in the United States Marine Corps during World War II, after which he announced games on the radio for the Atlanta Crackers of the Southern Association;

Whereas Ernie Harwell became the only announcer in baseball history to be traded for a player when the Brooklyn Dodgers acquired his services from the Atlanta Crackers in 1948;

Whereas Ernie Harwell called baseball games for the Brooklyn Dodgers through 1949, the New York Giants from 1950 to 1953, including his call of Bobby Thomson's "shot heard 'round the world" in the 1951 National League pennant playoff game on NBC television, and the Baltimore Orioles from 1954 to 1959;

Whereas in 1960, Ernie Harwell began calling games at the corner of Michigan and Trumbull as the "voice" of Detroit Tigers baseball, until his retirement from broadcasting in 2002;

Whereas Ernie Harwell called the 1984 World Series for the Tigers and WJR Radio, exclaiming "Here comes Herndon, he's got it! And the Tigers are the champions of 1984!";

Whereas Ernie Harwell broadcast two Major League All-Star Games (1958 and 1961) and two World Series (1963 and 1968) for NBC Radio, numerous American League Championship Series and American League Division Series for CBS Radio and ESPN Radio, the CBS Radio Game of the Week from 1992 to 1997, professional and college football, and the Masters Tournament of golf;

Whereas Ernie Harwell was honored by the National Baseball Hall of Fame as the fifth broadcaster to receive its Ford C. Frick Award in 1981, inducted into the Michigan Sports Hall of Fame and the National Sportscasters and Sportswriters Association Hall of Fame in 1989, and inducted into the National Radio Hall of Fame in 1998;

Whereas in January 2009, the American Sportscasters Association ranked Harwell 16th on its list of Top 50 Sportscasters of All Time;

Whereas, on May 5, 2010, Ernie Harwell was posthumously awarded the Vin Scully Lifetime Achievement Award in Sports Broadcasting;

Whereas Ernie Harwell thrilled baseball fans with his signature call of "That ball is loooooong gone!"; and said, "Baseball is a lot like life. It's a day-to-day existence, full of ups and downs. You make the most of your opportunities in baseball as you do in life.";

Whereas Ernie Harwell's low-key delivery and colorful, conversational style are synonymous with baseball and known to fans across the Nation;

Whereas Ernie Harwell began the first spring training broadcast of each season

with a reading from Song of Solomon 2:11-12: "For lo, the winter is past, the rain is over and gone; the flowers appear on the earth; the time of the singing of birds is come, and the voice of the turtle is heard in our land.";

Whereas for 55 years, Ernie Harwell endeared Americans in his broadcast of over 8,400 baseball games;

Whereas Ernie Harwell spent 43 of his 55 major league seasons calling games for the Detroit Tigers;

Whereas Ernie Harwell said, "I know we're all going at some time, and I'm ready for whatever God's got";

Whereas, on May 4, 2010, Ernie Harwell, residing in Novi, Michigan, passed away at the age of 92 after a long career enjoyed by millions; and

Whereas Ernie Harwell is survived by his beloved wife of 68 years, Lulu, their four children, seven grandchildren, and seven great-grandchildren, and by baseball fans across the Nation: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) honors the life and legacy of William Earnest "Ernie" Harwell for his significant contributions to Major League Baseball;

(2) expresses profound sorrow at his passing on May 4, 2010; and

(3) expresses sincere condolences to his wife Lulu, and the rest of his family, friends, colleagues, and admirers.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TOWNS) and the gentleman from Michigan (Mr. McCOTTER) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

## GENERAL LEAVE

Mr. TOWNS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and to extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TOWNS. Mr. Speaker, I now yield myself as much time as I may consume.

I rise in support of H. Res. 1328, a resolution honoring the life and legacy of William "Ernie" Harwell. Mr. Harwell, an iconic and beloved sportscaster for the Detroit Tigers, passed away on May 4, 2010, at the age of 92. During his 55-year career, he delivered the play-by-play for more than 8,500 Major League Baseball games, spending more than 40 of those years calling games for the Tigers. He became known as the "voice of the Tigers" due to his colorful style of commentary. A player called out on a third strike was, he would say, "called out for excessive window shopping." A double play was "two for the price of one." He finally retired from broadcasting in 2002 while he was still in good health, saying he discussed it with his wife and that "it's better to leave too early than too late."

Mr. Harwell's love of baseball was also expressed in writings and song. In 1955, he wrote, "The Game for All America," an essay celebrating Ameri-

cans' love affair with baseball. Mr. Harwell wrote dozens of songs, including one for Hank Aaron when he broke Babe Ruth's home run record in 1974.

Mr. Speaker, I reserve the balance of my time.

Mr. McCOTTER. Mr. Speaker, I yield as much time as she may consume to my distinguished colleague from the State of Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, last Tuesday, we from metro Detroit and the entire State of Michigan lost a treasure with the passing of former Detroit Tigers broadcaster Ernie Harwell.

For generations of Detroit Tiger fans, Ernie Harwell was literally the voice of summer. Day after day, and year after year, that wonderful southern gentleman's voice was heard on our radios and made every baseball season wonderful, regardless of the number of Tigers' wins and losses. Ernie's voice, broadcasting the Tigers games, was a welcome friend at family picnics or at the beach. He was with us in our cars as we were driving up north on a family vacation. He was with us in our yards and in our garages as we did our household chores. The truth of the matter is that Ernie Harwell was more than just a baseball broadcaster; he was a member of our family. And that is why the loss of Ernie Harwell is being mourned by our entire community, Mr. Speaker. Whether you are a baseball fan or not, we loved Ernie Harwell because he personified integrity, generosity, courtesy, honor, and just pure class.

As a young man, he served our Nation in the United States Marine Corps during World War II. For 68 years, he shared his life with his beloved wife, Lulu, their four children, seven grandchildren, and seven great-grandchildren.

For more than 40 years, his voice was a welcome friend on our radios. And since his retirement 8 years ago, he was still a constant, beloved presence in our community. Throughout his life, his charitable acts and gentle kindness made him a beloved figure for everyone.

And last fall, Mr. Speaker, when he found out he was stricken with inoperable cancer, Ernie accepted his fate with grace because of his deep and abiding faith in God and in the knowledge that he had led a wonderful life. Last September, Ernie gave a farewell speech before a Tigers game at Comerica Park. I want to read from a bit of that speech so you have an understanding of why we all loved Ernie Harwell so much. He said:

"In my almost 92 years on this Earth, the good Lord has blessed me with a great journey. And the blessed part of that journey is that it's going to end here in the great State of Michigan. I deeply appreciate the people of Michigan. I love their grit. I love the way

they face life. I love the family values they have. And you Tigers fans are the greatest fans of all. No question about that. And I certainly want to thank you from the depth of my heart for your devotion, your support, your loyalty, and your love. Thank you very much, and God bless you."

That's what he said, Mr. Speaker. And we love you too, Ernie.

Our hearts go out to Ernie's beloved wife, Lulu, for her great loss, and we send our thanks to Mrs. Harwell for sharing the man that she loved for these many years with millions throughout Michigan and around our Nation. And thank you, Ernie, for being such a special part of the lives of so many in our community. God bless you, good friend, and may you rest in peace.

□ 1445

Mr. TOWNS. Mr. Speaker, this resolution was introduced by our colleague, the gentleman from Michigan (Mr. McCOTTER), on May 5, 2010. It was referred to the Committee on Oversight and Government Reform, which reported the resolution by unanimous consent on May 6, 2010. The measure enjoys the support of 70 Members of the House.

I thank the gentleman from Michigan for introducing this measure, and I thank the staff along with the ranking member, the gentleman from California (Mr. ISSA), for working to bring this resolution to the floor today.

On that note, I reserve the balance of my time.

Mr. McCOTTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, they say that youth is wasted on the young, and in many ways it is. As a kid growing up in Michigan who loved baseball, going through those deep winters was very difficult. We would wait for the first signs of spring, and one of the surest signs that spring was here was the voice of Ernie Harwell. Now, as I was growing up, our Tigers were not always at the top of their game. They had some very tough years there. But somehow that didn't matter when you listened to Ernie Harwell's voice on the radio. When you heard him describe the game of baseball, you could understand the majesty and the lore that runs through generations. And so what was going on on that field to us who were listening was very important. And as a child, you tend to think that some of the things you inherit or are fortunate enough to happen upon will stay that way forever. And in some ways Ernie tried his best. His long, distinguished career allowed a kid like me to think that somehow that voice would go on forever through that radio, reminding us of the joys of what is really a child's game.

And now Detroit has lost him, the baseball community has lost him, but

we have not lost the resonance of his voice in our hearts. And every time spring comes, we will be reminded not only that the joy of the national pastime is back, but we will be reminded of the joy that was listening to and being with Ernie Harwell.

Mr. Speaker, at this point if it is in order, I would urge all Members to support the passage of H. Res. 1328.

I yield back the balance of my time.

Mr. TOWNS. Mr. Speaker, I urge my colleagues to support this resolution honoring Mr. Harwell, a colorful character who will be deeply missed by the people not only of Michigan, people throughout this Nation. I had an opportunity many, many years ago to hear him and I will be honest with you, even though my team was losing that day, I must admit I enjoyed hearing his voice, even though my team was not on top.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TOWNS) that the House suspend the rules and agree to the resolution, H. Res. 1328.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TOWNS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### URGING PREVENTION OF ATTACKS AGAINST FEDERAL EMPLOYEES

Mr. TOWNS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1187) expressing the sense of the House of Representatives with respect to raising public awareness of and helping to prevent attacks against Federal employees while engaged in or on account of the performance of official duties, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 1187

Whereas title 18 of the United States Code makes it a crime to forcibly assault, resist, intimidate, or interfere with a Federal employee while engaged in or on account of the performance of official duties, or to kill or attempt to kill any such employee while so engaged or on such account;

Whereas the suicide attack on the Internal Revenue Service office in Austin, Texas on February 18, 2010, that claimed the life of two-tour Vietnam veteran Vernon Hunter follows the more than 1,200 attacks which were made on Internal Revenue Service employees between 2001 and 2008, attacks which have resulted in at least 197 convictions;

Whereas the shooting attack on Thursday, March 4, 2010, by John Patrick Bedell that

injured two Pentagon guards was the fourth attack or security scare on a Federal building in 2010;

Whereas the Department of Justice filed 313 cases in fiscal year 2006, 326 cases in fiscal year 2007, 303 cases in fiscal year 2008, and 277 cases in fiscal year 2009 (as of August of such fiscal year), relating to attacks against Federal employees;

Whereas more than 2,000,000 civilian employees in the Federal workforce provide many forms of dedicated service to the United States and its people, such as fighting crime and fire, supporting our military, protecting health, providing essential human services, preserving the environment and maintaining our national parks, wildlife refuges, and forests, securing our borders, responding with assistance in times of natural disaster, regulating commerce, defending our freedom, and advancing our country's interests around the world, all of which contribute to the greatness and prosperity of the Nation; and

Whereas Federal employees are entitled to expect a reasonable degree of personal safety and security while carrying out their official duties: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) expresses the Nation's appreciation for the outstanding contributions made by Federal employees to the United States;

(2) supports the goal of protecting the safety and security of our Federal employees; and

(3) urges that the Government seek ways to improve the safety and security of our Federal employees.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. TOWNS) and the gentleman from Michigan (Mr. McCOTTER) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

##### GENERAL LEAVE

Mr. TOWNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TOWNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with H. Res. 1187, this Chamber expresses its commitment to the safety and security of our Nation's public servants. H. Res. 1187 was introduced by our colleague, the gentleman from Virginia (Mr. MORAN) on March 16, 2010. It was referred to the Committee on Oversight and Government Reform, which ordered it reported by unanimous consent on May 6, 2010. The measure enjoys the support of over 70 Members of the House.

Mr. Speaker, the men and women of our Federal workforce deserve our appreciation and our support. Their efforts are often undervalued, but they provide our Nation with many forms of critical services. The Federal workforce includes firefighters, law enforcement officers, and military support personnel. Federal employees protect

the public, help keep our food and water clean, defend our borders, and preserve our national parks. They deliver our mail, care for our veterans, and provide all manners of other services that keep our country going.

While we in Congress may debate the details about the proper role that the Federal Government should play in our country, we can all agree that Federal employees should be able to expect to be able to carry out their duties with a degree of safety and security.

The Department of Justice has filed over a thousand cases relating to attacks against Federal employees since 2006, including a suicide attack on the Internal Revenue Service office in Austin, Texas. On February 18 of this year, that attack claimed the life of a two-tour Vietnam veteran, Vernon Hunter. The shooting attack at the entrance of the Pentagon on March 4 injured two Pentagon guards and was the fourth attack or scare on a Federal building in 2010.

These attacks sadden us all, and I am glad we are taking the time to condemn attacks against our Federal employees and to affirm our commitment to their safety and their security.

I would like to thank the gentleman from California (Mr. ISSA) and also thank the gentleman from Virginia (Mr. MORAN) and the staff for their work to bring this to where we are today. I urge my colleagues to join me in supporting this resolution.

I reserve the balance of my time.

Mr. MCCOTTER. Mr. Speaker, I would like to reserve the balance of my time so we may hear from the sponsor of the resolution, Mr. MORAN.

Mr. TOWNS. I yield 5 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I wish to thank the gentleman from New York, the chairman of the committee, and the gentleman from Michigan (Mr. MCCOTTER). Thank you very much for bringing this resolution to the floor.

The purpose is to help prevent attacks against Federal employees while they are engaged in or on account of the performance of their official duties.

Last month, we commemorated the 15th anniversary of the bombing of the Alfred Murrah Federal Building in downtown Oklahoma City. This act of violence claimed 168 lives and injured more than 680 people. It was the most destructive act of terrorism on the United States soil until the September 11, 2001, attacks. The Oklahoma City bomber, Timothy McVeigh, made Federal employees his target because he was angry at the United States Government.

In the 15 years since that horrific bombing, Federal employees have been the target of a great number of attacks. Internal Revenue Service employees have borne the brunt, as those who are frustrated with tax problems

have taken their frustrations out on IRS workers just doing their jobs, in fact, carrying out the laws that the Congress makes. The IRS has recorded some 1,200 attacks on its employees since September 2001. Attacking a Federal employee engaged in or because of his or her work is a Federal crime. The Justice Department investigates some 300 cases per year.

We are a free society. Strong rhetoric is acceptable, even fashionable. But rhetoric should not inspire violence. Federal agencies devote significant resources and develop procedures to protect their employees. But two recent attacks on Federal employees highlight what I see as a worrying trend. In February, a plane was flown into the IRS building in Austin in an act of murder-suicide that claimed the life of a veteran of two tours in Vietnam.

In March, another deranged individual walked up to the Pentagon entrance and opened fire with a semi-automatic weapon, injuring two Pentagon guards. These acts were more than sensational attempts at mass murder. They were acts of domestic terrorism with Federal employees as the target.

We have the finest, most professional civil service in the world, and we take for granted that our Federal workers provide many forms of dedicated and important service to our Nation. Civilian employees serve in war zones providing essential support to our military. Federal workers maintain our national parks, our wildlife refuges and forests, secure our borders, and respond in times of natural disaster, as we can see in the gulf oil spill.

Our diplomats advance our country's interests around the world, very often in dangerous environments. The more than 2 million civilian employees in the Federal workforce deserve a reasonable degree of personal safety and security while carrying out their duties implementing the laws we make. It is incumbent upon the Congress and the administration to ensure their safety.

We have a responsibility and that's why I have introduced this bill, a responsibility to protect our Nation's Federal employees. House Resolution 1187 calls for a renewed commitment to our civil servants, and I urge my colleagues to unanimously support it.

Mr. MCCOTTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 1187, which increases public awareness to help prevent future attacks against Federal employees while engaged in or on account of the performance of their official duties. Truly, we must do all we can to prevent Federal workers from being victims of violence because of their public service.

Every year, hundreds of Federal workers are victims of cowardly acts of

violence. In 2008 alone, the Department of Justice filed 303 cases against people who attacked Federal workers. And tragically, in 2010, we have already witnessed such instances of violence.

Mr. Speaker, our civilian Federal employees must not become victims of violence because of their jobs. Civilian Federal employees must feel safe while doing their jobs and serving our country.

I ask my colleagues to support this resolution so we may raise public awareness of these attacks and to prevent future attacks. Thus, Mr. Speaker, I urge all Members to support the passage of H. Res. 1187.

I yield back the balance of my time.

Mr. TOWNS. Mr. Speaker, I think it is so important that we protect and support our Federal employees. Let me again urge my colleagues to join me in supporting this measure.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise in strong support of H. Res. 1187, "Expressing the sense of the House of Representatives with respect to raising public awareness of and helping to prevent attacks against Federal employees while engaged in or on account of the performance of official duties."

H. Res. 1187 will resolve that the House of Representatives: Expresses the Nation's appreciation for the outstanding contributions made by Federal employees to the United States; Supports the goal of protecting the safety and security of our Federal employees; and Urges that the Government seek ways to improve the safety and security of our Federal employees. I rise today to urge the passing of House Resolution 1187. Not too long ago our country suffered from the Oklahoma City bombing, one of the deadliest acts of domestic terrorism on American soil. This cowardly act of terrorism killed 168 people, 19 of them children. The victims were mothers, fathers, sons, daughters, grandparents, grandchildren, friends, and co-workers.

The bombing in Oklahoma City was a direct attack against the dedicated men and women of the Federal Civil Service. The Alfred P. Murrah Federal Building housed 14 Federal agencies, and nearly 100 Federal employees lost their lives that morning. We must honor their sacrifice by remaining steadfast in our commitment to prevent future attacks on the Federal government, Federal employees, and other acts of domestic terror. I am deeply troubled by recent threats of violence against government employees. This February, an attack on Federal offices threatened the lives of 200 IRS workers and took the life of Vernon Hunter, a 20-year army Veteran who served two tours in Vietnam, a loving husband, father, grandfather, and mentor to co-workers at the IRS. The Oklahoma City bombing and the most recent attacks serve as stark reminders that threats against Federal employees may pose real dangers. They remind us of our solemn duty to protect our public servants.

After the Oklahoma City bombing, President Bill Clinton directed the Department of Justice to assess the vulnerability of Federal office



buildings. Prior to this study, no formal government-wide standards existed for Federal buildings. The IRS has recorded some 1,200 attacks on its employees since 2001. The Justice Department investigates some 300 cases per year. In March, a deranged individual walked up to the Pentagon entrance and opened fire with a semi-automatic weapon injuring two Pentagon guards. In February, a plane was flown into the IRS building in Austin, TX in an act of murder-suicide that claimed the life of a two-tour Vietnam Veteran.

With the creation of the Department of Homeland Security, the responsibility to protect our Federal facilities was transferred to the Federal Protective Service (FPS). The FPS is a federal law enforcement agency that provides integrated security and law enforcement services to federally owned and leased buildings and facilities. As a member of the Homeland Security Committee and Chairwoman of the Transportation Security and Infrastructure Protection Subcommittee, I am committed to working with my colleagues to support federal legislation that will protect our federal employees. I support the mission of the FPS that renders federal properties safe and secure for federal employees, officials and visitors in a professional and cost effective manner by deploying a highly trained and multi-disciplined police force. As the federal agency charged with protecting and delivering integrated law enforcement and security services to facilities owned or leased by the General Services Administration, FPS employs 1,225 federal staff (including 900 law enforcement security officers, criminal investigators, police officers, and support personnel) and 15,000 contract guard staff to secure over 9,000 buildings and safeguard their occupants.

The FPS has a critical infrastructure and key resources of the United States that are essential to our nation's security, public health and safety, economic vitality and way of life. FPS protects one component of the nation's infrastructure by mitigating risk to federal facilities and their occupants.

As we remember the victims and survivors of the Oklahoma City bombing and other acts of terrorism, let us all take a moment to reflect upon the dedication and sacrifices of the men and women who work hard to keep our federal buildings secure and those of us who work in them safe. Federal workers maintain our national parks, wildlife refuges, and forests, and secure our borders, and in times of natural disaster. The more than two million civilian employees in the federal workforce deserve a reasonable degree of personal safety and security while carrying out their duties.

It is incumbent upon the Congress and the Administration to look for ways to improve their safety. I support H. Res. 1187 and I urge my colleagues to support this bill.

Ms. RICHARDSON. Mr. Speaker, I rise today in support of H. Res. 1187, which recognizes Federal employees for their outstanding service to our Nation and stresses the importance of promoting their safety and security while they are at work. H. Res. 1187 is an important measure that raises public awareness in regards to both the excellent work performed by Federal employees and the need to protect them on the job.

I thank Chairman TOWNS for his leadership in bringing this bill to the floor. I also thank the

sponsor of this legislation, Congressman MORAN, for recognizing the importance of seeking ways to improve the safety and security of Federal employees.

Federal employees work long hours every day to ensure that Government is working for the American people. In return, we must do what we can to show our appreciation for their service. This includes ensuring their safety while at work. Unfortunately, recent events show that we can do more.

Mr. Speaker, as Chairwoman of the House Committee on Homeland Security's Subcommittee on Emergency, Communications, Preparedness, and Response, I am particularly attuned to the threats facing our Federal employees. Between 2001 and 2008, more than 1,200 attacks have been made on Internal Revenue Service (IRS) buildings. The February 18, 2010 attack on the Austin, Texas IRS building claimed the life of two-tour Vietnam veteran Vernon Hunter. The March 4, 2010 shooting that injured two Pentagon guards represented the fourth attack or security scare on a Federal building in 2010.

These unfortunate events show that we must adopt a heightened focus on protecting Federal employees and securing Federal workplaces. Additionally, we should also be grateful for the service of the state and local government employees throughout the country and work to ensure that they, too, are safe at work. As the representative of thousands of state and local government employees, I understand the importance of the work they perform to ensure that our states and cities are run fairly and efficiently. We must be dedicated to their workplace safety.

In addition, these attacks should also serve as a reminder of the need to enhance our security efforts not only for government employees, but for all Americans. The areas in and around my district contain multiple infrastructure sites of national importance, such as the Port of Long Beach, the Gerald Desmond Bridge, and the Alameda Corridor. Due to the constant flow of goods through these sites, they are vulnerable to attack and intentional sabotage. We must enhance our national security efforts to ensure that these sites, and the hundreds of others across the country, are secure and that the American people are safe.

Mr. Speaker, we must continue to protect the people who serve us every day. I applaud the Federal employees who dedicate their lives in making sure government is working on behalf of the American people.

I urge my colleagues to join me in supporting H. Res. 1187.

Mr. TOWNS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TOWNS) that the House suspend the rules and agree to the resolution, H. Res. 1187, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

#### PEACE OFFICERS MEMORIAL DAY

Mr. DEUTCH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1299) supporting the goals and ideals of Peace Officers Memorial Day.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1299

Whereas there are more than 900,000 sworn law enforcement officers in the United States, 12 percent of whom are women;

Whereas law enforcement officers selflessly protect the people of the United States and their communities;

Whereas law enforcement officers serve the country in spite of the inherent danger of their service;

Whereas more than 18,600 law enforcement officers have been killed in the line of duty in the United States since the first recorded police death in 1792;

Whereas 72 law enforcement officers were killed while responding to the terrorist attacks on September 11, 2001, making that day the deadliest in law enforcement history;

Whereas 125 law enforcement officers were killed in 2009;

Whereas, on March 21, 2009, Sergeant Mark Dunakin and Officer John Hege and Sergeants Ervin Romans and Dan Sakai of the Oakland Police Department in California were shot and killed by the same gunman in two separate attacks;

Whereas, on November 29, 2009, Sergeant Mark Renniger and Officers Tina Griswold, Ronald Owens II, and Greg Richards of the Lakewood Police Department in the State of Washington were shot and killed as they sat in a coffee shop;

Whereas Public Law 87-726 designates May 15th of each year as Peace Officers Memorial Day, and the calendar week during which that Day occurs as Police Week;

Whereas section 7(m) of title 4, United States Code, requires that the United States flag be flown at half-staff on all government buildings on Peace Officers Memorial Day; and

Whereas law enforcement officers deserve the gratitude of the people of the United States for their service: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the goals and ideals of Peace Officers Memorial Day;

(2) honors Federal, State, and local law enforcement officers who have been killed or disabled in the line of duty; and

(3) calls upon the people of the United States to observe Peace Officers Memorial Day with ceremonies and respect befitting those who have risked their lives and died in service to their communities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. DEUTCH) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from Florida.

#### GENERAL LEAVE

Mr. DEUTCH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the resolution under consideration.



The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. DEUTCH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution honors our law enforcement community by supporting the observance of Peace Officers Memorial Day. Since 1962, May 15 has been recognized as Peace Officers Memorial Day, and the week of May 15 has been designated as Police Week.

□ 1500

For nearly 50 years, we have continued this observance as a way to honor the men and women of our Nation's law enforcement agencies. They protect our neighborhoods, our homes, and our loved ones; and we are grateful.

The men and women who dedicate their careers to our safety do so at the expense of spending long hours away from their families, putting themselves at great risk, and in too many instances, making the ultimate sacrifice.

On average, one law enforcement officer is killed in the line of duty somewhere in this Nation every 53 hours. Unfortunately, since the beginning of this year we have lost 58 officers.

Despite this ever-present danger, these dedicated professionals continue to make sacrifices for their communities without asking thanks or praise. The law enforcement professionals and police officers who toil in our communities across this Nation deserve our unwavering support and our thankful recognition.

I commend our colleague from Texas (Mr. POE) for introducing this important resolution.

I urge my colleagues to support it, and I reserve the balance of my time.

Mr. POE of Texas. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of H. Res. 1299, supporting the goals and ideals of Peace Officers Memorial Day. Every year the President issues a proclamation naming May 15 as National Peace Officers Memorial Day. Of course, in the days leading up to May 15, thousands of peace officers and their families come to Washington, D.C. They come here to remember their fellow officers and their loved ones who have given their lives, all in the line of duty. They participate in conferences and memorial services. They honor the memories of those who worked so hard to protect our communities and, in the end, made the ultimate sacrifice and gave their lives for the rest of us.

Americans have been protected by peace officers for 217 years, ever since the early settlers in Boston, Massachusetts. They established a program called Night Watch to safeguard those Bostonians.

Not a day goes by that law enforcement officers do not face danger in

their mission to keep us safe from crime, acts of violence, and now terrorism. On May 17, 1792, New York City's Deputy Sheriff Isaac Smith became the first recorded peace officer to be killed in the line of duty.

Mr. Speaker, since that time, 18,600 law enforcement officers have been killed in the line of duty. Let me repeat: 18,600 peace officers in the United States have been killed in the line of duty. On average, 58,000 law enforcement officers are assaulted every year; and in 2009, 125 of those officers were killed protecting other Americans. Five of those fallen officers were from my home State of Texas. Those individuals were Senior Corporal Norman Smith of the Dallas Police Department. He was killed by gunfire on June 6, 2009. Lieutenant Stuart Alexander from the Corpus Christi Police Department. He was killed by vehicular assault on March 11, 2009. Sergeant Randy White of the Bridgeport PD was killed by a vehicle pursuit on April 2, 2009. Houston police officer Henry Canales was killed by gunfire on June 23, 2009. And Jesse Hamilton was killed on August 25 by gunfire, and he was a member of the Pasadena Police Department of the State of Texas.

2009 was a particularly difficult year for peace officer families. On the 21st day of March 2009, four members of the Oakland, California Police Department were shot and killed in the line of duty. Sergeants Mark Dunakin, Ervin Romans, Dan Sakai and Officer John Hege gave their lives in service to their fellow Americans, and we honor them in their service today.

On November 29, 2009 four members of the Lakewood Police Department in Washington were brutally ambushed as they sat in a coffee shop catching up on paperwork and planning for their upcoming shift. Sergeant Mark Renninger and Officers Tina Griswold, Ronald Owens and Greg Richards were all veteran law enforcement officers, each with between 8 and 14 years of experience. This loss was a staggering blow to the Lakewood community and the national community of peace officers. We continue to mourn this senseless loss and honor them for their service.

Although there has been great progress in protecting the safety of these men and women who wear the uniform, the death of every officer serves as a reminder to the whole country that our Nation's law enforcement officers still face dangerous and potentially deadly situations every day.

During my 20 years as a judge in Texas, I had the privilege of working alongside some of America's finest police officers. Later, during my term on the bench, some of those police officers were killed in the line of duty. Now, as a founder and co-chair of the Congressional Victims Rights Caucus, I recognize that peace officers are too often victims of crimes they seek to prevent.

When a peace officer puts on a uniform in the morning, they represent everything that is good, everything that is right about our country. And I am privileged to honor them here today.

Mr. Speaker, we in this House of Representatives need to always remember that outside these Halls, on the rooftops and around the Capitol are the Capitol police officers watching and protecting those who come to the people's House, to the Capitol Building and the surrounding buildings. And we need to remember that in 1998, two of those Capitol police officers, Jacob Chestnut and Detective John Gibson, were killed in the line of duty in this very building as they were protecting other Members of Congress from a gun-wielding assailant that came into this place.

We should always remember that these peace officers every day are a cut above the rest of us, and they do represent everything that's good and fine and right about America.

Later this week, not far from here, on the west side of the Capitol, there will be the families of the slain police officers in the United States. Surrounding them, in a group, will be thousands and thousands of peace officers in the United States, all wearing the uniform, wearing a badge that they wear above their heart and a black cloth across that badge. Those people stand in honor of those families that have lost loved ones who were peace officers that represented the rest of us and were killed in the line of duty. We owe them everything that we can say that is good and noble about their work. We honor them. We praise those that are in the line of duty. We remember those that were killed in the line of duty, and we also remember their families.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in strong support of H. Res. 1299 to support the goals and ideals of Peace Officers Memorial Day.

Every year, on May 15, we recognize the fallen peace officers from our communities that have given their lives in the line of duty. We can thank these men and women for upholding our laws and ensuring our safety, even in times of crisis. I am deeply humbled by the sacrifices of these brave men and women, and I express my condolences to their families for their loss.

On January 6, 2009, Dallas lost one of our own police officers, Senior Cpl. Norman Stephen Smith, when he was shot and killed while serving an arrest warrant. He died shortly before his 18th anniversary with the Dallas Police Department, and his knowledge and skill continue to be missed within his unit. With his death, Dallas lost a great man and a great police officer, and we will never forget his sacrifice for our community's wellbeing. My condolences go out to his wife, Regina Smith, and their two children.

Mr. Speaker, Peace Officers Memorial Day is a day in which we honor some of our nation's bravest and most valiant men and

women. The work of police officers and other peace officers places them in danger almost on a daily basis, and I ask my fellow colleagues to join me today in supporting this resolution that honors our peace officers who have died in the line of duty.

Ms. RICHARDSON. Mr. Speaker, I rise today in support of H. Res. 1299, which recognizes the men and women who have given their lives in the line of duty as law enforcement officers. This is an important measure that pays tribute to the selfless men and women who lost their lives as they worked to protect the American people. These brave individuals deserve our national gratitude for their sacrifice.

I thank Chairman CONYERS for his leadership in bringing this bill to the floor. I also thank the sponsor of this legislation, Congressman POE, for his dedication to ensuring that the men and women who protect our families and communities are honored for their bravery, service, and sacrifice.

Careers in law enforcement are inherently dangerous and the men and women who decide to serve as police officers should be commended for their bravery. Today, there are more than 900,000 law enforcement officers in the United States who risk their lives every day to protect our communities. Following the horrific terrorist attacks of September 11, 2001, more than seventy law enforcement officers were killed while rescuing victims and restoring a sense of order during this time of national tragedy. September 11, 2001, was the deadliest day for law enforcement officers in the history of our nation.

More than 18,600 law enforcement officers have been killed in the line of duty throughout the history of the United States. These police officers were killed while responding to disturbance calls, making arrests in robberies, investigating suspicious circumstances, making traffic stops, and countless other efforts to protect the American people and ensure the safety of our communities.

In my district in Long Beach, California, 28 police officers have died in the line of duty. In a Peace Officers Memorial Day tribute, Long Beach Mayor Bob Foster eloquently stated, "All of our officers and firefighters chose a profession where they could no longer sit still and proclaim that somebody should do something. Thinking about taking action and actually taking action is what separates the good from the great; the well intentioned from the heroes." I agree with Mayor Foster. Law enforcement officers are true American heroes.

I salute the bravery and dedication of law enforcement officers at the Federal, State, and local levels. I extend my deepest sympathy to the loved ones of police officers who have been killed while working to protect the American people.

I urge my colleagues to join me in supporting H. Res. 1299.

Mr. POE of Texas. I yield back the balance of my time.

Mr. DEUTCH. Mr. Speaker, I ask my colleagues to support this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr.

DEUTCH) that the House suspend the rules and agree to the resolution, H. Res. 1299.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mr. POE of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### COMMEMORATING THE LIFE OF CYNTHIA DELORES TUCKER

Mr. DEUTCH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1094) commemorating the life of the late Cynthia DeLores Tucker.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1094

Whereas the late Cynthia DeLores Tucker dedicated her life to eliminating racial barriers by championing civil rights and rights of women in the United States;

Whereas, having grown up in Philadelphia during the Great Depression, C. DeLores Tucker overcame a childhood marked by economic hardship and segregation;

Whereas, having personally experienced the effects of racism, C. DeLores Tucker first became active in the postwar civil rights movement when she worked to register African-American voters during the 1950 Philadelphia mayoral campaign;

Whereas C. DeLores Tucker became active in local politics, developed her skills as an accomplished fund raiser and public speaker, and quickly became the first African-American and first woman to serve on the Philadelphia Zoning Board;

Whereas in 1965, in the midst of the Civil Rights Movement, C. DeLores Tucker participated in the White House Conference on Civil Rights and marched from Selma to Montgomery with Rev. Dr. Martin Luther King, Jr., in support of the 1965 Voting Rights Bill, which was later signed into law by President Lyndon Johnson;

Whereas in January 1971, while still primarily focused on efforts to gain equality for all, C. DeLores Tucker was named Secretary of the Commonwealth of Pennsylvania by then-Governor Milton Shapp, making her the first female African-American Secretary of a State in the Nation;

Whereas, under the leadership of C. DeLores Tucker as Secretary of the Commonwealth, Pennsylvania became one of the first States to pass the Equal Rights Amendment, lower the voting age from 21 to 18, and institute voter registration through mail;

Whereas, after leaving her position in Pennsylvania State government, C. DeLores Tucker became the first African-American to serve as president of the National Federation of Democratic Women;

Whereas in 1984, C. DeLores Tucker founded the National Political Congress of Black Women, now known as the National Congress of Black Women, a non-profit organization dedicated to the educational, political, eco-

nomie, and cultural development of African-American Women and their families;

Whereas in 1983, C. DeLores Tucker founded the Philadelphia Martin Luther King Jr. Association for Non-Violence and, in 1986, the Bethune-DuBois Institute, both of which are dedicated to promoting the cultural and educational development of African-American youth and young professionals;

Whereas C. DeLores Tucker served as a member of the Board of Trustees of the NAACP and numerous other boards, including the Points of Light Foundation and Delaware Valley College;

Whereas, in the later phase of her life, C. DeLores Tucker publicly criticized gangster rap music, arguing that such music denigrated women and promoted violence and drug use;

Whereas, as a student of history, C. DeLores Tucker led the successful campaign to have a bust of the pioneering activist and suffragist Sojourner Truth installed in the United States Capitol, along with other suffragette leaders;

Whereas C. DeLores Tucker received more than 400 honors and awards during her lifetime, including the NAACP Thurgood Marshall Award, the Martin Luther King, Jr. Distinguished Service Award, and the Philadelphia Urban League Whitney Young Award, and honorary Doctor of Law degrees from Morris College and Villa Maria College; and

Whereas the work of C. DeLores Tucker as crusader for civil rights and rights of women, through grace, dignity, and purpose has helped transform the perception of race and gender in the United States: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) commemorates the life of the late Cynthia DeLores Tucker;

(2) salutes the lasting legacy of the achievements of C. DeLores Tucker; and

(3) encourages the continued pursuit of the vision of C. DeLores Tucker to eliminate racial and gender prejudice from all corners of our society.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. DEUTCH) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from Florida.

#### GENERAL LEAVE

Mr. DEUTCH. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. DEUTCH. I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1094 commemorates the life of the late Cynthia DeLores Tucker. Cynthia DeLores Tucker dedicated her life to eliminating racial barriers by championing civil rights and the rights of women. In particular, Ms. Tucker realized that voting was the most important civil right denied to African Americans and the key to changing this country. She

spent her career in service to the principle that there could be no equality without equal access to the ballot box.

Born October 4, 1927, the 10th of 11 children, she grew up in Philadelphia during the Great Depression, overcoming a childhood marked by economic hardship and segregation, to attend Temple University and later the University of Pennsylvania.

In what would become the first step in her long career as a civil rights activist, Ms. Tucker worked to register African-American voters during the 1950 Philadelphia mayoral campaign. Shortly thereafter, she became active in local politics, serving as the first African American and first woman on the Philadelphia Zoning Board.

Driven by her belief that no one should be denied the right to participate in our democracy, Ms. Tucker went on to participate in the White House Conference on Civil Rights and to march from Selma to Montgomery with Dr. King in support of the 1965 Voting Rights Bill.

In 1971, Ms. Tucker was named Secretary of the Commonwealth of Pennsylvania by then-Governor Milton Shapp, making her the first female African American to hold this position in any State in the Nation. Under her leadership as Secretary of the Commonwealth, Pennsylvania became one of the first States to pass the Equal Rights Amendment, to lower the voting age from 21 to 18, and to institute voter registration through the mail.

After leaving her position in Pennsylvania State Government, Ms. Tucker continued to dedicate her time to public service and the promotion of civil rights through private organizations. She served as a member of the Board of Trustees of the NAACP, and on numerous other boards, including the Points of Light Foundation and Delaware Valley College.

In 1984, Ms. Tucker co-founded the National Political Congress of Black Women, now known as the National Congress of Black Women, a nonprofit organization dedicated to the educational, political, economic and cultural development of African-American women and their families.

Mr. Speaker, Cynthia DeLores Tucker was a crusader for civil rights and the rights of women. Through her dedication to voting rights and the civil rights movement, she helped transform the perception of race and gender in the United States.

I'd like to commend my colleague, Diane Watson, for introducing this resolution. It is important that this Nation remember and honor the outstanding work of civil rights activists like Ms. Tucker.

I urge my colleagues to support this resolution, and I reserve the balance of my time.

Mr. POE of Texas. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, in the last House resolution that we just discussed, Peace Officers Memorial Day, H. Res. 1299, I also want to mention the fact that Deputy Sheriff Shane Thomas Detwiler of the Chambers County Sheriff's Department in Texas was killed in the line of duty on July 13, 2009, and his cause of death was gunfire.

In this resolution, H. Res. 1094, of course I support this resolution. And this resolution commemorates the life of the late Cynthia DeLores Tucker. Ms. Tucker dedicated her life to eliminating racial barriers and fighting for civil rights and the rights of women. In 1927 she was born in Philadelphia. Her dad was a minister. After overcoming financial hardship and segregation during the Great Depression, she attended Temple University and the University of Pennsylvania at the Wharton School.

As part of the postwar civil rights movement, she worked to register African American voters in the 1950 Philadelphia mayor's race. She later became the first African American and the first woman to serve on the Philadelphia Zoning Board.

Then in 1965 she marched from Selma to Montgomery, Alabama with Dr. Martin Luther King, Jr., in support of the 1965 Voting Rights Act.

In 1971 she became Secretary of the State of Pennsylvania, making her the first female African American Secretary of State in the whole United States.

In 1984, Ms. Tucker founded the National Political Congress of Black Women, today known as the National Congress of Black Women; and with the help of this organization, she criticized the promotion of drugs and violence in gangsta rap music, and also how women were treated in the music industry.

She was also the founding member of the National Women's Political Caucus, and she was head of the minority caucus of the Democratic National Committee. Her life's work on behalf of racial and gender equality truly reaped fruitful change in our country.

I urge my colleagues to join me in supporting this resolution. I commend the sponsor of this resolution, DIANE WATSON from California.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in support of H. Res. 1094 to commemorate the life of the late Cynthia DeLores Tucker, a civil rights activist and the first female, African-American Secretary of State of any of our fifty states.

C. DeLores Tucker was born in Philadelphia, Pennsylvania in 1927 as the tenth of thirteen children. She grew up during the Great Depression, and during this period she faced large amounts of racism and economic hardship. She would later attend Temple University and the University of Pennsylvania, and in 1951 she married her husband, Bill Tucker.

In 1950, Ms. Tucker became active in the civil rights movement and local politics when

she registered African-American voters for the Philadelphia mayoral campaign. She would later go on to run for public office herself and was elected to the Philadelphia Zoning Board where she became the first African-American and the first woman to serve in this position. Later, in 1971, she was named Secretary of the Commonwealth of Pennsylvania making her the first female, African-American secretary of a state in the nation.

The rights of African Americans and the rights of women were never far from Mrs. Tucker's thoughts. In 1965, she participated in the White House Conference on Civil Rights, and she marched with Rev. Dr. Martin Luther King, Jr., from Selma, Alabama to Montgomery, Alabama in support of the 1965 Voting Rights Bill. She also founded the National Congress of Black Women in order to aid in the educational, political, economic, and cultural development of African-American women and their families.

Mr. Speaker, America lost a great soul and noble spirit with the passing of Cynthia DeLores Tucker. I ask my fellow colleagues to join me today in honoring her legacy by supporting this resolution. Truly, she will be missed.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise in support of H. Res. 1094: "Commemorating the life of the late Cynthia DeLores Tucker."

Although it has been almost five years since the world lost a true pioneer and leader, but the legacy of C. DeLores Tucker endures. October 13, 2005 did not mark a tragedy; rather, it marked a day of celebration as to the achievements and legacy of a paragon of the woman leader. It is an honor for me to stand here today to celebrate the passing on of Dr. C. DeLores Tucker to her rightful place among other angels and saints.

Dr. Tucker represented a major segment of African American and political history in the U.S. She was among the many women stalwarts of our lifetime that led on so many different issues. The key aspect about Dr. Tucker's efforts was that they were not for personal gain. I would compare her to an eagle that spread its wings to help other women—not only African Americans, but all women. She provided the wind and momentum for other women to ascend to equality and a better quality of life.

Given the long fight that our dear DeLores and I endeavored together in the Halls of Congress, I ask your short indulgence as I cite an excerpt from the words spoken by a similar pioneer, Madame Sojourner Truth, in her "Ain't I a Woman?" speech delivered at a women's rights convention in Akron, Ohio in 1851:

That man over there says that women need to be helped into carriages, and lifted over ditches, and to have the best place everywhere. Nobody ever helps me into carriages, or over mud-puddles, or gives me any best place! And ain't I a woman? Look at me! Look at my arm! I have ploughed and planted, and gathered into barns, and no man could head me! And ain't I a woman? I could work as much and eat as much as a man—when I could get it—and bear the lash as well! And ain't I a woman? I have borne thirteen children, and seen most all sold off to slavery, and when I cried out with my mother's grief, none but Jesus heard me! And ain't I a woman? . . .

If my cup won't hold but a pint, and yours holds a quart, wouldn't you be mean not to let me have my little half measure full?

Then that little man in black there, he says women can't have as much rights as men, 'cause Christ wasn't a woman! Where did your Christ come from? Where did your Christ come from? From God and a woman! Man had nothing to do with Him. If the first woman God ever made was strong enough to turn the world upside down all alone, these women together ought to be able to turn it back, and get it right side up again! And now they is asking to do it, the men better let them.

Obliged to you for hearing me, and now old Sojourner ain't got nothing more to say.

Dr. Tucker did just this—she fought until the fight was made, she spoke until “she ain't [had] nothing more to say.” For women's rights, civil rights, the disenfranchised, or the underrepresented, she stood up like a warrior and a leader, and the progress she made will be enjoyed by many for as long as man exists. As author Ron Daniels said in his opinion piece in the *Madison Times*, DeLores was not afraid to denounce gang violence, fratricide, or the denigration of women in rap lyrics; not afraid to implore our children to devote less time to athletics and more to academics; and staunchly advocated excellence in education, improved parenting skills, and the harnessing of our economic resources as a distinct market. It did not have to be sexy, popular, or self-promoting to be right for Dr. C. DeLores Tucker, and I had the privilege of standing next to her in the trenches of the fight for equality.

Mr. Speaker, Dr. C. DeLores Tucker was a close and valued friend for many years. Her crusade for women's and civil rights served not only as an inspiration to women, minorities, and other traditionally disadvantaged groups, but to all of society, and her lifelong service indeed worked for its betterment. From her devout involvement in the Democratic Party to her founding of the Philadelphia Martin Luther King, Jr., Association for Non-Violent Change, she embodied the tenacity and courage necessary to eradicate the disparities and bigotry that continues to constrain the attainment of equality.

Of her many endearing qualities were the fact that her service was never for personal gain and that it was boundless—she never hesitated to travel the extra mile to help others. This was evident in her singular work as the lead advocate to urge the recognition and honor of abolitionist Sojourner Truth with the addition of her likeness to the statue commemorating women's suffrage in the rotunda of the United States Capitol. Bill, as you know, her determined, passionate, and powerful efforts have ultimately resulted in the honoring of Sojourner Truth. Our own DeLores was in her own right a guiding light of truth. The love and devotion that she displayed in this endeavor continue to inspire legislators and supporters.

Ms. RICHARDSON. Mr. Speaker, I rise today in support of H. Res. 1094, which honors the tremendous accomplishments of the late Cynthia DeLores Tucker. Ms. Tucker dedicated her life to advancing the interests of women and minorities in the United States. Raised in Philadelphia during the Great Depression, Ms. Tucker overcame great hard-

ships to become one of our Nation's leaders in both the Civil Rights Movement and the fight for women's rights. After a life full of achievements and milestones, Ms. Tucker passed away in 2005 at the age of 78. We owe our national gratitude to Ms. Tucker, an American hero who made the United States a more fair and tolerant country.

I thank Chairman CONYERS for his leadership in bringing this bill to the floor. I also thank the sponsor of this legislation, Congresswoman WATSON, for her commitment to ensuring that the legacy of Cynthia DeLores Tucker always shines as a beacon of social progress.

Mr. Speaker, Ms. Tucker became politically active in 1950, when she worked to register African American voters during Philadelphia's mayoral campaign. She went on to play a central role in the Civil Rights Movement and marched with the Rev. Dr. Martin Luther King, Jr. from Selma to Montgomery in support of the Voting Rights Act of 1965. In January of 1971, Governor Milton Shapp appointed Ms. Tucker as Pennsylvania's secretary of state, making her the first African American female secretary of state in the country. While serving as secretary of state, Ms. Tucker was a leader in the successful effort to add an Equal Rights Amendment to Pennsylvania's State constitution, guaranteeing equal rights for women under State law. She also oversaw the lowering of the Pennsylvania voting age from 21 to 18 years old.

In 1984, Ms. Tucker founded the National Political Congress of Black Women, an organization dedicated to supporting the interests and well-being of African American women and their families. Ms. Tucker was also the first African American president of the National Federation of Democratic Women and founded the Philadelphia Martin Luther King, Jr. Association for Non-Violence. Additionally, she founded the Bethune-Dubois Institute in an effort to promote the cultural and educational development of African American youth.

In her later years, Ms. Tucker spearheaded a campaign against gangster rap music containing lyrics glamorizing criminal lifestyles and disrespect of women. In this effort to combat the negativity in gangster rap music, Ms. Tucker initiated a boycott of companies that produced such music and spoke out in objection to the NAACP honoring rapper Tupac Shakur with its Image Award.

William Tucker, Ms. Tucker's husband of more than forty years, once described her as “one of the most fearless individuals I have ever known. She will take on anyone, anything, if that is what she thinks is right. . . . I tell her there are times you have to compromise, but she is not one who will readily entertain the idea of compromise about anything.” It was this dedication to social progress and unwillingness to settle for anything short of equality for all that makes Ms. Tucker a national hero.

I salute the dedication and resilience that characterized Ms. Tucker's work throughout her life. I am truly grateful for her efforts to help women and minorities achieve equality and justice.

I urge my colleagues to join me in supporting H. Res. 1094.

□ 1515

Mr. POE of Texas. I yield back the balance of my time.

Mr. DEUTCH. Mr. Speaker, I urge my colleagues to commemorate the life and to honor the legacy of Cynthia DeLores Tucker by supporting this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. DEUTCH) that the House suspend the rules and agree to the resolution, H. Res. 1094.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

#### CONGRATULATING THE NATURAL RESOURCES CONSERVATION SERVICE ON ITS 75TH ANNIVERSARY

Mr. HOLDEN. Mr. Speaker, I move to suspend the rules and concur in the concurrent resolution (S. Con. Res. 62) congratulating the outstanding professional public servants, both past and present, of the Natural Resources Conservation Service on the occasion of its 75th anniversary.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

#### S. CON. RES. 62

Whereas the well-being of the United States is dependent on productive soils along with abundant and high-quality water and related natural resources;

Whereas the Natural Resources Conservation Service (in this resolution referred to as “NRCS”) was established as the Soil Conservation Service in the Department of Agriculture in 1935 to assist farmers, ranchers, and other landowners in protecting soil and water resources on private lands;

Whereas Hugh Hammond Bennett, the first Chief of the Soil Conservation Service and the “father of soil conservation”, led the creation of the modern soil conservation movement that established soil and water conservation as a national priority;

Whereas the NRCS, with the assistance of President Franklin D. Roosevelt, State governments, and local partners, developed a new mechanism of American conservation service delivery, which brings together private individuals with Federal, State, and local governments to achieve common conservation objectives;

Whereas the NRCS provides a vital public service by supplying technical expertise and financial assistance to cooperating private landowners for the conservation of soil and water resources;

Whereas the NRCS, as authorized by Congress, has developed and provided land conservation programs that have resulted in the restoration and preservation of millions of acres of wetlands, forests, and grasslands that provide innumerable benefits to the general public in the form of recreational opportunities, wildlife habitat, water quality, and reduced soil erosion;

Whereas the NRCS is the world leader in soil science and soil surveying;

Whereas the NRCS is the national leader in the inventory of natural resources on private lands, providing national leaders and the public with the status and trends related to these resources and helping forecast the availability of critical water supplies;

Whereas the NRCS has helped communities develop and implement thousands of locally led projects that continue to provide flood control, soil conservation, water supply, and recreational benefits to all Americans, while providing business and job creation opportunities as well;

Whereas since its establishment, the NRCS has developed, tested, and demonstrated conservation practices, helped develop the science and art of conservation, and continues to strive toward innovation;

Whereas the NRCS encourages and works with landowners and land users to adopt conservation practices and technologies in a voluntary manner to address natural resource concerns;

Whereas NRCS employees serve in offices in every State and territory, while other employees assist other countries and governments;

Whereas while some NRCS employees work directly with landowners, other employees serve in support of NRCS field operations, but all work toward a common goal of improving the condition of all natural resources found on private lands, knowing when they succeed, all Americans benefit; and

Whereas the NRCS has been "helping people, help the land" for 75 years: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) congratulates the outstanding conservation professionals of the Natural Resources Conservation Service on the occasion of the 75th anniversary of the Natural Resources Conservation Service;

(2) recognizes the vital role conservation plays in the well-being of the United States;

(3) expresses its continued commitment to the conservation of natural resources on private lands in both the national interest and as a national priority; and

(4) recognizes the services that the Natural Resources Conservation Service provides to the United States by helping farmers, ranchers, and other landowners to protect soil, water, and related natural resources.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. HOLDEN) and the gentleman from Oklahoma (Mr. LUCAS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

#### GENERAL LEAVE

Mr. HOLDEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. Con. Res. 62.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. HOLDEN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise today in support of S. Con. Res. 62, congratulating the outstanding professional public serv-

ants, both past and present, of the United States Department of Agriculture's Natural Resources Conservation Service on the occasion of its 75th anniversary.

I am proud to say that Members on both sides of the aisle support this resolution. I join Agriculture Committee Chairman COLLIN PETERSON, Ranking Member FRANK LUCAS, and many of my colleagues on the Agriculture Committee in cosponsoring the House version of this resolution, which recognizes an important Federal agency that has helped our farmers and ranchers practice smart conservation on private land since its inception in 1935.

Established by Congress in response to the Dust Bowl disaster that devastated vast stretches of our land, the agency was originally known as the Soil Conservation Service. In 1994, the agency's name changed to the Natural Resources Conservation Service to more accurately reflect its role in protecting all natural resources, not only soil, but also air, water, plants, and animals.

NRCS provides technical and financial assistance to landowners at local levels, thus recognizing the diversity of the land in this country and the unique concerns in each region. In fact, you will find NRCS field offices in nearly every county in the Nation. NRCS helps local communities carry out thousands of conservation projects, which often translate into opportunities for job creation and increased investment in local communities.

Mr. Speaker, the United States depends as much today on productive soils and an abundant, high-quality water supply as we did 75 years ago. In fact, given the agricultural and environmental challenges we face, these programs are more important than ever. With this resolution we salute the NRCS professionals, both past and present, who have worked alongside America's local farmers and ranchers for 75 years to help preserve our essential natural resources.

I urge my colleagues to support this resolution and to join me in recognizing the great work of the USDA Natural Resources Conservation Service.

I reserve the balance of my time.

Mr. LUCAS. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 62, which recognizes the 75 years of service of the Natural Resources Conservation Service, the NRCS. Created by Congress in 1935, the Soil Conservation Service, now known as the NRCS, has worked hand-in-hand with local governments, organizations, farmers, ranchers, and other landowners to preserve and protect our Nation's natural resources on private lands.

Farmers were conserving long before it became a celebrated trend to "go

green". They have always had a vested interest in preserving the land that provides for them. Partnering with the NRCS, our producers are provided the scientific and technical assistance to implement the most advanced conservation practices in the world.

Through the NRCS's assistance and implementation of conservation programs, producers have voluntarily worked to help reduce soil erosion, increase wetlands, and improve water and air quality, meeting mounting government regulations and preserving farmland and wildlife habitat. The environmental gains produced on these private lands provide benefits far beyond the farm.

The benefits of the NRCS's assistance are evident in my home State of Oklahoma. The conservation practices implemented by the producers have reduced the removal of topsoil and prevented a recurrence of the disastrous conditions of the 1930s Dust Bowl from ever happening again. NRCS also works to protect the safety of our rural communities by rehabilitating old dams and working to implement flood prevention programs.

I would like to thank Chairman PETERSON for his leadership in introducing a similar resolution I have cosponsored. I would also like to thank my colleagues on the Ag Committee who have helped to craft the greenest farm bills in recent history. But most importantly, I want to thank and congratulate the men and women of the Natural Resources Conservation Service for their work in the field over the years, providing our producers with the assistance to protect our natural resources.

And let me just say once again: representing a part of the great State of Oklahoma that faced the greatest challenges of both the economic depression of the 1930s and the Dust Bowl, those good folks at what at that time was the Soil Conservation Service, working with what we would now consider to be very primitive equipment, working to educate and encourage producers to adopt practices that would ultimately make such a tremendous difference they have—what can you say? Whether it's the NRCS or the old Soil Conservation Service, the same great people for 75 years taking care of our natural resources. Thank you.

I yield back the balance of my time.

Mr. HOLDEN. I yield back the balance of my time, Mr. Speaker, and urge the passage of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. HOLDEN) that the House suspend the rules and concur in the concurrent resolution, S. Con. Res. 62.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 3 o'clock and 22 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. HALVORSON) at 6 o'clock and 30 minutes p.m.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

House Resolution 1294, by the yeas and nays;

House Resolution 1328, by the yeas and nays;

House Resolution 1299, by the yeas and nays.

Proceedings on House Concurrent Resolution 268 will resume later in the week.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

### SUPPORTING DESIGNATION OF NATIONAL EXPLOSIVE ORDNANCE DISPOSAL DAY

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 1294, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TOWNS) that the House suspend the rules and agree to the resolution, H. Res. 1294.

The vote was taken by electronic device, and there were—yeas 388, nays 0, not voting 42, as follows:

[Roll No. 256]

YEAS—388

Ackerman	Austria	Barton (TX)
Aderholt	Baca	Bean
Adler (NJ)	Bachmann	Becerra
Akin	Bachus	Berkley
Alexander	Baird	Berman
Altmire	Baldwin	Biggert
Andrews	Barrow	Billbray
Arcuri	Bartlett	Blirakis

Bishop (GA)	Fortenberry	Luján
Bishop (NY)	Poster	Lummis
Blackburn	Fox	Lungren, Daniel
Blumenauer	Frank (MA)	E.
Boccheri	Franks (AZ)	Mack
Boehner	Frelinghuysen	Maffei
Bonner	Fudge	Maloney
Bono Mack	Gallegly	Manzullo
Boozman	Garamendi	Marchant
Boren	Garrett (NJ)	Markey (MA)
Boswell	Gerlach	Marshall
Boucher	Giffords	Matheson
Boustany	Gingrey (GA)	Matsui
Boyd	Gonzalez	McCarthy (CA)
Brady (PA)	Goodlatte	McCarthy (NY)
Brady (TX)	Gordon (TN)	McCaul
Braley (IA)	Granger	McClintock
Bright	Graves	McCollum
Broun (GA)	Grayson	McCotter
Brown (SC)	Green, Al	McDermott
Brown, Corrine	Green, Gene	McGovern
Brown-Waite,	Griffith	McHenry
Ginny	Griffith	McIntyre
Buchanan	Guthrie	McMorris
Burgess	Hall (NY)	Rodgers
Burton (IN)	Hall (TX)	McNerney
Butterfield	Halvorson	Melancon
Buyer	Hare	Mica
Calvert	Harman	Michaud
Camp	Harper	Miller (FL)
Campbell	Hastings (FL)	Miller (MI)
Cantor	Hastings (WA)	Miller (NC)
Capito	Heinrich	Miller, Gary
Capps	Hensarling	Miller, George
Capuano	Herger	Minnick
Cardoza	Herse	Mitchell
Carnahan	Herse	Moore (KS)
Carney	Higgins	Moore (WI)
Carson (IN)	Hill	Moran (KS)
Carter	Himes	Moran (VA)
Cassidy	Hinchey	Murphy (CT)
Castle	Hinojosa	Murphy (NY)
Castor (FL)	Hirono	Murphy, Patrick
Chaffetz	Holden	Murphy, Tim
Chandler	Holt	Myrick
Childers	Honda	Nadler (NY)
Chu	Hoyer	Napolitano
Clay	Hunter	Neal (MA)
Cleaver	Inslee	Neugebauer
Clyburn	Israel	Nunes
Coble	Issa	Nye
Coffman (CO)	Jackson (IL)	Oberstar
Cohen	Jackson Lee	Obey
Conaway	(TX)	Olson
Conyers	Jenkins	Oliver
Cooper	Johnson (GA)	Ortiz
Costa	Johnson (IL)	Owens
Costello	Johnson, E. B.	Pallone
Courtney	Johnson, Sam	Pascarell
Crenshaw	Jones	Pastor (AZ)
Crowley	Jordan (OH)	Paul
Cuellar	Kagen	Paulsen
Culberson	Kanjorski	Pence
Cummings	Kaptur	Perlmutter
Dahlkemper	Kennedy	Perriello
Davis (CA)	Kildee	Peterson
Davis (IL)	Kilpatrick (MI)	Petri
Davis (KY)	Kilroy	Pingree (ME)
DeGette	Kind	Pitts
DeLauro	King (NY)	Platts
Dent	Kingston	Poe (TX)
Deutch	Kirkpatrick (AZ)	Polis (CO)
Diaz-Balart, L.	Kissell	Pomeroy
Diaz-Balart, M.	Klein (FL)	Posey
Dicks	Kline (MN)	Price (GA)
Dingell	Kosmas	Price (NC)
Doggett	Kratovil	Putnam
Donnelly (IN)	Kucinich	Quigley
Doyle	Lamborn	Rahall
Dreier	Lance	Rangel
Driehaus	Langevin	Rehberg
Duncan	Larsen (WA)	Reichert
Edwards (MD)	Larson (CT)	Richardson
Edwards (TX)	LaTourette	Roe (TN)
Ehlers	Latta	Rogers (AL)
Ellison	Lee (NY)	Rogers (KY)
Ellsworth	Levin	Rogers (MI)
Emerson	Lewis (CA)	Rohrabacher
Eshoo	Lewis (GA)	Rooney
Etheridge	Linder	Ros-Lehtinen
Farr	Lipinski	Roskam
Fattah	LoBiondo	Ross
Filner	Loeb	Rothman (NJ)
Flake	Lofgren, Zoe	Roybal-Allard
Fleming	Lowey	Royce
Forbes	Lucas	Ruppersberger
	Luetkemeyer	

Ryan (OH)	Simpson	Titus
Ryan (WI)	Sires	Tonko
Salazar	Skelton	Towns
Sánchez, Linda	Slaughter	Tsongas
T.	Smith (NE)	Turner
Sanchez, Loretta	Smith (NJ)	Upton
Sarbanes	Smith (TX)	Van Hollen
Scalise	Smith (WA)	Velázquez
Schakowsky	Snyder	Visclosky
Schauer	Space	Walden
Schiff	Spratt	Walz
Schmidt	Stark	Watson
Schock	Stearns	Watt
Schrader	Stupak	Waxman
Schwartz	Sullivan	Weiner
Scott (GA)	Sutton	Welch
Scott (VA)	Tanner	Westmoreland
Sensenbrenner	Taylor	Whitfield
Serrano	Teague	Wilson (OH)
Sessions	Terry	Wilson (SC)
Sestak	Thompson (CA)	Wittman
Shadegg	Thompson (MS)	Wolf
Shea-Porter	Thompson (PA)	Woolsey
Sherman	Thornberry	Wu
Shimkus	Tiahrt	Yarmuth
Shuler	Tiberi	Young (AK)
Shuster	Tierney	Young (FL)

### NOT VOTING—42

Barrett (SC)	Gutierrez	Mollohan
Berry	Heller	Payne
Bishop (UT)	Hodes	Peters
Blunt	Hoekstra	Radanovich
Cao	Inglis	Reyes
Clarke	King (IA)	Rodriguez
Cole	Kirk	Rush
Connolly (VA)	Latham	Souder
Davis (AL)	Lee (CA)	Speier
Davis (TN)	Lynch	Wamp
DeFazio	Markey (CO)	Wasserman
Delahunt	McKeon	Schultz
Engel	McMahon	Waters
Fallin	Meek (FL)	
Gohmert	Meeks (NY)	

□ 1856

Messrs. TEAGUE and TIAHRT and Ms. ROYBAL-ALLARD changed their vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CONNOLLY of Virginia. Madam Speaker, on rollcall No. 256, had I been present, I would have voted “yea.”

### HONORING WILLIAM EARNEST “ERNIE” HARWELL

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 1328, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. TOWNS) that the House suspend the rules and agree to the resolution, H. Res. 1328.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 394, nays 0, not voting 36, as follows:



[Roll No. 257]

YEAS—394

Ackerman DeFazio Kennedy  
 Aderholt DeGette Kildee  
 Adler (NJ) Delahunt Kilpatrick (MI)  
 Akin DeLauro Kilroy  
 Alexander Dent Kind  
 Altmire Deutch King (IA)  
 Andrews Diaz-Balart, L. King (NY)  
 Arcuri Diaz-Balart, M. Kingston  
 Austria Dicks Kirkpatrick (AZ)  
 Bachmann Dingell Kissell  
 Bachus Doggett Kline (MN)  
 Baird Donnelly (IN) Kosmas  
 Baldwin Doyle Kratovil  
 Barrow Dreier Kucinich  
 Bartlett Driehaus Lamborn  
 Barton (TX) Duncan Lance  
 Bean Edwards (MD) Langevin  
 Becerra Edwards (TX) Larsen (WA)  
 Berkley Ehlers Larson (CT)  
 Berman Ellison Latham  
 Biggert Ellsworth LaTourette  
 Bilbray Emerson Latta  
 Bilirakis Eshoo Lee (NY)  
 Bishop (GA) Etheridge Levin  
 Bishop (NY) Farr Lewis (CA)  
 Blackburn Fattah Linder  
 Blumenauer Filner Lipinski  
 Boccieri Flake LoBiondo  
 Boehner Fleming Loeb sack  
 Bonner Forbes Lofgren, Zoe  
 Bono Mack Fortenberry Lowey  
 Boozman Foster Lucas  
 Boren Luetkemeyer  
 Boswell Frank (MA) Lujan  
 Boucher Franks (AZ) Lummis  
 Boustany Frelinghuysen Lungren, Daniel  
 Boyd Fudge E.  
 Brady (PA) Gallegly Mack  
 Brady (TX) Garamendi Maffei  
 Braley (IA) Garrett (NJ) Maloney  
 Bright Gerlach Manzanillo  
 Broun (GA) Giffords Marchant  
 Brown (SC) Gingrey (GA) Markey (CO)  
 Brown, Corrine Gonzalez Markey (MA)  
 Brown-Waite, Goodlatte Marshall  
 Ginny Gordon (TN) Matheson  
 Buchanan Granger Matsui  
 Burgess Graves McCarthy (CA)  
 Burton (IN) Grayson McCarthy (NY)  
 Butterfield Green, Al McCaul  
 Buyer Green, Gene McClintock  
 Calvert Griffith McCollum  
 Camp Guthrie McCotter  
 Campbell Hall (NY) McDermott  
 Cantor Hall (TX) McGovern  
 Capito Halvorson McHenry  
 Capps Hare McIntyre  
 Capuano Harman McKeon  
 Cardoza Harper McMahon  
 Carnahan Hastings (FL) McMorris  
 Carney Hastings (WA) Rodgers  
 Carson (IN) Heinrich McNeerney  
 Carter Hensarling Melancon  
 Cassidy Herger Mica  
 Castle Herseth Sandlin Michaud  
 Castor (FL) Higgins Miller (FL)  
 Chaffetz Hill Miller (MI)  
 Chandler Himes Miller (NC)  
 Childers Hinchey Miller, Gary  
 Chu Hinojosa Miller, George  
 Clarke Hirono Minnick  
 Clay Hodes Mitchell  
 Cleaver Holden Moore (KS)  
 Clyburn Holt Moore (WI)  
 Coble Honda Moran (KS)  
 Coffman (CO) Hoyer Moran (VA)  
 Cohen Hunter Murphy (NY)  
 Conaway Inslee Murphy, Patrick  
 Connolly (VA) Israel Murphy, Tim  
 Conyers Issa Myrick  
 Cooper Jackson (IL) Nadler (NY)  
 Costa Jackson Lee Napolitano  
 Costello (TX) Neal (MA)  
 Courtney Jenkins Neugebauer  
 Crenshaw Johnson (GA) Nunes  
 Crowley Johnson (IL) Nye  
 Cuellar Johnson, E. B. Oberstar  
 Culberson Johnson, Sam Obey  
 Cummings Jones Olson  
 Dahlkemper Jordan (OH) Oliver  
 Davis (CA) Kagen Ortiz  
 Davis (IL) Kanjorski Owens  
 Davis (KY) Kaptur Pallone

Pascarell Ryan (OH)  
 Pastor (AZ) Ryan (WI)  
 Paul Salazar  
 Paulsen Sanchez, Linda  
 Pence T.  
 Perlmutter Sanchez, Loretta  
 Perriello Sarbanes  
 Peters Scalise  
 Peterson Schakowsky  
 Petri Schauer  
 Pingree (ME) Schiff  
 Pitts Schmidt  
 Platts Schock  
 Poe (TX) Schrader  
 Polis (CO) Schwartz  
 Pomeroy Scott (VA)  
 Posey Sensenbrenner  
 Price (GA) Serrano  
 Price (NC) Sessions  
 Putnam Sestak  
 Quigley Shadegg  
 Rahall Shea-Porter  
 Rangel Sherman  
 Rehberg Shimkus  
 Reichert Shuler  
 Reyes Shuster  
 Richardson Simpson  
 Roe (TN) Sires  
 Rogers (AL) Skelton  
 Rogers (KY) Slaught  
 Rogers (MI) Smith (NE)  
 Rohrabacher Smith (NJ)  
 Rooney Smith (TX)  
 Ros-Lehtinen Smith (WA)  
 Roskam Snyder  
 Ross Space  
 Rothman (NJ) Spratt  
 Roybal-Allard Stark  
 Royce Stearns  
 Ruppersberger Stupak

Sullivan  
 Sutton  
 Tanner  
 Taylor  
 Teague  
 Terry  
 Thompson (CA)  
 Thompson (MS)  
 Thompson (PA)  
 Thornberry  
 Tiahrt  
 Tiberi  
 Tierney  
 Titus  
 Tonko  
 Towns  
 Tsongas  
 Turner  
 Upton  
 Van Hollen  
 Velazquez  
 Visclosky  
 Walden  
 Walz  
 Watson  
 Watt  
 Waxman  
 Weiner  
 Welch  
 Westmoreland  
 Whitfield  
 Wilson (OH)  
 Wilson (SC)  
 Wittman  
 Wolf  
 Woolsey  
 Wu  
 Yarmuth  
 Young (AK)  
 Young (FL)

## NOT VOTING—36

Baca Gutierrez  
 Barrett (SC) Heller  
 Berry Hoekstra  
 Bishop (UT) Inglis  
 Blunt Kirk  
 Cao Klein (FL)  
 Cole Lee (CA)  
 Davis (AL) Lewis (GA)  
 Davis (TN) Lynch  
 Engel Meek (FL)  
 Fallin Meeks (NY)  
 Gohmert Mollohan  
 Grijalva Murphy (CT)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in the vote.

□ 1904

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# MOMENT OF SILENCE IN MEMORY OF FORMER REPRESENTATIVE IKE ANDREWS OF NORTH CAROLINA

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute.)

Mr. PRICE of North Carolina. Madam Speaker, I rise today on behalf of the North Carolina delegation to note with sadness the passing of former Representative Ike Andrews, who represented North Carolina's Fourth Congressional District from the 93rd to the 98th Congress, 1973 to 1984.

Ike Andrews rose from humble beginnings in the small town of Bonlee in

Chatham County, North Carolina, to the Halls of Congress, and he never forgot his small town roots. He maintained a modest demeanor that sometimes belied the depth of his knowledge on complicated policy issues.

Ike's service to his county began as an Army master sergeant. Ike served his country during World War II as a field artillery forward observer, earning a Purple Heart and a Bronze Star. When Ike came back from the war, he earned both an undergraduate and a law degree from the University of North Carolina at Chapel Hill, beginning a long relationship, a lifetime relationship with that school.

Before coming to Congress, Ike served as both a North Carolina State senator and a State representative advancing the cause of desegregation in North Carolina's schools. His work in North Carolina was an opening act to a congressional career particularly devoted to the cause of education. Education changed his life, and he wanted to make sure that other people of modest means would have the same opportunity.

In Congress he served as chairman of the Education and Labor Committee's Human Resources Subcommittee, where he worked to advance volunteerism programs and programs to reduce juvenile delinquency.

When I was elected to this body 2 years after Ike had left it, he was always there to offer advice and encouragement. Today, as I think of his work in this body, I acknowledge with appreciation that it helped shape North Carolina's Triangle region as we know it today, a vibrant place of learning and research and innovation.

Ike Andrews is survived by his wife, JoAnne, and his daughter, Alice.

On behalf of the Members of this body, I want to express condolences for their loss; on behalf of my wife, Lisa; all of the Members of this body; all present and former colleagues.

At this point, I am happy to yield to my colleague from North Carolina, the dean of our delegation, Mr. COBLE.

Mr. COBLE. I thank the gentleman from North Carolina for yielding.

"Hail fellow well met" were words coined with Ike Andrews in mind. One could have met Ike for the first time, and he left thinking he'd known him for years. He was indeed "hail fellow well met," and I am pleased to join my friend from North Carolina and my other colleagues in honoring the memory of Ike Andrews.

Mr. PRICE of North Carolina. I thank my colleague.

Now, Madam Speaker, I'd like to ask that we observe a moment of silence in honor of the memory of former Representative Ike Andrews.

The SPEAKER pro tempore. The Chair would ask all present to rise for the purpose of a moment of silence.



## PEACE OFFICERS MEMORIAL DAY

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 1299, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. DEUTCH) that the House suspend the rules and agree to the resolution, H. Res. 1299.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 395, nays 0, not voting 35, as follows:

[Roll No. 258]

YEAS—395

Ackerman	Cassidy	Franks (AZ)
Aderholt	Castle	Frelinghuysen
Adler (NJ)	Castor (FL)	Fudge
Akin	Chaffetz	Galleghy
Alexander	Chandler	Garamendi
Altmire	Childers	Garrett (NJ)
Andrews	Chu	Gerlach
Arcuri	Clarke	Giffords
Austria	Clay	Gingrey (GA)
Baca	Cleaver	Gonzalez
Bachmann	Clyburn	Goodlatte
Bachus	Coble	Gordon (TN)
Baird	Coffman (CO)	Granger
Baldwin	Cohen	Graves
Barrow	Conaway	Grayson
Bartlett	Connolly (VA)	Green, Al
Barton (TX)	Cooper	Green, Gene
Bean	Costa	Griffith
Becerra	Costello	Grijalva
Berkley	Courtney	Guthrie
Berman	Crenshaw	Hall (NY)
Biggert	Crowley	Hall (TX)
Bilbray	Cuellar	Halvorson
Bilirakis	Culberson	Hare
Bishop (GA)	Cummings	Harman
Bishop (NY)	Dahlkemper	Harper
Blackburn	Davis (CA)	Hastings (FL)
Blumenauer	Davis (IL)	Hastings (WA)
Bocieri	Davis (KY)	Heinrich
Boehner	DeFazio	Hensarling
Bonner	DeGette	Herger
Bono Mack	DeLaunt	Herseth Sandlin
Boozman	DeLauro	Higgins
Boren	Dent	Hill
Boswell	Deutch	Himes
Boucher	Diaz-Balart, L.	Hinchey
Boustany	Diaz-Balart, M.	Hinojosa
Boyd	Dicks	Hirono
Brady (PA)	Dingell	Hodes
Brady (TX)	Doggett	Holden
Braley (IA)	Donnelly (IN)	Holt
Bright	Doyle	Honda
Broun (GA)	Dreier	Hoyer
Brown (SC)	Driehaus	Hunter
Brown, Corrine	Duncan	Inslee
Brown-Waite,	Edwards (MD)	Israel
Ginny	Edwards (TX)	Issa
Buchanan	Ehlers	Jackson (IL)
Burgess	Ellison	Jackson Lee
Burton (IN)	Ellsworth	(TX)
Butterfield	Emerson	Jenkins
Buyer	Engel	Johnson (GA)
Calvert	Eshoo	Johnson (IL)
Camp	Etheridge	Johnson, E. B.
Campbell	Farr	Johnson, Sam
Cantor	Fattah	Jones
Capito	Filner	Jordan (OH)
Capps	Flake	Kagen
Capuano	Fleming	Kanjorski
Cardoza	Forbes	Kaptur
Carnahan	Fortenberry	Kennedy
Carney	Foster	Kildee
Carson (IN)	Fox	Kilpatrick (MI)
Carter	Frank (MA)	Kilroy

Kind	Murphy (CT)	Schock
King (IA)	Murphy (NY)	Schrader
King (NY)	Murphy, Patrick	Schwartz
Kingston	Murphy, Tim	Scott (GA)
Kirkpatrick (AZ)	Myrick	Scott (VA)
Kissell	Nadler (NY)	Sensenbrenner
Klein (FL)	Napolitano	Serrano
Kline (MN)	Neal (MA)	Sessions
Kosmas	Neugebauer	Sestak
Kratovil	Nunes	Shadegg
Kucinich	Nye	Shea-Porter
Lamborn	Oberstar	Sherman
Lance	Obey	Shimkus
Langevin	Olson	Shuler
Larsen (WA)	Olver	Shuster
Larson (CT)	Ortiz	Simpson
Latham	Owens	Sires
Latta	Pallone	Skelton
Lee (NY)	Pascarell	Slaughter
Levin	Pastor (AZ)	Smith (NE)
Lewis (CA)	Paul	Smith (NJ)
Lewis (GA)	Paulsen	Smith (TX)
Linder	Pence	Smith (WA)
Lipinski	Perlmutter	Snyder
LoBiondo	Perriello	Space
Loeb sack	Peters	Spratt
Lofgren, Zoe	Peterson	Stark
Lucas	Petri	Stearns
Luetkemeyer	Pingree (ME)	Stupak
Lujan	Pitts	Sullivan
Lummis	Platts	Sutton
Lungren, Daniel	Poe (TX)	Tanner
E.	Polis (CO)	Taylor
Mack	Pomeroy	Teague
Maffei	Posey	Terry
Maloney	Price (GA)	Thompson (CA)
Manzullo	Price (NC)	Thompson (MS)
Marchant	Putnam	Thompson (PA)
Markey (CO)	Quigley	Thornberry
Markey (MA)	Rahall	Tiahrt
Marshall	Rangel	Tiberi
Matheson	Rehberg	Tierney
Matsui	Reichert	Titus
McCarthy (CA)	Reyes	Tonko
McCarthy (NY)	Richardson	Towns
McCaul	Roe (TN)	Tsongas
McClintock	Rogers (AL)	Turner
McCollum	Rogers (KY)	Upton
McCotter	Rogers (MI)	Van Hollen
McDermott	Rohrabacher	Velázquez
McGovern	Rooney	Visclosky
McHenry	Ros-Lehtinen	Walden
McIntyre	Roskam	Walz
McMahon	Ross	Watt
McMorris	Rothman (NJ)	Waxman
Rodgers	Roybal-Allard	Weiner
McNerney	Royce	Welch
Mica	Ruppersberger	Westmoreland
Michaud	Ryan (OH)	Whitfield
Miller (FL)	Ryan (WI)	Wilson (OH)
Miller (MI)	Salazar	Wilson (SC)
Miller (NC)	Sánchez, Linda	Wittman
Miller, Gary	T.	Wolf
Miller, George	Sanchez, Loretta	Woolsey
Minnick	Sarbanes	Wu
Mitchell	Scalise	Yarmuth
Moore (KS)	Schakowsky	Young (AK)
Moore (WI)	Schauer	Young (FL)
Moran (KS)	Schiff	
Moran (VA)	Schmidt	

## NOT VOTING—35

Barrett (SC)	Heller	Mollohan
Berry	Hoekstra	Payne
Bishop (UT)	Inglis	Radanovich
Blunt	Kirk	Rodriguez
Cao	LaTourette	Rush
Cole	Lee (CA)	Souder
Conyers	Lowey	Speier
Davis (AL)	Lynch	Wamp
Davis (TN)	McKeon	Wasserman
Fallin	Meek (FL)	Schultz
Gohmert	Meeks (NY)	Waters
Gutierrez	Melancon	Watson

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There is 1 minute remaining in this vote.

□ 1917

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. GUTIERREZ. Madam Speaker, I was unavoidably absent for votes in the House chamber today. I would like the RECORD to show that, had I been present, I would have voted "yea" on rollcall votes 256, 257 and 258.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5116, AMERICA COMPETES REAUTHORIZATION ACT OF 2010

Mr. ARCURI, from the Committee on Rules, submitted a privileged report (Rept. No. 111-479) on the resolution (H. Res. 1344) providing for consideration of the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## PRIVILEGED REPORT ON RESOLUTION OF INQUIRY TO SECRETARY OF THE INTERIOR

Mr. GRIJALVA, from the Committee on Natural Resources, submitted a privileged report (Rept. No. 111-480) on the resolution (H. Res. 1254) directing the Secretary of the Interior to transmit to the House of Representatives certain information relating to the Secretary's Treasured Landscape Initiative, potential designation of National Monuments, and High Priority Land-Rationalization Efforts, which was referred to the House Calendar and ordered to be printed.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 11, 2010.

Hon. NANCY PELOSI,  
The Speaker, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Monday, May 11, 2010 at 5:09 p.m., and said to contain a message from the President whereby he submits the 2010 National Drug Control Strategy.

With best wishes, I am  
Sincerely,

LORRAINE C. MILLER,  
Clerk of the House.

2010 NATIONAL DRUG CONTROL STRATEGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 111-107)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committees on Armed Services, Education and Labor, Energy and Commerce, Foreign Affairs, Homeland Security, the Judiciary, Natural Resources, Oversight and Government Reform, Small Business, Transportation and Infrastructure, Veterans' Affairs, and Ways and Means and ordered to be printed:

*To the Congress of the United States:*

I am pleased to transmit the 2010 National Drug Control Strategy, a blueprint for reducing illicit drug use and its harmful consequences in America. I am committed to restoring balance in our efforts to combat the drug problems that plague our communities. While I remain steadfast in my commitment to continue our strong enforcement efforts, especially along the southwest border, I directed the Office of National Drug Control Policy to re-engage in efforts to prevent drug use and addiction and to make treatment available for those who seek recovery. This new, balanced approach will expand efforts for the three critical ways that we can address the drug problem: prevention, treatment, and law enforcement.

Drug use endangers the health and safety of every American, depletes financial and human resources, and deadens the spirit of many of our communities. Whether struggling with an addiction, worrying about a loved one's substance abuse, or being a victim of drug-related crime, millions of people in this country live with the devastating impact of illicit drug use every day. This stark reality demands a new direction in drug policy—one based on common sense, sound science, and practical experience. That is why my new Strategy includes efforts to educate young people who are the most at-risk about the dangers of substance abuse, allocates unprecedented funding for treatment efforts in federally qualified health centers, reinvigorates drug courts and other criminal justice innovations, and strengthens our enforcement efforts to rid our streets of the drug dealers who infect our communities.

I am confident that if we take these needed steps, we will make our country stronger, our people healthier, and our streets safer. If we boost community-based prevention efforts, expand treatment opportunities, strengthen law enforcement capabilities, and work collaboratively with our global partners, we will reduce drug use and its resulting damage.

While I am proud of the new direction described here, a well-crafted

strategy is only as successful as its implementation. To succeed, we will need to rely on the hard work, dedication, and perseverance of every concerned American. I look forward to working with the Congress, Federal, State, and local officials, tribal leaders, and citizens across the country as we implement this Strategy and make our communities better places to live, work, and raise our families.

BARACK OBAMA.  
THE WHITE HOUSE, May 11, 2010.

HONORING THE LIFE OF EDWARD BOWMAN, SR.

(Mr. MURPHY of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY of Connecticut. Madam Speaker, I rise today in honor of the life of a great man and constituent, Mr. Edward Bowman, Sr. of Cheshire.

In my hometown of Cheshire, Connecticut, there aren't many traffic jams, but on the day of his burial procession, Ed Bowman caused one heck of a mess that virtually closed down Route 10. Hundreds turned out to pay respects to Cheshire's hero, a giant in business and in charity.

One of Cheshire's leading businessmen, the owner of White-Bowman, Ed was an even better volunteer and community cheerleader. If you volunteered at the St. Bridget food drive, Ed Bowman was there packing grocery bags next to you; if you cared about youth sports, Ed Bowman was chalking the ball field with you; and if you were interested in helping kids go to college, Ed Bowman was right there with you hustling for scholarships.

He was a rarity among us. He served not because he wanted any acclamation but because his Catholic faith told him it was the right thing to do.

He leaves behind eight children and 25 grandchildren—a family that has simply picked up where its patriarch left off. Ed Bowman was Cheshire, and the Bowman family is Cheshire.

CUBA DAY

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, tomorrow I will be cohosting a briefing to honor the courage and the sacrifice of those struggling for freedom in Cuba. In the last few months, the regime has only stepped up its vicious repression.

Orlando Zapata Tamayo, a courageous human rights activist, recently lost his life at the hands of the tyranny. Las Damas de Blanco, the Ladies in White, endured physical attacks by Cuban security thugs. And each day, Guillermo Farinas' health continues to

worsen as the calls for freedom in Cuba remain unanswered.

Jenisset Rivero from the Cuban Democratic Directorate will join us to discuss these and other recent assaults by the dictatorship in Cuba. I welcome and urge you to join us for this important briefing tomorrow at noon in 2253 Rayburn.

See you there.

ON THE RETIREMENT OF SENIOR AIRMAN JON B. TURNEY

(Mr. CONAWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONAWAY. Madam Speaker, I rise today to pay a small tribute to an exceptionally accomplished constituent hailing from Santa Anna, Texas—Senior Airman Jon B. Turney. Senior Airman Turney recently distinguished himself as an MQ-9 remotely piloted aircraft instructor sensor operator with the 29th Attack Squadron, 49th Operations Group, 49th Fighter Wing. With just over 3 years in the Air Force, Airman Turney has been integral to the success of the remotely piloted aircraft community.

He has flown 364 instructional hours, resulting in 92 qualified MQ-9 sensor operators. These operators have joined overseas contingency operations in support of Operations Iraqi and Enduring Freedom. He personally created an MQ-9 community of practice, providing real-time and easily accessible remotely piloted aircraft data to users Air Force wide. He assisted with the creation of a new draft of Air Force tactics, techniques and procedures for the MQ-9, positively impacting operations Air Force wide. Finally, in his free time he is active in charity and is pursuing a bachelor's degree.

These accomplishments along with his technical and leadership skills earned him the 29th Attack Squadron Airman of the Year for 2009 and a place as one of the Air Force's 2010 Team of the Year members.

On behalf of the people of Central and West Texas, I thank Senior Airman Turney for his exemplary service to his country and look forward to following his future success. I wish both he and his young family all the happiness and good health that God can grant them; and may God bless them all.

RECOGNIZING PLYMOUTH FIRE CAPTAIN TOM EVENSON AND FIREFIGHTER ANN KORSIMO

(Mr. PAULSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAULSEN. Madam Speaker, I rise today to recognize two heroes from my district who went above and beyond their call of duty. Plymouth Fire Captain Tom Evenson and Volunteer Firefighter Ann Korsimo recently received

the Firefighters Heroes Award from the Twin Cities chapter of the American Red Cross.

After learning about a local family who suffered severe burns during a home fire incident, these firefighters decided to provide a fire safety course to the family to help them overcome their fear and avoid similar problems in the future. When they came to discover the grandmother, who cares for the family's children, was deaf, they reached out to a local hearing professional and were able to get a \$6,000 pair of hearing aids charitably donated.

Madam Speaker, the selfless service of people like Tom Evenson and Ann Korsmo is what makes our communities and our country great, and I am proud to recognize them here today.

#### POLICE WEEK

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Madam Speaker, this week is Police Week, which has a particular resonance here in Washington, home to the National Peace Officers Memorial. Tuesday, there was a Blue Mass at St. Patrick's Catholic Church in honor of the men and women killed in 2009 in the line of duty. On Thursday, there is a candlelight vigil in the memory of the 117 police officers who gave the last full measure of devotion to protect us from criminals.

In my State of Pennsylvania, seven officers died in the last year. Among them was State Trooper Paul G. Richey, who was killed in Oil City in my congressional district. He left a wife and two children.

Only Texas, Florida and California had more police deaths than Pennsylvania. The number of deaths from gunfire is up 21 percent, from 38 last year to 46.

Many of the events of Police Week help raise awareness and funding for Concerns of Police Survivors or COPS, a nonprofit organization. Proceeds help the family members of fallen officers—a worthy cause.

□ 1930

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### IRAQ'S MOST VIOLENT DAY OF THE YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, Monday, yesterday, was the most violent day so far this year in Iraq. In what the Associated Press called a "relentless cascade of bombings and shootings," insurgents killed more than 100 people, not to mention hundreds of wounded and maimed, in a series of coordinated attacks. Both civilian and security forces came under siege: a bombing outside a restaurant in Kut province; another at the mayor's office in Tarmiya; another at a market in Suwayra; and security checkpoints throughout Baghdad hit by gunmen disguised as street cleaners.

At a textile factory in the city of Hillah, the bombing was timed at the end of a shift, maximizing the bloodshed and the casualties. When people rushed to help the wounded, a suicide bomber detonated his explosives in the crowd, just adding to the carnage. According to the AP account, the wounded in Hillah could be heard cursing their government for its inability to protect them.

A few years ago, you'll remember we were told the insurgency was in its "last throes." But it is clearly capable of wreaking havoc—and doing so with precision and sophisticated planning. The continuing political instability in Iraq is contributing to the chaos, as the elections held more than 2 months ago have yet to produce a clear winner and a new government. There's real danger, Madam Speaker, that if the Sunnis are not given a stake in the new government, we could see the kind of sectarian strife bordering on civil war that exploded in Iraq just a few years ago.

With most of the recent attention on Afghanistan, this onslaught serves as a chilling reminder of just how dangerous and unstable Iraq remains. Fear and violence remain a way of life. We can't become complacent, Madam Speaker. We can't forget about the role of the U.S.-led military occupation and what role that played in inflaming the insurgency in the first place and in provoking these kinds of attacks. Much was made of the supposed blow to the insurgency when two leaders of al Qaeda in Iraq were killed last month. Yesterday's horror just goes to show that killing terrorists and killing militants just makes it easier for al Qaeda to recruit new ones.

Just a few hours ago comes word that top officials are apparently drawing exactly the wrong conclusion for Monday's attacks. They're talking about slowing down the pace of the redeployment of our troops out of Iraq. What we need instead, Madam Speaker, is an acceleration of the redeployment plan, because our continued military presence is a key factor in motivating militants to acts of unspeakable terror. We're doing as much to engender violence as to tamp it down. We're doing as much to undermine security as we

are to contributing to it. Only by ending our military occupation and replacing it with a civilian surge can we hope to foster peace, stability, and democracy in Iraq.

The men and women of our armed services have performed their duties with honor and courage. They are not to blame for a failed policy, Madam Speaker. But for their safety and for the good of Iraq and for the good of the future of the Iraqi civilians and their country, let's bring our troops home.

#### ASSAULT ON THE BORDER PATROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. It's National Police Week, where we honor the lawmen and the women who protect this great Nation. As we pause to recognize the service and sacrifice of all U.S. law enforcement officers, we also need to remember the men and women who work on the border, our Border Patrol agents. Some have sacrificed their lives putting themselves between the bad guys and us. We owe their families a great debt for those sacrifices, like U.S. Border Patrol Senior Patrol Agent Luis Aguilar, who was killed in the line of duty in 2008. Agent Aguilar was attempting to deploy a set of road spikes to stop a narco-terrorist drug smuggler. The drug smuggler attempted to evade our agents and escape back into Mexico across the Imperial Sand Dunes in the Yuma sector of Arizona. The suspect, driving a Hummer, accelerated his vehicle and intentionally hit Officer Aguilar, and he was killed.

Border Patrol Agent Robert Rosas of the Campo, California, Border Patrol Station was murdered in 2009 while performing his duties. Agent Rosas was responding to suspicious activity in the area notorious for alien and drug smuggling when he was shot and killed by unidentified assailants. The murder occurred in a remote border area near Campo, California, where Agent Rosas was shot several times in the head, execution style. Agent Rosas was 30 years of age.

Even our U.S. Park Rangers aren't safe from these terrorists. In the wake of 9/11, Kris Eggle protected his country by intercepting weapons, thousands of pounds of illegal drugs, and hundreds of illegal lawbreakers from foreign countries. He guarded a 31-mile stretch of our Nation's southern boundary. Kris was shot and killed in the line of duty at Organ Pipe Cactus National Monument on August 9, 2002. He was pursuing members of a drug cartel hit squad. They fled into the United States after committing a string of murders in Mexico. Kris was 28 years of age when he was mowed down by these narco-terrorists in Arizona.

Our Border Patrol agents are under constant assault. Not counting the murders, Madam Speaker, I have a chart here that illustrates just in the last few years assaults on our Border Patrol agents. These are the men and women on the border, protecting us from people crossing in. Going back to 2004, there were about 300, almost 400 assaults on our border agents. In 2005, about 680. 2006, 750. And then 2007, 2008, and 2009, all about a thousand assaults on our border agents. Most of these assaults, Madam Speaker, are committed by people crossing the border into the United States illegally and committing assaults on our Border Patrol agents. For some reason, we don't hear much about it in the national media. They seem to be concerned about other issues.

Madam Speaker, we have here what the Border Patrol agents call the "war wagon." This is called the war wagon because they modify their Border Patrol vehicles, their pickup trucks, and they put wire mesh screens over the front windshields, over the side windows. They even protect the lights on top because when they get close to the border, people from foreign countries that are trying to come into the United States pelt our Border Patrol agents with rocks, and they destroy their vehicles. They also happen to harm our Border Patrol agents. So they have to improvise these war wagons to protect themselves from assaults.

During this Police Week, Madam Speaker, when we remember peace officers in this country that were killed, we need to remember the Border Patrol agents that do their duty every day trying to protect our porous border, because they don't get the resources the Federal Government should give them, including the National Guard. They are constantly under attack. A thousand assaults a year against our Border Patrol is a bit much, don't you think, Madam Speaker? We in this House of Representatives owe them the duty to make sure they are protected, and we do that by protecting the border and making sure that people who come into the United States are stopped at the border if they are here and trying to cross illegally.

Madam Speaker, our borders are a war zone. As a Texas Ranger once told me, he said, After dark, Congressman POE, the border in Texas and Mexico gets Western. It gets violent. Our law enforcement officers are out-manned, out-gunned, and out-financed. We need the moral resolve as a Nation to secure the dignity our borders, to protect the lawmen that are down there doing the job that we let them do, we ask them to do, and they are trying to do the best they can. They need more resources, more boots on the ground, and that includes sending the National Guard on the border, as requested by State Governors, because it is the first

duty of government to protect the country and the people that live in it. And that includes Border Patrol agents.

And that's just the way it is.

#### TALE OF WALL STREET

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Madam Speaker, the clever comedy tale that's being spun by Wall Street megabanks and their minions here in Washington is that they are paying back \$700 billion our taxpayers bestowed on them in the fall of 2008. In fact, some spinmeisters say the bailout actually will cost our taxpayers just \$109 billion, not the originally projected \$700 billion of costs, called TARP, the Troubled Asset Relief Program. The PR spin even got CNN to report that the cost to the taxpayers will be far less than originally anticipated. If you believe that, you'll believe anything.

One of the bittersweet reasons that they will pay back less is that the Obama administration originally stated that up to 4 million people could save their homes through the loan modification program that was part of the TARP. But through this February, only 170,000 distressed homeowners received any long-term modification. So that program is a failure, as the American people continue to be disgorge out of their homes. In fact, only 4 percent of those eligible have even been dealt with and their mortgages reworked.

We need a full cost accounting across this economy of what these speculators did to us. They took our money, they gambled with it, and then they turned our Treasury into their insurance company. And now they're dumping all their mistakes on our generation and the next two to follow.

I want to shine the light on a very dark corner where the true cost of the bailout sits. Come with me and look beyond the curtain where the wizard is really hiding. Secretary Geithner and even Elizabeth Warren, the TARP overseer, say the banks are paying us back. But what they are paying back is only part of the so-called TARP moneys. Paying back the TARP is far, far from enough. At least 12 Treasury programs have thus far cost our taxpayers over \$727 billion. Perhaps \$380 billion represents TARP. But there are 24 Federal Reserve programs that have already cost \$1.738 billion. So the approximate total cost of the Wall Street meltdown is somewhere over \$2.4 trillion put right at the taxpayers' doorstep. That number is staggering. It's huge. Thus, the TARP money being paid back is less than 1 percent of the staggering number.

Paying back the TARP is hardly enough. Wall Street banks recorded

record profits and record bonuses last year on the backs of the American people who are struggling without jobs and fighting to keep their homes. We expect the \$2.4 trillion will continue to rise. And here is why: Treasury has promised unending support, regardless of the dollar amount, for the next 3 years to Fannie Mae and Freddie Mac to fill the holes in each institution. These are two secondary market institutions' dumping grounds for all of Wall Street's unfinished laundry.

Our government has spent already \$61 billion on Freddie Mac. Plus \$83 billion more on Fannie Mae. That's another \$144 billion—and the number is rising.

□ 1945

We will spend more, as both companies continue their death spiral of losses. But the \$2.4 trillion cost still might not be all that the financial crisis, brought on by reckless speculators on Wall Street, will cost us.

What about the cost of all those bad mortgages settled in at Fannie and Freddie, as well as institutions across this country and world? You see, the heart of the financial crisis is the housing crisis, so we need to add in the losses at FHA, VA, and the Agriculture Department because they all do housing programs. Add in the cost to our economy as a decline in equity in homes across this country. We need to count that too. And what about the total cost of unemployment that came after that? Figure out how much the Federal Government has paid out in insurance in COBRA payments. What about including an accurate estimate of the cost of lost productivity? What growth potential have we lost? And what about the effect on the economy of the loss in stock earnings? How about the loss in IRAs and pension funds? The Ohio public pension funds took a \$480 million hit with the failure of Lehman Brothers. What about the effect on the economy of higher premiums on the FDIC banks who had to shore up the insurance fund because so many smaller banks have collapsed under the toxic weight and potentially fraudulent practices of the big banks? Community banks can't expand, hire, or lend more since more revenue has gone into insuring their deposits. When these small banks go down due to the damaged economy brought to us by Wall Street, the big banks gobble them up and even get bigger.

Can you put a dollar value on the mental and emotional strain that citizens across this country are experiencing? It's clear that Wall Street is doing just fine, and it's equally clear that Main Street is not. Madam Speaker, we need a full cost accounting of what Wall Street cost this economy, and we're far from calculating it.

[From the New York Times, May 7, 2010]  
IGNORING THE ELEPHANT IN THE BAILOUT  
(By Gretchen Morgenson)

If you blinked, you might have missed the ugly first-quarter report last week from Freddie Mac, the mortgage finance giant that, along with its sister Fannie Mae, soldiers on as one of the financial world's biggest wards of the state.

Freddie—already propped up with \$52 billion in taxpayer funds used to rescue the company from its own mistakes—recorded a loss of \$6.7 billion and said it would require an additional \$10.6 billion from taxpayers to shore up its financial position.

The news caused nary a ripple in the placid Washington scene. Perhaps that's because many lawmakers, especially those who once assured us that Fannie and Freddie would never cost taxpayers a dime, hope that their constituents don't notice the burgeoning money pit these mortgage monsters represent. Some \$130 billion in federal money had already been larded on both companies before Freddie's latest request.

But taxpayers should examine Freddie's first-quarter numbers not only because the losses are our responsibility. Since they also include details on Freddie's delinquent mortgages, the company's sales of foreclosed properties and losses on those sales, the results provide a telling snapshot of the current state of the housing market.

That picture isn't pretty. Serious delinquencies in Freddie's single-family conventional loan portfolio—those more than 90 days late—came in at 4.13 percent, up from 2.41 percent for the period a year earlier. Delinquencies in the company's Alt-A book, one step up from subprime loans, totaled 12.84 percent, while delinquencies on interest-only mortgages were 18.5 percent. Delinquencies on its small portfolio of option-adjustable rate loans totaled 19.8 percent.

The company's inventory of foreclosed properties rose from 29,145 units at the end of March 2009 to almost 54,000 units this year. Perhaps most troubling, Freddie's nonperforming assets almost doubled, rising to \$115 billion from \$62 billion.

When Freddie sells properties, either before or after foreclosure, it generates losses of 39 percent, on average.

There is a bright spot: new delinquencies were fewer in number than in the quarter ended Dec. 31.

Freddie Mac said the main reason for its disastrous quarter was an accounting change that required it to bring back onto its books \$1.5 trillion in assets-and-liabilities that it had been keeping off of its balance sheet.

None of the grim numbers at Freddie are surprising, really, given that it and Fannie have pretty much been the only games in town of late for anyone interested in getting a mortgage. The problem for taxpayers, of course, is that the company's future doesn't look much different from its recent past.

Indeed, Freddie warned that its credit losses were likely to continue rising throughout 2010. Among the reasons for this dour outlook was the substantial number of borrowers in Freddie's portfolio that currently owe more on their mortgages than their homes are worth.

Even as its business suffers through a sour real estate market, Freddie must pay hefty cash dividends on the preferred stock the government holds. After it receives the additional \$10.6 billion it needs from taxpayers, dividends owed to Treasury will total \$6.2 billion a year. This amount, the company said, "exceeds our annual historical earnings in most periods."

In spite of these difficulties, Freddie and Fannie are nowhere to be seen in the various financial reform efforts under discussion on Capitol Hill. Timothy F. Geithner, the Treasury secretary, offered a vague comment to Congress last March, that after some unspecified reform effort someday in the future, the companies "will not exist in the same form as they did in the past."

Fannie and Freddie, lest you've forgotten, have been longstanding kingpins in the housing market, buying mortgages from banks that issue them so the banks could turn around and lend even more. After both companies overindulged in the lucrative but riskier end of home loans, they nearly collapsed, prompting the federal rescue. Since then, the government has continued to use the firms as mortgage buyers of last resort, to help stabilize a housing Market that is still deeply troubled.

To some, the current silence on what to do about Freddie and Fannie is deafening—as is the lack of chatter about Freddie's disastrous report last week.

"I don't understand why people are not talking about it," said Dean Baker, co-director of the Center for Economic and Policy Research in Washington, referring to Freddie's losses. "It seems to me the most fundamental question is, have they on an ongoing basis been paying too much for loans even since they went into conservatorship?"

Michael L. Cosgrove, a Freddie spokesman, declined to discuss what the company pays for the mortgages it buys. "We are supporting the market by providing liquidity," he said. "And we have longstanding relationships with all the major mortgage lenders across the country. We're in the business of buying loans and we are one of the few sources of liquidity available."

But Mr. Baker's question gets to the heart of the conflicting roles that Freddie and Fannie are being asked to play today. On the one hand, the companies are charged with supporting the mortgage market by buying loans from banks and other lenders. At the same time, they must work to minimize credit losses to make sure the billions that taxpayers have poured into the firms don't disappear.

Freddie acknowledged these dueling goals in its quarterly report "Certain changes to our business objectives and strategies are designed to provide support for the mortgage market in a manner that serves our public mission and other nonfinancial objectives, but may not contribute to profitability," it noted. Freddie said that its regulator, the Federal Housing Finance Agency, has advised it that "minimizing our credit losses is our central goal and that we will be limited to continuing our existing core business activities and taking actions necessary to advance the goals of the conservatorship."

Mr. Baker's concern that Freddie may be racking up losses by overpaying for mortgages derives from his suspicion that the government might be encouraging it to do so as a way to bolster the operations of mortgage lenders.

That would make Fannie's and Freddie's mortgage-buying yet another backdoor bailout of the nation's banks, Mr. Baker said, and could explain the government's reluctance to include them in the reform efforts now being so hotly debated in Washington.

"If they are deliberately paying too much for mortgages to support the banks," Mr. Baker said, "the government wants them to be in a position to keep doing that, and that would mean not doing anything about their status until further down the road."

It's no surprise that the government doesn't want to acknowledge the soaring taxpayer costs associated with these mortgage zombies. The truth about Fannie and Freddie has always been hard to come by in Washington, and huge piles of money seem to circulate silently around both firms.

Remember last Christmas Eve? That's when the Treasury quietly decided to remove the \$400 billion limit on federal borrowings available to Fannie and Freddie through 2012.

That stealth move didn't engender much confidence in either the companies or their government guardian.

But because taxpayers own Freddie and Fannie, we should know more about their buying habits, as Mr. Baker points out. Unfortunately, if the government's past actions are any indication of what we can expect, then don't hold your breath waiting for the facts.

#### LET'S MAKE HISTORY BY SUPPORTING OUR NATION'S MARINES AS THEY SUPPORT US

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES. Madam Speaker, last week, the House of Representatives passed a suspension bill that was H.R. 24, to redesignate the Department of the Navy to be known as the Department of the Navy and Marine Corps. That bill had 426 cosponsors, colleagues from both sides of the aisle, who believe sincerely that the Marine Corps has earned this right to be recognized. All this is about recognition.

I want tonight to thank Senator PAT ROBERTS. Senator PAT ROBERTS last January put in a companion bill to H.R. 24, Senate Bill 504. Senator ROBERTS himself served in the United States Marine Corps. He was an officer, a retired Marine officer. This Monday, he wrote a letter to every Senator, and I want to read just a little part of this, Madam Speaker. First, the subtitle of his letter says, "Let's Make History By Supporting Our Nation's Marines As They Support Us: Redesignate the Department of Navy as the Department of Navy and the Marine Corps." And he further states, "Dear Colleague,"—I'm just going to read paragraphs from this letter, Madam Speaker—"it is not possible to overstate the service and sacrifice of any man or woman who wears or has worn the Marine Corps uniform, whether in Iwo Jima 65 years ago or today. The Corps has been 'first to fight for right and freedom' for over 234 years. That is why I am writing to urge you to cosponsor S. 504, a bill to redesignate the Department of the Navy as the Department of the Navy and Marine Corps." He does state, but I am not going to repeat this because I just stated this, that he praises the House of Representatives because we passed unanimously H.R. 24, and he does mention the number of 426 cosponsors.

He further states in his letter to his colleagues in the Senate, "I hope you

will join me in recognizing our Nation's force in readiness, our Marine Corps, and those who serve in it as equal to our other Armed Forces." To cosponsor S. 504, please contact his office.

Madam Speaker, I want to read this as well: "P.S. One only has to watch the current acclaimed special television production "Pacific" to understand why Marines everywhere are expressing their heartfelt support for what they believe is a long overdue oversight. The Marines and Marine veterans in your State simply ask you to join them with your support." Again, this letter is to the Senate, and I know that Senator ROBERTS himself plans to reach out to as many Senators as he can to ask them to support this.

Madam Speaker, with that, I would like to close by asking, as I do on the floor of the House many times, I ask God to please bless our men and women in uniform. I ask God to please bless the families of our men and women in uniform. I ask God in his loving arms to hold the families who have given a child dying in Afghanistan and Iraq, and I ask God to please bless the House and Senate, that we will do what is right in the eyes of God. And I ask God to give strength, wisdom, and courage to President Obama, that he will do what is right in the eyes of God. And three times I will ask God, please God, please God, please God, continue to bless America.

#### A TRIBUTE TO ASIAN PACIFIC AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Madam Speaker, each May we honor Asian Pacific Americans and celebrate the extraordinary contributions they make to enhance our communities and our Nation. Since the first Japanese immigrants arrived in the United States on May 7, 1843, generations of brave men and women have come to our country seeking new lives for themselves and their families, the promise of the American Dream. Their perseverance in the fight for equality and opportunity despite obstacles such as racial, social, and religious discrimination, is truly inspiring. I am proud to represent one of the most diverse congressional districts in the country. One in four of my constituents is of Asian Pacific heritage, many of whom are of Chinese, Filipino, Korean, Japanese, and Vietnamese descent. We share our customs and traditions, and ultimately, our community and our Nation are enriched by the presence of Asian Pacific Americans.

They have distinguished themselves as entrepreneurs, educators, and members of our Armed Forces. And the 29th Congressional District boasts an im-

pressive list of Asian Pacific American civic leaders who are strongly committed to our community, including: John Chiang, serving California as controller, is the highest-ranking Asian Pacific American elected State official. Representing California's 21st Senate District is Carol Liu, and serving the 49th Assembly District is Assemblyman Mike Eng.

On the local level, we have Alhambra Mayor Stephen Sham; Alhambra City Council member Gary Yamauchi; Alhambra Unified School Board members Chester Chau and Robert "Bob" Gin; Garvey School Board members Janet Chin, Henry Lo, and John Yuen; Monterey Park Mayor Anthony Wong; Monterey Park Council members Mitchell Ing, David Lau, and Betty Tom Chu; San Gabriel Mayor Albert Huang; San Gabriel Unified School Board member Philip Hu; South Pasadena Council member Mike Ten; South Pasadena Unified School Board member Joseph Loo; Temple City Council member Vincent Yu; and Temple City Unified School Board member Janet Rhee.

The contribution of Asian Americans to our community, our State, and our Nation are not limited to these individuals. Our Nation has benefited from the contribution of Asian Americans for decades. The Japanese American 100th Infantry Battalion and the 442nd Regimental Combat Team, commonly known as the "Go for Broke" regiments, courageously served our Nation during World War II and earned several awards for their distinctive service in combat. During this Congress I introduced legislation to pay tribute to the "Go for Broke" regiment by awarding them the Congressional Gold Medal, Congress' highest civilian honor. And continuing the spirit of service to our Nation, I am happy to announce that two of my service academy nominees who received appointments this year are Richard Hyun Kim, a resident of Temple City and student of Temple City High School, who will be attending the Military Academy at West Point this fall, and Marcus Nguyen, a San Gabriel High School student from the city of Alhambra, who received an appointment to the Naval Academy. We're so lucky to have these wonderful people in our community. As we celebrate Asian American and Pacific Islander Heritage Month, I urge all of us to reflect upon and celebrate the contributions of Asian Pacific Americans to our history, our way of life and the future we will share as citizens of this great Nation.

#### ACTION NEEDED NOW AT OUR SOUTHERN BORDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Madam Speaker, Mr. POE of Texas comes down here quite frequently and talks about the problems along the border between the United States and Mexico. Yesterday I received an email that I would like to read to my colleagues. The subject is "The Wild Southern Border." And it starts off, and it says, "A lesson: Don't leave your weapons in the car, don't turn your back on strangers who are somewhere they don't belong, use your cell phone with your off hand, not your strong hand." And the reason they start off with that lesson is because of what is said in this email, and I would like to read it to you.

"As you know, one of the local ranchers was murdered in Douglas, Arizona, 2 weeks ago. I received three messages similar to the one below from different officers within the Rangers and law enforcement. Yesterday afternoon, I talked to another rancher near us who is a friend of ours and whose great grandfather started their ranch here in 1880. These are good people. He told me what really happened out at the Krentz ranch and what you won't read in the papers. The Border Patrol is afraid of starting a small war between civilians here and the drug cartels in Mexico.

"Bob Krentz was checking his water like he does every evening and came upon an illegal alien who was lying on the ground, telling him he was sick. Bob called the Border Patrol and asked for a medical helicopter to evacuate the gentleman. As he turned to go back to his ATV, he was shot in the side. The round came from down and angled up, so they know the shooter was on the ground. Bob's firearm was in the ATV, so he had no chance. Wounded, he called the Cochise County Sheriff and asked for help. Bleeding in the lungs, he called his brother, but the line was bad. So he called his wife, but again the line was bad. Several ranchers heard the radio call and drove to his location. Bob was dead by this time. The ranchers tracked the shooter 8 miles back towards Mexico and cornered him in a brushy draw. This was all at night.

"The sheriff and Border Patrol arrived and told him not to go down and engage the murderer. They went around to the back side, and if you can believe it, the assassin managed to get by a B.P. helicopter and a sheriff's posse and back into Mexico. So much for professional help when you need it."

And I would like to say that I think the Border Patrol and the sheriffs do a great job with what they have down there. Nevertheless, this is what he says in his email. "One week before the murder, Bob and his brother Phil, who I shoot with, hauled a huge quantity of drugs off the ranch that they found in trucks. One week before that, a rancher near Naco did the same thing. Two nights later, gangs broke into his ranch house and beat him and his wife

and told them that if they ever touched any drugs they found, they would come back and kill them.

"The ranchers here deal with cut fences and haul drug deliveries off their ranches all the time. What ranchers think is that the drug cartels beat the one rancher and shot Bob because they wanted to send a message. Bob always gave food and water to illegals, and so they think they sent the assassin to pose as an illegal who was hungry and thirsty, knowing it would catch Bob off-guard. What is going on down here is not being reported. You need to tell the people how bad it is along the border. Texas is worse. Near El Paso, it's in a state of war; 5,000 people were killed in Ciudad Juarez last year, and it's over 2,000 so far this year. Gun sales down here are through the roof, and I get emails from people wanting firearms training. Something has to be done, but I don't hold out much hope. These gangs have groups in almost every city in the United States. Please read below. This is serious business. The Barrio Azteca and their subgangs are like Mexican corporations and organized extremely well. If this doesn't get dealt with down here, you guys"—meaning us up north—"will deal with it on your streets." And it's signed Bud.

All I can say is that Mr. POE and others have come down here day after day, week after week, month after month, talking about the horrible problems on the border, and this government, the Federal Government, is not doing anything about it. They're not approaching this as it should be approached. We need to send the National Guard down there. We need to continue with the border fencing and stop the illegal aliens from coming across, number one, and stop the drug traffic and the terrorists who are coming across. This is a war down there. We're fighting wars in other parts of the world. This is our border, and we need to address this problem.

#### THEY CARED FOR US: A TRIBUTE TO OUR LOCAL DOCTORS AND DENTISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Northern Mariana Islands (Mr. SABLÁN) is recognized for 5 minutes.

Mr. SABLÁN. Madam Speaker, in 1914, a young Chamorro by the name of Jose Diaz Torres began his training in medicine at a small hospital opened by the German colonial administration on the island of Saipan. Chamorro people had their own healing and medicinal traditions from ancient times, but Spanish colonizers introduced the indigenous people to Western medicine, and the Germans continued this practice upon taking control of the Northern Mariana Islands at the end of the

19th century. The Germans had a commitment to training local people, and Jose Torres, or Dr. Torres as he came to be called, thus became the islands' first local doctor. When Japan supplanted Germany, Dr. Torres continued his practice in a hospital the Japanese constructed. There too, the careers of Saipan's first Chamorro dentists, Dr. Manuel Manibusan Aldan and Dr. Juan Charfauros Reyes, began.

Victory over the Japanese in World War II brought the United States to control of the Northern Mariana Islands. After the war, the islands were administered under a United Nations trusteeship arrangement that required the United States to improve the standard of living. This responsibility was carried out by the U.S. Department of the Navy during the 1950s. The Navy built temporary hospitals on Saipan for the treatment of both military and civilian personnel. In recognition that the local population needed access to permanent medical care, the Navy also expanded the colonial practice of training promising individuals in dentistry and medicine. The Navy sent Dr. Juan Charfauros Reyes for further education to the School of Dental Assistants, Navy Hospital, Guam. Doctors Jose Lujan Chong, Francisco Taman Palacios, Benusto Rogolifoi Kaipat, Jose Tenorio Villagomez, and Calistro Camacho Cabrera were sent for medical training first to the Naval Medical School on Guam and then to the Central Medical School at Suva, Fiji, in the early 1950s.

□ 2000

Dr. Carlos Sablan Camacho similarly trained in Fiji later in the decade and in Hawaii in the 1970s.

In 1962, two important events took place in the Northern Mariana Islands. First, the U.S. Department of the Interior took over the United States' trusteeship responsibilities from the Navy, inaugurating the establishment of the Government of the Trust Territory of the Pacific Islands, the capital of which was eventually located on Saipan. Second, the residents of Saipan witnessed the grand opening of a modern, civilian-staffed hospital built on As Terlaje hill, christened Dr. Torres Hospital in honor of Saipan's first local doctor.

The 1960s and 1970s brought opportunities for the aforementioned local doctors to obtain advanced training in Guam and in Hawaii. Joining the ranks of the Northern Marianas' first doctors and dentists in 1972 were Dr. Manuel Quitano Sablan and Dr. Helen Taro, who earned their degree in dentistry and medicine, respectively, from the Fiji School of Medicine. Like their faithful colleagues before them, Dr. Sablan and Dr. Taro returned after their schooling to be of service to the people of the Northern Marianas, taking care of the dental and medical needs of the island community.

The people of the Northern Mariana Islands have the deepest appreciation, admiration, and respect for our pioneer doctors and dentists—to those still living today and to the memory of those that have passed on. May their compassion and dedication always be an example and inspire more of our young people to pursue a career in health care.

#### AUDIT THE FED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Madam Speaker, I rise to call attention to my colleagues of a vote that occurred in the other body today. Senator VITTER from Louisiana offered an amendment to the financial reform package in the Senate that was essentially—it was exactly the same as H.R. 1207, which is Audit the Fed bill. There was a vote on this, and unfortunately there were only 37 Senators that voted in favor of this Audit the Fed bill. This is rather sad because it is already in the House version of the financial reform bill, and in the House we have 319 cosponsors of this bill. So it is a very well-accepted bill by a broad spectrum of both Republicans and Democrats.

But the reason why this is so disturbing is because of the current events going on in the financial markets. Right now we are involved with bailing out Europe and especially bailing out Greece, and we are doing this through the Federal Reserve. The Federal Reserve does this with currency swaps. They do this by literally giving loans and guarantees to other central banks, and they can even give loans to governments. So this is placing the burden on the American taxpayers, not direct taxation, but by expanding the money supply, this is a tax on the American people because this will bring economic hardship to this country. And because we have been doing this for so many years, the economic hardship is already here. We have been suffering from it.

But the problem comes that once you have a system of money where you can create it out of thin air, there is no restraint on the spending in the Congress. And then the debt piles up, and then they get into debt problems as they are in Greece and other countries in Europe. And how do they want to bail them out? With more debt.

But what is so outrageous is that the Federal Reserve can literally deal in trillions of dollars. They don't get the money authorized. They don't get the money appropriated. They just create it, and they get involved in bailing out their friends, like they have been doing for the last 2 years, and now they are doing it in Europe.

So my contention is that they deserve oversight. Actually, they deserve



to be reined in where they cannot do what they are doing. But initially, we need oversight, and that is why this vote of only 37 Senators willing to audit the Federal Reserve in a thorough manner and hold them in check, which means that there were 62 Senators that support the idea of maintaining a status quo with the Fed and that they will still be able to make these loans to these foreign central banks.

Now, what has this led to? It has led to tremendous pressure on the dollar. The dollar is the reserve currency of the world. We bail out all of the banks and all of the corporations. We have been doing this for the last couple of years to the tune of trillions of dollars, and even today it looks like the dollar is strong on the international exchange market. People are frightened about what is happening throughout the world, and they are buying Treasury bills and they are buying dollars and holding dollars. But the real truth is the dollar is very, very weak, because the only true measurement of the value of currency is its relationship to gold. For 6,000 years, gold has been the best measurement of the value of a country's currency.

In the 1970s, we were very much aware of what was happening. Our dollar was depreciated to gold at 18 percent, and it ushered in a whole decade of inflation: prices going up 15 percent; interest rates up to 21 percent. In the last 10 years, our dollar has been devalued 80 percent in terms of gold. That means, literally, we have printed way too much money. Right now, we are just hanging on. The world is hanging on the fact that the dollar still is usable. But the whole problem is our financial situation is no better in this country than around the world. There is just a greater trust in our dollar because we have a military machine and we have economic growth in this country which is greater than others; but, quite frankly, it is quite weak.

So we face a very serious crisis. To me, it is very unfortunate that we are not going to have this Audit the Fed bill passed in the Senate. It has been passed in the House. Possibly we can salvage this in conference and make sure that this occurs. But since the Federal Reserve is responsible for the business cycle, for the inflation, and for all of the problems that we have, it is so vital that we stand up and say it is time for us to assume the responsibility, because it is the Congress, under the Constitution, which has been authorized to be responsible for the value of the currency.

As a matter of fact, the Constitution still says, it has not been amended or changed, but only gold and silver are supposed to be used as legal tender, not pieces of paper, not computer entries. This can't work. It is not working very well. The world is starting to recognize

this, and I am really concerned about what is going to happen, because a currency crisis is much worse than a financial crisis. We have just been through the financial crisis. We are in the midst of it. But a currency crisis, which is on our doorstep, means that our dollar will be devalued.

#### PROTECTING PONZI SCHEME VICTIMS

The SPEAKER pro tempore (Ms. TITUS). Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Madam Speaker, I spoke recently of the urgent need for certain amendments to the Securities Investor Protection Act, SIPA, in order to protect victims of Ponzi schemes.

Under no circumstances, except complicity with a crooked broker, should these investors be subject to clawback litigation. If necessary, I am prepared to propose such legislation. Instead of representing the best interests of the victims, the Madoff trustee is representing SIPC against the victims. Let's do the right thing for the average American who works hard, saves money, invests in the stock market with the hope of ultimately retiring on his savings.

I now want to address the need to provide such victims with tax relief. Tens of thousands of Americans have lost their life savings because of the incompetence of the SEC and its failure to close down the operations of Bernard Madoff, Allen Stanford, and so many others. Congress cannot ignore the fact that the biggest beneficiary of Madoff's and Stanford's crimes is the Federal Government. Every year, even if investors did not take money out of Madoff or Stanford, they paid taxes on the supposed income from those investments.

With respect to Madoff, the reported income was short-term capital gains, which is subject to the highest income tax rate under the Internal Revenue Code.

Congressman BILL PASCRELL has proposed legislation, H.R. 5058, providing some tax relief to the victims of these Ponzi schemes. I strongly support the bill, and I urge the House to pass this bill as quickly as possible. Senator SCHUMER, along with 17 cosponsors, has proposed a similar bill in the Senate, S. 3166, which I also support. However, these bills need certain changes to strengthen them.

With respect to the House bill, there is a 10-year carryback for theft losses. Under existing law, taxpayers can utilize the theft laws for 20 years going forward. However, elderly investors who have lost all of their savings and don't work have no ability to utilize a theft loss going forward. Thus, giving

these people a 10-year carryback is only fair.

The Senate bill proposes a 6-year carryback, which is insufficient.

Both the House and the Senate bills give a theft loss for IRA investors. However, the House bill is more generous than the Senate bill, providing for a theft loss of up to \$2 million; whereas, the Senate bill limits the loss to \$1.5 million.

We have been infinitely generous to Wall Street, so it is long overdue to be fair to Main Street.

Finally, both bills are deficient because they preclude a theft loss for investors whose retirement savings were in 401(k) plans or defined benefit pension plans or deferred profit-sharing plans. Congress should not discriminate against some investors based on the form of their retirement investments, all approved by Federal tax laws. Therefore, the bills in both Houses must be amended to provide the same theft loss relief for all retirement plans no matter how they are structured.

Congress has shown extraordinary generosity to the financial service industry in the past years. Despite the fact that these companies that make up this sector caused the global financial collapse, Congress provided \$400 billion of funding to them with no strings attached.

Let us not nickel-and-dime Wall Street's victims, the taxpayers who lost their life savings because of the greed of Wall Street and the incompetence of the SEC. We are not seeking to make them whole. We are simply disgorging some of the fictitious profits that the government received in tax payments from the victims of these crimes.

#### NATIONAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROHR-ABACHER) is recognized for 5 minutes.

Mr. ROHRABACHER. Madam Speaker, I rise to express my concern over two critical national security issues: Iran and the ongoing Israeli-Palestinian conflict.

As far as Iran, the extremist mullah leaders in that country continue to oppress and murder their own people. They, by providing armor-piercing weapons to terrorists, are also responsible for the death of hundreds, if not thousands, of American soldiers in both Iraq and Afghanistan. Yet the Iranian regime is being treated as a legitimate, if not democratic, government. Well, they are not legitimate nor are they democratic. They are a radical Islamic anti-Western dictatorship.

We have long since passed the time when America should have been backing, verbally and otherwise, the Iranian people's struggle to overthrow

their radical Islamic oppressors. Let the Iranian people, with our blessings, rid themselves of this pariah regime. That would be the best option.

But when it comes to the mullah regime obtaining nuclear weapons, doing nothing to prevent it is not an option. If we won't do what is necessary ourselves, we should not get in the way of Israel doing it. Obviously, Israel will be the first nation threatened with devastation and destruction by a nuclear-armed Iranian mullah dictatorship. Thus, if Israel is willing to act and does so, it should not be viewed as an outrage but it should be viewed with understanding and perhaps with a sense of relief. If other options fail, intelligence, logistical and political support for an Israeli operation aimed at preventing the construction of a mullah A-bomb is in our interest, is in the interest of peace and safety in that region, and it is in the interest of all of the people of the world.

Then there is, of course, the Palestinian-Iranian quagmire. But let us recognize when we are looking at that issue, there has been major progress over the last decade. Israel has demonstrably reached out to offer an olive branch to the Palestinian people.

□ 2015

They have embraced a two-state solution, which they didn't do over 10 years ago. They have, in fact, withdrew their troops from Lebanon. And importantly, Israel has actually given up control of Gaza and substantial territory in the West Bank. And what did they get for it? Thousands of missiles launched into Israel itself. And when retaliating, they, of course, were condemned for a fight that they didn't even start.

It's time for the Palestinian missile attacks to stop and for the Palestinians to reciprocate for Israel's tangible concessions in Gaza and on the West Bank. They should step up to the plate with a meaningful change of position.

The Palestinians need to recognize Israel's right to exist. And to make it real, the Palestinians must renounce what they call the right of return. The Israelis have taken major steps. Now it's time for the Palestinians to move. And until the Palestinians make recognizable steps forward, as Israel has done, as I just pointed out, our government should not be urging Israel to give up even more territory or condemning them for prodding the Palestinians.

For example, if the Israeli renovation of apartment complexes in Jerusalem gets the Palestinians to realize that they can't wait forever because Israel is just going to move on unless the Palestinians come out and try to reach an agreement, well, if it's got the Palestinians to understand that, and that they're going to have to act and step forward, then the widely condemned

renovation of those apartment complexes in Jerusalem was actually something that furthered the cause of peace.

To conclude, I urge the Obama administration to change course before it's too late, to stand up to the Iranian Islamic dictatorship, and to be realistic about the Israeli-Palestinian conflict. Peace can't come by trying to prove how sincere we are or by holding hands with thugs hoping they will be impressed with our sincerity, or by condemning a nation that is attacked for retaliating. It's time, as we say in California, to get real.

Unfortunately, when it comes to these two important foreign policy challenges, it seems that wishful thinking and irrational optimism are what's guiding America's foreign policy.

#### HOW'S THAT SWAMP DRAINING COMING ALONG?

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. CARTER) is recognized for 60 minutes as the designee of the minority leader.

Mr. CARTER. Madam Speaker, Speaker PELOSI took the gavel of this House in January of 2007, and she made a promise to this House and this Nation that the new Democrat administration of this House would be the most honest, most open, most ethical Congress in history, and that she would drain the swamp. And she said that in reference to what they called the "culture of corruption" in the previous Congress.

Barack Obama said, when he became President of the United States, that he would put an end to the standards of one standard for powerful people and one for ordinary folks.

Tonight I'm asking the question, how's that swamp draining coming along, Madam Speaker? Because the way I see it, and the way we see it in the newspapers and on television and other sources these days, is that we seem to be up to our eyeballs in alligators in this swamp. And this swamp seems to be oozing across the whole country.

So how are we coming on draining that swamp, Madam Speaker? That's the kind of question that we think Members of this House ought to be asking. And I ask my colleagues, how do you think we're coming in draining this swamp? Because it certainly seems like there's an awful lot of strange animals still wandering around this swamp, and it certainly seems to be spreading from coast to coast. And we need to ask that question over and over.

You know, I take the position, and I want to say it right now so it's very clear, accusations are just accusations. Until those accusations are resolved by

a competent finder of fact that will decide whether or not what is alleged is true, and whether it be under the ethics rules or whether it be under the laws of the courts of this land, until a court has found, made a judgment, or until the Ethics Committee of this House has made a judgment, they're still allegations.

But these allegations are part of what's swimming around in this swamp. And that's why we need to ask, Madam Speaker, NANCY PELOSI, how you coming on draining that swamp?

So let's look at some of these things, and let's just see what we've got.

But first let's go back to what the President said. February 3 of 2009 President Barack Obama, on CNN said, I campaigned on changing Washington and bottom-up politics. I don't want to send the message to the American people that there are two sets of standards, one for the powerful people and one for the ordinary folks who are working every day and paying their taxes.

I think that was a very noble statement by the President of the United States. Now, the question is, how are we doing under the Barack Obama administration on making sure there's not one set of standards for the powerful and another for the ordinary citizens?

Another visual here. The Speaker of our House says, This leadership team will create the most honest, most open and most ethical Congress in history. This was made by Speaker-Elect NANCY PELOSI of California in a press release of November 16, 2006, after the Democrats had won the majority in the House of Representatives. And let's remember that since January 1, 2007, the Democrats have been in charge and in the majority in this House of Representatives.

So, what am I talking about? Well—and I'm making this very clear because I do not want to treat people unfairly—these are allegations, some of them made in the press, some of them made in complaints to the Ethics Committee and some of them being at least looked at by police and FBI and others. All of this is stated in newspaper articles which we'll discuss. And that's just what they are, they're allegations. Nobody's guilty in this country. We still have the rule of law, and we still believe that you have to be proved guilty. And if it's in a court, it's beyond a reasonable doubt. And I will defend that for as long as I live.

But the reputation of this Congress was what the Speaker of the House was speaking to when she said she wanted to drain the swamp. She was accusing the Republican Party of having a swamp full of evil alligators that had broken rules and laws, and that she was going to clean them up and give us the most ethical, the most honest, and the most open Congress in history. No

more closed deals. No more special bargains. It was going to be out in the open, honest and ethical.

And then we have these questions that come up. So let's just give a quick outline, and then we'll go into some details.

Under Barack Obama and NANCY PELOSI, we could arguably say that we have had allegations of corruption that equal the allegations in the famous Tea Pot Dome scandal. Their latest scandal is Eric Massa, a Representative who has now resigned from this Congress. But it goes on to others. There are violations that are still unaddressed by CHARLIE RANGEL, allegations of Tim Geithner and tax cheating. The list goes on to ALAN MOLLOHAN, MAXINE WATERS, PETE VISCLOSKEY, JOHN CONYERS, the czars, the violation of Jefferson's Rules of Order in this House and closed door deals and conferences and bills that are brought without a chance to read them. That's not open. And some would argue, that's not ethical.

But let's look. First let's go back to what the President said: we're not going to treat anybody differently because of who they are and how powerful they are. Now, I'm sure he was probably talking about in one way some of this Wall Street stuff that he's talking about now.

But you know what? There's an awful lot of people would say that the folks that sit in these chairs out here every day, as far as the government, which, right now is just about to be in control of over 50 percent of commerce in this country by owning an automobile company, by running the banks, by running Wall Street, by putting together a health care plan that covers everybody and mandates everything in the world for everybody in this country, and controls the health care system of this country, that these people that sit in these chairs are pretty darn powerful. Some would argue they may be on the verge of being the most powerful people in this country, especially those in positions of power, like the leadership of this House and those who are chairmen of committees.

So let's just look at one—and I know some people are tired of hearing me talk about this—but Mr. RANGEL has been under investigation now for at least 18 months that I can remember, because I've been talking about it that long. And it's actually longer than that. And one of the things that we brought up and we talked about is the fact that, as chairman of the Ways and Means Committee, he was treated differently than the ordinary person would be if they had the same kind of tax problems that he indicated to this House, from that podium right there that he had. And yet he was treated differently. And he was the most powerful person on the Ways and Means Committee. He admitted to us underreporting income and assets for 2007 by

more than half, including a failure to report his income from his Caribbean resort property again. And he'd already told us he didn't do it once.

Underreporting income and assets by Rangel's aides, Rangel's lease of a multi-rent-controlled apartment in Harlem, Rangel's use of a House parking spot for long-term storage of his Mercedes, failure to report and pay taxes on rental income on his resort villa in the Dominican Republic, alleged quid pro quo trading legislative action in exchange for donations to the center named for RANGEL at the City College of New York, gift rule violation on trips to the Caribbean sponsored by the Carib News Foundation in 2007 and 2008. And these are the items that are currently under investigation and have been for 18 months by the Ethics Committee of this House. I have asked over and over and over the Ethics Committee, please, please resolve these issues one way or the other. But as I said, these are allegations.

But you know what? That's why the swamp water is rising. And guess what? The American public isn't treated the same way Mr. RANGEL is on their tax violations. They don't get to pay the back taxes with no penalties and interest, as Mr. RANGEL did. So that's one of those things that the President promised us wasn't going to happen, but it did. So that's one we ought to have to think about.

The President promised one thing; we got another. NANCY PELOSI promised ethical, honest. Some of those things don't look ethical, and they don't look honest.

Now, the President of the United States sent to the Senate, and it was confirmed by the Senate, the appointment of Secretary of Treasury Geithner. And certainly, if you're talking about the financial world of this country, the Treasurer of the United States is certainly one of those people that the President was talking about, one of those people who are powerful people because he's in charge of basically the finances of this country, and certainly in charge of the value of our money, the issuance of our money, the national debt.

□ 2030

All those things are his to take care of, to make sure where we are going, to report to us, to speak with other countries about the financial problems and financial solutions of the world. He is the spokesman for our economy.

And yet by his own admission, The Wall Street Journal says, "The Fox Watching the Henhouse: Tim Geithner's Tax History." He didn't pay Social Security and Medicare taxes for several years. The IRS audited Geithner in 2003 and 2004, his taxes, finding he owed taxes and interest totaling \$17,230. The IRS waived the penalties. If you know anybody out there

that has had to deal with the IRS in this country, ask them if they failed to pay \$17,230 if penalties were waived on them.

In fact, if you didn't pay your taxes and you got a permissible extension of your taxes from April 15th, which passed just recently, when you get ready to pay them in August, or if you don't pay in August, you get another extension in October, take a look and see if the IRS is going to waive the penalties for you failing to pay those things on April 15th. I will tell you I don't think they will.

So could it be that Mr. Geithner was given this privilege because he was one of those powerful that the President of the United States told us would no longer be treated differently than the ordinary people in this country? I think that's a question we have to as a House ask ourselves. Are we really treating the powerful the same as we do the ordinary folks? I certainly think we need to resolve this. And I think it's something we need to be seriously considering. And by the way, I think the water in the swamp is rising.

He used his child's time at an overnight camp in 2001, 2004, and 2005 for tax deductions. Sleep-away camps don't qualify, according to the IRS. He recently filed \$4,334 in additional taxes and \$1,232 in interest for infractions including a retirement plan early withdrawal penalty, an improper small business deduction, and the expensing of utility costs that were for personal use.

The Treasury Secretary, by the way, Mr. Geithner, is the overseer of the IRS, the same IRS that waived the penalties that ordinary Americans would pay for failure to pay their taxes. I think we have a right to ask the question, Is this what the President meant when he said we are not going to treat people that are powerful differently than the ordinary people of this country? I think that point is one we need to continue to ask. I think we are continuing to ask that. But the water in the swamp keeps rising.

And what happened to the Speaker of the House who told us she was going to have the most honest, open, and ethical Congress and drain the swamp? Well, the swamp seems to keep filling up and the alligators are still swimming around.

One of the things that I think we at least ought to know about what's going on in this country is that we have created more czars to be special people with special salaries to do special things for this government than the entire history of Russia had czars. So there is a bill out there to sunset all these czars by STEVE SCALISE. And this would be the kind of thing that would be drained in the swamp, because we created people to do the same job that we have Cabinet Secretaries doing. To me that's very, very bizarre. If you

have a Secretary of Agriculture and an agriculture czar, what is the agriculture czar supposed to do? And we have got so many that I have lost count. It is somewhere in the 30s, I think now, of czars that we have.

A czar is defined as someone who heads a task force or council and is appointed by the President without the consent of the Senate, excepted from the competitive service, and does not have an existing removal date. In other words, he is there at the will of the President. Appropriated funds can't be used to pay for salaries and expenses of task forces or councils established by the President and headed by the czar. That's what this bill says. In other words, it's trying to put a curtailment on this czar program.

Now, why would I bring the czar program out as we are looking at the swamp? Well, we are creating positions of power and paying big salaries to these positions of power to duplicate the duties and responsibilities of Cabinet members of the President's Cabinet, and you have to ask the question why? Who are these people? Is this a payback? Is this treating the powerful different than the ordinary? Is this open, honest, and ethical? I don't know. I don't know. But the question needs to be asked why do we have to have so many czars?

I defy anybody, without getting some kind of reference paper to look at, to give a list of these powerful jobs that have been created in this Congress by—I defy anybody in this Congress to give me a list off the top of their head. If they can name two they are doing better than I can. But these folks have top salaries, they have large staffs, they have big budgets, and they are doing who knows what? But at least we know they must be promoting the agenda of the President of the United States, because he is the only one who appointed them, he is the only one who approved them, because they are not subject to approval by the Senate, as Cabinet members are. And he is the only one that seems to be able to take them out. So they must be doing his agenda.

Now, the question is, is that open? Could be honest. I don't know. Is it ethical? I think we have the right to know. When we have that many people doing that, I think it's a right. We as American citizens have a right to ask, who are these people? And we have actually had some articles about some of them being community organizers and some of them having very radical positions. Some of them actually resigned before they became a czar because their radical behavior was pointed out in the press. And it's not open, it might not be honest, and it might not be ethical. We ought to be worried about the czars.

Now, I brought up to start off with Eric Massa. That thing hit this town like a storm, just as, a while back dur-

ing the Republican administration the Mark Foley incident, where he made some statements to some young pages that were considered inappropriate. He resigned. He left the Congress. And the question was raised what did the leadership of the Republican House know about that incident and when did they know it? And these were questions that were asked of the Republican Speaker of the House and asked of the majority leader and others.

I think there is a question that needs to be asked. The minority leader of this House, JOHN BOEHNER, has asked it. The questions are being asked in several committees I understand. What did Speaker PELOSI know about Eric Massa?

Now, those of you that don't know the story of Eric Massa, I am not going to tell it. But I am going to read to you a thing from the New York Daily News. It's an article, "FBI joins in Massa probe of sexual harassment, hush money and coverups." This was written April 22, 2010. "The FBI has joined the mushrooming investigations of sexual harassment, hush money and coverups allegedly involving former upstate Representative Eric Massa, Democrat from New York, and his male staffers. The bureau's entry into the case followed the announcement by the House Ethics Committee yesterday it's conducting its own investigation of how the office of House Speaker NANCY PELOSI, Democrat from California, and others handled complaints against Massa. Massa's alleged "tickling," groping, and raucous behavior at a gay bar with young staffers was "offensive, inappropriate, and created a hostile work environment," the Ethics Committee said in a statement. In the chaos in Massa's office, "moneys or other payments may have been misappropriated or otherwise fraudulently or improperly distributed or received," the committee said. Massa resigned last month as the charges escalated. He maintained he was a "salty guy" whose gruff language and behavior may have been misjudged by his staff. The case entered a new phase last week when Joe Ralcato, Massa's former chief of staff, disclosed he had filed a sexual harassment complaint against Massa. Ralcato also said he received a \$40,000 check from Massa's campaign fund shortly before Massa resigned. Through his lawyer, Massa said he did not authorize the \$40,000 payment, alleging forgery might be involved."

Is that what you meant by "in the swamp," Madam Speaker? That seems to be very similar to what you were talking about when you made the statement it was time for you and the Democratic majority to start draining the swamp. Well, as recently as April 22, 2010, at 4 o'clock—this was filed at 4 o'clock in the morning, a newspaper had sent out a news report about something that seemed to be a pretty nasty part of the swamp.

So let's look at—we have talked about Geithner, treated differently. And you know what, didn't pay his taxes, and he is the head tax man. RANGEL, the head of the head tax committee didn't pay his taxes, didn't pay his penalties and interest, and still has other things to answer for which haven't been answered for. Sounds like that's got the water rising in the swamp also.

And remember, we said we were going to start draining this swamp back in January of 2007, and the Rangel investigation has gone on since 2008 and no end is in sight. And the Ethics Committee, although it has an equal number of Republicans and Democrats on it, is chaired by the majority party, the Democratic Party. And so it's the Democrats' job to move that Ethics Committee along and dissolve and start draining at least that part of the swamp.

These things are difficult to talk about. They are allegations. And I am going to say it again and again and again, we are blessed by our Constitution of the United States and by the attitude of the American people that allegations are just allegations. They are alleging something happened, but it has to be proven. And if it's under the ethics rules, it has to be proven to the satisfaction of the Ethics Committee by the burdens of proof that they set forth. If it's set out in a court of law and it involves criminal behavior, it has to be proved beyond a reasonable doubt. If it involves civil responsibility, I would argue that there are a couple of means by it, but the most typical is by a preponderance of the evidence, the greater weight and degree of the evidence that proves such a matter. But there is a burden of proof.

So when you allege something against somebody, whether you be a newspaperman or a Member of Congress like me, when you step up and say these things they should be taken just as it is. And I believe that's why I want to continue to clarify.

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But when you stand up before the House and you accuse others and you say they've created a foul, stinking swamp that needs to be drained and you will heroically drain that swamp, then adding animals, plant life, and water to that swamp and raising the level to where it spreads coast to coast is certainly not draining the swamp, and we should at least be able to discuss that matter in this House of Representatives. That is what I am talking about.

Some of these things are very difficult to talk about, and that's why I want to repeat again and again, these are allegations.

So to review. PELOSI's action, none, on Eric Massa. Obama and PELOSI's action, none, on CHARLIE RANGEL and

Tim Geithner. The investigations of the Ethics Committee completed, none. Not one has been completed. The rest are still pending.

Reading an article from the Congressional Quarterly, Waters Calls TARP Meeting for Husband's Bank. "Watch-dog groups claimed (Waters) took inappropriate action on behalf of OneUnited Bank, which received financial assistance from the Federal Government last fall. Waters—a senior member of the Financial Services Committee, which oversees banking issues—last year requested a meeting between Treasury Department officials and representatives of minority-owned banks, including OneUnited, on whose board her husband, Sydney Williams, had previously served. He also held stock in the bank."

That's just a small article. But once again, there are more alligators in the swamp, and are we finding out, and as NANCY PELOSI promised us she would do, to have the most open, ethical, and honest Congress? There are allegations of ethical misbehavior here.

What has our Speaker done? I would submit, nothing. I've certainly heard of nothing. I don't think—I would like to know if anyone knows of what's been done. But I think that's something that ought to be at least part of draining the swamp, part of the most ethical, honest, and open Congress in the history of the country.

Detroit News, March 11, 2010. Representative CONYERS avoids sentencing for embattled wife. Detroit News Washington Bureau, Washington. "On a day his wife was front and center, Rep. John Conyers, D-Detroit, stayed in the shadows. Conyers was inside his office in the Federal courthouse Wednesday and expressed an interest in attending his wife's sentencing hearing, but advisers told him he shouldn't, sources said. Conyers, who chairs the House Judiciary Committee, missed votes on the House floor for the second day in a row. Conyers' office did not issue a statement, nor did staff respond to repeated inquiries."

Mlive.com, Everything Michigan. This is from the Internet. "Landmark Legal Foundation files House ethics complaint against Conyers. A conservative public interest law firm on Monday filed a House ethics complaint against U.S. Rep. John Conyers over a letter he wrote to the Environmental Protection Agency in 2007 allegedly tied to his wife, according to the Washington Times. The Landmark Legal Foundation filed the complaint, saying Conyers should respond to the allegations under oath. . . . In a 2007 letter, Conyers urged the EPA to accept a permit transfer request that would allow Greektown businessman Dimitrios Papas to resume operations at a hazardous waste injection well in Romulus.

"Consultant Sam Riddle said last month that Conyers' wife, former De-

troit City Councilwoman Monica Conyers, drove him to a meeting with Papas earlier in 2007, arranged a \$20,000 consulting contract for Riddle and demanded \$10,000 as a finder's fee.

"Later the same year, Conyers wrote a letter to the EPA, reversing course from his stance in 2003, when he joined Rep. John Dingell in opposition to the well. In a statement issued last month to the Detroit Free Press, Conyers defended the letter on the grounds he was representing his constituents, and it is not clear whether he had any knowledge of his wife's ties to Papas.

"Monica Conyers resigned last month after pleading guilty to conspiracy to commit bribery in a separate incident involving Synagro Technologies."

Those are allegations that are made in the State of Michigan against the chairman of the Judiciary Committee, which is the committee that has oversight over the rule of law, if nothing else, but everything legal and many of the moral issues that come before this Congress. It's a very important, very important committee. And from these articles, we see that his wife has gotten in a lot of trouble for it.

We need these things, these allegations resolved. We need to know if they're still in the swamp. We need to know if we're still draining the swamp.

There are allegations in The Washington Post. This is pretty long. I am going to read some of it. Washington Post. "Rep. Norm Dicks is about to go from Mr. Boeing to Mr. Spending." It was written May 9. That's 2 days ago. The Washington Post.

"Maybe this whole outsourcing thing has gone too far. This week, House Democrats indicated they have plans to contract out the Federal Government's spending to Boeing. Specifically, they are planning to outsource it to Mr. Boeing, Rep. Norm Dicks (D-Boeing), a Washington State lawmaker who has received tens of thousands of dollars in campaign contributions from Boeing sources and has—by complete coincidence, of course—directed tens of billions of dollars of government business to the military contractor."

And it's an article about the fact that Mr. DICKS is possibly going to be named as the chairman of the Appropriations Committee.

I'm not going to go into this whole thing. It's an early allegation, and it's a question. But it's a question that, before we go any further, this part of the swamp needs to have sunlight put on it, and we see if where there's smoke, there's fire, and whether these allegations should be looked into.

I think we have a duty to this House to drain the swamp. And if we're not going to drain the swamp as NANCY PELOSI promised us, then let's not make big noise about it like we're going to, and let's admit that, you know what? Arguably, these allegations and this whole list of things that

are there—this is kind of a collage of things, New York Daily News, Washington Post, Congressional Quarterly, Roll Call, Weekly Standard, NPR Radio, The Hill—these are a list of things that are asking questions about the things that I have raised tonight.

The real question is: Are we running the most ethical, open, and honest Congress in the history? Are we? I think that the entire—the vast majority, let's put it that way, of the American people have heard and understood the procedures that took place to pass the health care bill. The health care bill is now law. ObamaCare. And when we say "open," we mean that we want things to be done out in the open, not in closed-door sessions in the Speaker's office, but out here on the floor of this House, on the floor of the committees and the subcommittees. "Open and obvious" means we're going to do it where you can see it. Let the sun shine in, as the song goes, and let's see what's there.

And yet we look at how this gigantic takeover of at least one-sixth of our Nation's economy by the Federal Government was done behind closed doors in a massive bill that arrived at a point in time where no human being actually could have had a chance to even look at it in any detail and was shoved down the throat of this Congress and the American people. That's not open. That's not obvious.

But more importantly, when you take the Chair as the Speaker of the House, and you take on the rules of this House—a man that both sides of the aisle respect in the building, Thomas Jefferson. Thomas Jefferson, the Declaration of Independence, wrote rules, and those rules have been followed pretty well, not all the time, but pretty well by this House.

GREG WALDEN, JOHN CULBERSON, and BRIAN BAIRD have offered H. Res. 554, 3-day reading rule, which, by the way, was one of the promises by the majority in this House that they would give at least 72 business hours before taking any action to allow you to read the bill. Even if the bill happened to be 2,500 pages, you ought to get 72 hours. And this House Resolution says legislation must be available to Members and the public for 72 business hours before taking action, requires the full text of the legislation and each committee report to be posted continuously on the Internet.

In writing the rules of the House, Thomas Jefferson said bills should be publicly available for 3 days before voting.

And Thomas Jefferson had in mind what? Open, obvious, ethical. Honest. That's what he wants us to be. One of our Founding Fathers, one of the most highly respected Founding Fathers, a writer of our Declaration of Independence, he said that every bill that came before this House, we ought to have 3

days to read it. And I'm not even sure if Jefferson, in his wildest imagination, ever envisioned that there would ever be a bill, a printed bill, that would be 2,500 pages long. But even that, I think, he intended for it to at least give somebody 72 hours to read it.

And we haven't done that in this Congress. Not only on these massive bills, but on even other bills that come before the Congress. In fact, it is rare that we see any bill come before the Congress before you get your hands on it.

Others will say to you, What are they complaining about? They did the same thing. Aha. That may be so, but guess what? We all promised each other we weren't going to do it that way anymore. And the Speaker made that commitment, and the majority leader made that commitment. And they promised it when they asked for the control of this House, and they campaigned on it that they would give us the time to read the bills and know what's going on and that things would be open and that sunshine would fill the room as far as knowledge that the various Members of Congress would have. And it didn't happen, and it is not happening.

So once again we have to ask the Speaker, How's the swamp draining coming along? Because that was one of the swamp facts that you talked about that you were going to fix. How come it wasn't fixed? Well, yeah, it's an important agenda, sure, and maybe you don't want people arguing with you about your important agenda, but that's not what was said. That's not what was told to us when the control of this House was turned over to the Democrat Party.

And what results when there's that kind of thing of trampling on House rules? Well, these backroom deals like that took place in cap-and-trade and health care, the failure to give the 3-day reading time. And what comes of it?

Let's take the health care business. Right now, we have 22 States in this Union that have filed suit against the ObamaCare bill. They argue the individual mandate and the unfunded Medicare mandates are the subjects of that lawsuit, and that we have talked about before. And it's certain people being treated one way and another group of people being treated another. And we have a lawsuit that's probably going to take us all the way to the Supreme Court of the United States to resolve it, which is the proper place to go.

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But maybe it could have been resolved by this body if we had done what we said we would do: drain the swamp; be open, honest, and ethical; and trust each other and do our work together. Maybe we wouldn't have this problem. I don't know. I think I can make a

pretty good argument that we wouldn't.

I've just about ridden this horse long enough. I want to point out to you that for 18 months I have been on the floor of this House almost once a week. I've really been talking about something I think everybody ought to be really, really concerned about in this country and, that is, it is the duty and responsibility of everyone who raises their right hand and takes that oath that we take in this body to preserve, protect, and defend the Constitution and the laws of the United States. And I took that oath as a member of the judiciary, which included, And of the State—that State being Texas. At least those people that take that oath in this room, those people have the responsibility to do what our Speaker told us we were going to do and create an open, honest, and ethical Congress. They have the responsibility to make sure the rules are followed. And winning and losing shouldn't be so important that you will override what you promised you would do and what you swore under oath you would do—or affirmed, if you didn't believe in taking an oath. I'm sure there were those here that didn't. I took an oath: So help me God. I took an oath.

And so I'm asking the question, Are we willing to loosen up the glue that holds our government and our society together, the rule of law? That is, we can count on the law, we can count on the Constitution, that it will prevail against personalities that may come along and try to interfere with it, because Americans owe their sovereignty to a piece of paper, a rule of law, and not to an individual. We don't swear an oath in this body to the President of the United States or to the Speaker of the House or to the Secretary of the Senate or to anybody other than to God and to the American people and to each other that we will preserve, protect, and defend the Constitution of the United States, the glue that holds this society together.

And when our Speaker talked about draining the swamp, she was making allegations, many of which were resolved and some of which were not resolved, especially at the time the statement was made, that needed to be addressed, because there was a stinking swamp of misbehavior she was alleging. And it hasn't been drained. Not only hasn't it been drained but it seems to be a policy that we will win at all cost. Therefore, we will not give 3 days to read. We will do things behind closed doors. And we will not be open and honest, even though we promised it.

I'm going to get up here and say this until, hopefully, we change. And I will do my very best. And I have confidence that everyone in here, when reminded, will do their very best. My colleagues will be reminded—I'm hoping they'll be reminded by the few little things I have to say and I'm certainly hoping

all of them on both sides of the aisle will be reminded, their consciences will be touched, and they will realize that the American people want to know what goes on in these Halls.

If you don't believe that, look at the tea party people out there. They're not trying to start a revolution. They're trying to start an honest government. They want to know what's going on; what are you doing. We feel hopeless and helpless because we don't understand what is going on up there. And you promised us open, honest, ethical. Where is it?

That's what we ought to be doing. That's what I'm doing up here. That's why I'm here tonight. I have the highest respect for every Member of this body. Any allegations made against any Member of this Congress should be rapidly and efficiently dealt with. And I hope these allegations will be proved unfounded. But to stand up and use campaign rhetoric about I'm going to have an open, honest, ethical Congress, I'm going to drain this nasty swamp, and then not do it and not answer for it is something I'm going to continue to talk about.

When the President says powerful people are not going to be treated differently than ordinary people, and if somebody is being treated powerful or it sure looks like it, we have a duty to ask the question, Why is that going on? Why do Geithner and RANGEL get treated differently than me when I don't pay my taxes or you when you don't pay your taxes or you just miss paying them on April 15 because you didn't get all your paperwork together so you got a legal extension? You still pay penalties and interests. Why don't they?

These are not hard questions to answer. These are questions that I think the American people have a right to know, because the American people want that glue that holds this society together. They want the kind of country that we wrote about in our Constitution. As long as I think we've got questions to be answered, I'm going to be asking the questions.

Madam Speaker, I yield back the balance of my time.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. SABLAN, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

(The following Members (at the request of Mr. POE of Texas) to revise and extend their remarks and include extraneous material:)



Mr. POE of Texas, for 5 minutes, May 18.

Mr. JONES, for 5 minutes, May 18.

Mr. PAUL, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, today and May 12.

Mr. ROHRBACHER, for 5 minutes, today.

#### SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1405. An act to redesignate the Longfellow National Historic Site, Massachusetts, as the "Longfellow House-Washington's Headquarters National Historic Site"; to the Committee on Natural Resources.

S. 1053. An act to amend the National Law Enforcement Museum Act to extend the termination date; to the Committee on Natural Resources.

#### ENROLLED BILLS SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2802. An act to provide for an extension of the legislative authority of the Adams Memorial Foundation to establish a commemorative work in honor of former President John Adams and his legacy, and for other purposes.

H.R. 5148. An act to amend title 39, United States Code, to clarify the instances in which the term "census" may appear on mailable matter.

H.R. 5160. An act to extend the Caribbean Basin Economic Recovery Act, to provide customs support services to Haiti, and for other purposes.

#### ADJOURNMENT

Mr. CARTER. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 8 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 12, 2010, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

7404. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Viruses, Serums, Toxins, and Analogous Products and Patent Term Restoration; Nonsubstantive Amendments [Docket No.: APHIS-2009-0069] received April 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7405. A letter from the Chairman and CEO, Farm Credit Administration, transmitting the Administration's final rule — Organization; Eligibility and Scope of Financing; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Definitions; and Disclosure to Shareholders;

Director Elections (RIN: 3052-AC43) received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7406. A letter from the Secretary, Department of the Army, transmitting notification that the Average Procurement Unit Cost (APUC) and Program Acquisition Unit Cost metrics for the Longbow Apache Block III (AB3) program have exceeded the 25 percent critical cost growth threshold by more than 15% but less than 25%, pursuant to 10 U.S.C. 2433(e)(1); to the Committee on Armed Services.

7407. A letter from the Under Secretary, Department of Defense, transmitting authorization of 3 officers to wear the authorized insignia of the grade of brigadier general, pursuant to 10 U.S.C. 777; to the Committee on Armed Services.

7408. A letter from the Under Secretary, Department of Defense, transmitting letter on the approved retirement of Lieutenant General H. Steven Blum, Army National Guard, and his advancement on the retired list in the grade of lieutenant general; to the Committee on Armed Services.

7409. A letter from the Chief, PRAB, Office of Research and Analysis, Department of Agriculture, transmitting the Department's final rule — Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Vendor Cost Containment [FNS-2009-0001] (RIN: 0584-AD71) received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

7410. A letter from the Assistant Secretary for Administration, Department of Commerce, transmitting the Department's final rule — Commerce Acquisition Regulation (CAR): Correction [Document Number: 080730954-0129-03] (RIN: 0605-AA26) received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7411. A letter from the Deputy Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Revision of Organization and Conforming Changes to Regulations [Docket No.: FDA-2010-N-0148] received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7412. A letter from the Deputy Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Product Jurisdiction; Change of Address and Telephone Number; Technical Amendment [Docket No.: FDA-2010-N-0010] received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7413. A letter from the Deputy Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Pediatric Uses of Devices; Requirement for Submission of Information on Pediatric Subpopulations That Suffer From a Disease or Condition That a Device Is Intended to Treat, Diagnose, or Cure; Direct Final Rule [Docket No.: FDA-2009-N-0458] (RIN: 0910-AG29) received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7414. A letter from the Deputy Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; Technical Amendment [Docket No.: FDA-2010-N-0019] received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7415. A letter from the Deputy Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Administrative Practices and Procedures; Good Guidance Practices; Technical Amendment [Docket No.: FDA-1999-N-3539] (formerly Docket No. 1999N-4783) received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7416. A letter from the Deputy Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — New Animal Drugs; Removal of Obsolete and Redundant Regulations [Docket No.: FDA-2003-N-0446] (formerly Docket No. 2003N-0324) received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7417. A letter from the Deputy Assistant Administrator/Office of Diversion Control, Department of Justice, transmitting the Department's final rule — Schedules of Controlled Substances; Table of Excluded Non-narcotic Products: Nasal Decongestant Inhalers Manufactured by Classic Pharmaceuticals, LLC [Docket No.: DEA-329F] (RIN: 1117-AB23) received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7418. A letter from the Assistant Secretary for Communications and Information, Department of Transportation, transmitting the Department's report on the activities to improve coordination and communication with respect to the implementation of E-911 services, pursuant to Public Law 108-494, section 104; to the Committee on Energy and Commerce.

7419. A letter from the Assistant Secretary, Department of Defense, transmitting the Department's report on Activities and Assistance under Cooperative Threat Reduction (CTR) Programs (FY 2011 CTR Annual Report), pursuant to Public Law 106-398, section 1308 (114 Stat. 1654A-341); to the Committee on Foreign Affairs.

7420. A letter from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting report prepared by the Department of State concerning international agreements other than treaties entered into by the United States to be transmitted to the Congress within the sixty-day period specified in the Case-Zablocki Act; to the Committee on Foreign Affairs.

7421. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), a six-month periodic report on the national emergency with respect to Syria that was declared in Executive Order 13338 of May 11, 2004; to the Committee on Foreign Affairs.

7422. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to significant narcotics traffickers centered in Colombia in Executive Order 12987 of October 21, 1995; to the Committee on Foreign Affairs.

7423. A letter from the Assistant Secretary for Administration and Management, Department of Labor, transmitting the Department's FY 2009 "Buy American Report", pursuant to Public Law 110-28, section 8306; to



the Committee on Oversight and Government Reform.

7424. A letter from the Assistant Secretary for Management and Chief Financial Officer, Department of the Treasury, transmitting the Department's report for fiscal year 2009 on the Acquisition of Articles, Materials, and Supplies Manufactured Outside the United States, pursuant to Public Law 110-28, section 8306; to the Committee on Oversight and Government Reform.

7425. A letter from the Acting Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Federal Acquisition Circular 2005-41; Introduction [Docket: FAR 2010-0076, Sequence 3] received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

7426. A letter from the Acting Senior Procurement Executive, General Services Administration, transmitting the Department's final rule — Federal Acquisition Regulation; Federal Acquisition Circular 2005-41; Small Entity Compliance Guide [Docket: FAR 2010-0077, Sequence 3] received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

7427. A letter from the Chairman, Occupational Safety and Health Review Commission, transmitting the Commission's annual report for Fiscal Year 2009 prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174; to the Committee on Oversight and Government Reform.

7428. A letter from the HR Specialist, Office of Navajo and Hopi Indian Relocation, transmitting the Office's annual report for Fiscal Year 2009 prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174; to the Committee on Oversight and Government Reform.

7429. A letter from the Chief, Branch of Recovery and Delisting Endangered Species Program, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Reinstatement of Protections for the Grizzly Bear in the Greater Yellowstone Ecosystem in Compliance with Court Order [Docket No.: FWS-R6-ES-2010-0021] (RIN: 1018-AW97) received April 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7430. A letter from the Federal Liaison Officer, Department of Commerce, transmitting the Department's final rule — Cancellation of Rule of Practice 41.200(b) before the Board of Patent Appeals and Interferences in Interference Proceedings [Docket No.: PTO-P-2010-0032] (RIN: 0651-AC46) received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

7431. A letter from the Administrator, FEMA, Department of Homeland Security, transmitting the Department's report on the Preliminary Damage Assessment information from FEMA-1878-DR for the State of Nebraska; jointly to the Committees on Transportation and Infrastructure, Appropriations, and Homeland Security.

7432. A letter from the General Counsel, Department of Defense, transmitting proposed legislation for the National Defense Authorization Bill for Fiscal Year 2011; jointly to the Committees on Armed Services, Foreign Affairs, Oversight and Government Reform, Veterans' Affairs, and the Judiciary.

7433. A letter from the General Counsel, Department of Defense, transmitting proposed legislation for the National Defense Authorization Bill for Fiscal Year 2011; jointly to the Committees on the Budget, Energy and Commerce, Transportation and Infrastructure, Financial Services, the Judiciary, Foreign Affairs, Education and Labor, Armed Services, Small Business, and Science and Technology.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERLMUTTER: Committee on Rules. House Resolution 1344. Resolution providing for consideration of the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes (Rept. 111-479). Referred to the House Calendar.

Mr. RAHALL: Committee on Natural Resources. House Resolution 1254. Resolution directing the Secretary of the Interior to transmit to the House of Representatives certain information relating to the Secretary's Treasured Landscape Initiative, potential designation of National Monuments, and High Priority Land-Rationalization Efforts (Rept. 111-480). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mrs. KIRKPATRICK of Arizona:

H.R. 5256. A bill to provide for the hiring, training, and deploying of additional Border Patrol agents along the southwest international border of the United States; to the Committee on Homeland Security.

By Mr. STEARNS (for himself, Mrs. BLACKBURN, Mrs. BONO MACK, Mr. BLUNT, Mr. RADANOVICH, Mr. LATTI, and Mr. UPTON):

H.R. 5257. A bill to prohibit the Federal Communications Commission from regulating information services or Internet access services absent a market failure, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CASSIDY (for himself, Ms. SPEIER, Mr. REICHERT, and Mr. SMITH of Washington):

H.R. 5258. A bill to amend the Congressional Budget Act of 1974 to require Congress to establish a unified and searchable database on a public website for congressional earmarks; to the Committee on Rules, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. PINGREE of Maine:

H.R. 5259. A bill to amend title 10, United States Code, to require pre-separation counseling for members of the reserve components upon their retirement or separation from service; to the Committee on Armed Services.

By Ms. SCHWARTZ (for herself and Mr. MCMAHON):

H.R. 5260. A bill to amend the Internal Revenue Code of 1986 to repeal the phasedown of

the credit percentage for the dependent care tax credit; to the Committee on Ways and Means.

By Mr. MCCOTTER:

H.R. 5261. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for tutoring expenses for elementary and secondary school students; to the Committee on Ways and Means.

By Mr. GARAMENDI (for himself and Mr. MCNERNEY):

H.R. 5262. A bill to amend the Atomic Energy Defense Act to authorize the Administrator for Nuclear Security to establish technology transfer centers at national security laboratories, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YARMUTH:

H.R. 5263. A bill to amend the Internal Revenue Code of 1986 to provide a 5 percent maximum rate of tax on gain from the sale or exchange of depreciable real property by individuals; to the Committee on Ways and Means.

By Mr. CONYERS (for himself and Mr. SMITH of Texas):

H.R. 5264. A bill to authorize appropriations for the Department of Justice for fiscal year 2011; to the Committee on the Judiciary.

By Mr. BOSWELL:

H.R. 5265. A bill to continue to prohibit the hiring, recruitment, or referral of unauthorized aliens, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. CORRINE BROWN of Florida:

H.R. 5266. A bill to extend the final report deadline and otherwise reauthorize the National Commission on Children and Disasters; to the Committee on Transportation and Infrastructure.

By Mr. CAO:

H.R. 5267. A bill to amend the Gulf of Mexico Energy Security Act of 2006 to accelerate the increase in the amount of Gulf of Mexico oil and gas lease revenues that is shared with States; to the Committee on Natural Resources.

By Mrs. CAPPS (for herself, Ms. MCCOLLUM, Mrs. CHRISTENSEN, Ms. WOOLSEY, Mrs. MALONEY, Ms. MOORE of Wisconsin, Ms. DELAURO, Ms. CLARKE, Ms. LEE of California, Ms. WASSERMAN SCHULTZ, Mr. LOEBACK, Mr. GRIJALVA, Ms. SCHAKOWSKY, Ms. SHEA-PORTER, Ms. NORTON, Mrs. DAVIS of California, Mr. CONYERS, and Ms. MATSUI):

H.R. 5268. A bill to provide assistance to improve maternal and newborn health in developing countries, and for other purposes; to the Committee on Foreign Affairs.

By Mr. CLAY:

H.R. 5269. A bill to express the sense of Congress that Federal job training programs that target older adults should work with nonprofit organizations that have a record of success in developing and implementing research-based technology curriculum designed specifically for older adults; to the Committee on Education and Labor.

By Mr. HARE (for himself, Mr. GEORGE MILLER of California, and Mr. SOUDER):

H.R. 5270. A bill to amend the Federal Employees' Compensation Act to cover services provided to injured Federal workers by physician assistants and nurse practitioners, and for other purposes; to the Committee on Education and Labor.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself and Mr. GENE GREEN of Texas):

H.R. 5271. A bill to amend section 1877 of the Social Security Act to delay by 2 years the expansion cut-off date imposed by the Patient Protection and Affordable Care Act; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. KAPTUR:

H.R. 5272. A bill to increase the maximum civil penalty for violations of Federal motor vehicle safety standards; to the Committee on Energy and Commerce.

By Mr. LANGEVIN (for himself and Mr. KENNEDY):

H.R. 5273. A bill to amend the Internal Revenue Code of 1986 to extend certain tax benefits relating to certain disasters; to the Committee on Ways and Means.

By Mr. ROSKAM:

H.R. 5274. A bill to amend title 38, United States Code, to clarify the requirements for verifying a small business concern owned and controlled by a veteran; to the Committee on Veterans' Affairs.

By Mr. SESTAK:

H.R. 5275. A bill to require the establishment of a Consumer Price Index for Elderly Consumers to compute cost-of-living increases for Social Security benefits under title II of the Social Security Act; to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey (for himself, Mr. ADERHOLT, Mr. AKIN, Mr. ALEXANDER, Mrs. BACHMANN, Mr. BARTLETT, Mr. BACHUS, Mr. BARRETT of South Carolina, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. BLUNT, Mr. BOEHNER, Mr. BOOZMAN, Mr. BURTON of Indiana, Mr. CARTER, Mr. CANTOR, Mr. CAO, Mr. CHAFFETZ, Mr. CONAWAY, Mr. COSTELLO, Mr. DAVIS of Kentucky, Mr. DUNCAN, Mr. FLEMING, Mr. FORTENBERRY, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GOHMERT, Mr. GOODLATTE, Mr. GRIFFITH, Mr. HENSARLING, Mr. HERGER, Mr. HOEKSTRA, Mr. HUNTER, Mr. INGLIS, Mr. JOHNSON of Illinois, Mr. JONES, Mr. JORDAN of Ohio, Mr. KING of Iowa, Mr. LAMBORN, Mr. LATTA, Mr. LIPINSKI, Mr. DANIEL E. LUNGREN of California, Mr. MANZULLO, Mr. MARCHANT, Mr. MCCAUL, Mr. MCCOTTER, Mrs. McMORRIS RODGERS, Mrs. MILLER of Michigan, Mr. GARY G. MILLER of California, Mr. NEUGEBAUER, Mr. OLSON, Mr. PENCE, Mr. PITTS, Mr. POE of Texas, Mr. RADANOVICH, Mr. RAHALL, Mr. ROE of Tennessee, Mr. ROGERS of Kentucky, Mr. ROGERS of Alabama, Ms. ROSELEHTINEN, Mr. RYAN of Wisconsin, Mr. SCALISE, Mrs. SCHMIDT, Mr. SENSENBRENNER, Mr. SHADEGG, Mr. SHIMKUS, Mr. SHUSTER, Mr. SOUDER, Mr. THOMPSON of Pennsylvania, Mr.

TIAHRT, Mr. WILSON of South Carolina, and Mr. BROUN of Georgia):

H.R. 5276. A bill to ensure that women seeking an abortion are fully informed regarding the pain experienced by their unborn child; to the Committee on Energy and Commerce.

By Mr. WILSON of Ohio:

H.R. 5277. A bill to amend the Internal Revenue Code of 1986 to allow a business credit for small business loans; to the Committee on Ways and Means.

By Mr. CROWLEY (for himself, Mr. KING of New York, Mr. CAPUANO, Ms. ROS-LEHTINEN, Mr. PITTS, Mrs. MALONEY, Mr. WOLF, Mr. BOUSTANY, Mr. MANZULLO, Mr. BERMAN, Mr. ENGEL, and Mr. HOLT):

H.J. Res. 83. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003; to the Committee on Ways and Means.

By Mr. POSEY (for himself, Mr. HOLT, Mr. WOLF, Ms. WASSERMAN SCHULTZ, Mr. SMITH of New Jersey, Ms. SUTTON, and Ms. SPEIER):

H. Res. 1343. A resolution recognizing the importance of detecting esophageal cancer during its earliest stages, advancing medical research, and supporting the goals and ideals of Esophageal Cancer Awareness Month; to the Committee on Energy and Commerce.

By Ms. CLARKE:

H. Res. 1345. A resolution honoring the life and achievements of Lena Calhoun Horne; to the Committee on Oversight and Government Reform.

By Mr. HERGER (for himself, Mr. BOEHNER, Mr. CANTOR, Mr. PENCE, Mr. LANCE, Mr. TIAHRT, Mr. SAM JOHNSON of Texas, Mr. LINDER, Mr. TIBERI, Ms. GINNY BROWN-WAITE of Florida, Mr. DAVIS of Kentucky, Mr. REICHERT, Mr. BOUSTANY, Mr. HELLER, Mr. ROSKAM, Mr. BARTLETT, Mr. BARTON of Texas, Mr. BILBRAY, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mrs. BONO MACK, Mr. BOOZMAN, Mr. BROUN of Georgia, Mr. BURGESS, Mr. BURTON of Indiana, Mr. CALVERT, Mr. CARTER, Mr. CHAFFETZ, Mr. COFFMAN of Colorado, Mr. CONAWAY, Mr. CULBERSON, Mr. DREIER, Ms. FALLIN, Mr. FLAKE, Mr. FLEMING, Mr. FORBES, Mr. FORTENBERRY, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GALLEGLY, Mr. GARRETT of New Jersey, Mr. GOHMERT, Mr. HALL of Texas, Mr. HARPER, Mr. HASTINGS of Washington, Mr. HENSARLING, Mr. ISSA, Ms. JENKINS, Mr. JOHNSON of Illinois, Mr. JORDAN of Ohio, Mr. KING of Iowa, Mr. KINGSTON, Mr. LAMBORN, Mr. LATHAM, Mr. LATTA, Mr. LEWIS of California, Mr. LOBIONDO, Mrs. LUMMIS, Mr. MACK, Mr. MARCHANT, Mr. MCCARTHY of California, Mr. MCCAUL, Mr. MCCLINTOCK, Mr. MCHENRY, Mr. MCKEON, Mr. MICA, Mr. MORAN of Kansas, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. PAULSEN, Mr. PITTS, Mr. POE of Texas, Mr. POSEY, Mr. PRICE of Georgia, Mr. ROE of Tennessee, Mr. ROGERS of Kentucky, Mr. SCALISE, Mrs. SCHMIDT, Mr. SCHOCK, Mr. SESSIONS, Mr. SHAD-EGG, Mr. SIMPSON, Mr. THORNBERRY, Mr. WALDEN, Mr. WILSON of South Carolina, and Mr. WOLF):

H. Res. 1346. A resolution opposing the imposition of a value-added tax; to the Committee on Ways and Means.

By Mr. MELANCON:

H. Res. 1347. A resolution honoring the workers who perished on the Deepwater Ho-

rizon offshore oil platform in the Gulf of Mexico off the coast of Louisiana, extending condolences to their families, and recognizing the valiant efforts of emergency response workers at the disaster site; to the Committee on Oversight and Government Reform.

By Mr. MORAN of Virginia:

H. Res. 1348. A resolution recognizing the vision of John W. Weeks and his contribution to the conservation effort with the passage of the Weeks Act in 1911, a significant conservation achievement in the history of the United States; to the Committee on House Administration, and in addition to the Committees on Agriculture and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL:

H. Res. 1349. A resolution recognizing Percy Sutton as one of the Nation's most influential political, civil rights, and business leaders, who, through his brilliance, courage, and compassion, inspired countless people in the United States; to the Committee on Oversight and Government Reform.

By Ms. WATSON:

H. Res. 1350. A resolution recognizing June 20, 2010, as World Refugee Day; to the Committee on Foreign Affairs.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 43: Mr. MCMAHON and Ms. SUTTON.  
H.R. 240: Mr. CALVERT.  
H.R. 275: Mr. MCCLINTOCK, Mr. PLATTS, and Mr. LARSON of Connecticut.  
H.R. 333: Mr. BISHOP of New York and Ms. ZOE LOFGREN of California.  
H.R. 422: Mr. BISHOP of Utah and Mr. MCCOTTER.  
H.R. 442: Ms. FOXX.  
H.R. 450: Mr. LEE of New York and Mr. MICA.  
H.R. 456: Mr. HASTINGS of Washington.  
H.R. 463: Mr. QUIGLEY.  
H.R. 484: Mr. CLEAVER.  
H.R. 571: Mr. SPRATT.  
H.R. 615: Ms. HIRONO.  
H.R. 832: Mr. COHEN.  
H.R. 930: Mr. MAFFEI.  
H.R. 959: Mrs. NAPOLITANO, Mr. GRAYSON, and Mr. PAULSEN.  
H.R. 978: Mr. BERRY.  
H.R. 988: Mr. WESTMORELAND, Mr. KENNEDY, Mr. POMEROY, Mr. COLE, Mr. BONNER, and Mr. LEE of New York.  
H.R. 1017: Mr. KIRK.  
H.R. 1021: Mr. ELLISON, Mr. RUPPERSBERGER, and Mr. MORAN of Kansas.  
H.R. 1036: Mrs. McMORRIS RODGERS, Mr. LATHAM, and Mr. DOGGETT.  
H.R. 1074: Ms. FOXX.  
H.R. 1158: Mr. WELCH.  
H.R. 1193: Ms. EDWARDS of Maryland, Mr. KLEIN of Florida, and Mr. BOUCHER.  
H.R. 1194: Mr. CONNOLLY of Virginia, Ms. SPEIER, Mr. GRAVES, Mr. HODES, Ms. PINGREE of Maine, Ms. RICHARDSON, Mr. MICHAUD, Mr. GEORGE MILLER of California, and Mr. BRALEY of Iowa.  
H.R. 1240: Mr. JOHNSON of Georgia.  
H.R. 1248: Mr. GRAYSON.  
H.R. 1310: Mr. OWENS.  
H.R. 1326: Mr. JOHNSON of Georgia.  
H.R. 1339: Mr. PAYNE and Mr. ROSS.  
H.R. 1392: Mr. HOLT.

H.R. 1441: Mr. MAFFEI.  
H.R. 1523: Mr. JACKSON of Illinois.  
H.R. 1526: Mr. RYAN of Ohio.  
H.R. 1547: Mr. PERRIELLO and Mrs. LUMMIS.  
H.R. 1549: Ms. WATSON.  
H.R. 1615: Ms. GIFFORDS.  
H.R. 1671: Mr. GERLACH, Mr. HILL, and Mr. WOLF.  
H.R. 1682: Mr. SCHAUER.  
H.R. 1806: Mr. TEAGUE, Mr. JACKSON of Illinois, Mr. GARAMENDI, Mr. CUMMINGS, and Mr. BOCCIERI.  
H.R. 1835: Mr. WELCH.  
H.R. 1866: Mr. MORAN of Virginia.  
H.R. 1972: Ms. SUTTON.  
H.R. 2016: Mr. MOORE of Kansas.  
H.R. 2057: Mr. JACKSON of Illinois.  
H.R. 2067: Ms. BALDWIN, Mr. SIRES, Mr. GRAYSON, Ms. CASTOR of Florida, Mr. CHANDLER, Ms. KAPTUR, Mr. VISCLOSKEY, and Mr. LEVIN.  
H.R. 2104: Ms. EDWARDS of Maryland.  
H.R. 2149: Mr. KIRK and Mr. MAFFEI.  
H.R. 2243: Mr. GRIFFITH.  
H.R. 2378: Mr. LOEBSACK, Mr. MURPHY of Connecticut, Mr. JACKSON of Illinois, and Ms. LINDA T. SÁNCHEZ of California.  
H.R. 2382: Mr. TIERNEY.  
H.R. 2443: Mr. WU.  
H.R. 2460: Ms. WATSON.  
H.R. 2478: Mr. TOWNS, Ms. NORTON, and Mr. THOMPSON of Mississippi.  
H.R. 2483: Mr. HEINRICH.  
H.R. 2624: Mr. COURTNEY.  
H.R. 2855: Mr. DELAHUNT.  
H.R. 3043: Ms. RICHARDSON, Mr. VAN HOLLEN, and Mr. HIGGINS.  
H.R. 3070: Mr. JONES.  
H.R. 3083: Mr. KILDEE.  
H.R. 3108: Mr. DOGGETT.  
H.R. 3131: Mr. PLATTS.  
H.R. 3185: Ms. NORTON.  
H.R. 3212: Mr. ROTHMAN of New Jersey and Mr. MCGOVERN.  
H.R. 3267: Mr. COHEN.  
H.R. 3355: Mr. PATRICK J. MURPHY of Pennsylvania.  
H.R. 3383: Mr. MCCOTTER.  
H.R. 3408: Mr. WAXMAN.  
H.R. 3525: Ms. ZOE LOFGREN of California.  
H.R. 3559: Mr. ROTHMAN of New Jersey.  
H.R. 3564: Ms. HARMAN, Mrs. DAVIS of California, Mr. STARK, and Ms. ESHOO.  
H.R. 3652: Mr. DRIEHAUS, Mr. WELCH, and Mr. GERLACH.  
H.R. 3666: Mr. MCINTYRE.  
H.R. 3699: Mr. MICHAUD.  
H.R. 3721: Mr. DEFazio and Ms. NORTON.  
H.R. 3734: Ms. EDWARDS of Maryland and Mr. POLIS.  
H.R. 3764: Mr. GRAYSON.  
H.R. 3813: Mr. MICHAUD.  
H.R. 3918: Mr. DOGGETT.  
H.R. 3924: Mr. WHITFIELD, Mr. TIM MURPHY of Pennsylvania, Mr. STEARNS, and Mr. LATTA.  
H.R. 3974: Mr. GRIJALVA, Mr. BRALEY of Iowa, and Ms. NORTON.  
H.R. 3995: Mr. MILLER of North Carolina and Ms. JACKSON LEE of Texas.  
H.R. 4037: Ms. SHEA-PORTER.  
H.R. 4055: Mr. SCOTT of Virginia.  
H.R. 4065: Mr. GRAYSON.  
H.R. 4080: Mr. SCOTT of Virginia.  
H.R. 4109: Ms. FUDGE.  
H.R. 4160: Ms. NORTON.  
H.R. 4179: Mr. JACKSON of Illinois.  
H.R. 4259: Mr. WU, Mr. OWENS, and Ms. JACKSON LEE of Texas.  
H.R. 4278: Mr. PASCRELL and Mr. SIMPSON.  
H.R. 4296: Mr. ROTHMAN of New Jersey.  
H.R. 4310: Mr. GRIJALVA.  
H.R. 4329: Mr. DUNCAN.  
H.R. 4371: Mr. EDWARDS of Texas and Mr. DINGELL.

H.R. 4383: Mr. TIM MURPHY of Pennsylvania.  
H.R. 4466: Mr. STUPAK.  
H.R. 4470: Mr. POLIS and Mr. CONYERS.  
H.R. 4502: Mr. HARE.  
H.R. 4509: Ms. MARKEY of Colorado, Mrs. KIRKPATRICK of Arizona, and Mr. KRATOVIL.  
H.R. 4534: Mr. COHEN.  
H.R. 4598: Mr. DOYLE, Mr. CARDOZA, and Mr. SIRES.  
H.R. 4599: Mr. POLIS and Mr. GRIJALVA.  
H.R. 4616: Mr. JACKSON of Illinois, Mr. ROTHMAN of New Jersey, Ms. WATSON, Ms. WASSERMAN SCHULTZ, and Mr. THOMPSON of Mississippi.  
H.R. 4676: Mr. CARNAHAN and Mr. DELAHUNT.  
H.R. 4677: Mr. SPACE.  
H.R. 4678: Mr. PETERS and Mr. TEAGUE.  
H.R. 4684: Mr. MCCAUL, Mr. BLUMENAUER, Mr. MILLER of North Carolina, Mr. BURGESS, Mr. WOLF, Mr. BRALEY of Iowa, Mr. LOBIONDO, and Mr. BRADY of Pennsylvania.  
H.R. 4692: Ms. WOOLSEY.  
H.R. 4701: Mr. ELLISON.  
H.R. 4710: Mr. POLIS.  
H.R. 4722: Ms. PINGREE of Maine.  
H.R. 4733: Mrs. LOWEY, Mrs. MALONEY, and Mr. McDERMOTT.  
H.R. 4755: Mr. BOCCIERI and Mr. HOEKSTRA.  
H.R. 4785: Mr. PLATTS, Mr. ROSS, and Mr. BOCCIERI.  
H.R. 4787: Mr. KENNEDY and Mr. ENGEL.  
H.R. 4844: Mr. CAPUANO, Mr. BRADY of Texas, and Mr. DUNCAN.  
H.R. 4850: Mr. LEE of New York, Ms. FUDGE, and Mrs. MCCARTHY of New York.  
H.R. 4866: Mr. CARSON of Indiana.  
H.R. 4869: Mr. KILDEE, Mr. CUMMINGS, and Ms. WASSERMAN SCHULTZ.  
H.R. 4870: Mr. CLAY, Mrs. LOWEY, and Mr. LUJÁN.  
H.R. 4876: Mr. OBERSTAR.  
H.R. 4890: Mr. ROTHMAN of New Jersey.  
H.R. 4908: Mr. WALZ.  
H.R. 4913: Mr. LINCOLN DIAZ-BALART of Florida.  
H.R. 4914: Mr. CAPUANO, Mrs. CAPPS, Mr. MCGOVERN, Mr. TIERNEY, and Mr. ISRAEL.  
H.R. 4923: Mr. ISRAEL, Ms. MOORE of Wisconsin, Mr. MCGOVERN, and Mr. REYES.  
H.R. 4925: Ms. FUDGE.  
H.R. 4943: Mr. LATTA.  
H.R. 4947: Ms. SHEA-PORTER, Mr. MICHAUD, and Mr. JOHNSON of Georgia.  
H.R. 4952: Mr. SCHOCK.  
H.R. 4953: Ms. WATERS.  
H.R. 4961: Ms. WATERS and Mr. JACKSON of Illinois.  
H.R. 4983: Ms. SPEIER.  
H.R. 4993: Mr. PLATTS, Ms. RICHARDSON, and Mr. LARSEN of Washington.  
H.R. 4995: Mrs. MYRICK and Mr. BOOZMAN.  
H.R. 4999: Mr. SOUDER.  
H.R. 5000: Ms. NORTON.  
H.R. 5006: Ms. WATERS.  
H.R. 5015: Mr. BLUMENAUER.  
H.R. 5032: Mr. CROWLEY.  
H.R. 5034: Ms. HERSETH SANDLIN, Mr. VISCLOSKEY, Mr. MCCOTTER, and Mr. BUCHANAN.  
H.R. 5035: Mr. MICHAUD.  
H.R. 5040: Mr. ISRAEL.  
H.R. 5041: Mr. DEFazio, Ms. LINDA T. SÁNCHEZ of California, Mrs. DAVIS of California, Ms. CASTOR of Florida, Mr. GRIJALVA, Mr. CHANDLER, Mr. PAYNE, Mr. LANGEVIN, Mr. ROTHMAN of New Jersey, Ms. KAPTUR, Mr. McMAHON, Mr. HIGGINS, and Ms. NORTON.  
H.R. 5043: Mr. TOWNS.  
H.R. 5044: Mr. ADLER of New Jersey, Ms. BERKLEY, Mr. CAPUANO, Mr. CHILDERS, Mr. COHEN, Mr. CONYERS, Mr. ENGEL, Mr. GARAMENDI, Mr. INSLEE, Mr. KAGEN, Mr. LYNCH, Mr. NADLER of New York, Mr. RUSH,

Mr. RYAN of Ohio, Ms. WASSERMAN SCHULTZ, Mr. WELCH, and Ms. WOOLSEY.  
H.R. 5054: Mr. MCCLINTOCK and Mr. BOOZMAN.  
H.R. 5058: Mr. CROWLEY and Mr. ROTHMAN of New Jersey.  
H.R. 5092: Mr. SERRANO, Mr. SMITH of Washington, Mr. COSTELLO, Ms. FUDGE, Mr. TIM MURPHY of Pennsylvania, Mr. RAHALL, Mr. BARROW, Mr. HOLDEN, Mr. BRALEY of Iowa, Mr. SHUSTER, Mr. CARSON of Indiana, Mr. BOOZMAN, Mr. TEAGUE, Mr. ELLISON, Mr. DAVIS of Kentucky, Mr. GRAVES, Mr. ADLER of New Jersey, Mr. SULLIVAN, Mr. KLINE of Minnesota, Ms. DELAULO, Mr. ROONEY, and Mr. OLSON.  
H.R. 5107: Mrs. MALONEY and Mr. GUTIERREZ.  
H.R. 5111: Ms. GINNY BROWN-WAITE of Florida, Mr. LATHAM, Mr. GALLEGLY, Mr. KLINE of Minnesota, Mr. CAMP, Mr. JOHNSON of Illinois, Mr. PAUL, Mr. KINGSTON, Mr. MCCLINTOCK, Mr. PLATTS, Mr. SHUSTER, Mr. BISHOP of Utah, Mr. JONES, Mr. RADANOVICH, Mr. ROSS, and Mr. BOUSTANY.  
H.R. 5113: Ms. WATSON.  
H.R. 5121: Mr. MCGOVERN.  
H.R. 5125: Mr. CAPUANO.  
H.R. 5128: Mr. MORAN of Virginia.  
H.R. 5137: Ms. BERKLEY.  
H.R. 5142: Mr. PASCRELL, Mr. McNERNEY, Mr. PETERS, and Mr. POMEROY.  
H.R. 5143: Mr. BLUMENAUER.  
H.R. 5156: Mr. CARNAHAN and Mr. HONDA.  
H.R. 5159: Ms. LEE of California, Ms. KAPTUR, Mr. JACKSON of Illinois, and Mr. TIERNEY.  
H.R. 5162: Mr. PENCE, Mr. FLEMING, and Mr. HENSARLING.  
H.R. 5166: Mrs. MYRICK.  
H.R. 5170: Mr. BISHOP of New York.  
H.R. 5175: Mr. HEINRICH, Mr. CLYBURN, Mr. GEORGE MILLER of California, Mr. ELLSWORTH, Mr. SHULER, Mr. BRALEY of Iowa, Mr. LARSON of Connecticut, Mr. BECERRA, Ms. DELAULO, Mr. WAXMAN, Mr. CONYERS, Mr. NADLER of New York, Mr. SKELTON, Mr. BISHOP of New York, Mr. LARSEN of Washington, Mr. SCHIFF, Mr. DEUTCH, Mr. MCGOVERN, Mr. HINCHEY, Mr. McDERMOTT, Mr. TONKO, Ms. NORTON, Ms. EDWARDS of Maryland, Mr. ANDREWS, Ms. HIRONO, Mr. STARK, Mrs. MALONEY, Mr. HOLT, Mr. WALZ, Mr. TEAGUE, Mr. BOSWELL, Ms. MATSUI, Mr. FARR, Mr. GARAMENDI, Mr. KAGEN, Mr. PALLONE, Ms. ZOE LOFGREN of California, Mr. LOEBSACK, Mr. YARMUTH, Ms. HARMAN, Ms. CHU, Mr. ISRAEL, Mr. SCHAUER, Mrs. CAPPS, Ms. MCCOLLUM, Ms. SLAUGHTER, Mr. ELLISON, Mr. PATRICK J. MURPHY of Pennsylvania, Ms. WASSERMAN SCHULTZ, Mr. SARBANES, Mr. SALAZAR, Mr. LEVIN, Mr. POLIS, Mr. ROTHMAN of New Jersey, Ms. BERKLEY, Ms. GIFFORDS, Mr. HARE, Mr. KISSELL, Mr. HALL of New York, Mr. SCHRADER, Mr. ARCURI, Ms. SHEA-PORTER, Mr. KIND, Ms. KILROY, Mr. JACKSON of Illinois, Mr. PERRIELLO, Ms. SUTTON, Mr. FOSTER, Mr. SERRANO, Mr. COURTNEY, Mr. COHEN, Mr. BOCCIERI, Ms. TITUS, Ms. WATERS, Mr. REYES, Mr. LUJÁN, Ms. ROYBAL-ALLARD, Mr. MOLLOHAN, Mr. PIERLUISI, Mr. FILNER, Mr. DINGELL, Mr. LIPINSKI, Mr. WELCH, Ms. LINDA T. SÁNCHEZ of California, Mr. VISCLOSKEY, Mr. SMITH of Washington, Mr. CHANDLER, Mr. BLUMENAUER, and Mr. POMEROY.  
H.R. 5177: Mr. CANTOR, Mr. CULBERSON, Mr. SHUSTER, and Mr. POMEROY.  
H.R. 5182: Mrs. EMERSON.  
H.R. 5197: Ms. WATSON, Mr. HOLT, Mr. PLATTS, Mr. WEINER, Mr. HALL of New York, Mr. SABLAN, and Mr. MICHAUD.  
H.R. 5204: Mr. SABLAN.  
H.R. 5206: Mr. SABLAN, Mr. REYES, Mr. WILSON of Ohio, Ms. MARKEY of Colorado, and Mr. LUJÁN.

H.R. 5209: Mr. SABLAN.  
 H.R. 5210: Mr. GRIJALVA and Mr. ELLISON.  
 H.R. 5211: Mr. BISHOP of New York and Mr. CAO.  
 H.R. 5213: Ms. MATSUI, Mr. HOLT, and Ms. ESHOO.  
 H.R. 5214: Ms. WOOLSEY, Mr. GARAMENDI, Mr. DEFazio, Mr. HASTINGS of Florida, Ms. WASSERMAN SCHULTZ, Mr. DEUTCH, Mr. KLEIN of Florida, Mr. YARMUTH, Mr. CONNOLLY of Virginia, Ms. SUTTON, and Ms. ROS-LEHTINEN.  
 H.R. 5218: Mr. PIERLUISI.  
 H.R. 5221: Mr. CROWLEY.  
 H.R. 5224: Mr. MICHAUD.  
 H.R. 5235: Ms. WATSON.  
 H.R. 5251: Mr. PAUL.  
 H.J. Res. 65: Mr. POLIS.  
 H. Con. Res. 49: Mr. CHILDERS.  
 H. Con. Res. 226: Mr. BOUSTANY, Mrs. NAPOLITANO, Mr. BURTON of Indiana, and Mr. WOLF.  
 H. Con. Res. 261: Mr. HERGER, Mr. SESTAK, and Mr. DAVIS of Kentucky.  
 H. Con. Res. 267: Mr. SCHOCK and Mr. HASTINGS of Florida.  
 H. Con. Res. 271: Mr. GARRETT of New Jersey.  
 H. Con. Res. 274: Mr. CASSIDY.  
 H. Con. Res. 276: Mr. SABLAN.  
 H. Res. 173: Mr. TIM MURPHY of Pennsylvania, Mr. VISCLOSKEY, Mr. WALZ, Ms. HIRONO, Mr. MEEKS of New York, Mr. HINOJOSA, Ms. VELÁZQUEZ, Mr. AL GREEN of Texas, Mr. HIGGINS, Mr. LANCE, and Mr. DOGGETT.  
 H. Res. 200: Mr. HOLT.  
 H. Res. 510: Mr. ELLSWORTH.  
 H. Res. 649: Mr. SERRANO.  
 H. Res. 764: Mr. McCAUL.  
 H. Res. 873: Mr. ELLISON, Mr. TANNER, Mr. BILIRAKIS, and Mr. DELAHUNT.  
 H. Res. 928: Mr. CONYERS.  
 H. Res. 929: Mr. FRANKS of Arizona.  
 H. Res. 1006: Mr. INGLIS.

H. Res. 1191: Mr. LATOURETTE.  
 H. Res. 1207: Mr. SNYDER, Mr. WITTMAN, Ms. DEGETTE, and Ms. ROS-LEHTINEN.  
 H. Res. 1211: Mr. LAMBORN and Mr. TOWNS.  
 H. Res. 1226: Mr. CARNEY, Mr. PLATTS, Mr. ROTHMAN of New Jersey, Mr. BARROW, and Mr. CAMP.  
 H. Res. 1241: Mr. FRANKS of Arizona, Ms. JENKINS, and Mr. SCALISE.  
 H. Res. 1261: Mr. AL GREEN of Texas, Mr. MEEK of Florida, and Mr. LIPINSKI.  
 H. Res. 1285: Mrs. MILLER of Michigan, Mr. WOLF, and Mr. ISRAEL.  
 H. Res. 1288: Mrs. MYRICK.  
 H. Res. 1294: Mr. BARRETT of South Carolina, Mr. FALEOMAVAEGA, Mr. HASTINGS of Florida, and Mr. GRAYSON.  
 H. Res. 1299: Mr. PETERSON, Ms. LORETTA SANCHEZ of California, Mr. WOLF, Mr. MACK, Mr. GERLACH, Mr. ELLSWORTH, Mr. BARTLETT, Mr. WEINER, Mr. WALDEN, and Mr. CALVERT.  
 H. Res. 1302: Ms. SUTTON, Mr. MELANCON, and Mr. HINOJOSA.  
 H. Res. 1303: Mr. CRENSHAW, Mr. LAMBORN, and Mr. INGLIS.  
 H. Res. 1309: Mr. RYAN of Wisconsin and Ms. NORTON.  
 H. Res. 1317: Mr. MCCLINTOCK.  
 H. Res. 1319: Mr. PIERLUISI and Ms. FUDGE.  
 H. Res. 1321: Mr. PAYNE, Mr. SABLAN, and Ms. BORDALLO.  
 H. Res. 1325: Mr. SABLAN, Mr. MACK, Mr. HASTINGS of Florida, Mr. YOUNG of Florida, Mr. MICA, and Mr. OLSON.  
 H. Res. 1330: Mr. MOORE of Kansas, Ms. HARMAN, Ms. WOOLSEY, Mr. GARAMENDI, Mr. SABLAN, Ms. SHEA-PORTER, Mr. BLUMENAUER, Ms. SPEIER, Ms. ROYBAL-ALLARD, Ms. RICHARDSON, Mr. SERRANO, Mr. BOSWELL, Mr. DICKS, Mr. FILNER, Mr. GRIJALVA, Ms. JACKSON LEE of Texas, Ms. ROS-LEHTINEN, Mr. THOMPSON of California, Mr. WU, Mr. WAXMAN, Mr. DOGGETT, Mr. BOYD, Mr. GEORGE

MILLER of California, Mr. KENNEDY, Ms. LEE of California, Mr. HASTINGS of Florida, Mr. HONDA, Mr. MCGOVERN, and Ms. ESHOO.

H. Res. 1331: Mr. SABLAN.  
 H. Res. 1338: Mr. BACA, Mr. BLUMENAUER, Ms. BORDALLO, Mr. BRALEY of Iowa, Mr. CAPUANO, Mr. COHEN, Mr. CONYERS, Mr. DOGGETT, Mr. ELLISON, Mr. FALEOMAVAEGA, Mr. FARR, Mr. FATTAH, Mr. GARAMENDI, Mr. HODES, Mr. HONDA, Ms. LEE of California, Mr. LEWIS of Georgia, Mr. LOEBSACK, Ms. ZOE LOFGREN of California, Mr. MARKEY of Massachusetts, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Mr. McDERMOTT, Mr. MCGOVERN, Mrs. NAPOLITANO, Ms. NORTON, Mr. RANGEL, Ms. RICHARDSON, Ms. ROYBAL-ALLARD, Mr. RYAN of Ohio, Mr. SABLAN, Mr. SARBANES, Mr. SERRANO, Ms. SHEA-PORTER, Mr. THOMPSON of California, Ms. TITUS, Mr. VAN HOLLEN, and Mr. WAXMAN.  
 H. Res. 1339: Mr. LEWIS of Georgia, Mr. ELLISON, Ms. RICHARDSON, Mr. COOPER, Mr. CARDOZA, Mr. DAVIS of Illinois, Mr. MEEK of Florida, Ms. MOORE of Wisconsin, Mr. CROWLEY, and Ms. BEAN.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative GORDON of Tennessee, or a designee, to H.R. 5116, the America COMPETES Reauthorization Act of 2010, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

## EXTENSIONS OF REMARKS

IN HONOR OF BERNIE EPWORTH

**HON. JOHN H. ADLER**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. ADLER of New Jersey. Madam Speaker, I would like to congratulate Mr. Bernie Epworth upon the highly successful completion of his term as the Department Commander for the State of New Jersey Jewish War Veterans. He was appointed to this position in June 2009 and throughout his term, has been extremely dedicated to New Jersey's veterans community.

Mr. Epworth was born in Brooklyn, New York. He is a graduate of New York University and served as a First Lieutenant in the Armored Calvary and in the New York National Guard. While serving as Vice President with Temple Beth Shalom in Fair Lawn, NJ, Mr. Epworth earned several awards, including the Centennial Award of Honor from the Jewish Theological Seminary and the Jewish Community Relations Council's 'Community Relations Award.'

Mr. Epworth has achieved many great things throughout the past year in his position of Department Commander for the State of New Jersey Jewish War Veterans. Some highlights of his administration have been organizing the sending of packages to overseas troops through the JWV-SOS Program, helping organize the NJ Coalition of Veterans Organizations, working on the consolidation of inactive posts, and incorporating programs and outside speakers on topics of interest for DCA meetings.

Additionally, he helped to organize this year's 'March on the Hill,' co-chaired the Veteran's Concert, a fundraiser, and set up a Thanksgiving Dinner for the troops. He lobbied for and accomplished free package shipping to troops via military transport, and assisted in the inauguration of Operation Slam Dunk, which is a project that provides veterans and troops to participate together at Philadelphia 76ers games.

His Commander's Project this year was the furnishing of a Day Room at the Wounded Warrior Building at Fort Dix. This is currently a work in progress and is to be dedicated as the "NJ-Jewish War Veterans Day Room" in June 2010.

Mr. Epworth has given so much of his time and effort for the Jewish War Veterans of New Jersey and I am very proud to have him as a constituent. Madam Speaker, I hope you will join me in congratulating this honorable man for his contributions to his community and to our Nation.

RECOGNIZING THE PASSING OF  
ANTHONY J. "TED" CIANO**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. MILLER of Florida. Madam Speaker, it is with a heavy heart that I rise to recognize the passing of one of Pensacola, Florida's most respected residents, Mr. Anthony Ciano. His life will not soon be forgotten. Instead, his life will be remembered as one embodying the purest virtues of loyalty, hard work and selflessness. For that reason, Madam Speaker, I am honored to recognize the life and deeds of Anthony Ciano on this day.

Born in Akron, Ohio as the son of Italian immigrants, Mr. Ciano moved to Florida to begin his career. Starting out as an automobile mechanic in a new environment, it could have become very easy for him to lose heart and become discouraged. However, never losing sight of the American Dream, Mr. Ciano worked hard and eventually became the manager of several automobile dealerships. In 1968, Anthony Ciano moved to Pensacola and purchased his first automobile dealership. With much diligence and commitment, Mr. Ciano built his Ford dealership into one of the most successful in the region and in the entire country.

In addition to understanding the importance of hard work, Mr. Ciano also knew the value of community service and charity. With an always grateful heart, Mr. Ciano eagerly looked for ways to give to others and contribute to the community. He was involved in numerous civic and charitable organizations throughout Northwest Florida. Whether it was his work to begin the Boys' Club of Escambia and his participation in the Rotary Club, or his support of local law enforcement and the Miracle League Baseball Park for handicapped children, Mr. Anthony Ciano was a leader who was ready to give selflessly of himself for the betterment of those around him and in his community.

Madam Speaker, though Mr. Ciano may have passed, the impact of his life, actions and deeds will forever remain. My wife Vicki and I express the deepest sympathies to his loving wife Natalie and his children.

IN HONOR OF GRAYSON JAMES

**HON. PETE SESSIONS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. SESSIONS. Madam Speaker, I rise today to recognize a young man that I have known his entire life, Grayson James. He is a Cub Scout with Pack 437 and saved his father's life on the evening of Thursday, February 11, 2010.

After an afternoon of sledding with his daughter, Mr. Joe James began experiencing shortness of breath. Upon his return home, Grayson listened carefully as his father, Joe, described his symptoms—shortness of breath, sweating, pain, and being thirsty. With his Readyman training in first-aid, Grayson recognized that his father was having a heart attack and insisted that his mother call 911. The paramedics arrived and quickly rushed Mr. James to the hospital for surgery to repair the blockage in his heart. Grayson's quick thinking, presence of mind, and the utilization of his scouting skills saved his father's life.

For this courageous act, the Boy Scouts of America are awarding Grayson with the Medal of Merit. This prestigious award is given to those who have performed a significant act of service that is deserving of national recognition. He handled the situation with a great sense of calm and confidence, reassuring his family in the midst of this urgent situation. I am tremendously proud of Grayson for applying the principles and skills he learned in Scouting and for being prepared.

Madam Speaker, I ask my esteemed colleagues to join me in congratulating Grayson for receiving the Medal of Merit and in recognizing him for his courage.

WE THE PEOPLE: THE CITIZEN  
AND THE CONSTITUTION NATIONAL FINALS**HON. ROB BISHOP**

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. BISHOP of Utah. Madam Speaker, from April 24–26, 2010 more than 1,200 students from across the country visited Washington, D.C. to take part in the We the People: The Citizen and the Constitution National Finals.

I am proud to announce that a class from Sky View High School represented the State of Utah at this prestigious national event. These outstanding students, through their knowledge of the U.S. Constitution, won their statewide competition and earned the chance to come to our nation's capital and compete at the national level. At the National Finals, Sky View High School won the Unit One Award by earning the most points in that unit of the textbook, which discusses the philosophical and historical foundations of the American political system.

I also wish to commend the teacher of the class, Mike Rigby, who is responsible for preparing these young constitutional experts for the National Finals. Also worthy of special recognition are Kathy Dryer, the State coordinator and Shanna Futral, the district coordinator who are responsible for implementing the We the People program in my district.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I congratulate these young "constitutional experts" on their outstanding achievement at the We the People National Finals.

HONORING JAMES E. McERLANE  
FOR HIS SERVICE TO SCOUTING

**HON. JIM GERLACH**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. GERLACH. Madam Speaker, I rise today to honor James E. McErlane, who has earned the 2010 Distinguished Citizen Award from the Chester County Council of Boy Scouts of America.

Scouting has been a part of Mr. McErlane's life since he joined Troop 7 in Malvern, Pennsylvania as a youth. He achieved the rank of Eagle Scout and earned his Parvuli Dei Catholic Scouting Award. A man of tremendous character, Mr. McErlane epitomizes the principles of leadership, self-discipline, hard work and a duty to serve his country and community that Scouting instilled in him.

Mr. McErlane has worked to promote the traditions and enhance the experience of Scouting for area youth, serving on the Chester County Council's Executive Board of Directors and as a member on several Distinguished Citizen Award Dinner committees. He also chaired the Eagle Scout Alumni Committee.

In addition to being a Senior Partner at Lamb McErlane Law Offices, Mr. McErlane continues serving as an active member of the Chester County Library Trust and the Chester County Food Bank.

His extremely successful legal career and tireless work in the community have earned Mr. McErlane the respect and admiration of his peers and all who know him.

Madam Speaker, I ask that my colleagues join me today in recognizing James E. McErlane for his valuable contributions to improving the quality of life in his community and his exemplary commitment to the values of Scouting.

HONORING MS. DIANE COLLINS

**HON. C.A. DUTCH RUPPERSBERGER**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. RUPPERSBERGER. Madam Speaker, I rise before you today to honor the tireless service of Diane Collins for her remarkable dedication as a volunteer at the Loch Raven VA Community Living and Rehabilitation Center and Chapter 451 in Dundalk. To salute her service, Ms. Collins was awarded the 2009 Congressional Volunteer Recognition Award by the Veterans Advisory Council for Maryland's 2nd District.

Veterans of the United States Armed Forces have dedicated themselves to protecting the lives of every American. Their service to our Nation deserves the highest level of gratitude. It is important that we take the time to recognize the individuals who give of their time and

talents to support veterans and ensure their comfort, care, and well-being.

As a member of the Disabled American Veterans Representatives for the Loch Raven VA Community Living and Rehabilitation Center, Ms. Collins is an active fundraiser and friend, giving 506 hours of volunteer service to date. She makes certain she is aware of all patient needs and makes requests to the Disabled American Veterans to purchase items not routinely supplied by the VA. Once a month, Diane creates a fun activity for the residents, including parties with watermelon, cupcakes, fried chicken, strawberry shortcake and hot dogs. Through her chapter, a juke box was donated to the center.

Ms. Collins does things simply because she believes they are "the right thing to do." She exceeds expectations in all respects. To the veterans' delight, she brings young people with her to visit with them and regularly babysits for a severely disabled neighbor. Her colleagues say she exemplifies the VA's mission statement of creating an environment that fosters respect, compassion, and excellence.

Madam Speaker, I ask that you join with me today to honor Diane Collins. Her compassion and dedication to veterans of the U.S. Armed Forces are an inspiration to us all, and are deserving of the utmost gratitude. It is with great pride that I congratulate Diane Collins on her exemplary service as an advocate and a volunteer.

CELEBRATING THE DESIGNATION  
OF THE EASTERN BAND OF  
CHEROKEE AS AN ADVANTAGE  
WEST CERTIFIED ENTREPRE-  
NEURIAL COMMUNITY

**HON. HEATH SHULER**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. SHULER. Madam Speaker, I rise today to congratulate the Eastern Band of Cherokee in Cherokee, North Carolina on becoming a Certified Entrepreneurial Community by the AdvantageWest Economic Development Group. AdvantageWest, an economic development commission which serves 23 Western North Carolina counties, created the "Certified Entrepreneurial Community Program" to train local communities to encourage small business start-ups in the mountain region and to help such businesses thrive.

The Eastern Band of Cherokee, North Carolina has an over 11,000-year history rich with culture, arts, and a heritage of magnificent storytelling. Being designated as a Certified Entrepreneurial Community is just one example of the continuation of the remarkable history, and a tribute to the vision of the Eastern Band of Cherokee. The focus on youth and education as integral components of their Certified Entrepreneurial Community vision ensures that the future leaders of the community will have the tools to continue their strong legacy.

The Certification, developed by the AdvantageWest Economic Development Group, contains a strict set of guidelines that highlight a community's enthusiasm and readiness to support entrepreneurship and small

business. While several communities throughout Western North Carolina have become certified as entrepreneurial communities, the Eastern Band of Cherokee is the first nation to receive this designation. This designation showcases the Eastern Band of Cherokee's foresight in creating and fostering an environment in which prosperity can be achieved. As a Certified Entrepreneurial Community, the Eastern Band will build upon the success of its marketing campaign to further promote the potential of its people to the United States and abroad.

Madam Speaker, I urge my colleagues today to celebrate this remarkable honor bestowed on the Eastern Band of Cherokee Indians in Cherokee, North Carolina, and their commitment to the future of their people. I urge my colleagues to join me in celebrating their outstanding achievement.

HONORING 50TH ANNIVERSARY OF  
SPRING CITY ELEMENTARY  
SCHOOL

**HON. JIM GERLACH**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. GERLACH. Madam Speaker, I rise today to congratulate the students, parents, teachers, administrators and staff of Spring City Elementary School in Chester County, Pennsylvania as they celebrate the school's 50th anniversary.

During the last half century, Spring City Elementary has been a cornerstone in the community and the starting point for students' educational journeys.

Spring City Elementary was built on the former site of the Spring City Race Track on South Wall Street just a few years after the formal establishment of the Spring-Ford School District. When the school opened in the spring of 1960, 305 students were enrolled.

Spring City Elementary is tremendously proud of the supportive, caring environment for learning and working. That nurturing atmosphere creates a sense of community that is as sturdy as the bricks and steel used to build the school.

Madam Speaker, I ask that my colleagues join me today in congratulating the Spring City Elementary School community as it commemorates this memorable milestone and in offering the students, parents, teachers, administrators and staff best wishes for continued success.

MARIALAINA PRECIADO

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Marialaina Preciado who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Marialaina Preciado is an 8th grader at Wheat

Ridge Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Marialaina Preciado is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Marialaina Preciado for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

#### PERSONAL EXPLANATION

### HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Ms. GRANGER. Madam Speaker, on rollcall No. 241, I was absent from the House. Had I been present, I would have voted "aye."

RECOGNIZING MR. RALPH WILLIAMS FOR HIS COMMITMENT TO STUDENTS AND EDUCATION IN THE STATE OF ARKANSAS

### HON. JOHN BOOZMAN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. BOOZMAN. Madam Speaker, I rise today to recognize Mr. Ralph Williams, who after dedicating his life to education, is retiring after 39 years of service to the Fort Smith Public Schools.

Mr. Williams has worn many hats during his time as an educator. From teacher, principal, social worker and now Student Services Supervisor for the school district, he has always stepped up to a new challenge with enthusiasm.

His commitment to students earned well-deserved honors, including being named the Regional Principal of the Year, the Arkansas Principal of the Year and the National Distinguished Principal—all while a principal at Fairview Elementary School.

Mr. Williams has always worked to create a learning environment that can benefit all students. His efforts to bring technology into the classroom and provide challenging programs are helping mold our future leaders. Now at his current position Mr. Williams works to encourage at-risk students to do better in school and make the most of their educational opportunities.

I am proud of Mr. Ralph Williams for his commitment to education and his efforts to improve the lives of students in Fort Smith, Arkansas, and wish him the best of luck in retirement.

MARIE BANKS

### HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Marie Banks who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Marie Banks is a 7th grader at Mandalay Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Marie Banks is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Marie Banks for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

RECOGNIZING THE INDUCTION OF 42 SEVENTH GRADE STUDENTS OF CHESTNUT RIDGE MIDDLE SCHOOL OF FISHERTOWN INTO THE NATIONAL JUNIOR HONOR SOCIETY

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. SHUSTER. Madam Speaker, I rise today to recognize the induction of 42 seventh grade students of Chestnut Ridge Middle School of Fishertown into the National Junior Honor Society. The Chestnut Ridge chapter will hold its induction ceremony on Monday, May 3, 2010.

Induction into the National Junior Honor Society is reserved for students with impressive academic achievement and a high potential for personal and intellectual growth. The incoming students of the Chestnut Ridge Chapter have distinguished themselves in the areas of scholarship, leadership, service, citizenship, and character. As NJHS members, these young men and women will build on their commendable dedication to academic and personal excellence. They have taken an important step of growing into the leaders of the next generation.

The following Chestnut Ridge Middle School students have been inducted: Rachel Dikum, Cassandra Brown, Hannah Miller, Jennifer Carthew, Nativa O'Brien, Emily Sprigg, Matthew Claar, Katie Weaver, Abby Barnes, Derrick Claar, Casey Fleegle, Lucas Berkey, Megan Anderson, Kimberly Bischof, Shane Davis, Christian Collins, Holly Davis, Toshia Rush, Harold Wentz, Natalie Dumin, Cassandra Wright, Kenzie Bowser, Nicholas Hyde, Austin Taylor, Brittany Finnegan, Caitlyn Ferguson, Brandon Mowry, Paul Sims, Trent Crouse, Dakota Kauffman, Kylee Snyder,

Jarret Dunn, Luke Stultz, Jonathon Heming, Alesha Rightenour, Lakyn Code, Bradley Frankenberg, Makayla Weaverling, Mylee Dull, Derek Gardner, Andrew Loar, and Colby Hillegass.

These inductees have already displayed remarkable talent and depth of character. I congratulate the new members of the Chestnut Ridge Middle School National Junior Honor Society on the honor they are receiving, and I look forward to many more great achievements.

HONORING MR. ROBERT T. CIANELLI

### HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. RUPPERSBERGER. Madam Speaker, I rise before you today to honor the tireless service of Mr. Robert T. Cianelli as a volunteer driver for the Disabled American Veterans Transportation Network and a dedicated supporter of America's military personnel. To salute his service, Mr. Cianelli was awarded the 2009 Congressional Volunteer Recognition Award by the Veterans Advisory Council for Maryland's 2nd District.

Veterans of the United States Armed Forces have dedicated themselves to protecting the lives of every American. Their service to our Nation deserves the highest level of gratitude. It is important that we take the time to recognize the individuals who give of their time and talents to support veterans and ensure their comfort, care, and well-being.

For the past 5 years, Mr. Cianelli has made sure patients at the Glen Burnie VA Community Based Outpatient Clinic are picked up for their appointment on time and safely returned to their home. To date, he has logged 1,300 driving hours and more than 20,000 miles. Mr. Cianelli's experience as a computer scientist has significantly improved the efficiency and effectiveness of the transportation network, providing a program to maintain driver statistics, automating vehicle expense reports and developing a route sheet to expedite driver pick-up times. Robert's colleagues say that it would be hard to find an individual that contributes more than he does to guarantee the success of the Disabled American Veterans Transportation program.

In addition to his service at the Glen Burnie VA Community Based Outpatient Clinic, Mr. Cianelli volunteers with Operation Welcome Home at BWI Airport, welcoming thousands of troops home and providing them with care packages to hold them over while they wait for connecting flights. Mr. Cianelli raised funds to get the program off the ground and continues to do so.

As a member of the Baltimore Marine Corps League, Mr. Cianelli helped raise \$27,000 for the "Wounded Marine Program" at the National Naval Medical Center in Bethesda and the Walter Reed Army Hospital. The program fed hundreds of meals to family members at the hospital during the height of the fighting in the Iraqi city of Fallujah when there were significant casualties arriving. It paid for Christmas baskets, lodging and taxi coupons for



families, as well as televisions and video games for wounded soldiers.

Madam Speaker, I ask that you join me today to honor Mr. Robert T. Cianelli. His compassion and dedication to veterans of the U.S. Armed Forces are an inspiration to us all, and are deserving of the utmost gratitude. It is with great pride that I congratulate Mr. Robert T. Cianelli on his exemplary service as an advocate and a volunteer for American servicemen and women everywhere.

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MARINA MODECKER

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Marina Modecker who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Marina Modecker is an 11th grader at Warren Tech North and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Marina Modecker is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Marina Modecker for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

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TEXAS ASSOCIATION OF HOMES  
AND SERVICES FOR THE AGING  
2010 PHILANTHROPIST OF THE  
YEAR

**HON. LAMAR SMITH**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. SMITH of Texas. Madam Speaker, today I'd like to honor my constituent, Mr. Glenn Biggs, a great American and Texan, who has been selected by the Texas Association of Homes and Services for the Aging as the 2010 Philanthropist of the Year.

Mr. Biggs, born in a small West Texas town in the depths of the Great Depression, has used his knowledge and experience as a banker and business leader to guide Morningside Ministries in San Antonio in establishing an innovative, progressive program, mmLearn.org. It delivers high quality training through online videos to caregivers not only in San Antonio, but also to communities as large as New York City and as small as Homer, Alaska.

Through online training, geriatric physicians can be in the homes and offices of health professionals, family caregivers, pastoral care providers and older adults who have internet connectivity. In a recent webcast, Dr. Thomas

Weiss, a geriatric psychiatrist with a specialty in addiction, had a presentation about alcoholism and the elderly.

Most would never have an opportunity to benefit from Dr. Weiss' expertise, but 382 viewers joined the webcast and interacted by providing online comments and questions. The webcast is now available on demand and will continue to be a training resource. Mr. Biggs' vision, commitment and dedication have made this level of service possible.

Mr. Biggs' philanthropy and leadership are not only recognized in the field of aging, but benefit many other worthy causes. The San Antonio Business Journal has written of Mr. Biggs: "... (This) gentle giant with a booming voice spends countless hours trying to get wealthy South Texans to give to causes which he believes are important. Time after time, he is called upon to advise college presidents and board chairmen who are seeking access to the network of former politicians and business millionaires who are willing to part with their fortunes for the right cause."

Numerous organizations and countless individuals have benefitted from the philanthropic leadership of Glenn Biggs. He is preparing and inspiring generations to step forward and become the philanthropists for decades to come. Glenn Biggs sets an example for all of us to follow. And I ask that my colleagues join me in honoring this great man.

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MARQUIS SKINNER

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Marquis Skinner who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Marquis Skinner is a 7th grader at Drake Middle School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Marquis Skinner is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Marquis Skinner for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication and character to all his future accomplishments.

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RECOGNITION OF THE 85TH ANNI-  
VERSARY OF THE COMMEMORA-  
TION OF MENLO PARK

**HON. FRANK PALLONE, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. PALLONE. Madam Speaker, I rise today to recognize the 85th Anniversary of the 1925

Commemoration of Menlo Park. On May 16, 1925, Thomas Alva Edison and 600 guests came to Menlo Park to celebrate the inventor's historic accomplishments by commemorating Menlo Park. Eighty-five years later the Township of Edison, New Jersey and the non-profit Edison Memorial Tower Corporation will host a special celebration at the Thomas Edison Center at Menlo Park to honor both the inventor and the community named in his honor.

The event will take place at 2 p.m. on Sunday May 16, 2010. This is a great opportunity to learn about Thomas Edison's life, his work, and his legacy of invention. A great-grandson of the inventor will share stories about his famous relative, and community leaders will exhibit plans to restore Menlo Tower, build a new museum, and redevelop the parkland in Edison State Park. The Edison Community and the Edison Memorial Tower Corporation encourage contributions and attendance at the event in order to help honor the memory of Thomas Edison and support the spirit of innovation that defines Menlo Park.

The Edison Memorial Tower Corporation is a nonprofit organization that works to preserve, promote, and manage the Edison Memorial Tower and Museum in the Menlo Park section of Edison Township. The Corporation strives to honor Edison's memory and educate the public about Edison, his significant accomplishments at this site, and his impact on modern research and development.

Madam Speaker, I sincerely hope my colleagues will join me in recognizing the Edison community's continued efforts to improve Menlo Park and honor the enduring legacy of Thomas Alva Edison, and wish them the best on this historic anniversary.

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HONORING JAN VERHAGE

**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. MORAN of Virginia. Madam Speaker, I rise today to honor Jan Verhage for her outstanding service as Executive Director of the Girl Scout Council of the Nation's Capital for the past 25 years. For a quarter century, Jan has dedicated her life to building girls of courage, confidence, and character who make the world a better place. Many of our daughters and granddaughters who live here in the Washington area benefit directly from the amazing, innovative and outstanding programs organized under Jan's purview.

Under her guidance and leadership, the Girl Scout Council of the Nation's Capital has experienced unprecedented growth, including a membership that has tripled in size. Today, the council serves 90,000 members in the District of Columbia and 25 surrounding counties in Maryland, Virginia and West Virginia. During Ms. Verhage's tenure as Executive Director, more than 2,700 girls earned the Gold Award, the Girl Scouts' highest honor, earned for developing a sustainable community service project.

Jan has also been instrumental in reaching out to underserved communities, by targeting girls of different racial, ethnic, or language

backgrounds and by providing financial assistance to girls from low-income families, in order to deliver Girl Scouting to all girls. Her innovative initiatives include training college students to lead troops in at-risk communities; a road safety program for teen girls; and programs that address critical issues such as self-esteem, healthy living, financial literacy and peer pressure.

I ask my colleagues to join me in thanking Jan Verhage for 25 years of dedicated service to girls in the Greater Washington Region. I wish her the best in her future as Chief Operating Officer of Girl Scouts of the USA.

TRIBUTE TO BRIGADIER GENERAL  
PATRICK FINNEGAN

**HON. JIM MARSHALL**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. MARSHALL. Madam Speaker, it is with great pleasure that I rise today not only as the Representative of the 8th District of Georgia, but also as the Chairman of the Board of Visitors to the United States Military Academy at West Point, to honor the service and accomplishments of Brigadier General Patrick Finnegan.

General Finnegan distinguished himself through exceptionally meritorious service to the Nation during more than thirty-nine years of active military service in peace and war, culminating in six years as a professor at West Point, and serving the last five years as the Dean of the Academic Board. During General Finnegan's tenure, *Forbes Magazine* rated West Point as the best college in America.

As Dean, General Finnegan envisioned and fostered an Academic Program relevant to the needs of the Army that contributes to the intellectual and professional development of cadets. His visionary leadership led to the transition and expansion of the Academy's foreign language program, which places a greater emphasis on global and cultural awareness and includes a robust Study Abroad Program.

Madam Speaker, the Academic Program at the United States Military Academy has never been stronger, more connected to the Army, or more revered by our Nation. During his tenure, General Finnegan sponsored several successful accreditation visits from the Accreditation Board for Engineering and Technology, ABET, and the Middle States Commission on Higher Education, MSCHE. West Point was also named the #1 Public College in the Nation by *Forbes Magazine* and best Public Liberal Arts College by the Princeton Review. Moreover, USMA cadets have won 84 international scholarships during this period, and West Point leads the nation in terms of Rotary International Scholarship winners.

Fondly referred to by cadets as the "People's Dean," General Finnegan's focus on cadets and enrichment opportunities was never limited to the Academic Program. He was an avid and faithful supporter of cadet sports programs and the Dean's teams, and his personal participation in community and post-level events was unprecedented.

Madam Speaker, General Finnegan's record of achievement and manner of service in positions of enormous responsibility epitomize the type of soldier for whom an award such as the Distinguished Service Medal is intended. He has discharged his duty with immeasurable skill, diplomacy, and humility, while his dedication to excellence and devotion to duty, honor, and country is unparalleled.

On behalf of the Board of Visitors, I thank General Finnegan for his service to West Point.

TRIBUTE TO THE LEOMINSTER COLONIAL BAND ON THE OCCASION OF ITS CENTENNIAL ANNIVERSARY

**HON. JOHN W. OLVER**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. OLVER. Madam Speaker, I rise today to recognize the Leominster Colonial Band for its 100 years of active involvement in the Leominster community.

The Leominster Colonial Band started as a group of Italian immigrant musicians gathering together and soon became an institution in Leominster. The band was founded by Gaspare Bisceglia, a 16-year-old apprentice bandmaster, who immigrated to Leominster from San Giovanni, Italy. The band gave its first concert on the Leominster common on August 16, 1910.

Known originally as the "Banda Regione d'Italia," the band has undergone several name changes as its role in the city evolved and its membership diversified. It became the "Italian Colonial Band," and later the "Leominster Colonial Band."

The history of the Leominster Colonial Band is interwoven with the history of Leominster. Over the years, the band has played at numerous civic events and parades. The band performed in celebrations at the end of World War I and led Leominster's welcoming parade when American troops returned from World War II. The band also played at the dedication of Leominster's Spanish-American War monument.

During the Great Depression, Gaspare Bisceglia established a free summer concert series on the downtown common. This tradition has continued over the years and the band now performs five free concerts every year at Leominster's historic Carter Park. The band plays an annual Christmas concert and regularly plays at Italian feasts in Leominster, Boston and throughout Massachusetts. It frequently participates in church celebrations in the Worcester and Greater Boston areas and plays in processions for weddings and funerals.

In 2006, the Leominster Colonial Band received the "Citizen of the Year" award from the Center for Italian Culture at Fitchburg State College, in recognition of its contributions and dedication to Italian culture. In the spring of 2010, the band will be honored with the City of Leominster's "Citizen of the Year" award.

I am very proud to represent the town of Leominster, which is rich in history and public

spirit. The members of the Leominster Colonial Band demonstrate a spirit of community involvement, a dedication to upholding Italian cultural traditions, and a commitment to performing quality band music. Please join me in congratulating the Leominster Colonial Band as it celebrates its 100th Anniversary.

MATTHEW DEANDA

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Matthew Deanda who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Matthew Deanda is a 12th grader at Pamona High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Matthew Deanda is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Matthew Deanda for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication and character to all his future accomplishments.

10TH ANNIVERSARY OF SERVICIOS  
LATINOS OF BURLINGTON COUNTY

**HON. JOHN H. ADLER**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. ADLER of New Jersey. Madam Speaker, I rise today to honor "Servicios Latinos de Burlington County" as they commemorate their 10th anniversary.

The people of our great nation share a common spirit and heritage. We believe in the American dream, and the promise that through our labors we can achieve educational and economic success. Throughout the past decade, Servicios Latinos has helped more than 2,500 Burlington County families in achieving this dream.

Servicios Latinos is a social services agency that provides those in need with the resources they need to become informed, educated, and independently able to utilize vital services to become productive and healthy citizens.

In addition to providing critical services in the areas of health, education, housing, and employment, they have also sponsored the bilingual health and higher education fairs and a Hispanic heritage festival. For the organization's inspiring work in the community, they have been honored by several national and state institutions and community partners.

During their 10th anniversary celebration, Servicios Latinos will acknowledge and honor Dr. Robert C. Messina, Jr., President of Burlington County College, and State Senator

Diane Allen, with the "Champion of Diversity Award" for being cornerstones in the Servicios Latinos' establishment.

I would also like to commend Ms. Angela Mateo Gonzalez, the Founder and Executive Director of Servicios Latinos for her commendable work with Servicios Latinos, which has made a dramatic, positive impact on the lives of thousands of South Jersey families. I thank her for her dedication and commitment to the community.

Madam Speaker, I hope that you will join me in commending Ms. Gonzalez and the Servicios Latinos de Burlington County for helping so many in our community fulfill the American dream throughout the past ten years.

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LAUREN ARCHER

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Lauren Archer who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Lauren Archer is a 12th grader at Pamona High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Lauren Archer is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Lauren Archer for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

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HONORING MR. JOHN ALEXANDER

**HON. C.A. DUTCH RUPPERSBERGER**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. RUPPERSBERGER. Madam Speaker, I rise before you today to honor the service of John Alexander for his remarkable dedication as a volunteer at the Loch Raven VA Community Living and Rehabilitation Center. To salute his service, Mr. Alexander was awarded the 2009 Congressional Volunteer Recognition Award by the Veterans Advisory Council for Maryland's Second District.

Veterans of the United States Armed Forces have dedicated themselves to protecting the lives of every American. Their service to our Nation deserves the highest level of gratitude. It is important that we take the time to recognize the individuals who give of their time and talents to support veterans and ensure their comfort, care, and well-being.

As the Disabled American Veterans Representative for the Loch Raven VA Community

Living and Rehabilitation Center, Mr. Alexander is an active fundraiser and friend. Mr. Alexander makes certain he is aware of all patient needs and makes requests to the DAV to purchase items not routinely supplied by the VA. His fundraising efforts have enabled Loch Raven VA residents to receive televisions and body pillows for hospice patients. It also enables residents to travel out-of-state to participate in the Golden Age Games, a recreational "Olympics" style event.

Twice per month, Mr. Alexander visits the residents and spends time talking with them. Annually, he coordinates Veterans Day at the Golden Corral, advertising, greeting guests and raffling a television. It is an event that community veterans thoroughly enjoy. Sometimes working 10-hours straight, Mr. Alexander is always kind and compassionate, upbeat and pleasant. His colleagues describe him as an "awesome human being."

Madam Speaker, I ask that you join with me today to honor Mr. John Alexander. His compassion and dedication to veterans of the U.S. Armed Forces is an inspiration to us all, and is deserving of the utmost gratitude. It is with great pride that I congratulate Mr. John Alexander on his exemplary service as an advocate and a volunteer.

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LEVI LOCKLING

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Levi Lockling who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Levi Lockling is an 8th grader at Wheat Ridge Middle School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Levi Lockling is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Levi Lockling for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication and character in all his future accomplishments.

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HONORING WILBURN BROWN OF  
MENDOCINO COUNTY

**HON. MIKE THOMPSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. THOMPSON of California. Madam Speaker, I rise today to commemorate the civic accomplishments of Wilburn "Webb" Brown, on the occasion of his 100th birthday. As an exemplary citizen his service has benefited the ruggedly beautiful Mendocino County

in northern California where he has lived his entire life. His contributions are long lasting and statewide.

Born in Ukiah on May 7, 1910, he grew up on ranches leased by his parents in Hopland and Talmage. He moved to Potter Valley in 1943 and began raising dairy cattle when there were 14 dairies in this picturesque community where he still resides.

A retired rancher, Webb Brown was a long-time Mendocino County Assessor, an elected position he held from 1955 through 1977. He was President of the California Assessors Association in 1963. As head of its legislative program, Webb Brown was responsible for 12 major bills dealing with tax assessment and passed by the State legislature. He is renowned for creation of property-tax practices favoring the preservation of farmland and open space.

He was a leader on passing a timber yield tax that required owners of woodlands to pay taxes only on trees they harvested. In 1965 he played a statewide leadership role in the passage of the Williamson Act of 1965, which greatly limited what farmers and ranchers had to pay in property taxes as long as they kept their land undeveloped.

Upon his retirement from the Assessor's office he was honored as "one of the State of California's highest respected assessors." He is known for his willingness to meet problems head on and his courage in making unpopular decisions as well as his fair application of state tax laws to everyone.

He also served on the Mendocino Air Management District Hearing Board, the Potter Valley Board of Education, the Ukiah Unified School Board and he was the Chair of the Save the College Committee for Mendocino College. He is committed to improving the quality of education and the hiring of capable teachers as well as seeking competitive salaries for teachers. In 1980 he was awarded the Distinguished Citizen Award by Mendocino College for helping establish the college.

In addition to his community service and ranching skill, Webb Brown is known for being a loving husband, father, stepfather and grandfather. He has four children, three stepchildren, 18 grandchildren, 28 great-grandchildren and seven great-great-grandchildren and a host of nieces and nephews who will join the celebration of his 100th birthday.

Madam Speaker and colleagues, Webb Brown has earned the admiration and respect of his peers, his community and his family. He is a friend and a mentor in Mendocino County and his legacy is long lasting. For these reasons, it is appropriate that we honor Wilburn "Webb" Brown.

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LOGAN REED

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Logan Reed who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Logan Reed is a 7th grader at Oberon Middle School

and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Logan Reed is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Logan Reed for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication and character in all his future accomplishments.

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HONORING THE CROATIAN  
AMERICAN ASSOCIATION

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**HON. MIKE QUIGLEY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. QUIGLEY. Madam Speaker, I rise today to recognize and honor the contributions made by the Croatian American Association for enriching the lives of native Croatians and Croatian-Americans alike for the past 20 years.

The Croatian American Association was established in 1990, when it began advocating for the establishment of a sovereign and independent Democratic Republic of Croatia. Its efforts led to public demonstrations in Washington, DC attended by over 50,000 people in support of Croatian democracy. Furthermore, its members have organized rallies throughout America to raise money for the defense of Croatia and to make humanitarian aid available for Croatians living at home and abroad.

The Croatian American Association has also worked tirelessly with the U.S. government in order to help address the concerns of many Croatian-Americans. It has established an office in Washington, DC to help lobby and educate Members of Congress about Croatian history, and the desire for a sovereign Democratic Republic of Croatia. In addition, it has pushed for the inclusion of Croatia into NATO, the Partnership for Peace, and the European Union.

The Croatian American Association has also worked to establish an Embassy of The Republic of Croatia, and to further provide services to Croatian-Americans by establishing a number of consulates in many major U.S. cities.

Madam Speaker, I ask my colleagues to join me in honoring the Croatian American Association and its members for their 20 years of service as an invaluable partner to Croatians throughout the world, and to wish them many more years of continued success.

HONORING THE SERVICE OF JEAN  
AUGUSTINE ROMNEY, FORMER  
ADJUTANT GENERAL OF THE  
UNITED STATES VIRGIN IS-  
LANDS NATIONAL GUARD

**HON. DONNA M. CHRISTENSEN**

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mrs. CHRISTENSEN. Madam Speaker, I rise to pay posthumous recognition and tribute to the late Major General Jean Augustine Romney, former Adjutant General of the United States Virgin Islands National Guard, for dedicating his life to the needs of the community in which he lived and the Nation that he served with distinction.

Major General Jean A. Romney was born on December 14, 1941, and raised in Christiansted, St. Croix, U.S. Virgin Islands. He attended and graduated from St. Mary's Catholic School before enlisting in the U.S. Army. He did his basic training at Ft. Jackson, South Carolina and his advance training at Ft. Benning, Georgia. He was then assigned to the 1st Battle Group, 15th Infantry, 3rd Infantry Division, in Bamberg, Germany. He concluded Active Duty in the 7th Army NCO Academy as Sergeant and the 1st Battle Group, 28th Infantry Division, AKA "The Big Red One".

Major General Romney returned to the U.S. Virgin Islands and enrolled in the Catholic University of Puerto Rico, in Ponce, Puerto Rico from 1963 to 1966, receiving a Bachelor's Degree in Business Administration. He was a member of the prestigious Phi Epsilon Chi Fraternity of Puerto Rico. He continued his education and earned a Master's Degree in Interpersonal Relations and Personal Management at the Inter American University of Puerto Rico Graduate School in San German, Puerto Rico.

Major General Romney served as a Senator in the 11th Legislature of the U.S. Virgin Islands from 1975 to 1977. In April 1977, he resumed his military career by joining the Virgin Islands National Guard and receiving a direct commission as Captain. In 1978 he attended and completed his Officer Advance Course at the Aberdeen Proving Ground in Maryland.

Although employed by the Virgin Islands National Guard, he was on loan from the Federal Government to the Virgin Islands Government from 1980 to 1984, during the Administration of Governor Juan F. Luis, serving as the Christiansted Administrator.

In 1988, he completed the Command and General Staff College and later attended a Battalion/Brigade Pre-Command Course at Ft. Leavenworth, Kansas. From 1993 to 1994 he attended the United States Army War College at Carlisle Barracks, Carlisle, Pennsylvania. He graduated with the Class of 1994 and was a lifetime member of the Army War College's Alumni Association.

He held the following military positions before being appointed the Adjutant General of the United States Virgin Islands National Guard: Commander, 652nd Heavy Equipment Maintenance Company; Personnel Administrative Officer; Detachment Commander, Headquarters TERARC; Assistant Chief of Staff Personnel; Commander, Troop Commander;

and Assistant Chief of Staff Logistics and Services.

Major General Romney's military decorations and awards include the following: The Meritorious Service Medal with one Oak Leaf Cluster; The Army Commendation Medal; Army Achievement Medal; Army Reserve Component Medal with two Oak Leaf Clusters; Good Conduct Medal; Army of Occupation (Berlin); National Defense Service Medal; Armed Forces Expeditionary Medal; Humanitarian Service Medal; Armed Forces Reserve Medal with one Oak Leaf Cluster; Army Service Ribbon; Army Reserve Overseas Deployment Training Medal; Virgin Islands Long and Faithful Medal with First Clasp; and, the Virgin Islands Emergency Service Ribbon with Number.

Major General Romney was married to the former Beverly Cedelle Walcott of Christiansted, St. Croix, Virgin Islands. At the time of his passing, they had two daughters, Ayanna and Chivonne and two grandchildren, Marcus and Makeda. We, the Nation and the Territory of the United States Virgin Islands are indebted to him and to them for his dedicated service.

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IN TRIBUTE TO SANDE ROBINSON

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**HON. GWEN MOORE**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Ms. MOORE of Wisconsin. Madam Speaker, I rise today to recognize Sande Robinson, Director of the Educational Opportunity Program (EOP) at Marquette University. EOP helps low-income, disadvantaged, first generation college students to receive a college degree. Ms. Robinson will retire in June 2010 after 35 years of distinguished service at Marquette University.

Ms. Robinson began her career at Marquette in 1974 and has been a part of the great success of the EOP program during 35 years of its 40-year history. She received a bachelor's degree from Kent State in Early Childhood Education and a Master's degree from Kent State with a major in College Student Personnel. Ms. Robinson's first position was as a financial aid counselor in the EOP; she ultimately became the director in 1986. Even as the director, she maintained close interaction with students by continuing to counsel students as she had since coming to the EOP.

Ms. Robinson collaborates with the national TRIO organization, the Council for Opportunity in Education to ensure the highest standards in available support services are provided nationwide for minority and other underserved students. EOP is one of the TRIO federally-funded college opportunity programs that provide academic tutoring, personal counselling, mentoring, financial guidance, and other supports necessary for educational access and retention and relevant training for directors and staff.

Ms. Robinson has served as the president of Wisconsin Association of Educational Opportunity Program Personnel. While at Marquette, she has successfully secured federal

funding for EOP throughout its history and served as a member of the Friends of the Haggerty Museum Board, a member of the Diversity Task Force, and many scholarship selection committees. She has been active at the national level in presenting successful models of support program innovation and has been a reader of grant applications for the U.S. Department of Education Student Support Services grant competitions.

Madam Speaker, for these reasons, I am honored to pay tribute to Sande Robinson who leaves behind a wonderful legacy of assisting hundreds of students in their efforts to receive a higher education and become alumni of my alma mater, Marquette University. Sande Robinson's contributions have greatly enriched and benefitted the citizens of the Fourth Congressional District.

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MARIA DAY

**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Maria Day who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Maria Day is a 7th grader at Drake Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Maria Day is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Maria Day for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

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A SHOW OF APPRECIATION FOR  
TWO OUTSTANDING NORTHEAST  
WISCONSIN TEACHERS

**HON. STEVE KAGEN**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. KAGEN. Madam Speaker, in honor of Teacher Appreciation Day, I come to the floor to recognize two outstanding educators from Northeast Wisconsin.

Greenville Middle School's Jennifer Koenecke and Green Bay Edison's Nancie Brennan exemplify what we hope to see in all of our teachers.

As the newest National Board Certified teachers in the 8th Congressional District of Wisconsin, they demonstrated a commitment to taking their teaching practice and the teaching profession to a different level.

We entrust teachers with the nurture and care of our most precious resource—our chil-

dren, and we are grateful to them not only for the security they provide, but for the example they set.

For Jennifer Koenecke and Nancie Brennan, their leadership and the example they set extends not only to the students they teach, but to the peers who surround them.

Like board-certified medical doctors, teachers who become National Board Certified go through a rigorous year-long evaluation of their performance.

Each educator is measured against the most rigorous standards through an extensive series of performance-based assessments that include thorough analysis of the candidate's classroom teaching and student learning.

As a physician who has been three times board certified, I have a keen appreciation for the initiative and effort these women have made on behalf of the future of our children. After all, if we get public education right, everything else will follow. But if we get education wrong, not much else will matter.

Today I'm proud to recognize Greenville Middle School's Jennifer Koenecke and Green Bay Edison's Nancie Brennan for getting it right.

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RECOGNITION OF TROVER HEALTH  
SYSTEM

**HON. ED WHITFIELD**

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. WHITFIELD. Madam Speaker, I rise in recognition of Trover Health System, a hospital in the City of Madisonville located in my District, the First Congressional District of Kentucky. On March 28, 2010, Trover was named one of the nation's 100 Top Hospitals by Thomson Reuters, a leading provider of information and solutions to improve the cost and quality of healthcare. The award recognizes hospitals that have achieved excellence in clinical outcomes, patient safety, patient satisfaction, financial performance, and operational efficiency. This is the second time Trover has been recognized with this honor.

Trover Health System is an integrated health provider serving western Kentucky residents for more than 50 years. With nine locations in six counties, Trover proudly offers 55 services and specialties to meet the needs of Kentuckians close to home. With more than 130 primary care, mid-level and specialist physicians, 500 registered nurses, and 1,000 licensed health care professionals, Trover is made up of an experienced team of dedicated staff. Trover provides healthcare solutions with compassion and respect for the uniqueness of every individual.

Madam Speaker, it is with great pride that I bring to the attention of this House the historical significance and sense of this notable achievement. Trover's commitment to patients is evident in everything they do—and they have shown themselves as a model for quality care.

RECOGNIZING DIANNE COSTA FOR  
HER SERVICE TO THE TOWN OF  
HIGHLAND VILLAGE, TEXAS

**HON. MICHAEL C. BURGESS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. BURGESS. Madam Speaker, I proudly rise today to recognize Dianne Costa, the Mayor of Highland Village, Texas. After years of impressive leadership and commitment to the community, Dianne will be retiring from the City Council.

Mayor Costa was elected Mayor of Highland Village in May 2006, and re-elected in May 2008. Previously, she had served as Mayor Pro Tem from 2005–2006, and before that she served as Deputy Mayor Pro Tem from 2003–2005.

Mayor Costa's dedication to Highland Village has spanned more than a decade. She began her service by participating with the Highland Village Women's Club, and served as the Outreach Chairman until 2001. Dianne continued her involvement through positions with Parks and Recreation, Police Auxiliary, and was awarded for her excellence in 2000 by receiving the Police Department Community Service Award.

Mayor Costa and her husband Dennis live in Highland Village with their sons and she is co-owner of Sharp Focus Centers. In addition to being Mayor, she currently serves as a member of the National Transportation and Infrastructure Committee, Board of Directors for the Highland Village Community Development Corporation, the Texas Association of Mediators, the National Council on Family Relations, and Rockpointe Church.

Madam Speaker, it is with great honor that I rise today to commemorate the accomplishments and service of Highland Village Mayor Dianne Costa. It is my honor to represent such a dedicated community member in the United States House of Representatives.

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HONORING THE SERVICE OF  
CADET NURSES DURING NA-  
TIONAL NURSES WEEK

**HON. DANIEL LIPINSKI**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. LIPINSKI. Madam Speaker, I rise today to honor the work of our Nation's nurses as we commemorate National Nurses Week and in particular to remember the service of the Cadet Nurse Program participants during World War II.

Nurses have long provided invaluable service in a wide array of medical settings. But few circumstances call for greater service to others or place more demands on society than times of conflict and war. Sixty-seven years ago, thousands of nurses answered this call and rose to these demands by taking part in the Cadet Nurse Program established in the midst of one of the greatest conflicts of the last century.

The demand for medical services caused by WWII led to a critical shortage of nurses both

within the military and domestically. Congress responded by passing the Nurse Training Act of 1943, which provided an opportunity for accredited nursing schools to offer accelerated training programs, greatly increasing the number of nurses available to serve at home and overseas. In addition, nursing students were able to receive subsidies for the cost of their training and a modest living stipend, which permitted many students to advance economically.

However, the Cadet Nurses' path through this program was not simple or easy. In addition to the daily stresses and high demands of nursing work, these future nurses faced the additional burdens of completing their studies faster than regular students and learning critical skills on the job instead of in the classroom. Yet, by responding to these challenges, the nursing students receiving training through the Cadet Nurse Program were critical to supporting the increased need for services during this difficult time in our Nation's history.

As we celebrate National Nurses Week, let us remember the difficult work that all nurses carry out. They serve at the front lines of medical care: often, they are the first and most familiar medical provider patients will see.

This week, I ask you to join me in remembering and honoring the work of Cadet Nurses and making sure that their outstanding service to their communities and our Nation is not forgotten.

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RECOGNIZING DICK COOK FOR HIS  
SERVICE TO THE TOWN OF DOUBLE  
OAK, TEXAS

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**HON. MICHAEL C. BURGESS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. BURGESS. Madam Speaker, I proudly rise today to recognize Dick Cook and his dedication to the town of Double Oak. On May 17, 2010, after over 17 years of distinguished service, Dick will retire from the City Council.

Dick has held many positions throughout the years. He has served as Mayor of Double Oak for 9 years, and also as Mayor Pro-Tem, Deputy Mayor Pro-Tem, Town Treasurer, and City Council Member. If that isn't impressive enough, Dick has also served on the Planning and Zoning Commission and the Board of Adjustment.

Dick and his wife Georgette have been residents of Double Oak for 25 years. Not only has he served the town of Double Oak, but he served as an officer in the United States Navy from 1950 to 1981. When Mr. Cook retired, he held the highest rank in the Fleet Reserve, Navy Lieutenant.

Madam Speaker, it is with great honor that I rise today to recognize an outstanding public servant to both his community and the nation, Mr. Dick Cook. It is my honor to represent such a dedicated community member in the United States House of Representatives.

RAISING AWARENESS ABOUT  
ESOPHAGEAL CANCER

**HON. BILL POSEY**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. POSEY. Madam Speaker, several weeks ago, I received a call from one of my constituents, Marsha Shapiro. She courageously shared with me her experience with her husband Joel's battle with esophageal cancer. Marsha was kind enough to tell me a little about her husband and the type of man he was. She told me that for 30 years Joel worked as a New York City public school teacher at P.S.176 in Brooklyn. He also spent 16 years as an English high school principal at Yeshiva of Brooklyn, a position he held in conjunction with his public school duties.

She said that Joel was a humble man, but to his family and his students, he was a giant. For several summers he worked at the Italian Federation in an athletic program sponsoring Say No To Drugs. Music was also a very important part of his life having been a violinist in the Brooklyn Heights Orchestra and at St. Ann's Church. Furthermore, he performed with the Staten Island Orchestra at St. John's University and Kingsborough Community Orchestra Brooklyn, NY.

Mrs. Shapiro shared with me how Joel's battle with esophageal cancer began on May 15, 2009. Over the course of the next several months he received the recognized chemo and radiation treatments but unfortunately they did not shrink his tumor. On November 18, 2009, after just 6 months and 3 days of treatment, Joel passed away. He is survived by his wife Marsha, two sons Adam and Glenn and three grandchildren, Jonathan, Naomi and Zachary.

My colleagues, sadly, Joel's battle with esophageal cancer is not out of the ordinary. Unfortunately, it is too often the norm. The five-year survival rate for those diagnosed with esophageal cancer is less than 20 percent and many, like Mr. Shapiro, die within a year of being diagnosed. The American Cancer Society estimates that this year alone more than 16,000 new cases of esophageal cancer will be diagnosed in the United States and nearly 14,500 deaths from esophageal cancer will occur.

In fact, the rates of esophageal cancer have been rising dramatically for the past several decades, increasing by more than 400 percent, and there is still a lack of effective treatments for cancer of the esophagus. With such a significant increase in the number of cases and with a mortality rate of nearly 80 percent, too often those diagnosed with esophageal cancer are diagnosed too late and the disease has progressed too much for current treatments to be effective.

I encourage my colleagues to join with me, and my colleague Congressman RUSH HOLT, in sponsoring a bipartisan resolution recognizing the importance of detecting esophageal cancer during its earliest stages, advancing medical research, and supporting the goals and ideals of Esophageal Cancer Awareness Month.

INTRODUCING THE EQUAL ACCESS  
TO PRE-SEPARATION ACT OF 2010

**HON. CHELLIE PINGREE**

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Ms. PINGREE of Maine. Madam Speaker, today I am proud to be introducing the Equal Access to Pre-Separation Act of 2010. This bill requires the Department of Defense to give benefit information to members of the Reserve Component before they separate or retire.

For too many years, members of the Guard and Reserve have left the service without a clear picture of the benefits their service has earned them. This legislation ensures that these individuals and their families are educated on how to access benefits like VA health care and Tricare health care programs.

For years the Guard and Reserve have played a critical strategic role in our national defense. I am grateful to these individuals for their service to the Nation. They have made great sacrifices, and I believe that Congress has a moral obligation to educate these heroes on the benefits they have earned. This bill is just one way we can begin to re-pay them for all that they have done to protect this country. I strongly believe that Congress has a moral obligation to keep the promises made to our troops in return for their service.

I look forward to working with my colleagues in the coming weeks to pass this important legislation in the House.

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RECOGNIZING THE SERVICE OF  
HIGHLAND VILLAGE CITY COUNCIL  
MEMBER DON COMBS

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**HON. MICHAEL C. BURGESS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. BURGESS. Madam Speaker, I proudly rise today to recognize City Council Member Don Combs of Highland Village, Texas. After eight years of strong leadership and commitment to the community, Don will be retiring from the City Council.

Don was first elected to the City Council in May of 2002. He served as Mayor of Highland Village from January to May of 2006 and again as Mayor Pro Tem from May 2009 to May 2010. He served as a member of the Planning and Zoning Commission and the Highland Village Community Center Committee.

Don currently serves on the Board of Directors for the Highland Village Community Development Corporation, where he directly helps to promote and implement projects to benefit economic development in the area. He and his wife, Janet, and their family have lived in Highland Village since 1985.

Madam Speaker, it is with great honor that I rise today to commemorate the accomplishments and service of Highland Village City Council Member, Don Combs. I am proud to represent such a devoted community member in the United States House of Representatives.

COMMEMORATING VIETNAM  
HUMAN RIGHTS DAY

**HON. ZOE LOFGREN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Ms. ZOE LOFGREN of California. Madam Speaker, I rise in honor of the 16th Commemoration of Vietnam Human Rights Day.

I am proud to represent San Jose, home to the largest Vietnamese population outside of Vietnam itself. Many of my constituents have family and friends still in Vietnam, and the reports about the human rights situation in that country are concerning.

Beginning in 1994, Congress has designated May 11th as Vietnam Human Rights Day—a day to reflect on the struggles of the thousands of innocent Vietnamese citizens that seek basic human rights and freedom.

Sadly, in the sixteen years since Congress first established this day calling for Hanoi to respect basic human rights, the situation has not improved. In fact, after the United States granted Vietnam Permanent Normal Trade Relations in 2006, conditions worsened as the Vietnamese government, having received the trade agreement it sought, returned to its violent and incursive methods of silencing free speech.

While the Vietnamese government presents a facade of democracy to the world, journalists, bloggers, and whistleblowers are imprisoned for merely raising questions about government policies or calling attention to corrupt behavior. Pro-democracy activists are arrested and jailed under arbitrary, expansive, and vague anti-propaganda laws, often without due process. Despite years of pressure from Congress and humanitarian organizations, the Vietnamese government continues to deny these charges, show a lack of a serious commitment to reform, and openly violate both its own constitution as well as its international human rights obligations.

Moreover, religious freedom remains an issue. Reports of harassment, discrimination, and repression related to religion continue. In its Annual Report for 2010, released this month, the U.S. Commission on International Religious Freedom has renewed its call for Vietnam to be designated as a Country of Particular Concern by the State Department. I wholeheartedly agree with this recommendation, and strongly urge the State Department to follow it.

On this May 11th, I ask my colleagues to honor the efforts of those who are fighting for freedom and democracy in Vietnam, and to consider how we might be of assistance in their difficult and courageous struggle for the basic human rights that we, as Americans, enjoy.

IN HONOR AND RECOGNITION OF  
VETERANS OF THE BATTLE OF  
THE BULGE, (VBOB) OHIO NORTH  
COAST CHAPTER XXXVI

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. KUCINICH. Madam Speaker, I rise today in honor and recognition of Veterans of the Battle of the Bulge, (VBOB) Ohio North Coast Chapter XXXVI. Their individual and collective courage, sacrifice and service on behalf of our nation will be forever remembered.

The Battle of the Bulge was the largest land battle of World War II and one of the deadliest battles in American history. By the end of the battle, nearly 20,000 American soldiers were dead and more than 80,000 were wounded. The German surprise attack on American troops began on December 16, 1944 in the snow-covered Ardennes Mountains of Belgium and Luxembourg. It ended with an Allied victory. This courageous stand by American troops proved to be a major turning point in the war; it contributed to the defeat of the Nazis and the liberation of Europe.

The VBOB Chapter XXXVI was chartered on July 16, 1994. Forever connected by their shared experience, Veterans from throughout northern Ohio gathered to meet on a regular basis. Though the Chapter is now disbanding, its members were active. They held annual commemoration dinners in honor of their friends who lost their lives and led the effort to construct a memorial in honor of the soldiers who fought in the Battle of the Bulge. That monument, located in The Ohio Western Reserve National Cemetery in Rittman, Ohio, was dedicated on June 6th, 2002.

Madam Speaker and Colleagues, please join me in honor of and gratitude to the soldiers who fought in the Battle of the Bulge, many of whom made the ultimate sacrifice on behalf of our nation. I also stand in honor of the Veterans of the Battle of the Bulge, the Ohio North Coast Chapter XXXVI. The heart and grit that each young soldier exhibited in the midst of that battle will be honored forever.

TRIBUTE TO GENE A. VINCENTI ON  
HIS RETIREMENT

**HON. DONALD M. PAYNE**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. PAYNE. Madam Speaker, I ask my colleagues here in the House of Representatives to join me as I rise to pay tribute to the wonderful accomplishments of Gene A. Vincenti as he retires from Rutgers Newark. It is indeed a pleasure for me to add my congratulations to that of his family, friends and colleagues of the Rutgers Newark community as they celebrate in honor of "Mr. Rutgers Newark." For all the contributions he has made over the years, Mr. Vincenti deserves to be feted on this marvelous although melancholy occasion.

Rarely has an individual been such an integral part of a university by having received both undergraduate and graduate degrees and going on to work at the same institution for over 38 years. However, that is exactly what Gene has done. His career at Rutgers Newark can only be described as mutually beneficial. Having worked with three provosts and three presidents, Gene has been instrumental in helping to develop the current landscape of Newark. In addition to his involvement with the Council for Higher Education in Newark, CHEN, alliance, Gene had a hand in determining the locations of the New Jersey Performing Arts Center and the Prudential Arena. He also had input on redeveloping the Broad Street train station and the Broad and Halsey Street areas near the campus.

Gene's involvement in CHEN and his numerous years as a champion of Rutgers Newark helped to create some dynamic improvements and image boosting initiatives for the City of Newark. His sphere of influence in the community and the synergy he helped to create through CHEN will always be remembered by the many students, administrators and residents of the Greater Newark area.

Madam Speaker, I know my fellow members of the House of Representatives agree that Gene Vincenti has been a part of the fabric of Newark Rutgers and that his departure will leave a void that will not easily be filled. We wish him well in this new phase of his life.

HONORING MARK MADDEN

**HON. DALE E. KILDEE**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. KILDEE. Madam Speaker, I rise today to pay tribute to Mark Madden as he retires as Superintendent of Atherton Community Schools in Burton, Michigan. A Mark Madden hour is planned at Atherton High School tomorrow to honor his work.

Mark Madden started working for Atherton Community Schools in 1969 as an English teacher. Over the years he taught English, French, and Drama at Atherton Middle School, Atherton Senior High School and in the Atherton Adult Education program. Outside the classroom, Mark worked as the Red Cross sponsor for the Freshman and Junior Classes, was the advisor for the Foreign Study League, the producer of the Atherton Senior High School plays, was an announcer, scorekeeper and crowd control technician for sporting events.

He initiated and coached the Varsity Tennis Team and the Junior Varsity Tennis Team. As a member of the Michigan High School Tennis Coaches Association, his commitment to the sport was recognized in 2002, when he was inducted into the High School Tennis Coaches Hall of Fame.

Mark spent 32 years as a teacher, 4 years as a principal and 5 years as superintendent. In addition to his work with Atherton Community Schools, he also found time to teach English and Education at Baker College. He also participated in the Big Brothers, Big Sisters program. He has been honored as Regional Tennis Coach of the Year, the Teacher



of the Year and Northwood Institute Outstanding Influencer.

Madam Speaker, I ask the House of Representatives to join me in applauding the outstanding work and contributions of Mark Mad-den. He has been a committed educator both in and out of the classroom and I wish him the best as he enters the next phase of his life.

HONORING GERALDINE E. WOOD  
JOYNER

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. McCOTTER. Madam Speaker, today I rise to honor Geraldine Wood Joyner, a devoted wife, mother and community activist and to mourn her upon her passing at the age of 89.

Geraldine Wood, the oldest of the three children of William and Hilda Wood, was born in Stockton, California on May 20, 1920. Although her life was adversely affected and forever changed by the polio epidemic of 1921, Jeri was never deterred from living life to the fullest. At the tender age of 4, Jeri was accepted as a patient at San Francisco Shriners Hospital and endured multiple surgeries. Although she was home and hospital schooled through her eighth grade year, Jeri was healthy enough to attend high school, graduating in 1937. She then went on to attend Stockton College of Commerce. During World War II Miss Wood worked on a United States Army base in the state of Washington, meeting and eventually marrying Army Technical Sergeant Richard Joyner when the war ended.

Mr. and Mrs. Joyner and their young family moved to Livonia, Michigan in 1960 where Jeri quickly became involved in the local PTA thus beginning a storied career of service to the community she loved. Jeri served a combined 20 years with the Livonia School Board and the Wayne County Intermediate School District between 1964 and 1984. Perhaps because she was denied a normal educational experience, Jeri felt impassioned to guarantee other children ample opportunities through their school years.

Geraldine Joyner served her community with devotion, never waiting to be asked but stepping up to communicate and to identify important issues. Jeri was a longtime member of the League of Women Voters, spending many years as an election precinct chairperson. She was an active member of the Livonia Prayer Breakfast and the Livonia Town Hall speakers program. This truly was a woman who inspired those around her.

On May 2, 2010, Geraldine Joyner's driven heart failed and the Livonia community lost a champion. She will long be remembered as a mother devoted to her family, especially Richard, her husband of 62 years, and her sons Richard William "Bill" Joyner, a former Wayne County commissioner and Dr. Robert Wood Joyner. Jeri leaves a legacy in her grandchildren Richard Paul, Jonathan, Jason and Kimberly Ann Joyner. Jeri was a wonderful woman, kind to all she encountered. She will be truly and sorrowfully missed.

Madam Speaker, during her lifetime, Geraldine Wood Joyner enriched the lives of everyone around her. As we bid farewell to this wonderful woman, I ask my colleagues to join me in mourning her passing and honoring her years of loyal service to our community and country.

IN HONOR AND REMEMBRANCE OF  
JAMES FRANCIS SULLIVAN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. KUCINICH. Madam Speaker, I rise today in honor and remembrance of James Francis Sullivan, beloved husband, father, grandfather, great-grandfather and friend. Mr. Sullivan lived his life with energy, joy and a commitment to his community.

Mr. Sullivan was born on June 19, 1932. His mother, Sarah, was from Ireland, and his father, John, was from Pittsburgh. The youngest of eleven brothers and sisters, Mr. Sullivan was raised in Cleveland, Ohio, where he learned the value of hard work and the importance of family. He attended St. Coleman's Grade School and graduated from West High School.

Mr. Sullivan followed the path set by his father and joined the Asbestos Workers Local No. 3. He served as an Executive Board member and later was elected President, an office which he held for six years. In 1973, he was elected Business Manager of the Asbestos Workers union and he held the position for fifteen years. Mr. Sullivan was a tireless advocate on behalf of asbestos workers. He brought their concerns to national fora and represented the union at international conferences. Most significantly, under his leadership, pension and hospitalization plans were first established for asbestos workers.

Mr. Sullivan was also a dedicated husband and father. He married his high school sweetheart, Helen, in 1952. Together, they raised six children: James "Scott", Jeffrey, Brian, Danny, Bobby and Kelly. All five sons are members of the Heat & Frost Insulators Local No. 3 in Cleveland. Mr. Sullivan was also a devoted grandfather of twelve, and great-grandfather of two.

Madam Speaker and Colleagues, please join me in honor and remembrance of James Francis Sullivan. I offer my condolences to his family and friends. Mr. Sullivan lived life with a generous heart and an unwavering love for his family. He will never be forgotten.

A TRIBUTE TO GRIFFITH  
OBSERVATORY

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. SCHIFF. Madam Speaker, I rise today to honor the seventy-fifth anniversary of the Griffith Observatory in Los Angeles, California.

In 1896, Griffith J. Griffith donated 3,015 acres to the City of Los Angeles for Griffith

Park and several years later in December of 1912, he offered funding for a public observatory to the Los Angeles City Council. When Mr. Griffith died in 1919, he left funds for construction of the Observatory and the Greek Theatre in his will. The groundbreaking for the new Observatory building occurred in June of 1920, and in 1934, the Astronomers Monument was dedicated.

The formal dedication of Griffith Observatory was on May 14, 1935, and it opened to the public the next day. Soon afterward, the Observatory began its school field trip program, which ran continuously until 2001 and brought millions of students to the Observatory.

The Observatory has played a crucial role in our nation's history—whether during the 1940s, when military pilots trained in the planetarium theater to learn to navigate by the stars and the 121st Coast Artillery members were garrisoned at the Observatory, or in the hundreds of motion pictures filmed at the Observatory, including *The Phantom Empire*, *Rebel Without a Cause*, and *Jurassic Park*.

The 75 years have brought many exciting additions and changes at the Observatory. 1958 saw the retirement of the first Observatory Director, Dr. Dinsmore Alter, after 23 years. In the 1960s, the original Zeiss Mark II planetarium projector was replaced with a Zeiss Mark IV projector, Apollo astronauts were trained to navigate by the stars in the planetarium theater, and Dr. Clarence Clemshaw retired after 34 years of service as the Assistant Director (1935–1958) and Director (1958–1969). In November of 1973, Laserium premiered—a program that continued until January 2002. After Dr. William Kaufman's resignation as Director (1970–1974), Dr. E.C. Krupp became the fourth Director of the Observatory, a position he currently holds after over 36 years, making him the longest-serving Director. The 1970s also saw Griffith Observatory designated as Los Angeles Historic-Cultural Monument No. 168 and the official incorporation of the Friends Of The Observatory by Dr. Krupp and Debra and Harold Griffith.

In 1985, the fiftieth anniversary was celebrated on May 14, Halley's Comet brought in unprecedented crowds, and on January 1, 1989, the Observatory was featured on a Rose Parade float in the Pasadena Tournament of Roses Parade. In the 1990s, a master plan for the Observatory's future was approved, the Astronomers Monument restoration was completed, and huge crowds saw live telescopic viewing of Comet Shoemaker-Levy 9 crashing into Jupiter. In 2002, the Observatory closed to the public after 67 years of service for renovation and expansion and on October 30, the groundbreaking for the project occurred. After a \$93 million makeover, the Observatory building and grounds reopened to the public on November 2, 2006. Since that time, the Observatory has continued serving the public with new educational school programs and events.

I consider it a great privilege to represent Griffith Observatory and I ask all Members to join me in congratulating this iconic, cultural landmark upon its seventy-fifth anniversary.

## PERSONAL EXPLANATION

**HON. J. GRESHAM BARRETT**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately, I missed the following recorded votes on the House floor the legislative week of Tuesday, May 4, 2010.

For Tuesday, May 4, 2010, had I been present I would have voted "aye" on Rollcall vote No. 243 (on motion to suspend the rules and agree to H. Res. 1307), "aye" on Rollcall vote No. 244 (on motion to suspend the rules and agree to H. Res. 1213), "aye" on Rollcall vote No. 245 (on motion to suspend the rules and agree to H. Res. 1132).

For Wednesday, May 5, 2010, had I been present I would have voted "aye" on Rollcall vote No. 246 (on motion to suspend the rules and agree to H. Res. 1320), "aye" on Rollcall vote No. 247 (on motion to suspend the rules and agree to H. Res. 1272), "no" on Rollcall vote No. 248 (on motion to suspend the rules and agree to H. Res. 1301).

For Thursday, May 6, 2010, had I been present I would have voted "no" on Rollcall vote No. 249 (on agreeing to H. Res. 1329, providing for consideration of H.R. 5019), "aye" on Rollcall vote No. 250 (on motion to suspend the rules and agree to H. Res. 1295), "no" on Rollcall vote No. 251 (on motion to suspend the rules and agree to H.R. 1722), "aye" on Rollcall vote No. 252 (on agreeing to the Barton amendment to H.R. 5019), "aye" on Rollcall vote No. 253 (on agreeing to the Burgess amendment to H.R. 5019), "aye" on Rollcall vote No. 254 (on motion to recommit H.R. 5019 with instructions), "no" on Rollcall vote No. 255 (on passage of H.R. 5019).

# RECOGNIZING THE VISION OF JOHN W. WEEKS AND HIS CONTRIBUTION TO THE CONSERVATION MOVEMENT

**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. MORAN of Virginia. Madam Speaker, I am on the floor today acknowledging the upcoming 100th year anniversary of the passage of the Weeks Act, a significant conservation achievement in the history of the United States. John W. Weeks, a Republican Congressman from the Commonwealth of Massachusetts, was relentless in his efforts to pass this legislation, which authorized the federal purchase of cutover and denuded forestlands in the headwaters of navigable streams for the purpose of conserving the flow of streams and rivers and to restore lands for future timber production. Despite a fierce two year battle, Rep. Weeks was successful and the Weeks Act cleared Congress on March 1, 1911.

At the turn of the 19th century, vast amounts of private forested land in the eastern United States had been ravaged by clear cut logging. In the absence of trees, vast areas of the East were prone to flooding and soil ero-

sion, as well as destructive forest fires. No longer productive, these lands were often abandoned and came into state and local ownership for nonpayment of taxes. To bring these lands back from the ecological brink, Rep. John Weeks introduced legislation directing the federal government to relieve state and local governments from managing these lands and restore them to their former condition.

Today 26 eastern states are home to 52 National Forests encompassing almost 25 million acres. These forests provide significant economic benefits. Not only are the forests recreational sanctuaries, they are also a major contributor in keeping America's drinking water clean. Many eastern municipal water supplies depend on National Forest watersheds and currently \$450 billion in food and fiber, manufactured goods, and tourism depends on clean water and healthy watersheds. In addition, the timber supply managed by the Forest Service provides a significant monetary benefit. The timber resource was almost nonexistent when the federal government purchased the land, but today these lands host an estimated 42 billion cubic feet of growing stock and about 210 billion board feet of saw timber.

With this resolution we recognize and commemorate the vision of John W. Weeks and his contribution to the conservation effort. Both Republicans and Democrats recognized the importance of federal government in conserving the forests and the water supply for long term environmental goals. Today I encourage both Congress and the Forest Service to begin preparing a centennial celebration commemorating this major bipartisan accomplishment. Our 52 National Forests in 26 eastern states may never have existed if the Weeks Act of 1911 had not been passed.

I encourage my colleagues to support this resolution.

# IN COMMEMORATION OF THE 70TH ANNIVERSARY OF THE KATYN MASSACRE

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. KUCINICH. Madam Speaker, I rise today in commemoration of the 70th anniversary of the Katyn Massacre, when Soviet forces executed nearly 25,000 Polish military personnel and civilians including 4,443 military officers in the spring of 1940.

In September, 1939, the Soviet Union invaded eastern Poland and imprisoned nearly 5,000 Polish military personnel. Polish officers were separated by the Soviet NKVD, the precursor to the KGB. The officers were systematically lined up, shot in the back, and buried in the Katyn forest near Smolensk. Thousands more Polish soldiers and civilians were taken to other sites to be killed.

In 1990, Soviet Premier Mikhail Gorbachev publicly admitted that the Soviet NKVD had ordered the execution of up to 25,000 Polish military members and citizens. Gorbachev's admission was a first step toward reconciliation between Poland and Russia; a process that continues to progress today.

Madam Speaker and colleagues, please join in remembrance of the 70th anniversary of the tragedy that became known as the Katyn Massacre. As the people of Poland and Russia continue the work of reconciliation, we must support their efforts and continue to work toward diplomacy and peace. Together, we can create a world where nations rely on the principles of diplomacy and peace to resolve conflicts.

# AL BASHIR EXECUTES MARTIAL LAW TO SILENCE EL-FASHER UNITY: US AND UN UNSPOKEN

**HON. FRANK R. WOLF**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. WOLF. Madam Speaker, I would like to share with our colleagues an article which ran last week reporting that Sudan's leader, the internationally indicted war criminal, Bashir, declared martial law inside El-Fasher, Darfur.

What's remarkable is the headline: Al-Bashir Executes Martial Law to Silence El Fasher Unity: US and UN Unspoken.

Silence in the face of martial law?

Once again, I urge this administration to find its voice on Sudan.

[From Salem-News.com, May 4, 2010]

AL-BASHIR EXECUTES MARTIAL LAW TO SILENCE EL FASHER UNITY: US AND UN UNSPOKEN

(By Alysha Atma)

"I know there are many good, compassionate people in this world, who will listen to us and help us"—Mohammed Yahya

(EL FASHER/PORTLAND)—"Martial Law has been declared inside El Fasher, Darfur. We have to stay in our homes; the Police and Government Army are searching house to house looking for people, cell phones, cameras and pictures," a source on the ground there tells Salem-News.com.

All communications have been severed, "They are going to cut the network, no email or cell phones. We will not be able to communicate with anyone. We don't know how long this will last."

The International Superpowers—US Government and China, have all given their silent approval in support of the Genocidal President of Sudan. Omar Al-Bashir is a wanted war criminal who ran, and won the recent, rigged and fraudulent elections. By standing silent the US Government has allowed a continued reign of terror to besiege the people of Sudan. The US government has chosen its path, to stand with the Sudanese President while he targets the people and strips them from their land, families and often their lives.

The last several days have seen the tensions and terror increase inside the state of Darfur; bombings, clashes and protests have left many dead, injured or displaced.

According to sources on the ground, this was to be expected, with information beginning to leak its way out of Darfur and their voices coming together in unity. The government (GoS) is trouncing hard on the people of El Fasher. Those inside report that the government is not only stopping all communication they are confiscating cell phones, cameras and computers in an effort to ebb the flow of information leaving the state.

Sources say to brace for more to happen, there have been too many to count, arrested and beaten. Many of those being taken are the same that stood in strength and protested against the government's horror and deception.

2 May 2010 in El Fasher, also known as Al Fashir

The GoS Ponzi scam that was earlier reported not only stole money from the hard working Darfuri's but also allowed the GoS to compile a list of names and addresses. This list is not being used not to repay those that the government owes money, but to target with violence and harassment. Many on this list have already been taken away or arrested; reports indicate they are being sent to Shalla prison.

"Shalla is a very bad, terrible place".

We previously reported over 300 people were arrested in the two days following the protest.

Our source says, "Over 100 arrested today and still arresting more based on the governor's order this evening."

Sources indicate this may be a very long lockdown; they cannot leave their homes and the market has been shut down. A majority of people inside El Fasher do not have running water and rely on every day trips to the market to feed their families.

"How are we going to survive if we can't get food and water, we can't last a week? If we leave our homes we are arrested or killed."

Omar Al-Bashir has been known in the past to use starvation as a weapon of war. The goal and ideology has been consistent within this government; to clear Darfur of its people.

"They can do anything that they want and get away with it, anything beyond your imagination, that is what they can do," Reporter Mohammed Yahya said.

Oil, gold, copper and uranium are all found in ground of Darfur. Omar Al-Bashir's actions suggest that the Sudanese people are dispensable; wipe out the people and the land is his, this equals money. He has successfully managed to wipe out over 80% of the villages. El Fasher is one of the largest towns in Darfur with a population of over 250,000, how many will survive?

The citizens of El Fasher no longer having anything to lose; with no other direction and with many facing death or imprisonment, the U.S. and UN still stand silent. Their hope is for world to hear them and not allow another hundred people to disappear into Shalla prison today and thousands to starve while Al-Bashir smiles for the camera during his re-election photos.

Mohammed Yahya said, "I know there are many good, compassionate people in this world, who will listen to us and help us."

#### HONORING KEVIN DOWLING

#### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. STARK. Madam Speaker, I rise today to pay tribute to Kevin Dowling, who is retiring from the Hayward, California City Council after 26 years of public service. Over the course of his career, he has served on many Council commissions and intergovernmental agencies, including the Hayward Economic Development Committee, City Council Commercial Center,

Hayward Youth Commission, Hayward Economic Development Committee, and the Alameda County Transportation Improvement Agency.

Mr. Dowling has been a Hayward resident since 1962. He received his high school diploma from Moreau Catholic High School in 1980 and graduated with a Bachelor of Science degree from Santa Clara University in 1984.

Before becoming a council member for the city of Hayward, Mr. Dowling served as an aide to Alameda County Supervisors Gail Steele and Alice Lai-Bitker. He was Alumni Director for Moreau Catholic High School and Development Director for Eden Information and Referral. He serves as Development Director for the Boys and Girls Clubs of San Leandro.

Mr. Dowling has been a vital part of many projects in the city of Hayward, including downtown redevelopment and neighborhood improvements. His leadership and exemplary public service have made an impact in Hayward and beyond.

He is retiring from the City Council at the end of his term on July 13, 2010. I join the city of Hayward in expressing appreciation for his many years of public service.

#### OUR UNCONSCIONABLE NATIONAL DEBT

#### HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. COFFMAN of Colorado. Madam Speaker, today our national debt is \$12,926,785,477,772.98.

On January 6, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$2,288,359,731,479.18 so far this Congress.

This debt and its interest payments we are passing to our children and all future Americans.

#### HONORING MR. JOSEPH RIHEL

#### HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. RUPPERSBERGER. Madam Speaker, I rise before you today to honor the tireless service of Joseph Rihel as a dedicated volunteer for the Glen Burnie VA Outpatient Clinic. To salute his service, Mr. Rihel was awarded the 2009 Congressional Volunteer Recognition Award by the Veterans Advisory Council for Maryland's 2nd District.

Veterans of the United States Armed Forces have dedicated themselves to protecting the lives of every American. Their service to our Nation deserves the highest level of gratitude. It is important that we take the time to recognize the individuals who give of their time and talents to support veterans and ensure their comfort, care, and well-being.

A retired Baltimore City firefighter and reservist in the U.S. Navy, Mr. Rihel continues to serve his county and community as a volunteer at the Glen Burnie VA Outpatient Clinic. Mr. Rihel has driven more than 20,000 miles transporting veterans to their clinic appointments and back home. To date, he has given more than 1,700 hours of volunteer time to the Disabled American Veterans Transportation.

Time and again, Mr. Rihel has gone above and beyond expectations. When an illness disrupted the regular driving schedule, he worked overtime to keep the office moving. After a major snow fall, he cleared the snow off the vans, then moved them to a snow-free area so that Veteran patients and other drivers could access them safely. Mr. Rihel's colleagues describe him as "phenomenal."

Madam Speaker, I ask that you join with me today to honor Mr. Joseph Rihel. His compassion and dedication to veterans of the U.S. Armed Forces are an inspiration to us all, and are deserving of the utmost gratitude. It is with great pride that I congratulate Mr. Joseph Rihel on his exemplary service as an advocate and a volunteer.

#### IN HONOR AND REMEMBRANCE OF RICHARD SMALLWOOD

#### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. KUCINICH. Madam Speaker, I rise today in honor and remembrance of Richard Smallwood, a beloved husband, father and friend who lived life with a sense of joy.

Mr. Smallwood served in the Seabees division of the U.S. Navy. After his service he met and married the love of his life, Donna Reese. Together, he and Donna raised their six children with an abundance of love and devotion. He instilled within them a positive attitude, a strong work ethic, and an unwavering commitment to family and service. He worked for many years at Cleveland Electric Illuminating Company, the City of Parma Recreation Department, and he also ran a family business; a gift store called the Treasure Isle.

A modest man, Mr. Smallwood never sought the spotlight, but his volunteer work did not go unnoticed. He was honored numerous times by the City of Parma and other organizations for his efforts. Mr. Smallwood was an active member and leader within many community organizations and initiatives, including Proud of Parma, the Parma Chamber of Commerce, the Parma Amateur Athletic Association, and the Parma Rib and Rock. He was also an avid softball and volleyball player and enjoyed traveling.

Madam Speaker and Colleagues, please join me in honor and remembrance of Richard Smallwood, a man who will be deeply missed by all who knew and loved him. I offer my condolences to his wife of 41 years, Donna; to his children, Dave, Terri, Scott, Bruce, Vicki and Sherri; to his daughters-in-law, Barb, Karen and Mary; to his sons-in-law, Ken, John and Bob; to his 21 grandchildren and 21 great-grandchildren; and to his extended family members and numerous friends.

## PERSONAL EXPLANATION

**HON. EDWARD J. MARKEY**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. MARKEY of Massachusetts. Madam Speaker, on rollcall No. 245, I inadvertently voted "no," but intended to vote "yes."

TRIBUTE TO LIEUTENANT GENERAL FRANKLIN L. "BUSTER" HAGENBECK

**HON. JIM MARSHALL**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. MARSHALL. Madam Speaker, it is with great pleasure that I rise today not only as the Representative of the 8th District of Georgia but also as the Chairman of the Board of Visitors to the United States Military Academy at West Point, to honor the service and accomplishments of Lieutenant General Franklin L. "Buster" Hagenbeck, the 57th Superintendent.

LTG Hagenbeck distinguished himself through exceptionally meritorious service to the Nation during more than thirty-nine years of active military service in peace and war, culminating as the Commanding General and 57th Superintendent of the United States Military Academy, West Point.

Madam Speaker, during LTG Hagenbeck's tenure as Superintendent, West Point was recognized as the number one college in the Nation by Forbes Magazine (2009) and the number one liberal arts college by US News and World Report (2010). West Point also won twenty-four national championships in athletics and earned twenty-eight competitive scholarships (Rhodes, Truman, Fulbright, East-West, Gates, and Rotary).

LTG Hagenbeck instituted the first significant change to the cadet program since 1987 by establishing a measured leadership development experience during the summer of senior year. In only one year, he achieved a substantial improvement in the battlefield tested leadership qualities of West Point graduates based on feedback from battalion commanders. Through the establishment of Centers of Excellence at West Point, LTG Hagenbeck also developed an integration between Army applied problem sets and West Point research and intellectual capital, drawing from across West Point to stand up the National Military Academy of Afghanistan and graduate the first class into the Afghan Army in 2009.

Madam Speaker, LTG Hagenbeck commanded West Point while our Nation was at war. And it is well known within military circles that field commanders competed to bring his graduating cadets into their units. This is testimony both to the quality of the graduates and to LTG Hagenbeck's exemplary leadership as the 57th Superintendent of West Point.

On behalf of the Board of Visitors to West Point, I thank General Hagenbeck for his service. And on a personal note, let me take this opportunity to formally congratulate Buster and

West Point's 1970 speed football team for thoroughly stomping me and my fellow Princeton teammates. That memorable whipping cost me a dollar a point on a bet with my father, MG Robert C. Marshall, a 1942 West Point grad.

## PERSONAL EXPLANATION

**HON. KAY GRANGER**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Ms. GRANGER. Madam Speaker, on rollcall No. 242, I was absent from the House.

Had I been present, I would have voted "no."

TO CONGRATULATE ROY WELCH ON HIS FIFTIETH BIRTHDAY

**HON. HEATH SHULER**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. SHULER. Madam Speaker, I rise today to congratulate Roy Welch on his 50th birthday. Born with Down Syndrome in 1960 in my home town of Bryson City, North Carolina, the doctors told his parents he would not live long enough to take him home from the hospital. Fifty years later, Mr. Welch is a standing testament to the importance of faith, strength, and the desire to live a fulfilling and fruitful life.

Madam Speaker, I ask my colleagues today to rise with me in recognizing the incredible story of Roy Welch, and the inspiration he has provided to all of Western North Carolina. I urge my colleagues to join me in celebrating the courage, character, and vitality of Mr. Welch.

IN HONOR AND REMEMBRANCE OF MAX PALEVSKY

**HON. DENNIS J. KUCINICH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. KUCINICH. Madam Speaker, I rise today in honor and remembrance of Max Palevsky, a kind man who was devoted to his family and friends. He had an innovative spirit, a passion for the arts and politics, and he had a lifelong mission to make the world a better place.

Mr. Palevsky, the son of Jewish Polish immigrants, was born and raised in Chicago during the Great Depression. His mother was a homemaker and his father worked as a house painter; neither spoke much English. During World War II, he served as an electronics officer in the Army Air Forces. Following his service, he studied math and philosophy at the University of Chicago, where he earned a bachelor's degree in 1948. Mr. Palevsky became a titan in the computer industry as a founding member of Intel Corp. He used his vast wealth to finance political campaigns,

build notable art collections, help finance films and help save troubled publications like Rolling Stone Magazine.

Mr. Palevsky first became active in politics in the 1960s by supporting Tom Braden, a newspaper publisher, for California's lieutenant governor. He became active in the anti-war movement and served as a leader in Business Executives Move for Vietnam Peace. His activism against the war led to his efforts in support of Robert Kennedy's 1968 presidential campaign. He met George McGovern at the notorious Chicago Democratic National Convention and became an early supporter. He is credited with helping elect the first African-American mayor of Los Angeles, Tom Bradley, who held office for twenty years. Mr. Palevsky's bipartisan advocacy of campaign finance reform is evidence that he prioritized policy over politics.

Madam Speaker and colleagues, please join me in honor and remembrance of Alex Palevsky, whose innovative mind and passionate heart led not only to great accomplishment in America's technical industries, but also led to great contributions in art and politics. I offer my condolences to his wife, Jodie Evans; to his daughter, Madeleine; to his sons, Nicholas, Alexander, Jonathan and Matthew; to his stepson, Jan; to his sister, Helen; to his four grandchildren; and to his extended family members and many friends.

## HONORING THE CITY OF TERRELL

**HON. JEB HENSARLING**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. HENSARLING. Madam Speaker, today I would like to recognize the community and city leaders of Terrell, Texas. Terrell has been recognized in the state and by national publications for planning excellence and innovative, sustainable city planning.

Kaufman County is not only one of the fastest growing counties in the State of Texas, but also the entire country. In 2008, U.S. Census data showed a 44% increase in the county's population from 2000. The City of Terrell is currently home to about 18,952 people, but is expected to be home to over 50,000 new residents by 2025.

I would like to recognize Mayor Hal Richards and the city council, as well as Terrell City Manager Torry Edwards and the city staff, for their efforts and contributions to ensure Kaufman County residents will have a community that is equipped to handle the growth in the years to come.

RECOGNIZING REVEREND DAVID EVERSON DAY

**HON. RON PAUL**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. PAUL. Madam Speaker, on May 16, 2010, Galveston, Texas will celebrate Reverend David Everson Day in honor of Reverend Everson's eleven years of service as

the pastor of the First Union Baptist Church. I am pleased to join the First Union Baptist congregation, and all the people of Galveston, in celebrating Reverend Everson's 11 years of service.

First Union Baptist has had numerous achievements under Reverend Everson's leadership. For example, First Union Baptist's Hall Chapel was repaired and adapted to serve as a computer school and resource center for youth and adult literacy. Reverend Everson also led efforts to repair the church parsonage.

In the aftermath of Hurricane Ike, Reverend Everson worked tirelessly to meet the immediate spiritual needs of the First Union Baptist congregation while ensuring that First Union Baptist could resume its schedule of regular weekly services and ancillary activities as soon as possible. Reverend Everson continued to demonstrate exceptional commitment to his parish while leading the efforts to repair the damage the church suffered during Hurricane Ike.

Reverend Everson has contributed greatly to both the church, and the entire Galveston community, by being there for all who need a friend, comforter, and spiritual counselor. Reverend Everson not only cares for those in his congregation, he is always seeking to bring new people into the First Union Baptist congregation. The people of First Union Baptist, and all of Galveston, are certainly lucky to have such a dedicated man as Reverend Everson in their community. I, therefore, join the congregation of First Union Baptist Church and all of the people of Galveston in celebrating Reverend David Everson Day.

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IN RECOGNITION OF THE LIFE OF  
CAPTAIN KYLE A. COMFORT

**HON. MIKE ROGERS**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. ROGERS of Alabama. Madam Speaker, I would like to request the House's attention today to recognize the life of a proud American hero, Captain Kyle A. Comfort.

Captain Comfort, of Jacksonville, Alabama, died in Afghanistan on May 8, 2010, in service to our Nation. He is survived by his wife Katherine Brooke Comfort, their daughter Kinleigh Ann and his mother Ellen Comfort.

Like all those who have paid the ultimate sacrifice in this conflict, words cannot express the sense of sadness we have for his family, and the gratitude our country feels for his service. Captain Comfort died serving the United States and the entire cause of liberty, on a mission to bring stability to a troubled region and liberty to a formerly oppressed people. He was a true patriot for serving our Nation, and he will be missed.

We will forever hold him closely in our hearts, and remember his sacrifice and that of his family as a remembrance of his bravery and willingness to serve. Thank you, Madam Speaker, for the House's remembrance on this mournful day.

IN RECOGNITION OF GILLS ON-  
IONS' GRAND CONCEPTOR  
AWARD

**HON. ELTON GALLEGLY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. GALLEGLY. Madam Speaker, I rise in recognition of Gills Onions, a Ventura County, California, company recently awarded the Grand Conceptor Award from the American Council of Engineering Companies (ACEC), considered the Academy Awards for engineering.

Gills Onions, owned by Steve and David Gill, teamed with HDR Engineering to develop a groundbreaking waste-to-energy system fueled solely from onions.

Gills Onions and HDR were chosen from a field of eight finalists selected from among 163 projects worldwide. ACEC represents more than 5,600 engineering firms throughout the United States. Other finalists included the new \$1.3 billion Dallas Cowboys Stadium in Arlington, Texas, and the Sea-to-Sky Highway project in British Columbia, Canada.

Gills Onions hired HDR Engineering to develop the Advanced Energy Recovery System (AERS), which converts 200,000 pounds of daily onion waste (peels, stems, and tops) into biogas. The biogas, in turn, powers 300-kilowatt fuel cells to supply plant operations.

Gills Onions is the world's largest processor of fresh-cut onions and distributes them across the nation.

AERS satisfies 60 percent of Gills Onions' annual power needs—an estimated \$1.1 million savings. In addition to increased energy independence, AERS has allowed Gills Onions to eliminate a waste stream, reduce its operational costs and provide a smaller carbon footprint.

The combination of the energy produced, cost savings generated and grant funding achieved by the project will result in a full payback in less than six years.

Madam Speaker, I know my colleagues will join me congratulating Steve and David Gill and Gills Onions for being awarded the Grand Conceptor Award and for their out-the-box thinking that has possibly revolutionized how food processing waste is treated.

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HONORING THE 250TH ANNIVER-  
SARY OF BERNARDS TOWNSHIP

**HON. RODNEY P. FRELINGHUYSEN**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. FRELINGHUYSEN. Madam Speaker, I rise today to honor Bernards Township, in Somerset County, New Jersey, which is celebrating its 250th Anniversary in 2010.

Originally inhabited by the Lenni-Lenape Indians, the area that is now Bernards Township was purchased by John Harrison in 1717 on behalf of King George I of England. In 1760, the land was named Bernardston Township by King George II in recognition of the fifth provincial governor of New Jersey, Francis Ber-

nard. There were many buildings erected following this period that still stand today: The Lord Stirling Manor site, Basking Ridge Classical School and the Basking Ridge Presbyterian Church, all rich in history. In the yard of the Basking Ridge Presbyterian Church stands a great oak tree where General George Washington and Marquis de Lafayette picnicked and colonial troops practiced their drill steps. The Classical School provided education to many distinguished leaders of our country; graduates include Samuel Lewis Southard, New Jersey's tenth governor, who along with his father, Henry, became the first father and son pair to serve in Congress; Theodore Frelinghuysen, U.S. Senator and vice-presidential candidate in 1844; and William Lewis Dayton, U.S. Senator and Minister to France.

Today, Bernards Township consists of Basking Ridge, Liberty Corner and Lyons. It is home of the Lyons Campus of the Veterans Administration New Jersey Health Care System, the Bonnie Brae Educational Center and Verizon Corporate Headquarters and many excellent schools. This vibrant municipality is home to approximately 28,000 residents who look enthusiastically toward their future but also cherish and preserve their history.

Madam Speaker, I ask you and my colleagues to join me in congratulating Bernards Township as they celebrate their 250th Anniversary.

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BURMESE FREEDOM AND  
DEMOCRACY ACT

**HON. JOSEPH CROWLEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 11, 2010*

Mr. CROWLEY. Madam Speaker, I am proud to join with so many of my colleagues in introducing this bipartisan extension of the Burmese Freedom and Democracy Act. It is abundantly clear that we need tougher and a more robust application of sanctions on Burma, and we need to start soon because the Burmese regime continues to commit crimes against humanity and war crimes against its people.

Many of us in this Congress, as well as credible human rights organizations, have been saying this for years, but now even the United Nations Special Rapporteur on Human Rights in Burma has said that it is highly likely the regime has committed crimes. This is a regime that has destroyed or forced the abandonment of 3,500 villages, raped countless ethnic minority women and recruited thousands of child soldiers. There is no shortage of evidence of these crimes—which continue to this day. It is my hope the Administration will support the United Nations' findings, both by acknowledging the Burmese regime is committing crimes against humanity and by seeking a strong international investigation.

I am also concerned that the Burmese military regime has completely rejected true cooperation with the legitimate leaders of Burma—Aung San Suu Kyi and the National League for Democracy. The regime recently released a new constitution and electoral law

that makes it impossible for Nobel Peace Prize recipient Aung San Suu Kyi to run for office. The Burmese regime's "laws" makes a mockery of constitutionalism, and for that reason Aung San Suu Kyi's political party is simply not able to register to participate in the election.

We must stand with Aung San Suu Kyi and the legitimate leaders of Burma and show our support through concrete actions—by imple-

menting tougher sanctions and action on crimes against humanity—moves that have real teeth. When I led the Tom Lantos Block Burmese JADE Act, which was signed into law in 2008, I believed the Administration should use the measure to implement tough sanctions—now is the time for that implementation to begin.

Lastly, I would like to convey a message to Aung San Suu Kyi and the people of Burma:

the people and Congress of the United States stand with you. We will not waver in our support for your struggle.

Aung San Suu Kyi has appealed to the world to support the fight for human rights and democracy, stating "Please, use your liberty to promote ours." It is time for us to re-double our efforts for a better, more democratic Burma, and I urge my colleagues to join me in the expeditious passage of this legislation.

## SENATE—Wednesday, May 12, 2010

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord of Life, in whose will is our peace and who is worthy of a greater love than we can either give or understand, accept the gratitude of our thankful hearts. Thank You for protecting us from seen and unseen dangers and for being our shield in dangerous times. We praise You for life and health, for sunshine and shadows, for peace in the midst of life's storms. Lord, we are grateful for our lawmakers and rejoice that Your providence will prevail. Keep our Senators firm and steadfast as they put on Your whole armor of faith, hope, and love. Fill this Chamber with Your presence and our hearts with Your magnanimous attitude toward others.

We pray in Your sacred Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 12, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, today, the Senate will resume consideration of the Wall Street reform legislation, with the time until 10 a.m. equally divided and controlled between the two leaders or their designees. At 10 a.m. this morning, the Senate will proceed to a series of three rollcall votes in relation to the following amendments: the Merkley amendment regarding underwriting standards; the Corker amendment regarding underwriting standards; and the Hutchison, as modified, amendment regarding the Board of Governors. Additional votes are expected throughout the day.

### MEASURE PLACED ON THE CALENDAR—S. 3347

Mr. REID. Mr. President, I am told that S. 3347 is at the desk and is due for a second reading.

The ACTING PRESIDENT pro tempore. The Senator is correct.

The clerk will read the title of the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 3347) to extend the National Flood Insurance Program through December 31, 2010.

Mr. REID. Mr. President, I object to any further proceedings with respect to this bill.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

Mr. REID. Mr. President, would the Chair report the bill, please.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 3217, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Pending:

Reid (for Dodd/Lincoln) amendment No. 3739, in the nature of a substitute.

Corker amendment No. 3955 (to amendment No. 3739), to provide for a study of the asset-backed securitization process and for residential mortgage underwriting standards.

Merkley amendment No. 3962 (to amendment No. 3739), to prohibit certain payments to loan originators and to require verification by lenders of the ability of consumers to repay loans.

Hutchison modified amendment No. 3759 (to amendment No. 3739), to maintain the role of the Board of Governors as the supervisor of holding companies and State member banks.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10 a.m. will be equally divided and controlled between the leaders or their designees.

Mr. REID. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

### NOMINATION OF ELENA KAGAN

Mr. MCCONNELL. Mr. President, we have only had a few days to consider the President's latest nominee to the Supreme Court, but a few things are already becoming clear about the administration's approach to this vacancy.

As Solicitor General, Ms. Kagan is a member of the President's administration. The President, on Monday, also said: We are friends. The Vice President's chief of staff, who helped oversee her nomination, is evidently hard at work convincing members of the President's party that they will have nothing to worry about in terms of Ms. Kagan's possible appointment.

But in our constitutional order, Justices are not on anybody's team. They have a very different role to play. As a Supreme Court Justice, Ms. Kagan's job description would change dramatically. Far from being a member of the President's team, she would suddenly be serving as a check on it. This is why the Founders were insistent that Justices be independent arbiters, not advocates.

As one of the Founders once put it:

Under a limited Constitution, the complete independence of the courts of justice is peculiarly essential.



And further:

There is no liberty, if the power of judging be not separated from the legislative and executive powers.

So it is my hope that the Obama administration does not think the ideal Supreme Court nominee is someone who would rubberstamp its policies. But this nomination does raise the question, and it is a question that needs to be answered. Americans want to know that Ms. Kagan will be independent; that she will not prejudge cases based on her personal opinions; that she will treat everyone equally, as the judicial oath requires. That is the defining characteristic of any good judge, much less a judge on the Nation's highest Court.

The simple fact is, her lack of a record—especially her lack of a judicial record, and the fact that she does not have much of a record as a practicing lawyer either—gives us no way of answering that question at this particular point with any degree of comfort.

She has never had to develop the judicial habit of saying no to an administration, and we cannot simply assume she would. Later this morning, I will have an opportunity to meet with Ms. Kagan and to mention some of the concerns I have raised to her personally. We will welcome her to the Capitol and congratulate her once again on her nomination. This is not an easy process for any nominee, but it is an important one.

#### MIRANDA WARNINGS

Mr. President, President Hamid Karzai will visit the Capitol today to discuss the current situation in Afghanistan. His visit reminds us that the surge of forces into Afghanistan is not yet complete and that the counterinsurgency strategy developed by General McChrystal is still in its early stages.

President Karzai's visit also reminds us of the importance of completing our work on the war supplemental. We must complete this bill to fund our forces in the field, to help General McChrystal in his efforts to ensure that the Taliban does not return to power, and to ensure that Afghanistan does not again become a sanctuary for terrorists.

Let's remember that the 9/11 attacks were planned in Afghanistan, and that it was because of this attack and al-Qaida's many other attempts to kill innocent Americans that President Obama implemented a strategy for reversing the momentum of the Taliban in Afghanistan last December.

This is why it is so worrisome and, frankly, baffling to hear the Attorney General say the administration's views on issuing Miranda warnings to terrorists are now under reconsideration because of a "new threat," and because we are "now dealing with international terrorism."

Perhaps it is the reported involvement of TTP in the Times Square attack that the Attorney General believes is "new." But most people have been aware of the terrorist threat of international terrorists to the homeland since September 11, 2001.

The fact is, the clear purpose of many of the antiterror policies this administration in its first days tried to undo through Executive order was to deal with this threat that the Attorney General is now calling "new." These threats did not begin with the Times Square bomber any more than they ended on 9/11. They have been with us for a long time now, and they are as urgent today as they were 9 years ago.

#### CONGRESSIONAL BUDGET OFFICE REPORT

Now, Mr. President, I would also like to note some news that might have slipped past some people yesterday in the midst of everything else that is going on. I am referring to the Congressional Budget Office report that the health care bill is now expected to cost \$115 billion more than the administration said it would, wiping out every penny of savings they claimed the bill would produce.

This is truly astounding. Here was one of the Democrats' primary arguments in favor of their health care bill: that it would lower the deficit. Yet now we are learning that it will not. But you will not hear a word about it from the people who made that argument day in and day out for more than a year.

The fact is, the list of failed promises is growing every day. They called us alarmists for saying businesses would dump employees from their insurance plan. Yet now it is being reported that some of the Nation's biggest employers are seriously considering cutting employee health care and paying the lower cost penalties instead, just as we predicted. There goes the President's vow that "if you like the plan you have, you can keep it."

Another thing we heard was that the health care bill would slow the growth of health care costs for families, businesses, and government. Yet an analysis last month by the Obama administration's own Actuary found that this bill will actually increase costs and that the national spending on health care alone could go up by \$1/3 trillion—\$1/3 trillion.

The President and the Democrats in Congress said time and again that their health care bill would strengthen Medicare. Yet the administration's own experts now say it would drive nearly one in six hospitals into debt and threaten access to care for seniors on Medicare.

They said the bill wouldn't raise taxes on the middle class. Yet now Congress's own bipartisan scorekeeper on the legislation says middle-class taxpayers will pay billions more in taxes as a result of this bill. Millions more will get hit with a fine for choos-

ing not to buy government-approved insurance.

They said health insurance premiums would fall, but we have learned from the administration just this week that even some of the smaller reforms in this bill will actually drive up premiums.

So when Speaker PELOSI said we would have to pass this health care bill to find out what is in it, she knew what she was talking about, and what they are finding out is that Republicans were right all along. For every promise that crumbles, another one of our warnings is vindicated. Day after day, Republicans said the health care bill would raise taxes, raise premiums, and cut Medicare for seniors. We said it would increase costs because it didn't take an actuary to figure out that you don't save money on health care by spending more on it. Yet, even in the face of the clearest proof that we were right on every single count, the people who forced this bill through Congress against the will of the people continue to call us alarmists and to question our motives. But all of these headlines are already confirming what the American people already believe and what Republicans said all along: More government isn't the solution to out-of-control health care spending any more than spending money we don't have on projects we don't need is the secret to robust job growth.

The American people are tired of the reckless spending and the failed promises, and they are tired of elected representatives who won't own up to their mistakes.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

#### TIMES SQUARE BOMBING ATTEMPT

Mr. DURBIN. Mr. President, America was alarmed to learn that Times Square was closed for business because of the potential of a bomb threat. A vehicle was discovered with smoke coming out of it. Some alert people on the sidewalks and vendors called it to the attention of police, and they determined the contents of that vehicle at least included the crude elements that could have resulted in a bomb killing many innocent people. All they had to go on was the vehicle itself and a fleeting glimpse of the person who might have been responsible leaving, changing his shirt as he left that vehicle. It was a frightening situation where many innocent people who were visiting our largest city in America could have been killed just as on 9/11. What happened? Fifty-three hours later, our government arrested the prime suspect, the man who has conceded he was responsible for that vehicle in Times Square—53 hours.

I listened to some of the criticisms from those who come to the floor and say we should do this better, we should

be more vigilant, we should change our approach. I would concede that we need to learn from every single incident how to make America safer, how to avoid those vehicles even being in Times Square in the first instance. But let's be honest—to arrest the person responsible for it within 53 hours is an indication of some pretty good work by law enforcement and intelligence officials.

Then comes the argument about Miranda rights. Should we be treating terrorists as enemy combatants or as criminal defendants? Should they be sent to military commissions for trial or to our courts? Well, the fact is, the person involved in the Times Square bombing incident was an American citizen. He cannot be tried in a military commission under existing law. There is a recourse for him, and that is in the courts of America.

If he is to be tried in the courts, the ordinary process of due process suggests he will receive a Miranda warning. In this circumstance, after a number of hours of interrogation, the suspect was given his Miranda warnings. We hear them often on television. It didn't deter him from continuing to offer information literally for days to our law enforcement and security officials.

Many have come to the floor and suggested it is a bad policy for us to consider giving Miranda warnings to those suspected of terrorism. What they failed to note—and I have never heard one of them concede—is this policy is a policy created by George W. Bush and his administration after 9/11. They decided it would be the basic standard when it comes to interrogating suspected terrorists, particularly those who are American citizens, that a Miranda warning would be given.

This past weekend, Attorney General Holder said he believes we should consider some other elements in terms of when the Miranda warnings would be given and when a person would be presented before a court. I think that is a reasonable challenge for us to look to. But remember that the last time the Congress tried to change basic Miranda warnings, a very conservative Supreme Court across the street said no. They said, in fact, that this is part of due process in the United States of America.

So let's approach this carefully. Let's try to take the politics out of it for a moment. Let's concede that the former Republican President made Miranda warnings part of his ordinary process in dealing with terrorists.

Let's also acknowledge that a lot of hard-working men and women, in the 53 hours after the discovery of that vehicle, did everything in their power to find the person responsible and were successful. Let's give them some credit. These are men and women who work night and day, virtually unheralded, who, in this instance, did an extraor-

dinary job and should be acknowledged in a positive way and not in a negative way.

#### HEALTH CARE REFORM

There has also been conversation on the floor this morning about the health care reform bill. Make no mistake, not a single Republican Senator voted for it. In fact, they virtually boycotted the efforts to build this legislation, to write this legislation. Given ample opportunities to produce their own amendments or a substitute bill, they did not. When they offered a few amendments, they turned out to be amendments primarily designed to protect health insurance companies for a program known as Medicare Advantage. So at the end of the day, only the Democrats voted for health care reform.

Immediately, we heard from the other side of the aisle and from many of their supporters around the United States: Repeal it. Get rid of it.

Well, the American people see it differently. If Republican Senators are going to come to the floor and talk about polls, they should acknowledge that the polls clearly show the American people believe health care reform should be given a chance.

I think the Senator from Kentucky was suggesting to us this morning that we need to pull the plug on health care right now and stop. So does that mean he wants to eliminate the small business tax credit included in health care reform to help businesses with fewer than 25 employees pay for health insurance premiums? Does that mean the Senator from Kentucky wants to eliminate the \$250 to be given to those under Medicare who use the Medicare Part D prescription drug program to fill the so-called gap in coverage called the doughnut hole? Does he want to eliminate that? Does the Senator from Kentucky want to eliminate our efforts to move forward so that children up to the age of 26 will be covered by family plans while they are finishing college and looking for a job? Does he want to eliminate and repeal that? Is that what he is looking for? I hope not.

The suggestion that we can't revisit this bill—and we will revisit it in the future—is just plain wrong. I have said on the floor before that there are few perfect laws that have been written and not many by U.S. Senators. In this circumstance, we did our very best, working with the experts.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. DURBIN. I ask unanimous consent for 5 additional minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. DURBIN. Thank you. I will be glad to concede the floor to one of my Republican colleagues if they come during this 5-minute period.

When we wrote the health care reform bill, we relied on the best experts

we could find. We were dealing with one-sixth of the American economy, which is the sum total of the cost of health care in our Nation, and we did our very best to move forward. It would have been an easier task had we had the cooperation and joint efforts of the Republican side of the aisle, but they decided to step away and say no.

#### SECRET HOLDS

The last point I wish to make is that we have reached a historic milestone in the Senate with the Executive Calendar. At this point, we have over 100 nominations to the Obama administration for positions, large and small, that have been held up by the other side of the aisle. I wish to salute Senator CLAIRE MCCASKILL, Senator SHELDON WHITEHOUSE, and a number of my colleagues who have come to the floor and challenged the fact that this calendar is glutted with over 100 nominees who can't be brought to the floor for a vote.

Now let's examine a historical parallel. At the same time in President George W. Bush's administration, there were 20 nominees being held. Now over 100 are being held. Overwhelmingly, these nominees have passed out of committee to the Senate floor with unanimous bipartisan votes or overwhelming bipartisan votes. They are not controversial. These men and women deserve an opportunity to have an up-or-down vote.

What is happening here is that these nominations are being held as bargaining chips for projects and for—I am not sure what. But it is unfair to these men and women who have said they will offer some time in their lives to public service and will go through the rigors of being examined and questioned and then stand up and try to help make this a better Nation by serving in a government post. There is nothing wrong with that. Whether it is Republican or Democrat—and many of these are Republicans—they should have that opportunity.

I would suggest to the Republican side of the aisle, let's not use these good men and women of both political parties as bargaining chips for something else. Let's eliminate the so-called secret holds where Senators can, in fact, hold up these nominees without ever disclosing publicly that they are responsible. If they have a legitimate grievance against the nominee, make that grievance known publicly, argue it on the floor. But to hold up innocent people, to leave them stranded on the Executive Calendar for weeks and months is unfair to them and certainly unfair to this administration.

I see the Senator from Tennessee in the Chamber, and I yield the floor to my colleague from Tennessee.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

#### AMENDMENT NO. 3955

Mr. CORKER. Mr. President, I thank my friend from Illinois.

I wish to speak for just a moment on the Corker amendment that will be coming up very shortly, and I thank the Presiding Officer for the time.

First of all, I thank Senator GREGG, Senator LEMIEUX, Senator COBURN, and Senator BROWN for being cosponsors. I thank Senator SHELBY for all he has done to help support and make this amendment possible as well as Senator ISAKSON, who brings a wealth of experience to this body as it relates to real estate lending. I thank all of them for their support of this amendment.

It is a basic, commonsense amendment. I think everybody in this body knows that we as a country are going down a pretty slippery slope and that we as politicians act as enablers. We don't tell people what they need to hear. Instead, we try to give them what they want without any degree of discipline.

What this amendment does is restore within the housing market a focus on the core issue that took us into this crisis—something many people in this body do not want to discuss—and that is the fact that there were a lot of loans written to people who had no ability whatsoever to pay them back.

So this amendment does some very simple things. No. 1, it requires a very modest 5-percent downpayment for new home mortgages. If someone borrows more than 80 percent loan to value, it requires a credit enhancement—something that has been part of the American psyche for a long time. Believe it or not, it asks that there be fully documented income, including credit history and employment history. Gosh, what a big issue that would be, just to know someone had the ability to pay back the loan. Then it requires a method for determining the borrower's ability to repay, including consideration of their debt-to-income ratio, which is very important. So this would be done by banking regulators. It does not apply to VA or rural housing administration mortgages. It does give an exemption for organizations such as Habitat and Enterprise and others that allow homeowners to use sweat equity to actually build up some equity in a home.

This is a commonsense amendment. While I respect Senators on the other side of the aisle, Senators MERKLEY and KLOBUCHAR, who have worked on a side-by-side, I want to say to people in this body that while that is a good-intentioned amendment, what it does is build on the construct of the Dodd bill where, in essence, we are giving to this new consumer protection agency the ability to do loan underwriting. I think that is a dangerous path for our country to go down.

I thank my colleagues for letting me give an overview of this amendment, and I urge everybody in this body to support it.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I rise as a cosponsor in support of the Merkley-Klobuchar amendment to prohibit kickbacks to lenders who steer homeowners into bad mortgages.

The U.S. Senate Permanent Subcommittee on Investigations recently completed an 18-month investigation and a series of four hearings looking into some of the causes and consequences of the financial crisis. In our first hearing, the subcommittee examined the high-risk lending practices of Washington Mutual Bank, "WaMu," which led to the largest U.S. bank failure of all time. WaMu was brought to the precipice of collapse, in large part, by irresponsible and abusive home lending practices such as steering homeowners into high-risk and high-cost loans, and failing to even verify borrower income when making those loans. The Merkley-Klobuchar amendment prohibits those practices, and would go a long way towards preventing the irresponsible behavior that led to the financial crisis.

In the years prior to its failure, WaMu routinely issued stated income and negatively amortizing loans, which undermined the safety and soundness of the bank and injected hundreds of billions of dollars of high-risk loans into the U.S. financial system. Stated income mortgage loans, sometimes called "liar loans" or "no-doc" loans, allow borrowers to write their income on a loan application, without offering proof such as a pay stub or W-2 form, and without lender verification. Stated income loans made up 90 percent of WaMu's home equity loans, 73 percent of its option arms, and 50 percent of its subprime loans. During our hearings on regulatory oversight of WaMu's high-risk lending, both regulators—the Office of Thrift Supervision and Federal Deposit Insurance Corporation—supported an end to stated income loans, and inspectors general from those same agencies also advocated that Congress consider doing so.

It's no surprise that WaMu loan originators were steering borrowers into high-risk, high-cost loans, because they were being paid more to do it. Wall Street had an appetite for high-risk loans, and so WaMu built a conveyor belt to churn them out. In order to generate the volume of high-risk loans needed to keep the conveyor belt running, WaMu had to convince people to take out high-risk loans, like Option ARMs, in lieu of low-risk fixed rate loans. WaMu paid loan originators and mortgage brokers much more for issuing these high-risk loans, and so the originators and brokers would do the convincing, and make the sales.

It is time to stop those dangerous lending practices, which had such disastrous consequences for the U.S. financial system, our economy, and American families.

The Merkley-Klobuchar amendment contains one clause that does concern me. The amendment explicitly allows loan personnel to be paid bonuses for loan volume. The recent financial crisis shows how dangerous loan volume incentives are—they encourage loan officers and mortgage brokers to issue as many loans as possible as quickly as possible, with the inevitable consequence being shoddy lending in which loan personnel cut corners and churn out loans to boost their compensation. Our hearing demonstrated how the bonuses paid by WaMu for loan volume and speed resulted in poor quality and even fraudulent loans. It is my hope that the regulators recognize the problem and interpret that provision to permit banks to assign bonuses for only a reasonable number of loans, and that those same bonuses also be made contingent on good quality lending. Regulators should interpret the provision in the context of the overall amendment whose clear aim is to prohibit shoddy lending practices and shut down the type of conveyor belt lending that dumped so many toxic loans into the marketplace.

The Merkley-Klobuchar amendment takes the steps needed to bar stated income loans. It doesn't go as far with respect to negatively amortizing loans, although it takes an important initial step. That step is requiring lenders to qualify borrowers for these loans by evaluating their ability to pay the highest interest rate that would be charged at any time during the first 5 years of the loan. While that is a good first step, I have introduced an amendment with Senator KAUFMAN that would go further and would effectively ban negatively amortizing loans because of their detrimental impact on the safety and soundness of individual financial institutions and the financial system as a whole.

WaMu's experience with neg am loans shows why these loans were so dangerous to its operations. In 2006, more than 95 percent of WaMu's Option ARM borrowers made minimum payments, and, by the end of 2007, 84 percent of the total value of the Option ARMS in WaMu's portfolio were negatively amortizing. WaMu projected that negative amortization increased monthly mortgage payments for borrowers by 60 percent. Regulators found instances at its subprime originator, Long Beach Mortgage, of payment shock as high as 240 percent, where a loan payment jumped from \$1,700 to \$5,705 per month, with no data showing the borrower could afford the extra \$4,000. Not surprisingly, the payment shock from much higher loan payments led to loan defaults by a large number of borrowers. According to the Treasury and FDIC Inspectors General, WaMu failed largely because of its high-risk loans. The subcommittee investigation found that these high-risk

loans also contributed to the 2008 financial crisis, by loading up the financial system with toxic mortgages.

I am cosponsoring the Merkley-Klobuchar amendment because it would take the steps necessary to end stated income loans and lending practices that cause loan officers to steer borrowers to high-cost, high-risk loans.

AMENDMENT NO. 3759

Mr. DODD. Mr. President, I commend my colleagues for their work on this amendment. But, as I have stated, I believe it will fuel, and not limit, the type of charter shopping in search of the most lax regulator that we have seen in this past crisis.

The Hutchinson amendment would preserve the status quo by allowing the Federal Reserve to continue regulating about 845 State banks that are members of the Federal Reserve System out of a total of approximately 6,000 State banks.

This is a tremendous shame. Over the last 2 years, I sat through 80 hearings, listening to witnesses discuss the failings of the Fed—the failure of the agency to write rules protecting consumers, the failure of the agency to regulate derivatives, and its failure to properly supervise holding companies.

In response to these hearings, I initially introduced a bill that would have both streamlined our bank regulatory system and stopped banks from being able to engage in regulatory arbitrage. It would have consolidated the bank supervisory functions of four regulatory agencies—the OCC, the OTS, the FDIC, and the Fed—and would have created a single new agency to supervise banks. In other words, it would have taken the Fed out of the business of bank supervision entirely.

I ended up modifying this proposal in response to concerns raised by my colleagues, but the bill that we passed out of committee still consolidates bank regulatory functions in a clear and logical way. It eliminates the OTS, and gives supervision of all federally chartered depositories to the OCC, and all State-chartered depositories, including both State member and nonmember banks, to the FDIC.

And small holding companies and their banks are supervised by a single regulator. We looked into how these companies are structured and determined that in most cases these holding companies are just shells and their primary assets are just simply banks. In these circumstances, it just makes no sense to have a separate holding company regulator. So, under the bill, small national banks and their holding companies are regulated by the OCC. And small State-chartered banks and their holding companies are regulated by the FDIC.

Meanwhile, the bill requires the Fed to focus on several key areas—its monetary policy role, and its role as lender of last resort. It also expands the Fed's

reach into areas that compliment these central bank functions.

The bill gives the Fed supervision of bank holding companies with \$50 billion in assets and over, and the supervision of other nonbank financial companies if the failure of these companies would pose a risk to the U.S. financial stability.

The Fed is given the responsibility to establish heightened prudential standards for these companies, including tougher capital and liquidity requires.

And, the bill gives the Fed additional authority to regulate the payments system.

But apparently this isn't enough.

One of the main arguments the Fed makes for retaining this authority is that it needs a window into the workings of small banks in order to formulate monetary policy.

I say to my colleagues—this is a red herring. Take a look at the Fed's Beige Book. The Fed is able to collect information about a variety of sectors in the economy—about manufacturing, real estate, the energy sector, and the agricultural sector without direct regulation in these areas.

And by law, the Fed can already gather any information it wants from any depository institution—whether it regulates that institution or not. Let me read from the relevant parts of the law:

The Board of Governors of the Federal Reserve System shall be authorized and empowered . . . to require any depository institution specified in this paragraph to make, at such intervals as the Board may prescribe, such reports of its liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. [12 USC 248(a).]

The Fed also is arguing that it needs to be the regulator of all holding companies so that it can respond effectively in the event of a regional crisis.

I ask my colleagues—do we need a regulator that can respond effectively in the event of a regional crisis or that can effectively prevent the next crisis from occurring?

I would like to point out the possible downside of allowing the Fed to continue supervising State member banks.

Let me play this out. The agency that regulates this country's largest national banks is the Office of the Comptroller of the Currency, which is a bureau of the Treasury Department. The OCC is funded through assessments on the banks that it regulates.

By contrast, the FDIC and the Fed use revenues from their other operations to pay for their supervisory activities and don't charge their banks for examinations. State banks are examined by State authorities every other year, but the States do not charge as much as the OCC. So, it is much cheaper to be a State bank.

I fear that the very largest national banks will have tremendous incentives

to become State member banks so that they will have a single Federal regulator—the Federal Reserve. This will concentrate enormous power in the Federal Reserve System—an agency that the financial crisis has shown is already stretched too thin with its many and varied responsibilities.

This could also result in increased regulatory arbitrage. Since the OCC depends on assessments from the banks it regulates to fund its operations, the agency may go to great lengths to keep its banks from converting to State charters. We have seen what happens when depository institutions exploit these weaknesses in our bank regulatory system and when agencies compromise their supervisory integrity to maintain companies within their domain.

If this happens, we could have another race to the bottom—just like the competition and regulatory arbitrage that lead to the financial crisis.

Some will argue that my fears are unfounded, but I remain concerned about the unintended consequences that will flow from the Fed's continued regulation of State member banks.

And therefore I oppose the Hutchinson amendment.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. MERKLEY. Mr. President, I ask unanimous consent that there be 2 minutes of debate prior to the first vote, equally divided between the two sides.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. MERKLEY. Mr. President, today, we have two amendments that address integrity in retail mortgage origination. I am certainly encouraging you to place your vote squarely for the Merkley-Klobuchar amendment.

This amendment is critical to end no-document liar loans—a big factor in the meltdown that occurred last year.

Second, it establishes underwriting integrity so that underwriters will look at loan to value, credit history, and current obligations—again, integrity of mortgages—which enables loans to be securitized and creates liquidity so families can get loans at a lower interest rate.

Third, the Merkley-Klobuchar amendment ends steering payments. This is essential. The originators have been in an awkward position where they have been paid bonuses for making deals that weren't in their clients' interests.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CORKER. I yield back our time.

Mr. MERKLEY. I yield back our time.

The ACTING PRESIDENT pro tempore. Under the previous order, the

question is on agreeing to amendment No. 3962 offered by the Senator from Oregon, Mr. MERKLEY, and the Senator from Minnesota, Ms. KLOBUCHAR.

Mr. MERKLEY. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 36, as follows:

[Rollcall Vote No. 141 Leg.]

#### YEAS—63

Akaka	Franken	Mikulski
Baucus	Gillibrand	Murray
Bayh	Grassley	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Brown (MA)	Kaufman	Rockefeller
Brown (OH)	Kerry	Sanders
Burr	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Landrieu	Snowe
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Collins	Levin	Tester
Conrad	Lieberman	Udall (CO)
Dodd	Lincoln	Udall (NM)
Dorgan	Lugar	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden

#### NAYS—36

Alexander	Crapo	LeMieux
Barrasso	DeMint	McCain
Bennett	Ensign	McConnell
Bond	Enzi	Murkowski
Brownback	Graham	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Voinovich
Cornyn	Kyl	Wicker

#### NOT VOTING—1

Byrd

The amendment (No. 3962) was agreed to.

#### AMENDMENT NO. 3955

The ACTING PRESIDENT pro tempore. Under the previous order, there is 2 minutes of debate prior to a vote on amendment No. 3955, offered by the Senator from Tennessee, Mr. CORKER.

The Senator from Tennessee is recognized.

Mr. CORKER. Mr. President, I think everybody in this body knows the core of this last financial crisis was because there were a lot of loans written in this country that people couldn't pay back. The Dodd bill does a lot, but it doesn't deal with that basic core issue of loan underwriting. This is an opportunity for people on both sides of the aisle to support a commonsense amendment that requires a 5-percent downpayment, with fully documented income,

including an employment history and a credit history, which I think all of us would like to see, and a method for determining the borrower's ability to repay and that being part of loan underwriting put in place by bank regulators.

This commonsense amendment should be supported by both sides of the aisle. It gives the ability for Habitat, for Enterprise, for those organizations that use sweat equity to be excluded. This is something we all know needs to be common practice. Let's put it in the law and ensure that another financial crisis doesn't come on the backs of homeowners who borrow money, by the way, irresponsibly, and we enable them to do it. Let's vote for something that ensures that common sense is in place in loan underwriting.

This is a good amendment, and I hope my colleagues will support it.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. DODD. I thank my colleague from Tennessee. He has been a positive, constructive Member of this effort before us, but I oppose his amendment for two reasons.

First of all, it creates a very bright line of mandating 5 percent. Every non-profit, all FHA mortgages would be subject to that rule, which would exclude an awful lot. The Merkley-Klobuchar amendment we just adopted establishes underwriting standards.

Further, what the Corker amendment does is it strips out the skin in the game. One of the things we learned is that brokers and mortgage dealers had no skin in the game. They were selling off these items and they didn't care what was in it because they were being paid.

Under an amendment we will adopt after the Corker amendment is considered—the Isakson-Landrieu amendment—we will set a standard allowing for the option of that skin in the game, which I think strengthens the bill even further, and I appreciate Senator ISAKSON and Senator LANDRIEU offering that idea to this bill that will come right after this.

For those reasons, I urge my colleagues, respectfully, to reject the Corker amendment.

I yield back.

Mr. CORKER. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the Corker amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 142 Leg.]

#### YEAS—42

Alexander	Cornyn	Lugar
Barrasso	Crapo	McCain
Bayh	DeMint	McConnell
Bennett	Ensign	Murkowski
Brown (MA)	Enzi	Risch
Brownback	Graham	Roberts
Bunning	Gregg	Sessions
Burr	Hatch	Shelby
Chambliss	Hutchison	Snowe
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Collins	Johanns	Voinovich
Conrad	Kyl	Warner
Corker	LeMieux	Wicker

#### NAYS—57

Akaka	Gillibrand	Mikulski
Baucus	Grassley	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bingaman	Inouye	Pryor
Bond	Johnson	Reed
Boxer	Kaufman	Reid
Brown (OH)	Kerry	Rockefeller
Burr	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Dodd	Levin	Tester
Dorgan	Lieberman	Udall (CO)
Durbin	Lincoln	Udall (NM)
Feingold	McCaskill	Webb
Feinstein	Menendez	Whitehouse
Franken	Merkley	Wyden

#### NOT VOTING—1

Byrd

The amendment (No. 3955) was rejected.

Mr. DODD. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 3759, AS MODIFIED

The ACTING PRESIDENT pro tempore. Under the previous order, there is 2 minutes of debate prior to a vote on amendment No. 3759, as modified, offered by the Senator from Texas, Mrs. HUTCHISON, and the Senator from Minnesota, Ms. KLOBUCHAR.

The Senator from Texas is recognized.

The Senate will come to order.

Mrs. HUTCHISON. Mr. President, I ask to be notified after 30 seconds so my colleague, Senator KLOBUCHAR, can speak.

The ACTING PRESIDENT pro tempore. The Chair will do so.

Mrs. HUTCHISON. Mr. President, this is an amendment that reinstates the Federal Reserve as the prudential regulator for small holding companies and State-chartered banks. The State-chartered banks and the community banks have asked to retain the capability to be members of the Fed. They want their input into monetary policy. Over half of the Federal Reserve Bank presidents have also weighed in, saying this is essential. For instance, in the Dallas Fed it would go from over 500 regulated banks and bank holding companies to 1 or 2. Only the biggest banks would be heard.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, this amendment assures the Nation's monetary policy has a connection to Main Street and not just Wall Street. As the president of the Grand Rapids State Bank in Grand Rapids, MN said to me recently:

All Senators should be reminded that the Federal Reserve System was created to serve all of America, not just Wall Street.

If you talk to the regional Federal Reserves all over this country, they need this information. This amendment makes a difference. This amendment has support from the Lone Star State of Texas to the North Star State of Minnesota. I ask for your support.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Who yields time? The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I yield my time. Unless someone wants to speak in opposition, I oppose the amendment but I am not going to speak against it.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. DODD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER (Mr. BENNET). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 143 Leg.]

#### YEAS—91

Alexander	Dorgan	Lugar
Barrasso	Durbin	McCain
Baucus	Ensign	McCaskill
Bayh	Enzi	McConnell
Begich	Feingold	Menendez
Bennet	Feinstein	Merkley
Bennett	Franken	Mikulski
Bingaman	Gillibrand	Murkowski
Bond	Graham	Murray
Boxer	Grassley	Nelson (NE)
Brown (MA)	Gregg	Nelson (FL)
Brown (OH)	Hagan	Pryor
Brownback	Hatch	Reid
Bunning	Hutchison	Risch
Burr	Inhofe	Roberts
Burris	Isakson	Rockefeller
Cantwell	Johanns	Schumer
Cardin	Johnson	Sessions
Carper	Kaufman	Shaheen
Casey	Kerry	Shelby
Chambliss	Klobuchar	Snowe
Coburn	Kohl	Specter
Cochran	Kyl	Stabenow
Collins	Landrieu	Tester
Conrad	Lautenberg	Thune
Corker	Leahy	Udall (CO)
Cornyn	LeMieux	Udall (NM)
Crapo	Lieberman	
DeMint	Lincoln	

Vitter  
Voinovich

Warner  
Webb

Wicker  
Wyden

#### NAYS—8

Akaka  
Dodd  
Harkin

Inouye  
Levin  
Reed

Sanders  
Whitehouse

#### NOT VOTING—1

Byrd

The amendment (No. 3759, as modified) was agreed to.

#### CHANGE OF VOTE

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that I be recorded as yea on vote No. 143. Doing so will not affect the outcome of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I move to reconsider that vote and lay that motion upon the table.

The motion to lay upon the table was agreed to.

Mr. DODD. Mr. President, what I wish to do at this juncture, if we could, is we have an amendment being offered by our colleague from Louisiana, Senator LANDRIEU, and our colleague from Georgia, Senator ISAKSON.

I believe if they take 10 minutes or so, we could do it on a voice vote. I support and, in fact, I am a cosponsor of their amendment. I think it strengthens our bill tremendously. I want to thank my colleague from Georgia very much, who has forgotten more about real estate than most of us will ever know, having spent a good separate part of his life involved in the business.

We have worked together on a lot of issues over the last couple of years related to real estate. I thank him for his contribution, as well as my dear friend from Louisiana.

I yield the floor to them.

The PRESIDING OFFICER. The Senator from Louisiana.

#### AMENDMENT NO. 3956 TO AMENDMENT NO. 3739

Ms. LANDRIEU. Mr. President, I thank the chairman for his acknowledgment and his work with us on this amendment. It has broad bipartisan support. I offer it on behalf of myself and the good Senator from Georgia, Mr. ISAKSON, whose expertise in housing matters is well known; also on behalf of Senator WARNER, Senator HAGAN, Senator MENENDEZ, Senator TESTER, Senators LINCOLN, LEVIN, BURR, and HUTCHISON.

We have broad and deep bipartisan support for this amendment, and the reason we do is because it is a good amendment and, more specifically, it addresses the risk retention provisions currently in the bill by helping to eliminate the excessive risk taking we saw in the home mortgage market between 2004 and 2007, without raising in-

terest rates for those home buyers who have maintained good credit, document their income and assets, and finance their home the old-fashioned way. Back to the basics, with savings.

I call up amendment No 3956 at this time, and offer it for the Senate's consideration. I wish to also give 1 minute on our side to the Senator from Virginia, Mr. WARNER, and then turn it over to my colleague from Georgia. But we are proud to offer this amendment for the Senate's consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU], for herself, Mr. ISAKSON, Mrs. HAGAN, Mr. WARNER, Mr. MENENDEZ, Mr. TESTER, Mrs. LINCOLN, Mr. LEVIN, Mr. BURR, and Mrs. HUTCHISON, proposes an amendment numbered 3956 to amendment No. 3739.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To exempt qualified residential mortgages from credit risk retention requirements)

On page 1047, strike line 4 and all that follows through line 20 and insert the following:

“(i) not less than 5 percent of the credit risk for any asset—

“(I) that is not a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer; or

“(II) that is a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer, if 1 or more of the assets that collateralize the asset-backed security are not qualified residential mortgages; or

“(ii) less than 5 percent of the credit risk for an asset that is not a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer, if the originator of the asset meets the underwriting standards prescribed under paragraph (2)(B);

“(C) specify—

“(i) the permissible forms of risk retention for purposes of this section;

“(ii) the minimum duration of the risk retention required under this section; and

“(iii) that a securitizer is not required to retain any part of the credit risk for an asset that is transferred, sold or conveyed through the issuance of an asset-backed security by the securitizer, if all of the assets that collateralize the asset-backed security are qualified residential mortgages;

On page 1051, between lines 3 and 4, insert the following:

“(4) EXEMPTION FOR QUALIFIED RESIDENTIAL MORTGAGES.—

“(A) IN GENERAL.—The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly issue regulations to exempt qualified residential mortgages from the risk retention requirements of this subsection.

“(B) QUALIFIED RESIDENTIAL MORTGAGE.—The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly define the term ‘qualified residential mortgage’ for purposes of this subsection, taking into consideration underwriting and product features that historical loan performance data indicate result in a lower risk of default, such as—

“(i) documentation and verification of the financial resources relied upon to qualify the mortgagor;

“(ii) standards with respect to—

“(I) the residual income of the mortgagor after all monthly obligations;

“(II) the ratio of the housing payments of the mortgagor to the monthly income of the mortgagor;

“(III) the ratio of total monthly installment payments of the mortgagor to the income of the mortgagor;

“(iii) mitigating the potential for payment shock on adjustable rate mortgages through product features and underwriting standards;

“(iv) mortgage guarantee insurance obtained at the time of origination for loans with combined loan-to-value ratios of greater than 80 percent; and

“(v) prohibiting or restricting the use of balloon payments, negative amortization, prepayment penalties, interest-only payments, and other features that have been demonstrated to exhibit a higher risk of borrower default.

“(5) CONDITION FOR QUALIFIED RESIDENTIAL MORTGAGE EXEMPTION.—The regulations issued under paragraph (4) shall provide that an asset-backed security that is collateralized by tranches of other asset-backed securities shall not be exempt from the risk retention requirements of this subsection.

“(6) CERTIFICATION.—The Commission shall require an issuer to certify, for each issuance of an asset-backed security collateralized exclusively by qualified residential mortgages, that the issuer has evaluated the effectiveness of the internal supervisory controls of the issuer with respect to the process for ensuring that all assets that collateralize the asset-backed security are qualified residential mortgages.

The PRESIDING Officer. The Senator from Virginia.

Mr. WARNER. Mr. President, I want to commend the chairman of the Small Business Committee, and my colleague and friend, Senator LANDRIEU, and Senator ISAKSON for this amendment. I am proud to be part of it.

I think those of us on the committee when we were drafting the legislation wanted to make sure that the mortgage security securitization process, the originators of mortgages, had skin in the game. I think as we went through this process, and working particularly with the expertise of the Senator from Georgia, we realized that while skin in the game is important, it is more the underlying quality of the mortgage.

If we have mortgages that have that 20 percent down, with a high FICO score, the same level of skin in the game is not required. I think this amendment stays true to the intent of the Banking Committee bill.

I am glad the chairman of the Banking Committee is supportive of it. I think this is an amendment that refines and improves the legislation. I am proud to be a cosponsor of it, and grateful for the expertise of the Senator from Georgia and the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, first, I appreciate the kind remarks of the Senator from Connecticut, the Senator from Louisiana, and the Senator from Virginia. I ask unanimous consent that Senator GRASSLEY of Iowa be also added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. The committee did a great job to ensure subprime loans would never be made again by requiring risk retention of 5 percent. The only problem is they have called it on all loans, which meant there would be no mortgage loans. You would not have subprime, you would not have good loans because you cannot make it work with a 5-percent risk retention. As I have cautioned all of my colleagues, in the 1980s when the savings and loan industry failed, they had 100 percent risk retention. Risk retention is not the cure-all to good lending; underwriting is.

The Senator from Louisiana and the other sponsors of this amendment are ensuring that people who have incomes that are verified, they will ensure that they have ratios that meet the tolerance levels for a qualified loan, meaning you are not borrowing more than you can pay back; they will ensure there is equity of 20 percent in every loan made, either through the downpayment being 20 percent or through whatever downpayment is made, having mortgage guarantee insurance on the amount above 80, and up to the downpayment, which is the way things used to work.

In other words, the underlying lender is never at risk for more than 80, more than 80 is made by the borrower, it is mortgage guarantee insurance, which means if there is a default, that insurance is paid immediately, which ensures you that you are making a better quality loan.

What Senator LANDRIEU has basically said is, we are not going where we make zero down, interest-only, all-day, stated-income, reversed amortization loans anymore. But we are going to make the good-old-days loan, where there is a downpayment, where there is skin in the game, where there is an income-to-debt ratio, and where the borrower is qualified to borrow the money they are borrowing.

The only risk retention that will be required is when someone is making a bad loan, which means people will stop making bad loans, which means this bill, with this amendment, will have

truly addressed the heart and soul of what led to the failure of the housing market and ultimately the subprime securities in New York.

I appreciate the chairman's acceptance of the amendment. I commend Senator LANDRIEU as the original author of the amendment. I appreciate the time she offered me on the floor today.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I wish to ask for immediate consideration of the amendment, if it could be voice voted at this time and, if not, scheduled for the earliest possible vote.

Mr. DODD. I appreciate that. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3918 TO AMENDMENT NO. 3739

Mr. DODD. Mr. President, I ask unanimous consent that we temporarily lay aside the Landrieu-Isakson amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

Ms. SNOWE. I call up amendment No. 3918.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. SNOWE], for herself and Ms. LANDRIEU, proposes an amendment numbered 3918 to amendment No. 3739.

Ms. SNOWE. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve title X)

On page 1272, line 2, strike “services who” and insert “services, but only to the extent that such person”.

On page 1272, line 22, strike “(C)” and insert “(C)(i)”.

On page 1273, strike line 19 and insert the following:

“(C) LIMITATIONS.—

“(i) IN GENERAL.—Notwithstanding sub—

On page 1273, line 20, after “subparagraph (B)” insert “, and except as provided in clause (ii)”.

On page 1274, between lines 2 and 3, insert the following:

“(ii) EXCEPTION.—Subparagraph (A) and clause (i) of this subparagraph do not apply to any merchant, retailer, or seller of non-financial goods or services, to the extent that such person is subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.”.

On page 1274, strike line 3 and all that follows through “may” on line 4 and insert the following:



“(D) RULES.—

“(i) AUTHORITY OF OTHER AGENCIES.—No provision of this title shall”.

On page 1274, between lines 13 and 14, insert the following:

“(ii) SMALL BUSINESSES.—A merchant, retailer, or seller of nonfinancial goods or services that would otherwise be subject to the authority of the Bureau solely by virtue of the application of subparagraph (B)(iii) shall be deemed not to be engaged significantly in offering or providing consumer financial products or services under subparagraph (C)(i), if such person—

“(I) only extends credit for the sale of nonfinancial goods or services, as described in subparagraph (A)(i);

“(II) retains such credit on its own accounts (except to sell or convey such debt that is delinquent or otherwise in default); and

“(III) meets the relevant industry size threshold to be a small business concern, based on annual receipts, pursuant to section 3 of the Small Business Act (15 U.S.C. 632) and the implementing rules thereunder.

“(iii) INITIAL YEAR.—A merchant, retailer, or seller of nonfinancial goods or services shall be deemed to meet the relevant industry size threshold described in clause (ii)(III) during the first year of operations of that business concern if, during that year, the receipts of that business concern reasonably are expected to meet that size threshold.

“(E) EXCEPTION FROM STATE ENFORCEMENT.—To the extent that the Bureau may not exercise authority under this subsection with respect to a merchant, retailer, or seller of nonfinancial goods or services, no action by a State attorney general or State regulator with respect to a claim made under this title may be brought under subsection 1042(a), with respect to an activity described in any of clauses (i) through (iii) of subparagraph (A) by such merchant, retailer, or seller of nonfinancial goods or services.”.

Ms. SNOWE. I thank the chairman of the committee, Senator DODD, for being responsive and receptive to a number of amendments we have offered with respect to small businesses and for making sure there are not unintended consequences as a result of this legislation that require more regulation on their part.

I also thank the chairman of the Small Business Committee, Senator LANDRIEU, for cosponsoring this amendment and for her efforts as a strong champion on behalf of small businesses. I thank the chairman for working with me to forge a compromise on this particular amendment that gives small businesses certainty that they will be exempted from the Consumer Financial Protection Bureau to the degree that they are not involved in financial products that will be regulated under this legislation.

This amendment will modify a provision in the underlying legislation that could unintentionally ensnare small businesses within the Consumer Financial Protection Bureau if they are judged by the bureau as having engaged “significantly” in consumer financial products or services such as selling goods or services on credit or through an installment program.

The term “significantly” is unclear. Certainly, it could potentially lead to

Main Street enterprises such as jewelers, orthodontists, or furniture store owners being roped into a bureau intended to regulate providers of financial services. The chairman has been clear that through his interpretation, small business owners are specifically excluded, that they were never intended to be placed within the bureau itself. Yet the bill’s use of the term “significantly” is vague.

Perhaps an article entitled “To Protect Consumers, Who Will Be Regulated?” published by the New York Times on April 30 captured this issue the best when it noted:

A review of the consumer protection provisions, which account for 335 pages of the 1,565-page bill, shows that the intent of this legislation is not to cover Main Street businesses. But the ambiguity of some terms—like the word “significantly”—leaves the regulations open to broad interpretation.

Accordingly, while I strongly believe Congress should pursue the providers of abusive and predatory financial products that harm Americans, we must be careful not to inadvertently target Main Street small businesses. Given the state of the economy and the difficulties placed on small businesses struggling to keep their doors open, entrepreneurs already have enough to be concerned about. We should not be injecting more uncertainty in the very enterprises we are counting on to reverse the 7.8 million job losses we have experienced thus far in this recession and create opportunities for the 15.3 million Americans who remain unemployed. Additional uncertainty will make small firms far less likely to take risks and make new investments.

I believe we add clarity to this provision by virtue of this amendment. We prevent the overregulation of small businesses that may result in regulators interpreting this statute too broadly.

My amendment creates a quick, easy, bright-line test for small businesses. Firms that fall under the Small Business Administration’s North American Industry Classification System—the classification system small businesses use to file their taxes and qualify for SBA programs and services—would be exempt so long as the small business extends credit for the sale of nonfinancial goods and does not securitize its debt. For example, this means a doctor’s office would be exempt if it has less than \$10 million in revenue, a jeweler would be exempt if it has revenues below \$7 million, and a grocery or convenience store would be exempt if it has revenues under \$27 million. As a result of this modification, business owners would know with certainty that if they were defined as small businesses by SBA standards, they would be exempt from regulations by the bureau. In addition, if a business is in its first year of existence, it would be considered a small business if it is reasonably

expected to fall under the SBA’s size standard.

This simple measuring stick provides objective criteria for small firms and has also been endorsed by the National Federation of Independent Business, the largest organization and voice for small business. It is also endorsed by the American Dental Association and the American Association of Orthodontists. Finally, the U.S. Chamber of Commerce has indicated that although it continues to have concerns with the Consumer Financial Protection Bureau, it views this amendment as an important step forward.

In the past year, the economic recession and the radical overhaul of the Nation’s health care system have sown the seeds of doubt and uncertainty in America’s small businesses. In Maine, I have been told time and again by constituents and small business owners that they are concerned about the future and worried about the growth of government. Adding another regulator with ambiguous powers is not the answer small businesses and Mainers are looking for to enable them to make plans about their futures, potentially adding jobs and making future investments.

This is why I have also filed—and intend to call up during this debate—another amendment that I filed with my good friend and colleague, Senator PRYOR. That amendment would ensure that when the newly created Consumer Financial Protection Bureau promulgates rules and regulations, it fully considers the economic impact that those rules and regulations would impose on our Nation’s 30 million small firms and their ability to access credit. I look forward to working with Senators DODD and SHELBY to have that amendment considered.

In conclusion, this bipartisan amendment now before the Senate was crafted in consultation with small business stakeholders and is a commonsense solution to this problem. Given that “stability” is in the title of this legislation, I urge Members on both sides of the political aisle to aid small business owners and gain a measure of stability in these uncertain times and support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I ask unanimous consent to add Senator BURRIS as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. I thank my colleague, Senator SNOWE, who chaired the Small Business Committee for many years, for her dogged determination to make sure the language in the underlying bill, which is most certainly necessary to curb gross abuses in the financial market, does not unintentionally do harm to small businesses that are the engines of growth

to pull us out of this recession. Our amendment helps in a significant way to do that by drawing fine lines and clarifying definitions.

I thank the Federation of Small Businesses, the American Dental Association, and the American Association of Orthodontists, as well as dozens of other organizations that have supported this clarifying language.

I thank the chairman of the committee for giving us an opportunity to offer this important amendment, and I urge my colleagues to accept it. I urge them to look at the cosponsorship opportunity as well.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank both of my colleagues, not only for their work on this particular amendment but for the way they have approached the bill. They have been tremendously constructive in offering very solid ideas.

This is one amendment that does a great deal of service to the legislation. As the Senator from Maine pointed out, it was certainly always our intent not to include retailers and merchants under the auspices of the consumer financial product safety commission. The language they have now offered and on which they worked so hard makes that abundantly clear. The word “significantly” clearly is an opaque word. No matter how much I tried to make clear what my intentions were with that language, this amendment strengthens it tremendously. As I have said, this was never intended to affect Main Street merchants.

I am delighted that the National Federation of Independent Business, along with the American Dental Association and the American Association of Orthodontists, is now in support, because they were two groups about which it was unclear whether they would be included. As a result of what we have been able to craft, with the leadership of Senators SNOWE and LANDRIEU, we now have their support. I thank them.

Ms. SNOWE. Mr. President, I wish to express my appreciation to the chairman for working so constructively to develop this amendment, to build a consensus, and to give a strong measure of assurance to the small business community about the intent of this legislation so it doesn't create unintended consequences. I appreciate all he has done to make sure this amendment could be considered and hopefully adopted.

Mr. DODD. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. Mr. President, I am pleased to join the distinguished Senator from Louisiana in supporting this small business legislation. There is a growing chorus in Washington of national leaders and advocacy groups, concerned citizens who have all come

together to call for financial reform. Across America, folks are demanding a return to accountability, commonsense regulations, and fair business practices.

Each of us has been touched by this economic recession. Every Member of this body has heard from countless businesses and families back home who have had to tighten their belts and brace for the worst. We have all seen the raw numbers. We have heard the statistics over and over. Too often, we forget what is behind the numbers—real folks experiencing real pain. This economic crisis is far from abstract. It has touched millions of American lives. It has made people wonder when or even if our economic future will be secure again. It has shaken us to the core.

Things are finally starting to look a bit better. Thanks to bold steps taken at the national level, America is back on the road to recovery. Key economic indicators are turning around. But we are not out of the woods yet. The national unemployment rate stands at almost 10 percent. Our economy is growing but more slowly than we had hoped. Some people, especially the elderly and racial and ethnic minorities, remain especially vulnerable. Their pain is real. That is why, as the Senate considers financial reform legislation, we need to make sure they are protected. We need to make sure recovery continues along the right path and, at the same time, to stand up for these folks and prevent this from happening again.

That is why we need to create a Consumer Financial Protection Bureau, a strong advocate standing squarely on the side of the ordinary American, defending them from abuse at the hands of large corporations. This new bureau must be at the center of the financial reform package. It must be empowered to set and enforce strict consumer protection rules.

We should start with the mortgage industry. For years, banks have been allowed to relax their standards. They have made bad loans to people who were never able to make the payments. As a result, foreclosures skyrocketed.

Almost no community in America was immune to the subprime lending crisis, but minority populations were hit the hardest. At the height of the subprime boom, 54 percent of the loans made to African Americans were high-priced loans. The recession has caused these borrowers to come under severe stress, and as a result the Black home ownership rate has decreased.

We need to stop this kind of predatory lending and restore basic principles of fair play to the mortgage industry. That is why our Consumer Financial Protection Bureau would take a hard look at the way the mortgage brokers operate. It would ensure borrowers have access to loans they can

afford. It would shut down scam operations, end abusive practices, and keep all brokers honest.

But it doesn't stop there. I believe we should extend many of these same protections to the student loan industry.

Today's young people represent the best America has to offer. They are our future, and we need to invest in their education, so we can make sure they have the tools that will help them succeed in the global marketplace. That is why our Consumer Protection Bureau would have the authority to set basic rules of the road, to make sure students are empowered to make smart choices.

The bureau would provide assistance to borrowers and institutions alike, increasing the flow of information and breathing transparency back into this complicated system. This would provide significant benefits to young people across America. But it would have the strongest impact on minority households, 49 percent of which currently have installment loans, including student loans.

Finally, we must task our new bureau with increasing financial literacy among consumers. Today, far too many Americans get caught up in the fine print, trapped by the deceptive practices of major financial institutions. So if we pass financial reform that includes a Consumer Financial Protection Bureau, these folks will have access to clear information in plain English. If they are still confused, they will be able to call a consumer hotline. This will connect them directly with experts at an office of financial literacy, so they can get their questions answered and make sure they are getting a fair deal.

This will empower consumers to make smart choices and will prevent big financial institutions from taking advantage of ordinary Americans. It would ensure that we stay on the road to recovery and extend a helping hand to regular folks who need it—especially the disadvantaged communities that have felt the worst effects of this crisis.

Most importantly, a Consumer Financial Protection Bureau will help prevent this kind of crisis from ever happening again. We must never forget that cold statistics and Wall Street balance sheets do not tell the complete story of this financial meltdown. It is important to think of the real human beings—individuals and families—who are behind these numbers: the ordinary folks who continue to suffer.

I believe it is time to stand up for these folks. That is why I am glad a Consumer Financial Protection Agency is at the center of our Wall Street reform bill.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORKER. Mr. President, I appreciate the opportunity to come back to the floor and speak on financial regulation. First of all, I wish to congratulate the Presiding Officer from Colorado for being very successful yesterday on passing an amendment that I think is going to be good for our country.

I rise to speak about an amendment I had earlier today. It was a common-sense amendment that I think gets at the heart of this financial crisis. It didn't pass, but the amendment was to put in place underwriting standards to keep the kind of crisis we just saw happen in our country over the last couple of years from happening again.

I think we all realize the base of this crisis, which the Dodd bill does not address, was the fact that we had large numbers of loans written around this country that people couldn't pay back. The underwriting standards were poor. Credit was extended to people who couldn't pay the mortgages back. Those mortgages were passed throughout the world, and then we had \$600 trillion worth of notional value derivatives that were based on, again, these underlying bad mortgages. Then we had a systemic crisis not only in this country but around the world.

So what I attempted to do with my amendment was to put some appropriate underwriting standards in place where everybody who purchased a home would need to have a 5-percent downpayment. If they borrowed more than 80 percent loan to value, there would have to be some credit enhancement, up to 100 percent, to ensure it, in fact, was a safe loan. They had to fully document their income. What a breakthrough. They would have to include their credit history and employment history. Then we would have to determine the borrower's ability to repay, including consideration of their debt-to-income ratio.

This was just a basic underwriting guidelines amendment. Again, I think we know at the base of this problem we just went through was the fact that we had a lot of bad loans written.

I had a number of Democratic colleagues come up to me after the vote—or actually during the vote—and they said: I support what you want to do, but the provision striking the 5-percent retention dealing with securitization, which we did have in this amendment, was what kept me from voting for this underwriting amendment.

I put that in there because I think most people looked at the Dodd proposal and the 5-percent retention on securitization and realized that it cre-

ated a problem, not a solution. So I actually did that to draw people to our amendment. But since I had a number of Democrats, my friends on the other side of the aisle, come up and say they would have supported it without striking the risk retention, I have now refilled that amendment.

I am now saying, OK, let's have some standard underwriting procedures in this country. Now that I have refilled that amendment, if it was the issue of risk retention on the securitization piece that kept you from coming onto this amendment, I have refilled it, and now I am seeking on the other side of the aisle some cosponsors.

We had some great cosponsors last time—Senators GREGG, LEMIEUX, COBURN, and BROWN. Senator SHELBY also supported this amendment. We had JOHNNY ISAKSON, from Atlanta, who probably knows more about real estate lending than anybody here, on behalf of this amendment.

For my friends on the other side who said: I would have done this, but that risk retention piece you had in there regarding securitization kept me from it, now I have a clean amendment that does nothing in that regard. It leaves that in place. Again, it puts into place these underwriting standards. I had a number of Democrats who said: I agree that we ought to at least have 5 percent down. I think maybe we ought to have more.

Well, because I want everyone in this body to have the opportunity to vote for a good, sound amendment, one that takes us away from the way we have been going in this country, which is we want to make sure everybody is entitled—it is no longer the American dream that someone owns a home; it is an American entitlement. Nobody saves. I should not have said that. We have moved away from requiring that people save and show discipline in order to own homes. We have made it now, according to an amendment that passed today, which the Presiding Officer put into place, and I respect what he tried to do, but in essence we said in that amendment that what you can do to have proper underwriting is you can borrow and pay, over time, the downpayment. We are not going to require a downpayment. We will let you put that into the cost of the loan—borrow it and pay it back over time.

Mr. President, I thank the Chair for the opportunity to speak today. Again, I have so many friends on the other side of the aisle who said: CORKER, I would have supported your amendment, but it had that one phrase in it about risk retention. I have taken that out and, hopefully, we will have the opportunity to vote on this again.

I see my friends on the other side of the aisle smiling. I am looking for cosponsors on the other side of the aisle for a simple, commonsense amendment, which says that everybody in

America who buys a home will at least put 5 percent down. We will be able to see their income. Let's document their income and see that they can pay the loan back. This will be a brandnew day in America.

My sense is that, as the realtors come to the hill today—my friends—and as the home builders come to the hill today—and they are my friends—obviously, they don't want any underwriting requirements because they want to make sure loans go to everybody in America. I am thankful my friends on the other side of the aisle have come to me today and said: CORKER, "only if." Now I am offering the "only if." I look for cosponsors to help me.

I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HEALTH CARE LEGISLATION

Mr. BARRASSO. Mr. President, I come to the floor today—and the Republican leader has already addressed this body—to discuss the issues of health care, about new revelations, new information that has come forth in terms of the specifics of the costs of the health care bill that has been signed into law—the costs that far exceed what was ever anticipated.

I come here as somebody who has practiced medicine in Wyoming for 25 years as an orthopedic surgeon, taking care of families in Wyoming, as medical director of the Wyoming Health Fairs, a program that provided low-cost health screening in Wyoming. This gave people an opportunity to take more responsibility for their own health and keep down costs of their medical care.

I come to the floor with a second opinion, as a physician—a practicing physician, taking care of patients; it is a second opinion about the health care law.

Today, I come to the floor because the goal of the health care bill was truly to improve quality and access and get the cost of care down. Those are the things I think all of the Senate wanted to have achieved.

But having seen this bill that has been passed and signed into law, I believe the bill is going to be bad for patients, bad for our providers, the nurses and doctors who take care of them, and bad for the payers—the American people, who will foot the bill for this health care bill.

I believe this bill will fundamentally, as it has been passed into law, result in higher costs for patients and in less access to care for people all across America. It is going to result in unsustainable spending, at a time when we are running record deficits.

I think about the things the President said when he was not just running for office but as President. He said: The plan I am announcing tonight—it was a joint session—will slow the growth of health care costs for our families, for our businesses, and for our government.

But in fact, the Chief Actuary for Medicare and Medicaid has said that the President was wrong. He said the cost of care will actually go up by \$311 billion through 2019. And now we heard the revelation yesterday from the Congressional Budget Office that when you look at some of the things that hadn't been scored, as they say, costed out, it will add another \$115 billion on top of that. The President said if you like your health care plan, you will be able to keep it, "period." He said the word "period." He said nobody will take it away, "period." No matter what, "period."

The CBO and the Chief Actuary said that 14 million Americans will lose their employer-sponsored health coverage under the new law.

Today, I come to the floor to also mention that recently the Secretary of Health and Human Services, Kathleen Sebelius, had an epiphany about the doctor shortage in America. Last week, she said a nationwide primary care physician shortage had to be addressed before over 30 million Americans get access to subsidized health insurance coverage.

This is her quote:

How are we going to be ready when we already have a shortage in too many parts of the country?

This shortage should not have been a surprise to the Secretary of Health and Human Services. The American Association of Medical Colleges tells us that at the current graduation and training rates, we are facing a shortage of 150,000 doctors in the next 15 years. Over the past year, medical experts warned Congress—this body—and the administration that any health reform bill should tackle the issue of physician shortages. Instead of helping doctors, the new law actually discourages the next generation from becoming doctors. This new bill cuts payments for doctors and cuts patients on Medicare, and it doesn't include enough money to train new doctors.

I believe it was intentional. Maybe the Secretary, maybe the Obama administration, and maybe the Democrats in Congress should have paid attention to the experts before jamming this health care law down the throats of the American people. Maybe they should have heeded the calls I heard

from medical professionals all across Wyoming and the country to slow down, let's get it right. But, no, they didn't. And now the American people are stuck with a law that costs too much, doesn't solve America's doctor shortage—doesn't even address it—and doesn't deliver good care for patients.

This should not have been a surprise to the Secretary, because the Wall Street Journal, over a month ago, said that the medical schools can't keep up. As the ranks of the insured expand, the Nation faces a shortage of 150,000 doctors. Right here, it says a shortage of primary care and other physicians could mean more limited access to health care and longer wait times—more limited access and more wait times.

What about the training of doctors? The Secretary just realized this, but it has been in print for months. Doctors' groups and medical schools had hoped the new health care law passed in March would increase the number of funded residency slots—you know, where they train family doctors—but such a provision didn't make it into the final bill. With over a trillion dollar bill, are we going to train doctors? No, they left it out.

Then what about hospitals? Here it is in the Wall Street Journal—the headline "Hospitals Under the Knife. New York City System Aims to Cut 2,600 More Jobs as State Funding Drops."

Not enough doctors? All you have to do is go to the New York Times, and this headline: "More Doctors Giving Up Private Clinics."

That is the end of it. So why would so many doctors behave this way? Let's look at Congress Daily this past week, May 4: "Latest CBO Figures Show Higher 'Doc Fix' Price Tag."

That is to pay doctors for the doctor bill. Of course, it was left out of the health care bill. How can we have a national health care law that fails to address training doctors and paying for them? It is astonishing. It says that scheduled cuts take effect June 1, an option outlined Friday by CBO to freeze Medicare payment rates which, under the new figures, would cost \$275.8 billion through 2020. That is an amazing amount, because physician payment rates for Medicare are expected to be cut 21 percent on June 1.

That is what we are looking at now. That is why, today, I come to the floor to give, as a doctor, a second opinion, because it is time to repeal this legislation and replace it with legislation that delivers more personal responsibility and more opportunities for individual patients. We need a patient-centered health care bill, one that provides individual incentives, such as premium breaks for people who behave in a way that encourages healthy behavior and gets down the risk factors that increase the cost of care; that allows people to take their health insur-

ance with them when they switch jobs; that gives people who buy their own health insurance the same tax relief available to people who get their insurance through work; that allows Americans to buy health insurance across State lines; that deals with lawsuit abuse and that allows small businesses to join together to offer health insurance to their employees. These are the things that will work to get down the cost of care and deliver higher quality of care to the American people.

They are not in the health care bill that passed the Senate, that passed the House, and was signed into law. That is why today, once again, in light of this brandnew information on the increased costs and the final realization that the Secretary of Health and Human Services now says: Gee, we don't have enough doctors to cover the situation, it is time to repeal this bill and replace it with what we know will work for the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 3736

Mr. WEBB. Mr. President, I rise to speak on an amendment I submitted, amendment No. 3736. This amendment I know has caused some concerns in different places, both in the political process and in the financial sector. I believe it is a very fair, carefully drawn amendment. It is a fulfillment of a promise I made when I voted in favor of the TARP funding on October 1, 2008, when I stated I would do everything I could to make sure, first of all, that we look at appropriate executive compensation issues; second, that we would work to reregulate the financial sector, which we are doing in this bill, thankfully; and third, we would invest the American taxpayers in the upside of the economy when it started to come back because it was the American taxpayers' funding of rebuilding our economy that made this happen, not the funding of the banking system.

This amendment simply says that if you received \$5 billion or more from TARP and if you are a couple of other companies, such as Fannie Mae and Freddie Mac, that received significant Federal funding in this bailout, any compensation you received in 2009 that is above your basic compensation and above an initial \$400,000 bonus should be shared with the taxpayers who made this possible.

This is not a clawback. It is not retroactive. It is moneys earned in 2009 which were paid out in 2010. It is not ongoing. It is a one-shot proposition. It affects only 13 companies. From the executives of those 13 companies, it is estimated the American taxpayers would be remunerated to the extent of \$3.5 billion to \$10 billion. I believe this is very fair. But at the same time I understand, based on discussions with leadership, that there may be a constitutional point of order that would

preclude consideration of this amendment on this particular piece of legislation.

I wish to take this opportunity to inquire of Chairman DODD, through the Chair, whether that is his understanding as well.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank my friend and colleague from Virginia. He is absolutely right. That is exactly the case. Under the Constitution of the United States, all revenue-raising measures must originate in the other body, the House of Representatives.

Despite the merits of his amendment, with which I agree, we have what we call a blue slip. When an amendment originates over here and it impacts the Internal Revenue Code, it is subject to an objection, what we call a blue slip. It does not go to the merits of the amendment. It goes to the constitutionality of such a proposal where revenue is affected. Those matters must begin in the House.

I say to my colleague from Virginia, there will be opportunities, I am sure, with revenue measures coming from the House for our consideration to raise this amendment again. I, for one, am attracted to the amendment and what he is proposing and hope at another point—and I presume that opportunity will arise in the next couple months because I gather revenue measures will be coming over—that we will have another chance to address this issue.

I appreciate his consideration of this matter and look forward to working with him on this question the next opportunity we have to do so. It is my understanding the amendment would suffer from that constitutional question at this point.

Mr. WEBB. Mr. President, I thank the chairman for his clarification. The last thing I wish to do in a bill this complex is to tie up the Senate in procedural votes, rather than votes of substance. Even if this point of order were raised, it is my understanding then there would be a mandatory vote which would tie us up. I am not going to call up this amendment. I very much appreciate what the chairman said about the possibility that we be allowed to vote on other appropriate legislation being considered in the Senate.

As I previously stated, I believe this is a matter of very eminent fairness, and it would be for the body to vote on it. I would like to have that vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, while we are waiting, there are two pending amendments which we can voice vote, but I gather there may be a second-degree amendment offered to one of these amendments. It will be the first time a second-degree amendment has been offered to one of these amendments.

We are trying to go through the process and give everybody a chance to air their ideas. There have been no tabling motions, no filibusters, at least none declared on the bill at this point. Nonetheless, Senators have the right to offer second-degree amendments, if they wish. We have avoided it up to now, having considered quite a few proposals on the floor of the Senate.

I count about 15, 16, at least on my list of amendments, on the Democratic side Members who would like to be given the opportunity to raise. I cannot speak to the number on the other side, but it is not a large number. Our Republican colleagues, at least based on the list I have seen—it is about six or seven or eight. I may be off a little bit on that count, but it is not a large number.

Here we are again, it is almost 12:30 p.m. and sitting here, potentially going to a quorum call. I am hearing again my colleagues say we have to stay on this bill and don't get off it. I am prepared to stay and work, but we cannot work when Members will not come over and at least allow us to vote up or down on rollcall votes on these amendments.

On Saturday, I submitted to my good friend from Alabama, Senator SHELBY, and his staff a list of technical amendments, as well as bipartisan amendments and others that I thought were noncontroversial that we could make part of a managers' amendment. We can only do a managers' amendment when we get consent. Obviously, any objections to any of the suggestions I sent over on Saturday would exclude them from a managers' amendment.

It is now Wednesday, and I have not heard back whether we can subtract or add to those amendments. It would help tremendously to clean out a lot of issues on which I believe there is consensus.

I made it privately and I make a plea publicly. At some point, the leader is going to say enough is enough on the bill. We are trying to go back and forth in an orderly fashion so Members will have a chance, on either side of this so-called political divide, which I wish did not exist—even in this Chamber—for people to offer amendments. In a dead time such as this, the clock is ticking. We have no votes this Friday. We will not be in on Saturday or Sunday. We would like to move on to other issues.

We have taken a lot of time on this bill. I am a strong advocate of doing that to prove this body can function, we can consider each others' ideas, modify them, vote for them, vote against them but to do what we tell every high school class or elementary school class we talk to as Senators about how the Senate functions. I think we are proving we can do that on this bill, despite the significance of it—the first time in almost 100 years reforming the financial structure of our Nation.

My hope is we will continue and finish it without having to get involved in procedural motions that would deprive people of being heard on their ideas, whether you like it or not, but at least have the opportunity for it to come up.

I am trying to orchestrate the votes that relate to the matters with which we are dealing. It does not work perfectly. It is what every manager tries to do. I know some Members are frustrated because they have not been able to be heard yet on their ideas. I wish to give them an opportunity to do so.

When we get delays such as this, when the time could be filled on considering these matters, it sets us back from the goal of having a bill completed in this Congress where all Members have had a chance to be heard, that we were able to tackle a significant issue and come to a conclusion about it.

There are those who think we cannot do that any longer. I believe we can, and we have been proving it in the last couple weeks. After 2 weeks of a good, spirited, civil, in some cases partisan but civil debate, let us complete the work as we have begun it.

My plea to my colleagues, particularly on the minority side right now, is please respond to these requests so we can have some idea of what can be accepted, what can be modified and not accepted so we can move forward with the legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I add my compliments and gratitude to Chairman DODD for his unbelievable patience and hard work and the hard work of his staff in trying to come up with a good consensus, finding common ground where we can move forward and address the economic crisis that has hit this country and deal with the consequences we have seen and certainly the ideas we know exist, to be able to solve the problems and move forward, put our economy back on track, put people back to work, making sure we are rebuilding our country in a way that is going to be sustainable, with a good financial regulatory reform initiative that is going to be meaningful.

I applaud his efforts and patience in what he is doing, working with everyone. I certainly add my efforts in trying to work together with others to make sure we can move this bill expeditiously as possible, obviously with the consideration he has given to everyone's concerns and desires to make it a better bill.

Mr. DODD. Mr. President, if my colleague will yield for a minute, I thank the Senator from Arkansas. She is chairperson of the Agriculture Committee, which is a huge undertaking. Every State is affected by decisions made in that committee. Even small States in New England, contrary to

what many people may think, have agricultural interests, maybe not to the extent of Oregon and Arkansas but we have them.

I am very grateful to her and members of her committee for the work they engaged in. We are truly fortunate to have the Senator from Arkansas in the position she is in—making decisions, providing valuable contributions, not just to this effort; we have worked together on a lot of issues over the years. She is a great advocate of her State, but I also say she is a great advocate of our country. That is the quality we hope people bring. We have an obligation to keep an eye out for what happens in our States but also to keep an eye out for what happens to our country. Striking that balance is a challenge we face at one time or another. No one does it better than the Senator from Arkansas, striking a balance.

I have heard that word about Arkansans over and over during her tenure. She is as tenacious a fighter as any State has had in my 30 years here. She is also mindful that Arkansas, similar to Connecticut, is part of a country, and we all have to be mindful of each other's interests. Striking that balance has been invaluable in this debate.

I did not want the moment to pass without thanking her immensely and her staff and others for the contributions they have made.

Mrs. LINCOLN. Mr. President, I thank the Senator from Connecticut. I am grateful to him for his comments and again grateful for his patience and perseverance in getting something done that is meaningful to all Americans. Arkansans are clamoring for it, and I know others across the Nation are.

The will say about the work of the Agriculture Committee, for all Americans who enjoy nutrition, that comes from the hard-working farm families across this country who produce the safest, the most abundant, and affordable food and fiber. We all have a little bit at stake in that Agriculture Committee.

We appreciate so much working with the Senator from Connecticut. Chairman DODD has done a tremendous job.

HONORING OUR ARMED FORCES

LANCE CORPORAL RICHARD R. PENNY

Mr. President, this week, my home State of Arkansas marks a somber milestone. Since September 11, 2001, 100 service men and women with ties to Arkansas have given their life to help defend our freedoms in this great country. I rise to honor their ultimate sacrifice on behalf of our Nation.

It is also with great sadness that I pay tribute to the family of LCpl Richard R. Penny, 21 years of age, of Fayetteville, AR. Lance Corporal Penny was killed May 6 while supporting combat operations in Helmand Province in Afghanistan, making him our State's

100th service man or woman to have given his life to help defend our freedom.

Along with all Arkansans, I am grateful for Lance Corporal Penny's service and for the service and sacrifice of all our military servicemembers and their families. More than 11,000 Arkansans on Active Duty and more than 10,000 Arkansas Reservists have served in Iraq and Afghanistan since September 11, 2001. These men and women have shown tremendous courage and perseverance through the most difficult of times.

My father and both my grandfathers served as infantrymen. They served our Nation in uniform and taught me from an early age about the sacrifices our troops and their families make to keep our Nation free. As neighbors, as Arkansans and as Americans, it is incumbent upon us to do everything we can to honor their service and to provide for them and their families not only when they are in harm's way but also when they return home.

While it is important to honor those who have served our country in uniform with words, we must also honor them with our actions. I have consistently supported initiatives that expand the benefits our servicemembers and veterans have earned and deserve. During these tough economic times, it is even more important that we don't shortchange these heroes and their families.

That is why I have authored several bills on behalf of Arkansas's military servicemembers, veterans, and their families. In doing so, I have focused on a number of priorities, including requiring more accessible health care for guardsmen and reservists so they can maintain the medical readiness required to fulfill their mission and also ensuring that future GI benefits for members of the National Guard and Reserve keep pace with the national average cost of tuition, and allowing beneficiaries of the post-9/11 GI bill to use their GI benefits more flexibly to develop skills that are critical to our workforce and our economy and their reentrance into the workplace, and also addressing inequities in survivor benefits for military families.

With more than 600,000 courageous men and women who have returned from combat in Iraq and Afghanistan, and with thousands more on the way, mental health care is an issue that also deserves more attention. I have visited injured servicemembers at Walter Reed and in Arkansas and witnessed firsthand that more and more of our troops are affected by service-connected mental health issues, such as traumatic brain injury and post-traumatic stress disorder. To address this issue, I have introduced legislation to ensure that our troops receive proper mental health assessments before and after they enter a conflict zone.

The issue of mental health does not just affect our troops. With more National Guard and Reserve from our rural communities serving abroad, families have expressed concerns to me about the impact increased military deployments have on other children, and particularly their children, and whether schools have sufficient resources to meet these challenges. To meet these concerns, I have also introduced legislation to increase the number of school counselors, school social workers, and school psychiatrists and psychologists in high-needs school districts, many of which are located in our rural areas all across this great Nation.

All of our veterans, from the "greatest generation" to Vietnam war veterans to the new generation of servicemembers in the Middle East and across the globe, all of our veterans have sacrificed greatly on behalf of our country. Although the challenges and needs of veterans have changed over time, one thing remains constant: It is the responsibility of our Nation to provide the tools necessary to care for our country's returning servicemembers and honor the commitment our Nation made when we sent them into harm's way in the first place.

Our grateful Nation will not forget them when their military service is complete. It is the least we can do for those to whom we owe so much.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Virginia.

Mr. WARNER. Madam President, I thank my friend, the Senator from Arkansas, for her statement today about the sacrifice of folks not only from Arkansas but across the country—Virginia, Delaware, and from North Carolina.

Madam President, I wasn't planning on speaking, and I will only do so briefly because my friend, the Senator from Delaware, is going to speak much more extensively on this issue. But I think many of us who have had the opportunity to preside have heard—and in particular on Monday afternoons—the Senator from Delaware come down on a regular basis, for months, to speak on what, until last Thursday, was a pretty esoteric issue—an issue that, for somebody who spent 20 years around the finance sector before I got into politics full time, I thought I might have some knowledge of.

But as the Senator started talking about high-frequency trading, collocation, sponsored access, and flash trading, I realized this was a whole realm of new terms that actually even makes derivatives look simple.

The Senator from Delaware sounded an early warning signal that the massive amounts of investments that have been made by certain firms to try to get what appears to be a fractional millisecond advantage in the trading process might come back to haunt us all.

Last Thursday afternoon we saw potentially—and we still don't know, and the regulators were up testifying on the Hill yesterday on the House side—what could have been the first warning shot across the bow of what could be the next systemic risk crisis when the stock markets in the United States lost over \$1 trillion of value in a dramatic downsweep of about 16 to 20 minutes.

The market recovered, but almost a week later we still don't know the real cause, and I don't think we can blame the regulators. I have had conferences with the head of the SEC, and she acknowledges the difficulty in keeping up with the technology and having the oversight for all of this proliferation of new exchanges—electronic exchanges—many that didn't even exist a few years back.

Most investors probably think they trade on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ. They don't realize the majority of trades are now on electronic exchanges they have probably never even heard of. The Senator from Delaware has consistently raised this issue, and whether we simply need additional speed limits, system brakes, or whether we need to make sure there is not an unfair advantage that is being created, these are all issues we need to come back to.

I want to personally say I am proud of the fact the Senator from Delaware and I contacted the chairman of the Banking Committee and we have spoken out. But he has been the leader on this issue, and I have been proud to follow his lead. I know he is going to speak more about this issue today, and I am sure in the coming weeks. I don't have all the knowledge, I don't know the right answer yet, but I know in my gut that the Senator from Delaware is onto something here; that we all need to make sure we take a better examination of it.

The last thing the market needs right now, particularly for that small-time investor, is some sense that somebody on Wall Street is getting even one further advantage through the use of technology or that there is not appropriate system brakes in the event of a mistake made.

So as I yield the floor, I commend my friend, the Senator from Delaware, and look forward to working with him and the chairman of the Banking Committee, who has said the committee will be taking up this issue. It is something I think we all need to take heed of to make sure in this very important legislation that Chairman DODD is working on we not only make sure we fix the last crisis but we potentially get ahead of the next crisis.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. Madam President, the Senator from Virginia, as usual, is modest. He has explained a lot to me about the intricacies of this area, which is of great concern, and his knowledge on this is great. It is, I am finding, incredibly rewarding working with him on this issue. So I want to speak about that a little today and follow up on the remarks the Senator from Virginia made.

As Senator WARNER said, last Thursday, for one of the few times since 24 stockbrokers first gathered under a Buttonwood tree in 1792, we had a stock market that for 20 minutes stopped performing its essential function—discovering the price of securities based on a balance between buyers and sellers. Our equities markets collapsed in a matter of minutes—liquidity dropped off, a deluge of sell orders overwhelmed the buyers, and the rug was pulled out from underneath millions of investors, plummeting the Dow Jones Industrial Average toward its biggest intraday loss in history—nearly 1,000 points.

Then, just as quickly, and inexplicably, the market reversed course, snapping back like a yo-yo, and recovered much of its lost ground, thank goodness. In the immediate aftermath, the world's focus turned to black-box computer trading, which relies upon electronic trading algorithms to execute thousands of orders in tiny fractions of a second. These high-frequency trading computer programs determine, with minimal, almost no human intervention, the timing, price, and quantity of orders.

It is too soon to know the myriad of factors that played into the week's meltdown, although it appears to be quite likely that we witnessed a real-time example of high-tech trading run wild or, in some cases, unplugged.

The cooperation between the SEC and the CFTC is critical to unraveling what happened in the futures and equities markets, and we should wait for their investigation and for all the facts to be discovered. It is also too soon to coalesce about Band-Aid solutions; that is, without also committing to dive deeper into structural problems and inherent conflicts of interest that are part of all our capital markets. The SEC still has not discovered or explained what triggered or accelerated the incident, but already the leaders of the exchanges have admitted that no one had previously thought to implement system-wide circuit breakers or adequately protect against the possibility of erroneous trades.

Yesterday, after the meeting with the leaders of six exchanges, the SEC released a statement saying:

As a first step, the parties agreed on a structural framework, to be refined over the next day, for strengthening circuit breakers and handling erroneous trades.

Madam President, that is fine—and I mean that is fine—but it is indeed, as the SEC said, only a first step. While it is true we should wait for information to come in before we reach any conclusions, there are many questions that must be carefully reviewed and answered. The first and most obvious is whether we have gone from too few market centers—it wasn't all that long ago we just had two, the New York Stock Exchange and NASDAQ—to too many, each with different standards and procedures for protecting investors and preserving market integrity.

We now have over 50 market centers, which has brought added competition. Competition is good. Today, algorithmic trading interests are wired against markets—equity, fixed income, futures, and options. The market is the network, and yet our regulators work in silos. Responsibilities are divided between the Securities and Exchange Commission and the CFTC. Within equity markets, we have several self-regulatory organizations setting rules—more silos: New York Stock Exchange, NASDAQ, FINRA, National Stock Exchange, and more. All too often, those rules have been watered down and eliminated in the absence of the SEC establishing these and other regulatory controls across equity markets.

We created a national market system, but we forgot to create a national regulatory and surveillance system to go along with it. We need—we absolutely have to have—a consolidated audit trail across all market centers, as Senator SCHUMER and others have raised. As FINRA Chairman Rick Ketchum admitted last October, regulators are looking at “an incomplete picture of the market and knowing full well that this fractured approach does not work.”

That is quoting the chairman of FINRA, Rick Ketchum.

The second obvious question is, Why is it taking the SEC so long to reconstruct the unusual market activity of last Thursday? There is an answer to that—because there is no transparency. The Commission does not yet collect by rule the data it needs to officially reconstruct unusual market activity. Even though Congress gave the SEC “large trader” reporting authority in the Market Reform Act of 1990—that is 1990, after the SEC had difficulty in reconstructing market incidents in 1987 and 1989—the SEC has never used it.

The SEC proposed a large trader rule in 1991, received comments, repropose in 1994, and then unfortunately never adopted it—this, even though the Commission acknowledges:

The current Electronic Blue Sheet system does not efficiently collect large volumes of data in a timely manner that allows the



Commission to perform contemporaneous analysis of the market events. Further, the data generated by the EBS system does not include important information on the time of the trade or the identity of the customer.

This is what the Commission acknowledges, that the data generated by the EBS system does not include important information—the time of the trade and the identity of the customer. How are you supposed to find out how something happened if you don't have data on the time of the trade or the identity of the customer?

Flash forward to 2009. To SEC Chairman Mary Schapiro's credit, and to her real credit, she began a process of studying market structure and high-frequency trading last October.

I have to say, however, the pace of the Commission's progress has been slow. Indeed, as many of my colleagues know, I have come to the floor repeatedly to call for a greater sense of urgency at the Commission.

For example, last year on September 23, I spoke on the Senate floor and asked about high frequency trading strategies:

Do these high-tech practices and their ballooning daily volumes pose a systemic risk?

What do we really know about the cumulative effect of all these changes on the stability of our capital markets?

In order to maximize speed of execution, many sponsored access participants may neglect important pre-trade credit and compliance checks that ensure faulty algorithms cannot send out erroneous trades.

On November 20, 2009, I wrote a letter to SEC Chairman Mary Schapiro asserting:

[T]ransparency, disclosure and risk compliance requirements on the trading activities of high frequency traders are needed urgently. And while I was encouraged to hear that the Commission may move sooner with its existing authority to require "tagging" and reporting by "large traders" now using high-frequency algorithms, I am concerned that the Commission does not intend to issue a concept release on high frequency trading until early next year, and that rule proposals should not be expected before the summer of 2010-2011. Given that the Commission under current procedures is now blind to high frequency operations, the need for immediate action should not wait until the Commission has completed its comprehensive review.

In her response on December 3, Chairman Schapiro assured me the Commission was planning to issue a proposed "large trader" tagging rule the following month. That was back in December.

But it was not until months later, on April 14, that the Commission finally did so. While I understand these were incredible problems that faced the SEC because there was no real regulatory oversight for many years, and because of the many hurdles regulatory agencies face which slow them down—in particular the need to avoid unintended consequences—this process was clearly way beyond deliberative.

Given the deficiencies in the current data collection system that the SEC

itself acknowledges and which Congress gave the SEC the authority to address in 1990, this delay is inexcusable.

The SEC must move aggressively to finalize the large trader rule and insist on fast-track implementation by the industry.

There are many other questions a deeper review should study.

Particularly the problem of high frequency programs which sell stock short without first locating the underlying shares or borrowing them in hope that their price will drop and they can buy those shares back—so-called naked short selling—before the required delivery date—at a lower price for a profit. Last Thursday, it appears that the computers went into overdrive spewing out sell orders, and in the critical 10 minute time period, I will bet my bottom dollar that many of those sell orders were short sales that did not first locate the stock.

Now as I have said repeatedly, there is nothing wrong with short selling, I have done it myself. But I have always had to borrow the stock first.

Last July, along with JOHNNY ISAKSON (R-GA) and six other Senators, we wrote the SEC demanding that short sales not be permitted unless the seller first obtains a "hard locate" of specified shares. But that proposal went nowhere, even though the SEC held a Roundtable last September to discuss the problems associated with naked short selling.

The larger point is these high frequency trading firms have assumed the role that specialists used to take. Some of them get the same benefits of specialists. They get to ignore short-selling locate rules. They get to step in front of other orders on the book legally. All because they provide liquidity, for which they are also paid.

Why should they have those advantages? Did some of them abandon their role of liquidity provider when the market needed them most, and instead use their advantages to disadvantage everyone else on the way down? Those questions must be answered.

Last September 14 I went to the Senate floor and spoke about the dangers of unregulated high-frequency trading, asking:

If we experience another shock to the financial system, will this new, and dominant, type of pseudo market maker act in the interest of the markets when we really need them?

Will they step up and maintain a two-sided market, or will they simply shut off the machines and walk away?

Even worse, will they seek even further profit and exacerbate the downside?

After Thursday's plunge, I am afraid my questions have been answered.

Instead of providing "fair and orderly markets" as some market makers are obligated to do, some of these unregulated players may have added to the chaos, while others simply unplugged their computers and suspended oper-

ations, reducing liquidity when the market needed it the very most.

Here is another related question: Was there manipulation involved on Thursday? More to the point, does the SEC even have the ability to detect illegal manipulation by high frequency algorithms?

We know the SEC doesn't have the data it needs. The large trader rule hopefully will fix that at some future date. Hopefully sooner before later.

There is also the question of whether the SEC has the internal analytical capability to use that data to police trading activities? I know this is something they want to do and we in Congress should help them get it as soon as possible.

I have been suggesting that once the SEC collects the data, it should mask the proprietary nature of the data and either No. 1 release it to the marketplace, or No. 2 to academics and private analytic firms under "hold confidential" agreements. I believe the SEC needs help in conducting analyses about whether high frequency trading practices are harmful to the interests of long-term investors.

Another question I have raised in the past is whether the SEC needs to impose industry-wide pre-trade operational risk controls, in order to prevent the incidents and magnitude of trading errors and the havoc they can cause.

After last Thursday, that one is starting to look easy.

Markets have always had operational risks, but it is clear that the proliferation of competing complex computer models has the potential to magnify and exacerbate these risks in ways that can fundamentally damage market integrity and confidence.

With computerized, high-frequency trading now responsible for an estimated 70 percent of daily trading volume, markets have come to rely upon these black-box systems for ample and consistent order flow.

Yet humans are simply unable to evaluate in real-time whether their trading models are working as intended.

Yet another question is whether our markets are still performing one of their best and most important functions: the constant and reliable channeling of capital through the public sale of company stock known as initial public offerings. According to a series of reports released last year by the accounting firm Grant Thornton, the answer is no, the IPO market in the United States "has practically disappeared."

The IPO market is where small and medium-size businesses go to get the capital they need to grow, to pass through the valley of death, to get on with what they have to do.

Without a doubt, there have been many causes of the sad state of America's IPO market. But one source of the

problem might be the dominance of high frequency trading strategies designed to trade in the most active, highly liquid names, but with little support for small-cap stocks.

Our markets should work to best serve Americans—by reflecting changes in supply and demand and investors' assessments of stock fundamentals—not by encouraging a battle between algorithms looking to shave microseconds from their transactions in a few highly liquid names. As Dallas Mavericks' owner and longtime and very successful and knowledgeable investor Mark Cuban has recently asked: "What business is Wall Street in? . . . [I]t is important for this country to push Wall Street back to the business of creating capital for businesses."

There are other questions, as well, many involving conflicts of interest and the failures of some of the exchanges and market centers to fulfill their gatekeeper function as self-regulatory organizations.

Moving forward, I applaud Senator DODD, the chairman of the Banking Committee, for calling for hearings to be chaired by Senator JACK REED who is very knowledgeable in this area on the market's recent plunge and recovery. It could not be in better hands.

And I am also pleased that a number of market participants and regulators have recognized the need for regulations that will protect the markets from future periods of extreme and inexplicable volatility like last Thursday's.

I am concerned, however, that the SEC must not solely look for quick fixes and surface solutions. The events of May 6 call for a meaningful review of these structural issues, leading to reforms that truly protect investors and, really important, restore the credibility of our markets so they serve well their highest and best function.

That is why Congress, consistent with its oversight responsibilities, must direct regulators to study and report, in a timely manner, on what needs to be done to prevent another meltdown of this magnitude or one even worse. It is entirely appropriate for Congress to elaborate on the needed elements of a meaningful review, many of which I have outlined today.

Senator MARK WARNER and I want to add language to the current Wall Street Reform Act that would do just that. Once that report to Congress is finished, only then can Congress either draft needed legislation or encourage new rules.

We all know that the challenge for regulators is to see beyond the horizon and to act preventively before financial crises hit. That is the key to everything we do around here. We have to look ahead.

This is always difficult, but especially so when markets are opaque and

Wall Street interests resist even reasonable suggestions about needed reforms.

During the past 9 months, in response to my calls for transparency and an SEC review of high frequency trading, many voices on Wall Street praised the virtues of electronic trading—and almost none were interested in looking critically or even honestly for weaknesses or potential systemic risks. "There is nothing wrong here." "You shouldn't even look at this." That is all I was looking for and so many on Wall Street said, "No, nothing wrong here. We should not spend time on that."

My staff has read through nearly a hundred comment letters submitted over a period of months from brokerage firms, consultants, exchanges, high frequency firms, and alternative trading systems. The vast, vast majority of those letters stated the markets have performed exceptionally, and just needed to be left alone. They all stated how things were fine and saw nothing amiss. Systemic risk? Not here.

Our exchanges—which by statute are required to "prevent fraudulent and manipulative acts and practices" and be the first line of regulatory review of trading practices—are now competing vigorously to attract high volume traders to maintain their profits. Yet in response to the SEC's concept release raising questions about market structure issues, sources of systemic risk and possible manipulation by high frequency traders, the CEO of BATS Exchange sent out a "call to action" for all high frequency trading firms, suggesting that they all file comment letters on common themes. "The best defense is a good offense," he wrote.

His letter also said:

BATS doesn't believe the equities markets are broken. To the contrary, we would argue that the US equity markets were a shining model of reliability and healthy function during what some are calling one of the most challenging and difficult times in recent market history.

He went on to write:

Those outside the industry, who have differing opinions, are likely to have a difficult time bringing forward compelling arguments based on the lack of hard evidence.

I ask: Is this the attitude we want from those charged with protecting investors? Yes, when the markets are opaque and no one outside the industry has any data, when the exchange leadership itself stays on the offense, it is indeed difficult to offer hard evidence supporting a contrary view.

Then we read from a comment letter to the SEC written by the Securities Traders Association in the week before the meltdown. The week before the meltdown.

The equity markets are functioning properly, and there are no signs of significant deficiencies or an inability to perform their important functions.

Saying it does not make it so. Now the credibility of both markets is ur-

gently in need of repair. But for that to happen, democracy must work in a way that permits timely reform of our most powerful financial institutions, and Wall Street must and should recognize its own long-term interests. The credibility of our markets is vitally at stake.

As I have said many times on this floor, what is important are two things that make this country great: democracy and our capital markets. If we let something happen to the credibility of our capital markets, we will have done a great disservice to our country now and to our grandchildren.

I will close my remarks today with the same words I used to conclude my floor speech last September 23, as they still ring true to me.

We cannot simply react to problems after they have occurred. We need the information and resources to identify problems before they arise and stop them in their tracks . . . [We] cannot allow liquidity to trump transparency and fairness, and we cannot permit the need for speed to blind us to the potentially devastating risks inherent in effectively unregulated transactions.

I thought I was right when I gave it on September 23. After what happened last Thursday, I feel it is even more appropriate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Madam President, I appreciate the leadership of my colleague from Delaware who understands this Wall Street reform perhaps better than anybody in the Senate, and has particularly led the charge on working on too big to fail meaning too big. That the size of banks in this country—when the six largest banks' assets 15 years ago were only 17 percent of GDP, and today the assets of the six largest banks total 63 percent of gross domestic product, we know that too big to fail really is too big. I appreciate the work Senator KAUFMAN has done on that.

We know what a financial meltdown looks like. It means pensions shattered, it means homes lost, it means college plans delayed or even abandoned, it means good-paying jobs lost, it means middle-class security undermined. Two years after the financial collapse in March 2010, there were 655,000 unemployed Ohioans. Ohio's unemployment rate today is 11 percent. Three of the largest banks slashed their SBA lending by 86 percent from 2008 to 2009. In Ohio, small business SBA-backed loans went from 4,200 of them in 2007 to 2,100 of them in 2009. Wall Street's casino gambling with the housing markets has caused nearly 90,000 foreclosures in Ohio just in the year 2009. The average median sales price of existing single-family homes across eight of Ohio's metropolitan markets plunged by an average of 16 percent from 2007 to 2009.

So why are my colleagues on the other side of the aisle trying to maintain the regulatory environment that allowed Wall Street to squander middle-class wealth and security? It makes me incredulous to think there are people in this institution, and a number of them, who want to continue the way it is always done, who think Wall Street does not need further regulation.

They were the same people who in the Bush years pushed for deregulation, and then President Bush assisted his Republican friends by putting more pro-bank, pro-Wall Street bank regulators in place to regulate after already weakening the regulations.

Neither Republicans nor Democrats should be starting this debate, should be starting the legislative process, by thinking, well, what is best for Wall Street, and then by working backward to see which consumer protections Wall Street can live with. That is not how you start this debate.

You do not say: Well, we have got to decide, can Wall Street live with these protections? Are these protections okay? Does Wall Street approve of these protections before we do them? That is not the way we should be legislating. We should be starting with what will protect middle-class families from another devastating economic blow, and we should then move forward to put those protections in place. It should be as simple as that.

My Democratic colleagues and I are fighting for the strongest possible measures to hold Wall Street accountable. I hope my Republican colleagues resist the temptation, a temptation they usually succumb to, to water down reform and carve out loopholes for the special interests. That has been the problem all along, the power of the bank lobby here, the power of Wall Street in the House of Representatives and the Senate, the bias so many have that, well, Wall Street did not really do that badly, we should water down this reform, we should carve out loopholes so Wall Street can continue doing business the way they did.

It is time, instead, to act on behalf of the people we serve, not Wall Street firms. Too many of my colleagues across the aisle, simply put, are putting Wall Street before Main Street.

The first step toward the financial recovery is protecting American families who rely on credit cards to meet their financial obligations or mortgages, to finance their dream of home ownership. Let's not forget that the kindling for this fire that became the global financial crisis was a pile of exploding mortgages. If we allow lenders of all types to continue preying upon hard-working Americans, then we are setting ourselves up for another disaster. This time it was securitized mortgages. Next time it can be student loans or it could be credit card debt, or it could be commercial real estate or it

could be the junk bond market. Who can say for sure? That is why the independent consumer protection bureau in this legislation is essential.

It will create, for the first time, an entity dedicated to protecting the interests of middle-class Americans against the greed and the recklessness of Wall Street. We need a watchdog to make sure Wall Street gamblers and their lobbyists do not trample the American dream as a means of feeding their own greed.

Beyond establishing this agency, an agency tasked with protecting the interests of middle-class families, we have an opportunity to do much more to protect American families. We should adopt an amendment offered by Senator WHITEHOUSE, cosponsored by my colleague sitting nearby on the floor, Senator CASEY, and a number of us, a bipartisan amendment, that would empower States to protect their citizens from unfair credit card interest rates.

Thirty-two years ago the Supreme Court decision, the Marquette decision, perhaps the most important Supreme Court decision Americans do not know about, overruled the consumer protections, so-called usury rates, interest rates, among the 50 States.

In other words, if the legislatures of the State of Pennsylvania, the State of North Carolina, the Presiding Officer's State, or my State of Ohio, enacted an 18-percent usury rate or a 16-percent usury rate, that is the top rate at which lenders can charge customers. Those rates were overturned by the Supreme Court decision because the Supreme Court decided it does not matter where the customer is, whether the customer is in Charlotte or Harrisburg or Cleveland or Columbus, it mattered where the bank was.

Basically what that meant was, bank after bank after bank located their operations in a State with very high usury rates or no usury rates at all. Therefore, a customer in Akron or a customer in Toledo or Mansfield or Springfield or Xenia, having a credit card with a bank in South Dakota paid much higher interest rates, even though Ohio set its interest rates much lower.

Usury rates—I quoted today in a presentation earlier—were established by the Bible. In Exodus 12, I believe, the Bible says clearly that usury rates—the usurious interest rates aimed at the poor, and aimed really at everybody, simply should not stand.

Yet, by this Supreme Court decision in 1978, the Court ruled we would basically outsource our interest rate, our consumer protections, to the lowest common denominator State. So if South Dakota has no usury rates or no limit or a very high limit on their interest rates, it means a credit card holder in Lima, OH or Troy, OH or Springboro, OH is paying those high in-

terest rates, even though the Ohio legislature has acted against their doing that.

So the Whitehouse-Casey-Sanders-Brown amendment, a bipartisan amendment, is particularly important simply to give the power back to the States to make a determination of interest rates. For too long, as this Supreme Court decision indicates, and the lack of response from Congress indicates, Washington has been looking out for the megabanks.

Some of my colleagues are still saying these banks' interests are more important than protecting the American public. This bill would not even allow the consumer protection bureau to set rules regarding credit card interest rates. Meanwhile these rates are inexplicably going through the roof, at the same time the banks are again enjoying record low borrowing costs. It makes no sense. We report to the American public, not to high-risk business models.

The next element of financial collapse came when Wall Street bundled toxic mortgages into untested products such as mortgage-backed securities and collateralized debt obligations, and synthetic CDOs and credit default swaps. Many of these new products, products that almost nobody understands, were unregulated derivatives sold in over-the-counter markets with no oversight or transparency.

As a member of both the Banking and the Agriculture Committees, I want to commend the Chairs of each of those committees for the work in creating a derivatives title, a regulation of derivatives, that will provide much needed oversight to the \$210 trillion—\$210 trillion—that is the 210 thousand billion dollar U.S. derivatives market.

At the same time we balance the need in regulation of derivatives, we balance the needs of manufacturers in Dayton, Youngstown, and Toledo, who used these products appropriately, and that was not where the problem was, to limit their business risk.

This bill provides for financial stability by requiring banks to put capital behind their trades. It uses transparency and accountability to prevent Wall Street banks from taking advantage of their business customers. It reduces speculation that fuels bubbles in markets such as natural gas and mortgages.

I want to single out Chairman LINCOLN's proposal to separate derivatives operations from commercial banks. It is the right thing to do, because the megabanks' speculation is detracting from their primary job, lending. Over the last six quarters, megabanks have decreased their consumer and small business lending. At the three biggest banks, lending under the SBA's 7(a) program, the primary SBA program to help startup and existing small businesses, lending under that program declined 86 percent from 2 years ago to

last year, and it does not appear to be getting a lot better this year.

Over the same period, banks' securities holdings increased by 23 percent. What does that mean? That means rather than investing in a local manufacturing company, Elyria Foundry, or Alcoa in Cleveland, or smaller companies, a fastener company in Bedford, or companies, manufacturing companies, instead of investing in those, their security holdings increased. That is where their capital went.

That was not productive for our country. It may have been profitable for the banks, but it does not work to get our economy back in gear. Taxpayer-funded assistance from the FDIC and the Fed should not be going to support a bank's gambling, it should be supporting sound economic growth.

In an ideal world, we would treat derivative products like all other investment products and trade them on exchanges.

This is a strong bill, particularly now that we have adopted Senator CANTWELL's antimanipulation amendment. We are finally going to impose some order and allow sunlight into what has been and is currently a completely dark and opaque market.

The final ingredient to the financial crisis came when massive, interconnected Wall Street banks and investment houses—such as AIG and Citigroup and others—gorged themselves on risky derivatives backed by predatory mortgages. When these bets went bad, the U.S. Government decided these banks were too big to fail, and the U.S. taxpayer was forced to settle their hundreds of billions of dollars in obligations. These too big to fail banks are getting even bigger. Right now the five biggest banks control 97 percent of all U.S. derivatives. For the first time, we are going to have a process to liquidate these large financial institutions if they fail. Such a system was lacking at the time the giant investment banks, such as Lehman Brothers, Bear Sterns, and Merrill Lynch, were in financial peril, due to overleveraging and investment in toxic investments.

I believe the bill should be strengthened to make absolutely certain there are no more meltdowns and no more bailouts. I would like to add stronger safeguards against behemoth banks that control so much of the Nation's wealth they could singlehandedly send our economy spiraling downward. Too big to fail means too big. While this is mostly about the risk these banks took and might take in the future, it is also about size. When 15 years ago the assets of the six largest banks combined were 17 percent of the GDP and today the six banks' total assets make up 63 percent of GDP, too big to fail is also simply too big. It is crucial we adopt an amendment offered by Senators MERKLEY and LEVIN to ban proprietary

trading. Too many Wall Street banks got rich at the expense of clients they were supposed to be serving and American families whose homes have been taken from them.

It is equally important that we consider and adopt the amendment offered by Senators CANTWELL and MCCAIN to reimpose the Glass-Steagall wall between commercial and investment banking. We should pass the Dorgan amendment, giving the systemic risk council the authority to spin off parts of large, cross-border financial institutions. After 2 years, after millions of jobs lost, after millions of homes foreclosed upon, we are attempting to put in place rules that might prevent the next crisis. We should not dilute this critical piece of legislation with amendments that coddle Wall Street. Too many of my Republican colleagues are still trying to do that, introducing amendments that choose Wall Street over Main Street.

It is important this legislation move forward. It is important that all of us fight to choose Main Street over Wall Street so this works for Findlay, Warren, Bolero, and Tipp City, OH, communities that have been hit hard by the greed and recklessness of Wall Street banks.

That is clear.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Madam President, I rise to speak about amendment No. 3878.

We are in the midst of the worst recession, the worst economic climate since the 1930s. That is irrefutable. We have had record job loss, more than 15 million Americans out of work. In Pennsylvania, some 582,000 people are out of work, with the unemployment rate hitting 9 percent. I know a lot of other States have had double-digit unemployment for a long time, but 9 percent is still more than 580,000 people out of work.

There are a number of ways to measure the horrific consequences of this recession—all those individuals out of work, all those families destroyed and communities destroyed, by one estimate \$8 trillion of wealth lost by Americans. We can attribute \$100,000 per family in negative impact due to what happened on Wall Street.

In the midst of that, a number of people in the Senate have worked very hard to try to put in place new strategies to create jobs, to help us continue to recover. The impact of the recovery bill is still being felt. We are recovering. Economic growth has picked up. Job growth has improved substantially, but we still have a long way to go.

Despite that, we still have people in Washington who don't seem to get it. They seem to want to continue to protect Wall Street. Time after time, when an amendment is proposed to the

Restoring American Financial Stability Act, there are still some who want to protect Wall Street. The choice is very clear. There is no middle ground. The American people know it. We can either protect Wall Street and let them do what they have been doing for years, destroying lives because of high-risk practices, allowing these scheme artists—and that is a charitable way of describing people who commit fraud or at least engage in practices that make a very small sliver of the American people on Wall Street very wealthy, creating a handful of billionaires at the expense of tens of millions of Americans who lost their job, their home or, in some cases, both and are in the process of trying to dig out of that and rebuild their lives. You are on one side or the other in this debate. You are either for Wall Street or you are for reforms that will, at long last, begin to hold Wall Street accountable.

It is essential to the economy that we pass this legislation. If we don't, we will be right back where we were, with no commonsense rules in place, Wall Street doing virtually what they want to do to make money, no matter what the consequences downstream with regard to those who lose their jobs, their homes and, by definition, their hopes and dreams. We have to put in place new strategies not only to create jobs but to reduce the deficit. We cannot do that unless we take affirmative steps to hold Wall Street accountable and give some measure of protection to families who have, for too long, been at the other end of the bargain. They lose their house. They lose their job. Wall Street wins. They lose \$100,000, on average, per family. Wall Street wins very big.

One of the things that should be in place is at least the examination of something that was discussed at the G-20 conference in September of last year in Pittsburgh, where the leaders of the 20 largest economies came together and talked about our financial crisis which, of course, is an international crisis. It is not something limited to the United States. Recently, the European Parliament took the first step by passing a resolution supporting a study on a financial transaction tax, a fee. The resolution specifically calls for an in-depth study that would provide technical recommendations on how such a fee should be structured across the Euro zone. The study proposed in my amendment mirrors the European study and positions the United States to have an informed debate about the issue. This study is simple but can have a tremendous impact on the economy because of what we will learn.

The study would examine the implementation of a transaction fee on all security-based transactions, including swaps and security-based swaps, except those that are somehow hedging or mitigating risk. Also included in these

transactions would be stock and debt instruments.

Here is what the study would assess. Again, this is not the imposition of a transaction fee. This is a study of the imposition of a transaction fee or the implementation thereof. The study would assess, first, past uses of such fees, what has happened in the recent past and our experience with this, other countries that have tried this, other experts who have weighed in, obviously, on the advantages and disadvantages of this kind of fee, and the potential to raise revenue.

We hear a lot of talk in this Chamber about reducing the deficit. It is going to be pretty difficult to do that in the current environment unless we have new revenue. One of the ways to have new revenue in place is to have a transaction fee. Again, this amendment would simply require the study of a transaction fee.

Next, the study would assess the impact on financial markets, which is something we have to consider and weigh and analyze, and the impact on risky investment behavior. We might know the answer to that, generally, because with a transaction fee in place, it is probably less likely that a financial institution would engage in the kind of risky, reckless, irresponsible and, in some cases, illegal behavior they have engaged in which has cost the average American family \$100,000 per family because of what they did on Wall Street over a number of years.

The study called for in the amendment would be open to public comment, would be conducted by the Securities and Exchange Commission and the Commodity Futures Trading Commission, in coordination with the Department of the Treasury. It is important to have those three agencies involved in the review. It is not just going to be farmed out to some think tank, where it can be criticized because it lands on one side of the political divide or another. It is going to be conducted, if we get this in place, by the Securities and Exchange Commission and the Commodity Futures Trading Commission, two agencies with substantial experience and expertise about this kind of a fee, a transaction fee, working in coordination with the Treasury Department. It is important to have those agencies involved instead of having a study done by a group that has, in many cases, limited expertise.

Given the dramatic cost of the recession on our economy, the horrific and destabilizing job loss we have had, not to mention the world economic downturn, we need to be proactive and thoughtful and analytical in assessing a transaction fee and the positive impact it can have on reducing the deficit and creating jobs.

For those who will weigh in against the amendment, I ask: Where is the other revenue they are going to need to

reduce the deficit or at least to allocate part of the revenue we generate to reducing the deficit? What are they going to do about job creation? If they are not doing some work on both of those, they are not too concerned about where the economy is going. If we are going to fully recover and grow and sustain growth overtime, we need job creation, and we need to reduce the deficit.

Predictably, I received a letter recently from the Chamber of Commerce that has come out against the study of a transaction fee. In my judgment, it is entirely predictable that the Chamber of Commerce of the United States is opposed. I will leave it to them to make their case. I hope the amendment has bipartisan and broad support, which I believe eventually it will. Unfortunately for the Chamber of Commerce, they are doing what they always do. They are trying to protect Wall Street in a debate on the study of a transaction fee but in the larger debate as well.

It is very simple. There are two places to be—protecting Wall Street or standing for reform. The Chamber of Commerce has just weighed in on the side of Wall Street. They will have to answer to all the small businesses in Pennsylvania, for example, and across the country and even larger businesses but especially small businesses that have been devastated by what has been happening on Wall Street. The idea that the Chamber of Commerce is coming out against the study—the study; the analysis—of a transaction fee is disturbing. It tells you a lot about where they stand in this debate.

I know where the American people are. They want reform, and they want it now, and they do not want it watered down. They do not want the bill gutted with amendments. They want to have information they should have a right to expect on the effect of a transaction fee—good, bad, or indifferent. They should have that information. What the American people do not want is the Chamber of Commerce or any other organization standing between Wall Street and what has been happening there and reform.

I urge the leadership of the Chamber of Commerce to go back, take another look at this, take another look at what is the harm of having a study conducted by the Securities and Exchange Commission and the Commodity Futures Trading Commission in conjunction with the U.S. Department of the Treasury. I do not care what year it is. I do not care what administration it is, those three parts of our government should have the right and should be instructed by the Congress to study something that has potential—significant potential—to lower the deficit, or help us lower the deficit, and to create jobs.

But to have the usual knee-jerk political reaction the Chamber of Com-

merce and others will have is not in the best interests of the American people and is not helping in any way the debate we are having on the floor of the Senate.

So for the chamber folks—or for their allies—it is simple, folks. You have two choices. You can stand here and protect, with all your might, the practices on Wall Street—the fraud, the manipulation, the scheme artistry that put us into this ditch we are in right now—or you can be for reform. You have a choice to make. It is very simple. There is no middle ground.

I hope the Members of the Senate would take a closer look at this than apparently the chamber has and stand up for the American people and show at long last we are not going to allow Wall Street to destroy more lives, we are not going to allow Wall Street to allow an adverse impact of \$100,000 per family to transpire again, that we are going to at long last provide real reform for the American people and hold Wall Street accountable for the abusive practices they engage in, for the dishonesty and fraud and sometimes criminal conduct they engage in.

It is about time the groups that are opposing reform—of course, the chamber has been opposing lots of reform lately; we will not go into all of it, but I would hope the Chamber of Commerce would make it very clear where they stand in this debate. Because when they come out against proposals such as this, they stand to protect Wall Street at the expense of the American people.

With that, I yield the floor.

**THE PRESIDING OFFICER.** The Senator from Illinois.

**Mr. DURBIN.** Madam President, I have an amendment which has been filed and is at the desk, and a modification of that amendment, which I wish to explain for a moment.

It is an amendment related to interchange fees. Interchange fees are the fees charged to commercial establishments which accept credit cards. So if I owned a restaurant and accepted Visa or MasterCard, when my customer, who has a bill, presents the credit card to pay for it, then I have to pay a percentage of that bill to the credit card company. That is called the interchange fee.

That is separate and apart from the customer's relationship with the credit card company. This is the relationship of the merchant, the retail establishment, the small business, with the credit card company. Unfortunately, over the years, small businesses across America have had little or no bargaining power with the major credit card companies. They impose interchange fees on these businesses, and if you speak to some of the small businesses in Illinois or across the Nation, you will find that many of them feel they are being treated unfairly.

Let me give you an example. About half of the transactions that take place now using plastic are with credit cards, and there is a fee charged—usually 1 or 2 percent of the actual amount that is charged to the credit card. It is understandable because the credit card company is creating this means of payment. It is also running the risk of default and collection, where someone does not pay off their credit card. So the fee is understandable because there is risk associated with it.

But now gaining in popularity is this so-called debit card, where a person directly draws money from their checking account to pay that same restaurant. Had that person chosen to pay by check—a written check—it would have been banked by the restaurant in their own bank, and drawn from the bank of the customer, with no fee associated with it. If the customer uses a debit card—which accomplishes the same thing without the actual check paper involved—the credit card/debit card companies, Visa, MasterCard, and others—charge similar fees to what they charge for credit card. Yet there is virtually no risk involved in a debit card.

So many of these retail establishments and small businesses across America have come and said: We are not opposed to paying a reasonable, proportional amount for the use of a debit card, for example, at our business, but we cannot even get to first base with Visa and MasterCard. They say: We are going to charge you what we are going to charge you—take it or leave it.

As a consequence, I have submitted this amendment. This amendment is on behalf of small businesses across the United States which have rallied behind this because of their concerns about interchange fees on their cost of doing business. It says we will use the same mechanism we used in credit card reform—a bill that was brought to the floor by Senator DODD of the Senate Banking Committee, which called on the Federal Reserve to establish the appropriate fees and charges to business establishments for the use of credit cards—and that these fees and charges be reasonable and proportional when it comes to debit cards. I do not think that is unreasonable. Senator DODD offered that as part of the original credit card reform when it came to customers using credit cards. I do not think it is unreasonable to apply it to the business establishments.

You would think there would be general support of this across the board, except from the credit card companies and the biggest banks. But it turns out there is opposition to this from the so-called independent community banks and credit unions.

We created an exemption in my amendment saying if you are a so-called independent community bank

that has assets of less than \$1 billion, you will not be affected by this—believing we took the lion's share, the vast majority of community banks, and exempted them with the \$1 billion exemption. Regardless, the independent community banks again teamed up with the American Bankers Association and said: We are going to oppose it anyway, even if the majority of our members are not covered by it. And credit unions, which go lockstep with the so-called independent community banks when it comes to a lot of banking issues, said the same thing. So in an effort to reach a compromise here that will help Members come to the support of this amendment, I am going to modify my amendment to extend and enlarge the exemption to institutions of \$10 billion or less.

Let me tell you what that means. With the modification—changing it from \$1 billion to \$10 billion—it will have a dramatic difference. With a \$10 billion exemption, 99 percent of banks would be exempt. All but the very largest banks in America—the ones that have a controlling interest in establishing interchange fees, I might add—99 percent of banks would be exempt. And 99 percent of credit unions would be exempt. All but three credit unions in the United States have less than \$10 billion. And 97 percent of thrift institutions would be exempt—19 thrift institutions across America.

When I have talked to my friends on both sides of the aisle, they have said: If you can find a way to resolve the opposition of the community banks and credit unions, then we are open to this. Many of them have said they believe small businesses and retail establishments are being treated unfairly and they wish to support this. But they wanted to make sure they did not harm local and community banks.

Well, I have gone from a \$1 billion exemption to a \$10 billion exemption. There are very few communities across America that have banks that will not be protected because of this enlargement of this exemption, and I urge my colleagues to consider that, and to also consider the other side of the equation. Think of the hundreds, if not thousands, of small businesses in your State that are being disadvantaged and treated unfairly with these interchange fees.

What we are asking for is to have an arbiter—in this case the Federal Reserve—determine whether the interchange fees, particularly for debit cards, are reasonable and proportional.

We also say you ought to allow a commercial establishment which accepts a credit card to establish a minimum amount which you can charge to a credit card. I went into Washington National Airport, standing at a news stand there, and was behind a woman who was charging 35 cents to a credit card. I said to the person at the cash

register: Is that the lowest amount you have ever had charged to a credit card? She said: No. We had 25 cents charged one day.

If you look at the actual calculations of fees paid by that business for the use of that credit card, they lost money on that transaction. They did not make any money on that. By the time they paid the swiping fees and the interchange fees, at the end of the day, they made nothing. They could have lost money.

Is it unreasonable for a business to say: We are not going to accept credit cards for any purchase under \$5 or \$1? I do not think that is unreasonable since they are going to lose money in the process, and yet the credit card companies prohibit small businesses from even establishing those basic standards. They prohibit small businesses from saying: We will give you a discount on the price if you pay cash. Why? If we are truly going to have a competitive atmosphere and give small businesses in a struggling economy a fighting chance, why would we prohibit these things? Why would we give a monopoly—a virtual monopoly—situation here, where two major credit card companies can impose rules on small businesses which are so costly to them?

That is why I have submitted this amendment. It is not an easy amendment—I understand that—because we have some competition among friends here and Members will have to decide which they think is the just position. I hope they believe this amendment is. I hope they believe that small businesses—which currently have no bargaining power against these monopolies, such as Visa and MasterCard—deserve a voice in the process. I hope they believe that some of the unreasonable standards set by credit card companies and imposed on small businesses have to stop across America.

I cannot tell you how many glowing speeches are given in Congress on behalf of small businesses. We all know how much they mean to us in our communities and in our overall economy. Well, here is our chance. Senators will have a chance to vote on behalf of retail establishments and small businesses all across their States who have come to me, begging me to move forward on this amendment.

I have said—and I believe it is true—this is the first time anyone has offered an interchange fee amendment on the floor of the Senate or in the House of Representatives. The fact is, it has not been offered because it is controversial. Some people do not want to touch it: Stay away from it. Don't bring it up. Well, that is not fair to small businesses. They deserve for us to step forward, and to offer these amendments, and to make a policy choice.

When I tried to offer this amendment on the Credit Card Reform Act, they said: Wrong place. When I try to offer



it on this bill related to banks and financial institutions, some have said: It is the wrong place.

I have concluded there is no right place. This is a good place because it relates to consumer protection, it relates to financial institutions, it relates to our economy and making sure it thrives, and thrives in a responsible way. That means making sure interchange fees are reasonable across the board.

This amendment is needed. It is a response to price fixing by Visa and MasterCard. Interchange fees are received by the card-issuing bank in a debit transaction. However, Visa and MasterCard—which control 80 percent of the debit market—set the debit interchange fee rates that apply to all banks within their networks. Every bank gets the same interchange fee rate regardless of how efficient they have been in conducting debit transactions.

Visa and MasterCard do not allow banks to compete with one another or negotiate with merchants over interchange rates, and there is no constraint on Visa's and MasterCard's ability to fix rates at unreasonable levels. VISA and MasterCard consistently raise interchange rates because the more interchange fees the banks receive, the more the banks will issue cards. Visa and MasterCard receive a fee each time a card is swiped, so rising interchange rates enrich them as well.

Visa and MasterCard incidentally have reduced debit card interchange fees in other countries while they have increased them in the United States. Let me repeat that. Visa and MasterCard have reduced debit interchange rates in other countries while they have increased them in the United States. Visa and MasterCard continue to raise U.S. interchange rates, which are already the highest in the world.

The General Accounting Office found that regulators in other countries have worked with VISA and MasterCard to voluntarily reduce their interchange rates. Just last month, VISA lowered many European debit card rates by 60 percent while increasing many U.S. debit card rates by 30 percent.

What can businesses do about it? Nothing—no bargaining power. So these American-based companies are cutting their charges in overseas markets and raising them at a time when we are facing one of the worst recessions in American history. They are making it tougher for that small business to survive. They are making it tougher for them to keep their employees at work. Is that the right thing to do when our economy is facing a recession? I don't think so.

I don't set an interchange fee rate in this law. Some have argued that we would reduce credit availability by regulating credit card interchange rates. However, the amendment's reasonable

fee requirement only applies to debit cards; it doesn't apply to credit cards.

The Durbin reasonable debit fee requirement exempts small banks and credit unions with assets under \$10 billion, which, as I say, includes 99 percent of all banks, credit unions, and thrift savings and loans across the United States.

This amendment would not enable merchants to discriminate against debit cards issued by small banks and credit unions. VISA and MasterCard contractually require merchants to accept all cards within their networks, and the amendment does not change that requirement. The amendment would not have the Federal Reserve set interchange prices. Under this amendment, the Fed would not set them. Instead, it would oversee the debit interchange fees set by card networks to ensure they are reasonable and proportional to cost.

It is the same standard which the Banking Committee and Senator DODD offered when it came to credit card reform. It is not a radical notion. It is in the law already.

There is an argument some make that consumers benefit greatly from the current interchange fee structure. Let me tell my colleagues the reality. This statement is contradicted by statements from groups that represent consumer interests.

Ed Mierzwinski, who is the consumer program director at U.S. PIRG, testified before the House Judiciary Committee and said as follows:

The deceptive anticompetitive practices of the two credit card associations VISA and MasterCard have injured consumers and merchants for years. Interchange fees or hidden charges are paid by all Americans, regardless of whether they use credit, debit, checks, or cash. These fees impose the greatest hardship on the most vulnerable customers: The millions of American consumers without credit cards or banking relationships. These consumers subsidize credit card usage by paying inflated prices for many goods and service. These prices are inflated by the billions of dollars of anticompetitive interchange fees used to subsidize reward programs.

The industry of credit cards also argues that merchants benefit from the present interchange system. A 2009 GAO report found that merchants receive benefits from the existence of credit and debit card systems. It does not say those benefits are the result of the present interchange system. In fact, the same report starts with the title, "Rising Interchange Fees Have Increased Costs for Merchants," citing numerous growing costs that the interchange fee structure imposes on merchants. For example, the report states:

Although accepting credit cards provides benefits, merchants report card costs are increasing faster than their ability to negotiate or lower these costs.

I would say basically if we are going to revitalize small business in America

in retail establishments, if we are going to give them a fighting chance, we cannot ignore this any longer.

There are some who say: Withdraw this amendment. Wait for another day. Well, I have waited for a year and I don't want to wait anymore. I think we ought to go on the record. I think we ought to have the courage to stand up and say reasonable and proportional debit card rates that will be regulated by the Federal Reserve is not unreasonable; and secondly, that the anticompetitive practices which are imposed on small businesses and retailers across America have to come to an end.

Most of the people I talk to on the floor of the Senate understand this. I hope this modification I am making to my amendment—creating an exemption for banks with assets valued at lower than \$10 billion—will make it clear that we are not trying to create any hardship on community banks and credit unions. Instead, we are going after the largest banks and credit card companies for what I consider to be unreasonable conduct when it comes to the treatment of small businesses and retail businesses as well.

I hope to call up this amendment either late today or tomorrow. I hope my colleagues will join me in standing up for small business. We give a lot of speeches about small businesses and retail businesses. This will give my colleagues a chance to vote for them on this interchange fee regulation reform.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAPO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRAPO. Mr. President, I call for the regular order with respect to the Landrieu amendment.

The ACTING PRESIDENT pro tempore. The amendment is now pending.

AMENDMENT NO. 3992 TO AMENDMENT NO. 3956

Mr. CRAPO. Mr. President, I call up a second-degree amendment, which is at the desk.

Mr. DODD. First, Mr. President, are we temporarily laying aside the Snowe-Landrieu? What is the pending amendment?

The ACTING PRESIDENT pro tempore. The Landrieu amendment No. 3956 is now pending.

Mr. DODD. OK.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. CRAPO] proposes an amendment numbered 3992 to amendment No. 3956.

Mr. CRAPO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.



The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve the credit risk retention provisions)

On page 1 of the amendment, strike line 3 and all that follows through page 3, line 7, and insert the following:

“(i) a portion of the credit risk for any asset that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer; or

“(ii) a reduced portion or no portion of the credit risk for an asset described in clause (i), if the originator of the asset meets the underwriting standards prescribed under paragraph (2)(B) or subsection (e)(4);

“(C) specify—

“(i) the permissible types, forms, and amounts of risk retention that would meet the requirements of subparagraph (B), including—

“(I) retention of—

“(aa) a specified amount or percentage of the total credit risk of the asset;

“(bb) the value of securities sold to investors; or

“(cc) the interest of the seller in revolving assets;

“(II) retention of the first-loss position by a third-party purchaser that specifically negotiates for the purchase of such first-loss position and provides due diligence on all individual assets in the pool before the issuance of the asset-backed securities;

“(III) a determination by a Federal banking agency or the Commission that the underwriting standards and controls of the originator are adequate for risk retention purposes; and

“(IV) provision of adequate representations and warranties and related enforcement mechanisms; and

“(ii) the minimum duration of the risk retention required under this section;

Mr. CRAPO. Mr. President, this is a second-degree amendment to the Landrieu-Isakson amendment. It is not a competing amendment; it is an amendment to add additional provisions. I support the material in the Landrieu-Isakson amendment, which deals with the home mortgage market. This amendment has further provisions in the same section of the bill to deal with risk-retention issues relating to the commercial real estate market and other asset classes.

According to market analysts and financial regulators, the provisions aimed at the securitized credit market in this bill will undoubtedly impact access to credit for millions of American consumers and businesses.

These issues—such as “risk retention”—are very complicated.

The reforms are aimed at the “residential and subprime” market, and I am quite concerned that have not been carefully examined for all markets.

Additionally, they have not been reviewed in the context of other moving parts outside the bill, such as changing accounting standards, capital requirements, other regulatory mandates, etc.

When combined, these significant changes create a huge amount of “un-

certainty” in the market, which today serves one of the greatest impediments to new and private lending and investing.

The stakes are high. As Treasury Secretary Geithner has stressed, “no financial recovery plan will be successful unless it helps restart securitization markets for sound loans made to consumers and businesses—large and small.”

Yet, the “totality” of regulatory and account changes impact the future viability of these markets. In fact, both market participants and financial regulators agree that the outcome is unclear in both the short and long term. The “warning signs” are there and cannot be ignored after comments by the Fed, the OCC, the FDIC, and the International Monetary Fund, among others.

As such, we must carefully examine any new mandates to determine the most appropriate and direct way to strengthen our lending markets, and to better serve consumers and businesses, while avoiding negative complications.

Such reforms are very important, and it is critical that we get them right.

This “middle ground” approach has two basic components:

First, because “skin-in-the-game” is important and can come in many forms, the proposed language improves the existing framework—using the current language and construct in the Dodd bill—and requires the regulators to examine and consider equally which method of “skin-in-the-game” is most appropriate:

A percent retention; Underwriting standards; strong, standardized and disclosed “representations and warranties”; Other methods—e.g. a “third party” retention for CMBS in the “Minnick-Bean-Moore-Adler-Campbell-Miller amendment that passed in the House unanimously—or the like.

Second, it clarifies existing language in the bill that requires reforms to be considered by “asset class.”

Under the Landrieu amendment, the regulators shall create the “qualified mortgage” framework important to the residential market.

Under this secondary amendment, the regulators shall consider the appropriate forms of retention by “asset class” and type of loan—as well as risk profile associated with it. This would include allowing the regulators to consider using and strengthening a “third party” retention framework that is important to CMBS and CRE market participants.

Ultimately, we think such an overall amendment is important because it comprehensively addresses all asset classes, (residential and commercial mortgages, student loans, auto loans, etc.) and helps to have a better format for approaching risk retention.

What the amendment does is take the exclusive focus off of just one form

of risk retention and allows the regulator to evaluate the best approach to address risk retention by asset class.

This still includes a percent retention (if necessary), as well as underwriting standards that actually get at the heart of the loans and even strong and uniform “representations and warranties”—which are important to the investors—such as pension funds, mutual funds and endowments—who fuel lending in the securitized credit markets.

The amendment simply gives important direction to the regulators on structuring reforms by “asset class.” This is critical in the context of conflicting rules and proposals aimed at these markets—some of which prejudice or disregard the House and Senate language in this area.

Most important, when taken with the Landrieu amendment, it would address and encourage well underwritten loans—including the “qualified mortgage” framework—as well as uniqueness of very different markets—such as commercial real estate, auto loans, student loans, etc.

And, by avoiding a single asset “carve-out” for just “residential,” it simply allows the regulators to customize “skin-in-the-game” for all asset classes—particularly ones that were not a “root case” or “systemic risk”. This protects consumers and businesses that are struggling to get access to credit.

Without “reinventing the wheel” on the Dodd bill, this approach provides important reforms, while avoiding negative complications concerning capital, liquidity and credit availability—particularly in the commercial real estate market, which faces challenges and has a very different structure.

Such an approach is crucial for business and consumer credit, and for an overall economic recovery.

And, for that reason, it is supported by lenders of all sizes and in all markets, commercial borrowers who have been active on this issue, and investors who fuel lending and are seeking certainty and confidence.

Lastly, some of the language in this bill, particularly related to the commercial mortgage market, passed the House Financial Services Committee unanimously, as offered by Representatives MINNICK, BEAN, ADLER, MOORE, CAMPBELL, and MILLER.

I urge all my colleagues to accept this amendment as an addition to the Landrieu-Isakson amendment, not a change of it, to help us address more than simply the issues dealing with the residential real estate market but also, and most important, the commercial real estate market and other asset classes.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. DODD. First, let me acknowledge the contributions of Senator CRAPO to

the Banking Committee efforts. While not endorsing the bill as it presently reads, he has been a valuable member of the committee for many years. I deeply appreciate his input. His ideas are always tremendously constructive in any debate we have. I thank him for that.

I have asked my staff to meet with his staff to try to clear up some things. I would like to be in a position of where we can accept the amendment. I am not trying to prejudice one over the other. We would like to keep some risk retention or good underwriting standards so the choice is there. We are not trying to impose both.

I know the staffs are talking. On page 2 of the amendment, beginning around line 18, paragraph (I), beginning "retention of" and then it lists three paragraphs and possibly a fourth. We are looking for some clarity on the meaning of "the value of securities sold to investors or the interest of the seller in revolving assets." On those two, we particularly need some clarity on what that means. It seems vague to us as to how that would apply.

Rather than rush this along, we would like to take a few minutes and see if we can come to some resolution of that and possibly accept it. Senator LANDRIEU will have to come over. It is her amendment we are amending. We will see if we can reach accommodation and adopt it, if possible.

Let's take a few minutes and look at how we might work on this together. If we can come to a conclusion, I will be prepared to support the Senator's amendment. I am not trying to distinguish real estate from commercial. I realize there are some differences. They are different transactions, obviously, but the point is the same. We would like to make sure the securitization, on which the Senator is absolutely correct—I think these words become pejorative. When done well, it expands opportunities tremendously in terms of creating additional liquidity, making resources more available for more loans, home sales, and the like, providing there are sound underwriting principles involved so we are not getting ourselves into trouble again. That is why we have had an insistence on strong underwriting standards and risk retention, the old skin in the game. That is what risk retention means. If you have equity in it, you will be careful about what goes out the door and becomes securitized.

I am not interested in having risk retention if, in fact, we have good standards that apply and we don't end up where we were 2 years ago, discovering a lot of these instruments that got securitized ended up being worthless, even worse than worthless, in some cases, because of the problems they caused.

I respect where my colleague is coming from. If we can spend a few minutes

and try and resolve this, then maybe we can come to some agreement. That would be my hope.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAPO. Mr. President, I appreciate the chairman's remarks and willingness to work on this amendment. We are both trying to get at the same thing. I believe we can work out the questions with regard to the language so we can move forward in a fashion that will help us to address these problems to make sure the ultimate objective, on which we all agree—namely, making sure we have confidence in the quality of the assets that are utilized in securitization—is achieved.

I welcome that opportunity and look forward to working with the chairman.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant Daily Digest clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### AMENDMENT NO. 3918

Mr. DODD. Mr. President, I ask unanimous consent to temporarily lay aside the Landrieu-Isakson amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, I believe we are prepared to have a voice vote on the Snowe-Landrieu amendment, which is the pending amendment, if I am not mistaken.

The ACTING PRESIDENT pro tempore. If there is no further debate, the question is agreeing to amendment No. 3918.

The amendment (No. 3918) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, let me once again thank Senators SNOWE and LANDRIEU for their very valuable contribution to this bill in more clearly refining and making it abundantly clear that merchants and retailers and others are not included as financial services or financial products companies and are not to be covered by the consumer financial product bureau. I am very appreciative to both of them for their contribution.

With that, Mr. President, I see my colleague from North Dakota is here, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I know this is beginning to be a lengthy debate and process on the floor of the Senate

to get through amendments. My colleague from Connecticut exhibits great patience to try to work through this. I know there are a lot of interests that have different views about this, and they come to the floor and they want this amendment or that. I understand all that. I know my colleague from Connecticut views this with the same seriousness of purpose as I do and understands that many of us not on the Banking Committee have not had the opportunity to be involved in the debate until now—until it comes to the floor of the Senate—and have not been able to offer amendments.

I think that represents the appetite in the Senate to be engaged and to understand what has caused the most devastating financial event for our country since the Great Depression—something that collapsed some \$15 trillion in value for the American people, caused very substantial unemployment, dramatic losses in income, the loss of homes and has led to hopelessness and helplessness for many Americans.

What happened to cause that? Was this some sort of natural disaster? No, it wasn't a fire, a flood, a tornado, or an earthquake. It wasn't a natural disaster. This was made with human hands. This is a manmade disaster and, by the way, it could well have been predicted, in my judgment, and some of us did. Without pointing at myself necessarily, I said 11 years ago that I thought we were setting ourselves up for massive taxpayer bailouts. I will not show the charts again, but it is not surprising. We were going to modernize the financial system a decade ago in order to compete with the Europeans and to bring it into the modern age. Modernizing meant deciding let's deregulate everything. Let's not look at everything that is going on. The result is, a decade later, a very substantial collapse in our economic system.

Mr. President, I have been thinking about the work that has gone on in the last couple of weeks on the floor of the Senate. I came in early this morning to get something from the radio addresses of Franklin Delano Roosevelt in 1933 and 1934. The situation in this country, while different by many decades, is similar with respect to what caused a substantial problem in this country. Then it was the Great Depression.

Let me read, if I might, just a couple of excerpts of what then-President Franklin Delano Roosevelt said about our country and about what was needed to be done because it has, I think, significant application to today. Here is a quote from Franklin Delano Roosevelt on March 12 of 1933:

We had a bad banking situation. Some of our bankers had shown themselves either incompetent or dishonest in their handling of the people's funds. They had abused the money entrusted to them in speculation and unwise loans. This was of course not true in the vast majority of our banks but it was

true in enough of them to shock the people for a time into a sense of insecurity and put them into a frame of mind where they did not differentiate, but seemed to assume that the acts of a comparative few had tainted them all. It was the government's job to straighten out this situation and do it as quickly as possible. And the job is being performed.

This was, again, from President Franklin Roosevelt in 1933. Quoting again, he says:

After all, there is an element in the readjustment of our financial system more important than currency, more important than gold, and that is the confidence of the people. Confidence and courage are the essentials of success in carrying out our plan. You people must have faith; you must not be stampeded by rumors or guesses. Let us unite in banishing fear. We have provided the machinery to restore our financial system; it is up to you to support and make it work.

He was talking about a time in the shadow of the Great Depression. On September 30, 1 year later, in his address to the Nation, Franklin Delano Roosevelt said:

The second step we have taken in the restoration of normal business enterprise has been to clean up thoroughly unwholesome conditions in the field of investment. In this we have had the assistance from many bankers and businessmen, most of whom recognize the past evils in the banking system, in the sale of securities, in the deliberate encouragement of stock gambling, in the sale of unsound mortgages and in many other ways in which the public lost billions of dollars. They saw that without changes in the policies and methods of investment there could be no recovery of public confidence in the security of savings.

Interesting. You could read that today, and it describes the task we have before us today. But this wasn't language of today. This was from 1933 and 1934. The thoroughly unwholesome conditions in the field of investment, in the sale of securities, in the deliberate encouragement of stock gambling, the sale of unsound mortgages. That is the year 2005, 2009. Yet Franklin Delano Roosevelt described it in 1934, and he put together a plan. That plan included Glass-Steagall and other things to protect this country; to say never again will we allow that to happen.

Then, a little over a decade ago, in this Chamber and in the White House, they said: We have to modernize our system. We have to get rid of all those protections from the Great Depression. They are old-fashioned. Let's dump them. So the Congress dumped them. I didn't support that. I vigorously opposed that. But they dumped them.

So the country had a very serious problem—the runup of a substantial amount of new exotic securities, things that people didn't understand very well—CDOs, securitization of almost anything somebody could securitize, getting fees from the sale of the transfer of securities, and then the development of something new called the credit default swap.

The credit default swap was a new approach. It was an insurance policy against a bond default. But then there was a synthetic CDO or a synthetic credit default swap, or what some called naked default swaps. That meant that you could buy one of these instruments back and forth without ever having an insurable interest in the instrument itself, just making a wager with someone else about what might or might not happen in the future.

During all of this time we watched a very substantial amount of activity, on Wall Street particularly, take place that I think has been pretty unwholesome for our country. This is an article of September 30, 2008, which talks about the money from Wall Street that is beyond the legal reach. It says there is \$1.9 trillion of money that is run out of the New York metropolitan area that sits in the Cayman Islands—a secrecy jurisdiction. Another \$1.5 trillion is lodged in four other secrecy jurisdictions.

Let me quote from this article by Robert Morgenthau in the Wall Street Journal on September 30, 2008.

Following the Great Depression, we bragged about a newly installed safety net that was supposed to save us from such a hard economic fall in the future. However, the Securities and Exchange Commission, the Federal Reserve System, the Comptroller of the Currency and others have ignored trillions of dollars that have migrated to offshore jurisdictions that are secretive in nature and outside the safety net—beyond the reach of U.S. regulators.

Well, it is not surprising that at the same time that money was being hidden in other parts of the world by some of the same Wall Street interests that a massive amount of money was being paid one to another on Wall Street and in the investment banking area.

Just to cite a couple of these examples, I have a description from about a year and a half ago when Lehman Brothers went bankrupt. The Lehman Brothers bankruptcy followed Lehman Brothers Holdings agreeing to pay a total of more than \$23 million to three executives leaving the securities firm just days before it collapsed.

The reason I point this out is there was so much money around for everybody—for everything—days before the collapse of Lehman Brothers. There was \$23 million paid to three executives leaving the securities firm days before it collapsed. You wonder why. Does that make any sense? Does anybody think that is something that is worthy?

Here is a payment of \$19 million to a man named Alan Fishman. He was the CEO of Washington Mutual, which was run right into the ditch and went belly up and had to be acquired by another company. Alan Fishman worked 3 weeks for Washington Mutual, and he got a severance deal of \$19.1 million—\$19.1 million.

In the heyday of executive compensation a couple of years ago on Wall

Street, in 2007, the head of Merrill Lynch made \$161 million. That was Stanley O'Neal. John Thain at Merrill Lynch made \$83 million; Lloyd Blankfein of Goldman made \$54 million; John Mack of Morgan Stanley made \$41 million; James Dimon of JPMorgan Chase made \$29 million; and—well, the list goes on. Kenneth Lewis of Bank of America only made \$20 million. He must be looking up at Stanley O'Neal's \$161 million and asking: Where did I miss the boat?

But this kind of money was hanging around all of these issues and these firms, and it was, Katey, bar the door. We are making massive amounts of money and we are going to pay almost never before heard of sums to individuals for running these big companies—\$150 million, \$50 million, \$83 million. So it is not surprising, then, that the American people have a pretty dim view of what was going on on Wall Street when we announce that what went on on Wall Street led to this dramatic economic devastation to our country.

By the way, the devastation doesn't apply to everybody. I just saw this morning that the unemployment rate among the higher income Americans is 3 percent. So they are not feeling the pinch so much. But in the bottom 20 percent of the American people, the unemployment rate is around 18 percent. So there are a whole lot of folks at the bottom of the economic ladder who are paying the price for this unbelievable behavior.

So the question is, What do we do about all this? What do we do to make sure that when we are done in the Congress on something called financial reform, the American people have some notion that we will have done the right things to prevent from happening again that which happened to us in the last couple of years?

The presentations I have made on the Senate floor have perhaps led people to think that I believe investment banks have no merit or no worth. That is simply not the case. I understand that our country and the ability to produce in our country through a productive sector needs financing and that financing would include a range of financing opportunities. You do need investment banks, you need commercial banks, you need venture capital firms, you need securities. I understand all of that.

But I also understand—it was a comedian, Mark Russell, who once described investment banks by saying: "Investment banking is to productive enterprise like mud wrestling is to the performing arts." If ever that applied, it surely must apply now when we look back to see what has happened in the last decade in investment banking. If we do not fix it in this legislation, put a cork in it, and we leave this Chamber and this Congress and claim to have

fixed it and have not done it, then shame on us.

We have a responsibility. Let me tell you what I think the responsibility is. It relates to a range of things that are not yet done. It relates to dealing with the issue of too big to fail. I know we had one vote, and we failed, unfortunately. There are other ways to do this. But if we have institutions that are too big to fail, that are so large that they cause moral hazard to this country should they fail, so large that they cause completely unacceptable risks of bringing the country's economy down should they fail—if we do not do something about that, we cannot claim ever that we have done something about this system. It is not about saying big is bad. It is about saying no-fault capitalism doesn't work if you allow financial institutions to become so large that their failure can bring down this country's economy. That is what the issue is, and that needs to be fixed.

It appears to me we are probably not on the way to fixing that, but hope still arises. For me, it is not a triumph of hope over expectation; it is a triumph of hope, believing it is still possible for us to do the things necessary to fix what we need to do.

I also think the set of issues, in addition to too big to fail, includes an amendment I will be offering banning naked credit default swaps, saying that if there are credit default swaps issued that have no insurable interest in bonds, then it seems to me that is just wagering and that can be done at our gambling centers in our country but ought not be done in the lobbies of banks. That is an amendment which is very important. If we don't fix this, we will leave this town saying we did financial reform but we did nothing about too big to fail and we did nothing about the binge of speculative activity in instruments that have no insurable interest in bonds, credit default swaps that have no insurable interest in bonds.

Mr. Pearlstein, who writes a column for the Washington Post, asked a question which led me to be interested in the question, Why should there be more insurance policies against bonds than there are bonds?

In any event, why should we, in our financial institutions, have people wagering about whether a bond will default when, in fact, they have no interest in the bond? We do not allow people to buy life insurance on someone else's life because they don't have an insurable interest. We don't allow someone to buy fire insurance on someone else's house because there is not an insurable interest. Yet we have trillions of dollars out there, called credit default swaps, making a wager on someone else's bond, whether someone else's bond will fail, despite the fact that they have no insurable interest in the bond. If we do not put a dagger in the

heart of that kind of intense speculation that has caused a significant amount of these problems, then we will have, in my judgment, failed to have addressed the real causes and failed to have done what we should do to make sure this cannot happen again.

I believe my colleague from the State of Washington is going to offer a restoration of sorts of the old Glass-Steagall law, which I think makes sense. Others will offer legislation that would say to insured banks: You ought not be trading securities and derivatives on your own proprietary accounts. It makes a lot of sense to me. All of those are important.

I mentioned before that I wrote the cover story for the Washington Monthly magazine 15 years ago titled "Very Risky Business." At that time, there was \$16 trillion of notional value of derivatives, and I wrote the article saying it was very risky business because even then banks were beginning to trade derivatives on their own proprietary accounts. That is not what insured banking should be. That is far too risky and puts the taxpayer at risk.

Now we see that unemployment is at 9.9 percent. We are still trying to recover from this devastating recession. We are making some progress.

Wall Street is back on track for record profits. This is 5 months ago, now, from the New York Times. In a report released Tuesday, the comptroller of New York State said Wall Street profits in 2009 are on track to exceed the record set 3 years ago at the height of the credit bubble. He also talked about bonuses at six banks that he thought would exceed the \$162 billion paid in 2007. By the way, fueling these record profits by these institutions is from the firm's own securities trading accounts, according to this story, as they borrow at near zero interest rates and put the money to work in the securities markets. It sounds as if nothing has changed. That is what helped cause this mess. Yet here we are, back again, and the question is, Who is healing? The big investment banks are healing.

Let me for a moment remind everyone how important regulation is. This bill has a lot of regulatory allowance—some instruction but a lot of it allowance that says to regulators: Here is your responsibility.

One of the key issues that has exacerbated this substantial economic collapse was something that happened in 2004, on April 28, in the basement of the Securities and Exchange Commission. On the afternoon of April 28, 2004, there were five members of the Securities and Exchange Commission who met in a basement hearing room to consider a request by the five biggest investment banks. They wanted an exemption for their brokerage units from the old regulation that limited the amount of debt they could take on. What they

said is: We want to be able to unshackle billions of dollars now that we hold in reserve as cushions against losses on investments. If we could unshackle that money we have to hold in reserve against losses, we could use that to flow up to the parent company and we could enable it to invest in a fast-growing world of mortgage-backed securities and credit derivatives and so on.

The five investment banks that led the charge—one of them was Goldman Sachs, headed then by Henry Paulson, who 2 years later was Secretary of the Treasury and inherited the mess that was in part created by it. They had 55 minutes of discussion that afternoon, and after 55 minutes of discussion, the Securities and Exchange Commission voted unanimously to allow these biggest banks in America to take on leverage, going from about 12 to 1 or so, to 33 to 1. In other words, for every dollar in equity, it could leverage about \$33 in debt. By that notice in a basement hearing, with no press there at all—I think one reporter was there; it was barely reported—they set the stage for loading up dramatic amounts of debt in these institutions.

Now these institutions are, of course, very opposed to the amendment I am going to be offering here at some point, I hope, I expect, or I insist—one of the three—that would ban naked credit default swaps trading. They are very opposed to that. I understand why. They are making a lot of fees and profits as a result of this massive bubble of speculation in these kinds of securities. But I don't think we have any choice but to be taking on the center of the cause of this economic collapse in our country.

The amount of effort that has been made to water down some of the amendments that have been offered is troublesome to me. I think the legislation that came out of the Banking Committee is meritorious. It has value. I appreciate the work the committee did. But, as I said when I started, most Members of the Senate have not had a chance to weigh in on this, and there are some substantial improvements that can be made—I hope should and will be made to the Banking Committee product. But the improvements will not be improvements that strengthen our ability to prevent what happened from ever happening again if the so-called improvements are diminishing the strength of this bill.

We need regulatory oversight. If we have learned one thing in the last decade, it is that you have to have regulators on the beat who take regulation seriously. You also have to decide to put a stop to the things that don't represent the kinds of business practices that give any strength to this country at all and, in fact, represent business practices that undermine this country's economy. That is why I believe it

is critically important we continue to address the issues as I have just described—too big to fail and credit default swaps and related issues.

I am going to read, just for a moment, something from the November 5, 1999, New York Times article when Congress passed a new piece of legislation called financial modernization. This was written by Stephen Labaton. This is a quote, after the passage of the bill. I voted against it. I believed strongly then that it was a dangerous mistake for our country. It turns out it was even more dangerous than I thought.

The architects and others said:

Today, Congress voted to update the rules that have governed the financial services industry since the Great Depression and replaced them with a system for the 21st century. This historic legislation will better enable American companies to compete in the new economy.

Another quote—in fact, that was from the White House, by the way. That was from someone at Treasury.

This is from a Senator:

The world changes and we have to change with it.

We have a new century coming and we have a new opportunity to dominate this century the way we dominated that century. Glass-Steagall in the midst of the depression came at a time when the thinking was that government was the answer. In this era of prosperity, we decided that freedom is the answer.

Another Senator said:

If we don't pass this bill, we could find London or Frankfurt or, years down the road, Shanghai becoming the financial capital of the world. There are many reasons for this bill but first and foremost is to ensure that U.S. financial firms remain competitive.

The passage of that bill set this country up for the biggest fall since the Great Depression.

The question on the floor of the Senate is this: Are we going to pass a piece of legislation that has real strength in deciding that which caused this deepest recession since the Great Depression cannot be allowed to happen again? Are we going to pass a piece of legislation that has real regulation and real rules that work? Are we going to pass a piece of legislation that says too big to fail is too big, period? Are we going to pass a piece of legislation that pierces the balloon of speculation in instruments such as naked credit default swaps—something that was not even in our language 20 years ago. Are we going to address the questions of the securitization of everything, in many cases just for the sake of being able to capture fees? Are we going to address the question effectively of rating agencies that gave AAA ratings to bonds that were worthless? Are we going to address all these questions or are we just going to pass a bill to say: We did it, good for us, this is success, only to find out 5 years later or 10 years later

that we are right back in the same swamp?

I wish to simply say today that the American taxpayer has now been obligated—in addition to the joblessness and homelessness and other things visited on the American people and the loss of about \$14 trillion or \$15 trillion in value, the American taxpayer has been obligated to the tune of somewhere around \$11 or \$12 trillion lent, spent, or borrowed to interests that we do not now know because the Federal Reserve Board says: It is none of your business to whom we gave trillions of dollars.

Given that, given the economic catastrophe that has visited a lot of the American people, I think we owe them a piece of legislation here with amendments that improve it, a piece of legislation that allows all of us at the end of this day to say no, we didn't water it down, we strengthened it. We recognize the value of our financial institutions, but we don't recognize the value of financial institutions that run this country into the ground, pay \$83 million in salaries, \$20 million in bonuses, buy things they will never get from people who never had them and claim fees on both ends, and claim they have done something good for the country.

This country can do better than that. This is one of those times—I know this is not seen perhaps by some with the same passion as some of the other issues that get peoples' blood boiling, but I tell you, what we do here will long be remembered because it will have consequences, whether this country has a growing, strong economy for many years ahead, and whether we avoid economic collapse or a deep recession.

I watch every morning and read the stories about Greece and other countries that are in great difficulty. Our country is in some significant economic difficulty. We have sent people off to fight wars for 8, 9 years, not paid for one single penny of it. Unbelievable to me. Every single bit was borrowed and put on the debt.

Then we have got people who thumb their suspenders and talk about how awful the debt is. We have a trade deficit that is relentless and means we end up owing other countries, which will be paid with a lower standard of living in our country. In addition to those issues, we have got this issue of the near collapse of our economy by unbelievable speculation coming from the banking industry.

We have got to fix all of these things if we want a country that gives our children the same opportunities we had. We cannot fix it by glossing over things with a coat of light paint. This has to be fixed with real policies that tackle the central issues on what caused this collapse.

I am here and I am ready to offer my amendment. In fact, the sooner the

better. I have been anxious to do that. I will stick around. As soon as I am told my amendment will be in order, I am going to offer it. I guess we will be here until we finish this debate and complain until I get to offer the amendment.

With that, I yield the floor. I will be hanging around.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, what is the current business before the Senate?

The ACTING PRESIDENT pro tempore. The Crapo amendment and the Landrieu amendment are the pending questions.

AMENDMENT NO. 3816 TO AMENDMENT NO. 3739  
(Purpose: To implement regulatory oversight of the swap markets, to improve regulators' access to information about all swaps, to encourage clearing while preventing concentration of inadequately hedged risks in central clearinghouses and ensuring that corporate end users can continue to hedge their unique business risks, and to improve market transparency)

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the pending amendments be set aside and I be allowed to call up my amendment No. 3816.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, and I will not object at all, I have chatted with my friend, Senator CHAMBLISS, as well. I know he is inquiring among his members, as is my colleague from Arkansas as well, about a time agreement on the Chambliss amendment.

My hope would be it would not take too long. I know that is the plea of every manager, majority and minority leader. So if they can inquire as soon as possible on a time. There are several other amendments tonight I think we will be able to deal with, some of which will not require any rollcall votes.

But, obviously, Members like to get some sense of when votes will occur. I am not trying to suggest we truncate anything. I know my colleagues agree that we need to find a time agreement. So I make that plea to both the chairman and the ranking member of the subcommittee.

With that, I have no objection.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. Reserving the right to object, and I will not object, I understand the unanimous consent request is to set aside the pending amendment. Is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. DORGAN. I will not object. Let me respond for a moment, if I might, to the Senator from Connecticut.

I have indicated I wish to offer an amendment at some point. I want to know if I am on the list.

Mr. DODD. I say to my good friend, he is on the list. We are going to try to get to that amendment as soon as we can. I promise the Senator that.

Mr. DORGAN. Mr. President, the word "promise" actually made the day for me. So I will not object, and look forward to offering that amendment at the earliest opportunity.

Mr. DODD. I thank my colleague.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. CHAMBLISS], for himself, Mr. SHELBY, Mr. MCCONNELL, Mr. GREGG, Mr. CRAPO, Mr. JOHANNES, Mr. COCHRAN, Mr. VITTER, and Mr. THUNE, proposes an amendment numbered 3816 to amendment No. 3739.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in the RECORD of May 5, 2010, under "Text of Amendments.")

Mr. CHAMBLISS. Mr. President, first, let me thank the chairman. And he is exactly right, I would encourage all of those who have indicated to me they wish to speak on my amendment, from both sides of the aisle, to let us know, come down to the floor. We wish to dispose of this amendment as soon as possible. I am prepared to enter into any kind of reasonable time agreement as soon as we get an idea of exactly how many speakers there will be in order to accommodate those folks.

I am going to talk in detail about the amendment, but first I do want to respond to the Senator from North Dakota who makes some good points with which I agree. But when we talk about the elimination or not allowing credit default swaps, let me say what bothers me about that.

In 2000, when we passed the Commodities Futures Modernization Act, nobody envisioned that credit default swaps would mushroom as they did. The fact is that not only did they grow larger in number, they grew in dollar volume, and they grew in a way that certainly did participate in the collapse that occurred in 2008.

But the real problem with it is not that we had those products on the market but that the regulators did not have the power and authority and the tools to deal with those products, rather than thinking about eliminating a specific product, knowing these smart folks who are in this business in the financial industry are out there right now looking at this bill, and trying to figure out other products they can design that will be different from a credit default swap, but yet be as dangerous

as what happened in 2008. We need to give the regulators the power and authority to look at these products and put 100 percent transparency in place. That is what I want to see, and that is what my chairman, Senator LINCOLN, wants to see, and I think everybody in here agrees we ought to have full transparency.

Mr. DORGAN. Will the Senator yield for a clarification?

Mr. CHAMBLISS. Surely.

Mr. DORGAN. Mr. President, let me clarify that my position is to ban what are called naked or synthetic credit default swaps, not ban credit default swaps. Those with no insurable interest of any kind are considered naked credit default swaps. It appears to me that 70 to 80 percent of all credit default swaps are in that category; they have no insurable interest. So I did not want the Senator to think I want to ban credit default swaps. That is not the case. Naked credit default swaps, yes.

Mr. CHAMBLISS. I understand that. My point is the same, though, that if we give the regulators the authority to regulate those products, then I think we can deal with it better that way than targeting specific products to be eliminated or banned.

Among the many complex issues this body deals with every day, there are few more complicated than the issue of derivatives. However, we should not let the complexity of the swaps market be an excuse for ignoring good public policy and ensuring that our markets are both safe as well as functional.

In the past couple of years, a lot of people have become acquainted with one particular type of derivative known as, as we have just talked about, a credit default swap or CDS, which permits one party to transfer the credit risk or bonds or syndicated bank loans to another party.

Since AIG was heavily involved in CDS, it seems simple enough to blame swaps generally for what went wrong in the system. However, that would be an inaccurate oversimplification, because the real situation is much more complicated. We need to distinguish between credit default swaps and the actual underlying assets represented by those swaps, in this case mortgage-backed securities or mortgages that were themselves the root of the problem.

There are so many other types of swaps that U.S. businesses rely on every day to mitigate just about any risk they face in the ordinary course of doing business. Before we make a big policy change that makes these over-the-counter products less desirable to market participants or require that these products trade only on an exchange type facility, we need to ask ourselves whether this will even address the underlying problem.

Why take a chance in these uncertain times to make legislative and regu-

latory changes that could possibly make things worse, potentially dry up more capital or force the cost of business going higher? This does not mean there is not room for improvement. That is why I have joined with several of my colleagues today in developing an amendment to apply strong and reasonable regulation to the derivatives markets.

Let me be clear. We share the desire to apply stronger safeguards in these markets to regulate swap market participants and to ensure that swap transactions are more closely monitored by the regulators. I am absolutely convinced that the market volatility and financial meltdown of the recent past makes the case for more market transparency.

How can we in the Congress be sure of the outcome of sweeping reforms without first properly identifying the exact cause of these problems? How can we identify the cause of the problem without authorizing and requiring more transparency through the collection of necessary data?

For this reason, I have worked with several of my colleagues to develop an amendment that would require all swap transactions be made known to the appropriate regulators so effective regulation can be applied where necessary.

Additionally, there will be public dissemination of prices and volumes of completed swap transactions in order that investors and other market participants might be assisted in marking existing swap positions to market, making informed decisions before executing future transactions, and assessing the quality of transactions they have executed.

Beyond requiring more transparency, I also believe we should provide the CFTC and the SEC with the necessary authorities to more properly regulate those market participants who are potentially contributing to the type of risk that jeopardizes our financial system: swap dealers, Fannie Mae, Freddie Mac, large hedge funds, and AIG-type entities.

Many may not even realize that swaps are statutorily excluded from the current regulatory oversight of both the CFTC and the SEC. That is right; current law does not provide for clear regulation of swap market participants. Our amendment would ensure that these market participants are fully regulated and that their swap positions are cleared through a fully regulated clearinghouse. This is a huge departure from current law.

Speaking of clearing, we need to determine how best to encourage the clearing of certain derivative products without jeopardizing either the use of these risk management tools or the sustainability of our clearinghouses. For that reason, our amendment would enable true end-users, those businesses



that use swaps to hedge their risk, not for speculative purpose, but true hedging, to avoid an expensive mandate to clear their swaps.

These businesses had absolutely nothing to do with the financial crisis and should not be punished with increased costs and burdens. We certainly do not want to discourage them from managing their risk, especially not in the current economic environment.

Last Friday, the Department of Labor published their unemployment report for the month of April. Again, unemployment rose from 9.7 percent to 9.9 percent. In my State, it is in excess of 10 percent. Why would we subject U.S. companies to expensive mandates when we should be advancing policies that lessen their financial burdens so they can employ more people?

Why is Congress considering slapping an additional cost on them in the form of a clearing mandate? This does not make sense, when these individual companies are the true end-users of the products they are trading in, and they were absolutely not the cause of the financial meltdown. Those mandates should be targeted and in such a way to lessen the risks of those large financial institution swap dealers who are responsible for the bulk majority of all swap transactions and, therefore, contributing to systemic risk.

But a clearing mandate is not appropriate for businesses using swaps to manage their risks and keep their costs down. This is very simple. If their costs go up, they will either pass it along to consumers or stop managing their risk, and then they certainly cannot afford to hire more workers.

Our amendment has a more targeted clearing mandate designed to reach those who are actually responsible for this crisis we are in, Wall Street and not Main Street businesses.

The Senate will soon have the chance to vote on this substitute amendment on derivatives. I am looking forward to further debate on our amendment because it will highlight a handful of significant differences between the derivatives language in the Dodd-Lincoln amendment versus our amendment. I believe our approach on transparency, on clearing, on end users, on capital requirements, and on trading mandates is much more appropriate, much more reasonable, much more business friendly, and, frankly, much more secure. My amendment will ensure that Main Street businesses will still be able to appropriately use derivatives in hedging their daily business risks, while ensuring that appropriate regulatory standards are put into place for the institutions and transactions that contribute to systemic financial risk.

If Congress is truly interested in addressing the problem as opposed to politicizing a solution, we can no longer ignore the complexities of these mar-

kets. We must seek to understand the legitimate purposes these complex instruments serve for large and small businesses in each of our States. Unfortunately, the language currently before the Senate misses the mark when it comes to the appropriate regulation of derivatives. The underlying bill would have many unfortunate consequences—some intended, some unintended—resulting from applying complicated regulations too broadly and will subject our American businesses to more risk, not less.

Three consequences of the underlying bill on derivatives are these: One, the users will pay huge clearing fees and pass on those expenses to consumers; two, no longer will businesses use the derivatives market, and they will pass on the higher, unstable market costs to consumers; and three, these businesses, instead of using U.S. markets, will simply take their business offshore. As they do today, they will trade in the dark, and no U.S. regulator will ever see what they are doing. That is not right. That is not what any of us intend to see happen.

The fact is, if we pass the derivatives provisions in the underlying bill, there is going to be a significant number of end users who take their business offshore. That truly is unacceptable. Our amendment makes good business sense and good common sense.

We have received support for our amendment from a wide array of businesses. These are not banks that stand to make profits. These are individual users. I have a letter from the National Association of Manufacturers which states:

We have serious concerns that the current end-user exemption in S. 3217 (and in the pending Dodd Substitute) is not strong or clear enough. In addition, other provisions in the derivatives title could effectively eliminate the exemption for many companies and, in some cases, subject them to capital and margin requirements or higher costs. Conversely, the Chambliss/Shelby substitute includes a clear and strong end-user exemption that appropriately exempts businesses that use OTC derivatives to hedge their business risk from the regulatory scheme applicable to swap dealers.

From the Coalition for Derivatives End-Users, we have the following: That my amendment would “strike the right balance between bringing fundamental and needed reforms to the over-the-counter (OTC) derivatives market while also ensuring significant and burdensome new costs are not necessarily imposed on business end-users.”

Lastly, I have a letter signed by several energy supply groups which states that they “remain concerned about the potential impact of the proposed financial reform legislation on end-users.” They go on to say that:

Due to the broad definition of “swap dealer,” end users may be ineligible for the end-user exemption if they engage in hedging business risks in the ordinary course of business.

I ask unanimous consent that these respective letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION  
OF MANUFACTURERS,  
Washington, DC, May 10, 2010.

DEAR SENATORS: The National Association of Manufacturers (NAM), the nation's largest industrial trade association representing small and large manufacturers in every industrial sector and in all 50 states, urges your support for the Chambliss/Shelby Substitute Amendment (SA 3816) to S. 3217, the Restoring American Financial Stability Act.

While the NAM supports initiatives to prevent excessive speculation and improve transparency and stability in the derivatives market, it is critical that policymakers preserve the ability of responsible companies to access over-the-counter (OTC) derivative products. Manufacturers of all sizes use customized OTC derivatives to manage the cost of borrowing or other risks of operating their businesses, including fluctuating currency exchange, interest rates and commodity prices. In today's challenging economy, these risk management tools help businesses keep operations going, invest in new technologies, build new plants and retain and expand workforces.

NAM members believe strongly that any derivatives reform effort should ensure business end-users' continued access to OTC derivatives, providing them with greater financial certainty and allowing them to allocate resources to core business activities. In addition, we have called for clear exemptions from central clearing, bilateral margining and exchange-trading requirements for business end-users to avoid drawing large amounts of capital from business operations, including job creation.

We have serious concerns, however, that the current end-user exemption in S. 3217 (and in the pending Dodd Substitute) is not strong or clear enough. In addition, other provisions in the derivatives title could effectively eliminate the exemption for many companies and, in some cases, subject them to capital and margin requirements or higher costs.

Conversely, the Chambliss/Shelby Substitute includes:

Clear exemptions from central clearing, bilateral margining and exchange-trading requirements;

A clear and strong end-user exemption that appropriately exempts businesses that use OTC derivatives to hedge business risk from the regulatory scheme applicable to swap dealers;

Clarification that any increases to capital charges on swap dealers are based on actual risk of loss and designed to promote the safety and soundness of the financial system rather than to penalize the use of OTC derivatives; and

Prospective application recognizing that market participants negotiated current derivatives contracts with an understanding as to their potential obligations based on the laws and market practices in place at that time.

The NAM's Key Vote Advisory Committee has indicated that all votes related to the Chambliss/Shelby Substitute Amendment (SA 3816), including procedural motions, may



be considered for designation as Key Manufacturing Votes in the 111th Congress. Thank you for your consideration.

Sincerely,

JAY TIMMONS,  
*Executive Vice President.*

COALITION FOR  
DERIVATIVES END-USERS,  
May 11, 2010.

TO THE MEMBERS OF THE UNITED STATES SENATE: The Coalition for Derivatives End-Users strongly supports an amendment that has been filed by Sen. Chambliss, SA 3816 to S. 3217, the "Restoring Financial Stability Act," because it would bring important and needed reforms to the derivatives markets. If this amendment is brought to a vote, the Coalition urges you to support it.

The Chambliss amendment would strike the right balance between bringing fundamental and needed reforms to the over-the-counter ("OTC") derivatives market, while also ensuring significant and burdensome new costs are not unnecessarily imposed on business end-users. Consistent with the Coalition's position, the amendment:

Provides explicit exemptions from central clearing, bilateral margining, and exchange trading requirements for business end-users that do not pose a threat to financial stability and that primarily use OTC derivatives to hedge business risk;

Ensures increases in capital charges continue to be based on risk of loss and aimed at promoting safety and soundness of the financial system, and not used to penalize OTC derivatives;

Provides legislative certainty that any new requirements are applied prospectively, recognizing that market participants negotiated existing trades based on the laws and market practices in effect at the time of these transactions.

Throughout the legislative process, the Coalition has advocated for a strong derivatives bill that brings full transparency to OTC derivatives market, imposes new regulatory standards on swap dealers and market participants whose activities in the OTC market could impact the stability of the financial system, and provides a strong clear exemption from mandatory clearing and bilateral margining for business end-users.

The Coalition remains concerned that Title VII of S. 3217 does not provide a strong clear exemption for end-users. If implemented, we believe many end-users of derivatives would be forced to divert precious working capital away from productive use to margin accounts, move their hedging practices overseas, or forego hedging altogether—leaving them exposed to the volatility and price uncertainty that OTC derivatives have so effectively mitigated. A survey and analysis conducted by the Business Roundtable and Keybridge Research found that a requirement to impose initial margin on OTC derivatives could lead to a loss of 100,000 to 120,000 jobs within the S&P 500 companies alone. The additional impact of variation margin could significantly increase this negative impact on jobs.

The Coalition urges you to support the Chambliss amendment. We stand ready to support any further amendments that will ensure a viable OTC market for companies across the country, and look forward to working with Members of the Senate to that end.

Sincerely,  
American Petroleum Institute; Business Roundtable; Financial Executives International; National Association of

Corporate Treasurers; National Association of Manufacturers; National Association of Real Estate Investment Trusts; The Real Estate Roundtable; U.S. Chamber of Commerce.

APRIL 29, 2010.

Hon. CHRISTOPHER DODD,  
*Chairman, Senate Committee on Banking, Housing, and Urban Affairs, Dirksen Senate Office Building, Washington, DC.*

Hon. BLANCHE LINCOLN,  
*Chairman, Senate Committee on Agriculture, Nutrition and Forestry, Russell Senate Office Building, Washington, DC.*

DEAR CHAIRMAN DODD AND CHAIRMAN LINCOLN: Commercial end-users support transparency and efforts to control systemic risk in U.S. financial markets. As you know, commercial end-users use over-the-counter derivatives as a risk-management tool to hedge against fluctuations in commodity prices, interest rates, and currency exchange rates. This process creates market stability, and keeps costs down for businesses and for the consumers who use their products.

To that end, we would like to express our appreciation for your inclusion of a commercial end-user exemption in your compromise language. This exemption is critical to ensuring that end-users are not faced with the costly requirements of mandatory clearing and bilateral margining.

However, we remain concerned about the potential impact of proposed financial reform legislation on end-users. Due to the broad definition of "swap dealer," end-users may be ineligible for the end-user exemption if they engage in hedging business risks in the ordinary course of business.

To clarify and strengthen the exemption, we recommend the legislation define "Swap Dealer" as "any person who—(i) holds itself out as a dealer in swaps; (ii) makes a market in swaps; (iii) regularly engages in the purchase and sale of swaps in the ordinary course of business; and (iv) engages in any activity causing the person to be commonly known in the trade as a dealer or market maker in swaps" instead of as any person meeting any one of those criteria.

We would also ask that you include the following de minimis exception, which ensures that end-users whose swap transactions are nominal will be exempt from the designation of "swap dealer." "De Minimis Exception.—The Commission shall exempt from designation as a swap dealer an entity that engages in a de minimis quantity of swap dealing in connection with transactions with or on behalf of its customers."

Our concerns can also be addressed by clarifying that commercial end-users are not swap dealers. This can be achieved in the following way: "In General.—The term 'swap dealer' means any person (other than a commercial end-user) who—"

Again, thank you for the inclusion of an end-user exemption. We would ask that you carefully consider our suggestions. Clarification of the definition of "swap dealer" is critical to ensuring that end-users have access to the capital needed to remain competitive in the global marketplace and expand job growth in the U.S.

Sincerely,  
American Petroleum Institute; National Association of Manufacturers; Natural Gas Supply Association; US Oil & Gas Association.

Mr. CHAMBLISS. Mr. President, I have had numerous discussions with both the chairman of the Banking Committee as well as the ranking

member and the chairman of the Agriculture Committee about this issue for weeks and months. I know we have the same goal in common: to ensure there is transparency in the marketplace and that we have regulators who will do the job we ask them to do. Frankly, I am not sure that was the case 5 years ago or even 2 years ago. But if we give these regulators the tools and if we give them the opportunity to look at every transaction, irrespective of whether it is going through a clearinghouse or whether it is over the counter, and they have the opportunity to review every large institution or every small institution that engages in these transactions and they also have the opportunity to look at the other side and see which companies are using these products or which entities are using them and they can then deal with those entities that become systematically risky—they didn't have that power and authority before, and we are going to give them that power and authority now—I have all the trust and confidence that they will use it in the right way and that with those tools and with that transparency and with the bringing of these trades out of the shadows and into the sunlight, we will be able to control the financial markets in a way that allows our end users, those who did not cause any of the problem and are not part of the problem, from being thrown into the same basket with those folks who did become systematically risky and caused the financial meltdown that occurred.

My amendment does that. It does it in the right way. I urge my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I rise with great respect for my colleague from Georgia, my ranking member on the Agriculture Committee, and all his attempts and ideas on how to make our economy stronger and better. I do rise to speak in opposition to the Chambliss amendment. Again, with the greatest respect for my colleague, the ranking member, he and I and our respective staffs spent several months developing draft legislation in the Agriculture Committee. I am unbelievably grateful to him and his staff as well as my staff. We have made progress. In the end, we accomplished 80 to 90 percent of what is now the Dodd-Lincoln substitute. But as with all policy decisions, some tough choices needed to be made. Senator CHAMBLISS and I simply could not resolve our final differences. We ran out of time, basically, in the committee.

Let me be clear. As chairman of the committee, I made the decision to move forward with a strong reform bill, a bill that was voted out of my committee on a bipartisan vote. I know to

my colleagues the Agriculture Committee derivatives title is the only legislation to gain bipartisan support in this debate. We want to strive to continue in that vein and to work in a bipartisan way to get to a good resolution of something that is going to be beneficial to this Nation, to our economy, and that is going to gain the respect of Americans who have suffered from this financial crisis.

Unfortunately, the amendment being considered today by Senator CHAMBLISS and some of my Republican colleagues does not contain the essential reforms required to ensure the stability of our markets. It creates loopholes and fails to bring the transparency and accountability Americans are demanding of us at this juncture. This amendment would be detrimental to our economy and to our markets.

The derivatives title of the Dodd-Lincoln bill is strong reform. Our bill provides necessary transparency and accountability to our shattered financial markets and regulatory system. Today this derivatives market is completely in the dark with no—I repeat, no—regulation, no oversight, and no public disclosure. The Dodd-Lincoln bill will bring a completely unregulated market into the light of day for the first time ever. But it is important to point out, it is not regulation for regulation's sake. The steps we have taken in this bill have meaningful issues in terms of what they are dealing with. It maintains a narrow end-user exemption, appropriate restraints on the regulators, where necessary, and provisions that recognize we are competing in a global financial marketplace.

Many have commented about what might happen in these markets, in moving markets overseas. I will address that in a moment. But I believe all Americans are certainly demanding good, sound marketplaces. I think people globally are clamoring for those same types of sound marketplaces.

The facts speak for themselves. The Chambliss amendment does not meet the test of what our markets require. It is a stark reminder that if we do not act boldly in the face of the near collapse of our economy, tragic Wall Street abuses and abysmal regulatory failures, we will all suffer the consequences.

I have a number of concerns with the Chambliss amendment. Clearing and exchange trading is at the heart of reform, mitigating risk, reducing leverage, and forcing accountability on the derivatives marketplace. This amendment would remove the underlying bill's mandatory exchange trading requirement and remove the mandatory clearing provisions. This is not acceptable. We understand and know from our experience with the futures market what the clearing does and the stability it brings to the marketplace. It is absolutely essential.

This amendment removes real-time price transparency to the public. The Dodd-Lincoln bill provides real-time price transparency to the public and to the regulators. Without robust transparency, the markets would not function, and the regulators can't do their jobs. That real-time, 100 percent transparency is what moves these activities into those exchanges, into the clearing that is so necessary to ensure we bring that stability to the marketplace.

Information is power. This amendment will keep this power in the hands of those on Wall Street instead of giving it to Main Street. We have watched as these selected few on Wall Street have maintained their grip on these dark markets and on this information. What have they done with it? They have benefited themselves. It has not produced the kind of benefit across this great country that people in communities in places such as Arkansas and other States could see the benefit of that information because we had no access to it. Shedding sunlight on that, that sunlight, which is the disinfectant we need on Wall Street, is going to be critically important to making sure we are a success, and ensuring that transparency is here is part of what we have done in the Dodd-Lincoln bill.

If we do not capture the AIGs of the world, we cannot claim to have real reform. This amendment would miss many of the largest and riskiest players by narrowly defining both swap dealer and major swap participant and exempting too many market participants. More so, this amendment requires less of the largest, riskiest market participants. They will have fewer business conduct standards, fewer recordkeeping requirements, and fewer regulatory core principles to follow. This amendment also weakens the capital standards in the underlying bill. Customized, bilateral, over-the-counter transactions are less safe than those that are cleared and exchange trading. There is no way to get around that. We should expect more capital to back up those riskier transactions, not allowing the obligation to rest on the taxpayers or on the depositors in these banking institutions.

This substitute misses that opportunity in terms of making sure those riskier tools and those riskier transactions are required to have greater capital backing them as well as greater regulation, which is appropriate for their expanded risky nature.

To the comments of those who have said this is going to be pushed into other markets, into other countries, the American people are demanding stability. Consumers are demanding stability in our marketplaces. Why should we think that other countries are any different, particularly as we have seen what has happened in these other countries?

We can seize this as an opportunity to be a leader globally—globally—in

this world to create sounder markets, stronger markets, not just for us but for the global economy, which we are such an enormous part of now and will continue to be in the 21st century.

I would prefer to see us seizing that opportunity to be a leader in those global economic markets, and I think we should with a good, strong, stable bill that will be recognized by both markets as well as consumers.

This amendment also delays the implementation of regulatory reform for at least a year. The American people are demanding real reforms, and why we would want to delay implementation is beyond me. The time is now. People are wondering why it has taken us this long already to take these actions, and I think it is clear we must get started.

This amendment removes an important provision that would require swap dealers to put the financial interests of State and local governments, retirement plans, pensions, university endowments, and retirees before their own. The stories of abuse in this area are alarming and need to be addressed.

Jefferson County, AL, is one of the starkest examples we have. Jefferson County was taken advantage of by Wall Street and is now on the edge of bankruptcy, in part because of a \$3 billion derivatives deal on bonds that went wrong. Without any responsibility to those entities, we will continue to see these types of circumstances perpetuated, and we have to stop that.

This amendment creates loopholes and broadly defines hedging. We cannot have a situation where the exemptions swallow the rule. Under this amendment, few will end up being regulated, and we will be back to business as usual, and I think we cannot allow that to happen.

The Dodd-Lincoln bill gives regulators explicit authority to prosecute swaps dealers who are aiding and abetting those who commit fraud using swaps. The Chambliss amendment would remove that authority. The Chambliss amendment also fails to require registered entities such as swap repositories or swap execution facilities to have chief compliance officers, allowing these entities to avoid regulatory compliance and further, again, endangering Main Street investors.

This amendment completely removes an important whistleblower program for commodities markets. The amendment also removes the underlying bill's additional stronger antimanipulation authorities. The amendment also removes important authority for the regulators to close loopholes and strips key anti-evasion language that would allow the regulators to go after anyone who tries to evade the law.

This amendment arbitrarily moves jurisdictional lines and removes more than 30 years of good-faith agreements

between regulators, ignoring the expertise of individual agencies and jeopardizing the ability of regulators to act quickly. This is a dangerous path to go down for the ranking member of the Agriculture Committee, and I hope we will be able to stop this amendment and continue to work in a way that will bring about the kind of solid regulation, transparency, and oversight that needs to be in this bill.

Finally, the Dodd-Lincoln bill includes important conflict of interest provisions that would allow the regulators to ensure that no market participant unduly influences or monopolizes the market. What does the Chambliss amendment do with this provision? It would eliminate it—in effect, handing more power over to Wall Street.

These changes are simply an effort to weaken the bill and riddle it with loopholes. I understand many of my colleagues are being pressured to take this path. But we must forge ahead and enact meaningful—meaningful—reform. The American people deserve no less. They have seen what this financial crisis has done to them—in middle America, where they have seen their savings for their children's college funds, their retirement funds, other things put at risk because of risky businesses and risky deals that have happened in a small group of Wall Street banks that have chosen basically to take those risks, with unfortunately, the liability falling on the depositors as well as the taxpayers.

The same claims and worn-out, catch-all defenses of “unintended consequences” or “driving business overseas” have been used for decades as reasons to weaken financial reform efforts, and critics are using the very same arguments again today. We are here to tackle complicated problems and find real solutions—meaningful solutions—that will again bring the kind of confidence to the marketplace and consumers we need to be able to strengthen our Nation and our marketplaces and our economy to create the jobs all Americans want to see, and to set the example globally of what good, strong regulations and solid markets can do in terms of growing the global economy.

We certainly should not squander the opportunity for historic reform, nor support any efforts to weaken it. Therefore, I intend to vote “no” on this amendment, and I respectfully encourage my colleagues to do the same.

Mr. President, I know I have other colleagues on our side who want to speak on this amendment, and I know there are others on the Republican side. I would encourage all of our colleagues to come to the floor to take the opportunity to speak on this amendment. I know Chairman DODD is anxious to move the bill, as well as others, and we have a great opportunity here to visit about and debate

this portion of the bill, and I encourage my colleagues to do that.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, once again, we are debating a comprehensive bill. This one, of course, is only 1,407 pages, as opposed to 2,700 pages that did health care. But this probably does not affect everybody—just almost everybody. This could have been three separate bills, and we could have put a lot more effort into getting it right if it were three bills instead of one. This is one that takes care of the problem with big banks. There is another one that provides consumer protection that people are going to be stunned at, to find out every single transaction, practically, they can make can be controlled by a new board that has no oversight, gets to write their own rules, and has virtually an unlimited budget.

But the piece we are talking about right now has been labeled “derivatives.” I keep thinking maybe it has been labeled “derivatives” so the American public would not know what we are talking about. It is important they know what we are talking about.

I rise in strong support of Senator CHAMBLISS's effort to improve this “derivatives” section in the bill. But I am disappointed Senator CHAMBLISS is even required to offer his amendment. Senators LINCOLN and CHAMBLISS were well on their way to moving toward a bipartisan package of reforms for the derivatives market.

This is the market used to hedge against risk, and if we make a mistake in dealing with it, businesses will suffer, students will suffer, farmers and ranchers will suffer. Many businesses want to lock in a price, so they hedge their risk. They make a long-term commitment to purchase something at a particular price, so they have certainty and avoid the risk that the price will change.

For example, many airlines use this market to lock in long-term fuel prices they can rely on. That is a derivative. That contract can be bought and sold as the market changes—again, to take an acceptable risk. Sometimes I think we call it a derivative, as I mentioned before, so the American people will be confused and will not pay attention.

Senators LINCOLN and CHAMBLISS were on the verge of putting together a key piece of financial reform in a bipartisan fashion. Unfortunately, buoyed by the passage of the extraordinarily partisan health care reform bill, the White House intervened in negotiations. They urged an end to bipartisan negotiations. They pushed the bill further to the left, and we are now faced with a product that will make it harder for American companies to obtain capital or to assure future pur-

chase prices for essential products. This will drive some American jobs overseas, and perhaps entire businesses as well.

It is disappointing that this is becoming commonplace in the Senate. During the health care reform debate, I worked with five other members of the Finance Committee on a comprehensive health care package. We were making progress on a bipartisan bill when the majority, with the guidance of the White House, decided to go it alone, decided that was better politically.

Now we are having a debate about the future of the financial industry. We are working to protect our economy from future collapse and, unfortunately, we are having this discussion in a mostly partisan manner because the White House is interested in scoring some more political points. It is an election year, and these are election-year politics at their worst, and I am disappointed it is becoming the norm.

The White House believes they can win political points on this issue because the word “derivatives” is something of a boogiemane. People hear that word and they assume it is a group of Wall Street bankers plotting how to increase their end-of-the-year bonuses, as they seek to ruin the rest of the economy. My constituents are told by fear mongers on the left that derivatives are risky transactions, and they are misled into believing there is nothing about derivatives that is useful to ordinary businesses.

The facts do not support those claims. Derivatives are, by their very nature, measures to help limit risk. It is hedging the bet. The vast majority of Fortune 500 companies and many smaller companies are involved in the derivatives market. Employee pension funds are involved in the derivatives market. The agriculture derivatives market is one of the oldest and most established financial markets in the United States because agriculture can be an inherently risky business unless you lock in a favorable price. Producers are at the mercy of the weather, transportation networks, varying input costs, and the global supply of agricultural commodities. These unique market conditions mean that without risk management, markets fluctuate wildly.

I think it could be helpful to those listening to the debate to try to make clear how these transactions actually work. Oftentimes, in business, the greatest potential for profit involves the greatest risk. It only makes sense I would have greater potential to make money if I invest in a startup company than if I invest in a Treasury bond or an old established company. It is also more likely I will lose money with my investment if I invest in that startup company. I may want to limit the chance I will lose all my money. I may

want to figure out a way to lessen my risk. Another company may believe my investment was good, so I will essentially sell them some of my investment in the startup company—along with my chance for maximum profit—in order to have money to invest in a more stable Treasury bond and less profit—hedging my bet. The entity that facilitates that sale is a swaps or derivatives dealer, and they play an important role by helping find willing buyers and sellers to help companies limit exposure—to hedge the risk.

The goal of this legislation should be regulating the market in a way that ensures companies, individuals, and other entities can have access to as much money for investment to create jobs as possible, at the same time that we create a situation where we will never again be forced to bail out the biggest banks, and where we never allow another AIG to occur.

I am not convinced the bill as written addresses the concerns, although I feel confident the bill will lead to less access to money for businesses at a time when our economy is struggling.

In my home State, I am hearing from the energy industry and from agricultural groups that the bill has the potential to treat companies that are trying to limit risk as major banks. Although the bill does provide an end-user exemption, it is unclear if companies can avoid being misclassified as a swap dealer or major swap participant, and if they are misclassified, they lose their end-user exemption.

The Chambliss amendment clarifies the end-user exemption to ensure that bona fide hedging transactions, including those used by a wheat grower in Wyoming or a power company in the Midwest, remain regulated in a reasonable fashion.

One of the difficulties with the way we are doing things here with most of the work being done on the floor is that you cannot pick the glimmer of an idea out of one and the glimmer of an idea out of another and put it together and have a good amendment. Plus, there is all this pressure that the party line should be protected. That is not what this amendment involves. This is trying to make a bona fide change to it. It has to be done in a more global way than we would like, but we are limited on the number of amendments we get to do. There is already talk about how we need to close this debate. I know of dozens of amendments out there that people believe are good changes to this bill to make it a working bill that we probably will not get to debate.

In a meeting yesterday with Federal Reserve Chairman Ben Bernanke, the Chairman emphasized that what has become known as section 106 provisions remain problematic. In the current version of the legislation, the provisions have been moved to section 716

and require that swap business be conducted and affiliated separate from the FDIC-insured banks.

Chairman Bernanke didn't think this section was nearly ready to go, and I suspect the FDIC folks don't either. Although the idea appears to make sense on its outset, the provision will further reduce access to investment money to create jobs as banks are required to hold additional money in their related businesses to limit credit exposure. Instead of using the capital at the bank to limit credit exposure, they are forced to have a second pot of money that they will be unable to lend. The provision will result in less investment money entering the market. It will lead to further consolidation of the market because fewer institutions will be able to meet the credit risk requirements, and it will increase costs to end users.

Putting on my hat as the ranking member of the Health, Education, Labor and Pensions Committee, the Chambliss amendment also helps resolve a concern that pension and retirement plans have with the Lincoln-Dodd substitute. Many people do not realize that pension plans dislike big fluctuations in the market. Private pension plans invest for the long term and would prefer to have steady, long-term growth rather than investing in a volatile market which could cause a company's pension obligation payments to skyrocket when the market falls. Pension plans enter into swap agreements and derivative contracts to hedge price fluctuations and to keep risk at a minimum. For example, pension plans use these contracts to make sure they don't have too high of an interest rate that may be unsustainable or too low of an interest rate that will give too low a rate of return that would not provide enough money to pay pensions as they come due. Even the Pension Benefit Guaranty Corporation, PBGC, uses swaps and derivative contracts to dampen the value swings of the pension trust funds.

Recently, 401(k) plans and individual retirement accounts, IRAs, have been using "stable value funds" as an alternative to money market funds to offer a very stable and steady increase of earnings. These stable value funds are stable because of the use of swap contracts, again, because they make sure the underlying investments don't go too high and don't go too low.

Originally, Senator DODD's language in the Banking Committee-reported bill may have caused pension and retirement plans to register as "major swap providers." This, of course, would not work because the regulation and registration requirements may have run afoul of pension requirements for solvency. Senator LINCOLN tried to remedy this, but her solution was to place the swap dealers on the spot by requiring special paperwork for just

touching a swap contract for a pension plan.

I believe the Chambliss amendment strikes the right balance. Pension plans are not trying to create a market in swaps, nor are they trying to use swaps to game the markets. Pension plans that use swaps assure pension funds will be there when needed for the people retiring, and the approach taken by the Chambliss amendment allows that to happen.

The Chambliss amendment is a far superior effort to the bill we have on the Senate floor. At one time I was confident that we would be seeing a bipartisan, workable Lincoln-Chambliss provision. It is unfortunate the White House got involved, pushed this bill to the left, and is now pushing us to pass some sort of financial reform legislation—any sort at this stage—at the expense of passing a strong, workable bill. Congress needs to stop with this "shoot first, ask questions later" approach, or as we call it in Wyoming, the "ready, fire, and then aim" approach that might never hit the target.

I hope my colleagues in the Senate can support the Chambliss amendment or at least get together and cover some of the things we have talked about that are a major problem with the bill. This is one-third of what we are talking about, and it is going to have the potential to ruin a lot of things for individuals, working Americans. We don't want that to happen.

I ask my colleagues to support the Chambliss amendment. I yield the floor.

**THE PRESIDING OFFICER.** The Senator from Connecticut.

**MR. DODD.** Mr. President, let me begin by expressing my gratitude to Senator LINCOLN of Arkansas and Senator CHAMBLISS of Georgia and members of their committee for their tremendous work. In fact, there is some overlap in membership. I think a couple members of the Banking Committee are also members of the Agriculture Committee.

I know how hard they have worked on what is such a critically important piece of this legislation. It is probably an area with which a lot of people are not terribly familiar. A lot of the language we use in describing this area of the bill sounds pretty foreign to a lot of people, but it is terribly important we get this right, for reasons I will try to briefly explain this afternoon.

For many Americans who aren't necessarily experts on our financial system, this is one of the most confusing parts of our work, but it is also incredibly important in terms of our overall reform of the financial system. I am sure this has already been described by the Senator from Arkansas and the Senator from Georgia, so this may be somewhat repetitive.

People ask me: What is a derivative? It is a fancy word, "derivative." Really, what it amounts to, in simple terms

that most Americans can understand is, it is a bet. It is a wager, in a sense—an important wager but nonetheless a wager. It is a wager placed on the future value of something, either as a future protection against change in the value of that instrument or a way to make some money off of it. It is a legitimate operation, provided it is done properly. There is nothing wrong with them. In fact, they play a very important role. If used responsibly as a way to hedge a commercial risk, they are tremendously important.

Many of us have heard about, for instance, the candymakers. We hear this example all the time. Candymakers are able to keep their costs stable as a production company through the use of derivatives. If you are an end user, as they are called, and your costs depend upon future prices of a commodity such as sugar or other additives, that is a way to stabilize those costs and provide some certainty to that particular company; or it can be the future direction of interest rates which can have a huge impact on the cost of a product and the success and well-being of a company as well.

Derivatives can serve as a form of insurance against an unexpected spike in either the price of a product or interest rates. But the problem is this: As companies have come up with new and innovative ways to use derivatives—and they have—much of this activity has taken place in the shadow economy where there is little sunlight at all to expose what these instruments are and how they affect the overall economy of our country. They operate outside the supervision of any regulator, and that is where the problems arise. Not in derivatives themselves, but how they are perceived, how they are seen.

That is how one night in September of 2008, I found myself, along with several other Members of this body, in a room not far from where this Chamber exists listening to the Chairman of the Federal Reserve Bank, Mr. Benjamin Bernanke, and Treasury Secretary Hank Paulson as they explained what had happened to AIG, the largest insurance company in the world, and what would need to happen to fix the problems posed by the activities in which the company was involved.

Just as some international corporations create shell companies in the Cayman Islands to avoid tax responsibilities, AIG created a subsidiary called AIG Financial Products to sell complex and risky products. It was thus able to take advantage of the fact that there was no regulatory requirement that AIG hold enough capital to cover its exposure to these products.

Meanwhile, because AIG was rated AAA by the rating agencies as a company, their counterparties didn't demand much in the way of collateral or margin. Essentially, AIG guaranteed other people's bets; that is, these

counterparties—Goldman Sachs, Societe Generale, a French bank—without having the money to pay them if those bets failed. AIG was able to do so without anyone knowing how many of these guarantees they had actually sold. As we now know, they sold trillions of dollars' worth. When it turned out that AIG couldn't pay up, our government—or more sadly, the American taxpayer—was left holding the bag. We were faced as a country with the unprecedented and unpleasant taxpayer bailout to prevent this shocking failure from bringing down our whole economy, or melting down as we were warned.

To make the problem worse, we now know AIG wasn't alone. Unregulated derivatives also helped to mask the credit-worthiness of nonfinancial users such as the Government of Greece. We all know about that and what has happened over the last few days and the problems created in Europe as a result of that problem, to their own ultimate or eventual detriment, as we now know. Hedge funds such as Long-Term Capital Management, energy companies such as Enron, industrial concerns such as Procter and Gamble, and a wide array of governments at home and abroad have all fallen prey to the problems in the derivatives market.

I think the solution is becoming obvious—at least we hope it is—to put an end to risky, uncovered bets that leave taxpayers and our financial system as vulnerable as it has been. That is why capital and margin requirements, imposed either by regulators or by central clearinghouses, are so critically important in this area of our economy.

Chairman Bernanke of the Federal Reserve described margin requirements as “an appropriate cost of protecting against counterparty risk.”

The sad truth is this solution has been obvious for some time. You don't need to have just the events of the last couple of years to understand this problem. You can go back 16 years ago. At that time, in 1994, the General Accounting Office produced a report entitled “Financial Derivatives: Actions Needed to Protect the Financial System.”

At the time of their report, the General Accounting Office determined that the size of the derivatives market was \$12.1 trillion—not an insignificant amount in 1994. The report described risks arising from the interconnected relationships between dealers of derivatives and end users, not to mention the rapid growth and increasing complexity of derivative activities because the relationships between the major derivatives dealers and end users, and the exchange-traded markets were so close, the failure of any one part of this system could prove devastating to our entire financial system. This, we knew in 1994, 16 years ago. That was their report.

By 2008, 16 years later, the derivatives market had grown from \$12.1 trillion that I mentioned a few minutes ago to an astonishing \$600 trillion in 16 years. In a related story, it had gone almost entirely underground.

Each time the Congress had a chance to act, it chose a legislative path that created even more loopholes, more opportunities for these risks to migrate to unregulated pockets of our economy. In 2000, the Congress passed the Commodities Futures Modernization Act which, to a large extent, explicitly exempted over-the-counter derivatives from regulation by the CFTC and the SEC.

So whereas in 1998, 41 percent of derivatives were traded in the shadows, by 2008, 10 years later, that proportion grew to 60 percent—almost a 20-percent increase in 10 years.

Essentially, over time, our financial system came up with more and more ways to take bigger and bigger risks with fewer and fewer safeguards and less and less supervision. That, of course, as we now painfully have learned, was a recipe for disaster, and disaster is what we got. That is why Chairman LINCOLN, Senator JACK REED of Rhode Island, Senator JUDD GREGG, Senator SAXBY CHAMBLISS, and others of our colleagues have worked so hard over these last number of months to bring the derivatives market out of the shadows and into the sunlight where they belong. That is why the derivatives language in this bill is so critically important if we are going to live up to our descriptions of this bill as a major reform of the financial markets in our country.

For the first time in our Nation, over-the-counter derivatives would be regulated by the Securities and Exchange Commission and the Commodities Futures Trading Commission. It includes the Banking Committee's tough requirements for central clearing, exchange trading, capital margin, and reporting that are critical to reducing systemic risk and ensuring that taxpayers would not have to clean up the mess resulting from another AIG implosion.

I know the financial sector lobbyists don't like these rules. In fact, over 1,000 corporate lobbyists have flooded this town—this body, in fact—in an attempt to water down these proposals.

But Joe Dear, the chief investment officer of the California Public Employees Retirement System, explained it well when he said:

Every firm has reasons why its contracts are “exceptional” and should trade privately; in reality, most derivatives contracts are standardized—or standardizable—and could trade rather on exchanges.

Thanks to the work of Senator LINCOLN and the Agriculture Committee, commercial end users have been carefully exempted from these new rules, so companies such as those candymakers

I talked about can keep hedging their commercial risks. In fact, the market in which these companies operate will become safer and less expensive because of the new rules for big players: the swap dealers and major participants.

Those big players—the VIPs in the derivatives casino—will have to register with the SEC and CFTC and meet strict requirements for business capital, business conduct, and reporting.

Every single transaction will be reported through a clearinghouse or trade repository or directly to a regulator.

The SEC and CFTC will have enhanced authority to police these markets for fraud, manipulation, and abuse. Those don't sound like radical ideas. Those are commonsense proposals that I think most Americans can understand, even if they don't appreciate the complexities of these instruments.

The combination of these regulatory tools will provide market participants and investors with a lot more confidence during times of crisis, taxpayers with protection against the need to pay for mistakes made by companies, derivatives users with more price transparency and liquidity, and regulators, of course, with more information about the risks in the system.

Instead of an underground gambling club, derivatives will be traded in a well-regulated, transparent market, with rules that must be followed and safety provisions that must be respected.

Everyone is a winner. Derivatives are valuable and important, and we need to have them out there to help our economy grow. Why should some of these ideas be so frightening to people? It seems to me that if we do exactly what we are talking about here, everybody is a winner in the chain, particularly the derivatives users who will have much more clarity, and regulators and taxpayers are protected against abuses that will occur if we don't try to provide what is being proposed with this legislation. I welcome these improvements. Again, this is a debate back and forth.

Despite a lot of hard work between Members of this body to come to some common answers, there are differences that emerge in this debate. The substitute being offered by my friend from Georgia has no requirement for transparent trading and weakens, in my view, those safeguards for major market players.

It loosens capital requirements on the large Wall Street firms. That is a huge mistake, in my view, after what we have gone through that would practically beg for another AIG-type crisis.

The substitute limits the central clearing requirement to only those trades that take place between the very largest firms, providing a blanket

carve-out to other financial firms, and letting much of the market continue to operate without the accountability, transparency, and regulation that I think is so critically important.

Unfortunately, there is sort of the status quo. There is some improvement. I acknowledge that. We have an opportunity to make a difference now with the proposals being made by the Agriculture Committee. The status quo is a system in which companies you have never heard of take risks they cannot back up in markets nobody can see.

When they collapse, as they inevitably will—one of the things we have said over and over again in this bill is that we are not going to stop the next economic crisis. We are going to have them. The question is, Do we have the tools in place to minimize collapses when they occur? That is what we are trying to do with this bill. Even with the Agriculture Committee proposals, I cannot imagine—and I am sure I am speaking for her when I say this—there is no suggestion that we are going to stop another company from having great difficulties. We want to minimize that when it happens so it doesn't migrate into the rest of the economy. So we are looking to minimize that kind of chaos that can occur when some company collapses for reasons unrelated to this, as we saw with AIG. When they fell, the price the country paid was vastly in excess of one company having difficulties. Taxpayers were put on the hook to fill the capital holes when they occurred.

This has to stop. This market needs oversight and regulation. It needs to exist, as well, if our economy is going to grow and jobs are to be created. It has been 18 months since AIG proved that once and for all. It is time to bring this trail of destruction to an end and take the steps necessary to allow this market to operate and people to make these kinds of investments and hedge against the kinds of problems that can emerge down the road, so they don't collapse for reasons unrelated to their own difficulties.

That is why hedging is important and why derivatives are important. But also, these safeguards need to be in place if everyone is going to be a winner, as a result of what we are trying to achieve with this legislation. There are debates about various aspects of this bill, and I look forward to that discussion.

I hope we will reject this particular proposal, with all due respect to it, and adopt what has been proposed by the Agriculture Committee and consider that there are additional changes we may work on in order to satisfy some legitimate interests. It seems to me we ought to vote on this proposal and move on to other aspects of the legislation.

With that, I yield the floor. I see my friend from Nebraska as well as my colleague from Rhode Island.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Nebraska is recognized.

Mr. JOHANNES. Mr. President, I rise to support the Chambliss-Shelby derivative substitute, and I am very pleased to indicate that I am a cosponsor of that amendment.

There is no doubt, when you are talking about derivatives, you are talking about contractual obligations that are as complicated as any financial industry in our system. So going about trying to figure out how best to regulate them is no easy task. I think that is acknowledged on both sides.

Both the Banking and the Agriculture Committees have wrestled with what is the best approach to regulating this market that, to date, has been somewhat unregulated, to say the least. I regret to say that the current derivatives title that is in the bill being debated—if you study it—is over-regulation 101.

I worry about the host of unintended consequences that will beset our economy if it passes in its current form. It is not accidental that there has been article after article pointing out how much heartburn there is on both sides of the aisle relative to the current proposal that is being debated.

The Chambliss-Shelby derivatives substitute is a sensible approach. I have talked to dozens and dozens of those impacted. I have to tell you they are very concerned about the downside impact on our economy.

They say it is unnecessary with the new, robust clearing regime that is in place. Yet the Dodd bill has an exchange requirement.

Why would we not enact meaningful clearing regulations and then add another layer on top, if necessary?

Additionally, I worry about the trickle-down effects for community banks that hedge their interest rate risks with large banks. I come from the State of Nebraska. I don't even think there is a Wall Street in the State of Nebraska. We are basically small community banks. I have had some of our smallest banks warn me about the dangers of the Dodd proposal.

If these larger institutions are banned from engaging in swaps, as the Dodd bill would do, who will work with the community banks to keep interest rates low for our farmers, ranchers, and small businesses?

Furthermore, banning banks from engaging in derivatives isn't going to stop the practice. We don't pass laws for the world. We pass laws for the United States. All we are going to end up doing is sending this \$600 trillion market out of this country. In fact, I had a small community banker in my office recently who said to me: MIKE, these products are absolutely essential to what I do.



If they are forced to another part of the world, we will be forced to acquire that product from another part of the world.

Driving this activity back into the dark—which is what we would do if that were to happen—and actually increasing our risk and putting it in an economic climate outside the United States is a meltdown recipe.

The underlying bill treats farm credit system institutions similar to the big Wall Street firms. It doesn't exempt them from coming up with costly capital and margin requirements. Does anybody believe for a second that isn't going to hurt farmers and ranchers and the cost of their loans? I was the former Secretary of Agriculture. Please, believe me, you cannot do this and not expect to have a very negative consequence on farmers and ranchers and small businesses.

Farm credit institutions, our farmers, and farm cooperatives had nothing to do with this financial meltdown. Yet they are being dragged down with the ship.

Finally, certain trades are simply so unique but so necessary and so specialized that the clearing requirements simply don't work. That doesn't mean they should not be transparent or that they should not be disclosed, but we should recognize the uniqueness of that situation. Why punish these trades that may pose no systemic risk by imposing higher capital requirements? Yet that is what the Dodd bill does.

The bill before us has the potential to have very negative impacts on our economy. It is simply an overreach. I am not the only one here today who has serious concerns.

The White House, the Federal Reserve, former Federal Reserve Chairman Paul Volcker, and the Chair of the FDIC have raised similar concerns relative to this approach.

On April 30, 2010, in a letter from FDIC's Sheila Bair, she says this:

If all derivatives market-making activities were moved outside of bank holding companies, most of the activity would no doubt continue, but in less regulated and more highly leveraged venues.

A Federal Reserve staff memo says this:

The prohibition would not promote financial stability or strong prudential regulation of derivatives or derivatives dealers; would have serious consequences for the competitiveness of U.S. financial institutions; and would be highly disruptive and costly, both for banks and customers.

My point exactly. Finally, Chairman Volcker also expressed concerns with the derivatives title of the bill:

The provision of derivatives by commercial banks to their customers in the usual course of a banking relationship should not be prohibited.

I worry that at some point the Senators are going to come to the floor and pass this mess, and we are going to be stuck with it.

The Shelby-Chambliss amendment is a thoughtful and reasonable approach. It will increase transparency and government oversight of the derivatives market. If we do what is proposed with this Dodd bill, we will push derivatives right back into the shadows. They will be unregulated and they will occur in another part of the world and we will bear the risk and the cost of that.

These individuals simply used derivatives—these people I am talking about are farmers, ranchers, farmers co-ops—to protect themselves from risk. They are not Wall Street speculators.

This proposal from the Shelby-Chambliss approach simply says: Let's use common sense when it comes to the derivatives market. It brings the current unregulated over-the-counter derivatives market into the light where transparency is paramount.

This is an enormous departure from current law. In fact, it is a 180-degree change. It attempts to bring swap trades onto a clearing platform. Yet it also recognizes that companies across our country use these complex products as part of their business activity every day to protect themselves from unreasonable risk.

Look who is supporting this proposal. This approach has gained the support of the National Association of Manufacturers. That can hardly claim to be Wall Street insiders.

The alternative recognizes the negative consequences businesses would face with too rigid a law. Those dangers are obvious—loss of jobs, jobs moving overseas, constriction in liquidity, lack of credit, higher interest rates for farmers in my State, and higher farm input costs.

It also distinguishes that these businesses were not part of the economic meltdown. They are not the AIGs of the world. Instead, they are the companies that use derivatives to manage their finances to keep down their costs, to control interest rate fluctuations, to manage currency volatility and other risk mitigation tools.

The recent prices revealed how inadequate our oversight of derivatives was and how complex this area is. But if we adopt this blanket approach on the rhetoric of punishing Wall Street, what we will do is punish our farmers, our ranchers, our small business people. We will punish the people who are working this area by literally eliminating their jobs.

I thank Senators CHAMBLISS and SHELBY. They understand what is at stake. This is a reasonable approach and an approach I am glad to support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I rise today to urge my colleagues to reject the proposal by Senator SHELBY and Senator CHAMBLISS. It is well intentioned. It is designed, as other pro-

posals are, to try to provide some appropriate regulation to a very complex and complicated area of financial transactions—derivatives.

Like my colleagues, I have spent some time trying to understand this area. The only major point I can make is that in concept, derivatives are simple. It is a contract that derives its value from reference to another entity such as soybeans or mortgages. That is where the simplicity stops.

These financial instruments are incredibly complicated, and they have been made more so by very sophisticated financial engineers on Wall Street.

What we have recognized in the last several months is we have to take an appropriate step to regulate their sale in the United States and, frankly, influence the worldwide sale and use of derivatives.

The Dodd-Lincoln proposal in this bill is, I think, not only a principled but an effective way to deal with the issue of the sale and use of derivatives. They start off with a premise which is fundamental: We need transparency in the marketplace. There was no transparency in the marketplace when it came to derivatives.

Senator LEVIN held hearings which brought forth individuals from Wall Street, from Goldman Sachs. Frankly, if you listen to the hearings, even they did not understand the products they were selling—complicated, deduced, created by Ph.Ds in mathematics using supercomputers. We need transparency. People have to know what they are selling. Apparently, some people on Wall Street did not even know what they were selling. But certainly consumers have to know what they are buying. Transparency is the key.

The way you arrive at it, in my view, is the way this underlying legislation Chairman DODD has sponsored, along with Chairman LINCOLN, does.

First, it establishes the requirement that all derivatives transactions be reported to a repository so that regulators will have a sense of where the market is moving in terms of specific products.

Second, there is a requirement that you clear these products. Clearing is absolutely critical because an over-the-counter transaction is bilateral in nature. It is someone dealing directly with another party. What you have there is the danger of counterparty risk, the fact that one side of the transaction cannot perform. They go bankrupt, they do not have the resources, they miscalculated tremendously as to the nature of this transaction. And their failure affects other financial institutions.

In those bilateral situations, the danger for counterparty risk is significant. To minimize that, you put it on a clearing platform. You put a party between the two parties of the contract



who will assess collateral and margin and do it in a systematic way. These transactions on a clearing platform will be more transparent and there will be reduced risk between counterparties. That is, I think, a sensible and, at this point, nondebatable point because the Chambliss proposal also has a clearing platform aspect to it.

But the next step—and I think it is an essential step—is to move to a trading platform because there you further reduce and manage counterparty risk because it is not just an intermediary clearinghouse that is handling the risk, it is participation in a market. It is individuals who broker deals who come in and buy and leave. It is at the heart of price discovery because the key aspect in all of these discussions is what is this instrument worth? Is it worth \$100 or \$2? If I am betting it is worth \$100 and, of course, it is \$2, I will lose. If I am betting it is \$5 or \$6 and it is \$100, I lose on the other side.

Part of this is essential price discovery. This is an esoteric point. It goes right to the nature of our markets—price discovery. That is why we all claim markets are the best form of economic transaction because in a market, you know the price, and if you can meet the price, you can make the transaction.

One of the things that is implied in a marketplace, though, in Econ 101, is perfect information. Buyers and sellers each know what it costs. One of the problems with the derivatives markets is information is asymmetric, it is skewed, it is dramatically skewed to the Wall Street insiders who designed these products. That was one of the lessons of the Goldman Sachs hearings: Who knew what these things were? They did not even know, but they knew a lot more than people they were selling them to.

We have to reduce that asymmetric nature of the market, and the best place to do that is not simply clearing a product, having someone say you have to have this much margin if you want to participate, but actually trade in the product. Again, this is not an academic issue.

Let me paraphrase a story from Michael Lewis's book called "The Big Short." On February 21, 2007, the market began to trade an index of collateralized debt obligations. They called it the TABX—T-A-B-X. For the first time, everyone in the marketplace could actually see on a screen what these CDOs were worth, what someone was going to pay for them. No longer were they waiting on just the dealer, the Wall Street insiders saying: No, no, these are great, buy them; they are terrific, buy them. There was a price. The price confirmed a simple thesis in a way that as Lewis says no amount of conversations with market insiders ever could ever have.

After the first day of trading, those AA-rated tranches closed at 49.25 from

a par value of 100. They lost more than half their value in one day of trading. There was now this huge disconnect, and I quote:

With one hand the Wall Street firms were selling low interest rate-bearing double-A rated CDOs at par, or 100; with the other hand they were trading this index composed of those very same bonds for 49 cents on the dollar. In a flurry of e-mails, their sales people at Morgan Stanley and Deutsche Bank tried to explain to clients that they should not deduce anything about the value of their bets against subprime CDOs from the prices on these new, publicly traded subprime CDOs. That it was all very complicated.

Trading illustrates the real value of a product. When the Shelby-Chambliss proposal says, We are not going to trade these, what they are saying is business as usual. Let's let those folks on Wall Street tell us what they are worth. Tell it to the banks, the small community banks, tell it to the farmers, tell it to all those business men and women at the National Association of Manufacturers, this is what it is worth. They will not have to explain the fact that a market might rate it half of what they are claiming the value is.

If we really want to reform what is happening on Wall Street, we are not going to abandon the requirement to trade as many products as we can trade.

I will admit some products are so unique that a trading market might not be established. But the presumption by Wall Street—in fact, I think the head of J.P. Morgan said practically 70 percent of the derivatives could be cleared and probably a significant fraction of that could be traded. If you want transparency, if you want price discovery, if you want efficient markets, reject the Chambliss proposal, support the Dodd proposal.

There is another aspect of the bill, and that is section 716, which does not deal with the mechanics of trading derivatives as much as who can do it. Can it be in a bank? Must it be separated? There are discussions about different approaches. Senator LEVIN and Senator MERKLEY have an approach that bars proprietary trading, that would leave that out of the bank but still leave traditional hedging within the bank. That is part of the debate. That, I think, is a seriously significant open question. In my mind, there is absolutely no question that to accept the Chambliss-Shelby approach that doesn't require trading is the wrong way to proceed.

There is another issue here, too, and that goes to the nature of these over-the-counter contracts. Some of them could be cleared, but some are so unique they cannot. It goes to the exemption for end-users. In the Dodd bill, they have made a successful attempt to separate those over-the-counter transactions which have an economic rationale—it is an airliner hedging their fuel prices—and they have done it in a

way which makes sure that this is not a loophole for the sophisticated financial engineer to exploit but a way in which business can continue to conduct their operations.

The exceptions in the Shelby-Chambliss amendment are much too large. In fact, I think this is a drafting error, but as I read the amendment, it could be read as only requiring clearing of swaps between two counterparties under common ownership within the same company, which essentially means there is no requirement whatsoever. I do not think that is what the sponsors proposed but that is what the language says, at least as I read it.

If you want huge loopholes to begin this process, support this amendment. If you want to maintain well-structured exemptions for the economic use of derivatives, that is incorporated within the underlying Dodd-Lincoln bill, and it makes a great deal of sense to me.

There are issues here we have to be conscious of and we can still debate about the allocation of responsibilities between regulatory authorities with respect to these derivatives. That is an issue that I think is still outstanding. But the underlying architecture of derivative regulation has been accomplished by Senator DODD and Senator LINCOLN in their bill.

Again, we have learned a lot. I think we should have learned a bit of collective humility about the ability to deal with these complicated products. So we have to build in multiple lines of defense, if you will. Simply requiring the reporting of transactions to a repository—that is good but not sufficient. Requiring that the majority of these instruments be cleared unless they have an economic value or they are so unique that the clearing would be inappropriate—that is a step forward, too, but insufficient. It is only when you put together the entire spectrum of reporting, clearing, and trading of appropriately traded derivatives do you have the full panoply of protections we need to deal with these complicated products today. Frankly, there is a sense that maybe we haven't seen nothing yet. The sophistication, the ingenuity of the financial engineers may be absent at the moment, but it will return, and we need these multiple lines of defense.

There is another point I wish to make. We have to recognize when we are building this new structure that it, too, has weaknesses. One of the most significant weaknesses is that in a clearing platform, if there is not full transparency and if the clearing platform isn't adept at setting margin requirements and collateral, there is a danger that platform becomes a source of systemic risk. And these platforms are dealing with notional values of trillions of dollars. If they misjudge by a little bit, a clearinghouse could have a

significant situation in which it is unable to meet its responsibilities. Once again, I think that is a strong argument for, not a single or a double line of defense, but a triple line of defense with respect to trading also.

Because if there is trading and price discovery, they will have a much better idea of what the product really is worth and they will be able to set margin and collateral much more adequately.

There are many issues that have to be dealt with as we proceed through this markup and on to the conference, I hope. But in my mind, clearly the superior vehicle to pursue those ends is the language incorporated in the Dodd bill, and I would urge all my colleagues to reject the amendment by the gentleman from Georgia.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I rise to compliment my colleague from Rhode Island and thank him for his hard work. He and his staff have done a tremendous job on the Banking Committee on this particular issue. It has been a pleasure to work with him and his staff and certainly to see the good work they have done, and I want him to know I am grateful to him for his hard work in helping us come up with a good package.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, a key part of the bill we are considering is title VII, which we all know addresses the regulation of the over-the-counter—OTC—derivatives markets. While there is still debate among us regarding the root cause of the financial crisis, there is no debate that the lack of transparency in the OTC derivatives market was a contributing factor to the financial debacle.

When Lehman Brothers failed, there were press reports that banks and other large financial institutions had written credit default swaps—we call them CDSs—on Lehman Brothers that could potentially result in \$360 billion in cash payouts. As it turned out, though, the number was less than \$6 billion. But a lot of needless anxiety preceded the realization that the cash payouts on Lehman Brothers' CDS contracts were manageable. The regulators simply did not have the information they needed to know about the magnitude of the problem they faced.

Limited regulatory information also played a role in the demise of AIG. It is worth remembering that AIG's problems arose both in its regulated insurance subsidiaries, which were exposed to the troubled subprime mortgage market through their securities lending programs, and in its financial products unit, which sold credit default protection for subprime mortgage prod-

ucts and other customized derivatives products.

AIG's financial products unit, on the strength of its credit rating, built up an extremely large, one-sided book of swaps transactions. The contracts were written in such a way that when AIG's credit rating was downgraded, AIG, you will remember, was forced to post collateral on all these transactions.

Regulators at that time did not have the flow of information about OTC derivatives transactions to see this problem building. Without this information, they obviously could not take steps to address the problem.

I believe the AIG bailout and the Lehman Brothers failure provided us with one simple lesson that should serve as the basic test for any OTC derivatives legislation proposal. The lesson is that prudential and market regulators must have the tools to properly oversee OTC swaps markets. The lack of transparency regarding counterparty exposures and the lack of adequate regulatory tools made it difficult for regulators to respond quickly and effectively to this financial crisis 18 months ago.

Unfortunately, the Lincoln-Dodd derivatives bill fails that most basic test. The Lincoln-Dodd bill does not provide regulators with access to the information they need to do their job. It requires all other regulators to go through the Commodity Futures Trading Commission to get information. It gives only begrudging access to the Securities and Exchange Commission—the SEC—to data about the swaps markets and thus limits the SEC's ability to get the information it needs to oversee the securities markets.

Much of this bill reads more like a jurisdictional power grab to some of us than an honest attempt to ensure that all the relevant regulators have the information and the authority they need to do their jobs.

I believe the Lincoln-Dodd bill contains a number of other fatal flaws. For example, key provisions in one title directly contradict key provisions in other titles and also in the current law. One provision in the Lincoln-Dodd bill that has gotten a lot of attention is a prohibition on Federal assistance to any "swaps entity," which includes entities that do not handle any swaps. All clearinghouses, regardless of whether they handle swaps, would be precluded from receiving Federal assistance, which is interpreted to include access to the Federal Reserve's discount window. This provision contradicts language in title VIII, which empowers the Federal Reserve to grant discount window access to clearinghouses.

Also, the bill imposes a fiduciary duty on dealers when their counterparties are pension plans, endowment funds, and municipalities. As understood in current law, pension plans cannot engage in transactions with en-

ties with which they have a fiduciary relationship.

The proposed regulatory framework also poses new risks to the system. For example, the bill anticipates generally imposing a clearing mandate on most market participants as soon as a clearinghouse will accept a swap for clearing. For-profit clearinghouses will have an incentive to clear as many swaps as possible. If they do not properly assess and collect margin for risks associated with these products or do not have sufficient operational capacity, an unanticipated event in the market could topple a clearinghouse and send devastating shock waves throughout the rest of the system. We witnessed that for a few minutes last week.

This bill is also anticompetitive because it further concentrates business within existing dealers. The prohibition on Federal assistance, including FDIC insurance, to swap entities means neighborhood banks will be unable to hedge their own interest rate risks, let alone offer swaps to customers who need to hedge their risks. Bank dealers are given preferential treatment with respect to both capital and margin requirements.

Another disadvantage in the bill for nonbank dealers is that even the commercial aspects of their business will be subject to bank-like capital requirements, which is an unprecedented expansion of bank-like regulation to the nonfinancial corporations. Nonbank dealers may simply exit the derivatives business and leave the swaps business more concentrated among a few large Wall Street dealers, which is not a good result from a competitive or systemic risk standpoint.

I believe the so-called end user exemption contained in this bill is illusory. Main Street corporations that buy swaps in the ordinary course of business to hedge their own business risks will be subject to the same regulatory treatment as Wall Street banks. This means manufacturing firms, power companies, and even beer producers will be required to hold massive amounts of cash and other collateral simply to engage in risk management. I believe this will work as an anti-stimulus plan to pull resources out of the economy, hurt growth, and slow job creation. It will also lead to price increases and price volatility.

For my colleagues interested in increasing their constituents' cooling costs in the summer or heating costs next winter; for those interested in seeing the price of orange juice, cereal, lightbulbs, medicine, office supplies, building materials, cars, and computers rise; for those who would like to make the overall cost of living for all Americans go up and the prospect of getting a job go down, the Dodd-Lincoln bill is for you.

Finally, I believe this bill is unworkable as it is now written. The derivatives title is the one piece of this legislation that will be tested every day. The bill would make massive changes in a huge market in 180 days without the usual notice-and-comment rule-making period that allows for broad public input during that time. Neither agency has the staff it needs to write or implement the rules at this time. There will be enormous operational challenges for the SEC and the CFTC as they gear up to monitor and receive data on all swap transactions for which there is no data repository. Companies all across the United States will face operational, legal, and financial challenges as they strive to come into compliance with record-keeping, reporting, capital, margin, clearing, and business conduct requirements.

Don't just take my word for it. Check for yourself. Take the words of a recent Bloomberg article, which was aptly titled "How 'Hard to Fathom' Derivatives Rule Emerged in the U.S. Senate" or take the words of the National Association of Manufacturers, which warned that the end-user exemption "is not strong or clear enough. In addition, other provisions in the derivatives title could effectively eliminate the exemption for many companies, and in some cases, subject them to capital and margin requirements or higher costs."

Take the words of a well-respected lawyer in a memo to his clients which contained the following criticism of the Lincoln-Dodd bill:

Ordinarily, in writing with regard to a proposed law, the expected role of the law firm lawyer is to provide a description rather than commentary. In the case of the Lincoln-Dodd bill the law firm lawyer attempting a noncommittal description must confront the following problems:

(1) the Lincoln-Dodd bill's substance is inconsistent with its stated purposes; (2) it would give a degree of discretionary power to the U.S. Government that is far out of the ordinary; (3) the Lincoln-Dodd bill is loosely drafted in even its key provisions; (4) it could make for radical changes in the financial system that seem not to have been considered; (5) the Lincoln-Dodd bill would likely motivate institutions to move jobs to Europe, damaging the U.S. economy and particularly the northeastern financial center economy; (6) it would discourage banks' capital market and real estate lending in the United States by increasing their risks; and (7) the Lincoln-Dodd bill would hurt banks' profitability at a time when they are struggling.

Or take the words of an industry representative who urged us to change a certain provision that would prevent pension plans and government agencies from getting the services they need, and another provision that could force purchasers of swaps into deals with less creditworthy counterparties.

Or take the actions of my colleagues on the other side of the aisle. While several of them have privately admit-

ted that they fear the wrath of the administration for speaking out publicly against the Lincoln-Dodd derivatives bill, their actions speak louder than their silence. They are apparently hard at work, we know that, behind closed doors, trying to make numerous last-minute changes to this flawed bill.

Or take the words of my colleague from Connecticut, Senator DODD, for whom I have a lot of respect, the chairman of the Banking Committee. He was quoted earlier this week saying:

We still have work to do on [derivatives]—there's no question. We have always known that. So a lot of people are spending a lot of time trying to come to some common points on this.

I agree with the committee chairman; the derivative title needs a lot more work. Fortunately, that work has already been done: the substitute derivatives bill that we offer as amendment No. 3816, the Over-the-Counter Swaps Markets Transparency and Accountability Act of 2010. This amendment was crafted and cosponsored by several members of the Agriculture and Banking Committees. The substitute derivatives bill is a bipartisan product. The bill is built from the framework of the Chambliss-Lincoln bipartisan process. It also incorporates key concepts from the Gregg-Reed bipartisan working group that was formed by Chairman DODD himself to hammer out real derivatives reform. The substitute derivatives bill is also a multicommittee product.

My colleague from Georgia and I appreciate the input from the Agriculture and Banking Committees, as well as the important input from the Judiciary Committee, on provisions that strengthen protections for customer funds in the event of a counterparty bankruptcy.

The derivatives substitute amendment addresses five key areas of reform: introducing regulatory transparency and regulatory authority over the OTC swaps markets, mandating clearing for Wall Street dealers, minimizing threats to the financial stability of the United States, preserving Main Street's ability to hedge their business risks, and improving public transparency. I will briefly explain each of the five areas of reform.

First, we address regulatory transparency and regulatory authority. I believe we must repeal the statutory provisions that prohibit regulators from overseeing the OTC swaps markets and give them access to the information they need so they can do their job.

Second, we mandate in our amendment clearing for Wall Street dealers. We must encourage the clearing of derivative transactions among Wall Street dealers and dealer-like firms in well-regulated clearinghouses. This will account for a combined 80 percent to 90 percent of all OTC derivatives transactions.

Third, we minimize threats to the financial stability of the United States. We must prevent the concentration of inadequately hedged risks in individual firms or central clearinghouses.

Fourth, we preserve economically beneficial hedging for Main Street businesses. I believe we must ensure that so-called corporate end users can continue to hedge their unique business risks through customized derivatives. Main Street businesses do not pose any threat to the financial stability of the United States. In fact, prudent use of derivatives for hedging makes their businesses, the financial system, and the economy safer. The prudent use of derivatives enables businesses to protect themselves from changes in interest rates, swings in foreign currency, exchange rates, and the changing prices for raw materials that all of our manufacturers use.

If businesses in America are not able to use derivatives or if the cost of using derivatives increases, they may choose to move operations overseas or curtail business operations, which will mean the loss of jobs when we really need jobs. If they must refrain from hedging their risks, prices will go up for all our consumers—all of us.

Fifth, we improve, in this amendment, public transparency. Without mandating that swap trades must occur on an exchange, we must direct regulators to provide investors and other market participants with information about recently executed transactions for the purpose of helping them to mark existing swap positions to market, make informed decisions before executing future transactions, and assess the quality of transactions they have executed.

The Lincoln-Dodd derivatives title does not achieve these reform objectives but, in fact, threatens to stymie real reform.

The substitute derivatives amendment we offer represents a change in course from the Lincoln-Dodd bill. The substitute amendment is a strong bill that offers real reform. This is why the National Association of Manufacturers has indicated that all votes related to the Chambliss-Shelby substitute amendment, including procedural motions, may be considered for designation as key manufacturing votes in this Congress. I think it is important to American business that we adopt this substitute.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise to speak in opposition to the Chambliss substitute amendment and to ask my colleagues to think about this substitute in a significant way because it dramatically changes the underlying bill. In fact, I almost want to ask my colleagues on the other side of the aisle if they are serious—if they are serious that this is the proposal they

are going to put before us in response to the catastrophe that we have seen on Wall Street.

I know we have been on the Senate floor and we have had a lot of history with this, starting in 2001. I think it must have been 2002 or 2003 when we tried to regulate derivatives after the Enron crisis, and one of my colleagues on the other side of the aisle said: We can't regulate derivatives; we don't know enough about them.

What lessons have we learned since this catastrophe? I can tell you this: We were wrong to say we can't understand derivatives because our misunderstanding or not paying attention has led us to the catastrophe we are in today. For the other side of the aisle to say we can't even propose exchange trading, that is like saying the stock market should make changes in options and stock without being on an exchange. That would be like the Presiding Officer and I swapping back and forth Microsoft or Starbucks stock and selling it to other people and having none of the trade basically being reported.

Why would we tolerate that for the stock market? Yet we are saying somehow it is OK for derivatives, this product that has become this unbelievable \$600 trillion market, to operate in the dark.

The other side does not even want to have exchange trading? I cannot believe that. I cannot believe somebody would even propose that. I know some people will say they have clearing, but the clearing requirements in this legislation would leave 60 percent of the market uncovered. So we are talking about not having the product on exchange and not having a lot of it cleared. So the two primary principles, learning from the mistakes of the last 10 years, are basically going unnoticed, unaccounted for on the other side of the aisle.

Let's go back to how we got into this situation because we used to have a law that basically said, yes; let's protect consumers. We had transparency in trades—that was reporting to the CFTC; we had on the books capital requirements, we had speculation limits, we had antifraud and antimanipulation laws, we had trader licensing and registration and public exchange trading. So, yes, we actually had it right. We had it right. We had some tools in place. We had an oversight agency that was supposed to do this job, all of these things that protected the investments of millions of people and made the functionality of people who legitimately had to hedge, such as farmers or airline industries, rules of the road so they weren't taken to the cleaners or the price wasn't artificially driven through the roof.

What happened to these things? What happened to these things is, in 2000, somebody came out on the Senate

floor, basically at 7:30 on a Friday night, and stuck into an over 2,000-page bill a little exemption that said: Don't regulate these derivatives. That is what happened.

What happened in the marketplace is that derivatives were a very small business, only a few hundred billion dollars, as you can see, in 1999. It was kind of an uninteresting little market. But we ended up deregulating them, and since then, in this short period of time, it turned into a \$700 trillion market.

How do you go, in that period of time, to this \$700 billion? You go because we made it a dark market. We basically said: You don't have to have the rules of the road or the regulation or the oversight or the basic things that make this a functioning market.

What happened? We had no transparency, no requirements to keep records. That means you didn't have to be able to prove to the CFTC exactly what you were doing in the market. That way, you could not actually prove fraud because you didn't know what anybody was doing because nobody had to make records. It is like Bernie Madoff on steroids. We had no large trader reporting and no speculation limits.

The reason you have things on an exchange is because when an exchange sees that somebody is making the market or has too large a position—and oftentimes across several exchanges—you have a regulator who can come in and say, you know what. We have speculation limits and you cannot do that much trading because you were driving the market.

So after that we had no speculation limits, we had no capital requirements, and we had this high-risk manipulation and excessive speculation. That is what we did.

A lot of people thought: You know what. I wasn't here, but I know a lot of people said this is going to revolutionize things. Derivatives are going to be the wave of the future. It is going to help us in our financial markets and the amount of liquidity. Everything is going to be great.

Some people said don't worry about this because they are not going to be a very big resource, they are going to be very small and it is only going to be a few people who are going to trade back and forth.

I showed you the chart. It turned into a \$700 trillion industry. It was a big opportunity for people to make a lot of money without the oversight.

Where are we today? Have we learned the lessons of this catastrophe? Have we? It is not to say that it isn't hard to be ahead of the smartest guys on Wall Street. I will say it is very hard. That is why you have to have bright lines because otherwise people do come up with new tools. I saw it with Enron in my State. I have seen it now with de-

derivatives. There will be something else. Unless we have rules of the road, then there will be people who will try to continue to have opaque markets and drive trading.

But our underlying proposal, by the chair of the Agriculture Committee and this underlying bill, working with the chair of the Banking Committee, has the rules of the road. The other side of the aisle is proposing a substitute that would take those away. This is clear. If you have unregulated trading, none of this happens. If you had exchange trading, this is what the American public gets protected with: transparent pricing, real-time trade monitoring, transparent valuation, speculation limits and public transparency. That is what this underlying bill does and that is what the amendment is trying to get rid of.

They want this to be blank over here. They want this to be blank. They don't want those things to have to be met.

How could you possibly propose that after what we just went through? You had, prior to 2000, regulation. Things were working hard. You have afterwards a major catastrophe, and these are fundamentals that we have behind all of our markets and exchange trading. So why would you let one thing off the hook?

I will never forget the day when one of the former CFTC staff came and testified before the Energy Committee and said to our committee: Do you know that hamburger in America has more regulation on it than energy futures?

I thought he couldn't be serious, but he was right. Futures of beef have reporting requirements, have to have transparency and real-time monitoring, have speculation limits. But these energy derivatives, because they were exempted by this 2000 act, did not. So somehow we were saying that hamburger in America—making sure it played by the rules—was more important than whether oil or electricity or these other things—as we know, CDOs—played by the same rules.

Make no mistake. This underlying bill gives us this kind of predictability and certainty in the tried and true ways that markets function, with transparency.

We are talking about old-fashioned capitalism. We are not talking about oligarchies where people hide behind things and only a few people know. Who knows when we are going to find out what happened with the "fat finger" the other day and what moved the markets? But I know this: If you come back to capital trades with transparency in pricing and real-time monitoring and those speculation limits—their legislation on the other side does nothing to make sure we prohibit the excessive speculation that can move the market in a manipulative way.

So I hope we do not adopt this substitute amendment. Let's show America we are serious about the kind of transparency that has worked in markets in the tried-and-true part of our capitalist system.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise in support of the amendment of Senator CHAMBLISS from Georgia and to express my very serious concerns about the language which has been brought forward by the chairmen of the committees—both the Agriculture Committee and the Banking Committee—relative to derivatives.

Let's begin with what our purposes should be. Let's remember that derivatives, as has been said before on this floor numerous times—the Senator from Alabama said it extraordinarily well—are a critical part of how Main Street maintains its economic vitality. You know credit is what makes America work. One of the great geniuses of our society is that we are able to produce credit in a fairly ready manner which is reasonably priced and which people who wish to take risk can take advantage of in order to create economic activity and jobs. The oil that basically keeps the credit available in the American capital system is derivatives, for all intents and purposes.

As has been pointed out, if you are manufacturing an item somewhere in America and you enter into a contract to sell that item—let's say overseas—there are a lot of risks on how you are going to make money on that item which you have no control over.

Let's say you make it one day and you are going to sell it 6 months later. You enter into a contract when you get the order and you produce it 6 months later. There is a lot of risk there over which you have no control. You know how to manufacture. You know how to create it. If it is credit, you know how to produce it. But you do not have control over the exchange rates you are dealing with. You do not have control over the cost of the raw materials you are using. You do not have control over whether the various parties that enter into this transaction as it moves through the commercial stream survive or go out of business or experience some huge economic upset.

Well, in order to avoid all of that and just be the person who wants to produce the good and sell it, you buy derivatives, which are essentially insurance policies, to make sure you have insurance against the risk which you cannot control. That is derivatives in their simplest form. It also affects all sorts of other instruments, of course, financial instruments, commodity instruments. But basically it is the capacity of someone to make an agreement with somebody else and know that agreement is not going to be

affected by outside events or, if the outside events do occur, there is going to be a vehicle in place to protect you from the risks that outside event may create for you. So derivatives are crucial to our capacity as a society to be economically vibrant.

We also know that during the economic downturn, during the very severe financial crisis we had, the fact that we had so many derivatives in place which were based off of contracts which were not properly supported created a huge cascading event which almost forced our entire financial structure to come to a halt—in fact, it did on one evening—and was about to put our economic house into extreme distress because the derivatives markets had not been properly regulated or managed.

Now, that wasn't the primary cause of the event of the late 2008 period. The primary causes of the events of the late 2008 period were very bad underwriting—in fact, virtually no underwriting standards in some instances—for the loans which were being made, easy money, and regulatory arbitrage. But the accelerant which took those causes and basically turned them into an event of immense proportions which almost shut down America and would have caused massive dislocation in our Nation had it been allowed to go uncontrolled, had the Fed and Treasury not stepped in and taken very definitive action, the accelerant was the derivatives market.

The classic example of that, of course, is the AIG situation, which has been cited here on the floor numerous times as the example of what was wrong with an unregulated market, where essentially you had a company which was issuing insurance based on its good name and virtually nothing else behind the insurance besides its good name. When that insurance started to get called because the contracts started to fail and the counterparties became concerned, there was no capacity to support the insurance.

So our purpose here should be to reorganize our regulatory structure so that type of an event doesn't occur again—I mean, that should be our purpose—while at the same time recognizing that we need a very robust and vibrant derivatives market if we are going to be successful as a nation, if we are going to continue to have economic vitality as a nation. So our goal should be, one, to put in place a structure which as much as possible foresees and limits systemic risk caused by the derivatives market or that could be caused by the derivatives market and, two, maintains an extremely vibrant derivatives market where America remains the best place in the world to create capital and get credit.

Unfortunately, the pending bill undermines the second part of that effort. It could be argued that the first part of

the effort—foreseeing and trying to anticipate systemic risk—is addressed in this bill, but it addresses it in such an unwieldy and unmanageable and in some ways counterproductive way, it actually undermines the basic goal, which is to keep the system sound and also keep credit markets vibrant.

Why is that? Well, there are a number of reasons for it, but the two most difficult parts of this proposal relative to getting it right are the fact that it forces the swap desks to be spun off from the financial houses and it essentially forces instant movement from and basically almost total coverage of derivatives from clearinghouses into exchanges. In both those instances, you are basically going to create fairly close to the opposite result you are seeking if you pursue this course.

I would predict that if this bill were to become law in its present form, it would be likely that, one, a large amount of derivative activity would move overseas; two, a large amount of derivative activity which presently occurs and which is necessary for commerce would have to be restructured in a way that would be extraordinarily expensive for the people who are doing that commerce and would therefore significantly curtail commerce; three, the credit markets would inherently contract by a significant amount of money, probably as much as \$¾ trillion; and four, the institutions which would be responsible for creating the derivatives market would actually be less stable. The market makers would be less stable than what we presently have today.

You do not have to believe me to understand the seriousness of this and accept this as a statement or an assessment of what the present bill does. I mean, granted, I am just one Member of this body who has an opinion on it. But we do hire people, as a government, to take a look at something like this and say, does this work or does that work, and they are charged with the responsibility of accomplishing the two goals I mentioned: one, avoiding systemic risk, and two, having a vibrant credit market.

One of those agencies is the Federal Reserve. They have taken a look at this language in the Dodd-Lincoln bill and they have concluded: Section 106 would impair financial stability and strong prudential regulation of derivatives, would have serious consequences for the competitiveness of U.S. financial institutions, and would be highly disruptive and costly both for banks and their customers. That is the conclusion of a fair umpire, the Federal Reserve.

Now, there are a lot of people around here who do not like the Federal Reserve. But we pay them. Their job is to look at something like this and say: Does this work or does that work in making our markets more stable, more

sound, more risk averse, and more competitive? Their conclusion is this language does just the opposite—would be highly disruptive and costly for both banks and their customers.

But if you do not like the Federal Reserve, listen to the FDIC. The FDIC, under Sheila Bair, during the crisis we have just gone through, has probably been one of the best performing agencies in our Federal Government. They really have stepped in on numerous occasions and stabilized banks, which had far overextended their capacity and had gotten into very serious liquidity positions, and basically settled those banks out in a way that very few customers lost anything.

What does the FDIC say when they look at this, because their responsibility is to maintain safety and soundness of banks. The Chairman of the FDIC, Sheila Bair, said in her letter to—I am not sure to whom it went; I will check that—I think it was to Members of Congress:

By concentrating the activity in an affiliate of the insured banks, [and that means spinning them off under the proposal under this bill] we could end up with less and lower quality capital, less information and oversight for the FDIC, and potentially less support for the insured bank in a time of crisis. Thus, one unintended outcome of this provision would be weakened, not strengthened protection of the insured bank and the deposit insurance fund, which I know is not the result any of us want.

Then we have Chairman Volcker, who I think everybody agrees is a fair arbiter around here, and he has also said this language in this bill overreaches and does not work.

I ask unanimous consent to have printed in the RECORD the Volcker letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PAUL A. VOLCKER,  
New York, NY, May 6, 2010.

DEAR MR. CHAIRMAN: A number of people, including some members of your Committee, have asked me about the proposed restrictions on bank trading in derivatives set out in Senator Lincoln's proposed amendment to Section 716 of S. 3217. I thought it best to write you directly about my reaction.

I well understand the concerns that have motivated Senator Lincoln in terms of the risks and potential conflicts posed by proprietary trading in derivatives concentrated in a limited number of commercial banking organizations. As you know, the proposed restrictions appear to go well beyond the prescriptions on proprietary trading by banks that are incorporated in Section 619 of the reform legislation that you have proposed. My understanding is that the prohibitions already provided for in Section 619, specifically including the Merkley-Levin amended language clarifying the extent of the prohibition on proprietary trading by commercial banks, satisfy my concerns and those of many others with respect to bank trading in derivatives.

In that connection, I am also aware of, and share, the concerns about the extensive reach of Senator Lincoln's proposed amend-

ment. The provision of derivatives by commercial banks to their customers in the usual course of a banking relationship should not be prohibited.

In sum, my sense is that the understandable concerns about commercial bank trading in derivatives are reasonably dealt with in Section 619 of your reform bill as presently drafted. Both your Bill and the Lincoln amendment reflect the important concern that, to the extent feasible, derivative transactions be centrally cleared or traded on a regulated exchange. These are needed elements of reform.

I am sending copies of this letter to Secretary Geithner and to Senators Shelby, Merkley, Levin, and Lincoln.

Sincerely,

PAUL.

Mr. GREGG. So we have these independent arbiters, these fair umpires of what we should be doing in order to maintain financial stability and strong credit markets saying: Listen, do not do it this way. Do not do it this way.

There are ways to do this, however, ways to make sure we have a strong derivatives market which is also safer, more sound, and is not subject to systemic risk. Senator CHAMBLISS's amendment accomplishes that in a very effective way.

How do you basically do it? Well, in concept, you do it this way: You make sure that for the most part, all of the derivatives are cleared. They go through a clearing process. What does a clearing process mean? Well, it basically means that you get counterparties having to put up margin. They have to put up actual assets, margins, liquidity, in order to be sure there is something behind their position so that if they have a problem and they have to be called on to pay up their position, they have the capacity to do it and it is there. That is why you have a clearinghouse, because the clearinghouse becomes basically the place where that occurs and it becomes the process by which that occurs. And you make sure the clearinghouse itself, because it stands in and basically is the guarantor, for lack of a better word, of the contract, has the capital and the adequacy to make sure those contracts will not fail.

So as a very practical matter, you can do this by creating a proper structure using clearinghouses. You make sure the clearinghouses have proper oversight from the SEC or the CFTC. And then as these instruments, these various types of derivatives—there are lots of different types of derivatives—become more standardized—and a lot already are standardized—you move them over to an exchange, which is the ultimate process of making sure you do not have an issue of solvency behind the instruments. So as you move them to an exchange, you are able to create an even stronger market. But you do not mandate that everything goes through an exchange right out the door because if you did that, you would end up with a lot of derivatives which are

still too customized to be able to move to an exchange and they would simply not be able to be brought forward, and thus you would contract the market again.

You also don't take the swap desks and move them out of the financial house because, in doing that, you would have to create a whole new capital base for the swap desks, which is the concern expressed by the Fed and by the FDIC and by Chairman Volcker, which would inevitably force a massive contraction in credit because that capital would no longer be available to underwrite credit. In addition, you would have much weaker institutions standing behind the swap desks, which is again a point made by the Fed, the FDIC, and Chairman Volcker.

It is not necessary to go down the route outlined in this bill in order to accomplish the goals which we all have. In fact, if you go down the route presented in this bill, you actually undermine the goal which we all have, which is to have a derivatives market which is less prone to systemic risk and which is strong, sound, and vibrant.

Rather, what Senator CHAMBLISS has proposed makes the most sense, which is a comprehensive reform of the derivatives market in a way that insists that for the vast majority of derivatives, they end up going through a clearinghouse process and that if they are standardizable, they end up on an exchange. If they are for purely a commercial purpose, a single-purpose commercial undertaking, then they are able to be exempt from the clearing activity. This would create a much more robust undertaking of a creation of credit. It would maintain the vitality of the derivatives market while at the same time protecting and making sure we had a sound derivatives market. It would avoid what I believe the inevitable outcome of this language will be under the Dodd-Lincoln bill, which is that we would weaken the derivatives market, weaken the systemic protections, and end up forcing overseas a large amount of economic activity which appropriately should be done in the United States and which is very important to our Nation's capacity to be competitive on Main Street. Remember, this is about Main Street.

I certainly hope Members will support the Chambliss amendment. It makes a lot of sense. It is well thought out. It is not exactly what I would do were I writing this myself, but it is a very good piece of legislation. It should be supported. I hope my colleagues will do so.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I appreciate all the debate we have had and the discussion. I thank my colleague from Georgia, my ranking member on



the committee. He and his staff are a tremendous group to work with. I appreciate all that. I am confident we have worked hard. In the underlying bill we have come to agreement with Chairman DODD on, we lower the systemic risk by requiring mandatory trading and clearing, which my colleague, Senator CANTWELL, did a tremendous job of explaining, bringing that 100 percent transparency to the market with real-time price reporting, protecting municipalities and pensions and retirees, regulating foreign exchange transactions, and increasing the enforcement authority to punish the bad behavior we have seen. To that point, again, I believe not since the Great Depression have we seen such devastating consequences of a banking and financial system gone wrong. It does call us to action.

We are not here to take easy votes. We are here to tackle complicated problems and find the solutions we know are going to benefit all of America. We certainly should not squander that opportunity for historic reform, nor support any effort to weaken it.

Therefore, I certainly recommend a "no" vote on the Chambliss amendment and respectfully encourage my colleagues to do the same. Again, I thank my colleague from Georgia for his hard work. We will continue to work together to find the common ground we know is going to be the best place for us to all be.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, let me extend the same courtesy to my chairman. She is my dear friend. We work very closely together on virtually every issue. It is extremely unusual for us to disagree on any major issue. She and her staff have been great to work with, as always. They have been very open. We have had an ongoing dialog. We just simply disagree about the way this issue needs to be dealt with.

Let me say that an indication of how complex this issue is and why this issue is so important and why we don't need to have our constituents expend money when they don't need to expend money that is going to be passed on to consumers of every single product virtually made in America is this: There are a lot of people who have gotten up on the other side and spoken about this amendment. I know they don't intend to get up here and make statements that are not correct. But frankly, that is what we have heard. All I can attribute that to is the fact that this is such a complex issue, that the folks who have been speaking about my amendment simply don't understand it.

Let me give some examples. We talk about large companies falling prey to derivatives. Large companies use derivatives in a very meaningful way that is advantageous to every single

American customer. Everybody who buys something—I don't care whether it is an automobile, a widget, a drug—and every major manufacturer uses derivatives. They are very sophisticated individuals who deal in these products. They know what they are doing. They are not falling prey to the use of these products.

There have been a couple folks who have said we don't have transparency, that we ought to let these products come out of the shadows. Let me make clear—and I think the chairman will agree with me—100 percent of the transactions under our amendment would be out in the open. There would be a clearing of about 85 to 90 percent of all derivatives contracts under our amendment. The others, the end users, the manufacturers, the energy companies that go out and not only borrow money but buy coal or buy natural gas and that want to have stability in their products, those individual end users would be exempt from the clearing requirement. But every single one of them would have to report every single contract to the CFTC or to the SEC, 100 percent transparency on every single derivative.

I don't know why folks can't understand that in our amendment because it is pretty plain. I think Senator GREGG did a good job of explaining exactly how that is done.

Somebody said they don't want to return to old-fashioned capitalism. If I am considered to be one who is promoting old-fashioned capitalism in my amendment, I plead guilty. Old-fashioned capitalism has made this country the strongest economy the world has ever seen. Old-fashioned capitalism has an alternative. It is called socialism. I do not believe in socialism. I believe, if somebody wants to work hard and generate money to make a better quality of life for themselves and their family, they ought to have the opportunity to do so. That is what old-fashioned capitalism is all about.

I could go on and on giving examples of things that have been said that are out of context. Let's get down to the bottom line; that is, who supports the underlying bill? Who supports the Dodd-Lincoln bill? The simple answer is Wall Street. Why do I say that? At a hearing in the Government Relations Committee last week, Goldman Sachs was called to the Hill to testify before Senator LEVIN and Senator COBURN's committee. Senator COBURN asked a question directly of the Goldman Sachs agent and said: Do you support the underlying bill that is now being debated on the floor of the Senate? Without hesitation, he said: Yes. Why would they support it? They are going to make a lot of money off this underlying bill. Why do I say they are going to make a lot of money? Who is going to clear these contracts? They are going to be cleared by clearinghouses owned by Wall Street banks.

Under the underlying bill, there is another provision that has not even been talked about today: Transactions are required to be executed on what is called a swaps execution facility. It is a mini exchange. In addition to going to that swaps execution facility, that contract, after that, has to go to a clearinghouse. So what you have is a party who agrees with a manufacturer that they are going to enter into an agreement on a derivative for an interest rate, let's say. That entity that has put that deal together is going to charge a fee. They would do that anyway. That entity is also likely to be charged by the swaps execution facility where the contract is executed. They are going to charge another fee for doing that. Then they are going to have to go to a clearinghouse that is going to charge another fee.

So it is pretty easy to see why Wall Street likes this provision, likes the underlying bill, because they are going to make a lot of money in fees off these contracts.

The only other comment I wish to make, with reference to comments that have been made, is whether these end users leave the U.S. markets and go overseas. There has been contention made that is not going to happen. They are not going to do that. Well, they are. Other markets have already indicated they are not about to follow our lead. The London regulator has openly said they will not follow our lead. We have heard nothing out of the Europeans, nothing out of Singapore. Why haven't we? They are watching to see what we do. They are going to be soliciting U.S. customers to go to their markets because our constituents are not going to have to pay these huge fees in their countries that are required under this bill.

It only makes sense that if they can generate more money for their bottom line and they can sit in their office in New York City, Atlanta or Moultrie, GA, and execute a contract in Singapore, where they don't have to pay that fee, you better believe that is where they are going to go. They have no more risk. It is the same amount of risk. Is the CFTC or the SEC going to know they have done that? Absolutely not. It will not be reported to them.

I could go on and on. At the end of the day, if you want to see 100 percent transparency and you want to see the end users in this business who utilize these swaps and derivatives in a non-systemically risky way continue to have access, then you need to support my amendment. If you listen to the manufacturers across America that know because they have used these products for decades and have done so in a safe way and a way that provides a cheaper product for their consumer, you need to support my amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?



There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the Senate proceed to vote in relation to the Chambliss amendment No. 3816, at 5:30 p.m.—

Mr. SHELBY. It is 5:30 now.

Mrs. LINCOLN. With no amendment in order to the amendment prior to the vote; that upon the disposition of the Chambliss amendment, the next two amendments be the Reed amendment No. 3943 and the Sessions amendment No. 3832.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to the Chambliss amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. ROCKEFELLER) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 59, as follows:

[Rollcall Vote No. 144 Leg.]

#### YEAS—39

Alexander	Cornyn	LeMieux
Barrasso	Crapo	Lugar
Bennett	DeMint	McCain
Bond	Ensign	McConnell
Brown (MA)	Enzi	Murkowski
Brownback	Graham	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Collins	Johanns	Voynovich
Corker	Kyl	Wicker

#### NAYS—59

Akaka	Gillibrand	Murray
Baucus	Grassley	Nelson (NE)
Bayh	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Sanders
Brown (OH)	Kerry	Schumer
Burr	Klobuchar	Shaheen
Cantwell	Kohl	Snowe
Cardin	Landrieu	Specter
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Conrad	Levin	Udall (CO)
Dodd	Lieberman	Udall (NM)
Dorgan	Lincoln	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden
Franken	Mikulski	

#### NOT VOTING—2

Byrd	Rockefeller
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The amendment (No. 3816) was rejected.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, if I could have the attention of our colleagues to give them some sense of things.

Senator REED and Senator BROWN of Massachusetts have an amendment which will take just a very few minutes to discuss, and then they would like to have a vote on that, which we have agreed to. At the conclusion, that would be the last vote of the evening.

Then the next amendment would be the Sessions amendment. Senator SESSIONS has agreed to debate his amendment tonight. We will vote on that in the morning. Senator SPECTER would be the following amendment and we will debate his amendment this evening and vote on that tomorrow as well. Senator COLLINS, I know, has an amendment and she can debate, if she would, this evening and we will try and line that up in the morning so we have a series of votes when we come in.

So the last vote today would be on the Reed-Brown amendment, if Members would stay around for just a few minutes to hear that, and then we could be free of any more votes. At least that is the plan.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 3943 TO AMENDMENT NO. 3739

Mr. REED. Mr. President, I call up amendment No. 3943.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself and Mr. BROWN of Massachusetts, proposes an amendment numbered 3943 to amendment No. 3739.

Mr. REED. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To establish a specific consumer protection liaison for service members and their families, and for other purposes)

On page 1219, after line 25, insert the following:

“(e) OFFICE OF SERVICE MEMBER AFFAIRS.—

“(1) IN GENERAL.—The Director shall establish an Office of Service Member Affairs, which shall be responsible for developing and implementing initiatives for service members and their families intended to—

“(A) educate and empower service members and their families to make better informed decisions regarding consumer financial products and services;

“(B) coordinate with the unit of the Bureau established under subsection (b)(3), in order to monitor complaints by service members and their families and responses to those complaints by the Bureau or other appropriate Federal or State agency; and

“(C) coordinate efforts among Federal and State agencies, as appropriate, regarding consumer protection measures relating to consumer financial products and services offered to, or used by, service members and their families.

“(2) COORDINATION.—

“(A) REGIONAL SERVICES.—The Director is authorized to assign employees of the Bureau as may be deemed necessary to conduct the business of the Office of Service Member Affairs, including by establishing and maintaining the functions of the Office in regional offices of the Bureau located near military bases, military treatment facilities, or other similar military facilities.

“(B) AGREEMENTS.—The Director is authorized to enter into memoranda of understanding and similar agreements with the Department of Defense, including any branch or agency as authorized by the department, in order to carry out the business of the Office of Service Member Affairs.

“(3) DEFINITION.—As used in this subsection, the term ‘service member’ means any member of the United States Armed Forces and any member of the National Guard or Reserves.”

Mr. REED. Mr. President, I propose to make very brief remarks about this amendment. My colleague from Massachusetts, Senator SCOTT BROWN, will make remarks. We would like to expedite a vote, but I would ask that the yeas and nays on a recorded vote be taken when I conclude and when Senator BROWN concludes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

Mr. REED. Mr. President, this amendment is very straightforward. It would provide within the new office of consumer financial protection a military liaison, an individual who is charged with protecting the interests of soldiers, sailors, airmen, and marines as consumers.

Let me tell my colleagues—and I will elaborate later, but let me be very brief and to the point. We have soldiers, sailors, airmen, marines, and their families who are consistently exploited by unscrupulous car dealers, payday lenders—a whole panoply of people who flock around military bases to exploit these individuals. They are in a very difficult situation. They have stress because they are on constant deployments. In many cases, military families today have one spouse deployed and one military spouse back taking care of children. I don't have to go much further. The Presiding Officer understands this from his dealings with the USO and families across the country.

Let me give my colleagues two examples. I could give you 200 examples. If this was not true, it would be almost humorous, but it is sadly true. This is one I like. This is the “free transportation to the beach” ploy. True story: A car dealer from Virginia Beach went to Camp Lejeune and offered free round trips to the beach. These are young marines. If you have been to Camp Lejeune, you know it is not the Paris of North Carolina. It is a place where you need a little diversion. They wanted to go to Virginia Beach. They were

given this round trip. They got to Virginia Beach. There was no round trip unless they bought a car from this car dealer. Well, he was caught, lost his license, but reappeared later without a license, making the same ploy.

I wish to make a point. I am not condemning car dealers. In my home State, they are great. They do wonderful work for the community. But exploitation by car dealers of military personnel is a significant problem. Seventy-two percent of military financial counselors recently surveyed had counseled Servicemembers on auto lending abuses in the past six months.

One other example. Fort Riley, KS. Army Specialist Jennifer Howard bought a car while she was stationed there. It turns out the dealership which arranged her financing charged her for features on the car she never got, such as a moon roof and alloy wheels. In her words:

The dealership knows that we're busy, we're tired. We don't take the time, because we don't have a lot of time. It's like get in, get out, do what we got to do. If we get taken advantage of later, we'll deal with it then.

That is no way to treat soldiers. It is no way to treat consumers. This liaison would be very important, but I should say it has to have the authority within the bill to actually act against the disruptive behavior of auto dealers, payday lenders, and a whole host of individuals.

The rent-to-own people, they are trying to scam our troops. They are trying to scam consumers.

Frankly, they don't care if you are wearing a uniform or not, they are out to scam who they can. We need to set up a strong consumer financial protection agency, and we particularly have to have somebody in there watching over the troops.

I yield to my colleague.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. BROWN of Massachusetts. Mr. President, I thank Senator REED from Rhode Island for his idea and his thoughtfulness in trying to protect our troops.

I want to discuss this amendment, as well. Senator REED has a distinguished career in both the Army and as a Senator. He has always done his duty looking after the men and women not only of his State but also those in uniform. I thank him for the opportunity to work on this particular amendment with him.

As a 30-year member of the Army National Guard, I share Senator REED's interest and commitment to our Nation's soldiers and their loved ones. As we all know, they make extreme sacrifices to keep us safe and keep our Nation safe.

This amendment would dedicate resources within the new Consumer Financial Protection Bureau to serve as a

watchdog for military personnel and their families.

As you know, our military culture of honor, courage, and commitment demands prompt repayment of debts. As a result, payday lenders often congregate outside military facilities. Unfortunately, the financial terms offered by these lenders are not always clear, not always offered up in free form, and typically lead to very expensive and bad loans. Other financial predators have sold military personnel bogus life insurance policies.

These practices take advantage of our soldiers. Our young enlisted soldiers are particularly vulnerable. They don't have the necessary tools, resources, guidance, and financial assistance to make their decisions. They often spend time deployed far from their support networks at home, have steady paychecks, and promised pension benefits. As a result, those financial predators see them as a way to make money.

As they risk their lives defending our Nation in places such as Iraq and Afghanistan, at home they also wear a big target on their back. If a soldier gets into financial trouble with an unscrupulous lender, how is that soldier going to dispute those charges while they are deployed or getting ready to be deployed? Debts can pile up quickly. This dedicated office would be able to help sort out the truth and get them back to financial stability.

This issue, as you know—and I am about to conclude—has received a lot of attention. Today, there was an article in the Washington Post talking about how extra consumer protections are needed for our fighting men and women, citing the specific example of car dealerships employing high-pressure tactics to trap military families into expensive loans.

I urge colleagues to support this amendment, to put a cop on the beat to make sure our men and women in uniform have a chance to fight back against financial predators.

I yield the floor.

Mr. DODD. I strongly support the amendment offered by our two colleagues from New England, Senator JACK REED of Rhode Island and Senator BROWN of Massachusetts. Both of these colleagues speak with some authority on this amendment. JACK REED is a graduate of West Point and served in uniform for our country for a number of years with great distinction. Senator BROWN has spent some 30 years in the National Guard in Massachusetts and also speaks with more than just passing authority about the importance of the amendment they offer.

It is a very important amendment because it sets the table for a debate tomorrow regarding a certain area of finance companies. The amendment establishes an Office of Military Liaison within the consumer bureau we have created in the overall legislation.

In today's New York Times, there was a description of the case of Matthew Garcia, a 25-year-old Army specialist who was recently subjected to a trick called yo-yo financing by an unscrupulous car dealer, just as he was preparing to deploy to Afghanistan. According to the story, Specialist Garcia, stationed at Fort Hood, TX, bought an automobile at a used car lot and signed up for a loan at a 19.9-percent interest rate. That is not even the abuse, believe it or not, as high as that rate is. The problem came when Specialist Garcia drove the car home. The dealer called Specialist Garcia several days later to say that the financing contract had actually fallen through and demanded an additional \$2,500 in cash. To make sure he paid up, the dealer blocked the soldier's car in so that no one could leave. That is the way some—few but some—auto dealers are treating our men and women in uniform. That is why we need the Office of Military Liaison within the Consumer Financial Protection Bureau.

Unfortunately, the story of Specialist Garcia is not unique. It is all too common, whether it is in the area of auto financing, payday lending, mortgage lending, check cashing, these unregulated areas of finance so many of our fellow citizens are subjected to on an hourly basis, let alone a daily one.

Creating an office within the Consumer Financial Protection Bureau to focus on the problems of our young men and women in the military and their families is an important contribution to this legislation. I thank both of our colleagues for offering this proposal.

The office we are creating with this amendment will help resolve many of the complaints brought to the office by our service men and women. It will help advise the director of the bureau's rule writing to take into account the special needs of military families. By doing this, it will help our military readiness as well.

I have letters from the Secretary of Defense and the Secretary of the Army, sent to me and to other Members, laying out the value of having some protection within the automobile financing area.

It is important we have this language in the bill. Let me emphasize as well that unfortunately we are not talking about many auto dealers that engage in financing that cause these problems, but, like most laws on the books, if they were only written because there were a majority of people committing the offenses, it would be hard to make the case against them. But we don't write laws for the many; we write laws for the few, those who will abuse their offices, abuse their operations in such a way as to cause harm to people who otherwise have no protection.

I have talked a lot about the Consumer Financial Protection Bureau

over the last number of days. The importance of this is that for the first time in the history of our country, individuals who are taken advantage of in the financial services sector will have someplace to seek redress for the grievances to which they have been subjected. I don't think this is a radical idea, particularly in light of what so many of our fellow citizens have been through over the last several years where homes have been lost, jobs lost, the tremendous abuse that has occurred in too many of the areas of what I call the shadow economy, the unregulated areas of our economy.

The most important purchase the average American makes is buying a home, and we all know what can happen, as we have seen with brokers and mortgage lenders who were unregulated taking advantage of people by getting them into situations they knew they couldn't afford. People say it ought to be buyer beware. I don't argue with that. Obviously, we all bear responsibility to be better informed about financial arrangements. But to suggest this is a level playing field when it comes to home mortgages or car financing is to belie the facts. The analogy may not be perfect, but it has some value.

We don't expect patients necessarily to be as well informed when they are making decisions about their health care. There is something called medical malpractice. Obviously, we have an obligation to ask questions before we submit ourselves to surgery or other things. But we know in the end that if a doctor has abused the Hippocratic Oath and put a patient at risk, there is an ability to seek redress of those harms. It is called medical malpractice. It allows a person who has been injured or harmed because of the misfeasance or malfeasance of someone in the medical profession to get recovery. We understand it is not exactly a level playing field when the average person is trying to make intelligent decisions about their medical care.

The same could be said for mortgage lending. You can't expect the average person to understand all of the details, necessarily, involved. I suggest there is a higher degree of responsibility in the area of mortgage financing by a borrower than there would be necessarily in the case of medical malpractice, but nonetheless there are some legitimate comparisons.

Some have suggested mortgage malpractice may be an appropriate description for what happens when you are across that table from a lender. You have picked out the home you have fallen in love with. Your family is excited about this new place. In many instances, it is the first home you are buying. The idea that you will have your own home to raise your family in is a very emotional time. That lender across the table who is being unscrupu-

lous in his or her behavior can extract commitments, and so forth, from that borrower that could put them at a distinct advantage. We believe in those instances there should be good underwriting standards by law. And if there is some harm done through the misfeasance or malfeasance of someone in the mortgage lending business, you can get some redress when that occurs.

Car financing is not the same as a home mortgage, but if you are an 18- or 19-year-old young person in uniform and you find that automobile you love and you are so attracted to it—I am not suggesting borrowers don't have a responsibility to be well informed—most Americans know what happens. All of a sudden, you end up like Specialist Garcia. You think you have bought the automobile. And at 19, almost 20 percent financing, that in itself ought to be illegal. But the fact that you then find you have a \$2,500 extra charge and the wheels have been blocked so you can't drive away—that is the kind of individual who ought not to be allowed to continue to operate under those circumstances.

We believe when it comes to financing such as this we should not say to one sector: You are exempt; we will carve you out; you don't have to worry about any of the laws.

We make that local banker, who also might like to extend that loan, subject to the law's protections. The credit union is subject to the same laws. Why should someone engaged in the financing of a product—an automobile—be exempt? The local bank isn't. They have to meet their requirements under the law to make sure they are not abusing—not that many do but some do—the rights of an individual and protect them from a disadvantage in that second largest purchase a person may make aside from their home.

I know tomorrow there will be a debate. Senator BROWNBACK will offer an amendment to exempt auto dealers and financing. Auto dealers are not covered. If you are a dealer, you are not affected by this any more than you are if you are a butcher or a dentist or any other retailer merchant. If you are in the financing business, you are the one who is engaging in that contract despite the fact the papers may have been written up by some other lender that is doing business with the auto dealer. Shouldn't we provide to that individual the same kind of protection they would expect if they went to the local bank, the community bank to get a car loan or to the credit union to get a car loan? We require them to meet basic rules, not exaggerated rules but basic protections so you are not taken advantage of.

I have a wonderful relationship with the auto dealers in my State. I fought hard for them last year. The program we had on the clunkers that allowed for people to turn in older automobiles,

I fought hard for that. I have a great relationship. In fact, they offered me a nice award last year for my efforts on behalf of auto dealers in my State. I am very proud of it. The overwhelming majority of my dealers, as I know is the case in all of our States, do a good job and are fair. They wouldn't be in business very long if they did not. But all of us also know there are people who take advantage. Certainly to be exempt from any kind of rulemaking when it comes to protecting people ought not to be the decision we are making.

Here we have the Reed-Brown amendment that says we will establish within the office of consumer financial protection an office to protect the men and women in uniform from the abuses of people who would take advantage of them. Then less than 24 hours later we write an exemption and take away one of the major problems these young men and women have. What an irony. What is this institution saying? On the one hand, we say our young men and women in uniform ought to be protected from people who take advantage of them. Then less than 24 hours later we say: But, by the way, in a major area of abuse that occurs, you are exempt. Don't worry about it. The law doesn't apply to you. I am sorry, Mr. Community Banker. I am sorry, Mr. Local Credit Union. You will have to live by the rules. So there is a great disadvantage at the local level. The community bankers and credit unions are rightfully annoyed that they may be subjected to one set of rules and the person down the street who finances an automobile for an unsuspecting purchaser is exempt. That doesn't make any sense to me.

I hope that tomorrow my colleagues will react as I am to this. Again, I am not in any way indicting automobile dealers—quite the contrary. They have been through an awful lot. They have seen the struggle with major problems of the industry in this country. We made major efforts here to get them back on their feet. I am proud to have been involved in that, to see to it we restore and maintain a strong manufacturing sector in our country of automobile dealerships and manufacturers. But to turn around at the local level and say: I will give you a pass on those who would abuse the law and take advantage of people—in fact, it is an invitation to do it. It seems to me, by carving this out, we are not just sending a message to those who are presently engaging in this but to those who may decide this isn't a bad area of business in which to get involved.

The local bank has to meet those obligations and the local credit union or some other financing operation covered under our legislation. Now we will no longer have shadow operators. We cover payday lenders. We cover the check-cashing operations involved in

financial services or products. But in the second largest purchase the average American ever makes, you are going to be exempt from any of the laws involving consumer protection when it comes to financing.

I know there is a lot of pressure, a lot of lobbying going on all over the place to carve out this exception. But I urge my colleagues to please be careful about this, to walk in tomorrow and to basically gut the Reed-Brown amendment by saying in this one major area of abuse—read the letter from Secretary Gates. Read the letter from the Secretary of the Army. Listen to our colleagues who are listening to the people on their military bases in the respective States, what goes on every single day by those who take advantage of people who are in uniform.

I urge my colleagues, tomorrow, when we have an opportunity to debate the Brownback amendment, not be lured away from their support of putting an office within the Consumer Financial Protection Bureau and basically gut the very bureau before the ink is dry on the amendment by allowing for a massive exception which would allow for consumers, particularly men and women in uniform, to be taken advantage of.

The PRESIDING OFFICER. Is there further debate on the amendment?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER (Mr. BEGICH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—98

Akaka	Enzi	Menendez
Alexander	Feingold	Merkley
Barrasso	Feinstein	Mikulski
Baucus	Franken	Murkowski
Bayh	Gillibrand	Murray
Begich	Graham	Nelson (NE)
Bennet	Grassley	Nelson (FL)
Bennett	Gregg	Pryor
Bingaman	Hagan	Reed
Bond	Harkin	Reid
Boxer	Hatch	Risch
Brown (MA)	Hutchison	Roberts
Brown (OH)	Inhofe	Rockefeller
Brownback	Inouye	Sanders
Bunning	Isakson	Schumer
Burr	Johanns	Sessions
Burriss	Johnson	Shaheen
Cantwell	Kaufman	Shelby
Cardin	Kerry	Snowe
Carper	Klobuchar	Specter
Casey	Kohl	Stabenow
Chambliss	Kyl	Tester
Cochran	Landrieu	Thune
Collins	Lautenberg	Udall (CO)
Conrad	Leahy	Udall (NM)
Corker	LeMieux	Vitter
Cornyn	Levin	Voinovich
Crapo	Lieberman	Warner
DeMint	Lincoln	Webb
Dodd	Lugar	Whitehouse
Dorgan	McCain	Wicker
Durbin	McCaskill	Wyden
Ensign	McConnell	

NAYS—1

Coburn

NOT VOTING—1

Byrd

The amendment (No. 3943) was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I yield to the minority leader.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I thank my friend from Connecticut. He was aware that I was going to ask consent for 30 minutes for a colloquy between Senators BARRASSO, ROBERTS, and myself, as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BERWICK NOMINATION

Mr. MCCONNELL. Mr. President, let me just make a few observations, and then I will turn first to Senator ROBERTS.

The subject we would like to discuss is the Berwick nomination to be administrator of CMS. To be perfectly frank with you, I think many of us are alarmed by this nominee's focus on the British system, where government makes decisions for people on their care. In fact, I am reminded of a decision by the Department of Health and Human Services that I personally had a good deal of concern about last summer to limit the dissemination of information by companies who were in the Medicare Advantage business so that they could not communicate with their customers—clients—their opinions about legislation that would affect their product.

It was a stunning government gag order in effect saying to a corporation: You are not free to discuss a public issue before the Senate and the House; we are going to tell you what you can say. It was one of the most blatant examples of the government basically squashing free speech as a condition for doing business with the government.

Now we have this nominee who is applauding—applauding—a system where care is delayed, denied, or rationed. So I am particularly concerned this attack on free speech is just a first step toward much greater government intervention.

I will be talking with Dr. Berwick about his plans, but now I would like to turn to Senator ROBERTS, whom I know has already spoken to Dr. Berwick, maybe as recently as today, to get his thoughts on this nominee for this very important position.

Mr. ROBERTS. If the distinguished Republican leader will yield, I will be happy to respond.

First, I thank the distinguished leader and the doc from Wyoming, who is always bringing forward new and important information about the health care bill and some of the problems that

we are experiencing with it, for allowing me to join in this colloquy.

We are talking about President Obama's nominee to be administrator of the Centers for Medicare and Medicaid Service—CMS is the acronym. Rest assured, every health care provider in America knows about CMS, and the nominee is Dr. Donald Berwick. I just met with Dr. Berwick and had an opportunity to hear some of his thoughts on the direction he thinks American health care, and particularly Medicare and Medicaid, should take.

He is a very affable, friendly doctor from Connecticut. He has a wide background in terms of health care. I have also been reading up on Dr. Berwick, who has a prolific record of statements and speeches and books that further lay out his ideas for the future of health care. I recommend everyone within the health care industry and every health care consumer get hold of these speeches and these statements and, if possible books and read them.

Here is what I have learned. Dr. Berwick, I would tell the distinguished Republican leader, is a huge fan, a major champion, and a contributor to the British national health care system called NHS. As a matter of fact, I have a quote of Dr. Berwick regarding the NHS.

I am romantic about the National Health Service; I love it. The NHS is not just a national treasure; it is a global treasure.

Well, I understand that people become very passionate about their jobs, but romantic seems to me a little unique, but we will let that go.

Now, why is this important? Because the NHS rations health care. The NHS denies and delays patient access to therapies in regard to breast cancer, Alzheimer's, multiple sclerosis, kidney cancer, macular degeneration—this happens to be my favorite example: patients required to go blind in one eye first before they get treatment for the other eye—and brain tumors. A patient group coalition called the group that rations health care in Great Britain unfair and unacceptable.

The quote by Dr. Berwick is:

The decision is not whether or not we will ration health care—the decision is whether we will ration with our eyes open.

Consequently, I think the good Senator from Wyoming has something to say about that in regard to rationing health care and the British system.

Mr. BARRASSO. Mr. President, I agree absolutely with my colleague because that is exactly what is happening in the British health care system. It is delayed care, and delayed care, to me, equals denied care.

This has been such a major topic for discussion among the people in Britain that it was brought up in the recent debate for the prime ministership in the election, in the first televised debate ever. One of the questions that was asked of then-Prime Minister Gordon

Brown was what about the National Health Service; people have to wait too long. Here is the quote. We have a transcript because I read about this in the local papers and got the transcript. He talked about people with cancer.

Now, this is very important to me, Mr. President, because my wife Bobbi is a breast cancer survivor. She was diagnosed in her forties as a result of a screening mammogram. So we spend a lot of time thinking about, talking about cancer, as do many families in this country.

Well, this is what he said about people who have cancer. This is Gordon Brown answering the question, what about the National Health Service and the long delayed time before treatment.

He said, "They will also be able to know that their operation will be in 18 weeks." Mr. President, 18 weeks, if you are a cancer patient in need of an operation—18 weeks for your cancer operation. That is what the Prime Minister of England is promising the people as an aspirational goal. It makes you wonder how long is the delay right now.

So it is no surprise that the British medical journal, the *Lancet Oncology*, in their August 2008 summary of statistics, says in every category Americans survive cancer at higher rates than patients in other developed countries. American cancer patients have a higher survival rate for every major form of cancer than patients in Canada and Britain. American women have a 35-percent better chance of surviving colon cancer than British women. American men have an 80-percent better survival rate for prostate cancer. I have a list, cancer by cancer—breast cancer, colon cancer, prostate cancer—and the survival rates are much better in the United States than they are in Britain. It is not that our doctors are any better, it is that the treatment is more timely.

Imagine, Mr. President, being diagnosed with cancer and being told that your operation will be coming in September. Here we are in May, so 18 weeks from now—September—is when you will have your operation. All of that time the cancer can be growing. The cancer can be spreading.

As a patient in the United States, you may say: Do I really want Dr. Berwick? Do I want somebody who favors the National Health Service of Britain, someone who says they have incredible respect for the way it works and thinks it is the right way to go? Would an American citizen want that person to be in charge of Medicare and Medicaid for this country?

So I just have to respond to my colleague that, as a physician who has practiced for 25 years, and as a husband of a wife who is a breast cancer survivor—who has had detection through a screening mammogram and then very

rapid surgery, where there actually was the spread of the cancer from the breast to one of her lymph nodes—I think she is alive today because of the screening mammogram and the timeliness—the timeliness—of her surgery and treatment in the United States.

I see the minority leader, and I see he is incredulous that we would be considering that sort of a system and that sort of a director for Medicare and Medicaid in this country.

Mr. MCCONNELL. Yes. And I would say to my friends that Wyoming and Kansas and Kentucky have a lot of rural areas. One of the things that Dr. Berwick has made very clear—and there was an article he wrote called "Buckling Down to Change," in which he says there ought to be a concentration of change, in which he says there ought to be a concentration of services in metropolitan areas. He says most metropolitan areas in the United States should reduce the number of centers engaged in cardiac surgery, high-risk obstetrics, and neonatal intensive care services.

What he is really saying is narrow the specialties down to metropolitan areas only. I just think of how that would work in a State such as mine. We have a city—Pikeville, KY, in the mountains—about 2½ hours from the closest major city—Lexington. I wonder how it would work in my State to have to drive 2½ hours to put a baby in a hospital's neonatal intensive care unit. I mean, clearly, what he is talking about is major rationing of services.

That would be bad enough for the urban areas that are lucky enough to still have the service at all, but for States such as Wyoming and Kentucky and Kansas, where we have a lot of people in rural areas who are pretty far removed from major urban centers, we are talking about a catastrophe, as I see it.

Senator BARRASSO has practiced medicine for 25 years. I wonder what his take is on that kind of approach.

Mr. BARRASSO. My take is that it wouldn't work for Wyoming. But this entire health care bill—law, travesty—isn't going to work for Wyoming. We look at the numbers, and the Congressional Budget Office says 15 percent of hospitals in a few years are going to find they are losing money and they can't stay open. People are going to have to travel long distances, very long distances, to get quality care. Sometimes with weather and with winter, it is very difficult. So I have lots of concerns for all of the rural communities in this country because we have somebody from Boston, or the big city, who doesn't think the way we do in Wyoming or Kentucky or in Kansas.

The other travesty of this is that the President of the United States has been in office now for well over a year—almost a year and a half—and it is only

just now he has nominated someone to be in charge of Medicare and Medicaid. I have continued to ask on this floor why that is. Why has the President intentionally refused to send a name to the Senate to be in charge of Medicare and Medicaid at a time when this country was debating health care legislation; at a time when the President was proposing cutting \$550 billion from our seniors on Medicare; at a time when the President was pushing—cramming—into Medicaid another 18 million people?

Mr. MCCONNELL. If my friend will yield, some have believed the reason he didn't want to send Dr. Berwick up during the health care debate is because it would confirm the obvious, which was the direction in which we were headed and which Senate Republicans said repeatedly during the debate on health care was the direction we were headed—and nobody has been more accurate on this issue than has Senator ROBERTS on the Finance Committee—which was massive rationing.

But it is hard to believe they had not decided to send the expert on rationing as soon as the debate was over.

Mr. ROBERTS. If the leader will yield, it is one thing to use the British health care system and be romantic about it, to quote Dr. Berwick, as an example for rationing, for practicing health care cost containment. It is another thing to do it by age, which is happening. But it is rationing by region, which the leader has pointed out and Dr. BARRASSO has pointed out, that should strike fear in the hearts of any person living in any rural area in the country. His tenet for modernizing the American health system is reducing what he calls "the oversupply of inventory." That is how he defines it. Dr. Berwick's oversupply of inventory is, in truth, the rural patients' lifeline.

I know Dr. BARRASSO understands that.

As the leader has said, in Kentucky—well, in Kansas, demanding a patient in Kansas drive 200 or 300 miles to Wichita or Kansas City or Denver so their infant can get proper care is ridiculous. I can foresee a time when the rural health care system will consist of a bandaid and a bed pan.

Dr. Berwick is the perfect nominee for a President whose aim has always been to save money by rationing health care.

I would like to add, at this particular time, in addition to the rationing the good doctor talked about, the national health system in Great Britain utilizes an end-of-life pathway to death; an end-of-life pathway to death—that is a shocking description—that many British doctors say leads to premature death in patients who could have otherwise recovered.

To say that is noteworthy is unjust. It is egregious. Dr. Berwick's ideas on end-of-life care seem to mirror this

death pathway. The quote is: "Most people who have serious pain do not need advanced methods; they just need the morphine and the counseling that have been around for centuries."

This is a rather stunning statement, it seems to me. But it is very similar to President Obama's remarks about the elderly approaching the end of their life. The President has said that as you get older, "maybe you're better off not having the surgery, but taking the shots and the pain killer."

The only thing missing in that is the walker.

Consequently, he has also remarked that "the chronically ill and those towards the end of their life are accounting for 80 percent of the total health care bill out here." We know that. "[T]here is going to have to be a very difficult democratic conversation that takes place." That is the end of the quote by the President.

It sounds like this "difficult democratic conversation" has already happened in the United Kingdom and that their pathway-to-death solution mirrors Dr. Berwick's and President Obama's ideas exactly.

But age rationing, as has been indicated, is not the only way to do it, as the leader has pointed out. We have regional discrimination as well.

Mr. BARRASSO. It is interesting, looking at this whole thing, because what we see happening in Britain right now—they call it NICE, but there is nothing nice about it—National Institute for Health and Clinical Excellence—what Dr. Berwick has had to say about it is very much the opposite of what doctors who practice there have said. What he has said about this system is that:

Those organizations are functioning very well and are well respected by clinicians, and they are making their populations healthier and better off.

But a London colon cancer specialist says:

A lot of my colleagues also face pressure from managers—

Managers in the British health system—

not to tell patients about new drugs. There is nothing in writing, [he says] but telling patients opens a Pandora's box for health services trying to contain costs.

So it gets down to not quality of care, not availability of care but the cost of care.

Dr. Berwick says NICE is extremely effective and a conscientious, valuable and—importantly—knowledge-building system.

This is what—someone—says:

Doctors are keeping cancer patients in the dark . . .

These are specialists, polled by Myeloma, United Kingdom:

Doctors are keeping cancer patients in the dark about expensive new drugs that could extend their lives. . . .

So let's keep people in the dark rather than tell them what is there that

can help extend or save their life. That, to me, is not a system that the American people want.

Mr. MCCONNELL. Could I ask my friend from Wyoming, who practiced medicine for 25 years, the Congressional Budget Office just said yesterday that this bill is going to cost \$115 billion more than was portrayed on the Senate floor. Would it not be reasonable to assume, based on this nominee's views on the issue of rationing, that it could be that the way they intend to save that \$115 billion, if they do, is with massive and extensive rationing, by nominating an individual who has expressed himself so clearly and unambiguously on the virtues of rationing? The exploding costs that everyone, the administration's own actuaries, the Congressional Budget Office, everybody who knows anything about the subject is weighing in, in the aftermath of the health care debate, and confirming the concerns that Senate Republicans raised during the debate, every single one of them has been confirmed by independent groups that this is the way they intend to cut costs.

Mr. ROBERTS. I say to the leader, this isn't anything new. Dr. BARRASSO has been predicting this for some time. Those of us on the Finance Committee and the Health committee, we got a double dose. During the health care debate, we tried to warn of the "four rationers" that were embedded in the bill. That is what we called them. I made several statements on them. We have: the Patient-Centered Outcomes Research Institute, the Independent Payment Advisory Board, the CMS Innovation Center, and the U.S. Preventive Services Task Force.

Dr. Berwick was actually the vice chair of the U.S. Preventive Services Task Force until 1996. You may remember this, as Dr. BARRASSO pointed out, this was the body that recently ignited a firestorm by recommending that women wait until age 50 before they receive a mammogram. That certainly angered many doctors in America, and whoever said that beat a hasty retreat.

We also warned that ObamaCare, I say to the leader and my friend from Wyoming, will result in higher costs, not lower, a prediction not only by the CBO but by the bravest man in America, CMS expert, Richard Foster, who—it is amazing to me that he is still on the job, thank goodness. He recently backed all that up, in terms of higher premiums, higher cost, rationing, access to doctors by the elderly, and has renewed his warning time and time again.

Now our predictions are coming true and President Obama's CMS nominee, Dr. Berwick, will be the man who cuts health care costs by putting the rationing plans into practice. We will call it cost containment, but it will be rationing.

I hope my colleagues will join me in carefully reviewing the statements and the speeches and the books and everything else that good Dr. Berwick has stated in the last 30 years on rationing. I think if we do that, most of us will agree he is the wrong man, wrong time, wrong job.

I thank the leader and the good doctor for allowing me to join in this colloquy.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3879 TO AMENDMENT NO. 3739

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendment be set aside and call up amendment No. 3879, which is pending at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS] proposes an amendment numbered 3879 to amendment No. 3739.

Ms. COLLINS. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To mandate minimum leverage and risk-based capital requirements for insured depository institutions, depository institution holding companies, and nonbank financial companies that the Council identifies for Board of Governors supervision and as subject to prudential standards)

At the appropriate place in title I, insert the following:

**SEC. \_\_\_\_ . LEVERAGE AND RISK-BASED CAPITAL REQUIREMENTS.**

(a) DEFINITIONS.—

(1) GENERALLY APPLICABLE LEVERAGE CAPITAL REQUIREMENTS.—The term "generally applicable leverage capital requirements" means—

(A) the minimum ratios of tier 1 capital to average total assets, as established by the appropriate Federal banking agencies to apply to insured depository institutions under the prompt corrective action regulations implementing section 38 of the Federal Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of that capital requirement, average total assets in the denominator of that capital requirement, and the required ratio of the numerator to the denominator.

(2) GENERALLY APPLICABLE RISK-BASED CAPITAL REQUIREMENTS.—The term "generally applicable risk-based capital requirements" means—

(A) the risk-based capital requirements as established by the appropriate Federal banking agencies to apply to insured depository institutions under the agency's Prompt Corrective Action regulations that implement section 38 of the Federal Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of those capital requirements, the risk-weighted assets in the



denominator of those capital requirements, and the required ratio of the numerator to the denominator.

(b) MINIMUM CAPITAL REQUIREMENTS.—

(1) MINIMUM LEVERAGE CAPITAL REQUIREMENTS.—The appropriate Federal banking agencies shall establish minimum leverage capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies identified under section 113. The minimum leverage capital requirements established under this paragraph shall not be less than the generally applicable leverage capital requirements, which shall serve as a floor for any capital requirements the agency may require, nor quantitatively lower than the generally applicable leverage capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

(2) MINIMUM RISK-BASED CAPITAL REQUIREMENTS.—The appropriate Federal banking agencies shall establish minimum risk-based capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies identified under section 113. The minimum risk-based capital requirements established under this paragraph shall not be less than the generally applicable risk-based capital requirements, which shall serve as a floor for any capital requirements the agency may require, nor quantitatively lower than the generally applicable risk-based capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

(3) CAPITAL REQUIREMENTS TO ADDRESS ACTIVITIES THAT POSE RISKS TO THE FINANCIAL SYSTEM.—

(A) IN GENERAL.—Subject to the recommendations of the Council, in accordance with section 120, the Federal banking agencies shall develop capital requirements applicable to all institutions covered by this section that address the risks that the activities of such institutions pose, not only to the institution engaging in the activity, but to other public and private stakeholders in the event of adverse performance, disruption, or failure of the institution or the activity.

(B) CONTENT.—Such rules shall address, at a minimum, the risks arising from—

(i) significant volumes of activity in derivatives, securitized products purchased and sold, financial guarantees purchased and sold, securities borrowing and lending, and repurchase agreements and reverse repurchase agreements;

(ii) concentrations in assets for which the values presented in financial reports are based on models rather than historical cost or prices deriving from deep and liquid 2-way markets; and

(iii) concentrations in market share for any activity that would substantially disrupt financial markets if the institution is forced to unexpectedly cease the activity.

Ms. COLLINS. Mr. President, I am calling up tonight the amendment I debated on the Senate floor on Monday, with Senator DODD and other Members who were present. This amendment would direct regulators to impose strong risk- and size-based capital standards on financial institutions as they grow in size or engage in risky practices. I am pleased to offer this amendment on behalf of myself, Sen-

ator SHAHEEN, and Senator BROWN-BACK.

Our amendment is aimed at addressing the too-big-to-fail problem at the root of the current economic crisis by requiring financial firms to have adequate amounts of cash and other liquid assets to survive financial challenges without turning to the taxpayers for a bailout.

I note this amendment would ensure that the Nation's largest banks and bank holding companies are required to meet, at a minimum, the same capital standards that are imposed on smaller community banks.

That is right. It may be odd to realize, but the fact is, under current law, regulators can allow larger financial institutions to follow capital standards that are actually less stringent than those that are applied to smaller depository institutions. That makes no sense whatsoever, and that is why this amendment has the strong support of the Chairman of the Federal Deposit Insurance Corporation, the FDIC Chairman, Sheila Bair.

She has written me a letter endorsing this amendment. She points out it is a critical element to ensure that U.S. financial institutions hold sufficient capital to absorb losses during future periods of financial stress. "It is imperative," she writes, "that they have sufficient capital to stand on their own in times of adversity."

This amendment would apply to some of our largest banks as well as bank holding companies, and it would also apply to nonbank financial institutions that are identified for supervision by the Federal Reserve by the new Financial Stability Oversight Council, established by the bill.

This council is the council of regulators that will be created so we have an entity that would look across the economy to identify financial institutions and practices, risky practices that could pose a systemic risk to our economy.

Since I did debate the amendment at length on Monday, I am not going to go on at length tonight, especially since there are others of my colleagues who are waiting to speak. I would note that I have had a very good discussion with the managers of the bill, and I look forward to working further with them in the hopes that we can schedule this amendment for a vote tomorrow. I note this is a bipartisan amendment and that we have consulted at length with the chairman of the Banking Committee.

With that, I ask unanimous consent that the letter from the Chairman of the FDIC be printed in the RECORD, which letter further describes the amendment and the need for it, and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL DEPOSIT  
INSURANCE CORPORATION,  
Washington, DC, May 7, 2010.

Hon. SUSAN M. COLLINS,  
Ranking Minority Member, Committee on Home-  
land Security and Governmental Affairs,  
U.S. Senate, Washington, DC.

DEAR SENATOR COLLINS: I am writing to express my strong support for your amendment number 3879 to ensure strong capital requirements for our nation's financial institutions. This amendment is a critical element to ensure that U.S. financial institutions hold sufficient capital to absorb losses during future periods of financial stress. With new resolution authority, taxpayers will no longer bail out large financial institutions. This makes it imperative that they have sufficient capital to stand on their own in times of adversity.

During the crisis, FDIC-insured subsidiary banks became the source of strength both to the holding companies and holding company affiliates. Far from being a source of strength to banks as Congress intended, holding companies became a source of weakness requiring federal support. If, in the future, bank holding companies are to become sources of financial stability for insured banks, then they cannot operate under consolidated capital requirements that are numerically lower and qualitatively less stringent than those applying to insured banks. This amendment would address this issue by requiring bank holding companies to operate under capital standards at least as stringent as those applying to banks.

The crisis also demonstrated the dangers of excessive leverage undertaken by large nonbanks outside of the scope of federal bank regulation. Notable examples included the excessive leverage of the largest investment banks during the run-up to the crisis, and the extremely high leverage of Fannie Mae and Freddie Mac. To remedy this and prevent regulatory gaps and arbitrage, large nonbank financial institutions deemed to be systemic must be held to the same, or higher, capital standards as those applying to banks and bank holding companies. Again, the amendment accomplishes this goal simply and directly.

Finally, and more broadly, the crisis identified the dangers of a regulatory mindset focused exclusively on the soundness of individual banks without reference to the "big picture." For example, an individual overnight repo may be safe, but widespread financing of illiquid securities with overnight repos left the system vulnerable to a liquidity crisis. A financial system-wide view requires regulators, working in conjunction with the new Financial Services Oversight Panel, to develop capital regulations to address the risks of activities that affect the broader financial system, beyond the bank that is engaging in the activity.

We at the FDIC remain committed to working with you towards a stronger financial system. This amendment will be an important step in accomplishing this goal.

If you have further questions or comments, please do not hesitate to contact me or Paul Nash, Deputy for External Affairs.

Sincerely,

SHEILA C. BAIR,  
Chairman.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I now send to the desk a modification of amendment No. 3739.

I suggest the absence of a quorum.



The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACk. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3789, AS MODIFIED, TO  
AMENDMENT NO. 3739

Mr. BROWNBACk. Mr. President, as I understand, we had an agreement I was going to call up an amendment and then it could be set aside, just to get it pending.

With that, I ask unanimous consent that the pending business be set aside and that amendment No. 3789 be called up as the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACk. Mr. President, I send a modification to my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment as modified.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACk] proposes an amendment numbered 3789, as modified, to amendment No. 3739.

Mr. BROWNBACk. I ask further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for an exclusion from the authority of the Bureau of Consumer Financial Protection for certain automobile manufacturers, and for other purposes)

At the end of subtitle B of title X, add the following:

**SEC. 1030. EXCLUSION FOR AUTO DEALERS.**

(a) IN GENERAL.—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) CERTAIN FUNCTIONS EXCEPTED.—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) NO IMPACT ON PRIOR AUTHORITY.—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) NO TRANSFER OF CERTAIN AUTHORITY.—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) MOTOR VEHICLE.—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103(d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) MOTOR VEHICLE DEALER.—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

AMENDMENT NO. 3883 TO AMENDMENT NO. 3739

Mr. BROWNBACk. Mr. President, I ask unanimous consent that the pending business be set aside and that amendment No. 3883, on behalf of Senator SNOWE, be called up as the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACk], for Ms. SNOWE and Mr. PRYOR, proposes an amendment numbered 3883 to amendment No. 3739.

The amendment is as follows:

(Purpose: To ensure small business fairness and regulatory transparency)

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . SMALL BUSINESS FAIRNESS AND REGULATORY TRANSPARENCY.**

(a) PANEL REQUIREMENT.—Section 609(d) of title 5, United States Code, is amended by striking “means the” and all that follows and inserting the following: “means—

“(1) the Environmental Protection Agency;

“(2) the Consumer Financial Protection Bureau of the Federal Reserve System; and

“(3) the Occupational Safety and Health Administration of the Department of Labor.”.

(b) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended by adding at the end the following:

“(d)(1) For a covered agency, as defined in section 609(d)(2), each initial regulatory flexibility analysis shall include a description of—

“(A) any projected increase in the cost of credit for small entities;

“(B) any significant alternatives to the proposed rule which accomplish the stated

objectives of applicable statutes and which minimize any increase in the cost of credit for small entities; and

“(C) advice and recommendations of representatives of small entities relating to issues described in subparagraphs (A) and (B) and subsection (b).”.

“(2) A covered agency, as defined in section 609(d)(2), shall, for purposes of complying with paragraph (1)(C)—

“(A) identify representatives of small entities in consultation with the Chief Counsel for Advocacy of the Small Business Administration; and

“(B) collect advice and recommendations from the representatives identified under subparagraph (A) relating to issues described in subparagraphs (A) and (B) of paragraph (1) and subsection (b).”.

(c) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604(a) of title 5, United States Code, is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(6) for a covered agency, as defined in section 609(d)(2), a description of the steps the agency has taken to minimize any additional cost of credit for small entities.”.

Mr. BROWNBACk. I want to thank my colleagues for getting these amendments pending. I would note that the amendment I called up is the one to exempt auto dealers from the consumer financial products commission created in this bill.

These are auto loans already covered under the bill by whoever is doing the financing. If the auto dealers themselves are doing the financing, then they would be covered under the consumer financial products commission.

What this amendment attempts to do is say, let's regulate auto loans, but let's regulate them by who is doing the loan, not just who is processing the paper.

It would be my hope that we would get the broad bipartisan support of my colleagues. We do have bipartisan support for this amendment. I will look forward to a full debate on it tomorrow. But in the interest of time this evening I will not be talking further on it.

I am happy to enter into a time agreement with the managers on this tomorrow to debate and get this amendment for a vote tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

AMENDMENT NO. 3776, AS MODIFIED, TO  
AMENDMENT NO. 3739

Mr. SPECTER. I call up amendment No. 3776, as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself, Mr. REED, Mr. KAUFMAN, Mr. DURBIN, Mr. HARKIN, Mr. LEAHY, Mr. LEVIN, Mr. MENENDEZ, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. FEINGOLD, and Mr. MERKLEY, proposes an amendment numbered 3776, as modified, to amendment No. 3739.

Mr. SPECTER. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 1004, between lines 11 and 12, insert the following:

**SEC. 929D. PRIVATE CIVIL ACTION FOR AIDING AND ABETTING.**

Section 20(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78t(e)) is amended—

(1) in the subsection heading, by striking “PROSECUTION OF” and inserting “ACTIONS AGAINST”;

(2) by striking “For purposes” and inserting the following:

“(1) ACTIONS BROUGHT BY COMMISSION.—For purposes”; and

(3) by adding at the end the following:

“(2) PRIVATE CIVIL ACTIONS.—For purposes of any private civil action implied under this title, any person that knowingly provides substantial assistance to another person in violation of this title, or of any rule or regulation issued under this title, shall be deemed to be in violation of this title to the same extent as the person to whom such assistance is provided. For purposes of this paragraph, a person acts knowingly only if the person has actual knowledge of the improper conduct underlying the violation described in the preceding sentence and the person's role in assisting that conduct.”.

Mr. SPECTER. Mr. President, I have offered this amendment on behalf of quite a number of Senators—Senator REED, Senator KAUFMAN, Senator DURBIN, Senator HARKIN, Senator LEAHY, Senator LEVIN, Senator MENENDEZ, Senator WHITEHOUSE, Senator FRANKEN, Senator FEINGOLD, Senator MERKLEY, and myself.

This amendment provides that the decisions of the Supreme Court of the United States limiting claims under the securities acts for aiding and abetting will be overturned by this legislation.

This amendment is very similar to an amendment which was offered in the 107th Congress by Senator SHELBY, the ranking member of the Banking Committee. For many years, the federal law provided a private right of action against aiders and abettors.

As of 1994, every circuit of the federal courts of appeals had included civil liability in a private lawsuit under the securities laws. In a radical departure in 1994, the Supreme Court held, in *Central Bank of Denver*, that aiders and abettors are not liable in private suits.

The Court's 5-to-4 decision in *Stoneridge* in 2008 complicated the matter even further, where the Supreme Court held that if the defendant did not make representations directly to the person buying or selling the securities, that the individual was not liable, even if he himself had engaged in fraudulent conduct.

This is a subject I have long been interested in. Back in 2007, I wrote to President Bush concerning the failure of the Solicitor General's office to file

a brief that was requested by the Securities and Exchange Commission in the *Stoneridge* case. The Securities and Exchange Commission was very concerned about that. I urged that the Solicitor General take action.

I ask unanimous consent that a copy of this letter to the President be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, the absence of civil liability is striking in this situation, because there is criminal liability for aiding and abetting under the federal criminal code.

I know of no situation where there is criminal liability for conduct, but it does not give rise to a civil claim for relief or a civil cause of action. During a hearing on this subject, a very distinguished scholar, Professor Coffee of the Columbia Law School, pointed out how unusual that was in his experience, much broader than mine, that this was anomalous.

In the case of *Reeco Securities Litigation*, reported at 609 F. Supp. 2d 304 (S.D.N.Y. 2009), Judge Gerald Lynch made the same point:

It is perhaps dismaying that participants in a fraudulent scheme who may even have committed criminal acts are not answerable in damages to the victims of the fraud. . . . There are accomplices and there are accomplices: after all, in the criminal context when the Godfather orders a hit, he is only an accomplice to murder—one who “counsels, commands, induces or procures,” but he is nonetheless liable as a principal for the commission of the crime. Likewise, some civil accomplices are deeply and indispensably implicated in wrongful conduct.

But on the current state of the law, there is no accountability for civil damages for aiders and abettors.

Prof. John Coffee made this point in our hearing:

Does anyone really believe today that in this post-Madoff world, that the SEC, by itself, can adequately deter most secondary participants in securities fraud?

Even when the SEC sues, moreover, its remedial authority is very limited. It can neither recover losses for injured investors nor deter fraud in the first place.

A comparative impact of private lawsuits has noted that in the *Enron* case, the private litigants recovered \$7.3 billion, and the SEC recovered \$450 million. In the *WorldCom* case, private litigants recovered \$6.85 billion; the SEC recovered only \$750 million. In the *Dynegy* case, private litigants recovered \$474 million, the SEC \$198 million. In the *AOL-Time Warner* case, private litigants recovered \$3.1 billion, and the SEC recovered \$360 million.

According to testimony given on my aiding-and-abetting legislation last

year before the Subcommittee on Crime, the SEC recovered a mere \$8 billion from security law violators since enactment of Sarbanes-Oxley in 2002, whereas the private litigants in *Enron* alone recovered \$7.3 billion. So the impact of the private lawsuits is very important.

We have seen the extraordinary impact of Wall Street fraud: the losses of 6½ million jobs, the reduction of the gross national product enormously. This private right of action is a very important part of keeping Wall Street honest with the litigation which it has produced.

There has been a letter filed by a number of entities in opposition to the amendment, headed by the U.S. Chamber of Commerce, raising a point that, “The provision would subject defendants to liability whether or not they have any idea that the conduct they are assisting is wrongful.”

Well, that is a gross misstatement of what this bill does. This amendment has been very narrowly drawn. It applies only to those who knowingly provide substantial assistance to the primary violator.

The scienter standard is more defendant-protective than the standard set forth in Senator SHELBY's legislation which he introduced in the 107th Congress. The scienter standard in the Shelby bill was “recklessness,” not “knowingly acted upon.” The “knowingly” scienter standard in the amendment is identical to the restrictive standard in 15 U.S.C. 78(t)(e) governing aiding-and-abetting actions brought by the Securities and Exchange Commission.

In order to eliminate any conceivable doubt, a modification has been added to the amendment as originally filed, specifying: “For purposes of this paragraph, a person acts knowingly only if the person has actual knowledge of the improper conduct underlying the violation described in the preceding sentence and the person's role in assisting that conduct.”

So, in essence, here we have a very tightly drawn amendment. It had been introduced earlier as S. 1551. I thank the distinguished chairman of the committee for his accommodation in listing this amendment for argument. This is a very important amendment. There are a lot of amendments pending. But I do believe that among the matters to be considered in this bill, this is one of the most important. You have a lot of people very badly damaged by these security fraudulent actions. The Securities and Exchange Commission is limited in personnel and staff to act on them. These private rights of action have long been a source of enormous aid in enforcing the law in antitrust cases and Securities Act cases. Private prosecutions are enormously important.

By way of footnote, this is a subject of a law school comment that I wrote

many years ago at Yale about the background for private action. It is a very important supplement to what public officials and public agencies can do.

I urge my colleagues to support this amendment.

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, August 3, 2007.

The PRESIDENT,  
Washington, DC.

DEAR MR. PRESIDENT: I am writing to express my concern about the Solicitor General's failure to file a brief that was requested by the Securities and Exchange Commission in *Stoneridge Investment Partners v. Scientific Atlanta*. The outcome of *Stoneridge* will also determine whether tens of thousands of Enron investors will secure a day in court. Earlier this year, the SEC voted to file an amicus brief in *Stoneridge* in favor of scheme liability, which is the same position the Commission has previously taken in similar cases in lower courts, including the Enron case. It has been reported that the Solicitor General did not file the brief, based on your views, and that the Solicitor General may actually file an amicus brief arguing the opposite position recommended by the SEC.

The SEC is an independent agency and its attorneys can represent the agency in trial courts and courts of appeals. The SEC, however, cannot represent itself at the Supreme Court of the United States—it must convince the Solicitor General to represent the SEC's position. Independence, when used to describe an administrative agency, connotes independence from the President and the ability to take positions or engage in actions that do not necessarily reflect the policies and views of the Administration.

Chairman Cox, in response to questions about the SEC's vote to file an amicus brief in *Stoneridge*, stated at a Congressional hearing on June 26, 2007, that the "law has to have some objective meaning. It can't be just a question of how we all feel about it" and that laws should not change with the change in political composition of the Commission. He explained that he did "not think that there's anywhere where it could be more important for there to be predictability and clarity in rulemaking than when it comes to our capital markets, because so much is at stake that people have to make big bets on whether or not what they're doing is the right thing to do. . . . I think we do a great disservice when we are anything but clear and predictable, rule-based and law-based." I agree with Chairman Cox.

On the issue of predictability in the law, I note what happened to shareholders who were defrauded by Enron when they brought a lawsuit charging certain Enron executives and directors—along with the company's accountants, law firm and banks—with violation of federal securities laws. The alleged violations included massive insider trading while making false and misleading statements about Enron's financial performance. The shareholders reached a settlement with several financial institutions, but while claims were still pending against a number of additional institutions, in March 2007, the Court of Appeals for the Fifth Circuit granted the banks complete immunity from liability. The court acknowledged that the banks' conduct was "hardly praiseworthy," but it ruled that because the banks themselves did not make any false statements about their conduct to the shareholders they could not be held liable, even if they knowingly par-

ticipated in the scheme to defraud. In an extraordinary admission, the court acknowledged that the ruling runs afoul of "justice and fair play." The ruling also is at odds with the position of the SEC, with its wealth of specialized knowledge on the issues of contention in both the Enron case and *Stoneridge*, and with rulings of other courts.

The Solicitor General is entitled to aid the Court in its interpretation of the law, and I applaud his close attention to this critical case. I am concerned, however, that he has been unable to articulate a legal position—either for or against the plaintiffs—that is independent from the Administration's policy preferences. As you have often said, substantive changes to the law should be made through the legislative process, not through the courts.

Thank you for attention to this matter.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

AMENDMENTS NOS. 3823, 3932, AND 3808 TO  
AMENDMENT NO. 3739

Mr. DODD. Mr. President, I ask unanimous consent, if I may, that the pending amendments be set aside and that it be in order to call up the following amendments and that once reported by number, they be set aside:

Senator LEAHY's amendment No. 3823; Senator DURBIN's amendment No. 3932, and Senator FRANKEN's amendment No. 3808.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendments by number.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes amendments en bloc numbered 3823, 3932, and 3808.

The amendments are as follows:

AMENDMENT NO. 3823

(Purpose: To restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers)

At the end of the amendment, insert the following:

**SEC. \_\_\_\_ . HEALTH INSURANCE INDUSTRY ANTI-TRUST ENFORCEMENT ACT.**

(a) **SHORT TITLE.**—This section may be cited as the "Health Insurance Industry Antitrust Enforcement Act".

(b) **RESTORING THE APPLICATION OF ANTI-TRUST LAWS TO HEALTH SECTOR INSURERS.**—

(1) **AMENDMENT TO MCCARRAN-FERGUSON ACT.**—Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013), commonly known as the McCarran-Ferguson Act, is amended by adding at the end the following:

"(c) Nothing contained in this Act shall modify, impair, or supersede the operation of any of the antitrust laws with respect to the business of health insurance. For purposes of the preceding sentence, the term 'antitrust laws' has the meaning given it in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition."

(2) **RELATED PROVISION.**—For purposes of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition, section 3(c) of the McCarran-Ferguson Act shall apply with respect to the business of health insurance without regard to whether such business is carried on for profit, notwithstanding the definition of "Corporation" contained in section 4 of the Federal Trade Commission Act.

AMENDMENT NO. 3932

(Purpose: To ensure that the fees that small businesses and other entities are charged for accepting debit cards are reasonable and proportional to the costs incurred, and to limit payment card networks from imposing anti-competitive restrictions on small businesses and other entities that accept payment cards)

At the end of subtitle G of title X, add the following:

**SEC. 1077. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.**

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) by redesignating sections 920 and 921 as sections 921 and 922, respectively; and

(2) by inserting after section 919 the following:

**"SEC. 920. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.**

**"(a) REASONABLE INTERCHANGE TRANSACTION FEES FOR ELECTRONIC DEBIT TRANSACTIONS.**—

**"(1) REGULATORY AUTHORITY.**—The Board shall have authority to establish rules, pursuant to section 553 of title 5, United States Code, regarding any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction.

**"(2) REASONABLE FEES.**—The amount of any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction shall be reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

**"(3) RULEMAKING REQUIRED.**—The Board shall issue final rules, not later than 9 months after the date of enactment of the Consumer Financial Protection Act of 2010, to establish standards for assessing whether the amount of any interchange transaction fee described in paragraph (2) is reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

**"(4) CONSIDERATIONS.**—In issuing rules required by this section, the Board shall—

**"(A)** consider the functional similarity between—

**"(i)** electronic debit transactions; and  
**"(ii)** checking transactions that are required within the Federal Reserve bank system to clear at par;

**"(B)** distinguish between—

**"(i)** the actual incremental cost incurred by an issuer or payment card network for the role of the issuer or the payment card network in the authorization, clearance, or settlement of a particular electronic debit transaction, which cost shall be considered under paragraph (2); and

**"(ii)** other costs incurred by an issuer or payment card network which are not specific to a particular electronic debit transaction, which costs shall not be considered under paragraph (2); and

**"(C)** consult, as appropriate, with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance

Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Administrator of the Small Business Administration, and the Director of the Bureau of Consumer Financial Protection.

“(5) EXEMPTION FOR SMALL ISSUERS.—This subsection shall not apply to issuers that, together with affiliates, have assets of less than \$1,000,000,000, and the Board shall exempt such issuers from rules issued under paragraph (3).

“(6) EFFECTIVE DATE.—Paragraph (2) shall become effective 12 months after the date of enactment of the Consumer Financial Protection Act of 2010.

“(b) LIMITATION ON ANTI-COMPETITIVE PAYMENT CARD NETWORK RESTRICTIONS.—

“(1) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A COMPETING PAYMENT CARD NETWORK.—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment through the use of a card or device of another payment card network.

“(2) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A FORM OF PAYMENT.—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment by the use of cash, check, debit card, or credit card.

“(3) NO RESTRICTIONS ON SETTING TRANSACTION MINIMUMS OR MAXIMUMS.—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to set a minimum or maximum dollar value for the acceptance by that person of any form of payment.

“(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) DEBIT CARD.—The term ‘debit card’—

“(A) means any card, or other payment code or device, issued or approved for use through a payment card network to debit an asset account for the purpose of transferring money between accounts or obtaining goods or services, whether authorization is based on signature, PIN, or other means;

“(B) includes general use prepaid cards, as that term is defined in section 915(a)(2)(A) (15 U.S.C. 1693l-1(a)(2)(A)); and

“(C) does not include paper checks.

“(2) CREDIT CARD.—The term ‘credit card’ has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

“(3) DISCOUNT.—The term ‘discount’—

“(A) means a reduction made from the price that customers are informed is the regular price; and

“(B) does not include any means of increasing the price that customers are informed is the regular price.

“(4) ELECTRONIC DEBIT TRANSACTION.—The term ‘electronic debit transaction’ means a transaction in which a person uses a debit card to debit an asset account.

“(5) INTERCHANGE TRANSACTION FEE.—The term ‘interchange transaction fee’ means any fee established by a payment card network that has been established for the purpose of compensating an issuer or payment card network for its involvement in an electronic debit transaction.

“(6) ISSUER.—The term ‘issuer’ means any person who issues a debit card, or the agent of such person with respect to such card.

“(7) PAYMENT CARD NETWORK.—The term ‘payment card network’ means an entity that directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct transaction authorization, clearance, and settlement, and that a person uses in order to accept as a form of payment a brand of debit card, credit card or other device that may be used to carry out debit or credit transactions.”

#### AMENDMENT NO. 3808

(Purpose: To instruct the Securities and Exchange Commission to establish a self-regulatory organization to assign credit rating agencies to provide initial credit ratings)

(The amendment is printed in the RECORD of Tuesday, May 4, 2010, under “Text of Amendments.”)

The PRESIDING OFFICER. The Senator from Alabama.

#### AMENDMENT NO. 3832 TO AMENDMENT NO. 3739

(Purpose: To provide an orderly and transparent bankruptcy process for non-bank financial institutions and prohibit bailout authority)

Mr. SESSIONS. Mr. President, I wish to call up amendment No. 3832 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant bill clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself, Mr. BUNNING, Mr. DEMINT, Mr. ENSIGN, Mr. BROWN of Massachusetts, proposes an amendment numbered 3832 to amendment No. 3739.

Mr. SESSIONS. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Wednesday, May 5, 2010, under “Text of Amendments.”)

Mr. SESSIONS. Mr. President, they say the proof is in the pudding. The proof is an ultimate test of an idea or an evaluation. It literally means you can show us a wonderful recipe and tell us about the fine ingredients, but we want to know what it tastes like in the end. The actual result is what is important. So I think the American people know that in the bill we are dealing with today, we are still too involved in the maneuvering of the dissolution of companies that fail. We create special procedures for larger companies than we do for routine companies throughout the country. The pudding tastes bad.

My colleagues tell us this bill has the right ingredients, but the ultimate result, I think, is to provide government-funded bailouts in some way or another, through another name, actually now called orderly liquidation authority. I understand the provisions are better perhaps than they were when

the discussions began and are more rigorous in some ways. I still feel more needs to be done to create the kind of integrity and the consistency and the principled approach to dissolution of a failed corporation that good law requires.

The legislation before us provides the government with vast, sweeping regulatory authority. I know a lot of people in the country—and I respect my good friend, Senator DODD. He is such a fabulous Senator and so knowledgeable about these areas. But I talked to my car dealers and they have to meet with State regulatory loan officers and they have always had to deal with State legislation and control and certain Federal rules apply. But what this legislation does is, it is one more example of an expansive mentality as far as fixing a discrete problem, which started out to be fixing Wall Street, too big to fail, and now we have a historic alteration of the respect we get for State and local government to manage lending matters. We have the Federal Government now doing that under this consumer title. I am not sure we have fully thought that through. I don't think it is necessary, frankly.

Some of the regulatory authority that was involved in controlling financial institutions that were part of the financial crisis we faced, I think, was because this regulatory authority caused or failed to prevent the crisis. It may have even made it worse. Instead of ending too big to fail, this legislation, I am afraid, institutionalizes it.

Professor John Taylor, the author of the Taylor rule, which, because it was violated, probably helped precipitate this crisis. If his rule had been followed carefully by the Federal Reserve, I think we would have had a far less serious problem than we had. He is a professor of economics at Stanford University. He is well respected. He made this point clear in a recent editorial in the Wall Street Journal. This is what John B. Taylor, the Taylor rule author, observed:

The financial crisis of 2008 demonstrates why it is dangerous for the orderly liquidation section of the Dodd bill to institutionalize such a process by giving the government even more discretion and power to take over businesses.

He goes on to say:

The proposed liquidation process would have the unintended consequence of increasing the incentive for creditors and other counterparties to run whenever there is a rumor that the government official is thinking about intervening.

He goes on to describe other reasons why he thinks the language as we have it is unwise.

Peter Wallison, former general counsel to the Treasury Department, voiced his strong opposition to the proposed legislation saying:

Not only does the Dodd bill establish too big to fail as a national policy, but it makes the idea real by creating a system for bailing

out large financial companies if they get into trouble. Of course, "bailing out" is not the phrase used in the bill; the preferred language there is "orderly liquidation."

So Mr. Wallison makes clear—I will not go on and quote all of his remarks, but he makes clear why he believes this is a dangerous institutionalization of special privileges for large companies. I think the Dodd amendment signals to creditors they will get a better deal if they lend to the big regulated firms, and this is what Mr. Wallison says:

They believe they will get a better deal if they lend to the big regulated firms rather than lending to the small competitors. The bill does this by making it possible for creditors to be fully paid when a too-big-to-fail financial firm is liquidated, even though this would not happen in bankruptcy.

Mr. Wallison hits the nail on the head, I am afraid. Select creditors—those with good lobbyists or those otherwise deemed too big to fail—will definitely get a better deal under the backroom process of orderly liquidation than they would in bankruptcy.

Let me be clear. The unhealthy government connection to Wall Street can only be eliminated, I think, through the legitimate utilization of historic bankruptcy process. "Orderly liquidation," as defined here, will not achieve the result.

When the legislation was first introduced, Senator LEAHY wrote the Judicial Conference of the United States—that is the Chief Justice and his Judicial Conference group of judges there—and asked him for their views on the legislation. The Judicial Conference responded that the bill failed the ultimate test. They said:

This is a substantial change to bankruptcy law because it would create a new structure within the bankruptcy courts and remove a class of cases from the jurisdiction of the Bankruptcy Code. The legislation, by assigning to the FDIC the responsibility for resolving the affairs of an insolvent firm, appears to provide a substitute for a bankruptcy proceeding.

That is a significant statement. This is the Supreme Court, the Judicial Conference, giving us their insight into this.

The letter goes on to say:

This could be especially problematic if creditors have changed position based on rulings in the course of the bankruptcy proceeding. The legislation does not envision—

Let me continue to quote this:

The legislation does not envision objection, participation, or input from the bankruptcy creditors whose rights will be affected in the course of appointing the FDIC as a receiver.

In other words, the normal process by which creditors and others can participate, object, cross-examine, is cut short.

The letter goes on to say:

Indeed, the legislation proposes to deal with this petition in a sealed manner—

Not in a public, open manner, where lawyers cross-examine witnesses under

oath, but in a sealed manner, the Judicial Conference says.

It goes on to say:

Only the Secretary and the affected financial firm would be noticed and given the opportunity of a hearing. The financial position of affected creditors may have been changed within the context of the firm's bankruptcy case in such a way that the creditors' rights may have been changed dramatically.

They go on to say this could raise constitutional questions. They said:

Any resulting due process challenges—

They are talking about the due process clause of the U.S. Constitution—would impose a significant burden on the courts to resolve novel issues.

In addition, they go on to say this:

We note that petitions under this title involving financial firms would be filed in a single judicial district.

Delaware.

The Judicial Conference favors distribution of cases in other courts.

Well, I think the Judicial Conference is making clear one thing in its correspondence. Bankruptcy, with its rules and procedures, not orderly liquidation authority, is the best way to approach dissolving a financial institution. We are not talking about banks. Banks would be still contained within the FDIC. They have a long history of being able to resolve banks in financial trouble. But I think—I can only say I share the opinion of the Judicial Conference. I think it is shared by a number of presidents of the Federal Reserve banks.

In recent testimony on a panel before the Joint Economic Committee, Charles I. Plosser, president of the Federal Reserve Bank of Philadelphia, stated the following:

I believe the most credible way to do this would be to amend the bankruptcy code to deal with nonbank financial firms and bank holding companies. Expanding the bank resolution process established under the FDIC Improvement Act as the current Senate bill does would give regulators and policymakers the opportunity to exercise a great deal of discretion in a liquidation or restructuring to reward some creditors and not others. A bankruptcy proceeding would follow the rule of law and thus would be less susceptible to manipulation by private parties or the political process.

So that is the opinion of the president of the Federal Reserve Bank of Philadelphia. Does anybody think that dissolution of GM and other companies and all the things they have gone through was not politically manipulated? Anybody who has closely followed it does, and that is one of the things that outraged Americans. They are angry that big companies got special procedures for their failure to pay their debts, where the average small company, mid-sized company, even large company in America would be subject to the rigors and the fairness and the order of established bankruptcy law.

So the president of the Federal Reserve of Philadelphia said it would be less susceptible to manipulation by private parties for the political process. Amen. That is true. You get a bankruptcy judge, he has a 14-year term. They are used to handling these cases, and they can handle them. Mr. Plosser goes on to say, limiting government choices and leaving resolutions to the rule of law and the court system, in my view, is the best way to end bailouts—limit unhealthy risk taking and extinguish the notion that some institutions are too big to fail. That is what the president of a Federal Reserve bank said. I could not agree more. That is why I have introduced the Bankruptcy Integrity and Accountability Act, which I believe we will be able to vote on tomorrow.

There is no greater legal system than the one we have in America. It is a system that is admired not only because it is efficient, in most instances, but because it is fundamentally fair. You know when you walk into a courtroom that you are going to get the same treatment as other parties, whether you are a mom-and-pop organization or big AIG. The amendment I have offered would provide that same type of security.

One issue that has been raised by a number of experts is a lack of confidence in the FDIC to adequately handle these kinds of dissolutions. I share those concerns. Professor Wallison stated:

The absence of any expertise in resolving failed nonbank financial institutions anywhere in the Federal Government is one strong reason for relying on bankruptcy for most failures. If there is likely to be expertise anywhere in resolving failed financial institutions, it would be in the bankruptcy courts.

I agree. Bankruptcy as the first choice for disposing of a failed nonbank financial institution would avoid a number of problems. These are problems that are associated with creating a government resolution authority. Governments are, by nature, political. It would assure that the prebankruptcy creditors take losses of some kind, avoiding the moral hazard and maintaining market discipline. In other words, if you don't feel like and don't have to take a loss by an improvident investment, it encourages you to make more risky investments, creating danger of more improvident financial activities in the future. The rules will be known in advance under bankruptcy. So creditors will be aware of their rights as well as the risks.

Creditors will decide whether they believe a company has prospects to repay them, and it would outweigh the risk of throwing good money after bad in helping maintain the company in bankruptcy. Bankruptcy judges look forward and try to save companies. They stop litigation that can shut

down a company. They give the company a chance to reorganize and succeed and pay all their creditors. That is always their goal. But good bankruptcy judges know from history that many companies can't be saved. The best thing to do is shut them down before they lose anymore money and distribute the remaining assets equally and fairly according to established rules of priority as part of the bankruptcy process. That is what bankruptcy is.

In the amendment I have offered, we make sure the necessary expertise for dissolving these institutions is available. We allow the Federal Stability Oversight Council, the proper functional regulator, the Federal Reserve, and the Department of Treasury to file legal briefs in the court if they need to to make sure their voice is heard concerning relevant issues. This would allow the court to gain valuable information and insight. We also concentrate Federal bankruptcy expertise by limiting venue in the cases to the 12 districts with the Federal Reserve Banks. This is something we vetted with professors and bankruptcy experts. Harvey Miller, the renowned bankruptcy expert, looked at this provision and told us he believes it is properly tailored to provide the necessary expertise to address these types of cases.

I believe it is something the Judicial Conference of the United States would agree is better than limiting it to just one court—a situation they raised as problematic. On substance, I think we can't overemphasize how the resolution authority fails the ultimate test.

Professor David Skeel wrote an opinion piece in the *Wall Street Journal* with Mr. Wallison on April 7 of this year, in which they asked this question:

Which system is more likely to eliminate the moral hazard of too big to fail?

They concluded that bankruptcy was the answer. They posit:

In a bankruptcy, as in the Lehman case, the creditors learned when they lend to weak companies, they have to be careful. The Dodd bill would teach the opposite lesson.

Let me highlight for my colleagues what I believe this amendment does and why I think it is necessary.

First, the amendment protects against systemic risk by eliminating the moral hazard that arises when financial companies and their investors think the government will bail them out. Under the Dodd approach, the approach of this legislation, financial company management and shareholders could have an incentive to seek resolution authority, thus gaining access to taxpayer bailouts. Under the Bankruptcy Integrity and Accountability Act, which I have offered, the only option for insolvent companies would be through the bankruptcy process, and they can survive bankruptcy.

But if they are not able to survive it, they should not survive it. That process would be either reorganization or liquidation.

There is a process for that to be established. Under this system, all costs of reorganizing or liquidating a company are paid by the private sector, by the failing company, and those who chose to do business with the failing company.

Thus, unlike under the Dodd bill, there will be no federally administered resolution authority with access to bailout funds, or borrowed money from the Treasury, Federal debt guarantees, or any other kinds of tool that politicians might access to bail out some politically empowered private company, and to avoid the day of reckoning that rightly should fall upon companies who can no longer operate effectively.

Under this bill, there will be no Federal Reserve section 13(3) authority with which the Fed can pump taxpayer money into firms to rescue them from insolvency.

The second way this amendment would reduce systemic risk is by protecting against the threat that derivatives contracts will cause one company's failure to cascade through the financial sector like falling dominoes. Under the current Bankruptcy Code, derivatives contracts are exempt from the automatic stay that prohibits the collection of debts outside the bankruptcy court. Virtually all other debts are stayed when the bankruptcy process occurs. As a result of this event, derivatives counterparties can demand collateral and satisfaction of the debt, and it can create a run on a failing companies' assets as more and more derivative counterparties demand their collateral. Because of the interconnectedness of financial firms and the derivatives holdings, a run on the failing firm's assets can cause failure to cascade through the financial system as party after party becomes exposed to succeeding demands on collateral. This is a problem that has been raised. This amendment would stop that danger by allowing debtors, with the consent of a new Federal Stability Oversight Council, to invoke the automatic bankruptcy stay against derivatives obligations when the facts show that the debtor's failure could genuinely trigger cascading systemic risk. This would alter bankruptcy law to deal with these large financial institutions, where derivatives can play a complicating factor, and this would give the kind of discretion I think would help avoid that.

Finally, the Bankruptcy Integrity and Accountability Act would reduce systemic risk because a new chapter 14 bankruptcy procedure will apply to all nonbank financial institutions regardless of the size. Under the act, everyone will get the same protection. Nobody will have access to special Washington

favours. This, too, protects against systemic risk. Under the approach of the Dodd legislation, there will be special rules for those companies that are wealthy and powerful enough to be determined too big to fail. Those special rules will include a publicly funded and government-administered resolution authority that affords the financial firms the right to fail without facing under oath their creditors and without bearing the costs of the proceedings. Also included will be the right to access taxpayer funds for the payment of certain private debts of the firm.

This special system, created by the bill before us, would create incentives for smaller companies to consolidate until they, too, are too big to fail. As a result, risk would be concentrated even more so in a few hands that the failure of one company can threaten to bring down the entire financial system. In place of this created system under the Dodd legislation, a system that protects large companies more than all others, our amendment would create a fair and equal system for the failure of all financial institutions, regardless of their size. As a result, financial institutions would have no incentives to become larger, and thereby increasing the risk that one company's failure will cause the failure of the entire financial sector.

There is one critical aspect of the bankruptcy process that we can't overlook and cannot be overstated. When people loan money to or buy stock or buy bonds in a corporation, or otherwise provide credit, they have an expectation that if that company fails to prosper and is unable to pay all the debts the company owes, that the company at least will be hauled into bankruptcy court, and they will have an opportunity to present their claims and to receive whatever fair proportion of the money that is still left in the company as their payment.

It may be 10 cents on a dollar, or it may be 90 cents. They understand that bankruptcy judges have the authority to allow the company to continue to operate, to stay or stop people from filing lawsuits against the company to collect debts, to allow the company a period of time to operate, to evaluate whether they can pay off more debtors by continuing to operate than shutting the company down. If a bankruptcy court sees the company is so badly in financial crisis that it is going to collapse anyway, the court can shut it down immediately before they can waste assets and rip off even more people. That is what a bankruptcy court does every day.

The Judicial Conference letter I referred to earlier notes that under the resolution process, some other problems might arise. They note this:

The legislation does not envision objection, participation, or input from the bankruptcy creditors (whose rights will be affected) in the course of appointing the FDIC receiver.



It does this in a way unlike the classical way that company officials have to respond when their companies fail. What happens? The creditors all gather. The bankruptcy petition is filed, voluntarily or involuntarily, by the creditors. They are hauled in by a Federal bankruptcy judge who has a 14-year term and specializes in bankruptcy matters. They are required to produce records and documents of the financial condition of the company. The CEO is called in to testify under oath. The bondholders, the stockholders, the creditors, secured and unsecured, the employees, and the workers all get to have lawyers, and they examine the witnesses who can be called. They can call their own witnesses and, in the result, you create a factual record that helps set the groundwork for the orderly priority setting of who is entitled to payment of the limited amount of money in the corporation.

This is what they do every day. This is what ought to happen. Executives prefer not to have to do that. They prefer, like AIG, to go over there and meet with the Federal Reserve, or with the Secretary of the Treasury, and sit down and wheel and deal and get \$70 billion. And nobody is under oath, that I can see. None of this is done publicly, as it is in a bankruptcy proceeding. They get to continue to operate and have their fat salaries, when any other company would be out of there and would cease to exist.

This is the problem that upsets the American people, and they are right to be upset.

We do not need to provide special treatment for the people who created the financial crisis that has damaged this country for the next decade probably, and set off ramifications worldwide. I know a lot of this was systemic irresponsibility by a lot of people, but I have to say, the failure of these executives to manage their companies correctly—there are letters to this. They do not need to be provided a sweetheart process by which they can get money from the Treasury and keep their companies going and not be subjected to the same examination, the same requirement to produce documents and records to justify their existence that average corporations do. They need bankruptcy.

I believe America would be better if we do that. I believe our economy will be stronger and that there will be more certainty in the process. If they fail, they fail. If they loan money to a company that fails, they may lose some or all of it. That is just the way it is. It happens every day.

But some people on Wall Street convinced themselves and they convinced politicians and government officials that they were too big to fail. They were so large and were so important that they could not be treated like ev-

erybody else; they needed to be bailed out. The people who regulated them and the Secretary of the Treasury, a Wall Street maven himself, a Goldman Sachs guy, and others, met in secret and plotted this thing out and got us to pass legislation in Congress that said—my wife corrects me. She said: Quit saying “got us” when you voted against it. I voted against the legislation. Congress passed legislation to allow the Secretary of the Treasury to buy toxic mortgages and assets from bad banks that were in trouble—in a state of panic, if you want to know the truth.

What did they do? Ten days later they bought an insurance company, AIG. They put \$70 billion in it, totally contrary to what we were told just a few days before and without the slightest hint of embarrassment.

The legislation we passed, the \$700 billion TARP bailout, was the greatest abdication of congressional responsibility in the history of this Republic. We have never given one man—the Secretary of the Treasury—the power to deal with his friends and have \$700 billion to deal with. It is an outrage really. That is why people are upset, and they have a right to be upset. I am upset.

All I am saying is, we have a regular process for dissolution of companies that get in trouble. If they cannot pay their bills, they ought to fail like any other company, and the big guys on Wall Street should not be given special treatment. This legislation will end bailouts and will put them in the same process that any corporation in America would be in if they failed to pay their debts in a responsible manner.

I urge my colleagues to consider the amendment. Remember that bankruptcy is a favored process by the Federal Reserve people, that the Judicial Conference of the United States Federal courts has raised questions about this legislation as it presently exists. I think the principled and appropriate way to deal with the dissolution of failed companies is through the bankruptcy process. Unlike orderly liquidation, bankruptcy passes the ultimate test. I urge my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, at some point fairly soon, I hope to be able to—at the request of the authors of the two amendments—propose two amendments I believe will be accepted. In fact, I know they will be accepted on a voice vote. There is some language being worked out. That will come before we adjourn for the evening.

We have also laid down—I believe there will be nine amendments tomorrow, equally divided between the minority and the majority, including the amendment we just heard proposed by

my good friend from Alabama, Senator SESSIONS, along with others. It will be a busy day tomorrow.

Today we have done eight amendments, by the time we are finished, which is a good day's work. Obviously, more needs to be done. Five of them were done by recorded votes and three by voice votes. We hope they will be voice-voted.

I want to take a minute or so, if I may, to express my feelings about the Sessions amendment. First of all, I am joined in these sentiments by the chairman of the Judiciary Committee, Senator LEAHY, who opposes the Sessions amendment as well. Let me explain why I oppose this amendment.

I say this respectfully of Senator SESSIONS, who is a good friend. I noticed in his remarks he did not cite any bankruptcy lawyers opposed to the provisions in the bill. I am not terribly shocked that bankruptcy lawyers would be opposed to a provision in the bill short of bankruptcy, although the presumption is bankruptcy in titles I and II.

If my colleagues remember, it was the Shelby-Dodd amendment which we voted on a week ago—several days ago—that took care of the concerns people had about title I and title II of the bill which deals with the resolution mechanisms. Senators CORKER and WARNER worked very hard on those two provisions of the bill, as other members of the committee did. I want to briefly describe why those provisions are important and why they should remain intact.

Of course, we voted as a Senate 93 to 5 in favor of the Shelby-Dodd amendment, codifying the perfections, as Senator SHELBY described them, in those two titles.

I oppose the Sessions amendment to strike the language creating an orderly liquidation authority, language, as I said, that Senator SHELBY and I crafted together in order to end the too-big-to-fail argument once and for all. Most nonbank financial firms, including large and complex ones, will go through the normal bankruptcy process if they fail, and they should. That is the presumption in the bill.

The new liquidation authority Senator SHELBY and I crafted should be used very rarely. It is a painful process to go through and would certainly not be the avenue of choice given the implications. We have put in some very high hurdles to trigger its use, including judicial review.

Moreover, the advance warning systems that we have included in our bill, and the tough new standards we impose on large financial companies, will put in place speed bumps so these companies slow down and become less risky and, therefore, avoid the very issue of bankruptcy or resolution. Early on we try to minimize those events from occurring.



When there is a financial crisis, however, bankruptcy may not be the best option. The experience of 2008, especially the bankruptcy of Lehman Brothers and its disastrous effects on our financial markets and our economy, has taught us we need a workable alternative to bankruptcy for the largest, most interconnected financial firms and that the alternative could not and should not be a bailout. Given the choices now, it is just bankruptcy or bailout. We tried to create an alternative under rare circumstances for a resolution mechanism.

Throughout 2009, the Banking Committee heard testimony from administration and other financial regulators, experts, stakeholders, and others who all agree the bankruptcy framework is poorly equipped to protect the Nation's financial stability if a very large and complex and interconnected financial firm goes under.

Why do we say that? It can be with a large financial firm that is interconnected there are many good, solid firms—it may be that a large interconnected firm will have an effect on some very solvent, well-run firms. Bankruptcy could bring all of these well-run companies down to their knees. None of us wants to be part of that. So we need an alternative other than just bailing out that firm when confronted with that kind of a choice.

If the only two choices are bankruptcy, which could take a lot of firms and businesses that are solid, well run, well managed, producing jobs, contributing to our economy—that is the alternative. Those firms then would be adversely and, unfortunately, affected through a bankruptcy process or bailout. Of course, no one wants to write a check for \$700 billion again to bail out firms that are failing. The idea of a resolution mechanism under rare circumstances is the alternative choice which we collectively—Democrats and Republicans—after the long work of this committee believed was the alternative in our bill.

The Sessions amendment fails to recognize the fundamental difference between the new liquidation authority and bankruptcy. The new liquidation authority is intended to be an emergency exception to bankruptcy. The presumption, again, is bankruptcy. That is where we begin. But if under these rare circumstances that alternative would do more damage to the overall economy, despite our feelings about a mismanaged company, we need to have an alternative.

The new liquidation authority is intended to be an emergency exception to bankruptcy when necessary to protect the financial stability, the overall stability of the United States, and not to protect irresponsible creditors.

The Sessions amendment, like today's bankruptcy framework, is focused on protecting and repaying credi-

tors of a failed financial firm. It does not provide the tools we need to protect taxpayers from the devastating effects of the next Lehman Brothers. That is why Senator SHELBY and I sought to create a liquidation process that would provide for the orderly wind-down of large, complex financial institutions, while still forcing shareholders to be wiped out, culpable management to be fired, and creditors to bear losses, in addition to a prohibition against those very managers who caused the failure from being involved for years afterwards in the financial services sector of our economy.

That is a rough road—shareholders get wiped out, creditors suffer, management gets fired, and they are banned from being involved in financial services. That is tough medicine if, in fact, they go the resolution route under our bill. But we need to have at least some mechanism other than just the two terrible alternatives of bankruptcy, that could cause broader financial problems, or a bailout. This is why Senator SHELBY and I sought to create this liquidation process.

Any payments under our bill to creditors above liquidation value will be clawed back, and large financial companies will be assessed, as necessary, to ensure that taxpayers do not lose a penny.

You may recall the debate we had about prepayment or postpayment. We had originally, at the suggestion of my Republican colleagues, a \$50 billion upfront assessment on large institutions. Then there was a change of heart by many, and they said: No, you cannot have that out there because that looks like you are providing for a resolution mechanism rather than bankruptcy; the optics of that do not look good. I was never overly committed to that idea. The only reason I included it in the further draft of the bill is because I thought it brought Republican support to the legislation.

The irony is, some of the very people who were advocates of it one day changed their minds. So we took it out of the bill.

The thing I wanted to make sure of was that taxpayers would not be exposed. The House-passed legislation has \$150 billion in a prepayment fund. Again, I heard my good friend from Massachusetts, the chairman of the House Financial Services Committee, Barney Frank, say he would like to take it out as well in light of some of the allegations made about the bill. We took that out. I know my colleague from Alabama referenced that and may not have been aware that was one of the provisions in the Shelby-Dodd amendment, to remove that prepayment fund created in the earlier draft of the bill.

Striking the orderly liquidation authority, as the Sessions amendment would, would do just the opposite of

what the amendment's sponsors intend. It would ensure we face a repeat of the unacceptable choices between a disastrous bankruptcy where innocent, solvent, well-run companies could be caught in the vortex and drawn down and destroyed in the process or writing that big check that Americans are furious over. So we created this resolution authority to be used under very rare circumstances.

The Senate, of course, supported our proposal, the Shelby-Dodd approach, by a vote of 93 to 5. I urge my colleagues, both Democrats and Republicans, to reaffirm their support for ending the too-big-to-fail concept by rejecting the Sessions amendment.

I say that respectfully of my colleague of Alabama. He has been a long-standing member of the Judiciary Committee. He knows these issues well. And I understand his concerns. But I believe as Senator LEAHY will speak to, either directly or indirectly, this would do great damage to this bill and expose us once again to that taxpayer bailout, which none of us wants whatsoever. Because if bankruptcy would cause greater harm for our economy than the failure of one company, then what are we left with if we reject that idea and we are back to the bailout scenario? None of us wants to be in that situation ever again.

I urge, when the vote occurs tomorrow, that we reject the Sessions amendment. Stick with what we have written in this bill—which occurred over many months, by the way. This was not drafted over a weekend, I can tell you that. We have gone back literally months trying to get this right and listen to literally hundreds of people who brought their expertise and knowledge of this process to the table. It was purely a bipartisan effort in our committee, along with others, to craft the first two titles of our bill.

I urge, again, the rejection of the Sessions amendment when it occurs.

AMENDMENTS NOS. 3989 AND 3991

Mr. President, I ask unanimous consent that the Durbin and Franken amendments be considered withdrawn, and that the Durbin amendment No. 3989 and the Franken amendment No. 3991 be considered called up in their place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

(Purpose: To ensure that the fees that small businesses and other entities are charged for accepting debit cards and reasonable and proportional to the costs incurred, and to limit payment card networks from imposing anti-competitive restrictions on small businesses and other entities that accept payment cards)

At the end of subtitle G of title X, add the following:

**SEC. 1077. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.**

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) by redesignating sections 920 and 921 as sections 921 and 922, respectively; and

(2) by inserting after section 919 the following:

**"SEC. 920. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.**

**"(a) REASONABLE INTERCHANGE TRANSACTION FEES FOR ELECTRONIC DEBIT TRANSACTIONS.—**

**"(1) REGULATORY AUTHORITY.—**The Board shall have authority to establish rules, pursuant to section 553 of title 5, United States Code, regarding any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction.

**"(2) REASONABLE FEES.—**The amount of any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction shall be reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

**"(3) RULEMAKING REQUIRED.—**The Board shall issue final rules, not later than 9 months after the date of enactment of the Consumer Financial Protection Act of 2010, to establish standards for assessing whether the amount of any interchange transaction fee described in paragraph (2) is reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

**"(4) CONSIDERATIONS.—**In issuing rules required by this section, the Board shall—

**"(A)** consider the functional similarity between—

**"(i)** electronic debit transactions; and

**"(ii)** checking transactions that are required within the Federal Reserve bank system to clear at par;

**"(B)** distinguish between—

**"(i)** the actual incremental cost incurred by an issuer or payment card network for the role of the issuer or the payment card network in the authorization, clearance, or settlement of a particular electronic debit transaction, which cost shall be considered under paragraph (2); and

**"(ii)** other costs incurred by an issuer or payment card network which are not specific to a particular electronic debit transaction, which costs shall not be considered under paragraph (2); and

**"(C)** consult, as appropriate, with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Administrator of the Small Business Administration, and the Director of the Bureau of Consumer Financial Protection.

**"(5) EXEMPTION FOR SMALL ISSUERS.—**This subsection shall not apply to issuers that, together with affiliates, have assets of less than \$10,000,000,000, and the Board shall exempt such issuers from rules issued under paragraph (3).

**"(6) EFFECTIVE DATE.—**Paragraph (2) shall become effective 12 months after the date of enactment of the Consumer Financial Protection Act of 2010.

**"(b) LIMITATION ON ANTI-COMPETITIVE PAYMENT CARD NETWORK RESTRICTIONS.—**

**"(1) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A COMPETING PAYMENT CARD NETWORK.—**A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment through the use of a

card or device of another payment card network.

**"(2) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A FORM OF PAYMENT.—**A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment by the use of cash, check, debit card, or credit card.

**"(3) NO RESTRICTIONS ON SETTING TRANSACTION MINIMUMS OR MAXIMUMS.—**A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to set a minimum or maximum dollar value for the acceptance by that person of any form of payment.

**"(c) DEFINITIONS.—**For purposes of this section, the following definitions shall apply:

**"(1) DEBIT CARD.—**The term 'debit card'—

**"(A)** means any card, or other payment code or device, issued or approved for use through a payment card network to debit an asset account for the purpose of transferring money between accounts or obtaining goods or services, whether authorization is based on signature, PIN, or other means;

**"(B)** includes general use prepaid cards, as that term is defined in section 915(a)(2)(A) (15 U.S.C. 1693l-1(a)(2)(A)); and

**"(C)** does not include paper checks.

**"(2) CREDIT CARD.—**The term 'credit card' has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

**"(3) DISCOUNT.—**The term 'discount'—

**"(A)** means a reduction made from the price that customers are informed is the regular price; and

**"(B)** does not include any means of increasing the price that customers are informed is the regular price.

**"(4) ELECTRONIC DEBIT TRANSACTION.—**The term 'electronic debit transaction' means a transaction in which a person uses a debit card to debit an asset account.

**"(5) INTERCHANGE TRANSACTION FEE.—**The term 'interchange transaction fee' means any fee established by a payment card network that has been established for the purpose of compensating an issuer or payment card network for its involvement in an electronic debit transaction.

**"(6) ISSUER.—**The term 'issuer' means any person who issues a debit card, or the agent of such person with respect to such card.

**"(7) PAYMENT CARD NETWORK.—**The term 'payment card network' means an entity that directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct transaction authorization, clearance, and settlement, and that a person uses in order to accept as a form of payment a brand of debit card, credit card or other device that may be used to carry out debit or credit transactions."

AMENDMENT NO. 3991

(Purpose: To instruct the Securities and Exchange Commission to establish a self-regulatory organization to assign credit ratings to provide initial credit ratings)

(The amendment is printed in today's RECORD under "Text of Amendments.")

AMENDMENTS NOS. 3956 AND 3992, AS MODIFIED

Mr. DODD. Mr. President, I ask unanimous consent that the Senate now resume consideration of the Landrieu

amendment No. 3956 and the Crapo amendment No. 3992; that the Landrieu amendment be agreed to and the motion to reconsider be laid upon the table; that the Crapo amendment, No. 3992, be modified with the changes at the desk; that the amendment, as modified, be considered and agreed to, and the motion to reconsider be made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. (3956) was agreed to.

The amendment (No. 3992), as modified, was agreed to, as follows:

(Purpose: To provide for credit risk retention requirements for commercial mortgages)

On page 1047, strike line 23 and all that follows through "(E)" on line 24 and insert the following:

**"(E)** with respect to a commercial mortgage, specify the permissible types, forms, and amounts of risk retention that would meet the requirements of subparagraph (B), such as—

**"(i)** retention of a specified amount or percentage of the total credit risk of the asset;

**"(ii)** retention of the first-loss position by a third-party purchaser that specifically negotiates for the purchase of such first-loss position and provides due diligence on all individual assets in the pool before the issuance of the asset-backed securities;

**"(iii)** a determination by a Federal banking agency or the Commission that the underwriting standards and controls for the asset are adequate; and

**"(iv)** provision of adequate representations and warranties and related enforcement mechanisms; and

**"(F)**

Mr. DODD. Mr. President, again, I want to take a moment and express my gratitude to my colleagues. I want to thank Senator LANDRIEU. She was involved in a lot of this, so I want to thank her immensely for her contribution. She chairs the Small Business Committee of the Senate and she and my very good friend from Georgia, JOHNNY ISAKSON, crafted a very good amendment, which we just adopted. It is going to make our whole section dealing with underwriting a very important part of this bill, and I thank them for that.

I want to thank Senator MIKE CRAPO from Idaho, my colleague on the Banking Committee. He made a very constructive suggestion to this part of the bill. I want to thank his staff as well and the staff of Senator LANDRIEU, who did a very good job in working through the language this afternoon that allowed us to come to this conclusion. They both couldn't be here at this particular moment, late in the evening, so I am speaking on their behalves, but I thank them both.

Again, this is exactly what we are trying to achieve in this bill—which I know is taking a lot of time on the floor of the Senate—with the contributions of Republicans and Democrats—people such as JOHNNY ISAKSON and MIKE CRAPO, OLYMPIA SNOWE, SUSAN COLLINS, and so many others who have

contributed to this product. We are dealing with a very complex area but a critically needed one for our Nation.

We are getting closer and closer to final passage of this bill. We have more amendments to consider, but my hope is that in the next few days we can wrap up the remaining amendments and have our opportunity to vote—to debate on these matters and then get to the point where we can cast our ballots in favor of what I hope will be an overwhelming vote in favor of financial reform in this legislation.

Tomorrow, as I mentioned earlier, there will be some nine amendments, at least, that we have set up for debate. I will be looking for time agreements on them. For those who may be listening at this late hour in their respective offices, I would urge them to work with us on time agreements, if they want a decent amount of time, but please do not ask for exaggerated amounts of time. There are still many more amendments to consider.

We are going to be here on Friday. We won't have votes on Friday, but I will want to get to all these matters. There will be amendments voted on tomorrow, and additional amendments before we finish tomorrow evening, and then on Friday I will be here to listen to debate, maybe lay down a remaining amendment to be considered on Monday when we come back.

My hope is that by Tuesday, no later than Tuesday—at the max maybe Wednesday—we could have final passage on this bill. I know there are other matters the majority leader wants to handle, and I can't thank him enough for providing the kind of window that has allowed this Senate to operate without tabling motions. We have only had one. We haven't had any second-degree amendments on any amendment so far, and no filibusters involved at all on a very major piece of legislation.

As I said earlier today, all of us at one time or another talk to students in our respective States, and they ask us about how the Senate functions, and we usually describe exactly what has happened. The unfortunate part is that it rarely does happen in this way. We are not done yet, so I realize we have not completed the process. But this is how this institution was intended to operate. People have a right to offer their amendments, to be heard, to debate them, and then to vote on critical issues facing our country. I never thought a few weeks ago we might actually get to this point where we are engaging in the business of the Senate, offering amendments, debating them, trying to modify where we can to agree on how best to do this.

There are 100 of us here trying to craft a piece of legislation that affects 300 million of our fellow citizens in this Nation, not to mention others beyond our own shores because we are setting

rules by which we are going to operate. My hope is that these rules will be harmonized with others around the world so we can avoid the kind of catastrophes occurring in Europe as I speak here, as well as the problems that have emerged in the Asian markets and elsewhere. So this is more than just an ordinary undertaking.

Yesterday, in speaking to the Chairman of the Federal Reserve Board, he notified me during one of our debates that the central bankers of Europe, because of the availability of technology, were literally watching and monitoring the debate here on the floor of the Senate about a critical issue as it was occurring. That is how the world has changed. Today, the actions we take here not only affect what happens in our own country but elsewhere as well. This is a major undertaking, and I can't begin to express my gratitude to my fellow colleagues for the manner in which they have conducted this debate.

My thanks to majority leader HARRY REID in particular. Only through the majority leader can you create an environment that allows this to happen. That is the leadership that HARRY REID has demonstrated over and over and over again in his stewardship as the majority leader of this body. Again, with all the other things he has to grapple with and deal with—many other issues to confront here—this is the kind of leadership the American people expect to see, and he is providing it for our country.

Again, I thank as well my colleague from Alabama, Senator SHELBY, the ranking member, for his work and the staffs' work. Again I thank the floor staff and others in their respective offices.

Mr. President, I ask unanimous consent that the following article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STUDY: DERIVATIVES RULES WOULD COST  
BANKS BILLIONS

Goldman Sachs could lose up to 41 percent of its earnings if Congress approves tighter regulation of the derivatives market, according to an analysis by Bernstein Research. That's equivalent to wiping away \$3.9 billion in Goldman's earnings this year if the stricter regulations were in effect for the entire 12 months, according to a subsequent analysis of the numbers by DealBook using Bernstein's 2010 earnings-per-share estimates.

Other major banks, including Citigroup, Morgan Stanley, JPMorgan Chase and Bank of America, would also withstand cuts of billions of dollars in their earnings if the derivatives rules currently being considered by the Senate are put in place.

Estimating how stricter rules on derivatives would affect the bottom line of banks relies on some big assumptions, so Bernstein's estimates should be taken with some caveats. Nevertheless, the assumptions Bernstein makes in its analysis are probably as close to the mark as any, given the lack of disclosure by the banks on their trading activities.

For example, banks do not break down their trading revenue by function—so it is hard to find out what percentage of a bank's trading revenue comes from derivatives trading. Bernstein therefore has to estimate that number, fully knowing that it could fluctuate for each bank. It then estimated the percentage of profit that would be lost under the proposed derivatives regulations.

That required further assumptions, given that the legislation is pending and could be changed at any time. The big wild card is how much of the business would be taken public. If the bids and asks for over-the-counter derivatives transactions are forced into the open, the spreads that the banks make brokering the deals will fall. Estimating how much they will fall is difficult.

In performing their sensitivity analysis, Bernstein therefore had two major sliding assumptions: the percentage of trading revenue that each bank derives from derivatives trading and the percentage of that revenue that could be at risk of going away if strict derivatives legislation passes. The impact on the bottom line varies greatly, as some banks are more dependent on trading revenue than others.

Take Goldman Sachs. If the bank derives 30 percent of its trading revenue from derivatives and 50 percent of that amount is at risk of going away, the firm's total earnings would fall by 15 percent. That would be a \$1.43 billion hit to the \$9.53 billion that Bernstein estimates the bank will earn in 2010. Bernstein's worst-case scenario was if Goldman derived 60 percent of its revenue from derivatives trading, with 70 percent of that revenue at risk. Goldman would then be facing a 41 percent decline in its earnings, equivalent to a \$3.9 billion hit to its earnings if calculated using 2010 estimates.

JPMorgan is a distant second. If it derives 30 percent of its trading revenue from derivatives and 50 percent of that revenue is at risk of going away, the firm's earnings would fall by 7 percent. That is equal to an \$890 million hit to its 2010 estimated earnings of \$12.74 billion. The worst-case scenario, using the same assumptions for Goldman, would cause a 14 percent hit to earnings, equivalent to a \$1.78 billion reduction of its 2010 estimated earnings.

In a conference call with investors this month, Jamie Dimon, JPMorgan's chief executive, estimated that the proposed derivatives regulations could cost the bank several hundred million dollars to \$2 billion in lost revenue. Given that the profit margin is high on derivatives trading, Bernstein's estimates seem to be somewhat on the mark.

Meanwhile, Morgan Stanley could have a 9 percent hit to its earnings if 30 percent of its trading revenue comes from derivatives and 50 percent of that revenue was at risk. Bernstein's worst case shows the bank losing 25 percent of its earnings, or \$1.1 billion, based on 2010 estimates.

Citigroup and Bank of America would not be affected as significantly the other banks, because they derive a smaller proportion of their revenue from trading. Citi would see a 5 percent drop in the baseline scenario and a 15 percent drop in the worst-case scenario, equivalent to a \$1.7 billion reduction in earnings, according to 2010 estimates.

Bank of America would take a 4 percent hit in the baseline scenario and an 11 percent hit in the worst-case scenario, equivalent to a \$1 billion earnings reduction, according to 2010 estimates.

Mr. LEAHY. Mr. President, the Senate is engaging in a vigorous debate

over how best to bring corporate accountability to Wall Street. The Senate's consideration of this legislation is a significant step toward accomplishing that goal, and will ultimately ensure that we do not fall victim to those same pitfalls and corporate abuses that led to the recent financial disaster.

As we bring accountability through the Wall Street Reform bill, we must preserve the role of the antitrust laws to promote competition and transparency in the industry. Our Nation's antitrust laws exist to protect consumers, and we must ensure they apply fully to Wall Street. There is simply no reason to risk exempting any industry from laws that prohibit price fixing and anticompetitive behavior.

In other sectors, we have seen the problems that result from a lack of adequate antitrust oversight. The insurance industry, which enjoys a statutory exemption from the antitrust laws, is characterized by high levels of market concentration throughout the country. Millions of Americans suffer the consequences through unaffordably high health care costs, which may not reflect the price that would be set through true competition. For the past three Congresses, I have worked to repeal this six-decade-old exemption from the Federal antitrust laws. There is no justification for it, and I have urged the Senate to take up quickly and pass legislation that passed the House with an overwhelming bipartisan majority.

Statutory antitrust exemptions are rare because, as a general rule, when the antitrust laws are supplanted, competition, and therefore consumers, are harmed. Unfortunately, while I have been working in Congress to repeal unwarranted, special interest exemptions, an activist Supreme Court has been reading new exemptions into statutes where they do not exist. In *Credit Suisse v. Billing*, the Supreme Court created antitrust loopholes in securities law by holding that Congress implicitly exempted the antitrust laws. This Court-made exemption took away an important tool consumers had to hold Wall Street accountable for anticompetitive behavior. It is hard enough to bring back competition by repealing explicit exemptions, but now we must be attentive to those loopholes Congress never intended, as well.

In the wake of the *Credit Suisse* decision, we need to be vigilant when we enact comprehensive legislation such as Wall Street reform, to ensure there is no ambiguity that could prevent the antitrust laws from applying. When courts will read any silence on the part of Congress to imply an antitrust exemption, we need to be especially careful in how we craft our laws. Hardworking Americans demand this from their lawmakers.

To ensure there is no doubt about the role of the antitrust laws in this Wall

Street reform bill, I am urging the Senate to include several antitrust protections in the Wall Street reform bill that the Senate is considering. First, the bill should include a comprehensive antitrust savings clause. Second, the bill should maintain Hart-Scott-Rodino antitrust merger review for those large financial acquisitions that are now subject to comprehensive Federal Reserve approval. Third, we should make explicit that the antitrust laws apply to those "bridge" acquisitions of failed firms that will be subject to an expedited emergency review. Finally, we need to preserve adequate competition safeguards in the derivatives exchange market.

These provisions to protect competition and consumers should be included in the final version of the Wall Street reform legislation that I hope the Senate will soon pass. Collectively, these provisions will ensure that antitrust authorities have a vital role in Wall Street oversight for years to come. For too long, large corporate interests have harmed the financial well-being of hardworking Americans. These financial institutions must be regulated, and including these antitrust provisions will ensure courts will not misread the intent of Congress and infer that the activity of Wall Street is exempted from the laws of competition.

Today, I also renew my call for the Senate to take up and pass my amendment to repeal the antitrust exemption for health insurance companies. I hope all Senators will join me in supporting that amendment.

#### EXECUTIVE SESSION

##### NOMINATION DISCHARGED

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to executive session and the Rules Committee be discharged from further consideration of PN1488, the nomination of Stephen Ayers to be Architect of the Capitol; and the Senate then proceed to the nomination; that the nomination be confirmed and the motion to reconsider be considered made and laid upon the table, and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

Stephen T. Ayers, of Maryland, to be Architect of the Capitol for the term of ten years, vice Alan M. Hantman, resigned.

Mr. DODD. Mr. President, let me add congratulations to Mr. Ayers. It is a very important job.

#### EXECUTIVE CALENDAR

Mr. DODD. Mr. President, I ask unanimous consent that the Senate consider

Calendar Nos. 887, 888, 889, and 890; that the nominations be confirmed en bloc, and the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

##### DEPARTMENT OF JUSTICE

Parker Loren Carl, of Kentucky, to be United States Marshal for the Eastern District of Kentucky for the term of four years.

Gerald Sidney Holt, of Virginia, to be United States Marshal for the Western District of Virginia for the term of four years.

Robert R. Almonte, of Texas, to be United States Marshal for the Western District of Texas for the term of four years.

Jerry E. Martin, of Tennessee, to be United States Attorney for the Middle District of Tennessee for the term of four years.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

#### MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MARIACHI CONFERENCE AND FESTIVAL

Mr. REID. Mr. President, I rise today in celebration of the Clark County School District's Seventh Annual International Mariachi Conference and Festival. This event promotes cultural awareness, positive citizenry and encourages students in the Las Vegas community to succeed academically via the performance of mariachi music.

The Clark County School District's Secondary Mariachi Education Program provides an annual 3-day Mariachi Conference and Festival where students from across the school district participate in 2 days of music and dance workshops taught by renowned, professional clinicians/performers of the mariachi and ballet folklórico art forms. In this setting, students learn and perform a variety of musical pieces that demonstrate the highest level of musicianship and performance possible for their level of experience. The Mariachi Conference and Festival culminates in a professional concert production in which all student participants display their musical talents and newly-acquired skills to an audience of

proud parents, school district personnel, and at-large community members. Participation in this program is something to be proud of and I congratulate all who are instrumental in the development of this local initiative.

In 2002, the Clark County School District recruited Jesus Javier Trujillo to establish the Mariachi Education Program as a means to provide a creative and effective alternative for students to remain engaged in their schools. I salute Jesus Javier Trujillo for his visionary efforts in enabling the growth of such a dynamic program in Nevada. I also would like to thank and congratulate trustee Larry Mason, the board of school trustees, all administrators, teachers, and students for their continued commitment to this program.

As the State grapples with high levels of dropout rates, projects like the Mariachi Program provide creative alternatives for students to remain engaged in schools. This is why I have long supported this program. The Mariachi Education Program has grown exponentially and has drawn national acclaim. Both instructors and students alike have been selected to participate in top-level mariachi conferences in New Mexico, Arizona and California. Aside from their musical talent, they have played a vital role in the formation of the National Mariachi Task Force and have partnered with the Gastellum Foundation to award aspiring young mariachi performers with academic scholarships to college. I extend my best wishes to the future of the Mariachi Program.

#### DISCLOSE ACT

Mr. SCHUMER. Mr. President, I rise today in support of S. 3295, the DISCLOSE Act. I am happy to be joined by several of my colleagues, all of whom were essential in putting this bill together: Senators FEINGOLD, WYDEN, BAYH, FRANKEN, AND BENNET. We come to the floor today with a clear and powerful statement: the DISCLOSE Act will provide much-needed transparency to our political process in light of Citizens United, and will allow the public to know who really is behind the political messages they see on TV or hear on the radio. The DISCLOSE Act will follow the Supreme Court's advice and make disclosure and disclaimers the cornerstone of our reform efforts and will apply equally to all corporations, unions, trade associations, social welfare organizations and section 527 groups. It is intended to encourage political participation by creating an educated electorate. Further, the DISCLOSE Act will not chill speech or political participation, it will enrich it.

On April 30, 2010, 37 colleagues and I introduced the DISCLOSE Act, Democ-

racy Is Strengthened by Casting Light On Spending in Elections, S. 3295, to respond to the Supreme Court decision in Citizens United v. FEC. The purpose of this legislation is to provide the American public with information on who is speaking when political advertisements and expenditures are made and to prevent them from being misled by organizations attempting to disguise their identities through the use of shadow groups. I want to reiterate that this act is in no way meant to deter political speech or spending, only to provide information so that the public is empowered to make informed decisions. Additionally, the disclosure and disclaimer provisions in the act apply equally to corporations, unions, and groups organized under sections 501(c)(4), (c)(5), (c)(6), and 527 of the Tax Code. We play no favorites.

In writing the majority opinion for the Court in its January decision, Justice Kennedy was very clear in articulating the Court's support for disclosure. He said, "[t]he First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages." Kennedy also stated that "disclaimers avoid confusion by making it clear that the ads are not funded by a candidate or political party." In fact, eight of the nine Justices agreed that disclosure and disclaimer provisions were necessary, and in the public's interest, to provide this information. The Court's decision opened the door to allow certain corporate spending in elections that was previously disallowed. In line with the Court's support for disclosure and disclaimer provisions, we have introduced the DISCLOSE Act and designed it to strengthen the Court's stated protections so that the public knows who is speaking and sponsoring these newly permitted messages.

This legislation would provide the following increased protections for the American people. It will ensure that they have full and timely disclosure of campaign-related expenditures by corporations, labor unions, social welfare organizations, trade associations and 527 groups. It requires these covered organizations to report expenditures to the Federal Election Commission within 24 hours if the expenditure is \$1,000 or greater within 20 days of an election and \$10,000 or greater before that date. It will then require the organization to post this information on its own Web site 24 hours after reporting and to send the information to its shareholders or members in any periodic or annual reports. This Internet publication requirement and more rapid reporting helps implement the Court's opinion that "prompt disclosure of ex-

pensitures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters."

It will also require enhanced reporting to the FEC by those covered organizations, requiring those that spend more than \$10,000 per year on campaign-related expenditures to either disclose all of their donors that have given over \$1,000 or to create a campaign-related activity account for exclusive use in making these expenditures. If this account is created, the organization will only need to disclose those donors that have donated over \$10,000 in unrestricted funds or over \$1,000 in funds specifically designated for campaign-related expenditures.

This legislation will also require those organizations that make transfers to other organizations for the purpose of making campaign-related expenditures to report those transfers in order to drill down so that the public truly knows where the money being spent is coming from. It will also allow donors to covered organizations to designate that their donations will not be used for campaign-related activity. If a donor makes this designation, the organization must then certify to the FEC that it will not use the donation in this manner. These requirements force organizations making these expenditures to be aware of the persons whose money they are spending on campaigns.

Our intent is not to seek the names of dues-paying members. Nor do we want to dissuade prospective members or donors from supporting a particular cause or organization. First, as outlined above, we believe that setting up and utilizing a campaign-related activity account will shield any organization from having to disclose any donor that does not want to have his or her funds go to political purposes. Second, creating the option for a donor to affirmatively designate that the donation should not be used for political spending will provide a mechanism to keep this donation walled-off from disclosure or disclaimers. Third, even if a group decides to transfer money from its general treasury to the campaign-related activity account, thus triggering disclosure of its general treasury, we believe the \$10,000 threshold will exclude dues-paying members or your average donor who would not want to be disclosed.

This legislation also institutes several enhanced disclaimer provisions for political ads to ensure that the public knows who is sponsoring them. Current regulations require candidates sponsoring ads to stand by their ads and notify the public that they approve the message. Our language extends this requirement to the newly empowered organizations to make the public aware that it is not a candidate or party

speaking, in line with Justice Kennedy's language in the decision. Additionally, it requires the top funder of an advertisement to record a similar disclaimer, and a list of the top five donors to be visible on the screen.

Stand-by-your-ad requirements are constitutional and essential. Further, we believe that it would take 8 seconds to read the two disclaimers, and not half of an advertisement as some opponents misleadingly suggest. For those advertisements that are 15 seconds, the act provides for a hardship exemption.

We have instituted all of these additional requirements in order to bring more awareness to the public. I believe that it is completely in the American peoples interest to know who is speaking about candidates, and the Supreme Court agrees. This is not about preventing speech or making speech more difficult, it is solely about making the public aware of who the speakers are. This is fully consistent with the Constitution. There is no reason that any group would decline to spend unless it was attempting to deceive the American public by speaking without identifying who it is. This bill drills down and follows the money so that any organizations attempting to disguise their activities through shadow groups are not allowed to mislead the public. It brings everyones political speech into the sunlight.

I now yield for Senator FEINGOLD, a leader and true champion of reform and transparency.

Mr. FEINGOLD. Mr. President, I appreciate the Senator from New York bringing us together to discuss the DISCLOSE Act, S. 3295, which he introduced last week and which I am proud to cosponsor.

As the name suggests, the central goal of this bill is disclosure. It aims to make sure that when faced with a barrage of election-related advertising funded by corporations, which the Supreme Court's decision in the Citizens United case has made possible, the American people have the information they need to understand who is really behind those ads. That information is essential to being able to thoughtfully exercise the most important right in a democracy—the right to vote.

It is no secret that the Senator SCHUMER and I, and all of the original cosponsors of the bill, were deeply disappointed by the Citizens United decision. We reject the Court's theory that the first amendment rights of corporations, which can't vote or hold elected office, are equivalent to those of citizens. And we believe that the decision will harm our democracy. I, for one, very much hope that the Supreme Court will one day realize the mistake it made and overturn it.

But the Supreme Court made the decision and we in the Senate, along with the country, have to live with it. The intent of the DISCLOSE Act is not to

try to overturn that decision or challenge it. It is to address the consequences of the decision within the confines of the Court's holdings. Congress has a responsibility to survey the wreckage left or threatened by the Supreme Court's ruling and do whatever it can constitutionally to repair that damage or try to prevent it.

In *Citizens United*, the Court ruled that corporations could not constitutionally be prohibited from engaging in campaign related speech. But, with only one dissenting Justice, the Court also specifically upheld applying disclosure requirements to corporations. The Court stated:

[P]rompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profits, and citizens can see whether elected officials are "in the pocket" of so-called moneyed interests.

The Court also explained that disclosure is very much consistent with free speech:

The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.

The Court also made clear that corporate advertisers can be required to include disclaimers to identify themselves in their ads. It specifically reaffirmed the part of the *McConnell v. FEC* decision that held that such requirements are constitutional.

The DISCLOSE Act simply builds on disclosure and disclaimer requirements that are already in the law and that the Court has said do not violate the first amendment. Notwithstanding the Court's strong endorsement of disclosure and the fact that for years opponents of campaign finance reform have claimed that timely and exacting disclosure requirements are preferable to other campaign finance restrictions, we are already hearing claims that this bill violates the first amendment. Let me take a minute to address some of the criticisms of this bill that have been made.

First, there is the claim that the disclosure requirements are intended to chill political expression. It is, of course, entirely possible that some organizations will decide not to run ads if they have to identify who is really footing the bill for them. But if that happens, it is not because the disclosure requirements interfered with their right to speak out, it is because they were not willing to provide the information that the Supreme Court has said "enables the electorate to make informed decisions and give proper weight to different speakers and messages." Candidates disclose their do-

nors. There is no reason for those who want to elect or defeat those candidates not to disclose theirs. We do not intend to chill speech with this bill. We intend to make it easier for the public to evaluate that speech.

Second, some claim that the requirements of the DISCLOSE Act are too burdensome, and the expense will prevent some groups from speaking. This seems highly unlikely in light of the already high cost of campaign advertising. Surely any group that is able to spend the kind of money it takes to run television ads attacking or promoting a candidate will have the resources to make sure that the American people have the information they need to evaluate those ads.

Third, the bill is criticized because it requires additional reporting of corporations that spend money directly from their treasuries rather than setting up a campaign related activity account. But this is the wrong way to look at the bill. The *Citizens United* decision allows spending directly from corporate treasuries. That's the default way of doing it, and the bill sets up a disclosure system that will ensure that adequate information about the real sources of the spending is made available to the public. It then sets up an alternative format for disclosure that a corporation can choose to take advantage of if it agrees to spend money on campaign spending only from a separate account. That promise to spend only from the campaign related activities account makes the more comprehensive disclosure of contributions to the treasury unnecessary. And it should always be remembered that any donor to a corporation or organization who wants to remain anonymous need only specify that the contribution cannot be used for campaign spending. These features of the bill show that it is narrowly tailored, not that it is discriminatory.

It is also very important to note that the bill applies equally to groups on both sides of the political fence. Corporations, unions, groups on the left and the right, will all have to disclose their spending and their donors if they want to spend treasury money on political ads. This bill doesn't discriminate against anyone. It treats all political actors equally. Any argument that the bill favors unions or other organizations that mostly support Democrats is simply wrong. I have a long history of bipartisan work on campaign finance issues. I am not interested in legislation that has a partisan effect. This bill is fair and evenhanded. It deserves the support of Senators on both sides of the aisle.

Most of the complaints about the bill come from interests that want to take advantage of one part of the *Citizens United* decision—the part that allows corporate spending on elections for the first time in over 100 years—and at the



same time pretend that the other part of the decision—the part upholding disclosure requirements—doesn't exist. But the law doesn't work that way. As the old saying goes, "you can't have your cake and eat it too."

Once again, I very much appreciate the leadership of the Senator from New York and look forward to working with him and all my colleagues to pass this bill. I now yield for the Senator from Oregon, Mr. WYDEN.

Mr. WYDEN. Mr. President, I thank my colleague for yielding. Like Senator FEINGOLD, I am an original cosponsor of the DISCLOSE Act, and would like to address the "stand by your ad" disclosure provision of that bill and the recent Citizens United Supreme Court ruling.

The Citizens United opinion was a reckless ruling that overturned decades of precedent and threatens the health of the democratic process. Citizens United laid down, for the first time, a sweeping new right for special interests of all types. It said that money is speech and corporations must have free speech. This directly overturns the position taken in the Supreme Court's *Austin v. Michigan Chamber of Commerce* opinion, which recognized the "corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas." But now, the Court says that if individuals have the freedom to express themselves politically, then corporations, as well as unions and other special interests, should have the same rights as living, breathing human beings.

The DISCLOSE Act offers a significant step in countering this ill-conceived opinion. Although the full reach of Citizens United cannot be undone short of a constitutional amendment or reversal by the Supreme Court, the DISCLOSE Act would achieve important accountability within the bounds of the Court's ruling. In fact, even while a divided court was striking down common sense limits on corporations, a nearly unanimous court upheld disclosure requirements. Disclosure imposes "no ceiling on campaign-related activities." They said, "disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."

But current disclosure laws were written for a time when corporations couldn't flood the airwaves with commercials and drown out the voices of individuals. Those laws need to be updated to mount a forceful response to this new reality. With those floodgates open, the DISCLOSE Act isn't just the smart thing to do—it is essential and it is constitutional.

Citizens United is a decision that is deeply unpopular with the American people—and for very good reason. The ruling unleashes a flood of new money into an election system already awash with too much money, too many special interests, and not enough accountability.

In February, a Washington Post-ABC News poll revealed that large majorities across the political spectrum opposed the decision. Eighty percent of respondents disagreed with Citizens United, with 65 percent "strongly opposed." Even more remarkable, this number barely varied between Democrats, Republicans, and Independents. Regardless of age, race, education, or income, Americans disagree with this decision, and large majorities want Congress to take action to resist corporate influence of elections.

As part of the McCain-Feingold law, I worked with Senator COLLINS to make politicians stand by their ads, and now the DISCLOSE Act seeks to make corporations fulfill their civic responsibility in exactly the same way. Also, the bill would make sure that CEOs can't hide behind a trade association, or a shell company. In addition to a CEO disclaimer appearing in an ad, the DISCLOSE Act requires the top five funders behind an ad to be disclosed.

The bill would also make sure that TARP recipients and government contractors are not allowed to use essentially public money to influence elections. Finally, the bill would prevent foreigners from buying ads to influence the outcome of U.S. elections. The DISCLOSE Act seeks to protect the integrity of elections and to ensure that the American people have full knowledge about the messages that are delivered as part of political campaigns.

Contrary to critics' arguments, the DISCLOSE Act doesn't chill speech. In fact, it encourages the flow of information. Speak your mind, but let the public know who's doing the speaking. The marketplace of ideas is open, but like any marketplace, it only functions if everyone has the appropriate information. Without transparency, markets fail. In large part, it was a lack of transparency that allowed shady Wall Street deals to be perpetrated by Goldman Sachs and others at the expense of average shareholders and bond purchasers.

Without the DISCLOSE Act, there would be nothing to stop Wall Street firms from secretly funding a torrent of ads attacking the legislators and candidates working to bring accountability to Wall Street. These firms could covertly funnel money to a shell company or a trade association, with no way for consumers to know who was really behind those messages. Or, to use another example, BP could spend millions of dollars attacking members of Congress who pushed for stiffer laws on oil exploration and clean-ups, without revealing the source of the funding.

This is not idle speculation. It is an absolute certainty that special interests across the country will take full advantage of the opportunity that Citizens United affords them to spend freely on elections without disclosing their true identities. The only way to maintain a free and open democracy is to close that loophole. The American people are thoughtful and intelligent. If they know what special interest is behind a barrage of commercials before an election, they will understand the agenda and can evaluate the message accordingly.

The DISCLOSE Act will shed sunlight on all the new money entering our politics, and sunlight truly is the best disinfectant. I strongly urge my colleagues to enable the will of the American people, to ensure that corporations have the same responsibilities as people, and to guarantee that citizens' voices aren't drowned out.

I thank the chair. I yield for Senator BAYH.

Mr. BAYH. Mr. President, I rise today to join my colleagues in support of S. 3295, the Democracy Is Strengthened by Casting Light On Spending in Elections, DISCLOSE, Act. I would like to thank Senators SCHUMER, FEINGOLD, WYDEN, FRANKEN, and BENNET for their hard work in crafting this legislation and their efforts to help protect the integrity of our political process.

I rise today to clarify the intent of our legislation. Opponents of our efforts have asserted that our bill is intended to chill political speech and discourage participation in the electoral process. Nothing could be further from the truth. Our bill is about disclosure and transparency. It is premised on the idea that democracy functions best when citizens are fully informed. We trust the wisdom of the American people and believe that they deserve to know all of the facts.

Throughout my career, I have supported efforts to increase participation in our political process and worked to eliminate barriers that unduly burden the fundamental right vote. That is why I cosponsored legislation to make it easier for military and overseas voters to vote in our elections, opposed Indiana's misguided voter identification requirements, and cosponsored legislation to help prevent the use of deceptive practices and voter intimidation.

I hope that our colleagues on both sides of the aisle will join us in quickly passing this important legislation.

I now yield for my colleague, Senator FRANKEN, who is deeply committed to protecting the first amendment.

Mr. FRANKEN. I thank Senator BAYH. I also speak today in strong support of S. 3295, the Democracy Is Strengthened by Casting Light On Spending in Elections, also known as the DISCLOSE Act. In particular, I want to talk about the provisions in title III that will create much needed



transparency and accountability in our elections system in response to the Citizens United decision. That decision is widely expected to trigger a new flood of campaign-related funds from corporations, unions, trade associations, and nonprofit organizations.

In that ruling, the Supreme Court drastically changed our election laws to allow unlimited corporate election spending from company treasury funds. It did not, unfortunately, require those corporations to disclose—to their shareholders, members, or the American public—either where the money came from or how it was spent.

Title II of this bill makes sure American voters know who is behind the election ads they see. Title III of the bill makes sure that the people that paid for those ads—like shareholders and union members—know how their money was spent.

After Citizens United, massive corporate campaign spending could be funneled through innocent-sounding front organizations like Citizens for the American Dream. That company's shareholders would never realize that the spending occurred or was going to support causes or organizations that they may not support. In short, Citizens United will allow these corporations to avoid accountability for their campaign expenditures from shareholders, voters, and the American public.

That is why title III of the DISCLOSE Act imposes disclosure requirements on all campaign-related contributions made by a corporation, union, or nonprofit—even contributions to another organization. Under title III, whenever one of these organizations makes a campaign expenditure, it will have to disclose that expenditure on that organization's Web site within 24 hours of reporting it to the Federal Elections Commission. It will also have to disclose that expenditure to its shareholders, donors, or members in regular periodic reports.

These disclosure requirements will allow shareholders and citizens alike to make informed decisions about corporate campaign expenditures. As the Supreme Court even noted in its Citizens United decision, "the prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters."

The Supreme Court rightfully noted that if corporations were to be free to make campaign expenditures, shareholders must be able to know where the corporation's money—their money—is going.

Citizens also have a strong interest in knowing which of their elected officials or candidates for office is supported by corporate interests. As the Supreme Court concluded, "[t]he First Amendment protects political speech;

and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way." This necessary transparency—the ability to know who is spending money to influence elections and to respond accordingly—can only be protected through the robust disclosure requirements of title III.

I want to underscore that nothing in title III is an attempt to squelch or limit the court-protected speech of corporations or other organizations. Transparency and accountability are necessary elements of our marketplace of ideas. Citizens in a democracy need to know who is supporting the ideas and causes before them. In Citizens United, the Supreme Court made this point exactly, stating that the transparency created by disclosure regimes "enables the electorate to make informed decisions and give proper weight to different speakers and messages."

I believe that the disclosure requirements in title III will increase political speech because they allow shareholders and citizens to know more about the political process and engage those political actors who would otherwise be unknown.

During the recent hearings on the DISCLOSE Act in the House of Representatives, witnesses testified that the disclosure requirements would be "onerous" for corporations that wish to spend corporate treasury dollars to influence elections. One witness alleged that the disclosure requirements would do little but inconvenience, burden, and silence groups that would otherwise participate. They are saying that this makes the DISCLOSE Act unconstitutional.

How onerous could it possibly be to disclose expenditures on your Web site? If a corporation wanted to spend money in an election, why would a simple reporting requirement stop them in their tracks? This just doesn't make sense to me.

The government chills speech when it imposes penalties or limits on speech that deter people from speaking. But the first amendment isn't violated just because someone doesn't speak for fear of public scrutiny.

Campaign disclosure rules have always had bipartisan support in this Chamber. Full and timely disclosure of campaign expenditures should be an ideal that all of us share, regardless of our disagreements over other areas of campaign finance reform. American voters deserve and need to know who is making campaign expenditures, and shareholders and member of unions, trade associations, and nonprofits deserve and need to know what is being spent on their behalf. Therefore I strongly support the DISCLOSE Act, and title III in particular.

I thank the Chair. I now yield for my friend from Colorado, Senator BENNET.

Mr. BENNET. Mr. President, I rise today in support of the Democracy Is Strengthened by Casting Light on Spending in Elections Act—the DISCLOSE Act. I would first like to thank Senator SCHUMER for his leadership. This legislation is necessary as we work to fix Washington's broken campaign finance system in response to the Supreme Court's decision in Citizen's United v. FEC.

The credibility of our democracy is damaged by the status quo. Because of the dysfunction in our campaign finance system, the voices of special and entrenched interests drown out those of ordinary people. Thousands of lobbyists line the Halls of Congress every day, and their voices get heard. Only strong reform can begin to turn things around.

Campaign finance reform is something Congress has long needed to address. The reforms of the past have proven insufficient and are continually under assault in the courts. The Supreme Court did us no favors with its decision in Citizens United. As a result of the Court's decision, corporations and labor unions can now spend directly from their general treasuries on the election or defeat of a specific Federal candidate through election day. There are no prohibitions on the timing or reach of these independent expenditures so long as they are not coordinated with a campaign. As Justice Stevens wrote in his dissent, "the Court's ruling threatens to undermine the integrity of elected institutions across the nation." I'm with Justice Stevens.

I strongly disagreed with the Supreme Court's decision because it leaves individual Americans with an even smaller voice in our system. This ruling rolled back sensible restrictions on corporate influence that date back decades. It stacked the deck further against the American people by unleashing a flood of special interest money in our Federal elections.

Judicial activists on the bench undid decades of precedent at the expense of our democratic process. Corporations, which after all are not voters and do not have the same role in elections as individual citizens, can now drastically influence the outcomes of our elections. This is unprecedented and represents a threat to our democracy. A floodgate of special interest money has now been opened and we are left to deal with a number of damaging, foreseeable consequences.

Over the long run, I support a constitutional amendment to allow Congress to regulate contributions and expenditures. But this is a very heavy lift in a Senate that has trouble mustering the required 67 votes on anything. We can't wait for a constitutional amendment to materialize. We must act now to fix some of the egregious problems opened up by the Citizens United decision.

If we let the Court's decision stand as is, then even foreign-controlled corporations can use the aggregations of wealth inherent in the corporate form to dominate our elections. While foreign nationals and corporations have always been barred under traditional law from contributing to campaigns or making independent expenditures, their subsidiaries established in the United States are not covered by this new prohibition. A subsidiary controlled by foreign nationals could run ads impacting local elections. Petro China, with an estimated net worth of \$100 billion, could use its profits to purchase ads in congressional races. Saudi Aramco, estimated to be worth \$781 billion, could likewise spend unlimited sums of money on independent expenditures to shape public perception of a candidate.

Further, if we let the Court's decision stand as is, then we are in jeopardy of institutionalizing pay to play politics or at least the appearance of this. Government contractors, whose profits come from taxpayer dollars, will now be able to spend freely to influence elections. We already are struggling to address waste, fraud and abuse in our government contracting. Citizens United will only make necessary reforms more difficult, as government contractors can use taxpayer dollars they receive from government contracts to attack supporters of reform or support those who make it easier to obtain these contracts.

Mostly importantly, the Supreme Court's decision increases the role of money in politics without any way to ensure voters are informed of where this money is coming from. The demands of the money chase already leave out many Americans with a desire to serve. Candidates will no longer just have to raise funds to compete against their opponents, but will also have to compete with independent expenditure campaigns conducted by powerful special interests. This has the potential to influence the positions a candidate takes and perception the public has of the political process. Our elected officials will no longer be able to focus on the big issues of the day for risk of opening the door for an independent expenditure attack waged by a regulated interest.

What is more troubling is that current law provides for insufficient transparency to ensure voters are aware of who is running these independent expenditures. Special interests and their lobbyists, of course, will know who is running these ads since they are going to use them for leverage. Voters will be left in the dark.

We must utilize—to the fullest extent possible—the tools for regulating campaign finance that the Court has provided for in Citizens United and in prior decisions.

I am a proud cosponsor of the DISCLOSE Act because I believe it ad-

resses some of the unintended consequences of Citizens United and emphasizes disclosure requirements, which the Supreme Court has highlighted as “the less-restrictive alternative to more comprehensive speech regulations.” This legislation is our best hope for ensuring voters can make informed decisions and making sure our process isn't corrupted or otherwise cheapened by the Court's new blunt restrictions on our ability to protect the system from outside corrupting influence.

And so the DISCLOSE Act extends the existing prohibition on contributions and expenditures by foreign nationals to domestic corporations where: (1) a foreign national owns 20 percent or more of voting shares in the corporation; (2) a majority of the board of directors are foreign nationals; (3) one or more foreign nationals have the power to direct, dictate or control the decisionmaking of the U.S. subsidiary; or (4) one or more foreign nationals have the power to direct, dictate or control the activities with respect to Federal, State or local elections.

This prohibition is in line with current laws that prohibit foreign nationals from making direct or indirect contributions to campaigns for Federal, State or local elections. Under the law, the definition of “foreign national” exempts any person that is “not an individual and is organized under or created by the laws of the United States or any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States.” The FEC has concluded this exemption includes a U.S. corporation that is a subsidiary of a foreign corporation, so long as the foreign parent does not finance political activities in the United States and no foreign national participates in any decision to make expenditures. The DISCLOSE Act tightens this exemption and clarifies its reach in order to prevent undue foreign influence. This provision makes sure the Court's decision does not leave any possible opening for foreign influence of our elections.

To address the potential for corruption or appearance of corruption by government contractors which can now use their treasuries to influence election results, the DISCLOSE Act bars government contractors from making campaign-related expenditures. Under current law, government contractors are already barred from making contributions to influence Federal elections. If an individual is a sole proprietor of a business with a Federal Government contract, he or she may not make contributions from personal or business funds. The DISCLOSE Act ensures that the intent of current law remains by prohibiting the general treasury funds of government contractors from being used to circumvent current

restrictions. Further, bailout recipients who have not repaid taxpayers cannot make campaign-related expenditures until taxpayer money is repaid. This is in line with the spirit of the government contractor provision since it prevents the potential for corruption and abuse of taxpayer dollars by those who are direct beneficiaries.

In its provisions for regulating foreign corporations and government contractors, the DISCLOSE Act builds on restrictions already in place under the law to make sure that the unintended consequences of Citizens United do not come to fruition. These are necessary fixes.

The most important provisions in the DISCLOSE Act concern increased transparency in our political process. Given the reality that Citizens United has opened the door for unmitigated special interest money, it is important that we make sure voters are aware whose money is being used to influence their opinions.

The DISCLOSE Act expands disclosure requirements under current law by requiring corporations, labor unions and a number of tax exempt organizations to report all donors who have given \$1,000 or more to the organization in a 12-month period if the organization makes independent expenditures or electioneering communications in excess of \$10,000. Further, leaders of corporations, unions and organizations covered are required to stand behind their independent expenditure ads by appearing on camera, as candidates for office are currently required to do. To prevent money from being funneled to shell groups to avoid identification, the top funder of ads must stand by the ad and issue a disclaimer. The top five donors to a campaign-related TV ad will be listed on screen.

Special interests are already attacking this provision as unconstitutional. This is both unfortunate and false. As the Court stated in Citizens United, the “public has an interest in knowing who is speaking about a candidate shortly before an election.” Voters should be able to weigh different speakers and messages accordingly.

Citing the Court's decision in *Buckley v. Valeo*, Justice Kennedy wrote for the majority in Citizens United that “disclaimer and disclosure requirements may burden the ability to speak, but they impose no ceiling on campaign-related activities or prevent anyone from speaking.”

Under this rationale, the Court upheld disclaimer and disclosure requirements under sections 201 and 311 of the Bipartisan Campaign Reform Act of 2002, BCRA, as they applied to the movie that Citizens United produced and the advertisements it planned to run to promote the movie. The Court found the movie and its advertisements amounted to “electioneering communication” under BCRA

and did not find there to be evidence that the disclosure requirements would have a chilling effect on donations by exposing donors to retaliation. Thus, the Court removed the ability of funders for Citizens United to lurk in the shadows while shaping public perspective. There is no doubt that the Court would find a broadening of current disclosure laws and rules that pertain to candidates to be appropriate.

The ability of the public to be informed of their choices in the political marketplace is critical. Misinformation campaigns are already an unfortunate reality of our politics. With the floodgates of special interest money now fully open, the situation will only grow worse. The least we can do is make sure voters can make informed decisions.

Although Citizens United has cast a dark cloud on Washington, Senator SCHUMER is also proving that this deplorable decision also created the impetus for action. The DISCLOSE Act is an opportunity to not only prevent the worst of the unintended and the foreseeable consequences from the Supreme Court's decision, but also improve the information available to voters as they consider candidates and issues. This legislation is a step forward for ensuring that the voices of individual Americans are not drowned out. It is an opportunity to show the public that we will not stand by and allow special interests to continue to overwhelm Washington and the people's business.

I am proud to be joining Senators SCHUMER, FEINGOLD, WYDEN, BAYH and FRANKEN here today in support of the DISCLOSE Act. I ask all our colleagues to join us in cosponsoring this legislation and bringing it to the floor so that we can prevent further decay of our campaign finance system and ensure voters are informed come election day.

#### NATIONAL PEACE OFFICER'S MEMORIAL DAY

Mr. HATCH. Mr. President, this week marks National Police Week and the observance of National Peace Officers Memorial Day. I want to take this opportunity to remember the brave men and women of law enforcement who have made the ultimate sacrifice and gave their lives in the line of duty.

Since the first recorded police death in 1792, there have been nearly 19,000 law enforcement officers killed in the line of duty. On average, one law enforcement officer is killed somewhere in the United States every 53 hours. There are more than 900,000 sworn law enforcement officers now serving in the United States, which is the highest figure ever.

This year, 116 names will be added to the National Law Enforcement Officers Memorial here in Washington, DC. We should remember that there are 116

families who grieve the loss of a loved one who gave their life to protect their community and keep their fellow citizens safe. The sacrifice of those brave officers is the price paid for living in open society where freedoms are guaranteed by our Nation's laws. When those laws are violated, we look to our protectors who wear the badge to answer the call.

During the dedication of the National Law Enforcement Officers Memorial in 1991, President George H.W. Bush said, "Carved on these walls is the story of America, of a continuing quest to preserve both democracy and decency, and to protect a national treasure that we call the American Dream." That is what our dedicated law enforcement professionals do every day. They protect the American dream.

The first recorded law enforcement death in my home State of Utah was in 1853. That was when Salt Lake County deputy Rodney Badger gave his life to try to save a fellow Utahn. Since then, 62 of Utah's finest have made the ultimate sacrifice and given their lives in service to the State of Utah. While there were no police officers killed in 2009, there have already been two members of Utah's law enforcement community who have been killed in the line of duty this year. Their deeds and service will not be forgotten, and my thoughts are with their families. We shall always remember that it is not how these officers died that made them heroes, it was how they lived. That sentiment is embodied in both the Utah and National Law Enforcement Officers Memorials.

The deadliest day in law enforcement history was September 11, 2001, when 72 officers were killed while responding to the terrorist attacks on America. On that day, at the Pentagon, the World Trade Center, and at Shanksville, PA, Americans witnessed firsthand the front line on the war on terror. That was the day when Americans saw courage in the midst of chaos from our brave men and women in law enforcement. Our Nation also recorded deeds of uncommon valor not only from our military, police, and fire personnel, but also from our citizens who sacrificed themselves as patriots for their country. It is that spirit that sets us apart as Americans. It was that spirit of sacrifice on which our Nation was founded. It is our duty to acknowledge and record the sacrifice of those who perished trying to save others.

As the recent event in Times Square has shown us, law enforcement has had to bear the responsibility of not only protecting citizens from crime but also from the violence of extreme beliefs and terrorism. The mission of the law enforcement officer has been transformed over 200 years to include being a crime fighter, problem-solver, counselor, social worker, and now protector of the homeland. As the duties of law

enforcement continue to expand, we recognize that Federal agents, officers, and deputies never shirk the tasks assigned to them. They do it willingly and eagerly accept the challenge.

There are those in Washington who posture, saying "failure is not an option." However, within the law enforcement community, failure is not in their vocabulary. Their steadfast dedication to serve victims, protect the weak, and fight crime motivates them to not accept failure even if it requires making the ultimate sacrifice.

In closing, this week I urge my colleagues to take a moment and think about those who walk the beat, patrol the streets, and watch over us. The men and women of law enforcement stand tall to protect us, our families, and our communities. Law enforcement is often a thankless job and is truly, more often than not, more of a calling than a vocation. It takes a special person to answer that call and choose to provide the blanket of security by enforcing the laws of this great land.

#### FEHBP DEPENDENT COVERAGE EXTENSION ACT

Mr. CARDIN. Mr. President, I rise today to discuss the Federal Employees Health Benefits Program Dependent Coverage Extension Act. This bill will allow Federal employees to benefit immediately from an important provision of the new health care law.

FEHBP is the largest employer-sponsored group health insurance program in the world, covering more than 8 million Federal employees, retirees, former employees, and their dependents. Currently, FEHBP enrollees with family coverage can keep unmarried, dependent children on their health insurance policies until age 22.

Earlier this year, Congress passed the Patient Protection and Affordable Care Act, which moves us to universal health coverage and lowers health care costs for our Nation and for families. One of the first effective provisions of the legislation requires health plans to allow parents to keep children on their health insurance policies until their 26th birthday. Previously, most plans terminated dependent children's coverage once they turned 22. While the insurance exchanges created by the new law will enable millions more Americans to access affordable coverage, they will not be operational until 2014. Enabling children of insured parents to stay on their policies until age 26 is an immediate benefit that will begin now to improve our health care system by increasing the number of people with affordable coverage right away.

This provision of the law will take effect on the first day of the new plan year after September 23, 2010. For most plans, that means January 1, 2011. But

I am pleased to report that many insurance companies have chosen to implement this provision earlier than required by law.

But unless Congress acts, Federal employees with family coverage will have to wait until next year for this benefit to kick in. This is because FEHBP law prevents the Office of Personnel Management Director John Berry from moving up the effective date. Two sections of the law hinder OPM from taking action now. According to OPM, "The first section allows OPM to contract with plans to provide health services to employees and their families. The second defines family members to include 'an unmarried dependent child under age 22.' Unfortunately, this does now allow flexibility for FEHB plans to provide coverage to other adult children until the provision in the Affordable Care Act becomes effective." Director Berry has stated that he would like to begin expanding coverage for enrollees' adult children now, and that he does not want to wait until next January to offer this cost-saving benefit.

The bill we are introducing today would conform FEHBP law with PPACA and ensure that all children of Federal employees can remain on their parents' health insurance policies until their 26th birthday and give OPM the authority to implement the change immediately.

Graduation season is upon us, and many college seniors are preparing for new challenges, including moving out on their own, starting graduate studies, finding a job, and other life transitions. They should not have to endure the additional stress that comes from suddenly losing their health insurance coverage. Young adults just starting their careers often lack access to affordable employer-based health insurance and must rely on the prohibitively expensive individual market for coverage. That is why so many private insurers have stepped up to the plate. Permitting Federal employees to benefit from the new law now will ease young adults' transition from college to the workforce and reduce their out-of-pocket expenses.

The independent Congressional Budget Office has issued a preliminary analysis indicating that this legislation has no cost associated with it. So it will save families money, get more young adults insured, and bring greater efficiencies to our health care sooner, all at no cost to the Federal budget.

I thank my colleagues for joining me in this bipartisan effort: Senators COLLINS, AKAKA, ROCKEFELLER, MIKULSKI, BINGAMAN, JOHNSON, KAUFMAN, KERRY, LANDRIEU, STABENOW, and WARNER. This is the companion bill to H.R. 5200, introduced by my colleague from Maryland, CHRIS VAN HOLLEN, and it has been endorsed by the National Active and Retired Federal Employees

Association, NARFE, the National Federation of Federal Employees, NFFE, the American Federation of Government Employees, AFGE, and the National Treasury Employees Union, NTEU. I urge my colleagues to support this important legislation and to pass it without delay, so that children of Federal employees can have the same coverage option as children of other employees in the private sector.

#### AFGHANISTAN

Mr. KAUFMAN. Mr. President, I rise today to talk about progress and challenges in Afghanistan in light of President Karzai's visit to Washington this week. Last month, I returned from my third trip to Afghanistan, Pakistan, and Iraq as part of a codel with Senators HAGAN and REED. What stood out most from our trip was the quality, caliber, and courage of U.S. troops and civilians, who risk their lives every day to defend our national security interests in these two critical regions. I was humbled by the opportunity to thank them for their sacrifice and service and impressed by the progress which has been made.

At the same time, I was taken aback by the myriad of challenges that lie ahead, especially in Afghanistan. Chief among them is walking the tightrope required to balance our complex relationship with President Karzai. Partnership with President Karzai is required for success. He needs to work with the United States in both word and deed to promote economic development, build the Afghan security forces, combat extremists, tackle the drug trade, eliminate corruption, and improve systems of governance.

In Afghanistan, we have begun to successfully implement the strategy outlined by President Obama in December, as evidenced by ongoing operations against the Taliban, greater emphasis on subnational governance, and a renewed training and partnering effort with the Afghan Army and police. While much attention has been paid to the deployment of an additional 30,000 U.S. troops, it is clear that success in counterinsurgency requires far more than a large military footprint, as there is no purely military solution to this problem.

In order to meet our goals of "shape, clear, hold, build, transfer," we must also have a strong and capable civilian presence to establish good governance; increase training of Afghan national security forces; and further improve cooperation with Pakistan, especially when it comes to securing the border and targeting the Afghan Taliban. Without these other elements of our broader counterinsurgency strategy, military success will not be sustained and authority cannot be transferred to the Afghans. And make no mistake—the transfer of power is our ultimate

goal, beginning with the President's announced conditions-based drawdown starting in July 2011.

While in Afghanistan in April, we met with President Karzai and gave suggestions of steps we thought he could take to lay the groundwork for a successful visit to Washington. We raised the issue of corruption, which, if left unaddressed, threatens to undermine nearly all other areas of progress. After all, counterinsurgency is not a struggle between the United States and the insurgents. It is a battle for legitimacy between the Afghan Government and the Taliban, and perceptions of corruption only further distance the Afghan Government from the population.

I am pleased that President Karzai has said many of the right things, starting with commitments made in his November inauguration speech. He has also recently issued a decree giving power to the High Office of Oversight and Anti-Corruption to investigate government corruption cases and has granted greater budgeting and implementation powers to provincial and district officials.

These are good first steps, but progress requires more than decrees and rhetoric. There is far more that must be done because—as I have said before—our best defense in Afghanistan is a strong, efficient, and accountable Afghan Government. In order to defeat an insurgency, there must be capable and transparent governance and not just in Kabul. Effective government must extend to the subnational level, where it can provide essential services and secure the population.

On my trip, I was encouraged to learn of district teams collaborating with trainers and mentors to strengthen systems of local governance, especially in Regional Commands South and East. In these areas, civilian officials are working at the provincial and district levels with their Afghan counterparts—especially those from the so-called "line ministries" of agriculture, education, health, security, and reconstruction and rural development—to provide basic services and improve the lives of Afghan citizens. They are implementing a system to strengthen the country from the bottom up, which will minimize the influence of the Taliban and marginalize its shadow governments. This was especially evident in Marjah, where we just concluded the first jointly planned and implemented U.S.-Afghan, civilian-military operation.

Last week, the Foreign Relations Committee held a hearing on the "Meaning of Marjah" to explore lessons learned as we look toward this summer's Kandahar offensive. While the clearing phase in Marjah was quick and decisive, we have now entered the "hold and build" stage, which presents a spectrum of new challenges. As BG

John Nicholson noted in the hearing, "The challenge here is to connect the people with their government, thereby creating a nexus between the citizens of Marjah and government officials." Thus far, a small group of Afghan civil servants is working with U.S. civilians to provide basic services, but more must be done. A sustained and effective government presence free from the stigma of corruption is an essential prerequisite to success not just in Marjah, but in all counterinsurgency operations.

This was evidenced by a recent community council meeting, or shura, attended by President Karzai and General McChrystal in Marjah. At the shura, members of the local population made it clear to President Karzai that the people surrounding him were contributing to the problem. They told him that corrupt government officials, such as the former chief of police, were creating reasons for the population to support the Taliban. It is my understanding that this event, which was followed by a similar experience in Kandahar, may have given President Karzai pause, as he realized that he must address the root causes of corruption in order to win over the population.

Corruption remains a large hurdle in this effort, but it is not the only one. We must also ensure there are enough civilians to partner with the Afghans. While I am pleased that the Obama administration has made this a priority, tripling the number of deployed civilians over the past year, it must continue to ensure that there are enough civilians outside of Kabul to engage with the population. It is remarkable that 13 U.S. Government agencies are now represented, and the recent civilian uplift has been the biggest since Vietnam. At the same time, 1,000 U.S. civilians with less than 400 outside of Kabul is simply not enough to partner with 100,000 U.S. troops and reach a population of 28 million.

We must also continue to focus on increased training for the Afghan national security forces so they can assume responsibility for securing the population. We are on track to reach at least 134,000 in the Afghan National Army, ANA, by October, and the quality of officers and recruits has risen in recent weeks. This is due in part to recent pay raises and increased effectiveness given intensified partnering with U.S. troops. I am pleased that nearly 90 percent of all units are now partnered, and large military operations—such as Marjah—were truly joint operations.

Unfortunately we have not yet seen the same levels of progress toward building the Afghan National Police, ANP, as we have with the army. In a Homeland Security and Governmental Affairs subcommittee hearing chaired by Senator McCaskill last month, we discussed the range of problems that

has hampered the growth and training of the ANP. I was appalled to hear that \$6 billion has been spent to date on training contracts with very little to show for it. I understand the challenges of training a police force which is largely illiterate and suffering from high rates of attrition, but the answer is not to repeat the same mistakes or renew inefficient contracts.

The stakes are simply too high. We cannot afford for this training effort to be ineffective or approach police training as an ad hoc mission. We must demonstrate better oversight of this critical training program and ensure that our efforts result in the establishment of a qualified and committed Afghan police force. Moreover, we must consider building a stronger U.S. Government capacity to oversee future police training missions. As we look toward a future with fewer conventional threats and an increased number of insurgencies, there is no question that this capacity is needed to defend our security interests globally.

President Karzai is under enormous pressure to meet our high expectations and demands. In our recent meeting, we discussed our shared interest in a strong partnership and a productive visit to Washington. I understand that the pressure is growing as we focus on building subnational governance and as our military plans focus squarely on Kandahar, which is the home of the Taliban and an area where Karzai's family and tribe still exercise great influence.

I look forward to seeing President Karzai when he is here, and I hope to hear more about his plans to address corruption, improve governance, and enhance economic development. I hope he understands that the United States shares an enduring commitment to building a strong and sovereign Afghanistan, both in the near term and well into the future, so that our joint efforts now can benefit future generations.

#### NATIONAL LAB DAY

Mr. KAUFMAN. Mr. President, I rise today, to celebrate National Lab Day. While today is the official National Lab Day kick-off, National Lab Day is much more than just one day. It is an ongoing effort to bring scientists and engineers into the classroom to conduct hands-on experiments with students.

Last November, President Obama launched the "Educate to Innovate" campaign to motivate and inspire students to excel in science, technology, engineering, and mathematics, or STEM, education. As part of this effort, President Obama announced the launch of National Lab Day and encouraged Americans to get involved. Created through a partnership between Federal agencies, foundations, profes-

sional societies, and other STEM-related organizations, support for National Lab Day grew quickly. Currently, projects are scheduled in every State, including over 1,000 schools.

I have spoken many times on the Senate floor about the importance of STEM education. I advocated for the inclusion of increased service opportunities for retired engineers and other STEM professionals in the Edward M. Kennedy Serve America Act. National Lab Day is an important step towards creating strong, long-term relationships between STEM professionals and educators.

Importantly, National Lab Day projects are teacher-driven. Teachers can register at the National Lab Day Web site and request funding or describe a project they would like to do with a STEM professional. Teachers can have STEM professionals help them assess, update, and repair current lab facilities and equipment, implement hands-on activities, conduct science fairs, mentor students, coordinate field trips, assist with lesson plans, and more.

Once teachers post their requests on the National Lab Day Web site, they will be matched with a list of local volunteers who have registered on the Web site. Volunteers need not only be STEM professionals, as university STEM students and other members of the community can sign up to help as well. Volunteers can browse teacher requests and will be notified of any matches to teacher requests that meet their interests.

A quick look at the projects posted on the Web site reveals intriguing titles such as VEX Robotics, Tech Genographics, Space—the Final Frontier, and Get Ahead—Design a Shed, to name a few. The Office of Science and Technology Policy blog recently highlighted a National Lab Day project that took place at East Side Community High School in Manhattan. With the recent major BP oilspill in the Gulf of Mexico, this particular lab was especially timely to students. A local college professor taught 10th graders how to clean and purify "contaminated" water made of tap water mixed with dirt, flour, salad dressing, and dish soap. This is exactly the type of hands-on experiment that National Lab Day promotes to expose young people to the real-world applications and wonders of STEM.

Support for National Lab Day is extensive. Key partners include: the National Science Teachers Association, American Chemical Society, MacArthur Foundation, Hidary Foundation, the National Institutes of Health, and the National Science Foundation. Additionally, more than 200 educational, scientific, and engineering organizations support National Lab Day, including such groups as the National Education Association and the Association for Women and Science.

National Institutes of Health Director Dr. Francis Collins is participating in National Lab Day by volunteering in a local District of Columbia school and he has encouraged NIH employees to get involved as well. American Society for Engineering Education President J.P. Mohsen is participating in National Lab Day and is encouraging other ASEE members nationwide to do the same in their local communities. First Lady Michelle Obama highlighted National Lab Day when she spoke to the team finalists at the National Science Bowl.

I have said many times that I believe the long-term vitality of our economy rests with our ability to use STEM to solve the major problems we face. Whether it is energy independence, climate change, life-saving cures for diseases, security challenges, or new solutions for transportation, STEM professionals are the world's problem solvers. Fortunately, young people today want to "make a difference" with their lives, but unfortunately, not enough of them see STEM as the way to do that.

National Lab Day will allow STEM professionals not only to share their unique skills and knowledge with educators and students, but it will also allow them to share the rewards of a career in STEM and the numerous ways that STEM professionals "make a difference." National Lab Day, and the relationships it is fostering, will help inspire the next generation of scientists and engineers. I applaud the volunteers, teachers, associations, and agencies that are participating in National Lab Day—today and in the future.

#### CRISIS IN THE PHILADELPHIA CRIMINAL JUSTICE SYSTEM

Mr. SPECTER. Mr. President, in a four-part series titled "Justice: Delayed, Dismissed, Denied," published in December 2009, the Philadelphia Inquirer reported on the failure of the Philadelphia criminal justice system to provide fair and speedy justice. "It is a system that too often fails to punish violent criminals, fails to protect witnesses, fails to catch thousands of fugitives, fails to decide cases on their merits—fails to provide justice."<sup>i</sup> Given that Philadelphia has the highest violent crime rate among the 10 largest cities in the United States, this is an urgent problem which Senator SPECTER has worked hard to address.

In the past 5 months, Senator SPECTER has taken a leadership role by holding three Senate field hearings, bringing together the experts and key players in the criminal justice system to work collaboratively to find solutions to these problems. He has sought and obtained funding for the U.S. Marshals Service's Fugitive Task Force to provide assistance in locating and arresting Philadelphia's fugitives. Fi-

nally, he has introduced and supported significant legislation to better protect State witnesses, to fund State witness protection programs, and to fund State fugitive recovery efforts and the entry of State warrants into the national warrant database.

Using statistics from the Administrative Office of the Pennsylvania Courts and the Department of Justice, Bureau of Justice Statistics, the Philadelphia Inquirer reported that Philadelphia, among large urban counties, has the Nation's lowest felony conviction rate. For most big cities the conviction rate is 50 percent but for Philadelphia the conviction rate is only 20 percent, and that rate has been steadily declining over time. While the city's rate of conviction for murder is excellent—82 percent compared to the U.S. average of 71 percent—for other violent felonies it is abysmal: Nearly 2/3 of those charged with violent crime offenses walk free of all charges; Only 1 in 10 people charged with gun assaults is found guilty of that charge; Only 1 in 5 accused armed robbers is convicted of that charge; Only 1 in 4 accused rapists is convicted of rape; One-half arrested for possession of illegal handguns beat the gun charges; and of the 4,500 who reported being robbed at gun point, only 200, or 4 percent of individuals were convicted.

The Philadelphia Inquirer identified a number of systemic failings as contributing factors to this crisis, including increasing incidents of witness intimidation; exploding criminal case loads incentivizing judges to dismiss cases rather than to try them (of the violent crime cases in 2006 and 2007 disposed without a conviction, 92 percent were dropped or dismissed and only 8 percent of defendants were found not guilty); the number of judges not keeping pace with the substantial increase in criminal case filings (since 1989 the criminal docket has increased by 51 percent but the number of judges has not changed; not surprisingly the number of dismissals has doubled). Additional contributing factors include trial delays caused by defense attorneys' delay tactics, which cause witnesses to stop coming to court and cases to be dismissed; dismissals because inmates and/or police officers routinely fail to timely appear in court; and a broken bail system causing Philadelphia to have 47,000 fugitives and to be tied with Newark, New Jersey as having the highest fugitive rate in the Nation.<sup>ii</sup>

Senator SPECTER's significant actions to address this crisis and to restore confidence in the Philadelphia criminal justice system are detailed below.

Witness intimidation and violent crime are problems that Senator SPECTER has worked on for decades, since he was an assistant district attorney and later district attorney in Philadelphia, and on the Judiciary Committee, where

he has served since 1981 when he was first sworn in as a U.S. Senator.

As chairman of the Senate Judiciary Crime and Drugs Subcommittee, Senator SPECTER chaired a field hearing in Philadelphia on witness intimidation at the State and local level on January 8, 2010.<sup>iii</sup> This hearing brought together experts and leaders in the field to help find solutions for this pervasive and serious problem. At the hearing, Philadelphia Police Commissioner Charles Ramsey, as well as Michael Coard, a respected Philadelphia defense attorney, and Associate Professor Richard Frei, an academic, testified. Two parents, each of whom lost a child to gun violence, also testified. Barbara Clowden testified that her son Eric Hayes, then 17 years old, was killed just 2 days before he was to testify in an arson trial in Philadelphia. Because Eric's life had been threatened, in January 2006 his family entered into the city's witness relocation program. Eventually the money from the program ran out and they had to relocate to northeast Philadelphia, where Eric was murdered. No one, to date, has been convicted of Eric's murder.

Ted Canada, a Philadelphia resident and SEPTA bus driver, also testified. In 2005, his son Lamar Canada was shot 12 times and killed over an alleged gambling debt.<sup>iv</sup> One witness to the shooting, Johntha Gravitt, then 17 years old, was murdered 10 days after he testified at the preliminary hearing and identified one of the shooters. Another witness initially cooperated but after his statement to the police was publicly posted in his neighborhood identifying him as a "snitch," he recanted.

The most notorious example of witness intimidation in Philadelphia involves Kaboni Savage, a drug kingpin who was federally indicted last April on racketeering and murder charges for retaliating against his former drug associate, Eugene Coleman. Coleman had agreed to testify against Savage in a Federal trial. The Federal charges allege that to retaliate for this, Savage orchestrated the firebombing of Coleman's family home on the 3200 block of North 6th Street in Philadelphia during the early morning hours of October 9, 2004. Killed in the fire were Coleman's mother, Marcella Coleman, age 54; Coleman's infant son, Damir Jenkins, 15 months old; Marcella Coleman's niece, Tameka Nash, age 34, and her daughter, Khadjah Nash, age 10; Marcella Coleman's grandson, Tahj Porchea, age 12; and a family friend, Sean Rodriguez, age 15. In a conversation secretly recorded by court-authorized wiretaps, Savage explained how witness intimidation works, "Without the witnesses, you don't have no case? . . . No witness, no crime."<sup>v</sup>

The witness intimidation problem is exacerbated by internet sites, such as whosarat.com, which expose the identities of witnesses and government informants. Gang members and criminals



are becoming more computer savvy. They use the internet to find out who may be a cooperating witness by accessing public court dockets. They also access other sites to locate these individuals. With this information obtained anonymously through the Internet, gang members and other criminals can easily threaten or harm witnesses, as well as their family members.<sup>vi</sup>

The “stop snitching” culture in Philadelphia has taken hold even among law abiding people. Years ago, popularized in movies and television, the code of silence started with organized crime and applied only to its members who used intimidation and highly visible acts of retaliation against those who broke it to maintain adherence to the code. Today that code of silence has involved into a popular and pervasive stop snitching culture.<sup>vii</sup>

It has expanded to include threats against people who have no stake in a specific case and it is now directed toward anyone providing information to authorities. It has been strengthened by the strong distrust and alienation many urban youth have toward the police. It was shown at the hearing that the more people perceive the justice system to be biased, ineffective or corrupt, the more likely it is that they will resort to community self-protection and enforcement.

As reported by the Philadelphia Inquirer on December 14, 2009, “[p]rosecutors, detectives, and even some defense attorneys say witness fear has become an unspoken factor in virtually every court case involving violent crime in Philadelphia. Reluctant or terrified witnesses routinely fail to appear in court, and when they do, they often recant their earlier testimony or statement to police.”<sup>viii</sup> One Philadelphia assistant district attorney is quoted in the article as saying that at least one witness in every murder trial recants. At times, the local prosecutors are forced to lock up witnesses on material witness warrants to assure their appearance at trial.<sup>ix</sup>

In Philadelphia between 2006 and 2008, the District Attorney’s Office filed witness intimidation charges against approximately 1,000 individuals. Their conviction rate on these charges, however, is only 28 percent.<sup>x</sup>

Criminal trials cannot proceed unless there are witnesses, and if witnesses are subject to intimidation or even worse, murdered, criminal cases cannot go forward. And unless witnesses can be assured they will be protected, the problem of witness intimidation cannot be expected to go away. Philadelphia’s witness relocation program was cut from a high of \$988,000 in 2006–07 to \$747,000 in 2008–09. On average last year the program spent \$11,000 per witness. Compare that with the Federal witness protection program that spends on average \$150,000 for each witness in the Federal program. More money is need-

ed to fund Philadelphia’s witness relocation program.

It is imperative that people be protected if they step forward and provide information to law enforcement. As Philadelphia Police Commissioner Charles H. Ramsey testified at the subcommittee hearing, “the only way we’re going to deal with crime in communities is when the community steps forward, but they have to feel comfortable in doing so and know they have support.”<sup>xi</sup>

To better protect State witnesses from intimidation, threats, and violence, and to send loud and clear the message that serious penalties will be imposed on those who dare to obstruct justice in our country Senator SPECTER on February 23, 2010, introduced The State Witness Protection Act of 2010,<sup>xii</sup> S. 3017. The bill ensures that State witnesses will receive the same protections from actions of intimidation and retaliation that Federal witnesses have under Federal law. Making this a Federal offense and bringing in the FBI to investigate, as Commissioner Ramsey testified, “would make a tremendous difference and make people think twice before they” engaged in witness intimidation. Commission Ramsey explained it this way:

I just think the whole environment or atmosphere when you go into a Federal court versus a local court is just somewhat different, and [defendants] haven’t been exposed to it that often. I just think it has an impact in the feedback I’ve gotten from people on both sides, whether it’s another law enforcement agency or from a person who’s been in the criminal justice system. They do not want to go into Federal court. (Tr. at 16).<sup>xiii</sup>

The bill tracks the language of the Federal witness tampering and intimidation statutes, 18 U.S.C. §§1512 and 1513, and provides the same penalties for crimes against State witnesses as now are provided for crimes against Federal witnesses. For State court proceedings, the bill makes it a Federal offense to kill, physically harm, threaten to physically harm, harass, or intimidate, or offer anything of value to, a State court witness or victim if done with the intent to influence another person’s testimony; to induce another to withhold testimony or records, alter or destroy evidence, evade legal process, or be absent from a State proceeding if that person has been summoned by legal process; to hinder or prevent a person from providing information to law enforcement; or to retaliate against anyone for being a witness or for providing testimony or information to law enforcement.

Federal jurisdiction is established by prosecuting only cases where there are communications in furtherance of the offense by mail, interstate or foreign commerce by any means, including computer, interstate or foreign travel in furtherance of the commission of the offense, or the use of weapons which have been shipped or transported

across State lines. Any attempt or conspiracy to commit these same offenses is also illegal and subject to the same penalties. The bill also provides for specific sentencing guideline enhancements for all obstruction offenses.

To further address the growing problem of witness intimidation, Senator SPECTER cosponsored, and voted out of Senate Judiciary Committee on March 22, 2010, the Witness Security and Protection Grant Program Act of 2010, H.R. 1741, a bill which authorizes \$150 million in competitive grants over 5 years to State and local governments to establish witness assistance programs. Specifically, the bill requires the Attorney General to make competitive grants to State and local governments to establish and maintain short-term witness protection programs for court proceedings involving homicide, violent felonies, serious drug offenses, gangs, and/or organized crime. It also requires the Attorney General to collect data and develop best practices—witness safety, short-term and permanent witness relocation, and financial and housing assistance—from the grantees and report this information back to Congress, States and other relevant entities. This legislation passed the House with an overwhelming bipartisan vote of 412–11 in June 2009. The bill is also supported by the National Governors Association, the National Conference of Mayors, the National District Attorney Association, and the National Center for Victims of Crime. It is currently pending action on the Senate floor.

According to the Philadelphia Inquirer, the Philadelphia bail system is broken.<sup>xiiii</sup> For both the Court of Common Pleas and the Municipal Courts in Philadelphia, there are 48,511 cases in fugitive status and 39,110 individual fugitives. These numbers do not include probation absconders which, if added, would make the total individual fugitive number 46,839.<sup>xv</sup>

According to Bureau of Justice Statistics report from 2004, Philadelphia is tied with Newark, NJ, as having the Nation’s highest fugitive felony rate of 11 percent. The problem is compounded because there are only 51 officers in the Warrant Unit,<sup>xvi</sup> which is assigned the task of rounding up fugitives. That means each officer has a 900 fugitive case load.<sup>xvii</sup> The problem is further compounded by the fact that fugitives, after they are caught, are routinely released again on bail and no bail money, once again, is collected. According to the Philadelphia Inquirer, the city is owed \$1 billion in bail monies which cannot be collected because the Clerk of Quarter Sessions kept no computerized records.<sup>xviii</sup>

To address the failure of law enforcement to track down and capture criminal fugitives, Senator SPECTER convened another Senate Judiciary Subcommittee field hearing on January 19,



2010, titled, "Exploring Federal Solutions to the State and Local Fugitive Crisis."<sup>xviii</sup> Seth Williams, the recently elected district attorney for the city of Philadelphia, testified at the hearing. Also testifying at the hearing were John Patrignani, the Acting U.S. Marshal for the Eastern District of Pennsylvania; David Preski, the Chief of the Pre-Trial Service Division and the person in charge of the Warrant Unit; and Roy G. Weise, the Senior Adviser for the FBI's Criminal Justice Information Systems and a senior administrator in charge of the National Criminal Justice Information System, more commonly known as NCIC, the national warrant database. A representative from the Clerk of Quarter Sessions also testified. That hearing revealed that Philadelphia's fugitive problem, though very serious in scope, is not just a local problem but is in fact a significant national problem. Nationwide, there are an estimated 2.8 to 3.2 million active Federal, State, and local outstanding felony warrants. Every day large numbers of fugitives evade capture because State and local law enforcement authorities have insufficient resources to find and arrest them. And even if found, State and local law enforcement authorities often do not have the funds to pay for the extradition of the fugitive to face trial. Shockingly, many fugitives are released without prosecution. Many fugitives go on to commit additional crimes.

The nationwide database operated by the FBI's National Crime Information Center, NCIC, is missing over half of the country's 2.8 to 3.2 million felony warrants, including warrants for hundreds of thousands of violent crimes. Fugitives who have fled to another State will not be caught—even if they are stopped and questioned by the police on a routine traffic stop—because their warrants have not been entered into the NCIC database.

In early 2008, the St. Louis Post Dispatch published a series of articles—affirmed by the Department of Justice—documenting law enforcement's widespread failure to find and arrest fugitives.<sup>xix</sup> For purposes of the series, "fugitive" included un-arrested suspects with pending warrants that law enforcement cannot find, and those who cannot be found after violating the rules of their pre-trial detention, probation, or parole. The articles revealed that the reach of this national problem is extensive and cited federal estimates from 2 years ago that as many as an estimated 800,000 to 1.6 million outstanding State or local warrants are inaccessible to law enforcement outside the State or locality in which they were issued because the information about the warrants had not been entered into the NCIC database.

In Philadelphia, while all warrants, including bench warrants, are entered

into a State database, only a few warrants are entered into the NCIC database. The hearing established a little known fact: that the Philadelphia Police Department only entered into the NCIC database a few hundred bench warrants deemed by the District Attorney's Office to concern extraditable offenses and, surprisingly, the Police Departments made these entries manually and not by automatic computer transfers.<sup>xx</sup> Thus, those who abscond from criminal proceedings in Philadelphia and flee to other States likely will not be captured because information from their warrants was not automatically entered into the NCIC database.

To make our communities safer by increasing the number of State and local fugitives arrested and prosecuted, Senator SPECTER, along with Senator DURBIN, on March 16, 2010, introduced the Fugitive Information Networked Database Act of 2010, known as the FIND Act, S. 3120. Based on legislation that then-Senator JOE BIDEN and Senator DURBIN introduced in 2008, the FIND Act bolsters the effectiveness of the NCIC database by providing grants for local governments to develop and implement warrant systems that are interoperable with the NCIC database. The bill also provides funding for authorities to extradite fugitives for prosecution.

Specifically, the FIND Act improves the entry and validation of State, local and tribal warrants in the NCIC database by authorizing \$10 million for grants each fiscal year 2011 through 2015. It increases for States, local and Indian tribes the resources available for extraditing fugitives between States and tribal regions by authorizing \$30 million for grants each fiscal year 2011 through 2015. The bill also encourage States, local and tribes to reduce the cost of extradition by using the U.S. Marshals Service's Justice Prisoner and Alien Transportation Service, JPATS, to transport fugitives back to the jurisdiction which issued the warrant and requires grant participants which seek renewal grants to provide detailed reports to ascertain whether State, local and tribal pretrial release programs are operating effectively. To make certain that funds are properly spent, the bill directs GAO to submit a statistical report to the House and Senate Judiciary Committees on felony warrants issued by State, local, and tribal governments and entered into the NCIC database, and on the apprehension and extradition of persons with active felony warrants.

This important legislation is designed to facilitate State and local data entry into the NCIC database through grants, increase the extradition of fugitives travelling in interstate commerce and to ascertain whether pretrial release programs are operating effectively. The fugitive

problem is national in scope, involves individuals travelling in interstate commerce, and requires Federal solutions.

After the January 19, 2010, field hearing, on February 24, 2010, Senator SPECTER wrote to the Director of the U.S. Marshals Service, USMS, to advise him "that Philadelphia has the highest violent crime rate in the United States among the ten largest cities and the highest felony fugitive rate in the nation," and therefore critically needed additional funding for the Eastern District of Pennsylvania's fugitive task force. On April 2, 2010, John F. Clark, the Director of the U.S. Marshals Service, responded to Senator SPECTER's letter and said that the agency would expand the Philadelphia regional office by at least 10 marshals and staff to "work aggressively to address the fugitive problem in Philadelphia."

As part of Senator SPECTER's continued efforts to address the Philadelphia fugitive crisis, he has made several program funding requests for fiscal year 2011 to support the USMS and its partners, including: \$1.207 billion for the U.S. Marshals Service, increased funding for the Edward Byrne memorial justice grants, and \$792 million for the COPS program. Additionally, Senator SPECTER has requested report language that would direct \$20 million to be used to support the establishment of a Regional Fugitive Task Force in Philadelphia.

On May 3, 2010, Senator SPECTER chaired the third and final Judiciary Crime Subcommittee hearing to bring leaders in the criminal justice system together to find innovative and cost effective solutions to improve the quality and efficiency of the criminal justice system in Philadelphia, as well as for similarly overburdened state criminal courts.<sup>xxi</sup> Lynne M. Abraham, former district attorney for Philadelphia, Justice Seamus McCaffery, Pennsylvania Supreme Court, Everett Gillison, deputy mayor for public safety for the city of Philadelphia, Ellen Greenlee, chief defender, Philadelphia, and Professor John Goldkamp, chair of the Criminal Justice Department at Temple University, testified. The hearing emphasized the need for all the key players—the courts, the prosecutors, the defenders and the city—to work in a collaborative fashion to find solutions to these complex and systemic problems. The subcommittee and witnesses explored the following ideas:

Community based prosecutions and zone courts. Sending police officers to many different courtrooms is wasteful and inefficient. A simple solution is reorganizing the criminal courts along geographic lines so that judges are assigned to handle all cases from a particular police division. Zone courts are more efficient and lead to fewer dismissal of cases, fewer trial delays and provide more judicial economy and accountability.

Improving computer systems for both the District Attorney's Office and the Defenders Office. This would expedite discovery and permit faster and more efficient administration of justice. Offices should be able to have networked case files and operate as a paperless office. This would require extensive capital investment.

Institute new diversion programs for nonviolent and low risk offenders.

Establish more specialty treatment courts, such as mental health courts, veterans courts<sup>xxii</sup> and re-entry courts, to reduce recidivism.

Reform the bail system. Professor Goldkamp, an expert on Philadelphia's bail system, recommended improving the pre-trial release system to one which makes decisions about release and confinement based on the characteristics of the defendants, not by how much cash they can post. Risky defendants should be detained, with due-process protections, but those who do not need confinement to meet their obligations or those who do not pose that much risk, like most addicted defendants, should not be jailed. Drug addicted defendants should go to treatment; mentally ill defendants should be directed to appropriate support services.

Find effective ways to address the anti-snitich culture, including public service announcements and community outreach.

The Philadelphia Inquirer's "Justice: Delayed, Dismissed, Denied" series rightly identified and proved a number of the systemic failings in the Philadelphia criminal justice system which have contributed to Philadelphia having an unacceptably low conviction rate for violent crimes and an unacceptably high rate of fugitives. Many of these problems have been around for decades and over the years have only gotten worse. By using statistics from the Administrative Office of the Pennsylvania Courts and the U.S. Bureau of Justice Statistics, the Philadelphia Inquirer convincingly turned a harsh light on what many in the criminal justice system have known, and what many have chosen to ignore.

Professor Goldkamp stated at the May 3, 2010, Senate field hearing, "I think that opportunity comes in at a time of crisis and concern." But if the needed changes are not made, Professor Goldkamp said "the Philadelphia court system risks being held up nationally as an example of a dysfunctional court system."<sup>xxiii</sup>

Senator SPECTER noted at the final field hearing that the Philadelphia Inquirer's series was a "motivating factor" in his working to obtain Federal assistance to local and overburdened courts. Now is the time for change and Senator SPECTER—by holding three Senate field hearings, by seeking and obtaining funding for the U.S. Marshal's fugitive task force, and finally,

by introducing and supporting key legislation to better protect State witnesses, to fund State witness protection programs, and to fund State fugitive recovery efforts and the entry of State warrants into the national warrant database—is working hard to make those changes.

#### ENDNOTES

<sup>i</sup> "Justice: Delayed, Dismissed, Denied," by Craig R. McCoy, Nancy Phillips and Dylan Purcell, Philadelphia Inquirer, December 13, 2009. Available at: <<http://www.philly.com/philly/news/79150347.html>>.

<sup>ii</sup> Id.

<sup>iii</sup> "Federal Efforts to Address Witness Intimidation at the State and Local Level," Senate Committee on the Judiciary Subcommittee on Crime & Drugs, Philadelphia, Pennsylvania, 8 January 2010. Hearing notice available at: <<http://judiciary.senate.gov/hearings/hearing.cfm?id=4278>>.

<sup>iv</sup> "Testimony by Theodore L. Canada," Senate Committee on the Judiciary Subcommittee on Crime & Drugs, Philadelphia, Pennsylvania, 8 January 2010. Available at: <<http://judiciary.senate.gov/pdf/1-08-09%20Canada%20Testimony.pdf>>.

<sup>v</sup> Nancy Phillips, Craig R. McCoy, and Dylan Purcell, "Witnesses fear reprisals, and cases crumble," The Philadelphia Inquirer, 14 December 2009. Available at: <<http://www.philly.com/philly/news/homepage/79196597.html>>.

<sup>vi</sup> Frei, Richard, "Witness Intimidation and the Snitching Project," Senate Committee on the Judiciary Subcommittee on Crime & Drugs, Philadelphia, Pennsylvania, 8 January 2010. Available at: <<http://judiciary.senate.gov/pdf/1-08-09%20Frei%20Testimony.pdf>>.

<sup>vii</sup> Id.

<sup>viii</sup> Nancy Phillips, Craig R. McCoy, and Dylan Purcell, "Witnesses fear reprisals, and cases crumble," The Philadelphia Inquirer, 14 December 2009. Available at: <<http://www.philly.com/philly/news/homepage/79196597.html>>.

<sup>ix</sup> Id.

<sup>x</sup> "Justice: Delayed, Dismissed, Denied," by Craig R. McCoy, Nancy Phillips and Dylan Purcell, Philadelphia Inquirer, December 13, 2009. Available at: <<http://www.philly.com/philly/news/79150347.html>>.

<sup>xi</sup> "Testimony from Police Commissioner Charles H. Ramsey, Philadelphia Police Department," Senate Committee on the Judiciary Subcommittee on Crime & Drugs, Philadelphia, Pennsylvania, 19 January 2010. Available at: <<http://judiciary.senate.gov/pdf/1-08-09%20Ramsey%20Testimony.pdf>>.

<sup>xii</sup> Id.

<sup>xiii</sup> "Violent Criminals Flout Broken Bail System," by Dylan Purcell, Craig R. McCoy and Nancy Phillips, Philadelphia Inquirer, December 15, 2009. Available at: <[http://www.philly.com/inquirer/special/20091215\\_Violent\\_Criminals\\_Flout\\_Broken\\_Bail\\_System.html](http://www.philly.com/inquirer/special/20091215_Violent_Criminals_Flout_Broken_Bail_System.html)>.

<sup>xiv</sup> There are many more outstanding fugitive warrants from Municipal Court than from the Court of Common Pleas. For example, there are 6,044 individual fugitives on bench warrants issued by the Philadelphia Court of Common Pleas compared with the 34,331 individual fugitives on bench warrants issued by the Philadelphia Municipal Courts. Statistics are from Terry Bigley, Director of Office of Network Systems and Office Automation, Department of Information and Technology Services, for the First Judicial District of Pennsylvania.

<sup>xv</sup> The Warrant Unit is part of the court system's Pre-trial Services.

<sup>xvi</sup> The Philadelphia Police Department does not have a fugitive squad.

<sup>xvii</sup> Indeed, an audit of the Clerk of Quarter Sessions office released in March 2009 for fiscal years 2008 and 2007 found serious problems—that the office did not conduct monthly reconciliations for the Cash Bail Account and the Cash Bail Refund Account, did not forward bank reconciliations causing \$26.8 million to be omitted from the City's preliminary financial statement, and did not report to the City a \$352.8 million receivable for Fines, Costs and Restitution, as well as the \$1 billion receivable for forfeited bail. The head of the office, Vivian Miller, resigned, effective March 31, 2010, and the Philadelphia Inquirer reported on April 28, 2010 that Philadelphia Mayor Michael Nutter was moving to abolish the office.

<sup>xviii</sup> Hearing notice available at: <<http://judiciary.senate.gov/hearings/hearing.cfm?id=4334>>.

<sup>xix</sup> Mahr, Joe, "Free to Flee," St. Louis Dispatch, 2008. Available at: <<http://interact.stltoday.com/mds/news/html/1252>>.

<sup>xx</sup> When a bench warrant is issued by the Philadelphia Court of Common Pleas and/or Municipal Court in Philadelphia, it is entered into a state-wide criminal case management system called CP/CMS by court staff. CP/CMS electronically transfers that information to the Philadelphia Police Department (PPD) which, in turn, electronically transfers the data to CLEAN, the Commonwealth Law Enforcement Assistance Network database. CLEAN is a computer system used by the Commonwealth's criminal justice agencies for a variety of purposes, including searching for outstanding warrants whenever an individual is detained or taken into custody. From CLEAN the bench warrant data should be electronically transferred to NCIC, the FBI's National Crime Information Center, and to Nlets, the International Justice and Public Safety Information Sharing Network. However, this is not yet occurring in Philadelphia. Instead, in Philadelphia all entries into NCIC are done manually by the Philadelphia Police Department and only those bench warrants designated by the Philadelphia District Attorney's Office as extraditable warrants are entered into NCIC. For a bench warrant to be extraditable, the ADA must get approval from his/her deputy. Usually approval is reserved for those offenders who have significant criminal histories, a number of failures to appear, and/or serious pending criminal charges.

<sup>xxi</sup> "Helping Find Innovative and Cost Effective Solutions to Overburdened State Criminal Courts," Senate Committee on the Judiciary Subcommittee on Crime & Drugs, Philadelphia, Pennsylvania, 3 March 2010. Hearing notice available at: <<http://judiciary.senate.gov/hearings/hearing.cfm?id=4558>>.

<sup>xxii</sup> On March 1, 2010 Senator Specter held a Judiciary Crime Subcommittee field hearing in Pittsburgh on the need for greater federal resources for specialty treatment courts for veterans. Following the hearing, Senator Specter cosponsored the Services, Education, and Rehabilitation for Veterans Act, known as the SERV Act (S. 902), a bill which authorizes the Attorney General to award grants up to \$25 million over five years to states to develop Veterans Courts or expand operational drug courts to serve veterans charged with non-violent offenses.

<sup>xxiii</sup> Nancy Phillips and Craig R. McCoy, "Abraham defends work, criticizes city justice system," The Philadelphia Inquirer 4 May 2010. Available at: <[http://www.philly.com/inquirer/front\\_page/20100504](http://www.philly.com/inquirer/front_page/20100504)>.

*Abraham defends work\_ justice\_system.html>\_criticizes\_city\_*

#### REMEMBERING CHARLES WILSON CAPPS, JR.

Mr. COCHRAN. Mr. President, the State of Mississippi lost one of its most respected citizens and devoted public servants on December 25, 2009. Those of us who knew and worked with Charlie Capps were privileged to witness his commitment to the advancement of our State. I extend my sincerest sympathies to the family of Charlie Capps—Alinda, Margaret, and Charlie III.

Charlie Capps was born in Merigold, MS, and graduated from Cleveland High School. He attended Davidson College until the outbreak of World War II, when he volunteered and enlisted in the U.S. Army.

After the war, Charlie founded Capps Insurance and Real Estate Company. However, he was best known as “Mr. Chairman” because of his service as chairman of the House Appropriations Committee in the Mississippi legislature for more than a decade. During his tenure of service in the Mississippi House of Representatives, he served with four speakers of the House—John Junkin, Buddie Newman, Tim Ford, and Billy McCoy.

Charlie Capps’ greatest enjoyment was his association with public service. During his career he was an effective advocate for law enforcement, higher education, the arts and cultural heritage, workforce training, agriculture, and wildlife and fisheries conservation. Charlie Capps is clearly among our State’s finest citizens and certainly one of the most capable public servants of this generation.

The State of Mississippi is a better place to live because of the life of Charlie Capps, and I am privileged that I was able to call him my friend.

#### TRIBUTE TO TRAVIS SATTERFIELD

Mr. COCHRAN. Mr. President I am pleased to commend Travis Satterfield of Benoit, MS, for his service and contributions to the State of Mississippi while serving as the 75th president of Delta Council.

Delta Council is an economic development organization representing the business, professional, and agricultural leadership of this alluvial floodplain commonly known as the Mississippi Delta. The organization was formed in 1935 and is widely respected for its role in meeting the challenges which have historically faced the economy and quality of life of this region of our State.

Travis Satterfield has served as president of Delta Council during a time when our Nation, as well as the State of Mississippi and the Mississippi

Delta, have experienced economic challenges of immense proportions.

Travis Satterfield took over his family farming operation from his parents 40 years ago and has built one of the most successful farming enterprises in this intensely agricultural region of our Nation. Travis has brought practical insight and trusted leadership to the cornerstone issues confronting the Delta region. His practical approach to problem-solving has had a positive impact on Delta Council’s role in many important areas of work, such as groundwater management, soil and water resource conservation, flood control, farm policy and transportation improvements for the region.

Travis is a proven leader with strong values. I am confident that Travis will continue to be an effective voice for the economic benefit of all of the people of the region for many years into the future.

In Mississippi, we appreciate Travis Satterfield, his wife Nancy, and their four sons, Dwayne, Dennis, Darrell, and Kirk, for the sacrifices they have made to help improve the life of all who live and do business in the Mississippi Delta.

#### TRIBUTE TO BILL ANGRICK

Mr. GRASSLEY. Mr. President, in 1972, the Iowa Legislature created the Office of Citizens’ Aide to address instances of dissatisfaction with government agencies. In 1978, Bill Angrick became the State ombudsman at age 32, according to the Des Moines Register. Just a few weeks ago Bill Angrick announced he would take the State’s early retirement incentives at age 64.

As a member of the State house in 1972, I was enthusiastic about the creation of the ombudsman’s office. I had gone from political science student to state legislator and was beginning to appreciate the value of government oversight in the practical world. It is one thing to study political theory and have a concept of how things should work. It is another thing to represent citizens as their elected representative and see how things really work. The Federal constitution Framers knew what they were doing when they built in checks and balances among the three branches of government.

The decision to create a State ombudsman wasn’t unanimous. The house vote was 70 to 28, the Senate vote 30 to 20. Then, as now, those who perform government oversight might have been seen as skunks at a picnic, fueling fears of those who might abuse their investigative powers or among agencies, rein in their power. Inspectors general and whistleblowers at Federal agencies are regularly eyed with suspicion or targeted for retaliation. I run into this at the Federal level all the time. Sometimes the executive branch tries to stifle inspectors general or

Federal employees who have reports of wrongdoing. Yet those people are very often heroes who expose waste, fraud, and abuse, and by putting themselves on the line, get problems fixed and strengthen government. They deserve honor and protection, which I work to provide. And I conduct oversight of Federal agencies, just as the voters oversee my performance as their elected representative.

By all accounts I have heard, Bill Angrick served his oversight role with the honor, diligence, and integrity envisioned by those of us who created the State ombudsman’s office.

His retirement provides a good opportunity to reflect on his work and on the role of an entity that exists to listen to citizens, investigate concerns, and render findings in the spirit of fixing shortcomings for public benefit. The office exists to perform oversight of State and local government agencies. Sometimes it initiates investigations upon a citizen phone call of concern or complaint. It receives thousands of inquiries every year. Occasionally, my staff in Iowa adds to the workload, referring cases to the ombudsman that deal exclusively with State and local government. I appreciate the careful consideration given in those instances. Other times, the ombudsman’s staff sees the need for an investigation of an agency’s interaction with a citizen over a particular case or multiple agencies’ handling of a State matter that is either complex or has fallen through the cracks. As a third party, the ombudsman’s office is charged with the responsibility of examining the facts as impartially and thoroughly as possible and rendering findings and recommendations in a thoughtful, constructive way. The office is removed from the emotions and biases of the people involved and proceeds without a predisposition toward a certain outcome.

The workload can involve an issue with broad implications, such as State and local governments’ treatment of prison inmates, and response to child abuse cases. Mr. Angrick’s office reviewed whether inmates were held too long in restraining chairs and whether government procedures were adequate to protect children in violent circumstances. The office has given special attention over the years to State and local governments’ treatment of mentally ill and disabled citizens. Mr. Angrick recognizes that some challenges are interwoven among segments of society and government and merit a comprehensive response. For example, he has given needed understanding of and exposure to the fact that State prisons have become de facto housing for mentally ill citizens in many cases. He is right that government has to address this situation and give appropriate treatment to those who can’t advocate for themselves.

The ombudsman's workload also involves cases with a more narrow focus. A recent investigation covered a city street superintendent accused of using city equipment on his own property and retaliating against a citizen who complained while local elected officials stood by. The resolution of that dispute might not resonate statewide, but it is meaningful for the residents of a community who expect their city employees to function aboveboard and expect their elected officials to enforce city rules and regulations. The office serves as a check-and-balance backstop on potential abuse of power.

However, the ombudsman's office doesn't only conclude that the government is wrong. Sometimes it affirms that government agencies acted properly, as in 2004 when it concluded that the Iowa Department of Natural Resources' investigation of three Asian markets for unlawful fish sales was fair and reasonable.

The citizens aide office is open to everyone, regardless of position and station in life. That equal voice for everyone is critical to its purpose and its success. Under Mr. Angrick's leadership, a prison inmate's call is taken respectfully and with care for the facts, the same as a mayor's call. Mr. Angrick recognizes that a prisoner should not be abused and is entitled to humane, compassionate treatment and certain rights as he pays his debt to society. This is not only the right way to treat our fellow human beings, but it also contributes to a stronger civic structure. If the prison inmate feels heard, he may leave his service with a greater regard for society and the rule of law than he did going into prison. He might not commit a crime the second time.

By holding the government accountable, the ombudsman's office builds faith in State and local civic institutions. A well-functioning government in which citizens have a voice, are heard, and affect change is the best antidote to cynicism about government. My strong impression is that Bill Angrick and his staff accomplished the simple slogan of their office: "Dedicated to Making Good Government Better." I thank Bill Angrick for his 32 years of service to the people of Iowa.

#### ADDITIONAL STATEMENTS

##### GREENVILLE SCOTTISH GAMES

• Mr. DEMINT. Mr. President, this year marks the fourth annual celebration of the Greenville Scottish Games in my hometown of Greenville, SC. South Carolina's upstate boasts one of the highest concentrations of Scots-Irish descendants in the country and these games pay tribute to that rich Celtic heritage.

Since their inception in 2006, the Greenville Scottish Games have re-

ceived international acclaim from the Standing Council of Scottish Chiefs which has recognized them as one of the finest games in the world.

This year's event brings with it yet another historic milestone, with His Royal Highness, The Prince Edward, Earl of Wessex, in attendance. This is the first known time a senior member of the British Royal Family has attended a games outside of Scotland, and it is my great honor to extend an official senatorial welcome to His Royal Highness. I am confident he will experience the finest of Palmetto State hospitality as the first member of the Royal Family to ever visit Greenville.

These tremendous distinctions have been achieved under the tireless leadership of Dee Benedict, president of the Greenville Scottish Games. With Dee's vision and tenacity, along with the help of local officials, businesses and countless volunteers, no detail has gone untouched, ensuring that every part of this exciting weekend will evoke a feeling of authentic Scottish clan life.

I am immensely proud that my hometown is the site of this celebration and I am honored to congratulate everyone who has partnered together to make the Fourth Annual Greenville Scottish Games a sure success.●

##### 75TH ANNIVERSARY OF THE WAYNE STATE SCHOOL OF SOCIAL WORK

• Mr. LEVIN. Mr. President, it is with great honor that I recognize the 75th anniversary of the School of Social Work at Wayne State University. Since 1935, this fine institution has provided students in Michigan and across the Nation with the skills necessary to tackle some of the toughest challenges we face as a society. The theme of the anniversary celebration is "Advancing Knowledge, Community Engagement, and Social Justice," and it aptly characterizes the school's mission and legacy. The achievements of its many distinguished graduates and the impressive research the school has produced over the years have served to inform and improve public policy on a number of social welfare issues.

Located in the heart of metro Detroit, the School of Social Work's principal focus is on diverse urban populations. The school combines applied research with concrete field work to produce graduates who are highly skilled and ready to serve successfully in their chosen field. Under the leadership of Dr. Phyllis Ivory Vroom for nearly a decade, the School of Social Work is well positioned to address the increasingly complex problems on a city and state level and beyond.

Housed within the School of Social Work is the Center for Social Work Practice and Policy Research. This center, established in 2008, seeks to fa-

cilitate rigorous debate and to expand our understanding of the issues affecting disadvantaged individuals, families, and communities. The list of research topics is extensive, from health and human rights issues in the Middle East, to women's reproductive health in Africa, to substance abuse treatment and prevention within our own communities, to name only a few.

In recent years, the undergraduate degree program has gained prominence, ranking first in the nation among social work programs for the last four years by the Gourman Report. The graduate program also is highly regarded. The School of Social Work's graduation rate is among the highest in the university, which speaks to the commitment of the faculty and staff and the hard work and dedication of its student body.

I know my Senate colleagues join me in recognizing past and present faculty, staff, and alumni of the Wayne State University School of Social Work. These individuals have contributed mightily to the tremendous success of the school over the past 75 years. I look forward to another 75 years of inspired leadership and continued educational excellence.●

##### REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13303 OF MAY 22, 2003—PM-55

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, continuing the national emergency with respect to the stabilization of Iraq. This notice states that the national emergency with respect to the stabilization of Iraq declared in Executive Order 13303 of May 22, 2003, as modified in scope and relied upon for additional steps taken in Executive Order 13315 of August 28, 2003, Executive Order 13350 of July 29, 2004, Executive Order 13364 of November 29, 2004, and Executive Order 13438 of July 17, 2007, is to continue in effect beyond May 22, 2010.

Obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the

country, and the development of political, administrative, and economic institutions in Iraq continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. Accordingly, I have determined that it is necessary to continue the national emergency with respect to this threat and maintain in force the measures taken to deal with that national emergency.

The Iraqi government continues to take steps to resolve debts and settle claims arising from the actions of the previous regime. Before the end of the year, my Administration will review the Iraqi government's progress on resolving these outstanding debts and claims, as well as other relevant circumstances, in order to determine whether the prohibitions contained in Executive Order 13303 of May 22, 2003, as amended by Executive Order 13364 of November 29, 2004, on any attachment, judgment, decree, lien, execution, garnishment, or other judicial process with respect to the Development Fund for Iraq, the accounts, assets, and property held by the Central Bank of Iraq, and Iraqi petroleum-related products, should continue in effect beyond December 31, 2010, which are in addition to the sovereign immunity ordinarily provided to Iraq as a sovereign nation under otherwise applicable law.

BARACK OBAMA.  
THE WHITE HOUSE, May 12, 2010.

#### MESSAGES FROM THE HOUSE

At 11:53 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5051. An act to designate the facility of the United States Postal Service located at 23 Genesee Street in Hornell, New York, as the "Zachary Smith Post Office Building".

The message also announced that the House has agreed to the following concurrent resolution; without amendment:

S. Con. Res. 62. A concurrent resolution congratulating the outstanding professional public servants, both past and present, of the Natural Resources Conservation Service on the occasion of its 75th anniversary.

#### ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. BYRD) announced that he had signed the following enrolled bills, which were previously signed by the Speaker of the House:

H.R. 2802. An act to provide for an extension of the legislative authority of the Adams Memorial Foundation to establish a commemorative work in honor of former President John Adams and his legacy, and for other purposes.

H.R. 5148. An act to amend title 39, United States Code, to clarify the instances in which the term "census" may appear on mailable matter.

H.R. 5160. An act to extend the Caribbean Basin Economic Recovery Act, to provide customs support services to Haiti, and for other purposes.

#### ENROLLED BILLS SIGNED

At 2:53 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1121. An act to authorize a land exchange to acquire lands for the Blue Ridge Parkway from the Town of Blowing Rock, North Carolina, and for other purposes.

H.R. 1442. An act to provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909.

#### MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5051. An act to designate the facility of the United States Postal Service located at 23 Genesee Street in Hornell, New York, as the "Zachary Smith Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 3347. A bill to extend the National Flood Insurance Program through December 31, 2010.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5788. A communication from the Administrator of Cotton and Tobacco Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Cotton Research and Promotion Program: Designation of Cotton-Producing States" ((Docket No. AMS-CN-10-0027)(CN-08-003)) received in the Office of the President of the Senate on May 10, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5789. A communication from the Under Secretary of Defense (Personnel and Readiness), Department of Defense, transmitting, pursuant to law, a report relative to the disposition of remains; to the Committee on Armed Services.

EC-5790. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-5791. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation" (FRL No. 9150-5) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Environment and Public Works.

EC-5792. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Update of Weighted Average Interest Rates, Yield Curves, and Segment Rates" (Notice No. 2010-40) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Finance.

EC-5793. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2010-0069-2010-0075); to the Committee on Foreign Relations.

EC-5794. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a Determination and Certification under Section 40A of the Arms Export Control Act relative to countries not cooperating fully with United States antiterrorism efforts; to the Committee on Foreign Relations.

EC-5795. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement for the export of defense articles, including, technical data, and defense services to Germany for the manufacture, assembly, and test of parts and components for Turbine Engines and Auxiliary Power Units related to various military aircraft, helicopters, and tanks; to the Committee on Foreign Relations.

EC-5796. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement for the export of defense articles, including, technical data, and defense services for the manufacture of military aircraft engine hot section components specifically, combustion chambers and liners; to the Committee on Foreign Relations.

EC-5797. A communication from the Chairman, National Mediation Board, transmitting, pursuant to law, the report of a rule entitled "Representation Election Procedure" (RIN3140-AZ00) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-5798. A communication from the Director, Office of Workers' Compensation Programs, Department of Labor, transmitting, pursuant to law, a report relative to the operations of the Office of Workers' Compensation Programs for fiscal year 2008; to the Committee on Health, Education, Labor, and Pensions.

EC-5799. A communication from the Director, Office of Workers' Compensation Programs, Department of Labor, transmitting, pursuant to law, a report relative to the annual audit of the District of Columbia Workmen's Compensation Act Special Fund; to the Committee on Health, Education, Labor, and Pensions.

EC-5800. A communication from the Director, Office of Workers' Compensation Programs, Department of Labor, transmitting,

pursuant to law, a report relative to the annual audit of the Longshore and Harbor Workers' Compensation Act Special Fund; to the Committee on Health, Education, Labor, and Pensions.

EC-5801. A communication from the Chairman, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Inspector General's Semiannual Report for the six-month period ending March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-5802. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Television Broadcasting Services; Seaford, DE" (MB Docket No. 09-230) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5803. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Closure of the Eastern U.S./Canada Management Area" (RIN0648-XW04) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5804. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Scup Fishery; Reduction of Winter I Commercial Possession Limit" (RIN0648-XV77) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5805. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Relief for U.S. Military and Civilian Personnel Who Are Assigned Outside the United States in Support of U.S. Armed Forces Operations" (RIN2120-AJ54)(Docket No. FAA-2009-0923) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5806. A communication from the Assistant Chief Counsel for Legislation and Regulations, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Administrative Waivers of the Coastwise Trade Laws: New Definition for Eligible Vessel" (RIN2133-AB76) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5807. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Jet Routes J-37 and J-55; Northeast United States" (RIN2120-AA66)(Docket No. FAA-2010-0003) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5808. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Jackson, AL" ((RIN2120-

AA66)(Docket No. FAA-2009-0937)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5809. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Fort A.P. Hill, VA" ((RIN2120-AA66)(Docket No. FAA-2009-0739)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5810. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Mountain City, TN" ((RIN2120-AA66)(Docket No. FAA-2009-0061)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5811. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Bonners Ferry, ID" ((RIN2120-AA66)(Docket No. FAA-2009-1002)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5812. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures (68); Amdt. No. 3366" (RIN2120-AA65) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5813. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures (46); Amdt. No. 3367" (RIN2120-AA65) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5814. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures (56); Amdt. No. 3371" (RIN2120-AA65) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5815. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures (120); Amdt. No. 3370" (RIN2120-AA65) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5816. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures (92); Amdt. No. 3368" (RIN2120-AA65) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 736. A bill to provide for improvements in the Federal hiring process and for other purposes (Rept. No. 111-184).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. AKAKA:

S. 3348. A bill to amend title 38, United States Code, to provide for the treatment of documents that express disagreement with decisions of the Board of Veterans' Appeals and that are misfiled with the Board within 120 days of such decisions as motions for reconsideration of such decisions, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BROWN of Ohio (for himself and Mr. SCHUMER):

S. 3349. A bill to amend the Internal Revenue Code of 1986 to extend the nonbusiness energy property credit to include insulated siding; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. CRAPO):

S. 3350. A bill to amend the Internal Revenue Code of 1986 to permanently modify the limitations on deduction of interest by financial institutions which hold tax-exempt bonds, and for other purposes; to the Committee on Finance.

By Mr. LEVIN:

S. 3351. A bill for the relief of Marco Antonio Sanchez; to the Committee on the Judiciary.

By Mr. TESTER:

S. 3352. A bill to amend title 38, United States Code, to exempt reimbursements of expenses related to accident, theft, loss, or casualty loss from determinations of annual income with respect to pensions for veterans and surviving spouses and children of veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LAUTENBERG (for himself, Mrs. GILLIBRAND, Mr. MENENDEZ, and Mr. BURRIS):

S. 3353. A bill to provide grants for juvenile mentoring; to the Committee on the Judiciary.

By Mr. COCHRAN:

S. 3354. A bill to redesignate the North Mississippi National Wildlife Refuges Complex as the Sam D. Hamilton North Mississippi National Wildlife Refuges Complex; to the Committee on Environment and Public Works.

By Ms. KLOBUCHAR (for herself, Mr. JOHANNES, and Mrs. MURRAY):

S. 3355. A bill to provide for an Internet website for information on benefits, resource, services, and opportunities for veterans and their families and caregivers, and for other purposes; to the Committee on Veterans' Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:



By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. Res. 521. A resolution commemorating and celebrating the lives of Deputy Sheriff Stephen Michael Gallagher, Jr., Officer Timothy Q. Brenton, Officer Tina G. Griswold, Officer Ronald Wilbur Owens II, Sergeant Mark Joseph Renninger, Officer Gregory James Richards, and Deputy Sheriff Walter Kent Mundell, Jr. who gave their lives in the service of the people of Washington State in 2009; to the Committee on the Judiciary.

By Mr. BURRIS (for himself, Ms. SNOWE, Ms. MIKULSKI, Mr. MERKLEY, Mr. DURBIN, and Mr. JOHANNIS):

S. Res. 522. A resolution recognizing National Nurses Week; considered and agreed to.

By Ms. LANDRIEU (for herself, Mr. WICKER, Mr. SHELBY, Mr. VITTER, Mrs. HUTCHISON, Mr. COCHRAN, Mr. CORNYN, Mr. SESSIONS, Mr. BINGAMAN, Ms. MURKOWSKI, and Mr. NELSON of Florida):

S. Res. 523. A resolution honoring the crew members who perished aboard the off-shore oil rig, Deepwater Horizon, and extending the condolences of the Senate to the families and loved ones of the deceased crew members; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 565

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 565, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. 584

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 584, a bill to ensure that all users of the transportation system, including pedestrians, bicyclists, transit users, children, older individuals, and individuals with disabilities, are able to travel safely and conveniently on and across federally funded streets and highways.

S. 616

At the request of Mr. HARKIN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 616, a bill to amend the Public Health Service Act to authorize medical simulation enhancement programs, and for other purposes.

S. 987

At the request of Mr. DURBIN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1019

At the request of Mr. HARKIN, the name of the Senator from New Jersey

(Mr. MENENDEZ) was added as a cosponsor of S. 1019, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1157

At the request of Mr. CONRAD, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1157, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1233

At the request of Ms. LANDRIEU, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 1233, a bill to reauthorize and improve the SBIR and STTR programs and for other purposes.

S. 1334

At the request of Mrs. GILLIBRAND, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1334, a bill to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

S. 1551

At the request of Mr. SPECTER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1551, a bill to amend section 20 of the Securities Exchange Act of 1934 to allow for a private civil action against a person that provides substantial assistance in violation of such Act.

S. 2736

At the request of Mr. FRANKEN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 2736, a bill to reduce the rape kit backlog and for other purposes.

S. 2847

At the request of Mr. WHITEHOUSE, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2847, a bill to regulate the volume of audio on commercials.

S. 2920

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 2920, a bill to amend chapter 1 of title 23, United States Code, to condition the receipt of certain highway funding by States on the enactment and enforcement by States of certain laws to prevent repeat intoxicated driving.

S. 2989

At the request of Ms. LANDRIEU, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 2989, a bill to improve the Small Business Act, and for other purposes.

S. 3036

At the request of Mr. BAYH, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 3036, a bill to establish the Office of the National Alzheimer's Project.

S. 3058

At the request of Mr. DORGAN, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3073

At the request of Mr. LEVIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 3073, a bill to amend the Federal Water Pollution Control Act to protect and restore the Great Lakes.

S. 3086

At the request of Mr. DODD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 3086, a bill to support high-achieving, educationally disadvantaged elementary school students in high-need local educational agencies, and for other purposes.

S. 3102

At the request of Mr. MERKLEY, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 3102, a bill to amend the miscellaneous rural development provisions of the Farm Security and Rural Investment Act of 2002 to authorize the Secretary of Agriculture to make loans to certain entities that will use the funds to make loans to consumers to implement energy efficiency measures involving structural improvements and investments in cost-effective, commercial off-the-shelf technologies to reduce home energy use.

S. 3109

At the request of Mr. BAUCUS, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3109, a bill to require the Secretary of the Army to conduct levee system evaluations and certifications on receipt of requests from non-Federal interests.

S. 3165

At the request of Ms. LANDRIEU, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 3165, a bill to authorize the Administrator of the Small Business Administration to waive the non-Federal share requirement under certain programs.

S. 3231

At the request of Mr. GRASSLEY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 3231, a bill to amend the Internal Revenue Code of 1986 to extend certain tax incentives for alcohol used as fuel and to amend the Harmonized Tariff Schedule of the United States to extend additional duties on ethanol.



S. 3305

At the request of Mr. MENENDEZ, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 3305, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills, and for other purposes.

S. 3306

At the request of Mr. MENENDEZ, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 3306, a bill to amend the Internal Revenue Code of 1986 to require polluters to pay the full cost of oil spills, and for other purposes.

S. 3335

At the request of Mr. COBURN, the names of the Senator from Missouri (Mrs. McCASKILL), the Senator from Georgia (Mr. ISAKSON), the Senator from California (Mrs. BOXER), the Senator from Texas (Mr. CORNYN), the Senator from Georgia (Mr. CHAMBLISS), and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S. 3335, a bill to require Congress to establish a unified and searchable database on a public website for congressional earmarks as called for by the President in his 2010 State of the Union Address to Congress.

S. 3344

At the request of Mr. WHITEHOUSE, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 3344, a bill to establish an independent, nonpartisan commission to investigate the causes and impact of, and evaluate and improve the response to, the explosion, fire, and loss of life on and sinking of the Mobile Drilling Unit Deepwater Horizon and the resulting uncontrolled release of crude oil into the Gulf of Mexico, and to ensure that a similar disaster is not repeated.

S. 3345

At the request of Mr. WHITEHOUSE, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 3345, a bill to amend title 46, United States Code, to remove the cap on punitive damages established by the Supreme Court in *Exxon Shipping Company v. Baker*.

S. 3346

At the request of Mr. WHITEHOUSE, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 3346, a bill to increase the limits on liability under the Outer Continental Shelf Lands Act.

S.J. RES. 30

At the request of Mr. ISAKSON, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S.J. Res. 30, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Mediation Board relating to representation election procedures.

S. RES. 411

At the request of Mrs. LINCOLN, the names of the Senator from Mississippi (Mr. WICKER) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. Res. 411, a resolution recognizing the importance and sustainability of the United States hardwoods industry and urging that United States hardwoods and the products derived from United States hardwoods be given full consideration in any program to promote construction of environmentally preferable commercial, public, or private buildings.

AMENDMENT NO. 3748

At the request of Mrs. FEINSTEIN, the names of the Senator from Kentucky (Mr. BUNNING), the Senator from Ohio (Mr. BROWN) and the Senator from Wyoming (Mr. BARRASSO) were added as cosponsors of amendment No. 3748 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3804

At the request of Mr. MENENDEZ, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of amendment No. 3804 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3837

At the request of Mr. CORKER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of amendment No. 3837 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3838

At the request of Mrs. SHAHEEN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of amendment No. 3838 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3841

At the request of Mr. MENENDEZ, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of amendment No. 3841 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3845

At the request of Mr. KAUFMAN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 3845 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3870

At the request of Mr. KERRY, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of amendment No. 3870 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3877

At the request of Mr. MENENDEZ, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of amendment No. 3877 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3896

At the request of Mr. GREGG, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of amendment No. 3896 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3897

At the request of Mr. DORGAN, the name of the Senator from Washington

(Ms. CANTWELL) was added as a cosponsor of amendment No. 3897 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3918

At the request of Ms. SNOWE, the names of the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of amendment No. 3918 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3920

At the request of Mr. HARKIN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of amendment No. 3920 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3931

At the request of Mr. MERKLEY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 3931 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3939

At the request of Mrs. FEINSTEIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 3939 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3949

At the request of Mr. CARPER, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Dakota (Mr. THUNE), the Senator from Ohio (Mr. VOINOVICH), the

Senator from Tennessee (Mr. ALEXANDER), the Senator from Wyoming (Mr. ENZI) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of amendment No. 3949 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3956

At the request of Ms. LANDRIEU, the names of the Senator from Montana (Mr. TESTER), the Senator from North Carolina (Mr. BURR), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of amendment No. 3956 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

At the request of Mrs. LINCOLN, her name was added as a cosponsor of amendment No. 3956 proposed to S. 3217, *supra*.

At the request of Mr. LEVIN, his name was added as a cosponsor of amendment No. 3956 proposed to S. 3217, *supra*.

At the request of Mr. ISAKSON, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of amendment No. 3956 proposed to S. 3217, *supra*.

## AMENDMENT NO. 3958

At the request of Mr. REED, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of amendment No. 3958 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3970

At the request of Mr. LEVIN, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Florida (Mr. NELSON) were added as cosponsors of amendment No. 3970 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3971

At the request of Mr. LEVIN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of amendment No. 3971 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3973

At the request of Mr. LEVIN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of amendment No. 3973 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3974

At the request of Mr. LEVIN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of amendment No. 3974 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3975

At the request of Mr. LEVIN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of amendment No. 3975 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3977

At the request of Mr. LEVIN, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of amendment No. 3977 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3978

At the request of Mr. JOHNSON, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Kansas (Mr. ROBERTS) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of amendment No. 3978 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 3348. A bill to amend title 38, United States Code, to provide for the treatment of documents that express disagreement with decisions of the Board of Veterans' Appeals and that are misfiled with the Board within 120 days of such decisions as motions for reconsideration of such decisions, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, as Chairman of the Senate Committee on Veterans' Affairs, I am introducing legislation today to protect the rights of appeal by claimants before the United States Court of Appeals for Veterans Claims when claimants erroneously file a document with the Department of Veterans Affairs and the document is not transmitted to the court in a timely fashion.

Under current law, section 7266 of title 38, United States Code, a veteran or other claimant who seeks to have a decision of the Board of Veterans' Appeals reviewed by the U.S. Court of Appeals for Veterans Claims must "file a notice of appeal with the court within 120 days after the date" on which the board mails its decision to the veteran or other claimant.

This measure would respond to a problem identified in a recent decision of the court in the case of Posey v. Shinseki, decided April 23, 2010. In that case, a veteran sent a document purporting to be an appeal to the court to a VA regional office. The document was not forwarded to the court within the 120 day period. VA sought to have the appeal dismissed as untimely filed. However, the court found that the document qualified as a motion for reconsideration by the board.

Judge Lawrence B. Hagel authored a concurring opinion in which he expressed concern with the number of cases in which a claimant's right to appeal to the court had been thwarted because the Secretary had held correspondence from veterans seeking to appeal to the court until after the time for filing had expired. The Secretary

would then argue that the claimant's appeal to the court was untimely and should be dismissed. Some of those cases resulted in dismissal of the appeal. Judge Hagel suggested that this problem could be addressed by legislation treating a document as a motion for reconsideration by the Board if it was received by the Secretary and not forwarded to the Court within the 120 day period.

I do not believe that VA has acted deliberately to impede any veteran's right to appeal to the court. However, the failure of VA to notify a veteran promptly of the filing error or to forward the document to the court should not be allowed to deprive a veteran of the right to have a case reviewed on appeal. The bill I am introducing would only apply in those cases where no appeal is filed with the court within the 120-day time period and the board or other VA agency has received during that same 120-day period a document expressing disagreement with the board decision.

I urge our colleagues to support this bill so that any veteran who attempts to appeal a decision of the Board in a timely fashion does not have his or her attempt thwarted by an error.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3348

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TREATMENT OF CERTAIN MISFILED DOCUMENTS AS MOTIONS FOR RECONSIDERATION OF DECISIONS BY BOARD OF VETERANS' APPEALS.**

Section 7103 of title 38, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Except as provided in paragraph (2), if a person adversely affected by a final decision of the Board, who has not filed a notice of appeal with the United States Court of Appeals for Veterans Claims under section 7266(a) of this title within the period set forth in that section, files a document with the Board or the agency of original jurisdiction referred to in section 7105(b)(1) of this title that expresses disagreement with such decision not later than 120 days after the date of such decision, such document shall be treated as a motion for reconsideration of such decision under subsection (a).

"(2) A document described in paragraph (1) shall not be treated as a motion for reconsideration of the decision under paragraph (1) if—

"(A) the Board or the agency of original jurisdiction referred to in paragraph (1)—

"(i) receives the document described in paragraph (1);

"(ii) determines that such document expresses an intent to appeal the decision to the United States Court of Appeals for Veterans Claims; and

"(iii) forwards such document to the United States Court of Appeals for Veterans Claims; and

"(B) the United States Court of Appeals for Veterans Claims receives such document within the period set forth by section 7266(a) of this title.".

## SUBMITTED RESOLUTIONS

SENATE RESOLUTION 521—COMMEMORATING AND CELEBRATING THE LIVES OF DEPUTY SHERIFF STEPHEN MICHAEL GALLAGHER, JR., OFFICER TIMOTHY Q. BRENTON, OFFICER TINA G. GRISWOLD, OFFICER RONALD WILBUR OWENS II, SERGEANT MARK JOSEPH RENNINGER, OFFICER GREGORY JAMES RICHARDS, AND DEPUTY SHERIFF WALTER KENT MUNDELL, JR. WHO GAVE THEIR LIVES IN THE SERVICE OF THE PEOPLE OF WASHINGTON STATE IN 2009

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 521

Whereas law enforcement officers throughout Washington State conduct themselves in a manner that supports, maintains, and defends the Constitution of the United States and the Constitution of the State of Washington;

Whereas law enforcement officers throughout the Nation and in Washington State risk their own lives to protect the lives of others;

Whereas, since 1791, 20,146 law enforcement officers were killed in the line of duty in the United States and 270 of these officers served the people of Washington State;

Whereas, in 2009, 126 law enforcement officers were killed in the line of duty in the United States;

Whereas, in 2009, Deputy Sheriff Stephen Michael Gallagher, Jr., of the Lewis County Sheriff's Office, Officer Timothy Q. Brenton of the Seattle Police Department, Officer Tina G. Griswold of the Lakewood Police Department, Officer Ronald Wilbur Owens II of the Lakewood Police Department, Sergeant Mark Joseph Renninger of the Lakewood Police Department, Officer Gregory James Richards of the Lakewood Police Department, and Deputy Sheriff Walter Kent Mundell, Jr., of the Pierce County Sheriff's Department gave their lives in the service of the people of Washington State;

Whereas the family members and friends of Deputy Sheriff Stephen Michael Gallagher, Jr., Officer Timothy Q. Brenton, Officer Tina G. Griswold, Officer Ronald Wilbur Owens II, Sergeant Mark Joseph Renninger, Officer Gregory James Richards, and Deputy Sheriff Walter Kent Mundell, Jr., bear the most immediate and profound burden of the absence of their loved ones; and

Whereas National Police Week is observed during the week of May 9, 2010, to May 15, 2010, and is the most appropriate time to honor the Washington State law enforcement officers who sacrificed their lives in service to their State and Nation: Now, therefore, be it

*Resolved*, That the Senate—

(1) extends its condolences to the families and loved ones of Deputy Sheriff Stephen Michael Gallagher, Jr., Officer Timothy Q. Brenton, Officer Tina G. Griswold, Officer

Ronald Wilbur Owens II, Sergeant Mark Joseph Renninger, Officer Gregory James Richards, and Deputy Sheriff Walter Kent Mundell, Jr.; and

(2) stands in solidarity with the people of Washington State as they celebrate the lives and mourn the loss of these remarkable and selfless heroes who represented the best of their community and whose memory will serve as an inspiration for future generations.

#### SENATE RESOLUTION 522—RECOGNIZING NATIONAL NURSES WEEK

Mr. BURRIS (for himself, Ms. SNOWE, Ms. MIKULSKI, Mr. MERKLEY, Mr. DURBIN, and Mr. JOHANNES) submitted the following resolution; which was considered and agreed to:

S. RES. 522

Whereas since 1990, National Nurses Week is celebrated annually from May 6, which is known as National Recognition Day for Nurses, through May 12, which is the birthday of Florence Nightingale, the founder of modern nursing;

Whereas National Nurses Week is a time of year to reflect on the important contributions that nurses make to provide safe, high-quality health care;

Whereas nurses are known to be patient advocates, acting fearlessly to protect the lives of those under their care;

Whereas nurses represent the largest single component of the health care profession with 3,100,000 jobs;

Whereas nurses are experienced researchers, and their work encompasses a wide scope of scientific inquiry, including clinical research, health systems and outcomes research, and nursing education research;

Whereas nurses are well positioned to provide leadership to eliminate health care disparities that exist in the United States;

Whereas nurses help inform and educate the public to improve the practice of all nurses and, more importantly, the health and safety of the patients they care for;

Whereas survey data shows that enrollments in entry-level baccalaureate programs in nursing rose by 3.6 percent in 2009, and though this marks the ninth consecutive year of enrollment growth, the annual increase in student capacity in 4-year nursing programs has declined sharply since 2003 when enrollment was up by 16.6 percent;

Whereas nursing programs in the United States were forced to reject almost 119,000 qualified applicants according to the most recent survey of all prelicensure nursing programs;

Whereas according to the Bureau of Labor and Statistics, employment of registered nurses is expected to grow by 22 percent from 2008 to 2018, which is a much faster rate of growth than the average rate of growth for all occupations;

Whereas according to survey data, enrollment in doctoral nursing programs increased by more than 20 percent this year, signaling strong interest among students in careers as nursing scientists, faculty, primary care providers, and specialists;

Whereas expanding capacity in baccalaureate and graduate programs is critical to sustaining a healthy nursing workforce and providing patients with the best care possible;

Whereas the nationwide nursing shortage has caused dedicated nurses to work longer hours and care for more acutely ill patients;

Whereas nurse educators work on average more than 57 hours per week in order to ensure that each and every new registered nurse receives an excellent education, advancing excellence among the next generation of nurses;

Whereas nurses inform legislators on the education, retention, recruitment, and practice of all nurses and, more importantly, the health and safety of the patients they care for; and

Whereas increased Federal and State support is needed to enhance existing programs and create new programs to educate nursing students at all levels, to increase the number of faculty members to educate nursing students, to create clinical sites and have appropriately prepared nurses teach and train at those sites, to create educational opportunities to retain nurses in the profession, and to educate and train more nurse research scientists who can discover new nursing: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes National Nurses Week;

(2) supports the goals and ideals of National Nurses Week;

(3) acknowledges the importance of quality higher education in nursing, including baccalaureate and graduate programs, to meet the needs of one of the fastest growing labor fields in the Nation; and

(4) supports the nurse capacity initiatives for institutions of higher education included in the Higher Education Opportunity Act.

#### SENATE RESOLUTION 523—HONORING THE CREW MEMBERS WHO PERISHED ABOARD THE OFFSHORE OIL RIG, DEEPWATER HORIZON, AND EXTENDING THE CONDOLENCES OF THE SENATE TO THE FAMILIES AND LOVED ONES OF THE DECEASED CREW MEMBERS

Ms. LANDRIEU (for herself, Mr. WICKER, Mr. SHELBY, Mr. VITTER, Mrs. HUTCHISON, Mr. COCHRAN, Mr. CORNYN, Mr. SESSIONS, Mr. BINGAMAN, Ms. MURKOWSKI, and Mr. NELSON of Florida) submitted the following resolution; which was considered and agreed to:

S. RES. 523

Whereas oil and natural gas are necessary commodities for the United States;

Whereas a drill ship, the Deepwater Horizon, was drilling in 5,000 feet of water approximately 50 miles off the coast of Louisiana, in the Gulf of Mexico;

Whereas on April 20, 2010, a terrible explosion occurred aboard the Deepwater Horizon;

Whereas 126 men and women were on board the Deepwater Horizon at the time of the explosion;

Whereas 11 men remain missing, and are presumed dead;

Whereas 17 people were injured, 3 of them critically; and

Whereas the United States is greatly indebted to oil rig crewmen for the serious physical risks, difficult periods of separation from their families, and supremely challenging engineering tasks endured to produce much-needed energy for the Nation: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the crew members who perished aboard the offshore oil rig, Deepwater Horizon; and

(2) expresses sincere condolences to the families and loved ones of the deceased crew members.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3979. Mrs. McCASKILL submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 3980. Mr. CARDIN (for himself, Mr. LUGAR, Mr. DURBIN, Mr. SCHUMER, Mr. FEINGOLD, Mr. MERKLEY, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3981. Mr. CARDIN (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3982. Mr. WYDEN (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3983. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3984. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3985. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3986. Mr. CORNYN (for himself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3987. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3988. Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3989. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 3217, supra.

SA 3990. Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3991. Mr. FRANKEN (for himself, Mr. SCHUMER, Mr. NELSON of Florida, Mr. WHITEHOUSE, Mr. BROWN of Ohio, Mrs. MURRAY, Mr. MERKLEY, Mr. BINGAMAN, Mr. LAUTENBERG, Mrs. SHAHEEN, Mr. CASEY, Mr. WICKER, Mr. SANDERS, Mr. JOHNSON, Mr. KAUFMAN, Mr. GRASSLEY, Mr. DURBIN, Mr. HARKIN, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 3992. Mr. CRAPO proposed an amendment to amendment SA 3956 proposed by Ms. LANDRIEU (for herself, Mr. ISAKSON, Mrs. HAGAN, Mr. WARNER, and Mr. MENENDEZ) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 3993. Ms. STABENOW (for herself and Mr. BROWN of Ohio) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3994. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3995. Mr. BROWN of Ohio submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3996. Mr. COBURN (for himself, Mrs. MCCASKILL, and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 3775 submitted by Mr. WYDEN (for himself and Mr. GRASSLEY) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3997. Mr. BROWNBACK (for himself, Mr. FEINGOLD, Mr. DURBIN, Mr. SPECTER, Mr. BROWN of Ohio, Mr. JOHNSON, Mr. WHITEHOUSE, Mr. LAUTENBERG, Mrs. BOXER, and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3998. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3999. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4000. Mr. KAUFMAN (for himself, Mr. GRASSLEY, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4001. Ms. LANDRIEU (for herself and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4002. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4003. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4004. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4005. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3754 submitted by Mrs. MURRAY and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

### TEXT OF AMENDMENTS

**SA 3979.** Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1552, beginning on line 16, strike “the President” and all that follows through “Senate,” on line 19 and insert the following: “the Class B directors of the Federal Reserve Bank of New York shall be designated by the Board of Governors.”

On page 1553, line 1, strike “supervised by the Board” and insert “subject to enhanced supervision and prudential standards under section 115”.

**SA 3980.** Mr. CARDIN (for himself, Mr. LUGAR, Mr. DURBIN, Mr. SCHUMER, Mr. FEINGOLD, Mr. MERKLEY, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1187, line 9, strike “effective.” insert the following: “effective.”

#### Subtitle K—Resource Extraction Issuers

##### SEC. 995. FINDINGS.

Congress finds the following:

(1) It is in the interest of the United States to promote good governance in the extractive industries sector. Transparency in revenue payments benefits oil, gas, and mining companies, because it improves the business climate in which such companies work, increases the reliability of commodity supplies upon which businesses and people in the United States rely, and promotes greater energy security.

(2) Companies in the extractive industries sector face unique tax and reputational risks, in the form of country-specific taxes and regulations. Exposure to these risks is heightened by the substantial capital employed in the extractive industries, and the often opaque and unaccountable management of natural resource revenues by foreign governments, which in turn creates unstable and high-cost operating environments for multinational companies. The effects of these risks are material to investors.

##### SEC. 996. DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

“(p) DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘commercial development of oil, natural gas, or minerals’ includes exploration, extraction, processing, export, and other significant actions relating to oil, natural gas, or minerals, or the acquisition of a license for any such activity, as determined by the Commission;

“(B) the term ‘foreign government’ means a foreign government, a department, agency, or instrumentality of a foreign government, an officer or employee of a foreign government, an agent of a foreign government, or a company owned by a foreign government, as determined by the Commission;

“(C) the term ‘payment’—

“(i) means a payment that is—

“(I) made to further the commercial development of oil, natural gas, or minerals; and

“(II) not de minimis; and

“(ii) includes taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the Commission, consistent with the guidelines of the Extractive Industries Transparency Initiative (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals;

“(D) the term ‘resource extraction issuer’ means an issuer that—

“(i) is required to file an annual report with the Commission; and

“(ii) engages in the commercial development of oil, natural gas, or minerals;

“(E) the term ‘interactive data format’ means an electronic data format in which pieces of information are identified using an interactive data standard; and

“(F) the term ‘interactive data standard’ means standardized list of electronic tags that mark information included in the annual report of a resource extraction issuer.

“(2) DISCLOSURE.—

“(A) INFORMATION REQUIRED.—Not later than 270 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall issue final rules that require each resource extraction issuer to include in the annual report of the resource extraction issuer information relating to any payment made by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals, including—

“(i) the type and total amount of such payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals; and

“(ii) the type and total amount of such payments made to each government.

“(B) INTERACTIVE DATA FORMAT.—The rules issued under subparagraph (A) shall require that the information included in the annual report of a resource extraction issuer be submitted in an interactive data format.

“(C) INTERACTIVE DATA STANDARD.—

“(i) IN GENERAL.—The rules issued under subparagraph (A) shall establish an interactive data standard for the information included in the annual report of a resource extraction issuer.

“(ii) ELECTRONIC TAGS.—The interactive data standard shall include electronic tags that identify, for any payments made by a resource extraction issuer to a foreign government or the Federal Government—

“(I) the total amounts of the payments, by category;

“(II) the currency used to make the payments;

“(III) the financial period in which the payments were made;

“(IV) the business segment of the resource extraction issuer that made the payments;

“(V) the government that received the payments, and the country in which the government is located;

“(VI) the project of the resource extraction issuer to which the payments relate; and

“(VII) such other information as the Commission may determine is necessary or appropriate in the public interest or for the protection of investors.

“(D) INTERNATIONAL TRANSPARENCY EFFORTS.—To the extent practicable, the rules issued under subparagraph (A) shall support the commitment of the Federal Government to international transparency promotion efforts relating to the commercial development of oil, natural gas, or minerals.

“(E) EFFECTIVE DATE.—With respect to each resource extraction issuer, the final rules issued under subparagraph (A) shall take effect on the date on which the resource extraction issuer is required to submit an annual report relating to the fiscal year of the resource extraction issuer that ends not earlier than 1 year after the date on which the Commission issues final rules under subparagraph (A).

“(3) PUBLIC AVAILABILITY OF INFORMATION.—

“(A) IN GENERAL.—To the extent practicable, the Commission shall make available online, to the public, a compilation of the information required to be submitted under the rules issued under paragraph (2)(A).

“(B) OTHER INFORMATION.—Nothing in this paragraph shall require the Commission to make available online information other than the information required to be submitted under the rules issued under paragraph (2)(A).

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this subsection.”.

#### SEC. 997. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the President should work with foreign governments, including members of the Group of 8 and the Group of 20, to establish domestic requirements that companies under the jurisdiction of each government publicly disclose any payments made to a government relating to the commercial development of oil, natural gas, and minerals; and

(2) the President should commit the United States to become a Candidate Country of the Extractive Industries Transparency Initiative.

**SA 3981.** Mr. CARDIN (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, between lines 6 and 7, insert the following:

(3) INVESTMENT COMPANIES AND ADVISERS.—In the event that an investment company required to be registered under the Investment Company Act of 1940, or the registered investment adviser to such a company, is subject to supervision by the Board of Governors, the Council shall, in consultation with the Commission and in lieu of the prudential standards outlined in subsections (b) through (f), recommend to the Board of Governors such alternative enhanced regulatory requirements as are necessary to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress of the investment company or investment adviser. Such alternative requirements shall consider any structural or legal limits on the ability of the investment company or investment adviser to hold capital.

On page 91, between lines 23 and 24, insert the following:

(3) INVESTMENT COMPANIES AND ADVISERS.—In the case of an investment company required to be registered under the Investment Company Act of 1940, or the registered investment adviser to such a company, that is supervised by the Board of Governors, the Board of Governors shall meet its obligations under this section by adopting the alternative enhanced regulatory requirements recommended by the Council under section 115.

**SA 3982.** Mr. WYDEN (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, add the following:

#### SEC. 122. DISCLOSURE OF CONFLICTS OF INTERESTS.

(a) RECOMMENDATION BY COUNCIL.—The Council shall issue recommendations to the primary financial regulatory agencies to require, as applicable, bank holding companies or nonbank financial companies under their respective jurisdictions to make appropriate disclosures to any purchaser or prospective purchaser of financial products from such companies, if such companies have a direct financial interest that is in material conflict

with the interests of the purchaser or prospective purchaser.

(b) PROCEDURES AND IMPLEMENTATION.—The procedural and implementation provisions of subsection (b) and (c) of section 120 shall apply to recommendations of the Council under this section.

**SA 3983.** Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1052, line 3, strike “SEC. 942,” and insert the following:

#### SEC. 942. RESIDENTIAL MORTGAGE UNDERWRITING STANDARDS.

(a) STANDARDS ESTABLISHED.—Notwithstanding any other provision of this Act or any other provision of Federal, State, or local law, the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, shall jointly establish specific minimum standards for mortgage underwriting, including—

(1) a requirement that the mortgagee verify and document the income and assets relied upon to qualify the mortgagor on the residential mortgage, including the previous employment and credit history of the mortgagor;

(2) a down payment requirement that—

(A) is equal to not less than 5 percent of the purchase price of the property securing the residential mortgage; and

(B) in the case of a first lien residential mortgage loan with an initial loan to value ratio that is more than 80 percent and not more than 95 percent, includes a requirement for credit enhancements, as defined by the Federal banking agencies, until the loan to value ratio of the residential mortgage loan amortizes to a value that is less than 80 percent of the purchase price;

(3) a method for determining the ability of the mortgagor to repay the residential mortgage that is based on factors including—

(A) all terms of the residential mortgage, including principal payments that fully amortize the balance of the residential mortgage over the term of the residential mortgage; and

(B) the debt to income ratio of the mortgagor; and

(4) any other specific standards the Federal banking agencies jointly determine are appropriate to ensure prudent underwriting of residential mortgages.

(b) UPDATES TO STANDARDS.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development—

(1) shall review the standards established under this section not less frequently than every 5 years; and

(2) based on the review under paragraph (1), may revise the standards established under this section, as the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of



Housing and Urban Development, determine to be necessary.

(c) **COMPLIANCE.**—It shall be a violation of Federal law—

(1) for any mortgage loan originator to fail to comply with the minimum standards for mortgage underwriting established under subsection (a) in originating a residential mortgage loan;

(2) for any company to maintain an extension of credit on a revolving basis to any person to fund a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan funded by such credit was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a); or

(3) for any company to purchase, fund by assignment, or guarantee a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a).

(d) **IMPLEMENTATION.**—

(1) **REGULATIONS REQUIRED.**—The Federal banking agencies, in consultation with the Federal Housing Finance Agency, shall issue regulations to implement subsections (a) and (c), which shall take effect not later than 270 days after the date of enactment of this Act.

(2) **REPORT REQUIRED.**—If the Federal banking agencies have not issued final regulations under subsections (a) and (c) before the date that is 270 days after the date of enactment of this Act, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) explains why final regulations have not been issued under subsections (a) and (c); and

(B) provides a timeline for the issuance of final regulations under subsections (a) and (c).

(e) **ENFORCEMENT.**—Compliance with the rules issued under this section shall be enforced by—

(1) the primary financial regulatory agency of an entity, with respect to an entity subject to the jurisdiction of a primary financial regulatory agency, in accordance with the statutes governing the jurisdiction of the primary financial regulatory agency over the entity and as if the action of the primary financial regulatory agency were taken under such statutes; and

(2) the Bureau, with respect to a company that is not subject to the jurisdiction of a primary financial regulatory agency.

(f) **EXEMPTIONS FOR CERTAIN NONPROFIT MORTGAGE LOAN ORIGINATORS.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, may jointly issue rules to exempt from the requirements under subsection (a)(2), mortgage loan originators that are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(2) **DETERMINING FACTORS.**—The Federal banking agencies shall ensure that—

(A) the lending activities of a mortgage loan originator that receives an exemption under this subsection do not threaten the safety and soundness of the banking system of the United States; and

(B) a mortgage loan originator that receives an exemption under this subsection—

(i) is not compensated based on the number or value of residential mortgage loan applications accepted, offered, or negotiated by the mortgage loan originator;

(ii) does not offer residential mortgage loans that have an interest rate greater than zero percent;

(iii) does not gain a monetary profit from any residential mortgage product or service provided;

(iv) has the primary purpose of serving low income housing needs;

(v) has not been specifically prohibited, by statute, from receiving Federal funding; and

(vi) meets any other requirements that the Federal banking agencies jointly determine are appropriate for ensuring that a mortgage loan originator that receives an exemption under this subsection does not threaten the safety and soundness of the banking system of the United States.

(3) **REPORTS REQUIRED.**—Before the issuance of final rules under subsection (a), and annually thereafter, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) identifies the mortgage loan originators that receive an exemption under this subsection; and

(B) for each mortgage loan originator identified under subparagraph (A), the rationale for providing an exemption.

(4) **UPDATES TO EXEMPTIONS.**—The Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury—

(A) shall review the exemptions established under this subsection not less frequently than every 2 years; and

(B) based on the review under subparagraph (A), may revise the standards established under this subsection, as the Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, determine to be necessary.

(g) **RULES OF CONSTRUCTION.**—Nothing in this section may be construed to permit—

(1) the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation to make or guarantee a residential mortgage loan that does not meet the minimum underwriting standards established under this section; or

(2) the Federal banking agencies to issue an exemption under subsection (f) that is not on a case-by-case basis.

(h) **DEFINITIONS.**—In this section, the following definitions shall apply:

(1) **COMPANY.**—The term “company”—

(A) has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)); and

(B) includes a sole proprietorship.

(2) **MORTGAGE LOAN ORIGINATOR.**—The term “mortgage loan originator” means any company that takes residential mortgage loan applications and offers or negotiates terms of residential mortgage loans.

(3) **RESIDENTIAL MORTGAGE LOAN.**—The term “residential mortgage loan”—

(A) means any extension of credit primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent security interest in a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling; and

(B) does not include a mortgage loan for which mortgage insurance is provided by the Department of Veterans Affairs, or the Rural Housing Administration.

(4) **EXTENSION OF CREDIT; DWELLING.**—The terms “extension of credit” and “dwelling” shall have the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

#### SEC. 943. STUDY ON FEDERAL HOUSING ADMINISTRATION UNDERWRITING STANDARDS.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study evaluating whether the underwriting criteria used by the Federal Housing Administration are sufficient to ensure the solvency of the Mutual Mortgage Insurance Fund of the Federal Housing Administration and the safety and soundness of the banking system of the United States.

(2) **ISSUES TO BE STUDIED.**—In conducting the study under paragraph (1), the Comptroller General shall evaluate—

(A) down payment requirements for Federal Housing Administration borrowers;

(B) default rates of mortgages insured by the Federal Housing Administration;

(C) characteristics of Federal Housing Administration borrowers who are most likely to default;

(D) taxpayer exposure to losses incurred by the Federal Housing Administration;

(E) the impact of the market share of the Federal Housing Administration on efforts to sustain a viable private mortgage market; and

(F) any other factors that Comptroller General determines are appropriate.

(b) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a) that includes recommendations for statutory improvements to be made to the underwriting criteria used by the Federal Housing Administration, to ensure the solvency of the Mutual Mortgage Insurance Fund of the Federal Housing Administration and the safety and soundness of the banking system of the United States.

#### SEC. 944.

**SA 3984.** Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 293, line 11, strike “(r)” and insert the following:

(r) **ADDITIONAL LIMITATION.**—Notwithstanding any other provision of this section, or any other provision of law, the Corporation, when acting as a receiver under this title, may not reject or repudiate a real property lease under which a covered financial company is a lessee unless—

(1) the lessor consents to such rejection or repudiation; or

(2) the Corporation agrees to pay damages to the lessee, as if the lease had been rejected under section 365 of title 11, United States Code.

(s)



**SA 3985.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike 989B, insert the following:

**SEC. 989B. DESIGNATED FEDERAL ENTITY INSPECTORS GENERAL INDEPENDENCE.**

Section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (a)(4)—

(A) in the matter preceding subparagraph (A), by inserting “the board or commission of the designated Federal entity, or in the event the designated Federal entity does not have a board or commission,” after “means”;

(B) in subparagraph (A), by striking “and” after the semicolon; and

(C) by adding after subparagraph (B) the following:

“(C) with respect to the Federal Labor Relations Authority, such term means the members of the Authority (described under section 7104 of title 5, United States Code);

“(D) with respect to the National Archives and Records Administration, such term means the Archivist of the United States;

“(E) with respect to the National Credit Union Administration, such term means the National Credit Union Administration Board (described under section 102 of the Federal Credit Union Act (12 U.S.C. 1752a);

“(F) with respect to the National Endowment of the Arts, such term means the National Council on the Arts;

“(G) with respect to the National Endowment for the Humanities, such term means the National Council on the Humanities; and

“(H) with respect to the Peace Corps, such term means the Director of the Peace Corps.”; and

(2) in subsection (h), by inserting “if the designated Federal entity is not a board or commission, include” after “designated Federal entities and”.

**SEC. 989C. STRENGTHENING INSPECTOR GENERAL ACCOUNTABILITY.**

Section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (12), by striking “and” after the semicolon;

(2) in paragraph (13), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

“(14)(A) an appendix containing the results of any peer review conducted by another Office of Inspector General during the reporting period; or

“(B) if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another Office of Inspector General;

“(15) a list of any outstanding recommendations from any peer review conducted by another Office of Inspector General that have not been fully implemented, including a statement describing the status of the implementation and why implementation is not complete; and

“(16) a list of any peer reviews conducted by the Inspector General of another Office of

the Inspector General during the reporting period, including a list of any outstanding recommendations made from any previous peer review (including any peer review conducted before the reporting period) that remain outstanding or have not been fully implemented.”.

**SEC. 989D. REMOVAL OF INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.**

Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating the sentences following “(e)” as paragraph (2); and

(2) by striking “(e)” and inserting the following:

In the case of a designated Federal entity for which a board or commission is the head of the designated Federal entity, a removal under this subsection may only be made upon the written concurrence of a ¾ majority of the board or commission.”.

**SA 3986.** Mr. CORNYN (for himself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1565, after line 23, add the following:

**TITLE XIII—MISCELLANEOUS**

**SEC. 1301. RESTRICTIONS ON USE OF FEDERAL FUNDS TO FINANCE BAILOUTS OF FOREIGN GOVERNMENTS.**

The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

**“SEC. 68. RESTRICTIONS ON USE OF FEDERAL FUNDS TO FINANCE BAILOUTS OF FOREIGN GOVERNMENTS.**

“(a) IN GENERAL.—The President shall direct the United States Executive Director of the International Monetary Fund—

“(1) to evaluate any proposed loan to a country by the Fund if the amount of the public debt of the country exceeds the gross domestic product of the country;

“(2) to determine whether or not the loan will be repaid and certify that determination to Congress.

“(b) OPPOSITION TO LOANS UNLIKELY TO BE REPAYED.—If the Executive Director determines under subsection (a)(2) that a loan by the International Monetary Fund to a country will not be repaid, the President shall direct the Executive Director to use the voice and vote of the United States to vote in opposition to the proposed loan.”.

**SA 3987.** Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services prac-

tices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1208, between lines 12 and 13, insert the following:

(f) EXPIRATION.—Notwithstanding any other provision of this Act, the Bureau, and the authority of the Bureau under this title, shall terminate 4 years after the date of enactment of this Act, unless extended by an Act of Congress.

**SA 3988.** Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1219, after line 25, insert the following:

(7) STUDY AND REPORT ON PAPER STATEMENT CHARGES.—Not later than 6 months after the date of enactment of this Act, the Office of Financial Literacy shall conduct a study and submit a report to Congress—

(A) on the charging of fees for paper copies of statements related to a consumer financial product or service by covered persons under this title;

(B) the charging of fees for the use of paper checks as payment to covered persons under this title;

(C) on the impact of the imposition of such fees on financial literacy, particularly among—

(i) the elderly;

(ii) low-income individuals; and

(iii) individuals that lack computer access;

and

(D) that includes recommendations on how to ensure that the individuals described in subparagraph (C) are not negatively impacted by the imposition of fees to receive paper statements, including recommendations—

(i) on whether covered persons under this title should be—

(I) prohibited from charging fees for paper statements;

(II) prohibited from automatically enrolling individuals in e-statement or other electronic delivery programs without the express consent of the individual, in the manner described in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.); and

(III) prevented from charging fees for the use of paper checks as payment; and

(ii) regarding alternative methods to ensure that such individuals are able to access paper copies of financial statements without fees or unnecessary hindrance.

(8) AUTHORITY TO BAR FEES ON PAPER STATEMENTS.—Not later than 3 months after the submission of the report required under paragraph (7), the Director shall issue rules implementing the recommendations contained in such report.

On page 1297, line 11, before the period, insert “, or in paper form at no additional cost upon request of the consumer”.

**SA 3989.** Mr. DURBIN submitted an amendment intended to be proposed by

him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

**SEC. 1077. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.**

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) by redesignating sections 920 and 921 as sections 921 and 922, respectively; and

(2) by inserting after section 919 the following:

**“SEC. 920. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.**

“(a) **REASONABLE INTERCHANGE TRANSACTION FEES FOR ELECTRONIC DEBIT TRANSACTIONS.**—

“(1) **REGULATORY AUTHORITY.**—The Board shall have authority to establish rules, pursuant to section 553 of title 5, United States Code, regarding any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction.

“(2) **REASONABLE FEES.**—The amount of any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction shall be reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

“(3) **RULEMAKING REQUIRED.**—The Board shall issue final rules, not later than 9 months after the date of enactment of the Consumer Financial Protection Act of 2010, to establish standards for assessing whether the amount of any interchange transaction fee described in paragraph (2) is reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

“(4) **CONSIDERATIONS.**—In issuing rules required by this section, the Board shall—

“(A) consider the functional similarity between—

“(i) electronic debit transactions; and

“(ii) checking transactions that are required within the Federal Reserve bank system to clear at par;

“(B) distinguish between—

“(i) the actual incremental cost incurred by an issuer or payment card network for the role of the issuer or the payment card network in the authorization, clearance, or settlement of a particular electronic debit transaction, which cost shall be considered under paragraph (2); and

“(ii) other costs incurred by an issuer or payment card network which are not specific to a particular electronic debit transaction, which costs shall not be considered under paragraph (2); and

“(C) consult, as appropriate, with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Administrator of the Small Business Administration, and the Director of the Bureau of Consumer Financial Protection.

“(5) **EXEMPTION FOR SMALL ISSUERS.**—This subsection shall not apply to issuers that, together with affiliates, have assets of less than \$10,000,000,000, and the Board shall ex-

empt such issuers from rules issued under paragraph (3).

“(6) **EFFECTIVE DATE.**—Paragraph (2) shall become effective 12 months after the date of enactment of the Consumer Financial Protection Act of 2010.

“(b) **LIMITATION ON ANTI-COMPETITIVE PAYMENT CARD NETWORK RESTRICTIONS.**—

“(1) **NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A COMPETING PAYMENT CARD NETWORK.**—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment through the use of a card or device of another payment card network.

“(2) **NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A FORM OF PAYMENT.**—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment by the use of cash, check, debit card, or credit card.

“(3) **NO RESTRICTIONS ON SETTING TRANSACTION MINIMUMS OR MAXIMUMS.**—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to set a minimum or maximum dollar value for the acceptance by that person of any form of payment.

“(c) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

“(1) **DEBIT CARD.**—The term ‘debit card’—

“(A) means any card, or other payment code or device, issued or approved for use through a payment card network to debit an asset account for the purpose of transferring money between accounts or obtaining goods or services, whether authorization is based on signature, PIN, or other means;

“(B) includes general use prepaid cards, as that term is defined in section 915(a)(2)(A) (15 U.S.C. 1693i-1(a)(2)(A)); and

“(C) does not include paper checks.

“(2) **CREDIT CARD.**—The term ‘credit card’ has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

“(3) **DISCOUNT.**—The term ‘discount’—

“(A) means a reduction made from the price that customers are informed is the regular price; and

“(B) does not include any means of increasing the price that customers are informed is the regular price.

“(4) **ELECTRONIC DEBIT TRANSACTION.**—The term ‘electronic debit transaction’ means a transaction in which a person uses a debit card to debit an asset account.

“(5) **INTERCHANGE TRANSACTION FEE.**—The term ‘interchange transaction fee’ means any fee established by a payment card network that has been established for the purpose of compensating an issuer or payment card network for its involvement in an electronic debit transaction.

“(6) **ISSUER.**—The term ‘issuer’ means any person who issues a debit card, or the agent of such person with respect to such card.

“(7) **PAYMENT CARD NETWORK.**—The term ‘payment card network’ means an entity that directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct transaction authorization, clearance, and settlement, and that a person uses in order

to accept as a form of payment a brand of debit card, credit card or other device that may be used to carry out debit or credit transactions.”.

**SA 3990.** Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, strike lines 11 through 19 and insert the following:

(C) monitor the financial services marketplace in order to identify potential threats to the financial stability of the United States, including any threats posed by foreign countries or non-state actors who may attempt to disrupt the United States financial markets;

(D) facilitate information sharing and coordination among the member agencies and other Federal and State agencies regarding domestic financial services policy development, rulemaking, examinations, reporting requirements, enforcement actions, and potential threats to the financial stability of the United States;

**SA 3991.** Mr. FRANKEN (for himself, Mr. SCHUMER, Mr. NELSON of Florida, Mr. WHITEHOUSE, Mr. BROWN of Ohio, Mrs. MURRAY, Mr. MERKLEY, Mr. BINGAMAN, Mr. LAUTENBERG, Mrs. SHAHEEN, Mr. CASEY, Mr. WICKER, Mr. SANDERS, Mr. JOHNSON, Mr. KAUFMAN, Mr. GRASSLEY, Mr. DURBIN, Mr. HARKIN, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 1044, between lines 2 and 3, insert the following:

**SEC. 939D. INITIAL CREDIT RATING ASSIGNMENTS.**

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7), as amended by this Act, is amended by adding at the end the following:

“(w) **INITIAL CREDIT RATING ASSIGNMENTS.**—

“(1) **DEFINITIONS.**—In this subsection the following definitions shall apply:

“(A) **BOARD.**—The term ‘Board’ means the Credit Rating Agency Board established under paragraph (2).

“(B) **QUALIFIED NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.**—The term ‘qualified nationally recognized statistical rating organization’, with respect to a

category of structured finance products, means a nationally recognized statistical rating organization that the Board determines, under paragraph (3)(B), to be qualified to issue initial credit ratings with respect to such category.

“(C) REGULATIONS.—

“(i) CATEGORY OF STRUCTURED FINANCE PRODUCTS.—

“(I) IN GENERAL.—The term ‘category of structured finance products’—

“(aa) shall include any asset backed security and any structured product based on an asset-backed security; and

“(bb) shall be further defined and expanded by the Commission, by rule, as necessary.

“(II) CONSIDERATIONS.—In issuing the regulations required under subclause (I), the Commission shall consider—

“(aa) the types of issuers that issue structured finance products;

“(bb) the types of investors who purchase structured finance products;

“(cc) the different categories of structured finance products according to—

“(AA) the types of capital flow and legal structure used;

“(BB) the types of underlying products used; and

“(CC) the types of terms used in debt securities;

“(dd) the different values of debt securities; and

“(ee) the different numbers of units of debt securities that are issued together.

“(ii) REASONABLE FEE.—The Board shall issue regulations to define the term ‘reasonable fee’.

“(2) CREDIT RATING AGENCY BOARD.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall—

“(i) establish the Credit Rating Agency Board, which shall be a self-regulatory organization;

“(ii) subject to subparagraph (C), select the initial members of the Board; and

“(iii) establish a schedule to ensure that the Board begins assigning qualified nationally recognized statistical rating organizations to provide initial ratings not later than 1 year after the selection of the members of the Board.

“(B) SCHEDULE.—The schedule established under subparagraph (A)(iii) shall prescribe when—

“(i) the Board will conduct a study of the securitization and ratings process and provide recommendations to the Commission;

“(ii) the Commission will issue rules and regulations under this section;

“(iii) the Board may issue rules under this subsection; and

“(iv) the Board will—

“(I) begin accepting applications to select qualified national recognized statistical rating organizations; and

“(II) begin assigning qualified national recognized statistical rating organizations to provide initial ratings.

“(C) MEMBERSHIP.—

“(i) IN GENERAL.—The Board shall initially be composed of an odd number of members selected from the industry, with the total numerical membership of the Board to be determined by the Commission.

“(ii) SPECIFICATIONS.—Of the members initially selected to serve on the Board—

“(I) not less than a majority of the members shall be representatives of the investor industry who do not represent issuers;

“(II) not less than 1 member should be a representative of the issuer industry;

“(III) not less than 1 member should be a representative of the credit rating agency industry; and

“(IV) not less than 1 member should be an independent member.

“(iii) TERMS.—Initial members shall be appointed by the Commission for a term of 4 years.

“(iv) NOMINATION AND ELECTION OF MEMBERS.—

“(I) IN GENERAL.—Prior to the expiration of the terms of office of the initial members, the Commission shall establish fair procedures for the nomination and election of future members of the Board.

“(II) MODIFICATIONS OF THE BOARD.—Prior to the expiration of the terms of office of the initial members, the Commission—

“(aa) may increase the size of the board to a larger odd number and adjust the length of future terms; and

“(bb) shall retain the composition of members described in clause (ii).

“(v) RESPONSIBILITIES OF MEMBERS.—Members shall perform, at a minimum, the duties described in this subsection.

“(vi) RULEMAKING AUTHORITY.—The Commission shall, if it determines necessary and appropriate, issue further rules and regulations on the composition of the membership of the Board and the responsibilities of the members.

“(D) OTHER AUTHORITIES OF THE BOARD.—The Board shall have the authority to levy fees from qualified nationally recognized statistical rating organization applicants, and periodically from qualified nationally recognized statistical rating organizations as necessary to fund expenses of the Board.

“(E) REGULATION.—The Commission has the authority to regulate the activities of the Board, and issue any further regulations of the Board it deems necessary, not in contravention with the intent of this section.

“(3) BOARD SELECTION OF QUALIFIED NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—

“(A) APPLICATION.—

“(i) IN GENERAL.—A nationally recognized statistical rating organization may submit an application to the Board, in such form and manner as the Board may require, to become a qualified nationally recognized statistical rating organization with respect to a category of structured finance products.

“(ii) CONTENTS.—An application submitted under clause (i) shall contain—

“(I) information regarding the institutional and technical capacity of the nationally recognized statistical rating organization to issue credit ratings;

“(II) information on whether the nationally recognized statistical rating organization has been exempted by the Commission from any requirements under any other provision of this section; and

“(III) any additional information the Board may require.

“(iii) REJECTION OF APPLICATIONS.—The Board may reject an application submitted under this paragraph if the nationally recognized statistical rating organization has been exempted by the Commission from any requirements under any other provision of this section.

“(B) SELECTION.—The Board shall select qualified national recognized statistical rating organizations with respect to each category of structured finance products from among nationally recognized statistical rating organizations that submit applications under subparagraph (A).

“(C) RETENTION OF STATUS AND OBLIGATIONS AFTER SELECTION.—An entity selected as a

qualified nationally recognized statistical rating organization shall retain its status and obligations under the law as a nationally recognized statistical rating organization, and nothing in this subsection grants authority to the Commission or the Board to exempt qualified nationally recognized statistical rating organizations from obligations or requirements otherwise imposed by Federal law on nationally recognized statistical rating organizations

“(4) REQUESTING AN INITIAL CREDIT RATING.—An issuer that seeks an initial credit rating for a structured finance product—

“(A) may not request an initial credit rating from a nationally recognized statistical rating organization; and

“(B) shall submit a request for an initial credit rating to the Board, in such form and manner as the Board may prescribe.

“(5) ASSIGNMENT OF RATING DUTIES.—

“(A) IN GENERAL.—For each request received by the Board under paragraph (4)(B), the Board shall select a qualified nationally recognized statistical rating organization to provide the initial credit rating to the issuer.

“(B) METHOD OF SELECTION.—

“(i) IN GENERAL.—The Board shall—

“(I) evaluate a number of selection methods, including a lottery or rotating assignment system, incorporating the factors described in clause (ii), to reduce the conflicts of interest that exist under the issuer-pays model; and

“(II) prescribe and publish the selection method to be used under subparagraph (A).

“(ii) CONSIDERATION.—In evaluating a selection method described in clause (i)(I), the Board shall consider—

“(I) the information submitted by the qualified nationally recognized statistical rating organization under paragraph (3)(A)(ii) regarding the institutional and technical capacity of the qualified nationally recognized statistical rating organization to issue credit ratings;

“(II) evaluations conducted under paragraph (7);

“(III) formal feedback from institutional investors; and

“(IV) information from subclauses (I) and (II) to implement a mechanism which increases or decreases assignments based on past performance.

“(iii) PROHIBITION.—The Board, in choosing a selection method, may not use a method that would allow for the solicitation or consideration of the preferred national recognized statistical rating organizations of the issuer.

“(iv) ADJUSTMENT OF PROCESS.—The Board shall issue rules describing the process by which it can modify the assignment process described in clause (i).

“(C) RIGHT OF REFUSAL.—

“(i) REFUSAL.—A qualified nationally recognized statistical rating organization selected under subparagraph (A) may refuse to accept a selection for a particular request by—

“(I) notifying the Board of such refusal; and

“(II) submitting to the Board a written explanation of the refusal.

“(ii) SELECTION.—Upon receipt of a notification under clause (i), the Board shall make an additional selection under subparagraph (A).

“(iii) INSPECTION REPORTS.—The Board shall annually submit any explanations of refusals received under clause (i)(II) to the

Commission, and such explanatory submissions shall be published in the annual inspection reports required under subsection (p)(3)(C).

“(6) **DISCLAIMER REQUIRED.**—Each initial credit rating issued under this subsection shall include, in writing, the following disclaimer: ‘This initial rating has not been evaluated, approved, or certified by the Government of the United States or by a Federal agency.’”

“(7) **EVALUATION OF PERFORMANCE.**—

“(A) **IN GENERAL.**—The Board shall prescribe rules by which the Board will evaluate the performance of each qualified nationally recognized statistical rating organization, including rules that require, at a minimum, an annual evaluation of each qualified nationally recognized statistical rating organization.

“(B) **CONSIDERATIONS.**—The Board, in conducting an evaluation under subparagraph (A), shall consider—

“(i) the results of the annual examination conducted under subsection (p)(3);

“(ii) surveillance of credit ratings conducted by the qualified nationally recognized statistical rating organization after the credit ratings are issued, including—

“(I) how the rated instruments perform;

“(II) the accuracy of the ratings provided by the qualified nationally recognized statistical rating organization as compared to the other nationally recognized statistical rating organizations; and

“(III) the effectiveness of the methodologies used by the qualified nationally recognized statistical rating organization; and

“(iii) any additional factors the Board determines to be relevant.

“(C) **REQUEST FOR REEVALUATION.**—Subject to rules prescribed by the Board, and not less frequently than once a year, a qualified nationally recognized statistical rating organization may request that the Board conduct an evaluation under this paragraph.

“(D) **DISCLOSURE.**—The Board shall make the evaluations conducted under this paragraph available to Congress.

“(8) **RATING FEES CHARGED TO ISSUERS.**—

“(A) **LIMITED TO REASONABLE FEES.**—A qualified nationally recognized statistical rating organization shall charge an issuer a reasonable fee, as determined by the Commission, for an initial credit rating provided under this section.

“(B) **FEES.**—Fees may be determined by the qualified national recognized statistical rating organizations unless the Board determines it is necessary to issue rules on fees.

“(9) **NO PROHIBITION ON ADDITIONAL RATINGS.**—Nothing in this section shall prohibit an issuer from requesting or receiving additional credit ratings with respect to a debt security, if the initial credit rating is provided in accordance with this section.

“(10) **NO PROHIBITION ON INDEPENDENT RATINGS OFFERED BY NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.**—

“(A) **IN GENERAL.**—Nothing in this section shall prohibit a nationally recognized statistical rating organization from independently providing a credit rating with respect to a debt security, if—

“(i) the nationally recognized statistical rating organization does not enter into a contract with the issuer of the debt security to provide the initial credit rating; and

“(ii) the nationally recognized statistical rating organization is not paid by the issuer of the debt security to provide the initial credit rating.

“(B) **RULE OF CONSTRUCTION.**—For purposes of this section, a credit rating described in

subparagraph (A) may not be construed to be an initial credit rating.

“(11) **PUBLIC COMMUNICATIONS.**—Any communications made with the public by an issuer with respect to the credit rating of a debt security shall clearly specify whether the credit rating was made by—

“(A) a qualified nationally recognized statistical rating organization selected under paragraph (5)(A) to provide the initial credit rating for such debt security; or

“(B) a nationally recognized statistical rating organization not selected under paragraph (5)(A).

“(12) **PROHIBITION ON MISREPRESENTATION.**—With respect to a debt security, it shall be unlawful for any person to misrepresent any subsequent credit rating provided for such debt security as an initial credit rating provided for such debt security by a qualified nationally recognized statistical rating organization selected under paragraph (5)(A).

“(13) **INITIAL CREDIT RATING REVISION AFTER MATERIAL CHANGE IN CIRCUMSTANCE.**—If the Board determines that it is necessary or appropriate in the public interest or for the protection of investors, the Board may issue regulations requiring that an issuer that has received an initial credit rating under this subsection request a revised initial credit rating, using the same method as provided under paragraph (4), each time the issuer experiences a material change in circumstances, as defined by the Board.

“(14) **CONFLICTS.**—

“(A) **MEMBERS OR EMPLOYEES OF THE BOARD.**—

“(i) **LOAN OF MONEY OR SECURITIES PROHIBITED.**—

“(I) **IN GENERAL.**—A member or employee of the Board shall not accept any loan of money or securities, or anything above nominal value, from any nationally recognized statistical rating organization, issuer, or investor.

“(II) **EXCEPTION.**—The prohibition in subclause (I) does not apply to a loan made in the context of disclosed, routine banking and brokerage agreements, or a loan that is clearly motivated by a personal or family relationship.

“(ii) **EMPLOYMENT NEGOTIATIONS PROHIBITION.**—A member or employee of the Board shall not engage in employment negotiations with any nationally recognized statistical rating organization, issuer, or investor, unless the member or employee—

“(I) discloses the negotiations immediately upon initiation of the negotiations; and

“(II) recuses himself from all proceedings concerning the entity involved in the negotiations until termination of negotiations or until termination of his employment by the Board, if an offer of employment is accepted.

“(B) **CREDIT ANALYSTS.**—

“(i) **IN GENERAL.**—A credit analyst of a qualified nationally recognized statistical rating organization shall not accept any loan of money or securities, or anything above nominal value, from any issuer or investor.

“(ii) **EXCEPTION.**—The prohibition described in clause (i) does not apply to a loan made in the context of disclosed, routine banking and brokerage agreements, or a loan that is clearly motivated by a personal or family relationship.

“(15) **EVALUATION OF CREDIT RATING AGENCY BOARD.**—Not later than 5 years after the date that the Board begins assigning qualified nationally recognized statistical rating organizations to provide initial ratings, the Commission shall submit to Congress a report that provides recommendations of—

“(A) the continuation of the Board;

“(B) any modification to the procedures of the Board; and

“(C) modifications to the provisions in this subsection.”

**SA 3992.** Mr. CRAPO proposed an amendment to amendment SA 3956 proposed by Ms. LANDRIEU (for herself, Mr. ISAKSON, Mrs. HAGAN, Mr. WARNER, and Mr. MENENDEZ) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 1 of the amendment, strike line 3 and all that follows through page 3, line 7, and insert the following:

“(i) a portion of the credit risk for any asset that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer; or

“(ii) a reduced portion or no portion of the credit risk for an asset described in clause (i), if the originator of the asset meets the underwriting standards prescribed under paragraph (2)(B) or subsection (e)(4);

“(C) specify—

“(i) the permissible types, forms, and amounts of risk retention that would meet the requirements of subparagraph (B), including—

“(I) retention of—

“(aa) a specified amount or percentage of the total credit risk of the asset;

“(bb) the value of securities sold to investors; or

“(cc) the interest of the seller in revolving assets;

“(II) retention of the first-loss position by a third-party purchaser that specifically negotiates for the purchase of such first-loss position and provides due diligence on all individual assets in the pool before the issuance of the asset-backed securities;

“(III) a determination by a Federal banking agency or the Commission that the underwriting standards and controls of the originator are adequate for risk retention purposes; and

“(IV) provision of adequate representations and warranties and related enforcement mechanisms; and

“(ii) the minimum duration of the risk retention required under this section;

**SA 3993.** Ms. STABENOW (for herself and Mr. BROWN of Ohio) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 580, line 20, insert “and involved in hedging activities related to” after “engaged in”.

On page 580, lines 24 and 25, strike “only if the affiliate” and insert “as can affiliates”.

On page 581, line 1, strike “uses” and insert “using”.

On page 582, between lines 6 and 7, insert the following:

“(iii) TRANSITION RULE.—

“(I) IN GENERAL.—An affiliate or a wholly owned entity of a commercial end user that is predominantly engaged in providing financing for the purchase of merchandise or manufactured goods of the commercial end user affiliate shall be exempt from the margin requirement described in section 4s(e) and the clearing requirement described in paragraph (1) with regard to swaps entered into to mitigate the risk of the financing activities for not less than a 3-year period beginning on the date of enactment of this clause.

“(II) AUTHORITY OF COMMISSION.—On the date on which the 3-year period described in subclause (I) ends, the Commission may extend the exemption described in that subclause for an additional 1-year period if the Commission determines the extension to be in the public interest and publishes in the Federal Register the order granting the extension (including each reason for the extension).”.

On page 653, line 22, strike “and such counterparty” and insert “except if such counterparty”.

On page 653, line 23, strike “and” and insert “and is”.

**SA 3994.** Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1004, line 11, strike the period at the end and insert the following: “.

**SEC. 929D. PRIVATE CIVIL ACTION FOR AIDING AND ABETTING.**

Section 20(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78t(e)) is amended—

(1) in the subsection heading, by striking “PROSECUTION OF” and inserting “ACTIONS AGAINST”;

(2) by striking “For purposes” and inserting the following:

“(1) ACTIONS BROUGHT BY COMMISSION.—For purposes”; and

(3) by adding at the end the following:

“(2) PRIVATE CIVIL ACTIONS.—For purposes of any private civil action implied under this title, any person that knowingly provides substantial assistance to another person in violation of this title, or of any rule or regulation issued under this title, shall be deemed to be in violation of this title to the same extent as the person to whom such assistance is provided. For purposes of this paragraph, a person acts knowingly only if the person has actual knowledge of the improper conduct underlying the violation described in the preceding sentence and the role of the person in assisting such conduct.”.

**SA 3995.** Mr. BROWN of Ohio submitted an amendment intended to be

proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1304, between lines 5 and 6, insert the following:

(e) STUDY AND REPORT ON PRIVATE EDUCATION LOANS AND PRIVATE EDUCATIONAL LENDERS.—

(1) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director and the Secretary of Education, in consultation with the Commissioners of the Federal Trade Commission and the Attorney General, shall submit a report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives on private education loans and private educational lenders (as that term is defined in section 140 of the Truth in Lending Act (15 U.S.C. 1650)).

(2) CONTENT.—The report required by this subsection shall examine, at a minimum, the following:

(A) The growth and changes of the private education loan market in the United States.

(B) Factors influencing such growth and changes.

(C) The extent to which students and parents of students rely on private education loans to finance postsecondary education and the private education loan indebtedness of borrowers.

(D) The characteristics of private education loan borrowers, including—

(i) the types of institutions of higher education such borrowers attend;

(ii) socioeconomic characteristics (including income and education levels, racial characteristics, geographical background, age, and gender);

(iii) the other forms of financing borrowers use to pay for education;

(iv) whether borrowers exhaust their Federal loan options before taking out a private education loan;

(v) whether such borrowers are dependent or independent students (as determined under part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk)) or parents of such students;

(vi) whether such borrowers are students enrolled in a program leading to a certificate, license, or credential other than a degree, an associate's degree, a baccalaureate degree, or a graduate or professional degree; and

(vii) if practicable, employment and repayment behaviors.

(E) The characteristics of private educational lenders, including whether such lenders are for-profit, nonprofit, or institutions of higher education.

(F) The underwriting criteria used by private educational lenders, including the use of the cohort default rate (as such term is defined in section 435(m) of the Higher Education Act of 1965 (20 U.S.C. 1085(m))).

(G) The terms, conditions, and pricing of private education loans.

(H) The consumer protections available to private education loan borrowers, including the effectiveness of existing disclosures and requirements and borrowers' awareness and understanding about terms and conditions of various financial products.

(I) Whether Federal regulators and the public have access to information—

(i) sufficient to provide them with assurances that private education loans are provided in accord with the fair lending laws of the United States; and

(ii) that allows public officials to determine lenders' compliance with fair lending laws.

(J) Any statutory or legislative recommendations necessary to improve consumer protections for private education loan borrowers and to better enable Federal regulators and the public to ascertain private educational lender compliance with fair lending laws.

**SA 3996.** Mr. COBURN (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3775 submitted by Mr. WYDEN (for himself and Mr. GRASSLEY) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

**SEC. \_\_\_\_ STOP SECRET SPENDING ACT.**

(a) SHORT TITLE.—This section may be cited as the “Stop Secret Spending Act”.

(b) NOTICE REQUIREMENT.—In the Senate, legislation that has been subject to a hotline notification may not pass by unanimous consent unless the hotline notification has been posted on the public website of the Senate for at least 3 calendar days as provided in subsection (c).

(c) POSTING ON SENATE WEBPAGE.—At the same time as a hotline notification occurs with respect to any legislation, the Majority Leader shall post in a prominent place on the public webpage of the Senate a notice that the legislation has been hotlined and the legislation's number, title, link to full text, and sponsor and the estimated cost to implement and the number of new programs created by the legislation.

(d) LEGISLATIVE CALENDAR.—

(1) IN GENERAL.—The Secretary of the Senate shall establish for both the Senate Calendar of Business and the Senate Executive Calendar a separate section entitled “Notice of Intent To Pass by Unanimous Consent”.

(2) CONTENT.—The section required by paragraph (1) shall—

(A) include any legislation posted as required by subsection (c) and the date the hotline notification occurred; and

(B) be updated as appropriate.

(3) REMOVAL.—Items included on the calendar under this subsection shall be removed from the calendar once passed by the Senate.

(e) EXCEPTIONS.—This section shall not apply—

(1) if a quorum of the Senate is present at the time the unanimous consent is propounded to pass the bill;

(2) to any legislation relating to an imminent or ongoing emergency, as jointly agreed to by the Majority and Minority Leaders; and

(3) to nominations.

(f) **SUSPENSION.**—The Presiding Officer shall not entertain any request to suspend this section by unanimous consent.

(g) **HOTLINE NOTIFICATION DEFINED.**—In this section, the term “hotline notification” means when the Majority Leader in consultation with the Minority Leader, provides notice of intent to pass legislation by unanimous consent by contacting each Senate office with a message on a special alert line (commonly referred to as the hotline) that provides information on what bill or bills the Majority Leader is seeking to pass through unanimous consent.

**SA 3997.** Mr. BROWNBACK (for himself, Mr. FEINGOLD, Mr. DURBIN, Mr. SPECTER, Mr. BROWN of Ohio, Mr. JOHNSON, Mr. WHITEHOUSE, Mr. LAUTENBERG, Mrs. BOXER, and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1565, after line 23, add the following:

#### **TITLE XIII—CONGO CONFLICT MINERALS**

##### **SEC. 1301. SENSE OF CONGRESS ON EXPLOITATION AND TRADE OF COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.**

It is the sense of Congress that the exploitation and trade of columbite-tantalite, cassiterite, gold, and wolframite in the eastern Democratic Republic of Congo is helping to finance extreme levels of violence in the eastern Democratic Republic of Congo, particularly sexual and gender-based violence, and contributing to an emergency humanitarian situation therein, warranting the provisions of section 13(o) of the Securities Exchange Act of 1934, as added by section 1302.

##### **SEC. 1302. DISCLOSURE TO SECURITIES AND EXCHANGE COMMISSION RELATING TO COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.**

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by section 763 of this Act, is further amended by adding at the end the following new subsection:

“(o) **DISCLOSURES TO COMMISSION RELATING TO COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.**—

“(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this subsection, the Commission shall promulgate rules requiring any person described in paragraph (2)—

“(A) to disclose annually to the Commission in a report—

“(i) whether the columbite-tantalite, cassiterite, gold, or wolframite that was necessary as described in paragraph (2)(A)(ii) in the year for which such report is submitted originated or may have originated in the Democratic Republic of Congo or an adjoining country; and

“(ii) a description of the measures taken by the person, which may include an independent audit, to exercise due diligence on the source and chain of custody of such columbite-tantalite, cassiterite, gold, or wolframite, or derivatives of such minerals, in order to ensure that the activities of such person that involve such minerals or derivatives did not directly or indirectly finance or benefit armed groups in the Democratic Republic of Congo or an adjoining country; and

“(B) make the information disclosed under subparagraph (A) available to the public on the Internet website of the person.

“(2) **PERSON DESCRIBED.**—

“(A) **IN GENERAL.**—A person is described in this paragraph if—

“(i) the person is required to file reports to the Commission under subsection (a)(2); and

“(ii) columbite-tantalite, cassiterite, gold, or wolframite is necessary to the functionality or production of a product manufactured by such person.

“(B) **DERIVATIVES.**—For purposes of this paragraph, if a derivative of a mineral is necessary to the functionality or production of a product manufactured by a person, such mineral shall also be considered necessary to the functionality or production of a product manufactured by the person.

“(3) **REVISIONS AND WAIVERS.**—The Commission shall revise or temporarily waive the requirements described in paragraph (1) if the President determines that such revision or waiver is in the public interest.

“(4) **TERMINATION OF DISCLOSURE REQUIREMENTS.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the requirements of paragraph (1) shall terminate on the date that is 5 years after the date of the enactment of this subsection.

“(B) **EXTENSION BY SECRETARY OF STATE.**—The date described in subparagraph (A) shall be extended by 1 year for each year in which the Secretary of State certifies that armed parties to the ongoing armed conflict in the Democratic Republic of Congo or adjoining countries continue to be directly involved and benefitting from commercial activity involving columbite-tantalite, cassiterite, gold, or wolframite.

“(5) **ADJOINING COUNTRY DEFINED.**—In this subsection, the term ‘adjoining country’, with respect to the Democratic Republic of Congo, means a country that shares an internationally recognized border with the Democratic Republic of Congo.”

##### **SEC. 1303. REPORT.**

Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that includes the following:

(1) An assessment of the effectiveness of section 13(o) of the Securities Exchange Act of 1934, as added by section 1302, in promoting peace and security in the eastern Democratic Republic of Congo.

(2) A description of the problems, if any, encountered by the Securities and Exchange Commission in carrying out the provisions of such section 13(o).

(3) A description of the adverse impacts of carrying out the provisions of such section 13(o), if any, on communities in the eastern Democratic Republic of Congo.

(4) Recommendations for legislative or regulatory actions that can be taken—

(A) to improve the effectiveness of the provisions of such section 13(o) to promote peace and security in the eastern Democratic Republic of Congo;

(B) to resolve the problems described pursuant to paragraph (2), if any; and

(C) to mitigate the adverse impacts described pursuant paragraph (3), if any.

**SA 3998.** Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1552, strike line 8 and all that follows through page 1553, line 6, and insert the following:

##### **SEC. 1157. ACCOUNTABILITY, TRANSPARENCY, AND REFORMS.**

(a) **TERM LIMITS FOR THE CHAIRMAN AND VICE CHAIRMEN.**—The third sentence of the second undesignated paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242), as amended by section 1158(a)(1) of this Act, is amended by inserting before the period at the end the following: “, provided that no person shall be designated to serve as Chairman of the Board more than twice and no person shall be designated to serve as a Vice Chairman of the Board more than twice”.

(b) **FEDERAL RESERVE ACT EMERGENCY LENDING AUTHORITY.**—The third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343) (relating to emergency lending authority), as amended by section 1151 of this Act, is amended by inserting “and the majority of the presidents or first vice presidents of the Federal reserve banks” after “not less than five members”.

(c) **STAFF FOR MEMBERS OF THE BOARD OF GOVERNORS.**—Section 11(l) of the Federal Reserve Act (12 U.S.C. 248(l)) is amended in the first sentence by inserting “, including independent staff for each member of the Board” before the period at the end.

(d) **FEDERAL OPEN MARKET COMMITTEE.**—Section 12A(a) of the Federal Reserve Act (12 U.S.C. 263(a)) is amended by striking “five representatives” and all that follows and inserting “the presidents or first vice presidents of the Federal reserve banks. Any action of the Committee shall require approval by a majority of the presidents or first vice presidents of the Federal reserve banks and a majority of the members of the Board of Governors of the Federal Reserve System. The Chairman of the Board of Governors of the Federal Reserve System shall not cast a vote except in the case of a tie. Each member of the Committee shall have the right to debate and be accompanied by staff. At the first meeting of each calendar year, the Committee shall elect a Chairman and Vice Chairman. The Chairman and Vice Chairman may not both be members of the Board of Governors of the Federal Reserve System and a member of the Committee may not be elected to consecutive terms as Vice Chairman. The meetings of the Committee shall be held at Washington, District of Columbia,



at least 4 times each year, upon the call of the chairman of the Board of Governors of the Federal Reserve System or at the request of any 3 members of the Committee.”.

(e) MONETARY POLICY TO BE CONDUCTED BY THE FEDERAL OPEN MARKET COMMITTEE.—Section 19(b)(12)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(12)(A)) is amended by striking “not to exceed the general level of short-term interest rates” and inserting “determined by the Federal Open Market Committee”.

(f) TRANSPARENCY; SUNSHINE ACT APPLIES TO THE FEDERAL RESERVE.—Section 552b of title 5, United States Code, is amended—

(1) in subsection (a)(1), by inserting “the Board of Governors of the Federal Reserve System, the Federal Open Market Committee, and” after “means”;

(2) in subsection (f)—

(A) in paragraph (1), by striking “each meeting,” and all that follows and inserting “each meeting.”; and

(B) in paragraph (2)—

(i) by striking “transcript, electronic recording, or minutes (as required by paragraph (1))” and inserting “transcript or electronic recording”;

(ii) by striking “of such transcript, or minutes,” and inserting “of such transcript”;

(iii) by striking “, a complete copy of the minutes.”; and

(iv) by adding before the period at the end “, except that the Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain such transcript or electronic recording permanently”;

(3) in subsection (k)—

(A) by striking “transcripts, recordings, or minutes” and inserting “transcripts or recordings”; and

(B) by striking “transcripts, recordings, and minutes” and inserting “transcripts and recordings”; and

(4) in subsection (m), by striking “transcripts, recordings, or minutes” and inserting “transcripts or recordings”.

(g) PUBLIC ACCESS TO INFORMATION.—Section 2B of the Federal Reserve Act (12 U.S.C. 225b) is amended—

(1) in subsection (c), as added by section 1153 of this Act—

(A) in the matter preceding paragraph (1), by striking “shall serve as a repository of information made available to the public for a reasonable period of time, not less than 6 months following the date of release of the relevant information, including—” and inserting “shall serve as a permanent repository of information made available to the public, which shall be made available on the webpage not later than 7 days after the date of release of the relevant information, including—”;

(B) in paragraph (3), by striking “and” at the end;

(C) by redesignating paragraph (4) as paragraph (6); and

(D) by adding at the end the following:

“(4) any audit or report on the Board or the Federal Open Market Committee prepared by the Comptroller General of the United States;

“(5) the reports, minutes, transcripts, and other disclosures required under subsection (c); and”;

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

“(c) ADDITIONAL REPORTS AND DISCLOSURES.—

“(1) BOARD.—

“(A) IN GENERAL.—The Board shall make publicly available—

“(i) an announcement of any actions taken by the Board at any meeting, at the conclusion of such meeting, including the votes of members of the Board;

“(ii) minutes of any meeting, not later than 30 days after the date of such meeting;

“(iii) transcripts of any meeting, not later than 1 year after the date of such meeting; and

“(iv) except as provided in subparagraph (B)—

“(I) not later than 1 year after providing any loan or other financial assistance to any entity, a report that includes—

“(aa) the justification for the exercise of authority to provide such assistance;

“(bb) the identity of the recipients of such assistance;

“(cc) the date and amount of the assistance, and the form in which the assistance was provided; and

“(dd) the material terms of the assistance, including—

“(AA) the duration;

“(BB) the collateral pledged and the value thereof;

“(CC) all interest, fees, and other revenue or items of value to be received in exchange for the assistance;

“(DD) any requirements imposed on the recipient with respect to employee compensation, distribution of dividends, or any other corporate decision in exchange for the assistance; and

“(EE) the expected costs to the United States of the assistance; and

“(II) 30 days after the date on which a report is made available under subclause (I), and every 30 days thereafter, written updates on—

“(aa) the value of collateral;

“(bb) the amount of interest, fees, and other revenue or items of value received in exchange for the assistance; and

“(cc) the expected or final cost to the United States of the assistance.

“(B) EXCEPTION.—If the Board, by the affirmative vote of not less than 5 members and the majority of the presidents or first vice presidents of the Federal reserve banks, determines that making the report required under subparagraph (A)(iv) publicly available at that time would not be in the public interest, public release of such report may be delayed by the Board for not more than 180 days, and, following a second such affirmative vote, for not more than 180 additional days, if the Board—

“(i) provides the report and any applicable updates required in subparagraph (A)(iv) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives within the time periods specified in subparagraph (A)(iv); and

“(ii) makes publicly available a statement—

“(I) describing the report withheld;

“(II) explaining the reasons for the determination that release of such report is not in the public interest; and

“(III) including the votes of the members of the Board on such determination.

(2) FOMC.—The Federal Open Market Committee shall make publicly available—

“(A) at the conclusion of any meeting an announcement of any actions taken by the Committee at such meeting, including the votes of members of the Committee;

“(B) minutes of any meeting, not later than 30 days after the date of such meeting;

“(C) transcripts of any meeting, not later than 1 year after the date of such meeting.”.

(h) AGE DISCRIMINATION.—Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by striking “and the Library of Congress” and inserting “the Library of Congress, the Board of Governors of the Federal Reserve System, and the Federal reserve banks”.

(i) REPORTS.—

(1) GAO REPORT ON MONETARY STATISTICS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the use of monetary statistics of the Board of Governors.

(B) CONTENTS.—The report under subparagraph (A) shall examine the scientific validity of the measures used by the Board of Governors, the usefulness of the measures, potential changes to the measures, and potential alternatives and additions to the measures.

(C) CONSULTATION.—In preparing the report under subparagraph (A), the Comptroller General shall consult, at a minimum, with—

(i) current and former policy and economic experts of the Board of Governors, the Federal Open Market Committee, and the Federal reserve banks;

(ii) economic and statistical staff of other Federal agencies;

(iii) academic economists and statisticians;

(iv) economic and statistical practitioners; and

(v) experts from other governments and international organizations.

(2) FEDERAL OPEN MARKET COMMITTEE REPORT ON ADOPTING A MONETARY POLICY RULE.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Federal Open Market Committee shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the feasibility and desirability of setting a monetary policy rule or guidelines.

(B) CONTENTS.—The report under subparagraph (A) shall examine multiple methods of setting the rules or guidelines described in subparagraph (A) and include an analysis of how the rules or guidelines would provide for accountability in fulfilling the mandate of the Committee and the Board of Governors.

(C) PARTICIPATION.—All members of the Board of Governors and each president of a Federal reserve bank, regardless of voting status in the year in which the report is prepared, shall be entitled to participate in and comment on the report under subparagraph (A).

(j) EFFECT ON OTHER LAWS.—Other than as expressly provided in this Act, or an amendment made by this Act, nothing in this Act or an amendment made by this Act shall be construed to alter the public disclosure obligations of the Board of Governors, the Federal Open Market Committee, or the Federal reserve banks, including obligations under section 552 of title 5, United States Code (commonly known as “the Freedom of Information Act”), or any other provision of law.

**SA 3999.** Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the



United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1522, between lines 14 and 15, insert the following:

(2) by inserting “and the majority of the presidents or first vice presidents of the Federal reserve banks” after “not less than five members”;

On page 1522, line 15, strike “(2)” and insert “(3)”.

On page 1522, line 19, strike “(3)” and insert “(4)”.

On page 1522, line 22, strike “(4)” and insert “(5)”.

On page 1523, line 1, strike “(5)” and insert “(6)”.

On page 1523, line 4, strike “(6)” and insert “(7)”.

On page 1533, strike lines 7 through 13 and insert the following:

“(c) ADDITIONAL REPORTS AND DISCLOSURES.—

“(1) BOARD.—

“(A) IN GENERAL.—The Board shall make publicly available—

“(i) an announcement of any actions taken by the Board at any meeting, at the conclusion of such meeting, including the votes of members of the Board;

“(ii) minutes of any meeting, not later than 30 days after the date of such meeting;

“(iii) transcripts of any meeting, not later than 1 year after the date of such meeting; and

“(iv) except as provided in subparagraph (B)—

“(I) not later than 1 year after providing any loan or other financial assistance to any entity, a report that includes—

“(aa) the justification for the exercise of authority to provide such assistance;

“(bb) the identity of the recipients of such assistance;

“(cc) the date and amount of the assistance, and the form in which the assistance was provided; and

“(dd) the material terms of the assistance, including—

“(AA) the duration;

“(BB) the collateral pledged and the value thereof;

“(CC) all interest, fees, and other revenue or items of value to be received in exchange for the assistance;

“(DD) any requirements imposed on the recipient with respect to employee compensation, distribution of dividends, or any other corporate decision in exchange for the assistance; and

“(EE) the expected costs to the United States of the assistance; and

“(II) 30 days after the date on which a report is made available under subclause (I), and every 30 days thereafter, written updates on—

“(aa) the value of collateral;

“(bb) the amount of interest, fees, and other revenue or items of value received in exchange for the assistance; and

“(cc) the expected or final cost to the United States of the assistance.

“(B) EXCEPTION.—If the Board, by the affirmative vote of not less than 5 members and the majority of the presidents or first vice presidents of the Federal reserve banks, determines that making the report required

under subparagraph (A)(iv) publicly available at that time would not be in the public interest, public release of such report may be delayed by the Board for not more than 180 days, and, following a second such affirmative vote, for not more than 180 additional days, if the Board—

“(i) provides the report and any applicable updates required in subparagraph (A)(iv) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives within the time periods specified in subparagraph (A)(iv); and

“(ii) makes publicly available a statement—

“(I) describing the report withheld;

“(II) explaining the reasons for the determination that release of such report is not in the public interest; and

“(III) including the votes of the members of the Board on such determination.

“(2) FOMC.—The Federal Open Market Committee shall make publicly available—

“(A) at the conclusion of any meeting an announcement of any actions taken by the Committee at such meeting, including the votes of members of the Committee;

“(B) minutes of any meeting, not later than 30 days after the date of such meeting;

“(C) transcripts of any meeting, not later than 1 year after the date of such meeting.

“(d) PUBLIC ACCESS TO INFORMATION.—The Board shall place on its home Internet website, a link entitled ‘Audit’, which shall link to a webpage that shall serve as a permanent repository of information made available to the public, which shall be made available on the webpage not later than 7 days after the date of release of the relevant information, including—

On page 1533, line 23, strike “and”.

On page 1533, between lines 23 and 24, insert the following:

“(4) any audit of or report on the Board or the Federal Open Market Committee prepared by the Comptroller General of the United States;

“(5) the reports, minutes, transcripts, and other disclosures required under subsection (c); and

On page 1533, line 24, strike “(4)” and insert “(6)”.

On page 1552, strike line 8 and all that follows through page 1553, line 6, and insert the following:

#### SEC. 1157. ACCOUNTABILITY, TRANSPARENCY, AND REFORMS.

(a) STAFF FOR MEMBERS OF THE BOARD OF GOVERNORS.—Section 11(l) of the Federal Reserve Act (12 U.S.C. 248(l)) is amended in the first sentence by inserting “, including independent staff for each member of the Board” before the period at the end.

(b) FEDERAL OPEN MARKET COMMITTEE.—Section 12A(a) of the Federal Reserve Act (12 U.S.C. 263(a)) is amended by striking “five representatives” and all that follows and inserting “the presidents or first vice presidents of the Federal reserve banks. Any action of the Committee shall require approval by a majority of the presidents or first vice presidents of the Federal reserve banks and a majority of the members of the Board of Governors of the Federal Reserve System. The Chairman of the Board of Governors of the Federal Reserve System shall not cast a vote except in the case of a tie. Each member of the Committee shall have the right to debate and be accompanied by staff. At the first meeting of each calendar year, the Committee shall elect a Chairman and Vice Chairman. The Chairman and Vice Chairman may not both be members of the Board of

Governors of the Federal Reserve System and a member of the Committee may not be elected to consecutive terms as Vice Chairman. The meetings of the Committee shall be held at Washington, District of Columbia, at least 4 times each year, upon the call of the chairman of the Board of Governors of the Federal Reserve System or at the request of any 3 members of the Committee.”.

(c) MONETARY POLICY TO BE CONDUCTED BY THE FEDERAL OPEN MARKET COMMITTEE.—Section 19(b)(12)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(12)(A)) is amended by striking “not to exceed the general level of short-term interest rates” and inserting “determined by the Federal Open Market Committee”.

(d) TRANSPARENCY; SUNSHINE ACT APPLIES TO THE FEDERAL RESERVE.—Section 552b of title 5, United States Code, is amended—

(1) in subsection (a)(1), by inserting “the Board of Governors of the Federal Reserve System, the Federal Open Market Committee, and” after “means”;

(2) in subsection (f)—

(A) in paragraph (1), by striking “each meeting,” and all that follows and inserting “each meeting.”; and

(B) in paragraph (2)—

(i) by striking “transcript, electronic recording, or minutes (as required by paragraph (1))” and inserting “transcript or electronic recording”;

(ii) by striking “of such transcript, or minutes,” and inserting “of such transcript”;

(iii) by striking “, a complete copy of the minutes,”; and

(iv) by adding before the period at the end “, except that the Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain such transcript or electronic recording permanently”;

(3) in subsection (k)—

(A) by striking “transcripts, recordings, or minutes” and inserting “transcripts or recordings”; and

(B) by striking “transcripts, recordings, and minutes” and inserting “transcripts and recordings”; and

(4) in subsection (m), by striking “transcripts, recordings, or minutes” and inserting “transcripts or recordings”.

(e) AGE DISCRIMINATION.—Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by striking “and the Library of Congress” and inserting “the Library of Congress, the Board of Governors of the Federal Reserve System, and the Federal reserve banks”.

(f) REPORTS.—

(1) GAO REPORT ON MONETARY STATISTICS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the use of monetary statistics of the Board of Governors.

(B) CONTENTS.—The report under subparagraph (A) shall examine the scientific validity of the measures used by the Board of Governors, the usefulness of the measures, potential changes to the measures, and potential alternatives and additions to the measures.

(C) CONSULTATION.—In preparing the report under subparagraph (A), the Comptroller General shall consult, at a minimum, with—

(i) current and former policy and economic experts of the Board of Governors, the Federal Open Market Committee, and the Federal reserve banks;

(ii) economic and statistical staff of other Federal agencies;

(iii) academic economists and statisticians;

(iv) economic and statistical practitioners; and

(v) experts from other governments and international organizations.

(2) FEDERAL OPEN MARKET COMMITTEE REPORT ON ADOPTING A MONETARY POLICY RULE.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Federal Open Market Committee shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the feasibility and desirability of setting a monetary policy rule or guidelines.

(B) CONTENTS.—The report under subparagraph (A) shall examine multiple methods of setting the rules or guidelines described in subparagraph (A) and include an analysis of how the rules or guidelines would provide for accountability in fulfilling the mandate of the Committee and the Board of Governors.

(C) PARTICIPATION.—All members of the Board of Governors and each president of a Federal reserve bank, regardless of voting status in the year in which the report is prepared, shall be entitled to participate in and comment on the report under subparagraph (A).

(g) EFFECT ON OTHER LAWS.—Other than as expressly provided in this Act, or an amendment made by this Act, nothing in this Act or an amendment made by this Act shall be construed to alter the public disclosure obligations of the Board of Governors, the Federal Open Market Committee, or the Federal reserve banks, including obligations under section 552 of title 5, United States Code (commonly known as “the Freedom of Information Act”), or any other provision of law.

On page 1554, line 2, after “Supervision” insert “, provided that no person shall be designated to serve as Chairman of the Board more than twice and no person shall be designated to serve as a Vice Chairman of the Board more than twice”.

**SA 4000.** Mr. KAUFMAN (for himself, Mr. GRASSLEY, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 728, between lines 3 and 4, insert the following:

**SEC. 760. IMPROVED TRANSPARENCY.**

(a) SECURITIES.—Section 11A(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(a)(1)) is amended by adding at the end the following:

“(E) Promoting transparency of all markets for securities through dissemination of quotations and orders to all brokers, dealers, and investors, and minimizing, to the extent consistent with other purposes of this Act, conditions under which quotations and orders are hidden or selectively disseminated, will—

“(i) foster efficiency;

“(ii) enhance competition;

“(iii) increase the information available to brokers, dealers, and investors;

“(iv) facilitate the offsetting of investors’ orders; and

“(v) contribute to best execution of such orders.”.

(b) COMMODITIES.—Section 3(b) of the Commodity Exchange Act (7 U.S.C. 5(b)) is amended—

(1) by striking “and” following “customer assets;”;

(2) by striking the period at the end of the second sentence; and

(3) by adding at the end the following: “; to promote transparency of all markets through dissemination of quotations and orders to all market participants and market professionals; and to minimize, to the extent consistent with other purposes of this Act, conditions under which quotations and orders are hidden or selectively disseminated. Furthering the purposes of this Act will foster efficiency, enhance competition, increase the information available to market participants, facilitate the offsetting of market participants’ orders, and contribute to best execution of such orders.”.

**SA 4001.** Ms. LANDRIEU (for herself and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1047, strike line 4 and all that follows through page 1051, line 3, and insert the following:

“(i) not less than 5 percent of the credit risk for any asset—

“(I) that is not a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer; or

“(II) that is a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer, if 1 or more of the assets that collateralize the asset-backed security are not qualified residential mortgages; or

“(ii) less than 5 percent of the credit risk for an asset that is not a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer, if the originator of the asset meets the underwriting standards prescribed under paragraph (2)(B);

“(C) specify—

“(i) the permissible forms of risk retention for purposes of this section;

“(ii) the minimum duration of the risk retention required under this section; and

“(iii) that a securitizer is not required to retain any part of the credit risk for an asset that is transferred, sold or conveyed through the issuance of an asset-backed security by the securitizer, if all of the assets that collateralize the asset-backed security are qualified residential mortgages;

“(D) apply, regardless of whether the securitizer is an insured depository institution; and

“(E) provide for—

“(i) a total or partial exemption of any securitization, as may be appropriate in the public interest and for the protection of investors; and

“(ii) the allocation of risk retention obligations between a securitizer and an originator in the case of a securitizer that purchases assets from an originator, as the Federal banking agencies and the Commission jointly determine appropriate.

“(2) ASSET CLASSES.—

“(A) ASSET CLASSES.—The regulations prescribed under subsection (b) shall establish asset classes with separate rules for securitizers of different classes of assets, including residential mortgages, commercial mortgages, commercial loans, auto loans, and any other class of assets that the Federal banking agencies and the Commission deem appropriate.

“(B) CONTENTS.—For each asset class established under subparagraph (A), the regulations prescribed under subsection (b) shall establish underwriting standards that specify the terms, conditions, and characteristics of a loan within the asset class that indicate a reduced credit risk with respect to the loan.

“(d) ORIGINATORS.—In determining how to allocate risk retention obligations between a securitizer and an originator under subsection (c)(1)(E)(ii), the Federal banking agencies and the Commission shall—

“(1) reduce the percentage of risk retention obligations required of the securitizer by the percentage of risk retention obligations required of the originator; and

“(2) consider—

“(A) whether the assets sold to the securitizer have terms, conditions, and characteristics that reflect reduced credit risk;

“(B) whether the form or volume of transactions in securitization markets creates incentives for imprudent origination of the type of loan or asset to be sold to the securitizer; and

“(C) the potential impact of the risk retention obligations on the access of consumers and businesses to credit on reasonable terms, which may not include the transfer of credit risk to a third party.

“(e) EXEMPTIONS, EXCEPTIONS, AND ADJUSTMENTS.—

“(1) IN GENERAL.—The Federal banking agencies and the Commission may jointly adopt or issue exemptions, exceptions, or adjustments to the rules issued under this section, including exemptions, exceptions, or adjustments for classes of institutions or assets relating to the risk retention requirement and the prohibition on hedging under subsection (c)(1).

“(2) APPLICABLE STANDARDS.—Any exemption, exception, or adjustment adopted or issued by the Federal banking agencies and the Commission under this paragraph shall—

“(A) help ensure high quality underwriting standards for the securitizers and originators of assets that are securitized or available for securitization; and

“(B) encourage appropriate risk management practices by the securitizers and originators of assets, improve the access of consumers and businesses to credit on reasonable terms, or otherwise be in the public interest and for the protection of investors.

“(3) FARM CREDIT SYSTEM INSTITUTIONS.—A Farm Credit System institution, including the Federal Agricultural Mortgage Corporation, that is chartered and subject to the

provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 et seq.), shall be exempt from the risk retention provisions of this subsection.

“(4) EXEMPTION FOR QUALIFIED RESIDENTIAL MORTGAGES.—

“(A) IN GENERAL.—The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly issue regulations to exempt qualified residential mortgages from the risk retention requirements of this subsection.

“(B) QUALIFIED RESIDENTIAL MORTGAGE.—The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly define the term ‘qualified residential mortgage’ for purposes of this subsection, taking into consideration underwriting and product features that historical loan performance data indicate result in a lower risk of default, such as—

“(i) documentation and verification of the financial resources relied upon to qualify the mortgagor;

“(ii) standards with respect to—

“(I) the residual income of the mortgagor after all monthly obligations;

“(II) the ratio of the housing payments of the mortgagor to the monthly income of the mortgagor;

“(III) the ratio of total monthly installment payments of the mortgagor to the income of the mortgagor;

“(iii) mitigating the potential for payment shock on adjustable rate mortgages through product features and underwriting standards;

“(iv) mortgage guarantee insurance obtained at the time of origination for loans with combined loan-to-value ratios of greater than 80 percent; and

“(v) prohibiting or restricting the use of balloon payments, negative amortization, prepayment penalties, interest-only payments, and other features that have been demonstrated to exhibit a higher risk of borrower default.

“(5) CONDITION FOR QUALIFIED RESIDENTIAL MORTGAGE EXEMPTION.—The regulations issued under paragraph (4) shall provide that an asset-backed security that is collateralized by tranches of other asset-backed securities shall not be exempt from the risk retention requirements of this subsection.

“(6) CERTIFICATION.—The Commission shall require an issuer to certify, for each issuance of an asset-backed security collateralized exclusively by qualified residential mortgages, that the issuer has evaluated the effectiveness of the internal supervisory controls of the issuer with respect to the process for ensuring that all assets that collateralize the asset-backed security are qualified residential mortgages.

**SA 4002.** Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.**

(a) FINDINGS.—Congress finds the following:

(1) The 2008 financial crisis was caused, in part, by poor quality, high risk mortgages that were included in mortgage-backed securities, and that incurred higher rates of delinquency and loss than traditional mortgages, damaging thousands of financial institutions holding the mortgages. Those poor quality, high risk mortgages included billions of dollars in negatively amortizing mortgages.

(2) Negative amortization of mortgage loans leads to increased monthly loan payments for borrowers, which, in turn, increases the risk of loan default. During the recent financial crisis, negatively amortized loans defaulted in record numbers, damaging financial institutions and other investors holding those assets.

(3) Years ago, Federal banking regulators banned negatively amortizing credit card loans as a threat to the safety and soundness of banking institutions.

(4) Federal financial regulators and Inspectors General have testified before Congress that negatively amortizing loans pose a threat to the safety and soundness of United States banks, and to the financial markets where these high risk mortgages are sold and securitized.

(b) PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by adding at the end following:

“(n) PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.—

“(1) IN GENERAL.—Any person who sells, transfers, or plans to sell or transfer at least 1,000 mortgages, mortgage-backed securities, or similar financial instruments within a calendar year shall not include or reference in any of such financial instruments any mortgage in which the loan balance may negatively amortize.

“(2) APPLICABILITY.—This subsection does not apply to home equity conversion mortgages, as defined under section 255 of the National Housing Act (commonly referred to as ‘reverse mortgages’) that are otherwise regulated by a Federal or State agency.

“(3) RULE OF CONSTRUCTION.—As used in this section, the term ‘mortgage’ shall not be construed to be restricted or limited only to mortgages referred to in section 103(aa).”.

(c) EFFECTIVE DATE.—The requirements under subsection (n)(1) of section 129 of the Truth in Lending Act (as added by subsection (b)) shall take effect not later than 180 days after the date of the enactment of this Act.

**SA 4003.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 19, strike line 16 and all that follows through page 21, line 22 and insert the following:

(4) NONBANK FINANCIAL COMPANY DEFINITIONS.—

(A) FOREIGN NONBANK FINANCIAL COMPANY.—The term “foreign nonbank financial company” means a company (other than a company that is, or is treated in the United States as, a bank holding company or a subsidiary thereof), that is—

(i) incorporated or organized in a country other than the United States; and

(ii) the consolidated revenues of which from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) constitute 85 percent or more of the total consolidated revenues of such company.

(B) U.S. NONBANK FINANCIAL COMPANY.—The term “U.S. nonbank financial company” means a company (other than a bank holding company or a subsidiary thereof, or a Farm Credit System institution chartered and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)), that is—

(i) incorporated or organized under the laws of the United States or any State; and

(ii) the consolidated revenues of which from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) constitute 85 percent or more of the total consolidated revenues of such company.

(C) INCLUSION OF DEPOSITORY INSTITUTION REVENUES.—In determining whether a company is a financial company for purposes of this title, the consolidated revenues derived from the ownership or control of a depository institution shall be included.

(5) OFFICE OF FINANCIAL RESEARCH.—The term “Office of Financial Research” means the office established under section 152.

(6) SIGNIFICANT INSTITUTIONS.—The terms “significant nonbank financial company” and “significant bank holding company” have the meanings given those terms by rule of the Board of Governors.

(b) DEFINITIONAL CRITERIA.—The Board of Governors shall establish, by regulation, the criteria to determine, consistent with the requirements of subsection (a)(4), whether a company is substantially engaged in activities in the United States that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) for purposes of the definitions of the terms “U.S. nonbank financial company” and “foreign nonbank financial company” under subsection (a)(4).

**SA 4004.** Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.**

(a) PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by adding at the end following:

“(n) PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.—

“(1) IN GENERAL.—Any person who sells, transfers, or plans to sell or transfer at least 1,000 mortgages, mortgage-backed securities, or similar financial instruments within a

calendar year shall not include or reference in any of such financial instruments any mortgage in which the loan balance may negatively amortize.

“(2) APPLICABILITY.—This subsection does not apply to home equity conversion mortgages, as defined under section 255 of the National Housing Act (commonly referred to as ‘reverse mortgages’) that are otherwise regulated by a Federal or State agency.

“(3) RULE OF CONSTRUCTION.—As used in this section, the term ‘mortgage’ shall not be construed to be restricted or limited only to mortgages referred to in section 103(aa).”.

(b) EFFECTIVE DATE.—The requirements under subsection (n)(1) of section 129 of the Truth in Lending Act (as added by subsection (b)) shall take effect not later than 180 days after the date of the enactment of this Act.

**SA 4005.** Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3754 submitted by Mrs. MURRAY and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, after line 21, add the following:  
(3) NO INDEPENDENT MEMBER OF THE COUNCIL.—Notwithstanding any other provision of this section, there shall not be an independent member of the Council.

## NOTICES OF HEARINGS

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the hearing scheduled before the Senate Committee on Energy and Natural Resources on Tuesday, May 18, 2010, will now be held in room SR-325 of the Russell Senate Office Building at 11 a.m.

The purpose is to receive testimony from the Administration on issues related to offshore oil and gas exploration including the accident involving the Deepwater Horizon in the Gulf of Mexico.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email to [Abigail\\_Campbell@energy.senate.gov](mailto:Abigail_Campbell@energy.senate.gov).

For further information, please contact Linda Lance or Abigail Campbell.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the infor-

mation of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks. The hearing will be held on Wednesday, May 19, 2010, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills:  
S. 349, to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, and for other purposes;

S. 1596, to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California;

S. 1651, to modify a land grant patent issued by the Secretary of the Interior;

S. 1750, to authorize the Secretary of the Interior to conduct a special resource study of the General of the Army George Catlett Marshall National Historic Site at Dodona Manor in Leesburg, Virginia, and for other purposes;

S. 1801, to establish the First State National Historical Park in the State of Delaware, and for other purposes;

S. 1802 and H.R. 685, to require a study of the feasibility of establishing the United States Civil Rights Trail System, and for other purposes;

S. 2953 and H.R. 3388, to modify the boundary of Petersburg National Battlefield in the Commonwealth of Virginia, and for other purposes;

S. 2976, to designate as wilderness certain land and inland water within the Sleeping Bear Dunes National Lakeshore in the State of Michigan, and for other purposes;

S. 3159 and H.R. 4395, to amend Public Law 101-377 to revise the boundaries of the Gettysburg National Military Park to include the Gettysburg Train Station, and for other purposes;

S. 3168, to authorize the Secretary of the Interior to acquire certain non-Federal land in the State of Pennsylvania for inclusion in the Fort Necessity National Battlefield; and

S. 3303, to establish the Chimney Rock National Monument in the State of Colorado.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email to [testimony@energy.senate.gov](mailto:testimony@energy.senate.gov).

For further information, please contact David Brooks or Allison Seyferth.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet

during the session of the Senate on May 12, 2010, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 12, 2010, at 10:30 a.m., to hold a hearing entitled, “Sudan: A Critical Moment for the CPA, Darfur and the Region.”

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on May 12, 2010, at 10 a.m. to conduct a hearing entitled, “Iran Sanctions: Why Does the U.S. Government Do Business With Companies Doing Business in Iran?”

The PRESIDING OFFICER. Without objection, it is so ordered.

### AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Disaster Recovery of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on May 12, 2010, at 2:30 p.m. to conduct a hearing entitled, “Stafford Act Reform: Sharper Tools for a Smarter Recovery.”

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON PERSONNEL

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on May 12, 2010, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON TERRORISM AND HOMELAND SECURITY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee of the Judiciary, Subcommittee on Terrorism and Homeland Security, be authorized to meet during the session of the Senate on May 12, 2010, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled, “The Espionage Statutes: A Look Back and A Look Forward.”

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. DURBIN. Mr. President, on behalf of Senator BINGAMAN, I ask unanimous consent that the privilege of the floor be granted to Kevin Huyler, a fellow with the staff of the Committee on

Energy and Natural Resources, for the pendency of S. 3217 and any votes thereupon.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### NATIONAL NURSES WEEK

Mr. DODD. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 522, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 522) recognizing National Nurses Week.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 522) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 522

Whereas since 1990, National Nurses Week is celebrated annually from May 6, which is known as National Recognition Day for Nurses, through May 12, which is the birthday of Florence Nightingale, the founder of modern nursing;

Whereas National Nurses Week is a time of year to reflect on the important contributions that nurses make to provide safe, high-quality health care;

Whereas nurses are known to be patient advocates, acting fearlessly to protect the lives of those under their care;

Whereas nurses represent the largest single component of the health care profession with 3,100,000 jobs;

Whereas nurses are experienced researchers, and their work encompasses a wide scope of scientific inquiry, including clinical research, health systems and outcomes research, and nursing education research;

Whereas nurses are well positioned to provide leadership to eliminate health care disparities that exist in the United States;

Whereas nurses help inform and educate the public to improve the practice of all nurses and, more importantly, the health and safety of the patients they care for;

Whereas survey data shows that enrollments in entry-level baccalaureate programs in nursing rose by 3.6 percent in 2009, and though this marks the ninth consecutive year of enrollment growth, the annual increase in student capacity in 4-year nursing programs has declined sharply since 2003 when enrollment was up by 16.6 percent;

Whereas nursing programs in the United States were forced to reject almost 119,000 qualified applicants according to the most recent survey of all prelicensure nursing programs;

Whereas according to the Bureau of Labor and Statistics, employment of registered nurses is expected to grow by 22 percent from

2008 to 2018, which is a much faster rate of growth than the average rate of growth for all occupations;

Whereas according to survey data, enrollment in doctoral nursing programs increased by more than 20 percent this year, signaling strong interest among students in careers as nursing scientists, faculty, primary care providers, and specialists;

Whereas expanding capacity in baccalaureate and graduate programs is critical to sustaining a healthy nursing workforce and providing patients with the best care possible;

Whereas the nationwide nursing shortage has caused dedicated nurses to work longer hours and care for more acutely ill patients;

Whereas nurse educators work on average more than 57 hours per week in order to ensure that each and every new registered nurse receives an excellent education, advancing excellence among the next generation of nurses;

Whereas nurses inform legislators on the education, retention, recruitment, and practice of all nurses and, more importantly, the health and safety of the patients they care for; and

Whereas increased Federal and State support is needed to enhance existing programs and create new programs to educate nursing students at all levels, to increase the number of faculty members to educate nursing students, to create clinical sites and have appropriately prepared nurses teach and train at those sites, to create educational opportunities to retain nurses in the profession, and to educate and train more nurse research scientists who can discover new nursing: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes National Nurses Week;

(2) supports the goals and ideals of National Nurses Week;

(3) acknowledges the importance of quality higher education in nursing, including baccalaureate and graduate programs, to meet the needs of one of the fastest growing labor fields in the Nation; and

(4) supports the nurse capacity initiatives for institutions of higher education included in the Higher Education Opportunity Act.

#### HONORING DEEPWATER HORIZON CREW MEMBERS

Mr. DODD. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 523 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 523) honoring the crew members who perished aboard the offshore oil rig, Deepwater Horizon, and extending the condolences of the Senate to the families and loved ones of the deceased crew members.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 523) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 523

Whereas oil and natural gas are necessary commodities for the United States;

Whereas a drill ship, the Deepwater Horizon, was drilling in 5,000 feet of water approximately 50 miles off the coast of Louisiana, in the Gulf of Mexico;

Whereas on April 20, 2010, a terrible explosion occurred aboard the Deepwater Horizon; Whereas 126 men and women were on board the Deepwater Horizon at the time of the explosion;

Whereas 11 men remain missing, and are presumed dead;

Whereas 17 people were injured, 3 of them critically; and

Whereas the United States is greatly indebted to oil rig crewmen for the serious physical risks, difficult periods of separation from their families, and supremely challenging engineering tasks endured to produce much-needed energy for the Nation: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the crew members who perished aboard the offshore oil rig, Deepwater Horizon; and

(2) expresses sincere condolences to the families and loved ones of the deceased crew members.

#### ORDERS FOR THURSDAY, MAY 13, 2010

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Thursday, May 13; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 3217, Wall Street reform, and that the Senate recess from 1 p.m. until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. DODD. Mr. President, we have eight amendments pending and Senators should expect rollcall votes throughout Thursday's session as we continue to process amendments on the Wall Street reform legislation.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DODD. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order.

There being no objection, the Senate, at 8:26 p.m., adjourned until Thursday, May 13, 2010, at 9:30 a.m.

#### DISCHARGED NOMINATION

The Senate Committee on Rules and Administration was discharged from

*May 12, 2010*

further consideration of the following nomination by unanimous consent and the nomination was confirmed:

STEPHEN T. AYERS, OF MARYLAND, TO BE ARCHITECT OF THE CAPITOL FOR THE TERM OF TEN YEARS.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Wednesday, May 12, 2010:

CONGRESS OF THE UNITED STATES

STEPHEN T. AYERS, OF MARYLAND, TO BE ARCHITECT OF THE CAPITOL FOR THE TERM OF TEN YEARS.

DEPARTMENT OF JUSTICE

PARKER LOREN CARL, OF KENTUCKY, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF KENTUCKY FOR THE TERM OF FOUR YEARS.

GERALD SIDNEY HOLT, OF VIRGINIA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF VIRGINIA FOR THE TERM OF FOUR YEARS.

ROBERT R. ALMONTE, OF TEXAS, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS.

JERRY E. MARTIN, OF TENNESSEE, TO BE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF FOUR YEARS.

## HOUSE OF REPRESENTATIVES—Wednesday, May 12, 2010

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SERRANO).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
May 12, 2010.

I hereby appoint the Honorable JOSÉ E. SERRANO to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

### PRAYER

Reverend Dr. Timothy Goble, Grace Evangelical Free Church, Colville, Washington, offered the following prayer:

Most gracious Lord God, we are continually encouraged as we sense Your guardianship as You powerfully determine the destiny of this Republic. We acknowledge that the future of all of our political institutions are staked upon the capacity of each of us here to govern, control, and to sustain ourselves in accordance with the Word of God.

Today, we acknowledge our departure from Your Word and ask for Your forgiveness. May Your Word once again become the guiding light for our homes, our schools, our courtrooms, and workplaces. Lay upon the hearts of all those who serve in this great historical room the need to establish a personal relationship with You that will grow them into servant leaders, who make their constituents the beneficiary of every decision from Your divine perspective. May they walk humbly with each other, acknowledging their mutual duty of loving forbearance. All this we ask in the name of Jesus. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas (Mr. POE) come forward and lead the House in the Pledge of Allegiance.

Mr. POE of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### WELCOMING REVEREND DR. TIMOTHY GOBLE

The SPEAKER pro tempore. Without objection, the gentlewoman from Washington (Mrs. McMORRIS RODGERS) is recognized for 1 minute.

There was no objection.

Mrs. McMORRIS RODGERS. Mr. Speaker, it is my great honor and pleasure to welcome Pastor Tim Goble, who gave the opening prayer to Congress this morning. He's the Pastor of Grace Evangelical Free Church in Colville, Washington, where he and his family have been faithfully serving our Lord in ministry to the people of that area for the past 23 years. He's been my pastor. Over the years, I've become friends with his wife, Jane, and their three sons, Nathan, Stephen, and Daniel.

His first job after seminary was serving as a youth pastor in northern Indiana from 1976 to 1986. He then moved across the country to Washington State in 1987, to become pastor of a new church plant of 35 people. Since then, the church has grown steadily, making a tremendous difference in the lives of all who have walked through its doors, including me and my family.

I admire Pastor Tim and his family and appreciate their leadership, service, commitment to our community, and their example to all of us. Thank you for coming to the United States Congress to lead us in prayer today.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 15 further requests for 1-minute speeches on each side of the aisle.

### MOVE TO RENEWABLE ENERGY

(Mr. HALL of New York asked and was given permission to address the House for 1 minute.)

Mr. HALL of New York. Mr. Speaker, I rise today to say: It will not be the U.S. taxpayer who is stuck with the bill for the tragic oil spill that is still spewing hundreds of thousands of barrels of oil into the Gulf of Mexico. British Petroleum had \$6 billion in profit

last quarter alone. That's profit, not earnings. And that's the first place we should be looking to pay for this oil spill. We all know how much money Halliburton socked away, thanks to the last administration. Their deep pockets also need to be tapped to pay for their negligence.

For years, we've heard from the oil industry that offshore drilling is safer than ever, cleaner than ever. Not true. Meanwhile, oil companies like BP spent years making billions while gouging consumers. We in the House are going to make sure that they pay for cleaning up this unprecedented catastrophe. It's time to truly move beyond petroleum into renewable energy and energy efficiency.

### WARNING TO TEXAS STATE LEGISLATORS

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, the Texas Department of Public Safety has issued a stern safety warning to members of the Texas legislature living near the southern border: Remove your car license plates that say "State official" on them. Texas legislators were warned to remove their identifying car license plates because of threats from Mexican drug cartels. Based on intelligence estimates from information they have received, law enforcement cautioned that the drug cartels may target members of the Texas legislature for assaults and kidnappings, especially those living on the border region. Some of the members and their staffs have removed those "State official" license plates and some are seeking concealed carry permits. There have been earlier reports of Mexican officials being assaulted and kidnapped by the cartels in Mexico. Now the threats have crossed to our side of the porous border region.

Now it seems to me the National Guard is probably better suited to deal with the violent narco-terrorists than a bunch of legislative staffers with concealed weapons—even in Texas.

And that's just the way it is.

### ESOP PROMOTION AND EXPANSION ACT

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. This week, representatives from employee-owned S



corporations from around America will be on Capitol Hill, giving a chance for Members and staff to hear directly from these employee owners how their investment and hard work facilitated by this unique ownership helps create jobs and helps their employee owners prepare for retirement; how they expanded jobs here in America, even in this difficult environment.

In 2008, for instance, ESOP increased employment 2 percent, while our economy overall shed almost 3 percent of the jobs. Employee-owned business wages increased at twice the national average. Each company is a unique American success story. That's why I hope you will join me in cosponsoring H.R. 3586, the ESOP Promotion and Expansion Act, to protect and enhance employee-owned corporations.

#### CONGRATULATING ALLEN AMERICANS HOCKEY TEAM

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Today, I'd like to congratulate the players and coaches of the Allen Americans Hockey Team for capturing the Southern Conference championship title. This is the first time a first-season team has accomplished this. After a stellar inaugural, winning season, the minor league hockey team earned a slot in the playoffs. They won two playoff series against Laredo and Odessa. Their final postseason game against the Rapid City Rush ended in a double overtime battle. It's no surprise they sent four players up to the American Hockey League.

The Allen Americans play at the Allen Event Center, and folks should be proud to have such an accomplished, dedicated team representing their community. I've seen them—and they're good. I had the privilege of cheering on the Americans last season and I look forward to attending more games in the future.

I wish the team and its players all the best. Congratulations. God bless you. I salute you. As the fans like to cheer: Dread the Red!

#### ECONOMY TRENDING IN THE RIGHT DIRECTION

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, this is a chart prepared by the Joint Economic Committee, which I call the V chart—not for victory, or total victory, but it certainly shows success and that we're trending in the right direction in our economy. The red bars on the chart represent the job losses under the prior administration. The last month of the Bush administration, this country lost

over 770,000 jobs. The blue bars represent the record of the Obama administration as we recover from the depths of an inherited economic disaster.

There is still much left to do as we recover from the great recession. Millions of Americans still suffer. But if we wish to avoid repeating history, we should first remember and understand it. The policies of the past drove our economy down. The policies of this Congress have begun to lift it up. You can see it here very clearly in a V and in red, white, and blue.

#### OPTING OUT OF ANOTHER GOVERNMENT MANDATE

(Mr. FLEMING asked and was given permission to address the House for 1 minute.)

Mr. FLEMING. Mr. Speaker, last week, Governor Bobby Jindal announced that Louisiana, along with 16 other States, would not participate in the government takeover of health care's temporary high risk pools. I commend Governor Jindal on this decision and for having the foresight not to put Louisiana on the hook for yet another tax-increasing, job-killing, unfunded mandate, and subjecting our citizens to more Federal inefficiency and bureaucracy.

While I have always supported the concept of high risk pools, this effort will thrust the burden onto the backs of Louisiana taxpayers, eventually saddling them with another federally mandated program they can ill afford. Louisianans have made it clear that they are sick and tired of carrying the water for an ever-expanding Federal Government. I commend our Governor for doing the right thing for our State and our country.

#### END KARZAI'S WAR IN AFGHANISTAN

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Afghan President Karzai is in Washington this week seeking another \$33 billion to keep the war going, meeting with the White House to present his so-called "peace proposal" to allocate \$160 million from international donors to fund new government bodies, pay off insurgents who agree to stop fighting, and to undermine efforts to establish local government.

Ranked the second most corrupt government in the world, only behind Somalia, Mr. Karzai's blatant government corruption, his ties to Big Oil, and his ties to Afghanistan's most notorious drug pushers, including his own brother, is no secret. While he's being treated as royalty in Washington, millions of dollars shuffle through Kabul Airport, unaccounted for, as Mr. Karzai

builds villas in Dubai. Meanwhile, I have constituents in Cleveland who are struggling to stay in their homes.

The longer this charade of nation building and counterinsurgency strategy in Afghanistan continues, the more U.S. soldiers and innocent Afghan civilians die. He wants \$33 billion for war to continue in Afghanistan. Here at home, Americans need jobs and access to education and health care. Billions would be better spent rebuilding America than sending it to Afghanistan to continue a war.

Bring our troops home. End the war.

#### NETWORKS SHOW BIAS ON ARIZONA IMMIGRATION LAW

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, television network news stories about Arizona immigration enforcement law have been overwhelmingly negative, according to a new analysis by the Media Research Center. From April 23 to May 3, negative news reports on ABC, CBS, and NBC outnumbered positive reports by a margin of 12 to 1. This kind of extreme bias is a danger to democracy. And nowhere is it more evident than in reporting about immigration.

Only 10 percent of network reports acknowledged that a majority of Americans support the Arizona law and that 9 out of 10 say it is important to reduce illegal immigration. The networks should give Americans the facts about immigration, not just give them one side of the story.

□ 1015

#### BUTLER COUNTY UNITED WAY AND LABOR COMMUNITY SERVICE

(Mrs. DAHLKEMPER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. DAHLKEMPER. Mr. Speaker, I rise to express my gratitude to the United Way of Butler County, Pennsylvania, and their partners in the labor community for their annual service program Butler County Labor Month of Caring. The Butler County United Labor Council and the Butler County Building and Construction Trades are working with the United Way to help make homes safer in Butler. Safety equipment like smoke alarms and carbon monoxide detectors save lives. Yet many homes, particularly those of senior citizens, don't have these devices installed and working. Every Saturday throughout the month of May in Butler County, volunteer workers will install smoke and carbon monoxide detectors in homes whose residents cannot do so themselves due to age, health, or income limitations.

On behalf of the United States House of Representatives, I thank the Butler County labor community and United Way for their generosity in giving the gift of safety.

#### VALUE-ADDED TAX

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, consumer spending is critical to creating new jobs, and the last thing we want to do during a recovery is discourage it. Unfortunately, we are hearing whispers and rumblings that the President's debt commission could recommend a new value-added tax before the end of the year, a VAT tax. Close advisers to the President such as Paul Volcker and John Podesta have publicly supported this tax which is already widely used in Europe.

The problem is that European taxes mean European unemployment and European levels of job growth. From 1982 to 2007, the U.S. created 45 million new jobs, compared to only 10 million in Europe. VAT taxes raised the price of goods, directly reducing consumer purchasing power, and this means fewer jobs.

I think we need to make it clear to the debt commission that a VAT tax is no solution to our fiscal problems. The real solution is to restrain Federal Government spending that has far outstripped its traditional boundaries. I'm circulating a letter for signatures to the commission opposing the VAT tax, and I hope all my colleagues will stand with me against the VAT tax.

#### WORKING TOGETHER TO REBUILD THIS COUNTRY

(Mr. KAGEN asked and was given permission to address the House for 1 minute.)

Mr. KAGEN. Mr. Speaker, this past weekend, I met with people in Appleton, Shawano and Green Bay, Wisconsin, listening to their concerns. And what did they ask me to do? They asked me to cut their taxes and to help small business owners grow the jobs that we need to work our way back into prosperity.

Well, you may not have seen it on television or heard it on the radio, but President Obama and the Democrats here in Congress have already delivered the biggest tax cuts in American history. In USA Today 2 days ago, it said: "Tax Bills in 2009 at Lowest Level Since 1950." But don't stop there. Let's take the word of President Reagan's domestic economic adviser Mr. Bartlett: "Federal taxes are very considerably lower by every measure since Obama became President. According to the JCT, last year's \$787 billion stimulus bill, enacted with no Republican

support, reduced Federal taxes by almost \$100 billion in 2009 and another \$222 billion this year."

But we all know that helping small business must be a top priority as well. And that's why we passed the bipartisan HIRE Act which will generate jobs. That's why we worked together with Republicans and Democrats to pass the HOME STAR Act. We're working together to rebuild this country.

#### PASS THE SHORT LINE RAILROAD TAX CREDIT

(Mr. SCHOCK asked and was given permission to address the House for 1 minute.)

Mr. SCHOCK. Mr. Speaker, I rise today in support of the extension of the Short Line Railroad tax credits that have recently expired. Because this credit has not been extended for 2010, the Illinois & Midland and Tazewell & Peoria Railroads in my district have not been able to perform much-needed maintenance to their infrastructure. These companies depend on the extension of this credit to keep their track laborers working and to continue to invest in their track which is necessary to serve local businesses in my district. Companies like Caterpillar, Exelon, Midwest Generation, Reed Minerals, Aventine Renewable Energy, and many others may lose their connection to the national freight rail network.

The problems facing these companies in my district are not unique to the rail industry. The uncertainty of all of these expiring credits leave businesses in a state of flux, unwilling to make the necessary investments and long-term planning to expand their businesses and put people back to work. Over 250 Members of this body have already signed legislation which extends this credit. I urge the Speaker to call this bill and to pass the Short Line Railroad tax credit today.

#### WALL STREET REFORM

(Mr. TONKO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TONKO. Mr. Speaker, I rise today in support of Wall Street reform and ask, Which side are you on? In my opinion, the debate on Wall Street reform is straightforward. There are those who support hardworking American families and small businesses against those who wish to protect the status quo and big Wall Street banks which are to blame for the current recession.

For example, last year this House passed the Wall Street Reform and Consumer Protection Act. None—that's right, zero—of my colleagues on the other side of the aisle supported that bill. The other side can no longer ignore American families who have

worked hard and played by the rules, only to see their homes foreclosed on, their retirement savings lost, their business destroyed, or their jobs wiped out.

We need commonsense reforms and stronger consumer protections to ensure that a crisis on this order of magnitude never happens again. It is time we streamlined government and put a cop on the beat of Wall Street to protect American families and businesses. Absent this cop, Wall Street will regulate itself as it did under the previous administration. The American economy cannot afford to live through real-life tragedy again and neither can her families.

#### REAUTHORIZE THE AMERICA COMPETES ACT

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in support of the reauthorization of the America COMPETES Act. Fifty years ago in Dallas, Texas, at Texas Instruments, Dr. Jack Kilby invented the microchip. This ground-breaking technology is arguably the catalyst of the information age and the entire field of modern microelectronics. At that time, this technology was unimaginable. If not for Dr. Kilby, it is feasible that sophisticated high-speed computers, large-scale semiconductors may cease to exist.

The example Dr. Kilby set proves it is the American people that will create the next technological feat. In order to become energy independent, create new jobs and exports, and develop the next great technology, we must invest robustly in scientific education and innovation. This is the goal of America COMPETES, and I am pleased the provisions in this bill are for all Americans. I, along with my supportive colleagues, want to thank the House leadership for bringing this important legislation to the floor.

#### RETURNING STABILITY TO THE DAIRY INDUSTRY

(Mr. COSTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COSTA. Mr. Speaker, today I will introduce legislation to help put our dairy legislation on track and prevent future dairy crashes like the one we're now in. The Dairy Price Stabilization Act is not just about trying to elevate dairy prices. It's about returning stability to the dairy industry. I was raised on a dairy farm, and we know that dairy boom and bust cycles have always existed. But in the past decade, booms have gotten shorter and the busts longer and more severe. These

highs and lows have forced many dairies to shut down. In the last 2 years, we've lost over \$12 billion of equity in the industry; and, sadly, some dairymen have taken their own lives.

This unsustainable cycle must stop. Dairies can no longer survive on milk checks that are lower than their cost of production. Our bill gives dairymen the option to grow as they see fit, provides incentives to better align supply and demand. Mr. Speaker, we must take swift action now to protect our local dairy farmers across the Nation. I encourage my colleagues to join in this effort.

#### THE ECONOMY

(Mr. MURPHY of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY of Connecticut. Mr. Speaker, over the last several months, I have visited factory floors in Burlington, Meriden, and Waterbury, Connecticut, and the news is good. Orders are returning; revenue is up; access to capital is coming back. And we have seen it in the national numbers. Last week, the Department of Labor reported that 290,000 jobs were added in April, a larger-than-expected increase. And last year, thanks to the tax cuts that this House passed, consumer spending has started to increase, jumping up by 3.5 percent in the last report.

But we have to do more in Connecticut. Our economic recovery won't be complete until manufacturing completely rebounds, and that won't happen until this Congress decides to start spending U.S. taxpayer dollars here on U.S. jobs. Our economy is coming back, but its recovery will not be full until we make a commitment to buy American.

#### WE'RE BAILING OUT GREECE

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Our country is weary of borrowing and spending and bailouts from Washington, D.C. So the American people deserve to know we're bailing out Greece, and future Americans may be picking up the tab for as much as \$50 billion in additional loan guarantees for the rest of Europe in the form of a bailout.

Here's how it works: the European Union's members and the IMF recently pledged \$145 billion in a Greek bailout; \$40 billion of that came from the International Monetary Fund. Since the United States pays 17 percent—we're the largest contributor to the IMF—American taxpayers are on the hook for \$6.8 billion in loan guarantees from the IMF, and it may just be a down payment. The EU this last weekend

talked about a \$1 trillion bailout plan that could put U.S. taxpayers on the hook for \$50 billion in additional loan guarantees to bail out Europe.

Look, the EU was formed to compete with the US of A economically, and it is simply not right to ask the people of the United States of America to provide loan guarantees to bail out an economic competitor in Europe. Nobody wants to see the EU fail, but we're not asking for their help in New Jersey or California. They shouldn't be asking our help for Portugal, Spain, or Greece.

#### DEPLOY THE NATIONAL GUARD TO THE U.S.-MEXICAN BORDER

(Ms. GIFFORDS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GIFFORDS. Mr. Speaker, I rise today to urge President Barack Obama to improve security on our southern border by immediately deploying the National Guard. On March 27, Rob Krentz, whose family has been ranching along the U.S.-Mexico border for over 100 years, was tragically murdered, murdered on his own land. Three days later, I wrote to the President and asked him to send back the National Guard to protect our citizens who live and work along the border. I renewed that request 2 weeks ago and again last week.

Deployment of the National Guard is an essential first step in reassuring border residents of our commitment to their safety and security. The people that I represent do not believe that the Federal Government has heard their pleas, and they grow worse and worse every single day. Much has been done to improve border security, but our border is not yet secure, contrary to whatever people say.

Drug cartel violence increasingly threatens the lives of our citizens; and on behalf of the thousands of Americans who live in the troubled sections of the U.S.-Mexico border but particularly in southern Arizona, I ask again that the President immediately deploy the National Guard. The first responsibility of the government is to ensure the safety of its citizens, and we must take action.

#### THE AMERICA COMPETES ACT IS GOOD FOR OUR ECONOMIC FUTURE

(Mr. YARMUTH asked and was given permission to address the House for 1 minute.)

Mr. YARMUTH. Mr. Speaker, earlier this year, I was proud to cofound the Congressional Task Force on American Competitiveness. The reason we did that is while this Democratic Congress makes the kind of short-term required investments to keep our economy stable and to grow it from the depths of a recession that we have just emerged

from, we still need to keep our eyes on the prize, and that is growing an economy, investing in an economy that will provide vibrant job growth opportunities for our children and grandchildren.

This is why the task force strongly supports the reauthorization of the America COMPETES Act, a piece of legislation that will expand our growing commitment to science and technological education, to innovative research and also to utilizing our manufacturing base to grow the economies of the future. Yes, the America COMPETES Act will make the kind of long-term investment that will create the economy that will sustain our society for years to come and create the kind of futuristic jobs that we can all be proud of.

I urge all of my colleagues to support the America COMPETES Act which will sustain this economy in the future.

#### DOUBLING THE BUDGETS OF OUR BASIC RESEARCH AGENCIES

(Mr. HOLT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLT. Mr. Speaker, we learned last week that April was the fourth consecutive month of job growth in the United States. The tax cuts and investments made by the Recovery Act are turning the economy around. Funding for scientific research and infrastructure in that act has put to work scientists and construction workers and others.

But after years of underinvestment in research, this part of the Recovery Act, \$22 billion, was merely a down payment on our future economic competitiveness. The America COMPETES Reauthorization Act in the House this week will build on these successes, among other things, by authorizing funding levels to continue to double the budgets of our basic research agencies. These investments will pay big dividends as recoveries and innovations lead to new industries, like Google and Cisco and Genentech, that will keep our Nation competitive. If we intend to lead the global economy, we cannot afford to neglect innovation and the infrastructure that produces that innovation and that has produced these economic powerhouses.

As a member of the Congressional Task Force on Competitiveness, I urge my colleagues to support this important legislation.

□ 1030

#### WALL STREET REFORM

(Ms. EDWARDS of Maryland asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDWARDS of Maryland. Mr. Speaker, I join millions of Americans to demand that finally Congress get to the business of reforming Wall Street. Let's get a bill to the President and let's let him sign something that benefits Main Street.

Eighteen months ago, I joined working families across the country in anger and frustration over lax regulation that led to unfettered greed, ultimately forcing Main Street to bear the burden of a Wall Street bailout. In the wake of these unprecedented, though necessary, actions, the American people demanded tough new regulations in exchange. Our party has introduced legislation to put an end to taxpayer-funded bailouts of Wall Street firms that bend the rules and avoid regulation.

But as I stand here today, these firms are nothing more than common thugs working with their allies on the other side of the aisle to continue their risky investing. So we have to send a clear message that we will stand up for working people and reform the industry that almost brought us to the brink of economic collapse.

Mr. Speaker, our colleagues in Congress face a choice: either stand up for working people and our values or protect the greed and risk of Wall Street. For me, the choice is really clear. It is time to put Wall Street back in line with Main Street.

#### TRIBUTE TO REV. JESSE SCOTT

(Ms. TITUS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. TITUS. Mr. Speaker, I rise today to pay tribute to Rev. Jesse Scott, a fine hero and a lifelong civil rights leader who passed away on Monday.

A native of Louisiana, Reverend Scott moved to Las Vegas in 1970 to become president of the local NAACP chapter. In that role, and later as executive director of the Nevada Equal Rights Commission, Reverend Scott was a loved and respected leader whose commitment to justice was unparalleled. Reverend Scott once said, "God placed me in the position to help others as I have been helped by others." And by all accounts, that is exactly what he did.

His legacy will live on in the lives of all those he touched in his fight for equality, in his work at the Second Baptist Church, and in the acts of many public servants, including myself, whom he inspired and mentored. My thoughts and prayers are with Reverend Scott's family and friends during this sad time.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair

will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

#### SATELLITE TELEVISION EXTENSION AND LOCALISM ACT

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3333) to extend the statutory license for secondary transmissions under title 17, United States Code, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3333

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Satellite Television Extension and Localism Act of 2010".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—STATUTORY LICENSES

Sec. 101. Reference.

Sec. 102. Modifications to statutory license for satellite carriers.

Sec. 103. Modifications to statutory license for satellite carriers in local markets.

Sec. 104. Modifications to cable system secondary transmission rights under section 111.

Sec. 105. Certain waivers granted to providers of local-into-local service for all DMAs.

Sec. 106. Copyright Office fees.

Sec. 107. Termination of license.

Sec. 108. Construction.

#### TITLE II—COMMUNICATIONS PROVISIONS

Sec. 201. Reference.

Sec. 202. Extension of authority.

Sec. 203. Significantly viewed stations.

Sec. 204. Digital television transition conforming amendments.

Sec. 205. Application pending completion of rulemakings.

Sec. 206. Process for issuing qualified carrier certification.

Sec. 207. Nondiscrimination in carriage of high definition digital signals of noncommercial educational television stations.

Sec. 208. Savings clause regarding definitions.

Sec. 209. State public affairs broadcasts.

#### TITLE III—REPORTS AND SAVINGS PROVISION

Sec. 301. Definition.

Sec. 302. Report on market based alternatives to statutory licensing.

Sec. 303. Report on communications implications of statutory licensing modifications.

Sec. 304. Report on in-state broadcast programming.

Sec. 305. Local network channel broadcast reports.

Sec. 306. Savings provision regarding use of negotiated licenses.

Sec. 307. Effective date; Noninfringement of copyright.

#### TITLE IV—SEVERABILITY

Sec. 401. Severability.

#### TITLE V—DETERMINATION OF BUDGETARY EFFECTS

Sec. 501. Determination of Budgetary Effects.

#### TITLE I—STATUTORY LICENSES

##### SEC. 101. REFERENCE.

Except as otherwise provided, whenever in this title an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of title 17, United States Code.

##### SEC. 102. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 119 is amended by striking "**superstations and network stations for private home viewing**" and inserting "**distant television programming by satellite**".

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 119 and inserting the following:

"119. Limitations on exclusive rights: Secondary transmissions of distant television programming by satellite."

(b) UNSERVED HOUSEHOLD DEFINED.—

(1) IN GENERAL.—Section 119(d)(10) is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) cannot receive, through the use of an antenna, an over-the-air signal containing the primary stream, or, on or after the qualifying date, the multicast stream, originating in that household's local market and affiliated with that network or—

"(i) if the signal originates as an analog signal, Grade B intensity as defined by the Federal Communications Commission in section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999; or

"(ii) if the signal originates as a digital signal, intensity defined in the values for the digital television noise-limited service contour, as defined in regulations issued by the Federal Communications Commission (section 73.622(e) of title 47, Code of Federal Regulations), as such regulations may be amended from time to time;"

(B) in subparagraph (B)—

(i) by striking "subsection (a)(14)" and inserting "subsection (a)(13)"; and

(ii) by striking "Satellite Home Viewer Extension and Reauthorization Act of 2004" and inserting "Satellite Television Extension and Localism Act of 2010"; and

(C) in subparagraph (D), by striking "(a)(12)" and inserting "(a)(11)".

(2) QUALIFYING DATE DEFINED.—Section 119(d) is amended by adding at the end the following:

"(14) QUALIFYING DATE.—The term 'qualifying date', for purposes of paragraph (10)(A), means—

"(A) October 1, 2010, for multicast streams that exist on March 31, 2010; and

"(B) January 1, 2011, for all other multicast streams."

(c) FILING FEE.—Section 119(b)(1) is amended—

(1) in subparagraph (A), by striking "and" after the semicolon at the end;

(2) in subparagraph (B), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

“(C) a filing fee, as determined by the Register of Copyrights pursuant to section 708(a).”.

(d) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—Section 119(b) is amended—

(1) by amending the subsection heading to read as follows: “(b) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—”;

(2) in paragraph (1), by striking subparagraph (B) and inserting the following:

“(B) a royalty fee payable to copyright owners pursuant to paragraph (4) for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of a primary stream or multicast stream of each non-network station or network station during each calendar year month by the appropriate rate in effect under this subsection; and”;

(3) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(4) by inserting after paragraph (1) the following:

“(2) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under this subsection.”;

(5) in paragraph (3), as redesignated, in the first sentence—

(A) by inserting “(including the filing fee specified in paragraph (1)(C))” after “shall receive all fees”; and

(B) by striking “paragraph (4)” and inserting “paragraph (5)”;

(6) in paragraph (4), as redesignated—

(A) by striking “paragraph (2)” and inserting “paragraph (3)”;

(B) by striking “paragraph (4)” each place it appears and inserting “paragraph (5)”;

(7) in paragraph (5), as redesignated, by striking “paragraph (2)” and inserting “paragraph (3)”.

(e) ADJUSTMENT OF ROYALTY FEES.—Section 119(c) is amended as follows:

(1) Paragraph (1) is amended—

(A) in the heading for such paragraph, by striking “ANALOG”;

(B) in subparagraph (A)—

(i) by striking “primary analog transmissions” and inserting “primary transmissions”; and

(ii) by striking “July 1, 2004” and inserting “July 1, 2009”;

(C) in subparagraph (B)—

(i) by striking “January 2, 2005, the Librarian of Congress” and inserting “June 1, 2010, the Copyright Royalty Judges”; and

(ii) by striking “primary analog transmission” and inserting “primary transmissions”;

(D) in subparagraph (C), by striking “Librarian of Congress” and inserting “Copyright Royalty Judges”;

(E) in subparagraph (D)—

(i) in clause (i)—

(I) by striking “(i) Voluntary agreements” and inserting the following:

“(i) VOLUNTARY AGREEMENTS; FILING.—Voluntary agreements”; and

(II) by striking “that a parties” and inserting “that are parties”; and

(ii) in clause (ii)—

(I) by striking “(ii)(I) Within” and inserting the following:

“(ii) PROCEDURE FOR ADOPTION OF FEES.—

“(I) PUBLICATION OF NOTICE.—Within”;

(II) in subclause (I), by striking “an arbitration proceeding pursuant to subparagraph (E)” and inserting “a proceeding under subparagraph (F)”;

(III) in subclause (II), by striking “(II) Upon receiving a request under subclause (I), the Librarian of Congress” and inserting the following:

“(II) PUBLIC NOTICE OF FEES.—Upon receiving a request under subclause (I), the Copyright Royalty Judges”; and

(IV) in subclause (III)—

(aa) by striking “(III) The Librarian” and inserting the following:

“(III) ADOPTION OF FEES.—The Copyright Royalty Judges”;

(bb) by striking “an arbitration proceeding” and inserting “the proceeding under subparagraph (F)”;

(cc) by striking “the arbitration proceeding” and inserting “that proceeding”;

(F) in subparagraph (E)—

(i) by striking “Copyright Office” and inserting “Copyright Royalty Judges”; and

(ii) by striking “May 31, 2010” and inserting “December 31, 2014”; and

(G) in subparagraph (F)—

(i) in the heading, by striking “COMPULSORY ARBITRATION” and inserting “COPYRIGHT ROYALTY JUDGES PROCEEDING”;

(ii) in clause (i)—

(I) in the heading, by striking “PROCEEDINGS” and inserting “THE PROCEEDING”;

(II) in the matter preceding subclause (I)—

(aa) by striking “May 1, 2005, the Librarian of Congress” and inserting “September 1, 2010, the Copyright Royalty Judges”;

(bb) by striking “arbitration proceedings” and inserting “a proceeding”;

(cc) by striking “fee to be paid” and inserting “fees to be paid”;

(dd) by striking “primary analog transmission” and inserting “the primary transmissions”;

(ee) by striking “distributors” and inserting “distributors”;

(III) in subclause (II)—

(aa) by striking “Librarian of Congress” and inserting “Copyright Royalty Judges”;

(bb) by striking “arbitration”; and

(IV) by amending the last sentence to read as follows: “Such proceeding shall be conducted under chapter 8.”;

(iii) in clause (ii), by amending the matter preceding subclause (I) to read as follows:

“(ii) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this subparagraph, the Copyright Royalty Judges shall establish fees for the secondary transmissions of the primary transmissions of network stations and non-network stations that most clearly represent the fair market value of secondary transmissions, except that the Copyright Royalty Judges shall adjust royalty fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Royalty Judges in accordance with subparagraph (D). In determining the fair market value, the Judges shall base their decision on economic, competitive, and programming information presented by the parties, including—”;

(iv) by amending clause (iii) to read as follows:

“(iii) EFFECTIVE DATE FOR DECISION OF COPYRIGHT ROYALTY JUDGES.—The obligation to pay the royalty fees established under a determination that is made by the Copyright Royalty Judges in a proceeding under this paragraph shall be effective as of January 1, 2010.”; and

(v) in clause (iv)—

(I) in the heading, by striking “FEE” and inserting “FEES”; and

(II) by striking “fee referred to in (iii)” and inserting “fees referred to in clause (iii)”.

(2) Paragraph (2) is amended to read as follows:

“(2) ANNUAL ROYALTY FEE ADJUSTMENT.—Effective January 1 of each year, the royalty fee payable under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and non-network stations shall be adjusted by the Copyright Royalty Judges to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) published by the Secretary of Labor before December 1 of the preceding year. Notification of the adjusted fees shall be published in the Federal Register at least 25 days before January 1.”.

(f) DEFINITIONS.—

(1) SUBSCRIBER.—Section 119(d)(8) is amended to read as follows:

“(8) SUBSCRIBER; SUBSCRIBE.—

“(A) SUBSCRIBER.—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

“(B) SUBSCRIBE.—The term ‘subscribe’ means to elect to become a subscriber.”.

(2) LOCAL MARKET.—Section 119(d)(11) is amended to read as follows:

“(11) LOCAL MARKET.—The term ‘local market’ has the meaning given such term under section 122(j).”.

(3) LOW POWER TELEVISION STATION.—Section 119(d) is amended by striking paragraph (12) and redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively.

(4) MULTICAST STREAM.—Section 119(d), as amended by paragraph (3), is further amended by adding at the end the following new paragraph:

“(14) MULTICAST STREAM.—The term ‘multicast stream’ means a digital stream containing programming and program-related material affiliated with a television network, other than the primary stream.”.

(5) PRIMARY STREAM.—Section 119(d), as amended by paragraph (4), is further amended by adding at the end the following new paragraph:

“(15) PRIMARY STREAM.—The term ‘primary stream’ means—

“(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

“(B) if there is no stream described in subparagraph (A), then either—

“(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

“(ii) if there is no stream described in clause (i), then the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.”.

(6) CLERICAL AMENDMENT.—Section 119(d) is amended in paragraphs (1), (2), and (5) by striking “which” each place it appears and inserting “that”.

(g) SUPERSTATION REDESIGNATED AS NON-NETWORK STATION.—Section 119 is amended—

(1) by striking “superstation” each place it appears in a heading and each place it appears in text and inserting “non-network station”; and

(2) by striking “superstations” each place it appears in a heading and each place it appears in text and inserting “non-network stations”.

(h) REMOVAL OF CERTAIN PROVISIONS.—

(1) REMOVAL OF PROVISIONS.—Section 119(a) is amended—

(A) in paragraph (2), by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C);

(B) by striking paragraph (3) and redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively; and

(C) by striking paragraph (15) and redesignating paragraph (16) as paragraph (14).

(2) CONFORMING AMENDMENTS.—Section 119 is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking “(5), (6), and (8)” and inserting “(4), (5), and (7)”;

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking “subparagraphs (B) and (C) of this paragraph and paragraphs (5), (6), (7), and (8)” and inserting “subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7)”;

(II) in subparagraph (B)(i), by striking the second sentence; and

(III) in subparagraph (C) (as redesignated), by striking clauses (i) and (ii) and inserting the following:

“(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households.

“(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), the satellite carrier shall, not later than the 15th of each month, submit to the network a list, aggregated by designated market area, identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) any persons who have been added or dropped as subscribers under clause (i) since the last submission under this subparagraph.”; and

(iii) in subparagraph (E) of paragraph (3) (as redesignated)—

(I) by striking “under paragraph (3) or”; and

(II) by striking “paragraph (12)” and inserting “paragraph (11)”;

(B) in subsection (b)(1), by striking the final sentence.

(i) MODIFICATIONS TO PROVISIONS FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—

(1) PREDICTIVE MODEL.—Section 119(a)(2)(B)(ii) is amended by adding at the end the following:

“(III) ACCURATE PREDICTIVE MODEL WITH RESPECT TO DIGITAL SIGNALS.—Notwithstanding subclause (I), in determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A) with respect to digital signals, a court shall rely on a predictive model set forth by the Federal Communications Commission pursuant to a rulemaking as provided in section 339(c)(3) of the Communications Act of 1934 (47 U.S.C. 339(c)(3)), as that model may be amended by the Commission over time under such section to increase the accuracy of that model. Until such time as the Commission sets forth such model, a court shall rely on the predictive model as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No.

05–182, FCC 05–199 (released December 9, 2005).”.

(2) MODIFICATIONS TO STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—Section 119(a)(3) (as redesignated) is amended—

(A) by striking “analog” each place it appears in a heading and text;

(B) by striking subparagraphs (B), (C), and (D), and inserting the following:

“(B) RULES FOR LAWFUL SUBSCRIBERS AS OF DATE OF ENACTMENT OF 2010 ACT.—In the case of a subscriber of a satellite carrier who, on the day before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, was lawfully receiving the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as the ‘distant signal’), other than subscribers to whom subparagraph (A) applies, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber’s household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, whether or not the subscriber elects to subscribe to receive the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

“(C) FUTURE APPLICABILITY.—

“(i) WHEN LOCAL SIGNAL AVAILABLE AT TIME OF SUBSCRIPTION.—The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of the primary transmission of a network station to a person who is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

“(ii) WHEN LOCAL SIGNAL AVAILABLE AFTER SUBSCRIPTION.—In the case of a subscriber who lawfully subscribes to and receives the secondary transmission by a satellite carrier of the primary transmission of a network station under the statutory license under paragraph (2) (in this clause referred to as the ‘distant signal’) on or after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber’s household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, but only if such subscriber subscribes to the secondary transmission of the primary transmission of a local network station affiliated with the same network within 60 days after the satellite carrier makes available to the subscriber such secondary transmission of the primary transmission of such local network station.”;

(C) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively;

(D) in subparagraph (E) (as redesignated), by striking “(C) or (D)” and inserting “(B) or (C)”; and

(E) in subparagraph (F) (as redesignated), by inserting “9-digit” before “zip code”.

(3) STATUTORY DAMAGES FOR TERRITORIAL RESTRICTIONS.—Section 119(a)(6) (as redesignated) is amended—

(A) in subparagraph (A)(ii), by striking “\$5” and inserting “\$250”;

(B) in subparagraph (B)—

(i) in clause (i), by striking “\$250,000 for each 6-month period” and inserting “\$2,500,000 for each 3-month period”; and

(ii) in clause (ii), by striking “\$250,000” and inserting “\$2,500,000”; and

(C) by adding at the end the following flush sentences:

“The court shall direct one half of any statutory damages ordered under clause (i) to be deposited with the Register of Copyrights for distribution to copyright owners pursuant to subsection (b). The Copyright Royalty Judges shall issue regulations establishing procedures for distributing such funds, on a proportional basis, to copyright owners whose works were included in the secondary transmissions that were the subject of the statutory damages.”.

(4) TECHNICAL AMENDMENT.—Section 119(a)(4) (as redesignated) is amended by striking “and 509”.

(5) CLERICAL AMENDMENT.—Section 119(a)(2)(B)(iii)(II) is amended by striking “In this clause” and inserting “In this clause.”.

(j) MORATORIUM EXTENSION.—Section 119(e) is amended by striking “May 31, 2010” and inserting “December 31, 2014”.

(k) CLERICAL AMENDMENTS.—Section 119 is amended—

(1) by striking “of the Code of Federal Regulations” each place it appears and inserting “, Code of Federal Regulations”; and

(2) in subsection (d)(6), by striking “or the Direct” and inserting “, or the Direct”.

#### SEC. 103. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS IN LOCAL MARKETS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 122 is amended by striking “**by satellite carriers within local markets**” and inserting “**of local television programming by satellite**”.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 122 and inserting the following:

“122. Limitations on exclusive rights: Secondary transmissions of local television programming by satellite.”.

(b) STATUTORY LICENSE.—Section 122(a) is amended to read as follows:

“(a) SECONDARY TRANSMISSIONS INTO LOCAL MARKETS.—

“(1) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS WITHIN A LOCAL MARKET.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station’s local market shall be subject to statutory licensing under this section if—

“(A) the secondary transmission is made by a satellite carrier to the public;

“(B) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

“(C) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

“(i) each subscriber receiving the secondary transmission; or

“(ii) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

“(2) SIGNIFICANTLY VIEWED STATIONS.—

“(A) IN GENERAL.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a network station or a non-network station to a subscriber who resides outside the station's local market but within a community in which the signal has been determined by the Federal Communications Commission to be significantly viewed in such community, pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

“(B) WAIVER.—A subscriber who is denied the secondary transmission of the primary transmission of a network station or a non-network station under subparagraph (A) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station or non-network station in the local market affiliated with the same network or non-network where the subscriber is located. The network station or non-network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station or non-network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station or non-network station shall be deemed to agree to the waiver request.

“(3) SECONDARY TRANSMISSION OF LOW POWER PROGRAMMING.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a television broadcast station that is licensed as a low power television station, to a subscriber who resides within the same designated market area as the station that originates the transmission.

“(B) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

“(C) NO IMPACT ON OTHER SECONDARY TRANSMISSIONS OBLIGATIONS.—A satellite carrier that makes secondary transmissions of a primary transmission of a low power television station under a statutory license provided under this section is not required, by reason of such secondary transmissions, to make any other secondary transmissions.

“(4) SPECIAL EXCEPTIONS.—A secondary transmission of a performance or display of a

work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall, if the secondary transmission is made by a satellite carrier that complies with the requirements of paragraph (1), be subject to statutory licensing under this paragraph as follows:

“(A) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 C.F.R. 76.51).

“(B) STATES WITH ALL NETWORK STATIONS AND NON-NETWORK STATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and non-network stations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of title 47, Code of Federal Regulations).

“(C) ADDITIONAL STATIONS.—In the case of that State in which are located 4 counties that—

“(i) on January 1, 2004, were in local markets principally comprised of counties in another State; and

“(ii) had a combined total of 41,340 television households, according to the U.S. Television Household Estimates by Nielsen Media Research for 2004,

the statutory license provided under this paragraph shall apply to secondary transmissions by a satellite carrier to subscribers in any such county of the primary transmissions of any network station located in that State, if the satellite carrier was making such secondary transmissions to any subscribers in that county on January 1, 2004.

“(D) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

“(i) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and

“(ii) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

“(E) NETWORKS OF NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS.—In the case of a system of three or more noncommercial educational broadcast stations licensed to a single State, public agency, or political, educational, or special purpose subdivision of a

State, the statutory license provided for in this paragraph shall apply to the secondary transmission of the primary transmission of such system to any subscriber in any county or county equivalent within such State, if such subscriber is located in a designated market area that is not otherwise eligible to receive the secondary transmission of the primary transmission of a noncommercial educational broadcast station located within the State pursuant to paragraph (1).

“(5) APPLICABILITY OF ROYALTY RATES AND PROCEDURES.—The royalty rates and procedures under section 119(b) shall apply to the secondary transmissions to which the statutory license under paragraph (4) applies.”

(c) REPORTING REQUIREMENTS.—Section 122(b) is amended—

(1) in paragraph (1), by striking “station a list” and all that follows through the end and inserting the following: “station—

“(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a); and

“(B) a separate list, aggregated by designated market area (by name and address, including street or rural route number, city, State, and 9-digit zip code), which shall indicate those subscribers being served pursuant to paragraph (2) of subsection (a).”; and

(2) in paragraph (2), by striking “network a list” and all that follows through the end and inserting the following: “network—

“(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection; and

“(B) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and 9-digit zip code), identifying those subscribers whose service pursuant to paragraph (2) of subsection (a) has been added or dropped since the last submission under this subsection.”

(d) NO ROYALTY FEE FOR CERTAIN SECONDARY TRANSMISSIONS.—Section 122(c) is amended—

(1) in the heading, by inserting “FOR CERTAIN SECONDARY TRANSMISSIONS” after “REQUIRED”; and

(2) by striking “subsection (a)” and inserting “paragraphs (1), (2), and (3) of subsection (a)”.

(e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—

(1) MODIFICATION TO STATUTORY DAMAGES.—Section 122(f) is amended—

(A) in paragraph (1)(B), by striking “\$5” and inserting “\$250”; and

(B) in paragraph (2), by striking “\$250,000” each place it appears and inserting “\$2,500,000”.

(2) CONFORMING AMENDMENTS FOR ADDITIONAL STATIONS.—Section 122 is amended—

(A) in subsection (f), by striking “section 119 or” each place it appears and inserting the following: “section 119, subject to statutory licensing by reason of paragraph (2)(A), (3), or (4) of subsection (a), or subject to”; and

(B) in subsection (g), by striking “section 119 or” and inserting the following: “section 119, paragraph (2)(A), (3), or (4) of subsection (a), or”.

(f) DEFINITIONS.—Section 122(j) is amended—

(1) in paragraph (1), by striking “which contracts” and inserting “that contracts”;



(2) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively;

(3) in paragraph (3)—

(A) by redesignating such paragraph as paragraph (4);

(B) in the heading of such paragraph, by inserting “NON-NETWORK STATION;” after “NETWORK STATION;”; and

(C) by inserting “‘non-network station’,” after “‘network station’;”;

(4) by inserting after paragraph (2) the following:

“(3) **LOW POWER TELEVISION STATION.**—The term ‘low power television station’ means a low power TV station as defined in section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term ‘low power television station’ includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.”;

(5) by inserting after paragraph (4) (as redesignated) the following:

“(5) **NONCOMMERCIAL EDUCATIONAL BROADCAST STATION.**—The term ‘noncommercial educational broadcast station’ means a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.”; and

(6) by amending paragraph (6) (as redesignated) to read as follows:

“(6) **SUBSCRIBER.**—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.”.

#### **SEC. 104. MODIFICATIONS TO CABLE SYSTEM SECONDARY TRANSMISSION RIGHTS UNDER SECTION 111.**

(a) **HEADING RENAMED.**—

(1) **IN GENERAL.**—The heading of section 111 is amended by inserting at the end the following: “**of broadcast programming by cable**”.

(2) **TABLE OF CONTENTS.**—The table of contents for chapter 1 is amended by striking the item relating to section 111 and inserting the following:

“111. Limitations on exclusive rights: Secondary transmissions of broadcast programming by cable.”.

(b) **TECHNICAL AMENDMENT.**—Section 111(a)(4) is amended by striking “; or” and inserting “or section 122.”.

(c) **STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.**—Section 111(d) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking “A cable system whose secondary” and inserting the following: “STATEMENT OF ACCOUNT AND ROYALTY FEES.—Subject to paragraph (5), a cable system whose secondary”; and

(ii) by striking “by regulation—” and inserting “by regulation the following.”;

(B) in subparagraph (A)—

(i) by striking “a statement of account” and inserting “A statement of account”; and

(ii) by striking “; and” and inserting a period; and

(C) by striking subparagraphs (B), (C), and (D) and inserting the following:

“(B) Except in the case of a cable system whose royalty fee is specified in subparagraph (E) or (F), a total royalty fee payable to copyright owners pursuant to paragraph

(3) for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during such period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

“(i) 1.064 percent of such gross receipts for the privilege of further transmitting, beyond the local service area of such primary transmitter, any non-network programming of a primary transmitter in whole or in part, such amount to be applied against the fee, if any, payable pursuant to clauses (ii) through (iv);

“(ii) 1.064 percent of such gross receipts for the first distant signal equivalent;

“(iii) 0.701 percent of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

“(iv) 0.330 percent of such gross receipts for the fifth distant signal equivalent and each distant signal equivalent thereafter.

“(C) In computing amounts under clauses (ii) through (iv) of subparagraph (B)—

“(i) any fraction of a distant signal equivalent shall be computed at its fractional value;

“(ii) in the case of any cable system located partly within and partly outside of the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located outside of the local service area of such primary transmitter; and

“(iii) if a cable system provides a secondary transmission of a primary transmitter to some but not all communities served by that cable system—

“(I) the gross receipts and the distant signal equivalent values for such secondary transmission shall be derived solely on the basis of the subscribers in those communities where the cable system provides such secondary transmission; and

“(II) the total royalty fee for the period paid by such system shall not be less than the royalty fee calculated under subparagraph (B)(i) multiplied by the gross receipts from all subscribers to the system.

“(D) A cable system that, on a statement submitted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, computed its royalty fee consistent with the methodology under subparagraph (C)(ii), or that amends a statement filed before such date of enactment to compute the royalty fee due using such methodology, shall not be subject to an action for infringement, or eligible for any royalty refund or offset, arising out of its use of such methodology on such statement.

“(E) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are \$263,800 or less—

“(i) gross receipts of the cable system for the purpose of this paragraph shall be computed by subtracting from such actual gross receipts the amount by which \$263,800 exceeds such actual gross receipts, except that in no case shall a cable system’s gross receipts be reduced to less than \$10,400; and

“(ii) the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be 0.5 percent, regardless of the number of distant signal equivalents, if any.

“(F) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of

primary broadcast transmitters are more than \$263,800 but less than \$527,600, the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be—

“(i) 0.5 percent of any gross receipts up to \$263,800, regardless of the number of distant signal equivalents, if any; and

“(ii) 1 percent of any gross receipts in excess of \$263,800, but less than \$527,600, regardless of the number of distant signal equivalents, if any.

“(G) A filing fee, as determined by the Register of Copyrights pursuant to section 708(a).”;

(2) in paragraph (2), in the first sentence—

(A) by striking “The Register of Copyrights” and inserting the following “HANDLING OF FEES.—The Register of Copyrights”; and

(B) by inserting “(including the filing fee specified in paragraph (1)(G))” after “shall receive all fees”;;

(3) in paragraph (3)—

(A) by striking “The royalty fees” and inserting the following: “DISTRIBUTION OF ROYALTY FEES TO COPYRIGHT OWNERS.—The royalty fees”;;

(B) in subparagraph (A)—

(i) by striking “any such” and inserting “Any such”; and

(ii) by striking “; and” and inserting a period;

(C) in subparagraph (B)—

(i) by striking “any such” and inserting “Any such”; and

(ii) by striking the semicolon and inserting a period; and

(D) in subparagraph (C), by striking “any such” and inserting “Any such”;;

(4) in paragraph (4), by striking “The royalty fees” and inserting the following: “PROCEDURES FOR ROYALTY FEE DISTRIBUTION.—The royalty fees”;;

(5) by adding at the end the following new paragraphs:

“(5) **3.75 PERCENT RATE AND SYNDICATED EXCLUSIVITY SURCHARGE NOT APPLICABLE TO MULTICAST STREAMS.**—The royalty rates specified in sections 256.2(c) and 256.2(d) of title 37, Code of Federal Regulations (commonly referred to as the ‘3.75 percent rate’ and the ‘syndicated exclusivity surcharge’, respectively), as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010, as such rates may be adjusted, or such sections redesignated, thereafter by the Copyright Royalty Judges, shall not apply to the secondary transmission of a multicast stream.

“(6) **VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.**—The Register of Copyrights shall issue regulations to provide for the confidential verification by copyright owners whose works were embodied in the secondary transmissions of primary transmissions pursuant to this section of the information reported on the semiannual statements of account filed under this subsection for accounting periods beginning on or after January 1, 2010, in order that the auditor designated under subparagraph (A) is able to confirm the correctness of the calculations and royalty payments reported therein. The regulations shall—

“(A) establish procedures for the designation of a qualified independent auditor—

“(i) with exclusive authority to request verification of such a statement of account on behalf of all copyright owners whose works were the subject of secondary transmissions of primary transmissions by the cable system (that deposited the statement) during the accounting period covered by the statement; and

“(ii) who is not an officer, employee, or agent of any such copyright owner for any purpose other than such audit;

“(B) establish procedures for safeguarding all non-public financial and business information provided under this paragraph;

“(C)(i) require a consultation period for the independent auditor to review its conclusions with a designee of the cable system;

“(ii) establish a mechanism for the cable system to remedy any errors identified in the auditor's report and to cure any underpayment identified; and

“(iii) provide an opportunity to remedy any disputed facts or conclusions;

“(D) limit the frequency of requests for verification for a particular cable system and the number of audits that a multiple system operator can be required to undergo in a single year; and

“(E) permit requests for verification of a statement of account to be made only within 3 years after the last day of the year in which the statement of account is filed.

“(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—Any royalty fee payments received by the Copyright Office from cable systems for the secondary transmission of primary transmissions that are in addition to the payments calculated and deposited in accordance with this subsection shall be deemed to have been deposited for the particular accounting period for which they are received and shall be distributed as specified under this subsection.”

(d) EFFECTIVE DATE OF NEW ROYALTY FEE RATES.—The royalty fee rates established in section 111(d)(1)(B) of title 17, United States Code, as amended by subsection (c)(1)(C) of this section, shall take effect commencing with the first accounting period occurring in 2010.

(e) DEFINITIONS.—Section 111(f) is amended—

(1) by striking the first undesignated paragraph and inserting the following:

“(1) PRIMARY TRANSMISSION.—A ‘primary transmission’ is a transmission made to the public by a transmitting facility whose signals are being received and further transmitted by a secondary transmission service, regardless of where or when the performance or display was first transmitted. In the case of a television broadcast station, the primary stream and any multicast streams transmitted by the station constitute primary transmissions.”;

(2) in the second undesignated paragraph—

(A) by striking “A ‘secondary transmission’” and inserting the following:

“(2) SECONDARY TRANSMISSION.—A ‘secondary transmission’”; and

(B) by striking “‘cable system’” and inserting “cable system”;

(3) in the third undesignated paragraph—

(A) by striking “A ‘cable system’” and inserting the following:

“(3) CABLE SYSTEM.—A ‘cable system’”; and

(B) by striking “Territory, Trust Territory, or Possession” and inserting “territory, trust territory, or possession of the United States”;

(4) in the fourth undesignated paragraph, in the first sentence—

(A) by striking “The ‘local service area of a primary transmitter’, in the case of a television broadcast station, comprises the area in which such station is entitled to insist” and inserting the following:

“(4) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The ‘local service area of a primary transmitter’, in the case of both the primary stream and any multicast streams

transmitted by a primary transmitter that is a television broadcast station, comprises the area where such primary transmitter could have insisted”;

(B) by striking “76.59 of title 47 of the Code of Federal Regulations” and inserting the following: “76.59 of title 47, Code of Federal Regulations, or within the noise-limited contour as defined in 73.622(e)(1) of title 47, Code of Federal Regulations”; and

(C) by striking “as defined by the rules and regulations of the Federal Communications Commission,”;

(5) by amending the fifth undesignated paragraph to read as follows:

“(5) DISTANT SIGNAL EQUIVALENT.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), a ‘distant signal equivalent’—

“(i) is the value assigned to the secondary transmission of any non-network television programming carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming; and

“(ii) is computed by assigning a value of one to each primary stream and to each multicast stream (other than a simulcast) that is an independent station, and by assigning a value of one-quarter to each primary stream and to each multicast stream (other than a simulcast) that is a network station or a noncommercial educational station.

“(B) EXCEPTIONS.—The values for independent, network, and noncommercial educational stations specified in subparagraph (A) are subject to the following:

“(i) Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to effect such omission and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program.

“(ii) Where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year.

“(iii) In the case of the secondary transmission of a primary transmitter that is a television broadcast station pursuant to the late-night or specialty programming rules of the Federal Communications Commission, or the secondary transmission of a primary transmitter that is a television broadcast station on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity

to retransmit on a full-time basis all signals that it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth in subparagraph (A), as the case may be, shall be multiplied by a fraction that is equal to the ratio of the broadcast hours of such primary transmitter retransmitted by the cable system to the total broadcast hours of the primary transmitter.

“(iv) No value shall be assigned for the secondary transmission of the primary stream or any multicast streams of a primary transmitter that is a television broadcast station in any community that is within the local service area of the primary transmitter.”;

(6) by striking the sixth undesignated paragraph and inserting the following:

“(6) NETWORK STATION.—

“(A) TREATMENT OF PRIMARY STREAM.—The term ‘network station’ shall be applied to a primary stream of a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of the primary stream's typical broadcast day.

“(B) TREATMENT OF MULTICAST STREAMS.—The term ‘network station’ shall be applied to a multicast stream on which a television broadcast station transmits all or substantially all of the programming of an interconnected program service that—

“(i) is owned or operated by, or affiliated with, one or more of the television networks described in subparagraph (A); and

“(ii) offers programming on a regular basis for 15 or more hours per week to at least 25 of the affiliated television licensees of the interconnected program service in 10 or more States.”;

(7) by striking the seventh undesignated paragraph and inserting the following:

“(7) INDEPENDENT STATION.—The term ‘independent station’ shall be applied to the primary stream or a multicast stream of a television broadcast station that is not a network station or a noncommercial educational station.”;

(8) by striking the eighth undesignated paragraph and inserting the following:

“(8) NONCOMMERCIAL EDUCATIONAL STATION.—The term ‘noncommercial educational station’ shall be applied to the primary stream or a multicast stream of a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.”; and

(9) by adding at the end the following:

“(9) PRIMARY STREAM.—A ‘primary stream’ is—

“(A) the single digital stream of programming that, before June 12, 2009, was substantially duplicating the programming transmitted by the television broadcast station as an analog signal; or

“(B) if there is no stream described in subparagraph (A), then the single digital stream of programming transmitted by the television broadcast station for the longest period of time.

“(10) PRIMARY TRANSMITTER.—A ‘primary transmitter’ is a television or radio broadcast station licensed by the Federal Communications Commission, or by an appropriate governmental authority of Canada or Mexico, that makes primary transmissions to the public.

“(11) MULTICAST STREAM.—A ‘multicast stream’ is a digital stream of programming that is transmitted by a television broadcast station and is not the station’s primary stream.

“(12) SIMULCAST.—A ‘simulcast’ is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

“(13) SUBSCRIBER; SUBSCRIBE.—

“(A) SUBSCRIBER.—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a cable system and pays a fee for the service, directly or indirectly, to the cable system.

“(B) SUBSCRIBE.—The term ‘subscribe’ means to elect to become a subscriber.”.

(f) TIMING OF SECTION 111 PROCEEDINGS.—Section 804(b)(1) is amended by striking “2005” each place it appears and inserting “2015”.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CORRECTIONS TO FIX LEVEL DESIGNATIONS.—Section 111 is amended—

(A) in subsections (a), (c), and (e), by striking “clause” each place it appears and inserting “paragraph”;

(B) in subsection (c)(1), by striking “clauses” and inserting “paragraphs”; and

(C) in subsection (e)(1)(F), by striking “subclause” and inserting “subparagraph”.

(2) CONFORMING AMENDMENT TO HYPHENATE NONNETWORK.—Section 111 is amended by striking “nonnetwork” each place it appears and inserting “non-network”.

(3) PREVIOUSLY UNDESIGNATED PARAGRAPH.—Section 111(e)(1) is amended by striking “second paragraph of subsection (f)” and inserting “subsection (f)(2)”.

(4) REMOVAL OF SUPERFLUOUS ANDS.—Section 111(e) is amended—

(A) in paragraph (1)(A), by striking “and” at the end;

(B) in paragraph (1)(B), by striking “and” at the end;

(C) in paragraph (1)(C), by striking “and” at the end;

(D) in paragraph (1)(D), by striking “and” at the end; and

(E) in paragraph (2)(A), by striking “and” at the end.

(5) REMOVAL OF VARIANT FORMS REFERENCES.—Section 111 is amended—

(A) in subsection (e)(4), by striking “, and each of its variant forms,”; and

(B) in subsection (f), by striking “and their variant forms”.

(6) CORRECTION TO TERRITORY REFERENCE.—Section 111(e)(2) is amended in the matter preceding subparagraph (A) by striking “three territories” and inserting “five entities”.

(h) EFFECTIVE DATE WITH RESPECT TO MULTICAST STREAMS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this section, to the extent such amendments assign a distant signal equivalent value to the secondary transmission of the multicast stream of a primary transmitter, shall take effect on the date of the enactment of this Act.

(2) DELAYED APPLICABILITY.—

(A) SECONDARY TRANSMISSIONS OF A MULTICAST STREAM BEYOND THE LOCAL SERVICE AREA OF ITS PRIMARY TRANSMITTER BEFORE 2010 ACT.—In any case in which a cable system was making secondary transmissions of a multicast stream beyond the local service area of its primary transmitter before the date of the enactment of this Act, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to sec-

ondary transmissions of such multicast stream that are made on or before June 30, 2010.

(B) MULTICAST STREAMS SUBJECT TO PRE-EXISTING WRITTEN AGREEMENTS FOR THE SECONDARY TRANSMISSION OF SUCH STREAMS.—In any case in which the secondary transmission of a multicast stream of a primary transmitter is the subject of a written agreement entered into on or before June 30, 2009, between a cable system or an association representing the cable system and a primary transmitter or an association representing the primary transmitter, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream beyond the local service area of its primary transmitter that are made on or before the date on which such written agreement expires.

(C) NO REFUNDS OR OFFSETS FOR PRIOR STATEMENTS OF ACCOUNT.—A cable system that has reported secondary transmissions of a multicast stream beyond the local service area of its primary transmitter on a statement of account deposited under section 111 of title 17, United States Code, before the date of the enactment of this Act shall not be entitled to any refund, or offset, of royalty fees paid on account of such secondary transmissions of such multicast stream.

(3) DEFINITIONS.—In this subsection, the terms “cable system”, “secondary transmission”, “multicast stream”, and “local service area of a primary transmitter” have the meanings given those terms in section 111(f) of title 17, United States Code, as amended by this section.

#### SEC. 105. CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.

Section 119 is amended by adding at the end the following new subsection:

“(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

“(1) INJUNCTION WAIVER.—A court that issued an injunction pursuant to subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction if the court recognizes the entity against which the injunction was issued as a qualified carrier.

“(2) LIMITED TEMPORARY WAIVER.—

“(A) IN GENERAL.—Upon a request made by a satellite carrier, a court that issued an injunction against such carrier under subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction with respect to the statutory license provided under subsection (a)(2) to the extent necessary to allow such carrier to make secondary transmissions of primary transmissions made by a network station to unserved households located in short markets in which such carrier was not providing local service pursuant to the license under section 122 as of December 31, 2009.

“(B) EXPIRATION OF TEMPORARY WAIVER.—A temporary waiver of an injunction under subparagraph (A) shall expire after the end of the 120-day period beginning on the date such temporary waiver is issued unless extended for good cause by the court making the temporary waiver.

“(C) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

“(i) FAILURE TO ACT REASONABLY AND IN GOOD FAITH.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to act reasonably or has failed to make a good faith effort to provide local-into-local service to all DMAs, such failure—

“(I) is actionable as an act of infringement under section 501 and the court may in its discretion impose the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

“(II) shall result in the termination of the waiver issued under subparagraph (A).

“(ii) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to provide local-into-local service to all DMAs, but determines that the carrier acted reasonably and in good faith, the court may in its discretion impose financial penalties that reflect—

“(I) the degree of control the carrier had over the circumstances that resulted in the failure; and

“(II) the quality of the carrier’s efforts to remedy the failure; and

“(III) the severity and duration of any service interruption.

“(D) SINGLE TEMPORARY WAIVER AVAILABLE.—An entity may only receive one temporary waiver under this paragraph.

“(E) SHORT MARKET DEFINED.—For purposes of this paragraph, the term ‘short market’ means a local market in which programming of one or more of the four most widely viewed television networks nationwide as measured on the date of the enactment of this subsection is not offered on the primary stream transmitted by any local television broadcast station.

“(3) ESTABLISHMENT OF QUALIFIED CARRIER RECOGNITION.—

“(A) STATEMENT OF ELIGIBILITY.—An entity seeking to be recognized as a qualified carrier under this subsection shall file a statement of eligibility with the court that imposed the injunction. A statement of eligibility must include—

“(i) an affidavit that the entity is providing local-into-local service to all DMAs;

“(ii) a motion for a waiver of the injunction;

“(iii) a motion that the court appoint a special master under Rule 53 of the Federal Rules of Civil Procedure;

“(iv) an agreement by the carrier to pay all expenses incurred by the special master under paragraph (4)(B)(ii); and

“(v) a certification issued pursuant to section 342(a) of Communications Act of 1934.

“(B) GRANT OF RECOGNITION AS A QUALIFIED CARRIER.—Upon receipt of a statement of eligibility, the court shall recognize the entity as a qualified carrier and issue the waiver under paragraph (1). Upon motion pursuant to subparagraph (A)(iii), the court shall appoint a special master to conduct the examination and provide a report to the court as provided in paragraph (4)(B).

“(C) VOLUNTARY TERMINATION.—At any time, an entity recognized as a qualified carrier may file a statement of voluntary termination with the court certifying that it no longer wishes to be recognized as a qualified carrier. Upon receipt of such statement, the court shall reinstate the injunction waived under paragraph (1).

“(D) LOSS OF RECOGNITION PREVENTS FUTURE RECOGNITION.—No entity may be recognized as a qualified carrier if such entity had previously been recognized as a qualified carrier and subsequently lost such recognition or voluntarily terminated such recognition under subparagraph (C).

“(4) QUALIFIED CARRIER OBLIGATIONS AND COMPLIANCE.—

“(A) CONTINUING OBLIGATIONS.—

“(i) IN GENERAL.—An entity recognized as a qualified carrier shall continue to provide local-into-local service to all DMAs.

“(ii) COOPERATION WITH COMPLIANCE EXAMINATION.—An entity recognized as a qualified carrier shall fully cooperate with the special master appointed by the court under paragraph (3)(B) in an examination set forth in subparagraph (B).

“(B) QUALIFIED CARRIER COMPLIANCE EXAMINATION.—

“(i) EXAMINATION AND REPORT.—A special master appointed by the court under paragraph (3)(B) shall conduct an examination of, and file a report on, the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section. The report shall address the qualified carrier's conduct during the period beginning on the date on which the qualified carrier is recognized as such under paragraph (3)(B) and ending on April 30, 2012.

“(ii) RECORDS OF QUALIFIED CARRIER.—Beginning on the date that is one year after the date on which the qualified carrier is recognized as such under paragraph (3)(B), but not later than December 1, 2011, the qualified carrier shall provide the special master with all records that the special master considers to be directly pertinent to the following requirements under this section:

“(I) Proper calculation and payment of royalties under the statutory license under this section.

“(II) Provision of service under this license to eligible subscribers only.

“(iii) SUBMISSION OF REPORT.—The special master shall file the report required by clause (i) not later than July 24, 2012, with the court referred to in paragraph (1) that issued the injunction, and the court shall transmit a copy of the report to the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate.

“(iv) EVIDENCE OF INFRINGEMENT.—The special master shall include in the report a statement of whether the examination by the special master indicated that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement.

“(v) SUBSEQUENT EXAMINATION.—If the special master's report includes a statement that its examination indicated the existence of substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement, the special master shall, not later than 6 months after the report under clause (i) is filed, initiate another examination of the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section since the last report was filed under clause (iii). The special master shall file a report on the results of the examination conducted under this clause with the court referred to in paragraph (1) that issued the injunction, and the court shall transmit a copy to the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate. The report shall include a statement described in clause (iv).

“(vi) COMPLIANCE.—Upon motion filed by an aggrieved copyright owner, the court recognizing an entity as a qualified carrier shall

terminate such designation upon finding that the entity has failed to cooperate with the examinations required by this subparagraph.

“(vii) OVERSIGHT.—During the period of time that the special master is conducting an examination under this subparagraph, the Comptroller General shall monitor the degree to which the entity seeking to be recognized or recognized as a qualified carrier under paragraph (3) is complying with the special master's examination. The qualified carrier shall make available to the Comptroller General all records and individuals that the Comptroller General considers necessary to meet the Comptroller General's obligations under this clause. The Comptroller General shall report the results of the monitoring required by this clause to the Committees on the Judiciary and on Energy and Commerce of the House of Representatives and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate at intervals of not less than six months during such period.

“(C) AFFIRMATION.—A qualified carrier shall file an affidavit with the district court and the Register of Copyrights 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier. The qualified carrier shall attach to its affidavit copies of all reports or orders issued by the court, the special master, and the Comptroller General.

“(D) COMPLIANCE DETERMINATION.—Upon the motion of an aggrieved television broadcast station, the court recognizing an entity as a qualified carrier may make a determination of whether the entity is providing local-into-local service to all DMAs.

“(E) PLEADING REQUIREMENT.—In any motion brought under subparagraph (D), the party making such motion shall specify one or more designated market areas (as such term is defined in section 122(j)(2)(C)) for which the failure to provide service is being alleged, and, for each such designated market area, shall plead with particularity the circumstances of the alleged failure.

“(F) BURDEN OF PROOF.—In any proceeding to make a determination under subparagraph (D), and with respect to a designated market area for which failure to provide service is alleged, the entity recognized as a qualified carrier shall have the burden of proving that the entity provided local-into-local service with a good quality satellite signal to at least 90 percent of the households in such designated market area (based on the most recent census data released by the United States Census Bureau) at the time and place alleged.

“(5) FAILURE TO PROVIDE SERVICE.—

“(A) PENALTIES.—If the court recognizing an entity as a qualified carrier finds that such entity has willfully failed to provide local-into-local service to all DMAs, such finding shall result in the loss of recognition of the entity as a qualified carrier and the termination of the waiver provided under paragraph (1), and the court may, in its discretion—

“(i) treat such failure as an act of infringement under section 501, and subject such infringement to the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

“(ii) impose a fine of not less than \$250,000 and not more than \$5,000,000.

“(B) EXCEPTION FOR NONWILLFUL VIOLATION.—If the court determines that the failure to provide local-into-local service to all DMAs is nonwillful, the court may in its dis-

cretion impose financial penalties for non-compliance that reflect—

“(i) the degree of control the entity had over the circumstances that resulted in the failure;

“(ii) the quality of the entity's efforts to remedy the failure and restore service; and

“(iii) the severity and duration of any service interruption.

“(6) PENALTIES FOR VIOLATIONS OF LICENSE.—A court that finds, under subsection (a)(6)(A), that an entity recognized as a qualified carrier has willfully made a secondary transmission of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who is not eligible to receive the transmission under this section shall reinstate the injunction waived under paragraph (1), and the court may order statutory damages of not more than \$2,500,000.

“(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS DEFINED.—For purposes of this subsection:

“(A) IN GENERAL.—An entity provides ‘local-into-local service to all DMAs’ if the entity provides local service in all designated market areas (as such term is defined in section 122(j)(2)(C)) pursuant to the license under section 122.

“(B) HOUSEHOLD COVERAGE.—For purposes of subparagraph (A), an entity that makes available local-into-local service with a good quality satellite signal to at least 90 percent of the households in a designated market area based on the most recent census data released by the United States Census Bureau shall be considered to be providing local service to such designated market area.

“(C) GOOD QUALITY SATELLITE SIGNAL DEFINED.—The term ‘good quality satellite signal’ has the meaning given such term under section 342(e)(2) of Communications Act of 1934.”

#### SEC. 106. COPYRIGHT OFFICE FEES.

Section 708(a) is amended—

(1) in paragraph (8), by striking “and” after the semicolon;

(2) in paragraph (9), by striking the period and inserting a semicolon;

(3) by inserting after paragraph (9) the following:

“(10) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 119 or 122; and

“(11) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 111.”; and

(4) by adding at the end the following new sentence: “Fees established under paragraphs (10) and (11) shall be reasonable and may not exceed one-half of the cost necessary to cover reasonable expenses incurred by the Copyright Office for the collection and administration of the statements of account and any royalty fees deposited with such statements.”

#### SEC. 107. TERMINATION OF LICENSE.

(a) TERMINATION.—Section 119 of title 17, United States Code, as amended by this Act, shall cease to be effective on December 31, 2014.

(b) CONFORMING AMENDMENT.—Section 1003(a)(2)(A) of Public Law 111-118 (17 U.S.C. 119 note) is repealed.

#### SEC. 108. CONSTRUCTION.

Nothing in section 111, 119, or 122 of title 17, United States Code, including the amendments made to such sections by this title, shall be construed to affect the meaning of any terms under the Communications Act of 1934, except to the extent that such sections are specifically cross-referenced in such Act or the regulations issued thereunder.

**TITLE II—COMMUNICATIONS PROVISIONS****SEC. 201. REFERENCE.**

Except as otherwise provided, whenever in this title an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

**SEC. 202. EXTENSION OF AUTHORITY.**

Section 325(b) is amended—

(1) in paragraph (2)(C), by striking “May 31, 2010” and inserting “December 31, 2014”; and

(2) in paragraph (3)(C), by striking “June 1, 2010” each place it appears in clauses (ii) and (iii) and inserting “January 1, 2015”.

**SEC. 203. SIGNIFICANTLY VIEWED STATIONS.**

(a) IN GENERAL.—Paragraphs (1) and (2) of section 340(b) are amended to read as follows:

“(1) SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—This section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal from that satellite carrier pursuant to section 338.

“(2) SERVICE LIMITATIONS.—A satellite carrier may retransmit to a subscriber in high definition format the signal of a station determined by the Commission to be significantly viewed under subsection (a) only if such carrier also retransmits in high definition format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station.”.

(b) RULEMAKING REQUIRED.—Within 270 days after the date of the enactment of this Act, the Federal Communications Commission shall take all actions necessary to promulgate a rule to implement the amendments made by subsection (a).

**SEC. 204. DIGITAL TELEVISION TRANSITION CONFORMING AMENDMENTS.**

(a) SECTION 338.—Section 338 is amended—

(1) in subsection (a), by striking “(3) EFFECTIVE DATE.—No satellite” and all that follows through “until January 1, 2002.”; and

(2) by amending subsection (g) to read as follows:

“(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE RECEPTION ANTENNA.—

“(1) SINGLE RECEPTION ANTENNA.—Each satellite carrier that retransmits the signals of local television broadcast stations in a local market shall retransmit such stations in such market so that a subscriber may receive such stations by means of a single reception antenna and associated equipment.

“(2) ADDITIONAL RECEPTION ANTENNA.—If the carrier retransmits the signals of local television broadcast stations in a local market in high definition format, the carrier shall retransmit such signals in such market so that a subscriber may receive such signals by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used to comply with paragraph (1).”.

(b) SECTION 339.—Section 339 is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking “Such two network stations” and all that follows through “more than two network stations.”; and

(B) in paragraph (2)—

(i) in the heading for subparagraph (A), by striking “TO ANALOG SIGNALS”;

(ii) in subparagraph (A)—

(I) in the heading for clause (i), by striking “ANALOG”;

(II) in clause (i)—

(aa) by striking “analog” each place it appears; and

(bb) by striking “October 1, 2004” and inserting “October 1, 2009”;

(III) in the heading for clause (ii), by striking “ANALOG”;

(IV) in clause (ii)—

(aa) by striking “analog” each place it appears; and

(bb) by striking “2004” and inserting “2009”;

(iii) by amending subparagraph (B) to read as follows:

“(B) RULES FOR OTHER SUBSCRIBERS.—

“(i) IN GENERAL.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a ‘distant signal’), other than subscribers to whom subparagraph (A) applies, the following shall apply:

“(I) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if the subscriber’s satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (F)(i).

“(II) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

“(aa) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 the signals of stations from the local market of such local network station; and

“(bb) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).

“(ii) SPECIAL CIRCUMSTANCES.—A subscriber of a satellite carrier who was lawfully receiving the distant signal of a network station on the day before the date of enactment of the Satellite Television Extension and Localism Act of 2010 may receive both such distant signal and the local signal of a network station affiliated with the same network until such subscriber chooses to no longer receive such distant signal from such carrier, whether or not such subscriber elects to subscribe to such local signal.”;

(iv) in subparagraph (C)—

(I) by striking “analog”;

(II) in clause (i), by striking “the Satellite Home Viewer Extension and Reauthorization Act of 2004; and” and inserting the following:

“the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 (and the retransmission of such signal by such carrier can reach such subscriber); or”;

(III) by amending clause (ii) to read as follows:

“(ii) lawfully subscribes to and receives a distant signal on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, and, subsequent to

such subscription, the satellite carrier makes available to that subscriber the signal of a local network station affiliated with the same network as the distant signal (and the retransmission of such signal by such carrier can reach such subscriber), unless such person subscribes to the signal of the local network station within 60 days after such signal is made available.”;

(v) in subparagraph (D)—

(I) in the heading, by striking “DIGITAL”;

(II) by striking clauses (i), (iii) through (v), (vii) through (ix), and (xi);

(III) by redesignating clause (vi) as clause (i) and transferring such clause to appear before clause (ii);

(IV) by amending such clause (i) (as so redesignated) to read as follows:

“(i) ELIGIBILITY AND SIGNAL TESTING.—A subscriber of a satellite carrier shall be eligible to receive a distant signal of a network station affiliated with the same network under this section if, with respect to a local network station, such subscriber—

“(I) is a subscriber whose household is not predicted by the model specified in subsection (c)(3) to receive the signal intensity required under section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of title 47, Code of Federal Regulations, or a successor regulation;

“(II) is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of such title, or a successor regulation; or

“(III) is in an unserved household, as determined under section 119(d)(10)(A) of title 17, United States Code.”;

(V) in clause (ii)—

(aa) by striking “DIGITAL” in the heading;

(bb) by striking “digital” the first two places such term appears;

(cc) by striking “Satellite Home Viewer Extension and Reauthorization Act of 2004” and inserting “Satellite Television Extension and Localism Act of 2010”; and

(dd) by striking “, whether or not such subscriber elects to subscribe to local digital signals”;

(VI) by inserting after clause (ii) the following new clause:

“(iii) TIME-SHIFTING PROHIBITED.—In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the signal of a local network station pursuant to section 338, the carrier may only provide the distant signal of a station affiliated with the same network to that subscriber if, in the case of any local market in the 48 contiguous States of the United States, the distant signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market.”; and

(VII) by redesignating clause (x) as clause (iv); and

(vi) in subparagraph (E), by striking “distant analog signal or” and all that follows through “(B), or (D))” and inserting “distant signal”;

(2) in subsection (c)—

(A) by amending paragraph (3) to read as follows:

“(3) ESTABLISHMENT OF IMPROVED PREDICTIVE MODEL AND ON-LOCATION TESTING REQUIRED.—

“(A) PREDICTIVE MODEL.—Within 270 days after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the Commission shall develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of an antenna, to receive signals in accordance with the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or a successor regulation, including to account for the continuing operation of translator stations and low power television stations. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Commission in CS Docket No. 98–201, as previously revised with respect to analog signals, and as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005). The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

“(B) ON-LOCATION TESTING.—The Commission shall issue an order completing its rulemaking proceeding in ET Docket No. 06–94 within 270 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010. In conducting such rulemaking, the Commission shall seek ways to minimize consumer burdens associated with on-location testing.”;

(B) by amending paragraph (4)(A) to read as follows:

“(A) IN GENERAL.—If a subscriber's request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber's satellite carrier a request for a test verifying the subscriber's inability to receive a signal of the signal intensity referenced in clause (i) of subsection (a)(2)(D), the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct the test referenced in such clause. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such clause demonstrate that the subscriber does not receive a signal that meets or exceeds the requisite signal intensity standard in such clause, the subscriber shall not be denied the retransmission of a signal of a network station under section 119(d)(10)(A) of title 17, United States Code.”;

(C) in paragraph (4)(B), by striking “the signal intensity” and all that follows through “United States Code” and inserting “such requisite signal intensity standard”; and

(D) in paragraph (4)(E), by striking “Grade B intensity”.

(c) SECTION 340.—Section 340(i) is amended by striking paragraph (4).

#### SEC. 205. APPLICATION PENDING COMPLETION OF RULEMAKINGS.

(a) IN GENERAL.—During the period beginning on the date of the enactment of this Act and ending on the date on which the Federal Communications Commission adopts rules pursuant to the amendments to the Communications Act of 1934 made by section 203 and section 204 of this title, the Federal Communications Commission shall follow its rules and regulations promulgated pursuant to

sections 338, 339, and 340 of the Communications Act of 1934 as in effect on the day before the date of the enactment of this Act.

(b) TRANSLATOR STATIONS AND LOW POWER TELEVISION STATIONS.—Notwithstanding subsection (a), for purposes of determining whether a subscriber within the local market served by a translator station or a low power television station affiliated with a television network is eligible to receive distant signals under section 339 of the Communications Act of 1934, the rules and regulations of the Federal Communications Commission for determining such subscriber's eligibility as in effect on the day before the date of the enactment of this Act shall apply until the date on which the translator station or low power television station is licensed to broadcast a digital signal.

(c) DEFINITIONS.—As used in this subtitle:

(1) LOCAL MARKET; LOW POWER TELEVISION STATION; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms “local market”, “low power television station”, “satellite carrier”, “subscriber”, and “television broadcast station” have the meanings given such terms in section 338(k) of the Communications Act of 1934.

(2) NETWORK STATION; TELEVISION NETWORK.—The terms “network station” and “television network” have the meanings given such terms in section 339(d) of such Act.

#### SEC. 206. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

Part I of title III is amended by adding at the end the following new section:

##### “SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

“(a) CERTIFICATION.—The Commission shall issue a certification for the purposes of section 119(g)(3)(A)(iii) of title 17, United States Code, if the Commission determines that—

“(1) a satellite carrier is providing local service pursuant to the statutory license under section 122 of such title in each designated market area; and

“(2) with respect to each designated market area in which such satellite carrier was not providing such local service as of the date of enactment of the Satellite Television Extension and Localism Act of 2010—

“(A) the satellite carrier's satellite beams are designed, and predicted by the satellite manufacturer's pre-launch test data, to provide a good quality satellite signal to at least 90 percent of the households in each such designated market area based on the most recent census data released by the United States Census Bureau; and

“(B) there is no material evidence that there has been a satellite or sub-system failure subsequent to the satellite's launch that precludes the ability of the satellite carrier to satisfy the requirements of subparagraph (A).

“(b) INFORMATION REQUIRED.—Any entity seeking the certification provided for in subsection (a) shall submit to the Commission the following information:

“(1) An affidavit stating that, to the best of the affiant's knowledge, the satellite carrier provides local service in all designated market areas pursuant to the statutory license provided for in section 122 of title 17, United States Code, and listing those designated market areas in which local service was provided as of the date of enactment of the Satellite Television Extension and Localism Act of 2010.

“(2) For each designated market area not listed in paragraph (1):

“(A) Identification of each such designated market area and the location of its local receive facility.

“(B) Data showing the number of households, and maps showing the geographic distribution thereof, in each such designated market area based on the most recent census data released by the United States Census Bureau.

“(C) Maps, with superimposed effective isotropically radiated power predictions obtained in the satellite manufacturer's pre-launch tests, showing that the contours of the carrier's satellite beams as designed and the geographic area that the carrier's satellite beams are designed to cover are predicted to provide a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

“(D) For any satellite relied upon for certification under this section, an affidavit stating that, to the best of the affiant's knowledge, there have been no satellite or sub-system failures subsequent to the satellite's launch that would degrade the design performance to such a degree that a satellite transponder used to provide local service to any such designated market area is precluded from delivering a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

“(E) Any additional engineering, designated market area, or other information the Commission considers necessary to determine whether the Commission shall grant a certification under this section.

“(c) CERTIFICATION ISSUANCE.—

“(1) PUBLIC COMMENT.—The Commission shall provide 30 days for public comment on a request for certification under this section.

“(2) DEADLINE FOR DECISION.—The Commission shall grant or deny a request for certification within 90 days after the date on which such request is filed.

“(d) SUBSEQUENT AFFIRMATION.—An entity granted qualified carrier status pursuant to section 119(g) of title 17, United States Code, shall file an affidavit with the Commission 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

“(e) DEFINITIONS.—For the purposes of this section:

“(1) DESIGNATED MARKET AREA.—The term ‘designated market area’ has the meaning given such term in section 122(j)(2)(C) of title 17, United States Code.

“(2) GOOD QUALITY SATELLITE SIGNAL.—

“(A) IN GENERAL.—The term “good quality satellite signal” means—

“(i) a satellite signal whose power level as designed shall achieve reception and demodulation of the signal at an availability level of at least 99.7 percent using—

“(I) models of satellite antennas normally used by the satellite carrier's subscribers; and

“(II) the same calculation methodology used by the satellite carrier to determine predicted signal availability in the top 100 designated market areas; and

“(ii) taking into account whether a signal is in standard definition format or high definition format, compression methodology, modulation, error correction, power level, and utilization of advances in technology that do not circumvent the intent of this section to provide for non-discriminatory treatment with respect to any comparable television broadcast station signal, a video signal transmitted by a satellite carrier such that—

“(I) the satellite carrier treats all television broadcast stations’ signals the same with respect to statistical multiplexer prioritization; and

“(II) the number of video signals in the relevant satellite transponder is not more than the then current greatest number of video signals carried on any equivalent transponder serving the top 100 designated market areas.

“(B) DETERMINATION.—For the purposes of subparagraph (A), the top 100 designated market areas shall be as determined by Nielsen Media Research and published in the Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication as of the date of a satellite carrier’s application for certification under this section.”.

**SEC. 207. NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION DIGITAL SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.**

(a) IN GENERAL.—Section 338(a) is amended by adding at the end the following new paragraph:

“(5) NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.—

“(A) EXISTING CARRIAGE OF HIGH DEFINITION SIGNALS.—If, before the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier is providing, under section 122 of title 17, United States Code, any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of qualified noncommercial educational television stations located within that local market in accordance with the following schedule:

“(i) By December 31, 2010, in at least 50 percent of the markets in which such satellite carrier provides such secondary transmissions in high definition format.

“(ii) By December 31, 2011, in every market in which such satellite carrier provides such secondary transmissions in high definition format.

“(B) NEW INITIATION OF SERVICE.—If, on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier initiates the provision, under section 122 of title 17, United States Code, of any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of all qualified noncommercial educational television stations located within that local market.”.

(b) DEFINITIONS.—Section 338(k) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

“(2) ELIGIBLE SATELLITE CARRIER.—The term ‘eligible satellite carrier’ means any satellite carrier that is not a party to a carriage contract that—

“(A) governs carriage of at least 30 qualified noncommercial educational television stations; and

“(B) is in force and effect within 150 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010.”;

(3) by redesignating paragraphs (6) through (9) (as previously redesignated) as paragraphs (7) through (10), respectively; and

(4) by inserting after paragraph (5) (as so redesignated) the following new paragraph:

“(6) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term ‘qualified noncommercial educational television station’ means any full-power television broadcast station that—

“(A) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational broadcast station and is owned and operated by a public agency, nonprofit foundation, nonprofit corporation, or nonprofit association; and

“(B) has as its licensee an entity that is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) of this title.”.

**SEC. 208. SAVINGS CLAUSE REGARDING DEFINITIONS.**

Nothing in this title or the amendments made by this title shall be construed to affect—

(1) the meaning of the terms “program related” and “primary video” under the Communications Act of 1934; or

(2) the meaning of the term “multicast” in any regulations issued by the Federal Communications Commission.

**SEC. 209. STATE PUBLIC AFFAIRS BROADCASTS.**

Section 335(b) is amended—

(1) by inserting “STATE PUBLIC AFFAIRS,” after “EDUCATIONAL,” in the heading;

(2) by striking paragraph (1) and inserting the following:

“(1) CHANNEL CAPACITY REQUIRED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a provider of direct broadcast satellite service providing video programming, that the provider of such service reserve a portion of its channel capacity, equal to not less than 4 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.

“(B) REQUIREMENT FOR QUALIFIED SATELLITE PROVIDER.—The Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a qualified satellite provider of direct broadcast satellite service providing video programming, that such provider reserve a portion of its channel capacity, equal to not less than 3.5 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.”;

(3) in paragraph (5), by striking “For purposes of the subsection—” and inserting “For purposes of this subsection.”; and

(4) by adding at the end of paragraph (5) the following:

“(C) The term ‘qualified satellite provider’ means any provider of direct broadcast satellite service that—

“(i) provides the retransmission of the State public affairs networks of at least 15 different States;

“(ii) offers the programming of State public affairs networks upon reasonable prices, terms, and conditions as determined by the Commission under paragraph (4); and

“(iii) does not delete any noncommercial programming of an educational or informational nature in connection with the carriage of a State public affairs network.

“(D) The term ‘State public affairs network’ means a non-commercial non-broadcast network or a noncommercial educational television station—

“(i) whose programming consists of information about State government deliberations and public policy events; and

“(ii) that is operated by—

“(I) a State government or subdivision thereof;

“(II) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code and that is governed by an independent board of directors; or

“(III) a cable system.”.

**TITLE III—REPORTS AND SAVINGS PROVISION**

**SEC. 301. DEFINITION.**

In this title, the term “appropriate Congressional committees” means the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and on Energy and Commerce of the House of Representatives.

**SEC. 302. REPORT ON MARKET BASED ALTERNATIVES TO STATUTORY LICENSING.**

Not later than 18 months after the date of the enactment of this Act, and after consultation with the Federal Communications Commission, the Register of Copyrights shall submit to the appropriate Congressional committees a report containing—

(1) proposed mechanisms, methods, and recommendations on how to implement a phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code, by making such sections inapplicable to the secondary transmission of a performance or display of a work embodied in a primary transmission of a broadcast station that is authorized to license the same secondary transmission directly with respect to all of the performances and displays embodied in such primary transmission;

(2) any recommendations for alternative means to implement a timely and effective phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code; and

(3) any recommendations for legislative or administrative actions as may be appropriate to achieve such a phase-out.

**SEC. 303. REPORT ON COMMUNICATIONS IMPLICATIONS OF STATUTORY LICENSING MODIFICATIONS.**

(a) STUDY.—The Comptroller General shall conduct a study that analyzes and evaluates the changes to the carriage requirements currently imposed on multichannel video programming distributors under the Communications Act of 1934 (47 U.S.C. 151 et seq.) and the regulations promulgated by the Federal Communications Commission that would be required or beneficial to consumers, and such other matters as the Comptroller General deems appropriate, if Congress implemented a phase-out of the current statutory licensing requirements set forth under sections 111, 119, and 122 of title 17, United States Code. Among other things, the study shall consider the impact such a phase-out and related changes to carriage requirements would have on consumer prices and access to programming.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall report to the appropriate Congressional committees the results of the study, including any recommendations for legislative or administrative actions.



**SEC. 304. REPORT ON IN-STATE BROADCAST PROGRAMMING.**

Not later than 18 months after the date of the enactment of this Act, the Federal Communications Commission shall submit to the appropriate Congressional committees a report containing an analysis of—

(1) the number of households in a State that receive the signals of local broadcast stations assigned to a community of license that is located in a different State;

(2) the extent to which consumers in each local market have access to in-state broadcast programming over the air or from a multichannel video programming distributor; and

(3) whether there are alternatives to the use of designated market areas, as defined in section 122 of title 17, United States Code, to define local markets that would provide more consumers with in-state broadcast programming.

**SEC. 305. LOCAL NETWORK CHANNEL BROADCAST REPORTS.**

(a) REQUIREMENT.—

(1) IN GENERAL.—On the 270th day after the date of the enactment of this Act, and on each succeeding anniversary of such 270th day, each satellite carrier shall submit an annual report to the Federal Communications Commission setting forth—

(A) each local market in which it—

(i) retransmits signals of 1 or more television broadcast stations with a community of license in that market;

(ii) has commenced providing such signals in the preceding 1-year period; and

(iii) has ceased to provide such signals in the preceding 1-year period; and

(B) detailed information regarding the use and potential use of satellite capacity for the retransmission of local signals in each local market.

(2) TERMINATION.—The requirement under paragraph (1) shall cease after each satellite carrier has submitted 5 reports under such paragraph.

(b) FCC STUDY; REPORT.—

(1) STUDY.—If no satellite carrier files a request for a certification under section 342 of the Communications Act of 1934 (as added by section 206 of this title) within 270 days after the date of the enactment of this Act, the Federal Communications Commission shall initiate a study of—

(A) incentives that would induce a satellite carrier to provide the signals of 1 or more television broadcast stations licensed to provide signals in local markets in which the satellite carrier does not provide such signals; and

(B) the economic and satellite capacity conditions affecting delivery of local signals by satellite carriers to these markets.

(2) REPORT.—Within 1 year after the date of the initiation of the study under paragraph (1), the Federal Communications Commission shall submit a report to the appropriate Congressional committees containing its findings, conclusions, and recommendations.

(c) DEFINITIONS.—In this section—

(1) the terms “local market” and “satellite carrier” have the meaning given such terms in section 339(d) of the Communications Act of 1934 (47 U.S.C. 339(d)); and

(2) the term “television broadcast station” has the meaning given such term in section 325(b)(7) of such Act (47 U.S.C. 325(b)(7)).

**SEC. 306. SAVINGS PROVISION REGARDING USE OF NEGOTIATED LICENSES.**

(a) IN GENERAL.—Nothing in this Act, title 17, United States Code, the Communications Act of 1934, regulations promulgated by the Register of Copyrights under this title or

title 17, United States Code, or regulations promulgated by the Federal Communications Commission under this Act or the Communications Act of 1934 shall be construed to prevent a multichannel video programming distributor from retransmitting a performance or display of a work pursuant to an authorization granted by the copyright owner or, if within the scope of its authorization, its licensee.

(b) LIMITATION.—Nothing in subsection (a) shall be construed to affect any obligation of a multichannel video programming distributor under section 325(b) of the Communications Act of 1934 to obtain the authority of a television broadcast station before retransmitting that station's signal.

**SEC. 307. EFFECTIVE DATE; NONINFRINGEMENT OF COPYRIGHT.**

(a) EFFECTIVE DATE.—Unless specifically provided otherwise, this Act, and the amendments made by this Act, shall take effect on February 27, 2010, and with the exception of the reference in subsection (b), all references to the date of enactment of this Act shall be deemed to refer to February 27, 2010, unless otherwise specified.

(b) NONINFRINGEMENT OF COPYRIGHT.—The secondary transmission of a performance or display of a work embodied in a primary transmission is not an infringement of copyright if it was made by a satellite carrier on or after February 27, 2010, and prior to enactment of this Act, and was in compliance with the law as in existence on February 27, 2010.

**TITLE IV—SEVERABILITY****SEC. 401. SEVERABILITY.**

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provision or amendment to any person or circumstance shall not be affected thereby.

**TITLE V—DETERMINATION OF BUDGETARY EFFECTS****SEC. 501. DETERMINATION OF BUDGETARY EFFECTS.**

(a) IN GENERAL.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

**GENERAL LEAVE**

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members have 5 days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield 10 minutes to the gentleman from Virginia (Mr. BOUCHER) and ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Satellite Television Extension and Localism Act of 2010 reauthorizes the satellite compulsory license until December 31, 2014, and modernizes the copyright licenses for satellite and cable television.

This has required an amazing amount of negotiation, not only between the members of the two committees involved, but as well among the many major players in this very complicated area of technology. For more than a year, there have been hearings, discussions, fact-finding among the four committees, local broadcasters, copyright owners, satellite companies, and here is what has resulted:

We have been able to resolve the phantom signal problem in the cable case. We have been able to make it possible for all satellite consumers to get their local broadcast programming. And then we have the satellite companies. We have created a way for them to use the license where there is a multicast.

And so we join with a wide variety of dedicated leaders in the House so that local broadcasters can send several streams of programming over one digital system.

And I thank my friend RICK BOUCHER for his dual role in this very long operation. And, of course, as unusual, LAMAR SMITH has been invaluable, as well as Chairman HENRY WAXMAN and Ranking Member JOE BARTON of the Energy and Commerce Committee.

It was not easy to develop this consensus between very strong entities in this technology, but I am happy to bring this bill to the floor today.

Mr. Speaker, the “Satellite Television Extension and Localism Act of 2010” reauthorizes the satellite compulsory license until December 31, 2014, and modernizes the copyright licenses for satellite and cable television.

The bill before us today is based on H.R. 3570, legislation I introduced last September, which was reported by our committee unanimously, combined with legislation reported by the Energy and Commerce Committee, and passed by the House overwhelmingly in December.

It includes a small number of further clarifications worked out in bipartisan coordination between our two Committees and our Senate counterparts.

It is the product of more than a year of hearings, fact-finding, and extensive discussions between the four Committees and local broadcasters, copyright owners, satellite companies, cable companies, public television, consumer groups, the Copyright Office, and other experts.

The result is licenses that meet the challenges of the digital age to enhance the efficiency and competition that provides consumers with more—and better—options.

First, the bill solves the so-called "phantom signal" problem in the cable license.

Under current law, cable companies have believed they were being asked to pay for programming that not all their customers were receiving. At the same time, copyright owners have believed that they were underpaid.

After much negotiation, this bill designs a new way to calculate cable license royalties. Now cable providers have more certainty, and copyright owners get more compensation.

Second, the bill makes it possible for all satellite consumers to get their local broadcast programming.

Under current law, DISH network is not permitted to use the Section 119 satellite license. At the same time, there are many television markets where customers do not get local programming with their satellite service. This is because rebroadcasting local programming takes money and satellite space.

If the market is too small, satellite companies don't offer the service. Some of these customers live in rural areas, and cannot even get their local networks over the air.

Every customer should be able to get local news, weather, and sports. So to close this service gap, DISH will get to use the Section 119 license again if, and only if, it accepts the burden of local programming in every single market.

We have worked together to make sure this deal is as fair as possible to copyright owners, local broadcasters, and consumers.

Third, this bill explains how satellite companies can use the license when there is a "multicast."

For the first time, local broadcasters can now send several streams of programming over one digital signal. This is called "multicasting."

Satellite companies are only allowed to use the license to give substitute programming to customers who don't get network from their local broadcaster. We call those customers "unserved."

But there was confusion over whether a customer was considered "unserved" if it got a network by multicasting, instead of over the air.

Now it will be clear that a household is considered "served" no matter how it gets the signal from its local broadcaster. However, because this is a significant change, satellite providers will also be allowed some time to transition to this new system. That way there will be minimal disruption for consumers.

Finally, this bill provides a badly-needed audit right for copyright owners. For the first time, copyright owners can check and make sure that cable and satellite companies are paying them fairly.

Among the many Members who have contributed to the progress of this important legislation, I want to particularly thank my good friend from Virginia, RICK BOUCHER, for his invaluable contributions in his dual role as a senior Member of our Committee and the Chair of the Telecommunications Subcommittee.

I also want to thank Ranking Member LAMAR SMITH for helping us work to improve the bill in several ways, and HENRY WAXMAN and JOE BARTON, Chairman and Ranking Member of the Energy and Commerce Com-

mittee, for working with us to develop this consensus product.

I urge my colleagues to support this important legislation.

I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is the single most important copyright bill to be considered by this Congress to date. It represents the culmination of a legislative process that began with hearings in the House Judiciary and Energy and Commerce Committees in February 2009.

Though bearing a Senate bill number, many of the policy positions contained in this bill originated in earlier House versions of the legislation, including H.R. 3570, which overwhelmingly passed the House last year.

The legislation that previously passed the House and is incorporated into S. 3333 actually integrates two separate bills:

H.R. 3570, introduced by Chairman CONYERS and reported by the Judiciary Committee on September 16, 2009; and

H.R. 2994, which was the Energy and Commerce Committee's related measure to amend the Communications Act.

The principal purpose of this measure is to extend the compulsory license in section 119 of the Copyright Act that authorizes satellite carriers to deliver distant network programming to subscribers.

While fewer consumers rely upon the distant license to receive network programming than in years past, about 1 million households still derive some benefit from it. The absence of an immediate market alternative makes it necessary once again for Congress to extend the license temporarily until December 31, 2014. My hope is that this will be the last time Congress reauthorizes what was originally envisioned to be a temporary license.

In addition to amending the satellite license in section 119 of the Copyright Act, this bill also contains a number of significant amendments to the cable license in section 111 and a separate satellite license in section 122. The former governs the retransmission of both local and distant programming by cable providers, while the latter governs the satellite retransmission of local-into-local programming.

Perhaps the most significant amendment to the cable license is a resolution of the phantom signal issue. The provision in the bill was negotiated and is supported by both program owners and the cable industry. While circumstances prevented Congress from being able to further harmonize or eliminate these licenses, I am pleased we were able to make substantial improvements and address some of the most urgent concerns.

I thank Chairman CONYERS for bringing this legislation to the floor and

want to recognize Chairman BERMAN and Senators LEAHY and SESSIONS for their support as well.

The inclusion of enhanced penalties for any future violation, along with provisions that require active judicial oversight and GAO review of DISH's compliance, coupled with an obligation that DISH certify its compliance to a Federal court, reflects critical and necessary improvements from prior versions of this bill.

I urge my colleagues to support S. 3333, the Satellite Television Extension and Localism Act. When enacted, the bill will both preserve and expand the ability of Americans to view network and independent station programming without interruption. And it will do so while taking into account the vital property interest of those whose programming is made subject to the licensing.

Mr. Speaker, I have no other speakers on this side, and I yield back the balance of my time.

Mr. BOUCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we take the final step in adopting legislation that will ensure the continued satellite delivery of network television programming to rural homes that cannot receive that programming by means of an outdoor antenna or rabbit ears from a local television station.

Over the course of the last year, the House and Senate Commerce and Judiciary Committees have closely cooperated in a bipartisan process to revise and to modernize the law, and I want to say thanks to all of the members of the four committees who have been involved in this effort and have worked together in order to achieve the result and the success that we celebrate this morning.

My major goal in reforming the Satellite Home Viewer Act has been to bring to all 210 local television markets across the Nation what we refer to as local-into-local television service through which local television signals are transmitted by satellite to homes in the market where those television signals originate. With the passage of the bill that is now under consideration, we will achieve that goal.

Today, 28 of the 210 local television markets around the Nation do not have the benefit of local-into-local satellite service. And those local signals are tremendously important. Families routinely rely on local television to bring news about emergency weather conditions, to bring news about school closings and other events in the community, the timely knowledge of which is very important to the families that watch television in order to receive that information. And there are 28 rural markets across the United States where those very valuable local television signals are not available through satellite delivery. These are

very rural markets, and most of them do not have a full complement of network-affiliated local television stations within the market. We call these short markets because they are missing one or more of the major network affiliates—ABC, NBC, CBS, and FOX—and in virtually all of these markets, one or more of those network programs are not available by means of a local television station.

Until today, their short-market status has made it economically unattractive for the satellite carriers to provide local television signals in these markets. So those markets currently are without that service, and that will soon change.

Last year I spoke to the chief executive officer of EchoStar, also known as DISH Network, one of the two major providers of satellite-based TV services across the United States. I asked him if working together we could find a way for his company to serve the 28 rural markets that do not have local television service at the present time. He responded that if we revise the law to enable DISH to import distant network signals from stations located outside of these rural markets to the extent necessary to supply the network signals that are missing in those markets, DISH would then commit to serve all 210 local TV markets across the Nation.

The legislation before the House today makes that key change. Its passage means that in the near future EchoStar will begin serving the 28 rural markets that lack vital local television signals at the present time. The satellite necessary to deliver those services has been launched, the plans to uplink the signals of the stations and import distant network signals to the extent necessary to provide a full complement of network affiliates in those markets have been made. All that is now waiting is the passage of this bill in the House and its signature into law by the President.

And so with the act that we take today, we can be assured that in the very near future, all 210 local television markets across the country will receive this important service.

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I want to commend the leadership of DISH Network for making the commitment. Millions of homes in America's most rural regions will be the beneficiaries.

I also want to say special thanks to Chairman CONYERS of the House Judiciary Committee and to our friend Mr. SMITH from Texas for their tremendous work and cooperation as our two committees together have fashioned this revision of the Satellite Home Viewer Act. It is an important step that we take.

And Mr. Speaker, I urge that the House approve this measure.

Mr. GOODLATTE. Mr. Speaker, I rise in support of S. 3333, the Satellite Television Extension and Localism Act. This legislation contains important provisions to enhance television services in rural areas.

Consumers in rural and mountainous areas, like my congressional district, are often beyond the reach of cable lines and do not have access to the types of programming that those who live in urban areas enjoy. I believe it is crucial for consumers in rural areas to have access to local news and emergency information, as well as robust television options.

I have worked hard for years to enhance the programming options for those in rural areas, including making sure satellite companies provide local channels. In fact, I was a member of the conference committee in the 106th Congress that negotiated the final version of the law that originally permitted satellite television companies to provide local television stations, which has made satellite companies more effective competitors to cable operators. Cable had been able to provide local broadcast network stations to their subscribers for years.

While that law eliminated the legal barriers to satellite companies providing local stations, it did not assure delivery of local television via satellite to all television markets. Since then, I have continued to work to encourage satellite companies to expand the areas where they provide local television stations, and we have had many successes.

However, there are still problems that we need to fix. For example, while everyone in my district has access to local programming from at least one satellite company, many folks still cannot receive all four network stations via satellite.

I am pleased to report that I helped insert a provision into this legislation that would change the definition of "unserved household" to eliminate a major impediment to satellite companies wishing to offer all four television networks to consumers in so-called short markets (those that do not have a full complement of all 4 networks locally). This provision will help ensure that all consumers in short markets have access to all four network television stations.

In addition, this legislation contains a provision that will allow DISH Network to again be permitted to offer network programming from other areas when there are no stations of the same network in the local market. DISH Network had previously been prohibited from offering these "distant" network television stations. Under S. 3333, DISH Network would be able to offer these distant channels only after it rolls out local television channels via satellite in all 210 television markets. This provision will inject competition into the satellite television market, especially in rural areas where often there is either one or no satellite providers.

The transition to digital television presented new issues for this reauthorization. As such, S. 3333 contains technical updates to reflect the reality that television broadcasts are now digital rather than analog.

This legislation is a big step forward in updating the laws governing satellite television in rural areas, and I urge the Members of this body to support this important legislation.

Ms. ESHOO. Mr. Speaker, I rise today in support of S. 3333, the Satellite Television Ex-

tension and Localism Act of 2010. I'm pleased that the Senate finally passed its version of a bill that the House passed last December, and I look forward to enactment and implementation of much-needed improvements to the laws governing the transmission of satellite signals to American consumers.

Among this bill's many consumer-oriented regulations is Section 207, which ensures that satellite providers do not discriminate against noncommercial high definition signals. I drafted this language to protect the rights of consumers to receive federally funded programming broadcast by America's Public Broadcasting Service, PBS.

Without this provision, PBS stations cannot compete for viewers with commercial stations favored by satellite contracts. This problem is particularly troubling in the case of DISH Network, which covers 93 percent of U.S. households but only carries local PBS HD broadcasts in Alaska and Hawaii—where they are legally obligated to do so. The behavior of DISH contrasts with Direct TV, which voluntarily offers 106 PBS HD channels in its regions of operation.

With the enactment of this bill, 14 million satellite viewers will have a date certain when they will receive PBS HD signals, and PBS stations will have an even playing field when their signals are distributed via satellite providers.

My language is a simple and direct solution to a problem that undermines consumer rights and shortchanges PBS carriage:

Carriers will give their customers local non-commercial HDTV transmissions when carrying other locally broadcast HD signals.

It provides for carriage compliance for 50 percent of the stations by the end of 2010, with an extra year for the remainder, thus accelerating the FCC 2013 date.

When new service is initiated, noncommercial stations will get equal treatment.

Carriers will have one last opportunity to sign a contract prior to the date of enactment to receive a safe harbor from the hard deadlines in the bill.

I look forward to final passage of the Satellite bill, and especially the anti-discriminatory section which is so essential to America's consumers.

Mr. BOUCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I have no speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill, S. 3333.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### CLARIFYING MINIMUM ESSENTIAL COVERAGE

Mr. LEVIN. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 5014) to clarify the health care provided by the Secretary of Veterans Affairs that constitutes minimum essential coverage, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5014

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CLARIFICATION OF HEALTH CARE PROVIDED BY THE SECRETARY OF VETERANS AFFAIRS THAT CONSTITUTES MINIMUM ESSENTIAL COVERAGE.**

(a) IN GENERAL.—Clause (v) of section 5000A(f)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act, is amended to read as follows:

“(v) a health care program under chapter 17 or 18 of title 38, United States Code, as determined by the Secretary of Veterans Affairs, in coordination with the Secretary of Health and Human Services and the Secretary.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 1501(b) of the Patient Protection and Affordable Care Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. LEVIN) and the gentleman from California (Mr. HERGER) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

**GENERAL LEAVE**

Mr. LEVIN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to add extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. LEVIN. Mr. Speaker, I rise today in strong support of H.R. 5014, a bill to reinforce that health care provided by the Department of Veteran Affairs constitutes minimum essential coverage under the individual mandate.

Very specifically, this bill clarifies that coverage at the VA for individuals who have spina bifida as a result of their parents exposure to Agent Orange counts as minimum essential coverage.

I want to be clear that this bill does not in any way change veterans health care, nor does it put anyone but the Secretary of Veteran Affairs in control of veterans benefits.

The bill has no cost. A similar version of this legislation passed the Senate by unanimous consent. This legislation is consistent with the commitment that the Congress has made to the veterans of our Nation.

Finally, I would like to highlight that it is supported by numerous veterans service organizations such as the Veterans of Foreign Wars, the American Legion, the AMVETS, and the Disabled American Veterans.

Mr. Speaker, I reserve the balance of my time.

Mr. HERGER. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, millions of American workers are in danger of losing their health care coverage because of the Democrats' unprecedented social experiment. One of the central flaws of the Democrats' health care overhaul is that it forces every American to buy health insurance and allows Federal bureaucrats to decide if their coverage is acceptable. If your insurance does not meet the government's standards, then you will be taxed. That's why we're considering this bill today.

Certainly, none of us wants to see hundreds of disabled children of veterans lose their health insurance because of the Democrats' grand experiment on health care. I agree with the goal of this legislation and intend to support it.

However, where is the fix for the millions of American workers and retirees who will be forced out of the health care coverage they currently have?

Fortune.com reported internal company documents from four major U.S. employers reveal they are considering “dumping the health care coverage they provide to their workers in exchange for paying penalty fees to the government.”

These companies currently offer health benefits to well over 2.3 million employees, retirees, and their dependents, a number that exceeds the population of 15 States as well as the District of Columbia.

AT&T reports they could save \$4.1 billion per year if they simply dump their employee health care coverage and pay the employer mandate tax instead. When will the Democrats put a bill on the floor that protects 1.2 million AT&T employees, retirees, and their dependents from losing their coverage?

Caterpillar would reduce its expenses by 70 percent if they eliminate health benefits and, instead, pay the tax. Where's the protection for these employees?

A survey conducted by the City University of New York for the Financial Executives Research Foundation found that three-quarters of chief financial officers believe the Democrat health overhaul will be “negative both for Americans and for their own companies.”

Sixty-two percent of CFOs say they will have to increase employee copays by 48 percent. Forty-eight percent believe they will have to reduce the quality of the health care package they offer employees. And 46 percent say they will have to reduce employee benefits.

Even more troubling, The Philadelphia Inquirer recently interviewed legal experts who advise employers on how to structure their health plans. According to their report, some health

care benefit managers “see a future in which employers no longer provide coverage because the cost of dropping health insurance for employees, about \$2,000 per person in Federal penalties to employers, is far less than the current cost of providing family coverage, about \$12,000 per employee. There is an opportunity to get out of providing health benefits to employees.”

While I support the goal of the legislation before us, it is not enough. We must repeal this dangerous experiment with government control of health care and replace it with reforms that will allow all Americans to keep their health coverage.

Mr. Speaker, I yield so much time as he may consume to the ranking member of the Veterans Affairs Committee, the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. We're doing some unnecessary housecleaning today. I'm not certain whether you're cleaning out the garage or you're cleaning up the bedroom or cleaning up the mess you made in the kitchen. But one thing's clear: we're cleaning up a mess, a mess that we don't have to have done today, a mess that I tried to fix with the chairman the day before we voted on the health bill, and you wouldn't even do it then.

Yeah, we're cleaning up a mess, a mess because it was all about political expediency. Well, we've got to get a bill. The President's got political capital out there. We've got to get a bill.

Eighteen years I've been in this town. Whenever this town gives into a do-something mentality built on the emotion of the moment, people are going to get hurt, and that's exactly what's happened. People get hurt.

The health bill was never intended to have been signed into law by the President. It was a political document that was passed in the United States Senate to achieve 60 votes, to get to the conference table.

Oh, no. We'll just take that document that was drafted, not even vetted, and just bring it over to the House with all of its errors and just pass it, even when those of us with earnestness and sincerity to correct your bill, a Republican conservative to correct your mistakes, and you wouldn't even take it.

I go to the Rules Committee, to the Rules Committee, and lay out the mistakes in your bill. The stench that comes from the Rules Committee, with their pride, is that we stop all those amendments.

Are you kidding me? You stopped all those amendments. Oh, what pride.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman is reminded to address his remarks to the Chair.

Mr. BUYER. All right.

Mr. Speaker, there was a stench that came out of the Rules Committee. The stench was pride. They wouldn't swallow their pride to correct a bill when

they had the opportunity to do it, so they came to the floor saying that, geez, we're not going to take any of those amendments.

So, now, Mr. Speaker, we're having to take up your time and this precious time on the floor to correct a bill that we shouldn't have to do. That's what we're doing here today, Mr. Speaker. And we're doing it with veterans.

Now let's talk about political corruption. Oh, STEVE, you're dancing on the edge here; you mean there could have actually been political corruption on the night of the health bill? You bet.

What is the difference between politics and the super bowl of politics in the arena and corruption? Where do you cross the line? Is it really crossed? When do you end up in the nebulous?

Let me tell you about the Congressional Budget Office, the nonpartisan referee of the Congressional Budget Office, okay?

What was supposed to have happened? Let's do a little flashback here. Sunday, we're going to vote on the health bill. What happens? At midnight on Friday night, that bill that came over from the Senate, we finally get to see it. What's wrong? There are problems in the bill.

The drafting of the bill only mentioned TRICARE For Life, not the protection of TRICARE. So IKE SKELTON immediately, the chairman of the Armed Services Committee, files a bill to be brought to the floor for which Chairman LEVIN, you were here, and it was the Ike Skelton bill to protect TRICARE, a correction that had to be made. But it was made outside of the bill. I sought to make it a correction inside the bill.

We also had the problem with the drafting on the protection of veterans programs of title 38 under chapter 17, veterans programs. Well, there are other veterans programs under chapter 17 that were left out, including chapter 18, which is the spina bifida program, a serious problem. Oh, no, no, no, STEVE. We're not going to take care of that. I guess we'll do it later.

□ 1100

Chairman LEVIN, you kept your word. You kept your word to me, so you are a gentleman. We tried to get it done on that day, and it didn't get done. And you kept your word to me, and we are back here today. But we shouldn't have to have been back here today I guess is my point.

Now, let me go back to the corruption. The corruption was I was still in earnest to have this corrected in the bill. The VFW was also very upset. So was the American Legion. So was DAV. So was the uniformed services. A couple other VSOs went ahead and rolled over like a political dog and let you scratch their belly. But I will tell you what, these other ones stood firm because they knew the bill was flawed.

Here is a quote from the commander of the VFW: The President and the Democrat leadership are betraying America's veterans, and what makes matters worse is the leadership and the President know the bill is flawed, yet are pushing for passage today like it's a do-or-die situation. This Nation deserves the best from their elected officials, and the rush to pass legislation of this magnitude is not it.

He's right. That's what happened on that day. That's why we are having to come back and clean up the mess.

Now we go to the day of the bill itself. What are we going to do? We are going to have the motion to recommit the bill. So what's Mr. BUYER going to do? We are going to put in the motion to recommit the bill to correct these mistakes with regard to the TRICARE program to cover our military and their dependents and protect their jurisdiction, also make sure that the other veterans programs, the CHAMPVA and the spina bifida program are protected. And what happened?

I get a ring, ring, ring, ring, ring, a phone call from CBO. CBO says, We believe that your bill may score at \$4.4 billion. Are you kidding me, \$4.4 billion? We just did IKE SKELTON's bill on Saturday, and it did not score. But my bill is now going to score on Sunday and IKE's didn't score on Saturday? Are you kidding me?

Now the stench is coming from somewhere else, Mr. Speaker. CBO, the Congressional Budget Office. What happened to fair dealing? What happened to being a referee and nonpartisanship? So I say to CBO in that phone conference—some of the individuals who were in that conference are sitting right here; correct me if I am inaccurate—Go back and look at your numbers and call me back because there is no way this can score. They then call back and they come back and said, We have concerns; your bill may score at \$4.4 billion.

Okay, I tell you what. This is what I told CBO: do not send me a letter tomorrow that says the bill doesn't score. In my heart, I know what you are doing. You are blocking to prevent me from bringing a motion to recommit the health bill on the House floor so the Democratic leadership and Democrats do not have to take a tough vote and actually admit that the VFW and the American Legion and DAV were right that the bill is flawed and doesn't protect veterans.

Now, because all this is boiling, what does the White House do? The White House does not want to recreate another JOE WILSON moment where someone stands up and challenges the President's veracity. So what do they do? The White House press shop goes and contacts the Secretary of the Veterans Affairs, and they get the Secretary of the VA to say what BUYER has brought

out is unfounded. They get the Secretary of the VA to do the dirty work. The individuals who are serving the Secretary of the VA are not serving that man well at all, because whatever that he said was unfounded has been founded. It's been founded because we are correcting what I said the mistakes were made.

Let me continue on with the corruption wave. Let me talk about those who sit up on the perch. Oh, my gosh, they are not there. Our friends in the media, they are not there. Where are they? No, they are not there because let me tell you what they did that night. They participated in the marginalization of me, the mistakes, because they said, well, we have got four Democratic chairmen say there were no mistakes. The Secretary of the VA says there are no mistakes. The bill must be okay. BUYER, you must be an alarmist.

And so Tom Philpott, a very good writer, someone who I respect in this town, with the Baltimore Sun, actually writes an article about how I must have been an alarmist because the four leading chairmen and the Democratic leadership and the White House and the Secretary of the VA say, STEVE, what you are talking about with regard to TRICARE and spina bifida and the other veterans programs was unfounded.

Then why are we here today correcting those mistakes? Because they are founded. They are real. So where is the press now to write the story that the VFW, you were right when you challenged the leadership for passing a flawed bill?

Well, let me tell you now, let me close the loop with the corruption in the CBO. I didn't bring that motion to recommit the bill, did I? I couldn't bring it because they said the bill scored at \$4.4 billion. So I couldn't bring it here on the floor. So I told CBO, guess what, you win. I can't bring it. But if you tomorrow, you send me a letter that says it didn't score, I tell you what I am going to do. Because you said it scores at \$4.4 billion, that means that the savings that the Democratic leadership was talking about as a pay-for for their health bill, the savings of \$4.4 billion was taken out of veterans programs. That's where the savings came from.

So I said, okay, fine, if my motion to recommit scores at \$4.4 billion, then the savings that they talked about over here, where you got savings in the health bill, let's vote for the health bill, it was taken out of the veterans programs. That's where it came from.

So what happens on Monday morning? I issue a press release that says \$4.4 billion is taken out of the veterans savings programs. Within 2 hours what does CBO do, Mr. Speaker? They issue a statement to me that says the bill doesn't score. My amendment didn't score. Oh, my gosh.

To every Member out there who has had an experience over the years dealing with CBO, protect yourself. Right now you cannot trust CBO. You cannot trust their veracity. I stand here with a gentleman with honor, and I am sickened by what CBO had done. I was sickened by the super bowl of politics that occurred on that night, that here we had a bill that is very meaningful to the American people, we know there are errors. The gentleman whom I have complimented knew in his heart that there were problems with the bill we are going to have to come back and correct. We shouldn't have had to do this.

I felt compelled, though, to tell the story. I am a retiring Member of Congress. There are things I love and defend about this institution. But there are also things that are called the dark side of human behavior that are toxic and poisonous, and they disturb me to no end. So to Members: hold onto your honor, put your face into the cold wind, and do not accept it when individuals act with corruption. Stand and shove them back. Our country is too great.

Especially to have played politics with veterans programs is the ultimate to me. The children of Korean and Vietnam war-era veterans with spina bifida, are you kidding me? That's who we are going to play games with? The other veterans programs, who are those individuals? They are the widows, they are the war widows, and we are going to play politics with war widows.

There is a word, I guess, we don't like to use very often. It's called "shame." It's because it's a very, very powerful word. That's shameful what we did. When an error is in front of you and you have got the opportunity to correct that error, you correct it. If you do not, it is shameful. And I will accept responsibility, too.

But if I am going to accept responsibility as a leader of this House that I was unable to see it through, someone else better also step forward and accept responsibility, Madam Speaker. And you turn and you then face the veterans at the conventions this summer and you tell them, Yes, the bill was flawed, but I apologize and the bill was corrected; and with the issues that were brought up by Mr. BUYER, they were founded. I apologize for challenging his veracity because what he said was right. And the Madam Speaker should say, I was wrong.

And under the President, you should also say to the Secretary of the VA, I apologize to you, Mr. Secretary; we put you in an uncomfortable position whereby you laid your honor on the line and made a statement that was not truthful. And the President should apologize then to the Secretary of the VA. That's how you clean up the mess.

So it's not just the legislative mess; there is a mess here with regard to in-

dividuals' integrity and their honor. And so if you wonder why the American people are upset and disgusted with Washington, DC, it is because they see that this is what's happening. I assure you we lost our majority, and you are about to lose yours.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all Members that they should direct their remarks to the Chair and not to others in the second person.

Members also are reminded that it is not in order to draw attention to occupants of the gallery.

Mr. LEVIN. How much time is remaining?

The SPEAKER pro tempore. The gentleman from California has no time remaining. The gentleman from Michigan has 18½ minutes remaining.

Mr. LEVIN. Let me say a few words. I really regret that the minority has decided to use this bill as an opportunity to talk about the health care bill I think in totally irresponsible ways. I don't think it is fitting for the service of the veterans of the United States of America that you decide to essentially use this time to talk about issues unrelated. I don't think that is consonant with why you are here and why we are here. So I am not going to debate the health care bill.

We are talking today about a bill to make very clear, if there is any need, about one provision. Talk about playing politics, that's what's been endeavored here by the minority speakers. And I think it's deeply regrettable. There is a difference of opinion as to whether there was any mistake at all on this specific issue. There is a difference of opinion.

The Secretary of the VA said that this issue was already covered. That was his judgment. There is no need for anybody to apologize to the Secretary. And so there was this difference of opinion as to whether there was any need to correct. And a lot of us said there was no such need. When it was raised, this issue by Mr. BUYER, we said that. So instead of acting on something that we thought was not necessary, what we said was we will take further steps to make sure there is no concern.

There was a lot of rhetoric that went around regarding that issue. And I want to just read a letter that came out shortly thereafter from the commander in chief of the VFW. It was a letter to our Speaker.

□ 1115

It was a letter to our Speaker, and this is what the letter said:

"Dear Madam Speaker, I want to apologize for saying in a Sunday press release that you and the Democratic leadership are betraying Americans, America's veterans. Your support of America's veterans, military, and their families is and has been above reproach." Above reproach.

And so now using this opportunity to try to cast any aspersion, I think, is more than unfortunate, if I might say so, it is disgraceful.

There was said something about we were doing something in health care reform on the emotion of the moment. Talk about emotions?

Now, we had worked on this, health care reform, in our country for decade after decade after decade after decade after decade, and more decades. Health care reform was an effort in the best American tradition to try to advance what has made this country great—and that is acting as a community to meet the needs of individuals, to combine responsibility and community.

So, let me get back. If you want to go out and talk about repeal, as the gentleman from California has, go and talk to the seniors who are going to benefit from the health reform bill, go and talk to the kids who are under 26 who are going to receive coverage through this bill, go and talk to the people who otherwise would have their health care rescinded as some entities tried and then, to their credit, backed off when we raised the issue.

Now, if anybody is playing politics today, it's no one on this side led by our distinguished Speaker.

So I urge adoption of this legislation, and I will enter into the record three letters.

VETERANS OF FOREIGN WARS  
OF THE UNITED STATES,  
Washington, DC, May 12, 2010.

Hon. BOB FILNER,  
Chairman, House Veterans Affairs Committee,  
Cannon House Office Building, Washington, DC.

DEAR CHAIRMAN FILNER: On behalf of the 2.1 million members of the Veterans of Foreign Wars and its Auxiliaries, I would like to offer our very strong support for your legislation H.R. 5014, which would clarify and protect all VA health care programs under Title 38, Chapter 17 and 18 to constitute as minimum essential health care coverage.

VFW applauds your efforts to clarify this critical issue. We sincerely appreciate your commitment to America's veterans and their families and we look forward to continuing to work with you on issues of concern.

Very Truly Yours,  
ROBERT E. WALLACE,  
Executive Director.

THE AMERICAN LEGION,  
Washington, DC, May 12, 2010.

Hon. NANCY PELOSI,  
Speaker, House of Representatives, The Capitol,  
Washington, DC.

DEAR SPEAKER PELOSI: The American Legion fully supports the amended language to H.R. 5014, to clarify the health care provided by the Secretary of Veterans Affairs that constitutes minimum essential coverage.

After careful review, The American Legion believes this legislative change would provide the Secretary of Veterans Affairs with the continued authority to provide timely access to the nation's best quality of health care for veterans and their eligible family members consistent with the recently enacted Patient Protection and Affordable Care Act, especially those covered under chapters 17 and 18 of title 38, United States Code.



The American Legion applauds your leadership on this critical issue and your continued support of America's veterans' community.

Sincerely,

PETER S. GAYTAN,  
Executive Director.

VIETNAM VETERANS OF AMERICA,  
Silver Spring, MD, May 12, 2010.

Hon. NANCY PELOSI,  
Speaker of the House, The Capitol,  
Washington, DC.

DEAR MADAM SPEAKER, Please know that Vietnam Veterans of America (VVA) endorses and supports enactment of H.R. 5014, which effectively clarifies for veterans that the health care provided by the Department of Veterans Affairs does in fact constitute the minimum essential coverage required under the recently enacted Patient Protection and Affordable Care Act.

This should put to rest, finally, any and all qualms of any and all veterans and their families who might feel uneasy that the provisions of the new law might adversely affect their health care through the VA. Passage of H.R. 5014 should reassure them, and we look forward to its swift enactment.

Thank you again for your continuing commitment to our nation's veterans.

Sincerely,

JOHN ROWAN,  
National President.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 5014, legislation to ensure the Department of Veterans Affairs (VA) Spina Bifida Program and the Children of Women Vietnam Veterans Health Care Program constitutes minimum essential coverage under the new health care reform law, the Patient Protection and Affordable Care Act (P.L. 111-148).

While the Patient Protection and Affordable Care Act explicitly states that it covers health care programs administered by the VA, some have questioned whether the VA's Spina Bifida Program, which provides health care to children of Vietnam War and certain Korean War veterans for spina bifida-related medical conditions, and the Children of Women Vietnam Veterans Health Care Program, which provides care for certain birth defects of the biological child of a woman veteran who served in Vietnam, meets the individual requirement. H.R. 5014 leaves no room for doubt.

As a veteran of WWII, I understand what our brave American men and women give up to serve our country. For the past several years, the Democratic Congress has honored them and their dependents with benefits worthy of their service. This legislation continues to pay tribute to our veterans, providing them the respect they deserve by codifying that all VA Health Care programs are covered by the health care reform law. Mr. Speaker, I urge my colleagues to join me in supporting H.R. 5014.

Mr. LEVIN. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. LEVIN) that the House suspend the rules and pass the bill, H.R. 5014, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. LEVIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### EXPRESSING SYMPATHY FOR FLOOD VICTIMS IN SOUTHEAST

Mr. COHEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1337) expressing the sympathy and condolences of the House of Representatives to those people affected by the flooding in Tennessee, Kentucky, and Mississippi in May 2010.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1337

Whereas, beginning on May 2, 2010, the State of Tennessee was hit by unprecedented rainfall that resulted in the massive flooding of areas in and around Nashville;

Whereas according to the National Weather Service of the National Oceanic and Atmospheric Administration, the two-day rainfall totals of 13.53 inches more than doubles the previous record of 6.68 inches set in September, 1979;

Whereas the storms causing the rainfall claimed the lives of dozens of people across Tennessee, Kentucky, and Mississippi;

Whereas the storms destroyed homes and displaced thousands of people across Tennessee;

Whereas the flooding affected travel along hundreds of roads throughout Tennessee, including interstate highways 40 and 24;

Whereas the storms closed schools and universities across the region;

Whereas Tennessee Governor Phil Bredesen has worked with Federal, State, and local officials and agencies to coordinate rescue and recovery efforts;

Whereas, on May 3, 2010, Governor Bredesen declared a state of emergency for 52 counties, requesting Federal assistance for areas that were affected by the storms;

Whereas, on May 4, 2010, President Obama declared that a major disaster exists in the State of Tennessee and directed the Federal Emergency Management Agency to work closely with Tennessee to monitor the response efforts relating to the storms and flooding and identify and respond to any immediate emergency needs for the citizens and communities of Tennessee that are impacted by the devastating floods;

Whereas citizens and emergency responders of all stripes worked together to aid their neighbors after the storm; and

Whereas volunteers are giving their time to help ensure that evacuees are sheltered, clothed, fed, and comforted through the trauma caused by the storm: Now, therefore, be it

Resolved, That the House of Representatives—

(1) offers its deepest sympathy and condolences to the families of those who lost their lives as the result of flooding beginning on May 2, 2010, in the States of Tennessee, Kentucky, and Mississippi;

(2) expresses its condolences to the families who lost their homes and other property

in the flooding throughout Tennessee, Kentucky, and Mississippi;

(3) expresses gratitude and appreciation to the people of the State of Tennessee and the surrounding States, who continue to work to protect people from the floodwaters and aid in the recovery efforts;

(4) expresses its support as the Federal Emergency Management Agency continues its efforts to respond to any needs of the citizens and communities affected by the flooding and assists in the recovery efforts; and

(5) honors the emergency responders across Tennessee for their bravery and sacrifice during this tragedy.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. COHEN) and the gentleman from Tennessee (Mr. DUNCAN) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. COHEN).

#### GENERAL LEAVE

Mr. COHEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. COHEN. Mr. Speaker, I yield myself such time as I may consume.

In the first weekend of May, the great storms came through from the West and struck in Arkansas, Mississippi, Tennessee, and Kentucky. The flooding damage was record-breaking. The damage done in all States was great but in the State of Tennessee was the most severe, my home State. The most destruction, I guess, and the most damages occurred in the district of the Honorable JIM COOPER of Davidson County and environs. But in my own County of Shelby, there was extensive damage.

I joined with my colleagues in calling on our Governor to issue a request for a declaration of emergency, and that was done by Governor Bredesen. The Federal Government has responded in a magnificent manner.

President Barack Obama, in his historic speech to the Democratic National Convention in 2004, said how there was not a red United States of America and there was not a blue United States of America, but there was only one United States of America. And in this particular instance where people suffer in States that are all considered politically red States, the United States of America has responded with all of its resources to help our people, and our people need help.

FEMA's been on the ground. FEMA Director Fugate was in Tennessee in no time. Secretary Napolitano has been to Nashville. Secretary Donovan of HUD and Secretary Locke of Commerce have been to Memphis and to Nashville as well. And others have been there. I had FEMA officials at my town hall meeting on Saturday. They have let



people know that the Federal Government is there to help. The people have been very responsive, and our local governments are responsive.

When I went to Millington on Monday and toured some of the damage there, the people in the neighborhood said that the Shelby County officials had been outstanding in their response. They now feel the Federal Government's officials have been outstanding.

Secretaries Locke and Donovan visited the Ed Rice Community Center that's now a shelter in Frayser, part of my district. They visited in Millington, also. There are people in the Midtown, more of the heart of my district, who had great flooding damage. And people know now to call 1-800-621-FEMA to lodge their notice of their damages and to get on the list to start to have inspectors to come out, which they're doing, to assess the damages and ascertain which individuals are qualified for the \$29,900 in recovery funds that can be had for the damages for their residential establishment and/or their primary vehicle.

The SBA has been there and the head of the SBA, and the SBA is set up to help in losses over \$29,900 and to businesses for their losses as well. City and county governments and State governments will be eligible to qualify for debris removal and for goods that have been distributed.

Overall, the Volunteer State has responded as a Volunteer State should, and from its naming, volunteers have come from everywhere to help the people who have been damaged, and we have been contributing.

Hillary Clinton, quoting an African proverb, "It takes a village to raise a child." Well, it takes a village and a government to come together to help its people in times of great distress and natural disaster, and we have seen the Federal Government do that—and this government in particular—and I'm proud that we've done so. And I appreciate the response that I've seen in my State of Tennessee.

And I regret the damage, and I know the people have withstood it well. And I hope it never happens, and we know it will, but the Federal Government's been there.

So with that, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1337 was introduced by the Tennessee delegation last week to express the sympathy and condolences of the House of Representatives to those impacted by the recent flooding in Tennessee, Kentucky, and Mississippi.

As we all know, earlier this month, Tennessee and Kentucky and Mississippi experienced severe rainfall resulting in unprecedented flooding, and it hit my home State of Tennessee the hardest of all. And while my district,

fortunately, was spared from any of this flooding, our official title is United States Representative from whatever State we're from, and I think that the Tennessee delegation has always worked together and joined together to try to represent the whole State even though we do each run in districts.

And on May 4, the President issued a major disaster declaration for Tennessee authorizing Federal assistance to supplement the State and local response and recovery efforts. And as our colleague, the gentleman from the 9th District, Mr. COHEN, has just stated, the outpouring of support for the people affected by this flooding has just been tremendous in, as he mentioned, our great Volunteer State of which we are so proud.

Unfortunately, as a result of these floods, in these three States dozens of people were killed and hundreds of homes were destroyed. Thousands of people were displaced and forced to take shelter. In Tennessee, the Governor declared 52 of Tennessee's 95 counties as disaster areas, and key landmarks like the Grand Ole Opry House were flooded with several feet of water. In Tennessee, it hit primarily the districts of our colleagues Congressman COOPER and Congresswoman BLACKBURN and Congressman GORDON.

In Kentucky, the Governor declared a state of emergency in 79 of its 120 counties and issued boiled water advisories affecting nearly 83,000 residents.

In Mississippi, nearly 250 homes were destroyed or suffered major damage, and the Governor has requested six counties receive a major disaster declaration.

But even in this tragic situation, we saw and continue to see many examples of heroism. As we have seen in previous disasters, people in the community, first responders, and volunteers have responded and in a big, big way. The State and local officials, along with organizations like the American Red Cross, continue to provide assistance and aid to those affected by this flooding. And FEMA's assistance has and will help supplement these efforts.

I strongly support passage of this resolution and urge all of my colleagues to do the same, and I'm sure they will.

I reserve the balance of my time.

Mr. COHEN. Mr. Speaker, I would like to yield as much time as the gentleman from Davidson County, Tennessee (Mr. COOPER) needs. He's the primary author of this particular resolution and the distinguished Congressperson from the district that suffered the greatest in our country, Mr. COOPER.

Mr. COOPER. Mr. Speaker, I thank all of my colleagues for their unanimous bipartisan support of this resolution honoring the people of the three State areas that were affected.

We suffered one of the great rainfalls of modern times, literally doubled the

prior record—13 inches of rain in a 2-day period—and that led to a real disaster, particularly in the area of middle Tennessee that I represent.

The mayor of Nashville, Karl Dean, who's done a magnificent job responding to this crisis, has estimated the damage already at at least \$1.5 billion. But the response of the community has been magnificent.

And the real message of our resolution today is Nashville is open for business. Tourists are welcome. Most all of the sites will be available and ready to welcome you. A few are down temporarily, but we are rebuilding, and we are rebuilding because of the magnificent volunteer spirit of our people. Wherever you went to help a homeowner clean up a mess or to help a business recover, you were greeted with dozens, sometimes hundreds of volunteers.

There's a group called Hands On Nashville that did a wonderful job coordinating these efforts. Churches, other places of worship were magnificent delivering sandwiches to the hungry, sheltering the homeless, taking care of whatever needed to be taken care of in our community. So, the volunteer spirit was magnificent.

Now it's time for the government to step up. Whether it be FEMA or SBA or any other alphabet soup of Federal agencies, it's time for government to do its part.

So we look forward to working with the disaster victims to make sure that everybody is helped to the extent possible because this was an unforeseen and unforeseeable calamity. It affected our district. Unfortunately, it did not get the publicity it deserved because of the New York terrorist incident and the spill in the gulf.

But when Anderson Cooper of CNN came down, his initial headline for a story was "Nashville Flooding." As soon as he saw the magnificent response of our people, he changed that headline to "Nashville Rising." And that's our real message here. We are coming back and we are coming back strong.

So please, come visit Nashville, Tennessee. Spend your tourist dollars in our community. We need your help. And together, we'll restore the rightful place of country music and other forms of music in this country.

□ 1130

Mr. DUNCAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I thank the gentleman from Knoxville for yielding the time.

I rise today, and all of the people of Tennessee, so many of the families in my district have lost most or even all of what they had. Some have suffered loss of family members, and we express our sympathies to those families.

You know, homes are gone, businesses are wiped out, schools are flooded. School is even out for the year in some communities. Roads and bridges are absolutely washed away. And the road back for Tennessee is going to be a very long road. It is going to be difficult, also, but Tennesseans are undaunted.

I chose to stay in my district last week. All 15 of my counties are Federal disaster areas, and I wanted to make certain that my staff and I had the opportunity to get into those communities, into those counties, and to assess the needs and make certain that needs were being met.

This photo that I am showing you shows the extent of damage in one of the counties, Cheatham County, there in my district. But you know, it could have been taken over in Mr. DAVIS' district or Mr. TANNER's district or in Mr. COOPER's district. But it shows you what has happened with how roads are completely washed away. This is one of only hundreds and hundreds of roads that have been washed out by the storm. This one, you will see the road actually lies about 60 yards from the roadbed and where it originally was placed. The terrible force of the waters washed it out and onto the foundation of three homes that were completely washed away.

While the rain fell, neighbors stepped up to help neighbors, and those who had dry homes took people into those homes. And then, they started to get ready to rebuild. And what they are doing is forming purchasing pools to buy the supplies and help clear the homes and to rebuild those homes. I can't count the number of empty foundations that I saw across the district last week, or the skeletons of churches and homes and businesses that are now sitting on riverbanks.

I spoke to residents who have nothing, nothing at all, where their home used to be, some who have only parts of a foundation left. One resident was wearing only the clothes on his back. And he didn't talk about what his needs were or how great his loss was. What he talked about was rebuilding that community. And he talked about how he could replace material goods, but also about the richness of people helping people and coming together.

Our local governments, as Mr. COOPER was saying, the State of Tennessee and the Federal Government are responding. Aid that began to hit our urban areas around Nashville and Memphis is now making it out into the rural counties. The road back for those counties is going to be very difficult, but I commend those local elected officials for how they have stepped up, how they had a disaster plan and they also had an implementation plan, and they put it to work and responded in the appropriate way, being there to help all of their local citizens.

I commend FEMA and the administration for the aid that I know will eventually come to Tennessee and to our rural communities. And, most of all, I commend the families who once again have displayed why we are the Volunteer State.

Mr. COHEN. Mr. Speaker, I now yield such time as he may consume to the Honorable BART GORDON, who represents a district just south and south-east of Davidson County.

Mr. GORDON of Tennessee. I thank my friend from Memphis for yielding, and I thank my friend JIM COOPER from Nashville for bringing forth this good resolution. And I join my friend from Knoxville and Franklin and from our Kentucky neighbors in rising to support H. Res. 1337.

My district in middle Tennessee was among those devastated by historic rainfall and subsequent flooding on May 1 and 2. Seeing this kind of devastation just breaks your heart. Many Tennesseans were displaced, including my mother. While it was just a temporary inconvenience for her, and I am grateful for that, for some it was an ongoing disruption, and for others it was a life-changing event.

Even as many people in Tennessee return to normal routines, those families who were most affected will still be working to rebuild their lives. Those families will continue to need our compassion and support through the coming months. Federal assistance is available and will make a difference for many families, and that is why I encourage everyone in the affected counties to document their damage and contact FEMA. Apply even if you have insurance. If you find out months from now that insurance won't cover any damages, or all your damages, it might be too late to apply for FEMA assistance at that time. My staff in Murfreesboro, Gallatin, and Cookeville are standing ready to help anyone who has questions about how to apply for assistance.

A lot of good-hearted people have been pitching in to lend a hand after they just dried themselves off. Their generosity of spirit is inspiring to see, but it is not surprising. Our communities have rebounded after tornados and storms. This time, we will work together to rise above the floodwaters.

I urge my colleagues to support this resolution and to keep Tennessee in their thoughts and prayers.

Mr. DUNCAN. Mr. Speaker, I will close by saying that almost all Tennesseans have friends and relatives, including me, people who were affected by this flooding. And I want to commend all the people from my district who volunteered and who went to the aid of those people who were touched by this tragedy. And I want to commend the gentleman from Nashville, my friend Mr. COOPER, for bringing this resolution to the floor.

Again, I wish to express my sympathy and condolences to all those who were hurt or harmed in some way by this flooding or who have lost family members, and I urge support for this resolution.

I yield back the balance of my time. Mr. COHEN. Mr. Speaker, I, too, thank Mr. COOPER for bringing this resolution, Mr. GORDON for testifying, and Mr. DUNCAN and Mrs. BLACKBURN for their testimony, all the members of the delegation who came together in a bipartisan manner and who I think, by their actions, indicated that they believe government can and is an effective tool to help people, and can, when used properly, efficiently, and effectively, as FEMA is now, be an important part of a government response to a crisis to help the American people.

As Mr. COOPER said, Nashville is open for business. And Nashville is a great city with a great tourist economy. While the Opryland Hotel may be closed temporarily, the Grand Ole Opry is still in business. There is still lots of music and lots of hotels open, and there is also the Music Highway that can take you right down I-40 to Memphis, and we would love to see you there, too.

Ms. PELOSI. Mr. Speaker, the flood waters in Tennessee, Kentucky, and Mississippi have begun to recede, but the thoughts and prayers of all Members of Congress remain with the residents of those States. As thousands of Americans work to put their lives back together in the aftermath of record-breaking flooding, this Congress stands with them.

We are particularly saddened by the tragic loss of more than 20 people. For families who have lost loved ones, the sympathies of all Americans are with them in these tragic times.

The Nation has been particularly affected by the situation in Nashville, where entire neighborhoods were under water. But as Russ Hazelton, resident of Nashville, said, "We have no choice but to solve this problem, and we're going to solve it with enthusiasm . . ." That enthusiasm will be matched by the Federal Government.

President Obama has declared the situation in Tennessee to be a major disaster. Congress will continue to work with those Members whose constituents have been affected by this tragedy to provide the assistance necessary.

With this resolution today, we also honor the efforts of our brave first responders, and State and local government officials, who have risked life and limb and worked tirelessly to safely evacuate people and return communities to normalcy. We stand with them today, and in the days ahead.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H. Res. 1337, a resolution to express the sympathy and condolences of the House of Representatives to those people affected by the flooding in Tennessee, Kentucky, and Mississippi in May 2010.

I express my heartfelt condolences to families and communities who have lost loved ones from these devastating floods in Tennessee, Kentucky, and Mississippi. I also express my sympathy for those whose homes

were damaged or destroyed. Unfortunately, several times in recent years, I have come to the floor to express sympathy and condolences in the wake of nature's wrath and floods are the most common type of disaster our nation faces.

I would also like to express my appreciation for the men and women who have responded to this disaster, and those who are aiding in the recovery including police officers, firefighters, emergency managers, and emergency medical personnel. Twenty four hours a day, every day of the year, all over this country, when any type of tragedy enters our lives, from a medical emergency facing a neighbor to a large-scale natural disaster, terrorist attack, or other incident, our nation's emergency responders and charitable organizations are the first on the scene to provide professional services, expert help, aid, and comfort. These well-trained, highly-skilled individuals are truly on the front lines in preparing for, responding to, recovering from, and mitigating damages from a variety of hazards.

As the waters recede, we will begin the inevitable and necessary process of rebuilding these homes and communities. As we do, it is important that we re-build safer and better to reduce the risk to lives and property. This is known as "mitigation". In the case of a flood, we can mitigate future risks by elevating the structure or key elements such as furnaces and electrical panels, or in some cases by acquiring the property and converting the land to open space.

Mitigation is an investment. According to two Congressionally-mandated studies, for every dollar invested in mitigation there is a return of at least three dollars. This is an investment that not only benefits the Federal Government, but State and local governments and citizens as well. According to the Federal Emergency Management Agency, previous mitigation investments have already been shown to pay off in the areas of Tennessee, Kentucky, and Mississippi that were flooded in this disaster.

I urge my colleagues to join me in supporting H. Res. 1337.

Mr. WAMP. Mr. Speaker, last week, flood waters devastated many businesses and homes of hardworking families in Tennessee. The torrential downpours and rise of the Cumberland River in Nashville was a 1,000-year event that no one could have predicted because this area is not in a flood plain. Therefore, a vast number of Tennesseans did not have flood insurance, leaving them hurting financially because of the high cost of home repairs and in need of additional support. Many are now homeless after this truly unique and devastating event in our State's history and my heart goes out to all affected, especially those who lost loved ones.

While Tennessee's capitol city and surrounding areas have been severely damaged, the volunteer spirit of its residents has shined. Tennesseans are helping themselves and their neighbors recover and move forward. Cleanup efforts are well underway and fundraisers are being held for the thousands who lost their homes or so many of their belongings. We have a long way to go before our cities and towns are completely restored, and I am committed to doing all I can to help Middle and

West Tennessee rebuild after these devastating floods.

Ms. RICHARDSON. Mr. Speaker, I rise today in strong support of House Resolution 1337, expressing the sympathy and condolences of the House of Representatives to those affected by the flooding in Tennessee, Kentucky, and Mississippi in May 2010.

I would like to acknowledge Speaker PELOSI and Chairman OBERSTAR for their leadership in bringing this important resolution to the floor. I would also like to thank my colleague Congressman COOPER, who authored this legislation.

As Chair of the Homeland Security Subcommittee on Emergency Communication, Preparedness, and Response, I stand with my colleagues in expressing our deepest sympathy to those affected by this recent flooding. The State of Tennessee was hit by unprecedented rainfall that resulted in the massive flooding of areas in and around Nashville. According to the National Weather Service of the National Oceanic and Atmospheric Administration, the two-day rainfall totals of 13.53 inches more than doubles the previous record of 6.68 inches set in September, 1979. Unfortunately, the storms causing the rainfall claimed the lives of 31 people across Tennessee, Kentucky, and Mississippi. My heart goes out to their families and loved ones.

In addition, the storms destroyed homes and displaced thousands of people across Tennessee, and the flooding affected travel along hundreds of roads throughout Tennessee, including interstate highways 40 and 24. Schools and universities across the region were closed. However, in this time of need, citizens and emergency responders worked together to aid their neighbors after the storm. I want to express my gratitude and appreciation to the people of the State of Tennessee and the surrounding States, who continue to work to protect people from the floodwaters and aid in the recovery efforts.

In conclusion, Mr. Speaker, I stand with my colleagues today to honor the emergency responders across Tennessee for their bravery and sacrifice during this tragedy.

Mr. Speaker, I urge my colleagues to join me in supporting H. Res. 1337.

Mr. COHEN. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. COHEN) that the House suspend the rules and agree to the resolution, H. Res. 1337.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. COHEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### INTERNATIONAL LEARN TO FLY DAY

Mr. COHEN. Mr. Speaker, I move to suspend the rules and agree to the reso-

lution (H. Res. 1284) supporting the goals and ideals of National Learn to Fly Day, and for other purposes, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1284

Whereas, since the birth of flight, aviation has had a tremendous impact on the imagination, innovation, and economy of the United States;

Whereas many of the Nation's heroes have been pilots, including the Wright brothers, Charles Lindbergh, Amelia Earhart, Charles "Chuck" Yeager, the Nation's astronauts and military aviators, and the flight crew of U.S. Airways Flight 1549, among others;

Whereas every one of these individuals had to learn to fly before they could achieve their greatness;

Whereas there are approximately 600,000 pilots and approximately 230,000 commercial and general aviation airplanes in the United States;

Whereas flight brings joy, inspiration, and a sense of accomplishment to those who fly for recreation, pleasure, and work;

Whereas flight allows the movement of people and commodities across the Nation and around the world quickly and efficiently; and

Whereas the third Saturday in May is an appropriate day to observe International Learn to Fly Day: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the goals and ideals of National Learn to Fly Day; and

(2) recognizes the contributions of flight instructors, flight schools, aviation groups, and industry in promoting and teaching the Nation's next generation of pilots.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. COHEN) and the gentleman from Missouri (Mr. GRAVES) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee.

#### GENERAL LEAVE

Mr. COHEN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. COHEN. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of the resolution, H. Res. 1284, as amended, introduced by the gentleman from Florida (Mr. BOYD) which supports the goals and ideals of International Learn to Fly Day and recognizes the contributions of flight instructors, flight schools, aviation groups, and industry in promoting and teaching the Nation's next generation of pilots.

International Learn to Fly Day was established on May 15, 2009, to increase interest in flying and to encourage the aviation community to get others involved in aviation. The event was announced at the Experimental Aviation

Association's AirVenture in Oshkosh, Wisconsin. Aviation groups, industry partners, flight schools, and flight instructors have come together to create a day dedicated to inspiring national interest in flight.

On International Learn to Fly Day, flight schools, airports, and independent flight instructors will offer free or discounted flight instruction and other educational aviation events. The aviation community will lend its time and expertise to introduce people to the thrill of flying and the opportunity to reflect back on Orville Wright. Airlines must be able to attract the next generation of commercial pilots. International Learn to Fly Day will be an important day to promote the experience of learning to fly, and to attract people to the pilot profession, of which my home city is the home to Federal Express, which employs many fine pilots and will, indeed, many more in the years to come as they continue to deliver cargo to the world.

International Learn to Fly Day will be observed each year on the third Saturday of May. I look forward to this first celebration on May 15, 2010, and urge my colleagues to join me in supporting H. Res. 1284.

I reserve the balance of my time.

Mr. GRAVES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H. Res. 1284, which is a resolution obviously supporting the goals and ideals of International Learn to Fly Day. And I would like to thank Mr. BOYD and Mr. EHLERS for sponsoring this meaningful piece of legislation. Both of these individuals are great advocates of aviation, and they need to be commended for this bill.

Mr. Speaker, aviation plays an important role in America and throughout the world, and it expands business opportunities, creates very well-paying jobs, and it inspires innovation. Without flight instructors, flight schools, aviation groups, and industry promoting and teaching the next generation of pilots, many of these benefits are not going to be realized.

Unfortunately, in recent years the U.S. pilot population has declined. And as a pilot, actually a commercial pilot, myself, it was easy for me because I grew up across the road from the airport. I played in airplane wrecks as a kid. I pumped gas and washed windshields and washed airplanes, any way to mooch a ride and get a lesson. I grew up with it and grew up next to it, so I was able to learn to fly.

I find the news that the pilot population is declining extremely disappointing. In response, the International Learn to Fly Day was established, and it is the third Saturday in May. This goal is to increase interest in flying and to encourage the aviation community and others to get involved in aviation.

There are a lot of groups out there, the Experimental Aircraft Association, the Aircraft Owners and Pilots Association. I know the General Aviation Manufacturers Association, which are all here this week, they are all coming up with programs and working on programs to encourage young people to fly and trying to either get them their first lesson or get them ground school, whatever the case may be. But this is a very worthy cause, and I am very proud to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. COHEN. Mr. Speaker, with your indulgence, I recognize the gentleman from west Tennessee (Mr. TANNER) out of order for such time as he may consume.

Mr. TANNER. Mr. Speaker, I was in a conference committee and could not get to the floor when the Tennessee delegation was speaking about the unprecedented flooding. Sixteen of the 19 counties in the Eighth District have been declared a disaster, and we expect the other three.

Mr. Speaker, I rise today in support of H. Res. 1337 to acknowledge the difficulties facing many Tennesseans as a result of the severe weather that struck our area recently.

Sadly, the storms that hit our area took seven lives in the 19 counties that make up the Eighth District, which we are honored to represent in this chamber. Our thoughts and prayers are with those families.

Additionally, there remains damage in all 19 counties that make up the Eighth District. We are appreciative that at the time we consider this resolution, 16 of those counties have been declared federal disaster areas, giving Tennessee families and businesses access to much-needed assistance as they get back on their feet. We are hopeful that the necessary assessments will be completed soon to allow federal assistance to all the counties we represent and others across the State.

Tennesseans always rise to the occasion when our neighbors are in need, and that was the case in this disaster as well. We commend the swift response from first responders, State and local leaders, volunteer organizations and members of the community. Both the Tennessee Emergency Management Agency, TEMA, and the Federal Emergency Management Agency, FEMA, were also on the ground immediately to begin their work helping those affected and ensuring assistance is on the way.

Mr. Speaker, I thank Mr. COOPER and our colleagues from Tennessee for bringing this resolution forward so the House has an opportunity to express its condolences to Tennesseans who are just beginning the recovery process.

Mr. COHEN. Mr. Speaker, I now yield such time as he may consume to the author of the resolution and a pilot himself, Mr. BOYD of Florida.

□ 1145

Mr. BOYD. I thank my friend, Mr. COHEN, for yielding me time.

Mr. Speaker, I rise today as cochairman of the General Aviation Caucus,

with my friend, VERN EHLERS, my fellow cochair, in support of this resolution honoring International Learn to Fly Day. I want to thank Chairman OBERSTAR and Ranking Member JOHN MICA for their work on this bill to get it out of the Transportation and Infrastructure Committee. I also want to thank the original cosponsor of the bill, Representative GRAVES, for his work.

International Learn to Fly Day will be celebrated this Saturday, May 15, with opportunities throughout the country to learn more about the wonders of flying, how to get your pilots license, what to expect during flight training, and career options for you once you achieve that goal.

As many of you may surmise, I am a pilot myself, and I would encourage anyone I know to pursue their desire to learn to fly. You will not be disappointed. It's never too late to learn. Unlike Mr. GRAVES, I didn't grow up around flying, but in the service I became very interested in flying when I got an opportunity to spend a lot of time in a plane. When I came home and went into my profession, I continued to do that from time to time, and then, only less than 4 years ago, I achieved a lifelong goal of getting my private pilots license. I'm telling you, it has not been a disappointing experience.

I think it's very clear to us that when you travel around the country from time to time and go to these airports, particularly some of the smaller municipal airports, and see the general aviation activity, we learn how dependent we are in this country upon flying, and particularly the general aviation business. We have seen a good example in the recent volcano activity in Europe that our economies and our lives are limited without the ability to fly.

Mr. Speaker, Congress will surely earn its wings today if we pass this resolution. I urge support of H.R. 1284, and your local International Learn to Fly Day activities.

Mr. GRAVES. Mr. Speaker, I would yield such time as he may consume to one of the original sponsors, the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. I thank the gentleman for yielding and I also want to recognize that Mr. GRAVES has been a real stalwart on the Transportation Committee, particularly the Aviation Subcommittee, with his wealth of experience in flying. The knowledge that he brings to it has just been invaluable. I really appreciate all that Mr. GRAVES has done for aviation in the Congress. That's very important because last year the Congress developed a negative impression of flying. You all recall, I suspect, that some corporate leaders came in asking for government funds, and they flew here in their private jets. That made headlines across the country. Unfortunately, the news media didn't leave it there, but continued to

pursue the entire issue of flying and presented the portrait of the average flyer as being very wealthy and having an airplane as a toy to play with. That is far from the truth. Most pilots do not have a lot of money. Very few of them own their own airplanes. This negative impression that was formed here by the Congress and in the Congress really troubled those of us who know something about flying.

I am not a professional pilot. I would love to be, but I've never had either the time or the money to do it. But I recognize injustice when it takes place. It took place right here in the Congress of the United States. And that led to a lot of activity on our part to try to educate the public about flying, about who the pilots are, what they accomplish for the economy as a whole, and in particular, what good works they do. A good example of that is the tremendous amount of effort the private pilots of the United States exerted in helping the island of Haiti.

Just last week, we had Harrison Ford here to describe what he had done. He owns several airplanes and did a number of flights into Haiti transporting doctors, medicines, and so forth. He is an example of what I'm talking about. Not everyone who took part is a movie star, as Harrison Ford is, but he was representing a lot of people who expended a lot of their own money to aid the people in Haiti through the use of airplanes flying goods in and out, flying patients out to the United States for medical treatment when they were in serious trouble, etc. And this is just one example of the many things that pilots and aviation in general do to help the public at large.

So I'm very proud to stand here and say we have to help aviation and private pilots in every way that we can. And one good way is to encourage them to learn to fly. Many individuals normally would not think of flying, but when they see that they can accomplish so much good with aviation, we hope that they will take the time to learn how to fly and to at least join a flying club or perhaps eventually own their own airplane so that they can really go forth and help a lot of people.

It's amazing how many people do this sort of thing in various fields. For years, I was interested in ham radio. Again, a tremendous help to the economy and to the people at large is done during emergencies by ham radio operators. It's very similar with pilots. When the need is there, they will rise to the occasion and they will provide the transportation that's necessary.

In my area, we have an Angels of Mercy program, which has done tremendous good work flying people to hospitals. The patients cannot afford to take a commercial plane to get distant medical treatment. They're not in good enough shape to travel by car. And so the Angels of Mercy fly individ-

uals at essentially no cost or very low cost so that the patients can get medical treatment in the right place at the right time.

It is high time that we recognize the good service that these pilots provide and that we do everything we can to help them in that effort. This resolution is part of that—simply encouraging people to learn to fly. I know there's a local group in my district that has taken advantage of this to publicize flight lessons in my area. They have a number of people signed up already who are willing to learn to fly so that they can accomplish good for other people.

So I strongly urge that we adopt this resolution and recognize the good work that aviation does for the general welfare of our Nation.

Mr. GRAVES. Mr. Speaker, I have no further requests for time. I would just, again, like to express my strong support for this resolution. There's a lot of groups out there, again, that are encouraging flight. The Experimental Aircraft Association's Young Eagles program will give that young person their very first flight for free. I'd encourage anybody that would like to take advantage of that for a young person and to learn the joys of flying, to do that at their local airport.

Mr. OBERSTAR. Mr. Speaker, I rise in support of this resolution, H. Res. 1284, as amended, introduced by the gentleman from Florida (Mr. BOYD), which supports the goals and ideals of International Learn to Fly Day, and recognizes the contributions of flight instructors, flight schools, aviation groups, and industry in promoting and teaching the nation's next generation of pilots.

As an effort to increase interest in flying, and to encourage the aviation community to get others involved in aviation, International Learn to Fly Day was established on May 15, 2009. Learn to Fly Day was announced at the Experimental Aviation Association's AirVenture in Oshkosh, Wisconsin, with the support of aviation groups, industry partners, flight schools, and flight instructors. The day was founded to cultivate a new generation of pilots to act as role models and to ensure that airlines are able to meet future needs for airline travel.

On Learn to Fly Day, flight schools, airports, and independent flight instructors will offer free or discounted flight instruction courses and other educational aviation events. The aviation community will lend its time and expertise to increase public interest in flying.

Many of the nation's heroes have been pilots, including the Wright brothers, Amelia Earhart, and most recently, Captain Chesley "Sully" B. Sullenberger III and First Officer Jeffrey Skiles. Flight has always been a national and international source of fascination and inspiration. To continue the significant legacy of flight, the United States needs to ensure that it can attract the next generation of commercial and recreational pilots.

International Learn to Fly Day will be an important day to promote the experience of learning to fly. This year will be the first year

that the day will be celebrated, with events taking place across the country, and some internationally. International Learn to Fly Day will be observed each year on the third Saturday of May.

I urge my colleagues to join me in supporting H. Res. 1284.

Mr. PETRI. Mr. Speaker, the resolution before us—introduced by the co-chairs of the GA Caucus, Dr. EHLERS and Mr. BOYD—expresses support for the designation of the third Saturday in May as "International Learn to Fly Day."

The resolution recognizes aviation's tremendous impact on the imagination, innovation, and economy of the United States.

Pilots are obviously a critical component of our aviation system and this resolution recognizes the need to cultivate the Nation's next generation of pilots.

It is fitting to recognize the international nature of aviation. The era of flight has certainly brought the world closer together.

Positioned between two major general aviation events in the United States, Sun and Fun in Lakeland, Florida and the EAA AirVenture in Oshkosh, Wisconsin, International Learn to Fly Day is a great time to encourage young people to take an interest in flying.

These air shows offer a great opportunity to get an up-close and personal look at the aircraft and interact with the pilots who make general aviation such a vibrant part of the aviation community in the United States, and around the world.

The International Learn to Fly Day is also a great way to encourage would-be aviators to follow in the footsteps of other aviators who have helped create the aviation system we all enjoy today.

Mr. Speaker, I support the adoption of the resolution, and urge my colleagues to support the resolution.

Mr. GRAVES. I yield back the balance of my time.

Mr. COHEN. Mr. Speaker, I thank Mr. BOYD and Mr. EHLERS for bringing this resolution, and ask that all Members unanimously support H. Res. 1284, as amended.

With that, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. COHEN) that the House suspend the rules and agree to the resolution, H. Res. 1284, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The title was amended so as to read: "Resolution supporting the goals and ideals of International Learn to Fly Day, and for other purposes."

A motion to reconsider was laid on the table.

#### RECOGNIZING AVIATION CONTRIBUTIONS IN HAITI EARTHQUAKE RELIEF

Mr. COHEN. Mr. Speaker, I move to suspend the rules and concur in the

concurrent resolution (S. Con. Res. 61) expressing the sense of the Congress that general aviation pilots and industry should be recognized for the contributions made in response to Haiti earthquake relief efforts.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

S. CON. RES. 61

Whereas on January 12, 2010, the country of Haiti suffered a devastating earthquake;

Whereas after the earthquake, general aviation pilots rallied to provide transportation for medical staff and relief personnel;

Whereas more than 4,500 relief flights were made by general aviators in the first 30 days after the earthquake;

Whereas business aircraft alone conducted more than 700 flights, transporting 3,500 passengers, and over 1,000,000 pounds of cargo and supplies;

Whereas relief flights were fully paid for by individual pilots and aircraft owners;

Whereas smaller general aviation aircraft were able to deliver supplies and medical personnel to areas outside Port-Au-Prince which larger aircraft could not serve; and

Whereas the selfless efforts of the general aviation community have saved countless lives and provided humanitarian assistance in a time of need: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That the United States Congress—*

(1) recognizes the many contributions of the general aviation pilots and industry to the Haiti earthquake relief efforts; and

(2) encourages the continued generosity of general aviation pilots and operators in the ongoing humanitarian relief efforts in Haiti.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. COHEN) and the gentleman from Missouri (Mr. GRAVES) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee.

GENERAL LEAVE

Mr. COHEN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and add extraneous material as necessary on S. Con. Res. 61.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. COHEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. Con. Res. 61, a resolution which recognizes the many contributions of private pilots and the general aviation industry to the Haiti earthquake relief efforts and encourages the continued generosity of general aviation pilots and operators in ongoing humanitarian relief efforts in Haiti.

On January 12, 2010, a devastating earthquake struck Haiti, leaving up to 300,000 dead and 300,000 injured. Private pilots and businesses banded together to conduct an estimated 4,500 relief flights during the 30-day period following the earthquake. Business aircraft transported approximately 3,500

passengers and delivered over 1 million pounds of cargo and supplies to the Haitian people.

General aviation aircraft were vital for getting help to smaller communities that otherwise faced great difficulty in receiving aid. Media accounts described pilots ferrying supplies between nearby countries, like the Dominican Republic, to small towns in Haiti. They would often land on not much more than dirt roads. General aviation aircraft transported critical supplies like food, blankets, medication, and medical equipment as well. The fuel from these aircraft was even used in some cases to help generators continue running. The aircraft carried medical staff and relief personnel from the United States to Haiti to assist in relief efforts, including a group that came from my hometown of Memphis, from LeBonheur Children's Hospital. They spent quite a bit of time down there.

I urge my colleagues to join me in supporting S. Con. Res. 61.

I reserve the balance of my time.

Mr. GRAVES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of Senate Concurrent Resolution 61, a resolution recognizing general aviation pilots and the general aviation industry for their contributions in response to the Haiti earthquake relief efforts. As we all know, on January 12, 2010, the country of Haiti suffered a devastating earthquake. Immediately after the earthquake, general aviation pilots began providing transportation for medical staff and relief personnel. More than 4,500 flights were made by general aviators in the first 30 days, and business aircraft alone conducted more than 700 flights, transporting 3,500 passengers and over 1 million pounds of cargo—fully paid for by individual pilots and aircraft owners.

I would also like to take this opportunity to recognize the efforts of the Corporate Aviation Responding in Emergencies organization, called CARE, one of the largest contributors to Haiti response efforts. CARE is a group of volunteers from the business aviation community that coordinate relief flights in response to disasters. It was formed in response to Hurricane Katrina, and participants flew about 175 missions and moved approximately 1,000 people and 250,000 pounds of supplies.

The earthquake in Haiti produced another situation that was the fundamental case for business and general aviation. It needed quick reaction, decentralized response, and efficiency. Business and general aviation was the only response entity that could do all three. CARE Operation Haiti has included more than 750 flights with 4,000 passengers, and over a million pounds of critical medical supplies. CARE passengers have included medical per-

sonnel, relief workers, newly adopted children, injured patients, and missionaries. Over 100 aircraft have been activated for the program, flying more than \$5 million worth of flight hours.

□ 1200

Again, I would like to recognize the contributions of CARE and all those who took part in relief efforts in Haiti. I also would like to extend my deepest sympathies to the victims and families who have been impacted by this devastating disaster.

Madam Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. I thank the gentleman for yielding. I said much of what I could say on this particular resolution when I discussed the previous one, and noted that it is important to recognize that general aviation is very, very important to our Nation. It serves so many people so well. I will not bother to repeat all the points I made earlier, but I simply want to say that I think this is an excellent resolution, and I hope that everyone in this Chamber will vote for it and that it will go into effect.

Mr. COHEN. I continue to reserve the balance of my time.

Mr. GRAVES. Madam Speaker, I have no further requests for time. I urge my colleagues to support this resolution, and I yield back the balance of my time.

Mr. COHEN. Madam Speaker, before we close, I want to take an opportunity, because I don't know if I will have the opportunity on the floor to do it. Mr. EHLERS is retiring during this Congress. When I was a freshman in 2006, he was the head of the Committee on House Administration that helped welcome all the freshmen and get us oriented to Congress, and he was one of the first influences on my experience in Congress. It was an excellent one. You are a gentleman. It's been an honor serving with you, and I thank you for your contributions to the Class of 2006. I wish you Godspeed.

Mr. PETRI. Madam Speaker, I rise in support of Senate Concurrent Resolution 61, Expressing the sense of the Congress that general aviation pilots and industry should be recognized for the contributions made in response to Haiti earthquake relief efforts.

On January 12, 2010, Haiti experienced a disastrous earthquake that overwhelmed its disaster relief capabilities. The world responded.

In addition to relief offered by governments from around the world, individual general aviation pilots did what they could to support the relief effort.

To help meet the desperate need for supplies to help those displaced by the earthquake, general aviation pilots made over 4,500 relief flights within the first thirty days after the disaster.

Some 3,500 passengers and 1 million pounds of cargo were transported by large



general aviation aircraft, and general aviation pilots in smaller aircraft were able to serve areas that larger aircraft could not access, delivering critical medical personnel and supplies.

This concurrent resolution recognizes the magnanimous efforts of the general aviation community in the response to this terrible disaster. The extraordinary efforts of these general aviation pilots and the general aviation community saved countless lives and helped to ease the suffering of those in need.

The Senate adopted this resolution by unanimous consent on April 29, 2010. On this, the 4-month anniversary of the earthquake, I urge my colleagues to adopt this resolution recognizing the efforts of those who came to the aid of the people of Haiti.

Mr. OBERSTAR. Madam Speaker, I rise in strong support of this resolution, S. Con. Res. 61, which recognizes the many contributions of the private pilots and the general aviation industry to the Haiti earthquake relief efforts and encourages the continued generosity of general aviation pilots and operators in ongoing humanitarian relief efforts in Haiti.

On January 12, 2010, the Republic of Haiti experienced a devastating earthquake, leaving up to an estimated 300,000 dead and 300,000 injured. It is also estimated that more than 4,500 relief flights were conducted by general aviation aircraft during the 30-day period following the earthquake. Business aircraft transported approximately 3,500 passengers and delivered more than one million pounds of cargo and supplies to the Haitian people. All of this was accomplished through the generosity of individual pilots and aircraft owners.

General aviation aircraft were vital for getting help to smaller communities that were impacted in the Haitian countryside. Light planes landed on shorter airstrips and distributed urgently-needed supplies to medical professionals and people on the ground, bypassing the congested Port-au-Prince airport.

General aviation aircraft and pilots assisted in delivering supplies, including water purification kits, tarps, medical supplies, blankets, and towels. Medical staff and relief personnel were also transported on these aircraft from the United States to Haiti to conduct relief work. Companies, business aviation and private pilots, nongovernmental relief organizations, aviation groups, and others banded together in the earthquake's aftermath to assist in the Haiti relief effort.

I urge my colleagues to join me in supporting S. Con. Res. 61.

Mr. COHEN. I would like to ask that all of our Members join in supporting S. Con. Res. 61. I yield back the balance of my time.

The SPEAKER pro tempore (Ms. McCOLLUM). The question is on the motion offered by the gentleman from Tennessee (Mr. COHEN) that the House suspend the rules and concur in the concurrent resolution, S. Con. Res. 61.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

# RECOGNIZING THE SIGNIFICANT ACCOMPLISHMENTS OF AMERICORPS

Ms. TITUS. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1338) recognizing the significant accomplishments of AmeriCorps and encouraging all citizens to join in a national effort to raise awareness about the importance of national and community service.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

## H. RES. 1338

Whereas, since its inception in 1994, the AmeriCorps national service program has proven to be a highly effective way to engage Americans in meeting a wide range of local and national needs and promoting the ethic of service and volunteering;

Whereas, each year, AmeriCorps provides opportunities for 85,000 citizens across the Nation to give back in an intensive way to their communities;

Whereas those same individuals improve the lives of the Nation's most vulnerable citizens, protect the environment, contribute to public safety, respond to disasters, and strengthen the educational system;

Whereas AmeriCorps members serve thousands of nonprofit organizations, schools, and faith-based and community organizations each year;

Whereas AmeriCorps members, after their terms of service end, are more likely to remain engaged in their communities as volunteers, teachers, and nonprofit professionals;

Whereas, on April 21, 2009, President Barack Obama signed the Edward M. Kennedy Serve America Act, passed by bipartisan majorities in both the House of Representatives and the Senate, which reauthorized and will expand AmeriCorps programs;

Whereas national service programs have engaged millions of Americans in results-driven service in the Nation's most vulnerable communities, providing hope and help to people facing economic and social needs;

Whereas, this year, as the economic downturn puts millions of Americans at risk, national service and volunteering are more important than ever; and

Whereas 2010's AmeriCorps Week, observed May 8 through May 15, provides the perfect opportunity for AmeriCorps members, alumni, grantees, program partners, and friends to shine a spotlight on the work done by members and to motivate more Americans to serve their communities: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) encourages all citizens to join in a national effort to salute AmeriCorps members and alumni and raise awareness about the importance of national and community service;

(2) acknowledges the significant accomplishments of the AmeriCorps members, alumni, and community partners; and

(3) recognizes the important contributions to the lives of our citizens by AmeriCorps members.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Nevada (Ms. TITUS) and the gentleman from Michigan (Mr. EHLERS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Nevada.

## GENERAL LEAVE

Ms. TITUS. Madam Speaker, I request 5 legislative days during which time Members may revise and extend and insert extraneous material on H. Res. 1338 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

Ms. TITUS. Madam Speaker, I yield myself such time as I may require.

I rise today in full support of House Resolution 1338, which recognizes the substantial contributions of AmeriCorps. Since 1994, AmeriCorps programs have engaged over 570,000 individuals of all ages in national service programs, totaling 705 million hours of service to our Nation. AmeriCorps was launched following the establishment of the Corporation for National and Community Service under the National and Community Service Trust Act. The organization is composed of AmeriCorps State and national programs: the National Civilian Community Corps, or NCCC, and the Volunteers in Service to America, or VISTA program. The initial class of 20,000 volunteers helped establish and grow this wonderful program of volunteer service. AmeriCorps now involves 75,000 individuals each year to improve the lives of the Nation's most vulnerable citizens, protect the environment, contribute to public safety, respond to disasters, and strengthen our educational system.

AmeriCorps participants have tackled many timely and important issues, including health care, gang violence, drug abuse, environmental cleanup, and homelessness. They have partnered with thousands of organizations, including Habitat for Humanity and the Red Cross. AmeriCorps VISTA participants have been on the front lines in the fight against poverty in America. VISTA's 6,500 participants provide assistance each year to low-income communities by helping businesses, expanding access to technology, recruiting literacy volunteers, strengthening antipoverty groups, and creating sustainable programs that help people rise out of poverty.

National Civilian Community Corps participants have led service projects in areas of critical national need, including disaster response, infrastructure improvement, environment and energy conservation, and urban and rural development. Corps volunteers have responded to every nationally declared disaster since 1994 as well as helped communities prepare for the next emergency.

Most importantly, AmeriCorps members continue to serve their community even after their terms of service. In fact, many former workers continue as volunteers, teachers, nonprofit professionals, and government employees.



Madam Speaker, for those struggling to make ends meet during this tough economy, volunteers in the national service are more important than ever. The Edward M. Kennedy Serve America Act signed in 2009 by President Obama expands the AmeriCorps program to incorporate 250,000 volunteers each year, and the strength of our Nation depends on individuals who take action towards building better communities.

This week is AmeriCorps Week, when we recognize and thank the commitment of these volunteers so that future generations will continue to support the ideal of national service. It's important for us to highlight the important work done by the organization and to motivate others to become engaged and to volunteer, whether through AmeriCorps or other service opportunities throughout the country.

So I would ask that my colleagues join me in full support of House Resolution 1338 and to take a moment and appreciate the contributions by our many AmeriCorps participants. I want to thank Representative MATSUI for bringing this resolution to the floor, and I urge my colleagues to pass it.

I reserve the balance of my time.

Mr. EHLERS. Madam Speaker, I yield myself such time as I may consume.

I rise today in support of House Resolution 1338, a resolution recognizing AmeriCorps Week. This year marks the fourth annual AmeriCorps Week, which is May 8 to May 15. As a co-Chair of the National Service Caucus, I am honored to recognize the individuals who participate in the AmeriCorps program and dedicate their time and effort to helping others in local communities. Last year, President Obama signed the latest reauthorization of the Corporation for National and Community Service, the Serve America Act. This act aims to ensure additional accountability to national service programs, helps smaller organizations participate in national service, and works to ensure America's veterans can participate in service.

Americans have a long history of service to each other and to their country, and AmeriCorps creates a web of opportunities for Americans to serve. I saw ample evidence of this just yesterday when I participated in a ceremony in Grand Rapids, Michigan, my hometown. It was just striking to me what a multiplier effect we have with the AmeriCorps program. The room was filled with volunteers, but not all of them were AmeriCorps members. AmeriCorps had energized a lot of different organizations and a lot of different volunteers to put in time during the course of the past year, and many of them received rewards because of the quality of work they did. I was not only happy to see that the Federal Government had assisted in the formation of this group but also that we were

getting so much for so little Federal money because the AmeriCorps people working there who did receive some Federal funds had, in fact, recruited a large number of other people to work with them, and so we accomplished a great deal in my community with very, very little Federal funding. I think that serves as a model for the Nation.

Nationwide, AmeriCorps provides 85,000 opportunities annually to serve communities from across the Nation and gives Americans the opportunity to offer their services in tutoring and mentoring disadvantaged youth, fighting illiteracy, building affordable housing, and assisting communities in times of natural disaster. In fact, there was a group of volunteers yesterday who were supposed to receive a reward for all their good work with Habitat for Humanity, and they were not there to receive it because they were putting up another house. That's an example of how these efforts are multiplied throughout the different communities.

A couple of examples of this ongoing service include AmeriCorps members assisting the American Red Cross in managing shelters for residents who have evacuated their homes due to the flooding brought on by the heavy rain in Nashville, Tennessee, and partnering with Second Harvest Food Bank in greater New Orleans to assemble and ship emergency food boxes bound for the Louisiana coastal fishing communities whose livelihood is being impacted by the recent oil spill.

I want to take this opportunity to thank my colleagues Ms. MATSUI, Mr. PLATTS, Mr. PRICE and others for introducing this resolution with me.

I reserve the balance of my time.

Ms. TITUS. Madam Speaker, I am pleased at this time to yield 3 minutes to the gentlewoman from California (Ms. MATSUI), the sponsor of the resolution.

Ms. MATSUI. I thank the gentlewoman for yielding me time.

Madam Speaker, I rise today in support of House Resolution 1338, which recognizes the significant accomplishments of AmeriCorps volunteers and helps raise awareness about the importance of national and community service. I would like to thank the Education and Labor Committee and especially Chairman MILLER for their support of this legislation and my fellow co-chairs of the National Service Caucus, Representatives EHLERS, PLATTS and PRICE, for their partnership. As a co-chair of the National Service Caucus, it is a pleasure to call attention to the tremendous work of those involved in service at every level.

We are now in the midst of National AmeriCorps Week which is celebrated each year to honor the important work that AmeriCorps volunteers provide to our communities. At this time last year, the President had just recently signed the Senator Edward M. Kennedy

Serve America Act, with strong bipartisan support in both the House and the Senate; and we have seen since then a tremendous increase in the number of AmeriCorps applications and interest in service as a whole.

The bill answered the call for Americans of all generations to help get the country through the recent economic crisis by serving in their communities. In times of strife, the American people have always shown a spirit of service and ingenuity, and investments in service and volunteer programs help prepare us to handle the unforeseen crises.

In my hometown of Sacramento, the AmeriCorps National Civilian Community Corps, or as we say NCCC, provides important benefits to our region. For example, Sacramento-based NCCC members served thousands of hours to help fight the fires that devastated the lives and livelihoods of thousands of Californians and, in doing so, helped protect thousands more. AmeriCorps NCCC members are disaster trained and available for immediate deployment in the event of a natural disaster anywhere within the United States. Through programs such as AmeriCorps, State and national Volunteers in Service to America, or VISTA, and NCCC, servicemembers address critical needs in our communities, and we should continue to make national service more accessible to the millions of Americans who want to serve their country by contributing to their community.

Madam Speaker, AmeriCorps Week offers us an opportunity to honor the important work of AmeriCorps volunteers in our own districts and across the country. I urge my colleagues to support this resolution and take this opportunity to thank AmeriCorps volunteers for their dedication to improving our Nation one neighborhood at a time.

Mr. EHLERS. I have no further requests for time, and I yield back the balance of my time.

Ms. TITUS. Madam Speaker, I would just reiterate the points that have been made earlier but in a more brief fashion to say that I hope our colleagues will join in supporting this resolution and to say thank you to the many volunteers who are on the front lines helping us during times of crisis, whether it's economic, physical disaster or sociological change. We need their help, and we appreciate it. This is a resolution to do that. So I thank the sponsors. I thank the chairman of the Service Caucus and urge your support.

Mr. LOEBSACK. Madam Speaker, I rise today to honor the fourth annual AmeriCorps Week.

I am fortunate to come from Iowa where a sense of community is the norm. In 2008, we were hit by the worst disaster in the state's history. The flooding destroyed homes and businesses, but Iowans pitched in to help their

neighbors, and volunteers from across the nation came to assist our communities.

AmeriCorps members came to Cedar Rapids and other flood-affected areas immediately after the disaster hit, helping to meet people's basic needs in the aftermath of the emergency.

AmeriCorps volunteers continue to work in the area rebuilding homes, coordinating volunteer efforts, and revitalizing local community organizations. To date, about 1,700 AmeriCorps members have volunteered to help with the flood recovery effort.

Iowans owe a debt of gratitude to AmeriCorps, VISTA, and NCCC members who have worked so hard for our communities, so I am pleased to have the opportunity to thank them today.

Mr. WU. Madam Speaker, I rise today to honor AmeriCorps Week, and the nearly 12,000 Oregonians who are AmeriCorp alumni that have pledged to "get things done for America" since the program began in 1994.

Whereas service to others is a hallmark of the American character, and throughout our history citizens have stepped up to meet our challenges by volunteering in their communities; and

Whereas those AmeriCorps members have served more than 774 million hours nationwide, including 14,388,200 served by residents from Oregon, helping to improve the lives of our State's most vulnerable citizens, strengthen our educational system; protect our environment, and contribute to our public safety; and;

Whereas the Corporation for National and Community Service State Office and Oregon Volunteers! Commission on Voluntary Action and Service play a key role in determining where AmeriCorps resources should be directed to meet State and local needs; and

Whereas residents of Oregon have earned more than \$32,097,912 in Segal AmeriCorps Education Awards to help pay for college or pay back student loans; and

Whereas AmeriCorps members, after their terms of service end, remain engaged in our communities as volunteers, teachers, public servants, and nonprofit leaders in disproportionately high levels; and

Whereas last year I cosponsored and helped pass the Edward M. Kennedy Serve America Act which sets AmeriCorps on a path to grow to 250,000 members by the year 2017 and focuses AmeriCorps on critical national issues of education, health, clean energy, veterans, and economic opportunity; and

Whereas, AmeriCorps Week, May 8–15, 2010, is an opportune time for the people of Oregon to salute AmeriCorps members and alumni for their service; thank AmeriCorps' community partners; and bring more Americans into service: Therefore, be it

*Resolved*, that I, DAVID WU, do hereby recognize AmeriCorps Week and urge citizens to thank AmeriCorps members and alumni for their service and to find ways to give back to their communities.

Ms. TITUS. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Nevada (Ms. TITUS) that the House suspend the

rules and agree to the resolution, H. Res. 1338.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BROUN of Georgia. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### □ 1215

#### RECOGNIZING NATIONAL NURSES WEEK

Ms. WOOLSEY. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1261) recognizing National Nurses Week, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1261

Whereas since 1990, National Nurses Week is celebrated annually from May 6, also known as National Recognition Day for Nurses, through May 12, the birthday of Florence Nightingale, the founder of modern nursing;

Whereas National Nurses Week is a time of year to reflect on the important contributions that nurses make to provide safe, high-quality health care;

Whereas nurses are known to be patient advocates, acting to protect the lives of those under their care;

Whereas nurses represent the largest single component of the health care profession with 3,100,000 jobs;

Whereas the work of nurses encompasses a wide scope of scientific inquiry including clinical research, health systems and outcomes research, and nursing education research;

Whereas nurses help inform and educate the public and Congress to improve the recruitment, education, retention, and the practice of all nurses and, more importantly, the health and safety of the patients they care for;

Whereas the American Association of Colleges of Nursing (AACN) released final survey data showing that enrollments in entry-level baccalaureate programs in nursing rose by 3.6 percent in 2009, and though this marks the ninth consecutive year of enrollment growth, the annual increase in student capacity in 4-year nursing programs has declined sharply since 2003 when enrollment was up by 16.6 percent;

Whereas United States nursing programs were forced to reject almost 119,000 qualified applications to nursing programs according to the National League for Nursing's most recent survey of all prelicensure nursing programs;

Whereas according to the Bureau of Labor Statistics, employment of registered nurses is expected to grow by 22 percent from 2008 to 2018, much faster than the average for all occupations;

Whereas according to new survey data by the AACN, enrollment in doctoral nursing

programs increased by more than 20 percent this year, signaling strong interest among students in careers as nursing scientists, faculty, primary care providers, and specialists;

Whereas according to the AACN, expanding capacity in baccalaureate and graduate programs is critical to sustaining a healthy nursing workforce and providing patients with the best care possible;

Whereas nursing colleges and universities across the country are struggling to meet the rising demand for nurses; and

Whereas increased support is needed to enhance efforts to educate nursing students at all levels, to increase the number of faculty members to educate nursing students, and to create educational opportunities to retain nurses in the profession: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the goals and ideals of National Nurses Week, as founded by the American Nurses Association; and

(2) acknowledges the importance of quality higher education in nursing, including baccalaureate and graduate programs and programs that help expand the supply of nursing program faculty, to meet the needs of one of the Nation's fastest growing labor fields.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. WOOLSEY) and the gentleman from Minnesota (Mr. KLINE) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

#### GENERAL LEAVE

Ms. WOOLSEY. Madam Speaker, I request 5 legislative days in which Members may revise and extend their remarks and insert extraneous material on H. Res. 1261 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. WOOLSEY. Madam Speaker, I yield myself such time as I may consume.

I rise today in support of H. Res. 1261, which recognizes National Nurses Week and the significant contributions that nurses make to our Nation's health care system. National Nurses Week also stresses the importance of quality higher education in nursing to meet the needs of one of the fastest growing professions.

National Nurses Week began on May 6, a day also known as National Recognition Day for Nurses. Today marks the end of the week of recognition as we celebrate the birthday of Florence Nightingale, the founder of modern nursing.

All across the Nation, communities have spent this week recognizing our Nation's 3.1 million nurses for their heroic acts, years of service to the community, and commitment to the nursing profession. Today's health care system requires nurses to be present at every stage of patient care, including partnering with physicians, pharmacists and other health care professionals to direct and manage patient needs. We thank them for their hard work and dedication.

The number of nurses in the United States is expected to grow rapidly in the near future. The Bureau of Labor Statistics anticipates that the employment of registered nurses will grow by 22 percent from 2008 to 2018. The growth in nursing job openings, along with an increasing number of nurses retiring or leaving the profession, is likely to lead to a continued demand for nursing professionals. In fact, it is estimated that there could be a shortage of more than 1 million nurses by the end of this decade.

Madam Speaker, while we honor America's nurses, we know we must do more to expand and sustain the profession. According to the National League for Nursing's most recent survey of all prelicensure nursing programs, thousands of qualified applicants have been rejected from nursing programs nationwide in the last few years. According to the League, the lack of capacity in nursing programs is due in part to a continuing shortage of nursing educators. It is vital that we support efforts to enhance existing education programs at both the baccalaureate and graduate level.

Madam Speaker, once again I express my support for National Nurses Week and the focus on the contributions of our Nation's many nurses to our health care system. We honor the excellent work done by nurses and encourage them to continue making a difference each and every day.

I thank the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) for introducing this resolution, and I urge my colleagues to support this bill.

I reserve the balance of my time.

Mr. KLINE of Minnesota. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in strong support of House Resolution 1261, recognizing National Nurses Week. The gentlewoman from California (Ms. WOOLSEY) explained in some detail the history of this week and the importance of nurses to our communities, to our States, and to our Nation. I strongly endorse and identify myself with her remarks.

I want to just take a personal moment. This is an especially important week in my house and my life. My wife, Vicky, has spent her entire adult life as a nurse, as a registered nurse. She did a career in the Army as an Army nurse and worked for years in emergency rooms and trauma centers literally around the country as I was transferred from duty station to duty station. And so I feel the importance that comes with this very noble and important profession.

I know the care and compassion that comes with this profession, the lifesaving skills and the dedication. In my family, literally in Vicky's family, the nursing profession has long been part of that family. Her mother was a nurse.

I have a niece, her niece is serving as an Army nurse. I have a sister-in-law who spent her adult life as a nurse. This is a profession that is, indeed, lifesaving and so important to our families.

I want to extend my grateful congratulations to all those nurses, men and women, who have dedicated their lives to serving those in need here and around the world. I ask that my colleagues support this resolution.

I reserve the balance of my time.

Ms. WOOLSEY. Madam Speaker, I am pleased to recognize for such time as she may consume the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), the author of H. Res. 1261.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I thank Ms. WOOLSEY for yielding me this time. It is a privilege to offer this resolution celebrating this resolution recognizing National Nurses Week, which ends today.

Nurses have been called the patient's first advocate, but their work also encompasses a wide scope of scientific inquiry, including clinical research, health systems research, and nursing education research.

Every day, nurses make a commitment to providing quality patient care, growing and adapting to the new challenges that our changing health care system requires.

I began my career as a registered professional nurse where I provided hands-on patient care for 15 years as a psychiatric nurse at the Veterans Administration Hospital in Dallas, Texas. This is why I remain a strong nursing ally today, advocating on behalf of the nursing profession to ensure that they have the means necessary to perform their jobs safely, with the best resources possible.

I would like to thank my fellow colleagues, the gentlewoman from California (Mrs. CAPPs) and the gentlewoman from New York (Mrs. MCCARTHY), who are also nurses and champions of this resolution and the nursing profession. The Congressional Nursing Caucus was also helpful in promoting this legislation, and I appreciate all of the efforts to generate support for the resolution.

Nurses are a key component to our Nation's health care system and will become even more vital with the full implementation of health care reform. Nurses work in emergency rooms, school-based clinics, community health centers, skilled nursing facilities, hospitals, physician offices, and on the battlefield. Their roles take many shapes from staff nurse to nurse educator, all while remaining committed to patient safety and working to influence the broader health care policy for the benefit of the greater good. Nurses are extremely dedicated individuals who must be intelligent and detail oriented, ready to act at the spur of the moment.

A caring and compassionate heart is required for the tough work that nurses perform, usually under duress.

As important as the nursing industry is, we still face a nursing shortage. Enrollment rose in 2009 for entry-level B.A. programs, but the annual increase in student capacity in 4-year nursing programs has declined sharply since 2003.

It is imperative that we expand capacity in B.A. and graduate programs to sustain a healthy nursing workforce and provide patients with the best care possible.

As we try to meet the demands of the nursing profession, we must also tackle the challenges related to the impact of faculty shortages on educational capacity.

Increased Federal and State support is needed to enhance existing programs and create new programs to educate nursing students at all levels, to increase the number of faculty members to educate nursing students, and to retain nurses in the profession.

Mr. KLINE of Minnesota. Madam Speaker, I don't have any other speakers at this time, and I reserve the balance of my time.

Ms. WOOLSEY. Madam Speaker, I am pleased to recognize the gentlewoman from California (Mrs. CAPPs), who is also a nurse, for such time as she may consume.

Mrs. CAPPs. Madam Speaker, I rise in support of H. Res. 1261, recognizing National Nurses Week, and I thank the leadership in the Congress for bringing this bill to the floor and acknowledge the close personal ties that many of us have with nurses.

I am very honored and pleased to be cosponsoring this resolution with my House colleagues and fellow nurses, Ms. EDDIE BERNICE JOHNSON and also CAROLYN MCCARTHY.

The recent debate in Congress on health care reform and the passage of the Patient Protection and Affordable Care Act have provided us an opportunity to highlight the importance of nurses to our health care system. Nurses are the backbone of health care delivery, and I know that because occasionally I will be approached by a colleague who wants to tell me about a recent medical event in their life, some situation, procedure, or surgery or some hospital stay. And inevitably it isn't the kind of doctor care they had; it is the nurses that they want to tell me about, especially the outstanding ones who made all of the difference in their recovery. I know because it is nurses who spend countless hours at patient bedsides. It is nurses who are in all walks of life, educating their communities about public health, and that is what I did for most of my career as a nurse, caring for the children and their families in our public school system in my community.

Nurses are also case managers. They are health system administrators. They are educators. They are members of the military. They are primary providers, and this list goes on and on. So

I am proud to see our House of Representatives recognizing the immeasurable contributions that nurses make to the daily health and well-being of all Americans.

Madam Speaker, I know as individuals we each recognize the important roles nurses play. Of course, too often this recognition and appreciation doesn't come until after we have had our own adverse health experiences, as I have been relating to you. As I said, many of my colleagues come up to me after a hospitalization or that of a family member, and again they say, Wow, if it hadn't been for the care of the nurses.

Today, we have an opportunity to collectively thank and show appreciation to the nurses in our lives and all of the nurses that serve our country every day in the armed services and in our communities, the nurses who are our constituents and our family members and our friends, and to renew our commitment to supporting the profession by providing greater opportunities for scholarship and loan repayment, just as we did in our newly enacted health reform law. We have a shortage of nurses and other health providers, and we want to do what we can to increase their numbers so that better patient care can be delivered.

We need to also increase funding for existing programs to improve the training and recruitment of our next generation of nurses. I urge all of my colleagues to support this resolution. I am pleased to be standing on the floor in its favor.

Mr. LATOURETTE. Madam Speaker, it is fitting that today, May 12, we are on the floor to honor our nation's nurses on the 20th anniversary of National Nurses Week. Why is May 12th significant? Because it is the birthday of Florence Nightingale, the founder of modern nursing.

As co-chair of the House Nursing Caucus, I am a proud supporter of H. Res. 1261, which was introduced by my colleague, Rep. EDDIE BERNICE JOHNSON.

More than three million jobs in this country are held by nurses, and they represent the largest single component of the health care profession. Nurses are the rock stars of the medical profession, and often are patients' greatest advocates. They do not get the recognition they deserve.

They work tirelessly, and often are the greatest source of comfort and compassion for the sick. They are American heroes with huge hearts and sensible shoes. Nurses have probably done more to popularize CROCS clogs than any other single profession. Whoever runs CROCS should give the nursing profession a high five for helping make their footwear a staple from coast to coast.

If you know a nurse, or have received kind and professional care from a nurse, take a moment to thank them. Today, which marks the close of National Nurses Week, is a perfect time to do it. Our nation's nurses deserve our praise, thanks and support, and I am proud to be here today to honor them.

Mr. CONYERS. Madam Speaker, I rise in strong support of H. Res. 1261, a resolution to recognize National Nurses Week and acknowledge the importance of quality nurse education programs.

The crucial role of nurses in our health care system cannot be overstated. Across the country, dedicated nurses work tirelessly to ensure that their patients receive quality care. In addition to their countless clinical responsibilities, nurses are a source of medical knowledge and compassion for families and patients when they are going through difficult times.

Sadly, many talented nurses are forced from their profession because of injuries sustained while on the job. Every year, thousands of nurses and health care workers sustain back and neck injuries while lifting or transferring patients. Not only are these injuries very expensive for hospitals and providers because of costs that are associated with workers' compensation, retraining and replacement, but they are also often devastating to the personal and professional lives of nurses. Fortunately, the musculoskeletal injuries in facilities that use assistive patient handling have significantly decreased. That is why I have introduced H.R. 2381, the "Nurse and Health Care Worker Protection Act of 2009." This legislation would require the Secretary of Labor to promulgate a rule creating a standard for safe patient handling to prevent more nurses from being injured while assisting patients. Additionally, health facilities would be required to purchase an adequate number of mechanical lifting devices. Senator FRANKEN has introduced the companion bill, and just yesterday the Senate Subcommittee on Employment and Workplace Safety held a hearing on this critical issue.

I commend my friend Representative EDDIE BERNICE JOHNSON for introducing H. Res. 1261 which honors the necessary and valuable work that nurses do every day. I encourage my colleagues to support this resolution.

Mr. DEUTCH. Madam Speaker, as the old saying goes, "Save one life, you're a hero. Save 10,000, you're a nurse."

I rise today on the birthday of Florence Nightingale to honor America's nearly 3.1 million registered nurses as they celebrate this year's National Nurses Week themed "Nurses: Caring Today for a Healthier Tomorrow." Nursing is a profession that welcomes dedicated people with a variety of interests, strengths, and passions attracted by the numerous opportunities that the profession offers. Their dedication to improving the health of our Nation is unmatched, and with the recent passage of health reform, America's demand for nurses is greater than ever as we recruit more nurses to ensure patients' access to high-quality, affordable care, now and in the future.

America's nurses are especially important to our rural and underserved areas as they are the most cost-effective and often the only preventive and primary health care providers available. Our registered nurses are there for patients during times of disaster and crisis, and they serve us well in our schools and at our offices. They devote their lives to improving the quality of life of others and frequently adapt to meet the public's growing needs. The

indispensible contributions of our nurses to our health care system are far too often overlooked.

I urge my colleagues to join with me in thanking America's nurses for their role in ensuring the health and well-being of our Nation. Nurses are experts in addressing patient needs. They make a difference every day in all of our lives. When you see a nurse today, thank them for their exceptional work because our caring nurses are ensuring a healthier tomorrow.

Ms. DELAURO. Madam Speaker, in recognition of National Nurses' Week, I rise to say a few words in honor of these indispensable and often overlooked public servants.

As the saying goes, nurses are our "angels in comfortable shoes." From the days of the first "Lady with the Lamp," Florence Nightingale, their selflessness, their dedication to their patients, and their deep reservoirs of compassion have helped illuminate the path to healing for millions of Americans.

Anyone who has suffered from a serious ailment or injury—I myself am a survivor of ovarian cancer—knows how important good nursing is for restoring one's health. Nurses are both the frontlines and the glue of our health care system, and their commitment, caring, and sacrifice goes unrecognized far too often.

I am particularly proud that we have honored nurses this year not only in word, but in deed—by passing comprehensive health reforms which allow them, doctors, and other health care professionals to do what they do best—help people to heal—without the continual interference of the insurance industry.

I am also glad we made strong commitments in this health care legislation through grants, loan forgiveness, and other key programs to encourage more young men and women to take up a career in nursing, and to give today's nurses more freedom and opportunities to ply their craft where they are desperately needed.

In my home state of Connecticut, we are short more than 11,000 registered nurses this year. By 2020, that number is projected to double, leaving the state with fewer than half the nurses it needs. In the face of a rising senior population, supporting our nation's nurses becomes especially critical, and I am glad we have done right by them in the health care bill.

To the nurses of Connecticut and all across the country, I applaud you for your service. And I encourage my colleagues to express their support for our nurses—in both word and deed—this week, and in the months and years to come.

Mr. KLINE of Minnesota. Madam Speaker, I have no other speakers and I encourage my colleagues to support H. Res. 1261, and I yield back the balance of my time.

Ms. WOOLSEY. Madam Speaker, I urge my colleagues to support H. Res. 1261, recognizing National Nurses Week and recognizing the significant contributions that nurses make to our Nation's health care system.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms.

WOOLSEY) that the House suspend the rules and agree to the resolution, H. Res. 1261, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

#### OFFICER DANIEL FAULKNER CHILDREN OF FALLEN HEROES SCHOLARSHIP ACT

Ms. WOOLSEY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 959) to increase Federal Pell Grants for the children of fallen public safety officers, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 959

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Officer Daniel Faulkner Children of Fallen Heroes Scholarship Act of 2010".

#### SEC. 2. CALCULATION OF ELIGIBILITY.

Section 473(b) of the Higher Education Act of 1965 (20 U.S.C. 1087mm(b)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting "(in the case of a student who meets the requirement of subparagraph (B)(i)), or academic year 2011-2012 (in the case of a student who meets the requirement of subparagraph (B)(ii)), after "academic year 2009-2010"; and

(B) by amending subparagraph (B) to read as follows:

"(B) whose parent or guardian was—

"(i) a member of the Armed Forces of the United States and died as a result of performing military service in Iraq or Afghanistan after September 11, 2001; or

"(ii) was actively serving as a public safety officer and died in the line of duty while performing as a public safety officer; and";

(2) in paragraph (3)—

(A) by striking "Notwithstanding" and inserting the following:

"(A) ARMED FORCES.—Notwithstanding";

(B) by striking "paragraph (2)" and inserting "subparagraphs (A), (B)(i), and (C) of paragraph (2)"; and

(C) by adding at the end the following:

"(B) PUBLIC SAFETY OFFICERS.—Notwithstanding any other provision of law, unless the Secretary establishes an alternate method to adjust the expected family contribution, for each student who meets the requirements of subparagraphs (A), (B)(ii), and (C) of paragraph (2), a financial aid administrator shall—

"(i) verify with the student that the student is eligible for the adjustment;

"(ii) adjust the expected family contribution in accordance with this subsection; and

"(iii) notify the Secretary of the adjustment and the student's eligibility for the adjustment."; and

(3) by adding at the end the following:

"(4) TREATMENT OF PELL AMOUNT.—Notwithstanding section 1212 of the Omnibus Crime Control and Safe Streets Act of 1968, in the case of a student who receives an increased Federal Pell Grant amount under this section, the total amount of such Federal Pell Grant, including the increase under this subsection, shall not be considered in calculating that student's educational as-

sistance benefits under the Public Safety Officer's Benefits program.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'public safety officer' means an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, or as a member of a rescue squad or ambulance crew;

"(B) the term 'law enforcement officer' means an individual who—

"(i) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law; and

"(ii) has statutory powers of arrest or apprehension;

"(C) the term 'firefighter' means an individual who is trained in the suppression of fire or hazardous-materials response and has the legal authority to engage in these duties;

"(D) the term 'member of a rescue squad or ambulance crew' means an individual who is an officially recognized or designated public employee member of a rescue squad or ambulance crew; and

"(E) the term 'public agency' means the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, any territory or possession of the United States, or any unit of local government, department, agency, or instrumentality of any of the foregoing, and the Amtrak Police and Federal Reserve Police departments."

#### SEC. 3. CALCULATION OF PELL GRANT AMOUNT.

Section 401(b)(2) of the Higher Education Act of 1965, as amended by the SAFRA Act (Public Law 111-152), is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking "The Amount" and inserting "Subject to subparagraph (C), the amount"; and

(2) by adding at the end the following new subparagraph:

"(C) In the case of a student who meet the requirements of subparagraphs (A), (B)(ii), and (C) of section 473(b)(2)—

"(i) clause (ii) of subparagraph (A) of this paragraph shall be applied by substituting 'from the amounts appropriated in the last enacted appropriation Act applicable to that award year, an amount equal to the amount of the increase calculated under paragraph (8)(B) for that year' for 'the amount of the increase calculated under paragraph (8)(B) for that year'; and

"(ii) such student—

"(I) shall be provided an amount under clause (i) of this subparagraph only to the extent that funds are specifically provided in advance in an appropriation Act to such students for that award year; and

"(II) shall not be eligible for the amounts made available pursuant to clauses (i) through (iii) of paragraph (8)(A)."

#### SEC. 4. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

#### SEC. 5. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on July 1, 2011.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. WOOLSEY) and the gentleman from Minnesota (Mr. KLINE) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

□ 1230

GENERAL LEAVE

Ms. WOOLSEY. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on H.R. 959 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. WOOLSEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in full support of H.R. 959, which offers financial assistance for higher education to the children of police officers, firefighters, and other first responders who made the ultimate sacrifice in the line of duty.

Madam Speaker, it is an American responsibility to look after the children of our fallen heroes. A small but important gesture to fulfilling this commitment is to make a college education possible for the children who have lost a parent in the line of duty. These mothers and fathers have given their lives so that we might be safe. We should do all that we can to help their sons and daughters be successful.

We know that the loss of a parent can make it difficult for families to make ends meet, let alone send their kids to college. Making their children eligible for the maximum Pell Grant is the way to thank the officers for their sacrifice and to give their children an education which they might not otherwise be able to afford.

Under this bill, a child of a fallen police officer, firefighter, or other first responder who is eligible for a Pell Grant would become automatically eligible for the maximum Pell award. This legislation would waive the income eligibility requirements in such cases.

With passage of the 2008 Higher Education Opportunity Act, we expanded Pell Grants to survivors of soldiers killed in Iraq and Afghanistan in a similar manner. As a result, these children will be eligible for more than \$20,000 in grants for college over 4 years.

Whether it's a sacrifice made on a distant battlefield or protecting our citizens here at home, it's time we extended this benefit to all of the children of our fallen heroes. Our fallen heroes deserve our thanks and they deserve our respect, and we can honor

them by supporting their children as they seek out a higher education.

I ask that my colleagues join me in full support of H.R. 959, and to take a moment to appreciate the daily sacrifices made by America's police officers, firefighters, and first responders.

I want to thank Representative MURPHY for bringing this resolution to the floor, and I urge my colleagues to pass this resolution.

I also want to thank Chairman CONYERS of the Judiciary Committee for working with the Education and Labor Committee on allowing this bill to move expeditiously to the floor.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, May 10, 2010.

Hon. GEORGE MILLER,  
Chairman, Committee on Education and Labor,  
House of Representatives, Washington, DC.

DEAR CHAIRMAN MILLER: In recognition of the desire to expedite consideration of H.R. 959, the Officer Daniel Faulkner Children of Fallen Heroes Scholarship Act of 2010, the Committee on the Judiciary agrees to waive formal consideration of the bill as to provisions that fall within its rule X jurisdiction.

The Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 959 at this time, it does not waive any jurisdiction over subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as the bill or similar legislation moves forward, so that we may address any remaining issues in our jurisdiction. The Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and requests your support for any such request.

I would appreciate your including this letter in the Congressional Record during consideration of the bill on the House floor.

Thank you for your attention to this matter, and for the cooperative working relationship between our two committees.

Sincerely,

JOHN CONYERS, Jr.,  
Chairman.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON EDUCATION AND LABOR,  
Washington, DC, May 10, 2010.

Hon. JOHN CONYERS,  
Chairman, Committee on the Judiciary, Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR CHAIRMAN CONYERS: Thank you for your May 10, 2010, letter regarding H.R. 959, Officer Daniel Faulkner Children of Fallen Heroes Scholarship Act of 2010. Your support for this legislation and your assistance in ensuring its timely consideration are greatly appreciated.

I agree that provisions in the bill are within the jurisdiction of the Committee on the Judiciary. I acknowledge that by waiving rights to further consideration at this time of H.R. 959, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on the Judiciary has jurisdiction in H.R. 959, or similar legislation. A copy of our letters will be placed in the Congressional Record during consideration of the bill on the House floor.

I value your cooperation and look forward to working with you as we move ahead with this important legislation.

Sincerely,

GEORGE MILLER,  
Chairman.

I reserve the balance of my time.

Mr. KLINE of Minnesota. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H.R. 959, the Officer Daniel Faulkner Children of Fallen Heroes Scholarship Act of 2010. I'm sure we're going to hear from my colleague from Pennsylvania (Mr. PATRICK J. MURPHY) something about Officer Daniel Faulkner.

He represents a profession where the men and women serving put their lives on the line every day. And H.R. 959 honors this ultimate sacrifice that fallen heroic police officers and firefighters make by providing their children with a helping hand that they cannot be there to provide in furthering their education.

Children of fallen Active Duty service men and women are already afforded this same assistance. This act ensures police officers and firefighters are honored in the same manner as our brave soldiers, sailors, airmen, and Marines for giving their lives to protect our safety.

Every year hundreds of police officers, firefighters, and other public safety officers die in the line of duty. Their jobs are inherently dangerous, and they accept this risk to protect America's citizens. It is important that we recognize their sacrifice and honor their lives. The Officer Daniel Faulkner Children of Fallen Heroes Scholarship Act provides a fiscally responsible way to convey our gratitude and respect for those who sacrifice their lives to protect us.

Madam Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Madam Speaker, I am pleased to recognize the author of H.R. 959, the gentleman from Pennsylvania, Congressman PATRICK MURPHY, for as much time as he may consume.

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Speaker, I thank the gentlelady from California, and also the gentleman from Minnesota, Congressman KLINE, my Republican colleague, thank you so much for your service to our country in the Marine Corps and for supporting this bill. I do appreciate it.

Madam Speaker, I would also like to thank my colleague from across the aisle, Republican TODD PLATTS from Pennsylvania. He has been my battle buddy and my partner on this bipartisan bill. But his steadfast commitment to our Nation's first responders is second to none. We've worked on this bill together for 3 years now and today, finally, it will come to fruition, and it's been an honor to partner with him.

Madam Speaker, you know that this is National Police Week and Saturday

is National Peace Officers Memorial Day. During these times of recognition and reflection, it's critical that we pause and thank those who bravely and selflessly protect us and our families.

But unfortunately, Madam Speaker, far too often we never get the chance to truly express our deep appreciation because too often a police officer, a firefighter, an EMS professional is taken from us too soon.

Last year, in 2009 alone, 126 law enforcement officers and 90 firefighters were killed in the line of duty. They and their families gave the ultimate sacrifice. These heroes sacrificed their lives for the most noble of causes, serving their community and their country.

And Madam Speaker, as so many of us remember, such was a tragedy 29 years ago when Officer Daniel Faulkner was murdered in Philadelphia during a routine traffic stop in Center City.

Officer Faulkner served in the Army prior to joining the Philadelphia Police Department. At the time of his death, just a few weeks before his 26th birthday, Danny was working toward his bachelor's degree in criminal justice at night, hoping to eventually work in the district attorney's office as a prosecutor. But because of the actions of a cold-blooded killer, he never got that chance.

Madam Speaker, it was his example of service, of valor and dedication that inspired me to introduce the Officer Daniel Faulkner Children of Fallen Heroes Scholarship Act. Under our legislation, if a child of one of these fallen heroes is eligible for any amount of Pell Grant money, they will become automatically eligible for the maximum grant available. In 2010, this means \$5,550 to help pay for college and nearly \$6,000 by 2017.

This bill is in honor of Officer Faulkner and the thousands of other heroes, including 11 officers, 21 firefighters, and two EMS workers who have lost their lives in Bucks County, Pennsylvania. This bill is for Middletown Police Officer Christopher Jones, killed in 2009; for paramedic Daniel McIntosh, killed just a few months ago in March 2010; and for countless others who have made the ultimate sacrifice. I'd like to submit for the RECORD the list of names of Bucks County police officers, firefighters, and EMS workers who did give the ultimate sacrifice. They are our community's heroes.

#### BUCKS COUNTY FIRST RESPONDERS KILLED IN THE LINE OF DUTY

Following is the list of Bucks County's fallen Police, Firefighters, and Paramedics killed over the past century:

#### POLICE

Sheriff Abraham L. Kulp  
Shot to death on Feb. 24th, 1927 while trying to serve a warrant in Bedminster Township.

Chief Eli Myers



Chief of Police Myers was directing traffic at the scene of a brush fire when he was struck from behind by a vehicle he had waved through the intersection. Chief Myers was transported to a nearby hospital where he died a short time later. Dublin Borough, died Oct. 31, 1965. Struck on foot by vehicle. Aged 50 years, Chief Myers served 10 years.

Sgt. George Stuckey  
Detective Sergeant Stuckey was shot and killed during a traffic stop. The suspects were speeding when Sergeant Stuckey pulled them over in front of the Bristol Twp Police Department. Unbeknownst to Sergeant Stuckey, the suspects had just robbed a bank. Bristol Township, died March 29, 1972. Aged 33 years, Sergeant Stuckey served 7 years.

Officer James Armstrong  
Officer Armstrong was overpowered by a robbery suspect. The suspect gained control of Officer Armstrong's service weapon and shot him with his own gun. Officer Armstrong's K-9 dog was also killed by the suspect. The suspect received a life sentence. Officer Armstrong died Apr. 15, 1975. He was aged 27 years and had served 4.

Officer Robert Yezzi  
Officer Yezzi was struck by a passing vehicle while struggling with suspect. Bensalem Township, died Aug. 12th, 1980. Aged 29 years, Officer Yezzi served 5 years.

Deputy Sheriffs Thomas Bateman and George Warta

Deputy Bateman and Deputy George Warta were killed when their patrol car was struck head on by a tractor trailer on Sept. 22, 1986. Deputy Bateman was aged 31 years, and served 9 and Deputy Warta was aged 47 years and served 7 years.

Ranger Stanley Flynn  
On September 22nd, 1986, Deputy Bateman was returning to his patrol area after leaving a prisoner at the jail. He and Deputy George Warta were involved in a traffic accident on Street Road in Warrington Township. Their vehicle went out of control and they were struck head on by a vehicle traveling in the opposite direction.

Officer Joseph E. Hanusey  
Officer Hanusey was killed in an automobile accident while responding to assist another officer. The officer requesting back up had initiated a DUI traffic stop and was not responding to the Bucks County Dispatch Officer's calls. While en route, in heavy rain, Patrolman Hanusey's patrol car left the roadway and struck some trees at US Route 611 and Haring Road in Plumville, Pennsylvania. Officer Hanusey died May 18th, 2002. He was aged 30 years, and had served 5.5 years.

Officer Brian Gregg  
Newtown Police Officer Gregg was killed on September 29, 2005 in an emergency room massacre at St. Mary Medical Center in Middletown Township.

Officer Chris Jones  
Detective Chris Jones was struck and killed by a drunk driver while conducting a traffic stop on Route 1, near the I-95 interchange. As he was returning to his patrol car, two cars collided and careened into his vehicle, which then struck him. He was transported to a local hospital where he succumbed to his injuries a short time later. The driver who struck Detective Jones was charged with homicide by vehicle and several other charges. Detective Jones had served with the Middletown Township Police Department for 10 years and was posthumously promoted to the rank of Detective. He is survived by his wife and three children. Officer Jones died Jan. 29th, 2009. He was aged 37 years, and served 10 years.

## FIRE

Walter L. Moore, Foreman:  
Bristol Fire Company No. 1, Station 51  
On April 21st 1915, Foreman Moore was killed in the line of duty while his apparatus he was riding in was struck by a train while responding to house boat fires.

Willis Sames, Fireman:  
Perkasie Fire Company, Station 26  
On April 1st 1926, firefighter Sames was killed in the line of duty when his apparatus he was in crashed while going to a drill in Quakertown.

Jacob C. Crouthamel, Fireman:  
Perkasie Fire Company, Station 26  
On April 1st 1926, firefighter Crouthamel was killed in the line of duty when his apparatus he was in crashed while going to a drill in Quakertown.

James F. Hurley, Fireman:  
Yardley-Makefield Fire Company, Station 0

In April 1949, firefighter Hurley was killed in the line of duty on box 0-1, when he was crushed between the ladder truck and the fire station bay door.

William Bell, Fire Police Captain:  
Warrington Fire Company, Station 29  
On January 19th, 1964, fire police captain Bell was killed in the line of duty while directing traffic at an accident scene.

David S. Rubright, Assistant Chief:  
Levittown Fire Company No. 1, Station 32  
On November 15th, 1969, Assistant Chief Rubright was killed in the line of duty with a heart attack shortly after performing search and rescue on box 32-4, 16 Narcissus Lane.

Walter D. Miller, Fireman:  
Croydon Fire Company, Station 11  
On September 28th, 1970, Firefighter Miller was killed in the line of duty while operating on box 11-34, falling from the apparatus at State Road and Cedar Avenue.

Rudolph W. Bisler, Fireman:  
Feasterville Fire Company, Station 1  
On April 8th, 1971, firefighter Bisler died in the line of duty after a suffering a heart attack while driving an engine to a fire at the Phoenix Swim Club in Lower Southampton Twp.

Robert Roberts, Fireman:  
Hartsville Fire Company Station 93  
Watson Eyre Wright Jr., Fireman:  
Warwick Fire Company Station 66  
On Dec. 7th, 1974, died in the line of duty of a heart attack after returning from a dwelling fire.

Henry Costello, Fire Police Captain:  
Line Lexington Fire Company, Station 60  
On October 21st, 1975, fire police captain Costello died in the line of duty on box 60-01, the Hillside Inn 1903 Bethlehem Pike.

Wesley Evans, Fireman:  
Bristol Consolidated Fire Company, Station 50

On December 12th, 1975, firefighter Evans died in the line of duty of a heart attack while operating on box 53-35, 332 Cleveland Street.

Geary Von Hoffman, Fireman:  
Falls Township Fire Company No. 1, Station 30

On April 26th, 1976, firefighter Hoffman was killed in the line of duty while operating on box 30-41 when a flashover occurred at the St. George's Diner on Lincoln Highway.

John S. Buranich III, Fireman:  
Edgely Fire Company, Station 10  
On November 10th, 1976, firefighter Buranich died in the line of duty from injuries which occurred on July 23, 1976, while responding on box 10-36.

Julian R. Bley, Sr., Assistant Chief:

Bristol Fire Company No. 1, Station 51  
On June 8th, 1984, Assistant Chief Bley was killed in the line of duty when he was electrocuted on box 53-16 at the Purex Corp, Radcliffe Street.

Thomas J. Gibson, Fireman:  
Union Fire Company, Station 37  
On March 6th, 1985 firefighter Gibson was killed in the line of duty when he fell from an aerial ladder while operating on box 11-33.

Stanley R. Konefal, Fire Chief:  
Cornwells Fire Company No. 1, Station 16  
On November 15th, 1986, Chief Konefal died in the line of duty when he was overcome by fumes while operating on box 16-4, 1154 Tennis Avenue.

Milton E. Majors, Fire Police Captain:  
Union Fire Company, Station 37  
Tom Graver, Fire Police Captain:  
Feasterville Fire Company, Station 1  
On February 19th, 1974, Fire Police Captain Graver was killed in the line of duty while directing traffic at Street Road and Pennsylvania Blvd.

Nelson "Snooky" Margerum, Fire Chief:  
Yardley-Makefield Fire Company, Station 0

Chief Margerum died in the line of duty on March 15th, 1992, after suffering a heart attack while operating on box 0-5, 326 Big Oak Road.

Walter F. Vaughan, Fire Police Officer:  
Warminster Fire Company, Station 90  
On November 13th, 1999 fire police officer Vaughan was killed in the line of duty while directing traffic on box 92-36, 1575 West Street Road.

## EMS/PARAMEDIC:

Dale Francis  
Died in 2001  
Dan Macintosh (Paramedic)  
Died in 2010  
March 7, 2010

Madam Speaker, every first responder deserves to know that if the unthinkable were to happen, their children would be taken care of and that their family would not be alone. This legislation is a small step in that direction.

The work these heroes do every day puts an incredible strain on their families, too. I know it because my father, Jack Murphy, spent over 20 years in the Philadelphia Police Department. Fortunately for my family, he came home every night. But when he left for work, I could see the strain in my mother's face. She always said to us three children, Make sure you kiss your father good-bye because you never know if that's the last time you'll see him. She knew the risks of my dad's profession. But she also knew that he was doing his duty to protect all of us.

So many families in our communities are just like mine. And with this bill, this Congress can come together as Democrats and Republicans, as Americans, to do our part to ensure that the children of our fallen heroes can still afford to go to college despite their profound loss.

We have received tremendous support for this bill. It has been endorsed by the Fraternal Order of Police, the International Association of Firefighters, and Members on both sides of this aisle.



Madam Speaker, I urge my colleagues to vote for this bill because we must never forget what American heroes like Danny Faulkner, like Christopher Jones, like Daniel McIntosh, and countless others have given, and we must keep faith with those who love them.

Mr. KLINE of Minnesota. Madam Speaker, I encourage my colleagues to support H.R. 959, and I yield back the balance of my time.

Ms. SCHWARTZ. Madam Speaker, I strongly support the families of the brave men and women who fight every day to keep our communities safe and that is why I believe the Officer Daniel Faulkner Children of Fallen Heroes Scholarship Act is such an important piece of legislation.

Inspired by the heroic service of Philadelphia Police Officer Daniel Faulkner, this legislation would offer financial assistance for higher education to the children of police officers, firefighters, and other first responders who made the ultimate sacrifice in the line of duty. Officer Faulkner's own life was tragically cut short when he was murdered performing a simple traffic stop.

Officer Faulkner is one example of the countless first responders who put themselves into harm's way every day. Tragically, since 2006, seven police officers from my district have died in the line of duty: Officer John Pawlowski, Officer Gary Skerski, Officer Chuck Cassidy, Officer Isabel Nazario, Sergeant Patrick McDonald, Sergeant Tim Simpson and Officer Stephen Liczbinski. These men and women selflessly risk everything so the rest of us may live in peace and safety. This Act will help the children of fallen heroes to be all they can be. It is yet another way for us to honor their service and their sacrifice.

This legislation is one way to meet our shared debt of gratitude to our police officers, firefighters, and other first responders, to their families and to their children.

Mr. PLATTS. Madam Speaker, I rise today in support of H.R. 959, the Children of Fallen Heroes Scholarship Act, which provides financial assistance for higher education to the children of police officers, firefighters, and other first responders who made the ultimate sacrifice in the line of duty. Representative Patrick Murphy and I introduced this legislation so that a child of one of these fallen service men and women would become automatically eligible for the maximum Pell Grant amount. This benefit already exists for the children of military service members who are killed in action.

This legislation is aimed at ensuring we do right by police officers, firefighters and other first responders who put their own lives at risk everyday to keep us safe. Making a college education more accessible to the children of these fallen heroes is an important expression of our Nation's gratitude. This legislation is a justified price for our Nation to pay to ensure that those serving on the front lines in our communities know that a higher education will be within their children's reach should the unthinkable happen. I urge all of my colleagues to support this important legislation.

Ms. WOOLSEY. Madam Speaker, I urge my colleagues to support H.R. 959, which offers financial assistance for

higher education to the children of police officers, firefighters, and other first responders who made the ultimate sacrifice in the line of duty.

I yield back the balance of my time. The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. WOOLSEY) that the House suspend the rules and pass the bill, H.R. 959, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### CHILDREN'S BOOK WEEK

Ms. WOOLSEY. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1333) expressing support for the goals and ideals of Children's Book Week.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1333

Whereas research has indicated that children who are read to three or four times a week are more likely to recognize the letters of the alphabet, be able to count to 20, and write their own names;

Whereas children's books are instrumental in teaching children to read by providing simple phrases that promote reading techniques, including phonics, and retaining children's interest;

Whereas many teachers use children's books in the classroom as a tool to promote and teach literacy to their students;

Whereas Children's Book Week has been celebrated nationally since 1919 and is founded on the declaration that a "great nation is a reading nation";

Whereas Children's Book Week highlights the importance of parents and guardians taking the time to read with their children and encourages libraries, schools, and community organizations to hold events to promote reading; and

Whereas Children's Book Week is recognized May 10 to May 16, 2010: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the goals and ideals of Children's Book Week; and

(2) encourages parents to read with their children and schools, libraries, and community organizations to hold events to encourage children and students of all ages to read.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. WOOLSEY) and the gentleman from Minnesota (Mr. KLINE) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

#### GENERAL LEAVE

Ms. WOOLSEY. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on H. Res. 1333 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. WOOLSEY. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I rise today in support of House Resolution 1333, a resolution in support of the goals and ideals of Children's Book Week, to be held from May 10 through May 16, 2010.

Children's Book Week is a great time to highlight the importance of reading to our children and our students. Educators, librarians, booksellers, and families have long celebrated children's books and the love of reading.

Since 1919 children's books and Children's Book Week have put an annual spotlight on this vitally important activity for a child's education and cognitive development. Through storytelling, parties, and author and illustrator appearances, this week helps to encourage a love of reading in our children.

Today, even the very youngest child in America is growing up immersed in media, spending hours a day watching TV and playing video games. Parents and teachers promote better learning for these children when they turn off the TV and pull out a book and either sit with the child and read it or have the child read it on his or her own.

This year, official Children's Book Week events will be hosted in 10 cities and in classrooms, libraries, bookstores, and homes all across this country.

□ 1245

In addition, the Children's Choice Book Awards will honor important authors who bring their gifts of writing and imagination to our kids.

Madam Speaker, once again I express my support for Children's Book Week and celebrate reading for students of all ages. I thank Representative ROE for introducing this resolution, and I urge my colleagues to support this bill.

I reserve the balance of my time.

Mr. KLINE of Minnesota. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 1333. This resolution supports and honors Children's Book Week, which is in itself a celebration of the written word. And as my colleague so aptly said, today our children are immersed in a multimedia world. I know my grandchildren are unbelievably expert at video games. And I can't tell you how happy I am, how thrilled I am, when I see them sitting with a book.

I was so pleased to see that my oldest grandson followed in the line of his father and grandfather and great grandfather of seeking every available minute to get into the world of literature, to get into the written word, to read these books, going to the point of getting under the covers with a flashlight way after lights out time for

bed. I think that's an important part of our children growing up.

I am concerned that many of our children are losing this touch with the written word. So I believe that the Congress expressing our support for the goals and ideals of Children's Book Week, the written word, is an important statement.

I urge my colleagues to support this resolution, and I yield back the balance of my time.

Ms. WOOLSEY. Madam Speaker, I thank the gentleman from Minnesota for working with us on these last three resolutions.

I urge my colleagues to support H. Res. 1333, a resolution in support of the goals and ideals of Children's Book Week.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. WOOLSEY) that the House suspend the rules and agree to the resolution, H. Res. 1333.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

#### PROVIDING FOR CONSIDERATION OF H.R. 5116, AMERICA COMPETES REAUTHORIZATION ACT OF 2010

Mr. PERLMUTTER. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1344 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

##### H. RES. 1344

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Science and Technology. After general debate the bill shall be considered for amendment under the five-minute rule.

SEC. 2. (a) It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Science and Technology now printed in the bill modified by the amendment printed in part A of the report of the Committee on Rules accompanying this resolution. The committee amendment in the nature of a substitute shall be considered as read. All points of

order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. (b) Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in part B of the report of the Committee on Rules accompanying this resolution and amendments en bloc described in section 3 of this resolution. (c) Each amendment printed in part B of the report of the Committee on Rules may be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. (d) All points of order against amendments printed in part B of the report of the Committee on Rules or amendments en bloc described in section 3 of this resolution are waived except those arising under clause 9 or 10 of rule XXI.

SEC. 3. It shall be in order at any time for the chair of the Committee on Science and Technology or his designee to offer amendments en bloc consisting of amendments printed in part B of the report of the Committee on Rules accompanying this resolution not earlier disposed of. Amendments en bloc offered pursuant to this section shall be considered as read, shall be debatable for 40 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Science and Technology or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question. The original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

SEC. 4. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions.

SEC. 5. The Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Science and Technology or his designee. The Chair may not entertain a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII).

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 1 hour.

Mr. PERLMUTTER. Madam Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

##### GENERAL LEAVE

Mr. PERLMUTTER. I ask unanimous consent that all Members be given 5 legislative days within which to revise and extend their remarks on House Resolution 1344.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. PERLMUTTER. I yield myself such time as I may consume.

Madam Speaker, House Resolution 1344 provides for consideration of H.R. 5116, the America COMPETES Act. It is a structured rule, making in order 54 amendments. It also provides 1 hour of general debate, equally divided between the chairman and ranking member from the Committee on Science. It considers the amendment in the nature of a substitute to be considered as an original bill. The rule waives all points of order against consideration of the motion except clause 9 and 10 of rule XXI. Finally, the rule provides authority to the chairman of the Committee on Science or his designee to move amendments en bloc.

Madam Speaker, our Nation's economy fell off a cliff in the fall of 2008. By the end of the Bush administration, we were losing at least 700,000 jobs a month. In the last month of the Bush administration, that number was up to 780,000 jobs in that month alone. Congress then, working in tandem with the Obama administration, passed various pieces of legislation to stabilize our economy in the short term and invest in various fields for the long-run growth of our country.

Fifteen months since the passage of the Recovery Act, we are seeing its impact. We went from 780,000 jobs lost the last month of the Bush administration to 290,000 jobs created in April 2010, a pretty significant swing given the fact that the loss was so drastic and so quick in the fall of 2008 and the first month of 2009. But we are not out of the woods yet. We are turning the tide.

This Congress recognizes no country on Earth can match the creativity, productivity, and hard work of the American entrepreneur. The America COMPETES Act builds upon this idea by investing in scientific research, industrial innovation, and hard science education. It gives our Nation's most creative scientists and engineers the resources they need to develop the breakthroughs which will change the world as we know it and make America even more competitive.

The bill reauthorizes programs in the National Science Foundation, the National Institute for Standards and Technology, and the Department of Energy to capture their full potential. This empowers our universities, which are undergoing tremendous strain as they weather the recent financial collapse.

In my own district, the Colorado School of Mines and the University of Colorado Health Science Center will have access to more funding to develop green energy, medical communications, and other technologies. The bill improves science, technology, engineering, and math education to ensure that our Nation's workforce has the training and know-how to maximize the investments that we make. It gives

our innovators the chance to compete for more resources so they can research, develop, commercialize, and eventually transform our economy.

As we speak, there are scientists, inventors, and engineers in our Nation who are devising the next groundbreaking advances. We cannot afford to let those ideas wither on the vine. So I urge the passage of the rule and the underlying bill, which will create jobs and solidify the foundation for the long-term growth and prosperity of the United States.

With that, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I would like to thank my friend, the gentleman from Colorado (Mr. PERLMUTTER), for the time. I yield myself such time as I may consume.

In order for the United States to compete in today's global marketplace and to spur long-term growth, we must invest in basic science research and development. In 2005, the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine, collectively known as the National Academies, published the report "Rising Above the Gathering Storm." The report concluded that the United States faces a serious challenge with regard to our future competitiveness and standard of living. That report led to the bipartisan enactment of the America COMPETES Act of 2007, which implemented the report's recommendations.

Today we are set to consider H.R. 5116, the America COMPETES Reauthorization Act of 2010. The bill reauthorizes the America COMPETES Act for 5 years, increases authorization spending levels to \$86 billion, and creates new programs.

I understand and I support the underlying principles of the America COMPETES Act, prioritizing and strengthening investments in basic research and development and STEM: science, technology, engineering, and mathematics education. But we need to have an economic strategy that encourages companies, businesses in the United States, to compete, to grow, and to hire new workers, a strategy that includes the streamlining of burdensome regulations, a strategy that reduces taxation, that brings our Federal spending under control, and controls the spiraling national debt.

□ 1300

So, Madam Speaker, as much as I would prefer to support the underlying legislation, I believe that at this time of severe budgetary constraints, the underlying legislation includes excessive spending levels.

The bill has an overall authorization of nearly \$86 billion, which represents approximately \$20 billion in new funding above the fiscal base of this year.

That is a significant increase when we're facing record budget deficits. And that is after the so-called stimulus bill injected 6 billion additional dollars into the agencies funded by this bill.

The current national debt projections and the majority's insatiable appetite for spending are unsustainable. And if we continue on that trajectory, the America that we know, love, and admire will be severely threatened. Our excessive spending threatens the very foundation of our economy and our way of life. We could very well find ourselves in a position, soon, similar to today's Greece.

As we saw last week when the House considered the legislation on credits for refurbishing homes by my friend from Vermont (Mr. WELCH), Congress is beginning to realize the magnitude of the Nation's fiscal problem—though the congressional majority leadership has not yet realized it or simply does not care.

I may have voted in favor of the underlying legislation if the majority, nevertheless, had allowed the House to consider and vote on amendments that would have reduced the spending levels on the bill.

For example, my colleague Representative MARIO DIAZ-BALART of Florida came before the Rules Committee yesterday to request that the committee allow the House to consider his amendment to cut the authorization of the bill from 5 years to 3 years. His amendment would have lowered the cost of the overall bill. It would also have given Congress the ability to come back in 3 years and determine if the legislation was achieving its intended purpose.

Perhaps if that amendment had been allowed, a number of Members like myself who are concerned about the uncontrolled spending of this majority could have voted for the bill. Instead, the majority in the Rules Committee decided that they would block consideration of the Mario Diaz-Balart amendment and also the Sessions amendment, amendments that sought to reduce the spending in the bill. Not only did they block the Diaz-Balart and Sessions amendments, they blocked out almost three-fourths of the Republican amendments submitted to the Rules Committee, while allowing nearly 90 percent of the Democrat amendments. So today we will consider four Republican amendments and 48 Democrat amendments. That's quite a contrast.

It's especially glaring when you consider that we were told that it would not be this way. The distinguished Speaker promised the American people that her party would run the most open and bipartisan Congress in history; yet week after week the majority continues to block an open process. We have yet to consider even one open rule during this entire Congress—not even

on the historically open appropriations process. It is quite sad.

I reserve my time.

Mr. PERLMUTTER. Madam Speaker, I would like to respond to a couple of the things my friend from Florida said.

First, I'd remind him that at the end of the Clinton administration there was a budget that was balanced. There was, in fact, a surplus going forward; but under the Bush administration with tax cuts for the wealthiest, the prosecution of two wars without paying for them, and a financial sector in total disarray at the end of the Bush administration, the Obama administration inherited a \$1.3 trillion deficit.

But in moving forward with the actions taken by this Congress to stabilize the financial system and put people back to work, there's been a swing now from the last month of the Bush administration, where almost 800,000 jobs were lost, to a gain last month of 260,000, well over a million-job swing towards putting this country back on track. That will assist with revenues as the economy gets better. That deals with budget deficits.

My friend is right. We have to look at the spending that this country is engaging in, but we have got to put people back to work. This America COMPETES Act does that by building on our science foundation. We have, in this bill, endorsements and support from virtually every kind of company and association possible, from business associations like the U.S. Chamber of Commerce, the National Association of Manufacturers, TechNet, et cetera, to various societies, the American Association for the Advancement of Science, university associations as well, and a whole host of businesses, because they know how important this bill is towards the investment that we're going to make in the future for this country. But it's jobs today.

With that, I would like to yield 2 minutes to my friend from Missouri (Mr. CARNAHAN).

Mr. CARNAHAN. Madam Speaker, I can't think of a better time than now to invest in America's can-do spirit. I would like to thank our chairman, BART GORDON, for his years of devotion working to ensure that America is prepared to compete globally.

America has been at the forefront of every technological innovation of the last century, and most of our jobs since World War II have been created by new technology and innovation. I believe we can continue to lead the world in innovation and technology, and my constituency in St. Louis, Missouri, can play a major role in that effort.

Earlier this morning, I spoke with Missourians closely watching our progress on this landmark innovation jobs bill, America COMPETES, including Washington University in St. Louis and the University of Missouri. Because of America COMPETES, these

two great universities will be able to work locally with teachers to spark interest in math and science for future generations, as well as to continue research looking into the next breakthrough technologies.

Today, I also heard from Chuck Gerding of Gerding Enterprises, a small specialty manufacturer from Dittmer, Missouri, who has been assisted by the Missouri Enterprise Program that helps small- and medium-sized manufacturers. America COMPETES would strengthen the Missouri Enterprise Program, helping manufacturers compete in the global economy and hire more workers.

The section of this bill I am particularly proud of will strengthen regional economies through Energy Innovation Hubs to help advance the U.S. transition to a clean energy economy and to support the growth of new sectors of the economy and jobs that come with them. In order for the U.S. to remain competitive, we need to invest in the technologies now that will create jobs immediately and make our economy stronger for the long term.

The America COMPETES Act will strengthen how America competes and empower American innovation.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I want to thank my friend, Mr. PERLMUTTER, for reminding us of the Clinton years.

I was elected to Congress when President Clinton was elected President. Two years later, we, the Republicans, captured the majority here in the Congress, and I remember how we had to fight tooth and nail to balance the budget. President Clinton never submitted a budget with a deficit less than \$200 billion a year. I remember ad infinitum his budgets at least had \$200 billion of deficits. It used to be, Madam Speaker, that \$200 billion was a lot of money for a deficit. And I remember how this Congress had to fight day in and day out, and we finally achieved, in very arduous negotiations with the executive, a balanced budget. So that's the record.

I would like, at this point, to yield such time as he may consume to the distinguished ranking member of the Rules Committee from California (Mr. DREIER).

Mr. DREIER. Madam Speaker, I thank my friend for yielding.

I rise in strong opposition to this rule and in strong support of Muftiah McCartin. And I'd like to begin by outlining my opposition to the rule, and then I'm going to take some time to talk about my support of Muftiah McCartin.

Madam Speaker, my friend from Miami is absolutely right when he focuses on the need and the importance for us to be fiscally responsible. My friend from Colorado has made the same argument: Everyone around here regularly decries wasteful Federal spending.

Now, this bill is extraordinarily well-intentioned, and as I said in the Rules Committee yesterday, I've been a strong supporter of the STEM concept. Science, technology, engineering, and math are very high priorities. If we, as a nation, are going to remain competitive in this global economy, it is absolutely imperative that we do all that we can to focus on STEM education.

The concern with this measure is the fact that it's \$22 billion over the baseline, going up to \$86 billion. I was asked in the Rules Committee hearing yesterday by the chairman of the Science Committee what level I believe to be appropriate as we focus on STEM education, and that area would be at least at that baseline level, which would take the \$86 billion in funding and bring it down to what would be \$64 billion. That would be a more acceptable level. Why? Because, while we know how important this is, we also know that if we don't focus on our spending that has been going on for so many years under both political parties, we're not going to be able to compete globally at all.

Now, there are other concerns about this measure. I have just obviously been talking about the amendment that the manager on this side's brother—he simply described him as his "colleague." He also happens to be his brother, MARIO DIAZ-BALART, who very thoughtfully came before the Rules Committee, and that amendment was not made in order.

Mr. BILBRAY, sitting behind me, has an amendment focusing on the very important issue of ensuring that people who work in this country are here legally.

And, of course, the very, very, very important issue that the ranking member of this committee, RALPH HALL, brought before the Rules Committee. By unanimous vote in the Committee on Science and Technology, they incorporated language to ensure that there would be a prioritization of those 59,700 disabled veterans who want to have an opportunity to participate in the STEM program at the undergraduate level and 8,700 who want to have the opportunity to participate at the postgraduate level. That was agreed on by the committee, but, unfortunately, when the measure got before the Rules Committee, it was stricken. As Mr. HALL has described to me, some very, very watered-down version which does undermine the ability of our Nation's disabled veterans to be able to take advantage of this program the way they should is, in fact, denied.

And so the fact that these measures are not made in order, Madam Speaker, I am a strong opponent of this rule because I believe that we can do better. And as Mr. DIAZ-BALART said, having an open amendment process—which we have not had in this entire Congress—should have been the model for this bill

in light of the fact that it has, in the past, been reported out under suspension of the rules.

Now, having spoken about my opposition to the rule itself, Madam Speaker, I'd like to speak briefly about my support for Muftiah McCartin.

□ 1315

Madam Speaker, in 1976, she was obviously a child, and this institution was probably violating child labor laws when Muftiah McCartin came to work as a clerk in the Parliamentarian's Office. That is 34 years ago. In that 34-year period of time, she has had an amazing career which has been, from my perspective, capped by her service as the majority staff director of the House Rules Committee.

She was the first woman named as a parliamentarian back in 1991, and she has worked for both Republicans and Democrats on the House Appropriations Committee, and her work there was very important. As I said, the fact that she has come to the House Rules Committee is a very appropriate spot for her.

When she began her work, she pursued both her undergraduate and law degrees when she began in the 1970s, and has been able to utilize those skills extraordinarily well.

Madam Speaker, we are very sorry that she will be leaving us. In fact, unless there is a massive disruption in the operations of this institution through the week, this will be the last rule that will be considered on the House floor during her period of time. I do know that her husband, Terry, her four children, and her new grandchild will anxiously look forward to spending more time with her.

The Rules Committee, as we all know, Madam Speaker, tends to be a rough and tumble place, and Muftiah has had an extraordinarily good and close working relationship with those of us in the minority. When I had the privilege of being chairman of the Rules Committee, we worked extraordinarily closely with her in her role in the Parliamentarian's Office. And I know that things may still be rough and tumble within her family; it will certainly be a great joy for all of her family members to have her back. And so, Madam Speaker, I would like to extend congratulations to Muftiah McCartin for her extraordinary 34 years of service to this institution. And I know that her family is the only thing that she loves more than this place, which we all respect and love so much.

Mr. PERLMUTTER. Madam Speaker, I thank my friend from California for his remarks regarding Muftiah.

I now yield 3 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. I want to thank my colleague from Colorado for yielding me the time.

Madam Speaker, I rise in strong support of the rule for the America COMPETES Act, and more importantly, I also rise in strong support and to pay tribute to the staff director of the Rules Committee, Muftiah McCartin, as she finishes up her last week here in the House of Representatives and prepares to move on to a new phase in her life.

Madam Speaker, Muftiah is an amazing woman. She has worked in this body for 34 years, first in the Office of the Parliamentarian, then for the Appropriations Committee, and finally on the Rules Committee. She leaves as the top staffer on the Rules Committee, someone who not only made the trains run on time, but also someone who definitely worked through the dicey political and policy issues that the Rules Committee is required to work through.

Muftiah will be missed here in the House, but I can honestly say this body is better because of her hard work over the past 34 years. Over that time she has shown dedication and passion for this institution. Whether it was advising the presiding officer as parliamentarian, or working for Congressman OBEY and Chairwoman SLAUGHTER, Muftiah excelled at her job and helped us do our jobs better. But what we will miss most is the way Muftiah brings everyone together. She unified the Rules professional and associate staff. She made sure we, as Members of Congress, were prepared and ready to do the business at hand. But she also worked as both a mentor to her staff and to the associate staff. I can honestly say that I and my staff do our jobs better today because of Muftiah and the leadership that she has provided over the past few years in the Rules Committee.

And while she has spent the last three decades here in the House, she also has a life outside of this Chamber. She has a wonderful husband, Terry, four children, Marissa, Elaine, Sandra, and Luke. And she just became a grandmother for the first time, a young grandson named Thaddeus.

Madam Speaker, I was a staffer before I was elected to Congress, although I have to say that I started working here a few years after Muftiah started her career on the Hill. But I understand the role the staff play here, and I know this institution would not be the great body it is without the dedicated staff that puts so much of their lives into what we all do here. Muftiah embodies that dedication, and we are going to miss her.

Let me say, Madam Speaker, in conclusion, to Muftiah, I want to thank you for all the incredible work that you have done here. You will be missed, and we love you.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, we have great differences, great disagreements

often here on the floor of this House. Rare is the occasion when there is no debate, when there are no differences.

Muftiah McCartin enjoys the admiration of all Members on both sides of the aisle who have worked with her. She personifies the best of this institution. She personifies competence, professionalism, and courtesy. And as someone who has had the privilege of working with her, I thank her for her service and commend her for her professionalism, competence, and that courtesy.

So the best to you, Muftiah, and your family as you move on to other endeavors. You are an example of the wonderful men and women who have through the years made possible what this Congress gets accomplished. And so I join all of my colleagues in wishing Muftiah the best.

I yield 3 minutes to my distinguished friend and colleague from Georgia, Dr. BROWN.

Mr. BROWN of Georgia. Madam Speaker, I rise today in strong opposition to this rule.

I applaud the fact that 54 amendments were made in order, which is the most amendments that the Democratic leadership have allowed in a long time, maybe ever since they have been in control of this House of Representatives in the 110th Congress.

I am pleased that one of my amendments to remove some new programs that are in this bill will be debated later on this afternoon. However, at a time when our deficits are projected to remain above \$1 trillion for the foreseeable future, I can't understand why two of my other very important amendments dealing with fiscal responsibility were ruled out of order.

My first amendment would have simply changed the authorization level to 3 years from 5 years, and would have frozen spending to this year's levels, and it would save over \$45 billion of taxpayers' money. The 2007 COMPETES bill was originally a 3-year authorization. In these tough economic times, why are we expanding yet another Federal program?

My second amendment would have streamlined the overall COMPETES program by removing all of the newly created programs. Again, in these tough economic times, we can't do everything that we want to do. So we need to prioritize our resources while ensuring basic research in science.

Many of the new programs are duplicative of other existing programs. For example, the loan guarantees are similar to the Small Business Administration's loan guarantee program for which manufacturers are eligible. Also, the HUD program appears to be redundant with existing Department of Energy activities. These are only two examples of duplicative programs that are in this bill.

Expanding the size and cost of this reauthorization while creating duplicative

programs is not what the American people want and certainly not what they need. American families and American small businesses have been forced to make difficult spending decisions. Shouldn't the Federal Government do the same? We need to stop spending money that we do not have on new programs that further increase our ever-expanding debt.

Madam Speaker, our children and grandchildren are dependent upon us being fiscally responsible. This rule and this bill is not fiscally responsible. I urge my colleagues to reject this rule so that sensible amendments, like the two that I have discussed and others that Mr. DIAZ-BALART discussed, can be included in this important debate.

Mr. PERLMUTTER. Madam Speaker, I say to my good friend, Congressman BROWN, that he has forgotten that this bill satisfies the PAYGO rules which CBO has scored at zero, so that there is not an increase, a rule that my friends on the Republican side of the aisle eliminated, which helped drive up the debt of this country.

And I would just say to my friend, the investments that are being made in science and technology and in the education of scientists and engineers and mathematicians is the kind of investment for the long-term health of this country that has to be made right now.

I yield to my friend from California (Ms. MATSUI) 2 minutes.

Ms. MATSUI. I thank the gentleman from Colorado for yielding me time.

Madam Speaker, I rise today in support of the rule and the underlying legislation.

Investing in research and STEM education will help our country take the lead in scientific, technological, and economic advancements. This bill will also assist my hometown of Sacramento, where we are positioned to become a leader in the clean technology sector. That is why I am pleased that Chairman GORDON has pledged to support two smart grid-related amendments that I plan to offer to the bill.

My first amendment will ensure that new smart grid technologies are an important part of the Department of Energy's research and development. My second amendment will ensure that smart grid technologies are included in the list of research and development activities undertaken by the Department of Energy innovation hubs. Both of these amendments will be extremely valuable to Sacramento's continued leadership in the field of smart grid technologies.

Now, Madam Speaker, I just want to take a moment to recognize the departing staff director of the Rules Committee, Muftiah McCartin, Muf, affectionately known, has steered the Rules Committee through a challenging period, and she has done so with skill and grace. We all know that the Rules

Committee can sometimes be a very contentious place. I know I speak for my staff and for my colleagues when I say that Muftiah will be sorely missed on the Rules Committee. We all wish her the very best in her new position. And thank you for your very hard work, Muftiah, and your dedication. And enjoy the next chapter of your life.

Mr. LINCOLN DIAZ-BALART. Madam Speaker, I yield 3 minutes to my friend from California (Mr. BILBRAY).

Mr. BILBRAY. Madam Speaker, as a member of the committee of jurisdiction, I have been trying to work in a bipartisan effort with this bill. I want to support this bill even though it has an \$85.6 billion price tag. But sadly, the fact is that, just trying to do some of those little things that the American people want us to move forward, commonsense things, like making sure that the \$85.6 billion, that no portion of that is going in to financing illegal behavior such as illegal employment, sadly, the Rules Committee has said we don't have time to bother with assuring the American people that their money is not going to be spent in the commission of a crime of illegal employment.

It is bad enough, Madam Speaker, that we have a bill that does not specifically require anyone who gets Federal funds or Federal grant guarantees to do the thing that you and I do as Members of Congress, the Federal Government does, that every contractor does since President Obama has mandated; this bill doesn't require that the recipients of Federal funds under this program have to make sure they check the employment status of somebody before they start paying them with Federal funds. Common decency.

But what is worse than that, Madam Speaker, is the Rules Committee has denied both sides of the aisle the ability to vote on this issue. The Rules Committee has denied us the ability, as Republicans and Democrats and Independents, to go on record with the American people and say, look, we want to make sure that your money is not spent for illegal activities such as illegal employment.

I tried to work across the aisle on this issue. I have worked with Chairman GORDON on this issue. All we asked was the common decency to give Democrats and Republicans the ability to go on record and do a little thing that the American people have been demanding for much too long, and that is, when you spend money, even if it is more than we want, make sure that you are not financing the violation of Federal law. That is all I asked. But the Rules Committee couldn't find the decency to allow a bipartisan vote on something that is so commonsense, so common decency, as to make sure that we keep our promise to the American people, that we uphold the Constitu-

tion, and make sure that our Federal funds are not engaged in illegal activity.

□ 1330

Madam Speaker, sadly, that is where I am today. I like a lot of this bill. But if you ask me to go back to San Diego and face off my constituents—right, left, Republican, Democrat—how can I look at them with a straight face and say, I've done everything I can to make sure your money is spent appropriately and legally. Sadly, this rule does not require that little bit of common decency of making sure the constituency gets legal expenditure of their \$85.6 billion. That's the price tag of not being bipartisan leadership.

Mr. PERLMUTTER. Madam Speaker, I would say to the gentleman from California, it is common sense. The Rules Committee understands that Federal funds can only be used for legal purposes. That must be in the statutes 550 times. So he just wants to have a little more redundancy in the law.

With that, I would like to yield 3 minutes to my friend from Colorado (Mr. POLIS).

Mr. POLIS. Madam Speaker, I thank my colleague from Colorado.

Madam Speaker, I rise today in support of H.R. 5116, the America COMPETES Reauthorization Act of 2010. I commend Chairman GORDON on his hard work and his leadership on this important legislation. This bill is the product of our Nation's understanding that economic prosperity and international competitiveness is the result of American innovation and forward thinking. I'd also like to address the comments made by my colleague from California, as well. As the gentleman from California is aware, there is in fact widespread violation of Federal laws that are out of touch with reality with regard to immigration. We don't know who is here, what they're doing, where they are going. The America COMPETES Act, of course, is not the proper legislative vehicle for addressing that, but I do encourage my colleague from California to join me and many others in sponsoring comprehensive immigration reform, which will ensure, going forward, no one works in this country illegally and that we have a way of tracking who is here and enforcing the rule of law across this Nation.

I want to take this opportunity to thank Muftiah McCartin of our Rules Committee. She is our Rules Committee staff director—the only Rules Committee staff director that I have known in my time in Congress who, as you know, is leaving us. On many occasions, Muftiah has trekked to the fifth floor of Cannon, where my office is, and advised my staff and me on important issues and parliamentary procedures and asked us our questions and concerns and addressed them promptly. Of

course, when I found out today in these remarks that she had been here 34 years, I began to think it was a different Muftiah than the one I know that is retiring. I find it hard to believe that our Muftiah McCartin has worked in this wonderful building for 34 years. Perhaps that time is calculated because she frequently works until midnight, or even until 3 in the morning. I have borne witness to that. Perhaps for every year she works, it's counted as 2 years time in, because that's the only logical explanation that I was able to figure out for how she could have possibly worked in this body for 34 years and is moving on to other opportunities.

Her dedication to this body, this institution, this committee, both in her current job and previous jobs, is something that I hope we all strive to emulate with our accomplishments on committee and the House floor, which are really a great testimony to her commitment of many years. As a freshman member of the Rules Committee, she's repeatedly assisted me and our colleagues on the sometimes Byzantine legislative processes and has worked tirelessly to ensure that our Members and districts have been able to walk away with success.

Thank you, Muftiah, for your service. You will be sorely missed.

Mr. PERLMUTTER. Madam Speaker, I would ask how much time each side has remaining.

The SPEAKER pro tempore. The gentleman from Colorado has 13½ minutes remaining. The gentleman from Florida has 8½ minutes remaining.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I reserve the balance of my time.

Mr. PERLMUTTER. Madam Speaker, I would yield 2 minutes to my friend from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Madam Speaker, I thank my good friend and colleague on the Rules Committee for yielding the time.

Madam Speaker, I rise today in support of this rule and the underlying legislation. But I would also like to take a brief moment to bid a fond farewell to Muftiah McCartin, the staff director of the Committee on Rules. We've heard that she's done this for 34 years. I came in contact with her first when she was with the Office of the Parliamentarian. She was as diligent then and hardworking as she has been with us. Muftiah has been an asset to this body and it is better for her having served here as a staff member of the Rules Committee.

I've personally, as you've heard my other colleagues say, relied on her more times than I can count. And I do need to say that I'm speaking for Fred, David, Alex, Lale, and the entire staff in my office. She combines a vast knowledge of congressional procedures with an unflappable patience, putting



both Members and staff alike at ease when approached about complicated legislative matters, even during the most politically heated moments.

More admirable than her remarkable career in the House, however, is her incredible devotion to her family. While spending seemingly countless hours at work, she's also managed to raise, with her husband Terry, four beautiful children—Marissa, Elaine, Sandra, and Luke—and is now a grandmother as well. I remember when she was at the Parliamentarian's Office when she was carrying one of those children. I didn't know how she was able to do it.

After her years of service to the Rules Committee and to the House of Representatives, Muftiah is leaving us to embark on the next chapter of her professional career. You're going to be missed, Muf, but I—and I'm sure all of my colleagues—wish you much happiness and success in your future endeavors, and my great hope is that you will continue to flourish.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I continue to reserve the balance of my time.

Mr. PERLMUTTER. Madam Speaker, I would like to now yield 2 minutes to the gentleman from Florida (Mr. KLEIN).

Mr. KLEIN of Florida. Madam Speaker, I thank the gentleman from Colorado for his leadership on the America COMPETES Act. I rise in strong support of the rule and the America COMPETES Act itself. I believe it will play an integral role in creating jobs and turning our economy around. I also rise in support of an amendment which I introduced, which has been made in order under the rule, to instruct the director of the Hollings Manufacturing Extension Partnership to evaluate challenges that are unique to small manufacturers and facilitate improved communication between the MEP centers so they can readily share with one another which solutions best address particular problems faced by small firms, which really are the bulk of the types of manufacturing businesses in my district in Florida.

In my meetings with many of the manufacturers in Palm Beach and Broward Counties in Florida, as well as the South Florida Manufacturing Association, I've been told that while MEP services are helpful for some businesses, they often have greater expertise in developing business solutions for medium- to large-sized businesses. Small manufacturers, such as Uniworld, which is in Fort Lauderdale, a family-owned business which has been run by a World War II veteran and his two sons for many years, make up a large sector of the manufacturing firms in Florida, and as a result, they are critical to our industrial and technological competitiveness. In these challenging times, small manufacturers in my home State have faced many obstacles,

financing being one of them, but many of the support services by the MEPs can truly make a difference to our small manufacturers as well.

While basic research investment is important to advancing our Nation's innovation infrastructure, we must build and sustain a strong manufacturing base in the United States which will bridge the gap between research and commercial development of new technologies. That's where these small manufacturing businesses and the MEPs together can accomplish that goal. Under my amendment, we will be able to provide increased assistance to reduce manufacturing costs and increase productivity, thereby allowing our small manufacturing base businesses to significantly improve their bottom line.

I thank the gentleman for yielding the time, and urge a "yes" vote on this amendment and the underlying bill.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I continue to reserve the balance of my time.

Mr. PERLMUTTER. Madam Speaker, I would just reiterate what Mr. KLEIN from Florida was saying about the purpose and the need for this bill at this time in this legislation. The America COMPETES Act is about moving this country forward, making sure that for the next 20 years we continue to have a strong science and engineering and technological future for the country. The bill, as we said, provides all sorts of funding to the National Science Foundation, to NIST, to NOAA, and to the Department of Energy, so that we can do research in a whole variety of ways across this country through our universities and other kinds of facilities and institutions of higher learning.

Now I guess I'd like to speak on behalf of Muftiah—or speak to Muftiah. Many people have presented a lot of accolades that I can't top. But what I can say is, as a new member to the Rules Committee, that we have had some very contentious, rough and tumble bills, to use a couple of the terms Mr. DREIER used, Ms. MATSUI, but we can look to Muftiah—I can look to Muftiah—to give good advice and to bring a calming influence to the committee and certainly to me as we were going through the whole list of parliamentary procedures—what's in order, what's not in order, why is it in order. She has stood out as somebody who really knows the rules, understands the policy, and is willing to work with both sides of the aisle and with all the members certainly on the Democratic side of the Rules Committee to make sure we do the best job that we can do. I thought I brought a lot of experience from the practice of law, having served also in the legislature in Colorado. But the rules and the approach that's taken in the Congress, there are many more layers and many more things that have to be understood.

I would say to you, Muftiah, you are a heck of an adviser. You are a great teacher. I just wish you the best, as I know all the other members of the Rules Committee and the Members of the House just wish you the best in whatever you do, whether it's practicing law or raising your family or just enjoying life, because we put in a lot of hours. Thank you very much.

With that, I would like to yield 1 minute to the Speaker of the House, the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Madam Speaker, I thank the gentleman for yielding. Before I begin my remarks on the legislation before us today, I want to join my colleagues in saluting the wonderful work of Muftiah McCartin. She began her work on the Hill—it couldn't be 1976. I can't believe that. She has worked on the Appropriations Committee and is now leaving her tenure as staff director on the Rules Committee.

We all know that she loves this institution. She has poured her heart and soul into her work. We were all so proud when she became the staff director of the Rules Committee. Her policy and technical expertise have served both sides of the aisle over many years. She is a mother of four children. It's hard to imagine she is now a grandmother. We have been blessed with her service over many, many years. She will be sorely missed.

Muftiah, thank you very much for all that you have done. This is coming as news to me, by the way, so I'm quite taken aback by the fact that you're leaving us. But thank you for your service. I wish you well in the future. We have been very blessed by your service. Congratulations on where you're going next.

Madam Speaker, 10 years ago, President Kennedy summed up America's commitment to innovation when he launched the "man on the Moon initiative" to send a man to the Moon and back—in those days, they said a man—but a man to the Moon and back safely in 10 years. At that time, he said, "The vows of this Nation can be fulfilled only if we are first, and therefore, we intend to be first. Our leadership in science and industry, our hopes for peace and security, our obligations to ourselves as well as others, all require us to make this effort."

□ 1345

Over the past half century since then, Americans have lived up to these words. Science and technological innovation have formed the backbone of our progress as a people and our prosperity as a Nation. And today in passing this innovation bill, this COMPETES Act, we are reaffirming our leadership in science and in industry, and we are keeping America first.

Few have done more for the cause of innovation in the Congress than Chairman BART GORDON, and I'm sorry he is



not on the floor yet—he will be momentarily to manage this bill—who was first in sounding the alarm and heeding the call of the report, “Rising Above the Gathering Storm.” That was a report presented by a great innovation leader, Norm Augustine, and the National Academy of Sciences. It provoked us to send a team of Members, legislators around the country.

Congresswoman ANNA ESHOO and Congresswoman ZOE LOFGREN from the Silicon Valley invited Chairman GEORGE MILLER, chairman of the Democratic Policy Committee and the Education and Labor Committee, to a meeting at Stanford University to launch a series of meetings in a bipartisan way to develop an innovation agenda.

We met, of course, with academics. We met with workers. We met with venture capitalists to see where the private dollar would go because we believed that this had to be a market-oriented initiative to build the competitiveness of America. We met with every aspect of putting together an innovation agenda, and we met all across the country to do that. We had particularly strong presentations from members of the Asian American community who were quite impatient with the lack of progress that was happening in terms of public policy, and that accelerated the pace of our time table for this.

So what came from that was the COMPETES Act that Chairman BART GORDON was instrumental in bringing to the floor in 2007. We had strong bipartisan support in passing that legislation, I am pleased to say. And again, we are here today to reauthorize the COMPETES Act, to spur innovation, invest in cutting-edge research, modernize manufacturing, and increase opportunity. And I thank you for your remarks, Mr. PERLMUTTER, and your leadership on this subject as well.

As a result, new industries will provide good jobs for our workers, markets for American products will expand, we will reassert our leadership throughout the world and give future generations a better chance to realize the American Dream. It's about jobs, jobs, jobs, jobs.

Simply put, this legislation supports our efforts to keep America number one, following President Kennedy's lead to keep America first and following the call of President Obama at his inauguration for swift, bold action now to do just that. The COMPETES Act will keep our Nation on the path that we promised, to double the funding for the scientific research over 10 years, create jobs with innovation technology loan guarantees for small- and medium-sized manufacturers and enhanced manufacturing extension partnerships—these MEPs are a very valuable tool for job creation, promote regional innovation clusters—this is

new—that strengthen regional economies and expand scientific collaboration, and invest in high-risk/high-reward research through ARPA-E—again, this is a major initiative of Mr. GORDON—helping ensure American energy independence.

Since we know that innovation begins in the classroom, I want to commend Mr. MILLER for yielding to Chairman GORDON because we didn't want this bill held up by one jurisdiction or another of committee, and Mr. GORDON has carried that principle that innovation begins in the classroom, and we have those considerations in the bill. This bill will help raise up the next generation of entrepreneurs by improving science, math, technology and engineering education at all levels. It will also train young people to think in an entrepreneurial way and will secure a central role for women and minorities in these fields.

As we go forward with this innovation—we had the industrial revolution, we had the technological revolution, and now we have this revolution—we want to do so in a way that brings everyone into the fullest participation in the new prosperity of America and will strengthen and diversify our workforce as, again, we create jobs, jobs, jobs, and jobs.

In this Congress, in addition to jobs, jobs, jobs, jobs, which is a four-letter word we use all the time, there are four words that describe our agenda. They are: science, science, science and science. Science to provide health care for all Americans. And in our health care bill that we passed and in the Recovery Act of last year, we have major investments in science and technology to make America healthier; science to keep America number one in innovation. In the new technologies to protect the environment and the rest, we have to be competitive. Science and technology will take us there; science to keep our air clean and our water clean for our children and the safety of the environment in which they live; and science to promote our national security by reducing our dependence on foreign oil and to advance the technologies to keep us preeminent in terms of our country's defense.

This bill comes down to good-paying jobs for Americans, strong American leadership in the global economy and long-term growth for America's workers and families. It does so in a way that doesn't just put people back to work as we are trying to address the need for more jobs. It puts them back to work in better jobs. It puts more people to work, some who have been unemployed no matter how well educated they are or how economically deprived their areas have been. Some of this is really ground floor, ground floor. We're bringing women, minorities, people from urban areas and rural areas, again, people with a wide range

of educational backgrounds but with a prospect for great success.

So with this, we are not just solidifying the disparities in our economy. We are opening up avenues for, again, everyone to participate in the prosperity for our country.

With that, Madam Speaker, I urge all of our colleagues to make a very strong bipartisan vote for jobs, for science, and to keep America number one by voting for the COMPETES Act.

Mr. LINCOLN DIAZ-BALART of Florida. I continue to reserve the balance of my time.

Mr. PERLMUTTER. Madam Speaker, I yield 1 minute to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. I thank the gentleman for yielding. I rise in strong support of the rule on the COMPETES Act, and I will speak later on the bill itself.

But I rise to pay tribute to Muftiah McCartin. Muftiah is a good friend of mine, so I want you to take this as a totally subjective analysis. I don't pretend to be objective. I think Muftiah McCartin is one of the most able people with whom I have worked during the 30 years I have been here. Muftiah came here when she was just a child 35 years ago and has served this institution extraordinarily well during that period of time. She served the Parliamentarians that I have served with myself, Bill Brown and Charlie Johnson and John Sullivan, and she did so with extraordinary skill.

Our Parliamentarian's Office, for those who have the opportunity to watch us, are the truest nonpartisan, bipartisan people that we have in this institution, who give both sides advice and counsel as to how to conform to the rules and how to conduct business in the most appropriate fashion. Muftiah McCartin was a giant in that service. She cares deeply about this institution and all its Members, not from a partisan sense but from an institutional sense. She has served the American people extraordinarily well, and what an example of success she is.

She came here shortly after high school, working here, and went to night school to get her undergraduate degree and completed her law degree in night school. She showed the same tenacity that warranted the private sector wanting her to come and be with them. Her service to this institution cannot be calculated in any kind of numbers of years served. Her service to this institution is measured by the commitment she made to each and every one of us and to this institution.

Perhaps Terry, her husband, and her four children—her three girls and Luke—will have more time now with Muftiah because she was with us around the clock sometimes. When I first came here, we didn't have a rule that said you have to end at 12 o'clock. When I first came here in the early eighties, as Mr. RANGEL will recall and

Muftiah I know will recall, we sometimes went until 3 o'clock, 4 o'clock or 5 o'clock in the morning. They went home quickly and then came right back here to open the session at 9 o'clock or 10 o'clock, and of course they had to be here an hour or so earlier than that.

Muftiah, we cannot possibly—if I took an hour, which I could take with my 1 minute as majority leader—but if I took that hour or if I took multiple hours, I could not express the depths of our gratitude to you or the respect we have for the professionalism that you have demonstrated in the performance of your duties and the extraordinary affection we have for you as our friend, as our colleague. And we wish you the very, very best of success in the years ahead. God bless you, and thank you.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I thank my friend, Mr. PERLMUTTER, for his courtesy and for his management on the majority side of this rule.

While reiterating that I am so pleased that Members on both sides of the aisle have joined to commend and wish the best to Muftiah McCartin, with regard to the legislation that we are bringing to the floor with this rule, I would say, Mr. Speaker, while not minimizing its importance because I think it's obviously dealing with a very important set of subjects that enjoy bipartisan support in this Congress, I would bring to the attention once again of all Members what we saw last week with legislation on—I believe it was a \$6 billion tax credit to allow—I remember it was a credit for home refurbishings, brought to the floor by my good friend Mr. WELCH. And I noticed at that time a—I think it was a change in attitude.

I was impressed. I was certainly impacted by what I perceived as a change in the Congress on what normally I think would have faced little opposition. Certainly it would have been expected that that legislation would have faced little opposition. We saw—what I saw, what I perceived was a ground swell of concern on the spending. You know, refurbishing one's home and encouraging citizens to refurbish their homes to keep them energy efficient, you know, that's not something that in itself would have opposition. It was the spending that touched a nerve because of the moment we're living. And so with the legislation that we bring to the floor today that is being increased from the basic spending by about \$20 billion, I certainly would not be surprised if we see a similar nerve being touched. That doesn't mean that the subject is not of great importance.

□ 1400

Science, education, keeping the U.S. leading edge, cutting edge in so many ways, that is obviously something that has enjoyed bipartisan support, and it

should. But I think the majority is failing to sense that moment that the Nation at large and the Congress now is finally manifesting or reacting to. There is concern about the path we are on with regard to spending.

Having said that, I again thank Mr. PERLMUTTER for his courtesy and management of this rule, as well as thanking all who have participated in this debate today.

I yield back the balance of my time. Mr. PERLMUTTER. Mr. Speaker, I thank my friend for his courtesy in how he debates these bills, debates the rules; I just appreciate that. But he and I differ very much on the passage of this rule. This rule and this bill should be passed.

In listening to some of my friends on the Republican side of the aisle who are wanting to draw back, wanting to draw down at a time when America must really move forward, must look to its long-term future and towards its prosperity and its ability to compete in the world, this is the rule and this is the bill that moves us forward, with its investments in science and technology and math and engineering. Those are very key things.

It reminds me of those who would have asked Abraham Lincoln to stop building the dome and rebuilding this Capitol during the Civil War because of its costs and the country should look towards the Civil War and worry about that. Legitimate concerns, but President Lincoln said: No, this country is going to succeed. Its long-term prosperity is going to occur, and I am going to keep moving forward with the construction of the dome of the Capitol. I'm not going to back off.

We in this country, Americans, look forward. We are a forward-looking people. We believe in our future, and there is no place like continuing to build our abilities in science, technology, math, and engineering. That is the place where we have to start putting our investments. It is jobs today, and it is long-term investment in the prosperity and success of this country.

Mr. Speaker, I urge a "yes" vote on the previous question and on the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. CAPUANO). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on agreeing to House Resolution 1344 will be followed by 5-minute votes on suspending the

rules with regard to H.R. 5014 and House Concurrent Resolution 268.

The vote was taken by electronic device, and there were—yeas 243, nays 177, not voting 10, as follows:

[Roll No. 259]

YEAS—243

Ackerman	Green, Gene	Oberstar
Adler (NJ)	Grijalva	Obey
Altmire	Gutierrez	Olver
Andrews	Hall (NY)	Ortiz
Arcuri	Halvorson	Owens
Baca	Hare	Pallone
Baird	Harman	Pascarelli
Baldwin	Hastings (FL)	Pastor (AZ)
Barrow	Heinrich	Payne
Bean	Herseth Sandlin	Perlmutter
Becerra	Higgins	Perriello
Berkley	Himes	Peters
Berman	Hinchey	Peterson
Berry	Hinojosa	Pingree (ME)
Bishop (GA)	Hirono	Polis (CO)
Bishop (NY)	Hodes	Pomeroy
Blumenauer	Holden	Price (NC)
Bocchieri	Holt	Quigley
Boren	Honda	Rahall
Boswell	Hoyer	Reyes
Boucher	Inslee	Richardson
Boyd	Israel	Rodriguez
Brady (PA)	Jackson (IL)	Ross
Braley (IA)	Johnson (GA)	Rothman (NJ)
Brown, Corrine	Johnson, E. B.	Roybal-Allard
Butterfield	Kagen	Ruppersberger
Capps	Kanjorski	Rush
Capuano	Kaptur	Ryan (OH)
Cardoza	Kennedy	Salazar
Carnahan	Kildee	Sanchez, Linda
Carson (IN)	Kilpatrick (MI)	T.
Castor (FL)	Kilroy	Sanchez, Loretta
Chandler	Kind	Sarbanes
Childers	Kirkpatrick (AZ)	Schakowsky
Chu	Kissell	Schauer
Clarke	Klein (FL)	Schiff
Clay	Kosmas	Schrader
Cleaver	Kratovil	Schwartz
Clyburn	Kucinich	Scott (GA)
Cohen	Langevin	Scott (VA)
Connolly (VA)	Larsen (WA)	Serrano
Conyers	Larson (CT)	Sestak
Cooper	Lee (CA)	Shea-Porter
Costa	Levin	Sherman
Costello	Lewis (GA)	Sires
Courtney	Lipinski	Skelton
Crowley	Loebuck	Slaughter
Cuellar	Lofgren, Zoe	Smith (WA)
Cummings	Lowey	Snyder
Dahlkemper	Lujan	Space
Davis (CA)	Lynch	Speier
Davis (IL)	Maffei	Spratt
Davis (TN)	Maloney	Stark
DeFazio	Markey (CO)	Stupak
DeGette	Markey (MA)	Sutton
Delahunt	Marshall	Tanner
DeLauro	Matheson	Taylor
Deutch	Matsui	Teague
Dicks	McCarthy (NY)	Thompson (CA)
Dingell	McCollum	Thompson (MS)
Doggett	McDermott	Tierney
Doyle	McGovern	Titus
Driehaus	McIntyre	Tonko
Edwards (MD)	McMahon	Towns
Edwards (TX)	McNerney	Tsongas
Ellison	Meek (FL)	Van Hollen
Ellsworth	Melancon	Velázquez
Engel	Michaud	Visclosky
Eshoo	Miller (NC)	Walz
Etheridge	Miller, George	Wasserman
Farr	Minnick	Schultz
Fattah	Mollohan	Waters
Filner	Moore (KS)	Watson
Foster	Moore (WI)	Watt
Frank (MA)	Moran (VA)	Waxman
Fudge	Murphy (CT)	Weiner
Garamendi	Murphy (NY)	Welch
Giffords	Murphy, Patrick	Wilson (OH)
Gonzalez	Nadler (NY)	Woolsey
Gordon (TN)	Napolitano	Wu
Grayson	Neal (MA)	Yarmuth
Green, Al	Nye	

NAYS—177

Aderholt	Alexander	Bachmann
Akin	Austria	Bachus

Bartlett  
Barton (TX)  
Biggert  
Billbray  
Bilirakis  
Bishop (UT)  
Blackburn  
Blunt  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boustany  
Brady (TX)  
Bright  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Carter  
Cassidy  
Castle  
Chaffetz  
Coble  
Coffman (CO)  
Conaway  
Crenshaw  
Culberson  
Davis (KY)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Donnelly (IN)  
Dreier  
Duncan  
Ehlers  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Fox  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach

## NOT VOTING—10

Barrett (SC)  
Carney  
Cole  
Davis (AL)

Hoekstra  
Jackson Lee  
(TX)  
Meeks (NY)

Rangel  
Souder  
Wamp

□ 1431

Messrs. DANIEL E. LUNGREN of California and PETRI changed their vote from “yea” to “nay.”

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## CLARIFYING MINIMUM ESSENTIAL COVERAGE

The SPEAKER pro tempore (Mr. CUELLAR). The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 5014, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. LEVIN) that the House suspend the

rules and pass the bill, H.R. 5014, as amended.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 13, as follows:

[Roll No. 260]

## YEAS—417

Ackerman  
Aderholt  
Adler (NJ)  
Akin  
Alexander  
Altmire  
Andrews  
Arcuri  
Austria  
Baca  
Bachmann  
Bachus  
Baird  
Baldwin  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggert  
Billbray  
Bilirakis  
Doyle  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Bocieri  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Bright  
Broun (GA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Capps  
Capuano  
Cardoza  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa

Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Deutsch  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill

McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Owens  
Pallone  
Pascarella  
Pastor (AZ)  
Paul  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)

## NOT VOTING—13

Barrett (SC)  
Carnahan  
Carney  
Cole  
Davis (AL)

Hoekstra  
Jackson Lee  
(TX)  
Meeks (NY)  
Melancon

Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Stupak  
Sullivan  
Sutton  
Tanner  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Titus  
Tonko  
Towns  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

□ 1439

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining to vote.

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PUTNAM. Madam Speaker, on rollcall No. 260, I was unavoidably detained. Had I been present, I would have voted “yea.”

## NATIONAL WOMEN'S HEALTH WEEK

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the concurrent resolution, H. Con. Res.

268, on which the yeas and nays were ordered.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. Towns) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 268.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 12, as follows:

[Roll No. 261]

YEAS—418

Ackerman	Clarke	Grayson
Aderholt	Clay	Green, Al
Adler (NJ)	Cleaver	Green, Gene
Akin	Clyburn	Griffith
Alexander	Coble	Grijalva
Altmire	Coffman (CO)	Guthrie
Andrews	Cohen	Gutierrez
Arcuri	Conaway	Hall (NY)
Austria	Connolly (VA)	Hall (TX)
Baca	Conyers	Halvorson
Bachmann	Cooper	Hare
Bachus	Costa	Harman
Baird	Costello	Harper
Baldwin	Courtney	Hastings (FL)
Barrow	Crenshaw	Hastings (WA)
Bartlett	Crowley	Heinrich
Barton (TX)	Cuellar	Heller
Bean	Culberson	Hensarling
Becerra	Cummings	Herger
Berkley	Dahlkemper	Herseth Sandlin
Berman	Davis (CA)	Higgins
Berry	Davis (IL)	Hill
Biggert	Davis (KY)	Himes
Bilbray	Davis (TN)	Hinche
Bilirakis	DeFazio	Hinojosa
Bishop (GA)	DeGette	Hirono
Bishop (NY)	Delahunt	Hodes
Bishop (UT)	DeLauro	Holden
Blackburn	Dent	Holt
Blumenauer	Deutch	Honda
Blunt	Diaz-Balart, L.	Hoyer
Boccieri	Diaz-Balart, M.	Hunter
Boehner	Dicks	Inglis
Bonner	Dingell	Inslee
Bono Mack	Doggett	Israel
Boozman	Doyle	Issa
Boren	Dreier	Jackson (IL)
Boswell	Driehaus	Jenkins
Boucher	Duncan	Johnson (GA)
Boustany	Edwards (MD)	Johnson (IL)
Boyd	Edwards (TX)	Johnson, E. B.
Brady (PA)	Ehlers	Johnson, Sam
Brady (TX)	Ellison	Jones
Braley (IA)	Ellsworth	Jordan (OH)
Bright	Emerson	Kagen
Broun (GA)	Engel	Kanjorski
Brown (SC)	Eshoo	Kaptur
Brown, Corrine	Etheridge	Kennedy
Brown-Waite,	Fallin	Kildee
Ginny	Farr	Kilpatrick (MI)
Buchanan	Fattah	Kilroy
Burgess	Filner	Kind
Burton (IN)	Flake	King (NY)
Butterfield	Fleming	Kingston
Buyer	Forbes	Kirk
Calvert	Fortenberry	Kirkpatrick (AZ)
Camp	Foster	Kissell
Campbell	Fox	Klein (FL)
Cantor	Frank (MA)	Kline (MN)
Cao	Franks (AZ)	Kosmas
Capito	Frelinghuysen	Kratovil
Capps	Fudge	Kucinich
Capuano	Gallegly	Lamborn
Cardoza	Garamendi	Lance
Carnahan	Garrett (NJ)	Langevin
Carson (IN)	Gerlach	Larsen (WA)
Carter	Giffords	Larson (CT)
Cassidy	Gingrey (GA)	Latham
Castle	Gohmert	LaTourette
Castor (FL)	Gonzalez	Latta
Chaffetz	Goodlatte	Lee (CA)
Chandler	Gordon (TN)	Lee (NY)
Childers	Granger	Levin
Chu	Graves	Lewis (CA)

Lewis (GA)	Obey	Sensenbrenner
Linder	Olson	Serrano
Lipinski	Oliver	Sessions
LoBiondo	Ortiz	Sestak
Loeb	Owens	Shadegg
Lofgren, Zoe	Pallone	Shea-Porter
Lowey	Pascarella	Sherman
Lucas	Pastor (AZ)	Shimkus
Luetkemeyer	Paul	Shuler
Lujan	Paulsen	Shuster
Lummis	Payne	Simpson
Lungren, Daniel E.	Pence	Sires
Lynch	Perlmutter	Skelton
Mack	Perriello	Slaughter
Maffei	Peters	Smith (NE)
Maloney	Peterson	Smith (NJ)
Manzullo	Petri	Smith (TX)
Marchant	Pingree (ME)	Smith (WA)
Markey (CO)	Pitts	Snyder
Markey (MA)	Platts	Space
Marshall	Poe (TX)	Speier
Matheson	Polis (CO)	Spratt
Matsui	Pomeroy	Stark
McCarthy (CA)	Posey	Stearns
McCarthy (NY)	Price (GA)	Stupak
McCaul	Price (NC)	Sullivan
McClintock	Putnam	Sutton
McCollum	Quigley	Tanner
McCotter	Radanovich	Taylor
McDermott	Rahall	Teague
McGovern	Rangel	Terry
McHenry	Rehberg	Thompson (CA)
McIntyre	Reichert	Thompson (MS)
McKeon	Reyes	Thompson (PA)
McMahon	Richardson	Thornberry
McMorris	Rodriguez	Tiahrt
Rodgers	Roe (TN)	Tiberi
McNerney	Rogers (AL)	Tierney
Meek (FL)	Rogers (KY)	Titus
Melancon	Rogers (MI)	Tonko
Mica	Rohrabacher	Towns
Michaud	Rooney	Tsongas
Miller (FL)	Ros-Lehtinen	Turner
Miller (MI)	Roskam	Upton
Miller (NC)	Ross	Van Hollen
Miller, Gary	Rothman (NJ)	Velázquez
Miller, George	Roybal-Allard	Visclosky
Minnick	Royce	Walden
Mitchell	Ruppersberger	Walz
Mollohan	Rush	Wasserman
Moore (KS)	Ryan (OH)	Schultz
Moore (WI)	Ryan (WI)	Waters
Moran (KS)	Salazar	Watson
Moran (VA)	Sánchez, Linda T.	Watt
Murphy (CT)	Sanchez, Loretta	Waxman
Murphy (NY)	Sarbanes	Weiner
Murphy, Patrick	Scalise	Welch
Murphy, Tim	Schakowsky	Westmoreland
Myrick	Schauer	Whitfield
Nadler (NY)	Schiff	Wilson (OH)
Napolitano	Schmidt	Wilson (SC)
Neal (MA)	Schock	Wittman
Neugebauer	Schrader	Wolf
Nunes	Schwartz	Wu
Nye	Scott (GA)	Yarmuth
Oberstar	Scott (VA)	Young (AK)
		Young (FL)

NOT VOTING—12

Barrett (SC)	Hoekstra	Souder
Carney	Jackson Lee	Wamp
Cole	(TX)	Woolsey
Davis (AL)	King (IA)	
Donnelly (IN)	Meeks (NY)	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
The SPEAKER pro tempore (during the vote). Members have 2 minutes left on this vote.

□ 1447

So (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. WOOLSEY. Mr. Speaker, on May 12, 2010, I was unavoidably detained and was unable to record my vote for rollcall No. 261.

Had I been present I would have voted: Rollcall No. 261. "Yes"—Supporting the goals and ideals of National Women's Health Week, and for other purposes.

#### GENERAL LEAVE

Mr. GORDON of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 5116, the America COMPETES Reauthorization Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

#### AMERICA COMPETES REAUTHORIZATION ACT OF 2010

The SPEAKER pro tempore. Pursuant to House Resolution 1344 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 5116.

□ 1450

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes, with Ms. NORTON in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Tennessee (Mr. GORDON) and the gentleman from Texas (Mr. HALL) each will control 30 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. GORDON of Tennessee. Madam Chair, I yield myself such time as I may consume.

On October 12, 2005, in response to a bipartisan request by the Science and Technology Committee and some of our colleagues in the Senate, the National Academies released the report "Rising Above the Gathering Storm." The distinguished panel, led by Norm Augustine, the former CEO of Lockheed Martin, and which also included Craig Barrett of Intel, the current Secretary of Energy, Steve Chu, and a cast of other distinguished academic and business leaders, painted a very dire picture. The report made clear that without action, the future was bleak for our children and grandchildren. This report was, without question, a call to arms.

The Science and Technology Committee, along with several committees

in the Senate, moved forward by turning the "Gathering Storm" recommendation into legislative language. The final result was the enactment of the America COMPETES Act of 2007, with the bipartisan support of 365 Members. Moreover, with the leadership of Senators ALEXANDER and BINGAMAN and 69 Senate cosponsors, the Senate approved the conference report by unanimous consent. Now, after 3 years, we are back to work on reauthorizing the America COMPETES Act.

Since the enactment of America COMPETES, the Science and Technology Committee has held 48 hearings on areas addressed in the bill considered by the House today. Going through regular order, our subcommittee, in a bipartisan process, brought the full committee to a strong body of work. The bill was approved by the Science and Technology Committee on April 28, with a bipartisan vote of 29-8.

I want to thank all of the members of our committee for their work, and more importantly, their contribution to this bill.

Since I became chairman of the committee, it has been my goal for this to be a committee of good ideas and consensus. But more importantly, I have wanted an inclusive process that encouraged members on all sides to bring forward ideas and to discuss them.

I am proud of the process that we've used in bringing this bill to the House, and I believe this is a better bill today because of the hard work of our members. So I thank them for their efforts.

I would also like to thank the majority and minority staffs for the many hours of thoughtful work they have committed to this bill.

Many significant pieces of legislation come before this House. We all know that. But, honestly, I feel strongly that this bill is a big deal and it's important. It's a big deal and important for our country and for this Congress. It's a big deal and an important step in leading our Nation's innovation agenda in the face of growing global competition. It's a big deal and important for the business community, including the U.S. Chamber of Commerce, the National Association of Manufacturers, and the Business Roundtable, which is why they have been so supportive. It's a big deal and important to our universities and our national labs, and it's a big deal and important to our children and grandchildren so they will not be the first generation of Americans to inherit a standard of living lower than their parents.

If we are to reverse the trend of the last 20 years where our country's technological edge in the world has diminished, we must make the investments necessary today. The statistics speak for themselves. More than 50 percent of our economic growth since World War II can be attributed to the development and adoption of new technologies.

The path is simple. Research and education lead to innovation. Innovation leads to economic development and good-paying jobs and the revenue to pay for more research. And as private firms underinvest in research and development because the returns are too far off in the future, there is a clear and necessary role of government to help our Nation keep pace with the rest of the world.

To quickly summarize, the America COMPETES Reauthorization Act of 2010, H.R. 5116, makes investments in science innovation, education to strengthen U.S. scientific economic leadership, supports business, and creates jobs in the short, mid, and long term.

In the short term, Federal programs like the innovative technological Federal loan guarantees addresses the immediate need of small- and medium-sized manufacturers. In the midterm, the bill will strengthen regional economies through programs like the regional innovation clusters.

To ensure its scientific and technological leadership now and long into the future, the bill makes investments in the basic research. The bill includes a reauthorization of the Advanced Research Projects Agency for Energy, ARPA-E. Even before the price of oil hit today's record highs, "Gathering Storm" recommended greater energy independence. But as we move to a cleaner, more efficient and more balanced economic portfolio, we should not trade our dependency on foreign oil for a dependency on foreign technology. This is why ARPA-E is so important.

The bill also includes an authorization for Energy Innovation Hubs which will each focus on overcoming a single technological barrier to achieving our national energy innovation goals. The bill will double authorization funding for our basic research programs, the National Science Foundation, the Department of Energy Office of Science, the labs at the National Institute of Standards and Technology over the next 10 years.

Throughout the committee process, there was a lot of legitimate discussion about Federal deficits. And I agree, we must address the challenges presented by our deficits, but we also must invest in our country's future. I remember Newt Gingrich saying one of his greatest regrets was not doubling the funding for NSF when he put NIH on a doubling path.

During the committee consideration of this bill, we made some significant changes to the bill's authorization levels. But we will maintain a doubling path for our research accounts over the next 10 years. We do so on a slightly less aggressive trajectory.

The bill, as introduced, included authorizations totaling approximately \$93 billion over 5 years. The bill we con-

sider today includes authorizations of approximately \$84 billion. This represents a 10.3 percent reduction in funding for the introduction of the bill, or a reduction of more than \$9.6 billion over 5 years.

This bill provides a stable, sustainable, and achievable set of authorization levels that balance the importance of these investments with the reality of our current budget deficits.

Another important element of the funding roadmap in the bill is certainty. As we know, most successful businesses do not operate in a 1-year timetable. They generate plans years in advance. In fact, many businesses operate using at least a 5-year plan. So as we continue to climb out of the worst economic downturn in a generation, we need a 5-year plan to reinvest in our intellectual capital, our research enterprise, and our workforce training. This becomes even more important when comparing our efforts to other nations.

Our global competitors, most notably China, increase innovation in 5-year windows. They write a 5-year plan, watch its progress, and in year 4, they begin on the next 5-year plan. The time has come for our country to establish a clear path forward with a thoughtful, responsible 5-year plan.

Finally, let me say that more than 50 years ago when DARPA was first created, no one had an idea that the research it would fund would be responsible for creation of the Internet or the proliferation of GPS technologies, but it did. Those innovations started with Federal dollars, as did countless other game-changing technologies.

□ 1500

There is an undeniable relationship between the investment in R&D and the creation of jobs, the creation of companies, and economic growth. But don't just take my word for it. The Joint Economic Committee released a report this week that shows the economic benefits from Federal investment in research.

The Science Coalition, a nonprofit, nonpartisan organization of the Nation's leading research universities, released a report this week entitled "Sparkling Economic Growth: How Federally Funded University Research Creates Innovation, New Companies, and Jobs." This report tells the stories of 100 companies, including Google, Cisco, SAS, Genentech, Orbital Sciences, Sun Power, Medtronic, and Hewlett-Packard, that were all created based on research funded with Federal dollars.

And, last, there are the sponsors of this important legislation. The U.S. Chamber of Commerce, the Business Roundtable, the National Association of Manufacturers, the Council of Competitiveness, the Task Force of American Innovation, the American Chemical Society, as well as a growing list

of over 1,000 major companies, universities, trade associations, and professional organizations, all understanding the benefits to U.S. companies of making a sustained commitment to research and STEM education.

COMPETES is and will continue to be a bipartisan, bicameral effort that every Member of this House can feel ownership of and should take bragging rights on.

I reserve the balance of my time.

Mr. HALL of Texas. Madam Chair, I yield myself such time as I may consume.

I rise today to speak on H.R. 5116, a bill reauthorizing the America COMPETES Act. COMPETES was originally authorized in 2007 in response to recommendations in the National Academies Report, "Rising Above the Gathering Storm," and initiatives proposed in President Bush's American Competitiveness Initiative that stressed the need for increased investments in basic science research and development. The 2007 House-passed bill was a 3-year authorization that placed three agencies, the National Science Foundation, the National Institute of Standards and Technology, and the Office of Science at the Department of Energy on a 10-year doubling path.

I remain committed to the underlying goals of the America COMPETES Act. I like the thrust. I like the goals. Most of us on our side of the docket did. We believe that we should continue to prioritize investments in basic research and science, technology, engineering, and mathematics—the STEM—education. These long-term investments, coupled with policies that reduce tax burdens, streamline Federal regulations, and balance the Federal budget, are necessary steps for our Nation to remain competitive in the global marketplace.

However, the bill goes far beyond the original intent and scope of the COMPETES legislation. One of my primary concerns is the cost of the overall package. At \$86 billion, it represents over \$22 billion in new funding above the fiscal year 2010 basic level. Even if you consider the 10-year doubling path for the three agencies as opposed to flat funding, the bill is still almost \$8 billion over that amount.

It is also important to note that these agencies received an additional \$5 billion in the American Recovery and Reinvestment Act. Given the current state of our national economy and the fact that our Nation's budget deficit has increased 50 percent since the last authorization 3 years ago, we have to be mindful of our spending if America is to continue to compete globally.

I am also concerned by the creation of several new programs in this bill, including Energy Innovation Hubs at DOE, a loan guarantee program at the Department of Commerce, and regional innovation clusters at the Department

of Commerce. Several of these new programs fund activities beyond basic science research and development, and many are potentially duplicative of current efforts and could divert money away from priority basic research.

Given the number of new programs in this bill, it is especially troubling that the authorization length is 5 years, as it limits congressional oversight opportunities and calls for out-year funding increases without regard to the current and future fiscal environment.

At the full committee markup in April, Republicans offered 39 amendments to, among other things, address increased costs, shifts in priorities, duplications of programs, and congressional oversight. Some of these concerns will be debated today as part of our amendment process.

Before I close, I would also like to thank and acknowledge my staff for all of the hard work they have done on this bill. I also want to thank Chairman GORDON and his staff for all of their efforts. Chairman GORDON and I have worked together in this body for several years, and I will absolutely miss working with him when he retires at the end of this year. As a matter of fact, as he leaves this session, I hope we can name part of this program after BART GORDON because he is the father of it.

I reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chair, how much time do we have?

The CHAIR. The gentleman from Tennessee has 20½ minutes remaining.

Mr. GORDON of Tennessee. Madam Chair, I yield to the gentleman from Oregon (Mr. WU), the chairman of our Technology and Innovation Subcommittee, 1½ minutes.

Mr. WU. I thank the chairman.

I rise today in strong support of America COMPETES, and I want to recognize the tremendous leadership which Chairman GORDON has given in this effort. He is the father of this bill. He has created the ARPA-E energy initiative in this bill and has shown tremendous leadership by pushing this effort forward.

I am particularly proud of the contribution that my subcommittee, the Technology and Innovation Subcommittee, has made to this legislation. Innovation is absolutely crucial to our Nation's long-term global competitiveness. It is our economic seed corn, and we have a responsibility to support the kind of economic environment that empowers our Nation's private sector to innovate and create jobs.

The bipartisan legislation we are considering today will strengthen our Nation's economic competitiveness by creating an environment that encourages innovation and facilitates economic growth. It will create high wage, middle class jobs through innovation and technologic development. Among other things, the bill makes critical in-

vestments in the Manufacturing Extension Partnership, which will help this vital program better address the needs of our Nation's small- and medium-sized manufacturers.

Of particular importance is the new focus of the MEP program on finding out what the local job market really needs and helping community colleges focus job training on these particular needs so that the retrained workers can find work nearby. America COMPETES is the cornerstone of our Nation's global competitiveness, and today's reauthorization bill represents another crucial step in implementing the innovation agenda.

Mr. HALL of Texas. Madam Chair, I yield 4 minutes to Mr. SENSENBRENNER, the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Madam Chairman, I rise today in opposition to H.R. 5116, the America COMPETES Reauthorization Act. Madam Chairman, I support efforts to invest in science and technology. In these tough economic times, we must look ahead and recognize the necessity of research and experimentation in developing new products and improving existing ones. If the U.S. wants to remain the leader in technological innovation, it is imperative that we invigorate investment in private sector innovation so that we can expand our global leadership in high technology and spur greater economic growth domestically.

As the former chairman of the House Science Committee, I understand the importance of promoting policies that strengthen America's technological leadership, and recognize the endless economic benefits when innovation takes place. However, once again, we are seeing the majority ignore rising deficits and continue on the path of reckless spending. As some of my colleagues have already noted, this legislation includes \$22 billion in new funding over this year's base. Our national debt stands at \$13 trillion, and our deficits are up 50 percent over the past 3 years. The majority cannot continue to pile the debt upon our children and grandchildren.

It strikes me as odd that we are ramping up funding for this act when the programs that it funds are only starting to be implemented. Without having the opportunity to perform proper oversight to know which programs are effective and which are not, it appears that we are simply here today to throw another \$86 billion at the wall to see what sticks.

The legislation before us goes beyond basic research and development activities. It creates several duplicative and unnecessary programs. Take, for example, the creation of the new Energy Innovation Hub program. The administration's fiscal year 2011 budget included funding for a hub on batteries

and energy storage; however, budget documents indicate that there are at least five other DOE programs which conduct similar energy storage R&D activities. Unfortunately, this is not the only example of a proposed hub that appears to duplicate existing R&D efforts.

Additionally, this legislation not only dramatically increases spending, but shifts the focus of the original America COMPETES Act of basic research to increased spending on later-stage technology development and commercialization efforts. I do not believe that the government ought to be in the business of picking winners and losers; however, that is exactly what the provisions of this legislation attempt to do.

Throughout the legislation, there is an emphasis on climate change research and reduction of greenhouse gas emissions. It troubles me to see in a competitiveness bill the prominence of reducing greenhouse gas emissions as a policy objective. This legislation effectively seeks to prohibit the pursuit of technologies that would advance energy independence through expanded supplier production of domestic energy resources.

In order for the U.S. to continue to compete and to be an innovative leader throughout the world, we must ensure we devote the proper resources and incentives in basic research and development. However, this legislation is not the answer. I urge a "no" vote on this bill.

Mr. GORDON of Tennessee. Madam Chair, I yield 1½ minutes to the subcommittee chairman of the Research and Science Education Committee, Dr. LIPINSKI.

Mr. LIPINSKI. Madam Chair, I rise in strong support of this bill, and I want to thank Chairman GORDON for his tremendous leadership on this issue. Passage of this bill will help produce a brighter future for our Nation and our Nation's workers or, put more simply, this bill means jobs.

As a former college professor, an engineer, and a ceaseless advocate for American manufacturing, I want to focus on the National Science Foundation title, which comes from my bill, H.R. 4997. Besides keeping NSF on its doubling path, it significantly increases support for basic research, STEM education, graduate education, and technology transfer. That is turning research into jobs.

In addition to our newly created NSF manufacturing and research program and a reauthorization of the National Nanotechnology Initiative, it includes a funding increase for MEP programs and a new innovative technology loan guarantee program.

The COMPETES Act also includes provisions to address the serious deterioration in the state of our research infrastructure, both at universities and

our national labs, which threatens America's competitiveness. In addition, the GENIUS Act is included, a bipartisan bill I introduced with Representative WOLF to allow the NSF to offer innovative inducement prizes.

The COMPETES Reauthorization Act takes a proactive and bipartisan approach to securing America's position in a 21st century global economy and creating jobs, and I urge my colleagues to vote for this bill.

Mr. HALL of Texas. Madam Chairwoman, I yield 3 minutes to the gentlelady from Illinois, a member of the committee, Mrs. BIGGERT.

Mrs. BIGGERT. I thank the gentleman for yielding, and Madam Chair, I rise in support of H.R. 5116, the America COMPETES Reauthorization Act of 2010.

I commend Chairman GORDON and Ranking Member HALL for their efforts to move this bill through regular order and for working with Members on both sides to make improvements to the bill.

Like many of my colleagues here, I strongly supported in 2007 the original America COMPETES Act, which became our Nation's first coordinated and strategic investment plan aimed at maintaining U.S. leadership in science and technology.

Based on the recommendations in the National Academies report, "Rising Above the Gathering Storm," this bill we are considering today will build on the investments of the 2007 legislation and preserve U.S. leadership in math, science, and engineering education, and basic research development and commercialization opportunities for our country.

As some have suggested, H.R. 5116 is not without flaws. I share the concerns my colleagues have about the creation of new programs and higher funding levels contained in the bill. Some of our concerns were addressed in committee, some were not. That said, I also urge my colleagues to keep in mind that this bill is, above all else, an investment in scientific advancement, with proven economic returns for many years to come.

At the heart of the COMPETES Act is the reauthorization of the Department of Energy's Office of Science and the National Science Foundation, two programs that form the backbone of basic research and education in universities and laboratories across the country. Their reauthorization is critical to America's ability to maintain a technological and competitive edge over our European and Asian competitors in the global economy.

□ 1515

In particular, the Office of Science supports 40 percent of basic research in the United States and ensures that the U.S. retains its dominance in such key scientific fields as nanotechnology,

materials science, biotechnology, and supercomputing—all areas in which emerging technology is laying the groundwork for a new generation of products and services. The Office of Science is especially critical to States like Illinois, where university and laboratory research and development supports 68,000 high-tech jobs, according to the Illinois Science and Technology Coalition. Furthermore, the Office of Science maintains large-scale user facilities like at Argonne National Laboratory in my district. These facilities provide scientists from both the public and private sector with the tools that they need to turn groundbreaking research into real, tangible tools and benefits for consumers, patients, energy users, and other sectors. In my district alone, dozens of firms have spun off from the research started at Argonne and gone on to become major employers and economic leaders.

Consider this. In 1 year, the user facility at Argonne will host 3,500 researchers from 50 States, 145 U.S. companies, and 265 universities.

The CHAIR. The time of the gentlewoman has expired.

Mr. HALL of Texas. Madam Chairwoman, I yield the gentlewoman 1 additional minute.

Mrs. BIGGERT. Without this support, research breakthroughs in AIDS medications, alternative fuels, and infrastructure materials would not have been possible. Fortunately, with this reauthorization of COMPETES, we will have the ability to realize the promises of scientific innovation much faster.

Too often, I hear from small businesses in my district about what I call the "valley of death"—that period when a firm has developed a new technology but faces difficulty commercializing it and moving it into the market. By facilitating commercialization and opening access to advanced Federal facilities, this bill removes those hurdles.

Madam Chairman, in a struggling economy where investment dollars are scarce and new opportunities are at a premium, we should put our Nation's immense scientific talent and extensive infrastructure to work creating and developing the products and jobs of tomorrow.

With that, I would urge my colleagues to support this bill.

Mr. GORDON of Tennessee. Madam Chair, let me first point out that my friend from Texas (Mr. HALL) is not doing a Roy Orbison impersonation today. He had a cataract removed earlier and that's the reason he periodically is wearing his sunglasses. A lesser person wouldn't have made it today. I compliment Mr. HALL for being here.

I yield 1 minute to our very distinguished majority leader, the gentleman from Maryland, STENY HOYER.

Mr. HOYER. I thank the gentleman from Tennessee, the chairman of the



committee, for yielding. I congratulate Mr. HALL, my good friend from Texas, for his leadership. And I rise in support of the America COMPETES Act.

I want to congratulate Mr. GORDON in particular. Mr. GORDON has been focused on the subject matter of this bill—innovation, entrepreneurial efforts, science, technology, math, and engineering efforts—to make our economy more competitive worldwide and more vibrant here at home. This bill creates jobs in the short term and builds a strong foundation for prosperity in the long term. That's what we need to be focusing on. That's what Americans want us to focus on. They want us to get jobs now. But they also want to have a resilient, growing economy for the future. We can accomplish both goals by expanding our support for research and development so that the United States remains the world's technology leader.

This bill establishes innovative technology Federal loan guarantees for small- and medium-sized manufacturers. Those loans, which are especially needed at a time when credit is tight, will help our businesses keep pace with a changing economy, increase productivity, and hold their own with overseas competitors. By supporting innovation, as this bill does, this bill will help those businesses save and create jobs. It will also promote job growth and innovation on the regional level by creating regional innovation clusters—collections of local businesses that collaborate on emerging technology in similar fields.

As Chairman BART GORDON of the Science and Technology Committee has observed, "Clusters can strengthen or revive a region's economy and can advance the work being done in their field by bringing their leaders together to share ideas and build off one another." I agree with that comment. That's why I think they're so important.

However, as Mike Muro of the Metropolitan Policy Program at the Brookings Institution points out, America "lags other nations in fostering these distributed, bottom-up systems of business development, innovation, and talent matching. The time has come," Mr. Muro went on, "for America to make regional industry networks a defining aspect of the Nation's effort to catalyze the next era of high-quality job creation and growth." BART GORDON and the Science and Tech Committee have done that. I congratulate them for that. It's an encouraging step that this bill does just that.

In addition, the America COMPETES Act helps ensure that our workforce will meet the challenges of the 21st century economy, by investing in science, technology, engineering, and mathematics. It reauthorizes and increases funding for the vital National Science Foundation, which promotes

cutting-edge research by funding innovation in fields from computer science to mathematics to genomics.

Madam Chair, Federal support for research is one of the best investments we can make. I congratulate Mr. GORDON, again, not only on his leadership on this bill, but on his leadership through the decades that he has served in this institution on these very issues. Federally supported research gave us GPS, the computer mouse, computer-aided design, and the Internet. There's no telling the ways in which it might shape our lives in the years to come. The legacy that Mr. GORDON will leave—unfortunately, he's leaving our midst at the end of this year, voluntarily, deciding to do some other things. I congratulate him, though, on the extraordinary contributions he's made during his years of service here.

In a competitive world economy, the National Science Foundation reported that our R&D expenditure has fallen as a share of the world total, as the growing Asian economies gain a greater share. This bill can, and will, help reverse that trend. The America COMPETES Act won bipartisan support the first time Congress authorized it in 2007. I hope and expect that that bill will garner such bipartisan support that it deserves this time around.

Again, in closing, Madam Chair, let me congratulate Mr. GORDON and thank Mr. HALL for his role.

Mr. HALL of Texas. Madam Chairwoman, may I inquire as to how much time I have left?

The CHAIR. The gentleman from Texas has 19 minutes remaining.

Mr. HALL of Texas. I thank the chairwoman.

Madam Chair, I yield 5 minutes to the gentleman from California (Mr. ROHRBACHER).

Mr. ROHRBACHER. Madam Chair, I rise in opposition to H.R. 5116, but let me begin by congratulating Chairman GORDON for the great leadership that he's provided while he's been chairman of the committee, as well as the great cooperation and leadership that Ranking Member HALL has provided us. These two gentlemen have exemplified the very best of our democratic system. Back now to this piece of legislation, however.

The theoretical purpose of the America COMPETES Reauthorization Act is to enhance the Nation's long-term economic competitiveness through investments in science and technology. I support this laudable goal, as I have for more than 21 years as a member of the Committee on Science and Technology, including 10 years in which I was a subcommittee chairman. But I cannot support this legislation which, simply put, authorizes too much funding in too many wrongheaded ways.

While I'm certain this bill was drafted with the best of intentions and motivations, I strongly disagree that this

is in our Nation's best interests. American investments in science and technology cannot operate in a vacuum. We need a broader strategy that prioritizes spending, reduces debt, eliminates deficits, and provides clarity, stability, and the appropriate regulatory environment. Only this combined policy, with all of the difficult analysis and hard choices that it entails, will allow America to maintain our technological edge. But this legislation makes no choices. It simply authorizes more and more spending.

We cannot enhance our long-term competitiveness by mortgaging the future of our children and grandchildren. That is precisely what this legislation does. The Congressional Budget Office says that implementing this legislation will cost \$85 billion, a 32 percent increase over the FY 2010 baseline. This will clearly elevate the level of deficit spending for our country. We're talking about borrowing money from China and other foreign nations to meet the goals of this legislation. It's new spending on top of old, creating towering debt. Like a game of Jenga, we're eroding the base by piling even greater burdens on an increasingly unstable system, hoping that the whole thing won't just fall apart while we're holding the ball. Well, instead, if we manage to get through this without a total collapse, the way our country is going, we will be burying our children in debt. And that is not an option we should be advocating. We should go at the debt legislation by legislation, as we are today.

At the same time, in this legislation there is no prioritization of programs and spending, no attempt at increasing efficiencies or at restructuring programs that would be expected to be reauthorized in a bill of this size and complexity. There aren't even any commonsense safeguards to make sure that these funds won't promote foreign competitors. If we finance foreign researchers who then return home with their new capabilities, it certainly won't help America compete. Perhaps, if the money will go to train foreigners and subsidize companies not owned by Americans, we should name this the America DEPLETES Act. Creating new Federal programs or expanding existing programs should always be done with caution and oversight. Establishing new programs, especially in times of economic downturn, means increasing deficit spending, which in itself is something that will drag down productivity and economic activity.

Along with some good things, this legislation creates new programs which are unnecessary and wasteful and which, as some of my fellow colleagues have already pointed out, are redundant to existing programs. All of this while increasing the level of deficit spending. This is not a roadmap to progress for a better future. It's just another well-intentioned spending program, financed by borrowing, that will

propel America over the economic cliff to which we are headed.

Over this last year, spending more, borrowing more, taxing more, subsidizing more, and running up the level of Federal deficit spending at such a record pace has not spurred our economy. It has not caused economic growth or reversed the economic crisis and challenge which we find ourselves confronting today. I believe those pushing this legislation are well-intentioned, but they're not diligent. Diligence would require prioritization, program restructuring, regulatory relief, and tearing down the roadblocks to using the technologies that we already have, rather than just spending more and more.

So, with that, I suggest that there are good parts to this bill, but I would have to rise in opposition.

□ 1530

Mr. GORDON of Tennessee. Madam Chair, I yield 1½ minutes to the gentleman from Washington, Dr. BAIRD, the outstanding subcommittee chairman of the Energy and the Environment Subcommittee.

Mr. BAIRD. Madam Chair, I think one of the best things that can happen to a Member of Congress is the privilege to serve on a committee you are passionate about and with a chairman and ranking member who you have deep respect for, and that certainly applies to the Science Committee chairman and ranking member.

America COMPETES is about jobs; it is about energy independence; it is about better foreign policy; and it is about leaving a cleaner, healthier environment for our children and our grandchildren. Contrary to some of the things some of the opponents have said, this is, in fact, one of the very best investments we can make in our future. Every day and in this room today are young Americans watching this process. This bill is about their future. It's about whether they'll have qualified, well-trained scientists, engineers and mathematicians as professors and mentors. It's about whether this country will have the technology to lead the world in the next century and the rest of this century on energy independence. It is about discoveries that will transform lives and transform this Nation.

I'm particularly proud of the authorization work in this to reauthorize the DOE Office of Basic Science. They produce outstanding work, as my colleague Mrs. BIGGERT said earlier, but I am also particularly impressed with some of the new programs of the original America COMPETES, notably the ARPA-E program. If anything this Congress does is going to turn around the economy not just for the short term but for the long term, it is innovations like that which will result from the authorization of the America

COMPETES Act, ARPA-E, NSF reauthorization, NIST, and all of the other elements. This is critical legislation, absolutely critical for the future strength, national security, economic health and jobs of our citizens, and I urge its passage.

Mr. HALL of Texas. Madam Chairman, I reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chair, I recognize for 1½ minutes the gentlelady from Texas (Ms. EDDIE BERNICE JOHNSON), a valued member of the Science and Technology Committee.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Chair, I rise in support of H.R. 5116, the America COMPETES Reauthorization Act. My colleagues and I on the Committee on Science and Technology have held numerous hearings and markups to prepare the legislation that is before us today. It puts the National Science Foundation and the Department of Energy's Office of Science on a path to double their research budgets, and it's needed. It will prepare thousands of new teachers and provide current teachers with better materials and skills by reauthorizing the Noyce Teacher Scholarship Program. It also reauthorizes grant programs to increase the number of advanced placement teachers in high-need schools and provides students in high-need communities with access to laboratory experiences. As women and minorities continue to be underrepresented in the sciences, the America COMPETES Act includes many provisions that will strengthen diversity in our Nation's scientific enterprise.

I am pleased that during committee we prohibited the consolidation of programs that serve minority institutions and students. I also applaud the committee for including the Fulfilling the Potential of Women in Academic Science and Engineering Act, which is important legislation that I sponsored for two Congresses. I also applaud many of the other provisions in this legislation that promise to ensure America COMPETES includes all Americans. These provisions will have schools around the Nation elevate their math and science programs so that they can achieve the standard exemplified by the School of Science and Engineering at Townview in Dallas. This school is rated the best in the Nation among public high schools and has been that for 10 years.

Madam Chair, I want to commend Chairman GORDON and Ranking Member HALL for their hard work on this legislation. This bill was put together in a bipartisan fashion. It represents a concerted effort to create a more competitive science and engineering workforce. I support this bill, Madam Chair, and I urge my colleagues to vote in favor of it.

Mr. HALL of Texas. Madam Chairman, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. How much time is remaining?

The CHAIR. The gentleman has 13½ minutes remaining on his time.

Mr. GORDON of Tennessee. Thank you, Madam Chair.

I yield 1½ minutes to the gentlewoman from Arizona (Ms. GIFFORDS), the chairman of the Space and Aeronautics Subcommittee.

Ms. GIFFORDS. Madam Chair, first I would like to congratulate Chairman GORDON and also Ranking Member HALL for this legislation. Three years ago, this body recognized the importance that science and technology play on our 21st century workforce, and we took action by passing the America COMPETES Act of 2007. We heeded the warnings from the National Academies' report, "Rising Above the Gathering Storm." American students were falling behind in science and mathematics, and with their falling grades went our ability to remain competitive in this new global economy. That's why I offered amendments 3 years ago to help students from low-income and rural parts of America to get the support they need to pursue careers in science, technology, engineering and mathematics. But we're not through the woods yet. Today we renew our commitment by maintaining America's leadership by reauthorizing this legislation.

This bipartisan bill is exactly the sort this Congress should be focusing on. It's about the economy; it's about jobs; it's about innovation; and it's about preparing for tomorrow. I want to take a moment to mention a particular component of this legislation which I am particularly proud to support. Earlier this year, I introduced the 21st Century Graduate STEM Education Act which is now incorporated into this legislation. We need to do everything we can to ensure that our students at every level have the best STEM education in the world so that they can enter the workforce and thrive. The grants created by this act will help equip graduate students in the STEM fields with the skills and knowledge for careers so that they can be successful outside of the traditional academic track.

We need to see more engineers. We need to see more mathematicians. We need to see more scientists. We need to see more Ph.D.- and master's-level scientists and engineers teaching in schools, providing the next generation of students with a solid foundation in math and science.

Mr. HALL of Texas. Madam Chairman, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chairman, I yield 1½ minutes to the gentleman from North Carolina (Mr. MILLER), the chairman of the Oversight Committee.

Mr. MILLER of North Carolina. Madam Chair, if the next generation of

Americans is to be as prosperous as ours, we must regain our edge in technology, innovation and education. Even before the Great Recession, the industries that North Carolinians long relied upon—textiles, tobacco, furniture—suffered one loss after another, and most of our lost jobs are not coming back. New jobs will either come from science and research, or they won't come at all.

New technologies create new jobs, and America must lead the way in developing new technologies and in bringing those technologies to the marketplace. This bill will provide loans to help small businesses keep their current employees and hire more. Universities and private companies in my district are already leaders in many emerging technologies, including advanced energy technologies; and we will greatly benefit from the provisions of this bill that will create regional economies around existing areas of expertise for innovation hubs. Finally, this bill's investment in basic research will create jobs that we cannot now even imagine.

On behalf of North Carolinians worried about what the future holds for their children, I urge support of this bill, and I thank Chairman GORDON for his tireless work.

Mr. HALL of Texas. Madam Chairwoman, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chairman, I yield 1½ minutes to the gentlewoman from Ohio (Ms. FUDGE), another valued member of our committee, a new but active member.

Ms. FUDGE. Madam Chairman, I too congratulate Chairman GORDON and Ranking Member HALL on this landmark legislation. I am proud to have had the opportunity to work with them on this critical initiative. I represent Cleveland, an area that is rapidly strengthening its science and technology resume. In my district, the Cleveland Clinic and University Hospitals are performing revolutionary biomedical research. Research and development efforts are supported by the students and faculty at Case Western Reserve University, one of the leading research universities in the country. Also, the Ohio STEM learning network, a paragon of STEM learning, has expanded education to traditionally underrepresented groups and is being modeled in other areas of the country.

There is still work to be done. Collaboration among Federal agencies is essential, which is why I have incorporated an amendment in committee that would instruct the NSF, NIH, and the Department of Education to collaborate in identifying grand challenges in education research and then determine what specific role each agency should play. This section of COMPETES instructs these agencies to solicit input from a variety of stake-

holders in STEM education, those who know best the needs of a STEM community. This will ensure that the research performed is relevant and useful.

The America COMPETES Act draws attention to what we really need to focus on to continue our leadership and innovation: STEM education and research and development. I urge my colleagues to support this legislation.

Mr. HALL of Texas. Madam Chairman, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chair, I yield 1½ minutes to the gentleman from Wisconsin (Mr. KIND), the chairman of the New Dems.

Mr. KIND. Madam Chair, I thank my good friend and colleague from Tennessee for yielding me this time. As one of the co-chairs in the New Dem Coalition, Madam Chair, I rise in strong support of reauthorization of the America COMPETES Act. The New Democratic Coalition was strongly behind the creation of America COMPETES in 2007, as we stand with this reauthorization bill today.

I want to commend the leadership of the Science Committee and all the members for producing this legislation, but especially our good friend from Tennessee, Chairman GORDON, for the vision and the leadership that he has shown on this issue. Unfortunately, we're going to be losing Representative GORDON to retirement this year, but I can't think of a more powerful or lasting legacy for any Member to leave with than with the creation of the America COMPETES Act.

What this legislation is about is making sure the United States of America remains the most innovative and creative Nation in the world, that we stay on the cutting edge of scientific, medical and technological discoveries and breakthroughs, that we're making sensible investments in basic and applied research and also in workforce development areas, especially in those crucial fields of study, such as science, technology, engineering, and math.

We have a choice to make today, whether to support these investments or not and watch other nations in the world do this for us. This bill is based on the seminal studies that have occurred previously through the National Academy of Science, "Rising Above the Gathering Storm," or even before that with the John Glenn Commission "Before It's Too Late." So the information is in. The studies are complete. We know what we have to do, and this is one of those fundamental building blocks to establish the groundwork for long-term sustainable economic growth. In short, this is about jobs today, tomorrow, and in the future. I encourage my colleagues to support this reauthorization. And I congratulate Chairman GORDON for such an im-

portant bill and for his distinguished service in Congress.

Mr. HALL of Texas. Madam Chairman, I reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chair, I yield 1½ minutes to the gentlewoman from New York (Mrs. MALONEY), the chairman of the Joint Economic Committee.

Mrs. MALONEY. Madam Chair, I rise in support. This legislation will help to bolster our Nation's economic competitiveness by supporting basic research, the fundamental building block for innovation and making investments in science, technology, engineering, and math.

The Joint Economic Committee released a report this week looking at the role of basic research in the R&D process. The report highlights the critical role the Federal Government plays in funding basic research. While the Federal Government supports about one-quarter of overall R&D, as you can see on this chart, it funds more than half, 57 percent, of basic research. Without Federal involvement, basic research would be underfunded because the returns the private sector can gain on basic research are smaller than the broader benefits to our overall economy.

As we recover from the worst recession since the Great Depression, we have to look under every rock to give ourselves every chance of sparking innovations that will fuel future growth and jobs. The America COMPETES reauthorization funds the basic research that will drive a new generation of innovation, spawning new technologies and industries and leading to additional growth and jobs. America COMPETES will strengthen our economy by making strategic investments in America's future. I urge a "yes" vote and applaud the chairman of the committee for his many years of service.

Mr. HALL of Texas. Madam Chairman, I reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chairman, I yield 1½ minutes to the gentleman from New Mexico (Mr. LUJÁN), another valued member of our committee.

Mr. LUJÁN. Madam Chair, I rise today in support of the America COMPETES Reauthorization Act of 2010, and I thank Chairman GORDON and Ranking Member HALL for their work on this important bill and all my colleagues on the Committee on Science and Technology for their hard work.

During these difficult economic times, it's more important than ever to make sure the United States has the ability to compete globally. That's why this legislation is so sorely needed and which is why I included language in this bill that encourages cooperative agreements between small businesses and our national labs. Our national laboratories are developing new technology that could change the way we

generate energy, keep our airports safer, and make our hospitals healthier. My language will make sure this technology gets into a competitive marketplace to encourage economic development and create jobs right here in America.

The COMPETES Act also makes key investments in science education, ensuring that our students are prepared for the jobs of the future. For too long, there has been a divide that has kept minority students out of these fields. We must close this divide and make sure that this generation of students has the opportunity to be the next generation of scientists, researchers, and inventors. That is why I included language in this bill to help support Hispanic-Serving Institutions, Tribal Colleges and Universities, and other minority-serving institutions. The America COMPETES Act will drive innovation, support small business, increase American competitiveness, and create jobs. I urge my colleagues to support this bill.

□ 1545

Mr. HALL of Texas. Madam Chairman, I yield 5 minutes to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Madam Chairman, I regretfully stand up today in opposition to this bill, and it is not because of major portions of the bill. I want to say first of all, I want to thank the chairman for his effort here in getting as much of a bipartisan bill as possible. He worked hard on this, and not just this bill, but I think through the entire years he has been chair, he has really made an effort to do what a lot of people talk about in this town but very few are willing to do, and that is make that bipartisan effort.

Sadly, Madam Chair, I have to oppose this bill for one major issue, and that is this bill does not take the effort to make sure that the billions of dollars in this bill do not go to illegal employers who are creating a crime problem in my district and around this country. All we have asked for is the ability to assure our constituency that none of the tax money that we are putting into this bill at this effort will be diverted into illegal activities such as hiring people who are not legally present in the United States.

As every Member of Congress knows, the Federal Government requires that all Federal departments, including Members of Congress, use E-verification system to ensure or at least make the effort to avoid the situation where Federal tax dollars are being diverted into illegal employment.

The President of the United States this year initiated a program of requiring contractors to use the E-Verify system to make sure that those tax dollars didn't go to contractors who were illegally employing. All we asked with this bill was that we include a provi-

sion that allows us to be able to ensure our constituency that the same can be said with this expenditure of billions of dollars.

I have to say, I really feel remorse for having to stand up now because it has been such a great effort to try to get it across and do the right thing. All I can say, Madam Chair, is I hope the chairman, who knows how we feel about this, is successful in the future as this bill moves forward at including the provision for this in this bill that all employers, all contractors, all grantees, do the right thing and the appropriate thing by using E-Verify to make sure that Federal funds are not used in illegal activity.

So as we move forward, I would ask that the chairman's mark be looked at as an opportunity to include the E-Verify requirement; that when we go to conference, the E-Verify requirement be looked at as a possibility at that level; and before we go to final adoption, that we include the E-Verify in this, because I think after what has happened in the last few weeks, with the outrage across this country, both sides being very upset, the major thing they are upset about is that Congress is not taking the opportunity to do those little things that common sense and common decency say we should be doing as legislators and addressing the real source of the illegal immigration problem, and that is the illegal employment. And if we cannot find enough intestinal fortitude to require those who are getting Federal grants and Federal guarantees to play by the rules and make sure they are not hiring illegals, how can we go home to our constituency and say we really do care, let alone we've done enough.

I ask, Madam Chair, that we sadly vote against this bill, even with all of its great packages, until the essential part of this is done, and that is requiring that everybody who gets a loan guarantee, everybody who gets a grant, anybody who gives a job out under this bill needs to make sure that it is going to an American or a legal resident who has the right under the law to be employed in this country. Until we do that much, we really don't have the right to ask the American people to pay for this bill.

Mr. GORDON of Tennessee. Madam Chair, I yield 1 minute to the gentleman from Illinois (Mr. LIPINSKI) for a colloquy.

Mr. LIPINSKI. Madam Chair, section 404 of the bill reorganizes the NIST laboratories, including creating an engineering laboratory for manufacturing and construction research. As you are aware, NIST currently performs important research on fire safety. Will this restructuring of the current Building and Fire Research Lab prevent NIST from engaging in this important fire safety research?

Mr. GORDON of Tennessee. The gentleman is correct that NIST does per-

form critical research on fire safety, enabling safer fire codes and standards and safer equipment for firefighters. Nothing in this restructuring provision will prevent NIST from continuing this important work.

Mr. LIPINSKI. I thank Chairman GORDON.

Ms. HERSETH SANDLIN. Madam Chair, thank you for the opportunity to offer this amendment to the America COMPETES Act. I am grateful to Chairwoman SLAUGHTER and the Rules Committee for making this amendment in order.

I'd also like to thank Chairman GORDON for his support for this amendment and for his nearly 26 years of service in this Chamber. I congratulate him on his hard work on this bill and wish him and his family the best as he gets ready to move on to the next chapter in his career.

This amendment expresses the sense of the Congress that the National Science Foundation should respond to the recommendations of the National Academy of Sciences and National Science and Technology Council regarding investments in facilities, and to make joint investments with the Department of Energy where possible.

Currently, the NSF is investing in one such project with the Department of Energy for a joint facility in South Dakota, in response to the recommendations of the National Academy of Sciences and National Science and Technology Council.

The facility in Lead, South Dakota is known as the Deep Underground Science and Engineering Laboratory, or DUSEL. A deep underground facility will shield experiments from cosmic rays that interfere with results. The DUSEL in Lead will be the largest deep underground facility in the world; Russia, Italy, and Japan already have deep underground facilities.

Lead is the home of the Homestake gold mine, once the largest and deepest gold mine in North America. The DUSEL will continue a long history of scientific exploration in the Homestake mine, which began with the solar neutrino experiments of the 1960s.

Construction is already underway at the mine to accommodate this new 21st century scientific project of national significance. Preparations for a Large Underground Xenon, or LUX, detector are already occurring 4,850 feet below the surface. The mission of the LUX detector is to detect dark matter which makes up approximately 95 percent of mass in the known universe. This experiment will help us better understand the makeup of the universe.

The DUSEL project promises to advance our understanding in a number of scientific disciplines, including particle and nuclear physics, geology, hydrology, geo-engineering, biology, and biochemistry. Experiments in the mine will be conducted at the surface and up to 8,000 feet deep. It will also have an important educational component for K-12 students all the way through graduate school students. Educating our girls and boys at a younger age in science will help them achieve as they get older and encourage them to pursue scientific careers.

I am grateful for Chairman GORDON's support for this amendment and urge my colleagues to approve this amendment and help

advance the cause of science and continue our Nation's leading role in exploring the foundations of the natural world around us.

Mr. GRIJALVA. Madam Chair, I want to express my support of the America COMPETES Act, and in its commitment to investing in quality math and science education. Strong investments in STEM fields are essential to the future success of our nation, both in our commitment to quality education and America's continued leadership in science throughout the world.

I particularly rise in strong support of the Davis Amendment for which I am a cosponsor; an amendment that envisions the increasingly important role that community colleges can and should play in the advancement of STEM education and STEM career training.

Community colleges are an affordable and accessible educational vehicle. They provide high quality education and career training to a diverse population of students and serve the diverse needs of their communities.

I strongly support the plan to build partnerships and grants to community colleges to improve educational opportunities for underserved communities, and to explore and expand the role of community colleges in STEM fields.

This amendment will assist community colleges by exploring the role of two-year institutions of higher education as STEM educators, providers of the foundational elements for people on the path to STEM careers and transitioning to four-year institutions in STEM degree programs.

The amendment will further task Federal agencies with engaging underrepresented groups in STEM and in engaging community colleges on opportunities to participate in STEM related research, curriculum and infrastructure.

I thank Congressman DANNY DAVIS for his leadership and am happy to join him on this amendment.

Ms. HIRONO. Madam Chair, I rise in strong support of H.R. 5116, the America COMPETES Reauthorization Act.

Three years ago, Congress passed the America Creating Opportunities to Meaningfully Promote Excellence in Technology Education and Science Act, or America COMPETES Act. Enactment of this law authorized funds over three years for the National Science Foundation, the National Institute of Standards and Technology, and certain math and science related programs within the Energy Department's Office of Science.

The 2007 law came about partly in reaction to a 2005 National Academies report that focused on American students' lagging performance in science and math compared with their peers in other developed countries. In passing this law, we realize then, as we do now, that failure to invest in our young people by improving science, technology, engineering, and math (STEM) education at all levels will have serious repercussions—not only in terms of workforce development but also in our ability to promote cutting-edge, innovative breakthroughs that will keep us competitive in the global economy.

As a cosponsor of H.R. 5116, I believe that America's economy can continue to grow and prosper if we act now to promote innovation

and the development of new technology. This bill expands, strengthens, and aligns STEM education programs at all levels. It allows more schools to participate in the Robert Noyce Teacher Scholarship program, which trains highly competent secondary teachers in STEM fields to teach in high-need schools. It provides grants to increase the quantity and quality of students receiving undergraduate degrees in STEM and creates fellowships to develop the leadership skills of recent doctoral degree graduates in these fields. Importantly, H.R. 5116 promotes participation of women and minorities in STEM fields to strengthen and diversify our workforce.

The America COMPETES Reauthorization Act also creates a new program that provides loan guarantees to small- and medium-sized manufacturers for projects using innovative technologies or processes. In addition, this bill fosters innovation and basic research by supporting new regional innovation clusters, creating energy innovation hubs, and reauthorizing ARPA-E (the Advanced Research Projects Agency for Energy) to pursue high-risk, high-reward technology development.

Our nation has flourished from the dreams of pioneers who have turned innovative ideas into breakthrough technologies. Investing in STEM education, workforce development, and R&D will help spur economic growth and provide quality jobs for Americans in the 21st century.

I urge my colleagues to support this measure.

Mr. COSTELLO. Madam Chair, I rise today in support of H.R. 5116, the Reauthorization of the America COMPETES Act of 2010.

I commend Chairman GORDON for his leadership in developing this important legislation and bringing it to the floor.

In the three years since the America COMPETES Act was signed into law, we have made great strides in innovation, education, and technology. H.R. 5116 makes strong investments in science and education to strengthen U.S. competitiveness, support businesses, and create jobs.

H.R. 5116 builds upon the recommendations of the 2005 report, *Rising Above the Gathering Storm*, and prioritizes science, technology, engineering, and mathematics (STEM) education at all levels.

Since coming to Congress, I have been a strong supporter of STEM education at every age from pre-school through adult education. These investments ensure we prepare the next generation of scientists and engineers and maintain the most innovative, competitive workforce in the world.

Specifically, investment in STEM education is especially important at the K–12 level, when students are first exposed to STEM curricula. It is vitally important to engage the interest of K–12 students in STEM and to attract and retain highly skilled teachers in the STEM field.

It is my hope that teacher retraining and K–12 STEM education provisions included in the 2007 COMPETES bill will be reauthorized, and I look forward to working with my colleagues in the House Education and Labor Committee to achieve this goal.

In addition, I am pleased the bill supports STEM education programs at community colleges and 2-year institutions and links commu-

nity colleges with Manufacturing Extension Partnerships, other institutions of higher education, research institutions, and regional innovation hubs. This connection ensures that students will have the job training necessary to secure good-paying jobs in their communities and manufacturers have a workforce with the right skill set to promote innovation.

I appreciate Chairman GORDON's willingness to work with me to include language in the bill that ensures that DOE's STEM education programs mirror the important research being conducted by the agency on carbon capture and sequestration (CCS) science. CCS represents a major advancement in the use of coal, the nation's most abundant and affordable energy source.

The President's Fiscal Year 2011 budget invests over \$400 million in CCS research at DOE, and universities such as the Southern Illinois University-Carbondale engage in cutting-edge clean coal research. Including CCS in DOE's STEM education programming will ensure we continue to expand research, development, and deployment of this important technology and train a new generation of CCS scientists.

I urge my colleagues to support H.R. 5116.

Mr. LANGEVIN. Madam Chair, I rise in support of H.R. 5116, the America COMPETES Reauthorization Act of 2010. This multi-year reauthorization allows for urgently-needed investments to improve science, technology, engineering and math education, foster innovation and create jobs in the short, mid and long term. This bipartisan legislation will go a long way towards reversing the downward trend in domestic science and technological development, and will allow America to educate a new and highly skilled workforce, create new jobs in cutting-edge fields, and compete more aggressively in the global marketplace.

The COMPETES Act will strengthen STEM education programs—the building blocks of scientific and technological advances—through a number of important initiatives at all levels. The Robert Noyce Teacher Scholarship Program will provide funding to train highly competent secondary school teachers. And as our students progress, H.R. 5116 will afford them the opportunity to continue studying science and technology through grants designed to attract and retain undergraduate students in STEM fields.

The key to continued technological advances is innovative thinking. The COMPETES Act will create Regional Innovation Clusters, allowing businesses to collaborate and communicate more effectively on work and development in a number of fields. Additionally, through the reauthorization of the Advanced Research Projects Agency for Energy, we will continue investing in potentially high-reward energy technology development. Along with the establishment of Energy Innovation Hubs, which support the advancement of energy technologies through research, development, and commercial application, we will be working towards achieving our nation's energy goals.

I am also very pleased that the COMPETES Act takes steps towards helping our domestic small and medium-sized manufacturers through federal loan guarantees. This will allow them to access the capital they need to

remain competitive in the global market. Additionally, through increased federal investment in the Manufacturing Extension Partnership at the National Institute of Standards and Technology, we will enable them to continue their important work during these difficult economic times.

This legislation will encourage and support the STEM students of today and tomorrow, reward innovative thinking, invest in promising technological advances, and aid struggling American manufacturers. Madam Speaker, this measure will have short and long-term benefits for our economy and allow the United States to remain competitive in an increasingly interconnected global economy. I am proud to support this bill today, and I urge my colleagues to do the same.

Ms. ZOE LOFGREN of California. Madam Chair, today I rise in support of H.R. 5116, to reauthorize the America COMPETES Act. This bill continues the commitment we made to science and innovation from the first COMPETES Act, passed in 2007.

As a Member representing Silicon Valley, I have seen firsthand what innovation and research can do to keep us competitive and economically strong. H.R. 5116 will foster research by reauthorizing the Department of Energy's Office of Science, the National Science Foundation, and the National Institute of Standards and Technology, and keep them on a path that will double their authorized funding over 10 years, based on 2007 appropriated levels. This funding will support basic research in labs across the country. The Act also includes loan guarantee programs for small- and medium-sized manufacturers to bring their new and innovative products beyond the prototype stage and into production.

Madam Chair, the bill fosters STEM education and will help ensure that today's children are prepared to be tomorrow's competitive workforce. H.R. 5116 provides greater coordination of STEM education programs across federal agencies and aligns the programs at all levels of education—from K–12 through doctoral degrees. Once students are interested in STEM fields, we need to foster their growth and ensure that they have the right tools and support to stay within the STEM pipeline.

The COMPETES Reauthorization Act also encourages innovative thinking and solutions by reauthorizing the Advanced Research Projects Agency for Energy (ARPA-E) to perform high-risk, high-reward energy research that could lead to the game-changing technology we need to wean ourselves off of polluting fossil fuels.

I would like to note one concern I have with this legislation. Section 123 establishes a working group to coordinate the policies of various agencies regarding public access to the results of federally-funded research. I agree that coordination could improve technical uniformity in the dissemination of data, boosting interoperability across agencies and disciplines. However, the working group should not extend its mandate to demand uniformity in all public access policies, such as those for scientific publications. In particular, it should not interfere with the policy of the National Institutes of Health, which requires free public access to the published results of re-

search funded by NIH. This legislation should not be interpreted to restrict existing open access to scientific knowledge, or to prevent its expansion.

This issue aside, I am pleased of the commitment we are making to science and innovation today, and I strongly urge my colleagues to support this bill.

Mr. EHLERS. Madam Chair, in 2007, Congress responded to the recommendations of many experts that the federal government must increase its investment in basic research and in science and math education by passing the America COMPETES Act. The reauthorization before us today continues the United States on the path of investing in programs that will keep the U.S. competitive in the global economy.

Beginning in 2006, President Bush's American Competitiveness Initiative (ACI) launched a three-pronged approach to competitiveness by strengthening research at the National Science Foundation, the Office of Science at the Department of Energy, and the laboratories and construction of the National Institute of Standards and Technology, NIST. The America COMPETES Act of 2007 established a 7-year doubling funding pathway for these agencies and also included some new ideas, such as the establishment of a DARPA-like agency at the Department of Energy. ARPA-E is still in its infancy, but testimony before the Science and Technology Committee indicates that this agency has the potential to overcome some of the greatest hurdles to commercialization of innovative energy technologies. The reauthorization bill provides more flexibility to ARPA-E and increases its authorization in future years.

The reauthorization measure before us today also focuses on the challenges facing our nation's manufacturers by broadening and strengthening manufacturing extension services and reviving manufacturing innovation through research and development. Although manufacturing has experienced tremendous technological gains over the last few years, international competition has exacted a toll on our Nation's manufacturers. Furthermore, today's economy has placed a great strain on States to participate in federal programs like the Manufacturing Extension Partnership at NIST. This bill would temporarily relax the cost-share requirements on States to allow for continued participation of the greatest number of small manufacturers across the Nation who depend on this program to help them continually innovate.

I recognize that many of my colleagues are concerned that this bill authorizes spending more than \$80 billion over the next 5 years. Indeed, our economy is suffering, we are deeply in debt, and fiscal restraint must be exercised. However, if there is ever an investment that will guarantee an economic return, this is it.

The reality is that if we are unwilling to spend this money now, we are deciding to pay it later to other countries that make these investments today and produce the products that we will need tomorrow. A recent article in *The Economist* focused on emerging international markets, and noted that:

Last year productivity in China grew by 8.2%, compared with a rise of 1.0% in Amer-

ica and a decline of 2.8% in Britain. A few years ago Airbus and Boeing were willing to outsource only basic work to Indian firms, but now they entrust some of their most complicated tasks to them.

Other countries are now competing with us not only on cost, but also creativity. We have thought for years that there are certain innovative activities that will only happen in the United States, but I feel less certain that is still the case. To keep on the cutting edge of creativity, we must make these investments in science and technology, or we will simply be left behind.

Science and technology are the fundamental movers of our economy, and if we want to remain globally competitive, this bill is the surefire way to guarantee results. The dividends paid by training scientists, engineers, and teachers will multiply throughout all sectors of our economy.

I want to thank Chairman GORDON and Ranking Member HALL for working on this legislation. I hope my colleagues will support this investment in our Nation's future.

Mr. MATHESON. Madam Chair, I support H.R. 5116, the "America COMPETES Act of 2010."

This bill makes important investments in science, innovation and education to strengthen U.S. businesses and create jobs in the short and long term. This bill expands, strengthens and aligns STEM education programs at all levels of education. It fosters research by reauthorizing the National Science Foundation and National Institute of Science and Technology labs.

Not only does this bill strengthen the U.S. competitiveness with countries abroad with research and development incentives, but it also makes significant strides in building and improving our manufacturing base. In particular, this bill improves the Manufacturing Extension Program. The MEP is a network of 59 centers located in every state and Puerto Rico that provides a range of services to small and medium sized manufacturing. This program has been very successful to the manufacturing industry in my state of Utah.

Manufacturing is the largest trade in the State of Utah and 99% of the 4,000 manufacturers in the state are small businesses. This bill provides innovative technology federal loan guarantees for small and medium sized manufacturers to help them access capital to become more efficient and stay competitive.

In 2008 the federal investment of \$1 million dollars in Utah's MEP, matched by State and private sector funds, resulted in work for over 400 manufacturers, of which 94 were major projects with quantifiable impacts. Madam Chair, we need to invest in cost effective programs that help create jobs and MEP is an example of this success. I have visited many of the small businesses that have benefited from the MEP center in Utah and I believe that they are worthwhile and extremely beneficial.

Mr. GORDON of Tennessee. Madam Chair, I would like to thank Chairman MILLER of the Education and Labor Committee for working cooperatively with the Science and Technology Committee on H.R. 5116, the America Competes Reauthorization Act of 2010. Chairman MILLER has been a champion of STEM education in the House and his Committee



has been very supportive in helping shape the STEM education provisions in the Competes Act. I insert into the CONGRESSIONAL RECORD an exchange of letters between the Committees on Science and Technology and Education and Labor.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON EDUCATION AND LABOR,  
Washington, DC, May 5, 2010.

Hon. BART GORDON,  
*Chairman, Committee on Science and Technology, House of Representatives, Washington, DC.*

DEAR CHAIRMAN GORDON: In recognition of the desire to expedite consideration of H.R. 5116, the America COMPETES Reauthorization Act of 2010, the Committee on Education and Labor agrees to waive formal consideration of the bill as to provisions that fall within its rule X jurisdiction.

The Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 5116 at this time, it does not waive any jurisdiction over subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as the bill or similar legislation moves forward, so that we may address any remaining issues in our jurisdiction. The Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and requests your support for any such request.

I would appreciate your including this letter in the Congressional Record during consideration of the bill on the House floor.

Thank you for your attention to this matter, and for the cooperative working relationship between our two committees.

Sincerely,

GEORGE MILLER,  
*Chairman.*

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON SCIENCE AND  
TECHNOLOGY,  
Washington, DC, May 6, 2010.

Hon. GEORGE MILLER,  
*Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.*

DEAR CHAIRMAN MILLER: Thank you for your May 5, 2010 letter regarding H.R. 5116, the America COMPETES Reauthorization Act of 2010. Your support for this legislation and your assistance in ensuring its timely consideration are greatly appreciated.

I agree that provisions in the bill are within the jurisdiction of the Committee on Education and Labor. I acknowledge that by waiving rights to further consideration of H.R. 5116, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on Education and Labor has jurisdiction in H.R. 5116, or similar legislation. A copy of our letters will be placed in the legislative report and the Congressional Record during consideration of the bill on the House floor.

I value your cooperation and look forward to working with you as we move ahead with this important legislation.

Sincerely,

BART GORDON,  
*Chairman.*

Mr. HALL of Texas. Madam Chairman, we have no further speakers, and I yield back the balance of my time.

Mr. GORDON of Tennessee. I yield back the balance of my time.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

It shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part A of House Report 111-479. The committee amendment in the nature of a substitute shall be considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

#### H.R. 5116

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “America COMPETES Reauthorization Act of 2010”.

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—SCIENCE AND TECHNOLOGY POLICY

##### Subtitle A—National Nanotechnology Initiative Amendments

Sec. 101. Short title.

Sec. 102. National nanotechnology program amendments.

Sec. 103. Societal dimensions of nanotechnology.

Sec. 104. Technology transfer.

Sec. 105. Research in areas of national importance.

Sec. 106. Nanomanufacturing research.

Sec. 107. Definitions.

##### Subtitle B—Networking and Information Technology Research and Development

Sec. 111. Short title.

Sec. 112. Program planning and coordination.

Sec. 113. Large-scale research in areas of national importance.

Sec. 114. Cyber-physical systems and information management.

Sec. 115. National Coordination Office.

Sec. 116. Improving networking and information technology education.

Sec. 117. Conforming and technical amendments.

##### Subtitle C—Other OSTP Provisions

Sec. 121. Federal scientific collections.

Sec. 122. Coordination of manufacturing research and development.

Sec. 123. Interagency public access committee.

Sec. 124. Fulfilling the potential of women in academic science and engineering.

#### TITLE II—NATIONAL SCIENCE FOUNDATION

Sec. 201. Short title.

##### Subtitle A—General Provisions

Sec. 211. Definitions.

Sec. 212. Authorization of appropriations.

Sec. 213. National Science Board administrative amendments.

Sec. 214. Broader impacts review criterion.

Sec. 215. National Center for Science and Engineering Statistics.

Sec. 216. Collection of data on demographics of faculty.

##### Subtitle B—Research and Innovation

Sec. 221. Support for potentially transformative research.

Sec. 222. Facilitating interdisciplinary collaborations for national needs.

Sec. 223. National Science Foundation manufacturing research and education.

Sec. 224. Strengthening institutional research partnerships.

Sec. 225. National Science Board report on mid-scale instrumentation.

Sec. 226. Sense of Congress on overall support for research infrastructure at the Foundation.

Sec. 227. Partnerships for innovation.

Sec. 228. Prize awards.

##### Subtitle C—STEM Education and Workforce Training

Sec. 241. Graduate student support.

Sec. 242. Postdoctoral fellowship in STEM education research.

Sec. 243. Robert Noyce teacher scholarship program.

Sec. 244. Institutions serving persons with disabilities.

Sec. 245. Institutional integration.

Sec. 246. Postdoctoral research fellowships.

Sec. 247. Broadening participation training and outreach.

Sec. 248. Transforming undergraduate education in STEM.

Sec. 249. 21st century graduate education.

Sec. 250. Undergraduate broadening participation program.

Sec. 251. Grand challenges in education research.

Sec. 252. Research experiences for undergraduates.

Sec. 253. Laboratory science pilot program.

Sec. 254. STEM industry internship programs.

Sec. 255. Tribal colleges and universities program.

#### TITLE III—STEM EDUCATION

Sec. 301. Coordination of Federal STEM education.

Sec. 302. Advisory committee on STEM education.

Sec. 303. STEM education at the Department of Energy.

Sec. 304. Green energy education.

#### TITLE IV—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

Sec. 401. Short title.

Sec. 402. Authorization of appropriations.

Sec. 403. Under Secretary of Commerce for Standards and Technology.

Sec. 404. Reorganization of NIST laboratories.

Sec. 405. Federal Government standards and conformity assessment coordination.

Sec. 406. Manufacturing extension partnership.

Sec. 407. Bioscience research program.

Sec. 408. Emergency communication and tracking technologies research initiative.

Sec. 409. TIP Advisory Board.

Sec. 410. Underrepresented minorities.

Sec. 411. Cyber security standards and guidelines.

Sec. 412. Definitions.

#### TITLE V—INNOVATION

Sec. 501. Office of Innovation and Entrepreneurship.

Sec. 502. Federal loan guarantees for innovative technologies in manufacturing.

Sec. 503. Regional innovation program.

#### TITLE VI—DEPARTMENT OF ENERGY

##### Subtitle A—Office of Science

Sec. 601. Short title.

Sec. 602. Definitions.

Sec. 603. Mission of the Office of Science.

Sec. 604. Basic Energy Sciences Program.

Sec. 605. Biological and Environmental Research Program.



Sec. 606. Advanced Scientific Computing Research Program.

Sec. 607. Fusion energy research program.

Sec. 608. High Energy Physics Program.

Sec. 609. Nuclear Physics Program.

Sec. 610. Science Laboratories Infrastructure Program.

Sec. 611. Authorization of appropriations.

Subtitle B—Advanced Research Projects Agency-Energy

Sec. 621. Short title.

Sec. 622. ARPA-E amendments.

Subtitle C—Energy Innovation Hubs

Sec. 631. Short title.

Sec. 632. Energy Innovation Hubs.

Subtitle D—Cooperative Research and Development Fund

Sec. 641. Short title.

Sec. 642. Cooperative research and development fund.

#### TITLE VII—MISCELLANEOUS

Sec. 701. Sense of Congress.

Sec. 702. Persons with disabilities.

Sec. 703. Veterans and service members.

#### TITLE I—SCIENCE AND TECHNOLOGY POLICY

##### Subtitle A—National Nanotechnology Initiative Amendments

#### SEC. 101. SHORT TITLE.

This subtitle may be cited as the “National Nanotechnology Initiative Amendments Act of 2010”.

#### SEC. 102. NATIONAL NANOTECHNOLOGY PROGRAM AMENDMENTS.

The 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501 et seq.) is amended—

(1) by striking section 2(c)(4) and inserting the following new paragraph:

“(4) develop, within 12 months after the date of enactment of the National Nanotechnology Initiative Amendments Act of 2010, and update every 3 years thereafter, a strategic plan to guide the activities described under subsection (b) that specifies near-term and long-term objectives for the Program, the anticipated time frame for achieving the near-term objectives, and the metrics to be used for assessing progress toward the objectives, and that describes—

“(A) how the Program will move results out of the laboratory and into applications for the benefit of society, including through cooperation and collaborations with nanotechnology research, development, and technology transition initiatives supported by the States;

“(B) how the Program will encourage and support interdisciplinary research and development in nanotechnology; and

“(C) proposed research in areas of national importance in accordance with the requirements of section 105 of the National Nanotechnology Initiative Amendments Act of 2010;”;

(2) in section 2—

(A) in subsection (d)—

(i) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively; and

(ii) by inserting the following new paragraph before paragraph (2), as so redesignated by clause (i) of this subparagraph:

“(1) the Program budget, for the previous fiscal year, for each agency that participates in the Program, including a breakout of spending for the development and acquisition of research facilities and instrumentation, for each program component area, and for all activities pursuant to subsection (b)(10);”;

(B) by inserting at the end the following new subsection:

“(e) STANDARDS SETTING.—The agencies participating in the Program shall support the ac-

tivities of committees involved in the development of standards for nanotechnology and may reimburse the travel costs of scientists and engineers who participate in activities of such committees.”;

(3) by striking section 3(b) and inserting the following new subsection:

“(b) FUNDING.—(1) The operation of the National Nanotechnology Coordination Office shall be supported by funds from each agency participating in the Program. The portion of such Office's total budget provided by each agency for each fiscal year shall be in the same proportion as the agency's share of the total budget for the Program for the previous fiscal year, as specified in the report required under section 2(d)(1).

“(2) The annual report under section 2(d) shall include—

“(A) a description of the funding required by the National Nanotechnology Coordination Office to perform the functions specified under subsection (a) for the next fiscal year by category of activity, including the funding required to carry out the requirements of section 2(b)(10)(D), subsection (d) of this section, and section 5;

“(B) a description of the funding required by such Office to perform the functions specified under subsection (a) for the current fiscal year by category of activity, including the funding required to carry out the requirements of subsection (d); and

“(C) the amount of funding provided for such Office for the current fiscal year by each agency participating in the Program.”;

(4) by inserting at the end of section 3 the following new subsection:

“(d) PUBLIC INFORMATION.—(1) The National Nanotechnology Coordination Office shall develop and maintain a database accessible by the public of projects funded under the Environmental, Health, and Safety, the Education and Societal Dimensions, and the Nanomanufacturing program component areas, or any successor program component areas, including a description of each project, its source of funding by agency, and its funding history. For the Environmental, Health, and Safety program component area, or any successor program component area, projects shall be grouped by major objective as defined by the research plan required under section 103(b) of the National Nanotechnology Initiative Amendments Act of 2010. For the Education and Societal Dimensions program component area, or any successor program component area, the projects shall be grouped in subcategories of—

“(A) education in formal settings;

“(B) education in informal settings;

“(C) public outreach; and

“(D) ethical, legal, and other societal issues.

“(2) The National Nanotechnology Coordination Office shall develop, maintain, and publicize information on nanotechnology facilities supported under the Program, and may include information on nanotechnology facilities supported by the States, that are accessible for use by individuals from academic institutions and from industry. The information shall include at a minimum the terms and conditions for the use of each facility, a description of the capabilities of the instruments and equipment available for use at the facility, and a description of the technical support available to assist users of the facility.”;

(5) in section 4(a)—

(A) by striking “or designate”;

(B) by inserting “as a distinct entity” after “Advisory Panel”; and

(C) by inserting at the end “The Advisory Panel shall form a subpanel with membership having specific qualifications tailored to enable it to carry out the requirements of subsection (c)(7).”;

(6) in section 4(b)—

(A) by striking “or designated” and “or designating”; and

(B) by adding at the end the following: “At least one member of the Advisory Panel shall be an individual employed by and representing a minority-serving institution.”;

(7) by amending section 5 to read as follows:

#### “SEC. 5. TRIENNIAL EXTERNAL REVIEW OF THE NATIONAL NANOTECHNOLOGY PROGRAM.

“(a) IN GENERAL.—The Director of the National Nanotechnology Coordination Office shall enter into an arrangement with the National Research Council of the National Academy of Sciences to conduct a triennial review of the Program. The Director shall ensure that the arrangement with the National Research Council is concluded in order to allow sufficient time for the reporting requirements of subsection (b) to be satisfied. Each triennial review shall include an evaluation of the—

“(1) research priorities and technical content of the Program, including whether the allocation of funding among program component areas, as designated according to section 2(c)(2), is appropriate;

“(2) effectiveness of the Program's management and coordination across agencies and disciplines, including an assessment of the effectiveness of the National Nanotechnology Coordination Office;

“(3) Program's scientific and technological accomplishments and its success in transferring technology to the private sector; and

“(4) adequacy of the Program's activities addressing ethical, legal, environmental, and other appropriate societal concerns, including human health concerns.

“(b) EVALUATION TO BE TRANSMITTED TO CONGRESS.—The National Research Council shall document the results of each triennial review carried out in accordance with subsection (a) in a report that includes any recommendations for ways to improve the Program's management and coordination processes and for changes to the Program's objectives, funding priorities, and technical content. Each report shall be submitted to the Director of the National Nanotechnology Coordination Office, who shall transmit it to the Advisory Panel, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Science and Technology of the House of Representatives not later than September 30 of every third year, with the first report due September 30, 2010.

“(c) FUNDING.—Of the amounts provided in accordance with section 3(b)(1), the following amounts shall be available to carry out this section:

“(1) \$500,000 for fiscal year 2010.

“(2) \$500,000 for fiscal year 2011.

“(3) \$500,000 for fiscal year 2012.”; and

(8) in section 10—

(A) by amending paragraph (2) to read as follows:

“(2) NANOTECHNOLOGY.—The term ‘nanotechnology’ means the science and technology that will enable one to understand, measure, manipulate, and manufacture at the nanoscale, aimed at creating materials, devices, and systems with fundamentally new properties or functions.”;

(B) by adding at the end the following new paragraph:

“(7) NANOSCALE.—The term ‘nanoscale’ means one or more dimensions of between approximately 1 and 100 nanometers.”.

#### SEC. 103. SOCIETAL DIMENSIONS OF NANOTECHNOLOGY.

(a) COORDINATOR FOR SOCIETAL DIMENSIONS OF NANOTECHNOLOGY.—The Director of the Office of Science and Technology Policy shall designate an associate director of the Office of

Science and Technology Policy as the Coordinator for Societal Dimensions of Nanotechnology. The Coordinator shall be responsible for oversight of the coordination, planning, and budget prioritization of activities required by section 2(b)(10) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(b)(10)). The Coordinator shall, with the assistance of appropriate senior officials of the agencies funding activities within the Environmental, Health, and Safety and the Education and Societal Dimensions program component areas of the Program, or any successor program component areas, ensure that the requirements of such section 2(b)(10) are satisfied. The responsibilities of the Coordinator shall include—

(1) ensuring that a research plan for the environmental, health, and safety research activities required under subsection (b) is developed, updated, and implemented and that the plan is responsive to the recommendations of the subpanel of the Advisory Panel established under section 4(a) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7503(a)), as amended by this subtitle;

(2) encouraging and monitoring the efforts of the agencies participating in the Program to allocate the level of resources and management attention necessary to ensure that the ethical, legal, environmental, and other appropriate societal concerns related to nanotechnology, including human health concerns, are addressed under the Program, including the implementation of the research plan described in subsection (b); and

(3) encouraging the agencies required to develop the research plan under subsection (b) to identify, assess, and implement suitable mechanisms for the establishment of public-private partnerships for support of environmental, health, and safety research.

#### (b) RESEARCH PLAN.—

(1) IN GENERAL.—The Coordinator for Societal Dimensions of Nanotechnology shall convene and chair a panel comprised of representatives from the agencies funding research activities under the Environmental, Health, and Safety program component area of the Program, or any successor program component area, and from such other agencies as the Coordinator considers necessary to develop, periodically update, and coordinate the implementation of a research plan for this program component area. In developing and updating the plan, the panel convened by the Coordinator shall solicit and be responsive to recommendations and advice from—

(A) the subpanel of the Advisory Panel established under section 4(a) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7503(a)), as amended by this subtitle; and

(B) the agencies responsible for environmental, health, and safety regulations associated with the production, use, and disposal of nanoscale materials and products.

(2) DEVELOPMENT OF STANDARDS.—The plan required under paragraph (1) shall include a description of how the Program will help to ensure the development of—

(A) standards related to nomenclature associated with engineered nanoscale materials;

(B) engineered nanoscale standard reference materials for environmental, health, and safety testing; and

(C) standards related to methods and procedures for detecting, measuring, monitoring, sampling, and testing engineered nanoscale materials for environmental, health, and safety impacts.

(3) COMPONENTS OF PLAN.—The plan required under paragraph (1) shall, with respect to activities described in paragraphs (1) and (2)—

(A) specify near-term research objectives and long-term research objectives;

(B) specify milestones associated with each near-term objective and the estimated time and resources required to reach each milestone;

(C) with respect to subparagraphs (A) and (B), describe the role of each agency carrying out or sponsoring research in order to meet the objectives specified under subparagraph (A) and to achieve the milestones specified under subparagraph (B);

(D) specify the funding allocated to each major objective of the plan and the source of funding by agency for the current fiscal year; and

(E) estimate the funding required for each major objective of the plan and the source of funding by agency for the following 3 fiscal years.

(4) TRANSMITTAL TO CONGRESS.—The plan required under paragraph (1) shall be submitted not later than 60 days after the date of enactment of this Act to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives.

(5) UPDATING AND APPENDING TO REPORT.—The plan required under paragraph (1) shall be updated annually and appended to the report required under section 2(d) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(d)).

#### (c) NANOTECHNOLOGY PARTNERSHIPS.—

(1) ESTABLISHMENT.—As part of the program authorized by section 9 of the National Science Foundation Authorization Act of 2002, the Director of the National Science Foundation shall provide 1 or more grants to establish partnerships as defined by subsection (a)(2) of that section, except that each such partnership shall include 1 or more businesses engaged in the production of nanoscale materials, products, or devices. Partnerships established in accordance with this subsection shall be designated as “Nanotechnology Education Partnerships”.

(2) PURPOSE.—Nanotechnology Education Partnerships shall be designed to recruit and help prepare secondary school students to pursue postsecondary level courses of instruction in nanotechnology. At a minimum, grants shall be used to support—

(A) professional development activities to enable secondary school teachers to use curricular materials incorporating nanotechnology and to inform teachers about career possibilities for students in nanotechnology;

(B) enrichment programs for students, including access to nanotechnology facilities and equipment at partner institutions, to increase their understanding of nanoscale science and technology and to inform them about career possibilities in nanotechnology as scientists, engineers, and technicians; and

(C) identification of appropriate nanotechnology educational materials and incorporation of nanotechnology into the curriculum for secondary school students at one or more organizations participating in a Partnership.

(3) SELECTION.—Grants under this subsection shall be awarded in accordance with subsection (b) of such section 9, except that paragraph (3)(B) of that subsection shall not apply.

#### (d) UNDERGRADUATE EDUCATION PROGRAMS.—

(1) ACTIVITIES SUPPORTED.—As part of the activities included under the Education and Societal Dimensions program component area, or any successor program component area, the Program shall support efforts to introduce nanoscale science, engineering, and technology into undergraduate science and engineering education through a variety of interdisciplinary approaches. Activities supported may include—

(A) development of courses of instruction or modules to existing courses;

(B) faculty professional development; and

(C) acquisition of equipment and instrumentation suitable for undergraduate education and research in nanotechnology.

(2) COURSE, CURRICULUM, AND LABORATORY IMPROVEMENT AUTHORIZATION.—There are authorized to be appropriated to the Director of the National Science Foundation to carry out activities described in paragraph (1) through the Course, Curriculum, and Laboratory Improvement program from amounts authorized under section 7002(c)(2)(B) of the America COMPETES Act, \$5,000,000 for fiscal year 2010.

(3) ADVANCED TECHNOLOGY EDUCATION AUTHORIZATION.—There are authorized to be appropriated to the Director of the National Science Foundation to carry out activities described in paragraph (1) through the Advanced Technology Education program from amounts authorized under section 7002(c)(2)(B) of the America COMPETES Act, \$5,000,000 for fiscal year 2010.

(e) INTERAGENCY WORKING GROUP.—The National Science and Technology Council shall establish under the Nanoscale Science, Engineering, and Technology Subcommittee an Education Working Group to coordinate, prioritize, and plan the educational activities supported under the Program.

(f) SOCIETAL DIMENSIONS IN NANOTECHNOLOGY EDUCATION ACTIVITIES.—Activities supported under the Education and Societal Dimensions program component area, or any successor program component area, that involve informal, precollege, or undergraduate nanotechnology education shall include education regarding the environmental, health and safety, and other societal aspects of nanotechnology.

(g) REMOTE ACCESS TO NANOTECHNOLOGY FACILITIES.—(1) Agencies supporting nanotechnology research facilities as part of the Program shall require the entities that operate such facilities to allow access via the Internet, and support the costs associated with the provision of such access, by secondary school students and teachers, to instruments and equipment within such facilities for educational purposes. The agencies may waive this requirement for cases when particular facilities would be inappropriate for educational purposes or the costs for providing such access would be prohibitive.

(2) The agencies identified in paragraph (1) shall require the entities that operate such nanotechnology research facilities to establish and publish procedures, guidelines, and conditions for the submission and approval of applications for the use of the facilities for the purpose identified in paragraph (1) and shall authorize personnel who operate the facilities to provide necessary technical support to students and teachers.

#### SEC. 104. TECHNOLOGY TRANSFER.

##### (a) PROTOTYPING.—

(1) ACCESS TO FACILITIES.—In accordance with section 2(b)(7) of 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(b)(7)), the agencies supporting nanotechnology research facilities as part of the Program shall provide access to such facilities to companies for the purpose of assisting the companies in the development of prototypes of nanoscale products, devices, or processes (or products, devices, or processes enabled by nanotechnology) for determining proof of concept. The agencies shall publicize the availability of these facilities and encourage their use by companies as provided for in this section.

(2) PROCEDURES.—The agencies identified in paragraph (1)—

(A) shall establish and publish procedures, guidelines, and conditions for the submission and approval of applications for use of nanotechnology facilities;

(B) shall publish descriptions of the capabilities of facilities available for use under this subsection, including the availability of technical support; and

(C) may waive recovery, require full recovery, or require partial recovery of the costs associated with use of the facilities for projects under this subsection.

(3) **SELECTION AND CRITERIA.**—In cases when less than full cost recovery is required pursuant to paragraph (2)(C), projects provided access to nanotechnology facilities in accordance with this subsection shall be selected through a competitive, merit-based process, and the criteria for the selection of such projects shall include at a minimum—

(A) the readiness of the project for technology demonstration;

(B) evidence of a commitment by the applicant for further development of the project to full commercialization if the proof of concept is established by the prototype; and

(C) evidence of the potential for further funding from private sector sources following the successful demonstration of proof of concept. The agencies may give special consideration in selecting projects to applications that are relevant to important national needs or requirements.

(b) **USE OF EXISTING TECHNOLOGY TRANSFER PROGRAMS.**—

(1) **PARTICIPATING AGENCIES.**—Each agency participating in the Program shall—

(A) encourage the submission of applications for support of nanotechnology related projects to the Small Business Innovation Research Program and the Small Business Technology Transfer Program administered by such agencies; and

(B) through the National Nanotechnology Coordination Office and within 6 months after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives—

(i) the plan described in section 2(c)(7) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(7)); and

(ii) a report specifying, if the agency administers a Small Business Innovation Research Program and a Small Business Technology Transfer Program—

(I) the number of proposals received for nanotechnology related projects during the current fiscal year and the previous 2 fiscal years;

(II) the number of such proposals funded in each year;

(III) the total number of nanotechnology related projects funded and the amount of funding provided for fiscal year 2004 through fiscal year 2008; and

(IV) a description of the projects identified in accordance with subclause (III) which received private sector funding beyond the period of phase II support.

(2) **NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.**—The Director of the National Institute of Standards and Technology in carrying out the requirements of section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) shall—

(A) in regard to subsection (d) of that section, encourage the submission of proposals for support of nanotechnology related projects; and

(B) in regard to subsection (g) of that section, include a description of how the requirement of subparagraph (A) of this paragraph is being met, the number of proposals for nanotechnology related projects received, the number of such proposals funded, the total number of such projects funded since the beginning of the Technology Innovation Program, and the outcomes of such funded projects in terms of the metrics developed in accordance with such subsection (g).

(3) **TIP ADVISORY BOARD.**—The TIP Advisory Board established under section 28(k) of the National Institute of Standards and Technology

Act (15 U.S.C. 278n(k)), in carrying out its responsibilities under subsection (k)(3), shall provide the Director of the National Institute of Standards and Technology with—

(A) advice on how to accomplish the requirement of paragraph (2)(A) of this subsection; and

(B) an assessment of the adequacy of the allocation of resources for nanotechnology related projects supported under the Technology Innovation Program.

(c) **INDUSTRY LIAISON GROUPS.**—An objective of the Program shall be to establish industry liaison groups for all industry sectors that would benefit from applications of nanotechnology. The Nanomanufacturing, Industry Liaison, and Innovation Working Group of the National Science and Technology Council shall actively pursue establishing such liaison groups.

(d) **COORDINATION WITH STATE INITIATIVES.**—Section 2(b)(5) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(b)(5)) is amended to read as follows:

“(5) ensuring United States global leadership in the development and application of nanotechnology, including through coordination and leveraging Federal investments with nanotechnology research, development, and technology transition initiatives supported by the States;”.

#### **SEC. 105. RESEARCH IN AREAS OF NATIONAL IMPORTANCE.**

(a) **IN GENERAL.**—The Program shall include support for nanotechnology research and development activities directed toward application areas that have the potential for significant contributions to national economic competitiveness and for other significant societal benefits. The activities supported shall be designed to advance the development of research discoveries by demonstrating technical solutions to important problems in such areas as nano-electronics, energy efficiency, health care, and water remediation and purification. The Advisory Panel shall make recommendations to the Program for candidate research and development areas for support under this section.

(b) **CHARACTERISTICS.**—

(1) **IN GENERAL.**—Research and development activities under this section shall—

(A) include projects selected on the basis of applications for support through a competitive, merit-based process;

(B) involve collaborations among researchers in academic institutions and industry, and may involve nonprofit research institutions and Federal laboratories, as appropriate;

(C) when possible, leverage Federal investments through collaboration with related State initiatives; and

(D) include a plan for fostering the transfer of research discoveries and the results of technology demonstration activities to industry for commercial development.

(2) **PROCEDURES.**—Determination of the requirements for applications under this subsection, review and selection of applications for support, and subsequent funding of projects shall be carried out by a collaboration of no fewer than 2 agencies participating in the Program. In selecting applications for support, the agencies shall give special consideration to projects that include cost sharing from non-Federal sources.

(3) **INTERDISCIPLINARY RESEARCH CENTERS.**—Research and development activities under this section may be supported through interdisciplinary nanotechnology research centers, as authorized by section 2(b)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(b)(4)), that are organized to investigate basic research questions and carry out technology demonstration activities in areas such as those identified in subsection (a).

(c) **REPORT.**—Reports required under section 2(d) of the 21st Century Nanotechnology Re-

search and Development Act (15 U.S.C. 7501(d)) shall include a description of research and development areas supported in accordance with this section, including the same budget information as is required for program component areas under paragraphs (1) and (2) of such section 2(d).

#### **SEC. 106. NANOMANUFACTURING RESEARCH.**

(a) **RESEARCH AREAS.**—The Nanomanufacturing program component area, or any successor program component area, shall include research on—

(1) development of instrumentation and tools required for the rapid characterization of nanoscale materials and for monitoring of nanoscale manufacturing processes; and

(2) approaches and techniques for scaling the synthesis of new nanoscale materials to achieve industrial-level production rates.

(b) **GREEN NANOTECHNOLOGY.**—Interdisciplinary research centers supported under the Program in accordance with section 2(b)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(b)(4)) that are focused on nanomanufacturing research and centers established under the authority of section 105(b)(3) of this subtitle shall include as part of the activities of such centers—

(1) research on methods and approaches to develop environmentally benign nanoscale products and nanoscale manufacturing processes, taking into consideration relevant findings and results of research supported under the Environmental, Health, and Safety program component area, or any successor program component area;

(2) fostering the transfer of the results of such research to industry; and

(3) providing for the education of scientists and engineers through interdisciplinary studies in the principles and techniques for the design and development of environmentally benign nanoscale products and processes.

(c) **REVIEW OF NANOMANUFACTURING RESEARCH AND RESEARCH FACILITIES.**—

(1) **PUBLIC MEETING.**—Not later than 12 months after the date of enactment of this Act, the National Nanotechnology Coordination Office shall sponsor a public meeting, including representation from a wide range of industries engaged in nanoscale manufacturing, to—

(A) obtain the views of participants at the meeting on—

(i) the relevance and value of the research being carried out under the Nanomanufacturing program component area of the Program, or any successor program component area; and

(ii) whether the capabilities of nanotechnology research facilities supported under the Program are adequate—

(I) to meet current and near-term requirements for the fabrication and characterization of nanoscale devices and systems; and

(II) to provide access to and use of instrumentation and equipment at the facilities, by means of networking technology, to individuals who are at locations remote from the facilities; and

(B) receive any recommendations on ways to strengthen the research portfolio supported under the Nanomanufacturing program component area, or any successor program component area, and on improving the capabilities of nanotechnology research facilities supported under the Program.

Companies participating in industry liaison groups shall be invited to participate in the meeting. The Coordination Office shall prepare a report documenting the findings and recommendations resulting from the meeting.

(2) **ADVISORY PANEL REVIEW.**—The Advisory Panel shall review the Nanomanufacturing program component area of the Program, or any successor program component area, and the capabilities of nanotechnology research facilities supported under the Program to assess—

(A) whether the funding for the Nanomanufacturing program component area, or any successor program component area, is adequate and receiving appropriate priority within the overall resources available for the Program;

(B) the relevance of the research being supported to the identified needs and requirements of industry;

(C) whether the capabilities of nanotechnology research facilities supported under the Program are adequate—

(i) to meet current and near-term requirements for the fabrication and characterization of nanoscale devices and systems; and

(ii) to provide access to and use of instrumentation and equipment at the facilities, by means of networking technology, to individuals who are at locations remote from the facilities; and

(D) the level of funding that would be needed to support—

(i) the acquisition of instrumentation, equipment, and networking technology sufficient to provide the capabilities at nanotechnology research facilities described in subparagraph (C); and

(ii) the operation and maintenance of such facilities.

In carrying out its assessment, the Advisory Panel shall take into consideration the findings and recommendations from the report required under paragraph (1).

(3) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Advisory Panel shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report on its assessment required under paragraph (2), along with any recommendations and a copy of the report prepared in accordance with paragraph (1).

#### **SEC. 107. DEFINITIONS.**

In this subtitle, terms that are defined in section 10 of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7509) have the meaning given those terms in that section.

#### **Subtitle B—Networking and Information Technology Research and Development**

#### **SEC. 111. SHORT TITLE.**

This subtitle may be cited as the “Networking and Information Technology Research and Development Act of 2010”.

#### **SEC. 112. PROGRAM PLANNING AND COORDINATION.**

(a) **PERIODIC REVIEWS.**—Section 101 of the High-Performance Computing Act of 1991 (15 U.S.C. 5511) is amended by adding at the end the following new subsection:

“(d) **PERIODIC REVIEWS.**—The agencies identified in subsection (a)(3)(B) shall—

“(1) periodically assess the contents and funding levels of the Program Component Areas and restructure the Program when warranted, taking into consideration any relevant recommendations of the advisory committee established under subsection (b); and

“(2) ensure that the Program includes large-scale, long-term, interdisciplinary research and development activities, including activities described in section 104.”.

(b) **DEVELOPMENT OF STRATEGIC PLAN.**—Section 101 of such Act (15 U.S.C. 5511) is amended further by adding after subsection (d), as added by subsection (a) of this section, the following new subsection:

“(e) **STRATEGIC PLAN.**—

“(1) **IN GENERAL.**—The agencies identified in subsection (a)(3)(B), working through the National Science and Technology Council and with the assistance of the National Coordination Office established under section 102, shall develop, within 12 months after the date of enactment of

the Networking and Information Technology Research and Development Act of 2010, and update every 3 years thereafter, a 5-year strategic plan to guide the activities described under subsection (a)(1).

“(2) **CONTENTS.**—The strategic plan shall specify near-term and long-term objectives for the Program, the anticipated time frame for achieving the near-term objectives, the metrics to be used for assessing progress toward the objectives, and how the Program will—

“(A) foster the transfer of research and development results into new technologies and applications for the benefit of society, including through cooperation and collaborations with networking and information technology research, development, and technology transition initiatives supported by the States;

“(B) encourage and support mechanisms for interdisciplinary research and development in networking and information technology, including through collaborations across agencies, across Program Component Areas, with industry, with Federal laboratories (as defined in section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703)), and with international organizations;

“(C) address long-term challenges of national importance for which solutions require large-scale, long-term, interdisciplinary research and development;

“(D) place emphasis on innovative and high-risk projects having the potential for substantial societal returns on the research investment;

“(E) strengthen all levels of networking and information technology education and training programs to ensure an adequate, well-trained workforce; and

“(F) attract more women and underrepresented minorities to pursue postsecondary degrees in networking and information technology.

“(3) **NATIONAL RESEARCH INFRASTRUCTURE.**—The strategic plan developed in accordance with paragraph (1) shall be accompanied by milestones and roadmaps for establishing and maintaining the national research infrastructure required to support the Program, including the roadmap required by subsection (a)(2)(E).

“(4) **RECOMMENDATIONS.**—The entities involved in developing the strategic plan under paragraph (1) shall take into consideration the recommendations—

“(A) of the advisory committee established under subsection (b); and

“(B) of the stakeholders whose input was solicited by the National Coordination Office, as required under section 102(b)(3).

“(5) **REPORT TO CONGRESS.**—The Director of the National Coordination Office shall transmit the strategic plan required under paragraph (1) to the advisory committee, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Science and Technology of the House of Representatives.”.

(c) **ADDITIONAL RESPONSIBILITIES OF DIRECTOR.**—Section 101(a)(2) of such Act (15 U.S.C. 5511(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

“(E) encourage and monitor the efforts of the agencies participating in the Program to allocate the level of resources and management attention necessary to ensure that the strategic plan under subsection (e) is developed and executed effectively and that the objectives of the Program are met;”.

(d) **ADVISORY COMMITTEE.**—Section 101(b)(1) of such Act (15 U.S.C. 5511(b)(1)) is amended by inserting after “an advisory committee on high-performance computing,” the following: “in

which the co-chairs shall be members of the President’s Council of Advisors on Science and Technology and with the remainder of the committee”.

(e) **REPORT.**—Section 101(a)(3) of such Act (15 U.S.C. 5511(a)(3)) is amended—

(1) in subparagraph (C)—

(A) by striking “is submitted,” and inserting “is submitted, the levels for the previous fiscal year;” and

(B) by striking “each Program Component Area;” and inserting “each Program Component Area and research area supported in accordance with section 104;”;

(2) in subparagraph (D)—

(A) by striking “each Program Component Area,” and inserting “each Program Component Area and research area supported in accordance with section 104;”;

(B) by striking “is submitted,” and inserting “is submitted, the levels for the previous fiscal year;” and

(C) by striking “and” after the semicolon;

(3) by redesignating subparagraph (E) as subparagraph (G); and

(4) by inserting after subparagraph (D) the following new subparagraphs:

“(E) include a description of how the objectives for each Program Component Area, and the objectives for activities that involve multiple Program Component Areas, relate to the objectives of the Program identified in the strategic plan required under subsection (e);

“(F) include—

“(i) a description of the funding required by the National Coordination Office to perform the functions specified under section 102(b) for the next fiscal year by category of activity;

“(ii) a description of the funding required by such Office to perform the functions specified under section 102(b) for the current fiscal year by category of activity; and

“(iii) the amount of funding provided for such Office for the current fiscal year by each agency participating in the Program; and”.

(f) **DEFINITION.**—Section 4 of such Act (15 U.S.C. 5503) is amended—

(1) by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively;

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

“(1) ‘cyber-physical systems’ means physical or engineered systems whose networking and information technology functions and physical elements are deeply integrated and are actively connected to the physical world through sensors, actuators, or other means to perform monitoring and control functions;”;

(3) in paragraph (4), as so redesignated—

(A) by striking “high-performance computing” and inserting “networking and information technology;” and

(B) by striking “supercomputer” and inserting “high-end computing;”;

(4) in paragraph (6), as so redesignated, by striking “network referred to as” and all that follows through the semicolon and inserting “network, including advanced computer networks of Federal agencies and departments;”;

(5) in paragraph (7), as so redesignated, by striking “National High-Performance Computing Program” and inserting “networking and information technology research and development program”.

#### **SEC. 113. LARGE-SCALE RESEARCH IN AREAS OF NATIONAL IMPORTANCE.**

Title I of such Act (15 U.S.C. 5511) is amended by adding at the end the following new section:

#### **“SEC. 104. LARGE-SCALE RESEARCH IN AREAS OF NATIONAL IMPORTANCE.**

“(a) **IN GENERAL.**—The Program shall encourage agencies identified in section 101(a)(3)(B) to support large-scale, long-term, interdisciplinary

research and development activities in networking and information technology directed toward application areas that have the potential for significant contributions to national economic competitiveness and for other significant societal benefits. Such activities, ranging from basic research to the demonstration of technical solutions, shall be designed to advance the development of research discoveries. The advisory committee established under section 101(b) shall make recommendations to the Program for candidate research and development areas for support under this section.

**“(b) CHARACTERISTICS.—**

**“(1) IN GENERAL.—**Research and development activities under this section shall—

**“(A)** include projects selected on the basis of applications for support through a competitive, merit-based process;

**“(B)** involve collaborations among researchers in institutions of higher education and industry, and may involve nonprofit research institutions and Federal laboratories, as appropriate;

**“(C)** when possible, leverage Federal investments through collaboration with related State initiatives; and

**“(D)** include a plan for fostering the transfer of research discoveries and the results of technology demonstration activities, including from institutions of higher education and Federal laboratories, to industry for commercial development.

**“(2) COST-SHARING.—**In selecting applications for support, the agencies shall give special consideration to projects that include cost sharing from non-Federal sources.

**“(3) AGENCY COLLABORATION.—**If 2 or more agencies identified in section 101(a)(3)(B), or other appropriate agencies, are working on large-scale research and development activities in the same area of national importance, then such agencies shall strive to collaborate through joint solicitation and selection of applications for support and subsequent funding of projects.

**“(4) INTERDISCIPLINARY RESEARCH CENTERS.—**Research and development activities under this section may be supported through interdisciplinary research centers that are organized to investigate basic research questions and carry out technology demonstration activities in areas described in subsection (a). Research may be carried out through existing interdisciplinary centers, including those authorized under section 7024(b)(2) of the America COMPETES Act (Public Law 110-69; 42 U.S.C. 1862o-10).”

**SEC. 114. CYBER-PHYSICAL SYSTEMS AND INFORMATION MANAGEMENT.**

**(a) ADDITIONAL PROGRAM CHARACTERISTICS.—**Section 101(a)(1) of such Act (15 U.S.C. 5511(a)(1)) is amended—

**(1)** in subparagraph (H), by striking “and” after the semicolon;

**(2)** in subparagraph (I), by striking the period at the end and inserting a semicolon; and

**(3)** by adding at the end the following new subparagraphs:

**“(J)** provide for increased understanding of the scientific principles of cyber-physical systems and improve the methods available for the design, development, and operation of cyber-physical systems that are characterized by high reliability, safety, and security; and

**“(K)** provide for research and development on human-computer interactions, visualization, and information management.”

**(b) TASK FORCE.—**Title I of such Act (15 U.S.C. 5511) is amended further by adding after section 104, as added by section 113 of this Act, the following new section:

**“SEC. 105. UNIVERSITY/INDUSTRY TASK FORCE.**

**“(a) ESTABLISHMENT.—**Not later than 180 days after the date of enactment of the Networking and Information Technology Research and Development Act of 2010, the Director of the Na-

tional Coordination Office established under section 102 shall convene a task force to explore mechanisms for carrying out collaborative research and development activities for cyber-physical systems, including the related technologies required to enable these systems, through a consortium or other appropriate entity with participants from institutions of higher education, Federal laboratories, and industry.

**“(b) FUNCTIONS.—**The task force shall—

**“(1)** develop options for a collaborative model and an organizational structure for such entity under which the joint research and development activities could be planned, managed, and conducted effectively, including mechanisms for the allocation of resources among the participants in such entity for support of such activities;

**“(2)** propose a process for developing a research and development agenda for such entity, including objectives and milestones;

**“(3)** define the roles and responsibilities for the participants from institutions of higher education, Federal laboratories, and industry in such entity;

**“(4)** propose guidelines for assigning intellectual property rights and for the transfer of research results to the private sector; and

**“(5)** make recommendations for how such entity could be funded from Federal, State, and non-governmental sources.

**“(c) COMPOSITION.—**In establishing the task force under subsection (a), the Director of the National Coordination Office shall appoint an equal number of individuals from institutions of higher education and from industry with knowledge and expertise in cyber-physical systems, of which 2 may be selected from Federal laboratories.

**“(d) REPORT.—**Not later than 1 year after the date of enactment of the Networking and Information Technology Research and Development Act of 2010, the Director of the National Coordination Office shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report describing the findings and recommendations of the task force.”

**SEC. 115. NATIONAL COORDINATION OFFICE.**

Section 102 of such Act (15 U.S.C. 5512) is amended to read as follows:

**“SEC. 102. NATIONAL COORDINATION OFFICE.**

**“(a) ESTABLISHMENT.—**The Director shall establish a National Coordination Office with a Director and full-time staff.

**“(b) FUNCTIONS.—**The National Coordination Office shall—

**“(1)** provide technical and administrative support to—

**“(A)** the agencies participating in planning and implementing the Program, including such support as needed in the development of the strategic plan under section 101(e); and

**“(B)** the advisory committee established under section 101(b);

**“(2)** serve as the primary point of contact on Federal networking and information technology activities for government organizations, academia, industry, professional societies, State computing and networking technology programs, interested citizen groups, and others to exchange technical and programmatic information;

**“(3)** solicit input and recommendations from a wide range of stakeholders during the development of each strategic plan required under section 101(e) through the convening of at least 1 workshop with invitees from academia, industry, Federal laboratories, and other relevant organizations and institutions;

**“(4)** conduct public outreach, including the dissemination of findings and recommendations of the advisory committee, as appropriate; and

**“(5)** promote access to and early application of the technologies, innovations, and expertise

derived from Program activities to agency missions and systems across the Federal Government and to United States industry.

**“(c) SOURCE OF FUNDING.—**

**“(1) IN GENERAL.—**The operation of the National Coordination Office shall be supported by funds from each agency participating in the Program.

**“(2) SPECIFICATIONS.—**The portion of the total budget of such Office that is provided by each agency for each fiscal year shall be in the same proportion as each such agency's share of the total budget for the Program for the previous fiscal year, as specified in the report required under section 101(a)(3).”

**SEC. 116. IMPROVING NETWORKING AND INFORMATION TECHNOLOGY EDUCATION.**

Section 201(a) of such Act (15 U.S.C. 5521(a)) is amended—

**(1)** by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

**(2)** by inserting after paragraph (1) the following new paragraph:

**“(2)** the National Science Foundation shall use its existing programs, in collaboration with other agencies, as appropriate, to improve the teaching and learning of networking and information technology at all levels of education and to increase participation in networking and information technology fields, including by women and underrepresented minorities;”

**SEC. 117. CONFORMING AND TECHNICAL AMENDMENTS.**

**(a) SECTION 3.—**Section 3 of such Act (15 U.S.C. 5502) is amended—

**(1)** in the matter preceding paragraph (1), by striking “high-performance computing” and inserting “networking and information technology”;;

**(2)** in paragraph (1), in the matter preceding subparagraph (A), by striking “high-performance computing” and inserting “networking and information technology”;;

**(3)** in subparagraphs (A) and (F) of paragraph (1), by striking “high-performance computing” each place it appears and inserting “networking and information technology”; and

**(4)** in paragraph (2)—

**(A)** by striking “high-performance computing and” and inserting “networking and information technology and”; and

**(B)** by striking “high-performance computing network” and inserting “networking and information technology”.

**(b) TITLE I.—**The heading of title I of such Act (15 U.S.C. 5511) is amended by striking “**HIGH-PERFORMANCE COMPUTING**” and inserting “**NETWORKING AND INFORMATION TECHNOLOGY**”.

**(c) SECTION 101.—**Section 101 of such Act (15 U.S.C. 5511) is amended—

**(1)** in the section heading, by striking “**HIGH-PERFORMANCE COMPUTING**” and inserting “**NETWORKING AND INFORMATION TECHNOLOGY RESEARCH AND DEVELOPMENT**”;;

**(2)** in subsection (a)—

**(A)** in the subsection heading, by striking “**NATIONAL HIGH-PERFORMANCE COMPUTING**” and inserting “**NETWORKING AND INFORMATION TECHNOLOGY RESEARCH AND DEVELOPMENT**”;;

**(B)** in paragraph (1) of such subsection—  
**(i)** in the matter preceding subparagraph (A), by striking “National High-Performance Computing Program” and inserting “networking and information technology research and development program”;;

**(ii)** in subparagraph (A), by striking “high-performance computing, including networking” and inserting “networking and information technology”; and

**(iii)** in subparagraphs (B), (C), and (G), by striking “high-performance” each place it appears and inserting “high-end”; and

(C) in paragraph (2) of such subsection—

(i) in subparagraphs (A) and (C)—

(I) by striking “high-performance computing” each place it appears and inserting “networking and information technology”; and

(II) by striking “development, networking,” each place it appears and inserting “development,”; and

(ii) in subparagraphs (F) and (G), as redesignated by section 112(c)(1) of this Act, by striking “high-performance” each place it appears and inserting “high-end”;

(3) in subsection (b)(1), in the matter preceding subparagraph (A), by striking “high-performance computing” both places it appears and inserting “networking and information technology”; and

(4) in subsection (c)(1)(A), by striking “high-performance computing” and inserting “networking and information technology”.

(d) SECTION 201.—Section 201(a)(1) of such Act (15 U.S.C. 5521(a)(1)) is amended by striking “high-performance computing” and all that follows through “networking;” and inserting “networking and information research and development;”.

(e) SECTION 202.—Section 202(a) of such Act (15 U.S.C. 5522(a)) is amended by striking “high-performance computing” and inserting “networking and information technology”.

(f) SECTION 203.—Section 203(a)(1) of such Act (15 U.S.C. 5523(a)(1)) is amended by striking “high-performance computing and networking” and inserting “networking and information technology”.

(g) SECTION 204.—Section 204(a)(1) of such Act (15 U.S.C. 5524(a)(1)) is amended—

(1) in subparagraph (A), by striking “high-performance computing systems and networks” and inserting “networking and information technology systems and capabilities”; and

(2) in subparagraph (C), by striking “high-performance computing” and inserting “networking and information technology”.

(h) SECTION 205.—Section 205(a) of such Act (15 U.S.C. 5525(a)) is amended by striking “computational” and inserting “networking and information technology”.

(i) SECTION 206.—Section 206(a) of such Act (15 U.S.C. 5526(a)) is amended by striking “computational research” and inserting “networking and information technology research”.

(j) SECTION 208.—Section 208 of such Act (15 U.S.C. 5528) is amended—

(1) in the section heading, by striking “**HIGH-PERFORMANCE COMPUTING**” and inserting “**NETWORKING AND INFORMATION TECHNOLOGY**”; and

(2) in subsection (a)—

(A) in paragraph (1), by striking “High-performance computing and associated” and inserting “Networking and information”; and

(B) in paragraph (2), by striking “high-performance computing” and inserting “networking and information technologies”; and

(C) in paragraph (4), by striking “high-performance computers and associated” and inserting “networking and information”; and

(D) in paragraph (5), by striking “high-performance computing and associated” and inserting “networking and information”.

#### Subtitle C—Other OSTP Provisions

#### SEC. 121. FEDERAL SCIENTIFIC COLLECTIONS.

(a) MANAGEMENT OF SCIENTIFIC COLLECTIONS.—The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall ensure the development of formal policies for the management and use of Federal scientific collections to improve the quality, organization, access, including online access, and long-term preservation of such collections for the benefit of the scientific enterprise.

(b) DEFINITION.—For the purposes of this section, the term “scientific collection” means a set

of physical specimens, living or inanimate, created for the purpose of supporting science and serving as a long-term research asset, rather than for their market value as collectibles or their historical, artistic, or cultural significance.

(c) CLEARINGHOUSE.—The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall ensure the development of an online clearinghouse for information on the contents of and access to Federal scientific collections.

(d) DISPOSAL OF COLLECTIONS.—The policies developed under subsection (a) shall—

(1) require that, before disposing of a scientific collection, a Federal agency shall—

(A) conduct a review of the research value of the collection; and

(B) consult with researchers who have used the collection, and other potentially interested parties, concerning—

(i) the collection’s value for research purposes; and

(ii) possible additional educational uses for the collection; and

(2) include procedures for Federal agencies to transfer scientific collections they no longer need to researchers at institutions or other entities qualified to manage the collections.

(e) COST PROJECTIONS.—The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall develop a common set of methodologies to be used by Federal agencies for the assessment and projection of costs associated with the management and preservation of their scientific collections.

#### SEC. 122. COORDINATION OF MANUFACTURING RESEARCH AND DEVELOPMENT.

(a) INTERAGENCY COMMITTEE.—The Director of the Office of Science and Technology Policy shall establish or designate an interagency committee under the National Science and Technology Council with the responsibility for planning and coordinating Federal programs and activities in manufacturing research and development.

(b) RESPONSIBILITIES OF COMMITTEE.—The interagency committee established or designated under subsection (a) shall—

(1) coordinate the manufacturing research and development programs and activities of the Federal agencies;

(2) establish goals and priorities for manufacturing research and development that will strengthen United States manufacturing; and

(3) develop and update every 5 years thereafter a strategic plan to guide Federal programs and activities in support of manufacturing research and development, which shall—

(A) specify and prioritize near-term and long-term research and development objectives, the anticipated time frame for achieving the objectives, and the metrics for use in assessing progress toward the objectives;

(B) specify the role of each Federal agency in carrying out or sponsoring research and development to meet the objectives of the strategic plan; and

(C) describe how the Federal agencies supporting manufacturing research and development will foster the transfer of research and development results into new manufacturing technologies, processes, and products for the benefit of society and the national interest.

(c) RECOMMENDATIONS.—In the development of the strategic plan required under subsection (b)(3), the Director of the Office of Science and Technology Policy, working through the interagency committee, shall take into consideration the recommendations of a wide range of stakeholders, including representatives from diverse manufacturing companies, academia, and other relevant organizations and institutions.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the

Director of the Office of Science and Technology Policy shall transmit the strategic plan developed under subsection (b)(3) to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Science and Technology of the House of Representatives, and shall transmit subsequent updates to those committees when completed.

#### SEC. 123. INTERAGENCY PUBLIC ACCESS COMMITTEE.

(a) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy shall establish a working group under the National Science and Technology Council with the responsibility to coordinate Federal science agency research and policies related to the dissemination and long-term stewardship of the results of unclassified research, including digital data and peer-reviewed scholarly publications, supported wholly, or in part, by funding from the Federal science agencies.

(b) RESPONSIBILITIES.—The working group established under subsection (a) shall—

(1) coordinate the development or designation of uniform standards for research data, the structure of full text and metadata, navigation tools, and other applications to achieve interoperability across Federal science agencies, across science and engineering disciplines, and between research data and scholarly publications, taking into account existing consensus standards, including international standards;

(2) coordinate Federal science agency programs and activities that support research and education on tools and systems required to ensure preservation and stewardship of all forms of digital research data, including scholarly publications;

(3) work with international science and technology counterparts to maximize interoperability between United States based unclassified research databases and international databases and repositories;

(4) solicit input and recommendations from, and collaborate with, non-Federal stakeholders, including universities, nonprofit and for-profit publishers, libraries, federally funded research scientists, and other organizations and institutions with a stake in long term preservation and access to the results of federally funded research; and

(5) establish priorities for coordinating the development of any Federal science agency policies related to public access to the results of federally funded research to maximize uniformity of such policies with respect to their benefit to, and potential economic or other impact on, the science and engineering enterprise and the stakeholders thereof.

(c) PATENT OR COPYRIGHT LAW.—Nothing in this section shall be construed to affect any right under the provisions of title 17 or 35, United States Code.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall transmit a report to Congress describing—

(1) any priorities established under subsection (b)(5);

(2) the status of any Federal science agency policies related to public access to the results of federally funded research; and

(3) how any policies developed or being developed by Federal science agencies, as described in paragraph (2), incorporate input from the non-Federal stakeholders described in subsection (b)(4).

(e) DEFINITION.—For the purposes of this section, the term “Federal science agency” means any Federal agency with an annual extramural research expenditure of over \$100,000,000.



**SEC. 124. FULFILLING THE POTENTIAL OF WOMEN IN ACADEMIC SCIENCE AND ENGINEERING.**

(a) **DEFINITION.**—In this section, the term “Federal science agency” means any Federal agency that is responsible for at least 2 percent of total Federal research and development funding to institutions of higher education, according to the most recent data available from the National Science Foundation.

(b) **WORKSHOPS TO ENHANCE GENDER EQUITY IN ACADEMIC SCIENCE AND ENGINEERING.**—

(1) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall develop a uniform policy for all Federal science agencies to carry out a program of workshops that educate program officers, members of grant review panels, institution of higher education STEM department chairs, and other federally funded researchers about methods that minimize the effects of gender bias in evaluation of Federal research grants and in the related academic advancement of actual and potential recipients of these grants, including hiring, tenure, promotion, and selection for any honor based in part on the recipient's research record.

(2) **INTERAGENCY COORDINATION.**—The Director of the Office of Science and Technology Policy shall ensure that programs of workshops across the Federal science agencies are coordinated and supported jointly as appropriate. As part of this process, the Director of the Office of Science and Technology Policy shall ensure that at least 1 workshop is supported every 2 years among the Federal science agencies in each of the major science and engineering disciplines supported by those agencies.

(3) **ORGANIZATIONS ELIGIBLE TO CARRY OUT WORKSHOPS.**—Federal science agencies may carry out the program of workshops under this subsection by making grants to eligible organizations. In addition to any other organizations made eligible by the Federal science agencies, the following organizations are eligible for grants under this subsection:

(A) Nonprofit scientific and professional societies and organizations that represent one or more STEM disciplines.

(B) Nonprofit organizations that have the primary mission of advancing the participation of women in STEM.

(4) **CHARACTERISTICS OF WORKSHOPS.**—The workshops shall have the following characteristics:

(A) Invitees to workshops shall include at least—

(i) the chairs of departments in the relevant discipline from at least the top 50 institutions of higher education, as determined by the amount of Federal research and development funds obligated to each institution of higher education in the prior year based on data available from the National Science Foundation;

(ii) members of any standing research grant review panel appointed by the Federal science agencies in the relevant discipline;

(iii) in the case of science and engineering disciplines supported by the Department of Energy, the individuals from each of the Department of Energy National Laboratories with personnel management responsibilities comparable to those of an institution of higher education department chair; and

(iv) Federal science agency program officers in the relevant discipline, other than program officers that participate in comparable workshops organized and run specifically for that agency's program officers.

(B) Activities at the workshops shall include research presentations and interactive discussions or other activities that increase the awareness of the existence of gender bias in the grant-making process and the development of the academic record necessary to qualify as a grant recipient, including recruitment, hiring, tenure review, promotion, and other forms of formal recognition of individual achievement, and provide strategies to overcome such bias.

(C) Research presentations and other workshop programs, as appropriate, shall include a discussion of the unique challenges faced by women who are members of historically underrepresented groups.

(D) Workshop programs shall include information on best practices and the value of mentoring undergraduate and graduate women students as well as outreach to girls earlier in their STEM education.

(5) **REPORT.**—

(A) **IN GENERAL.**—Not later than 5 years after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report evaluating the effectiveness of the program carried out under this subsection to reduce gender bias towards women engaged in research funded by the Federal Government. The Director of the Office of Science and Technology Policy shall include in this report any recommendations for improving the evaluation process described in subparagraph (B).

(B) **MINIMUM CRITERIA FOR EVALUATION.**—In determining the effectiveness of the program, the Director of the Office of Science and Technology Policy shall consider, at a minimum—

(i) the rates of participation by invitees in the workshops authorized under this subsection;

(ii) the results of attitudinal surveys conducted on workshop participants before and after the workshops;

(iii) any relevant institutional policy or practice changes reported by participants; and

(iv) for individuals described in paragraph (4)(A)(i) or (ii) who participated in at least 1 workshop 3 or more years prior to the due date for the report, trends in the data for the department represented by the chair or employee including faculty data related to gender as described in section 216.

(C) **INSTITUTIONAL ATTENDANCE AT WORKSHOPS.**—As part of the report under subparagraph (A), the Director of the Office of Science and Technology Policy shall include a list of institutions of higher education science and engineering departments whose representatives attended the workshops required under this subsection.

(6) **MINIMIZING COSTS.**—To the extent practicable, workshops shall be held in conjunction with national or regional disciplinary meetings to minimize costs associated with participant travel.

(c) **EXTENDED RESEARCH GRANT SUPPORT AND INTERIM TECHNICAL SUPPORT FOR CAREGIVERS.**—

(1) **POLICIES FOR CAREGIVERS.**—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall develop a uniform policy to—

(A) extend the period of grant support for federally funded researchers who have caregiving responsibilities; and

(B) provide funding for interim technical staff support for federally funded researchers who take a leave of absence for caregiving responsibilities.

(2) **REPORT.**—Upon developing the policy required under paragraph (1), the Director of the Office of Science and Technology Policy shall transmit a copy of the policy to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate.

(d) **COLLECTION OF DATA ON FEDERAL RESEARCH GRANTS.**—

(1) **IN GENERAL.**—Each Federal science agency shall collect standardized annual composite information on demographics, field, award type and budget request, review score, and funding outcome for all applications for research and development grants to institutions of higher education supported by that agency.

(2) **REPORTING OF DATA.**—

(A) The Director of the Office of Science and Technology Policy shall establish a policy to ensure uniformity and standardization of data collection required under paragraph (1).

(B) Not later than 2 years after the date of enactment of this Act, and annually thereafter, each Federal science agency shall submit data collected under paragraph (1) to the National Science Foundation.

(C) The National Science Foundation shall be responsible for storing and publishing all of the grant data submitted under subparagraph (B) in conjunction with the biennial report required under section 37 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885d).

**TITLE II—NATIONAL SCIENCE FOUNDATION**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “National Science Foundation Authorization Act of 2010”.

**Subtitle A—General Provisions**

**SEC. 211. DEFINITIONS.**

In this title:

(1) **DIRECTOR.**—The term “Director” means the Director of the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(2) **FOUNDATION.**—The term “Foundation” means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(3) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) **STATE.**—The term “State” means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(5) **STEM.**—The term “STEM” means science, technology, engineering, and mathematics.

(6) **UNITED STATES.**—The term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

**SEC. 212. AUTHORIZATION OF APPROPRIATIONS.**

(a) **FISCAL YEAR 2011.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Foundation \$7,481,000,000 for fiscal year 2011.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized under paragraph (1)—

(A) \$6,020,000,000 shall be made available for research and related activities;

(B) \$945,000,000 shall be made available for education and human resources;

(C) \$166,000,000 shall be made available for major research equipment and facilities construction;

(D) \$330,000,000 shall be made available for agency operations and award management;

(E) \$4,840,000 shall be made available for the Office of the National Science Board; and

(F) \$14,830,000 shall be made available for the Office of Inspector General.

(b) **FISCAL YEAR 2012.**—



(1) *IN GENERAL.*—There are authorized to be appropriated to the Foundation \$8,127,000,000 for fiscal year 2012.

(2) *SPECIFIC ALLOCATIONS.*—Of the amount authorized under paragraph (1)—

(A) \$6,496,000,000 shall be made available for research and related activities;

(B) \$1,020,000,000 shall be made available for education and human resources;

(C) \$235,000,000 shall be made available for major research equipment and facilities construction;

(D) \$356,000,000 shall be made available for agency operations and award management;

(E) \$5,010,000 shall be made available for the Office of the National Science Board; and

(F) \$15,350,000 shall be made available for the Office of Inspector General.

(c) *FISCAL YEAR 2013.*—

(1) *IN GENERAL.*—There are authorized to be appropriated to the Foundation \$8,764,000,000 for fiscal year 2013.

(2) *SPECIFIC ALLOCATIONS.*—Of the amount authorized under paragraph (1)—

(A) \$7,009,000,000 shall be made available for research and related activities;

(B) \$1,100,000,000 shall be made available for education and human resources;

(C) \$250,000,000 shall be made available for major research equipment and facilities construction;

(D) \$384,000,000 shall be made available for agency operations and award management;

(E) \$5,180,000 shall be made available for the Office of the National Science Board; and

(F) \$15,890,000 shall be made available for the Office of Inspector General.

(d) *FISCAL YEAR 2014.*—

(1) *IN GENERAL.*—There are authorized to be appropriated to the Foundation \$9,436,000,000 for fiscal year 2014.

(2) *SPECIFIC ALLOCATIONS.*—Of the amount authorized under paragraph (1)—

(A) \$7,562,000,000 shall be made available for research and related activities;

(B) \$1,187,000,000 shall be made available for education and human resources;

(C) \$250,000,000 shall be made available for major research equipment and facilities construction;

(D) \$415,000,000 shall be made available for agency operations and award management;

(E) \$5,370,000 shall be made available for the Office of the National Science Board; and

(F) \$16,440,000 shall be made available for the Office of Inspector General.

(e) *FISCAL YEAR 2015.*—

(1) *IN GENERAL.*—There are authorized to be appropriated to the Foundation \$10,161,000,000 for fiscal year 2015.

(2) *SPECIFIC ALLOCATIONS.*—Of the amount authorized under paragraph (1)—

(A) \$8,160,000,000 shall be made available for research and related activities;

(B) \$1,281,000,000 shall be made available for education and human resources;

(C) \$250,000,000 shall be made available for major research equipment and facilities construction;

(D) \$447,000,000 shall be made available for agency operations and award management;

(E) \$5,550,000 shall be made available for the Office of the National Science Board; and

(F) \$17,020,000 shall be made available for the Office of Inspector General.

#### **SEC. 213. NATIONAL SCIENCE BOARD ADMINISTRATIVE AMENDMENTS.**

(a) *STAFFING AT THE NATIONAL SCIENCE BOARD.*—Section 4(g) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended by striking “not more than 5”.

(b) *SCIENCE AND ENGINEERING INDICATORS DUE DATE.*—Section 4(j)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(1)) is

amended by striking “January 15” and inserting “May 31”.

(c) *NATIONAL SCIENCE BOARD REPORTS.*—Section 4(j)(2) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(2)) is amended by inserting “within the authority of the Foundation (or otherwise as requested by the appropriate Congressional committees of jurisdiction or the President)” after “individual policy matters”.

(d) *BOARD ADHERENCE TO SUNSHINE ACT.*—Section 15(a) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-5(a)) is amended—

(1) by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in paragraph (3), as so redesignated by paragraph (1) of this subsection—

(A) by striking “February 15” and inserting “April 15”; and

(B) by striking “the audit required under paragraph (3) along with” and inserting “any”; and

(3) in paragraph (4), as so redesignated by paragraph (1) of this subsection, by striking “To facilitate the audit required under paragraph (3) of this subsection, the” and inserting “The”.

#### **SEC. 214. BROADER IMPACTS REVIEW CRITERION.**

(a) *GOALS.*—The Foundation shall apply a Broader Impacts Review Criterion to achieve the following goals:

(1) Increased economic competitiveness of the United States.

(2) Development of a globally competitive STEM workforce.

(3) Increased participation of women and underrepresented minorities in STEM.

(4) Increased partnerships between academia and industry.

(5) Improved pre-K-12 STEM education and teacher development.

(6) Improved undergraduate STEM education.

(7) Increased public scientific literacy.

(8) Increased national security.

(b) *POLICY.*—Not later than 6 months after the date of enactment of this Act, the Director shall develop and implement a policy for the Broader Impacts Review Criterion that—

(1) provides for educating professional staff at the Foundation, merit review panels, and applicants for Foundation research grants on the policy developed under this subsection;

(2) clarifies that the activities of grant recipients undertaken to satisfy the Broader Impacts Review Criterion shall—

(A) to the extent practicable employ proven strategies and models and draw on existing programs and activities; and

(B) when novel approaches are justified, build on the most current research results;

(3) allows for some portion of funds allocated to broader impacts under a research grant to be used for assessment and evaluation of the broader impacts activity;

(4) encourages institutions of higher education and other nonprofit education or research organizations to develop and provide, either as individual institutions or in partnerships thereof, appropriate training and programs to assist Foundation-funded principal investigators at their institutions in achieving the goals of the Broader Impacts Review Criterion as described in subsection (a); and

(5) requires principal investigators applying for Foundation research grants to provide evidence of institutional support for the portion of the investigator’s proposal designed to satisfy the Broader Impacts Review Criterion, including evidence of relevant training, programs, and other institutional resources available to the investigator from either their home institution or organization or another institution or organization with relevant expertise.

#### **SEC. 215. NATIONAL CENTER FOR SCIENCE AND ENGINEERING STATISTICS.**

(a) *ESTABLISHMENT.*—There is established within the Foundation a National Center for Science and Engineering Statistics (in this section referred to as the “Center”), that shall serve as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development.

(b) *DUTIES.*—In carrying out subsection (a) of this section, the Director, acting through the Center shall—

(1) collect, acquire, analyze, report, and disseminate statistical data related to the science and engineering enterprise in the United States and other nations that is relevant and useful to practitioners, researchers, policymakers, and the public, including statistical data on—

(A) research and development trends;

(B) the science and engineering workforce;

(C) United States competitiveness in science, engineering, technology, and research and development; and

(D) the condition and progress of United States STEM education;

(2) support research using the data it collects, and on methodologies in areas related to the work of the Center; and

(3) support the education and training of researchers in the use of large-scale, nationally representative data sets.

(c) *STATISTICAL REPORTS.*—The Director or the National Science Board, acting through the Center, shall issue regular, and as necessary, special statistical reports on topics related to the national and international science and engineering enterprise such as the biennial report required by section 4 (j)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(1)) on indicators of the state of science and engineering in the United States.

#### **SEC. 216. COLLECTION OF DATA ON DEMOGRAPHICS OF FACULTY.**

(a) *COLLECTION OF DATA.*—The Director shall report, in conjunction with the biennial report required under section 37 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 191885d), statistical summary data on the demographics of STEM discipline faculty at institutions of higher education in the United States. At a minimum, the Director shall consider—

(1) the number and percent of faculty by gender, race, and age;

(2) the number and percent of faculty at each rank, by gender, race, and age;

(3) the number and percent of faculty who are in nontenure-track positions, including teaching and research, by gender, race, and age;

(4) the number of faculty who are reviewed for promotion, including tenure, and the percentage of that number who are promoted, by gender, race, and age;

(5) faculty years in rank by gender, race, and age;

(6) faculty attrition by gender, race, and age;

(7) the number and percent of faculty hired by rank, gender, race, and age; and

(8) the number and percent of faculty in leadership positions, including endowed or named chairs, serving on promotion and tenure committees, by gender, race, and age.

(b) *RECOMMENDATIONS.*—The Director shall solicit input and recommendations from relevant stakeholders, including representatives from institutions of higher education and nonprofit organizations, on the collection of data required under subsection (a), including the development of standard definitions on the terms and categories to be used in the collection of such data.

(c) *REPORT TO CONGRESS.*—Not later than 2 years after the date of enactment of this Act, the Director shall submit a report to Congress on how the Foundation will gather the demographic data on STEM faculty, including—

(1) a description of the data to be reported and the sources of those data;

(2) justification for the exclusion of any data described in paragraph (1); and

(3) a list of the definitions for the terms and categories, such as "faculty" and "leadership positions", to be applied in the reporting of all data described in paragraph (1).

#### **Subtitle B—Research and Innovation**

#### **SEC. 221. SUPPORT FOR POTENTIALLY TRANSFORMATIVE RESEARCH.**

(a) **POLICY.**—The Director shall establish a policy that requires the Foundation to use at least 5 percent of its research budget to fund high-risk, high-reward basic research proposals. Support for facilities and infrastructure, including preconstruction design and operations and maintenance of major research facilities, shall not be counted as part of the research budget for the purposes of this section.

(b) **IMPLEMENTATION.**—In implementing such policy, the Foundation may—

(1) develop solicitations specifically for high-risk, high-reward basic research;

(2) establish review panels for the primary purpose of selecting high-risk, high-reward proposals or modify instructions to standard review panels to require identification of high-risk, high-reward proposals; and

(3) support workshops and participate in conferences with the primary purpose of identifying new opportunities for high-risk, high-reward basic research, especially at interdisciplinary interfaces.

(c) **DEFINITION.**—For purposes of this section, the term "high-risk, high-reward basic research" means research driven by ideas that have the potential to radically change our understanding of an important existing scientific or engineering concept, or leading to the creation of a new paradigm or field of science or engineering, and that is characterized by its challenge to current understanding or its pathway to new frontiers.

#### **SEC. 222. FACILITATING INTERDISCIPLINARY COLLABORATIONS FOR NATIONAL NEEDS.**

(a) **IN GENERAL.**—The Director shall award competitive, merit-based awards in amounts not to exceed \$5,000,000 over a period of up to 5 years to interdisciplinary research collaborations that are likely to assist in addressing critical challenges to national security, competitiveness, and societal well-being and that—

(1) involve at least 2 co-equal principal investigators at the same or different institutions;

(2) draw upon well-integrated, diverse teams of investigators, including students or postdoctoral researchers, from one or more disciplines; and

(3) foster creativity and pursue high-risk, high-reward research.

(b) **PRIORITY.**—In selecting grant recipients under this section, the Director shall give priority to applicants that propose to utilize advances in cyberinfrastructure and simulation-based science and engineering.

#### **SEC. 223. NATIONAL SCIENCE FOUNDATION MANUFACTURING RESEARCH AND EDUCATION.**

(a) **MANUFACTURING RESEARCH.**—The Director shall carry out a program to award merit-reviewed, competitive grants to institutions of higher education to support fundamental research leading to transformative advances in manufacturing technologies, processes, and enterprises that will support United States manufacturing through improved performance, productivity, sustainability, and competitiveness. Research areas may include—

(1) nanomanufacturing;

(2) manufacturing and construction machines and equipment, including robotics, automation, and other intelligent systems;

(3) manufacturing enterprise systems;

(4) advanced sensing and control techniques;

(5) materials processing; and

(6) information technologies for manufacturing, including predictive and real-time models and simulations, and virtual manufacturing.

(b) **MANUFACTURING EDUCATION.**—In order to help ensure a well-trained manufacturing workforce, the Director shall award grants to strengthen and expand scientific and technical education and training in advanced manufacturing, including through the Foundation's Advanced Technological Education program.

#### **SEC. 224. STRENGTHENING INSTITUTIONAL RESEARCH PARTNERSHIPS.**

(a) **IN GENERAL.**—For any Foundation research grant, in an amount greater than \$2,000,000, to be carried out through a partnership that includes one or more minority-serving institutions or predominantly undergraduate institutions and one or more institutions described in subsection (b), the Director shall award funds directly, according to the budget justification described in the grant proposal, to at least two of the institutions of higher education in the partnership, including at least one minority-serving institution or one predominantly undergraduate institution, to ensure a strong and equitable partnership.

(b) **INSTITUTIONS.**—The institutions referred to in subsection (a) are institutions of higher education that are among the 100 institutions receiving, over the 3-year period immediately preceding the awarding of grants, the highest amount of research funding from the Foundation.

#### **SEC. 225. NATIONAL SCIENCE BOARD REPORT ON MID-SCALE INSTRUMENTATION.**

(a) **MID-SCALE RESEARCH INSTRUMENTATION NEEDS.**—The National Science Board shall evaluate the needs, across all disciplines supported by the Foundation, for mid-scale research instrumentation that falls between the instruments funded by the Major Research Instrumentation program and the very large projects funded by the Major Research Equipment and Facilities Construction program.

(b) **REPORT ON MID-SCALE RESEARCH INSTRUMENTATION PROGRAM.**—Not later than 1 year after the date of enactment of this Act, the National Science Board shall submit to Congress a report on mid-scale research instrumentation at the Foundation. At a minimum, this report shall include—

(1) the findings from the Board's evaluation of instrumentation needs required under subsection (a), including a description of differences across disciplines and Foundation research directorates;

(2) a recommendation or recommendations regarding how the Foundation should set priorities for mid-scale instrumentation across disciplines and Foundation research directorates;

(3) a recommendation or recommendations regarding the appropriateness of expanding existing programs, including the Major Research Instrumentation program or the Major Research Equipment and Facilities Construction program, to support more instrumentation at the mid-scale;

(4) a recommendation or recommendations regarding the need for and appropriateness of a new, Foundation-wide program or initiative in support of mid-scale instrumentation, including any recommendations regarding the administration of and budget for such a program or initiative and the appropriate scope of instruments to be funded under such a program or initiative; and

(5) any recommendation or recommendations regarding other options for supporting mid-scale research instrumentation at the Foundation.

#### **SEC. 226. SENSE OF CONGRESS ON OVERALL SUPPORT FOR RESEARCH INFRASTRUCTURE AT THE FOUNDATION.**

It is the sense of Congress that the Foundation should strive to keep the percentage of the Foundation budget devoted to research infrastructure in the range of 24 to 27 percent, as recommended in the 2003 National Science Board report entitled "Science and Engineering Infrastructure for the 21st Century".

#### **SEC. 227. PARTNERSHIPS FOR INNOVATION.**

(a) **IN GENERAL.**—The Director shall carry out a program to award merit-reviewed, competitive grants to institutions of higher education to establish and to expand partnerships that promote innovation and increase the economic and social impact of research by developing tools and resources to connect new scientific discoveries to practical uses.

(b) **PARTNERSHIPS.**—

(1) **IN GENERAL.**—To be eligible for funding under this section, an institution of higher education must propose establishment of a partnership that—

(A) includes at least one private sector entity; and

(B) may include other institutions of higher education, public sector institutions, private sector entities, and social enterprise nonprofit organizations.

(2) **PRIORITY.**—In selecting grant recipients under this section, the Director shall give priority to partnerships that include one or more institutions of higher education that are among the 100 institutions receiving, over the 3-year period immediately preceding the awarding of grants, the highest amount of research funding from the Foundation and at least one of the following:

(A) A minority serving institution.

(B) A primarily undergraduate institution.

(C) A 2-year institution of higher education.

(c) **PROGRAM.**—Proposals funded under this section shall seek to—

(1) increase the economic or social impact of the most promising research at the institution or institutions of higher education that are members of the partnership through knowledge transfer or commercialization;

(2) increase the engagement of faculty and students across multiple disciplines and departments, including faculty and students in schools of business and other appropriate non-STEM fields and disciplines in knowledge transfer activities;

(3) enhance education and mentoring of students and faculty in innovation and entrepreneurship through networks, courses, and development of best practices and curricula;

(4) strengthen the culture of the institution or institutions of higher education to undertake and participate in activities related to innovation and leading to economic or social impact;

(5) broaden the participation of all types of institutions of higher education in activities to meet STEM workforce needs and promote innovation and knowledge transfer; and

(6) build lasting partnerships with local and regional businesses, local and State governments, and other relevant entities.

(d) **ADDITIONAL CRITERIA.**—In selecting grant recipients under this section, the Director shall also consider the extent to which the applicants are able to demonstrate evidence of institutional support for, and commitment to—

(1) achieving the goals of the program as described in subsection (c);

(2) expansion to an institution-wide program if the initial proposal is not for an institution-wide program; and

(3) sustaining any new innovation tools and resources generated from funding under this program.

(e) **LIMITATION.**—No funds provided under this section may be used to construct or renovate a building or structure.

**SEC. 228. PRIZE AWARDS.**

(a) **SHORT TITLE.**—This section may be cited as the “Generating Extraordinary New Innovations in the United States Act of 2010”.

(b) **IN GENERAL.**—The Director shall carry out a pilot program to award innovation inducement cash prizes in any area of research supported by the Foundation. The Director may carry out a program of cash prizes only in conformity with this section.

(c) **TOPICS.**—In identifying topics for prize competitions under this section, the Director shall—

(1) consult widely both within and outside the Federal Government;

(2) give priority to high-risk, high-reward research challenges and to problems whose solution could improve the economic competitiveness of the United States; and

(3) give consideration to the extent to which the topics have the potential to raise public awareness about federally sponsored research.

(d) **TYPES OF CONTESTS.**—The Director shall consider all categories of innovation inducement prizes, including—

(1) contests in which the award is to the first team or individual who accomplishes a stated objective; and

(2) contests in which the winner is the team or individual who comes closest to achieving an objective within a specified time.

(e) **ADVERTISING AND ANNOUNCEMENT.**—

(1) **ADVERTISING AND SOLICITATION OF COMPETITORS.**—The Director shall widely advertise prize competitions to encourage broad participation, including by individuals, institutions of higher education, nonprofit organizations, and businesses.

(2) **ANNOUNCEMENT THROUGH FEDERAL REGISTER NOTICE.**—The Director shall announce each prize competition by publishing a notice in the Federal Register. This notice shall include the subject of the competition, the duration of the competition, the eligibility requirements for participation in the competition, the process for participants to register for the competition, the amount of the prize, and the criteria for awarding the prize, including the method by which the prize winner or winners will be selected.

(3) **TIME TO ANNOUNCEMENT.**—The Director shall announce a prize competition within 18 months after receipt of appropriated funds.

(f) **FUNDING.**—

(1) **FUNDING SOURCES.**—Prizes under this section shall consist of Federal appropriated funds and any funds raised pursuant to donations authorized under section 11(f) of the National Science Foundation Act of 1950 (42 U.S.C. 1870(f)) for specific prize competitions.

(2) **ANNOUNCEMENT OF PRIZES.**—The Director may not issue a notice as required by subsection (e)(2) until all of the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by another entity pursuant to paragraph (1).

(g) **ELIGIBILITY.**—To be eligible to win a prize under this section, an individual or entity—

(1) shall have complied with all of the requirements under this section;

(2) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a United States citizen or national, or an alien lawfully admitted to the United States for permanent residence;

(3) shall not be a Federal entity, a Federal employee acting within the scope of his or her employment, or a person employed at a Federal laboratory acting within the scope of his or her employment; and

(4) shall not have utilized Federal funds to engage in the research for which the prize is being awarded.

(h) **AWARDS.**—

(1) **NUMBER OF COMPETITIONS.**—The Director may announce up to 5 prize competitions through the end of fiscal year 2013.

(2) **SIZE OF AWARD.**—The Director may determine the amount of each prize award based on the prize topic, but no award shall be less than \$1,000,000 or greater than \$3,000,000.

(3) **SELECTING WINNERS.**—The Director may convene an expert panel to select a winner of a prize competition. If the panel is unable to select a winner, the Director shall determine the winner of the prize.

(4) **PUBLIC OUTREACH.**—The Director shall publicly award prizes utilizing the Foundation's existing public affairs and public outreach resources.

(i) **ADMINISTERING THE COMPETITION.**—The Director may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of this section.

(j) **INTELLECTUAL PROPERTY.**—The Federal Government shall not, by virtue of offering or awarding a prize under this section, be entitled to any intellectual property rights derived as a consequence of, or in direct relation to, the participation by a registered participant in a competition authorized by this section. This subsection shall not be construed to prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this section.

(k) **LIABILITY.**—The Director may require a registered participant in a prize competition under this section to waive liability against the Federal Government for injuries and damages that result from participation in such competition.

(l) **NONSUBSTITUTION.**—Any programs created under this section shall not be considered a substitute for Federal research and development programs.

(m) **REPORTING REQUIREMENT.**—Not later than 5 years after the date of enactment of this Act, the National Science Board shall transmit to Congress a report containing the results of a review and assessment of the pilot program under this section, including—

(1) a description of the nature and status of all completed or ongoing prize competitions carried out under this section, including any scientific achievements, publications, intellectual property, or commercialized technology that resulted from such competitions;

(2) any recommendations regarding changes to, the termination of, or continuation of the pilot program;

(3) an analysis of whether the program is attracting contestants more diverse than the Foundation's traditional academic constituency;

(4) an analysis of whether public awareness of innovation or of the goal of the particular prize or prizes is enhanced;

(5) an analysis of whether the Foundation's public image or ability to increase public scientific literacy is enhanced through the use of innovation inducement prizes; and

(6) an analysis of the extent to which private funds are being used to support registered participants.

(n) **EARLY TERMINATION OF CONTESTS.**—The Director shall terminate a prize contest before any registered participant wins if the Director determines that an unregistered entity has produced an innovation that would otherwise have qualified for the prize award.

(o) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—

(A) **AWARDS.**—There are authorized to be appropriated to the Director for the period encompassing fiscal years 2011 through 2013 \$12,000,000 for carrying out this section.

(B) **ADMINISTRATION.**—Of the amounts authorized in subparagraph (A), not more than 15

percent for each fiscal year shall be available for the administrative costs of carrying out this section.

(2) **CARRYOVER OF FUNDS.**—Funds appropriated for prize awards under this section shall remain available until expended, and may be transferred, reprogrammed, or expended for other purposes as authorized by law only after the expiration of 7 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this section permits obligation or payment of funds in violation of section 1341 of title 31 of the United States Code (commonly referred to as the Anti-Deficiency Act).

### **Subtitle C—STEM Education and Workforce Training**

#### **SEC. 241. GRADUATE STUDENT SUPPORT.**

(a) **FINDING.**—The Congress finds that—

(1) the Integrative Graduate Education and Research Traineeship program is an important program for training the next generation of scientists and engineers in team-based interdisciplinary research and problem solving, and for providing them with the many additional skills, such as communication skills, needed to thrive in diverse STEM careers; and

(2) the Integrative Graduate Education and Research Traineeship program is no less valuable to the preparation and support of graduate students than the Foundation's Graduate Research Fellowship program.

(b) **EQUAL TREATMENT OF IGERT AND GRF.**—Beginning in fiscal year 2011, the Director shall increase or, if necessary, decrease funding for the Foundation's Integrative Graduate Education and Research Traineeship program (or any program by which it is replaced) at least at the same rate as it increases or decreases funding for the Graduate Research Fellowship program.

(c) **SUPPORT FOR GRADUATE STUDENT RESEARCH FROM THE RESEARCH ACCOUNT.**—For each of the fiscal years 2011 through 2015, at least 50 percent of the total Foundation funds allocated to the Integrative Graduate Education and Research Traineeship program and the Graduate Research Fellowship program shall come from funds appropriated for Research and Related Activities.

(d) **COST OF EDUCATION ALLOWANCE FOR GRF PROGRAM.**—Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) is amended—

(1) by inserting “(a)” before “The Foundation is authorized”; and

(2) by adding at the end the following new subsection:

“(b) The Director shall establish for each year the amount to be awarded for scholarships and fellowships under this section for that year. Each such scholarship and fellowship shall include a cost of education allowance of \$12,000, subject to any restrictions on the use of cost of education allowance as determined by the Director.”.

#### **SEC. 242. POSTDOCTORAL FELLOWSHIP IN STEM EDUCATION RESEARCH.**

(a) **IN GENERAL.**—The Director shall establish postdoctoral fellowships in STEM education research to provide recent doctoral degree graduates in STEM fields with the necessary skills to assume leadership roles in STEM education research, program development, and evaluation in our Nation's diverse educational institutions.

(b) **AWARDS.**—

(1) **DURATION.**—Fellowships may be awarded under this section for a period of up to 24 months in duration, renewable for an additional 12 months. The Director shall establish criteria for eligibility for renewal of the fellowship.

(2) **STIPEND.**—The Director shall determine the amount of the award for a fellowship, which

shall include a stipend and a research allowance, and may include an educational allowance.

(3) **LOCATION.**—A fellowship shall be awarded for research at any institution of higher education that offers degrees in fields supported by the Foundation, or at any institution or organization that the Director determines is eligible for education research grants from the Foundation.

(4) **NUMBER OF AWARDS.**—The Director may award up to 20 new fellowships per year.

(c) **RESEARCH.**—Fellowships under this section shall be awarded for research on STEM education at any educational level, including grades pre-K-12, undergraduate, graduate, and general public education, in both formal and informal settings. Research topics may include—

- (1) learning processes and progressions;
- (2) knowledge transfer, including curriculum development;
- (3) uses of technology as teaching and learning tools;
- (4) integrating STEM fields; and
- (5) assessment of student learning and program evaluation.

(d) **ELIGIBILITY.**—To be eligible for a fellowship under this section, an individual must—

- (1) be a United States citizen or national, or an alien lawfully admitted to the United States for permanent residence, at the time of application; and

- (2) have received a doctoral degree in one of the STEM fields supported by the Foundation within 3 years prior to the fellowship application deadline.

#### **SEC. 243. ROBERT NOYCE TEACHER SCHOLARSHIP PROGRAM.**

Section 10A of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1a) is amended in subsection (h)(1) by—

- (1) striking “50” and inserting “30”; and
- (2) striking “which may be provided in cash or in-kind” and inserting “which shall be provided in cash”.

#### **SEC. 244. INSTITUTIONS SERVING PERSONS WITH DISABILITIES.**

For the purposes of the activities and programs supported by the Foundation, institutions of higher education chartered to serve large numbers of students with disabilities, including Gallaudet University, Landmark College, and the National Technical Institute for the Deaf, shall have a designation consistent with the designation for other institutions that serve populations underrepresented in STEM to ensure that institutions of higher education chartered to serve persons with disabilities can benefit from STEM bridge programs and from research partnerships with major research universities. Nothing in this section shall be construed to amend or otherwise affect any of the definitions for minority-serving institutions under title III or title V of the Higher Education Act of 1965.

#### **SEC. 245. INSTITUTIONAL INTEGRATION.**

(a) **INNOVATION THROUGH INSTITUTIONAL INTEGRATION.**—The Director shall award grants for the institutional integration of projects funded by the Foundation with a focus on education, or on broadening participation in STEM by underrepresented groups, for the purpose of increasing collaboration and coordination across funded projects and institutions and expanding the impact of such projects within and among institutions of higher education in an innovative and sustainable manner.

(b) **PROGRAM ACTIVITIES.**—The program under this section shall support integrative activities that involve the strategic and innovative combination of Foundation-funded projects and that provide for—

- (1) additional opportunities to increase the recruitment, retention, and degree attainment of underrepresented groups in STEM disciplines;

(2) the inclusion of programming, practices, and policies that encourage the integration of education and research;

(3) seamless transitions from one educational level to another; and

(4) other activities that expand and deepen the impact of Foundation-funded projects with a focus on education, or on broadening participation in STEM by underrepresented groups, and enhance their sustainability.

(c) **REVIEW CRITERIA.**—In selecting recipients of grants under this section, the Director shall consider at a minimum—

(1) the extent to which the proposed project addresses the goals of project and program integration and adds value to the existing funded projects;

(2) the extent to which there is a proven record of success for the existing projects on which the proposed integration project is based; and

(3) the extent to which the proposed project addresses the modification of programming, practices, and policies necessary to achieve the purpose described in subsection (a).

(d) **PRIORITY.**—In selecting recipients of grants under this section, the Director shall give priority to proposals for which a senior institutional administrator, including a dean or other administrator of equal or higher rank, serves as the principal investigator.

#### **SEC. 246. POSTDOCTORAL RESEARCH FELLOWSHIPS.**

(a) **IN GENERAL.**—The Director shall establish a Foundation-wide postdoctoral research fellowship program, to award competitive, merit-based postdoctoral research fellowships in any field of research supported by the Foundation.

(b) **DURATION AND AMOUNT.**—Fellowships may be awarded under this section for a period of up to 3 years in duration. The Director shall determine the amount of the award for a fellowship, which shall include a stipend and a research allowance, and may include an educational allowance.

(c) **ELIGIBILITY.**—To be eligible to receive a fellowship under this section, an individual—

(1) must be a United States citizen or national, or an alien lawfully admitted to the United States for permanent residence, at the time of application;

(2) must have received a doctoral degree in any field of research supported by the Foundation within 3 years prior to the fellowship application deadline, or will complete a doctoral degree no more than 1 year after the application deadline; and

(3) may not have previously received funding as the principal investigator of a research grant from the Foundation, unless such funding was received as a graduate student.

(d) **PRIORITY.**—In evaluating applications for fellowships under this section, the Director shall give priority to applications that include—

- (1) proposals for interdisciplinary research; or
- (2) proposals for high-risk, high-reward research.

(e) **ADDITIONAL CONSIDERATIONS.**—In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(f) **NONSUBSTITUTION.**—The fellowship program authorized under this section is not intended to replace or reduce support for postdoctoral research through existing programs at the Foundation.

#### **SEC. 247. BROADENING PARTICIPATION TRAINING AND OUTREACH.**

The Director shall provide education and training—

- (1) to Foundation staff and grant proposal review panels on effective mechanisms and tools

for broadening participation in STEM by underrepresented groups, including reviewer selection and mitigation of implicit bias in the review process; and

(2) to Foundation staff on related outreach approaches.

#### **SEC. 248. TRANSFORMING UNDERGRADUATE EDUCATION IN STEM.**

Section 17 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-6) is amended to read as follows:

#### **“SEC. 17. TRANSFORMING UNDERGRADUATE EDUCATION IN STEM.**

“(a) **IN GENERAL.**—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education (or to consortia thereof) to reform undergraduate STEM education for the purpose of increasing the number and quality of students studying toward and completing baccalaureate degrees in STEM and improving the STEM learning outcomes for all undergraduate students, including through—

“(1) development, implementation, and assessment of innovative, research-based approaches to transforming the teaching and learning of disciplinary or interdisciplinary STEM at the undergraduate level; and

“(2) expansion of successful STEM reform efforts beyond a single course or group of courses to achieve reform within an entire academic unit, or expansion of successful reform efforts beyond a single academic unit to other STEM academic units within an institution or to comparable academic units at other institutions.

“(b) **USES OF FUNDS.**—Activities supported by grants under this section may include—

“(1) creation of multidisciplinary or interdisciplinary courses or programs that formalize collaborations for the purpose of improved student instruction and research in STEM;

“(2) expansion of undergraduate STEM research opportunities to include interdisciplinary research opportunities and research opportunities in industry, at Federal labs, and at international research institutions or research sites;

“(3) implementation or expansion of bridge programs, including programs that address student transition from 2-year to 4-year institutions, and cohort, tutoring, or mentoring programs proven to enhance student recruitment or persistence to degree completion in STEM, including recruitment or persistence to degree completion of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b);

“(4) improvement of undergraduate STEM education for nonmajors, including education majors;

“(5) implementation of evidence-based, technology-driven reform efforts that directly impact undergraduate STEM instruction or research experiences;

“(6) development and implementation of faculty and graduate teaching assistant development programs focused on improved instruction, mentoring, assessment of student learning, and support of undergraduate STEM students;

“(7) support for graduate students and postdoctoral fellows to participate in instructional or assessment activities at primarily undergraduate institutions;

“(8) research on teaching and learning of STEM at the undergraduate level related to the proposed reform effort, including assessment and evaluation of the proposed reform activities, research on scalability and sustainability of approaches to reform, and development and implementation of longitudinal studies of students included in the proposed reform effort; and

“(9) support for initiatives that advance the integration of global challenges such as sustainability into disciplinary and interdisciplinary STEM education.”

“(c) **PARTNERSHIP.**—An institution of higher education may partner with one or more other nonprofit education or research organizations, including scientific and engineering societies, for the purposes of carrying out the activities authorized under this section.

“(d) **SELECTION PROCESS.**—

“(1) **APPLICATIONS.**—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

“(A) a description of the proposed reform effort;

“(B) a description of the research findings that will serve as the basis for the proposed reform effort or, in the case of applications that propose an expansion of a previously implemented reform effort, a description of the previously implemented reform effort, including indicators of success such as data on student recruitment, persistence to degree completion, and academic achievement;

“(C) evidence of institutional support for, and commitment to, the proposed reform effort, including long-term commitment to implement successful strategies from the current reform effort beyond the academic unit or units included in the grant proposal or to disseminate successful strategies to other institutions;

“(D) a description of existing or planned institutional policies and practices regarding faculty hiring, promotion, tenure, and teaching assignment that reward faculty contributions to undergraduate STEM education; and

“(E) a description of the plans for assessment and evaluation of the proposed reform activities, including evidence of participation by individuals with experience in assessment and evaluation of teaching and learning programs.

“(2) **REVIEW OF APPLICATIONS.**—In selecting grant recipients under this section, the Director shall consider at a minimum—

“(A) the likelihood of success in undertaking the proposed effort at the institution submitting the application, including the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit or units;

“(B) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on faculty engagement in undergraduate education;

“(C) the likelihood that the institution will sustain or expand the reform beyond the period of the grant; and

“(D) the degree to which scholarly assessment and evaluation plans are included in the design of the reform effort, including the degree to which such assessment and evaluation contribute to the systematic accumulation of knowledge on STEM education.

“(3) **PRIORITY.**—For proposals that include an expansion of existing reform efforts beyond a single academic unit, the Director shall give priority to proposals for which a senior institutional administrator, including a dean or other administrator of equal or higher rank, serves as the principal investigator or a coprincipal investigator.

“(4) **GRANT DISTRIBUTION.**—The Director shall ensure, to the extent practicable, that grants awarded under this section are made to a variety of types of institutions of higher education.”.

#### **SEC. 249. 21ST CENTURY GRADUATE EDUCATION.**

(a) **IN GENERAL.**—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to implement or expand research-based reforms in master's and doctoral level STEM education that empha-

size preparation for diverse careers utilizing STEM degrees, including at diverse types of institutions of higher education, in industry, and at government agencies and research laboratories.

(b) **USES OF FUNDS.**—Activities supported by grants under this section may include—

(1) creation of multidisciplinary or interdisciplinary courses or programs for the purpose of improved student instruction and research in STEM;

(2) expansion of graduate STEM research opportunities to include interdisciplinary research opportunities and research opportunities in industry, at Federal laboratories, and at international research institutions or research sites;

(3) development and implementation of future faculty training programs focused on improved instruction, mentoring, assessment of student learning, and support of undergraduate STEM students;

(4) support and training for graduate students to participate in instructional activities beyond the traditional teaching assistantship, and especially as part of ongoing educational reform efforts, including at pre-K-12 schools, informal science education institutions, and primarily undergraduate institutions;

(5) creation, improvement, or expansion of innovative graduate programs such as science master's degree programs;

(6) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to engage in innovation, technology transfer, and entrepreneurship;

(7) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to effectively communicate their research findings to technical audiences outside of their own discipline and to nontechnical audiences;

(8) expansion of successful STEM reform efforts beyond a single academic unit to other STEM academic units within an institution or to comparable academic units at other institutions; and

(9) research on teaching and learning of STEM at the graduate level related to the proposed reform effort, including assessment and evaluation of the proposed reform activities and research on scalability and sustainability of approaches to reform.

(c) **PARTNERSHIP.**—An institution of higher education may partner with one or more other nonprofit education or research organizations, including scientific and engineering societies, for the purposes of carrying out the activities authorized under this section.

(d) **SELECTION PROCESS.**—

(1) **APPLICATIONS.**—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) in the case of applications that propose an expansion of a previously implemented reform effort at the applicant's institution or at other institutions, a description of the previously implemented reform effort;

(C) evidence of institutional support for, and commitment to, the proposed reform effort, including long-term commitment to implement successful strategies from the current reform effort beyond the academic unit or units included in the grant proposal or to disseminate successful strategies to other institutions; and

(D) a description of the plans for assessment and evaluation of the grant proposed reform activities.

(2) **REVIEW OF APPLICATIONS.**—In selecting grant recipients under this section, the Director shall consider at a minimum—

(A) the likelihood of success in undertaking the proposed effort at the institution submitting the application, including the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit or units;

(B) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on preparing graduate students for diverse careers utilizing STEM degrees;

(C) the likelihood that the institution will sustain or expand the reform beyond the period of the grant; and

(D) the degree to which scholarly assessment and evaluation plans are included in the design of the reform effort.

(e) **REPEAL.**—Section 7034 of the America COMPETES Act (42 U.S.C. 1862o-13) is repealed.

#### **SEC. 250. UNDERGRADUATE BROADENING PARTICIPATION PROGRAM.**

(a) **UNDERGRADUATE BROADENING PARTICIPATION PROGRAM.**—The Foundation shall continue to support the Historically Black Colleges and Universities Undergraduate Program, the Louis Stokes Alliances for Minority Participation program, and the Tribal Colleges and Universities Program as separate programs at least through September 30, 2011.

(b) **PLAN.**—Prior to any realignment or consolidation of the programs described in subsection (a), in addition to the Hispanic-Serving Institutions Undergraduate Program required by section 7033 of the America COMPETES Act (42 U.S.C. 1862o-12), the Director shall develop a plan clarifying the objectives and rationale for such changes. The plan shall include a description of how such changes would result in—

(1) meeting or strengthening the common goal of the separate programs to increase the number of individuals from underrepresented groups attaining undergraduate STEM degrees; and

(2) addressing the unique needs of the different types of minority serving institutions and underrepresented groups currently provided for by the separate programs.

(c) **RECOMMENDATIONS.**—In the development of the plan required under subsection (b), the Director shall at a minimum—

(1) consider the recommendations and findings of the National Academy of Sciences report required by section 7032 of the America COMPETES Act (Public Law 110-69); and

(2) solicit recommendations and feedback from a wide range of stakeholders, including representatives from minority serving institutions, other institutions of higher education, and other entities with expertise on effective mechanisms to increase the recruitment and retention of members of underrepresented groups in STEM fields, and the attainment of STEM degrees by underrepresented groups.

(d) **APPROVAL BY CONGRESS.**—The plan developed under this section shall be transmitted to Congress at least 3 months prior to the implementation of any realignment or consolidation of the programs described in subsection (a).

#### **SEC. 251. GRAND CHALLENGES IN EDUCATION RESEARCH.**

(a) **IN GENERAL.**—The Director and the Secretary of Education shall collaborate, in consultation with the Director of the National Institutes of Health, in—

(1) identifying, prioritizing, and developing strategies to address grand challenges in research and development on the teaching and learning of STEM at the pre-K-12 level, in formal and informal settings, for diverse learning populations, including individuals identified in

section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b), and students in rural schools;

(2) carrying out research and development to address the grand challenges identified in paragraph (1); and

(3) ensuring the dissemination of the results of such research and development.

(b) **STAKEHOLDER INPUT.**—In identifying the grand challenges required in subsection (a), the Director and the Secretary shall—

(1) take into consideration critical research gaps identified in existing reports, including reports by the National Academies, on the teaching and learning of STEM at the pre-K-12 level in formal and informal settings; and

(2) solicit input from a wide range of stakeholders, including local and State education officials, STEM teachers, STEM education researchers, scientific and engineering societies, STEM faculty at institutions of higher education, informal STEM education providers, businesses with a large STEM workforce, and other stakeholders in the teaching and learning of STEM at the pre-K-12 level, and may enter into an arrangement with the National Research Council for these purposes.

(c) **TOPICS TO CONSIDER.**—In identifying the grand challenges required in subsection (a), the Director and the Secretary, in order to provide students with increased access to rigorous courses of study in STEM, increase the number of students who are prepared for advanced study and careers in STEM, and increase the effective teaching of STEM subjects, shall at a minimum consider the following topics:

(1) Research on scalability, sustainability, and replication of successful STEM activities, programs, and models, in formal and informal environments.

(2) Research that utilizes a systems approach to identifying challenges and opportunities to improve the teaching and learning of STEM, including development and evaluation of model systems that support improved teaching and learning of STEM across entire school districts and States, and encompassing and integrating the teaching and learning of STEM in formal and informal venues, and in K-12 schools and institutions of higher education.

(3) Research to understand what makes a STEM teacher effective and STEM teacher professional development effective, including development of tools and methodologies to measure STEM teacher effectiveness.

(4) Research and development on cyber-enabled tools and programs and television based tools and programs for learning and teaching STEM, including development of tools and methodologies for assessing cyber and television enabled teaching and learning.

(5) Research and development on STEM teaching and learning in informal environments, including development of tools and methodologies for assessing STEM teaching and learning in informal environments.

(6) Research and development on how integrating engineering with mathematics and science education may—

(A) improve student learning of mathematics and science;

(B) increase student interest and persistence in STEM; or

(C) improve student understanding of engineering design principles and of the built world.

(7) Research to understand what makes hands-on, inquiry-based classroom experiences effective, including development of tools and methodologies for assessing such experiences.

(d) **REPORT TO CONGRESS.**—Not later than 18 months after the date of enactment of this Act, the Director and the Secretary shall report back to Congress with a description of—

(1) the grand challenges identified pursuant to this section;

(2) the role of each agency in supporting research and development activities to address the grand challenges;

(3) the common metrics that will be used to assess progress toward meeting the grand challenges;

(4) plans for periodically updating the grand challenges;

(5) how the agencies will disseminate the results of research and development activities carried out under this section to STEM education practitioners, to other Federal agencies that support STEM programs and activities, and to non-Federal funders of STEM education; and

(6) how the agencies will support implementation of best practices identified by the research and development activities.

#### **SEC. 252. RESEARCH EXPERIENCES FOR UNDERGRADUATES.**

(a) **RESEARCH SITES.**—The Director shall award grants, on a merit-reviewed, competitive basis, to institutions of higher education, non-profit organizations, or consortia of such institutions and organizations, for sites designated by the Director to provide research experiences for 10 or more undergraduate STEM students, with consideration given to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b). The Director shall ensure that—

(1) at least half of the students participating in a program funded by a grant under this subsection at each site shall be recruited from institutions of higher education where research opportunities in STEM are limited, including 2-year institutions;

(2) the awards provide undergraduate research experiences in a wide range of STEM disciplines;

(3) the awards support a variety of projects, including independent investigator-led projects, interdisciplinary projects, and multi-institutional projects (including virtual projects);

(4) students participating in each program funded have mentors, including during the academic year to the extent practicable, to help connect the students' research experiences to the overall academic course of study and to help students achieve success in courses of study leading to a baccalaureate degree in a STEM field;

(5) mentors and students are supported with appropriate salary or stipends; and

(6) student participants are tracked, for employment and continued matriculation in STEM fields, through receipt of the undergraduate degree and for at least 3 years thereafter.

(b) **INCLUSION OF UNDERGRADUATES IN STANDARD RESEARCH GRANTS.**—The Director shall require that every recipient of a research grant from the Foundation proposing to include 1 or more undergraduate students in carrying out the research under the grant shall request support, including stipend support, for such undergraduate students as part of the research proposal itself rather than as a supplement to the research proposal, unless such undergraduate participation was not foreseeable at the time of the original proposal.

#### **SEC. 253. LABORATORY SCIENCE PILOT PROGRAM.**

Section 7026 of the America COMPETES Act (Public Law 110-69) is amended by striking subsections (d) and (e).

#### **SEC. 254. STEM INDUSTRY INTERNSHIP PROGRAMS.**

(a) **IN GENERAL.**—The Director may award grants, on a competitive, merit-reviewed basis, to institutions of higher education, or consortia thereof, to establish or expand partnerships with local or regional private sector entities, for the purpose of providing undergraduate students with integrated internship experiences

that connect private sector internship experiences with the students' STEM coursework. Such partnerships may also include industry or professional associations.

(b) **PRIORITY.**—In awarding grants under this section, the Director shall give priority to institutions of higher education or consortia thereof that demonstrate significant outreach to and coordination with local or regional private sector entities in developing academic courses designed to provide students with the skills necessary for employment in local or regional companies.

(c) **COST-SHARE.**—The Director shall require a 50 percent non-Federal cost-share from partnerships established or expanded under this section.

(d) **RESTRICTION.**—No Federal funds provided under this section may be used—

(1) for the purpose of providing stipends or compensation to students for private sector internships; or

(2) as payment or reimbursement to private sector entities.

(e) **REPORT.**—Not less than 3 years after the date of enactment of this Act, the Director shall submit a report to Congress on the number and total value of awards made under this section, the number of students affected by those awards, and any evidence of the effect of those awards on workforce preparation and jobs placement for participating students.

#### **SEC. 255. TRIBAL COLLEGES AND UNIVERSITIES PROGRAM.**

(a) **IN GENERAL.**—The Director shall continue to support a program to award grants on a competitive, merit-reviewed basis to tribal colleges and universities (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c)), including institutions described in section 317 of such Act (20 U.S.C. 1059d), to enhance the quality of undergraduate STEM education at such institutions and to increase the retention and graduation rates of Native American students pursuing associate's or baccalaureate degrees in STEM.

(b) **PROGRAM COMPONENTS.**—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in STEM;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) **INSTRUMENTATION.**—Funding provided under this section may be used for instrumentation.

### **TITLE III—STEM EDUCATION**

#### **SEC. 301. COORDINATION OF FEDERAL STEM EDUCATION.**

(a) **SHORT TITLE.**—This section may be cited as the "STEM Education Coordination Act of 2010".

(b) **DEFINITION.**—In this section, the term "STEM" means science, technology, engineering, and mathematics.

(c) **ESTABLISHMENT.**—The Director of the Office of Science and Technology Policy shall establish a committee under the National Science and Technology Council with the responsibility to coordinate Federal programs and activities in support of STEM education, including at the National Science Foundation, the Department of Energy, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Department of Education, and all other Federal agencies that have programs and activities in support of STEM education.

(d) **RESPONSIBILITIES OF THE COMMITTEE.**—The committee established under subsection (c) shall—

(1) coordinate the STEM education activities and programs of the Federal agencies;



(2) develop, implement through the participating agencies, and update once every 5 years a 5-year STEM education strategic plan, which shall—

(A) specify and prioritize annual and long-term objectives;

(B) specify the common metrics that will be used to assess progress toward achieving the objectives;

(C) describe the approaches that will be taken by each participating agency to assess the effectiveness of its STEM education programs and activities; and

(D) with respect to subparagraph (A), describe the role of each agency in supporting programs and activities designed to achieve the objectives; and

(3) establish, periodically update, and maintain an inventory of federally sponsored STEM education programs and activities, including documentation of assessments of the effectiveness of such programs and activities and rates of participation by underrepresented minorities in such programs and activities.

(e) **RESPONSIBILITIES OF OSTP.**—The Director of the Office of Science and Technology Policy shall encourage and monitor the efforts of the participating agencies to ensure that the strategic plan under subsection (d)(2) is developed and executed effectively and that the objectives of the strategic plan are met.

(f) **REPORT.**—The Director of the Office of Science and Technology Policy shall transmit a report annually to Congress at the time of the President's budget request describing the plan required under subsection (d)(2). The annual report shall include—

(1) a description of the STEM education programs and activities for the previous and current fiscal years, and the proposed programs and activities under the President's budget request, of each participating Federal agency;

(2) the levels of funding for each participating Federal agency for the programs and activities described under paragraph (1) for the previous fiscal year and under the President's budget request;

(3) except for the initial annual report, a description of the progress made in carrying out the implementation plan, including a description of the outcome of any program assessments completed in the previous year, and any changes made to that plan since the previous annual report; and

(4) a description of how the participating Federal agencies will disseminate information about federally supported resources for STEM education practitioners, including teacher professional development programs, to States and to STEM education practitioners, including to teachers and administrators in high-need schools, as defined in section 200 of the Higher Education Act of 1965 (20 U.S.C. 1021).

#### **SEC. 302. ADVISORY COMMITTEE ON STEM EDUCATION.**

(a) **IN GENERAL.**—The President shall establish or designate an advisory committee on science, technology, engineering, and mathematics (STEM) education.

(b) **MEMBERSHIP.**—The advisory committee established or designated by the President under subsection (a) shall be chaired by at least 2 members of the President's Council of Advisors on Science and Technology, with the remaining advisory committee membership consisting of non-Federal members who are specially qualified to provide the President with advice and information on STEM education. Membership of the advisory committee, at a minimum, shall include individuals from the following categories of individuals and organizations:

(1) STEM educator professional associations.

(2) Organizations that provide informal STEM education activities.

(3) Institutions of higher education.

(4) Scientific and engineering professional societies.

(5) Business and industry associations.

(6) Foundations that fund STEM education activities.

(c) **RESPONSIBILITIES.**—The responsibilities of the advisory committee shall include—

(1) soliciting input from teachers, administrators, local education agencies, States, and other public and private STEM education stakeholder groups for the purpose of informing the Federal agencies that support STEM education programs on the STEM education needs of States and school districts;

(2) soliciting input from all STEM education stakeholder groups regarding STEM education programs, including STEM education research programs, supported by Federal agencies;

(3) providing advice to the Federal agencies that support STEM education programs on how their programs can be better aligned with the needs of States and school districts as identified in paragraph (1), consistent with the mission of each agency; and

(4) offering guidance to the President on current STEM education activities, research findings, and best practices, with the purpose of increasing connectivity between public and private STEM education efforts.

#### **SEC. 303. STEM EDUCATION AT THE DEPARTMENT OF ENERGY.**

(a) **DEFINITIONS.**—Section 5002 of the America COMPETES Act (42 U.S.C. 16531) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

“(2) **ENERGY SYSTEMS SCIENCE AND ENGINEERING.**—The term ‘energy systems science and engineering’ means—

“(A) nuclear science and engineering, including—

“(i) nuclear engineering;

“(ii) nuclear chemistry;

“(iii) radiochemistry; and

“(iv) health physics;

“(B) hydrocarbon system science and engineering, including—

“(i) petroleum or reservoir engineering;

“(ii) environmental geoscience;

“(iii) petrophysics;

“(iv) geophysics;

“(v) geochemistry;

“(vi) petroleum geology;

“(vii) ocean engineering;

“(viii) environmental engineering; and

“(ix) carbon capture and sequestration science and engineering;

“(C) energy efficiency and renewable energy technology systems science and engineering, including with respect to—

“(i) solar technology systems;

“(ii) wind technology systems;

“(iii) buildings technology systems;

“(iv) transportation technology systems;

“(v) hydropower systems; and

“(vi) geothermal systems; and

“(D) energy storage and distribution systems science and engineering, including with respect to—

“(i) energy storage; and

“(ii) energy delivery.”.

(b) **SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION PROGRAMS.**—Subpart B of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381g et seq.) is amended—

(1) in section 3170—

(A) by amending paragraph (1) to read as follows:

“(1) **DIRECTOR.**—The term ‘Director’ means the Director of STEM Education appointed or designated under section 3171(c)(1).”;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following new paragraph:

“(2) **ENERGY SYSTEMS SCIENCE AND ENGINEERING.**—The term ‘energy systems science and engineering’ means—

“(A) nuclear science and engineering, including—

“(i) nuclear engineering;

“(ii) nuclear chemistry;

“(iii) radiochemistry; and

“(iv) health physics;

“(B) hydrocarbon system science and engineering, including—

“(i) petroleum or reservoir engineering;

“(ii) environmental geoscience;

“(iii) petrophysics;

“(iv) geophysics;

“(v) geochemistry;

“(vi) petroleum geology;

“(vii) ocean engineering; and

“(viii) environmental engineering;

“(C) energy efficiency and renewable energy technology systems science and engineering, including with respect to—

“(i) solar technology systems;

“(ii) wind technology systems;

“(iii) buildings technology systems;

“(iv) transportation technology systems;

“(v) hydropower systems; and

“(vi) geothermal systems; and

“(D) energy storage and distribution systems science and engineering, including with respect to—

“(i) energy storage; and

“(ii) energy delivery.”; and

(D) by adding at the end the following new paragraph:

“(4) **STEM.**—The term ‘STEM’ means science, technology, engineering, and mathematics.”;

(2) by striking chapters 1, 2, 3, 4, and 6;

(3) by inserting after section 3170 the following new chapter:

#### **“CHAPTER 1—STEM EDUCATION**

##### **“SEC. 3171. STEM EDUCATION.**

“(a) **IN GENERAL.**—The Secretary of Energy shall develop, conduct, support, promote, and coordinate formal and informal educational activities that leverage the Department's unique content expertise and facilities to contribute to improving STEM education at all levels in the United States, and to enhance awareness and understanding of STEM, including energy sciences, in order to create a diverse skilled scientific and technical workforce essential to meeting the challenges facing the Department and the Nation in the 21st century.

“(b) **PROGRAMS.**—The Secretary shall carry out evidence-based programs designed to increase student interest and participation, improve public literacy and support, and improve the teaching and learning of energy systems science and engineering and other STEM disciplines supported by the Department. Programs authorized under this subsection may include—

“(1) informal educational programming designed to excite and inspire students and the general public about energy systems science and engineering and other STEM disciplines supported by the Department, while strengthening their content knowledge in these fields;

“(2) teacher training and professional development opportunities for pre-service and in-service elementary and secondary teachers designed to increase the content knowledge of teachers in energy systems science and engineering and other STEM disciplines supported by the Department, including through hands-on research experiences;

“(3) research opportunities for secondary school students, including internships at the National Laboratories, that provide secondary school students with hands-on research experiences as well as exposure to working scientists;



“(4) research opportunities at the National Laboratories for undergraduate and graduate students pursuing degrees in energy systems science and engineering and other STEM disciplines supported by the Department; and

“(5) competitive scholarships, fellowships, and traineeships for undergraduate and graduate students in energy systems science and engineering and other STEM disciplines supported by the Department.

“(c) ORGANIZATION OF STEM EDUCATION PROGRAMS.—

“(1) DIRECTOR OF STEM EDUCATION.—The Secretary shall appoint or designate a Director of STEM Education, who shall have the principal responsibility to oversee and coordinate all programs and activities of the Department in support of STEM education, including energy systems science and engineering education, across all functions of the Department.

“(2) QUALIFICATIONS.—The Director shall be an individual, who by reason of professional background and experience, is specially qualified to advise the Secretary on all matters pertaining to STEM education, including energy systems science and engineering education, at the Department.

“(3) DUTIES.—The Director shall—

“(A) oversee and coordinate all programs in support of STEM education, including energy systems science and engineering education, across all functions of the Department;

“(B) represent the Department as the principal interagency liaison for all STEM education programs, unless otherwise represented by the Secretary, the Under Secretary for Science, or the Under Secretary for Energy;

“(C) prepare the annual budget and advise the Under Secretary for Science and the Under Secretary for Energy on all budgetary issues for STEM education, including energy systems science and engineering education, relative to the programs of the Department;

“(D) establish, periodically update, and maintain a publicly accessible online inventory of STEM education programs and activities, including energy systems science and engineering education programs and activities;

“(E) develop, implement, and update the Department of Energy STEM education strategic plan, as required by subsection (d);

“(F) increase, to the maximum extent practicable, the participation and advancement of women and underrepresented minorities at every level of STEM education, including energy systems science and engineering education; and

“(G) perform such other matters relating to STEM education as are required by the Secretary, the Under Secretary for Science, or the Under Secretary for Energy.

“(d) DEPARTMENT OF ENERGY STEM EDUCATION STRATEGIC PLAN.—The Director of STEM education appointed or designated under subsection (c)(1) shall develop, implement, and update once every 3 years a 3-year STEM education strategic plan for the Department, which shall—

“(1) identify and prioritize annual and long-term STEM education goals and objectives for the Department that are aligned with the overall goals of the National Science and Technology Council Committee on STEM Education Strategic plan required under section 301(d)(2) of the STEM Education Coordination Act of 2010;

“(2) describe the role of each program or activity of the Department in contributing to the goals and objectives identified under paragraph (1);

“(3) specify the metrics that will be used to assess progress toward achieving those goals and objectives; and

“(4) describe the approaches that will be taken to assess the effectiveness of each STEM

education program and activity supported by the Department.

“(e) OUTREACH TO STUDENTS FROM UNDERREPRESENTED GROUPS.—In carrying out a program authorized under this section, the Secretary shall give consideration to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

“(f) CONSULTATION AND PARTNERSHIP WITH OTHER AGENCIES.—In carrying out the programs and activities authorized under this section, the Secretary shall—

“(1) consult with the Secretary of Education and the Director of the National Science Foundation regarding activities designed to improve elementary and secondary STEM education; and

“(2) consult and partner with the Director of the National Science Foundation in carrying out programs under this section designed to build capacity in STEM education at the undergraduate and graduate level, including by supporting excellent proposals in energy systems science and engineering that are submitted for funding to the Foundation’s Advanced Technological Education Program.”; and

(4) in section 3191—

(A) in subsection (a)—

(i) by striking “web-based” and inserting “, through a publicly available website.”; and

(ii) by inserting “and project-based learning opportunities” after “laboratory experiments”;

(B) in subsection (b)(1), by inserting “, including energy systems science and engineering” after “the science of energy”; and

(C) by striking subsection (d).

(c) ENERGY APPLIED SCIENCE TALENT EXPANSION PROGRAM FOR INSTITUTIONS OF HIGHER EDUCATION.—

(1) AMENDMENT.—Strike sections 5004 and 5005 of the America COMPETES Act (42 U.S.C. 16532 and 16533) and insert the following new section:

“SEC. 5004. ENERGY APPLIED SCIENCE TALENT EXPANSION PROGRAM FOR INSTITUTIONS OF HIGHER EDUCATION.

“(a) PURPOSES.—The purposes of this section are—

“(1) to address the decline in the number of and resources available to energy systems science and engineering programs at institutions of higher education, including community colleges; and

“(2) to increase the number of graduates with degrees in energy systems science and engineering, an area of strategic importance to the economic competitiveness and energy security of the United States.

“(b) ESTABLISHMENT.—The Secretary shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to implement or expand the energy systems science and engineering educational and technical training capabilities of the institution, and to provide merit-based financial support for master’s and doctoral level students pursuing courses of study and research in energy systems sciences and engineering.

“(c) USE OF FUNDS.—An institution of higher education that receives a grant under this section may use the grant to—

“(1) provide traineeships, including stipends and cost of education allowances, to master’s and doctoral students;

“(2) develop or expand multidisciplinary or interdisciplinary courses or programs;

“(3) recruit and retain new faculty;

“(4) develop or improve core and specialized course content;

“(5) encourage interdisciplinary and multidisciplinary research collaborations;

“(6) support outreach efforts to recruit students, including individuals identified in section

33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b); and

“(7) pursue opportunities for collaboration with industry and National Laboratories.

“(d) CRITERIA.—Criteria for awarding a grant under this section shall be based on—

“(1) the potential to attract new students to the program;

“(2) academic rigor; and

“(3) the ability to offer hands-on education and training opportunities for graduate students in the emerging areas of energy systems science and engineering.

“(e) PRIORITY.—The Secretary shall give priority to proposals that involve active partnerships with a National Laboratory or other energy systems science and engineering related entity, as determined by the Secretary.

“(f) DURATION AND AMOUNT.—

“(1) DURATION.—A grant under this section may be for up to 5 years in duration.

“(2) AMOUNT.—An institution of higher education that receives a grant under this section shall be eligible for up to \$1,000,000 for each year of the grant period.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

“(1) \$30,000,000 for fiscal year 2011;

“(2) \$32,000,000 for fiscal year 2012;

“(3) \$36,000,000 for fiscal year 2013;

“(4) \$38,000,000 for fiscal year 2014; and

“(5) \$40,000,000 for fiscal year 2015.”.

(2) CONFORMING AMENDMENT.—The table of contents for the America COMPETES Act is amended by striking the items relating to sections 5004 and 5005 and inserting the following: Sec. 5004. Energy applied science talent expansion program for institutions of higher education.

(d) DEPARTMENT OF ENERGY EARLY CAREER AWARDS FOR SCIENCE, ENGINEERING, AND MATHEMATICS RESEARCHERS.—Section 5006 of the America COMPETES Act (42 U.S.C. 16534) is amended—

(1) in subsection (a), by striking “Director of the Office” and all that follows through “shall carry” and inserting “Secretary shall carry”;

(2) in subsection (b)(1)—

(A) in subparagraph (A), by inserting “per year” after “\$80,000”; and

(B) in subparagraph (B), by striking “\$125,000” and inserting “\$175,000 per year”;

(3) in subsection (c)(1), by striking “, as determined by the Director”;

(4) in subsections (c)(2), (e), (f), and (g), by striking “Director” each place it appears and inserting “Secretary”;

(5) in subsection (d), by striking “merit-reviewed” and inserting “merit-based, peer reviewed”; and

(6) in subsection (h)—

(A) by striking “, acting through the Director,”; and

(B) by striking “\$25,000,000 for each of fiscal years 2008 through 2010” and inserting “such sums as are necessary”.

(e) PROTECTING AMERICA’S COMPETITIVE EDGE (PACE) GRADUATE FELLOWSHIP PROGRAM.—Section 5009 of the America COMPETES Act (42 U.S.C. 16536) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking “involving written and oral interviews, that will result in a wide distribution of awards throughout the United States,”; and

(B) in paragraph (2)(B)(iv), by striking “verbal and”;

(2) in subsection (d)(1)(B)(i), by inserting “partial or full” before “graduate tuition”; and

(3) by striking subsection (f).

(f) REPEAL.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is repealed.

**SEC. 304. GREEN ENERGY EDUCATION.**

(a) **SHORT TITLE.**—This section may be cited as the “Green Energy Education Act of 2010”.

(b) **DEFINITION.**—For the purposes of this section:

(1) **DIRECTOR.**—The term “Director” means the Director of the National Science Foundation.

(2) **HIGH PERFORMANCE BUILDING.**—The term “high performance building” has the meaning given that term in section 914(a) of the Energy Policy Act of 2005 (42 U.S.C. 16194(a)).

(c) **GRADUATE TRAINING IN ENERGY RESEARCH AND DEVELOPMENT.**—

(1) **FUNDING.**—In carrying out research, development, demonstration, and commercial application activities authorized for the Department of Energy, the Secretary may contribute funds to the National Science Foundation for the Integrative Graduate Education and Research Traineeship program to support projects that enable graduate education related to such activities.

(2) **CONSULTATION.**—The Director shall consult with the Secretary when preparing solicitations and awarding grants for projects described in paragraph (1).

(d) **CURRICULUM DEVELOPMENT FOR HIGH PERFORMANCE BUILDING DESIGN.**—

(1) **FUNDING.**—In carrying out advanced energy technology research, development, demonstration, and commercial application activities authorized for the Department of Energy related to high performance buildings, the Secretary may contribute funds to curriculum development activities at the National Science Foundation for the purpose of improving undergraduate or graduate interdisciplinary engineering and architecture education related to the design and construction of high performance buildings, including development of curricula, of laboratory activities, of training practicums, or of design projects. A primary goal of curriculum development activities supported under this subsection shall be to improve the ability of engineers, architects, landscape architects, and planners to work together on the incorporation of advanced energy technologies during the design and construction of high performance buildings.

(2) **CONSULTATION.**—The Director shall consult with the Secretary when preparing solicitations and awarding grants for projects described in paragraph (1).

(3) **PRIORITY.**—In awarding grants with respect to which the Secretary has contributed funds under this subsection, the Director shall give priority to applications from departments, programs, or centers of a school of engineering that are partnered with schools, departments, or programs of design, architecture, landscape architecture, and city, regional, or urban planning.

# **TITLE IV—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY**

**SEC. 401. SHORT TITLE.**

This title may be cited as the “National Institute of Standards and Technology Authorization Act of 2010”.

**SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

(a) **FISCAL YEAR 2011.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce \$991,100,000 for the National Institute of Standards and Technology for fiscal year 2011.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized under paragraph (1)—

(A) \$620,000,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$125,000,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$246,100,000 shall be authorized for industrial technology services activities, of which—

(i) \$95,000,000 shall be authorized for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(ii) \$141,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l); and

(iii) \$10,000,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(b) **FISCAL YEAR 2012.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce \$992,400,000 for the National Institute of Standards and Technology for fiscal year 2012.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized under paragraph (1)—

(A) \$657,200,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$85,000,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$250,200,000 shall be authorized for industrial technology services activities, of which—

(i) \$89,000,000 shall be authorized for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(ii) \$150,900,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l); and

(iii) \$10,300,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(c) **FISCAL YEAR 2013.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce \$1,079,809,000 for the National Institute of Standards and Technology for fiscal year 2013.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized under paragraph (1)—

(A) \$696,700,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$122,000,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$261,109,000 shall be authorized for industrial technology services activities, of which—

(i) \$89,000,000 shall be authorized for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(ii) \$161,500,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l); and

(iii) \$10,609,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(d) **FISCAL YEAR 2014.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce \$1,126,227,000 for the National Institute of Standards and Technology for fiscal year 2014.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized under paragraph (1)—

(A) \$738,500,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$124,000,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$263,727,000 shall be authorized for industrial technology services activities, of which—

(i) \$80,000,000 shall be authorized for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(ii) \$172,800,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l); and

(iii) \$10,927,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(e) **FISCAL YEAR 2015.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce \$1,191,955,000 for the National Institute of Standards and Technology for fiscal year 2015.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized under paragraph (1)—

(A) \$782,800,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$133,000,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$276,155,000 shall be authorized for industrial technology services activities, of which—

(i) \$80,000,000 shall be authorized for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(ii) \$184,900,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l); and

(iii) \$11,255,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

**SEC. 403. UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.**

(a) **ESTABLISHMENT.**—Section 4 of the National Institute of Standards and Technology Act is amended to read as follows:

## **“SEC. 4. UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.**

“(a) **ESTABLISHMENT.**—There shall be in the Department of Commerce an Under Secretary of Commerce for Standards and Technology (in this section referred to as the ‘Under Secretary’).

“(b) **APPOINTMENT.**—The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate.

“(c) **COMPENSATION.**—The Under Secretary shall be compensated at the rate in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(d) **DUTIES.**—The Under Secretary shall serve as the Director of the Institute and shall perform such duties as required of the Director by the Secretary under this Act or by law.

“(e) **APPLICABILITY.**—The individual serving as the Director of the Institute on the date of enactment of the National Institute of Standards and Technology Authorization Act of 2010 shall also serve as the Under Secretary until such time as a successor is appointed under subsection (b).”.

(b) **CONFORMING AMENDMENTS.**—

(1) **TITLE 5, UNITED STATES CODE.**—

(A) **LEVEL III.**—Section 5314 of title 5, United States Code, is amended by inserting before the item “Associate Attorney General” the following:

“Under Secretary of Commerce for Standards and Technology, who also serves as Director of the National Institute of Standards and Technology.”.

(B) **LEVEL IV.**—Section 5315 of title 5, United States Code, is amended by striking “Director, National Institute of Standards and Technology, Department of Commerce.”.

(2) **NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.**—Section 5 of the National Institute of Standards and Technology Act (15 U.S.C. 274) is amended by striking the first, fifth, and sixth sentences.

**SEC. 404. REORGANIZATION OF NIST LABORATORIES.**

(a) **ORGANIZATION.**—The Director shall reorganize the scientific and technical research and services laboratory program into the following operational units:

(1) **The Physical Measurement Laboratory**, whose mission is to realize and disseminate the national standards for length, mass, time and frequency, electricity, temperature, force, and radiation by activities including fundamental research in measurement science, the provision of measurement services and standards, and the provision of testing facilities resources for use by the Federal Government.

(2) **The Information Technology Laboratory**, whose mission is to develop and disseminate standards, measurements, and testing capabilities for interoperability, security, usability, and reliability of information technologies, including cyber security standards and guidelines for Federal agencies, United States industry, and the public, through fundamental and applied research in computer science, mathematics, and statistics.

(3) **The Engineering Laboratory**, whose mission is to develop and disseminate advanced manufacturing and construction technologies to the United States manufacturing and construction industries through activities including measurement science research, performance metrics, tools for engineering applications, and promotion of standards adoption.

(4) **The Material Measurement Laboratory**, whose mission is to serve as the national reference laboratory in biological, chemical, and material sciences and engineering through activities including fundamental research in the composition, structure, and properties of biological and environmental materials and processes, the development of certified reference materials and critically evaluated data, and other programs to assure measurement quality in materials and biotechnology fields.

(5) **The Center for Nanoscale Science and Technology**, a national shared-use facility for nanoscale fabrication and measurement, whose mission is to develop innovative nanoscale measurement and fabrication capabilities to support researchers from industry, institutions of higher education, the National Institute of Standards and Technology, and other Federal agencies in nanoscale technology from discovery to production.

(6) **The NIST Center for Neutron Research**, a national user facility, whose mission is to provide neutron-based measurement capabilities to researchers from industry, institutions of higher education, the National Institute of Standards and Technology, and other Federal agencies in support of materials research, nondestructive evaluation, neutron imaging, chemical analysis, neutron standards, dosimetry, and radiation metrology.

(b) **ADDITIONAL DUTIES.**—The Director may assign additional duties to the operational units listed in subsection (a) that are consistent with the missions of such units.

(c) **REVISION.**—

(1) **IN GENERAL.**—Subsequent to the reorganization required under subsection (a), the Director may revise the organization of the scientific and technical research and services laboratory program.

(2) **REPORT TO CONGRESS.**—Any revision to the organization of such program under paragraph (1) shall be submitted in a report to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate at least 60 days before the effective date of such revision.

**SEC. 405. FEDERAL GOVERNMENT STANDARDS AND CONFORMITY ASSESSMENT COORDINATION.**

(a) **COORDINATION.**—Section 2(b) of the National Institute of Standards and Technology Act (15 U.S.C. 272(b)) is amended—

(1) in paragraph (12), by striking “and” after the semicolon;

(2) in paragraph (13), by striking the period at the end and inserting a semicolon; and

(3) by adding after paragraph (13) the following:

“(14) to promote collaboration among Federal departments and agencies and private sector stakeholders in the development and implementation of standards and conformity assessment frameworks to address specific Federal Government policy goals; and

“(15) to convene Federal departments and agencies, as appropriate, to—

“(A) coordinate and determine Federal Government positions on specific policy issues related to the development of international technical standards and conformity assessment-related activities; and

“(B) coordinate Federal department and agency engagement in the development of international technical standards and conformity assessment-related activities.”.

(b) **REPORT.**—The Director, in consultation with appropriate Federal agencies, shall submit a report annually to Congress addressing the Federal Government’s technical standards and conformity assessment-related activities. The report shall identify—

(1) current and anticipated international standards and conformity assessment-related issues that have the potential to impact the competitiveness and innovation capabilities of the United States;

(2) any action being taken by the Federal Government to address these issues and the Federal agency taking that action; and

(3) any action that the Director is taking or will take to ensure effective Federal Government engagement on technical standards and conformity assessment-related issues, as appropriate, where the Federal Government is not effectively engaged.

**SEC. 406. MANUFACTURING EXTENSION PARTNERSHIP.**

(a) **COMMUNITY COLLEGE SUPPORT.**—Section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) is amended—

(1) in paragraph (4), by striking “and” after the semicolon;

(2) in paragraph (5), by striking the period at the end and inserting “; and”; and

(3) by adding after paragraph (5) the following:

“(6) providing to community colleges information about the job skills needed in small- and medium-sized manufacturing businesses in the regions they serve.”.

(b) **INNOVATIVE SERVICES INITIATIVE.**—Section 25 of such Act (15 U.S.C. 278k) is amended by adding at the end the following:

“(g) **INNOVATIVE SERVICES INITIATIVE.**—

“(1) **ESTABLISHMENT.**—The Director may establish, within the Centers program under this section, an innovative services initiative to assist small- and medium-sized manufacturers in—

“(A) reducing their energy usage and environmental waste to improve profitability; and

“(B) accelerating the domestic commercialization of new product technologies, including components for renewable energy systems.

“(2) **MARKET DEMAND.**—The Director may not undertake any activity to accelerate the domestic commercialization of a new product technology under this subsection unless an analysis of market demand for the new product technology has been conducted.”.

(c) **REPORTS.**—Section 25 of such Act (15 U.S.C. 278k) is further amended by adding after

subsection (g), as added by subsection (b), the following:

“(h) **REPORTS.**—

“(1) **IN GENERAL.**—In submitting the 3-year programmatic planning document and annual updates under section 23, the Director shall include an assessment of the Director’s governance of the program established under this section.

“(2) **CRITERIA.**—In conducting such assessment, the Director shall use the criteria established pursuant to the Malcolm Baldrige National Quality Award under section 17(d)(1)(C) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(d)(1)(C)).”.

(d) **HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP PROGRAM COST-SHARING.**—Section 25(c) of such Act (15 U.S.C. 278k(c)) is amended by adding at the end the following:

“(7) Notwithstanding paragraphs (1), (3), and (5), for fiscal year 2011 through fiscal year 2015, the Secretary may not provide to a Center more than 50 percent of the costs incurred by such Center and may not require that a Center’s cost share exceed 50 percent.

“(8) Not later than 4 years after the date of enactment of the National Institute of Standards and Technology Authorization Act of 2010, the Secretary shall submit to Congress a report on the cost share requirements under the program. The report shall—

“(A) discuss various cost share structures, including the cost share structure in place prior to such date of enactment and the cost share structure in place under paragraph (7), and the effect of such cost share structures on individual Centers and the overall program; and

“(B) include a recommendation for how best to structure the cost share requirement after fiscal year 2015 to provide for the long-term sustainability of the program.”.

(e) **ADVISORY BOARD.**—Section 25(e)(4) of such Act (15 U.S.C. 278k(e)(4)) is amended to read as follows:

“(4) **FEDERAL ADVISORY COMMITTEE ACT APPLICABILITY.**—

“(A) **IN GENERAL.**—In discharging its duties under this subsection, the MEP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

“(B) **EXCEPTION.**—Section 14 of the Federal Advisory Committee Act shall not apply to the MEP Advisory Board.”.

(f) **DEFINITIONS.**—Section 25 of such Act (15 U.S.C. 278k) is further amended by adding after subsection (h), as added by subsection (c), the following:

“(i) **DEFINITION.**—In this section, the term ‘community college’ means an institution of higher education (as defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) at which the highest degree that is predominately awarded to students is an associate’s degree.”.

**SEC. 408. EMERGENCY COMMUNICATION AND TRACKING TECHNOLOGIES RESEARCH INITIATIVE.**

(a) **ESTABLISHMENT.**—The Director shall establish a research initiative to support the development of emergency communication and tracking technologies for use in locating trapped individuals in confined spaces, such as underground mines, and other shielded environments, such as high-rise buildings or collapsed structures, where conventional radio communication is limited.

(b) **ACTIVITIES.**—In order to carry out this section, the Director shall work with the private sector and appropriate Federal agencies to—

(1) perform a needs assessment to identify and evaluate the measurement, technical standards, and conformity assessment needs required to improve the operation and reliability of such emergency communication and tracking technologies; and

(2) support the development of technical standards and conformance architecture to improve the operation and reliability of such emergency communication and tracking technologies.

(c) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Director shall submit to Congress and make publicly available a report describing the assessment performed under subsection (b)(1) and making recommendations about research priorities to address gaps in the measurement, technical standards, and conformity assessment needs identified by such assessment.

#### SEC. 409. TIP ADVISORY BOARD.

Section 28(k)(4) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(k)(4)) is amended to read as follows:

“(4) **FEDERAL ADVISORY COMMITTEE ACT APPLICABILITY.**—

“(A) **IN GENERAL.**—In discharging its duties under this subsection, the TIP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

“(B) **EXCEPTION.**—Section 14 of the Federal Advisory Committee Act shall not apply to the TIP Advisory Board.”.

#### SEC. 410. UNDERREPRESENTED MINORITIES.

(a) **RESEARCH FELLOWSHIPS.**—Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-1) is amended by adding at the end the following:

“(c) **UNDERREPRESENTED MINORITIES.**—In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of underrepresented minorities in research areas supported by the Institute.”.

(b) **POSTDOCTORAL FELLOWSHIP PROGRAM.**—Section 19 of such Act (15 U.S.C. 278g-2) is amended by adding at the end the following: “In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of underrepresented minorities in research areas supported by the Institute.”.

(c) **TEACHER DEVELOPMENT.**—Section 19A(c) of such Act (15 U.S.C. 278g-2a(c)) is amended by adding at the end the following: “The Director shall give special consideration to an application from a teacher from a high-need school, as defined in section 200 of the Higher Education Act of 1965 (20 U.S.C. 1021).”.

#### SEC. 411. CYBER SECURITY STANDARDS AND GUIDELINES.

Cyber security standards and guidelines developed by the National Institute of Standards and Technology for use by United States industry and the public shall be voluntary.

#### SEC. 412. DEFINITIONS.

In this title:

(1) **DIRECTOR.**—The term “Director” means the Director of the National Institute of Standards and Technology.

(2) **FEDERAL AGENCY.**—The term “Federal agency” has the meaning given such term in section 4 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3703).

#### TITLE V—INNOVATION

#### SEC. 501. OFFICE OF INNOVATION AND ENTREPRENEURSHIP.

The Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following new section:

#### “SEC. 24. OFFICE OF INNOVATION AND ENTREPRENEURSHIP.

“(a) **IN GENERAL.**—The Secretary shall establish an Office of Innovation and Entrepreneurship to foster innovation and the commercialization of new technologies, products, processes, and services with the goal of promoting productivity and economic growth in the United States.

“(b) **DUTIES.**—The Office of Innovation and Entrepreneurship shall be responsible for—

“(1) developing and advocating policies to accelerate innovation and advance the commercialization of research and development, including federally funded research and development;

“(2) identifying existing barriers to innovation and commercialization, including access to capital and other resources, and ways to overcome those barriers;

“(3) providing access to relevant data, research, and technical assistance on innovation and commercialization;

“(4) strengthening collaboration on and coordination of policies relating to innovation and commercialization within the Department of Commerce and between the Department of Commerce and other Federal agencies, as appropriate; and

“(5) any other duties as determined by the Secretary.

“(c) **ADVISORY COMMITTEE.**—The Secretary shall establish an Advisory Council on Innovation and Entrepreneurship to provide advice to the Secretary on carrying out subsection (b).”.

#### SEC. 502. FEDERAL LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGIES IN MANUFACTURING.

The Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is further amended by adding after section 24, as added by section 501 of this title, the following new section:

#### “SEC. 25. FEDERAL LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGIES IN MANUFACTURING.

“(a) **ESTABLISHMENT.**—The Secretary shall establish a program to provide loan guarantees for obligations to small- or medium-sized manufacturers for the use or production of innovative technologies.

“(b) **ELIGIBLE PROJECTS.**—A loan guarantee may be made under such program only for a project that reequips, expands, or establishes a manufacturing facility in the United States to—

“(1) use an innovative technology or an innovative process in manufacturing; or

“(2) manufacture an innovative technology product or an integral component of such product.

“(c) **ELIGIBLE BORROWER.**—A loan guarantee may be made under such program only for a borrower who is a small- or medium-sized manufacturer, as determined by the Secretary under the criteria established pursuant to subsection (m).

“(d) **LIMITATION ON AMOUNT.**—A loan guarantee shall not exceed an amount equal to 80 percent of the obligation, as estimated at the time at which the loan guarantee is issued.

“(e) **LIMITATIONS ON LOAN GUARANTEE.**—No loan guarantee shall be made unless the Secretary determines that—

“(1) there is a reasonable prospect of repayment of the principal and interest on the obligation by the borrower;

“(2) the amount of the obligation (when combined with amounts available to the borrower from other sources) is sufficient to carry out the project;

“(3) the obligation is not subordinate to other financing;

“(4) the obligation bears interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks; and

“(5) the term of an obligation requires full repayment over a period not to exceed the lesser of—

“(A) 30 years; or

“(B) 90 percent of the projected useful life, as determined by the Secretary, of the physical asset to be financed by the obligation.

“(f) **DEFAULTS.**—

“(1) **PAYMENT BY SECRETARY.**—

“(A) **IN GENERAL.**—If a borrower defaults (as defined in regulations promulgated by the Secretary and specified in the loan guarantee) on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

“(B) **PAYMENT REQUIRED.**—Within such period as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

“(C) **FORBEARANCE.**—Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

“(2) **SUBROGATION.**—

“(A) **IN GENERAL.**—If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights, as specified in the loan guarantee, of the recipient of the payment or related agreements including, if appropriate, the authority (notwithstanding any other provision of law) to—

“(i) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such loan guarantee or related agreement; or

“(ii) permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines that such an agreement is in the public interest.

“(B) **SUPERIORITY OF RIGHTS.**—The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

“(3) **ACTION BY ATTORNEY GENERAL.**—

“(A) **NOTIFICATION.**—If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

“(B) **RECOVERY.**—On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest.

“(g) **PAYMENT OF PRINCIPAL AND INTEREST BY SECRETARY.**—With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation for and on behalf of the borrower from funds appropriated for that purpose the principal and interest payments that become due and payable on the unpaid balance of the obligation if the Secretary finds that—

“(1)(A) the borrower is unable to make the payments and is not in default;

“(B) it is in the public interest to permit the borrower to continue to pursue the project; and

“(C) the probable net benefit to the Federal Government in paying the principal and interest will be greater than that which would result in the event of a default;

“(2) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the borrower is obligated to pay under the obligation being guaranteed; and

“(3) the borrower agrees to reimburse the Secretary for the payment (including interest) on terms and conditions that are satisfactory to the Secretary.

“(h) **TERMS AND CONDITIONS.**—A loan guarantee under this section shall include such detailed terms and conditions as the Secretary determines appropriate to—

“(1) protect the interests of the United States in the case of default; and

“(2) have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project.

“(i) **CONSULTATION.**—In establishing the terms and conditions of a loan guarantee under this section, the Secretary shall consult with the Secretary of the Treasury.

“(j) **FEES.**—

“(1) **IN GENERAL.**—The Secretary shall charge and collect fees for loan guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.

“(2) **AVAILABILITY.**—Fees collected under this subsection shall—

“(A) be deposited by the Secretary into the Treasury of the United States; and

“(B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

“(k) **RECORDS.**—

“(1) **IN GENERAL.**—With respect to a loan guarantee under this section, the borrower, the lender, and any other appropriate party shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

“(2) **ACCESS.**—The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access to records and other pertinent documents for the purpose of conducting an audit.

“(l) **FULL FAITH AND CREDIT.**—The full faith and credit of the United States is pledged to the payment of all loan guarantees issued under this section with respect to principal and interest.

“(m) **REGULATIONS.**—The Secretary shall issue final regulations before making any loan guarantees under the program. Such regulations shall include—

“(1) criteria that the Secretary shall use to determine eligibility for loan guarantees under this section, including—

“(A) whether a borrower is a small- or medium-sized manufacturer; and

“(B) whether a borrower demonstrates that a market exists for the innovative technology product, or the integral component of such product, to be manufactured, as evidenced by written statements of interest from potential purchasers;

“(2) policies and procedures for selecting and monitoring lenders and loan performance; and

“(3) any other policies, procedures, or information necessary to implement this section.

“(n) **AUDIT.**—

“(1) **ANNUAL INDEPENDENT AUDITS.**—The Secretary shall enter into an arrangement with an independent auditor for annual evaluations of the program under this section.

“(2) **ANNUAL REVIEW.**—The Comptroller General shall conduct an annual review of the Secretary's execution of the program under this section.

“(3) **REPORT.**—The results of the independent audit under paragraph (1) and the Comptroller General's review under paragraph (2) shall be provided directly to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

“(o) **REPORT TO CONGRESS.**—Concurrent with the submission to Congress of the President's annual budget request in each year after the date of enactment of this section, the Secretary shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of all activities carried out under this section.

“(p) **COORDINATION AND NONDUPLICATION.**—To the maximum extent practicable, the Sec-

retary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other loan guarantee programs within the Federal Government.

“(q) **MEP CENTERS.**—The Secretary may use centers established under section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k) to provide information about the program established under this section and to conduct outreach to potential borrowers, as appropriate.

“(r) **MINIMIZING RISK.**—The Secretary shall promulgate regulations and policies to carry out this section in accordance with Office of Management and Budget Circular No. A-129, entitled ‘Policies for Federal Credit Programs and Non-Tax Receivables’, as in effect on the date of enactment of this section.

“(s) **SENSE OF CONGRESS.**—It is the sense of Congress that no loan guarantee shall be made under this section unless the borrower agrees to use a federally-approved electronic employment eligibility verification system to verify the employment eligibility of—

“(1) all persons hired during the contract term by the borrower to perform employment duties within the United States; and

“(2) all persons assigned by the borrower to perform work within the United States on the project.

“(t) **DEFINITIONS.**—In this section:

“(1) **COST.**—The term ‘cost’ has the meaning given such term under section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

“(2) **INNOVATIVE PROCESS.**—The term ‘innovative process’ means a process that is significantly improved as compared to the process in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

“(3) **INNOVATIVE TECHNOLOGY.**—The term ‘innovative technology’ means a technology that is significantly improved as compared to the technology in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

“(4) **LOAN GUARANTEE.**—The term ‘loan guarantee’ has the meaning given such term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a). The term includes a loan guarantee commitment (as defined in section 502 of such Act (2 U.S.C. 661a)).

“(5) **OBLIGATION.**—The term ‘obligation’ means the loan or other debt obligation that is guaranteed under this section.

“(6) **PROGRAM.**—The term ‘program’ means the loan guarantee program established in subsection (a).

“(u) **AUTHORIZATION OF APPROPRIATIONS.**—

“(1) **COST OF LOAN GUARANTEES.**—There are authorized to be appropriated \$50,000,000 for each of fiscal years 2011 through 2015 to provide the cost of loan guarantees under this section.

“(2) **PRINCIPAL AND INTEREST.**—There are authorized to be appropriated such sums as are necessary to carry out subsection (g).”.

#### **SEC. 503. REGIONAL INNOVATION PROGRAM.**

The Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is further amended by adding after section 25, as added by section 502 of this title, the following new section:

#### **“SEC. 26. REGIONAL INNOVATION PROGRAM.**

“(a) **ESTABLISHMENT.**—The Secretary shall establish a regional innovation program to encourage and support the development of regional innovation strategies, including regional innovation clusters.

“(b) **REGIONAL INNOVATION CLUSTER GRANTS.**—

“(1) **IN GENERAL.**—As part of the program established under subsection (a), the Secretary may award grants on a competitive basis to eligible recipients for activities relating to the for-

mation and development of regional innovation clusters.

“(2) **PERMISSIBLE ACTIVITIES.**—Grants awarded under this subsection may be used for activities determined appropriate by the Secretary, including the following:

“(A) Feasibility studies.

“(B) Planning activities.

“(C) Technical assistance.

“(D) Developing or strengthening communication and collaboration between and among participants of a regional innovation cluster.

“(E) Attracting additional participants to a regional innovation cluster.

“(F) Facilitating market development of products and services developed by a regional innovation cluster, including through demonstration, deployment, technology transfer, and commercialization activities.

“(G) Developing relationships between a regional innovation cluster and entities or clusters in other regions.

“(3) **ELIGIBLE RECIPIENT.**—For purposes of this subsection, the term ‘eligible recipient’ means any of the following:

“(A) A State.

“(B) An Indian tribe.

“(C) A city or other political subdivision of a State.

“(D) An entity that—

“(i) is a nonprofit organization, an institution of higher education, a public-private partnership, or an economic development organization or similar entity; and

“(ii) has an application that is supported by a State or a political subdivision of a State.

“(E) A consortium of any of the entities listed in subparagraphs (A) through (D).

“(4) **APPLICATION.**—

“(A) **IN GENERAL.**—An eligible recipient shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

“(B) **COMPONENTS.**—The application shall include, at a minimum, a description of the regional innovation cluster supported by the proposed activity, including a description of the following:

“(i) Whether the regional innovation cluster is supported by the private sector, State and local governments, and other relevant stakeholders.

“(ii) How the existing participants in the regional innovation cluster will encourage and solicit participation by all types of entities that might benefit from participation, including newly formed entities and those rival to existing participants.

“(iii) The extent to which the regional innovation cluster is likely to stimulate innovation and have a positive impact on regional economic growth and development.

“(iv) Whether the participants in the regional innovation cluster have access to, or contribute to, a well-trained workforce.

“(v) Whether the participants in the regional innovation cluster are capable of attracting additional funds from non-Federal sources.

“(vi) The likelihood that the participants in the regional innovation cluster will be able to sustain activities once grant funds under this subsection have been expended.

“(5) **COST SHARE.**—The Secretary may not provide more than 50 percent of the total cost of any activity funded under this subsection.

“(6) **USE AND APPLICATION OF RESEARCH AND INFORMATION PROGRAM.**—To the maximum extent practicable, the Secretary shall ensure that activities funded under this subsection use and apply any relevant research, best practices, and metrics developed under the program established in subsection (c).

“(c) **REGIONAL INNOVATION RESEARCH AND INFORMATION PROGRAM.**—

“(1) *IN GENERAL.*—As part of the program established under subsection (a), the Secretary shall establish a regional innovation research and information program to—

“(A) gather, analyze, and disseminate information on best practices for regional innovation strategies (including regional innovation clusters), including information relating to how innovation, productivity, and economic development can be maximized through such strategies;

“(B) provide technical assistance, including through the development of technical assistance guides, for the development and implementation of regional innovation strategies (including regional innovation clusters);

“(C) support the development of relevant metrics and measurement standards to evaluate regional innovation strategies (including regional innovation clusters), including the extent to which such strategies stimulate innovation, productivity, and economic development; and

“(D) collect and make available data on regional innovation cluster activity in the United States, including data on—

“(i) the size, specialization, and competitiveness of regional innovation clusters;

“(ii) the regional domestic product contribution, total jobs and earnings by key occupations, establishment size, nature of specialization, patents, Federal research and development spending, and other relevant information for regional innovation clusters; and

“(iii) supply chain product and service flows within and between regional innovation clusters.

“(2) *RESEARCH GRANTS.*—The Secretary may award research grants on a competitive basis to support and further the goals of the program established under this subsection.

“(3) *DISSEMINATION OF INFORMATION.*—Data and analysis compiled by the Secretary under the program established in this subsection shall be made available to other Federal agencies, State and local governments, and nonprofit and for-profit entities.

“(4) *CLUSTER GRANT PROGRAM.*—The Secretary shall incorporate data and analysis relating to any regional innovation cluster supported by a grant under subsection (b) into the program established under this subsection.

“(d) *INTERAGENCY COORDINATION.*—

“(1) *IN GENERAL.*—To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other programs at the Department of Commerce or other Federal agencies.

“(2) *COLLABORATION.*—The Secretary shall explore and pursue collaboration with other Federal agencies, including through multiagency funding opportunities, on regional innovation strategies.

“(e) *EVALUATION.*—

“(1) *IN GENERAL.*—Not later than 4 years after the date of enactment of this section, the Secretary shall enter into a contract with an independent entity, such as the National Academy of Sciences, to conduct an evaluation of the program established under subsection (a).

“(2) *REQUIREMENTS.*—The evaluation shall include—

“(A) whether such program is achieving its goals;

“(B) any recommendations for how such program may be improved; and

“(C) a recommendation as to whether such program should be continued or terminated.

“(f) *REGIONAL INNOVATION CLUSTER DEFINED.*—The term ‘regional innovation cluster’ means a geographically bounded network of similar, synergistic, or complementary entities that—

“(1) are engaged in or with a particular industry sector;

“(2) have active channels for business transactions and communication;

“(3) share specialized infrastructure, labor markets, and services; and

“(4) leverage the region’s unique competitive strengths to stimulate innovation and create jobs.

“(g) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated such sums as are necessary for each of fiscal years 2011 through 2015 to carry out this section, including such sums as are necessary to carry out the evaluation required under subsection (e).”

## TITLE VI—DEPARTMENT OF ENERGY

### Subtitle A—Office of Science

#### SEC. 601. SHORT TITLE.

This subtitle may be cited as the “Department of Energy Office of Science Authorization Act of 2010”.

#### SEC. 602. DEFINITIONS.

Except as otherwise provided, in this subtitle:

(1) *DEPARTMENT.*—The term “Department” means the Department of Energy.

(2) *DIRECTOR.*—The term “Director” means the Director of the Office of Science.

(3) *OFFICE OF SCIENCE.*—The term “Office of Science” means the Department of Energy Office of Science.

(4) *SECRETARY.*—The term “Secretary” means the Secretary of Energy.

#### SEC. 603. MISSION OF THE OFFICE OF SCIENCE.

(a) *MISSION.*—The mission of the Office of Science shall be the delivery of scientific discoveries, capabilities, and major scientific tools to transform the understanding of nature and to advance the energy, economic, and national security of the United States.

(b) *DUTIES.*—In support of this mission, the Secretary shall carry out, through the Office of Science, programs on basic energy sciences, biological and environmental research, advanced scientific computing research, fusion energy sciences, high energy physics, and nuclear physics through activities focused on—

(1) Science for Discovery to unravel nature’s mysteries through the study of subatomic particles, atoms, and molecules that make up the materials of our everyday world to DNA, proteins, cells, and entire biological systems;

(2) Science for National Need by—

(A) advancing a clean energy agenda through research on energy production, storage, transmission, efficiency, and use; and

(B) advancing our understanding of the Earth’s climate through research in atmospheric and environmental sciences and climate change; and

(3) National Scientific User Facilities to deliver the 21st century tools of science, engineering, and technology and provide the Nation’s researchers with the most advanced tools of modern science including accelerators, colliders, supercomputers, light sources and neutron sources, and facilities for studying the nanoworld.

(c) *SUPPORTING ACTIVITIES.*—The activities described in subsection (b) shall include providing for relevant facilities and infrastructure, analysis, coordination, and education and outreach activities.

(d) *USER FACILITIES.*—The Director shall carry out the construction, operation, and maintenance of user facilities to support the activities described in subsection (b). As practicable, these facilities shall serve the needs of the Department, industry, the academic community, and other relevant entities for the purposes of advancing the missions of the Department.

(e) *OTHER AUTHORIZED ACTIVITIES.*—In addition to the activities authorized under this subtitle, the Office of Science shall carry out such other activities it is authorized or required to carry out by law.

(f) *COORDINATION AND JOINT ACTIVITIES.*—The Department’s Under Secretary for Science shall ensure the coordination of activities under this subtitle with the other activities of the Department, and shall support joint activities among the programs of the Department.

(g) *DOMESTICALLY SOURCED HARDWARE.*—

(1) *PLAN.*—The Director shall develop a plan to increase the percentage of domestically sourced hardware for planned and ongoing projects of the Department of Energy. In developing this plan, the Director shall—

(A) give consideration to technologies that the United States does not currently have the capacity to manufacture and to procurement activities that can strengthen United States high-technology competitiveness broadly;

(B) seek opportunities to engage and partner with domestic manufacturers; and

(C) annually assess levels of domestically available goods relevant to planned and ongoing projects of the Office of Science.

(2) *INTERNATIONAL AGREEMENTS.*—This subsection shall be applied in a manner consistent with United States obligations under international agreements.

(3) *REPORT TO CONGRESS.*—Not later than 1 year after the date of enactment of this Act, the Director shall transmit the plan developed under this subsection to the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives, and shall transmit any appropriate updates to those committees.

(h) *MERIT-REVIEWED STUDY.*—As part of the President’s annual budget request, the Secretary shall include a detailed summary of the degree to which current research activities are competitive and merit-reviewed, including a list of activities that would have been undertaken in the absence of Congressionally-directed projects and an analysis of the effects of increasing the proportion of competitive, merit-reviewed activities on the strategic objectives of the Office of Science.

#### SEC. 604. BASIC ENERGY SCIENCES PROGRAM.

(a) *PROGRAM.*—As part of the activities authorized under section 603, the Director shall carry out a program in basic energy sciences, including materials sciences and engineering, chemical sciences, physical biosciences, and geosciences, for the purpose of providing the scientific foundations for new energy technologies.

(b) *BASIC ENERGY SCIENCES USER FACILITIES.*—

(1) *IN GENERAL.*—The Director shall carry out a program for the construction, operation, and maintenance of national user facilities to support the program under this section. As practicable, these facilities shall serve the needs of the Department, industry, the academic community, and other relevant entities to create and examine new materials and chemical processes for the purposes of advancing new energy technologies and improving the competitiveness of the United States. These facilities shall include—

(A) x-ray light sources;

(B) neutron sources;

(C) electron beam microcharacterization centers;

(D) nanoscale science research centers; and

(E) other facilities the Director considers appropriate, consistent with section 603(d).

(2) *FACILITY CONSTRUCTION AND UPGRADES.*—Consistent with the Office of Science’s project management practices, the Director shall support construction of—

(A) the National Synchrotron Light Source II;

(B) a Second Target Station at the Spallation Neutron Source; and

(C) an upgrade of the Advanced Photon Source to improve brightness and performance.

(c) *ENERGY FRONTIER RESEARCH CENTERS.*—



(1) *IN GENERAL.*—The Director shall carry out a grant program to provide awards, on a competitive, merit-reviewed basis, to multi-institutional collaborations or other appropriate entities to conduct fundamental and use-inspired energy research to accelerate scientific breakthroughs related to needs identified in—

(A) the Grand Challenges report of the Department's Basic Energy Sciences Advisory Committee;

(B) the Basic Energy Sciences Basic Research Needs workshop reports;

(C) energy-related Grand Challenges for Engineering, as described by the National Academy of Engineering; or

(D) other relevant reports identified by the Director.

(2) *COLLABORATIONS.*—A collaboration receiving a grant under this subsection may include multiple types of institutions and private sector entities.

(3) *SELECTION AND DURATION.*—

(A) *IN GENERAL.*—A collaboration under this subsection shall be selected for a period of 5 years.

(B) *REAPPLICATION.*—After the end of the period described in subparagraph (A), a grantee may reapply for selection for a second period of 5 years on a competitive, merit-reviewed basis.

(4) *NO FUNDING FOR CONSTRUCTION.*—No funding provided pursuant to this subsection may be used for the construction of new buildings or facilities.

(d) *ACCELERATOR RESEARCH AND DEVELOPMENT.*—The Director shall carry out research and development on advanced accelerator technologies relevant to the development of Basic Energy Sciences user facilities, in consultation with the Office of Science's High Energy Physics and Nuclear Physics programs.

#### **SEC. 605. BIOLOGICAL AND ENVIRONMENTAL RESEARCH PROGRAM.**

(a) *IN GENERAL.*—As part of the activities authorized under section 603, and coordinated with the activities authorized in section 604, the Director shall carry out a program of research, development, and demonstration in the areas of biological systems science and climate and environmental science to support the energy and environmental missions of the Department.

(b) *BIOLOGICAL SYSTEMS SCIENCE ACTIVITIES.*—

(1) *ACTIVITIES.*—As part of the activities authorized under subsection (a), the Director shall carry out research, development, and demonstration activities in fundamental, structural, computational, and systems biology to increase systems-level understanding of complex biological systems, which shall include activities to—

(A) accelerate breakthroughs and new knowledge that will enable cost-effective sustainable production of—

(i) biomass-based liquid transportation fuels, including hydrogen;

(ii) bioenergy; and

(iii) biobased products,

that support the energy and environmental missions of the Department;

(B) improve understanding of the global carbon cycle, including processes for removing carbon dioxide from the atmosphere, through photosynthesis and other biological processes, for sequestration and storage; and

(C) understand the biological mechanisms used to destroy, immobilize, or remove contaminants from subsurface environments.

(2) *RESEARCH PLAN.*—

(A) *REQUIREMENT.*—Not later than 1 year after the date of enactment of this Act, the Director shall prepare and transmit to Congress a research plan describing how the activities authorized under this subsection will be undertaken.

(B) *UTILIZATION OF EXISTING PLAN.*—In developing the plan in subparagraph (A), the Direc-

tor may utilize an existing research plan and update such plan to incorporate the activities identified in paragraph (1).

(C) *UPDATES.*—Not later than 3 years after the initial report under this paragraph, and at least once every 3 years thereafter, the Director shall update the research plan and transmit it to Congress.

(3) *BIOENERGY RESEARCH CENTERS.*—

(A) *IN GENERAL.*—In carrying out the activities under paragraph (1), the Director shall support at least 3 bioenergy research centers to accelerate basic biological research, development, demonstration, and commercial application of biomass-based liquid transportation fuels, bioenergy, and biobased products that support the energy and environmental missions of the Department and are produced from a variety of regionally diverse feedstocks.

(B) *GEOGRAPHIC DISTRIBUTION.*—The Director shall ensure that the bioenergy research centers under this paragraph are established in geographically diverse locations.

(C) *SELECTION AND DURATION.*—A center established under subparagraph (A) shall be selected on a competitive, merit-reviewed basis for a period of 5 years beginning on the date of establishment of that center. A center already in existence on the date of enactment of this Act may continue to receive support for a period of 5 years beginning on the date of establishment of that center.

(4) *ENABLING SYNTHETIC BIOLOGY PLAN.*—

(A) *IN GENERAL.*—The Secretary, in consultation with other relevant Federal agencies, the academic community, research-based nonprofit entities, and the private sector, shall develop a comprehensive plan for federally supported research and development activities that will support the energy and environmental missions of the Department and enable a competitive synthetic biology industry in the United States.

(B) *PLAN.*—The plan developed under subparagraph (A) shall assess the need to create a database for synthetic biology information, the need and process for developing standards for biological parts, components and systems, and the need for a federally funded facility that enables the discovery, design, development, production, and systematic use of parts, components, and systems created through synthetic biology. The plan shall describe the role of the Federal Government in meeting these needs.

(C) *SUBMISSION TO CONGRESS.*—The Secretary shall transmit the plan developed under subparagraph (A) to the Congress not later than 9 months after the date of enactment of this Act.

(5) *COMPUTATIONAL BIOLOGY AND SYSTEMS BIOLOGY KNOWLEDGEBASE.*—As part of the activities described in paragraph (1), the Director, in collaboration with the Advanced Scientific Computing Research program described in section 606, shall carry out research in computational biology, acquire or otherwise ensure the availability of hardware for biology-specific computation, and establish and maintain an open virtual database and information management system to centrally integrate systems biology data, analytical software, and computational modeling tools that will allow data sharing and free information exchange within the scientific community.

(6) *PROHIBITION ON BIOMEDICAL AND HUMAN CELL AND HUMAN SUBJECT RESEARCH.*—

(A) *NO BIOMEDICAL RESEARCH.*—In carrying out activities under subsection (b), the Secretary shall not conduct biomedical research.

(B) *LIMITATIONS.*—Nothing in subsection (b) shall authorize the Secretary to conduct any research or demonstrations—

(i) on human cells or human subjects; or

(ii) designed to have direct application with respect to human cells or human subjects.

(C) *INFORMATION SHARING.*—Nothing in this paragraph shall restrict the Department from

sharing information, including research findings, research methodologies, models, or any other information, with any Federal agency.

(7) *REPEAL.*—Section 977 of the Energy Policy Act of 2005 (42 U.S.C. 16317) is repealed.

(c) *CLIMATE AND ENVIRONMENTAL SCIENCES ACTIVITIES.*—

(1) *IN GENERAL.*—As part of the activities authorized under subsection (a), the Director shall carry out climate and environmental science research, which shall include activities to—

(A) understand, observe, and model the response of the Earth's atmosphere and biosphere, including oceans, to increased concentrations of greenhouse gas emissions, and any associated changes in climate;

(B) understand the processes for sequestration, destruction, immobilization, or removal of, and understand the movement of, contaminants and carbon in subsurface environments, including at facilities of the Department; and

(C) inform potential mitigation and adaptation options for increased concentrations of greenhouse gas emissions and any associated changes in climate.

(2) *SUBSURFACE BIOGEOCHEMISTRY RESEARCH.*—

(A) *IN GENERAL.*—As part of the activities described in paragraph (1), the Director shall carry out research to advance a fundamental understanding of coupled physical, chemical, and biological processes for controlling the movement of sequestered carbon and subsurface environmental contaminants, including field observations of subsurface microorganisms and field-scale subsurface research.

(B) *COORDINATION.*—

(i) *DIRECTOR.*—The Director shall carry out activities under this paragraph in accordance with priorities established by the Department's Under Secretary for Science to support and accelerate the decontamination of relevant facilities managed by the Department.

(ii) *UNDER SECRETARY FOR SCIENCE.*—The Department's Under Secretary for Science shall ensure the coordination of the activities of the Department, including activities under this paragraph, to support and accelerate the decontamination of relevant facilities managed by the Department.

(3) *NEXT-GENERATION ECOSYSTEM-CLIMATE EXPERIMENT.*—

(A) *IN GENERAL.*—As part of the activities described in paragraph (1), the Director, in collaboration with other relevant agencies that are participants in the United States Global Change Research Program, shall carry out the selection and development of a next-generation ecosystem-climate change experiment to understand the impact and feedbacks of increased temperature and elevated carbon levels on ecosystems.

(B) *REPORT.*—Not later than 1 year after the date of enactment of this Act, the Director shall transmit to the Congress a report containing—

(i) an identification of the location or locations that have been selected for the experiment described in subparagraph (A);

(ii) a description of the need for additional experiments; and

(iii) an associated research plan.

(4) *AMERIFLUX NETWORK COORDINATION AND RESEARCH.*—As part of the activities described in paragraph (1), the Director shall carry out research and coordinate the AmeriFlux Network to directly observe and understand the exchange of greenhouse gases, water vapor, and heat energy within terrestrial ecosystems and the response of those systems to climate change and other dynamic terrestrial landscape changes. The Director, in collaboration with other relevant Federal agencies, shall—

(A) identify opportunities to incorporate innovative and emerging observation technologies and practices into the existing Network;



(B) conduct research to determine the need for increased greenhouse gas observation Network facilities across North America to meet future mitigation and adaptation needs of the United States; and

(C) examine how the technologies and practices described in subparagraph (A), and increased coordination among scientific communities through the Network, have the potential to help characterize terrestrial baseline greenhouse gas emission sources and sinks in the United States and internationally.

(5) **CLIMATE AND EARTH MODELING.**—As part of the activities described in paragraph (1), the Director, in collaboration with the Advanced Scientific Computing Research program described in section 606, shall carry out research to develop, evaluate, and use high-resolution regional climate, global climate, Earth, and predictive models to inform decisions on reducing the impacts of changing climate.

(6) **INTEGRATED ASSESSMENT RESEARCH.**—As part of the activities described in paragraph (1), the Director shall carry out research into options for mitigation of and adaptation to climate change through multiscale models of the entire climate system. Such modeling shall include human processes and greenhouse gas emissions, land use, and interaction among human and Earth systems.

(7) **COORDINATION.**—The Director shall coordinate activities under this subsection with other Office of Science activities and with the United States Global Change Research Program.

(d) **USER FACILITIES AND ANCILLARY EQUIPMENT.**—

(1) **IN GENERAL.**—The Director shall carry out a program for the construction, operation, and maintenance of user facilities to support the program under this section. As practicable, these facilities shall serve the needs of the Department, industry, the academic community, and other relevant entities.

(2) **INCLUDED FUNCTIONS.**—User facilities described in paragraph (1) shall include facilities which carry out—

(A) genome sequencing and analysis of plants, microbes, and microbial communities using high throughput tools, technologies, and comparative analysis;

(B) molecular level research in biological, chemical, environmental, and subsurface sciences, including synthesis, dynamic properties, and interactions among natural and engineered materials; and

(C) measurement of cloud and aerosol properties used for examining atmospheric processes and evaluating climate model performance, including ground stations at various locations, mobile resources, and aerial vehicles.

#### **SEC. 606. ADVANCED SCIENTIFIC COMPUTING RESEARCH PROGRAM.**

(a) **IN GENERAL.**—As part of the activities authorized under section 603, the Director shall carry out a research, development, demonstration, and commercial application program to advance computational and networking capabilities to analyze, model, simulate, and predict complex phenomena relevant to the development of new energy technologies and the competitive-ness of the United States.

(b) **COORDINATION.**—

(1) **DIRECTOR.**—The Director shall carry out activities under this section in accordance with priorities established by the Department's Under Secretary for Science to determine and meet the computational and networking research and facility needs of the Office of Science and all other relevant energy technology and energy efficiency programs within the Department.

(2) **UNDER SECRETARY FOR SCIENCE.**—The Department's Under Secretary for Science shall ensure the coordination of the activities of the Department, including activities under this sec-

tion, to determine and meet the computational and networking research and facility needs of the Office of Science and all other relevant energy technology and energy efficiency programs within the Department.

(c) **RESEARCH TO SUPPORT ENERGY APPLICATIONS.**—As part of the activities authorized under subsection (a), the program shall support research in high-performance computing and networking relevant to energy applications, including both basic and applied energy research programs carried out by the Secretary.

(d) **REPORTS.**—

(1) **ADVANCED COMPUTING FOR ENERGY APPLICATIONS.**—Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Congress a plan to integrate and leverage the expertise and capabilities of the program described in subsection (a), as well as other relevant computational and networking research programs and resources supported by the Federal Government, to advance the missions of the Department's applied energy and energy efficiency programs.

(2) **EXASCALE COMPUTING.**—At least 18 months prior to the initiation of construction or installation of any exascale-class computing facility, the Secretary shall transmit a plan to the Congress detailing—

(A) the proposed facility's cost projections and capabilities to significantly accelerate the development of new energy technologies;

(B) technical risks and challenges that must be overcome to achieve successful completion and operation of the facility; and

(C) an assessment of the scientific and technological advances expected from such a facility relative to those expected from a comparable investment in expanded research and applications at terascale-class and petascale-class computing facilities.

(e) **APPLIED MATHEMATICS AND SOFTWARE DEVELOPMENT FOR HIGH-END COMPUTING SYSTEMS.**—The Director shall carry out activities to develop, test, and support mathematics, models, and algorithms for complex systems, as well as programming environments, tools, languages, and operating systems for high-end computing systems (as defined in section 2 of the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5541)).

(f) **HIGH-END COMPUTING FACILITIES.**—The Director shall—

(1) provide for sustained access by the public and private research community in the United States to high-end computing systems, including access to the National Energy Research Scientific Computing Center and to Leadership Systems (as defined in section 2 of the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5541));

(2) provide technical support for users of such systems; and

(3) conduct research and development on next-generation computing architectures and platforms to support the missions of the Department.

(g) **OUTREACH.**—The Secretary shall conduct outreach programs and may form partnerships to increase the use of and access to high-performance computing modeling and simulation capabilities by industry, including manufacturers.

#### **SEC. 607. FUSION ENERGY RESEARCH PROGRAM.**

(a) **PROGRAM.**—As part of the activities authorized under section 603, the Director shall carry out a fusion energy sciences research and enabling technology development program to effectively address the scientific and engineering challenges to building a cost-competitive fusion power plant and a competitive fusion power industry in the United States. As part of this program, the Director shall carry out research activities to expand the fundamental under-

standing of plasmas and matter at very high temperatures and densities.

(b) **ITER.**—The Director shall coordinate and carry out the responsibilities of the United States with respect to the ITER international fusion project pursuant to the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project.

(c) **IDENTIFICATION OF PRIORITIES.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the Department's proposed research and development activities in magnetic fusion over the 10 years following the date of enactment of this Act under four realistic budget scenarios. The report shall—

(1) identify specific areas of fusion energy research and enabling technology development in which the United States can and should establish or solidify a lead in the global fusion energy development effort; and

(2) identify priorities for initiation of facility construction and facility decommissioning under each of those scenarios.

(d) **FUSION MATERIALS RESEARCH AND DEVELOPMENT.**—The Director, in coordination with the Assistant Secretary for Nuclear Energy of the Department, shall carry out research and development activities to identify, characterize, and create materials that can endure the neutron, plasma, and heat fluxes expected in a commercial fusion power plant. As part of the activities authorized under subsection (c), the Secretary shall—

(1) provide an assessment of the need for a facility or facilities that can examine and test potential fusion and next generation fission materials and other enabling technologies relevant to the development of commercial fusion power plants; and

(2) provide an assessment of whether a single new facility that substantially addresses magnetic fusion, inertial fusion, and next generation fission materials research needs is feasible, in conjunction with the expected capabilities of facilities operational as of the date of enactment of this Act.

(e) **ENABLING TECHNOLOGY DEVELOPMENT.**—The Director shall carry out activities to develop technologies necessary to enable the reliable, sustainable, safe, and economically competitive operation of a commercial fusion power plant.

(f) **FUSION SIMULATION PROJECT.**—In collaboration with the Office of Science's Advanced Scientific Computing Research program described in section 606, the Director shall carry out a computational project to advance the capability of fusion researchers to accurately simulate an entire fusion energy system.

(g) **INERTIAL FUSION ENERGY RESEARCH AND DEVELOPMENT PROGRAM.**—The Secretary shall carry out a program of research and technology development in inertial fusion for energy applications, including ion beam and laser fusion. Not later than 180 days after the release of a report from the National Academies on inertial fusion energy research, the Secretary shall transmit to Congress a report describing the Department's plan to incorporate any relevant recommendations from the National Academies' report into this program.

#### **SEC. 608. HIGH ENERGY PHYSICS PROGRAM.**

(a) **PROGRAM.**—As part of the activities authorized under section 603, the Director shall carry out a research program on the elementary constituents of matter and energy and the nature of space and time.

(b) **NEUTRINO RESEARCH.**—As part of the program described in subsection (a), the Director shall carry out research activities on rare decay processes and the nature of the neutrino, which may—

(1) include collaborations with the National Science Foundation on relevant projects; and

(2) utilize components of existing accelerator facilities to produce neutrino beams of sufficient intensity to explore research priorities identified by the High Energy Physics Advisory Panel or the National Academy of Sciences.

(c) **DARK ENERGY AND DARK MATTER RESEARCH.**—As part of the program described in subsection (a), the Director shall carry out research activities on the nature of dark energy and dark matter. These activities shall be consistent with research priorities identified by the High Energy Physics Advisory Panel or the National Academy of Sciences, and may include—

(1) the development of space-based and land-based facilities and experiments; and

(2) collaborations with the National Aeronautics and Space Administration, the National Science Foundation, or international collaborations on relevant research projects.

(d) **ACCELERATOR RESEARCH AND DEVELOPMENT.**—The Director shall carry out research and development in advanced accelerator concepts and technologies to reduce the necessary scope and cost for the next generation of particle accelerators.

(e) **INTERNATIONAL COLLABORATION.**—The Director, as practicable and in coordination with other appropriate Federal agencies as necessary, shall ensure the access of United States researchers to the most advanced accelerator facilities and research capabilities in the world, including the Large Hadron Collider.

#### **SEC. 609. NUCLEAR PHYSICS PROGRAM.**

(a) **PROGRAM.**—As part of the activities authorized under section 603, the Director shall carry out a research program, and support relevant facilities, to discover and understand various forms of nuclear matter.

(b) **FACILITY CONSTRUCTION AND UPGRADES.**—Consistent with the Office of Science's project management practices, the Director shall carry out—

(1) an upgrade of the Continuous Electron Beam Accelerator Facility to a 12 gigaelectronvolt beam of electrons; and

(2) construction of the Facility for Rare Isotope Beams.

(c) **ISOTOPE DEVELOPMENT AND PRODUCTION FOR RESEARCH APPLICATIONS.**—The Director shall carry out a program for the production of isotopes, including the development of techniques to produce isotopes, that the Secretary determines are needed for research, excluding medical research. In making this determination, the Secretary shall consider any relevant recommendations made by Federal advisory committees, the National Academies, and interagency working groups in which the Department participates.

#### **SEC. 610. SCIENCE LABORATORIES INFRASTRUCTURE PROGRAM.**

(a) **PROGRAM.**—The Director shall carry out a program to improve the safety, efficiency, and mission readiness of infrastructure at Office of Science laboratories. The program shall include projects to—

(1) renovate or replace space that does not meet research needs;

(2) replace facilities that are no longer cost effective to renovate or operate;

(3) modernize utility systems to prevent failures and ensure efficiency;

(4) remove excess facilities to allow safe and efficient operations; and

(5) construct modern facilities to conduct advanced research in controlled environmental conditions.

(b) **MINOR CONSTRUCTION PROJECTS.**—

(1) **AUTHORITY.**—Using operation and maintenance funds or facilities and infrastructure funds authorized by law, the Secretary may carry out minor construction projects with respect to laboratories administered by the Office of Science.

(2) **ANNUAL REPORT.**—The Secretary shall submit to Congress, as part of the annual budget submission of the Department, a report on each exercise of the authority under subsection (a) during the preceding fiscal year. Each report shall include a summary of maintenance and infrastructure needs and associated funding requirements at each of the laboratories, including the amount of both planned and deferred infrastructure spending at each laboratory. Each report shall provide a brief description of each minor construction project covered by the report.

(3) **COST VARIATION REPORTS.**—If, at any time during the construction of any minor construction project, the estimated cost of the project is revised and the revised cost of the project exceeds the minor construction threshold, the Secretary shall immediately submit to Congress a report explaining the reasons for the cost variation.

(4) **DEFINITIONS.**—In this section—

(A) the term “minor construction project” means any plant project not specifically authorized by law for which the approved total estimated cost does not exceed the minor construction threshold; and

(B) the term “minor construction threshold” means \$10,000,000, with such amount to be adjusted by the Secretary in accordance with the Engineering News-Record Construction Cost Index, or an appropriate alternative index as determined by the Secretary, once every five years after the date of enactment of this Act.

(5) **NONAPPLICABILITY.**—Sections 4703 and 4704 of the Atomic Energy Defense Act (50 U.S.C. 2743 and 2744) shall not apply to laboratories administered by the Office of Science.

#### **SEC. 611. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary for the activities of the Office of Science—

(1) \$5,247,000,000 for fiscal year 2011, of which—

(A) \$1,875,000,000 shall be for Basic Energy Sciences activities under section 604;

(B) \$667,000,000 shall be for Biological and Environmental Research activities under section 605; and

(C) \$466,000,000 shall be for Advanced Scientific Computing Research activities under section 606;

(2) \$5,614,000,000 for fiscal year 2012, of which—

(A) \$2,025,000,000 shall be for Basic Energy Sciences activities under section 604;

(B) \$720,000,000 shall be for Biological and Environmental Research activities under section 605; and

(C) \$503,000,000 shall be for Advanced Scientific Computing Research activities under section 606;

(3) \$6,007,000,000 for fiscal year 2013, of which—

(A) \$2,187,000,000 shall be for Basic Energy Sciences activities under section 604;

(B) \$778,000,000 shall be for Biological and Environmental Research activities under section 605; and

(C) \$544,000,000 shall be for Advanced Scientific Computing Research activities under section 606;

(4) \$6,428,000,000 for fiscal year 2014, of which—

(A) \$2,362,000,000 shall be for Basic Energy Sciences activities under section 604;

(B) \$840,000,000 shall be for Biological and Environmental Research activities under section 605; and

(C) \$587,000,000 shall be for Advanced Scientific Computing Research activities under section 606; and

(5) \$6,878,000,000 for fiscal year 2015, of which—

(A) \$2,551,000,000 shall be for Basic Energy Sciences activities under section 604;

(B) \$907,000,000 shall be for Biological and Environmental Research activities under section 605; and

(C) \$634,000,000 shall be for Advanced Scientific Computing Research activities under section 606.

#### **Subtitle B—Advanced Research Projects Agency-Energy**

##### **SEC. 621. SHORT TITLE.**

This subtitle may be cited as the “ARPA-E Reauthorization Act of 2010”.

##### **SEC. 622. ARPA-E AMENDMENTS.**

Section 5012 of the America COMPETES Act (42 U.S.C. 16538) is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (A), by inserting “and applied” after “advances in fundamental”;

(B) by striking “and” at the end of subparagraph (B);

(C) by striking the period at the end of subparagraph (C) and inserting “; and”; and

(D) by adding at the end the following new subparagraph:

“(D) promoting the commercial application of advanced energy technologies.”;

(2) in subsection (e)(3), by amending subparagraph (C) to read as follows:

“(C) research and development of advanced manufacturing process and technologies for the domestic manufacturing of novel energy technologies; and”;

(3) in subsection (e)—

(A) by striking “and” at the end of paragraph (3)(D);

(B) by striking the period at the end of paragraph (4) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(5) pursuant to subsection (c)(2)(C)—

“(A) ensuring that applications for funding disclose the extent of current and prior efforts, including monetary investments as appropriate, in pursuit of the technology area for which funding is being requested;

“(B) adopting measures to ensure that, in making awards, program managers adhere to the objectives in subsection (c)(2)(C); and

“(C) providing as part of the annual report required by subsection (h)(1) a summary of the instances of and reasons for ARPA-E funding projects in technology areas already being undertaken by industry.”;

(4) by redesignating subsections (f) through (m) as subsections (g), (h), (i), (j), (l), (m), (n), and (o), respectively;

(5) by inserting after subsection (e) the following new subsection:

“(f) **AWARDS.**—In carrying out this section, the Director shall initiate and execute awards in the form of grants, contracts, cooperative agreements, cash prizes, and other transactions.”;

(6) in subsection (g), as so redesignated by paragraph (4) of this section—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2), as so redesignated by subparagraph (A) of this paragraph, the following new paragraph:

“(1) **IN GENERAL.**—The Director shall establish and maintain within ARPA-E a staff with sufficient qualifications and expertise to enable ARPA-E to carry out its responsibilities under this section in conjunction with the operations of the rest of the Department.”;

(C) in paragraph (2)(A), as so redesignated by subparagraph (A) of this paragraph—

(i) in the paragraph heading, by striking “PROGRAM MANAGERS” and inserting “PROGRAM DIRECTORS”;

(ii) by striking “program managers” and inserting “program directors”; and

(iii) by striking “each of”.

(D) in paragraph (2)(B), as so redesignated by subparagraph (A) of this paragraph—

(i) by striking “program manager” and inserting “program director”;

(ii) in clause (iv), by striking “, with advice under subsection (j) as appropriate,”;

(iii) by redesignating clauses (v) and (vi) as clauses (vi) and (viii), respectively;

(iv) by inserting after clause (iv) the following new clause:

“(v) identifying innovative cost-sharing arrangements for ARPA-E projects, including through use of the authority under section 988(b)(3) of the Energy Policy Act of 2005 (42 U.S.C. 16352(b)(3));”;

(v) in clause (vi), as so redesignated by clause (iii) of this subparagraph, by striking “; and” and inserting a semicolon; and

(vi) by inserting after clause (vi), as so redesignated by clause (iii) of this subparagraph, the following new clause:

“(vii) identifying mechanisms for commercial application of successful energy technology development projects, including through establishment of partnerships between awardees and commercial entities; and”;

(E) in paragraph (2)(C), as so redesignated by subparagraph (A) of this paragraph, by inserting “up to” after “shall be”;

(F) in paragraph (3), as so redesignated by subparagraph (A) of this paragraph, by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(G) by adding at the end the following new paragraph:

“(4) FELLOWSHIPS.—The Director is authorized to select exceptional early-career and senior scientific, legal, business, and technical personnel to serve as fellows to work at ARPA-E for terms not to exceed two years. Responsibilities of fellows may include—

“(A) supporting program managers in program creation, design, implementation, and management;

“(B) exploring technical fields for future ARPA-E program areas;

“(C) assisting the Director in the creation of the strategic vision for ARPA-E referred to in subsection (h)(2);

“(D) preparing energy technology and economic analyses; and

“(E) any other appropriate responsibilities identified by the Director.”;

(7) in subsection (h)(2), as so redesignated by paragraph (4) of this section—

(A) by striking “2008” and inserting “2010”; and

(B) by striking “2011” and inserting “2013”;

(8) by amending subsection (j), as so redesignated by paragraph (4) of this section, to read as follows:

“(j) FEDERAL DEMONSTRATION OF TECHNOLOGIES.—The Director shall seek opportunities to partner with purchasing and procurement programs of Federal agencies to demonstrate energy technologies resulting from activities funded through ARPA-E.”;

(9) by inserting after such subsection (j) the following new subsection:

“(k) EVENTS.—

“(1) The Director is authorized to convene, organize, and sponsor events that further the objectives of ARPA-E, including events that assemble awardees, the most promising applicants for ARPA-E funding, and a broad range of ARPA-E stakeholders (which may include members of relevant scientific research and academic communities, government officials, financial institutions, private investors, entrepreneurs, and other private entities), for the purposes of—

“(A) demonstrating projects of ARPA-E awardees;

“(B) demonstrating projects of finalists for ARPA-E awards and other energy technology projects;

“(C) facilitating discussion of the commercial application of energy technologies developed under ARPA-E and other government-sponsored research and development programs; or

“(D) such other purposes as the Director considers appropriate.

“(2) Funding for activities described in paragraph (1) shall be provided as part of the technology transfer and outreach activities authorized under subsection (o)(4)(B).”;

(10) in subsection (m)(1), as so redesignated by paragraph (4) of this section, by striking “4 years” and inserting “6 years”;

(11) in subsection (m)(2)(B), as so redesignated by paragraph (4) of this section, by inserting “, and how those lessons may apply to the operation of other programs within the Department of Energy” after “ARPA-E”;

(12) by amending subsection (o)(2), as so redesignated by paragraph (4) of this section, to read as follows:

“(2) AUTHORIZATION OF APPROPRIATIONS.—Subject to paragraph (4), there are authorized to be appropriated to the Director for deposit in the Fund, without fiscal year limitation—

“(A) \$300,000,000 for fiscal year 2011;

“(B) \$450,000,000 for fiscal year 2012;

“(C) \$600,000,000 for fiscal year 2013;

“(D) \$800,000,000 for fiscal year 2014; and

“(E) \$1,000,000,000 for fiscal year 2015.”;

(13) in subsection (o), as so redesignated by paragraph (4) of this section, by—

(A) striking paragraph (4); and

(B) redesignating paragraph (5) as paragraph (4); and

(14) in subsection (o)(4)(B), as so redesignated by paragraphs (4) and (13)(B) of this subsection—

(A) by striking “2.5 percent” and inserting “5 percent”; and

(B) by inserting “, consistent with the goal described in subsection (c)(2)(D) and within the responsibilities of program directors as specified in subsection (g)(2)(B)(vii)” after “outreach activities”.

### Subtitle C—Energy Innovation Hubs

#### SEC. 631. SHORT TITLE.

This subtitle may be cited as the “Energy Innovation Hubs Authorization Act of 2010”.

#### SEC. 632. ENERGY INNOVATION HUBS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Secretary of Energy shall carry out a program to enhance the Nation’s economic, environmental, and energy security by making grants to consortia for establishing and operating Energy Innovation Hubs to conduct and support, whenever practicable at one centralized location, multidisciplinary, collaborative research, development, demonstration, and commercial application of advanced energy technologies in areas not being served by the private sector.

(2) TECHNOLOGY DEVELOPMENT FOCUS.—The Secretary shall designate for each Hub a unique advanced energy technology development focus.

(3) COORDINATION.—The Secretary shall ensure the coordination of, and avoid unnecessary duplication of, the activities of Hubs with those of other Department of Energy research entities, including the National Laboratories, the Advanced Research Projects Agency—Energy, and Energy Frontier Research Centers, and within industry. Such coordination shall include convening and consulting with representatives of staff of the Department of Energy, representatives from Hubs and the qualifying entities that are members of the consortia operating the Hubs, and representatives of such other entities as the Secretary considers appropriate, to share research results, program plans, and opportunities for collaboration.

(4) ADMINISTRATION.—The Secretary shall administer this section with respect to each Hub through the Department program office appro-

priate to administer the subject matter of the technology development focus assigned under paragraph (2) for the Hub.

(b) CONSORTIA.—

(1) ELIGIBILITY.—To be eligible to receive a grant under this section for the establishment and operation of a Hub, a consortium shall—

(A) be composed of no fewer than 2 qualifying entities;

(B) operate subject to a binding agreement entered into by its members that documents—

(i) the proposed partnership agreement, including the governance and management structure of the Hub;

(ii) measures to enable cost-effective implementation of the program under this section;

(iii) a proposed budget, including financial contributions from non-Federal sources;

(iv) conflict of interest procedures consistent with subsection (d)(3), all known material conflicts of interest, and corresponding mitigation plans;

(v) an accounting structure that enables the Secretary to ensure that the consortium has complied with the requirements of this section; and

(vi) an external advisory committee consistent with subsection (d)(2); and

(C) operate as a nonprofit organization.

(2) APPLICATION.—A consortium seeking to establish and operate a Hub under this section, acting through a prime applicant, shall transmit to the Secretary an application at such time, in such form, and accompanied by such information as the Secretary shall require, including a detailed description of the elements of the consortium agreement required under paragraph (1)(B). If the consortium members will not be located at one centralized location, such application shall include a communications plan that ensures close coordination and integration of the Hub’s activities.

(c) SELECTION AND SCHEDULE.—The Secretary shall select consortia for grants for the establishment and operation of Hubs through competitive selection processes. Grants made to a Hub shall be for a period not to exceed 5 years, after which the grant may be renewed, subject to a competitive selection process.

(d) HUB OPERATIONS.—

(1) IN GENERAL.—Hubs shall conduct or provide for multidisciplinary, collaborative research, development, demonstration, and commercial application of advanced energy technologies within the technology development focus designated for the Hub by the Secretary under subsection (a)(2). Each Hub shall—

(A) encourage collaboration and communication among the member qualifying entities of the consortium and awardees by conducting activities whenever practicable at one centralized location;

(B) develop and publish on the Department of Energy’s website proposed plans and programs;

(C) submit an annual report to the Secretary summarizing the Hub’s activities, including detailing organizational expenditures, listing external advisory committee members, and describing each project undertaken by the Hub; and

(D) monitor project implementation and coordination.

(2) EXTERNAL ADVISORY COMMITTEE.—Each Hub shall establish an external advisory committee, the membership of which shall have sufficient expertise to advise and provide guidance on scientific, technical, industry, financial, and research management matters.

(3) CONFLICTS OF INTEREST.—

(A) PROCEDURES.—Hubs shall establish conflict of interest procedures, consistent with those of the Department of Energy, to ensure that employees and consortia designees for Hub activities who are in decisionmaking capacities disclose all material conflicts of interest, including

financial, organizational, and personal conflicts of interest.

(B) **DISQUALIFICATION AND REVOCATION.**—The Secretary may disqualify an application or revoke funds distributed to a Hub if the Secretary discovers a failure to comply with conflict of interest procedures established under subparagraph (A).

(e) **PROHIBITION ON CONSTRUCTION.**—

(1) **IN GENERAL.**—No funds provided pursuant to this section may be used for construction of new buildings or facilities for Hubs. Construction of new buildings or facilities shall not be considered as part of the non-Federal share of a Hub cost-sharing agreement.

(2) **TEST BED AND RENOVATION EXCEPTION.**—Nothing in this subsection shall prohibit the use of funds provided pursuant to this section, or non-Federal cost share funds, for the construction of a test bed or renovations to existing buildings or facilities for the purposes of research if the Oversight Board determines that the test bed or renovations are limited to a scope and scale necessary for the research to be conducted.

(f) **OVERSIGHT BOARD.**—The Secretary shall establish and maintain within the Department an Oversight Board to oversee the progress of Hubs.

(g) **PRIORITY CONSIDERATION.**—The Secretary shall give priority consideration to applications in which 1 or more of the institutions under subsection (b)(1)(A) are 1890 Land Grant Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7061)), Predominantly Black Institutions (as defined in section 318 of the Higher Education Act of 1965 (20 U.S.C. 1059e)), Tribal Colleges or Universities (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)), or Hispanic Serving Institutions (as defined in section 318 of the Higher Education Act of 1965 (20 U.S.C. 1059e)).

(h) **DEFINITIONS.**—For purposes of this section:

(1) **ADVANCED ENERGY TECHNOLOGY.**—The term “advanced energy technology” means an innovative technology—

(A) that produces energy from solar, wind, geothermal, biomass, tidal, wave, ocean, or other renewable energy resources;

(B) that produces nuclear energy;

(C) for carbon capture and sequestration;

(D) that enables advanced vehicles, vehicle components, and related technologies that result in significant energy savings;

(E) that generates, transmits, distributes, utilizes, or stores energy more efficiently than conventional technologies; or

(F) that enhances the energy independence and security of the United States by enabling improved or expanded supply and production of domestic energy resources, including coal, oil, and natural gas.

(2) **HUB.**—The term “Hub” means an Energy Innovation Hub established in accordance with this section.

(3) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) **QUALIFYING ENTITY.**—The term “qualifying entity” means—

(A) an institution of higher education;

(B) an appropriate State or Federal entity, including the Department of Energy Federally Funded Research and Development Centers;

(C) a nongovernmental organization with expertise in advanced energy technology research, development, demonstration, or commercial application; or

(D) any other relevant entity the Secretary considers appropriate.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this section—

(1) \$110,000,000 for fiscal year 2011;

(2) \$135,000,000 for fiscal year 2012;

(3) \$195,000,000 for fiscal year 2013;

(4) \$210,000,000 for fiscal year 2014; and

(5) \$210,000,000 for fiscal year 2015.

#### **Subtitle D—Cooperative Research and Development Fund**

##### **SEC. 641. SHORT TITLE.**

This subtitle may be cited as the “Cooperative Research and Development Fund Authorization Act of 2010”.

##### **SEC. 642. COOPERATIVE RESEARCH AND DEVELOPMENT FUND.**

(a) **IN GENERAL.**—The Secretary of Energy shall make funds available to Department of Energy National Laboratories for the Federal share of cooperative research and development agreements. The Secretary of Energy shall determine the apportionment of such funds to each Department of Energy National Laboratory and shall ensure that special consideration is given to small business firms and consortia involving small business firms in the selection process for which cooperative research and development agreements will receive such funds.

(b) **REPORTING.**—Each year the Secretary shall submit to Congress a report that describes how funds were expended under this subtitle.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section each fiscal year. No funds allocated for this section shall come from funds allocated for the Office of Science.

#### **TITLE VII—MISCELLANEOUS**

##### **SEC. 701. SENSE OF CONGRESS.**

It is the sense of Congress that, among the programs and activities authorized in this Act, those that correspond to the recommendations of the National Academy of Sciences’ 2005 report entitled “Rising Above the Gathering Storm” remain critical to maintaining long-term United States economic competitiveness, and accordingly shall receive funding priority.

##### **SEC. 702. PERSONS WITH DISABILITIES.**

For the purposes of the activities and programs supported by this Act and the amendments made by this Act, institutions of higher education chartered to serve large numbers of students with disabilities, including Gallaudet University, Landmark College, and the National Technical Institute for the Deaf and those with programs serving or those serving disabled veterans, shall receive special consideration and have a designation consistent with the designation for other institutions that serve populations underrepresented in STEM to ensure that institutions of higher education chartered to or serving persons with disabilities benefit from such activities and programs.

##### **SEC. 703. VETERANS AND SERVICE MEMBERS.**

In awarding scholarships and fellowships under this Act, an institution of higher education shall give preference to applications from veterans and service members, including those who have received or will receive the Afghanistan Campaign Medal or the Iraq Campaign Medal as authorized by Public Law 108–234 (10 U.S.C. 1121 note; 118 Stat. 655) and Executive Order No. 13363.

The CHAIR. No amendment to the committee amendment in the nature of a substitute is in order except those printed in part B of the report and amendments en bloc described in section 3 of House Resolution 1344. Each amendment may be offered only in the

order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It shall be in order at any time for the chair of the Committee on Science and Technology or his designee to offer amendments en bloc consisting of amendments printed in part B of the report not earlier disposed of. Amendments en bloc shall be considered as read, shall be debatable for 40 minutes equally divided and controlled by the chair and ranking minority member of the committee or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question. The original proponent of an amendment included in such amendments en bloc may insert a statement in the CONGRESSIONAL RECORD immediately before the disposition of the amendments en bloc.

AMENDMENT NO. 1 OFFERED BY MR. GORDON OF TENNESSEE

The CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 111–479.

Mr. GORDON of Tennessee. Madam Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. GORDON of Tennessee:

Page 94, line 10, strike “in the research” and insert “in research on the topic”.

Page 102, lines 1 through 9, section 243 is amended to read as follows:

##### **SEC. 243. ROBERT NOYCE TEACHER SCHOLARSHIP PROGRAM.**

Section 10A(h)(1) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–1a(h)(1)) is amended to read as follows:

“(1) **IN GENERAL.**—An eligible entity receiving a grant under this section shall provide, from non-Federal sources, to carry out the activities supported by the grant—

“(A) in the case of grants in an amount of less than \$1,500,000, an amount equal to at least 30 percent of the amount of the grant, at least one half of which shall be in cash; and

“(B) in the case of grants in an amount of \$1,500,000 or more, an amount equal to at least 50 percent of the amount of the grant, at least one half of which shall be in cash.”.

Page 123, line 13, strike “10 or more undergraduate STEM students” and insert “6 or more undergraduate STEM students for sites designated at primarily undergraduate institutions of higher education and 10 or more undergraduate STEM students for all other sites”.

Page 126, line 9, insert “, except for institutions of higher education” after “private sector entities”.

Page 131, lines 17 and 18, strike “teachers, administrators, local education agencies” and insert “teachers and administrators in both public and private schools, local educational agencies”.

Page 135, line 13, strike “and”.

Page 135, line 14, insert “and” after the semicolon.

Page 135, after line 14, insert the following new clause:

“(ix) carbon capture and sequestration science and engineering;”.

Page 174, after line 13, insert the following:

**SEC. 412. REPORT ON THE USE OF MODELING AND SIMULATION.**

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Director shall submit a report to Congress examining the use of high-performance computational modeling and simulation by small- and medium-sized manufacturers.

(b) SPECIFIC REQUIREMENTS.—Such report shall include the following:

(1) An assessment of the current utilization of high-performance computational modeling and simulation by small- and medium-sized manufacturers.

(2) An examination of any barriers or challenges to the use of high-performance computational modeling and simulation by small- and medium-sized manufacturers, including—

(A) access to high-performance computing facilities and resources;

(B) the availability of software and other applications tailored to meet the needs of such manufacturers;

(C) appropriate expertise and training; and

(D) the availability of tools and other methods to understand and manage the costs and risks associated with transitioning to the use of computational modeling and simulation.

(3) Recommendations for addressing any barriers or challenges identified in paragraph (2) and, if appropriate, suggestions for action that the Federal Government may take to foster the development and utilization of high-performance computing resources by small- and medium-sized manufacturers.

(c) CONSULTATION.—In carrying out this section, the Director shall consult with the Office of Science and Technology Policy and with other relevant Federal agencies.

Page 175, line 16, strike “and advocating”.

Page 180, strike line 13 and all that follows through line 20 and insert the following:

“(3) NOTIFICATION.—If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.”.

Page 184, line 8, strike “ANNUAL” and insert “COMPTROLLER GENERAL”.

Page 184, line 8, strike “The Comptroller General” and insert “The Comptroller General of the United States”.

Page 184, line 9, strike “an annual” and insert “a biennial”.

Page 194, strike line 20 and all that follows through page 195, line 6, and insert the following:

“(f) DEFINITIONS.—In this section:

“(1) REGIONAL INNOVATION CLUSTER.—The term ‘regional innovation cluster’ means a geographically bounded network of similar, synergistic, or complementary entities that—

“(A) are engaged in or with a particular industry sector;

“(B) have active channels for business transactions and communication;

“(C) share specialized infrastructure, labor markets, and services; and

“(D) leverage the region’s unique competitive strengths to stimulate innovation and create jobs.

“(2) STATE.—The term ‘State’ means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Vir-

gin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

Page 198, lines 13 and 14, strike “Department of Energy” and insert “Office of Science”.

Page 219, lines 7 and 8, strike “Director” and insert “Secretary”.

Page 229, line 7, strike “shall” and insert “may”.

Page 231, lines 13 through 17, amend subparagraph (F) to read as follows:

(F) in paragraph (3)(B), as so redesignated by subparagraph (A) of this paragraph, by striking “not less than 70, and not more than 120,” and inserting “not more than 120”; and

Page 232, line 1, strike “managers” and insert “directors”.

Page 238, line 24, insert “In selecting consortia, the Secretary shall consider the information a consortium must disclose according to subsection (b), as well as any existing facilities a consortium will provide for Hub activities.” after “selection processes.”.

Page 245, lines 12 through 24, amend section 702 to read as follows:

**SEC. 702. PERSONS WITH DISABILITIES.**

For the purposes of the activities and programs supported by this Act and the amendments made by this Act—

(1) institutions of higher education chartered to serve large numbers of students with disabilities, including Gallaudet University, Landmark College, and the National Technical Institute for the Deaf, and institutions of higher education offering science, technology, engineering, and mathematics research and education activities and programs that serve veterans with disabilities, shall receive special consideration in the review of any proposals by these institutions for funding under the research and education programs authorized in this Act to ensure that institutions of higher education chartered to or serving persons with disabilities benefit from such research and education activities and programs; and

(2) agencies with respect to which appropriations are authorized under this Act shall also conduct outreach to veterans with disabilities pursuing studies in science, technology, engineering, and mathematics to ensure that such veterans are aware of and benefit from the research and education activities and programs authorized by this Act.

Page 246, after line 8, insert the following new sections:

**SEC. 704. BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

**SEC. 705. LIMITATION.**

No funds authorized under this Act shall be used for the employment of, or shall be received by, any individual who has been convicted of, or pleaded guilty to, a crime of child molestation, rape, or any other form of sexual assault.

**SEC. 706. PROHIBITION ON LOBBYING.**

Nothing in this Act shall be construed to supercede section 1913 of title 18, United States Code.

The CHAIR. Pursuant to House Resolution 1344, the gentleman from Tennessee (Mr. GORDON) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. GORDON of Tennessee. Madam Chairman, I yield myself such time as I may consume.

The amendment I am offering today makes a handful of technical and clarifying changes and a few substantive additions to the underlying bill. Most of the changes were the result of negotiations with our Republican colleagues following our full committee markup. We had agreed to work out several issues during the markup, so let me tell you about those agreements first.

Mr. NEUGEBAUER, who wished to ensure that we were leveraging as much private funds as we could in implementing the Noyce Teacher Scholarship Program, I agreed to split the match requirement into two categories. The result is that small institutions are also able to participate in this critical program to train STEM teachers, and the large institutions can more easily raise match funds and stretch Federal dollars even further.

There was agreement between Dr. LIPINSKI and Mr. INGLIS on the prize program in section 228. They found a good way to make sure that there would not be double-dipping into Federal funds in order to carry out the prize-winning research.

Mr. OLSON requested some changes in the ARPA-E language, and we went ahead, as agreed, and made those changes in this amendment.

Mrs. BIGGERT had some concerns about the Energy Innovation Hubs and wanted to make sure that the consortia utilized existing facilities when possible, so we made those constructive changes for her.

The amendment also included language to clarify the application of existing law which prohibits the use of funding appropriated to programs in the underlying bill for lobbying. I want to thank Dr. BROWN for his passion on this issue and for working with me to make this clarification.

Finally, this amendment also includes a clarifying change requested by Dr. BARTLETT for one of his own amendments in committee on STEM internships.

The amendment also adds one new section to the bill. This section requires the Director of NIST to submit a report to Congress examining the use of high-performance computation modeling and simulation by small- and medium-sized manufacturers. There is great potential in the use of high-performance computing resources by small- and medium-sized manufacturers, but their use is relatively limited. This study would look at the current utilization of these resources, examine the existing barriers to their use, and make recommendations for addressing these barriers. I want to thank Chairman WU, Chairman LIPINSKI, and Congressman GARAMENDI for their interest

in this issue and for helping to draft this provision.

Now let me talk about a part of the manager's amendment that I think will be a topic of discussion on both sides of the aisle today. Mr. HALL rightfully wanted to do something for veterans in this bill. He offered an amendment to the committee that gave veterans preference when applying for any scholarships or fellowships authorized under this bill, and the amendment was happily accepted unanimously in the committee.

He also offered an amendment to help disabled veterans who want to pursue STEM studies. I know Mr. HALL was trying to do the right thing, but when we read the language, we didn't think the amendment actually helped disabled veterans in the way Mr. HALL intended. So we had some discussion in the committee, and in the end we decided to accept the amendment as is but continue to work together heading to the floor.

Staff traded several versions of language back and forth over the next 10 days. I talked to my staff, Mr. HALL talked with his staff, and, unfortunately, we could not come up with agreement on which language would be most helpful to our common goal of helping disabled veterans without causing other unintended consequences.

Our shared goal is to encourage and incentivize colleges and universities to provide STEM programs to disabled veterans and to recruit more disabled veterans into those programs by giving them special consideration in the review of proposals when they do. However, we have to be careful not to dilute the notion of special consideration so far that every institution in the country can qualify. If everyone is special, no one is special.

We also want to hold institutions accountable for serving their disabled veterans in their STEM programs. If we give them special consideration without holding them accountable, there is no incentive to actually make sure that veterans get the benefits of the Federal grant funds. Unfortunately, every sincere effort of pro-veteran language that we made was rejected.

Once again, where is the accountability? How do we know that a single disabled veteran student is benefiting from Federal STEM programs because the institution has this designation? We don't. That is the problem with the language.

It is unfortunate that we could not come to agreement. But in the end, we took Mr. HALL's latest offer with only small changes and included it in the manager's amendment. I still think we can do so much better for disabled veterans. Our language may be improved from Mr. HALL's language, but it still doesn't go nearly as far as I would like it to go in holding institutions ac-

countable. I hope to continue to work with Mr. HALL to make sure that we have this accountability as we move forward.

Finally, we borrowed language from our colleagues on the other side of the aisle to ensure that no funds authorized under this bill can go to child molesters. This is a straightforward amendment incorporating a few suggestions from my colleagues and a small number of other changes to make the bill better, and I urge its adoption. I reserve the balance of my time.

Mr. HALL of Texas. Madam Chair, I rise to claim the time in opposition to the amendment, although I do not intend to oppose it.

The CHAIR. Without objection, the gentleman is recognized for 20 minutes.

There was no objection.

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Mr. HALL of Texas. The manager's amendment reflects many things, from technical changes, recommendations from outside groups, agreements reached between our side of the aisle and theirs, and items that as the majority they're able to add unilaterally.

I want to thank the chairman for working with our Members on agreed-upon changes between the full committee markup and now, including the non-Federal matching requirements under the Noyce Scholarship Program, clarifying language on STEM Industry Internships program and the NSF Innovation Prize pilot program, reinstating the cap on the maximum number of ARPA-E employees, and instituting a prohibition on lobbying in the act. I only wish we could have continued the good, open dialogue this past week, particularly with our concerns.

I remain disappointed that the veterans with disabilities language that was agreed to unanimously by voice vote at the full committee markup has been greatly modified in the manager's amendment. I believe if the chairman is sincere he will continue to work with us on this language as we move forward because I do strongly feel that the language in this amendment greatly weakens the intent of the underlying bill.

I also want to express my concern regarding the amendment's modification of language to the new loan guarantee program created by the bill. Specifically, the amendment strikes language in the underlying bill directing the Attorney General to take appropriate actions to recover unpaid principal and interest on loans that go into default. Removal of that language is a major concern as it's key to protecting taxpayers from bad loans. Given the events of the last couple of years I'd hope that the government's beginning to learn something about bad loans. But I'm concerned that with the removal of this very standard provision that we could be setting the loan guar-

antee program up for guaranteed failure.

I reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chairman, I yield 2 minutes to the gentlelady from California (Ms. WOOLSEY), a very active member of our committee and a champion for women and minorities.

Ms. WOOLSEY. Madam Chair, I rise today in strong support of H.R. 5116, the America COMPETES Reauthorization Act. I want to commend Chairman GORDON for his hard work in bringing this bipartisan bill to the floor, and I want to thank Ranking Member HALL for his help and his cooperation.

I believe in science, and I believe that with enough support, our scientists can solve almost any problem put in front of them. But, Madam Chairwoman, at the end of the day, this bill is about jobs, investments in basic and applied research, green manufacturing jobs, high-risk, high-reward technologies that lay the groundwork for a clean energy economy and create thousands of new jobs in the United States of America, jobs that we will have a workforce prepared to fill because a central piece of this effort encourages more girls and unrepresented minorities to become involved in science, technology, engineering and math—STEM—education at the K through 12, undergraduate, and graduate levels. So then those students will be able to choose a STEM career.

I'm pleased that this bill includes STEM provisions because without bringing women and minorities into the workforce with high tech engineering and math education, we won't have the workforce we need to compete worldwide.

So, Madam Chairman, H.R. 5116 supports these innovations that will not only change the way we generate energy but will also leave a cleaner and healthier world for our children and for our grandchildren.

So I urge my colleagues to join me and support Chairman GORDON and Ranking Member HALL in green jobs by voting for H.R. 5116.

Mr. HALL of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Chairman, I yield 2 minutes to a valued member of the Science and Technology Committee from Michigan (Mr. PETERS).

Mr. PETERS. Mr. Chairman, I rise today in support of the America COMPETES Act. This bill will enhance our Nation's competitiveness, bolster research and science education, and support the needs of small businesses and America's 21st century manufacturing sector.

Small businesses have created nearly two out of three new jobs in our country in the past 15 years. Small businesses will fuel our economic growth, and small and midsize manufacturers



are particularly important to creating substantial job growth. Manufacturing accounts for more than half of total U.S. exports and provides millions of people with well-paying jobs. A healthy manufacturing base is critical to the security of the American middle class and must be a key component of our economic security.

In order to maintain competitiveness in an increasingly competitive global marketplace, U.S. manufacturers must adapt to new technological developments and economic changes. The COMPETES Act does just that by providing critical support to the Manufacturing Extension Partnership, a highly efficient initiative which has spurred 57,000 jobs and \$10.5 billion in sales per year. The MEP requires matching investments from states and participating small businesses, but as a long and deep recession continues to take its toll, states like Michigan and many businesses have found it increasingly difficult to continue to meet the cost-share requirements to participate in the program. The COMPETES Act reduces this burden to allow struggling businesses to remain active in the program. Reducing small business costs and continuing an effort proven to create jobs make good sense. I'm grateful to my friend, Congressman EHLERS, for working with me on this bipartisan idea, and to Chairman GORDON and Ranking Member HALL, and Chairman WU and Ranking Member SMITH on the subcommittee, who supported including MEP support in the final bill. In addition to supporting MEP, COMPETES supports broad manufacturing initiatives such as providing new loan guarantees to help manufacturers access capital and supporting manufacturing R&D. I hope my colleagues will join me in supporting this bipartisan legislation that strengthens American manufacturing and competitiveness.

Mr. HALL of Texas. Mr. Chairman, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Chairman, I rise today to urge my colleagues to support H.R. 5116, the America COMPETES Act.

Chairman GORDON, I commend you and the members of the House Science and Technology Committee for bringing this legislation to the floor.

More than ever, our Nation must invest in the scientific and technological building blocks that bolster American competitiveness in the 21st Century global economy. The America COMPETES Reauthorization Act of 2010 achieves this and more by fostering innovation, supporting manufacturers and industry, preparing a STEM workforce, and creating jobs.

I want to recognize Representatives EDDIE BERNICE JOHNSON, BEN RAY

LUJÁN, SILVESTRE REYES, co-chair of the Diversity and Innovation Caucus, and other members of the Tri-Caucus for their outstanding leadership in championing diversity issues in this bill. This bill represents a great leap forward in broadening the participation of underrepresented minorities and women in the STEM fields.

As subcommittee chairman for Higher Education, Lifelong Learning, and Competitiveness, I am pleased that America COMPETES will more fully integrate our Nation's minority-serving institutions into research partnerships and Federal programs.

This bill complements our work on the Student Aid and Fiscal Responsibility Act known as SAFRA and our efforts to improve science and math literacy in our Nation's public schools.

In 2007, I introduced the Partnerships for Access to Laboratory Science Act, known as PALS, because our high schools needed to be properly equipped to provide low-income and minority students with laboratory experiences that will foster their talents and lifelong interests in science.

There is no doubt that we must redouble our efforts to engage young people in the STEM fields early on in their academic careers. I applaud Chairman GORDON and the committee for including this program in H.R. 5116.

I urge my colleagues to support the America COMPETES Act. Our Nation's future competitiveness depends on it.

Mr. HALL of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. GORDON of Tennessee. Mr. Chairman, I yield myself such time as I may consume. And I just want to briefly inform my friend, Mr. HALL, that I share his interest in finding a way to run down any defaults and collect those. We were told that our committee didn't have jurisdiction to require the Attorney General to do that. Let us continue to work together to find ways to accomplish what we both want to do.

I have no further requests for time, Mr. Chairman, and I yield back the balance of my time.

The Acting CHAIR (Mr. CAPUANO). The question is on the amendment offered by the gentleman from Tennessee (Mr. GORDON).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. GORDON of Tennessee. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Tennessee will be postponed.

AMENDMENTS EN BLOC NO. 1 OFFERED BY MR. GORDON OF TENNESSEE

Mr. GORDON of Tennessee. Mr. Chair, I have amendments en bloc at the desk.

The Acting CHAIR. The Clerk will designate the amendments en bloc.

Amendments en bloc No. 1 offered by Mr. GORDON of Tennessee consisting of amendments numbered 3, 4, 5, 11, 18, 19, 20, 25, 27, 39 and 47 printed in part B of House Report 111-479:

AMENDMENT NO. 3 OFFERED BY MS. MATSUI OF CALIFORNIA

The text of the amendment is as follows:

Page 242, line 17, insert “, including through Smart Grid technologies” after “conventional technologies”.

AMENDMENT NO. 4 OFFERED BY MS. MATSUI OF CALIFORNIA

The text of the amendment is as follows:

Page 215, line 11, insert “, including the development of smart grid technologies” after “efficiency programs”.

AMENDMENT NO. 5 OFFERED BY MR. WU OF OREGON

The text of the amendment is as follows:

Page 229, line 9, after “other transactions.” insert “The Director shall make awards designed to overcome the long-term and high-risk barriers relating to the goals and means set forth in subsection (c) and facilitate submissions, where possible by small businesses and entrepreneurs, pursuant to announcements published not less frequently than annually, of funding opportunities for—

“(1) specific areas of technological innovation; and

“(2) broadly defined areas of science and technology,

to remain open for periods of one year.”.

AMENDMENT NO. 11 OFFERED BY MRS. MCCARTHY OF NEW YORK

The text of the amendment is as follows:

Page 172, line 10, strike “and” after the semicolon.

Page 172, line 14, strike the period and insert “; and”.

Page 172, after line 14, insert the following:

(3) incorporate and build upon existing reports and studies on improving emergency communications.

AMENDMENT NO. 18 OFFERED BY MS. CLARKE OF NEW YORK

The text of the amendment is as follows:

Page 137, line 3, insert “including by women and underrepresented minority students,” after “and participation,”.

AMENDMENT NO. 19 OFFERED BY MR. COHEN OF TENNESSEE

The text of the amendment is as follows:

Page 149, after line 21, insert the following new section:

#### SEC. 305. SENSE OF CONGRESS.

It is the Sense of Congress that—

(1) in order to maintain our Nation's competitiveness, we must improve the quality of STEM education in the Nation;

(2) the incorporation of engineering education at the elementary and secondary levels has the potential to improve student learning and achievement in science and mathematics, and to increase the technological literacy of all students;

(3) formal and informal educational providers, including K-12 schools, should integrate engineering design principles into their curriculum; and



(4) exposing elementary and secondary students to engineering education can expand students' understanding of engineering and their awareness of career opportunities in these fields.

AMENDMENT NO. 20 OFFERED BY MR. CUELLAR  
OF TEXAS

The text of the amendment is as follows:

Page 101, after line 2,1 insert the following new subsection:

(e) OUTREACH.—In carrying out the program under this section, the Director shall conduct outreach efforts to encourage applications from underrepresented groups.

Page 106, after line 12, insert the following new subsection:

(g) OUTREACH.—In carrying out the program under this section, the Director shall conduct outreach efforts to encourage applications from underrepresented groups.

AMENDMENT NO. 25 OFFERED BY MR. HONDA OF  
CALIFORNIA

The text of the amendment is as follows:

Page 132, line 7, strike "and".

Page 132, line 12, strike the period at the end and insert "; and".

Page 132, after line 12, insert the following:

(5) facilitating improved coordination between federally supported STEM education programs and activities and State level activities, including the efforts of P-16 and P-20 councils in the States.

(d) DEFINITIONS.—For purposes of this section:

(1) P-16.—The term "P-16" refers to a system of education that encompasses preschool through undergraduate level education.

(2) P-20.—The term "P-20" refers to a system of education that encompasses preschool through graduate level education.

AMENDMENT NO. 27 OFFERED BY MS. JACKSON  
LEE OF TEXAS

The text of the amendment is as follows:

Page 126, line 14, strike "and".

Page 126, line 16, strike the period and insert the following: ", and an economic and ethnic breakdown of the participating students."

AMENDMENT NO. 39 OFFERED BY MR. HARE OF  
ILLINOIS

The text of the amendment is as follows:

Page 149, after line 21, insert the following new section:

#### SEC. 305. SENSE OF CONGRESS.

For science, technology, engineering, and mathematics (STEM) education programs or activities authorized under this Act or amendments made by this Act, it is the sense of Congress that when more than 1 applicant is competing for the same grant and the applications from each applicant are considered equal in merit by the grant-awarding authority, the grant-awarding authority shall give additional consideration to any of the following:

(1) An applicant that has not previously received funding.

(2) An applicant that is an institution of higher education in a rural area.

AMENDMENT NO. 47 OFFERED BY MS. MOORE OF  
WISCONSIN

The text of the amendment is as follows:

Page 208, line 13, insert "and the Great Lakes" after "including oceans".

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman

from Tennessee (Mr. GORDON) and the gentleman from Texas (Mr. HALL) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. GORDON of Tennessee. Mr. Chairman, let me say that this is a block of amendments that have been well scrutinized by I think the minority and the majority. We feel they are all good amendments.

I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I rise in opposition to the en bloc amendments before us, although I do not intend to oppose them. All 11 of the amendments are noncontroversial, and we're generally supportive. I will not oppose these.

Mr. Chairman, I yield back the balance of my time.

Mrs. MCCARTHY of New York. Mr. Chair, I thank you and Ranking Member HALL for bringing forward this important bill, the America COMPETES Act.

Thanks to the passage of several pieces of legislation, namely the Recovery Act, rising unemployment rates have been curbed and economic indicators have shown signs of modest progress.

Make no mistake though we, as a nation, have a long ways to go to ensure both short and long-term economic stability and prosperity.

The America COMPETES Act represents an important step in that direction.

Research and innovation across various disciplines is an economic model our nation should live by.

I am proud to offer an amendment to the America COMPETES Act. My amendment ensures that a needs assessment required to improve the operation and reliability of emergency communication devices build upon conclusions and assessments of prior reports on the matter.

Events like the recent West Virginia mining tragedy and September 11th remind us all of the barriers we must cross technologically to ensure that emergency communication systems are able to perform in times of distress.

Most famously, the 9/11 Commission Report made explicit recommendations on the subject of emergency communication enhancement. As a New Yorker, not a day goes by that I do not think of the September 11th attacks and the barriers that stood in our way from potentially saving more lives.

It is imperative that research conducted on emergency communication build upon prior conclusions so that we, as a society, are better prepared to face the challenges any crisis may pose. Furthermore, avoiding duplicate work is pivotal to a properly directed innovation and research agenda.

My amendment is straightforward. It ensures that assessment in the field of emergency communications take into consideration apt reports and studies that have already been conducted on this matter of importance. With my amendment, we, as a nation, can ensure that mistakes and shortcomings in the field of emergency communication are learned from thus poising our nation's brave first-responders to save more lives.

I urge all my colleagues to support the amendment.

Mr. CUELLAR. Mr. Chair, I rise today to encourage my colleagues to support my amendment to the America COMPETES Reauthorization Act of 2010.

Many very qualified students can compete for the fellowships and scholarships if they are only made aware of them. This amendment would require the Director of the National Science Foundation to conduct outreach efforts to encourage increased applications from underrepresented groups. It is of utmost importance to give all individuals an opportunity at these programs.

The simple—but crucial—effort to make underrepresented groups a part of the process will serve to create a more diverse and representative workforce in the National Science Foundation's Postdoctoral Research Fellowships.

The challenges our nation faces in this century require that we have a highly-skilled and creative workforce trained in the areas of STEM (science, technology, engineering, and mathematics).

In the 21st century human advancement is closely linked in STEM fields. It is imperative that we create a broad pipeline of STEM professionals.

Our future leaders will need STEM skills to craft innovative policies on issues of national concern such as transportation, sustainability, healthcare, and national security.

Hispanic enrollment in colleges and universities has more than doubled over the past two decades (2010 University of Southern California study).

Hispanic participation in STEM fields at the higher education level has grown but it has not kept pace with their growth within the general population (USC).

Among Hispanics who enroll in four-year institutions, 36% indicate an intention to major in a STEM field.

I thank the distinguished Chairman for his work on this legislation, and consideration of this amendment.

We can harness this 21st century technology to bring these areas out of 19th century conditions.

Mr. Chairman, I applaud you on this important legislation, and I urge all my colleagues to vote "yes" on this amendment.

Mr. HONDA. Mr. Chair, I rise today in support of H.R. 5116, the America COMPETES Reauthorization Act. I commend Chairman BART GORDON and the other members of the Science and Technology Committee, on which I am proud to have once served, for the hard work and thoughtful consideration that went into this bill.

The America COMPETES Act of 2007 significantly bolstered American innovation, the most fundamental hope for sustainable economic growth and competitiveness in the United States and a critical driver of the economy of my Silicon Valley district. It helped drive new research and its commercialization, and encouraged the creation of a more dynamic business environment, and made improvements to science, technology, engineering and math (STEM) education that are important for our nation's long term economic health.

It is critical that we provide sustained support for scientific research and STEM education, or our ability to compete in the global economy will be put in jeopardy. As the Joint Economic Committee noted in a new report released today, basic research plays a critical role in sparking innovation, and it is prudent for the federal government to increase its basic research expenditures now. That is why I am proud to support H.R. 5116, which authorizes those much needed investments.

I am pleased that the bill includes provisions to ensure coordination of federal science, technology, engineering and mathematics (STEM) education activities by establishing a committee under the National Science and Technology (NSTC) to handle these activities. Providing this coordinating mechanism for the federal STEM education programs, along with requiring the development of a STEM education strategic plan and the submission of an annual report about the budget and activities of federal STEM education programs, is critical to strengthening these programs and ensuring America remains innovative and competitive in the 21st century the global economy.

For too long we have failed to ensure that the various agencies involved in STEM education efforts are aware of what is being done and what has already been done elsewhere. According to the Academic Competitiveness Council's (ACC) report, in 2006 the U.S. sponsored 105 STEM education programs at more than a dozen different Federal Agencies. These programs devoted approximately \$3.12 billion to STEM education activities spanning pre-kindergarten through postgraduate education and outreach. The report notes that many of these Agencies do not share information or work collaboratively on similar programs, demonstrating a need for better coordination.

The STEM education coordination provisions of this bill are similar to those included in my own bill, the Enchanting Science, Technology, Engineering, and Mathematics Education (E-STEM) Act, H.R. 2710. To incorporate another element from H.R. 2710 into America COMPETES, stimulating collaboration between the federal and state levels throughout the nation, I have offered an amendment to the bill to make it the responsibility of the STEM Education Advisory Committee created in the bill to facilitate improved coordination between federally supported STEM education programs and state level activities, including P-16 and P-20 councils.

I am also pleased that H.R. 5116 contains a reauthorization of the National Nanotechnology Initiative that incorporates numerous provisions that I originally proposed in my own legislation, the Nanotechnology Advancement and New Opportunities (NANO) Act, H.R. 820.

Both bills seek to focus America's nanotechnology research and development programs on areas of national need such as energy, health care, and the environment, and have provisions to help assist in the commercialization of nanotechnology. They also require the development of a nanotechnology research plan that will ensure the development and responsible stewardship of nanotechnology by addressing uncertainty about the health and safety risks it might pose and support the de-

velopment of educational tools and partnerships to help prepare students to pursue post-secondary education in nanotechnology.

Again, I congratulate the Science and Technology Committee and Chairman GORDON for their work on this bill and thank them for incorporating so many of the provisions from my bills and for accepting my amendment. I urge my colleagues to support this important legislation to ensure that our nation leads the world in innovation and science and technology.

Ms. JACKSON LEE of Texas. Mr. Chair, I rise in support of my amendment to H.R. 5116—"To invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes."

My amendment amends Section 345(e) to mandate the Director of the National Science Foundation (NSF) to report on the economic and ethnic breakdown of "Science Technology Engineering and Mathematics" (STEM) industry internship program recipients.

At present, this section mandates the Director of the NSF to submit a report to Congress on the number and total value of awards made under this section, the number of students affected by those awards, and any evidence of the effect of those awards on workforce preparation and jobs placement for participating students. In my opinion, requirements for assessing participation of minority and economically-disadvantaged backgrounds are conspicuously absent from these reporting requirements, and my amendment seeks to rectify this problem.

Mr. Chair, facilitating links between institutes of higher education and the private sector is vital to ensuring that education enables a skilled and relevant workforce. Such links are especially important for minorities and underserved communities because these students often lack alternative avenues to connect their education with an industry. Internship experience is an increasingly vital component of a successful résumé, yet the unpaid nature of internships is cost-prohibitive for many people.

As I mentioned, this amendment would mandate that the Director of the National Science Foundation (the organization that oversees this program) report on the economic and ethnic breakdown of this program's recipients. Such data will be useful to ensure that minorities and economically-disadvantaged students have adequate access to internships that bridge STEM academia and industry. Indeed, I trust that this data will provide evidence of robust participation by minority and economically-disadvantaged students; however, if such students are not participating, these reporting requirements will provide Congress with the data it needs to facilitate broad participation.

Thank you again. I urge my colleagues to support this simple but important resolution.

Mr. WU. Mr. Chair, my amendment, which I have submitted along with my colleague from Maryland, Mr. BARTLETT and will be part of an en bloc amendment, will facilitate ARPA-E applications by small businesses and entrepreneurs and will allow ARPA-E to consider a wider range of proposals relevant to its mission.

This amendment is straightforward and emphasizes the importance of proposals sub-

mitted by small businesses and entrepreneurs—the lifeblood of innovation and our American economy. This amendment further mirrors the DARPA program by creating flexibility within ARPA-E for solicitations year-round, on broadly defined areas of science and technology, creating a greater diversity of projects coming into the pipeline, while still maintaining the program's ability to focus on funding projects in specific areas of technological innovation.

ARPA-E is a robust pathway to new discoveries in technology and new investment in American manufacturing. To paraphrase Secretary Chu, ARPA-E was designed to provide for opportunity to swing from the heels. There will be missed pitches, but there will be home runs and grand slams, too. While the program has been considered a success—recently announcing 37 diverse solicitation winners—by providing continuous and non-restrictive solicitations, ARPA-E will be able to act in an all-comers fashion, selecting from a wide range of products in order to foster innovative solutions to the energy issues our Nation faces.

I am happy to have worked in a bipartisan way with Mr. BARTLETT from Maryland—I greatly appreciate his thoughtful contributions to this amendment. Through both his scientific background and his work on Armed Services, Mr. BARTLETT has always brought an informed and helpful perspective in the establishment of ARPA-E. The House Committee on Science and Technology may be one of the last bastions of nonpartisan policymaking in this body and Mr. BARTLETT's work and forethought has helped to exemplify that ideal. I ask that the House support this amendment.

Mr. HARE. Mr. Chair, I rise today in strong support of this first amendment en bloc to the America COMPETES Reauthorization Act of 2010. I support this legislation because I believe a substantial investment in science, technology, engineering, and mathematics translates to innovation and good-paying jobs. As a member of the Education and Labor Committee, it is clear to me how federal grant opportunities for colleges provides for a strong American workforce.

Mr. Chair, included in this en bloc amendment is language I authored which seeks to give every higher education institution, regardless of funding history or its location, a fair shot at receiving funding.

I have concerns that a disproportional amount of the funding authorized under this bill would end up being awarded to large institutions, which may eclipse small colleges and universities, many of which are located throughout rural America.

Let me be clear—I strongly support, and encourage, all institutions of higher learning to pursue federal STEM funding opportunities. What my provision does is simply express the sense of Congress that when the grant-making authority is evaluating two or more applications of equal merit, that additional consideration should be given to applicants in rural areas and those that have no history of federal STEM grant funding.

Mr. Chair, because there are many bigger schools which have an entire staff dedicated to searching for grant opportunities, I believe that we must ensure there is a level playing field so that all areas of this nation and

schools of all sizes and resources are able to benefit.

I believe the language I authored will benefit the overall legislation by enabling unprecedented STEM funding access to schools all across this nation.

I would like to close by thanking and congratulating Chairman GORDON and Ranking Member HALL for their extraordinary work in crafting the underlying bill. I was proud to support the 2007 COMPETES legislation, and I am proud to support its reauthorization.

I urge all of my colleagues to join me in supporting both en bloc amendment number one and the final passage of the America COMPETES Reauthorization Act.

Mr. GORDON of Tennessee. Mr. Chair, I have no further requests for time, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendments en bloc offered by the gentleman from Tennessee (Mr. GORDON).

The amendments en bloc were agreed to.

AMENDMENT NO. 6 OFFERED BY MR. HALL OF TEXAS

The Acting CHAIR. The Chair understands that amendment No. 2 will not be offered at this time.

It is now in order to consider amendment No. 6 printed in part B of House Report 111-479.

Mr. HALL of Texas. Mr. Chairman, acting as the designee of Mr. BROWN of Georgia, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. HALL of Texas:

Strike title V.

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman from Texas (Mr. HALL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. HALL of Texas. Mr. Chairman, I rise to support this amendment. The amendment would simply strike title V of this bill, which creates bigger government and calls for more spending in areas that go well beyond research and development and authorize potentially inappropriate and duplicative programs.

In particular, I want to note our strong objection to the Regional Innovation Clusters program that's created by title V. Not only does it fund activity well beyond R&D, the language is so loosely written that virtually any type of industry would be eligible to undertake virtually any type of activity. The bill would reduce funding available for high priority R&D programs at the Department of Commerce, such as those at NIST.

I strongly support this amendment and urge its adoption.

I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Chair, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. GORDON of Tennessee. Mr. Chair, Dr. BROWN is a valued member of our committee. We've had a number of discussions, as he's been very active. We agree on some things, we don't agree on others. We compromise on some. This is one that we were not able to come to agreement on.

All the provisions, and what this would do is this would strike the title V of this bill. All provisions in title V are aimed at looking at creating real world economic value for research and development.

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Title V includes three important provisions to help spur innovation in this country. It creates a loan guarantee program at the Department of Commerce for small- and medium-sized manufacturers seeking to innovate and retool for the 21st century to remain globally competitive. It establishes an Office of Innovation and Enterprise at the Department of Commerce to help turn the good ideas into new businesses, leading to economic growth and job creation. And, finally, it establishes a Regional Innovation Program at the Department of Commerce to empower local communities to leverage regional strengths to promote innovation.

This is a good bill, but this amendment would take away from the bill.

I yield back the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I would like to support this amendment. The amendment would simply strike title V of this bill, which creates bigger government and calls for more spending.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. HALL).

The question was taken; and the Acting Chair announced that the yeas appeared to have it.

Mr. HALL of Texas. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 7 OFFERED BY MR. GORDON OF TENNESSEE

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in part B of House Report 111-479.

Mr. GORDON of Tennessee. Mr. Chair, I rise as the designee for Mr. BOSWELL and Mr. MICHAUD and have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. GORDON of Tennessee:

Page 133, line 25, strike "and".

Page 134, after line 1, insert the following new clause:

"(vii) biomass technology systems; and".

Page 135, line 23, strike "and".

Page 135, after line 25, insert the following new clause:

"(vii) biomass technology systems; and".

The ACTING CHAIR. Pursuant to House Resolution 1344, the gentleman from Tennessee (Mr. GORDON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. GORDON of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment once again has been before the public, well scrutinized. It would ensure that the biomass technology systems and related courses are included in the list of fields that would be encompassed by the energy systems science and engineering education programs at the Department of Energy.

I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I rise to claim time in opposition to this amendment, although I do not intend to oppose it.

The Acting CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. HALL of Texas. I have no objection to the amendment. I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Chair, I yield such time as he may consume to the gentleman from Iowa (Mr. BOSWELL), the author of this very good amendment.

Mr. BOSWELL. Mr. Chairman, I hope I convinced the ranking member. I appreciate your hard work. You have been doing some excellent work for all of us, for our country, for our future.

The COMPETES reauthorization provides for important investments in STEM education that I believe will move our students and Nation forward. I have always held that education and innovation are two of the best investments we can make, for they guarantee a turnaround and are proven to enhance the quality of life for all Americans. This legislation will bring greater innovation and stability to our institutions of education at all levels and to our Nation's economic vitality.

This amendment, which I am proud to offer with Mr. MICHAUD, makes a very simple and very important modification to the COMPETES reauthorization. This amendment ensures that when the Department of Energy assists in the expansion of energy-related courses or degree programs that biomass technology systems education can be utilized. It will guarantee that the grants, scholarships, and training programs offered under this program

can be used by students and schools that are moving us forward in the study and business of biomass technology systems.

Biomass production is an important component of our economy and energy security that we must foster. We all know very well the importance of biofuels and its benefits to our environment and our national security by ending our dependence on foreign oil. My constituents in Iowa have experienced the successes of ethanol biodiesel. However, corn-based ethanol is just one piece of the larger puzzle. We're seeing great advances in alternative fuels and increased production of native plants that can be reaped for maximum energy use.

My home State of Iowa continues to play a critical role in the development of the biomass industry in the United States. As leaders in agriculture, we have access to the resources and expertise to produce advanced biofuels, biopower, and bioproducts. Many young minds at various schools in Iowa are moving forward to study the production of biomass, how to maximize the use of alternative fuels and produce plants that maximize the best return possible when harnessed for their energy.

Supporting this amendment will ensure that this technology can expand across our great Nation, and it will affirm for our researchers, students, teachers, and scientists that they can move forward with this innovation and bring us closer to a Nation that is reliant on its own resources and not on OPEC. So I encourage my colleagues to support this amendment and vote on behalf of students, innovation, and energy dependence.

Mr. HALL of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. GORDON of Tennessee. Mr. Chairman, it is a good amendment, and I suggest its approval. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Tennessee (Mr. GORDON).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. GORDON OF TENNESSEE

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in part B of House Report 111-479.

Mr. GORDON of Tennessee. Mr. Chair, I rise as designee for Mr. DAVIS of Illinois, and I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. GORDON of Tennessee:

Page 69, line 18, insert “, disaggregated and cross-tabulated by race, ethnicity, and gender,” after “subparagraph (B)”.

Page 80, line 19, insert “, disaggregated and cross-tabulated by race, ethnicity, and gender” after “United States”.

Page 86, after line 5, insert the following new subsection:

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Director shall provide a report to Congress on institutional research partnerships identified in subsection (a) funded in the previous fiscal year.

Page 124, line 21, strike “undergraduate students” and insert “students enrolled in certificate, associate, or baccalaureate degree programs”.

Page 128, line 21, strike “; and” and insert a semicolon.

Page 128, after line 25, insert the following new subparagraph:

(E) describe the approaches that will be taken by each agency to increase the participation of underrepresented minority groups in STEM studies and careers both for programs specifically designed to broaden participation and for all programs in general, including by providing for programs and activities that increase participation by individuals in these groups at all institutions, and by increasing the engagement of Historically Black Colleges and Universities and minority-serving institutions in the STEM education and outreach activities supported by the agencies; and

Page 149, after line 21, insert the following new section:

**SEC. 305. NATIONAL ACADEMY OF SCIENCES REPORT ON STRENGTHENING THE CAPACITY OF 2-YEAR INSTITUTIONS OF HIGHER EDUCATION TO PROVIDE STEM OPPORTUNITIES.**

Not later than 6 months after the date of enactment of this Act, the Office of Science and Technology Policy shall enter into a contract with the National Academy of Sciences to carry out a study evaluating the role of 2-year institutions of higher education as STEM educators, including in the preparation of students for direct entry into the STEM workforce and in preparation of students for transition into 4-year STEM degree programs, as well as the role of the Federal Government in helping 2-year institutions of higher education build their capacity to be effective STEM educators. At a minimum, the report shall include—

(1) an evaluation of the current capacity of 2-year institutions of higher education to be effective STEM educators, including in the preparation of students for direct entry into the STEM workforce and for transition into 4-year STEM degree programs;

(2) a description of existing challenges to expanding opportunities for 2-year institutions of higher education to provide and enhance STEM learning and provide STEM degrees that prepare students well for direct entry into the STEM workforce or for transition into 4-year degree programs;

(3) identification and description of Federal programs that have successfully strengthened the capacity of 2-year institutions of higher education to provide and enhance STEM opportunities;

(4) a recommendation or recommendations regarding how Federal agencies should set priorities for supporting STEM education at 2-year institutions of higher education;

(5) a recommendation or recommendations regarding ways Federal agencies can provide increased opportunities for 2-year institutions of higher education to participate across their portfolios of STEM education and research programs, including—

(A) ways to engage 2-year institution of higher education faculty and students with research experiences;

(B) strategies for improving the curriculum and teaching of developmental

mathematics given that many 2-year institutions of higher education provide remediation in mathematics and other STEM coursework; and

(C) enhancing the basic scientific laboratory infrastructure; and

(6) a recommendation or recommendations regarding the need for and appropriateness of new Federal programs in support of STEM education at 2-year institutions of higher education.

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman from Tennessee (Mr. GORDON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. GORDON of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

Mr. DANNY DAVIS' amendment will ensure that the students enrolled in 2-year, certificate, associate, or baccalaureate programs are eligible for STEM programs. It would also call for a report of agency approaches to increase minority participation in STEM careers.

Once again, Mr. Chairman, this has been well reviewed. This is a good amendment, and I would recommend it for passage.

I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I rise to claim time in opposition to this amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HALL of Texas. I am not sure that we really and truly need to fund yet another study, this one to look at 2-year colleges. But I have a bigger concern with the difficulty of requiring NSF to organize data that it's merely reported. The universities collect this data, and it's my understanding that there would be various issues with even having them do what this amendment proposes.

Mr. Chairman, I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Chairman, I yield such time as he may consume to the author of this amendment, Mr. DAVIS of Illinois.

Mr. DAVIS of Illinois. Mr. Chairman, first of all I want to thank Chairman GORDON and Ranking Member HALL of the Science and Technology Committee for their work to develop and promote policies to strengthen our Nation's competitiveness in STEM. In particular, I applaud the chairman for his leadership in broadening the participation of individuals and institutions that are underrepresented in STEM. You and your staff actively engaged with me and other members of the Congressional Black Caucus to listen to and address our concerns, and we appreciate that. I also want to recognize and thank Dahlia Sokolov on your staff for sharing her expertise and for being so responsive.

H.R. 5116 includes multiple provisions that respond to concerns raised by

multiple reports, STEM experts, and Members of the Congress that stronger efforts to broaden participation are critical to meeting the growing demand for U.S. workers with STEM skills and to improve American competitiveness globally. The amendment that I offer, along with my colleagues Congressman GRIJALVA, Congressman HONDA, and Congressman KILDEE, builds upon the existing provisions of the bill to further increase the access of minority students to, and the capacity of, minority institutions to provide STEM opportunities.

I am pleased that this amendment is supported by multiple higher education organizations, including the American Association of Community Colleges, the Hispanic Association of Colleges and Universities, the Institute for Higher Education Policy, the National Association for Equal Opportunity in Higher Education, the Presidents and Chancellors of the 1890 Universities, the Thurgood Marshall College Fund, and the United Negro College Fund.

Again, I want to thank Chairman GORDON and Ranking Member HALL for their cooperative responsiveness and the tremendous work that they have done on behalf of all Americans to make us the most competitive Nation that we can possibly be.

I want to thank Chairman GORDON and Ranking Member HALL of the Science and Technology Committee for their work to develop and promote policies to strengthen our nation's competitiveness in science, technology, engineering and mathematics. In particular, I applaud the Chairman for his leadership in broadening the participation of individuals and institutions that are underrepresented in STEM. You and your staff actively engaged with me and other Members of the Congressional Black Caucus to listen to and address our concerns. I want to recognize and thank Dahlia Sokolov on your staff for sharing her expertise and for being so responsive.

According to the Census Bureau, 39 percent of the population under the age of 18 is a racial or ethnic minority. Yet, in 2003, only 4.4 percent of U.S. science and engineering jobs were held by African Americans and only 3.4 percent by Hispanics. Further, women represent only a little more than one quarter of our science and technology workforce. Although Historically Black Colleges and Universities represent only 3 percent of our nation's colleges, they graduate 40 percent of African Americans with degrees in STEM areas and 60 percent of African Americans with degrees in engineering; yet, they receive only about 1 percent of all federal R&D support. Many experts maintain that the ability of the US to produce enough scientists will fall far short unless we take strong action to develop the potential of women and minorities. Thus, broadening participation efforts are critical to meeting the growing demand for U.S. workers with STEM skills and to improving American competitiveness globally.

H.R. 5116 includes multiple provisions that respond to concerns raised by multiple reports, STEM experts, and Members of the

Congress about the need to broaden participation of individuals and institutions that are underrepresented in STEM fields. The amendment that I offer along with my colleagues Congressman GRIJALVA, Congressman HONDA, and Congressman KILDEE builds upon the existing provisions in the bill to further increase the access of minority students to and the capacity of minority institutions to provide STEM opportunities.

I am pleased that this amendment is supported by multiple higher education organizations, including: The American Association of Community Colleges; The Hispanic Association of Colleges and Universities; The Institute for Higher Education Policy; The National Association for Equal Opportunity in Higher Education; The Presidents and Chancellors of the 1890 Universities; The Thurgood Marshall College Fund; and The United Negro College Fund.

Our amendment does five things.

First, it clarifies that the new STEM Education Strategic Plan will include a specific focus on broadening participation of individuals and institutions that are underrepresented in STEM. H.R. 5116 recognizes the need to coordinate STEM education efforts within the Executive Branch. Consistent with experts in STEM education, our amendment simply clarifies that the strategic plan for coordinating STEM education across the Executive Branch should have each agency identify steps it takes to broaden the participation.

Second, it includes a National Academy of Sciences report on strengthening the capacity of two-year institutions to provide STEM opportunities. The majority of Latino and African American students attend two-year colleges. Moreover, two-year institutions play an integral role in training STEM professionals through terminal and certification degrees as well as in preparing students to transfer to four-year institutions to complete STEM baccalaureate degrees. Thus, two-year institutions are a critical component of the STEM pipeline.

Although a few reports have examined the role of these institutions in a particular STEM discipline, no study has looked at comprehensively at two-year institutions with regard to STEM. A comprehensive analysis of how Federal agencies can provide increased opportunities for two-year institutions to participate across the portfolios of STEM education and research will do much to improve success of low income and minority students in STEM fields.

Third, our amendment strengthens the data collections related to STEM faculty and Federal research grants by ensuring the data are examined by race/ethnicity and gender. These data are important to assessing progress in broadening participation. Consistent with NSF data collections on students in STEM fields, the amendment simply ensures that these important data collections will be examined by race, ethnicity, and gender.

Fourth, the amendment strengthens the institutional research partnerships provision by including a reporting requirement on partnership grants. In order to ensure that partnerships among institutions are collaborative and equitable, H.R. 5116 requires NSF to award funds directly to institutional partners involved in a research collaboration funded at a level

greater than \$2 million. The amendment simply includes a report requirement so that we have a fuller understanding of the number and nature of such partnerships.

Finally, our amendment clarifies that undergraduates in two-year programs are eligible for the Undergraduates In Standard Research Grants. The amendment simply clarifies that students in certificate, associate, or baccalaureate degree programs qualify for research grants.

As I close, I thank the Chairman and Ranking Member again for their leadership. I strongly encourage my colleagues to vote in favor of this amendment that will strengthen the bill's provisions to broaden participation.

Mr. HALL of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. GORDON of Tennessee. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Tennessee (Mr. GORDON).

The amendment was agreed to.

AMENDMENT NO. 10 OFFERED BY MR. MARKEY OF MASSACHUSETTS

The Acting CHAIR. It is now in order to consider amendment No. 10 printed in part B of House Report 111-479.

Mr. MARKEY of Massachusetts. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. MARKEY of Massachusetts:

Page 195, after line 11, insert the following new section:

#### SEC. 504. CLEAN ENERGY CONSORTIUM.

(a) PURPOSE.—The Secretary shall carry out a program to establish a Clean Energy Consortium to enhance the Nation's economic, environmental, and energy security by promoting commercial application of clean energy technology and ensuring that the United States maintains a technological lead in the development and commercial application of state-of-the-art energy technologies. To achieve these purposes the program shall leverage the expertise and resources of the university and private research communities, industry, venture capital, national laboratories, and other participants in energy innovation to support collaborative, cross-disciplinary research and development in areas not being served by the private sector in order to develop and accelerate the commercial application of innovative clean energy technologies.

(b) DEFINITIONS.—For purposes of this section:

(1) CLEAN ENERGY TECHNOLOGY.—The term "clean energy technology" means a technology that—

(A) produces energy from solar, wind, geothermal, biomass, tidal, wave, ocean, and other renewable energy resources (as such term is defined in section 610 of the Public Utility Regulatory Policies Act of 1978);

(B) more efficiently transmits, distributes, or stores energy;

(C) enhances energy efficiency for buildings and industry, including combined heat and power;

(D) enables the development of a Smart Grid (as described in section 1301 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17381)), including integration of renewable energy resources and distributed

generation, demand response, demand side management, and systems analysis;

(E) produces an advanced or sustainable material with energy or energy efficiency applications; or

(F) improves energy efficiency for transportation, including electric vehicles.

(2) **CLUSTER.**—The term “cluster” means a network of entities directly involved in the research, development, finance, and commercial application of clean energy technologies whose geographic proximity facilitates utilization and sharing of skilled human resources, infrastructure, research facilities, educational and training institutions, venture capital, and input suppliers.

(3) **CONSORTIUM.**—The term “Consortium” means a Clean Energy Consortium established in accordance with this section.

(4) **PROJECT.**—The term “project” means an activity with respect to which a Consortium provides support under subsection (e).

(5) **QUALIFYING ENTITY.**—The term “qualifying entity” means each of the following:

(A) A research university.

(B) A State or Federal institution with a focus on the advancement of clean energy technologies.

(C) A nongovernmental organization with research or technology transfer expertise in clean energy technology development.

(6) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

(7) **TECHNOLOGY DEVELOPMENT FOCUS.**—The term “technology development focus” means the unique clean energy technology or technologies in which a Consortium specializes.

(8) **TRANSLATIONAL RESEARCH.**—The term “translational research” means coordination of basic or applied research with technical applications to enable promising discoveries or inventions to achieve commercial application of energy technology.

(c) **ROLE OF THE SECRETARY.**—The Secretary shall—

(1) have ultimate responsibility for, and oversight of, all aspects of the program under this section;

(2) select a recipient of a grant for the establishment and operation of a Consortium through a competitive selection process;

(3) coordinate the innovation activities of the Consortium with those occurring through other Department of Energy entities, including the National Laboratories, the Advanced Research Projects Agency—Energy, Energy Innovation Hubs, and Energy Frontier Research Collaborations, and within industry, including by annually—

(A) issuing guidance regarding national energy research and development priorities and strategic objectives; and

(B) convening a conference of staff of the Department of Energy and representatives from such other entities to share research results, program plans, and opportunities for collaboration.

(d) **ENTITIES ELIGIBLE FOR SUPPORT.**—A consortium shall be eligible to receive support under this section if—

(1) it is composed of—

(A) 2 research universities with a combined annual research budget of \$500,000,000; and

(B) 1 or more additional qualifying entities;

(2) its members have established a binding agreement that documents—

(A) the structure of the partnership agreement;

(B) a governance and management structure to enable cost-effective implementation of the program;

(C) a conflicts of interest policy consistent with subsection (e)(1)(B);

(D) an accounting structure that meets the requirements of the Department of Energy and can be audited under subsection (f)(4); and

(E) that it has an External Advisory Committee consistent with subsection (e)(3);

(3) it receives funding from States, consortium participants, or other non-Federal sources, to be used to support project awards pursuant to subsection (e);

(4) it is part of an existing cluster or demonstrates high potential to develop a new cluster; and

(5) it operates as a nonprofit organization.

(e) **CLEAN ENERGY CONSORTIUM.**—

(1) **ROLE.**—The Consortium shall support translational research activities leading to commercial application of clean energy technologies, in accordance with the purposes of this section, through issuance of awards to projects managed by qualifying entities and other entities meeting the Consortium’s project criteria, including national laboratories. The Consortium shall—

(A) develop and make available to the public through the Department of Energy’s Web site proposed plans, programs, project selection criteria, and terms for individual project awards under this subsection;

(B) establish conflict of interest procedures, consistent with those of the Department of Energy, to ensure that employees and designees for Consortium activities who are in decisionmaking capacities disclose all material conflicts of interest, including financial, organizational, and personal conflicts of interest;

(C) establish policies—

(i) to prevent resources provided to the Consortium from being used to displace private sector investment otherwise likely to occur, including investment from private sector entities that are members of the Consortium;

(ii) to facilitate the participation of private entities that invest in clean energy technologies to perform due diligence on award proposals, to participate in the award review process, and to provide guidance to projects supported by the Consortium; and

(iii) to facilitate the participation of parties with a demonstrated history of commercial application of clean energy technologies in the development of Consortium projects;

(D) oversee project solicitations, review proposed projects, and select projects for awards; and

(E) monitor project implementation.

(2) **DISTRIBUTION OF AWARDS.**—The Consortium, with prior approval of the Secretary, shall distribute awards under this subsection to support clean energy technology projects conducting translational research, provided that at least 50 percent of such support shall be provided to projects related to the Consortium’s clean energy technology development focus. Upon approval by the Secretary, all remaining funds shall be available to support any clean energy technology projects conducting translational research.

(3) **EXTERNAL ADVISORY COMMITTEE.**—

(A) **IN GENERAL.**—The Consortium shall establish an External Advisory Committee, the members of which shall have extensive and relevant scientific, technical, industry, financial, or research management expertise. The External Advisory Committee shall review the Consortium’s proposed plans, programs, project selection criteria, and projects and shall ensure that projects selected for awards meet the conflict of interest policies of the Consortium. External Advisory Committee members other than those representing Consortium members shall

serve for no more than 3 years. All External Advisory Committee members shall comply with the Consortium’s conflict of interest policies and procedures.

(B) **MEMBERS.**—The External Advisory Committee shall consist of—

(i) 5 members selected by the Consortium’s research universities;

(ii) 2 members selected by the Consortium’s other qualifying entities;

(iii) 2 members selected at large by other External Advisory Committee members to represent the entrepreneur and venture capital communities; and

(iv) 1 member appointed by the Secretary.

(4) **CONFLICT OF INTEREST.**—The Secretary may disqualify an application or revoke funds distributed to the Consortium if the Secretary discovers a failure to comply with conflict of interest procedures established under paragraph (1)(B).

(f) **GRANT.**—

(1) **IN GENERAL.**—The Secretary shall make a grant under this section in accordance with section 989 of the Energy Policy Act of 2005 (42 U.S.C. 16353). The Secretary shall award the grant, on a competitive basis, to 1 regional Consortium, for a term of 3 years.

(2) **AMOUNT.**—A grant under this subsection shall be in an amount not greater than \$10,000,000 per fiscal year over the 3 years of the term of the grant.

(3) **USE.**—The grant distributed under this section shall be used exclusively to support project awards pursuant to subsection (e)(1) and (2), provided that the Consortium may use not more than 10 percent of the amount of such grant for its administrative expenses related to making such awards. The grant made under this section shall not be used for construction of new buildings or facilities, and construction of new buildings or facilities shall not be considered as part of the non-Federal share of a cost sharing agreement under this section.

(4) **AUDIT.**—The Consortium shall conduct, in accordance with such requirements as the Secretary may prescribe, an annual audit to determine the extent to which a grant distributed to the Consortium under this subsection, and awards under subsection (e), have been utilized in a manner consistent with this section. The auditor shall transmit a report of the results of the audit to the Secretary and to the Government Accountability Office. The Secretary shall include such report in an annual report to Congress, along with a plan to remedy any deficiencies cited in the report. The Government Accountability Office may review such audits as appropriate and shall have full access to the books, records, and personnel of the Consortium to ensure that the grant distributed to the Consortium under this subsection, and awards made under subsection (e), have been utilized in a manner consistent with this section.

(5) **REVOCATION OF AWARDS.**—The Secretary shall have authority to review awards made under this subsection and to revoke such awards if the Secretary determines that the Consortium has used the award in a manner not consistent with the requirements of this section.

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman from Massachusetts (Mr. MARKEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts.



Mr. MARKEY of Massachusetts. Mr. Chairman, the amendment I am offering today, along with the gentlelady from California (Mrs. CAPPS), would add a new R&D program specifically focused on increasing our Nation's capacity to turn new innovations into new jobs. A clean energy consortium would be regionally based, selected by the Secretary of Energy through a competitive process, and include research universities, national labs, industry, and other State and nongovernmental organizations with expertise in clean energy development.

Moving to commercialize innovations in the clean energy sector is critical to our ability to compete for jobs with China and India. The faster we bring clean energy technologies to market, the faster we end our addiction to foreign oil from the Middle East. Our amendment will connect professors with producers, inventors with investors to move energy innovations out of the lab and into the factory.

Unlike research in biotech and defense, technology developed through energy R&D must break into a deeply entrenched market at a competitive cost in order to be successful. We need policies that can help overcome the valley of death where great ideas frequently stall before they have reached the critical proof-of-concept stage. That's what we do in this amendment.

We have worked with business, universities, and venture capital groups in developing this legislation. It has received endorsements from TechNet. The National Venture Capital Association has endorsed this amendment. The Clean Economy Networks, the companies across this country that want to focus on this energy sector, create millions of new jobs want this as part of the plan that we put together to make sure that it's not just research; it's research that turns into jobs rapidly in our country.

I reserve the balance of my time.

□ 1630

Mr. HALL of Texas. Mr. Chairman, I rise to claim time in opposition to this amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HALL of Texas. This amendment creates a new program, as Mr. MARKEY has said, to pursue commercialization of clean energy technologies. This is not necessarily the problem.

We all agree that clean energy technologies are worth pursuing. The problem, however, is that the clean energy technology program created by this amendment is duplicative of another new program already in the bill, the Energy Innovation Hubs program, and I am opposed to the Hubs program because it is largely duplicative of existing DOE and R&D activities. So the amendment duplicates a program that's already duplicative itself.

Further, these programs are expensive and expand the bureaucracy within the Department of Energy, which is already too large. We need to be consolidating and streamlining DOE's many R&D programs, not creating new ones on top of new ones.

I strongly oppose this amendment, and I reserve the balance of my time.

Mr. MARKEY of Massachusetts. May I inquire of the Chair, how much time is remaining?

The Acting CHAIR. The gentleman from Massachusetts has 3 minutes remaining. The gentleman from Texas has 4 minutes remaining.

Mr. MARKEY of Massachusetts. At this point, I will yield to myself for 30 additional seconds.

This commercialization focus program complements existing R&D initiatives. Strong, long-term support for basic and applied research is critical to developing the scientific breakthroughs needed to meet our energy challenges, but additional focus on commercialization will help ensure that existing innovations and those further down the pipeline find a pathway to the market. It creates the link between R&D and economic development and job creation. Without it, I do not believe America can win in this sector.

I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY of Massachusetts. I yield 1 minute to the gentlelady from California (Mrs. CAPPS).

Mrs. CAPPS. First of all, thank you, Chairman GORDON, for your great work on this bill. I want to thank my colleague, Mr. MARKEY, for your leadership on clean energy issues.

Mr. Chairman, I rise today in strong support of the Markey-Capps amendment, which is included in our legislation.

The Markey-Capps amendment would complement the clean energy advancement goals of the America COMPETES Act by creating a regional clean energy consortia program. This program will bring together regional networks of research universities, of national labs, of businesses and investors in the clean energy sector to accelerate the commercialization of new clean energy technologies.

They will also stimulate regional economic development and create jobs in places like the central coast of California, which I represent. The Green Coast Innovation Zone, GCIZ, in my district is built on this model and is eager to expand further into the clean energy sector. This provision will support their efforts to create high-quality green jobs that pay well and cannot be outsourced.

So I urge my colleagues to vote "yes" on the Markey-Capps amendment.

Mr. HALL of Texas. I reserve the balance of my time.

Mr. MARKEY of Massachusetts. Could the Chair please inform us of how much time is left.

The Acting CHAIR. The gentleman from Massachusetts has 1½ minutes. The gentleman from Texas has 4 minutes.

Mr. MARKEY of Massachusetts. Would it be possible for me to ask for the gentleman from Texas to draw down his time a little bit more before we come to the end of the speakers on the Democratic side?

Mr. HALL of Texas. Mr. Chairman, the clean energy consortia language, "support collaborative cross-disciplinary research and development areas not being served by the private sector in order to develop and accelerate the commercial application of innovative clean energy technology," that's clearly duplicative. I've stated that in my opening remarks.

"Support multidisciplinary collaborative research development demonstration and commercial application of advanced energy technologies in areas not being served by the private sector."

I think this is probably the most operative language for the two programs, and I do detect a difference.

I reserve the balance of my time.

Mr. MARKEY of Massachusetts. Mr. Chairman, I yield 30 seconds to the chairman of the Science Committee, Mr. GORDON.

Mr. GORDON of Tennessee. Mr. Chairman, as I said earlier in the day, I don't want to trade Americans' dependency on foreign oil for Americans' dependency on foreign technology.

For us to get energy independence, there's going to be a variety of ways to go about it. Just like there's a variety of ways to skin a cat, this is one more way to get energy independence, and I support Mr. MARKEY's amendment.

Mr. HALL of Texas. I reserve the balance of my time.

Mr. MARKEY of Massachusetts. I yield 30 seconds to the gentlelady from Wisconsin (Ms. MOORE).

Ms. MOORE of Wisconsin. I thank the gentleman for yielding.

Mr. Chairman, I am in wholehearted support of this amendment and this bill.

I just wanted to speak briefly on the previous amendment that passed en bloc, which included a provision for which I am responsible. It included the Great Lakes. The Great Lakes are not just mere lakes; they are inland seas, and they contain the greatest source of freshwater on Earth. And despite their size, they are extremely vulnerable to stresses from environmental pollution, ecological alterations, and climate changes. In addition to that, they are a great source of economic development.

There are many unanswered research questions regarding the lakes' ecological stability. But there is already significant evidence that the climate of the Great Lakes region is



changing: for example, water temperatures have been higher, and the duration of winter ice cover has declined.

These changes have a serious impact on the Great Lakes ecosystem—and the goods and services linked to the Lakes. To name just a few of the myriad potential effects:

Water temperatures are already rising, and almost all of the climate change scenarios predict further changes in temperature and precipitation. Lakes are very sensitive to climate in terms of the amount of precipitation and evaporation.

Precipitation changes are causing variation in water levels; most predictions are for lower levels but some predict higher levels.

Precipitation is predicted to increase but is expected to come in fewer and more intense effects—in effect, a higher number of more intense rainstorms—which has a big impact on runoff from the lake, soil erosion, non-point pollution, and more.

Climate change is already affecting the population and distribution of fish and many other organisms; water level and temperature changes may also accelerate the accumulation of mercury and other contaminants.

When lake levels change, costs of shipping in the Great lakes increase, as do the costs of dredging harbors and channels, and adjusting docks and other infrastructure.

Climate change disrupts Great Lakes regional agricultural productivity (largely because of changes in the distribution of rain).

There is a dire need for comprehensive research on the impact of the environment on the Great Lakes region—now, not later. Waiting to begin managing the potential effects of climate change on the lakes only increases the ultimate expense, and the potential for irreversible damages.

If we act fast, we can take action to prevent some of the most damaging effects of climate change, and we can provide immediate relief in the form of cost savings, cleaner air and water, improved recreational opportunities, safeguarded environmental habitat, and improved quality of life for communities in the Great Lakes region.

We also must safeguard Lake Michigan—and in fact, all the Great Lakes—because of the Lakes' vital role these play in the region's economy. Lake Michigan is the lifeblood of the Milwaukee regional economy.

We have to use every tool in our toolbelt to ensure Lake Michigan's ecological stability—not only for the sake of environmental protection, but for the sake of our economic security—from tourism to manufacturing to fishing to shipping.

Southeastern Wisconsin is home to over more than 120 water-related businesses and five of the largest 11 water technology companies have significant presence in the area. UWM is home to the Great Lakes Water Institute, which is the largest research center of its kind on the Great Lakes. The Water Institute represents the only major aquatic research institution located on Lake Michigan and the largest U.S. institution of its kind in the Great Lakes region.

According to the EPA, today, there are approximately 37 million people living in the Great Lakes basin and more than 26 million of these people rely on the Great Lakes for their drinking water.

Shipping has been responsible for the development of the entire Great Lakes Region.

Many manufacturing industries are attracted to the Great Lakes area because of the advantages of being near a water source which provides inexpensive electricity and convenient transportation routes.

The Journal Sentinel reports that there are 44,000 jobs directly tied to Great Lakes shipping, and nearly 200,000 jobs in the mining and steel industries that depend on the lakes' cargo.

Mr. HALL of Texas. Mr. Chairman, I would inquire of Mr. MARKEY if he has other speakers.

Mr. MARKEY of Massachusetts. I am now the last speaker, and I am going to reserve the balance of my time pending the completion.

The Acting CHAIR. The gentleman from Texas has the right to close.

Mr. MARKEY of Massachusetts. So how much time is remaining?

The Acting CHAIR. The gentleman from Texas has 3 minutes, and the gentleman from Massachusetts has 45 seconds.

Mr. MARKEY of Massachusetts. I yield myself the balance of my time.

Again, it is just to make this point that we must find a way in our country to have a plan. In China, on Monday they decide to do something, on Friday it starts to happen.

We need a plan. We need a plan to put together our inventors and our investors. We need a plan that puts together our professors with our producers. We need to find a way in which we telescope the timeframe it takes to create jobs in solar and wind and all of these new industries that have the potential of creating 2 million new jobs in our country or millions of jobs in China. That's our choice.

And if we don't take this opportunity, then young Americans are going to wonder in a few more years why we didn't put together a plan. That's what this amendment is. It's a pilot project, but it is one that will then have to be modeled in area after area around this country to ensure that we move fast to capture this renewable energy revolution that is very rapidly going to overtake this planet in the same way that the dot-com revolution did so in the 1990s.

Vote "yes" on the Markey-Capps amendment.

Mr. HALL of Texas. Mr. Chairman, I continue to oppose the amendment. It is duplicative of several other programs, and I urge my colleagues to oppose it.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. HALL of Texas. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts will be postponed.

AMENDMENT NO. 12 OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

The Acting CHAIR. It is now in order to consider amendment No. 12 printed in part B of House Report 111-479.

Mr. GEORGE MILLER of California. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. GEORGE MILLER of California:

Page 246, after line 8, add the following new section:

**SEC. 704. INFORMATION REQUESTS BY LABOR ORGANIZATIONS.**

(a) **ELIGIBILITY FOR FUNDS.**—Notwithstanding any other provision of this Act, a public institution of higher education that employs employees who are represented by a labor organization and perform work on an activity or program supported by this Act or an amendment made by this Act shall be eligible to receive funding for facilities and administrative costs for any activity or program supported by this Act or the amendments made by this Act only if the institution maintains a policy that meets the requirements set forth in subsection (b).

(b) **REQUIREMENTS.**—A policy described under subsection (a) shall require that the institution provide, within 15 days of receipt of a request by a labor organization representing the employees of the institution described in subsection (a), any information which the labor organization has a lawful right to obtain under applicable labor laws. Such a policy shall provide that, on a case-by-case basis, such 15 days may be extended to a longer time period by mutual agreement of the labor organization and the institution.

(c) **FAILURE TO COMPLY WITH POLICY.**—

(1) **COMPLAINT OF NONCOMPLIANCE.**—In the case of an institution of higher education that does not provide information requested by a labor organization in compliance with the requirements of a policy described in subsections (a) and (b), the labor organization may file a complaint of noncompliance with the head of the agency overseeing any activity or program supported by this Act or the amendments made by this Act for which the institution is receiving funds.

(2) **NOTIFICATION TO INSTITUTION.**—Upon receiving such a complaint, the head of such agency shall notify the institution of the complaint and provide the institution an additional 30 days to provide the requested information to the labor organization or otherwise explain why the complaint of non-compliance is not valid.

(3) **AGENCY ACTION.**—If the information has not been provided by the institution at the conclusion of such 30 day period and the head of such agency determines the complaint to be valid, the head of such agency shall suspend payment of any funds for facilities and administrative costs that would otherwise be available to such institution for all activities and programs supported by this Act and the amendments made by this Act until such time as the requested information has been provided by the institution.

(d) **DEFINITIONS.**—For purposes of this section—

(1) the term "institution of higher education" has the meaning given such term in

section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), except that such term does not include a private institution of higher education; and

(2) the term "facilities and administrative costs" means facilities and administrative (F&A) costs as defined in the Office of Management and Budget Revised Circular A-21 (Cost Principles for Educational Institutions, published in the Federal Register on May 10, 2004).

(e) EFFECTIVE DATE.—This section shall take effect on January 1, 2011.

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman from California (Mr. GEORGE MILLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. GEORGE MILLER of California. I yield myself 3 minutes.

Mr. Chairman, in much of the history of the United States, and certainly in the most recent history of the United States, we have made a decision to build much of our economy on the backs of the best and the brightest that this country has to offer; to go to the research universities and to other universities and develop grants from Federal agencies to the National Science Foundation, from NIH and from the other agencies to do the research necessary to drive basic discovery, and to drive from that discovery innovation, and from that innovation economic growth. And it's served this economy and it's served this Nation very, very well over the last 50 years.

But we have a problem here. We have a situation where the best and the brightest people, among the most talented, a select group of people, the postdoctoral individuals, people who've had their master's degrees and their Ph.D.'s in sciences and engineering and mathematics and a whole range of fields participate in that research. They, in many instances, write the grants for that research. The grants are awarded to the universities based upon their work. Those grants provide for escalators so that the principal investigator and the postdocs that he hires, those very bright graduates of our university system to run the labs, to do the research, to assist that individual, that they be provided for.

And yet we find out that in many instances, universities are withholding information that these students have an absolute right under State law to have. And that right is to understand how they are paid and the availability of money in these grants for their increases.

In most of these grants, the Federal institutions and others require that escalators be built into. The universities require when the postdocs and the principal investigators write these grants to submit to the Federal Government and to the agencies that they include an escalator.

And what are the universities doing? In the case of University of California, Berkeley, they withhold. They then take 53 percent in overhead charges. So in a \$1 million grant, they get an additional over \$500,000 to administer that grant. They take that share of the escalators for themselves, but they don't pass it on to these brilliant young people who are also now—because they've postponed, in many instances, having a family and buying a home, they now become among the lowest-paid people in the region.

All this amendment says is, if they are entitled to the information under the law, that the university should have to provide it. The University of California has been telling these postdocs and telling the Congress of the United States for over a year that they would provide this information, and they have failed to do that.

So what we're saying is that these students are entitled to the law, to that information. It creates no new right. It creates nothing new in collective bargaining. This is not the purpose. The purpose is to—the information that they are entitled to under the law they have.

This is really about the very contracts that the university is administering. And yet a year later after the request by both Members of Congress and the postdoc graduates, they're told that the information is not available. If the information isn't available, it raises questions about the overhead, the \$850 million that the University of California took for the purposes of administering these grants.

I reserve the balance of my time.

□ 1645

Mr. HALL of Texas. Mr. Chairman, I rise to claim time in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HALL of Texas. Under the Miller amendment, any public university receiving funds in this bill would be required to maintain an "information policy," wherein they would have to produce any documents or information that a union requests within 15 days or face the threat of losing Federal funding.

Additionally, it would place a bureaucrat at a grant-awarding agency, say the National Science Foundation, in charge of determining whether a union was entitled under State or local labor law to the information it requested, and whether the university should lose Federal dollars because it has not given to the union every bit of information which it asked for.

Should NSF be determining whether a university is fulfilling its obligation under State and local labor law? I ask that question.

Also, although the amendment applies to all schools receiving grants

under this bill, the bottom line, Mr. Chairman, is that this is a political issue specific to one university, the University of California. It is my understanding that the University of California has been negotiating a contract with the United Auto Workers for some time. These negotiations are completely a function of California State law and have nothing to do with the Federal Government. Rather than attempting to exercise any right or remedy under State law, the UAW has chosen to involve my friends on the other side in threatening the university with Federal dollars to buckle to the union's demands.

This is all I have to say about this. I find this amendment troubling, and urge its defeat.

I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, this has really nothing to do with labor law. The question is whether the postdoctorate employees of the university who are involved in running these very sophisticated labs and experiments and research, whether or not they get the information that they are entitled to under the law. It only applies in those areas where there is an agreement. Many universities don't have this, some do.

But the point of the matter is that if these young people are not able to provide for themselves, we are going to take talented people and they are going to leave the scientific field. They were given these grants because they are among the best grants in the country. They were peer-reviewed. A decision was made that this is the science that is worth pursuing in the interest of this country in a whole range of fields, whether it is in space or energy or food, whatever it is. That is the point. Yet these people are among the lowest-paid people in the country, with the most education, with the most talent.

All we are saying is give them the information so they can see if there is any restrictions on passing through a portion of, or whatever they can agree to, of the escalators that are built into these agreements. The university is taking its cut off the top without asking anybody, but somehow the postdocs aren't even entitled to that information or the graduate students aren't entitled to that information under the current policy.

It is simply not fair, and it is going to be very discouraging to extremely talented people that we have placed a bet on. This legislation places a bet on the intellectual talent and the curiosity and the skills of these individuals to drive the next generation of innovation, to drive the next generation of economic growth, to drive the next generation of discovery. That is what this is about. That is what it should be about. But we can't do that by mistreating the very talent pool that is so critical to our success.

This is just a simple request for information. It does not provide any additional rights to anyone that don't exist today. And I think it is time that we recognize the needs of these individuals, of their families, if we are going to retain them in the scientific endeavor of which they have spent most of their life pursuing, and they are obviously very accomplished at this and they are a vital, vital asset to this Nation.

I urge my colleagues to support this amendment, and I want to thank the chairman of the committee for his support of this legislation.

The Acting CHAIR. The gentleman's time has expired.

Mr. HALL of Texas. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. GEORGE MILLER).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. HALL of Texas. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 13 OFFERED BY MR. REYES

The Acting CHAIR. It is now in order to consider amendment No. 13 printed in part B of House Report 111-479.

Mr. REYES. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. REYES:

Page 128, line 21, strike “; and” and insert a semicolon.

Page 128, after line 25, insert the following new subparagraph:

(E) describe the approaches that will be taken by each participating agency to conduct outreach designed to promote widespread public understanding of career opportunities in the STEM fields specific to the workforce needs of each agency, including outreach to women, Latinos, African-Americans, Native Americans, and other students from groups underrepresented in STEM;

Page 129, line 6, strike the period and insert “; and”.

Page 129, after line 6, insert the following new paragraph:

(4) establish and maintain a publically accessible online database of all federally sponsored STEM education programs and activities at all levels and for all audiences, including students, teachers, and the general public.

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman from Texas (Mr. REYES) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. REYES. Mr. Chairman, I rise today to urge my colleagues to support the America COMPETES Reauthoriza-

tion Act of 2010 and, with it, the Reyes-Connolly amendment.

In fact, I want to thank my colleague, the gentleman from Virginia (Mr. CONNOLLY) for cosponsoring this amendment with me. I also want to thank Chairman GORDON and Ranking Member HALL and their staffs on the Science and Technology Committee for their hard work on the America COMPETES legislation. This legislation is vital to our Nation's long-term competitiveness.

This noncontroversial amendment for this legislation would accomplish two goals:

First, it would require the Science, Technology, Engineering and Math Coordinating Committee under the Office of Science and Technology policy to describe in their 5-year strategic plan the approaches that each STEM agency will take to conduct outreach designed to promote widespread public understanding of career opportunities in STEM fields.

Second, the amendment requires the establishment and the maintenance of a publicly accessible online database, or a STEM.gov, if you will, of all federally-sponsored STEM education programs. STEM.gov would be a one-stop shop where teachers, students, and researchers would be able to access information on all of the opportunities available in STEM fields. Currently, all STEM programs are listed in different places online with different programs, and this amendment would simply consolidate the information for easier access in one location.

Mr. Chairman, it is important that we increase awareness of all the available opportunities in STEM fields, and that is exactly what this amendment does. To that end, I would urge all my colleagues to vote “yes” for the Reyes-Connolly amendment, and also “yes” on the final passage of this legislation.

Your vote will go a long way in showing Americans that Congress is serious about making America more competitive now and in the future.

Mr. Chairman, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I rise to claim time in opposition to the amendment, although I do not intend to oppose it.

The Acting CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. HALL of Texas. I have no opposition or objection to this amendment.

I reserve the balance of my time.

Mr. REYES. Mr. Chairman, I yield such time as he may consume to Mr. CONNOLLY of Virginia, the cosponsor of this amendment.

Mr. CONNOLLY of Virginia. I thank my friend from Texas.

Mr. Chair, let me start by thanking my colleagues for their leadership on this important legislation, both the chairman and the ranking member.

As the co-chair of the Diversity and Innovation Caucus, my colleague from Texas has been a true champion for STEM education, particularly in our underrepresented communities. Chairman GORDON and the members of the Science and Technology Committee have certainly shown leadership on this issue as well.

Our amendment builds upon that work by requiring the new STEM coordinating committee created in this legislation to work with each agency under its jurisdiction to promote more public awareness of career opportunities in the STEM fields, particularly within the Federal workforce. We have a hard time filling positions in the science, technology, and engineering and math fields, and I believe part of the trouble is that, one, people don't know that they are out there and, two, they don't realize that careers like this are available in public service. So clearly we can do better.

Our amendment also calls for new outreach strategies to women, Latinos, African Americans, Native Americans, and other students from underrepresented communities in the Federal workforce. Even in minority majority school systems like Prince William County, and Fairfax County in my district, we are working especially hard to make sure enrollment in STEM programs reflects the diversity of our student body.

Another key component of our amendment would require the STEM coordinating committee to create and maintain an online, searchable database of all federally funded STEM education programs that benefit students, teachers, and the general public.

We are providing tremendous opportunity in the STEM fields, but more people need to know about them and be excited about them for it to be successful.

Mr. Chairman, my experience in local government showed me that investments in education of our children attract families and jobs. The school and business communities in my district have made significant investments in our local STEM programs, whether it is Thomas Jefferson High School in Fairfax, whose tie I am wearing today, or the new Governor's School at Innovation Park in Prince William County.

Those efforts are just one reason why at least nine Fortune 500 companies have brought their headquarters to Northern Virginia and why the Commonwealth of Virginia has the highest concentration of technology-related jobs in the United States, half of them in northern Virginia.

This bill will further support those local efforts and better position our region and our Nation to be a leader in the global economy.

I join my colleague from Texas in urging our colleagues to support this important amendment.

Mr. REYES. Mr. Chairman, I yield back the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. REYES).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. REYES. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENTS EN BLOC NO. 2 OFFERED BY MR. GORDON OF TENNESSEE

Mr. GORDON of Tennessee. Mr. Chairman, I have amendments en bloc at the desk.

The Acting CHAIR. The Clerk will designate the amendments en bloc.

Amendments en bloc No. 2 offered by Mr. GORDON of Tennessee consisting of amendments numbered 14, 15, 16, 17, 22, 35, 42, 43, 49, 23, 24, 46, 48, and 9 printed in part B of House Report 111-479:

AMENDMENT NO. 14 OFFERED BY MS. LORETTA SANCHEZ OF CALIFORNIA

The text of the amendment is as follows:

Page 131, line 6, redesignate paragraph (1) as paragraph (2).

Page 131, line 7, redesignate paragraph (2) as paragraph (3).

Page 131, line 9, redesignate paragraph (3) as paragraph (4).

Page 131, line 10, redesignate paragraph (4) as paragraph (5).

Page 131, line 12, redesignate paragraph (5) as paragraph (6).

Page 131, line 13, redesignate paragraph (6) as paragraph (7).

Page 131, after line 5, insert the following: (1) Elementary school and secondary school administrator associations.

AMENDMENT NO. 15 OFFERED BY MR. BISHOP OF NEW YORK

The text of the amendment is as follows:

Page 174, after line 13, insert the following: **SEC. 412. NANOMATERIAL INITIATIVE.**

The Director shall carry out a nanomaterial research initiative to—

(1) develop reference materials for nanomaterials and derived products to be used in benchmarking toxicity, calibrating instruments, and facilitating laboratory comparisons;

(2) assist in the development of international documentary standards relating to nanomaterials;

(3) develop instruments and measurement methods to determine the physical and chemical properties of nanomaterials; and

(4) gather and develop data to support the correlation of physical and chemical properties of nanomaterials to any environmental, safety, or other risks.

AMENDMENT NO. 16 OFFERED BY MR. BARROW OF GEORGIA

The text of the amendment is as follows:

Page 58, line 16, strike “and”.

Page 58, line 22, strike the period and insert “; and”.

Page 58, after line 22, insert the following new subparagraph:

(D) describe how the Federal agencies supporting manufacturing research and development will strengthen all levels of manufacturing education and training programs to ensure an adequate, well-trained workforce.

AMENDMENT NO. 17 OFFERED BY MR. CARNEY OF PENNSYLVANIA

The text of the amendment is as follows:

Page 125, after line 23, insert the following new subsection (and redesignate the subsequent subsections accordingly):

(c) OUTREACH TO RURAL COMMUNITIES.—The Foundation shall conduct outreach to institutions of higher education and private sector entities in rural areas to encourage those entities to participate in partnerships under this section.

AMENDMENT NO. 22 OFFERED BY MS. HERSETH SANDLIN OF SOUTH DAKOTA

The text of the amendment is as follows:

Page 98, after line 4, insert the following new section:

#### **SEC. 229. COLLABORATION IN PLANNING FOR STEWARDSHIP OF LARGE-SCALE FACILITIES.**

It is the sense of Congress that the Foundation should, in its planning for construction and stewardship of large facilities, coordinate and collaborate with other Federal agencies, including the Department of Energy's Office of Science, to ensure that joint investments may be made when practicable. In particular, the Foundation should ensure that it responds to recommendations by the National Academy of Sciences and working groups convened by the National Science and Technology Council regarding such facilities and opportunities for partnership with other agencies in the design and construction of such facilities. For facilities in which research in multiple disciplines will be possible, the Director should include multiple units within the Foundation during the planning process.

AMENDMENT NO. 35 OFFERED BY MR. CHILDERS OF MISSISSIPPI

The text of the amendment is as follows:

Page 174, after line 13, insert the following: **SEC. 412. DISASTER RESILIENT BUILDINGS AND INFRASTRUCTURE.**

(a) ESTABLISHMENT.—The Director shall carry out a disaster resilient buildings and infrastructure program.

(b) REAL-SCALE STRUCTURES.—As part of the program, the Director shall—

(1) develop the capability to test real-scale structures under realistic fire and structural loading conditions; and

(2) assist in the validation of predictive models by developing a database on the performance of large-scale structures under realistic fire and structural loading conditions.

(c) DATABASE.—As part of the program, the Director shall develop a database on the performance of the built environment during natural and man-made hazard events.

AMENDMENT NO. 42 OFFERED BY MR. KISSELL OF NORTH CAROLINA

The text of the amendment is as follows:

Page 182, after line 18, insert the following:

“(3) LIMITATION.—In charging and collecting fees under paragraph (1), the Secretary shall take into consideration the amount of the obligation.

Page 183, after line 22, insert the following (and redesignate subsequent paragraphs accordingly):

“(2) criteria that the Secretary shall use to determine the amount of any fees charged under subsection (j), including criteria related to the amount of the obligation;

AMENDMENT NO. 43 OFFERED BY MR. KLEIN OF FLORIDA

The text of the amendment is as follows:

Page 166, after line 9, insert the following new subsection:

(g) EVALUATION OF OBSTACLES UNIQUE TO SMALL MANUFACTURERS.—Section 25 of such Act (15 U.S.C. 278k) is further amended by adding after subsection (i), as added by subsection (f), the following:

“(j) EVALUATION OF OBSTACLES UNIQUE TO SMALL MANUFACTURERS.—The Director shall—

“(1) evaluate obstacles that are unique to small manufacturers that prevent such manufacturers from effectively competing in the global market;

“(2) implement a comprehensive plan to train the Centers to address such obstacles; and

“(3) facilitate improved communication between the Centers to assist such manufacturers in implementing appropriate, targeted solutions to such obstacles.”.

AMENDMENT NO. 49 OFFERED BY MR. PERRIELLO OF VIRGINIA

The text of the amendment is as follows:

Page 132, line 3, insert “, including through the interagency committee established under section 301,” after “Federal agencies”.

AMENDMENT NO. 23 OFFERED BY MR. HOLT OF NEW JERSEY

The text of the amendment is as follows:

At the end of subtitle C of title I, insert the following:

#### **SEC. 125. NATIONAL COMPETITIVENESS AND INNOVATION STRATEGY.**

Not later than one year after the date of the enactment of this Act, the Director of the White House Office of Science and Technology Policy shall submit to Congress and the President a national competitiveness and innovation strategy for strengthening the innovative and competitive capacity of the Federal Government, State and local governments, institutions of higher education, and the private sector that includes—

(1) proposed legislative changes and action;

(2) proposed actions to be taken collectively by executive agencies, including White House offices;

(3) proposed actions to be taken by individual executive agencies, including White House offices; and

(4) a proposal for metrics-based monitoring and oversight of the progress of the Federal Government with respect to improving conditions for the innovation occurring in and the competitiveness of the United States.

AMENDMENT NO. 24 OFFERED BY MR. HOLT OF NEW JERSEY

The text of the amendment is as follows:

Page 62, after line 2, insert the following new subsection:

(f) SENSE OF CONGRESS REGARDING PEER REVIEW.—It is the sense of Congress that peer review is an important part of the process of ensuring the integrity of the record of scientific research, and that the National

Science and Technology Council working group established under this section should take into account the role that scientific publishers play in the peer review process.

AMENDMENT NO. 46 OFFERED BY MR. MINNICK OF IDAHO

The text of the amendment is as follows:

Page 132, line 7, strike "and".

Page 132, line 12, strike the period and insert "; and".

Page 132, after line 12, insert the following new paragraph:

(5) providing advice to Federal agencies on how their STEM technical training and education programs can be better aligned with the workforce needs of States and regions.

AMENDMENT NO. 48 OFFERED BY MR. PATRICK J. MURPHY OF PENNSYLVANIA

The text of the amendment is as follows:

Page 138, line 5, strike "and".

Page 138, line 9, strike the period at the end and insert "; and".

Page 138, after line 9, insert the following:

(6) competitive grants for institutions of higher education (as defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))), including 2-year institutions of higher education, to establish or expand degree programs or courses in energy systems science and engineering.

AMENDMENT NO. 9 OFFERED BY MR. KANJORSKI OF PENNSYLVANIA

The text of the amendment is as follows:

Page 188, after line 25, insert the following: "(H) Interacting with the public and State and local governments to meet the goals of the cluster."

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman from Tennessee (Mr. GORDON) and the gentleman from Texas (Mr. HALL) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. GORDON of Tennessee. Mr. Chairman, this is a well-vetted and good amendment.

I yield 2 minutes to the gentlelady from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I thank the chairman for the time allotted. And what a wonderful bill, and I believe it is just going to really bring our whole Nation up.

Today, we face so many mounting global challenges—international security, reviving the global economy, health, environment, wars going on—and American leadership in response to these challenges depends on national policies such as the legislation that we are debating today.

The America COMPETES Act strengthens STEM education in order to prepare our future workforce to excel and to exceed in an international economy. Future generations' ability to address 21st century global matters efficiently and effectively will depend on their preparation and their responsiveness to international affairs.

Today, our schools lack some of the tools necessary to enhance United

States' competitiveness, essential to our economy and, really, to our international success. And so I firmly believe that our Nation's leadership role in innovation depends on the education we provide in today's classrooms. In fact, one of my top legislative priorities is H.R. 3359, the U.S. and World Education Act, that has many of the types of things that this bill has.

To this end, the amendment that I am offering today would include the membership of elementary school and secondary school administrative associations to be part of the President's Advisory Committee on STEM Education. My amendment would add language to include the expertise of kindergarten through 12th grade school principals and administrators to the President's advisory committee created under section 302. The amendment will strengthen section 302 by ensuring the valuable contributions of those who are in our kindergarten through 12th grade system, those administering that, so they can bring back their ideas and tell us what is going on, because evidence suggests that kids lose interest in STEM in those grade levels. So I urge my colleagues to support this amendment.

□ 1700

Mr. HALL of Texas. Mr. Chair, I rise in opposition to the en bloc amendments before us, although I do not intend to oppose them. All 14 of the amendments are noncontroversial and are generally supported.

I do have some concern with the Carney amendment. I think while I'm supportive of trying to get students in rural areas more engaged in STEM activities, I just don't believe it's the role of NSF to perform outreach for an industry intern program, period. This amendment is part of a new and duplicative STEM Industry Internship program intended to marry local industry workforce educational needs with local college programing. There's a match associated with this grant, and I think almost any outreach to prospective students or interns should be performed by the participating industry and school with non-Federal money, not with taxpayer money. Therefore, while I will be opposing the Carney amendment, I do not plan to oppose the others in this group.

I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Chairman, I yield 3 minutes to a former administrator at Long Island College, the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. I thank the chairman for yielding.

My amendment directs the National Institute of Standards and Technology to develop reference materials, standards, instruments, and measurement methods for nanomaterials and derived products. My amendment also calls on

the NIST to compile data to help us understand how the properties of nanomaterials correlate with environmental, health, and safety risks. We stand on the precipice of a new wave of scientific and technological advancement through the development of nanotechnology or controlling matter on an atomic and molecular scale. Advancements in this field have the potential to create new materials and devices with a vast range of applications, such as medicine, electronics, and energy production. I am proud to represent Brookhaven National Laboratory, where many of these breakthroughs have been discovered. However, nanotechnology raises many of the same issues as with any introduction of new technology, including concerns about the toxicity and environmental impact of nanomaterials. My amendment would ensure that we closely monitor how this new technology affects our health and safety.

Mr. Chairman, while we must do all we can to incentivize and nurture innovation and competitiveness, we must also balance and make consistent the commercialization of new technologies with our duty to protect and inform the public. My amendment, therefore, helps establish a commonsense roadmap for the development of nanotechnology standards. I urge my colleagues to support my amendment and the underlying bill.

Let me also close by taking this opportunity to commend Chairman GORDON for his leadership on this issue and for a very distinguished career in Congress—a career that has reflected a firm commitment to American competitiveness.

Mr. HALL of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. BARROW).

Mr. BARROW. Mr. Chairman, I've spent a lot of time visiting businesses in my district, many of which are large manufacturers. I've been struck that even as our economy becomes more sophisticated, we still rely a great deal on our manufacturing base. That base is threatened by competition from abroad and by financial crisis at home. What has sustained us through the hard times lately has always been American innovation. The America COMPETES Act fosters that tradition and I'm proud to support it.

I'm pleased to offer an amendment that I think makes this good bill a little bit better. In the 12th District of Georgia, we make everything from lawnmower blades to jet airplanes. But the fundamentals of both industries are very similar. It all starts with education in science, math, and engineering. My amendment simply requires that we include manufacturing education in our long-term strategic plan

for manufacturing research and development. I think that makes good common sense, and good business sense, and I thank the chairman for his support.

Mr. HALL of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. ALTMIRE).

Mr. ALTMIRE. Mr. Chairman, I rise in support of the America COMPETES Reauthorization Act of 2010, and I'm a proud cosponsor of this legislation to strengthen our Nation's global competitiveness. Foremost, this bill will create jobs. For example, it will give small- and medium-sized manufacturing companies pursuing cutting-edge technology access to capital. It will prepare the next generation of Americans for the jobs of tomorrow by improving science, technology, engineering, and math education. It will also keep our Nation on a path to doubling funding for scientific research in the next decade. I'm pleased to note that this bill also includes provisions to help women enter science, technology, engineering, and mathematics fields.

Mr. Chairman, I have offered an amendment to this legislation with my good friend from Pennsylvania, Congressman PATRICK MURPHY, that is in the en bloc amendment before us. Our amendment would authorize competitive grants at the Department of Energy for colleges to provide degrees in energy-related fields. Colleges and universities would be able to use the funding for degrees and courses in engineering and energy systems science. Schools could also put the funding toward expanding current programs. And I'd like to point out that community colleges, of which my district has three, would also be eligible to compete for these grants.

Finally, authorizing these grants will not cost the taxpayers one penny. Our amendment simply allows the Department of Energy to redirect some of its existing education funding towards this valuable new program.

I urge support for the Murphy-Altire provision and for the overall COMPETES Reauthorization Act.

Mr. HALL of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chair, I strongly support the robust investment in education, research, innovation, manufacturing, and other programs in the COMPETES Act. The amendment I'm offering would help stitch together these important initiatives by directing the White House Office of Science and Technology Policy to prepare a comprehensive national competitiveness and innovation strategy within 1 year.

We know that half or perhaps more of the growth in our GDP over the past half century is attributable to our investments in research and technology. For decades, United States leadership in science, engineering, and innovation was unquestionable. But we can't pretend any more that this is a given. A year ago, the Information Technology and Innovation Foundation, using good methodology, found that among 40 major nations or regions, the United States ranks not first, but sixth, in overall innovation and competitiveness. More importantly, over the last decade, every one of those 40 has improved their innovation capacity at a greater rate than we.

The five nations ranked by ITIF as "out-competing" the United States already have national competitiveness or innovation strategies in place. Altogether, at least 30 countries with whom we might compare ourselves have implemented plans to boost their competitiveness. The United States has yet to put forward a similarly comprehensive roadmap for success. Of course, it's not a panacea. But we have the tools and resources to lead the world in science and technology. We can't remain complacent as other nations race to the top. We need to know what is working and what needs improvement. We need to understand how we can reallocate our resources to improve efficiency and productivity. We need to be able to measure whether our actions are having a positive effect. Businesses, schools, and governments need to know where we stand and need to be clear on where we're going.

My amendment requires a comprehensive, coordinated national strategy for improving our economic competitiveness through innovation, and it ensures that we will continuously evaluate our progress in this area. Our competitors are doing it already. We should, too.

I urge my colleagues to support this amendment and the underlying bill. This bill is a real testament to the good work of the fine chair of the Science Committee, Mr. GORDON. I thank him for the good work.

Mr. HALL of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. GORDON of Tennessee. Mr. Chairman, we have no further speakers, so let me just conclude by saying that this is a good series of amendments. This makes a good bill even better.

I yield back the balance of my time.

The Acting CHAIR (Mr. DRIEHAUS). The question is on the amendments en bloc offered by the gentleman from Tennessee (Mr. GORDON).

The amendments en bloc were agreed to.

AMENDMENT NO. 21 OFFERED BY MR. GINGREY OF GEORGIA

The Acting CHAIR. It is now in order to consider amendment No. 21 printed in part B of House Report 111-479.

Mr. GINGREY. Mr. Chairman, I have an amendment at the desk made in order by the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 21 offered by Mr. GINGREY of Georgia:

Page 98, after line 4, insert the following new section:

**SEC. 229. GREEN CHEMISTRY BASIC RESEARCH.**

The Director shall establish a Green Chemistry Basic Research program to award competitive, merit-based grants to support research into green and sustainable chemistry which will lead to clean, safe, and economical alternatives to traditional chemical products and practices. The research program shall provide sustained support for green chemistry research, education, and technology transfer through—

(1) merit-reviewed competitive grants to individual investigators and teams of investigators, including, to the extent practicable, young investigators, for research;

(2) grants to fund collaborative research partnerships among universities, industry, and nonprofit organizations;

(3) symposia, forums, and conferences to increase outreach, collaboration, and dissemination of green chemistry advances and practices; and

(4) education, training, and retraining of undergraduate and graduate students and professional chemists and chemical engineers, including through partnerships with industry, in green chemistry science and engineering.

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman from Georgia (Mr. GINGREY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. GINGREY of Georgia. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the amendment that I am offering today stems from legislation, the Green Chemistry Research and Development Act, that has passed out of the House in each of the 108th, 109th, and 110th Congresses. Unfortunately, despite the strong bipartisan support that this legislation has garnered under suspension of the rules, this legislation has been stalled by our colleagues in the Senate. Therefore, in order to move this initiative forward, I am offering it as an amendment with my colleague from Vermont (Mr. WELCH) to the National Science Foundation title of H.R. 5116. This amendment would establish a Green Chemistry Basic Research program to encourage universities and academic institutions around the country to train future workers in green chemistry technology.

Mr. Chairman, as a graduate of Georgia Tech with a bachelor of science in chemistry, I know that chemists can design chemicals to be safe, just as they can design them to have other properties, like color and texture. As chemists design products and the processes by which these products are manufactured, they can and they should



factor in the possible creation of any hazardous byproducts.

This technique of considering not only the process in which chemicals are produced but also the environment in which they are created is the basic definition of what we call green chemistry. It is the method of designing chemical products and processes that at the very least reduce, and at the very best, eliminate the use or generation of hazardous substances.

Mr. Chairman, the basic idea is this. Preventing pollution and hazardous waste from the start of a design process is far preferable to cleaning up that pollution and waste at a later date. Green chemistry does not just help protect our environment, it also helps protect our workers. The conditions under which chemicals are created and used can present many risks to those who work on their production. I would urge all my colleagues to support this amendment.

I reserve the balance of my time.

Mr. GORDON of Tennessee. I claim time in opposition to the amendment, even though I am not in opposition to the amendment.

The Acting CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. GORDON of Tennessee. Mr. Chairman, I rise in support of the amendment from my friend, the gentleman from Georgia (Mr. GINGREY).

This amendment establishes a Green Chemistry Research program at the National Science Foundation. Dr. GINGREY has been an advocate for this both on the committee as well as now. I commend him for that. The emerging field of green chemistry will contribute significantly to our environmental sustainability while also driving innovation in the chemical industry sector. Green chemistry research will be instrumental in meeting the challenges of protecting human health and the environment, meeting our energy needs, enhancing the national security, and strengthening the economy. I urge my colleagues to support this amendment.

I yield back the balance of my time.

□ 1715

Mr. GINGREY of Georgia. Mr. Chairman, may I ask how much time I have remaining.

The Acting CHAIR. The gentleman from Georgia has 3 minutes remaining.

Mr. GINGREY of Georgia. Mr. Chairman, I would now like to yield 2 minutes to the gentleman from Texas (Mr. HALL), the ranking member.

Mr. HALL of Texas. Mr. Chairman, I rise in support of Dr. GINGREY's amendment. This amendment would establish a green chemistry basic research and development program at the National Science Foundation, aimed at identifying scientific breakthroughs that could lead to clean, safe, and economi-

cal alternatives to chemical products. The Science and Technology Committee has supported funding for green chemistry research in a bipartisan manner for many years, and Dr. GINGREY has been the leader on this from day one. His amendment simply builds on those efforts. I thank him for offering this amendment and urge my colleagues to support it.

Mr. GINGREY of Georgia. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, ultimately, I believe this amendment will help promote education through collaborative research partnerships among universities, and it will provide training tools for undergraduate and graduate students in green chemistry technology. I want to thank my colleague from the Energy and Commerce Committee, Mr. WELCH, for his support and leadership on the issue, and I would also like to thank the American Chemical Society for its endorsement of this amendment.

Last, but certainly not least, I would like to commend both Science Committee Chairman BART GORDON and Ranking Member HALL on their leadership on green chemistry and their willingness to work with us on this particular amendment. An ounce of prevention is worth a pound of cure, and green chemistry promises a ton of pollution prevention. Again, Mr. Chairman, I urge all my colleagues to support this important amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Georgia (Mr. GINGREY).

The amendment was agreed to.

AMENDMENT NO. 34 OFFERED BY MR. BOCCIERI

The Acting CHAIR. It is now in order to consider amendment No. 26 printed in part B of House Report 111-479.

It is now in order to consider amendment No. 34 printed in part B of House Report 111-479.

Mr. BOCCIERI. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 34 offered by Mr. BOCCIERI: Page 187, line 8, strike "\$50,000,000" and insert "\$100,000,000".

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman from Ohio (Mr. BOCCIERI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio.

Mr. BOCCIERI. Mr. Chair, I yield myself as much time as I may consume.

Mr. Chair, if you believe like I do that we need to be the producers of wealth, not just the movers of wealth, then you're going to like this amendment. If you believe, like I do, that we need to invest in the innovative spirit of America, then you're going to like this amendment. If you believe, like I

do, that we need to be investing in our national defense and manufacturing in Ohio and across the Midwest, then you're going to like the amendment we have to offer.

I rise today in support of the Boc-cieri-Schauer-Davis-Donnelly amendment which will expand the Federal loan guarantees for innovative technologies in manufacturing from \$50 million to \$100 million. This amendment is an investment in our Nation's manufacturing base, the backbone of our economic recovery that will give additional funding for loans to embrace advances in technology, innovation and retool and rebuild so that we can compete on a global scale.

Ninety-six percent of Ohio's exports come from the manufacturing of more than \$84 billion worth of goods, yet manufacturers in my northeastern Ohio district have been hit disproportionately hard by this economic recession, and we need to do more to expand. Companies like Sandridge Food Corporation in Medina, Barbasol Shaving Cream plant in Ashland, and the new jobs at NuEarth Corporation in Alliance all need the resources and innovative spirit to move our economy down the field. We need to grow and create jobs not only in Ohio but across our country. This will be the impetus for leading us out of this recession. This amendment nearly authorizes \$100 million to rebuild and retool our economy.

At this time, Mr. Chair, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I rise to claim time in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HALL of Texas. This amendment would double to \$100 million annually the authorization levels of the new never-done-before loan guarantee program created in the bill. I have major concerns with this program as it stands, particularly because it's heavily redundant with existing loan guarantee programs, such as those at the Small Business Administration where small manufacturers can and do apply for support. Doubling the amount and doubling this spending on an unnecessary and redundant program is not good policy. Accordingly, I oppose the amendment.

I reserve the balance of my time.

Mr. BOCCIERI. Mr. Chair, I would inquire how much time I have left.

The Acting CHAIR. The gentleman has 3½ minutes remaining.

Mr. BOCCIERI. Thank you. I would like to yield 1 minute to the gentleman from Indiana (Mr. DONNELLY).

Mr. DONNELLY of Indiana. Mr. Chairman, manufacturing provides almost 20 percent of Indiana's jobs, more than any other sector in the State. When I am back in my district, Hoosier manufacturers tell me they want to retool and reinvest in their facilities so



that we can better compete in America, so we can be the best in the world so that we can compete with our overseas competition, so that we can grow and put people back to work.

However, I often hear from our manufacturers that the credit markets, which have been so tight, have made it very, very difficult to get a loan. This amendment helps those manufacturers to achieve that goal. CBO estimates that for every \$1 we provide in loan guarantees, we can generate \$6 in loans to manufacturers, meaning this amendment enables the Department of Commerce to generate \$600 million in much-needed guaranteed loans to manufacturers who are seeking to innovate and put people back to work. That is why I support this.

Mr. HALL of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. BOCCIERI. Mr. Chair, I yield myself 1 minute.

I understand that the gentleman from Texas is rising in opposition to this amendment because he believes that it is unnecessary. But let me tell you what we're doing in Ohio. We have a community college that has worked closely with the local economy, making a bridge between the local innovation and investments and the research and development to create pipelines for jobs. Rolls-Royce Corporation just announced that they're moving their research for their fuel cells from Singapore to Stark County, Ohio. And they have a pipeline there. They're creating a curriculum based on science, technology, engineering, and mathematics. They need the resources, they need the tools to help innovate and move us out of this recession so we can end our dependence on foreign oil. This is a small example of how successful a program like this could be in our great State of Ohio.

Mr. Chair, I yield 30 seconds to the distinguished gentleman from Tennessee (Mr. GORDON), the Chair of the committee.

Mr. GORDON of Tennessee. First, let me compliment Mr. BOCCIERI and his partners for introducing this good amendment. I want to clear up a matter concerning the duplication, title 5, section 502, page 185 under "coordination and duplication": "To the maximum extent practical, the Secretary shall ensure that the activities carried out under this section are coordinated with and do not duplicate the efforts of other loan guarantee programs within the Federal Government."

This is a good amendment that will label more small- and medium-sized manufacturers to take advantage of loan guarantee programs for innovation, technologies at the Department of Commerce which, in turn, will mean more jobs for Americans.

Mr. HALL of Texas. I reserve the balance of my time.

Mr. BOCCIERI. I would like to inquire how much time we have remaining, Mr. Chair.

The Acting CHAIR. The gentleman has 1½ minutes remaining.

Mr. BOCCIERI. I yield 1 minute to the gentleman from Michigan (Mr. SCHAUER).

Mr. SCHAUER. Mr. Chair, in Michigan, gaining access to needed capital is hard to come by, and many Michigan businesses continue to be redlined for loans. In my district, there's a need for loan programs to help manufacturers, such as production engineering in Jackson, Michigan, to help them have the opportunity to gain access to capital, to help them move forward to retool their current manufacturing process with the newest technologies, to help make the high-quality components for the military, heavy truck, construction equipment and material handling equipment, industries that they are known for, and to help put them in a better position to be able to capture their share in the global economy.

This amendment is about jobs that we need now. I ask for your support of the Bocci-Schauer amendment.

Mr. BOCCIERI. Mr. Chair, at this time I yield back the balance of my time.

Mr. HALL of Texas. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Ohio (Mr. BOCCIERI).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. HALL of Texas. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio will be postponed.

#### ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part B of House Report 111-479 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Mr. GORDON of Tennessee;

Amendment No. 6 by Mr. HALL of Texas;

Amendment No. 10 by Mr. MARKEY of Massachusetts;

Amendment No. 12 by Mr. GEORGE MILLER of California;

Amendment No. 13 by Mr. REYES of Texas.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

#### AMENDMENT NO. 1 OFFERED BY MR. GORDON OF TENNESSEE

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Tennessee (Mr. GOR-

DON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 417, noes 6, not voting 13, as follows:

[Roll No. 262]

#### AYES—417

Ackerman	Chu	Graves
Aderholt	Clarke	Grayson
Adler (NJ)	Clay	Green, Al
Akin	Cleaver	Green, Gene
Alexander	Clyburn	Griffith
Altmire	Coble	Grijalva
Andrews	Coffman (CO)	Guthrie
Arcuri	Cohen	Gutierrez
Austria	Conaway	Hall (NY)
Baca	Connolly (VA)	Hall (TX)
Bachmann	Conyers	Halvorson
Bachus	Cooper	Hare
Baird	Costa	Harman
Baldwin	Costello	Harper
Barrow	Courtney	Hastings (FL)
Bartlett	Crenshaw	Hastings (WA)
Barton (TX)	Crowley	Heinrich
Bean	Cuellar	Heller
Becerra	Culberson	Hensarling
Berkley	Cummings	Herger
Berman	Dahlkemper	Herseth Sandlin
Berry	Davis (CA)	Higgins
Biggart	Davis (IL)	Hill
Bilbray	Davis (KY)	Himes
Bilirakis	Davis (TN)	Hinchee
Bishop (GA)	DeFazio	Hinojosa
Bishop (NY)	DeGette	Hirono
Bishop (UT)	Delahunt	Hodes
Blackburn	DeLauro	Holden
Blumenauer	Dent	Holt
Blunt	Deutch	Honda
Bocciari	Diaz-Balart, L.	Hoyer
Boehner	Diaz-Balart, M.	Hunter
Bonner	Dicks	Inglis
Bono Mack	Dingell	Inlee
Boozman	Doggett	Israel
Bordallo	Donnelly (IN)	Issa
Boren	Doyle	Jackson (IL)
Boswell	Dreier	Jenkins
Boucher	Drieaus	Johnson (GA)
Boustany	Duncan	Johnson (IL)
Boyd	Edwards (MD)	Johnson, E. B.
Brady (PA)	Edwards (TX)	Johnson, Sam
Brady (TX)	Ehlers	Jones
Braley (IA)	Ellison	Jordan (OH)
Bright	Ellsworth	Kagen
Brown (GA)	Emerson	Kanjorski
Brown (SC)	Engel	Kaptur
Brown, Corrine	Eshoo	Kennedy
Brown-Waite,	Etheridge	Kildee
Ginny	Faleomavaega	Kilpatrick (MI)
Buchanan	Fallin	Kilroy
Burton (IN)	Farr	Kind
Butterfield	Fattah	King (IA)
Buyer	Filner	King (NY)
Calvert	Fleming	Kingston
Camp	Forbes	Kirk
Campbell	Fortenberry	Kirkpatrick (AZ)
Cantor	Foster	Kissell
Cao	Fox	Klein (FL)
Capito	Frank (MA)	Kline (MN)
Capps	Franks (AZ)	Kosmas
Capuano	Frelinghuysen	Kratovil
Cardoza	Fudge	Kucinich
Carnahan	Gallegly	Lamborn
Carson (IN)	Garamendi	Lance
Carter	Gerlach	Langevin
Cassidy	Giffords	Larsen (WA)
Castle	Gingrey (GA)	Larson (CT)
Castor (FL)	Gohmert	Latham
Chaffetz	Gonzalez	LaTourette
Chandler	Goodlatte	Latta
Childers	Gordon (TN)	Lee (CA)
Christensen	Granger	Lee (NY)

Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Luján  
Lungren, Daniel E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Myrick  
Napolitano  
Neal (MA)  
Neugebauer  
Norton  
Nunes  
Nye  
Oberstar

Obey  
Olson  
Oliver  
Ortiz  
Owens  
Pallone  
Pascarell  
Pastor (AZ)  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pierluisi  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Sablan  
Salazar  
Sanchez, Linda T.  
Sanchez, Loretta  
Sarbanes  
Scahies  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)

## NOES—6

Burgess  
Flake

Lummis  
McClintock

Nadler (NY)  
Paul

## NOT VOTING—13

Barrett (SC)  
Carney  
Cole  
Davis (AL)  
Garrett (NJ)

Hoekstra  
Jackson Lee  
(TX)  
Moore (WI)  
Sherman

Souder  
Stearns  
Wamp  
Waxman

□ 1756

Mr. RYAN of Wisconsin changed his vote from “no” to “aye.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. STEARNS. Mr. Chair, on rollcall No. 262 I was unavoidably detained. Had I been present, I would have voted “yes.”

## AMENDMENT NO. 6 OFFERED BY MR. HALL OF TEXAS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. HALL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 163, noes 258, not voting 15, as follows:

[Roll No. 263]

## AYES—163

Aderholt  
Akin  
Alexander  
Tlahrt  
Bachmann  
Bachus  
Barton (TX)  
Biggart  
Bilbray  
Bilirakis  
Bishop (UT)  
Blackburn  
Blunt  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boustany  
Brady (TX)  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Capito  
Carter  
Cassidy  
Chaffetz  
Coble  
Coffman (CO)  
Conaway  
Crenshaw  
Culberson  
Davis (KY)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dreier  
Duncan  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Gerlach

Gingrey (GA)  
Gohmert  
Goodlatte  
Granger  
Graves  
Griffith  
Guthrie  
Hall (TX)  
Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hunter  
Ingalls  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline (MN)  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lewis (CA)  
Linder  
LoBiondo  
Lucas  
Luetkemeyer  
Lungren, Daniel E.  
Mack  
Manzullo  
Marchant  
McCarthy (CA)  
McCaul  
McClintock  
McCotter  
McHenry  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Moran (KS)  
Murphy, Tim  
Myrick

Neugebauer  
Nunes  
Olson  
Paul  
Paulsen  
Pence  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Richardson  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Schmidt  
Schock  
Sensenbrenner  
Shadegg  
Shimkus  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Stearns  
Sullivan  
Taylor  
Terry  
Thompson (PA)  
Thornberry  
Tlahrt  
Tiberi  
Turner  
Upton  
Walden  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Young (AK)  
Young (FL)

## NOES—258

Ackerman  
Adler (NJ)  
Altmire  
Andrews  
Arcuri  
Baca

Baird  
Baldwin  
Barrow  
Bartlett  
Bean  
Becerra

Berkley  
Berman  
Berry  
Bishop (GA)  
Bishop (NY)  
Blumenauer

Boccieri  
Bordallo  
Boren  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Braley (IA)  
Bright  
Brown, Corrine  
Butterfield  
Cao  
Capps  
Capuano  
Cardoza  
Carnahan  
Carson (IN)  
Castle  
Castor (FL)  
Chandler  
Childers  
Christensen  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Deutch  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Engel  
Eshoo  
Etheridge  
Faleomavaega  
Farr  
Fattah  
Filner  
Fortenberry  
Foster  
Frank (MA)  
Fudge  
Garamendi  
Giffords  
Gonzalez  
Gordon (TN)  
Grayson  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman

Hastings (FL)  
Heinrich  
Hereth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Johnson (GA)  
Johnson, E. B.  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kosmas  
Kratovil  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Lee (NY)  
Levin  
Lipinski  
Loeb sack  
Lofgren, Zoe  
Lowey  
Luján  
Lynch  
Maffei  
Maloney  
Markey (CO)  
Markey (MA)  
Marshall  
Matheson  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McGovern  
McIntyre  
McMahon  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Michaud  
Miller (NC)  
Miller, George  
Minnick  
Mollohan  
Moore (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Myrick  
Napolitano  
Neal (MA)  
Neugebauer  
Norton  
Nunes  
Nye  
Oberstar  
Oliver

Ortiz  
Owens  
Pallone  
Pascarell  
Pastor (AZ)  
Payne  
Perlmutter  
Perriello  
Peters  
Peterson  
Pierluisi  
Pingree (ME)  
Polis (CO)  
Pomeroy  
Price (NC)  
Quigley  
Rahall  
Rangel  
Reichert  
Reyes  
Rodriguez  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Sablan  
Salazar  
Sanchez, Linda T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter  
Shuler  
Sires  
Skelton  
Slaughter  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stupak  
Sutton  
Tanner  
Teague  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tlahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Weiner  
Welch  
Westmoreland  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth

## NOT VOTING—15

Barrett (SC)  
Carney  
Cole  
Davis (AL)  
Garrett (NJ)  
Hoekstra

Jackson Lee  
(TX)  
Lewis (GA)  
Lummis  
Moore (WI)  
Sessions

Sherman  
Souder  
Wamp  
Watt

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). Members have 2 minutes remaining in this vote.

□ 1804

Mr. CLEAVER and Ms. WATERS changed their vote from “aye” to “no.” So the amendment was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. REICHERT was allowed to speak out of order.)

MOMENT OF SILENCE HONORING FALLEN LAW ENFORCEMENT OFFICERS

Mr. REICHERT. Mr. Chairman, if I could have everyone's solemn attention, please.

As many of you know, this week is Law Enforcement Memorial Week. As I said earlier in the year when we lost four police officers in one shooting in Washington State, it's a time when all of us should stop and recognize and realize what our law enforcement family does for us each and every day.

Those Capitol Hill Police that are around us here in this building, outside these doors, the Washington, D.C., police officers who protect us to and from our place of work and to our homes and other places that we travel, we have a safe community as a result of men and women wanting to put themselves in harm's way and sometimes sacrificing their lives.

I was one of those for 33 years. I am proud to say that. As a sheriff's deputy in 1972, finally as the sheriff before coming here to Congress, I am proud to be a part of the law enforcement family. We are brothers and sisters. And being a police officer, as my friend, the sheriff from Indiana, Sheriff ELLSWORTH, knows, it transcends everything. The cop world doesn't mean being Democrat or Republican. Being a cop doesn't mean I am a Catholic, I am a Lutheran, I am a Mormon. It doesn't mean any of those things. It means that we are men and women together as a family and a team, putting our lives on the line for people in this Nation every day.

In this year, 126 police officers were killed in the line of duty. And in Washington State alone we lost seven. So I would join with my friend Sheriff ELLSWORTH, the two sheriffs in the House, in a moment of silence, and I would yield time to Sheriff ELLSWORTH.

Mr. ELLSWORTH. Mr. Chairman, I would like to thank my friend Sheriff REICHERT, and it's appropriate today to call him by the original title at this time, for yielding me that time. I would echo his comments. Everyone in this room interacts with the Capitol Police every day. I know I made a friend in one. He gave me a t-shirt that on the back says, “You Elect Them, We Protect Them.” And I wear that shirt proudly at home.

But on this serious day during National Police Week, it's important to know in this House we talk a lot about our brave men and women in uniform that protect our country, and we normally talk about the members of the

armed services, and that's absolutely appropriate. But during this week I think we need to also think about the men and women in uniform who are out patrolling our streets, not just the Capitol Police, but at home in all of our districts that are working right now directing traffic, taking drug dealers off the streets, protecting our wives, protecting our families, protecting our husbands, protecting our citizens, the people we represent. We should never forget them for their constant service, 24-7 service to us and all of our constituents.

So today if we could honor them with a moment of silence, for those who did pay the ultimate price, that did give their lives in the line of duty, I would ask for that moment of silence from the House of Representatives.

The Acting CHAIR. Members are asked to rise for a moment of silence in honor of our fallen law enforcement officers.

AMENDMENT NO. 10 OFFERED BY MR. MARKEY OF MASSACHUSETTS

The Acting CHAIR. Without objection, 5-minute voting will continue.

There was no objection.

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 254, noes 173, not voting 9, as follows:

[Roll No. 264]

AYES—254

Ackerman	Capps	DeLauro
Adler (NJ)	Capuano	DeLoach
Altmire	Carnahan	Deutch
Andrews	Carson (IN)	Dicks
Arcuri	Castor (FL)	Dingell
Baca	Chandler	Doggett
Baird	Childers	Donnelly (IN)
Baldwin	Christensen	Doyle
Barrow	Chu	Driehaus
Bean	Clarke	Edwards (MD)
Becerra	Clay	Edwards (TX)
Berkley	Cleaver	Ellison
Berman	Clyburn	Ellsworth
Berry	Cohen	Engel
Bishop (GA)	Connolly (VA)	Eshoo
Bishop (NY)	Conyers	Etheridge
Blumenauer	Cooper	Faleomavaega
Boccieri	Costello	Farr
Bordallo	Courtney	Fattah
Boren	Crowley	Filner
Boswell	Cuellar	Foster
Boucher	Cummings	Frank (MA)
Boyd	Dahlkemper	Fudge
Brady (PA)	Davis (CA)	Garamendi
Braley (IA)	Davis (IL)	Giffords
Bright	Davis (TN)	Gonzalez
Brown, Corrine	DeFazio	Gordon (TN)
Butterfield	DeGette	Grayson

Green, Al	Marshall	Ryan (OH)
Green, Gene	Matheson	Sablan
Grijalva	Matsui	Sablan
Gutierrez	McCarthy (NY)	Salazar
Hall (NY)	McCollum	Sánchez, Linda
Halvorson	McDermott	T.
Hare	McGovern	Sanchez, Loretta
Harman	McIntyre	Sarbanes
Hastings (FL)	McMahon	Schakowsky
Heinrich	McNerney	Schauer
Herseth Sandlin	Meek (FL)	Schiff
Higgins	Meeks (NY)	Schrader
Hill	Melancon	Schwartz
Himes	Michaud	Scott (GA)
Hinchee	Miller (NC)	Scott (VA)
Hinojosa	Miller, George	Serrano
Hirono	Minnick	Sestak
Hodes	Mitchell	Shea-Porter
Holden	Molloy	Sherman
Holt	Moore (KS)	Shuler
Honda	Moore (WI)	Sires
Hoyer	Moran (VA)	Skelton
Inslee	Murphy (CT)	Slaughter
Israel	Murphy (NY)	Smith (WA)
Jackson (IL)	Murphy, Patrick	Snyder
Johnson (GA)	Nadler (NY)	Space
Johnson (IL)	Napolitano	Speier
Johnson, E. B.	Neal (MA)	Spratt
Kagen	Norton	Stark
Kanjorski	Nye	Stupak
Kaptur	Oberstar	Sutton
Kennedy	Obey	Tanner
Kildee	Olver	Taylor
Kilpatrick (MI)	Ortiz	Teague
Kilroy	Owens	Thompson (CA)
Kind	Pallone	Thompson (MS)
Kirkpatrick (AZ)	Pascarella	Tierney
Kissell	Pastor (AZ)	Titus
Klein (FL)	Payne	Tonko
Kosmas	Perlmutter	Townes
Kratovil	Perriello	Tsongas
Kucinich	Peterson	Van Hollen
Langevin	Pierluisi	Velázquez
Larsen (WA)	Pingree (ME)	Visclosky
Larson (CT)	Polis (CO)	Walz
Lee (CA)	Pomeroy	Wasserman
Levin	Price (NC)	Schultz
Lewis (GA)	Quigley	Waters
Lipinski	Rahall	Watson
Loebach	Rangel	Watt
Lofgren, Zoe	Reyes	Waxman
Lowe	Richardson	Weiner
Lujan	Rodriguez	Welch
Lynch	Ross	Wilson (OH)
Maffei	Rothman (NJ)	Woolsey
Maloney	Roybal-Allard	Wu
Markey (CO)	Ruppersberger	Yarmuth
Markey (MA)	Rush	

NOES—173

Aderholt	Carter	Hall (TX)
Akin	Cassidy	Harper
Alexander	Castle	Hastings (WA)
Austria	Chaffetz	Heller
Bachmann	Coble	Hensarling
Bachus	Coffman (CO)	Hergert
Bartlett	Conaway	Hunter
Barton (TX)	Costa	Inglis
Biggart	Crenshaw	Issa
Bilbray	Culberson	Jenkins
Bilirakis	Davis (KY)	Johnson, Sam
Bishop (UT)	Dent	Jones
Blackburn	Diaz-Balart, L.	Jordan (OH)
Blunt	Diaz-Balart, M.	King (IA)
Boehner	Dreier	King (NY)
Bonner	Duncan	Kingston
Bono Mack	Ehlers	Kirk
Boozman	Emerson	Kline (MN)
Boustany	Fallin	Lamborn
Brady (TX)	Flake	Lance
Broun (GA)	Fleming	Latham
Brown (SC)	Forbes	LaTourette
Brown-Waite,	Fortenberry	Latta
Ginny	Fox	Lee (NY)
Buchanan	Franks (AZ)	Lewis (CA)
Burgess	Frelinghuysen	Linder
Burton (IN)	Gallagher	LoBiondo
Buyer	Gerlach	Lucas
Calvert	Gingrey (GA)	Luetkemeyer
Camp	Gohmert	Lummis
Campbell	Goodlatte	Lungren, Daniel
Cantor	Granger	E.
Cao	Graves	Mack
Capito	Griffith	Manzullo
Cardoza	Guthrie	Marchant

McCarthy (CA) Platts Shimkus  
 McCaul Poe (TX) Shuster  
 McClintock Posey Simpson  
 McCotter Price (GA) Smith (NE)  
 McHenry Putnam Smith (NJ)  
 McKeon Radanovich Smith (TX)  
 McMorris Rehberg Stearns  
 Rodgers Reichert Sullivan  
 Mica Roe (TN) Terry  
 Miller (FL) Rogers (AL) Thompson (PA)  
 Miller (MI) Rogers (KY) Thornberry  
 Miller, Gary Rogers (MI) Tiahrt  
 Moran (KS) Rohrabacher Tiberi  
 Murphy, Tim Rooney Turner  
 Myrick Roskam Upton  
 Neugebauer Rehberg Walden  
 Nunes Royce Westmoreland  
 Olson Ryan (WI) Whitfield  
 Paul Scalise Wilson (SC)  
 Paulsen Schmidt Wittman  
 Pence Schock  
 Peters Sensenbrenner Wolf  
 Petri Sessions Young (AK)  
 Pitts Shadegg Young (FL)

## NOT VOTING—9

Barrett (SC) Garrett (NJ) Souder  
 Carney Hoekstra Wamp  
 Cole Jackson Lee  
 Davis (AL) (TX)

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
 There are 2 minutes remaining.

□ 1817

Mr. FORTENBERRY changed his  
 vote from “aye” to “no.”

So the amendment was agreed to.

The result of the vote was announced  
 as above recorded.

AMENDMENT NO. 12 OFFERED BY MR. GEORGE  
MILLER OF CALIFORNIA

The Acting CHAIR. The unfinished  
 business is the demand for a recorded  
 vote on the amendment offered by the  
 gentleman from California (Mr.  
 GEORGE MILLER) on which further pro-  
 ceedings were postponed and on which  
 the ayes prevailed by voice vote.

The Clerk will redesignate the  
 amendment.

The Clerk redesignated the amend-  
 ment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote  
 has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-  
 minute vote.

The vote was taken by electronic de-  
 vice, and there were—ayes 250, noes 174,  
 not voting 12, as follows:

[Roll No. 265]

## AYES—250

Ackerman Boucher Connolly (VA)  
 Adler (NJ) Boyd Conyers  
 Altmire Brady (PA) Costello  
 Andrews Braley (IA) Courtney  
 Arcuri Brown, Corrine Crowley  
 Baca Butterfield Cuellar  
 Baldwin Capps Cummings  
 Barrow Capuano Dahlkemper  
 Bean Cardoza Davis (CA)  
 Becerra Carnahan Davis (IL)  
 Berkley Carson (IN) Davis (TN)  
 Berman Castor (FL) DeFazio  
 Berry Chandler DeGette  
 Bishop (GA) Christensen Delahunt  
 Bishop (NY) Chu DeLauro  
 Blumenauer Clarke Deutch  
 Boccieri Clay Diaz-Balart, L.  
 Boddallo Cleaver Diaz-Balart, M.  
 Boren Clyburn Dicks  
 Boswell Cohen Dingell

Doggett LaTourette  
 Donnelly (IN) Lee (CA)  
 Doyle Levin  
 Driehaus Lewis (GA)  
 Edwards (MD) Lipinski  
 Ellison Loebsack  
 Ellsworth Lofgren, Zoe  
 Engel Lowey  
 Eshoo Lujan  
 Faleomavaega Lynch  
 Farr Maffei  
 Fattah Maloney  
 Filner Markey (CO)  
 Foster Markey (MA)  
 Frank (MA) Marshall  
 Fudge Matheson  
 Garamendi Matsui  
 Giffords McCarthy (NY)  
 Gonzalez McColm  
 Gordon (TN) McCotter  
 Grayson McDermott  
 Green, Al McGovern  
 Green, Gene McMahan  
 Grijalva McNerney  
 Gutierrez Meek (FL)  
 Hall (NY) Meeks (NY)  
 Halvorson Melancon  
 Hare Michaud  
 Harman Miller (MI)  
 Hastings (FL) Miller (NC)  
 Heinrich Miller, George  
 Herseht Sandlin Minnick  
 Higgins Mollohan  
 Hill Moore (KS)  
 Himes Moore (WI)  
 Hinchey Moran (VA)  
 Hinojosa Murphy (CT)  
 Hirono Murphy (NY)  
 Hodes Murphy, Patrick  
 Holden Murphy, Tim  
 Holt Nadler (NY)  
 Honda Napolitano  
 Hoyer Neal (MA)  
 Inslee Norton  
 Israel Nye  
 Jackson (IL) Oberstar  
 Johnson (GA) Obey  
 Johnson, E. B. Oliver  
 Kagen Ortiz  
 Kanjorski Owens  
 Kaptur Pallone  
 Kennedy Pascrell  
 Kildee Pastor (AZ)  
 Kilpatrick (MI) Payne  
 Kilroy Perlmutter  
 Kirkpatrick (AZ) Perriello  
 Kissell Peters  
 Klein (FL) Peterson  
 Kosmas Pierluisi  
 Kratovil Pingree (ME)  
 Kucinich Platts  
 Langevin Polis (CO)  
 Larsen (WA) Pomeroy  
 Larson (CT) Price (NC)

## NOES—174

Aderholt Buyer  
 Akin Calvert  
 Alexander Camp  
 Austria Campbell  
 Bachmann Cantor  
 Bachus Cao  
 Baird Capito  
 Bartlett Carter  
 Barton (TX) Cassidy  
 Biggert Castle  
 Bilbray Chaffetz  
 Bilirakis Childers  
 Bishop (UT) Coble  
 Blackburn Coffman (CO)  
 Blunt Conaway  
 Boehner Cooper  
 Bonner Costa  
 Bono Mack Crenshaw  
 Boozman Culberson  
 Boustany Davis (KY)  
 Brady (TX) Dent  
 Bright Dreier  
 Brown (GA) Duncan  
 Brown (SC) Edwards (TX)  
 Brown-Waite, Ehlers  
 Ginnny Emerson  
 Buchanan Etheridge  
 Burgess Fallin  
 Burton (IN) Flake

Kind Mica Scalise  
 King (IA) Miller (FL)  
 King (NY) Miller, Gary Schock  
 Kingston Mitchell Sensenbrenner  
 Kirk Moran (KS) Sessions  
 Rodriguez Myrick Shadegg  
 Ross Neugebauer Shimkus  
 Rothman (NJ) Nunes Shuler  
 Roybal-Allard Olson Shuster  
 Ruppertsberger Latta Simpson  
 Rush Paulsen Smith (NE)  
 Ryan (OH) Pence Smith (NJ)  
 Sablan Linder Smith (TX)  
 Salazar LoBiondo Snyder  
 Sanchez, Linda Lucas Poe (TX)  
 T. Luetkemeyer Posey  
 Sarbanes Lummis Price (GA)  
 Schakowsky Putnam Terry  
 Schauer Schaff Rehberg  
 Schiff McCotter Reichert  
 Schrader Schrad Rogers (AL)  
 Schwartz Rogers (KY)  
 Scott (GA) Rogers (MI)  
 Scott (VA) McCaul  
 Serrano Serrano Rohrabacher  
 Sestak McHenry  
 Shea-Porter McIntyre  
 Sherman McKeon  
 Sires McMorris  
 Skelton Rodgers  
 Slaughter  
 Smith (WA)  
 Space  
 Speier  
 Spratt  
 Stark  
 Stupak  
 Sutton  
 Tanner  
 Teague  
 Thompson (CA)  
 Thompson (MS)  
 Tiberi  
 Tierney  
 Titus  
 Tonko  
 Towns  
 Tsongas  
 Turner  
 Van Hollen  
 Velázquez  
 Visclosky  
 Walz  
 Wasserman  
 Schultz  
 Watson  
 Watt  
 Waxman  
 Weiner  
 Welch  
 Wilson (OH)  
 Woolsey  
 Wu  
 Yarmuth

## NOT VOTING—12

Barrett (SC) Hoekstra Souder  
 Carney Jackson Lee Wamp  
 Cole (TX) Waters  
 Davis (AL) Radanovich  
 Franks (AZ) Sanchez, Loretta

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
 Members have 2 minutes remaining in  
 this vote.

□ 1823

So the amendment was agreed to.

The result of the vote was announced  
 as above recorded.

## AMENDMENT NO. 13 OFFERED BY MR. REYES

The Acting CHAIR. The unfinished  
 business is the demand for a recorded  
 vote on the amendment offered by the  
 gentleman from Texas (Mr. REYES) on  
 which further proceedings were post-  
 ponned and on which the ayes prevailed  
 by voice vote.

The Clerk will redesignate the  
 amendment.

The Clerk redesignated the amend-  
 ment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote  
 has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-  
 minute vote.

The vote was taken by electronic de-  
 vice, and there were—ayes 413, noes 10,  
 not voting 13, as follows:

[Roll No. 266]

## AYES—413

Ackerman Barton (TX) Boehner  
 Aderholt Bean Bonner  
 Adler (NJ) Becerra Bono Mack  
 Akin Berkley Boozman  
 Alexander Berman Boddallo  
 Altmire Berry Boren  
 Andrews Biggert Boswell  
 Arcuri Bilbray Boucher  
 Austria Bilirakis Boustany  
 Baca Bishop (GA) Boyd  
 Bachmann Bishop (NY) Brady (PA)  
 Bachus Bishop (UT) Brady (TX)  
 Baird Blackburn Braley (IA)  
 Baldwin Blumenauer Bright  
 Barrow Blunt Brown (SC)  
 Bartlett Boccieri Brown, Corrine

Brown-Waite, Ginny  
Buchanan  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Christensen  
Chu  
Clarke  
Clay  
Clever  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Deutch  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Faleomavaega  
Fallin  
Farr  
Fattah  
Filner  
Fleming  
Forbes  
Fortenberry  
Foster  
Foxx  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Gerlach  
Giffords  
Gohmert  
Gonzalez

Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jenkins  
Jenks  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loebach  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo

Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Norton  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Ortiz  
Owens  
Pallone  
Pascarelli  
Pastor (AZ)  
Paul  
Paulsen  
Payne  
Pence  
Perlmuter  
Perriello  
Peters  
Peterson  
Petri  
Pierluisi  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush

Ryan (OH)  
Ryan (WI)  
Sablan  
Salazar  
Sanchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson

Broun (GA)  
Burgess  
Flake  
Johnson, Sam

Barrett (SC)  
Carney  
Cole  
Davis (AL)  
Gingrey (GA)

Sires  
Skeltton  
Slaughter  
Smith (NE)  
Smith (TX)  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Stupak  
Sullivan  
Sutton  
Tanner  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko

#### NOES—10

McClintock  
Miller, Gary  
Rohrabacher  
Royce

#### NOT VOTING—13

Smith (NJ)  
Souder  
Wamp  
Waters

#### ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
Members have 2 minutes remaining on this vote.

□ 1831

Mr. GRIFFITH changed his vote from "no" to "aye."

So the amendment was agreed to.  
The result of the vote was announced as above recorded.

Mr. GORDON of Tennessee. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GARAMENDI) having assumed the chair, Mr. DRIEHAUS, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes, had come to no resolution thereon.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Brian Pate, one of his secretaries.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings

today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later in the week.

#### LORD'S RESISTANCE ARMY DISARMAMENT AND NORTHERN UGANDA RECOVERY ACT OF 2009

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1067) to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 1067

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) For over 2 decades, the Government of Uganda engaged in an armed conflict with the Lord's Resistance Army (LRA) in northern Uganda that led to the internal displacement of more than 2,000,000 Ugandans from their homes.

(2) The members of the Lord's Resistance Army used brutal tactics in northern Uganda, including mutilating, abducting and forcing individuals into sexual servitude and forcing a large number of children and youth in Uganda, estimated by the Survey for War Affected Youth to be over 66,000, to fight as part of the rebel force.

(3) The Secretary of State has placed the Lord's Resistance Army on the Terrorist Exclusion list pursuant to section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)), and LRA leader Joseph Kony has been designated a "specially designated global terrorist" pursuant to Executive Order 13224.

(4) In late 2005, according to the United Nations Office for Coordination of Humanitarian Affairs, the Lord's Resistance Army shifted their primary base of operations from southern Sudan to northeastern Democratic Republic of Congo, and the rebels have since withdrawn from northern Uganda.

(5) Representatives of the Government of Uganda and the Lord's Resistance Army began peace negotiations in 2006, mediated by the Government of Southern Sudan in Juba, Sudan, and signed the Cessation of Hostilities Agreement on August 20, 2006, which provided for hundreds of thousands of internally displaced people to return home in safety.

(6) After nearly 2 years of negotiations, representatives from the parties reached the Final Peace Agreement in April 2008, but Joseph Kony, the leader of the Lord's Resistance Army, refused to sign the Final Peace

Agreement in May 2008 and his forces launched new attacks in northeastern Congo.

(7) According to the United Nations Office for the Coordination of Humanitarian Relief and the United Nations High Commissioner for Refugees, the new activity of the Lord's Resistance Army in northeastern Congo and southern Sudan since September 2008 has led to the abduction of at least 1,500 civilians, including hundreds of children, and the displacement of more than 540,000 people.

(8) In December 2008, the military forces of Uganda, the Democratic Republic of Congo, and southern Sudan launched a joint operation against the Lord's Resistance Army's bases in northeastern Congo, but the operation failed to apprehend Joseph Kony, and his forces retaliated with a series of new attacks and massacres in Congo and southern Sudan, killing an estimated 900 people in 2 months alone.

(9) Despite the refusal of Joseph Kony to sign the Final Peace Agreement, the Government of Uganda has committed to continue reconstruction plans for northern Uganda, and to implement those mechanisms of the Final Peace Agreement not conditional on the compliance of the Lord's Resistance Army.

(10) Since 2008, recovery efforts in northern Uganda have moved forward with the financial support of the United States and other donors, but have been hampered by a lack of strategic coordination, logistical delays, and limited leadership from the Government of Uganda.

#### SEC. 3. STATEMENT OF POLICY.

It is the policy of the United States to work with regional governments toward a comprehensive and lasting resolution to the conflict in northern Uganda and other affected areas by—

(1) providing political, economic, military, and intelligence support for viable multilateral efforts to protect civilians from the Lord's Resistance Army, to apprehend or remove Joseph Kony and his top commanders from the battlefield in the continued absence of a negotiated solution, and to disarm and demobilize the remaining Lord's Resistance Army fighters;

(2) targeting assistance to respond to the humanitarian needs of populations in northeastern Congo, southern Sudan, and Central African Republic currently affected by the activity of the Lord's Resistance Army; and

(3) further supporting and encouraging efforts of the Government of Uganda and civil society to promote comprehensive reconstruction, transitional justice, and reconciliation in northern Uganda as affirmed in the Northern Uganda Crisis Response Act of 2004 (Public Law 108-283) and subsequent resolutions, including Senate Resolution 366, 109th Congress, agreed to February 2, 2006, Senate Resolution 573, 109th Congress, agreed to September 19, 2006, Senate Concurrent Resolution 16, 110th Congress, agreed to in the Senate March 1, 2007, and House Concurrent Resolution 80, 110th Congress, agreed to in the House of Representatives June 18, 2007.

#### SEC. 4. REQUIREMENT OF A STRATEGY TO SUPPORT THE DISARMAMENT OF THE LORD'S RESISTANCE ARMY.

(a) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall develop and submit to the appropriate committees of Congress a strategy to guide future United States support across the region for viable multilateral efforts to mitigate and eliminate the threat to civilians and regional stability posed by the Lord's Resistance Army.

(b) CONTENT OF STRATEGY.—The strategy shall include the following:

(1) A plan to help strengthen efforts by the United Nations and regional governments to protect civilians from attacks by the Lord's Resistance Army while supporting the development of institutions in affected areas that can help to maintain the rule of law and prevent conflict in the long term.

(2) An assessment of viable options through which the United States, working with regional governments, could help develop and support multilateral efforts to eliminate the threat posed by the Lord's Resistance Army.

(3) An interagency framework to plan, coordinate, and review diplomatic, economic, intelligence, and military elements of United States policy across the region regarding the Lord's Resistance Army.

(4) A description of the type and form of diplomatic engagement across the region undertaken to coordinate and implement United States policy regarding the Lord's Resistance Army and to work multilaterally with regional mechanisms, including the Tripartite Plus Commission and the Great Lakes Pact.

(5) A description of how this engagement will fit within the context of broader efforts and policy objectives in the Great Lakes Region.

(c) FORM.—The strategy under this section shall be submitted in unclassified form, but may include a classified annex.

#### SEC. 5. HUMANITARIAN ASSISTANCE FOR AREAS OUTSIDE UGANDA AFFECTED BY THE LORD'S RESISTANCE ARMY.

In accordance with section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292) and section 2 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601), the President is authorized to provide additional assistance to the Democratic Republic of Congo, southern Sudan, and Central African Republic to respond to the humanitarian needs of populations directly affected by the activity of the Lord's Resistance Army.

#### SEC. 6. ASSISTANCE FOR RECOVERY AND RECONSTRUCTION IN NORTHERN UGANDA.

(a) AUTHORITY.—It is the sense of Congress that the President should support efforts by the people of northern Uganda and the Government of Uganda—

(1) to assist internally displaced people in transition and returnees to secure durable solutions by spurring economic revitalization, supporting livelihoods, helping to alleviate poverty, and advancing access to basic services at return sites, specifically clean water, health care, and schools;

(2) to enhance the accountability and administrative competency of local governance institutions and public agencies in northern Uganda with regard to budget management, provision of public goods and services, and related oversight functions;

(3) to strengthen the operational capacity of the civilian police in northern Uganda to enhance public safety, prevent crime, and deal sensitively with gender-based violence, while strengthening accountability measures to prevent corruption and abuses;

(4) to rebuild and improve the capacity of the justice system in northern Uganda, including the courts and penal systems, with particular sensitivity to the needs and rights of women and children;

(5) to establish mechanisms for the disarmament, demobilization, and reintegration of former combatants and those abducted by the LRA, including vocational education and employment opportunities, with attention given to the roles and needs of men, women and children; and

(6) to promote programs to address psychosocial trauma, particularly post-traumatic stress disorder.

(b) FUTURE YEAR FUNDING.—It is the sense of Congress that the Secretary of State and Administrator of the United States Agency for International Development should work with the appropriate committees of Congress to increase assistance in future fiscal years to support activities described in this section if the Government of Uganda demonstrates a commitment to transparent and accountable reconstruction in war-affected areas of northern Uganda, specifically by—

(1) finalizing the establishment of mechanisms within the Office of the Prime Minister to sufficiently manage and coordinate the programs under the framework of the Peace Recovery and Development Plan for Northern Uganda (PRDP);

(2) increasing oversight activities and reporting, at the local and national level in Uganda, to ensure funds under the Peace Recovery and Development Plan for Northern Uganda framework are used efficiently and with minimal waste; and

(3) committing substantial funds of its own, above and beyond standard budget allocations to local governments, to the task of implementing the Peace Recovery and Development Plan for Northern Uganda such that communities affected by the war can recover.

(c) COORDINATION WITH OTHER DONOR NATIONS.—The United States should work with other donor nations to increase contributions for recovery efforts in northern Uganda and better leverage those contributions to enhance the capacity and encourage the leadership of the Government of Uganda in promoting transparent and accountable reconstruction in northern Uganda.

(d) TERMINATION OF ASSISTANCE.—It is the sense of Congress that the Secretary of State should withhold non-humanitarian bilateral assistance to the Republic of Uganda if the Secretary determines that the Government of Uganda is not committed to reconstruction and reconciliation in the war-affected areas of northern Uganda and is not taking proactive steps to ensure this process moves forward in a transparent and accountable manner.

#### SEC. 7. ASSISTANCE FOR RECONCILIATION AND TRANSITIONAL JUSTICE IN NORTHERN UGANDA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that, despite reconstruction and development efforts, a continued failure to take meaningful steps toward national reconciliation and accountability risks perpetuating longstanding political grievances and fueling new conflicts.

(b) AUTHORITY.—In accordance with section 531 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346), the President is authorized to support efforts by the people of northern Uganda and the Government of Uganda to advance efforts to promote transitional justice and reconciliation on both local and national levels, including to encourage implementation of the mechanisms outlined in the Annexure to the Agreement on Accountability and Reconciliation between the Government of Uganda and the Lord's Resistance Army/Movement, signed at Juba February 19, 2008, namely—

(1) a body to investigate the history of the conflict, inquire into human rights violations committed during the conflict by all sides, promote truth-telling in communities, and encourage the preservation of the memory of events and victims of the conflict through memorials, archives, commemorations, and other forms of preservation;

(2) a special division of the High Court of Uganda to try individuals alleged to have committed serious crimes during the conflict, and a special unit to carry out investigations and prosecutions in support of trials;

(3) a system for making reparations to victims of the conflict; and

(4) a review and strategy for supporting transitional justice mechanisms in affected areas to promote reconciliation and encourage individuals to take personal responsibility for their conduct during the war.

#### SEC. 8. REPORT.

(a) **REPORT REQUIRED.**—Not later than 1 year after the submission of the strategy required under section 4, the Secretary of State shall prepare and submit to the appropriate committees of Congress a report on the progress made toward the implementation of the strategy required under section 4 and a description and evaluation of the assistance provided under this Act toward the policy objectives described in section 3.

(b) **CONTENTS.**—The report required under section (a) shall include—

(1) a description and evaluation of actions taken toward the implementation of the strategy required under section 4;

(2) a description of assistance provided under sections 5, 6, and 7;

(3) an evaluation of bilateral assistance provided to the Republic of Uganda and associated programs in light of stated policy objectives;

(4) a description of the status of the Peace Recovery and Development Plan for Northern Uganda and the progress of the Government of Uganda in fulfilling the steps outlined in section 6(b); and

(5) a description of amounts of assistance committed, and amounts provided, to northern Uganda during the reporting period by the Government of Uganda and each donor country.

(c) **FORM.**—The report under this section shall be submitted in unclassified form, but may include a classified annex.

#### SEC. 9. SENSE OF CONGRESS ON FUNDING.

It is the sense of Congress that—

(1) of the total amounts to be appropriated for fiscal year 2011 for the Department of State and foreign operations, up to \$10,000,000 should be used to carry out activities under section 5; and

(2) of the total amounts to be appropriated for fiscal year 2011 through 2013 for the Department of State and foreign operations, up to \$10,000,000 in each such fiscal year should be used to carry out activities under section 7.

#### SEC. 10. DEFINITIONS.

In this Act:

(1) **APPROPRIATE COMMITTEES OF CONGRESS.**—The term “appropriate committees of Congress” means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives.

(2) **GREAT LAKES REGION.**—The term “Great Lakes Region” means the region comprising Burundi, Democratic Republic of Congo, Rwanda, southern Sudan, and Uganda.

(3) **LRA-AFFECTED AREAS.**—The term “LRA-affected areas” means those portions of northern Uganda, southern Sudan, northeastern Democratic Republic of Congo, and southeastern Central African Republic determined by the Secretary of State to be affected by the Lord’s Resistance Army as of the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. ENGEL) and the gentleman from Florida (Ms. ROS-LEHTINEN) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. ENGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ENGEL. Mr. Speaker, I rise in strong support of the bill and yield myself such time as I may consume.

Mr. Speaker, the Senate bill under consideration today is a companion to H.R. 2478, legislation authored by the gentleman from Massachusetts (Mr. MCGOVERN). I want to thank my good friend and colleague, Mr. MCGOVERN, for championing the cause of the people of northern Uganda who have been victimized for over two decades by the Lord’s Resistance Army, a group designated as a terrorist organization by the Secretary of State.

Mr. Speaker, it is almost impossible to describe the horrors that the Lord’s Resistance Army, also known as the LRA, has perpetrated on the people of northern Uganda and, more recently, in several neighboring countries.

Joseph Kony, the LRA leader, has led a militia group responsible for the slaughter of thousands of people and the displacement of over 2 million others since it was formed in 1986.

The LRA is most notorious for abducting young children, an estimated 30,000, over the past two decades, and forcing them into armed service and sexual servitude. While claiming to represent the legitimate grievances of the Ochoi people of northern Uganda, Kony has exploited those grievances to justify what only can be described as madness in his pursuit of power.

The Ugandan war is now the longest running war in Africa, longer than the conflict in Sudan. During the course of this war, the LRA has been responsible for widespread human rights violations, including murder, abduction, mutilation, sexual enslavement of women and children, and forcing children to participate in killing of Ugandans, often family members and neighbors.

The LRA shows no mercy for the young. Boys are kidnapped and turned into soldiers. Girls are kidnapped and used as sex slaves. And to terrorize communities, the LRA often amputates limbs and disfigures bodies as so-called lessons learned for those willing to resist.

The Ugandan government and the LRA began peace negotiations in 2006,

and signed an agreement in August of that year which provided for hundreds of thousands of internally displaced people to return home in safety. A final peace agreement was reached in 2008, but Kony refused to sign, and the LRA subsequently launched new attacks on civilians in eastern Congo.

Despite the LRA leader’s refusal to sign the agreement, the Ugandan government has made a commitment to carry out reconstruction plans for northern Uganda, and to implement those mechanisms of the final peace agreement not conditioned on the compliance of the LRA.

Mr. Speaker, the United States Government is a friend to the people of northern Uganda, and it is in our interest to help rid Uganda and central Africa of the LRA. This bill authorizes the President to provide additional assistance to respond to the humanitarian needs of populations in the Democratic Republic of Congo, southern Sudan, and Central African Republic affected by LRA activity.

It further authorizes the President to support efforts by the people of northern Uganda and the government of Uganda to promote transitional justice and reconciliation on both local and national levels.

Mr. Speaker, it is important that we pass this legislation today to draw attention to the LRA’s reign of terror and to demonstrate our support for the people of Uganda. Mr. Speaker, I urge all of my colleagues to support this bill.

I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

I strongly support the policy objectives of Senate Bill 1067, the Lord’s Resistance Army Disarmament and Northern Uganda Recovery Act.

For nearly 27 years, the Lord’s Resistance Army, LRA, has been terrorizing civilians, leaving a trail of death and despondency in its wake. The LRA’s leader is a soulless mass murderer who has perpetrated some of the most deplorable human rights atrocities known to man.

The LRA is a predatory guerrilla force. They mutilate, torture, rape, and murder with impunity. They have abducted tens of thousands of civilians, mostly children, to serve as soldiers or sex slaves. Abducted children are forced to the front lines. And those who manage to escape find it difficult, if not impossible, to return home after being forced to commit atrocities in front of their very own families.

While the LRA has withdrawn from northern Uganda and security conditions there have improved, it continues to wreak havoc on neighboring southern Sudan, the Democratic Republic of the Congo, and the Central African Republic.

Recent reports indicate that, rather than being weakened, the LRA today is



stronger and strategically more sophisticated than it was just last year. The bill before us seeks to change that.

It requires the President to develop a comprehensive strategy to deal with the LRA. It offers political, economic, military, and intelligence support for viable multilateral efforts to protect civilians, to apprehend or eliminate top LRA commanders, and disarm and demobilize the remaining LRA fighters.

It then expresses the sense of Congress that the United States should support humanitarian efforts in LRA-affected areas, as well as programs to advance transitional justice in northern Uganda.

I appreciate the chairman's efforts to ensure that this language does not represent an earmark in funding which would conflict with Republican Members' commitment to the American taxpayer to exercise fiscal restraint and discipline.

I also appreciate that the bill conditions future assistance to the government of Uganda upon transparency and a substantial commitment of Uganda's own resources to support reconstruction efforts in the North.

Mr. Speaker, the U.N. Office for Humanitarian Affairs has said that this conflict is "characterized by a level of cruelty seldom seen, and few conflicts rival it for its sheer brutality."

Even so, it remains one of the most overlooked humanitarian and human rights crises in the world today. The fact that we are even debating this topic today is largely due to the tireless efforts of young advocates throughout the United States, including in my own congressional district, who have passionately taken up the cause of those whose lives have been destroyed by the LRA. I urge my colleagues to join them in supporting the objectives of this important bill.

I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, it is now my pleasure to yield 4 minutes to the gentleman from Massachusetts, the vice chairman of the Rules Committee, Mr. MCGOVERN.

Mr. MCGOVERN. I thank the gentleman from New York for yielding me the time.

Mr. Speaker, this is a very important day for U.S. policy in Africa. Just about 1 year ago, on May 19, my friend and colleague from California and the champion of human rights, Congressman ED ROYCE, and I introduced H.R. 2478, the Lord's Resistance Army Disarmament and Northern Recovery Act. In the Senate, Senators RUSS FEINGOLD and SAM BROWNBACK sponsored the same bill, S. 1067, which is the bill before us for consideration today. Today, H.R. 2478 has 200 bipartisan cosponsors.

When the House passes S. 1067 today, it will be sent directly to the President's desk for his signature, and for the first time the U.S. will be required

to design and implement a comprehensive strategy with our multilateral and regional partners to address the violence of the LRA; protect the victims of LRA violence in Uganda, the Democratic Republic of Congo, southern Sudan, and the Central African Republic; strengthen state presence and capacity in these regions to the benefit of the vulnerable civilian populations; and advance the recovery of northern Uganda from decades of violence.

Mr. Speaker, a great deal has happened across the country to ensure that this bill is before the House Chamber today in scarcely 1 year. I want to especially recognize and thank the national networks, organizations, and grassroots activists of Invisible Children, Resolve Uganda, the ENOUGH! Project, and many other religious and human rights groups who have rallied in support of the people and especially the children of this region of Africa.

These Americans, thousands of them high school and college students, understood that the children and people of northern Uganda, the DRC, the southern Sudan, and the CAR have no voice in Washington.

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So they were determined to become their voice. They realized that these African children and families were invisible to Washington policymakers. So they decided to make them visible. They realized there is too much suffering, too much pain, too much destruction, too much killing in this region of Africa, so many thousands of miles away, and that there was just too much silence here in Washington. So they built a grassroots national movement of hope for peace, for justice, for reconciliation, for reconstruction, for the recovery of the human spirit. They believe that the people of northern Uganda, the children of Uganda, the DRC, Southern Sudan, and the CAR, have a right to protection and to have a voice in their own destiny.

So today is a good day, a very good day, Mr. Speaker, because today these hundreds of thousands of voices have brought this bill to the House floor today for final passage. The unresolved crisis with the Lord's Resistance Army is one of Africa's longest running and most gruesome militia-driven conflicts. It has morphed into a sadistic force, wreaking terror on the local populations, filling its ranks with abducted child soldiers and slaves.

Now, at this critical juncture in the conflict's history and when the terror once focused in northern Uganda is spreading throughout the region and surrounding countries, we must ensure that the United States commits to a proactive strategy to help see this conflict to its end, protect vulnerable populations, and support and strengthen recovery efforts in northern Uganda and the region.

I thank the many Americans, especially the young people, who have supported this bill. I urge my colleagues to vote in support of final passage of S. 1067. I thank the gentleman from New York, again, for his leadership.

HUMAN RIGHTS, HUMANITARIAN, AND FAITH-BASED GROUPS BACK LANDMARK U.S. LEGISLATION TO HELP PROTECT CIVILIANS FROM THE LORD'S RESISTANCE ARMY

WASHINGTON, DC, 21 MAY 2009.—THE INTRODUCTION OF LEGISLATION IN THE U.S. SENATE AND HOUSE OF REPRESENTATIVES EARLIER THIS WEEK TO COMMIT THE UNITED STATES TO COMPREHENSIVE EFFORTS TO HELP CIVILIANS THREATENED BY ONE OF THE WORLD'S LONGEST-RUNNING AND BRUTAL INSURGENCIES IS A CRUCIAL STEP FORWARD FOR U.S. POLICY IN THE REGION, A COALITION OF TWENTY-TWO HUMAN RIGHTS, HUMANITARIAN, AND FAITH-BASED GROUPS SAID TODAY.

If passed, the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act would require the Obama Administration to develop a regional strategy to protect civilians in central Africa from attacks by the rebel Lord's Resistance Army (LRA) and enforce the rule of law and ensure full humanitarian access in LRA-affected areas. The Act additionally commits the United States to increase support to economic recovery and transitional justice efforts in Uganda. The coalition of supporting organizations includes groups in Democratic Republic of Congo, Sudan, and Uganda, where communities are currently threatened by the LRA.

"We continue to live in fear of LRA attacks and of our children being abducted," said Father Benoit Kinalagu of the Dungu/Doruma Justice and Peace Commission in DR Congo. "We are praying for help and protection and hope U.S. lawmakers will hear our cries."

Senators Russ Feingold (D-WI) and Sam Brownback (R-KS) and Representatives Jim McGovern (D-MA), Brad Miller (D-NC), and Ed Royce (R-CA) introduced the bill. It affirms the need for U.S. leadership to help bring an end to atrocities by the Lord's Resistance Army and to advance long-term recovery in the region.

"The LRA has long posed a terrible threat to civilians," said Georgette Gagnon, Africa Director at Human Rights Watch. "This bill will help the U.S. government support for comprehensive multilateral efforts to protect civilians in LRA-affected areas and to apprehend or otherwise remove the group's leader, Joseph Kony, and his top commanders from the battlefield."

For more than twenty years, northern Ugandans were caught in a war between the Ugandan military and the rebel group. The violence killed thousands of civilians and displaced nearly two million people. Kony and his top commanders sustain their ranks by abducting civilians, including children, to use as soldiers and sexual slaves. Though the rebel group ended attacks in northern Uganda in 2006, it moved its bases to the northeastern Democratic Republic of Congo and has committed acts of violence against civilians in Congo, Sudan, and the Central African Republic. In December 2008, Sudan, Uganda and Congo began a joint military offensive, "Operation Lightning Thunder," against the rebel group, with backing from the United States. As a result, the Lord's Resistance Army has dispersed into multiple smaller groups and has brutally murdered more than 1,000 civilians and abducted over 400 people, mostly children.

"Given the catalytic involvement of the U.S. military in Operation Lightning Thunder—and the horrific aftermath of this operation—the U.S. government now has a responsibility to help end the threat posed by Joseph Kony once and for all," said John Prendergast, Co-Founder of the Enough Project. "One man should not be allowed to terrorize millions of people in four Central African countries. The bill is a crucial first step in galvanizing immediate and effective U.S. action."

The legislation also aims to help secure a lasting peace in Uganda by supporting measures to assist war-affected communities in northern Uganda and to help resolve longstanding divisions between communities in Uganda's north and south. It authorizes increased funding for recovery efforts in northern Uganda, with a particular focus on supporting transitional justice and reconciliation. It also calls on the Ugandan government to reinvigorate its commitment to a transparent and accountable reconstruction process in war-affected areas.

"Smart investment in long-term recovery is essential if the people of northern Uganda are to live with peace and dignity," said Annalise Romoser, Lutheran World Relief Associate Director for Advocacy. "Transitional justice initiatives and the development of basic infrastructure such as food and water systems are crucial elements to lasting peace and reconciliation in Uganda. Such investment from the United States will support the inspiring efforts of northern Ugandans to return home and rebuild after decades of war and displacement."

With questions, please contact:

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Supporting organizations include:

Human Rights Watch, Enough Project, Resolve Uganda, International Rescue Committee, Invisible Children, Refugees International, AVSI, Global Action for Children, Lutheran World Relief, United States Fund for UNICEF, Women's Refugee Commission.

Evangelical Lutheran Church in America, Genocide Intervention Network, Refugee Law Project, Uganda, Gulu NGO Forum, Uganda, Dunga/Doruma Justice and Peace Commission, Democratic Republic of Congo Azande Community World-wide Organisation, UK-South Sudan, Mbomu Charitable Organization, Sudan; Ibba Charitable Organization, South Sudan, Azande Women Organization, South Sudan, Hope Sudan Organization, South Sudan, Eso Development Organization, South Sudan.

Added after 21 May 2009: Nabanga Development Agency, South Sudan, Comboni Missionary Sisters, South Sudan.

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to yield 4 minutes to the ranking member on the Foreign Affairs Subcommittee on Africa and Global Health, the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. I thank my good friend for yielding.

Mr. Speaker, I rise in support of the condemnation of the Lord's Resistance Army expressed in S. 1067 and the bill's goal of supporting civilian protection and development in northern Uganda. Four years ago, I chaired a hearing of the Africa, Global Human Rights and

International Operations Subcommittee on: The Endangered Children of Northern Uganda. A courageous young woman named Grace Akallo testified about her abduction at the age of 15, together with 138 classmates at a boarding school, by the LRA. They and approximately 30,000 other children have endured horrifying atrocities as child soldiers and sex slaves. Ms. Akallo eventually escaped, and her remarkable story was recounted in a book entitled, "Girl Soldier: A Story of Hope for Northern Uganda's Children," that she coauthored with human rights activist Faith McDonnell. I highly recommend the book to my colleagues and anyone who wants to learn more about these incredible human rights violations and how we can all work together to address and to stop them.

Ms. Akallo stated back in 2006 that, unfortunately, her story was not uncommon. And I sadly add that, unfortunately, it is still not uncommon. Joseph Kony continues to lead the LRA in the commission of outrageous abuses and atrocities, including the abduction, rape, and killing of innocent civilians, not only in northern Uganda, but also in the Democratic Republic of the Congo, the Central African Republic, and Southern Sudan. Although Kony has been indicted by the International Criminal Court for these and other crimes against humanity, he and his cohorts have yet to be brought to justice.

Mr. Speaker, we must do everything possible to stop the widespread suffering that he is inflicting and to help those who have survived these atrocities to recover. In her testimony, Ms. Akallo specifically asked for more resources to help people suffering because of this conflict, emphasizing that "it will be important for the Government of Uganda and the international community to provide returnees with adequate resettlement assistance and support in restoring and developing community infrastructure so that people can begin to rebuild their lives." She went on to say, "I ask for your help and the help of others to take action to end this war so that my sisters and brothers and all children of northern Uganda can sleep in peace." Mr. Speaker, I ask that all of my colleagues respond to Ms. Akallo's heartfelt request, and I do hope that this bill will pass.

Finally, I would like to engage my good friend and colleague, the gentleman from New York (Mr. ENGEL) in a very short colloquy.

I would like a clarification that neither the term "reproductive health" as it appears in the Peace Recovery and Development Plan for Northern Uganda, referenced in sections 6(b) and 8(b) of S. 1067, nor the term "sexual reproductive health and rights" in the Uganda Ministry of Health's Sector Strategic Plan II referenced in the Peace

Recovery and Development Plan for Northern Uganda, nor any other references in this Act, include access to abortion for purposes of S. 1067.

I yield to my friend.

Mr. ENGEL. The gentleman from New Jersey is correct.

Mr. SMITH of New Jersey. I appreciate that.

Mr. ENGEL. Mr. Speaker, I now yield 2 minutes to a member of the Foreign Affairs Committee, the gentleman from North Carolina (Mr. MILLER).

Mr. MILLER of North Carolina. Mr. Speaker, I also rise in support of the LRA Disarmament and Northern Uganda Recovery Act of 2009. As other Members have already said, for more than 20 years, the LRA has terrorized the Great Lakes region of Africa and continues to commit atrocities and abduct children across areas of northern Uganda, South Sudan, Democratic Republic of Congo, and Central African Republic, often targeting schools and churches. If the LRA ever sought to right some supposed wrong, if there was ever a grievance or cause that motivated the LRA, that has all long since been forgotten. The LRA's atrocities are barbarism for barbarism's own sake.

The United Nations estimates that 90 percent of the LRA's combatants are abducted children, often as young as 10. When the horrific conflict finally ends, those children must somehow return to civilized society after learning as children to kill innocent human beings without hesitation or remorse. Since the brutal Christmas Day massacres of 2008 in the Congo, the LRA has killed more than 1,000 people, abducted almost 2,000 others, and forced more than 300,000 others to flee their homes in vulnerable areas.

The LRA Disarmament and Northern Uganda Recovery Act would support multilateral efforts to bring stability and peace to northern Uganda and to protect civilians from the Lord's Resistance Army. This legislation authorizes humanitarian funding for communities across central Africa victimized by the LRA and assistance to help with recovery and reconciliation efforts in northern Uganda. This bill will help end permanently the LRA's campaign of brutality and terror and help families rebuild their lives.

Please join me in supporting this legislation.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 4 minutes to the ranking member of the Foreign Affairs Subcommittee on Terrorism, Nonproliferation, and Trade, the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Speaker, I rise in support of this legislation to end the atrocities of Joseph Kony's Lord's Resistance Army, and I am an original cosponsor of the House version of this legislation. From my view, with the passage of this bill, which now goes to the President's desk, we now are in a

situation where I think Kony's removal won't guarantee peace, but it certainly will make it possible in the region. I would also just add that the fact that this legislation has made it this far is really a tribute to a group of young people, young professionals who have come up here on their own time and gone to the universities around this country to organize in order to make people aware of the plight of these children in Africa. I really thank them for that work.

Mr. Speaker, Joseph Kony is perhaps the most wanted man in Africa. He is an indicted war criminal. He is a designated terrorist. Many Americans don't know his name but the children of Uganda and Central East Africa certainly do. He is a very sadistic figure. He has a charismatic appeal to some. He heads a group called the Lord's Resistance Army, and under his two decades of tyrannical leadership that group has conscripted some 30,000 children into this killing squad. I can tell you as the former chairman of the Africa Subcommittee, if you talk to parents in Uganda or the Congo or South Sudan or the Central African Republic, the fear they have is the fear inspired by what he has been able to do.

Human rights groups report that this LRA remains powerful. It has still the ability to kill and to capture children. It may be even accelerating its program of fear and mind control over children. I'm reminded of the words of a recent researcher who interviewed a boy who escaped from the group. He reported that he was forced to kill eight other children who disobeyed Kony's rules in a 5-week time span. Those victims were surrounded in a circle. Children were forced to take turns bashing them with a bat in a "collective kill." That's eight times in 5 weeks.

The LRA's objective remains the same as it's been for a couple generations now: kill, capture, and resupply for its next pillage. There is no other reason for its being. Most experts agree that the removal of Kony and his top leadership would decapitate this group. Kony has long fought the government of Uganda. He has had the support of the Islamist government in Sudan for that war, which wanted to hit back at Uganda's leader for his support of Christians and animists in southern Sudan. Former LRA commanders report that Khartoum, Sudan, has provided "ammunition" and provides "intelligence training" for Kony's group. More recently, there have been credible reports of the LRA gaining sanctuary in Darfur. A referendum on Southern Sudan is looming next year. Unless the LRA is permanently dealt with now, you can bet that Khartoum will put this killing squad back to use again next year in Southern Sudan.

Mr. Speaker, this civil war, originally contained within Uganda's borders, is now a regional crisis in four

countries. This bipartisan legislation aims to spur the administration into devising a strategy to remove Joseph Kony and remove his top commanders from the battlefield. Some targeted assistance from the U.S. could make a world of difference.

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to yield 1 additional minute to the gentleman from California.

Mr. ROYCE. I thank the gentlelady.

The world's problems can seem overwhelming at times. It is fashionable to blame conflict in Africa on poverty and other environmental factors. But sometimes just getting rid of one person does make a big difference. History is full of captivating leaders with bad ideas who do great damage. It's a lesson I learned as chairman of the Africa Subcommittee, when Liberian president Charles Taylor ran a gangster regime in West Africa that brought havoc to neighboring Sierra Leone, where he pioneered this idea of using child soldiers and using amputations and using the techniques that Joseph Kony does now. After the hard-fought removal of Charles Taylor, and after his imprisonment, that region is peaceful.

Mr. Speaker, it isn't an exaggeration to say that the fate of hundreds of thousands of people—certainly of 30,000 children—rests in the hands of a few men. Kony's removal won't guarantee peace, but it will make it possible.

I urge the passage of this legislation.

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Mr. ENGEL. Mr. Speaker, I now yield 2 minutes to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, one of the reasons that we have this worthy legislation before us—and it certainly is that—is due to a group of young people who have dedicated their voices and energy to getting the heart-wrenching situation in Uganda the attention it demands. The Invisible Children Organization, which has its headquarters in my district, has brought the awful acts of the Lord's Resistance Army to light.

The group has galvanized an entire generation of young people here to care about children halfway around the world. Their activism has painted for many people in our country the grim, intense reality that is faced by so many Ugandans, especially the children abducted by the LRA and forced to become child soldiers. The volunteers have traveled to our cities, our schools, our businesses, probably even to many of our offices here in Washington to show their films and speak out against Joseph Kony and his army's brutality.

These young members of the Invisible Children Organization know that no child should live in fear of being ab-

ducted, mutilated or killed. With that belief, they have helped make the children of Uganda visible to us. And now with this legislation, we have the chance to truly join in this cause. This bill will require the President to devise an interagency strategy to address this crisis and heighten our country's level of support for stopping the LRA.

Last August, I had the privilege of speaking with members of the Invisible Children Organization who had come to San Diego for their training as what they called them, "roadies." I cannot do justice to their passion, their commitment, and their dedication to do what is right. Their energy absolutely ignites the room. Mr. Speaker, we cannot let them down, and more importantly, we cannot let down the suffering children this legislation will help.

Mr. MORAN of Virginia. Mr. Speaker, I rise in support of H.R. 2478—the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009. This legislation calls for the end of the reign of terror perpetrated by Joseph Kony and the Lord's Resistance Army (LRA), and beginning the work of reconstruction and reconciliation efforts across northern Uganda, the Democratic Republic of the Congo, South Sudan, and Central African Republic.

This predatory rebel group has been allowed to roam unchecked across Central Africa for nearly a quarter century, leaving behind a wake of communities ravaged by their senseless violence and barbaric means of recruitment. Since 1986, the LRA has abducted tens of thousands of children to be used as soldiers or sex slaves in one of the worst and most neglected humanitarian crises on the planet.

On December 14, 2009, the LRA initiated a series of attacks in the Makombo region of the Democratic Republic of the Congo, where over the course of 4 days, the LRA massacred at least 10 villages, killing over 321 civilians and abducting over 250 civilians—80 of whom were children. In a continuation of the LRA's 24-year history of brutal, unchecked violence, the terrorist rebel group forced children to kill other children, raped girls as young as 11 years old, and gave a warning of silence to the local population by cutting off a number of villagers' ears and lips. Out of the over 321 civilians whose lives were lost, only two died from gunshot wounds, as LRA combatants are known to conserve ammunition by killing with clubs and machetes. Despite the horrific nature of the attack and the sheer number of casualties, the outside world did not receive word of the massacre before Human Rights Watch released their report almost three months later.

But ultimately there is hope in seeing an end to this crisis. For more than a year, American youth across the country have called for U.S. leadership in ending the conflict; Congress has listened, and in turn, taken concrete action in seeing an end to this war. The LRA Disarmament and Northern Uganda Recovery Act stands today as the most cosponsored piece of legislation on an Africa-related policy issue in modern congressional history; 65

Senators and 197 of my colleagues in the House of Representatives have put their names on this crucial human rights legislation.

This legislation requires that the administration deliver a strategy to Congress within 180 days of the enactment of this legislation that outlines a multilateral, interagency plan for the apprehension of top LRA commanders and protection of civilians in LRA affected areas. This budget neutral bill also sets a priority within existing State Department funding for transitional justice mechanisms in northern Uganda, disarmament, demobilization, and reintegration of former child soldiers, and immediate emergency humanitarian relief to communities devastated by the LRA in the Democratic Republic of the Congo, the Central African Republic, and Southern Sudan.

Most importantly, this bill gives a mandate to the President from Congress and the American people in taking proactive steps to bring an end to the violence of the LRA and restoring peace and stability to Central Africa. By the end of the year, I and my colleagues will look forward to seeing a robust strategy submitted from President Obama and Secretary of State Hillary Clinton, and we will continue tirelessly fighting for its successful implementation. I ask of my colleagues to support this bill.

Mr. MORAN of Kansas. Mr. Speaker, as I travel across Kansas, I frequently visit classrooms to speak with high school and college students about the importance of civic engagement and to let young people know that their thoughts and opinions matter.

Today, the House of Representatives is considering legislation that in many ways is the result of civic engagement among young people, including hundreds of Kansans. We have before us S. 1067, the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act. It is important legislation that requires the President to create a strategy to deal with the 24-year-old conflict in central Africa that has killed thousands and disrupted the lives of an entire generation.

Many young Kansans have passionately advocated for vulnerable children and defenseless communities in Africa. They have participated in events like the Rescue and met with government officials. They have signed petitions, written letters to the editor, and educated others about the terrible violence committed by the LRA. They have done all of this and more knowing that they will not benefit in any material way—they have done it simply because it is the right thing to do.

The hundreds of thousands of young Americans that have advocated for this cause demonstrate to their peers and those younger than them that the voices of young people matter, that young people can make a difference.

I commend the concerned young people in Kansas and across the country for their hard work and dedication. You have reason to be proud today that your efforts are paying off.

As a sponsor of the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act, I encourage my colleagues to vote for this important bill. Let's do the right thing and bring an end to the LRA violence in central Africa.

Ms. HIRONO. I rise in support of S. 1067, the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act.

As a cosponsor of the House version of this legislation, I am grateful that the Senate

passed S. 1067 by unanimous consent in March and that the House leadership has given this body the opportunity to vote on it today. I would also like to recognize the thousands of activists across the country, including students at Kalani High School and those affiliated with Invisible Children (Project Hope) in Hawaii, who have spoken out passionately about the need to act on this issue.

This bill provides a critically needed mandate for the United States to develop a comprehensive regional strategy that targets the LRA threat. For too long, the LRA has committed unspeakable atrocities throughout Uganda, including murder, mutilation, and the sexual enslavement of women and children. In addition to displacing an estimated two million Ugandans, the LRA has abducted about 66,000 children, forcing them to fight and commit human rights violations on behalf of this terrorist group. The violence has since spread beyond Uganda's borders to parts of Sudan, Central African Republic, and the Democratic Republic of Congo, resulting in increased instability throughout the region.

S. 1067 requires a plan to strengthen efforts by the United Nations and regional governments to protect civilians from attacks, support the rule of law, and prevent conflict over the long term. S. 1067 also calls for the United States to develop an interagency strategy and an assessment of options to lead in multilateral efforts to eliminate the threat posed by the LRA, protect children and families from further attacks, enhance efforts to help LRA abductees return home safely, and bring those wanted for war crimes and crimes against humanity to justice.

Enactment of this legislation will give us the tools necessary to respond to the humanitarian needs of those affected by this crisis and begin to support reconciliation efforts in Uganda. I urge my colleagues to vote in support of S. 1067.

Mr. WAMP. Mr. Speaker, the Lord's Resistance Army (LRA) has devastated communities in northern Uganda for more than 20 years and is now killing and abducting men, women, and children across areas of southern Sudan, Democratic Republic Congo, and Central African Republic. Following the brutal massacre of more than 800 Congolese villagers attending holiday worship celebrations on Christmas Day 2008, the rebel group led by Joseph Kony continued its rampage throughout the region. Under his leadership, the LRA went on to kill more than 1,000 people, abduct nearly 2,000 others and force more than 300,000 villagers to flee their homes during the weeks surrounding the Christmas holiday. In another horrific massacre just months ago, the LRA killed 321 people and abducted 250 more, many of whom were children. This particular rebel army's violence far outpaces other violent conflicts in the region, yet it tragically gets little attention.

Thousands of Americans, especially our nation's youth, have recognized the urgency of this conflict. In my hometown of Chattanooga, I participated in an event last year called the Rescue, organized by college students as part of a national movement to raise awareness for the Invisible Children organization. I rescued a group that "abducted" themselves for a night and stayed at Coolidge Park symbolizing the

thousands of Ugandan children that have been kidnapped and forced to become LRA soldiers. At that Rescue, I committed to doing what I could to help their cause. Several months later, I met with three students from The University of the South in Sewanee, Tenn., who walked 800 miles from their college campus to Washington, D.C., as a symbolic journey similar to the "night commute" that children in Uganda make into the cities to hide in schools, churches or hospitals in groups to be less susceptible to kidnappers from the LRA, then return home during the day.

Today, I remain committed to bringing awareness to these atrocities as a cosponsor of the LRA Disarmament & Northern Uganda Recovery Act. The tremendous public and Congressional support behind this legislation calls on the Obama Administration to take robust steps to lead multilateral efforts to permanently stop the rebel group's brutal violence, protect these innocent children and families from LRA attacks and help rebuild the lives of those affected. I urge the President to devise an interagency strategy to address this crisis which has gone on far too long. Alongside my colleagues who support this legislation and the hundreds of thousands of Americans who have advocated for its passage, I look forward to seeing decisive action by President Obama and U.S. Department of State Secretary Hillary Clinton to bring about the U.S. leadership needed to see an end to this urgent and intolerable humanitarian tragedy.

Mr. BACA. Mr. Speaker, I rise to support the passage of the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act.

Since 1987, The Lord's Resistance Army has conducted mass killings, mutilation, and forced recruitment of children. It has terrorized the citizens and families of Uganda, South Sudan, the Democratic Republic of Congo, and the Central African Republic.

This legislation calls for serious action to protect and heal victims of Joseph Kony's LRA—Lord's Resistance Army.

For more than two decades over 20,000 boys and girls have been abducted and over 1.5 million people have been displaced.

Survivors of these horrors are haunted by medical, psychological and social consequences. We must help the abducted return home, where they can receive treatment.

This tremendous humanitarian crisis involving young boys as child soldiers and girls as reward for combatants has almost completely destroyed a generation, in a post holocaust era, when we warn "never again."

This legislation calls for the capture of LRA leader Joseph Kony to be tried for crimes against humanity. It is imperative he is removed from society to pave the way for reintegration and reconciliation.

The United States and the appropriate agencies must assist in ending LRA violence and help the people of this region rebuild their lives.

Mr. VAN HOLLEN. Mr. Speaker, as a cosponsor of the House version of this resolution, I stand in strong support of S. 1067. This measure expresses the frustration of many members of Congress who feel that efforts to disarm the Lord's Resistance Army and to bring its members to justice are progressing too slowly.

The LRA is currently branded a terrorist organization by the U.S. government for perpetrating two decades of violence in Uganda, Sudan, Central African Republic and the Democratic Republic of Congo. Led by Joseph Kony, who proclaims himself the “spokesperson” of God and a spirit medium, the LRA is responsible for the deaths of thousands of people in northern Uganda and Congo and the displacement of 2,000,000 more.

This resolution requires the president to develop a comprehensive strategy to guide future U.S. support across the region to mitigate and eliminate the threat posed by the LRA. It requires that the strategy include a plan to bolster the efforts of the United Nations and regional governments with the goal of protecting civilians and strengthening regional institutions. Additionally, the resolution recommends that an interagency framework be developed to plan, coordinate and review the diplomatic, economic, intelligence and military elements of U.S. policy across the region. Finally, the measure expresses the sense of Congress that \$10 million should be provided in FY 2011 for assistance to the Democratic Republic of Congo, southern Sudan, and Central African Republic to help them respond to the humanitarian needs of populations directly affected by the activity of the Lord’s Resistance Army.

For 20 years, the LRA has led a bloody campaign of murder, abduction, sexual enslavement and mutilation across central Africa. I ask my colleagues to join me in helping to establish a stable and lasting peace in northern Uganda and other areas affected by the LRA.

Mr. MCNERNEY. Mr. Speaker, I rise today in support of S. 1067, the Lord’s Resistance Army Disarmament and Recovery Act, which recently passed the Senate and is under consideration today by the House of Representatives. The Lord’s Resistance Army (LRA) formed in Uganda has committed countless atrocities. The LRA is responsible for the abduction of thousands of children from southern Sudan, the Democratic Republic of Congo, and the Central African Republic. These children have been forced to become soldiers of the LRA, and more than a thousand have died. Hundreds of thousands of people have been displaced because of the LRA’s actions.

The LRA Leader, Joseph Kony, is wanted for war crimes and crimes against humanity. Leaders who commit war crimes and other atrocities can not be allowed to stay in power and obstruct the peace process that is necessary for the Ugandan people to live without the threat of abduction, violence, or death. That is why I am a cosponsor of H.R. 2478, the House companion to S. 1067, which calls upon President Obama to devise a strategy that will remove Mr. Kony from power and allow Ugandans to rebuild their lives. The U.S. should show leadership by working with international partners to bring stability to Uganda and surrounding areas. We must work to end this reign of violence in Uganda, which is why I encourage my colleagues to support S. 1067.

Mr. REICHERT. Mr. Speaker, I rise today in recognition of H.R. 2478, the Lord’s Resistance Army Disarmament and Northern Uganda Recovery Act of 2009. The legislation has the kind of broad support necessary for unani-

mous passage and I urge my colleagues to support this legislation.

I signed on as a co-sponsor to H.R. 2478 in November of last year. I am pleased to see that since that time, many of my colleagues have joined me in supporting this critical legislation. Unfortunately, the LRA’s pattern of violence and intimidation in Uganda has shown no signs of slowing down. Joseph Kony, the LRA’s leader, is overseeing atrocities and abductions in South Sudan, the Congo, and Central African Republic. Schools, churches, and community gathering places are often targeted by the LRA. Kony and two of his commanders are wanted by the International Criminal Court. The brutal and despicable nature of the LRA’s crimes is unprecedented. We must act and we must act now.

H.R. 2478 would be a crucial step in ending the LRA’s reign of terror and provide assistance to the victims of the violence in rebuilding their lives. The legislation is of paramount importance and I hope my colleagues join me and provide the leadership necessary to show our disapproval of Joseph Kony and the LRA.

I learned about this legislation when four young people came into my district office last year to urge me to support H.R. 2478. I was—and still am—incredibly impressed with their passion and knowledge. I have no doubt those young individuals will soon lead our nation forward; in fact, they already are. I hope this House will support their passion and knowledge and pass H.R. 2478.

Mr. BLUMENAUER. Mr. Speaker, the decades-long, unresolved crisis caused by the Lord’s Resistance Army, LRA, is one of Africa’s longest running and most gruesome rebel wars. For over 20 years, Uganda, a country slightly smaller than Oregon, and its neighbors have suffered from brutal massacres and torture instigated by the LRA. Originally based in northern Uganda, the LRA have infiltrated northeastern Congo, southern Sudan, and the Central African Republic. The humanitarian crisis has resulted in the torture, rape, and death of thousands of civilians and the displacement of over 1.5 million people. Over the past decade, the LRA has abducted over 20,000 children for forced conscription and sexual exploitation. In northern Uganda, children living outside protected camps often leave their homes at night to sleep in hospitals or churches for fear of attack.

The ongoing crisis in Central Africa instigated by the LRA demands more attention, more support, and a more effective plan of action. A fellow Oregonian and constituent of mine, Lisa Shannon, founded the “Run for Congo Women,” which has grown into a global movement that has raised over \$600,000 for Women for Women International’s Congo program.

I’m pleased that we can help her efforts with S. 1067, which directs the administration to develop a strategy to protect civilians and increase aid and awareness about the effects of the war on the people, governments, and economies of the region. We must act to help Uganda and the three other LRA-affected countries aid their displaced citizens and rebuild their basic services, government, and economic infrastructure.

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to express my strong support for S.

1067, the LRA Disarmament and Northern Uganda Recovery Act.

I am grateful for the leadership that has brought this important legislation—which I am pleased to cosponsor—to the floor and to bring visibility, focus, and renewed attention and resources to what some have called an Invisible Conflict.

For too long, the Lord’s Resistance Army, LRA, has been conducting a campaign of violence and terror against the people of northern Uganda which has spread to southern Sudan and parts of the Democratic Republic of Congo and the Central African Republic.

In each of these areas, the LRA is destroying lives and communities. Women and children are particularly targeted by this vicious group and have suffered harsh abuses and atrocities at the hands of the LRA and its ruthless leaders.

Joseph Kony, the man directing this group’s atrocious and senseless violence, and two other LRA commanders are wanted for war crimes and crimes against humanity by the International Criminal Court. The ICC indictment lists 33 charges against him including murder, enslavement, sexual enslavement, rape, intentionally directing attacks against civilian population, and the forced enlisting of children into the rebel ranks.

Just last week, media reports indicated that the UN is investigating new allegations of a previously unreported LRA attack in February in a very remote part of the Democratic Republic of Congo that killed over 100 people.

Unfortunately, unless more attention and resources are paid to stopping the LRA, we will probably only continue to hear more similar disheartening and tragic reports in the coming months and weeks.

It is clear that current efforts to apprehend Kony and other LRA leaders are not working and vulnerable civilians in the region continue to pay the price with their lives for that failure. These terrorists must be brought to justice. The international community needs to step up its efforts to rid the affected communities of this threat and help them rebuild and recover. The U.S. can and must play a key role in that effort.

The bill before us today, S. 1067—the LRA Disarmament and Northern Uganda Recovery Act, makes U.S. policy very clear: to work vigorously for a lasting resolution to the conflict in northern and eastern Uganda and other areas terrorized by the LRA and to eliminate the threat posed by the Lord’s Resistance Army to civilians using the political, economic, military, and intelligence tools available to our nation in a comprehensive and multilateral effort that will result in greater protection of innocent civilians and lead to the capture of Joseph Kony and other commanders of the LRA.

This bill is the work of exemplary leadership from colleagues from both sides of the aisle including Congressman JIM MCGOVERN who has been a long time champion for ending conflict and promoting peace.

This legislation is also the result of the hard work of thousands of activists across the country—young and old—including from my district as well who want to ensure justice and peace for the many victims of the LRA.

The bill would give the administration a strong mandate to act swiftly and effectively to

lead multilateral efforts to protect children and families from LRA attacks and put a permanent end to these atrocities.

It would require the U.S. to create a strategy working with our international allies on a viable plan to protect civilians from LRA attacks, support the capacity of local authorities to maintain the rule of law, prevent conflict, and diplomatically engage on a regional basis to address the threat posed by the LRA.

Lastly, it would express support for U.S. efforts and funding to assist the people of Uganda and the Government of Uganda in rebuilding and recovery projects in areas of northern and eastern Uganda heavily affected by fighting with the LRA and authorize humanitarian aid aimed directly at the families and communities that have been and continue to be victimized by the LRA, including the children pressed into service as soldiers by the LRA.

The tremendous suffering caused by the LRA cannot end soon enough. I urge my colleagues to vote yes on this bill.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ENGEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ENGEL) that the House suspend the rules and pass the bill, S. 1067.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### RECOGNIZING CLOSE U.S.-U.K. RELATIONSHIP

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1303) recognizing the close friendship and historical ties between the United Kingdom and the United States, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 1303

Whereas the Magna Carta, which subjected the English monarch and the English people to the rule of law and is considered one of the most important documents in the legal history of the United Kingdom and the United States, was recognized in 1957 by the American Bar Association for its importance to United States law and constitutionalism and remains on permanent display at the National Archives and Records Administration Building in Washington, DC;

Whereas the English philosopher John Locke, through his monumental works on social contract theory and natural law entitled "An Essay Concerning Human Understanding", "First Treatise on Government", and "Second Treatise on Government", greatly influenced the American Revolution;

Whereas Scottish economist Adam Smith's "Wealth of Nations" greatly contributed to the competition and free market principles of the United States;

Whereas the English lawyer Sir William Blackstone's "Commentaries on the Laws of England" had a lasting influence on the development of United States common law and legal institutions;

Whereas the arrival of more than 1,500,000 members of the United States Armed Forces in the United Kingdom in the 1940s was a turning point in World War II that further solidified the close friendship between the United Kingdom and the United States;

Whereas Sir Winston Churchill, who heroically and skillfully guided the United Kingdom through World War II, articulated the close ties between the United Kingdom and the United States when he was recognized by becoming the first Honorary Citizen of the United States on April 9, 1963, stating, "In this century of storm and tragedy I contemplate with high satisfaction the constant factor of the interwoven and upward progress of our peoples. Our comradeship and our brotherhood in war were unexampled. We stood together, and because of that fact the free world now stands. Nor has our partnership any exclusive nature: the Atlantic community is a dream that can well be fulfilled to the detriment of none and to the enduring benefit and honour of the great democracies.";

Whereas, on August 14, 1941, President Franklin Delano Roosevelt and Prime Minister Winston Churchill agreed to the Atlantic Charter which set forward principles meant to serve as the precursor for the formation of the United Nations;

Whereas when Sir Winston Churchill resigned from his second tour of duty as Prime Minister of the United Kingdom, he warned his cabinet to "never be separated from the Americans";

Whereas the United Kingdom and the United States were founding Members of the North Atlantic Treaty Organization and were 2 of the original 12 countries to sign the North Atlantic Treaty on April 4, 1949, in Washington, DC;

Whereas the special relationship between the United Kingdom and the United States was further strengthened by the coordination of Prime Minister Margaret Thatcher and President Ronald Reagan whose firm opposition to communism ultimately led to the fall of the Union of Soviet Socialist Republics and the Iron Curtain;

Whereas after the September 11, 2001, attacks, Prime Minister Tony Blair immediately flew to the United States to express solidarity with the United States, and President George W. Bush declared in a speech before Congress that the United States "has no truer friend than Great Britain";

Whereas the United Kingdom joined forces with the United States against the Taliban in Afghanistan as part of Operation Enduring Freedom from the first attacks in October 2001 and permitted the United States to fly missions from Diego Garcia, part of the British Indian Ocean Territory;

Whereas, as of March 15, 2010, a total of 273 United Kingdom military and civilian personnel have died while serving in Afghanistan since the start of operations;

Whereas there are approximately 1,700 United Kingdom military and civilian personnel currently deployed to assist with the military and reconstruction efforts in Iraq;

Whereas since 2003 the United Kingdom has pledged 744,000,000 British pounds toward reconstruction efforts in Iraq;

Whereas 179 United Kingdom military and civilian personnel have died in Iraq since the beginning of the campaign in March 2003;

Whereas, on August 17, 2006, the United States and the United Kingdom introduced a

draft United Nations Security Council resolution for the "expeditious deployment" of a United Nations peacekeeping force in Darfur, Sudan, and since have worked collaboratively to press for full implementation of the United Nations-Africa Union Mission in Darfur (UNAMID) mandate;

Whereas the United Kingdom Foreign & Commonwealth Office reports that the United States is the largest source of foreign direct investment in the United Kingdom's economy, while the United Kingdom is the largest single investor in the United States economy and, according to the United States Trade Representative, the United Kingdom is one of the European Union countries with the largest foreign direct investment in the United States; and

Whereas the United Kingdom and the United States share a commitment to free speech, democracy, and the rule of law based on the rich history of a longstanding friendship and shared ideals: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes the special relationship between the United Kingdom and the United States;

(2) expresses sincere gratitude to the people of the United Kingdom for their generosity, camaraderie, and cooperation with the people of the United States in military operations, foreign assistance, and other joint efforts throughout the world;

(3) acknowledges the importance of the United Kingdom's political philosophy, law, and history on the cultural, political, and legal institutions of the United States; and

(4) looks forward to continued, deepening ties of friendship between the peoples of the United Kingdom and the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. ENGEL) and the gentleman from Florida (Ms. ROS-LEHTINEN) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

##### GENERAL LEAVE

Mr. ENGEL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ENGEL. Mr. Speaker, I yield myself as much time as I may consume.

I rise in strong support of this resolution that recognizes the special relationship and historical ties between the United Kingdom and the United States. Mr. Speaker, I wish to thank my good friend, Congressman LINCOLN DIAZ-BALART from Florida, for introducing this measure.

The United Kingdom and the United States have a long history born of shared values and experiences. British legal and philosophical traditions have greatly influenced American practices while both our nations remain committed to human rights, rule of law, and good governance. Our economies are deeply intertwined, as became particularly evident during the global financial crisis. Indeed, Britain is the



largest single investor in our economy, while we are the largest source of foreign direct investment in theirs.

Our two nations also share a proud military history. British and American soldiers have stood shoulder to shoulder throughout the major conflicts of the last 100 years. Together we confronted the challenges of Nazism and communism, while today we are fighting together against the scourge of international terrorism. We remain grateful for Britain's active participation in the military and reconstruction efforts in Iraq and Afghanistan.

In recent months, some in Britain have begun to question this "special relationship," a phrase coined by British Prime Minister Winston Churchill in 1945. As is in the case of all relationships, the dynamic link between the U.S. and the U.K. has evolved over time. However, it is clear that our relationship is unique, vitally important and must continue to be nurtured. The United Kingdom remains an essential ally, a valuable partner and a true friend. All British Prime Ministers and American Presidents have forged effective working relationships in order to confront together the challenges facing the present day.

On May 6, just a little while ago, the British people went to the polls. Yesterday we watched the political drama unfold as a coalition agreement was reached between the Conservative and Liberal Democratic Parties. The United States congratulates and stands ready to foster a strong relationship with Britain's new Prime Minister, David Cameron. This postelection period is an opportune moment to reflect upon the strong ties that bind our nations, to celebrate our friendship, and to recommit ourselves to continued cooperation in the future. Much work needs to be done, and the United States has no better partner in the world than the United Kingdom.

Mr. Speaker, I urge my colleagues to support this resolution, and I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself as much time as I may consume.

I am so pleased to rise in enthusiastic support of this important resolution, authored by my Florida colleague, the gentleman, Congressman LINCOLN DIAZ-BALART. This resolution recognizes the unsurpassed friendship and abiding special relationship between the United States and the United Kingdom.

Throughout the history of our alliance and our friendship, we have stood by each other with a level of military, economic and diplomatic commitment and coordination of such an unparalleled extent that it has even been referred to as the "special relationship." The United Kingdom has been a true friend of the United States even to the extraordinary measures of sharing and

even jointly operating military bases overseas and being one of the few NATO allies in Afghanistan without restrictions on its troops' ability to engage in combat operations.

The United Kingdom has also been a significant partner in efforts to prevent an Iranian nuclear weapons capability and has led efforts to convince the EU to adopt strong sanctions against the Iranian regime. Further, our economic bilateral relationship is without comparison as our nations' common sense of entrepreneurship and strong belief in free market principles has fostered extraordinary levels of trade and resulted in each country being the largest investor in the other's economy.

In recent years, there has been some debate about the state of this special relationship and whether it is as solid today as it was in the days of President Franklin Roosevelt and Prime Minister Winston Churchill or in the days of President Ronald Reagan and Prime Minister Margaret Thatcher. I am, indeed, concerned that some members in each of the three major British political parties have asserted a need to reevaluate our special relationship, citing their perception that the United States has already begun to back away from its close relationship toward the United Kingdom.

I believe, however, Mr. Speaker, that the special nature of our relationship is not solely dependent upon the level of camaraderie between our political leaders at any given time. It is, instead, based on the bedrock ideals of democracy, of economic liberty, and respect for the rule of law that we both share.

As with all close allies, it is incumbent upon both parties to continually work to improve and to strengthen the relationship, but I think that there is something of substance in our two countries' relationship, something based on those shared principles and cultural connections that endures.

With passage of this resolution, Mr. Speaker, the House of Representatives will send a strong message of our commitment to that special relationship with our closest ally across the Atlantic, the United Kingdom. I, therefore, urge my colleagues to join me in supporting this important resolution.

Mr. Speaker, I am now very pleased to yield such time as he may consume to my good friend, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), the ranking member on the Rules Subcommittee on Legislative and Budget Process and the author of the resolution before us.

Mr. LINCOLN DIAZ-BALART of Florida. I thank my dear friend Ms. ROS-LEHTINEN and also my friend Mr. ENGEL for their help in getting this resolution to the floor and their strong support of this important resolution.

I take this opportunity, Mr. Speaker, to congratulate the United Kingdom's

new Prime Minister, David Cameron, as he, as head of the Conservative Party, forms a new government with the Liberal Democrats. We wish him and all of the British people all the best. It's important that we in Congress take the time to recognize that great friend and ally of the United States. It is important that we recognize the special friendship and all that the United Kingdom has done to stand with the United States.

This resolution recognizes the special relationship between the United Kingdom and the United States. It points out the strong influence that English philosophers, economists, jurists and other leaders have had on American political thought, on the United States legal system and on our government. This strong special relationship, founded on our shared history, continues into the modern day. The United Kingdom has repeatedly demonstrated the strength of its camaraderie with the United States.

Within the last decade, the United Kingdom joined forces with us against the Taliban as part of Operation Enduring Freedom, and U.K. soldiers have fought alongside American soldiers in Iraq. The United Kingdom has suffered a tragic loss of life as a result. As of March, 273 U.K. military and civilian personnel have given their lives in Afghanistan, and 179 have given the last full measure of devotion in Iraq.

I am very proud, Mr. Speaker, to have introduced this resolution, highlighting the strong ties that bind our countries together. The United Kingdom is a great friend and ally of the United States. Reflecting on our relationship, Winston Churchill said, "In this century of storm and tragedy, I contemplate with high satisfaction the constant factor of the interwoven and upward progress of our peoples. Our comradeship and our brotherhood in war were unexampled. We stood together, and because of that fact, the free world now stands. Nor has our partnership any exclusive nature: the Atlantic community is a dream that can well be fulfilled to the detriment of none and to the enduring benefit and honor of the great democracies."

During the most trying times in the history of the United States, we have had no truer friend than the United Kingdom. I sincerely hope that our futures will continue to reflect our histories, deepen our friendship and continually refresh our commitment to the shared values of the rule of law and democratic principles. I urge all of my colleagues to support this important and, I believe, timely resolution.

Mr. ENGEL. I reserve the balance of my time.

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Ms. ROS-LEHTINEN. Mr. Speaker, I would like to yield myself 30 seconds to point out that today, on the first day



in office of a new British Government, let us send to Prime Minister David Cameron and to the people of the United Kingdom a clear message of our friendship and our commitment to this special relationship. I ask my colleagues to join me in support of this important measure.

I yield back the balance of my time.

Mr. ENGEL. Mr. Speaker, I would yield 30 seconds to myself to say that anyone who has gone to the United Kingdom, you feel this special relationship as we mentioned on both sides of the aisle. You feel the camaraderie and you do feel the special bond. I would say tongue in cheek, if we look at the British coalition together, they put together a coalition of liberal Democrats and conservatives; and I would say to the gentlewoman from Florida, if we could do that more often, we may learn a lot more from the British.

I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DEUTCH). The question is on the motion offered by the gentleman from New York (Mr. ENGEL) that the House suspend the rules and agree to the resolution, H. Res. 1303, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The title of the resolution was amended so as to read: "Recognizing the special relationship and historic ties between the United Kingdom and the United States."

A motion to reconsider was laid on the table.

#### COMMENDING THE COMMUNITY OF DEMOCRACIES

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1143) commending the Community of Democracies for its achievements since it was founded in 2000, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 1143

Whereas the Community of Democracies is a global intergovernmental organization of democratic countries which aims to promote democracy and strengthen democratic norms and institutions around the world;

Whereas the Community of Democracies was founded in June 2000 at a ministerial conference in Warsaw, Poland;

Whereas the Warsaw Conference was convened upon the initiative of then-Secretary of State Madeleine Albright and then-Minister of Foreign Affairs of Poland Bronislaw Geremek;

Whereas delegations from 106 countries signed the final declaration of the Warsaw Conference on June 27, 2000, endorsing an agreed list of core democratic principles and practices, and committing themselves to the promotion of those principles and practices;

Whereas since the Warsaw Conference, there have been four subsequent ministerial

conferences of the Community of Democracies in Seoul, Korea, in November 2002, Santiago, Chile, in April 2005, Bamako, Mali, in November 2007, and Lisbon, Portugal, in July 2009;

Whereas since its founding the Community of Democracies has been guided by a Convening Group, today consisting of Cape Verde, Chile, Czech Republic, El Salvador, India, Italy, Lithuania, Mali, Mexico, Mongolia, Morocco, Philippines, Poland, Portugal, South Africa, South Korea, and the United States;

Whereas in June 2009, Lithuania assumed the Presidency of the Community of Democracies for a two-year term;

Whereas upon the initiative of the Government of Poland, the Community of Democracies established a Permanent Secretariat in Warsaw in January 2009, with the goal of strengthening the institution and enabling it to more effectively fulfill its mission of promoting democracy worldwide;

Whereas the Permanent Secretariat in Warsaw has established itself as a vibrant institution of the Community of Democracies, with an active agenda and effective operation;

Whereas under the leadership of the Convening Group, the Lithuanian Presidency, the Permanent Secretariat, and the International Steering Committee, the Community of Democracies has mounted recent efforts to promote democracy in such countries as Iran, Burma, and Afghanistan, and passed resolutions, issued position statements, and committed itself further to missions assisting democratic advancement in those countries and societies which desire it; and

Whereas on the 10th anniversary of the Warsaw Conference, the Community of Democracies will convene in Krakow, Poland, to re-launch the Community and adopt a work program to advance democracy worldwide: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends the Community of Democracies for its achievements since it was founded in 2000;

(2) applauds the recent establishment of the Permanent Secretariat of the Community of Democracies and expresses its appreciation to the Government of Poland for the support it has extended to the Permanent Secretariat and for hosting it in Warsaw;

(3) appreciates the energy and initiative that the Lithuanian Presidency has committed to the Community of Democracies and its Working Groups; and

(4) extends its best wishes for the success of the Community's ongoing efforts to promote democracy worldwide, and of the Krakow Conference, which will be held on the 10th anniversary of the founding of the Community of Democracies.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. ENGEL) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

##### GENERAL LEAVE

Mr. ENGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ENGEL. Mr. Speaker, I rise in strong support of this resolution that commends the Community of Democracies for its many achievements since the organization's founding a decade ago, and I yield myself such time as I may consume.

I wish to thank my good friend, the gentleman from Illinois (Mr. QUIGLEY), for his leadership in introducing this measure and bringing it forward for our consideration today.

Mr. Speaker, in January 1999, then-Secretary of State Madeleine Albright told the Los Angeles Times that her highest priority before leaving office was to create a global community of democracies. That objective became a reality in June 2000 when she, along with then-Polish Foreign Minister Geremek, convened ministerial delegations from 106 countries in Warsaw to sign a declaration entitled "Toward a Community of Democracies."

This declaration sought to demonstrate methods of support to countries that strive for freedom and democracy. It also established a global, intergovernmental coalition of democratic countries that are committed to promoting democratic rules and strengthening democratic institutions around the world.

I think it is somewhat ironic that this inaugural meeting was in Warsaw, because we know Warsaw has had a long history of being occupied and not being free. Since Warsaw, ministerial conferences have been held in Seoul, Korea; Santiago, Chile; Bamako, Mali; and Lisbon, Portugal. In addition, a Permanent Secretariat was established in Warsaw in order to strengthen the institution and further its mission of democracy promotion.

In early July, on the 10th anniversary of the organization's founding, the Community of Democracies will meet in Krakow, Poland to relaunch the Community and adopt a work program to advance democracy worldwide. This gathering, which will be hosted by Polish Foreign Minister Sikorski, will undoubtedly be one of the most prominent international gatherings of democracy decision-makers this year.

It is fitting that this meeting once again will be held in Poland, not only because it was the location of the Community's founding and a real success story of post-Cold War democratization efforts, but also because the world is grieving with the Polish people following the tragic loss of their President in the plane crash.

As the United States is one of the founding members of the Community and a participant in its convening group, it is appropriate that the House adopt this resolution that commends the Community of Democracies for its

achievements and wishes it much success in its upcoming conference.

Mr. Speaker, I urge my colleagues to support this resolution.

I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also rise in support of this resolution, and I thank the gentleman from Illinois (Mr. QUIGLEY) for providing us with this timely opportunity to recognize the work of the Community of Democracies. Next month will mark the anniversary of the founding of that intergovernmental organization 10 years ago in Warsaw, Poland.

Unlike the United Nations, the governmental participants in the Community of Democracies are not distinguished merely by the fact that they hold power in a country. They are bound by their commitments to the core democratic principles set out in the Warsaw Declaration, including, among others: the right of citizens to choose their governments through regular, free, and fair elections; freedom of opinion; freedom of expression; freedom of conscience; freedom of religion; freedom of peaceful assembly; freedom of association; the right to be free from arbitrary arrest and detention; and the importance of a competent, independent, and impartial judiciary.

Furthermore, Mr. Speaker, as outlined in the Seoul ministerial meeting in 2002, the Community has developed criteria and procedures to help ensure that only practicing democracies are participants. Maintaining those standards is critical, as they give the Community a moral authority and a substantive voice that is so badly needed in today's world.

The promise and possibilities of the Community have become even more important at a time when other multilateral bodies have been poisoned by membership without standards. We need look no further than the discredited U.N. Human Rights Council. When a so-called human rights body counts China, Cuba, Saudi Arabia and other abusive regimes as members, we cannot claim to be surprised at how ineffective it has become in protecting and advancing fundamental freedoms.

The U.N. Human Rights Council is a feckless and ideologically manipulated talk-shop that expends most of its energy not on the North Korean gulag or genocide in Sudan or repression in Burma or the brutal dictatorship in Cuba or the beatings of the peaceful Damas de Blanco, or Ladies in White, oh, no. They spend their time attacking the democratic Jewish State of Israel.

In this environment, the need for a cohesive, energetic, multilateral voice that truly stands for and defends political freedom and fundamental human rights is greater than ever. This is

where the Community of Democracies can step in and fill that need.

The Permanent Secretariat of the Community of Democracies began operating just in January 2009 and is located where the Community issued its founding declaration: in Warsaw, Poland. We continue to be grateful to the government and the people of Poland for hosting the secretariat and for their living witness to the democratic ideals, ideals nurtured even during their trying experience of communism and Soviet domination in the 20th century.

I also want to express my appreciation to the Government of Lithuania for its presidency of the Community of Democracies since last July. Looking ahead, I sincerely hope that the Community will maintain its distinctive voice.

We must help ensure that the regional groups of the Community will make additional, concrete progress, such as on the Inter-Arab Democratic Charter discussed by members of the Middle East group at the 2005 ministerial meeting in Santiago.

Finally, we must help ensure that the Community will emphasize democracy and human rights as predicates for efficient, responsible, economic development, and not as luxuries that can only be expected in affluent societies.

And as the more than 100 participating countries prepare to meet in Krakow in July, let us all recommit ourselves to promoting the ideals of freedom to which we all aspire.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, it is my pleasure now to yield 2 minutes to the gentleman from Illinois (Mr. QUIGLEY), the author of this resolution.

Mr. QUIGLEY. Mr. Speaker, I thank my colleagues for their kind words on this matter.

I rise today in strong support of H. Res. 1143, a bipartisan resolution commending the Community of Democracies on its 10-year anniversary.

The Community of Democracies is a truly global, intergovernmental organization of democratic nations. The organization seeks to promote democracy and strengthen democratic institutions around the world. Spearheaded by former Secretary of State Madeleine Albright, the overarching goal was to create a global community of democratic nations. Secretary Albright's vision became a reality in 2000 when 106 nations came together in Warsaw to launch the Community of Democracies.

This July marks the 10-year anniversary, and my resolution honors their achievements over the last decade. The resolution also expresses hope for success at the anniversary conference to be held in Krakow this July. Honoring the Community has always been impor-

tant, but in light of the recent tragedy in Poland, the significance of this resolution has dramatically increased.

The Community of Democracies has deep ties with Poland and Polish leaders. The organization was founded in Warsaw, Poland, under the leadership of then-Minister of Foreign Affairs of Poland Bronislaw Geremek. It was the Government of Poland that initiated the establishment of a Permanent Secretariat in Warsaw in January 2009 to strengthen the institution. It is fitting, therefore, that Poland will host the anniversary conference.

Poland has endured much sorrow recently, but we know the country and her people will find the resilience to emerge stronger, as they have before, following this unimaginable tragedy.

This resolution honors those democratic institutions exemplified by Poland and by every other democracy throughout the world. I urge my colleagues to support H. Res. 1143, commending the Community of Democracies.

Ms. ROS-LEHTINEN. Mr. Speaker, I am very pleased to yield such time as he may consume to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), the ranking member of the Rules Committee Subcommittee on Legislative and Budget Process.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I thank my friend for yielding me the time and Mr. QUIGLEY for introducing this important resolution.

The Community of Democracies, a global intergovernmental coalition of over 100 democratic states, has proven its support for the promotion of democracy in civil society over the decade since its founding.

I would like to take this opportunity to highlight, as Ms. ROS-LEHTINEN appropriately mentioned before, the leadership of the Republic of Lithuania, which took over the presidency of the Community of Democracies in July 2009. Lithuania has shown remarkable leadership in pressing forward with the Community's agenda of promoting democracy, human rights, and freedom in oppressed lands such as Burma, Belarus, and Cuba.

Under the guidance of Ambassador Zygimantas Pavilionis, chief coordinator of Lithuania's presidency of the Community of Democracies, the Community created a Parliamentary Forum in March of this year. I have been impressed by Ambassador Pavilionis' exceptional leadership and commitment to strengthening the role of the Community of Democracies in fulfilling its mission of promoting democratic institutions and civil society.

In March of this year, I was privileged to attend the convening meeting of the Parliamentary Forum of the Community of Democracies in Vilnius, Lithuania. At the first meeting of the

Parliamentary Forum, Emanuelis Zingeris, chairman of the Foreign Affairs Committee of the Seimas of Lithuania, was elected as the first president of the Parliamentary Forum of the Community of Democracies. Mr. Zingeris is a charismatic and brilliant leader who will doubtless be an effective president of the Parliamentary Forum throughout his term.

Also at the Parliamentary Forum, I had the great honor of being elected one of the seven vice presidents of the new entity, along with fellow vice presidents Michal Tomasz Kaminski, Polish member of the European Parliament and chairman of the European Conservatives and Reformists in the European Parliament; Michael Gahler, German member of the European Parliament of the Group of the European People's Party; Alexandr Vondra, a senator from the Czech Republic; Adriana Gonzalez Carrillo, a senator of the Republic of Mexico; David Kilgour, former member of Parliament and a well-known human rights activist in Canada; and David Bakradze, speaker of the Parliament of Georgia.

□ 1930

Notably, the Parliamentary Forum's first adopted resolution at its convening meeting on March 12, 2010, called for the support of Cuba's pro-democracy movement. I have a copy of that resolution, Mr. Speaker here. I will insert it into the RECORD.

And the Parliamentary Forum's international solidarity, as demonstrated by this resolution, a strong and very appropriate, well-written resolution that, for example, honors, and I read from it, Cuban pro-democracy fighters such as the martyr Orlando Zapata Tamayo and expresses its admiration for the efforts of other heroes such as Guillermo Farinas. This is a concrete, specific demonstration of genuine solidarity by the Parliamentary Forum of the Community of Democracies with the suffering people of Cuba and the freedom fighters who, within Cuba, are struggling to bring democracy and freedom to that land.

Orlando Zapata Tamayo was assassinated by the Cuban dictatorship, and he died after over 80 days on a hunger strike protesting the tortures that he was continuously subjected to as a political prisoner.

And Guillermo Farinas is, as we speak, on a hunger strike in Cuba. This institution, the Parliamentary Forum of the Community of Democracies, expressed its solidarity with these Cuban rights fighters, fighters for freedom. And in that way, demonstrated its genuine commitment to furthering democratic institutions and assisting those who are fighting for freedom.

The resolution today, Mr. Speaker, that will be passed by the Congress of the United States in support of commending the Community of Democ-

racies on its 10th anniversary is timely. I wholeheartedly support it. I commend the Community of Democracies for 10 years of leadership, and I urge all of my colleagues to vote for this resolution.

Again, thank you, Mr. ENGEL. Thank you Ms. ROS-LEHTINEN. This is an important and timely resolution. These are friends of freedom that we're commending today, an institution that, as Ms. ROS-LEHTINEN pointed out, is not there for cocktail parties or press releases. And it doesn't allow itself to be tarnished, like abominable institutions such as the so-called Human Rights Council of the United Nations, to be tarnished by, in effect, defending tyrannies. The Community of Democracies is that, a community of democracies that stands for and believes in freedom and democracy. That's why it's appropriate to commend them on their 10th anniversary.

#### THE COMMUNITY OF DEMOCRACIES PARLIAMENTARY FORUM

#### RESOLUTION CALLING FOR SUPPORT OF CUBA'S PRO-DEMOCRACY MOVEMENT, THE CONVENING MEETING, 2010 MARCH 12

Whereas the pro-democracy movement in Cuba has grown at a rapid pace over the last three years, and specific expressions of the movement are evident today in the explosion of bloggers on the island, independent journalists, musicians, artists, writers, and others, who are using their talents to denounce the atrocities of the dictatorship all while putting forth new ideas for the transition to democracy;

Whereas there are still extraordinary obstacles to overcome such as the continued repression by the totalitarian dictatorship, extremely limited access to the Internet and "texting" capabilities, and a lack of a coherent message of solidarity from the international community;

Whereas the dictatorship is fearful of the growth of the pro-democracy movement;

Whereas the message of the Movement is coherent and clear in demanding freedom for all Cuban political prisoners, beginning with those who are gravely ill inside the prison, freedom of expression and free, fair multiparty elections with international supervision;

Whereas this common position of the Cuban pro-democracy movement requires greater recognition, dissemination and solidarity on the part of the Community of Democracies;

Whereas now more than ever the Cuban pro-democracy movement requires that the democratic community takes concrete steps to demonstrate its solidarity; Now, therefore be it

*Resolved*, That the Community of Democracies Parliamentary Forum—condemns the brutality of the Cuban regime against Cuban political prisoners;

expresses its full support for the Cuban pro-democracy movement;

honors Cuban pro-democracy fighters such as the martyr Orlando Zapata Tamayo and expresses its admiration for the efforts of other heroes such as Guillermo Farifas;

calls for the immediate release of all Cuban political prisoners and free multiparty elections in Cuba; and

calls on the democratic community to take concrete steps in demonstrating their solidarity with the Cuban pro-democracy

movement by providing humanitarian and technological assistance to the pro-democratic movement, urging certain foreign diplomatic posts in Havana to strengthen contacts with pro-democratic activists on the island, encouraging foreign dignitaries to visit Cuba for the sole purpose of meeting with pro-democratic activists, and looking for opportunities to reiterate and support the common position of the Cuban pro-democracy movement in the international community.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield back the balance of my time as well.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ENGEL) that the House suspend the rules and agree to the resolution, H. Res. 1143, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

#### COMMENDING PROGRESS MADE BY ANTI-TUBERCULOSIS PROGRAMS

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1155) commending the progress made by anti-tuberculosis programs, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1155

Whereas tuberculosis (hereafter in this preamble referred to as "TB") is the second leading fatal global infectious disease behind HIV/AIDS, claiming 1,800,000 million lives each year;

Whereas the global TB pandemic and the spread of drug resistant TB present a persistent public health threat to the United States;

Whereas according to 2009 data of the World Health Organization, 5 percent of all new TB cases are drug resistant;

Whereas TB is the leading killer of people with HIV/AIDS;

Whereas TB is the third leading killer of adult women, and the stigma associated with TB disproportionately affects women, causing them to delay seeking care and interfering with treatment adherence;

Whereas the Institute of Medicine (IOM) found that the resurgence of TB between 1980 and 1992 was caused by cuts in TB control funding and the spread of HIV/AIDS;

Whereas, although the numbers of TB cases in the United States continue to decline, progress towards TB elimination has slowed, and it is a disease that does not recognize borders;

Whereas New York City had to spend over \$1,000,000,000 to control a multi-drug resistant TB outbreak between 1989 and 1993;

Whereas an extensively drug resistant form of TB, known as XDR-TB (hereafter referred to in this preamble as "XDR-TB"), is very difficult and expensive to treat and has high and rapid fatality rates, especially among HIV/AIDS patients;

Whereas the United States has had more than 83 cases of XDR-TB over the last decade;

Whereas the Centers for Disease Control and Prevention estimated in 2009 that it costs \$483,000 to treat a single case of XDR-TB;

Whereas African Americans are 8 times more likely to have TB than Caucasians, and significant disparities exist among other United States minorities, including Native Americans, Asian Americans, and Hispanic Americans;

Whereas, although drugs, diagnostics and vaccines for TB exist, these technologies are antiquated and are increasingly inadequate for controlling the global epidemic;

Whereas the most commonly used TB diagnostic in the world, sputum microscopy, is more than 100 years old and lacks sensitivity to detect TB in most HIV/AIDS patients and in children;

Whereas current tests to detect drug resistance take at least 1 month to complete and faster drug susceptibility tests must be developed to stop the spread of drug-resistant TB;

Whereas the TB vaccine, BCG, provides some protection to children, but has little or no efficacy in preventing pulmonary TB in adults;

Whereas there is also a critical need for new TB drugs that can safely be taken concurrently with antiretroviral therapy for HIV;

Whereas enactment of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 and the Comprehensive TB Elimination Act provide an historic United States commitment to the global eradication of TB, including to the successful treatment of 4,500,000 new TB patients and 90,000 new multi-drug resistant (MDR) TB cases by 2013, while providing additional treatment through coordinated multilateral efforts;

Whereas the United States Agency for International Development provides financial and technical assistance to nearly 40 highly-burdened TB countries and supports the development of new diagnostic and treatment tools, and is authorized to support research to develop new vaccines to combat TB;

Whereas the Centers for Disease Control and Prevention, working in partnership with States and territories of the United States, directs the national TB elimination program and essential national TB surveillance, technical assistance, prevention activities and supports the development of new diagnostic, treatment and prevention tools to combat TB;

Whereas the National Institutes of Health, through its many institutes and centers, plays the leading role in basic and clinical research into the identification, treatment and prevention of TB;

Whereas the Global Fund to Fight AIDS, Tuberculosis and Malaria provides 63 percent of all international financing for TB programs worldwide and finances proposals worth \$3,200,000,000 in 112 countries, and TB treatment for 6,000,000 and HIV/TB services for 1,800,000, and in many countries in which the Global Fund supports programs, TB prevalence is declining, as are TB mortality rates; and

Whereas March 24, 2010, is World Tuberculosis Day, a day that commemorates the date in 1882 when Dr. Robert Koch announced his discovery of *Mycobacterium tuberculosis*, the bacteria that causes tuberculosis: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the goals of World TB Day to raise awareness about tuberculosis;

(2) commends the progress made by United States-led anti-tuberculosis programs; and

(3) reaffirms its commitment to global tuberculosis control made through the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. ENGEL) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. ENGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ENGEL. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, this is my resolution, and I am proud to be the lead sponsor of it. And I rise today in honor of this resolution to fight tuberculosis, which I introduced with my good friends from Texas, TED POE and GENE GREEN.

House Resolution 1155 seeks to commend the progress made by U.S. anti-tuberculosis programs at the CDC, USAID, NIH and Global Fund to Fight AIDS, Tuberculosis and Malaria, and to reaffirm the House's historic commitment to global TB control made through the Lantos-Hyde Act enacted 2 years ago. My own legislation, the Stop Tuberculosis Now Act, was folded into the PEPFAR reauthorization, and I remain grateful to Chairman BERMAN and Ranking Member ROS-LEHTINEN, the gentlewoman from Florida, for their strong support of this significant investment in tuberculosis control. The chairman of the Subcommittee on Africa and Global Health, Mr. PAYNE, is also to be commended for his commitment to tuberculosis control as well.

Mr. Speaker, TB is the second leading global infectious disease killer behind HIV-AIDS, claiming approximately 1.8 million lives each year.

TB is the leading killer of people with HIV-AIDS. TB control must be strengthened as part of a comprehensive approach to women's health. TB is the third leading killer of adult women globally, and women who develop the disease are more likely to die from it than men. The risk of premature birth or having a low birth weight baby double for women with TB, and those who receive a late diagnosis are four times as likely to die in childbirth.

Mr. Speaker, about half a million people fall ill each year with multidrug-resistant TB, but the World

Health Organization estimates that less than 5 percent are receiving appropriate treatment, which is one of the factors fueling the spread of drug-resistant tuberculosis.

Although the number of TB cases in the United States is declining, the nature of this infectious disease presents a persistent public health threat to the United States. Tuberculosis is a significant public health program for the border States of California, Texas, New York, Florida and others.

Drug-resistant TB poses a particular challenge to domestic TB control owing to the high costs of treatment and intensive health care resources required. Treatment costs for multidrug-resistant TB range from \$100,000 to \$300,000 per person, which can cause a significant strain on State public health budgets. In 2008, 107 cases of MDR-TB were reported in the United States. Of particular concern is that four extensively drug-resistant TB cases were reported, double the number from 2007.

H. Res. 1155 calls attention to the critical need for public and private reinvestment into research to develop new TB diagnostics, drugs and vaccines to replace antiquated technologies that hinder our progress against tuberculosis.

Although drugs, diagnostics, and vaccines for TB exist, these technologies are increasingly inadequate for controlling the global epidemic. The most commonly used TB diagnostic in the world, sputum microscopy, is more than 100 years old and lacks sensitivity to detect TB in most HIV-AIDS patients and in children. The TB vaccine, BCG, provides some protection to children, but has little or no effect in preventing pulmonary TB in adults. We will never defeat TB without a public and private research investment into new tuberculosis tools.

I urge my colleagues to vote in favor of H. Res. 1155, to be on record in supporting the global fight against tuberculosis.

I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to rise in support of the gentleman's resolution. Tuberculosis is truly a significant challenge for all of us. It is a disease that respects no borders, that claims the lives of over 1.8 million lives worldwide every year, and that continues to cause needless deaths every day. It is a major threat to peoples living in developing countries, but it is also a health risk here in the United States and in other developed countries.

As this resolution correctly points out, drug therapies that are currently used to treat tuberculosis are proving less and less effective as new and different strains of tuberculosis continue to build and develop resistance to these drugs.

There are about 9.4 million new cases of tuberculosis each year. In addition, according to recent news reports, it is estimated that 440,000 people worldwide have been infected with deadly multidrug-resistant tuberculosis in 2008 alone.

Just recently, the World Health Organization released a report that underlined the continuing threat from the spread of drug-resistant forms of tuberculosis.

Furthermore, as statistics reported by the World Health Organization note, parts of Africa face a truly staggering threat, due to the large numbers of those suffering from AIDS in those regions who are extremely vulnerable to tuberculosis. In such regions, tuberculosis can indeed be a fatal sentence of rapid and painful death.

The standard drug regimen for tuberculosis is severely outdated. With current treatment methods, patients treated for tuberculosis have to stay on medication for far too long, and that means that there can be lapses in medication that only feed resistance among strains of the disease. And so, new forms of treatment, new forms of therapies, and new vaccines are needed. But what is needed also at a fundamental level is the continued recognition of the dangerous nature of this disease and the commitment to continue the struggle against it.

I thank my colleagues, the gentleman from New York (Mr. ENGEL), my good friend, and the gentleman from Texas (Mr. POE) for introducing this important resolution. Its adoption by this House should reinforce the message that we will continue to support the vital efforts to fight this disease.

Mr. Speaker, I have no further requests for time, so I yield back the balance of my time.

Mr. ENGEL. Mr. Speaker, before I yield back the balance of my time, I want to thank my good friend, Congresswoman ROS-LEHTINEN, who has partnered with me in so much good legislation through the years. And I really do appreciate her support.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today in support of H. Res. 1155, commending the progress made by anti-tuberculosis programs.

Tuberculosis is the second leading global infectious disease killer behind HIV/AIDS, claiming approximately 1.8 million lives each year. It is estimated that 1/3 of the world's population is infected with TB. This disease kills people of all races and ages around the world.

The global TB pandemic and spread of drug resistant TB presents a persistent public health threat to the U.S. The WHO reports that 5 percent of all new TB cases are drug resistant, with estimates of up to 28 percent drug resistant reported in some parts of Russia. Of these numbers, it is estimated that only 7 percent are receiving treatment.

Although drugs, diagnostics and vaccines for TB exist, these technologies are antiquated and are increasingly inadequate for controlling

the global epidemic. The most commonly used TB diagnostic in the world, sputum microscopy, is more than 100 years old and lacks sensitivity to detect TB in most HIV/AIDS patients and in children.

Drug susceptibility tests for drug resistant TB take 2–4 weeks to complete, during which time a drug resistant TB patient in a developing country may die. The TB vaccine, BCG, provides some protection to children, but has little or no efficacy in preventing pulmonary TB in adults. We will never be able to defeat TB without the introduction of new identification, treatment and prevention tools.

World TB Day also provides us with an opportunity to celebrate the significant gains made in the fight against TB and reminds us of the challenges ahead. Since 1995, 36 million people around the world have successfully been treated for TB and 9 million lives have been saved.

Less than 2 years ago, this Congress passed two historic laws to combat TB. The Comprehensive TB Elimination Act authorizes the tools to put the U.S. on the path to TB elimination and the Lantos-Hyde Act, with multilateral commitment, aims to reduce the global TB burden by half within a decade.

Both of these laws would support an increased research investment to get us the new TB diagnostic, treatment and prevention tools that we urgently need. With enactment of these 2 laws, we have the power to combat TB effectively and reduce the human misery that this disease wreaks around the world.

I want to commend Rep. ENGEL for his tremendous efforts on TB awareness and urge my colleagues to support H. Res. 1155.

Mr. ENGEL. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ENGEL) that the House suspend the rules and agree to the resolution, H. Res. 1155, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

#### APPOINTMENT OF MEMBERS TO PRESIDENT'S EXPORT COUNCIL

The SPEAKER pro tempore. Pursuant to Executive Order 12131, and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following Members of the House to the President's Export Council:

Mr. REICHERT, Washington  
Mr. TIBERI, Ohio.

#### CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO THE STABILIZATION OF IRAQ— MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 111-108)

The SPEAKER pro tempore laid before the House the following message

from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the Federal Register for publication, continuing the national emergency with respect to the stabilization of Iraq. This notice states that the national emergency with respect to the stabilization of Iraq declared in Executive Order 13303 of May 22, 2003, as modified in scope and relied upon for additional steps taken in Executive Order 13315 of August 28, 2003, Executive Order 13350 of July 29, 2004, Executive Order 13364 of November 29, 2004, and Executive Order 13438 of July 17, 2007, is to continue in effect beyond May 22, 2010.

Obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. Accordingly, I have determined that it is necessary to continue the national emergency with respect to this threat and maintain in force the measures taken to deal with that national emergency.

The Iraqi government continues to take steps to resolve debts and settle claims arising from the actions of the previous regime. Before the end of the year, my Administration will review the Iraqi government's progress on resolving these outstanding debts and claims, as well as other relevant circumstances, in order to determine whether the prohibitions contained in Executive Order 13303 of May 22, 2003, as amended by Executive Order 13364 of November 29, 2004, on any attachment, judgment, decree, lien, execution, garnishment, or other judicial process with respect to the Development Fund for Iraq, the accounts, assets, and property held by the Central Bank of Iraq, and Iraqi petroleum-related products, should continue in effect beyond December 31, 2010, which are in addition to the sovereign immunity ordinarily provided to Iraq as a sovereign nation under otherwise applicable law.

BARACK OBAMA.  
THE WHITE HOUSE, May 12, 2010.

□ 1945

COMMUNICATION FROM THE  
CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 10, 2010.

Hon. NANCY PELOSI,  
*The Speaker, House of Representatives, Washington, DC.*

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Monday, May 10, 2010 at 2:47 p.m., and said to contain a message from the President whereby he submits a proposed Agreement Between the Government of the United States of America and the Government of the Russian Federation for Cooperation in the Field of Peaceful Uses of Nuclear Energy.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,  
*Clerk of the House.*

AGREEMENT FOR COOPERATION IN  
THE FIELD OF PEACEFUL USES  
OF NUCLEAR ENERGY—MESSAGE  
FROM THE PRESIDENT OF THE  
UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs:

*To the Congress of the United States:*

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)) (the "Act"), the text of a proposed Agreement Between the Government of the United States of America and the Government of the Russian Federation for Cooperation in the Field of Peaceful Uses of Nuclear Energy (the "Agreement"). I am also pleased to transmit my written approval of the proposed Agreement and determination that the proposed Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security, together with a copy of an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Agreement. In accordance with section 123 of the Act, as amended by title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105-277), classified annexes to the NPAS, prepared by the Secretary of State in consultation with the Director of National Intelligence, summarizing relevant classified information, will be submitted to the Congress separately.

The proposed Agreement was signed in Moscow on May 6, 2008. Former President George W. Bush approved the Agreement and authorized its execu-

tion, and he made the determinations required by section 123 b. of the Act. (Presidential Determination 2008-19 of May 5, 2008, 73 FR 27719 (May 14, 2008)).

On May 13, 2008, President Bush transmitted the Agreement, together with his Presidential Determination, an unclassified NPAS, and classified annex, to the Congress for review (see House Doc. 110-112, May 13, 2008). On September 8, 2008, prior to the completion of the 90-day continuous session review period, he sent a message informing the Congress that "in view of recent actions by the Government of the Russian Federation incompatible with peaceful relations with its sovereign and democratic neighbor, Georgia," he had determined that his earlier determination (concerning performance of the proposed Agreement promoting, and not constituting an unreasonable risk to, the common defense and security) was no longer effective. He further stated that if circumstances should permit future reconsideration by the Congress, a new determination would be made and the proposed Agreement resubmitted.

After review of the situation and of the NPAS and classified annex, I have concluded: (1) that the situation in Georgia need no longer be considered an obstacle to proceeding with the proposed Agreement; and (2) that the level and scope of U.S.-Russia cooperation on Iran are sufficient to justify resubmitting the proposed Agreement to the Congress for the statutory review period of 90 days of continuous session and, absent enactment of legislation to disapprove it, taking the remaining steps to bring it into force.

The Secretary of State, the Secretary of Energy, and the members of the Nuclear Regulatory Commission (NRC) have recommended that I resubmit the proposed Agreement to the Congress for review. The joint memorandum submitted to me by the Secretaries of State and Energy and a letter from the Chairman of the NRC stating the views of the Commission are enclosed.

I have considered the views and recommendations of the interested departments and agencies in reviewing the proposed Agreement, and have determined that performance of the proposed Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the proposed Agreement and urge the Congress to give the proposed Agreement favorable consideration.

My reasons for resubmitting the proposed Agreement to the Congress for its review at this time are as follows:

The United States and Russia have significantly increased cooperation on nuclear nonproliferation and civil nuclear energy in the last 12 months, starting with the establishment of the Bilateral Presidential Commission

Working Group on Nuclear Energy and Security. In our July 2009 Joint Statement on Nuclear Cooperation, Russian President Medvedev and I acknowledged the shared vision between the United States and Russia of the growth of clean, safe, and secure nuclear energy for peaceful purposes and committed to work together to bring into force the agreement for nuclear cooperation to achieve this end. The Russian government has indicated its support for a new United Nations Security Council Resolution on Iran and has begun to engage on specific resolution elements with P5 members in New York. On April 8, 2010, the United States and Russia signed an historic New START Treaty significantly reducing the number of strategic nuclear weapons both countries may deploy. On April 13, both sides signed the Protocol to amend the 2000 U.S.-Russian Plutonium Management and Disposition Agreement, which is an essential step toward fulfilling each country's commitment to effectively and transparently dispose of at least 34 metric tons of excess weapon-grade plutonium, enough for about 17,000 nuclear weapons, with more envisioned to be disposed in the future. Russia recently established an international nuclear fuel reserve in Angarsk to provide an incentive to other nations not to acquire sensitive uranium enrichment technologies. Joint U.S. and Russian leadership continue to successfully guide the Global Initiative to Combat Nuclear Terrorism as it becomes a durable international institution. The United States believes these events demonstrate significant progress in the U.S.-Russia nuclear nonproliferation relationship and that it is now appropriate to move forward with this Agreement for cooperation in the peaceful uses of nuclear energy.

The proposed Agreement has been negotiated in accordance with the Act and other applicable laws. In my judgment, it meets all applicable statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States.

The proposed Agreement provides a comprehensive framework for peaceful nuclear cooperation with Russia based on a mutual commitment to nuclear nonproliferation. It has a term of 30 years, and permits the transfer, subject to subsequent U.S. licensing decisions, of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production. It does not permit transfers of Restricted Data. Transfers of sensitive nuclear technology, sensitive nuclear facilities, and major critical components of such facilities may only occur if the Agreement is amended to cover such transfers. In the event of termination, key nonproliferation conditions and controls continue with respect to material, equipment, and components subject to the Agreement.



The Russian Federation is a nuclear weapon state party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Like the United States, it has a "voluntary offer" safeguards agreement with the International Atomic Energy Agency (IAEA). That agreement gives the IAEA the right to apply safeguards on all source or special fissionable material at peaceful-use nuclear facilities on a list provided by Russia. The Russian Federation is also a party to the Convention on the Physical Protection of Nuclear Material, which establishes international standards of physical protection for the use, storage, and transport of nuclear material. It is also a member of the Nuclear Suppliers Group, whose non-legally binding guidelines set forth standards for the responsible export of nuclear commodities for peaceful use. A more detailed discussion of Russia's domestic civil nuclear program and its nuclear nonproliferation policies and practices, including its nuclear export policies and practices, is provided in the NPAS and in the classified annexes to the NPAS submitted to the Congress separately.

This transmittal shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Act. My Administration is prepared to immediately begin the consultations with the Senate Committee on Foreign Relations and House Committee on Foreign Affairs as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

BARACK OBAMA.  
THE WHITE HOUSE, May 10, 2010.

#### HONORING DALLAS BRADEN FOR PITCHING A PERFECT GAME

(Mr. McNERNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McNERNEY. Mr. Speaker, I am proud to congratulate Oakland A's pitcher and Stockton resident Dallas Braden on pitching a perfect game on May 9, 2010. On Mother's Day, Dallas accomplished a feat that few ever have, going nine innings without allowing a single batter to reach first base. Dallas made history by pitching the 19th perfect game in Major League history.

Dallas has been playing baseball his entire life. He grew up in Stockton and played baseball at Stagg High. He was drafted by the A's in 2004 and made his Major League debut in 2007. Dallas is known for his community service in Stockton. And let me tell you, Dallas, you've made our city proud.

I ask my colleagues to join me in honoring Dallas Braden on pitching a perfect game.

#### TOWN OF SURFSIDE'S 75TH ANNIVERSARY

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I rise to congratulate one of the beach communities in my district, the historic town of Surfside, which will be celebrating its 75th anniversary on May 16.

I have the great pleasure of representing this unique town, which has had an important and historic part in the growth of south Florida from its early days as a beach resort. Surfside's roots stretch back to 1930, when 100 beachgoers formed their own club at 90th Street, beyond the Miami Beach city limits. Surf Club members persuaded local residents to incorporate Surfside and lent the town its first year's operating budget in 1935.

Among the historic figures who stayed at the Surf Club was Winston Churchill, who enjoyed painting by the ocean. Today, Surfside is known for its diverse population and low-rise residential homes in a quiet, peaceful, and relaxed neighborhood setting.

I am proud to salute the 5,000 residents of Surfside, who will be celebrating their anniversary with a parade and beach barbecue this Sunday, including Mayor Daniel Dietch and grand marshal and former mayor Marion Portman. Congratulations to Surfside.

□ 2000

#### SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SCHAUER). Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### BREAKING THE BARRIERS OF AN UNFAIR TAX CODE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, last month most Americans filled out what is probably the most complicated and lengthy Federal income tax return in our history. Most everyone agrees that our Nation's tax system is totally flawed and in need of considerable reform. The Tax Code is so complex that more than 80 percent of individual taxpayers either use an accountant or a computer-based program to prepare their tax returns.

The IRS estimates that Americans spend 6.6 billion hours and \$194 billion each year to comply with a Tax Code that has far too many complicated provisions which require special paperwork and detailed record keeping.

Our Tax Code has become more and more a complex, burdensome, and expensive drag on the economy which we can ill afford in the middle of a severe economic downturn. It also harms America's businesses' ability to compete in the global marketplace by discouraging saving, by discouraging investing, by discouraging risk taking.

American workers are now asked to work for 3 full months to pay for their annual Federal, State, and local taxes. It is totally unacceptable to require already-stressed families to give up at least a quarter of their income to prop up an expanding Federal bureaucracy while everyone else is making significant sacrifices.

Instead of searching for a way to provide tax relief to American households, some administration officials have proposed new tax schemes that will further burden small businesses and consumers. One of the worst of these is the European-style value-added tax, VAT, which would levy a complicated tax at each stage of manufacturing, thereby adding a hidden cost to the finished product. This is damaging not only to the consumer, but also to many industries involved in manufacturing which have been hard hit during this recession.

Instead of adding new taxes, Congress should be focused on reforming the current tax structure.

I join many of my colleagues in the House who have asked the chairman of the House Ways and Means Committee, the gentleman from Michigan (Mr. LEVIN), to schedule hearings on Tax Code simplification. The last major reform of the Tax Code took place almost a quarter century ago in 1986, and while far from perfect, helped reduce the harm inflicted on the economy in many ways.

The guiding principles of the 1986 reform were that it must not increase the total tax burden, while lowering individual and corporate income tax rates.

Tax reform must not be used as a subterfuge for increasing taxes, as it needlessly complicates an already difficult issue with controversial questions about whether the combined tax burden should be higher or lower.

Mr. Speaker, businesses and families need a stable and uncomplicated Tax Code. Businesses need to know how high their taxes will be in future years to make decisions now about hiring and expanding. Families need to know how high their taxes will be before they make decisions about large expenditures. A constantly changing Tax Code makes it difficult for businesses and families to make these decisions.

The Tax Code has become sufficiently complex and harmful that a major rewrite is in order, and if Congress passes tax reform, it should consider making a commitment to keep the reformed Tax Code in place for as many years as possible.



Congress must remember the sacrifices made by all of America's families. The American people need action that will break the barriers of an unfair and complicated tax system, and Congress must respond because the future health of the U.S. economy demands it.

#### AMERICA COMPETES REAUTHORIZATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Ms. SUTTON) is recognized for 5 minutes.

Ms. SUTTON. Mr. Speaker, today I rise as a proud cosponsor in strong support of the America COMPETES Reauthorization Act. As we recover from this recession, we must remain committed to ensuring that our students are properly educated in math and science to strengthen our Nation's economic competitiveness.

With the America COMPETES Reauthorization Act, we will make targeted investments in science, technology, engineering, and math education and groundbreaking research. Research leads to innovation. Innovation leads to manufacturing new products, and manufacturing leads to good-paying jobs.

According to the Alliance for American Manufacturing, every manufacturing job in our country directly supports four additional jobs. This bill will support our manufacturers, many of which are small businesses, by improving access to credit with innovative technology Federal loan guarantees.

This bill improves the Manufacturing Extension Partnership program by reducing the local cost share, allowing Manufacturing Extension Partnership program centers like MAGNET in Ohio to leverage more funds. MAGNET, which is based out of Cleveland, has leveraged Manufacturing Extension Partnership funds to generate nearly \$10 million in new investment and has created or retained over 400 jobs in my congressional district alone between 2005 and 2009.

Manufacturing Extension Partnership centers will help rejuvenate our Nation's manufacturing base by informing local community colleges of the skill sets local manufacturers seek. Our workers must have the necessary job training to secure good-paying jobs. We must invest in our students, our workers, our small businesses, and our short-, mid-, and long-term economic competitiveness, and that is exactly what our bill does.

For these reasons, I am proud to cosponsor the America COMPETES Reauthorization Act, and when the bill is called up for a vote tomorrow, I urge a "yes" vote.

#### IN HONOR OF BRIAN MAHAFFEY

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Georgia (Mr. JOHNSON) is recognized for 5 minutes.

Mr. JOHNSON of Georgia. Mr. Speaker, I rise today with sadness to recognize fallen Rockdale County Sheriff's Deputy Brian Mahaffey.

On May 8, Deputy Mahaffey was shot and killed in the line of duty while executing a search warrant in Conyers, Georgia. Deputy Mahaffey was shot. Although he was wearing a bulletproof vest, this bullet entered at an unusual angle and, as a result, he received a fatal gunshot wound. Deputy Mahaffey was only 28 years old.

Deputy Mahaffey served his community courageously and honorably. Brian was not only a sheriff's deputy, but he was a husband, he was a father, he was a brother, and he was a son. He loved to fish and he loved to work on cars. His friends often described him as a kindhearted, genuine, sincere, loving person.

It is difficult to see a life cut short, Mr. Speaker, by such a reprehensible act, but the people of the 4th District of Georgia are thankful for his love of serving others and protecting the community.

I am deeply saddened at the loss of our fallen sheriff's deputy, Brian Mahaffey, and my thoughts and prayers are with him and his family—his wife, Diana; 2-year-old son Trenton; almost 3-month-old daughter Anniston; his brother, Christopher; and his parents, Terry and Cindy. I pray that they find comfort in this unimaginably difficult time.

When a law enforcement officer is killed in the line of duty, it's a loss that is felt by all Georgians. We are a family, and we have just lost a son.

Brian Mahaffey was a hero. I am humbled by his service and his sacrifice. Deputy Mahaffey's duty was to protect and serve the citizens of Rockdale County. Thanks to law enforcement officers like Brian, our Nation is more secure. He routinely put his life on the line to defend those in Rockdale County, and his bravery resulted in his death.

The 4th District has lost a dedicated deputy, a public servant, role model, and family man. We must honor his memory with an unwillingness to surrender to crime and to lawlessness, and we must maintain our determination to bring justice to those who make us unsafe.

#### KEEP AMERICA COMPETITIVE IN THE GLOBAL ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Ms. KILROY) is recognized for 5 minutes.

Ms. KILROY. Mr. Speaker, I rise today in strong support of the America COMPETES Reauthorization Act, legislation that will create jobs, strengthen our commitment to innovative re-

search, and invest in education to keep our country competitive in the global economy.

Over the last century, America has been the leader in technological and scientific innovation. However, other nations are making investments in their own research capabilities, and we must rise to meet the challenge and insure that we remain the world's leader in innovation and learning while revitalizing our economy and creating jobs in our community.

I am part of the Congressional Competitiveness Task Force, and I also hold hearings on this issue in my own community and recently had the opportunity to meet with executives from the Silicon Valley. They tell me that innovation and research and development is necessary to get America moving again and our economy and keep America the leader in technological and scientific innovation.

The America COMPETES Act will create jobs by strengthening our manufacturing sector. It guarantees loans to small- and medium-sized manufacturers that create innovative products, supports research for transformative advances in manufacturing, and supports the Manufacturing Extension Partnership program so it can continue to meet the needs and challenges of manufacturers today.

The America COMPETES Act also makes investments in clean energy technologies that will help create jobs and secure our long-term economic growth. As China, Brazil, and other countries make huge investments in this growing industry, we must ensure that our country does not lose its competitive edge and fall behind in its technological capabilities.

The America COMPETES Act reauthorizes the Advanced Research Projects Agency for Energy to support high-risk, high-reward energy technology research and establishes Energy Innovation Hubs to support collaborative research and development of advanced energy technology.

Building a workforce that would be competitive in the world global marketplace also requires investments in science, technology, engineering, and mathematics education at all levels of our education system.

The America COMPETES Act updates the Robert Noyce Teacher Scholarship Program to help train secondary teachers to teach STEM in high-needs schools, provides grants to encourage students to major in science, technology, engineering, and math fields, and establishes fellowships for graduates in these fields to lead the way in education research in these areas.

The America COMPETES Act will strengthen diversity for science, technology, engineering, and math students, increasing the participation of women and minorities in the classroom and the workforce. And it increases

funding for research reauthorized by the Department of Energy's Office of Science, the largest supporter of physical science research in our country, the National Science Foundation, and the National Institute of Technology, with the intent of doubling funding they receive over the next 10 years.

□ 2015

The research they support will create the innovative technologies of the future and drive students to become the scientists and engineers our country needs.

Chad Bouton, recently named Inventor of the Year by Battelle in my district, is a shining example of this. His work on processing algorithms makes a product called Cyberkinetic Braingate possible, a medical device that allows people to control computers by their thoughts. This has incredible implications for paraplegics who are confined to their wheelchairs, for veterans in need of realistic, functional prosthetics. This is the kind of research we need that not only leads to incredible innovations, but will inspire students with the possibilities of what they can achieve as scientists and researchers themselves.

We have a key opportunity as the economic recovery takes hold to make essential investments that will keep our Nation competitive and secure its long-term economic growth. The America COMPETES Act is supported by the U.S. Chamber of Commerce, the National Association of Manufacturers, the Ohio Business Roundtable, Ohio State University, and hundreds of businesses, professional societies, and institutions of higher learning across the country.

I am proud to cosponsor this bipartisan legislation, and I urge my colleagues, tomorrow when it comes for a vote, to support the America COMPETES Act.

#### JOBS AND OUR ECONOMY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Missouri (Mr. AKIN) is recognized for 60 minutes as the designee of the minority leader.

Mr. AKIN. Mr. Speaker, thank you very much for recognizing me and allowing us again on a Wednesday evening to explore the interesting question that has certainly been much in the minds of Americans over the last couple of years; that is, the situation of jobs and our economy. Particularly, what is the connection between jobs and the economy, and what is going on? Do we have reason for hope? Are things turning around or not? And we continue as Americans to ask, where are the jobs? Because there are many, many people who are unemployed, and many people who are unemployed for

more than a year are no longer counted in our statistics, which suggests that the unemployment rate is somewhere in that 9 percent or 10 percent area. So the real unemployment rate is probably higher. That is a reason for people to be concerned, if you have a job.

If you don't have a job, it is not a matter of concern; it is a matter of a serious crisis. And there are many people who are struggling with that, and we are going to take a look at that this evening and also take a look at what are the various factors that influence the fact that we don't have jobs, whether we are doing the right or wrong things, and also the curious phenomena that we are seeing now, where, from a policy point of view, we are doing many things that are very destructive to job creation, and yet the economy seems to be coming back to some degree. What is that? What drives the economy? And, why would Wall Street be having things look good for Wall Street when so many people are out of work? We are going to take a look at those questions this evening.

Starting off, I have depicted here: The lower part of this graph is the net jobs gained or lost. This centerline here is zero jobs. We haven't created any jobs, we haven't lost any jobs if you see a bar that is near this centerline. This is going back to 1993.

We come here: 2001. It was the recession when I was first elected to Congress. In 2001, we were losing jobs. And you can see those. We inherited a recession from the last days of the previous administration. George Bush came to office here, we were losing jobs, and we had to do something to try to turn the economy around. You see, something was done. The economy turned around.

Now, the next and last section of the graph is 2009, and you can see the tremendous number of jobs lost over here, the jobs lost again being the lines under the graph, showing that these are thousands and thousands of jobs that are lost. So this graph here shows the fact that we do have a great deal of job loss. The graph up above is a little bit more complicated. We don't need to get into that for a moment.

So how is it that this whole situation came to be, and how did we get into the problems in the first place? Well, it started some years ago for this particular recession. It was brought on, as you recall, you have probably heard some discussion about the word ACORN or about Freddie and Fannie. The details of this whole situation may seem a little bit hazy to you. That is all right. A lot of things go on, and it is hard to keep track of everything. But the recession really got started because of a combination of several things that happened.

By and large, if you are looking at somebody to blame, you should be looking here. You should be looking at

the Federal Government. It was policies of the Federal Government that created this problem, the unemployment problem and the turndown in the economy.

Well, exactly what happened? Well, what happened was, going back many years, people got the idea that it would be a good idea for banks to loan money to people so people could buy houses. But there are some people who economically are not in a very strong position to be able to continue to make their mortgage payment month in and month out. So Congress, in its wisdom, made the decision that we were going to force banks to make loans to people who were bad loan prospects. That means that there was a high chance that they could not repay the loan.

Now, I suppose this was done in the name of compassion or whatever. I am not sure how compassionate it is to put someone into a loan that they can't afford to pay for, but that is what we actually instituted into law. So we had the situation ticking along like a timebomb.

By the time President Clinton was in his last year, he increased the percentage of the loans that had to be made to people who couldn't afford to pay them, so the bankers were going out making loans to people that couldn't afford to pay.

You say, well, why would a banker do that? Well, part of the reason is because a banker could pass the loan on through to Freddie and Fannie. Freddie and Fannie were two quasi-public organizations. They acted like private companies, but there was always this implicit guarantee that if anything happened to Freddie and Fannie, the Federal Government would come in and bail them out.

Well, so what happens? You put that in combination with another thing that was going on, and that was this recession here. The Federal Reserve, first of all, created money, but they also particularly reduced very much the cost of money to banks. So you had almost a zero interest level and you had a lot of liquidity looking for someplace to invest money. So what did people invest money in? They invested money in houses. So everybody started buying houses, and housing prices went up and up and up.

I came down here by 2004 or 2005, and I thought I was the dumbest Congressman in the entire House because I hadn't bought a multimillion dollar house and watched it double in 4 or 5 years. But of course, when you see something expanding that rapidly, it suggests you may be dealing with a bubble, and of course that is what happened: The housing bubble popped.

So it was a combination, one, of policies created by Congress requiring loans to be made to people who couldn't afford to pay them. And as the housing bubble popped and the housing

values came down, all kinds of people were like, when the music stops, who is left without a chair?

So the economy starts to take a beating, and the group that was pushing very hard for these loans to people who couldn't afford to pay them of course was ACORN, someone certainly that the President was closely associated with. And was this a big surprise to lawmakers? Well, it really wasn't to many.

In fact, if you take a look at that great conservative oracle, *The New York Times*—I say that somewhat sarcastically—you find on September 11, 2003, as early as September of 2003, President Bush was saying to Congress, "Give me authority to work with Freddie and Fannie, because they are spending too much money." And so the Congress did that. The Republicans were in charge here in the House.

We passed a bill, it went to the Senate, and it was killed in the Senate because the Republicans did not have 60 votes in the Senate. And so this ticking timebomb continued to tick. We did not deal with the financial mismanagement of Freddie and Fannie until the train came off the tracks somewhat down the line.

That may be a brief version, but it gives you a sense as to how things got started. And it wasn't problems with free enterprise, it wasn't problems with businesses much. It was made right here in this Chamber.

I am joined by a fantastic Congressman from Illinois, somebody who is highly regarded, a graduate of West Point, which we won't hold against him even, and it is Congressman SHIMKUS.

I would be delighted to hear your perspective on where we are going with these things.

Mr. SHIMKUS. I thank my colleague for giving me some time. I am joined with some high school students from North City, Illinois, which is a small rural community. The thing that is worrying them and they are focusing on is, where are the jobs going to be?

And I always come back to over this last year and a half: What have we done to help create an environment? As you know, and you have got a great background in this, there is a simple statement: If you want employees, you have to have employers.

Mr. AKIN. That is a profound statement that you just made. It is so simple, and yet we forget it. Don't we?

Mr. SHIMKUS. Well, we forget it, and we drive them out. You look at what we have done with the bailout of Wall Street. What we actually did was we established a premise of too big to fail, and then we bailed out the huge, powerful, big Wall Street banks. And who is paying the fare? Our small community banks, with new insurance premiums, and they are the ones who loan to small businesses throughout small-town rural southern Illinois.

And then we bring up a cap-and-trade regime on a false premise of carbon dioxide as a toxic emittent. We say we want to tax carbon. What does that mean? Higher electricity prices, higher gas prices. That is not a good signal for people to invest and take over this if they are going to get a return investment.

Then, we do the fraud of all frauds, and we say we are going to provide health care to all Americans, and we are going to cut Medicare \$500 billion, we are going to raise another \$500 billion in taxes, and we are going to create a system that really is unsustainable.

And the business community is saying, time out. I am not going to take any risk until this thing all sorts out.

So it is unfortunate, when we really need jobs in America, that our response here in the past 18 months is to send every signal against those.

I want to finish with the statement that if you want to pay for government services, you have to have the private sector that is earning money to pay the taxes to pay for government services. Government employment, government jobs is not going to be able to pay for government services.

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Mr. AKIN. Well, you know, you have just made a whole series of very, very excellent, really commonsense kinds of points. And in summarizing what you said, many people have likened that our policy for the last year and a half is the equivalent—it's tantamount to declaring war on business. Now, you can't declare war on business and then complain that there aren't any jobs around. It just doesn't make sense.

Now, supposedly the President was going to do some "Meetings on Main Street" about unemployment. So a couple of weeks ago, we had a meeting across the river from you, gentleman, on Main Street in St. Charles, and we invited about 30 or 40 business people, some bigger companies, smaller companies, and we asked them, What are the most important things to get right, for us to get right down here in order to create the environment where the private sector could create jobs? We can't make any jobs in the Federal Government. Every time we make a job, it takes two jobs out of the private sector, but we can set a proper environment for job creation.

So I asked it a little bit from a negative point of view. I said, What are the things that are most destructive to creating jobs? I have got a list of them here, but they put them in order—actually the order that I think is almost common sense. The first thing they said was excessive taxation. Now, starting on excessive taxation, everything that just came out of your mouth, gentleman, is another story of excessive taxation. You've got the Wall

Street bailout. I think you mentioned that failed stimulus bill—I would call it a porkulus bill. The \$787 billion really turned out to be \$800 billion, and then you've got the tax on carbon, the cap-and-tax. That's something we passed in the House, but the Senate, fortunately, hasn't confirmed it.

You know, the President made a promise, he said, No one making under \$250,000 is going to need to worry about getting taxed, and yet we pass a bill that the poor soul that flips the light switch is going to be taxed. And then on top of that, we add socialized medicine. All of those things are massive taxes, and our small business people were saying, If there's one thing you want to do to create jobs, you do not want to bury the small business guy in taxes. Now, you know that. It's absolutely common sense, isn't it?

Mr. SHIMKUS. Right. And as we follow the new health care law, it's hard for some of us to really—I mean, the reality is that the people who are going to have the most difficulty are the small businesses in complying. And, again, when you talked about small-town rural America, you look at—we want to encourage people to hire folks. We don't want to discourage the centralized—and it's a sad state of affairs that the only place in America that you can go to find a job is Washington, D.C., and the only place that real estate values are high is Washington, D.C. We cannot continue to incentivize the national capital at the expense of Main Street USA.

Mr. AKIN. Right. The first thing is on the taxation point, why would taxation kill jobs? You know, if you think about it—first of all, let's say, whereabouts are jobs? Well, 80 percent of jobs in America are businesses with 500 or fewer employees. So as you're saying you've got these small business guys out there, and all of a sudden the government just lets them have it with a whole bunch of taxes, the small businessman, the profit that his little business makes is viewed as he made a ton of money.

Mr. SHIMKUS. If the gentleman would yield, in small town rural America, a big company has 25 employees, maybe 40 employees. I mean, they are the massive job creators of rural America. And I know the Department of Commerce has their categories of what defines small. Most folks in my congressional district—again, I have someone who joined me tonight—I mean, if someone had 500 jobs in any part of the district, that would be like a massive influx. And so that's where we need to get to. We need to provide the incentive. I'm not just putting just the national government to blame. The State of Illinois is one of the worst States for people to locate and create jobs because of additional things that you just highlighted.

Mr. AKIN. Is it tough on taxes?

Mr. SHIMKUS. It's tough on taxes.

Mr. AKIN. Our businessmen said, That's the worst thing. I think their point was, You've got yourself a little machine shop or some business, if all your money is taxed away from you, you can't put a shed on it and add a new machine tool; you can't invest in a new process or a new idea or a new innovation.

We've got a guy in my district and he actually has a farm over in Illinois, and I just love innovation in Americans. This guy recognized that there is a material that nobody seems to want in our country, and it comes out of the south end of pigs. And it's kind of smelly stuff. He has found some way to put pig manure into these big kettles, run the pressure up and the temperature up and turn it into a crude tar which he uses to make asphalt to make roads. And we have a section of road which is a pig manure road which apparently our Department of Transportation says is pretty good quality asphalt. You know, that's the kind of thing, though, you've got to have money to invest in a new idea, and if the government taxes all your money away, how do you create those jobs?

Mr. SHIMKUS. And you have it up there too. I'm going to end with this: uncertainty, because uncertainty creates a disincentive for people to assume risk. And if they're going to assume risk, that's where bailouts are a failed economic policy because there are two sides of that coin. If you're successful, we want those folks to be rewarded and be able to keep that earned money so that they can grow their business. But if they fail, they fail. Grant failed numerous times. Lincoln failed numerous times. The history of this country is rife with very successful individuals who were not successful in many businesses but didn't turn to government to ask for a handout.

I want to thank you. I wanted to come down and visit. I appreciate your yeoman's work on this, and thank you for your work.

Mr. AKIN. Well, I sure appreciate the way that you represent your district, and I know your constituents do. We're proud of you, and thank you for the fact that you bring that kind of common sense from the heartland here to the Capitol. We need a little more of that common sense. Thank you so much, gentleman.

So I was just running along. We talked about what caused all this problem. Well, a lot of it was government policies and the idea of giving people all these loans. They couldn't afford to repay them, and then you have everybody buying all of these different kinds of mortgage-backed securities. And the major corporations in America, the Wall Street corporations, started to fail and choke on these bad policies that are based on no common sense at all.

So now you have what's happened before in America and, that is, you have a recession going on. So the question is, What do you do if you've got a recession? And different Presidents have had different approaches to that. But what we have seen, as we've just been talking about, is we have done about everything on this list which are things that are going to kill jobs. We've done everything policy-wise wrong. We could hardly get anything more wrong.

First of all, according to the small business people in our community, the excessive taxation. Well, let's talk about what the taxation was. Well, you've got the Wall Street bailout which is basically creating a whole lot of the government debt which is going to have to turn into taxation. You've got the taxation of the cap-and-tax bill that they're talking about. You're going to expire taxes on capital gains, dividends and death taxes. Those taxes are all going to go up next year. And then you've got the tremendous taxes that are inherent in the socialized medicine bill. So you have a whole lot of taxes coming down on the owners of businesses. That's a job killer.

The next thing that my constituents said that was a major part of the problem was the insufficient liquidity. A businessman needs to be able to get loans from a bank. He doesn't want big ones. He usually gets a loan for 3 to 5 years and has to pay a pretty decent percentage to the local bank to get those loans. Well, what's happened is that we have tightened up the security and the requirements for lenders in small banks so tremendously heavily that it's very hard for small business people to be able to get loans. They can't borrow money, or the money they used to be able to borrow, they're paying twice the interest rate for the money. So the liquidity is a big problem. Insufficient liquidity is a big problem that small businesses are having.

They're having liquidity problems, tax problems. The economic uncertainty—of course all of these massive bills like socialized medicine, those are things that create a lot of uncertainty. So if you're uncertain as a small businessman, what you're going to do, as we say in Missouri, you're going to hunker down. You're going to avoid making decisions. You're going to try to preserve your capital and try to do what you can to ride out the storm. So that's the economic uncertainty that has been created.

And then the red tape is another one that they mentioned. Excessive government mandates and red tape. That's particularly deadly to small businesses because a big business could have a red tape department, but a small business can't afford to have that kind of overhead in terms of management staff. So red tape is also very much a job killer.

Now we have employed all of these tools in the last year and a half and es-

entially declared war on business. So why in the world would we want to do something like that? We shouldn't be doing it. The result then is that we have created an environment to make a recession that could have been bad, we've made it worse. We were told in the recovery plan, in the beginning of the year in 2008 and 2009 here, we were told that if we don't pass the recovery plan—I guess they call it the stimulus plan—if we don't pass this thing, we're going to have unemployment as high as 8 percent or 9 percent if we don't pass it. Well, on a totally party-line vote, the Democrats passed this bill, and our actual unemployment has gone up like a skyrocket. And why is that? Well, it's because obviously the stimulus bill didn't work.

Now, should we have known it wouldn't work? Of course we should have known it. We could have gone back to the days of FDR who also had a recession that he turned into a Great Depression because he used a wrong economic theory. And what was that theory? Well, it was the idea that if the Federal Government just spends money wildly, it will improve the economy because as the government starts buying, they'll get everybody else buying, and the whole economy will take off and do well.

So that was what Henry Morgenthau, with the advice of Little Lord Keynes, did just prior to the Great Depression. So at the end of about 8 years of tremendous pain and suffering where the small businesses were not just hunkered down but were out of business, then what happens is, this guy, Henry Morgenthau who was Secretary of the Treasury under FDR, comes here to Congress. He talks to the Ways and Means Committee, and he said, You know, we tried spending, and it doesn't work. It just doesn't work. And he said, What's more, we're tremendously in debt as well. So that goes back to basically World War II days that shows that this idea of the stimulus bill just doesn't work. It's not the right way to do it.

Now, is there a way to deal with a recession that comes along? Well, the answer is yes. It's been tried by quite a number of different Presidents, and the various Presidents that have been most successful in stopping these recessions, one was JFK. Now, of course the Democrats run everything down here. Republicans in the House are 40 votes short of the majority, so we don't have a lot to say about these different bills that were passed, and the same thing is going on in the Senate, and of course there's a Democrat in the Presidency.

Now, is there an approach that they could do? I have been critical of Democrats, but not because of the fact that I have anything personal but because the policies have been hurting our country.

Here is a case, JFK, who is a Democrat, that did the right thing. They

should have learned from him. And what did he do? He cut taxes. How does that help? He cut taxes. You've got problems all over. The government should be spending money and things. If you cut taxes, what happens is, it leaves more money for that small businessman to invest. As he invests, it creates jobs. As more people have jobs and make a good income, they pay more in taxes. So it's an ironic effect of economics that you can actually reduce taxes and increase government revenue. We saw it happen under the Bush administration. JFK of course was followed by, you know, Ronald Reagan and Bush. Both of them used the same approach. By cutting taxes, they turned us out of a recession.

You could see that on the first chart that we had. You can see that this recession that President Bush inherited here, he had in 2001—and you have kind of lackluster job growth through 2002 into 2003. And then put the policies of these tax cuts, which he was able to get through the Senate. In spite of the fact that we did not have 60 Republican votes, we did get tax cuts through the Senate, particularly capital gains dividends and the death tax. And when we got that through, you can see that the recovery followed. And so that's the effective way, and I think it's not American even to be critical of a political party or somebody else's solution without proposing a better idea. So certainly the better idea is cut taxes. That's what always works. It's worked in other economies and other parts of the world as well.

So here we've got actually a little bit of a cartoon of what's going on. Sometimes we have to laugh a little bit even though it doesn't seem very funny when you don't have a job. But you have the President here saying, Now give me one good reason why you're not hiring. Well, there are a whole bunch of good reasons in these bulls that are in the china shop. Certainly the health care reform is a huge tax, but it's also a tremendous amount of government red tape and an extreme, extreme incentive not to hire workers because you have to pay so much in health care if you are a small businessman with this new socialized medicine that has just been approved.

The cap-and-trade or cap-and-tax is the energy bill. Of course, most businesses use energy. So if you have an increase in the cost of energy, which this bill would do, you're taxing small business. And then of course you have other different taxes in the background coming in. So we're doing a lot of things that are absolutely the wrong thing to do. So that basically could be summarized as a war on business.

□ 2045

We have talked about what the right thing to do is, which is to cut our spending and also to cut taxes. The

point of the matter here is that our economy and these jobs all work according to basic principles of economics.

So now we come to, I think, a very, very interesting question, and this is the question: If we have been doing everything wrong, which I would suggest from a policy point of view we have done about everything wrong. We have created red tape. We have created tremendous taxes, and we are not allowing the liquidity that the businessmen need to make jobs. On top of that, you have a high level of uncertainty and excessive government spending. If we are doing all of those things wrong, how come it seems like the stock market is bouncing back and it seems like we are starting toward a recovery in appearances? That becomes kind of an interesting question.

If what I am saying is true that we have done all of the wrong things for businesses, and if you check with almost any small business man in America, they would say yes, you do not want to increase taxes and uncertainty and government red tape. You want small business men to have access to capital and liquidity, and all of those things, if we haven't done a good job, are problems. Almost all small business men will say that is common sense, and if you want jobs, you have to have healthy businesses.

How come is it, then, that it appears that we are pulling out of the recession and starting to do better? Well, obviously the answer to that question is that there are some other things that also affect our economy. In fact, there is another thing that is even stronger than all of the policies that are so important that we get right down here. What is that force that is so powerful? Well, in a way, you could look at it as the crack cocaine of our economy. Think of it for a minute that there is a person standing there. They are in need of a seven-way heart bypass and they have diabetes and they are getting older. So they are not too healthy. But with a little crack cocaine, they think they are Superman.

Well, we have the equivalent of crack cocaine in our economic system in America, and that is the Federal Reserve. And their crack cocaine is to increase the money supply. It used to be called "running the printing press," except today we don't run printing presses. Things are just recorded. But the point of the matter is that the Federal Reserve has created a tremendous spike in liquidity to try to deal with the tough times in the economy.

On top of that increase in liquidity, they have dropped the interest rates down very low toward zero. What that does is it creates all of this easy money that is looking for a home, and that has a tremendously stimulating effect on the economy, a little like crack cocaine does to somebody who might otherwise be sick.

So, when we have done this in the past, we run into these bubble cycles where you have easy money at a low interest rate. There are people who have access to that money, and they want to buy stocks. They find something they want to buy; they bid it up. It goes up, up, up, and then the bubble collapses. We saw it with the high-tech stocks, and we have just been through it with real estate. People who had a lot of money, particularly low interest rates in 2004, 2005, they go out and buy real estate because what is more solid and American and reliable than mortgages of Americans for their own homes? It has been a very steady business.

Well, you have to watch out when you see money get too easy to be made. You saw home prices in many areas double, and then the top blows off. That is created by this easy money, or what I would call the crack cocaine of our economic system. That is what is going on right now. That is why you see Wall Street apparently seeming to do better, the stock market seeming to go up, and yet all of the policies from a logic point of view that are necessary for a healthy business environment and for lots of good-paying jobs, those policies are not in place and they are being ignored.

In fact, it is almost ironic. The President made a statement, and I had it on a chart last week. He said the government can't so much make the jobs, but we need to set the environment so there is the proper environment for job creation. He was exactly right on that. And then he turned around and has advocated every single policy that he has been advocating, all of his priorities are going to have the net effect of destroying jobs. So there is a little bit of a dichotomy here.

Now, I have been critical of Democrat policies, not because I don't like Democrats, and maybe I ought to make it clear. Everybody that I know of in this Chamber here, there are a lot of fantastic people, and I don't know of anybody who wakes up in the morning and thinks, How I can mess up our country? Nobody thinks that way, but the point of the matter is there are policies that work and there are policies that don't work. The policies that work to create jobs is you have to get off of the big spending and you have to back off on taxes. If you do that, you will actually get more revenue and you can pay for more government services.

Let's take a look at what I am talking about, big spending. Many people felt President Bush spent too much money; in fact, he probably did. These blue lines are President Bush, and these show what the deficit is by year. If you take a look here, the very worst Bush deficit was this year. It is shown in red because this was the Pelosi Congress with Bush as President. He was somewhere just about \$450 billion of

deficit, which was President Bush's worst deficit. So he spent more money than we had, and that wasn't a good thing to do. He had two wars going on, and we were just coming out of a recession. Anyway, his worst spending year was 2008.

Now we come to Obama's first year as President. What we find is that now the deficit has more than tripled in 1 year. So we go from \$450-some billion under President Bush, which was about 3.1 percent of our gross domestic product, which is about average, really, for some of the deficits that various Presidents have run. The deficit is about 3 percent of our gross domestic product. The next year, under Obama, the deficit, and PELOSI and REID, the deficit triples to \$1.4 trillion.

Now, what does \$1.4 trillion mean? Well, it is three times bigger than Bush's worst deficit, but as a percent of GDP, it is 9.9 percent of GDP. That is the highest since World War II in terms of government spending.

So this is not the thing to be doing when there are not a lot of jobs and when businesses are being hammered. We don't want to be running that kind of spending, and that kind of spending tends to lead to all kinds of taxes. What happens is you can take a recession and turn it into a Great Depression by using the wrong policies.

Now, one of the things that I hear sometimes from people, and I think it is a fair and a good question, and that is: Okay, Congressman AKIN, you are criticizing some of these Democrats, but I think you have a short memory. Don't you remember that the Republicans used to be in charge of 2001 through 2006? You were in the majority. What kinds of things did you do?

Well, when we were in the majority, we did a lot of things that nobody knows anything about, but they were not actually such bad policies.

In the case of health care, for instance, did you do anything in health care? Yes, we did. We passed a number of bills to move forward with associated health plans. That was something where small businesses could pool their employees together and get a better price on health insurance.

What happened to the bills that the Republicans passed in the House? They went to the Senate.

What happened in the Senate? Republicans did not have 60 votes in the Senate, so the bill died for associated health plans. It was brought up numerous times.

We had bills to change tort reform. They passed in the House and they went to the Senate. What happened in the Senate? You guessed it. We didn't have 60 votes and they were killed in the Senate.

We had bills to protect against the problems of Freddie and Fannie. The Republicans passed a bill to create more government control of Freddie

and Fannie because they were cooking their books and they were not solvent the way they should have been. Guess what happened to those bills over in the Senate? Because we did not have 60 votes, they were killed by Democrats in the Senate because we didn't have enough to get to 60 votes.

We also passed a number of energy bills in the House to protect against spikes in gasoline prices that we have experienced. What happened to our energy bills? A number of them that were sent to the Senate, you guessed it. They were killed by Democrats in the Senate. In fact, people are surprised to note that there is more difference on a party-line vote on energy in the U.S. Congress than there is on the subject of abortion. Most people know Congress gets polarized on the abortion issue. They don't realize that we are even more polarized on things like energy. All of these different bills were passed in the House. And, of course, we did get some strong judges on the Supreme Court.

Now, one of the things that has always surprised me from a policy point of view—aside from the fact that we can't seem to learn from the other countries that have gone bankrupt and the States in America that are going bankrupt because they are spending too much money—why is it that we have so much faith in big government? That is something that is a real puzzle to me.

I think of another country that was founded on the idea of a great, great deal of faith in big government. This was a major world power, and their whole basic way of thinking about things was that the government is going to provide you with food, the government will provide the citizens with housing for a place to live, the government will provide the citizens with education so they can be well-educated, the government will provide them with a job, and the government will provide them with health care. So this was the idea that big government is going to provide you with food and clothing and shelter and a job and education and health care. What was the name of this big country? Well, it was known as the Union of Soviet Socialist Republics, the USSR. It was done by the Communists, and they felt it was the thing that big government could be trusted to provide all of those nice things for citizens.

It turned out, as we took a look at it, that it wasn't such a nifty theory. It didn't work, and it created a great deal of poverty. And not only that, the people who had adopted that theory had failed to recall that historically one of the greatest dangers to human life is big government. Big governments have killed far, far more human beings of their own citizens than all of the wars of history. If you take the wars of history from the time of Christ forward,

you will find that there weren't nearly as many casualties from war as there were just from the casualties of a couple of Communist dictators to what they did to their own people. That's not to mention the Nazis and other kinds of dictators that have likewise killed many of their own citizens.

In the case of Stalin, about 40 million people were starved in the Ukraine. And, of course, Chairman Mao, not to be outdone, is noted for having murdered about 60 million Chinese. That is more, the combination of those people under communism, under the big government theory, killed more people than any wars.

So why do we have so much faith in big government when we have seen its tremendous failures? And yet it seems over the past year and a half, the solution to everything is more taxes and more government. I don't see the logic of why we want to be doing that. So that is what is driving this tremendous Federal spending is this faith that big government has to do everything for us; and, of course, economically that is not a good approach.

The result is we have gotten into this particular situation here. This is the actual money that the Federal Government takes in is the blue dot, and the red circle here is the money we are spending. Obviously, if you look at this, you can see the blue circle is smaller than the red circle. That says we are spending more money than we are taking in.

What is that ratio? That ratio today is when the Federal Government spends a dollar, 41 cents of it is borrowed. Out of a dollar, 41 cents is borrowed. That is the difference between the blue and the red circle.

Where is the Federal spending going? It is going to Medicare and Medicaid, which are now mathematically broken. Over time, if you run what is happening with these programs, you don't change the programs any, you just have more and more people asking for services out of these programs, that, in combination with Social Security, the dark red here, is growing at a rate that you could get rid of defense, nondefense and everything else, and you are not going to have enough money to run the government.

This is really a crisis, and it is a little bit ironic that when the Federal Government cannot run health care, that is Medicare and Medicaid, which is currently the Federal Government's responsibility to be running Medicare and Medicaid, although Medicaid is passed on to the States to a degree, too, that we cannot run that well, and so what do we do? We are taking all of that over and have the government run all of health care with this new socialized medicine bill. Certainly the solution to that bill is only one thing: It must be repealed. It is the worst piece of legislation I have ever seen in Congress, and I believe that there are

many, many other people who have the same opinion that the solution for America to move forward with decent health care has to start with a repeal of socialized medicine. You can see we are not running medicine too well with the government even before socialized medicine, and that is the problem with this excessive spending.

□ 2100

And what happens then too is as the government grows and grows, you take money away from small businesses. First of all, they hunker down. They don't make decisions. They don't make jobs. They lay people off. But eventually you could make them sick enough that they close their doors. And guess where the jobs go? There will be jobs, they just won't be in America. They will be overseas. And that's the problem with the excessive taxation and the war that's going on in our economy on businesses and jobs.

People have taken a look at various countries and looked at this problem with excessive government and the regulations and the increases, and we can see in 2001, that the United States was sixth in terms of an economic freedom index. I think this is calculated by the Heritage Foundation. And they took a look at all kinds of things like taxes, redtape and a whole series of other factors, and the United States is sixth with the particular list they calculated. We've dropped, just in 10 years, to eighth, behind several other countries.

And one of the things that a lot of the European countries have discovered, and it's a little bit ironic because we always thought of them as being much more socialistic and Big Government in their solutions. They're finding that they're in a race to try to cut back on taxes on business because they realize businesses are the keys to prosperity, both in terms of jobs, but also in terms of government revenues.

You have to remember that when the economy is sick, the State governments really take a beating, and so does the Federal Government. In fact, if you take a look at the early Bush years, 2001, 2002, what you found was the cost of the tax cuts that the Bush administration put together, including the cost of the two wars in Iraq and Afghanistan, that the total of that amount of money was less than the drop in revenue because of the recession.

So when you have a recession, it's not just small businesses. It's not just citizens that take a beating. It's also governments that don't have revenue.

So by cutting taxes all of a sudden, what happens? Well, what you find is that the government revenue starts to go up. You say, that's just like making water run uphill. Congressman AKIN, you're an engineer. How can you say something that seems to be so hard to

understand? How is it that the government could cut taxes and actually increase their amount of revenue that they take in through taxes?

Well, the answer is pretty straightforward. If you think about it for a minute, pretend that you're king for a day and your job is to tax a loaf of bread. And so you're going to do—you've got to sort of think in your mind, now, how much tax am I going to put on a loaf of bread? Am I going to charge a penny per loaf? Or am I going to charge maybe \$5 for a loaf of bread for taxes? Well, you start thinking, if I do \$5 that's probably too much. People may not buy any bread at all. If I do a penny, I probably am not getting all the taxes I could get.

Well, common sense says that somewhere there is an optimum amount the government can tax something that's optimum in terms of how much revenue you can get. And what's happened is the government has increased taxes so heavily that we're way beyond the optimum. And so, by reducing the amount of taxes, you actually can increase the amount of revenue because, as the economy gets going, it generates more jobs, more prosperity. And as you take a percentage of that in taxes you end up, even though it's a smaller percent, you end up with more tax revenue for the government, which is what actually happened in 2004, particularly, and 05 and 06.

And so anyway, some of these different governments, these foreign governments are starting to realize, you know, the Americans were right all the time. JFK was right. Ronald Reagan was right. Bush was right. When you get in trouble, you want to drop taxes and cut government spending, and you don't want to get into this highly and excessive kind of government spending here. And so that's what they did. That's what many foreign countries figured out.

And here we go along, the USA, and our tax on corporations is the second-highest in the world. It's like we haven't learned at all from the lessons that Europe has been learning. And so that's something we need to be paying particular attention to.

Now, to add insult to injury, we not only are overspending, we're not only overspending by looking at it in a different way, we're not only hammering businesses with all kinds of regulations, redtape, with a lack of liquidity, huge and high taxes, but now, we've gotten to the point where we're that cynical here in Congress that we're not even going to create a budget. It seems like I think it's the first time this has happened in a very long time, that the U.S. Congress is not going to have a budget for the year.

And maybe you could say, well, you haven't stayed in your budget anyway, so what's the point of creating it? But you've got to have some guidelines,

some sort of rules that we're going to go by. And apparently, it's not in the cards that we're going to create a budget this year.

All of these things are very concerning. All of these things affect Americans everywhere. And they're things that it's right that the American public should be upset, should be concerned about these things. And there is certainly a level of fear and anger in the general public because of the fact that we're not really paying attention to our business. We're not really being responsible economically, with our constituents.

Now, all of this stuff about the economy, jobs, the Federal Reserve creating liquidity and low interest rates, I guess it can seem kind of mathematical or maybe even a little boring if it didn't have such a tremendous impact on the lives of everyday Americans and citizens.

I think sometimes it's helpful to put a picture on what we're talking about. And in my own mind, as a guy who's responsible for earning income for my family, the picture that I guess I live in fear of is a picture of a house with a sidewalk out in front, and the family furniture, like a sofa and an easy chair and an ironing board, and I don't know what else, sitting out on that sidewalk because I couldn't afford to pay the mortgage payment on the house. And so the house has been taken away from me and the family.

And I'm picturing a wife and some kids looking at Dad saying, now what are we going to do? Now where are we going to go? You haven't had a job in a long time, Dad.

And that's being created by the wrong policies right here in government. And it's that reason that there needs to be a change, and there needs to be a whole new look at what we're demanding that the Federal Government does.

What's happened is we have drifted from the idea of limited government, of the Federal Government primarily doing only the things that States cannot do for themselves. Originally, a couple of hundreds years ago the Federal Government was very boring. We only had about four laws to the books. We had a law against piracy on the high seas because that wasn't a State function. We had a law against counterfeiting because that wasn't a State function to take care of that. And we had a law against treason because when somebody is a spy on America, they're a spy on the whole country. So there were a very limited number of laws at the Federal level. And all of the other kinds of things, things like murder and stealing and all those things, were all State laws.

Now we look at the Federal Government, and what do we want the Federal Government to do?

Oh, we want the Federal Government to do food, and we want the Federal



Government to do housing, and we want the Federal Government to do education. We've just taken over almost all of the student loans in this last year or two, so now the Federal Government's in the student loan business. And we've got the Federal Government in the car-making and the insurance business and the flood insurance business. And we've got the Federal Government in the food business and in the housing business, in all of these different things, which never, never were dreamed of by the Founders, that the Federal Government would get into the health care business and all of these different things.

And so what's been the result? Well, the result, as you can see, is excessive spending. But it's been that chairs and furniture sitting out on the sidewalk, and the father trying to figure out, I've been looking for a job for over a year now, and I still don't have a job, and asking himself, what went wrong?

Well, an awful lot went wrong. It started right down here when we started imitating the socialistic Big Government idea that the government is going to do everything for everybody. And the fact of the matter is, the government shouldn't and it can't, and we are getting a real lesson in that in these very days.

And so it is that we've come taking a good look at where the problem started, the fact that we have done the wrong solutions, the solutions of excessive government spending, excessive taxation, taking away liquidity from small business people, and then, last of all, using the crack cocaine of the Federal Reserve to create tons of money and low interest rates. That will boomerang on us, just as crack cocaine does to a sick person, and it will continue to make our country sick until we can start to direct the Federal Reserve to control and regulate the supply of money in such a way that we don't create tremendous amounts of liquidity and inflation.

I'm joined here this evening on the floor by a good friend of mine, the Congressman from Iowa who's noted as a businessman, a man of a considerable amount of common sense, a man who's not shy about expressing his opinions. And so it's a treat for me to just welcome my good friend, Congressman STEVE KING, if you'd like to share a word or two. We're about to close up.

Mr. KING of Iowa. Well, I thank the gentleman from Missouri for heading up this Special Order hour and for talking so much common sense into the RECORD himself. And as we watched, there are two different paths one can follow. The road that's being traveled by the Obama administration and the Pelosi House and the Reid Senate is a road down the path of Keynesian economics on steroids. And the path that we should have followed, and the path that we've got to get back to, is more

of the Adam Smith, free market component of our free enterprise economy. And if we look at all of the components of this free market that have been nationalized, taken over, or are under a great threat of this Congress taking them over, we can add up, as I've many times said, the banks, the insurance companies, Fannie and Freddie and the car companies, the student loan program completely, the nationalization of our bodies under Obamacare, our skin and everything inside it. Now we have the financial services bill sitting over there in the Senate about ready to get shoved out of there and back here for a conference report, and it could end up on the President's desk. If we add all of that up, and if we add to that cap-and-tax, which is another huge endeavor on the part of the President, the Speaker and the majority leader in the Senate—

Mr. AKIN. Controlling energy, controlling health care, controlling every financial transaction, it's like three nets of oppression, isn't it?

Mr. KING of Iowa. Let me add up the percentages of the formerly private sector from a year and a half ago, and it comes to 74 percent of the private sector would be either nationalized today or nationalized with the two acts that are pending that they're trying to bring at us, that being cap-and-trade and the financial services, Mr. AKIN, and I'd yield back.

Mr. AKIN. Wow, that's incredible. Now, that's 74 percent of what used to be private a couple of years ago has been nationalized, or at least under heavy national regulation and control?

Mr. KING of Iowa. We are at least at 51 percent that has been nationalized, and that's the banks, the insurance, Fannie and Freddie, the car companies, and then Obamacare. That's 51 percent.

Mr. AKIN. Now, is that based on the amount of revenue that each one—the size of the business? Is that how you figured it?

Mr. KING of Iowa. It's based upon the private sector activity as analyzed by Dr. Boyle of Arizona State University, who's written the analysis and the article on it, Mr. AKIN.

Mr. AKIN. Wow, that's absolutely incredible. So just in the last year or two we've seen history being made.

□ 2215

Mr. KING of Iowa. We have seen history being made. And those things are what one would consider to be a done deal. And then we are on the cusp of the financial regulations, which is another 15 percent of the economy some say. And then add to that another 8 percent, and which I think is a very low estimate of what cap-and-trade or cap-and-tax would actually do to us. So I don't know what's left. Whatever part of the economy they would like to take over.

But from my standpoint, every bit of free enterprise that's out there in-

creases the vitality of Americans. They have got a reward for working and producing more effectively. It's not enough to work hard; you have got to work smart, too. And everything that the Federal Government takes over diminishes the vitality of the American worker and lowers the average annual productivity of our American people, which diminishes us as a people and reduces our gross domestic product and takes our standard of living down.

Mr. AKIN. You know, what you are talking about makes all common sense economically. One other thing, and I have heard people talk about this, you can take a look and see that we are not learning from history. You can see that socialized medicine didn't work well in England because you look at the cancer rates there. You take a look at Canada, their socialized medicine system costs them a fortune. When you get sick in Canada, you come down to America to get medical care. And you can see examples.

You can see examples of it not working in Massachusetts, not working in Tennessee. And yet we refuse to learn from it. It didn't work in the Soviet Union. We refuse to learn. And to some degree, you can say logically we should be smarter than to do all this socialistic stuff.

But there is another argument why it's not a good idea which I have not heard as often. Maybe it's a more emotional argument, but it is true nonetheless. And that is that it's stealing. It's stealing. When the government takes money that it's not authorized constitutionally to take, that it has no moral logical reason why the government should take money and redistribute money, it goes back to the argument between the President and Joe the plumber. And the President made it very clear. He said we think it's the job of government to take money from one person and give it to someone else.

Now, when and where does the government have the authority to steal money from one person and give it to someone else? If I beat you over the head and take your wallet, we call it stealing. But if the government takes your money out of your pocket and gives it to me, is it morally any different? It's still institutionalized theft. And fortunately, our Founders understood that.

They pitched socialism out with Governor Bradford in the 1620s when it was imposed on the Pilgrims by the loan sharks from England. They understood that not only did socialism not work, they tried it. They almost starved under it. They also knew that it was morally wrong and that it was institutionalized theft.

Mr. KING of Iowa. Is that the point in history when the first order came down no work, no eat?

Mr. AKIN. I think that the no work, no eat came a long time before the Pilgrims. As I recall, it was written in the Good Book.

Mr. KING of Iowa. But in the United States?

Mr. AKIN. That might have been a direct quote from Scripture, though. So that's good.

We are getting pretty close in time. Well, I am very thankful for the opportunity to share with my colleagues and friends my very deep concerns about the fact that we are doing the wrong things in the economy. And the solution is straightforward. It is cut taxes, cut government spending, and repeal the socialized medicine bill and get back to some sense of fiscal sanity and reduce the number of functions the Federal Government is trying to do. This isn't that complicated. It's been done before. There is all the precedent that shows if we do this it will work. But we are on the wrong track now.

I do thank my good friend from Iowa, Congressman KING, who has just been a stalwart of freedom and liberty. And God bless you and God bless the USA.

#### IMMIGRATION ISSUES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Mr. Speaker, I appreciate the privilege to be recognized to address you here on the floor of the House of Representatives and the privilege to also have the gentleman from Missouri (Mr. AKIN) yield to me as he delivers the leadership hour presentation on the economic situation here in the United States and the opportunity to say a few words on that particular subject. And I may revert back to that subject, Mr. Speaker.

However, I would shift this subject a little bit over onto a subject matter that seems to be on the minds and lips of Americans all across this country. I have had the privilege to travel to some of the corners of America in the last few weeks and had my conversations in the coffee shops and in the restaurants and in city halls and in meeting places, and I was a little bit surprised that—I had had the perception that in my district immigration becomes an issue that is very much front and center, and I expect that's going to be the case in States like Arizona, California, Texas, those States that are border States, New Mexico, where you have a large number of illegal border crossings. But I didn't expect it would be the case in the Northeast, for example, and other places across the country to the intensity that it was.

I found that at every stop someone would bring up immigration. And it reminded me of the times in 2006 and in 2007 when this Nation debated immigration intensively and constantly at

every stop, even to the point where, as much as I like to talk about it, and as interested as I am in the subject, and since I am also the ranking member of the Immigration Subcommittee it's my job, Mr. Speaker, but in my town hall meetings in '06 and '07, in many of them I set the rule that we were going to talk about everything except immigration until we had dealt with everybody's concerns and issues. And then we would go to immigration to finish the time that we had left. And invariably, we would get to immigration and it would burn all the time that we had left because the American people are very intense on the immigration issue.

And we watched as Frank Luntz did a focus group, or at least one that I could see down in Arizona, he just came back from that recently, and we watched how that group itself was divided between themselves, with very intense emotions, most of them full of frustration and anger about the immigration issue, not in complete agreement on what to do.

It seems as though the Hispanics in America are where you find the objections to the enforcement of immigration law, the most vocal ones. And yet we also know there is a large number of Hispanics that many of them have been here for hundreds of years, their families have been. But I will submit that that doesn't get anybody anything.

I just shook the hand of an individual down at the Turkish reception tonight who is a naturalized American citizen as of about less than 3 weeks ago. And I would express this, that for any of us to argue that our ancestors have been here since the beginning of the Republic, the Daughters of the American Revolution, for example, and I am glad that they maintain those traditions. And it means a great deal throughout the families. And we understand that we have obligations that are generational that pass along because of the culture and the heritage of the family and the duty to our country.

But I recall standing in the Indian Room in the Old Executive Office Building as Emilio Gonzalez, the director of the Department of Citizenship and Immigration Services, gave a speech at a naturalization ceremony there which I attended for that purpose. And when he said to those gathered that were about to take the oath to become naturalized American citizens, he said, Look out that window. Look out that window. And when you look out the window, you look out at the White House itself and you see the vast south lawn and the south side and the west side of the White House. And he said, I want you to know two things. One of them is from this day forward you are as much an American as the person that lives next door. And he pointed to the White House, where President Bush lived at the time.

He said, when people ask you where are you from, don't tell them that you are from Turkey or France or Mexico or Canada or wherever it may be. Tell them you are the first American. That you are an American and you are the first American, and you are as much American as the man that occupies the White House today. That's the right sentiment for this country for legal immigration. That's the way we should think about new Americans, in every bit as good a standing once they take that oath of citizenship and go through their naturalization process, in every bit as good a standing as someone born to the 10th generation of Americans that might be here.

But each of us has a different set of history, a different set of family memories that were taught a little bit differently, but we need to tie together under this American banner and this American history.

And so the idea that we are going to see students that are sent home from school because they are wearing the red, white, and blue on a day that's supposedly Mexican nationalist day, a day that's Cinco de Mayo, a day that's not celebrated to any significant extent even down in the city in Mexico where the Mexicans won the victory over the French, but celebrated here in the United States. Started up as a promotion. I think it was a beer distributor that actually began the celebration of Cinco de Mayo here in the United States, whatever that is.

Mr. Speaker, I don't take issue with the celebration of a holiday that makes people proud of their culture and their heritage. If that were the case, then I couldn't celebrate St. Patrick's Day, which I also recognize isn't celebrated so intensively in Ireland itself, but here it really is. And there are some real parallels here. It's the people that reject the American flag and reject the American culture that I take issue with, not the new Americans that are here that are proud of being and becoming Americans by choice.

But we have a big decision to make in this country. And this immigration debate has gone on for a long time. And it centers on this: it centers on the idea that the people that came across the border illegally should somehow be granted citizenship or a path to citizenship, if that's their goal, and somehow it turns into a reward for breaking the law.

Now, we need to recognize, Mr. Speaker, that there are hundreds of millions of people across this globe, and perhaps billions, that would love to come to the United States and become Americans. And they are waiting in line in the right way. They are respecting our laws. And I will submit that the people that respect our laws will make better citizens than those who have broken our laws. And our argument here in this country comes down

to this: grant amnesty to people that broke our laws, reward them for breaking our laws because there is an argument that we must capitulate because we can't enforce the laws that we have.

Mr. Speaker, it is not the case that we can't enforce the laws that we have. And it is not the case that enforcing those laws would be ineffective in resolving this immigration problem that we have in this country. The problem we have is our administration lacks the will to enforce the law. And it isn't just the Obama administration and it isn't just Secretary Napolitano who have demonstrated a lack of will in enforcing immigration law. This goes back through several Presidents.

I would take us back to 1986, when President Reagan signed the Amnesty Act of 1986. And it was to provide amnesty for a million people that were in the United States illegally. And by the way, President Reagan was honest enough to call it the amnesty bill when he signed it. It was one of the very few times that President Reagan I will say let me down on something that I thought was philosophically wrong. And I remember disagreeing with President Reagan in '86 when he signed the amnesty bill. And I didn't consider that I would end up in the United States Congress some less than 20 years later to my arrival here and there would be an argument about what was amnesty.

It wasn't any question about what amnesty was in 1986. Ronald Reagan admitted the bill was amnesty. But he said he had to sign the bill. In order to get control of the borders, in order to enforce the law, he had to sign the amnesty bill. Now, that was his calculation. And I don't think he liked it philosophically, and he probably came to a conclusion that he didn't have a choice. Whatever the rationale was, he signed the bill. He called it amnesty. No one argued it was amnesty. It was to be a million people.

But the fraud and the corruption, the people that gamed the system tripled the number. And those who received amnesty in '86 were closer to the number of 3 million than they were the number of 1 million that was supposed to be the amnesty to end all amnesties that was going to put this away. And the only way we could get control of our borders in 1986 was to give amnesty to the people that were here and enforce the law against the employers and tighten the border and make sure that there wouldn't be a magnet for people to come into the United States.

And so, Mr. Speaker, what happened was the enforcement that was stronger, far stronger under Dwight Eisenhower, that diminished from Dwight Eisenhower's time on was stronger under Ronald Reagan than it was under the first Bush administration, and it was stronger under the first Bush administration than it was under President

Clinton. And I recall my frustration with each of those Presidents and their lack of will to enforce immigration law.

And under Bill Clinton there was an accelerated effort to naturalize a million people into the United States. And I will say legal or illegal, as the anecdotes came to me. And I have talked to some of these people. They told me that they understood that they would be fast-tracked to citizenship, but they were to vote for Bill Clinton for President. That's what I heard from some that came through my district that I have sat down and talked with. And I don't know the specific data on that; I only know the anecdotal data. But if one shows up and tells me that, it's a pretty sure bet that there are quite a few others that had that same idea.

So a million were accelerated through naturalization in 1996, and a lot of them voted for Bill Clinton. And a lot of frustration was built among those of us who respect our borders, the sovereignty of the United States, the need and the obligation to defend the borders, and who respect the rule of law and do not want to see it subverted or eroded, especially intentionally and willfully by an administration seeking to produce a political gain.

And then, Mr. Speaker, from the Clinton administration, we transitioned into the Bush administration, George W. Bush, a man who I personally like and respect and admire, and found a couple of things to disagree with along the way, and this was one of them.

Well, it's odd for me, Mr. Speaker, to stand here on the floor and speak to the issues that I disagreed with with Ronald Reagan or the issues that I disagreed with on George W. Bush, but I saw a lack of enforcement of our immigration laws during that period of time under the George W. Bush administration as well.

□ 2130

And there was, in the second term of the Bush administration, there was a concerted effort to try to bring our—to try to bring comprehensive immigration reform to bear. "Comprehensive immigration reform" was the fancy term for "amnesty," and the debate about the meaning of amnesty ensued then. And rather than simply admit the meaning of the word "amnesty" and admit that comprehensive immigration reform really is comprehensive amnesty, the debate ensued about what amnesty was.

So the American people had to submit to a cacophony of different definitions of amnesty, and continuously the argument was made that, well, whatever it was they wanted to do to provide amnesty wasn't amnesty. I recall that discussion about, well, what if they pay a fine for \$500 and they promise to learn English and they promise

to pay their back taxes, couldn't we give them a path to citizenship? And that's not amnesty, is it, because, after all, you charge them a fine. It's, well, if you're going to sell a path to citizenship for \$500, I will have to call that amnesty.

And if someone promises to learn English, that's an obligation of the naturalization process. You have to prove proficiency in both the written and spoken word of the English language to be naturalized as an American citizen. Now, I know they get a little sloppy with that, and some of the people that are naturalized just aren't so very good when it comes to the spoken or written word of English. And you'll notice that at a naturalization ceremony when it comes time for people to stand, they may not recognize what that means. And I have heard different directions that have gone out to the crowd, and some sat there without responding, even though it was the most significant and pivotal moment of their life.

Well, I'm surely proud of those who step up and want to become an American and who are determined to assimilate themselves in the broader overall American culture, which has a lot of subcultures in it, admittedly, Mr. Speaker.

But we saw the enforcement of immigration diminish over these administrations that I've talked about from Dwight Eisenhower all the way to Barack Obama. And with Barack Obama, it's different than it was under the Bush administration. The Bush administration actually accelerated it and began to enforce the law at least more aggressively than they were in the last couple of years. It was, I believe, an effort to convince the American people that they were committed to enforcing immigration law. And I don't know if their heart was ever in it, but I believe it was at least, at a minimum, an effort to establish a record and a standard that they would use enforcement so that the rule of law could be reestablished, and then upon the establishment of the reestablishment of the rule of law, might possibly be able to pass an amnesty bill that the American people would accept.

I think it was a political miscalculation. I think it was a mistake for George W. Bush to give his amnesty speech that he gave on that January 5 or 6 of that year, sometime about January 5 or 6 of 2005, I believe it was. I think it was a mistake for the President to do that. I think that he should have first come out with a standard of we're not going to ask the American people to establish a new policy and grant a path to anything, to guest worker, or path to citizenship, or more of a permanent green card status until—unless and until we can establish, as a Federal Government, that the rule of law and the law enforcement

personnel whose job it is to enforce immigration law will be enforced, and that those who break the law would do so with the expectation that they would be confronted by the law and punished in proportion to their crime.

And I will also submit, Mr. Speaker, that a nation that doesn't have a border can't declare itself a nation. We must have a border. We must define the border, and we can't call it a border unless we defend the border. And on our side of the border, the law must prevail and justice must be blind, and it has got to be enforced by the people who are paid to enforce the law. If they decide not to do that, they are subverting our very civilization.

Many of the people who come here come into the United States because they live in a country that doesn't have the rule of law, a country that has corruption, a country that's always spiraled downward into third worldism, a country that probably can't be brought up to a—what I will say is a successful, modern, civilized nation within our generation, this generation of man. Many times it's hopeless to think of it with the level of corruption and the lack of rule of law.

Can't have that happen in the United States of America. Justice has been blind in America, and the rule of law has been firm, and it's been even-handed, and it's been rigid throughout centuries.

So Arizona recognized that there were Federal immigration laws that were not being enforced, despite all of the Federal officers that worked the border in Arizona, the lack of will, the lack of will that comes from the top, from the President of the United States to the Secretary of the Department of Homeland Security right on down the line through the Border Patrol and U.S. Customs and Border Protection personnel. You can go into the station at the Border Patrol and you can read the mission: We're going to get operational control of the border, to put it in the short version. The mission sounds good. But the mission has got to be in the heads and the hearts of the people who are carrying it out, and that's got to come from the top.

I listened last week to a speech that was delivered here at the American Enterprise Institute by General Petraeus who received the Irving Kristol Award there that evening, and it's a very respectable honor that recognizes the contributions of a very respectable man, Irving Kristol. And General Petraeus is a very fitting recipient of that reward.

And from memory, he made three points. As he left Iraq, and where I had first met him in 2003 where he commanded the 101st Airborne at Mosul, I think it's important to note that General Petraeus, even then, they swept in and liberated the northwest quadrant of Iraq and the Mosul region and a cou-

ple of other provinces there. That was around March 22, in that period of time. By mid to late May, General Petraeus had held an election in Mosul. That's 2003. They elected a governor, a vice governor, and I met with them and also a business representative in Mosul.

He promoted very effectively liberty and freedom and a version of democracy there that could be carried out in that country. And I asked him, How did you have an election? How did you know how to do that? He said, We didn't know how. We just knew we needed to have one. We needed to have local representatives that we could deal with.

It was interesting that General Petraeus set the governor and the vice governor at the head of the table. He sat on the side of the table to send the signal that the Iraqis were running the show even then, even within months of the time that they had been liberated.

Well, General Petraeus' speech last week laid out three steps along the way to success, and they were points that he made as he holed up at Fort Leavenworth there in Kansas, not that far from me, I would add. And he and others that he gave significant credit to wrote the COIN language, the counterinsurgency booklet that was so well published and distributed across the country. Over a million copies have been distributed, and I've read fair parts of it.

But he laid out this point that first you've got to get the big things right. You've got to articulate the mission. You've got to plan the mission. The mission's got to be right. It's got to be understood. You have to get the big things right. Then you've got to market it and sell it to the people who have to carry it out. That's step number two. Step number three is see to it that the mission is carried out, right down to the details.

But first, you've got to define the mission, and then you have to market the mission to the people who are going to carry it out, and then you have to follow up to make sure that the mission is carried out down to the details.

Well, the mission that we have in border security and immigration enforcement in America is not clearly articulated. Congress can pass legislation, which we did in the Secure Fence Act that establishes that we're going to build 854 miles of double fencing, in some cases triple fencing, and that the Secretary of Homeland Security had to certify when they had operational control of the border. Operational control of the border. And there's a good definition in the Secure Fence Act that defines "operational control of the border."

But it suffered an amendment to it over in the Senate that weakened the Secure Fence Act that was DUNCAN

HUNTER's major effort here in the House of Representatives. The definition of "operational control of the border" was reduced and subverted. And the result was that the mission that Congress laid out for the border protection personnel altogether was ill defined because of the squabbles from within.

So we weren't able to get the big thing right, the first thing right. We were not able, as a Congress, to define the mission. Even though we tried and we voted on it here in the House and we passed a very clear mission, but it was subverted over in the Senate, and it's been undermined by some of the people on the border.

And the effort to require that before you could build a fence you have to negotiate with the local political subdivisions and local people, and that local includes the people on the south side of the border? I don't think there's any merit to going to Mexico and asking them if we can protect our border. That's just an added mission that undermines the mission.

So what we have are custom border protection personnel, border patrol agents, ICE agents, others along the border, including our National Parks personnel that are swimming upstream against a high tide of illegal people and drugs pouring through there. Maybe they understand the mission, but they do not believe, nor do they have the confidence, that the higher-ups will support them.

And so they are out there every day, punch the clock, do their shift, do what they can do, plug the hole here, plug the hole there. But there isn't anyone in this administration from the White House on down that has defined how we actually accomplish this mission of controlling our borders and shutting off illegal immigration in America.

Now, I don't think it happens to be all that complicated, Mr. Speaker. I think you have to have the will.

And so the first thing to do is shut off the bleeding at the border. And as Congressman PHIL GINGREY from Georgia so articulately said, and I'm confident he's worked—he's a doctor. I'm confident he's worked in the emergency room. He said, when somebody comes in that's a victim of an accident and they wheel him in on the gurney and they're bleeding all over the place and they're bleeding all over the floor and bleeding from several places in their body, he said the first thing that you don't do is grab the mop and the bucket and start to clean up the mess. The first thing you do is stop the bleeding. Get the patient stabilized and get it under control. And once you get it stabilized, then you can worry about cleaning up the mess. Well, we have a lot of discussion about what to do about cleaning up the mess, and we don't have a lot of discussion about what to do to stop the bleeding.

So here are the places where the bleeding exists so we can do something to stop it. First on the border is this. We have had—and I don't know that I have confidence in the numbers in the last—during this administration. They're telling me that they have fewer interdictions at the border; therefore, that shows there are fewer border crossings. I suspect that if you just stopped enforcing the law you would have fewer interdictions on the border. They've never given me a real number of how many come across the border and how many are stopped in their attempt to cross the border.

But I do a lot of asking, and we do have testimony before the Immigration Subcommittee. We have numbers such as this, that we have as many as 4 million illegal border crossing attempts a year, as many as 4 million. Now, some of those could be people trying more than once. In fact, I know it is.

And when I asked the Border Patrol what percentage of those attempts are you able to stop? On the record, they'll say, We think about 25 percent. But when I go down to the border and I ask those who are engaged in this on a daily basis what percentage do you stop, they will look at me. And I'll say, 25 percent? They'll look at each other and laugh and they'll snicker and they will say—the most common number I get is it's more like 10 percent that we stop on their way across the border. And some will tell me it's 3 to 4 percent, but I've never had anyone tell me in private that they think they stop 25 percent or 20 or 15. I can't think of a number above 10 percent, but I can think that the number that I most often hear is 10 percent.

So if we have 4 million illegal border crossings a year and we stop 10 percent of that, that's not a very big number, Mr. Speaker. And it's not very good efficiency on what we need to be doing down there on the border.

We need to look at this from this standpoint: What would you do to stop the bleeding? Number one thing, shut the border off. It's not that hard to figure out. Why can't we do that? Someone said it's only 2,000 miles, as if that's a vast, undefendable territory, and it's not. Look at the territory that we're defending in places like Iraq and in Afghanistan, for example. A lot of that border is really easy to defend.

□ 2145

It's not very difficult terrain. It's wide open desert on both sides where you can see a long ways. And we are spending \$12 billion on the southern border every year to protect it. That works out to be, a 2,000-mile border, \$6 million a mile. That's when you add up the cost of the Border Patrol, customs and border protection, the Humvees and the pensions and the payroll and all the fuel and the gas and everything that goes into this, and a support net-

work of helicopters, et cetera, it adds up to around \$12 billion, and that's \$6 million a mile.

Now I don't know the most current numbers that we've had on what it takes to build an interstate highway or a four-lane highway, but it's not \$6 million a mile. The cost to defend the southern border, and I think it's probably less than half of that price, Mr. Speaker, at least in some of those older numbers that I've looked at, but for the cost of what we're spending to defend the southern border, we could pave a four-lane highway for 2,000 miles a year every year. This is every year. \$6 million a mile.

Now I ask myself, if Janet Napolitano came to me and said, Congressman KING, I want to contract this border control with you, and I'd like to give you a mile to start out. And it's just a mile that looks like the gravel road from my house west that nobody lives on for a mile, or it's a mile of open desert, and I'm going to give you \$6 million to see to it that nobody crosses that mile for a year. Now on second thought, since the government does these budgets over a 10-year period of time, give me a 10-year contract to guard a mile of border and give me \$60 million to watch that border for 10 years, a mile of it.

Mr. Speaker, I will submit, \$60 million would be more than adequate to seal that border up so nobody got across my mile. I would guarantee it. I'd bond it. I'd be willing to watch you dock my pay if anybody got across and got away. And if I'm in the private-sector business industry, I'm not going to create this huge enterprise of hiring people and putting Humvees underneath them and all of the trappings that go along with that. Yes, you need some. We need some boots on the ground. We need to protect and defend them and give them good equipment. And we know that their lives are on the line every day. And we've got to respect them and appreciate them and pray for them. But, Mr. Speaker, building empire with boots on the ground isn't the only way to solve this problem. In fact I will submit it's not the most cost effective way. The most cost effective way would be to do what a businessman would do. If Janet Napolitano handed me \$60 million and said, Guard that mile for 10 years, you can bet that I would put up, not just a fence; I would build a concrete wall. And I would put some wire on top of that wall, and I would have a road, and I'd have a wire fence behind that road, and I would have cameras and monitors and vibration-sensing devices. I would have all of the electronics necessary to send me signals if anybody came and tried to get over, under, around, or through that wall. And so would anybody else that would do a cash flow calculation on how best to defend the border. Well, anybody except Boeing, for

example, who spent a lot of money down there, a lot of money convincing this Congress that they should accept a virtual fence and that virtual fence so far has been a bust. And as much as I appreciate and respect Boeing when it comes to airplanes and tankers, the job down there on the border, they've got some making up to do. We would have been better off if we had spent a couple million dollars a mile to build the concrete wall that I designed and put the wire on top of there and build the sensory devices and build a road behind that and then put a fence in there so that there would be a zone that if you got over the concrete wall, you took some other equipment to get over the fence that's there, and we could defend it. We could patrol it. That's what we needed to do. For a couple of million dollars a mile, we could set that system up. And that leaves \$4 million a year left over.

Now it doesn't mean that I'm going to be able to do all that without hiring people and paying wages to guard that mile, but let's just say we spent \$2 million a mile to put in a wall and a fence and a road and some sensory devices. That still leaves \$4 million left over for that year to hire some help, buy a few Humvees, get some radios, some uniforms, some pension plans, all these things that go into it.

So I will submit that it's cash flows, Mr. Speaker, to build a wall, build a fence, because it reduces the number of personnel necessary, and it's far more effective. It is far more effective from a cash flow standpoint, from an American taxpayer dollar invested standpoint, to put the infrastructure in place, to maintain the infrastructure.

And we had the Corps of Engineers come out with some wild number that it would cost something like \$50 billion to maintain the fencing on the southern border. It was a ridiculous number. And there were no numbers to back that up, no numbers to support it. It was a wild number that they pulled out of the sky. I build things. We do Corps of Engineers work. Well, I have in the past. I am now out of that construction business. But I designed a concrete wall that one could put the footing in with the slip form and drop in precast panels and put the wire on top, lay the sensors in there and build that thing, and it wouldn't take us much to put together a crew that could build a mile of that a day.

Now that would be not the kind of all-hands-on-deck effort that you see in, oh, a Manhattan Project or a NASA project, or even the kind of effort that they're using to put out the leak in the gulf right now. This is just a little old construction company that would set the system up and toss those panels in, set them in with a crane, one after the other right on down the border. It's not that hard. And it's not that expensive. And it is very effective. And it lets the

Border Patrol concentrate on those areas where they would be going through and going under and going around. And it would reduce that traffic dramatically, especially concrete, because you don't cut through that with a torch or a hacksaw; you have to have a concrete saw. And I don't know one that doesn't make noise or vibration, so we would have those kind of sensors that are there.

And to those people that will argue that if you show me a 20-foot wall, I'll show you a 21-foot ladder—oh, I think it was perhaps Janet Napolitano that said, if you show me a 12-foot wall, I'll show you a 13-foot ladder, that has got to be the weakest, most specious argument I've ever heard. I've heard people on both sides of the aisle that will make that argument.

And so I asked the question of the chief of the Border Patrol at a hearing at Ellis Island a few years ago; that if we can build an impermeable barrier from heaven all the way down to hell that no one could go under, no one could go over, and no one could get through it, how many Border Patrol does it take to man that impermeable barrier for our southern border? The answer that I got back was, It still takes boots on the ground. In fact, it still takes more boots on the ground, because that's the argument.

Well, I want enough boots on the ground. I want enough Border Patrol. I'm ready to put the National Guard down there again and guard that border. I'm ready to turn that southern desert into a training ground for Afghanistan and Iraq. We should have done that a long time ago. That all makes sense to me.

But if you follow what I've said, an impermeable barrier all the way from heaven to hell—that you couldn't dig under and you couldn't go over the top—the full length of 2,000 miles on our southern border, how many people does it take to watch that? I know. It's hypothetical and it's theoretical, but the answer within those parameters, Mr. Speaker, is zero. It takes nobody to watch the impermeable barrier that they can't go under and they can't go over. That means it takes zero personnel to watch something like that. That's the hypothetical answer that needs to come.

Now we know we don't have that kind of a barrier. We know we can't build that kind of a barrier. But my point that I'm making for those who would willfully deny the utter logic of this is that the better the barrier, the fewer the personnel. And I don't argue that we have to build 2,000 miles of border fence and control. We just build it where they are crossing the most and we keep building it, building the length of it, until they stop going around the end. If that's 2,000 miles, then it's 2,000 miles. If it's 854 miles as described by the Secure Fence Act, then it's 854. But

that kind of barrier makes the personnel we have more effective; it allows us to get control of our border. It can force all traffic through our ports of entry, and that's what we've got to do. And we've got to beef up our ports of entry, beef up our surveillance and our technology at our ports of entry so that we can catch those drugs and the illegal people and the contraband that's going through those ports of entry. That's part of our job. We can do that.

Now under this plan that I've laid out, with the money we have, we could easily build all of the barriers on the border that we deem are appropriate and effective and useful and we should and must do that, and we still have money left over for the personnel that we have, and we'll be more effective in what we do. We can shut off the bleeding at the border.

The next thing that needs to happen, Mr. Speaker, is we've got to then shut off the jobs magnet. And some of that can be done at the same time. There's no reason we can't do it simultaneously. This effort on the part of the Obama administration to steer away from enforcing against illegal workers but go against the actual employers without bringing the illegal workers into this—when I say that the raids in Postville were inappropriate, unjust, maybe they'll argue that they're racially motivated. I'm out of patience with people that play the race card the first time. You can deal them out a deck, and out of 52 cards, somehow they will lead with the race card every time as if the race card is trump. Well, the rule of law has got to be trump, and the rule of law is justice is blind. Justice is blind and does not regard race as a factor. The Arizona law prohibits the utilization of race as a sole factor when it comes to evaluating reasonable suspicion. And these officers know what reasonable suspicion is.

I happen to have written the reasonable suspicion law in Iowa with regard to workplace drug testing. It's very similar to the Arizona statute and the definition that they are utilizing, which is Federal case law on reasonable suspicion. And in 12 years in Iowa, even though we're not using law enforcement officers to define a reasonable suspicion, what we're doing is asking the employer to designate an employee—the employer himself or herself or an employee—as their specialist in drug abuse in the workplace. And if they see behaviors that are erratic, that are indicators of drug abuse—maybe the look of their eyes, their pupils, the dilation of the pupils, maybe erratic work habits, showing up late, production going down, things of that nature, let alone accidents where people can get hurt or killed—they just simply say to that employee, I have a reasonable suspicion that you're using drugs, and you need to go into the

nurse's office or downtown to the clinic right now and provide a urinalysis, and we will test it and find out if you're abusing drugs.

In 12 years, we haven't had a constitutional issue, we haven't had any litigation, I haven't heard a complaint about one person being unjustly targeted under reasonable suspicion for race or any other cause. Or even because of personalities. And you have to know, Mr. Speaker, that even in Iowa there are companies where that personnel who manages the "reasonable suspicion" definition, whose job it is under Human Resources to do that evaluation and make the call, that individual, yes, they're trained, but surely we would have one that would be a racist like all of these cops in Arizona have been described to be, by the people who oppose this Arizona immigration law. Surely there would be one that would have a personality disagreement with an employee, and they would like to get even with them by making them go take a drug test at will. But none of those objections have been raised.

□ 2200

So it's hard for me to accept the idea that trained law enforcement officers—it might be the janitor or the nurse or the truck driver that's pointing his finger at an employee and saying, You go take a drug test. That's what's going on in Iowa without complaints or objections. In Arizona, these are trained law enforcement officers whose training is being focused because of an executive order of Governor Jan Brewer, and they are very sensitive to these issues. They understand this law, and they're going to understand it even more before it goes into effect in August. A lot of them are Hispanic themselves. And to presume that law enforcement officers are racist and racially motivated is a division among the American people that's caused and perpetrated by people who would sow seeds of discontent and distrust and untruth and dishonesty for political gain. That, Mr. Speaker, is what's going on in Arizona.

The law that they passed in Arizona is a law that mirrors Federal immigration law. It directs local law enforcement to enforce immigration law, and it also allows the citizens of Arizona—it gives them standing to sue if the local government is not enforcing immigration law to the standards defined.

Now, I understand that law enforcement thinks they're in a squeeze, that they might be sued because they will be accused of discriminating; and on the other hand, they might be sued because they didn't discriminate. That might be what we've already heard down there. But it's my experience that when you bring a law like this—and I've had that experience happen to me at least two times in other circumstances. One is the drug testing

law that brought out people that were aggressively opposed to it and accused that it would be setting things up for discrimination based on personalities, race or any other reason.

And then when we passed the official English law in Iowa that took 6 years to get there—finally it became law—there were a lot of objections from some of the more liberal members of the Latino community. I sat with them, and I listened to their voices over and over again. But of all the fears that they voiced over all of those months and years, there hasn't been a single report that's come back since then that anybody was disparaged or discriminated against because someone said to them, Well, English is the official language of the State of Iowa.

And so these fears didn't come to fruition there. The same kinds of arguments that were made in Iowa as are being made in Arizona today on their immigration law, the same kinds of arguments over the official language of English, the same kinds of arguments that were being made in Iowa over the reasonable suspicion language on Iowa's drug testing law, none of those fears came to fruition under official English or under the drug testing reasonable suspicion in Iowa.

And I can't stand here tonight, Mr. Speaker, and allege that any of those fears will come to fruition in the State of Arizona, but I can with great confidence predict that there will be far, far less going on that reflects the fears of the objectors of the Arizona immigration law than are predicted by the people that are demonstrating in the streets.

I think that my friend and former colleague, Tom Tancredo, got it right when he said, You can judge their fear of the effectiveness of a law by the level of hysteria that they demonstrate. They're not demonstrating against an injustice or something that is really unconstitutional. They're demonstrating because they're afraid the law's going to work, that it will be enforced, and it will actually be effective, and it will clean up a lot of the illegal immigration in Arizona, the 460,000 that they say are there, and I suspect it's significantly more than that.

And when you have across this country some of the cities that decide they want to boycott Arizona because Arizona said we want to help the Federal Government enforce immigration law, that's a reason not to buy something from Arizona? That's a reason not to go down there for a convention? I think, Mr. Speaker, it's a reason to go. I think we ought to get together and take a bus and go to Arizona and spend some money. Don't have a boycott—have a buycott. I might go down there and pick up some items from Arizona and bring them home just to express to the Arizonans my solidarity and appre-

ciation to them for stepping up to enforce a law that the American people support, this Congress has passed, it's on the books, that President Obama took an oath of office to uphold and still willfully refuses to do so through his subordinates, such as Janet Napolitano.

And I might also point out, Mr. Speaker, that tomorrow Attorney General Eric Holder comes before the House Judiciary Committee. And as he comes before the Judiciary Committee, there will be a whole series of discussions and questions that will be brought out, I am confident. Eric Holder took a look at the Arizona law, and I think was responding to a direction from the President of the United States to see if he could find anything unconstitutional about the Arizona immigration law or something that was unlawful about the Arizona immigration law. So that tells me that they didn't know the Constitution very well, and they probably thought there was something in there that made all immigration law the exclusive jurisdiction of the Federal Government. Well, that's not true. It does say in the Constitution that it's the Federal Government's job to protect us from invasion, and it also says in the Constitution it's the Federal Government's job to set a uniform practice of naturalization.

Now, you can tell that I drew a bit of a hesitant blank there. But let me see, article I, section 8 says "establish a uniform Rule of Naturalization." So that would be what it says in the Constitution, Mr. Speaker. Those are the two references that we have to immigration in the Constitution, but it doesn't make immigration law exclusive to the United States Constitution and the Federal Government. There's nothing in the Constitution that excludes the States from enforcing Federal immigration law or writing their own. It just can't supersede Federal law.

And there's a case that is *U.S. v. Santana-Garcia* that establishes the precedent that it is implicit that local government law enforcement has the authority to enforce immigration law in the United States. It's implicit in that decision *U.S. Government v. Santana-Garcia*. *Santana-Garcia* was that side of the case, up against the United States Government.

So anybody that puts on a gun and a badge and a uniform and provides for the safety and the security of the American people and has pledged to preserve and protect the Constitution of the United States ought to know that when you take an oath to uphold the Constitution of the United States, that means also the laws that are written within the parameters of that Constitution. It's implicit. When we take an oath here to this job as a Member of the United States Congress, preserve, protect and defend the Constitution of

the United States, as the President does—so help him God—it doesn't mean his interpretation of the Constitution as he sees it. It's not a growing, moving, changing document, as Elena Kagan believes. It's a document that is firm, and it's fixed, and it's rigid. And it's the text of what it says and what it was understood to mean at the time of ratification of either the broader document, the base document of the Constitution, and also the amendments as they were ratified.

The local law enforcement still has a responsibility to step up and help enforce immigration law. It isn't a hands-off thing. They don't sit there and look around and think, Well, let me see, the State Bank of Tucson was robbed, and I'm a State highway patrol officer. So I will chase down the bandits who robbed the State Bank of Tucson because that's my job. But, oh, I pulled him over, and I was wrong. It was a mistake. I didn't even have reasonable suspicion. They actually robbed the National Bank of Tucson. No jurisdiction here. I have to let them go. Let the Federal officers go collect those robbers who robbed the National Bank, but the State Bank, of course, might be their jurisdiction.

And then the city police officers, what do they do? Do they refuse to enforce speeding laws that are not perhaps the city ordinance? Does the county sheriff only serve papers and refuse to enforce the ordinances of the city when they're blatantly violated in front of them? No and no. Our law enforcement officers in this country have always cooperated with each other throughout the levels of law enforcement to the extent that they can do that in order to produce an effective enforcement of the law. That is how it has been. That is how it shall be. That's how it shall be in Arizona.

Sheriff Joe Arpaio of Maricopa County has been enforcing those laws for a long time now, and he's taken the heat from Eric Holder, and that I think implicitly comes from President Obama. And Janet Napolitano, who knows him well, made remarks that would imply that she had come to a conclusion that there were biased violations of people's civil rights under the enforcement of Sheriff Joe Arpaio. There is no basis for it, but they stirred up enough furor that a few of the American people began to believe that there was a basis for it. I went down and took a look at Tent City down in Phoenix. And if I remember my numbers correctly—and this is from memory, not from notes, Mr. Speaker, so it's subject to correction—but about one-third of the inmates in Tent City were there because they were illegal, and about two-thirds of them were there for other reasons. A peaceful group of people. They're there in striped uniforms, and they do get some pink underwear. It's not the nicest place, and it doesn't need to be



the nicest place. We don't want to advertise it as a place to come back to. It's a place to leave and not come back to. That's why we have jails.

But this situation in Arizona, we've got to stand with them. I stand with Governor Brewer. I stand also with Representative Pearce in Arizona for the work that he has done. And he is very, very articulate in stepping up to defend immigration law. I encourage and look forward to making a new effort to establish a new fence and barrier on the border, one that works out to be a cash flow.

And I also look forward to moving legislation in the aftermath of this November election that adopts the New IDEA Act. The New IDEA Act is the legislation that I have introduced in the last couple of cycles, and there aren't very many new ideas under the sun. It takes a little audacity to declare a bill a new idea, but I think it is a new idea.

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But I think it is a New IDEA. And New IDEA stands for the New Illegal Deduction Elimination Act; New IDEA.

What it does is it recognizes that there are agencies out there that are pretty aggressive in enforcing their turf. I have noticed that the IRS is pretty aggressive in enforcing their turf, the Internal Revenue Service. So I asked myself, of all of these agencies, which one would be the most aggressive. It comes back to me that the IRS would be useful people. It is like when you go to have a pickup game and you start choosing up sides. I look across here and I think, Who do I want on my team if I want to get something done? If I am going to have to defend the border, give me the military first. They will get the job done. I don't want to get into the argument about the Army, Navy, Air Force, Marines, or Coast Guard. They all get the job done. So if I were to choose, I would say first give me the military. Let us go to the border and let's seal the border with the military. They will get the job done.

Then I would look around at who else would I like to pick for my team. Of all the government agencies, if I want somebody to help me enforce immigration law, would I pick somebody from the EPA? No. They would stand in the way. Would I pick somebody from the USDA? No, not likely. But of all of those agencies, maybe somebody from the Department of Homeland Security. Yes, but at the top they are not given a very defined mission. It looks as though their mission is being subverted by the Secretary, Janet Napolitano. So I would pick the IRS for my team because they are effective. They are good at doing what they do.

Here is how I would bring the IRS into this effort to help control immigration law. This legislation, the New IDEA Act clarifies and establishes the

wages and benefits paid to illegals are not tax deductible for income tax purposes.

And so let's just say you have an employer that has been paying a million dollars a year out to a good number of employees at a rate of \$10 an hour. That million dollars a year is tax deductible because it is a business expense like electricity, heat, fuel, or merchandise that is purchased for resale. All of those things are business expenses. New IDEA clarifies that the wages and benefits paid are not tax deductible. So the IRS would come in, and during the course of their normal audit, they would take the list of employees, punch the Social Security numbers of those employees into the E-Verify database, and if it comes back that they are not lawful to work in the United States, the IRS would take those wages and say, Sorry, employer, this million dollars is not tax deductible for you.

So it goes from the expense side, pushed over into the column that makes profit. If you calculate that profit, at the time I did this, it was 34 percent corporate income tax rate, and you add the interest and penalty, the effect of that million dollars denied as a tax deduction becomes an addition of about \$6 an hour. So your \$10 an hour illegal becomes a \$16 an hour illegal because of the audit of the IRS. And, by the way, it is required to grant safe harbor to an employer who uses E-Verify in a legitimate, reliable way. So we give the employer safe harbor if he uses E-Verify. We give the IRS the authority to deny that deductibility if they are not able to work lawfully in the United States. And we put interest and penalty on there as well as the tax liability. Your \$10 an hour illegal becomes a \$16 an hour illegal. And what will happen all across this country is 8 million illegals will be looking for work, and there will be 8 million jobs that will open up for American workers, lawfully present people who can work in America with a green card or American workers.

That solves about half of our unemployment problem right there, and it legitimizes the employers and gives them something they can count on. There are some things that need to be cleaned up with that, in addition, Mr. Speaker.

Another one is E-Verify must be changed so employers can use it on legacy employees, that means current employees, and also use E-Verify with a bona fide job offer, rather than the law right now requires the employer to hire the worker and then find out whether they are legal or not. By that time, the employer has invested training in them and they have passed up somebody else to fill that job. So they will have somebody there for perhaps a week, they will have to pay them, and so the employer ultimately has to break the law

to find out if they are breaking the law. They need to be able to use E-Verify with a bona fide job offer. They need to be able to use E-Verify to verify those legacy employees that work for them now, their current employees.

We can do all this. We can seal the border with a concrete wall and a secondary and a tertiary fence where it matters. We can put sensory devices there. We can build a road to patrol it. We can put cameras up and monitor it. We can man it effectively; in fact, more effectively with fewer personnel than we have if we build the barrier. We need to shut off the jobs magnet in the interior. We can do that by enforcing current law and by passing E-Verify to establish that the IRS is part of a team member that would be required to cooperate with the Social Security Administration and with the Department of Homeland Security. So the right hand, left hand, and middle hand all knew what the other was doing.

It is pretty simple to solve this problem. It has been solved in 60 minutes, Mr. Speaker, and if anybody has any questions, they can easily visit my Web site, [SteveKing.com](http://SteveKing.com), where I will be happy to answer any questions that might come up.

Meanwhile, I appreciate your attention on this subject matter, and I yield back the balance of my time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. JACKSON LEE of Texas (at the request of Mr. HOYER) for today on account of an emergency.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. SUTTON) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Ms. KOSMAS, for 5 minutes, today.

Ms. KILROY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. JOHNSON, for 5 minutes, today.

Mr. DEFazio, for 5 minutes, today.

Ms. SUTTON, for 5 minutes, today.

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. POE of Texas, for 5 minutes, May 19.

Mr. JONES, for 5 minutes, May 19.

Mr. GARRETT of New Jersey, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, May 18 and 19.

## ENROLLED BILLS SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1121. An act to authorize a land exchange to acquire lands for the Blue Ridge Parkway from the Town of Blowing Rock, North Carolina, and for other purposes.

H.R. 1442. An act to provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909.

## BILLS PRESENTED TO THE PRESIDENT

Lorraine C. Miller, Clerk of the House reports that on May 6, 2010, she presented to the President of the United States, for his approval, the following bills.

H.R. 3714. To amend the Foreign Assistance Act of 1961 to include in the Annual Country Reports on Human Rights Practices information about freedom of the press in foreign countries, and for other purposes.

## ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 17 minutes p.m.), the House adjourned until tomorrow, Thursday, May 13, 2010, at 10 a.m.

## BUDGETARY EFFECTS OF PAYGO LEGISLATION

Pursuant to Public Law 111-139, Mr. SPRATT hereby submits, prior to the vote on passage, the attached estimate of the costs of the bill H.R. 959, the Officer Daniel Faulkner Children of Fallen Heroes Scholarship Act, as amended, for printing in the CONGRESSIONAL RECORD.

## CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR H.R. 959 AS TRANSMITTED TO CBO BY THE HOUSE BUDGET COMMITTEE ON MAY 10, 2010

By fiscal year, in millions of dollars—

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010-2015	2010-2020
Net Increase or Decrease (—) in the Deficit													
Statutory Pay-As-You-Go Impact .....	0	0	0	0	0	0	0	0	0	0	0	0	0

Note: H.R. 959 would amend the Higher Education Act of 1965 to set the expected family contribution used in determining student aid eligibility to zero in the case of a student applicant whose parent or guardian died as a result of performing service as a public safety officer.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

7434. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Changes to Reporting Dates [Doc. No.: AMS-FV-09-0073; FV10-929-1FR] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7435. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Importation of Papayas From Colombia and Ecuador [Docket No.: APHIS-2008-0050] (RIN: 0579-AC95) received April 29, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7436. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Milk in the Northeast and Other Marketing Areas; Order Amending the Orders [Doc. No.: AMS-DA-09-0007; AO-13-A78, et al.; DA-09-02] received April 29, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7437. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Revised Nomination and Balloting Procedures [Doc. No.: AMS-FV-09-0070; FV09-929-1FR] received April 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7438. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — U.S. Honey Producer Research, Promotion, and Consumer Information Order; Referendum Procedures

[Doc. No.: AMS-FV-07-0091; FV-07-706-FR] (RIN: 0581-AC78) received April 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7439. A letter from the Acting Under Secretary Research, Education, and Economics, Department of Agriculture, transmitting the Department's final rule — Veterinary Medicine Loan Repayment Program (VMLRP) (RIN: 0524-AA43) received April 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7440. A letter from the Under Secretary, Department of Defense, transmitting the annual report on the payment of incentive pay to members of precommissioning programs pursuing foreign language proficiency for Fiscal Year 2009, pursuant to Public Law 110-417, section 619; to the Committee on Armed Services.

7441. A letter from the Assistant Secretary, Department of Defense, transmitting the Department's annual report for fiscal year 2009 on the quality of health care furnished under the health care programs of the Department of Defense; to the Committee on Armed Services.

7442. A letter from the Chair, Congressional Oversight Panel, transmitting the Panel's monthly report pursuant to Section 125(b)(1) of the Emergency Economic Stabilization Act of 2008, Pub. L. 110-343; to the Committee on Financial Services.

7443. A letter from the Assistant General Counsel for Regulations, Office of General Counsel, Department of Education, transmitting the Department's final rule — Emergency Management for Higher Education Grant Program received April 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

7444. A letter from the Secretary, Department of Education, transmitting the Department's final rule — Race to the Top Fund [Docket ID: ED-2010-OESE-0005] (RIN: 1810-AB10) received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

7445. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's

final rule — Health Care Reform Insurance Web Portal Requirements (RIN: 0991-AB63) received April 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7446. A letter from the Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting formal response to the Government Accountability Office's report number GAO-09-120; to the Committee on Foreign Affairs.

7447. A letter from the Principal Deputy Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 10-017, certification of a proposed technical assistance agreement to include the export of technical data, and defense services, pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

7448. A letter from the Principal Deputy Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 10-005, certification of a proposed technical assistance agreement to include the export of technical data, and defense services, pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

7449. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting letter regarding the proposed opening of five new passport agencies; to the Committee on Foreign Affairs.

7450. A letter from the Secretary, Department of the Treasury, transmitting as required by section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997; to the Committee on Foreign Affairs.

7451. A letter from the Deputy Associate General Counsel for General Law, Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7452. A letter from the Deputy Associate General Counsel for General Law, Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7453. A letter from the Deputy Associate General Counsel for General Law, Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7454. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Tier II — Extraterritorial Income Exclusion Effective Date and Transition Rules Directive #1 [LMSB-4-0310-011] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7455. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Tier I — Industry Director Directive on Domestic Production Deduction (DPD) #4 [LMSB-4-0310-010] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7456. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2010-12) received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7457. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Transitional Guidance for Taxpayers Claiming Relief Under the Military Spouses Residency Relief Act for Taxable Year 2009 [Notice 2010-30] received April 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7458. A letter from the Program Manager, Department of Health and Human Services, transmitting the Department's final rule — Mandatory Guidelines for Federal Workplace Drug Testing Programs received April 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Oversight and Government Reform and Appropriations.

7459. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Medicare and Medicaid Programs; Changes in Provider and Supplier Enrollment, Ordering and Referring, and Documentation Requirements; and Changes in Provider Agreements [CMS-6010-IFC] (RIN: 0938-AQ01) received April 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. FOSTER (for himself, Mr. LIPINSKI, Mr. HARE, Mr. SHIMKUS, Mr. MANZULLO, Mr. QUIGLEY, Mr. SCHOCK, Mr. DAVIS of Illinois, Mr. GUTIERREZ, Mr. KIRK, Mr. COSTELLO, Ms. BEAN, Mrs. BIGGERT, Mr. JACKSON of Illinois, Mr. RUSH, Mrs. HALVORSON, Mr. JOHNSON of Illinois, Mr. ROSKAM, Ms. SCHAKOWSKY, Mr. ROHRBACHER, Mr. GARRETT of New Jersey, Mr. EHLERS,

Mr. GOHMERT, Mr. HENSARLING, Mrs. DAHLKEMPER, Mr. PLATTS, Ms. KOSMAS, Mr. PAUL, Ms. MARKEY of Colorado, Mr. BARTLETT, Mr. MINNICK, Mr. JORDAN of Ohio, Mr. SENSENBRENNER, Mr. RYAN of Wisconsin, Mr. COSTA, Ms. HERSETH SANDLIN, Mr. BACHUS, Mr. FLAKE, Mr. CANTOR, Mr. MORAN of Kansas, Mr. LATOURETTE, and Mrs. BACHMANN):

H.R. 5278. A bill to designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the "President Ronald W. Reagan Post Office Building"; to the Committee on Oversight and Government Reform.

By Mr. GENE GREEN of Texas (for himself and Mr. DOGGETT):

H.R. 5279. A bill to amend the Internal Revenue Code of 1986 to provide for active qualified public safety employees to elect to be covered under the hospital insurance tax, and for other purposes; to the Committee on Ways and Means.

By Ms. GIFFORDS:

H.R. 5280. A bill to amend title 10, United States Code, to reform Department of Defense energy policy, and for other purposes; to the Committee on Armed Services.

By Mr. JOHNSON of Georgia (for himself, Mr. CONYERS, Mr. SMITH of Texas, and Mr. COBLE):

H.R. 5281. A bill to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. BARROW:

H.R. 5282. A bill to provide funds to the Army Corps of Engineers to hire veterans and members of the Armed Forces to assist the Corps with curation and historic preservation activities, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. FORTENBERRY:

H.R. 5283. A bill to provide for adjustment of status for certain Haitian orphans paroled into the United States after the earthquake of January 12, 2010; to the Committee on the Judiciary.

By Ms. BORDALLO:

H.R. 5284. A bill to amend the Sikes Act to improve natural resources management planning for State-owned facilities used for the national defense, and for other purposes; to the Committee on Natural Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. BIGGERT (for herself, Mr. KILDEE, Mr. PLATTS, Ms. FUDGE, and Mr. SESTAK):

H.R. 5285. A bill to amend subtitle B of title VII of the McKinney-Vento Homeless Assistance Act to provide education for homeless children and youths, and for other purposes; to the Committee on Education and Labor, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOSWELL:

H.R. 5286. A bill to amend the Internal Revenue Code of 1986 to allow a credit against tax for qualified tuition and related expenses; to the Committee on Ways and Means.

By Ms. CORRINE BROWN of Florida:

H.R. 5287. A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf of the Atlantic Ocean and Gulf of Mexico; to the Committee on Natural Resources.

By Mr. COSTA (for himself, Mr. WELCH, Mr. COURTNEY, Mr. LARSEN of Washington, and Mr. LARSON of Connecticut):

H.R. 5288. A bill to amend the Dairy Production Stabilization Act of 1983 to establish a dairy price stabilization program; to the Committee on Agriculture.

By Ms. ESHOO (for herself and Mr. GEORGE MILLER of California):

H.R. 5289. A bill to amend the Safe Drinking Water Act to reduce lead in drinking water, and for other purposes; to the Committee on Energy and Commerce.

By Ms. GIFFORDS (for herself, Mr. BURGESS, and Mr. LARSON of Connecticut):

H.R. 5290. A bill to permit physicians and suppliers a new election to become Medicare participating physicians and suppliers if Medicare physician fee schedule rates are extended; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MURPHY of New York (for himself, Mr. CHILDERS, Mr. ROSS, Mr. PATRICK J. MURPHY of Pennsylvania,

Mr. CARDOZA, Ms. HARMAN, Mr. COOPER, Mr. SCHRADER, Mr. BISHOP of Georgia, Mr. PETERSON, Mr. TANNER, Mr. CARNEY, Mr. MATHESON, Mr. HILL, Ms. HERSETH SANDLIN, Mr. SHULER, Mr. CUELLAR, Mr. MCINTYRE, Ms. GIFFORDS, Mr. BRIGHT, Mr. MITCHELL, Mr. COSTA, Mr. ARCURI, Ms. MARKEY of Colorado, Mr. BOYD, Mr. MOORE of Kansas, Mr. KRATOVIL, Mr. SCHIFF, Mr. ELLSWORTH, Mr. MICHAUD, Mr. HOLDEN, Mr. CHANDLER, Mr. DAVIS of Tennessee, and Mr. DONNELLY of Indiana):

H.R. 5291. A bill to require the Joint Committee on Taxation to analyze each tax expenditure identified in its annual tax expenditure report for equity, efficiency, and ease of administration; to the Committee on Ways and Means.

By Ms. PINGREE of Maine (for herself and Mr. MICHAUD):

H.R. 5292. A bill to require the continuation of full-service operations at the commissary and exchange stores serving Naval Air Station, Brunswick, Maine; to the Committee on Armed Services.

By Ms. LINDA T. SÁNCHEZ of California (for herself, Mr. BACA, Mr. BECERRA, Mr. BERMAN, Mr. CARDOZA,

Ms. CHU, Mrs. DAVIS of California, Mr. FARR, Mr. FILNER, Mr. GARAMENDI, Mr. HONDA, Ms. LEE of California, Ms. ZOE LOFGREN of California, Ms. MATSUI, Mr. MCCLINTOCK, Mr. GEORGE MILLER of California, Mrs. NAPOLITANO, Ms. RICHARDSON, Ms. ROYBAL-ALLARD, Ms. LORETTA SANCHEZ of California, Mr. SCHIFF, Mr. SHERMAN, Ms. SPEIER, Ms. WATSON, and Ms. WOOLSEY):

H.R. 5293. A bill to designate the facility of the United States Postal Service located at 3270 Firestone Boulevard in South Gate, California, as the "Henry C. Gonzalez Post Office Building"; to the Committee on Oversight and Government Reform.

By Mr. RANGEL:

H. Con. Res. 277. Concurrent resolution expressing the sense of Congress that Lena Horne should be recognized as one of the most outstanding American entertainers of the 20th century, who broke racial barriers and created opportunities for generations of African American performers who followed in her footsteps; to the Committee on Oversight and Government Reform.

By Mr. STARK (for himself, Mr. MCNERNEY, and Ms. LEE of California):

H. Res. 1351. A resolution congratulating Dallas Braden and the Oakland Athletics baseball team for pitching a perfect game against the Tampa Bay Rays on Mother's Day, May 9, 2010; to the Committee on Oversight and Government Reform.

By Mr. WU (for himself, Mr. HONDA, Ms. ROS-LEHTINEN, Mr. SHERMAN, Mr. ROHRABACHER, Mr. SIRES, Mr. INGLIS, Mr. GENE GREEN of Texas, Mr. DEFazio, Mr. HOLT, Ms. BALDWIN, Mr. MARSHALL, Mr. KIND, Mr. COURTNEY, Mr. MOORE of Kansas, Mr. ETHERIDGE, Mr. DEUTCH, Mr. BOSWELL, Mr. DONNELLY of Indiana, Ms. LORETTA SANCHEZ of California, Mr. PETRI, Mr. GONZALEZ, Mr. GARAMENDI, Mr. TONKO, Mr. PERLMUTTER, Mr. SERRANO, and Mr. GRAYSON):

H. Res. 1352. A resolution supporting the goals and ideals of Taiwanese American Heritage Week and recognizing the close relationship between the United States and Taiwan; to the Committee on Foreign Affairs.

By Mr. BISHOP of New York:

H. Res. 1353. A resolution supporting the goals and ideals of Student Financial Aid Awareness Month to raise awareness of student financial aid; to the Committee on Education and Labor.

By Mr. DAVIS of Illinois:

H. Res. 1354. A resolution honoring the John G. Shedd Aquarium on the occasion of its 80th anniversary and the 10th anniversary of its award-winning "Amazon Rising" exhibit; to the Committee on Natural Resources.

By Mr. KENNEDY:

H. Res. 1355. A resolution expressing the sense of the House of Representatives regarding the human rights crisis in Papua and West Papua; to the Committee on Foreign Affairs.

By Mr. SKELTON:

H. Res. 1356. A resolution recognizing the 150th anniversary of the birth of General John J. Pershing, an American military hero; to the Committee on Armed Services.

By Ms. WATSON (for herself, Ms. KAPTUR, Mr. HINCHEY, Ms. KILPATRICK of Michigan, Ms. LORETTA SANCHEZ of California, Ms. SPEIER, Mr. SHERMAN, Ms. LINDA T. SANCHEZ of California, Mr. BECERRA, Ms. ROYBAL-ALLARD, Mrs. NAPOLITANO, Mr. BACA, Mr. REYES, Mr. HINOJOSA, Ms. WOOLSEY, Ms. SCHAKOWSKY, Mr. BARROW, Mr. CLAY, Mr. PASCRELL, Mr. CUELLAR, Mr. SCHIFF, Mr. FARR, Mr. STARK, Mrs. CAPPS, Ms. LEE of California, Ms. CHU, Ms. HARMAN, Ms. SHEA-PORTER, Mr. CAMPBELL, Mr. LEWIS of California, Mr. GARY G. MILLER of California, Mr. CALVERT, Mr. GALLAGLY, Mr. MCCLINTOCK, Mr. ISSA, Ms. WATERS, Mr. ROHRABACHER, Mr. BUCHANAN, Mr. BILBRAY, and Mr. RUSH):

H. Res. 1357. A resolution commending and congratulating the Hollywood Walk of Fame on the occasion of its 50th anniversary; to

the Committee on Oversight and Government Reform.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

276. The SPEAKER presented a memorial of the House of Representatives of the State of Idaho, relative to House Joint Memorial No. 10 urging the United States Air Force to use Idaho for its F-35 missions; to the Committee on Armed Services.

277. Also, a memorial of the House of Representatives of the State of Idaho, relative to House Joint Memorial No. 9 urging the Congress of the United States not to enact S. 787; to the Committee on Transportation and Infrastructure.

278. Also, a memorial of the House of Representatives of the State of Idaho, relative to House Joint Memorial No. 11 urging the Congress to reject all efforts to use global warming as a pretext to increase federal revenues; jointly to the Committees on Energy and Commerce and Ways and Means.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 197: Mr. ARCURI.  
H.R. 273: Mr. SMITH of Nebraska.  
H.R. 275: Mr. POSEY and Mr. SCHIFF.  
H.R. 537: Mr. GRAYSON.  
H.R. 707: Ms. HIRONO.  
H.R. 734: Mr. MATHESON and Mr. PALLONE.  
H.R. 775: Mr. CLAY, Ms. CHU, and Ms. HERSETH SANDLIN.  
H.R. 847: Mr. OBERSTAR.  
H.R. 868: Mr. RYAN of Ohio.  
H.R. 878: Mr. CALVERT.  
H.R. 932: Mr. JACKSON of Illinois.  
H.R. 995: Ms. CHU.  
H.R. 1126: Mr. MINNICK.  
H.R. 1215: Mr. CONYERS.  
H.R. 1265: Mr. ISRAEL.  
H.R. 1339: Ms. NORTON.  
H.R. 1362: Ms. SUTTON.  
H.R. 1443: Mr. HARE.  
H.R. 1470: Mr. FILNER.  
H.R. 1521: Mr. TOWNS.  
H.R. 1547: Mr. BOUSTANY, Mr. MELANCON, and Mr. DAVIS of Illinois.  
H.R. 1570: Ms. NORTON.  
H.R. 1616: Mr. KILDEE.  
H.R. 1691: Ms. CHU and Mr. TIBERI.  
H.R. 1729: Mr. HOLT.  
H.R. 1792: Mr. MARCHANT, Ms. BALDWIN, and Mr. BOUCHER.  
H.R. 1806: Mr. DONNELLY of Indiana and Mr. ROTHMAN of New Jersey.  
H.R. 1826: Mr. ACKERMAN.  
H.R. 1844: Ms. LINDA T. SANCHEZ of California.  
H.R. 1884: Mr. WU, Mr. OWENS, Mr. LOBONDO, and Mr. BRIGHT.  
H.R. 2002: Mr. MORAN of Kansas.  
H.R. 2067: Mr. RYAN of Ohio.  
H.R. 2089: Mrs. CAPPS and Mr. MCGOVERN.  
H.R. 2105: Mr. ALEXANDER.  
H.R. 2112: Ms. BEAN.  
H.R. 2142: Mr. PLATTS.  
H.R. 2159: Ms. SHEA-PORTER and Mr. HOLT.  
H.R. 2198: Mr. MANZULLO.  
H.R. 2204: Mr. SMITH of Washington, Mr. BISHOP of Utah, and Mr. GRAVES.  
H.R. 2381: Mr. BRADY of Pennsylvania.  
H.R. 2417: Mrs. CAPPS and Mr. GRIJALVA.  
H.R. 2443: Ms. NORTON and Mr. SMITH of Nebraska.

H.R. 2448: Mr. VISCLOSKEY.  
H.R. 2478: Mr. ROSKAM, Ms. SPEIER, and Ms. JACKSON LEE of Texas.  
H.R. 2480: Mr. SCHOCK.  
H.R. 2483: Ms. ZOE LOFGREN of California and Ms. WOOLSEY.  
H.R. 2565: Mr. MORAN of Virginia.  
H.R. 2597: Mr. MURPHY of Connecticut.  
H.R. 2672: Mr. CALVERT.  
H.R. 2737: Mr. DONNELLY of Indiana and Mr. GRAYSON.  
H.R. 2817: Mrs. NAPOLITANO.  
H.R. 2819: Mr. ROTHMAN of New Jersey.  
H.R. 2906: Mr. OLVER.  
H.R. 3012: Mr. FOSTER.  
H.R. 3035: Mr. SERRANO.  
H.R. 3116: Mr. COSTELLO and Mr. ADERHOLT.  
H.R. 3151: Mr. MOORE of Kansas and Mr. COHEN.  
H.R. 3421: Mr. HODES, Ms. PINGREE of Maine, and Mr. GRAYSON.  
H.R. 3441: Mr. MICHAUD.  
H.R. 3519: Mr. WOLF.  
H.R. 3781: Mr. LUJAN.  
H.R. 3836: Mr. POLIS.  
H.R. 3974: Mr. CAPUANO.  
H.R. 4028: Mr. FALEOMAVAEGA.  
H.R. 4038: Mr. CALVERT.  
H.R. 4051: Mr. MCCOTTER.  
H.R. 4133: Mr. BOUCHER.  
H.R. 4155: Mr. POLIS.  
H.R. 4182: Mr. NADLER of New York.  
H.R. 4195: Mr. HALL of New York, Mr. JACKSON of Illinois, and Mr. WOLF.  
H.R. 4199: Mr. BOSWELL and Ms. RICHARDSON.  
H.R. 4241: Mr. HODES.  
H.R. 4274: Mr. HINCHEY.  
H.R. 4278: Ms. BALDWIN.  
H.R. 4302: Mr. WELCH, Mr. MORAN of Virginia, Mr. DONNELLY of Indiana, Mr. CUMMINGS, Ms. KILROY, Mr. HONDA, Ms. SCHAKOWSKY, and Mr. HINOJOSA.  
H.R. 4394: Ms. WOOLSEY and Mr. GRIJALVA.  
H.R. 4399: Mr. RANGEL.  
H.R. 4494: Mr. JACKSON of Illinois.  
H.R. 4509: Mr. LATOURETTE.  
H.R. 4530: Mr. LUJAN.  
H.R. 4594: Ms. ROYBAL-ALLARD, Mrs. KIRKPATRICK of Arizona, Ms. HARMAN, and Mr. LOEBACK.  
H.R. 4662: Mr. COHEN and Ms. WASSERMAN SCHULTZ.  
H.R. 4684: Mr. CLEAVER, Mr. PLATTS, Mr. LANCE, Ms. KILPATRICK of Michigan, Mr. THOMPSON of Mississippi, and Mr. LANGEVIN.  
H.R. 4710: Mr. GRIJALVA, Mr. ROTHMAN of New Jersey, and Mr. WELCH.  
H.R. 4734: Mr. BISHOP of New York.  
H.R. 4755: Mr. MCCOTTER.  
H.R. 4761: Mr. PERRIELLO.  
H.R. 4780: Mr. MILLER of Florida.  
H.R. 4785: Mr. GUTHRIE.  
H.R. 4788: Mr. DELAHUNT, Mr. NADLER of New York, and Ms. CHU.  
H.R. 4796: Mr. ADLER of New Jersey, Mr. ROSKAM, Ms. SUTTON, Mr. HIMES, Mr. WEINER, and Mr. JONES.  
H.R. 4806: Mr. ELLISON.  
H.R. 4807: Mr. CALVERT.  
H.R. 4844: Mr. HOLDEN.  
H.R. 4846: Mr. COHEN.  
H.R. 4850: Mr. PAYNE and Mr. HARE.  
H.R. 4856: Mr. HOLDEN.  
H.R. 4868: Mr. JACKSON of Illinois and Mr. BRADY of Pennsylvania.  
H.R. 4888: Ms. ZOE LOFGREN of California.  
H.R. 4933: Mr. FARR and Ms. WATERS.  
H.R. 4985: Mr. KINGSTON and Mr. STEARNS.  
H.R. 5008: Mr. DONNELLY of Indiana.  
H.R. 5015: Mr. JOHNSON of Georgia.  
H.R. 5034: Mr. PALLONE, Mr. BROWN of South Carolina, Mr. BROUN of Georgia, Mr. THOMPSON of Pennsylvania, Mr. SPACE, Mr.

SCHOCK, Mr. POMEROY, Mr. CAPUANO, Mr. SIMPSON, Mr. LINCOLN DIAZ-BALART of Florida, Mr. POSEY, Mr. GARY G. MILLER of California, Mr. GONZALEZ, Mr. RUSH, Ms. WASSERMAN SCHULTZ, and Mr. TIM MURPHY of Pennsylvania.

H.R. 5035: Mr. TAYLOR.

H.R. 5040: Mr. KILDEE.

H.R. 5041: Mr. PETERS, Mr. SPACE, Ms. WASSERMAN SCHULTZ, Mr. PASCRELL, and Ms. DELAURO.

H.R. 5043: Mrs. NAPOLITANO.

H.R. 5084: Mr. CARNEY.

H.R. 5091: Ms. FUDGE.

H.R. 5092: Mr. REICHERT, Mr. MCINTYRE, Mr. BARRETT of South Carolina, Mr. TAYLOR, Mr. QUIGLEY, Mr. CHANDLER, Mr. FALEOMAVAEGA, Mr. MARCHANT, Mr. FRANK of Massachusetts, Mr. MEEKS of New York, Mr. CRENSHAW, Mr. SHADEGG, Mr. BISHOP of Georgia, Mr. PUTNAM, Mr. BONNER, Mr. TERRY, Mr. WITTMAN, and Mr. HELLER.

H.R. 5118: Mr. LUCAS.

H.R. 5141: Mr. BOOZMAN, Mr. BURTON of Indiana, Mr. LAMBORN, and Mr. PAUL.

H.R. 5145: Mr. DONNELLY of Indiana.

H.R. 5163: Mr. ARCURI and Mr. TIM MURPHY of Pennsylvania.

H.R. 5164: Mr. ARCURI and Mr. TIM MURPHY of Pennsylvania.

H.R. 5175: Ms. LORETTA SANCHEZ of California, Mr. HIMES, and Mrs. DAVIS of California.

H.R. 5200: Mr. MORAN of Virginia.

H.R. 5206: Mr. DOGGETT.

H.R. 5207: Mr. GUTHRIE and Mr. GERLACH.

H.R. 5211: Mr. POLIS and Mr. ETHERIDGE.

H.R. 5222: Mr. GARAMENDI.

H.R. 5234: Mr. HOLDEN.

H.R. 5235: Mr. JONES and Mr. POSEY.

H.R. 5236: Ms. KILPATRICK of Michigan.

H.R. 5241: Mr. THOMPSON of California, Ms. HARMAN, Ms. ROS-LEHTINEN, Ms. WOOLSEY, Mr. LANGEVIN, Mr. KENNEDY, Mr. WELCH, Mr. GARAMENDI, and Mr. FILNER.

H.R. 5244: Mr. SABLAN.

H.R. 5268: Mr. ELLISON, Mr. PAYNE, Ms. WATSON, Ms. SLAUGHTER, Ms. KILROY, and Mr. HONDA.

H.J. Res. 76: Mr. BOYD.

H.J. Res. 77: Mr. TURNER.

H. Con. Res. 240: Mr. JACKSON of Illinois.

H. Con. Res. 266: Mr. BRADY of Pennsylvania and Mrs. LUMMIS.

H. Con. Res. 273: Ms. GRANGER, Mr. LATTA, Mr. POSEY, Mrs. LUMMIS, Mr. BISHOP of Utah, Mr. MARCHANT, Mr. MCCLINTOCK, Mr. SHIMKUS, Mr. BARTLETT, Mr. HALL of Texas, Mr. CAMPBELL, Mr. FRANKS of Arizona, Mr. HUNTER, Mr. PITTS, Mr. NEUGEBAUER, Mr. OLSON, Mr. KING of Iowa, Mr. SAM JOHNSON of Texas, Mr. JONES, Mr. BURTON of Indiana, and Mr. AKIN.

H. Con. Res. 275: Ms. GIFFORDS, Mr. HASTINGS of Florida, Mr. SERRANO, Mr. SCOTT of Virginia, Mr. HIMES, Ms. DELAURO, Mr. JACKSON of Illinois, Ms. KILROY, Mr. VAN HOLLEN, Mr. PETERSON, Mr. SABLAN, and Mr. HODES.

H. Res. 111: Mr. COLE and Mr. HEINRICH.

H. Res. 173: Mr. GENE GREEN of Texas.

H. Res. 287: Mr. QUIGLEY.

H. Res. 536: Mrs. MILLER of Michigan and Mr. LATHAM.

H. Res. 584: Mr. PAUL, Mr. MOORE of Kansas, Mr. HINOJOSA, Mr. THOMPSON of Mississippi, Mr. POSEY, and Mr. CHILDERS.

H. Res. 611: Ms. KILROY.

H. Res. 764: Mr. BURTON of Indiana.

H. Res. 873: Mr. CROWLEY and Mr. ROYCE.

H. Res. 989: Mr. MORAN of Virginia, Mr. FALEOMAVAEGA, Mr. CLEAVER, and Mr. JACKSON of Illinois.

H. Res. 1073: Mr. VISCLOSKEY, Mr. COLE, Mr. SHUSTER, Mr. LATHAM, Mr. DEFazio, and Mr. TIAHRT.

H. Res. 1110: Ms. BORDALLO, Mr. PUTNAM, Mr. LOEBSACK, Mr. SHIMKUS, Mr. HARE, Mr. LAMBORN, Mr. KILDEE, Mr. LEE of New York, Mr. CARTER, Mr. GRIFFITH, Mr. THORNBERRY, Mr. FORTENBERRY, Mr. NEUGEBAUER, Mr. BUCHANAN, Mr. HERGER, Mr. DENT, Mr. ROGERS of Alabama, Mr. FRANKS of Arizona, Mr. HELLER, Mrs. MILLER of Michigan, Mr. TERRY, Ms. GRANGER, Mrs. CAPITO, Mr. CAMP, Mr. BOOZMAN, Mr. MARIO DIAZ-BALART of Florida, and Mr. SHUSTER.

H. Res. 1196: Mr. CULBERSON.

H. Res. 1245: Mr. CALVERT.

H. Res. 1250: Mr. COHEN.

H. Res. 1251: Mr. BOOZMAN and Mr. YOUNG of Alaska.

H. Res. 1258: Ms. EDWARDS of Maryland, Mr. BISHOP of New York, and Mr. PRICE of North Carolina.

H. Res. 1261: Mr. BISHOP of New York.

H. Res. 1291: Mrs. HALVORSON and Mr. TIM MURPHY of Pennsylvania.

H. Res. 1303: Mr. LUETKEMEYER and Mr. WILSON of South Carolina.

H. Res. 1326: Mr. ROTHMAN of New Jersey, Mr. WOLF, Mr. CAO, Mr. FALEOMAVAEGA, Mr. BURTON of Indiana, and Mr. INGLIS.

H. Res. 1335: Mr. MARKEY of Massachusetts.

H. Res. 1338: Mr. FILNER.

H. Res. 1346: Mr. MANZULLO, Mr. GERLACH, Mr. DENT, Mr. CAMPBELL, Mr. LEE of New York, Mrs. BACHMANN, Mr. OLSON, Ms. GRANGER, and Mr. MARIO DIAZ-BALART of Florida.

## EXTENSIONS OF REMARKS

## A TRIBUTE TO DONNA WISE

## HON. BRETT GUTHRIE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 2010

Mr. GUTHRIE. Madam Speaker, I rise today to honor Donna Wise, an outstanding coach, mentor and leader in the Commonwealth of Kentucky.

Donna, who is Campbellsville University's all-time winningest coach and a NAIA Hall of Famer, was inducted into the Kentucky Athletic Hall of Fame last month during a ceremony in Louisville.

With a record of 661 wins, nearly 71% of her games, Donna has been dedicated to the Campbellsville community and to her student-athletes for over 30 years. She has coached 23 NAIA All-Americans and helped lead her teams to 16 national tournaments and 17 regular season conference titles.

She has been named NAIA Coach of the Year three times and conference Coach of the Year seven times and continues to contribute so much to the university as the head of the Department of Human Performance.

Donna has been an inspiration and guide for generations of Campbellsville Lady Tigers. She truly deserves this recognition.

I ask my colleagues to join me in congratulating Donna on a successful and rewarding career and wish her nothing but the best in the years to come.

NATHAN T. WILSON

## HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 2010

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Nathan T. Wilson. Nathan is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 249, and earning the most prestigious award of Eagle Scout.

Nathan has been very active with his troop, participating in many scout activities. Over the many years Nathan has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Nathan has earned the rank of Foxman in the Tribe of Mic-O-Say. Nathan has also contributed to his community through his Eagle Scout project. Nathan oversaw the design and installation at the Weston Historical Museum of a display depicting the numerous links between Weston residents and the American Civil War.

Madam Speaker, I proudly ask you to join me in commending Nathan for his accomplishments with the Boy Scouts of America and for

his efforts put forth in achieving the highest distinction of Eagle Scout.

## HONORING KELSEY MAURA WAITE

## HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 2010

Mr. GRIJALVA. Madam Speaker, I rise today to honor an extraordinary young lady from my hometown of Tucson, AZ. Her name is Miss Kelsey Maura Waite. Kelsey is deeply committed to environmental issues and I would like to recognize her for her efforts. At the age of 16, Kelsey has already been honored with over a dozen science-related awards. She has been invited not once but twice to compete at I-SWEEEP, the International Sustainable World (Energy, Engineering & Environment) Project Olympiad. In addition, she has received honors at both the Southern Arizona Regional Science and Engineering Fair and the statewide Arizona Science and Engineering Fair.

At her young age, Kelsey is already a role model for her peers. She has won over 30 science awards in high school alone and has traveled to dozens of countries to represent us with her science projects. She has always been a successful student and in kindergarten, won a trophy at a chess tournament that was taller than she was.

In 5th grade she was inspired by a teacher named Ms. Jadgeo. Many of us had teachers that pushed us in positive ways to our full potential, and for Kelsey it was Ms. Jadgeo. She changed Kelsey's life by assigning her very first science project.

Kelsey is more than just a good student—she is also a wonderful daughter, sister, and citizen. She attends both Sonoran Science Academy and Tucson Magnet High School. It was difficult for her parents to accommodate her attending two different schools that are quite distant from each other. Kelsey took it upon herself to find a job at a local grocery store to be able to pay for her gas, and now wakes up at 5:00 a.m. on Saturday and Sunday each weekend to put in the hours she needs. She is an admirable young lady that deserves our respect and our support. We need to encourage students like Kelsey and support their education because they are the future of our country. They will be tomorrow's experts on environmental and other issues that we cannot afford to ignore.

I ask to recognize Miss Kelsey Waite for her dedication to her education, her family and her community.

HONORING DR. JUDITH C. RODRIGUEZ AS THE NEW PRESIDENT OF THE AMERICAN DIETETIC ASSOCIATION FOR 2010-2011

## HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 2010

Mr. CRENSHAW. Madam Speaker, I would like to bring to my colleagues' attention the installation next month of one of my constituents, Dr. Judith C. Rodriguez, PhD, RD, FADA, a professor at the University of North Florida, as President of the American Dietetic Association for 2010-11.

Founded in 1917, ADA is the world's largest organization of food and nutrition health professionals, and is committed to improving the nation's health and advancing the dietetics profession through research, education and advocacy. Approximately three-fourths of ADA's nearly 70,000 members are registered dietitians. Other members include dietetic technicians registered, educators, researchers and students. Nearly half of the membership holds advanced academic degrees. ADA members serve throughout our nation's health-care system, in nonprofit organizations, schools, correctional facilities, and government and community organizations. They can also be found in the food industry, health clubs, weight management clinics, wellness centers and as consultants.

Dr. Rodriguez has had a rich academic career. Not only is she a professor in the Department of Nutrition and Dietetics at the University of North Florida, she has also chaired the department of public health, and served as director of the undergraduate program in dietetics and the master of science in health nutrition and dietetic programs. She was also project coordinator at Florida Community College and taught courses in food, nutrition and health at several colleges and universities around the country.

Dr. Rodriguez is a prolific author with three food and nutrition books to her credit over the last six years. These include the Latino Food Lover's Glossary and The Diet Selector and Contemporary Nutrition for Latinos. She has received numerous awards, including the 2008 Women of Color Cultural Foundation Award, the 2003 Hispanics Achieving Community Excellence Award, and from her peers in the Florida Dietetic Association, the Distinguished Dietitian Award in 2001. She has also held numerous leadership positions within ADA and currently serves as a peer reviewer for the Journal of the American Dietetic Association.

Dr. Rodriguez earned bachelor and master's degrees in nutrition and higher education from New York University, and a doctorate in cultural anthropology from Rutgers University.

I know the House will join me in extending congratulations to Dr. Judith Rodriguez as she

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

assumes the leadership of the American Dietetic Association on June 1. Those of us who have worked with professionals in the nutrition and dietetics community look forward to the expertise she and her colleagues will provide during her year-long term on such issues as obesity, wellness and healthful eating habits.

IN RECOGNITION OF THE 90TH  
BIRTHDAY OF MARVIN C. HARDY

**HON. MIKE ROGERS**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. ROGERS of Alabama. Madam Speaker, I would like to request the House's attention today to pay recognition to a special day in the life of Mr. Marvin C. Hardy of Sylacauga, Alabama.

Mr. Hardy was born on May 2, 1920 in Coosa County. He attended schools in Coosa County and graduated from American High School in Chicago, Illinois. He spent his early years working on the family farm and later worked two years at Alabama Dry Docks in Mobile as a Navy-certified welder before joining the Army in 1943.

Mr. Hardy is an American hero. He served in the 2nd Infantry Division during World War II, landing at Omaha Beach and fighting through the European Theater. He has been awarded the Purple Heart, Bronze Star, Combat Infantry badge, Unit Citation and Good Conduct medal.

After returning home from the war, he began working in construction. Later in his career, he took early retirement to pursue his dreams of owning his own building and construction firm. In his personal life, Mr. Hardy has been married to his wife, Florence, for 64 years. The Hardy's are blessed with two daughters, Susan Wilson and Sherry Starovasnik, and are the proud grandparents of 4 grandsons.

Mr. Hardy is a member of First Baptist Church in Sylacauga and has served in many ministries including Deacon, Building and Grounds committee, Carpenters for Christ, and Brotherhood.

He is an avid deer and turkey hunter as well as a fisherman. In addition to working with wood, he likes to garden and spend time with his family.

I wish Mr. Hardy a very happy 90th birthday.

IN HONOR OF MR. EDWARD  
BOWMAN, SR.

**HON. CHRISTOPHER S. MURPHY**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. MURPHY of Connecticut. Madam Speaker, I rise today in honor of the life of a great man and constituent, Mr. Edward Bowman, Sr. Mr. Bowman, of Cheshire, Connecticut, passed away on April 17, 2010 after a vigorous battle with cancer. He is survived by his eight children and twenty-five grandchildren.

If you know Cheshire, Connecticut, traffic jams aren't something we have to worry about every day. But on the day of his burial procession, Ed Bowman caused one heck of a traffic jam that virtually shut down Route 10. That is how beloved the man was to his family, his friends and his community. While not everyone at Mr. Bowman's funeral knew the man well, they certainly knew what he meant to their community and what a great loss his passing represented.

Ed Bowman was simply a giant in town, both in business and in charity. A devout Catholic, he lived his life in the true spirit of the Ignatian value of acting as a "man for others." Mr. Bowman came up from the bottom to eventually purchase and operate a successful business in Cheshire—White Bowman, Inc. While he was a good businessman, he was an even better volunteer and community cheerleader. If you volunteered at a St. Bridget food drive, Ed Bowman was probably packing grocery bags right next to you; if you thought kids in Cheshire needed more opportunities to participate in sports, Ed Bowman was probably chalking the ball field with you; and if you thought that more scholarships were needed to get more kids to college, Ed Bowman was right there next to you selling raffle tickets and hustling for donations.

And he did it all without asking for anything. One of his friends at the local Rotary remarked that Mr. Bowman wasn't a member of the Rotary because he wanted to attain any leadership position but because he simply believed in the organization and its mission of community service.

Edward Bowman is a rarity among us. His service to his family and community wasn't based on the need for appreciation and acclamation, but instead he served for the most noble of reasons—it was the right thing to do, because he was a man for others.

There is no other way to put it—Ed Bowman WAS Cheshire, and the Bowman family that he built IS Cheshire. In honor of Edward Bowman, Sr. and his lifetime of service to his family and community I ask that all Members of the House of Representatives join me in a moment of silence for one outstanding American.

HONORING MR. TIMOTHY P.  
SISSLER

**HON. BILL SHUSTER**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. SHUSTER. Madam Speaker, I rise today to honor Mr. Timothy P. Sissler, the President and Chief Executive Officer of Reliance Bank in Altoona. Mr. Sissler deserves recognition for his career and accomplishments, which have truly been an asset to his industry and community.

The story of Mr. Sissler's career is characterized by hard work and business acumen. He began as a management trainee with Mid-State Bank and Trust Company and then rose through its ranks. When he became the Director of Commercial Banking, Mr. Sissler assumed responsibility for a \$750 million portfolio and over 100 officers and employees. He

filled this position with such skill that the Central Bank of Hollidaysburg named Mr. Sissler as its President. Once again, Mr. Sissler's abilities proved up to his task, and while he was president, the bank produced double-digit deposit and loan growth. Since 2000, Mr. Sissler has served as president and Chief Executive Officer of Reliance Bank. As impressive as these career achievements are, Mr. Sissler also excels in other areas of the banking industry. He received an A.P. Giannini Public Speaking Award from the American Institute of Banking and coauthored an article for the Journal of Commercial Bank Lending. Furthermore, Mr. Sissler serves on the boards of several organizations, such as Mount Aloysius College and Pennsylvania Free Enterprise, and has been named a Fellow of Leadership, Blair County.

Timothy Sissler reminds us of the benefits hard work, diligence and integrity provide. With these characteristics, he has risen to the top of his field and provides responsible, positive leadership in the banking industry. I commend Mr. Sissler on his honorable achievements, and I look forward to many more.

HONORING U.S. NAVY CAPTAIN  
JOHN C. SCORBY, JR.

**HON. ANDER CRENSHAW**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. CRENSHAW. Madam Speaker, I rise today to honor U.S. Navy Captain John C. Scorby, Jr., the Commanding Officer of Naval Air Station Jacksonville in Florida, one of the nation's largest naval installations. Captain Scorby exemplifies the values of a committed naval officer and, I believe, you will agree when you hear his exceptional performance on a variety of levels.

NAS Jacksonville hosts over 117 tenant commands, 25,000 personnel and their families. As Commanding Officer, it was Captain Scorby's duty to provide oversight and to make sure everything ran like clockwork. For three years, Capt. Scorby was a dedicated leader to this key Navy installation.

A P-3 Orion pilot by trade, Jack Scorby has always seen the big picture. But like the radar on the P-3 Orion, he has the ability to zero in on the details that needed fine tuning and, thus, Jack made a great installation even better.

Captain Scorby set the highest standards for excellence and then led by example to reach and surpass those goals. Using his personality, skill, resourcefulness and the ability to manage and juggle priorities to meet the support needs of the fleet, the war fighter, and the family, Captain Scorby has upheld the highest traditions of the United States Navy. He was the catalyst behind NAS Jacksonville winning a plethora of awards including the Meritorious Unit Commendation, the Secretary of the Navy's and the Chief of Naval Operations' Safety Ashore awards for two consecutive years, and the Commander Navy Region Southeast's 2009 nominee for the Installation Excellence Award.

Under his watch, NAS Jacksonville underwent \$350 million of facility construction and



upgrades. Captain Scorby oversaw the management of that endeavor and also was instrumental in the smooth relocation of five P-3 Orion squadrons and their families from Maine to Florida.

Jack Scorby cultivated an Individual Augmentee (IA) Support Program that helped sustain the families of IAs who were deployed and then honored them with a luncheon upon their return. This model program is now being replicated at bases worldwide.

NAS Jacksonville earned the reputation as the Airfield of Choice under Jack's command as personnel worked round the clock in providing services to a variety of operations including Army helicopter deployments, Pine Castle Range use, and the initial stand-up training and outfitting of the Navy Expeditionary Guard Battalion for Guantanamo Bay. Captain Scorby and his team at NAS Jacksonville provided support and facilities to the Federal Emergency Management Agency during the hurricane season as well as during the earthquake that devastated Haiti.

A recognized naval ambassador in the City, Captain Scorby hosted two Air Shows, a Presidential visit, and over 90 other ceremonies and special events. I was pleased to work with him on two veteran ceremonies at which we recognized over 250 grateful Vietnam Veterans. Jack and his sailors made sure all veterans were treated as special guests and honored for their service. He partnered with the Florida Department of Labor to host a Disabled Veteran Outreach Program that provided services to veterans and their families and a Tri-Base Job Fair that brought in 155 employers and over 800 job seekers. Each of these events cemented the relationship between the City of Jacksonville and the United States Navy.

Always a strong supporter of Navy personnel and their families whether on base or deployed across the globe fulfilling missions, Jack Scorby also ensured that our fallen heroes returned with honor and a proper homecoming. No matter the time or the day, when a soldier, sailor, marine or airman returned on his final flight, Captain Scorby had police, firefighters, Patriot Guard and hundreds of civilians and naval personnel line the runway and roads. Families of the fallen were moved and grateful.

And on behalf of the City of Jacksonville and the 4th Congressional District, it is my privilege to recognize the dedication, caring and leadership that makes Captain John C. Scorby, Jr., worthy of receiving the Legion of Merit.

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#### PERSONAL EXPLANATION

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#### HON. DEAN HELLER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. HELLER. Madam Speaker, on rollcall No. 256, I was unavoidably detained. Had I been present, I would have voted "yes."

NATHAN HOFF

#### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Nathan Hoff. Nathan is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America and earning the most prestigious award of Eagle Scout.

Nathan has been very active with his troop, participating in many scout activities. Over the many years Nathan has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Nathan has contributed to his community through his Eagle Scout project. Nathan oversaw the construction of a batting cage which will provide a healthy athletic outlet for the residents of Boonville, Missouri.

Madam Speaker, I proudly ask you to join me in commending Nathan for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

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#### RECOGNIZING MARCIA HILSABECK OF ROUND ROCK HIGH SCHOOL IN ROUND ROCK, TEXAS

#### HON. JOHN R. CARTER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. CARTER. Madam Speaker, I would like to recognize Mrs. Marcia Hilsabeck upon her retirement from Round Rock High School after 43 years of service.

Marcia served all but the first two years of her career in the English Department and has led the English Department since 1994. Throughout the years of her teaching career, she has been honored as Teacher of the Year and Round Rock Local Legend. When Marcia first began teaching at Round Rock High School in 1967, there were 368 students in grades nine through twelve, today there are ten times that many students. Times have changed since Marcia first began her teaching career, but her dedication and love for education has not. She has been called the ultimate teacher by colleagues and generations of students fondly remember and recognize the impact she made on their lives. Her commitment to education is extraordinary and it is with great pride I honor Marcia's career today as I wish her all the best for her retirement years.

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#### HONORING MR. SAM FREDMAN

#### HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mrs. LOWEY. Madam Speaker, I rise to pay tribute to Samuel G. Fredman, this year's re-

cipient of the Rabbi Amiel Wohl Lifetime Achievement Award. This prestigious honor is being respectfully bestowed upon Judge Fredman by the Westchester Jewish Conference for his lifetime of contributions to Westchester County and our great country.

Sam Fredman has led a truly remarkable life. He served in the U.S. Army Air Forces in the South Pacific Theater during and after World War II. After his military service, Sam received his undergraduate degree from Pennsylvania State University and law degree from Columbia University. He is a member of the New York State Bar and admitted to practice in the U.S. District Court for the Southern and Eastern Districts of New York. Judge Fredman has served as law firm partner, law school lecturer, and Justice of the Supreme Court of the State of New York for nearly 14 years. Judge Fredman still practices law today as a private arbitrator and mediator at Wilson Esler Moskowitz Edelman & Dicker and as a judicial hearing officer for New York's Ninth Judicial Circuit. In addition to his professional achievements, Sam remains a devoted family man as the grandfather of four beautiful grandchildren.

Judge Fredman has already been recognized with over 22 awards and honors during his lifetime, including the American Academy of Matrimonial Lawyers Distinguished Service Award, Pennsylvania State University Distinguished Alumnus Award, and Westchester Holocaust Commission Distinguished Service Award. The long list of Sam's admirers includes the United Jewish Appeal, Westchester County Bar Association, Westchester Holocaust Commission, Benjamin Cardozo Society, State University of New York, B'nai B'rith Youth Organization, National Conference of Christians and Jews, Cystic Fibrosis Society, Hebrew Academy of Westchester, Solomon Schechter School of Westchester County, Federation of Jewish Philanthropies and the Anti-Defamation League.

However, it is Judge Fredman's service to the Westchester community for over 60 years that has brought him the distinguished Rabbi Amiel Wohl lifetime achievement award. Sam has given his time and talents in support of White Plains Hospital Center, White Plains Public Library, Community Chest, Heart Fund, and numerous other charitable causes. He was chairman of the SUNY-Purchase Council for 5 years and has remained active in religious leadership with the Commission on Synagogue Relations of the Federation of Jewish Philanthropies, Advisory Board of the Westchester Jewish Chronicle, Board of Directors of The Anne Frank Center, Hillel Foundation at Penn State University, Westchester Jewish Conference and the Westchester and Lower Connecticut Division of Israel Bonds where he served as chairman. Despite his busy schedule, Judge Fredman has also made time to coach boys baseball and basketball teams with the White Plains recreational department.

I urge you to join me in honoring our great countryman and my constituent, Judge Sam Fredman.

IN RECOGNITION OF THE SACRAMENTO CENTER FOR INTERNATIONAL TRADE DEVELOPMENT

**HON. DORIS O. MATSUI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Ms. MATSUI. Madam Speaker, I rise today to recognize and congratulate the Sacramento Center for International Trade Development and the Los Rios Community College District for being awarded the President's "E" Award for Export Service. This prestigious award is being given to these institutions in recognition of their support to businesses seeking to export their products.

The Sacramento Center for International Trade Development is part of a statewide program funded by the California Community College chancellor's office, and is part of the Workforce and Economic Development Program of the Los Rios Community College District. The center strives to advance northern California's global competitiveness by providing export and import services to businesses and organizations throughout the region.

For more than 15 years, the Sacramento Center for International Trade Development has proven to be a highly successful provider of comprehensive, export services and programs that addresses the needs of northern California businesses. A full-range of export services is provided, from basic export training, to detailed market support, to trade mission preparation and participation. Of paramount importance is the unique connection to the U.S. Department of Commerce and the U.S. Commercial Service which have allowed businesses in northern California to begin exporting products and increase sales in the global marketplace.

Madam Speaker, I am honored to recognize and congratulate the Sacramento Center for International Trade Development and the Los Rios Community College District for their outstanding work to increase exports of Californian products, and for being awarded the President's "E" Award for Export Service. Please join me in honoring them.

HONORING FORMER  
CONGRESSMAN IKE ANDREWS

**HON. BOB ETHERIDGE**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. ETHERIDGE. Madam Speaker, I rise today to honor the life of Congressman Ike Andrews, who passed away on May 10, 2010. A former lawyer and public servant, Mr. Andrews will be remembered for his lifelong dedication to his community and the State of North Carolina.

Ike Andrews was born in Bonlee, NC in western Chatham County and always kept a piece of Bonlee in his heart. Ike's father ran the hardware store in town, and his mother was a school teacher, instilling the importance of community in Ike from a young age.

At the age of 18, Ike enlisted and served as a field artillery forward observer in World War II. Wounded by enemy gunshot in the Battle of the Bulge, Ike was hospitalized in Scotland when the war ended. Ike traveled to London to No. 10 Downing Street to witness British Prime Minister Winston Churchill announce the German surrender. During his military service from 1943–1945, he attained the rank of Master Sergeant and received a Bronze Star and Purple Heart.

After the war, Ike Andrews pursued an education at the University of North Carolina at Chapel Hill where he garnered both undergraduate and law degrees. Mr. Andrews opened a law practice in Siler City, NC, where he was elected district attorney and prosecuted criminal cases in Chatham, Orange, and Alamance counties. Mr. Andrews was always serving his community, and he took a further step in 1959 with election to the North Carolina Senate. He later served 4 terms in the North Carolina House of Representatives. In 1972, Mr. Andrews was elected to the first of 6 terms in the U.S. House of Representatives where he would be remembered for his dedication to education, the elderly and long-term care. He never forgot his home, and continued to spend warm Sunday afternoons on his front porch in Bonlee throughout his public service.

Ike served in the U.S. House until 1985, then resumed practicing law in Siler City, and retired to Chapel Hill, NC. Mr. Andrews is survived by his wife, JoAnne Andrews, his daughter, Alice Andrews Joyce and her husband Bob, and his grandchildren, Kevin Joyce and Laura Joyce.

Madam Speaker, I urge my colleagues to join me today in honoring the life of former Congressman Ike Andrews, a North Carolina leader who served his community, his state and his country, while always keeping his Bonlee spirit and values in his heart. It is fitting that we honor him and his family today.

RECOGNIZING GREGORY E. POPE  
OF UNITED STATES CORPS OF  
ENGINEERS IN BELTON, TEXAS

**HON. JOHN R. CARTER**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. CARTER. Madam Speaker, I would like to congratulate Gregory E. Pope, United States Corps of Engineers Operations Manager, on his retirement after 34 years of dedicated service. Greg has been a true asset to the Corps for decades and a leader in Texas District 31. I have thoroughly enjoyed working with Greg on many projects over the last several years including the re-opening of several parks on Lake Belton after severe flooding. He has been a valuable resource and I admire his knowledge and professionalism. I appreciate Greg's commitment to the community, TX-31 and the U.S. Corps.

I would like to thank Greg for his leadership and service as well as congratulate him and wish him well in his retirement.

IN RECOGNITION OF DEXTER  
MCNAMARA

**HON. DORIS O. MATSUI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Ms. MATSUI. Madam Speaker, I rise today to recognize and honor the Reverend Dexter McNamara. On Thursday May 6th, Dexter was honored in Sacramento by the Interfaith Service Bureau for his outstanding work with the faith community. I ask all my colleagues to join me in thanking him for his work in bringing people of all faiths together to address our community's most pressing needs.

After earning his bachelor's degree from UCLA and his master of divinity from Princeton University, Dexter served as an associate pastor for 21 years with congregations in Colorado and California. Because of his outstanding work with his congregation and his ability to create greater understanding among faith groups, Dexter was offered a position as the executive director of Sacramento's Interfaith Service Bureau.

Dexter led the Interfaith Service Bureau for 16 years, from 1993–2010. Under his leadership, we were continually reminded that our similarities are greater than our differences. He brought us together by mentoring faith and community leaders, while also leading numerous interfaith projects throughout the region. Dexter has helped the religious community in Sacramento grow and prosper by addressing the challenges of ministering to the needs of diverse people and cultures. He has helped people of different religious backgrounds overcome their differences and work together towards peace and unity.

In 1999, Dexter and the Interfaith Service Bureau coordinated an interfaith response after several synagogues were targeted by hate groups and firebombed. Similarly after the September 11 attacks on our country, he led a community service at the Cathedral of the Blessed Sacrament, bringing all faiths together in interfaith worship services. Out of this came the Call for Unity, annual event to recognize outstanding community leadership in building bridges of understanding.

Dexter has been recognized numerous times for his outstanding work bringing people together for the common goal of justice and peace. He was awarded the Outstanding Leadership Award by the Sacramento Area Congregations Together, the Distinguished Award by the Sacramento Area League of Associated Muslims, the Building Unity Award by the Sacramento Housing Alliance, and the Community Leadership Award by the Federal Bureau of Investigation.

Dexter organized the Voluntary Organizations Active in Disaster for Sacramento from 2005–2008, and chaired the California Interfaith Power and Light working group from 2005–2008, which worked to raise awareness of global warming and climate change. He served on the Wells Fargo Community Advisory Board, the Family Support Collaborative Board, the Sacramento City Mayor's Youth Task Force, and the local Childcare and Development Planning Council.

Madam Speaker, I am honored to recognize the Reverend Dexter McNamara for his outstanding work with Sacramento's Interfaith Service Bureau, and in bringing people of different faiths together to work towards bettering our community and understanding of one another. I once again ask my colleagues to join me in thanking Reverend Dexter McNamara for all that he has done for the people of Sacramento.

LETTERS TO PRESIDENT OBAMA,  
GENERAL JONES, DIRECTOR  
MUELLER, AND DIRECTOR PA-  
NETTA ON STRENGTHENING OUR  
NATIONAL SECURITY

**HON. FRANK R. WOLF**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. WOLF. Madam Speaker, I want to share the following letters that I have sent to President Obama, National Security Advisor General Jones, FBI Director Mueller, and CIA Director Panetta last week urging the implementation of four bipartisan proposals to strengthen our national security.

Following the failed attack on Times Square in New York City, it is more important than ever that we implement these proposals that would make our country safer.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
*May 5, 2010.*

Hon. BARACK H. OBAMA,  
*The President, The White House,  
Washington DC.*

DEAR MR. PRESIDENT: In light of the attempted terrorist bombing in Times Square in New York City, I urge you again to implement four bipartisan steps that would help make our country safer. If we fail to learn the lessons of the attempted attacks on Christmas Day and Times Square, we will continue to repeat the same mistakes that compromised our preparation for and response to these two incidents. The latest attack underscores the need for the rapid adoption of bipartisan solutions that strengthen our national security.

As you know, I have repeatedly urged the administration to bring back the co-chairs of the 9/11 Commission—Lee Hamilton and Thomas Kean—for a six-month review of the progress that has been made in implementing the commission's recommendations. To date, I have seen no effort by the administration on this front.

I have spoken with Lee Hamilton and he believes this is a good idea. In fact, Mr. Hamilton underscored the need for this when he told ABC News yesterday that, "the 9/11 commission recommended that you had to have biometric evidence, documentarian evidence of people coming in and exiting [the country.] We've done a pretty good job on the first part of it people entering the country. But with regard to those exiting the country we simply have not been able to set up a system to deal with that and it showed in this case."

Given our failure to prevent both alleged terrorists—Faisal Shahzad and Umar Farouk Abdulmutallab—from boarding their flights, it is critically important that our transportation security structure have strong leadership and coordination. In both cases, the al-

leged terrorists slipped through security despite appearing on the "no fly" list.

I have repeatedly urged the administration to support legislation to establish a more professional and independent administrator of the Transportation Security Administration (TSA), by setting a 10-year term, akin to the appointment process for the director of the Federal Bureau of Investigation (FBI). In fact, I introduced legislation, H.R. 4459, in early January to do this. After two withdrawn nominations, the position remains vacant and the administration continues to oppose efforts to professionalize this position.

In the wake of the attempted Christmas Day bombing, there were many serious questions regarding the administration's deployment of the new High Value Detainee Interrogation Group (HIG). Five months later, these same questions surround the administration's response to the Times Square attack. The Washington Post noted in its editorial today, "Nor has [the administration] said whether its High Value Interrogation Group (HIG)—a group of law enforcement and intelligence experts specially trained for terrorism cases—was up and running and deployed in the Shahzad case."

I have repeatedly urged the administration to collocate the HIG at the National Counterterrorism Center to facilitate information sharing and cooperation among intelligence agencies. Again, I have seen no effort by the administration to do so.

Perhaps most importantly, I have repeatedly urged the administration to create a "Team B" of outside advisors to bring "fresh eyes" to U.S. counterterrorism strategy. The team would represent a "new approach to counterterrorism" which focuses not just on connecting the dots of intelligence, but which seeks to stay a step ahead in understanding how to break the radicalization and recruitment cycle that sustains our enemy, how to disrupt their network globally and how to strategically isolate them. This would help us better anticipate the type of threats that occurred on Christmas Day and in Times Square.

Counterterrorism experts, including respected Georgetown University professor Bruce Hoffman, have publicly endorsed this proposal. They understand the need for a group of outside experts to challenge assumptions across the intelligence community to help us better prepare for future attacks. In light of the increasing pace in attempted attacks on U.S. soil, I believe this should be implemented as quickly as possible.

I cannot understand why the administration continues to refuse to adopt these proposals. In light of the latest attempted attack, I urge your action on these proposals—each of which would receive broad bipartisan support from the American people.

Best wishes.

Sincerely,

FRANK R. WOLF,  
*Member of Congress.*

HOUSE OF REPRESENTATIVES,  
*Washington, DC, May 6, 2010.*

General JAMES JONES,  
*National Security Adviser, The White House,  
Washington, DC.*

DEAR GENERAL JONES: Enclosed is a copy of the letter I sent to President Obama yesterday urging him, again, to implement a series of bipartisan measures that would strengthen our national security.

In the wake of the attempted terrorist attack in Times Square, these proposals are timelier than ever. If we fail to learn from

the mistakes of the attempted Christmas Day and Times Square attacks, we will be unable to anticipate and prevent future attacks.

Again, Jim, I urge you to ask the president to implement these much-needed proposals to protect Americans. I would appreciate your letting me know if you will recommend that the president implement these measures.

Best wishes.

Sincerely,

FRANK R. WOLF,  
*Member of Congress.*

HOUSE OF REPRESENTATIVES,  
*Washington, DC, May 6, 2010.*

Hon. ROBERT S. MUELLER III,  
*Director, Federal Bureau of Investigation,  
Washington, DC.*

DEAR MR. MUELLER: Enclosed is a copy of the letter I sent to President Obama yesterday urging him, again, to implement a series of bipartisan measures that would strengthen our national security.

In the wake of the attempted terrorist attack in Times Square, these proposals are timelier than ever. If we fail to learn from the mistakes of the attempted Christmas Day and Times Square attacks, we will be unable to anticipate and prevent future attacks.

Again, Bob, I urge you to ask the president to implement these much-needed proposals to protect Americans. I would appreciate your letting me know if you will recommend that the president implement these measures.

Best wishes.

Sincerely,

FRANK R. WOLF,  
*Member of Congress.*

HOUSE OF REPRESENTATIVES,  
*Washington, DC, May 6, 2010.*

Hon. LEON PANETTA,  
*Director, Central Intelligence Agency, Wash-  
ington, DC.*

DEAR DIRECTOR PANETTA: Enclosed is a copy of the letter I sent to President Obama yesterday urging him, again, to implement a series of bipartisan measures that would strengthen our national security.

In the wake of the attempted terrorist attack in Times Square, these proposals are timelier than ever. If we fail to learn from the mistakes of the attempted Christmas Day and Times Square attacks, we will be unable to anticipate and prevent future attacks.

Again, Leon, I urge you to ask the president to implement these much-needed proposals to protect Americans. I would appreciate your letting me know if you will recommend that the president implement these measures.

Best wishes.

Sincerely,

FRANK R. WOLF,  
*Member of Congress.*

RECOGNIZING CHARLY SKAGGS OF  
JUVENILE SERVICES OF  
WILLIAMSON COUNTY, TEXAS

**HON. JOHN R. CARTER**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. CARTER. Madam Speaker, I would like to recognize Mr. Charly Skaggs upon his retirement from Williamson County Juvenile

Services after 32 years of service. Charly served 24 of those years as the chief probation officer. In the beginning of Charly's career there were only seven employees in the juvenile services department and the county had just broken ground on a ten-bed secure detention facility.

Williamson County grew a great deal during Charly's time of service resulting in operation of a detention center, a non-secure residential center, a juvenile justice alternative education program, a secure residential program, court services, probation services, community services, electronic monitoring and the first military model residential setting with 150 employees. Charly has spent many years traveling all over the U.S. training in the juvenile services field, as well as serving as the past president of the National and Texas Juvenile Detention Associations. I had the pleasure of working with Charly when I sat on the Bench as District Judge of Williamson County. It is an honor to congratulate my friend on his retirement and I wish him all the best.

CONGRATULATING THE 2010  
MOUNT CARMEL SCHOOL WE THE  
PEOPLE TEAM

**HON. GREGORIO KILILI CAMACHO  
SABLAN**

OF THE MARIANA ISLANDS  
IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. SABLAN. Madam Speaker, once again, the students of Mount Carmel School have won the honor to represent the Northern Mariana Islands in the annual "We the People" competition. Mount Carmel has a tradition of excellence in speech and debate and this year's group of orators continued that tradition with distinction.

The competition is directed by the Center for Civic Education and funded by Congress through the Education for Democracy Act.

This is a program we should continue to support. I watched the Mount Carmel students testify in a simulated congressional hearing on constitutional issues they had studied in the *We the People: The Citizen and The Constitution* textbook. The students are nothing short of impressive in their knowledge and their understanding of the historical bases and the philosophical concepts underlying the document that established our national government.

Eleven hundred students from around our nation earned the right to come to Washington for the final competition over the weekend of April 24th by competing against other schools in their congressional district and States. This is but a fraction of the students who participate and benefit. In its 23-year history the *We the People: The Citizen and The Constitution* program has reached more than 30 million students.

A survey of program alumni demonstrates that students take to heart what they learn. Ninety-five percent of the respondents voted in the November 2008 election. Additionally, 76 percent voted in all previous elections for which they were eligible, and 56 percent had contacted a government official regarding a public issue during the previous 12 months.

As in years past the *We the People* program honored a member of Congress with the Dale E. Kildee Civitas Award. Chairman David Obey was this year's recipient for his contribution to the field of civic education. I congratulate the Chairman for this recognition; and, again, I urge my colleagues to support this worthwhile program.

Now I'd like to recognize the Mount Carmel team members by name: Matthew Aquino, Geza Baka, III, Maria Balajadia, Ryanne Camacho, Ericka Celestino, John Edward Elenzano, Ji Yeon Kim, Min Seong Kim, Savana Manglona, Ivan Matala, Nicoli Matala, Anthony Sablan, Nicolas Sablan, Troy Villafuerte, Brittany Yamagata, Calvin Yang, Joseph Yoon; and their coaches: Keolester Buenapacifico, Rosiky Camacho, Justice John Manglona, Judge Ramona Manglona; and chaperones, Maggie Sablan, Velma Palacios.

HONORING THE NEW JERSEY  
STATE POLICE INTERNET  
CRIMES AGAINST CHILDREN  
TASK FORCE

**HON. JOHN H. ADLER**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. ADLER of New Jersey. Madam Speaker, I rise today to honor the New Jersey State Police Internet Crimes Against Children Task Force for winning the Prosecutor's Unit Excellence Award. This award is given to a unit or group functioning within the criminal justice system in recognition of outstanding performance. They will be recognized at the Burlington County Prosecutor's Office 22nd Annual PROCOPS Award Banquet. PROCOPS, or Prosecutor's Recognition of Citizens or Public Servants, recognizes members of law enforcement and civilians whose significant actions, bravery and concern for the well being of society have made Burlington County, NJ a safer place to live.

The Internet Crimes Against Children Task Force (ICAC) was created to aid law enforcement agencies in their investigations of offenders who use the Internet, online communication systems, or other computer technology to sexually exploit children. This group is important because it helps keep our children safe while they are surfing the internet.

Madam Speaker, I hope you will join me in recognizing the New Jersey State Police Internet Crimes Against Children Task Force for their outstanding performance.

RECOGNIZING MR. LONNIE MYERS  
FOR HIS CONTRIBUTIONS TO  
VAN BUREN

**HON. JOHN BOOZMAN**

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. BOOZMAN. Madam Speaker, I rise today to recognize Mr. Lonnie Myers for earning the Iverson Riggs Memorial Citizen of the Year Award for his dedication and commitment to Van Buren, Arkansas.

Myers, an assistant superintendent for the Van Buren School District, has been a big influence in the school system first as a teacher and coach, then as an assistant principal, principal and athletic director. Many in the community regard Myers as the driving force behind the creation of Van Buren High School Hall of Honor and for having played a big role in getting a multi-billion dollar tax package passed to upgrade school facilities.

Neighbors and community leaders agree that Myers is a caring man, with a big heart who always leads by example and is always working in the best interest of the community and students of the school district.

It's clear that Myers is very deserving of the Iverson Riggs Memorial Citizen of the Year Award. Now, after decades of calling Van Buren home, Myers is moving to take a job in a nearby community. He will be greatly missed in Van Buren, but his impact and influence won't be forgotten.

CONSTRUCTION AWARDS BANQUET

**HON. PETER J. VISCLOSKY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. VISCLOSKY. Madam Speaker, it is with great sincerity and admiration that I offer congratulations to several of Northwest Indiana's construction businesses, corporations, and contractors. On Friday, May 14, 2010, the Northwest Indiana Business Roundtable and the Construction Advancement Foundation will honor these entities and individuals at the Construction Awards Banquet, which will be held at the Avalon Manor Banquet Hall in Merrillville, Indiana.

The Northwest Indiana Business Roundtable (NWBRT) is an independent non-profit council of local firms who are dedicated to the progress and development of construction and maintenance projects in Northwest Indiana. The NWBRT's main goal is to promote safety, quality, and cost effectiveness by all construction business affiliates. The NWBRT will be presenting the Safety Awards to many of these hard working local businesses. The recipient of the Safety Contractor of the Year Award is Solid Platforms, Inc. The Safety Excellence Award recipients are as follows: Total Safety US, Inc., Culver Roofing, Inc., The Pangere Corporation, Atlantic Plant Services, Interstate Insulation Corporation, Interstate Environmental Services, Inc., Correct Construction, Inc., Solid Platforms, Inc., The American Group of Constructors, Graycor Industrial Constructors, Inc., ATC Associates, Inc., Ambitech Engineering Corporation, and Orbital Engineering, Inc. The recipients of the Safety Achievement Award are: M&O Environmental Company, Stevens Engineers & Constructors, Security Industries, Inc., Stevenson Crane Service, Inc., Falk-Pli, Middough, Inc., R.J. Mycka, Inc., and Superior Construction Company, Inc. The Safety Recognition Award recipients are as follows: Manta Industrial, Inc., EMCOR Hyre Electric Company of Indiana, Inc., Central Rent-a Crane, Inc., Mersino Dewatering, Inc., M&O Insulation Company, AMS Mechanical Systems, Regional Contractors Alliance, KM Plant Services, Inc., Meade

Electric Company, Cornerstone Electrical Consultants, Inc., CET Inc., Tranco Industrial Services, Inc., and BMW Constructors, Inc. The Safety Progress Award recipients are Urban Elevator and Van's Industrial. The recipient of the Safety Innovation Award is Manta Industrial. This year's Roger Walters Memorial Safety Award recipient is Mr. Doug Patton, Project Safety Manager, BMW Constructors.

The Construction Advancement Foundation, CAF, was created in 1967 and represents Northwest Indiana union contractors. The CAF continues to be a major force in the growth and improvement of the union construction industry in Northwest Indiana. The CAF will also be presenting project and contractor of the year awards. This year's Public Works Project of the Year Award recipient is: Hasse Construction Company, Inc. for the Lost Marsh Clubhouse and the Hammond Port Authority. The recipient of the Commercial Project of the Year Award are Tonn & Blank Construction for the Valparaiso Family YMCA. The Industrial Project of the Year Award recipient is BMW Constructors, Inc., for the C8 Coal Conveyor Replacement/NIPSCO. The recipient of the Commercial Contractor of the Year Award is Berglund Construction, while the recipient of the Highway Contractor of the Year Award is Walsh & Kelly, Inc. The Industrial Contractor of the Year Award recipient is The Ross Group, Inc., and the Professional & Engineering Services Contractor of the Year recipient is ACMS Group. Finally, the recipient of this year's Sub-Contractor of the Year Award is Thatcher Foundations, Inc.

Madam Speaker, I ask that you and my distinguished colleagues join me in congratulating these hard working individuals, businesses, and contractors for their dedication to the construction industry and to Northwest Indiana. They have contributed in many ways to the growth and development of the economy in Indiana's First Congressional District, and I am very proud to represent them in Washington, D.C.

#### IN RECOGNITION OF WILLIAM GOWER

#### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. ROGERS of Alabama. Madam Speaker, I would like to request the House's attention today to pay recognition to William Gower, a constituent of mine who has been overcoming his disabilities and gaining his freedom by participating in races for the past four years with Tim Thomas, Pastor of Munford Baptist Church in Munford, Alabama.

William Gower is a 37 year-old man with cerebral palsy who tirelessly works to prevail over his challenges and lives a fulfilling life that many individuals without disabilities can only dream of. Together, Tim and William formed "Team Gower" and have participated as one in over 30 races.

On Saturday, April 17, 2010, "Team Gower" participated in a 15-mile race to raise money to help purchase a new special needs van for

William. William has worked hard all his life, and this new van will help ensure he has the independence he wants.

All of us across East Alabama are deeply proud of William Gower and his outstanding strength. He is a role model for us all.

#### LAWRENCE KESTER

#### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. BACA. Madam Speaker, I stand here today to honor and remember a loving father and husband, respected citizen and dedicated public servant, Mr. Lawrence Kester.

Lawrence was killed on duty May 7, 2010, while driving a San Bernardino County public transit bus, in Rialto, California. He was 47 years old.

He was the victim of a senseless stabbing attack by a mentally ill passenger. Although Lawrence did not survive the attack his passengers escaped traumatized but unscathed.

Fifteen years ago, Lawrence began working for the public transit system and went on to become one of the best regarded drivers in San Bernardino, as well as a great friend to the community.

He was well respected by his customers and colleagues alike, commended on numerous occasions for his consummate professionalism and attention to security.

Most recently, he was awarded the elite "Million Mile Club" membership which is reserved for drivers who have driven more than one million passenger miles in safety.

Lawrence is remembered as a Good Samaritan and trusted friend. He was the kind of man who would chip in for people when they didn't have enough change for the fare and generously greet customers as they entered and exited, wishing them a nice day.

Lawrence is survived by his wife, Misty, and 8 children. Lawrence and Misty celebrated their 12th anniversary of marriage last week and the family just recently spent a weekend at Disneyland together.

Let us take the time to pay tribute to this wonderful man. Let us celebrate the life he lived and the example he led.

Although he is no longer with us, his noble nature and loving kindness will continue to live on through the lives of everyone he touched.

The thoughts and prayers of my wife Barbara, my family and I are with his family at this time.

Madam Speaker, let us pay our respects to Lawrence Kester. He will always have a place in our memories and hearts for everything he gave to his family and community.

#### HONORING THE RECIPIENTS OF THE PROSECUTOR'S CITIZEN HERO AWARD

#### HON. JOHN H. ADLER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. ADLER of New Jersey. Madam Speaker, I rise today to recognize and congratulate

several South Jersey citizens as they are being honored with this year's 'Prosecutor's Citizen Hero Award.' This award is given to an individual who is not a member of the law enforcement profession, yet has performed in a manner above and beyond any level expected of the general citizenry. For their outstanding efforts, they will be recognized at the Burlington County Prosecutor's Office 22nd Annual PROCOPS Award Banquet. PROCOPS, or Prosecutor's Recognition of Citizens or Public Servants, recognizes members of law enforcement and civilians whose significant actions, bravery and concern for the well being of society have made Burlington County, NJ a safer place to live.

Mr. Muzafer Yilmaz, Ms. Jacqueline Alomar, and Ms. Alesha Bennett are being honored for their involvement in the identification of a bank robbery suspect. Jayden Bolli, a courageous three year old who contacted 9-1-1 after his grandmother had fallen unconscious, will also be honored this year. Jayden had recently been taught by his grandmother how to use the 9-1-1 system in case of an emergency.

Madam Speaker, I hope that you will join me in thanking these citizens for their invaluable assistance in times of need.

#### IN HONOR OF A REAL AMERICAN HERO: CAPTAIN KYLE A. COMFORT, U.S. ARMY

#### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. ROGERS of Alabama. Madam Speaker, I rise today in honor and in mourning of a brilliant American Hero from my State of Alabama, Capt. Kyle A. Comfort. On May 8th 2010, Kyle gave That Last Full Measure for God and Country; Our prayers are with his lovely wife Catherine and new daughter Kinleigh. May our Lord hold them in his hands. I ask that this poem penned by Albert Caswell be placed in the RECORD in honor of him.

#### TAKE COMFORT

Take Comfort!

As you lay your head down to sleep . . .  
All in your hearts of love, so very deep . . .  
Of all of those memories, so to keep!  
Of all of those Magnificent Ones, who have so  
brought us peace . . .

But, with their fine lives . . . as it's but for  
them we now so weep!

Take Comfort!

In such hearts of honor and love . . . so very  
deep!

Who to all of ours, so brilliantly do so speak!  
As a gentle rain, rolls across Alabama this  
night . . . all in our sleep . . .

Are but our Lords tears, coming down from  
Heaven from his heart so very  
deep . . .

All because of you Kyle, and your most self-  
less sacrifice so very sweet . . .

And all of this pain, your family must now  
so keep!

Take Comfort . . .

In hearts now so very deep . . .

As this you must, believe!

That a new Angel, our Lord God . . . up in  
Heaven has so received!

To watch over us, indeed!

To fight the darkness, you see!  
 And on this day, as you hold your family so  
 very tight . . .  
 And all seems so very right!  
 All because a Hero, for us all has so died this  
 night!  
 Because, Freedom is not free!  
 But, bought and paid for . . . by all of these  
 most selfless souls indeed!  
 By men like Kyle, our most brilliant of all  
 lights!  
 And families who now so cry, in tears of  
 heartache tonight!  
 So, hush little baby Kinleigh Ann . . . don't  
 you cry!  
 For one day, up in Heaven you will look into  
 your Father's eyes!  
 And you, Katherine . . . his lovely wife!  
 Your Hero Kyle, but wants you to have a  
 happy life!  
 For there will be an eternity together, up in  
 Heaven so very bright!  
 So this night as you lay your head down to  
 rest, but remember all of our best!  
 Take Comfort, all in how our world they  
 bless!  
 Amen!

IN RECOGNITION OF SAC-  
 RAMENTO'S BUSINESS LEADERS

**HON. DORIS O. MATSUI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Ms. MATSUI. Madam Speaker, I rise today to recognize the many outstanding Sacramento business leaders who will be honored at the Sacramento Metropolitan Chamber of Commerce's 115th Annual Dinner & Business Awards Ceremony. The men and women who were honored on Friday, February 5th, are dedicated to the success of Sacramento and have worked tirelessly to advance the region's economic vitality. I ask all my colleagues to join me in honoring these fine Sacramentans.

David Higgins, a commercial construction icon and retired CEO of Harbison-Mahony-Higgins Builders, has been named "Sacramentan of the Year" for his life's work and commitment to philanthropy in the region. He has been actively involved in the leadership of HMM Builders, a general building contractor, for more than 40 years.

For decades, David has advocated for the sustainable growth of the region, most recently as past president of the Sacramento Area Commerce and Trade Organization. He has also been widely recognized for his local charitable endeavors, including his longtime support of Jesuit High School, health and social service and youth programs, and the arts.

Ron Mittelstaedt, Chairman and CEO of Waste Connections Inc., has been named "Businessman of the Year." Ron founded Waste Connections in 1997. When he took the firm public the following year, Waste Connections had approximately \$40 million in revenue and about 400 employees. Today, the company serves about 2 million business and residential customers throughout 26 states, employs nearly 5,400, and has reported revenue of more than \$1 billion. It is a true success story.

Jonna Ward, CEO of Visionary Integration Professionals, has been named "Business-

woman of the Year." Jonna started VIP 12 years ago out of her spare bedroom and has grown it to be the largest woman-owned business in our region. Through her leadership, VIP is also one of the fastest growing businesses in the country—making the Inc. 500 list for the past two years.

Other award winners include "Volunteer of the Year," Martha Clark Lofgren from Brewer Lofgren LLP. Robert Tobin, President and CEO of Cottage Housing, winner of the "Al Geiger Award," will be recognized for his work providing housing for homeless. The "Peter McCuen Award for Civic Entrepreneurs" will be presented to Rick Fowler for his work with The Community College Fund.

The "Small Business of the Year" award will be presented to Patrick Mulvaney and Mulvaney's B&L, for growing into one of Sacramento's top restaurants. Patrick is a marvelous chef, who supports local farmers and is active with a number of local non-profits.

Four outstanding local institutions have been inducted into the "Sacramento Business Hall of Fame" for their longtime and significant contributions to the economic and civic growth of the Sacramento region. Being inducted are Kronick, Moskovitz, Tiedemann & Girard; Owen-Dunn Insurance Services; SAFE Credit Union; and Western Contract. Recognized for its success as a long standing, 100-year-old business in Sacramento, Lionakis has been inducted into the "Centennial Business Hall of Fame."

Madam Speaker, I am honored to recognize these individuals and businesses for their economic and civic contributions to the Sacramento Region. On behalf of the people of Sacramento and the Fifth Congressional District of California, I ask all my colleagues to join me in honoring them for their unwavering commitment to our region.

HONORING THE RECIPIENTS OF  
 THE PROSECUTOR'S SPECIAL  
 RECOGNITION AWARD

**HON. JOHN H. ADLER**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. ADLER of New Jersey. Madam Speaker, I rise today to recognize and congratulate Mr. Matt Skahill and Ms. Rosemary Clark, as they are honored with the 'Prosecutor's Special Recognition Award' for providing significant assistance to law enforcement in Burlington County, NJ. For their outstanding efforts, they will be recognized at the Burlington County Prosecutor's Office 22nd Annual PROCOPS Award Banquet. PROCOPS, or Prosecutor's Recognition of Citizens or Public Servants, recognizes members of law enforcement and civilians whose significant actions, bravery and concern for the well being of society have made Burlington County, NJ a safer place to live.

I would like to extend my sincere congratulations and thanks to Mr. Matt Skahill, Assistant U.S. Attorney, for his efforts in successfully prosecuting major drug traffickers in the South Jersey region. Thanks to his efforts, men intent on distributing illegal narcotics are

now off our streets. I would also like to recognize Ms. Rosemary Clark of Willingboro, NJ for providing compassion, strength, and support as a foster parent to two children who were witnesses in a case against their own father.

Madam Speaker, I ask you to join me in thanking these individuals for their assistance to law enforcement in Burlington County, NJ. I am proud to represent such exemplary citizens, and I hope others follow their example by helping those in need.

PASSING OF JIM BOREN

**HON. DAN BOREN**

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. BOREN. Madam Speaker, for any politician interested in a word of wisdom on how to conduct themselves; Dr. James "Jim" H. Boren—father, husband, author, teacher, and philanthropist—had this advice to those in public service; "mumble when uncertain, delegate when in distress, and ponder when in command."

Madam Speaker, the state of Oklahoma lost a true public servant recently—Jim Boren, who drew attention to his political causes with excitement, determination and color, died April 24th, 2010 at the age of 84.

Jim Boren joined the Navy during WWII at the age of 17. As a midshipman on the Destroyer Escort, William C. Cole, Jim served his nation with distinction and honor; including time in the 1945 Battle of Okinawa.

After the war, Jim received his degree from the University of Texas and began his first stint as a teacher at Oxnard Union H.S. in Oxnard, California. During that time, Jim earned a Master's degree at Cal State at Long Beach and a Master's at the University of Southern California. Eventually, Jim would return to the University of Texas to earn his PhD.

Later in life, Jim Boren would become the campaign manager, and eventually the chief of staff, for Senator Ralph Yarborough of Texas. During his time with Senator Yarborough, Jim worked side-by-side with him on legislation such as the National Defense Education Act, Cold War GI Bill, Nuclear Test Ban Treaty, Padre Island National Seashore, and the Mental Health Bill.

After working in the U.S. Senate, Jim Boren received a State Department appointment in 1960 to serve in an official capacity in South America under the Kennedy Administration, eventually obtaining the position of Deputy Director of the Economic Mission in Peru. After leaving government work, Jim began to teach again and write from his position as scholar-in-residence at Northeastern State University in Tahlequah, OK.

Jim possessed his own original brand of political satire, authoring literature in that genre, not the least of which is exemplified by a pair of books entitled "When in Doubt, Mumble: A Bureaucrat's Handbook" and, "How to be a Sincere Phony: A Handbook for Politicians and Bureaucrats."

Through his unique style and substance, Jim Boren had a tremendous impact on his

peers and most importantly on his community. And as a member of the United States House of Representatives, I would like to honor Dr. James "Jim" Boren for his consummate wit, humor and unyielding dedication to the American political landscape.

Additionally, I also want to take a moment to send my deep condolences to Jim's friends and family, especially his wife Norma Williams; two sons, Richard and Stan Boren; two stepsons, James and John Williams; brother, Gene Boren; sister, Marilyn Boren; and three grandchildren.

#### PERSONAL EXPLANATION

#### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Ms. LEE of California. Madam Speaker, today I missed rollcall vote No. 256 on H. Res. 1294, rollcall vote No. 257 on H. Res. 1328, and rollcall vote No. 258 on H. Res. 1299. Had I been present, I would have voted "aye" on each of these rollcall votes.

#### CONGRATULATING THE SMITH-COTTON HIGH SCHOOL JUNIOR RESERVE OFFICER TRAINING CORPS

#### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. SKELTON. Madam Speaker, let me take this means to congratulate the Smith-Cotton High School Junior Reserve Officer Training Corps (JROTC) of Sedalia, Missouri. These outstanding young men and women recently placed first overall at the 2010 National High School Drill Team Championships in Daytona, Florida.

More than 145 schools and over 4,000 cadets from across the country participated in the annual competition, and each team competed in four events: regulation, exhibition, color guard, and inspection. The cadets from Smith-Cotton High School scored exceptionally well in each, earning first place in regulation and color guard, second in exhibition, and tenth in inspection.

Since September, the Smith-Cotton JROTC has logged hundreds of hours in training and preparation. These young cadets showed an unyielding commitment to purpose, to team, and to goal, and their hard work has truly paid off. With leaders like the young men and women of this team, I am confident our future is in good hands.

Madam Speaker, the cadets of the Smith-Cotton High School Junior Reserve Officer Training Corps deserve recognition for their outstanding achievement, and I trust my fellow members of the House will join me in congratulating them.

#### COMMENDING MR. GERRY LENFEST ON HIS 80TH BIRTHDAY

#### HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. BRADY of Pennsylvania. Madam Speaker, I would like to recognize a great Philadelphian and a great American, Mr. H.F. (Gerry) Lenfest, and to call out specifically his outstanding service to the nation through his unwavering support of the Library of Congress. As he marks his 80th birthday I rise in tribute to a visionary leader who has established a high bar for philanthropists and whose dedication to the nation's library, his city, state and nation are legend.

Gerry Lenfest has been Chairman of the James Madison Council, the Library's first-ever national private sector group, since 2007. He was one of the founding members of this remarkable group of philanthropists, and the Council is growing and flourishing under his leadership. The Council helps the Library add to the national collection and share its treasures with the nation and the world. Mr. Lenfest, who has a deep interest in educating today's youth, is the driving force behind the Library's top fundraising priority—to create a much-needed residential scholars center in the nation's capital. He is the lead donor, and is co-chairing the fundraising campaign to provide the emerging generation of researchers and teachers both here and abroad with inexpensive accommodations close to the unequalled reservoir of educational material in the Congress's library.

Championing the Residential Scholars Center is the latest of Gerry Lenfest's many benefactions to the nation's library. Since accepting the invitation of Librarian of Congress James H. Billington to join the Madison Council in 1990, Mr. Lenfest and his wife Marguerite have played key roles in the establishment and expansion of the National Digital Library, an authoritative, free Web site that presents 16 million unique and important primary documents of our nation's history and culture to students, teachers, researchers and casual browsers around the world. Gerry and Marguerite have also supported the Library in acquiring a number of unique, historically significant items for the national collection such as the Lafayette map collection and the 1507 Waldseemüller map, the first map of the Western Hemisphere and the first document of any kind to use the name "America." Gerry and Marguerite turn visions into reality not only through their generosity, but also through their engaging personalities.

In addition to their enthusiastic support for many varied initiatives at the Library of Congress, the Lenfests have extended their involvement and generosity to more than 168 educational, musical, conservation, health, arts and historic causes in Philadelphia and across Pennsylvania, and across the nation. Gerry's philanthropic leadership and presiding skills over cultural institutions in Philadelphia, like his Chairman's role with the Library of Congress, have been major contributions to America—and reminds us of the special role that Philadelphia has played in our nation's history and culture.

#### IN HONOR OF SENATOR ALBERT STANLEY RODDA

#### HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Ms. MATSUI. Madam Speaker, I rise today to recognize and honor the life of former California State Senator Albert S. Rodda, who passed away on April 3, 2010 at the age of 97. He was a lifelong public servant whose example as a true leader will remain a guiding light for generations to come.

Albert Stanley Rodda was born on July 23, 1912 in Sacramento, California. A lifelong Sacramentan, Senator Rodda graduated from Sacramento High School in 1929, attended Stanford University, then returned to Sacramento to teach at Grant Union High School. After serving as a gunnery officer in the U.S. Navy during World War II, Senator Rodda once again returned to Sacramento, this time to teach at Sacramento Junior College, now known as Sacramento City College. He returned to Stanford and earned his Ph.D. in history and economics in 1951. Even after serving in the legislature, he continued his passion for education by teaching at California State University, Sacramento and by serving on the Los Rios Community College District Board of Trustees.

Dedicated to both public service and education, Senator Rodda was a civic leader throughout his life. Before being elected into the California State Senate in 1958, he served as president of the Local 31 of the California Federation of Teachers. While serving with the CFT, it became clear to him that teachers' rights were often ignored by administrators and school boards. After his election, Senator Rodda became a fierce proponent for education reform. During his 22 years as a legislator, he championed public education as chairman of both the Senate Education Committee and the Senate Finance Committee. He crafted legislation that provided necessary funding for public schools and created the California Community Colleges Chancellor's Office and Board of Trustees. He also drafted landmark legislation that gave teachers collective bargaining rights and established the Public Employment Relations Board.

While a steadfast Democrat, Senator Rodda was widely respected and made it a principle to work in a bipartisan manner with his fellow Senators. Because of this character trait he was often considered the choice alternative to end brewing legislative rivalries. He always made it a priority to thoughtfully study every piece of legislation he voted on, often taking his time, but always coming to a fair decision. He set the bar high and stands as an example that we all can look to for guidance.

Senator Rodda left his mark on Sacramento. His work can be seen at the Cal Expo, on Regional Transit and in Old Sacramento at the California State Railroad Museum. His lasting legacy may be a strong community college system, a system that he taught at and led. Today, the Los Rios Community College District and Sacramento City College give Sacramentans an opportunity to improve their lives through academic learning and career technical education.



Madam Speaker, I am honored to recognize and honor the life of one of Sacramento's greatest leaders. On behalf of the people of Sacramento and the State of California, I ask all my colleagues to join me in honoring Albert Stanley Rodda for his unwavering commitment to Sacramento, the State of California and our nation. Senator Rodda was humble, honest and thoughtful in all he did. He was a great man, and he will be missed.

HONORING CAPTAIN GERALD  
VALENTA

**HON. JOHN H. ADLER**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. ADLER of New Jersey. Madam Speaker, I rise today to recognize Captain Gerald B. Valenta of the Willingboro Police Department. Captain Valenta has been awarded the Career Recognition Award for his distinguished career in law enforcement. He will be recognized at the Burlington County Prosecutor's Office 22nd Annual PROCOPS Award Banquet. PROCOPS, or Prosecutor's Recognition of Citizens or Public Servants, recognizes members of law enforcement and civilians whose significant actions, bravery and concern for the well being of society have made Burlington County, NJ a safer place to live.

Captain Valenta has been a dedicated and loyal law enforcement officer for 32 years, proudly serving the citizens of Willingboro, NJ. The Willingboro Police Department expresses deep gratitude for his continued contributions to the Burlington County Law Enforcement Community.

As a nation, we owe an enormous debt of gratitude to Captain Valenta and to the men and women of the law enforcement community. Each day, these selfless individuals start their shifts with one goal in mind: to serve and to protect the citizens of their communities. The one constant they face is the uncertainty of what each day will bring, knowing all too well that in any situation, there is the potential for danger. Still, these everyday heroes honor the commitment they have made to the people they serve.

Madam Speaker, please join me in congratulating Captain Valenta for his honorable service to the Willingboro Police Department.

HONORING CRESTON CHRISTIAN  
ELEMENTARY SCHOOL

**HON. VERNON J. EHLERS**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. EHLERS. Madam Speaker, it is my distinct pleasure to join with the past and present members of the Creston Christian Elementary School family to "Celebrate God's Faithfulness," and mark over 120 years of devotion to the education of young people in Grand Rapids. As a state senator, I had the pleasure of recognizing Creston Christian Elementary School for its first 100 years of service, and

now, as their Representative in the United States Congress, I am delighted to again honor them for their tradition and success.

"By faithfulness we are collected and wound up into unity within ourselves, whereas we had been scattered abroad in multiplicity." Saint Augustine eloquently captures the mission of Creston Christian Elementary School as they have worked to develop an inclusive community, believing that one body is made up of many parts. Through unity, Creston Christian has sought to learn from one another and grow closer to God.

On the eve of my retirement and Creston Christian's consolidation this fall to a new, comprehensive elementary school, it is not only a time of celebration, but also an occasion for remembrance. As we both close out one chapter and open a new one, I am reminded of God's faithfulness and that great things happen when we glorify Him and model our lives after His teachings. As Creston Christian joins with other schools in the area, I suspect the changes will be bittersweet for many families and staff members. I hope you will take the time to reflect on the many years of service provided by the dedicated staff and families connected to Creston Christian, and know that not only have you prepared many young people to make a living, but you have also taught them how to make a life—one that is focused on God and centered on Christ.

I am thankful for the many years of service so willingly given. I hope that Creston Christian has a joyous, memorable celebration, and may God's blessings continue to shine upon you.

HONORING THE 20TH ANNUAL DC  
BLACK PRIDE CELEBRATION

**HON. ELEANOR HOLMES NORTON**

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Ms. NORTON. Madam Speaker, I rise to pay tribute to the 20th Annual DC Black Pride celebration, which will be held in Washington, DC on May 26–31.

The DC Black Pride celebration is a multiple-day festival that features music, dance, fashion shows, films, poetry slams, church services, community town hall meetings, a health and wellness expo, and much more. The DC Black Pride celebration is widely considered to be one of the world's preeminent Black Pride celebrations, drawing more than 30,000 people to the nation's capital from across the United States as well as Canada, the Caribbean, South Africa, Great Britain, France, Germany, and the Netherlands.

At the very first Black Pride, the DC Black Pride celebration fostered the beginning of the International Federation of Black Prides and the "Black Pride Movement," which now consist of forty Black Prides on three continents.

The DC Black Pride celebration has deep roots in the DC community, dating back to 1975. It grew out of the Club House's annual Memorial Day weekend celebration, called the Children's Hour. After the Club House closed in 1990, local individuals and groups kept the tradition alive by organizing the first DC Black

Pride celebration on May 25, 1991, at Banneker Field. The celebration has grown from a few hundred people who attended that first festival to the thousands expected for the 2010 celebration.

Fittingly, the celebration's organizing body, Black Lesbian and Gay Pride Day, Inc., chose "20 Years Later, The Legacy Lives!" as the theme for this year's celebration. This theme reflects the 20 years of DC Black Pride of fulfilling the mission, which is to increase awareness of and pride in the diversity of the lesbian, gay, bisexual and transgender in the African American community, as well as support for organizations that focus on health disparities, education, youth and families.

DC Black Pride is led by a volunteer Board of Directors, which coordinates this annual event and smaller events throughout the year. The 2010 Board consists of: Patricia Corbett; Jimma Elliott-Stevens; Earl Fowlkes, Jr.; and Jhabriel Moore, Sr.

I ask the House to join me in welcoming all who are attending the 20th Annual DC Black Pride celebration.

HONORING JUDGE ARNOLD  
ROSENFELD

**HON. MIKE THOMPSON**

CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. THOMPSON of California. Madam Speaker, I rise today with my colleague, Representative LYNN WOOLSEY, to honor a friend and community leader, Judge Arnold, Arnie, Rosenfield. Judge Rosenfield is retiring after a distinguished career marked by his commitment to children and families and his foresight in establishing successful programs to serve them.

Born in Connecticut, Arnie Rosenfield attended Vanderbilt University, where he earned his J.D. in 1971. That same year he married Phyllis Ann Rubins, and the couple has two children, Jessica and Asa.

Judge Rosenfield began his career as a Deputy District Attorney in San Luis Obispo County, CA, where he demonstrated early on his passion to serve those not always well-represented in the justice system. He handled one of the first large successful consumer protections trials in California, and in 1977, after taking the same position in Sonoma County, he established a Consumer Protection Unit. He later opened a private practice and served as the first Commissioner of Sonoma County Superior Court before being elected Superior Court Judge in 1984, a position he held until his retirement on December 31, 2009.

The majority of Judge Rosenfield's cases involved the juvenile court, and he was always a strong advocate for children at risk for emotional trauma. In 1996 he initiated the Court Appointed Special Advocates (CASA) for Sonoma County, which advocates for the needs of abused children caught up in the justice system. He instigated the development of the Redwood Children's Center for easing the process of interviewing and examining these children and has been a supporter of Social Advocates for Youth, the Valley of the Moon

Foundation, Jewish Children and Family Services, and the Parent Education Project of Sonoma County. He also served on the Advisory Committee on Juvenile & Family Law for the California Judicial Council. "I have been very involved in my career in trying to make the court system work better for kids and families who find themselves caught up in it," he says.

Judge Rosenfield was also a strong proponent of restorative justice, an approach in which offenders work with the victims and the community for repair of the harm they have done. He used these techniques, especially for kids, before there was an actual movement and became a leader in the field as well as an instructor at Sonoma State University, Empire Law School, and California Judicial College.

For his work, Judge Rosenfield has received numerous awards including Juvenile Court Judge of the Year by the California Judges Association and the 2009 Rex Sater Award from the Sonoma County Bar Association for Excellence in Family Law.

Madam Speaker, Judge Arnold Rosenfield has provided Sonoma County with a legacy of innovative programs and, more importantly, an example of what passionate leadership can accomplish. "It's my belief that for the most part what we do to kids and families here in the justice system continues to be destructive," he says, "and I've spent my time trying to make it more constructive. I try to care about the families that I see and am very gratified to see lives turn around." Thank you, Judge Rosenfield, for the many lives you have turned around and for showing us what can be done in the name of justice.

#### HONORING THE RECIPIENTS OF LAW ENFORCEMENT OFFICER COMMENDATIONS

##### HON. JOHN H. ADLER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. ADLER of New Jersey. Madam Speaker, I rise today to recognize and congratulate several New Jersey law enforcement officers who are to be commended for performing above and beyond the call of duty. Our law enforcement officers are held to the highest standards, and it is a great honor to recognize them for their outstanding efforts. These officers will be recognized at the Burlington County Prosecutor's Office 22nd Annual PROCOPS Award Banquet. PROCOPS, or Prosecutor's Recognition of Citizens or Public Servants, recognizes members of law enforcement and civilians whose significant actions, bravery and concern for the well being of society have made Burlington County, NJ a safer place to live.

I would like to commend the following officers: Detective Richard Naff of the Moorestown Twp. Police Department for his outstanding investigative work that led to the dismantling of a residential burglary ring; Officers Duane Grazioli & Dean Potts of the Burlington County Sheriff's Office for crawling under a burning tractor trailer and pulling the driver to safety; Ptl. Nicholas Czepiel of the

Florence Township Police Department for administering medical assistance to a fellow officer following a serious collision; Det. Robert Bennett of the Maple Shade Police Department for his sustained involvement in the life of a troubled juvenile who came to him for help; Patrolmen Brandon Conard and Paul Barnes of the Riverside Police Department for their tenacious search that led to the discovery of an injured and disoriented citizen; Detectives Linda Chieffalo, Irene Angelaccio, Patrolman Thomas Polite of the Westampton Police Department for skilled police work that led to the identification and arrest of an armed gas station robber; and Patrolmen Shaun Welthy & Ryan Bieri also of the Westampton Police Department for administering life-saving CPR.

Madam Speaker, I hope you will join me in extending congratulations and thanks to these exemplary law-enforcement officers.

#### RECOGNITION OF DR. RAMMOHAN ON HIS RETIREMENT FOR HIS CONTRIBUTIONS TO MS RE- SEARCH

##### HON. MARY JO KILROY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Ms. KILROY. Madam Speaker, I rise today to honor Dr. Kottil Rammohan for nearly three decades of providing care to patients and conducting ground-breaking research in central Ohio. Dr. Rammohan, who is retiring from Ohio State University this year, has touched the lives of countless patients and people throughout the world living with Multiple Sclerosis (MS) or other neurological disorders.

As a faculty member in the neurology department at OSU, Dr. Rammohan's dedication to MS research has led to numerous advancements in his field. One of his achievements was discovering a breakthrough in treating fatigue, a symptom that plagues many of those living MS. His discoveries help improve the quality of life for the hundreds of thousands of Americans who live with this disorder.

Outside of OSU, Dr. Rammohan has been active in several medical organizations including the MS section of the American Academy of Neurology and the Consortium of Multiple Sclerosis Centers. He also has served as the acting chair of the Buckeye Chapter Clinical Advisory Committee and the national Clinical Care Committee for the National Multiple Sclerosis Society. His valuable contributions to the National Multiple Sclerosis Society have earned him recognition in its Volunteer Hall of Fame.

Dr. Rammohan, who has been repeatedly recognized as one of America's Best Doctors, has been asset to our community for decades. On behalf of all Americans living with MS, I am happy to congratulate and thank Dr. Rammohan for his distinguished career in the field of neurology and for his lifelong devotion to helping others.

#### HONORING THE ACHIEVEMENTS OF DR. CHARLES TOWNES ON THE 50TH ANNIVERSARY OF THE LASER

##### HON. BOB INGLIS

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. INGLIS. Madam Speaker, I rise with my colleagues in celebration of the 50th anniversary of the laser. This is a unique and fitting opportunity to recognize Charles Hard Townes.

South Carolina has the distinction of claiming Dr. Townes, who was raised on a farm just outside of Greenville and graduated from Furman University. His long career led him to the historic Bell Labs, Columbia University, the Institute for Defense Analysis, and the Massachusetts Institute of Technology, and continues today at the University of California, Berkeley. He has made major waves in spectroscopy, radar systems, and now astrophysics and astronomy.

The most notable of his achievements and the one that we celebrate now earned him a share in the 1964 Nobel Prize for Physics. Dr. Townes is most famous for his work on the precursor to the laser. This technology has contributed billions of dollars to our economy and we use it in everything from listening to music and buying groceries to manufacturing cars and conducting surgery. Scientists use lasers today to study everything from the big bang to nuclear fusion.

This transformational technology can be traced back to an epiphany and a thought experiment on a Washington D.C. park bench in 1951. Three years of hard work and experimentation later, Dr. Townes and his team delivered a functional 'maser.' By 1958, Bell Labs had filed a patent application for what we now call the laser.

While we cheer Dr. Townes' hard work and the sweeping impact of his technology, we must also acknowledge his dedication to defending this idea. One of the most famous chapters in the history of the laser is the steadfast opposition Dr. Townes and his team faced from several eminent physicists. His perseverance pushed the research forward.

In addition, Dr. Townes is one of only two people who have ever won both the Nobel Prize and the Templeton Prize. The Templeton Prize honors those who have made exceptional contributions to affirming life's spiritual dimension, and Dr. Townes received the prize for his papers and talks that sought harmony between scientific discovery and religious faith.

It is an honor to recognize this man and his numerous contributions to physics and scientific inquiry. I thank him for his devotion to discovery, and for sharing his optimism and genius with all of us.

BELCHER ELEMENTARY SCHOOL  
OF CLEARWATER, FLORIDA  
CELEBRATES ITS 50TH ANNIVERSARY

### HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. YOUNG of Florida. Madam Speaker, a major celebration takes place in Clearwater, Florida, this Friday as Belcher Elementary School celebrates its 50th anniversary of educating Pinellas County's youth.

Under the direction of Principal John DiLeo, Belcher Elementary moved into its new brick building on January 4, 1960 and under his leadership for the next eight years it grew into a fixture of the community. Principal DiLeo left Belcher in 1968, but missed the school so much that he returned for another 10 year stint as principal from 1978–1988.

He was the first of seven principals that have each left their mark on Belcher. Lisa Roth is the current principal and since arriving in 2003 she has helped usher Belcher into the new age of high technology including white boards in the classrooms.

Belcher has always been on the cutting edge of technology. It was in 1989 that the entire school was wired for cable television and with that came the Belcher Bobcat News or BBN. It was the county's first student produced news show for an elementary school, brought to life by fifth-grade teacher Linda Callahan, who continues to oversee production of the program.

Eight years later, Belcher took the next technological leap as the school was wired for internet access, which brings the world to the fingertips of every student.

Many of the advancements at Belcher Elementary have come through the support of the school's award-winning PTA organization. In addition to the events the PTA sponsors for the students and staff, the organization has taken special pride in the improvements it has made to the school facility and grounds. One of its landmark achievements was the opening of a nature center, which turned some unused area on school grounds into a native Florida ecosystem. With Florida's beautiful weather, this has become an outdoor classroom where students learn and where they work to maintain its natural elements.

Belcher's motto is "Believe—Act—Achieve" and the students, teachers, volunteers and support staff live that out every day. Likewise the core values of Belcher's staff—Education, Integrity and Community—are widely apparent with the many awards the school has received. Most recently, Belcher was recognized with a 2009 Bronze Award for the National Alliance for a Healthier Generation Program. It is a Positive Behavior Model School and has received a Golden School Award for community involvement for the last 26 years.

Madam Speaker, some of the Belcher Bobcats joined us for a visit here at the Capitol last week and they all will be back home Friday for the school's big celebration. It is my hope that my colleagues will join me in congratulating the students, faculty, staff, parents and volunteers of Belcher Elementary School for 50 years of educational excellence.

HONORING THE LIFE OF MR. JIM  
BOREN

### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise on behalf of myself and Congressman DAN BOREN of Oklahoma to pay tribute to Dr. James Boren, a man who made a profound impact on our country through his public service and political activism. Dr. Boren's celebrated life came to an end on April 24 when he passed away at his home in Tahlequah, Oklahoma, at the age of 84.

As my colleagues may know, Dr. Boren was the second cousin of our colleague, Congressman BOREN, and first cousin to his father, former U.S. Sen. David Boren of Oklahoma.

Dr. Boren served our country valiantly in World War II as a sailor in the Pacific, where his ship was struck by multiple Japanese kamikaze planes in the Battle of Okinawa. Following his distinguished Naval service, he embarked on a career in government.

He served as Chief of Staff to Senator Ralph Yarborough until 1960 when he joined John Kennedy's presidential campaign. Following Kennedy's victory, Dr. Boren received an appointment from the State Department for an assignment in Latin America. During his tenure in Latin America, he established the volunteer organization Partners of the Americas.

Despite his remarkable career in public service, Dr. Boren's greatest impact was felt through his political activism. He dedicated much of his attention to government inefficiency and corruption. No one in Washington was safe from one of his satirical assaults. In 1972, he famously raced the United States Postal Service on horseback from Philadelphia to Washington, D.C., in order to highlight inefficiencies.

Dr. Boren believed in the power of humor and satire to inspire political activism among the people. He never was without a witty remark pertaining to politics or government. During his Presidential campaign in 1992, the Apathy Party candidate notably stated, "I have what it takes to take what you've got."

Personally, I will always remember his memorable line, "if you are going to be a phony, at least be sincere about it." That's just one of the gems from his two books, *When in Doubt Mumble* and *How to be a Sincere Phoney*, a Handbook for Politicians and Bureaucrats.

In addition to his political work and writing, Dr. Boren spent three decades as a scholar-in-residence at Northeastern State University in Oklahoma, teaching younger generations about the importance of activism.

Dr. Boren is survived by his beautiful wife Norma, his two sons, two stepsons and his three grandchildren.

Madam Speaker, I ask my colleagues to join us in honoring the remarkable life of Dr. James Boren. His friends and family will miss his wit and humor, and everyone in this chamber can thank him for this famous quotation, "When in doubt, mumble; when in trouble, delagate; when in charge, ponder."

HONORING THE SERVICE OF  
CAPTAIN JOHN C. MIKO

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. MILLER of Florida. Madam Speaker, I rise today to honor Captain (Ret.) John C. Miko as he prepares to retire as Vice President of Government Relations for the Electronics, Intelligence, and Support Operating Group of BAE Systems. Captain Miko's life of dedicated service to this country throughout times of conflict and times of peace is truly remarkable, and it is a great privilege to recognize him on this day.

Following the example set by his family's military service, Captain Miko attended the United States Coast Guard Academy and received a commission as an Ensign upon graduation. After serving aboard the Coast Guard Cutter Unimak for 16 months, he went to flight school at NAS Pensacola, Florida. Within his aviation specialty, he had a variety of important and challenging flying assignments. Captain Miko served as an instructor pilot and spent three years as an exchange pilot with the British Royal Navy. In addition, he commanded a large Coast Guard Group and Air Station in Oregon. Before being detailed to the Department of Homeland Security Transition team and the DHS Office of Legislative Affairs, Captain Miko served as the Coast Guard liaison to the U.S. Senate and as Chief of Coast Guard congressional affairs.

Upon his retirement from the U.S. Coast Guard in 2004, Captain Miko accepted a government relations position with BAE Systems. Since then, he has continued to demonstrate his abilities as a passionate and effective public policy advocate on matters of national security. In his role as Vice President of Government Relations, he displayed even-tempered, professional leadership that consistently focused on helping others do what is best for our U.S. military members and veterans.

Captain Miko has tirelessly supported this nation's military through his service in the U.S. Coast Guard and as a trusted voice within the defense community. Madam Speaker, on behalf of the U.S. Congress I am honored to recognize the efforts and accomplishments of this outstanding American patriot. I congratulate and thank Captain John C. Miko for his 33 years of service and wish him a happy retirement.

HONORING JUDGE ARNOLD  
ROSENFELD

### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

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## HONORING THE 35TH ANNUAL CAPITAL PRIDE

### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 2010

Ms. NORTON. Madam Speaker, I rise to pay tribute to the 35th Annual Capital Pride, a celebration of the national capital area's Gay, Lesbian, Bisexual and Transgender, GLBT, communities and their families and friends.

In 1975, Deacon "Super Hero" MacCubbin, owner of Lambda Rising Bookstore, in Dupont Circle, launched the first Capital Pride. It began as a block party on 20th St, between R and S Streets, NW. Six years later, in 1981, the annual Pride Parade became part of the festivities. Now Capital Pride consists of more than 10 days of events organized by the Capital Pride Planning Committee and dozens of local community partners.

This year's Capital Pride theme, "You Ain't Seen Nothing Yet," both reflects Capital Pride's past and anticipates its future.

Capital Pride's producer, the Capital Pride Alliance, Inc., predicts an attendance of 250,000, making Capital Pride one of the largest GLBT festivals in the United States.

This year Capital Pride culminates with what the Washington City Paper has declared D.C.'s Best Parade for three years running, the Capital Pride Parade, on June 12, and "The Main Event," a street fair on Pennsylvania Avenue in the shadow of the U.S. Capitol, on June 13.

I have marched in Pride parades since coming to Congress to emphasize universal human rights and the importance of enacting federal legislation to secure those rights for the GLBT community. Congress has much work to do. We must pass the Family Leave Insurance Act, the Employment Non-Discrimination Act, the Domestic Partnership Benefits and Obligations Act, the Respect for Marriage Act, the Safe Schools Improvement Act, the Military Readiness Enhancement Act, the Domestic Partnership Benefits and Obligations Act, the Tax Equity for Health Plan Beneficiaries Act, the Family and Medical Leave Inclusion Act, the Uniting American Families Act, and the Responsible Education About Life Act.

This year our nation's capital joined Iowa, Maine, Massachusetts, and New Hampshire in extending equal marriage rights to its GLBT residents.

I ask the House to join me in welcoming those who are attending the 35th Annual Capital Pride.

## CELEBRATING THE DENTON COUNTY VETERANS MEMORIAL

### HON. KENNY MARCHANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 2010

Mr. MARCHANT. Madam Speaker, I rise today to celebrate the completion of the Denton County Veterans Memorial. This memorial represents the bravery and selfless sacrifices of veterans who have served in United States

Armed Forces. These men and women have performed their duty to our country with honor.

The Denton County Veterans Memorial assures that the legacy of veterans from all services will not be forgotten by the residents of Denton County. Inspired by veterans who dedicated their service to protecting the freedom of the United States, the Denton County Veterans Memorial honors the service members who have served the United States past, present, and in the future.

Since the founding of our great nation, the members of our armed forces have been charged with the responsibility for defending the United States. Currently, many men and women serve around the world protecting and defending our security and sovereignty. While paying tribute to our fallen heroes, this memorial also acknowledges our soldiers who have returned home to their families and loved ones. America has more than 23 million living veterans, and we are inspired by their devotion and commitment to the United States as demonstrated through their service.

Today, as citizens, we have been made stronger by the bravery and courage of our veterans. I ask all of my distinguished colleagues to join me in commemorating the Denton County Veterans Memorial to honor the great men and women who have served the United States in war and peace, those who have made the ultimate sacrifice, and those who stand in harm's way.

## HONORING MRS. NANCY EGBERT

### HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 2010

Mr. ROGERS of Michigan. Madam Speaker, I rise today to pay tribute to an outstanding educator, Mrs. Nancy Egbert.

Since the very beginning of her teaching career, Nancy Egbert demonstrated skill, leadership, and a unique ability to positively impact the children fortunate enough to be in her classroom. After graduating from Northern Michigan University in 1967 with a B.S. in education, she established herself as a versatile educator, teaching subjects ranging from journalism and business education at the high school level to reading, math and social studies to elementary school students. In 1984, Nancy Egbert tallied another achievement to her résumé when she obtained a certification in elementary education from Michigan State University.

In 1986 she was hired at St. Gerard's, a Catholic school in Lansing, as a second grade teacher, where she has served since. Her subsequent twenty-five year commitment to molding young minds during their most formative stage is in itself a testimony to her passion and commitment to high-quality religious education. It is in no small part thanks to her hard work that St. Gerard's has won the prestigious Michigan non-public school accrediting association (MNSAA) award for excellence for 2009-2010.

Throughout her time as an educator in Michigan, she has helped shape countless young lives, serving as a role model and leader in religious education. I commend Nancy

Egbert on her dedication to education and her students. She is to be applauded for her continuous contribution to the state of Michigan and the lives of our children.

**HONORING THE EDUCATIONAL CAREER ACHIEVEMENTS OF THOMAS A. CROW, PH.D.**

**HON. JIM COSTA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. COSTA. Madam Speaker, I rise today to commend Dr. Thomas A. Crow, Chancellor of the State Center Community College District as he prepares to retire after 20 years of dedicated service to the higher education community. Throughout Dr. Crow's time at the State Center Community College District, enrollment has grown to include nearly 40,000 students, facilities have expanded and a strong commitment to the Workforce Development Programs has been forged.

Tom is a San Joaquin Valley native, born in Fresno, California. He is a graduate of California State University, Fresno where he earned his bachelor's and master's Degrees. He attended Arizona State University in Tempe where he was awarded his Doctor of Philosophy in education. In addition, he completed his post-doctoral studies in Kinesiology at the University of California, Los Angeles.

Tom has spent his career with the State Center Community College District working as a selfless public servant. During Dr. Crow's tenure with the State Center Community College District, he has served in a variety of capacities including Vice chancellor and assistant to the Chancellor. Prior to joining the State Center Team, Dr. Crow served as president of Reedley College for 7 years and as the superintendent for the Fowler Unified School District; both located in the heart of Central California.

Dr. Crow believes in a strong community commitment and has been actively involved in numerous civic and professional organizations including the Rotary Club of Fresno, Fresno Business Council, Fresno County Economic Development Corporation, the Fresno Chamber of Commerce, the Regional Jobs Initiative, Fresno Compact, and the Workforce Investment Board. The leadership that Tom has shown to the community of Fresno has been steadfast during his time of service.

Dr. Tom Crow serves as an outstanding example for those who truly want to make a positive difference for students everywhere. Madam Speaker, I ask my colleagues to rise with me today and join in expressing appreciation for Chancellor Thomas Crow's service to the field of education.

**IN RECOGNITION OF LINDA PADILLA MACEDO**

**HON. DENNIS A. CARDOZA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. CARDOZA. Madam Speaker, it is with great sadness that I rise today to honor the

late Linda Padilla Macedo. Linda passed away peacefully on April 21, 2010. She is survived by her husband, Dan Macedo; her daughters Rebecca and Stephanie; her parents Joseph and Joanna Padilla; her sister Theresa Soares and brother-in-law Steven Soares; her brother-in-law Don Leatherman; her sister-in-law Nannette Barce-Padilla; her brother-in-law and sister-in-law Pamela and Tom Friedman; and numerous nieces and nephews.

Linda and her husband Dan were partners in the family dairy business, which had been in operation for 65 years until 2007, when Dan and Linda retired to Sonora. She earned her bachelor of arts and masters degrees from Fresno State University. Linda was a founding member and held many offices including president of the Merced Chapter of California Women for Agriculture and went on to become State president of CWA. She served as chairman of the USDA Farm Services Agency State Committee and the Ag Awareness and Literacy Foundation. She also served on the Merced County Farm Bureau Board of Directors, National Dairy Promotion & Research Board, Merced County Agricultural Preservation Strategy Committee, California Department of Conservation Council for the Preservation of Habitat and Natural Resources, County UC Merced Planning and Advisory Committee, American Agri Women and the Common Threads Committee. Linda donated her knowledge, talents and time in support of her daughters as they grew up, serving as a member of the Our Lady of Mercy Boosters Club and project leader for Lancers 4-H.

The volunteer activity closest to her heart was the founding of the Merced County Farmlands and Open Space Trust and the Central Valley Farmland Trust, which she served as the president and on the board of directors. Linda served her community selflessly and through her time and commitment helped to educate the community about the importance of agriculture and the protection of our farmland.

Madam Speaker, the recognition that I am offering today before the House of Representatives for Linda Padilla Macedo is small compared to the contributions and impact she had on the lives of so many. She was truly an invaluable member of our community, an exemplary advocate for agriculture, and an outstanding human being.

**PERSONAL EXPLANATION**

**HON. DEAN HELLER**

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. HELLER. Madam Speaker, on rollcall No. 257 I was unavoidably detained.

Had I been present, I would have voted "yes."

**HONORING STEPHEN A. BOUCH OF NAPA COUNTY**

**HON. MIKE THOMPSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. THOMPSON of California. Madam Speaker, I rise today to honor Mr. Stephen A. Bouch who will be retiring as Court Executive Officer of the Napa Superior Court. Stephen's leadership will be truly missed by his co-workers, the people of Napa County, and the countless of people nationwide that relied on his extensive knowledge of the criminal justice system.

Mr. Bouch began his distinguished career as a jury commissioner/law librarian in the Superior Court of Santa Cruz County in California. He was soon promoted to assistant Superior Court administrator in San Mateo County, California. From there he launched his 4 decade career as the Court Administrator for the Superior Courts of Spokane, Washington and the Superior Court of Monterey County, California. Due to his passion and perseverance, Mr. Bouch became the first non-judge, trial court administrator in Idaho's history. More success followed when he was appointed to the position of deputy administrative director for the State of Alaska court system. He returned to California where he served at the state level working as a special consultant to the state's Judicial Council, Administrative Office of the Courts. In 2001 he was appointed as the Napa Superior Court executive officer.

Mr. Bouch's career and personal contributions are innumerable. As a court administrator in California, he assisted in the design and implementation of a countywide integrated criminal justice system. As the court executive officer he created an award winning public website which provides information on services that local non-profits offer. The website is instrumental for family court litigants and it is available to all Napa County residents. Mr. Bouch also administered domestic and juvenile relations divisions of trial courts in California and Idaho.

Mr. Bouch also spent 6 years working as a senior staff associate for the National Center for State Courts, where he shared his extensive knowledge with varying sized jurisdictions throughout the United States and abroad. His administrative work was recognized when he received the Toll Fellowship from the National Council of State Governments in Lexington, Kentucky.

Madam Speaker, it is my distinct pleasure to recognize Stephen A. Bouch for his many years of service to Napa, California, and to thank him for his many contributions on behalf of our country and his community. I join his wife Jan, and his children, David, Michael and Christopher, and our colleagues in wishing him the best as he enters this new phase of his life.

HONORING MAINE'S SMALL BUSINESS PERSONS OF THE YEAR: TRAPPER CLARK AND THOMAS STURTEVANT

**HON. MICHAEL H. MICHAUD**

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. MICHAUD. Madam Speaker, I rise today to recognize the accomplishments of Trapper Clark and Thomas Sturtevant, the co-recipients of the 2010 Small Business Association's, SBA, Maine Small Business Persons of the Year Award.

The annual SBA Maine Small Business Person of the Year Award recognizes outstanding entrepreneurs for their contributions to the Nation's economy and for their personal achievements based upon staying power, employee growth, sales increases, current and past financial performance, product or service innovation, response to adversity and contributions to community. Trapper Clark and Thomas Sturtevant, co-owners of the aluminum trailer manufacturing company Alcorn in Winslow, Maine, embody the spirit of this award.

On March 1, 2006, Alcorn got its start in a small section of an old mill with only a handful of employees. Five years and one recession later, the manufacturers inhabit a seventy-thousand square foot factory, employing eighty workers and serving over two-hundred dealers. As of last month, Alcorn was supplying its "mission line" trailers to customers from New England, throughout Canada and as far west as Utah.

Mr. Clark and Mr. Sturtevant have achieved remarkable growth even during these tough economic times. Alcorn took on 25 new workers since last October, and Clark and Sturtevant have surpassed their projected sales and growth goals for 2010 inside the first three months of the year. Most impressively, with an ambitious business plan and expected sales of \$44 million and 196 employees in 2013, Alcorn has found a way to grow while still keeping their employee base in Maine.

Madam Speaker, Alcorn is a remarkable Maine success story. Please join me in honoring Trapper Clark and Thomas Sturtevant for their accomplishments and their dedication to community.

**OUR UNCONSCIONABLE NATIONAL DEBT**

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. COFFMAN of Colorado. Madam Speaker, today our national debt is \$12,931,157,737,293.42.

On January 6, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$2,292,731,990,999.60 so far this Congress. The debt has increased \$4,372,259,520.42 since just yesterday.

This debt and its interest payments we are passing to our children and all future Americans.

**SUPPORT OF THE "REMOVAL CLARIFICATION ACT OF 2010"**

**HON. HENRY C. "HANK" JOHNSON, JR.**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. JOHNSON of Georgia. Madam Speaker, I rise today to introduce the "Removal Clarification Act of 2010." This bipartisan legislation will help protect the Federal Government from interference with its operations.

Under the federal officer removal statute, 28 U.S.C. § 1442(a), "any officer of the United States or of any agency thereof, sued in an official capacity or individual capacity for any act under color of such office" may remove the case to Federal district court. The statute is designed to enable Federal officials to remove a case out of State court and into Federal court.

However, in over forty States, individuals may be deposed and/or required to produce documents despite the fact that they have not yet been sued. Such pre-suit discovery is sometimes used by plaintiffs to confirm that they are suing the proper defendant, identify unknown defendants, or investigate potential claims.

Courts are split on whether the removal statute applies to pre-suit discovery. Today's legislation will make clear that the removal statute applies to all State judicial proceedings in which a legal demand is made for a Federal officer's testimony or documents, including pre-suit discovery. It will also clarify that the Federal officer need not wait until he or she is subject to contempt in order to seek removal.

The ambiguity over whether a Federal officer can invoke the removal statute during pre-suit discovery was presented in a recent case involving Republican EDDIE BERNICE JOHNSON, who was the subject of a pre-suit discovery petition. Republican JOHNSON removed the action from State court on the basis of the removal statute. However, the Federal court held that the pre-suit discovery proceeding did not constitute a "civil action or criminal prosecution" for purposes of the statute and remanded the petition to State court. The bill I introduce today would have permitted such removal.

This bill will not alter the well-settled requirement that removal under section 1442(a)(1) must be predicated on the availability of a Federal defense. Nor will it result in removal of cases that belong in State court since only the part of the case involving the Federal officer is removed under 1442(a)(1).

In short, this legislation will enable Federal officials to remove cases to Federal court in accordance with the spirit and intent of the removal statute.

I hope that my colleagues will join me in supporting this bipartisan legislation.

WE THE PEOPLE

**HON. PETER J. VISCLOSKEY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. VISCLOSKEY. Madam Speaker, it gives me great pleasure to pay tribute to the outstanding achievements of an exceptional group of students from Munster High School, located in Indiana's First Congressional district. Competing against a class from every state in the country, one team from Munster High School accomplished the extraordinary feat of finishing in eighth place in the national competition of the We the People: The Citizen and the Constitution program held in Washington, DC, from April 24-26, 2010. For their remarkable knowledge and understanding of American government, these exceptional young people are to be commended.

The We the People program, administered by the Center for Civic Education, is a program that reaches over 30 million elementary, middle, and high school students. The goal of the program is to provide students with an understanding of the fundamentals of the Constitution and the Bill of Rights. The national finals competition imitates a Congressional hearing in which high school students testify as constitutional experts before a panel of judges.

The people of Munster, as well as the community of Northwest Indiana, can be proud of this truly noteworthy class of students. The team consists of: Stacey Avtgis, Chandani Bhatt, John Bochnowski, Cristina Bonini, Thomas Burgwald, Sumanth Chintamani, Georgenna Chioros, Nicholas Estes, Michael Jerge, Kamryn Klawitter, Neil Kondamuri, Christina Lee, Melissa Lee, Aesha Maniar, Brianna Meyer, Tara Mojtahed, Santhosh Narayan, Spencer Newell, Katherine Palmer, Alexander Parobek, Aaditya Shah, Niraj Shah, Matthew Skiba, Adam Stepanovic, Shawn Tuttle, Ines Tzolov, and Elizabeth Wadas.

Madam Speaker, I would like to once again extend my most heartfelt congratulations to the members of Munster High School's We the People program, as well as their coach, Mr. Michael Gordon, and all of the community and faculty members who have instilled in these students the desire to succeed. The values exhibited by these young people and their interest in the history and fundamentals of our great nation serve to inspire us all. I am proud to represent these fine individuals in Congress, and I am proud to have been given this opportunity to recognize these future leaders. I look forward to watching their achievements as they continue to rise to the top.

**PERSONAL EXPLANATION**

**HON. DEAN HELLER**

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. HELLER. Madam Speaker, on rollcall No. 258, I was unavoidably detained. Had I been present, I would have voted "yes."

HONORING SPRING WOODS METHODIST CHURCH ON ITS 50TH ANNIVERSARY CELEBRATION

**HON. GENE GREEN**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. GENE GREEN of Texas. Madam Speaker, I rise today to commend Spring Woods Methodist Church on celebrating its 50th anniversary. The current Pastor is Dr. J.D. Phillips and the church is composed of people from all walks of life. I am a member of the church and am proud of this accomplishment.

Spring Woods has the distinction of being the first Methodist church in Northwest Houston. The first service was held on October 18, 1959, and was attended by 18 people at Spring Elementary School.

On May 15, 1960, Dr. Homer T. Fort, the Houston West District superintendent officially recognized Spring Woods Methodist Church. Through assistance from the Room to Grow Program, the church purchased five and a half acres on FM 1960 for the future church site. The original charter membership was composed of 44 people and by the end of the year, the number increased to 106. Today the congregation numbers over 1,000 members and continues to serve the Lord by serving the people of Northwest Houston.

Since the church was built, they have added several buildings on the property. This includes an 18,000 square foot education/administrative office building.

And so it is with great pleasure that I recognize and congratulate Spring Woods Methodist Church on celebrating its 50th anniversary.

TRIBUTE TO ACKNOWLEDGE  
DEPAUL UNIVERSITY AS IT  
LAUNCHES ITS CAPITAL CAMPAIGN TO HONOR THE ACCOMPLISHMENTS OF ST. VINCENT DEPAUL AND ST. LOUISE DEMARILLAC ON THE OCCASION OF THE 350TH ANNIVERSARY OF THEIR DEATHS

**HON. DANNY K. DAVIS**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. DAVIS of Illinois. Madam Speaker, DePaul University is the largest Catholic university in the United States and the largest private non-profit university in the Midwest. It remains dedicated to serving and educating the economically disadvantaged, as it has done throughout its history. DePaul University provides high-quality education for students from the entire metropolitan area through its Chicago and suburban campuses.

In 2010, DePaul University celebrates the work and accomplishments of its namesake, St. Vincent DePaul, and St. Louise de Marillac, founder of the Daughters of Charity, on the occasion of the 350th anniversary of their deaths. To honor the examples of St. Vincent and St. Louise through its mission of

education and service, DePaul University is embarking on a capital campaign entitled, "Many Dreams. One Mission." This capital campaign will help guarantee the accessibility and affordability of the University's 260 graduate and undergraduate programs. This campaign will raise funds to build campus facilities that will enhance the University's academically-rigorous and nationally-acclaimed programs of study.

As a proud Chicagoan and former educator, I congratulate DePaul University for its many contributions to higher education and community service, and I join with DePaul University in celebrating St. Vincent DePaul and St. Louise DeMarillac on the occasion the 350th anniversary of their deaths.

43RD ANNIVERSARY OF THE  
REUNIFICATION OF JERUSALEM

**HON. SCOTT GARRETT**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. GARRETT of New Jersey. Madam Speaker, I rise now to commemorate a significant event: the 43rd anniversary of the reunification of Jerusalem, which is being celebrated today. I am proud to be a cosponsor of H. Con. Res. 271, which recognizes this important day.

Jerusalem is one of the most historic cities in the world; it has been destroyed, besieged, attacked, captured, and recaptured multiple times. Yet in 1948, for the first time, the city was divided into two parts. For the following 19 years, access to holy sites was denied by Jordan. Even worse, synagogues were destroyed and ancient tombstones desecrated. Residents of Jerusalem could not even see the Western Wall, let alone pray there.

At last, in 1967, Jerusalem was reunited during the Six Day War. In celebration, Defense Minister Moshe Dayan gave this oft-repeated statement:

"This morning, the Israel Defense Forces . . . have united Jerusalem, the divided capital of Israel. We have returned to the holiest of our holy places, never to part from it again. To our Arab neighbors we extend, also at this hour—and with added emphasis at this hour—our hand in peace. And to our Christian and Muslim fellow citizens, we solemnly promise full religious freedom and rights. We did not come to Jerusalem for the sake of other peoples' holy places, and not to interfere with the adherents of other faiths, but in order to safeguard its entirety, and to live there together with others, in unity."

Truly, today is not cause for celebration by Jews only. Christians and Muslims also consider Jerusalem a holy city. Furthermore, visitors of many other faiths travel to the Old City to pray or simply appreciate the historic sites, which are not only accessible today, but also properly maintained.

Sadly, some people still do not consider Jerusalem to be Israel's capital. And despite the passage of the Jerusalem Embassy Act in 1995, we have not yet moved the U.S. embassy in Israel from Tel Aviv to Jerusalem. It is preposterous that Israel, our democratic

friend and strategic ally, is the only country in which the U.S. embassy is not located in the functioning capital. I strongly encourage President Obama and Secretary of State Clinton to begin the process of relocating the U.S. Embassy in Israel.

As Israeli Prime Minister Benjamin Netanyahu, recently stated: "The connection between the Jewish people and the Land of Israel cannot be denied. The connection between the Jewish people and Jerusalem cannot be denied . . . Jerusalem is not a settlement. It is our capital."

In closing, I want to reflect on the name, "Jerusalem." It is my understanding that the name of this city is built from a Hebrew root word meaning "completeness" or "wholeness." How appropriate that for the past 43 years Jerusalem has been able to live up to its name. As Psalm 122:3 states: "Jerusalem is built as a city that is united together."

HONORING MICHAEL SPAK

**HON. FRANK R. WOLF**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. WOLF. Madam Speaker, I call to the attention of the House the passing on January 25 of Michael Robert Spak, 62, a resident of Leesburg, Virginia, who was the founder and chairman of the nonprofit Loudoun Crime Commission.

Mr. Spak enlisted in the United States Marine Corps at age 18 and completed two tours of combat duty in Vietnam from 1966–1969. Following his honorable discharge in 1969, he joined the Los Angeles Police Department, where he served on the Bomb Squad/Criminal Conspiracy Section for several years, becoming an expert on bomb detection, disposal and investigation. In 1974, he joined the Central Intelligence Agency, where he served for 23 years, first as an officer in the CIA's Directorate of Science and Technology and then in the Directorate of Operations. In the context of his work, he traveled the world from the Middle East to Africa and Asia. He also served in multiple long-term overseas assignments in Europe and Latin America. After retiring from government service in 1996, he started his own company, Virtual Defense & Development International, Inc. (VDI), an international consulting and professional services company specializing in matters of defense, law enforcement, security and intelligence, and post-conflict economic development. He served as president and chairman of VDI until the time of his death.

He was the founder and chairman of the non-profit Loudoun Crime Commission; he was a founder of the newly-constructed National Museum of the Marine Corps at Quantico, and was active in the Marine Corps Heritage Foundation; and he served in the Loudoun County Marine Corps League Detachment, where he most recently held the position of judge advocate and was involved in its annual Toys for Tots campaign. In addition, he owned and operated Amber Creek Vineyard in Leesburg and was a member of the Loudoun Winegrowers Association. He was a



lifelong member of the Masonic Lodge. He held two bachelor's degrees from George Mason University and American University, respectively, and at the time of his death was working towards his master's degree at American University. Mr. Spak was vigilant in his efforts to fight crime and support law enforcement agencies. He is commended for his life of service to his country and his community. Mr. Spak was willing to put his own life at risk for the protection of our country and our communities. Michael Robert Spak was very much appreciated throughout the Marine, Intelligence and law enforcement communities and his energy, ideas and enthusiasm will be greatly missed.

Madam Speaker, we extend our sympathies to Mr. Spak's family, including his wife, Kristin Rickard Spak of Leesburg, Virginia; three children, Jessica Lynn White of Ashburn, Brian Thomas Spak of Boulder, CO, and Nicholas Michael Spak, of Boulder, CO; two grandchildren: Kelsey Lynn White and Austin Ray White, both of Ashburn; and a sister Janis Lee Bradley of Carson City, NV.

CONGRATULATING TRACEY  
GROSSMAN

HON. THEODORE E. DEUTCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. DEUTCH. Madam Speaker, I rise today to congratulate Tracey Grossman, recently honored as the recipient of the 2010 Daniel Ginsberg Award by the Anti-Defamation League.

The Anti-Defamation League's Daniel Ginsberg Award is given annually to young ADL leaders who show the enthusiasm and creativity of Daniel Ginsberg and ADL leaders whose interest and involvement covered virtually the entire spectrum of ADL issues. Since 1995, ADL has recognized many of their young and most dedicated leaders with this great honor.

Tracey's advocacy on behalf of the goals of Florida's chapter of ADL, and her guidance of Florida's ADL Glass Leadership Institute carries on the spirit of Daniel Ginsberg's great leadership.

I would like to congratulate Tracey, her husband Gabriel, and her parents Wes and Maddi for this great honor. I am proud to have their friendship and wish Tracey continued success in all of her future endeavors.

HONORING THE ACHIEVEMENTS OF  
DAVE KOEHLER

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. COSTA. Madam Speaker, I rise today to commend Dave Koehler on his 20th Anniversary as the Executive Director of the San Joaquin River Parkway Trust.

Dave is a native of the San Joaquin Valley, born in Fresno, California. He is a graduate of

Fresno High School and California State University, Fresno. Dave and his wife Sharon are the proud parents of two sons, Shannon and Spence.

Dave has always been an integral part of the San Joaquin River Parkway Trust. He began as a member of the Board of Directors, has served as the Chair of the Education Committee, and was subsequently named as the Executive Director.

Under Dave's leadership as Executive Director of the San Joaquin River Parkway Trust, the organization has grown immensely. The acquisition of the Parkway lands, which began in the late 1980s, continues to be a positive work in progress. Presently, the Parkway Trust has acquired 3,500 acres of protected lands which includes the Scout Island Regional Outdoor Environmental Education Center and the Coke Hallowell Center for River Studies. These River Parkway Trust jewels serve as points of interest for all individuals visiting the Parkway.

As a result of Dave's dedication and tenacity, in conjunction with staff and volunteers, several ecological reserves and trails have been established along the San Joaquin River between Friant Dam and California State Highway 145. The Parkway Trust has become a valued foundation of knowledge for all those who are interested in learning more about the river. Visitors from across our great state and nation are able to enjoy the history and importance of the majestic San Joaquin River.

Madam Speaker, I ask my colleagues to rise with me today to express our appreciation for Dave Koehler's diligent work as Executive Director of the San Joaquin River Parkway Trust and, on behalf of the thousands of visitors to the San Joaquin River Parkway Trust Lands, thank him for his continued dedication and commitment.

ST. PETERSBURG POLICE ATHLETIC LEAGUE CELEBRATES 50 YEARS OF HELPING KIDS

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. YOUNG of Florida. Madam Speaker, the St. Petersburg Police Athletic League celebrates 50 years of helping St. Petersburg's youth this Friday.

When first established in 1960, the PAL program provided recreational activities for the youth of our community. Today their mission has grown to include a wide range of after-school and summer programs that go far beyond sports. PAL volunteers and staff provide educational support, sports, fitness, art and drama programs and the offerings continue to grow and evolve.

The St. Petersburg PAL chapter now serves more than 500 youth per year. As PAL volunteer and former board member Ed Schatzman told The St. Petersburg Times recently, "We know kids are receiving wholesome programs and great contact with police officers that will be a key to their choosing a positive path to being good citizens."

One of PAL's primary missions is truancy prevention as more than 300 youth per year

come to the program after they are caught by police officers skipping school. Through PAL, they receive help to improve their attendance, improve their academic performance, and are often referred to other agencies for help with drug treatment, counseling and school-based services.

Melissa Byers, PAL's Executive Director, told The Times that more than 60 percent of these students show improved school attendance as a result of the intervention of police and the PAL program.

Madam Speaker, The PAL program nationally and in St. Petersburg has proven to be a tremendous success in helping to build positive relationships between youth and police officers. They learn to build a bond of trust that keeps many young people from making mistakes that will haunt them for life.

Following my remarks, I will include the story from The Times by Kathy Ferguson about PAL's great work in St. Petersburg. As Mr. Schatzman told the reporter, "Our St. Pete PAL has kept kids on the right path for 50 years; and if that isn't important, I don't know what is. The kids of PAL will make St. Petersburg's future bright."

Madam Speaker, it is my hope that my colleagues will join me in thanking the St. Petersburg PAL chapter, the police officers who volunteer their time, the board members and the staff for a job well done. There will be a grand celebration of their service in St. Petersburg this Friday as the community comes together to celebrate "50 Years of Making a Difference" and as they move on to their next 50 years of serving the youth of our community. [From the St. Petersburg Times, May 9, 2010]

FOR 50 YEARS POLICE HAVE BEEN PALS TO KIDS—THE LOCAL POLICE ATHLETIC LEAGUE HELPS MORE THAN 500 KIDS A YEAR

(By Kathy Ferguson)

Boxing and double-dutch jump rope were all the rage in 1960 when the Police Athletic League of St. Petersburg opened its doors. Today PAL's athletics have grown to include basketball, track and flag football. Athletics may be its base, but sports are no longer PAL's only lineup. After-school and summer programs, Boy Scout troops, mentoring and a truancy plan help more than 500 youngsters every year.

This month, PAL celebrates 50 years of building positive bonds between police officers and youths. A 1950s-style, glamorous gala is set for Friday at the Renaissance Vinoy Resort & Golf Club in St. Petersburg. Tampa Bay Buccaneer football great Mike Alstott serves as honorary chairman.

Usually a Founders Club Breakfast is held. But this year's anniversary was too important for an early riser salute, Robin Grabowski, gala chairwoman, said.

"This is a major celebration for PAL," said Grabowski. "Everyone is invited to attend."

The gala will also applaud 50 PAL founders who supported through donations or service.

Ed Schatzman, who has dedicated 30 years to PAL, remembers its humble start.

"The north end of the basketball court ended abruptly at the basket because we couldn't fit a regulation court in the building," Schatzman said. "Our home team always had an advantage because our kids knew how to 'run up the wall' during games."

The first facility was on Fifth Avenue N, near 16th Street. Now PAL is at 1450 16th St. N, beside Woodlawn Elementary School.

Schatzman and his wife, Stefanie, sponsored a child for the summer program last year. Schatzman has been involved in PAL Scouts, served on the board of directors and helped with the after-school reading program.

"We know kids are receiving wholesome programs and great contact with police officers that will be key to their choosing a positive path to being good citizens," Schatzman said.

Planting seeds, executive director Melissa Byers said, is what PAL is all about. Its mission is crime prevention through athletics, education and recreation.

"We offer young people opportunities to enrich their self-esteem and team-building skills in a structured, nonthreatening environment," she said. The idea is to keep kids busy between the peak hours of youth violence and crime between 3 and 9 p.m.

Programs include daily fitness, art, drama, soccer, tennis, games, movies and homework time. Character development focuses on issues like gang involvement, making choices, stranger danger, bullying prevention and goal setting.

A new emphasis is being placed on health and the environment.

"We are planting an organic garden behind the facility and putting more focus on healthy eating," Byers said.

PAL works with disadvantaged youths, but children from all walks of life are welcome. Scholarships are offered.

More than 300 children each year get involved with PAL through a truancy intervention program. Officers pick up youngsters skipping school and wandering the streets. The students are brought to PAL's facility. They get help with ways to increase school attendance, improve their grades and find out what else they need to be successful. Often they are referred to outside services for help. That may mean counseling, drug treatment or school-based services.

"This is a much more productive use of their days," Byers said. The issues range from skipping school and low academics to homelessness and substance abuse.

Success is measurable.

"Over 60 percent of these students show improved attendance as a result of this intervention," Byers said.

"Our St. Pete PAL has kept kids on the right path for 50 years; and if that isn't important, I don't know what is," said Schatzman. "The kids of PAL will make St. Petersburg's future bright."

IN SPECIAL RECOGNITION OF BARBARA BARKER UPON HER RETIREMENT AS DISTRICT DIRECTOR OF OHIO'S FIFTH CONGRESSIONAL DISTRICT OFFICES

**HON. ROBERT E. LATTA**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. LATTA. Madam Speaker, it is my great pleasure to pay special tribute to an outstanding public servant from Ohio's Fifth Congressional District. My District Director, Barbara Barker of Antwerp, Ohio will be retiring following Twenty-One years of service to Ohio's Fifth Congressional District Offices.

Barbara Barker began her service to Ohio's Fifth Congressional District as a Staff Assistant to the late Congressman Paul E. Gillmor.

Barbara was soon promoted to serve in various capacities under Congressman Gillmor, being selected to serve as District Representative, Senior District Representative, and then lastly as District Director during her tenure. Following the vacancy left by the late Congressman Gillmor, Barbara's professionalism as a manager of congressional district operations made her a natural choice to assume the same role in my district offices. I have found Barbara to be a dedicated public servant, who has not only managed the day to day functions of my district offices, but has demonstrated that she made the well-being of the constituents of Ohio's Fifth Congressional District the hallmark of her career with the United States House of Representatives.

Madam Speaker, I ask my colleagues to join me in congratulating Barbara Barker for her role in my district offices. Our communities have undoubtedly benefited from her years of faithful service. We wish Barbara Barker all of the best upon her retirement as District Director of Ohio's Fifth Congressional District Offices.

HONORING UNITED STATES MILITARY WHO SERVED DURING THE KOREAN WAR

**HON. JOE COURTNEY**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. COURTNEY. Madam Speaker, I rise today to honor the men and women of the United States Military who served our nation with honor and dignity during the Korean War. I would like to particularly note the service of Connecticut's veterans who served during that conflict.

On June 25, 1950, soldiers from North Korea invaded South Korea and within days quickly secured the South Korean capital of Seoul. Only two days later, on June 27, President Harry Truman ordered the U.S. military to give the South Korean Government troops cover and support. Less than three months later, on September 15, 1950, United States forces under the command of General Douglas MacArthur successfully invaded Inchon stunning the North Korean military. Over the following years, a series of battles were fought between North Korean and South Korean forces aided primarily by U.S. forces as well as those from some twenty countries. Tragically, some 37,000 members of the U.S. Armed Forces lost their lives fighting in the Korean War and sadly their sacrifices have in some circles been forgotten or marginalized over time. We must never allow this to happen to those men and women who have served and given so much in defense of our freedom, and that is why I stand here today in the House of Representatives to honor them.

In my home state of Connecticut, thousands of men and women answered the call of duty and many of those gave the ultimate sacrifice. This week, in the town of East Lyme, veterans, family members and local citizens will join together to honor the service of the men and women who served in the Korean War. I would like to particularly thank Joyce Harris,

President of the East Lyme Veterans Council for her efforts to put this event together and all those veterans who will be in attendance for this event. We owe these men and women our respect and our thanks, and we must honor the commitments that have been made to these veterans and their families. I ask that all members of the House join me in that effort.

A BILL TO DESIGNATE THE FACILITY OF THE UNITED STATES POSTAL SERVICE LOCATED AT 3270 FIRESTONE BOULEVARD IN SOUTH GATE, CALIFORNIA AS THE "HENRY C. GONZALEZ POST OFFICE BUILDING"

**HON. LINDA T. SÁNCHEZ**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, I am proud today to introduce a bill to designate the facility of the United States Postal Service located at 3270 Firestone Boulevard in South Gate, California as the "Henry C. Gonzalez Post Office Building."

Henry Gonzalez currently serves as a Councilmember for the City of South Gate, where he has proudly served for over two decades, beginning in 1982 when he became the first Latino elected to the City Council. He continued to make history as the City's first Latino Mayor just a year later, a role he has assumed several times during his 23 years in elected office.

In addition to his government service, Henry Gonzalez is a pillar of the South Gate community. He is an avid supporter of South Gate youth sports—having founded the South Gate High School Booster Club and the South Gate Youth Football league—and he has served as a board member for countless national and local organizations.

He is a much-loved and respected community leader. In light of his great service to our community, it is fitting that we name this post office in his honor.

Henry Gonzalez has given much of himself to better the city of South Gate. A post office named in his honor will remind us of what true civic commitment is and will inspire us all in the years to come.

IN RECOGNITION OF CORNELIUS JOHN GROVES

**HON. DENNIS A. CARDOZA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. CARDOZA. Madam Speaker, it is with the greatest respect and admiration that I rise today to honor Cornelius John "C.J." Groves. C.J. is not only an engaged member of our community in Merced County, California, but a respected and influential educator.

C.J. Groves was born in Casper, Wyoming on May 26, 1920. His family moved in 1924 to Petaluma, California, where they settled. He

attended local public schools and graduated in mid-year from Petaluma High School in 1938. After graduation, he enrolled at San Jose State, but was drafted into the U.S. Army in 1941 during his junior year. While in the service, he boxed as a light heavyweight and won all the tournaments that he entered. He retired undefeated. His ability to articulate made him an obvious candidate for Officers Candidate School where he graduated as a second lieutenant and was assigned to the Medical Administrative Corps. He was then sent to the Philippines for active duty. After the war ended, he was shipped to Japan until March 1946. He was discharged as a first lieutenant and ended his military career as a captain in the reserve.

After the service, C.J. continued his studies at San Jose State and graduated in June 1947 with a degree in English and a minor in history. He then attended Stanford University, where he completed the credential program. He began teaching at Merced High School in 1948. He continued his own education during his career and ultimately received a masters degree from Chapman University. In 1958, he helped open the new campus for Atwater High School as Vice Principal and Dean of Boys. He served in that capacity until 1974 when he was named Principal of Atwater High School. He continued to lead the school with distinction until 1981 when he retired.

His commitment to education has garnered the life-long respect and admiration of the countless students who were fortunate to have gone to both Atwater and Merced High Schools during his long tenure with the Merced Union High School District. His distinguished career in education has also been a source of inspiration and encouragement to all of those who have served with him as faculty and staff.

C.J. currently resides in Merced, where he has enjoyed his retirement years. He was an active member of his duck club for many years, a member of the Elks, and is a 32nd degree Mason. Madam Speaker, it is my distinct honor and privilege to join my community in honoring Mr. C.J. Groves on his 90th birthday.

#### HONORING DEANNA ESPINA

#### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. STARK. Madam Speaker, I rise today to pay tribute to Deanna Espina, who has managed the San Lorenzo School District's Indian Education Program for over 35 years.

Deanna is an enrolled member of the Yakama Nation in Washington State. Her tribal name is "Speelyi," which means "Coyote." Deanna and her husband, Joe, have been married for 56 years; their four children all graduated from San Lorenzo High School.

Deanna's career at the San Lorenzo School District began in 1974, the first year of the Title IV Indian Education Program. More than 35,000 students have attended Deanna's presentations at the Native American Museum during her three decades of managing the program.

Deanna's achievements and honors are numerous. She is the founding member of the Bay Area Indian Education Council; was recognized as Administrator of the Year by the National Indian Education Association; received Distinguished Educator of the Year for Indian Education from the State of California; received Indian Education Showcase Award from the U.S. Department of Education for one of the best Indian Education Programs in the country; and received the Honored Elder Award from the California Indian Education Conference. The San Lorenzo School District's Indian Education Program has received commendations from the Alameda County Superintendent of Schools, The California Congress of Parents, Teachers and Students and a Congressional Record tribute on the 25th anniversary of the Titled Indian Education Programs.

Additionally, Deanna is one of the first Native American women elected to the National Board of the YWCA. She is a member of the California Teachers Association, National Education Association, and the Association of California School Administrators. She is also a founding member of the Oakland Museum's Cultural and Ethnic Affairs Guild.

Deanna's leadership and vision have allowed Native American programs to thrive throughout Alameda County. Her commitment has raised the community's awareness of the history and richness of Native American culture. I join many others in thanking Deanna Espina for her exemplary contributions to our community.

#### IN HONOR OF FIRST STATE BALLET THEATRE

#### HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. CASTLE. Madam Speaker, it is with great pleasure that I rise today to recognize First State Ballet Theatre as they celebrate their 10th anniversary. Over the past decade, First State Ballet Theatre has become a staple in and around the Delaware arts community, one that currently holds the distinction of being the only professional ballet company in our state.

Since its establishment, First State Ballet Theatre has brought the beauty and excitement of live ballet to Delaware, and in doing so has served more than 7,000 school children through in-theatre lecture demonstrations and classes. The company has made the city of Wilmington a tourist destination for ballet enthusiasts, commissioning major works from internationally recognized choreographers and drawing patrons from throughout the mid-Atlantic region—from Richmond, Virginia, to Pittsburgh, Pennsylvania, to New York City and Rhode Island. The collaborations that First State Ballet Theatre has initiated with Delaware artists and arts institutions like Charles Parks, SPARX, the Delaware Symphony Orchestra, OperaDelaware, and the Grand Opera House, have served to enrich our state's arts programs and we in Delaware are extremely grateful for their contributions.

In addition to regional and local achievements, First State Ballet Theatre has also made a significant impact on the international stage. Its students have been ranked among the top 12 young dancers in the world by distinguished judges at the Youth America Grand Prix—the world's largest ballet competition for pre-professional dancers. The company founded and presented four Arabesque international festivals of classical and contemporary ballet, attracting guest artists from around the globe to the main stage of the Wilmington Grand Opera House. In 2007, First State Ballet Theatre students performed by special invitation at the Spoleto Festival dei Due Mondi in Spoleto, Italy—a prestigious international ballet festival—and were the only Delaware performing arts company to receive such an honor.

In recognition of their 10th anniversary, I would like to congratulate and honor First State Ballet Theatre for the extraordinary amount of effort and dedication the company has invested not only in its students, but in the greater arts community of Delaware. I commend them for their continued efforts and numerous contributions, and I wish them all the best on this momentous occasion.

#### INTRODUCTION OF A BILL THAT PROHIBITS THE CLOSURE OF THE COMMISSARY AND EX- CHANGE PROGRAMS AT NAVAL AIR STATION BRUNSWICK

#### HON. CHELLIE PINGREE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Ms. PINGREE of Maine. Madam Speaker, today I am proud to be introducing a bill that prohibits the closure of the commissary and exchange programs at Naval Air Station Brunswick in my home State of Maine.

Unfortunately, before I was a Member of Congress, Naval Air Station Brunswick was selected for closure during the 2005 Base Realignment and Closure process. We are saddened to see the base close and so many active duty members, who have made Maine their home transfer to Jacksonville, Florida. However, a significant active duty population will remain whose mission still requires them to be stationed in the midcoast area. These units include Supervisor of Shipbuilding, Conversion and Repair, which is a field activity of Naval Sea Systems Command located in Bath, 1st Battalion, 25th Marines located in Topsham, and units of the Maine Army National Guard that will soon construct a joint reserve center at Naval Air Station Brunswick. Additionally, there are thousands of military retirees who depend on this fundamental part of their pay and benefits package.

Military families count on the commissary and exchange programs to deliver costs savings. Access to these programs is not a fringe benefit, but a critical part of the pay package we have promised the men and women who serve.

The fact that Brunswick has been selected for closure is no excuse for these men and women to go without the same programs their counterparts across the globe depend on.

Many of the retirees in the midcoast Maine area relocated there after their service specifically for the commissary and exchange programs. We must honor the promises that we made to these individuals, and not abandon them now during these difficult economic times.

I look forward to working with my colleagues in the coming weeks to pass this important legislation in the House.

ON THE 100TH ANNIVERSARY OF  
SECOND BAPTIST CHURCH EAST  
END

**HON. ROBERT C. "BOBBY" SCOTT**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. SCOTT of Virginia. Madam Speaker, I rise today to congratulate an institution in my hometown of Newport News. On Friday, May 28, 2010, Second Baptist Church East End will celebrate its 100th anniversary, and I would like to highlight some moments from the history of the church and its contribution to our community.

Second Baptist was organized during the first week of May, 1910, with Minnie Jones, A.B. Lucy, Rebecca Vaughan and Daniel Peters serving as charter members. The first worship service was held on the second Sunday in May 1910 at the Odd Fellows Hall in the 1100 block of 33rd Street, with Reverend J.E. Tynes serving as the guest speaker.

The church chose Reverend H.H. McLean as its first pastor. Under his leadership the church membership increased rapidly—a new church building was built in less than a year with the first worship service being celebrated Easter Sunday, April 16, 1911. Under Rev. McLean's leadership, many church organizations were founded that are still alive today, including the Choir, the Deacon Board, the Board of Trustees, the Sunday School, the Baptist Young People's Union and the Willing Workers Club.

Second Baptist has had eleven pastors throughout its history, including Rev. F.A. Brown, Rev. W.S. Sharp, Rev. A.A. Watts, Rev. O.B. Allen, Rev. John Tilley, Rev. L.A. Williams, Rev. E.D. Harrell, Rev. O.L. Simms, Rev. Preston T. Hayes, and Rev. Avery E. Miller.

Under Rev. Sharp, the church was able to pay off its mortgage. Under Rev. Watts, multiple improvements were made to the church including the furnishing of stained glass windows, chandeliers and carpeting. The term of Rev. Allen saw the purchase of a parsonage. Rev. Harrell added a basement and annex to the church building. Under Rev. Simms a new parsonage was purchased and a new organ installed.

The longest serving Pastor in the history of Second Baptist was Rev. Preston T. Hayes, who succeeded Rev. Simms in July 1956. Under Rev. Hayes' leadership, multiple organizations and ministries were formed, including: The Layman Fellowship; The Women's Prayer Breakfast; Youth Fellowship; Blind and Deaf Ministries; and the Wednesday Morning and Evening Bible Classes. While at Second Bap-

tist, Rev. Hayes was elected President of the Virginia Baptist General Convention (1977–79). During his tenure as President, the Convention formed a Division of Men to provide an avenue through which the Men of the Convention could utilize their skills and talents in promoting Christian stewardship and support for their local congregations. Rev. Hayes passed away in 2001, and the church dedicated the Preston T. Hayes Center for Christian Education in his honor. In the period between permanent pastors, the church continued Rev. Hayes' tradition of establishing programs to serve the church and the community by starting a Mentoring Program and a Computer Lab.

Rev. Hayes was succeeded by Second Baptist's current pastor, Rev. Avery E. Miller. Under Rev. Miller, Second Baptist has continued to flourish with the establishment of a Media Ministry, a Nursing Home Ministry, a Singles Ministry, and Mannah Inc., the Church's non-profit community service organization. Among Mannah's numerous efforts to serve the East End community are: one-on-one services for at-risk children in school; afterschool tutorial programs; summer day camps; and a weekly feeding program.

As Second Baptist gathers to celebrate its centennial, the church can truly remember its past, celebrate its present, and focus on the future with great expectations. I would like to congratulate Pastor Miller and all of the members of Second Baptist Church East End on the occasion of their 100th anniversary. I wish them 100 more years of dedicated service to the community.

FEDERAL JUDGES TO APPEAL TO  
SUPREME COURT OVER COM-  
PENSATION

**HON. RON PAUL**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Mr. PAUL. Madam Speaker, I would like to enter into the record an article from the New York Sun dealing with a court case that could have a dramatic impact on current federal legal tender laws. A number of federal judges are appealing the elimination of their cost of living increase, claiming that this is an unconstitutional diminution of pay. In fact, Madam Speaker, even if they had received a cost of living increase they may still have received a pay cut, because the government's CPI figure is purposely manipulated to underestimate the true inflation rate.

Perhaps the most interesting facet of this case is the potential implication for federal legal tender laws. Some experts speculate that if the current case is unsuccessful the judges' only recourse would be to challenge legal tender laws that artificially prop up the value of paper money. Against gold, the paper dollar has lost 80 percent of its value over the past decade. No amount of cost of living increases could overcome devaluation this severe. I am waiting with anticipation for the ultimate resolution of this case, and encourage my colleagues to read this thought-provoking article.—

[From the New York Sun, May 11, 2010]

KAGAN'S FIRST CASE COULD INVOLVE A QUES-  
TION OF HER OWN—AND HER COLLEAGUES'—  
PAY

(By Staff Reporter of the Sun)

NEW YORK—If Solicitor General Kagan is confirmed before the start of the Supreme Court's coming term, one of her first big cases on the high bench could touch on one of the most sensitive questions the court has ever handled—the pay of federal judges themselves.

The case was launched quietly some years ago by a rainbow coalition of some of the most distinguished judges on the federal bench. They are seeking to overturn an act of Congress rescinding an automatic pay increase designed to protect federal judges from the ravages of inflation, and are likely this month to ask the Supreme Court to take the case.

What makes the case so sensitive—potentially explosive, even—is that it could prove to be a stepping stone, whether intended or not, toward re-opening the question of legal tender. For the question of judges' pay confronts the courts with the question of whether a one-dollar note of legal tender that trades today at less than 1,000th of an ounce of gold is compensation equal to a one-dollar note of currency that was worth, say, a decade ago four times as much. What makes federal judges so special is that it is unconstitutional to diminish the pay of any federal judge while he is in office.

Were the judges eventually forced to confront that question, says one legal scholar of the monetary system, Edwin Vieira Jr., "it would have profound economic and political effects, and it would cause a re-evaluation of the entire monetary system. Congress would be forced to undergo a complete re-evaluation of the monetary system."

The federal judges asking the Supreme Court to review the rescission of their cost-of-living adjustments aren't raising the legal tender question, at least not yet. They are not asking to be paid in constant—or inflation-adjusted—dollars, and they appear to believe that the Supreme Court doesn't have to address that issue to satisfy their claim that Congress violated the anti-diminishment clause of the Constitution when it removed a previously promised cost-of-living raise. But they also have to be well aware of the enormity of the issue that lies just beyond the claim they are making.

The plaintiffs themselves comprise an array of senior judges and some of the most distinguished figures on the federal bench. They include two appointees of President Carter—a district judge of the Eastern District of Louisiana, Peter Beer, and a judge on the district court in central California, Terry Hatter, Jr.; two appointees of President Reagan—Thomas F. Hogan, of the District Court for the District of Columbia, and Laurence H. Silberman, who rides the District of Columbia Circuit of the Court of Appeals for the District of Columbia Circuit.

Also among the plaintiffs are three appointees of President Clinton—Richard Paez, who rides the Ninth Circuit for the United States Court of Appeals, and Jas. Robertson, of the District Court for the District of Columbia, and A. Wallace Tashima, who was elevated to ride the 9th Circuit by Mr. Clinton after having first served as a district judge on the nomination of Mr. Carter.

The pay of judges is one of the most sensitive issues in American history. The Declaration of Independence enumerates judges pay as one of the "injuries and usurpations" committed by George III against the Americans. The Declaration stated that the British

tyrant “has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.”

It was that claim that led the Founders to establish, in Article III of the Constitution, that “[j]udges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour”—meaning for life—and that they “shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.”

The complaint in the latest case, which is known as *Beer v. U.S.*, would not be the first time federal judges have gone to court with claims in respect of their pay. As recently as 2008 at New York State, judges launched a legal case to gain a raise. New York’s constitution, like the federal constitution, also prohibits the lowering of a judge’s pay. But the argument the New York judges have made, and they have made it in their own courts, is that the way the legislature in Albany has handled the issue violates the principle of separation of powers.

*Beer v. U.S.* involves federal judges, who are seeking a hearing by the Supreme Court with a different argument—that when Congress scindled a legislated cost-of-living adjustment, as it did for a number of recent years, the judges’ pay was diminished. The judges lost in their early rounds on a complicated set of issues, partly of precedent established in an earlier case when judges fought for a cost of living increase.

In some recent legal fracas involving judges pay, there have been statements from several Supreme Court justices, including one by Justice Scalia, that seem to have emboldened the judges filing a claim in the latest case. They are expected to file in the next few days a petition for the Supreme Court to hear their claim that earlier precedents were wrongly decided and that rescinding a legislated cost-of-living adjustment is a diminishment. The Supreme Court has ruled that in cases where a judge has an interest in the outcome of a case but is by necessity the party who must hear it, it is the judge’s duty to rule, despite the conflict of interest. It may be that were Ms. Kagan to be elevated to the Supreme Court she would decide to recuse herself from *Beer v. U.S.* because of her either direct or tangential involvement in the case as solicitor general.

One difference between the current case and earlier ones is that the country is now in a historic monetary crisis, in which the value of United States fiat money has collapsed to such a degree that the Supreme Court would have to go through contortions to avoid considering it. In the past decade, the value of a dollar has plummeted to less than a 1,200th of an ounce of gold from, say, the 265th of an ounce of gold that it was worth at the start of the president of George W. Bush.

This means that the legal tender with which a judge is paid today is worth less than a quarter of what it was worth a decade ago.

The Supreme Court ruled after the Civil War that the federal government’s paper money had to be accepted as legal tender. The centerpiece of the court’s rulings was called *Knox v. Lee* and involved payment for a flock of sheep. But there is a legion of scholars and activists who believe—as did the Chief Justice of the United States at the time of *Knox*, Salmon Chase—that *Knox v. Lee* was wrongly decided. Such scholars argue that the majority in *Knox v. Lee* would never have sustained the monetary system we have today.

These critics point out that the Founders of America, who used the word “dollars” twice in the Constitution, all knew what the word meant—namely, 416 grains of standard silver or 371 ¼ grains of pure silver, the same as was in a then-ubiquitous coin known as a Spanish milled dollar, which was also known as a piece of eight. That standard was codified in one of the most famous laws passed in the early years of the republic, the Coinage Act of 1792. Critics of the legal tender law believe that 416 grains of standard silver—or the free market equivalent in gold—is the only form of constitutional money.

“If the judges bringing the case of *Beer v. United States* fail to convince the Supreme Court to restore their cost of living adjustment, federal judges will then have no option left but to reformulate their case so as to challenge the legal tender concept as presently applied,” says Mr. Vieira.

#### INTRODUCTION OF THE SIKES ACT AMENDMENTS ACT OF 2010

**HON. MADELEINE Z. BORDALLO**

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 12, 2010*

Ms. BORDALLO. Madam Speaker, today I have introduced a bill to amend the Sikes Act to improve natural resources management planning for State-owned installations used for the national defense. I have introduced this bill after working with appropriate officials at the Department of Defense (DOD). The amendments proposed by DOD will improve coordination between DOD, the Department of the Interior and State, Territorial and local partners for the protection of fish and wildlife resources on DOD lands and State-owned installations used for the national defense.

As the Chairwoman of the Subcommittee on Insular Affairs, Oceans and Wildlife and as a member of the Committee on Armed Services, this bill that I have introduced today is appropriate as the 111th Congress moves forward with an agenda promoting responsible environmental stewardship. DOD controls nearly 25 million acres of valuable fish and wildlife habitat at approximately 400 military installations nationwide. These lands contain a wealth of plant and animal life, vital wetlands for migratory birds and habitat for nearly 300 federally listed threatened and endangered species. For 50 years, the Sikes Act has helped the commanders of these installations balance their use of air, land and water resources for military training and testing with the need to conserve and rehabilitate these important ecosystems. In past National Defense Authorization Acts, Congress has made improvements to the Sikes Act and my bill, the Sikes Act Amendments Act of 2010, continues this progress by proposing three significant improvements to the law.

First, my bill clarifies the scope of the Sikes Act by extending its provisions to State-owned National Guard installations, including the requirement to develop and implement Integrated Natural Resources Management Plans, INRMP, that are already required for federally owned military installations. Another provision in this bill would make permanent the successful invasive species management pilot

program on Guam, authorized into law in 2004, and expand its scope to all military installations. Finally, the bill makes several technical and clarifying changes to the U.S. Code to make it consistent with other subheadings and titles.

I want to thank Chairman SOLOMON ORTIZ of the House Armed Services Subcommittee on Readiness for his leadership on issues affecting management of military installations and the readiness of our military forces. I also thank Chairman NICK RAHALL of the House Natural Resources Committee for his leadership in providing for seamless protection for our fish and wildlife resources, a national treasure, across all public lands. I look forward to working with my colleagues in both the Natural Resources Committee and the Armed Services Committee in receiving testimony, support and views on the Sikes Act Amendments Act of 2010.

#### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 13, 2010 may be found in the Daily Digest of today’s RECORD.

#### MEETINGS SCHEDULED

##### MAY 17

2:30 p.m.

Homeland Security and Governmental Affairs

To hold hearings to examine the Gulf Coast disaster, focusing on assessing the nation’s response to the Deepwater Horizon oil spill.

SD-342

##### MAY 18

10 a.m.

Appropriations  
Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2011 for the Pacific Command and European Command programs.

SVC-217

Foreign Relations

To hold hearings to examine the new Strategic Arms Reduction Treaty (START).

SD-106

- Judiciary  
Human Rights and the Law Subcommittee  
To hold hearings to examine drug enforcement and rule of law, focusing on Mexico and Colombia.  
SD-226
- 11 a.m.  
Energy and Natural Resources  
To resume hearings to examine issues related to offshore oil and gas exploration including the accident involving the Deepwater Horizon in the Gulf of Mexico.  
SR-325
- 2:30 p.m.  
Commerce, Science, and Transportation  
To hold hearings to examine response efforts to the Gulf Coast oil spill.  
SR-253
- Environment and Public Works  
To hold hearings to examine Federal response to the recent oil spill in the Gulf of Mexico.  
SD-406
- Health, Education, Labor, and Pensions  
To resume hearings to examine Elementary and Secondary Education Act (ESEA) reform, focusing on supporting student health, physical education, and well-being.  
SD-430
- Intelligence  
To hold closed hearings to consider certain intelligence matters.  
SH-219
- MAY 19
- 9:30 a.m.  
Energy and Natural Resources  
To hold hearings to examine the proposed Constitution of the U.S. Virgin Islands, S. 2941, to provide supplemental ex gratia compensation to the Republic of the Marshall Islands for impacts of the nuclear testing program of the United States, H.R. 3940, to amend Public Law 96-597 to clarify the authority of the Secretary of the Interior to extend grants and other assistance to facilitate political status public education programs for the peoples of the non-self-governing territories of the United States, and H.R. 2499, to provide for a federally sanctioned self-determination process for the people of Puerto Rico.  
SD-366
- Veterans' Affairs  
To hold hearings to examine pending legislation.  
SR-418
- 10 a.m.  
Health, Education, Labor, and Pensions  
Children and Families Subcommittee  
To hold hearings to examine the state of American children.  
SD-430
- Judiciary  
To hold hearings to examine renewing America's commitment to the refugee convention, focusing on the Refugee Protection Act of 2010.  
SD-226
- Rules and Administration  
To resume hearings to examine the filibuster, focusing on the filibuster strategy and its consequences.  
SR-301
- Small Business and Entrepreneurship  
To hold hearings to examine the nomination of Marie Collins Johns, of the District of Columbia, to be Deputy Administrator of the Small Business Administration.  
SR-428A
- 11 a.m.  
Small Business and Entrepreneurship  
To hold hearings to examine the Small Business Administration (SBA) Disaster Assistance Program and the impact of the Deepwater Horizon oil spill on small businesses.  
SR-428A
- 2:30 p.m.  
Commerce, Science, and Transportation  
To hold hearings to examine S. 3302, to amend title 49, United States Code, to establish new automobile safety standards, make better motor vehicle safety information available to the National Highway Traffic Safety Administration and the public.  
SR-253
- Energy and Natural Resources  
National Parks Subcommittee  
To hold hearings to examine S. 349, to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, S. 1596, to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California, S. 1651, to modify a land grant patent issued by the Secretary of the Interior, S. 1750, to authorize the Secretary of the Interior to conduct a special resource study of the General of the Army George Catlett Marshall National Historic Site at Dodona Manor in Leesburg, Virginia, S. 1801, to establish the First State National Historical Park in the State of Delaware, S. 1802 and H.R. 685, bills to require the Secretary of the Interior to conduct a special resource study regarding the proposed United States Civil Rights Trail, S. 2953 and H.R. 3388, bills to modify the boundary of Petersburg National Battlefield in the Commonwealth of Virginia, S. 2976, to designate as wilderness certain land and inland water within the Sleeping Bear Dunes National Lakeshore in the State of Michigan, S. 3159 and H.R. 4395, bills to revise the boundaries of the Gettysburg National Military Park to include the Gettysburg Train Station, S. 3168, to authorize the Secretary of the Interior to acquire certain non-Federal land in the State of Pennsylvania for inclusion in the Fort Necessity National Battlefield, and S. 3303, to establish the Chimney Rock National Monument in the State of Colorado.  
SD-366
- 3:30 p.m.  
Appropriations  
Transportation, Housing and Urban Development, and Related Agencies Subcommittee  
To hold hearings to examine the President's proposed budget request for fiscal year 2011 for the Washington Metropolitan Area Transit Authority (Metro).  
SD-138
- MAY 20
- 9:30 a.m.  
Energy and Natural Resources  
To hold hearings to examine S. 2921, to provide for the conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area, to require the Secretary of the Interior to designate certain offices to serve as Renewable Energy Coordination Offices for coordination of Federal permits for renewable energy projects and transmission lines to integrate renewable energy development.  
SD-366
- 10:30 a.m.  
Homeland Security and Governmental Affairs  
Contracting Oversight Subcommittee  
To hold hearings to examine counter-narcotics contracts in Latin America.  
SD-342
- 2:30 p.m.  
Homeland Security and Governmental Affairs  
Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee  
To hold hearings to examine efforts to right-size the Federal employee-to-contractor mix.  
SD-342
- Intelligence  
To hold closed hearings to consider certain intelligence matters.  
SH-219
- MAY 25
- 9 a.m.  
Armed Services  
Airland Subcommittee  
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.  
SR-222
- 10:30 a.m.  
Armed Services  
Readiness and Management Support Subcommittee  
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.  
SR-222
- 2 p.m.  
Armed Services  
Emerging Threats and Capabilities Subcommittee  
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.  
SR-222
- 2:30 p.m.  
Commission on Security and Cooperation in Europe  
To hold hearings to examine Holocaust era assets after the Prague conference.  
SR-428A
- 3:30 p.m.  
Armed Services  
Strategic Forces Subcommittee  
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.  
SR-222
- 5 p.m.  
Armed Services  
Personnel Subcommittee  
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.  
SR-222

May 12, 2010

## EXTENSIONS OF REMARKS, Vol. 156, Pt. 6

8099

MAY 26

9:30 a.m.  
Armed Services  
SeaPower Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

2:30 p.m.  
Armed Services  
Closed business meeting to markup the  
proposed National Defense Authoriza-  
tion Act for fiscal year 2011.

SR-222

MAY 27

9:30 a.m.  
Armed Services  
Closed business meeting to markup the  
proposed National Defense Authoriza-  
tion Act for fiscal year 2011.

SR-222

10 a.m.  
Health, Education, Labor, and Pensions  
To hold hearings to examine building a  
secure future for multiemployer pen-  
sion plans.

SD-430

MAY 28

9:30 a.m.  
Armed Services  
Closed business meeting to markup the  
proposed National Defense Authoriza-  
tion Act for fiscal year 2011.

SR-222



## HOUSE OF REPRESENTATIVES—Thursday, May 13, 2010

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Ms. JACKSON LEE of Texas).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
May 13, 2010.

I hereby appoint the Honorable SHEILA JACKSON LEE to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: Congress opens another day of work with a moment of prayer, Lord. In doing so, it sets an example for the people of this Nation whose government is of the people.

Only in and through reflection and prayer will Your people grow in virtue. To retain its strength and moral integrity, this Republic needs reflective and virtuous people. So we pray.

We pray not only for ourselves, but for all those whose lives are touched by our own. We pray for all those whose lives will be affected by our decisions and our actions in the work set before us.

Be with us now, Lord God Almighty, for we acknowledge You in the beginning and seek You and that Your will be done in the end. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New Mexico (Mr. HEINRICH) come forward and lead the House in the Pledge of Allegiance.

Mr. HEINRICH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to five requests for 1-minute speeches on each side of the aisle.

### THE DISCLOSE ACT

(Mr. HEINRICH asked and was given permission to address the House for 1 minute.)

Mr. HEINRICH. Madam Speaker, like most Americans I am outraged by the Supreme Court's decision in the Citizens United case that overturned decades of law that prohibited corporations from spending unlimited money in political campaigns. The Citizens United decision was a victory for the Wall Street banks, credit card companies and Big Oil, but it was a slap in the face to average Americans.

Today, I am proud to announce that I am cosponsoring the Disclose Act, which is a direct response to the Citizens United decision. The Disclose Act will increase transparency and disclosure of political spending. It will prevent foreign corporations from places like Venezuela and Saudi Arabia from influencing American elections, and it will ensure that corporations that took money in the Bush bailout can't spend that money to influence our elections.

It is time we put the American voter first and stop corporate excess in our elections. The Disclose Act will do just that.

### CLEAN AND SAFE ENERGY INDEPENDENCE

(Mr. TIM MURPHY of Pennsylvania asked and was given permission to address the House for 1 minute.)

Mr. TIM MURPHY of Pennsylvania. Madam Speaker, when it comes to exploring for Earth's natural resources, there can be no compromise on safety. The recent catastrophe in the Gulf of Mexico reminds us that the safety of our workers and the environment cannot be taken for granted.

There are 3,500 oil rigs in the Gulf of Mexico. Accidents are extremely rare, and our goal needs to be zero tolerance. We are better off having high standards and drilling for our own oil than crossing our fingers and hoping that other countries will adhere to our standards.

We have to pursue safe drilling, and use our own resources to clean our air, land, and water. The U.S. can reap between \$2.2 trillion and \$3.7 trillion in revenues and use our own offshore oil

and gas to fund cleaning up our Nation's waterways, build energy efficient transportation systems, and invest in clean coal, nuclear, wind, solar, geothermal, and other renewable energy sources.

H.R. 2227 does just that. We create millions of jobs, don't borrow money from China, stop sending billions to OPEC, and don't raise taxes. So instead of running up record deficits, instead of having millions without jobs, let's get Americans back to work and pass H.R. 2227, the American Conservation and Clean Energy Independence Act. America can't keep waiting.

### ASIAN PACIFIC AMERICAN HERITAGE MONTH

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Madam Speaker, I rise today to honor Asian Pacific American Heritage Month.

As the Representative of the 47th Congressional District of California, I have a very diverse community, and a lot of them fall into the Asian and Pacific Islander American community. As a proud cosponsor of House Resolution 435, which celebrates Asian Pacific American Heritage Month, I would like to first thank the Congressional Asian Pacific American Caucus for recognizing the important contributions made by their community to our Nation.

For the past 14 years, I have witnessed firsthand the rich culture and contributions that the Asian Pacific Islander community brings to my district in Orange County. The community is an integral component of Orange County, and we see leadership all over the place in Orange County from that community increasingly, as leaders in academia and the arts and government and the military and in the private sector.

I would like to recognize all of the community partners and their outstanding service in the Asian Pacific Islander American community of Orange County and their continued efforts.

### HARVARD STUDY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. PITTS. Madam Speaker, the Federal Government is deep in debt and digging fast. We all know the importance of balancing the Federal budget, but we disagree on how to do that. How can we reduce the deficit without hurting our economy? Do we cut spending, or do we raise taxes?

I have here an analysis from two Harvard professors looking at how large changes in fiscal policy affect deficits and economies. Their research shows that "fiscal adjustments based upon spending cuts and no tax increases are more likely to reduce deficit and debt over GDP ratios than those based on tax increases."

The authors looked at decades of economic data around the world and came to the conclusion that it is best to go about reducing large deficits through government restraint and spending cuts.

Some think that we can keep spending recklessly, raise taxes, and balance the books. This study shows that we must get our spending under control. Raising taxes only kills jobs in our economy, leaving the government in an even worse fiscal situation.

This study is available on my Web site. I encourage all to examine it.

#### RECOGNIZING FRANK HERHOLD

(Mr. KLEIN of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEIN of Florida. Madam Speaker, I rise today to recognize one of the great leaders in my district in South Florida—Frank Herhold.

Frank is the executive director of the Marine Industries Association of South Florida, a position he has held since 1990. Even before taking on this leadership role, Frank operated a shipyard of his own, bringing his total career in the marine industry to over 30 years. After decades of hard work, Frank will be retiring this summer. I would personally like to thank him for his hard work and dedication to our community.

The marine industry is critical to South Florida's economy, and, under Frank's leadership, the Fort Lauderdale International Boat Show has become the world's largest, pumping millions of dollars into our local economy.

Frank is the consummate professional and friend, and it was a pleasure to work with him as we reformed Longshore insurance together and tackled other issues essential to the marine industry.

Frank, I wish you the best in your retirement, and thank you for your service to South Florida.

#### MORE COSTLY DISCLOSURES ABOUT GOVERNMENT HEALTH CARE TAKEOVER

(Mr. WILSON of South Carolina asked and was given permission to ad-

dress the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, more costly disclosures continue to come out about the government health care takeover. And why should we be surprised, when Speaker PELOSI told the American people that we need to—and I quote—"pass the bill so we can find out what is in it"?

The more we find out, the worse it looks. The latest analysis by the non-partisan Congressional Budget Office reveals that the health care takeover will cost at least \$115 billion more than originally estimated. This follows last month's CMS report that highlighted health care costs will increase by \$311 billion over the next 10 years, and will force millions of seniors off their current Medicare coverage.

Washington must stop promising one thing and delivering another, particularly when it comes to price tags. If Congress continues to drag its feet, runaway deficits and unsustainable debt are sure to cripple our economy and would lead us down the same path as Greece.

In conclusion, God bless our troops, and we will never forget September 11th in the Global War on Terrorism. My sympathy to the family of Betty Jackson Mack of Gaston, South Carolina.

#### PASSING OF JERRY HILDEBRAND

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Madam Speaker, over this past weekend our Nation lost one of the great champions of the unemployment insurance system.

Jerry Hildebrand was the Chief of Legislation for Unemployment Insurance at the Department of Labor, and he was intricately involved in every major UI reform over the past several decades.

Most recently, Jerry had been instrumental in ensuring the delivery of extended unemployment benefits and in helping States navigate reforms to their unemployment systems with the help of UI Modernization Grants. His advice about the possible impact of policy before enactment and his skillful work on implementation after the passage of legislation will be sorely missed.

He took his daughter to college this weekend, and then dropped dead. Our thoughts and prayers go out to Jerry's family, as well as to his colleagues at the Department of Labor. Jerry Hildebrand made our government work for the people, and that contribution will surely live on.

#### AMERICA COMPETES ACT

(Ms. SCHWARTZ asked and was given permission to address the House

for 1 minute and to revise and extend her remarks.)

Ms. SCHWARTZ. Today, the House of Representatives will take a significant step towards advancing American innovation and strengthening American competitiveness with the America COMPETES Act.

This bipartisan proposal will expand public-private collaboration, assist industry and manufacturers, improve science and mathematics education, and create new, good-paying jobs. It accomplishes this by continuing the Department of Energy's Advanced Research Projects, devoted to next-generation energy research and development projects; providing loan guarantees for small- and medium-sized manufacturers to enable them to access capital and become more efficient; and by promoting more research and development initiatives.

This bill is supported by more than 750 businesses and academic organizations, including the U.S. Chamber of Commerce, the National Association of Manufacturers, National Venture Capital Association, and the Biotech Industry Organization.

This continuing initiative is part of the Democratic solution to promote innovation and new technology in both older and new industries, prepare a skilled workforce, enhance our economic competitiveness, and build a strong 21st century national economy.

#### AMERICA COMPETES REAUTHORIZATION ACT OF 2010

The SPEAKER pro tempore (Mrs. HALVORSON). Pursuant to House Resolution 1344 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 5116.

□ 1014

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes, with Ms. JACKSON LEE of Texas (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose on Wednesday, May 12, 2010, a request for a recorded vote on amendment No. 34 printed in part B of House Report 111-479 by the gentleman from Ohio (Mr. BOCCIERI) had been postponed.

AMENDMENT NO. 36 OFFERED BY MS. CHU

The Acting CHAIR. It is now in order to consider amendment No. 36 printed in part B of House Report 111-479.

Ms. CHU. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 36 offered by Ms. CHU:

Page 103, line 22, insert “, including from a 2-year to a 4-year institution” after “to another”.

The SPEAKER pro tempore. Pursuant to House Resolution 1344, the gentlewoman from California (Ms. CHU) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

□ 1015

Ms. CHU. Today, a woman sits in a classroom at East Los Angeles College, taking notes diligently as her professor explains the different types of inorganic chemical reactions. Sylvia is the first in her family to attend college. She can barely afford the low tuition rate, even though she works full time to help pay for books and put food on the table. She is the embodiment of the American Dream—studying, persevering, working, all with the hope of transferring to a 4-year college to earn her bachelor's degree in chemistry.

But the road ahead is tough. She struggles to find rigorous courses that meet the demands of the 4-year institutions. She doesn't have access to a chemistry lab and her community college cannot provide the research opportunities available to her fellow students at larger universities. But she represents our path to economic recovery. Her success is imperative to ensuring a skilled and diverse workforce for our Nation's future.

That's why I have introduced to the America COMPETES Act an amendment to include the community college and to help STEM students, particularly women and underrepresented minorities, transition from a 2-year to a 4-year institution. It will ensure that all students, regardless of ethnicity or socioeconomic status, are afforded every opportunity to enter STEM fields. Without my amendment, we risk leaving Sylvia behind. We risk leaving her without the skills to earn a high-paying job that will provide her with the means to support her family and the skills to power our economic growth.

Forty-four percent of all STEM bachelor's degree holders attend community college at some point in their careers. Many of these students represent the neediest in our society. They are the ones who sacrifice so much just to better themselves and improve their chance of success. Nationally, community college students are older, more likely to receive financial aid, are more likely to be the first in their family to attend college, and are more likely to work while earning their degree. These students are the embodiment of the American Dream, and they must not be forgotten.

As a former professor at East Los Angeles College, I'm all too familiar with the hurdles these students face in working toward any bachelor's degree, much less those in the natural sciences or engineering. We need these students to succeed. By 2050, racial and ethnic minorities will make up over half of the college-age population. If we don't help them enter the most technologically competitive fields, we face a future in which America is no longer at the forefront of innovation.

I urge support of my amendment and the overall bill so that Sylvia and so many other students like her have the skills they need to be competitive and to ensure America will stay competitive tomorrow.

I reserve the balance of my time.

Mr. HALL of Texas. Madam Chairwoman, I rise to claim time in opposition to this amendment, although I do not intend to oppose it.

The Acting CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. HALL of Texas. We have no objection to the amendment, and I reserve the balance of my time.

Ms. CHU. Madam Chair, I yield the balance of my time to the distinguished chairperson of the committee, Mr. GORDON of Tennessee.

Mr. GORDON of Tennessee. Let me just add that this is an excellent amendment that makes a good bill better; a good, bipartisan bill even better. And I thank the gentlelady for the content of this amendment.

Ms. CHU. Madam Chair, I yield back the balance of my time.

Mr. HALL of Texas. Madam Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. CHU).

The amendment was agreed to.

AMENDMENT NO. 38 OFFERED BY MRS. HALVORSON

The Acting CHAIR. It is now in order to consider amendment No. 38 printed in part B of House Report 111-479.

Mrs. HALVORSON. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 38 offered by Mrs. HALVORSON:

Page 106, line 3, strike “CONSIDERATIONS.—In” and insert “CONSIDERATIONS.—

(1) IN GENERAL.—In”.

Page 106, line 8, insert “and veterans” after “1885b”.

Page 106, after line 8, insert the following new paragraph:

(2) DEFINITION.—For purposes of this subsection, the term “veteran” means a person who—

(A) served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 consecutive days, and who was discharged or released therefrom under conditions other than dishonorable; or

(B) served on active duty (other than active duty for training) in the Armed Forces of the United States and was discharged or released from such service for a service-connected disability before serving 180 consecutive days.

For purposes of subparagraph (B), the term “service-connected” has the meaning given such term under section 101 of title 38, United States Code.

The Acting CHAIR. Pursuant to House Resolution 1344, the gentlewoman from Illinois (Mrs. HALVORSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois.

Mrs. HALVORSON. Madam Chair, I yield myself such time as I may consume.

I would also like to thank the gentleman from Tennessee, Chairman GORDON, for his very hard work on this very important legislation that will spur innovation, modernize our manufacturing base, and prepare our workforce for the next generation of good-paying jobs.

I rise today in support of my amendment to the America COMPETES Reauthorization Act. My amendment is very simple. It will help expand career opportunities in science and engineering for veterans of our armed services. As the only Member from my State that serves on the House Committee on Veterans' Affairs, I am proud to stand up for the brave men and women who have served our country and our military. It is important for us to stand up for them not only when they are on Active Duty, but also when they return home.

Unfortunately, too many of our veterans have difficulty finding jobs when they transition back into civilian life. With the veterans' unemployment rate at about 13 percent, well above the national average, we need to do everything we can to provide veterans with career opportunities. The America COMPETES Reauthorization Act establishes a new postdoctoral research fellowship program at the National Science Foundation. This program will award competitive, merit-based research fellowships for up to 3 years to graduates who have recently completed a doctoral degree in a field supported by the foundation. My amendment will instruct the director of the foundation to give consideration to the goal of promoting participation by veterans when evaluating applications.

Many of our Nation's veterans specialize in science and engineering fields during their service in the military, and some of them even had the opportunity to pursue advanced degrees in these fields during their service. Others choose to continue their education in science and engineering by pursuing doctorate degrees after they leave Active Duty. My amendment will help these uniquely qualified veterans build careers in science and engineering by

encouraging them to compete for the new National Science Foundation postdoctoral research fellowships established by this bill. When our veterans ask for the opportunity to continue serving their country in the next generation of jobs, we should give them that chance, which is what my amendment seeks to do.

Once again, I thank Chairman GORDON and his staff for working with me on this amendment, and I ask for the support of my colleagues.

Madam Chair, I reserve the balance of my time.

Mr. HALL of Texas. Madam Chairwoman, I rise to claim time in opposition to this amendment, although I do not oppose it.

The Acting CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. HALL of Texas. In fact, I'm in strong support of the amendment, as it reemphasizes language that I had accepted at the full committee markup and is now included in title VII. In my opinion, we can't do enough to assist our veterans who are returning to school after putting their lives on the line so that all of us can enjoy the freedoms that we have in this country. Likewise, I remain committed to helping those institutions of higher education that are also going above and beyond the norm in helping our veterans receive their education.

I reserve the balance of my time.

Mrs. HALVORSON. Madam Chair, I yield the remainder of my time to the gentleman from Tennessee, Chairman GORDON.

Mr. GORDON of Tennessee. I thank the gentlelady and I commend my friend, the ranking member, Mr. HALL, for his continued commitment to veterans from World War II, like himself, and beyond. I also want to thank the gentlelady from Illinois for her good work on the Veterans Affairs' Committee and for this amendment promoting the inclusion of veterans in our STEM workforce.

Many of our veterans have technical backgrounds already. With some additional training, they are well positioned to continue serving their country through research discoveries that will benefit society and improve our economic competitiveness.

I urge my colleagues to support this amendment.

Mr. HALL of Texas. Madam Chair, I yield back the balance of my time.

Mrs. HALVORSON. Madam Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Illinois (Mrs. HALVORSON).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mrs. HALVORSON. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Illinois will be postponed.

AMENDMENT NO. 44 OFFERED BY MR. KRATOVIL

The Acting CHAIR. The Chair understands that the amendments numbered 40 and 41 will not be offered at this time.

It is now in order to consider amendment No. 44 printed in part B of House Report 111-479.

Mr. KRATOVIL. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 44 offered by Mr. KRATOVIL:

Page 149, after line 21, insert the following new section:

**SEC. 305. ENCOURAGING FEDERAL SCIENTISTS AND ENGINEERS TO PARTICIPATE IN STEM EDUCATION.**

Not later than 6 months after the date of enactment of this Act, the Director of the Office of Science and Technology Policy, in consultation with the Department of Education, shall develop a policy to—

(1) increase volunteerism in STEM education activities by encouraging scientists and engineers from Federal science agencies conducting nonmilitary scientific research and development, including scientists and engineers of the federally funded research and development centers supported by those agencies, to volunteer in STEM education activities, and by providing administrative support for such scientists and engineers to engage in such volunteerism; and

(2) support increased communication and partnerships between scientists and engineers from Federal science agencies conducting nonmilitary scientific research and development, including scientists and engineers of the federally funded research and development centers supported by those agencies, and elementary and secondary schools and teachers through volunteerism in STEM education activities.

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman from Maryland (Mr. KRATOVIL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland.

Mr. KRATOVIL. Madam Chair, I yield myself such time as I may consume.

Madam Chair, I rise in support of the Kratovil-Connolly amendment to the America COMPETES Act, as well as in support of the underlying bill. I would first like to thank the chairman, Mr. GORDON, for allowing the amendment and also for the opportunity to speak on its behalf. And I also want to thank my colleague and friend, Mr. CONNOLLY, for his leadership on this issue as well.

Simply put, Madam Chair, our amendment seeks to inspire students to enter the exciting, fascinating, and often times lucrative fields of science and innovation, by presenting them

with real life experiences of the men and women who are leaders in these fields. Our amendment would encourage Federal employees working in the fields of science and engineering to volunteer their time and expertise in STEM educational activity. By sharing their stories with students, we hope to encourage students to study and pursue similar careers while preparing them for the competitive 21st-century global economy and workforce.

Expanding and strengthening science and technology curricula will provide students with the tools they need to enter the workforce. Our amendment builds on this foundation by encouraging Federal scientists and engineers already working in these fields to volunteer their time and expertise to teach today's students how careers in these fields not only support American competitiveness but can contribute to their own professional growth.

The America COMPETES Act will strengthen America's role in an increasingly competitive world while our amendment will bolster this effort by encouraging scientists and engineers to share their real-world experiences with what we hope will be future scientists and engineers.

I urge my colleagues to support this amendment, as well as the underlying bill.

I reserve the balance of my time.

Mr. HALL of Texas. Madam Chairwoman, I rise to claim time in opposition to the amendment, although I do not intend to oppose it.

The Acting CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. HALL of Texas. Madam Chair, I support this amendment and would hope if it is accepted, the chairman would continue to work with us to clarify the administrative language as we move to conference.

Madam Chair, I reserve the balance of my time.

Mr. KRATOVIL. Madam Chair, I yield such time as he may consume to the gentleman from Virginia (Mr. CONNOLLY).

□ 1030

Mr. CONNOLLY of Virginia. Madam Chair, I thank my friend Mr. KRATOVIL from Maryland for his leadership, and I thank the chairman and the ranking member of the committee for their leadership on this important topic of STEM education.

My 14 years in local government, helping to manage the 12th-largest school district in the United States and home to the number one high school in the United States 3 years in a row, a STEM high school, Thomas Jefferson, has taught me how important mathematics, science, engineering, and technology are for the future of our country, for competitiveness, American

competitiveness. In a recent international assessment of 15-year-old students, the United States ranked 28th in math literacy and 24th in science literacy. We can and must do better, and this amendment, I think, will move us a long way toward that goal so that every community in America will have this opportunity, and our children will have a bright future in the sciences, in math, in technology, and in engineering.

Mr. HALL of Texas. Madam Chairman, I yield back the balance of my time.

Mr. KRATOVIL. Madam Chair, I yield as much time as he may consume to the gentleman from Tennessee, Chairman GORDON.

Mr. GORDON of Tennessee. Let me inquire, how much time is left?

The Acting CHAIR. The gentleman from Maryland has 2¼ minutes. The gentleman from Texas has yielded back his time.

Mr. GORDON of Tennessee. First let me say, Madam Chair, to my friend and ranking member, I am not sure what the technical corrections are that he is concerned about, but I assure you that we will certainly start working on that to clean up any language that needs to be cleaned up.

Additionally, I rise to support this good amendment. Scientists and engineers at the Federal science agencies have the experience and expertise to contribute greatly to STEM education. Whether it is through helping a teacher with a hands-on activity in the classroom, assisting with a local robotics competition, or serving as a mentor to a student, there are a variety of ways in which Federal scientists and engineers can volunteer their time to help improve STEM education. This amendment would increase volunteerism by scientists and engineers working in Federal agencies and would encourage the agencies to provide administrative support for those scientists and engineers to volunteer their time. I urge my colleagues to support this good bipartisan amendment.

Mr. KRATOVIL. I yield back the remainder of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Maryland (Mr. KRATOVIL).

The amendment was agreed to.

AMENDMENT NO. 50 OFFERED BY MR. FLAKE

The Acting CHAIR. The Chair understands that amendment No. 45 will not be offered at this time.

It is now in order to consider amendment No. 50 printed in part B of House Report 111-479.

Mr. FLAKE. Madam Chairman, I rise as the designee of the gentleman from Illinois (Mr. QUIGLEY).

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 50 offered by Mr. FLAKE:

Page 127, after line 13, insert the following new section:

**SEC. 256. SENSE OF CONGRESS.**

It is the sense of Congress that retaining graduate-level talent trained at American universities in Science, Technology, Engineering, and Mathematics (STEM) fields is critical to enhancing the competitiveness of American businesses.

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. I thank the Chair. I believe this amendment is noncontroversial in nature. It merely adds sense of Congress language to the bill expressing that, "retaining graduate-level talent trained at American universities in STEM fields is critical to enhancing the competitiveness of American businesses."

According to the National Science Foundation, foreign students receive about half of all doctorates in engineering, mathematics, computer sciences, physics, and economics that are awarded in the United States. Unfortunately, growing backlogs in processing applications hamper the flexibility of U.S. employers to hire foreign-born talent with advanced degrees from American universities.

These hurdles affect even doctoral graduates in STEM fields trained at U.S. universities, who either return home or seek employment in a country with a more welcoming immigration system. The loss of Ph.D. talent, trained at U.S. institutions and due to immigration redtape, to our competitors makes little sense, and it harms our economy.

Researchers at Duke University and the University of California-Berkeley found that from 1995 to 2005, more than a quarter of engineering and technology companies started in the U.S. had at least one foreign-born founder, and in 2006, these companies employed 450,000 workers and produced \$52 billion in sales. This amendment is supported by COMPETE America, American Council on International Personnel, and TechAmerica.

I urge its adoption. This is important. We need to ensure that our economy is competitive moving forward, and we need to ensure that we have graduates in these STEM fields who can be here and lead these research efforts.

I reserve the balance of my time.

Mr. GORDON of Tennessee. I rise to claim time in opposition to the amendment, even though I am not opposed to the amendment.

The Acting CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. GORDON of Tennessee. Madam Chair, I rise in strong support of this

good bipartisan amendment by my friend from Arizona (Mr. FLAKE) and Mr. QUIGLEY from Illinois.

This amendment recognizes the importance of attracting and retaining the best and brightest young scientists from around the world here to the United States. The ability of our Nation to innovate and to compete in a global economy is built on a foundation of basic research. Our universities' postdoctoral fellows, master's and Ph.D. students serve as the engine that drives our research enterprise. It is essential that we retain these STEM workers in the U.S.

I urge my colleagues to support this bipartisan amendment, which makes a bipartisan bill even better, and I think it's the reason, Madam Chair, that this bill has received so much support. Over 1,000 major organizations and companies have endorsed this bill. The U.S. Chamber of Commerce, the National Association of Manufacturers, the Information Technology Industry Council, the Business Roundtable, the Council on Competitiveness, the National Venture Capital Association, TechAmerica, TechNet, Technology CEO Council, Telecommunications Industry Association, Energy Sciences Coalition, the Biotechnology Industry Association, on and on and on. So this is a good amendment to a good bill, and I urge its adoption.

Mr. FLAKE. I thank the gentleman, the chairman of the committee, for agreeing to accept his amendment and for his support of this initiative, and for the ability of our economy to keep those who will help lead them into the future and help ensure that jobs stay here as to the extent possible. I urge adoption of the amendment.

I yield back the balance of my time. Mr. GORDON of Tennessee. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. FLAKE. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

AMENDMENT NO. 51 OFFERED BY MR. SALAZAR

The Acting CHAIR. It is now in order to consider amendment No. 51 printed in part B of House Report 111-479.

Mr. SALAZAR. Madam Chair, I rise today to offer an amendment to H.R. 5116.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 51 offered by Mr. SALAZAR: Page 138, line 5, strike "and". Page 138, line 9, strike the period and insert "; and".

Page 139, after line 9, insert the following new paragraph:

“(6) professional training for energy auditors, field technicians, and building contractors, in the areas of building energy retrofits and audits or related renewable energy technology installations.”.

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman from Colorado (Mr. SALAZAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado.

Mr. SALAZAR. Madam Chair, I would like to thank Chairman GORDON for this wonderful bill that will actually create jobs. My amendment adds training for energy auditors, field technicians, and building contractors to promote the use of energy retrofits and energy-efficient technology to the list of programs that may be included in the Department of Energy's STEM education activities.

Madam Chair, I have long been an advocate for clean energy and a balanced approach to meeting our energy needs while preserving our natural resources. As we continue to expand our use of renewable sources of energy, it is important that we have a well trained and knowledgeable workforce in place to take advantage of every job opportunity that is created.

Alternative energy is an economic boon for rural districts like the one I represent. The Third Congressional District of Colorado is leading the way with innovations in solar, wind, and woody biomass. In the San Luis Valley, where I live, there is currently an 8-megawatt solar farm with an additional 1,000 megawatts of solar in the works. However, it is critical to reduce the cost to America's families and our impact on the environment that the men and women who build, repair, and refurbish our homes and infrastructure incorporate green technology in their operations.

In a recent study, scientists at the Department of Energy's Berkeley Laboratory examined the workforce needs of the energy-efficiency services sector. They found that the rate of employment growth will depend in part on how effectively the Nation deploys training and education programs for the energy-efficiency workforce. It is estimated that the size of the energy-efficiency sector workforce is currently at about 120,000 full-time workers. That number would go as high as 400,000 when including part-time workers. If we want to ensure the growth of job opportunities, we must secure the training programs that will allow Americans to take advantage and excel in these fields. By doing so, we will not only take important steps to reduce energy consumption, but we will enhance national security by reducing the country's dependence on foreign sources of energy.

I encourage my colleagues on both sides of the aisle to lend their support

to my amendment and the underlying legislation. The America COMPETES reauthorization is an important job creation tool, and will put the necessary funding and focus where it's needed most.

With that, Madam Chair, I reserve the balance of my time.

Mr. HALL of Texas. Madam Chairwoman, I rise to claim time in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HALL of Texas. In addition to being too narrowly focused, I do not believe this type of activity is in the spirit of what STEM programs really should do at the department. Therefore, I oppose the amendment.

I reserve the balance of my time.

Mr. SALAZAR. Madam Chair, this amendment is critical to creating the job force that would actually help increase the number of people that are trained for renewable and alternative energies.

With that, Madam Chair, I yield as much time as he may consume to the gentleman from Tennessee, Chairman GORDON.

Mr. GORDON of Tennessee. Madam Chair, Mr. SALAZAR's amendment would provide DOE with the authority to conduct training for energy auditors, field technicians, and building contractors so they can understand and promote the use of renewable energy and energy-efficiency technology. Energy efficiency and conservation will have the greatest near-term impact of any approach to our energy security and global climate change concerns.

Today's buildings consume 40 percent of our country's energy, more than any other sector of the U.S. economy. A new study by scientists at the Department of Energy's Lawrence Berkeley National Laboratory examined the workforce needs of the energy-efficiency service sector and found that there is a shortage of formal training programs in energy efficiency. This same study found that the building and construction trades and contractors have limited awareness of the energy-efficiency service sector. That is why this amendment adds technical training for energy professionals to the Department of Energy education programs authorized under this section, and it makes a good bipartisan bill even better.

Mr. HALL of Texas. Madam Chairwoman, I yield back the balance of my time.

Mr. SALAZAR. Madam Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Colorado (Mr. SALAZAR).

The amendment was agreed to.

AMENDMENT NO. 52 OFFERED BY MR. SCHOCK

The Acting CHAIR. It is now in order to consider amendment No. 52 printed in part B of House Report 111-479.

Mr. SCHOCK. Madam Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 52 offered by Mr. SCHOCK: Page 191, after line 5, insert the following new paragraph (and redesignate subsequent paragraphs accordingly):

“(5) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to an eligible recipient who agrees to collaborate with local workforce investment area boards.

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman from Illinois (Mr. SCHOCK) and a Member opposed each will control 5 minutes.

The gentleman from Illinois is recognized for 5 minutes.

Mr. SCHOCK. Madam Chairman, I rise to offer this amendment to the America COMPETES Act, which ensures the innovative and intellectual prowess and technical minds of the currently unemployed are taken into account during the formation of the underlying regional innovation clusters.

While I have some reservations about the current overly broad language in this section of H.R. 5116, I nonetheless believe it is important to provide these regional innovation clusters with the best partnerships available. That is why I'm offering this amendment to instruct the Secretary of Commerce to give priority to those innovative clusters that work with local Workforce Investment Area, or commonly referred to WIA boards.

The WIA boards serve the unemployed by providing them with specific resources that help them improve their abilities and skills to get hired. Local WIA boards are typically known for hosting career fairs, providing continuing education assistance, and working on resume and job improvement strategies. WIA boards offer One-Stop Career Service Centers and take the time to get to know the unemployed citizens in their neighborhood. WIA boards are often on the front lines of providing assistance to unemployed workers. They are in the best position to know the demographics of those who have been let go from jobs and understand the skills that these displaced workers have.

□ 1045

In addition to helping individuals, WIA boards also work with employers to help them fill the jobs they have vacant.

In my hometown of Peoria, Illinois, the WIA board provided 19,094 individuals with career services last year, a 44 percent increase over the previous year. The WIA board has recently implemented a program called JobFit, which is a Web-based job matching and assessment tool that places individuals with companies that best suit their personality and skills. It is this type of

matching service that will be vital to regional innovation clusters.

My amendment uses a similar concept by encouraging regional innovation clusters to partner with their local WIA board. WIA boards have been unsung heroes during these tough economic times, and I believe encouraging partnerships between the WIA boards and regional clusters will allow access to a well-trained workforce, which will have a positive impact on regional economic growth, and provide the expertise to bring many of these new manufacturing innovation and technology improvements into the marketplace.

If the purpose of the regional innovation clusters is to spur technological innovation, then the Workforce Investment Area boards will be able to provide employees whose skills those innovations require. The technology that will come to the marketplace will need a skilled workforce to utilize this technology. As such, local WIA can help to match the new technology with skilled employees who are looking for work.

At a time when the national unemployment rate is 9.9 percent, this commonsense amendment will utilize the skills of unemployed workers in order to keep America globally competitive. I urge adoption of this amendment.

I reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chair, I claim the time in opposition to the amendment, although I do not oppose the amendment.

The Acting CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. GORDON of Tennessee. I want to congratulate the gentleman from Illinois for his outstanding amendment. It would instruct the Secretary of Commerce to give special consideration to innovation clusters that partner with local workforce investment boards. It makes a good bipartisan bill better.

I also want to congratulate the gentleman from Illinois for his recent win in the 3-mile Capitol Challenge. I think after 20 years it is a good thing we have a new winner, and I wish him good luck for the next 18 years.

I reserve the balance of my time.

Mr. SCHOCK. Madam Chair, I yield back the balance of my time.

Mr. GORDON of Tennessee. Madam Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Illinois (Mr. SCHOCK).

The amendment was agreed to.

AMENDMENTS EN BLOC NO. 3 OFFERED BY MR. GORDON OF TENNESSEE

Mr. GORDON of Tennessee. Madam Chair, I have amendments en bloc at the desk.

The Acting CHAIR. The Clerk will designate the amendments en bloc.

Amendments en bloc No. 3 offered by Mr. GORDON of Tennessee consisting of

amendments numbered 2, 28, 29, 30, 31, 32, 33, 37, 40, 41, 45, 53, and 54 printed in part B of House Report 111-479:

AMENDMENT NO. 2 OFFERED BY MR. CARDOZA OF CALIFORNIA

The text of the amendment is as follows:

Page 174, after line 13, insert the following:

**SEC. 412. GREEN MANUFACTURING AND CONSTRUCTION.**

The Director shall carry out a green manufacturing and construction initiative to—

(1) develop accurate sustainability metrics and practices for use in manufacturing;

(2) advance the development of standards and the creation of an information infrastructure to communicate sustainability information about suppliers; and

(3) improve energy performance, service life, and indoor air quality of new and retrofitted buildings through validated measurement data.

AMENDMENT NO. 28 OFFERED BY MR. MARSHALL OF GEORGIA

The text of the amendment is as follows:

Page 176, line 6, strike “within” insert the following: “, including those focused on the needs of small businesses and rural communities, within”.

AMENDMENT NO. 29 OFFERED BY MR. MICHAUD OF MAINE

The text of the amendment is as follows:

Page 194, strike lines 1 through 4 and insert the following:

“(2) COLLABORATION.—

“(A) IN GENERAL.—The Secretary shall explore and pursue collaboration with other Federal agencies, including through multi-agency funding opportunities, on regional innovation strategies.

“(B) SMALL BUSINESSES.—The Secretary shall ensure that such collaboration with Federal agencies prioritizes the needs and challenges of small businesses.”.

AMENDMENT NO. 30 OFFERED BY MR. MICHAUD OF MAINE

The text of the amendment is as follows:

Page 191, after line 5, insert the following:

“(C) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications from regions that contain communities negatively impacted by trade.

AMENDMENT NO. 31 OFFERED BY MR. MICHAUD OF MAINE

The text of the amendment is as follows:

Page 131, line 22, insert before the semicolon the following: “, including the unique needs of schools in rural areas”.

AMENDMENT NO. 32 OFFERED BY MR. RUPPERSBERGER OF MARYLAND

The text of the amendment is as follows:

Page 102, line 3, insert “(a) MATCHING REQUIREMENT.—” before “Section 10A”.

Page 102, after line 9, insert the following new subsection:

(b) RETIRING STEM PROFESSIONALS.—Section 10A of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1a) is amended in subsection (a)(2)(A) by inserting “including retiring professionals in those fields,” after “mathematics professionals.”.

AMENDMENT NO. 33 OFFERED BY MR. RUPPERSBERGER OF MARYLAND

The text of the amendment is as follows:

Page 127, after line 13, insert the following new section:

**SEC. 256. CYBER-ENABLED LEARNING FOR NATIONAL CHALLENGES.**

The Director shall, in consultation with appropriate Federal agencies, identify ways to use cyber-enabled learning to create an innovative STEM workforce and to help retrain and retain our existing STEM workforce to address national challenges, including national security and competitiveness.

AMENDMENT NO. 37 OFFERED BY MR. ELLSWORTH OF INDIANA

The text of the amendment is as follows:

Page 246, after line 8, insert the following new section:

**SEC. 704. LIMITATION.**

No funds authorized to be appropriated by this Act or the amendments made by this Act may be used to purchase gift items, knickknacks, souvenirs, trinkets, or other items without direct educational value.

AMENDMENT NO. 40 OFFERED BY MR. HEINRICH OF NEW MEXICO

The text of the amendment is as follows:

Page 189, line 11, strike “partnership” and insert “partnership, a science park, a Federal laboratory”.

AMENDMENT NO. 41 OFFERED BY MR. HEINRICH OF NEW MEXICO

The text of the amendment is as follows:

Page 245, after line 2, insert the following:

**Subtitle E—Technology Transfer Database**

**SEC. 651. TECHNOLOGY TRANSFER DATABASE.**

To support the commercial application of new energy technologies development by the Department of Energy, the Secretary of Energy may establish an online database of technologies, capabilities, and resources available to the public at the National Laboratories.

AMENDMENT NO. 45 OFFERED BY MR. MCNERNEY OF CALIFORNIA

The text of the amendment is as follows:

Page 133, line 25, strike “and”.

Page 133, after line 25, insert the following new clause:

“(vi) marine and hydrokinetic technology systems; and

Page 135, line 23, strike “and”.

Page 135, after line 23, insert the following new clause:

“(vi) marine and hydrokinetic technology systems; and

AMENDMENT NO. 53 OFFERED BY MR. SPACE OF OHIO

The text of the amendment is as follows:

Page 174, after line 13, insert the following:

**SEC. 412. MANUFACTURING RESEARCH.**

(a) IN GENERAL.—The Director shall carry out a program to support transformational manufacturing research.

(b) ACTIVITIES.—As part of such program, the Director shall—

(1) develop and disseminate measurement tools and capabilities for new additive manufacturing and robotics technologies and methods;

(2) establish new techniques and methods to efficiently generate and assemble products integrating nanoscale materials and devices; and

(3) carry out other research with significant transformational potential for manufacturing.



AMENDMENT NO. 54 OFFERED BY MS. TITUS OF NEVADA

The text of the amendment is as follows:

Page 121, beginning on line 7, strike "STEM teacher professional development" and insert "pre-service and in-service STEM teacher training and professional development".

The Acting CHAIR. Pursuant to House Resolution 1344, the gentleman from Tennessee (Mr. GORDON) and the gentleman from Texas (Mr. HALL) each will control 20 minutes.

The Chair now recognizes the gentleman from Tennessee.

Mr. GORDON of Tennessee. Madam Chair, this is a very good en bloc set of amendments that again makes this bipartisan bill even better. I think one of the byproducts of having such a very good bill is we have so many organizations, over a thousand organizations and major companies that have endorsed the bill, including the U.S. Chamber of Commerce, National Association of Manufacturers, Information Technology Industry Council, Business Roundtable, Council on Competitiveness, National Venture Capital Association, TechAmerica, TechNet, Technology CEO Council, the Telecommunication Industry Association, the Biotechnology Industry Association, the Aerospace Industries Association, the Computing Technology Industry Association, the Fabricators & Manufacturers Association, the National Defense Industrial Association, the National Electrical Manufacturers Association. I can go on and on.

In the university area, the American Council on Education, the Association of American Colleges and Universities, Association of American Public Universities, Association of Public and Land-grant Universities.

This is a very important bill for our country and it is for our competitiveness and for our kids and grandkids, and it is going to create jobs in the short term, in the intermediate term, and in the long term.

I reserve the balance of my time.

Mr. HALL of Texas. Most of the 13 amendments rolled into this en bloc package are minor and noncontroversial, and we are generally supportive.

I do, however, want to make comments regarding potential issues with two of these amendments: Cardoza amendment No. 2 and Heinrich amendment No. 59. I note some concern regarding the Heinrich amendment included in this en bloc, which makes Federal laboratories eligible grant recipients under the regional innovation cluster programs.

While it would be appropriate for entities such as DOE national laboratories to compete for and receive the type of funding called for in the clusters program, the definition of "Federal laboratories" goes far beyond this. It could include almost any agency lab-

oratory and essentially result in taxpayer funding from one Federal agency being redistributed to a different Federal agency. There are a host of problems with this, but first and foremost, it is clearly not an ideal way to fund innovation.

I want to note these concerns regarding the amendment for the record, although I do not plan to oppose the entire en bloc that includes this amendment.

I reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chair, I yield 2½ minutes to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Madam Chair, I thank the gentleman for yielding.

Madam Chair, while unemployment is still at a record high in my district, the reauthorization of the America COMPETES Act is an important opportunity for us to invest in creating a brighter, more resilient economic future.

Manufacturing is leading the early stages of the recovery in California. In fact, I am told that next year could bring the first annual increase in California manufacturing employment in a decade.

Madam Chair, now is the time for us to support the manufacturing sector in our country. Energy costs are rising and consumer demand is up for sustainable products. Sustainability will be a key element for keeping our manufacturing sector competitive. Even now, manufacturers are trying to find ways to incorporate emerging sustainable technologies into their businesses.

My amendment will help manufacturers respond quickly and effectively to the demand for more sustainable practices by instructing the NIST Director to carry out a green manufacturing and construction initiative that gives manufacturers the information they need to make sound, science-based sustainable investments.

I ask my colleagues on both sides of the aisle to support this commonsense amendment. I understand that my good friend, the gentleman from Texas (Mr. HALL) does have some concerns, and I anticipate that he might want to engage in a colloquy, and I stand ready to do that with the gentleman from Texas.

Madam Chair, while unemployment is still at a record high in my district, the reauthorization of the America COMPETES Act is an important opportunity for us to invest in creating a brighter, more resilient economic future.

The University of California, Merced campus in my district has received millions of Research and Development dollars that are being used to develop new technologies and to train a new generation of scientists, engineers, and teachers.

As this new technology is developed, it is also in our nation's best interests to make sure that we find ways to make it profitable for our businesses to implement.

Last month, the University of the Pacific published its California Business Forecast report.

And, with the notable exception of Toyota's NUMMI plant closure, manufacturing is leading the early stages of the economic recovery in California.

In fact, next year could bring the first annual increase in California manufacturing employment in a decade.

Madam Chair, now is the time to support the manufacturing sector in our country.

Energy costs are rising and consumer demand is up for sustainable products.

Sustainability will be one important element for keeping our manufacturing sector competitive.

Even now, manufacturers are trying to find ways to incorporate emerging sustainable technology into their business practices.

The Sun Chips plant in my district in the City of Modesto is a leader in utilizing sustainable technology.

It is cutting back on its environmental impact by using a solar collector field to produce thermal energy to make its snacks.

My amendment will help other companies embrace similar sustainability goals and make a profit because of it.

It will help other manufacturers respond quickly and effectively to the demand for more sustainable practices by instructing the National Institute of Standards and Technology Director to carry out a green manufacturing and construction initiative that gives manufacturers the information they need to make sound, science-based sustainable investments.

There are more than 335,000 manufacturing plants in the United States, and my amendment will give them the information they need to adopt the best sustainable practices and to be technologically competitive in the twenty-first century.

I ask my colleagues on both sides of the aisle to support this common sense amendment.

Mr. HALL of Texas. Madam Chair, the Cardoza amendment directs NIST to carry out a green manufacturing and construction initiative. While I understand NIST already funds some research in this area, I do have a concern about the intent of some of the language in the amendment. Accordingly, I have asked that the gentleman from California (Mr. CARDOZA) engage in a colloquy to clarify this for the record.

Paragraph 2 of this amendment directs NIST to advance the "creation of an information infrastructure to communicate sustainability information about suppliers." It is accurate, I think, to say that this language does not mean that NIST should characterize specific suppliers' sustainability practices but, rather, will simply "make information available to manufacturers so they can make informed and science-based decisions to assess their products and supply chain."

I yield to the gentleman from California.

Mr. CARDOZA. Madam Chair, yes, that interpretation is correct, and I thank the gentleman for his colloquy.

Mr. HALL of Texas. I thank the gentleman.

The Cardoza amendment directs NIST to carry out a green manufacturing and construction initiative. While I understand NIST already funds some research in this area, I do not have a concern about the intent. I think the colloquy has been appropriate.

I reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chair, I yield 3 minutes to the gentleman from Virginia (Mr. CONNOLLY), a constructive player in this good bill.

Mr. CONNOLLY of Virginia. Madam Chair, I want to thank the distinguished chairman of the committee. This body is going to miss the distinguished chairman of the committee. He has always operated in a bipartisan fashion and has provided thoughtful and compelling leadership on issues of science and technology so badly needed in our country.

This bill really is a very thoughtful bill that comes at a critical point. The United States has been seeing erosion in its preeminence in the field of innovation in science and technology. This bill is designed to sort of address that in a very creative way itself. It provides for more funding of basic research in the United States. We know that basic research leads to inventions, patents, improvements in manufacturing processes that can really make a difference in the quality of our lives. The technology we live with and take for granted today didn't exist 30 years ago, and it has transformed America and it has transformed the world, thanks in many, many ways to the basic research investments the United States Federal Government made some time ago.

This bill allows us to tap into the research already underway in the NIST labs, for example, and that is a real challenge. I can tell you as somebody who spent 20 years in the private sector in the technology field, often people doing research aren't the ones who necessarily can always see the myriad application of that research in the marketplace. So the need to be able to recognize the application of research and to help in the commercialization of that research to improve lives and to improve America's competitiveness is really something we need more of. This bill helps do that.

I had two amendments with my colleagues, the gentleman from Texas (Mr. REYES) and the gentleman from Maryland (Mr. KRATOVIL), which address the underlying education piece of this bill which is so important. We are not producing sufficient numbers of engineers and scientists and technologists for the future in the United States. We need to tap into the talent that is there.

I have spent a lot of time in my district helping to support robotics competition teams in high schools. The excitement of those young students in

being able to get hands-on experience in research and development and in the application of that research and development in the form of a competition with robotics technology was a marvel to behold.

Kingman Brewster, the late president of Yale University, once said: Without excitement, there is no learning. There was lots of excitement on the part of these high school students in the robotics research, and as a result there was a lot of learning, and a lot of future engineers and technologists and scientists as a result. This bill will help us tap into that talent.

Mr. HALL of Texas. Madam Chair, I reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chair, I yield 3 minutes to the gentlewoman from Nevada (Ms. TITUS).

Ms. TITUS. Madam Chair, I thank Chairman GORDON for his leadership on this important legislation that will strengthen American competitiveness.

I rise today in support of my amendment, which is part of the en bloc amendment, which clarifies that both preservice and in-service teacher training and professional development shall be considered when identifying the grand challenges in pre-K through 12 STEM education.

□ 1100

For our country to be economically competitive in the 21st century, we must ensure that all of our students have a strong foundation in science, technology, engineering and mathematics, the STEM fields. The underlying bill before us recognizes this fact and instructs the director of the National Science Foundation and the Secretary of Education to work together to identify the grand challenges in STEM education and how to best address them.

While the bill currently includes the effectiveness of STEM teacher professional development as a subject to be studied as a grand challenge, the bill does not mention the training that soon-to-be-teachers receive before they enter the classroom. My amendment highlights the fact that teacher preservice and training preparation programs have an important part to play in ensuring that future teachers will be well-equipped to give our students a strong foundation in the STEM fields.

Teacher preparations generally provide future teachers with the knowledge and skills they need to be effective classroom instructors, so we must be sure that that includes preparation they need to teach the STEM subjects. Future teachers must be educated in the latest technology, the newest theories, the cutting-edge developments in the STEM fields so they can give our students the tools they need to compete in the global economy. My amendment therefore directs that pre-service teacher training and professional de-

velopment shall also be considered when addressing the grand challenges of K-12 STEM education.

So I would urge my colleagues to support this important bill, to support this en bloc amendment, and to help prepare our teachers to prepare our children for the jobs of tomorrow.

Mr. HALL of Texas. Madam Chairman, I reserve my time.

Mr. GORDON of Tennessee. Madam Chairman, I yield 4 minutes to the gentlelady from Maryland (Ms. EDWARDS), a new member of our Science and Technology Committee, but one that has made a great contribution in a short time.

Ms. EDWARDS of Maryland. Madam Chairman, I would like to first say thank you very much to our Chairman GORDON, who's been a really tremendous leader, and especially as we move forward. What I think is—I know it's the America COMPETES Act—but I think of it as the 21st-century America COMPETES Act. And it's also been quite a pleasure to work with Ranking Member HALL as well on getting this to the floor.

I'm a strong supporter of America COMPETES, and it's pretty simple: either we're going to be in the 21st century competitive with nations around the world, or not. And I believe the America COMPETES Act, this en bloc amendment, and specifically several amendments, I think really strengthen what we've been able to achieve in our Science and Technology Committee.

The COMPETES Act I think is one of the most important votes we're going to take in this Congress, and we're fortunate to be able to do work that really is about the future. Too often here in the Congress we have to do things that are just about the short term. And right here we have a vision that's really about the next decade and about whether we're going to be competitive, and whether all of our people, our young people, will be competitive, about whether we're going to create the Ph.D.s that are on the cutting edge of the next innovations for the 21st century, about whether we'll have businesses and our manufacturing sector that really is engaged in this century, not the old manufacturing of the 20th century, but the new manufacturing of the 21st century, around energy, around green technologies. And this is what America COMPETES is about.

I want to tell you a little bit about an experience I had just 2 weeks ago. It was on a Saturday morning; and every Saturday morning, for the last several months, a group of elementary school students, middle school students, and high school students gathered at Bladensburg High School out in my congressional district, part of a CSTEM program, part of a challenge program, working with each other collaboratively, the young people learning from the older students, working on

projects that would enable them to really become critical thinkers in science, technology, engineering and math, working on robotics together, with a group of teachers who volunteer their time every Saturday morning to work with these young people.

And you know how they did it? They did it because they're part of America COMPETES. And this is what I think needs to happen in every classroom across the country, from pre-kindergarten to high school and on to the upper grades.

Now, this group of students was able to compete in the CSTEM challenge in Houston just a week ago, and they competed with young people all across this country in those early year, elementary years through high school years. And it was a rewarding experience for them. I think that America COMPETES is about that set of young people because we don't know, in that room, which of those young people who get the benefit of learning to experience science and technology and to grab it at an early age, we don't know which ones of those young people will be on the cutting edge of the next innovation that's going to propel us even into the next century.

And so I'm excited about being here today to support the America COMPETES Act and support a number of amendments that I think really strengthen what we're doing, particularly the amendment offered by my colleague DINA TITUS from Nevada that really is looking in a very systemic way at what happens between kindergarten and 12th grade.

What we know is that when we invest in young people at the earliest age and get them the kind of teachers that they need in the classroom, it is not when they get into college that they decide they want to take on science and technology. They make those decisions and they get prepared from kindergarten to fourth grade, and so what we're doing here really strengthens our ability for competition.

The Acting CHAIR. The time of the gentlewoman has expired.

Mr. GORDON of Tennessee. I yield the gentlelady 30 seconds more.

Ms. EDWARDS of Maryland. And, finally, looking at what we're doing in the manufacturing sector, we have amendments that strengthen the manufacturing extension partnerships that really allow the National Institutes of Standards and Technology in my congressional district to better reflect the needs and challenges facing manufacturers today.

And so I urge my colleagues to support the underlying bill, to support the en bloc amendments, and to propel us into the 21st century to be competitive with nations around the world.

Mr. HALL of Texas. Madam Chairman, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. FATTAH), a cardinal on the very important Appropriations Committee.

Mr. FATTAH. I want to congratulate the chairman of the committee and the sponsor of this important piece of legislation. BART GORDON has done our country a great service through his work, both in the original authorization and now in this reauthorization, and his staff and members of the committee.

I rise to support the America COMPETES Act. I think that the Energy Innovation Hubs, the focus on STEM education and innovation represent in important ways the very future of our economy. As we go forward, we will look back on this day as a very important day in terms of laying the foundation for protecting and enhancing the American standard of living.

I'm reminded, hearing the gentlelady from Maryland speak, of a group of young people in my district who have won the Tour de Sol three times, who are now in the final grouping competing worldwide for the X prize, developing a car that can go 100 miles an hour.

Now, these young people are the only high school team out of 100 teams that started this enterprise fighting, competing against colleges, universities, professional entities that own worldwide car companies, but they have been ranked by Popular Mechanics as one of the top 10 finalists that will probably win the X prize.

But we've seen in robotics and engineering and science that our young people have the ability to compete. We need to foster their sense of innovation and not have them be risk averse.

This bill and its work in this area of STEM education is so vitally important. I want to thank the gentlelady, Congresswoman FUDGE from Ohio, for her work, and the chairman for making sure that STEM education got the kind of focus, laser-like focus, it needed in this legislation. The ranking member has done a great job.

This is a great day, a bipartisan piece of legislation that invests in creating future jobs in our economy through the one thing that we know is indispensable to make this world a better place, and that's American ingenuity, innovation. This invests in it. And BART GORDON, this great Congressman has done our country a great service, and I want to thank him for his leadership in this effort.

Mr. HALL of Texas. Madam Chairman, I reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, we're coming to the end of the discussion on this bill, so let me just—again, I want to thank the staff, the minority and majority staff,

the Members who have put so much time into this. This is not only a good substantive bill; it is a good bill by process. We had 46 hearings on this bill resulting in three different subcommittee bipartisan markups that went to a full committee bipartisan markup, which brought this bill to the floor today.

This is a good bill. In 2007, the original authorization received 367 Members that voted for it. I hope that we will be able to see that same type of vote again.

Then it went to the United States Senate because this is not only a bipartisan bill; it is a bicameral bill. In the United States Senate there were 69 cosponsors, and it received a unanimous vote on the Senate—the other body's floor. Much of that credit goes to LAMAR ALEXANDER from Tennessee and JEFF BINGAMAN. And I told LAMAR ALEXANDER the other day that if he can get 69 cosponsors again and get a unanimous vote, that I will nominate him for the Nobel Peace Prize and special envoy to the Mid East. He did yeoman's work, and I'm sure he will do it again. This is a good bipartisan bill and should get a good bipartisan vote.

I yield back the balance of my time.

Mr. HALL of Texas. Madam Chairman, I would like simply to conclude by reiterating some key points about H.R. 5116, the America COMPETES Act of 2010. I've said on numerous occasions that we should support strengthening investments in basic research and science, technology, engineering and mathematics education. National investments in basic R&D and STEM education, together with sound economic policies form the policy basis of what's necessary for the country to truly remain competitive in the future.

I can't support this bill, however, because it calls for excessive spending levels, numerous new and duplicative programs, ineffective oversight and positive shifts that could lead to the government picking "winners and losers."

It's for these reasons that the National Taxpayers Union and the Council for Citizens Against Government Waste have come out against this bill. I would urge Members to vote "no" on H.R. 5116.

I yield back the balance of my time.

Mr. GORDON of Tennessee. Madam Chairman, has my time expired?

The Acting CHAIR. The gentleman from Tennessee has yielded back his time. Does the gentleman from Tennessee seek to reclaim his time?

Mr. GORDON of Tennessee. Yes, Madam Chairman.

□ 1115

The Acting CHAIR. Without objection, the gentleman is recognized.

There was no objection.

Mr. GORDON of Tennessee. I will just reclaim a small part of it. I just want

to thank my ranking member, Mr. HALL from Texas, for the gentlemanly way that he has conducted himself today and in all of our meetings. Maybe it is because I am from Tennessee and he is from Texas, but we share a lot of the same views. We have the same interest in seeing that our country move forward in this 21st century.

I don't have grandkids yet, but I know that for his kids and grandkids he wants to see us move forward. For my 9-year-old daughter I want to see us move forward. As I say, we agree most of the time. Every now and then we don't. But no one could have a better partner, and I thank him for his cooperation on this bill.

I yield back the balance of my time. The Acting CHAIR. The question is on the amendments en bloc offered by the gentleman from Tennessee (Mr. GORDON).

The amendments en bloc were agreed to.

#### ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part B of the House Report 111-479 on which further proceedings were postponed, in the following order:

Amendment No. 34 by Mr. BOCCIERI of Ohio;

Amendment No. 38 by Mrs. HALVORSON of Illinois;

Amendment No. 50 by Mr. FLAKE of Arizona.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

#### AMENDMENT NO. 34 OFFERED BY MR. BOCCIERI

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. BOCCIERI) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 248, noes 171, not voting 17, as follows:

[Roll No. 267]

AYES—248

Ackerman	Bishop (GA)	Butterfield
Altmire	Bishop (NY)	Capps
Andrews	Blumenauer	Capuano
Arcuri	Boccieri	Cardoza
Baca	Bordallo	Carnahan
Baird	Boren	Carson (IN)
Baldwin	Boswell	Castor (FL)
Barrow	Boucher	Chandler
Bean	Boyd	Childers
Becerra	Brady (PA)	Chu
Berkley	Braley (IA)	Clarke
Berman	Bright	Clay
Berry	Brown, Corrine	Cleaver

Clyburn	Johnson, E. B.	Peterson
Cohen	Kagen	Pierluisi
Connolly (VA)	Kanjorski	Pingree (ME)
Conyers	Kaptur	Polis (CO)
Cooper	Kennedy	Pomeroy
Costa	Kildee	Price (NC)
Costello	Kilpatrick (MI)	Quigley
Courtney	Kilroy	Rahall
Crowley	Kind	Rangel
Cuellar	Kissell	Reyes
Cummings	Klein (FL)	Richardson
Dahlkemper	Kosmas	Rodriguez
Davis (CA)	Kratovil	Ross
Davis (IL)	Kucinich	Rothman (NJ)
Davis (TN)	Langevin	Roybal-Allard
DeFazio	Larsen (WA)	Ruppersberger
DeGette	Larsen (CT)	Ryan (OH)
Delahunt	Lee (CA)	Sablan
DeLauro	Levin	Salazar
Deutch	Lewis (GA)	Sánchez, Linda T.
Dicks	Lipinski	Sanchez, Loretta
Dingell	Loebback	Sarbanes
Doggett	Lofgren, Zoe	Schakowsky
Donnelly (IN)	Lowey	Schauer
Driehaus	Luján	Schiff
Edwards (MD)	Lynch	Schmidt
Edwards (TX)	Maffei	Schrader
Ehlers	Maloney	Schwartz
Ellison	Markey (CO)	Scott (GA)
Ellsworth	Markey (MA)	Scott (VA)
Engel	Marshall	Sestak
Eshoo	Matheson	Shea-Porter
Etheridge	Matsui	Sherman
Faleomavaega	McCarthy (NY)	Shuler
Farr	McCollum	Sires
Fattah	McDermott	Skelton
Filner	McGovern	Smith (WA)
Foster	McIntyre	Snyder
Frank (MA)	McMahon	Space
Fudge	McNerney	Speier
Garamendi	Meek (FL)	Spratt
Giffords	Meeks (NY)	Stark
Gonzalez	Melancon	Stupak
Gordon (TN)	Michaud	Sutton
Grayson	Miller (NC)	Tanner
Green, Al	Miller, George	Taylor
Green, Gene	Minnick	Thompson (CA)
Grijaiva	Mitchell	Thompson (MS)
Gutierrez	Mollohan	Tierney
Hall (NY)	Moore (KS)	Titus
Halvorson	Moore (WI)	Tonko
Hare	Moran (VA)	Towns
Harman	Murphy (CT)	Tsongas
Hastings (FL)	Murphy (NY)	Van Hollen
Heinrich	Murphy, Patrick	Velázquez
Herseht Sandlin	Nadler (NY)	Visclosky
Hill	Napolitano	Walz
Himes	Neal (MA)	Wasserman
Hinchey	Norton	Schultz
Hinojosa	Nye	Waters
Hirono	Oberstar	Watson
Hodes	Obey	Watt
Holden	Olver	Waxman
Holt	Ortiz	Weiner
Hoyer	Pallone	Welch
Inslee	Pascarella	Wilson (OH)
Israel	Pastor (AZ)	Woolsey
Jackson (IL)	Payne	Wu
Jackson Lee	Perlmutter	Yarmuth
(TX)	Perriello	
Johnson (GA)	Peters	

#### NOES—171

Aderholt	Brown-Waite,	Dent
Adler (NJ)	Ginny	Diaz-Balart, M.
Akin	Buchanan	Dreier
Alexander	Burgess	Duncan
Austria	Burton (IN)	Emerson
Bachmann	Buyer	Fallin
Bachus	Calvert	Flake
Bartlett	Camp	Fleming
Barton (TX)	Campbell	Forbes
Biggett	Cantor	Fortenberry
Bilbray	Cao	Foxx
Bilirakis	Capito	Franks (AZ)
Blackburn	Carter	Frelinghuysen
Blunt	Cassidy	Galleghy
Boehner	Castle	Garrett (NJ)
Bonner	Chaffetz	Gerlach
Bono Mack	Coble	Gingrey (GA)
Boozman	Coffman (CO)	Gohmert
Boustany	Conaway	Goodlatte
Brady (TX)	Crenshaw	Granger
Broun (GA)	Culberson	Graves
Brown (SC)	Davis (KY)	Griffith

Guthrie	Marchant	Rogers (MI)
Hall (TX)	McCarthy (CA)	Rohrabacher
Harper	McCaull	Rooney
Hastings (WA)	McClintock	Ros-Lehtinen
Heller	McCotter	Roskam
Hensarling	McHenry	Royce
Herger	McKeon	Ryan (WI)
Hunter	McMorris	Scalise
Inglis	Rodgers	Schock
Issa	Mica	Sensenbrenner
Jenkins	Miller (FL)	Sessions
Johnson (IL)	Miller (MI)	Shadegg
Johnson, Sam	Miller, Gary	Shimkus
Jones	Moran (KS)	Shuster
Jordan (OH)	Murphy, Tim	Simpson
King (IA)	Myrick	Smith (NE)
King (NY)	Neugebauer	Smith (NJ)
Kingston	Nunes	Smith (TX)
Kirk	Olson	Souder
Kirkpatrick (AZ)	Owens	Stearns
Kline (MN)	Paul	Sullivan
Lamborn	Paulsen	Terry
Lance	Pence	Thompson (PA)
Latham	Petri	Thornberry
LaTourette	Pitts	Tiahrt
Latta	Platts	Tiberi
Lewis (CA)	Poe (TX)	Turner
Linder	Posey	Upton
LoBiondo	Price (GA)	Walden
Lucas	Putnam	Westmoreland
Luetkemeyer	Radanovich	Whitfield
Lummis	Rehberg	Wilson (SC)
Lungren, Daniel E.	Reichert	Wittman
Mack	Roe (TN)	Wolf
Manzullo	Rogers (AL)	Young (AK)
	Rogers (KY)	Young (FL)

#### NOT VOTING—17

Barrett (SC)	Diaz-Balart, L.	Rush
Bishop (UT)	Doyle	Serrano
Carney	Higgins	Slaughter
Christensen	Hoekstra	Teague
Cole	Honda	Wamp
Davis (AL)	Lee (NY)	

□ 1145

Messrs. DAVIS of Kentucky, SCALISE, LATHAM, CALVERT, and ADLER of New Jersey changed their vote from “aye” to “no.”

Mr. BRIGHT changed his vote from “no” to “aye.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

#### AMENDMENT NO. 38 OFFERED BY MRS. HALVORSON

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Illinois (Mrs. HALVORSON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 419, noes 0, not voting 17, as follows:

[Roll No. 268]

AYES—419

Ackerman	Altmire	Bachmann
Aderholt	Andrews	Bachus
Adler (NJ)	Arcuri	Baird
Akin	Austria	Baldwin
Alexander	Baca	Barrow

Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggert  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Blackburn  
Blumenauer  
Blunt  
Bocieri  
Boehner  
Bonner  
Bono Mack  
Boozman  
Bordallo  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Bright  
Broun (GA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Deutch  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Dreier

Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Faleomavaega  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Fox  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)

Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larsen (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Levin  
Lewis (CA)  
Linder  
Lipinski  
LoBiondo  
Loehsack  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Luján  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Norton  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Oliver  
Ortiz  
Owens  
Pallone  
Pascarell  
Pastor (AZ)  
Paul  
Paulsen

Payne  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pierluisi  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Ryan (OH)  
Ryan (WI)  
Sablan

Salazar  
Sánchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schradner  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Stupak  
Sullivan  
Sutton

Tanner  
Taylor  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

## NOT VOTING—17

Barrett (SC)  
Bishop (UT)  
Carney  
Christensen  
Cole  
Davis (AL)  
Doyle  
Higgins  
Hoekstra  
Lee (NY)  
Pence  
Rangel

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote).  
There are 2 minutes remaining in the vote.

□ 1153

So the amendment was agreed to.  
The result of the vote was announced  
as above recorded.

## AMENDMENT NO. 50 OFFERED BY MR. FLAKE

The Acting CHAIR. The unfinished  
business is the demand for a recorded  
vote on the amendment offered by the  
gentleman from Arizona (Mr. FLAKE)  
on which further proceedings were  
postponed and on which the ayes pre-  
vailed by voice vote.

The Clerk will redesignate the  
amendment.

The Clerk redesignated the amend-  
ment.

## RECORDED VOTE

The Acting CHAIR. A recorded vote  
has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-  
minute vote.

The vote was taken by electronic de-  
vice, and there were—ayes 419, noes 0,  
not voting 17, as follows:

[Roll No. 269]

## AYES—419

Ackerman  
Aderholt  
Adler (NJ)  
Akin  
Alexander  
Altmire  
Andrews  
Arcuri

Baird  
Baldwin  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggert  
Bilbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Bocieri  
Boehner  
Bonner  
Bono Mack  
Boozman  
Bordallo  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Bright  
Broun (GA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Campbell  
Cantor  
Cao  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Deutch  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell

Doggett  
Donnelly (IN)  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Faleomavaega  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry  
Foster  
Fox  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)

Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larsen (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loehsack  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Luján  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Norton  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Oliver  
Ortiz  
Owens  
Pallone  
Pascarell  
Pastor (AZ)  
Paul  
Paulsen

Pastor (AZ)	Ryan (WI)	Sutton
Paul	Sablan	Tanner
Paulsen	Salazar	Taylor
Payne	Sánchez, Linda	Terry
Pence	T.	Thompson (CA)
Perlmutter	Sanchez, Loretta	Thompson (MS)
Perriello	Sarbanes	Thompson (PA)
Peters	Scalise	Thornberry
Peterson	Schakowsky	Tiahrt
Petri	Schauer	Tiberi
Pierluisi	Schiff	Tierney
Pingree (ME)	Schmidt	Titus
Platts	Schock	Tonko
Poe (TX)	Schrader	Towns
Polis (CO)	Schwartz	Tsongas
Pomeroy	Scott (GA)	Turner
Posey	Scott (VA)	Upton
Price (GA)	Sensenbrenner	Van Hollen
Price (NC)	Serrano	Velázquez
Putnam	Sessions	Visclosky
Quigley	Sestak	Walden
Rahall	Shadegg	Walz
Rangel	Shea-Porter	Wasserman
Rehberg	Sherman	Schultz
Reichert	Shimkus	Waters
Reyes	Shuler	Watson
Richardson	Shuster	Watt
Rodriguez	Simpson	Waxman
Roe (TN)	Sires	Weiner
Rogers (AL)	Skelton	Welch
Rogers (KY)	Smith (NE)	Westmoreland
Rogers (MI)	Smith (TX)	Whitfield
Rohrabacher	Smith (WA)	Wilson (OH)
Rooney	Snyder	Wilson (SC)
Ros-Lehtinen	Souder	Wittman
Roskam	Space	Wolf
Ross	Speier	Woolsey
Rothman (NJ)	Spratt	Wu
Roybal-Allard	Stark	Yarmuth
Royce	Stearns	Young (AK)
Ruppersberger	Stupak	Young (FL)
Ryan (OH)	Sullivan	

## NOT VOTING—17

Barrett (SC)	Doyle	Rush
Camp	Higgins	Slaughter
Christensen	Hoekstra	Smith (NJ)
Cleaver	Lee (NY)	Teague
Cole	Pitts	Wamp
Davis (AL)	Radanovich	

## ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 2 minutes remaining in this vote.

□ 1201

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The Acting CHAIR. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PASTOR of Arizona) having assumed the chair, Ms. JACKSON LEE of Texas, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes, pursuant to House Resolution 1344, she reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

## MOTION TO RECOMMIT

Mr. HALL of Texas. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HALL of Texas. I am, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. HALL of Texas. moves to recommit the bill H.R. 5116 to the Committee on Science and Technology with instructions to report the same back to the House forthwith with the following amendment:

Strike page 91, line 9, through page 98, line 4.

Strike page 163, line 3, through page 164, line 11.

Strike page 176, line 15, through page 187, line 13.

Strike page 187, line 14, through page 195, line 11.

Strike page 235, line 15, through page 244, line 1.

Page 245, lines 12 through 24, amend section 702 to read as follows:

**SEC. 702. PERSONS WITH DISABILITIES.**

For the purposes of the activities and programs supported by this Act and the amendments made by this Act—

(1) institutions of higher education chartered to serve large numbers of students with disabilities, including Gallaudet University, Landmark College, and the National Technical Institute for the Deaf, and institutions of higher education offering science, technology, engineering, and mathematics research and education activities and programs available to veterans with disabilities, shall receive special consideration and have a designation consistent with the designation for other institutions that serve populations underrepresented in STEM to ensure that institutions of higher education chartered to serve or serving persons with disabilities benefit from such research and education activities and programs; and

(2) agencies for which appropriations are authorized by this Act or the amendments made by this Act shall also conduct outreach to veterans with disabilities pursuing studies in science, technology, engineering, and mathematics to ensure that such veterans are aware of and benefit from the research and education activities and programs authorized by this Act.

At the end of the bill, insert the following new sections:

**SEC. 704. NO SALARIES FOR VIEWING PORNOGRAPHY.**

None of the funds authorized under this Act may be used to pay the salary of any individual who has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or

exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

**SEC. 705. INELIGIBILITY FOR AWARDS OR GRANTS.**

None of the funds authorized under this Act shall be available to make awards to or provide grants for an institution of higher education under this Act if that institution is prevented from receiving funds for contracts or grants for education under section 983 of title 10, United States Code.

**SEC. 706. ALTERNATIVE AUTHORIZATIONS.**

Notwithstanding sections 212, 402, 611, and 622, in any year following a year in which there is a Federal budget deficit the authorization levels in those sections and the amendments made by those sections shall be in the amount specified as follows:

(1) ALTERNATIVE AUTHORIZATIONS FOR THE NATIONAL SCIENCE FOUNDATION.—

(A) IN GENERAL.—There are authorized to be appropriated to the Foundation \$6,872,510,400 for each of the fiscal years 2011 through 2013.

(B) SPECIFIC ALLOCATIONS.—Of the amount authorized under subparagraph (A) for each fiscal year—

(i) \$5,563,920,400 shall be made available for research and related activities;

(ii) \$872,760,000 shall be made available for education and human resources;

(iii) \$117,290,000 shall be made available for major research equipment and facilities construction;

(iv) \$300,000,000 shall be made available for agency operations and award management;

(v) \$4,540,000 shall be made available for the Office of the National Science Board; and

(vi) \$14,000,000 shall be made available for the Office of Inspector General.

(2) ALTERNATIVE AUTHORIZATIONS FOR THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—

(A) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce \$839,300,000 for the National Institute of Standards and Technology for each of the fiscal years 2011 through 2013.

(B) SPECIFIC ALLOCATIONS.—Of the amount authorized under subparagraph (A) for each fiscal year—

(i) \$515,000,000 shall be authorized for scientific and technical research and services laboratory activities;

(ii) \$120,000,000 shall be authorized for the construction and maintenance of facilities; and

(iii) \$204,300,000 shall be authorized for industrial technology services activities, of which—

(I) \$70,000,000 shall be authorized for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(II) \$124,700,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l); and

(III) \$9,600,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(3) ALTERNATIVE AUTHORIZATIONS FOR THE OFFICE OF SCIENCE OF THE DEPARTMENT OF ENERGY.—There are authorized to be appropriated to the Secretary for the activities of the Office of Science \$4,904,000,000 for each of the fiscal years 2011 through 2013, of which for each fiscal year—

(A) \$1,637,000,000 shall be for Basic Energy Sciences activities under section 604;

(B) \$604,000,000 shall be for Biological and Environmental Research activities under section 605; and

(C) \$394,000,000 shall be for Advanced Scientific Computing Research activities under section 606.

(4) ALTERNATIVE AUTHORIZATIONS FOR ARPA-E.—No funds are authorized to be appropriated to the Director of ARPA-E for deposit into the Fund for fiscal years 2011 through 2013.

Mr. HALL of Texas (during the reading). Mr. Speaker, I ask unanimous consent to dispense with the reading of the motion to recommit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. GORDON of Tennessee. I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will read.

The Clerk continued to read.

Mr. GORDON of Tennessee. Mr. Speaker, I reserve a point of order.

The SPEAKER pro tempore. The point of order is reserved.

The gentleman from Texas is recognized for 5 minutes.

Mr. HALL of Texas. Mr. Speaker, I'd like to make a few points about the motion to recommit before I hand it over to the gentlewoman from Kansas.

The motion to recommit addresses the biggest concern I, and many of the Members on this side of the aisle, have with the legislation, which is the excessive spending. It will address this issue by reducing the authorization to 3 years instead of 5, striking the new programs in the bill, and reducing the spending down to the fiscal year 2010 appropriated levels. It also would prohibit Federal funds from being used by Federal employees to view, download, or exchange pornography, including child pornography. Additionally, it will ensure that the institutions that we're giving Federal funding to through this act will repay the Federal Government by allowing the military onto their campuses for recruitment.

Finally, the motion to recommit will invest in an issue that's very dear to our hearts, our Nation's disabled veterans. This motion would ensure that our colleges and universities that make STEM programs available to our disabled veterans and those schools chartered to serve disabled veterans receive the same special consideration afforded to other schools serving the underrepresented populations.

A much broader version of this language was unanimously accepted at the committee level. A very watered down version that does not stand the chance of helping a single veteran is included in the manager's amendment. And this compromise language filed at Rules was not made in order for consideration.

I cannot for the life of me understand why there's a resistance to assisting the Nation's disabled veterans. Of the 3.1 million disabled veterans in this

country, over 50,000 are currently training to receive undergraduate degrees and an additional 2,800 participate in graduate school programs. The schools serving these men and women deserve the same consideration as those assisting other underrepresented populations. But there's not one school in the Nation that would meet the standards created by the language in the manager's amendment.

□ 1215

I don't buy the argument that this special consideration will open a floodgate of eligible schools, providing no guarantee that the disabled veterans will actually benefit from the funding. There are already several hundred well-known and -respected schools that qualify for special consideration under a variety of statutes for underrepresented populations with no guarantee that a particular grant would benefit a designated group. Why shouldn't those schools helping our disabled veterans have the same consideration?

Frankly, it should not matter how many disabled veterans a school enrolls. These fine young men and women, who every one of us will see over Memorial Day, have made tremendous personal sacrifices for us. The Speaker rightfully has us bow our heads in silence once a month to honor them. We should also be lifting our chins and our praise and our gratitude to those who cross foreign borders to ensure that everyone within our own are free. This is but a small way we can show our appreciation not only to them, but to the schools that are reaching out to them.

Now I yield to Ms. JENKINS.

Ms. JENKINS. Mr. Speaker, this motion to recommit is concerning to me, and I encourage a "yes" vote.

I would just like to highlight one provision because there has been a great deal of press lately about the misuse of government computers and the waste of time and taxpayer dollars by Federal employees at the Securities and Exchange Commission who are spending as much as 8 hours a day viewing pornography on government computers. However, this problem is not limited just to the SEC. The Inspector General at the National Science Foundation, which is authorized by this Act, found similar problems there. So what happened to these employees? According to the Inspector General, and I quote, NSF issued a formal proposal followed by a decision suspending them for 10 calendar days without pay. Ten days' suspension, unacceptable. Taxpayers deserve better.

This motion to recommit is simple. If you're a government employee, and you are disciplined for viewing, downloading, or e-mailing pornography, including child pornography, on government computers or during work hours, you will no longer be paid. You

will be fired. If you think a couple of days of suspension, a reprimand, a transfer is the right response when someone uses government computers to spread pornography, then vote against this motion. But if you think spreading pornography with a government computer is an act that should lead to dismissal, then vote for this motion. I urge a vote for this motion.

Mr. HALL of Texas. I yield back the balance of my time.

Mr. GORDON of Tennessee. I withdraw my point of order and rise in opposition to this motion.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. GORDON of Tennessee. Mr. Speaker, let me also take just a moment to thank the minority and majority members of the Science and Technology Committee for the many hours they've put in to making this bill a very good bipartisan bill. And also I want to thank the staff members who have put in even more hours to making this good bill.

Now let me take just a moment to tell you why this is an important and a good bipartisan bill. There are 6.5 billion people in the world. Half of those that are working make less than \$2 a day. Now, if we try to compete in a global economy on that type of labor, then you're going to see your kids and grandkids wind up with a national standard of living less than their parents. So we can't win in terms of wages. We have to win by having a higher technological base here.

In the last few years, you've seen that the public sector dollars have been stagnant in terms of our investment in research and development. And on the private sector level, they've actually gone down. Why does this matter? Because the rest of the world is increasing their investments in research and development, and the importance to us here in this country is that 50 percent of the growth in the GDP in our Nation since World War II has been a result of research and development. But we have to have more than just R&D. We have to have a workforce that can work at that higher level, and that's what this bill does also. There's a great STEM educational piece that will help not just Ph.D.s, but it will help those high school graduates, junior college graduates, and college graduates to work that higher level.

So what does all this mean? There's a cycle. The cycle is that you invest in R&D. R&D gives you innovation. Innovation gives you jobs, which creates the type of standard of living and revenue that allows us to reduce the deficit as well as to continue the R&D again.

Another important part of this bill is the energy independence. Right now we have to reduce our dependence on our foreign oil for our economic as well as our national defense. And I don't want



to trade our dependency on foreign oil to foreign technology.

Now let me get to some of the criticisms of this bill. We said, Well, it's a pretty good bill. As a matter of fact, it's a very good bill, except that it costs too much. Well, let me remind you that in 2007, 367 Members of this body voted for the original authorization. In the other body, there were 69 cosponsors of the original authorization, and it passed unanimously. But we recognize these are difficult economic times, and so we made some changes. This bill has been cut by 10.3 percent from the bill that you voted for in 2007. That is \$9.6 billion. Now tell me, what authorization has been cut by over 10 percent? This is the only one.

Mr. HALL has very good concerns about our veterans, and every day when we see him, we see him as an example of those World War II veterans. So language was put in the bill both for scholarships for individual veterans and also for those institutions. Let me read this to you, For the purposes of the activities and programs supported by this Act and the amendments made in this Act, institutions of higher education offering STEM research education activities and programs that serve veterans with disabilities shall receive special consideration and review. And on and on. So we have taken care of that.

Now let's get down to the heart of it. And quite frankly, it saddens me to have to go into this. I mean, it saddens me that when we look at our kids—I have a 9-year-old daughter, and what about her future? What about your family's future? Oh, we're going to hide behind this little bit. We're going to gut this bill for this little bit. A few days ago there were some NSF employees who were patching pornography. Of course that was bad, and they were disciplined. Throughout the whole executive offices, there is filtering on that now. Nobody seriously thinks that we don't want to deal with pornography here. For God's sake. And when it gets to the conference, we'll take care of that even more.

Everybody raise your hand that's for pornography. Come on, raise your hand. Nobody? Nobody is for pornography? Well, I'm shocked. So I guess we need this little bitty provision that means nothing; that's going to gut the entire bill. This is an embarrassment, and if you vote for this, you should be embarrassed.

I yield back the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds all Members not to traffic the well while another Member is under recognition. All Members will address their remarks to the Chair.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

#### RECORDED VOTE

Mr. HALL of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by a 5-minute vote on passage of H.R. 5116, if ordered, and motions to suspend the rules with regard to House Resolution 1338 and House Resolution 1337.

The vote was taken by electronic device, and there were—ayes 292, noes 126, not voting 12, as follows:

[Roll No. 270]

#### AYES—292

Aderholt	Crowley	Johnson, Sam
Adler (NJ)	Cuellar	Jones
Akin	Culberson	Jordan (OH)
Alexander	Dahlkemper	Kagen
Altmire	Davis (CA)	Kanjorski
Arcuri	Davis (KY)	Kaptur
Austria	Davis (TN)	Kildee
Baca	DeFazio	Kilroy
Bachmann	Dent	Kind
Bachus	Deutch	King (IA)
Barrow	Diaz-Balart, L.	King (NY)
Bartlett	Diaz-Balart, M.	Kingston
Barton (TX)	Dicks	Kirk
Bean	Doggett	Kirkpatrick (AZ)
Biggert	Donnelly (IN)	Kissell
Bilbray	Dreier	Klein (FL)
Bilirakis	Driehaus	Kline (MN)
Bishop (GA)	Duncan	Kosmas
Bishop (NY)	Edwards (TX)	Kratovil
Bishop (UT)	Ellsworth	Lamborn
Blackburn	Emerson	Lance
Blunt	Etheridge	Langevin
Bocieri	Fallin	Larsen (WA)
Boehner	Fattah	Latham
Bonner	Flake	LaTourette
Bono Mack	Fleming	Latta
Boozman	Forbes	Lewis (CA)
Boren	Portenberry	Linder
Boswell	Foster	Lipinski
Boucher	Fox	LoBiondo
Boustany	Franks (AZ)	Loeb
Boyd	Frelinghuysen	Lucas
Brady (PA)	Galleghy	Luetkemeyer
Brady (TX)	Garamendi	Lummis
Braley (IA)	Garrett (NJ)	Lungren, Daniel
Bright	Gerlach	E.
Brown (GA)	Giffords	Lynch
Brown (SC)	Gingrey (GA)	Mack
Brown-Waite,	Gohmert	Maffei
Ginny	Goodlatte	Maloney
Buchanan	Granger	Manzullo
Burgess	Graves	Marchant
Burton (IN)	Griffith	Markey (CO)
Buyer	Guthrie	Marshall
Calvert	Gutierrez	Matheson
Camp	Hall (TX)	McCarthy (CA)
Campbell	Halvorson	McCarthy (NY)
Cantor	Hare	McCaul
Cao	Harper	McClintock
Capito	Hastings (WA)	McCotter
Carnahan	Heinrich	McHenry
Carney	Heller	McIntyre
Carter	Hensarling	McKeon
Cassidy	Herger	McMahon
Castle	Hereth Sandlin	McMorris
Chaffetz	Hill	Rodgers
Chandler	Himes	McNerney
Childers	Hinojosa	Meek (FL)
Coble	Hodes	Mica
Coffman (CO)	Holden	Miller (FL)
Conaway	Hunter	Miller (MI)
Connolly (VA)	Inglis	Miller, Gary
Costa	Israel	Minnick
Costello	Issa	Mitchell
Courtney	Jenkins	Mollohan
Crenshaw	Johnson (IL)	Moore (KS)

Moran (KS)	Rogers (AL)	Smith (TX)
Murphy (NY)	Rogers (KY)	Smith (WA)
Murphy, Patrick	Rogers (MI)	Souder
Murphy, Tim	Rohrabacher	Space
Myrick	Rooney	Spratt
Neal (MA)	Ros-Lehtinen	Stearns
Neugebauer	Roskam	Sullivan
Nunes	Ross	Sutton
Nye	Royce	Tanner
Olson	Ruppersberger	Taylor
Owens	Ryan (WI)	Terry
Pastor (AZ)	Salazar	Thompson (PA)
Paul	Sanchez, Loretta	Thornberry
Paulsen	Scalise	Tiahrt
Pence	Schauer	Tiberi
Perriello	Schiff	Titus
Peters	Schmidt	Tonko
Peterson	Schock	Turner
Petri	Schrader	Upton
Pitts	Schwartz	Visclosky
Platts	Sensenbrenner	Walden
Poe (TX)	Serrano	Walz
Pomeroy	Sessions	Weiner
Posey	Sestak	Westmoreland
Price (GA)	Shadegg	Whitfield
Putnam	Shea-Porter	Wilson (SC)
Radanovich	Shimkus	Wittman
Rahall	Shuler	Wolf
Rehberg	Shuster	Wu
Reichert	Simpson	Young (AK)
Richardson	Skelton	Young (FL)
Rodriguez	Smith (NE)	
Roe (TN)	Smith (NJ)	

#### NOES—126

Ackerman	Green, Gene	Ortiz
Andrews	Grijalva	Pallone
Baird	Hall (NY)	Pascarelli
Baldwin	Harman	Payne
Becerra	Hastings (FL)	Perlmutter
Berkley	Hinchey	Pingree (ME)
Berman	Hirono	Polis (CO)
Berry	Holt	Price (NC)
Blumenauer	Honda	Quigley
Brown, Corrine	Hoyer	Rangel
Butterfield	Inslee	Reyes
Capps	Jackson (IL)	Rothman (NJ)
Capuano	Jackson Lee	Royal-Allard
Cardoza	(TX)	Ryan (OH)
Carson (IN)	Johnson (GA)	Sanchez, Linda
Castor (FL)	Johnson, E. B.	T.
Chu	Kennedy	Sarbanes
Clarke	Kilpatrick (MI)	Schakowsky
Clay	Kucinich	Scott (GA)
Cleaver	Larson (CT)	Scott (VA)
Clyburn	Lee (CA)	Sherman
Cohen	Levin	Sires
Conyers	Lewis (GA)	Snyder
Cooper	Lofgren, Zoe	Speier
Cummings	Lowey	Stark
Davis (IL)	Lujan	Stupak
DeGette	Markey (MA)	Thompson (CA)
Delahunt	Matsui	Thompson (MS)
DeLauro	McCollum	Tierney
Dingell	McDermott	Towns
Edwards (MD)	McGovern	Tsongas
Ehlers	Meeks (NY)	Van Hollen
Ellison	Michaud	Velázquez
Engel	Miller (NC)	Wasserman
Eshoo	Miller, George	Schultz
Farr	Moore (WI)	Waters
Finer	Moran (VA)	Watson
Frank (MA)	Murphy (CT)	Watt
Fudge	Nadler (NY)	Waxman
Gonzalez	Napolitano	Welch
Gordon (TN)	Oberstar	Wilson (OH)
Grayson	Obey	Woolsey
Green, Al	Oliver	Yarmuth

#### NOT VOTING—12

□ 1256

Messrs. LEVIN, COHEN, FARR, TOWNS, GEORGE MILLER of California and Ms. DELAURO changed their vote from "aye" to "no."

Messrs. WEINER, BISHOP of New York, COSTA, SCHIFF, LARSEN of Washington, SMITH of Washington,

ISRAEL, SERRANO, SESTAK, TANNER, KANJORSKI, MEEK of Florida, FATTAH, GUTIERREZ, BRALEY of Iowa, PETERSON of Minnesota, HEINRICH, KAGEN, PASTOR of Arizona, BOYD, CUELLAR, WALZ, LYNCH, HILL, MATHESON, POMEROY, DEFazio, KILDEE, CHANDLER, NEAL, LIPINSKI, EDWARDS of Texas, HINOJOSA, COURTNEY, MURPHY of New York, ETHERIDGE, VISCLOSKEY, KIND, COSTELLO, RODRIGUEZ, CONNOLLY of Virginia, RUPPERSBERGER, WU, ARCURI, DEUTCH, GARAMENDI, BRADY of Pennsylvania, SPRATT, CARNAHAN, CROWLEY, LANGEVIN, TONKO, MOORE of Kansas, DICKS, BACA, HARE, LOEBSACK, SALAZAR, BISHOP of Georgia, DOGGETT, Mrs. HALVORSON, Ms. MARKEY of Colorado, Mrs. EMERSON, Ms. SUTTON, Mrs. MALONEY, Ms. SCHWARTZ, Ms. KAPTUR, Mrs. DAHLKEMPER, Ms. BEAN, Ms. LORETTA SANCHEZ of California and Mrs. MCCARTHY of New York changed their vote from “no” to “aye.”

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to clause 1(c) of rule XIX, further proceedings on H.R. 5116 are postponed.

#### RECOGNIZING THE SIGNIFICANT ACCOMPLISHMENTS OF AMERICORPS

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 1338, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Nevada (Ms. TITUS) that the House suspend the rules and agree to the resolution, H. Res. 1338.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 280, nays 128, not voting 22, as follows:

[Roll No. 271]

YEAS—280

Ackerman	Bilbray	Capps
Aderholt	Bishop (GA)	Capuano
Adler (NJ)	Bishop (NY)	Cardoza
Altmire	Blumenauer	Carnahan
Andrews	Boccieri	Carney
Arcuri	Boren	Carson (IN)
Baca	Boswell	Cassidy
Baird	Boucher	Castle
Baldwin	Boustany	Castor (FL)
Barrow	Boyd	Chandler
Barton (TX)	Brady (PA)	Childers
Bean	Bright	Chu
Becerra	Brown, Corrine	Clarke
Berkley	Buchanan	Clay
Berman	Butterfield	Cleaver
Berry	Cao	Clyburn
Biggert	Capito	Cohen

Connolly (VA)	Kaptur	Polis (CO)
Conyers	Kennedy	Pomeroy
Cooper	Kildee	Price (NC)
Costa	Kilpatrick (MI)	Putnam
Costello	Kilroy	Quigley
Courtney	Kind	Rahall
Crowley	Kirk	Reyes
Cummings	Kirkpatrick (AZ)	Richardson
Dahlkemper	Kissell	Rodriguez
Davis (CA)	Klein (FL)	Rogers (AL)
Davis (IL)	Kosmas	Rogers (KY)
Davis (TN)	Kratovil	Ros-Lehtinen
DeFazio	Kucinich	Ross
DeGette	Lance	Rothman (NJ)
DeLauro	Langevin	Roybal-Allard
Dent	Larsen (WA)	Ruppersberger
Deutch	Larson (CT)	Ryan (OH)
Diaz-Balart, L.	Latham	Sánchez, Linda T.
Diaz-Balart, M.	LaTourette	Sánchez, Loretta T.
Dicks	Lee (CA)	Sanabes
Dingell	Levin	Schauer
Doggett	Lewis (GA)	Schiff
Donnelly (IN)	Lipinski	Schock
Driehaus	Loebsack	Loftgren, Zoe
Edwards (MD)	Lowey	Schwartz
Edwards (TX)	Lucas	Scott (GA)
Ehlers	Lujan	Scott (VA)
Ellison	Lynch	Serrano
Ellsworth	Maffei	Sestak
Engel	Maloney	Shea-Porter
Eshoo	Markey (CO)	Sherman
Etheridge	Markey (MA)	Shuler
Farr	Marshall	Sires
Fattah	Matheson	Skelton
Filner	Matsui	Smith (NE)
Fortenberry	McCarthy (NY)	Smith (TX)
Foster	McCaul	Smith (WA)
Frank (MA)	McCollum	Snyder
Frelinghuysen	McDermott	Souder
Fudge	McGovern	Space
Garamendi	McIntyre	Speier
Gerlach	McMahon	Spratt
Giffords	McNerney	Stark
Gonzalez	Meek (FL)	Stupak
Grayson	Meeks (NY)	Sutton
Green, Al	Melancon	Tanner
Green, Gene	Michaud	Taylor
Griffith	Miller (NC)	Terry
Grijalva	Miller, George	Thompson (CA)
Gutierrez	Minnick	Thompson (MS)
Hall (NY)	Mitchell	Tierney
Hall (TX)	Mollohan	Titus
Halvorson	Moore (WI)	Tonko
Hare	Moran (VA)	Towns
Harman	Murphy (CT)	Tsongas
Hastings (FL)	Murphy (NY)	Turner
Hastings (WA)	Murphy, Patrick	Upton
Heinrich	Murphy, Tim	Van Hollen
Herseeth Sandlin	Napolitano	Velázquez
Hill	Neal (MA)	Visclosky
Himes	Nye	Walden
Hincheey	Oberstar	Walz
Hinojosa	Obey	Wasserman
Hirono	Oliver	Schultz
Holden	Ortiz	Watson
Holt	Owens	Watt
Honda	Pallone	Waxman
Hoyer	Pascrell	Weiner
Inslee	Pastor (AZ)	Welch
Israel	Paulsen	Whitfield
Jackson (IL)	Payne	Wilson (OH)
Jackson Lee	Perlmutter	Wolf
(TX)	Perriello	Woolsey
Johnson (GA)	Peters	Wu
Johnson, E. B.	Peterson	Yarmuth
Kagen	Pingree (ME)	Young (AK)
Kanjorski	Platts	

NAYS—128

Broun (GA)	Conaway
Brown (SC)	Crenshaw
Brown-Waite,	Culberson
Ginny	Davis (KY)
Burgess	Dreier
Burton (IN)	Duncan
Buyer	Emerson
Calvert	Fallin
Camp	Flake
Campbell	Fleming
Cantor	Forbes
Carter	Fox
Chaffetz	Franks (AZ)
Coble	Gallegly
Coffman (CO)	Garrett (NJ)

Gingrey (GA)	Lungren, Daniel E.	Rehberg
Gohmert	Mack	Reichert
Goodlatte	Manzullo	Roe (TN)
Granger	Marchant	Rogers (MI)
Graves	McCarthy (CA)	Rohrabacher
Guthrie	McClintock	Rooney
Harper	McCotter	Roskam
Heller	McHenry	Royce
Hensarling	McKeon	Ryan (WI)
Herger	McMorris	Scalise
Hunter	Rodgers	Schmidt
Inglis	Mica	Sensenbrenner
Issa	Miller (FL)	Sessions
Jenkins	Miller (MI)	Shadegg
Johnson (IL)	Miller, Gary	Shimkus
Johnson, Sam	Moran (KS)	Shuster
Jones	Myrick	Simpson
Jordan (OH)	Neugebauer	Smith (NJ)
King (IA)	Nunes	Stearns
King (NY)	Olson	Sullivan
Kingston	Paul	Thompson (PA)
Kline (MN)	Pence	Thornberry
Lamborn	Petri	Tiahrt
Latta	Pitts	Tiberi
Lewis (CA)	Poe (TX)	Westmoreland
Linder	Posey	Wilson (SC)
LoBiondo	Price (GA)	Wittman
Luetkemeyer	Radanovich	Young (FL)
Lummis		

NOT VOTING—22

Barrett (SC)	Hodes	Schakowsky
Braley (IA)	Hoekstra	Schrader
Cole	Lee (NY)	Slaughter
Cuellar	Moore (KS)	Teague
Davis (AL)	Nadler (NY)	Wamp
Doyle	Rangel	Waters
Gordon (TN)	Rush	
Higgins	Salazar	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1304

Mr. FORTENBERRY changed his vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### EXPRESSING SYMPATHY FOR FLOOD VICTIMS IN SOUTHEAST

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 1337, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. COHEN) that the House suspend the rules and agree to the resolution, H. Res. 1337.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 402, nays 0, not voting 28, as follows:

[Roll No. 272]

YEAS—402

Ackerman	Andrews	Baird
Aderholt	Arcuri	Baldwin
Adler (NJ)	Austria	Barrow
Akin	Baca	Bartlett
Alexander	Bachmann	Barton (TX)
Altmire	Bachus	Bean

Becerra	Emerson	Latham	Price (NC)	Schwartz	Thompson (PA)
Berkley	Engel	LaTourette	Putnam	Scott (GA)	Thornberry
Berry	Etheridge	Latta	Radanovich	Scott (VA)	Tiahrt
Biggert	Fallin	Lee (CA)	Rahall	Sensenbrenner	Tiberi
Bilbray	Farr	Levin	Rehberg	Serrano	Titus
Bilirakis	Fattah	Lewis (CA)	Reichert	Sessions	Tonko
Bishop (GA)	Filner	Lewis (GA)	Reyes	Sestak	Towns
Bishop (NY)	Flake	Linder	Richardson	Shadegg	Tsongas
Bishop (UT)	Fleming	Lipinski	Rodriguez	Shea-Porter	Turner
Blackburn	Forbes	LoBiondo	Roe (TN)	Sherman	Upton
Blumenauer	Fortenberry	Loeb sack	Rogers (AL)	Shimkus	Van Hollen
Blunt	Foster	Lofgren, Zoe	Rogers (KY)	Shuler	Velázquez
Bocieri	Fox	Lowe	Rogers (MI)	Shuster	Visclosky
Boehner	Frank (MA)	Lucas	Rohrabacher	Simpson	Walden
Bonner	Franks (AZ)	Luetkemeyer	Rooney	Sires	Walz
Bono Mack	Frelinghuysen	Luján	Ros-Lehtinen	Smith (NE)	Wasserman
Boozman	Fudge	Lummis	Roskam	Smith (NJ)	Schultz
Boren	Gallagher	Lungren, Daniel	Ross	Smith (TX)	Waters
Boswell	Garamendi	E.	Rothman (NJ)	Smith (WA)	Watson
Boucher	Garrett (NJ)	Lynch	Roybal-Allard	Snyder	Watt
Boustany	Gerlach	Mack	Royce	Souder	Waxman
Boyd	Gingrey (GA)	Maffei	Ruppersberger	Space	Weiner
Brady (PA)	Gohmert	Maloney	Ryan (OH)	Speier	Welch
Brady (TX)	Gonzalez	Manzullo	Ryan (WI)	Spratt	Westmoreland
Bright	Goodlatte	Marchant	Sánchez, Linda	Stark	Whitfield
Broun (GA)	Gordon (TN)	Markey (CO)	T.	Stearns	Wilson (OH)
Brown (SC)	Granger	Markey (MA)	Sánchez, Loretta	Stupak	Wilson (SC)
Brown, Corrine	Graves	Marshall	Sarbanes	Sullivan	Wittman
Brown-Waite,	Grayson	Matheson	Scalise	Sutton	Wolf
Ginny	Green, Al	Matsui	Schauer	Tanner	Woolsey
Buchanan	Green, Gene	McCarthy (CA)	Schiff	Taylor	Wu
Burgess	Griffith	McCarthy (NY)	Schmidt	Terry	Yarmuth
Burton (IN)	Grijalva	McCaul	Schock	Thompson (CA)	Young (AK)
Butterfield	Guthrie	McClintock	Schrader	Thompson (MS)	Young (FL)
Buyer	Gutierrez	McCollum			
Calvert	Hall (NY)	McCotter			
Camp	Hall (TX)	McDermott			
Campbell	Halvorson	McGovern	Barrett (SC)	Giffords	Rush
Cantor	Hare	McHenry	Berman	Higgins	Salazar
Cao	Harman	McIntyre	Braley (IA)	Hodes	Schakowsky
Capito	Harper	McKeon	Cleaver	Hoekstra	Skelton
Capps	Hastings (FL)	McMahon	Clyburn	Lee (NY)	Slaughter
Capuano	Hastings (WA)	McMorris	Cole	Moore (KS)	Teague
Cardoza	Heinrich	Rodgers	Cuellar	Nadler (NY)	Tierney
Carnahan	Heller	McNerney	Davis (AL)	Posey	Wamp
Carney	Hensarling	Meek (FL)	Doyle	Quigley	
Carson (IN)	Herger	Meeks (NY)	Eshoo	Rangel	
Carter	Herseth Sandlin	Melancon			
Cassidy	Hill	Mica			
Castle	Himes	Michaud			
Castor (FL)	Hinche	Miller (FL)			
Chaffetz	Hinojosa	Miller (MI)			
Chandler	Hirono	Miller (NC)			
Childers	Holden	Miller, Gary			
Chu	Holt	Miller, George			
Clarke	Honda	Minnick			
Clay	Hoyer	Mitchell			
Coble	Hunter	Mollohan			
Coffman (CO)	Inglis	Moore (WI)			
Cohen	Inslee	Moran (KS)			
Conaway	Israel	Moran (VA)			
Connolly (VA)	Issa	Murphy (CT)			
Conyers	Jackson (IL)	Murphy (NY)			
Cooper	Jackson Lee	Murphy, Patrick			
Costa	(TX)	Murphy, Tim			
Costello	Jenkins	Myrick			
Courtney	Johnson (GA)	Napolitano			
Crenshaw	Johnson (IL)	Neal (MA)			
Crowley	Johnson, E. B.	Neugebauer			
Culberson	Johnson, Sam	Nunes			
Cummings	Jones	Nye			
Dahlkemper	Jordan (OH)	Oberstar			
Davis (CA)	Kagen	Obey			
Davis (IL)	Kanjorski	Olson			
Davis (KY)	Kaptur	Olver			
Davis (TN)	Kennedy	Ortiz			
DeFazio	Kildee	Owens			
DeGette	Kilpatrick (MI)	Pallone			
Delahunt	Kilroy	Pascarell			
DeLauro	Kind	Pastor (AZ)			
Dent	King (IA)	Paul			
Deutch	King (NY)	Paulsen			
Diaz-Balart, L.	Kingston	Payne			
Diaz-Balart, M.	Kirk	Pence			
Dicks	Kirkpatrick (AZ)	Perlmutter			
Dingell	Kissell	Perriello			
Doggett	Klein (FL)	Peters			
Donnelly (IN)	Kline (MN)	Peterson			
Dreier	Kosmas	Petri			
Driehaus	Kratovil	Pingree (ME)			
Duncan	Kucinich	Pitts			
Edwards (MD)	Lamborn	Platts			
Edwards (TX)	Lance	Poe (TX)			
Ehlers	Langevin	Polis (CO)			
Ellison	Larsen (WA)	Pomeroy			
Ellsworth	Larson (CT)	Price (GA)			

# APPOINTMENT AS MEMBER TO HIT POLICY COMMITTEE

The SPEAKER pro tempore. Pursuant to section 13101 of the HITECH Act (P.L. 111-5), and the order of the House of January 6, 2009, the Chair announces the Speaker's reappointment of the following member to the HIT Policy Committee for a term of 3 years:

Mr. Paul Egerman, Weston, Massachusetts.

□ 1315

## LEGISLATIVE PROGRAM

(Mr. CANTOR asked and was given permission to address the House for 1 minute.)

Mr. CANTOR. Mr. Speaker, I yield to the gentleman from Maryland, the majority leader, for the purpose of announcing next week's schedule.

Mr. HOYER. I thank the gentleman for yielding.

On Tuesday, the House will meet at 12:30 p.m. for morning-hour debate and 2 p.m. for legislative business with votes postponed until 6:30 p.m.

On Wednesday and Thursday, Mr. Speaker, the House will meet at 10 a.m. for legislative business.

On Friday, the House will meet at 9 a.m. for legislative business.

We will consider several bills under suspension of the rules. A complete list of suspensions will be announced by the close of business tomorrow.

In addition, Mr. Speaker, we will consider Senate amendments to H.R. 4213, the American Jobs Closing Tax Loopholes and Preventing Outsourcing Act.

I yield back.

Mr. CANTOR. I thank the gentleman.

Mr. Speaker, I would ask the gentleman, given the fact that he has announced only one rule bill for next week, I would ask the gentleman if he expects the House to be in session next Friday, and I yield.

Mr. HOYER. I thank the gentleman for yielding.

I want to tell the gentleman, although I announced only the American Jobs Bill Closing Tax Loopholes and Preventing Outsourcing Act, my expectation is we will also deal with the COMPETES Act next week as well. That bill, we believe, is a very important bill. We think it's very important for investing in our future, and we intend to bring that bill to the floor as well next week.

Mr. CANTOR. I thank the gentleman.

Mr. Speaker, in keeping with the gentleman's announcement about next week's floor schedule, I'd also like to announce an additional item that we Republicans would like to see and will bring up for a vote on the House floor next week.

Yesterday, House Republicans announced an unprecedented online effort called YouCut, and this can be found at

## NOT VOTING—28

Barrett (SC)	Giffords	Rush
Berman	Higgins	Salazar
Braley (IA)	Hodes	Schakowsky
Cleaver	Hoekstra	Skelton
Clyburn	Lee (NY)	Slaughter
Cole	Moore (KS)	Teague
Cuellar	Nadler (NY)	Tierney
Davis (AL)	Posey	Wamp
Doyle	Quigley	
Eshoo	Rangel	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KISSELL) (during the vote). There is 1 minute remaining in this vote.

□ 1311

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. BRALEY of Iowa. Madam Speaker, I regret missing floor votes on Thursday, May 13, 2010. If I were present, I would have voted: "Yea" on rollcall 271, On Motion to Suspend the Rules and Agree to H. Res. 1338—Recognizing the significant accomplishments of AmeriCorps; "yea" on rollcall 272, On Motion to Suspend the Rules and Agree to H. Res. 1337—Expressing the sympathy and condolences of the House of Representatives to those people affected by the flooding in Tennessee, Kentucky, and Mississippi in May, 2010.

## PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unavoidably detained on official business and missed rollcall vote Nos. 267, 268, 269, 270, 271 and 272. Had I been present, I would have voted "aye" on rollcall vote Nos. 267, 268, 269, 271, and 272 and would have voted "nay" on rollcall vote No. 270.

republicanwhip.house.gov/YouCut. This program allows the public to vote on wasteful programs they'd like to see the House cut. Over 70,000 Americans have thus far voted in the program called YouCut.

I'd say, Mr. Speaker, we will announce the public's choice this coming Monday and then provide for debate on the cut of their choosing during our first rule bill of the week, which, as the gentleman has indicated, is the tax extenders.

And, Mr. Speaker, therefore I would say to the Members that in addition to the majority leader's announced schedule, there will also be a vote on the consideration of one of five possible savings proposals.

The first is to eliminate the Presidential Election Fund, and that would amount to a \$260 million saving. The next could be the elimination of the taxpayers' subsidized union activities, a \$600 million savings to the taxpayer. Next could be the elimination of a HUD program that funds doctoral dissertations. That is a \$1 million tax savings for the taxpayers. Also, we could see the people of this country vote for the elimination of new nonreform welfare programs that could save the public \$3.5 billion. Also, Mr. Speaker, among the items that the American public is opining on right now online is a proposal to eliminate wealthy communities from the CDBG program. That would offer a \$2.6 billion savings to the taxpayers.

So I'd say, Mr. Speaker, we on the Republican side of the aisle, as I have told the gentleman before, stand ready to work with the majority in hopes of trying to encourage legislation that would reflect these cuts, encourage the majority to bring those to the floor. But having not received any bit of cooperation or at least recognition that we need to do something like that, we intend to bring those votes forward on these items and whichever items the American people vote on first to the floor next week.

Mr. Speaker, moving on to the gentleman's announced schedule, I notice that the majority leader did not indicate whether we would consider a budget next week. It's now been 4 weeks since the April 15 deadline for completing a budget, and I'd ask the gentleman, does he still think that the House will consider a budget prior to Memorial Day, as he stated before?

And I yield.

Mr. HOYER. I am certainly hopeful that we will deal with the issue of spending levels by the time we bring appropriation bills to the floor. We are working on that.

I will say to my friend who has just given us an exposition on his new program—and he gave the Web site address, I think—that, first of all, let me say that we welcome the interest in the Republican Party in cutting spend-

ing. Of course, spending was substantially increased when you had the Presidency and the House and the Senate, very substantially, as you know, at twice the rate it was increased during the Clinton administration. We also believe that we are sure that many citizens have some very useful suggestions.

I would also urge them to make their suggestions to the commission which the President has appointed to get a handle on not 16/100 of spending but on the real dollars that confront us and which the American public are very concerned about.

The commission that the President appointed is to look at how we can bring spending down, how we can address the deficit, and how we can get back to the place where we were at the end of 2000, at the end of the Clinton administration when we had a \$5.6 trillion surplus. Unfortunately, that surplus was turned into this administration inheriting about a \$5 trillion deficit while your party was in total control of the House, the Senate, and the administration.

But we certainly look forward to the suggestions that you have or anybody has in the public as to how we can bring spending under control.

Your party has talked a lot about earmarks. As the gentleman well knows, in 1994 there were some 4,000 earmarks between our 50 States and 435 districts. That was escalated under Republicans to 15,000—quadrupled the number of earmarks. Now the gentleman is against earmarks, at least wants a suspension of those. We think that that is, perhaps, progress.

But I want to tell the gentleman that we hope you will cooperate with us in the findings of the commission. You have three very outstanding Members that have been appointed from this House. Hopefully they will make substantive suggestions to get the budget deficit under control as was done in the 1990s when, for the first time in your lifetime and in mine—and I have a lot more lifetime to tout than you do—we had a balanced budget for 4 years in a row. That's never happened in your lifetime or in mine other than during the Clinton administration. That was important.

Unfortunately, in the following decade that we have just been through, again the deficit was exploded. But certainly any efforts to get suggestions from anybody, including the American public, of how they think that we can reduce spending, bring the deficit under control, is welcome, and we look forward to hearing suggestions.

But I want to say that while some of the programs you have mentioned, I have one of those programs being a \$200,000 program. You say it's a \$1 million program. In either event, it's certainly worth looking at to see whether it has value to invest dollars in.

But you and I both know that in a \$3.56 trillion budget deficit that we have to look at the big numbers where we're spending money and what policies we have adopted in order to get to where I think all of us want to be, and that's back to where we were in fiscal year 1997, 1998, 1999, and 2000.

I yield.

Mr. CANTOR. I thank the gentleman for his sentiments.

I would say, Mr. Speaker, that first of all, if we can't start here and instead have to wait until after the upcoming election, what does that say to the American people?

I also have noted that the gentleman has issued statements about the relative size of the proposed options online under the YouCut program. And nowhere else, nowhere else but Washington could these cuts be deemed to not be significant. Just because they are less than 1 percent of the Federal budget doesn't mean we ought not at least start there rather than kick the can down the road like Washington has under both parties' leadership. And the gentleman knows I am the first to admit that our party was fired in 2006 much on account of the runaway spending. But we have an opportunity to work together to actually begin some progress rather than continue to say let's shift the responsibility outside to a commission that the President has created.

The facts are, Mr. Speaker, we've considered 63 resolutions naming post offices this year, 62 resolutions congratulating sports teams, and we've even supported the designation of Pi Day. Yet you don't think, and I really can't imagine why, we wouldn't have time to debate proposals regarding the types of savings that I enumerated.

And that's why, Mr. Speaker, I would ask the gentleman, if he doesn't want to engage in the votes that we are going to present next week, why can't we have a bill brought to the floor with these measures? He and I can sit here and debate in a colloquy, but I think the American people would like to see the House actually engage in these debates.

So I, again, appreciate the gentleman's indication that he wants to work with us, but time and again we see ourselves here on this House floor taking up resolutions naming post offices instead of trying to do the people's business, emphasizing their priority, which is let's do something to cut the debt that is being imposed on our kids and their kids once and for all.

Mr. HOYER. Will the gentleman yield?

Mr. CANTOR. I yield.

Mr. HOYER. We've done some very substantive things, most of which your party has opposed. We passed last year the American Recovery and Reinvestment Act which you voted against and which your party voted, to a person,

against. I don't know whether you happened to see that, as a result of that act, people last year paid the lowest tax rates that they have paid since 1950. We reduced over \$300 billion in taxes for individuals and small business.

Now, you can make fun of the resolutions that your party introduces and my party congratulating people for things or noting that post offices are being renamed or things of that nature, but that's a ruse. That's not the substance of what we do here. Members want to acknowledge their hometown folks. I've been in the legislature for a long period of time. They did that in the State senate. They do it here. And sometimes it's easy to make fun of.

But we've done some very substantive things. The gentleman knows that. This is one of the most productive Congresses that I've served in over the last 30 years in terms of very important pieces of legislation. Your party has voted, in many instances, against that legislation.

The proof of the pudding, of course, is in its eating. You didn't ask me where the jobs are this time as you usually do. There were 290,000 new jobs created, 230,000 jobs the month before that, and an average of 100,000 jobs have been created per month over the last 4 months.

The gentleman, over the last 4 months, hasn't mentioned jobs, apparently because he thinks perhaps we found them where, frankly, the previous administration lost them wherever they were lost. We need to bring them back.

We are investing in bills to get jobs back. We're investing in making sure that people who have lost their jobs have some sustenance to support themselves and their families. We don't think that's de minimis legislation. We think it's critically important.

□ 1330

We are passing legislation to make sure that people have health care; that when they lose their job, they lose their insurance, they get sick, that they have a COBRA coverage that they can count on. We don't think that is de minimis. We are working on legislation to make sure that doctors get reimbursed at appropriate levels so they will continue to serve the seniors of America under Medicare. We don't think that is de minimis action.

Now, I could go on and on, as I am sure you know and probably my colleagues know; but we believe we are passing a lot of legislation to respond to a deep crisis of economic depths, unknown since 75 years ago in the Great Depression, that we inherited and we are trying to respond to. And we are now creating jobs. We are now expanding the economy.

Somebody that you may agree with most of the time, Larry Kudlow, said,

you ought to stop talking down the economy. The facts speak for themselves. GDP growth for three quarters in a row, jobs being created, stock market up. It has been down and up in little glitches, but it is up some 70 percent on the Dow, 80 percent on the S&P, and almost 100 percent on the NASDAQ. None of that we think is de minimis, I tell my friend.

Both sides, by the way, do what you just did. We did it to you and we made fun of these little resolutions that don't take much time but are meaningful to the constituencies that hear about them and appreciate the fact that their efforts throughout the country were acknowledged in one way or another, or that somebody that has great respect in their community was honored. Many soldiers and sailors and airmen and marines are being honored by having post offices named for them in their communities. Others are being honored.

So I tell my friend, we need to be serious. We have a critical deficit confronting us. We have a critical long-term deficit confronting us. We have a critical problem of an unsustainable entitlement regime confronting us. The Peterson Institute is running hearings all over this country to say, Americans, tell us what you think. I don't think your idea is a bad idea of asking Americans: What do you think? So we can come together to solve what we both agree is a very serious economic ditch into which we have fallen. We need to get out of it. We need to work together to do that. The American public expects us to do that.

Mr. CANTOR. I thank the gentleman.

Mr. Speaker, I would say, first of all, I think the gentleman knows I have never, never rooted against this economy or this country. In fact, I have gone out of my way to make public statements when we have positive job growth to say, when we see jobs growing, it is a good thing. Period. I have been consistent in that message.

So I just wanted to speak to that and correct the gentleman's assertion that somehow I am not giving credit for job growth. But I would say we do have much work to be done.

He indicates that somehow this last year was a year that Americans paid lower taxes than ever before in recent memory. I would say they paid lower taxes because we have a progressive tax system; and the fact that the recession reduced income by over \$200 billion last year versus 2008. That is the reality. If you want to get serious, that is the reality. Not some fantasy that we have somehow lowered tax rates, when we know good and well at the end of this year tax rates are expected to skyrocket again on top of what we have just done with the new entitlement bill and the health care bill.

So I would say to the gentleman, I am not questioning his intentions. I

am not saying that there haven't been substantive proposals brought to the floor. I am saying there have been a disproportionate number of times we have been on the floor doing things that we could have been spending time on others to do more productive things for the people of this country.

I agree; the gentleman says we are at a crossroads. Yes, we are. The problem is, the substance and the policy proposals that the gentleman and his party have been bringing to the floor over the last year and a half have serious consequences, and they are aggravating the future prospects for growth in this country.

He just indicated, Mr. Speaker, that entitlements, if we don't get a handle on entitlements, we could see our standard of living go down. Well, you are absolutely right. The gentleman is correct on that. But what did we just pass a few months ago? The largest entitlement ever.

So, again, we can say things and we can have good intentions; but when they are matched with the deeds, something just doesn't add up.

And I would say, Mr. Speaker, the issue is about spending. It is about the debt we are amassing. So when the gentleman points out that they have brought to the floor the stimulus bill of 800-some billion dollars, that has proven not to be a good, quote-unquote, investment and in fact has now saddled our kids and their kids with even more debt, and sent a signal to the global investment community that America may have trouble paying its bills.

That is why we are intent on trying to bring forward the You Cut proposals to begin changing the culture here in this town, in this body, to begin to save taxpayer dollars, not with an emphasis on spending.

I yield to the gentleman.

Mr. HOYER. I thank the gentleman for yielding. Maybe the public gets tired of this back and forth. But the gentleman talks in ways that indicate that all of a sudden, in 2009, January, when President Obama took office, somehow the world fell apart. In point of fact, as the gentleman knows, in the last year of the Clinton administration, we gained 1.9 million new jobs. In the last year of the Bush administration, under the policies that the gentleman supported and his party was very enthusiastic about, we lost 3.8 million jobs. That is a 5.7 million job turnaround.

Yes, we were in dire straits. And conservative economists, Republican economists, Mr. Zandi and others, as well as progressive economists, liberal economists, call them what you will, all said: If you do not invest in this economy, if you do not invest in stabilizing this economy, very frankly, you are going to lose 800,000 in additional revenues. Which meant that you would

be in the same debt position whether you invested that money or didn't.

Now, in investing that money, I say to my friend, with all but maybe 2 months over the last 15 months we have had a straight line out of the almost 800,000 jobs that under your policies were lost in the last month of the Bush administration. Almost 800,000 jobs. We have been on a straight line to now where 5 of the last 6 months, we have had positive job growth.

Is it enough? It is not. Should we do more? We should. Should we cooperate in doing that? Absolutely. That is what the American public expects us to do. But don't forget the fact of how we got here. Don't forget the fact that an awful lot of economists on your other side of the aisle said we needed to invest or the economy was going to fall even further, and we wouldn't have that straight line out of the depths of loss of jobs into the positive numbers of creating jobs.

Let me also say to you, you mentioned taxes, and you mentioned the fact that somehow it was because incomes fell. Incomes did fall, and that was unfortunate. They fell because, we believe—we don't agree on this—it was because of the economic policies that were pursued. We think our facts are valid.

I would remind you, 216,000 jobs per month for 96 months under the Clinton administration, average, 216,000; 21 months of over 400,000 jobs. The Bush administration had 5 of those months, and the Bush administration's average job creation over 96 months was 11,000 jobs; 216,000 versus 11,000 jobs.

So the economy was in great distress. Yes, we had to invest. Yes, we had to borrow. Because, if we didn't, our grandchildren—and I have grandchildren. I have a great grandchild. I am very worried about what they are going to inherit, and I knew that we could not allow the economy to fall through the floor.

But let me say this. This is from USA Today, from an article that appeared: *Taxes Paid Have Fallen Much Faster Than Income in This Recession*. Your proposition was taxes fell because income fell. Personal income fell 2 percent last year. That is 2 percent too much. Actually, it is about 10 percent too much, because we would have hoped they would have gone up 5 percent or 6 percent or 7 percent.

But listen to this next sentence. I know you will want to get this next sentence: "Taxes paid dropped 23 percent. The BEA classified Social Security taxes as insurance payments."

So I tell my friend, we inherited a terrible economy from the Bush administration, and we have been working very hard to bring it back. And almost every indication indicates that in fact it is coming back. We invested in trying to keep the automobile companies employing people, and they are doing that.

So I tell my friend that I did not, as you recall, imply that you had talked down the economy. What I said was Larry Kudlow, talking to his fellow conservatives, said, Don't do it, because the facts don't warrant that kind of attack.

So we are going to continue to work. I want to work with you. We want to get this economy moving. We want to create jobs. You will have legislation on the floor next week, hopefully you will work with us, that we think will do that. It will create summer jobs. It will invest in infrastructure with the America Bonds program. So there are a number of things that you will have an opportunity to vote on next week, I hope you will join us, which are going to continue to stabilize those who don't have jobs and to create jobs for them in the new economy.

Mr. CANTOR. I thank the gentleman. And I know that the gentleman knows, having quoted the article that he did, in that same article the writer gives a lot of credit to the impact of the so-called Bush tax cuts as being economically generative, causing some of the positive results.

Mr. HOYER. If the gentleman will just yield on that, are you referring to the paragraph that says: "Presidents Clinton and Bush pushed through a series of tax changes, credits, lower rates, higher exemptions that slashed income taxes for poor and middle-class families"?

Mr. CANTOR. That is correct, I would say to the gentleman. I am referring to that.

And so while we are on that subject, we know very well there has been no indication whatsoever that the ability for entrepreneurs to continue to experience an atmosphere that is conducive to their investment and assumption of risk will continue, because we are facing the largest tax hike in American history at the end of this year and the majority has been unwilling to say that is not coming. That is hanging over this economy as a veil of uncertainty.

And I would say to the gentleman, if he is so excited about the positive results that he indicates, largely due to the fiscal policies in place that will be not in place after the end of this year, I would say that maybe we should consider extending the rate cuts and cap gains and dividends and marginal rate reductions that are in place now.

I would also say to the gentleman, listen, we have been now for weeks and months through this: Your fault, our fault. Your fault, our fault. The public and the American people are upset. They don't want blame games anymore; they want to stop the spending. And just next week, the gentleman is talking again about bringing more spending. He indicates that all economists supported the stimulus bill. He knows that is not true. But, like a good

lawyer, he is going to present his case. But what I would say to the gentleman, let's stop the spending now.

That is why we have started and launched the You Cut program. And, if he alleges incremental modest steps, fine. Join us in that. But let's stop the spending, Mr. Speaker.

Mr. HOYER. I don't want to get too personal on this, but what do you think about cutting the spending for the high-speed rail between Richmond and Washington?

Mr. CANTOR. Well, I would say to the gentleman, I have always, way before we have even encountered that stimulus bill, supported job-generating projects. The studies in the metropolitan area from which I come and represent indicate that Virginia could grow 165,000 jobs with that kind of investment.

Mr. HOYER. Is that a "no"?

Mr. CANTOR. That has always been my position.

But when we are looking at some of the items that we are discussing here on the You Cut options, these are items that are niceties. They may be well-intentioned; but if we are worried about job creation and we are worried about deficits growing, we ought to begin to take action now.

I would ask the gentleman, he mentioned the tax extenders bill for next week, and I wonder if he could tell us the content of that bill. Will there be a markup on the bill? Reports have indicated, and perhaps the gentleman has said, that the bill will be nearly \$200 billion. And what kind of rule, whether it be open or not, would he expect?

Mr. HOYER. I don't think I mentioned a figure on the extenders. I am pretty sure I did not, not today or, frankly, any other day, because it hasn't been finally completed by the Ways and Means Committee. As you know, they are working with the Senate Finance Committee as well, and working with Republicans. As you know, this was a bipartisan bill when it came from the Senate, Republicans supported it, and we hope it is a bipartisan bill as it leaves here.

But let me say the fact is what the Senate sent us, we are working on. The process that we will consider it has not yet been finally determined, so I can't tell the gentleman exactly what that will be. But some of the things I have already mentioned will be in it, UI and COBRA, FMAP, Build America Bonds for local infrastructure programs, summer jobs programs so we can get young people to work this summer so that they will have some livelihood and can help their families who are in distress.

□ 1345

We also, as I said, are going to deal with the SGR to ensure seniors can keep their doctors. We'll conclude provisions to close tax loopholes, crack down on outsourcing of jobs overseas

and protect American jobs here at home. Those are all the things that I think will be in it. That's not necessarily an exclusive list, but that is certainly a bill that we think will be pro-business, and confirming many of the tax benefits that are given to businesses, as you well know, that we regulate, continue, including the investment tax credit so that we can encourage businesses to grow and invest and to create jobs.

So that is an outline of it. This process has not yet been decided. I'm sure there will be discussions about that tomorrow with our Rules Committee chair and with the committee. Perhaps we can know at a later date.

Mr. CANTOR. Again, just to clarify, Mr. Speaker, does that mean that the bill will not go through committee?

Mr. HOYER. I think, as you know, there was a bill over from the Senate, which was bipartisan in nature, and I think that we need to move this bill before Memorial Day. I think that the committee is going to have to decide how to get that done in the fastest way possible so that many of the expiring issues do not expire, which would be very detrimental to docs and to many other people.

Mr. CANTOR. Mr. Speaker, the gentleman and I have been working together for some months now on the Iran sanctions bill. And also crucial to the national security of this country is the war supplemental. He has indicated before that the Iran sanctions conference report and the war supplemental will be coming to the House floor prior to the Memorial Day recess. I'd ask whether that still is the case.

Mr. HOYER. I'm sure everybody listening now will be glad to hear that there is some cooperation and agreement. The gentleman and I are both strong supporters of the Iran sanction legislation. We believe that not only is the Middle East region at risk, but the international community is at risk as long as Iran is pursuing its intent to arm itself with nuclear weapons.

I tell the gentleman that I have been working very closely with Mr. BERMAN, and it is my hope and expectation that this conference report will be reported back to us before the Memorial Day break, and it is my intention to work towards having that sent to the President before we leave here for the Memorial Day break.

Mr. CANTOR. And I would ask, Mr. Speaker, would the same be for the supplemental as well—before the Memorial Day recess?

Mr. HOYER. I don't think the same would be because of both the Senate and the House. I'm hopeful that we will pass the supplemental through the House, but it won't be in the same position because we haven't had a conference on the supplemental. The Senate is working on a bill, as the gentleman knows. We're working on a bill.

I have talked to the chairman, and he is trying to get the matter together for the committee. And I am hopeful that we will pass it through the House. My urging is that we pass it through the House prior to the Memorial Day break. But, obviously, the gentleman knows we will not have effected a conference by that time. But we want to do so very shortly because, clearly, we need to make sure the resources are available for our men and women in harm's way in both Iraq and Afghanistan and in other troubled spots of the world.

Mr. CANTOR. Mr. Speaker, in closing, I look forward to continuing to work with the gentleman in a fiscally responsible manner, which starts with passing a budget blueprint for this year, just like American families have to do.

I thank the gentleman once again for his time, and I yield back.

#### AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON THURSDAY, MAY 20, 2010, FOR THE PURPOSE OF RECEIVING IN JOINT MEETING HIS EXCELLENCY FELIPE CALDERON HINOJOSA, PRESIDENT OF MEXICO

Mr. HOYER. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Thursday, May 20, 2010, for the Speaker to declare a recess, subject to the call of the Chair, for the purpose of receiving in joint meeting His Excellency Felipe Calderon Hinojosa, President of Mexico.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

#### HOURLY MEETING TOMORROW

Ms. SUTTON. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11:30 a.m. tomorrow, and further, when the House adjourns on that day, it adjourn to meet at 12:30 p.m. on Tuesday, May 18, 2010, for morning-hour debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

#### TRIBUTE TO WILLIAM "BILL" ELKINS, JR.

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, I rise today to honor the life of William "Bill" Elkins, Jr., who was born January 20, 1920, to William and Virginia Elkins. He, sadly, passed way on May 12 of this year.

Mr. Elkins was born and raised in Los Angeles, California, where he was known for his civility, loyalty, discretion, diplomacy, and dedication to civil rights. He was the right-hand man of the late Mayor Tom Bradley for 40 years—before, during, and after the mayor's four times in office—as the first African American to hold that high post and as the elected official who held it the longest to date.

Mr. Elkins met the future mayor while they attended Lafayette Middle School in South Los Angeles. Their friendship strengthened in subsequent years of study in college and work for the City of Los Angeles.

A graduate of Jefferson High School, young Bill Elkins left college to serve his country by enlisting in the Army and was assigned for 4 years to Italy during World War II. He returned to earn his bachelor's degree in political science at UCLA, where he and Tom Bradley pledged Kappa Alpha Psi fraternity together. He worked for the county as a probation officer and earned his juris doctorate from Southwestern University Law School, once again taking classes with LAPD Officer Tom Bradley, who was the best man at his wedding in 1945.

He then became the director of Teen Post. It was an inner-city after-school youth program. He rose to be the general counsel right next to our mayor, Tom Bradley.

He became the Mayor's point-man on affirmative action and was more responsible than any other single individual for remedying the exclusion of people of color and women from employment in responsible positions for the City of Los Angeles. He was also Mayor Bradley's liaison to Washington, DC, and was responsible for several citywide programs, including the city's Area Agency for Aging and multiple youth programs.

After Mayor Bradley left office, Elkins served on the board of the Thomas Spiegel Family Foundation as that philanthropy's vice president, until he retired a few years ago. Elkins was also a member of Second Baptist Church for more than 70 years.

Mr. Elkins leaves to cherish his memory his wife Eleanor, to whom he was married for 65 years, their sons Bill and Larry, two grandchildren, and a host of family, friends and colleagues.

We honor Mr. Elkins today—a good and decent American whose deeds in life and record of public service deserve to be acknowledged and commemorated.

May God rest his soul.

#### CUT SPENDING AND GET THE ECONOMY MOVING

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I listened with great interest to the majority leader—the Democrat majority leader's comments about the accomplishments that have been made by



this Congress. I would just like to say briefly this: the American people don't want to hear this hyperbole. They don't want to hear these long dissertations about what's being accomplished around here. What the American people want is to cut spending and to get this economy moving again and create jobs. And blowing money like the Democrats are doing and creating a debt that our kids will never be able to deal with is not the answer.

And so I'd like the next time that they have this discussion back and forth for 45 minutes that they cut to the chase and say, We're going to do this to cut spending. We're going to do this to create jobs. And we're going to cut taxes like Ronald Reagan did to get this economy moving again, instead of all this other stuff that's going on.

#### ISRAELI-PALESTINIAN PEACE TALKS

(Mr. ELLISON asked and was given permission to address the House for 1 minute.)

Mr. ELLISON. Mr. Speaker, I come to the House floor today to congratulate Palestinian Authority Chairman Mahmoud Abbas and Israeli Prime Minister Benjamin Netanyahu on their decision to start proximity talks. I believe the United States' national security interest is directly linked to the resolution of this long-standing conflict. I also believe that, like other seemingly intractable conflicts, the Israeli-Palestinian conflict can be resolved, especially with the active and even-handed leadership of the United States. Congratulations to President Obama and Envoy Mitchell, who got right to work on Middle East peace right after the President's inauguration and, despite huge hurdles, have both been persistent.

I hope the President continues to encourage all parties to negotiate seriously and in good faith and to move from proximity talks to direct negotiations to reach agreement on final and permanent status issues. The world needs a secure Israel and it needs an independent, viable Palestinian state. However, simply declaring support for one side or the other does not really help either side. Both sides benefit from peace. We need to build a constituency for peace, and that means support for each side to make the necessary concessions.

#### NEVER BEEN IN A COURTROOM

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, the new Supreme Court pick, Elena Kagan, has never been a judge. News reports say she doesn't have trial court experience as a lawyer. As a lawyer, she never questioned a witness or made an

argument before a jury. She's never been a trial judge so she never had to make a constitutional ruling in the courtroom in the heat of trial. She's never heard a civil case. She's never heard a criminal case. She's never even heard a traffic case. She's never ruled on the rules of evidence like the exclusionary rule. She's never instructed a jury on reasonable doubt or sentenced a convicted criminal.

Why should Elena Kagan be confirmed to a lifetime appointment to the most powerful court in the world? She'd be judging trial lawyers and trial judges who've been through the mud and the blood and the beer of courtroom trials. A trial—maybe something she's never even seen. She's an academic elitist that's never tried a case. That's like putting someone in charge of the brain surgery unit that's never done an operation.

And that's just the way it is.

#### STAMP CAMP USA

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Mr. Speaker, philately, or stamp collecting, is a hobby that teaches history, art, geography, and even heraldry. As stamps have branched out into film and iconic figures, there seems to be no limit to the subjects they cover, from Elvis to dinosaurs to Laurel and Hardy.

I rise today to honor Stamp Camp USA as it celebrates its 15th year in Elkland, Pennsylvania. The camp is the brainchild of Cheryl Edgcomb, who is the local postmaster in Nelson, Pennsylvania. Her camp introduces stamp collecting from basics, like sorting and handling, up to beginning exhibiting using both creative 3-dimensional and traditional formats.

As the children learn, they earn "stamp camp cash," which they use to purchase supplies for their hobby. There is a whole network of supporters of the camp, including 4-H, Boy Scouts, Girl Scouts, YMCA, YWCA, public libraries, Experience Works, AmeriCorps VISTA, Head Start, and others. Stamp Camp USA has expanded to other regions of the country.

This month, we celebrate the 15th anniversary of the camp in an attempt to break a new Guinness world record for the largest evident collection of rainbows on stamps. We wish them luck in the competition and continued success in teaching children to love collecting stamps.

□ 1400

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of Jan-

uary 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### NATIONAL POLICE WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. SUTTON) is recognized for 5 minutes.

Ms. SUTTON. Mr. Speaker, I rise today in recognition of National Police Week. In 1962, President John F. Kennedy signed a Presidential proclamation that set aside May 15 as National Peace Officers Memorial Day, and the week of May 15 as National Police Week. Since that time, we have dedicated this week to honor those who have fallen in the line of duty.

During this week, police officers and their families and people in our communities throughout the country come together to honor and remember those officers who have fallen in the line of duty. It's a week to honor their service, their sacrifice, and their life. But this week is also for the surviving family members and fellow officers of the fallen. It's a time of tribute, and it's a time of healing.

Northeast Ohio has experienced the tragic loss of two police officers recently this year. At the end of his watch on March 15, 2010, Officer James Kerstetter of the Elyria Police Department was shot and killed in the line of duty. Just 2 days earlier, on March 13, Officer Thomas Patton of the Cleveland Heights Police Department collapsed and died while in pursuit of a suspect. Officers Kerstetter and Patton gave their lives in protection of their communities. These brave men knew the risks of the profession, but they also knew the rewards. Our policemen and women are part of the foundation of our communities. They risk it all as they walk the beat and patrol the streets, keeping our families and neighborhoods safe. Police officers go to work every day, committed to the oath that they take to serve and protect. And too often when officers fall, we are reminded of the costs and the sacrifice of the protection they provide us.

But we must not only remember their service in times of loss. We must not only appreciate all that they do for us during this 1 week. We must appreciate their service and support them every week, every day. We must commit ourselves to the mission of supporting the service of our police and giving them the means to fulfill their oath. That's why this year and in previous years, I supported full funding to the Community Oriented Policing Services, known as the COPS program. Congress created COPS in the 1990s to address increasing crime rates, and it has succeeded in putting over 117,000 more police on the beat. COPS' funding had been cut significantly after the

1990s, but I am proud to say that I have fought to make sure that this funding is continually improved and restored.

The Recovery Act that was passed and was supported by the FOP provided \$1 billion for this competitive grant, aiding police forces that were facing drastic cuts in the face of a declining economy. There were 165 officers' jobs saved throughout Ohio, and in my district alone 30 officers' positions were saved through COPS funding by the Recovery Act, and that doesn't even take into account all of us who were saved and safer because they were on the street.

We must continue to fight for funding and support our police, just as they fight for us every day to keep us safe, just as Officer Kerstetter and Officer Patton fought to keep us safe and gave their lives to protect us, let us always be there for them.

#### HONORING CORPORAL HARVEY DURING NATIONAL POLICE WEEK

The SPEAKER pro tempore (Mr. LUJÁN). Under a previous order of the House, the gentleman from Texas (Mr. NEUGEBAUER) is recognized for 5 minutes.

Mr. NEUGEBAUER. Mr. Speaker, National Police Week provides an opportunity for all of us to reflect on our law enforcement officers' countless contributions to building safe communities, not only in the Nation but also in the 19th Congressional District. This week, we pay tribute to those police officers who sacrifice so much for our safety. I am honored to stand behind those who risk their lives on a daily basis to keep our families and our neighborhoods safe. During this week, we also take time to remember those officers who we have lost in the line of duty and their families.

This week, members of the Lubbock County Sheriff's Office are in Washington to attend the candlelight vigil in honor of fallen police officers across the Nation, including Lubbock County Sheriff Deputy Corporal Harvey. Corporal Harvey was killed on April 6, 2009, in a vehicle accident while on duty. Corporal Harvey joined the Lubbock County Sheriff's Office in 2001 and was a member of the Texas Tactical Peace Officers Association. Corporal Harvey was a devoted father to sons J.D. and Austin and loving husband to his wife, Stacy.

Corporal Harvey's name will be engraved on the National Law Enforcement Officers Memorial and will be revealed during a ceremony in honor of all 116 officers who were killed in 2009. I will have the great honor to meet Corporal Harvey's parents, Danny and Diana, and his brother Brendan while they are here in Washington and to welcome the Lubbock County Sheriff's Department Honor Guard. We cannot and will not forget the service of Cor-

poral Harvey and the many others who have lost their lives in the line of duty.

Mr. Speaker, we sometimes take for granted that every day, 7 days a week, 365 days a year, that men and women go out and put on a different uniform than our Nation's military. They put on a uniform of keeping the peace in our country, keeping our homes safe, keeping our businesses safe, keeping our streets safe. And we thank those men and women that do that. Sometimes I think we take them for granted.

I hope that the American people will use this week to go up to a peace officer, a law enforcement officer and take that opportunity to say "thank you." But also, maybe you live in a neighborhood where a sheriff's officer or a police officer lives in your neighborhood. Maybe they live next door to you. I hope you will take time to say to their family, Thank you for supporting your dad or your mom or your husband or your wife and allowing them to serve our country in this very special way because truly, it is a team sport, because without the support of the families, these men and women could not go and do the great job that we ask them to do. And what we learn is, this is a dangerous job, and unfortunately every year, we lose officers in the line of duty. We've already lost at least one in the 19th Congressional District this year. So from all the people in the 19th Congressional District—and I think I can speak for all the people across America, thank you, peace officers, law enforcement officers all across our country. And may God bless you, and may He continue to bless the United States of America.

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.J. RES. 76

Mr. KILDEE. Mr. Speaker, I ask unanimous consent to remove my name as cosponsor of H.J. Res. 76.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

#### REMEMBERING LENA HORNE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Today I would like to acknowledge the loss of one of Hollywood's brightest stars, the legendary Lena Horne. Lena Horne broke barriers as a performer. She began her career at age 16, making a name for herself as a dancer in Harlem's renowned Cotton Club in the 1930s. She became the first black performer with a major Hollywood studio contract. In 1942, Lena moved to Los Angeles, where she appeared in such movies as "Cabin in the Sky," "Meet Me in Las Vegas," and

"The Wiz." Her role in the film "Stormy Weather" included her rendition of the title song, which became her trademark.

A remarkable, charismatic entertainer, Horne became one of the top-earning performers of black Hollywood by 1945. Lena is now credited with paving the way for many black actresses in Hollywood who aspire towards larger roles in film productions. Though primarily known as an entertainer, Horne also was noted for her work with civil rights and political organizations. As an actress, she refused to play roles that stereotyped African American women, and by the 1960s, she became a prominent celebrity voice in the civil rights movement. She joined in the March on Washington when Martin Luther King gave his "I Have a Dream" speech and spoke at a rally with Medgar Evers. Her one-woman show, "Lena Horne: The Lady and Her Music," garnered many awards, including a Drama Critics' Circle Award and a special achievement Tony Award. In 1984, Horne received a Kennedy Center honor for lifetime contribution to the arts, and in 1989, a Grammy Award for lifetime achievement.

As a pioneer black celebrity in a time when blacks went in the back door, Lena Horne sang out, and she sang out front and entertained the Nation and the world. Her smile and her presence opened doors in a time when blacks were denied their basic civil rights. She lit up Hollywood. And we join the Nation, her family, her friends, and colleagues in mourning the loss of this legendary entertainer and civil rights activist.

#### REGULATING THE DOLLAR IS CONGRESS' RESPONSIBILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Mr. Speaker, how long is Congress going to sit idly by while the Federal Reserve destroys the value of the U.S. dollar? On Friday, May 7, our dollar was worth only one twelve-hundredth of an ounce of gold. That means that the dollar has lost more than three-quarters of its value in just 9 years, since 2001.

Let's not kid ourselves and think the value of our dollars in terms of gold doesn't matter. Where gold prices go, other prices follow. We are either going to see the dollar price of gold fall or we are in for a blast of inflation that will crush the middle class and lead to yet another recession.

If you think that this can't happen, let me remind you that is exactly what happened in the 1970s and the early 1980s. Do we want to go back to the 1970s? Do we want to have double-digit inflation followed by double-digit unemployment? Well, that will happen unless we stabilize the U.S. dollar.

And let's not kid ourselves and think that because the dollar is rising against the euro, all is well in America. The euro and the dollar are both headed off the financial cliff. The euro is just jumping first. Mr. Speaker, how can we expect to have a stable economy or a stable financial market without a stable currency? The dollar is involved in every single transaction we do. If it moves around, it takes everything with it. We have seen in the past 2 years just how high the cost of an unstable dollar can be.

Robert Mundell, the Nobel Prize-winning economist and adviser to President Reagan, says that it was the Federal Reserve that caused the real estate bubble and bust. He says that the Fed is responsible for the economic crisis we are in today. That makes sense. It takes a lot of power to do this much damage, and there is no economic power greater than money.

Here's what happens, and people are not stupid: When the price of gold heads up, people sense that inflation is on the way. The way you protect yourself from inflation is to buy real assets with borrowed money. The longer the inflation goes on, the more leverage builds up and the bigger the ultimate crash. Well, we got the bubble in real assets in 2001 to 2007 and the crash came in 2008. Do we want another one? Isn't 9.9 percent unemployment high enough?

Mr. Speaker, I have right here a pocket Constitution that many Members carry around with them. When all else fails, we ought to read the Constitution. It says in article I, section 8, Congress shall have the power to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

What this means is that Congress is supposed to set the value of the dollar. It is the constitutional duty of Congress to regulate the value of our money. But Congress ignores its legal obligation and does not regulate the value of money. What Congress does, it gives the Fed the responsibility to regulate interest rates. But the Constitution does not give the Fed or any other government agency the power to regulate interest rates.

There's a lot of talk about how important it is that the Federal Reserve should be independent. Well, Mr. Speaker, I don't believe that any part of the government should be independent of the Constitution. All the Fed's vaunted independence has produced is two boom-bust cycles in 10 years, the second one worse than the first.

Mr. Speaker, there is wisdom in the Constitution. That is why I have introduced H.R. 835, which is called the Dollar Bill Act. This bill would fulfill Congress' constitutional responsibility to define the value of the dollar. By doing so, we can stabilize the value of the

dollar and stabilize the American economy.

Mr. Speaker, we need to hold hearings on this bill. The American people want a stable economy and a stable financial market, so we need a stable dollar. It's time for Congress to buck it up and fulfill its constitutional duty and regulate the value of the dollar.

And that's just the way it is.

□ 1415

#### HONORING CAPTAIN BRANDON BARRETT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, one of the things that really concerns me about war is we lose so many fine young men and women in conflict, in the combat area. One of the finest young men in my district from Marion, Indiana, Captain Brandon Aaron Barrett, who was 27 years old, died Wednesday, May 5, while serving in Afghanistan.

Brandon was born January 21, 1983, in Albuquerque, New Mexico. As a child, Brandon was friendly and energetic, making friends with everyone he came in contact with. He played sports, and he dreamed of serving in the United States military. He wanted to be a marine.

After graduating from Marion High School in 2001, he went to the United States Naval Academy and he was very proud of that. He graduated from there in 2006. Upon graduation, Brandon was assigned to the 1st Battalion, 6th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force at Camp Lejeune, North Carolina. Brandon deployed twice to Afghanistan in support of Operation Enduring Freedom, once from March to October of 2008 and then again in December of 2009.

During Captain Barrett's distinguished career, he received multiple awards for his service. The awards that he received include the Navy and Marine Achievement Medal, National Defense Service Medal, Global War on Terrorism Service Medal, Afghanistan Campaign Medal, and the NATO International Security Assistance Force Medal. He has also recently been posthumously promoted from first lieutenant to the rank of captain. His deep commitment to the United States Marine Corps and the men he led was insurmountable.

Brandon "Bull" Barrett will be remembered in Marion, Indiana, as a gifted athlete, avid outdoorsman, and a natural born leader. Those who knew him best will remember him for not only the loyalty and perseverance that served him so well in the Marine Corps, but also his unwavering dedication to the friendships of his youth in Marion.

Throughout his life, Brandon kept the city of Marion close to his heart, coming home on nearly every leave, and always greeting everyone he met with a smile.

To the citizens of the State of Indiana, his fellow marines, and the countless others he touched, Brandon will forever be remembered as a hero. Our thoughts, prayers, and deepest condolences go out to his mother, Cindy; his father, Brett; his brother, Brock; and his sisters, Ashley and Taylor.

Mr. Speaker, one of things that we never really think about is the impact it has on other people in the Corps or in the Army or Navy when they lose one of their beloved fighting buddies. His captain, his commanding officer said in an article, "It's surreal." He said, "I keep expecting him to walk around the corner, big smile on his face." They can't believe he is gone. He said that everyone who knew him knew he was a leader, an officer, and a great man, and he is sorely missed.

I would like to say once again to his family, our condolences, our deepest condolences go out to you. Everyone in Indiana and throughout the country is very happy that he served this country with such great distinction.

[From The Chronicle-Tribune, Marion, IN, May 12, 2010]

BRANDON AARON BARRETT

Jan. 21, 1983–May 5, 2010

Brandon Aaron Barrett, 27, died on Wednesday, May 5, 2010, serving his country in Afghanistan. He has recently been posthumously promoted from the rank of first lieutenant to captain by the United States Marine Corps.

Barrett was born Jan. 21, 1983 in Albuquerque, New Mexico. He spent his childhood befriend everyone he met, playing sports, and dreaming of becoming a soldier for the United States military.

Brandon graduated from Marion High School in 2001, and he was proudly accepted into the United States Naval Academy at Annapolis, Maryland. He graduated in 2006, joined the Marine Corps, and was promoted to the rank of first lieutenant on May 26, 2008. Barrett was assigned to the 1st Battalion, 6th Marine Regiment; 2nd Marine Division, II Marine Expeditionary Force at Camp Lejeune in North Carolina. He deployed to Afghanistan in support of Operation Enduring Freedom from March to October 2008 and again in December 2009.

Barrett's awards include the Navy and Marine Corps Achievement Medal, National Defense Service Medal, Global War on Terrorism Service Medal, Afghanistan Campaign Medal and NATO International Security Assistance Force Medal.

Brandon "Bull" Barrett was an outstanding athlete, an avid outdoorsman and a natural leader. He confronted every task with enthusiasm and accepted each responsibility with dignity. His passionate commitment to the Marine Corps and to his troops was insurmountable. Those who knew him will remember his loyalty and his dedication to friendship most of all. His eyes held no prejudice, and he greeted everyone with a smile. Brandon kept the city of Marion, Indiana closest to his heart, returning home on nearly every leave. To its citizens and to the

countless numbers of lives that he touched, Brandon Barrett will forever be remembered as a hero.

He is survived by his mother, Cindy Barrett; his father, Brett Barrett; his sisters, Ashley and Taylor Barrett; his brother, Brock Barrett; and his grandmother, Carmen Johnson. Additional survivors include several aunts, uncles and cousins.

Visitation will be held on Friday, May 14, 2010 from 4 p.m. to 8 p.m. in the Marion High School Bill Green Athletic Arena, 750 W. 26th Street, Marion, IN 46953.

A funeral service will be held at 10 a.m. on Saturday, May 15, 2010, also at the MHS Bill Green Athletic Arena. A burial service will follow at Gardens of Memory, 11201 S. Marion Rd. 35, Marion, IN 46952.

In lieu of flowers, donations can be made for those wishing to contribute to a memorial and scholarship fund in Brandon's name. Please send contributions to STAR Wealth Management, Capt. Brandon A. Barrett Memorial Fund, 3610 River Crossing Parkway—Suite 190, Indianapolis, IN 46240.

Local arrangements are being handled by Needham-Storey-Wampner Funeral Service, North Chapel, 1341 N. Baldwin Avenue, Marion, IN.

Barrett was killed in Afghanistan a week ago today, 60 days before he was scheduled to return home from his tour in combat.

His sister, Ashley Barrett, said she and her family are looking forward to allowing her brother to be at peace by finally laying his body to rest.

More details regarding his killing were reported this week by The Sunday Times, of London.

"That article was very upsetting to read," Ashley Barrett said.

She said the information reported in the British newspaper was more than what the family received in the casualty report provided by the U.S. Marine Corps.

According to the article, under the headline, "Swift and bloody: the Taliban's revenge," a Taliban gunman shot Barrett while he was fortifying his post in the Helmand town of Marjah. Barrett and Lance Corporal Marcus Lounello, 21, did not have their flak jackets on because of the heat that day. The Times article said Barrett was shot in the chest as he stood between two armored vehicles and died before a medical team could reach him, and Lounello was also shot and suffered extreme internal injuries. Lounello is expected to recover.

"It's surreal" Captain Tony Zinni, Barrett's commanding officer in the 1st Battalion, 6th Marine Regiment, told the Times on Saturday. "I keep expecting him to walk around the corner, big smile on his face."

Barrett had been well known in Marjah, according to the article. He guarded a post that checked traffic coming in and out of the town that was once a Taliban stronghold. The city was taken over by the Marines and their Afghan allies in February. Zinni told the Times that it was generally a boring duty, but Barrett was good about it.

According to the article, Barrett would visit the neighborhood elders in Marjah, and could even partially speak their language—Pashto.

Zinni told the Times he thinks the lieutenant was targeted and it makes him angry.

"Everyone in the block knew him, knew he was the officer," the captain said of Barrett.

Barrett was the first death in Marjah for the battalion's weapons company.

Barrett's friend, Andrew Morrell of Marion, said the efforts Barrett made to know the elders in Marjah and learn their language was part of his character:

"The main reason why Jesus affected the lives of so many people in his ministry in Galilee is because he dwelt amongst the people. This is the exact same reason why Brandon made such an impact among friends, family, but even more, strangers," wrote Morrell, who, communicated by e-mail while in Israel.

#### CALLING ON MOROCCO TO RESPECT HUMAN RIGHTS AND RELIGIOUS FREEDOM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. WOLF) is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, I rise today to bring to the attention of my colleagues the precarious situation of Christians and other religious minorities in Morocco. In March, Moroccan authorities deported approximately 40 U.S. citizens and scores of our foreign nationals. The individuals deported were charged with proselytism, which is against the law in Morocco. However, Moroccan authorities have refused to turn over any evidence or offer any explanation of the charges.

Among the individuals who were deported or denied reentry were businessmen, educators, humanitarian and social workers, many of whom had resided in Morocco for over a decade in full compliance with the law. Those deported were reportedly forced to leave the country within 2 hours of being questioned by authorities, leaving all of their belongings behind.

As a result, a number of organizations which were run by foreign nationals and provided vital community services have been shuttered. One organization which has been adversely affected is the Village of Hope orphanage in Morocco's Atlas Mountains. Time Magazine reported that: "The Village of Hope deportations are part of what appears to be a widespread crackdown on Christian workers in Morocco."

A New Zealand native and staff of the orphanage, Chris Broadbent, told Time that "most of the couples were there as foster parents and had raised these children since infancy."

Colorado couple Eddie and Lynn Padilla were amongst those expelled from the Village of Hope, forced to leave their two Moroccan sons behind. Mr. Padilla told 9 News Colorado that his 2-year-old son, Samir, "didn't understand what was happening but knew it wasn't good." He went on to describe the heart-wrenching story of their sudden separation and how Samir jumped into his father's arms and cried, "I want to go with you, Daddy."

The harsh nature of these expulsions call into question the longstanding friendship and mutual cooperation between the United States and Morocco dating back to the letter the Sultan of Morocco sent to George Washington at Valley Forge declaring that American vessels were permitted to enter Moroccan

ports to "take refreshments and enjoy in them the same privileges and immunities as those of the other nations." This letter signified the first official recognition of our fledgling Nation.

I have worked with Moroccan and U.S. officials over the last 2 months in an attempt to find a satisfactory solution to this matter. Unfortunately, the Moroccan Government seems to be unwilling to compromise, as evidenced by a recent letter I received from a representative of the King.

Earlier this week, 10 additional foreign nationals were asked to leave the country. It is our responsibility to speak out on behalf of human rights abuses which have been perpetrated by the Moroccan Government.

President Reagan modeled this approach by consistently speaking out on behalf of the persecuted and tirelessly defending human rights and religious freedom.

Today I sent Secretary of State Clinton a letter asking her to issue a travel advisory for Morocco so all U.S. citizens are aware of the potential risks. Additionally, the Tom Lantos Human Rights Commission, which I cochair, will hold a hearing on June 17 to further explore the issues of human rights and religious freedom in Morocco.

I call on the Government of Morocco again to uphold its commitment to the principles of religious tolerance and freedom that for so long made it a model of tolerance and modernity in the Arab world.

Again, I call on our Embassy, and I think our ambassador should be speaking out, the State Department should be speaking out, and the White House should be speaking out to raise this issue with Moroccan authorities at the highest levels in defending the rights and interests of these American citizens whose lives have been shattered by these events.

[From Time, Mar. 21, 2010]

IN MOROCCO, A CRACKDOWN ON CHRISTIAN AID WORKERS

(By Lisa Abend)

March 8 is not a day that Chris Broadbent will soon forget. The preceding weekend, gendarmes entered the Village of Hope, a Christian-run orphanage in Morocco's Atlas Mountains where Broadbent, a New Zealand native, worked as a human resources manager, and began questioning children and staff. At first, he and the other foreign workers were assured that the interrogation was routine. But as it dragged on, the questions turned to subjects like "How do you pray?" and the police began searching homes on the compound for children's Bibles. On Monday morning, after being held in a separate room from the orphanage's 33 children, Broadbent and his 15 colleagues were summarily deported from Morocco, accused of illegally proselytizing for their faith.

"Most of the couples were there as foster parents and had raised these children since infancy," Broadbent says. "When they were told that their parents had to leave, it was chaos—the kids were running after any adult

they could find, and just holding on. It was the most devastating thing I've ever seen."

The Village of Hope deportations are part of what appears to be a widespread crackdown on Christian aid workers in Morocco. An estimated 40 foreigners—including Dutch, British, American and Korean citizens—have been deported this month, including Broadbent and his colleagues. Among them were an Egyptian Catholic priest in the northern city of Larache and a Korean-born Protestant pastor in Marrakesh who was arrested as he led services in his church. And this past week, authorities searched an orphanage founded by American missionaries in the town of Azrou called The Children's Haven. Salim Sefiane, a Moroccan who was raised at the orphanage and is still in touch with workers there, said the officials interrogated the orphanage staff and asked children as young as 8 years old to demonstrate how they pray. No action has been taken yet against the orphanage's workers, Sefiane said.

The large-scale deportations came as a surprise in a nation that is among the most liberal of Muslim countries. Although trying to convert Muslims to other faiths is illegal, Morocco tolerates the presence of other religions and is home to a number of churches and synagogues. "There are several things about this that are really striking," says Spanish journalist Ignacio Cembrero, who has written several books about the country. "There have been occasional deportations of people accused of proselytizing before, but never so many at once, and they've never expelled a Catholic before. And for the police to enter a church on Sunday, during services, to arrest people? Absolutely unprecedented."

According to the Moroccan government, the deportees all broke the law, using their status as aid workers to cover their proselytizing. "They are guilty of trying to undermine the faith of Muslims," Interior Minister Tayeb Cherkaoui said in a press release.

But were they? Broadbent denies the charges. Part of his job at the Village of Hope was to ensure that staff members understood the rules prohibiting proselytizing, and he notes that all the orphanage's children received instruction in Islam. "We weren't teaching Christianity in any formal way," he says. But asked if reading the Bible to Muslim children constitutes proselytizing, he said, "We understood that it wasn't. And in any case, the authorities have always known that these children were being raised in Christian families." In fact, Village of Hope had been operating for 10 years and had received "institutional" status from the Moroccan government this year—a designation meaning it meets government standards. Many of the other deported Christians had also been in Morocco for extended periods of time. So why were they evicted now?

Christopher Martin, a pastor since 2004 at the Casablanca International Protestant Church, says he's talked to three different people with connections "high up in the Moroccan government" and heard three different explanations for the action. But one common thread, he points out, is that the officials leading the crackdown—the Justice and Interior ministers—were both appointed in January. That suggests to many Christians in Morocco that the officials were eager to quickly make a mark on the political landscape with an initiative likely to have broad popular support.

Although the Moroccan government has in recent years dramatically reformed its family law to better protect the rights of women

and has even sponsored programs to train women as Muslim preachers, it has also proven responsive to an increasingly religious public. In recent years, alcohol licenses have become much more difficult to obtain, and last September, for the first time, police in various cities arrested Moroccans who were eating in public during the fast period of Ramadan. The action prompted a formal complaint from the international organization Human Rights Watch.

Aaron Schwoebel, the information officer at the U.S. embassy in Rabat, says that the Moroccan government has told the embassy there will be more deportations, including other Americans. He said the government did not indicate when. "We urge the Moroccan government to act in accordance with its highest traditions of tolerance," Schwoebel says, "and respect the human rights of the members of these religious minority communities, including those of our own citizens."

Now living in Spain after the gendarmes escorted him and his family to a departing ferry in Tangier, Broadbent hopes for the same thing. The last he heard, the Village of Hope children were still living at the orphanage, but he suspects they may soon be sent to other homes. "We'd like to open a dialogue that would lead to reuniting these families," he says. But in the meantime, he can only wonder about the meaning of it all. "Is this an isolated incident?" he asks. "Or is Morocco steering away from its tolerant past?"

ROYAUME DU MAROC, MINISTERE DES  
AFFAIRES ETRANGERES ET DE LA  
COOPERATION,

Congressman FRANK R. WOLF,  
Washington, DC.

HONORABLE REPRESENTATIVE, His Majesty King Mohammed VI acknowledges receipt of your letter regarding the repatriation measures taken against American citizens by the Government of the Kingdom of Morocco.

In answer to your request, I have been instructed by His Majesty the King, Commander of the Faithful, to share with you certain remarks and clarifications in the hope they may alleviate your concerns regarding this issue.

Firstly, I would like to assure you that the Kingdom of Morocco attaches great importance to its historic ties of friendship with the United States of America, with which it shares a unique and longstanding relationship which His Majesty the King seeks to preserve and deepen in all areas of exchange and cooperation.

The values of freedom, democracy and tolerance which brought us together in the past are still, today, the solid foundation on which we have erected an exemplary bilateral partnership characterized in particular, by an open, honest and candid dialogue. It is precisely this dialogue, pursued at all levels of society, which has always allowed us to bridge any temporal divides which may come between us by working, together, past them on the basis of our shared values and enduring interests.

In this spirit, I would like to expose to you my country's perspective regarding the issue presently at hand:

The repatriation measures which concerned, amongst others, a number of American citizens, solely and exclusively targeted proselytism activities which are clearly and categorically forbidden by both the precepts of Islam and Moroccan legislation, equally vouched for by His Majesty the King as Commander of the Faithful and Head of State.

The repatriation measures were not taken against the concerned parties in relation to

their Christian faith, but because they had committed criminal offences, as proven by an investigation conducted by the relevant legal authority, namely the Crown Prosecution Office, following formal complaints, namely by parents and close relatives of the children concerned.

These measures should, thus, be construed as logical, legal and legitimate decisions resulting from a thorough investigation which established, on the basis of verifiable and substantial evidence that foreign nationals, under the pretence of conducting charitable actions, had engaged in proselytizing.

Under such circumstances, Moroccan authorities were obligated to fulfill their responsibilities by duly enforcing the Law, in full respect of the rights and dignity of the concerned parties.

Indeed, the choice of an administrative procedure of repatriation—as provided for by national legislation—instead of a legal procedure, was made to spare concerned parties the unavoidable ordeal which would result from a trial, no matter how fair it may be. In addition, were the concerned parties to feel they had been unjustly treated, Moroccan law provides them with the right to petition for nullity of the measures taken against them if these are found to be an abuse of power.

Moroccan Islam, founded upon values of openness, tolerance and moderation, is the fruit of long years of peaceful coexistence between the varied and rich strata of Moroccan society. It constitutes a central pillar upholding Moroccan society which needs to be preserved against any undermining or perversions.

Whenever this serene Islam has been targeted by proselytizing or heretical activities, Moroccan authorities were obliged to act, in all legality, to protect the faith of Moroccan society.

On this basis, it should be noted that repatriation procedures were regularly undertaken, these past years, against some of "our brothers in Islam" both from Shiite or Wahhabi rites. In all these cases, the same type of administrative procedure was followed.

Therefore, taking into account all these considerations, there can be no mistake about the intent and attitude of the Moroccan authorities in this issue. I can assure you that in no way whatsoever are these isolated cases in breach of freedom of worship, which is guaranteed by the Moroccan Constitution. Nor can they be perceived as having any political or religious connotations.

The Kingdom of Morocco has always been a land of dialogue and exchange, as well as a crossroads where different civilizations, cultures and religions can meet. His Majesty the King, Commander of the Faithful, warrants the exercise of this freedom across the Moroccan territory as a whole and in an equal manner, for Muslims, Jews and Christians of all persuasions.

While remaining at your disposal should you wish any further explanations, please accept the assurances of my highest regards,

Yours Sincerely,

TAIB FASSI FIHRI,  
Le ministre.

#### REAPPOINTMENT AS MEMBERS TO BOARD OF DIRECTORS OF THE OFFICE OF COMPLIANCE

The SPEAKER pro tempore. Pursuant to section 301 of the Congressional Accountability Act of 1995 (2 U.S.C.

1381), as amended by Public Law 111-114, the Chair announces on behalf of the Speaker and minority leader of the House of Representatives and the majority and minority leaders of the United States Senate their joint reappointment of the following individuals on May 13, 2010, each to a 5-year term on the Board of Directors of the Office of Compliance:

Robert L. Holzwarth, Illinois;  
Barbara L. Camens, Washington,  
D.C., Chair.

#### PROGRESSIVE CAUCUS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Minnesota (Mr. ELLISON) is recognized for 60 minutes as the designee of the majority leader.

Mr. ELLISON. Mr. Speaker, I am claiming the time on behalf of the Progressive Caucus, which is that body within the Congress itself, that group of people who are dedicated to the ideals that have made America fairer, America more open, America more inclusive, and America more peaceful over the years. The Progressive Caucus, who believes that working people of America deserve fair wages, workers' rights, and things like that; who believe that our country should be at peace with the rest of the world, and who believe in diplomacy and who believe war is rarely a good idea, and when it is, it should be executed with the most amount of care for our soldiers and our veterans, and who believe diplomacy is almost always the right answer.

The Progressive Caucus, who believe immigration reform should be humane and that we should put ideas of family reunification and a path towards citizenship up front. The Progressive Caucus, which believes that during this time of financial fragility and uncertainty that we need a robust, strong reform bill that will hold Wall Street accountable so that the money of the American people is cared for in a safe and proper way. This is the Progressive Caucus, and this is the progressive message where the Progressive Caucus comes to the House floor to talk about issues of and concern to the American people, to explain the position of the Progressive Caucus to the American people and to talk about things that really matter and to make sure, Mr. Speaker, that the American people know that there is a progressive voice in Congress. That voice is the Progressive Caucus, and this is the progressive message.

Mr. Speaker, today the topic for the progressive message is Wall Street reform and jobs. Wall Street reform and jobs. A lot of people think about this Wall Street reform package that is moving its way through Congress and they think, You know what? I know

this has a lot to do with me, but I am not exactly sure what. People know it was tax money that was pulled together during September and October of 2008, and that the Troubled Asset Recovery program was pulled together and salvaged some American banks to stop the whole system from going down. The American people know that. It was unpopular, nobody wanted to do it, but people knew it had to do with them and their tax money. The American people also know it had something to do with credit-default swaps and it had something to do with mortgage-backed securities; but the fact is, Mr. Speaker, this stuff is a little confusing and it makes a lot of sense for us to talk about it. But it makes sense to talk about it from the standpoint of jobs and businesses, particularly small businesses, and it makes sense to talk about it from the point of view of the consumer. So we will be talking about that today over the course of the next hour.

But before we do, I want to dive into a few things about jobs, about the state of our economy. The fact is that it is good news that we have seen some positive job news. On May 7, just a few days ago, the Department of Labor reported that 290,000 jobs were created in April. This is a good thing, but I am quite certain if you look around the neighborhoods and the farms and the rural communities and the urban centers and in the suburbs of the United States, there are still a lot of people not working. Positive job growth, yes, because the Democratic Caucus, led by a progressive voice, helped to make that happen. But the fact is that there are still a lot of people out of work.

□ 1430

Much has been done. Much needs to be done because this 290,000 jobs in April is good, but the fact is we need about 300,000 jobs added per month in order to keep up with population. If we do less than that, the unemployment rate will remain high, and that is something that is wrong and we should do something about.

But I do want the American people to know that we've seen 290,000 jobs added in April. Good sign. And then we saw 231,000 created in the private sector, and that's a lot of jobs, and that's good, most of that growth coming from the private sector.

Those 290,000 jobs, new American jobs added in April, larger than expected and the largest gain since March 2006, that goes to show that addressing health care, addressing the stimulus package and the American recovery package are things that really help the American economy and are getting our economy back on the road to health.

But the question is, Mr. Speaker, what does it mean for so many people, still out of work. We still need a jobs bill. We still need to do something

about jobs. And we need something to stimulate job growth in our public sector and in our private sector. This is undone work, still needing to be done.

We want to celebrate the good news, but we want to also talk about what else needs to be done. The good news is that this is the fourth consecutive month of job growth with 537,000 jobs added since December. So this is nearly a half a million jobs added, 84 percent of which is in the private sector.

So some friends on the Republican side of the aisle have said, oh, well, yeah, you know, you spend a lot of money in the recovery package and, yeah, you're going to get positive job growth in the public sector. But these jobs, the growth has been in the private sector, which means that the stimulus bill worked, and the American people are benefiting from it right now.

Also, it's true that in March sales of new homes increased about 27 percent, to 411,000 at an annual rate, the strongest since last July, the biggest monthly increase in 47 years. The biggest monthly increase in 47 years.

Home prices in February rose 1.4 percent, posting the first year-to-year gain in more than 3 years.

The unemployment rate, as I mentioned before, unfortunately, increased to about 9.9 percent. It went down to 9.7 and dipped back up to 9.9, about 10 percent. But this is a result of over 805,000 people entering the workforce because people feel that this is a time they might be able to find a job again. These people need to find that job opportunity, and that's why the Congress needs to pass more job legislation.

Over the past 3 months, we've added an average of 187,000 jobs per month, in contrast to 727,000 average jobs lost per month during the last 3 months of the Bush administration. No one should ever forget that in the last month of the Bush administration, January 2009, January 2009, this economy lost 741,000 jobs. And that was about average for the last 3 months of the Bush administration.

Right now, we've seen a 290,000 job increase. The stimulus package worked. The Democratic Caucus is working, and we need more job growth in order to make sure that young people coming out of school in the next few weeks will have a job to do, and those folks who are still among the ranks of the unemployed can get work.

So since the Recovery Act, stocks have gone up across the board, the Dow has gone up over 70 percent, and the S&P 500 is up 80 percent, NASDAQ is up about 100 percent.

Last year, Americans' tax bills were at their lowest points in 60 years, since the Truman administration.

So just going on, Mr. Speaker, talking about the state of our economy, before we get to Wall Street reform, job growth seems to be moving up. We



seem to be moving from this state of job loss to now job growth. Still we have 10 percent unemployment, and we've got to do something about it.

During the 111th Congress, this Congress, Democrats have taken a series of steps to make these positive job numbers a reality. I want to talk about those tonight, Mr. Speaker, because it's important that the American people know that, with the progressive vision, often led by the Progressive Caucus, that this Democratic Caucus has been doing the right thing for the American economy. For example, we passed the HIRE Act. This is a bipartisan bill to create 300,000 jobs with tax incentives for businesses that hire unemployed Americans. This is helping people out. And the HIRE Act is helping small business add people on their rolls so that they can work.

The American Workers State and Business Relief Act, this bill offers tax incentives, again, to spur business innovation and tax cuts for families with kids headed to college and disaster relief for States, combined with economy-boosting unemployment benefits and health care for Americans hit by the recession.

We also passed the Small Business and Infrastructure Jobs Act. This bill extends aid to States to provide subsidies to employers, including small businesses who hire unemployed workers that is on track to put over 160,000 Americans back to work. That's good news.

And then of course, last week, we passed the Home Star Bill, which will create much needed jobs in the manufacturing sector by—we passed the Home Star Bill, which gives tax incentives to renovate homes.

But also one bill that's been introduced is an important bill that will create much needed jobs in the manufacturing sector by providing tax rebates to homeowners who install energy-saving products. That's right. So that's the Home Star Bill.

Mr. Speaker, also, the Congress and the President have worked together to enact a whole array of broad tax cuts that working families and middle class families and small business owners can have, which ends the era of Republican tax breaks focused only on the wealthy.

It's important to point out, Mr. Speaker, that Democrats, even progressives, don't object to tax breaks. We just object to tax breaks for the people who don't need a tax break. American people working hard every day can use them, and we've been in favor of them.

All told, Congress has enacted more than 800 billion tax cuts with another 285 billion making their way through Congress in order to help spur innovation and employment for people who actually need it and can use it.

Congressional Republicans threaten to take us back to the failed policies

that created the economic crisis. In fact, Mr. Speaker, I'm going to be talking about Wall Street reform, which actually is the kind of reform that we need to correct what the Republicans have created, which is a failed economy, which the Democrats, right now, are trying to pull the American people out of.

Congressional Republicans are trying to take us back to these old policies. They want to side with the special interests, with Wall Street banks, credit card companies, Big Oil, and insurance companies. This is wrong, Mr. Speaker. And we're here to do something about it.

These economic and fiscal policies created by the Bush administration created the Bush recession, the worst financial crisis since the Great Depression of the 1930s, with job losses of nearly 800,000 a month during the Bush administration, and nearly doubled our national debt.

It's amazing when you hear Republicans talking about spending, given all the spending that they did, putting our economy at risk.

Republicans have voted against every single piece of economic legislation, from the Recovery Act to the Wall Street reform, choosing the special interests over the American worker and families and small businesses.

So, Mr. Speaker, the Democrats, the Democrats in Congress will continue to take America in a new direction, working to create American jobs and a new strong foundation for our economy, protecting Main Street and the middle class, and getting results.

I'm going to talk about one of those major reforms in just a moment. But during the last 3 months of the Bush administration, we lost an average of 726,000 jobs, Mr. Speaker. In the last 3 months we've created 186,000 jobs. The current unemployment rate is 9.9 percent. So we're coming back. We're moving up. We've got much more to do, but that then sets the stage, Mr. Speaker, for the Wall Street reform discussion we're going to have tonight.

Mr. Speaker, let me start out with a very simple proposition, a very simple proposition. Wall Street reform is good for Main Street. Very simple proposition. Wall Street reform is good for Main Street. Wall Street reform is good for Main Street because if Wall Street creates a situation where they've got to have massive bank bailouts, that's coming out of the taxpayer, which is represented by Main Street.

We've got to make sure that we pass financial reform legislation that stops the bailouts, that stops the tricky and fine print and the hidden terms and the nonunderstandable and indecipherable contracts for credit cards. Wall Street reform is good for Main Street.

We need to create a situation, Mr. Speaker, where people who want to, if

you want to sell a loan or you want to sell a mortgage you've got to keep some skin in the game. You can't just sell that mortgage and now you don't care if it's well underwritten. You don't care if you've made sure somebody's going to pay that loan back, because you sold the paper that's all you need to know. That's something that's got to change. All those things represent Wall Street reform. Wall Street reform is good for Main Street.

Main Street, whether Main Street's in Minneapolis, which is my town, or in Los Angeles or in Peoria, Illinois or in Laverne, Minnesota or any small town across America, or any big town across America, or any suburb or anywhere, Wall Street reform is good for Main Street. It protects our tax dollar. It protects the consumer, and it makes sure that there are fair, clear rules for Wall Street to live by. Not unfair rules, not rules that are bad for Wall Street, but rules which allow good actors on Wall Street to remain good, and allows the unscrupulous actors to get some punishment for what they have done.

But you've got to understand that if we don't have clear rules, clear rules of the road, then some actors on Wall Street will think, you know, by not doing shady things, we're losing out, so we'd better go do them. We don't want that. We want to have clear, fair rules to keep good actors good and to keep bad actors out and accountable when they're not out.

So that's what the main message is for today, Mr. Speaker. Wall Street reform is good for Main Street. Very important.

Mr. Speaker, I just want to talk to you for a moment about what Wall Street reform means. Some people think, well, what does Wall Street reform mean? This is a lot of complex stuff. Are we talking credit default swaps? Are we talking about derivatives? Are we talking about resolution authority? What does all this stuff mean?

Well, you know what? It's not very complicated at all. It's actually pretty simple, Mr. Speaker. Wall Street reform means policing Wall Street, meaning have real regulators up there to actually hold some people accountable, no more Bernie Madoffs, no more folks who made off with the money.

Wall Street reform means ending bank bailouts. Everybody hated the bailout. In my opinion it was a necessary thing to do, but it was one of those kinds of things that we all hated to do. We need to end taxpayer-funded bailouts forever, and that's why we need resolution authority. And I'll talk about what that means.

And we need, also, Mr. Speaker, to stabilize the economy. We need to stop these wild bubbles. This bubble during the first decade of this century created a housing bubble which led to a, what, a bursting of the bubble, and we saw



real, real pain: 2.8 million foreclosures last year alone, Mr. Speaker. We cannot revisit that kind of situation again.

And stop gambling with worker pensions. Some folks don't really realize how deeply involved Main Street is in Wall Street. But if you have a 401(k) or a pension or anything like that, Mr. Speaker, your retirement money is on Wall Street. We can't allow it to be gambled by people who are looking for no more than a quick return with very little accountability. That's what it means. Wall Street reform means policing Wall Street, ending bank bailouts, stabilizing the economy and stopping gambling with worker pensions.

Now, Mr. Speaker, I think it's important for people who are out there listening, Mr. Speaker, to understand what it is, who's on the side of the people and who isn't. Who's side are you on is what this bill, this board asks, Mr. Speaker. Who's side are you on?

And the question is, Democrats represent Main Street. And that's why Democrats support jobs bills, as I just talked about, support unemployment insurance. Democrats support curtailing excessive Wall Street bonuses. We'll talk about those in a minute.

Democrats represent creating new consumer protection agencies so that the fine print, the tricky terms, they say 9.9 percent on the credit card until it's not. When is it not? Whenever they say it's not. We've got to stop that kind of thing.

□ 1445

And Democrats support tax cuts for small businesses and worker families, just as I got through talking about, and Democrats support regulating Wall Street and preventing foreclosures. All these things are what the Democrats are all about. All these things help the American people.

Now, what are the Republicans talking about? Because they are complaining a lot, and they always have a lot of criticism for our side. But Republicans, they opposed the jobs bills and the unemployment insurance. You know, Mr. Speaker, I don't believe one of them, not even one of them, voted for the stimulus bill that helped to create that 290,000 job bump that we saw in April. None of them even supported the stimulus bill which has led us back to positive job growth. They were against it, even though they spent money on wars, spent money on Iraq, spent money on giving the richest people tax cuts. They oppose it when we are trying to get average working Americans some jobs and some unemployment insurance.

By the way, it's amazing, but they are against curtailing excessive Wall Street bonuses. They actually have the nerve to say stuff like, well, should we curtail the bonuses of professional athletes? Should we curtail bonuses of this

person or that? Look, that's irrelevant. Those guys aren't asking for the American people to bail out their bank. This is about saying if a big Wall Street CEO wants to get a golden parachute after running the company into the ground like Stan O'Neal did Merrill Lynch, then maybe the American people should have something to say about it. If you want a bunch of money from the public trough, you shouldn't be flying around on jets just to come testify, getting excessive bonuses, stuff like that. It's just fair. So this is what we are talking about.

The Republicans opposed creating a new consumer protection agency. Wait a minute. You mean to tell me the American people haven't gone through 2.8 million foreclosures in 2009 alone all based on no doc loans, liar loans, loans where nobody even wants to figure out whether you can pay back the loan, where they just put pressure tactics on you to just sign, sign, sign, sign, sign. You mean to tell me you don't want somebody to watch and make sure that these loans are fair, that the terms of the loan are clear, that people understand what the interest rate is going to really be, that they really understand that the total amount you are going to have to pay for this house over the term of the loan, that you understand what negative amortization is, that this teaser rate is not going to stay at 700 bucks, it's going to jump to 1,100 bucks after the 2-year or 3-year period is over? You mean to tell me you don't want anybody to protect the American people from that kind of stuff? They say no. They say buyer beware, caveat emptor, that is their problem.

Democrats say you know what, if you have a fair product at a fair price that you are willing to disclose, go out there and use the American enterprise system to do it. But don't trick the people, don't sell somebody a horse that can't see and then when the person asks about it you tell them it sees just fine. Don't do that. Be honest. Be a good businessperson. That's what the Democrats are saying. The Republicans are saying buyer beware. They are saying we don't care. Just sell anything you want to whoever you want at whatever cost you want.

They oppose tax cuts for small businesses and working families. The American Recovery and Reinvestment Act, Mr. Speaker, actually gave tax cuts to about 95 percent of the American people. The American Reinvestment and Recovery Act gave tax cuts to about 95 percent of the American people. How many votes did the Republicans give us to help the American people get some tax cuts as opposed to the rich Wall Street types? None. They didn't want to help on that one. They were busy. They were against it. They were all worried about other things when we were talking about helping the American people out.

So, they oppose regulating Wall Street and preventing foreclosures. They are not in favor of that. Let me tell you, Democrats, Mr. Speaker, were working on antipredatory lending legislation during 2005, during 2006, during 2007, but we were in the minority. During 2008, the Republican caucus blocked it every step of the way. And now that the Democrats are in charge, we are moving full steam ahead to pass bills that will prevent predatory lending and stop foreclosure. And we would like a little help, but so far, Mr. Speaker, we haven't gotten any.

I talked a moment ago, Mr. Speaker, about Wall Street's pay record. And I talked about how the Republican caucus was against bringing in these excessive bailouts and these excessive bonuses for Wall Street CEOs, who by the way get TARP money, the public money. Wall Street's record pay. After receiving trillions in taxpayer-funded bailouts, the top 38 financial firms gave record pay to their employees in 2009. They gave your money, Mr. Speaker. They gave them the taxpayers' money. We are trying to stop that. We are trying to make sure they don't do that. But we are not getting any help from the other side of the aisle.

So they gave record pay to their employees during 2009. During the great recession, Wall Street pay in the billions. 2007, their bonuses were \$137 billion. 2008, \$123.4 billion. 2009, \$145 billion. That's incredible, particularly during a recession. But the Democrats are here to say no more. We will not allow you to do that.

Now, Mr. Speaker, as a result of Democrats working hard to pass jobs bills, to push on this issue of consumer protection, to passing the Credit Card Holders Bill of Rights, what we have seen is this downward trend in the economy during the Bush administration breaking sharply upward during the Obama administration. During the Bush administration, \$15 trillion in wealth was destroyed between July 2007 and 2009 as home values plummeted during the foreclosure crisis. This is what happened during the Bush administration.

But when Obama comes in, the numbers start going all the way back up again. The road to recovery. U.S. household net worth going back up. And it's going back up every day. What we have got to do is stay the course and keep on building and strengthening our economy by holding Wall Street accountable, by passing job-promoting legislation, and by letting consumers keep some of their money and given a fair deal.

So Mr. Speaker, let me just talk a little bit about some of these issues about how Wall Street reform is good for working Americans. So I want to go back to my first board. So Wall Street reform is good for Americans.

Mr. Speaker, we are here today to talk about ending decades of failed

policies that ultimately caused a near complete collapse of our entire economy. We are here today to talk about what brought us the greatest recession since the Great Depression. Wall Street reform is good for Main Street. The crisis is the product of reckless actions of massive private financial institutions coupled with deregulation and non-regulation and no oversight while the Congress was under the watch of the Republicans and the Bush White House. These policies have come with an enormous cost to the American middle class.

Mr. Speaker, do you realize that \$14 trillion of net worth has been lost when we watched home values plummet during the Bush administration? Twenty-two percent in decline in net worth for individuals. Pensions fell. Pensions, Mr. Speaker, fell by \$28.4 billion. Pensions, what Americans rely on to care for them during the golden years, the value dropped so that people have to work longer. People who are hoping to retire cannot do so. Last year alone 2.8 million homes lost to foreclosure in 2009. Twelve million Americans relying on payday loans just to get by. Thirty-three billion dollars in bonuses for Wall Street executives.

Mr. Speaker, when we pass financial reform, including the Consumer Financial Products Agency, those 12 million Americans relying on payday loans to get by will have a watchdog watching over them to make sure they are not abused by sharp practices, fine print, and tricky terms and conditions. So when you hear Republicans talking about financial reform and how we shouldn't do it, and they don't want this and they don't want that, just keep in mind those 2.8 million homeowners who lost their home in foreclosure or those 12 million Americans who are relying on payday loans just to get by, relying on credit cards just to get by.

Who is going to make sure those terms are fair, that they disclose those terms, that somebody is watching out for that consumer? It will be the Democratic caucus and the President who passed financial reform. I do hope we get at least one Republican to vote for it, but I am not holding my breath.

You know, it's important to point out, Mr. Speaker, that when you hear Republicans talking about cutting redtape or letting the market sort it out, actually that has very severe implications for the American people. Cutting redtape means getting rid of regulations. It's like calling the police officer on a beat redtape. It's like saying a regulator who makes sure that financial products are fair is redtape. It's not redtape. It's regulation that's necessary to make sure the American people are treated fairly.

Let's talk about what they really mean when they say cutting redtape and letting the market sort it out. It

means no accountability and no responsibility for multinational corporations and Wall Street CEOs who gamble with our national well-being. And it means a basic assurance that if they have their way we will be back in bailoutville again. We will be back in this mess again. And that's why we've got to pass financial reform.

Since taking back control of the Congress we have seen the Democratic caucus take real action to help consumers. In December 2009, the House passed the Wall Street Reform and Consumer Protection Act. The Senate is moving its bill forward now. The Senate is currently working on that bill, and it looks like it's going to come up soon. The House bill will protect consumers and investors and small businesses and put our broader financial system on more stable footing. The House bill will place badly needed regulation of things like derivatives, hedge funds, and credit rating agencies.

Mr. Speaker, let me just take a moment to help the American people understand what a derivative is. A derivative is kind of like a hedge. When the value of a particular security goes down, the derivative is supposed to cover that fall in value and make sure that you don't lose all altogether.

A form of derivative is a credit default swap. And basically what that is is that when you have a mortgage-backed security, that means a security that's traded but is backed up by mortgages, that if the value of that security falls down that credit default swap is supposed to pay. Unfortunately, Mr. Speaker, this instrument, this credit default swap, is like insurance, but it's one of those air quote "like insurance." It is not really insurance, but it's like insurance. Because if it was insurance, it would be regulated by a State insurance commissioner who would make sure that that insurance company had the money to cover claims if there would have been a claim.

A regular insurance company says, you know what, if you are going to hold yourself out as an insurance company and you are going to write policies for people, you have to have enough money if there is an auto accident or a tornado or there is a loss of life or whatever we have insurance for. But when it comes to these credit default swaps, there was no such regulator. Nobody made sure that there was enough money to back the loss and pay the claims if those securities went down in value.

And because of that, when the mortgage-backed security market went down because people were not paying on their mortgages because they were in foreclosure, and they began to make claims for those credit default swaps, there wasn't enough money to cover them. And the American people had to bail out AIG so they could pay those creditors. That's what a derivative is.

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Derivatives are going to be regulated under the new financial reform. There will be that commissioner. There will be that regulator to make sure that this market works properly and that it doesn't cost catastrophic losses in our economy.

Hedge funds. Hedge funds are large funds generally held by wealthy individuals. They'll be regulated.

Credit rating agencies. These are agencies that issue ratings for bonds like a AAA rating or a AA rating or a BBB rating or other types of ratings that they can give. The fact is that these credit rating agencies, some of them, when they said that this security was AAA, it wasn't. Some of these assets that they said were good were not good. And when they went down in value, the people who relied on the credit rating agency were caught by surprise, and this is why these credit rating agencies are going to have reform. And it's a good thing, Mr. Speaker.

Now, let me just say the other thing that we're going to do in reform is—I mentioned mortgage-backed securities. A lot of people don't—it's like, well, what is that? Well, a mortgage-backed security is a security where—imagine that you have a house and you have a mortgage on that house, and then the bank is going to receive the money that the homeowner is paying on their mortgage. And imagine that the bank says, You know what? This homeowner owes me a stream of income. If you want it, I'll sell it to you. And the person says, Well, I'll buy it. And the person starts buying up a lot of mortgages, and then they take those mortgages and they bundle them up. That's a mortgage-backed security.

And then they take that mortgage-backed security and they bundle those up, and that's called a collateral debt obligation. Imagine a mortgage is an M&M, a bag of M&Ms is a mortgage-backed security, and a box of bags of M&Ms is a collateral debt obligation.

Now, imagine all of a sudden that somebody were to take that box of bags of M&Ms and kind of slice them up and sell them off. What it might look like is something like this. You might have—these things are called tranches. A tranche is nothing but a French word that means slice, and a slice is something that you have if you look at this mortgage-backed security.

This top tranche, mortgage-backed security, is made up of these tranches, each rated a little riskier than the next. So this top tranche is a AAA tranche. That's the one that the rating agencies tell us is a AAA tranche, and we rely on them and expect that they are being honest and have done a good job in rating the risk of that top-rated tranche.

But then the next tranche might be one down here. This is a B—AA tranche, and one of the riskier

tranches, so maybe down here, maybe you have BBB here.

So these things, you get it in a document. It's usually a document, and you can buy this mortgage-backed security or you can buy a piece of it and you can have an interest in it, and it will entitle you to a stream of income. But how valuable is it? How safe is it? How sound is it? It all depends upon how well the rating agency has rated risks for each tranche.

So if you look at this particular mortgage-backed security, this tranche's performance is referenced by multiple unrelated investment vehicles in 2006 and 2007. So if you have one of these things and you look at it, it will say that this is an index call, the ABX.HE, BBB rating, 0.06-2. Here it is. Then you have Mezzanine Fund, Hudson Mezzanine Fund. That means it has a lower rating for risk.

And you have these down here. Abacus. You have this one. And they're all down here. So these are all down the line and these are all high.

So this is what a mortgage-backed security could well look like as you look at the various tranches that descend in order of risk. The problem with this is that when they were—the risk was not properly assessed and evaluated, and when they began to decline in value, you began to have real trouble in our market. And it's because of a lack of regulation, which is going to be taken care of as Congress moves through financial reform.

Now, what does all of this mean? And we'll return to this in a moment. What does all this mean for working families? Working families might think, you know what? I don't know what a tranche is. I don't know what a credit default swap is. I don't know what a mortgage-backed security is. All that's true. But perhaps the portfolio manager of your pension or your 401(k) knows what it is and, therefore, it affects you directly.

Well, what this means, what it means is that financial reform is going to mean that bank loans, mortgages, and credit cards are going to be fairer, more affordable, more understandable, and more transparent. Financial reform is going to mean that there's going to have to be real disclosure and that the government is going to take some real responsibility to make sure that these credit rating agencies are properly assessing risk, are making sure that the companies that do it are properly assessing risk, are going to make sure that consumers are treated fairly, are going to prevent bailouts, and are going to make sure our economy has a more stable footing.

Financial reform is going to mean that it's going to ensure that consumers get the information that they need in a clear, precise format regarding banks, mortgage services, and credit card companies.

Financial reform is going to prevent the financial industry from offering predatory loans to people who can't afford the repayment and that these loans are going to be properly underwritten so that people don't get in over their head.

Financial reform is going to put in place commonsense regulations to stop abuses by the financial services industry as payday lending and exorbitant overdraft fees. Overdraft fees. That's when you swipe your card, if you're 30 cents over, you may still have to pay \$39 for that overdraft fee even if you went out and asked for a debit card so that if you did go over by mistake the charge would be denied. And you might have to solve that problem some other way, but at least you wouldn't be deep into your account and have a negative balance.

Financial reform is protections against reckless Wall Street financial schemes, bad home mortgages for short-term profit, bad credit cards with hidden penalties for the average consumers, and it means protecting workers' life savings, pensions, and stopping Wall Street casinos. It means it guards against massive unemployment rates due to the near total collapse in our economy back in October 2008.

Financial reform also, Mr. Speaker, means putting into "too big to fail" financial firms. Too big to fail means too small to save. Too big to fail means reckless behavior by firms that are so large that no matter what they do, they know that we've got to bail them out, because if we don't, it will have real harm to all of us.

And that's what we're talking about. We're talking about doing something to stabilize our economy, defend our economy, protect our economy, and to make sure that the average American is not at risk and their financial future is secure.

So let me just go through some of the highlights of financial reform. Before I do, I just want to talk about some of the root causes again. And to do that, I want to get this mortgage-backed security back up here.

If you want to talk about what happened and, therefore, what we should do to fix it, you have to start at the fact that way back in the 1930s, Mr. Speaker, our economy went through a catastrophic drop known as the Great Depression. And during that time, forward-thinking politicians put things in place to try to help protect our economy, things like Glass-Steagall, which said that if you're a financial firm, you have to do what your core competence is; meaning, if you're a depository bank, you go do that; if you're an investment bank, you focus on that; if you're an insurance company, you focus on that.

And it went along that way very well, Mr. Speaker, right up until the mid-1990s, when Travelers Insurance

and Citibank came together—an insurance company and depository bank coming together. They wanted to do it. There was a big court case about it, and a lot of people at the time thought, You know what? That old Glass-Steagall stuff is so yesterday. Let's do something new and innovative and really unleash innovation. That's what they said.

It so happened that Glass-Steagall was not such a bad idea as we look back, but at that time they wanted to pass a bill called Gramm-Leach-Bliley. This is a bill that would basically allow firms to basically go out of their area of core competence, and so you'd have a Citibank purchasing an insurance company or you'd have a depository bank purchasing a brokerage house or an investment bank, and you just had kind of everybody doing everything.

What happened is you had bigger firms. They kind of dabbled in various areas. But as the business reality was changed because they were deregulated, Congress did not see fit to put in the kind of regulation that was required to make sure that the system was still essentially safe and essentially sound.

Reckless schemes began to emerge. We began to see more deregulation. In fact, in 1999, when we passed regulatory reform in the financial world, we also said that things like credit default swaps would not be regulated. They would just be out there on the market, because they figured the people who deal in these things are arm's length and they are sophisticated investors and they know what they're doing and what they do won't harm the rest of us. I guess we were wrong about that.

But what began to happen is that in the mortgage markets, we began to see people being—who wanted to buy a home, going into the mortgage market and they were beginning to be sold things that were called predatory loans. Now, this is what we call them. That's what they are. But what they were called is adjustable rate mortgages, ARMs. They were given ARMs, and sometimes they were given mortgages where they would get—for 2 years they'd pay a low rate, and after 2 years you'd have a balloon payment that would go up. Or after 3 years you'd pay a low payment, and then it would balloon upward.

Now, the mortgage market, the housing market is a market that had consistently gone up, it had kept increasing. So even if that happened, when you got to your balloon payment, perhaps you could go back to a lender and you could simply refinance your mortgage. How many Americans try to do that? Let me tell you. A lot.

But we assumed the housing market would always go up. But what if it flattened out or went down like it did over the course of the last decade?

The fact is that it was in the mid-1990s when Congress passed the law

that told the Fed that they could regulate the mortgage market to make sure that when people got into loans that were not good for them, that they could regulate.

Some of these 2/28s and 3/27s I mentioned had terms like “prepayment penalties.” If you wanted to pay off the loan early, you couldn’t really do it, or if you did, you had to pay an extra penalty.

They had things like yield spread premium, meaning that if you sold—if you were a mortgage broker and were able to channel somebody into a higher-cost loan, then you, as the person who brokered that loan, might be able to get the spread of the difference between the lower-cost loan that they were qualified for and the higher-cost loan that you got them to bite on. So you incentivize people, pushing people to get into loans that were not as good as the ones that they actually qualified for.

Over time, we also had something called securitization, which meant that, as I said before, once that mortgage was inked and somebody bought the house and got the loan, that the paper on that mortgage could be sold and then pulled together into a mortgage-backed security. And we didn’t require that the original lender keep any part of the risk of that loan, so they could just sell it off and it wouldn’t make any difference to them if that loan was never paid off or no not. So, therefore, their responsibility for underwriting that loan carefully, making sure the person could pay that loan began to go down because they weren’t going to keep it on their books anyway.

So what began to happen over time, Mr. Speaker, is that we saw these instruments like mortgage-backed securities I mentioned before, mortgages being sold to somebody who packaged them together and then packaged them in an even bigger box and then set them up in these tiered investment vehicles, with the highest being supposedly the most safe investment, all the way down to the bottom, with the most risky investment being sold and then people buying parts of it; and then these instruments being hedged with things like credit default swaps, which didn’t have anything to back them up if people made claims when these instruments lost value.

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What began to happen is that credit began to get cheaper, low interest loans for long periods of time. As money was cheaper, people bought more houses. As people bought more houses, the price of them went up, obviously, and we began to experience a bubble in the housing market. And you began to see, like now, housing prices have dropped quite a bit. The problem is that people who bought at bubble

prices now are underwater, meaning the loan on their house is higher than the amount of value that is in the house, which is a problem. Negative equity.

But what began to happen, Mr. Speaker, is that these mortgage-backed securities, as people began to lose jobs, as the economy started to flatten out, as the housing market started to flatten out, people began to not be able to pay, and the people who probably never should have qualified for a loan couldn’t pay, and the value of these mortgage-backed securities began to decline.

As that happened, people started to get in really difficult situations, because what began to happen is that in neighborhoods all over America, houses began to get abandoned, people began to be foreclosed on. Either they had a house that they never really could afford but they bought it on a teaser rate, and so when it ballooned they couldn’t keep the house; or when people could not afford it when they would lose their jobs, and then the foreclosures began to seriously mount. They began to get really big.

And then, as that began to happen to the housing market, people who wanted to go back and refinance their house didn’t have any equity or had negative equity, and then the bank said: We just can’t refinance you because there is no value in the home or maybe there is actually negative value in the home. At that point, we got to a crisis, Mr. Speaker.

What happened? The fact is, is that we began to have a real catastrophe. Very little oversight from government, government allowing people just to do—to let the market just go on. As I said before, caveat emptor. And real pain began to happen as the foreclosures mounted, as the failures continued on, as unemployment began to slump, because housing is a huge part of our economy. And if the housing market isn’t moving, then a lot of people aren’t working, which began to increase the cycle of the bust.

So, Mr. Speaker, what we see now is a real need to do something about the situation that we are in, a real need to take real affirmative action, to take real control over our economy.

So let’s talk about what we are going to do to solve this problem. We are going to talk about reforming the financial sector of our economy. We are going to talk about adding greater oversight. We are going to talk about what it is that we need to do to make sure that we don’t find ourselves in a very difficult situation yet again.

What we are going to do, Mr. Speaker, is we are going to do something about that predatory lending that I have talked about. We are going to stop predatory, irresponsible mortgage lending. Tough new rules on the riskiest financial practices; rules to

stop excess speculation in derivatives and growing use of unregulated credit default swaps.

We are going to require investment advisers to act for the benefit of their client under the law, exercising the highest standard of care. We are going to empower investors with greater say in electing the company board members, some of these companies that urged, urged, urged their employees to sell as many mortgages as they possibly could. Stories like from Countrywide, which was a huge predatory mortgage lender, which ended up having so many of the houses that they lent money for going into foreclosure.

We’re going to stop the shadow banking system of small predatory institutions such as payday lenders, check cashers, mortgage loan originators, and many others who have disappeared as quickly as they arrived on the scene, and we are going to start regulating the unregulated.

We are going to stop “too big to fail,” Mr. Speaker. We are going to stop “too big to fail” by saying we are going to have a fund that these big firms have to pay into based on the riskiness of their activity, so that if one of them goes down, that the people who will pay their creditors will be from that fund, not from the American taxpayer. It is kind of like FDIC insurance. Banks pay into a fund so that if a bank goes down, depositors are covered. And that is the money that goes to make sure depositors are covered.

This, what we call ex-ante, which means before the fall, fund would be paid, and it would make a lot of sense to do this, because the people who are in business who are doing these risky practices are the ones who should pay.

Now some people say we need a fund after a company goes down. If that made sense, Mr. Speaker, that would mean that the one who engaged in the risky behavior would be gone after everybody else had to pick up the pieces. That’s not good economics, Mr. Speaker. We oppose that idea. We are talking about the Consumer Financial Products Agency, and the CFPB would have the power to stop unfair, deceptive, and abusive consumer financial products.

We would also have a board called the Financial Services Oversight Council, Mr. Speaker, who could study potential risks to our financial system and identify financial risks before it caused great harm to the economy.

And so, Mr. Speaker, that is the basic heart of financial reform. We need the American people to embrace it. It is good: policing Wall Street, ending bank bailouts, stabilizing the economy, and stopping gambling with pensions.

Now in the last few minutes, Mr. Speaker, I want to talk about a subject that I think every American should know about, and that is the effort by Wall Street leaders to stop reform of

Wall Street. There is a lot of money being spent, Mr. Speaker, to stop financial reform, a lot of money being spent to make sure that things like regulating derivatives, regulating of the credit rating agencies, regulating credit card companies, payday lenders, and making sure there is an ex-ante fund to resolve failing firms so that the American people don't have to fork it over. They are spending a lot of money, Mr. Speaker. Wall Street is spending billions to kill reform.

In 2009, the financial industry spent \$465 million in lobbying Washington, \$1.4 million a day in lobbying Congress, \$1.1 million per Member of Congress. Actually, more than that. Actually, more than \$1 million. That's a rounding down; \$3.9 billion in the last decade, and employed 1,726 Washington lobbyists just to try to persuade Congress Members to not make changes to Wall Street.

Now the American people ought to know what they are up against. But let me just tell you, a well-motivated constituent always trumps a lobbyist. So, Mr. Speaker, it wouldn't be a bad thing at all if people let their Member of Congress know how they felt about the importance of regulating Wall Street.

The top eight banks, Mr. Speaker, spent about \$30 million in 2009 just on lobbying. JP Morgan Chase spent \$6.2 million lobbying last year, all to try to make sure that whatever comes out of Congress looks good for them.

During the first quarter of 2010, this year, the top 25 banks spent \$11 million, which is an increase of 5 percent from the same time last year.

What is going on during the first three months of 2010 that wasn't going on the same time last year? Financial reform, Mr. Speaker. That's why they increased their spending.

I would like to hear Members of the Republican Caucus defend Wall Street's spending to kill financial reform. I hope they do say, Well, it's okay for Wall Street to spend all this money stopping reform, because—I don't know what they're going to say, but I would love to hear it.

During the first quarter of 2010, the top 25 banks spent \$11 million total, which is an increase of 5 percent. And the fact is, is that of that \$11 million that the top 25 banking firms spent on lobbying, the top six of them, JP Morgan Chase, Wells Fargo, CitiGroup, Bank of America, Goldman Sachs, and Morgan Stanley spent \$6.9 million on lobbying in the first quarter of this year. That's a lot of money. That marked a 4 percent increase from late last year, a jump of about one-third from the first 3 months in 2009.

But what is going on now that wasn't going on as intensely then? Wall Street reform. So they're putting more money in and they're trying to slow reform.

With that, Mr. Speaker, I am going to yield back, and just say it has been

a pleasure coming to the special order on behalf of the Progressive Caucus.

#### IMMIGRATION ISSUES

The SPEAKER pro tempore (Mr. LUJÁN). Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes as the designee of the minority leader.

Mr. KING of Iowa. Mr. Speaker, I am privileged to be recognized by you to address the House of Representatives in this most deliberative body that we are. I often come here; and in the 30 or so minutes that I spend waiting and anticipating my opportunity to address you, I also can't avoid lending an ear to the gentleman who often presents ahead of me. I sometimes think about what it would be like if I just could walk in here in the last 30 seconds and not feel compelled to rebut the previous 60 minutes.

I am going to just compress this a little bit so I can get on to the subject at hand that I came here to talk about; but, yes, many Republicans, and perhaps every Republican, will oppose this financial bill that has the Barney Frank bill sent to the United States Senate and become the Chris Dodd bill. In fact, I don't know any two people that would probably have less favor in rewriting the financial laws in America than those two individuals.

They have had a long time now to investigate what has happened with the finances in America and what has happened with the downward spiral of our economy, and when this happened. It started before this seminal date, but the seminal date, Mr. Speaker, was September 19, 2008, when then-Secretary of the Treasury Henry Paulson came to this Capitol and asked for the \$700 billion in TARP funding. Then-Senator Obama, and now-President Obama, supported all of those moves. President Obama as Senator and later as President supported the takeover of the banks, the insurance companies, Fannie and Freddie, General Motors, Chrysler. And, by the way, the student loan program, not to mention ObamaCare. And now we have the financial world and an effort to take that over. And yes, I will stand and oppose these changes. I will stand and oppose them for a lot of reasons, perhaps that I will have an opportunity to get into a little bit later in this hour, Mr. Speaker.

The Federal Government should not be making arbitrary decisions on which businesses succeed and which ones fail. They should not be in a position to be evaluating. And if there is credible evidence of an entity, a corporate entity, a financial credit entity—credible evidence as to whether they might be in trouble, that would give the Secretary of the Treasury the authority to pull the plug on a company, take it over by

the Federal Government, separate it any way he so chose; or, bring regulators in to intimidate them before or after the fact.

This bill, this Chris Dodd bill or Barney Frank bill, gives the Federal Government the authority to take over any business in America that is a credit business that they should choose.

Now, again, I hope to get to this. But at this moment, Mr. Speaker, I would transition this subject over to the subject that I came here to speak about, and that is right now we have Attorney General Holder testifying before the House Judiciary Committee. I came directly here from there, or I will say almost directly here from there, having listened to a measure of his testimony and his response to some of the people that are on the Judiciary Committee. And as this unfolds yet, I come here because I am dissatisfied with the responses that I have received from the Attorney General. I actually think that he is a fine fellow and he would make a good neighbor, but I am concerned about the politicization of the Justice Department.

And even though Attorney General Holder made remarks at the end of my question period that their office would not be political, they would be impartial, they would function under the law, I happen to have a special view of Attorney Generals. And whether they be State Attorney Generals or whether they be U.S. Attorney Generals, they have to understand the Constitution. They have to understand the rule of law. They can't know every Federal statute. I wouldn't hold anyone accountable for that. But when they have had an opportunity to do an investigation or had an opportunity to brief themselves on a subject matter that is bound to come up, I would expect that they would be conversant enough with the law and with the Constitution to be able to make an argument that would defend the actions of the Justice Department at a minimum.

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And so I made the remark and posed this situation. And this is off of the opening statement of Congresswoman JUDY CHU, who said that Arizona law—and this is with Attorney General Holder, the sole witness before the committee and he was the audience that she was speaking to—she said, Arizona law is cruel and it institutionalizes racial profiling. She also said that people are “already being detained because they forgot their driver's license at home.” She continued and said that it's burdensome and unnecessary for people to carry multiple forms of identity, which reminds her of living in a Cold War state. I don't know what Cold War state she may have lived in. But I made this point to Attorney General Holder and asked him if there was anything in his knowledge that the Arizona law could be doing now that

would affect the activities of the law enforcement officers in Arizona in such a way that the allegations by Ms. CHU could be accurate; that they're already detaining people because they forgot their driver's license at home, and that it would institutionalize racial profiling.

Mr. Speaker, this is the highest level deliberative body of the world and this dialogue has gotten down to this point where we have people that are representing a State law that's very well known by now that specifically prohibits racial profiling and prohibits the utilization of even the factor of race if it's the sole factor. That's by law. It's an Arizona law. And to have a Member of Congress say to the Attorney General in a hearing when the Attorney General is under oath that people are already being detained. People are already being detained on an Arizona law.

Here's the quote: "Already being detained because they forgot their driver's license at home." They also said the law is cruel and it institutionalizes racial profiling. It's as if this law had already taken effect. And it's a fact that Arizona law, unless specified otherwise, does not take effect until 90 days after the Governor signs the bill, which was some couple or three weeks ago. It's certainly not 90 days, Mr. Speaker.

As I point this out to the Attorney General, one would think that a person that is at that high level in this country with this very high-level responsibility could at least concur that the Arizona law hasn't been enacted yet. But he could not bring himself to do that because that would have caused him to come into a political disagreement with the activists on the Democrat side of the Judiciary Committee, the most polarized committee on the Hill. Now that's a presumption on my part on his motive, but it seems to fit a pattern.

He admitted that he has an investigation going on looking into Arizona immigration law. And when I made the point that the President of the United States had announced that he had directed the Attorney General to look into Arizona immigration law, I heard no rebuttal. I twice presented to Attorney General Holder that the President has directed that this happens. So if the President of the United States directs the Attorney General to conduct an investigation into State statute, on what basis is the follow-up question to Attorney General Holder?

They've been investigating now for some weeks. And what is the basis of your investigation? Well, Constitution, statutory, the principle of Federal preemption of State law. Now that's a general answer that you can pick up in any law school or many articles in the newspapers these days about Arizona law itself. And so when I followed up

with a question of specifically where in the Constitution do you have concern about Arizona law and where in the Federal statute would you have concern about Arizona law perhaps violating the Federal statute and stretching beyond the bounds of Federal preemption, I got a generalized answer that, Well, it's been the practice that the Federal Government has dealt with immigration law. The practice, the implication.

We have the Justice Department investigating Arizona. We have the Justice Department investigating Sheriff Joe Arpaio, the sheriff of Maricopa County. They have targeted him for months and months and months because he's politically incorrect. He enforces Federal immigration law. It violates the activists that help support the President. But we can't find out that it violates any Federal statute, any constitutional requirement that's there.

I believe from what I've seen—and I've visited Tent City and Sheriff Joe Arpaio on the border and I have gone to that border many times. And I'll go back again, Mr. Speaker. But when we have an Attorney General that's committing the resources of the United States and the resources of the taxpayers to investigate a law in Arizona that enjoys at least 70 percent support of the people of Arizona, a significant majority of the support of the people across this country—that mirrors Federal law, and when you have a Secretary of Homeland Security, Janet Napolitano, who's a former Governor of the State of Arizona, who admittedly had her tugs of war with Sheriff Joe Arpaio when she was the Governor and he was the sheriff, one would think that an administration, a President of the United States, an Attorney General, a Secretary of Homeland Security would have jumped for joy that Arizonans have decided to use their State resources to enforce the Federal immigration laws that the Federal Government is not enforcing adequately enough.

Instead of jumping for joy, instead of going down and giving Sheriff Joe Arpaio a high-five or maybe the Governor of Arizona another high-five or a good "atta girl" for signing that bill and for the work that was done in the State legislature, particularly that led by Russell Pearce, whom I have watched for some time and appreciate a great deal—we can't have the Federal Government, obviously, supporting something that the American people want, the Arizonans demand.

It was almost a primal scream of desperation that caused the Arizona legislature to pass the legislation that mirrored Federal law so that they are going to prohibit sanctuary cities within Arizona and require local law enforcement to support Federal immigration law by setting up a State law that

makes it against the law to break Federal immigration law. That's not technically correct, but it is the analysis that best describes it, Mr. Speaker.

Our Attorney General is spending resources to investigate Arizona and still can't point to a single place in the United States Constitution or a single Federal statute that he thinks could be the cause of concern. When I asked him, he said, Well, it's under investigation, and it's inconclusive at this point.

Well, I read through the Constitution and I came to a conclusion. As far as the constitutional understanding is concerned, it is this: there's two places in the Constitution that could be relevant with regard to Arizona immigration law. One place where it says the Federal Government has a responsibility to guard against foreign invasion. Well, now, we could talk about what a foreign invasion is, but when it's 4 million people a year pouring across our border illegally and at best we can interdict a fourth of them; when we have twice the size of Santa Anna's army coming across our border every night, one might define that as an invasion.

They aren't all carrying weapons. In fact, very few of them are. But I will guarantee you there have been more weapons carried across that border in the hands of people who are coming in here illegally than all the weapons that were carried in the hands of Santa Anna's army when he came across into Texas that 150-some years ago.

So, Mr. Speaker, the Constitution requires the Federal Government to defend against invasion, but it doesn't prohibit the States from defending themselves against invasion. I would hope the Attorney General would understand that principle. I address that because there's only two places in the Constitution that address immigration. And I think that I have handled that issue so that it's essentially not rebuttable.

Then the other point is article I, section 8 of the Constitution, the other place where immigration is dealt with, where it says that Congress shall have the power to establish a uniform rule of naturalization. A uniform rule of naturalization. Well, what can that be? That means that Congress sets the legal immigration laws with regard to how people come into this country and become citizens. We do that. We have set those standards. But there's nothing in the Constitution that prohibits the States from passing their own immigration laws unless they are attempting to preempt existing Federal law or unless those laws are unconstitutional.

So one would think that an Attorney General that had all of these resources investigating Arizona law and was aware of the investigations that are going on of Sheriff Joe Arpaio, when



there are allegations of violations of civil rights down in Maricopa County, all the resources poured into that, I've yet to find any substance. And still, millions of dollars are being spent, all kinds of time is being burned. There's all kinds of politicization going on. And the Attorney General swears there is not, that his office will not be political.

Well, I will submit, Mr. Speaker, that when the President of the United States says, Here's what could happen under Arizona law if a mother and her daughter are going out to get some ice cream, somebody can come along and say, Where are your papers? Anybody remember that? I do, Mr. Speaker. And so that was making this law political. The President of the United States made it political. And he's the man that ordered a Justice Department investigation of Arizona? And he alleges—the President alleges—that it's race-based and racially motivated when the law itself specifically prohibits that from happening. We can't have the presumption on the part of the President of the United States or the Attorney General that the law enforcement officers in Arizona are motivated by something other than race. Maybe they're motivated to support the rule of law. Couldn't we presume that that's it? That's the case. That's their oath. Can't we tell by their practice that they have enough to do without targeting?

Look at the crime across Arizona. Phoenix, the second highest in the hemisphere. And kidnapping. The kidnapping, the smuggling, the deaths, the murder rate, crime rates over the last 10 years in Arizona have gone up. The illegal border crossings may have tempered down just a little bit, but on the other hand, it might just be that Janet Napolitano's operation isn't as aggressive as it was under even Michael Chertoff. But I suspect that even then they had diminished their enforcement.

When you make the argument that your interdictions on the border have gone down, therefore you're getting the border under control, it might just be you're not doing your job as aggressively as you were before. There can be twice as many people crossing the border, and you can be picking up half as many as you were before. But that doesn't mean the half as many you're picking up equates into fewer people crossing the border. That may be. In fact, I expect it is true that fewer people are crossing the border. But it doesn't equate that the enforcement is any better than it was. It may be better. It may be worse. But it's not conclusive.

What is conclusive here is the Department of Justice has become political. It is a political tool. It saddens me to see this and hear this and to have to make this argument here on the floor of the House. But I didn't come, Mr.

Speaker, lightly armed. I only point out the Arizona component of this because that's the dialogue that just took place within the last hour or so. The Department of Justice is investigating Arizona for constitutional statutory violations but cannot point their finger to a single place in the Constitution or a single controlling Federal statute.

And, by the way, I would point out also that, according to Federal case law, the precedence that we can find, that there is ample precedent that local law enforcement has the authority to enforce Federal immigration law, with or without a 287(g) agreement and a memorandum of understanding, which has been somewhat gutted by Secretary Napolitano. The precedent that I would cite would be *U.S. v. Santana-Garcia*, a Supreme Court decision that establishes that local government has the ability—local law enforcement—has the constitutional authority to help enforce Federal immigration law.

I would go on further with this: that Sheriff Joe Arpaio is on solid ground. They would have found a way to crack him by now if he were not. It's been, I believe, politically motivated. The effort to go down and make race the issue when it is law enforcement that is the problem and that Federal immigration law that's not being adequately enforced is the problem. The Attorney General should be able to at least defend the actions of his Justice Department, even though implicitly agreed that the President had directed that there be an investigation. Based on what? The President's supposition that a mother and her daughter would be perhaps of the wrong skin tone and they would be picked up and asked for their identification because they went out to get some ice cream?

It seems the President has an inclination to engage in these kinds of things. When he had an Irish cop and a black professor, who did he side with? He jumped to a conclusion without having heard the facts, and he ended up having to have a beer summit.

□ 1545

Well, maybe we could have a summit with Sheriff Joe Arpaio on the South Lawn of the White House, and they could sit down at the picnic table together and discuss these things so that all of the resources of the Federal Government don't have to be tied up in knots on these suppositions for the unfounded presumption that there is something unconstitutional about Arizona law or something that violates Federal statute.

I see that I am joined on the floor by the ranking member of the Judiciary Committee, who has just come from the hearing of the Attorney General. I would be so happy to yield as much time as he may consume to Mr. SMITH

from Texas and thank him for joining me here on the floor.

Mr. SMITH of Texas. I thank the gentleman from Iowa for yielding, and I also want to thank Representative KING for his good work on the Judiciary Committee. I have just been listening to his last few comments and appreciate his pointing out so many facts about immigration law and about what is going on there.

The reason I wanted to be briefly recognized is because we've had some recent developments in some poll results just in the last day or two on some of the same subjects that the gentleman from Iowa has been discussing. It's no surprise, for example, that in the latest Pew poll, it shows that only 25 percent of the American public approve of President Obama's handling of the Nation's immigration policy. The Obama administration is not enforcing our immigration laws and, in my view, has failed to protect our borders.

Arizona, which is trying to do what the Federal Government has not done, continues to enjoy strong support for its policy. According to the most recent Pew poll, 73 percent of the public support requiring people to produce documents, verifying their legal status if police ask them to do that, and 67 percent of the public support allowing police to detain anyone who can't verify their legal status. And just today in *The Wall Street Journal*, there was a *Wall Street Journal*-NBC News poll. It asked the American people a number of questions, but one of them was about the Arizona law. And 64 percent, according to the *Wall Street Journal*-NBC News poll that was just today in *The Wall Street Journal*, 64 percent of the American people support the Arizona law. Let me say that that's actually, I think, gone up from 60 percent last week to 64 percent today. Almost two-thirds of the American people support what the folks in Arizona are trying to do. And we probably ought not try to second-guess what they are doing.

The residents of Arizona know they have a problem on their hands. Phoenix is the kidnapping capital of the United States right now. People in Arizona see that human smuggling that crosses their border, they see the drug trafficking that comes across their border. Several thousand people have been killed within sight of the Arizona-Mexico border in the last several years. So to me, the people in Arizona are really crying out for help from the Federal Government to protect their borders, but the Federal Government is not responding, and this administration is not responding. The message from the American people and the message from the folks in Arizona is that we want to see immigration laws enforced. And believe me, the message from Arizona is not, "We need amnesty for people in the country illegally," it's that we need to enforce our immigration laws.



And let me go back to that most recent poll where you have two-thirds of the American people wanting to enforce immigration laws and supporting what Arizona residents have done in regard to immigration laws. By the way, that includes, as I recall, about 60, 61 percent of all Independents. And most tellingly, it includes half of the Hispanics across the country, who are also in support of the Arizona law that was just passed, enforcing immigration laws and trying to make their best efforts to reduce illegal immigration.

So I appreciate the gentleman from Iowa yielding. I just wanted to bring everybody up to date on the most recent poll. And the poll is even more surprising. The poll, which shows that almost two-thirds of the American people support the immigration law that Arizona has just passed, is even more surprising because another Media Research poll shows that in the coverage of the Arizona law, the three networks, ABC, NBC, CBS, have actually aired 12 negative stories about the Arizona law for every one positive story. So you have a degree of media bias on the subject that has, frankly, been unseen. I think when it comes to immigration, the national media, including the three networks, probably do their worst job of reporting and show their greatest bias. This I consider to be a threat to democracy. When the networks and the national media are not giving the American people the facts and instead are trying to tell them what to think, that is a danger to democracy.

Also, according to a Media Research Center, for example, only 1 out of 10 stories have actually mentioned that a majority—70 percent of the residents of Arizona—support the Arizona law. As I said, a great majority of the American people support the Arizona law, and yet the media are not reporting it. Considering that 12 to 1 negative coverage of the law and the fact that two-thirds of the American people still support it shows how strongly people across the country feel.

There is nothing wrong with wanting to enforce immigration laws. There is nothing wrong with wanting individuals to respect law and order. The American people know that, and I thank them for knowing that, and I thank them for not being persuaded by a very liberal media bias. And also, again, I appreciate the gentleman from Iowa and his yeoman's service, hard work, diligence, and commitment to such an important issue.

Mr. KING of Iowa. Reclaiming my time, and I asked if the gentleman from Texas could yield for a question before he moves on to his other important duties. And that is, I am a bit perplexed that the Attorney General couldn't or wouldn't point to a part of the Constitution that he thought might be violated by Arizona law or point to a Federal statute that might

be violated by Arizona law or point to a piece of Federal case law that would prohibit local law enforcement from enforcing Federal immigration law. And would the gentleman from Texas have any idea how that question might have been answered by an Attorney General better informed?

Mr. SMITH of Texas. The gentleman is correct. I do not believe the Attorney General answered the questions on that particular subject. And while I was out of the room, I understand in response to a question asked by a Texas colleague that he admitted that he had not even read the Arizona law. And if that's the case, that is both surprising and disturbing. Again, I thank the gentleman for his good comments on the subject.

Mr. KING of Iowa. Reclaiming my time, and I very much thank the gentleman from Texas for illuminating the subject matter and especially the polling component of this. One would think that the Attorney General, as he was preparing to come before the Judiciary Committee—and historically, the Attorney General has briefed himself for several days with people who will ask questions and, I will say, play out a role so that he can be tested, prepared, and ready to testify before Congress. One would believe that the Attorney General, that the first thing that he would be briefed on is Arizona immigration law. The Justice Department is investigating Arizona, and yet there seems to be not a realization of what's going on. He admits to the investigation. And to not have read the law and perhaps not read the summary—

Mr. Speaker, I need to put the little bit of this in the RECORD from memory of what I have read of the immigration law, which is actually most of it. That it mirrors Federal immigration law, and it makes it against the law to violate Federal immigration law, but it's the law that is set up—it's mirrored and written by the State of Arizona. And I thought I had a summary of it here. Should I be able to find that, I will speak to it factually, but otherwise from memory.

But in any case, it allows for—if a law enforcement officer encounters someone in the normal practice of their doing their duties, they have to have probable cause to stop someone. Probable cause might be speeding, an accident, a crime that's taken place, a traffic violation. And once they pull over a vehicle, for example, they can ask for identification, like they would for anyone that is driving under any other stop. If then at that point, they have probable cause to stop the vehicle or encounter an individual, then, if the identification isn't adequate for, let's say, driving, then there's a reasonable suspicion for that officer to ask a few more questions. That officer can ask some questions such as: Where are you going? What are you doing? Where are

you coming from? Where were you born? Why don't you have a driver's license?

And if the individual hands the officer a Matricula Consular card, that's pretty much conclusive evidence that they are in the United States illegally, and there isn't any other purpose to have one other than to function in the United States by those entities that will recognize it. It's issued by the Mexican consulate. It's not a valid U.S. ID. And if they're U.S. citizens or if they are lawfully present in the United States, they will have immigration documents or U.S. identification. And the immigration documents for legal immigrants, they are required to carry on their person. So people lawfully present in the United States who are not citizens—let's just say they have a green card, and that green card allows them to legally work in the United States, they are required to carry it on their person if they're 18 years old or older at all times. Arizona law just respects that. That's a Federal law. Arizona law respects that as well.

So this is probable cause to stop someone, reasonable suspicion that they're unlawfully present in the United States in order to follow through with any further questions or any further inquiry. Now if people boil out of the back of the van and start to run off into the desert, that's more than reasonable suspicion. And yet the objections that are coming from the people who are protesting against Arizona law are the objections that we're hearing from—I guess before the Judiciary Committee and a person of Representative JUDY CHU, who already alleges that Arizona's law is cruel and it institutionalizes racial profiling. No, it prohibits racial profiling as far as an exclusive component of reasonable suspicion or probable cause. She said, People are already detained because they forgot their driver's license at home. Who's doing that? They're not detaining people because of that, not under the color of this new Arizona immigration law, because it's not enacted yet.

We're already hearing the fears, and the Attorney General is investigating because the President has apparently decided for some political reason that they need to do something to suppress Arizona from enforcing Federal immigration law, instead of saying, attaboy, attagirl. It's about time that the State stepped up to help out of frustration. If the Federal Government had done their job, there wouldn't be an Arizona immigration law. But they are not. They are ineffective. They lack the will. And that's our problem. It's not lack of resources; it's lack of will to enforce Federal immigration law. It's not lack of resources.

Three years ago or so, a little bit more, we were spending \$8 billion to protect our southern border. That's a 2,000 mile border. So, Mr. Speaker, I

know you've already done the math. That's \$4 million a mile, \$4 million a mile to protect our southern border, and I said then, If you give me \$4 million to protect a mile of border, I will be happy to take that check, and I can warranty my work. I could guarantee you that we aren't going to let anybody cross that mile for \$4 million. Now the price has gone from \$8 billion to protect our 2,000-mile southern border to \$12 billion to protect our border, and still we have ineffectiveness because we have a lack of will and a lack of clarity of mission. And it comes from the top down. If it's clear that the President doesn't want the borders enforced, the Secretary of Homeland Security seems to not want to enforce against illegal workers in the workplace. She seems to want to just simply posture to enforce against employers.

Now I admit that there are many Border Patrol officers and CBP personnel and ICE personnel who go to work every day who do their job very well. In fact, I congratulate them for that. They want to do that. They put their lives on the line every day. They deserve our support. They deserve our adulation many times. But they're burdened by a lack of mission, and even though the mission is posted on the wall down at the station in Nogales, that mission has got to be something that the top articulates. And if the President of the United States articulates something else, when Arizona passes an immigration law that mirrors Federal law, and the President attacks Arizona law and inflames public fears in an erroneous fashion, what more could he do to undermine Arizona law and Federal immigration law?

He has said to everyone that's enforcing—not just local law enforcement that's enforcing immigration law. He has said to all of his Federal officers from the White House down, ICE, CBP, Border Patrol, all of them, well, he really doesn't want to see immigration law enforced. And it's clear, of course, that he doesn't want to have racial profiling used, and I would agree with him—as an exclusive component. However, if it's part of the other indicators, it had better be used. Would we say that we can't use as an indicator when it comes time to enforce the law against international terrorism that a young Middle Eastern male cannot be considered as one of the factors? We've kind of said that when people go through the airport. I think it's wrong. I think it's foolish. And in fact, Mr. Speaker, I think it's downright stupid to set aside our common sense for the sake of political correctness.

So an Arizona law, though, goes to great lengths to make it clear that race cannot be the sole factor when evaluating reasonable suspicion or probable cause. How much further could they go? It reminds me of the official English law that I spent actually

6 years getting established in Iowa. We have demonstrations and protesters. I would say, Come into my office, sit down, tell me what your concerns are. Hour after hour, I listened. We had witnesses before the committee. And it was about how their language would be disparaged. So we wrote right into the law that it was unlawful to disparage any language in Iowa other than English. And do you know, I don't know that anybody's disparaged English either, but they haven't disparaged any other language in Iowa.

These fears that are mounted by that 1 percent or 2 percent or 3 percent of the aggressive liberals, they wouldn't come to pass. They didn't come to pass when we passed an official language law in Iowa or the 20-some other States. And furthermore, the fear about reasonable suspicion, giving law enforcement an excuse to target someone that they don't like because of racial reasons, that isn't going to come to pass. It may be a wild exception somewhere out there in the barest little minority of law enforcement officers, but it's not going to come to pass. This is a presumption that the law enforcement officers are racist and that they're biased and that they're bigoted against a particular race. And many of the communities in Arizona have a significant percentage—and in some communities, a majority of their law enforcement officers are Hispanic, and yet we're going to label all law enforcement officers in Arizona as racist without one scintilla of evidence and have allegations by Members of Congress, as Ms. CHU, or the President of the United States, or, by his silence, or refusal, or his reluctance, I should say, to respond to the points that I raised with him, the Attorney General of the United States.

□ 1600

It creates a perception that this is a racist society and that we can't even have logical laws that uphold the rule of law because somebody will abuse those and stretch the limits and target someone.

Now I will tell you, and we heard from Mr. SMITH, statistically, the law enforcement officers in Arizona have enough to do without that. They are faced with the highest kidnapping rate in the United States, second highest in the entire hemisphere. They have murder rates that have gone up, kidnapping rates, drug smuggling rates that have gone up, and violence that has gone up. The coyotes are taking the lawlessness from Mexico into the United States. Ninety percent of the illegal drugs consumed in America come from or through Mexico. And 100 percent, according to the Drug Enforcement Agency, 100 percent of the illegal distribution chains in America have at least one link that is the link that is provided by an illegal that is in the United States.

So, if by some magical formula everybody woke up tomorrow morning in a country that they were lawfully residing in, it would at least temporarily sever every illegal drug distribution chain in America. Now, it probably wouldn't take very long to rebuild some of those, and it would take longer to rebuild more of those, and eventually we would still have this illegal drug distribution chain in America because the problem we have is that the demand for illegal drugs in this country is so powerful and so great, somebody is going to find a way to meet that demand.

Until this Nation understands that we have to line up against the consumption of illegal drugs and shut down that magnet that brings illegal drugs into America, we are going to have billions of dollars come out of our economy that are going to flow to and through Mexico to other points where drugs are originated. We have \$60 billion a year that are wired out of the United States to points south; about half of that to Mexico, and the other half goes to the Caribbean, Central America, and South America. About \$30 billion into Mexico, about \$30 billion to points south.

Some would argue that those are legitimate wages that are being wired back to family and loved ones. Yes, I would agree some of that is legitimate wages that are being wired back to family and loved ones in those countries of origin of people who are working here in the United States. A lot of it is illegal wages that is going south that should not have been earned in the first place if we had enforced our immigration law.

But a whole lot is being wired, shipped, laundered out of the United States to pay for the drug buys going south in places like Mexico and on down through Central America to South America. And we don't have a Drug Enforcement Agency that understands this equation adequately enough to intercept them. I have talked to them. I don't blame them entirely for that. We need a mission at the top.

The President of the United States has got to articulate a mission. Instead, he is playing race bait games to undermine the law enforcement in the State of Arizona and across the country, and undermining the efforts of our Border Patrol, ICE, and customs border protection. And, by the way, the Shadow Wolves down there, the cells whom I admire so much and have a good friendship with, they are out there doing their job every day.

The Attorney General isn't willing, cannot, and I asked the ranking member of the Judiciary Committee to point out for me what I am missing in the Constitution that would prohibit Arizona from passing an immigration law like they did, or what is in the

Federal code that would prohibit them from doing so, or what is in case law that might apply to that. And, of course, Mr. SMITH, an excellent lawyer with a wonderful staff in his own right, doesn't fill out the answers to the those questions because I don't believe there are any. And I don't believe the Attorney General fills out the answers to those questions because I don't believe there are any.

When I raised the issue that the office of the Department of Justice is playing, is politically motivated, of course he rebuts that. He has to give the "I am pure" and "we don't do political things within my department." Well, I will raise some points that I believe are definitive rebuttals to that.

I believe that the Justice Department has demonstrated a political nature well beyond immigration, and I would take us to the case of the most open-and-shut voter intimidation case in the history of the United States of America, and that was in Philadelphia in a previous election where we have video of members of the New Black Panthers standing outside of a polling place in paramilitary uniforms and berets, and one of them is standing there with a billy club, a nightstick, smacking it into his hand and calling people, white people coming in to vote, calling them "crackers" and telling them that they are going to take over the country and he is going to be out of power, those white people. It was intimidating to the individual that collected that film.

There is much other investigation which has gone on, and this investigation that was carried on by the Justice Department before President Obama swore into office and before Eric Holder became the Attorney General, there was an open-and-shut case that was completed against the Black Panthers that were intimidating voters. And I don't believe I need to say at this point "allegedly," because I have seen the film. It is the most open-and-shut case.

But, when Eric Holder took office shortly after that, we saw the most open-and-shut case in the history of America of voter intimidation cancelled by the Justice Department. The case was there. They had everything but a plea, and perhaps they had a plea and I didn't verify that.

Now, the New Black Panther Party, there were two lawyers involved in the dismissal of this who have a bit of a reputation: Steve Rosenbaum and Loretta King. According to an article written in the *National Review* by Hans von Spakovsky, who has a personal knowledge of most of the lawyers involved in Justice on these issues, that Rosenbaum and King are two of the worst political hacks to be found in the career ranks of the civil rights division. That is an exact quote out of his article. He goes on and says: I have previously written about King's ambi-

tion to run for office in Maryland and on the Democratic ticket.

But putting that aside, Rosenbaum hasn't worked on a voting case since he left the voting section in 1994; yet he came in in 2009 to cancel the most open-and-shut voter intimidation case in the history of the United States. That is the New Black Panther Party members standing in paramilitary uniforms and berets, billy club in hand, calling white voters coming in "crackers" and intimidating them, and at least implicitly threatening them. And they cancelled the investigation when we have video of the most open-and-shut voter intimidation case in the history of America.

And then von Spakovsky goes on in his article to say that Loretta King hasn't worked on a voting case since she left the voting section in 1996. Yet the assistant attorney general on that case was Thomas Perez, who testified before the Judiciary Committee, and I believe he did so dishonestly, not just deceptively, when he told us they had achieved the highest punishment allowable under law. That was not true. That was not true. They accepted simply an injunction to prohibit one of those four members of the New Black Panther Party from doing the same thing again in the next election at the same location. That's the highest penalty allowed by law for intimidating voters in America? When the very underpinnings for our Constitution are legitimate elections, and even as important as legitimate elections it is the American people having faith in the legitimacy of our elections, canceled the case.

And he said that according to Tom Perez, the assistant attorney general, who should have to answer for some of this, he had two attorneys who had deep experience and he relied on their professional experience, their 60 years. Well, their 60 years didn't have to do with civil rights cases in the voter rights case, at least since 1994 or 1996.

And there were others that were involved in this that actually did the investigation that had substantial experience. In fact, they have more than 75 years between the two of them, the investigators that were involved in the actual investigation of that suit.

And by the way, Tom Perez, the assistant attorney general, in his testimony twice claimed that rule 11 mandated that the case be dismissed. Rule 11 provides sanction against lawyers who file frivolous and unwarranted lawsuits.

So our Department of Justice investigators, our attorneys trained specifically in that, who are bringing a lawsuit against voter intimidation for the New Black Panthers Party, when we have them on videotape, were intimidated because they thought there would be a rule 11 brought against them and there would be damages that

would have to be paid because their investigation was frivolous? Frivolous or unwarranted, to be specific with the language. But to any lawyer, that is incendiary, to allege that a charge, a case that is being investigated professionally and legitimately might have a rule 11 brought against it and they had to drop it. It is an insult to the professionalism of our investigating attorneys whose names in this article are Coates and Adams. And they have prohibited them from defending themselves against such a charge, that they might have pursued a meritless case. And the Attorney General, in this case Perez, the assistant attorney general, operating under the authority of Eric Holder, has even ordered these attorneys not to comply with subpoenas before the U.S. Commission on Civil Rights when the law directs that they do so, the Federal law, and directs all these Federal agencies to "cooperate fully with the commission."

And the Justice Department isn't political? When they can cancel the most open-and-shut voter intimidation case in the history of the United States of America, I submit that is starkly and bitterly political and the direction that was given by Loretta King would not cause me so much to focus on her if I didn't see her name pop up elsewhere.

Well, it turns out that Loretta King, long time supposedly not a political appointment of the Department of Justice, has been involved in some other cases, cases in which attorney's fees were awarded against the Justice Department, and that would be rule 11. In the civil rights division of the Justice Department for filing a meritless case, Loretta King, whom Perez claims made the dismissal decision, and I accept that description because her name pops up enough other place so I believe that is true, was one of the lawyers on record in the case of *Johnson v. Miller*, which was a redistricting case that went all of the way to the Supreme Court.

And not only did Loretta King lose that case, but both the Supreme Court and the Federal district court severely criticized the civil rights division's handling of the case. They found its practices "disturbing." The district court found "considerable influence of the ACLU's advocacy on the voting rights decisions of the United States Attorney General to be an embarrassment."

So to read this in its continuity for the benefit of your attention, "The Supreme Court and the Federal district court severely criticized the civil rights division's handling of the case, finding its practices disturbing. The district court found the considerable influence of the ACLU's advocacy on the voting rights decisions of the United States Attorney General to be an embarrassment. It was also surprising that the Department of Justice

was so blind to this impropriety, especially in a role as sensitive as that of preserving the fundamental right to vote."

This is what is going on with the case that Loretta King worked on that was rejected by both the district court and the Supreme Court. It went all of the way to the Supreme Court. The American taxpayers were forced to pay \$587,000 in attorneys' fees and costs that were awarded to the defendants to compensate them for an unwarranted lawsuit, one in which Loretta King and the other Justice Department lawyers commanded the State of Georgia, as the Supreme Court noted, to engage in "presumptively unconstitutional race-based districting." That's what we are working with.

So it looks like the antithesis of the allegation made by the assistant attorney general. It looks like Loretta King has been involved in some cases that had to do with race-based quota direction and distorting I think equal protection under the law. And this isn't the only case for Loretta King. I have named two now. She is a principal player in the dismissal of the most open-and-shut voter intimidation case in the history of America in Philadelphia, the New Black Panthers Party.

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She's an attorney in the case that has been reversed by the United States Supreme Court resulting in \$587,000 in settlement costs because of the unjust case that was brought before the Court.

And now I move, Madam Speaker, to the third component of this, and this is Kinston, North Carolina. In Kinston, North Carolina, they had a referendum. They had a vote to decide to take their local elections and move them away from partisanship, to make them nonpartisan, so that the candidates that would be on the ballot for mayor and city council and whatever offices they may have in that city of Kinston, North Carolina, would not be labeled as Republicans or Democrats. They would be labeled instead as candidates to serve their community.

Well, it happens, that's the case in most of the city government in the United States. They are nonpartisan. People want to elect a mayor that's not a Democrat or a Republican, a mayor that's going to serve them in their community. They want to elect city council members of the same thing. They don't want them identified as Republicans or Democrats, and I'm glad that it is that way, as nonpartisan as possible in local government. And whenever local government passes a referendum to make their elections and their office holders nonpartisan, we should champion that. We should be working against partisanship.

But the opposite happened in the case of the decision of the Department of Justice. Now, you might ask your-

self, Madam Speaker, why would the Department of Justice stick their nose in a local decision. Madam Speaker, you might ask yourself, had you been focusing on my dialogue here, why local governments would want to have a referendum, why they would want it to be nonpartisan. We know the answer. They want to get away from the bitter partisanship.

But furthermore, Madam Speaker, you might ask, why would the Justice Department inject themselves into a local political decision and deny Kinston, North Carolina's decision made by a significant majority of their people that they wanted their people elected, not as Republicans or Democrats, but just simply as nonpartisan servants of their community.

Well, it happens that Kinston, North Carolina, is one of those covered districts that are defined under some of the Voting Rights Act that was authorized, reauthorized here some three or more years ago in the United States Congress. These covered districts cannot change anything within their election law or practices without being approved by the Justice Department, the civil rights division of the Justice Department. And so if you're in a covered district—now, covered districts are generally those districts that would have had a high percentage of minorities in them, presumably, also that have a history of, let's say, the institutionalization of Jim Crow laws or racism that goes back to the civil rights era of the 50s and 60s. When the Civil Rights Act was passed in, I'm guessing now, I believe it was 1964 or 1965, these covered districts were restricted from making changes in their election practices without approval of the Justice Department, in fact the civil rights division of the Justice Department.

So in Kinston, North Carolina, or many other places across the country, if they had a voting booth that was in an old city hall building and the city hall was falling down, and they wanted to move that voting booth across the street into the new city hall building, they would have to get the approval of the Justice Department to move that voting booth over there, and the Justice Department would then be doing an evaluation as to whether that voting booth was being moved for some race reason.

That's the minutiae of what's going on. It's a bigger picture, and there are other ways to analyze it. But I'll boil it down to the minutiae because this is minutiae, Madam Speaker. This Kinston, North Carolina argument is minutiae. They decided they wanted to have nonpartisan elections. I couldn't imagine why that would be race based or have anything to do with race.

Well, they were denied, and the will of the people in Kinston, North Carolina, was wiped out and negated by a decision that was written by Loretta

King, who said, and when the case referred to a change to nonpartisan elections, and I have the letter that goes to the city and it says this—now, imagine, this thinking. It is beyond my ability to get my mind around this. It says: Removing the partisan cue in municipal elections will, in all likelihood, eliminate the single factor that allows black candidates to be elected to office.

Now, how could anyone get to this point where, if your motive is for black candidates to be elected to office, you have to identify them apparently as Democrats, or otherwise people going to the polls wouldn't know how to vote for the black candidate if they didn't have a D by their name. This is, if there's a rationale in Loretta King's writing, that's it. And it's pretty much a stretch, in my view. But she writes this, and I'll repeat this into the RECORD, Madam Speaker, because this is breathtaking: removing the partisan cue in municipal elections, meaning identifying as either Democrat or Republican, the D or the R, in all likelihood, would eliminate the single factor. Eliminate. Now it didn't say one of the factors or a primary factor. It said it would eliminate the single factor that allows black candidates to be elected to office.

In other words, she's saying if you don't have a D by your name and you're a black candidate, you can't be elected to office. It's the single factor, according to her interpretation. So she wiped out the will of the people of Kinston, North Carolina, with this Justice Department decision under the hand of Loretta King.

And she goes on and writes: In Kinston elections voters base their choice more on the race of a candidate rather than on his or her political affiliation.

Wow. Do I read that that she's defining the people in Kinston, North Carolina, as racists at their core? They base their choice more on the race of the candidate than on their political affiliation.

And she goes on to write: Without either the appeal to party loyalty or the ability to vote a straight ticket, the limited remaining support from white voters for a black candidate will diminish even more. And given that the city's electorate is overwhelmingly Democratic, while the motivating factor for this change may be partisan, the effect will be strictly racial.

Oh, my gracious. These kind of decisions, the decision that wipes out the will of the people of Kinston, North Carolina, identifies them as a bunch of racists that can't decide who they want to be their mayor, without having a label of an R or a D beside them because that's an indicator of race. A D is an indicator that you're more likely a minority candidate apparently, according to her analysis. There's nothing here that's based on anything that has

to do with law, except that it tears asunder the equal protection clause of the Constitution that makes it a race-based decision on her part, that sets up and accuses people of being racist.

And by the way, the Voting Rights Act and the covered district component of this label somebody's granddaughter who was born a generation and a half or two after her grandfather was labeled a racist by this law, also a racist. It makes it, you inherit racism under this covered district Voting Rights Act.

But I suggest Attorney General Holder, if he's going to be a nonpoliticized Justice Department, has an obligation to take a look at all of the actions of Loretta King. If she can go in and wipe out the will of the people of Kinston, North Carolina, define them all as a group of, well, a significant majority of them anyway, as a group of racists, if she can cancel the most open-and-shut voter intimidation case in the history of the United States of America, if she can bring a case that's so unmerited that it ends up costing the taxpayers \$587,000 under rule 11, and if the Justice Department, under the direction of Eric Holder and under the decision and under-the-oath testimony of Assistant Attorney General Tom Perez, if the Justice Department can do the things that they have done and argue that they had to close the Black Panthers voter intimidation case because of the fear of rule 11 when, in fact, it's the other way around, and the Attorney General of the United States would sit before the Judiciary Committee an hour and a half or so ago and tell this Nation that his office isn't politicized, with all of this evidence to the contrary, and put all of the resources that he has into the investigation of Arizona immigration law, the constitutionality of it, whether there's a Federal statute that prohibits it or whether there's any case law out there, any case precedents that might affect it, and still not speak to any of those three issues, so the resources of the United States of America are being used in a politicized fashion, Madam Speaker, and I think I have made my case. I appreciate your attention.

I yield back the balance of my time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RANGEL (at the request of Mr. HOYER) for today after 12 p.m. on account of business in the district.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. SUTTON) to revise and ex-

tend their remarks and include extraneous material:)

Ms. SUTTON, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. KOSMAS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

(The following Members (at the request of Mr. POE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. NEUGEBAUER, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, May 18, 19, and 20.

Mr. POE of Texas, for 5 minutes, May 20.

Mr. JONES, for 5 minutes, May 20.

Mr. MORAN of Kansas, for 5 minutes, May 18, 19, and 20.

Mr. WOLF, for 5 minutes, today.

#### ADJOURNMENT

Mr. KING of Iowa. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, May 14, 2010, at 11:30 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

7460. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 2009-10 Crop Natural (Sun-Dried) Seedless Raisins [Doc. No.: AMS-FV-09-0075 and FV10-989-1 IFR] received May 12, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7461. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket ID: FEMA-2010-0003; Internal Agency Docket No. FEMA-B-1116] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7462. A letter from the Managing Associate General Counsel, Government Accountability Office, transmitting a report on the major rule from the Environmental Protection Agency entitled "National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines"; to the Committee on Energy and Commerce.

7463. A letter from the Assistant Director for Policy, Department of the Treasury, transmitting the Department's final rule — Somalia Sanctions Regulations received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

7464. A letter from the Chairman, Council of the District of Columbia, transmitting Transmittal of D.C. ACT 18-400, "OTO Hotel at Constitution Square Economic Development Act of 2010"; to the Committee on Oversight and Government Reform.

7465. A letter from the Chairman, Council of the District of Columbia, transmitting

Transmittal of D.C. ACT 18-397, "Bonus and Special Pay Clarification Temporary Amendment Act of 2010"; to the Committee on Oversight and Government Reform.

7466. A letter from the Chairman, Council of the District of Columbia, transmitting Transmittal of D.C. ACT 18-395, "Neighborhood Supermarket Tax Relief Clarification Act of 2010"; to the Committee on Oversight and Government Reform.

7467. A letter from the Chairman, Council of the District of Columbia, transmitting Transmittal of D.C. ACT 18-396 "Anti-Graffiti Act of 2010"; to the Committee on Oversight and Government Reform.

7468. A letter from the Chairman, Council of the District of Columbia, transmitting Transmittal of D.C. ACT 18-394, "Department of Parks and Recreation Capital Construction Mentorship Program Temporary Amendment Act of 2010"; to the Committee on Oversight and Government Reform.

7469. A letter from the Chairman, Council of the District of Columbia, transmitting Transmittal of D.C. ACT 18-383, "Uniform Emergency Volunteer Health Practitioners Act of 2010"; to the Committee on Oversight and Government Reform.

7470. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule — Collection of Administrative Debts; Collection of Debts Arising from Enforcement and Administration of Campaign Finance Laws [Notice 2010-10] received April 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

7471. A letter from the Secretary, Department of Health and Human Services, transmitting annual report on the Indian Health Service Funding for contract support Costs of self-determination awards for Fiscal Year 2008, pursuant to Public Law 93-638, section 106(c); to the Committee on Natural Resources.

7472. A letter from the Chief Justice, Supreme Court of the United States, transmitting Amendments To The Federal Rules of Criminal Procedure, pursuant to 28 U.S.C. 2074; (H. Doc. No. 111—110); to the Committee on the Judiciary and ordered to be printed.

7473. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Civil Procedure that have been adopted by the Supreme Court, pursuant to 28 U.S.C. 2072; (H. Doc. No. 111—111); to the Committee on the Judiciary and ordered to be printed.

7474. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Appellate Procedure that have been adopted by the Supreme Court, pursuant to 28 U.S.C. 2074; (H. Doc. No. 111—112); to the Committee on the Judiciary and ordered to be printed.

7475. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Evidence that have been adopted by the Court, pursuant to 28 U.S.C. 2072; (H. Doc. No. 111—113); to the Committee on the Judiciary and ordered to be printed.

7476. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendment to the Federal Rules of Bankruptcy Procedure that have been adopted by the Supreme Court, pursuant to 28 U.S.C. 2075; (H. Doc. No. 111—114); to the Committee on the Judiciary and ordered to be printed.

7477. A letter from the Assistant Attorney General, Department of Justice, transmitting the report on the administration of the Foreign Agents Registration Act covering

the six months ending June 30, 2009, pursuant to 22 U.S.C. 621; to the Committee on the Judiciary.

7478. A letter from the Assistant Attorney General, Department of Justice, transmitting the semi-annual report of the Attorney General concerning enforcement actions taken by the Department under the Lobbying Disclosure Act, Public Law 104-65, as amended by Public Law 110-81, codified at 2 U.S.C. Sec. 1605(b)(1) for the semi-annual period beginning on January 1, 2009; to the Committee on the Judiciary.

7479. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330-200, A330-300, and A340-300 Series Airplanes [Docket No.: FAA-2009-1108; Directorate Identifier 2009-NM-131-AD; Amendment 39-16260; AD 2010-08-05] (RIN: 2120-AA64) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7480. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model 340-500 and -600 Series Airplanes [Docket No.: FAA-2010-0282; Directorate Identifier 2009-NM-140-AD; Amendment 39-16262; AD 2010-08-07] (RIN: 2120-AA64) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7481. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Oxnard, CA [Docket No.: FAA-2009-1009; Airspace Docket No. 09-AWP-11] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7482. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; North Bend, OR [Docket No.: FAA-2009-0831; Airspace Docket No. 09-ANM-13] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7483. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Amendment of Low Altitude Area Navigation Route T-254; Houston, TX [Docket No.: FAA-2010-0015; Airspace Docket No. 09-ASW-18] (RIN: 2120-AA66) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7484. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Rifle, CO [Docket No.: FAA-2009-1014; Airspace Docket No. 09-ANM-10] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7485. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Altus, OK [Docket No.: FAA-2009-0405; Airspace Docket No. 09-ASW-17] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7486. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Amendment of Class D Airspace; Hollywood, FL [Docket No.: FAA-2010-0300; Airspace Docket No. 10-ASO-17] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Com-

mittee on Transportation and Infrastructure.

7487. A letter from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting the final integrated General Reevaluation Report and Environmental Impact Statement for West Onslow Beach and New River Inlet, North Carolina; (H. Doc. No. 111—109); to the Committee on Transportation and Infrastructure and ordered to be printed.

7488. A letter from the Administrator, FEMA, Department of Homeland Security, transmitting the Department's report on the Preliminary Damage Assessment information on FEMA-1876-DR for the State of Oklahoma; jointly to the Committees on Transportation and Infrastructure, Appropriations, and Homeland Security.

7489. A letter from the Administrator, FEMA, Department of Homeland Security, transmitting the Department's report on the Preliminary Damage Assessment information on FEMA-1877-DR for the State of Iowa; jointly to the Committees on Transportation and Infrastructure, Appropriations, and Homeland Security.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. REHBERG (for himself and Ms. HERSETH SANDLIN):

H.R. 5294. A bill to prevent Federal agencies from regulating greenhouse gas emissions for purposes of addressing climate change without express and specific statutory authority, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SULLIVAN (for himself, Mr. SCOTT of Georgia, and Mr. McDERMOTT):

H.R. 5295. A bill to ensure that patients receive accurate health care information by prohibiting misleading and deceptive advertising or representation in the provision of health care services, and to require the identification of the license of health care professionals; to the Committee on Energy and Commerce.

By Mr. McNERNEY (for himself, Mr. COSTA, and Mr. CARDOZA):

H.R. 5296. A bill to address the health and economic development impacts of nonattainment of federally mandated air quality standards in the San Joaquin Valley, California, by designating air quality empowerment zones; to the Committee on Energy and Commerce.

By Mr. FRANK of Massachusetts (for himself, Ms. WATERS, Mrs. MALONEY, Mr. GUTIERREZ, Mr. WATT, Mr. MOORE of Kansas, Mr. HINOJOSA, Mr. MEEKS of New York, Mr. MILLER of North Carolina, Mr. SCOTT of Georgia, Mr. AL GREEN of Texas, Ms. BEAN, Ms. MOORE of Wisconsin, Mr. ELLISON, Mr. KLEIN of Florida, Mr. PERLMUTTER, Mr. PETERS, Mr. MAFFEI, and Mrs. DAHLKEMPER):

H.R. 5297. A bill to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, and for other purposes; to the Committee on Financial Services.

By Mr. TIAHRT (for himself, Mr. LARSEN of Washington, Mr. INSLEE, Mr. BLUNT, Mr. SMITH of Texas, Mr.

MORAN of Kansas, Mrs. EMERSON, Mr. CLAY, Mr. LUTKEMEYER, Mr. CARNAHAN, Ms. JENKINS, Mrs. NAPOLITANO, Mr. MANZULLO, Mr. FOSTER, Mr. MCMAHON, Mr. LOEBSACK, Mr. WILSON of South Carolina, Mr. BROWN of South Carolina, Mr. DAVIS of Illinois, Mr. CALVERT, Ms. DELAUNO, Mr. BACA, Mr. COSTELLO, Mr. HASTINGS of Washington, Mr. GERLACH, Mr. ROTHMAN of New Jersey, Mr. RUSH, Mr. LIPINSKI, and Mr. HARE):

H.R. 5298. A bill to require the Secretary of Defense to take illegal subsidization into account in evaluating proposals for contracts for major defense acquisition programs, and for other purposes; to the Committee on Armed Services.

By Mr. PENCE (for himself, Mrs. McMORRIS RODGERS, Mr. LEWIS of California, Mr. HENSARLING, and Ms. GRANGER):

H.R. 5299. A bill to temporarily prohibit United States loans to the International Monetary Fund to be used to provide financing for any member state of the European Union; to the Committee on Financial Services.

By Mr. SCOTT of Virginia (for himself, Mr. LATOURETTE, Ms. LORETTA SANCHEZ of California, Mr. LOBIONDO, and Mrs. MILLER of Michigan):

H.R. 5300. A bill to provide safeguards with respect to the Federal Bureau of Investigation criminal background checks prepared for employment purposes, and for other purposes; to the Committee on the Judiciary.

By Mr. LOBIONDO (for himself, Mr. MICA, Mr. TAYLOR, Mr. JONES, Mr. COBLE, and Mr. YOUNG of Alaska):

H.R. 5301. A bill to extend the period during which the Administrator of the Environmental Protection Agency and States are prohibited from requiring a permit under section 402 of the Federal Water Pollution Control Act for certain discharges that are incidental to normal operation of vessels; to the Committee on Transportation and Infrastructure.

By Mr. PETERS (for himself, Mr. LEVIN, Mr. DINGELL, Mr. MAFFEI, Mr. SARBANES, Mr. REYES, Ms. NORTON, Mr. SCHAUER, Mr. PASCARELL, Mr. STUPAK, Ms. TSONGAS, Mr. WATT, Mr. TONKO, Mr. ETHERIDGE, Ms. LINDA T. SANCHEZ of California, Mr. ADLER of New Jersey, Mr. KANJORSKI, Mr. MOORE of Kansas, Mr. MICHAUD, Ms. SUTTON, Ms. BEAN, Mr. LIPINSKI, Ms. MOORE of Wisconsin, Mr. LOEBSACK, Mr. KILDEE, and Mr. MILLER of North Carolina):

H.R. 5302. A bill to establish the State Small Business Credit Initiative, and for other purposes; to the Committee on Financial Services.

By Mr. BISHOP of New York:

H.R. 5303. A bill to amend title 38, United States Code, to improve housing stipends for veterans receiving educational assistance under the Post-9/11 Veterans Educational Assistance Program; to the Committee on Veterans' Affairs.

By Mr. COHEN (for himself, Mr. GRIJALVA, Mr. PAYNE, and Mr. STARK):

H.R. 5304. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide for improvements under the Edward Byrne Memorial Justice Assistance Grant Program to reduce racial and ethnic disparities in the criminal justice system; to the Committee on the Judiciary.

By Mr. DUNCAN (for himself, Mr. LIPINSKI, Ms. FUDGE, Mr. ARCURI, and Mr. HARPER):



H.R. 5305. A bill to mandate the monthly formulation and publication of a consumer price index specifically for senior citizens to establish an accurate Social Security COLA for such citizens; to the Committee on Education and Labor.

By Mrs. EMERSON:

H.R. 5306. A bill to amend the Internal Revenue Code of 1986 to require employers to sign a statement on their income tax returns that they do not knowingly employ individuals in the United States who are not authorized to be employed in the United States; to the Committee on Ways and Means.

By Ms. GIFFORDS (for herself and Mr. HELLER):

H.R. 5307. A bill to amend the Tariff Act of 1930 to include ultralight aircraft under the definition of aircraft for purposes of the aviation smuggling provisions under that Act; to the Committee on Ways and Means.

By Ms. LEE of California (for herself, Mr. BISHOP of Georgia, Mr. MEEKS of New York, Mr. CONYERS, Ms. CORRINE BROWN of Florida, Ms. RICHARDSON, Mrs. CHRISTENSEN, Ms. KILPATRICK of Michigan, Mr. LEWIS of Georgia, Ms. MOORE of Wisconsin, Mr. TOWNS, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 5308. A bill to provide for the posthumous promotion of Charles Young to the grade of brigadier general in the United States Army; to the Committee on Armed Services.

By Mrs. MALONEY (for herself, Mr. OLVER, Ms. MOORE of Wisconsin, Ms. SUTTON, Mr. FARR, Mr. MOORE of Kansas, Mr. TIERNEY, Mr. INSLEE, Mrs. CAPPS, Ms. BALDWIN, Mr. FILNER, Ms. WASSERMAN SCHULTZ, and Mr. STARK):

H.R. 5309. A bill to establish certain duties for pharmacies to ensure provision of Food and Drug Administration-approved contraception, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PALLONE (for himself and Mr. SESTAK):

H.R. 5310. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to reauthorize and improve the Brownfields Revitalization Program, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PASCRELL (for himself, Mr. BOUSTANY, and Mr. KANJORSKI):

H.R. 5311. A bill to amend the Internal Revenue Code of 1986 to make permanent the treatment of municipal bonds guaranteed by Federal home loan banks as tax exempt bonds; to the Committee on Ways and Means.

By Mr. SCHAUER (for himself, Mr. MICHAUD, Mr. RYAN of Ohio, Ms. KAPTUR, Mr. KILDEE, Mr. JONES, Mr. HARE, Ms. SUTTON, and Ms. SHEAPORTER):

H.R. 5312. A bill to limit the total value of Chinese goods that may be procured by the United States Government during a calendar year to not more than the total value of United States goods procured by the Chinese Government if any during the preceding calendar year, and for other purposes; to the Committee on Oversight and Government Reform, and in addition to the Committees

on Ways and Means, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHOCK (for himself and Mr. PUTNAM):

H.R. 5313. A bill to direct the Secretary of the Interior to require offshore oil rigs to install acoustic control systems, and for other purposes; to the Committee on Natural Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Nebraska (for himself and Mr. MARCHANT):

H.R. 5314. A bill to amend the Internal Revenue Code of 1986 to provide a 15-year recovery period for nonresidential real property in rural areas; to the Committee on Ways and Means.

By Mr. WELCH:

H.R. 5315. A bill to amend title 38, United States Code, to extend the period of time in which a member of the Armed Forces may transfer educational assistance under the Post-9/11 Educational Assistance Program to a dependent child; to the Committee on Veterans' Affairs.

By Mr. YOUNG of Alaska:

H.R. 5316. A bill to direct the Secretary of Labor to establish an office in Anchorage, Alaska, under the Office of Workers' Compensation Programs; to the Committee on Education and Labor.

By Mr. YOUNG of Alaska:

H.R. 5317. A bill to provide for the conveyance of certain property from the United States to the Maniilaq Association located in Kotzebue, Alaska; to the Committee on Natural Resources, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHRADER:

H.J. Res. 84. A joint resolution proposing an amendment to the Constitution of the United States giving Congress power to regulate campaign contributions for Federal elections; to the Committee on the Judiciary.

By Mrs. HALVORSON (for herself and Mr. FILNER):

H. Con. Res. 278. Concurrent resolution expressing the sense of Congress that a grateful Nation supports and salutes Sons and Daughters in Touch on its 20th Anniversary that is being held on Father's Day, 2010, at the Vietnam Veterans Memorial in Washington, the District of Columbia; to the Committee on Veterans' Affairs.

By Mr. FARR (for himself, Mr. McDERMOTT, Mr. LEVIN, Mr. BLUMENAUER, Mr. THOMPSON of California, Ms. MATSUI, Ms. WOOLSEY, Mr. GEORGE MILLER of California, Ms. LEE of California, Mr. GARAMENDI, Mr. McNERNEY, Ms. SPEIER, Mr. STARK, Ms. ESHOO, Mr. HONDA, Ms. ZOE LOFGREN of California, Mr. CARDOZA, Mr. COSTA, Mrs. CAPPS, Mr. DREIER, Mr. WAXMAN, Mr. BECERRA, Ms. CHU, Ms. WATSON, Ms. WATERS, Ms. HARMAN, Ms. RICHARDSON, Ms. LINDA T. SANCHEZ of California, Mr. BACA, Mr. ROHRBACHER, Ms. LORETTA SANCHEZ of California, Mr. ISSA, Mr. BILBRAY, Mr. FILNER, and Mrs. DAVIS of California):

H. Res. 1358. A resolution recognizing the contribution made by the James Martin Center for Nonproliferation Studies at the Monterey Institute of International Studies to combat the spread of weapons of mass destruction by training the next generation of nonproliferation specialists and disseminating timely information and analysis; to the Committee on Foreign Affairs.

By Mr. ACKERMAN (for himself and Mr. BURTON of Indiana):

H. Res. 1359. A resolution calling for the immediate and unconditional release of Israeli soldier Gilad Shalit held captive by Hamas, and for other purposes; to the Committee on Foreign Affairs.

By Mr. KRATOVIL:

H. Res. 1360. A resolution amending the Rules of the House of Representatives to guarantee reasonable time prior to the consideration of legislation; to the Committee on Rules.

By Mr. PRICE of North Carolina (for himself, Mr. BUTTERFIELD, Mr. ETHERIDGE, Mr. MCHENRY, Mr. COBLE, Ms. FUDGE, Mr. DAVIS of Illinois, Mr. SNYDER, Mr. SHULER, and Mr. WATT):

H. Res. 1361. A resolution recognizing North Carolina Central University on its 100th anniversary; to the Committee on Education and Labor.

## MEMORIALS

Under clause 4 of rule XXII,

279. The SPEAKER presented a memorial of the House of Representatives of the State of Idaho, relative to House Concurrent Resolution No. 44 urging the Congress to implement suggestions in the Resolution; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 126: Mr. DUNCAN.  
H.R. 207: Mr. HODES.  
H.R. 208: Mr. PITTS, Mr. LOBIONDO, and Ms. NORTON.  
H.R. 413: Mr. INSLEE and Mr. CARNEY.  
H.R. 886: Mr. VAN HOLLEN.  
H.R. 1021: Mr. COHEN and Mr. STEARNS.  
H.R. 1093: Mr. BRADY of Pennsylvania.  
H.R. 1175: Mr. LIPINSKI.  
H.R. 1179: Mr. TERRY.  
H.R. 1189: Mr. ROGERS of Alabama.  
H.R. 1205: Mr. LARSEN of Washington and Mr. BARRETT of South Carolina.  
H.R. 1410: Mr. CONYERS, Mr. BRALEY of Iowa, Mr. ISRAEL, Ms. KILPATRICK of Michigan, and Ms. KILROY.  
H.R. 1547: Mr. INGLIS, Mr. COSTA, and Mr. CALVERT.  
H.R. 1625: Mr. BRIGHT and Ms. HARMAN.  
H.R. 1643: Ms. RICHARDSON and Mr. Boucher.  
H.R. 1744: Mr. BOSWELL, Mr. WILSON of Ohio, Mr. CALVERT, and Mr. SPRATT.  
H.R. 1826: Mr. DEUTCH.  
H.R. 1864: Ms. PINGREE of Maine.  
H.R. 1866: Mr. ELLISON.  
H.R. 1874: Mr. HINCHEY.  
H.R. 2067: Mr. PALLONE.  
H.R. 2103: Mr. DOYLE, Mr. JOHNSON of Georgia, and Mr. VAN HOLLEN.  
H.R. 2149: Ms. MATSUI.  
H.R. 2222: Mr. PASCRELL.  
H.R. 2267: Mr. MURPHY of New York.  
H.R. 2363: Ms. WOOLSEY, Mr. MORAN of Virginia, and Ms. RICHARDSON.



H.R. 2378: Mr. ELLSWORTH and Mr. CALVERT.

H.R. 2381: Mr. MOORE of Kansas.

H.R. 2480: Ms. CASTOR of Florida.

H.R. 2483: Mr. LARSEN of Washington, Ms. RICHARDSON, Mr. HASTINGS of Florida, and Mr. BISHOP of Georgia.

H.R. 2485: Ms. NORTON.

H.R. 2546: Mr. RADANOVICH.

H.R. 2553: Mr. ROE of Tennessee.

H.R. 2555: Mr. BISHOP of Georgia and Ms. RICHARDSON.

H.R. 2561: Ms. KILPATRICK of Michigan.

H.R. 2601: Mr. BRALEY of Iowa, Mr. SPRATT, and Mr. BOUCHER.

H.R. 2736: Mr. KILDEE, Mr. FRANK of Massachusetts, and Ms. PINGREE of Maine.

H.R. 2746: Mr. POLIS, Mr. LATOURETTE, Mr. LOBIONDO, Mr. DAVIS of Alabama, and Mrs. MILLER of Michigan.

H.R. 2872: Mr. HOLT.

H.R. 2897: Mr. HEINRICH.

H.R. 3035: Mr. PALLONE and Mr. ELLSWORTH.

H.R. 3077: Mr. LEWIS of Georgia.

H.R. 3181: Ms. CLARKE.

H.R. 3257: Mr. SABLAN.

H.R. 3287: Mr. WALZ.

H.R. 3379: Mr. BLUMENAUER.

H.R. 3668: Mr. DEUTCH, Mr. HIGGINS, Ms. CASTOR of Florida, Mr. REYES, Mr. BACHUS, Mr. ADLER of New Jersey, Mr. GONZALEZ, Ms. HARMAN, Mr. BISHOP of Georgia, Mr. TURNER, Ms. HIRONO, and Mr. WHITFIELD.

H.R. 3675: Mr. HOLT.

H.R. 3712: Mr. GRAYSON.

H.R. 3724: Mr. DELAHUNT.

H.R. 3734: Mr. McDERMOTT.

H.R. 3781: Mr. REHBERG.

H.R. 3790: Mr. EDWARDS of Texas, Mr. WALDEN, Ms. NORTON, Ms. BALDWIN, Mr. HARPER, and Mr. FILNER.

H.R. 3995: Ms. HIRONO.

H.R. 4055: Mr. PIERLUISI.

H.R. 4068: Mr. AKIN.

H.R. 4080: Mr. PIERLUISI.

H.R. 4115: Ms. SUTTON and Mr. GRAYSON.

H.R. 4142: Mr. SHERMAN.

H.R. 4148: Mr. BISHOP of New York.

H.R. 4191: Mr. BLUMENAUER.

H.R. 4278: Mr. STUPAK.

H.R. 4383: Mr. BURTON of Indiana and Mr. GRIJALVA.

H.R. 4393: Mr. CALVERT.

H.R. 4403: Mr. SABLAN.

H.R. 4427: Ms. PINGREE of Maine.

H.R. 4533: Mr. ISRAEL.

H.R. 4553: Mr. CARNEY.

H.R. 4554: Ms. ROYBAL-ALLARD.

H.R. 4671: Mr. EHLERS and Mr. HILL.

H.R. 4710: Mr. WU.

H.R. 4713: Mr. ELLISON.

H.R. 4728: Mr. GINGREY of Georgia, Mr. LAMBORN, and Mr. CALVERT.

H.R. 4733: Ms. PINGREE of Maine.

H.R. 4737: Mr. JACKSON of Illinois.

H.R. 4803: Mr. TERRY and Mr. SULLIVAN.

H.R. 4819: Mr. CONYERS.

H.R. 4830: Mr. STARK.

H.R. 4844: Mr. PETERSON.

H.R. 4868: Mr. WEINER.

H.R. 4871: Ms. BEAN.

H.R. 4879: Mr. LEVIN, Ms. SLAUGHTER, Mr. BERMAN, Mr. GRAYSON, Mr. WAXMAN, and Mr. HALL of New York.

H.R. 4883: Mr. LATTA.

H.R. 4888: Ms. BALDWIN.

H.R. 4889: Mr. BURGESS.

H.R. 4910: Mr. CALVERT.

H.R. 4914: Mr. GRAYSON.

H.R. 4923: Mr. YARMUTH and Mr. COHEN.

H.R. 4933: Mr. RUSH and Mr. MCGOVERN.

H.R. 4951: Mr. BOOZMAN and Mr. MARCHANT.

H.R. 4952: Mr. REICHERT.

H.R. 4959: Mr. SERRANO, Ms. NORTON, and Mr. ROTHMAN of New Jersey.

H.R. 5015: Ms. MCCOLLUM and Mr. LOEBSACK.

H.R. 5016: Mr. COFFMAN of Colorado, Mr. GALLEGLY, Mr. FLEMING, Mr. POSEY, Mr. GARRETT of New Jersey, Mr. ISSA, Mr. PITTS, Mr. CULBERSON, Mr. DANIEL E. LUNGREN of California, Mr. CHAFFETZ, Mr. FLAKE, Mr. MCCLINTOCK, Mr. LAMBORN, Mr. SMITH of Nebraska, Mr. HENSARLING, Mr. LATTA, Mr. OLSON, Mr. GINGREY of Georgia, Mr. SHAD-EGG, Mr. FRANKS of Arizona, Mr. YOUNG of Alaska, Mrs. McMORRIS RODGERS, Mr. KING of Iowa, Mrs. LUMMIS, Mr. FORTENBERRY, Mr. PRICE of Georgia, Mr. NEUGEBAUER, Mr. HELLER, Mrs. BLACKBURN, Mr. POE of Texas, and Mr. HERGER.

H.R. 5029: Mr. BURTON of Indiana.

H.R. 5035: Mr. HOLDEN.

H.R. 5038: Mr. MCCLINTOCK.

H.R. 5044: Mr. GRAYSON, Mr. MCGOVERN, Mr. HEINRICH, and Mr. STARK.

H.R. 5049: Mr. SABLAN.

H.R. 5054: Mr. FLEMING.

H.R. 5092: Mr. BUYER, Ms. GIFFORDS, Ms. FALLIN, Mr. CONAWAY, Mr. CHAFFETZ, and Ms. CORRINE BROWN of Florida.

H.R. 5111: Mr. LEE of New York, Mr. ROGERS of Kentucky, Mr. ROGERS of Michigan, Mrs. EMERSON, Mr. ALEXANDER, Mr. YOUNG of Florida, Mr. CALVERT, and Mr. BONNER.

H.R. 5117: Mr. RANGEL and Ms. ESHOO.

H.R. 5118: Mr. SULLIVAN.

H.R. 5120: Mr. FILNER, Ms. KILPATRICK of Michigan, Mr. HOLT, Mr. PASTOR of Arizona, and Mr. GRAYSON.

H.R. 5122: Mr. AL GREEN of Texas.

H.R. 5142: Ms. BEAN.

H.R. 5174: Mr. DENT and Mr. PASCARELL.

H.R. 5175: Ms. SPIER, Mr. TIERNEY, Ms. SCHAKOWSKY, and Mr. INSLEE.

H.R. 5177: Mr. PLATTS and Mr. COURTNEY.

H.R. 5191: Mr. PAYNE.

H.R. 5198: Mr. SABLAN.

H.R. 5211: Mr. TONKO.

H.R. 5213: Ms. SPIER and Ms. WATERS.

H.R. 5214: Ms. ESHOO, Ms. PINGREE of Maine, Mr. MCGOVERN, and Mr. BLUMENAUER.

H.R. 5222: Mr. BLUMENAUER.

H.R. 5225: Mr. WALZ.

H.R. 5226: Mr. YARMUTH, Mr. BRALEY of Iowa, Mr. LOEBSACK, Mr. ARCURI, Mr. MCNERNEY, Mr. KUCINICH, Ms. KAPTUR, and Mr. BOCCIERI.

H.R. 5234: Mr. ROGERS of Alabama.

H.R. 5257: Mr. TERRY.

H.R. 5268: Mr. FARR, Mr. BLUMENAUER, and Mr. CONNOLLY of Virginia.

H.R. 5279: Mr. PASCARELL.

H. Con. Res. 16: Mr. CALVERT.

H. Con. Res. 245: Mr. PLATTS.

H. Con. Res. 265: Mr. PENCE, Mr. ISSA, Mr. BISHOP of Utah, and Mrs. BLACKBURN.

H. Con. Res. 266: Mr. CAPUANO and Mr. MCCOTTER.

H. Con. Res. 271: Mr. MARCHANT and Mr. BOOZMAN.

H. Con. Res. 274: Mr. TURNER and Mr. FLEMING.

H. Res. 173: Mr. ISRAEL, Mr. THOMPSON of Pennsylvania, Ms. MOORE of Wisconsin, and Mr. PERLMUTTER.

H. Res. 263: Mr. WOLF.

H. Res. 407: Mr. SNYDER and Mr. NEAL of Massachusetts.

H. Res. 510: Mr. LATOURETTE.

H. Res. 584: Mr. CALVERT.

H. Res. 762: Mr. HIGGINS, Mr. LARSON of Connecticut, Mr. KUCINICH, Mr. MURPHY of Connecticut, Mrs. MCCARTHY of New York, and Mr. MAFFEI.

H. Res. 913: Mr. LARSEN of Washington.

H. Res. 996: Mr. GORDON of Tennessee.

H. Res. 1026: Mr. CALVERT.

H. Res. 1052: Mr. ELLSWORTH, Mr. COURTNEY, Ms. BORDALLO, Mr. MILLER of Florida, and Mr. BISHOP of Utah.

H. Res. 1056: Mr. CALVERT.

H. Res. 1073: Mr. BUYER and Mr. CALVERT.

H. Res. 1110: Mrs. McMORRIS RODGERS, Mr. WILSON of South Carolina, and Mr. TURNER.

H. Res. 1122: Mr. CLEAVER, Mr. ROTHMAN of New Jersey, Ms. ROYBAL-ALLARD, and Mr. TERRY.

H. Res. 1152: Ms. EDDIE BERNICE JOHNSON of Texas, Ms. WATSON, Ms. BORDALLO, Mr. ANDREWS, Mr. MOORE of Kansas, Mr. JACKSON of Illinois, Mr. BUTTERFIELD, Mr. BISHOP of Georgia, Mr. KAGEN, Mr. HARE, Ms. SUTTON, Ms. MCCOLLUM, Ms. DEGETTE, Mr. FATTAH, Mr. ELLISON, Mr. GEORGE MILLER of California, Ms. WATERS, Mr. YOUNG of Alaska, Mrs. BIGGERT, Mr. PAYNE, Mr. COHEN, Mrs. EMERSON, Ms. LEE of California, Mr. WATT, Mr. SCOTT of Virginia, Ms. CLARKE, Mr. PETRI, Mr. MORAN of Virginia, and Mr. RANGEL.

H. Res. 1169: Mr. MILLER of Florida, Mr. BOYD, Ms. CASTOR of Florida, Mr. PUTNAM, Mr. BUCHANAN, Mr. POSEY, Mr. MEEK of Florida, Mr. DEUTCH, Mr. LINCOLN DIAZ-BALART of Florida, Mr. KLEIN of Florida, Mr. HASTINGS of Florida, Mr. MARIO DIAZ-BALART of Florida, Mrs. CAPPS, Ms. CHU, Mr. HIMES, Ms. HIRONO, Mr. HODES, Mr. LUJAN, Mr. ACKERMAN, Mr. RYAN of Ohio, and Mr. MATHESON.

H. Res. 1175: Mrs. MYRICK and Mr. CALVERT.

H. Res. 1207: Mr. LINDER and Mr. DICKS.

H. Res. 1219: Mr. LEWIS of California and Mr. GALLEGLY.

H. Res. 1264: Mr. PASCARELL.

H. Res. 1273: Mr. GALLEGLY and Mr. BOREN.

H. Res. 1275: Mr. HALL of New York, Mr. SIRES, and Mr. GARAMENDI.

H. Res. 1290: Mr. REYES and Mr. KIRK.

H. Res. 1291: Ms. NORTON.

H. Res. 1292: Mr. BLUNT, Mrs. EMERSON, Mr. BRADY of Texas, Mr. BISHOP of Utah, Mr. BOOZMAN, Mr. WILSON of South Carolina, Mr. FORBES, Mr. CONAWAY, Mr. SHIMKUS, Mr. MILLER of Florida, Mr. BLUMENAUER, Mr. DUNCAN, Mr. BROWN of South Carolina, Mr. CRENSHAW, Mr. LUCAS, Mr. GOODLATTE, Ms. JENKINS, Mr. MCINTYRE, Mr. SULLIVAN, Mr. SESSIONS, Mr. LATOURETTE, Mr. PLATTS, Mr. DENT, Mr. GERLACH, Mr. HASTINGS of Washington, Mr. SIMPSON, Mr. GRAVES, and Mr. REICHERT.

H. Res. 1302: Ms. ZOE LOFGREN of California.

H. Res. 1313: Mr. ADERHOLT, Mr. ROGERS of Alabama, Mr. BACHUS, Mr. LINDER, Mr. POSEY, Mr. MCCOTTER, and Mr. BONNER.

H. Res. 1319: Mr. TONKO.

H. Res. 1321: Mr. BLUMENAUER, Mr. LARSON of Connecticut, and Mrs. CHRISTENSEN.

H. Res. 1330: Mr. COHEN, Ms. CASTOR of Florida, Mr. MICHAUD, Ms. PINGREE of Maine, Mr. LANGEVIN, Mr. MCINTYRE, and Ms. MCCOLLUM.

H. Res. 1346: Mr. WITTMAN.

H. Res. 1350: Ms. HIRONO, Mr. LOEBSACK, Mr. KILDEE, Ms. BORDALLO, Ms. NORTON, Ms. CORRINE BROWN of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. EDWARDS of Maryland, Mr. PAYNE, Mr. ELLISON, Mr. MEEKS of New York, Mr. BACA, Mr. HINCHBY, Mr. JOHNSON of Georgia, Ms. RICHARDSON, Mr. ENGEL, Mr. FILNER, Mr. SABLAN, Mr. GARAMENDI, Mr. TONKO, Mr. FARR, Mr. DEUTCH, Mr. MCNERNEY, Ms. FUDGE, Ms. LINDA T. SANCHEZ of California, Ms. CLARKE, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. JACKSON of Illinois, Ms. LEE of California, Mr. DAVIS of Illinois, Ms. KAPTUR, Ms. KILPATRICK of Michigan, Ms. JACKSON LEE of Texas, Ms. WOOLSEY, Ms. MCCOLLUM, Ms.

MATSUI, Mr. McDERMOTT, Ms. CHU, Mr. HONDA, Mr. GUTIERREZ, Mr. BECERRA, Mr. MEEK of Florida, Mr. MCGOVERN, Mr. BRALEY of Iowa, Mr. SIRES, Mr. CLEAVER, Mr. GRAYSON, Mr. CLAY, and Mr. RAHALL.

H. Res. 1352: Ms. LEE of California, Mr. MINNICK, Mr. MILLER of North Carolina, Mr.

ROSS, Mr. TANNER, and Mr. SMITH of New Jersey.

H. Res. 1357: Mr. WAXMAN and Ms. RICHARDSON.

DELETIONS OF SPONSORS FROM  
PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 76: Mr. KILDEE.

## SENATE—Thursday, May 13, 2010

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, the source of our strength, we acknowledge our dependence on You. Direct our Senators in all their ways, opening and closing the doors of their lives with Your providential wisdom. Watch over their loved ones and deliver them from evil. Equip and strengthen our lawmakers for their difficult work, as they drink deeply from the hidden streams of Your grace. Lord, give them the courage to stand up and speak out in defense of truth, as You provide them with the ability to discern Your will. Fill the wells of their souls with Your strength and their intellects with fresh inspiration.

We pray in Your righteous Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 13, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### SCHEDULE

Mr. REID. Madam President, following any leader remarks, the Senate will resume consideration of the Wall Street reform legislation. We have eight amendments that are pending. Today we will continue to work through these amendments to the bill and Senators should expect rollcall votes to occur throughout the day.

We are having a special caucus today—we Democrats—to talk about this issue. The Senate will, therefore, be in recess from 1 p.m. until 2 p.m. today. I have had conversations earlier this week with the Republican leader about this and other issues, and I will talk to him again before the caucus.

### NATIONAL POLICE WEEK

Mr. REID. Madam President, I had the opportunity a few years ago to ride with two police officers. It was a specialized unit that had been established with the Las Vegas Metropolitan Police Department on drunk drivers. I learned so much. It was a good experience for me. There were things I simply did not know existed. For example, if you see a car with no lights on—it is nighttime—there is a 50-percent chance that is a drunk driver. If you see a car making a wide sweep around a corner very slowly, there is a good chance that is a drunk driver. And they have other things they look for.

As we patrolled the streets, watching for these drunk drivers and responding to calls that came to these police officers, I was struck by how openly they talked about the dangers they face every day, having myself been a police officer and never talking about dangers because we did not have many. This was something that was an eye opener for me. For modern day police officers, it is an inherent part of their jobs, but a part of their families' lives they will never get used to—these families.

Every day, in every city and town around the country, brave men and women—all of whom volunteered to serve their communities—put them-

selves in danger to protect us—their friends, their neighbors, and so many they will never even know existed or meet. They take that risk to give us peace of mind in our everyday activities.

On Police Week, we recognize those who have made the ultimate sacrifice, those who have given their lives in the line of duty. This evening, they will be honored at a candlelight vigil not far from here. Their names will be added to the National Law Enforcement Officers Memorial. Alongside their families, we will celebrate their dedication and remember their sacrifice.

Four of those names belong to Las Vegas policemen who were killed last year. This morning, I had the chance to meet with their families at an 8:30 breakfast. They, of course, are some of the strongest Nevadans we could ever meet and I ever met.

Officer Daniel Leach was a career corrections officer. He began his shift last November 21 by driving to Laughlin to pick up prisoners at the Tucker Holding Facility. He was going to take them to the Clark County Detention Center in Las Vegas.

But before he could get to Laughlin—not far from my home in Searchlight—he was involved in a vicious two-vehicle accident and was killed instantly. Officer Leach was 49 years old. He had spent the last 25 years of his life as a Las Vegas police officer. He is survived by his wife, whom I met this morning, two children, his parents, one brother, and one sister.

Before Trevor Nettleton was an officer in the Las Vegas Metropolitan Police Department, he proudly held the honored title of United States marine. His 9 years in the Marine Corps included service in the elite Presidential Guard unit, where he protected President George W. Bush.

Last November 19—2 days before Officer Leach was killed—Officer Nettleton was shot and killed by three gang members who broke into his garage in an attempt to rob him and his family. Officer Nettleton was 30 years old. He left behind a wife, two young children, his parents, and a brother.

Like Officer Nettleton, Officer Milburn Beitel III was also a marine. Tragically, he also died as a Las Vegas police officer at age 30.

“Milli”—as everyone called him—was on patrol late one Wednesday night last October when a car turned in front of him. Officer Beitel swerved to avoid the other car but was thrown from his patrol cruiser and died early the next morning. He, of course, was on a call he had received. He is survived by his parents and brother.

Last Friday marked 1 year since Officer James Manor responded to his last call. It was in the same Las Vegas community where he grew up. While responding to a domestic abuse call, a pickup truck driver failed to yield to him in his police vehicle—going as fast as he could to respond to that dispute—the collision occurred, and James Manor was killed.

He was known as “Jamie.” He had 10 brothers and sisters, and even more whom he considered brothers and sisters who served on the police force with him. His siblings, his mother, and his large extended family will tell his young daughter Jay’la—whom I met this morning; a beautiful little 8-year-old girl—they will tell her and the rest of the family about who he was. They will tell Jay’la about how courageous her father was, who died at 28 years of age.

This memorial wall that will bear these four Nevadans’ names is a living reminder of some of our most selfless citizens. This year we will also add to that wall the names of Nevadans whom we recognize belatedly—some very belatedly:

Uriah Gregory, a jailer from Virginia Center during its heyday, was killed by two of his prisoners in 1866.

Arthur St. Clair, a constable and father of two, and George Requa, a deputy sheriff, were killed in an ambush in Elko in 1920. They were both killed at the same time.

Charles Lewis, another deputy sheriff from Elko, was killed by a thief in 1925.

George Washington Cotant, an Elko constable, died in a car accident in 1937.

Hugh Gallagher, Sr., a deputy sheriff from Virginia City, died on duty in 1948.

Ronald Haskell, a narcotics agent in Carson City, died on duty in 1975.

Richard Willson, a sergeant from Hawthorne, NV, died after apprehending a suspect in 1994.

These men were killed a long time ago—one almost 150 years ago, when Nevada had been a State for only 2 years, but it does not matter the time—and we can never forget their sacrifices.

Every day we should thank those who wake up on otherwise unremarkable mornings and head out to work with the job simply to keep us safe. Today we thank and honor the courageous Nevadans who, one unforgettable day, never came home.

Madam President, will the Chair report the bill.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 3217, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail,” to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Pending:

Reid (for Dodd/Lincoln) amendment No. 3739, in the nature of a substitute.

Collins amendment No. 3879 (to amendment No. 3739), to mandate minimum leverage and risk-based capital requirements for insured depository institutions, depository institution holding companies, and nonbank financial companies that the Council identifies for Board of Governors supervision and as subject to prudential standards.

Brownback modified amendment No. 3789 (to amendment No. 3739), to provide for an exclusion from the authority of the Bureau of Consumer Financial Protection for certain automobile manufacturers.

Brownback (for Snowe/Pryor) amendment No. 3883 (to amendment No. 3739), to ensure small business fairness and regulatory transparency.

Specter modified amendment No. 3776 (to amendment No. 3739), to amend section 20 of the Securities Exchange Act of 1934 to allow for a private civil action against a person that provides substantial assistance in violation of such Act.

Dodd (for Leahy) amendment No. 3823 (to amendment No. 3739), to restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.

Sessions amendment No. 3832 (to amendment No. 3739), to provide an orderly and transparent bankruptcy process for nonbank financial institutions and prohibit bailout authority.

Dodd (for Durbin) amendment No. 3989 (to amendment No. 3739), to ensure that the fees that small businesses and other entities are charged for accepting debit cards are reasonable and proportional to the costs incurred, and to limit payment card networks from imposing anti-competitive restrictions on small businesses and other entities that accept payment cards.

Dodd (for Franken) amendment No. 3991 (to amendment No. 3739), to instruct the Securities and Exchange Commission to establish a self-regulatory organization to assign credit rating agencies to provide initial credit ratings.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

AMENDMENT NO. 3776, AS MODIFIED

Mr. SPECTER. Madam President, I have sought recognition to ask cosponsors of the pending amendment who wish to present an argument to come to the floor as early as practical. The pending amendment involves reinstating a civil cause of action against aiders and abettors. The law, up until 1994 with a Supreme Court decision, provided that aiders and abettors were

liable for damages for those who had been defrauded in securities transactions.

We all know the massive problems caused by Wall Street operations with many allegations of fraud. In our effort to reform Wall Street, this is a very important provision. Traditionally, people who have been injured, lost money, as a result of fraud have had a civil right of action to go into a civil court. The law had been uniform that under the Securities Act those cases could be brought.

There have been two Supreme Court decisions which have modified that, requiring this act change the decisions of the Supreme Court of the United States—which we have the authority to do: not decided on constitutional grounds but decided on grounds of statutory interpretations. So Congress has the plenary power to make that modification.

I have offered the amendment and argued it briefly. We will discuss it further a little later this morning. I offered it on behalf of Senator REED of Rhode Island, Senator KAUFMAN, Senator DURBIN, Senator HARKIN, Senator LEAHY, Senator LEVIN, Senator MENENDEZ, Senator WHITEHOUSE, Senator FRANKEN, Senator FEINGOLD, and Senator MERKLEY, and I want to let all of the cosponsors know the matter is now on the floor, and if they care to support the arguments, now would be the time to come to the floor.

Madam President, I see other colleagues waiting for recognition, so I yield the floor.

Mr. WYDEN. Madam President, I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WYDEN. Madam President, I am going to speak for about 5 minutes on the effort to finally, once and for all, eliminate secret holds in the Senate. Senator GRASSLEY, my partner in this effort for a decade, will also speak. Then, two colleagues on our side who are a part of this large, bipartisan coalition, Senator WHITEHOUSE and Senator BENNET, and who also have done very good work along with Senator GRASSLEY, Senator INHOFE, and Senator COLLINS, who have been part of a bipartisan coalition, will take just a few minutes.

Let me also express my appreciation to the chairman of the committee, Senator DODD, Senator DURBIN, and others who have been so helpful.

This bipartisan amendment will abolish the secret hold in the Senate, which, in my view, is a violation—an

indefensible violation—of the public's right to know. With a secret hold, any Senator can block a piece of legislation or a nomination in secret simply by telling the leader of their party of their desire. This means that one person, without any public disclosure whatsoever, can keep the American people from even getting a peek at what is public business.

When asked why he robbed banks, Willie Sutton said: "That's where the money is." In the Senate, secret holds are where the power is. With a secret hold, one of the most powerful tools a Senator has to affect the lives of our people can be exercised anonymously.

In 2007, the Senate sought to eliminate secret holds. Since then, big loopholes have been developed to keep too much Senate business in the dark, unaccountable, and away from the public.

This bipartisan amendment closes those loopholes. With this bipartisan proposal, every single hold in the Senate will have an owner who is public within 2 days. It is an amendment that will be enforced. Here is how it would work: If a Senator puts a hold on a bill or nomination, they are required to submit a written notice in the CONGRESSIONAL RECORD within 2 days. When that bill or nomination comes to the floor and any Senator objects to its consideration on the grounds of a hold, one of two things will happen: either the Senator placing the secret hold will have their name publicly released or the Senator who objects on their behalf will own that hold, and then that individual will have their name published in the CONGRESSIONAL RECORD. For the first time, there would be both public accountability and peer pressure on those trying to keep Senate business behind closed doors.

The bipartisan proposal includes two additional reforms. First, the proposal eliminates the ability a Senator has today to lift a hold before the current 6-day period expires and never have it disclosed. This has been a huge abuse. It has allowed a Senator to do business in secret and never have it reported.

With the new proposal, if a Senator places a hold—even for a day, even for a minute—that hold is going to be disclosed. Second, the proposal makes it harder for a group of Senators to place revolving holds on a nomination or a bill. I particularly thank Senator WHITEHOUSE, who has highlighted this issue of revolving holds in his past comments on the floor. With the 6-day time period, a group of Senators can literally pass a hold from one colleague to another and never have it disclosed. By requiring all holds to be made public, it will be much more difficult to find new Senators to place revolving holds.

What this comes down to is the question of whether public business ought to actually be done in public. It seems to me that if it is important enough for

a Senator to say they are making it a priority to keep a bill or nomination from coming to a vote, that ought to be a public matter and not be something that is decided in the shadows, away from the public and unaccountable.

I thank my colleagues. This has been part of a bipartisan coalition. No one has put more time into this cause than my friend from Iowa, Senator GRASSLEY. I also thank Senator MCCASKILL, who has prosecuted this cause of accountability and openness relentlessly, along with Senators WARNER, WHITEHOUSE, BENNET, INHOFE, and COLLINS—I could go on.

Finally, there is a desire in the Senate to eliminate secret holds once and for all. I will close with this. I don't think that 1 out of 100 people in this country have any idea what a secret hold is. Most people probably think it is some kind of hairspray. It is one of the most powerful tools in our democracy that is being used to keep what is public business from the eyes of the American people, and it has to change.

I will yield to my colleagues, Senators GRASSLEY, WHITEHOUSE, and BENNET. I thank Chairman DODD and Senator SHELBY for indulging us at this time. It seems to me that when Senator DODD has done so much good in terms of arguing for openness and accountability on Wall Street, this is a perfect time to say we ought to have that in the Senate. That is what we are going to do on a bipartisan basis today. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, I thank Senator WYDEN for his leadership and for working together with me and other Senators over a long period of time. I think he referred to maybe 10 years that we have been struggling to get to what we are finally getting to today.

In the past, we thought we had victories and they turned out to be hollow victories—maybe a little more openness but largely ineffective. So maybe now we will finally be able to accomplish an effective openness in the Senate on one of the most powerful tools a Senator has.

I think it gives hope to the fact that if you are right, eventually right wins out, even in the Senate. Long struggle does pay. I think we are bringing simply common sense to a process in the Senate. It is, as my friend from Oregon said, transparency, and with transparency we have accountability.

The amendment Senator WYDEN and I have offered would restore the prohibition on secret holds the Senate voted for overwhelmingly in a previous Congress—the 109th Congress—and make it even more robust. As I said, those turned out to be largely not very effective.

At that time, in the 109th Congress, our measure passed as an amendment to the ethics reform bill by a vote of 84 to 13. That bill never became law, but the next Congress passed then what is referred in the title of the legislation as the Honest Leadership and Open Government Act. Our provision was also originally included in that bill.

Ironically, as I have alluded to, in a move that reflected neither honest leadership nor open government, our provisions were altered substantially—I might say too substantially—behind closed doors, before we had final passage.

The current provisions essentially say it is OK to keep a hold anonymous until 6 days after someone asks unanimous consent to proceed to a bill or a nominee. I am not going to explain how that process works out, but it can be summed up in the words that it is a very ineffective sort of transparency, hardly doing any good whatsoever.

The amendment that is before us says Senators must go public from the moment they place the hold.

Perhaps I should take this opportunity to address what a hold is all about. A hold arises out of the right of all Senators to withhold their consent when unanimous consent is asked.

It goes without saying that any Senator has a right to object to a unanimous consent request that the Senator does not support because it is not unanimous unless, obviously, we all support it.

In the old days, when Senators conducted much of their daily business from their desk on the Senate floor, it was a simple matter to stand and say, "I object" when necessary, and, of course, that Senator was immediately identified. Now, since most Senators spend so much time off the Senate floor in committee hearings, meeting with constituents, and other sorts of obligations that we have, we have tended to rely upon the majority and minority leaders to protect our rights and prerogatives as individual Senators, asking them to object on our behalf.

Just as any Senator has the right to stand on the Senate floor and say, "I object," it is perfectly legitimate to ask another Senator to object on our behalf if we cannot make it to the floor when consent is requested.

By that same token, it would be illegitimate, not to mention impossible, for a Senator to stand on the floor and object anonymously. Senators have no inherent right to have others object on their behalf and keep their identity secret.

If a Senator has a legitimate reason to object to proceeding to a bill or a nominee, then he or she ought to have the guts to do so publicly.

I believe this is part of expanding the principle of open government. The public's business ought to be public.

Lack of transparency in the public policy process leads to cynicism and distrust of public officials and, quite honestly, less accountability.

I maintain that the use of secret holds—with emphasis upon the adjective “secret”—damages public confidence in the institution of the Senate. The public’s business ought to be done in public, period.

I have made it my practice to put a statement in the RECORD when I have placed a hold on a nominee or a bill for over a decade. I can tell you that is no burden whatsoever, and it hasn’t hurt me in any way whatsoever to let my colleagues and the public know—for the last decade—that Senator CHUCK GRASSLEY had a hold on a bill and why I had that hold on a bill or nominee.

Our amendment—the one before us—would make it crystal clear that holds are to be public. Senators placing a hold must get a statement in the RECORD within 2 days, and they must give permission to their leaders at the time they place the hold to object in their name.

Also, if a Senator objects, ostensibly on behalf of another Senator but refuses to name the Senator he is objecting for and that Senator doesn’t come forward within those 2 days, the objecting Senator will be listed as having that hold, owning that hold.

I wish to make it clear that we do not come to this lightly. We have tried other paths to accomplish our goal. I said those other paths have turned out to be largely ineffective.

We sought the advice and assistance of several majority and minority leaders over the last decade, and we twice tried informal policies issued jointly by the two leaders, in 1999 and 2003, but those turned out to be as flimsy as the sheet of paper on which they were written.

So working with two former majority leaders, Senators Lott and BYRD, we crafted the policy I mentioned earlier that the Senate adopted by a vote of 84 to 13, which was later gutted.

It is this policy, with some improvements—in fact, some very needed improvements—that we are introducing today. It is important the Senate have the opportunity to speak on this issue as a body. I look forward to this vote and finally having a true victory against secrecy.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### NATIONAL POLICE WEEK

Mr. McCONNELL. Madam President, all across the country this week, Americans will honor the law enforcement officers who keep our towns and communities safe and pay solemn tribute to those who have lost their lives in the line of duty. National Police Week is a time to thank all those whose service preserves the rule of law, at great risk to themselves.

I wish to pay special tribute to one of those heroes today, Officer Bryan J. Durman. Officer Durman was a 27-year-old, decorated, Lexington, KY, police officer and a veteran of the U.S. Air Force. He was, tragically, the first Lexington police officer to die in the line of duty in over 20 years.

This past April 29, he was responding to a noise complaint when he was struck by a car and killed. He leaves behind his wife Brandy and their 4-year-old son Brayden.

Bryan Durman went to Paul Laurence Dunbar High School in Lexington, where he was on the wrestling team. After graduation in 2001, he enlisted with the Air Force. He rose to the rank of staff sergeant and served in both Operation Enduring Freedom and Operation Iraqi Freedom. More important, it was while serving in the Air Force that Bryan met Brandy, his wife.

Bryan’s mother, Margaret Durman, says that from the time her son was a small boy, she knew he would grow up to be a peacemaker. After leaving Air Force service in July 2007, Bryan returned to Lexington to keep the peace here at home and was accepted into the Lexington police academy.

In his 3 years of service with the Lexington metro police department, Bryan earned great respect from his colleagues and the community. “The amount of support that we have received speaks volumes about the caliber of person Bryan was and his character,” says his wife Brandy.

For administering lifesaving CPR to a vehicle collision victim and to a woman in medical emergency in two separate instances, Bryan received the Lifesaving Award and the Exceptional Service Award. His family will be presented with those awards as a small reminder that, as his mother puts it, Bryan “died doing something that he loved.”

During this National Police Week, as we remember our peace officers and their families, we also remember the loved ones Officer Durman leaves behind: his wife, Brandy; his son, Brayden; his mother, Margaret Durman; his sisters, Monique Wanner, Michelle Wiesman, and Danielle Hood; his brothers, John A. Day and David P. Durman II; his brother-in-law, Robert Fletcher; and many other family members and friends.

Brandy will always have a fond memory of a recent Christmas when Bryan and Brayden received toy dart guns. Father and son spent much of the day playing with their new toys. “I found about 50 darts in the Christmas tree,” Brandy says. “They were in the sink, in the bathtub.”

The day after Officer Durman’s death, Lexington police officers wore black bands across their badges as a tribute to their fallen brother. The bands are also a stark reminder of the hazards of the job each and every peace

officer in Kentucky and across the country faces every day.

The Senate has the deepest admiration and respect for police officers in every community in the Nation. We recognize theirs is both an honorable job and a dangerous one. We recognize they bravely risk their lives for ours. I appreciate all they do. And America is grateful.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Madam President, I know there are a number of Senators on the floor who wish to speak on unrelated matters. I wish to speak on the underlying bill. I believe Senator WHITEHOUSE and maybe Senator MCCASKILL and Senator BENNET wish to speak on the hold issue. I merely ask that we alternate back and forth after the next speaker speaks on whatever subject they do and that I then be allowed to speak on the underlying bill and then go back to the other side of the aisle.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Madam President, if I may make a suggestion to my friend from Texas, as I understand, my colleagues are going to speak 2 or 3 minutes apiece. So the cumulative time of all three Senators will be about 6 or 8 minutes. I know the Senator from Texas has a longer statement to make on Senator SESSIONS’s amendment.

Mr. CORNYN. I will be glad to defer to them under those circumstances and then ask to be recognized following those 6 or 7 minutes.

Mr. DODD. Madam President, I make that request.

Mr. WYDEN. Will the Senator yield for a question? Again, to save time—the Senator from Connecticut has been very gracious to allow an opportunity to do this—Senator WHITEHOUSE, Senator MCCASKILL, and Senator BENNET are all going to speak. I think that would allow us to set up time later for the vote, and we would have to formally offer the amendment. Would that be acceptable to the chairman?

Mr. DODD. I cannot agree to anything at this point. We can certainly talk with the leadership about that.

Mr. WYDEN. It is acceptable to the leader.

Mr. DODD. I am not in a position to give that consent. That is something that has to go through leadership. Let’s get the speeches done so we can get back on the bill.

Mr. WYDEN. All right.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, I congratulate Senator WYDEN and Senator GRASSLEY for their long effort to eliminate the secret holds in this body. They thought they had succeeded in 2007 with a mechanism that would scrub secret holds and make

them public after 6 days. But it turns out that a number of our colleagues on the other side discovered a loophole in the rule. Whether it is called the old switcheroo or revolving holds or hold laundering, they found a way to defeat the purpose of a rule that was voted for by 84 Members of the Senate on a strong bipartisan basis. That is why we are back here today.

I want to also add to the role of honor on this subject CLAIRE MCCASKILL, who has done the lion's share of the work of shepherding in some cases 100 stalled nominees blockaded on the Executive Calendar through those 2007 year procedures so that we could get to the point of proving that there were, in fact, secret holds and that despite the rule, hold laundering was taking place and the rule was not being put into effect and holds were being kept secret.

I suppose an asterisk on the role of honor should go to Senator COBURN, who is the one Senator on the Republican side who had the courage to stand up and disclose his actual holds. Everybody else went to some other Senator and said: I don't want my name on this. Would you please take my hold over so I can avoid the rule, keep my hold, and have no accountability.

Perhaps there once was a reason for a secret hold, for this kind of business to be done in the dark, in the shadows, and anonymously. I think history and common sense tell us that deeds that are done in the dark are not usually ones of which we are proud. Certainly, the experience of the last few months has shown that if there ever was a legitimate use for secret holds, that purpose has evaporated. It has evaporated under the pressure of blocked nominees numbering, in some cases, over 100—a systematic approach, a systematic attempt to disable this administration's ability to govern by systematically opposing nominees, irrespective of the merits; opposing nominees who came out of committee in a bipartisan fashion; opposing nominees who came out of committee with zero opposing votes; with Senators raising objections to nominees they voted for in committee. There is clearly something more going on than a sincere concern about an individual nominee.

Finally, this effort to what I call hold launder and to avoid the rule 84 Senators stood up and voted for that does nothing more than put your hold in the plain light of day shows that the 2007 rule, unfortunately, has been ineffective and that it is time for a change.

I have continuing gratitude for Senator WYDEN, Senator GRASSLEY, and for all those who have supported us on this issue and particularly for Senator MCCASKILL for her relentless presence on the floor, making this actually happen.

I yield the floor.

The ACTING PRESIDENT *pro tempore*. The Senator from Colorado.

Mr. BENNET. Madam President, I join my colleagues in support of the effort Senator WYDEN and Senator GRASSLEY have led to end the corrosive practice of secret holds. This is a reform that is needed and cannot wait.

I have been in Washington for only about a year, but it did not take that long to realize our government needs to fundamentally change the way it does business. Coloradans deserve a government that works for them. They are tired of the petty partisanship in Washington. They want their elected officials to listen and address their day-to-day concerns. I cannot think of a worse example of this dysfunction than the secret hold. It is undemocratic, and it is hurting our economy.

Quite a few of us in the Senate—the chairman and I—have young daughters, young kids who are familiar with the ups and downs of a long car ride heading out on vacation. The first hour always seems to go pretty well, full of excitement about where everybody is headed. But it is not long before that excitement turns to restlessness and that restlessness turns to secretly doing everything they can to bother their siblings just for the sake of doing it. And every time you turn around, they stop and smile and claim their innocence.

It never occurred to me that experience would actually prepare me to come to the Senate. Countless nominations and important legislation make their way to the floor. Senators make speeches about the importance of doing the country's business, appearing motivated to get the job done, to get the American people's work done. But when the cameras are off, they use the secret hold to bring this progress to a stop.

Since I have been here, I have seen nominees and bipartisan legislation held up for weeks, only to pass with 97 or 98 votes, all to score political points and waste the American people's time and the American people's money.

Earlier this year, we spent months working to reform health care. We have spent a lot of time under the chairman's leadership trying to fix Wall Street. It is past time we fix the way Washington works as well.

Congress must stop living under a glass dome. The Wyden-Grassley amendment is simple. It requires any Senator seeking to hold up the Nation's business to publicly announce his or her hold. All holds should be in writing, made public for the other 99 of us and, most importantly, for the American people so they can render their own judgment.

While I support this amendment, I have legislation that would go even further. My legislation would not only end secret holds, as this amendment does, but also require that any hold be bipartisan or else it expires after 2 legislative days. All holds, public or pri-

vate, would expire in 30 days. At that point, the pending business would be ready to be considered on the Senate floor.

The Senate was designed to be the greatest deliberative body in the world. Let's have the debate and put an end to these secretive attempts to prevent debate.

Once again, I thank Senators WYDEN and GRASSLEY for their leadership and look forward to the passage of this amendment. I also wish to recognize the great work our colleague from Missouri, CLAIRE MCCASKILL, has done bringing this legislation to this point.

Madam President, I yield the floor.

The ACTING PRESIDENT *pro tempore*. The Senator from Missouri.

Mrs. MCCASKILL. Madam President, first, let me say how grateful I am to Senator CORNYN for his patience. I will try to be very brief because I know he is waiting to address the underlying bill.

I think everything that needs to be said has been said. I will be interested in this vote because there is a group of people right now who voted for a rule that simply said: You have to disclose your secret holds if a certain procedure takes place. There are a bunch of people who voted for that who are not doing it. I do not know how that computes in the mind of a U.S. Senator. I do not know how you vote for a rule that requires you to disclose and then you knowingly continue to keep a hold secret.

I had a colleague tell me the other day they had talked with a colleague across the aisle about a couple of judges they desperately wanted to get released from the land of secret holds. This colleague visited with a Republican about it, and the Republican told her: The leader says he has to get something for it. You have to get something for it? Have we come to that, that you get to hold on to someone whose life is in limbo to be a U.S. district judge until you get something for it? That is not the way the American people want us to operate around here.

I know Senator GRASSLEY and Senator WYDEN have toiled in this field for a long time. I appreciate their efforts. I thank all my colleagues who have been helpful in us bringing this to the attention of the American people. We now have 60 Senators who have signed a letter saying they will never engage in secret holds and they want them completely abolished. The Wyden-Grassley approach is almost as good as never. It is a very limited window, and I pray that it will work. I had been wildly optimistic it would work right after I voted for the rule back in 2007. I thought, this is all it is going to take. I am not as optimistic, frankly, right now. Games may still be played. I think we have to get to 67 names on that letter.



The American people have to rise with their pitch forks, the way they are in so many other ways, and say: Enough already. Stop this incredibly bad habit of thinking you can hold up nominations just because you feel like it and never have to own it.

I encourage everyone to vote for the Wyden-Grassley amendment. I appreciate Senator CORNYN's patience with us this morning. I look forward to a vote on this amendment. I really want to find out who is secretly holding right now, who votes for this amendment, and how they reconcile those two things.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Madam President, I want to speak on the underlying bill, particularly on the Sessions amendment to the bill, but let me just precede that with some more general comments.

I was very concerned when I read in the most recent publication of National Affairs comments from the inspector general of TARP—appointed to oversee that program that has now gotten completely out of control. More to the point, he says what has happened since September of 2008 is that we have seen further consolidation of the banking industry. Actually, he has said what has happened is that things have actually gotten worse as a result of the several mergers that have actually made banks larger. The implicit guarantee of moral hazard that we are not going to let these large institutions fail has contributed to them engaging in more and more risky conduct.

The problem with too big to fail and these large institutions, particularly large banks with assets of over \$100 billion, is that they can actually borrow money cheaper than community banks in Texas or New York or Connecticut or elsewhere, and they actually represent a \$34 billion subsidy to the largest 18 banks in America because this bill does nothing to eliminate the concept of too big to fail. Indeed, in many ways, it makes it worse. It institutionalizes the concept.

I want to address specifically the provisions in the Dodd bill—the underlying bill—which have to do with how we deal with these large financial institutions if they get into trouble. The underlying bill empowers the Federal Deposit Insurance Corporation—which previously has had no experience dealing with investment banks or other companies that engage in financial transactions, other than depository banks—to seize a vast range of financial companies based on nothing more than their impression that the institution is in “danger of default.”

Of course, we know one of the reasons we have gotten into this mess—why Wall Street has gotten into the shape it has gotten into—is because either regulators were too close to the

people they were supposed to regulate or they were asleep at the switch. If we empower the Federal Deposit Insurance Corporation now to take on this new role as megaregulator in the resolution authority, it literally is going to have to run these businesses—something they are not prepared to do, something they have never done before. It will actually encourage management at the institutions that are subject to this new expanded authority of the FDIC to foster stronger relationships with the regulators, further entangling the government with the fabric of the U.S. private sector.

This underlying legislation creates a resolution scheme for large complex financial institutions that allows the FDIC to serve in multiple capacities at once—as corporate management, as creditor to the corporation, and referee of the liquidation process. There is no question that in the underlying bill there are going to be enormous conflicts of interest on the part of the government agency itself when it is required to wear this many hats at the same time.

The underlying bill also provides the government—and here specifically the FDIC—the authority to discriminate among creditors of the same class. All we have to do is look at what happened when the Federal Government took over General Motors, where we saw the government's \$15 billion gift to labor unions to the disadvantage of the bond holders. This is the same sort of abuse that is propagated and continued in the underlying resolution authority in the bill which needs to be fixed. It needs to be changed.

This underlying legislation also forces companies that are financially sound and that have done nothing wrong to contribute to a fund to bail out organizations and institutions—I should say companies—that have been irresponsible and done exactly the wrong thing.

I must say I really wonder why we are rushing through this legislation so fast when the very commission that Congress has created to report back to us—the Financial Crisis Inquiry Commission—is not supposed to report until December. So in the very complex and complicated area such as financial regulatory reform, we are going to be denied the very report that Congress commissioned, which is due in December, that will tell us, hopefully, how to get this done and get it done right.

I think it is a terrible mistake for us to give the FDIC this incredible authority and discretion which will just alter the relationship again between the private sector and government. We have seen a tendency over the last year and a half to grow government and to basically burden the private sector in ways that cause many people to wonder whether we are still committed to

a free enterprise system or whether we are going to have one government takeover after another. This legislation—particularly this resolution authority—represents something that will provide for more government intervention in the private sector without making sure “too big to fail” comes to an end.

AMENDMENT NO. 3832

I want to talk specifically about the Sessions amendment, as I said, because the Sessions amendment restores the rule of law to the resolution authority that would be granted under this bill. Under American bankruptcy law, we have an adversarial process. We have judges who are independent, we have a requirement that when you walk into bankruptcy court you actually have to swear under oath, under the penalty of perjury, that what you are saying is the truth, the whole truth, and nothing but the truth, so help you God.

I don't know why we should allow these big financial institutions that are covered by the resolution authority under the underlying bill a special set of rules. Why shouldn't they be forced to operate under the same rules—bankruptcy rules—that apply to every business that gets into financial trouble all across America today? Many scholars and policy analysts have argued convincingly that bankruptcy reform would be the most effective action Congress could take to protect against future financial panics and bailouts.

There is one note I would make of the Lehman Brothers bankruptcy. As the Chair and my colleagues know, there was a voluminous report written by the court-appointed examiner who dissected the Lehman Brothers bankruptcy for reasons why Lehman Brothers failed. This is a 2,209-page examiner's report which documents accounting gimmicks that were used to hide the extent of Lehman's indebtedness, which was not even known to the Securities and Exchange Commission because the Securities and Exchange Commission took the position it didn't have jurisdiction to do this very sort of regulation and very sort of oversight that might have detected and prevented the meltdown of Lehman Brothers and all across Wall Street.

Amazingly, Richard Fuld, chief executive of Lehman Brothers, when he was confronted with the examiner's report documenting the various maneuvers, including one known as Repo 105 transactions, said he had no knowledge of the accounting maneuvers that were used to take some of the financial obligations of Lehman Brothers off its books.

So I would ask my colleagues: Don't we want this sort of transparency and accountability that comes only out of a bankruptcy-type resolution authority? Don't we want that kind of information so we can hold the people who

were responsible for these huge meltdowns of our financial system accountable? I would say we must insist on that kind of accountability. Unfortunately, under the authority given to the FDIC to conduct this resolution in the Dodd bill, there will be no sort of report by court-appointed examiners such as the one that exposed Lehman Brothers' accounting gimmicks and the complete abdication of responsibility of the chief executive officer for not knowing what kind of accounting transactions were taking place and which hid a lot of their liabilities not only from him but also from examiners. We would not have that kind of information.

That is another reason I believe bankruptcy provides a far superior way of handling this resolution rather than giving the FDIC—a sort of FDIC on steroids—the power to make these decisions without the kind of transparency and accountability we need.

Recently, in the Wall Street Journal, a couple of professors wrote:

If there were a silver bullet in financial reform, legislation would have been enacted a long time ago. There isn't, but removing the special treatment of derivatives in bankruptcy comes close. It could provide the basis for a sensible compromise on derivatives regulation while also addressing the bailout problem.

That is exactly what the Sessions amendment does. With a small tweak of bankruptcy law, we could assure that everyone is going to have to play by the same rules, and when any financial institution goes bankrupt the automatic stay, which protects the court's jurisdiction to be able to sort out the creditors and debtors, can be used in an appropriate way to deal with derivatives contracts. Currently, derivatives contracts are exempted from the automatic stay, which creates a very dangerous risk of a run on the bankrupt entity's derivatives book. This could lead to a cascade effect, exacerbating systemic risk. The Sessions amendments provides for timely court supervision over any stay on derivatives contracts. Other than that, the Bankruptcy Code would apply as it does every day in bankruptcy courts across this country involving businesses both large and small.

So I think the Sessions amendment provides much more transparency, much greater accountability, much more certainty, and certainly helps restore the rule of law to an otherwise discretionary authority over a Federal agency that has never exercised this kind of authority before, one that has the very real danger of perpetuating the kind of picking of winners and losers that we saw in the GM bankruptcy where the bondholders, who were supposed to be among the most secure creditors, if not the most secure, were forced to take a significant loss in favor of unions, which happened to be more active players in the political process.

So I would urge my colleagues to support the Sessions amendment, which makes bankruptcy a preferable alternative to dealing with future failures of financial institutions.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. ENSIGN. Madam President, we are venturing down a dangerous path that threatens to put the economic future of our country in jeopardy. When the housing market collapsed, the government stepped in with a blank check to bail out the Nation's largest mortgage giants—Fannie Mae and Freddie Mac. When the automakers started to feel the pinch of a downward economic turn, again the government stepped in, taxpayer money in hand, and bailed them out. When the giants of the financial market started to see their bank accounts drop below zero, again the U.S. Government stepped in to bail them out, allowing them to sidestep the pain of their financial mismanagement—pain that was then passed on to hard-working Americans, many of whom are barely scraping by during these difficult economic times.

The pain was certainly not felt by the managers of these institutions when they received exorbitant bonuses, despite their bad performance.

This country has witnessed bailout after bailout after bailout. Yet not one piece of legislation has passed this body that would establish protections for taxpayers to ensure that we do not remain on the hook for bailing out these institutions every single time they mismanage themselves.

Unfortunately, this financial reform bill that we have before us continues this trend. Last week, I offered an amendment that would have restricted the size of Fannie Mae and Freddie Mac so they would not continue to be too big to fail. My amendment was defeated, largely along party lines.

Senator MCCAIN offered an amendment this week that would have reduced the size of Fannie and Freddie, while moving to let them stand on their own so the government gets out of the business of subsidizing mortgages. Again, his amendment was defeated, largely along party lines.

Today, we have another chance to listen to the American people and to stop the bailouts of these mismanaged corporations. The amendment offered by Senator SESSIONS, of which I am a cosponsor, will do this by taking away the bailout option, to, instead, force these companies to declare bankruptcy. This amendment will produce a clear set of rules which will create certainty in the marketplace, rather than continuing the precedents set during the crisis where the government was allowed to pick winners and losers.

This is not the first time I fought against these bailouts. In 2008, when we were debating the bailout of the auto-

makers, I offered an amendment, along with Senator SHELBY, that would have required the big three to file Chapter 11 bankruptcy. At that time, I argued that this was the best way to ensure the automakers would emerge in the future as successful companies. I still believe that. Chapter 11 bankruptcy would have allowed them to restructure their firms and would have protected the employees of these automakers by keeping politics out of the process by eliminating the need for an auto czar. Unfortunately, the government stepped in and, with the exception of Ford, decided to bail them out. I thought this was wrong at that time, and I still believe this was the wrong thing to do.

While we cannot erase the decisions of the past that led to the bailouts of the automakers, Fannie and Freddie and the financial firms, we can correct course to ensure that the American taxpayers get off the hook for bailing out these industries in the future by forcing them to file bankruptcy, should they mismanage their finances again in the future.

The reality is, when Americans mismanage their funds or are unable to stay afloat under mounting debt, they file bankruptcy. I am sure many would rather have the government step in and pay off their debt, but this is simply an unsustainable option.

The same argument can be made for bailouts of financial firms. Bailout after bailout footed by the taxpayers will force our already debt-laden country into further debt that we cannot afford to crawl out from under. We are already rapidly approaching this reality. These bailouts do not incentivize these institutions to minimize their risks. Instead, they go as far as to privatize the profits while socializing the risks of their losses.

The amendment offered by Senator SESSIONS offers hard-working Americans a reprieve from footing another financial sector bailout. But he also discourages these companies from continuing the irresponsible practices that got them into trouble in the first place. Under the financial bill we are currently debating, the government will continue to pick winners and losers and the taxpayer will continue to foot the bill, unless we adopt the amendment offered by Senator SESSIONS. This amendment would make these companies utilize an enhanced bankruptcy process, which would ensure that the costs are covered by the financial institutions and their creditors, not the taxpayer.

The amendment creates a new chapter 14 in the Bankruptcy Code that will utilize many of the tenets in chapter 11 reorganization bankruptcy but will be for the specific use of the big financial institutions. This addition to the Bankruptcy Code creates a new pathway to limit the cascading spread of

risk and panic throughout the financial system and ensures the more orderly wind down of these financial institutions insulated from bailouts and political influence.

The amendment offered by Senator SESSIONS delivers much needed transparency, accountability, stability, and due process through the use of bankruptcy courts and the expertise that we have in bankruptcy courts. Further, to protect the taxpayers, it specifically denies the Federal Government the authority to take over firms, dictate the terms of the reorganization or liquidation, and support them with Federal bailouts. This amendment guarantees real reform that will result in real stability.

This is what the American people are asking us to do. They are asking us to make sure they are not the ones responsible for bailing out these financial giants that make poor decisions. The American people are working hard to weather through these tough economic times, and we owe them much more than legislation that will continue to allow the government to pick winners and losers and will allow too big to fail to continue.

I hope we adopt the Sessions amendment. Unfortunately, almost every good amendment that has been offered to this Wall Street bill has been defeated, largely along party lines. This is an amendment that will actually stop too big to fail. It is a responsible amendment. It is my hope that we will finally adopt a good amendment to this bill.

I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### AMENDMENT NO. 3776

Mr. SPECTER. Madam President, I have sought recognition to comment further about the pending amendment to make tortfeasors, under the Securities Act, liable for civil damages; that is, people who engage in fraudulent conduct. We have a deep recession. Millions of people have lost their jobs. There were enormous financial losses. There were many contentions of fraudulent practices being responsible for that conduct. In this act, we are seeking to reform Wall Street.

The practice had been, the law had been, for decades, under the Securities Act, someone who was cheated, defrauded by people who practice under the Securities Act could sue them. That would involve those aiders and abettors and people in the chain beyond the principal would be respon-

sible. I have offered an amendment on behalf of myself and Senators REED, KAUFMAN, DURBIN, HARKIN, LEAHY, LEVIN, MENENDEZ, WHITEHOUSE, FRANKEN, FEINGOLD, and MERKLEY to reinstate the law prior to what it had been prior to the decision of the Supreme Court. The Supreme Court has held that aiders and abettors are not liable and that there is a requirement that the defendant must have made the representation directly to the person buying or selling the securities, which is a sharp reversal from what the law had been.

It is anomalous, unheard of, to have criminal liability under the Federal Criminal Code for aiding and abetting but not to have liability under the civil claims. It is a much higher standard of proof, criminal culpability, to put somebody in jail than it is to establish a claim for monetary damages. But that is where we find the law and we find people in urgent need of this kind of standing to recover their damages but also to have this procedure serve as a deterrent to Wall Street fraud.

The issue was succinctly summarized by a distinguished Federal judge, Judge Gerald Lynch, in a case captioned *In re Refco Litigation*, 609 F. Supp. 2d 304 (S.D.N.Y. 2009), to this effect:

It is perhaps dismaying that participants in a fraudulent scheme who may even have committed criminal acts are not answerable in damages to the victims of fraud. . . . There are accomplices and there are accomplices: after all, in the criminal context, when the Godfather orders a hit, he is only an accomplice to murder—one who “counsels, commands, induces or procures” but he is nonetheless liable as a principal for the commission of the crime. Likewise, some civil accomplices are deeply and indispensably implicated in wrongful conduct.

So that you have aiders and abettors. There have to be people who are participants in the fraud. It simply is not a one-person operation. Yesterday, I put into the RECORD the impact of these civil suits in financial recoveries compared to the lesser amounts which can be collected by the SEC. Illustrative of that were two cases—Enron, where the SEC recovered \$450 million and the private litigants recovered \$7.3 billion—14, 15 times more. In the WorldCom case, the SEC recovered \$750 million, the private litigants recovered \$6.85 billion. So there is an enormous difference.

This is a subject I have had a deep concern about going back to my law school days, when I wrote a comment for the Yale Law Journal on the subject, about the importance of private prosecutions. Private actions have been very important—treble damages under our antitrust laws, very important under our securities laws.

In 1995, we restricted the scope of discovery. I urged the President, at that time, to veto the bill.

Just a very brief personal story. I was in my condo one night at about

10:30, quarter of 11, I got a call from the White House. The President came on the line and said: Do you have a few minutes to let me read to you my veto message? Well, I had more than a few minutes. I was very interested in the President's veto message.

But the law, nonetheless, notwithstanding the veto, the law was modified.

There is other litigation pending to open the scope of pleading. Federal Rules of Civil Procedure have traditionally been what we call notice pleading; that is, put the defendants on notice as to the claim. Then, under the discovery proceedings, the party is then entitled to probe into the records of the defendant because these are all transactions within the sole control and possession of the defendant on almost all circumstances.

When the Supreme Court of the United States was considering taking the Stoneridge case, I wrote President Bush a letter, on August 3, 2007, urging him to allow the Solicitor General to respond to the request of the Securities and Exchange Commission for the Solicitor General to argue the case. The Solicitor General was precluded from doing so. Stoneridge came down with a very restrictive holding that the people responsible had to make direct representations to the person buying or selling the securities—which is an unrealistic and unreasonable standard. It backed up the prior decision of the Supreme Court in 1994, in *Central Bank of Denver*, which eliminated aiders and abettors from responsibility.

This is a very important bill. I did compliment the distinguished chairman for his very effective work on it.

I do believe it is fair and accurate to say this is one of the most important provisions of this bill.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. Madam President, I wanted to note during this discussion some commentary this week about something that is quite extraordinary. We saw news reports this week about a perfect game that was pitched in the Major Leagues recently by a pitcher from the Oakland Athletics named Braden. In all of the history of baseball, it was the 19th perfect game ever pitched. But it is not the only perfect thing that has happened recently.

We have news reports now that the four biggest banks in America have scored a perfect 61-day run, never having lost money in 61 days. That is like a perfect game, batting 1,000. It is all of those things.

How is it that the four largest banks in the country could, for the first quarter of the year, make money every single day? Is the system rigged? A columnist named Jonathan Well pointed out that if you managed a highly leveraged, diversified investment fund and

have become so skilled at it that you had a 70-percent probability of winning on any given trading day, the prospect of your winning 63 times in a row would be about 1.75 billion. Even if you had a 95-percent chance of winning every day because you were so skilled at picking all of the right investments, you would have about a 3.9-percent chance of doing it on 63 straight trading days. And yet four of the largest banks in America, Goldman Sachs, JPMorgan Chase, Bank of America and Citi, scored a perfect game.

How did that happen? Does it happen because the Federal Reserve Board loans them money at near-zero interest rate, and then they invest in 10-year Treasuries at 3.8 percent? That is how you make profits every single day. Is that a rigged game? Can everyone do that? If everyone can do that, I have got a sure-fire way here for everybody to make money. You get to borrow from the Federal Reserve Board for near nothing, and then you can invest it in 3.8-percent 10-year Treasury notes.

It is interesting this relates to something else we have been trying to do for a while. We have been trying to get information about how much money the Federal Reserve Board is lending those investment banks and the biggest banks in America. How much money is the Federal Reserve Board giving them and at what rate? We know it is at a near-zero rate, but we do not know how much and to whom.

The Federal Reserve Board has now been told by two Federal courts, you have a responsibility to tell the American people and the Congress who got your money and what the terms were and how much. The Federal Reserve Board has said, we do not intend to tell everybody. They have now appealed it to a third Federal court.

I have led the effort in letters to the Fed Chairman saying, you have a responsibility here. But now this latest evidence tells us how this game is played. Isn't it interesting, and isn't it pathetic, that at a time when so many people wake up in the morning jobless, so many people are still losing money on their homes, on their assets, losing hope and losing confidence in the future of this economy, that at the very top of the heap, some of the same firms that caused the problem that threw this country into the deepest recession since the Great Depression now announce they are pitching a perfect game every single day. They are batting 1,000 and pitching perfect games. Why? It appears to me that it is not about lending money to help restore America and help firms that want to expand by providing capital. It appears to me that their reports suggest they are once again back doing the same things they used to do, except this time they understand that they cannot fail.

They borrow money from the Fed at near-zero interest rates, and invest it in Fed 10-year notes at 3.8 percent. That is about as close to guaranteed income as you can get. But it is not guaranteed income for all of the American people, it is just for the folks at the very top of the chain, the biggest financial firms.

Again, let me say as I do every time I come to the floor, I don't have a grievance against the biggest financial firms. We need big financial firms. But we do not need them too big to fail. And we certainly do not need to be feeding them with a strategy that says, I tell you what; we will give you a deal no other American has. You get to go to a window at the Fed, get money for almost nothing, and then invest it back in Fed bonds and pay 3.8 percent. We will give you a guaranteed annual income.

I just wanted to make note. It is too often little known, and it is seldom raising much concern among anybody these days, that all of this is happening. I think it is scandalous. It seems to me worth mentioning the only perfect game that is going on around here was not by a pitcher named Braden, but it is by some of the biggest financial institutions in the country that are not only fully recovered but have guaranteed income opportunities every single day, every single day, while a lot of the American people are trying to figure out, how am I going to pay the rent? How am I going to find another job?

I had come to the floor because I want to indulge—I should not say indulge. I wonder if the Senator from Connecticut will indulge me for a moment. I have spoken to the Senator, and I recognize that doing what he is doing is perhaps a cross between a migraine headache and a root canal. This is tough business out here hour after hour after hour and day after day.

I respect that. I was on the floor with a piece of legislation last year that took forever and it did try my patience. So kudos to my colleague from Connecticut. I respect the difficult job he has.

I have had an amendment, along with Senator KAUFMAN, Senators LEVIN, CANTWELL, FEINGOLD, SANDERS, and so on, a Dorgan amendment No. 4008. I would ask the courtesy of being able to set aside the pending amendment and call up this amendment. I do not intend to proceed with it, I just want to get it pending. I would proceed with debate at any time that is convenient. I do not want to inconvenience the Senator and the schedules he has. But I wish to ask if he would give me the opportunity to at least call it up, get it pending, and then we will proceed at a pace and at a time that would be convenient to the manager of the bill.

Mr. DODD. Let me say first, I appreciate my colleague from North Dakota's inquiry. All I am trying to do in

this—and, again, everyone can do that. I suppose there are about 60 amendments, and if we can have everyone's amendment called up, we end up with 60 amendments pending around the place. It adds to the difficulty of sorting it out, because obviously it takes consent to withdraw amendments, to modify amendments, do all sorts of things. So while it seems harmless enough to do so, it complicates the job, which is to sequence events, because obviously then it takes consent to do different things, at which point, for all sorts of different reasons, people can have motivations on why not to give consent, including people who may oppose the amendment, for reasons they want the amendment pending. So I will be very candid with my friend from North Dakota, it complicates my job. But, obviously, I do not want to cause anyone discomfort in the process. They all have amendments they want to bring up, and my job here is to try and orchestrate in a way so that amendments can be brought up, be discussed and debated.

My concern is that we end up with sort of this flood. Then everyone comes over, why not give everyone else the same courtesy along the way. If we do, then we end up potentially with chaos, on what happens to be a pretty good bill, I think at this juncture. More work needs to be done, I will be the first to acknowledge and admit that. But there is no guarantee that because we are in a good spot right now and heading, I think, toward a good conclusion of this bill—there are those who frankly would like to see it lose. I know that. There are thousands of lobbyists who have been hired to oppose this piece of legislation, the underlying bill that is before us. They are here in town and will use every mechanism and vehicle available to them to throw this off track. They are very smart. They do not just get paid well, they are bright, and they know how to do this. Many of them, in fact, worked up in these buildings for years. So they know how the place operates. They know a consent to bring up an amendment is, lay it aside, and pending, and they know what unanimous consent means in this body. Any one Member here can object.

So it does add difficulties to the management of the bill to have an unlimited amount of amendments brought up and pending, of which you then try to go through and orchestrate an outcome here that gets us to a reasonable conclusion where people are given an opportunity to debate their amendments.

So, again, I know what I am in for once this starts. We run the risk, I will say—I am very blunt on the RECORD. If we start this process, which I am fearful will be the case, we run the risk of losing this bill. That is the reality. This is not hyperbole. I have been here for 30 years, and I have watched what

can happen. When you have got this many opponents, the opponents of this bill who are determined to throw this bill off track, to stop too big to fail, consumer protection, from getting the kind of sunlight on derivatives, all of those issues, including what my colleague from North Dakota wishes to achieve, there are people who will use every means available to destroy this piece of legislation.

We only have a couple of days left, maybe, and then we are going to move on to other bills. I urge my colleagues here—Senator SHELBY and I are doing our best to try and accommodate all of our colleagues. We have had no tabling motions, we have had no filibusters on this bill, we have dealt with literally I do not know many amendments, I think some 20 or 30 amendments already. So we are moving through it and we are getting to everyone who is along the way.

So, again, if my colleagues want to go this route, I understand it, but I would be less than honest if I said, does it help or hurt the effort. Candidly, having everyone come over and demanding they be in line hurts.

Mr. DORGAN. Madam President, let me say, my purpose here is not to add to the burdens of the Senator from Connecticut, who is trying to get a bill through the Congress and signed by the President. I understand that.

I think I tried to in my opening comments be pretty complimentary of the work and understanding of the work. I agree there are times when there is a straw that breaks the camel's back. I also think this camel can carry a bit more. What I wish is, I think the Senator from Connecticut would agree that I have been to this floor a fair number of times, spoken with some passion and some vigor on things that I care a lot about. It is not as though I came out of a closet someplace here in the cloakroom and started talking about the issue that I intend to offer an amendment.

What I wish to do, with the consent of the Senator from Connecticut, is ask unanimous consent that the pending amendment be set aside and to call up amendment No. 4008.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DODD. Reserving the right to object, I will make the case again. There are unlimited Members who wish to be in line. I understand that. I warn my colleagues, no amendment, in my view, is more important than the underlying bill. Understand that if we go this route, and I end up with every Member coming over and making that request—and there are many more who want to do that here—once this starts, then my ability to get us to the conclusion of a good bill is at risk. So I am going to object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. DORGAN. Let me say that unfortunately when I, last evening, saw the note on the desk in front of us that said “no further rollcall votes” I had another event, and so I left the Chamber, because there were no further votes, and I went to the other event.

I discovered later that even as I was leaving the Chamber, I understood that there were three amendments at that point made in order. There were, I believe, two Republican amendments and one Democratic amendment that were noticed, and I think the chairman indicated they would be the next amendments. That is the basis on which I left this Chamber.

When I came back this morning, I understand that a fair number of other amendments had been called up, the pending amendment had been set aside, and other amendments had been called up. I do not know how many. I think four or six amendments, perhaps, beyond the three. I was unaware that opportunities such as that would have existed last evening. I think as one Member of the Senate who has spent a considerable amount of time on this floor on this issue, had I been aware last evening that the gate was open a bit to be able to get an amendment pending that I have talked about many times on this floor, I would have been here last evening.

I was not aware of that, and that is the basis on which I came this morning at 11 o'clock. I hope the Senator from Connecticut would not object. I would hope he would rethink that. He has every right as chairman to decide to manage this bill as he wishes. We cannot have 100 managers for this bill. The chairman has done a lot of work to bring the bill to the floor.

On the other hand, this issue is not some ordinary issue. The country will live with the consequences of this bill perhaps for a decade, perhaps more, perhaps less than a decade if we do not do the right things and we suffer another economic near collapse. We will have another bill on the floor for those who are here in 2 years or 5 years.

What I want is financial reform to be done, done well, done right. I was going to say to the Senator from Connecticut, the amendment I have offered is an amendment that I think is very important.

I don't have any idea whether we have the votes for it. But I do think it is one of those pieces that is essential—critical, in fact—in order to address financial difficulties going forward. If we don't pierce this unbelievable building bubble of speculation that has caused a significant part of our problem, then we will not have addressed the real issues of financial reform. The issue of what are called naked credit default swaps, those are newly created instruments by which people make wagers with one another with no insurable interest on any side of the security. If we

don't put a dagger in the heart of that kind of activity—and that is not shutting down, as my colleague from Georgia said yesterday, the use of credit default swaps. It is shutting down one portion of them, the largest portion that is just a flatout gambling device.

I hope we can address these issues. I think I have been respectful to the chairman of the committee. I say to the chairman if I am allowed to set this amendment aside and offer amendment No. 4008, I will certainly be willing to have a reasonably short time period for debate. That kind of cooperation is also important in the construct of trying to get this bill done. It is an amendment that should have a lengthier debate.

When I left the floor yesterday, the Senator from Georgia had an amendment. I think it was 2½ hours later that we had a vote. This amendment is much more consequential than that. I am willing, if we can at least get it pending, when the Senator from Connecticut believes it is appropriate to debate it, to engage in an agreement on a short timeframe.

Mr. DODD. Madam President, let me say to my colleague, I have any number of colleagues who would like to be doing the same thing. All of them believe strongly in their amendments. I am not arguing about the substance of the amendment. At the conclusion of last evening, we tried to establish a sequence. I have no problem putting my colleague's amendment in the next tranche. My problem is, what do I say to the next colleague who wants to do the same thing? At what point do I say: I can't manage this if we are going to do it this way. Anyone can make a request, and I am trying to deal with these requests as they come forward and put it together in a way that allows us to go forward.

We will vote shortly on the Sessions amendment, a Franken amendment. Senator DURBIN has an amendment I would like to have called up. Trying to get time agreements is the art of management of legislation. I do not want to deprive anyone of offering an amendment. But at some point—what is the point of having someone sit in this chair if we just all come over and offer amendments and get in line somehow and then we have 60 amendments? Taking unanimous consent at some point to drop that creates a problem in terms of managerial capacity.

My colleague will get, to the best of my ability, a chance to have his amendment come up and, hopefully, an adequate amount of time to debate it. I respectfully ask him to give me a chance so I don't end up opening the door to the next Senator making a similar passionate request. At some point we have to put a stop to this so I can manage the bill and go forward. That is all I am saying.

Mr. DORGAN. I am not unsympathetic to what the Senator is doing. It

is the case that I, certainly as one Senator, see amendments being offered again and again by Senators from the Banking Committee, and they had a pretty good shot at this for a good long while before it came to the floor. Those of us who don't serve on that committee just want an opportunity to get amendments pending and up and so on.

Mr. DODD. The next three amendments—those of Senators DURBIN, SPECTER, and FRANKEN—are not offered by members of the committee.

Mr. DORGAN. I am speaking about amendments that have been offered. If the Senator objects, he has the right, but I will be back. If I am in the next tranche the Senator from Connecticut announces, that is fine. I will be able to offer an amendment. But between now and then, I guess I would like to understand how the system is going to work because I will continue to come and ask consent to offer this amendment. Then when we do debate it, I will have a real debate. This is the heart and soul of trying to shut down a system that creates unbelievable speculation in the economy and poses great danger.

I might point out, we should not always assume that we are in safe territory on all of these issues. Colleagues probably saw the news this morning. Last month's Federal budget deficit is \$83 billion. Take a look at what the trade deficit is. As I mentioned, in the midst of all this, the biggest financial institutions in the country are battling a thousand. Every single day they make a profit with what I think looks like a rigged system.

This bill is very important. I want the Senator from Connecticut to succeed. If we don't pass a financial reform bill, the American people have a right to look at the Congress and say: What on Earth are you there for? What are you doing? But not just any bill, a bill that actually addresses the heart of the issues that caused the near economic collapse of this country. That is what we need to have accomplished at the end of this process. That is what brings me to the Senate floor. I am sorry I can't get this pending at the moment. But as Governor Schwarzenegger said in a previous life: I will be back, and soon.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

AMENDMENT NO. 3832

Mr. DEMINT. Madam President, I rise to speak in favor of the Sessions bankruptcy amendment. This is critical to the current financial debate because one of the big issues in whether we treat some companies and some banks differently. The current bankruptcy laws create a predictable rule of law. There is no arbitrary or political decisionmaking. When a company can't pay its bills, it can ask for bankruptcy protection to restructure or liquidate in some kind of controlled fashion.

This is what is meant by "justice is blind." Our courts, our legal system and political systems do not get involved with deciding which companies have to be liquidated, go through bankruptcy. During our current financial meltdown, the government decided to pick winners and losers, to bail out some companies, some banks, and not others.

The underlying financial regulation bill makes that system permanent, essentially throwing out the rule of law and allowing the political system, the bureaucratic system to decide which companies need to be treated differently while others have to go through the bankruptcy process. The Sessions amendment would treat all companies the same and allow an orderly restructuring or liquidation of banks, regardless of how big they are.

The underlying bill abandons the rule of law. It suspends free market principles, and it perpetuates the idea that there are some companies that are too big to fail and have to be treated differently. It even expands that arbitrary system by giving the FDIC the ability to pick companies they think might fail and to seize them if they are not meeting certain criteria. The market does not decide which company is failing anymore. This becomes a political system which sets up corruption and political meddling as part of the financial system.

There is no reason we can't have special bankruptcy courts to deal with large banking institutions so their failure does not take down the whole financial system. This idea that some people in Washington are going to look at Wall Street or anywhere in the country and decide which company is too big to fail, has to be treated differently, while this company goes through a traditional bankruptcy process—that puts us right back where we are now, where people in the government can arbitrarily take taxpayer money and bail out one company. Maybe it is their political friends and supporters—or maybe they don't bail out the companies that are their political enemies. It makes no sense to make bold promises to the American people that we are going to end too big to fail when this bill actually makes it permanent.

I encourage my colleagues to consider the Sessions amendment. It would take us back to a rule-of-law that is predictable, that let's every company, every bank know if they can't pay their bills, they have to go through a predetermined system, not one that is decided by bureaucrats at the last minute based on criteria that could change at any moment.

Let's get this one right. The underlying bill will not do what we promise. The Sessions amendment will move us in the right direction to keep our promises to the American people.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

AMENDMENT NO. 3991

Mr. FRANKEN. Madam President, let me say how thankful I am that Senator DODD has worked with us to get my amendment to a vote. I know how hard he has been working on this bill and how precious floor time is during this debate.

Last week I proposed an amendment with Senator SCHUMER and Senator BILL NELSON to reform our Nation's credit rating industry. Today I am thrilled to announce that Senators GRASSLEY, KAUFMAN, DURBIN, HARKIN, KLOBUCHAR, LEVIN, WYDEN, and BEGICH have joined as cosponsors. Senator GRASSLEY, of course, is the ranking member of the Finance Committee and a senior member of the Budget Committee. Senator LEVIN led the Permanent Subcommittee on Investigations which revealed some of the credit rating industry's worst abuses. Senator KAUFMAN has also been a leading critic of the rating agencies, pointing out how these agencies kept AAA ratings "rolling off the assembly," despite consistent and increasing indications that they were totally unwarranted. Senators DURBIN, HARKIN, and KLOBUCHAR have long established themselves as strong voices on behalf of consumers.

Over 20 of my colleagues have now cosponsored my amendment, including senior members of the Senate Finance and Banking Committees. Since I have filed this amendment, I have come to the floor several times to explain the different aspects of it. Now that this amendment will be up for a vote, I wish to step back and summarize. To underscore the scope of this problem, I want to explain how this amendment is a simple investor-based solution to the problem. Here it is in a nutshell.

There is a staggering conflict of interest affecting the credit rating industry. The way it works now, issuers of securities are paying for the credit ratings. They shop around for their ratings, selecting those agencies that tend to offer them the best ratings and threatening to stay away from rating agencies that are too tough on them. Because of this, the credit rating agencies are issuing ratings that are orders of magnitude higher than they should be. We know this from the record. We know from the PSI release of e-mails that this was the case. This conflict of interest has cost American investors and pensioners billions of dollars because supposedly risk-free investments have failed or been downgraded to junk status.

My amendment will correct that conflict of interest by having an independent third party assign the credit rating agency that conducts the initial rating for newly issued complex financial problems. My amendment puts investors in charge, not the government.

Let's take this from the top. Right now, when a bank issues a product, it gets a credit rating—it gets a couple credit ratings before they will sell their product. But the problem is, they don't get their rating from an independent agency. They don't get it from someone who has a real interest in being accurate. Rather, issuing banks currently get their credit ratings from rating agencies they hire, and they pay them upwards of \$1 million per transaction.

Now, you do not have to be Adam Smith to guess what has happened. As with any other financial transaction, the issuers—the buyers of credit ratings—shopped around for ratings. When they would go to a credit rating agency, and the credit rating agency did not give them the rating they wanted, they would not hire them the next time. So the credit rating agencies responded in kind. They changed their algorithms for rating the products when the ratings they produced were too low, and, thus, they repeatedly overrated terrible securities.

This is not a hypothetical. The Permanent Subcommittee on Investigations, Senator LEVIN's committee, uncovered pages upon pages of e-mails confirming this is exactly what happens. But I think the numbers explain it the best, and we know this. Of all the subprime mortgage-backed securities issued in 2006 and 2007 that received a AAA rating, over 90 percent have since been downgraded to junk status.

Credit rating agencies will counter that the downgrading of AAA bonds to junk status occurred because of the unpredictable collapse of the housing market. Two points here: The e-mails that were released in the investigation by the Permanent Subcommittee on Investigations showed that the credit rating agency knew what was happening. Here is an e-mail from 2006. This is from one of the Standard & Poor's executives:

[T]his is like another banking crisis potentially looming!!

There was an executive who said they wished they could go public with the loss figures they were seeing—this is in 2006—but that “may be too much of a powder keg.” And there are e-mails where they were saying: We better increase the ratings so we keep getting business.

These were the guys who got it. Admittedly, there were guys who did not get it in the credit rating agencies. But there is an old Upton Sinclair quote, which is: You can't get a man to understand something that his salary depends on him not understanding.

So there is this inherent conflict of interest, which is, if I give a good rating to these subprime mortgage-backed securities, I am going to make a lot of money; there is a lot of money here; my salary depends on my not getting what is happening. That all emanates

from the conflict of interest. That is what I am going after. That is why they either ignored what they were seeing in 2006, or, if they got it, they did not say anything about it. So some were maybe less than completely getting it, and others who got it were corrupt. It was all for the same reason: because of this conflict of interest.

These downgrades did not just result in major losses to Wall Street. They resulted in multibillion-dollar losses to millions of Americans, especially pension holders. CalPERS, which 1½ million Californians rely on for their pensions and health benefits, lost \$1 billion. Pensioners in Ohio lost \$½ billion. The same story is repeated all across the country.

This was people's retirement money. This was not people buying yachts. This was not people staying a night at the Waldorf. This was their retirement money. So this was the problem, the conflict of interest.

Let me tell you how our amendment addresses this problem. My amendment would call for a new clearinghouse, regulated by the SEC, to assign issuers to a credit rating agency that will give them their first rating on complex financial products. They would be assigned. That means an issuer will no longer be able to shop around for a rating. They will not be able to pressure a rating agency into giving a good score in exchange for future business. Over time, the clearinghouse will monitor the ratings these agencies give out and refine its method of assignments. It can reward agencies that are more accurate and give fewer assignments to those that are less accurate. It will incentivize accuracy. Imagine that. In doing so, it will give smaller agencies a chance to get into the action.

Standard & Poor's and Moody's and Fitch do about, what, 94 percent of the business. The other agencies will get a chance because what will be rewarded is accuracy.

By making these simple changes—and it is a very simple change; it is a third party—the amendment will eliminate the fundamental conflict of interest at the core—at the core—of this problem.

Some people are going to tell you this is a government takeover of the credit rating industry. That is patently, 100 percent false. The clearinghouse will not issue a single rating. The clearinghouse is not going to tell credit rating agencies how to determine their ratings. In fact, every single rating an agency gives after being assigned a security will have a disclaimer that says, “This is not a government-approved rating.”

Moreover, the clearinghouse will be run by investors such as managers of pension funds and managers of university endowments. OK. There is not a single seat on this board that would be reserved for a government official.

Moreover, while the initial board members are to be named by the SEC, after the initial appointments, the board itself will choose its future members. There will be a representative from the rating agencies, there will be a representative from the banks, but a majority will be investors. This makes sense. We will be putting people in charge who are the people who are actually buying the securities, and who pay the price when the securities prove to be significantly overrated.

So let me repeat that. We are putting the buyers of securities—not the government—in charge. OK.

The clearinghouse will be an independent, self-regulatory organization that operates with oversight from the SEC, just like the Financial Industry Regulatory Authority or FINRA.

Finally, this board will not act as an intermediary for every credit rating issued. It will only assign an agency to do the initial rating—the first rating an issuer receives. The issuer is then free to seek as many other credit ratings as it wants from whomever it wants, as most issuers currently do.

I am merely proposing that at least one rating—the initial rating—from an issuer be free from the conflicts of interest inherent in an issuer-pays system. This initial rating will then serve as a check against any possible inflation in subsequent ratings.

You may also have heard there are alternative proposals that would eliminate any requirement of reliance upon a credit rating issued by an NRSRO. Senator LEMIEUX, my good colleague from Florida, will be offering a side-by-side to this amendment. Now, my only problem with this is, this approach ignores the reality that ratings will, by necessity, continue and will always play a role in our economy. Investors will still rely on them even if the statutes do not mandate it.

I believe Senator LEMIEUX's approach does absolutely nothing to tackle the conflicts of interest or address the current oligopoly, both of which would surely persist under this approach, especially the conflicts of interest.

There is nothing in Senator LEMIEUX's approach that I understand is contradictory at all to what I am doing. So if a Member would like to vote for Senator LEMIEUX's side-by-side, it would be fine. You have to determine for yourself the value of that. I am just saying it does not get at the heart of the matter, which is the conflict of interest: the issuer actually paying the rating agency for the rating.

With the help of Senators SCHUMER and NELSON, I have crafted a measure that is not liberal or conservative. It is not moderate. It is not on any spectrum. It just makes sense. It is common sense. This is like the solving of forum shopping in courts. It is an elegant solution. I can say that because I



did not think of it. Some professors in academia thought of it, and I guess the chief economist at Patton Boggs. It is just a simple, elegant idea. So it is not conservative; it is not liberal. It is just common sense.

That is why Senator WICKER has embraced this amendment. Senator GRASSLEY has embraced this amendment. It is just plain common sense. That is why Senators LEVIN, JOHNSON, MURRAY, DURBIN, WHITEHOUSE, BROWN, MERKLEY, BINGAMAN, LAUTENBERG, SHAHEEN, CASEY, SANDERS, KAUFMAN, HARKIN, KLOBUCHAR, WYDEN, and BEGICH also support the amendment.

That is why Americans for Financial Reform support it. That is why the Consumers Union supports it; the Teamsters, the National Association of Consumer Advocates, Public Citizen, SEIU, and a number of other national organizations stand behind this amendment.

That is why, as I said, leading economists in academia and private industry support this amendment. In fact, as I was saying, the chief economist at Patton Boggs, Dr. David Raboy, who first developed a similar proposal, is squarely behind this amendment. Of course he would be; he developed it.

That is why independent, smaller rating agencies have come out in support of this amendment. That is why this amendment cannot wait.

I urge colleagues on both sides of the aisle to vote in favor of this amendment.

I thank you, Madam President.

I believe my good colleague from Florida has a side-by-side which, as I say, in no way conflicts—I do not believe—with this amendment. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

AMENDMENT NO. 3774, AS MODIFIED, TO  
AMENDMENT NO. 3739

Mr. LEMIEUX. Madam President, I ask unanimous consent to temporarily set aside the pending amendment so I may call up amendment No. 3774, as modified.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. LEMIEUX] proposes an amendment numbered 3774, as modified, to amendment No. 3739.

Mr. LEMIEUX. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment, as modified, is as follows:

(Purpose: To remove statutory references to credit rating agencies)

On page 1036, strike line 14 and all that follows through page 1041, line 3, and insert the following:

**SEC. 939. REMOVAL OF STATUTORY REFERENCES TO CREDIT RATINGS.**

(a) FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 7(b)(1)(E)(i), by striking “credit rating entities, and other private economic” and insert “private economic, credit,”;

(2) in section 28(d)—

(A) in the subsection heading, by striking “NOT OF INVESTMENT GRADE”;

(B) in paragraph (1), by striking “not of investment grade” and inserting “that does not meet standards of credit-worthiness as established by the Corporation”;

(C) in paragraph (2), by striking “not of investment grade”;

(D) by striking paragraph (3);

(E) by redesignating paragraph (4) as paragraph (3); and

(F) in paragraph (3), as so redesignated—

(i) by striking subparagraph (A);

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(iii) in subparagraph (B), as so redesignated, by striking “not of investment grade” and inserting “that does not meet standards of credit-worthiness as established by the Corporation”;

(3) in section 28(e)—

(A) in the subsection heading, by striking “NOT OF INVESTMENT GRADE”;

(B) in paragraph (1), by striking “not of investment grade” and inserting “that does not meet standards of credit-worthiness as established by the Corporation”;

(C) in paragraphs (2) and (3), by striking “not of investment grade” each place that it appears and inserting “that does not meet standards of credit-worthiness established by the Corporation”;

(b) FEDERAL HOUSING ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1992.—Section 1319 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4519) is amended by striking “that is a nationally registered statistical rating organization, as such term is defined in section 3(a) of the Securities Exchange Act of 1934.”

(c) INVESTMENT COMPANY ACT OF 1940.—Section 6(a)(5)(A)(iv)(I) Investment Company Act of 1940 (15 U.S.C. 80a-6(a)(5)(A)(iv)(I)) is amended by striking “is rated investment grade by not less than 1 nationally registered statistical rating organization” and inserting “meets such standards of credit-worthiness as the Commission shall adopt”.

(d) REVISED STATUTES.—Section 5136A of title LXII of the Revised Statutes of the United States (12 U.S.C. 24a) is amended—

(1) in subsection (a)(2)(E), by striking “any applicable rating” and inserting “standards of credit-worthiness established by the Comptroller of the Currency”;

(2) in the heading for subsection (a)(3) by striking “RATING OR COMPARABLE REQUIREMENT” and inserting “REQUIREMENT”;

(3) subsection (a)(3), by amending subparagraph (A) to read as follows:

“(A) IN GENERAL.—A national bank meets the requirements of this paragraph if the bank is one of the 100 largest insured banks and has not fewer than 1 issue of outstanding debt that meets standards of credit-worthiness or other criteria as the Secretary of the Treasury and the Board of Governors of the Federal Reserve System may jointly establish.”

(4) in the heading for subsection (f), by striking “MAINTAIN PUBLIC RATING OR” and inserting “MEET STANDARDS OF CREDIT-WORTHINESS”;

(5) in subsection (f)(1), by striking “any applicable rating” and inserting “standards of credit-worthiness established by the Comptroller of the Currency”.

(e) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a) Securities Exchange Act of 1934 (15 U.S.C. 78a(3)(a)) is amended—

(1) in paragraph (41), by striking “is rated in one of the two highest rating categories by at least one nationally registered statistical rating organization” and inserting “meets standards of credit-worthiness as established by the Commission”; and

(2) in paragraph (53)(A), by striking “is rated in 1 of the 4 highest rating categories by at least 1 nationally registered statistical rating organization” and inserting “meets standards of credit-worthiness as established by the Commission”.

(f) WORLD BANK DISCUSSIONS.—Section 3(a)(6) of the amendment in the nature of a substitute to the text of H.R. 4645, as ordered reported from the Committee on Banking, Finance and Urban Affairs on September 22, 1988, as enacted into law by section 555 of Public Law 100-461, (22 U.S.C. 286hh(a)(6)), is amended by striking “credit rating” and inserting “credit-worthiness”.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

(1) IN GENERAL.—Commission shall undertake a study on the feasibility and desirability of—

(A) standardizing credit ratings terminology, so that all credit rating agencies issue credit ratings using identical terms;

(B) standardizing the market stress conditions under which ratings are evaluated;

(C) requiring a quantitative correspondence between credit ratings and a range of default probabilities and loss expectations under standardized conditions of economic stress; and

(D) standardizing credit rating terminology across asset classes, so that named ratings correspond to a standard range of default probabilities and expected losses independent of asset class and issuing entity.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to Congress a report containing the findings of the study under paragraph (1) and the recommendations, if any, of the Commission with respect to the study.

Mr. LEMIEUX. Madam President, I come to the floor today to talk about this important issue my friend from Minnesota has brought forth, and I congratulate him on the work he has done. We know one of the main reasons we had our financial debacle in 2008 was that credit agencies failed to do their job. They put AAA stamps of approval on products that deserved no such stamp. The investing world relied upon the fact that rating agencies were supposed to do their job, and they failed to do their job.

So just as when you read Consumer Reports, and you believe they are giving objective information and a good accounting of how a product is or is not safe, the investing world thought Fitch and Moody's and S&P and these others had done their job and had done the due diligence. So I congratulate, again, my friend from Minnesota. He has focused on one of the main reasons we had our financial debacle.

Unfortunately, much of what is in this 1,409-page bill does not go after what caused the debacle in 2008. We do not deal with Fannie and Freddie. We did not pass significant underwriting standards yesterday in the Corker amendment. We have a chance to address the issue of the rating agencies, because, but for their failure to do their job, we may not have had this debacle that destroyed, as some estimate, \$600 trillion worth of wealth.

Where I differ with my friend from Minnesota is that I don't think he has gone far enough. I appreciate his efforts to go after conflicts of interest. I believe there are conflicts of interest. We cannot have the people whose products they rate pay them. He is right about that, but I would go further. My amendment writes these organizations out of law. Why should we reward them and allow them to continue to have what, in effect, is a government-sponsored monopoly? Federal law says creditworthiness will be determined by these rating agencies. Why should we reward them by allowing them to continue in any fashion to have the sanction and permission and basically a monopoly granted by Federal law? That doesn't make any sense to me.

So the amendment I am proposing, again, is not, as my friend from Minnesota said, inconsistent with his amendment, and I believe there will be Members who will vote for his amendment and my amendment. I am glad we are both focused on addressing this issue.

What my amendment will do is take away this sanctioned monopoly that holds out these rating agencies as the entities that determine what is creditworthy. Certainly, rating agencies will still exist, but there will be more rating agencies involved, plus banks themselves will have to do the due diligence to convince the FDIC or whoever the regulator is that the bonds they hold on their books are creditworthy. In a way, we are saying that the astrology we relied upon in the past didn't work. Let's have some new and better astrology.

The rating agencies don't work. Did they not work because they had a conflict of interest? Perhaps. Did they not work because they are incompetent independent of that conflict of interest? Perhaps. I hope what my amendment does will achieve both goals. They will not be paid by these same investment banks if they are no longer written into law, I believe. Plus, if they are no longer written into law, there will have to be something in the marketplace that people can rely upon when they have to make their case to your Federal regulator that these instruments are creditworthy. Someone is going to have to do their homework.

My friend from Minnesota is exactly right that the damage done in the marketplace was done in large part because

of our reliance upon these rating agencies. The Wall Street Journal on April 21 said:

When the government ordains—

And that is an important word—

Moody's and Standard & Poor's as official arbiters of risk, the damage can be catastrophic because so many people rely upon them.

So let's stop ordaining them. Why are we going to reward bad behavior?

My friend from Minnesota, who has gotten his language from professors and others, the language we have worked on—it is not a conservative idea; it is not a Democratic idea. In fact, it is exactly the same as the language BARNEY FRANK put forward on the House side. So we have a liberal Democrat and a conservative Republican working to the same end. So let's not just go halfway. Let's go all the way. Let's make sure these rating agencies don't get rewarded for bad behavior.

This will take some time to implement. It needs time for the market to adjust. There is a 2-year period in this amendment for this to take effect. That is important so that banks can beef up their staff to make sure they can do the due diligence, do the homework, to prove creditworthiness. It is good for the market to settle, which it will need to do, from relying upon just these three big rating agencies.

I believe the solution has to go the full measure. While I congratulate my friend from Minnesota for tackling this issue and while I also don't think our two measures are inconsistent, I believe the amendment I am proposing, which is almost exactly—similar to the language of BARNEY FRANK on the House side—is the right answer to really get us off this ordination of these rating agencies.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Madam President, I rise in strong support of the Franken amendment.

First, I wish to praise my colleague from Minnesota for the great job he has done on this amendment. This is going to make a huge difference. It strengthens the section that is already in Senator DODD's fine bill, on which Senator JACK REED did great work, and now it goes a little further.

In particular, I thank my colleague from Minnesota for really getting at the heart of the conflicts of interest. We can vote around the conflict of interest, we can shine a mirror of light on the conflict of interest, but unless we get to the heart of it, we are not going to undo the problem. The Senator from Minnesota does that, and I praise him for his fine work. I think that if this amendment passes, it is going to be one of the lasting contributions and one of the most significant contributions to prevent a future crisis from happening.

Nobel economist Joseph Stiglitz said:

I view the rating agencies as one of the key culprits . . . They were the party that performed the alchemy that converted the securities from F-rated to A-rated. The banks could not have done what they did without the complicity of the rating agencies.

Credit rating agencies played an important role—an unfortunate and important role—in what led up to the financial crisis. They adopted questionable practices intended to win over clients and capture greater market share, ignoring the true credit quality of the complex securities at the heart of the market meltdown. They neglected their own internal controls and developed a coziness with clients. And because rating the complicated structured finance products brought in more money to these agencies, they raced each other to the bottom, competing for clients by inflating ratings. Because the clients had an incentive to sell products with the highest ratings to investors, the rating agencies would give them advice on how to structure their products to score AAA. This race to the bottom is the easiest, quickest, and least disputatious. Giving an AAA rating is one of the major culprits of the financial crisis we are seeing.

The conflict of interest-ridden industry helped bring our economy to its knees. To provide one example, 93 percent of AAA-rated subprime mortgage-backed securities issued in 2006 have been downgraded to junk status. Is that incredible? Ninety-three percent went from AAA to junk status. That is not an accident and, frankly, that doesn't just happen because people make mistakes. There was something more pernicious at work, which was conflict of interest. That is the fundamental problem. Again, 93 percent of the securities the rating agencies concluded were of the highest quality, least risky investments, in just 2 years they became worthless. Many people lost money. Some were big investors, some were small investors, some were large banks and institutions, and some were pension funds that had the savings of millions of hard-working Americans. Everyone suffered because of what the credit rating agencies did. This bill we are debating this week makes important strides in holding the rating agencies accountable to their credit quality assessments.

Once again, I commend Senator DODD, our able chairman, and Senator JACK REED, our able chairman of the securities subcommittee, for the immense work they did in this area. Requiring the creation of a new Office of Credit Rating Agencies at the SEC; disclosures of rating methodologies; prohibiting compliance officers from working on ratings methodologies or sales; a new liability provision; and requiring rating analysts to pass qualifying exams all helps.

As I said, the provision Senator FRANKEN is offering and I am proud to

cosponsor goes to the heart of the conflict of interest. It doesn't go around the edges of the conflict of interest but is a dagger at the heart. This amendment breaks that inherent conflict by having a third party, a neutral third party, step in-between. Issuers will no longer be able to choose a rating agency and directly influence what kind of ratings they get.

The amendment establishes a board of highly knowledgeable and experienced people, a majority of whom will be from the investor industry, including pension funds, municipalities, and retail investors who got clobbered in this financial crisis because the rating agencies were getting paid by the issuer and had an incentive to issue the best rating possible.

How the heck—this is a little digression—how the heck no-doc loans got AAA ratings over and over, packages of no-doc loans—what does that mean to the average person? It means they never asked you if you could afford to pay the mortgage, and they got AAA credit ratings. What was going on, and why didn't anyone catch it? Well, the Dodd part and the Reed part of the amendment will catch it, but the Franken part of the amendment will prevent it by having a noninterested party make a rating.

The Franken amendment establishes a board of highly knowledgeable and experienced people, as I said. They have to submit their products to be rated to the board and, like a wheel, the board will choose a rating agency for each product. When I say a wheel, it is like a wheel; it comes up randomly. Where did Senator FRANKEN—and I have spoken with him about this, so I know—where did he come up with this idea? This is how we prevent forum shopping, bias of judges. When you go to the Southern District of New York and you have a case, it is a wheel and you get a judge randomly. In the past, we have found there were even conflicts of interest in the judiciary because you got to choose your own judge, just as the issuer now gets to choose its own credit rating agency. The wheel makes it random. You don't choose it. That is a big, huge step forward.

The board will also monitor the performance of these ratings and ensure the rating agencies are qualified to rate the products. This model will motivate rating agencies to develop and gain the right expertise and methodologies so they can become eligible to rate different classes of structured finance products, and the smaller rating agencies and investor-paid agencies will have a level playing field to compete against the big three.

This proposal has a broad range of bipartisan support. I greatly appreciate not only Senator FRANKEN's outstanding work on this issue but the cosponsorship of Senators NELSON,

WHITEHOUSE, BROWN, MURRAY, MERKLEY, BINGAMAN, LAUTENBERG, SHAHEEN, CASEY, SANDERS, JOHNSON, KAUFMAN, DURBIN, HARKIN, and—thank you to our Republican friends—Senators WICKER and GRASSLEY.

So I hope we will get unanimous support for this amendment. I hope we won't leave out any major provisions. I hope we won't modify it or weaken it. Let's stick to this amendment. It is modest and thoughtful and goes to the heart of what helped cause the financial crisis—the inherent conflict of interest in the way credit rating agencies worked.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Madam President, I was going to address the underlying question here, but I know my colleague from Maine wishes to be heard on a different amendment.

Let me say briefly that I appreciate the comments and I appreciate the efforts of Senator FRANKEN in this regard. Forty pages of our bill are exclusively dedicated to rating agencies. We spent an inordinate amount of time on the rating agency question. This is a complex issue and the source of a lot of discomfort. There is a headline in one of the national newspapers this morning that talks about the rating agencies and the problems they have posed in giving ratings to products that were worth vastly less than their claims.

Very briefly, on the underlying bill, the SEC will have a new office of credit ratings to regulate and promote accuracy in ratings, staffed with experts in structured, corporate, and municipal debt finance. The office's own examination staff will conduct annual inspections, and the essential findings will be available to the public. The SEC will have expanded authority to suspend the registration of agencies that consistently produce ratings without integrity. It will have more authority to sanction ratings agencies that violate the law, including penalties for management for failure to supervise employees who break the law.

The bill imposes tough new requirements on credit rating agencies. Ratings agency boards are subject to new rules for independence. Ratings analysts must be separated from those who sell the firm's services. Agencies must publicly disclose when they materially change their procedures or methodologies or make significant errors and update their credit ratings accordingly. Agencies must establish strong internal controls for following procedures and methodologies and have these attested to by their CEO to the SEC. The agencies must establish hotlines for whistleblowers and complaints, retain complaints about the firm's work for regulators to examine.

Compliance officers must submit annual compliance reports to the SEC.

They are required to consider credible information they received from sources other than the issuers in making the ratings, rather than relying on the—basing ratings only on the issuer's representations.

Investors are empowered. The agencies must disclose more about their ratings assumptions, limitations, risks, accuracy, and factors that might lead to change in ratings. Agencies must disclose their track record of ratings in a way that is in compliance so that users can compare ratings for accuracy across different agencies.

It also will have the benefit of having new pleading standards so when private suits are brought, they will be able to have actions brought against these rating agencies.

The issuer or underwriters of any asset-backed security shall make available any due diligence reports, and on and on.

The point I want to make is we have spent a lot of time on this issue. A lot of work went into this issue. My colleague from Minnesota has what I think is a good and sound idea. Here is my concern as chairman of the committee. I do not know what the implications are because we have had no real examination of having the wheel about which my friend from New York talked. Not all rating agencies are equal. There ought to be more of them. There are smaller ones out there that ought to be able to grow in their competency and do things. But there are companies of different sizes and needs, and merely changing a rating agency based on an arbitrary choice without considering whether the rating agency can do the job is my concern.

I like the idea because what it does do is get away from the conflict of interest. That is as it presently exists. Here is the quandary we have: Right now, the company that seeks the rating agency pays the rating agency. Obviously, on its face, you have a problem. If I am buying a service from you—and by the way, I would like to get a AAA rating—I have a pretty good chance of getting it whether I deserve it or not. The alternative idea, somebody said, is why don't you have the buyers of the rating agency? There is a similar problem. They might like to have a DDD rating to lower the value. So you have a conflict on either side of this question that is difficult and difficult to resolve.

Compound the problem with the fact that the rating agencies, as presently construed, prior to our language in this bill, basically rely on the information from the very purchase of the rating agency to determine whether it is a good product. There is no due diligence done by the rating agency. Our bill changes all of that.

It is with a great deal of reluctance—as I said to my colleague from Minnesota, I was prepared to take a good

study of this; in fact, language that would recommend the SEC and others—the SEC has authority under existing law to deal with conflicts of interest. They have the power to do it. Whether they do it is another matter. That is always the issue with a regulator.

I am concerned what this means. I say that respectfully to the author. He has worked hard on this amendment. There are a lot of good ideas in it. I am just uneasy about what the implications can be. I would be remiss if I did not express that as chairman of the committee having spent hours listening to the debate back and forth.

On the amendment offered by our colleague from Florida, there is a different set of issues I have, but I also have to express my opposition to that amendment. The reason is because very simply we know that credit ratings are far from the perfect measure. We know that. We wrestled with this.

I agree that the markets may place too much reliance on credit ratings. But the way to address the problem is not to simply repeal the safety and soundness provisions of the law. That is what he is asking us to do.

While I have problems with the present system and we made major inroads on how to address that in ways we thought made some sense, the idea of the Senator from Florida that because we are not happy with the present structure—although I think the bill before us does an awful lot in 40 pages to deal with how this is to be accomplished—he repeals all of it. Someone may have a better idea out there, but to get rid of what we have, leaving a vacant space, in a sense, is not my view of the way this ought to be addressed. Congress could not simply repeal safety and soundness laws without careful prior study of the impact on the markets. That is what we are doing with the LeMieux amendment.

Our bill sets out a process by which overreliance on these rating agencies can be reduced without creating risk throughout the financial system. That is my concern. Stripping everything out of safety and soundness in this area does not get you safety and soundness.

With regard to both amendments, I am more attracted to the amendment offered by Senator FRANKEN, and I like the idea of where he is going. I just do not know whether it is sound. Again, it is the kind of thing I wish to see examined—and that is not to suggest he has not done that—where you take the time and go through the process.

It is with some reluctance that I express my opposition to both amendments and urge my colleagues to review, if they care to, the 40 pages of effort we have made in our bill.

JACK REED of Rhode Island deserves a lot of credit for having worked particularly hard on the rating issue in our committee and the subcommittee deal-

ing with securities. We think we have a strong bill in these areas. I would be the first to say it is far from perfect, but we did our best to find a way to get far greater responsibility and accountability out of the credit rating agencies. There is a great concern here that accountability and responsibility needs to be taken into consideration.

As I said, our bill has 40 pages of safeguards to strengthen the SEC, empower investors, and to make rating agencies far more responsible and accountable.

Madam President, I yield the floor.  
The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Maine.

AMENDMENT NO. 3883

Ms. SNOWE. Madam President, I rise to speak today on amendment No. 3883, which is pending, which I have offered with my good friend and colleague from Arkansas, Senator PRYOR.

I ask unanimous consent that Senator PRYOR be able to follow my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Will the Senator yield for a question?

Ms. SNOWE. I will be glad to yield.

Mr. LEVIN. How long does the Senator expect to take?

Ms. SNOWE. Fifteen minutes.

Mr. LEVIN. Does the Senator from Maine know how long Senator PRYOR will take?

Ms. SNOWE. About 5 minutes.

Mr. LEVIN. I thank the Senator.

Ms. SNOWE. Madam President, the amendment that is pending that we have offered—and I add that also has been cosponsored by Senator GRAHAM and Senator MENENDEZ—would ensure that small businesses are considered in the federal rulemaking process by the Bureau of Consumer Financial Protection that would be created in this bill.

The more attentive we are with respect to small businesses and the issues incorporated in this legislation, the better small businesses will be in their ability to create jobs and to survive what is a very difficult and tragic economic environment.

This amendment would ensure that when the newly created bureau promulgates rules and regulations, it fully considers the economic impact those rules and regulations would impose on our Nation's more than 30 million small businesses that have created 64 percent of all new jobs over the past 15 years and no question will drive our Nation's economic recovery. Indeed, we are depending on these small businesses to lead us out of this jobless recovery.

We know a jobless recovery is not a true recovery. We have more than 15 million Americans who are unemployed or underemployed. Clearly, it is going to be small businesses that pave the way toward employment.

Plain and simple, onerous regulations are crushing the entrepreneurial

spirit of America's small businesses. In 2009 alone, there were close to 70,000 pages in the Federal Register, and the annual cost of Federal regulations now totals more than \$1.1 trillion. Furthermore, according to the research by the Small Business Administration's Office of Advocacy, small firms—and this is no surprise—bear a disproportionate burden, paying approximately 45 percent more per employee in annual regulation compliance than larger firms.

The amendment we are offering today would ensure small business fairness and regulatory transparency by first designating the Consumer Financial Protection Bureau as a "covered agency" under the Regulatory Flexibility Act so that small business review panel provisions would apply to the bureau's rulemaking. These advisory small business panels currently apply to EPA and OSHA and have been extremely successful in helping to shape more workable regulations at these agencies for small businesses across America.

Since 1996, when these small business panel provisions were passed unanimously in the Senate and signed into law by then-President Clinton, the EPA has convened 35 panels and OSHA has convened 9 panels. The findings of the panel reports have helped EPA and OSHA improve draft proposals by tailoring regulatory approaches to the unique situations of small businesses.

I know there are some who will argue that my amendment will undermine the rulemaking capacity of the bureau. This simply is not the case. According to the SBA Office of Advocacy report, "The panel process does not replace, but enhances, the regular notice-and-comment process."

The Office of Advocacy has also found that these small business review panels have facilitated "revisions or adjustments to be made to an agency draft rule that mitigated its potentially adverse effects on small entities, but did not compromise the rule's public policy objective."

Others have expressed concern that these small business advocacy review panels should not apply to the bureau because they apply to no other financial regulatory authority. Unfortunately, there is continued frustration by leaders in the small business community toward government agencies and one-size-fits-all regulation. Independent agencies, such as the Securities and Exchange Commission, the SEC, and its approach to regulation under Sarbanes-Oxley, and the Federal Communications Commission, the FCC, and its rulemaking governing telecommunications practices are too often cited as failing to adequately consider their impact on small business prior to issuing new regulatory mandates. This is why it is vital that small business requirements apply to the new independent agency that is created in the underlying legislation.

Still others will argue that our amendment is unnecessary because my earlier amendment to this legislation provides for an exemption for small businesses from the regulatory requirements of the bureau. However, we must go further to ensure that rules that the bureau promulgates do not unintentionally impact small firms' job creation capacity. That is why our amendment would also specify during the rulemaking process the bureau must consider the economic effects its rule would have on the cost of credit for small businesses.

According to a recent National Federation of Independent Business, NFIB, survey—and that is the foremost organization that speaks for small businesses—42 percent of small business owners use a personal credit card for business purposes. It is imperative that small business interests are fully considered when the bureau issues regulations on consumer credit cards, so that however well-intentioned, the bureau does not inadvertently cut off vital small business credit sources, especially during these tenuous economic times when a recent Federal Deposit Insurance Corporation survey noted that banks posted their sharpest decline in lending since 1942.

That is a big issue right now because lending is not occurring to small businesses. That is one of the issues we must address in any small business tax relief package. Those discussions are ongoing right now with the Treasury Department and the Administrator of the Small Business Administration, Karen Mills, with Chairman LANDRIEU of the Small Business Committee, myself, and key staff from the Finance Committee, and the leadership of both the Republican and Democratic sides because it is so critical. If we cannot get access to lending to small businesses, jobs cannot be created.

We do not want to compound the problem with the creation of this bureau that ignores the implications when it comes to applications for credit from small businesses. After all, all the entities under this legislation—even the smaller institutions—all the entities will be covered under this bureau with respect to regulations. We must make sure that the smallest financial institutions' voices are heard because they are the ones that primarily provide access to small businesses, not to mention the credit card companies that also will certainly be regulated under this bureau.

We want to make sure we are not just having the big institutions' voices heard but not the small financial institutions and not how it will affect small businesses throughout the country.

To give an understanding of how strongly regarded and supported this legislation is, we have a broad cross-section of stakeholders who support this amendment, more than 23 organi-

zations that represent millions and millions of small business owners. I am going to list them now because they are so important, given the support they are providing this amendment and how critical they think it is to the functioning of this bureau and being cognizant of the regulations that are issued, that they do not adversely affect the well-being of small businesses during these tumultuous economic times. You have the Associated Builders and Contractors, the Association of Kentucky Fried Chicken Franchisees, the Hearth, Patio & Barbecue Association, Hispanic Leadership Fund, Independent Electrical Contractors, Institute for Liberty, International Franchise Association, the National Association for the Self-Employed, the National Federation of Independent Business, the National Lumber and Building Material Dealers Association, the National Restaurant Association, the National Roofing Contractors Association, the National Small Business Association, the Printing Industries of America, the S Corporation Association, Small Business & Entrepreneurship Council, Society of American Florists, the Society of Chemical Manufacturers & Affiliates, the Tire Industry Association, the U.S. Chamber of Commerce, the U.S. Black Chamber of Commerce, the United States Hispanic Chamber of Commerce, and the Women Impacting Public Policy.

As you can see, a broad array of stakeholders are so concerned about the pending legislation with respect to this bureau that they support this amendment.

These groups have sent a letter as well to both the chairman and the ranking member of the Banking Committee as well as the majority and minority leadership because they are so concerned about the underlying legislation, the creation of this Consumer Financial Protection Bureau, and how it will affect small businesses. I wish to quote from their letter. It says that our amendment is:

... an effort to prevent unintended consequences by a new agency that could harm the small business sector ... and provides assurance that small business access to credit is a top consideration by Bureau officials as they take on the important task of overseeing our financial sector.

Just to give you another indication of how supportive and how important these advisory panels are—the ones that would be created in order to review the regulations that would be issued by this bureau—this would be before they issue the proposed rule that these advisory panels would be created—this has occurred under EPA as well as OSHA since 1996. To give an illustration of the rules that have been reviewed through these advisory panels that are created—within a 60-day period, I might add, they would be required to report to the bureau on their

assessment of any particular rule before they propose and issue that rule so we can understand the ramifications. The EPA has issued rules that created an advisory panel on groundwater, radon and drinking water, arsenic and drinking water, and diesel fuel requirements, just to give an illustration.

Since 1996, these advisory panels, as the SBA Office of Advocacy has indicated in their materials, has provided extremely valuable information on the real-world impact—and that is important to understand, the real-world impact, when a small business has to digest and to live by and to implement any rules and regulations issued by this bureau and the compliance costs of these agency proposals. So, clearly, this will have enormous benefits to small businesses because we will have a chance to review, in advance, through these advisory panels that would be comprised of the rulemaking agency—in this instance it would be the Consumer Financial Protection Bureau—representatives of the small business community, as well as the Office of Management and Budget's Office of Information and Regulatory Affairs. So there would be a broad array of voices including small business concerns to examine these rules before they are proposed for the rulemaking process.

Doesn't that make sense? Isn't it important to understand the ramifications before we issue these regulations that could have adverse consequences for small businesses as they attempt to survive during these tenuous economic times?

The SBA Office of Advocacy has indicated in their materials with respect to how these panels work—and, again, they are required under law within 60 days to make a proposal to the bureau in terms of the ramifications or the effects or other considerations that ought to be incorporated as they issue their proposed rule.

The purpose of the panel process is threefold, and this is from the SBA Office of Advocacy. First, the panel process ensures that small entities that would be affected by a regulatory proposal are consulted about the pending action and offered an opportunity to provide information on its potential effect. Second, a panel can develop, consider and recommend less burdensome alternatives to a regulatory proposal when warranted. Finally, the rulemaking agency has the benefit of input from both real-world small entities and the panel's report and analysis prior to publication.

Doesn't it make sense? It saves everybody a lot of aggravation, a lot of money, a lot of energy that would have to be devoted in the rulemaking process after they issue the proposal rather than before they issue the proposal for the rulemaking process.

It clearly does make sense and that is why it has worked so well for EPA

and OSHA and that is why it will work well under this circumstance and most especially during these times when we are creating this bureau that will have a wide-ranging effect on financial institutions all across this country that ultimately will affect the more than 30 million small businesses, because 42 percent of them depend on personal credit cards for credit. We want to make sure we are considering the consequences of anything that is done.

Also, the downstream effect of bank regulations would be considered as well as a potential effect of a regulation by this bureau. When banking practices are restricted, they do not just affect consumers, they also affect small businesses—higher capital requirements tighten the availability of credit for small businesses. That is another example of a potential rule that would come out of this bureau that could directly affect small businesses. So it is not only consumers, it is also small businesses.

The regulation of angel investors—a very important fact. In fact, NFIB has written on this question because there will be subsequent amendments to address this issue as well. But the regulation of angel investors also affects the

economic well-being of small businesses because they use them as a source of capital. I know that NFIB is concerned about the reduced pool, as they have indicated in their letter, with respect to angel investors. Many small businesses depend on these individuals who invest to provide that kind of startup capital in their businesses. There are other significant small entities in the financial products industry who are likely to be overlooked in the bureau's rulemaking process. The panel requirement will benefit these businesses and will benefit the bureau's consideration of how their rules should be tailored to minimize the impact on these businesses while maximizing the intended benefits overall for small businesses.

This is not anything unique to what we don't already know about how important the Regulatory Flexibility Act is overall. Every agency is required to consider the effect of any rule or law and how it is going to have implications on small businesses and two agencies—the EPA and OSHA—are required to establish advisory panels when it is determined rules are going to be issued that have consequences on small businesses and that gives them

the opportunity to have input into the process before this bureau issues those rules.

I think it makes a great deal of sense. It is reasonable, it is logical, and it averts any unintended consequences in the onset of the process rather than waiting to see how well it takes effect, and then we discover that, in fact, it depresses the ability of small businesses to create jobs or to survive.

So I hope we can get very strong support for this legislation. I am very appreciative of the work of my colleague, Senator PRYOR, with whom I work on the Small Business Committee. He does a great job and has provided a great deal of input into the drafting of this legislation, and I appreciate his leadership. I appreciate the fact that it is done on a bipartisan basis because I think we all recognize the pivotal role small businesses play in today's economy and will certainly depend on playing a critical role in the future.

I ask unanimous consent to have printed in the RECORD a report regarding the Regulatory Flexibility Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE A.4—SBREFA PANELS THROUGH FISCAL YEAR 2009

Rule title	Date convened	Report completed	NPRM <sup>1</sup> published	Final rule published
Environmental Protection Agency				
Nonroad Diesel Engines	03/25/97	05/23/97	09/24/97	10/23/98
Industrial Laundries Effluent Guideline <sup>2</sup>	06/06/97	08/08/97	12/12/97	
Stormwater Phase	06/19/97	08/07/97	01/09/98	12/08/99
Transportation Equipment Cleaning Effluent Guideline	07/16/97	09/23/97	06/25/98	08/14/00
Centralized Waste Treatment Effluent Guideline	11/06/97	01/23/98	09/10/03	12/22/00
Underground Injection Control Class V Wells	02/17/98	04/17/98	07/29/98	12/07/99
Ground Water	04/10/98	06/09/98	05/10/00	11/08/06
Federal Implementation Plan (FIP) for Regional Nitrogen Oxides Reductions	06/23/98	08/21/98	10/21/98	04/28/06
Section 126 Petitions	06/23/98	08/21/98	09/30/98	05/25/99
Radon in Drinking Water	07/09/98	09/18/98	11/02/99	
Long Term 1 Enhanced Surface Water Treatment	08/21/98	10/19/98	04/10/00	01/14/02
Filter Backwash Recycling	08/21/98	10/19/98	04/10/00	06/08/01
Light Duty Vehicles/Light Duty Trucks Emissions and Sulfur in Gasoline	08/27/98	10/26/98	05/13/99	02/10/00
Arsenic in Drinking Water	03/30/99	06/04/99	06/22/00	01/22/01
Recreational Marine Engines	06/07/99	08/25/99	10/05/01	11/08/02
			08/14/02	
Diesel Fuel Sulfur Control Requirements	11/12/99	03/24/00	06/02/00	01/18/01
Lead Renovation and Remodeling Rule	11/23/99	03/03/00	01/10/06	
Metals Products and Machinery Effluent Guideline	12/09/99	03/03/00	01/03/01	05/13/03
Concentrated Animal Feedlots Effluent Guideline	12/16/99	04/07/00	01/12/01	02/12/03
Reinforced Plastics Composites	04/06/00	06/02/00	08/02/01	04/21/03
Stage 2 Disinfectant Byproducts Long Term 2 Enhanced Surface Water Treatment	04/25/00	06/23/00	08/11/03	01/04/06
			08/18/03	01/05/06
Nonroad Large Spark Ignition Engines, Recreational Land Engines, Recreational Marine Gas Tanks, and Highway Motorcycles.	05/03/01	07/17/01	10/05/01	11/08/02
			08/14/02	
Construction and Development Effluent Guidelines <sup>3</sup>	07/16/01	10/12/01	06/24/02	
			11/28/08	
Aquatic Animal Production Industry	01/22/02	06/19/02	09/12/02	08/23/04
Lime Industry—Air Pollution	01/22/02	03/25/02	12/20/02	01/05/04
Nonroad Diesel Emissions—Tier IV Rules	10/24/02	12/23/02	05/23/03	06/29/04
Cooling Water Intake Structures—Phase III Facilities	02/27/04	04/27/04	11/24/04	06/15/06
Section 126 Petition (2005 Clean Air Implementation Rule—CAIR)	04/27/05	06/27/05	08/24/05	04/28/06
Federal Implementation Plan for Regional Nitrogen Oxides (2005 CAIR)	04/27/05	06/27/05	08/24/05	04/28/06
Mobile Source Air Toxics	09/07/05	11/08/05	03/29/06	02/26/07
Nonroad Spark-ignition Engines/Equipment	08/17/06	10/17/06	05/18/07	10/08/08
Total Coliform Monitoring Rule (TCR)	01/31/08	03/31/08		
Renewable Fuel Standards 2 (RFS2)	07/09/08	09/05/08	05/26/09	
Occupational Safety and Health Administration				
Tuberculosis <sup>4</sup>	09/10/96	11/12/96	10/17/97	
Safety and Health Program Rule	10/20/98	12/19/98	**	
Ergonomics Program Standard	03/02/99	04/30/99	11/23/99	11/14/00
Electric Power Generation, Transmission, and Distribution	04/01/03	06/30/03	06/15/05	
Confined Spaces in Construction	09/26/03	11/24/03	11/28/07	
Occupational Exposure to Respirable Crystalline Silica Dust	10/20/03	12/19/03		
Cranes and Derricks in Construction	08/18/06	10/17/06	10/09/08	
Occupational Exposure to Hexavalent Chromium	01/03/04	04/20/04	10/04/04	02/28/06
Occupational Exposure to Beryllium	09/17/07	01/15/08		
Occupational Exposure to Diacetyl	05/05/09	07/02/09		

<sup>1</sup> Notice of Proposed Rulemaking (NPRM) published in the Federal Register.

<sup>2</sup> Proposed rule was withdrawn August 18, 1999. EPA does not plan to issue a final rule.

<sup>3</sup> Proposed rule was withdrawn on April 26, 2004. EPA issued a new proposal November 28, 2008.

<sup>4</sup> Proposed rule was withdrawn on December 31, 2003. OSHA does not plan to issue a final rule.

\*\* In process.

## CHAPTER 41—REGULATORY PANELS

In 1996, SBREFA amended the RFA to include a number of important provisions. One of those was section 609, which requires, among other things, that certain agencies conduct special outreach efforts to ensure that small entity views are carefully considered prior to the issuance of a proposed rule. This outreach is accomplished through the work of small business advocacy review panels, often referred to as SBREFA panels.

## WHO MUST HOLD SBREFA PANELS?

The statute requires that the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) evaluate their regulatory proposals to determine whether SBREFA panels should be convened. The requirement for SBREFA panels may appear to impose additional steps for EPA and OSHA in their rulemaking processes. However, the panel process only formalizes the outreach requirements and analyses that the Administrative Procedure Act and the RFA already mandate for all new rules that affect small businesses. Any additional work that may be needed in this special early outreach effort should be offset by time saved at the other end of the regulatory process. When problems are resolved before a proposed rule is published, objections from the public are reduced. Experience has shown that the panel process results in better rules, better compliance and reduced litigation. In at least one instance, EPA withdrew a regulatory proposal based on work performed in connection with the panel process.

## HOW IS THE DECISION TO HOLD A SBREFA PANEL MADE?

For each proposed rule, the RFA requires that an agency either certify that the proposal has no significant economic impact on a substantial number of small entities, or prepare an initial regulatory flexibility analysis (IRFA) on the proposal. Whenever EPA or OSHA determines that a regulatory proposal may have a significant economic impact on a substantial number of small entities, the law further requires that the agency convene a SBREFA panel. This SBREFA panel outreach must take place before the publication of the proposed rule. SBREFA panels are required for all EPA and OSHA rules for which an IRFA is required. However, the Chief Counsel for Advocacy may waive the panel requirement upon the request of EPA or OSHA under certain conditions. To waive the panel requirement, the Chief Counsel must find that convening a panel would not advance the effective participation of small entities in the rulemaking process. Section 609(e) of the RFA lays out several factors in making this determination, including consideration of whether small entities have already been consulted in the rulemaking process and whether special circumstances warrant the prompt issuance of a rule.

## HOW DOES A SBREFA PANEL WORK?

A SBREFA panel consists of a representative or representatives from the rulemaking agency, the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) and the Chief Counsel for Advocacy.

The panel solicits information and advice from small entity representatives (SERs), who are individuals that represent small entities affected by the proposal. SERs help the panel better understand the ramifications of the proposed rule. Invariably, the participation of SERs provides extremely valuable information on the real-world impacts and compliance costs of agency proposals.

The law requires that a SBREFA panel be convened and complete its report with recommendations within a 60-day period. The formal panel process begins with the convening of the panel by the rulemaking agency. The date is normally fixed after consultation with both Advocacy and OIRA. Before convening, the three agencies usually work together to discuss regulatory alternatives and their advantages and disadvantages. The rulemaking agency usually has preliminary discussions with small entities about its draft proposal before the panel is formally convened. These preparations ensure that the panel process can be completed during the statutorily specified 60-day period.

The product of a SBREFA panel's work is its panel report on the regulatory proposal under review. The panel completes its final report, including its recommendations, early in a rule's developmental stages, so that the agency has the benefit of the report's findings prior to publication of a proposed rule. The panel report also becomes part of the official docket for the proposed rule.

The purpose of the panel process is threefold. First the panel process ensures that small entities that would be affected by a regulatory proposal are consulted about the pending action and offered an opportunity to provide information on its potential effects. Second, a panel can develop, consider, and recommend less burdensome alternatives to a regulatory proposal when warranted. Finally, the rulemaking agency has the benefit of input from both real-world small entities and the panel's report and analysis prior to publication.

## SUGGESTED SBREFA PANEL TIMELINE

The RFA provides that the formal panel process must be concluded within 60 days from the formal convening of the panel to the completion of its report. Experience has shown that the panel process works best if agencies and panel members accomplish as much preliminary work as possible before the formal convening of the panel. A suggested timeline follows, although panel members have flexibility to adjust their pre-panel work schedules to ensure the best outcome for each individual rule.

Ms. SNOWE. Madam President, I yield the floor and now also yield to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, at this point I wish to thank my colleague from the State of Maine. She has been a great leader in small business matters. She and I serve on the Small Business Committee together, and we have been working for, I guess, 3 years now on the Regulatory Flexibility Act and other related efforts to try to make sure the proper environment exists in America for small businesses to thrive and for entrepreneurs to be successful.

This amendment would make certain that key provisions of the Regulatory Flexibility Act, which require that Federal agencies fully consider during the rulemaking process the economic impact on small firms, would apply to the CFPB created in the bill offered by Senator DODD. This amendment would ensure that the newly created CFPB, when it is promulgating its rules and regulations, fully consider the economic impact those rules and regs

would impose on our Nation's almost 30 million small firms, which have created 64 percent of all the new jobs in this country over the last 15 years and, undoubtedly, will drive this Nation's economic recovery.

The last point I wish to make before I make a few closing comments is the fact that we, as the Senate and as the House, should be aware and should address the fact that onerous regulations can crush entrepreneurial spirit for America's small businesses. In 2009 alone—last year—during a recession, there were close to 70,000 pages added to the Federal Register of new regulations. The annual cost of complying with Federal regulations totals about \$1.1 trillion.

I am not saying we should end all regulation. I think most of these—or at least a lot of these—make a lot of sense and there are good reasons for a lot of them. But we have to be careful and we have to understand the impact that these regulations have on small businesses. We want our small businesses to thrive. We want our small businesses to be successful. If we are not careful, an agency such as the CFPB—and there are many other Federal agencies—can create rules and relations that actually choke off business opportunities for entrepreneurs and for small businesses.

So I am proud to join my friend and colleague from Maine on this amendment, and I would encourage other colleagues to look at this amendment, look at the text of the amendment. I have enjoyed working with the Senator from Maine, over the last few years, when it comes to trying to help small businesses.

With that, I yield the floor.

## AMENDMENT NO. 3808

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I come to the floor to support the amendment to the Senator FRANKEN, amendment No. 3808, along with his cosponsors. This will address a major unresolved cause of the financial meltdown.

The cause which this amendment focuses on is the flawed and inaccurate credit ratings that labeled poor-quality mortgage-backed securities and high-risk collateralized debt obligations as AAA investments. AAA means they were on par, in the view of these rating agencies, with U.S. Treasuries. Investors from pension funds, to universities, municipalities, insurance companies, and more lost hundreds of billions of dollars, in part, because of these ratings.

How did the credit rating agencies get it so wrong? A big part of the answer—one that would be remedied by the Franken amendment—is the inherent conflict of interest that now permeates the credit rating industry. I am going to read from a few e-mails we uncovered and disclosed at our hearings.



We had long hearings. We have been investigating this economic meltdown—that we had—the financial meltdown—for about a year and a half. One of the four hearings we had was looking at the credit rating agencies—looking at Standard & Poor's, looking at Moody's—and looking through their documents, which we subpoenaed, literally, by the millions.

Listen to some of these e-mails, and we want to focus on what this conflict of interest is. If you want to get a feel for how it is that the credit rating agencies are being paid by the very people whose financial instruments they are doing the ratings of, listen to just a few of these e-mails which we got.

One Standard & Poor's analyst wrote that a ratings model that could have been released months before wasn't because we had to massage the subprime numbers; if "we didn't have to massage the sub-prime . . . numbers to preserve market share."

Inside Standard & Poor's you have their analysts saying we had to massage the numbers on this financial document. Why? Not because the rating required it or because the merits required it, but in order to preserve their market share they were massaging the subprime numbers.

Here is an e-mail from a UBS banker warning Standard & Poor's not to make it harder to get high credit ratings. This is a UBS banker, talking to the credit rating agency:

Heard you guys are revising your residential [mortgage backed security] rating methodology. . . . Heard your ratings could be 5 notches back of mo[o]dy's equivalent. This is going to kill your [residential business]. It may force us [UBS] to do moodyfitch only cdos.

The Standard & Poors manager who received the e-mail asked a colleague, "[A]ny truth to this?" The response:

We put out some criteria a couple of weeks ago that we will begin to use for deals closing in July. . . . We certainly did not intend to do anything to bump us off a significant amount of deals.

They are worried about their deals. They are worried about their bottom line. The country worries about whether those AAA ratings are real.

Here is another example, called Vertical ABS. A major bank asks Standard & Poor's and Moody's to rate one of these financial instruments. The bank refused to cooperate with the analysts—so the bank is not working with the analysts at Standard & Poor's and Moody's to rate a CDO. One analyst now is complaining to another, inside of this credit rating agency.

Don't see why we have to tolerate lack of cooperation. Deals likely not to perform.

"Deals likely not to perform," one analyst inside to another. That is Exhibit 94b, by the way, if anyone wants to look it up.

Despite the analyst's judgment that financial instrument, that CDO, was

unlikely to perform, both Moody's and Standard & Poor's rated it, giving AAA ratings to the four top levels of that particular CDO. What happened? Six months later both agencies downgraded that financial instrument and it later collapsed.

One more example. In June 2007, a Moody's analyst sent an email to a Merrill Lynch banker stating that he could not finalize a rating until the issue of fees was resolved. The Merrill Lynch banker responded: "We are okay with the revised fee schedule for this transaction. We are agreeing to this under the assumption that this will not be a precedent for any future deals and that you will work with us further on this transaction to try to get to some middle ground with respect to the ratings." Moody's assured the Merrill analyst that its deal analysis was independent from its fees, but it is clear as glass what is going on here. That is Exhibit 23 from our hearing.

It is past time to tackle the conflicts problem. This bill is the right legislation, and the Franken amendment takes the problem head on. It would direct the SEC to create a self-regulatory organization, a clearinghouse or SRO, to develop a method of assigning credit rating agencies to provide initial ratings to structured finance products. The entity would have the discretion to develop its own methodology for assignment—it could use a rotating system or a formula, just as long as the issuer doesn't get to choose the rater. It wouldn't set prices or issue ratings, it would just act as an intermediary between issuers and raters. In addition, it could increase the number of assignments to a particular credit rating agency, based on that agency's past performance, or decrease assignments in the case of poor performance, creating a key incentive for accurate ratings.

The amendment would also permit issuers to go to whichever credit rating agency they wanted for second or third ratings.

I commend Senator FRANKEN for this far-sighted effort to correct the conflicts problem. If we don't fix it now, we are going to be right back here with another financial crisis fueled by inaccurate, conflicts-ridden credit ratings.

I want to note that, while this amendment attacks the most important problem with CRAs, there are a number of other problems that also need to be addressed in the credit rating agency area. To me, the most important remaining problem is eliminating the current statutory ban that prevents real SEC oversight. This is what current law says right now in 15 U.S.C. section 78o-7(c)(2):

Notwithstanding any other provision of law, neither the Commission nor any State (or political subdivision thereof) may regulate the substance of credit ratings or the procedures and methodologies by which any

nationally recognized statistical rating organization determines credit ratings.

To me, that statutory ban against looking at the substance of a rating or the procedures or methodologies used to produce that rating is absurd. It ought to be eliminated. We can't give the SEC the responsibility for overseeing credit rating agencies and then prevent them from looking at the substance of a rating or the procedures or methodologies used to produce that rating.

I have introduced an amendment with Senator KAUFMAN that would eliminate that statutory provision and direct the SEC to set standards and exercise oversight of credit rating agency procedures and methodologies, including qualitative and quantitative data and models, to ensure that the ratings have a reasonable basis in fact and analysis. Given the overwhelming evidence at our hearing about basic flaws in the rating models, how the models were tweaked to help clients, and how the models were ignored when agencies wanted to inflate ratings, it defies common sense to prohibit the SEC from looking at the models and the procedures.

The Levin-Kaufman amendment would also preclude the credit rating agencies from relying on due diligence that they had reason to believe was wrong. Our investigation showed that the credit rating agencies knew that they were relying on bad information because of the rampant fraud and weak underwriting standards, and this led to bad ratings. Again, this is a common-sense fix, that we hope to offer later or have incorporated into a managers amendment.

In the meantime, I urge my colleagues to vote in support of the much-needed Franken amendment to eliminate the inherent conflicts of interest that now infest the credit rating industry.

I know the leader is trying to get on with votes, but I want to alert colleagues that our hearings, based on a 1½ year investigation, looked at one of the major causes of this collapse. One of the major causes was because our credit rating agencies were interested in their bottom lines instead of getting accurate ratings for the financial instruments, which our universities, our pension funds were buying.

The Franken amendment corrects it. It requires that this conflict of interest be ended. It does not just study it, it requires an end to the conflict of interest by allowing the Securities and Exchange Commission to identify an independent intermediary who will put a process in place to end this conflict of interest. I commend Senator FRANKEN for his amendment.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, I appreciate my friend from Michigan yielding

the floor. I appreciate the statement. I appreciate the work the Subcommittee on Investigations has done and I appreciate the work his Permanent Subcommittee on Investigations has done. They have done remarkably good work.

I ask unanimous consent the Senate now proceed to vote in relation to the following amendments in the order listed; that no amendments be in order to any of the amendments covered in this agreement; Franken amendment No. 3991; LeMieux amendment No. 3774, as modified, and as a side-by-side to No. 3991; provided further that after the first vote in the sequence, the remaining vote be limited to 10 minutes; and that there be 2 minutes of debate equally divided and controlled prior to the second vote; further, that at the conclusion of these votes, Senator KAUFMAN be recognized for a period of 5 minutes as in morning business; that at the conclusion of his remarks, the Senate then stand in recess until 2 p.m.; that at 2 p.m. there be a period of morning business, in which Senators MENENDEZ, LAUTENBERG, and NELSON of Florida be permitted to speak on the subject of S. 3305 and make a unanimous consent request upon the subject; that immediately thereafter the Senate resume the consideration of S. 3217 and there be 5 minutes debate remaining in order to the Sessions amendment No. 3832, with the time equally divided and controlled in the usual form; that upon the use or yielding back of time, the Senate proceed to vote in relation to the Sessions amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 3991

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Franken amendment.

Mr. KYL. I ask for the yeas and nays. The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 146 Leg.]

#### YEAS — 64

Akaka	Carper	Franken
Baucus	Casey	Gillibrand
Begich	Cochran	Graham
Bennet	Collins	Grassley
Bingaman	Conrad	Hagan
Boxer	Crapo	Harkin
Brown (MA)	Dorgan	Inouye
Brown (OH)	Durbin	Johnson
Burr	Ensign	Kaufman
Cantwell	Feingold	Kerry
Cardin	Feinstein	Klobuchar

Kohl  
Landrieu  
Lautenberg  
Leahy  
Levin  
Lincoln  
McCaskill  
Menendez  
Merkley  
Mikulski  
Murkowski

Murray  
Nelson (FL)  
Pryor  
Reid  
Risch  
Rockefeller  
Sanders  
Schumer  
Shaheen  
Snowe  
Specter

Stabenow  
Tester  
Udall (CO)  
Udall (NM)  
Warner  
Webb  
Whitehouse  
Wicker  
Wyden

#### NAYS—35

Alexander  
Barrasso  
Bayh  
Bennett  
Bond  
Brownback  
Bunning  
Burr  
Chambliss  
Coburn  
Corker  
Cornyn

DeMint  
Dodd  
Enzi  
Gregg  
Hatch  
Hutchison  
Inhofe  
Isakson  
Johanns  
Kyl  
LeMieux  
Lieberman

Lugar  
McCain  
McConnell  
Nelson (NE)  
Reed  
Roberts  
Sessions  
Shelby  
Thune  
Vitter  
Voinovich

#### NOT VOTING—1

Byrd

The amendment (No. 3991) was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

#### VISIT TO THE SENATE BY PRESIDENT HAMID KARZAI OF AFGHANISTAN

Mr. KERRY. Madam President, we are currently being visited in Washington by the President of Afghanistan. He has been in the Senate engaged in a luncheon with Senators. I ask unanimous consent that the President of Afghanistan, Hamid Karzai, be permitted the privilege of coming on the floor to be greeted by the Senate, together with his Ministers who are here for a series of important meetings.

The PRESIDING OFFICER. Without objection, it is so ordered.

[Applause.]

#### AMENDMENT NO. 3774, AS MODIFIED

The PRESIDING OFFICER (Mr. BURRIS). Under the previous order, there are 2 minutes of debate equally divided on the LeMieux amendment No. 3774.

Who yields time?

The Senator from Florida.

Mr. LEMIEUX. Mr. President, this Chamber just supported and voted for the Franken amendment. My measure goes further. My measure says we are going to write these rating agencies out of the law. We should not reward bad behavior. There are other ways to determine creditworthiness. There will be a 2-year period to figure that out. There is a better way to solve this problem. These rating agencies were responsible for this debacle.

I yield the remainder of my time to my colleague, Senator CANTWELL.

Ms. CANTWELL. Mr. President, this language was also offered in the House by our colleague, BARNEY FRANK. It is appropriate that we don't require Federal agencies to just rely on these rating agencies. It is critical that agencies such as the FDIC and the Comptroller of the Currency use their discretion to come up with appropriate standards of creditworthiness and not

rely on the monopoly of rating agencies. I hope my colleagues will support the amendment.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Connecticut.

Mr. DODD. Briefly, my concern with this amendment is we are replacing the rating agencies without having anything in their place. I urge my colleagues to vote no and yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ENSIGN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 147 Leg.]

#### YEAS—61

Alexander	Dorgan	McCaskill
Barrasso	Ensign	McConnell
Bayh	Enzi	Menendez
Begich	Feingold	Murkowski
Bennet	Graham	Murray
Bennett	Grassley	Reid
Bond	Gregg	Risch
Boxer	Hatch	Roberts
Brown (MA)	Hutchison	Sanders
Brownback	Inhofe	Sessions
Bunning	Isakson	Shelby
Burr	Johanns	Snowe
Cantwell	Kaufman	Specter
Chambliss	Klobuchar	Thune
Coburn	Kyl	Udall (CO)
Cochran	Landrieu	Vitter
Collins	LeMieux	Voinovich
Corker	Levin	Wicker
Cornyn	Lincoln	Wyden
Crapo	Lugar	
DeMint	McCain	

#### NAYS—38

Akaka	Gillibrand	Nelson (FL)
Baucus	Hagan	Pryor
Bingaman	Harkin	Reed
Brown (OH)	Inouye	Rockefeller
Burr	Johnson	Schumer
Cardin	Kerry	Shaheen
Carper	Kohl	Stabenow
Casey	Lautenberg	Tester
Conrad	Leahy	Udall (NM)
Dodd	Lieberman	Warner
Durbin	Merkley	Webb
Feinstein	Mikulski	Whitehouse
Franken	Nelson (NE)	

#### NOT VOTING—1

Byrd

The amendment (No. 3774), as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

#### STUTTERING AWARENESS WEEK 2010

Mr. KAUFMAN. Mr. President, I rise today to mark National Stuttering Awareness Week.

Most of us take for granted the ability to speak comfortably and fluently. All we have to do is think of words, and they come out clearly. Introducing ourselves in meetings, holding conversations over the phone, ordering meals in restaurants—all of these are situations avoided by many people who stutter as a result of being self-conscious.

Approximately 3 million Americans stutter. Since President Ronald Reagan's proclamation in 1988, the second week in May has been observed as National Stuttering Awareness Week. It provides an opportunity for all of us—for all of us—to learn more about stuttering and ways to help those who stutter.

We have all encountered people who stutter. Contrary to popular misconception, stuttering is not a result of nervousness or emotional problems. It is not the fault of those who do it or of their families and friends. Stuttering is a speech disorder that is neurological and physiological. The cause to this day remains unknown, but a recent study indicates the likelihood that stuttering may be genetic.

While there is currently no cure, there are many treatment options available. Children usually begin stuttering between the ages of 2 and 5, and parents should not wait to seek treatment from a doctor or speech language pathologist. Early therapies have been shown to help reduce stuttering.

Those who continue to stutter in adulthood often face social and economic difficulties. Unfortunately, according to a 2009 study by the National Stuttering Association, 40 percent—40 percent—of adults and teenagers who stutter said they were denied a job or denied a promotion or denied a school opportunity as a result. Furthermore, 8 out of 10 children who stutter have reported being bullied and teased.

I am not just speaking about stuttering today because it is an important issue for so many Americans, and I am not just speaking about it because my friend and predecessor, JOE BIDEN, the Vice President, has shared his story—his incredible story—of overcoming stuttering. This is a personal issue for me because stuttering runs in my wife's family, and I have been around people who stutter for many years.

When my wife Lynne was a child, her parents took her to a therapist for her stuttering, who recommended immobilizing her right arm with a solid tube. At that time, the theory was that if she were forced to learn to write using her left hand instead of her right, she could somehow be distracted from her stuttering. Suffice it to say, the tube did not work. She is just one example of what stutterers have historically had to endure. Thankfully, today there are great treatment options available from licensed professionals.

I am glad—very, very glad—there are great organizations, such as the Na-

tional Stuttering Association and others, that are raising awareness on this important issue. There are important steps all of us can take to help those who stutter feel more confident and comfortable speaking. I hope people will go out and learn more about what they can do themselves, especially if they know someone who stutters.

In recognition of National Stuttering Awareness Week, I have submitted a resolution to mark this observance. I am proud to say I am joined by 27 of my colleagues in sponsoring this resolution supporting the goals and ideals of National Stuttering Awareness Week 2010, and I thank them for their support. They include Senators BARRASSO, SHERROD BROWN, BURRIS, CARDIN, CARPER, CANTWELL, CASEY, CORNYN, DURBIN, ENZI, GREGG, HAGAN, ISAKSON, LEMIEUX, LEVIN, MIKULSKI, PRYOR, REED, RISCH, SESSIONS, SHAHEEN, SNOWE, STABENOW, TESTER, WARNER, WHITEHOUSE, and TOM UDALL.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 524, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 524) supporting the goals and ideals of National Stuttering Awareness Week 2010.

There being no objection, the Senate proceeded to consider the resolution.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 524) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 524

Whereas an estimated 3,000,000 Americans are affected by stuttering;

Whereas stuttering is a communication disorder experienced by children and adults alike;

Whereas individuals who stutter frequently experience embarrassment, anxiety about speaking, and physical tension in their speech muscles;

Whereas many different types of stuttering exist, and the symptoms of stuttering can range from mild to severe;

Whereas the cause of stuttering is unknown, but research suggests stuttering may be genetic;

Whereas stuttering commonly begins in children between the ages of 2 and 5;

Whereas parents are encouraged to consult with pediatricians or qualified speech-language pathologists as soon as stuttering becomes apparent in a child in order to take advantage of early-intervention therapies;

Whereas it is known that stuttering is not—

- (1) a nervous disorder;
- (2) the result of emotional problems; or
- (3) the fault of the individual who stutters or the family of that individual;

Whereas a 2009 survey by the National Stuttering Association found that—

- (1) 40 percent of adults and teenagers who stutter feel that they have been denied a job, a promotion, or a school opportunity as a result of stuttering; and

- (2) 8 out of 10 children who stutter report being bullied or teased;

Whereas many individuals who stutter do not have access to qualified speech-language pathologists or helpful resources;

Whereas several treatments for stuttering exist that can help individuals who stutter learn to speak more easily and gain confidence in themselves and their ability to communicate effectively;

Whereas organizations like the National Stuttering Association have been working for many years to raise awareness about stuttering, the effect stuttering has on the lives of individuals who stutter, available treatment options, and research being conducted to investigate the causes of stuttering;

Whereas, on April 13, 1988, the President of the United States signed a proclamation designating the week of May 9 through 16 of that year as National Stuttering Awareness Week;

Whereas since 1988, individuals who stutter and the families and friends those individuals, as well as medical practitioners, speech language pathologists, researchers, and others have marked the second week of May as National Stuttering Awareness Week; and

Whereas the goals of the National Stuttering Awareness Week 2010 include increasing awareness among the people of the United States about stuttering and educating the people of the United States about ways to improve the lives of those who stutter: Now, therefore, be it

*Resolved*, That the Senate—

- (1) supports the goals and ideals of National Stuttering Awareness Week 2010; and

- (2) encourages all of the people of the United States to learn more about stuttering and ways to help individuals who stutter feel more confident and comfortable speaking with others.

Mr. KAUFMAN. Thank you, Mr. President. I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2 p.m.

Thereupon, the Senate, at 1:23 p.m., recessed until 2 p.m. and reassembled when called to order by the Presiding Officer (Mr. BURRIS).

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010—Continued

The PRESIDING OFFICER. The Senator from New Jersey.

#### UNANIMOUS-CONSENT REQUEST—S. 3305

Mr. MENENDEZ. Mr. President, I rise to discuss legislation I have offered with some of my colleagues here: The Big Oil Bailout Prevention Act. It is legislation that would make absolutely certain big oil polluters pay for oil spills and the consequences of those

spills, and not the American taxpayer, not small business owners, not States or the Federal Government.

For some time now we have been told by big oil companies that what is happening in the gulf simply couldn't happen; that it was impossible; that multiple redundant safety systems were in place to prevent it. Well, we have learned there is no such thing as too safe not to spill. Supposedly, the unthinkable has happened, and not only that, but it has happened before.

Last year in Australia, the Montara oilspill began on August 21. By some estimates, the spill sent over 80,000 gallons of oil a day into the waters off the coast of Australia. It was months before they could staunch the flow of oil, and it resulted in one of the largest environmental disasters in Australian history. We should have learned from that experience. But, no; we now have the challenge before the Nation today. In comparison, the deepwater well that is leaking in the gulf is sending nearly 210,000 gallons of oil a day into the gulf; over twice the flow from the Australian spill; several million gallons already; and just like the Australian spill, it could take months to drill the relief well. Two disasters in 1 year, yet big oil companies say over and over again that the technology was simply so safe, a spill such as this could never happen.

The reality is much different than industry claims. There simply is no safety system too safe to fail and no rig that is too safe not to spill. There is no doubt the damages that will be caused by this spill will be enormous. Unfortunately, Federal law sets a \$75 million limit on how much an oil company has to pay for damages—not the cleanup; that, they are clearly going to have to pay—but for the damages. So BP would not have to pay more than a total of \$75 million to small businesses from lost revenues for fishing, tourism, damage to the environment, the coastline, or the lost tax revenues of State and local governments.

That is why, along with Senators NELSON and LAUTENBERG, I have introduced the Big Oil Bailout Prevention Act to raise the liability cap for offshore oil well spills from \$75 million to \$10 billion. That will make sure that taxpayers, small business owners, States, and local and Federal governments will not bail out big oil polluters for this spill or any other.

This spill should serve as a rallying cry for holding big oil accountable for the damages of this disaster and any future one, but it should also be a rallying cry to rethink expanding offshore drilling in places that are not already open to offshore drilling, such as my home State of New Jersey. Instead of expanding drilling and doubling down on 19th century fuels, we should be investing in a new 21st century green economy that will create thousands of

new jobs, billions in new wealth, and help protect our oil and water from pollution.

We will revisit that debate soon enough, but for now I think we all should be able to agree that when an oil company causes damage by spilling oil into American waters, the oil company bears the responsibility to pay for the damage it caused. My mom taught me growing up that when you mess up, you clean up, and you are responsible for it. Oil companies should get that message as well. This will help make gulf communities whole and it will provide a stronger safety net for our communities along places such as the New Jersey shore who are looking warily at future plans for drilling along the east coast.

With that, Mr. President, I plan to ask unanimous consent on this issue, but first I wish to yield to my other colleagues who wish to speak on this issue as well. I yield 5 minutes to Senator LAUTENBERG and then 5 minutes to Senator NELSON.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Thank you, Mr. President. I thank my colleague for initiation of this bill. It will protect the American taxpayers and say to big oil: You did it, you pay for it; that is the way it goes.

I was lucky. I had two lifetime experiences that have stayed with me. One was growing up in a blue-collar family where we worried almost daily about how we would pay our bills. My father was sick for 13 months before he died at age 43 and we owed everybody—the pharmacist, the hospitals, the doctors. No insurance. No protection for the average person. Then I was fortunate enough to be able to be engaged in a business with two other fellows who had success beyond our wildest dreams. The company we started with nothing now has 46,000 employees in 26 countries, headquartered in New Jersey, of course.

I learned something in those experiences. I learned that if you fouled up, you were responsible for cleaning up, as mentioned by Senator MENENDEZ.

The American people want those responsible for doing dirt to clean up that mess, just as families do in their own lives. But the oil executives and their lobbyists don't see things that way. They want to continue gouging the public whom they have by the tank and by the throat. They want to continue to accrue billion dollar profit gains year after year and leave the American family, the average American family, stretching daily to pay their bills.

Look at this. The profits of the big oil companies in the last quarter alone are so astounding they are almost unimaginable. BP had a \$5.6 billion profit quarter, a gain of \$3.2 billion over last year when America was still in some

significant economic problems. Exxon, by way of example, had a \$6.3 billion profit quarter. It goes beyond, again, the wildest imagination.

We have to draw the line. Our Big Bailout Prevention Act would raise the damage cap for all oilspills from a measly, a pittance, \$75 million. My colleagues heard me. We compared it to a \$5.2 billion quarter—not a year, a quarter—and they want to hide behind a \$75 million cap on damages. Well, fortunately, we are here to say to the average working family: No, we are not going to let them get away with your money. We are not going to let them get away with walking away from this, hiding behind that ridiculous cap. It could be called in the vernacular a spit in the ocean, \$75 million. So we can't afford to let those companies bail out, especially when workers' lives are at stake, the gulf environment hangs in the balance, and coastal communities are at risk.

I challenge my colleagues, especially those who on the other side of the aisle have had a habit of saying no. If you want to say no to the taxpayers, say it out loud. Say it out loud. But don't try to protect the oil companies that are stuffing profits so much that they are gorging themselves on it. They are like pigs at the trough.

The United States has seen too many oil spills, more than any other country in the world. It is time to end the special favors for big oil, get on the side of the American people, and make sure that when a catastrophe occurs, the American taxpayers don't get the bill for the oil companies' carelessness and recklessness.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, if this gusher continues—and we hope and pray that by some miracle there is going to be some capping at the seabed of this well that is spewing at least 5,000 barrels of oil a day—but if this thing continues and it doesn't stop until they get the relief well, which is another 3 months—one coming from one side, one coming from the other side, another 3 months—it is going to cover up the gulf coast. Then, as soon as the winds shift from the north coming south, it is going to take that big spill about 90 miles to the south where the loop current is, which is a current that comes up the west side of the Gulf of Mexico off the Yucatan Peninsula, into the northern Gulf of Mexico, and because of the rotation of the Earth, it causes it to come around to the east and then flows south. That loop current comes right around the Florida Keys and becomes the gulf stream. It hugs the Florida Keys and the southeast coast of Florida—and when I say hug it, I mean right off the coast—all the way up to the middle of the peninsula of Florida at Fort Pierce. There it

leaves the coast a little bit, but follows the coast all the way up to Cape Hatteras, NC, where it leaves the coast of the United States and goes across the Atlantic to Scotland. It is the old gulf stream that the Spanish galleons used to catch going back to Europe from their discoveries in the New World.

Come back to the wind shifting. The wind shift from the north coming south brings that spill down to the loop current. Last weekend, I had testimony by ocean specialists from the University of Miami who said that once that oil gets in the loop current, it will be at the Florida Keys in 10 days. Eighty-five percent of the live coral reefs of the United States are in the Florida Keys. The gulf stream goes right by those delicate coral reefs. The gulf stream comes up and goes right by Miami, Key Biscayne, Fort Lauderdale, West Palm Beach, and as far north as Fort Pierce, which is only about 10 miles offshore. Can my colleagues imagine what this is going to do in economic damages?

We have been fortunate thus far that the winds have been from the east to the west—fortunate for Florida, unfortunate for Louisiana—because that oil is off all of those delicate bays and estuaries where so much of the Gulf of Mexico marine life is spawned. Sooner or later the winds are going to shift, and they are going to go from the west to the east. It is going to take that oil down there off the world's most beautiful beaches and those bays and estuaries where so much of marine life is spawned that happens to be off of Florida.

Let me tell you what the President of the Hotel and Restaurant Association told me 2 days ago. This is the Hotel and Restaurant Association of Florida. He said he had called a number of the hotels on the northwest gulf coast of Florida. This is the beginning of their season. He said normally they would be 85 percent occupied now. Their occupancy is 18 percent. Can you imagine the economic impact of this oil spill?

What about the economic impact of the lost sales tax to the State and local governments, the counties, and the cities that if they do not have all these tourists coming to the beach, they are not buying things, and there is less revenue coming into the States.

We start to see the picture of the enormous economic damage, well over and above the cost of the cleanup. That is why an artificial figure of—\$75 million cap is so artificially low. I am not sure \$10 billion is going to be enough as a cap, but it was a target. Let's hope it never gets to that. Thus far, nothing has worked because those backoff safety systems did not work.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, in view of the fierce urgency of now, there is harm already being levied upon these

communities, commercial fishermen, tourism, and others, and because \$75 million is less than 1 day of BP profits, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of S. 3305, the Big Oil Bailout Prevention Liability Act of 2010, and that the Senate proceed to its consideration; that the bill be read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I do reserve the right to object, and I would like to take a few minutes this afternoon to explain why I will be objecting to this unanimous consent request.

I sat and listened to my three colleagues. I have great empathy for the concern they share. I share it as well. I represent a State that was devastated a little more than 20 years ago when the Exxon Valdez hit the rocks. We lived with oil on our beaches. We know the economic impact. We know the social impact that a spill can cause. We want to all be working together to ensure that whether it is the devastation we see in the hotels in Florida or whether it is the loss to the fishermen, that we ensure those who are responsible pay for the economic loss, for the damages that are incurred. We are with my colleagues on this issue.

The reason I stand and object at this point in time is I do not believe that taking the amount of the liability cap from \$75 million, where it is currently, to \$10 billion in strict liability, 133 times the size of the current strict liability limit, is where we need to be right now.

I am not just the only one who suggests that maybe we need to understand a little bit better as to how much we might need to look at raising the limit. The administration, just yesterday in their oilspill legislative package, has proposed an effort. Their proposal, would raise the caps on liability for the responsible parties. "The administration looks forward to working with Congress to develop levels for the various caps that provide for substantial and proportional increases."

Mr. LAUTENBERG. Will the Senator yield for a question?

Ms. MURKOWSKI. If the Senator will allow me to conclude, I will be happy to yield.

I do think we need to look at the liability cap and consider raising it, but I think we need to be careful about unintended consequences of picking a number, \$10 billion.

Let me outline what I am talking about when I say "unintended con-

sequences." This has been named the Big Oil Bailout Prevention Liability Act. I think we have some irony in that what this would do is give all of America's offshore oil resources to the biggest of big oil. It would be impossible, or perhaps close to impossible, for any energy company that is smaller than the supermajors, smaller than the national oil companies, to operate in the OCS. Mr. President, \$10 billion in strict liability would preclude their ability to obtain financing, to obtain the bonds or insurance for any exploration.

Look at who is producing in the offshore. It is the independents. They produce two-thirds of the natural gas, one-third of the oil. If we move forward in raising this liability cap to \$10 billion, the only companies that are going to be able to self-insure against this level of strict liability are the national oil companies, the supermajors. And we all know who they are. There is the Saudi Aramco. There is Exxon. There is the Chinese National Oil Company and, of course, British Petroleum.

It has been mentioned a couple different times now that we need to ensure that BP, as the responsible party, pays. The comment has been made that \$75 million is not going to be sufficient.

What people need to remember is that the cap on the strict liability only applies to what the responsible parties have to pay back in the context of OPA, the Oil Pollution Act. The law expressly—expressly—allows for unlimited damages in State courts where compensatory and punitive damages are already being sought. As we speak, there have been numerous claims filed. Back on April 28, the Louisiana shrimpers filed a class action lawsuit against BP, Transocean, Halliburton, and Cameron for their economic losses, alleging negligence and seeking both economic and punitive damages.

The State of Florida on May 10 announced it had assembled a legal team to file suit against BP. Then just 2 days after that, on May 12, the fishermen filed another such lawsuit in Mississippi, recognizing that, again, they have the ability to go after unlimited damages in those forums.

Again, I am open to raising the liability cap, but we have both a directive from the White House and the American people who, I believe, still support offshore drilling. We need to adjust these liability caps in a way that does not give the biggest oil companies a monopoly over the entire OCS.

Mr. President, I object to the unanimous consent request at this time.

The PRESIDING OFFICER. Objection is heard.

The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. We are now supposed to turn to the Sessions amendment.

Mr. MENENDEZ. Is that by order?

The PRESIDING OFFICER. It is by order.

Mr. MENENDEZ. Is debate on the Sessions amendment now available?

The PRESIDING OFFICER. There is 5 minutes of debate in order on the Sessions amendment, followed by a vote.

Who yields time?

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent—I think this has been discussed on both sides—that we have up to 30 minutes equally divided on this amendment before the vote.

The PRESIDING OFFICER. Is there objection?

Mr. MENENDEZ. Reserving the right to object, and I am not inclined to object, what is the request? Thirty minutes instead of five minutes?

The PRESIDING OFFICER. Thirty minutes equally divided.

Is there objection? Without objection, it is so ordered.

Mr. MENENDEZ. Mr. President, if the distinguished Senator from Alabama will yield for a moment, since I chose not to object, would he allow me to take 2 minutes of our time just to follow the sequence of the previous discussion so I will not interrupt the essence of his amendment?

Mr. SESSIONS. I have no objection.

Mr. MENENDEZ. I thank my distinguished colleague. I appreciate what my colleague from Alaska had to say. Here are a couple of problems with it. First of all, when we call these companies “independent drillers,” some of these independent drillers who are portrayed as small mom-and-pop, some of them are like \$20 billion companies. So they are not quite the mom-and-pop view we have of small mom-and-pop businesses, No. 1.

If you drill, you need to be able to pay for the damages because otherwise, imagine if this particular spill had been done by a “small company.” Then who would be responsible just because they were too small? The risk is what has to be calculated.

Also I simply say, I have a problem saying the administration did not say \$10 billion is not the right figure by any stretch of the imagination. Quite the contrary. They said they are for lifting the liability cap. When BP makes \$5.6 billion in 3 months, when the top five companies make \$25 billion in 3 months, \$10 billion is a drop in the bucket.

Finally, the suggestion that those who are harmed—the fishermen, the commercial fishermen, the tourism companies, and others—ultimately will be in a position to make claims in State court, I know my distinguished colleague from Alaska knows what happened in the Exxon Valdez case. That took 20 years for claimants to try to get their just response. Some of them fell off the way because they just could not keep hanging in there, and they lost everything.

I do not want Americans to have to wait 20 years to get their response to what an oil company did. Lifting the liability caps takes care of that circumstance so you do not have to litigate in State courts and then go all the way to the Supreme Court and get turned down at the end of the day.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alabama is recognized.

#### AMENDMENT NO. 3832

Mr. SESSIONS. Mr. President, I appreciate the efforts of those who have worked on this financial responsibility bill. I wish to say, however, that I do not believe they have reached a successful conclusion, one that is principled and lawful in describing and mandating how a company that cannot pay the bills should be dissolved.

Throughout America, hundreds of thousands of businesses every day that are unable to pay their bills seek protection, as they often call it, in bankruptcy. All the claims against the company are stayed. A bankruptcy judge, skilled in these matters, in an open, public hearing, with witnesses under oath, determines whether the company has a realistic chance to survive and help structure the bankruptcy reorganization so it can survive, or it determines that the company is unable to survive, that it is unlikely they could pay off their creditors and most likely would only add to the debt, and they close the company down.

This is and has been the law in America since virtually the founding of the Republic. It is something that is principled, well settled as to how it occurs.

This legislation is the exact opposite, in a sense, it institutionalizes the TARP process. Only now, they will not have to come to Congress, as they did this last time, over how to dissolve some big company. They will have too much power, in my view, in a sealed proceeding—not public, not under oath—too much like the last time when the Secretary of the Treasury meets in private meetings with bankers and doles out billions and billions of dollars, puts \$100 billion, \$80 billion in an insurance company, AIG, all without any accountability, all without any oversight, all without the kind of integrity that is the essence of the American legal system.

I am concerned about it. My amendment would make bankruptcy more usable for large, complex cases that have derivatives in it. It would allow the cases to be brought in large bankruptcy court areas so that there is sufficient expertise and personnel to handle it, and it would deal with the problem of derivatives that some have raised and gives the courts more flexibility to do that. I think it is the better approach. It is our historic, fair approach. The American people will know the same judgment that falls on them

and their small businesses will fall on the big boys.

I appreciate the opportunity to make these brief remarks. I see Senator CORKER and Senator KYL are here, and I will yield.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I thank my colleague from Alabama for the work he has done in trying to craft a bankruptcy title that more fully suits financial institutions.

This body is an interesting body because you don't have the chance to do anything but vote yes or no on particular pieces of legislation. Just last week, the Republicans—all Republicans—had a filibuster while they waited for the leaders on each side of the Banking Committee to reach a compromise, and it was supported, I think, 94 or 96 to 1. That compromise was on title II, the orderly liquidation title. So here we have an amendment that basically is to strike something this body, in essence, adopted 96 to 0.

I spent a lot of time on that title myself working with MARK WARNER. I appreciate greatly the partnership we had working on a resolution title. I thank Senator SHELBY and Senator DODD for the work they did to try to improve that title, and we held out on this side until that occurred. So now we have a vote, the Sessions vote, that would strike that.

I wish to say, I am at the point in this bill where I am under no illusion that the bill is going to get any better. I know there are a lot of messaging amendments that will begin to take place, and many of us will have the opportunity, through our votes, to express how we may feel about certain aspects of this bill. When Senator WARNER and I were working on the resolution, it was with the intent that bankruptcy be the default. That would be the place where almost every financial institution would go. There may be that rare instance—that rare instance—when resolution was necessary, but it would be due to some systemic risk. It was our hope the Judiciary Committee would actually develop a title that would allow that to happen, but it did not take place.

As a matter of fact, many of the judicial reviews that Senator WARNER and I wanted to see take place in the resolution title did not occur. There is no judicial review overpayments by the FDIC or those kind of things that we would like to see as part of the rule of law in this country. Well, let me not speak for him—that I would like to see.

What has happened is, we have developed a resolution title that was to be used only very rarely because we had hoped a bankruptcy title would be developed that financial companies would go into. That hasn't happened. So what does that mean? That means it is far



more likely—far more likely—the resolution title would actually be used instead of bankruptcy.

The fact is, I am under no illusion that Senator SESSIONS' amendment is going to pass. As a matter of fact, I doubt seriously the amendment is going to pass. My intent, in voting for the Sessions amendment, is not to say I disavow the work Senator SHELBY and Senator DODD did. It is not to disavow the work Senator WARNER and I spent a great deal of time working on. It is to say I do believe, as part of this bill, we should have done the work necessary to make sure there was a bankruptcy title that would work for financial institutions. That has not been done.

I wish to thank Senator SESSIONS for giving us the opportunity to voice the fact that we believe the Bankruptcy Code in this country should be made so it works far better for financial institutions. I would like for this to have been melded in a little differently than the way the Senator is putting it forth, but I wish to thank him for his work and to signify my intent to support his amendment on the basis of the fact that the bill, the way it has been crafted, should have respected judicial review more than it has been; and secondly, the fact that we should have, as part of this thoughtful process, done something in this bill to greatly expand the ability of the judicial system to deal with a large, highly complex financial company.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I wish to briefly echo the sentiments of both Senators SESSIONS and CORKER. They have both given a great deal of thought to the problems here.

These are not political issues that capture the imagination of either the news media or the American people, but they are very important, and they are both working to solve a difficult problem in a very reasonable way that recognizes the importance of the rule of law.

One of the great distinguishing characteristics of the United States versus some other countries, many other countries in the world, is that we follow a rule of law. It makes commercial dealings, and therefore expansion of our economy, so much easier when everyone knows what the rules are and they can plan based upon those rules.

One of the bodies of law that is most contributory to that is our Bankruptcy Code. For over a couple centuries, we have had a process and a set of rules that governs what happens when businesses can't pay their debts and have to go out of business or be reorganized. Those rules, in effect, set the rules of the road—the things people can count on both at the time a business gets into trouble but also far before that,

when people are making decisions on whether to lend to or invest in a business.

They know, for example, if they are going to be a secured creditor of a business that, in the event something goes wrong, they will be quite high on the list of businesses that get paid. If they are an unsecured creditor, they are going to be lower on that list. They will probably get more for their lending because they are unsecured, but they will be lower on the list. So people can calibrate the kind of equity investment or lending they want to engage in based upon what they know the rules will be in the event something goes wrong.

If you do away with that and just say that in the event something goes wrong, a government bureaucracy—and I don't use that word pejoratively—a group of government employees in an agency are going to decide that something needs to be done and decide what that is and it is basically unconstrained by any set of rules and practices such as the Bankruptcy Code has provided, that is scary to folks. It is going to mean we will have less lending and capital formation for businesses because they are going to be uncertain about the rules of the road. Secondly, it is going to create the potential for unfairness and, frankly, poor decisions if companies do have to get unwound.

So what we are giving up by not adopting an amendment such as the Sessions amendment is certainty, predictability, and decades of understanding of what the law is in the event something such as this occurs.

What Senator CORKER has said is also true; that these financial institutions may present some very unique circumstances, and some of them may be so large and so potentially affecting of other institutions that it may be that the relatively slow pace of bankruptcy—and I don't mean to suggest it is very slow—may mean that we need something more quickly to intervene and ensure that whatever happens with this particular business, it doesn't adversely affect others or that there may be other reasons to have a more immediate infusion of some intervention. I will put it that way.

It was for that reason that all of us supported the Dodd-Shelby compromise. Our view was, as Senator CORKER said, it is better than the underlying bill, although I don't think it satisfied at least the three of us that it went far enough in creating these rules of predictability. The Sessions amendment, as has been described, does that.

I think Senator CORKER has it exactly right; we are under no illusion this will replace the Dodd-Shelby compromise. In that respect, we have to just hope, in the further process of legislating on this bill, that compromise can be informed by additional debate and discussion and maybe improved.

By supporting the bankruptcy-related amendment of Senator SESSIONS, what we are trying to do is to send the message that we compliment Senators DODD and SHELBY for what they did, but a little more dose of the predictability and certainty and judicial process of bankruptcy would be very welcomed in this process.

Therefore, to the extent that we can have a good vote on this amendment, perhaps they and others will look to other ways in which they can continue to modify this language for the very best result we can achieve. This is a very important issue. It deserves our very best attention.

I wished to compliment again both Senator SESSIONS and Senator CORKER, two of the very thoughtful Members of this body, for the way they have approached this issue, without any political consideration but simply to try to make this process better, fairer, more predictable and, therefore, better for the businesses involved and for the economy of the United States.

Mr. SESSIONS. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. One minute fifty-five seconds.

Mr. SESSIONS. Mr. President, I wish to share a few things briefly before we move into the vote. William Kristol today raised a fundamental question in a blog site regarding the way this bill is written when he said:

This is a giant power grab for the FDIC and Treasury, who could use their new powers to tug the strings of our country's largest financial institutions like a puppeteer.

I would also refer to a letter of April 12, from the Judicial Conference of the United States. This is a thoughtful letter in response to an inquiry from PATRICK LEAHY, the Judiciary Committee chairman, in which they express grave concerns about the legislation. Among other things, the Judicial Conference says:

The legislation does not envision objection, participation, or input from the bankruptcy creditors (whose rights will be affected) in the course of appointing the FDIC as receiver. Indeed, the legislation proposes to deal with this petition in a sealed manner, only the Secretary and the affected financial firm would be noticed and given the opportunity of a hearing.

I think that is insufficient.

Finally, I received a letter today from a number of superb and well-known economists, legal scholars and leaders—Darrell Duffie, Dean Witter Distinguished Professor at the Graduate School of Business, Stanford University; Tom Jackson, Distinguished University Professor, University of Rochester; Kenneth Scott, Parsons Professor Emeritus of Law and Business, Stanford Law School, George P. Shultz, Distinguished Fellow, Hoover Institution, David Skeel, Professor of Corporate Law, University of Pennsylvania and John B. Taylor, Professor of Economics, Stanford University.



The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. I ask unanimous consent for 30 additional seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, these individuals put forth in detail their concerns about this procedure, and they point out why bankruptcy is necessary, because the rule of law applies and the process is more defined in this appropriate way. They tell us, with much care, why my amendment would be the best way to solve this problem. They say, in part, the following:

Despite the best intentions by the sponsors of Title II, our view is that it will increase rather than decrease the likelihood of financial crises . . . It might be preferable for the Congress [to] wait until the Financial Crisis Inquiry Commission completes its report . . . In the meantime, however, proposed amendment No. 3832, which has been filed by Ranking Member Sessions of the Senate Judiciary Committee, takes a bankruptcy route . . . Amending Title II along these lines would be a big step toward the bankruptcy approach we favor, and we urge you to move in this direction.

Mr. President, I ask unanimous consent to have printed in the RECORD the three items I have just quoted from.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Weekly Standard, May 13, 2010]

#### BAILOUT NATION V. RULE OF LAW

(By William Kristol)

Financial regulatory "reform" has been wending its desultory way through Congress for quite a while, and one can lose track of where things stand and what's important.

But there's a vote scheduled for the Senate floor today that matters. It will be on an amendment—offered by Sen. Sessions—that would strike the entire Orderly Liquidation Authority (OLA) from the Dodd bill. It would instead make needed adjustments to a few provisions of the U.S. Bankruptcy Code to make it more flexible to deal with the failure of large financial firms (such as Lehman). The bankruptcy code amendment is clearly a superior alternative to OLA, which scraps the Code, the primary vehicle to reorganize companies for over a century, and replaces it with a wholly untested process to seize firms that are merely in danger of default. It replaces the Code's strict adherence to the rule of law with a system governed by the FDIC, which is given incredibly broad discretion to treat creditors as it wishes. This is a giant power grab for the FDIC and Treasury, who could use their new powers to tug the strings of our country's largest financial institutions like a puppeteer.

It's increasingly clear in the age of Obama that two very different visions of the relation of the private sector to the state are competing to shape the future of this country. With respect to financial reform, this amendment, more perhaps than any other, clarifies and signifies what's at stake in this debate. Whether or not the amendment passes, if Republicans unite behind it, they will show voters the choice in 2010 and 2012—not the status quo vs. reform, but "reform" that would further increase the arbitrary power and scope of government vs. real reform that would safeguard the financial sys-

tem in accord with limited government and the rule of law.

#### JUDICIAL CONFERENCE OF THE UNITED STATES, Washington, DC., April 12, 2010.

Hon. PATRICK J. LEAHY,  
Chairman, Committee on the Judiciary,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to your letter of March 25, 2010, seeking the views of the Judiciary with regard to provisions relating to bankruptcy that are contained in the financial regulation bill recently approved by the Senate Committee on Banking, Housing, and Urban Affairs. We appreciate your soliciting the views of the courts on this matter. You identified several of the issues that are of concern to the courts, and I will address each of those.

As you noted, Title II would create an "Orderly Liquidation Authority Panel" within the Bankruptcy Court for the District of Delaware for the limited purpose of ruling on petitions from the Secretary of the Treasury for authorization to appoint the Federal Deposit Insurance Corporation (FDIC) as the receiver for a failing financial firm. This is a substantial change to bankruptcy law because it would create a new structure within the bankruptcy courts and remove a class of cases from the jurisdiction of the Bankruptcy Code. The legislation, by assigning to the FDIC the responsibility for resolving the affairs of an insolvent firm, appears to provide a substitute for a bankruptcy proceeding. The Judicial Conference has not adopted a position with regard to the removal from bankruptcy court jurisdiction of the class of financial firms identified in this legislation.

We note, however, that the legislation will result in the transition of at least some bankruptcy cases to FDIC receivership in situations where a firm is already in bankruptcy, either voluntarily or involuntarily. Section 203(c)(4)(A) provides that a pending bankruptcy case would be evidence of a firm's financial status for purposes of triggering the Treasury Secretary's authority to seek to appoint the FDIC as receiver. The bill does not specify how the transition from a bankruptcy proceeding to an administrative proceeding would be effected. Further, the bill does not specify the effect of the transfer on prior rulings of the court. For example, would any stays or other rulings continue in effect or be dissolved upon the transfer to the FDIC? This could be especially problematic if creditors have changed position based upon rulings in the course of the bankruptcy proceeding. The legislation does not envision objection, participation, or input from the bankruptcy creditors (whose rights will be affected) in the course of appointing the FDIC as receiver. Indeed, the legislation proposes to deal with this petition in a sealed manner; only the Secretary and the affected financial firm would be noticed and given the opportunity of a hearing. The financial position of affected creditors may have been changed within the context of the firm's bankruptcy case in such a way that the creditors' rights might have changed dramatically. Any resulting due process challenges would impose a significant burden on the courts to resolve novel issues, for which the bill provides no guidance.

In addition, we note that petitions under this title involving financial firms would be filed in a single judicial district. The Judicial Conference favors distribution of cases to ensure that court facilities are reasonably

accessible to litigants and other participants in the judicial process. Although we are aware that a large number of companies are incorporated in Delaware, it is not clear that Delaware would necessarily be a convenient location for many of the affected companies, nor indeed the proper venue for that petition, absent changes to title 28, United States Code.

We also note that the legislation requires the designation of more bankruptcy judges for the panel than are permanently authorized for Delaware under existing law. The District of Delaware is authorized one permanent bankruptcy judge and five temporary judgeships. If Congress were to choose not to extend these judgeships or convert them to permanent status, it would be impossible to implement section 202's requirement to appoint three judges to the Orderly Liquidation Authority Panel from the District of Delaware.

With respect to the limited review to be conducted by the panel created in section 202, we note that the authority may exceed what is constitutionally permitted to a non-Article III entity. A previous statute was held unconstitutional because it conferred on the bankruptcy courts the authority to decide matters that are reserved for Article III courts. *Northern Pipeline Const. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982). The review of the Secretary's decision in this instance appears to resemble more closely appeals of agency decisions under the Administrative Procedure Act than a bankruptcy petition and, therefore, appears more appropriate for an Article III court. Moreover, the affirmation of the Secretary's petition to designate the Federal Deposit Insurance Corporation as a receiver effectively removes a case from the application of bankruptcy law. Accordingly, it seems anomalous to subject this petition to review by a bankruptcy court.

Your letter particularly questioned whether the time limit of 24 hours for a decision by the panel would be sufficient or realistic. The Judicial Conference has consistently opposed the imposition of time limits for judicial decisions beyond those already set forth in the Speedy Trial Act or section 1657 of title 28. We appreciate that a matter affecting the operation of the national economy warrants a prompt resolution. We note that the courts, recognizing this concern, have already demonstrated an ability to move swiftly in resolving bankruptcy petitions involving large corporations with broad impact on the national economy. In each of these instances, the initial determinations were made by a single judge. The resulting appeals in some cases were also adjudicated on an expedited basis without a statutory requirement to do so.

Requiring a panel of three judges to assemble, conduct a hearing, and craft a written opinion within 24 hours presents practical difficulties that may be insurmountable. Although §202(b)(1)(A)(iii) could be read to limit the court's review to the question of whether the covered financial company is in default or danger of default, the Secretary is required to submit to the panel "all relevant findings and the recommendation made pursuant to section 203(a)," which specifies consideration of multiple factors (repeated in subsection (b) of that section as the basis for the Secretary's petition). Even with the full cooperation of the financial firm affected by the proceeding, which is not a predicate for the consideration of a petition, it would appear difficult to hear and consider the evidence and prepare a well-reasoned opinion

addressing each reason supporting the decision of the panel within 24 hours. Even assuming that factors other than the solvency of the firm would be excluded from this special panel's review, it may well be that the subject financial firm or one of its creditors would seek judicial review of one of the prior administrative evaluations of the statutory factors, either in the course of the hearing conducted by the Orderly Liquidation Authority Panel or in another court. Such challenges would also make it difficult to meet the proposed timeline. It is possible that the facts of a particular case may be so clear that a decision could be rendered within 24 hours, but the statutory requirement of such speed seems inconsistent with the thoughtful deliberation that would be appropriate for a decision of such great significance.

Although it is to be hoped that only a small number of large financial firms would ever become subject to this legislation, each of the petitions would involve large volumes of evidence regarding complex financial arrangements. Thus, the legislation could result in a large proportion of the judicial resources of a single bankruptcy court being devoted exclusively to review of the Secretary's petitions. Further, the bill provides that the Secretary may re-file a petition to correct deficiencies in response to an initial decision, thus extending the time in which the court's resources would be diverted from other judicial business. The District of Delaware is one of the busiest bankruptcy courts in the nation; to draw the court's limited judicial resources away from the fair and timely adjudication of those bankruptcy cases to process petitions under this bill would be inequitable and unjust to the debtors and creditors in those pending cases. If, as seems possible given recent economic developments, the failure of one firm weakens other firms in the financial services sector, the demand could exceed the court's resources. This consideration alone counsels against the assignment of all such cases to a single court.

Finally, we note that both the Administrative Office of the United States Courts (AO) and the Government Accountability Office (GAO) are directed to conduct studies which will evaluate:

- (i) the effectiveness of Chapter 7 or Chapter 11 of the Bankruptcy Code in facilitating the orderly liquidation or reorganization of financial companies;
- (ii) ways to maximize the efficiency and effectiveness of the Panel; and
- (iii) ways to make the orderly liquidation process under the Bankruptcy Code for financial companies more effective.

With respect to those firms that are to be treated under Chapters 7 and 11 of the Bankruptcy Code, the vagueness of, and/or lack of criteria for determining "effectiveness" will hamper the ability of the AO and GAO to produce meaningful reports. Some would regard rapid payment of even small portions of claims as an effective resolution, while others would prefer a delayed payment of a greater share of a claim. There would also be significant disagreements between creditors holding different types of secured or unsecured claims as to the most effective resolution of an insolvent firm. Some would argue that effectiveness should be measured by the impact of the resolution on the larger economy, regardless of the impact on the creditors of the particular firm. Without clearer guidance for the studies, both agencies will be required repeatedly to expend resources on the development of reports that may not provide the information Congress is seeking.

Thank you for seeking the views of the Judiciary regarding this legislation and for your consideration of them. If we may be of assistance to you in this or any other matter, please do not hesitate to contact our Office of Legislative Affairs.

Sincerely,

JAMES C. DUFF,  
*Secretary.*

—  
HOOVER INSTITUTION,  
STANFORD UNIVERSITY,  
Stanford, CA, May 13, 2010.

Hon. HARRY REID,  
*Majority Leader, U.S. Senate,*  
*Washington, DC.*

Hon. MITCH MCCONNELL,  
*Minority Leader, U.S. Senate,*  
*Washington, DC.*

Hon. CHRISTOPHER DODD,  
*Chairman, Senate Committee Banking, Housing,*  
*and Urban Affairs, U.S. Senate, Wash-*  
*ington, DC.*

Hon. RICHARD SHELBY,  
*Ranking Member, Committee on Banking, Hous-*  
*ing and Urban Affairs, U.S. Senate, Wash-*  
*ington, DC.*

DEAR LEADER REID, MINORITY LEADER MCCONNELL, CHAIRMAN DODD, RANKING MEMBER SHELBY: We are writing to you regarding Title II "Orderly Liquidation Authority" of the "Restoring American Financial Stability Act of 2010." Despite the best of intentions by the sponsors of Title II, our view is that it will increase rather than decrease the likelihood of financial crises. Our view is based on experiences during the financial crisis, especially the events surrounding the disruptive failures of such firms as Bear Stearns, Lehman, and AIG. In order to avoid such harmful disruptions in the future, any failure of a large and complex financial firm must be made more orderly and predictable so that market participants can anticipate the process and adjust their positions more smoothly and gradually without chaotic spillover effects to the financial system and the economy.

However, in our view the new discretionary powers given to government officials and agencies under Title II will not result in a more orderly and predictable process. Indeed, it is likely to have the opposite effect. The legislation would give authority to officials at the Federal Deposit Insurance Corporation (FDIC) to take over and dismantle any large complex financial services business which appears to be failing. We doubt the ability of the FDIC to dismantle such complex financial institutions in a smooth and orderly way. There would be great uncertainty about who will lose and who will gain. The decisions will be made by government officials without knowledge of the circumstances underlying different claims, rather than by the rule of law. The unpredictability of the discretionary process would increase the likelihood of runs: whenever there is rumor of a government official or agency thinking of a takeover, creditors will take their money and run. There are also technical problems with Title II which would cause financial instability. For example, the nature of the delay in applying the exemption from the automatic stay for qualified financial products will lead to more runs.

Fortunately a more orderly and predictable approach is available. All that is required is an adjustment to the bankruptcy law to make it apply to nonbank financial firms in a clear way which the firms, their counterparties, and their creditors can understand and count on. With these changes,

bankruptcy would be the mechanism to deal with financial institutions, and thus provisions for a government agency resolution process to override bankruptcy could be eliminated. If these changes had been in effect at the time of the Lehman bankruptcy, it would have been far smoother and less disruptive than what happened in September 2008.

The main advantage of bankruptcy is that the rule of law applies and the process is thus much more defined. The mere existence of an orderly Chapter 11 process will greatly reduce the likelihood of bailouts. There are alternative ways to change the bankruptcy law to make it apply to nonbank financial firms. Some of us and others have proposed such changes and work is continuing. For example, one change could involve creating a team of experts knowledgeable about the bankruptcy law and about financial markets and institutions, which would be ready to go in a financial emergency. Another change is to allow regulators to initiate a petition as prescribed by the law. The government could also file a reorganization plan with the bankruptcy court. The new law could also give a right of relief from the automatic stay upon petition by a counterparty seeking to sell collateral in the possession of the debtor to the extent the collateral consists of highly-marketable securities or other cash-like collateral.

To be sure the issues are complex and amending legislation on the Senate floor rather than in committee or conference is difficult. It might be preferable for the Congress to wait until the Financial Crisis Inquiry Commission completes its report, which will provide additional information and a better understanding of the issues which bear on this legislation. In the meantime, however, proposed amendment No. 3832, which has been filed by Ranking Member Sessions of the Senate Judiciary Committee, takes a bankruptcy route. The amendment is called "The Bankruptcy Integrity and Accountability Act" and would replace the currently proposed Title II. Amending Title II along these lines would be a big step toward the bankruptcy approach we favor, and we urge you to move in this direction. We would be happy to provide more details about these issues to you or your staffs.

In sum we urge you to replace Title II, reinstate the rule of law, reduce the likelihood of future financial crises, and prevent bailouts by instituting an orderly and predictable bankruptcy regime for large nonbank financial firms.

Sincerely,

DARRELL DUFFIE,  
*Dean Witter Distinguished Professor at*  
*the Graduate School*  
*of Business, Stan-*  
*ford University.*

TOM H. JACKSON,  
*Distinguished Univer-*  
*sity Professor at the*  
*University of Roch-*  
*ester.*

KENNETH SCOTT,  
*Parsons Professor*  
*Emeritus of Law and*  
*Business at the*  
*Stanford Law*  
*School.*

GEORGE P. SHULTZ,  
*Distinguished Fellow*  
*at the Hoover Insti-*  
*tution.*

DAVID ARTHUR SKEEL,

*Professor of Corporate  
Law, University of  
Pennsylvania.*

JOHN B. TAYLOR,  
*Professor of Econom-  
ics, Stanford Univer-  
sity.*

Mr. SESSIONS. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. Twelve minutes fifty seconds.

Mr. DODD. I will not use all of 12 minutes. I will take a few minutes.

I spoke last evening about my friend's amendment, and it wasn't to a packed Chamber, I can tell you, at 8 o'clock last night. But I am sure the Senators all received copies of it or listened to it intently as you were dozing off last evening.

Let me, first of all, thank JEFF SESSIONS. He is a good pal and friend, and we have worked together on a number of issues. Senator CORKER, who is on the floor as well, in many ways—both BOB CORKER and MARK WARNER of Virginia—is as much the coauthor of the very section we are talking about as anyone in this Chamber. He spent a lot of hours trying to put this together.

But here is the quandary with the Sessions amendment. One of the things we have tried to avoid is, of course, getting back to too big to fail. The presumption of our bill is bankruptcy. Clearly, we want to get people into bankruptcy, if they deserve to be there. If they deserve to fail, they should fail. The problem is, when you end up pushing some large, highly complex entity into bankruptcy, it can have the unintended collateral damage effect of affecting otherwise solvent, good companies that are well managed, well run, and who employ a lot of people and are doing a good job. When these highly complex entities are shoved into bankruptcy, there can be collateral damage and other companies can suffer.

I am shorthanding this, in a way. So the idea was, on some rare occasions, and hopefully they are very rare, when that possibility occurs and you have to go through a number of hoops to get to that conclusion, that we would have a mechanism for a resolution, a winding down of that entity, to avoid the kind of collateral damage that could cause if bankruptcy were the only option for those complex entities.

What you are faced with, if the Sessions amendment is adopted, is right back where we were in the fall of 2008 where the choices are bankruptcy or bailout, in a sense, where bankruptcy would pose, as Lehman Brothers potentially did, as we saw, a lot of collateral damage because there was not a wind-down resolution mechanism. Whether it should have been used in that particular fact situation, I don't want to try to make that case. That is not my

point, not making my case. But let's say it is a Lehman Brothers-like situation where we would all agree that company ought to be put out of its misery, but to go through traditional bankruptcy would have the collateral effect of taking a lot of other people with it in the process who do not deserve to go down, not to mention the jobs and the impact on the economy.

Senator CORKER, Senator WARNER, and others obviously working with it, came up with this. They listened to a lot of people. Again, no one ever knows if you have this exactly right. We talked about all the things. We had exactly right what we want to do. We know what we want the outcome to be. Whether we did it right so it will work exactly as we planned we will never know until the first case pops up and determines whether what we put in place achieves its goal. But in the absence of that, we are right back where we were.

If someone said to me: What is the most critical part of this bill—that is a hard thing to ask someone who has been involved in a lot of it, but if you said: We are only going to let you keep one section of this bill; you are going to have to get rid of everything else; which section would you keep, Senator, this is what I would keep because this is what exposed the American taxpayer to that \$700 billion check they had to write because we didn't have an alternative in place to deal with moments like that. Hopefully, they rarely come.

There were a lot of events that led up to it that we tried to deal with in this bill as well, including the underwriting standards and all sorts of things to minimize ever getting to that point where you have to make that decision. But we have all been around long enough to know they can happen, and when they happen again, what will be our answer? We had an option out there, but we got rid of it.

America, you have to make a choice. A lot of other people are going to suffer unnecessarily, but bankruptcy is the only choice to go. We would look back and say: Why didn't we put in place some alternative mechanism in those most rare occasions where some alternative other than bankruptcy should be in place?

That is the shorthand version of a lot of conversation, a lot of talk over a lot of months to this point.

Senator LEAHY, the chairman of the Judiciary Committee, opposes the amendment. Other members of the committee may agree with Senator SESSIONS. I don't want to suggest this is necessarily broad dissent, one side or the other. But this is as critical as it gets on this bill.

I say to my colleagues, there are a lot of amendments being offered, and frankly I might be against them or for them. If they are excluded or included, I might be disappointed one way or the

other. If we get rid of this, I don't know how in good conscience you can walk out of the Chamber and look the American taxpayer in the eye and say again: We have now protected you against too big to fail.

For those reasons, I urge the rejection of the Sessions amendment, and I say that respectfully of a good friend.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. DODD. I have to ask for the yeas and nays under the order, don't I?

Mr. CORKER. Will the Senator yield for a couple of minutes over here? I know we are under time anyway.

Mr. DODD. I will be glad to yield. Instead of yielding my time, let me yield 2 minutes to my friend from Tennessee.

Mr. CORKER. I thank the Senator. I know I spent a great deal of time on the floor.

I thank the Senator from Connecticut. First, I thank him for the work he did to make the resolution title better. I know that after he and Senator SHELBY finished, I came down and thanked him but expressed concerns about the fact that many of the judicial reviews that I believed were important were not included. Yet the bill was better, and I thank the Senator for that.

I realize that in this body, as I said that day on the floor, nothing ever works out exactly as you wish. This bill is not going to be exactly the way the Senator would wish.

We are going to pass a bill that, to me, is incomplete. One of the things I think all of us, including the Senator from Connecticut, had hoped would occur is that the Judiciary Committee would actually work on a title that would make the resolution title much less necessary because it would enhance the ability to deal with these complex financial companies. That has not happened. I know we have not dealt with Freddie and Fannie in this bill. I know you would have liked to have dealt with that. I hope you would have liked to. We are not going to deal with it.

You are going to be leaving this body after a distinguished career here. But I think what we are trying to say is that, look, we still have work to do. The Judiciary Committee has to develop a better bankruptcy title for financial companies, and I think all scholars have said that is the case. There is no question that we have to deal with Fannie and Freddie. We will do that soon, I hope.

I know the outcome of this, and the Senator knows what the outcome of this is going to be. I think there are numbers of us who would just like to see us really focus on this bankruptcy title to do—what you just said is exactly right, and that is that resolution

is only used rarely. But right now, the way the Bankruptcy Code is, it is going to be used in every case one of these large companies fails because we haven't done the work we need to do to make the Bankruptcy Code work.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DODD. I will take 30 more seconds.

Here is the concern. With smaller entities, I can see the case where they should go to bankruptcy, and that may happen. We are talking about very complex, interconnected ones.

My colleague is correct, by the way. I should have made note of this. We did try. And, again, it is not the fault of the Judiciary Committee. They have been overwhelmed with judicial nominations and everything else.

The present bankruptcy process does pose an issue with large, complex entities for the very reason I outlined, and therefore you need some mechanism because then the alternative is bailout, I presume, rather than having a lot of innocent companies fail, with a lot of unemployment occurring and damage to the economy. There is a step that will have to be worked on.

I don't disagree on GSEs. I care deeply about that, and it is an area that needs to be reformed. But at this juncture, to strip this out is to throw us right back. My concern is not what else needs to be done down the road, but if you strip this out at this juncture, we leave ourselves very vulnerable.

With the Shelby-Dodd amendment that passed 93 to 5, I think it was—we tried to fill in a lot of gaps people have. We got rid of that prepayment issue that people had a lot concerns about, and it is a postpayment system. All of the issues we tried to resolve.

I appreciate the comments of my colleague from Tennessee.

With that, I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 42, nays 58, as follows:

[Rollcall Vote No. 148 Leg.]

#### YEAS—42

Alexander	Crapo	LeMieux
Barrasso	DeMint	Lugar
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brown (MA)	Feingold	Murkowski
Brownback	Graham	Risch
Bunning	Grassley	Roberts
Burr	Gregg	Sessions
Chambliss	Hatch	Shelby
Coburn	Hutchison	Snowe
Cochran	Inhofe	Thune
Collins	Isakson	Vitter
Corker	Johanns	Voinovich
Cornyn	Kyl	Wicker

#### NAYS—58

Akaka	Gillibrand	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Bayh	Harkin	Pryor
Begich	Inouye	Reed
Bennet	Johnson	Reid
Bingaman	Kaufman	Rockefeller
Boxer	Kerry	Sanders
Brown (OH)	Klobuchar	Schumer
Burris	Kohl	Shaheen
Byrd	Landrieu	Specter
Cantwell	Lautenberg	Stabenow
Cardin	Leahy	Tester
Carper	Levin	Udall (CO)
Casey	Lieberman	Udall (NM)
Conrad	Lincoln	Warner
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	Wyden
Feinstein	Mikulski	
Franken	Murray	

The amendment (No. 3832) was rejected.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Washington.

Mrs. MURRAY. I ask unanimous consent for 8 minutes equally divided between myself and Senator CANTWELL in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### NATIONAL POLICE WEEK

Mrs. MURRAY. Mr. President, I come to the floor today to commemorate and celebrate the lives of seven police officers from my home State of Washington who lost their lives in service to their communities last year.

I am proud to join today with Senator CANTWELL during National Police Week to introduce the Washington State Law Enforcement Memorial resolution to extend the condolences of the Senate to the families, loved ones, and communities of our State's fallen heroes.

This week tens of thousands of people from across the country are going to be gathering at the National Law Enforcement Officers Memorial in Washington, DC—friends and families of fallen officers, ordinary citizens, elected officials, and fellow police officers. They will be joining together in the heart of our city in a tree-lined park splashed with daffodils and lined with two curving blue-gray marble walls. On those walls—the “Pathways of Remembrance”—are engraved the names of Federal, State, and local law enforcement officers who have made the ultimate sacrifice for the safety and protection of our Nation and its people—18,600 of them, dating back to the 18th century.

Among those crowds at that memorial this week will be men and women from the State of Washington who have flown all the way across the country to be here as seven new names are unveiled and carved into the marble and preserved for our Nation to honor.

The seven officers from Washington State who lost their lives last year in the line of duty are: Deputy Sheriff Stephen Michael Gallagher, Jr. of the Lewis County Sheriff's office; Officer Timothy Brenton of the Seattle Police Department; Officer Tina Griswold of

the Lakewood Police Department; Officer Ronald Wilbur Owens II of the Lakewood Police Department; Sergeant Mark Joseph Renninger of the Lakewood Police Department; Officer Gregory James Richards of the Lakewood Police Department; and Deputy Sheriff Walter Kent Mundell, Jr. of the Pierce County Sheriff's Department.

These seven remarkable and selfless officers represented the best of their communities. They were seven heroes who served proudly as a brave boundary between civil society and the worst elements of lawlessness and unrest; seven husbands, wives, fathers, and mothers whose losses have devastated families and torn apart communities and whose deaths have weighed heavily on every member of our State's law enforcement community. Each of these tragedies sheds new light on the enormity of the sacrifice police officers make every day in Washington State and across the country. I know our officers feel this weight, but I have no doubt they will never let it stop them from continuing to put themselves in harm's way in order to serve our communities. That is a testament to the commitment they make to serve and protect us. It is an oath they honor each day, and it is a reminder to all of us that these brave men and women deserve every ounce of support we can provide to keep them safe.

It is with great pride that I introduce the Washington State Law Enforcement Memorial resolution to commemorate and celebrate the lives of those seven officers. My thoughts and prayers continue to be with their families, and I join their communities, Washington State, and the entire Nation in gratitude for their service.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I thank my colleague for her leadership in having this resolution on the floor today. She is always focused on those who are on the front line of defense in our country and, clearly, in Washington State. I appreciate her leadership in honoring the fallen officers from Washington State.

This week does mark National Police Week where officers from across the Nation will travel here to honor fallen comrades. Because we in Washington State have done so much of this lately, we understand how important this type of activity is for remembering the men and women who serve us. During this week, we reflect on the brave men and women who have made the ultimate sacrifice to our community.

Mr. President, 2009 was one of the deadliest years in Washington State in more than 70 years. Seven officers were killed in the line of duty. These heroes put their lives at risk for our safety. They will be missed, but they will not be forgotten. The men and women in

blue keep our communities safe, and they do so at tremendous sacrifices.

Deputy Mike Gallagher from Lewis County Sheriff's Office was killed after his car was struck on his way back from responding to a domestic violence incident. Timothy Brenton from Seattle was shot while sitting in his car on Halloween in Seattle. We thought those two incidents were enough to rock our community. But then, in one of the most heinous murders in the State of Washington history, four Lakewood police officers were shot and killed while on duty in Parkland: Sergeant Mark Renninger, Officer Ronald Owens, Officer Tina Griswold, and Officer Greg Richards. It was a short time later that Deputy Kent Mundell, Jr. of the Pierce County Sheriff's office died from wounds sustained in responding to a domestic violence call.

We have seen in Washington State the sacrifice of these men and women, all they do to keep us safe and all that their families go through when those who are in the line of duty pay the ultimate sacrifice.

I hope my colleagues will remember law enforcement across the country and in their individual States. I hope they will take time, as they see officers here in the Capitol and throughout the Washington, DC area, to thank them for their service. Let's commemorate the activities of those who have fallen and also remember those who are still working to protect us every single day.

I thank my colleague from Washington for this resolution, and I hope for its urgent passage today.

**THE PRESIDING OFFICER.** The Senator from Illinois.

**Mr. BURRIS.** Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

**THE PRESIDING OFFICER.** Without objection, it is so ordered.

#### CELEBRATING THE LIFE OF LENA HORNE

**Mr. BURRIS.** Mr. President, in 1933, a 16-year-old girl named Lena Horne joined the chorus at a famous nightclub in Harlem known as the Cotton Club.

This young woman was passionate about performing so she jumped in with both feet.

And she never looked back.

The following year, Lena Horne made her debut on Broadway. And not long after, she became the first African American performer to sign a long-term contract with a big Hollywood studio, MGM.

She blazed a trail. She knew that her talent could outshine the ugliness of racial prejudice so, in the 1940s, she became a major movie star.

But despite her success, Lena Horne never forgot her roots or the plight of those who were subjected to hatred and bigotry on a daily basis.

She knew that she was a role model and an authority figure—and she used her fame as a platform to raise these issues, and to fight against intolerance.

She partnered with First Lady Eleanor Roosevelt to pass anti-lynching legislation. After the Second World War, she worked with Japanese Americans who had suffered internment and discrimination.

And all the while, her star was on the rise.

In 1957, she recorded "Lena Horne at the Waldorf-Astoria" a record that would become the best-selling album by a female singer in the history of RCA.

During the civil rights movement, she stood with leaders like Dr. King at the famous march on Washington.

She spoke out for racial equality, and became involved with the NAACP and other groups.

And she never stopped doing what she loved: performing.

In 1981, she returned to Broadway in a one-woman show, which won a Tony Award, two Grammys, and endless critical acclaim.

And she kept creating original material well into the next decade.

**Mr. President,** Lena Horne departed this life only a few days ago on May 9 at the age of 92.

As a performer, her legacy is unsurpassed.

She rose to become one of the most successful entertainers of the last century, and blazed a trail for countless other minority performers to follow.

Her personal legacy is no less remarkable. She consistently lived out her values, and did not shy away from opportunities to stand up for what she believed in.

She embraced every chance to make a positive difference in the lives of others and that, more than anything, is what she will be remembered for.

Lena Horne left an indelible mark on this Nation. And that is why I am proud to join Senator GILLIBRAND in sponsoring a resolution in her honor.

I ask my colleagues to stand with us in celebrating the life of this remarkable woman—a trailblazer who achieved great success in the face of tall odds, and then used that success to better the lives of others.

Lena Horne is gone.

But in her classic recordings—in the lives she touched, the movies she made, and the change she helped to bring about she will always be with us.

I suggest the absence of a quorum.

**THE PRESIDING OFFICER.** The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

**Mr. BURRIS.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**THE PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. BURRIS.** Mr. President, in recent days, since the Chamber opened debate on Chairman DODD's financial reform bill, we have all heard a lot of talk about the irresponsible behavior on

Wall Street. We have heard about the recklessness that cost this country trillions of dollars in lost savings, not to mention 8 million American jobs. We have heard about the consumers, especially minority populations and the elderly, who have suffered a great deal as a result of this economic crisis.

I thank my colleagues on both sides of the aisle for joining in the debate about how to address these issues, and I am confident we can reach and find common ground.

Just yesterday, I came to the floor to voice my strong support for the Consumer Financial Protection Bureau that would be created under Chairman DODD's bill. I believe this bureau should be at the heart of any reform legislation—to end abusive practices, serve as an advocate for ordinary Americans, and make sure everybody can get a fair deal. It would even help to prevent a similar financial crisis from taking place in the future.

But we need to make sure our bill is about more than prevention. We need to be proactive about finding solutions for millions of Americans—especially minority individuals—who are hurting right now. We need to start by expanding access to credit.

Under the Dodd bill, the Secretary of the Treasury will be authorized to establish a multiyear program of cooperative agreements, financial agency agreements, and grants—all designed to make credit more available to low- and middle-income Americans. For the first time in years, our legislation would give ordinary consumers access to mainstream financial institutions and provide alternatives to those payday loan operations. It would help defray the costs of programs that make small loans so folks could find it easier to get the resources they need without incurring unnecessary risks.

Our Consumer Financial Protection Bureau would also play a significant role in making credit more available. Currently, 16 percent of minority households do not have bank accounts, compared with only 4 percent of White households. As a result, African Americans and other minorities are more likely to use payday lending services, some of which are questionable practices, to take advantage of their customers.

That is why our Consumer Financial Protection Bureau would have the authority to supervise large, nonbank financial companies to cut down on abusive tactics. It would also help enforce fair credit card laws, rein in automatic overdraft programs, and clarify the complex web of rate charges.

In short, this legislation would reduce or eliminate many of the factors that keep people away from banks. It would help raise financial literacy and establish reasonable terms and conditions for loans. At its core, it would significantly expand access to credit—

especially among those who continue to feel the worst effects of this economic crisis.

That is why I am proud to support the Wall Street reform bill that has been introduced by my good friend, the distinguished Senator from Connecticut, Chairman DODD. I urge my colleagues to join me in passing this important legislation.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 4019 AND 3987 TO AMENDMENT NO. 3739

Mr. DODD. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I may call up Senator WYDEN's amendment No. 4019 and Senator THUNE's amendment No. 3987.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant bill clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. WYDEN, for himself, Mr. GRASSLEY, Mr. INHOFE, Mr. BENNETT, Ms. COLLINS, Mr. UDALL of Colorado, Mr. BROWN of Ohio, and Mr. MERKLEY, proposes an amendment numbered 4019 to amendment No. 3739.

The amendment is as follows:

(Purpose: To establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to object to any measure or matter)

At the end of the amendment, insert the following:

**SEC. 1. ELIMINATING SECRET SENATE HOLDS.**

(a) IN GENERAL.—

(1) COVERED REQUEST.—This standing order shall apply to a notice of intent to object to the following covered requests:

(A) A unanimous consent request to proceed to a bill, resolution, joint resolution, concurrent resolution, conference report, or amendment between the Houses.

(B) A unanimous consent request to pass a bill or joint resolution or adopt a resolution, concurrent resolution, conference report, or the disposition of an amendment between the Houses.

(C) A unanimous consent request for disposition of a nomination.

(2) RECOGNITION OF NOTICE OF INTENT.—The majority and minority leaders of the Senate or their designees shall recognize a notice of intent to object to a covered request of a Senator who is a member of their caucus if the Senator—

(A) submits the notice of intent to object in writing to the appropriate leader and grants in the notice of intent to object permission for the leader or designee to object in the Senator's name; and

(B) not later than 2 session days after submitting the notice of intent to object to the appropriate leader, submits a copy of the notice of intent to object to the Congressional Record and to the Legislative Clerk for inclusion in the applicable calendar section described in subsection (b).

(3) FORM OF NOTICE.—To be recognized by the appropriate leader a Senator shall submit the following notice of intent to object:

"I, Senator \_\_\_\_\_, intend to object to \_\_\_\_\_, dated \_\_\_\_\_. I will submit a copy of this notice to the Legislative Clerk and the Congressional Record within 2 session days and I give my permission to the objecting Senator to object in my name." The first blank shall be filled with the name of the Senator, the second blank shall be filled with the name of the covered request, the name of the measure or matter and, if applicable, the calendar number, and the third blank shall be filled with the date that the notice of intent to object is submitted.

(b) CALENDAR.—Upon receiving the submission under subsection (a)(2)(B), the Legislative Clerk shall add the information from the notice of intent to object to the applicable Calendar section entitled "Notices of Intent to Object to Proceeding" created by Public Law 110-81. Each section shall include the name of each Senator filing a notice under subsection (a)(2)(B), the measure or matter covered by the calendar to which the notice of intent to object relates, and the date the notice of intent to object was filed.

(c) REMOVAL.—A Senator may have a notice of intent to object relating to that Senator removed from a calendar to which it was added under subsection (b) by submitting for inclusion in the Congressional Record the following notice:

"I, Senator \_\_\_\_\_, do not object to \_\_\_\_\_, dated \_\_\_\_\_. The first blank shall be filled with the name of the Senator, the second blank shall be filled with the name of the covered request, the name of the measure or matter and, if applicable, the calendar number, and the third blank shall be filled with the date of the submission to the Congressional Record under this subsection.

(d) OBJECTING ON BEHALF OF A MEMBER.—If a Senator who has notified his or her leader of an intent to object to a covered request fails to submit a notice of intent to object under subsection (a)(2)(B) within 2 session days following an objection to a covered request by the leader or his or her designee on that Senator's behalf, the Legislative Clerk shall list the Senator who made the objection to the covered request in the applicable "Notice of Intent to Object to Proceeding" calendar section.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. THUNE, proposes an amendment numbered 3987 to amendment No. 3739.

The amendment is as follows:

(Purpose: To provide for increased Congressional oversight through a sunset of the authority created under title X related to the creation of the Bureau of Consumer Financial Protection)

On page 1208, between lines 12 and 13, insert the following:

(f) EXPIRATION.—Notwithstanding any other provision of this Act, the Bureau, and the authority of the Bureau under this title, shall terminate 4 years after the date of enactment of this Act, unless extended by an Act of Congress.

Mr. DODD. Mr. President, I ask the senior Senator from Oregon, does he want to be heard on his amendment?

Mr. WYDEN. Yes.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 4019

Mr. WYDEN. Mr. President, thank you very much.

Let me particularly express my appreciation to the chairman of the full committee, Senator DODD. He has been extraordinarily patient, and especially with the large bipartisan coalition that has come together behind this amendment to ensure that finally the secret hold in the Senate—one of the most powerful tools a Senator has in the Senate—is no longer.

I say to the Presiding Officer, you have done very good work on this issue, along with a number of colleagues on both sides of the aisle. The reason we feel so strongly is because the secret hold in the Senate is an indefensible violation of the public's right to know.

We all understand every time we are home in our States how frustrated people are with the way business is done in Washington, DC. One way to send a message we are going to start doing business differently is to throw open the doors of government and to make sure nominations and legislation that is important gets debated in public, and people actually get to see the give-and-take of colleagues on both sides of the aisle—Democrats and Republicans—that is essential to making good policy.

Most Americans have no idea what a secret hold is, and I have said on many occasions that my guess is a lot of them think this is some kind of hair spray or something. But the fact is, this is an extraordinary tool that Senators have to effect the lives of our people, and it ought to be something that is exposed to public scrutiny and public accountability.

When asked why he robbed banks, Willie Sutton said: That is where the money is. In the Senate, secret holds are where the power is.

What our bipartisan group has said is, it is wrong for a Senator to block a piece of legislation or a nomination in secret by simply telling the leader of their party of their desire. What this has meant—and there have been scores and scores of these secret holds in recent years—is that one person, without any public disclosure whatsoever, can keep the American people from even getting a small peek at what is public business. That is not right, and it is time to eliminate secret holds.

In 2007, Senators on both sides of the aisle sought to finally bring some sunlight to this practice. Senator GRASSLEY, the distinguished Senator from Iowa, and I have worked on this for over a decade. Unfortunately, a number of loopholes have been developed since that provision was accepted, and today too much Senate business is done in the dark, unaccountable, and away from public scrutiny and public exposure.



This amendment closes the loopholes, and it is going to be enforced. With this approach, every hold—every single hold—is going to have a public owner within 2 days.

I want to close by just briefly describing how this would work. Under this proposal, if a Senator puts a hold on a bill or a nomination, they are required to submit a written notice in the CONGRESSIONAL RECORD within 2 days. When that bill or nomination comes to the floor, and any Senator objects to its consideration on the grounds of a hold, one of two things is going to happen: either the Senator placing the secret hold is going to have their name publicly released, or the Senator who objected on their behalf is going to own that hold. That Senator will own it. Their name is going to be published in the congressional calendar.

So for the first time—after all of these months and months of debate about secret holds in the Senate—there is going to be public pressure and peer pressure on those who try to do Senate business behind closed doors.

Two last points with respect to reforms included in this amendment: The proposal eliminates the ability that a Senator now has to lift a hold before the current 6-day period expires and never have it disclosed.

The Presiding Officer and I have talked a bit about this matter of revolving holds in a 6-day period. This has been a huge abuse. It has allowed a Senator to do business in secret and never have it recorded. With this new bipartisan proposal, if a Senator places a hold, even for a day, even for a minute, the hold is going to be disclosed.

Finally, the proposal makes it harder for a group of Senators to replace revolving holds on a nomination or bill. With the 6-day time period, a group of Senators can pass a hold from one colleague to another and never have it discussed. By requiring all holds to be made public, it will be much more difficult to find new Senators to place revolving holds.

The last point: It seems to me, in addition to taking a step the country feels very strongly about, which is doing more public business in public, this is being done in a bipartisan way. This is being done in a way that can bring Democrats and Republicans together, in a way that doesn't involve a lot of fingerpointing. I wish to mention a number of colleagues: the Presiding Officer, the distinguished Senator from Virginia, has been very constructive and has had many conversations with me about this; Senator INHOFE, Senator COLLINS, and Senator GRASSLEY. Senator INHOFE has been talking about this issue with me and others for almost a decade as well. Senator BENNET, Senator MERKLEY, Senator WHITEHOUSE, all of these Senators, a large,

bipartisan group come together to urge the passage of this amendment. I want to single out too, though, for particular commendation, Mrs. MCCASKILL, the Senator from Missouri, because we wouldn't be on this floor today had not the Senator from Missouri prosecuted this cause relentlessly. She has brought to light the number of holds. When we have talked about it, she has made the point that this has gone on on both sides of the aisle. She deserves great credit for this reform being made today.

Let me also thank Senator COBURN—Dr. COBURN—of Oklahoma. He has been very involved in reform issues for many years. We are looking forward to an additional reform he is going to be advancing that I look forward to sponsoring.

I wrap up only by way of trying to highlight that after the Senate has spent a lot of time discussing secret holds over the last few months, on a bipartisan basis, the Senate comes together today with an approach that has actually brought Senators together and is going to ensure that every single secret hold is going to have an owner. That is going to be a big change. It is high time. The public deserves to have public business actually done in public, and with the adoption of this amendment, that will be done.

The chairman of the full committee has been very gracious to me. I wish to ask for the yeas and nays at this time, and I wish to engage the chairman of the full committee in a colloquy. The chairman has been very helpful with respect to scheduling this.

Is it the pleasure of the chairman of the committee that now, having debated this, we set it aside for a vote later in the day?

Mr. DODD. My pleasure is we have the vote on the Wyden-Grassley amendment. So whenever that can occur, I am for it. We can do it right now. I am for it now.

Mr. WYDEN. I am ready to go to the yeas and nays.

Mr. President, I ask for the yeas and nays.

Mr. President, I withdraw that request. I thank the chairman of the committee.

Mr. DODD. It is not my sole decision, of course.

Mr. WYDEN. The chairman of the full committee has been very patient with us. He has done an extraordinary amount of work. Let us, with that request, hold off on the yeas and nays, and I ask the chairman that it be scheduled with the next group of votes.

Mr. DODD. I can say to my colleague from Oregon that I expect momentarily we will work out some time agreements and we will schedule a vote fairly quickly.

Mr. WYDEN. I thank the chairman.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 3987

Mr. THUNE. Mr. President, I understand amendment No. 3987 has been called up by the manager of the bill, and I think it has been made pending, so I wish to speak to it. I hope at the appropriate time we will be able to get an agreement for a vote on it, and I will ask for the yeas and nays following my remarks.

This amendment is a very simple, straightforward one. It is one paragraph long. It is not complicated. What it essentially does is it sets a sunset date for the newly created bureau of consumer protection, allowing Congress to reevaluate the bureau after 4 years.

I think most Americans, if they knew we were creating a big new bureaucracy here in Washington, DC, would want us to have some oversight. They would want some accountability. They would want to make sure their tax dollars are being spent wisely and well.

This new consumer protection bureau will have lots of new Federal employees here in Washington, DC. It will spend hundreds of millions of dollars every single year. Yet Congress has literally no oversight or authority with regard to this new bureau.

It seems to me, at least, that when we have a fiscal situation as we have today in this country where we are running trillion dollar deficits literally every year, where our debts are continuing to pile up to the tune of doubling our Federal debt, publicly held debt in 5 years, tripling it in 10 years, we would want to do something to make sure that any new expenditure of taxpayer dollars is spent efficiently, effectively, and that we are being as frugal as we possibly can.

I, for one, would not like to see us go down this path. I don't think creating a huge new bureaucracy here in Washington, DC, is necessary. I think we can address the issue of consumer protection through existing agencies and authorities. Frankly, I wish to see this particular title in this legislation go away entirely, but it doesn't look as though that is going to happen. We offered an amendment earlier this week that would have been a substitute for this consumer protection title in the bill and addressed it in what we think is a more reasonable way, but that was voted down.

My amendment simply says that 4 years from now, once this bureau has been created, let's have it sunset, and then, if necessary, Congress can come back and reauthorize it. Congress then would have an opportunity to fine-tune it, perhaps. Congress would have an opportunity to look and see if it is performing the function it was intended to perform; whether it is doing it in an efficient and cost-effective way. Clearly, we have a responsibility to the American taxpayer to have some accountability with this new bureaucracy we



are going to create as a result of this legislation.

It is straightforward. We have other agencies of government that we do this with—that we sunset, that we reauthorize. We just did that with the CFTC, which is an agency that was reauthorized during the farm bill last year. When we did that, we were able to fine-tune its mission. It also gives the opportunity to reorganize an agency, if it has to go through a reauthorization process and a sunset process. I don't think it is asking too much, when we are talking about literally hundreds of millions of dollars annually and what would appear to be thousands of new Federal employees in this new agency, and what would also appear to be incredibly broad and vast new powers and authorities that will be unchecked because there isn't any accountability to the Congress—Congress is not going to appropriate annually as we do with most agencies the power of the purse. This is all going to be run through the Federal Reserve. Yet it is taxpayer dollars that are at risk here. It is taxpayer dollars that are being used to finance this new bureaucracy.

I hope my colleagues will be able to find their way to support this amendment. I think it is a reasonable approach. Again, I don't think it is asking too much. The American taxpayers are paying the bills every year for this government and are having to deal with the burden of debt we are piling on them because of the spending going on in Washington. Of course, if you look at what we are spending this year and what we spent last year in the Federal Government, much of it was borrowed. Out of all the spending last year, about 43 cents out of every dollar was borrowed. This year it is about 39 cents out of every dollar. When we are running those kinds of deficits and piling up that kind of debt with this kind of spending going on in Washington and the fiscal problems we have as a Nation, it makes perfect sense to me. I think it makes perfect sense to the American taxpayer. If we are going to create a huge new bureaucracy—which I said I don't believe is necessary, but, nonetheless, if it is going to happen in this legislation—let's take a look at this again 4 years from now. Let's allow it to sunset and allow us to go through a process where we reauthorize, reevaluate and review and see if it is functioning the way it is intended, and whether these authorities and powers created by this new bureaucracy is what the American people want to see happen.

One final point I will make. There are lots of entities out there other than banks that are worried about this particular title of the bill because of the rulemaking authority that exists. We have auto dealers, jewelry businesses, furniture stores, orthodontists, and lots of small businesses that are con-

cerned they are going to be covered by the reach of this new agency with these broad new authorities with very little accountability and oversight by the Congress. That is a concern to a lot of small businesses to whom we look to create the jobs and, hopefully, initiate an economic recovery in this country and get the economy growing and back on track. This, in fact, could put lots of new burdens, lots of new bandaids, lots of new costs on many of these small businesses. That is yet another reason why I believe this is a bad idea in the first place, but at a minimum we ought to allow it to sunset so we have an opportunity to review it and reevaluate it and make some decisions with regard to its future 4 years from now.

It is very straightforward. It is one paragraph long. Sunset the Bureau of Consumer Financial Protection and allow Congress to reevaluate that bureau after 4 years.

I hope my colleagues will support this amendment. I ask for the yeas and nays and would hope at the appropriate time to be able to have a recorded vote. I yield the floor.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The Senator from Illinois.

AMENDMENT NO. 3989 TO AMENDMENT NO. 3739

Mr. DURBIN. Mr. President, I am hoping that later this afternoon there will be a unanimous consent request that relates to an amendment I have introduced, amendment No. 3989, and I wish to take a few minutes now since there is no one else seeking recognition on the floor to describe this amendment in the hopes that when it comes up later, we can move to it and to a vote very quickly.

I have spoken on the floor of the Senate several times about the amendment because it is complicated in one respect. This amendment relates to the fees charged by credit card companies such as Visa and MasterCard to the retailers and businesses that accept the credit cards. So if you are a customer of a shop and you purchase something, you present a credit card. There are then two transactions taking place, at least. One transaction is between you and your credit card company, because you put the credit card out there and you have to pay the bill later on. The other transaction relates to the business, the shop that accepts your credit card. By accepting your credit card, they also accept an obligation to pay the credit card company or the bank issuing the credit card. It is called an interchange fee. There is another one called a swipe fee. So the credit card company is getting paid both ways. They get paid by the customers who pay interest on outstanding balances on their credit cards, and they get paid by the retail establishments that accept the credit cards. The credit card companies have a lucrative business going on both sides of the transaction.

This amendment I am speaking about relates not to you as a customer owning a credit card, but rather to the shop or retail establishment that accepts the credit card. What is a reasonable amount for them to pay?

There are two major types of credit cards. One is a credit card and the other is a debit card. A credit card is basically that. You are buying on credit with the promise to pay when your monthly bill comes around. The debit card is different because it takes the money directly out of your checking account and gives it to the shopowner. They are different in that, No. 1, there is more risk, because people may not pay their credit card balance at the end of the month, so risk is associated with it; and in the other there is very little, if any, risk. If there is no money in the checking account, then it isn't going to be paid to the shopowner. It is a very simple transaction much like writing a check and the bank honoring the check.

My amendment addresses the interchange fee. That is the amount paid by the retail establishment to the credit card company when a customer presents a credit card.

The two major credit cards in America are Visa and MasterCard. They account for over 80 percent of the credit and debit card business in the United States. They are the giants in America. There are others—Discover, American Express, and others. But the two, Visa and MasterCard, are the two big kids on the block. They have established legal arrangements with the businesses that accept their credit cards. It is those legal arrangements we are questioning with this amendment which I am going to propose later in the day.

This amendment will help small businesses, merchants, and consumers by providing relief from high interchange fees for debit card transactions. We are focusing on debit card transactions because those are the ones that have much less, if any, risk involved to them.

On the floor of the Senate, we are working on a bill to prevent the big banks from basically rigging the financial system in a way that helps Wall Street and hurts the shops on Main Street. If we are going to look at the rigged financial systems that hurt small businesses, we have to include the credit and debit card industries.

Credit and debit cards are rapidly replacing cash and checks in the American economy. There are over 1 billion credit and debit cards in America. Think of that: 300 million people and 1 billion credit and debit cards. That gives you an idea of the number of cards people own.

Last year, Americans conducted \$1.7 trillion in transactions on credit cards and \$1.6 trillion on debit cards, which are becoming more and more popular. Credit and debit cards are now used in

more than half the retail sales in the United States of America. Yes, being able to pay with plastic is a great convenience, but there is another reality. The shift from cash and checks to credit and debit means that the way we do business in America is increasingly falling under the control of these two giants of the credit and debit card industry—Visa and MasterCard.

These card networks dominate the credit and debit industries, as I mentioned earlier. They are used in 80 percent of all such transactions. Unfortunately, these two companies are looking for profits, and they are not always looking out for the best interests of the merchants, the small businesses, the retail businesses or the consumers. Interchange fees are a classic example.

A lot of people in Congress do not want me to bring up this issue. They have told me this is the wrong bill to talk about it. I think not. I tried to bring it up under credit card reform and they said: No, Senator DURBIN, that is the wrong bill. Now I want to bring it up on the Financial Stability Act, and they say: No, it is the wrong bill. I do not think it is. I do not think there is a right bill with an issue that is this controversial and complex. But it is an important enough issue that we should address it and we should vote on it.

Visa and MasterCard require interchange fees every time someone uses a debit or credit card. The fees range from 1 percent to 3 percent of the amount of the transaction. It is a convoluted system. Visa and MasterCard charge interchange fees to the merchants, but instead of keeping the money, they pass the money to the banks that issue the Visa and MasterCard. Why do they do this? Some of it is to help the banks cover the cost of conducting the transaction. Most of it is to induce banks to issue more Visa and MasterCard credit cards.

Around \$50 billion in interchange fees were collected in 2008, with about 80 percent of that money going to 10 of the largest banks in America—80 percent of it. The card-issuing banks use this interchange revenue to pay for ads, to offer rewards, to issue more cards. Not surprisingly, the revenue also helps banks make large profits and give bonuses to their CEOs. Banks love the money, and they love the current interchange system.

As interchange fees go up, it means banks get more money to issue more cards and increase their profits. Rising interchange fees also benefit Visa and MasterCard because it means more cards will be issued, and with each card comes another fee, called a network fee, every time the card is used.

What a great system—as long as interchange fees are increasing, both the card networks and the banks could not be happier.

The troubling thing about interchange fees is they are deducted from

every transaction left for the seller. This is very different from cash and check systems. When a business makes a cash sale, it gets full payment in hand, and the Federal Reserve requires the checks clear at their full face value. So a \$100 sale by cash or check is a \$100 sale. But when a business makes a \$100 sale by credit or debit card, the banks and their card networks take a cut. The business may end up with only \$98 out of \$100 that is on the debit card, maybe less. The business is getting shortchanged the actual face value of the transaction.

To make up for interchange fees, businesses are forced to raise their prices, cut back on expenses or something such as that. They may even cut back on employees to keep up with these interchange fees. In a normal market, you see banks competing with one another to do business with the restaurants, shops, and the merchants. With that competition, things would be a lot better. But, in fact, the real world of credit cards with the two giants, Visa and MasterCard, is a world where there is little or no competition.

The credit and debit card markets are not normal. Visa and MasterCard unilaterally set interchange fee rates that apply to all banks within their card networks. There is no negotiation between the banks and merchants over reducing interchange rates. Individual businesses in New Hampshire, Illinois, New York, and all across America have no bargaining power with these giant credit card companies. They set the rules, they fix the fees, take it or leave it.

Visa and MasterCard have every incentive to continue to raise interchange fees because that additional revenue makes it more likely banks will issue more cards.

What can businesses do to stop these rising interchange fees? Almost nothing. Some—very rarely—businesses say they do not accept credit or debit cards, but the vast overwhelming number of businesses do. They have to. It is part of doing business in America.

Visa and MasterCard have 80 percent of the credit and debit market. Merchants have to use them. They tell the merchants: If you want to take our card, you live with the fees we charge. That is not a competitive situation at all.

This current system is not sustainable. If left alone, it is going to get worse for small businesses that face higher fees, for consumers who face higher prices, and for everyone but the banks and credit card networks.

Here is the most unbelievable part. Businesses in every other country in the world get a better interchange deal from Visa and MasterCard than businesses in the United States of America. I told that to someone, and they said: It sounds like pharmaceutical drugs, where you can buy the U.S. pharma-

ceutical drug more cheaply in Canada, Mexico, and Europe. It is the American consumers paying more.

The same thing is true when it comes to Visa and MasterCard. They charge American businesses higher interchange fees than they charge businesses around the world. Visa and MasterCard already charge the highest interchange rates in the world to American businesses, and the rates keep going up.

There was a GAO report last year. It found that Visa and MasterCard—listen to this—had voluntarily reduced the interchange fees on businesses in other countries. Just last month, Visa voluntarily lowered many of its European debit rates by 60 percent—unilaterally lowered them by 60 percent. What happened in the United States? They raised the fees by 30 percent on American businesses trying to fight their way out of this recession.

These huge credit card companies had some sympathy for Europe but not for America. That is unacceptable, and we need to do something about it. That is why I offer this amendment.

The amendment requires that debit card interchange fees be reasonable and proportional. I do not pick a number. I do not set a fee. We want to make sure they are proportional and reasonable to the cost incurred in processing the transaction.

Debit card transactions are fundamentally different from credit card transactions. All that happens in a debit card transaction is you deduct money from your bank account. It is akin to writing a check. That is why debit cards are advertised as check cards.

Right now in the United States, there are zero transaction fees deducted when you use a check. The Federal Reserve does not allow transaction fees to be charged for checks. But when it comes to debit cards, Visa and MasterCard charge high interchange fees just as they do for credit. Why? Because they can get away with it. There is no regulation, there is no law, there is no one holding them accountable.

An estimated \$20 billion was collected from businesses and consumers across America in debit interchange fees last year—\$20 billion. That money comes from the bottom line of every small business in every town in America that accepts payments by debit card.

My amendment will bring some reasonableness to the system. It tells the Federal Reserve to ensure that debit fees are reasonable and proportional to cost and not just a way of generating huge profits at the expense of small businesses. If we can reduce debit interchange fees to a reasonable level, it would be similar to a tax break on every debit card sale a merchant makes. Think how much that would help small businesses on Main Street.

One of my colleagues said: Even if the businesses save money and do not have to pay more to the credit card companies, what makes you think they are going to give the consumers a break with it? They may take it in profits. They can. There is no way to police that.

I just had a press conference with the National Association of Convenience Stores. We know them as the small shop on the corner that has some groceries and maybe candy bars, slurpies—whatever you want to stop and buy. It also turns out these convenience stores sell 82 percent of the gasoline sold in America. They are part of the same association.

I said to the man who ran the association: What guarantee do we have, if we reduce the amount you have to pay the credit card companies, that the consumers will feel it? He said: We are the only business that posts prices right out on the sidewalk for all the motorists to see of our most popular item, our gasoline. We fight over pennies. If we can reduce it a penny or two a gallon, we are going to attract more customers. If we can save money when it comes to these interchange fees, it puts us in a more competitive position to bring in more customers to buy gasoline. That is one side of the argument that could inure to the benefit of the consumers. There are no guarantees.

In the world I am talking about, you get to shop around. As the customer, you pick the convenience store, you pick the grocery store, you pick the prices. When it comes to the owners of the store using credit cards, they do not get to shop. They get a “take it or leave it” from MasterCard and Visa and have no bargaining power whatsoever.

Many Senators are worried about community banks that also issue credit cards. One thing I hear over and over from my colleagues is we do not want to hurt smalltown banks, regional banks, banks that are not the big boys on Wall Street that issue credit cards. That is why I amended my amendment and said we will exempt all banks with less than \$10 billion in assets. If you have more than \$10 billion in assets, it would be hard to call you a community bank. You are a much bigger operation.

Under my amendment, Visa and MasterCard could continue to set the same debit interchange rates they do today for small banks and credit unions. Ninety-nine percent of banks, 99 percent of credit unions have assets of less than \$10 billion. Of all the credit unions in the United States, only three have assets over \$10 billion.

One of my colleagues said: I am very close to the credit unions. I say to my colleague: I am sure you are also close to the small businesses in your State, and in this situation, 99 percent of the credit unions, virtually every credit union in your State would be exempt

from this law, but your small businesses may benefit from it because the largest banks have the largest impact on credit card interchange fees.

My amendment would subject the biggest banks in America, the ones that issue the vast majority of debit cards and get the vast majority of interchange fees, to a reasonable fee requirement.

I hear the so-called independent community banks of America oppose my amendment. I could not understand it. If I exempted banks with less than \$10 billion, that would exempt 99.8 percent of all of the so-called community banks in America. Why do they still oppose it? I have learned why. The Independent Community Bank Association is a major issuer of credit and debit cards. They are one of the top 25 credit card issuers in the United States and are the 23rd largest debit card issuers. They make a lot of money off interchange fees. They do not have clean hands in this debate. They are, in fact, conflicted in this debate. They are not arguing on behalf of small banks. Sadly, they are arguing on behalf of their own trade association credit cards and the fact they receive these generous interchange fees.

ICBA, so-called Independent Community Bankers Association, profits from the unfair swipe-fee system just like the biggest banks in America today. That is a conflict of interest.

Is this Washington trade association truly representing small banks that will get higher interchange fees than the big banks under my amendment or is it just interested in protecting its own revenue stream? I called back to some of my friends in downstate Illinois, where I come from—small town, small city America—and I talked to them about this. I said: I am exempting banks with assets of less than \$10 billion.

They said to me: Well, that is perfectly reasonable. It won't touch any community banks you know in downstate Illinois.

That is an indication to me that this trade association out here is not speaking—really speaking—for community banks when they say they oppose this amendment as amended.

My amendment also aims to make sure Visa and MasterCard can't block merchants from offering discounts to their customers. For example, Visa has a provision in its contract with all of the businesses that accept it that the business cannot offer a customer a discount to use a competing credit card, such as a MasterCard. MasterCard has a similar provision. So they are protecting one another. You can't say, for example, that your shop prefers Visa cards because the Visa card charges you less as a business. They prohibit that back and forth.

Some people say: Well, maybe that is okay. Would it be okay if we take it to

the next example: It is like Coca Cola saying that a store can sell Coke but only if it agrees not to sell Pepsi at a lower price, and it is like Pepsi saying the same thing. Who loses in that deal? I can tell you who loses—the customer, because there is no competition and the business because it does not attract the customers with competition and lower prices. Translate that into credit cards, and that is what Visa and MasterCard are doing today. My amendment strips these provisions from Visa and MasterCard contracts so merchants can offer discounts without penalty.

My amendment would also allow merchants to offer discounts for customers who pay by cash, check, or debit card as opposed to credit cards. Sometimes, Visa and MasterCard threaten to fine merchants who offer discounts for these cheaper forms of payment. My amendment would end those threats once and for all. This type of effort to promote noncompetitive practices should not be allowed, and my amendment would bring it to an end.

Nothing in my amendment would allow merchants to discriminate against cards issued by small banks and credit unions. That was another comment. They said, well, listen, DURBIN, if your amendment passes, they will say: This establishment will not accept credit cards from a small bank that issues these cards. We make it express in the amendment that we are offering that you cannot discriminate against the issuer, that is, the bank, of the credit card. You can only say you prefer one network over another because the interchange fees on your business happen to be lower, but you can't pick out banks. You may say: We prefer Visa or MasterCard, but you cannot pick them out by banks.

Interchange fees have real-life consequences on businesses across America. I have been receiving calls and letters from small business owners all over the State asking Congress to fix this rigged interchange system. Last week, my office received petitions signed by 92,000 Illinois consumers seeking to reform credit and debit interchange fees. The amendment has also been endorsed by 203 national and State trade associations representing every type of business you can think of, and it has been endorsed by Americans for Financial Reform, a coalition of over 250 consumer, civil rights, labor, retiree, and business groups.

If you talk to Visa, MasterCard, and the biggest banks, all you will hear is how well the current system is working and how we ought to keep our hands off it. But if you talk to the local grocery store owner or the person who owns the local restaurant in your hometown or the man who owns the gas station or the family who runs a local diner—small businesses and merchants across

America—they will tell you stories about dealing with Visa and MasterCard and what it has meant to them in their business.

This afternoon, Art Potash, who owns some grocery stores in Chicago, came by my office. We had a little press conference. He talked about the competitiveness of the grocery business, where the return is usually 1 or 2 percent and he ends up paying 2 to 3 percent back to the credit card companies for people who use credit and debit cards. He is stuck because if he doesn't accept credit and debit cards, he is really trying to fight the tide. More and more people are using them. But he is paying a fee, which is cutting right into the bottom line. With this interchange fee at a more reasonable level, he would be able to expand his business and hire more people. Wouldn't that be a good outcome in an economy where we are desperate to deal with unemployment?

Let's put Main Street above the big banks and credit card companies. I ask my colleagues to help me in passing this amendment.

Madam President, I have received letters and comments from merchants and businesses across the State of Illinois supporting my amendment for interchange reform. I have received them from James Phillip of Phillip's Flower Shops in Westmont, IL; Robert Jones, president of American Sale patio store in Tinley Park, IL; George LeDonne, owner of LeDonne Hardware in Berkeley, IL; Russ Peters, owner of Mobile Print in Mount Prospect, IL; Jim Dames, owner of Snackers Cafe in Western Springs; George Preckwinkle, a friend of mine and president of Bishop Hardware and Supply, with 10 locations in central Illinois; Paul Taylor, owner of Taylor's Gifts and Bonsai; Rattanaporn Deudomchan, owner of the King and I Thai Restaurant in Oak Park; Yvonne Francois, who owns Queenie's Court, a restaurant in the food court at the Ford City Mall in Chicago; and John Gaudette, director of the Illinois Main Street Alliance, representing 450 small businesses across the State.

I ask unanimous consent to have printed in the RECORD at this stage of the debate some of the comments and letters which have been sent to me.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICANS FOR FINANCIAL REFORM,  
Washington, DC., May 13, 2010.

Senator DURBIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR DURBIN: We write on behalf of Americans for Financial Reform, an unprecedented coalition of over 250 national, state and local groups who have come together to reform the financial industry. Members of our coalition include consumer, civil rights, investor, retiree, community, labor, religious and business groups as well

as Nobel Prize-winning economists. We support a strong Consumer Financial Protection Bureau and oppose weakening amendments to the Restoring American Financial Stability Act, S. 3217.

Durbin Amendment #3989 is a move towards helping Main Street.

Americans for Financial Reform supports the Durbin Reasonable Fees and Rules for Payment Card Transactions Amendment #3989 because it is good for merchants and good for consumers. The bank payment networks, Visa and MC, impose high, nonnegotiable interchange fees for accepting credit and debit cards and use other unfair contractual practices that mean all consumers pay more at the store and more at the pump, whether they pay with cash or plastic. The bulk of the \$48 billion estimated yearly take from interchange fees flows to the largest Goliath banks. Giving merchants more flexibility against unfair bank and card network practices will result in more payment choices for consumers and lower merchant costs.

For information, please contact Ed Mierzewski.

Sincerely,

AMERICANS FOR FINANCIAL REFORM.

MAY 12, 2010.

TO THE MEMBERS OF THE UNITED STATES SENATE: The undersigned organizations, representing a diverse array of interests including small business, state, organizations, dentists, retailers, restaurants, grocery stores, convenience stores and others, write in strong support of S. Amdt. 3989, sponsored by Senator Richard Durbin, regarding interchange fee reforms to S. 3217, the Restoring American Financial Stability Act of 2010 now before the Senate. Unless relief is granted, interchange "swipe fees," which amounted to \$48 billion in 2008, will continue to rise as card companies and issuing banks seek even higher profits, primarily on the backs of our organizations' members. This comes at a time when businesses, state agencies and charities—all of whom pay interchange fees—are struggling to help the economy grow again and when consumers can least afford pricing increases.

Despite Congress' efforts to reign in abusive practices, credit card companies continue to take advantage of a major loophole in financial regulation. In fact, they announced interchange rate increases just months after the passage of the Credit Card Accountability, Responsibility and Disclosure Act of 2009 (Credit CARD Act), effectively circumventing many of the reforms instituted by Congress. More recently, Visa Europe announced last month that it was voluntarily dropping debit card interchange fees to 0.2% in Europe, a decrease of 60%, while earlier in the month Visa increased rates on similar transactions in the United States by some 30%. Quite literally, at a rate of approximately 2.0% on debit card interchange fees, which is 10 times higher in the United States, American businesses are subsidizing European transactions.

Simple, common-sense reforms are needed to correct this market imbalance, which would give our organizations' members additional tools to manage our costs related to interchange fees. First, the amendment would give the Federal Reserve the authority to conduct an open and fair rulemaking—without prescribing an outcome—in order to develop regulations to ensure that interchange fees imposed on debit card transactions be "reasonable and proportional" to the cost incurred in processing the trans-

action. Debit transactions are not an extension of credit and are directly drawn from a consumer's checking account, yet the interchange rate on debit transactions continues to increase. Small banks, credit unions and thrifts with assets of under \$10 billion would be carved-out from these rules, meaning that 99% of all banks, 99% of all credit unions, and 97% of all thrifts would be exempt, allowing them to continue to receive the same interchange fees they receive today.

Second, the amendment would prohibit anti-competitive restrictions on discounts and the setting of minimum transaction levels, providing entities with the freedom to choose their preferred method of payment. Under current rules, any business, charity or government agency that accepts credit or debit cards is prohibited from setting a minimum transaction level, such as \$3, even though the entity may actually lose money on the transaction because of slim profit margins. Visa and MasterCard can and do impose fines on small businesses up to \$5,000 per day for such offenses, which has the effect of ensuring that the card companies and big banks turn a profit even if the small business loses money on the transaction. In addition, the amendment allows businesses to incentivize the use of one card network over another (e.g., a discount may be provided for Discover cards if they carry a lower interchange rate) and allows businesses to offer discounts on certain forms of payment (e.g., a discount may be offered for cash, check, PIN debit, etc., all of which carry lower rates than credit cards). This amendment would not enable merchants to discriminate against debit cards issued by small banks and credit unions. Visa and MasterCard require merchants to accept all cards within their networks, and this amendment does not change that requirement.

By providing these and other important reforms, the Congress will send a strong message that it supports modernizing and updating our financial payments systems while providing relief to businesses owners who have seen their interchange credit card assessments skyrocket—for many businesses exceeding the cost of providing health care benefits to their employees.

In closing, we are very concerned about the unintended consequences of not addressing interchange fees will have on our industries as the card companies and big banks continue to seek higher profits as a direct result of financial regulatory reform legislation, and other failing portfolios, through ever increasing interchange fees. We ask that you support S. Amdt. 3989, sponsored by Senator Durbin, to the Restoring American Financial Stability Act of 2010 when it comes up for a vote in order to ensure that financial regulation reform is comprehensive and complete. We look forward to working with you and your staff to incorporate these meaningful, common-sense reforms as part of the financial regulatory reform legislation.

Sincerely,

NATIONAL TRADE ASSOCIATIONS.

American Apparel & Footwear Association, American Association of Motor Vehicle Administrators, American Beverage Licensees, American Booksellers Association, American Dental Association, American Home Furnishings Alliance, American Hotel & Lodging Association, American Nursery & Landscape Association . . .

Mr. DURBIN. Madam President, I see one of my colleagues on the Senate floor, so I am going to yield. And I say to my colleagues, I am hoping this amendment comes up this afternoon. I

will take less time to describe it then, but I wanted to use this time to put my full statement in the RECORD. I will just say to my colleagues that there won't be another amendment that we will consider this week or in the near future of such importance to small businesses across America. Let's stand up for these small businesses and give them a fighting chance against giants in the credit card industry. It is only fair, and it is a good way to revive this economy and put people back to work.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. SHAHEEN). The clerk will call the roll.

The assistant editor of the Daily Digest, proceeded to call the roll.

Mr. KOHL. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Madam President, I rise today to speak about amendment No. 3788, an amendment essential to protecting consumers. As we work to rein in the excesses of Wall Street and shore up our economy, we must do all that we can to ensure consumers can get discount prices from retail stores at the very time when they need them the most.

My amendment will restore the nearly century old rule that made it illegal under antitrust law for a manufacturer to set a price below which a retailer could not sell a product—a practice known as “resale price maintenance” or “vertical price fixing.” This rule was overturned in June 2007 by a narrow 5-4 majority of the Supreme Court in the Leegin case. My amendment is identical to the Discount Pricing Consumer Act—a bill which has 10 cosponsors and passed the Judiciary Committee last month. Our bill has been endorsed by 39 State attorneys general, the leading consumer groups, as well as numerous antitrust experts, including former FTC Chairman Pitofsky.

For 96 years until the Leegin decision the rules were clear. Manufacturers could not set a retail price, and retailers could not be prevented from discounting. Millions of consumers saw the benefits of discount prices every day. Thousands of retailers all across the country were able to discount their products and sell their goods at the most competitive prices. Many credit the ban on vertical price fixing with the rise of today's low price, discount retail giants—stores like Target, Best Buy, Walmart, and the Internet sites Amazon and eBay, which offer consumers a wide array of highly desired products at discount prices.

But the consequences of the Leegin decision should worry all of us. Allowing manufacturers to set retail prices threatens the very existence of discounting and discount stores, and leads to higher prices for consumers. In his

dissenting opinion in Leegin, Justice Breyer cited economic studies that estimated that if only 10 percent of manufacturers engaged in vertical price fixing, retail bills would average \$750 to \$1,000 higher for the average family of four every year.

And the experience of the last 3 years since the Leegin decision is beginning to confirm our fears regarding the dangers of permitting vertical price fixing. The Wall Street Journal has reported that more than 5,000 companies have implemented minimum pricing policies. Internet monitors scour the Web at the behest of manufacturers to prevent discounting. And there have been many reports of everything from consumer electronics and video games to baby products and toys, rental cars and bathtubs being subject to minimum retail pricing policies.

My amendment is quite simple and direct—it merely returns us to the state of the law the day before Leegin was decided. It would simply add one sentence to section 1 of the Sherman Act—a statement that any agreement with a retailer, wholesaler or distributor setting a price below which a product or service cannot be sold violates the law. No balancing or protracted legal proceedings will be necessary. Should a manufacturer enter into such an agreement it will unquestionably violate antitrust law. Instead of the complexity of the “rule of reason” announced by Leegin, we will once again have a simple and clear legal rule banning vertical price fixing—a legal rule that will promote low prices and discount competition to the benefit of consumers every day.

In the last 50 years, millions of consumers have benefited from an explosion of retail competition from new large discounters in virtually every product, from clothing to electronics to groceries, in both “big box” stores and on the Internet. My amendment will correct the Supreme Court's abrupt change to antitrust law, and will ensure that today's vibrant competitive retail marketplace and the savings gained by American consumers from discounting will not be jeopardized by the abolition of the ban on vertical price fixing. I urge my colleagues to support this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. UDALL of Colorado. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. UDALL of Colorado. I ask unanimous consent that Senators SCHUMER and LEVIN be added as original cosponsors to amendment No. 4016.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. UDALL of Colorado. I thank them for their support. I also want to first thank Senators LUGAR and BOND for the efforts they brought forth, along with those on our side, for this important amendment.

This amendment will make it a fact of life that individual Americans can more easily access their credit score. I have come to the floor of the Senate on a number of occasions over the last week to push for an important change in the world of credit bureaus and credit reports and now credit scores.

A credit score impacts consumers' interest rates, monthly payments on home loans, and can even affect a consumer's ability to buy a car, rent an apartment, and get phone or Internet service. I have been working with Chairman DODD, the Treasury Department, the Federal Reserve, and other colleagues in the Senate to reach a compromise that will help us achieve those objectives I just outlined.

I am very pleased to say I think at this fairly late hour on a Thursday that we have agreed to an approach that will give millions of Americans unsolicited access to their genuine credit score. I have talked about the difference between the score and the report. The report is a valuable tool, but unless people have their score they do not know where they stand.

Our bipartisan amendment will build upon existing law and require disclosure of credit scores to consumers whenever their credit score is used against them. So under our amendment, if they are turned down for credit because of their credit score, which is not an unusual occurrence, frankly, they have the right to see the credit score that was used against them.

Under this amendment, if they are charged a higher interest rate or get less favorable terms on a loan because of their score, they will also receive notification of that score.

So this amendment, again, for which we have bipartisan support, corrects one of the inequities in our financial system which keeps Americans from accessing this very important tool that, frankly, I think is as important as their health statistics: their blood pressure, heart rate, and so on. But people have not been able to access that credit score.

So there is a fundamental principle that is at stake. If their credit score is being used against them, they ought to have the right to at least see it. This Wall Street accountability package we are considering, at the heart of it—I think the Senator from New Hampshire knows this—we want to give Americans more tools so they are more financially literate. They can take control of their financial future.

So the best part of this amendment is that consumers will receive notification of their score without any red tape. This is good government. It is

pure transparency reform that will empower Americans, as I have said, with critical information about their financial health. This makes common sense.

Let's put Americans in charge of their financial future. So as I close, I thank, in turn, Chairman DODD, Senator LUGAR, Senators LEVIN, BOND, SCHUMER, BEGICH, LAUTENBERG, and all of the 20-plus additional Senators who helped push for this important reform.

I especially thank Senator PRYOR who has worked with us to find something everyone can agree on. I look forward to this amendment being called up later, and I urge all colleagues to support this commonsense reform that will give Americans control over their financial futures.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEMINT. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3852 TO AMENDMENT NO. 4019

Mr. DEMINT. Madam President, I call for the regular order with respect to the Wyden amendment No. 4019 and call up my amendment No. 3852 as a second-degree amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT], for himself and Mr. VITTER, proposes an amendment numbered 3852 to amendment No. 4019.

Mr. DEMINT. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the completion of the 700-mile southwest border fence not later than 1 year after the date of the enactment of this Act)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ BORDER FENCE COMPLETION.

(a) MINIMUM REQUIREMENTS.—Section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) in subparagraph (A), by adding at the end the following: “Fencing that does not effectively restrain pedestrian traffic (such as vehicle barriers and virtual fencing) may not be used to meet the 700-mile fence requirement under this subparagraph.”;

(2) in subparagraph (B)—

(A) in clause (i), by striking “and” at the end;

(B) in clause (ii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(iii) not later than 1 year after the date of the enactment of the Restoring American Financial Stability Act of 2010, complete the construction of all the reinforced fencing and the installation of the related equipment described in subparagraph (A).”; and

(3) in subparagraph (C), by adding at the end the following:

“(iii) FUNDING NOT CONTINGENT ON CONSULTATION.—Amounts appropriated to carry out this paragraph may not be impounded or otherwise withheld for failure to fully comply with the consultation requirement under clause (i).”.

(b) REPORT.—Not later than 180 days after the date of the enactment of the Restoring American Financial Stability Act of 2010, the Secretary of Homeland Security shall submit a report to Congress that describes—

(1) the progress made in completing the reinforced fencing required under section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note), as amended by this section; and

(2) the plans for completing such fencing not later than 1 year after the date of the enactment of this Act.

Mr. DEMINT. I yield the floor.

Mr. DODD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KAUFMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO CATHLEEN BERRICK AND CYNTHIA BASCETTA

Mr. KAUFMAN. Madam President, I rise today to speak once more about our Nation's great Federal employees.

Henry Clay once said:

Government is a trust, and the officers of the government are trustees; and both the trust and trustees are created for the benefit of the people.

Every dollar of the taxpayers' money that we in Congress spend on their behalf must be accounted for and every program rigorously audited to prevent waste and fraud. That job belongs to the tireless and persistent employees of the Government Accountability Office.

Since its founding in 1921, the GAO has been called “the taxpayers' best friend.” It is the people's watchdog, the home of over 3,000 Federal employees whose main task is to save the American people money by analyzing how public funds are spent. They make recommendations to Congress on how best to eliminate waste and make programs more efficient. If our elected officials have been entrusted to guard over public business, surely it is the men and women of the GAO who, in the words of the ancient adage, “watch over the guardians.”

Today, I want to highlight the achievements of two outstanding employees of the GAO.

Cathleen Berrick has spent her whole career as a public servant. First in the Office of the Inspector General at the

Pentagon and with the Air Force Audit Agency, and later with the Postal Service's Inspector General and the GAO, Cathleen has been at the forefront of ensuring the accountability of government for many years.

As a Managing Director at the GAO for Homeland Security and Justice, she has led comprehensive analyses of potential security vulnerabilities at the Transportation Security Agency and suggested key improvements.

In 2008, when assigned to review the plan for the TSA's Secure Flight Program, which screens air passengers against terrorist watch lists, Cathleen identified flaws and offered sound recommendations. She also conducted studies and authored reports recommending more oversight in how we secure our Nation's mass-transit systems and passenger rail.

Cathleen has testified before congressional committees over 20 times and has proven to be an expert resource for policymakers.

The second person whose story I will share is Cynthia Bascetta. Cynthia had worked for the GAO for 30 years when she was set to retire. However, the devastation wrought by Hurricane Katrina caused her to delay her retirement, and she decided to remain in public service.

As the GAO's Director for Health Care, Cynthia leads two major reviews of public health care infrastructure in New Orleans to ensure recovery funds are being spent wisely and for the greatest benefit. In her three decades of service at the GAO, she has fought to improve Federal disability policies, urged making HIV treatment and prevention a national priority, and recommended changes to Social Security that helped beneficiaries return to work without losing health care benefits.

One of the areas of focus throughout Cynthia's career has been improving care for our wounded veterans. She testified at the first congressional hearing to investigate the conditions at Walter Reed Medical Center, and her reviews were critical in understanding where changes needed to be made.

Since we passed the Recovery Act last year, the GAO has been preparing reports every 60 days on how funds are being used. Cynthia has been working recently as the GAO's State lead for Illinois, carefully reviewing every dollar from the Recovery Act being spent there.

Madam President, employees of the GAO continue to ensure government programs work for the American people. They remain ever-vigilant to ensure all of our public funds are spent wisely and carefully.

I hope my colleagues will join me in thanking Cathleen Berrick, Cynthia Bascetta, and all of the outstanding public servants at the Government Accountability Office for their service to our Nation. They are all truly great Federal employees.



Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, before our colleague from Delaware leaves the floor—I said this once before, but I want to repeat it. Our colleague from Delaware has only been here a few months, I guess—a little over a year now; it goes by very quickly—having stepped in after our colleague, JOE BIDEN, became Vice President, and I do not know how well noticed it goes, but Senator KAUFMAN, I believe almost on a daily basis or something like that—

Mr. KAUFMAN. Weekly.

Mr. DODD. On a weekly basis—takes a few minutes to recognize people whose names and faces I am sure most Americans have never known or seen. Their families and neighbors are familiar with them. But he chooses three or four people who have worked on behalf of all of us, in many cases for years, without ever getting the kind of notoriety and celebration people in elective office receive. I wish to thank him for doing it. It is not a piece of legislation. It is not an amendment to a bill. It is not some ordinance or some treaty this Senate has an obligation to engage in; it is merely taking a little time to recognize some very fine Americans. We all hear about the ones who mess up and do things that are wrong. They get the headlines. But every day, there are literally thousands of people in this country who go to work on behalf of the American public who do their jobs diligently and serve us all tremendously well. The fact that one Member in this body every week takes a few minutes to say thank you is something I deeply appreciate, and I thank him.

Mr. KAUFMAN. Madam President, I thank the Senator from Connecticut. I thank him for what he does, and I wish to say to all the world, he is truly one of the great Federal employees. So I thank the Senator from Connecticut.

Mr. DODD. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENZI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3776

Mr. ENZI. Madam President, I rise to speak about Specter amendment No. 3776, which has already been debated by the Senator from Pennsylvania, but I wish to bring up the other side because it is a very technical, legal issue which crosses professional fields of accounting, tax preparation, and legal counsel. However, to understand where Senator SPECTER would take this amendment, I wish to explain where we have been.

In 1995, Congress rightly decided that the Securities and Exchange Commis-

sion—the SEC—should have sole authority and ability to prosecute criminals violating securities laws. The decision was made because we knew private securities lawsuits would be driven by the wrong factors. At that time, we saw how just a handful of law firms were using class action lawsuits to clog up the courts and to tie up companies in litigation for years for mere fluctuations in company stock prices. Private lawsuits would have negative impacts on the economy, and private securities lawsuits would potentially open small businesses to unwarranted liabilities just as these small businesses are struggling to make a comeback and hope to hire more workers to stimulate our economy.

Fifteen years later, in 2010, Senator SPECTER has introduced an amendment which would run contrary to Congress's decision. Senator SPECTER's amendment would create what is called a "private right to action," meaning trial lawyers are going to have a field day with this. What is worse, though, is this legal standard included in this amendment doesn't hold water. The standard for "aiding and abetting" in this amendment has been adjusted three times in 2 weeks, and it still isn't right. The standard in this amendment requires "actual knowledge of the improper conduct underlying the violation" and of "the role of the person assisting in such conduct." Now, this standard is only slightly better than the first two proposals discussed earlier in the debate.

At first glance, this standard may seem as though it is all that is needed to show that someone has aided another in the act of committing a crime. It would seem that if a person has knowledge of improper conduct and knows they are helping that person, it would be a simple legal matter. However, that is absolutely not the case, and I will explain why in just a minute.

I am not a legal mind debating legal standards or case law. However, I am a businessman and an accountant by trade, and I can see what this poor legal definition will do not only to the business of accounting but to our domestic securities industry as well. Tinkering with the language of this amendment doesn't conceal the fact that the real-world impact of this provision has not changed.

I need to point out the legal standard this amendment would set has holes. Using the language laid out in the Specter amendment, here is another example: You notice this person running through the park. Having seen the person, you now have knowledge that person was running. As a passerby, you got out of the way so they could continue on their run. If we were to apply the Specter standard, even if you never met this person, you would have knowledge of that person's action—you knew he was running—and you got out

of the way so he could use the sidewalk. That is aiding. If this person just robbed a bank, under this standard you could now arguably be considered a secondary accomplice.

In another hypothetical example, if a lawyer reviews a client's statement to their investors, approves what has been written, and the client falsified those statements, the lawyer is completely liable, despite not knowing that the client's disclosures were false.

Although changes from the first draft of this amendment to what is before us now are somewhat better, this amendment is still unacceptable. This amendment does not require that the person in question has knowledge the primary violator has broken the law. It is a very important part of this. You may have seen him, you may have moved aside for him, but you didn't know he was breaking the law. That is a very important requirement.

The Specter amendment just requires the person is aware of the conduct itself, not whether it is illegal. In other words, one doesn't have to know they are helping someone violate the law, which is what aiding and abetting is. One just has to know that the conduct happened.

I will say that again. This standard only requires that one knows of the "improper conduct," not that he "knows that the conduct is improper." This is a critical and unacceptable difference. To be clear, the standard does not even meet what is used by the SEC to prosecute criminal aiding and abetting charges. The SEC standard is significantly higher. Because the standard in this amendment is so flawed, we would be opening thousands of innocent small businesses to secondary charges of fraud.

Again, we are not talking about criminal charges. These charges would be strictly considered in a civil court. Keeping this standard would give profit-motivated trial lawyers a vague statutory standard to work from—not a good combination. They would be able to cast a wide net for defendants, and this opens professionals in their company to the costs of discovery and trial, in addition to potential liability for damages awarded in the rest of the criminal case.

Let's not forget we are talking about accountants, tax preparers, and attorneys who aid everyday companies. This means these professionals would be faced with a standard of evidence they cannot refute or argue, and they could likely be facing unfounded charges.

An accountant looks at the books, has knowledge of it, but that doesn't mean he knows it was improper. Most of the accounting audits are not of every single transaction. For a big corporation, an audit of every single transaction might take 3 or 4 years to cover 1 year's worth of transactions. It can't be done. But under that circumstance, the accountant might have



knowledge, and because he signs off on the papers, he might be aiding them under this definition.

Their options under this standard would be pleading out for millions of dollars, even if innocent, or losing even more in the long process of discovery and trial in order to defend themselves and their work. All this for someone who may not even know the criminal or have known that the person's actions were criminal. Is this how our country's legal system is supposed to work? Are we going to incentivize frivolous lawsuits? The Specter amendment standard may even go so far as to hold these professionals liable for not finding fraud.

I also wish to note that this proposed amendment also goes beyond just the actions of some accountants and lawyers involved in the securities industry. Senator CHUCK SCHUMER and Mayor Michael Bloomberg from New York City commissioned a report which found that meritless securities lawsuits are driving up the cost of doing business in securities and driving away foreign investors, making the United States less competitive worldwide. Having a standard like the Specter amendment proposal means foreign trading partners may be reluctant to bring business here right when our country needs the investment the most.

Foreign investors will not want to bring business here if doing so exposes them to the private liability standard that Specter's amendment would create.

As an accountant and former small business owner, and for each of the reasons I have outlined, I urge my colleagues to oppose this ill-conceived amendment.

I would be happy to answer questions of any of my colleagues if they have any. Again, I ask them to just ask their accountant what they think about this particular standard which could lead to lawsuits, discovery, a lot of costs—and needlessly. We are trying to pass a law that would take care of 1 percent of the problem and penalize the other 99 percent. So I hope we will reject the Specter amendment. I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Madam President, I rise to speak on an amendment that I have offered, amendment No. 3939. I ask unanimous consent to add Senator SNOWE as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Madam President, this amendment is cosponsored also by Senators LEVIN and CANTWELL. The Dodd-Lincoln bill, as currently drafted, takes major steps to reform the \$600 trillion derivatives market. I don't think people understand how big this market is. It would require every trade to be reported in real time to the Commodity Futures Trading Commission. It would require that all cleared contracts be traded on an exchange or on a swap execution facility, therefore, guaranteeing transparency. It would require that speculative position limits be set in aggregate for each commodity instead of contract by contract—to assure effectiveness. It would require foreign boards of trade to adhere to minimum standards comparable to those in the United States, including reporting requirements. The provision is designed to address the underlying problem of the so-called London loophole.

I very much support these positions. However, I am very concerned that the bill doesn't go far enough to address the London loophole. This loophole has allowed for the trading of United States energy commodities, such as crude oil, on foreign exchanges, without oversight from the United States regulators. This means there is no cop on the beat to shield U.S. oil prices from manipulation or excessive speculation when they are traded in foreign markets, such as commodities exchanges in London, Dubai, or Shanghai.

The amendment I am proposing along with my colleagues would allow the CFTC to require foreign boards of trade to register with the CFTC, which would give the Commodity Futures Trading Commission the enforcement authority it needs. It is supported by the chairman of the CFTC, Gary Gensler. This provision was in President Obama's original proposed financial reform bill, and I think it is critical to pass in this bill.

Let me explain what has become known as the London loophole. In the wake of the California energy crisis, we learned that most energy trading had been exempted from regulation by the Commodity Futures Modernization Act of 2000, at the urging of a company by the name of Enron. Using the Enron loophole, this notorious firm pioneered over-the-counter energy derivatives trading. It set up EnronOnline, an electronic market for trading physical and derivatives energy contracts. It was a marketplace with no transparency, no paper trail that could be audited, no speculative position limits, and absolutely no government oversight to prevent fraud, manipulation, or protect the public interest. Enron was a participant in every trade, and only Enron knew the prices. It used EnronOnline and other trading forums to fleece California consumers for \$40 billion over 2 years of increased energy prices.

Shockingly, much of what Enron had set up was legal because Congress had stripped the Commodity Futures Trading Commission of its enforcement power. Terrible.

From 2002 on, I worked with Senators SNOWE, CANTWELL, LEVIN, and many others to restore regulatory oversight to energy derivatives. We tried in 2002 on this floor, and in 2003 and 2004 to regulate energy derivatives, but we were stopped and stymied. Opponents, such as Alan Greenspan, have since said their opposition was mistaken.

Finally, in 2008—6 years after we started—we were able to close this notorious Enron loophole in an amendment to the farm bill, of all things. The amendment imposed meaningful regulation, including speculative position limits and market oversight. So the CFTC began monitoring these markets for fraud and manipulation for the first time in 10 years.

But as Congress took steps to establish regulatory oversight of domestic energy derivatives markets, Wall Street traders moved to avoid U.S. regulation. They began to turn to offshore markets.

The successor to EnronOnline, the Intercontinental Exchange in Atlanta, bought a London exchange, converted it into an electronic exchange, and began listing American oil futures abroad. That is a way speculators could go right around American regulation and avoid it.

West Texas Intermediate crude has been one of the highest volume contracts on this London exchange since 2006. This contract has what is called a price discovery impact because it is commonly referenced as the standard market price of oil. This new regulatory loophole has thus become known as the London loophole. But firms also listed American energy commodity derivatives in Dubai and Singapore and opened their electronic platforms to American traders.

This new electronically traded marketplace allows American traders, simply put, to evade American market oversight and speculation limits. The practical implication of this is that U.S. traders can use offshore electronic exchanges to artificially drive up prices of U.S. commodities without any consequences from our Nation's market regulators. This is a big problem.

In 2008, a CFTC report found that traders using this London exchange to trade U.S. crude oil futures held positions far larger than would be allowed by American regulators. In fact, from 2006 to 2008, at least one trader position exceeded United States speculation limits every single week on the London exchange, and British regulators have done nothing about it. The good news is that some steps have been taken administratively to address this loophole.

In 2008, the Commodity Futures Trading Commission negotiated an

agreement with British regulators to bring greater oversight to American commodities contracts traded in London. The agreement called for speculation limits for the electronic trading of U.S. energy commodities, such as crude oil on foreign exchanges, and required recordkeeping and an audit trail so you can look at them for fraud or manipulation. Without an audit trail, it is all in the dark. But CFTC—and here is the cruncher—has limited legal authority to enforce this agreement.

Bottom line: We need to make sure the CFTC can oversee trading of American commodities, whether it happens through a computer server located on Wall Street or in Singapore.

The Dodd-Lincoln bill currently before us includes some important provisions to help close the London loophole. As drafted, the bill will require foreign boards of trade that provide access to American traders to comply with comparable rules enforced by a foreign regulator, to publish trading information daily, to supply data to the CFTC, and to enforce position limits. However, the CFTC is unable to force a foreign board of trade to comply with those requirements. And that is just fact. This is because the CFTC's current method of overseeing foreign exchanges has tenuous legal underpinnings due to a Commodity Exchange Act provision forbidding the CFTC from regulating foreign boards of trade. In many instances, our regulatory body, the CFTC, can take action against a U.S. trader trading a U.S. commodity on a foreign exchange to prevent manipulation or excessive speculation only with the cooperation and consent of the foreign regulator.

The other more controversial option is for the CFTC to completely ban the foreign exchange from all U.S. operations. Not surprisingly, they shy away from enforcement in the face of these regulatory obstacles.

We have a bill that still does not provide strong regulation. It still allows American derivatives traders to avoid American regulations by trading on a foreign electronic platform in Dubai, London, and other places as well. That is why we—Senator SNOWE, Senator LEVIN, Senator CANTWELL, and I—are offering a proposal to allow the CFTC to require foreign boards of trade to register with the CFTC, which would give it the enforcement authority it needs.

Quickly, here are the benefits of the amendment.

First, the registration process itself would give CFTC the authority to impose regulatory requirements as a condition of registration.

Second, a formal registration process would assure that foreign boards of trade all follow the same set of rules.

And third, the registration process would provide a much clearer basis for CFTC decisions to refuse or withdraw

permission to foreign boards of trade wishing to allow American traders on their exchange.

Finally, and most important, all of CFTC's existing enforcement authorities apply to registered entities under the Commodity Exchange Act. This amendment would allow the Commodity Futures Trading Commission to enforce its own statute with regard to foreign exchanges operating in the United States. This is a moderate, practical amendment to assure that we give our regulator the authority to enforce the statutory provisions already in the legislation.

There are powerful interests out there that are opposed to this. They want to be able to avoid our law. They want to be able to trade over the London exchange. We negotiated with them to close the Enron loophole. We had ICE in our office. They agreed to it. It took 6 months of negotiation. Do you know what they did? They then went offshore, bought the London exchange, changed it to an electronic trading platform to avoid the very agreement they agreed with, that we legislated and enacted. That is fact. Guess what. It burns me up. And I do not intend to quit because I do not like to be duped that way, whether it is Goldman Sachs and ICE or anybody else. If you give your word, you make an agreement. You do not go offshore to avoid that agreement.

Now that I have cooled down, this is a moderate, practical amendment to assure that we give the Commodity Futures Trading Commission the authority to enforce the statutory provisions already in the proposed legislation. Why would we want legislation which cannot be enforced? Why would we want legislation that ties their hands? Why would we want legislation that allows somebody simply to avoid this law by trading what amounts to \$600 trillion of derivatives in Dubai or in London or in Shanghai or anywhere else?

Guess what. These electronic exchanges will be set up everywhere to avoid this bill. That is why we have to give the Commodity Futures Trading Commission the authority to see that these foreign exchanges register with them and agree to abide by the laws of the United States of America.

I think it is important that we do this, and I do not intend to quit one way or another, if it takes me 6 years to get it done, as it did the last one. I have no respect for traders who look to go around U.S. law.

As we crack down on traders in our markets, we must be ever vigilant to assure that traders sitting on Wall Street do not avoid our regulations by trading on electronic exchanges with computer servers in London or Dubai or Singapore.

This amendment is an improvement of the London loophole provisions in the Dodd-Lincoln bill by making these

provisions easily enforceable. It is the final piece to go in, to close the London loophole, which should never have been opened in the first place, and to ensure that our government has what it needs to protect American markets from manipulation and excessive speculation, no matter where U.S. energy commodities are traded.

I expect the big boys to speak out against it. But I will tell you something: Everybody in the West who knows how they were fleeced back in 1999 and 2000 by Enron clearly will understand the value of being able to enforce the law of this country. We should ask for no less.

I know I cannot call up the amendment at the present time, but I hope I will have that opportunity to do so later.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURRIS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4019, WITHDRAWN

Mr. DODD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The DeMint amendment is pending for the Dodd-Wyden first-degree amendment.

Mr. DODD. Mr. President, I now withdraw the Wyden amendment.

The PRESIDING OFFICER. The Senator has that right.

The amendment is withdrawn.

AMENDMENTS NOS. 3989, AS MODIFIED, AND 3987

Mr. DODD. Mr. President, I ask unanimous consent that the Senate now resume consideration of the Durbin amendment No. 3989 and the Thune amendment No. 3987; that the Durbin amendment be modified with the changes at the desk; that the amendments be debated concurrently for a total of 10 minutes, with the time equally divided and controlled in the usual form; that no amendment be in order to any of the amendments in this agreement prior to a vote; that upon the use or yielding back of time, the Senate proceed to vote in relation to the following amendments; that the Durbin amendment be subject to an affirmative 60-vote threshold; that if the amendment achieves the threshold, then it be agreed to and the motion to reconsider be laid upon the table; that if the amendment does not achieve the threshold, it be withdrawn: Durbin amendment No. 3989, as modified; Thune amendment No. 3987; that after the first vote, the succeeding vote be limited to 10 minutes, with 2 minutes of debate prior to each vote, equally divided and controlled.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The Senator does not have the floor.

Mr. GREGG. Do I have the right to object?

Can you do a quorum for a second?

Mr. DODD. Mr. President, I couldn't hear. What is the situation we are in?

Mr. GREGG. I am reserving the right to object and asking the Senator if he can put us in a quorum for a minute or two so we can clear this issue on our side.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I renew my unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3989), as modified, is as follows:

At the end of subtitle G of title X, add the following:

**SEC. 1077. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.**

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) by redesignating sections 920 and 921 as sections 921 and 922, respectively; and

(2) by inserting after section 919 the following:

**“SEC. 920. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.**

“(a) REASONABLE INTERCHANGE TRANSACTION FEES FOR ELECTRONIC DEBIT TRANSACTIONS.—

“(1) REGULATORY AUTHORITY.—The Board shall have authority to establish rules, pursuant to section 553 of title 5, United States Code, regarding any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction.

“(2) REASONABLE FEES.—The amount of any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction shall be reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

“(3) RULEMAKING REQUIRED.—The Board shall issue final rules, not later than 9 months after the date of enactment of the Consumer Financial Protection Act of 2010, to establish standards for assessing whether the amount of any interchange transaction fee described in paragraph (2) is reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

“(4) CONSIDERATIONS.—In issuing rules required by this section, the Board shall—

“(A) consider the functional similarity between—

“(i) electronic debit transactions; and

“(ii) checking transactions that are required within the Federal Reserve bank system to clear at par;

“(B) distinguish between—

“(i) the actual incremental cost incurred by an issuer or payment card network for the role of the issuer or the payment card network in the authorization, clearance, or settlement of a particular electronic debit transaction, which cost shall be considered under paragraph (2); and

“(ii) other costs incurred by an issuer or payment card network which are not specific to a particular electronic debit transaction, which costs shall not be considered under paragraph (2); and

“(C) consult, as appropriate, with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Administrator of the Small Business Administration, and the Director of the Bureau of Consumer Financial Protection.

“(5) EXEMPTION FOR SMALL ISSUERS.—This subsection shall not apply to issuers that, together with affiliates, have assets of less than \$10,000,000,000, and the Board shall exempt such issuers from rules issued under paragraph (3).

“(6) EFFECTIVE DATE.—Paragraph (2) shall become effective 12 months after the date of enactment of the Consumer Financial Protection Act of 2010.

“(b) LIMITATION ON ANTI-COMPETITIVE PAYMENT CARD NETWORK RESTRICTIONS.—

“(1) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A COMPETING PAYMENT CARD NETWORK.—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment through the use of a card or device of another payment card network, provided that the discount or in-kind incentive only differentiates between payment card networks and not between other issuers.

“(2) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A FORM OF PAYMENT.—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment by the use of cash, check, debit card, or credit card.

“(3) NO RESTRICTIONS ON SETTING TRANSACTION MINIMUMS OR MAXIMUMS.—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to set a minimum or maximum dollar value for the acceptance by that person of credit cards, provided that such minimum or maximum dollar value does not differentiate between issuers or between payment card networks.

“(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) DEBIT CARD.—The term ‘debit card’—

“(A) means any card, or other payment code or device, issued or approved for use through a payment card network to debit an asset account for the purpose of transferring money between accounts or obtaining goods or services, whether authorization is based on signature, PIN, or other means;

“(B) includes general use prepaid cards, as that term is defined in section 915(a)(2)(A) (15 U.S.C. 1693l-1(a)(2)(A)); and

“(C) does not include paper checks.

“(2) CREDIT CARD.—The term ‘credit card’ has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

“(3) DISCOUNT.—The term ‘discount’—

“(A) means a reduction made from the price that customers are informed is the regular price; and

“(B) does not include any means of increasing the price that customers are informed is the regular price.

“(4) ELECTRONIC DEBIT TRANSACTION.—The term ‘electronic debit transaction’ means a transaction in which a person uses a debit card to debit an asset account.

“(5) INTERCHANGE TRANSACTION FEE.—The term ‘interchange transaction fee’ means any fee established by a payment card network that has been established for the purpose of compensating an issuer or payment card network for its involvement in an electronic debit transaction.

“(6) ISSUER.—The term ‘issuer’ means any person who issues a debit card or credit card, or the agent of such person with respect to such card.

“(7) PAYMENT CARD NETWORK.—The term ‘payment card network’ means an entity that directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct transaction authorization, clearance, and settlement, and that a person uses in order to accept as a form of payment a brand of debit card, credit card or other device that may be used to carry out debit or credit transactions.”.

Mr. DODD. Mr. President, I ask unanimous consent that upon disposition of the above-mentioned amendments, the Senate resume consideration of the Collins amendment No. 3879 and that the amendment be considered and agreed to and the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that the following be the next first-degree amendments in order: Rockefeller-Hutchison, the FTC amendment; Senator CRAPO, the GSE on budget amendment; Senator MARK UDALL of Colorado, No. 4016 regarding credit scores; Senator SHELBY's amendment No. 4010 re: the consumer bureau; Senator WHITEHOUSE's State usury laws; Senator VITTER, No. 4003, the manufacturing amendment; Senator CANTWELL and Senator MCCAIN's Glass-Steagall amendment; and Senator CORNYN, No. 3986 regarding the IMF.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, there will be 10 minutes of debate equally divided.

The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask the Chair to inform me when I have 1 minute of my 5 minutes remaining.

I think this is an amendment that is well known to my colleagues. I have spoken on the floor several times. It is

about the interchange fees charged to small businesses across America for the use of credit cards.

This amendment does the following things: It directs the Federal Reserve to ensure that debit fees on debit cards are reasonable and proportional to processing costs; it stops Visa and MasterCard from imposing any competitive restrictions; it ends prohibitions on discounts for use of different network cards; it ends prohibitions on discounts for cash, debit, or credit; and it ends prohibitions on minimum purchase levels for paying with a credit card.

It does not affect credit card interchange rates. We do not establish a rate. That is left entirely to the Federal Reserve to review. We do not allow discrimination against small banks or credit unions. The modification specifically prohibits any discrimination against the issuer of a credit card. A merchant may decide to favor one network over another but cannot favor one bank over another that issues a card. So there can be no discrimination against a credit union, community bank, or a large bank, for that matter. It doesn't set interchange prices.

By putting a \$10 billion threshold in terms of the banks issuing the cards, we literally exempt 99 percent of all banks and credit unions from the application of this law. Still, just going for the largest banks in America—86 banks in America—we will cover 65 percent of all the credit and debit transactions in this country. So it is a significant amendment, and it protects the community banks and the credit unions.

I will tell you that I am very concerned and disappointed by the so-called Independent Community Banks Association, which continues to oppose this amendment despite my best efforts to exempt virtually all of their members from being covered. I understand they have a conflict of interest because they are in the top 25 issuers of credit and debit cards in the United States. They make a lot of money under the current situation. They may not want to change it, but it is not fair to small banks in Illinois and across the Nation for them to speak to this issue when they have this conflict of interest.

The second thing I want to say to the credit unions is that there are 8,200 credit unions in America, and all but 3 are exempt from this law—99.999 percent of credit unions are exempt from this law. For them to be opposing it because of three of the biggest credit unions in America is unfair to the rest of their members and certainly unfair to the merchants who do business with them every day.

This is the single most important amendment for small business and retail business in America that we will consider on this bill. In a time of recession, when we need small businesses to step up and create jobs, this is a way to move forward.

Members have heard from all across the country, from small businesses and retail merchants who are asking for some fairness, some justice when it comes to these major credit cards that literally dictate the terms of their agreements with these small businesses. I urge my colleagues to support the Durbin amendment.

Mr. President, I am going to reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

If no time is yielded, the time will be charged to both sides equally.

Mr. DURBIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute, 15 seconds.

Mr. DURBIN. I yield to the Republican side, if there is opposition to the amendment.

Mr. KYL. Mr. President, as far as I know, there is no one else on our side wishing to speak; therefore, we can yield back time of the minority.

Mr. DURBIN. I say to my colleagues, I know this is a complex and in some ways a controversial amendment. But I can't think of a better way for us to establish a reasonable standard that debit cards, which are now becoming more common and are equivalent to a check, are going to be charged against the merchant that honors the card only in a reasonable and proportional way by the same agency we used under the consumer credit card reform bill of just last year.

I urge my colleagues, if they are listening to small businesses across America, struggling to survive, trying to add new employees, give them a helping hand by voting for the Durbin amendment so they can have reasonable charges for the use of credit cards and debit cards at their establishment. I urge the passage of this amendment and I yield the remainder of my time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

If all time is yielded back, the question is on agreeing to the Durbin amendment, No. 3989, as modified.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Florida (Mr. NELSON) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Texas (Mrs. HUTCHISON).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 33, as follows:

[Rollcall Vote No. 149 Leg.]

#### YEAS—64

Barrasso	Feinstein	Murray
Begich	Franken	Nelson (NE)
Bennet	Gillibrand	Pryor
Bingaman	Graham	Reed
Boxer	Grassley	Reid
Brown (MA)	Hagan	Risch
Brown (OH)	Harkin	Rockefeller
Burr	Inouye	Sanders
Burris	Isakson	Schumer
Cantwell	Kerry	Shaheen
Cardin	Klobuchar	Snowe
Casey	Kohl	Specter
Chambliss	Landrieu	Stabenow
Collins	Lautenberg	Udall (CO)
Conrad	Leahy	Udall (NM)
Crapo	LeMieux	Vitter
Dodd	Levin	Webb
Dorgan	Lincoln	Whitehouse
Durbin	Lugar	Wicker
Ensign	Menendez	Wyden
Enzi	Merkley	
Feingold	Mikulski	

#### NAYS—33

Akaka	Corker	McCain
Alexander	Cornyn	McCaskill
Baucus	DeMint	McConnell
Bayh	Gregg	Murkowski
Bennett	Hatch	Roberts
Bond	Inhofe	Sessions
Brownback	Johanns	Shelby
Bunning	Johnson	Tester
Carper	Kaufman	Thune
Coburn	Kyl	Voinovich
Cochran	Lieberman	Warner

#### NOT VOTING—3

Byrd	Hutchison	Nelson (FL)
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The amendment (No. 3989), as modified, was agreed to.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table.

The majority leader is recognized.

Mr. REID. Mr. President, if I can have everyone's attention, I will be as quick as possible. Mr. President, we have dealt with 31 amendments on this piece of legislation. Until today, this last amendment, they have all been 50-vote margins. There has been no tabling of motions.

We now have six amendments pending. We have unanimous consent that eight more can be offered. There is talk between the two managers of the bill. There are Democratic amendments we think the Republicans will agree to; there are Republican amendments that we will agree to.

We are moving toward wrapping up this bill. There will be a number of votes on Monday night starting at 5:30. Everyone should be aware of that. Tonight the managers are here. They are going to try to work through a couple of amendments. We have one more vote. After that, there will not be any more votes until Monday night.

VOTE ON AMENDMENT NO. 3987

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to Amendment No. 3987 offered by the Senator from South Dakota.

The yeas and nays have previously been ordered.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr.

BYRD), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Michigan (Ms. STABENOW), and the Senator from Florida (Mr. NELSON) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Texas (Mrs. HUTCHISON).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 55, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—40

Alexander	DeMint	McCain
Barraso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Risch
Brown (MA)	Grassley	Roberts
Brownback	Gregg	Sessions
Bunning	Hatch	Shelby
Burr	Inhofe	Snowe
Chambliss	Isakson	Thune
Coburn	Johanns	Vitter
Cochran	Kyl	Voinovich
Corker	LeMieux	Wicker
Cornyn	Lincoln	
Crapo	Lugar	

NAYS—55

Akaka	Feinstein	Murray
Baucus	Franken	Nelson (NE)
Bayh	Gillibrand	Pryor
Begich	Hagan	Reed
Bennet	Harkin	Reid
Bingaman	Inouye	Rockefeller
Boxer	Johnson	Sanders
Brown (OH)	Kaufman	Schumer
Burr	Kerry	Shaheen
Cantwell	Klobuchar	Specter
Cardin	Kohl	Tester
Carpenter	Landrieu	Udall (CO)
Casey	Leahy	Udall (NM)
Collins	Levin	Warner
Conrad	Lieberman	Webb
Dodd	McCaskill	Whitehouse
Dorgan	Menendez	Wyden
Durbin	Merkley	
Feingold	Mikulski	

NOT VOTING—5

Byrd	Lautenberg	Stabenow
Hutchison	Nelson (FL)	

The amendment (No. 3987) was rejected.

AMENDMENT NO. 3879

The PRESIDING OFFICER. Under the previous order, the question is on amendment No. 3879, offered by the Senator from Maine.

The amendment is agreed to, and the motion to reconsider is considered made and laid upon the table.

The amendment (No. 3879) was agreed to.

Mr. DODD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECRET HOLDS

Mr. WYDEN. Mr. President and colleagues, the American people are furious at the way business is done in Washington, DC. Today, on the floor of the Senate, we saw a pretty good reason why.

For many months, a large group of Senators on both sides of the aisle—Senator GRASSLEY, Senator INHOFE, Senator COLLINS, and Senator BENNETT, among the Republicans; a host of my colleagues on our side of the aisle, led by Senator MCCASKILL—have been working to try to eliminate the secret hold in the Senate, which is, in my view, one of the most pernicious, most antidemocratic practices in government.

What the secret hold allows is for just one Senator—just one—to anonymously keep the American people from getting any sense of a particular piece of legislation, someone who has been nominated for an appointment—any sense of some of the most important business that is before the Senate.

The Senator from Missouri, who is in the Chamber, has noted that at times there are scores and scores of these secret holds. I have pointed out this has happened for years on both sides of the aisle.

So this has been an opportunity, when the country is crying out for bipartisanship, for Democrats and Republicans to together—as our large group has done—fix this, to open our government, to ensure that democracy is accountable, and that public business is actually done in public.

Until about an hour or so ago, I thought we would win a dramatic victory for the cause of open government. We had a good debate this morning on the measure. Colleagues on both sides of the aisle talked about it.

Not one Senator objected, not one was willing to say in public they were in favor of secret holds. Quite the opposite: We talked for some time, and no one objected at all. We were under the impression that the matter would be scheduled for a vote this afternoon.

Given that, I was flabbergasted that right before it was time to vote, one Senator—just one—without any notice whatever—no notice to me, no notice to any of the other sponsors, sponsors on the other side of the aisle—one Senator sought to attach to our amendment, which would have received a resounding vote because Senators are not going to vote in favor of secrecy when they are on the record—one Senator attached a completely unrelated matter, a very controversial matter.

I say to the Chair, I say to all my colleagues, I never, ever would have done that to another colleague. I have felt for many years now that the great challenge in the Senate is to have colleagues work together, to have colleagues come together on both sides, because that is going to help us ad-

vance the cause of open government, it is going to help us get the best possible policy.

So if I had been in our colleague's shoes, and I was interested in advancing this other issue, I would have come to that particular Senator and said: How can we work this out? That did not happen. So all of us, at the last minute, when we were looking forward to celebrating what, in my view, would have been a historic vote for open government, after all these months of Democrats and Republicans debating secrecy in government, we now sit here on Thursday evening, with secrecy having won once more, doing government in the shadows winning once more, denying the American people the accountability this institution is all about winning once again.

I think the American people deserve better. We spent a lot of time today bringing all sides together. The chairman of the committee, Senator DODD, is here with us. The whole essence of the Wall Street legislation has been to ensure more openness and more accountability in these essential financial transactions. Chairman DODD has done a superb job in advancing that case.

What Senators on both sides of the aisle sought to do, until there was an objection from one Senator at the last minute—with no notice—what we sought to do was to say: If we are going to open our system of financial transactions so there would be more transparency and more accountability, let's also open the way we do business in the Senate so the American people are not kept in the dark any longer about major judgments with respect to legislation or nominations. One Senator—just one—without notice, kept us from bringing that new accountability and openness to the Senate.

I know colleagues want to bring up other matters. I simply wish to say—I think I have been in this body now for a little over a decade—I cannot recall another instance where the cause of open government took a beating, took a blindsiding, like the cause of open government took this afternoon.

I wish to tell my colleagues, I intend to come back to my post here again and again and again until we abolish the secret hold, until we ensure that the American people see that government is being brought out of the shadows and debates are out in the open, where they ought to be.

We did not win this afternoon because I think we got kneecapped. I do not know how to describe it any other way. But I do not think, at this time in American history, where the American people are this angry—this angry—at the way Washington, DC, does business, that those who advocate secrecy are on the right side of history. I do not think they are going to be able to defend in broad daylight opposing a bipartisan coalition.

Senator GRASSLEY has worked with me on this for a decade. He has, again and again, championed the cause of transparency and openness in government, not just on this question of abolishing secret holds but on inspectors general and a variety of other practices.

So these are colleagues—Democrats and Republicans—who want to show the American people they are going to stand for open government, and they are going to do it in a way where the American people will say: Those folks finally get it. Instead of spending their time in these petty food fights, they are a group of Democrats and Republicans who acted like adults and got together and solved a major problem—a major problem—by eliminating secrecy and making government more open.

So it is my intent to come back, if possible, day in and day out until this changes. I think this is unconscionable. I can tell you, I have never seen anything like this in my time in the Senate: one Senator coming in, at the last moment, with no notice, trying to derail the cause of open government.

I am not going to stand for it. I do not think the American people are going to stand for it. We will be back here for as long as it takes to bring some real sunshine to this cause of the Senate doing its business in public rather than in the shadows.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MCCASKILL. Mr. President, I know someone is going to be able to use the figleaf and stand behind the argument that the amendment that was offered at the very last moment this afternoon was about something they cared about and something we need to vote on. It is a subject matter we care about that we need to work on. But really? It is pretty transparent what is going on here: that at the very last moment, when all of a sudden we were this close for everyone having to go on record about secret holds, that someone shot it out of the sky like a clay pigeon. That is what this amendment did.

So the argument is: Well, the Wyden-Grassley amendment on secret holds is not really about the financial reform bill. Why does it get a chance to be voted on? It is very simple. The reason the Wyden-Grassley amendment should be considered germane to every bill we debate in this body is because it is about the way we do business. Every day that goes by that we do not try to reform this nasty habit of secret holds, we diminish the shine and the glory that is our democracy. We diminish what this body should stand for and

what our priorities should be. Every day we allow the secret hold process to continue to take root and grow and flourish, we are failing in our job as Senators who are here to do the public's business.

We are not here to go in back rooms and get something for our secret hold. We are not here to go in back rooms and leverage our secret hold for something else we want. We are not here to go in back rooms and have secret holds to keep this administration from succeeding or filling the jobs that need to be filled. We are here to be accountable.

Of all the amendments out there that can be second degree, this amendment that would reform our process is selected to slow it down and obviously, hopefully, kill it. Well, I have bad news for my friends across the aisle who want to kill the longstanding attempts of Senators WYDEN and GRASSLEY at reform, and my recent attempts, along with Senator BENNET, Senator WHITEHOUSE, Senator UDALL, Senator WARNER, and others who have come to the floor and spoken on secret holds: We are not going anywhere. It is probably a fault I have, but I am pretty darn stubborn. In fact, I am probably stubborn to a fault. I think this is something we all ought to be stubborn about.

We have different kinds of Senators. We have some who are kind of feeling as though they are being marched to the gallows as they grudgingly support cleaning up secret holds. We have others who want to pound their chests and shout from the rooftops about trying to get rid of secret holds. And we have others who are hiding in the crevices, the little, bitty, tiny dark places, who are trying to keep secret holds without anybody knowing who they are.

I will say this. One can make the assumption that whoever offered this amendment to try to kill this amendment probably is a big fan of secret holds. Because it seems to me if they wanted this amendment to pass, they would have at least talked to the sponsors before they offered the second-degree amendment. That is the common courtesy around here; they would have at least given everyone some notice. But they saw this amendment speeding toward the finish line. They realized they were going to be called for the yeas and nays on reforming the Senate, and they decided to take the path of least resistance and that is try to kill the bill another way.

But along with my colleague and mentor on this subject, Senator WYDEN, and Senator GRASSLEY, whom I have met with a number of times over the last week, we are going to stay with it. I know I speak for my colleagues who have been here 4 years or less, the freshmen and sophomores in this body. I know how strongly we feel about this.

I wish to remind my colleagues, if I am wrong about you, if you are against secret holds, the letter is still open. We have 60 Members who have signed the letter. Sixty Members of this body, all of the Democrats but one, both of the Independents, and now two Republicans have signed the letter saying we will not exercise a secret hold and we want to abolish secret holds. I look forward to seeing my colleagues on the other side of the aisle, more Republicans joining in the signing of this letter. It is available. I hope they will contact us. Senator WARNER, Senator WHITEHOUSE, and I are the lead signatories on this letter. But it is time for everyone—by the way, if we get to 67 signatures, guess what we can do. We can amend the standing rules of this place. We could say that an objection will not be in order if it is anonymous. We could do that with 67 votes. What a great day that would be. Wouldn't that be a wake-up call to the American people that maybe we get it. Maybe we get why our approval ratings of Congress are near historic lows for all the nonsense, ridiculous games that get played around here.

Let's do the public's business and let's do it in public and let's end the secret holds, the nasty habit we can no longer afford.

I will look forward to visiting with my colleagues on the other side of the aisle and see if we can prevail upon them to withdraw their second-degree amendment so we can go forward or find some other way forward. But make no mistake, we will find a way forward and we will end the secret hold. I am confident it will happen. So you can fight as long and as hard as you want, but we are not going to give up.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BENNET. Mr. President, I will take a couple of minutes. I have been here a smaller amount of time than anybody who is on this floor. The chairman has been here longer than I have been here; Senator WYDEN, Senator MCCASKILL, and others. I have been here about 15 months. What I can tell my colleagues is that this place doesn't operate like any other place in the universe. This secret hold business we are talking about right now, so people understand, allows a Senator to be able to hold up a nomination or a piece of legislation without having to tell anybody who they are. I spent half my career in business. No business I have would have ever tolerated a rule such as that. I have worked in local government. No local government I have ever been part of would have tolerated a rule such as that. There are city councils and State governments, county governments all over this country right now—by the way, they are probably still at work, unlike us, trying to figure out how to balance their budgets

in the most savage economy since the Great Depression. They are not using secret holds to stop their ability to respond to the American people, and we shouldn't either.

One of the things I want to say is that Senator WYDEN should be congratulated, because this is not a partisan piece of legislation. The No. 1 question I hear from people when I go home is, Why can't you guys work together? We lack confidence in what you are doing. There are Democrats, Republicans, unaffiliated voters who say, Why can't you work together? It looks like a partisan food fight back here because it is, but it is a little more complicated than that. In this case, we have a bipartisan piece of legislation that has broad support in this Chamber, as do the nominees who are being held up whom we have brought forward. We haven't brought forward nominees who got just Democratic votes; they are nominees who were passed out of the relevant committee of jurisdiction on a bipartisan basis, and somebody has decided that they want to hold these people up for reasons that have nothing to do with the quality of the nominees or because they were passed out on a partisan way, which they weren't. They are bipartisan.

So this isn't about everybody on the other side of the aisle holding up this legislation. This is bipartisan legislation. We should be here tonight. It is only 7:30. We should be here tonight debating this amendment, allowing people to come together in a bipartisan way to support the amendment, just as we should allow people to come together in a bipartisan way to support the nominees who have come forward and passed out of committee. There is no difference. The difference is that this rule allows some individuals to bring it to a grinding halt, to create more division rather than less division which, at least in my view, is what we need as a country.

In my State, no matter where I am—in blue parts of the State, in red parts of the State—my sense is that people have a pretty common set of aspirations for our State, for our country, for their kids, for our grandkids. They expect us to act on those aspirations rather than on the divisions that are so easy to create for just political gain. That is what has been happening when it comes to these secret holds. There are other issues as well that relate to the rules of this place that need to be changed, but this is one that is indefensible.

I came to the floor this morning and I said it reminds me a little bit of a car trip with my three little girls who are 10, 9, and 5. It happens every single time we are in the car: The first hour goes great; everybody is fine. But then they start to fret with each other, they get frustrated with each other. You can

hear it. Any parent knows, the hair on the back of your neck starts to rise, and you know something bad is about to happen, and it does. Usually somebody slugs somebody else, and then you look behind you and no one will admit what they have done. No one will take responsibility for their bad act. We don't tolerate that in my household, by the way. We try hard to get to the bottom and the truth. We don't always, but we usually do.

This is the same thing. I am not saying people shouldn't be able to hold things up on the merits, but they ought to have to come to the floor and tell the American people who they are and why they are holding it up. They may have good arguments to make. That is what this is about. It is about debate, and that is what we need more of in this country because we are wasting the American people's time. We are wasting the American people's money, and we can't even get a debate on a lot of the issues this country faces.

I am going to try hard to do everything I can to contribute to a civil debate rather than an uncivil debate, and I think getting rid of these holds is going to be one of the ways forward. It is not the only thing we need to do.

I wish to thank Senator WYDEN for all of his good work on this issue, and Senator WHITEHOUSE for his good work, and the chairman's indulgence for letting us have this conversation tonight. Thanks for everything you have done to advance Wall Street reform this week.

By the way, on that, the American people should know that this bill, the Wall Street reform bill, is a very good bill. Unlike some other work we have done recently, it actually has the benefit of being worked on in a very bipartisan way, with a lot of amendments from Democrats and Republicans which I think have improved the legislation. I can't predict the future, but my guess is that it is going to pass with broad bipartisan support.

I congratulate Chairman DODD on his leadership and getting that done in a way that gives the American people confidence that we are actually doing their business.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I wish to join my colleagues in expressing our support for Senator WYDEN's continued efforts to get this rule changed.

The circumstances in which these secret holds take place are quite remarkable. Over and over again we see a committee vote clearing a nominee for the floor, often unanimously, or by heavy, huge bipartisan majorities; clearly qualified candidates; clearly candidates who enjoy bipartisan support and, in many cases, candidates who are unanimously supported. Even in this conten-

tious and cantankerous time in this body, they come through the committee with that kind of support.

Then they come through on the floor in some cases 98 to 0, 100 to 0. But between that unanimous committee vote and the unanimous floor vote is an endless, endless, endless delay. Many of them stack up and never get that floor vote. We have had as many as 100 stacked up, waiting for that floor vote on the Executive calendar.

What is happening between a unanimous committee vote and a unanimous floor vote that creates all this hassle and delay and leaves people in limbo for months and months, 100 at a time on the Executive calendar, all of whom are in responsible positions in our Federal Government that we need to have staffed? It is the secret hold. It is the secret hold where you don't have to disclose who you are so you don't have to disclose why you are holding. Because you don't have to disclose who you are or why you are holding, you don't have to have a good reason. You could have a downright nefarious reason and you could still use the hold. It is pretty widely known that deeds that are done in the dark are not the deeds we are proud of, and this is a deed that is by definition always done in the dark. Senator WYDEN and Senator GRASSLEY's long efforts to get rid of it are very commendable. We are going to work very hard to make sure we have their back on this rule.

In this particular circumstance, Senator WYDEN has been here 14 years. He has never seen a stunt like this one. I have only been here 3 years; I can't say that. But 14 years of service in the Senate and he has never seen a stunt like this particular one.

The idea that this is on the merits, the idea that this is about trying to get a vote on that second-degree amendment, seems mighty improbable. Of all of the amendments on this bill, of all of the amendments we have voted on, of all the amendments that are pending, of all the amendments people are arguing for to get on the floor, which is the one amendment that somebody chose to drop this second-degree amendment on and jam up its passage through this body?

Which is the one? It is the secret hold. In kind of a perverse way, it is actually sort of appropriate that a procedural vehicle, the secret hold, that has such an odor of mischief around it—that the reform of that should itself be blockaded by a procedural trick that also has that same odor of mischief about it.

But what we want to do is get through that mischief so that the business of this body no longer wreaks of the odor of mischief and instead gives off the healthy air of open debate and public process and transparency. I thank Senator WYDEN and Senator GRASSLEY, who is not on the floor. We will continue to push on this.



AMENDMENT NO. 3746 TO AMENDMENT NO. 3739

If I could change to a different piece of business, I will take this opportunity to call up amendment No. 3746. I thank Senator DODD and I will say a few words about it.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE], for himself, Mr. MERKLEY, Mr. DURBIN, Mr. SANDERS, and Mr. LEVIN, proposes an amendment numbered 3746 to amendment No. 3739.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restore to the States the right to protect consumers from usurious lenders)

On page 1320, strike line 23 and all that follows through the end of the undesignated matter on page 1321 between lines 17 and 18 and insert the following:

“(g) TRANSPARENCY OF OCC PREEMPTION DETERMINATIONS.—The Comptroller of the Currency shall publish and update not less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:

“Sec. 5136C. State law preemption standards for national banks and subsidiaries clarified.”.

(c) USURIOUS LENDERS.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following:

“SEC. 141. LIMITS ON ANNUAL PERCENTAGES RATES.

“Effective 12 months after the date of enactment of this section, and notwithstanding any other provision of law, the interest applicable to any consumer credit transaction (other than a transaction that is secured by real property), including any fees, points, or time-price differential associated with such a transaction, may not exceed the maximum permitted by any law of the State in which the consumer resides. Nothing in this section may be construed to preempt an otherwise applicable provision of State law governing the interest in connection with a consumer credit transaction that is secured by real property.”.

Mr. WHITEHOUSE. I don't want to speak long. I want to, first, join Senator BENNET's appreciation of Senator DODD for the long and successful way in which he has managed this bill. It has not gone unnoticed by the American people how contentious and cantankerous the environment is around the Senate. Notwithstanding that inhospitable environment, he has done an extraordinary job of bringing this legislation forward and continuing through the deliberative process, where people are getting amendments and votes are being taken. There are no

motions to table so far. Only one vote has required 60 votes. It has been going by the regular order of the Senate and not the usual procedures that often have been forced by the recent obstructionism we have seen. I commend him and thank him for allowing this amendment to be called up and to go forward.

I want to add a sponsor, Senator TOM UDALL, of New Mexico. I ask unanimous consent that he be added as the amendment's 15th cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. I very much hope this can go with bipartisan support. Senator COCHRAN on the Republican side is a cosponsor as well. It is a bipartisan amendment. This is a situation that the Congress never voted on, the situation that is here to cure. We never made a decision that an out-of-State bank should be able to come into your State and violate your State's law about interest rates. We could have. That is within Congress's power to say. But we never did. We are in that circumstance, however, for an unusual reason—because many years ago, 30 years ago, the Supreme Court made a technical decision about the National Banking Act, determining that when you have a transaction between a bank in one State and a consumer in another, where is the transaction located for regulatory purposes? They decided to locate it where the bank is. They had to pick one or the other.

That didn't seem very systemically important at the time. But the big banks—the Wall Street banks—have very crafty lawyers. The very crafty lawyers saw the loophole that this innocent technical decision opened. So they started moving their credit card businesses, their divisions, into States that had the worst consumer protection laws—the ones where you could charge any interest rate you wanted, where there was the worst protection for the consumer. From that base of the worst consumer protection in the country, they could move out and sell their products and do business in all of the other States, whose laws were still on the books, whose laws still protected their citizens, whose laws had stood since the founding of the Republic, since the establishment of the States, and they could get around those laws because of this loophole that the Supreme Court decision opened.

It is way past time that we close this loophole. In Illinois, Connecticut, and Rhode Island, over and over and over we hear from people who are suffering because they were late with a payment or they fell into one of the tricks and traps in the credit card contract or for no reason at all, just because they can do it, the credit card company jacked the interest rate up to or over 30 percent. Suddenly, boom, they are in what

one expert called the “sweat box.” They cannot pay what they owe. It is all they can do to stay even all the time. The big company milked them and charged an interest rate that would be illegal under the laws of that State. Before 1978, the solicitation for that credit card that had the tricks and traps, and that hidden 30-percent penalty rate, would have been a matter for the authorities. Now it is the way they do business.

This amendment will put that back. For 202 years of this Republic, that was the way things were. States could protect their own citizens from unfair and excessive interest rates. That is the way it should be. That is what federalism is all about. That is what States rights are all about. So I hope that my amendment will go forward.

People believe in history—the more than two centuries of history of the States protecting their consumers, and a tradition of protection against abusive rates that goes back before the founding of our country, back to ancient Roman law, and all of the world's major religions. This is a longstanding tradition with a very strange little loophole that created a peculiar historic anomaly that allows these big corporations to take terrible advantage of ordinary Americans. Not only are Americans being taken advantage of, but local banks suffer as well because they have to play by the rules. If you haven't played that stunt of headquartering your bank in another State so you can work your way back and market in that same State, but under the nonexistent consumer protections of the home State, then you are stuck, and it is not fair.

I ask my colleagues to protect consumers in your home States and be true to history and States rights, protect your local banks have to follow local State laws. Let's put this brief moment in history into the ash heap of history, where it belongs as an anomaly where Americans, for the first time, had no protection from giant corporations gouging them with 30 percent and higher interest rates. That is not the way America was founded. That is only because of this peculiar loophole that we have this situation. We have it within our power to change that. We have it within our power to go back to our home States and say to the people in our home States: We have done you a real good deed. We have allowed your State government, your Governor and legislature in the home State, to protect its own citizens against abusive out-of-State interest rates.

A lot of this bill is very technical. It is preventive medicine to rebuild the Glass-Steagall firewall, to regulate collateralized debt obligations, to enhance leverage requirements—things that are hard for people to grasp if

they have not been steeped in these technicalities for these many weeks. It is important stuff, but if you want a clear, deliverable way to explain about this bill when you go back to your home State—when Senator COCHRAN, my cosponsor, goes back to Mississippi, if this amendment passes, he will be able to say to his fellow Mississippians: Ladies and gentlemen, the State of Mississippi is empowered to protect you now. An out-of-State company can no longer take your interest rates, and for a lousy reason, or for no reason at all, suddenly jack them up to 30 percent or more. It is simply wrong to leave ordinary Americans subject to that kind of abuse, to all the crafty, heavily lawyered, carefully designed, socially engineered tricks and traps they have built into these complicated, complex, tricky credit card agreements.

Now 50 States can stand against it. Attorneys general can proceed to defend these laws. It puts the government of this country back where it should be—in the hands of the people. Some people here would rather have the big corporations rule over the States. I believe that the States should trump even the big corporations when it comes to matters of protecting their citizens. That is the way it should be. That is the way the country was founded and, if this amendment passes, that is the way it will be again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I thank my colleague from Rhode Island for his very generous comments. We have worked closely together. He hasn't been here a great deal of time, but he was an invaluable asset last year about this time when we were spending an awful lot of time together. I had become sort of the acting chairman of the HELP Committee when my dearest friend in this Chamber became terribly ill, Senator Kennedy. He asked me to take over that committee for him. We were charged with the responsibility of putting together a sizable portion of the health care proposal. The Senator from Rhode Island was an invaluable asset in that process. We had some critical moments, which I will not go into now, but in those critical moments, he played a remarkably important role. Some day, I will have time to spend more time going back and writing or talking about those days. I can point to several moments when, in the absence of Senator WHITEHOUSE's involvement, I am not sure we would have ever concluded the process as successfully as we did. I am eternally grateful to him for that. He has since then moved off that committee and he is doing other things. He is terribly interested in this subject matter, financial reform. I commend him for his passion and determination to have these issues raised.

Mr. WHITEHOUSE. Mr. President, if I may reply. As a new Senator in this body, who had not had legislative experience—I came out of an executive and law enforcement background—I have enjoyed the privilege of serving on that committee under the Senator's leadership. And now to have had the privilege of seeing him work this bill on the floor, for a new Senator, it has been a master class in leadership and legislation. I will never forget it. I feel very privileged to have had that experience. I thank the chairman.

Mr. DODD. Mr. President, I am going to be very brief. Our staff has been very patient all week. You only get to see them when the cameras pull back and we are in a quorum call. The wonderful floor staff people do a remarkable job. Our reporters of debates here do a terrific job reporting the words of every Senator who has spoken. I am grateful to them.

I briefly say, Mr. President, we have now, I think, done some 30, 35 amendments on this bill. We have been at this for a couple of weeks. The legislative days, I think, are 6 working days—maybe 7, which doesn't seem like much, but it is an awful lot. Important amendments have been debated, accepted, and rejected on both sides of the aisle.

I was determined at the outset to prove not only that we can pass important legislation, but that we can do it with a strong dose of civility in the process, and that while we have strong views and we speak, as I do from time to time, with some degree of emotion and passion about things I care deeply about, that should in no way be a reflection of my feelings for my colleagues. We have allowed a lack of civility in recent years, which makes it more difficult to get our jobs done. We didn't get elected here to let those emotions dominate our jobs on behalf of the people who sent us here.

In the last couple of weeks, we have produced a good bill, a stronger bill, but in a way the American people can take pride in how their Senate is operating. I am grateful to all my colleagues and the staffs and others who make it possible for us to do this. These people are knowledgeable about what needs to be done to work out language that allows us to move forward. They don't get mentioned or talked about, and they don't give speeches, but they play an integral and important role in how this institution works.

AMENDMENT NO. 3758 TO AMENDMENT NO. 3739

Mr. DODD. Mr. President, I ask unanimous consent that the pending amendment be set aside, and on behalf of Senator ROCKEFELLER, I call up amendment No. 3758 and ask that once it is reported by number, it be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. ROCKEFELLER, for himself, Mrs. HUTCHISON, Mr. DORGAN, and Mr. PRYOR, proposes an amendment numbered 3758 to amendment No. 3739.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To preserve the Federal Trade Commission's rulemaking authority and for other purposes)

On page 1237, line 6, strike "law," and insert "law (other than section 1024(g) of this title)."

On page 1254, line 15, strike "To" and insert "Except as provided in paragraph (3), to".

On page 1255, line 10, strike "(a)(1)(A)," and insert "(a)(1)."

On page 1256, line 25, strike "law," and insert "law (other than subsection (g))."

On page 1257, after line 25, insert the following:

(g) PRESERVATION OF FEDERAL TRADE COMMISSION AUTHORITY.—

(1) IN GENERAL.—No provision of this title shall be construed as modifying, limiting, or otherwise affecting the authority of the Federal Trade Commission under the Federal Trade Commission Act or any other law, other than an enumerated consumer law.

(2) CERTAIN ENFORCEMENT ACTIONS.—The Federal Trade Commission may enforce, under the Federal Trade Commission Act, a rule with respect to an unfair, deceptive, or abusive act or practice issued by the Bureau as to a person subject to the Federal Trade Commission's jurisdiction under that Act, and a violation of such a rule shall be treated as a violation of a rule issued under section 18 of that Act (15 U.S.C. 57a) with respect to unfair or deceptive acts or practices. The Bureau may enforce, under subtitle E, a rule with respect to an unfair or deceptive act or practice issued by the Federal Trade Commission as to a covered person.

On page 1375, beginning with line 7, strike through line 5 on page 1376 and insert the following:

(5) FEDERAL TRADE COMMISSION.—

(A) TRANSFER OF FUNCTIONS.—The Federal Trade Commission's authority under an enumerated consumer law to conduct a rulemaking, issue official guidelines, or conduct a study or issue a report mandated by such law, shall be transferred to the Bureau on the designated transfer date. Nothing in this title shall be construed to require a mandatory transfer of any employee of the Federal Trade Commission to the Bureau.

(B) FEDERAL TRADE COMMISSION AUTHORITY.—The Bureau shall have all powers and duties respecting rulemaking, issuing guidelines, conducting mandated studies, and issuing mandated reports contained within the enumerated consumer laws that were vested in the Federal Trade Commission relating to consumer financial protection functions on the day before the designated transfer date.

On page 1462, line 5, after "agency" insert "(other than the Bureau of Consumer Financial Protection)".

On page 1464, line 10, after "agency" insert "(other than the Bureau of Consumer Financial Protection)".

On page 1472, line 4, after "agency" insert "(other than the Bureau of Consumer Financial Protection)".

On page 1477, strike lines 15 through 21 and insert the following:

“(e) REGULATORY AUTHORITY.—

“(1) BUREAU OF CONSUMER FINANCIAL PROTECTION.—The Bureau shall prescribe such regulations as are necessary to carry out the purposes of this Act. Except as provided in paragraph (2), the regulations prescribed by the Bureau under this subsection shall apply to any person that is subject to this Act, notwithstanding the enforcement authorities granted to other agencies under this section.

“(2) FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall issue regulations to implement sections 615(e) and 628 of this Act with respect to entities within its authority under section 621 of this Act. The regulations issued by the Bureau under paragraph (1) shall not apply to those entities.”; and

On page 1482, line 1, after “agency” insert “(other than the Bureau of Consumer Financial Protection)”.

On page 1485, line 24, strike “and” after the semicolon.

On page 1486, line 2, insert “and” after the semicolon.

On page 1486, between lines 2 and 3, insert the following:

(C) by adding at the end the following: “Notwithstanding the preceding sentence, only the Federal Trade Commission shall prescribe regulations to implement section 501(b) with respect to entities subject to Federal Trade Commission enforcement under section 505(a).”.

On page 1500, line 23, strike the closing quotation marks, the semicolon, and “and”.

On page 1500, between lines 23 and 24, insert the following:

“(3) Subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall enforce the rules issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made part of this section.”; and

On page 1516, line 1, after “agency” insert “(other than the Bureau of Consumer Financial Protection)”.

Ms. COLLINS. Mr. President, I rise today to speak on the amendment that Senator MURRAY and I have been working on together that would expand the Financial Stability Oversight Council established in S. 3217 to include as non-voting members a State insurance commissioner, a State banking supervisor, and a State securities commissioner. Concomitantly, I seek to remove the independent voting member position having insurance expertise, as that would create a duplicative position.

It is critically important that the Council incorporate State regulators. State banking, insurance, and securities regulators are on the front lines of financial regulation and therefore have information and perspectives that are necessary components of an effective regulatory structure. State regulators could act as “first responders” to the Council, in that they see trends developing at the State level. They could serve as an early warning system, identifying practices and risk-related trends that are substantial contributing factors to systemic risk.

I ask for unanimous consent that the joint letter from the Conference of

State Bank Supervisors, the National Association of Insurance Commissioners, and the North American Securities Administrators Association supporting this amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF  
INSURANCE COMMISSIONERS,  
May 13, 2010.

Hon. PATTY MURRAY,  
Hon. SUSAN COLLINS,  
U.S. Senate,  
Washington, DC.

DEAR SENATORS MURRAY AND COLLINS: The Conference of State Bank Supervisors (CSBS), the National Association of Insurance Commissioners (NAIC) and the North American Securities Administrators Association (NASAA) are writing in support of your amendments providing for non-voting membership for state banking, insurance and securities regulators on the Financial Stability Oversight Council (FSOC).

Including state regulators on the FSOC is both necessary and appropriate. State banking, insurance, and securities regulators are on the front lines of financial regulation and bring information and perspectives that are necessary components of an effective regulatory structure. In all financial sectors, state regulators gather and act upon large amounts of information from industry participants and from investors. State regulators would bring to the FSOC the insights of a team of “first responders” who see trends developing at the state level, which have the potential to impact the larger financial system. Consequently, they serve as an early warning system identifying practices and risk-related trends that are substantial contributing factors to systemic risk.

Matters of financial stability and systemic risk have far-reaching implications and benefit from a diversity of regulatory perspectives. By including state regulators in the FSOC, your amendments create a more comprehensive and efficient approach that will benefit from access to all relevant information regarding the accumulation of risk in our financial system.

Thank you for your efforts and we look forward to working with you to secure passage of your amendments.

Sincerely,

JOSEPH A. SMITH, Jr.,  
Commissioner of  
Banks, North Carolina,  
Chairman,  
Conference of State  
Bank Supervisors.

DENISE VOIGT CRAWFORD,  
Texas Securities Commissioner, NASAA  
President.

JANE CLINE;  
West Virginia Insurance Commissioner,  
NAIC President.

Ms. COLLINS. Mr. President, I also wish to speak briefly on my amendment, No. 3879, which would help raise capital and risk standards for banks, bank holding companies, and nonbank financial institutions.

It is not my intent that this amendment affect the treatment of small bank holding companies as provided under the Federal Reserve’s Small

Bank Holding Company Policy Statement, nor do I intend that the amendment apply to Federal Home Loan Banks. Likewise, I would like the record to reflect that the effective date for bank holding companies owned by foreign banking organizations that obtained an exemption from capital requirements pursuant to the Federal Reserve’s Supervision and Regulation Letter SR-01-1 should be 5 years after enactment.

I look forward to working with my colleagues to ensure that this intent is properly reflected in the final language of this reform bill.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### REMEMBERING REVEREND JESSE SCOTT

Mr. REID. Mr. President, I rise today with a sad heart, because on Monday, May 10, the city of Las Vegas and our Nation lost a voice for truth and justice. On that day, Reverend Jesse Scott passed away.

Reverend Jesse Scott committed many of his 90 years to creating a more just world. With a commanding voice he argued for basic principles of fairness that will reverberate long into the future. His perseverance inspired us all and we continue his legacy of building a community that sees all its members as equals.

Reverend Scott’s career was devoted to social justice. As an organizer, president and executive director of the NAACP in California and Nevada, he brought communities together to create better living and working conditions for minority workers. Because of his dedication, Reverend Scott was later selected to be the executive director of the Nevada Equal Rights Commission, where he served with dedication and distinction.

Until his death, Reverend Scott was assistant pastor at Second Baptist Church of Las Vegas and was the former pastor of Second Christian Church in Las Vegas. Even in his final days, he practiced his life’s mission of social advocacy by working with Nevada’s nonviolent ex-offenders and by

promoting education to help Nevada students go to college.

The U.S. Senate will also miss an opportunity to hear Reverend Scott's words of faith; he was scheduled to serve as the guest Chaplain and deliver the opening prayer on the Senate floor on Thursday, May 20.

Mr. President, Reverend Jesse Scott was a trailblazer for civil rights and a man of deep faith in God and humanity. My thoughts are with Reverend Scott's family during this difficult time.

Our State has lost a giant, but I am proud to have worked alongside such a great Nevadan.

#### NATIONAL POLICE WEEK

Mrs. LINCOLN. Mr. President, I rise today in honor of National Police Week to recognize the courage, bravery, and dedication of Arkansas's law enforcement officers, who risk their lives each day to keep our citizens safe.

In particular, I pay tribute to five fallen officers from our State whose names have been added to the National Law Enforcement Officers Memorial in Washington, DC. The officers, their departments, and their dates of death are:

John A. Bratton, Grant County Sheriff's Office, February 1, 1887

H.L. Smith, Grant County Sheriff's Office, February 1, 1887

Joseph Christopher Cannon, Plumerville Police Department, June 19, 2009

Larry Neal Blagg, Trumann Police Department, January 27, 2009

Henry Jorden Willeford, Van Buren County Sheriff's Office, November 16, 2009

Along with all Arkansans, I thank these officers for their service and sacrifice. It is a fitting tribute that the names of these officers have been etched on the National Law Enforcement Officers Memorial in Washington, DC.

#### HONORING OUR ARMED FORCES

##### LANCE CORPORAL RICHARD R. PENNY

Mr. PRYOR. Mr. President, it is with a heavy heart that today I honor LCpl. Richard R. Penny from Greenland, AR, and pay tribute to his life and service to our country.

Lance Corporal Penny was a machine gunner assigned to the 1st Battalion, 2nd Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force based out of Camp Lejeune, North Carolina. In March of this year, he was deployed to Afghanistan's Helmand Province, an opium-producing region at the epicenter of the war on terror. He served with valor and distinction, earning numerous awards, including the National Defense Service Medal, the Global War on Terrorism Service Medal, and the Afghanistan Campaign Medal.

Lance Corporal Penny was an "all-American" man, an all-conference defensive tackle for Greenland High School's football team, and voted "class favorite" by his peers. He loved to hunt and fish and drive backroads in his four-wheel-drive pickup he called "Skeeter." Those who knew him described him as "tough as nails," and said the word "quit" was not part of his vocabulary.

Greenland police officer Michael Huber perhaps best described Lance Corporal Penny's life and the impact he had on others when he said to a local TV station: "Here in our town, there are people we look up to. Richard Penny was one of those. He'll still be somebody we can look up to. Because he paid the ultimate sacrifice on the altar of freedom."

Today I join all Arkansans in lifting up Lance Corporal Penny's family, friends, and all those who loved him during these challenging times. We will never forget his courage, his honor, and the life he gave for our country.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO COLONEL JOHN D. BIRD II

• Mr. CRAPO. Mr. President, on May 24, 2010, Mountain Home Air Force Base, in my home State of Idaho, will bid farewell to COL John D. Bird, his wife Megan, and their children Blake and Cole. Colonel Bird has been the commander of the 366th Fighter Wing at Mountain Home Air Force Base since February 11, 2009. Colonel Bird is a command pilot with more than 1,700 flight hours in the F-15C, T-37, and T-38. He has been awarded the Legion of Merit, the Defense Meritorious Service Medal, the Meritorious Service Medal with three oak leaf clusters, the Air Medal, the Air Force Commendation Medal with one oak leaf cluster, and the Air Force Achievement Medal. Colonel Bird has given a lifetime of service to his country, to the benefit of us all.

The 366th Fighter Wing consists of over 4,800 United States and Republic of Singapore personnel, with 22 squadrons, comprised of a fleet of 86 F-15 aircraft, and under Colonel Bird's command, it excelled in its mission. He oversaw the deployment of 5,286 personnel and 1,507 tons of cargo to 18 different locations around the world, with his squadrons surpassing all theater commander objectives in each location. During Colonel Bird's time as commander, and due to his leadership, the Wing was recognized with 19 individual awards and 9 program awards at the Air Combat Command level and 10 awards at the Headquarters Air Force level. While under his command, the Mountain Home Air Force Base thrived. He oversaw the expansion and

enhancement of the Mountain Home Range Complex, with new urban target construction and an increase in training airspace capacity; a family housing demolition project, 3 years ahead of schedule, saving \$2.2 million; the construction of 300 new military family housing units; a temporary lodging facility; and a new main gate complex.

Colonel Bird's outstanding leadership abilities inspired excellence and achievement in others, and his comprehensive view of the wing's mission within the context of the broader mission of the Air Force and the U.S. military made him a particularly outstanding commander. My staff and I have enjoyed an extremely positive working relationship with Colonel Bird and his staff, which helps to ensure that Mountain Home AFB not only retains critical missions, but is considered for others as it possesses one of the top training ranges in the Nation and has the strong support of the local community and the State.

Colonel and Mrs. Bird have been exemplary representatives of the Air Force and good friends to Idaho. They will be greatly missed. On behalf of the State of Idaho, I wish them well as they move back to Washington, DC, where Colonel Bird will work as Chief of the Force Application Division at the Pentagon, and I thank them for their continued service to our Nation and for their time as gunfighters in the great State of Idaho. •

##### TRIBUTE TO B.M. "MACK" RANKIN, JR.

• Mrs. HUTCHISON. Mr. President, today I wish to speak about a dear friend whose contributions to the great State of Texas and our Nation are most notable.

B.M. Rankin, Jr., known by his friends as "Mack," is a pioneer in the oil and gas industry. More than three decades ago, Rankin and two partners, W.K. McWilliams, Jr. and James R. Moffett, founded McMoRan Exploration Co., an independent public company engaged in the exploration, development and production of oil and natural gas offshore in the Gulf of Mexico and onshore in the gulf coast area. Today Rankin is the vice chairman of both McMoRan Exploration Co., NYSE, and Freeport-McMoRan Copper & Gold Inc., NYSE, the world's third-largest copper deposit and the single largest gold deposit in the world.

Rankin's expertise and knowledge of America's energy resources, coupled with his leadership and vision for our country's energy needs, have transformed public policy in this area.

For the past 2 years, he has served as the chairman of the U.S. Oil and Gas Association. Under his guidance, the association has provided the industry with representation in legislative, regulatory and public affairs, and it serves

as a resource on technical matters. Membership in the association represents all segments of the industry, including major oil and gas companies, independent oil and gas producers, refineries, natural gas and petroleum products transportation and distribution companies, natural gas generation companies, and other firms and individuals involved in the industry.

Throughout his career Rankin has been a strong advocate for clarity and practicality in the ongoing debate to formulate a responsible national energy policy. Because of his steadfast efforts, the oil and gas industry plays a leading role in these policy debates and deliberations.

A native of Dallas, Rankin is an active member and generous benefactor of a number of local charitable foundations. He has served on the Board of Visitors of the University Cancer Foundation of the University of Texas M.D. Anderson Hospital Cancer Center and as chairman for the Chronic Lymphocytic Leukemia, CLL, Global Research Foundation.

On May 13, 2010, Rankin will step down as chairman of the U.S. Oil and Gas Association. On this special occasion I want not only to commend Rankin for his lifelong dedication to energy policy but also to thank him for his tremendous commitment to our State and country.●

#### GOVERNOR'S WORK-LIFE BALANCE AWARD RECIPIENTS

● Mrs. LINCOLN. Mr. President, today I congratulate 17 Arkansas employers that were recently honored by the Arkansas Governor's office for providing resources to help their workers balance work and family life. As the mother of twin boys, and like every working parent, I find it can be a challenge to balance family life with my work responsibilities. I commend these Arkansas employers for providing resources that support employees in balancing the needs of both work and family.

The winners, based on number of employees, were:

##### LARGE COMPANIES

University of Arkansas, Fayetteville, Gold  
University of Arkansas for Medical Sciences, Little Rock, Silver  
Ernst & Young, LLP, Rogers, Bronze  
Fayetteville Public School District, Fayetteville, Bronze

##### MEDIUM COMPANIES

Winrock International, Little Rock, Gold  
Arkansas Educational Television Network, Conway, Silver  
Delta Dental of Arkansas, Sherwood, Bronze

##### SMALL COMPANIES

Cross, Gunter, Witherspoon & Galchus, P.C., Little Rock, Gold  
Arkansas Power Electronics International, Inc., Fayetteville, Silver  
White River Planning & Development District, Inc., Batesville, Bronze

The Work-Life Initiative also announced Spotlight Award winners, hon-

oring organizations that provided exemplary strategies that support a healthy work-life balance. They were:

Arvest Bank, Ft. Smith and River Valley Region, Ft. Smith  
Bell & Company, PA, North Little Rock  
Friendship Community Care, Russellville  
Helen R. Walton Children's Enrichment Center, Bentonville  
McKee Foods Corporation, Gentry

The Mature Worker Award also recognized three companies for their ongoing efforts to provide a work environment friendly to mature workers. The winners were:

Arkansas Educational Television Network, Conway  
Bank of the Ozarks, Little Rock  
Saline Memorial Hospital, Benton

Mr. President, I congratulate each and every member of these organizations for their dedication to their families, work life, and our great State of Arkansas.●

#### RECOGNIZING BLACK DINAH CHOCOLATIERS

● Ms. SNOWE. Mr. President, today I recognize Black Dinah Chocolatiers, a rare treasure of a company found on the tiny, remote Maine island of Isle au Haut in Penobscot Bay. While this small business may be nestled on a small island, it is no secret to the world. Featured in Martha Stewart Living and various other publications, chocolate lovers travel from near and far to take the 45-minute ride by mail boat or ferry from the mainland to indulge in the rich, delightful taste of Black Dinah's specialty handcrafted chocolates.

The history behind this tasty small business is a tale of adventure and creativity. Black Dinah Chocolatiers' founders Kate and Steve Shaffer fell in love with the small fishing and lobstering community of Isle au Haut after moving there in 2004. Not seeking employment in the island's traditional trades of lobstering and carpentry, Kate and Steve designed an alternative business plan that consisted of a product that could be marketed and shipped off the island year-round to compensate for cold Maine winters and a sparsely populated customer base on the island. Their solution was chocolate.

With Kate's years of experience in the restaurant industry, Steve's experience in the computer repair business, and some assistance from one of Maine's exceptional women's business centers, the Shaffers launched Black Dinah Chocolatiers in July of 2007. Today, thousands of chocolates are shipped off the island to every State during holidays such as Thanksgiving, Christmas, Valentine's Day, and Mothers Day. In addition to an active mail order business, the Shaffers supply their artisan chocolates to Maine gourmet food stores, wine shops, and flo-

rists. They also run an organic bakery and coffeehouse from May through September for tourists and locals alike. This small business has a tremendous impact on the island's community—not only through its satisfying contribution of extraordinary chocolate but as a profitable venture that is helping to sustain its local economy through sales that have doubled each year since its inception.

Black Dinah Chocolatier further assists the regional economy through its use of local Maine produce. Kate turns out dozens of handmade Venezuelan, Belgian, and rare Peruvian-style chocolates, including truffles and caramels, all of them flavored with natural ingredients—organic herbs, flowers, fruits, and even cheeses cultivated by the region's farmers. In fact, each season's flavored chocolates are dictated by what is at the nearby Stonington farmers market on the mainland. Every chocolate features at least one ingredient from a Maine farmer located within 50 miles of the company's base.

The Shaffers understand how critical it is for their business to establish and maintain local relationships, especially on an island the size of Isle au Haut. In a truly Maine example of how neighbors help each other to this day, Kate told Martha Stewart Living Magazine, "It's not as though you can go to the store when you run out of butter. If I run out of butter I'll go to Diana, the innkeeper. For cream cheese, I call Brenda, a lobsterman's wife, who makes lots of crab dip. And of course, if anyone needs sugar or chocolate, they come to me."

A true sweet spot in the heart of an island community as well as the hearts of chocolate lovers worldwide, Black Dinah Chocolatiers is a prime example of a Maine small business that seeks to be a profitable venture and a good neighbor. I commend its founders, Kate and Steve Shaffer, for their ingenuity in creating this thriving and viable business, as well as for their commitment and dedication to helping grow their local economy, and I wish them the sweetest success in the future.●

#### TRIBUTE TO MIKE BARKER

● Mr. WYDEN. Mr. President, this week in Bend, OR, the community will be honoring one of the great advocates for Oregon's veterans, Mike "Rocky" Barker. Mike has been an incredible partner to me and my staff as we have worked to improve health and other services for central Oregon's military veterans.

Mike's incredible service to our Nation began with 8 years in the U.S. Air Force as an air traffic controller. He went on to a career with the FAA at the Butte, MT, Flight Service Station and then moved to central Oregon where he ran the Disabled Veterans Outreach Program. In that post he became nationally recognized as the VA's

top service officer for 1999, and shortly thereafter he received similar national recognition from the VFW.

Always looking for ways to help veterans in need, Mike ran the incarcerated vet program for a number of years. During his leadership, more than 95 percent of the veterans who came through his program stayed out of prison.

He retired in 2003, and the hallmark of his career from 1970 to the present—whether as a professional or as a volunteer—has been his insight and leadership on issues that matter to military veterans.

When I was elected to the U.S. Senate in 1996, Mike immediately rolled up his shirt sleeves to work with me and our staff to open up the VA's Central Oregon Community Based Outreach Clinic—the first of its kind to open up east of the Cascades. Before this clinic got off the ground, central Oregon veterans had to drive to the Portland VA Medical Center for the medical services our Nation promised them—a 6-hour round trip. That hardship is now a thing of the past for Oregon's veterans. Today, the clinic is such a success that we are now in the process of expanding it.

Throughout all of his work on veterans' issues, Mike had a particular feel for the challenges his fellow servicemembers faced with post traumatic stress disorder, PTSD. He had started working with people dealing with illness during the Vietnam era, and continues to this day. Three years ago, Mike brought together a diverse group of veterans' leaders and formed the Central Oregon Vet Center Task Force to find ways to support veterans in their community. Mike led the group's monthly meetings, as they brainstormed strategies to persuade the VA how important it was to create a vet center in eastern Oregon. Almost a year ago we finally achieved that goal, and the Central Oregon Vet Center is now open for service. It is a place where combat veterans can get counseling and, just as importantly, find a community of people who have a common experience as warriors for the United States.

Thank you, Mike, for your friendship, your dedication, and your service to our veterans.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGE FROM THE HOUSE

At 10:57 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1067. An act to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 3333. An act to extend the statutory license for secondary transmissions under title 17, United States Code, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 61. Concurrent resolution expressing the sense of the Congress that general aviation pilots and industry should be recognized for the contributions made in response to Haiti earthquake relief efforts.

#### ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. BYRD) announced that he had signed the following enrolled bills, which were previously signed by the Speaker of the House:

H.R. 1121. An act to authorize a land exchange to acquire lands for the Blue Ridge Parkway from the Town of Blowing Rock, North Carolina, and for other purposes.

H.R. 1442. An act to provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5817. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures (21); Amdt. No. 3369" ((RIN2120-AA65)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5818. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Model 737-600, -700, -700C, -800, -900, and -900ER Series Airplanes" ((RIN2120-AA64))((Docket No. FAA-2010-0430)) received in the Office of the President of the Senate on May 7, 2010; to the

Committee on Commerce, Science, and Transportation.

EC-5819. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Model 747-200B Series Airplanes" ((RIN2120-AA64))((Docket No. FAA-2010-0381)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5820. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier, Inc. Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes" ((RIN2120-AA64))((Docket No. FAA-2009-0525)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5821. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier, Inc. Model DHC-8-400 Series Airplanes" ((RIN2120-AA64))((Docket No. FAA-2010-0431)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5822. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier, Inc., Model CL-600-2C10 (Regional Jet Series 700, 701 & 702), CL-600-2D15 (Regional Jet Series 705), and CL-600-2D24 (Regional Jet Series 900) Airplanes" ((RIN2120-AA64))((Docket No. FAA-2009-1111)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5823. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; British Aerospace Regional Aircraft Model Jetstream Series 3101 and Jetstream Model 3201 Airplanes" ((RIN2120-AA64))((Docket No. FAA-2010-0123)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5824. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France (ECF) Model EC120B Helicopters" ((RIN2120-AA64))((Docket No. FAA-2010-0410)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5825. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France Model AS350B, BA, B1, B2, B3, C, D, and D1; AS 355E, F, F1, F2, N, and NP Helicopters" ((RIN2120-AA64))((Docket No. FAA-2010-0356)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5826. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation,



transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Honeywell International Inc., Primus EPIC and Primus APEX Flight Management Systems, Installed on, but not Limited to, Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and ERJ 190 Airplanes, and Pilatus Aircraft Ltd. Model PC-12/47E Airplanes" ((RIN2120-AA64)(Docket No. FAA-2010-0385)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5827. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Piaggio Aero Industries S.p.A. Model PIAGGIO P-180 Airplanes" ((RIN2120-AA64)(Docket No. FAA-2010-0124)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5828. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; General Electric Company (GE) CF34-1A, CF34-3A, and CF34-3B Series Turbofan Engines; Correction" ((RIN2120-AA64)(Docket No. FAA-2009-0328)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5829. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Turbomeca Makila 2A Turbohaft Engines" ((RIN2120-AA64)(Docket No. FAA-2010-0411)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5830. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; General Electric Company (GE) CJ610 Series Turbojet Engines and CF700 Series Turbofan Engines" ((RIN2120-AA64)(Docket No. FAA-2009-0502)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5831. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Liberty Aerospace Incorporated Model XL-2 Airplanes" ((RIN2120-AA64)(Docket No. FAA-2009-0329)) received in the Office of the President of the Senate on May 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5832. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands" (RIN0648-XV79) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5833. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law,

the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Re-allocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area" (RIN0648-XV78) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5834. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska" (RIN0648-XV80) received in the Office of the President of the Senate on May 12, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5835. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer" (RIN0648-XV91) received in the Office of the President of the Senate on May 12, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5836. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures" (RIN0648-AY57) received in the Office of the President of the Senate on May 12, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5837. A communication from the Deputy Chief Financial Officer, Department of Homeland Security, transmitting, pursuant to law, a report relative to the transfer of funds from the Oil Spill Liability Trust Fund to the Emergency Fund, which is administered by the United States Coast Guard; to the Committee on Commerce, Science, and Transportation.

EC-5838. A communication from the Secretary of Transportation, transmitting, pursuant to law, an annual report relative to the regulatory status of each recommendation on the National Transportation Safety Board's Most Wanted List; to the Committee on Commerce, Science, and Transportation.

EC-5839. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Flutriaol; Pesticide Tolerances" (FRL No. 8812-6) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5840. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fluazinam; Pesticide Tolerances" (FRL No. 8824-5) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5841. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clethodim; Pesticide Tolerances" (FRL No. 8822-7) received in the Office of the

President of the Senate on May 11, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5842. A communication from the Secretary of the American Battle Monuments Commission, transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred within the Commission and was reported in the Government Accountability Office report, GAO-10-399; to the Committee on Appropriations.

EC-5843. A communication from the Assistant Secretary of Defense (Health Affairs), Department of Defense, transmitting, pursuant to law, a report relative to mental health counselors practicing independently under the TRICARE program; to the Committee on Armed Services.

EC-5844. A communication from the Under Secretary of Defense (Personnel and Readiness), Department of Defense, transmitting, pursuant to law, a report relative to the disposition of remains; to the Committee on Armed Services.

EC-5845. A communication from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to current military, diplomatic, political, and economic measures that are being or have been undertaken to complete our mission in Iraq successfully; to the Committee on Armed Services.

EC-5846. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations (75 FR 22699)" ((44 CFR Part 67)(Docket No. FEMA-2010-0003)) received in the Office of the President of the Senate on May 12, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5847. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations (75 FR 23593)" ((44 CFR Part 65)(Docket No. FEMA-2010-0003)) received in the Office of the President of the Senate on May 12, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5848. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations (75 FR 23595)" ((44 CFR Part 67)(Docket No. FEMA-2010-0003)) received in the Office of the President of the Senate on May 12, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5849. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations (75 FR 23600)" ((44 CFR Part 67)(Docket No. FEMA-2010-0003)) received in the Office of the President of the Senate on May 12, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5850. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations (75 FR 23608)" ((44 CFR Part 67)(Docket No. FEMA-2010-0003)) received in the Office of the President of the Senate on May 12, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5851. A communication from the Assistant Secretary for Export Administration,



Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Addition to the List of Validated End-Users: Advanced Micro Devices China, Inc." (RIN0694-AE87) received in the Office of the President of the Senate on May 12, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5852. A communication from the Executive Vice President and Chief Financial Officer, Federal Home Loan Bank of Chicago, transmitting, pursuant to law, the Bank's 2009 management reports; to the Committee on Banking, Housing, and Urban Affairs.

EC-5853. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, a report relative to a vacancy in the position of Assistant Secretary for Public Affairs, Department of Housing and Urban Development; to the Committee on Banking, Housing, and Urban Affairs.

EC-5854. A communication from the Deputy to the Chairman, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled "Final Rule Regarding Limited Amendment of the Temporary Liquidity Guarantee Program to Extend the Transaction Account Guarantee Program with Modified Fee Structure" (RIN3064-AD37) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5855. A communication from the Assistant General Counsel for Legislation and Energy Efficiency, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Energy Conservation Program: Energy Conservation Standards for Residential Water Heaters, Direct Heating Equipment, and Pool Heaters" (RIN1904-AA90) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Energy and Natural Resources.

EC-5856. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Standards for Business Practices and Communication Protocols for Public Utilities; Final Rule" (FERC Docket No. RM05-5-017) received in the Office of the President of the Senate on May 12, 2010; to the Committee on Energy and Natural Resources.

EC-5857. A communication from the Assistant Secretary for Insular Affairs, Department of the Interior, transmitting, pursuant to law, a report entitled "Report on the Alien Worker Population in the Commonwealth of the Northern Mariana Islands"; to the Committee on Energy and Natural Resources.

EC-5858. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "MOX Fuel Fabrication Facility Construction and Operations Report to Congress; April 30, 2010"; to the Committee on Energy and Natural Resources.

EC-5859. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to the Discrete Emission Credit Banking and Trading Program" (FRL No. 9151-6) received in the Office of the President of the Senate on May 12, 2010; to the Committee on Environment and Public Works.

EC-5860. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to the Emission Credit Banking and Trading Program" (FRL No. 9151-5) received in the Office of the President of the Senate on May 12, 2010; to the Committee on Environment and Public Works.

EC-5861. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Determination to Approve Alternative Final Cover Request for the Lake County, Montana Landfill" (FRL No. 9149-7) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Environment and Public Works.

EC-5862. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Reformulated Gasoline and Diesel Fuels; California" (FRL No. 9112-7) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Environment and Public Works.

EC-5863. A communication from the Regulations Coordinator, Office of Consumer Information and Insurance Oversight, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Dependent Coverage of Children to Age 26 under the Patient Protection and Affordable Care Act" (RIN0991-AB66) received in the Office of the President of the Senate on May 11, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-5864. A communication from the Director of the Regulatory Review Group, Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Livestock Forage Disaster Program and Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish; Supplemental Agricultural Disaster Assistance" (RIN0560-AH94) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5865. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period from October 1, 2009 through March 31, 2010, received in the Office of the President of the Senate on May 13, 2010; ordered to lie on the table.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 624. A bill to provide 100,000,000 people with first-time access to safe drinking water and sanitation on a sustainable basis by 2015 by improving the capacity of the United States Government to fully implement the Senator Paul Simon Water for the Poor Act of 2005 (Rept. No. 111-185).

S. 2839. A bill to amend the Torture Victims Relief Act of 1998 to authorize appro-

priations to provide assistance for domestic and foreign programs and centers for treatment of victims of torture, and for other purposes (Rept. No. 111-186).

By Mr. KOHL, from the Special Committee on Aging:

Special Report entitled "Social Security Modernization: Options to Address Solvency and Benefit Adequacy" (Rept. No. 111-187).

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Goodwin Liu, of California, to be United States Circuit Judge for the Ninth Circuit.

Raymond Joseph Lohier, Jr., of New York, to be United States Circuit Judge for the Second Circuit.

Leonard Philip Stark, of Delaware, to be United States District Judge for the District of Delaware.

Kerry Joseph Forestal, of Indiana, to be United States Marshal for the Southern District of Indiana for the term of four years.

John Dale Foster, of West Virginia, to be United States Marshal for the Southern District of West Virginia for the term of four years.

Gary Michael Gaskins, of West Virginia, to be United States Marshal for the Northern District of West Virginia for the term of four years.

Dallas Stephen Neville, of Wisconsin, to be United States Marshal for the Western District of Wisconsin for the term of four years.

R. Booth Goodwin II, of West Virginia, to be United States Attorney for the Southern District of West Virginia for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. FEINGOLD:

S. 3356. A bill to amend title 38, United States Code, to increase the maximum age for children eligible for medical care under the CHAMPVA program, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LAUTENBERG (for himself, Mr. BROWN of Ohio, Mrs. GILLIBRAND, Mr. WYDEN, Mr. WHITEHOUSE, Mrs. FEINSTEIN, and Mr. FRANKEN):

S. 3357. A bill to establish certain duties for pharmacies to ensure provision of Food and Drug Administration-approved contraception, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER (for herself, Ms. CANTWELL, Mrs. FEINSTEIN, Mr. MERKLEY, Mr. WYDEN, and Mrs. MURRAY):

S. 3358. A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf off the coast of California, Oregon, and Washington; to the Committee on Energy and Natural Resources.

By Mr. THUNE (for himself, Mr. TESTER, and Ms. SNOWE):

S. 3359. A bill to amend title 38, United States Code, to provide for annual cost-of-living adjustments to be made automatically by law each year in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. KERRY:

S. 3360. A bill to establish a pilot program for police departments to use anonymous texts from citizens to augment their anonymous tip hotlines; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself, Mrs. MURRAY, Mr. BOND, and Mr. ROBERTS):

S. 3361. A bill to require the Secretary of Defense to take illegal subsidization into account in evaluating proposals for contracts for major defense acquisition programs, and for other purposes; to the Committee on Armed Services.

By Mr. SANDERS (for himself and Mrs. BOXER):

S. 3362. A bill to amend the Clean Air Act to direct the Administrator of the Environmental Protection Agency to provide competitive grants to publicly funded schools to implement effective technologies to reduce air pollutants (as defined in section 302 of the Clean Air Act), including greenhouse gas emissions, in accordance with that Act; to the Committee on Environment and Public Works.

By Mr. CARDIN (for himself, Mr. CRAPO, Ms. MIKULSKI, and Mr. RISCH):

S. 3363. A bill to amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act; to the Committee on Environment and Public Works.

By Mr. UDALL of Colorado (for himself, Ms. COLLINS, Mr. BURRIS, Mr. MERKLEY, Mrs. MURRAY, and Mr. TESTER):

S. 3364. A bill to amend the Energy Policy and Conservation Act to establish the Office of Energy and Renewable Energy as the lead Federal agency for coordinating Federal, State, and local assistance provided to promote the energy retrofitting of schools; to the Committee on Energy and Natural Resources.

By Mr. WEBB:

S. 3365. A bill to amend section 5542 of title 5, United States Code, to provide that any hours worked by Federal firefighters under a qualified trade-of-time arrangement shall be excluded for purposes of determinations relating to overtime pay; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LAUTENBERG:

S. 3366. A bill to prohibit individuals from carrying firearms in certain airports buildings and airfields, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA:

S. 3367. A bill to amend title 38, United States Code, to increase the rate of pension for disabled veterans who are married to one another and both of whom require regular aid and attendance, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. AKAKA:

S. 3368. A bill to amend title 38, United States Code, to authorize certain individuals to sign claims filed with the Secretary of

Veterans Affairs on behalf of claimants, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. MURKOWSKI:

S. 3369. A bill to provide for the application of the Recreation and Public Purposes Act to the Connell Lake area to enable the Ketchikan Gateway Borough in Alaska to obtain land in the area in accordance with that Act; to the Committee on Energy and Natural Resources.

By Mr. AKAKA:

S. 3370. A bill to amend title 38, United States Code, to improve the process by which an individual files jointly for Social Security and dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. McCASKILL (for herself, Mr. LIEBERMAN, and Ms. COLLINS):

S. 3371. A bill to amend title 10, United States Code, to improve access to mental health care counselors under the TRICARE program, and for other purposes; to the Committee on Armed Services.

By Mrs. BOXER (for herself, Ms. MURKOWSKI, Mrs. MURRAY, Ms. CANTWELL, Mr. NELSON of Florida, Mr. WHITEHOUSE, Mr. BEGICH, Mr. INHOFE, Ms. LANDRIEU, Mr. VITTER, Ms. SNOWE, and Mr. COCHRAN):

S. 3372. A bill to modify the date on which the Administrator of the Environmental Protection Agency and applicable States may require permits for discharges from certain vessels; to the Committee on Environment and Public Works.

By Mrs. BOXER:

S. 3373. A bill to address the health and economic development impacts of nonattainment of federally mandated air quality standards in the San Joaquin Valley, California, by designating air quality empowerment zones; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG:

S. 3374. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish a grant program to revitalize brownfield sites for the purpose of locating renewable electricity generation facilities on those sites; to the Committee on Environment and Public Works.

By Mr. VITTER (for himself, Mr. SESSIONS, Mr. WICKER, and Mr. LEMIEUX):

S. 3375. A bill to amend the Oil Pollution Act of 1990 to increase the cap on liability for economic damages resulting from an oil spill, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. SCHUMER, Mr. CORNYN, Mrs. BOXER, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. MCCAIN, Mr. DURBIN, and Mr. CRAPO):

S. 3376. A bill to authorize to be appropriated \$950,000,000 for each of the fiscal years 2012 through 2015 to carry out the State Criminal Alien Assistance Program; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KAUFMAN (for himself, Mr. BARRASSO, Mr. BROWN of Ohio, Mr. BURRIS, Mr. CARDIN, Mr. CARPER, Ms. CANTWELL, Mr. CASEY, Mr. CORNYN,

Mr. DURBIN, Mr. ENZI, Mr. GREGG, Mrs. HAGAN, Mr. ISAKSON, Mr. LEMIEUX, Mr. LEVIN, Ms. MIKULSKI, Mr. PRYOR, Mr. REED, Mr. RISCH, Mr. SESSIONS, Mrs. SHAHEEN, Ms. SNOWE, Ms. STABENOW, Mr. TESTER, Mr. WARNER, Mr. WHITEHOUSE, and Mr. UDALL of New Mexico):

S. Res. 524. A resolution supporting the goals and ideals of National Stuttering Awareness Week 2010; considered and agreed to.

By Mr. LIEBERMAN (for himself, Mr. LEVIN, Mr. MCCAIN, Mr. KERRY, and Mr. LUGAR):

S. Res. 525. A resolution expressing sympathy to the families of those killed in the sinking of the Republic of Korea Ship Cheonan, and solidarity with the Republic of Korea in the aftermath of this tragic incident; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 46

At the request of Mr. ENSIGN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 46, a bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps.

S. 504

At the request of Mr. ROBERTS, the names of the Senator from Wyoming (Mr. BARRASSO), the Senator from Utah (Mr. BENNETT), the Senator from Kansas (Mr. BROWNBACK), the Senator from Kentucky (Mr. BUNNING), the Senator from Texas (Mr. CORNYN), the Senator from Idaho (Mr. CRAPO), the Senator from Connecticut (Mr. DODD), the Senator from Wyoming (Mr. ENZI), the Senator from Iowa (Mr. GRASSLEY), the Senator from Oklahoma (Mr. INHOFE), the Senator from Vermont (Mr. LEAHY), the Senator from Idaho (Mr. RISCH), the Senator from South Dakota (Mr. THUNE), the Senator from New Mexico (Mr. UDALL), and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 504, a bill to redesignate the Department of the Navy as the Department of the Navy and Marine Corps.

S. 701

At the request of Mr. KERRY, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 701, a bill to amend title XVIII of the Social Security Act to improve access of Medicare beneficiaries to intravenous immune globulins (IVIG).

S. 729

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 729, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United

States as children, and for other purposes.

S. 987

At the request of Mr. DURBIN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1072

At the request of Mrs. LINCOLN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 1072, a bill to amend chapter 1606 of title 10, United States Code, to modify the basis utilized for annual adjustments in amounts of educational assistance for members of the Selected Reserve.

S. 1312

At the request of Mr. ISAKSON, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1312, a bill to amend title XVIII of the Social Security Act to provide for coverage, as supplies associated with the injection of insulin, of containment, removal, decontamination and disposal of home-generated needles, syringes, and other sharps through a sharps container, decontamination/destruction device, or sharps-by-mail program or similar program under part D of the Medicare program.

S. 1395

At the request of Mr. CRAPO, the name of the Senator from Nebraska (Mr. JOHANNES) was added as a cosponsor of S. 1395, a bill to amend the Marine Mammal Protection Act of 1972 to allow importation of polar bear trophies taken in sport hunts in Canada before the date on which the polar bear was determined to be a threatened species under the Endangered Species Act of 1973.

S. 1548

At the request of Mr. BURR, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1548, a bill to improve research, diagnosis, and treatment of musculoskeletal diseases, conditions, and injuries, to conduct a longitudinal study on aging, and for other purposes.

S. 1605

At the request of Mr. SCHUMER, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1605, a bill to amend the Internal Revenue Code of 1986 to reform the rules relating to fractional charitable donations of tangible personal property.

S. 1836

At the request of Mr. MCCAIN, the names of the Senator from Arizona (Mr. KYL), the Senator from Kansas (Mr. BROWNBACK), the Senator from Nevada (Mr. ENSIGN), and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 1836, a bill to prohibit the Federal Communications Commission from further regulating the Internet.

S. 2882

At the request of Mr. KERRY, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 2882, a bill to amend the Internal Revenue Code of 1986 to modify the rules relating to the treatment of individuals as independent contractors or employees, and for other purposes.

S. 2989

At the request of Ms. LANDRIEU, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2989, a bill to improve the Small Business Act, and for other purposes.

S. 3065

At the request of Mr. LIEBERMAN, the names of the Senator from Delaware (Mr. KAUFMAN), the Senator from Washington (Mrs. MURRAY), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 3065, a bill to amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as "Don't Ask, Don't Tell", with a policy of nondiscrimination on the basis of sexual orientation.

S. 3078

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 3078, a bill to provide for the establishment of a Health Insurance Rate Authority to establish limits on premium rating, and for other purposes.

S. 3201

At the request of Mr. UDALL of Colorado, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 3201, a bill to amend title 10, United States Code, to extend TRICARE coverage to certain dependents under the age of 26.

S. 3206

At the request of Mr. HARKIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 3206, a bill to establish an Education Jobs Fund.

S. 3266

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 3266, a bill to ensure the availability of loan guarantees for rural homeowners.

S. 3295

At the request of Mr. SCHUMER, the names of the Senator from South Da-

kota (Mr. JOHNSON) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 3295, a bill to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes.

S. 3305

At the request of Mr. MENENDEZ, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3305, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills, and for other purposes.

S. 3311

At the request of Mr. KERRY, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 3311, a bill to improve and enhance the capabilities of the Department of Defense to prevent and respond to sexual assault in the Armed Forces, and for other purposes.

S. 3335

At the request of Mr. COBURN, the names of the Senator from Utah (Mr. HATCH), the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 3335, a bill to require Congress to establish a unified and searchable database on a public website for congressional earmarks as called for by the President in his 2010 State of the Union Address to Congress.

S. 3339

At the request of Mr. KERRY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 3339, a bill to amend the Internal Revenue Code of 1986 to provide a reduced rate of excise tax on beer produced domestically by certain small producers.

S. 3341

At the request of Mr. CARDIN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 3341, a bill to amend title 5, United States Code, to extend eligibility for coverage under the Federal Employees Health Benefits Program with respect to certain adult dependents of Federal employees and annuitants, in conformance with amendments made by the Patient Protection and Affordable Care Act.

S.J. RES. 29

At the request of Mrs. FEINSTEIN, the names of the Senator from Alaska (Mr. BEGICH), the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S.J. RES. 30

At the request of Mr. ISAKSON, the names of the Senator from Nevada (Mr. ENSIGN), the Senator from Missouri (Mr. BOND) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S.J. Res. 30, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Mediation Board relating to representation election procedures.

AMENDMENT NO. 3746

At the request of Mr. WHITEHOUSE, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of amendment No. 3746 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3754

At the request of Mrs. MURRAY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 3754 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3774

At the request of Mr. LEMIEUX, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 3774 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3789

At the request of Mr. BROWNBACK, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 3789 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3823

At the request of Mr. LEAHY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of amendment No. 3823 proposed to S. 3217, an original bill to promote the

financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3860

At the request of Mr. CARPER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of amendment No. 3860 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3877

At the request of Mr. MENENDEZ, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 3877 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3879

At the request of Ms. COLLINS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 3879 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3883

At the request of Ms. SNOWE, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of amendment No. 3883 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3887

At the request of Mr. CARPER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of amendment No. 3887 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the finan-

cial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3931

At the request of Mr. MERKLEY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of amendment No. 3931 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3939

At the request of Mrs. FEINSTEIN, the name of the Senator from Maine (Ms. COLLINS) was withdrawn as a cosponsor of amendment No. 3939 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

At the request of Mrs. FEINSTEIN, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 3939 intended to be proposed to S. 3217, supra.

AMENDMENT NO. 3949

At the request of Mr. CARPER, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Wyoming (Mr. BARRASSO) were added as cosponsors of amendment No. 3949 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3966

At the request of Mr. GRASSLEY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 3966 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3978

At the request of Mr. JOHNSON, the names of the Senator from Montana (Mr. TESTER) and the Senator from

Ohio (Mr. BROWN) were added as cosponsors of amendment No. 3978 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3980

At the request of Mr. CARDIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of amendment No. 3980 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3985

At the request of Mr. GRASSLEY, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of amendment No. 3985 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3989

At the request of Mr. DURBIN, the names of the Senator from Vermont (Mr. SANDERS), the Senator from Maryland (Mr. CARDIN) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of amendment No. 3989 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3991

At the request of Mr. FRANKEN, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Oregon (Mr. WYDEN) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of amendment No. 3991 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 4003

At the request of Mr. VITTER, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from Tennessee (Mr. CORKER) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of amendment No. 4003 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. UDALL of Colorado (for himself, Ms. COLLINS, Mr. BURRIS, Mr. MERKLEY, Mrs. MURRAY, and Mr. TESTER):

S. 3364. A bill to amend the Energy Policy and Conservation Act to establish the Office of Energy and Renewable Energy as the lead Federal agency for coordinating Federal, State, and local assistance provided to promote the energy retrofitting of schools; to the Committee on Energy and Natural Resources.

Mr. UDALL of Colorado. Mr. President, today I am introducing a bipartisan bill along with my colleague Senator COLLINS entitled the Streamlining Energy Efficiency for Schools Act of 2010. This bill is designed to streamline the Federal Government's efforts to improve the health and efficiency of our schools, while creating much-needed jobs in the process.

I am pleased that Senators BURRIS, MERKLEY and MURRAY are also joining us as original cosponsors of this bill.

For the past year I have been traveling across Colorado as part of a work force tour to talk directly to Coloradans and hear their innovative policy ideas to create jobs. These ongoing efforts help me identify ways the Federal Government can help or is not as effective as it can be in supporting economic development and meeting our national energy goals. The Streamlining Energy Efficiency for Schools Act of 2010 comes directly from visiting with Coloradans. This bill is just one of several job-creation proposals developed after I hosted an Energy Jobs Summit in February in Colorado.

There are numerous Federal programs and funds already available to schools to help them become more energy efficient. However, schools face a morass of programs and agency offices across the government and it is challenging for schools to take full advantage of them. This bipartisan bill will force the government to coordinate their efforts so that schools are less confused and they can better navigate the existing federal programs and fi-

nancing options available to them. Put simply, it will streamline the Federal Government while still leaving decisions to the states, school boards and local officials to determine what is best for their schools.

I have had a longstanding interest in energy efficiency technologies. These technologies further our national goals of broad-based economic growth, environmental protection, national security, and economic competitiveness.

I have also been a long-time champion of energy efficiency in our schools, introducing and co-sponsoring many bills over the years in the House of Representatives that promoted the efficient use of energy by our schools.

I have seen these energy efficient buildings first hand when traveling in Colorado. It is good to see that there are schools in my state that are already incorporating this technology into their buildings. For example, the Cherry Creek School District in Greenwood Village, CO, has incorporated day lighting techniques and ice storage to cool the buildings during the day. Because of these innovative improvements, the school district has enjoyed significant cost savings. This is good news not just for Colorado students, but also for Colorado taxpayers.

In another example, Colorado's Poudre School District in Fort Collins, CO, actively promotes sustainable design guidelines, calling it their "Ethic of Sustainability." This program includes an elementary school in Fort Collins that actually uses recycled blue jeans as insulation for the school buildings. This school has a "Truth Wall," an exposed cross-section where kids can see the denim at work, look at pipes and electrical systems, and check school energy use.

I hope that in passing this bill we will see more examples of these successful and creative projects across the country—projects that will increase the efficiency of our schools and teach our students about the importance of saving energy.

Through effective use of existing Federal Government programs and financing options, schools can reduce costs and create jobs at the same time becoming more energy efficient. Though it is often overlooked, energy efficiency is a huge job creator. Not only does it create jobs through the purchase and installation of efficient materials, it frees up scarce school finances to retain teachers and important programs.

What excites me most about this bill is that it will create jobs for Americans in every neighborhood where schools improve their energy efficiency. Right now, creating jobs is priority one for all of us.

But additionally, this bill helps reduce barriers to schools wishing to incorporate innovative energy efficiency measures, and creates a simple,

streamlined structure to allow schools to more effectively use existing Federal funds and programs—at a low cost. These cutting edge actions—which we are all seeing across our states—are making government more efficient and saving taxpayer dollars, a goal we all share. I urge my colleagues—of both parties—to join me in supporting this bipartisan legislation.

By Mr. AKAKA:

S. 3367. A bill to amend title 38, United States Code, to increase the rate of pension for disabled veterans who are married to one another and both of whom require regular aid and attendance, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, as Chairman of the Senate Committee on Veterans' Affairs, I introduce legislation today to correct an inequity which affects a small number of couples where both the husband and wife are wartime veterans and each meets the criteria for VA pension with additional aid and attendance benefits. Currently these couples receive annual benefits of \$30,480. Under my bill, the annual amount would be increased by \$825 to \$31,305.

This measure would correct a mistake which occurred in 1998 with the enactment of Public Law 105-178. Section 8206 of that law increased the aid and attendance rates for veterans in receipt of VA pension who were in need of aid and attendance. Due to a drafting error, this increase was not provided to couples where both members were pension recipients in need of aid and attendance. This bill would correct that mistake by bringing the pension of a wartime veteran couple eligible for pension and aid and attendance into conformity with what their peers receive.

This is an appropriate result. Both members of such couples served our Nation with honor. In their time of need, they should not be short-changed by this mistake. Although only a small number of veterans qualify for this benefit, those who do so often pay large amounts of money to receive care in nursing homes, assisted-living facilities, or at home. My bill would increase the amounts paid so that each member of the couple would have their service taken into account in determining the benefit level.

I urge our colleagues to support this bill so that all veterans who served during wartime and are eligible for VA pension receive the same benefit payments and no member of a wartime veteran couple is shortchanged.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3367

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. INCREASE IN RATE OF PENSION FOR DISABLED VETERANS MARRIED TO ONE ANOTHER AND BOTH OF WHOM REQUIRE REGULAR AID AND ATTENDANCE.**

(a) IN GENERAL.—Section 1521(f)(2) of title 38, United States Code, is amended by striking “\$8,911” and inserting “\$31,305”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

By Mr. AKAKA:

S. 3368. A bill to amend title 38, United States Code, to authorize certain individuals to sign claims filed with the Secretary of Veterans Affairs on behalf of claimants, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, as Chairman of the Senate Committee on Veterans' Affairs, I introduce legislation today that would give the Department of Veterans Affairs the same authority as the Social Security Administration with respect to claimants who are unable to complete applications for benefits without requiring assistance.

Occasionally, claimants for VA benefits are so disabled as to be incapable of understanding the information on the application form. VA lacks authority to authorize a court appointee or caregiver to sign an application form allowing the adjudication of the claim to proceed. Without a signed application, the claim cannot proceed.

The Social Security Administration has specific authority under the Social Security Act that permit an certain individuals, such as court appointed representatives, to sign a claim form on behalf of individuals unable to sign a claim form.

My bill would extend the same authority to the Department of Veterans Affairs, and would allow court appointed representatives and caregivers of applicants for VA benefits and services, including institutional representatives, to sign application forms. This bill does not alter the responsibility of VA to evaluate and appoint a fiduciary in cases where the beneficiary is determined to be incompetent to manage his or her benefits.

I urge our colleagues to support this bill so that unnecessary delays in the adjudication of these claims will be avoided.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3368

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORITY FOR CERTAIN INDIVIDUALS TO SIGN CLAIMS FILED WITH SECRETARY OF VETERANS AFFAIRS ON BEHALF OF CLAIMANTS.**

(a) IN GENERAL.—Section 5101 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “A specific” and inserting “(1) A specific”; and

(B) by adding at the end the following new paragraph:

“(2) If an individual has not attained the age of 18 years, is mentally incompetent, or is physically unable to sign a form, a form filed under paragraph (1) for the individual may be signed by a court appointed representative or a person who is responsible for the care of the individual, including a spouse or other relative. If the individual is in the care of an institution, the manager or principal officer of the institution may sign the form.”;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting “, signs a form on behalf of a person to apply for,” after “who applies for”; and

(ii) by inserting “, or TIN in the case that the person is not an individual,” after “of such person”; and

(B) in paragraph (2), by inserting “or TIN” after “social security number” each place it appears; and

(3) by adding at the end the following new subsection:

“(d) In this section:

“(1) The term ‘mentally incompetent’ with respect to an individual means that the individual lacks the mental capacity—

“(A) to provide substantially accurate information needed to complete a form; or

“(B) to certify that the statements made on a form are true and complete.

“(2) The term ‘TIN’ has the meaning given the term in section 7701(a)(41) of the Internal Revenue Code of 1986.”.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to claims filed on or after the date of the enactment of this Act.

By Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. SCHUMER, Mr. CORNYN, Mrs. BOXER, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. MCCAIN, Mr. DURBIN, and Mr. CRAPO):

S. 3376. A bill to authorize to be appropriated \$950,000,000 for each of the fiscal years 2012 through 2015 to carry out the State Criminal Alien Assistance Program; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to introduce a bill, the SCAAP Reauthorization Act, on behalf of myself and Mr. KYL, to assist with alleviating the costs of illegal immigration to State and local governments by reauthorizing the State Criminal Alien Assistance Program, SCAAP, through 2015.

We are pleased to be joined today by Senators SCHUMER, CORNYN, BOXER, HUTCHISON, BINGAMAN, MCCAIN, DURBIN, and CRAPO.

I believe that immigration policy and control of our borders is exclusively a Federal responsibility. Yet many undocumented criminal aliens are housed in our State prisons and our county jails at a cost that rises into the hundreds of millions of dollars.



Understanding the expenses that States and localities bear, Congress enacted the State Criminal Alien Assistance Program, (SCAAP), in 1994 as part of the Violent Crime Control Act. The program was designed to help reimburse States and localities for the costs of incarcerating undocumented criminal aliens. Under this program, States can be reimbursed for costs for housing undocumented aliens who are convicted of a felony or two or more misdemeanors in violation of State or local law and incarcerated for at least 4 consecutive days.

Over the years, Senator KYL and I have worked to increase Congressional funding of SCAAP. Last year, Congress appropriated 393 million dollars to SCAAP. While this is only a fraction of the costs that States and localities bear for housing undocumented criminal aliens, even this level of funding is critical.

In 2009, undocumented aliens comprised approximately 11 percent of the inmates in California's State prison system. This year, the State of California is expected to spend 970.3 million dollars from the general fund on the incarceration of undocumented criminal aliens. However, it is expected that California will only receive reimbursement for 10 percent of its total costs. The State of California and its counties simply cannot afford to take on these costs, which stretch already thin budgets.

When the Federal Government does not reimburse States and localities for the cost of incarcerating criminal aliens, it is at the expense of our local educators, social services, and law enforcement. Insufficient SCAAP funding forces localities to engage in the "early release" of prisoners with misdemeanors as a cost saving measure and make cuts to other necessary public safety services. American communities simply cannot afford to shoulder the weight of our immigration policies.

I believe this legislation will reaffirm the Federal government's commitment to working with States and localities to address their financial concerns.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3376

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "SCAAP Reauthorization Act".

#### SEC. 2. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

Subparagraph (C) of section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended by striking "2011." and inserting "2015."

#### SUBMITTED RESOLUTIONS

##### SENATE RESOLUTION 524—SUPPORTING THE GOALS AND IDEALS OF NATIONAL STUTTERING AWARENESS WEEK 2010

Mr. KAUFMAN (for himself, Mr. BARRASSO, Mr. BROWN of Ohio, Mr. BURRIS, Mr. CARDIN, Mr. CARPER, Ms. CANTWELL, Mr. CASEY, Mr. CORNYN, Mr. DURBIN, Mr. ENZI, Mr. GREGG, Mrs. HAGAN, Mr. ISAKSON, Mr. LEMIEUX, Mr. LEVIN, Ms. MIKULSKI, Mr. PRYOR, Mr. REED, Mr. RISCH, Mr. SESSIONS, Mrs. SHAHEEN, Ms. SNOWE, Ms. STABENOW, Mr. TESTER, Mr. WARNER, Mr. WHITEHOUSE, and Mr. UDALL of New Mexico) submitted the following resolution; which was considered and agreed to:

S. RES. 524

Whereas an estimated 3,000,000 Americans are affected by stuttering;

Whereas stuttering is a communication disorder experienced by children and adults alike;

Whereas individuals who stutter frequently experience embarrassment, anxiety about speaking, and physical tension in their speech muscles;

Whereas many different types of stuttering exist, and the symptoms of stuttering can range from mild to severe;

Whereas the cause of stuttering is unknown, but research suggests stuttering may be genetic;

Whereas stuttering commonly begins in children between the ages of 2 and 5;

Whereas parents are encouraged to consult with pediatricians or qualified speech-language pathologists as soon as stuttering becomes apparent in a child in order to take advantage of early-intervention therapies;

Whereas it is known that stuttering is not—

- (1) a nervous disorder;
- (2) the result of emotional problems; or
- (3) the fault of the individual who stutters or the family of that individual;

Whereas a 2009 survey by the National Stuttering Association found that—

- (1) 40 percent of adults and teenagers who stutter feel that they have been denied a job, a promotion, or a school opportunity as a result of stuttering; and
- (2) 8 out of 10 children who stutter report being bullied or teased;

Whereas many individuals who stutter do not have access to qualified speech-language pathologists or helpful resources;

Whereas several treatments for stuttering exist that can help individuals who stutter learn to speak more easily and gain confidence in themselves and their ability to communicate effectively;

Whereas organizations like the National Stuttering Association have been working for many years to raise awareness about stuttering, the effect stuttering has on the lives of individuals who stutter, available treatment options, and research being conducted to investigate the causes of stuttering;

Whereas, on April 13, 1988, the President of the United States signed a proclamation designating the week of May 9 through 16 of that year as National Stuttering Awareness Week;

Whereas since 1988, individuals who stutter and the families and friends of those individuals, as well as medical practitioners, speech

language pathologists, researchers, and others have marked the second week of May as National Stuttering Awareness Week; and

Whereas the goals of the National Stuttering Awareness Week 2010 include increasing awareness among the people of the United States about stuttering and educating the people of the United States about ways to improve the lives of those who stutter: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals and ideals of National Stuttering Awareness Week 2010; and

(2) encourages all of the people of the United States to learn more about stuttering and ways to help individuals who stutter feel more confident and comfortable speaking with others.

##### SENATE RESOLUTION 525—EXPRESSING SYMPATHY TO THE FAMILIES OF THOSE KILLED IN THE SINKING OF THE REPUBLIC OF KOREA SHIP CHEONAN, AND SOLIDARITY WITH THE REPUBLIC OF KOREA IN THE AFTERMATH OF THIS TRAGIC INCIDENT

Mr. LIEBERMAN (for himself, Mr. LEVIN, Mr. MCCAIN, Mr. KERRY, and Mr. LUGAR) submitted the following resolution; which was considered and agreed to:

S. RES. 525

Whereas on March 26, 2010, the Republic of Korea Ship (ROKS) Cheonan was sunk by an external explosion in the vicinity of Baengnyeong Island, Republic of Korea;

Whereas of the 104 members of the crew of the Republic of Korea Ship Cheonan, 46 were killed in this incident, including 6 lost at sea;

Whereas on April 25, 2010, the Government of the Republic of Korea commenced a five-day period of mourning for these 46 sailors;

Whereas the Government of the Republic of Korea continues to lead an international investigation into the circumstances surrounding the sinking of the Republic of Korea Ship Cheonan;

Whereas the alliance between the United States and the Republic of Korea has been a vital anchor for security and stability in Asia for more than 50 years; and

Whereas the United States and the Republic of Korea are bound together by the shared values of democracy and the rule of law: Now, therefore, be it

*Resolved*, That the Senate—

(1) expresses its sympathy and condolences to the families and loved ones of the sailors of the Republic of Korea Ship (ROKS) Cheonan who were killed in action on March 26, 2010;

(2) stands in solidarity with the people and the Government of the Republic of Korea in the aftermath of this tragic incident;

(3) reaffirms its enduring commitment to the alliance between the Republic of Korea and the United States and to the security of the Republic of Korea;

(4) urges the continuing full cooperation and assistance of the United States Government in aiding the Government of the Republic of Korea as it investigates the cause of the sinking of the Republic of Korea Ship Cheonan;

(5) urges the international community to provide all necessary support to the Republic of Korea as the Government of the Republic of Korea investigates the sinking of the Republic of Korea Ship Cheonan; and



(6) further urges the international community to fully and faithfully implement all United Nations Security Council Resolutions pertaining to security on the Korean Peninsula, including United Nations Security Council Resolution 1695 (2006), United Nations Security Council Resolution 1718 (2006), and United Nations Security Council Resolution 1874 (2009).

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 4006. Mr. PRYOR (for himself, Mr. ROBERTS, and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 4007. Mr. CASEY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4008. Mr. DORGAN (for himself, Mr. LEVIN, Ms. CANTWELL, Mr. FEINGOLD, Mr. SANDERS, and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4009. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4010. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4011. Mr. BURRIS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4012. Mrs. SHAHEEN (for herself, Mr. BROWN of Massachusetts, Mr. KERRY, Mr. GREGG, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4013. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4014. Mrs. MCCASKILL (for herself and Mr. KOHL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4015. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3823 proposed by Mr. LEAHY (for himself, Mr. DURBIN, Mr. ROCKEFELLER, Mr. SCHUMER, Mrs. FEINSTEIN, Mr. SPECTER, Mr. WHITE-

HOUSE, Ms. CANTWELL, Mr. KAUFMAN, Mrs. GILLIBRAND, Mr. WYDEN, Mr. BROWN of Ohio, Mr. LIEBERMAN, Mr. BURRIS, Mrs. MCCASKILL, Mr. FRANKEN, Mr. BENNETT, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. WEBB, Mrs. BOXER, and Ms. LANDRIEU) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4016. Mr. UDALL of Colorado (for himself, Mr. LUGAR, Mr. LAUTENBERG, Mr. BOND, Mr. BEGICH, Mr. SCHUMER, Mr. LEVIN, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4017. Mr. ENZI (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4018. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4019. Mr. DODD (for Mr. WYDEN (for himself, Mr. GRASSLEY, Mr. INHOFE, Mr. BENNETT, Mr. UDALL of Colorado, Mr. BROWN of Ohio, Mr. MERKLEY, and Ms. COLLINS)) proposed an amendment to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 4020. Mr. CRAPO (for himself, Mr. GREGG, Mr. SHELBY, Mr. MCCAIN, Mr. VITTER, Mrs. HUTCHISON, and Mr. CORKER) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4021. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4022. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4023. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4024. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4025. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4026. Mr. REID submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4027. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN))

to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4028. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4029. Mr. CRAPO submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4030. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4031. Mr. CRAPO submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4032. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3823 proposed by Mr. LEAHY (for himself, Mr. DURBIN, Mr. ROCKEFELLER, Mr. SCHUMER, Mrs. FEINSTEIN, Mr. SPECTER, Mr. WHITEHOUSE, Ms. CANTWELL, Mr. KAUFMAN, Mrs. GILLIBRAND, Mr. WYDEN, Mr. BROWN of Ohio, Mr. LIEBERMAN, Mr. BURRIS, Mrs. MCCASKILL, Mr. FRANKEN, Mr. BENNETT, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. WEBB, Mrs. BOXER, and Ms. LANDRIEU) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4033. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4034. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4035. Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4036. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4037. Mr. BOND (for himself, Mr. WARNER, Mr. BROWN of Massachusetts, and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4038. Mr. DORGAN (for Mr. DODD (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill S. 2768, to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2011 and 2012, and for other purposes.

SA 4039. Mr. DORGAN (for Mr. DODD (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill S. 2768, supra.

SA 4040. Mrs. MCCASKILL (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to

end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 4041. Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 4006.** Mr. PRYOR (for himself, Mr. ROBERTS, and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 19, strike line 16 and all that follows through page 21, line 23 and insert the following:

(4) NONBANK FINANCIAL COMPANY DEFINITIONS.—

(A) FOREIGN NONBANK FINANCIAL COMPANY.—The term "foreign nonbank financial company" means a company (other than a company that is, or is treated in the United States as, a bank holding company or a subsidiary thereof) that is—

(i) incorporated or organized in a country other than the United States; and

(ii) predominantly engaged (as defined in section 4(n) of the Bank Holding Company Act of 1956) in, including through a branch in the United States, activities in the United States that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956).

(B) U.S. NONBANK FINANCIAL COMPANY.—The term "U.S. nonbank financial company" means a company (other than a bank holding company or a subsidiary thereof, or a Farm Credit System institution chartered and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)) that is—

(i) incorporated or organized under the laws of the United States or any State; and

(ii) predominantly engaged (as defined in section 4(n) of the Bank Holding Company Act of 1956) in activities in the United States that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956).

(C) NONBANK FINANCIAL COMPANY.—The term "nonbank financial company" means a U.S. nonbank financial company and a foreign nonbank financial company.

(D) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD OF GOVERNORS.—The term "nonbank financial company supervised by the Board of Governors" means a nonbank financial company that the Council has determined under section 113 shall be supervised by the Board of Governors.

(5) OFFICE OF FINANCIAL RESEARCH.—The term "Office of Financial Research" means the office established under section 152.

(6) SIGNIFICANT INSTITUTIONS.—The terms "significant nonbank financial company" and "significant bank holding company"

have the meanings given those terms by rule of the Board of Governors.

(b) FOREIGN NONBANK FINANCIAL COMPANIES.—

**SA 4007.** Mr. CASEY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1522, between lines 6 and 7, insert the following:

#### Subtitle I—Appraisal Activities

#### SEC. 1111. PROPERTY APPRAISAL REQUIREMENTS.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after 129B (as added by this Act) the following new section:

#### "SEC. 129C. PROPERTY APPRAISAL REQUIREMENTS.

"(a) IN GENERAL.—A creditor may not extend credit in the form of a subprime mortgage to any consumer without first obtaining a written appraisal of the property to be mortgaged prepared in accordance with the requirements of this section.

"(b) APPRAISAL REQUIREMENTS.—

"(1) PHYSICAL PROPERTY VISIT.—An appraisal of property to be secured by a subprime mortgage does not meet the requirement of this section unless it is performed by a qualified appraiser who conducts a physical property visit of the interior of the mortgaged property.

"(2) SECOND APPRAISAL UNDER CERTAIN CIRCUMSTANCES.—

"(A) IN GENERAL.—If the purpose of a subprime mortgage is to finance the purchase or acquisition of the mortgaged property from a person within 180 days of the purchase or acquisition of such property by that person at a price that was lower than the current sale price of the property, the creditor shall obtain a second appraisal from a different qualified appraiser. The second appraisal shall include an analysis of the difference in sale prices, changes in market conditions, and any improvements made to the property between the date of the previous sale and the current sale.

"(B) NO COST TO APPLICANT.—The cost of any second appraisal required under subparagraph (A) may not be charged to the applicant.

"(3) QUALIFIED APPRAISER DEFINED.—For purposes of this section, the term 'qualified appraiser' means a person who—

"(A) is, at a minimum, certified or licensed by the State in which the property to be appraised is located; and

"(B) performs each appraisal in conformity with the Uniform Standards of Professional Appraisal Practice and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and the regulations prescribed under such title, as in effect on the date of the appraisal.

"(c) FREE COPY OF APPRAISAL.—A creditor shall provide 1 copy of each appraisal conducted in accordance with this section in connection with a subprime mortgage to the

applicant without charge, and at least 3 days prior to the transaction closing date.

"(d) CONSUMER NOTIFICATION.—At the time of the initial mortgage application, the applicant shall be provided with a statement by the creditor that any appraisal prepared for the mortgage is for the sole use of the creditor, and that the applicant may choose to have a separate appraisal conducted at their own expense.

"(e) VIOLATIONS.—In addition to any other liability to any person under this title, a creditor found to have willfully failed to obtain an appraisal as required in this section shall be liable to the applicant or borrower for the sum of \$2,000.

"(f) SUBPRIME MORTGAGE DEFINED.—For purposes of this section, the term 'subprime mortgage' means a residential mortgage loan, other than a reverse mortgage loan insured by the Federal Housing Administration, secured by a principal dwelling with an annual percentage rate that exceeds the average prime offer rate for a comparable transaction, as of the date the interest rate is set—

"(1) by 1.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that does not exceed the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable size, as of the date of such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2));

"(2) by 2.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that exceeds the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable size, as of the date of such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); and

"(3) by 3.5 or more percentage points for a subordinate lien residential mortgage loan."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129B the following new item:

"129C. Property appraisal requirements."

#### SEC. 1112. UNFAIR AND DECEPTIVE PRACTICES AND ACTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129C (as added by section 1111(a)) the following new section:

#### "SEC. 129D. UNFAIR AND DECEPTIVE PRACTICES AND ACTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.

"(a) IN GENERAL.—It shall be unlawful, in extending credit or in providing any services for a consumer credit transaction secured by the principal dwelling of the consumer, to engage in any unfair or deceptive act or practice as described in or pursuant to regulations prescribed under this section.

"(b) APPRAISAL INDEPENDENCE.—For purposes of subsection (a), unfair and deceptive practices shall include—

"(1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person conducting or involved in

an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser;

“(2) mischaracterizing, or suborning any mischaracterization of, the appraised value of the property securing the extension of the credit;

“(3) seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and

“(4) withholding or threatening to withhold timely payment for an appraisal report or for appraisal services rendered.

“(c) **EXCEPTIONS.**—The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to provide 1 or more of the following services:

“(1) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.

“(2) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.

“(3) Correct errors in the appraisal report.

“(d) **PROHIBITIONS ON CONFLICTS OF INTEREST.**—No certified or licensed appraiser conducting, and no appraisal management company procuring or facilitating, an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer may have a direct or indirect interest, financial or otherwise, in the property or transaction involving the appraisal.

“(e) **MANDATORY REPORTING.**—Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person involved in a real estate transaction involving an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer who has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct, shall refer the matter to the applicable State appraiser certifying and licensing agency.

“(f) **NO EXTENSION OF CREDIT.**—In connection with a consumer credit transaction secured by a consumer's principal dwelling, a creditor who knows, at or before loan consummation, of a violation of the appraisal independence standards established in subsections (b) or (d) shall not extend credit based on such appraisal unless the creditor documents that the creditor has acted with reasonable diligence to determine that the appraisal does not materially misstate or misrepresent the value of such dwelling.

“(g) **RULEMAKING PROCEEDINGS.**—The Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Trade Commission—

“(1) shall, for purposes of this section, jointly prescribe regulations no later than 180 days after the date of the enactment of this section, and where such regulations

have an effective date of no later than 1 year after the date of the enactment of this section, defining with specificity acts or practices which are unfair or deceptive in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer or mortgage brokerage services for such a transaction and defining any terms in this section or such regulations; and

“(2) may jointly issue interpretive guidelines and general statements of policy with respect to unfair or deceptive acts or practices in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer and mortgage brokerage services for such a transaction, within the meaning of subsections (a), (b), (c), (d), (e), and (f).

“(h) **PENALTIES.**—

“(1) **FIRST VIOLATION.**—In addition to the enforcement provisions referred to in section 130, each person who violates this section shall forfeit and pay a civil penalty of not more than \$10,000 for each day any such violation continues.

“(2) **SUBSEQUENT VIOLATIONS.**—In the case of any person on whom a civil penalty has been imposed under paragraph (1), paragraph (1) shall be applied by substituting ‘\$20,000’ for ‘\$10,000’ with respect to all subsequent violations.

“(3) **ASSESSMENT.**—The agency referred to in subsection (a) or (c) of section 108 with respect to any person described in paragraph (1) shall assess any penalty under this subsection to which such person is subject.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129C the following new item:

“129D. Unfair and deceptive practices and acts relating to certain consumer credit transactions.”.

**SEC. 1113. AMENDMENTS RELATING TO APPRAISAL SUBCOMMITTEE OF FIEC, APPRAISER INDEPENDENCE MONITORING, APPROVED APPRAISER EDUCATION, APPRAISAL MANAGEMENT COMPANIES, APPRAISER COMPLAINT HOTLINE, AUTOMATED VALUATION MODELS, AND BROKER PRICE OPINIONS.**

(a) **CONSUMER PROTECTION MISSION.**—

(1) **PURPOSES.**—Section 1101 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331) is amended by inserting “and to provide the Appraisal Subcommittee with a consumer protection mandate” before the period at the end.

(2) **FUNCTIONS OF APPRAISAL SUBCOMMITTEE.**—Section 1103(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332(a)) is amended—

(A) by striking “and” at the end of paragraph (3); and

(B) by amending paragraph (4) to read as follows:

“(4) monitor the efforts of, and requirements established by, States and the Federal financial institutions regulatory agencies to protect consumers from improper appraisal practices and the predations of unlicensed appraisers in consumer credit transactions that are secured by a consumer's principal dwelling; and”.

(3) **THRESHOLD LEVELS.**—Section 1112(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341(b)) is amended by inserting before the period the following: “, and that such threshold level provides reasonable protection for

consumers who purchase 1-4 unit single-family residences. In determining whether a threshold level provides reasonable protection for consumers, each Federal financial institutions regulatory agency shall consult with consumer groups and convene a public hearing”.

(b) **ANNUAL REPORT OF APPRAISAL SUBCOMMITTEE.**—Section 1103(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332(a)) is amended at the end by inserting the following new paragraph:

“(5) transmit an annual report to the Congress not later than January 31 of each year that describes the manner in which each function assigned to the Appraisal Subcommittee has been carried out during the preceding year. The report shall also detail the activities of the Appraisal Subcommittee, including the results of all audits of State appraiser regulatory agencies, and provide an accounting of disapproved actions and warnings taken in the previous year, including a description of the conditions causing the disapproval and actions taken to achieve compliance.”.

(c) **OPEN MEETINGS.**—Section 1104(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3333(b)) is amended by inserting “in public session after notice in the Federal Register” after “shall meet”.

(d) **REGULATIONS.**—Section 1106 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3335) is amended—

(1) by inserting “prescribe regulations after notice and opportunity for comment,” after “hold hearings”; and

(2) at the end by inserting “Any regulations prescribed by the Appraisal Subcommittee shall (unless otherwise provided in this title) be limited to the following functions: temporary practice, national registry, information sharing, and enforcement. For purposes of prescribing regulations, the Appraisal Subcommittee shall establish an advisory committee of industry participants, including appraisers, lenders, consumer advocates, and government agencies, and hold meetings as necessary to support the development of regulations.”.

(e) **APPRAISALS AND APPRAISAL REVIEWS.**—Section 1113 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3342) is amended—

(1) by striking “In determining” and inserting “(a) IN GENERAL.—In determining”;

(2) in subsection (a) (as designated by paragraph (1)), by inserting before the period the following: “, where a complex 1-to-4 unit single family residential appraisal means an appraisal for which the property to be appraised, the form of ownership, the property characteristics, or the market conditions are atypical”; and

(3) by adding at the end the following new subsection:

“(b) **APPRAISALS AND APPRAISAL REVIEWS.**—All appraisals performed at a property within a State shall be prepared by appraisers licensed or certified in the State where the property is located. All appraisal reviews, including appraisal reviews by a lender, appraisal management company, or other third party organization, shall be performed by an appraiser who is duly licensed or certified by a State appraisal board.”.

(f) **APPRAISAL MANAGEMENT SERVICES.**—

(1) **SUPERVISION OF THIRD PARTY PROVIDERS OF APPRAISAL MANAGEMENT SERVICES.**—Section 1103(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989

(12 U.S.C. 3332(a)) (as previously amended by this section) is further amended—

(A) by amending paragraph (1) to read as follows:

“(1) monitor the requirements established by States—

“(A) for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility; and

“(B) for the registration and supervision of the operations and activities of an appraisal management company;”;

(B) by adding at the end the following new paragraph:

“(7) maintain a national registry of appraisal management companies that either are registered with and subject to supervision of a State appraiser certifying and licensing agency or are operating subsidiaries of a Federally regulated financial institution.”.

(2) APPRAISAL MANAGEMENT COMPANY MINIMUM QUALIFICATIONS.—Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) is amended by adding at the end the following new section (and amending the table of contents accordingly):

**“SEC. 1124. APPRAISAL MANAGEMENT COMPANY MINIMUM QUALIFICATIONS.**

“(a) IN GENERAL.—The Appraiser Qualifications Board of the Appraisal Foundation shall establish minimum qualifications to be applied by a State in the registration of appraisal management companies. Such qualifications shall include a requirement that such companies—

“(1) register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which such company operates;

“(2) verify that only licensed or certified appraisers are used for federally related transactions;

“(3) require that appraisals coordinated by an appraisal management company comply with the Uniform Standards of Professional Appraisal Practice; and

“(4) require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129C of the Truth in Lending Act.

“(b) EXCEPTION FOR FEDERALLY REGULATED FINANCIAL INSTITUTIONS.—The requirements of subsection (a) shall not apply to an appraisal management company that is a subsidiary owned and controlled by a financial institution and regulated by a federal financial institution regulatory agency. In such case, the appropriate federal financial institutions regulatory agency shall, at a minimum, develop regulations affecting the operations of the appraisal management company to—

“(1) verify that only licensed or certified appraisers are used for federally related transactions;

“(2) require that appraisals coordinated by an institution or subsidiary providing appraisal management services comply with the Uniform Standards of Professional Appraisal Practice; and

“(3) require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129C of the Truth in Lending Act.

“(c) REGISTRATION LIMITATIONS.—An appraisal management company shall not be

registered by a State if such company, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. Additionally, each person that owns more than 10 percent of an appraisal management company shall be of good moral character, as determined by the State appraiser certifying and licensing agency, and shall submit to a background investigation carried out by the State appraiser certifying and licensing agency.

“(d) REGULATIONS.—The Appraisal Subcommittee shall promulgate regulations to implement the minimum qualifications developed by the Appraiser Qualifications Board under this section, as such qualifications relate to the State appraiser certifying and licensing agencies. The Appraisal Subcommittee shall also promulgate regulations for the reporting of the activities of appraisal management companies in determining the payment of the annual registry fee.

“(e) EFFECTIVE DATE.—

“(1) IN GENERAL.—No appraisal management company may perform services related to a federally related transaction in a State after the date that is 36 months after the date of the enactment of this section unless such company is registered with such State or subject to oversight by a federal financial institutions regulatory agency.

“(2) EXTENSION OF EFFECTIVE DATE.—Subject to the approval of the Council, the Appraisal Subcommittee may extend by an additional 12 months the requirements for the registration and supervision of appraisal management companies if it makes a written finding that a State has made substantial progress in establishing a State appraisal management company registration and supervision system that appears to conform with the provisions of this title.”.

(3) STATE APPRAISER CERTIFYING AND LICENSING AGENCY AUTHORITY.—Section 1117 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3346) is amended by adding at the end the following: “The duties of such agency may additionally include the registration and supervision of appraisal management companies.”.

(4) APPRAISAL MANAGEMENT COMPANY DEFINITION.—Section 1121 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350) is amended by adding at the end the following:

“(11) APPRAISAL MANAGEMENT COMPANY.—The term ‘appraisal management company’ means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer’s principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a State or 25 or more nationally within a given year—

“(A) to recruit, select, and retain appraisers;

“(B) to contract with licensed and certified appraisers to perform appraisal assignments;

“(C) to manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or

“(D) to review and verify the work of appraisers.”.

(g) STATE AGENCY REPORTING REQUIREMENT.—Section 1109(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3338(a)) is amended—

(1) by striking “and” after the semicolon in paragraph (1);

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by inserting after paragraph (1) the following new paragraphs:

“(2) transmit reports on sanctions, disciplinary actions, license and certification revocations, and license and certification suspensions on a timely basis to the national registry of the Appraisal Subcommittee;

“(3) transmit reports on a timely basis of supervisory activities involving appraisal management companies or other third-party providers of appraisals and appraisal management services, including investigations initiated and disciplinary actions taken; and”.

(h) REGISTRY FEES MODIFIED.—

(1) IN GENERAL.—Section 1109(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3338(a)) is amended—

(A) by amending paragraph (4) (as modified by section 9503(g)) to read as follows:

“(4) collect—

“(A) from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than \$40, such fees to be transmitted by the State agencies to the Council on an annual basis; and

“(B) from an appraisal management company that either has registered with a State appraiser certifying and licensing agency in accordance with this title or operates as a subsidiary of a federally regulated financial institution, an annual registry fee of—

“(i) in the case of such a company that has been in existence for more than a year, \$25 multiplied by the number of appraisers working for or contracting with such company in such State during the previous year, but where such \$25 amount may be adjusted, up to a maximum of \$50, at the discretion of the Appraisal Subcommittee, if necessary to carry out the Subcommittee’s functions under this title; and

“(ii) in the case of such a company that has not been in existence for more than a year, \$25 multiplied by an appropriate number to be determined by the Appraisal Subcommittee, and where such number will be used for determining the fee of all such companies that were not in existence for more than a year, but where such \$25 amount may be adjusted, up to a maximum of \$50, at the discretion of the Appraisal Subcommittee, if necessary to carry out the Subcommittee’s functions under this title.”; and

(B) by amending the matter following paragraph (4), as redesignated, to read as follows:

“Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees under paragraph (4)(A), up to a maximum of \$80 per annum, as necessary to carry out its functions under this title. The Appraisal Subcommittee shall consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. In implementing any change in registry fees, the Appraisal Subcommittee shall provide flexibility to the States for multi-year certifications and licenses already in place, as well as a transition period to implement the changes in registry fees. In establishing the

amount of the annual registry fee for an appraisal management company, the Appraisal Subcommittee shall have the discretion to impose a minimum annual registry fee for an appraisal management company to protect against the under reporting of the number of appraisers working for or contracted by the appraisal management company.”.

(2) INCREMENTAL REVENUES.—Incremental revenues collected pursuant to the increases required by this subsection shall be placed in a separate account at the United States Treasury, entitled the “Appraisal Subcommittee Account”.

(1) GRANTS AND REPORTS.—Section 1109(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(1) by striking “and” after the semicolon in paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting a semicolon;

(3) by adding at the end the following new paragraphs:

“(5) to make grants to State appraiser certifying and licensing agencies to support the efforts of such agencies to comply with this title, including—

“(A) the complaint process, complaint investigations, and appraiser enforcement activities of such agencies; and

“(B) the submission of data on State licensed and certified appraisers and appraisal management companies to the National appraisal registry, including information affirming that the appraiser or appraisal management company meets the required qualification criteria and formal and informal disciplinary actions; and

“(6) to report to all State appraiser certifying and licensing agencies when a license or certification is surrendered, revoked, or suspended.”.

Obligations authorized under this subsection may not exceed 75 percent of the fiscal year total of incremental increase in fees collected and deposited in the “Appraisal Subcommittee Account” pursuant to subsection (h).

(j) CRITERIA.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended—

(1) in subsection (c), by inserting “whose criteria for the licensing of a real estate appraiser currently meet or exceed the minimum criteria issued by the Appraisal Qualifications Board of The Appraisal Foundation for the licensing of real estate appraisers” before the period at the end; and

(2) by striking subsection (e) and inserting the following new subsection:

“(e) MINIMUM QUALIFICATION REQUIREMENTS.—Any requirements established for individuals in the position of ‘Trainee Appraiser’ and ‘Supervisory Appraiser’ shall meet or exceed the minimum qualification requirements of the Appraiser Qualifications Board of The Appraisal Foundation. The Appraisal Subcommittee shall have the authority to enforce these requirements.”.

(k) MONITORING OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.—Section 1118 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3347) is amended—

(1) by amending subsection (a) to read as follows:

“(a) IN GENERAL.—The Appraisal Subcommittee shall monitor each State appraiser certifying and licensing agency for the purposes of determining whether such agency—

“(1) has policies, practices, funding, staffing, and procedures that are consistent with this title;

“(2) processes complaints and completes investigations in a reasonable time period;

“(3) appropriately disciplines sanctioned appraisers and appraisal management companies;

“(4) maintains an effective regulatory program; and

“(5) reports complaints and disciplinary actions on a timely basis to the national registries on appraisers and appraisal management companies maintained by the Appraisal Subcommittee.

The Appraisal Subcommittee shall have the authority to remove a State licensed or certified appraiser or a registered appraisal management company from a national registry on an interim basis pending State agency action on licensing, certification, registration, and disciplinary proceedings. The Appraisal Subcommittee and all agencies, instrumentalities, and Federally recognized entities under this title shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, funding, staffing, or procedures are found to be inconsistent with this title. The Appraisal Subcommittee shall have the authority to impose sanctions, as described in this section, against a State agency that fails to have an effective appraiser regulatory program. In determining whether such a program is effective, the Appraisal Subcommittee shall include an analyses of the licensing and certification of appraisers, the registration of appraisal management companies, the issuance of temporary licenses and certifications for appraisers, the receiving and tracking of submitted complaints against appraisers and appraisal management companies, the investigation of complaints, and enforcement actions against appraisers and appraisal management companies. The Appraisal Subcommittee shall have the authority to impose interim actions and suspensions against a State agency as an alternative to, or in advance of, the derecognition of a State agency.”.

(2) in subsection (b)(2), by inserting after “authority” the following: “or sufficient funding”.

(l) RECIPROCITY.—Subsection (b) of section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351(b)) is amended to read as follows:

“(b) RECIPROCITY.—A State appraiser certifying or licensing agency shall issue a reciprocal certification or license for an individual from another State when—

“(1) the appraiser licensing and certification program of such other State is in compliance with the provisions of this title; and

“(2) the appraiser holds a valid certification from a State whose requirements for certification or licensing meet or exceed the licensure standards established by the State where an individual seeks appraisal licensure.”.

(m) CONSIDERATION OF PROFESSIONAL APPRAISAL DESIGNATIONS.—Section 1122(d) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351(d)) is amended by striking “shall not exclude” and all that follows through the end of the subsection and inserting the following: “may include education achieved, experience, sample appraisals, and references from prior clients. Membership in a nationally recognized professional appraisal organization may be a criteria considered, though lack of membership therein shall not be the sole bar against consideration for an assignment under these criteria.”.

(n) APPRAISER INDEPENDENCE.—Section 1122

of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended by adding at the end the following new subsection:

“(g) APPRAISER INDEPENDENCE MONITORING.—The Appraisal Subcommittee shall monitor each State appraiser certifying and licensing agency for the purpose of determining whether such agency’s policies, practices, and procedures are consistent with the purposes of maintaining appraiser independence and whether such State has adopted and maintains effective laws, regulations, and policies aimed at maintaining appraiser independence.”.

(o) APPRAISER EDUCATION.—Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended by inserting after subsection (g) (as added by subsection (1) of this section) the following new subsection:

“(h) APPROVED EDUCATION.—The Appraisal Subcommittee shall encourage the States to accept courses approved by the Appraiser Qualification Board’s Course Approval Program.”.

(p) APPRAISAL COMPLAINT HOTLINE.—Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351), as amended by this section, is further amended by adding at the end the following new subsection:

“(i) APPRAISAL COMPLAINT NATIONAL HOTLINE.—If, 1 year after the date of the enactment of this subsection, the Appraisal Subcommittee determines that no national hotline exists to receive complaints of non-compliance with appraisal independence standards and Uniform Standards of Professional Appraisal Practice, including complaints from appraisers, individuals, or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process, the Appraisal Subcommittee shall establish and operate such a national hotline, which shall include a toll-free telephone number and an email address. If the Appraisal Subcommittee operates such a national hotline, the Appraisal Subcommittee shall refer complaints for further action to appropriate governmental bodies, including a State appraiser certifying and licensing agency, a financial institution regulator, or other appropriate legal authorities. For complaints referred to State appraiser certifying and licensing agencies or to Federal regulators, the Appraisal Subcommittee shall have the authority to follow up such complaint referrals in order to determine the status of the resolution of the complaint.”.

(q) AUTOMATED VALUATION MODELS.—Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.), as amended by this section, is further amended by adding at the end the following new section (and amending the table of contents accordingly):

**“SEC. 1125. AUTOMATED VALUATION MODELS USED TO VALUE CERTAIN MORTGAGES.**

“(a) IN GENERAL.—Automated valuation models shall adhere to quality control standards designed to—

“(1) ensure a high level of confidence in the estimates produced by automated valuation models;

“(2) protect against the manipulation of data;

“(3) seek to avoid conflicts of interest; and

“(4) require random sample testing and reviews, where such testing and reviews are performed by an appraiser who is licensed or certified in the State where the testing and reviews take place.

“(b) ADOPTION OF REGULATIONS.—The Appraisal Subcommittee and its member agencies, in consultation with the Appraisal Standards Board of the Appraisal Foundation and other interested parties, shall promulgate regulations to implement the quality control standards required under this section.

“(c) ENFORCEMENT.—Compliance with regulations issued under this subsection shall be enforced by—

“(1) with respect to a financial institution, or subsidiary owned and controlled by a financial institution and regulated by a Federal financial institution regulatory agency, the Federal financial institution regulatory agency that acts as the primary Federal supervisor of such financial institution or subsidiary; and

“(2) with respect to other persons, the Appraisal Subcommittee.

“(d) AUTOMATED VALUATION MODEL DEFINED.—For purposes of this section, the term ‘automated valuation model’ means any computerized model used by mortgage originators and secondary market issuers to determine the collateral worth of a mortgage secured by a consumer’s principal dwelling.”.

(r) BROKER PRICE OPINIONS.—Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.), as amended by this section, is further amended by adding at the end the following new section (and amending the table of contents accordingly):

**“SEC. 1126. BROKER PRICE OPINIONS.**

“(a) GENERAL PROHIBITION.—In conjunction with the purchase of a consumer’s principal dwelling, broker price opinions may not be used as the primary basis to determine the value of a piece of property for the purpose of a loan origination of a residential mortgage loan secured by such piece of property.

“(b) BROKER PRICE OPINION DEFINED.—For purposes of this section, the term ‘broker price opinion’ means an estimate prepared by a real estate broker, agent, or sales person that details the probable selling price of a particular piece of real estate property and provides a varying level of detail about the property’s condition, market, and neighborhood, and information on comparable sales, but does not include an automated valuation model, as defined in section 1125(c).”.

(s) AMENDMENTS TO APPRAISAL SUBCOMMITTEE.—Section 1011 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3310) is amended—

(1) in the first sentence, by adding before the period the following: “and the Federal Housing Finance Agency”; and

(2) by inserting at the end the following: “At all times at least one member of the Appraisal Subcommittee shall have demonstrated knowledge and competence through licensure, certification, or professional designation within the appraisal profession.”.

(t) TECHNICAL CORRECTIONS.—

(1) Section 1119(a)(2) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(2)) is amended by striking “council,” and inserting “Council”.

(2) Section 1121(6) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(6)) is amended by striking “Corporations,” and inserting “Corporation.”.

(3) Section 1121(8) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(8)) is amended by striking “council” and inserting “Council”.

(4) Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended—

(A) in subsection (a)(1) by moving the left margin of subparagraphs (A), (B), and (C) 2 ems to the right; and

(B) in subsection (c)—

(i) by striking “Federal Financial Institutions Examination Council” and inserting “Financial Institutions Examination Council”; and

(ii) by striking “the council’s functions” and inserting “the Council’s functions”.

**SEC. 1114. STUDY REQUIRED ON IMPROVEMENTS IN APPRAISAL PROCESS AND COMPLIANCE PROGRAMS.**

(a) STUDY.—The Comptroller General shall conduct a comprehensive study on possible improvements in the appraisal process generally, and specifically on the consistency in and the effectiveness of, and possible improvements in, State compliance efforts and programs in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. In addition, this study shall examine the existing exemptions to the use of certified appraisers issued by Federal financial institutions regulatory agencies. The study shall also review the threshold level established by Federal regulators for compliance under title XI and whether there is a need to revise them to reflect the addition of consumer protection to the purposes and functions of the Appraisal Subcommittee. The study shall additionally examine the quality of different types of mortgage collateral valuations produced by broker price opinions, automated valuation models, licensed appraisals, and certified appraisals, among others, and the quality of appraisals provided through different distribution channels, including appraisal management companies, independent appraisal operations within a mortgage originator, and fee-for-service appraisals. The study shall also include an analysis and statistical breakdown of enforcement actions taken during the last 10 years against different types of appraisers, including certified, licensed, supervisory, and trainee appraisers. Furthermore, the study shall examine the benefits and costs, as well as the advantages and disadvantages, of establishing a national repository to collect data related to real estate property collateral valuations performed in the United States.

(b) REPORT.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report on the study under subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for administrative or legislative action, at the Federal or State level, as the Comptroller General may determine to be appropriate.

(c) ADDITIONAL STUDY REQUIRED.—The Comptroller General shall conduct an additional study to determine the effects that the changes to the seller-guide appraisal requirements of Fannie Mae and Freddie Mac contained in the Home Valuation Code of Conduct have on small business, like mortgage brokers and independent appraisers, and consumers, including the effect on the—

(1) quality and costs of appraisals;

(2) length of time for obtaining appraisals;

(3) impact on consumer protection, especially regarding maintaining appraisal independence, abating appraisal inflation, and mitigating acts of appraisal fraud;

(4) structure of the appraisal industry, especially regarding appraisal management companies, fee-for-service appraisers, and the regulation of appraisal management companies by the states; and

(5) impact on mortgage brokers and other small business professionals in the financial services industry.

(d) ADDITIONAL REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit an additional report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the findings and conclusions of the Comptroller General with respect to the study conducted pursuant to subsection (c). Such additional report shall take into consideration the Small Business Administration’s views on how small businesses are affected by the Home Valuation Code of Conduct.

**SEC. 1115. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.**

Subsection (e) of section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended to read as follows:

“(e) COPIES FURNISHED TO APPLICANTS.—

“(1) IN GENERAL.—Each creditor shall furnish to an applicant a copy of any and all written appraisals and valuations developed in connection with the applicant’s application for a loan that is secured or would have been secured by a first lien on a dwelling promptly upon completion, but in no case later than 3 days prior to the closing of the loan, whether the creditor grants or denies the applicant’s request for credit or the application is incomplete or withdrawn.

“(2) WAIVER.—The applicant may waive the 3 day requirement provided for in paragraph (1), except where otherwise required in law.

“(3) REIMBURSEMENT.—The applicant may be required to pay a reasonable fee to reimburse the creditor for the cost of the appraisal, except where otherwise required in law.

“(4) FREE COPY.—Notwithstanding paragraph (3), the creditor shall provide a copy of each written appraisal or valuation at no additional cost to the applicant.

“(5) NOTIFICATION TO APPLICANTS.—At the time of application, the creditor shall notify an applicant in writing of the right to receive a copy of each written appraisal and valuation under this subsection.

“(6) REGULATIONS.—The Board shall prescribe regulations to implement this subsection within 1 year of the date of the enactment of this subsection.

“(7) VALUATION DEFINED.—For purposes of this subsection, the term ‘valuation’ shall include any estimate of the value of a dwelling developed in connection with a creditor’s decision to provide credit, including those values developed pursuant to a policy of a government sponsored enterprise or by an automated valuation model, a broker price opinion, or other methodology or mechanism.”.

**SEC. 1116. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 AMENDMENT RELATING TO CERTAIN APPRAISAL FEES.**

Section 4 of the Real Estate Settlement Procedures Act of 1974 is amended by adding at the end the following new subsection:

“(c) The standard form described in subsection (a) shall include, in the case of an appraisal coordinated by an appraisal management company (as such term is defined in section 1121(11) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(11))), a clear disclosure of—

“(1) the fee paid directly to the appraiser by such company; and

“(2) the administration fee charged by such company.”.



**SEC. 1117. APPRAISAL INDEPENDENCE REQUIREMENTS.**

(a) **PROMULGATION OF NEW REQUIREMENTS.**—The Director shall lead a Negotiated Rulemaking Committee under the Federal Advisory Committee Act, the Negotiated Rulemaking Act, and section 1022(b) of this title to promulgate appraisal independence requirements for residential loan purposes, and such Committee shall promulgate such requirements not later than the end of the 60-day period beginning on the date of the enactment of this title.

(b) **CERTAIN REGULATION REQUIREMENTS.**—Regulations promulgated by the Negotiated Rulemaking Committee under this section—

(1) shall not prohibit lenders, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation from accepting any appraisal report completed by an appraiser selected, retained, or compensated in any manner by a mortgage loan originator—

(A) licensed or registered in accordance with the SAFE Mortgage Licensing Act of 2008; and

(B) subject to Federal or State laws that make it unlawful for a mortgage loan originator to make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property, except that nothing in this section shall prohibit a person with an interest in a real estate transaction from asking an appraiser to—

(i) consider additional, appropriate property information;

(ii) provide further detail, substantiation, or explanation for the appraiser's value conclusion; or

(iii) correct errors in the appraisal report; and

(2) shall include a requirement that lenders and their agents compensate appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised.

(c) **SUNSET.**—Effective on the date the appraisal independence requirements are promulgated pursuant to subsection (a), the Home Valuation Code of Conduct announced by the Federal Housing Finance Agency on December 23, 2008, shall have no force or effect.

**SA 4008.** Mr. DORGAN (for himself, Mr. LEVIN, Ms. CANTWELL, Mr. FEINGOLD, Mr. SANDERS, and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 584, line 7, after the first period insert the following:

“(k) **CLEARING OF CREDIT DEFAULT SWAPS.**—

“(1) **SUBMISSION.**—It shall be unlawful for any party to enter into a credit default swap unless that person shall submit such credit default swap for clearing to a derivatives

clearing organization that is registered under this Act or a derivatives clearing organization that is exempt from registration under section 5b(i) of this Act.

“(2) **PROHIBITION.**—Notwithstanding any other provisions in this section or of this Act, if no derivatives clearing organization will accept a credit default swap for clearing, it shall be unlawful for any party to enter into the credit default swap.

“(3) **LIMITATION ON SHORT POSITIONS.**—

“(A) **IN GENERAL.**—It shall be unlawful for a protection buyer to enter into a credit default swap which establishes a short position in a reference entity's credit instrument unless the protection buyer can demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that the protection buyer—

“(i) is undertaking such action to establish a legitimate short position in credit default swaps; or

“(ii) is regulated by the Commission as a swap dealer in credit default swaps, and is acting as a market-maker or is otherwise engaged in a financial transaction on behalf of a customer.

“(B) **LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.**—A protection buyer's short position in credit default swaps shall be considered a legitimate short position in credit default swaps if—

“(i) the value of the protection buyer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the protection buyer's credit default swaps; and

“(ii) the reference entity or entities for the protection buyer's credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

“(C) **DETERMINATION OF THE COMMISSION.**—

“(i) **IN GENERAL.**—The Commission and the Securities and Exchange Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term ‘valid credit instrument’.

“(ii) **CONSIDERATIONS AND REQUIREMENTS.**—In defining the term ‘valid credit instrument’, the Commission and the Securities and Exchange Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

“(iii) **RULE OF CONSTRUCTION.**—For purposes of this paragraph, any instrument with an equity risk exposure or equity-like features shall not be considered by the Commission to be a valid credit instrument.

“(D) **REPORTING.**—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the Commission, in such manner, in such frequency, and in such form as may be prescribed by the Commission.

“(E) **HOLDING OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SWAP DEALERS.**—Any swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that—

“(i) the value of the swap dealer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the swap dealer's position in credit default swaps; and

“(ii) the reference entity or entities for the swap dealer's credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the swap dealer owns.

“(F) **PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.**—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with the intent of evading the provisions of this subsection.

“(G) **AUTHORITY OF THE COMMISSION.**—The Commission, in consultation with the Securities and Exchange Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale of credit default swaps.

“(4) **DEFINITIONS.**—

“(A) **IN GENERAL.**—In this subsection, the following definitions shall apply:

“(i) **CREDIT DEFAULT SWAP.**—The term ‘credit default swap’—

“(I) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

“(II) is not a debt security registered with the Securities and Exchange Commission and issued by a corporation, State, municipality, or sovereign entity.

“(ii) **CREDIT EVENT.**—The term ‘credit event’ includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

“(iii) **PROTECTION BUYER.**—The term ‘protection buyer’ means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the ‘protection seller’) upon the occurrence of one or more credit events.

“(iv) **REFERENCE ENTITY.**—The term ‘reference entity’ means any borrower, such as a corporation, State, municipality, sovereign entity, or special purpose entity, which has issued a public debt obligation or obtained a loan that is referenced by a credit default swap.

“(B) **FURTHER DEFINITION OF TERMS.**—The Commission and the Securities and Exchange Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, further defining the terms ‘credit default swap’, ‘credit event’, ‘protection buyer’, and ‘reference entity’.

On page 808, line 8, after the first period, insert the following:

**“SEC. 3C-1. CLEARING OF CREDIT DEFAULT SWAPS.**

“(a) **SUBMISSION.**—It shall be unlawful for any party to enter into a credit default swap unless that person shall submit such credit default swap for clearing to a clearing agency that is registered under section 17A of this Act.

“(b) **PROHIBITION.**—Notwithstanding any other provisions in this section or of this



Act, if no clearing agency will accept a credit default swap for clearing, it shall be unlawful for any party to enter into the credit default swap.

“(c) LIMITATION ON SHORT POSITIONS.—

“(1) IN GENERAL.—It shall be unlawful for a protection buyer to enter into a credit default swap which establishes a short position in a reference entity's credit unless the protection buyer can demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that the protection buyer—

“(A) is undertaking such action to establish a legitimate short position in credit default swaps; or

“(B) is regulated by the Commission as a security-based swap dealer in credit default swaps, and is acting as a market-maker or otherwise for the purpose of serving clients.

“(2) LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.—A protection buyer's short position in credit default swaps shall be considered a legitimate short position in credit default swaps if—

“(A) the value of the protection buyer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the protection buyer's credit default swaps; and

“(B) the reference entity or entities for the protection buyer's credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

“(3) DETERMINATION OF THE COMMISSION.—

“(A) IN GENERAL.—The Commission and the Commodity Futures Trading Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term ‘valid credit instrument’.

“(B) CONSIDERATIONS AND REQUIREMENTS.—In defining the term ‘valid credit instrument’, the Commission and the Commodity Futures Trading Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

“(C) RULE OF CONSTRUCTION.—For purposes of this subsection, any instrument with an equity risk exposure or equity-like features shall not be considered by the Commission to be a valid credit instrument.

“(4) REPORTING.—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the Commission, in such manner, in such frequency, and in such form as may be prescribed by the Commission.

“(5) HOLDINGS OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SECURITY-BASED SWAP DEALERS.—Any security-based swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that—

“(A) the value of the security-based swap dealer's long holdings in valid credit instruments is equal to or greater than the absolute notional value of the security-based swap dealer's position in credit default swaps; and

“(B) the reference entity or entities for the security-based swap dealer's credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the security-based swap dealer owns.

“(6) PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with the intent of evading the provisions of this section.

“(7) AUTHORITY OF THE COMMISSION.—The Commission, in consultation with the Commodity Futures Trading Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale of credit default swaps.

“(d) DEFINITIONS.—

“(1) IN GENERAL.—In this section, the following definitions shall apply:

“(A) CREDIT DEFAULT SWAP.—The term ‘credit default swap’—

“(i) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

“(ii) is not a debt security registered with the Commission and issued by a corporation, State, municipality, or sovereign entity.

“(B) CREDIT EVENT.—The term ‘credit event’ includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

“(C) PROTECTION BUYER.—The term ‘protection buyer’ means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the ‘protection seller’) upon the occurrence of one or more credit events.

“(D) REFERENCE ENTITY.—The term ‘reference entity’ means any borrower, such as a corporation, State, municipality, sovereign entity, or special purpose entity, which has issued a public debt obligation or obtained a loan that is referenced by a credit default swap.

“(2) FURTHER DEFINITION OF TERMS.—The Commission and the Commodity Futures Trading Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, further defining the terms ‘credit default swap’, ‘credit event’, ‘protection buyer’, and ‘reference entity’.

On page 1056, line 17, strike the second period and insert the following: “.

**SEC. 946. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.**

The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 5 the following:

**“SEC. 5A. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.**

“(a) DEFINITION.—For purposes of this section, the term ‘synthetic asset-backed security’ means an asset-backed security, as defined in section 3(a)(77) of the Securities Exchange Act of 1934, with respect to which, by design, the self-liquidating financial assets referenced in the synthetic securitization do not provide any direct payment or cash flow to the holders of the security.

“(b) RESTRICTION.—

“(1) IN GENERAL.—No issuer, underwriter, placement agent, sponsor, or initial purchaser may offer, sell, or transfer a synthetic asset-backed security that has no purpose apart from speculation on a possible future gain or loss associated with the value or condition of the referenced assets. The Commission may determine, by rule or otherwise, whether a security is included within the description set forth in the preceding sentence. Any such determination by the Commission, other than by rule, is not subject to judicial review.

“(2) RULEMAKING.—Not later than 270 days after the date of enactment of this section, the Commission shall issue rules carry out this section and to prevent evasions thereof.”.

**SA 4009.** Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 893, after line 25, insert the following:

**SEC. 774. STANDARDS OF CONDUCT FOR BROKERS, DEALERS, AND INVESTMENT ADVISERS.**

(a) AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following:

“(k) STANDARDS OF CONDUCT.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title or the Investment Advisers Act of 1940, the Commission shall issue rules to provide, in substance, that the standards of conduct for all brokers, dealers, and investment advisers, in providing investment advice about securities to retail customers, shall be to act in the interest of the customer, without regard to the financial or other interest of the broker, dealer, or investment adviser providing the advice.

“(2) EXCLUSION FOR LIMITED RANGE OF PRODUCTS OFFERED.—Paragraph (1) shall not apply with respect to any limited representative-investment company and variable contracts products, or for any other broker or dealer, as defined by the Commission, who sells only proprietary or other limited range of products.

“(3) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) RETAIL CUSTOMER DEFINED.—The term ‘retail customer’ means a natural person, or the legal representative of such natural person, who—

“(i) receives personalized investment advice about securities from a broker or dealer; and

“(ii) uses such advice primarily for personal, family, or household purposes.

“(B) LIMITED REPRESENTATIVE-INVESTMENT COMPANY AND VARIABLE CONTRACTS PRODUCTS.—The term ‘limited representative-investment company and variable contracts product’ shall have the meaning given such

term by rule of the Commission, and includes any person that is licensed by a registered security association pursuant to section 15A—

“(i) the activities of which in the investment banking and securities business are limited to the solicitation, purchase, and sale of—

“(I) redeemable securities of companies registered pursuant to the Investment Company Act of 1940;

“(II) securities of closed-end companies registered pursuant to the Investment Company Act of 1940, during the period of original distribution only; and

“(III) variable contracts and insurance premium funding programs and other contracts issued by an insurance company, other than any contract that is an exempt security pursuant to section 3(a)(8) of the Securities Act of 1933; and

“(ii) does not function as a representative in any financial instrument that is not described in clause (i).

“(1) OTHER MATTERS.—

“(1) IN GENERAL.—The Commission shall—

“(A) facilitate the provision of clear, appropriate disclosures to customers regarding the terms of their relationships with, material conflicts of interest of, and direct and indirect compensation to, brokers, dealers, and investment advisers; and

“(B) examine and, where appropriate, promulgate rules regulating sales practices, conflicts of interest, and compensation schemes for financial intermediaries (including brokers, dealers, and investment advisers) that the Commission deems contrary to the public interest and the interests of investors.

“(2) RULE OF CONSTRUCTION.—The receipt of compensation based on commission or other standard compensation for the sale of securities shall not, in and of itself, be considered a violation of the standard, under paragraph (1)(A), when applied to a broker or dealer. Nothing in this section shall require a broker or dealer or registered representative to have a continuing duty of care or loyalty to the customer after providing personalized investment advice about securities.

“(m) HARMONIZATION OF ENFORCEMENT AND REMEDY REGULATIONS.—The Commission shall issue regulations to ensure, to the extent practicable, that the enforcement options and remedies available for violations of the standard of conduct applicable to a broker or dealer providing investment advice to a customer are commensurate with those enforcement options and remedies available for violations of the standard of conduct applicable to investment advisers under the Investment Advisers Act of 1940.”

(b) AMENDMENT TO INVESTMENT ADVISERS ACT OF 1940.—Section 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-11) is amended by adding at the end the following:

“(f) STANDARDS OF CONDUCT.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title or the Securities Exchange Act of 1934, the Commission shall promulgate rules to provide that the standards of conduct for all brokers, dealers, and investment advisers, in providing investment advice to retail customers, shall be to act in the best interest of the customer, without regard to the financial or other interest of the broker, dealer, or investment adviser providing the advice.

“(2) RETAIL CUSTOMER DEFINED.—For purposes of this subsection, the term ‘retail customer’ means a natural person, or the legal representative of such natural person, who—

“(A) receives personalized investment advice about securities from a broker or dealer; and

“(B) uses such advice primarily for personal, family, or household purposes.

“(g) OTHER MATTERS.—

“(1) IN GENERAL.—The Commission shall—

“(A) facilitate the provision of clear, appropriate disclosures to customers regarding the terms of their relationships with, material conflicts of interest of, and direct and indirect compensation to, brokers, dealers, and investment advisers; and

“(B) examine and, where appropriate, promulgate rules regulating sales practices, conflicts of interest, and compensation schemes for financial intermediaries (including brokers, dealers, and investment advisers) that the Commission deems contrary to the public interest and the interests of investors.”

**SA 4010.** Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1223, strike line 9 and all that follows through page 1225, line 3 and insert the following:

(a) ANNUAL ASSESSMENTS.—

(1) IN GENERAL.—The Bureau shall establish, by rule, a system of assessments to fund the operations of the Bureau. Such rules shall apply only to those covered persons having total consolidated assets of more than \$50,000,000,000, and shall require annual assessments from each such covered person.

(2) FUNDING CAP.—Notwithstanding paragraph (1), and in accordance with this paragraph, the amount that shall be collected by the Bureau through assessments in each fiscal year shall not exceed a fixed percentage of the total operating expenses of the Federal Reserve System, as reported in the Annual Report, 2006, of the Board of Governors, equal to—

(A) 10 percent of such expenses in fiscal year 2011;

(B) 11 percent of such expenses in fiscal year 2012; and

(C) 12 percent of such expenses in fiscal year 2013, and in each fiscal year thereafter.

(3) TRANSITION PERIOD.—Beginning on the date of enactment of this Act and until the designated transfer date, the Board of Governors shall transfer to the Bureau the amount estimated by the Secretary needed to carry out the authorities granted to the Bureau under Federal consumer financial law, from the date of enactment of this Act until the designated transfer date, which amount may not exceed 8 percent of the total operating expenses of the Federal Reserve System, as reported in the Annual Report, 2006, of the Board of Governors.

**SA 4011.** Mr. BURRIS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to

promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 104, line 24, insert before the period the following: “, and shall require such companies to update their resolution plans required under subsection (d)(1), as the Board of Governors determines appropriate, based on the results of the analyses”.

**SA 4012.** Mrs. SHAHEEN (for herself, Mr. BROWN of Massachusetts, Mr. KERRY, Mr. GREGG, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 295, between lines 19 and 20, insert the following:

(t) TREATMENT OF CERTAIN NONBANK FINANCIAL COMPANIES NOT SUBJECT TO ORDERLY LIQUIDATION.—

(1) IN GENERAL.—Subsections (n) and (o) shall not apply to any nonbank financial company that is subject to liquidation or rehabilitation under State law, unless such company—

(A) is determined to be a nonbank financial company supervised by the Board of Governors pursuant to section 113; or

(B) is determined by the Corporation to have benefitted financially from the orderly liquidation of a covered financial company and the use of the Fund under this title by receiving payments or credit pursuant to subsection (b)(4), (d)(4), or (h)(5)(E).

(2) EXCLUSION OF ASSETS.—Any assets of a nonbank financial company described in paragraph (1) shall be excluded for purposes of calculating a financial company's total consolidated assets under subsection (o).

**SA 4013.** Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1455, line 25, strike the period at the end and insert the following: “.

**SEC. 1077. TREATMENT OF REVERSE MORTGAGES.**

(a) IN GENERAL.—The Director shall examine the practices of covered persons in connection with any reverse mortgage transaction (as defined in section 103(bb) of the Truth in Lending Act (15 U.S.C. 1602)) and shall prescribe regulations identifying any acts or practices as unlawful, unfair, deceptive, or abusive in connection with a reverse mortgage transaction or the offering of a reverse mortgage.

(b) REGULATIONS.—In prescribing regulations under subsection (a), the Director shall ensure that such regulations shall—

(1) include requirements for—

(A) the purpose of preventing unlawful, unfair, deceptive or abusive acts and practices in connection with a reverse mortgage transaction; and

(B) the purpose of providing timely, appropriate, and effective disclosures to consumers in connection with a reverse mortgage transaction that incorporate the requirements of section 138 of the Truth in Lending Act (15 U.S.C. 1648), and otherwise are consistent with requirements prescribed by the Director in connection with other consumer mortgage products or services under this title;

(2) with respect to the requirements under paragraph (1), be consistent with requirements prescribed by the Director in connection with other consumer mortgage products or services under this title; and

(3) provide for an integrated disclosure standard and model disclosures for reverse mortgage transactions, that combines the relevant disclosures required under the Truth in Lending Act (15 U.S.C. 1601 et seq.) and the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.), with the disclosures required to be provided to consumers for home equity conversion mortgages under section 255 of the National Housing Act (12 U.S.C. 1715z–20).

(c) CONSULTATION.—In connection with the issuance of any regulations under this section, the Director shall consult with the Federal banking agencies, State bank supervisors, the Federal Trade Commission, and the Department of Housing and Urban Development, as appropriate, to ensure that any proposed regulation—

(1) imposes substantially similar requirements on all covered persons; and

(2) is consistent with prudential, consumer protection, civil rights, market or systemic objectives administered by such agencies or supervisors.

(d) DEADLINE FOR RULEMAKING.—The Director shall commence the rulemaking required under subsection (a) not later than 12 months after the date of enactment of this Act.

**SA 4014.** Mrs. MCCASKILL (for herself and Mr. KOHL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1455, line 25, strike the period at the end and insert the following: “.

**SEC. 1077. TREATMENT OF REVERSE MORTGAGES.**

(a) IN GENERAL.—The Director shall examine the practices of covered persons in connection with any reverse mortgage transaction (as defined in section 103(bb) of the Truth in Lending Act (15 U.S.C. 1602)) and shall prescribe regulations identifying any acts or practices as unlawful, unfair, deceptive, or abusive in connection with a reverse mortgage transaction or the recommendation or offering of a reverse mortgage.

(b) REGULATIONS.—In prescribing regulations under subsection (a), the Director shall ensure that such regulations shall—

(1) include requirements for the purpose of—

(A) preventing unlawful, unfair, deceptive or abusive acts and practices in connection with a reverse mortgage transaction (including the solicitation or recommendation of a reverse mortgage transaction);

(B) providing timely, appropriate, and effective disclosures to consumers in connection with a reverse mortgage transaction that incorporate the requirements of section 138 of the Truth in Lending Act (15 U.S.C. 1648), and otherwise are consistent with requirements prescribed by the Director in connection with other consumer mortgage products or services under this title;

(C) making a determination of the suitability of a reverse mortgage for a consumer—

(i) creating a presumption of unsuitability, if—

(I) the mortgagor plans to use the funds obtained from the reverse mortgage to purchase an annuity or make an investment;

(II) the mortgagor is married and the spouse of the mortgagor is not a party to the mortgage; or

(III) a person is removed from the title to the dwelling in the process of obtaining the reverse mortgage; and

(ii) taking into consideration—

(I) whether the mortgagor intends to reside in the property on a long-term basis;

(II) if the mortgagor is married or has a dependent, the potential impact of a reverse mortgage on the future economic security of the spouse or dependent of the mortgagor and all tenants of the home;

(III) whether a reverse mortgage will affect the eligibility of the mortgagor to receive Government benefits;

(IV) whether the mortgagor intends to pass the residence to an heir and the ability of such heir to repay the reverse mortgage loan;

(V) whether a resident of the home who is not the mortgagor could be displaced at the maturity of the reverse mortgage against the wishes of the mortgagor, and, if any such resident is disabled, the consequences of the displacement for such resident; and

(VI) any other circumstances, as the Director may require;

(2) with respect to the requirements under paragraph (1), be consistent with requirements prescribed by the Director in connection with other consumer mortgage products or services under this title;

(3) provide for an integrated disclosure standard and model disclosures for reverse mortgage transactions, that combines the relevant disclosures required under the Truth in Lending Act (15 U.S.C. 1601 et seq.) and the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.), with the disclosures required to be provided to consumers for home equity conversion mortgages under section 255 of the National Housing Act (12 U.S.C. 1715z–20);

(4) prohibit any person from advertising a reverse mortgage in a manner that—

(A) is false or misleading;

(B) fails to present equally the risks and benefits of reverse mortgages; or

(C) fails to reveal—

(i) negative facts that are material to a representation made in such advertisement;

(ii) facts relating to the responsibilities of the mortgagor for property taxes, insurance, maintenance, or repairs and the consequences of failing to meet such responsibilities, including default and foreclosure;

(iii) the consequences of obtaining a reverse mortgage; or

(iv) any forms of default that might lead to foreclosure;

(5) prohibit a person from requiring or recommending that a mortgagor purchase insurance (except for title, flood, and other peril insurance, as determined by the Director), an annuity, or other similar product in connection with a reverse mortgage;

(6) require that each reverse mortgage provide that prepayment, in whole or in part, may be made without penalty at any time during the period of the mortgage;

(7) require that any mortgagor under a reverse mortgage receive adequate counseling, including—

(A) in the case of a reverse mortgage in which a person was removed from the title to the dwelling, information about—

(i) the consequences of being removed from such title; and

(ii) the consequences upon the death of the mortgagor or a divorce settlement;

(B) general information about the potential consequences of borrowing more funds than are necessary to meet the immediate personal financial goals of the mortgagor;

(C) the responsibilities of the mortgagor relating to property taxes, insurance, maintenance, and repairs and the consequences of failing to meet such responsibilities, including default and foreclosure;

(D) an explanation of the actions that would constitute a default under the terms of the reverse mortgage and how a default might lead to foreclosure;

(E) an explanation of the circumstances, if any, under which the mortgagor, an heir of the mortgagor, or the estate of the mortgagor, would be liable for any amount by which the amount of the indebtedness of the mortgagor under the reverse mortgage exceeds the appraised value of the dwelling securing the mortgage upon termination of the mortgage;

(F) an explanation of the circumstances, if any, under which the spouse, heir, or estate of the mortgagor would be prevented from purchasing the dwelling securing the mortgage upon termination of the mortgage; and

(G) any other information that the Director may require; and

(8) require that any person that provides counseling to a mortgagor under a reverse mortgage report to the Bureau any suspected mortgage-related fraud against a mortgagor.

(c) CONSULTATION.—In connection with the issuance of any regulations under this section, the Director shall consult with the Federal banking agencies, State bank supervisors, the Federal Trade Commission, and the Department of Housing and Urban Development, as appropriate, to ensure that any proposed regulation—

(1) imposes substantially similar requirements on all covered persons; and

(2) is consistent with prudential, consumer protection, civil rights, market, or systemic objectives administered by such agencies or supervisors.

(d) DEADLINE FOR RULEMAKING.—The Director shall commence the rulemaking required under subsection (a) not later than 12 months after the date of enactment of this Act.

**SA 4015.** Mr. VITTER submitted an amendment intended to be proposed by Mr. LEAHY (for himself, Mr. DURBIN, Mr. ROCKEFELLER, Mr. SCHUMER, Mrs. FEINSTEIN, Mr. SPECTER, Mr. WHITEHOUSE, Ms. CANTWELL, Mr. KAUFMAN, Mrs. GILLIBRAND, Mr. WYDEN, Mr. BROWN of Ohio, Mr. LIEBERMAN, Mr. BURRIS, Mrs. MCCASKILL, Mr. FRANKEN, Mr. BENNET, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. WEBB, Mrs. BOXER, and Ms. LANDRIEU) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

**SEC. \_\_\_\_ . SUSPENSION OF THE HEALTH CARE ACT.**

If at the beginning of any fiscal year OMB determines that the deficit targets set forth in the CBO budget report of March 20, 2010 will not be met, the provisions of Public Law 111-148 shall be suspended for that year.

**SA 4016.** Mr. UDALL of Colorado (for himself, Mr. LUGAR, Mr. LAUTENBERG, Mr. BOND, Mr. BEGICH, Mr. SCHUMER, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1455, after line 25, insert the following:

**SEC. 1077. USE OF CONSUMER REPORTS.**

Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended—

(1) in subsection (a)—  
(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;  
(B) by inserting after paragraph (1) the following:

“(2) provide to the consumer written or electronic disclosure—

“(A) of a numerical credit score as defined in section 609(f)(2)(A) used by such person in taking any adverse action based in whole or in part on any information in a consumer report; and

“(B) of the information set forth in subparagraphs (B) through (E) of section 609(f)(1);”;

(C) in paragraph (4) (as so redesignated), by striking “paragraph (2)” and inserting “paragraph (3)”; and

(2) in subsection (h)(5)—

(A) in subparagraph (C), by striking “; and” and inserting a semicolon;

(B) in subparagraph (D), by striking the period and inserting “; and”; and

(C) by inserting at the end the following:

“(E) include a statement informing the consumer of—

“(i) a numerical credit score as defined in section 609(f)(2)(A), used by such person in connection with the credit decision described in paragraph (1) based in whole or in part on any information in a consumer report; and

“(ii) the information set forth in subparagraphs (B) through (E) of section 609(f)(1).”.

**SA 4017.** Mr. ENZI (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1257, after line 25, insert the following:

(g) WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of this title, this section shall apply to any Federal contractor, agent, or employee involved in originating, servicing, debt collection, refinancing, or other consumer related activity relating to a loan under the William D. Ford Federal Direct Loan Program under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.).

(2) DEFINITIONS.—For purposes of carrying out this title—

(A) the term “covered person” includes any person acting as a contractor, agent, or employee of the Federal Government in providing a loan under the William D. Ford Federal Direct Loan Program;

(B) the term “enumerated consumer laws” includes any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) relating to such program; and

(C) the term “financial product or service” includes a loan under such program.

**SA 4018.** Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1290, line 4, strike “respectively.” insert the following: “respectively.”

(s) CONSUMER PRIVACY.—Notwithstanding any other provision of this Act, any provision of the enumerated consumer laws, or any other provision of Federal law, the Bureau may not investigate an individual transaction to which a consumer is a party without the written permission of the consumer.

**SA 4019.** Mr. DODD (for Mr. WYDEN (for himself, Mr. GRASSLEY, Mr. INHOFE, Mr. BENNET, Mr. UDALL of Colorado, Mr. BROWN of Ohio, Mr. MERKLEY, and Ms. COLLINS)) proposed an amendment to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

**SEC. \_\_\_\_ . ELIMINATING SECRET SENATE HOLDS.**

(a) IN GENERAL.—

(1) COVERED REQUEST.—This standing order shall apply to a notice of intent to object to the following covered requests:

(A) A unanimous consent request to proceed to a bill, resolution, joint resolution, concurrent resolution, conference report, or amendment between the Houses.

(B) A unanimous consent request to pass a bill or joint resolution or adopt a resolution, concurrent resolution, conference report, or the disposition of an amendment between the Houses.

(C) A unanimous consent request for disposition of a nomination.

(2) RECOGNITION OF NOTICE OF INTENT.—The majority and minority leaders of the Senate or their designees shall recognize a notice of intent to object to a covered request of a Senator who is a member of their caucus if the Senator—

(A) submits the notice of intent to object in writing to the appropriate leader and grants in the notice of intent to object permission for the leader or designee to object in the Senator's name; and

(B) not later than 2 session days after submitting the notice of intent to object to the appropriate leader, submits a copy of the notice of intent to object to the Congressional Record and to the Legislative Clerk for inclusion in the applicable calendar section described in subsection (b).

(3) FORM OF NOTICE.—To be recognized by the appropriate leader a Senator shall submit the following notice of intent to object:

“I, Senator \_\_\_\_\_, intend to object to \_\_\_\_\_, dated \_\_\_\_\_. I will submit a copy of this notice to the Legislative Clerk and the Congressional Record within 2 session days and I give my permission to the objecting Senator to object in my name.” The first blank shall be filled with the name of the Senator, the second blank shall be filled with the name of the covered request, the name of the measure or matter and, if applicable, the calendar number, and the third blank shall be filled with the date that the notice of intent to object is submitted.

(b) CALENDAR.—Upon receiving the submission under subsection (a)(2)(B), the Legislative Clerk shall add the information from

the notice of intent to object to the applicable Calendar section entitled "Notices of Intent to Object to Proceeding" created by Public Law 110-81. Each section shall include the name of each Senator filing a notice under subsection (a)(2)(B), the measure or matter covered by the calendar to which the notice of intent to object relates, and the date the notice of intent to object was filed.

(c) **REMOVAL.**—A Senator may have a notice of intent to object relating to that Senator removed from a calendar to which it was added under subsection (b) by submitting for inclusion in the Congressional Record the following notice:

"I, Senator \_\_\_\_\_, do not object to \_\_\_\_\_, dated \_\_\_\_\_. The first blank shall be filled with the name of the Senator, the second blank shall be filled with the name of the covered request, the name of the measure or matter and, if applicable, the calendar number, and the third blank shall be filled with the date of the submission to the Congressional Record under this subsection.

(d) **OBJECTING ON BEHALF OF A MEMBER.**—If a Senator who has notified his or her leader of an intent to object to a covered request fails to submit a notice of intent to object under subsection (a)(2)(B) within 2 session days following an objection to a covered request by the leader or his or her designee on that Senator's behalf, the Legislative Clerk shall list the Senator who made the objection to the covered request in the applicable "Notice of Intent to Object to Proceeding" calendar section.

**SA 4020.** Mr. CRAPO (for himself, Mr. GREGG, Mr. SHELBY, Mr. MCCAIN, Mr. VITTER, Mrs. HUTCHISON, and Mr. CORKER) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

**TITLE XIII—FANNIE MAE AND FREDDIE MAC**

**Subtitle A—Ending Bailouts**

**SEC. 1311. SHORT TITLE.**

This subtitle may be cited as the "Ending Bailouts of Fannie Mae and Freddie Mac Act".

**SEC. 1312. REESTABLISHING THE MAXIMUM AGGREGATE AMOUNT PERMITTED TO BE PROVIDED BY THE TAXPAYERS TO FANNIE MAE AND FREDDIE MAC.**

Section 1367(b)(2) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617(b)(2)) is amended by adding at the end the following new subparagraph:

"(L) **REESTABLISHMENT OF TAXPAYER FUNDING CAPS.**—The Agency, as conservator, shall prevent a regulated entity from requesting or receiving any funds from the United States Department of the Treasury, as part of the Amended and Restated Senior Preferred Stock Purchase Agreement, dated as of September 26, 2008, amended May 6, 2009, and further amended December 24, 2009, between the United States Department of the Treasury and the Federal Home Loan Mortgage Corporation, or the Federal National

Mortgage Association, that exceeds a maximum aggregate amount of \$200,000,000,000."

**SEC. 1313. REESTABLISHING SCHEDULED REDUCTION OF MORTGAGE ASSETS OWNED BY FANNIE MAE AND FREDDIE MAC.**

Section 1367(b)(2) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617(b)(2)) is amended by adding at the end the following new subparagraph:

"(M) **REDUCTION OF OWNED MORTGAGE ASSETS.**—

"(i) **IN GENERAL.**—The Agency, as conservator, shall ensure that a regulated entity does not own, as of any applicable date, mortgage assets in excess of 90.0 percent of the aggregate amount of mortgage assets that the regulated entity owned on December 31 of each of the previous year, provided, that in no event shall the regulated entity be required under this subparagraph to own less than \$250,000,000,000 in mortgage assets.

"(ii) **DEFINITION OF MORTGAGE ASSETS.**—For purposes of this subparagraph, the term 'mortgage assets' means with respect to a regulated entity, assets of such entity consisting of mortgages, mortgage loans, mortgage-related securities, participation certificates, mortgage-backed commercial paper, obligations of real estate mortgage investment conduits and similar assets, in each case to the extent such assets would appear on the balance sheet of such entity in accordance with generally accepted accounting principles."

**SEC. 1314. ENSURING CONGRESSIONAL REVIEW FOR AGREEMENTS INCREASING TAXPAYER RISK.**

Section 1367(b)(2) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617(b)(2)), as amended by sections 1203 and 1204, is further amended by adding at the end the following new subparagraph:

"(N) **AGREEMENTS.**—

"(i) **IN GENERAL.**—The Agency, as conservator or receiver, may enter into agreements that are consistent with its appointment as conservator or receiver with the regulated entity and that expire prior to, or upon, the regulated entity's emergence from conservatorship or receivership provided—

"(I) the agreement does not expose the United States taxpayers to additional risk; and

"(II) the agreement was approved by Congress pursuant to clause (ii).

"(ii) **PROCEDURE FOR CONGRESSIONAL APPROVAL.**—

"(I) **IN GENERAL.**—Notwithstanding clause (i), the Agency may enter into, on an interim basis, an agreement, even if the agreement exposes the taxpayer to additional risk, including if such agreement exceeds the limitations established under subparagraphs (L) and (M), if such an agreement—

"(aa) is deemed necessary by the Agency, based upon the Agency's duties as conservator or receiver; and

"(bb) is approved by Congress through adoption of a concurrent resolution of approval, not more than 120 days after the later of—

"(AA) the signing of the agreement; or

"(BB) the date of enactment of the Ending Bailouts of Fannie Mae and Freddie Mac Act.

"(II) **REQUIRED SUBMISSIONS FOR CONGRESSIONAL REVIEW.**—During the 120-day period described under subclause (I), the Director shall submit to Congress—

"(aa) the text of the agreement;

"(bb) a certification and justification of how the agreement is consistent with the Agency's duties as conservator or receiver;

"(cc) budgetary projections demonstrating the cost to the taxpayer in a 1, 5, and 10-year window;

"(dd) independent risk analysis from the Government Accountability Office of the agreement, considering the risk to the short and long-term viability of the regulated entity and the United States taxpayer;

"(ee) a time table for the expiration of the agreement;

"(ff) a list and description of assets included within each enterprises portfolio, including gross size of each enterprises portfolio and a detailed explanation of the components;

"(gg) the prices that each enterprise is paying on delinquent mortgages, and what mechanism is being applied to protect the United States taxpayer;

"(hh) a list and description of risk management practices by each enterprise to protect United States taxpayer dollars, and the differences between each enterprises practices in such regard, including whether there are any investigations into the accounting practices of either enterprise;

"(ii) a list and description of any interaction between the Department of the Treasury and the mortgage portfolio of any other Government entity and its effect on each enterprise;

"(jj) an updated disclosure of any taxpayer funds provided for and at risk to each enterprise from the Department of the Treasury; and

"(kk) an updated disclosure of the debt activity by each enterprise and the sensitivity to any interest rate changes.

"(iii) **TESTIMONY REQUIRED IF FUNDING LIMITATION EXCEEDED.**—The Director shall report to and testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives if either the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association requests amounts from the Director in excess of the limitation established under subparagraphs (L) and (M)."

**SEC. 1315. CONGRESSIONAL TESTIMONY.**

The Director of the Federal Housing Finance Agency and the Secretary shall report to and testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives each time that \$10,000,000,000 of funds are expended pursuant to the Amended and Restated Senior Preferred Stock Purchase Agreements, dated September 26, 2008, as amended May 6, 2009. The testimony required under this section shall include the reasons why such additional expenditure of taxpayer funds is necessary.

**SEC. 1316. INTERNET POSTING BY THE SECRETARY.**

The Secretary shall post, on the front page of the website of the Department of the Treasury—

(1) the aggregate portfolio holdings of each enterprise; and

(2) a weekly summary of taxpayer funds provided for and at risk to each enterprise, based on any interest rate changes.

**Subtitle B—Fannie Mae and Freddie Mac in the Federal Budget**

**SEC. 1321. ON-BUDGET STATUS OF FANNIE MAE AND FREDDIE MAC.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the receipts and disbursements, including the administrative expenses, of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall be counted as new

budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the Budget of the United States Government as submitted by the President;

(2) the congressional budget;

(3) the Statutory Pay-As-You-Go Act of 2010; and

(4) the Balanced Budget and Emergency Deficit Control Act of 1985 (or any successor statute).

(b) **EXPIRATION.**—The budgetary treatment of the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation or any functional replacements under subsection (a) shall continue with respect to such entities until such entities are no longer under Federal conservatorship or receivership as authorized by the Housing and Economic Recovery Act of 2008 (Public Law 110-289) or any successor statute.

**SEC. 1322. BUDGETARY TREATMENT OF FANNIE MAE AND FREDDIE MAC.**

All costs to the Government of the activities of or under the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation and any functional replacements or any modification of such entities shall be determined on a fair value basis.

**SEC. 1323. FANNIE MAE AND FREDDIE MAC DEBT SUBJECT TO PUBLIC DEBT LIMIT.**

(a) **IN GENERAL.**—For purposes of section 3101(b) of chapter 31 of title 31, United States Code, the face amount of obligations issued by the Federal National Mortgage Association and by the Federal Home Loan Mortgage Corporation or any functional replacements and outstanding shall be treated as issued by the United States Government under that section.

(b) **TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT.**—The limit on the obligation in section 3101(b) of title 31, United States Code, shall be increased by the face amount of obligations issued by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation and outstanding on April 15, 2010.

(c) **EXPIRATION.**—

(1) **OBLIGATIONS.**—The obligations of Federal National Mortgage Association or Federal Home Loan Mortgage Corporation or any functional replacements shall continue to be treated as issued by the United States Government with respect to such entities until such entities no longer have in place an agreement with the Secretary of the Treasury for the purchase of obligations and securities authorized by the Housing and Economic Recovery Act of 2008 (Public Law 110-289) or any successor statute.

(2) **DEBT LIMIT.**—Any temporary increase in the public debt limit authorized in subsection (b) with respect to the obligations of Federal National Mortgage Association or Federal Home Loan Mortgage Corporation shall be reversed with respect to such entities when Federal National Mortgage Association or Federal Home Loan Mortgage Corporation or any functional replacements no longer have in place an agreement with the Secretary of the Treasury for the purchase of obligations and securities authorized by the Housing and Economic Recovery Act of 2008 (Public Law 110-289) or any successor statute.

**SEC. 1324. DEFINITIONS.**

In this subtitle, the following definitions shall apply:

(1) **FAIR VALUE.**—The term “fair value” shall have the same meaning as the definition of fair value outlined in Financial Accounting Standards No. 157, or any successor thereto, issued by the Financial Accounting Standards Board.

(2) **FUNCTIONAL REPLACEMENTS.**—The term “functional replacements” means any organization, agreement, or other arrangement that would perform the public functions of Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.

(3) **MODIFICATION.**—

(A) **IN GENERAL.**—The term “modification” means any government action that alters the estimated fair value of the activities of the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation or any functional replacements.

(B) **COST.**—The cost of a modification is the difference between the current estimate of the fair value of the activities of the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation or any functional replacements and the estimate of the fair value of such activities as modified.

**SA 4021.** Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 623, line 14, insert “, including price and volume,” after “transaction”.

On page 623, line 16, insert “, consistent with joint rules adopted by the Commission” after “executed”.

On page 623, line 18, insert “and the Securities and Exchange Commission” after “Commission”.

On page 623, line 21, insert “and the Securities and Exchange Commission” after “Commission”.

On page 623, line 23, strike “is” and insert “and the Securities and Exchange Commission are”.

On page 623, line 24, strike “provide by rule” and insert “engage in joint rulemaking to jointly adopt rules providing”.

On page 624, line 1, insert “, volume,” after “transaction”.

On page 624, line 8, insert “and the Securities and Exchange Commission” after “Commission”.

On page 623, line 15, insert “and the Securities and Exchange Commission” after “Commission”.

On page 623, line 23, insert “and the Securities and Exchange Commission” after “Commission”.

On page 624, line 23, strike “make available to the public” and insert “require real time public reporting for such transactions”.

On page 625, line 1, strike “, aggregate data on such swap trading volumes and positions”.

On page 625, strike lines 3 through 7.

On page 625, line 9, insert “and the Securities and Exchange Commission” after “Commission”.

On page 625, line 14, strike “rule” and insert “rules”.

On page 625, line 16, strike “(i) and (ii)” and insert “(i) through (iii)”.

On page 625, line 17, strike “rule” and insert “rules”.

On page 625, line 18, insert “and the Securities and Exchange Commission” after “Commission”.

On page 625, line 20, strike “identify the participants” and insert “disclose the identity of any market participant or proprietary information about the swap transactions, positions, or trading strategies of any market participant”.

On page 625, line 22, strike “large notional”.

On page 625, line 23, strike the “(block trade)” and insert “block trade”.

On page 626, line 2, strike “large notional”.

On page 626, line 3, strike the “(block trades)” and insert “block trades”.

On page 626, lines 5 through 6, strike “whether the public disclosure will materially reduce market liquidity” and insert “the effect public disclosure will have on measures of market quality, including market liquidity and transaction costs”.

On page 626, line 13, insert “and the Securities and Exchange Commission” after “Commission”.

On page 626, after line 13 insert the following:

“(G) **FINANCIAL STABILITY OVERSIGHT COUNCIL.**—In the event that the Commission and the Securities and Exchange Commission fail to jointly prescribe rules pursuant to subparagraph (C) in a timely manner, at the request of either the Commission or the Securities and Exchange Commission, the Financial Stability Oversight Council shall resolve the dispute—

“(i) within a reasonable time after receiving the request;

“(ii) after consideration of relevant information provided by the Commission and the Securities and Exchange Commission; and

“(iii) by agreeing with the Commission or the Securities and Exchange Commission regarding the entirety of the matter or by determining a compromise position.”.

On page 800, line 15, insert “, including price and volume,” after “transaction”.

On page 800, line 18, insert “, consistent with joint rules adopted by the Commission” after “executed”.

On page 800, line 20, insert “and the Commodity Futures Trading Commission” after “Commission”.

On page 800, line 23, insert “and the Commodity Futures Trading Commission” after “Commission”.

On page 801, line 1, insert “and required to engage in joint rulemaking to jointly adopt rules providing” after “Commission”.

On page 801, line 2, strike “to provide by rule”.

On page 801, line 3, insert “, volume,” after “transaction”.

On page 801, line 10, insert “pursuant to (a)(10)” after “requirements”.

On page 801, line 10, insert “and the Commodity Futures Trading Commission” after “Commission”.

On page 801, line 17, insert “and the Commodity Futures Trading Commission” after “Commission”.

On page 801, line 24, insert “and the Commodity Futures Trading Commission” after “Commission”.

On page 800, line 25, insert “and the Commodity Futures Trading Commission” after “Commission”.

On page 801, line 25, strike “make available to the public” and insert “require real time public reporting for such transactions”.

On page 802, line 3, strike “, aggregate data on such swap trading volumes and positions”.

On page 802, strike lines 6 through 11.

On page 802, line 13, insert “and the Commodity Futures Trading Commission” after “Commission”.



On page 802, line 19, strike “rule” and insert “rules”.

On page 802, line 21, strike “(i) and (ii)” and insert “(i) through (iii)”.

On page 802, line 22, strike “rule” and insert “rules”.

On page 802, line 23, insert “and the Commodity Futures Trading Commission” after “Commission”.

On page 802, line 25, strike “identify the participants” and insert “disclose the identity of any market participant or proprietary information about the security-based swap transactions, positions, or trading strategies of any market participant”.

On page 803, line 2, strike “large notional”.

On page 803, lines 3 and 4, strike the “(block trade)” and insert “block trade”.

On page 803, line 7, strike “large notional”.

On page 803, line 8 strike the “(block trades)” and insert “block trades”.

On page 803, lines 10 through 12, strike “whether the public disclosure will materially reduce market liquidity” and insert “the effect public disclosure will have on measures of market quality, including market liquidity and transaction costs”.

On page 803, line 19, insert “and the Commodity Futures Trading Commission” after “Commission”.

On page 803, between lines 19 and 20, insert the following:

“(G) FINANCIAL STABILITY OVERSIGHT COUNCIL.—In the event that the Commission and the Commodity Futures Trading Commission fail to jointly prescribe rules pursuant to subparagraph (C) in a timely manner, at the request of either the Commission or the Commodity Futures Trading Commission, the Financial Stability Oversight Council shall resolve the dispute—

“(i) within a reasonable time after receiving the request;

“(ii) after consideration of relevant information provided by the Commission and the Commodity Futures Trading Commission; and

“(iii) by agreeing with the Commission or the Commodity Futures Trading Commission regarding the entirety of the matter or by determining a compromise position.”.

**SA 4022.** Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 558, strike line 8 and all that follows through page 559, line 14, and insert the following:

(d) EXEMPTIONS.—Section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) is amended by adding at the end the following:

“(6) The Commission, by rule, regulation, or order may conditionally or unconditionally exempt any person, swap, or transaction, or any class or classes of persons, swaps, or transactions, from any provision of this Act that was added by an amendment in the Wall Street Transparency and Accountability Act of 2010, to the extent that such exemption is necessary or appropriate in the

public interest, and is not inconsistent with the purposes of such Act.”.

On page 892, strike line 23 and all that follows through page 893, line 2, and insert the following:

“(c) DERIVATIVES.—The Commission, by rule, regulation, or order may conditionally or unconditionally exempt any person, security-based swap, or transaction, or any class or classes of persons, security-based swaps, or transactions, from any provision of this Act that was added by an amendment in the Wall Street Transparency and Accountability Act of 2010, to the extent that such exemption is necessary or appropriate in the public interest, and is not inconsistent with the purposes of such Act.”.

**SA 4023.** Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 541, strike lines 13 through 24, and insert the following:

“(D) RISK BASED CAPITAL.—In setting risk-based capital requirements for a person that is designated as a major swap participant for a single type or single class or category of swaps or activities, the prudential regulator and the Commission shall take into account—

“(i) the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in by virtue of the status of the person as a major swap participant;

“(ii) the liquidity of each swap, including whether such instrument is traded on a liquid market;

“(iii) whether the swap is used to offset or hedge another instrument or asset owned by such major swap participant; and

“(iv) whether the swap is cleared, in addition to any other factor the prudential regulator and the Commission deem material.”.

On page 556, strike lines 11 through 21, and insert the following:

“(C) RISK BASED CAPITAL.—In setting risk-based capital requirements for a person that is designated as a swap dealer for a single type or single class or category of swaps or activities, the prudential regulator and the Commission shall take into account—

“(i) the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in by virtue of the status of the person as a swap dealer;

“(ii) the liquidity of each swap, including whether such instrument is traded on a liquid market;

“(iii) whether the swap is used to offset or hedge another instrument or asset owned by such swap dealer; and

“(iv) whether the swap is cleared, in addition to any other factor the prudential regulator and the Commission deem material.”.

On page 646, strike line 6, and insert the following:

“(e) RISK-BASED CAPITAL AND MARGIN REQUIREMENTS.—

“(1) IN GENERAL.—Each registered swap dealer and major swap participant shall meet

at all times such risk-based capital and margin requirements as the appropriate Federal banking agencies, the Commission, or the Securities and Exchange Commission, as applicable, shall prescribe, by rule or regulation, as necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes of this title.

“(2) CAPITAL AND MARGIN CONSIDERATIONS.—In determining capital and margin requirements in this subsection, the appropriate Federal banking agencies, the Commission, and the Securities and Exchange Commission, respectively, shall set risk-based capital and margin requirements that such authorities deem appropriate and necessary for the risk associated with the swaps activities of each registered swap dealer and major swap participant. In setting such risk-based capital and margin requirements pursuant to the authorities established in paragraphs (3) through (10), the appropriate Federal banking agencies, the Commission, and the Securities and Exchange Commission each shall consider, among other factors—

“(A) the liquidity of each swap, including whether such instrument is traded on a liquid market;

“(B) whether the swap is used to offset or hedge another instrument or asset owned by such registered swap dealers and major swap participants; and

“(C) whether the swap is cleared.”.

On page 646, line 7, strike “(1) IN GENERAL.—” and insert “(3) DEPOSITORY AND NONDEPOSITORY INSTITUTIONS.—”.

On page 646, line 18, strike “(2)(A)” and insert “(4)(A)”.

On page 647, line 7, strike “(2)(B)” and insert “(4)(B)”.

On page 647, line 9, strike “(2)” and insert “(4)”.

On page 648, line 5, strike “(3)” and insert “(5)”.

On page 648, line 9, strike “(2)(A)” and insert “(4)(A)”.

On page 649, line 6, strike “(2)(B)” and insert “(4)(B)”.

On page 649, line 12, strike “(2)(A)” and insert “(4)(A)”.

On page 650, line 21, strike “(4)” and insert “(6)”.

On page 651, line 4, strike “(2)(A)” and insert “(4)(A)”.

On page 651, line 13, strike “(2)(B)” and insert “(4)(B)”.

On page 651, line 22, strike “(4)(A)” and insert “(6)(A)”.

On page 651, line 23, strike “(5)” and insert “(7)”.

On page 652, line 11, strike “(6)” and insert “(8)”.

On page 653, line 5, strike “(7)” and insert “(9)”.

On page 653, line 7, strike “(4)(A)(i)” and insert “(6)(A)(i)”.

On page 653, line 8, strike “(4)(A)(ii)” and insert “(6)(A)(ii)”.

On page 653, line 9, strike “(4)(B)(i)” and insert “(6)(B)(i)”.

On page 653, line 10, strike “(4)(B)(ii)” and insert “(6)(B)(ii)”.

On page 653, line 15, strike “(8)” and insert “(9)”.

On page 653, line 16, strike “(4)” and insert “(6)”.

On page 852, strike line 19, and insert the following:

“(e) RISK-BASED CAPITAL AND MARGIN REQUIREMENTS.—

“(1) IN GENERAL.—Each registered security-based swap dealer and major security-based swap participant shall meet at all times such



risk-based capital and margin requirements as the appropriate Federal banking agencies, the Commission, or the Securities and Exchange Commission, as applicable, shall prescribe, by rule or regulation, as necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes of this title.

“(2) CAPITAL AND MARGIN CONSIDERATIONS.—In determining capital and margin requirements in this subsection, the appropriate Federal banking agencies, the Commission, and the Securities and Exchange Commission, respectively, shall set risk-based capital and margin requirements that such authorities deem appropriate and necessary for the risk associated with the security-based swaps activities of each registered security-based swap dealer and major security-based swap participant. In setting such risk-based capital and margin requirements pursuant to the authorities established in paragraphs (3) through (10), the appropriate Federal banking agencies, the Commission, and the Securities and Exchange Commission each shall consider, among other factors—

“(A) the liquidity of each security-based swap, including whether such instrument is traded on a liquid market;

“(B) whether the security-based swap is used to offset or hedge another instrument or asset owned by such registered security-based swap dealers and major security-based swap participants; and

“(C) whether the security-based swap is cleared.”.

On page 852, line 20, strike “(1) IN GENERAL.—” and insert “(3) DEPOSITORY AND NONDEPOSITORY INSTITUTIONS.—”.

On page 853, line 8, strike “(2)(A)” and insert “(4)(A)”.

On page 853, line 22, strike “(2)(B)” and insert “(4)(B)”.

On page 854, line 1, strike “(2)” and insert “(4)”.

On page 854, line 25, strike “(3)” and insert “(5)”.

On page 855, line 5, strike “(2)(A)” and insert “(4)(A)”.

On page 855, line 25, strike “(2)(B)” and insert “(4)(B)”.

On page 856, line 7, strike “(2)(A)” and insert “(4)(A)”.

On page 857, line 13, strike “(4)” and insert “(6)”.

On page 857, line 22, strike “(2)(A)” and insert “(4)(A)”.

On page 858, line 6, strike “(2)(B)” and insert “(4)(B)”.

On page 858, line 13, strike “(4)(A)” and insert “(6)(A)”.

On page 858, line 14, strike “(5)” and insert “(7)”.

On page 859, line 3, strike “(6)” and insert “(8)”.

On page 859, line 22, strike “(7)” and insert “(9)”.

On page 859, line 24, strike “(4)(A)” and insert “(6)(A)”.

On page 860, line 1, strike “(4)(B)” and insert “(6)(B)”.

On page 860, line 6, strike “(8)” and insert “(10)”.

On page 860, line 7, strike “(4) and (5)” and insert “(6) and (7)”.

**SA 4024.** Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving account-

ability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 577, line 24, after “paragraph (9)”, insert “, or to any swap transaction that is a large notional swap transaction (block trade) for the particular market or contract”.

On page 793, line 23, strike “or”.

On page 794, line 3, strike the period and insert “; or”.

On page 794, between lines 3 and 4, insert the following:

“(iii), or to any security-based swap transaction that is a large notional security-based swap transaction (block trade) for the particular market or contract.”.

**SA 4025.** Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 567, line 24, after “shall” insert “, by rule pursuant to the notice and comment provisions of section 553 of title 5, United States Code.”.

On page 568, line 6, after “5b(c)(2)” insert “, taking into account the factors described in clauses (I) through (vii) of subparagraph (4)(A)”.

On page 571, between lines 21 and 22, insert the following:

“(vi) The effect on the mitigation of systemic risk, taking into account the size of the market for the group, category, type, or class of swaps, the resources of derivatives clearing organizations available to clear the group, category, type, or class of swaps, and the existence of reasonable legal certainty in the event of the insolvency of any such derivatives clearing organization or 1 or more of its clearing members with regard to the treatment of customer and swap counterparty positions, funds, and property.”.

On page 571, line 22, strike “(vi)” and insert “(vii)”.

On page 572, line 1, after “may” insert “, by rule pursuant to the notice and comment provisions of section 553 of title 5, United States Code.”.

On page 572, line 6, strike “(vi)” and insert “(vii)”.

On page 577, line 8, after “(1)” insert “and designated by the Commission pursuant to subparagraph (C)”.

On page 577, line 10, after “on” insert “, through or subject to the rules of”.

On page 577, line 13, after “on” insert “, through or subject to the rules of”.

On page 577, after line 24, insert the following:

“(C) COMMISSION DESIGNATIONS.—The Commission may, by rule pursuant to the notice and comment provisions of section 553 of

title 5, United States Code, separately designate a particular swap or class of swaps that is subject to the clearing requirement of paragraph (1) as subject to the execution requirement of subparagraph (A) if the Commission determines that effective pre-trade price transparency does not already exist in the market, and taking into account the potential impact of such requirement on price discovery, competition, market liquidity, and costs of execution.”.

On page 783, line 22, after “shall” insert “, by rule pursuant to the notice and comment provisions of section 553 of title 5, United States Code.”.

On page 784, line 3, after “17A” insert “, taking into account the factors described in clauses (i) through (vii) of subparagraph (4)(A)”.

On page 788, before line 1, insert the following:

“(vi) The effect on the mitigation of systemic risk, taking into account the size of the market for the group, category, type, or class of security-based swaps, the resources of clearing agencies available to clear the group, category, type, or class of security-based swaps, and the existence of reasonable legal certainty in the event of the insolvency of any such clearing agency or 1 or more of its clearing members with regard to the treatment of customer and security-based swap counterparty positions, funds, and property.”.

On page 788, line 1, strike “(vi)” and insert “(vii)”.

On page 788, line 5, after “may” insert “, by rule pursuant to the notice and comment provisions of section 553 of title 5, United States Code.”.

On page 788, line 10, strike “(vi)” and insert “(vii)”.

On page 793, line 8, after “(1)” insert “and designated by the Commission pursuant to subparagraph (C)”.

On page 793, line 10, after “on” insert “, through or subject to the rules of”.

On page 793, line 13, after “on” insert “, through or subject to the rules of”.

On page 794, between lines 3 and 4, insert the following:

“(C) COMMISSION DESIGNATIONS.—The Commission may, by rule pursuant to the notice and comment provisions of section 553 of title 5, United States Code, separately designate a particular security-based swap or class of security-based swaps that is subject to the clearing requirement of paragraph (1) as subject to the execution requirement of subparagraph (A) if the Commission determines that effective pre-trade price transparency does not already exist in the market, and taking into account the potential impact of such requirement on price discovery, competition, market liquidity, and costs of execution.”.

**SA 4026.** Mr. REID submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1309, lines 23 and 24, strike “in State court having jurisdiction over the defendant” and insert “in a State court in that State”.

**SA 4027.** Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1552, line 12, strike “SELECTION OF THE PRESIDENT” and insert “CLASS B DIRECTORS”.

On page 1552, beginning on line 16, strike “the President” and all that follows through “years” on line 19 and insert the following: “the Class B directors of the Federal Reserve Bank of New York shall be designated by the Board of Governors”.

On page 1552, line 21, insert “OF NEW YORK” after “BANK”.

On page 1553, line 1, strike “supervised by the Board” and insert “subject to enhanced supervision and prudential standards under section 115”.

On page 1553, beginning on line 2, strike “a Federal reserve bank, and no past or” and insert “the Federal Reserve Bank of New York, and no”.

On page 1553, line 6, strike “a Federal reserve bank” and insert “the Federal Reserve Bank of New York”.

**SA 4028.** Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1552, strike line 8 and all that follows through page 1553, line 6.

**SA 4029.** Mr. CRAPO submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail,” to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1565, after line 23, insert the following:

# **TITLE XIII—FINANCIAL MARKETS OVERSIGHT CONSOLIDATION AND INVESTOR PROTECTION ACT OF 2010**

## **SEC. 1301. SHORT TITLE.**

This title may be cited as the “Financial Markets Oversight Consolidation and Investor Protection Act of 2010”.

## **SEC. 1302. PURPOSES.**

The purposes of this title are—

(1) to establish a single Federal regulatory body with jurisdiction over securities and derivatives, including options, futures, swaps, and related markets and instruments and including over-the-counter derivatives;

(2) to consolidate and revise the authority for setting margin requirements;

(3) to coordinate the regulation of all financial markets;

(4) to strengthen investor protections in United States financial markets; and

(5) to ensure the competitiveness of United States markets.

## **SEC. 1303. DEFINITIONS.**

As used in this title—

(1) the term “Chairman” means the Chairman of the Financial Markets Commission designated under section 1312;

(2) the term “Commission” means the Financial Markets Commission established by section 1311 of this title;

(3) the term “function” includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(4) the term “transfer date” means the date designated under section 1361.

## **SEC. 1304. EFFECT ON CONGRESSIONAL JURISDICTION.**

It is the sense of Congress that this title should not be construed to affect the jurisdiction of any committee or subcommittee of the Congress with respect to any function transferred to the Commission by this title.

### **Subtitle A—Establishment of Commission**

#### **SEC. 1311. ESTABLISHMENT.**

There is established in the executive branch an independent agency to be known as the “Financial Markets Commission”.

#### **SEC. 1312. MEMBERS: APPOINTMENT; TERMS.**

(a) COMPOSITION OF COMMISSION.—

(1) NUMBER OF COMMISSIONERS.—The Commission shall be composed of 5 commissioners appointed by the President, by and with the advice and consent of the Senate.

(2) CHAIRMAN.—One of the commissioners shall be designated by the President as the Chairman of the Commission, who shall be the chief executive of the Commission.

(3) QUALIFICATIONS.—Each commissioner shall be selected solely on the basis of integrity and demonstrated knowledge of the operations of the markets that are subject to the jurisdiction of the Commission.

(4) POLITICAL AFFILIATION.—Not more than 3 of the commissioners shall be members of the same political party.

(b) TERMS.—

(1) IN GENERAL.—Except as provided in this subsection, each commissioner shall be appointed for a term of 5 years.

(2) SUCCESSION.—A commissioner may continue to serve after the expiration of such term until a successor is appointed and has qualified, but may not continue to so serve beyond the expiration of the next session of Congress beginning after the expiration of such term.

(3) FIRST COMMISSIONERS.—The terms of office of the commissioners first taking office after the enactment of this title shall expire, as designated by the President at the time of their appointment—

(A) 1 at the end of 1 year;

(B) 1 at the end of 2 years;

(C) 1 at the end of 3 years;

(D) 1 at the end of 4 years; and

(E) 1 at the end of 5 years.

(4) VACANCY.—

(A) IN GENERAL.—A commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term; and

(B) EFFECT OF VACANCY.—A vacancy in the Commission shall not impair the right of the remaining commissioners to exercise all the powers of the Commission.

(c) CONFLICTS OF INTEREST.—

(1) IN GENERAL.—No commissioner shall engage in any other business, vocation, or employment than that of serving as commissioner, nor shall any commissioner participate, directly or indirectly, in any market operations or transactions of a character subject to regulation by the Commission pursuant to this title.

(2) REIMBURSEMENT FOR TRAVEL.—

(A) IN GENERAL.—Notwithstanding any other provision of law, in accordance with regulations which the Commission shall prescribe to prevent conflicts of interest, the Commission may accept payment and reimbursement, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel, subsistence, and other necessary expenses incurred by Commission members and employees in attending meetings and conferences concerning the functions or activities of the Commission.

(B) PAYMENTS AND REIMBURSEMENTS CREDITED.—Any payment or reimbursement accepted shall be credited to the appropriated funds of the Commission.

(C) LIMITATION ON AMOUNT.—The amount of travel, subsistence, and other necessary expenses for members and employees paid or reimbursed under this subsection may exceed per diem amounts established in official travel regulations, but the Commission may include in its regulations under this subsection a limitation on such amounts.

(d) FEES.—Notwithstanding any other provision of law, whenever any fee is required to be paid to the Commission pursuant to any provision of the securities laws or any other law, the Commission may provide, by rule—

(1) that the fee shall be paid in a manner other than in cash; and

(2) the time period within which the fee shall be determined and paid relative to the filing of any statement or document with the Commission.

(e) REIMBURSEMENT OF EXPENSES FOR ASSISTING FOREIGN SECURITIES AUTHORITIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign securities authority, or made on behalf of such authority—

(A) for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation under section 21(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(a)(2)); or

(B) in providing any other assistance to a foreign securities authority.

(2) TREATMENT OF FUNDS.—Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.

#### **SEC. 1313. ORGANIZATION OF COMMISSION.**

(a) DIVISION OF RETAIL INVESTOR PROTECTION AND RETAIL FINANCIAL SERVICES.—

(1) IN GENERAL.—There shall be within the Commission a Division of Retail Investor Protection and Retail Financial Services.

(2) **HEAD OF DIVISION.**—The head of the Division of Retail Investor Protection and Retail Financial Services shall be appointed by the Chairman.

(3) **SUBDIVISIONS.**—There shall be within the Division of Retail Investor Protection and Retail Financial Services—

(A) a subdivision with responsibility for functions relating to investor outreach and education; and

(B) a subdivision with responsibility for functions relating to inspections and examinations.

(b) **DIVISION OF TRADING.**—

(1) **IN GENERAL.**—There shall be within the Commission a Division of Trading.

(2) **HEAD OF DIVISION.**—The head of the Division of Trading shall be appointed by the Chairman.

(3) **SUBDIVISIONS.**—There shall be within the Division of Trading—

(A) a subdivision with responsibility for functions relating to markets in physical commodities; and

(B) a subdivision with responsibility for functions relating to inspections and examinations.

(c) **DIVISION OF CORPORATE DISCLOSURE.**—

(1) **IN GENERAL.**—There shall be within the Commission a Division of Corporate Disclosure.

(2) **HEAD OF DIVISION.**—The head of the Division of Corporate Disclosure shall be appointed by the Chairman.

(3) **SUBDIVISION.**—There shall be within the Division of Corporate Disclosure a subdivision with responsibility for functions relating to accounting and auditing matters.

(d) **DIVISION OF ECONOMIC ANALYSIS.**—

(1) **PURPOSES.**—The purpose of this subdivision is to enhance the ability of the Commission to use professional and objective economic analysis to inform the design and implementation of rulemaking and other actions of the Commission.

(2) **DIVISION ESTABLISHED.**—There shall be within the Commission a Division of Economic Analysis.

(3) **SUBDIVISIONS.**—There shall be within the Division of Economic Analysis—

(A) a subdivision with responsibility for functions relating to risk analysis and financial innovation; and

(B) a subdivision with responsibility for functions relating to international technical assistance.

(4) **CHIEF ECONOMIST.**—

(A) **APPOINTMENT.**—The Division shall be headed by a Chief Economist, appointed by the Chairman of the Commission, subject to approval of a vote of at least a majority of the members of the Commission then in office, such majority to include at least 1 member of the Commission who is not a member of the same political party as the Chairman, if any such member is then in office.

(B) **CRITERIA.**—The Chief Economist—

(i) shall be an experienced economist of distinction, with a doctorate in economics or the equivalent in education and experience;

(ii) shall report to and be under the general supervision of the Chairman; and

(iii) shall not report to, or be subject to supervision by, any other officer or employee of the Commission.

(C) **REMOVAL.**—The Chairman of the Commission may remove the Chief Economist from office. The Chairman shall communicate in writing to both Houses of Congress the reasons for any such removal, not later than 30 days before the effective date of such removal.

(5) **REPORTS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (D), whenever using its authority under any provision of law, the Commission publishes a release giving notice of a proposed rulemaking or other proposed action by the Commission, and affords interested persons an opportunity to comment on such proposed rulemaking or other action or publishes a release adopting a final rule or otherwise taking action after such publication and opportunity to comment, such release shall include as a part thereof a report by the Division.

(B) **CONTENT.**—Each report required by subparagraph (A)—

(i) shall set forth in reasonable detail an economic analysis of the consequences of the Commission action that is the subject of the report, in light of the statutory responsibilities of the Commission and the stated purposes of the Commission for the action, including when the responsibilities of the Commission so require, the effects of the action on efficiency, competition, and capital formation;

(ii) shall refer to any peer-reviewed or other relevant literature, including any study undertaken by the staff of the Commission, that provides support for the analysis contained in the report (except that the Division is not required to undertake original research in the preparation thereof);

(iii) shall describe the extent to which the conclusions of the report remain subject to uncertainty; and

(iv) with respect to a report delivered in connection with a proposed rulemaking or other proposed action, may request information or comment from the public.

(C) **FORM AND OVERSIGHT.**—Each report required by subparagraph (A)—

(i) shall be prepared under the direction of, and expressly approved by and published over the name of, the Chief Economist;

(ii) shall not be subject to approval by the Chairman of the Commission or the Commission;

(iii) shall be in final form, dated not later than 1 week prior to the vote of the Commission (or the circulation of a seriatim or other means of Commission action) to which the report relates, to ensure adequate opportunity for the Commission to consider its contents prior to such action;

(iv) shall include a statement confirming that the Chairman of the Commission informed the Division, not later than 60 days prior to the date of the report, of all material aspects of the proposed action covered by the report, in sufficient detail for the purposes of the report or, if a lesser time was afforded, that such lesser time was reasonably sufficient for the preparation of the report; and

(v) shall include a statement confirming that the Division was afforded reasonably sufficient resources for the preparation of the report, or describing any lack thereof.

(D) **EXCEPTION.**—

(i) **IN GENERAL.**—Notwithstanding subparagraph (A), no report shall be required under this paragraph—

(I) if the subject Commission action does not propose or adopt a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, unless at least 2 members of the Commission (or 1 member, if 5 members of the Commission are not then in office) request a report; or

(II) at the time of issuance of an interim final rulemaking or other emergency action by the Commission, provided that a report regarding such rulemaking or action is published not later than 60 days thereafter.

(ii) **PROCEDURE.**—The Commission may adopt rules of procedure governing the time and manner by which requests described in clause (i)(I) shall be made by members of the Commission.

(e) **DIVISION OF ENFORCEMENT.**—

(1) **IN GENERAL.**—There shall be within the Commission a Division of Enforcement.

(2) **HEAD OF DIVISION.**—The head of the Division of Enforcement shall be appointed by the Chairman.

(3) **SUBDIVISION.**—There shall be within the Division of Enforcement a subdivision with responsibility for functions relating to international enforcement assistance.

#### **SEC. 1314. OFFICE OF THE CHAIRMAN.**

(a) **OFFICE ESTABLISHED.**—There shall be in the Commission an Office of the Chairman, which shall manage the resources and operations of the Commission.

(b) **OFFICE OF THE EXECUTIVE DIRECTOR.**—

(1) **IN GENERAL.**—There shall be within the Office of the Chairman an Office of the Executive Director.

(2) **EXECUTIVE DIRECTOR AND DUTIES OF THE EXECUTIVE DIRECTOR.**—The head of the Office of the Executive Director shall be the Executive Director, who shall oversee the compliance of the Commission with Federal law, including requirements imposed by the Director of Office of Management and Budget, the Government Accountability Office, and the Office of Personnel Management.

(c) **OFFICE OF THE SECRETARY.**—

(1) **IN GENERAL.**—There shall be within the Office of the Chairman an Office of the Secretary.

(2) **SECRETARY AND DUTIES OF THE SECRETARY.**—The head of the Office of the Secretary shall be the Secretary, who shall—

(A) be appointed by the Chairman; and

(B) oversee the procedural administration of meetings, rulemaking, practice, and procedure of the Commission.

(d) **OFFICE OF EXTERNAL AFFAIRS.**—

(1) **IN GENERAL.**—There shall be within the Office of the Chairman an Office of External Affairs.

(2) **DIRECTOR OF EXTERNAL AFFAIRS.**—The head of the Office of External Affairs shall be the Director of External Affairs, who shall—

(A) be appointed by the Chairman;

(B) serve as the formal liaison of the Commission with the Congress, the executive branch, State and local governments, and foreign governments and regulators; and

(C) coordinate the international regulatory policy initiatives of the Commission with the Secretary of the Treasury.

#### **SEC. 1315. GENERAL COUNSEL.**

(a) **OFFICE ESTABLISHED.**—There shall be in the Commission an Office of General Counsel.

(b) **GENERAL COUNSEL.**—

(1) **IN GENERAL.**—The head of the Office of the General Counsel shall be the General Counsel, who shall be appointed by the Chairman.

(2) **DUTIES OF THE GENERAL COUNSEL.**—The General Counsel shall—

(A) report directly to the Commission;

(B) serve as the legal advisor of the Commission;

(C) represent the Commission in all disciplinary proceedings pending before the Commission;

(D) represent the Commission in courts of law whenever appropriate;

(E) assist the Department of Justice in litigation concerning the Commission; and

(F) perform such other legal duties and functions as the Commission may direct.

(3) **ADDITIONAL COUNSEL.**—The Commission shall appoint such other attorneys as the

Commission determines are necessary to assist the General Counsel in carrying out the duties under this section.

#### SEC. 1316. OMBUDSMAN.

(a) OFFICE ESTABLISHED.—There shall be in the Commission the Office of the Ombudsman.

(b) OMBUDSMAN.—The head of the Office of the Ombudsman shall be the Ombudsman, who shall—

- (1) be appointed by the Chairman;
- (2) assist registrants, those seeking to be registered, and regulated entities in resolving problems with the Commission;
- (3) identify areas in which registrants, those seeking to be registered, and regulated entities have problems in dealings with the Commission;
- (4) to the extent possible, propose changes in the administrative practices of the Commission to mitigate problems identified under paragraph (3); and
- (5) identify potential legislative changes that may be appropriate to mitigate problems identified under paragraph (3).

#### SEC. 1317. INSPECTOR GENERAL.

Section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting “the Financial Markets Commission,” after “the Federal Trade Commission,”.

#### Subtitle B—Transfers of Functions

##### SEC. 1321. TRANSFER OF FUNCTIONS.

(a) COMMODITY FUTURES TRADING COMMISSION.—All functions of the Commodity Futures Trading Commission and of any officer or component of the Commodity Futures Trading Commission are transferred to the Commission.

(b) SECURITIES AND EXCHANGE COMMISSION.—All functions of the Securities and Exchange Commission and of any officer or component of the Securities and Exchange Commission are transferred to the Commission.

##### SEC. 1322. ABOLISHMENT.

(a) COMMODITY FUTURES TRADING COMMISSION ABOLISHED.—Effective on [the transfer date], the Commodity Futures Trading Commission is abolished.

(b) SECURITIES AND EXCHANGE COMMISSION ABOLISHED.—Effective on [the transfer date], the Securities and Exchange Commission.

##### SEC. 1323. JURISDICTION OF MARGIN AUTHORITY.

(a) MARGIN AUTHORITY WITH RESPECT TO SECURITIES.—There are transferred to the Commission the functions of the Board of Governors of the Federal Reserve System under section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g).

(b) CONFORMING AMENDMENTS.—

(1) DEFINITIONS.—Section 3(a)(15) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(15)) is amended by striking “Securities and Exchange Commission established by section 4 of this title” and inserting “Financial Markets Commission”.

(2) MARGIN REQUIREMENTS.—Section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) is amended—

(A) in subsection (a), by striking “the Board of Governors of the Federal Reserve System shall, prior to the effective date of this section and from time to time thereafter,” and inserting “the Commission shall”;

(B) in subsection (b)—

(i) by striking “the Board of Governors of the Federal Reserve System” and inserting “the Commission”; and

(ii) in subsection (b), by striking “(1) prescribe” and all that follows through “and (2)”;

(C) in subsection (c)—

(i) in paragraph (1)(A), by striking “the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the ‘Board’)” and inserting “the Commission”;

(ii) in paragraph (2)—

(I) by striking subparagraph (A) and inserting the following:

“(A) COMPLIANCE WITH MARGIN RULES.—It shall be unlawful for any broker, dealer, or member of a national securities exchange to, directly or indirectly, extend or maintain credit to or for, or collect margin from any customer on, any security futures product unless such activities comply with the regulations which the Commission shall prescribe pursuant to subparagraph (B).”; and

(II) in subparagraph (B)—

(aa) by striking “The Board” and all that follows through “jointly deem appropriate” and inserting “The Commission shall prescribe such regulations to establish margin requirements, including the establishment of levels of margin (initial and maintenance) for security futures products under such terms, and at such levels, as the Commission deems appropriate”;

(bb) by striking clause (ii); and

(cc) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively; and

(iii) by striking “the Board” each place that term appears and inserting “the Commission”;

(D) in subsection (d)—

(i) in paragraph (3), in the paragraph header, by striking “BOARD” and inserting “COMMISSION”; and

(ii) by striking “the Board” each place that term appears and inserting “the Commission”;

(E) in subsection (e), by striking “on or before July 1, 1937” and all that follows through “Federal Reserve Board” and inserting “on or before October 1, 2011, except to the extent that the Commission”;

(F) in subsection (f)(3), by striking “Board of Governors of the Federal Reserve System” and inserting “Commission”; and

(G) in subsection (g), by striking “Board of Governors of the Federal Reserve System” each place that term appears and inserting “Commission”.

(c) MARGIN AUTHORITY WITH RESPECT TO FUTURES.—The Commission may, as necessary to ensure the financial integrity of the contract markets—

(1) by order, direct a contract market to adjust the level of margin required on any contract; or

(2) by regulation, prescribe limits on the level of margin that a contract market may require on any class or category of contract.

(d) MARGIN AUTHORITY WITH RESPECT TO SWAPS.—The Commission may prescribe limits on the level of margin on non-cleared swaps—

(1) in accordance with section 15F(e) of the Securities Exchange Act of 1934, as added by the Wall Street Transparency and Accountability Act of 2010, for security-based swaps; and

(2) in accordance with section 4s(e) of the Commodity Exchange Act, as amended in the Wall Street Transparency and Accountability Act of 2010, for commodity-based swaps.

#### Subtitle C—Administrative Provisions

##### PART I—PERSONNEL PROVISIONS

##### SEC. 1331. OFFICERS AND EMPLOYEES.

(a) APPOINTMENT AND COMPENSATION.—The Commission may appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to

carry out the functions of the Commission, in accordance with title 5, United States Code.

(b) LIMITED-TERM APPOINTEES.—Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 10 limited-term appointees. The Commission shall appoint individuals to such positions as provided by section 3394 of title 5, United States Code. Such positions shall expire upon the later of 3 years after the transfer date or 3 years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions prescribed under section 3134(e) and section 5108 of title 5, United States Code.

##### SEC. 1332. EXPERTS AND CONSULTANTS.

The Commission may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for SK-18 of the Special Rate Schedule under section 5332 of such title.

#### PART II—GENERAL ADMINISTRATIVE PROVISIONS

##### SEC. 1333. GENERAL AUTHORITY.

In carrying out any function transferred by this title, the Commission, or any officer or employee of the Commission, may exercise any authority available by law (including appropriation Acts) with respect to such function to the official or agency from which such function is transferred, and the actions of the Commission in exercising such authority shall have the same force and effect as when exercised by such official or agency.

##### SEC. 1334. DELEGATION.

(a) IN GENERAL.—Except as otherwise provided in this title, the Commission may delegate any function to such officers and employees of the Commission as the Commission may designate, and may authorize such successive redelegations of such functions within the Commission as may be necessary or appropriate.

(b) AUTOMATIC SUNSET OF DELEGATIONS.—Each delegation of function shall automatically expire 3 years after the effective date of the delegation, unless renewed by the Commission.

(c) EXISTING DELEGATIONS.—Each delegation of function in effect on the date of enactment of this Act shall automatically expire 3 years after the date of enactment of this Act, unless renewed by the Commission.

(d) COMMISSION RESPONSIBILITY FOR ADMINISTRATION OF DELEGATED FUNCTIONS.—No delegation of functions by the Commission under this section or under any other provision of this title shall relieve the Commission of responsibility for the administration of such functions.

##### SEC. 1335. RULES.

(a) IN GENERAL.—The Commission may prescribe such rules, regulations, and orders as the Commission determines necessary or appropriate to administer and manage the functions of the Commission.

(b) COMPREHENSIVE REVIEW OF MAJOR RULES.—The Commission shall conduct a comprehensive review of each major rule (as that term is defined in section 804(2) of title 5, United States Code) issued by the Commission not later than 5 years after the effective date of the major rule, and every 5 years thereafter. The comprehensive review shall include a public comment period.

(c) STATUS REVIEW OF MINOR RULES.—The Commission shall conduct a status review

for each rule of the Commission that is not a major rule (as that term is defined in section 804(2) of title 5, United States Code) not later than 5 years after the effective date of the rule, and every 5 years thereafter, to determine whether such rule should be designated as a major rule.

(d) **REPORT ON EXISTING RULES.**—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, a report containing a schedule for the review in accordance with this section of rules in effect on the date of enactment of this Act.

#### **SEC. 1336. CONTRACTS.**

(a) **IN GENERAL.**—Subject to the provisions of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), the Commission may—

(1) make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons; and

(2) make such payments, by advance or reimbursement, as the Commission may determine necessary or appropriate to carry out functions of the Commission.

(b) **APPROPRIATIONS REQUIRED.**—Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts.

#### **SEC. 1337. REGIONAL AND FIELD OFFICES.**

The Commission may establish, alter, discontinue, or maintain such regional or other field offices of the Commission as the Commission determines necessary or appropriate to perform functions of the Commission.

#### **SEC. 1338. USE OF FACILITIES.**

(a) **USE BY COMMISSION.**—The Commission may, with or without reimbursement and with the consent of the entity concerned, use the research, equipment, services, or facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function of the Commission.

(b) **USE BY OTHERS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (4), the Commission may permit public and private agencies, corporations, associations, organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Commission for the purposes of the Commission.

(2) **TERMS AND RATES.**—The Commission shall permit the use of such property, facilities, structures, or improvements under this subsection under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed 5 years.

(3) **RECONDITIONING AND MAINTENANCE.**—The Commission may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees under this subsection to a standard satisfactory to the Commission.

(4) **EXCEPTION.**—This subsection shall not apply to excess property, as that term is defined in section 102 of title 40, United States Code.

(c) **PROCEEDS FROM REIMBURSEMENTS.**—Proceeds from reimbursements under this

section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such equipment or facilities provided or to refund excess sums when necessary.

(d) **TITLE TO PROPERTY.**—Any interest in real property acquired pursuant to this title shall be acquired in the name of the United States Government.

#### **SEC. 1339. FUNDS TRANSFER.**

The Commission may, when authorized in an appropriation Act in any fiscal year, transfer funds from 1 appropriation to another within the Commission, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

#### **SEC. 1340. SEAL OF COMMISSION.**

The Commission shall cause a seal of office to be made for the Commission of such design as the Commission shall approve. Judicial notice shall be taken of such seal.

#### **SEC. 1341. ANNUAL REPORT.**

(a) **REPORT REQUIRED.**—The Commission shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Commission during such fiscal year.

(b) **CONTENTS.**—Each report under subsection (a) shall include—

(1) a statement of goals, priorities, and plans of the Commission;

(2) an assessment of the progress made by the Commission toward—

(A) the attainment of the goals, priorities, and plans of the Commission; and

(B) the more effective and efficient management of the Commission and the coordination of its functions;

(3) recommendations, if any, for proposed legislation for the achievement of the goals, priorities, and plans of the Commission; and

(4) an estimate of—

(A) the number of the non-Federal personnel employed pursuant to contracts entered into by the Commission under section 1336 or under any other authority (including any subcontract thereunder);

(B) the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed; and

(C) the total cost of such contracts and subcontracts.

#### **Subtitle D—Transitional, Savings, and Conforming Provisions**

#### **SEC. 1351. TRANSFER OF EMPLOYEES.**

(a) **IN GENERAL.**—

(1) **TRANSFER OF EMPLOYEES.**—All employees of the Securities and Exchange Commission and the Commodity Futures Trading Commission shall be transferred to the Commission.

(2) **APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE TRANSFERRED.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), any appointment authority of the Securities and Exchange Commission and the Commodity Futures Trading Commission under Federal law that relates to the functions transferred under section 1321, including the regulations of the Office of Personnel Management, for filling the positions of employees in the excepted service shall be transferred to the Chairman.

(B) **DECLINING TRANSFERS ALLOWED.**—The Chairman may decline to accept a transfer of authority under subparagraph (A) (and the employees appointed under that authority) to the extent that such authority relates to

positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character.

(b) **TIMING OF TRANSFERS AND POSITION ASSIGNMENTS.**—Each employee to be transferred under this section shall—

(1) be transferred not later than 90 days after the transfer date; and

(2) receive notice of the position assignment of the employee not later than 120 days after the effective date of the transfer.

(c) **TRANSFER OF FUNCTIONS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the transfer of employees under this title shall be deemed a transfer of functions for the purpose of section 3503 of title 5, United States Code.

(2) **PRIORITY OF THIS ACT.**—If any provision of this title conflicts with any protection provided to a transferred employee under section 3503 of title 5, United States Code, the provisions of this title shall control.

(d) **STATUS AND ELIGIBILITY OF EMPLOYEES.**—The transfer of functions and employees under this title, and the abolishment of the Securities and Exchange Commission and the Commodity Futures Trading Commission under section 1322, shall not affect the status of the transferred employees as employees of an agency of the United States under any provision of law.

(e) **EQUAL STATUS AND TENURE POSITIONS.**—

(1) **STATUS AND TENURE.**—Each transferred employee shall be placed in a position at the Commission with the same status and tenure as the transferred employee held on the day before the date on which the employee was transferred.

(2) **FUNCTIONS.**—To the extent practicable, each transferred employee shall be placed in a position at the Commission responsible for the same functions and duties as the transferred employee had on the day before the date on which the employee was transferred, in accordance with the expertise and preferences of the transferred employee.

(f) **NO ADDITIONAL CERTIFICATION REQUIREMENTS.**—An examiner who is a transferred employee shall not be subject to any additional certification requirements before being placed in a comparable position in the Commission, if the examiner carries out examinations of the same type of institutions as an employee of the Commission as the examiner carried out before the date on which the employee was transferred.

(g) **PERSONNEL ACTIONS LIMITED.**—

(1) **2-YEAR PROTECTION.**—Except as provided in paragraph (2), during the 2-year period beginning on the transfer date, an employee holding a permanent position on the day before the date on which the employee was transferred shall not be involuntarily separated or involuntarily reassigned outside the locality pay area (as defined by the Office of Personnel Management) of the employee.

(2) **EXCEPTIONS.**—The Chairman may—

(A) separate a transferred employee for cause, including for unacceptable performance; or

(B) terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character.

(h) **PAY.**—

(1) **2-YEAR PROTECTION.**—Except as provided in paragraph (2), during the 2-year period beginning on the date on which the employee was transferred under this title, a transferred employee shall be paid at a rate that is not less than the basic rate of pay, including any geographic differential, that the

transferred employee received during the 2-year period immediately preceding the date on which the employee was transferred.

(2) **EXCEPTIONS.**—The Chairman may reduce the rate of basic pay of a transferred employee—

(A) for cause, including for unacceptable performance; or

(B) with the consent of the transferred employee.

(3) **PROTECTION ONLY WHILE EMPLOYED.**—This subsection shall apply to a transferred employee only during the period that the transferred employee remains employed by the Commission.

(4) **PAY INCREASES PERMITTED.**—Nothing in this subsection shall limit the authority of the Chairman to increase the pay of a transferred employee.

(i) **BENEFITS.**—

(1) **RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES.**—

(A) **IN GENERAL.**—

(i) **CONTINUATION OF EXISTING RETIREMENT PLAN.**—Each transferred employee shall remain enrolled in the retirement plan of the transferred employee, for as long as the transferred employee is employed by the Commission.

(ii) **EMPLOYER'S CONTRIBUTION.**—The Chairman shall pay any employer contributions to the existing retirement plan of each transferred employee, as required under each such existing retirement plan.

(B) **DEFINITION.**—In this paragraph, the term "existing retirement plan" means, with respect to a transferred employee, the retirement plan (including the Financial Institutions Retirement Fund), and any associated thrift savings plan, of the agency from which the employee was transferred in which the employee was enrolled on the day before the date on which the employee was transferred.

(2) **BENEFITS OTHER THAN RETIREMENT BENEFITS.**—

(A) **DURING FIRST YEAR.**—

(i) **EXISTING PLANS CONTINUE.**—During the 1-year period following the transfer date, each transferred employee may retain membership in any employee benefit program (other than a retirement benefit program) of the agency from which the employee transferred, including any dental, vision, long term care, or life insurance program to which the employee belonged on the day before the transfer date.

(ii) **EMPLOYER'S CONTRIBUTION.**—The Chairman shall pay any employer cost required to extend coverage in the benefit program to the transferred employee as required under that program or negotiated agreements.

(B) **DENTAL, VISION, OR LIFE INSURANCE AFTER FIRST YEAR.**—If, after the 1-year period beginning on the transfer date, the Chairman determines that the Commission will not continue to participate in any dental, vision, or life insurance program of an agency from which an employee transferred, a transferred employee who is a member of the program may, before the decision of the Chairman takes effect and without regard to any regularly scheduled open season, elect to enroll in—

(i) the enhanced dental benefits program established under chapter 89A of title 5, United States Code;

(ii) the enhanced vision benefits established under chapter 89B of title 5, United States Code; and

(iii) the Federal Employees' Group Life Insurance Program established under chapter 87 of title 5, United States Code, without regard to any requirement of insurability.

(C) **LONG TERM CARE INSURANCE AFTER 1ST YEAR.**—If, after the 1-year period beginning

on the transfer date, the Chairman determines that the Commission will not continue to participate in any long term care insurance program of an agency from which an employee transferred, a transferred employee who is a member of such a program may, before the decision of the Chairman takes effect, elect to apply for coverage under the Federal Long Term Care Insurance Program established under chapter 90 of title 5, United States Code, under the underwriting requirements applicable to a new active workforce member, as described in part 875 of title 5, Code of Federal Regulations (or any successor thereto).

(D) **CONTRIBUTION OF TRANSFERRED EMPLOYEE.**—

(i) **IN GENERAL.**—Subject to clause (ii), a transferred employee who is enrolled in a plan under the Federal Employees Health Benefits Program shall pay any employee contribution required under the plan.

(ii) **COST DIFFERENTIAL.**—The Chairman shall pay any difference in cost between the employee contribution required under the plan provided to transferred employees by the agency from which the employee transferred on the date of enactment of this Act and the plan provided by the Chairman under this section.

(iii) **FUNDS TRANSFER.**—The Chairman shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Chairman and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing any benefits under this subparagraph that are not otherwise paid for by a transferred employee under clause (i).

(E) **SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS.**—

(i) **IN GENERAL.**—An annuitant, as defined in section 8901 of title 5, United States Code, who is enrolled in a life insurance plan administered by an agency from which employees are transferred under this Act on the day before the transfer date shall be eligible for coverage by a life insurance plan under section 8706(b), 8714a, 8714b, or 8714c of title 5, United States Code, or by a life insurance plan established by the Chairman, without regard to any regularly scheduled open season or any requirement of insurability.

(ii) **CONTRIBUTION OF TRANSFERRED EMPLOYEE.**—

(I) **IN GENERAL.**—Subject to subclause (II), a transferred employee enrolled in a life insurance plan under this clause shall pay any employee contribution required by the plan.

(II) **COST DIFFERENTIAL.**—The Chairman shall pay any difference in cost between the benefits provided by the agency from which the employee transferred on the date of enactment of this Act and the benefits provided under this section.

(III) **FUNDS TRANSFER.**—The Chairman shall transfer to the Employees' Life Insurance Fund established under section 8714 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Chairman and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this subparagraph not otherwise paid for by a transferred employee under subclause (I).

(IV) **CREDIT FOR TIME ENROLLED IN OTHER PLANS.**—For any transferred employee, enrollment in a life insurance plan administered by the agency from which the em-

ployee transferred, the Chairman immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for purposes of section 8706(b)(1)(A) of title 5, United States Code.

(j) **IMPLEMENTATION OF UNIFORM PAY AND CLASSIFICATION SYSTEM.**—Not later than 2 years after the transfer date, the Chairman shall implement a uniform pay and classification system for all transferred employees.

(k) **EQUITABLE TREATMENT.**—In administering the provisions of this section, the Chairman—

(1) may not take any action that would unfairly disadvantage a transferred employee relative to any other transferred employee on the basis of prior employment by the Securities and Exchange Commission or the Commodity Futures Trading Commission; and

(2) may take such action as is appropriate in an individual case to ensure that a transferred employee receives equitable treatment, with respect to the status, tenure, pay, benefits (other than benefits under programs administered by the Office of Personnel Management), and accrued leave or vacation time for prior periods of service with any Federal agency of the transferred employee.

#### **SEC. 1352. PROPERTY TRANSFERRED.**

(a) **PROPERTY DEFINED.**—For purposes of this section, the term "property" includes all real property (including leaseholds) and all personal property (including computers, furniture, fixtures, equipment, books, accounts, records, reports, files, memoranda, paper, reports of examination, work papers and correspondence related to such reports, and any other information or materials).

(b) **IN GENERAL.**—Not later than 90 days after the transfer date, all property of the Securities and Exchange Commission and the Commodity Futures Trading Commission shall be transferred to the Commission.

(c) **CONTRACTS RELATED TO PROPERTY TRANSFERRED.**—Each contract, agreement, lease, license, permit, and similar arrangement relating to property transferred to the Commission by this section shall be transferred to the Commission together with the property.

(d) **PRESERVATION OF PROPERTY.**—Property identified for transfer under this section shall not be altered, destroyed, or deleted before transfer under this section.

#### **SEC. 1353. SAVINGS PROVISIONS.**

(a) **SECURITIES AND EXCHANGE COMMISSION.**—

(1) **EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.**—Sections 1321(a) and 1322 shall not affect the validity of any right, duty, or obligation of the United States, the Commissioners of the Securities and Exchange Commission, the Securities and Exchange Commission, or any other person, that existed on the day before the transfer date.

(2) **CONTINUATION OF SUITS.**—This title shall not abate any action or proceeding commenced by or against the Commissioners of the Securities and Exchange Commission or the Securities and Exchange Commission before the transfer date, except that the Chairman or the Commission shall be substituted for the Commissioners or the Securities and Exchange Commission, as the case may be, as a party to any such action or proceeding as of the transfer date.

(b) **COMMODITY FUTURES TRADING COMMISSION.**—



(1) **EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.**—Sections 1321(b) and 1322 shall not affect the validity of any right, duty, or obligation of the United States, the Commissioners of the Commodity Futures Trading Commission, the Commodity Futures Trading Commission, or any other person, that existed on the day before the transfer date.

(2) **CONTINUATION OF SUITS.**—This Act shall not abate any action or proceeding commenced by or against the Commissioners of the Commodity Futures Trading Commission or the Commodity Futures Trading Commission before the transfer date, except that the Chairman or the Commission shall be substituted for the Commissioners of the Commodity Futures Trading Commission or the Commodity Futures Trading Commission, as the case may be, as a party to the action or proceeding as of the transfer date.

(c) **CONTINUATION OF EXISTING ORDERS, RESOLUTIONS, DETERMINATIONS, AGREEMENTS, REGULATIONS, ETC.**—

(1) **SECURITIES AND EXCHANGE COMMISSION.**—All orders, resolutions, determinations, agreements, and regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials that have been issued, made, prescribed, or allowed to become effective by the Securities and Exchange Commission, or by a court of competent jurisdiction, that are in effect on the day before the transfer date, shall continue in effect according to the terms of those orders, resolutions, determinations, agreements, and regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials, and shall be enforceable by or against the Commission until modified, terminated, set aside, or superseded in accordance with applicable law by the Commission, by any court of competent jurisdiction, or by operation of law.

(2) **COMMODITY FUTURES TRADING COMMISSION.**—All orders, resolutions, determinations, agreements, and regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials, that have been issued, made, prescribed, or allowed to become effective by the Commodity Futures Trading Commission, or by a court of competent jurisdiction, that are in effect on the day before the transfer date, shall continue in effect according to the terms of those orders, resolutions, determinations, agreements, and regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials, and shall be enforceable by or against the Commission until modified, terminated, set aside, or superseded in accordance with applicable law by the Commission, by any court of competent jurisdiction, or by operation of law.

(d) **IDENTIFICATION OF REGULATIONS CONTINUED.**—Not later than the transfer date, the Chairman shall—

(1) in consultation with the Chairman of the Securities and Exchange Commission and the Chairman of the Commodity Futures Trading Commission, identify the regulations continued under subsection (c) that will be enforced by the Commission; and

(2) publish a list of such regulations in the Federal Register.

(e) **STATUS OF REGULATIONS PROPOSED OR NOT YET EFFECTIVE.**—

(1) **PROPOSED REGULATIONS.**—Any proposed regulation of the Securities and Exchange Commission or the Commodity Futures Trading Commission which that agency, in performing functions transferred by this

title, has proposed before the transfer date but has not published as a final regulation before that date, shall be deemed to be a proposed regulation of the Commission.

(2) **REGULATIONS NOT YET EFFECTIVE.**—Any interim or final regulation of the Securities and Exchange Commission or the Commodity Futures Trading Commission which that agency, in performing functions transferred by this title, has published before the transfer date but which has not become effective before that date, shall become effective as a regulation of the Commission according to the terms of the regulation.

#### **SEC. 1354. SEVERABILITY.**

If any provision of this title or the application thereof to any person or circumstance is held invalid, neither the remainder of this title nor the application of such provision to other persons or circumstances shall be affected thereby.

#### **SEC. 1355. REFERENCES IN FEDERAL LAW.**

On and after the transfer date of this title, any reference in any other Federal law to any function of any department, commission, or agency, or any officer or office that is transferred under this title shall be deemed to be a reference to the Commission, or the official or component of the Commission to which this title transfers such functions.

#### **SEC. 1356. AMENDMENTS.**

(a) **EXECUTIVE SCHEDULE SALARIES.**—

(1) **CHAIRMAN.**—Section 5314 of title 5, United States Code, is amended—

(A) by striking the item relating to “Chairman, Securities and Exchange Commission,” and inserting the following:

“Chairman, Financial Markets Commission.”; and

(B) by striking the item relating to “Chairman, Commodity Futures Trading Commission.”.

(2) **MEMBERS.**—Section 5315 of title 5, United States Code, is amended—

(A) by striking the item relating to “Members, Securities and Exchange Commission” and inserting the following:

“Members, Financial Markets Commission.”; and

(B) by striking the item relating to “Members, Commodity Futures Trading Commission.”.

(b) **CONFORMING AMENDMENTS.**—

(1) **SECURITIES EXCHANGE ACT.**—Sections 4 and 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78d and 78kk) are repealed.

(2) **COMMODITY EXCHANGE ACT.**—Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2) is amended by striking paragraphs (2), (3), and (4).

#### **SEC. 1357. INTERIM USE OF FUNDS, PERSONNEL, AND PROPERTY.**

(a) **INTERIM AUTHORITY OF CHAIRMAN.**—During the period beginning on the date on which the first Chairman is appointed under section 1312 and ending on the transfer date, the Chairman shall—

(1) consult and cooperate with the Chairman of the Securities and Exchange Commission and the Chairman of the Commodity Futures Trading Commission to facilitate the orderly transfer of functions to the Commission;

(2) determine, from time to time—

(A) the amount of funds necessary to pay the expenses of the Commission (including expenses for personnel, property, and administrative services);

(B) which personnel are appropriate to facilitate the orderly transfer of functions under this title; and

(C) what property and administrative services are necessary to support the Commission; and

(3) take such actions as may be necessary to provide for the orderly implementation of this title.

(b) **INTERIM RESPONSIBILITIES.**—Before the transfer date, upon the request of the Chairman, the Chairman of the Securities and Exchange Commission and the Chairman of the Commodity Futures Trading Commission shall each—

(1) pay to the Chairman, from funds appropriated to such agencies, such funds as the Chairman determines to be necessary under subsection (a)(2)(A);

(2) detail to the Commission such personnel as the Chairman determines to be appropriate under subsection (a)(2)(B); and

(3) make available to the Commission such property and provide to the Commission such administrative services as the Chairman determines to be necessary under subsection (a)(2)(C).

(c) **NOTICE REQUIRED.**—The Chairman shall give to the Chairman of the Securities and Exchange Commission and the Chairman of the Commodity Futures Trading Commission reasonable notice of any request that the Chairman intends to make under subsection (b).

#### **Subtitle E—Transfer Date**

#### **SEC. 1361. TRANSFER DATE.**

(a) **TRANSFER DATE.**—Except as provided in subsection (b), the term “transfer date” means the date that is 1 year after the date of enactment of this title.

(b) **EXTENSION PERMITTED.**—

(1) **NOTICE REQUIRED.**—The President may designate a transfer date that is not later than 18 months after the date of enactment of this Act, if the President transmits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

(A) a written determination that orderly implementation of this title is not feasible before the date that is 1 year after the date of enactment of this Act;

(B) an explanation of why an extension is necessary for the orderly implementation of this title; and

(C) a description of the steps that will be taken to effect an orderly and timely implementation of this title within the extended time period.

(2) **PUBLICATION OF NOTICE.**—Not later than 180 days after the date of enactment of this Act, the President shall publish in the Federal Register notice of any date designated under paragraph (1).

**SA 4030.** Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 965 and insert the following:

#### **SEC. 965. ORGANIZATION OF COMMISSION.**

The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended by inserting after section 4D, as added by section 996 of this Act, the following:

#### **“SEC. 4E. ORGANIZATION OF THE COMMISSION.**

“(a) **DIVISION OF RETAIL INVESTOR PROTECTION AND RETAIL FINANCIAL SERVICES.**—



“(1) IN GENERAL.—There shall be within the Commission a Division of Retail Investor Protection and Retail Financial Services.

“(2) HEAD OF DIVISION.—The head of the Division of Retail Investor Protection and Retail Financial Services shall be appointed by the Chairman.

“(3) SUBDIVISIONS.—There shall be within the Division of Retail Investor Protection and Retail Financial Services—

“(A) a subdivision with responsibility for functions relating to investor outreach and education; and

“(B) a subdivision with responsibility for functions relating to inspections and examinations.

“(b) DIVISION OF TRADING.—

“(1) IN GENERAL.—There shall be within the Commission a Division of Trading.

“(2) HEAD OF DIVISION.—The head of the Division of Trading shall be appointed by the Chairman.

“(3) SUBDIVISION.—There shall be within the Division of Trading a subdivision with responsibility for functions relating to inspections and examinations.

“(c) DIVISION OF CORPORATE DISCLOSURE.—

“(1) IN GENERAL.—There shall be within the Commission a Division of Corporate Disclosure.

“(2) HEAD OF DIVISION.—The head of the Division of Corporate Disclosure shall be appointed by the Chairman.

“(3) SUBDIVISION.—There shall be within the Division of Corporate Disclosure a subdivision with responsibility for functions relating to accounting and auditing matters.

“(d) DIVISION OF ECONOMIC ANALYSIS.—

“(1) PURPOSES.—The purpose of this subsection is to enhance the ability of the Commission to use professional and objective economic analysis to inform the design and implementation of rulemaking and other actions of the Commission.

“(2) DIVISION ESTABLISHED.—There shall be within the Commission a Division of Economic Analysis.

“(3) SUBDIVISIONS.—There shall be within the Division of Economic Analysis—

“(A) a subdivision with responsibility for functions relating to risk analysis and financial innovation; and

“(B) a subdivision with responsibility for functions relating to international technical assistance.

“(4) CHIEF ECONOMIST.—

“(A) APPOINTMENT.—The Division shall be headed by a Chief Economist, appointed by the Chairman of the Commission, subject to approval of a vote of at least a majority of the members of the Commission then in office, such majority to include at least 1 member of the Commission who is not a member of the same political party as the Chairman, if any such member is then in office.

“(B) CRITERIA.—The Chief Economist—

“(i) shall be an experienced economist of distinction, with a doctorate in economics or the equivalent in education and experience;

“(ii) shall report to and be under the general supervision of the Chairman; and

“(iii) shall not report to, or be subject to supervision by, any other officer or employee of the Commission.

“(C) REMOVAL.—The Chairman of the Commission may remove the Chief Economist from office. The Chairman shall communicate in writing to both Houses of Congress the reasons for any such removal, not later than 30 days before the effective date of such removal.

“(5) REPORTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (D), whenever using its author-

ity under any provision of law, the Commission publishes a release giving notice of a proposed rulemaking or other proposed action by the Commission, and affords interested persons an opportunity to comment on such proposed rulemaking or other action or publishes a release adopting a final rule or otherwise taking action after such publication and opportunity to comment, such release shall include as a part thereof a report by the Division.

“(B) CONTENT.—Each report required by subparagraph (A)—

“(i) shall set forth in reasonable detail an economic analysis of the consequences of the Commission action that is the subject of the report, in light of the statutory responsibilities of the Commission and the stated purposes of the Commission for the action, including when the responsibilities of the Commission so require, the effects of the action on efficiency, competition, and capital formation;

“(ii) shall refer to any peer-reviewed or other relevant literature, including any study undertaken by the staff of the Commission, that provides support for the analysis contained in the report (except that the Division is not required to undertake original research in the preparation thereof);

“(iii) shall describe the extent to which the conclusions of the report remain subject to uncertainty; and

“(iv) with respect to a report delivered in connection with a proposed rulemaking or other proposed action, may request information or comment from the public.

“(C) FORM AND OVERSIGHT.—Each report required by subparagraph (A)—

“(i) shall be prepared under the direction of, and expressly approved by and published over the name of, the Chief Economist;

“(ii) shall not be subject to approval by the Chairman of the Commission or the Commission;

“(iii) shall be in final form, dated not later than 1 week prior to the vote of the Commission (or the circulation of a seriatim or other means of Commission action) to which the report relates, to ensure adequate opportunity for the Commission to consider its contents prior to such action;

“(iv) shall include a statement confirming that the Chairman of the Commission informed the Division, not later than 60 days prior to the date of the report, of all material aspects of the proposed action covered by the report, in sufficient detail for the purposes of the report or, if a lesser time was afforded, that such lesser time was reasonably sufficient for the preparation of the report; and

“(v) shall include a statement confirming that the Division was afforded reasonably sufficient resources for the preparation of the report, or describing any lack thereof.

“(D) EXCEPTION.—

“(i) IN GENERAL.—Notwithstanding subparagraph (A), no report shall be required under this paragraph—

“(I) if the subject Commission action does not propose or adopt a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, unless at least 2 members of the Commission (or 1 member, if 5 members of the Commission are not then in office) request a report; or

“(II) at the time of issuance of an interim final rulemaking or other emergency action by the Commission, provided that a report regarding such rulemaking or action is published not later than 60 days thereafter.

“(ii) PROCEDURE.—The Commission may adopt rules of procedure governing the time

and manner by which requests described in clause (i)(I) shall be made by members of the Commission.

“(e) DIVISION OF ENFORCEMENT.—

“(1) IN GENERAL.—There shall be within the Commission a Division of Enforcement.

“(2) HEAD OF DIVISION.—The head of the Division of Enforcement shall be appointed by the Chairman.

“(3) SUBDIVISION.—There shall be within the Division of Enforcement a subdivision with responsibility for functions relating to international enforcement assistance.”.

**SA 4031.** Mr. CRAPO submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1258, strike line 24 and all that follows through page 1267, line 12 and insert the following:

(B) obtaining information about the activities subject to such law and the associated compliance systems or procedures of such persons; and

(C) detecting and assessing risks to consumers and to markets for consumer financial products and services.

(2) COORDINATION.—To minimize regulatory burden, the Bureau and the prudential regulators shall coordinate their supervisory activities for persons described in subsection (a), in a manner that—

(A) avoids duplication;

(B) shares information relevant to the supervision of the depository institution or affiliate by each agency; and

(C) ensures that the depository institution or affiliate is not subject to conflicting supervisory demands by the agencies.

(3) COORDINATION WITH STATE BANK SUPERVISORS.—The Bureau shall pursue arrangements and agreements with State bank supervisors to coordinate supervisory activities in a manner consistent with paragraph (2).

(4) USE OF EXISTING REPORTS.—The Bureau shall, to the fullest extent possible, use—

(A) reports pertaining to a person described in subsection (a) that have been provided or required to have been provided to a Federal or State agency; and

(B) information that has been reported publicly.

(5) PRESERVATION OF AUTHORITY.—Nothing in this title may be construed as limiting the authority of the Director to require reports from a person described in subsection (a), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

(6) REPORTS OF TAX LAW NONCOMPLIANCE.—The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(c) PRIMARY ENFORCEMENT AUTHORITY.—

(1) **THE BUREAU TO HAVE PRIMARY ENFORCEMENT AUTHORITY.**—To the extent that the Bureau and another Federal agency are authorized to enforce a Federal consumer financial law, the Bureau shall have primary authority to enforce that Federal consumer financial law with respect to any person described in subsection (a).

(2) **REFERRAL.**—Any Federal agency, other than the Federal Trade Commission, that is authorized to enforce a Federal consumer financial law may recommend, in writing, to the Bureau that the Bureau initiate an enforcement proceeding with respect to a person described in subsection (a), as the Bureau is authorized to do by that Federal consumer financial law.

(3) **BACKUP ENFORCEMENT AUTHORITY OF OTHER FEDERAL AGENCY.**—If the Bureau does not, before the end of the 120-day period beginning on the date on which the Bureau receives a recommendation under paragraph (2), initiate an enforcement proceeding, the other agency referred to in paragraph (2) may initiate an enforcement proceeding, as permitted by the subject provision of Federal law.

(d) **SERVICE PROVIDERS.**—A service provider to a person described in subsection (a) shall be subject to the authority of the Bureau under this section, to the same extent as if the Bureau were an appropriate Federal banking agency under section 7(c) of the Bank Service Company Act 12 U.S.C. 1867(c). In conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator.

**SA 4032.** Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3823 proposed by Mr. LEAHY (for himself, Mr. DURBIN, Mr. ROCKEFELLER, Mr. SCHUMER, Mrs. FEINSTEIN, Mr. SPECTER, Mr. WHITEHOUSE, Ms. CANTWELL, Mr. KAUFMAN, Mrs. GILLIBRAND, Mr. WYDEN, Mr. BROWN of Ohio, Mr. LIEBERMAN, Mr. BURRIS, Mrs. MCCASKILL, Mr. FRANKEN, Mr. BENNET, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. WEBB, Mrs. BOXER, and Ms. LANDRIEU) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, strike line 21 and insert the following:

### TITLE XIII—IMPORTATION OF PRESCRIPTION DRUGS

#### SEC. 1301. SHORT TITLE.

This title may be cited as the “Pharmaceutical Market Access and Drug Safety Act of 2010”.

#### SEC. 1302. FINDINGS.

Congress finds that—

(1) Americans unjustly pay up to 5 times more to fill their prescriptions than consumers in other countries;

(2) the United States is the largest market for pharmaceuticals in the world, yet Amer-

ican consumers pay the highest prices for brand pharmaceuticals in the world;

(3) a prescription drug is neither safe nor effective to an individual who cannot afford it;

(4) allowing and structuring the importation of prescription drugs to ensure access to safe and affordable drugs approved by the Food and Drug Administration will provide a level of safety to American consumers that they do not currently enjoy;

(5) American spend more than \$200,000,000,000 on prescription drugs every year;

(6) the Congressional Budget Office has found that the cost of prescription drugs are between 35 to 55 percent less in other highly-developed countries than in the United States; and

(7) promoting competitive market pricing would both contribute to health care savings and allow greater access to therapy, improving health and saving lives.

#### SEC. 1303. REPEAL OF CERTAIN SECTION REGARDING IMPORTATION OF PRESCRIPTION DRUGS.

Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804.

#### SEC. 1304. IMPORTATION OF PRESCRIPTION DRUGS; WAIVER OF CERTAIN IMPORT RESTRICTIONS.

(a) **IN GENERAL.**—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 1303, is further amended by inserting after section 803 the following:

#### “SEC. 804. COMMERCIAL AND PERSONAL IMPORTATION OF PRESCRIPTION DRUGS.

“(a) **IMPORTATION OF PRESCRIPTION DRUGS.**—

“(1) **IN GENERAL.**—In the case of qualifying drugs imported or offered for import into the United States from registered exporters or by registered importers—

“(A) the limitation on importation that is established in section 801(d)(1) is waived; and

“(B) the standards referred to in section 801(a) regarding admission of the drugs are subject to subsection (g) of this section (including with respect to qualifying drugs to which section 801(d)(1) does not apply).

“(2) **IMPORTERS.**—A qualifying drug may not be imported under paragraph (1) unless—

“(A) the drug is imported by a pharmacy, group of pharmacies, or a wholesaler that is a registered importer; or

“(B) the drug is imported by an individual for personal use or for the use of a family member of the individual (not for resale) from a registered exporter.

“(3) **RULE OF CONSTRUCTION.**—This section shall apply only with respect to a drug that is imported or offered for import into the United States—

“(A) by a registered importer; or

“(B) from a registered exporter to an individual.

“(4) **DEFINITIONS.**—

“(A) **REGISTERED EXPORTER; REGISTERED IMPORTER.**—For purposes of this section:

“(i) The term ‘registered exporter’ means an exporter for which a registration under subsection (b) has been approved and is in effect.

“(ii) The term ‘registered importer’ means a pharmacy, group of pharmacies, or a wholesaler for which a registration under subsection (b) has been approved and is in effect.

“(iii) The term ‘registration condition’ means a condition that must exist for a registration under subsection (b) to be approved.

“(B) **QUALIFYING DRUG.**—For purposes of this section, the term ‘qualifying drug’ means a drug for which there is a corresponding U.S. label drug.

“(C) **U.S. LABEL DRUG.**—For purposes of this section, the term ‘U.S. label drug’ means a prescription drug that—

“(i) with respect to a qualifying drug, has the same active ingredient or ingredients, route of administration, dosage form, and strength as the qualifying drug;

“(ii) with respect to the qualifying drug, is manufactured by or for the person that manufactures the qualifying drug;

“(iii) is approved under section 505(c); and

“(iv) is not—

“(I) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

“(II) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262), including—

“(aa) a therapeutic DNA plasmid product;

“(bb) a therapeutic synthetic peptide product;

“(cc) a monoclonal antibody product for in vivo use; and

“(dd) a therapeutic recombinant DNA-derived product;

“(III) an infused drug, including a peritoneal dialysis solution;

“(IV) an injected drug;

“(V) a drug that is inhaled during surgery;

“(VI) a drug that is the listed drug referred to in 2 or more abbreviated new drug applications under which the drug is commercially marketed; or

“(VII) a sterile ophthalmic drug intended for topical use on or in the eye.

“(D) **OTHER DEFINITIONS.**—For purposes of this section:

“(i) (I) The term ‘exporter’ means a person that is in the business of exporting a drug to individuals in the United States from Canada or from a permitted country designated by the Secretary under subclause (II), or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

“(II) The Secretary shall designate a permitted country under subparagraph (E) (other than Canada) as a country from which an exporter may export a drug to individuals in the United States if the Secretary determines that—

“(aa) the country has statutory or regulatory standards that are equivalent to the standards in the United States and Canada with respect to—

“(AA) the training of pharmacists;

“(BB) the practice of pharmacy; and

“(CC) the protection of the privacy of personal medical information; and

“(bb) the importation of drugs to individuals in the United States from the country will not adversely affect public health.

“(ii) The term ‘importer’ means a pharmacy, a group of pharmacies, or a wholesaler that is in the business of importing a drug into the United States or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

“(iii) The term ‘pharmacist’ means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

“(iv) The term ‘pharmacy’ means a person that—

“(I) is licensed by a State to engage in the business of selling prescription drugs at retail; and

“(II) employs 1 or more pharmacists.

“(v) The term ‘prescription drug’ means a drug that is described in section 503(b)(1).

“(vi) The term ‘wholesaler’—

“(I) means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A); and

“(II) does not include a person authorized to import drugs under section 801(d)(1).

“(E) PERMITTED COUNTRY.—The term ‘permitted country’ means—

“(i) Australia;

“(ii) Canada;

“(iii) a member country of the European Union, but does not include a member country with respect to which—

“(I) the country’s Annex to the Treaty of Accession to the European Union 2003 includes a transitional measure for the regulation of human pharmaceutical products that has not expired; or

“(II) the Secretary determines that the requirements described in subclauses (I) and (II) of clause (vii) will not be met by the date on which such transitional measure for the regulation of human pharmaceutical products expires;

“(iv) Japan;

“(v) New Zealand;

“(vi) Switzerland; and

“(vii) a country in which the Secretary determines the following requirements are met:

“(I) The country has statutory or regulatory requirements—

“(aa) that require the review of drugs for safety and effectiveness by an entity of the government of the country;

“(bb) that authorize the approval of only those drugs that have been determined to be safe and effective by experts employed by or acting on behalf of such entity and qualified by scientific training and experience to evaluate the safety and effectiveness of drugs on the basis of adequate and well-controlled investigations, including clinical investigations, conducted by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs;

“(cc) that require the methods used in, and the facilities and controls used for the manufacture, processing, and packing of drugs in the country to be adequate to preserve their identity, quality, purity, and strength;

“(dd) for the reporting of adverse reactions to drugs and procedures to withdraw approval and remove drugs found not to be safe or effective; and

“(ee) that require the labeling and promotion of drugs to be in accordance with the approval of the drug.

“(II) The valid marketing authorization system in the country is equivalent to the systems in the countries described in clauses (i) through (vi).

“(III) The importation of drugs to the United States from the country will not adversely affect public health.

“(b) REGISTRATION OF IMPORTERS AND EXPORTERS.—

“(1) REGISTRATION OF IMPORTERS AND EXPORTERS.—A registration condition is that the importer or exporter involved (referred to in this subsection as a ‘registrant’) submits to the Secretary a registration containing the following:

“(A)(i) In the case of an exporter, the name of the exporter and an identification of all places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter.

“(ii) In the case of an importer, the name of the importer and an identification of the places of business of the importer at which the importer initially receives a qualifying

drug after importation (which shall not exceed 3 places of business except by permission of the Secretary).

“(B) Such information as the Secretary determines to be necessary to demonstrate that the registrant is in compliance with registration conditions under—

“(i) in the case of an importer, subsections (c), (d), (e), (g), and (j) (relating to the sources of imported qualifying drugs; the inspection of facilities of the importer; the payment of fees; compliance with the standards referred to in section 801(a); and maintenance of records and samples); or

“(ii) in the case of an exporter, subsections (c), (d), (f), (g), (h), (i), and (j) (relating to the sources of exported qualifying drugs; the inspection of facilities of the exporter and the marking of compliant shipments; the payment of fees; and compliance with the standards referred to in section 801(a); being licensed as a pharmacist; conditions for individual importation; and maintenance of records and samples).

“(C) An agreement by the registrant that the registrant will not under subsection (a) import or export any drug that is not a qualifying drug.

“(D) An agreement by the registrant to—

“(i) notify the Secretary of a recall or withdrawal of a qualifying drug distributed in a permitted country that the registrant has exported or imported, or intends to export or import, to the United States under subsection (a);

“(ii) provide for the return to the registrant of such drug; and

“(iii) cease, or not begin, the exportation or importation of such drug unless the Secretary has notified the registrant that exportation or importation of such drug may proceed.

“(E) An agreement by the registrant to ensure and monitor compliance with each registration condition, to promptly correct any noncompliance with such a condition, and to promptly report to the Secretary any such noncompliance.

“(F) A plan describing the manner in which the registrant will comply with the agreement under subparagraph (E).

“(G) An agreement by the registrant to enforce a contract under subsection (c)(3)(B) against a party in the chain of custody of a qualifying drug with respect to the authority of the Secretary under clauses (ii) and (iii) of that subsection.

“(H) An agreement by the registrant to notify the Secretary not more than 30 days before the registrant intends to make the change, of—

“(i) any change that the registrant intends to make regarding information provided under subparagraph (A) or (B); and

“(ii) any change that the registrant intends to make in the compliance plan under subparagraph (F).

“(I) In the case of an exporter:

“(i) An agreement by the exporter that a qualifying drug will not under subsection (a) be exported to any individual not authorized pursuant to subsection (a)(2)(B) to be an importer of such drug.

“(ii) An agreement to post a bond, payable to the Treasury of the United States that is equal in value to the lesser of—

“(I) the value of drugs exported by the exporter to the United States in a typical 4-week period over the course of a year under this section; or

“(II) \$1,000,000.

“(iii) An agreement by the exporter to comply with applicable provisions of Canadian law, or the law of the permitted country

designated under subsection (a)(4)(D)(i)(II) in which the exporter is located, that protect the privacy of personal information with respect to each individual importing a prescription drug from the exporter under subsection (a)(2)(B).

“(iv) An agreement by the exporter to report to the Secretary—

“(I) not later than August 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the 6-month period from January 1 through June 30 of that year; and

“(II) not later than January 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the previous fiscal year.

“(J) In the case of an importer, an agreement by the importer to report to the Secretary—

“(i) not later than August 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the 6-month period from January 1 through June 30 of that fiscal year; and

“(ii) not later than January 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the previous fiscal year.

“(K) Such other provisions as the Secretary may require by regulation to protect the public health while permitting—

“(i) the importation by pharmacies, groups of pharmacies, and wholesalers as registered importers of qualifying drugs under subsection (a); and

“(ii) importation by individuals of qualifying drugs under subsection (a).

“(2) APPROVAL OR DISAPPROVAL OF REGISTRATION.—

“(A) IN GENERAL.—Not later than 90 days after the date on which a registrant submits to the Secretary a registration under paragraph (1), the Secretary shall notify the registrant whether the registration is approved or is disapproved. The Secretary shall disapprove a registration if there is reason to believe that the registrant is not in compliance with one or more registration conditions, and shall notify the registrant of such reason. In the case of a disapproved registration, the Secretary shall subsequently notify the registrant that the registration is approved if the Secretary determines that the registrant is in compliance with such conditions.

“(B) CHANGES IN REGISTRATION INFORMATION.—Not later than 30 days after receiving a notice under paragraph (1)(H) from a registrant, the Secretary shall determine whether the change involved affects the approval of the registration of the registrant under paragraph (1), and shall inform the registrant of the determination.

“(3) PUBLICATION OF CONTACT INFORMATION FOR REGISTERED EXPORTERS.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall make readily available to the public a list of registered exporters, including contact information for the exporters. Promptly after the approval of a registration submitted under paragraph (1), the Secretary shall update the Internet website and the information provided through the toll-free telephone number accordingly.

“(4) SUSPENSION AND TERMINATION.—

“(A) SUSPENSION.—With respect to the effectiveness of a registration submitted under paragraph (1):

“(i) Subject to clause (ii), the Secretary may suspend the registration if the Secretary determines, after notice and opportunity for a hearing, that the registrant has failed to maintain substantial compliance with a registration condition.

“(ii) If the Secretary determines that, under color of the registration, the exporter has exported a drug or the importer has imported a drug that is not a qualifying drug, or a drug that does not comply with subsection (g)(2)(A) or (g)(4), or has exported a qualifying drug to an individual in violation of subsection (i), the Secretary shall immediately suspend the registration. A suspension under the preceding sentence is not subject to the provision by the Secretary of prior notice, and the Secretary shall provide to the registrant an opportunity for a hearing not later than 10 days after the date on which the registration is suspended.

“(iii) The Secretary may reinstate the registration, whether suspended under clause (i) or (ii), if the Secretary determines that the registrant has demonstrated that further violations of registration conditions will not occur.

“(B) **TERMINATION.**—The Secretary, after notice and opportunity for a hearing, may terminate the registration under paragraph (1) of a registrant if the Secretary determines that the registrant has engaged in a pattern or practice of violating 1 or more registration conditions, or if on 1 or more occasions the Secretary has under subparagraph (A)(ii) suspended the registration of the registrant. The Secretary may make the termination permanent, or for a fixed period of not less than 1 year. During the period in which the registration is terminated, any registration submitted under paragraph (1) by the registrant, or a person that is a partner in the export or import enterprise, or a principal officer in such enterprise, and any registration prepared with the assistance of the registrant or such a person, has no legal effect under this section.

“(5) **DEFAULT OF BOND.**—A bond required to be posted by an exporter under paragraph (1)(I)(ii) shall be defaulted and paid to the Treasury of the United States if, after opportunity for an informal hearing, the Secretary determines that the exporter has—

“(A) exported a drug to the United States that is not a qualifying drug or that is not in compliance with subsection (g)(2)(A), (g)(4), or (i); or

“(B) failed to permit the Secretary to conduct an inspection described under subsection (d).

“(c) **SOURCES OF QUALIFYING DRUGS.**—A registration condition is that the exporter or importer involved agrees that a qualifying drug will under subsection (a) be exported or imported into the United States only if there is compliance with the following:

“(1) The drug was manufactured in an establishment—

“(A) required to register under subsection (h) or (i) of section 510; and

“(B)(i) inspected by the Secretary; or

“(ii) for which the Secretary has elected to rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided for under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

“(2) The establishment is located in any country, and the establishment manufactured the drug for distribution in the United

States or for distribution in 1 or more of the permitted countries (without regard to whether in addition the drug is manufactured for distribution in a foreign country that is not a permitted country).

“(3) The exporter or importer obtained the drug—

“(A) directly from the establishment; or

“(B) directly from an entity that, by contract with the exporter or importer—

“(i) provides to the exporter or importer a statement (in such form and containing such information as the Secretary may require) that, for the chain of custody from the establishment, identifies each prior sale, purchase, or trade of the drug (including the date of the transaction and the names and addresses of all parties to the transaction);

“(ii) agrees to permit the Secretary to inspect such statements and related records to determine their accuracy;

“(iii) agrees, with respect to the qualifying drugs involved, to permit the Secretary to inspect warehouses and other facilities, including records, of the entity for purposes of determining whether the facilities are in compliance with any standards under this Act that are applicable to facilities of that type in the United States; and

“(iv) has ensured, through such contractual relationships as may be necessary, that the Secretary has the same authority regarding other parties in the chain of custody from the establishment that the Secretary has under clauses (ii) and (iii) regarding such entity.

“(4)(A) The foreign country from which the importer will import the drug is a permitted country; or

“(B) The foreign country from which the exporter will export the drug is the permitted country in which the exporter is located.

“(5) During any period in which the drug was not in the control of the manufacturer of the drug, the drug did not enter any country that is not a permitted country.

“(6) The exporter or importer retains a sample of each lot of the drug for testing by the Secretary.

“(d) **INSPECTION OF FACILITIES; MARKING OF SHIPMENTS.**—

“(1) **INSPECTION OF FACILITIES.**—A registration condition is that, for the purpose of assisting the Secretary in determining whether the exporter involved is in compliance with all other registration conditions—

“(A) the exporter agrees to permit the Secretary—

“(i) to conduct onsite inspections, including monitoring on a day-to-day basis, of places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter;

“(ii) to have access, including on a day-to-day basis, to—

“(I) records of the exporter that relate to the export of such drugs, including financial records; and

“(II) samples of such drugs;

“(iii) to carry out the duties described in paragraph (3); and

“(iv) to carry out any other functions determined by the Secretary to be necessary regarding the compliance of the exporter; and

“(B) the Secretary has assigned 1 or more employees of the Secretary to carry out the functions described in this subsection for the Secretary randomly, but not less than 12 times annually, on the premises of places of businesses referred to in subparagraph (A)(i), and such an assignment remains in effect on a continuous basis.

“(2) **MARKING OF COMPLIANT SHIPMENTS.**—A registration condition is that the exporter involved agrees to affix to each shipping container of qualifying drugs exported under subsection (a) such markings as the Secretary determines to be necessary to identify the shipment as being in compliance with all registration conditions. Markings under the preceding sentence shall—

“(A) be designed to prevent affixation of the markings to any shipping container that is not authorized to bear the markings; and

“(B) include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies.

“(3) **CERTAIN DUTIES RELATING TO EXPORTERS.**—Duties of the Secretary with respect to an exporter include the following:

“(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the exporter at which qualifying drugs are stored and from which qualifying drugs are shipped.

“(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the exporter, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an exporter.

“(C) Randomly reviewing records of exports to individuals for the purpose of determining whether the drugs are being imported by the individuals in accordance with the conditions under subsection (i). Such reviews shall be conducted in a manner that will result in a statistically significant determination of compliance with all such conditions.

“(D) Monitoring the affixing of markings under paragraph (2).

“(E) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records, of other parties in the chain of custody of qualifying drugs.

“(F) Determining whether the exporter is in compliance with all other registration conditions.

“(4) **PRIOR NOTICE OF SHIPMENTS.**—A registration condition is that, not less than 8 hours and not more than 5 days in advance of the time of the importation of a shipment of qualifying drugs, the importer involved agrees to submit to the Secretary a notice with respect to the shipment of drugs to be imported or offered for import into the United States under subsection (a). A notice under the preceding sentence shall include—

“(A) the name and complete contact information of the person submitting the notice;

“(B) the name and complete contact information of the importer involved;

“(C) the identity of the drug, including the established name of the drug, the quantity of the drug, and the lot number assigned by the manufacturer;

“(D) the identity of the manufacturer of the drug, including the identity of the establishment at which the drug was manufactured;

“(E) the country from which the drug is shipped;

“(F) the name and complete contact information for the shipper of the drug;

“(G) anticipated arrival information, including the port of arrival and crossing location within that port, and the date and time;

“(H) a summary of the chain of custody of the drug from the establishment in which the drug was manufactured to the importer;

“(I) a declaration as to whether the Secretary has ordered that importation of the drug from the permitted country cease under subsection (g)(2)(C) or (D); and

“(J) such other information as the Secretary may require by regulation.

“(5) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the importer involved agrees, before wholesale distribution (as defined in section 503(e)) of a qualifying drug that has been imported under subsection (a), to affix to each container of such drug such markings or other technology as the Secretary determines necessary to identify the shipment as being in compliance with all registration conditions, except that the markings or other technology shall not be required on a drug that bears comparable, compatible markings or technology from the manufacturer of the drug. Markings or other technology under the preceding sentence shall—

“(A) be designed to prevent affixation of the markings or other technology to any container that is not authorized to bear the markings; and

“(B) shall include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of such technologies.

“(6) CERTAIN DUTIES RELATING TO IMPORTERS.—Duties of the Secretary with respect to an importer include the following:

“(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the importer at which a qualifying drug is initially received after importation.

“(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the importer, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an importer.

“(C) Reviewing notices under paragraph (4).

“(D) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records of other parties in the chain of custody of qualifying drugs.

“(E) Determining whether the importer is in compliance with all other registration conditions.

“(e) IMPORTER FEES.—

“(1) REGISTRATION FEE.—A registration condition is that the importer involved pays to the Secretary a fee of \$10,000 due on the date on which the importer first submits the registration to the Secretary under subsection (b).

“(2) INSPECTION FEE.—A registration condition is that the importer involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

“(3) AMOUNT OF INSPECTION FEE.—

“(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for importers for that fiscal year that is sufficient, and not more than

necessary, to pay the costs for that fiscal year of administering this section with respect to registered importers, including the costs associated with—

“(i) inspecting the facilities of registered importers, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(6);

“(ii) developing, implementing, and operating under such subsection an electronic system for submission and review of the notices required under subsection (d)(4) with respect to shipments of qualifying drugs under subsection (a) to assess compliance with all registration conditions when such shipments are offered for import into the United States; and

“(iii) inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

“(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 2.5 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (a).

“(C) TOTAL PRICE OF DRUGS.—

“(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during the 6-month period from January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

“(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during that fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

“(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered importers during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered importer on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

“(D) INDIVIDUAL IMPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an importer shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the importer of the volume of qualifying drugs imported by importers under subsection (a).

“(4) USE OF FEES.—

“(A) IN GENERAL.—Fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Home-

land Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

“(B) AVAILABILITY.—Fees collected by the Secretary under paragraphs (1) and (2) shall be made available to the Food and Drug Administration.

“(C) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

“(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(f) EXPORTER FEES.—

“(1) REGISTRATION FEE.—A registration condition is that the exporter involved pays to the Secretary a fee of \$10,000 due on the date on which the exporter first submits that registration to the Secretary under subsection (b).

“(2) INSPECTION FEE.—A registration condition is that the exporter involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

“(3) AMOUNT OF INSPECTION FEE.—

“(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for exporters for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered exporters, including the costs associated with—

“(i) inspecting the facilities of registered exporters, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(3);

“(ii) developing, implementing, and operating under such subsection a system to screen marks on shipments of qualifying drugs under subsection (a) that indicate compliance with all registration conditions, when such shipments are offered for import into the United States; and

“(iii) screening such markings, and inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

“(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 2.5 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered exporters under subsection (a).

“(C) TOTAL PRICE OF DRUGS.—

“(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during the 6-month period from

January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

“(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during that fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

“(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered exporters during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered exporter on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

“(D) INDIVIDUAL EXPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an exporter shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the exporter of the volume of qualifying drugs exported by exporters under subsection (a).

“(4) USE OF FEES.—

“(A) IN GENERAL.—Fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

“(B) AVAILABILITY.—Fees collected by the Secretary under paragraphs (1) and (2) shall be made available to the Food and Drug Administration.

“(C) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

“(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(g) COMPLIANCE WITH SECTION 801(a).—

“(1) IN GENERAL.—A registration condition is that each qualifying drug exported under subsection (a) by the registered exporter involved or imported under subsection (a) by the registered importer involved is in compliance with the standards referred to in section 801(a) regarding admission of the drug into the United States, subject to paragraphs (2), (3), and (4).

“(2) SECTION 505; APPROVAL STATUS.—

“(A) IN GENERAL.—A qualifying drug that is imported or offered for import under subsection (a) shall comply with the conditions established in the approved application under section 505(b) for the U.S. label drug as described under this subsection.

“(B) NOTICE BY MANUFACTURER; GENERAL PROVISIONS.—

“(i) IN GENERAL.—The person that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country shall in accordance with this paragraph submit to the Secretary a notice that—

“(I) includes each difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

“(aa) the variations provided for in the application; and

“(bb) any difference in labeling (except ingredient labeling); or

“(II) states that there is no difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

“(aa) the variations provided for in the application; and

“(bb) any difference in labeling (except ingredient labeling).

“(ii) INFORMATION IN NOTICE.—A notice under clause (i)(I) shall include the information that the Secretary may require under section 506A, any additional information the Secretary may require (which may include data on bioequivalence if such data are not required under section 506A), and, with respect to the permitted country that approved the qualifying drug for commercial distribution, or with respect to which such approval is sought, include the following:

“(I) The date on which the qualifying drug with such difference was, or will be, introduced for commercial distribution in the permitted country.

“(II) Information demonstrating that the person submitting the notice has also notified the government of the permitted country in writing that the person is submitting to the Secretary a notice under clause (i)(I), which notice describes the difference in the qualifying drug from a condition established in the approved application for the U.S. label drug.

“(III) The information that the person submitted or will submit to the government of the permitted country for purposes of obtaining approval for commercial distribution of the drug in the country which, if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation.

“(iii) CERTIFICATIONS.—The chief executive officer and the chief medical officer of the manufacturer involved shall each certify in the notice under clause (i) that—

“(I) the information provided in the notice is complete and true; and

“(II) a copy of the notice has been provided to the Federal Trade Commission and to the State attorneys general.

“(iv) FEE.—

“(I) IN GENERAL.—If a notice submitted under clause (i) includes a difference that would, under section 506A, require the submission of a supplemental application if made as a change to the U.S. label drug, the person that submits the notice shall pay to the Secretary a fee in the same amount as would apply if the person were paying a fee pursuant to section 736(a)(1)(A)(ii). Fees collected by the Secretary under the preceding sentence are available only to the Secretary and are for the sole purpose of paying the costs of reviewing notices submitted under clause (i).

“(II) FEE AMOUNT FOR CERTAIN YEARS.—If no fee amount is in effect under section 736(a)(1)(A)(ii) for a fiscal year, then the

amount paid by a person under subclause (I) shall—

“(aa) for the first fiscal year in which no fee amount under such section is in effect, be equal to the fee amount under section 736(a)(1)(A)(ii) for the most recent fiscal year for which such section was in effect, adjusted in accordance with section 736(c); and

“(bb) for each subsequent fiscal year in which no fee amount under such section is in effect, be equal to the applicable fee amount for the previous fiscal year, adjusted in accordance with section 736(c).

“(v) TIMING OF SUBMISSION OF NOTICES.—

“(I) PRIOR APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (C) applies shall be submitted to the Secretary not later than 120 days before the qualifying drug with the difference is introduced for commercial distribution in a permitted country, unless the country requires that distribution of the qualifying drug with the difference begin less than 120 days after the country requires the difference.

“(II) OTHER APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (D) applies shall be submitted to the Secretary not later than the day on which the qualifying drug with the difference is introduced for commercial distribution in a permitted country.

“(III) OTHER NOTICES.—A notice under clause (i) to which subparagraph (E) applies shall be submitted to the Secretary on the date that the qualifying drug is first introduced for commercial distribution in a permitted country and annually thereafter.

“(vi) REVIEW BY SECRETARY.—

“(I) IN GENERAL.—In this paragraph, the difference in a qualifying drug that is submitted in a notice under clause (i) from the U.S. label drug shall be treated by the Secretary as if it were a manufacturing change to the U.S. label drug under section 506A.

“(II) STANDARD OF REVIEW.—Except as provided in subclause (III), the Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, using the safe and effective standard for approving or disapproving a manufacturing change under section 506A.

“(III) BIOEQUIVALENCE.—If the Secretary would approve the difference in a notice submitted under clause (i) using the safe and effective standard under section 506A and if the Secretary determines that the qualifying drug is not bioequivalent to the U.S. label drug, the Secretary shall—

“(aa) include in the labeling provided under paragraph (3) a prominent advisory that the qualifying drug is safe and effective but is not bioequivalent to the U.S. label drug if the Secretary determines that such an advisory is necessary for health care practitioners and patients to use the qualifying drug safely and effectively; or

“(bb) decline to approve the difference if the Secretary determines that the availability of both the qualifying drug and the U.S. label drug would pose a threat to the public health.

“(IV) REVIEW BY THE SECRETARY.—The Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, not later than 120 days after the date on which the notice is submitted.

“(V) ESTABLISHMENT INSPECTION.—If review of such difference would require an inspection of the establishment in which the qualifying drug is manufactured—

“(aa) such inspection by the Secretary shall be authorized; and

“(bb) the Secretary may rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

“(vii) PUBLICATION OF INFORMATION ON NOTICES.—

“(I) IN GENERAL.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall readily make available to the public a list of notices submitted under clause (i).

“(II) CONTENTS.—The list under subclause (I) shall include the date on which a notice is submitted and whether—

“(aa) a notice is under review;

“(bb) the Secretary has ordered that importation of the qualifying drug from a permitted country cease; or

“(cc) the importation of the drug is permitted under subsection (a).

“(III) UPDATE.—The Secretary shall promptly update the Internet website with any changes to the list.

“(C) NOTICE; DRUG DIFFERENCE REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under subsection (c) or (d)(3)(B)(i) of section 506A, require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

“(i) Promptly after the notice is submitted, the Secretary shall notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general that the notice has been submitted with respect to the qualifying drug involved.

“(ii) If the Secretary has not made a determination whether such a supplemental application regarding the U.S. label drug would be approved or disapproved by the date on which the qualifying drug involved is to be introduced for commercial distribution in a permitted country, the Secretary shall—

“(I) order that the importation of the qualifying drug involved from the permitted country not begin until the Secretary completes review of the notice; and

“(II) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the order.

“(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

“(I) order that the importation of the qualifying drug involved from the permitted country cease, or provide that an order under clause (ii), if any, remains in effect;

“(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

“(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

“(iv) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

“(I) vacate the order under clause (ii), if any;

“(II) consider the difference to be a variation provided for in the approved application for the U.S. label drug;

“(III) permit importation of the qualifying drug under subsection (a); and

“(IV) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

“(D) NOTICE; DRUG DIFFERENCE NOT REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(d)(3)(B)(ii), not require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

“(i) During the period in which the notice is being reviewed by the Secretary, the authority under this subsection to import the qualifying drug involved continues in effect.

“(ii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

“(I) order that the importation of the qualifying drug involved from the permitted country cease;

“(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

“(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

“(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the difference shall be considered to be a variation provided for in the approved application for the U.S. label drug.

“(E) NOTICE; DRUG DIFFERENCE NOT REQUIRING APPROVAL; NO DIFFERENCE.—In the case of a notice under subparagraph (B)(i) that includes a difference for which, under section 506A(d)(1)(A), a supplemental application would not be required for the difference to be made to the U.S. label drug, or that states that there is no difference, the Secretary—

“(i) shall consider such difference to be a variation provided for in the approved application for the U.S. label drug;

“(ii) may not order that the importation of the qualifying drug involved cease; and

“(iii) shall promptly notify registered exporters and registered importers.

“(F) DIFFERENCES IN ACTIVE INGREDIENT, ROUTE OF ADMINISTRATION, DOSAGE FORM, OR STRENGTH.—

“(i) IN GENERAL.—A person who manufactures a drug approved under section 505(b) shall submit an application under section 505(b) for approval of another drug that is manufactured for distribution in a permitted country by or for the person that manufactures the drug approved under section 505(b) if—

“(I) there is no qualifying drug in commercial distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries with the same active ingredient or ingredients, route of administration, dosage form, and strength as the drug approved under section 505(b); and

“(II) each active ingredient of the other drug is related to an active ingredient of the drug approved under section 505(b), as defined in clause (v).

“(ii) APPLICATION UNDER SECTION 505(b).—The application under section 505(b) required under clause (i) shall—

“(I) request approval of the other drug for the indication or indications for which the drug approved under section 505(b) is labeled;

“(II) include the information that the person submitted to the government of the permitted country for purposes of obtaining approval for commercial distribution of the

other drug in that country, which if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation;

“(III) include a right of reference to the application for the drug approved under section 505(b); and

“(IV) include such additional information as the Secretary may require.

“(iii) TIMING OF SUBMISSION OF APPLICATION.—An application under section 505(b) required under clause (i) shall be submitted to the Secretary not later than the day on which the information referred to in clause (ii)(II) is submitted to the government of the permitted country.

“(iv) NOTICE OF DECISION ON APPLICATION.—The Secretary shall promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of a determination to approve or to disapprove an application under section 505(b) required under clause (i).

“(v) RELATED ACTIVE INGREDIENTS.—For purposes of clause (i)(II), 2 active ingredients are related if they are—

“(I) the same; or

“(II) different salts, esters, or complexes of the same moiety.

“(3) SECTION 502; LABELING.—

“(A) IMPORTATION BY REGISTERED IMPORTER.—

“(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered importer, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the qualifying drug bears—

“(I) a copy of the labeling approved for the U.S. label drug under section 505, without regard to whether the copy bears any trademark involved;

“(II) the name of the manufacturer and location of the manufacturer;

“(III) the lot number assigned by the manufacturer;

“(IV) the name, location, and registration number of the importer; and

“(V) the National Drug Code number assigned to the qualifying drug by the Secretary.

“(ii) REQUEST FOR COPY OF THE LABELING.—The Secretary shall provide such copy to the registered importer involved, upon request of the importer.

“(iii) REQUESTED LABELING.—The labeling provided by the Secretary under clause (ii) shall—

“(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the qualifying drug;

“(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof;

“(III) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the qualifying drug is safe and effective but not bioequivalent to the U.S. label drug; and

“(IV) if the inactive ingredients of the qualifying drug are different from the inactive ingredients for the U.S. label drug, include—

“(aa) a prominent notice that the ingredients of the qualifying drug differ from the ingredients of the U.S. label drug and that the qualifying drug must be dispensed with an advisory to people with allergies about this difference and a list of ingredients; and

“(bb) a list of the ingredients of the qualifying drug as would be required under section 502(e).



“(B) IMPORTATION BY INDIVIDUAL.—

“(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered exporter to an individual, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the packaging and labeling of the qualifying drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and the labeling of the qualifying drug includes—

“(I) directions for use by the consumer;

“(II) the lot number assigned by the manufacturer;

“(III) the name and registration number of the exporter;

“(IV) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug;

“(V) if the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

“(aa) a prominent advisory that persons with an allergy should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

“(bb) a list of the ingredients of the drug as would be required under section 502(e); and

“(VI) a copy of any special labeling that would be required by the Secretary had the U.S. label drug been dispensed by a pharmacist in the United States, without regard to whether the special labeling bears any trademark involved.

“(ii) PACKAGING.—A qualifying drug offered for import to an individual by an exporter under this section that is packaged in a unit-of-use container (as those items are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

“(I) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

“(II) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the exporter will provide the drug in packaging that is compliant at no additional cost.

“(iii) REQUEST FOR COPY OF SPECIAL LABELING AND INGREDIENT LIST.—The Secretary shall provide to the registered exporter involved a copy of the special labeling, the advisory, and the ingredient list described under clause (i), upon request of the exporter.

“(iv) REQUESTED LABELING AND INGREDIENT LIST.—The labeling and ingredient list provided by the Secretary under clause (iii) shall—

“(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the drug; and

“(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof.

“(4) SECTION 501; ADULTERATION.—A qualifying drug that is imported or offered for import under subsection (a) shall be considered to be in compliance with section 501 if the drug is in compliance with subsection (c).

“(5) STANDARDS FOR REFUSING ADMISSION.—A drug exported under subsection (a) from a registered exporter or imported by a registered importer may be refused admission into the United States if 1 or more of the following applies:

“(A) The drug is not a qualifying drug.

“(B) A notice for the drug required under paragraph (2)(B) has not been submitted to the Secretary.

“(C) The Secretary has ordered that importation of the drug from the permitted country cease under subparagraph (C) or (D) of paragraph (2).

“(D) The drug does not comply with paragraph (3) or (4).

“(E) The shipping container appears damaged in a way that may affect the strength, quality, or purity of the drug.

“(F) The Secretary becomes aware that—

“(i) the drug may be counterfeit;

“(ii) the drug may have been prepared, packed, or held under insanitary conditions; or

“(iii) the methods used in, or the facilities or controls used for, the manufacturing, processing, packing, or holding of the drug do not conform to good manufacturing practice.

“(G) The Secretary has obtained an injunction under section 302 that prohibits the distribution of the drug in interstate commerce.

“(H) The Secretary has under section 505(e) withdrawn approval of the drug.

“(I) The manufacturer of the drug has instituted a recall of the drug.

“(J) If the drug is imported or offered for import by a registered importer without submission of a notice in accordance with subsection (d)(4).

“(K) If the drug is imported or offered for import from a registered exporter to an individual and 1 or more of the following applies:

“(i) The shipping container for such drug does not bear the markings required under subsection (d)(2).

“(ii) The markings on the shipping container appear to be counterfeit.

“(iii) The shipping container or markings appear to have been tampered with.

“(h) EXPORTER LICENSURE IN PERMITTED COUNTRY.—A registration condition is that the exporter involved agrees that a qualifying drug will be exported to an individual only if the Secretary has verified that—

“(1) the exporter is authorized under the law of the permitted country in which the exporter is located to dispense prescription drugs; and

“(2) the exporter employs persons that are licensed under the law of the permitted country in which the exporter is located to dispense prescription drugs in sufficient number to dispense safely the drugs exported by the exporter to individuals, and the exporter assigns to those persons responsibility for dispensing such drugs to individuals.

“(i) INDIVIDUALS; CONDITIONS FOR IMPORTATION.—

“(1) IN GENERAL.—For purposes of subsection (a)(2)(B), the importation of a qualifying drug by an individual is in accordance with this subsection if the following conditions are met:

“(A) The drug is accompanied by a copy of a prescription for the drug, which prescription—

“(i) is valid under applicable Federal and State laws; and

“(ii) was issued by a practitioner who, under the law of a State of which the individual is a resident, or in which the individual receives care from the practitioner who issues the prescription, is authorized to administer prescription drugs.

“(B) The drug is accompanied by a copy of the documentation that was required under the law or regulations of the permitted country in which the exporter is located, as a

condition of dispensing the drug to the individual.

“(C) The copies referred to in subparagraphs (A)(i) and (B) are marked in a manner sufficient—

“(i) to indicate that the prescription, and the equivalent document in the permitted country in which the exporter is located, have been filled; and

“(ii) to prevent a duplicative filling by another pharmacist.

“(D) The individual has provided to the registered exporter a complete list of all drugs used by the individual for review by the individuals who dispense the drug.

“(E) The quantity of the drug does not exceed a 90-day supply.

“(F) The drug is not an ineligible subpart H drug. For purposes of this section, a prescription drug is an ‘ineligible subpart H drug’ if the drug was approved by the Secretary under subpart H of part 314 of title 21, Code of Federal Regulations (relating to accelerated approval), with restrictions under section 520 of such part to assure safe use, and the Secretary has published in the Federal Register a notice that the Secretary has determined that good cause exists to prohibit the drug from being imported pursuant to this subsection.

“(2) NOTICE REGARDING DRUG REFUSED ADMISSION.—If a registered exporter ships a drug to an individual pursuant to subsection (a)(2)(B) and the drug is refused admission to the United States, a written notice shall be sent to the individual and to the exporter that informs the individual and the exporter of such refusal and the reason for the refusal.

“(j) MAINTENANCE OF RECORDS AND SAMPLES.—

“(1) IN GENERAL.—A registration condition is that the importer or exporter involved shall—

“(A) maintain records required under this section for not less than 2 years; and

“(B) maintain samples of each lot of a qualifying drug required under this section for not more than 2 years.

“(2) PLACE OF RECORD MAINTENANCE.—The records described under paragraph (1) shall be maintained—

“(A) in the case of an importer, at the place of business of the importer at which the importer initially receives the qualifying drug after importation; or

“(B) in the case of an exporter, at the facility from which the exporter ships the qualifying drug to the United States.

“(k) DRUG RECALLS.—

“(1) MANUFACTURERS.—A person that manufactures a qualifying drug imported from a permitted country under this section shall promptly inform the Secretary—

“(A) if the drug is recalled or withdrawn from the market in a permitted country;

“(B) how the drug may be identified, including lot number; and

“(C) the reason for the recall or withdrawal.

“(2) SECRETARY.—With respect to each permitted country, the Secretary shall—

“(A) enter into an agreement with the government of the country to receive information about recalls and withdrawals of qualifying drugs in the country; or

“(B) monitor recalls and withdrawals of qualifying drugs in the country using any information that is available to the public in any media.

“(3) NOTICE.—The Secretary may notify, as appropriate, registered exporters, registered importers, wholesalers, pharmacies, or the public of a recall or withdrawal of a qualifying drug in a permitted country.

“(1) DRUG LABELING AND PACKAGING.—

“(1) IN GENERAL.—When a qualifying drug that is imported into the United States by an importer under subsection (a) is dispensed by a pharmacist to an individual, the pharmacist shall provide that the packaging and labeling of the drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and shall include with any other labeling provided to the individual the following:

“(A) The lot number assigned by the manufacturer.

“(B) The name and registration number of the importer.

“(C) If required under paragraph (2)(B)(vi)(III) of subsection (g), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug.

“(D) If the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

“(i) a prominent advisory that persons with allergies should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

“(ii) a list of the ingredients of the drug as would be required under section 502(e).

“(2) PACKAGING.—A qualifying drug that is packaged in a unit-of-use container (as those terms are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

“(A) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

“(B) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the pharmacist will provide the drug in packaging that is compliant at no additional cost.

“(m) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, this section does not authorize the importation into the United States of a qualifying drug donated or otherwise supplied for free or at nominal cost by the manufacturer of the drug to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country.

“(n) UNFAIR AND DISCRIMINATORY ACTS AND PRACTICES.—

“(1) IN GENERAL.—It is unlawful for a manufacturer, directly or indirectly (including by being a party to a licensing agreement or other agreement), to—

“(A) discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of rebates or other incentives to the permitted country or other person, to another person that is in the same country and that does not export a qualifying drug into the United States under this section;

“(B) discriminate by charging a higher price for a prescription drug sold to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section than the price that is charged to another person in the United States that does not import a qualifying drug under this section, or that does not distribute, sell, or use such a drug;

“(C) discriminate by denying, restricting, or delaying supplies of a prescription drug to

a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

“(D) discriminate by publicly, privately, or otherwise refusing to do business with a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or with a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

“(E) knowingly fail to submit a notice under subsection (g)(2)(B)(i), knowingly fail to submit such a notice on or before the date specified in subsection (g)(2)(B)(v) or as otherwise required under paragraphs (3), (4), and (5) of section 1304(e) of the Pharmaceutical Market Access and Drug Safety Act of 2010, knowingly submit such a notice that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such a notice;

“(F) knowingly fail to submit an application required under subsection (g)(2)(F), knowingly fail to submit such an application on or before the date specified in subsection (g)(2)(F)(iii), knowingly submit such an application that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such an application;

“(G) cause there to be a difference (including a difference in active ingredient, route of administration, dosage form, strength, formulation, manufacturing establishment, manufacturing process, or person that manufactures the drug) between a prescription drug for distribution in the United States and the drug for distribution in a permitted country;

“(H) refuse to allow an inspection authorized under this section of an establishment that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country;

“(I) fail to conform to the methods used in, or the facilities used for, the manufacturing, processing, packing, or holding of a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country to good manufacturing practice under this Act;

“(J) become a party to a licensing agreement or other agreement related to a qualifying drug that fails to provide for compliance with all requirements of this section with respect to such drug;

“(K) enter into a contract that restricts, prohibits, or delays the importation of a qualifying drug under this section;

“(L) engage in any other action to restrict, prohibit, or delay the importation of a qualifying drug under this section; or

“(M) engage in any other action that the Federal Trade Commission determines to discriminate against a person that engages or attempts to engage in the importation of a qualifying drug under this section.

“(2) REFERRAL OF POTENTIAL VIOLATIONS.—The Secretary shall promptly refer to the Federal Trade Commission each potential violation of subparagraph (E), (F), (G), (H), or (I) of paragraph (1) that becomes known to the Secretary.

“(3) AFFIRMATIVE DEFENSE.—

“(A) DISCRIMINATION.—It shall be an affirmative defense to a charge that a manu-

facturer has discriminated under subparagraph (A), (B), (C), (D), or (M) of paragraph (1) that the higher price charged for a prescription drug sold to a person, the denial, restriction, or delay of supplies of a prescription drug to a person, the refusal to do business with a person, or other discriminatory activity against a person, is not based, in whole or in part, on—

“(i) the person exporting or importing a qualifying drug into the United States under this section; or

“(ii) the person distributing, selling, or using a qualifying drug imported into the United States under this section.

“(B) DRUG DIFFERENCES.—It shall be an affirmative defense to a charge that a manufacturer has caused there to be a difference described in subparagraph (G) of paragraph (1) that—

“(i) the difference was required by the country in which the drug is distributed;

“(ii) the Secretary has determined that the difference was necessary to improve the safety or effectiveness of the drug;

“(iii) the person manufacturing the drug for distribution in the United States has given notice to the Secretary under subsection (g)(2)(B)(i) that the drug for distribution in the United States is not different from a drug for distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries; or

“(iv) the difference was not caused, in whole or in part, for the purpose of restricting importation of the drug into the United States under this section.

“(4) EFFECT OF SUBSECTION.—

“(A) SALES IN OTHER COUNTRIES.—This subsection applies only to the sale or distribution of a prescription drug in a country if the manufacturer of the drug chooses to sell or distribute the drug in the country. Nothing in this subsection shall be construed to compel the manufacturer of a drug to distribute or sell the drug in a country.

“(B) DISCOUNTS TO INSURERS, HEALTH PLANS, PHARMACY BENEFIT MANAGERS, AND COVERED ENTITIES.—Nothing in this subsection shall be construed to—

“(i) prevent or restrict a manufacturer of a prescription drug from providing discounts to an insurer, health plan, pharmacy benefit manager in the United States, or covered entity in the drug discount program under section 340B of the Public Health Service Act (42 U.S.C. 256b) in return for inclusion of the drug on a formulary;

“(ii) require that such discounts be made available to other purchasers of the prescription drug; or

“(iii) prevent or restrict any other measures taken by an insurer, health plan, or pharmacy benefit manager to encourage consumption of such prescription drug.

“(C) CHARITABLE CONTRIBUTIONS.—Nothing in this subsection shall be construed to—

“(i) prevent a manufacturer from donating a prescription drug, or supplying a prescription drug at nominal cost, to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country; or

“(ii) apply to such donations or supplying of a prescription drug.

“(5) ENFORCEMENT.—

“(A) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this subsection shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

“(B) ACTIONS BY THE COMMISSION.—The Federal Trade Commission—

“(i) shall enforce this subsection in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section; and

“(ii) may seek monetary relief threefold the damages sustained, in addition to any other remedy available to the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

“(6) ACTIONS BY STATES.—

“(A) IN GENERAL.—

“(i) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State have been adversely affected by any manufacturer that violates paragraph (1), the attorney general of a State may bring a civil action on behalf of the residents of the State, and persons doing business in the State, in a district court of the United States of appropriate jurisdiction to—

“(I) enjoin that practice;

“(II) enforce compliance with this subsection;

“(III) obtain damages, restitution, or other compensation on behalf of residents of the State and persons doing business in the State, including threefold the damages; or

“(IV) obtain such other relief as the court may consider to be appropriate.

“(ii) NOTICE.—

“(I) IN GENERAL.—Before filing an action under clause (i), the attorney general of the State involved shall provide to the Federal Trade Commission—

“(aa) written notice of that action; and

“(bb) a copy of the complaint for that action.

“(II) EXEMPTION.—Subclause (I) shall not apply with respect to the filing of an action by an attorney general of a State under this paragraph, if the attorney general determines that it is not feasible to provide the notice described in that subclause before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Federal Trade Commission at the same time as the attorney general files the action.

“(B) INTERVENTION.—

“(i) IN GENERAL.—On receiving notice under subparagraph (A)(ii), the Federal Trade Commission shall have the right to intervene in the action that is the subject of the notice.

“(ii) EFFECT OF INTERVENTION.—If the Federal Trade Commission intervenes in an action under subparagraph (A), it shall have the right—

“(I) to be heard with respect to any matter that arises in that action; and

“(II) to file a petition for appeal.

“(C) CONSTRUCTION.—For purposes of bringing any civil action under subparagraph (A), nothing in this subsection shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

“(i) conduct investigations;

“(ii) administer oaths or affirmations; or

“(iii) compel the attendance of witnesses or the production of documentary and other evidence.

“(D) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Federal Trade Commission for a violation of paragraph (1), a State may not, during the pendency of that action, institute an action under subparagraph (A) for the same violation against any defendant named in the complaint in that action.

“(E) VENUE.—Any action brought under subparagraph (A) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

“(F) SERVICE OF PROCESS.—In an action brought under subparagraph (A), process may be served in any district in which the defendant—

“(i) is an inhabitant; or

“(ii) may be found.

“(G) MEASUREMENT OF DAMAGES.—In any action under this paragraph to enforce a cause of action under this subsection in which there has been a determination that a defendant has violated a provision of this subsection, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

“(H) EXCLUSION ON DUPLICATIVE RELIEF.—The district court shall exclude from the amount of monetary relief awarded in an action under this paragraph brought by the attorney general of a State any amount of monetary relief which duplicates amounts which have been awarded for the same injury.

“(7) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws. For the purpose of this subsection, the term ‘antitrust laws’ has the meaning given it in the first section of the Clayton Act, except that it includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

“(8) MANUFACTURER.—In this subsection, the term ‘manufacturer’ means any entity, including any affiliate or licensee of that entity, that is engaged in—

“(A) the production, preparation, propagation, compounding, conversion, or processing of a prescription drug, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; or

“(B) the packaging, repackaging, labeling, relabeling, or distribution of a prescription drug.”

(b) PROHIBITED ACTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301 (21 U.S.C. 331), by striking paragraph (aa) and inserting the following:

“(aa)(1) The sale or trade by a pharmacist, or by a business organization of which the pharmacist is a part, of a qualifying drug that under section 804(a)(2)(A) was imported by the pharmacist, other than—

“(A) a sale at retail made pursuant to dispensing the drug to a customer of the pharmacist or organization; or

“(B) a sale or trade of the drug to a pharmacy or a wholesaler registered to import drugs under section 804.

“(2) The sale or trade by an individual of a qualifying drug that under section 804(a)(2)(B) was imported by the individual.

“(3) The making of a materially false, fictitious, or fraudulent statement or representation, or a material omission, in a notice under clause (i) of section 804(g)(2)(B) or in an application required under section 804(g)(2)(F), or the failure to submit such a notice or application.

“(4) The importation of a drug in violation of a registration condition or other require-

ment under section 804, the falsification of any record required to be maintained, or provided to the Secretary, under such section, or the violation of any registration condition or other requirement under such section.”; and

(2) in section 303(a) (21 U.S.C. 333(a)), by striking paragraph (6) and inserting the following:

“(6) Notwithstanding subsection (a), any person that knowingly violates section 301(i) (2) or (3) or section 301(aa)(4) shall be imprisoned not more than 10 years, or fined in accordance with title 18, United States Code, or both.”

(c) AMENDMENT OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by striking subsection (g) and inserting the following:

“(g) With respect to a prescription drug that is imported or offered for import into the United States by an individual who is not in the business of such importation, that is not shipped by a registered exporter under section 804, and that is refused admission under subsection (a), the Secretary shall notify the individual that—

“(1) the drug has been refused admission because the drug was not a lawful import under section 804;

“(2) the drug is not otherwise subject to a waiver of the requirements of subsection (a);

“(3) the individual may under section 804 lawfully import certain prescription drugs from exporters registered with the Secretary under section 804; and

“(4) the individual can find information about such importation, including a list of registered exporters, on the Internet website of the Food and Drug Administration or through a toll-free telephone number required under section 804.”

(2) ESTABLISHMENT REGISTRATION.—Section 510(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(i)) is amended in paragraph (1) by inserting after “import into the United States” the following: “, including a drug that is, or may be, imported or offered for import into the United States under section 804.”

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 90 days after the date of enactment of this Act.

(d) EXHAUSTION.—

(1) IN GENERAL.—Section 271 of title 35, United States Code, is amended—

(A) by redesignating subsections (h) and (i) as (i) and (j), respectively; and

(B) by inserting after subsection (g) the following:

“(h) It shall not be an act of infringement to use, offer to sell, or sell within the United States or to import into the United States any patented invention under section 804 of the Federal Food, Drug, and Cosmetic Act that was first sold abroad by or under authority of the owner or licensee of such patent.”

(2) RULE OF CONSTRUCTION.—Nothing in the amendment made by paragraph (1) shall be construed to affect the ability of a patent owner or licensee to enforce their patent, subject to such amendment.

(e) EFFECT OF SECTION 804.—

(1) IN GENERAL.—Section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall permit the importation of qualifying drugs (as defined in such section 804) into the United States without regard to the status of the issuance of implementing regulations—

(A) from exporters registered under such section 804 on the date that is 90 days after the date of enactment of this Act; and

(B) from permitted countries, as defined in such section 804, by importers registered under such section 804 on the date that is 1 year after the date of enactment of this Act.

(2) REVIEW OF REGISTRATION BY CERTAIN EXPORTERS.—

(A) REVIEW PRIORITY.—In the review of registrations submitted under subsection (b) of such section 804, registrations submitted by entities in Canada that are significant exporters of prescription drugs to individuals in the United States as of the date of enactment of this Act will have priority during the 90 day period that begins on such date of enactment.

(B) PERIOD FOR REVIEW.—During such 90-day period, the reference in subsection (b)(2)(A) of such section 804 to 90 days (relating to approval or disapproval of registrations) is, as applied to such entities, deemed to be 30 days.

(C) LIMITATION.—That an exporter in Canada exports, or has exported, prescription drugs to individuals in the United States on or before the date that is 90 days after the date of enactment of this Act shall not serve as a basis, in whole or in part, for disapproving a registration under such section 804 from the exporter.

(D) FIRST YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the “Secretary”) may limit the number of registered exporters under such section 804 to not less than 50, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(E) SECOND YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this Act, the Secretary may limit the number of registered exporters under such section 804 to not less than 100, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(F) FURTHER LIMIT ON NUMBER OF EXPORTERS.—During any 1-year period beginning on a date that is 2 or more years after the date of enactment of this Act, the Secretary may limit the number of registered exporters under such section 804 to not less than 25 more than the number of such exporters during the previous 1-year period, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(3) LIMITS ON NUMBER OF IMPORTERS.—

(A) FIRST YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this Act, the Secretary may limit the number of registered importers under such section 804 to not less than 100 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs imported into the United States.

(B) SECOND YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 2 years after the

date of enactment of this Act, the Secretary may limit the number of registered importers under such section 804 to not less than 200 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs into the United States.

(C) FURTHER LIMIT ON NUMBER OF IMPORTERS.—During any 1-year period beginning on a date that is 3 or more years after the date of enactment of this Act, the Secretary may limit the number of registered importers under such section 804 to not less than 50 more (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups) than the number of such importers during the previous 1-year period, so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs to the United States.

(4) NOTICES FOR DRUGS FOR IMPORT FROM CANADA.—The notice with respect to a qualifying drug introduced for commercial distribution in Canada as of the date of enactment of this Act that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 30 days after the date of enactment of this Act if—

(A) the U.S. label drug (as defined in such section 804) for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period most recently completed before the date of enactment of this Act; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(5) NOTICE FOR DRUGS FOR IMPORT FROM OTHER COUNTRIES.—The notice with respect to a qualifying drug introduced for commercial distribution in a permitted country other than Canada as of the date of enactment of this Act that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 180 days after the date of enactment of this Act if—

(A) the U.S. label drug for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period that is first completed on the date that is 120 days after the date of enactment of this Act; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(6) NOTICE FOR OTHER DRUGS FOR IMPORT.—

(A) GUIDANCE ON SUBMISSION DATES.—The Secretary shall by guidance establish a series of submission dates for the notices under subsection (g)(2)(B)(i) of such section 804 with respect to qualifying drugs introduced for commercial distribution as of the date of enactment of this Act and that are not required to be submitted under paragraph (4) or (5).

(B) CONSISTENT AND EFFICIENT USE OF RESOURCES.—The Secretary shall establish the dates described under subparagraph (A) so that such notices described under subparagraph (A) are submitted and reviewed at a rate that allows consistent and efficient use of the resources and staff available to the Secretary for such reviews. The Secretary may condition the requirement to submit such a notice, and the review of such a notice, on the submission by a registered exporter or a registered importer to the Sec-

retary of a notice that such exporter or importer intends to import such qualifying drug to the United States under such section 804.

(C) PRIORITY FOR DRUGS WITH HIGHER SALES.—The Secretary shall establish the dates described under subparagraph (A) so that the Secretary reviews the notices described under such subparagraph with respect to qualifying drugs with higher dollar volume of sales in the United States before the notices with respect to drugs with lower sales in the United States.

(7) NOTICES FOR DRUGS APPROVED AFTER EFFECTIVE DATE.—The notice required under subsection (g)(2)(B)(i) of such section 804 for a qualifying drug first introduced for commercial distribution in a permitted country (as defined in such section 804) after the date of enactment of this Act shall be submitted to and reviewed by the Secretary as provided under subsection (g)(2)(B) of such section 804, without regard to paragraph (4), (5), or (6).

(8) REPORT.—Beginning with the first full fiscal year after the date of enactment of this Act, not later than 90 days after the end of each fiscal year during which the Secretary reviews a notice referred to in paragraph (4), (5), or (6), the Secretary shall submit a report to Congress concerning the progress of the Food and Drug Administration in reviewing the notices referred to in paragraphs (4), (5), and (6).

(9) USER FEES.—

(A) EXPORTERS.—When establishing an aggregate total of fees to be collected from exporters under subsection (f)(2) of such section 804, the Secretary shall, under subsection (f)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered exporters during the first fiscal year in which this title takes effect to be an amount equal to the amount which bears the same ratio to \$1,000,000,000 as the number of days in such fiscal year during which this title is effective bears to 365.

(B) IMPORTERS.—When establishing an aggregate total of fees to be collected from importers under subsection (e)(2) of such section 804, the Secretary shall, under subsection (e)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered importers during—

(i) the first fiscal year in which this title takes effect to be an amount equal to the amount which bears the same ratio to \$1,000,000,000 as the number of days in such fiscal year during which this title is effective bears to 365; and

(ii) the second fiscal year in which this title is in effect to be \$3,000,000,000.

(C) SECOND YEAR ADJUSTMENT.—

(i) REPORTS.—Not later than February 20 of the second fiscal year in which this title is in effect, registered importers shall report to the Secretary the total price and the total volume of drugs imported to the United States by the importer during the 4-month period from October 1 through January 31 of such fiscal year.

(ii) REESTIMATE.—Notwithstanding subsection (e)(3)(C)(ii) of such section 804 or subparagraph (B), the Secretary shall reestimate the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during the second fiscal year in which this title is in effect. Such reestimate shall be equal to—

(I) the total price of qualifying drugs imported by each importer as reported under clause (i); multiplied by

(II) 3.

(iii) **ADJUSTMENT.**—The Secretary shall adjust the fee due on April 1 of the second fiscal year in which this title is in effect, from each importer so that the aggregate total of fees collected under subsection (e)(2) for such fiscal year does not exceed the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during such fiscal year as reestimated under clause (ii).

(D) **FAILURE TO PAY FEES.**—Notwithstanding any other provision of this section, the Secretary may prohibit a registered importer or exporter that is required to pay user fees under subsection (e) or (f) of such section 804 and that fails to pay such fees within 30 days after the date on which it is due, from importing or offering for importation a qualifying drug under such section 804 until such fee is paid.

(E) **ANNUAL REPORT.**—

(i) **FOOD AND DRUG ADMINISTRATION.**—Not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e), (f), or (g)(2)(B)(iv) of such section 804, the Secretary shall prepare and submit to the House of Representatives and the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for the fiscal year for which the report is made and credited to the Food and Drug Administration.

(ii) **CUSTOMS AND BORDER PROTECTION.**—Not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e) or (f) of such section 804, the Secretary of Homeland Security, in consultation with the Secretary of the Treasury, shall prepare and submit to the House of Representatives and the Senate a report on the use, by the Bureau of Customs and Border Protection, of the fees, if any, transferred by the Secretary to the Bureau of Customs and Border Protection for the fiscal year for which the report is made.

(10) **SPECIAL RULE REGARDING IMPORTATION BY INDIVIDUALS.**—

(A) **IN GENERAL.**—Notwithstanding any provision of this title (or an amendment made by this title), the Secretary shall expedite the designation of any additional permitted countries from which an individual may import a qualifying drug into the United States under such section 804 if any action implemented by the Government of Canada has the effect of limiting or prohibiting the importation of qualifying drugs into the United States from Canada.

(B) **TIMING AND CRITERIA.**—The Secretary shall designate such additional permitted countries under subparagraph (A)—

(i) not later than 6 months after the date of the action by the Government of Canada described under such subparagraph; and

(ii) using the criteria described under subsection (a)(4)(D)(i)(II) of such section 804.

(f) **IMPLEMENTATION OF SECTION 804.**—

(1) **INTERIM RULE.**—The Secretary may promulgate an interim rule for implementing section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section.

(2) **NO NOTICE OF PROPOSED RULEMAKING.**—The interim rule described under paragraph (1) may be developed and promulgated by the Secretary without providing general notice of proposed rulemaking.

(3) **FINAL RULE.**—Not later than 1 year after the date on which the Secretary promulgates an interim rule under paragraph (1), the Secretary shall, in accordance with procedures

under section 553 of title 5, United States Code, promulgate a final rule for implementing such section 804, which may incorporate by reference provisions of the interim rule provided for under paragraph (1), to the extent that such provisions are not modified.

(g) **CONSUMER EDUCATION.**—The Secretary shall carry out activities that educate consumers—

(1) with regard to the availability of qualifying drugs for import for personal use from an exporter registered with and approved by the Food and Drug Administration under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by this section, including information on how to verify whether an exporter is registered and approved by use of the Internet website of the Food and Drug Administration and the toll-free telephone number required by this title;

(2) that drugs that consumers attempt to import from an exporter that is not registered with and approved by the Food and Drug Administration can be seized by the United States Customs Service and destroyed, and that such drugs may be counterfeit, unapproved, unsafe, or ineffective;

(3) with regard to the suspension and termination of any registration of a registered importer or exporter under such section 804; and

(4) with regard to the availability at domestic retail pharmacies of qualifying drugs imported under such section 804 by domestic wholesalers and pharmacies registered with and approved by the Food and Drug Administration.

(h) **EFFECT ON ADMINISTRATION PRACTICES.**—Notwithstanding any provision of this title (and the amendments made by this title), the practices and policies of the Food and Drug Administration and Bureau of Customs and Border Protection, in effect on January 1, 2004, with respect to the importation of prescription drugs into the United States by an individual, on the person of such individual, for personal use, shall remain in effect.

(i) **REPORT TO CONGRESS.**—The Federal Trade Commission shall, on an annual basis, submit to Congress a report that describes any action taken during the period for which the report is being prepared to enforce the provisions of section 804(n) of the Federal Food, Drug, and Cosmetic Act (as added by this title), including any pending investigations or civil actions under such section.

#### **SEC. 1305. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION INTO UNITED STATES.**

(a) **IN GENERAL.**—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 1304, is further amended by adding at the end the following section:

#### **“SEC. 805. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION.**

“(a) **IN GENERAL.**—The Secretary of Homeland Security shall deliver to the Secretary a shipment of drugs that is imported or offered for import into the United States if—

“(1) the shipment has a declared value of less than \$10,000; and

“(2)(A) the shipping container for such drugs does not bear the markings required under section 804(d)(2); or

“(B) the Secretary has requested delivery of such shipment of drugs.

“(b) **NO BOND OR EXPORT.**—Section 801(b) does not authorize the delivery to the owner or consignee of drugs delivered to the Secretary under subsection (a) pursuant to the execution of a bond, and such drugs may not be exported.

“(c) **DESTRUCTION OF VIOLATIVE SHIPMENT.**—The Secretary shall destroy a shipment of drugs delivered by the Secretary of Homeland Security to the Secretary under subsection (a) if—

“(1) in the case of drugs that are imported or offered for import from a registered exporter under section 804, the drugs are in violation of any standard described in section 804(g)(5); or

“(2) in the case of drugs that are not imported or offered for import from a registered exporter under section 804, the drugs are in violation of a standard referred to in section 801(a) or 801(d)(1).

“(d) **CERTAIN PROCEDURES.**—

“(1) **IN GENERAL.**—The delivery and destruction of drugs under this section may be carried out without notice to the importer, owner, or consignee of the drugs except as required by section 801(g) or section 804(i)(2). The issuance of receipts for the drugs, and recordkeeping activities regarding the drugs, may be carried out on a summary basis.

“(2) **OBJECTIVE OF PROCEDURES.**—Procedures promulgated under paragraph (1) shall be designed toward the objective of ensuring that, with respect to efficiently utilizing Federal resources available for carrying out this section, a substantial majority of shipments of drugs subject to described in subsection (c) are identified and destroyed.

“(e) **EVIDENCE EXCEPTION.**—Drugs may not be destroyed under subsection (c) to the extent that the Attorney General of the United States determines that the drugs should be preserved as evidence or potential evidence with respect to an offense against the United States.

“(f) **RULE OF CONSTRUCTION.**—This section may not be construed as having any legal effect on applicable law with respect to a shipment of drugs that is imported or offered for import into the United States and has a declared value equal to or greater than \$10,000.”

(b) **PROCEDURES.**—Procedures for carrying out section 805 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall be established not later than 90 days after the date of the enactment of this Act.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date that is 90 days after the date of enactment of this Act.

#### **SEC. 1306. WHOLESALE DISTRIBUTION OF DRUGS; STATEMENTS REGARDING PRIOR SALE, PURCHASE, OR TRADE.**

(a) **STRIKING OF EXEMPTIONS; APPLICABILITY TO REGISTERED EXPORTERS.**—Section 503(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(e)) is amended—

(1) in paragraph (1)—

(A) by striking “and who is not the manufacturer or an authorized distributor of record of such drug”;

(B) by striking “to an authorized distributor of record or”; and

(C) by striking subparagraph (B) and inserting the following:

“(B) The fact that a drug subject to subsection (b) is exported from the United States does not with respect to such drug exempt any person that is engaged in the business of the wholesale distribution of the drug from providing the statement described in subparagraph (A) to the person that receives the drug pursuant to the export of the drug.

“(C)(i) The Secretary shall by regulation establish requirements that supersede subparagraph (A) (referred to in this subparagraph as ‘alternative requirements’) to identify the chain of custody of a drug subject to

subsection (b) from the manufacturer of the drug throughout the wholesale distribution of the drug to a pharmacist who intends to sell the drug at retail if the Secretary determines that the alternative requirements, which may include standardized anti-counterfeiting or track-and-trace technologies, will identify such chain of custody or the identity of the discrete package of the drug from which the drug is dispensed with equal or greater certainty to the requirements of subparagraph (A), and that the alternative requirements are economically and technically feasible.

“(ii) When the Secretary promulgates a final rule to establish such alternative requirements, the final rule in addition shall, with respect to the registration condition established in clause (i) of section 804(c)(3)(B), establish a condition equivalent to the alternative requirements, and such equivalent condition may be met in lieu of the registration condition established in such clause (i).”;

(2) in paragraph (2)(A), by adding at the end the following: “The preceding sentence may not be construed as having any applicability with respect to a registered exporter under section 804.”; and

(3) in paragraph (3), by striking “and subsection (d)—” in the matter preceding subparagraph (A) and all that follows through “the term ‘wholesale distribution’ means” in subparagraph (B) and inserting the following: “and subsection (d), the term ‘wholesale distribution’ means”.

(b) **CONFORMING AMENDMENT.**—Section 503(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(d)) is amended by adding at the end the following:

“(4) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug.

“(5) For purposes of this subsection, the term ‘authorized distributors of record’ means those distributors with whom a manufacturer has established an ongoing relationship to distribute such manufacturer’s products.”.

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on January 1, 2012.

(2) **DRUGS IMPORTED BY REGISTERED IMPORTERS UNDER SECTION 804.**—Notwithstanding paragraph (1), the amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on the date that is 90 days after the date of enactment of this Act with respect to qualifying drugs imported under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by section 1304.

(3) **EFFECT WITH RESPECT TO REGISTERED EXPORTERS.**—The amendment made by subsection (a)(2) shall take effect on the date that is 90 days after the date of enactment of this Act.

(4) **ALTERNATIVE REQUIREMENTS.**—The Secretary shall issue regulations to establish the alternative requirements, referred to in the amendment made by subsection (a)(1), that take effect not later than January 1, 2012.

(5) **INTERMEDIATE REQUIREMENTS.**—The Secretary shall by regulation require the use of standardized anti-counterfeiting or track-and-trace technologies on prescription drugs at the case and pallet level effective not later than 1 year after the date of enactment of this Act.

(6) **ADDITIONAL REQUIREMENTS.**—

(A) **IN GENERAL.**—Notwithstanding any other provision of this section, the Secretary shall, not later than 18 months after the date of enactment of this Act, require that the packaging of any prescription drug incorporates—

(i) a standardized numerical identifier unique to each package of such drug, applied at the point of manufacturing and repackaging (in which case the numerical identifier shall be linked to the numerical identifier applied at the point of manufacturing); and

(ii) (I) overt optically variable counterfeit-resistant technologies that—

(aa) are visible to the naked eye, providing for visual identification of product authenticity without the need for readers, microscopes, lighting devices, or scanners;

(bb) are similar to that used by the Bureau of Engraving and Printing to secure United States currency;

(cc) are manufactured and distributed in a highly secure, tightly controlled environment; and

(dd) incorporate additional layers of non-visible convert security features up to and including forensic capability, as described in subparagraph (B); or

(II) technologies that have a function of security comparable to that described in subclause (I), as determined by the Secretary.

(B) **STANDARDS FOR PACKAGING.**—For the purpose of making it more difficult to counterfeit the packaging of drugs subject to this paragraph, the manufacturers of such drugs shall incorporate the technologies described in subparagraph (A) into at least 1 additional element of the physical packaging of the drugs, including blister packs, shrink wrap, package labels, package seals, bottles, and boxes.

#### **SEC. 1307. INTERNET SALES OF PRESCRIPTION DRUGS.**

(a) **IN GENERAL.**—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 503B the following:

##### **“SEC. 503C. INTERNET SALES OF PRESCRIPTION DRUGS.**

“(a) **REQUIREMENTS REGARDING INFORMATION ON INTERNET SITE.**—

“(1) **IN GENERAL.**—A person may not dispense a prescription drug pursuant to a sale of the drug by such person if—

“(A) the purchaser of the drug submitted the purchase order for the drug, or conducted any other part of the sales transaction for the drug, through an Internet site;

“(B) the person dispenses the drug to the purchaser by mailing or shipping the drug to the purchaser; and

“(C) such site, or any other Internet site used by such person for purposes of sales of a prescription drug, fails to meet each of the requirements specified in paragraph (2), other than a site or pages on a site that—

“(i) are not intended to be accessed by purchasers or prospective purchasers; or

“(ii) provide an Internet information location tool within the meaning of section 231(e)(5) of the Communications Act of 1934 (47 U.S.C. 231(e)(5)).

“(2) **REQUIREMENTS.**—With respect to an Internet site, the requirements referred to in subparagraph (C) of paragraph (1) for a person to whom such paragraph applies are as follows:

“(A) Each page of the site shall include either the following information or a link to a page that provides the following information:

“(i) The name of such person.

“(ii) Each State in which the person is authorized by law to dispense prescription drugs.

“(iii) The address and telephone number of each place of business of the person with respect to sales of prescription drugs through the Internet, other than a place of business that does not mail or ship prescription drugs to purchasers.

“(iv) The name of each individual who serves as a pharmacist for prescription drugs that are mailed or shipped pursuant to the site, and each State in which the individual is authorized by law to dispense prescription drugs.

“(v) If the person provides for medical consultations through the site for purposes of providing prescriptions, the name of each individual who provides such consultations; each State in which the individual is licensed or otherwise authorized by law to provide such consultations or practice medicine; and the type or types of health professions for which the individual holds such licenses or other authorizations.

“(B) A link to which paragraph (1) applies shall be displayed in a clear and prominent place and manner, and shall include in the caption for the link the words ‘licensing and contact information’.

“(b) **INTERNET SALES WITHOUT APPROPRIATE MEDICAL RELATIONSHIPS.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), a person may not dispense a prescription drug, or sell such a drug, if—

“(A) for purposes of such dispensing or sale, the purchaser communicated with the person through the Internet;

“(B) the patient for whom the drug was dispensed or purchased did not, when such communications began, have a prescription for the drug that is valid in the United States;

“(C) pursuant to such communications, the person provided for the involvement of a practitioner, or an individual represented by the person as a practitioner, and the practitioner or such individual issued a prescription for the drug that was purchased;

“(D) the person knew, or had reason to know, that the practitioner or the individual referred to in subparagraph (C) did not, when issuing the prescription, have a qualifying medical relationship with the patient; and

“(E) the person received payment for the dispensing or sale of the drug.

For purposes of subparagraph (E), payment is received if money or other valuable consideration is received.

“(2) **EXCEPTIONS.**—Paragraph (1) does not apply to—

“(A) the dispensing or selling of a prescription drug pursuant to telemedicine practices sponsored by—

“(i) a hospital that has in effect a provider agreement under title XVIII of the Social Security Act (relating to the Medicare program); or

“(ii) a group practice that has not fewer than 100 physicians who have in effect provider agreements under such title; or

“(B) the dispensing or selling of a prescription drug pursuant to practices that promote the public health, as determined by the Secretary by regulation.

“(3) **QUALIFYING MEDICAL RELATIONSHIP.**—

“(A) **IN GENERAL.**—With respect to issuing a prescription for a drug for a patient, a practitioner has a qualifying medical relationship with the patient for purposes of this section if—

“(i) at least one in-person medical evaluation of the patient has been conducted by the practitioner; or

“(ii) the practitioner conducts a medical evaluation of the patient as a covering practitioner.

“(B) IN-PERSON MEDICAL EVALUATION.—A medical evaluation by a practitioner is an in-person medical evaluation for purposes of this section if the practitioner is in the physical presence of the patient as part of conducting the evaluation, without regard to whether portions of the evaluation are conducted by other health professionals.

“(C) COVERING PRACTITIONER.—With respect to a patient, a practitioner is a covering practitioner for purposes of this section if the practitioner conducts a medical evaluation of the patient at the request of a practitioner who has conducted at least one in-person medical evaluation of the patient and is temporarily unavailable to conduct the evaluation of the patient. A practitioner is a covering practitioner without regard to whether the practitioner has conducted any in-person medical evaluation of the patient involved.

“(4) RULES OF CONSTRUCTION.—

“(A) INDIVIDUALS REPRESENTED AS PRACTITIONERS.—A person who is not a practitioner (as defined in subsection (e)(1)) lacks legal capacity under this section to have a qualifying medical relationship with any patient.

“(B) STANDARD PRACTICE OF PHARMACY.—Paragraph (1) may not be construed as prohibiting any conduct that is a standard practice in the practice of pharmacy.

“(C) APPLICABILITY OF REQUIREMENTS.—Paragraph (3) may not be construed as having any applicability beyond this section, and does not affect any State law, or interpretation of State law, concerning the practice of medicine.

“(c) ACTIONS BY STATES.—

“(1) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice that violates section 301(1), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such practice, to enforce compliance with such section (including a nationwide injunction), to obtain damages, restitution, or other compensation on behalf of residents of such State, to obtain reasonable attorneys fees and costs if the State prevails in the civil action, or to obtain such further and other relief as the court may deem appropriate.

“(2) NOTICE.—The State shall serve prior written notice of any civil action under paragraph (1) or (5)(B) upon the Secretary and provide the Secretary with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary shall have the right—

“(A) to intervene in such action;

“(B) upon so intervening, to be heard on all matters arising therein; and

“(C) to file petitions for appeal.

“(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

“(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts

business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

“(5) ACTIONS BY OTHER STATE OFFICIALS.—

“(A) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

“(B) In addition to actions brought by an attorney general of a State under paragraph (1), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

“(d) EFFECT OF SECTION.—This section shall not apply to a person that is a registered exporter under section 804.

“(e) GENERAL DEFINITIONS.—For purposes of this section:

“(1) The term ‘practitioner’ means a practitioner referred to in section 503(b)(1) with respect to issuing a written or oral prescription.

“(2) The term ‘prescription drug’ means a drug that is described in section 503(b)(1).

“(3) The term ‘qualifying medical relationship’, with respect to a practitioner and a patient, has the meaning indicated for such term in subsection (b).

“(f) INTERNET-RELATED DEFINITIONS.—

“(1) IN GENERAL.—For purposes of this section:

“(A) The term ‘Internet’ means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the transmission control protocol/Internet protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

“(B) The term ‘link’, with respect to the Internet, means one or more letters, words, numbers, symbols, or graphic items that appear on a page of an Internet site for the purpose of serving, when activated, as a method for executing an electronic command—

“(i) to move from viewing one portion of a page on such site to another portion of the page;

“(ii) to move from viewing one page on such site to another page on such site; or

“(iii) to move from viewing a page on one Internet site to a page on another Internet site.

“(C) The term ‘page’, with respect to the Internet, means a document or other file accessed at an Internet site.

“(D)(i) The terms ‘site’ and ‘address’, with respect to the Internet, mean a specific location on the Internet that is determined by Internet Protocol numbers. Such term includes the domain name, if any.

“(ii) The term ‘domain name’ means a method of representing an Internet address without direct reference to the Internet Protocol numbers for the address, including methods that use designations such as ‘.com’, ‘.edu’, ‘.gov’, ‘.net’, or ‘.org’.

“(iii) The term ‘Internet Protocol numbers’ includes any successor protocol for determining a specific location on the Internet.

“(2) AUTHORITY OF SECRETARY.—The Secretary may by regulation modify any definition under paragraph (1) to take into account changes in technology.

“(g) INTERACTIVE COMPUTER SERVICE; ADVERTISING.—No provider of an interactive

computer service, as defined in section 230(f)(2) of the Communications Act of 1934 (47 U.S.C. 230(f)(2)), or of advertising services shall be liable under this section for dispensing or selling prescription drugs in violation of this section on account of another person’s selling or dispensing such drugs, provided that the provider of the interactive computer service or of advertising services does not own or exercise corporate control over such person.

“(h) NO EFFECT ON OTHER REQUIREMENTS; COORDINATION.—The requirements of this section are in addition to, and do not supersede, any requirements under the Controlled Substances Act or the Controlled Substances Import and Export Act (or any regulation promulgated under either such Act) regarding Internet pharmacies and controlled substances. In promulgating regulations to carry out this section, the Secretary shall coordinate with the Attorney General to ensure that such regulations do not duplicate or conflict with the requirements described in the previous sentence, and that such regulations and requirements coordinate to the extent practicable.”

(b) INCLUSION AS PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by inserting after paragraph (k) the following:

“(l) The dispensing or selling of a prescription drug in violation of section 503C.”

(c) INTERNET SALES OF PRESCRIPTION DRUGS; CONSIDERATION BY SECRETARY OF PRACTICES AND PROCEDURES FOR CERTIFICATION OF LEGITIMATE BUSINESSES.—In carrying out section 503C of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section), the Secretary of Health and Human Services shall take into consideration the practices and procedures of public or private entities that certify that businesses selling prescription drugs through Internet sites are legitimate businesses, including practices and procedures regarding disclosure formats and verification programs.

(d) REPORTS REGARDING INTERNET-RELATED VIOLATIONS OF FEDERAL AND STATE LAWS ON DISPENSING OF DRUGS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this subsection as the “Secretary”) shall, pursuant to the submission of an application meeting the criteria of the Secretary, make an award of a grant or contract to the National Clearinghouse on Internet Prescribing (operated by the Federation of State Medical Boards) for the purpose of—

(A) identifying Internet sites that appear to be in violation of Federal or State laws concerning the dispensing of drugs;

(B) reporting such sites to State medical licensing boards and State pharmacy licensing boards, and to the Attorney General and the Secretary, for further investigation; and

(C) submitting, for each fiscal year for which the award under this subsection is made, a report to the Secretary describing investigations undertaken with respect to violations described in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there is authorized to be appropriated \$100,000 for each of the first 3 fiscal years in which this section is in effect.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect 90 days after the date of enactment of this Act, without regard to whether a final rule to implement such amendments has been promulgated by the Secretary of Health and Human Services under section 701(a) of the Federal



Food, Drug, and Cosmetic Act. The preceding sentence may not be construed as affecting the authority of such Secretary to promulgate such a final rule.

**SEC. 1308. PROHIBITING PAYMENTS TO UNREGISTERED FOREIGN PHARMACIES.**

(a) IN GENERAL.—Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following:

“(h) RESTRICTED TRANSACTIONS.—

“(1) IN GENERAL.—The introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system is prohibited.

“(2) PAYMENT SYSTEM.—

“(A) IN GENERAL.—The term ‘payment system’ means a system used by a person described in subparagraph (B) to effect a credit transaction, electronic fund transfer, or money transmitting service that may be used in connection with, or to facilitate, a restricted transaction, and includes—

“(i) a credit card system;

“(ii) an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service; and

“(iii) any other system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic fund transfers, or money transmitting services.

“(B) PERSONS DESCRIBED.—A person referred to in subparagraph (A) is—

“(i) a creditor;

“(ii) a credit card issuer;

“(iii) a financial institution;

“(iv) an operator of a terminal at which an electronic fund transfer may be initiated;

“(v) a money transmitting business; or

“(vi) a participant in an international, national, regional, or local network used to effect a credit transaction, electronic fund transfer, or money transmitting service.

“(3) RESTRICTED TRANSACTION.—The term ‘restricted transaction’ means a transaction or transmittal, on behalf of an individual who places an unlawful drug importation request to any person engaged in the operation of an unregistered foreign pharmacy, of—

“(A) credit, or the proceeds of credit, extended to or on behalf of the individual for the purpose of the unlawful drug importation request (including credit extended through the use of a credit card);

“(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the individual for the purpose of the unlawful drug importation request;

“(C) a check, draft, or similar instrument which is drawn by or on behalf of the individual for the purpose of the unlawful drug importation request and is drawn on or payable at or through any financial institution; or

“(D) the proceeds of any other form of financial transaction (identified by the Board by regulation) that involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the individual for the purpose of the unlawful drug importation request.

“(4) UNLAWFUL DRUG IMPORTATION REQUEST.—The term ‘unlawful drug importation request’ means the request, or transmittal of a request, made to an unregistered foreign pharmacy for a prescription drug by mail (including a private carrier), facsimile, phone, or electronic mail, or by a means that involves the use, in whole or in part, of the Internet.

“(5) UNREGISTERED FOREIGN PHARMACY.—The term ‘unregistered foreign pharmacy’ means a person in a country other than the United States that is not a registered exporter under section 804.

“(6) OTHER DEFINITIONS.—

“(A) CREDIT; CREDITOR; CREDIT CARD.—The terms ‘credit’, ‘creditor’, and ‘credit card’ have the meanings given the terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

“(B) ACCESS DEVICE; ELECTRONIC FUND TRANSFER.—The terms ‘access device’ and ‘electronic fund transfer’—

“(i) have the meaning given the term in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a); and

“(ii) the term ‘electronic fund transfer’ also includes any fund transfer covered under Article 4A of the Uniform Commercial Code, as in effect in any State.

“(C) FINANCIAL INSTITUTION.—The term ‘financial institution’—

“(i) has the meaning given the term in section 903 of the Electronic Transfer Fund Act (15 U.S.C. 1693a); and

“(ii) includes a financial institution (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)).

“(D) MONEY TRANSMITTING BUSINESS; MONEY TRANSMITTING SERVICE.—The terms ‘money transmitting business’ and ‘money transmitting service’ have the meaning given the terms in section 5330(d) of title 31, United States Code.

“(E) BOARD.—The term ‘Board’ means the Board of Governors of the Federal Reserve System.

“(7) POLICIES AND PROCEDURES REQUIRED TO PREVENT RESTRICTED TRANSACTIONS.—

“(A) REGULATIONS.—The Board shall promulgate regulations requiring—

“(i) an operator of a credit card system;

“(ii) an operator of an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service;

“(iii) an operator of any other payment system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic transfers or money transmitting services where at least one party to the transaction or transfer is an individual; and

“(iv) any other person described in paragraph (2)(B) and specified by the Board in such regulations,

to establish policies and procedures that are reasonably designed to prevent the introduction of a restricted transaction into a payment system or the completion of a restricted transaction using a payment system.

“(B) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In promulgating regulations under subparagraph (A), the Board shall—

“(i) identify types of policies and procedures, including nonexclusive examples, that shall be considered to be reasonably designed to prevent the introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system; and

“(ii) to the extent practicable, permit any payment system, or person described in paragraph (2)(B), as applicable, to choose among alternative means of preventing the introduction or completion of restricted transactions.

“(C) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTION.—

“(i) IN GENERAL.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this sub-

section, and any participant in such payment system that prevents or otherwise refuses to honor transactions in an effort to implement the policies and procedures required under this subsection or to otherwise comply with this subsection shall not be liable to any party for such action.

“(ii) COMPLIANCE.—A person described in paragraph (2)(B) meets the requirements of this subsection if the person relies on and complies with the policies and procedures of a payment system of which the person is a member or in which the person is a participant, and such policies and procedures of the payment system comply with the requirements of the regulations promulgated under subparagraph (A).

“(D) ENFORCEMENT.—

“(i) IN GENERAL.—This subsection, and the regulations promulgated under this subsection, shall be enforced exclusively by the Federal functional regulators and the Federal Trade Commission under applicable law in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)).

“(ii) FACTORS TO BE CONSIDERED.—In considering any enforcement action under this subsection against a payment system or person described in paragraph (2)(B), the Federal functional regulators and the Federal Trade Commission shall consider the following factors:

“(I) The extent to which the payment system or person knowingly permits restricted transactions.

“(II) The history of the payment system or person in connection with permitting restricted transactions.

“(III) The extent to which the payment system or person has established and is maintaining policies and procedures in compliance with regulations prescribed under this subsection.

“(8) TRANSACTIONS PERMITTED.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, is authorized to engage in transactions with foreign pharmacies in connection with investigating violations or potential violations of any rule or requirement adopted by the payment system or person in connection with complying with paragraph (7). A payment system, or such a person, and its agents and employees shall not be found to be in violation of, or liable under, any Federal, State or other law by virtue of engaging in any such transaction.

“(9) RELATION TO STATE LAWS.—No requirement, prohibition, or liability may be imposed on a payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, under the laws of any state with respect to any payment transaction by an individual because the payment transaction involves a payment to a foreign pharmacy.

“(10) TIMING OF REQUIREMENTS.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, must adopt policies and procedures reasonably designed to comply with any regulations required under paragraph (7) within 60 days after such regulations are issued in final form.

“(11) COMPLIANCE.—A payment system, and any person described in paragraph (2)(B), shall not be deemed to be in violation of paragraph (1)—

“(A)(i) if an alleged violation of paragraph (1) occurs prior to the mandatory compliance date of the regulations issued under paragraph (7); and

“(ii) such entity has adopted or relied on policies and procedures that are reasonably

designed to prevent the introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system; or

“(B)(i) if an alleged violation of paragraph (1) occurs after the mandatory compliance date of such regulations; and

“(ii) such entity is in compliance with such regulations.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the day that is 90 days after the date of enactment of this Act.

(c) **IMPLEMENTATION.**—The Board of Governors of the Federal Reserve System shall promulgate regulations as required by subsection (h)(7) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as added by subsection (a), not later than 90 days after the date of enactment of this Act.

**SEC. 1309. IMPORTATION EXEMPTION UNDER CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.**

Section 1006(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)(2)) is amended by striking “not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance.” and inserting “import into the United States not more than 10 dosage units combined of all such controlled substances.”.

**SEC. 1310. SEVERABILITY.**

If any provision of this title, an amendment by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

**SA 4033.** Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail,” to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . COMMISSION ON ECONOMIC SECURITY.**

(a) **FINDINGS.**—Congress finds that—

(1) the recent financial crisis could serve as a road map for actors seeking to destabilize economic systems;

(2) the economy’s growing interconnectedness increases vulnerabilities;

(3) the ability of malevolent actors to rapidly network and mask their activities undermines the fundamentals of the financial markets and economy;

(4) as it is reported that a recent war game of the Department of Defense—

(A) exposed the seriousness of threats to our economy;

(B) was won by a group representing the Government of China; and

(C) indicated a significant lack of understanding of these issues across the divides between the national security and financial communities;

(5) a leading financial executive recently noted that the financial crisis, sparked by the September 15th, 2008, collapse of Lehman Brothers, could serve as a road map for ac-

tors seeking to destabilize economic systems;

(6) prominent counterterrorism expert Professor Bruce Hoffman of Georgetown University has stated that al Qaeda and other terrorists groups were devoting new attention to derailing our financial system in the wake of that crisis;

(7) foreign governments have developed economic warfare capabilities or organizations, such as an economic warfare bureau in China; and

(8) former Directors of National Intelligence and other top experts have warned of cyber-security and other threats capable of disrupting our financial institutions or critical infrastructure, such as the national power grid.

(b) **ESTABLISHMENT.**—There is established a commission to be known as the “Security Threats to Financial Markets and Economic Recovery Commission” (referred to in this section as the “Commission”).

(c) **DUTIES OF COMMISSION.**—

(1) **MANDATORY LEGISLATIVE RECOMMENDATIONS.**—The Commission shall examine the threats and vulnerabilities to the United States financial markets and to develop legislative recommendations designed to address—

(A) potential threats to financial markets and economies from state actors and non-state actors;

(B) vulnerabilities in financial markets with substantial economic implications;

(C) the divide between national security concerns and economic concerns; and

(D) national security vulnerabilities associated with current Federal debt levels.

(2) **POLICY SOLUTIONS.**—Legislative recommendations developed to address the issues described in paragraph (1) may include—

(A) reforms necessary to address gaps in government and private capabilities to combat threats to financial markets;

(B) reforms that strengthen the security of financial markets;

(C) reforms that address financial systemic weakness; and

(D) any other reforms designed to address the issues described in paragraph (1).

(d) **REPORT.**—

(1) **IN GENERAL.**—The Commission shall, not later than September 5, 2010, submit an interim report to Congress and, not later than 1 year after the date of the enactment of this Act, shall submit a full report to Congress and the President containing—

(A) a detailed description of the activities of the Commission;

(B) a detailed statement of any findings of the Commission as to public preferences regarding the issues, policies, and tradeoffs presented in the town hall style public hearings;

(C) a list of policy options for addressing those problems; and

(D) criteria for the legislative recommendations to be developed by the Commission.

(2) **FORM.**—The reports submitted under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.

(e) **LEGISLATIVE RECOMMENDATIONS.**—

(1) **IN GENERAL.**—Not later than 60 days after the date on which the full report is submitted under subsection (d)(1) and by a vote of at least 10 of the members, the Commission shall submit legislative recommendations to Congress and the President designed to address the issues described in subsection (c).

(2) **PROPOSAL REQUIREMENTS.**—The proposal under paragraph (1) shall, to the extent feasible, be designed—

(A) to achieve financial market and systemic security;

(B) to address the comments and suggestions of the consulted non-governmental experts and government officials; and

(C) to meet the criteria set forth in the Commission report.

(f) **MEMBERSHIP AND MEETINGS.**—

(1) **MEMBERSHIP.**—

(A) **IN GENERAL.**—The Commission shall be composed of 12 voting members appointed pursuant to subparagraph (B) and 3 non-voting members described in subparagraph (C).

(B) **VOTING MEMBERS.**—The Commission shall be composed of 12 voting members, of whom not fewer than 4 members should be currently in the private sector, or have significant experience in the private sector, of whom—

(i) 3 shall be appointed by the Speaker of the House of Representatives;

(ii) 3 shall be appointed by the minority leader of the House of Representatives;

(iii) 3 shall be appointed by the majority leader of the Senate; and

(iv) 3 shall be appointed by the minority leader of the Senate.

(C) **EXECUTIVE BRANCH CONSULTATION.**—The Director of National Intelligence, the Secretary, and the Chairman of the Board of Governors shall advise and assist the Commission, at the request of the Commission.

(D) **CHAIR AND CO-CHAIR.**—The Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate shall designate 2 co-chairpersons of the Commission from the members appointed under subparagraph (B), one of whom must be a Republican and one of whom must be a Democrat.

(2) **LIMITATIONS AS TO MEMBERS OF CONGRESS.**—

(A) **MEMBERS OF CONGRESS ON COMMISSION.**—Each appointing authority described in paragraph (1)(B) shall appoint not more than 2 Members of Congress, nor fewer than 1 member of Congress, to the Commission.

(B) **CONTINUATION OF VOTING MEMBERSHIP.**—In the case of an individual appointed pursuant to paragraph (1)(A) who was appointed as a Member of Congress under subparagraph (A), if such individual ceases to be a Member of Congress, that individual shall cease to be a member of the Commission.

(3) **DATE FOR ORIGINAL APPOINTMENT.**—The appointing authorities described in paragraph (1)(B) shall appoint the initial members of the Commission not later than 30 days after the date of enactment of this Act.

(4) **TERMS.**—

(A) **IN GENERAL.**—The term of each member is for the life of the Commission.

(B) **VACANCIES.**—A vacancy in the Commission shall be filled not later than 30 days after such vacancy occurs and in the manner in which the original appointment was made.

(5) **PAY AND REIMBURSEMENT.**—

(A) **NO COMPENSATION FOR MEMBERS OF COMMISSION.**—Except as provided in subparagraph (B), a member of the Commission may not receive pay, allowances, or benefits by reason of their service on the Commission.

(B) **TRAVEL EXPENSES.**—Each member shall receive travel expenses, including per diem in lieu of subsistence under subchapter I of chapter 57 of title 5, United States Code.

(6) **MEETINGS.**—The Commission shall meet upon the call of the chairperson or a majority of its voting members.

(7) **QUORUM.**—Six voting members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) **STAFF OF COMMISSION.**—

(1) **STAFF.**—In accordance with rules agreed upon by the Commission, subject to paragraph (2), and to the extent provided in advance in appropriation Acts, the co-chairpersons of the Commission may appoint and fix the pay of no more than 3 staff persons, subject to paragraph (3).

(2) **APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.**—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(3) **COMPENSATION.**—A staff person of the Commission may not be paid at a rate of pay that exceeds the maximum rate of pay for a position at GS-14 of the General Schedule.

(4) **DETAILEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of their regular employment without interruption.

(5) **EXPERTS AND CONSULTANTS.**—In accordance with rules agreed upon by the Commission and to the extent provided in advance in appropriation Acts, the director may procure the services of experts and consultants under section 3109(b) of title 5, United States Code, but at rates not to exceed the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(h) **POWERS OF COMMISSION.**—

(1) **HEARINGS AND EVIDENCE.**—The Commission may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(2) **POWERS OF MEMBERS AND AGENTS.**—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this subsection.

(3) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(4) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(5) **CONTRACT AUTHORITY.**—To the extent provided in advance in appropriation Acts, the Commission may enter into contracts to enable the Commission to discharge its duties under this section.

(i) **FUNDING.**—There are authorized to be appropriated to the Commission, such sums as may be necessary to carry out this section. Funding for the Commission shall be provided through discretionary appropriations.

(j) **TERMINATION.**—The Commission shall terminate 60 days after the date of submission of its legislative proposal to Congress under this section.

**SA 4034.** Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving account-

ability and transparency in the financial system, to end “too big to fail,” to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1315, strike line 18, and all that follows through page 1325, line 20 and insert the following:

“(B) the State consumer financial law is preempted in accordance with the legal standards of the decision of the Supreme Court in *Barnett Bank v. Nelson* (517 U.S. 25 (1996)), and any preemption determination under this subparagraph may be made by a court or by regulation or order of the Comptroller of the Currency, on a case-by-case basis, in accordance with applicable law; or

“(C) the State consumer financial law is preempted by a provision of Federal law other than this title.

“(2) **SAVINGS CLAUSE.**—This title does not preempt, annul, or affect the applicability of any State law to any subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank).

“(3) **CASE-BY-CASE BASIS.**—

“(A) **DEFINITION.**—As used in this section the term ‘case-by-case basis’ refers to a determination pursuant to this section made by the Comptroller concerning the impact of a particular State consumer financial law on any national bank that is subject to that law, or the law of any other State with substantively equivalent terms.

“(B) **CONSULTATION.**—When making a determination on a case-by-case basis that a State consumer financial law of another State has substantively equivalent terms as one that the Comptroller is preempting, the Comptroller shall first consult with the Bureau of Consumer Financial Protection and shall take the views of the Bureau into account when making the determination.

“(4) **RULE OF CONSTRUCTION.**—This title does not occupy the field in any area of State law.

“(5) **STANDARDS OF REVIEW.**—

“(A) **PREEMPTION.**—A court reviewing any determinations made by the Comptroller regarding preemption of a State law by this title shall assess the validity of such determinations, depending upon the thoroughness evident in the consideration of the agency, the validity of the reasoning of the agency, the consistency with other valid determinations made by the agency, and other factors which the court finds persuasive and relevant to its decision.

“(B) **SAVINGS CLAUSE.**—Except as provided in subparagraph (A), nothing in this section shall affect the deference that a court may afford to the Comptroller in making determinations regarding the meaning or interpretation of title LXII of the Revised Statutes of the United States or other Federal laws.

“(6) **COMPTROLLER DETERMINATION NOT DELEGABLE.**—Any regulation, order, or determination made by the Comptroller of the Currency under paragraph (1)(B) shall be made by the Comptroller, and shall not be delegable to another officer or employee of the Comptroller of the Currency.

“(c) **SUBSTANTIAL EVIDENCE.**—No regulation or order of the Comptroller of the Currency prescribed under subsection (b)(1)(B), shall be interpreted or applied so as to invalidate, or otherwise declare inapplicable to a national bank, the provision of the State

consumer financial law, unless substantial evidence, made on the record of the proceeding, supports the specific finding regarding the preemption of such provision in accordance with the legal standard of the decision of the Supreme Court of the United States in *Barnett Bank of Marion County, N.A. v. Nelson*, Florida Insurance Commissioner, et al., 517 U.S. 25 (1996).

“(d) **PERIODIC REVIEW OF PREEMPTION DETERMINATIONS.**—

“(1) **IN GENERAL.**—The Comptroller of the Currency shall periodically conduct a review, through notice and public comment, of each determination that a provision of Federal law preempts a State consumer financial law. The agency shall conduct such review within the 5-year period after prescribing or otherwise issuing such determination, and at least once during each 5-year period thereafter. After conducting the review of, and inspecting the comments made on, the determination, the agency shall publish a notice in the Federal Register announcing the decision to continue or rescind the determination or a proposal to amend the determination. Any such notice of a proposal to amend a determination and the subsequent resolution of such proposal shall comply with the procedures set forth in subsections (a) and (b) of section 5244 of the Revised Statutes of the United States (12 U.S.C. 43 (a), (b)).

“(2) **REPORTS TO CONGRESS.**—At the time of issuing a review conducted under paragraph (1), the Comptroller of the Currency shall submit a report regarding such review to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report submitted to the respective committees shall address whether the agency intends to continue, rescind, or propose to amend any determination that a provision of Federal law preempts a State consumer financial law, and the reasons therefor.

“(e) **APPLICATION OF STATE CONSUMER FINANCIAL LAW TO SUBSIDIARIES AND AFFILIATES.**—Notwithstanding any provision of this title, a State consumer financial law shall apply to a subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank) to the same extent that the State consumer financial law applies to any person, corporation, or other entity subject to such State law.

“(f) **PRESERVATION OF POWERS RELATED TO CHARGING INTEREST.**—No provision of this title shall be construed as altering or otherwise affecting the authority conferred by section 5197 of the Revised Statutes of the United States (12 U.S.C. 85) for the charging of interest by a national bank at the rate allowed by the laws of the State, territory, or district where the bank is located, including with respect to the meaning of ‘interest’ under such provision.

“(g) **TRANSPARENCY OF OCC PREEMPTION DETERMINATIONS.**—The Comptroller of the Currency shall publish and update no less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:

"Sec. 5136C. State law preemption standards for national banks and subsidiaries clarified."

**SEC. 1045. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES.**

Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

"(i) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILIATES OF NATIONAL BANKS.—

"(1) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution', 'subsidiary', and 'affiliate' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

"(2) RULE OF CONSTRUCTION.—No provision of this title shall be construed as preempting, annulling, or affecting the applicability of State law to any subsidiary, affiliate, or agent of a national bank (other than a subsidiary, affiliate, or agent that is chartered as a national bank)."

**SEC. 1046. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS AND SUBSIDIARIES CLARIFIED.**

(a) IN GENERAL.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 5 the following new section:

**"SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS CLARIFIED.**

"(a) IN GENERAL.—Any determination by a court or by the Director or any successor officer or agency regarding the relation of State law to a provision of this Act or any regulation or order prescribed under this Act shall be made in accordance with the laws and legal standards applicable to national banks regarding the preemption of State law.

"(b) PRINCIPLES OF CONFLICT PREEMPTION APPLICABLE.—Notwithstanding the authorities granted under sections 4 and 5, this Act does not occupy the field in any area of State law."

(b) CLERICAL AMENDMENT.—The table of sections for the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by striking the item relating to section 6 and inserting the following new item:

"Sec. 6. State law preemption standards for Federal savings associations and subsidiaries clarified."

**SEC. 1047. VISITORIAL STANDARDS FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.**

(a) NATIONAL BANKS.—Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

"(j) VISITORIAL POWERS.—

"(1) IN GENERAL.—In accordance with the decision of the Supreme Court of the United States in *Cuomo v. Clearing House Assn.*, L. L. C., 5 (129 S. Ct. 2710 (2009)), no provision of this title which relates to visitorial powers or otherwise limits or restricts the visitorial authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring an action in a court of appropriate jurisdiction to enforce an applicable nonpreempted State law against a national bank, as authorized by such law, and to seek relief as authorized by such law.

"(2) EXCLUSION.—The powers granted to State attorneys general and State regulators under section 1042 of the Restoring American

Financial Stability Act of 2010 shall not apply to any national bank, or any subsidiary thereof, regulated by the Office of the Comptroller of the Currency.

"(k) ENFORCEMENT ACTIONS.—The ability of the Comptroller of the Currency to bring an enforcement action under this title or section 5 of the Federal Trade Commission Act does not preclude any private party from enforcing rights granted under Federal or State law in the courts."

(b) SAVINGS ASSOCIATIONS.—Section 6 of the Home Owners' Loan Act (as added by this title) is amended by adding at the end the following:

"(c) VISITORIAL POWERS.—The provisions of sections 5136C(j) of the Revised Statutes of the United States shall apply to Federal savings associations, and any subsidiary thereof, to the same extent and in the same manner as if such savings associations, or subsidiaries thereof, were national banks or subsidiaries of national banks, respectively.

**SA 4035.** Mr. LEVIN (for himself and Mr. KAUFMAN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 525, between lines 9 and 10, insert the following:

**SEC. 719. PROHIBITION ON REGISTRATION, DESIGNATION, OR APPROVAL.**

(a) PROHIBITION.—Neither the Commodity Futures Trading Commission nor the Securities and Exchange Commission may register, designate, approve, or otherwise permit an entity to operate within the United States as one or more of the following, if that entity has been, plans to be, or later is established outside the United States, in whole or in part, in a manner which permits that entity to avoid or assist others to avoid the payment of United States taxes—

- (1) a derivatives clearing organization;
- (2) a swap execution facility;
- (3) a board of trade as a contract market under section 5 of the Commodity Exchange Act (7 U.S.C. 7);
- (4) a clearing agency;
- (5) a security-based swap execution facility; or
- (6) an exchange as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f).

(b) DEFINITIONS.—For purposes of this section, the terms "derivatives clearing organization," "swap execution facility" and "board of trade" have the meanings given the terms in Section 1a of the Commodity Exchange Act (7 U.S.C. 1a), and the terms "clearing agency", "security-based swap execution facility", and "exchange" have the meanings given the terms in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

**SA 4036.** Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and

Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, line 22, strike "3" and insert "2".

**SA 4037.** Mr. BOND (for himself, Mr. WARNER, Mr. BROWN of Massachusetts, and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 387, strike line 13 and all that follows through page 388, line 3, and insert the following:

**SEC. 412. ADJUSTING THE ACCREDITED INVESTOR STANDARD.**

(a) IN GENERAL.—The Commission shall adjust any net worth standard for an accredited investor, as set forth in the rules of the Commission under the Securities Act of 1933, so that the individual net worth of any natural person, or joint net worth with the spouse of that person, at the time of purchase, is more than \$1,000,000 (as such amount is adjusted periodically by rule of the Commission), excluding the value of the primary residence of such natural person, except that during the 4-year period that begins on the date of enactment of this Act, the net worth standard shall be \$1,000,000, excluding the value of the primary residence of such natural person.

(b) REVIEW AND ADJUSTMENT.—

(1) INITIAL REVIEW AND ADJUSTMENT.—

(A) INITIAL REVIEW.—The Commission may undertake a review of the definition of the term "accredited investor", as such term applies to natural persons, to determine whether the requirements of the definition, excluding the requirement relating to the net worth standard described in subsection (a), should be adjusted or modified for the protection of investors, in the public interest, and in light of the economy.

(B) ADJUSTMENT OR MODIFICATION.—Upon completion of a review under subparagraph (A), the Commission may, by notice and comment rulemaking, make such adjustments to the definition of the term "accredited investor", excluding adjusting or modifying the requirement relating to the net worth standard described in subsection (a), as such term applies to natural persons, as the Commission may deem appropriate for the protection of investors, in the public interest, and in light of the economy.

(2) SUBSEQUENT REVIEWS AND ADJUSTMENT.—

(A) SUBSEQUENT REVIEWS.—Not earlier than 4 years after the date of enactment of this

Act, and not less frequently than once every 4 years thereafter, the Commission shall undertake a review of the definition, in its entirety, of the term "accredited investor", as such term applies to natural persons, to determine whether the requirements of the definition should be adjusted or modified for the protection of investors, in the public interest, and in light of the economy.

(B) ADJUSTMENT OR MODIFICATION.—Upon completion of a review under subparagraph (A), the Commission may, by notice and comment rulemaking, make such adjustments to the definition of the term "accredited investor", as such term applies to natural persons, as the Commission may deem appropriate for the protection of investors, in the public interest, and in light of the economy.

On page 388, line 14, strike "1 year" and insert "3 years".

On page 998, strike line 12 and all that follows through page 1001, line 25, and insert the following:

**SEC. 926. DISQUALIFYING FELONS AND OTHER "BAD ACTORS" FROM REGULATION D OFFERINGS.**

Not later than 1 year after the date of enactment of this Act, the Commission shall issue rules for the disqualification of offerings and sales of securities made under section 230.506 of title 17, Code of Federal Regulations, that—

(1) are substantially similar to the provisions of section 230.262 of title 17, Code of Federal Regulations, or any successor thereto; and

(2) disqualify any offering or sale of securities by a person that—

(A) is subject to a final order of a State securities commission (or an agency or officer of a State performing like functions), a State authority that supervises or examines banks, savings associations, or credit unions, a State insurance commission (or an agency or officer of a State performing like functions), an appropriate Federal banking agency, or the National Credit Union Administration, that—

(i) bars the person from—

(I) association with an entity regulated by such commission, authority, agency, or officer;

(II) engaging in the business of securities, insurance, or banking; or

(III) engaging in savings association or credit union activities; or

(ii) constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct within the 10-year period ending on the date of the filing of the offering statement; or

(B) has been convicted of any felony or misdemeanor in connection with the purchase or sale of any security or involving the making of any false filing with the Commission.

**SA 4038.** Mr. DORGAN (for Mr. DODD (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill S. 2768, to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2011 and 2012, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Transportation Safety Board Reauthorization Act of 2010".

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Section 1118(a) of title 49, United States Code, is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated for the purposes of this chapter \$98,050,000 for fiscal year 2011 and \$98,050,000 for fiscal year 2012. Such sums shall remain available until expended."

(b) FEES, REFUNDS, REIMBURSEMENTS, AND ADVANCES.—Section 1118(c) of such title is amended to read as follows:

"(c) FEES, REFUNDS, REIMBURSEMENTS, AND ADVANCES.—

"(1) IN GENERAL.—The Board may impose and collect such fees, refunds, reimbursements, and advances as it determines to be appropriate for activities, services, and facilities provided by or through the Board.

"(2) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee, refund, reimbursement, or advance collected under this subsection—

"(A) shall be credited as offsetting collections to the account that finances the activities, services, or facilities for which the fee, refund, reimbursement, or advance is associated;

"(B) shall be available for expenditure only to pay the costs of activities, services, or facilities for which the fee, refund, reimbursement, or advance is associated; and

"(C) shall remain available until expended.

"(3) RECORD.—The Board shall maintain an annual record of collections received under paragraph (2).

"(4) REFUNDS.—The Board may refund any fee or advance paid by mistake or any amount paid in excess of that required."

**SEC. 3. TECHNICAL CORRECTIONS.**

(a) DEFINITIONS.—Section 1101 of title 49, United States Code, is amended by striking "otherwise." and inserting "otherwise, and may include incidents not involving destruction or damage, but significantly affecting transportation safety, as the Board may prescribe or Congress may direct."

(b) GENERAL ORGANIZATION.—Section 1111(d) of title 49, United States Code, is amended by striking "absent" and inserting "unavailable".

(c) ADMINISTRATIVE.—Section 1113 of title 49, United States Code, is amended—

(1) by inserting "or depositions" in paragraph (a)(1) after "hearings"; and

(2) by inserting "In the interest of transportation safety, the Board shall have the authority by subpoena to summon witnesses and obtain any and all evidence relevant to an accident investigation conducted under this chapter." after "(2)" in subsection (a)(2).

(d) DISCLOSURE, AVAILABILITY, AND USE OF INFORMATION.—Section 1114 of title 49, United States Code, is amended—

(1) by striking the heading for subsection (b) and inserting "(b) TRADE SECRETS; COMMERCIAL OR FINANCIAL INFORMATION.—";

(2) by inserting "submitted to the Board in the course of a Board investigation or study and" in subsection (b)(1) after "information" the first place it appears;

(3) by striking "title 18" in subsection (b)(1) and inserting "title 18, or commercial or financial information.";

(4) by striking "safety" in subsection (b)(1)(D) the first place it appears and inserting "safety, including through the issuance of reports of accident investigation or safety studies and safety recommendations.";

(5) by inserting "subparagraphs (A) through (C) of" after "under" in subsection (b)(2);

(6) by adding at the end of subsection (b) the following:

"(4) Each person submitting to the Board trade secrets, commercial or financial information, or information that could be classified as controlled under the International Traffic in Arms Regulations shall appropriately annotate the information to indicate the restricted nature of the information in order to facilitate proper handling of such materials by the Board.";

(7) by striking "shall" in paragraph(1)(A) of subsection (f) and inserting "may";

(8) by striking "information" in paragraph (2) of subsection (f) and inserting "information, or other relevant information authorized for disclosure under this chapter."; and

(9) by adding at the end thereof the following:

"(g) ONGOING BOARD INVESTIGATIONS.—(1) Notwithstanding any other provision of law, neither the Board, nor any agency receiving information from the Board, may publicly disclose records related to an ongoing Board investigation, and such records shall be exempt from disclosure under section 552(b)(3) of title 5. Notwithstanding the preceding sentence, the Board may make public specific records relevant to the investigation, release of which in the Board's judgment is necessary to promote transportation safety—

"(A) if the Board holds a public hearing on the accident or incident, at the time of the hearing;

"(B) if the Board does not hold a public hearing, at the time the Board determines that substantial portions of the underlying factual reports on the accident or incident, and supporting evidence, will be placed in the public docket; or

"(C) if the Board determines during an ongoing investigation or study that circumstances warrant disclosure of specific factual material and that such material need be placed in the public docket to facilitate dialogue with other agencies or instrumentalities, regulatory bodies, industry or industry groups, or Congress.

"(2) This subsection does not prevent the Board from referring at any time to evidence from an ongoing investigation in making safety recommendations.

"(3) In this subsection, the term 'ongoing investigation' means that period beginning at the time the Board is notified of an accident or incident and ending when the Board issues a final report or brief, or determines to close an investigation without issuing a report or brief."

(e) REPORTS AND STUDIES.—Section 1116(b) of title 49, United States Code, is amended—

(1) by striking "carry out" in paragraph (1) and inserting "conduct"; and

(2) by striking paragraph (3) and inserting the following:

"(3) prescribe requirements for persons reporting accidents and incidents that may be investigated by the Board under this chapter;"

(f) DISCOVERY AND USE OF COCKPIT AND SURFACE VEHICLE RECORDINGS AND TRANSCRIPTS.—Section 1154(a)(1)(A) of title 49, United States Code, is amended by striking "and" and inserting "or".

**SEC. 4. AUTHORITY OF THE BOARD.**

(a) EVALUATION AND AUDIT.—Section 1138(a) of title 49, United States Code, is amended by striking "conducted at least annually, but may be".

(b) TRAINING OF BOARD EMPLOYEES AND OTHERS.—Section 1115(d) of title 49, United States Code, is amended—

(1) by striking "investigation." and inserting "investigation, including investigation theory and techniques and transportation

safety, to advance Board safety recommendations.”;

(2) by striking “training.” and inserting “training or who influence transportation safety through support or adoption of Board safety recommendations.”; and

(3) by striking “collections.” and inserting “collections under the provisions of section 1118 of this chapter.”.

(c) ACCIDENT INVESTIGATION AUTHORITY.—Section 1131 of title 49, United States Code, is amended—

(1) by striking subsection (a)(1)(C) and inserting the following:

“(C) a freight or passenger railroad accident in which there is a fatality (other than a fatality involving a trespasser), substantial property damage, or significant injury to the environment;”;

(2) by striking “and” after the semicolon in subsection (a)(1)(E);

(3) by inserting “or incident” after “accident” each place it appears in subsection (a)(1)(F);

(4) by striking “chapter.” in subsection (a)(1)(F) and inserting “chapter.”;

(5) by adding at the end of subsection (a)(1) the following:

“(G) an accident or incident in response to an international request and delegation under appropriate international conventions, coordinated through the Department of State and accepted by the Board; and

“(H) an incident or incidents significantly affecting transportation safety, as defined by the Board, under rules and in such detail as the Board may prescribe.”;

(6) by inserting “or incident” after “accident” each place it appears in subsection (a)(3);

(7) by inserting “or relevant to” after “developed about” in subsection (a)(3);

(8) by inserting “AND INCIDENT” after “ACCIDENT” in the heading for subsection (e); and

(9) by inserting “and incident” in subsection (e) after “each accident”.

(d) CIVIL AIRCRAFT AND MARITIME ACCIDENT INVESTIGATIONS.—

(1) IN GENERAL.—Section 1132 of title 49, United States Code, is amended—

(A) by inserting “or have investigated” in subsection (a)(1) after “investigate”;

(B) by striking “aircraft;” in subsection (a)(1)(A) and inserting “aircraft or a commercial space launch vehicle;”;

(C) by adding at the end the following:

“(e) AUTHORITY OF BOARD REPRESENTATIVE.—The Board may, with the consent of the Secretary, delegate to the Department of Transportation full authority to obtain the facts of any aviation accident or incident the Board shall investigate, and the on-scene representative of the Secretary shall have the full authority of the Board to, on display of appropriate credentials and written notice of inspection authority, enter property where an aviation accident has occurred or wreckage from the accident is located and do anything necessary to gather evidence in support of a Board investigation, in accordance with such rules as the Board may prescribe.

“(f) MARITIME ACCIDENT INVESTIGATIONS.—The Board may, with the consent of the Secretary of the department in which the Coast Guard is operating, delegate to the Coast Guard full authority to obtain the facts of any maritime accident or incident the Board shall investigate, and the on-scene representative of the Commandant of the Coast Guard shall have the full authority of the Board to, on display of appropriate credentials and written notice of inspection authority, enter

property where a maritime accident has occurred or wreckage from the accident is located and do anything necessary to gather evidence in support of a Board investigation, in accordance with such rules as the Board may prescribe.”.

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 1132 of title 49, United States Code, is amended to read as follows:

“§ 1132. Civil aircraft and maritime accident investigations”.

(B) The table of contents for chapter 11 of title 49, United States Code, is amended by striking the item relating to section 1132 and inserting the following:

“1132. Civil aircraft and maritime accident investigations”.

(e) INSPECTIONS AND AUTOPSIES.—Section 1134 of title 49, United States Code, is amended—

(1) by striking “officer or employee of the National Transportation Safety Board—” in subsection (a) and inserting “officer, employee, or designee of the National Transportation Safety Board in the conduct of any accident or incident investigation or study—”;

(2) by adding at the end of subsection (b)(1) the following: “The Board may download or seize any recording device and recordings and may require specific information only available from the manufacturer to enable the Board to read and interpret any flight parameter or navigation storage device or media on board the accident aircraft. The provisions of section 1114(b) of this chapter shall apply to matters properly identified as trade secrets or commercial or financial information.”; and

(3) by inserting after “component.” in subsection (c) the following: “The officer or employee may download or seize any recording device and recordings, and may require the production of specific information only available from the manufacturer to enable the Board to read and interpret any operational parameter or navigation storage device or media on board the accident vehicle, vessel, or rolling stock. The provisions of section 1114(b) of this chapter shall apply to matters properly identified as trade secrets or commercial or financial information.”.

**SEC. 5. AVIATION PENALTIES AND FAMILY ASSISTANCE.**

(a) FAMILY ASSISTANCE IN COMMERCIAL AVIATION ACCIDENTS.—Section 4113(b)(7) of title 49, United States Code, is amended by striking “months.” and inserting “months and that, prior to destruction of unclaimed possessions, a reasonable attempt will be made to notify the family of each passenger within 60 days of any planned destruction date.”.

(b) FAMILY ASSISTANCE IN COMMERCIAL AVIATION ACCIDENTS INVOLVING FOREIGN CARRIERS.—Section 4131(c)(7) of title 49, United States Code, is amended by striking “accident.” and inserting “accident and that, prior to destruction of unclaimed possessions, a reasonable attempt will be made to notify the family of each passenger within 60 days of any planned destruction date.”.

**SEC. 6. ACCIDENT-RELATED INFORMATION RELEASE POLICY REPORT.**

Within 180 days after the date of enactment of this Act, the National Transportation Safety Board shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report describing the policies, procedures, and guidelines used by the Board

in the expedited release of factual accident-related information to victims and their families, Federal, State, and local accident investigators and agencies, private or third party investigation partners, the public, and other stakeholders.

**SA 4039.** Mr. DORGAN (for Mr. DODD (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill S. 2768, to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2011 and 2012, and for other purposes; as follows:

Amend the title so as to read “A Bill To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2011 and 2012, and for other purposes.”

**SA 4040.** Mrs. MCCASKILL (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, insert the following:

**SEC. 122. ADDITIONAL OVERSIGHT OF FINANCIAL REGULATORY SYSTEM.**

(a) COUNCIL OF INSPECTORS GENERAL ON FINANCIAL OVERSIGHT.—

(1) ESTABLISHMENT AND MEMBERSHIP.—There is established a Council of Inspectors General on Financial Oversight (in this section referred to as the “Council of Inspectors General”) chaired by the Inspector General of the Department of the Treasury and composed of the inspectors general of the following:

(A) The Board of Governors of the Federal Reserve System.

(B) The Commodity Futures Trading Commission.

(C) The Department of Housing and Urban Development.

(D) The Department of the Treasury.

(E) The Federal Deposit Insurance Corporation.

(F) The Federal Housing Finance Agency.

(G) The National Credit Union Administration.

(H) The Securities and Exchange Commission.

(I) The Troubled Asset Relief Program (until the termination of the authority of the Special Inspector General for such program under section 121(k) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5231(k))).

(2) DUTIES.—

(A) MEETINGS.—The Council of Inspectors General shall meet not less than once each quarter, or more frequently if the chair considers it appropriate, to facilitate the sharing of information among inspectors general and to discuss the ongoing work of each inspector general who is a member of the Council of Inspectors General, with a focus on concerns that may apply to the broader financial sector and ways to improve financial oversight.

(B) ANNUAL REPORT.—Each year the Council of Inspectors General shall submit to the Council and to Congress a report including—



(i) for each inspector general who is a member of the Council of Inspectors General, a section within the exclusive editorial control of such inspector general that highlights the concerns and recommendations of such inspector general in such inspector general's ongoing and completed work, with a focus on issues that may apply to the broader financial sector; and

(ii) a summary of the general observations of the Council of Inspectors General based on the views expressed by each inspector general as required by clause (i), with a focus on measures that should be taken to improve financial oversight.

(3) WORKING GROUPS TO EVALUATE COUNCIL.—

(A) CONVENING A WORKING GROUP.—The Council of Inspectors General may, by majority vote, convene a Council of Inspectors General Working Group to evaluate the effectiveness and internal operations of the Council.

(B) PERSONNEL AND RESOURCES.—The inspectors general who are members of the Council of Inspectors General may detail staff and resources to a Council of Inspectors General Working Group established under this paragraph to enable it to carry out its duties.

(C) REPORTS.—A Council of Inspectors General Working Group established under this paragraph shall submit regular reports to the Council and to Congress on its evaluations pursuant to this paragraph.

(b) RESPONSE TO REPORT BY COUNCIL.—The Council shall respond to the concerns raised in the report of the Council of Inspectors General under subsection (a)(2)(B) for such year.

**SA 4041.** Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 392, between lines 22 and 23, insert the following:

“(G) to coordinate with other Federal agencies (including the Federal Emergency Management Agency), States (including State insurance regulators), and insurance companies efforts to facilitate the timely processing of flood insurance claims by insurance companies and agents (including through recommending best practices such as telephone hotlines for victims or deployment of personnel of the Office to flood areas) in any area for which the President declares a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) relating to flooding; and

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet

during the session of the Senate on May 13, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 13, 2010, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on May 13, 2010, at 9:30 a.m. in room 628 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Judiciary be authorized to meet during the session of the Senate on May 13, 2010, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on May 13, 2010, at 2:30 p.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled “Nominations.”

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on May 13, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### VIRGIN ISLAND NATIONAL PARK LEASE ACT

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 296, H.R. 714, the Virgin Islands National Park.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 714) to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brack-

ets and the parts of the bill intended to be inserted are shown in italics.)

H.R. 714

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. CANEEL BAY LEASE AUTHORIZATION.

(a) DEFINITIONS.—In this section:

(1) PARK.—The term “Park” means the Virgin Islands National Park.

(2) RESORT.—The term “resort” means the Caneel Bay resort on the island of St. John in the Park.

(3) RETAINED USE ESTATE.—The term “retained use estate” means the retained use estate for the Caneel Bay property on the island of St. John entered into between the Jackson Hole Preserve and the United States on September 30, 1983 (*as amended, assigned, and assumed*).

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(b) LEASE AUTHORIZATION.—

(1) IN GENERAL.—If the Secretary determines that the long-term benefit to the Park would be greater by entering into a lease with the owner of the retained use estate than by authorizing a concession contract upon the termination of the retained use estate, the Secretary may enter into a lease *with the owner of the retained use estate* for the operation and management of the resort.

(2) ACQUISITIONS.—The Secretary may—  
(A) acquire associated property from the owner of the retained use estate; and

(B) on the acquisition of property under subparagraph (A), administer the property as part of the Park.

(3) AUTHORITY.—Except as otherwise provided by this section, a lease shall be in accordance with subsection (k) of section 3 of Public Law 91-383 (16 U.S.C. 1a-2(k)), notwithstanding paragraph (2) of that subsection.

(4) TERMS AND CONDITIONS.—A lease authorized under this section shall—

(A) be for the minimum number of years practicable, taking into consideration the need for the lessee to secure financing for necessary capital improvements to the resort, but in no event shall the term of the lease exceed 40 years;

(B) prohibit any transfer, assignment, or sale of the lease or otherwise convey or pledge any interest in the lease **[with]** *without* prior written notification to, and approval by the Secretary;

(C) ensure that the general character of the resort property remains unchanged, including a prohibition against—

(i) any increase in the overall size of the resort; or

(ii) any increase in the number of guest accommodations available at the resort;

(D) prohibit the sale of partial ownership shares or timeshares in the resort; **and**

*(E) include provisions to ensure the protection of the natural, cultural, and historic features of the resort and associated property, consistent with the laws and policies applicable to property managed by the National Park Service; and*

**[(E)](F)** include any other provisions determined by the Secretary to be necessary to protect the Park and the public interest.

(5) RENTAL AMOUNTS.—In determining the fair market value rental of the lease required under section 3(k)(4) of Public Law 91-383 (16 U.S.C. 1a-2(k)(4)), the Secretary shall take into consideration—

(A) the value of any associated property conveyed to the United States; and

(B) the value, if any, of the relinquished term of the retained use estate.



(6) **USE OF PROCEEDS.**—Rental amounts paid to the United States under a lease shall be available to the Secretary, without further appropriation, for visitor services and resource protection within the Park.

(7) **CONGRESSIONAL NOTIFICATION.**—The Secretary shall submit a proposed lease under this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives at least 60 days before the [effective date] award of the lease.

(8) **RENEWAL.**—A lease entered into under this section may not be extended or renewed.

(9) **TERMINATION.**—Upon the termination of a lease entered into under this section, if the Secretary determines the continuation of commercial services at the resort to be appropriate, the services shall be provided in accordance with the National Park Service Concessions Management Improvement Act of 1998 (16 U.S.C. 5951 et seq.).

(c) **RETAINED USE ESTATE.**—

(1) **IN GENERAL.**—As a condition of the lease, the owner of the retained use estate shall terminate, extinguish, and relinquish to the Secretary all rights under the retained use estate and shall transfer, without consideration, ownership of improvements on the retained use estate to the National Park Service.

(2) **APPRAISAL.**—

(A) **IN GENERAL.**—The Secretary shall require an appraisal by an independent, qualified appraiser [that] *who* is agreed to by the Secretary and the owner of the retained use estate to determine the value, if any, of the relinquished term of the retained use estate.

(B) **REQUIREMENTS.**—An appraisal under paragraph (1) shall be conducted in accordance with—

- (i) the Uniform Appraisal Standards for Federal Land Acquisitions; and
- (ii) the Uniform Standards of Professional Appraisal Practice.

Mr. DODD. Mr. President, I ask unanimous consent that the committee-reported amendments be considered and agreed to, the bill, as amended, be read three times, passed, and the motions to reconsider be laid upon the table en bloc; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 714), as amended, was read the third time and passed.

#### LAW ENFORCEMENT OFFICERS SAFETY ACT IMPROVEMENTS ACT OF 2010

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 315, S. 1132.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1132) to amend title 18, United States Code, to improve the provisions relating to the carrying of concealed weapons by law enforcement officers, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the “Law Enforcement Officers Safety Act Improvements Act of 2010”.*

#### SEC. 2. AMENDMENTS TO LAW ENFORCEMENT OFFICER SAFETY PROVISIONS OF TITLE 18.

(a) **IN GENERAL.**—Section 926B of title 18, United States Code, is amended—

(1) in subsection (c)(3), by inserting “which could result in suspension or loss of police powers” after “agency”; and

(2) by adding at the end the following:

“(f) For the purposes of this section, a law enforcement officer of the Amtrak Police Department, a law enforcement officer of the Federal Reserve, or a law enforcement or police officer of the executive branch of the Federal Government qualifies as an employee of a governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest.”.

(b) **ACTIVE LAW ENFORCEMENT OFFICERS.**—Section 926B of title 18, United States Code is amended by striking subsection (e) and inserting the following:

“(e) As used in this section, the term ‘firearm’—

“(1) except as provided in this subsection, has the same meaning as in section 921 of this title;

“(2) includes ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and

“(3) does not include—

“(A) any machinegun (as defined in section 5845 of the National Firearms Act);

“(B) any firearm silencer (as defined in section 921 of this title); and

“(C) any destructive device (as defined in section 921 of this title).”.

(c) **RETIRED LAW ENFORCEMENT OFFICERS.**—Section 926C of title 18, United States Code is amended—

(1) in subsection (c)—

(A) in paragraph (1)—

(i) by striking “retired” and inserting “separated from service”; and

(ii) by striking “, other than for reasons of mental instability”;

(B) in paragraph (2), by striking “retirement” and inserting “separation”;

(C) in paragraph (3)—

(i) in subparagraph (A), by striking “retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more” and inserting “separation, served as a law enforcement officer for an aggregate of 10 years or more”; and

(ii) in subparagraph (B), by striking “retired” and inserting “separated”;

(D) by striking paragraph (4) and inserting the following:

“(4) during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State;”;

(E) by striking paragraph (5) and replacing it with the following:

“(5)(A) has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification as described in subsection (d)(1); or

“(B) has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept the photographic identification as described in subsection (d)(1);”;

(2) in subsection (d)—

(A) paragraph (1)—

(i) by striking “retired” and inserting “separated”; and

(ii) by striking “to meet the standards” and all that follows through “concealed firearm” and inserting “to meet the active duty standards for qualification in firearms training as established by the agency to carry a firearm of the same type as the concealed firearm”;

(B) paragraph (2)—

(i) in subparagraph (A), by striking “retired” and inserting “separated”; and

(ii) in subparagraph (B), by striking “that indicates” and all that follows through the period and inserting “or by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State that indicates that the individual has, not less than 1 year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State or a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State to have met—

“(I) the active duty standards for qualification in firearms training, as established by the State, to carry a firearm of the same type as the concealed firearm; or

“(II) if the State has not established such standards, standards set by any law enforcement agency within that State to carry a firearm of the same type as the concealed firearm.”;

and

(3) by striking subsection (e) and inserting the following:

“(e) As used in this section—

“(1) the term ‘firearm’—

“(A) except as provided in this paragraph, has the same meaning as in section 921 of this title;

“(B) includes ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and

“(C) does not include—

“(i) any machinegun (as defined in section 5845 of the National Firearms Act);

“(ii) any firearm silencer (as defined in section 921 of this title); and

“(iii) any destructive device (as defined in section 921 of this title); and

“(2) the term ‘service with a public agency as a law enforcement officer’ includes service as a law enforcement officer of the Amtrak Police Department, service as a law enforcement officer of the Federal Reserve, or service as a law enforcement or police officer of the executive branch of the Federal Government.”.

Mr. LEAHY. Mr. President, I thank all Senators for joining me in support of the Law Enforcement Officers Safety Act Improvements Act of 2010. Passage of this legislation demonstrates the Senate’s strong bipartisan support of all the men and women who serve in law enforcement roles in the United States. I thank the Judiciary Committee’s Ranking Member Senator SESSIONS, Senator KYL, and Senator CONRAD for joining me as cosponsors of this legislation.

In March, for the third time since 2007, the Senate Judiciary Committee favorably reported legislation making needed improvements to the Law Enforcement Officers Safety Act of 2004, which allows qualified active and retired law enforcement officers to obtain certification to carry firearms across State lines. I am very pleased the Senate has at last given its approval to these important improvements to the original law.

In 2004, Congress passed the Law Enforcement Officers Safety Act. I worked with Senator Ben Nighthorse Campbell and 68 other Senators to show our strong support for the Nation's law enforcement community. Since enactment, however, many retired officers have experienced substantial difficulty in gaining the benefits the law was intended to confer. I listened carefully to the feedback and advice from those in the law enforcement community to make the existing law stronger and more workable in a responsible and measured way. I especially thank the Fraternal Order of Police, the Federal Law Enforcement Officers Association, and the National Association of Police Organizations for their strong support.

The amendments we pass today will make the original law's operation more efficient while maintaining the rigorous standards that apply to those who seek its benefits. It will ensure that law enforcement officers who have served honorably and who are now retired will have flexibility in achieving the law's benefits and privileges which Congress determined they deserve.

It is especially appropriate that we pass this legislation this week at a time when tens of thousands of law enforcement officers are in the Nation's Capital to honor and remember their fellow officers who have lost their lives in the line of duty. As I do each year, and in recognition of the ceremonies in Washington, I introduced a resolution to officially recognize May 15 as National Peace Officers Memorial Day. The Senate unanimously adopted that resolution. All of the men and women who serve and who are in Washington to remember and celebrate their fallen fellow officers should know that the Senate recognizes the extraordinary work they do on behalf of all Americans.

I thank all Senators who supported this measure and express my deep appreciation for the sacrifices and service of all of the men and women who give so much in the service of their fellow citizens.

Mr. DODD. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1132), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

#### NATIONAL TRANSPORTATION SAFETY BOARD REAUTHORIZATION ACT OF 2009

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 273, S. 2768.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2768) to amend title 49, United States Code, authorizing appropriations for the National Transportation Safety Board for fiscal years 2010 through 2014, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "National Transportation Safety Board Reauthorization Act of 2009".*

#### SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) *IN GENERAL.*—Section 1118(a) of title 49, United States Code, is amended to read as follows:

*"(a) IN GENERAL.*—There are authorized to be appropriated for the purposes of this chapter \$100,000,000 for fiscal year 2010, \$105,000,000 for fiscal year 2011, \$112,000,000 for fiscal year 2012, \$118,000,000 for fiscal year 2013, and \$124,000,000 for fiscal year 2014. Such sums shall remain available until expended."

(b) *FEES, REFUNDS, REIMBURSEMENTS, AND ADVANCES.*—Section 1118(c) of such title is amended to read as follows:

*"(c) FEES, REFUNDS, REIMBURSEMENTS, AND ADVANCES.*—

*"(1) IN GENERAL.*—The Board may impose and collect such fees, refunds, reimbursements, and advances as it determines to be appropriate for activities, services, and facilities provided by or through the Board.

*"(2) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.*—Notwithstanding section 3302 of title 31, any fee, refund, reimbursement, or advance collected under this subsection—

*"(A) shall be credited as offsetting collections to the account that finances the activities, services, or facilities for which the fee, refund, reimbursement, or advance is associated;*

*"(B) shall be available for expenditure only to pay the costs of activities, services, or facilities for which the fee, refund, reimbursement, or advance is associated; and*

*"(C) shall remain available until expended.*

*"(3) RECORD.*—The Board shall maintain an annual record of collections received under paragraph (2).

*"(4) REFUNDS.*—The Board may refund any fee or advance paid by mistake or any amount paid in excess of that required."

#### SEC. 3. TECHNICAL CORRECTIONS.

(a) *DEFINITIONS.*—Section 1101 of title 49, United States Code, is amended by striking

*"otherwise."* and inserting *"otherwise, and may include incidents not involving destruction or damage, but significantly affecting transportation safety, as the Board may prescribe or Congress may direct."*

(b) *GENERAL ORGANIZATION.*—Section 1111(d) of title 49, United States Code, is amended by striking *"absent"* and inserting *"unavailable"*.

(c) *ADMINISTRATIVE.*—Section 1113 of title 49, United States Code, is amended—

(1) by inserting *"or depositions"* in paragraph (a)(1) after *"hearings"*; and

(2) by inserting *"In the interest of transportation safety, the Board shall have the authority by subpoena to summon witnesses and obtain any and all evidence relevant to an accident investigation conducted under this chapter."* after *"(2)"* in subsection (a)(2).

(d) *DISCLOSURE, AVAILABILITY, AND USE OF INFORMATION.*—Section 1114 of title 49, United States Code, is amended—

(1) by striking the heading for subsection (b) and inserting *"(b) TRADE SECRETS; COMMERCIAL OR FINANCIAL INFORMATION."*; and

(2) by inserting *"submitted to the Board in the course of a Board investigation or study and"* in subsection (b)(1) after *"information"* the first place it appears;

(3) by striking *"title 18"* in subsection (b)(1) and inserting *"title 18, or commercial or financial information,"*; and

(4) by striking *"safety"* in subsection (b)(1)(D) the first place it appears and inserting *"safety, including through the issuance of reports of accident investigation or safety studies and safety recommendations,"*; and

(5) by inserting *"subparagraphs (A) through (C) of"* after *"under"* in subsection (b)(2);

(6) by adding at the end of subsection (b) the following:

*"(4) Each person submitting to the Board trade secrets, commercial or financial information, or information that could be classified as controlled under the International Traffic in Arms Regulations shall appropriately annotate the information to indicate the restricted nature of the information in order to facilitate proper handling of such materials by the Board."*

(7) by striking *"shall"* in paragraph (1)(A) of subsection (f) and inserting *"may"*; and

(8) by striking *"information"* in paragraph (2) of subsection (f) and inserting *"information, or other relevant information authorized for disclosure under this chapter,"*; and

(9) by adding at the end thereof the following:

*"(g) ONGOING BOARD INVESTIGATIONS.*—(1) Notwithstanding any other provision of law, neither the Board, nor any agency receiving information from the Board, may publicly disclose records related to an ongoing Board investigation, and such records shall be exempt from disclosure under section 552(b)(3) of title 5. Notwithstanding the preceding sentence, the Board may make public specific records relevant to the investigation, release of which in the Board's judgment is necessary to promote transportation safety—

*"(A) if the Board holds a public hearing on the accident or incident, at the time of the hearing;*

*"(B) if the Board does not hold a public hearing, at the time the Board determines that substantial portions of the underlying factual reports on the accident or incident, and supporting evidence, will be placed in the public docket; or*

*"(C) if the Board determines during an ongoing investigation or study that circumstances warrant disclosure of specific factual material and that such material need be placed in the public docket to facilitate dialogue with other agencies or instrumentalities, regulatory bodies, industry or industry groups, or Congress."*

*"(2) This subsection does not prevent the Board from referring at any time to evidence*

from an ongoing investigation in making safety recommendations.

“(3) In this subsection, the term ‘ongoing investigation’ means that period beginning at the time the Board is notified of an accident or incident and ending when the Board issues a final report or brief, or determines to close an investigation without issuing a report or brief.”

(e) **REPORTS AND STUDIES**—Section 1116(b) of title 49, United States Code, is amended—

(1) by striking “carry out” in paragraph (1) and inserting “conduct”; and

(2) by striking paragraph (3) and inserting the following:

“(3) prescribe requirements for persons reporting accidents and incidents that may be investigated by the Board under this chapter;”

(f) **DISCOVERY AND USE OF COCKPIT AND SURFACE VEHICLE RECORDINGS AND TRANSCRIPTS**—Section 1154(a)(1)(A) of title 49, United States Code, is amended by striking “and” and inserting “or”.

#### SEC. 4. AUTHORITY OF THE BOARD.

(a) **EVALUATION AND AUDIT**—Section 1138(a) of title 49, United States Code, is amended by striking “conducted at least annually, but may be”.

(b) **TRAINING OF BOARD EMPLOYEES AND OTHERS**—Section 1115(d) of title 49, United States Code, is amended—

(1) by striking “investigation.” and inserting “investigation, including investigation theory and techniques and transportation safety, to advance Board safety recommendations.”;

(2) by striking “training.” and inserting “training or who influence transportation safety through support or adoption of Board safety recommendations.”; and

(3) by striking “collections.” and inserting “collections under the provisions of section 1118 of this chapter.”.

(c) **ACCIDENT INVESTIGATION AUTHORITY**—Section 1131 of title 49, United States Code, is amended—

(1) by striking subsection (a)(1)(C) and inserting the following:

“(C) a freight or passenger railroad accident in which there is a fatality (other than a fatality involving a trespasser), substantial property damage, or significant injury to the environment;”

(2) by striking “and” after the semicolon in subsection (a)(1)(E);

(3) by inserting “or incident” after “accident” each place it appears in subsection (a)(1)(F);

(4) by striking “chapter.” in subsection (a)(1)(F) and inserting “chapter;”;

(5) by adding at the end of subsection (a)(1) the following:

“(G) an accident or incident in response to an international request and delegation under appropriate international conventions, coordinated through the Department of State and accepted by the Board; and

“(H) an incident or incidents significantly affecting transportation safety, as defined by the Board, under rules and in such detail as the Board may prescribe.”;

(6) by striking “paragraph (1)(A)–(D) or (F)” in subsection (a)(2)(A) and inserting “any of subparagraphs (A) through (F) of paragraph (1)”;

(7) by inserting “or incident” after “accident” each place it appears in subsection (a)(3);

(8) by inserting “or relevant to” after “developed about” in subsection (a)(3);

(9) by inserting “AND INCIDENT” after “ACCIDENT” in the heading for subsection (e); and

(10) by inserting “and incident” in subsection (e) after “each accident”.

(d) **CIVIL AIRCRAFT AND MARITIME ACCIDENT INVESTIGATIONS**—

(1) **IN GENERAL**—Section 1132 of title 49, United States Code, is amended—

(A) by inserting “or have investigated” in subsection (a)(1) after “investigate”;

(B) by striking “aircraft;” in subsection (a)(1)(A) and inserting “aircraft or a commercial space launch vehicle;”; and

(C) by adding at the end the following:

“(e) **AUTHORITY OF BOARD REPRESENTATIVE**—The Board may, with the consent of the Secretary, delegate to the Department of Transportation full authority to obtain the facts of any aviation accident or incident the Board shall investigate, and the on-scene representative of the Secretary shall have the full authority of the Board to, on display of appropriate credentials and written notice of inspection authority, enter property where an aviation accident has occurred or wreckage from the accident is located and do anything necessary to gather evidence in support of a Board investigation, in accordance with such rules as the Board may prescribe.

“(f) **MARITIME ACCIDENT INVESTIGATIONS**—The Board may, with the consent of the Secretary of the department in which the Coast Guard is operating, delegate to the Coast Guard full authority to obtain the facts of any maritime accident or incident the Board shall investigate, and the on-scene representative of the Commandant of the Coast Guard shall have the full authority of the Board to, on display of appropriate credentials and written notice of inspection authority, enter property where a maritime accident has occurred or wreckage from the accident is located and do anything necessary to gather evidence in support of a Board investigation, in accordance with such rules as the Board may prescribe.”.

(2) **CONFORMING AMENDMENTS**—

(A) The heading for section 1132 of title 49, United States Code, is amended to read as follows:

“§ 1132. Civil aircraft and maritime accident investigations”.

(B) The table of contents for chapter 11 of title 49, United States Code, is amended by striking the item relating to section 1132 and inserting the following:

“1132. Civil aircraft and maritime accident investigations”.

(e) **INSPECTIONS AND AUTOPSIES**—Section 1134 of title 49, United States Code, is amended—

(1) by striking “officer or employee of the National Transportation Safety Board—” in subsection (a) and inserting “officer, employee, or designee of the National Transportation Safety Board in the conduct of any accident or incident investigation or study—”;

(2) by adding at the end of subsection (b)(1) the following: “The Board may download or seize any recording device and recordings and may require specific information only available from the manufacturer to enable the Board to read and interpret any flight parameter or navigation storage device or media on board the accident aircraft. The provisions of section 1114(b) of this chapter shall apply to matters properly identified as trade secrets or commercial or financial information.”; and

(3) by inserting after “component.” in subsection (c) the following: “The officer or employee may download or seize any recording device and recordings, and may require the production of specific information only available from the manufacturer to enable the Board to read and interpret any operational parameter or navigation storage device or media on board the accident vehicle, vessel, or rolling stock. The provisions of section 1114(b) of this chapter shall apply to matters properly identified as trade secrets or commercial or financial information.”.

#### SEC. 5. AVIATION PENALTIES AND FAMILY ASSISTANCE.

(a) **FAMILY ASSISTANCE IN COMMERCIAL AVIATION ACCIDENTS**—Section 4113(b)(7) of title 49, United States Code, is amended by striking

“months.” and inserting “months and that, prior to destruction of unclaimed possessions, a reasonable attempt will be made to notify the family of each passenger within 60 days of any planned destruction date.”.

(b) **FAMILY ASSISTANCE IN COMMERCIAL AVIATION ACCIDENTS INVOLVING FOREIGN CARRIERS**—Section 41313(c)(7) of title 49, United States Code, is amended by striking “accident.” and inserting “accident and that, prior to destruction of unclaimed possessions, a reasonable attempt will be made to notify the family of each passenger within 60 days of any planned destruction date.”.

#### SEC. 6. ACCIDENT-RELATED INFORMATION RELEASE POLICY REPORT.

Within 180 days after the date of enactment of this Act, the National Transportation Safety Board shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report describing the policies, procedures, and guidelines used by the Board in the expedited release of factual accident-related information to victims and their families, Federal, State, and local accident investigators and agencies, private or third party investigation partners, the public, and other stakeholders.

Mr. DODD. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be considered; that a Dorgan-Rockefeller amendment, which is at the desk, be agreed to; the substitute amendment, as amended, be agreed to; the bill, as amended, be read a third time and passed; an amendment to the title, which is at the desk, be agreed to; the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4038) was agreed to.

(The amendment is printed in today's RECORD under “Text of Amendments.”)

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2768), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “National Transportation Safety Board Reauthorization Act of 2010”.

#### SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL**—Section 1118(a) of title 49, United States Code, is amended to read as follows:

“(a) **IN GENERAL**—There are authorized to be appropriated for the purposes of this chapter \$98,050,000 for fiscal year 2011 and \$98,050,000 for fiscal year 2012. Such sums shall remain available until expended.”.

(b) **FEES, REFUNDS, REIMBURSEMENTS, AND ADVANCES**—Section 1118(c) of such title is amended to read as follows:

“(c) **FEES, REFUNDS, REIMBURSEMENTS, AND ADVANCES**—

“(1) **IN GENERAL**—The Board may impose and collect such fees, refunds, reimbursements, and advances as it determines to be

appropriate for activities, services, and facilities provided by or through the Board.

“(2) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee, refund, reimbursement, or advance collected under this subsection—

“(A) shall be credited as offsetting collections to the account that finances the activities, services, or facilities for which the fee, refund, reimbursement, or advance is associated; and

“(B) shall be available for expenditure only to pay the costs of activities, services, or facilities for which the fee, refund, reimbursement, or advance is associated; and

“(C) shall remain available until expended.

“(3) RECORD.—The Board shall maintain an annual record of collections received under paragraph (2).

“(4) REFUNDS.—The Board may refund any fee or advance paid by mistake or any amount paid in excess of that required.”.

### SEC. 3. TECHNICAL CORRECTIONS.

(a) DEFINITIONS.—Section 1101 of title 49, United States Code, is amended by striking “otherwise.” and inserting “otherwise, and may include incidents not involving destruction or damage, but significantly affecting transportation safety, as the Board may prescribe or Congress may direct.”.

(b) GENERAL ORGANIZATION.—Section 111(d) of title 49, United States Code, is amended by striking “absent” and inserting “unavailable”.

(c) ADMINISTRATIVE.—Section 1113 of title 49, United States Code, is amended—

(1) by inserting “or depositions” in paragraph (a)(1) after “hearings”; and

(2) by inserting “In the interest of transportation safety, the Board shall have the authority by subpoena to summon witnesses and obtain any and all evidence relevant to an accident investigation conducted under this chapter.” after “(2)” in subsection (a)(2).

(d) DISCLOSURE, AVAILABILITY, AND USE OF INFORMATION.—Section 1114 of title 49, United States Code, is amended—

(1) by striking the heading for subsection (b) and inserting “(b) TRADE SECRETS; COMMERCIAL OR FINANCIAL INFORMATION.—”;

(2) by inserting “submitted to the Board in the course of a Board investigation or study and” in subsection (b)(1) after “information” the first place it appears;

(3) by striking “title 18” in subsection (b)(1) and inserting “title 18, or commercial or financial information.”;

(4) by striking “safety” in subsection (b)(1)(D) the first place it appears and inserting “safety, including through the issuance of reports of accident investigation or safety studies and safety recommendations.”;

(5) by inserting “subparagraphs (A) through (C) of” after “under” in subsection (b)(2);

(6) by adding at the end of subsection (b) the following:

“(4) Each person submitting to the Board trade secrets, commercial or financial information, or information that could be classified as controlled under the International Traffic in Arms Regulations shall appropriately annotate the information to indicate the restricted nature of the information in order to facilitate proper handling of such materials by the Board.”;

(7) by striking “shall” in paragraph (1)(A) of subsection (f) and inserting “may”;

(8) by striking “information” in paragraph (2) of subsection (f) and inserting “information, or other relevant information authorized for disclosure under this chapter.”; and

(9) by adding at the end thereof the following:

“(g) ONGOING BOARD INVESTIGATIONS.—(1) Notwithstanding any other provision of law, neither the Board, nor any agency receiving information from the Board, may publicly disclose records related to an ongoing Board investigation, and such records shall be exempt from disclosure under section 552(b)(3) of title 5. Notwithstanding the preceding sentence, the Board may make public specific records relevant to the investigation, release of which in the Board’s judgment is necessary to promote transportation safety—

“(A) if the Board holds a public hearing on the accident or incident, at the time of the hearing;

“(B) if the Board does not hold a public hearing, at the time the Board determines that substantial portions of the underlying factual reports on the accident or incident, and supporting evidence, will be placed in the public docket; or

“(C) if the Board determines during an ongoing investigation or study that circumstances warrant disclosure of specific factual material and that such material need be placed in the public docket to facilitate dialogue with other agencies or instrumentalities, regulatory bodies, industry or industry groups, or Congress.

“(2) This subsection does not prevent the Board from referring at any time to evidence from an ongoing investigation in making safety recommendations.

“(3) In this subsection, the term ‘ongoing investigation’ means that period beginning at the time the Board is notified of an accident or incident and ending when the Board issues a final report or brief, or determines to close an investigation without issuing a report or brief.”.

(e) REPORTS AND STUDIES.—Section 1116(b) of title 49, United States Code, is amended—

(1) by striking “carry out” in paragraph (1) and inserting “conduct”; and

(2) by striking paragraph (3) and inserting the following:

“(3) prescribe requirements for persons reporting accidents and incidents that may be investigated by the Board under this chapter.”.

(f) DISCOVERY AND USE OF COCKPIT AND SURFACE VEHICLE RECORDS AND TRANSCRIPTS.—Section 1154(a)(1)(A) of title 49, United States Code, is amended by striking “and” and inserting “or”.

### SEC. 4. AUTHORITY OF THE BOARD.

(a) EVALUATION AND AUDIT.—Section 1138(a) of title 49, United States Code, is amended by striking “conducted at least annually, but may be”.

(b) TRAINING OF BOARD EMPLOYEES AND OTHERS.—Section 1115(d) of title 49, United States Code, is amended—

(1) by striking “investigation.” and inserting “investigation, including investigation theory and techniques and transportation safety, to advance Board safety recommendations.”;

(2) by striking “training.” and inserting “training or who influence transportation safety through support or adoption of Board safety recommendations.”; and

(3) by striking “collections.” and inserting “collections under the provisions of section 1118 of this chapter.”.

(c) ACCIDENT INVESTIGATION AUTHORITY.—Section 1131 of title 49, United States Code, is amended—

(1) by striking subsection (a)(1)(C) and inserting the following:

“(C) a freight or passenger railroad accident in which there is a fatality (other than a fatality involving a trespasser), substantial

property damage, or significant injury to the environment.”;

(2) by striking “and” after the semicolon in subsection (a)(1)(E);

(3) by inserting “or incident” after “accident” each place it appears in subsection (a)(1)(F);

(4) by striking “chapter.” in subsection (a)(1)(F) and inserting “chapter.”;

(5) by adding at the end of subsection (a)(1) the following:

“(G) an accident or incident in response to an international request and delegation under appropriate international conventions, coordinated through the Department of State and accepted by the Board; and

“(H) an incident or incidents significantly affecting transportation safety, as defined by the Board, under rules and in such detail as the Board may prescribe.”;

(6) by inserting “or incident” after “accident” each place it appears in subsection (a)(3);

(7) by inserting “or relevant to” after “developed about” in subsection (a)(3);

(8) by inserting “AND INCIDENT” after “ACCIDENT” in the heading for subsection (e); and

(9) by inserting “and incident” in subsection (e) after “each accident”.

(d) CIVIL AIRCRAFT AND MARITIME ACCIDENT INVESTIGATIONS.—

(1) IN GENERAL.—Section 1132 of title 49, United States Code, is amended—

(A) by inserting “or have investigated” in subsection (a)(1) after “investigate”;

(B) by striking “aircraft.” in subsection (a)(1)(A) and inserting “aircraft or a commercial space launch vehicle.”; and

(C) by adding at the end the following:

“(e) AUTHORITY OF BOARD REPRESENTATIVE.—The Board may, with the consent of the Secretary, delegate to the Department of Transportation full authority to obtain the facts of any aviation accident or incident the Board shall investigate, and the on-scene representative of the Secretary shall have the full authority of the Board to, on display of appropriate credentials and written notice of inspection authority, enter property where an aviation accident has occurred or wreckage from the accident is located and do anything necessary to gather evidence in support of a Board investigation, in accordance with such rules as the Board may prescribe.

“(f) MARITIME ACCIDENT INVESTIGATIONS.—The Board may, with the consent of the Secretary of the department in which the Coast Guard is operating, delegate to the Coast Guard full authority to obtain the facts of any maritime accident or incident the Board shall investigate, and the on-scene representative of the Commandant of the Coast Guard shall have the full authority of the Board to, on display of appropriate credentials and written notice of inspection authority, enter property where a maritime accident has occurred or wreckage from the accident is located and do anything necessary to gather evidence in support of a Board investigation, in accordance with such rules as the Board may prescribe.”.

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 1132 of title 49, United States Code, is amended to read as follows:

“§ 1132. Civil aircraft and maritime accident investigations”.

(B) The table of contents for chapter 11 of title 49, United States Code, is amended by striking the item relating to section 1132 and inserting the following:

“1132. Civil aircraft and maritime accident investigations”.

(e) INSPECTIONS AND AUTOPSIES.—Section 1134 of title 49, United States Code, is amended—

(1) by striking “officer or employee of the National Transportation Safety Board—” in subsection (a) and inserting “officer, employee, or designee of the National Transportation Safety Board in the conduct of any accident or incident investigation or study—”;

(2) by adding at the end of subsection (b)(1) the following: “The Board may download or seize any recording device and recordings and may require specific information only available from the manufacturer to enable the Board to read and interpret any flight parameter or navigation storage device or media on board the accident aircraft. The provisions of section 1114(b) of this chapter shall apply to matters properly identified as trade secrets or commercial or financial information.”; and

(3) by inserting after “component,” in subsection (c) the following: “The officer or employee may download or seize any recording device and recordings, and may require the production of specific information only available from the manufacturer to enable the Board to read and interpret any operational parameter or navigation storage device or media on board the accident vehicle, vessel, or rolling stock. The provisions of section 1114(b) of this chapter shall apply to matters properly identified as trade secrets or commercial or financial information.”.

#### SEC. 5. AVIATION PENALTIES AND FAMILY ASSISTANCE.

(a) FAMILY ASSISTANCE IN COMMERCIAL AVIATION ACCIDENTS.—Section 41113(b)(7) of title 49, United States Code, is amended by striking “months.” and inserting “months and that, prior to destruction of unclaimed possessions, a reasonable attempt will be made to notify the family of each passenger within 60 days of any planned destruction date.”.

(b) FAMILY ASSISTANCE IN COMMERCIAL AVIATION ACCIDENTS INVOLVING FOREIGN CARRIERS.—Section 41313(c)(7) of title 49, United States Code, is amended by striking “accident.” and inserting “accident and that, prior to destruction of unclaimed possessions, a reasonable attempt will be made to notify the family of each passenger within 60 days of any planned destruction date.”.

#### SEC. 6. ACCIDENT-RELATED INFORMATION RELEASE POLICY REPORT.

Within 180 days after the date of enactment of this Act, the National Transportation Safety Board shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report describing the policies, procedures, and guidelines used by the Board in the expedited release of factual accident-related information to victims and their families, Federal, State, and local accident investigators and agencies, private or third party investigation partners, the public, and other stakeholders.

The amendment (No. 4039) was agreed to, as follows:

Amend the title so as to read “A Bill To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2011 and 2012, and for other purposes.”

#### EXPRESSING SYMPATHY TO AND SOLIDARITY WITH THE REPUBLIC OF KOREA

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 525, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 525) expressing sympathy to the families of those killed in the sinking of the Republic of Korea Ship Cheonan, and solidarity with the Republic of Korea in the aftermath of this tragic incident.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 525) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 525

Expressing sympathy to the families of those killed in the sinking of the Republic of Korea Ship Cheonan, and solidarity with the Republic of Korea in the aftermath of this tragic incident.

Whereas on March 26, 2010, the Republic of Korea Ship (ROKS) Cheonan was sunk by an external explosion in the vicinity of Baengnyeong Island, Republic of Korea;

Whereas of the 104 members of the crew of the Republic of Korea Ship Cheonan, 46 were killed in this incident, including 6 lost at sea;

Whereas on April 25, 2010, the Government of the Republic of Korea commenced a five-day period of mourning for these 46 sailors;

Whereas the Government of the Republic of Korea continues to lead an international investigation into the circumstances surrounding the sinking of the Republic of Korea Ship Cheonan;

Whereas the alliance between the United States and the Republic of Korea has been a vital anchor for security and stability in Asia for more than 50 years; and

Whereas the United States and the Republic of Korea are bound together by the shared values of democracy and the rule of law: Now, therefore, be it

*Resolved*, That the Senate—

(1) expresses its sympathy and condolences to the families and loved ones of the sailors of the Republic of Korea Ship (ROKS) Cheonan who were killed in action on March 26, 2010;

(2) stands in solidarity with the people and the Government of the Republic of Korea in the aftermath of this tragic incident;

(3) reaffirms its enduring commitment to the alliance between the Republic of Korea and the United States and to the security of the Republic of Korea;

(4) urges the continuing full cooperation and assistance of the United States Govern-

ment in aiding the Government of the Republic of Korea as it investigates the cause of the sinking of the Republic of Korea Ship Cheonan;

(5) urges the international community to provide all necessary support to the Republic of Korea as the Government of the Republic of Korea investigates the sinking of the Republic of Korea Ship Cheonan; and

(6) further urges the international community to fully and faithfully implement all United Nations Security Council Resolutions pertaining to security on the Korean Peninsula, including United Nations Security Council Resolution 1695 (2006), United Nations Security Council Resolution 1718 (2006), and United Nations Security Council Resolution 1874 (2009).

#### REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 111-5

Mr. DODD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on May 13, 2010, by the President of the United States:

Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive Arms (Treaty Document No. 111-5.)

I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol. The Protocol is an integral part of the Treaty and contains three Annexes. I also transmit, for the information of the Senate, the report of the Department of State and three unilateral statements associated with the Treaty. These unilateral statements are not legally binding and are not integral parts of the Treaty. The Department of State report includes a detailed article-by-article analysis of the Treaty, as well as an analysis of the unilateral statements.

The Treaty will enhance the national security of the United States. It mandates mutual reductions and limitations on the world's two largest nuclear arsenals. The Treaty will promote transparency and predictability in the strategic relationship between the United States and the Russian Federation and will enable each Party to verify that the other Party is complying with its obligations through a

regime that includes on-site inspections, notifications, a comprehensive and continuing exchange of data regarding strategic offensive arms, and provisions for the use of national technical means of verification. The Treaty further includes detailed procedures for the conversion or elimination of Treaty-accountable items, and provides for the exchange of certain telemetric information on selected ballistic missile launches for increased transparency.

Additionally, the Treaty creates a Bilateral Consultative Commission that will meet regularly to promote effective implementation of the Treaty regime. This Commission will provide an important channel for communication between the United States and the Russian Federation regarding the Treaty's implementation.

The United States will continue to maintain a strong nuclear deterrent under this Treaty, as validated by the Department of Defense through rigorous analysis in the Nuclear Posture Review. The Treaty preserves our ability to determine for ourselves the composition and structure of our strategic forces within the Treaty's overall limits, and to modernize those forces. The Treaty does not contain any constraints on testing, development, or deployment of current or planned U.S. missile defense programs or current or planned U.S. long-range conventional strike capabilities.

The Treaty, upon its entry into force, will supersede the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, signed in Moscow on May 24, 2002.

I urge the Senate to give early and favorable consideration to the Treaty, including its Protocol, and to give its advice and consent to ratification.

BARACK OBAMA,  
THE WHITE HOUSE, May 13, 2010.

#### APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the majority and minority leaders of the Senate and the Speaker and minority leader of the House of Representatives, pursuant to Section 301 of Public Law 104-1, as amended by Public Law 108-349, and further amended by Public Law 111-114, announces the joint re-appointment of the following individuals as members of the Board of Directors of the Office of Compliance: Barbara L. Camens of the District of Columbia and Roberta L. Holzwarth of Illinois.

The Chair, on behalf of the Vice President, pursuant to Public Law 93-642, appoints the Senator from Alaska (Mr. BEGICH) to be a member of the Harry S. Truman Scholarship Foundation Board of Trustees, vice the Senator from Montana (Mr. BAUCUS).

#### ORDERS FOR FRIDAY, MAY 14, 2010

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., tomorrow, Friday, May 14; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 3217, Wall Street reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. DODD. Mr. President, as previously announced, there will be no rollcall votes during Friday's session of the Senate.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DODD. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order.

There being no objection, the Senate, at 8:16 p.m., adjourned until Friday, May 14, 2010 at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

MARK FEIERSTEIN, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE PAUL J. BONICELLI.

##### EXPORT-IMPORT BANK OF THE UNITED STATES

OSVALDO LUIS GRATACS MUNET, OF PUERTO RICO, TO BE INSPECTOR GENERAL, EXPORT-IMPORT BANK, VICE MICHAEL W. TANKERSLEY, RESIGNED.

##### IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICERS IN THE UNITED STATES COAST GUARD IN THE GRADES INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

##### To be lieutenant commander

EMILY S. MCINTYRE

##### To be lieutenant

PETER M. EVONUK  
JUSTIN H. HARPER  
SCOTT J. MCCANN

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

##### To be brigadier general

COL. PAUL H. MCGILLICUDDY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203(A):

##### To be colonel

PASCAL UDEKWU

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADES INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

##### To be lieutenant colonel

MARK R. ANDERSON  
TIMOTHY P. DEVINE  
HOWARD M. GUTHMANN II  
TERRY A. HAAG  
BRET E. LESUEUR

DERRICK B. WILLSEY

##### To be major

PAUL F. AMPER  
KAREN E.A. BOWMAN  
MARIE A. DANLEY  
JEFFREY E. EERTMOED  
MICHELLE S. FLORES  
IAN R. JOHNSON  
PAMELA R. LECLAIRE  
RANDELL J. NETT  
BETH L. ROACH  
CYNTHIA S. SHEN  
JONATHAN A. SOSNOV

##### IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

##### To be colonel

FRED M. CHESBRO  
HUGH T. CORBETT  
DONALD H. DELLINGER  
WILLIAM C. FRENCH  
LOREN S. FULLER  
ANTHONY L. HALL  
MICHAEL R. HILDRETH  
MARK D. MCCORMACK  
TIMOTHY S. PHEIL  
PAUL W. RAINWATER  
LINDA L. SINGH  
DEREK J. TOLMAN

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

##### To be colonel

MONIQUE C. BIERWIRTH  
ROBERT A. HEDGEPEETH  
MARVIN T. HUNT  
KENNETH L. MCCREARY  
CHRISTOPHER W. RATCHFORD  
JOHN A. STASNEY  
DAVID E. WOOD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be colonel

CAROLYN A. WALTZ

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 531:

##### To be lieutenant colonel

DENNY S. HEWITT  
PATRICIA J. ROACH  
THOMAS P. WEIKERT

##### To be major

MATTHEW D. GIOVANNI  
ELIZABETH R. GUM  
KENNETH M. SIKORSKY  
PATTIE M. VEDDER  
JOHN D. WILSON

##### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

##### To be lieutenant commander

JOHN M. HOLMES

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5589:

##### To be lieutenant commander

LEONARD J. LONG

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### To be commander

ALEXANDER DAVILA

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### To be lieutenant commander

ANTONIO L. SCINICARIELLO

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

##### To be lieutenant commander

CHRISTOPHER R. SWANSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

DOMINICK E. FLOYD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

JOSEPH A. NELLIS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be commander*

RACHEL J. VELASCO-LIND

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

JAMES R. PELTIER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

JOSEPH C. AQUILINA  
BRIAN K. AUGÉ  
JOHN L. BASTIEN  
MARY F. BAVARO  
LYNN L. BEACH  
LINDA J. BELTRA  
OCTAVIO A. BORGES  
WILLIAM C. BRUNNER  
JANIS R. CARLTON  
CHRISTOPHER D. CLAGETT  
JOSEPH B. CLEM  
MICHAEL E. COMPEGGIE  
CARL R. COWEN  
THOMAS A. CRAIG  
STEVEN D. CRONQUIST  
MICHAEL H. DANENBERG  
ANTHONY E. DELGADO  
MARK L. DICK  
ROBERT J. DONOVAN  
ALAN B. DOUGLASS  
MARK J. FLYNN  
STEVEN E. GABELE  
MICHELE L. GASPER  
LOUIS G. GILLERAN  
JOHN GILSTAD  
WAYNE M. GLUF  
DANIEL L. GRAMINS  
JOHN S. HAMMES  
TONY S. HAN  
JAMES L. HANCOCK  
KAREN J. HANNA  
CARY E. HARRISON  
JOHN F. HAWLEY  
DANIEL J. HEBERT  
ELIZABETH M. HOFMEISTER  
TIM B. HOPKINS  
PETER M. JOHNSON  
STEVEN A. KEWISH  
RICHARD KNITTIG  
BARBARA E. KNOLLMANNRITSCHER  
CHRISTOPHER A. KURTZ  
LOUIS V. LAVOPA  
BENJAMIN K. LEE  
JOHN L. LYSZCZARZ  
DANIEL F. MAHER  
ELIZABETH A. MALEY  
PAUL D. MCADAMS  
MICHAEL B. MCGINNIS  
PATRICIA L. MCKAY  
MELANIE J. MERRICK  
FERNANDO MORENO  
LISA P. MULLIGAN  
DAVID P. MURPHY  
JANET N. MYERS  
AMY L. OBOYLE  
PHILIP M. OCONNELL  
MICHAEL G. PENNY  
TODD B. PETERSON  
STEVEN J. PORTOUW  
MATTHEW C. RINGS  
PETER F. ROBERTS  
JASON J. ROSS  
RICHARD J. SAVARINO, JR.  
JAY SCHEINER

ASHLEY A. SCHROEDER  
ERIC L. SCHWARTZMAN  
CHRISTINE L. G. SEARS  
STEPHEN T. SEARS  
CRAIG D. SHEPPS  
AMANDA J. SIMSIMAN  
GEORGE H. SMITH  
KEITH A. STUESSI  
EDWARD T. WATERS  
WILLIAM D. WATSON  
CHRISTOPHER WESTBROOK  
WILLIAM M. WIKE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

STEPHEN G. ALFANO  
SOOK K. CHAI  
STEPHEN L. CHRISTOPHER  
WILLIAM E. DANDO  
ELIZABETH B. GASKIN  
JORGE A. GRAZIANI  
SCOTT KOOISTRA  
SEAN C. MEEHAN  
ANTHONY J. OPILKA  
MARGARET K. OROURKE  
TIMOTHY B. TINKER  
KEVIN R. TORSKE  
TERRY D. WEBB

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

CHRISTOPHER A. BLOW  
KEVIN R. BRADSHAW  
DAVID T. CLONTZ  
DONNA L. DAVISURGO  
DEBRA L. DUNCAN  
ROBERT S. FRY  
THINH V. HA  
RICHARD G. HAGERTY  
ERIC R. HALL  
RICHARD D. HAYDEN  
ROY L. HENDERSON  
KURT J. HOUSER  
BARBARA R. IDONE  
DONNA M. JEFFCOAT  
STEVEN M. JEFFS  
JOHN A. LAMBERTON  
MARCUS S. LARKIN  
CARLOS I. LEBRON  
RONALD R. MARTEL  
SHIRLEY A. MAXWELL  
EDWARD C. NORTON, JR.  
CORAZON D. ROGERS  
EDILBERTO M. SALENGA  
GEORGE B. SCHOELER  
JEOSALINA N. SERBAS  
CAMERON L. WAGGONER  
LINDA D. YOUNBERG

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

JEFFREY A. FISCHER  
CHRISTOPHER C. FRENCH  
ANDREW H. HENDERSON  
LAWRENCE D. HILL, JR.  
ALBERT S. JANIN IV  
ROBERT F. JOHNSON  
PAUL C. LEBLANC  
MARY E. B. MOSS  
KEVIN R. ONEILL  
ROBERT J. ONEILL  
TRACY V. RIKER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

CATHERINE A. BAYNE  
CHERYL W. BLANZOLA  
IRIS A. BOEHNKE  
JULIA E. BOND  
PATRICIA M. BURNS  
PAULA Y. CHAMBERLAIN  
LAURIE GENTENE

BRADLEY J. HARTGERINK  
PENNY M. HEISLER  
ALISA K. HODGES  
LINDA J. A. HOUE  
ANNA W. HURT  
CYNTHIA R. JOYNER  
KIM M. LEBEL  
CATHERINE M. MACDONALD  
JOHN P. MAYE  
KERRI S. PEGG  
TANYA M. PONDER  
KAREN S. PRUETTBAER  
LAVENCION V. STARKS  
SUSAN A. STEINER  
AMY M. TARBAY  
MOISE WILLIS  
JAMIE H. WISE  
MARY A. YONK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

JOHN D. BRUGHELLI  
KENNETH W. EPPS  
ANDREW C. ESCRIVA  
MARTIN F. FIELDS, JR.  
DIONISIO S. GAMBOA  
MATTHEW J. GIBBONS  
TIMOTHY J. HARRINGTON  
RICHARD D. HEINZ  
JAMES M. JOHNSON  
JAMES M. LOWTHER  
PAUL E. MARTIN  
KENNETH W. MCKINLEY  
JOSEPH D. NOBLE, JR.  
JOAN R. OLDMIXON  
TIMOTHY L. PHILLIPS  
MARK R. PIMPO  
ROBERT A. REICHART  
TIFFANY A. SCHAD  
DAVID A. SHEALY  
KEITH E. SYKES  
DERRIC T. TURNER  
MICHAEL J. WILSON  
POLLY S. WOLF

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

BILLY M. APPLETON  
BRUCE H. BOYLE  
GARY W. CLORE  
ALAN M. HANSEN  
J. P. HEDGES, JR.  
MARK R. HENDRICKS  
WAYNE A. MACRAE  
MICHAEL A. MIKSTAY  
CARLOS B. ORTIZ  
TIMOTHY L. OVERTURF  
BRENT W. SCOTT  
STEVEN P. UNGER  
MIL A. YI

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

ERIC M. AABY  
JOSEPH F. ALLING  
KEITH E. AUTRY  
MARK K. EDELSON  
PATRICK A. GARIN  
CHERYL M. HANSEN  
JOHN A. KLIEM  
CHRISTOPHER M. KURGAN  
RODNEY M. MOORE  
BRUCE C. NEVEL  
GLENN A. SHEPHARD  
GEORGE N. SUTHER

## IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 531:

*To be lieutenant colonel*

DAVID S. PHILLIPS



## EXTENSIONS OF REMARKS

RECOGNIZING THE BODE TECHNOLOGY GROUP, INC. OF LORTON, VIRGINIA FOR RECEIVING THE PRESIDENT'S "E" AWARD

## HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize The Bode Technology Group, Inc., of Lorton, Virginia. The Bode Technology Group received the President's "E" Award today in recognition of its achievements in supporting export growth in the U.S. business community. The "E" Award is the highest honor the Federal Government can give to a U.S. company or organization for exporting or facilitating export activity.

The recognition of Bode for this honor highlights the importance of the President's National Export Initiative (NEI), which aims to double exports over the next five years to support two million American jobs. Given the region's innovative technology base and strong international business community, Northern Virginia especially stands to benefit from the NEI.

Bode, which is located in Virginia's 11th Congressional District, specializes in DNA collection and analysis. It provides services to law enforcement agencies in all 50 states and more than 30 countries worldwide. It also provides critical assistance in identifying victims of mass disasters and missing persons. In addition, Bode has been a partner in helping to reduce human trafficking. Last year, the company was awarded the Virginia Governor's Award for Excellence in International Trade by Governor Tim Kaine.

Madam Speaker, I ask my colleagues to join me in congratulating Bode Technology Group on this honor and for its leadership on export activities.

## IN RECOGNITION OF THE LIFE AND LEGACY OF CRAIG NOEL

## HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mrs. DAVIS of California. Madam Speaker, I rise today to recognize an icon in the theater community and a treasured member of the San Diego family. On April 3, 2010, Craig Noel, the Founding Director of the Old Globe Theatre, passed away after 94 full years of life.

Craig Noel was a tenacious, witty, and warm-hearted man with a tireless commitment to the arts. San Diego is forever in debt to this talented man. He told a reporter in 2005, "I

had a vision. I wanted to make San Diego a theater town." And that he did.

Without Craig Noel, the San Diego arts community would not be the flourishing creative environment it is today. In addition to his directorial and artistic contributions, Craig Noel was a World War II veteran. While serving in the Army, he directed the Ernie Pyle Theater for service members in Tokyo.

When Craig returned to San Diego, his work as Artistic Director took the Old Globe to heightened levels of excellence. During his distinguished seven decades with the theater, Craig Noel staged over 225 productions of all styles and periods. These performances engaged and entertained theatergoers of all ages and backgrounds.

The Old Globe is nestled within Balboa Park, the nation's largest urban cultural park. The theater itself is actually one of the oldest nonprofit theaters in the country. Modeled after Shakespeare's Old Globe in London, San Diego's Old Globe was built in 1935 to present abridged versions of Shakespeare's plays during the California Pacific International Exposition.

After the exposition ended in 1937, a nonprofit production corporation, the San Diego Community Theatre, leased the theater from the City of San Diego and remodeled it for continued use. On December 2, 1937, the renovated Old Globe opened with a production of John Van Druten's "The Distaff Side." In the cast was a young actor named Craig Noel. His entrance was the beginning of a long and fruitful relationship with the Old Globe. Craig Noel's presence as an actor, director, and artistic leader guided the theater's growth through decades of artistic development and community outreach. The loyalty and dedication with which he served San Diego and the Old Globe is unparalleled.

Sadly, on March 8, 1978, an arson fire destroyed the Old Globe. I remember watching the news coverage with a heavy heart and then rushing to view the actual destruction the following day. I also vividly recall Craig Noel's passion and leadership to literally raise the theater from the ashes. Craig was pivotal in the reconstruction of the theater. He started a fundraising campaign and the people of San Diego donated more than \$6 million dollars, which was a lot of money in those days given the economic conditions people were facing. In 1982, the new Old Globe re-opened with a production of Shakespeare's "As You Like It."

On Nov. 15, 2007, Craig Noel was awarded the National Medal of Arts. This honor is the highest award given to artists and arts patrons by the United States Government, and is awarded by the President to those who "are deserving of special recognition by reason of their outstanding contributions to the excellence, growth, support and availability of the arts in the United States." Craig Noel was truly deserving of this acknowledgement. His nurturing spirit and supportive presence were

an inspiration to everyone with whom he worked.

While we grieve the loss of Craig Noel, we take comfort in the legacy he has left behind. You cannot walk the grounds of the Old Globe without feeling and seeing his strong hand of influence. On May 24th, the Old Globe Theatre is holding a public memorial in his honor. At that time, the Globe's lower courtyard will be renamed the Craig Noel Garden. I am confident his legacy will live on for generations to come.

## IN RECOGNITION OF JOHN J. FLYNN

## HON. RUSS CARNAHAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. CARNAHAN. Madam Speaker, I rise to congratulate retiring President of the International Union of Bricklayers and Allied Craftworkers, John J. Flynn, for his lifetime of service to the St. Louis and International union community.

As President, Flynn understood the priorities of the International Union and consistently worked to support and improve employment, training and educational opportunities for BAC contractors. Moreover he supervised the International Unions programs and ensured that all activities were in accordance with policies established by the International Unions conventions and constitution.

For more than 60 years, Flynn used the discipline and persistence that he learned during his early years as a boxer to help him become a true advocate for the members of the International Union of Bricklayers and Allied Craftworkers and all workers.

Although he has been honored with numerous awards for his service, no award can accurately reflect the tremendous impact he has had made on the union movement. I am pleased to congratulate John Flynn for his lifetime of service and unwavering dedication to the labor community. I wish John and his wife, Joyce, the very best.

## HONORING THE CONTRIBUTIONS OF MR. DON AMMERMAN

## HON. ALAN GRAYSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. GRAYSON. Madam Speaker, I rise today in honor of National Military Appreciation Month. This month, I would like to recognize a phenomenal service member from central Florida who is making a distinguished contribution to my district, the great State of Florida, and to our Nation as a whole. Today, I

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

honor former Orlando City Council Commissioner Don Ammerman.

Mr. Ammerman graduated from Indiana University with a BS in Real Estate & Marketing and an MBA in Real Estate Marketing/Finance. He is a recipient of two Ford Foundation Grants for overseas study while in graduate school. He also completed the John F. Kennedy School of Government for senior Executives in State and Local Government at Harvard University.

Mr. Don Ammerman began his military career in 1968 at Fort Jackson in South Carolina and from there served with the 83rd ARCOM in Columbus, Ohio. He completed his service in the reserves in Orlando in 1974. He was hand selected by the U.S. Navy Academy to serve as a Blue and Gold Admissions officer at Annapolis. His dedication to our country and our military is shown through his volunteering spirit. Mr. Ammerman continues to mentor hopeful academy members by offering young adults with aspirations of attending an academy his guidance and support. Currently, Mr. Ammerman serves as a board member for the 8th District Veterans Advisory Board and Military Academy Nominations Board.

Mr. Ammerman has contributed greatly to the central Florida community. He has served on the municipal Planning Board (1983–1989, 2 terms as Chairman), Chairman of the Orlando Growth Management/Concurrency Implementation Committee and Chairman of the 1991 Orlando Redistricting Committee. Mr. Ammerman successfully ran for the office of District 1 City Commissioner. Mr. Ammerman also served as a Board Member of the Greater Orlando Aviation Authority and he is a past member and Chairman of the Sunshine State Governmental Finance Commission for 20 years. Nationally, he served on the Leadership Training Council for the National League of Cities. Mr. Ammerman finished his City Council service in June of 2002.

Mr. Ammerman's commitment to community service is unyielding. He served as Philanthropy Chair and active member of the Board of Directors for the Orlando Regional HealthCare Foundation. He is a trained volunteer with the Neo Natal Unit for 22 years at Arnold Palmer Hospital for Women and Children. He serves as a teacher at the First Presbyterian Church. Additionally, Mr. Ammerman is a member of the Florida Citrus Sports Association, the Greater Orlando Leadership Foundation, a graduate of Leadership Orlando and Leadership Florida, as well as the Dr. Phillips Foundation Grant Review committee. His other involvements include past National Admissions Chairman/Society of Industrial & Office Parks Realtors and past President of the Central Florida Chapter of the National Association of Industrial/Office Parks (NAIOP).

Madam Speaker, during Military Appreciation Month, it is my honor to recognize this remarkable public servant whose dedication to our country and community can be shown through his great achievements in the State of Florida. Commissioner Ammerman has been working for the people of Florida since 1972 and I applaud his civic and military accomplishments in our central Florida community, our great State and our Nation.

# RECOGNIZING THE HONOREES OF THE 63RD ANNUAL ANNANDALE CHAMBER OF COMMERCE AWARDS BANQUET

## HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize the honorees of the 63rd Annual Annandale Chamber of Commerce Awards Banquet.

The Annandale Chamber of Commerce is a thriving volunteer organization with more than 200 active members. The members represent businesses, industries and professionals who work together to maintain a favorable business climate while improving the quality of life for all residents.

Each year, the Annandale Chamber of Commerce honors a few select individuals who have distinguished themselves as exemplars of the community. It is my honor to recognize these fine recipients and the contributions that they have made to the community:

Student Achievement Award for Falls Church High School: Dennis Nolasco. Dennis is a marketing student who was instrumental in the development and promotion of the School's Jaguar Joe Coffee Project. Dennis has an outstanding work ethic and serves as an effective role model to his peers. After graduation from Falls Church High School, Dennis plans to major in finance or business administration at George Mason University.

Student Achievement Award for Annandale High School: Emma Dorothy Whitmyre. Emma is an International Baccalaureate Diploma candidate and has served as president of both the National Honor Society and the Jewish Culture Club. Emma has a strong commitment to social action. She volunteers at a homeless shelter, tutors, and runs a winter coat drive for those who are less fortunate. This fall, Emma will be attending New York University where she plans on majoring in anthropology or psychology.

Student Achievement Award for Northern Virginia Community College: Jacquelyn Shanahan. Jackie, as she is known by her friends and family, has nobly served our nation in the United States Marine Corps. She recently received the Liberal Arts Division academic award and has completed the Honors Curriculum at NOVA with a GPA of 4.0. Jackie has served as president of the Honors Community Annandale Honors Club and as a chair for the Relay for Life. Jackie has been accepted into the Marymount University Honors Program and plans to major in English.

Citizen of the Year Award: Irv Denton. Irv has dedicated his time and efforts to the residents of Annandale for many years, having served on the boards of the Annandale Central Business Planning Committee and the Annandale Chamber of Commerce. After his distinguished career in the U.S. Air Force, he focused his energies in the field of education and taught classes at the Northern Virginia Community College. His commitment to our country, our community and our future is an inspiration to us all.

Firefighter of the Year Award: Apparatus Technician John Lockhart. John has given more than 25 years of service to the residents of Fairfax County, including 14 at the Annandale Station. John also serves as a tremendous community resource, instructing the younger firefighters in the safe usage of the equipment, and helping to ensure that Annandale residents will continue to receive the highest quality rescue care into the future.

Police Officer of the Year Award: Detective Horace Lawalt. Horace has served the residents of Fairfax County for more than 11 years, including 5 years at the Mason District Station. As a detective in the Criminal Investigation Section, he has helped keep the community safe from burglaries, robberies and grand larcenies. Despite having one of the lowest per capita police forces, Fairfax County enjoys one of the lowest crime rates of any jurisdiction its size due to the exceptional work and dedication of Horace and his fellow officers.

Madam Speaker, I ask that my colleagues join me in recognizing Dennis, Emma, Jacquelyn, Irv, John and Horace, the honorees of the 2010 Annandale Chamber of Commerce Awards Banquet, and thanking them for their service to our community. Each honoree is a role model for his or her peers and an invaluable member of our community.

# RECOGNIZING THE 25TH ANNIVERSARY OF THE DURHAM LITERACY CENTER AND HONORING ITS FOUNDER, MRS. MARY WHALEY PAUL

## HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2010

Mr. PRICE of North Carolina. Madam Speaker, I rise today to acknowledge the twenty-fifth anniversary of the Durham Literacy Center and to honor its founder (and my constituent), Mrs. Mary Whaley Paul. Mrs. Paul has led a remarkable life and, along the way, she managed to spearhead the campaign against illiteracy in Durham, North Carolina.

Like so many people who achieve great things, Mrs. Paul didn't set out to become a literacy advocate. In 1975, she was a widowed mother of two nearing retirement age. But she attended a workshop on teaching literacy skills to illiterate adults, and the course of her life was forever changed. By 1978, Mrs. Paul had begun leading her own literacy-instruction workshops, and she had become director of the Yates Baptist Literacy program that same year.

The creation of the Durham County Literacy Council in May of 1985 was a direct result of Mrs. Paul's efforts to spread adult literacy instruction and increase the number of literate adults throughout Durham County. This Council later became the Durham Literacy Center.

The Durham Literacy Center targets the provision of its services to those most in need: adults who lack basic literacy skills, recent immigrants, and out-of-school teenagers. Since its inception, a small but dedicated staff has trained more than 2,000 literacy tutors who

have served more than 12,000 Durham residents. The Center currently serves more than 550 adults per year at seven locations in Durham.

Growing along with Durham, the Center has evolved from a small organization to a pivotal provider of a variety of educational services. In addition to instruction in reading and writing, the Center helps individuals gain educational credentials (such as a GED) and provides instruction in workplace, computer, financial, and health literacy.

The impact of the Center on the lives of its graduates is Mrs. Paul's most compelling legacy. For starters, graduates earn an average of \$7,500 more per year than their counterparts who lack a GED or are not proficient in English. But in addition to securing better employment because of the skills they learn at the Durham Literacy Center, they also go on to receive promotions, purchase homes, improve their health, and enjoy a better quality of life.

Over the years, the Durham Literacy Center has become one of Durham's greatest assets, and the organization's achievements have much to do with the foresight and dream of Mary Whaley Paul and those who followed her. Mrs. Paul helped to illuminate a hidden segment of the Research Triangle populace—the non-reader—and has been instrumental in alleviating the severe economic and social stigma under which they struggle. She also has been a beacon of hope and inspiration for thousands to volunteer and make a difference in the Durham community.

It is in that spirit that I urge my colleagues to join me in celebrating the 25th anniversary of the Durham Literacy Center and in honoring Mrs. Mary Whaley Paul for her efforts to empower the people of Durham County through literacy.

#### RECOGNIZING THE 50TH ANNIVERSARY OF THE "SHOOTERS" OF TRAINING SQUADRON SIX

##### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2010

Mr. MILLER of Florida. Madam Speaker, it is with great pleasure I rise to recognize the 50th anniversary of the Shooters of Training Squadron SIX. Through times of war and through times of peace, Training Squadron SIX has served our country with great distinction and valor. For that reason, I am proud to recognize the Shooters of Training Squadron SIX for their exceptional training and excellent performance over the last 50 years.

Training Squadron SIX has picked up the torch lit by their predecessors on May 1, 1960, and continued the legacy of producing the best combat aviators the world has ever seen. On that day, Training Squadron SIX was commissioned with the task of providing primary flight training to a younger generation of student naval aviators. Since being commissioned, more than 15,000 students have been trained and in excess of 1.1 million flight hours performed.

Madam Speaker, on behalf of the United States Congress, I am privileged to recognize

Training Squadron SIX for going above and beyond the call of duty on their 50th anniversary. To this day, Training Squadron SIX continues to provide the highest quality training to student aviators from the Navy, Marine Corps, Coast Guard and several Allied Forces.

#### RECOGNIZING THE CAREER OF MR. ROBERT WYDRA

##### HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2010

Mr. COSTELLO. Madam Speaker, I rise today to ask my colleagues to join me in recognizing the distinguished career and regional contributions of Mr. Robert, Bob, Wydra, Executive Director of the Tri-City Regional Port District.

Bob Wydra has been with the Tri-City Regional Port District since 1982. Under his leadership, the Port—which includes the former Melvin Price Army Depot—has been an economic engine for Southwestern Illinois and is developing into a true intermodal transportation facility. Prior to coming to the Port District, he was Director of Planning for Southwestern Illinois Planning Commission for 15 years. Bob also spent 2 years with his wife, Kay, in India and Israel in Economic Development work as American Peace Corps volunteers.

Bob has a Master's of Science Degree in Community Development and Regional Planning from Southern Illinois University—Edwardsville. He also has a Bachelor of Arts Degree in History and Education from SIU—E.

Bob is very active in numerous professional organizations. He is a member of the National Association of Foreign Trade Zones, St. Louis World Trade Center, Inland Rivers, Ports and Terminals, Illinois Development Council, Southwestern Madison County Chamber of Commerce, Water Resource Congress, American Association of Port Authorities, St. Louis Regional Commerce and Growth Association, Military Affairs Committee of the Leadership Council, St. Louis World Affairs Council, Southwestern Illinois Planning Commission Executive Committee, and Traffic Club of St. Louis. Bob is a Past President of the Illinois Association of Port Districts, board member of the Southwestern Illinois Leadership Council and member of US MARAD's Maritime System of the Americas Advisory Committee, among other committee positions.

In addition to his professional affiliations, Bob has also found time to help with various community activities. He has been an active fundraiser for the United Way Tree of Lights Campaign and was Chairman for the Salvation Army for 2 years.

Bob Wydra has received the St. Louis Commerce and Growth Association's "Sold on St. Louis" Award for promoting the St. Louis area in the world economy. In 2002, he received the "Salute from Southwestern Illinois" Award from the Leadership Council. The Port received the "Outstanding Development of the Year" Award in 2002 from the Southwestern Illinois Development Authority and, also in 2002, the "Marketing Award for Excellence"

from the National Association of Developers. Bob received the "Art of Business Leadership" Award from the Southwestern Madison County Chamber of Commerce in 2005.

Bob has been married to Kay Lee Wydra for 45 years and they have two children: Nicole who lives in Glen Carbon, Illinois, with her husband, Kurt, and their two children, Trey and Caitlyn; and a son, Paul who lives in the Nashville, Tennessee, area.

Madam Speaker, I ask my colleagues to join me in an expression of appreciation to Mr. Robert Wydra for his many contributions to the Southwestern Illinois and Metropolitan St. Louis regions and to wish him and his family the very best in the future.

#### RECOGNIZING DR. STEVE GAYNOR'S DECADES OF SERVICE TO OUR COMMUNITY AS A LEADER IN EDUCATION

##### HON. GARY C. PETERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2010

Mr. PETERS. Madam Speaker, I rise today to recognize Dr. Steven Gaynor, the distinguished Superintendent of the Bloomfield Hills School District, on the occasion of his retirement after nearly 35 years of service to countless families and children of Southeast Michigan through his work as an educator, administrator and leader.

Almost 35 years ago, Dr. Gaynor embarked upon a career in education that would span the geography of Southeast Michigan and the broad breadth of service in education. Steve began his career in 1975 as a social studies teacher and special education teacher consultant. He served the communities of Livonia, Madison Heights, Walled Lake, Davisburg, Holly and Royal Oak before becoming the superintendent of Bloomfield Schools where, for the past 8 years, he has served the families and community of Bloomfield Hills.

Steve's tenure at Bloomfield Hills Schools was during a most tumultuous and challenging time for public education. Despite dwindling state and local revenue sources and the severe economic downturn in Southeast Michigan, Steve made the best of shrinking resources and pressed forward with important and innovative projects. Steve's vision and dedication led to the creation of multiple International Baccalaureate programs, an increased use of innovative technology in the classroom, improved professional development for teachers and administrators, and overall academic achievement by putting students first. He has been recognized for his unwavering focus on securing the future of the schools with boundless energy, good humor and strong leadership.

Through these busy years, Steve remained active in key community organizations including the Oakland County Superintendents' Association, the North Central Association state committee, where he received an award for instructional leadership and school improvement, and as a founding member of the Learning Achievement Coalition, a project focused on eliminating achievement gaps

among children. Moreover, he pioneered important partnerships including one with the municipalities of Bloomfield Hills and Bloomfield Township to preserve historical assets. With other Oakland Schools and the Oakland Intermediate School District, Steve pooled funds to rebuild Wing Lake Development Center to a \$10 million state-of-the-art educational facility for our most challenged students in Oakland County.

Madam Speaker, as parents of Bloomfield Hills Schools students, my wife Colleen and I are pleased to call Steve a much admired and appreciated friend. Undoubtedly, we join the scores of children and families whose lives have been touched by Steve's hard work, dedication and caring. I ask my colleagues to join me today as I honor Dr. Steve Gaynor for his lifetime commitment to bettering the lives of children through education, on the occasion of his retirement from Bloomfield Hills Schools.

A TRIBUTE TO DART CONTAINER CORPORATION

**HON. BRETT GUTHRIE**

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. GUTHRIE. Madam Speaker, I rise today to honor Dart Container Corporation and its Horse Cave plant located in the Commonwealth of Kentucky. This past April, Dart Container Corporation, headquartered in Mason, Michigan, celebrated its 50th Anniversary.

The company established a plant in Horse Cave, Ky., in 1980, and has been delivering quality goods ever since. Dart Container Corporation's Horse Cave facility is currently the largest employer in Hart County and continues to expand.

The plant started 30 years ago with 25 employees and had a 230,000 square foot facility. Today, it has grown to employ 1,090 individuals and now covers almost 3 million square feet.

The Dart Container Corporation and its Horse Cave facility have a long history of community involvement, including participating in Hart County's Relay for Life and the Horse Cave Heritage Festival. Over the years the company has sponsored local sports and school activities, 4-H programs, Clothes for Kids, the YMCA, American Heart Association, Big Brothers/Big Sisters, the Hart County Public Library, the Kentucky Repertory Theatre, the American Cave Museum and Hidden River Cave.

The entire Hart County community is grateful for Dart's continued presence, support, and generosity.

I ask my colleagues to join me in honoring the employees of Dart Container Corporation. I am proud to represent them here in Washington and look forward to their continued success.

IN HONOR OF THE RETIREMENT OF BREWSTER FIRE CHIEF ROY JONES

**HON. BILL DELAHUNT**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. DELAHUNT. Madam Speaker, I rise before you today to honor the retirement of a distinguished member of the Brewster Fire Department, Chief Roy Jones. For 37 years, Roy has selflessly served the people of Brewster and Cape Cod as a member of the Fire Department, and spent an impressive 29 years as Fire Chief.

The heroism and bravado of fire-fighters inspire many children to dream of one day donning their own bright yellow fire-suit and grasping a fire hose in their hands as they storm a building engulfed by flames. Like countless children before him, Roy, too, was enraptured by the blaring sirens and towering ladders introduced to him at his first firehouse visit. By the age of 18, he served as a volunteer firefighter in the towns of Harwich and Eastham on Cape Cod. Nothing could tear him from his passion—he even lived and worked in a firehouse during his college years in Maryland.

With his youth interrupted by the war in Vietnam, Roy took his fire-fighting expertise—and the invaluable life skills attributed to the diligence that only a life-long firefighter possesses—to the U.S. Air Force. Following his laudable service, which brought him far from the dunes of Cape Cod to the exotic South Pacific, he returned home to Massachusetts, where he founded the first rescue squad in the town of Brewster.

From volunteer to captain to chief, Roy Jones lived his childhood dream each day, leaving behind an impressive resume and hundreds of lives and memories saved. Now, Roy had folded his 'bunker gear' for the final time, laying to rest not only years of fire-fighting experience, but of tremendous and admirable leadership. As he acclimates himself to a new life of retirement and—if he allows himself to slow down—a life of unprecedented leisure, I applaud his dedication to public safety and the people of Brewster. On behalf of a very grateful constituency, thank you on a job well done.

HONORING THE SERVICE OF ALFRED P. GERHARDT, JR.

**HON. JIM GERLACH**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. GERLACH. Madam Speaker, I rise today to honor Alfred P. Gerhardt, Jr., as his one-year term as Eastern Vice Commander of the Pennsylvania Department of the American Legion draws to a close.

Vice Commander Gerhardt has served with honor and demonstrated tremendous leadership for the approximately 50,000 veterans residing in the Legion's Eastern District. He exemplified the Legion's core principle of contin-

ued devotion to fellow service members and veterans with his efforts in coordinating the distribution of Christmas gifts to veterans in the Coatesville and Philadelphia Veterans Administration Hospitals.

Friends, supporters and fellow Legionnaires will thank Commander Gerhardt for his service during a testimonial dinner on Saturday May 15, 2010 at the Honey Brook Fire Company.

Madam Speaker, I ask that my colleagues join me today in recognizing the outstanding service and exemplary leadership that Alfred P. Gerhardt, Jr., has provided to veterans and service members as Eastern Vice Commander of the Pennsylvania Department of the American Legion and in offering our heartiest congratulations on the successful completion of his one-year term.

RECOGNIZING DICK BOZZONE, USAF (RET.)

**HON. SCOTT GARRETT**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. GARRETT of New Jersey. Madam Speaker, I rise today with the honor of recognizing Dick Bozzone, a veteran of the United States Air Force and former commander of the American Legion Cpl. Jedh C. Baker Memorial Post 153. Dick has been recognized for his service to his country and community by being named the Grand Marshal of the Tri-Boro Memorial Day Parade in Montvale, Park Ridge, and Woodcliff Lake, NJ. During my time representing these boroughs, I have had the opportunity to get to know Dick, and consider him well-deserving of this accolade.

Since retiring from the Air Force, Dick has remained an active supporter of our nation's servicemen and servicewomen. In addition to his years as the American Legion Post Commander, Dick also served as the President of the Chorwon Chapter of the Korean War Veterans Association. This past year, Dick and his fellow Legionnaires erected a monument memorializing those who lost their lives in the Fort Hood Massacre. Dick has proven to be an effective advocate for veterans and active-duty members of the military, and has also educated the public on proper respect for the U.S. Flag. Dick has been active in his community, our state, and our nation. He has run for office on the local and federal level, and has served in various leadership posts in the local Republican Party. He was also appointed as a Commissioner of the USS NJ Battleship Museum under two governors.

This is not the first time Dick has been recognized for his exemplary citizenship. In addition to his awards for serving honorably in the Air Force, he has been grand marshal of several other parades and is one of the few honorary members of the Pearl Harbor Survivors' Club of NJ. Last year, Park Ridge Mayor Donald Ruschman recognized Dick's years of public service alongside other civic, educational, and religious leaders from the borough. I join Mayor Ruschman, the boroughs of Montvale, Park Ridge, and Woodcliff Lake, and countless others in thanking Dick Bozzone for his ongoing service to this country and commend

him for leading an exemplary public life. Dick is a man our sons and daughters can look up to, and an individual our community can depend on. Our brave servicemen and women are the embodiment of the American ideals, and it is an honor to represent such individuals as Dick Bozzone in Congress.

#### PERSONAL EXPLANATION

#### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2010

Mr. MILLER of Florida. Madam Speaker, I missed rollcall vote No. 248 on May 5, 2010. If present, I would have voted "nay."

A PROCLAMATION HONORING SGT. 1ST CLASS CHARLES KOMAROMY FOR FORTY YEARS OF SERVICE IN THE UNITED STATES ARMY AND NATIONAL GUARD

#### HON. ZACHARY T. SPACE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2010

Mr. SPACE. Madam Speaker, Whereas, Sgt. 1st Class Charles Komaromy has served forty years in the United States Army and the National Guard; and

Whereas, Sgt. Komaromy answered his country's call of duty and served honorably and bravely in Vietnam, Operation Desert Storm, and Operation Iraqi Freedom; and

Whereas, Sgt. Komaromy has represented the community of Dover and his country proudly and admirably with forty years of military service; and

Whereas, the community of Dover will honor the distinguished service of Sgt. Komaromy with a celebration on Saturday, May 15 at the Dover Armory, be it

Resolved, that along with his friends, family, the United States Army and National Guard, and residents of the 18th Congressional District of Ohio, I commend and thank Sgt. 1st Class Charles Komaromy for his forty years of exemplary service to his country and his community.

HOUSE RESOLUTION 1272, COMMEMORATING THE 40TH ANNIVERSARY OF THE MAY 4, 1970, KENT STATE UNIVERSITY SHOOTINGS

#### HON. BETTY SUTTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2010

Ms. SUTTON. Madam Speaker, I rise today in support of House Resolution 1272, commemorating the 40th anniversary of the May 4, 1970, Kent State University shootings.

As a lifelong Northeast Ohioan and a graduate of Kent State University, I hold what took place on May 4th close to my heart.

After the announcement of the U.S. incursion into Cambodia, Kent State students began a weekend of anti-war protests that culminated in the deaths of four unarmed students on May 4th . . .

. . . Another nine were injured, including one of my constituents, Barberton resident and my very dear friend, Alan Canfora.

During the height of the Vietnam War from 1968 to 1971, 17 people were killed during anti-war protests on college campuses.

Many of these Vietnam War demonstrations, including those at Kent State, pitted students against their peers serving in the National Guard.

Forty years after the Kent State shootings, the tragic events of May 4th remain a symbol of the Vietnam War and the protests that ensued at college campus in Ohio and across the country.

I commend the recent placement of the site of the May 4th shootings on the National Register of Historic Places.

I also applaud the establishment of the May 4th Visitors Center, Memorial, and Historical Walking Tour on the campus.

May 4th took the lives of Allison Krause, Jeffrey Miller, Sandra Scheuer, and William Schroeder.

They will always live on in our memories.

They represent a generation and a tumultuous chapter of our Nation's history that should not ever be forgotten.

SUPPORTING WAL-MART'S EFFORTS TO COMBAT HUNGER IN THE UNITED STATES

#### HON. CHAKA FATTAH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2010

Mr. FATTAH. Madam Speaker, I rise today to recognize a notable work of good citizenship on the part of Wal-Mart and the Wal-Mart Foundation. Their announcement of a five year, \$2 billion initiative to improve the efficiency of the U.S. food bank system and make nutritious food more accessible to those in the greatest need will contribute towards the goal of ending childhood hunger by 2015. This initiative will provide 1.1 billion pounds of food to families who desperately need it, and will deliver \$250 million in grants to help support hunger relief organizations.

As Chair of the Congressional Urban Caucus, I know that too many of the nation's urban residents face the silent epidemic of food insecurity, and that they are not alone in their plight. Up to 49 million Americans and 22 percent of all children went hungry in 2008. This is a travesty in a country as rich and prosperous as the United States. This cannot be allowed to continue.

I wish to congratulate Wal-Mart in its efforts to help combat hunger in the United States, and I hope that this is not only a significant step in a broad commitment on the part of this corporation, but one that motivates their peers to join us in this cause.

THE SUBCOMMITTEE ON ENERGY AND THE ENVIRONMENT HEARING ON THE REAUTHORIZATION OF STATE REVOLVING FUNDS

#### HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 2010

Mr. RUSH. Madam Speaker, I submit the following.

Chairman WAXMAN, Chairman MARKEY, Ranking Member BARTON, Ranking Member UPTON and all of my distinguished colleagues that sit on the Subcommittee on Energy and the Environment, thank you all for allowing me to make these remarks for the record on this important hearing on the reauthorization of State Revolving Funds within the "The Assistance, Quality, and Affordability Act of 2010."

Chairman MARKEY, I would especially like to thank you and your staff for working with my office over the past year to tighten the regulations within the SRF that govern water security to ensure that the incident that happened in my congressional district of Crestwood will not be replicated and that all of our constituents will have access to clean, safe drinking water.

Mr. Chairman, I would like to briefly recount for all of my colleagues the preposterous and unbelievable events that happened in Crestwood that has brought us to the point we are today. It is a story that, unfortunately, is ripe with abuses of the public trust by crooked and corrupt public officials at a level that is hard to fathom.

And it is a story that, hopefully, with the measures that we will enact in this legislation, will never be allowed to happen again.

Mr. Chairman, the story of Crestwood began in 1986, when the Illinois EPA was notified that the well water that was being used for public consumption was contaminated and was found to be unsuitable under federal EPA standards. Officials from the Village of Crestwood told State EPA authorities that the well would no longer be used for drinking purposes, but would remain open for emergency uses only, such as fighting fires.

Unbelievably, despite the warning from the IL EPA to the Crestwood officials about using the well for public consumption, for another 20 years, from 1986–2007, untreated well water was mixed with Lake Michigan water and was piped into the homes of village residents for drinking and other uses.

Mr. Chairman, for over 20 years, the citizens of Crestwood Village were consuming water, filled with contaminants, while the IL EPA never went back in to test the water quality or ensure that Crestwood officials had followed their edict to stop using the well for public consumption.

Then, in December 2007, acting on a tip from a private citizen, Tricia Krause, the IL EPA decided to test the well water for the first time since they were first alerted to the problem in 1986.

During these tests, the IL EPA found that the well water contained unacceptable levels of perchloroethylene (PCE), a chemical linked to liver damage and neurological problems, as well as other carcinogenic chemicals that were higher than federal standards permit.

Mr. Chairman, it took the brave and courageous act of an everyday, hardworking, private citizen, Ms. Tricia Krause, to finally pull the plug on the nefarious and despicable acts of Crestwood officials. For 20 years, these officials willfully and reprehensibly lied to State authorities and fed contaminated water to the very citizens they were sworn to protect.

After Ms. Krause blew the whistle on these despicable acts and the story became public, the U.S. Environmental Protection Agency and the U.S. Department of Justice executed search warrants and found that Village officials had been falsifying records regarding the purchase and delivery of water to its citizens for over 20 years.

And while we must acknowledge and praise the work of courageous citizens like Ms. Krause for taking matters into her own hands to shed light and seek justice, we must also do everything in our power to make it more difficult for immoral and despicable public officials to dupe the public again and feed contaminated and poisonous water to our citizens.

Mr. Chairman, the steps that you have taken in this bill will go a long way toward restoring the public trust in the system by requiring our State agencies, which are in many cases the last line of defense in ensuring public safety, to go that extra step to protect the public.

This language would simply compel the EPA to set up requirements for notifying the public served by a water system when different types of violations occur. The EPA would be allowed to use the same categories of violations that have already been developed under subsection (c) of the Safe Drinking Water Act.

Additionally, for each category of violation, the EPA will determine what types of follow-up inspections are needed, and how many inspections the State will need to carry out. This gets right at the issue of the Illinois EPA not being required to go out and check whether the contaminated well was being used, without being overly burdensome if the violations are not related to public safety.

Mr. Chairman, as representatives of the people we serve, for most of us the actions taken by Village of Crestwood officials would be unconscionable. In all of my time as a public servant, I have rarely encountered public officials acting so egregiously against their own citizens or abusing their power in a way that puts the public safety at risk.

In March 2010, the IL Dept. of Public Health released a report that found cancer rates were "significantly elevated" in Crestwood residents, with higher-than-expected cases of kidney cancer in men, lung cancer in men and women, and gastrointestinal cancer in men.

While researchers could not make a definite link between the consumption of contaminated water for 20 years for the 11,000 residents of Crestwood and the elevated rates of cancer there, they determined it was possible that toxic chemicals in the drinking water caused the extra cancer cases.

Well, I'm not a researcher, but I can analyze commonsense, and for me, the coincidence between drinking cancer-causing contaminated water for 20 years and then having higher-than-normal rates of cancer appear in those same citizens shows that there must be some connection between the two.

With our actions here today and in moving this bill forward, it is my sincere hope that no other community in America will have to suffer from the reprehensible acts of a few despicable public servants who would seek to abuse the public trust.

Thank you again Mr. Chairman, and distinguished Members of the Subcommittee, for allowing me to participate today.

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CONGRATULATING ERMA JOHNSON  
HADLEY AND RECOGNIZING HER  
MANY ACCOMPLISHMENTS TO  
TARRANT COUNTY COLLEGE AND  
HER COMMUNITY

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**HON. MICHAEL C. BURGESS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. BURGESS. Madam Speaker, I proudly rise today to congratulate Erma Johnson Hadley, the newly appointed Chancellor of the Tarrant County College District, and to recognize her many accomplishments to TCC and her community. Hadley is not only the first female to be named Chancellor of TCC, but also the first African American.

Hadley has been with TCC, which includes five districts and has an enrollment of more than 45,000 students, for over 40 years. Prior to being named Chancellor, Hadley has served as both a faculty member and administrator, including Director of Personnel, Vice Chancellor for Human Resources, and Vice Chancellor for Administration.

During her distinguished tenure at TCC, Hadley has been voted "Outstanding Teacher", she established the District's call center, and created the TCC Employee Scholarship Program, among other notable accomplishments. Hadley has also served as Equal Opportunity Officer and formerly oversaw the Admissions, Records and Registration departments.

In addition to her service to TCC, Hadley has contributed significantly to the local community for more than 35 years. She has served as Chairman of the Tarrant County Hospital District Board of Managers, Chairman of the Dallas-Fort Worth International Airport Board, and Chairman of the North Texas Commission. Hadley was also selected by former Texas Governor Bill Clements for the Trinity River Authority of Texas and former Texas Governor George W. Bush for the Texas Governor's Committee on Volunteerism.

Madam Speaker, it is with great honor that I rise today to congratulate and recognize the accomplishments of Erma Johnson Hadley, Chancellor of the Tarrant County College District. It is a privilege to represent such a dedicated community member and public servant, and such a superb educational institution, in the United States House of Representatives.

2010 14TH CONGRESSIONAL  
DISTRICT ART COMPETITION

**HON. MICHAEL F. DOYLE**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. DOYLE. Madam Speaker, I rise today to recognize the artistic ability of a young woman from my Congressional District, Stephanie Taylor of South Allegheny High School. Ms. Taylor is the winner of the 2010 14th Congressional District of Pennsylvania's High School Art Competition, "An Artistic Discovery." Ms. Taylor's artwork, an acrylic painting entitled "Leaves," was selected from a number of outstanding entries to this year's competition.

In fact, sixty works from twelve different schools in Pennsylvania's 14th Congressional District were submitted to our panel of respected local artists. It's a real tribute to her skill and vision that her work was chosen as the winner of this year's competition. I am certain that Ms. Taylor's family is proud of her artistic talents and this impressive accomplishment.

Ms. Taylor's artwork will represent the 14th Congressional District of Pennsylvania in the national exhibit of high school students' artwork that will be displayed in the United States Capitol over the coming year. I encourage my colleagues as well as any visitor to Capitol Hill to view Ms. Taylor's artwork, along with the winning entries from the high school art contests held in other Congressional Districts, which will be on display in the Capitol tunnel. It is amazing to walk through this corridor and see the interpretation of life through the eyes of these young artists from all across our country.

I would like to recognize all of the participants in this year's 14th Congressional District High School Art Competition, "An Artistic Discovery" from Brashear High School, Nour Qutyan; from the Pittsburgh High School for the Creative and Performing Arts, Zoe Capcara, Emily Daley, Kyle Gorcey, Amber Key, Noel Peterson, and Audrey Stygar; from East Allegheny High School, Cody Atkins, Nikki Croft, Chey A. Gojkovich, Randy Stegner, Jr., Brianna Stevens, and Jacob Williams; from Northgate High School, Carolyn Denes, Alison Gusew, Seth Huston, Collyn Kunkel, and Savannah Paladin; from Penn Hills High School, Jessica Clair, Nicolette Deighan, Krysty Kunkel, Dana Lyons, Chloe Regan, and Chloe Weiss; from Pittsburgh Alderdice High School, Dani Hicks, Jordan Keitel, David Newbury, April Post, Tsu Hung Tien, and Yan Yang; from Schenley High School, Maurice Campbell, Briana Jackson, Stephen Karas, Fatima Kizilkaya, and Monique Pressley; from South Allegheny High School, Alexis Carr, Kristen Kudla, Megan Stevens, and Stephanie Taylor; from Sto-Rox High School, Adam Wayne Baker, Travis Crump, Allison Funwela, Natalie Gamble, Orlando Russell, and Elizabeth Thornton; from Trinity Christian School, Rebekah Garard; from West Mifflin High School, Tori Cooper, Victoria Donahoe, and Natalie Kerrigan; and from Woodland Hills High School, Heather Evans, Elijah Johnson, Josh Rydzak, Stephan Spence, and Hoong Tosangchai.

I would like to thank these impressive young artists for allowing us to share and celebrate their talents, imagination, and creativity. The efforts of these students in expressing themselves in a powerful and positive manner are no less than spectacular.

I hope that all of these individuals continue to utilize their artistic talents, and I wish them all the best of luck in their future endeavors.

#### TRIBUTE TO DONALD OETMAN

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. KILDEE. Madam Speaker, I rise today to pay tribute to Donald Oetman as he retires as Director of UAW Region 1D. A celebration of Don's life and contributions to the UAW will be held on May 21st in Grand Rapids, MI.

Donald Oetman was part of the original group that organized Micromatic Textron in Holland, MI. In 1965 they formed Local 1502 when Don was only 20 years old. He served as Vice-President of the Local and two years later became its President. During this time he held the position of steward and ex-officio member of all standing committees at Local 1502 and served as vice-chairperson of the Allegan-Ottawa CAP Council for 12 years. Don remained the Local's President and its bargaining chairperson until he was appointed to the International Union staff by then UAW President Owen Bieber and Director Robert Flierman in 1984. In June 1995 he was appointed Assistant Director of Region 1-D and elected Director at the 33rd Constitutional Convention in 2002. He was re-elected in 2006.

Committed to community involvement, Don serves on the Board of Directors and the Labor Participation Committee of Greater Kalamazoo United Way and the Holland United Way. He is co-chair of the Muskegon Area Labor/Management Joint Committee, he is on the Board of Directors of Blue Care Network, sits on the Blue Care Network Audit Committee, serves on the Economic Alliance of Michigan Board of Directors and the Board for the Alliance of Health, the Kalamazoo Area Labor/Management Committee, the Red Cross Board, sits on the Board of the Michigan State University Labor Studies Program, the Holland United Labor Building Corporation, the Michigan Association of United Ways, and the Private Industry Council of Allegan and Ottawa Counties. He is a lifelong member of the Coalition for Labor Union Women.

Don is a member of the Allegan County Democratic Party and the Michigan State Democratic Party. He was a delegate to the 2000 Democratic National Convention and was an Al Gore Elector for the State of Michigan in the Electoral College. Don and his wife Corlyn have two daughters, one son and six grandchildren.

Madam Speaker, I ask the House of Representatives to rise with me and applaud the work of Donald Oetman. From the age of 18 he has acted to improve the lives and working conditions in our factories and offices and many people have benefitted from his commit-

ment to the ideals of labor. I will miss his counsel and camaraderie and I wish him the best in the future.

IN RECOGNITION OF MR. JOSEPH PETERS, ON THE OCCASION OF HIS RETIREMENT FROM THE DIRECTORSHIP OF THE UNITED AUTO WORKERS REGION 1

### HON. GARY C. PETERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. PETERS. Madam Speaker, I rise to honor a lifelong champion of the American labor movement, Mr. Joseph Peters, Director of the United Auto Workers Region 1, on the occasion of his retirement from the UAW. As a Member of Congress, it is both my privilege and honor to recognize Mr. Peters for his many years of service and his contributions which have enriched and strengthened our community.

Joe Peters has been a tireless advocate for his UAW brothers and sisters. Joe started his career as a member of Local 400, while working at the Ford Paint Plant in Mount Clemens. Joe became active in the UAW in the late 1960s when he moved to work at the Ford Utica Trim plant. While at Utica Trim, Joe was elected as the Midnight Committeeman, member of the Plant Bargaining Committee, Plant Chairman, Vice President of Local 400, and President of Local 400.

In 1988, Joe was appointed to the UAW International staff by President Owen Bieber and assigned to the National Ford Department. In 1999, Joe was appointed assistant director of Region 1 under Director Kenneth Terry. Joe served as assistant Director of Region 1 until 2005, when he was elected Director in a special election.

Joe has spent his career in support of civil rights and his community. Joe is a lifelong member of the NAACP, a member of the Troy Elks club, and a strong grassroots political leader. Joe has won numerous awards for his community activism including: Civil Rights Lifetime Achievement, ARC Detroit Legacy Award, Veterans Michigan Stand Down, and the UAW Region 1 Women's Council Circle of Excellence award. Moved by the increasingly difficult economic times facing Michigan families, Joe started the "No Child Without Christmas" foundation in 2004. His foundation brings together a broad spectrum of community leaders to provide clothing, food, and gifts for thousands of homeless and abused children during the holiday season each year. Joe's commitment to his community has been his personal as well as his professional legacy.

Joe has spent his career in service of others, his UAW brothers and sisters, his community, and most importantly, his large and growing family. Madam Speaker, I ask my colleagues to join me today to honor Mr. Joe Peters for his many contributions to our community and his leadership at the United Auto Workers Union. I wish him many more years of health, happiness, and productive service.

RECOGNIZING THE FAIRVIEW SOUTH SCHOOL PENNIES FOR PEACE PROGRAM

### HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Ms. SCHAKOWSKY. Madam Speaker, I rise tonight to recognize an extraordinary group of students in Skokie, Illinois.

I would like to recognize 6th grade students Lucas Brace, Alexander Brown, Soretti Donka, Lily Griffin, J.D. Kim, Rachel Sison, Kevin Thurman, Patricia Valdepenas, and Tessa Waters, as well as their SPINOUT reading teacher, Ms. Yolanda Toni. These sixth grade students were inspired, after reading Greg Mortensen's book *Three Cups of Tea*, to collect pennies from their classmates at Fairview South School for the charity Pennies for Peace.

Ms. Toni's nine students worked with the school's Student Council and teacher sponsors Ms. Katherine MacLennan and Ms. Christina Sylvester. They made presentations to each grade level about the program and encouraged other students at the school to participate. Over two months, the students raised an impressive \$1,524.26 for Pennies for Peace. They wrote letters to me and other elected officials explaining their program and urging us to also work to promote education for all children throughout the world.

Pennies for Peace is a fantastic charity, founded by Mortensen, that encourages students to collect their pennies, and, one cent at a time, to support education around the world. A penny might not seem like much money, but the students at Fairview South School demonstrated how quickly they can add up. This money will go to change the lives of students in Pakistan and Afghanistan and bring access to education and opportunity to girls and boys across the world.

The Fairview South students recognize that children in many places around the world do not have the same opportunities to attend school and gain an education as do kids in Skokie. Two students in the class wrote to me, and they eloquently argued that education is one of the most powerful tools we have to combat poverty, hopelessness, and violence.

One student wrote, "I know how it feels to want a good education that can get me further in life." Another said, "Can you imagine what it would be like if your children were unable to be educated? The luxury of elementary schools can indeed be taken for granted." These students know that helping girls and boys throughout the world, particularly in war-torn or impoverished countries, is one of the investments we can make.

Not only did the students at Fairview South raise an impressive number of pennies, but I hope that this program has also turned them into lifetime philanthropists. By participating in Pennies for Peace, students were able to help children in Pakistan and Afghanistan while also learning the invaluable lesson that even a small amount of money can make a big difference.

Again, I would like to thank the students and their teacher for their work with Pennies for Peace.



## PERSONAL EXPLANATION

**HON. RUSS CARNAHAN**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. CARNAHAN. Madam Speaker, due to being unavoidably delayed, I missed the vote on the passage of H.R. 5014, to clarify the health care provided by the Secretary of Veteran Affairs that constitutes minimum essential coverage (roll No. 260). I would have voted in favor of this bill, which passed overwhelmingly by a margin of 417-0 had I been present to record my vote.

IN RECOGNITION OF THE BIRMINGHAM GROVES HIGH SCHOOL FALCONS' BOYS SWIM TEAM FOR WINNING THEIR SIXTH STATE CHAMPIONSHIP

**HON. GARY C. PETERS**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. PETERS. Madam Speaker, I rise today to recognize the Birmingham Wiley E. Groves High School Falcons' boys swimming and diving team, its coaches Matt Watson, Dave Eichenhorn, Seena Karapetian and Virginia Naegly, Birmingham Schools Superintendent David Larson, Groves Principal Fred Procter and Athletic Director Tom Flynn on the team's 2010 MHSAA Division 2 State championship. As a Member of Congress it is both my honor and privilege to recognize the team and its outstanding coaches on this hard fought and impressive victory.

Established in 1959, in the Village of Beverly Hills, Birmingham Groves High School has developed a rich history of academic and athletic excellence. This victory at the 2010 Division 2 MHSAA State swim meet caps off an incredible year for the Falcons, who had a nearly perfect season in their run up to the State championship. This championship victory also marks the team's fourth State championship in the last ten years and sixth State championship in school history. For this year's seniors, the championship victory represents the culmination of their high school athletic careers. Four years in the making, it is a vindication of the team's hard fought and close second place finish at last year's State championship and a testament to the spirit of the team.

This year's Division 2 State championship meet began as it would end, with victories for the Falcons. The team set the tone for the event by finishing first in the opening 200 meter medley relay, followed by first place finishes in the 100 meter backstroke and the 400 meter freestyle relay. In addition to its terrific wins, the Falcons finished in the top four spots in half of the twelve events at the championship meet.

Madam Speaker, I ask my colleagues to join me today in recognizing the Birmingham Groves High School's boys swim team and its coaches on this great achievement. This victory was truly a team effort, made possible by countless hours of practice by the team, the

guidance of the team's coaches, the support of the team's dedicated parents and the commitment of the school's administration. The Falcons' determination to succeed and their commitment to excellence are most exemplary virtues. I wish the team and its coaches many more successes and championships in the coming years ahead.

## RECOGNIZING MARK SPENCER

**HON. DALE E. KILDEE**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. KILDEE. Madam Speaker, I rise today to recognize Mark Spencer as he retires from teaching with the Flint Community Schools. A celebration will be held on May 21st in his honor.

As part of a long line of educators, Mark began his career teaching with the Swartz Creek School District in 1978. He taught in Swartz Creek Schools for 7 years and then moved to Flint Community Schools working first as a Community School Director then as a school teacher. Over 25 years, Mark worked at Doyle Ryder, Potter, McKinley, Whittier, Cody, and Neithercut Schools. He holds a Master of Arts degree from Central Michigan University and is considered a master teacher by Flint Community Schools.

Madam Speaker, I ask the House of Representatives to join me in congratulating Mark Spencer as he retires from Flint Community Schools. I commend him for his work developing the talents of children and wish him the best as he starts the next phase of his life.

## HONORING THE RICHMOND HIGH SCHOOL WRESTLING TEAM

**HON. CANDICE S. MILLER**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mrs. MILLER of Michigan. Madam Speaker, I rise today to acknowledge the outstanding season put forth by the Richmond High School Blue Devils Wrestling Team. Throughout the entire year, the members of the 2010 team demonstrated true solidarity, and great individual fortitude worthy of many accolades. And judging by the trophy case, the Blue Devils have the hardware to prove it.

To start, Richmond won the Michigan High School Athletic Association (MHSAA) Division III Team State Title! This is the school's fourth state title since 2000, after winning the State's top award in 2002 and 2006. But I would be remiss if I did not also point out the Blue Devils' other impressive final finishes where they earned state runner-up in 1996, 2004 and 2007. In addition, Blue Devils Brian Henke and Stephen Ireland dominated their weight classes to win individual state titles. They manufactured impressive overall records of 50-0 and 30-0 respectively.

Madam Speaker, my home county of Macomb certainly noticed what the Blue Devils were able to accomplish as they took home

"Team of the Year" honors. But this was just icing on the cake as individual team members picked up numerous awards. Stephen Ireland, Dominic Cattera, Justin Russo, Pat Baruth, Preston Treend, Brian Henke, Adrian Morang, Roger Crump and Dakota Boldrey all earned First Team All Macomb County for Division II, III, and IV. Dustin Pitcel, Garrett Edwards, Casey Martin and Greg Sebastian were named to the Second Team; while Austin Cattera and Josh Rivard earned spots on the Third Team. Brandon Pawlak, Grant Hafner, Sean Clancy, Alex Morang, Austin Kratt, Scott Gulette, Robert Clancy and Eric Boyd followed up with Honorable Mention distinctions.

Macomb also selected an All-County Dream Team which had five members from Richmond—Stephen Ireland, Dominic Cattera, Justin Russo, Preston Treend, and Brian Henke who all got the nod.

I commend Coaches Robert Hablin, George Hamblin and Brandon Day for their efforts to prepare this team for battle on the mat every day. They were shining examples of strong leadership. They also realized this quest to be very demanding, so they put the team through intense physical training and offered the guidance and mental focus needed to wrestle.

I believe these key attributes are crucial and inseparable once you cross that line to compete. The Blue Devils coaching staff had the ability to keep the team energized and hungry each time they faced off against their opponents. This is an extremely difficult task, considering the various pressures and distractions a high school student-athlete encounters.

Madam Speaker, simply put, it is not easy to remain at the top of your chosen field, no matter what your profession is. Once a team wins a championship they become a target, and their foes become even more determined to defeat them.

But to this point, I would evoke the words of Green Bay Packers legendary football Coach Vince Lombardi who once said, "Winning is not a sometime thing; it's an all the time thing. You don't win once in a while; you don't do the right thing once in a while; you do them right all the time. Winning is a habit. Unfortunately, so is losing." History clearly shows the Richmond High School Wrestling Program has developed a habit of winning and an environment that breeds success.

Moreover, I wish to recognize the hard work, determination and teamwork displayed by all the members of the 2010 Richmond High School Wrestling Program. I applaud the coaches, support staff, teachers, parents and fans alike, for their assistance and for making this another season to remember.

Despite the injuries and grueling practices, the Blue Devils showed once again they had what it takes to accomplish their ultimate goal—a state title! Teamwork, dedication and friendship all helped deliver this championship. I know the City of Richmond and Macomb County take great pride in what these young men were able to accomplish at each level of achievement.

Madam Speaker, I certainly share that pride and express my personal congratulations. This team has exceeded all expectations and lived up to the strong traditions that define Richmond Wrestling. Way to go Blue Devils!

## PERSONAL EXPLANATION

**HON. MARSHA BLACKBURN**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mrs. BLACKBURN. Madam Speaker, I was unable to participate in the following votes due to a natural disaster in my district. If I had been present, I would have voted as follows: May 4, 2009.

Rollcall vote 243, on motion to suspend the rules and agree—H. Res. 1307—Honoring the National Science Foundation for 60 years of service to the Nation—I would have voted “aye.”

Rollcall vote 244, on motion to suspend the rules and agree—H. Res. 1213—Recognizing the need to improve the participation and performance of America’s students in Science, Technology, Engineering, and Mathematics (STEM) fields, supporting the ideals of National Lab Day—I would have voted “aye.”

Rollcall vote 245, on motion to suspend the rules and agree, as amended—H. Res. 1132—Honoring the USS *New Mexico* as the sixth *Virginia*-class submarine commissioned by the U.S. Navy to protect and defend the United States—I would have voted “aye.”

May 5, 2010.

Rollcall vote 246, on motion to suspend the rules and agree, as amended—H. Res. 1320—Attempted Terrorist Attack in Times Square on May 1, 2010—I would have voted “aye.”

Rollcall vote 247, on motion to suspend the rules and agree—H. Res. 1272—Commemorating the 40th anniversary of the May 4, 1970, Kent State University shootings—I would have voted “aye.”

Rollcall vote 248, on motion to suspend the rules and agree, as amended—H. Res. 1301—Supporting the goals and ideals of National Train Day—I would have voted “nay.”

May 6, 2010.

Rollcall vote 249, on agreeing to the resolution—H. Res. 1329—Providing for consideration of the bill (H.R. 5019) to provide for the establishment of the Home Star Retrofit Rebate Program, and for other purposes—I would have voted “nay.”

Rollcall vote 250, on motion to suspend the rules and agree—H. Res. 1295—Celebrating the role of mothers in the United States and supporting the goals and ideals of Mothers Day—I would have voted “aye.”

Rollcall vote 251, on motion to suspend the rules and pass, as amended—H.R. 1722—Telework Improvements Act—I would have voted “nay.”

Rollcall vote 252, on agreeing to the amendment—H.R. 5019—Barton of Texas Amendment No. 2—I would have voted “aye.”

Rollcall vote 253, on agreeing to the amendment—H.R. 5019—Burgess of Texas Amendment No. 4—I would have voted “aye.”

Rollcall vote 254, on motion to recommit with instructions—H.R. 5019—Home Star Energy Retrofit Act—I would have voted “aye.”

Rollcall vote 255, on passage—H.R. 5019—Home Star Energy Retrofit Act—I would have voted “nay.”

## INTRODUCTION OF “ACCESS TO BIRTH CONTROL ACT”

**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mrs. MALONEY. Madam Speaker, today I am reintroducing the Access to Birth Control (ABC) Act along with 12 other Members of the House of Representatives. Senator FRANK LAUTENBERG is introducing companion legislation in the Senate. Ninety-eight percent of American women use birth control at some point in their lives. This bill ensures that any woman who would like birth control and who has a legal prescription or is seeking over-the-counter emergency contraception, will be able to get it in a timely and convenient manner.

The ABC Act would make it illegal for a pharmacist to refuse to return a birth control prescription, or for a pharmacist to intimidate, threaten, or harass customers, or intentionally breach, or threaten to breach, medical confidentiality.

Under my bill, if a pharmacist on duty refuses to fill the prescription, then the pharmacy must ensure that another employee on staff fills the prescription for the customer without delay.

Very simply, this legislation ensures a woman’s legal access to birth control.

An alarming trend has erupted in some pharmacies across the nation. Over the past few years, there have been increasing reports of pharmacists refusing to fill prescriptions for birth control pills. In some cases, pharmacists have kept and refused to transfer a prescription, refused to sell over-the-counter emergency contraception, or given the customer false medical information about the requested birth control. Pharmacists have taken it upon themselves to decide whose prescription they will fill and which over the counter medication they will provide.

Despite action by the Food and Drug Administration to make emergency contraception available without a prescription to women over the age of 17, refusals among pharmacists continue to be a problem. Access to birth control is especially important for women living in rural areas who may not have multiple pharmacies near them and for women from low-income communities who lack the resources to find another pharmacy in the appropriate time. Women from all walks of life are being traumatized and humiliated at the hands of pharmacists who are denying them their right to contraception based on their own personal beliefs.

The Access to Birth Control, ABC, Act is an important step in protecting a woman’s constitutional right to contraception. Birth control and emergency contraception are part of women’s basic health care and pharmacists should not have the right to interfere.

## HONORING GUERNEVILLE SCHOOL DISTRICT

**HON. LYNN C. WOOLSEY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Ms. WOOLSEY. Madam Speaker, I rise today to honor Guerneville School District on the occasion of its 150th anniversary. The school can trace its history to several separate one-room schools in Russian River communities in Sonoma County, CA. The earliest was founded in 1860, and the last one merged into the Guerneville School District in 1955.

The direct forerunner of the school opened its doors in the old-time logging town of Guerneville on First Street, in a building which now houses the Sonoma County Veterans’ Memorial Hall. There were four classrooms serving students in first through eighth grades. In 1949 the school moved to its current location, one mile north on Armstrong Woods Road.

Guerneville School District operates from the Armstrong Woods Road site today, although it has gone through many transformations to raise it above flood level and to gradually replace the original rooms with spacious classrooms, offices, gymnasium, library, and computer lab, as well as a modern play yard. Today it houses students in grades K–8.

But the school’s biggest asset is its community of students, parents, and staff who work together to create a learning environment that addresses the whole student. To achieve this, Guerneville School District offers “a campus that is friendly, safe, and welcoming; a district that accepts and is committed to diversity; and an educational environment that promotes unity of staff on both professional and community levels.”

The school also works in partnership with the larger community to impart a sense of citizenship to the students and secure local support. One of its programs, Circle of Sisters, was started as a pilot project by St. Joseph Health System to promote the self esteem of middle school girls; Circle of Sisters was such a success that it has been replicated around the area.

Madam Speaker, I congratulate the Guerneville School District and all of its family, friends, alumni, students, and staff as they celebrate this momentous occasion. Happy 150th birthday!

## HONORING THE 2ND AIR DIVISION OF THE 8TH AIR FORCE

**HON. DUNCAN HUNTER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. HUNTER. Madam Speaker, I rise before the House today to remember the American heroes of the 2nd Air Division of the 8th Army Air Force, and the designers and manufacturers of the B–24 Liberator whom served our country so honorably during WWII.

The 8th Air Force—known better as the “Mighty Eighth”—was part of the largest air

strike force in history, flying bombing missions over Europe from November 1942 to April 1945. While pilots and crewmen were trained in Pueblo, Colorado, their aircraft—the B-24 Liberator—had its manufacturing headquarters in San Diego.

In the peak of the wartime efforts, 11 Liberators were built a day, and more Liberators were produced than any other four-engine bomber in World War II, including the famous B-17 bomber. Over 18,000 bombers were made by Consolidated Aircraft Corporation in San Diego between the years of 1939 and 1945, and over 45,000 San Diegans helped in the manufacturing process.

The B-24 Liberator carried a crew of 8 to 10 men, and was powered by four 1,200 horsepower engines and carried 2,750 gallons of fuel. Many of the B-24 missions were round trips of 1,500 miles, and the planes were not pressurized or heated; crewmen wore oxygen masks on high altitude missions and were exposed to temperatures that could reach minus 50 degrees Fahrenheit. Despite these conditions, the 2nd Air Division dropped over 630,000 tons of bombs and destroyed thousands of enemy aircraft.

In San Diego, we honor their service at the Veterans Memorial Garden in the Air Garden, which is the first city park to honor the ground and flight crews of the bomber, along with the citizens of San Diego who helped build it.

Madam Speaker, we will never forget the bravery displayed by the men of the 2nd Air Division, 8th Air Force. We will remember their sacrifice and patriotism, especially as the remaining members meet on June 5th for their annual reunion. So, as we remember the contributions made by the members of the 2nd Air Division, 8th Air Force, we shall never forget that the freedoms we enjoy today are because of the courage and valor displayed by those who fought to protect them. As a veteran myself, I take great pride in recognizing the 2nd Air Division and the San Diego community for their contributions and tireless efforts that were so critical to our success and ultimate victory in World War II.

CONGRESSIONAL RECOGNITION  
FOR THE ARA PARSEGHIAN  
MEDICAL RESEARCH FOUNDATION

**HON. GABRIELLE GIFFORDS**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Ms. GIFFORDS. Madam Speaker, I rise today to recognize the Ara Parseghian Medical Research Foundation, which is holding its 15th annual "One More Victory, Ara!" event in Tucson, Arizona on May 14 and 15.

The Foundation was established by in 1994 by Cindy and Mike Parseghian after three of their four children were diagnosed with Niemann-Pick Type C disease. It is named for the children's grandfather, Ara Parseghian.

Niemann-Pick Type C disease is a genetic, neurodegenerative disorder that causes progressive deterioration of the nervous system. It affects children by interfering with their ability to metabolize cholesterol. This metabolic

disorder results in neurological problems that are ultimately fatal.

Tragically, Mike and Cindy's three children, Michael, Marcia and Christa lost their lives to Niemann-Pick Type C disease. But as Cindy, has said, "they have given us a legacy of hope." Cindy, Mike and their extended family has not been defeated by the deaths of their children. With incredible determination and hope they have devoted themselves to finding a way to conquer this disease.

Great progress has been made through research supported by the Foundation. Scientists funded by the Foundation have identified the gene responsible for causing NP-C. This discovery has played a major role in moving Niemann-Pick research to a new and encouraging level.

On her desk, Cindy Parseghian keeps a quote by physicist, inventor and rocketry pioneer Robert H. Goddard: "The dream of yesterday is the hope of today . . . and the reality of tomorrow."

Those dreams and hopes are carried forward by the Ara Parseghian Medical Research Foundation, which has raised more than \$33 million. That money has been used to fund more than 75 research projects, which the Parseghian family believes will prevent other families from having to lose a child to this disease.

The family's cause has become our community's cause and this weekend hundreds of people will gather to once again show their support for the Foundation and its critical mission.

The Foundation is a labor of love for the Parseghian family and for many others but we all know that the hardest worker, the force behind the Foundation, is Cindy Parseghian. While Cindy would not want to be singled out for all that she has done, we do so today on behalf of a grateful community and in recognition of her dedication to the work of the Foundation over the past 15 years.

I commend the Parseghian family for their courageous fight on behalf of children across our country and the world. The fight has been difficult but, with the progress they have made, the final victory is within sight.

HONORING SENATOR JAMES  
BARCIA

**HON. DALE E. KILDEE**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. KILDEE. Madam Speaker, today I ask the House of Representatives to join me in honoring Senator James Barcia, former Member of Congress, and current Senator representing Michigan's 31st State Senate District. The Bay City Branch of the NAACP will celebrate Senator Barcia's service at their Freedom Fund Banquet on May 16th.

After Jim Barcia graduated from Bay City Central High School he went on to earn a Bachelor's Degree from Saginaw Valley State University in 1974. During his college career he was elected student body president and began his lifelong commitment to public service. Jim was elected to three terms in the

Michigan House of Representatives, and five terms in the United States Congress. He is now serving his fifth term in the Michigan State Senate. In this capacity he serves as the Chair of the Senate Committee on Hunting, Fishing and Outdoor Recreation. As a member of the Senate Appropriations Committee he sits on the Human Services Subcommittee, the Community Health Subcommittee and is the Minority Vice-Chair of the Higher Education, State Police and Military Affairs subcommittees. He is also the Associate President Pro Tempore of the Senate. Senator Barcia is married to Vickie Bartlett; he has two stepchildren and six grandchildren.

Madam Speaker, I ask the House of Representatives to join me in applauding the career and life of one of its own. Jim Barcia is a dedicated, unswerving, public servant. He is a dear friend, and I have valued his insight over the years. I congratulate him for being honored by the Bay City Branch of the NAACP for his commitment to their goals and to the community.

CONGRATULATING MR. AND MRS.  
HERBERT FISHER, SR. ON THE  
OCCASION OF THEIR 86TH WED-  
DING ANNIVERSARY

**HON. G.K. BUTTERFIELD**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. BUTTERFIELD. Madam Speaker, I rise to recognize and congratulate New Bern, North Carolina residents Zelmyra and Herbert Fisher, Sr. on 86 years of marriage—the longest marriage of a living couple in the world.

Mrs. Zelmyra Fisher, born on December 10, 1907, and Mr. Herbert Fisher, Sr., born on June 10, 1905, have been married since 1924. In that year, Calvin Coolidge was President; New York taxis cost 10 cents per half-mile; the Teapot Dome Scandal broke; the Ford Model T was the most popular automobile; and a postage stamp cost 2 cents while bread cost 9 cents a loaf.

In 1942, Mr. Fisher built what would become the family's home in the James City neighborhood. Mr. and Mrs. Fisher would raise five children in that home, and continue to live there today. The couple met in elementary school and married when he was 19 years old and she was 18 years old, and they have shared 86 blissful years.

On Valentine's Day this year, Mr. and Mrs. Fisher gave free marriage advice on Twitter. When asked to share the best marriage advice they've received, they advised couples to "respect, support and communicate with each other. Be faithful, honest and true. Love each other with all of your heart."

Mr. Fisher, a retired worker from the Coca-Cola Bottling Company, has a great passion for baseball, especially for his two favorite teams, the New York Yankees and the Atlanta Braves. Mrs. Fisher, a retired caretaker, greatly enjoys reading the Bible.

Mr. and Mrs. Fisher have contributed a lifetime of service to the fabric of their community through various community organizations and their respective churches, Jones Chapel A.M.E. Zion and Pilgrim Chapel Missionary Baptist.

Madam Speaker, I ask my colleagues to join me in recognizing and congratulating Mr. and Mrs. Zelmyra and Herbert Fisher, Sr. on the blessing of 86 years of marriage. They serve

as a wonderful and enduring inspiration of love, family and sacrifice.

92ND ANNIVERSARY OF  
AZERBAIJAN REPUBLIC DAY

**HON. SOLOMON P. ORTIZ**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. ORTIZ. Madam Speaker, I rise to commemorate the 92nd anniversary of the independence of the Republic of Azerbaijan, celebrated on May 28th.

Located in a highly political, dynamic and sensitive region between Russia and Iran, Azerbaijan is a proud ally of the United States. An emerging democracy, Azerbaijan has taken the world stage as a member of the Council of Europe, the United Nations, and the Organization of Security and Cooperation in Europe.

A strategic partner of the United States, Azerbaijan works with the U.S. on major economic and security matters. Most profoundly, Azerbaijan has been an ally for the United States in terms of sending troops to Iraq and Afghanistan. They work with area nations to secure borders and deny illegal trafficking, and are an important component of NATO's Partnership for Peace program.

Their robust oil market provides western nations the means to power our economies.

I thank the nation of Azerbaijan for their continued journey towards democracy, and for their enduring strategic partnership in the region and around the world.

The United States congratulates all Azerbaijani citizens, and Azerbaijanis around the world, on the occasion of the 92nd anniversary of Azerbaijan Republic Day.

PERSONAL EXPLANATION

**HON. NIKI TSONGAS**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Ms. TSONGAS. Madam Speaker, I was unavoidably detained and was unable to cast a vote on rollcall 260. I would like the record to reflect that I would have voted "aye" in support of H.R. 5014, a bill that clarifies that health care provided by the Secretary of Veterans Affairs meets minimum essential coverage requirements for individual health insurance under the newly enacted health care reform law. Our Nation's veterans and their families have sacrificed so much and it is our obligation to ensure they receive the benefits and health care they so rightly deserve.

HONORING THE CITIZENS OF NEW  
YORK FOR THE ATTEMPTED  
TERRORIST ATTACK IN TIMES  
SQUARE

**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. THOMPSON of Mississippi. Madam Speaker, I rise in support of this resolution

honoring and expressing support for the vigilance and prompt response of the citizens and law enforcement agencies in New York and Connecticut, as well as Federal authorities, to the attempted terrorist attack in Times Square on May 1, 2010, their exceptional professionalism and investigative work following the attempted attack, and their consistent commitment to preparedness for and collective response to terrorism.

Just less than 54 hours is what it took for Federal law enforcement agencies, including the Department of Homeland Security, to identify, find, and apprehend Mr. Faisal Shahzad, the prime suspect for this attempted act of terror.

During the 54 hours, the New York Police Department, working with Federal and State law enforcement agencies, including the Federal Bureau of Investigation, and others identified and began unraveling the tangled web that eventually led to Mr. Shahzad's arrest. This arrest could not have been made without the help of several people and organizations.

First, I commend the alertness and awareness of Mr. Lance Orton and Mr. Duane Jackson for "seeing something" and "saying something" to law enforcement. If it were not for these citizens, many others could have been hurt and Mr. Shahzad might not have been apprehended. This is the kind of vigilance is vital to our homeland security efforts.

Second, I want to thank the citizens of New York for helping and cooperating with law enforcement during the precautionary evacuations in the vicinity of Times Square. I also want to acknowledge New Yorkers and their resilient nature and ability to return to life as normal.

Third, I want to express my deep appreciation for the professionalism and collective response of the following law enforcement agencies: New York City Police Department, in particular Police Officer Wayne Rhatigan of Mounted Unit Troop B, the Fire Department of New York, the New York Police Department Bomb Squad, led by Lieutenant Mark Torre and other first responders, the Federal Bureau of Investigation, United States Customs and Border Protection, the Transportation Security Administration, the United States Attorney's Office for the Southern District of New York, the Department of Homeland Security, the Department of Justice, the New York Joint Terrorism Task Force, the Bridgeport Police Department, Detective Bureau, Patrol Division, and other law enforcement agencies in Connecticut.

Finally, I want to say that without these citizens and the collaborative effort of law enforcement, we would not have the mountain of evidence we have now, including two additional unnamed suspects in custody. It is also more likely true that according to the Attorney General, the Pakistani Taliban was likely involved in planning this attempted attack. As such, we must remain vigilant against terrorism and our enemies.

Madam Speaker, while I know others may say that we just got lucky this time, I say that they are missing the point. Our post-9/11 efforts to foster greater vigilance among our citizens and a culture of preparedness and collaboration among first responders and law enforcement paid off. Further, we stayed true to

our cherished constitutional principals as we initiated this wide-scale collective response to terrorism. As evidenced by what we saw on May 2, 2010, the citizens of New York and this great country are and remain committed to living their lives in the pursuit of the cherished tradition we have celebrated since our country's start and that is the pursuit of freedom.

HONORING THE BOY SCOUTS OF  
AMERICA ON THEIR 100TH ANNI-  
VERSARY

**HON. BART STUPAK**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. STUPAK. Madam Speaker, I rise to honor the Boy Scouts of America on their 100th anniversary and to pay tribute to the impact scouting has had on the lives of countless young men over the past century. As members of the Hiawathaland Council in Michigan's Upper Peninsula gather this weekend to celebrate the Boy Scouts' centennial, I ask that the U.S. House of Representatives join me in commemorating 100 years of scouting.

The Boy Scouts of America was created on February 8, 1910 with a purpose of teaching young men patriotism, courage, self-reliance and kindred values. By 1912, Boy Scouts were in every state, and in 1916 Congress granted the Boy Scouts of America a federal charter.

Across the country, every Boy Scouts council commits each scout to perform 12 hours of community service a year, totaling 30 million hours of community service annually. In addition to the commitment young men show to scouting, more than 1 million adult scout leaders are selflessly serving young people in their communities through organizations chartered by the Boy Scouts of America.

As an Eagle Scout myself, I have a special appreciation for the rich history and tradition of scouting that has touched so many lives over the past 100 years. The lessons young men learn as scouts help guide them throughout their lives.

In scouting, you learn to do a good deed everyday. The world would be a better place if we all lived by this simple creed. In scouting, you learn to leave your campsite in better shape than you found it. Many scouts grow up to be leaders in their communities or here in the United States Congress and strive to leave things better than they found them.

For a century now, scouting has helped to instill in young men the values of good conduct, respect for others and honesty. Scouting has taught young men skills that will last a lifetime, including basic outdoors skills, first aid, citizenship, leadership, and how to get along with others. Scouting teaches the values and knowledge to become leaders in our communities and our country.

Madam Speaker, the lives of millions of young men, including many members of this chamber, have benefited from their experiences in scouting. Too often, the valuable contribution of scouting to our communities

and to the development of future leaders goes unrecognized. As the Hiawathaland Council gathers in Marquette, Michigan this weekend to commemorate the 100th anniversary of the Boy Scouts of America, I ask that you, Madam Speaker, and the entire U.S. House of Representatives join me in congratulating the Boy Scouts of America on 100 years of scouting.

**TRIBUTE TO PATRICIA'S MEXICAN RESTAURANT ON ITS 25TH ANNIVERSARY**

**HON. IKE SKELTON**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. SKELTON. Madam Speaker, it was recently brought to my attention that Patricia's Mexican Restaurant in Sedalia, Missouri, is celebrating its 25th year in business. Let me take this opportunity to congratulate the owners of Patricia's, Patricia Ives and Gary Farr, for operating such a thriving business for so many years.

Pat Ives, who is originally from Creighton, Missouri, first started a business in Sedalia as the owner of a Mexican restaurant franchise known as El Sambre, which was located in Liberty Plaza. In 1993, she bought the rights to the restaurant and changed its name to Patricia's Mexican Restaurant. In 1990, Pat's son, Gary Farr, joined his mother in running the restaurant, which moved from Liberty Plaza to a new, architecturally unique building in 1998.

Pat and Gary have run their successful restaurant with a great deal of common sense and a compassion for their employees and for their community.

They care genuinely about the people who help them operate their restaurant. This kindness has generated deep loyalty among their workforce and among those who have worked at Patricia's Mexican Restaurant through the years. By encouraging hard work and the development of good people skills, Pat and Gary have helped transform many young Missou-

rians, the restaurant's first-time workers, into responsible citizens. Many of these folks are now contributing within their own communities and to our country.

Pat and Gary are good employers, which is why it is no surprise that they have been in business for 25 years. I know my fellow colleagues in the House of Representatives will join me in paying tribute to Patricia's Mexican Restaurant on its important milestone and in honoring all who have worked for Pat Ives and Gary Farr through the years.

**HONORING THEODORE KAPLAN ON HIS 100TH BIRTHDAY**

**HON. THEODORE E. DEUTCH**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. DEUTCH. Madam Speaker, I rise today to congratulate Theodore Kaplan on his 100th birthday. Mr. Kaplan is an active constituent in my district who still walks, drives, and plays bridge. We should all be so lucky to live such a fruitful life! Congratulations to Theodore on this joyous occasion.

**OUR UNCONSCIONABLE NATIONAL DEBT**

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. COFFMAN of Colorado. Madam Speaker, today our national debt is \$12,923,161,977,864.28.

On January 6, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$2,284,736,231,570.48 so far this Congress.

This debt and its interest payments we are passing to our children and all future Americans.

**RECOGNITION OF E. CHARLES CONNOR'S ELEVATION TO JURISDICTIONAL BISHOP**

**HON. DANIEL E. LUNGREN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 13, 2010*

Mr. DANIEL E. LUNGREN of California. Madam Speaker, I rise today to recognize and honor E. Charles Connor's elevation to Jurisdictional Bishop within the Church of God in Christ.

Bishop Connor is a graduate of the University of San Francisco and has also completed the Hospital Administrator's Course at the U.S. Air Force School of Applied Health Science at Sheppard Air Force Base, Texas.

E. Charles Connor has spent much of his life in public service. Governor George Deukmejian appointed Connor to serve on the Board of Vocational Nurses, Psychiatric Technician Examiners from 1989 to 1992, and was re-appointed by Governor Pete Wilson to serve from 1992 to 1996 where he rose to the level of Vice President of the Board. Connor also serves in the U.S. Air Force Reserve as a Hospital Administrator in the grade of Major, after having served in the U.S. Air Force for 26 years—participating in the Viet Nam War and the Persian Gulf War.

Within the church, Bishop Charles Connor has spent 18 years working overseas with various ministries in Korea, Jamaica, Japan, and the Philippines.

Connor is the Bishop of the St. Lucia Eastern Caribbean Jurisdiction, and while his main responsibilities are ecclesiastical, Bishop Connor's goal is to respond to the needs of all people; spiritual, natural and emotional.

I am pleased to recognize and congratulate Bishop E. Charles Connor for his dedication to the Church of God in Christ, his elevation to Jurisdictional Bishop, and his contributions to our community at large.

## HOUSE OF REPRESENTATIVES—*Friday, May 14, 2010*

The House met at 11:30 a.m. and was called to order by the Speaker pro tempore (Mrs. CAPPS).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
May 14, 2010.

I hereby appoint the Honorable LOIS CAPPS to act as Speaker pro tempore on this day.

NANCY PELOSI,  
Speaker of the House of Representatives.

### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, You are our light and our salvation. Your Word contains wisdom for our growth and guides us in decisions which shape the future. Your Spirit inspires us to penetrate new dimensions of ourselves and the world around us.

You never cease to teach us how to learn from our mistakes and extend compassion and forgiveness to others. Thank you, Lord our God, for life and opportunities and that You are not finished with us yet.

May we give You glory and thanksgiving both now and forever. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,  
Washington, DC, May 14, 2010.

Hon. NANCY PELOSI,  
Speaker, Capitol, House of Representatives,  
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Friday, May 14, 2010 at 10:52 a.m., and said to contain a message from the President whereby he submits a copy of a notice filed earlier with the Federal Register continuing the emergency with Burma first declared in Executive Order 13047 of May 20, 1997.

With best wishes, I am,  
Sincerely,

LORRAINE C. MILLER.

### CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO BURMA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 111-115)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. I have sent the enclosed notice to the Federal Register for publication, stating that the Burma emergency is to continue in effect beyond May 20, 2010.

The crisis between the United States and Burma arising from the actions and policies of the Government of Burma, including its engaging in large-scale repression of the democratic opposition in Burma, that led to the declaration of a national emergency in Executive Order 13047 of May 20, 1997, as modified in scope and relied upon for additional steps taken in Executive Order 13310 of July 28, 2003, Executive Order 13448 of October 18, 2007, and Executive Order 13464 of April 30, 2008, has not been resolved. These actions and policies are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to continue

the national emergency with respect to Burma and maintain in force the sanctions against Burma to respond to this threat.

BARACK OBAMA,  
THE WHITE HOUSE, May 13, 2010.

### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,  
Washington, DC, May 14, 2010.

Hon. NANCY PELOSI,  
The Speaker, Capitol, House of Representatives,  
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 14, 2010 at 10:11 a.m.:

That the Senate passed S. 1132.

That the Senate passed with amendments H.R. 714.

That the Senate passed S. 2768.

Appointments:

Harry S. Truman Scholarship Foundation  
Board of Trustee.

Board of Directors of the Office of Compliance.

With best wishes, I am,

Sincerely,

LORRAINE C. MILLER.

### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1132. An act to amend title 18, United States Code, to improve the provisions relating to the carrying of concealed weapons by law enforcement officers, and for other purposes; to the Committee on the Judiciary.

### SENATE ENROLLED BILLS SIGNED

The Speaker announced her signature to enrolled bills of the Senate of the following titles:

S. 1067. An act to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 3333. An act to extend the statutory license for secondary transmissions under title 17, United States Code, and for other purposes.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. on Tuesday next for morning-hour debate.

There was no objection.

Accordingly (at 11 o'clock and 36 minutes a.m.), under its previous order, the House adjourned until Tuesday, May 18, 2010, at 12:30 p.m., for morning-hour debate.

EXECUTIVE COMMUNICATIONS,  
ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

7490. A communication from the President of the United States, transmitting A Request For Budget Amendments For Fiscal Year 2010 proposals in the Fiscal Year 2011 Budget for the Department of Homeland Security; (H. Doc. No. 111—116); to the Committee on Appropriations and ordered to be printed.

7491. A letter from the Assistant Secretary, Department of Defense, transmitting the National Guard Youth Challenge Program Annual Report for Fiscal Year 2010; to the Committee on Armed Services.

7492. A letter from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting the Department's "Major" final rule—Energy Conservation Program: Energy Conservation Standards for Residential Water Heaters, Direct Heating Equipment, and Pool Heaters [Docket No.: EE-2006-BT-STD-0129] (RIN: 1904-AA90) received May 12, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7493. A letter from the Department Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's "Major" final rule—Use of Ozone-Depleting Substances; Removal of Essential-Use Designation (Flunisolide, etc.) [Docket No.:

FDA-2006-N-0304] (formerly Docket No. 2006N-0262) (RIN: 0910-AF92) received May 11, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7494. A letter from the Office Manager, Department of Health and Human Services, transmitting the Department's "Major" final rule—Early Retiree Reinsurance Program (RIN: 0991-AB64) received May 4, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7495. A letter from the Chief Judge, Superior Court of the District of Columbia, transmitting the Court's report on the activities of the Family Court during 2009, pursuant to Public Law 107-114; to the Committee on Oversight and Government Reform.

7496. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's "Major" final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 31 [Docket No.: 09225243-0170-03] (RIN: 0648-AX67) received May 11, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7497. A letter from the Paralegal Specialist, Department of Defense, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc RB211-Trent 700 Series Turbofan Engines [Docket No.: FAA-2005-19559; Directorate Identifier 2004-NE-03-AD; Amendment 30-16254; AD 2010-07-09] (RIN: 2120-AA64) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7498. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Dallas-Fort Worth, TX [Docket No.: FAA-2009-0926; Airspace Docket No. 09-ASW-26] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7499. A letter from the Senior Regulations Analyst, Department of Transportation, transmitting the Department's final rule—Short-Term Lending Program (STLP) [Docket No.: OST-2008-0236] (RIN: 2105-AD50) re-

ceived April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7500. A letter from the Chairman, Federal Maritime Commission, transmitting the Commission's report for fiscal year 2009 on the amount of acquisitions made from entities that manufacture articles, materials, or supplies outside of the United States, pursuant to Section 641 of the Consolidated Appropriations Act of 2005; to the Committee on Transportation and Infrastructure.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII,

Mr. GINGREY of Georgia (for himself, Mr. PENCE, Mr. BARTLETT, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. FRANKS of Arizona, Ms. GRANGER, Mr. HALL of Texas, Mrs. LUMMIS, Mr. MARCHANT, Mr. MCCLINTOCK, Mr. PITTS, and Mr. POSEY): introduced a bill (H.R. 5318) to amend the Internal Revenue Code of 1986 to waive the 10-percent penalty on early distributions from individual retirement plans for small business investments; which was referred to the Committee on Ways and Means.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 878: Mr. WITTMAN.

H.R. 1250: Ms. PINGREE of Maine and Mr. MAFFEI.

H.R. 2198: Mr. SCHIFF.

H.R. 2277: Mr. WELCH.

H.R. 3408: Mr. SCHIFF, Mr. ENGEL, and Mr. ELLISON.

H.R. 3936: Mr. ROTHMAN of New Jersey.

H.R. 4070: Mr. MANZULLO.

H.R. 4940: Mr. SHUSTER and Mr. DONNELLY of Indiana.

H.R. 5175: Mr. ETHERIDGE.

H. Res. 1339: Mr. LANGEVIN.



## SENATE—Friday, May 14, 2010

The Senate met at 9:30 a.m. and was called to order by the Honorable JEFF MERKLEY, a Senator from the State of Oregon.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Gracious God, in whose presence the dark night of anxiety is dispelled by the dawn of Your peace, thank You for guiding us beside still waters. Lord, we do not ask for faith for the whole of life but for enough trust to live one day at a time.

Draw our lawmakers near to You so that they may see the beauty of Your purposes and discern Your plan. Purge their thoughts and speech that no unworthy communications may proceed out of their mouths. Lord, teach them new truths today, so that they may soar on the wings of Your joy and light.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JEFF MERKLEY led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 14, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF MERKLEY, a Senator from the State of Oregon, to perform the duties of the Chair.

ROBERT C. BYRD,  
*President pro tempore.*

Mr. MERKLEY thereupon assumed the chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will resume consideration of S. 3217, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Pending:

Reid (for Dodd/Lincoln) amendment No. 3739, in the nature of a substitute.

Brownback modified amendment No. 3789 (to amendment No. 3739), to provide for an exclusion from the authority of the Bureau of Consumer Financial Protection for certain automobile manufacturers.

Brownback (for Snowe/Pryor) amendment No. 3883 (to amendment No. 3739), to ensure small business fairness and regulatory transparency.

Specter modified amendment No. 3776 (to amendment No. 3739), to amend section 20 of the Securities Exchange Act of 1934 to allow for a private civil action against a person that provides substantial assistance in violation of such Act.

Dodd (for Leahy) amendment No. 3823 (to amendment No. 3739), to restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.

Whitehouse amendment No. 3746 (to amendment No. 3739), to restore to the States the right to protect consumers from usurious lenders.

Dodd (for Rockefeller) amendment No. 3758 (to amendment No. 3739), to preserve the Federal Trade Commission's rule making authority.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### AFGHANISTAN

Mr. CASEY. Mr. President, I rise this morning to speak about the visit this week by Afghan President Karzai and many of his ministers, as well as the policy that is unfolding all these many months in Afghanistan.

I rise in the midst of a debate we are having in the Senate on financial reform and continuing efforts and strategies to be put in place to create jobs. Even in the midst of all those domestic concerns that are economic in nature—and we are still very concerned about and working on the problems of those who are out of work—we need, in that context, to also be concerned about what is happening in Afghanistan. So I wish to discuss President Karzai's visit and, as I mentioned, the visit, as well, by other Afghan government officials.

The other reason I rise in connection with that topic is to talk about the continuing threat our troops face from improvised explosive devices known by the acronym IEDs. They continue to pose a threat to our troops, and we have to continue to be concerned about the nature of that threat.

In a broader sense, when it comes to this policy, we have to get this right. We have to make sure our government is continually focused on getting this strategy right in Afghanistan, as it relates to security, governance, and development—all aspects of the strategy, working with our coalition partners in doing that.

First and foremost, on the question of IEDs, the Los Angeles Times reported last week that three-fifths of the 602 combat-related deaths of U.S. troops in Afghanistan were due to roadside bombs, the so-called IEDs, improvised explosive devices. The primary ingredient in these bombs is ammonium nitrate, a fertilizer that can also be used as an explosive. We know this from our recent history.

We also know we have some domestic history to consider. Timothy McVeigh used a 4,800-pound ammonium nitrate bomb to attack the Alfred Murrah building in Oklahoma City in April of 1995.

The Afghan Government has recognized this problem—the use of ammonium nitrate—and has begun working with coalition troops to crack down on the use of ammonium nitrate. It is no longer legal in Afghanistan to use ammonium nitrate in farming, and Afghan farmers receive training on how to use other types of fertilizer.

During yesterday's press conference President Karzai had with President Obama, he discussed the use of ammonium nitrate and, in particular, its impact on U.S. troops. I was glad he did that. I am glad President Obama has been focused on this issue as well. I had a chance yesterday, in a lunch with a small group of Senators, to ask President Karzai directly about this issue. So we talked about it yesterday at lunch as well.

Despite this ban in Afghanistan, ammonium nitrate manages to make its way to Afghanistan, reportedly from Pakistan. The Los Angeles Times reported that transport routes are lined with corrupt Pakistani police officers—according to the Los Angeles Times—and border officials who accept bribes to allow this smuggling to occur. This smuggling is a lucrative enterprise. One Pakistani businessman reported making almost \$950 a month smuggling ammonium nitrate for use in Afghanistan. This is a country where the

monthly average income is \$216 a month.

I urge the Pakistani Government to track and regulate the transport of this dangerous material. The government appears to recognize that ammonium nitrate could also pose a threat to Pakistan's national security as extremists across the country step up their activities there as well. As in Afghanistan, it is important for the authorities in Pakistan to first show the political will to address this problem, and to put in place proper legal mechanisms to diminish its use across the border in Afghanistan.

Ammonium nitrate's use in IEDs is the main killer of U.S. troops in Afghanistan. We must do all we can—all we can—to limit its use.

I understand that if ammonium nitrate did not come from Pakistan, smugglers would identify new sources from other bordering countries. While this may be the case, it appears as though the primary source today is Pakistan. In this case, Pakistan is where we should focus our attention. So let's get at the supply of ammonium nitrate. Let's make it much harder for terrorists to kill U.S. troops.

Let me move next to the overall policy in Afghanistan. I was honored to be one of seven or eight Senators to have lunch yesterday with President Karzai. During his time in Washington, we were all pleased—I think both sides of the aisle in the Senate were pleased—that President Karzai reiterated his commitments to improving governance and reducing corruption. They are commitments, but I think the people of Pennsylvania and the people across America need to see results from those commitments. I also hope President Karzai will restate his support for NATO efforts to win back the country from the Taliban and drive the insurgents to the negotiating table.

In a meeting with Afghan Government ministers on Wednesday, five or six other Senators and I emphasized the importance of women's rights in Afghanistan. Afghan women play a key role in the decisionmaking process. Any peace process or agreement that does not respect and uphold the rights of half of the population—the women—of Afghanistan will fail to achieve long-term goals for security and stability.

In February, Senator BOXER and I cohosted a Senate Foreign Relations Subcommittee hearing on the future of Afghan women and girls. At that hearing, Melanne Verveer, the U.S. Ambassador at Large for Women's Issues, testified about the challenges Afghan women and girls face. She said:

Perhaps the greatest remaining impediment to women's full civic participation is violence against women and girls, which remains endemic in Afghan society. Crimes go unpunished because of anemic rule of law and weak institutions of justice. Approximately 80 percent of crimes and disputes are

settled through traditional justice mechanisms.

So said Melanne Verveer, who knows of what she speaks.

This is a continuing problem. It is not just a moral problem. This is a problem long term for us as well because if the women of Afghanistan—women and girls—are not treated with respect, are not accorded the kind of rights and being given the benefit of a system of justice that will protect them, then our whole strategy in Afghanistan is undermined.

We cannot just win this on the battlefield. This is not just about the military. There are two other aspects that are so important to this strategy: governance and development. Of course, when you are talking about governance, you are talking about a system of justice. If half the population is the continued target of violence, and if half the population is not accorded basic rights and given the benefit of a functioning system of justice, our strategy in Afghanistan will fail.

This is a problem, not only because of the current concern we have about how women and girls are treated in Afghanistan and around the world, as well as here in the United States—that is the main reason for our concern—but it is also connected directly, and I think is inextricably intertwined, with our strategy as it relates to governance in Afghanistan.

We know that since the fall of the Taliban, there have been some improvements in women's rights, such as the creation of the Ministry for Women's Affairs and the guarantee of equal rights for men and women in the new constitution. Indeed, Afghan women remain among the worst off in the world with respect to life expectancy as well as quality of life. So even though progress has been made, we need to see a lot more in the way of results.

I am encouraged by the recent measures undertaken at the top of Afghanistan's Government to include the voices of women in the consultation process leading up to the Peace Jirga. However, I believe it is essential the Afghan Government take immediate measures—immediate measures—to include qualified women, who have a record of public service—civic or community service—in meaningful senior roles at every level of the government and in the peace process.

We were—I know I was; and many of us were—very impressed by the women we met who are active participants in the Afghan Government. But much more needs to be done.

Let me move next to more of the military aspects of our strategy: both in Marjah—the operation that took place over the last couple of months—as well as the upcoming operations in Kandahar.

On April 29, the Pentagon released its biannual report to Congress on the last

6 months in Afghanistan. By all accounts, it was sobering. The report portrays an Afghan Government with limited credibility among its people. In 92 districts assessed for their support of the Afghan Government or their antagonism to it, not one supported the government, not one in 92. I realize that sometimes when a report comes out, it is dated and it may be that improvements may have been made over the last couple of months, but the most recent report was not good in terms of support for the Afghan Government.

Again, our strategy will not be successful unless the Afghan Government can improve those numbers of support from its own people. This is an important issue that President Karzai and the rest of the government must continue to address. I think they are taking steps to do that but much more needs to be done.

The Pentagon report highlights one positive development: The Taliban is seen by 52 percent of Afghans as the chief cause of instability. So the message is getting out to the people about the destructive impact of the Taliban. This perception provides the Afghan Government with an opportunity to show itself as the protector of the people.

One area in which ISAF and international aid donors can help build public confidence in their government is food security and distribution. Not only is the agricultural sector critical to the well-being of all Afghans, both agriculture and food distribution are caught up in the problems raised by Afghan dependence on opium cultivation, extortion, and corruption in aid and transport operations for that, as well as manipulation by national and local power brokers.

The United States has begun shaping operations, mostly political, in and around Kandahar to prepare for the next major military campaign. While we can apply the lessons learned in Marjah, the Kandahar campaign will be a formidable test of our counterinsurgency plan. Kandahar is the second largest city in Afghanistan, the birthplace of the Taliban, and the Taliban still has considerable support there.

In judging the success of Kandahar from Washington, we should be aware of the significant political and cultural complexities because of the coalition's need to shift between fighting and outreach in Afghanistan. The contest for public sentiment among Afghan civilians will arguably be more important over the long run than the relative effectiveness of each side's military skill.

A functioning government which maintains credibility in the eyes of the people of Afghanistan will be necessary if civil military strategy is going to have any chance of success. We must continually stress the movement toward this goal so as not to lose sight of

our objectives in Afghanistan. Again, we have to be concerned about three things: first, military concerns and the strategy as it relates to the military campaigns; second, governance; and third, development.

The ability of nongovernmental organizations and other aid organizations to do great work is hampered by corruption and the ineffectiveness of the government. Militarily removing the Taliban influence must be accompanied by the timely and effective delivery of emergency aid and refugee assistance. It is only when the government has the capacity to operate in an effective manner that all the tools can be applied to increasing the quality of life of local Afghans as well as presenting an alternative to the Taliban's form of rule.

The upcoming operations in Kandahar will be the largest to date aimed at securing the population through General McChrystal's population centric civil-military strategy. However, if the government is not capable of providing the capacity necessary to follow the military clearing operations, the strategy will not succeed.

Our brave men and women who serve this country deserve a reliable partner in the Afghan Government. We must work assiduously and continually to realize this vision of a peaceful and stable Afghanistan.

In conclusion, first of all, I wish to thank President Karzai for what he said here in the United States, what he did here to reiterate the goals we have, the partnership between our government and his government to get this policy right. After my two visits to Afghanistan in 2008 and 2009, I have been very critical of President Karzai. I must say, based upon the last couple of months, based upon the work he did here, the statements he made, and some actions he has taken, I have more cautious optimism, I will say, than I had before about his ability to move forward, helping us on this strategy; his ability to build confidence, the confidence of his own people; his ability to have a positive impact not only as it relates to our military strategy but, of course, especially governance as well as the development after military campaigns take place. I also appreciate the fact that President Karzai showed great respect not only for our fighting men and women in the field and their families but especially for those who gave, as President Lincoln said a long time ago in Gettysburg, the last full measure of devotion to their country when he visited the graves of some of those who perished in that conflict.

So we have reason to be more optimistic, but the test will be over time and based upon real results, facts on the ground as it relates to the military operations, governance, and development. So this strategy bears a lot of scrutiny.

In conclusion, I ask unanimous consent to have printed in the RECORD a Los Angeles Times story of May 3, 2010, entitled "Key Bomb Ingredient Is Smuggled in Freely in Pakistan."

There being no objection, the material was ordered to be printed in the RECORD, as follows;

[From the Los Angeles Times, May 3, 2010]

KEY BOMB INGREDIENT IS SMUGGLED IN  
FREELY IN PAKISTAN

(By Alex Rodriguez)

PESHAWAR, PAKISTAN.—Twice a week, a caravan of trucks lumbers out of this volatile northwest Pakistan city in the dead of night and makes its way toward Afghanistan, loaded with one of the most coveted substances in a Taliban bomb maker's arsenal: ammonium nitrate fertilizer.

Every time the illicit caravan makes its trip, it moves unhindered past a gantlet of Pakistani police checkpoints along the Pak-Afghan Highway. A string of bribes paid out to police, politicians and bureaucrats ensures that the smuggled explosive agent reaches its destination, middlemen on the Afghan side of the border who sell it to insurgents, says the co-owner of a Pakistani trucking firm that dispatches the caravans.

Banned in Afghanistan, ammonium nitrate is the basic ingredient of the Taliban's roadside bombs. The amounts ferried into Afghanistan are staggering. Each truck carries 130 bags, each of which contains 110 pounds of ammonium nitrate. A caravan typically has at least 12 trucks, which means a single night's shipment can move 85 tons of the fertilizer.

The caravans head out every third night.

"I know that it's used to kill American soldiers," said the businessman, a lanky, thirty-something Pashtun from the Khyber district in Pakistan's tribal areas, a haven for Taliban militants. He agreed to discuss his company's smuggling on condition of anonymity.

"But people in the tribal areas don't have any choice but to do this," he said. "If they would give us another way to make money, we would take it."

Of all the threats U.S. troops face in Afghanistan, the roadside bomb is the one they dread most. Western forces have suffered 602 combat-related deaths since the beginning of 2009, and 361, or three out of five, have been caused by roadside bombs, according to [icasualties.org](http://icasualties.org), a website that keeps track of war-related deaths in Afghanistan and Iraq.

Ammonium nitrate bombs, often crude wood-and-graphite pressure-plate devices buried in dirt lanes or heaps of trash, are difficult to detect and devastating when they detonate. The fertilizer's might as an explosive agent was witnessed in the United States in 1995, when Timothy McVeigh's 4,800-pound ammonium nitrate bomb killed 168 people at a government building in Oklahoma City.

In Afghanistan, a typical homemade bomb weighs about 65 pounds, most of it ammonium nitrate. A shipment of 85 tons of ammonium nitrate could yield more than 2,500 bombs.

Made by combining ammonia gas and nitric acid, ammonium nitrate is one of the world's most popular fertilizers. It was used by Afghan farmers, but because of the roadside bombs, the United States persuaded President Hamid Karzai's government to ban the substance in January.

But Pakistani smugglers continue to truck massive amounts into Afghanistan. Several

other countries in the region, including Uzbekistan and Iran, also manufacture the fertilizer, but almost all that gets into Afghanistan comes from Pakistan, says Kenneth Corner, director of intelligence at the Joint Improvised Explosive Device Defeat Organization, a research arm of the U.S. military that develops ways to detect and withstand roadside bombs.

Pakistan makes 496,000 tons of ammonium nitrate fertilizer each year. It also imports ammonium nitrate from several countries, including China, Germany and Sweden, Comer said. The U.S. has begun talks with Pakistani officials to persuade them to ban the manufacture and use of ammonium nitrate and switch to urea as the country's main fertilizer. Unlike ammonium nitrate, urea cannot be readily used as an explosive.

"I can't find anyone who thinks ammonium nitrate makes sense as a fertilizer as opposed to what's more commonly used in both (Pakistan and Afghanistan), which is urea," Comer said.

Officials in Islamabad, the Pakistani capital, say such a ban would be a hard sell in Pakistan. "It would cost hundreds of thousands of dollars for the (sole) manufacturer to switch to urea," said Qadir Bux Baloch, spokesman for the Agriculture Ministry.

As long as ammonium nitrate remains legal in Pakistan, the U.S. will have to rely on Pakistani police and border authorities to curb smuggling. For the time being, however, rampant corruption within the ranks of law enforcement and local government allows ammonium nitrate to be smuggled freely into Afghanistan.

The Khyber businessman said his company pays about \$830 in bribes for a single truckload of ammonium nitrate. About 40 percent of that goes to local police, he said, and the rest gets paid out to local officials.

Middlemen on the other side of the border bribe Afghan authorities so they can transfer the shipments to their own trucks and move the explosive agent through their country, the Khyber businessman said.

The businessman said he clears about \$950 a month smuggling ammonium nitrate. At least eight trucking firms on the outskirts of Peshawar regularly smuggle the substance into Afghanistan, he said.

Peshawar authorities have never raided his warehouse, he said. "There are only a few police officials in Peshawar who know what we do, and we bribe them."

Peshawar's top administrative official, Commissioner Azam Khan, said no Pakistani court had ever convicted anyone of smuggling ammonium nitrate into Afghanistan. He said he had begun meeting with law enforcement and other officials to find ways to tackle the smuggling of ammonium nitrate and other commodities into Afghanistan.

"We're trying to think out of the box," Khan said. "We're looking at what laws we can use to get at the black market storage of ammonium nitrate, to make it more difficult to store it in bulk."

Some security officials say Pakistan should have ample incentive to better scrutinize the movement of ammonium nitrate, given its own struggle with Islamic militants.

In March, police seized 6,600 pounds of ammonium nitrate stashed in a fruit market in Lahore's Allama Iqbal neighborhood. Investigators believe the three men arrested in the seizure were connected to a series of suicide attacks that killed more than 50 people in March.

Zulfiqar Hameed, a senior Lahore police official in charge of investigations, said his officers could have tracked down the middlemen who supplied the ammonium nitrate to

the militants if Pakistan required manufacturers to put tracking numbers on each fertilizer bag.

"It's a totally undocumented market," Hameed said. "There's no reliable way of finding out who bought those bags. That's a huge problem."

Even if Pakistani authorities took steps to clamp down on ammonium nitrate smuggling, the Khyber businessman said he doubted they would derail his operation. Along Pakistan's tribal belt, where smuggling is a way of life, the policemen and officials accustomed to a steady stream of pay-offs aren't likely to turn over a new leaf anytime soon.

"Never have these supplies been interfered with," the businessman said, chuckling. "These shipments always reach their destination."

Mr. CASEY. Finally, let me also ask unanimous consent to have printed in the RECORD a summary of a "Report on Progress Toward Security and Stability in Afghanistan" issued by the Department of Defense dated April 2010.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT ON PROGRESS TOWARD SECURITY AND STABILITY IN AFGHANISTAN  
(Issued by the DOD, Apr. 2010)

The ANP consists of four major categories of police: the Afghan Uniformed Police (AUP), the Afghan Border Police (ABP), the Afghan National Civil Order Police (ANCOP) and Specialized Police.

In January 2010, the JCMB, the international community, and the U.S. Government agreed to the Afghan proposal to grow the ANP to 109,000 by October 2010 and 134,000 by October 2011. March goal: 99261. Actual: 102,138.

One of the major past weaknesses of the ANP program is the lack of centralized command and control for recruiting and training.

A major concern of the international community is the lack of personnel accountability in the ANP force. There have been accounts of "over-the-tashkil" police in various districts doing police work while not being paid through LOTF-A, as well as accounts of "ghost police" who are on the payroll but are not actually present for duty.

Training is a key challenge to building the capacity of the ANP. In recent years, because of the lack of program resourcing, 60-70% of the force was hired and deployed with no formal training (the "recruit-assign" model).

High levels of corruption persist in the ANP and reports of promotions being sold are common.

As with the ANA, the logistics systems in the ANP have been weak. Over the past year, the NTM-A has assisted the Logistics Training and Advisory Group in improving its logistics system to better meet the needs of the ANP. Despite progress, the MoI logistics system is in its early stages of development and lacks automation, infrastructure, and expertise.

Establishment of effective rule of law institutions is critical to the sustenance of an effective police force. To date, in the justice sector, there has been little enduring progress despite investment toward reform, infrastructure, and training. Courts are understaffed and chronically corrupt. Corruption can be stemmed by ensuring there

are adequate salaries and an adequate number of defense attorneys, and by implementation of a case management system and court watch or court monitoring program. Security for judges and prosecutors continued to be a significant problem, especially in RC-South.

Mr. CASEY. Thank you, Mr. President.

With that, I yield the floor and note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. UDALL of Colorado. Mr. President, before I ask a unanimous consent on an amendment, I will comment on Senator CASEY's remarks that were just delivered so powerfully and eloquently. He is right on point that the efforts underway in Afghanistan are crucial to our country's national security.

It was important, as well, that he talked about the three main factors that are in play there in our ultimate success. This week, we had President Karzai and much of his Cabinet in Washington. I certainly appreciate the effort President Karzai made to show his respect for those who have fallen in Afghanistan in the war there. I also note General McChrystal was here briefing many of us. I think the Presiding Officer, as well, heard from him on the state of the situation in Afghanistan.

This isn't going to be easy. I am heartened by what I heard. I express my appreciation for the valor, commitment, and honor that our forces in Afghanistan have displayed.

AMENDMENT NO. 4016 TO AMENDMENT NO. 3739

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up my amendment No. 4016.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. UDALL], for himself, Mr. LUGAR, Mr. LAUTENBERG, Mr. BOND, and Mr. BEGICH, proposes an amendment numbered 4016 to amendment No. 3739.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve consumer notification of numerical credit scores used in certain lending transactions)

On page 1455, after line 25, insert the following:

SEC. 1077. USE OF CONSUMER REPORTS.

Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following:

"(2) provide to the consumer written or electronic disclosure—

"(A) of a numerical credit score as defined in section 609(f)(2)(A) used by such person in taking any adverse action based in whole or in part on any information in a consumer report; and

"(B) of the information set forth in subparagraphs (B) through (E) of section 609(f)(1)"; and

(C) in paragraph (4) (as so redesignated), by striking "paragraph (2)" and inserting "paragraph (3)"; and

(2) in subsection (h)(5)—

(A) in subparagraph (C), by striking "and" and inserting a semicolon;

(B) in subparagraph (D), by striking the period and inserting "and"; and

(C) by inserting at the end the following:

"(E) include a statement informing the consumer of—

"(i) a numerical credit score as defined in section 609(f)(2)(A), used by such person in connection with the credit decision described in paragraph (1) based in whole or in part on any information in a consumer report; and

"(ii) the information set forth in subparagraphs (B) through (E) of section 609(f)(1)."

Mr. UDALL of Colorado. Mr. President, Senator LUGAR and I introduced this modified amendment in working with Senator DODD, the Treasury Department, and the Federal Reserve to find a way to increase Americans' access to their credit scores.

Before I talk about the amendment, the chairman of the committee, my friend and colleague from Connecticut, is on the floor. I thank him for working with me and a group of about 20 bipartisan Senators to provide greater access to consumer credit scores. Senator DODD had a thoughtful, incisive idea about how we might be able to move this amendment to the floor, and that was to provide a credit score on a transactional basis.

That is exactly what this amendment does. A credit score affects consumers' interest rates and monthly payments on home loans and can even influence a consumer's capacity to buy a car or rent an apartment, even get phone or Internet service.

Our amendment would take the two consumer notices that the Federal law requires lenders to give consumers and makes sure the credit score used to evaluate the consumer is disclosed to that individual.

Right now—and I found this out in the process of researching what we are trying to do—if you receive a general notice of your credit application being turned down or if you are offered credit at less favorable terms, you don't receive a disclosure of the credit score used to determine that outcome.

Under our amendment, if you are turned down for a loan or you are given a higher interest rate because of a low

credit score, you now have the right to see the credit score that was used. I know of the Presiding Officer's interest and long experience in the world of housing and providing access to people in that way. I know this is something he has followed with great interest.

There is a fundamental principle at stake. If your credit score is being used against you, you ought to have the right to at least see it.

I know every single American would want to improve that credit score and understand how they could have a greater financial opportunity, greater financial standing.

I thank Chairman DODD and Senators LUGAR, LEVIN, BOND, SCOTT BROWN, SCHUMER, BEGICH, LAUTENBERG, and all the 20-plus Senators who helped push for this important issue.

I especially thank Senator PRYOR for working with us to find something everyone could agree to in this modified version. I am appreciative that we were able to work it out.

I understand that the amendment is scheduled to be addressed Monday night. I hope we can perhaps accept it on a voice vote at the proper time as well.

With that, I yield the floor.

Mr. DODD. Mr. President, again, I cannot thank our friend and colleague from Colorado enough. He has done a great job. This is a terrific idea—one that is long overdue. The Presiding Officer is a member of our Banking Committee. We have talked a lot about these issues over the last couple years. We have had hearings and, in fact, legislation dealing with credit scores. A lot of people have had their good names stolen from them, in a sense, as a result of the thievery that goes on with credit cards and the like, and people's credit scores have been manipulated.

It is difficult to find out where you are in all this. It is ironic that we are citizens in our country, and other people are determining whether we are creditworthy when we are buying an automobile, purchasing a home or getting a student loan. The idea that we as consumers cannot have access to these scores that people are writing about us—it is kind of offensive that we even have to go through this. It is degrading, to put it mildly. I am grateful to the Senator from Colorado for pursuing this. He would have gone a bit further. I would have, too, but I sense we are going to have a problem here to get anything done at all. The fact that are going to have this on a transactional basis is a major step forward and may alleviate 80 to 90 percent of the difficulties. That is not to say there isn't room for further improvement down the road. There will be other steps we can take in the future to make sure people have access to their scores and where they stand on their ability to afford the things they need as a family.

The Senator from Colorado has made a significant contribution. We are going to have to vote on it. I am confident we can prevail. I believe both Democrats and Republicans share the concerns the Senator has raised. He has made a valuable contribution to this effort. I thank the Senator personally for that.

I look forward to being supportive of this amendment early next week. I thank the Senator.

Mr. UDALL of Colorado. Let me again thank the chairman of the Banking Committee for his willingness to work with those of us in a bipartisan coalition. His comments are right on point, as always.

I think the Senator from Connecticut is right when he suggests that, as Americans have access to credit scores, they are going to be more interested, as time goes on, in understanding how to build and strengthen that score and be more financially literate, if you will.

The chairman has been remarkable in the time he has spent on the floor and the strength he has shown, with the lack of sleep he has endured. His product, which many of us have contributed to, will be seen by historians as a seminal moment, when we put Wall Street on a more accountable basis.

Under the chairman's leadership, we have also given consumers more recourse and access. In the end, I think that is what the chairman wanted to do, and will do, to protect consumers all over our great Nation. This is one small but important way to do that.

Again, I thank the chairman and look forward to the vote on Monday night. I agree this will have widespread support. I will continue to ask for those votes, and I know we will work to have a successful outcome Monday.

Mr. LEVIN. Mr. President, I am pleased to cosponsor amendment No. 4016, introduced by Senator MARK UDALL and Senator LUGAR, to help provide Americans access to their credit score, an essential piece of personal financial information.

The way things stand now, the three primary credit bureaus charge people to gain access to their credit scores. Seven years ago, the 2003 Fair and Accurate Credit Transactions Act took a big step in the right direction by giving Americans access to their credit report once a year, on a no-cost, no-strings-attached basis, at each of the big three credit bureaus. But a credit report only goes so far. It is the credit score itself, not the report, that is so critical to the consumer when navigating our financial system, and free access to credit scores was not included in the 2003 act.

Credit score is often the single most important factor in obtaining a loan to buy a car or a house or in securing a credit card with a reasonable rate of interest. Credit scores can also play a

key role in finding an apartment or purchasing a major household appliance. More and more, credit scores are also used by employers in the hiring process.

With so much riding on this number, it is essential that Americans be able to readily obtain their credit score, so they can evaluate whether it accurately reflects their credit risk. If the score is low, a consumer can evaluate the underlying credit information to see if there is an error in the data and what, if anything, they should do to correct an error. Consumers can also evaluate what steps they can take to improve their credit score by, for example, paying off debt or tearing up a credit card. To make those types of informed decisions, however, it is only fair for the consumer to know what all their creditors know—the credit score that has been electronically assigned to them by an impersonal, computer-driven credit bureau.

A credit score is calculated from a person's personal financial history as that history is captured in specific data points included in a credit report. We already know that the data in a credit report is often incomplete, out of date, or incorrect. We also know that the formulas used to produce credit scores from that data are complex, unpublished, and of uncertain predictive value.

The credit bureaus chum out profits by running people's personal financial information through their formulas. Then they sell the information to financial institutions, marketing companies, landlords, and others. The companies then turn around and sell the credit scores back to the consumers who otherwise can't find out what is being sent to multiple third parties about their credit status, without their ever having been informed about the score.

This whole setup is unfair. While credit scores serve a useful function in our financial system, fundamental fairness requires that people have ready access to this basic information about themselves—information that is already being sold to their bank, their landlord, their employer, their government, and any other creditor willing to pay for it.

One more point. Right now, despite the efforts of Congress and the Federal Trade Commission, some credit bureaus continue to engage in deceptive advertising of ostensibly "free" credit reports and scores that, in fact, require enrollment in a subscription credit monitoring service that charges a monthly fee, often \$15. It is astonishing to me that some bureaus fight tooth and nail to avoid straightforward disclosures about the cost of their products and instead try to slip them in with deceptive offers of "free" credit scores or reports that are anything but. This is an issue we addressed in the credit card reform bill with new provisions to stop the deceptive advertising,

and which the FTC is now working to implement. The credit bureaus have got to clean up their act.

What we can do today is pass the Udall-Lugar amendment, which would require that every time a consumer suffers an adverse event—such as a rejected loan—or receives materially less favorable terms—such as a high interest rate on a credit card—due to the consumer's credit score, the lender or potential lender would have to provide that credit score to the consumer. This requirement would enable people to find out what the credit bureaus are telling their creditors about their credit risk, whenever that information is used against them.

This amendment would help Americans take control of their credit histories, help restore fairness in the credit industry, and begin to close a gaping loophole that the credit bureaus have been exploiting for years. I commend Senator UDALL for his leadership on this issue and encourage my colleagues to vote for it.

Mr. DODD. Mr. President, I support the amendment offered by Senator COLLINS, amendment No. 3879, and thank the Senator from Maine for her efforts to protect the financial stability of the United States and safeguard the financial security of families in her State of Maine, my State of Connecticut, and all across America. Her amendment complements the provisions in my bill, S. 3217, that strengthen capital standards for large, interconnected financial companies. Under S. 3217, the Federal Reserve must impose heightened standards for leverage and risk-based capital on large bank holding companies and on nonbank financial companies supervised by the Federal Reserve. These tougher standards will serve as speed bumps to keep financial companies from growing too large and risky and threatening the nation's financial stability.

The Collins amendment, endorsed by FDIC Chairman Sheila Bair, would prevent regulators from weakening risk-based capital and leverage standards now in effect. It effectively sets a floor for such standards going forward that would apply to all banks, bank holding companies, and nonbank financial companies supervised by the Federal Reserve. The Collins amendment also reinforces the bill's requirement that capital for large, interconnected financial companies should reflect the risks that their failure may pose to financial stability.

As Chairman Bair noted, bank holding companies are supposed to serve as a source of strength for the banks they own. But during the financial crisis, many large bank holding companies became a source of weakness and ultimately required Federal support. The crisis also revealed how dangerously overleveraged many large investment banks and other nonbank financial

companies were. The Collins amendment and provisions of S. 3217 will help to ensure that the largest, most interconnected financial companies maintain a robust level of capital and to eliminate gaps in capital standards between banks and other financial companies that could undermine the financial stability of the United States.

Again, I thank my colleague from Maine, Senator COLLINS, for her valuable contribution to the collective, bipartisan effort here in the United States Senate to reform Wall Street and protect American families.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, I want to share some thoughts, if I can for a couple of minutes, on one of the proposals that will be coming up, I think, next week on the bill.

Again, I want to express my gratitude to all of our colleagues for the way in which this debate has been conducted. Contrary to what many people may think about the Senate, we are capable of having a full-throated debate, one filled with emotion and passion about strongly held views, and yet also respect each other to allow for the debate to go forward and amendments to be considered and voted up and down.

I think we have done that now some 33 or 34 times over the last 6 or 7 legislative days. I know there is much more to be done in the coming days before we conclude our consideration of the Wall Street reform bill. But it is a reflection of how this institution can operate and how we should operate, in my view, on a matter of this import.

So it is not only important about what we are doing in terms of reforming the financial system of our Nation, but I would argue in a way history may never record it as such, but also how we conducted this debate on an important issue. It may not make the headlines, but it is very important for the integrity of this institution and as a model for how important comprehensive legislation can be handled.

I know it is cumbersome. I know it can take a long time. There are delays that occur during consideration of matters in the Senate. But that is as it was intended by our forefathers, in a sense, to have an institution where there would be the ample opportunity for debate, including unlimited debate by any one single Member, contrary to the other Chamber that comprises the Congress where they are limited to 5 minutes, and the majority rules allow

for matters and insists upon the majority prevailing.

In this institution the rules favor the minority, including a minority of one that can engage in extended debate. So we are different in this institution and with good reason. If they had wanted a unicameral system of one body, where just majority rules would prevail every time, they would have created it. In fact, they tried to.

But I take some pride in the fact that it was two Senators from Connecticut, Oliver Ellsworth and Roger Sherman, who in the consideration of the Constitutional Convention—when all was about to fail over a contest between large States and small States; they were fearful that large States, having the dominant number of members in the Halls of Congress, would be overwhelmed and their interests be disregarded because they did not have the votes to counter it—so Oliver Ellsworth and Roger Sherman came up with the idea of creating a bicameral system, one wherein one body's membership would be made up based on population, the size of the State, the number of seats it would hold, and this body, regardless of our size, would have equal representation.

So the smallest of our States, States such as Wyoming with a few hundred thousand people, has two Senators. The State of California, with millions of people, has two Senators. So regardless of size, regardless of economic influence or other matters, we are all co-equals, at least as far as our States are represented and the opportunity as well for minority voices to be heard, not overwhelmed with the tyranny of the majority which can happen.

So there is a value to the existence of the Senate, and we are slower to act. It can be frustrating, as my colleague and Presiding Officer has come to appreciate, and as a former Speaker of his own State legislative body, I know he appreciates how difficult that can be as a leader in trying to move business and product along so that matters can be considered.

So I say all of that as a backdrop because in recent years, recent months, in fact, we have been bogged down, frustrated. There has been a lot of obstructionism that has gone on to prohibit us to move forward on important matters. But at least in this case, up to now at this point anyway, we have conducted this debate on financial reform in a way that I think our forbearers would have appreciated.

Members have had ample opportunity. The rules are still there for them to use to make sure they can be heard in these matters. But, again, I emphasize that while the subject matter of our consideration certainly is tremendously important, the means and the manner by which we have conducted debate also has value.



It is with that backdrop that I want to again thank my colleagues, Democrats and Republicans. I thank majority leader HARRY REID because without his insistence as the leader, this could not happen. I think the fact that he has demonstrated as a leader the ability to move this institution in a way that allows for equal participation and debate is a great tribute to the leadership he has demonstrated as majority leader of the Senate over many years now.

This morning I would like to concentrate, if I could, on one subject matter, as I mentioned, that will probably come up in the next few days when we reconvene at the first part of next week. That has to do with a very important part of this bill, one in which the Presiding Officer has demonstrated great interest, and I have a tremendous amount of interest in as well.

It deals with the issue of establishing, for the first time in our Nation's history, an actual bureau, a division, that is designed specifically to protect individual consumers from what can happen to them when financial matters put them in a desperate condition, whether it be on credit cards, home sales, all sorts of other financial activities. There has been no place that actually consumers' interests are paramount.

There are seven agencies in the Federal Government that have divisions that deal with consumer protection. But the history has been one of either malfeasance, inaction, uninterest or lack of interest. What we are creating is a place where the dominant principal, sole interest will be to watch for consumer interests.

One of the debates we are going to have is whether a major area of financial interest will be exempted from the consideration of the Consumer Financial Protection Bureau, and that is in the area of financing an automobile.

I know this has been one of the most heavily lobbied parts of the whole Wall Street reform bill. I certainly understand that many of us know our auto dealers back home make important contributions to our communities. I said in my remarks the other day, I have worked very closely with the car dealers of my State over recent past years and months.

We have had major debates about the automobile industry and the rights of auto dealers, the cash for clunkers bill, to try to increase sales, which is something I was deeply involved in to try to make it possible for our automobile dealers and manufacturers to get back on their feet.

So I take a back seat to no one in my concern and care about the work they do, the economic vitality they provide for our community, the jobs that get created as a result of their efforts. My debate and argument is not with the auto dealers; it is over the financing of automobiles and how that occurs, and

whether consumers are going to be protected in what for most Americans is the second largest purchase any of us ever make.

Our home, if we have one, is the most important. Then, secondly, is the purchase of an automobile. Most Americans, other than having a 401(k) for retirement, do not deal with the stockbrokers every day, are not buying or trading or engaging in sophisticated financial instruments. That is limited to a few of the 300 million in our population.

But you only need to get up in the morning and head off to work, and you know that everybody needs an automobile—one might argue maybe too many. But, nonetheless, that is a separate debate. So that purchase of an automobile is critically important to people. It is a critical part of our economy.

But it is over the financing of automobiles, in certain areas, that I have great concern and do not want to see consumers disadvantaged. So it is in that spirit that my support and admiration for people who work in that sector of our economy, to say to you today that those responsible corporate citizens, small businesses, have nothing to fear from this legislation whatsoever.

They conduct their business admirably, ethically, morally. They treat their customers as if they were members of their family. That is the overwhelming majority of people who engage in the sale of automobiles. But like all statutes and laws, they are not designed necessarily for the majority of people who operate within the law and act and operate ethically and morally.

We also understand there are those who take advantage of people, and so we craft legislation to protect all of us against those abuses that can occur. As President Obama said on April 22:

Unless your business model depends on bilking people, there is little to fear with this legislation at all.

In fact, there is nothing to fear. In a challenge to this Congress, Michael Hayden, from the Military Officers Association of America, said to us the following:

You have an opportunity to do something about unscrupulous auto dealers. The above-board firms should not have a problem with the Consumer Financial Product Protection Bureau.

They should not, and let me explain why briefly this morning. First, the Wall Street reform legislation as being considered by the Senate has gone more than halfway to meet the concerns originally raised by financing of automobiles. The bill, and let me enumerate, eliminates assessments on the auto dealers. Unlike other financial institutions, there are no assessments on auto dealers.

The Brownback amendment would prohibit assessments. The underlying

bill already does that. There is no reason for that provision in the amendment of my colleague from Kansas. The bill further eliminates the authority of the bureau of financial protection to examine and enforce new rules on auto dealers.

State authorities and the Federal Trade Commission will continue as they have to perform this role. Thirdly, as a result of our bill, the only impact the consumer bureau will have on auto dealers is through rule writing. It is crucial that auto dealers, in the financing of autos, play by the same rules as their competitors do in communities all across our country.

One has to ask: What could be more reasonable than that? There are a variety of places people can go to finance an automobile. You can go to a credit union; you can go to your community bank. There may be other means by which you can finance. Why should we disadvantage those institutions in a community at the expense of one other who is seeking exemption from these rules?

That brings me to the second point. The legislation we have written creates a level playing field among auto dealers, community banks, credit unions, and others. This will empower consumers to shop effectively for the best financing available as they see it. They ought to have that opportunity, not fearing that if they go to one financial service provider or another, the rules apply in one case and do not in another. That disadvantages all consumers in this country who want to be able to shop effectively.

How many times have we seen that ad: When providers of financial services have to compete, consumers win? If they have to compete on a level playing field, then we are going to make it possible for people to get the best value that is available to them.

Consumers should be treated the same regardless of whether they get a loan from an auto dealer, a credit union, a community bank, or anyone else for that matter who is engaged in the financial products and service industry.

Community banks and credit unions should not be forced to live under more stringent rules for making auto loans than do auto dealers. Just imagine, in small communities, where on the same street you might have a community bank, a credit union, and an automobile dealer that is financing automobiles.

Why should there be a disparity in terms of the protections consumers get depending upon which door they walk through on that Main Street: walk into the credit union, walk into the community bank, or walk into the auto dealer who is financing. Why should that last place be treated differently than the other two when it comes to financing?

That is at the heart of what our bill is trying to do. That is what makes it



especially important that car salesmen follow the same rules and provide customers with clear, transparent, easy-to-understand information, so those consumers, those who are also our neighbors, are empowered to make smart financial choices for themselves and their families without having to worry about hidden markups that can cost them hundreds of dollars over the course of paying off a loan.

Let me emphasize again what I said at the outset. The overwhelming majority of auto dealers play by the rules. Again, I am not talking about the vast majority that do this but the unscrupulous ones, those who engage in ripping off people and are doing everything they can to get away with it.

That is what the legislation is designed to deal with. This is the way the marketplace is supposed to work, where people can shop fairly, knowing the rules apply to everyone equally, and there is competition to provide higher quality products and services and better prices.

A strong consumer bureau will be good for responsible auto dealers as well. If the Brownback amendment wins, Wall Street wins, and those responsible dealers will lose. Let me explain why this is true.

If auto dealers are carved out of this bill, as the Brownback amendment would do, it means we are essentially exempting Wall Street-funded auto dealers and putting credit unions and community banks at a disadvantage. It means Wall Street will continue to incentivize auto dealers to offer bad, overpriced loans that make it impossible for responsible dealers to compete. We have seen this time and time again in every market. The bad money pushes out the good money. The responsible players who play by the rules are undercut by the sharp dealers who cut corners.

Furthermore, a strong consumer bureau will restore America's faith in auto dealers and the loans they make. Responsible auto dealers ought to welcome this. What happens when we have this kind of uneven playing field? Unfortunately, we have seen many cases where people, particularly those serving in the military, have been the victims of shady auto dealers' financing practices. Let me share some of the many stories I have heard, and I know my colleagues have as well.

A recent news story describes five young men and women in uniform at Fort Riley, KS who were conned into paying for phantom options on vehicles they bought from a local auto dealer. In other words, they were charged for options on their cars they never received. According to their lawyer, despite having decent credit scores, these young men and women in uniform were ending up paying interest on their car loans averaging almost 18 percent.

Yesterday I told a story that appeared in the New York Times of Mat-

thew Garcia, a 25-year-old Army specialist who was recently subjected to a trick called "yo-yo financing" by an unscrupulous car dealer, just as he was preparing to deploy to Afghanistan. Specialist Garcia, stationed at Fort Hood, TX, bought an automobile at a used car lot and signed up for a loan at 19.9 percent interest rate. That is not even the biggest abuse, however, believe it or not. The problem came when he drove the car home. The auto dealer called him up several days later to say the financing contract had actually fallen through and demanded an additional \$2,500 in cash. To make sure he paid up, the dealer blocked the soldier's car so he could not leave.

In North Carolina, SGT Diann Traina, who works in military intelligence/psychology, purchased a used BMW from a dealership near Fort Bragg. The dealer who sold Sergeant Traina the car never provided her with the registration and, in fact, did not have title to the car. Sergeant Traina got to drive the BMW for 1 week before she was deployed to Iraq. Then it was repossessed. Through no fault of her own, she now has a repossession on her credit rating, her credit. In addition, the lender insists she has to pay \$10,800 that is still owed on the car. She is married. She and her spouse have been without the use of a vehicle for a long time but are still being pressured to pay for it. Sergeant Traina later learned that the dealer where she brought her automobile had sold numerous cars to military personnel, even though it didn't own them. The North Carolina Attorney General eventually sued the dealership, and it has subsequently gone out of business.

This story is a classic example of predatory auto lending, where the dealer is clearly culpable and the military member had no way of knowing in advance that the dealer was selling automobiles and originating loans for vehicles it did not own. This type of practice is actually fairly common among unscrupulous auto dealers who finance, particularly, around military bases. Some go in and out of business repeatedly, reopening under different names each time, leaving many customers in the lurch. Regrettably, this kind of abuse of lending to members of the military and their families is far too common.

Holly Petraeus, who directs a better business program for military families, noted at a press conference yesterday that auto lending to the military needs oversight, because:

Sadly, many of [those in the military] end up paying far more for those cars than they should.

That is why The Military Coalition, a consortium of over 30 nationally prominent military and veterans organizations representing more than 5.5 million current and former servicemembers and their families, opposes

the Brownback amendment. We talk all the time about protecting and defending and standing up for our men and women in uniform, many of whom are in Iraq and Afghanistan in harm's way. Yet we are about to pass legislation that would exempt automobile financing dealers from the very people we try to protect. I am not making up these quotes and these numbers. When we have that many organizations expressing their opposition to this amendment, Members ought to take note. Again, I emphasize—I know my language here is talking about auto dealers in a generic way. I emphasize over and over, the overwhelming majority do a good job, a fair job, an ethical and moral job, but they would tell us themselves how they can be disadvantaged by those unscrupulous dealers who take advantage, particularly of the young men and women in the military.

The coalition includes such groups as the Veterans of Foreign Wars, the National Guard Association, Military Officers Association, the Military Order of the Purple Heart, and many others which oppose the Brownback amendment. I am taking advantage of this time today to tell my colleagues, please pay attention to this. I know we care about our auto dealers. I know they have been lobbying heavily. But they should not receive an exemption in the financing area that can put so many people at a disadvantage.

The coalition, in fact, sent me a letter. I wish to read a little from the letter. I quote:

The most significant financial obligation for the majority of servicemembers is auto financing. Including the auto dealer financing . . . in the financial reform bill will provide greater protections for our servicemembers and their families.

The letter goes on:

Providing a carve-out for auto dealers does just the opposite—it will allow unscrupulous dealers to continue to take advantage of servicemembers and their families.

Clifford Stanley, Under Secretary of Defense, said in a letter to the assistant Secretary of the Treasury Michael Barr that the Department of Defense "would welcome and encourage the [Consumer Financial Protection Bureau] protections provided to Servicemembers and their families with regard to unscrupulous automobile . . . financing practice."

Secretary Stanley cites the "bait and switch" financing, falsification of loan applications, failure to pay off liens on trade-in vehicles, "packing" loans with items whose price bears little if any relationship to the real cost, and discriminatory lending as the kinds of problems members of our Armed Forces and their families face when dealing with financing their automobiles with car dealers. In fact, Secretary Stanley reports that 72 percent of counselors and attorneys surveyed

have cited problems with auto dealer abuses in the past 6 months alone.

This is not my list of abuses. This is the Under Secretary of Defense in a letter.

Two days ago Senator JACK REED and Senator SCOTT BROWN of Massachusetts offered an amendment to create an office of military liaison within the consumer protection bureau. That amendment carried 98 to 1. Only one colleague voted against providing an office within the Consumer Financial Protection Bureau with the kind of protections the Secretary of Defense is talking about in his letter.

The amendment carried by a vote of 98 to 1 because Members recognize that our service men and women deserve protection from these shady financial service providers, including, of course, the major abuser, the very group that our colleague from Kansas wants to exempt from this legislation.

A crucial part of providing this protection is coverage of auto dealers. Yesterday I received a letter from the Secretary of the Army John McHugh. Secretary McHugh makes the point that auto dealers are often “the most significant financial obligations of our soldiers—particularly within the junior enlisted grades . . .”

If we carve out auto dealers—the businesses that make the loans that are “the most significant financial obligations of our soldiers,” in the words of the Secretary of the Army—why did we vote to create the military liaison office in the first place?

If we pass the Brownback amendment and carve it out of our legislation, we will have gutted the very office of military liaison before it even gets off the ground.

Yesterday the Senator from Kansas made the point that we ought to regulate the people who are making the loans, not simply the people who are processing the paperwork. I agree. By that standard, we should defeat the Brownback amendment because, in fact, the auto dealers are the legal lenders. It isn't the financing company. The legal lender is the automobile dealer who engages in financing of automobiles. Auto dealers finance cars in much the same way mortgage brokers and bankers finance mortgages. They shop among a number of wholesale lenders, often on Wall Street, and they steer buyers into higher interest rates than those borrowers would otherwise qualify for. In exchange, the auto dealers who get this kind of financing get the equivalent of a yield spread premium or a backend payment. The higher the interest rate they can get the borrower to agree to, particularly service men and women, the higher the payment the auto dealer receives from the Wall Street financing firm.

The incentive is to get the customer to pay as much as possible. That is the

way they get rewarded financially. This is not the way the market should work, whether it is for a young soldier, a first responder, or a single mother working hard to raise her family.

Let me read the court testimony of a former auto dealer finance and insurance manager from Tennessee about how the process works. Again, this is a former auto dealer finance and insurance manager in court testimony. I am quoting:

The standard industry practice is to prepare financing documents so that the customer is not alerted in any manner that the person with whom he is dealing has the ability to control the customer's price of credit.

Let me explain that. The dealer “has the ability to control the customer's price of credit.”

He continues:

This allows the finance arranger to present himself as the ally of the customer, which further relaxes and disarms the customer. . . . The nature of the transaction creates the perfect opportunity for a dealer to obtain a large kickback from an unsuspecting customer by subjectively inflating the interest rates.

What better evidence could we have than someone in court testimony engaged in the very business telling us exactly how it operates? Again, the Brownback amendment would basically exempt that person from the rules of consumer financial bureau. What does this remind us of? It reminds me exactly of the mortgage broker I described a few days ago, who is taught and encouraged in training sessions to convince the borrower that he is their financial adviser while profiting from steering the customer into the more expensive loans.

Let me go back and read the quote from the witness, the former auto dealer finance manager:

This allows the finance arranger to present himself as the ally of the customer. . . .

Tell me what difference there is between that and the unscrupulous broker who tries to convince a borrower that “I am your financial adviser”? It is exactly the same kind of abuse. So the mortgage broker, without any regulations, gets away with it. If we adopt this amendment, it will allow the automobile finance dealer to get away with it as well. We ought not to allow that to happen in this legislation.

Moreover, there is a history of discrimination in auto dealer financing. For example, African-American borrowers were charged more than 2.5 times the amount in subjective rate markups compared to majority White populations, after controlling for creditworthiness. And similar disparities were found for Hispanics. These abuses have been curbed temporarily as a result of a series of court orders and consent decrees. However, these consent decrees expire, and they will shortly.

Finally, the Brownback amendment is simply unworkable and would create

a duplicative bureaucracy. The amendment leaves rule writing under the Truth in Lending Act with the Federal Reserve for auto dealers loans only. All other Truth in Lending Act rules will be written by the consumer bureau. That means the Fed will have to maintain a separate bureaucracy to write rules for this one sector of the lending industry—not the legal, responsible entity, the auto dealer—while the consumer bureau writes the Truth in Lending Act rules for everyone else.

Frankly, that makes no sense whatsoever. One of the things we are trying to do is to get rid of unnecessary burdensome paperwork and duplication.

Several weeks ago, when the debate on this Wall Street reform bill first started, I told my colleagues about the Luntz memo, which lays out a strategy for attacking real Wall Street reform. Well, let me read to my colleagues one thing from the Luntz memo I happen to agree with, and it is the following—I quote from the memo:

The public is angriest about lobbyist loopholes. Part of the perception that Washington cannot do anything right is the belief that lobbyists write most of the bills. The American people are tired of add-ons, earmarks, and backroom deals—but they are mad as hell at “lobbyist loopholes.”

What is one of the loopholes that Mr. Luntz's memo refers to specifically? Car dealers—the very lobbyist loophole the Brownback amendment would create. The memo, in fact, warns specifically about this amendment we may be asked to vote on because it has been so heavily lobbied by those who would take advantage, unfortunately, of people.

Finally, I would like to read to my colleagues a statement on this amendment that the White House released yesterday from the President of the United States. The President says:

Throughout the debate on Wall Street reform, I have urged members of the Senate to fight the efforts of special interests and their lobbyists to weaken consumer protections. An amendment that the Senate will soon consider would do exactly that, undermining strong consumer protections with a special loophole for auto dealer-lenders. This amendment would carve out a special exemption for these lenders that would allow them to inflate rates, insert hidden fees into the fine print of paperwork, and include expensive add-ons that catch purchasers by surprise. This amendment guts provisions that empower consumers with clear information that allows them to make the financial decisions that work best for them and simply encourages misleading sales tactics that hurt American consumers. Unfortunately, countless families—particularly military families—have been the target of these deceptive practices.

Claims by opponents of reform that this legislation unfairly targets auto dealers are simply mistaken. The fact is, auto dealer-lenders make nearly 80 percent of the automobile loans in our country, and these lenders should be subject to the same standards as any local or community bank that provides loans. Auto dealer-lenders offering transparent and fair financing products to

their customers should welcome these reforms, which will make their competitors who don't play by the rules compete on a level playing field.

The President concludes by saying:

We simply cannot let lobbyist-inspired loopholes and special carve-outs weaken real reform that will empower American families. I urge the Senate to continue to defeat the efforts of special interests to weaken protections for all American consumers.

I further note that while I have emphasized what happens among the 5.5 million of our service men and women and how they are treated in overwhelming cases and that I do not recall another time the Department of Defense and military organizations have gotten involved in a debate such as this—normally, they get involved in debates involving the armed services of our Nation, national security issues, but the fact that they have gone out of their way to communicate to me and every other Member of this body about their concerns over the Brownback amendment ought to set off alarm bells to each and every one of us. Rare is it, indeed, when the Secretary of the Army or the Secretary of Defense or military associations, such as the Veterans of Foreign Wars and others, write to Members of Congress about something such as this. Yet they feel so strongly about it that they are urging us not to succumb to the temptations of carving out this second most important financial arrangement that most Americans ever engage in: the purchase of the automobiles they need.

I would also point out that among the Better Business Bureau statistics, the single largest number of complaints—and the number hovers around 70 percent nationwide—aside from the military side, come in the area of automobile dealer financing arrangements; that is, almost 75 percent of all complaints are in this one area. What more information do you need to have about whether we ought to keep this section of the bill intact to make sure they are not going to be exempt from these kinds of activities?

So when the amendment comes up, I will speak further about this. But I wished to remind my colleagues particularly of the information we are receiving from our military organizations, from the military at the Pentagon, and others about how important this issue is.

I noticed the other day there were votes in the other body to increase the pay of our military men and women and I applaud that and agree with that. We have taken steps. JIM WEBB, our colleague from Virginia, recently got passed a bill of rights for our veterans, which we all applauded and supported.

As I said, the other day JACK REED and SCOTT BROWN of Massachusetts, by a vote of 98 to 1, got passed an amendment that creates within this bureau the only special section of this bureau designated to protect a class of our

citizenry—one designed to protect our men and women in uniform. It is the only one. We do not have a section for the elderly or for students or for anyone else. The only class we protected by a vote of 98 to 1 is our military.

For, particularly, our junior age military, they do not own homes yet. They are too young. They are 18-, 19-, 20-, 21-year-olds. Their largest purchase is in the automobile area. What an irony it would be to have adopted an amendment to create a special division within the consumer protection area to protect our men and women in uniform—we are told by the Defense Department the single largest area of abuse of these young men and women is in automobile financing—and yet we are about, next week, to exempt it from this bill.

I cannot believe that will happen. I am hopeful my colleagues, as much as we respect our friend from Kansas—and I do. Senator BROWNBACK and I are very good friends. We work together. In fact, on several provisions of the bill, he and I support the same ideas. But on this one, I passionately disagree with what he is trying to do. I think it is a carve-out. It is a loophole.

There are 1,000 lobbyists in this town doing everything they can to gut one provision after another in this bill. Millions of dollars are being paid for them to walk the halls of these buildings to do everything they can to gut this kind of legislation. What a tragedy it would be that on the cusp of adopting this legislation, for the first time establishing a national Consumer Financial Protection Bureau in our Nation, that we would carve out an area that affects the very young people who are sitting in harm's way in Afghanistan, Iraq, and elsewhere around the world. My hope is we would not let that happen.

With that, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, this is not a unanimous consent request I am making, but just based on the conversations we have had between the majority and the minority in preparation for votes next week—I know Members will be interested about possible votes—there will be votes, we are hoping and planning, on Monday evening, I think it is fair to say, at sometime around 5:30 p.m.

At least the amendments I think we can have some votes on Monday evening involve the amendment of Senator UDALL of Colorado, dealing with

credit scores; the amendment of Senator CORNYN of Texas, dealing with the International Monetary Fund, the IMF; the amendment of Senator ROCKEFELLER and Senator HUTCHISON, dealing with the Federal Trade Commission; the amendment of Senator BOND, Senator WARNER, and myself, dealing with angel investors as well.

Those are four amendments we may have recorded votes on. Some may be voice votes, but those are four we think we can have votes on, on Monday evening. So we are planning to have votes.

#### MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### HONORING OUR ARMED FORCES

##### COLORADO'S HEROES

Mr. UDALL of Colorado. Mr. President, I rise today to pay tribute to our wounded warriors. This week at the Olympic Training Center in Colorado Springs, more than 200 wounded warriors from every branch of the military are competing in the inaugural Warrior Games. This event is the brainchild of Brigadier General Cheek, with whom I spent the day at Fort Carson last week visiting the Warrior Transition Unit there.

These soldiers do so much in defense of our country, yet we are not often in a position to cheer their performance. This week, we can. Although I am not able to be in Colorado to cheer them myself, I wanted to cheer them on here, from the Senate floor.

These games are a partnership between the Department of Defense, the U.S. Paralympics, and other organizations that are working together to give our wounded warriors an opportunity to push themselves, set goals, and demonstrate their abilities. The Army sent 100 competitors—chosen out of a pool of almost 9,000 wounded warriors—the Marine Corps sent 50, the Air Force 25, and the Navy and Coast Guard 25 combined. These military members and veterans have physical injuries as well as mental wounds of war, and they are competing in swimming, cycling, wheelchair basketball, archery, track, and sitting volleyball, among other events.

This week's Warrior Games is about the abilities of these warriors, not their disabilities. And it is about goal-setting, which can expedite the recovery process.

This mindset is important for all our wounded warriors, not just those competing in the Games this week. General

Cheek has said that “While we’ve made enormous progress in all the military services in our warrior care . . . it’s not enough. . . . What we have to do with our servicemembers is inspire them to reach for and achieve a rich and productive future, to defeat their illness or injury to maximize their abilities and know that they can have a rich and fulfilling life beyond what has happened to them in service to their nation.”

I agree with General Cheek and believe that today the Army is working hard to help our wounded warriors in their difficult transition back to service or to life in the civilian world. But the Army acknowledges that it has faced some serious challenges when it comes to caring for our injured troops, especially those who have experienced brain injuries and psychological wounds. While I have seen real improvements in the quality of care, I also know that many of those same challenges still exist.

After my visit to the Warrior Transition Unit at Fort Carson last week, I am especially concerned about reports of overmedication and substance abuse among injured service members and about delays in the disability evaluation process. I spent a few hours talking with separate groups of WTU soldiers, cadre, and clinicians in very frank discussions about their experiences and concerns. I heard positive stories too—of men and women facing life-changing injuries who said they couldn’t have gotten back to active duty without the help of the WTU.

Our young men and women have a heavy burden—they are fighting two wars, often serving multiple tours of duty in Iraq and Afghanistan. We owe them the best care possible when they are injured, and I know the Army—from General Casey to the youngest privates who are watching out for their team mates—are working hard to provide this care.

This will be especially important now at Fort Carson as the 4th Brigade Combat Team, 4th ID begins to come home. A few hundred of the brigade’s 3800 soldiers have returned so far, with another few hundred due home today and more due home in the coming weeks. These soldiers have been in Afghanistan for the last year, assisting the Afghan National Army with security, governance and peacekeeping operations in Kunar province, on the Pakistani border.

The need to provide resiliency training and specialized care for our soldiers continues before, during, and after deployments. Fort Carson’s Mobile Behavioral Health Teams have already identified about 920 soldiers of the 4th BCT—approximately one-quarter of the brigade—as having risk factors for depression or anxiety, exacerbated by their sustained combat, who will receive additional evaluations after re-

turning home. About 100 of the Brigade’s soldiers are expected to join Fort Carson’s Warrior Transition Unit upon their return. Major General Perkins and his team at Fort Carson have worked hard to get in front of behavioral health issues, initiating this program to put behavioral health teams in with the units and work with them even before they return home so that we can identify soldiers who need help.

As the 4th BCT comes home, I want to take a moment to remember the heroes that we lost in Afghanistan. Fifty brave soldiers from this unit and supporting units have died in the past year. Those who have fallen, their families, and their fellow soldiers will not be forgotten. Here are their names:

Steven Thomas Drees  
Gregory James Missman  
Jason John Fabrizi  
Randy L.J. Neff, Jr.  
Joshua James Rimer  
Patrick Scott Fitzgibbon  
Richard Kelvin Jones  
Jonathan Michael Walls  
Matthew Lee Ingram  
Matthew Everett Wildes  
Youvert Loney  
Randy Michael Haney  
Tyler Edward Parten  
David Alan Davis  
William L. Meredith  
Justin Timothy Gallegos  
Christopher Todd Griffin  
Joshua Mitchell Hardt  
Joshua John Kirk  
Stephan Lee Mace  
Vernon William Martin  
Michael Patrick Scusa  
Kevin Christopher Thomson  
Kevin Olsen Hill  
Jesus Olar Flores, Jr.  
Daniel Courtney Lawson  
Glen Hale Stivison, Jr.  
Brandon Michael Styer  
Kimble Andrus Han  
Eric Nathaniel Lembke  
Devin Jay Michel  
Eduviges Guadalupe Wolf  
Jason Adam McLeod  
Kenneth Ray Nichols Jr.  
Elijah John Miles Rao  
Brian Robert Bowman  
John Phillip Dion  
Joshua Allen Lengstorf  
Robert John Donevski  
Thaddeus Scott Montgomery, II  
Bobby Justin Pagan  
John Allen Reiners  
Jeremiah Thomas Wittman  
Michael David P Cardenaz  
J.R. Salvacion  
Sean Michael Durkin  
Michael Keith Ingram, Jr.  
Grant Arthur Wichmann  
Nathan Patrick Kennedy  
Eric M. Finniginam

Each of these soldiers served with honor, valor, and pride in the mission. While we mourn those who fell, we will forever honor their memories, and we take great pride in the courage, determination, and heroism of the entire 4th Brigade Combat Team and its supporting units. Under the exemplary leadership of Colonel Randy George and Command Sergeant Major Sasser, the 4th BCT has achieved remarkable

success in some of the most hostile terrain on earth. Their efforts clearly illustrate why Fort Carson is known as “The Home of America’s Best.” On behalf of all Coloradans, I say “welcome home, heroes, and thank you.”

#### CONSIDERATION OF THE NEW START TREATY

Mr. SESSIONS. Mr. President, I rise today to address some very important concerns that arise in my mind in the evaluation of the new Strategic Arms Reduction Treaty, START, that was submitted yesterday to the Senate for advice and consent to ratification. I do not believe that the Senate must ratify this treaty, as some of my colleagues suggest. But, rather, I begin with the proposition that a new treaty with Russia is not essential for our national security; may well be a distraction from addressing the real threats of nuclear proliferation by other nations and nuclear terrorism; and to the extent the President puts forth this treaty as a step toward his idea of a world without nuclear weapons, it is a naïve and potentially risky strategic approach.

Basically, the purpose of arms control is to reduce the risk of war by enhancing strategic stability and security and, if possible, lessen the costs of preparing for war. It is clear that the strategic balance between the United States and Russia is, for the most part, stable, while U.S. and Russian nuclear arsenals are already on a downward slope.

Both sides had made a commitment, under the 2002 Moscow Treaty, to reduce deployed nuclear weapons to a range between 2,200 and 1,700 warheads, which was a significant reduction from the START I level of 6,000 warheads. Furthermore, the United States has no plans to increase the size of its nuclear force, and it appears to most informed observers that Russia, for economic reasons, was headed to even lower levels. Quite simply, there is no responsible prospect of an expanding nuclear weapons competition between our two nations. The United States and Russian nuclear arsenals are not the real problem today. Regrettably, the one category of nuclear weapons in which there is a true imbalance—tactical nuclear weapons—is not addressed by the new treaty.

I would agree with my colleagues, such as Senator DICK LUGAR, that the verification provisions under START I should not have been allowed to expire with the treaty on December 5, but this could have been dealt with through a simple 5-year extension as permitted by the START I treaty. Instead, the administration was committed to a more ambitious approach which it has found to be more challenging than expected, which in turn has led to more U.S. concessions.

The President wanted to take a significant, tangible step toward his vision of a more peaceful world without nuclear weapons—a vision I find naïve at best and, if achieved, likely to make the world less safe. As nuclear strategist and Nobel laureate Thomas Schelling has recently observed, a world without nuclear weapons would be one in which countries would make plans to rearm in order to preempt other countries from going nuclear first. Schelling writes: “Every crisis would be a nuclear crisis. The urge to preempt would dominate; whoever gets the first few weapons will coerce or preempt. It would be a nervous world.”

So far, at least, nuclear weapons have imposed restraint on world powers—what will happen to that restraint in the absence of nuclear weapons? What conclusions will the Russians and our allies draw from this vision of nuclear disarmament? Will our allies and partners, who have come to depend on U.S. nuclear security guarantees, pursue their own nuclear arms? Will Russia, which is increasing its dependence on nuclear weapons, interpret this as a sign of weakness and perhaps pursue a more muscular foreign policy directed against the west?

Additionally, if we draw our weapon numbers too low, the perverse result may be that smaller nations, or rogue states may believe they could become peer competitors.

In addition to the dream of nuclear disarmament, the administration’s case for the new treaty rests on three principal arguments: No. 1, that it will improve U.S. and international security by reducing U.S. and Russian strategic nuclear forces; No. 2, that it will transform or “reset” relations with Russia, such that Russia will now become a partner with the United States in addressing the true nuclear dangers of proliferation and terrorism; and No. 3, that it will provide the United States the moral credibility and leadership needed to pursue its nonproliferation objectives with the rest of the world.

First, the current declining stockpile of U.S. and Russian nuclear weapons is not a factor contributing to international instability, and reducing our current nuclear arsenal to the new START limit of 1,550 warheads will not have any impact on the nuclear or nonproliferation policies of the rest of the world. If reducing U.S. deployed nuclear forces from Cold War highs of over 10,000 nuclear warheads to the current level of some 2,000 has had no impact, why should the reduction of another 500 warheads make a difference?

States decide whether to acquire nuclear capabilities not because the United States and Russia have large nuclear arsenals but because those states believe nuclear weapons will enhance their national security, preserve their regimes, enhance their prestige, or further their ambitions. Likewise,

states will determine whether to support U.S. nonproliferation efforts on the basis of their national interests, not on how low Russian and American nuclear stockpiles go.

As to the claim that a new START treaty with the Russians will improve relations or secure Russia’s assistance in addressing other threats to international stability, there is little evidence to suggest this is the case. To the contrary, these negotiations have provided the Russians leverage over missile defense, prompt global strike, and verification issues that have marred the final agreement.

Finally, I don’t see any significant cooperation from Russia in securing meaningful sanctions against Iran. To be sure, if we had any expectation that the new START treaty would secure Russian assistance in dealing with Iran, we should have drawn a more explicit linkage between the two. In other words: no new START treaty without concrete Russian assistance in obtaining a United Nations Security Council resolution imposing real, crippling sanctions on Iran. This may have been a missed opportunity.

Thus far, my remarks suggest I don’t see decisive reasons to vote for the new START treaty—but are there reasons to vote against the treaty? The ratification process can help us examine several concerns.

As I evaluate the treaty, I will take a broad view that examines not only the implications for U.S. strategic nuclear forces but how this treaty impacts our relationship with allies and other military capabilities important to our national security. I will want to know whether this treaty disadvantages the United States in any way or makes us less safe or constrains our ability to extend nuclear security guarantees to our allies.

Finally, my decision whether to support this treaty will depend on the administration’s firm commitment to a serious nuclear modernization effort for our weapons, nuclear laboratories, and delivery systems—for as we go to lower numbers of nuclear weapons, it becomes increasingly important that those remaining weapons be safe, secure, and reliable.

The central consideration in evaluating this treaty is the impact the proposed numerical limitations will have on U.S. nuclear forces and in particular our ability to extend the nuclear umbrella to our allies and partners.

The administration will have to provide additional details regarding the number of ICBMs, SLBMs, and heavy bombers the United States will field under the 700 strategic delivery system limitation—and how it plans to modernize those forces.

Last year, we were told by Admiral Mullen and General Cartwright that reductions below 800 delivery systems may be cause for some concern, while

former Secretary James Schlesinger, in testifying on the new START treaty before the Senate Foreign Relations Committee, recently noted that the “numbers specified are adequate, though barely so.”

We need to understand, therefore, the implications of this limitation, which requires a reduction of about 180 in the number of currently deployed U.S. delivery systems. In fact, the reduction in nuclear capability will be larger for the United States since the treaty requires that conventionally-armed—nonnuclear—ballistic missiles, in the case of prompt global strike, be counted against the 700 total.

Likewise, we need to understand how the Russians might configure their nuclear forces under the treaty and then conduct a net assessment to appreciate the true implications of the new START treaty for U.S. national security.

Perhaps the greatest deficiency of the new START agreement is that it does not address the 10-to-1 disparity between Russia and the United States in the area of tactical nuclear weapons. As Secretary Schlesinger recently testified, “the significance of tactical nuclear weapons rises steadily as strategic nuclear arms are reduced.”

Russia simply refused to allow these into the negotiations. So the administration has left this for the “next agreement,” though I am not sure what leverage the United States will have over a Russia that has become more, not less, dependent on its tactical nuclear weapons.

An irony of this is that Russian tactical nuclear weapons, because they are more widely dispersed and greater in number, pose a greater risk of contributing to nuclear proliferation and terrorism which, according to the administration, this treaty is supposed to help us avert.

The Strategic Posture Commission estimates Russia may have approximately 3,800 operational tactical nuclear warheads and that the combination of new warhead designs and precision delivery systems “open up new possibilities for Russian efforts to threaten to use nuclear weapons to influence regional conflicts.”

Likewise, Under Secretary of Defense for Policy Michele Flournoy has observed that the Russians are “actually increasing their reliance on nuclear weapons and the role of nuclear weapons in their strategy.”

What if you are one of the 31 countries dependent on the United States for nuclear security guarantees? How would you interpret the fact that the United States is going down to 1,550 strategic warheads while the Russians maintain at least twice that number of shorter range nuclear warheads that in most cases are able to reach your country? What impact will this have on the credibility of U.S. nuclear guarantees

and upon the incentives other countries may have to acquire their own nuclear capabilities?

One final point on this issue: It disturbs me that Russian tactical nuclear weapons were not addressed in this treaty, yet the United States conceded to Russian demands to place limits on conventional prompt global strike capabilities by counting conventional ICBMs under the limits for delivery systems.

It is striking, moreover, that the preamble would be "mindful of the impact of conventionally armed ICBMs and SLBMs on strategic stability," yet be silent on the impact of tactical nuclear weapons on this very same strategic stability. What is more destabilizing: conventionally armed ICBMs or thousands of tactical nuclear weapons?

Despite being told consistently from the very beginning of negotiations that missile defense will be addressed only in the preamble of the treaty, we now discover that article V contains a direct restriction on U.S. missile defense activities (i.e., cannot convert ICBM or SLBM launchers into launchers for missile defense interceptors). Will this establish a dangerous precedent with respect to including missile defense limitations in future offensive arms control agreements? Why did the U.S. side feel it necessary to concede this point?

What raises concern, with respect to article V, are other efforts by the Russians to create a linkage between U.S. missile defense activities and Russian adherence to the new START treaty. When viewed together, the treaty's preamble, the Russian unilateral statement on missile defense, and remarks by senior Russian officials provide the potential for Russia to threaten or blackmail the United States against increasing its missile defense capabilities by threatening to withdraw from the treaty:

When the preamble states that "current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the parties," does this not suggest that moving beyond "current" systems could provide grounds for withdrawal?

When the Russian's note in their unilateral statement that the treaty can operate and be viable only if the United States of America refrains from developing its missile defense capabilities quantitatively or qualitatively, and then links American missile defense capabilities to the treaty's withdrawal clause, should we not read this as an attempt to exert political pressure to forestall continued development and deployment of U.S. missile defenses?

Finally, what are we to make of Russian Foreign Minister Lavrov's warning on March 28 that "the treaty and all the obligations it contains are valid only within the context of the levels which are now present in the sphere of

strategic defensive systems"? Does this mean the Russians will pull out of START if we deploy additional ground-based interceptors in Alaska or if we deploy the SM-3 block IIB missile in Europe?

Despite the administration's assurances that none of this is legally binding, and that the U.S. unilateral statement counters this by expressing our intent to continue to deploy missile defenses, I can not help but worry that these provisions will have a negative impact on U.S. decisionmaking with respect to missile defense. After all, the administration did abandon plans to deploy ground-based interceptors in Europe—an action most believe was an irritant in United States-Russian relations.

There is something fundamentally disturbing about entering into a treaty with the Russians when we have such a divergence in view over a substantial issue like missile defense. To be sure, the Russian side has already expressed displeasure with U.S. plans to deploy missile defenses in Europe and to enhance the capability of the SM-3 missile to intercept long-range missiles launched from the Middle East.

Adding to my apprehension is recent testimony before the House Armed Services Committee by a senior Department of Defense official, who stated that the United States has not yet even approached the Russians to determine whether the SM-3 IIB is, will cause them to withdraw from the treaty. They can withdraw for any reason.

This likely sets the stage for misunderstanding and confrontation as the United States continues its missile defense activities, particularly in Europe.

Clarifying this ambiguity, coupled with affirmation by the administration that it intends to improve the defense of our homeland and go forward with all phases of its planned missile defense deployments in Europe, is a prerequisite for ratification of the new START treaty.

Our ability to verify Russian compliance with the new agreement is also important. One could even argue that as we go to lower levels of nuclear weapons, verification becomes more important, as the consequences of cheating become more profound. But the standard should not be whether we can verify Russian compliance with the terms of the treaty *per se*—though this is important—but whether we maintain sufficient confidence in our national ability to monitor developments in Russian strategic forces that, if gone undetected, could alter the strategic balance.

So when the administration argues that "verification procedures in this Treaty will be simpler and less costly to implement than the old START treaty," I am inclined to ask why verification procedures have become less stringent and whether such procedures

make it harder for the United States to fully account for Russian strategic forces. Specifically:

Will we be able to determine whether the Russians are developing new, more powerful missiles capable of carrying multiple warheads?

Are the Russians capable of secretly producing and storing missiles and warheads that could afford them a military advantage?

While we may have confidence in the number of missiles deployed by Russia today, can we maintain this confidence over the life of the treaty?

Ultimately, it falls upon our intelligence community to monitor Russian strategic force developments. Thus it is important for the Senate, as part of its advice and consent responsibilities, to review carefully the National Intelligence Estimate on our ability to effectively verify the treaty that normally accompanies arms control agreements. I don't believe we have seen that document yet.

I have identified just a few important issues the Senate will consider as we move forward, and it is likely there will be others as we continue to examine the treaty text, protocol, and annexes. Particularly troubling at this time is the disparity in tactical nuclear weapons which are not addressed in this treaty, and the constraints on missile defense and conventional prompt global strike in a treaty intended only to limit offensive nuclear weapons. At the very least this is a bad precedent, and I have no doubt Russia is attempting to revive the ABM Treaty regime and forestall U.S. prompt global strike capabilities.

This was a treaty that Russia needed more than the United States. Not only were Russian strategic nuclear forces headed to lower numbers for economic reasons, Russia wants an arms control agreement with the United States. Such a binational agreement validates its superpower status. The United States therefore had an opportunity to leverage Russian desire for an agreement to obtain Russian cooperation on a host of issues, starting with Iran. But the administration missed this opportunity because it was so anxious to advance its vision of a world without nuclear weapons that it failed to see how START could help address the more immediate threat of nuclear proliferation.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO GENERAL VICTOR EUGENE RENUART, JR.

• Mr. UDALL of Colorado. Mr. President, today I pay tribute to a great American who I have had the great pleasure of knowing and working with for a number of years. General Victor



Eugene Renuart, Jr., is preparing to retire from the U.S. Air Force after nearly 39 years of distinguished military service, and it is fitting that we should honor his achievements.

Through peacetime and multiple armed conflicts and operations, General Renuart has embodied the core values of the Air Force: integrity, service, and excellence. He courageously demonstrated his dedication to our Nation and served us honorably as a leader, warrior, and teacher. I want to also express our deepest thanks to his wife Jill, and their sons Ryan and Andrew, for serving as the epitome of a dedicated military family. As you know, military families like the Renuarts are America's unsung heroes, and we owe them a tremendous debt.

Gene Renuart enlisted in the Air Force while our Nation was still engaged in the Vietnam war and received his commission from the Officer Training School in 1972. In the four decades since that day, he has amassed nearly 4,000 flying hours in seven aircraft types and piloted 69 combat missions in major operations. The call to service has led Gene and his family all over the world, and he has commanded units at every level through conflicts in Iraq, Bosnia, and Afghanistan. The long list of awards and decorations that General Renuart has earned during his career are a testament to his years of exemplary leadership and unrelenting focus on mission accomplishment.

As a lieutenant colonel during Operation DESERT STORM, General Renuart commanded the 76th Fighter Squadron "Vanguards," who were tasked with a mission critical to the safety of the entire region. They hunted the Iraqi landscape in search of SCUD missile sites and protected Coalition troops from attack. General Renuart's squadron flew hundreds of combat missions and fought at the famed "Highway of Death," leading to the liberation of Kuwait and defeat of the Iraqi Republican Guard.

It was clear to everyone who knew him that Gene Renuart was a leader of the highest caliber, and he quickly rose through the ranks. On September 11, 2001, then-Major General Renuart was serving as the Director of Operations for United States Central Command, and his leadership and experience were instrumental as our nation rapidly transitioned from peace to war. General Renuart was soon providing operational orchestration for the invasions of Afghanistan and Iraq as our armed forces quickly eliminated those repressive regimes.

In March 2007, General Renuart was promoted to the rank of four-star general and appointed Commander of the North American Aerospace Defense Command and U.S. Northern Command. The general and his command were given the no-fail responsibility of protecting the United States and Can-

ada against all threats in the air and on the seas, while leading the Department of Defense's support of civil authorities to save lives during both natural and manmade disasters.

With General Renuart's leadership, NORAD and USNORTHCOM widened its focus to anticipate threats to the United States and respond where necessary. The significant improvements of the unified national response to Hurricane Ike were born from the lessons learned from Hurricane Katrina and were a direct result of General Renuart's emphasis on anticipating our Nation's needs in times of disaster.

For this effort and many others, General Renuart and his team collaborated with over 120 mission partners representing Federal, State, and local governments, nongovernmental organizations, and private industry to quickly and responsibly execute key Department of Defense responsibilities in the National Response Framework.

He fostered synergy with the inter-agency community and collaborated with the militaries of Mexico and Canada to ensure North America's security. Whether expediting the transfer of helicopters and equipment to the Mexican military for counternarcotic operations or partnering with our northern neighbors under the Canada-United States Civil Assistance Plan to support the 2010 Olympic Games in Vancouver, General Renuart set and achieved tremendous goals for theater security cooperation.

Working together to defend the homeland, NORAD and USNORTHCOM have delivered unparalleled security for our Nation. Not only did NORAD achieve a huge milestone—surpassing 55,000 accident-free sorties flown defending our homeland under Operation NOBLE EAGLE—but more importantly, there has not been a single successful foreign terrorist attack on American soil. That success has been the result of the extraordinary diligence, cooperation, and dedication that have exemplified General Renuart's leadership.

On behalf of Congress and the United States of America, I thank General Renuart, Jill, Ryan, and Andrew for their commitment, sacrifice, and contributions to this great Nation. I am also especially pleased to say that General Renuart and Jill will be calling Colorado Springs home for many years to come. We Coloradans are honored to have them as neighbors and friends. I congratulate him on a truly remarkable career and wish him nothing but the best as he transitions from decades of service into his truly well-earned retirement.●

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13047 OF MAY 20, 1997, WITH RESPECT TO BURMA—PM 56

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. I have sent the enclosed notice to the *Federal Register* for publication, stating that the Burma emergency is to continue in effect beyond May 20, 2010.

The crisis between the United States and Burma arising from the actions and policies of the Government of Burma, including its engaging in large-scale repression of the democratic opposition in Burma, that led to the declaration of a national emergency in Executive Order 13047 of May 20, 1997, as modified in scope and relied upon for additional steps taken in Executive Order 13310 of July 28, 2003, Executive Order 13448 of October 18, 2007, and Executive Order 13464 of April 30, 2008, has not been resolved. These actions and policies are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency with respect to Burma and maintain in force the sanctions against Burma to respond to this threat.

BARACK OBAMA.  
THE WHITE HOUSE, May 13, 2010.

#### MESSAGE FROM THE HOUSE

##### ENROLLED BILLS SIGNED

At 11:41 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1067. An act to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 3333. An act to extend the statutory license for secondary transmissions under



title 17, United States Code, and for other purposes.

### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUE, from the Committee on Appropriations, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 4899. A bill making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes (Rept. No. 111-188).

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BURR (for himself, Mr. AKAKA, and Mr. DURBIN):

S. 3377. A bill to amend title 38, United States Code, to improve the multifamily transitional housing loan program of the Department of Veterans Affairs by requiring the Secretary of Veterans Affairs to issue loans for the construction of, rehabilitation of, or acquisition of land for multifamily transitional housing projects instead of guaranteeing loans for such purposes, and for other purposes; to the Committee on Veterans' Affairs.

### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. CANTWELL (for herself, Mr. CRAPO, Mr. BINGAMAN, Ms. MURKOWSKI, Mrs. MURRAY, Mr. WYDEN, Mrs. BOXER, and Mr. ENZI):

S. Res. 526. A resolution designating May 16 through May 22, 2010, as "National Search and Rescue Week"; considered and agreed to.

By Mr. CASEY (for himself and Mr. CHAMBLISS):

S. Res. 527. A resolution supporting the designation of an appropriate date as "National Childhood Stroke Awareness Day"; considered and agreed to.

By Mr. GRAHAM (for himself, Mr. NELSON of Florida, Ms. MURKOWSKI, Mr. SPECTER, Mr. CONRAD, Mr. DORGAN, Mr. BURR, Mr. INOUE, Mr. BEGICH, and Mr. KERRY):

S. Res. 528. A resolution designating May 15, 2010, as "National MPS Awareness Day"; considered and agreed to.

By Mrs. GILLIBRAND (for herself, Mr. BURRIS, Mrs. BOXER, Mr. BROWN of Ohio, Mr. CASEY, Mr. LEVIN, Mr. BROWNBACK, Mr. MENENDEZ, Mr. NELSON of Florida, Mr. SCHUMER, and Ms. COLLINS):

S. Res. 529. A resolution celebrating the life and achievements of Lena Mary Calhoun Horne and honoring her for her triumphs against racial discrimination and her steadfast commitment to the civil rights of all people; considered and agreed to.

By Mr. FEINGOLD (for himself, Ms. SNOWE, Mr. KERRY, Mr. BEGICH, Mr. DODD, Ms. STABENOW, and Mr. CRAPO):

S. Res. 530. A resolution supporting the goals and ideals of "National Women's Health Week 2010", and for other purposes; considered and agreed to.

By Mrs. FEINSTEIN (for herself and Mr. BROWN of Ohio):

S. Res. 531. A resolution supporting the goals and ideals of National Hepatitis Awareness Month and World Hepatitis Day; to the Committee on Health, Education, Labor, and Pensions.

### ADDITIONAL COSPONSORS

S. 354

At the request of Mr. WEBB, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 354, a bill to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes.

S. 1301

At the request of Mr. MENENDEZ, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1301, a bill to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and for other purposes.

S. 1445

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1445, a bill to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth.

S. 2749

At the request of Mrs. GILLIBRAND, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2749, a bill to amend the Richard B. Russell National School Lunch Act to improve access to nutritious meals for young children in child care.

S. 2768

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2768, a bill to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2011 and 2012, and for other purposes.

S. 3039

At the request of Mr. UDALL of New Mexico, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 3039, a bill to prevent drunk driving injuries and fatalities, and for other purposes.

S. 3058

At the request of Mr. DORGAN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3342

At the request of Mr. DURBIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3342, a bill to amend the Richard B. Russell National School Lunch Act to establish a demonstration project to promote collaborations to improve school nutrition.

AMENDMENT NO. 3889

At the request of Mr. AKAKA, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of amendment No. 3889 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3939

At the request of Mrs. FEINSTEIN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of amendment No. 3939 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3986

At the request of Mr. CORNYN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 3986 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 4019

At the request of Mr. WYDEN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of amendment No. 4019 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURR (for himself, Mr. AKAKA, and Mr. DURBIN):

S. 3377. A bill to amend title 38, United States Code, to improve the

multifamily transitional housing loan program of the Department of Veterans Affairs by requiring the Secretary of Veterans Affairs to issue loans for the construction of, rehabilitation of, or acquisition of land for multifamily transitional housing projects instead of guaranteeing loans for such purposes, and for other purposes; to the Committee on Veterans' Affairs.

Mr. BURR. Mr. President, I rise today to offer legislation that would improve the Department of Veterans Affairs, VA, Multifamily Transitional Housing Loan program. This program, established in 1998 and supported with a \$48 million appropriation in 1999, was intended to encourage additional development of transitional housing units for homeless veterans. Despite the good intention, the program was viewed as too rigid by community providers who turned elsewhere for assistance. In fact, only one loan was ever guaranteed under the program until VA discontinued it 2 years ago. The legislation I am introducing today would modify the program to give it the flexibility that community providers say is needed. The bill is cost neutral, relying only on money that Congress already has appropriated.

According to VA more than 107,000 veterans are homeless on any given night, including an estimated 1,589 in my home state of North Carolina. Many veterans are considered homeless or at risk due to their poverty, lack of support systems, and poor living conditions.

Even though we have seen a decrease in the number of homeless veterans from previous years, there is still work to be done. Make no mistake; the goal is not only to end homelessness but provide sustainable solutions to prevent veterans from, again, falling through the cracks. One area that will continue to play an important role in keeping veterans off the streets is the provision of transitional housing units coupled with onsite supportive services.

There are a number of VA programs that encourage the development of transitional housing units for homeless veterans. One such program, as I previously mentioned, was established by Congress in 1998—the Multifamily Transitional Housing Loan Guarantee Program. It was designed to encourage lenders to make low-interest loans, backed by a VA guaranty, available to homeless providers for the acquisition, construction, and improvement of transitional housing units. One provider, the St. Leo Campus for Veterans in Chicago, IL, operated by Catholic Charities, availed themselves of a VA-backed housing loan. However, St. Leo's experience is illustrative of why no other provider was able to secure a loan and why the program was ultimately discontinued.

The St. Leo Campus for Veterans provides 141 studio units, each con-

taining its own kitchen and full bathroom, to formerly homeless veterans as well as supportive services to help them become self-sufficient. On the St. Leo Campus, VA operates a clinic to provide outpatient services. In order to get financing for the St. Leo Campus, Catholic Charities obtained funding from ten sources, to include the VA-backed loan, various state-supported tax credits, and other creative funding sources.

Needless to say, the St. Leo Campus has been faced with numerous operational challenges that are typical of a provider servicing the homeless population. What exacerbates the challenge is the rigidity of the original VA loan program. Without flexibility in loan terms and conditions, St. Leo Campus struggles to make ends meet, bringing into question the sustainability of the project. To provide the necessary services to homeless veterans, St. Leo Campus has relied on one-time grants and donations which, in a difficult economy, are a highly volatile source of revenue. Flexibility in the terms of its VA-loan, as my bill would provide, would give St. Leo Campus and other homeless providers a chance to weather some of these cyclical funding challenges.

Recognizing the financing challenges many have in serving this unique population, my bill provides VA with the authority to issue loans under terms that are far more flexible than the original program. The legislation tracks each of the recommendations made in a report to VA regarding how the Multi-Family Transitional Housing Loan Program could be improved.

Specifically, the legislation would give VA greater flexibility in the types of loans it may offer and the conditions attached to repayment, including payment deferral, interest only payments, and debt forgiveness. It would give VA the authority to sell, lease, or operate a multifamily transitional housing project in the event of default. It would preempt any Federal, State, or local housing statute that limits a project from offering preferential treatment to veterans. Lastly, it would clarify that projects financed with a VA loan may include space for job training programs, other types of residential units, or other uses that the Secretary determines necessary for the sustainability of the multifamily transitional housing projects.

Transitional housing developed using VA-issued loans under my bill would still come with a requirement that a provider make available supportive services to reduce the likelihood of veterans again becoming homeless. These would include health care services; daily living services; personal financial planning; transportation services; income support services; fiduciary and representative payee services; legal services; child care; housing coun-

seling; and other services necessary for maintaining independent living.

Finally, I again reiterate that this legislation calls for no new appropriation. It relies exclusively on \$48 million appropriated, (but unspent), in 1999 to meet the administrative expenses and initial lending capital VA will require. As homeless providers make payments to extinguish any loan balance, VA will have the Opportunity to make additional loans.

I am committed to doing all we can to end homelessness among veterans. But I am also committed to doing it in a way that is not duplicative and fully utilizes money the American people have already put forward. I ask my colleagues for their support of my bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3377

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONVERSION OF MULTIFAMILY TRANSITIONAL HOUSING LOAN PROGRAM TO LOAN ISSUANCE PROGRAM.**

(a) AUTHORITY TO ISSUE LOANS.—

(1) IN GENERAL.—Section 2051 of title 38, United States Code, is amended—

(A) in subsection (a)—

(i) by striking “The” and inserting “(1) The”; and

(ii) by adding at the end the following new paragraph:

“(2) The Secretary shall, utilizing funds available in the Multifamily Transitional Housing Loan Program Revolving Fund under section 2055 of this title, issue not less than five loans that meet the requirements of this subchapter.”;

(B) in subsection (b)—

(i) in paragraph (1), by striking “under subsection (a)” and inserting “under subsection (a)(1)”; and

(ii) in paragraph (2), by striking “under subsection (a)” and inserting “under subsection (a)(1)”; and

(iii) in paragraph (3), by inserting “or issued” after “guaranteed”;

(C) in subsection (c), by inserting “or issued” after “guaranteed”; and

(D) in subsection (c), by inserting “or issued” after “guaranteed”.

(2) AUTHORITY TO DELEGATE APPROVAL AUTHORITY.—Subsection (c) of such section, as amended by paragraph (1)(C) of this subsection, is amended—

(A) by striking “A loan” and inserting “(1) A loan”; and

(B) by adding at the end the following new paragraph:

“(2) The Secretary may delegate approval under paragraph (1) to a State or local government entity.”.

(3) SUNSET OF AUTHORITY TO ISSUE LOAN GUARANTEES.—Such section is further amended by adding at the end the following new subsection:

“(h) The Secretary may not guarantee under subsection (a)(1) any loan that is closed after the date of the enactment of this subsection. The termination by this subsection of the authority to guarantee loans

under this subsection shall not affect the validity of any loan guaranteed under this subchapter before the date of the enactment of this subsection and is in force on that date.”.

(4) CONFORMING AMENDMENTS.—

(A) Section 2052(d) of such title is amended by inserting “or issue” after “whether to guarantee”.

(B) Section 2053(a) of such title is amended by inserting “or issued” after “is guaranteed”.

(C) Section 2054(a) of such title is amended—

(i) in the first sentence, by inserting “or issued” after “guaranteed”; and

(ii) in the last sentence, by inserting “or loan” after “guarantee”.

(5) CLERICAL AMENDMENTS.—

(A) The heading of subchapter VI of chapter 20 of such title is amended by striking “LOAN GUARANTEE FOR”.

(B) The table of sections at the beginning of such chapter is amended by striking the item relating to subchapter VI and inserting the following new item:

“SUBCHAPTER VI—MULTIFAMILY TRANSITIONAL HOUSING”.

(b) MULTIFAMILY TRANSITIONAL HOUSING LOAN PROGRAM REVOLVING FUND.—

(1) IN GENERAL.—Subchapter VI of chapter 20 of such title is amended by adding at the end the following new section:

“§2055. Multifamily Transitional Housing Loan Program Revolving Fund

“(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund known as the ‘Department of Veterans Affairs Multifamily Transitional Housing Loan Program Revolving Fund’ (in this section referred to as the ‘Fund’).

“(b) ELEMENTS.—There shall be deposited in the Fund the following, which shall constitute the assets of the Fund:

“(1) Amounts paid into the Fund under any provision of law or regulation established by the Secretary imposing fees on persons or entities issued a loan under this subchapter.

“(2) All other amounts received by the Secretary incident to operations relating to the issuance of loans under this subchapter, including—

“(A) collections of principal and interest on loans issued by the Secretary under this subchapter;

“(B) proceeds from the sale, rental, use, or other disposition of property acquired under this subchapter; and

“(C) penalties collected pursuant to this subchapter.

“(3) Amounts appropriated or otherwise made available before the date of the enactment of this section for purposes of activities under this subchapter, including amounts appropriated for such purposes under title I of the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106-74; 113 Stat. 1049).

“(c) USE OF FUNDS.—The Fund shall be available to the Secretary, without fiscal year limitation, for all operations relating to the issuance of loans under this subchapter, consistent with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 20 of such title is amended by inserting after the item relating to section 2054 the following new item:

“2055. Multifamily Transitional Housing Loan Program Revolving Fund.”.

(c) CLARIFICATION OF AUTHORITY TO DETERMINE TERMS AND CONDITIONS OF LOANS.—Sub-

section (a)(6) of section 2052 of such title is amended by inserting “including with respect to forbearance, deferral, and loan forgiveness,” after “determines are reasonable.”.

(d) CLARIFICATION OF TYPES OF SPACES THAT MAY BE INCLUDED IN COVERED MULTIFAMILY TRANSITIONAL HOUSING PROJECTS.—Subsection (c)(1) of such section 2052 is amended by striking “or job training programs” and inserting “job training programs, other types of residential units, or other uses that the Secretary considers necessary for the sustainability of the project”.

(e) LOAN DEFAULTS.—Section 2053 of such title is amended by adding at the end the following new subsection:

“(c) The Secretary may impose such penalties or require such collateral as the Secretary considers necessary—

“(1) to discourage default on a loan issued under this subchapter; or

“(2) to mitigate harm to the Department from default on a loan issued under this subchapter.

“(d) The Secretary shall administer any property coming under the jurisdiction of the Secretary by reason of default on a loan issued or guaranteed under this subchapter in accordance with regulations prescribed by the Secretary for that purpose. Such administration of property may include selling, renting, or otherwise disposing of property as the Secretary considers appropriate.”.

(f) PREFERENTIAL TREATMENT OF VETERANS.—

(1) IN GENERAL.—Subchapter VI of chapter 20 of such title, as amended by subsection (b), is further amended by adding at the end the following new section:

“§2056. Preferential treatment of veterans

“No provision of Federal or State law may prohibit a multifamily transitional housing project described in section 2052(b) of this title from offering preferential treatment to veterans.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by subsection (b), is further amended by adding at the end the following new item:

“2056. Preferential treatment of veterans.”.

(g) TECHNICAL CORRECTIONS.—Section 2052 of such title is amended—

(1) in subsection (b)(2), by striking “counseling” both places it appears and inserting “counseling”; and

(2) in subsection (d)(2), by striking “, as assessed under section 107 of Public Law 102-405”.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 526—DESIGNATING MAY 16 THROUGH MAY 22, 2010, AS “NATIONAL SEARCH AND RESCUE WEEK”

Ms. CANTWELL (for herself, Mr. CRAPO, Mr. BINGAMAN, Ms. MURKOWSKI, Mrs. MURRAY, Mr. WYDEN, Mrs. BOXER, and Mr. ENZI) submitted the following resolution; which was considered and agreed to:

S. RES. 526

Whereas the National Association for Search and Rescue and local search and rescue units across the United States have designated May 16 through May 22, 2010, as “National Search and Rescue Week”;

Whereas the Senate recognizes the importance of search and rescue services that are provided by both salaried and volunteer citizens through county sheriff offices and military entities;

Whereas throughout the history of the United States, search and rescue personnel have served the people of this Nation by helping to save the lives of fellow citizens who are lost or injured;

Whereas search and rescue personnel continually offer educational services that provide individuals with the survival knowledge necessary to live safely in diverse environments, from mountains to deserts and across both the urban and remote areas of this Nation;

Whereas search and rescue personnel train continually in order to maintain mission readiness and to be able to address complex search and rescue situations with both knowledge and skill;

Whereas search and rescue personnel are instrumental during national emergencies or natural disasters, as they are willing and able to respond and remain on missions for many weeks;

Whereas search and rescue personnel are required to be focused and dedicated in order to carry out missions that involve personal sacrifice of time, finance, and property, and place their own lives in danger;

Whereas in the United States, more than 500 individuals have sacrificed their lives during search and rescue missions or training; and

Whereas search and rescue personnel shall always be recognized as essential to protecting the lives of the citizens of this Nation: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates May 16 through May 22, 2010, as “National Search and Rescue Week”; and

(2) encourages the people of the United States to observe this week with appropriate ceremonies and activities that promote awareness and appreciation of the role that search and rescue personnel perform in their communities so “that others may live”.

### SENATE RESOLUTION 527—SUPPORTING THE DESIGNATION OF AN APPROPRIATE DATE AS “NATIONAL CHILDHOOD STROKE AWARENESS DAY”

Mr. CASEY (for himself and Mr. CHAMBLISS) submitted the following resolution; which was considered and agreed to:

S. RES. 527

Whereas a stroke, also known as a cerebrovascular accident, is an acute neurologic injury that occurs when the blood supply to a part of the brain is interrupted by a clot in the artery or a burst of the artery;

Whereas a stroke is a medical emergency that can cause permanent neurologic damage or even death if not promptly diagnosed and treated;

Whereas 1 out of every 4,000 live births, and 11 out of every 100,000 children overall, have a stroke each year;

Whereas an individual can have a stroke before birth;

Whereas a stroke is among the top 10 causes of death for children in the United States;

Whereas 20 to 40 percent of children who experience a stroke die as a result;

Whereas stroke may recur in 20 percent of children;

Whereas the average time from onset of symptoms to diagnosis of a child having had a stroke is 72 hours;

Whereas no medication has been Federally approved for pediatric stroke treatment;

Whereas many children who experience a stroke will suffer serious, long-term neurological disabilities, including hemiplegia (which is paralysis of 1 side of the body) seizures, speech and vision problems, and learning difficulties;

Whereas such disabilities may require ongoing physical, occupational, and speech therapies, as well as surgeries;

Whereas the permanent health concerns and treatments resulting from strokes that occur during childhood and young adulthood have a considerable impact on children, families, and society;

Whereas very little is known about the cause, treatment, and prevention of childhood stroke;

Whereas medical research is the only means by which the people of the United States can identify and develop effective treatment and prevention strategies for childhood stroke;

Whereas early diagnosis and treatment of childhood stroke greatly improves the chances that the affected child will recover and not experience a recurrence; and

Whereas the Pediatric Stroke Network, Inc. should be commended for being the first online support group for families affected by pediatric stroke to be registered with the American Heart Association and for the ongoing legislative and awareness endeavors of the group: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the designation of an appropriate date as “National Childhood Stroke Awareness Day”; and

(2) urges the people of the United States to support the efforts, programs, services, and advocacy of organizations that work to enhance public awareness of childhood stroke.

#### SENATE RESOLUTION 528—DESIGNATING MAY 15, 2010, AS “NATIONAL MPS AWARENESS DAY”

Mr. GRAHAM (for himself, Mr. NELSON of Florida, Ms. MURKOWSKI, Mr. SPECTER, Mr. CONRAD, Mr. DORGAN, Mr. BURR, Mr. INOUE, Mr. BEGICH, and Mr. KERRY) submitted the following resolution; which was considered and agreed to:

##### S. RES. 528

Whereas mucopolysaccharidosis (referred to in this resolution as “MPS”) are a group of genetically determined lysosomal storage diseases that render the human body incapable of producing certain enzymes needed to break down complex carbohydrates;

Whereas MPS diseases cause complex carbohydrates to be stored in almost every cell in the body and progressively cause cellular damage;

Whereas the cellular damage caused by MPS—

(1) adversely affects the human body by damaging the heart, respiratory system, bones, internal organs, and central nervous system; and

(2) often results in mental retardation, short stature, corneal damage, joint stiffness, loss of mobility, speech and hearing impairment, heart disease, hyperactivity, chronic respiratory problems, and, most importantly, a drastically shortened life span;

Whereas symptoms of MPS are usually not apparent at birth;

Whereas, without treatment, the life expectancy of an individual afflicted with MPS begins to decrease at a very early stage in the life of the individual;

Whereas research has resulted in the development of limited treatments for some MPS diseases;

Whereas promising advancements in the pursuit of treatments for additional MPS diseases are underway as of the date of agreement to this resolution;

Whereas, despite the creation of new remedies, the blood-brain barrier continues to be a significant impediment to effectively treating the brain, which prevents the treatment of many of the symptoms of MPS;

Whereas treatments for MPS will be greatly enhanced with continued public funding;

Whereas the quality of life of the individuals afflicted with MPS, and the treatments available to those individuals, will be enhanced through the development of early detection techniques and early intervention;

Whereas treatments and research advancements for MPS are limited by a lack of awareness about MPS diseases;

Whereas the lack of awareness about MPS diseases extends to individuals within the medical community;

Whereas the cellular damage that is caused by MPS makes MPS a model for the study of many other degenerative genetic diseases;

Whereas the development of effective therapies and a potential cure for MPS diseases can be accomplished by increased awareness, research, data collection, and information distribution; and

Whereas the Senate is an institution that has the ability—

(1) to raise public awareness about MPS; and

(2) to encourage and facilitate increased public and private sector research for the early diagnosis and treatment of MPS diseases: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates May 15, 2010, as “National MPS Awareness Day”; and

(2) supports the goals and ideals of “National MPS Awareness Day”.

#### SENATE RESOLUTION 529—CELEBRATING THE LIFE AND ACHIEVEMENTS OF LENA MARY CALHOUN HORNE AND HONORING HER FOR HER TRIUMPHS AGAINST RACIAL DISCRIMINATION AND HER STEADFAST COMMITMENT TO THE CIVIL RIGHTS OF ALL PEOPLE

Mrs. GILLIBRAND (for herself, Mr. BURRIS, Mrs. BOXER, Mr. BROWN of Ohio, Mr. CASEY, Mr. LEVIN, Mr. BROWNBACK, Mr. MENENDEZ, Mr. NELSON of Florida, Mr. SCHUMER, and Ms. COLLINS) submitted the following resolution; which was considered and agreed to:

##### S. RES. 529

Whereas Lena Mary Calhoun Horne was a trail-blazing performing artist whose life exemplified her commitment to social justice, peace, and civil rights;

Whereas Ms. Horne was born in Brooklyn, New York on June 30, 1917, and joined the chorus of the famed Cotton Club in Harlem at the age of 16 and debuted on Broadway one year later in the musical “Dance With Your Gods” (1934);

Whereas during the 1940s, Ms. Horne was one of the first African American women to

perform with a white band ensemble, the first black performer to play the Copacabana nightclub, and among the first African Americans to sign a long-term Hollywood film studio contract, garnering her roles in a host of films, including “Thousands Cheer” (1943), “Broadway Rhythm” (1944), “Two Girls and a Sailor” (1944), and “Ziegfeld Follies” (1946);

Whereas her rendition of the title song to the 1943 film “Stormy Weather” became a major hit and among her signature pieces, which also included “Deed I Do”, “As Long As I Live”, and Cole Porter’s “Just One of Those Things”;

Whereas Ms. Horne recorded prolifically into the 1990s and the record “Lena Horne at the Waldorf-Astoria” became the best-selling album by a female singer in RCA Victor’s history;

Whereas Ms. Horne earned four Grammy Awards during the course of her career, including the Recording Academy’s Lifetime Achievement Award in 1989, a National Association for the Advancement of Colored People Image Award in 1999, and a Kennedy Center Honor in 1984;

Whereas Ms. Horne appeared extensively on television, including specials with Harry Belafonte, Tony Bennett, numerous musical reviews and variety shows, and appearances on programs like “Sesame Street” and “The Cosby Show”;

Whereas she was nominated for her first Tony Award in 1957 for her role in the musical “Jamaica”, and her 1981 one-woman Broadway show, “Lena Horne: The Lady and Her Music”, earned her a Tony Award, a Grammy Award, and ran for more than 300 performances;

Whereas despite Ms. Horne’s pioneering contract with MGM studios, she was never featured in a leading role during the 1940s and 50s because her films had to be reedited for theaters in Southern States that proscribed films with black performers;

Whereas Ms. Horne was outspoken in her fight for racial equality;

Whereas during World War II, she used her own money to travel and entertain the troops;

Whereas while Ms. Horne performed at Army camps for the U.S.O., she became an outspoken critic of the treatment of African American servicemen and refused to sing before segregated audiences and at venues in which German Prisoners of War were seated in front of black soldiers;

Whereas during the late 1940s, Ms. Horne sued a number of restaurants and theaters for racial discrimination;

Whereas Ms. Horne was only two years old when her grandmother, suffragette, and civil rights activist Cora Calhoun enrolled her as a member of the National Association for the Advancement of Colored People, and she was an honorary member of the Delta Sigma Theta sorority and worked for years with the Urban League;

Whereas she participated in numerous civil rights rallies and demonstrations—marching with Medgar Evers in Mississippi, performing at rallies throughout the Nation for the National Council of Negro Women, and taking part in the March on Washington in August 1963 at which the Rev. Martin Luther King, Jr., delivered his “I Have a Dream” speech;

Whereas her commitment to civil rights and political views may have resulted in her appearance on Hollywood “blacklists” during the 1950s;

Whereas Ms. Horne worked with Eleanor Roosevelt to pass antilynching legislation;

Whereas with her wide musical range and consummate professionalism, she rose beyond Hollywood's stereotypical portrayals of African American as maids, butlers, and African natives; and

Whereas her poise, grace, and courage paved the way for generations of women and African Americans: Now, therefore, be it

*Resolved*, That the Senate celebrates the life and achievements of Lena Mary Calhoun Horne and honors her for her triumphs against racial discrimination and her steadfast commitment to the civil rights of all people.

**SENATE RESOLUTION 530—SUPPORTING THE GOALS AND IDEALS OF "NATIONAL WOMEN'S HEALTH WEEK 2010", AND FOR OTHER PURPOSES**

Mr. FEINGOLD (for himself, Ms. SNOWE, Mr. KERRY, Mr. BEGICH, Mr. DODD, Ms. STABENOW, and Mr. CRAPO) submitted the following resolution; which was considered and agreed to:

S. RES. 530

Whereas women of all backgrounds should be encouraged to greatly reduce their risk of common diseases through preventive measures such as a healthy lifestyle, by engaging in regular physical activity, eating a nutritious diet, and visiting a healthcare provider to receive regular check-ups, and preventative screenings;

Whereas significant disparities exist in the prevalence of disease among women of different backgrounds, including women with disabilities, African American women, Asian and Pacific Islander women, Latinas, and American Indian and Alaska Native women;

Whereas healthy habits should begin at a young age;

Whereas it is important to educate women and girls about the significance of awareness of key female health issues;

Whereas it is recognized that the offices of women's health within the Department of Health and Human Services, the Food and Drug Administration, the Centers for Disease Control and Prevention, the Health Resources and Services Administration, the National Institutes of Health, and the Agency for Healthcare Research and Quality are vital to providing critical services in supporting women's health research, education, and other necessary services that benefit women of any age, race, or ethnicity;

Whereas annually, National Women's Health Week begins on Mother's Day and celebrates the efforts of national and community organizations working with partners and volunteers to improve awareness of key women's health issues; and

Whereas in 2010, the week of May 9 through May 15 is dedicated as "National Women's Health Week 2010": Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the importance of preventing diseases that commonly affect women;

(2) supports the goals and ideals of "National Women's Health Week 2010";

(3) calls on the people of the United States to use the start of "National Women's Health Week 2010", on May 9, 2010, as an opportunity to learn about health issues that face women;

(4) calls on the women of the United States to observe National Women's Check-Up Day by receiving preventive screenings from their health care providers; and

(5) recognizes the importance of federally funded programs that provide research and collect data on common diseases in women.

**SENATE RESOLUTION 531—SUPPORTING THE GOALS AND IDEALS OF NATIONAL HEPATITIS AWARENESS MONTH AND WORLD HEPATITIS DAY**

Mrs. FEINSTEIN (for herself and Mr. BROWN of Ohio) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 531

Whereas infection with the hepatitis B and C viruses and the incidence of liver disease and cancer caused by the hepatitis B and C viruses have become urgent problems of global proportions;

Whereas an estimated 2,000,000,000 people worldwide have been infected with the hepatitis B virus, and as many as 400,000,000 people worldwide live with chronic hepatitis B infection;

Whereas an estimated 600,000 people worldwide die each year due to a hepatitis B infection;

Whereas an estimated 170,000,000 people worldwide live with chronic hepatitis C infection, and an estimated 3,500,000 people are newly infected with hepatitis C each year;

Whereas an estimated 1,700,000 people worldwide die each year due to liver failure or primary liver cancer from chronic hepatitis C infection;

Whereas infection with the hepatitis B and C viruses is a growing health crisis in the United States, and an estimated 5,300,000 people in the United States are chronically infected with the hepatitis B or C virus;

Whereas each year in the United States, an estimated 43,000 people are newly infected with the hepatitis B virus and 17,000 people are newly infected with the hepatitis C virus;

Whereas approximately 65 percent and 75 percent of the people infected with hepatitis B and hepatitis C virus, respectively, are unaware of the infection;

Whereas, because of the asymptomatic nature of the hepatitis B and C viruses, a person who has become chronically infected with 1 of the viruses may not have symptoms for up to 40 years after the initial infection has occurred;

Whereas many people are unaware that they have been infected with the hepatitis B or C virus until years later, when symptoms of liver cancer or liver disease develop;

Whereas, as a result of late diagnosis, approximately 15,000 people die each year from liver disease or liver cancer related to chronic viral hepatitis;

Whereas hepatitis C claims roughly 12,000 lives each year in the United States, and the overall rate of hepatitis C-related deaths in the United States is expected to triple by 2019;

Whereas, in the United States, African-Americans, Asian Americans, Pacific Islanders, Latinos, Native Americans, Alaskan Natives, gay and bisexual men, and persons who inject drugs have higher rates of chronic viral hepatitis infection;

Whereas 1/3 of HIV-positive people in the United States are co-infected with the hepatitis C virus, and 1/10 of HIV-positive people in the United States are co-infected with the hepatitis B virus;

Whereas, although life expectancies for HIV-positive persons have increased with

therapy, liver disease, mostly related to hepatitis B or C infections, has become the most common non-AIDS-related cause of death among HIV-positive persons;

Whereas chronic hepatitis B and C infections cost the United States \$16,000,000,000 each year;

Whereas, despite the fact that chronic viral hepatitis is the most common blood-borne infection in the United States, no routine or universal screening is in place for early detection as of the date of the agreement to this resolution;

Whereas, in 2010, the Institute of Medicine issued a report on chronic viral hepatitis, which attributed the lack of knowledge and awareness among the public and health providers of the United States of chronic viral hepatitis, the large health disparities for people infected with chronic viral hepatitis, and the current morbidity and mortality rate for people infected with chronic viral hepatitis, to the lack of dedicated resources for chronic viral hepatitis;

Whereas the first World Hepatitis Day on May 19, 2008, raised awareness about the need for action, compassion, and understanding about chronic viral hepatitis around the world; and

Whereas the goals of World Hepatitis Day and National Hepatitis Awareness Month are—

(1) to highlight the global nature of the chronic viral hepatitis epidemic;

(2) to recognize the need for a comprehensive public education and awareness campaign designed to help infected patients and the physicians of patients to identify and manage the secondary consequences of the disease; and

(3) to help increase the length and quality of life for individuals diagnosed with chronic hepatitis B or C infections: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals and ideals of World Hepatitis Day and National Hepatitis Awareness Month;

(2) promotes raising awareness of the risks and consequences of undiagnosed chronic hepatitis B or hepatitis C infections; and

(3) urges a robust governmental and public health response to protect the health of the more than 5,000,000 people in the United States and nearly 600,000,000 people worldwide who suffer from chronic viral hepatitis.

**AMENDMENTS SUBMITTED AND PROPOSED**

SA 4042. Ms. COLLINS (for herself and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 4043. Mr. DODD (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 2711, to amend title 5, United States Code, to provide for the transportation and moving expenses for the immediate family of certain Federal employees who die in the performance of their duties.

SA 4044. Mr. DODD (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 2711, *supra*.

SA 4045. Ms. STABENOW (for herself, Mr. HATCH, Mr. BENNETT, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 4046. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4047. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 4042.** Ms. COLLINS (for herself and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 988, line 15, insert “, unless the individual who is alleging discharge or other discrimination in violation of subparagraph (A) is an employee of the Federal Government, in which case the individual shall only bring an action under section 1221 of title 5, United States Code” before the period.

**SA 4043.** Mr. DODD (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 2711, to amend title 5, United States Code, to provide for the transportation and moving expenses for the immediate family of certain Federal employees who die in the performance of their duties; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Special Agent Samuel Hicks Families of Fallen Heroes Act”.

#### SEC. 2. TRANSPORTATION AND MOVING EXPENSES FOR IMMEDIATE FAMILY OF CERTAIN DECEASED FEDERAL EMPLOYEES.

(a) IN GENERAL.—Subchapter II of chapter 57 of title 5, United States Code, is amended by inserting after section 5724c the following:

#### “§ 5724d. Transportation and moving expenses for immediate family of certain deceased Federal employees

“(a) IN GENERAL.—Under regulations prescribed by the President, the head of the agency concerned (or a designee) may deter-

mine that a covered employee died as a result of personal injury sustained while in the performance of the employee's duty and authorize or approve the payment by the agency, from Government funds, of—

“(1) any qualified expense of the immediate family of the covered employee attributable to a change in their place of residence, if the place where the immediate family will reside following the death of the employee is—

“(A) different from the place where the immediate family resided at the time of the employee's death; and

“(B) within the United States; and

“(2) any expense of preparing and transporting the remains of the deceased to—

“(A) the place where the immediate family will reside following the death of the employee; or

“(B) such other place appropriate for interment as is determined by the agency head (or designee).

“(b) NO DUPLICATE PAYMENT OF EXPENSES.—No expenses may be paid under this section if those expenses are paid from Government funds under section 5742 or any other authority.

“(c) DEFINITIONS.—For purposes of this section—

“(1) the term ‘covered employee’ means—

“(A) a law enforcement officer, as defined in section 5541;

“(B) any employee in or under the Federal Bureau of Investigation who is not described in subparagraph (A); and

“(C) a customs and border protection officer, as defined in section 8331(31); and

“(2) the term ‘qualified expense’, as used with respect to an immediate family changing its place of residence, means the transportation expenses of the immediate family, the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods and personal effects of such immediate family, not in excess of 18,000 pounds net weight, and, when authorized or approved by the agency head (or designee), the transportation of 1 privately owned motor vehicle.”.

(b) NO RELEVANCE AS TO COMPENSATION CLAIMS.—No determination made under section 5724d of title 5, United States Code, shall be deemed relevant to or be considered in connection with any claim for compensation under chapter 81 of that title or under any other law under which compensation may be provided on account of death or personal injury, nor shall any determination made with respect to any such claim be deemed relevant to or be considered in connection with any request for payment of expenses under such section 5724d.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5724c the following:

“Sec. 5724d. Transportation and moving expenses for immediate family of certain deceased Federal employees.”.

**SA 4044.** Mr. DODD (for Mr. LIEBERMAN) proposed an amendment to the bill H.R. 2711, to amend title 5, United States Code, to provide for the transportation and moving expenses for the immediate family of certain Federal employees who die in the performance of their duties; as follows:

Amend the title so as to read: “An Act to amend title 5, United States Code, to provide

for the transportation and moving expenses for the immediate family of certain Federal employees who die in the performance of their duties.”.

**SA 4045.** Ms. STABENOW (for herself, Mr. HATCH, Mr. BENNETT, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, strike lines 14 through 20 and insert the following:

(i) results from—

(I) the merger or whole acquisition of a commercial firm that directly or indirectly controls the industrial bank, credit card bank, or trust bank in a bona fide merger with or acquisition by another commercial firm, as determined by the appropriate Federal banking agency; or

(II) an acquisition of voting shares in a publicly traded holding company of a industrial bank if, after the acquisition, the acquiring shareholder (or group of shareholders acting in concert)—

(aa) holds less than 25 percent of the voting shares of the company; and

(bb) has obtained all regulatory approvals required for such change of control under section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) and any applicable State law.

**SA 4046.** Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 749, line 17 strike all through page 752, line 11, and insert the following:

“(2) PROHIBITION OF DISCLOSURE OF IDENTITY.—

“(A) IN GENERAL.—Except as provided in paragraph (B) of this subsection, or with the written consent of the whistleblower, the Commission may not disclose the name, identity or identifying information about the whistleblower who has provided information to the Commission.

“(B) NOTICE AND APPLICABILITY TO OTHER GOVERNMENT AGENCIES AND FOREIGN AUTHORITIES.—Whenever the Commission makes a disclosure to other agencies and foreign authorities, it shall provide reasonable advance notice to the whistleblower if disclosure of that person's identity or identifying information is to occur. Any entity that receives such as disclosure shall protect the whistleblower's confidentiality in accordance with this subsection.



**SA 4047.** Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 990, line 7, strike all through page 993, line 7, and insert the following:

“(2) PROHIBITION OF DISCLOSURE OF IDENTITY.—

“(A) IN GENERAL.—Except as provided in paragraph (B), or with the written consent of the whistleblower, the Commission may not disclose the name, identity or identifying information about the whistleblower who has provided information to the Commission.

“(B) NOTICE AND APPLICABILITY TO OTHER GOVERNMENT AGENCIES AND FOREIGN AUTHORITIES.—Whenever the Commission makes a disclosure to other agencies and foreign authorities, it shall provide reasonable advance notice to the whistleblower if disclosure of that person’s identity or identifying information is to occur. Any entity that receives such as disclosure shall protect the whistleblower’s confidentiality in accordance with this subsection.

#### SPECIAL AGENT SAMUEL HICKS FAMILIES OF FALLEN HEROES ACT

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 234, H.R. 2711.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 2711) to amend title 5, United States Code, to provide for the transportation of the dependents, remains, and effects of certain Federal employees who die while performing official duties or as a result of the performance of official duties.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

H.R. 2711

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Special Agent Samuel Hicks Families of Fallen Heroes Act”.

#### SEC. 2. TRANSPORTATION OF DEPENDENTS, REMAINS, AND EFFECTS OF CERTAIN FEDERAL EMPLOYEES.

(a) IN GENERAL.—Subchapter II of chapter 57 of title 5, United States Code, is amended by inserting after section 5724c the following:

#### “§ 5724d. Transportation of dependents, remains, and effects of certain Federal employees

“(a) IN GENERAL.—Under regulations prescribed under section 5738 and when the head of the agency concerned (or a designee thereof) authorizes or approves, if a covered employee dies while performing official duties or as a result of the performance of official duties, the agency may pay from Government funds—

“(1) the qualified expenses of the immediate family of the employee, if the place where the family will reside following the death of the employee is—

“(A) different from the place where the family resided at the time of the employee’s death; and

“(B) within the United States; and

“(2) the expenses of preparing and transporting the remains of the deceased to—

“(A) the place where the immediate family will reside following the death of the employee; or

“(B) such other place, appropriate for interment, as is determined by the agency head (or designee).

“(b) QUALIFIED EXPENSES.—For purposes of this section, the term ‘qualified expenses’, as used with respect to a family changing its place of residence, means the moving expenses, transportation expenses, and relocation expenses of the family which are attributable to the change in place of residence.

“(c) DEFINITIONS.—For purposes of this section—

“(1) the term ‘covered employee’ means—

“(A) a law enforcement officer, as defined [by] in section 5541; [and]

“(B) any employee in or under the Federal Bureau of Investigation who is not described in subparagraph (A); and

“(C) a customs and border protection officer, as defined in section 8331(31);

“(2) the term ‘moving expenses’, as used with respect to a family, includes the expenses of transporting, packing, crating, temporarily storing, draying, and unpacking the household goods and personal effects of such family, not in excess of 18,000 pounds net weight; and

“(3) the term ‘relocation expenses’ has the meaning given such term under regulations prescribed under section 5738, including relocation expenses and relocation services described in sections 5724a and 5724c, respectively.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5724c the following:

“5724d. Transportation of dependents, remains, and effects of certain Federal employees.”

Mr. DODD. Mr. President, I ask unanimous consent that the committee-reported amendments be withdrawn, that a Lieberman substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed; that a title amendment, which is at the desk, be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The committee-reported amendments were withdrawn.

The amendment (No. 4043) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Special Agent Samuel Hicks Families of Fallen Heroes Act”.

#### SEC. 2. TRANSPORTATION AND MOVING EXPENSES FOR IMMEDIATE FAMILY OF CERTAIN DECEASED FEDERAL EMPLOYEES.

(a) IN GENERAL.—Subchapter II of chapter 57 of title 5, United States Code, is amended by inserting after section 5724c the following:

#### “§ 5724d. Transportation and moving expenses for immediate family of certain deceased Federal employees

“(a) IN GENERAL.—Under regulations prescribed by the President, the head of the agency concerned (or a designee) may determine that a covered employee died as a result of personal injury sustained while in the performance of the employee’s duty and authorize or approve the payment by the agency, from Government funds, of—

“(1) any qualified expense of the immediate family of the covered employee attributable to a change in their place of residence, if the place where the immediate family will reside following the death of the employee is—

“(A) different from the place where the immediate family resided at the time of the employee’s death; and

“(B) within the United States; and

“(2) any expense of preparing and transporting the remains of the deceased to—

“(A) the place where the immediate family will reside following the death of the employee; or

“(B) such other place appropriate for interment as is determined by the agency head (or designee).

“(b) NO DUPLICATE PAYMENT OF EXPENSES.—No expenses may be paid under this section if those expenses are paid from Government funds under section 5742 or any other authority.

“(c) DEFINITIONS.—For purposes of this section—

“(1) the term ‘covered employee’ means—

“(A) a law enforcement officer, as defined in section 5541;

“(B) any employee in or under the Federal Bureau of Investigation who is not described in subparagraph (A); and

“(C) a customs and border protection officer, as defined in section 8331(31); and

“(2) the term ‘qualified expense’, as used with respect to an immediate family changing its place of residence, means the transportation expenses of the immediate family, the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods and personal effects of such immediate family, not in excess of 18,000 pounds net weight, and, when authorized or approved by the agency head (or designee), the transportation of 1 privately owned motor vehicle.”

(b) NO RELEVANCE AS TO COMPENSATION CLAIMS.—No determination made under section 5724d of title 5, United States Code, shall be deemed relevant to or be considered in connection with any claim for compensation under chapter 81 of that title or under any other law under which compensation may be provided on account of death or personal injury, nor shall any determination made with respect to any such claim be deemed relevant to or be considered in connection with any request for payment of expenses under such section 5724d.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 57 of title 5, United



States Code, is amended by inserting after the item relating to section 5724c the following:

“Sec. 5724d. Transportation and moving expenses for immediate family of certain deceased Federal employees.”.

The amendment (No. 4044) was agreed to, as follows:

Amend the title so as to read: “An Act to amend title 5, United States Code, to provide for the transportation and moving expenses for the immediate family of certain Federal employees who die in the performance of their duties.”.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 2711), as amended, was passed.

#### RV CENTENNIAL CELEBRATION MONTH

Mr. DODD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 410 and the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 410) supporting and recognizing the goals and ideals of “RV Centennial Celebration Month” to commemorate 100 years of enjoyment of recreation vehicles in the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 410) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 410

Whereas 1910 marks the first year of mass-produced, manufactured, motorized campers and camping trailers;

Whereas 1 in 12 households in the United States own a recreation vehicle (referred to in this preamble as an “RV”), and over 30,000,000 RV enthusiasts take part in this affordable and environmentally friendly form of vacationing;

Whereas RV vacations allow families in the United States to build stronger relationships, explore the great outdoors, and take part in healthy activities;

Whereas this homegrown industry, including RV manufacturers, suppliers, dealers, and campgrounds, employs hundreds of thou-

sands of people in good-paying jobs across all 50 States;

Whereas traveling in an RV offers the freedom, comfort, and flexibility to see all parts of the United States, from historic landmarks and National Parks to local campgrounds and sporting events; and

Whereas the 100th anniversary of the introduction of the RV into the marketplace in the United States will be celebrated June 7, 2010, at the RV/MH Hall of Fame in Elkhart, Indiana: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports and recognizes the goals and ideals of “RV Centennial Celebration Month” to commemorate 100 years of enjoyment of recreation vehicles in the United States; and

(2) encourages the people of the United States to celebrate this anniversary by taking part in recreation vehicle vacations.

#### COMMEMORATING WASHINGTON STATE FALLEN LAW ENFORCEMENT OFFICERS

Mr. DODD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 521 and the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 521) commemorating and celebrating the lives of Deputy Sheriff Stephen Michael Gallagher, Jr., Officer Timothy Q. Brenton, Officer Tina G. Griswold, Officer Ronald Wilbur Owens II, Sergeant Mark Joseph Renninger, Officer Gregory James Richards, and Deputy Sheriff Walter Kent Mundell, Jr. who gave their lives in the service of the people of Washington State in 2009.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the resolution be placed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 521) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 521

Whereas law enforcement officers throughout Washington State conduct themselves in a manner that supports, maintains, and defends the Constitution of the United States and the Constitution of the State of Washington;

Whereas law enforcement officers throughout the Nation and in Washington State risk their own lives to protect the lives of others;

Whereas since 1791, 20,146 law enforcement officers were killed in the line of duty in the United States and 270 of these officers served the people of Washington State;

Whereas in 2009, 126 law enforcement officers were killed in the line of duty in the United States;

Whereas in 2009, Deputy Sheriff Stephen Michael Gallagher, Jr., of the Lewis County Sheriff's Office, Officer Timothy Q. Brenton of the Seattle Police Department, Officer Tina G. Griswold of the Lakewood Police Department, Officer Ronald Wilbur Owens II of the Lakewood Police Department, Sergeant Mark Joseph Renninger of the Lakewood Police Department, Officer Gregory James Richards of the Lakewood Police Department, and Deputy Sheriff Walter Kent Mundell, Jr., of the Pierce County Sheriff's Department gave their lives in the service of the people of Washington State;

Whereas the family members and friends of Deputy Sheriff Stephen Michael Gallagher, Jr., Officer Timothy Q. Brenton, Officer Tina G. Griswold, Officer Ronald Wilbur Owens II, Sergeant Mark Joseph Renninger, Officer Gregory James Richards, and Deputy Sheriff Walter Kent Mundell, Jr., bear the most immediate and profound burden of the absence of their loved ones; and

Whereas National Police Week is observed during the week of May 9, 2010, to May 15, 2010, and is the most appropriate time to honor the Washington State law enforcement officers who sacrificed their lives in service to their State and Nation: Now, therefore, be it

*Resolved*, That the Senate—

(1) extends its condolences to the families and loved ones of Deputy Sheriff Stephen Michael Gallagher, Jr., Officer Timothy Q. Brenton, Officer Tina G. Griswold, Officer Ronald Wilbur Owens II, Sergeant Mark Joseph Renninger, Officer Gregory James Richards, and Deputy Sheriff Walter Kent Mundell, Jr.; and

(2) stands in solidarity with the people of Washington State as they celebrate the lives and mourn the loss of these remarkable and selfless heroes who represented the best of their community and whose memory will serve as an inspiration for future generations.

#### NATIONAL SEARCH AND RESCUE WEEK

#### NATIONAL CHILDHOOD STROKE AWARENESS WEEK

#### NATIONAL MPS AWARENESS DAY

#### CELEBRATING THE LIFE AND ACHIEVEMENTS OF LENA MARY CALHOUN HORNE

#### NATIONAL WOMEN'S HEALTH WEEK 2010

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the consideration of the following Senate resolutions: S. Res. 526; S. Res. 527; S. Res. 528; S. Res. 529; and S. Res. 530.

There being no objection, the Senate proceeded to consider the resolutions en bloc.

#### NATIONAL SEARCH AND RESCUE WEEK

Ms. CANTWELL. Mr. President, I rise today to speak about a resolution

to honor our Nation's search and rescue personnel by designating May 16 through May 22, 2010, as National Search and Rescue Week.

As many of my colleagues know, I am an avid hiker and mountaineer. Over the years, I have scaled several of Washington State's majestic peaks and hiked many of our backcountry trails. Whenever I load my pack for another trip—whether for a day hike or a trip up Mt. Rainier—I, like all people who enjoy the great outdoors, take steps to prepare myself and minimize my risk. I bring my essential gear, extra food and water, and make sure someone knows my trip plan. But no amount of preparation can protect you from a misstep or unforeseen circumstance.

In such instances, it is often the swift response of trained search and rescue personnel that makes the difference between tragedy and survival. These heroes come from a broad range of agencies and organizations, including sheriff offices, police departments, national and State parks, private corporations, and all branches of the military, including the U.S. Coast Guard. All of them—whether volunteer or salaried, military or civilian—exemplify courage, commitment, and compassion in performing their duties.

Whether it is an accident in the wilderness or a natural disaster in a major city, search and rescue personnel are always ready to respond. All across our country, when people find themselves in danger, they can be thankful for the bravery and willingness to serve exhibited by these dedicated individuals.

Every day, men, women, pack animals, and search dogs put themselves in harm's way to ensure the safety and security of citizens in need. Their territory knows no bounds. Wherever the mission is, they go, sometimes for weeks at a time.

Search and rescue teams are relentless in their training. They go to great lengths to ensure they are physically and mentally fit and well versed in the newest search and rescue techniques. This preparation enables them to approach complex search and rescue situations with confidence and skill.

Their selfless dedication does not stop at our Nation's borders. Civilian search and rescue teams are ready at a moment's notice to respond to international disasters, too, including the recent earthquake in Haiti and the tsunami in Indonesia. By extending their reach around the globe to wherever there is need, search and rescue personnel have saved lives, reunited families, and boosted America's reputation abroad.

In the simplest terms, search and rescue personnel take great personal risks to come to the aid of others. Carrying out their mission often demands great personal discipline and sacrifice, and some even pay the ultimate price. This selfless commitment to others is embodied in the Search and Rescue motto:

"So that others may live."

I ask my colleagues to stand with me today to honor the members of the search and rescue community across our Nation. Their dedication to saving the lives of citizens who are lost or injured does not waver, and neither should we in adopting this small act of recognition for their heroic efforts.

Mr. DODD. Mr. President, I ask unanimous consent that the resolutions be agreed to en bloc, the preambles be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements related to the resolutions be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolutions (S. Res. 526, S. Res. 527, S. Res. 528, S. Res. 529, and S. Res. 530) were agreed to, en bloc.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

#### S. RES. 526

Whereas the National Association for Search and Rescue and local search and rescue units across the United States have designated May 16 through May 22, 2010, as "National Search and Rescue Week";

Whereas the Senate recognizes the importance of search and rescue services that are provided by both salaried and volunteer citizens through county sheriff offices and military entities;

Whereas throughout the history of the United States, search and rescue personnel have served the people of this Nation by helping to save the lives of fellow citizens who are lost or injured;

Whereas search and rescue personnel continually offer educational services that provide individuals with the survival knowledge necessary to live safely in diverse environments, from mountains to deserts and across both the urban and remote areas of this Nation;

Whereas search and rescue personnel train continually in order to maintain mission readiness and to be able to address complex search and rescue situations with both knowledge and skill;

Whereas search and rescue personnel are instrumental during national emergencies or natural disasters, as they are willing and able to respond and remain on missions for many weeks;

Whereas search and rescue personnel are required to be focused and dedicated in order to carry out missions that involve personal sacrifice of time, finance, and property, and place their own lives in danger;

Whereas in the United States, more than 500 individuals have sacrificed their lives during search and rescue missions or training; and

Whereas search and rescue personnel shall always be recognized as essential to protecting the lives of the citizens of this Nation: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates May 16 through May 22, 2010, as "National Search and Rescue Week"; and

(2) encourages the people of the United States to observe this week with appropriate ceremonies and activities that promote awareness and appreciation of the role that search and rescue personnel perform in their communities so "that others may live".

#### S. RES. 527

Whereas a stroke, also known as a cerebrovascular accident, is an acute neurologic injury that occurs when the blood supply to a part of the brain is interrupted by a clot in the artery or a burst of the artery;

Whereas a stroke is a medical emergency that can cause permanent neurologic damage or even death if not promptly diagnosed and treated;

Whereas 1 out of every 4,000 live births, and 11 out of every 100,000 children overall, have a stroke each year;

Whereas an individual can have a stroke before birth;

Whereas a stroke is among the top 10 causes of death for children in the United States;

Whereas 20 to 40 percent of children who experience a stroke die as a result;

Whereas stroke may recur in 20 percent of children;

Whereas the average time from onset of symptoms to diagnosis of a child having had a stroke is 72 hours;

Whereas no medication has been Federally approved for pediatric stroke treatment;

Whereas many children who experience a stroke will suffer serious, long-term neurological disabilities, including hemiplegia (which is paralysis of 1 side of the body) seizures, speech and vision problems, and learning difficulties;

Whereas such disabilities may require ongoing physical, occupational, and speech therapies, as well as surgeries;

Whereas the permanent health concerns and treatments resulting from strokes that occur during childhood and young adulthood have a considerable impact on children, families, and society;

Whereas very little is known about the cause, treatment, and prevention of childhood stroke;

Whereas medical research is the only means by which the people of the United States can identify and develop effective treatment and prevention strategies for childhood stroke;

Whereas early diagnosis and treatment of childhood stroke greatly improves the chances that the affected child will recover and not experience a recurrence; and

Whereas the Pediatric Stroke Network, Inc. should be commended for being the first online support group for families affected by pediatric stroke to be registered with the American Heart Association and for the ongoing legislative and awareness endeavors of the group: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the designation of an appropriate date as "National Childhood Stroke Awareness Day"; and

(2) urges the people of the United States to support the efforts, programs, services, and advocacy of organizations that work to enhance public awareness of childhood stroke.

#### S. RES. 528

Whereas mucopolysaccharidosis (referred to in this resolution as "MPS") are a group of genetically determined lysosomal storage diseases that render the human body incapable of producing certain enzymes needed to break down complex carbohydrates;

Whereas MPS diseases cause complex carbohydrates to be stored in almost every cell in the body and progressively cause cellular damage;

Whereas the cellular damage caused by MPS—

(1) adversely affects the human body by damaging the heart, respiratory system,

bones, internal organs, and central nervous system; and

(2) often results in mental retardation, short stature, corneal damage, joint stiffness, loss of mobility, speech and hearing impairment, heart disease, hyperactivity, chronic respiratory problems, and, most importantly, a drastically shortened life span;

Whereas symptoms of MPS are usually not apparent at birth;

Whereas, without treatment, the life expectancy of an individual afflicted with MPS begins to decrease at a very early stage in the life of the individual;

Whereas research has resulted in the development of limited treatments for some MPS diseases;

Whereas promising advancements in the pursuit of treatments for additional MPS diseases are underway as of the date of agreement to this resolution;

Whereas, despite the creation of new remedies, the blood-brain barrier continues to be a significant impediment to effectively treating the brain, which prevents the treatment of many of the symptoms of MPS;

Whereas treatments for MPS will be greatly enhanced with continued public funding;

Whereas the quality of life of the individuals afflicted with MPS, and the treatments available to those individuals, will be enhanced through the development of early detection techniques and early intervention;

Whereas treatments and research advancements for MPS are limited by a lack of awareness about MPS diseases;

Whereas the lack of awareness about MPS diseases extends to individuals within the medical community;

Whereas the cellular damage that is caused by MPS makes MPS a model for the study of many other degenerative genetic diseases;

Whereas the development of effective therapies and a potential cure for MPS diseases can be accomplished by increased awareness, research, data collection, and information distribution; and

Whereas the Senate is an institution that has the ability—

(1) to raise public awareness about MPS; and

(2) to encourage and facilitate increased public and private sector research for the early diagnosis and treatment of MPS diseases: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates May 15, 2010, as “National MPS Awareness Day”; and

(2) supports the goals and ideals of “National MPS Awareness Day”.

S. RES. 529

Whereas Lena Mary Calhoun Horne was a trail-blazing performing artist whose life exemplified her commitment to social justice, peace, and civil rights;

Whereas Ms. Horne was born in Brooklyn, New York on June 30, 1917, and joined the chorus of the famed Cotton Club in Harlem at the age of 16 and debuted on Broadway one year later in the musical “Dance With Your Gods” (1934);

Whereas during the 1940s, Ms. Horne was one of the first African American women to perform with a white band ensemble, the first black performer to play the Copacabana nightclub, and among the first African Americans to sign a long-term Hollywood film studio contract, garnering her roles in a host of films, including “Thousands Cheer” (1943), “Broadway Rhythm” (1944), “Two Girls and a Sailor” (1944), and “Ziegfeld Follies” (1946);

Whereas her rendition of the title song to the 1943 film “Stormy Weather” became a

major hit and among her signature pieces, which also included “Deed I Do”, “As Long As I Live”, and Cole Porter’s “Just One of Those Things”;

Whereas Ms. Horne recorded prolifically into the 1990s and the record “Lena Horne at the Waldorf-Astoria” became the best-selling album by a female singer in RCA Victor’s history;

Whereas Ms. Horne earned four Grammy Awards during the course of her career, including the Recording Academy’s Lifetime Achievement Award in 1989, a National Association for the Advancement of Colored People Image Award in 1999, and a Kennedy Center Honor in 1984;

Whereas Ms. Horne appeared extensively on television, including specials with Harry Belafonte, Tony Bennett, numerous musical reviews and variety shows, and appearances on programs like “Sesame Street” and “The Cosby Show”;

Whereas she was nominated for her first Tony Award in 1957 for her role in the musical “Jamaica”, and her 1981 one-woman Broadway show, “Lena Horne: The Lady and Her Music”, earned her a Tony Award, a Grammy Award, and ran for more than 300 performances;

Whereas despite Ms. Horne’s pioneering contract with MGM studios, she was never featured in a leading role during the 1940s and 50s because her films had to be reedited for theaters in Southern States that proscribed films with black performers;

Whereas Ms. Horne was outspoken in her fight for racial equality;

Whereas during World War II, she used her own money to travel and entertain the troops;

Whereas while Ms. Horne performed at Army camps for the U.S.O., she became an outspoken critic of the treatment of African American servicemen and refused to sing before segregated audiences and at venues in which German Prisoners of War were seated in front of black soldiers;

Whereas during the late 1940s, Ms. Horne sued a number of restaurants and theaters for racial discrimination;

Whereas Ms. Horne was only two years old when her grandmother, suffragette, and civil rights activist Cora Calhoun enrolled her as a member of the National Association for the Advancement of Colored People, and she was an honorary member of the Delta Sigma Theta sorority and worked for years with the Urban League;

Whereas she participated in numerous civil rights rallies and demonstrations—marching with Medgar Evers in Mississippi, performing at rallies throughout the Nation for the National Council of Negro Women, and taking part in the March on Washington in August 1963 at which the Rev. Martin Luther King, Jr., delivered his “I Have a Dream” speech;

Whereas her commitment to civil rights and political views may have resulted in her appearance on Hollywood “blacklists” during the 1950s;

Whereas Ms. Horne worked with Eleanor Roosevelt to pass antilynching legislation;

Whereas with her wide musical range and consummate professionalism, she rose beyond Hollywood’s stereotypical portrayals of African American as maids, butlers, and African natives; and

Whereas her poise, grace, and courage paved the way for generations of women and African Americans: Now, therefore, be it

*Resolved*, That the Senate celebrates the life and achievements of Lena Mary Calhoun Horne and honors her for her triumphs

against racial discrimination and her steadfast commitment to the civil rights of all people.

S. RES. 530

Whereas women of all backgrounds should be encouraged to greatly reduce their risk of common diseases through preventive measures such as a healthy lifestyle, by engaging in regular physical activity, eating a nutritious diet, and visiting a healthcare provider to receive regular check-ups, and preventative screenings;

Whereas significant disparities exist in the prevalence of disease among women of different backgrounds, including women with disabilities, African American women, Asian and Pacific Islander women, Latinas, and American Indian and Alaska Native women;

Whereas healthy habits should begin at a young age;

Whereas it is important to educate women and girls about the significance of awareness of key female health issues;

Whereas it is recognized that the offices of women’s health within the Department of Health and Human Services, the Food and Drug Administration, the Centers for Disease Control and Prevention, the Health Resources and Services Administration, the National Institutes of Health, and the Agency for Healthcare Research and Quality are vital to providing critical services in supporting women’s health research, education, and other necessary services that benefit women of any age, race, or ethnicity;

Whereas annually, National Women’s Health Week begins on Mother’s Day and celebrates the efforts of national and community organizations working with partners and volunteers to improve awareness of key women’s health issues; and

Whereas in 2010, the week of May 9 through May 15 is dedicated as “National Women’s Health Week 2010”: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the importance of preventing diseases that commonly affect women;

(2) supports the goals and ideals of “National Women’s Health Week 2010”; and

(3) calls on the people of the United States to use the start of “National Women’s Health Week 2010”, on May 9, 2010, as an opportunity to learn about health issues that face women;

(4) calls on the women of the United States to observe National Women’s Check-Up Day by receiving preventive screenings from their health care providers; and

(5) recognizes the importance of federally funded programs that provide research and collect data on common diseases in women.

#### ORDER FOR RECORD TO REMAIN OPEN

Mr. DODD. Mr. President, I ask unanimous consent that notwithstanding the adjournment of the Senate, the RECORD remain open until 1:30 p.m. today for the introduction of bills, statements, resolutions, and the addition of cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### ORDERS FOR MONDAY, MAY 17, 2010

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate

completes its business today, it adjourn until 2 p.m. Monday, May 17; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each; that following morning business, the Senate

resume consideration of S. 3217, the Wall Street reform bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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#### PROGRAM

Mr. DODD. Mr. President, Senators should expect several votes in relation to amendments to the Wall Street reform bill beginning at 5:30 p.m. on Monday.

ADJOURNMENT UNTIL MONDAY,  
MAY 17, 2010, AT 2 P.M.

Mr. DODD. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 11:43 a.m., adjourned until Monday, May 17, 2010, at 2 p.m.

## EXTENSIONS OF REMARKS

RECOGNIZING HILEX POLY  
COMPANY, LLC

## HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 14, 2010*

Mr. SAM JOHNSON of Texas. Madam Speaker, I stand before the House today to congratulate the Garland, Texas branch of Hilex Poly Company, LLC on the occasion of its tenth anniversary.

Hilex Poly, the world's largest manufacturer of plastic bags, boasts ten manufacturing plants in eight states, including three in North Texas. The company's Texas facilities employ 235 full-time associates and produce everything from yellow caution tape for first responders to plastic wrap for Dallas Morning News deliveries.

Founded as Sonoco Products Company in 1980, Hilex Poly has expanded from a small producer of the grocery sack-style "t-shirt" bag to an innovative leader in its field. A Hilex product can be found in nearly every household and business in the country, whether it's the GLAD Press'n Seal wrap keeping your leftovers fresh or the umbrella bag at the entrance to your office building.

The inventive and environmentally-conscious company not only produces more plastic bags and films than any other firm worldwide, but also leads its industry in recycling. Through its "Bag 2 Bag" and "Grey is the new Green" programs, Hilex has created a new standard for the reuse of grocery sacks and other plastic bags.

Leading by example, Hilex has influenced other plastic manufacturers to produce more grey, high recycled-content bags and lends its own state of the art recycling plant toward the achievement of that goal. The company's eco-friendly measures have also earned recognition through the United States Environmental Protection Agency's WasteWise program.

For its standard of excellence in business, creation of ecological solutions, and ten years of top-notch production in the Third Congressional District of Texas, it is my pleasure to congratulate Hilex Poly Company, LLC. I salute you!

## HONORING SUSAN JONES

## HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 14, 2010*

Mr. THOMPSON of California. Madam Speaker, I rise today to recognize Susan Jones, who is retiring after serving 31 years in California law enforcement, the last 8 of which have been as the Chief of the Healdsburg Police Department.

Chief Jones has always been a trail blazer. She was one of the first sworn female police officers in the State, serving first as a Deputy Sheriff in Kern County upon her discharge from the United States Air Force. She was with the Concord Police Department for 17 years, achieving the rank of Lieutenant and serving as district commander. From there she assumed the chief's position in Healdsburg, at that time only the fifth woman in the State to become a police chief and the first female police chief in Sonoma County.

Chief Jones brought community-oriented policing and a problem-solving philosophy to Healdsburg. She adopted a geographic based team policing policy that greatly reduced crime in problem areas in the city.

She helped diversify the force by hiring more women and minorities so that the department more closely reflected the community.

During her tenure, she also developed a downtown foot patrol, school resource officers, an after school program and the police K9 program.

As a result of her programs, crime was reduced from 12 to 20 percent in all categories in Healdsburg.

She has served on the board of directors for the California Police Chiefs' Association for the past 5 years, where she co-chaired the Women Leaders in Law Enforcement Committee and chaired the Pension Reform Committee and the Small Agency Committee. She has also served variously as president, vice president, and treasurer of the Sonoma County Law Enforcement Chiefs' Association during the 8 years she has lived in Sonoma County.

She and her partner, Toni Lisoni, intend to remain in Healdsburg, where she will continue to be involved in the community. She is now president-elect of the Sunrise Rotary Club and will continue to play saxophone in the Healdsburg Community Band.

Madam Speaker, Chief Jones has served her country in the United States Air Force and various communities throughout California in her long and distinguished career in law enforcement. It is appropriate that we commend her for her many years of public service and wish her well on her retirement.

RECOGNIZING WILLIAM  
FLEWELLEN HEARD

## HON. TRAVIS W. CHILDERS

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 14, 2010*

Mr. CHILDERS. Madam Speaker, I rise today to recognize a very special Mississippian. William Fleweller Heard of Tupelo, Mississippi, is an accomplished artist who has overcome adversity and has become an inspiration to many.

William graduated from Tupelo High School in 1994. After high school, he began basic training in the Army National Guard as a Medical Specialist. In 1996, he enrolled at Mississippi State University majoring in Business and Furniture Productions.

On March 14, 2000, William was involved in a car accident that left him quadriplegic. During his rehabilitation William found a love for art. Through his art and disability William has been able to inspire others who have suffered similar injuries.

Today, William teaches an art class for people with spinal cord injuries and traumatic brain injuries sponsored by the Spinal Cord Trust Fund of Mississippi. He is a state board member for a nonprofit organization, LIFE of Mississippi. He is also a member of the Northeast Mississippi Art Association and tours church youth groups and elementary schools talking about his disability and art.

In 2005, William won "Best in Show" at a juried exhibit at the Guntree Museum of Art in Tupelo. In 2007, William won third place at the Guntree Art Festival with over 100 artist's participation.

I applaud William's achievements and I hope he will continue to guide others and represent Mississippi's First District. I urge my colleagues to join me today in recognizing William Heard for his extraordinary efforts and service spent mentoring young people in Mississippi.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## SENATE—Monday, May 17, 2010

The Senate met at 2 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, we can't begin this day in the forward march of history without You. Without the power of Your providential leading, we are like ships without a sail. If You don't lead us, we are certain to stray from the right path.

Renew our Senators with help and strength, infusing them with a spirit of self-sacrifice and service. Whatever may come with this day, O Lord, help them to live with joyful appreciation of Your guidance and love. When they face situations that leave them puzzled, show them what they should do.

We pray in Your merciful Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD.)

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 17, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following any leader remarks and morning busi-

ness, the Senate will resume consideration of the Wall Street reform legislation. Today, the managers of the bill will continue to work toward an agreement to begin voting at 5:30 this afternoon in relation to several pending amendments. Senators will be notified when the votes are scheduled.

### WALL STREET REFORM

Mr. REID. Mr. President, we all know how Wall Street brought our economy to the brink of collapse nearly 2 years ago. Our financial system let traders gamble away other people's money with little risk and large reward. The system said to big bankers: If you win, enjoy your jackpot. If you lose, don't worry; taxpayers will bail you out. It is quite a rewarding deal for Wall Street but a pretty raw deal for everyone else. We have seen firsthand the dangers of that arrangement. When the bottom collapsed, 8 million Americans lost their jobs. The typical family lost \$100,000 in savings and home equity. The problem is that it is still the way the system works today, and every new day we don't act, we take the chance it will happen again.

The bill empowers consumers and holds Wall Street accountable to make sure history never repeats itself. Ours is a strong bill. The American people not only overwhelmingly support this legislation, it is legislation they loudly demand. But it won't do anyone any good until we send it to the President for his signature. If there is a strategy of delay involved in this—and I certainly hope there isn't—I have said before that as soon as tonight, we could file cloture and hold a final vote this week. This cannot be delayed any longer.

I appreciate the good work of so many Senators to make a tough Wall Street reform bill even tougher. I extend my appreciation to the Presiding Officer, who has been involved in a significant number of the amendments we have tried to work through. His experience in the business community has certainly strengthened the bill.

So far, the Senate has voted for amendments to strengthen the bill and has voted against efforts to weaken it. Democrats and Republicans have voted for each other's amendments. This is the way it should be. However, the end must come. The time has come to begin work sending this to conference so we can have a bill to go to the President.

The Senate has voted to reject loopholes for Wall Street lobbyists. We rejected an amendment that would leave

the door open for more taxpayer bailouts. We denied carve-outs for those who game the system for their own financial gain.

The message is clear: We must guarantee taxpayers that they will never again be asked to bail out big banks. We must protect families' life savings and seniors' pensions. We must ensure no bank can become too big to fail. And we must make sure the system is more transparent, which will let us rein in the risky bets before it is too late.

I remind all of my colleagues that the amendment process can continue after cloture is filed and after it is invoked. I hope the two managers of this bill, Chairman DODD and Ranking Member SHELBY, can continue working on amendments that will strengthen these urgent and overdue reforms.

Another reason we have to finish sooner rather than later is that we have such important work to do this month. At the top of that list is a new jobs bill—a jobs bill that will cut taxes for middle-class families and stimulate small businesses by giving small businesses tax cuts.

Also, we have two supplemental appropriations bills. Senator INOUE and Senator COCHRAN are going to combine those, as the two managers of that legislation, so that when they come to the floor, there will only be one supplemental appropriations bill. They will join the FEMA supplemental—because of all of the natural disasters around the country—with the war funding bill we also need to do. We have scores of nominees awaiting confirmation. We hope to be able to complete some of that before we leave here for the recess, so I hope both sides can find a way to work together to get these bills done.

I repeat: We need to finish the bill that is on the floor. We need to do the war funding appropriations bill that is going to be combined with FEMA, and of course we have to do the jobs bill before the first of the month.

### BP OIL SPILL

Mr. REID. Mr. President, Wall Street isn't the only place where a reckless pursuit of profits has proven destructive. In the weeks since the Deepwater Horizon explosion, as much as 20 million gallons have spewed into the Gulf of Mexico. To put that so it is more understandable, think of the Exxon Valdez. The Exxon Valdez was an awful spill, but it was only 11 million—I underline that, only 11 million—gallons. Already, the disaster in the gulf has

been twice that big as far as the amount of oil spilled.

Last night's edition of "60 Minutes" reported damning evidence that the roots of this tragedy are in British Petroleum executives' efforts to pad their own wallets. The program was very direct and to the point. Their greed led to 11 horrific and unnecessary deaths. It has harmed an enormous tourism industry, weakened business at countless fisheries, and disrupted life for many along the gulf coast. As the pollution grows worse, those consequences will only compound.

It is the responsibility of Congress and the administration to investigate this disaster, and it is the responsibility of British Petroleum and anyone else found culpable to pay the price of those damages. By law, oil companies are liable for only \$75 million in damages in instances such as these. This is clearly insufficient. One way Congress can act now is by raising that limit. Some believe it should be raised to \$10 billion. Others support no cap at all. I certainly think a \$10 billion cap is inadequate.

Whatever the final figure, the catastrophe that continues to poison our gulf coast is a wake-up call. We must make sure oil companies learn their lesson. While they spend record profits on finding more oil, they also must find safer ways to drill and to handle it. They must invest in rapidly developing clean domestic energy to protect our environment and increase our energy security.

Secretary Salazar and the President deserve credit for their continued efforts to clean up the previous administration's efforts to put oil company profits before people.

In the meantime, we and the Senate must also learn from the mistakes on Wall Street to the Gulf of Mexico. We have to work as quickly as possible to protect against it ever happening again.

I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### NOMINATION OF ELENA KAGAN

Mr. McCONNELL. Mr. President, the American people are concerned with the direction the administration is try-

ing to take this country. They are concerned about the government running banks, insurance companies, car companies, and the student loan business. And they are concerned about the way all this is being done as exemplified by the health care debate in which the administration and its allies in Congress defied the clear will of the people by jamming this partisan bill through Congress and stifling its critics along the way.

On this last point, I am referring, of course, to the gag order the administration imposed on insurance companies that wrote letters to seniors telling them how the health care bill could affect their benefits under Medicare Advantage. In issuing this gag order, the administration relied on the flimsiest of legal arguments. It said that regulations which allowed the Department of Health and Human Services to restrict how companies marketed their products could be used to impose a prior restraint on speech about an issue of public concern—namely, the pending health care bill. But the communications in question were not commercial speech; they were issue advocacy, which is the very type of speech the first amendment is intended to protect. That is why even the Clinton administration rejected the notion that its Department of Health and Human Services could restrict this kind of speech.

Nor was this the only time the Obama administration has attempted to use the government to stifle speech. Just 1 month prior to its issuance of this gag order, I had the opportunity to sit in the Supreme Court when the Solicitor General delivered her first oral argument in any courtroom. This was the Citizens United case, the same case that prompted the President to scold the Court during his State of the Union Address in January and a case that, if it had gone the other way, could have dealt a serious blow to the first amendment right of free speech.

For those who aren't familiar with the particulars of this case, Citizens United turned on the question of whether the Federal Government could ban a nonprofit corporation from producing a movie critical of former Senator Hillary Clinton and attempting to air it just prior to the 2008 Democratic primary.

Most people would probably be surprised to learn that in America, the Federal Government could ban a group from speaking because of who the group was and because of the type of speech being uttered, but that is precisely what Federal campaign finance law prohibited. So because this law constrained the exercise of its first amendment rights, this nonprofit, Citizens United, sued the government. The case made it all the way to the Supreme Court, and because the Federal Government was the defendant, the So-

licitor General's Office—Ms. Kagan's office—handled the case, arguing in favor of prohibiting the advertising and airing of the film.

There were two oral arguments in this case, and during both of them, Solicitor General Kagan's office and Ms. Kagan herself argued that the Federal Government had the power to regulate—and, if need be, to ban—large amounts of political speech. Indeed, the amount of power Ms. Kagan and her office argued the Federal Government had in this area was so broad—so broad—that both liberal and conservative Justices found their arguments jarring, given the reverence Americans of all ideological stripes have for the first amendment. But that was, in fact, their argument.

During the first argument, the Court asked Ms. Kagan's deputy whether the government had the power to ban books if they were published by a corporation, and if the books urged the reader to support or defeat a candidate for office. Incredibly, he said, yes, the government could ban a corporation from publishing a book—even if it only mentioned the candidate once in 500 pages.

Not surprisingly, this contention prompted quite a bit of discussion among the Justices. They wanted to be clear that that is actually what Ms. Kagan's office was proposing. So, to remove any doubt about their position, Ms. Kagan's deputy said he wanted to make it, in his words, "absolutely clear" that the government did, in fact, have the power to ban certain speakers from publishing books that criticized candidates. Justice Souter asked if that meant labor unions, too. Ms. Kagan's deputy said that indeed it did.

Well, so troubled was the Court by the contention of the Solicitor General's office that the government had a constitutionally defensible ability to ban certain books by certain speakers, that it ordered another argument in the case. This time, Ms. Kagan herself appeared on behalf of the government. And this time, it was Justice Ginsburg who noted that at the first argument, Ms. Kagan's office argued that the Federal Government could, in fact, ban books, such as "campaign biographies," despite the protections of the first amendment.

Justice Ginsburg asked whether that was still the government's position. Ms. Kagan responded that after seeing the reaction of the Supreme Court to her office's argument, they had rethought their position. Ms. Kagan maintained that while the Federal law in question did apply to materials like "full-length books," someone probably would have a good first amendment challenge to it.

So far so good.

But her fall-back position was that the same law gives the government the



power to ban pamphlets, regardless of the first amendment's protection for free speech. This caused the Justices to bristle again. One Justice asked where, in Ms. Kagan's world, does one "draw the line"?

First, her office says it is OK for the government to ban books if it doesn't like the speaker; then it says it is OK to ban pamphlets if the government doesn't like the pamphleteer—a proposition that would come as a shock to the Founders, who disseminated quite a few pamphlets criticizing the government of their day.

Not surprisingly, Ms. Kagan lost the case—and in my view, it is good that she did.

Now, I asked Ms. Kagan about her position in this case last week when we met in my office. She said she made the arguments she did because she had to defend the statute. And I understand that her office has to defend Federal law. But the client doesn't choose the argument, the lawyer does. And the argument Ms. Kagan and her office chose was that the Federal Government has the power to ban books and pamphlets. That was the position of the Solicitor General and her office.

Not only was this argument troubling to those who cherish free speech, it likely contributed to the government's defeat. But my concerns about Ms. Kagan's position in this case extend farther than the arguments she and her office made, however troubling they are.

Shortly after she and I met, the press reported that she had cowritten a memo on campaign finance restrictions when she was in the Clinton administration. In it, she says that "unfortunately" the Constitution stands in the way of many restrictions on spending on political speech, and she believes that the Supreme Court's precedents establishing protections from the government in this area are "mistaken in many cases."

And just last Thursday, she told one of our colleagues that the Court was wrong in *Citizens United* because it should have deferred more to Congress. But deferred to Congress on what? Deferred to Congress on a statute that is so broad that it encompasses "full length books" and "pamphlets," as Ms. Kagan put it, and probably to a host of other materials as well? One can only assume that since Ms. Kagan was making these comments in her individual capacity, they provide a more complete picture of her views about the government's ability to restrict political speech.

No politician likes to be criticized in books, pamphlets, movies, billboards, or anywhere else, Mr. President, whether it is a President or a Senator.

But there is a far more important principle at stake here than the convenience and comfort of public officials. And that principle is this: in our

country, the power of government is not so broad that it can ban books, pamphlets, and movies just because it doesn't like the speaker and doesn't like the speech. No government should have that much deference.

The administration has nominated one of its own to a lifetime position on the country's highest court. We need to be convinced that Ms. Kagan is committed to the principle that the first amendment is not, as she put it, just some "unfortunate," impediment to the government's power to regulate. It applies to groups for whom Ms. Kagan and the administration might not have empathy. And it applies to speech they might not like.

So as this process continues, I look forward to learning more about Ms. Kagan's record and beliefs in area.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Arizona.

#### NOMINATION OF ELENA KAGAN

Mr. KYL. Mr. President I, too, would like to address the Supreme Court nominee. I associate myself fully with the remarks of Senator MCCONNELL, which raise an important point for us to consider. I will correct the record in a couple of situations because I think, as the debate unfolds, it is important for us to base our decisions on the same set of facts. These are not going to be particularly newsmaking or big surprises, but I think the record should be corrected.

I know our majority leader, for example, misspoke the other day in commenting about Justice Sandra Day O'Connor because there is some similarity—she being the first woman ever appointed to the Supreme Court. I wanted to make sure the record reflected the actual situation with respect to Justice O'Connor.

Leader REID, I totally agreed with when he described her as "one of my favorite Court Justices." He said it is "not because she is a Republican but because she was a good judge." I subscribe to that as well.

He said:

She had run for public office. She served in the legislature in Arizona. That is why she could identify with many problems created by us legislators, and she could work her way through that.

For the record, I wanted to indicate her experience on the bench as a judge, since it is not the case that she did not have prior judicial experience when nominated to the Supreme Court. She was actually appointed to the bench by our Democratic Governor at the time, Bruce Babbitt. She was on the court of appeals and on the superior court bench before that. She served on the Maricopa County Superior Court bench from 1975 to 1979, and in 1979 Governor Babbitt appointed her to serve on the Arizona Court of Appeals. So she had extensive experience, from 1975 through 1981, as a judge, including in an appellate capacity.

Prior to that time, as Leader REID noted, she served in the Arizona State Legislature. In fact, she was the majority leader. She had an extensive legal career before that. She was a deputy county attorney. She was a civilian attorney. She was in the private practice of law. She was an assistant attorney general. Therefore, she had a very varied and rich experience both as a lawyer practicing law in regular situations in both criminal and civil context, as well as a trial court judge, which is great experience, I believe, and as an appellate court judge.

In many respects, it is almost a perfect resume for someone to demonstrate broad experience and who could understand what cases are all about when they come from Main Street, as opposed to some of the more high-profile cases that tend to come before the U.S. Supreme Court. By every measure, I think anybody would agree that her tenure on the Supreme Court reflected those values and the experience that she had when she came to the Court.

As I said, I know the majority leader simply misspoke when he suggested that she didn't have judicial experience. I did think it important to make that point.

Second point: There was a statement made on TV yesterday by some folks who were comparing Elena Kagan and Chief Justice John Roberts; in effect, that John Roberts only had 2 years on the appellate court, so they are pretty similar. In two respects that is not correct.

First, spending a couple a years on the court of appeals for the circuit court is extensive and important experience. It at least gave us an idea of how he approached judging. I think almost everybody in the Senate who voted on his confirmation understood that whatever his personal views were, he could clearly leave them behind and decide cases, as he referred to it, "like an umpire calls the balls and strikes." That is one of the reasons he was overwhelmingly confirmed.

I also recall that Justice Roberts' prior legal experience represented numerous arguments before the courts of appeals and the U.S. Supreme Court.

At the time of his confirmation, he had probably had more U.S. Supreme Court arguments than any other lawyer. So this was a lawyer experienced in appellate work and U.S. Supreme Court work.

In contrast—and this is not to take away from Ms. Kagan—the truth is, I don't think she ever tried a case or argued a case to an appellate court. She certainly hadn't argued before the Supreme Court until about 6 months ago in her capacity as Solicitor General. She has other positions in her background. She has been a law school teacher and a dean of a law school. But I submit that is hardly comparable to the litigation experience and, particularly, the appellate experience John Roberts had.

All I am suggesting is, when we make these comparisons to other people, we need to be accurate about it. It is taking away nothing from Elena Kagan, but she did not have the experience of Sandra Day O'Connor or John Roberts. That is something we have to deal with—something lacking in her record.

One other thing—and this is personal to me because my views were mischaracterized. I hope this will be seen as a favorable comment toward Elena Kagan. It was reported today by Al Hunt that I thought Elena Kagan was too young for the Supreme Court. No, I don't, and I never said that. He was wrong when he reported that.

I said she was relatively young for an appointment to the Supreme Court, and that is true. At this point, I think she is 49. She would be 50 if she is confirmed. That is a fine age to be on the U.S. Supreme Court. My point was, that means, assuming her health is good—and I believe it is—she could have many decades on the Court. That is all the more reason it is important that we know her approach to judging.

My only question about her judging has been whether she would leave her personal views behind as she approaches the decisions in cases that present two conflicting sides in adjudicating their dispute before the Court. It is not hard, when somebody has been an appellate court judge for years, to see how they approach judging and whether they can leave any of their personal views behind them.

Most judges can, and that is a great thing about our system. Occasionally, we find a judge who has a particular conservative or liberal bent, and it is pretty clear they have a hard time leaving their political views behind and that they tend to want to figure out how they would like a case to come out and then rationalize a way for it to come out that way. Any good lawyer or judge can probably find an argument to support a position. But that is not the way judging should occur.

My concern expressed about Elena Kagan is that there are a couple of things in her background that suggest

that she might have a hard time leaving her political views behind and approaching cases, as Chief Justice Roberts said, as “an umpire would call balls and strikes in a game.”

Remember, he was asked whether he would favor the little guy in a dispute or the big guy. He said if the law was on the little guy's side, he would favor the little guy but, if the law was on the big guy's side, he would favor the big guy.

Why is that important? We all know Lady Justice has on a blindfold, and there is a reason for that. The oath of office of a judge and our tradition in this country is for a judge to approach a case not based on how he wants that case to come out in his heart of hearts, not how he would write the law if he were a legislator but, rather, how he has to apply the law to the facts of that particular case.

Occasionally, a court will even say we do not necessarily like the way this case has to come out, and we invite the legislature to change the law. In fact, the Supreme Court did that in a bill which I sponsored recently. I regretted the way the case came out. I do not think the Court had to rule the way it did. But eight of the nine Justices believed that Congress had gone too far in prohibiting a certain kind of filmmaking activity called crush videos where usually a woman with high-heeled shoes is shown crushing a small animal to death.

That did not seem to me to be free speech, and it is something Congress could prohibit. But the Supreme Court disagreed. Eight of the nine Justices said: No, even though we do not necessarily like the way this case came out because we abhor that kind of thing, it is our view that the first amendment has to allow that kind of “speech.”

Again, I disagree that it is speech, but I admire the Justices, both liberal and conservative, who decided they have to apply the law even though the result was not something they liked, and they invited the Congress to fix the law, giving us a little bit of instruction as to how we can do that.

I am working with colleagues in the House of Representatives to restructure the law so we can pass it again, overwhelmingly I am sure, and this time get it right within the first amendment because I do not, obviously, want to violate the first amendment.

The point here is that Justices can rule in ways that force them to make a decision even though they do not like the way the case comes out. Then the legislature, if it involves a law we have passed, can fix it. That is the way our system is supposed to work. Rather than—and I much prefer that even though, in effect, I lost the case. I would much rather that than the Justices say: We think these crush videos

are terrible, and even though the first amendment probably protects it, we are going to try to craft an argument where we can declare this law valid because from a public policy standpoint, we think that is a better result. I am pleased they ruled against my bill by saying: No, we cannot do that. We have to adhere to the law, as we read it.

What I am going to be looking for in Elena Kagan is a judge who, despite her political views—and she has been candid about what they are and others have been candid as to what they are. One of her Harvard colleagues said her heart beats on the left. OK, I do not expect President Obama to appoint somebody whose heart beats on the right as mine does. He is going to appoint someone with his more liberal political views, and that is fine.

The question is: Can she then approach cases the same way the judges did in the Supreme Court case I just described where even though they did not like the result, they felt they had to rule that way in order to remain consistent with their view of the first amendment.

There have been a couple of things in which her personal view clearly affected her judgment as, in this case, the dean of the Harvard Law School. The one case everybody is familiar with is she disagreed with the congressional policy on don't ask, don't tell. But instead of having a policy that said President Clinton, who signed the bill, was unwelcome on the Harvard campus or the Senators and Representatives who had passed the bill—by the way, it was a Democratic House and Senate—that they were not welcome on the campus, she wrote at the time extensively that this was a discriminatory policy of the military and that, therefore, the military would not be allowed on campus to recruit, as were all other businesses.

Eventually, she had to change her position because the Solomon amendment said the university would not get any Federal funding, and they got about 15 percent of their funding from the Federal Government. They finally, after about a year, went back to the policy of allowing military recruiters on campus.

In my view, she not only mischaracterized the situation by calling it the military's discriminatory policy, when the military is obviously simply following the orders of their Commander in Chief, President Clinton, and the law passed by the Congress, but also she discriminated by not criticizing or denying entry onto the campus the people who had passed and signed the law into effect but instead discriminated against the military who at the time was fighting a war. That represents a misjudgment on her part based on, obviously, her personal convictions. It interfered with the job she was supposed to be doing at the time.

Would she apply that same kind of rationale when she sits on the U.S. Supreme Court? She obviously has strong personal views about this issue. How will she apply those personal views in cases of, let's say, "the don't ask, don't tell" policy that may come before her or some other policy that she believed discriminated against gays or homosexuals. She will have to somehow find a way to demonstrate to us that she will not allow those personal convictions to color her judgment on the Court. It might be kind of hard, given it did color our judgment in this previous situation.

More recently, she wrote to Members of the Senate deeply critical of a bill Senator LINDSEY GRAHAM and I had introduced and was eventually passed by the Senate and signed into law that provided a mechanism for dealing with the terrorists at Guantanamo Bay. We defined "military combatants" in this legislation. We provided for a determination of their status, for a review of that determination of status, by a direct appeal to the District of Columbia Circuit Court of Appeals.

Nothing like that had ever been done, where after determination of status as an enemy combatant, those people would be able to go directly to a Federal court—and not just any Federal court, the DC Circuit Court of Appeals, which is one step below the Supreme Court—to have that determination reviewed. That was not sufficient for her. She said: No, this was discriminatory; that they had to have a right to appeal to other Federal courts any sentencing or determination of guilt, if they stood trial in military commissions. That has never been the law. The Supreme Court has never said that is the law. Yet she compared what we did in that bill to the discriminatory and unlawful actions of a dictator.

I do not like to be called or compared to a dictator, and I can assure my colleagues LINDSEY GRAHAM, my colleague who was primarily responsible for drafting that legislation, very much had in mind the best way to deal with this situation from a legal standpoint, as well as to protect American citizens. He was not trying to enact policies similar to dictators'.

In addition to the language being quite injudicious, it seems to me it raises questions about whether if these kinds of questions were posed to her in the future she could lay aside what are obviously her strong personal convictions about this issue.

There are bound to be cases involving enemy combatants and others in this war on terror that will continue to come to the U.S. Supreme Court. Will she recuse herself from these cases because she has expressed strong personal views? That would seem to me to be appropriate, unless she could somehow demonstrate she can put all that behind her and decide these cases strictly

on the law, irrespective of her personal prejudices.

I hope I am not perceived by these comments to have made a judgment about Elena Kagan. When I voted for her confirmation as Solicitor General, I said I thought she was well educated, very intelligent, very personable, and I wanted her to have a chance to do the job as Solicitor General. I had hoped she would remain in the position for a little bit longer than a year before being nominated for a position as prestigious as the U.S. Supreme Court. Nonetheless, I am firmly committed to examining her record as thoroughly as possible and then making a judgment based on that entire record.

Despite the fact I have raised two questions, I do not want that to be suggestive of any conclusion I have reached because I have not reached a conclusion. In fact, I am a little bit critical of my colleagues who have immediately reached a conclusion without even examining the record. There is something like 160,000 pages of documents in the Clinton Library relative to her record as a policy adviser in the Clinton White House. Obviously, some of her views will be reflected in those documents and I think it is important to see what they say.

It may well be that she represents a very tempered thought that is pragmatic and not overly ideological and which appears to suggest that in the position she held, she could lay aside her personal views and give good advice. It is quite possible that is what those records will reflect. It may also reflect something different.

Until I have the benefit of reviewing those documents and then talking with her personally and hearing her testify, it seems to me a bit premature to be making a judgment about whether she should be confirmed.

Again, I wanted the opportunity to reassure all of my colleagues that Sandra Day O'Connor, the first woman appointed to the Supreme Court, did, indeed, have a good judicial experience on the bench prior to her nomination. That is not an absolute requirement, in my view, because her colleague from Arizona on the Court for a while, Chief Justice Rehnquist, had not had judicial experience. Every other nominee in the last 40 years has. He had not. Nonetheless, he had extensive experience of over 20 years in law practice, both in the private law practice as well as the Department of Justice. So he, too, had a very long record from which one could judge whether his personal views could be set aside in judging cases.

That, at the end of the day, is the test that should apply to all nominees, should apply to Elena Kagan. I am sure my colleagues and I will have ample time to review the report, reflect on it, discuss it with her, and then come to our judgments as to whether she satisfies that judgment.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### GLOBAL WARMING

Mr. INHOFE. Mr. President, I ask unanimous consent to speak in morning business for such time as I may consume.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, if you have been watching the global warming debate lately, you will notice the supporters of cap and trade are getting kind of nervous. They realize the political environment for cap and trade couldn't be more favorable—they have a majority of liberals in the Senate, a majority of liberals in the House, and liberals in the White House. But they also realize time is running out. The November elections are looming, and there are a lot of people coming up for reelection who don't want to go back to the electorate and say: Look at me; aren't you proud; I voted for the largest tax increase in American history.

As Senator KERRY put it, this is the last call to pass the bill, and that is exactly what Senator KERRY is trying to do. But he will not get 60 votes. He will not get the support of the Democrats in the heartland, and he will not convince the American public they need this tax increase. I say this with confidence because the bill Senator KERRY introduced last week with Senator LIEBERMAN is the same old cap-and-trade scheme the Senate rejected in the McCain-Lieberman bill in 2003, the McCain-Lieberman bill in 2005, the Warner-Lieberman bill in 2008, and the Waxman-Markey bill in 2009. Let us keep in mind that cap and trade is cap and trade, and that is a very large tax increase.

Don't forget that the Senate support for cap and trade over that time has actually dropped. If you take it from 2003 to the present time, in 2003, they got 43 votes; in 2005, they got 38 votes; and in 2008, they got 48 votes. But you have to keep in mind that 10 of those were for a procedural vote and they said they wouldn't vote for it, so it went down to 38 votes at that time. So that is a far cry from the 60 that will be necessary.

The Kerry-Lieberman bill is not going to pass. However, those who still believe in the anthropogenic catastrophic warming—which I don't, but even if you did believe it—should keep in mind that this wouldn't solve the

problem. What I am saying is this: There are a lot of people around—not nearly as many as 5 or 10 years ago—who believe that anthropogenic gases—CO<sub>2</sub>, methane, carbon dioxide—are causing catastrophic global warming.

They are still here. They still believe that. But even if you believed it, passing this bill would not help the situation because in this bill, all it applies to is the United States of America. We could go ahead and restrict all the CO<sub>2</sub> we want to in the United States, it is not going to lower it at all.

I have a lot of respect for the new—not too new, now she has been here for a while—EPA Administrator, Lisa Jackson. I appreciate her honesty. I asked her the question back when we had the Waxman-Markey bill before the U.S. Senate Committee on Environment and Public Works, I said to the Administrator: In the event we were to pass any of these cap-and-trade bills in the United States, would it have the effect of lowering the CO<sub>2</sub> worldwide?

She said no, it wouldn't. In fact—she showed a chart. I should have it with me down here right now. She said it would not because this only applies to the United States.

I contend it would actually increase world emissions. The reason I say that is if we were to unilaterally do this, restrict our ability to build power in America, then our jobs would have to go to countries where the power is. Consequently, they would go to countries such as Mexico, China, and India, places where they do not have any meaningful restrictions on CO<sub>2</sub>. That would have the effect of increasing it, not decreasing it.

I have a lot of respect for Lisa Jackson. I kind of abused her time during this oilspill. I called her many times. I know she is right on top of things and is doing a very good job.

Here we go again. Look closely at the Kerry-Lieberman bill. I am sure you have seen it before. It is the Waxman-Markey bill. You remember that. It passed in the middle of the night in the House of Representatives. We all remember that, passing by 219 to 212. Every kind of deal in the world was made and nobody knew it except the vote finally took place and they eked it out. Democrats, 44 of them, voted no because they knew the cost of the bill. The Waxman-Markey bill, according to the National Black Chamber of Commerce, would lead to a net reduction of 3.6 million jobs, raise electricity rates by 48 percent, and disproportionately affect the West, Midwest, South, and Great Plains, which rely heavily on fossil fuels.

The word about Waxman-Markey spread across the country and the American people were listening. Citizens at townhall meetings expressed their outrage. They said no to a bill that would give big government con-

trol over how we use electricity and how we live every day of our lives. That is what the public would get with Kerry-Lieberman.

They also get a gas tax or linked fee. This is Washington jargon for a thing like gas tax: they don't call it a gas tax, they call it a linked fee for transportation fuels. From what I understand, this linked fee is being pushed by a select group of big oil companies. That is right, oil companies. I said some time ago the only way they can somehow pass any kind of cap and trade is to somehow divide and conquer. In other words, go to some of the oil companies, gas companies, coal companies, nuclear companies, and tell them we are going to pick winners and losers, but guess what. You are a winner. We will pick you and everything is going to be wonderful. The public needs to know a lot of big oil companies are involved. They are pushing a tax they know will be paid for by consumers, the same consumers suffering from an economy with 10 percent unemployment. I will make myself clear: I stand with the consumers, and by that I mean farmers, families, truckers, businesses large and small in rural Oklahoma, who drive long distances. They don't need this tax increase now or ever.

It is a sad thing that we have to use those tactics. Then it is even not all that smart, when you stop and think that has not worked before. They tried the same thing, to divide and conquer, before. In this case they brought in some of the refiners and said if you will join with us, this will be fine with you. You have to raise your rates, but then you can pass that on to the consumers. Then we pass a gas tax increase and those consumers will be hit twice, but you will be all right.

That is not the way it works. The other provision is crafted and select business groups. Do they think a bill on cap and trade is good for the economy, good for your members? I don't think so.

Don't forget what happened with Waxman-Markey; some utilities thought they had a deal. When the language was actually drafted, the deal made WAXMAN and MARKEY happy but not the utilities.

This is interesting, because they had the great unveiling that took place last week but didn't have the bill language. It had an outline of some things but not the exact bill language. That is exactly what they tried to do with Waxman-Markey. This time we will insist on seeing the actual language.

I remind my colleagues of a pattern here. We had the Waxman-Markey vote under the cover of night. We had the "Cornhusker" kickback, with the Senate health care bill. Now we have secret meetings with stakeholders and CEOs. There is a sense that what they are doing has little support with the

American people. They are hiding and obscuring and evading.

I suppose I can't blame them. Remember the August recess of last year? That was the beginning of what we call the tea party movement. This was interesting because this all happened during the August recess when those of us in the House and Senate were back in our States. The people of the tea party movement were objecting to four things. There are four things they are complaining about.

No. 1 was the runaway cost of government, the increased deficits. Let's stop and think about it. In the first year of the Obama administration the deficits increased by \$1.4 trillion. That is what happened the first year. That was after the tea parties, the August recess of 2009.

The second issue then was not to have a government-run health care system. We temporarily lost that. There will be some changes in the Senate and House after the November elections. A lot of that can be corrected. Nonetheless, those are the first two issues of the tea partiers who are out there today. These are people who have not identified with any party but they want to save America from this socialist trend we have right now.

The third issue was complaining about the closing of Guantanamo Bay or Gitmo. I look at this and I wonder, we have a President with an obsession to close Gitmo, a place where we have been able to put people who do not fit into a prison system since 1903. It is one of the best deals the government has. I think we only pay a lease of \$4,000 a year. It is just like it was in 1903. Here is a place where you can put terrorists, the terrorists who are the detainees. These people are not criminals in the sense of our criminal code. These are terrorists. They don't fit in our court system. There is not an American out there who has not heard about what they are doing with the constitutional rights and Miranda rights and all that. That does not apply in these cases. It should not apply in these cases. But this President has wanted to bring these terrorists—close GITMO, with no place else to put them—bring them back to the United States for either trial or incarceration.

At the beginning the President had identified some 17 institutions in America where you could put these terrorists. One happened to be in my State of Oklahoma. It was Fort Sill. Fort Sill has a great artillery installation there and they do have a small prison. I went down after he had made these suggestions of putting terrorists throughout the United States and I talked to—there is a Sergeant Major Carter down there in charge of that prison. She said go back and tell those people in Washington keep GITMO open. She happened to have had two tours of duty in Gitmo. She said that is

state of the art. People are treated well; they don't torture anyone; it is the only safe place to keep terrorists; they have a courthouse they can use for tribunals that cannot be found anywhere else in the United States.

The third issue of these tea parties was to reject the idea that we should close Gitmo and bring these terrorists to the United States.

That comes to the fourth one, the one of our discussion today, and that is the fact that they were protesting cap and trade. Cap and trade is a tax increase. A lot of people say if you want to reduce CO<sub>2</sub> emissions, why don't you put a tax on CO<sub>2</sub> emissions? Some of the strongest supporters of the global warming concept are the ones who say let's have a tax on CO<sub>2</sub>. Do you know why they don't? They don't have it because that way, people know what it costs, and they will reject it.

If you have cap and trade, that is a way you can pick winners and losers and convince everyone he or she is going to be a winner. So one of the things they were protesting during the August recess of 2009 was this thing that would result in being the largest tax increase in the history of the country.

I have often said the most egregious vote in this Senate's history, up to that time, up to October 1, 2008, was the \$700 billion bailout. That led to the AIG bailout and the Chrysler bailout and the General Motors bailout. All of that took place and that was on October 1, 2008; \$700 billion to have an unelected bureaucrat to do whatever he wanted without any constraints. As bad as that is, a cap-and-trade bill would end up—at least \$700 billion, that is a one-shot deal. With the cap and trade it is every year.

I know it is difficult for people in America when you start talking about billions and trillions of dollars, so I always do my math in relation to the State of Oklahoma. In Oklahoma, I take the number of families who file a tax return and do the math. For example, the \$700 billion came out that would cost each taxpaying family in Oklahoma about \$5,000 for that. A cap-and-trade tax—they have actually done some calculations, the Wharton School of Economics, MIT, CRA, and other groups. The range is always between \$300 and \$400 billion, but that is every year. That would cost my people in Oklahoma, according to the calculations of CRA, a little bit over \$3,100 a year and you don't get anything for it.

The opposition has only grown stronger and more intense. Thus, the back-room dealing and secret deals to get 60 votes are not going to work.

I should note, if Kerry-Lieberman were successful in passing, which it will not be, but if it were, it would go to conference—that is the way things are worked here—with the Waxman-Markey bill. If this bill passed the

House, that would go to conference, and if this goes to conference that means that Waxman-Markey lives.

We all remember what it did, the Waxman-Markey bill. The authors of that bill, as well as Senators KERRY and LIEBERMAN, have argued that we need one standard, one framework to regulate greenhouse gases. However, the problem is in addition to imposing what would be the largest tax increase in history, these bills do not preempt other laws now being used to regulate greenhouse gases and drive up costs for industries. This would mean there would be multiple standards, multiple regulations, creating more confusion, more bureaucracy and, of course, more taxes.

But we still have a liberal press that is in denial, the same as some of the Senators who are promoting this. I picked up USA Today last Friday on my way back to Oklahoma and I think on page 3 at the top was this article talking about how the lizards are going to become extinct as a result of global warming. They don't say "alleged global warming," they just say it is global warming. So a lot of people, even though they realize the truth of this, because the truth has come out with climate change and all that stuff, they keep reading this over and over so they assume it is true.

Today I should have been speaking in Chicago, at the Heartland Institute's climate conference, but because we had votes this afternoon I was not able to do it. I didn't want to miss these votes. I thank my former staffer Marc Morano, who will be speaking at the event, for his efforts at exposing global warming alarmism. At the Heartland Institute, it is my understanding, is the Fourth International Conference on Climate Change. It will be held in Chicago today, held as we speak. The theme of the ICC-4 will be "Reconsidering the Science and Economics."

New scientific discoveries are casting doubt on how much of the warming of the twentieth century was natural and how much was manmade, and governments around the world are beginning to confront the astronomical cost of reducing emissions. Economists, meanwhile—

I am reading now from their statement—

are calculating that the cost of slowing or stopping global warming exceeds the social benefits.

The purpose of the ICC-4 is the same as it was for the first three events, to build momentum and public awareness of the global warming "realism" movement, a network of scientists, economists, policymakers and concerned citizens who believe sound science and economics, rather than exaggeration and hype, ought to determine what actions, if any, are taken to address the problem of climate change.

They do not all agree on the causes and the extent, but it is kind of interesting because one of the attendees there came out—I just read this. I have

it in front of me now. It is a geologist who is a very prominent U.S. geologist—urging the world to forget about global warming because global cooling has already begun.

Dr. Don Easterbrook's warning came in the form of a new scientific paper he presented to the fourth International Conference on Climate Change in Chicago . . .

That is today. Dr. Easterbrook is an emeritus professor at Western Washington University, who has authored 8 books and 150 journal publications. His full resume is here.

So today the event is taking place. On his Web site, [climatedepot.com](http://climatedepot.com), we highlight some of the details.

Over the next several weeks, I will be speaking on the EPA's so-called tailoring rule because this all goes back to the Clean Air Act and the Clear Air Amendments. What it says is, they are going to change that, since that belongs to—that would cover almost every church, every small business, everything in America, to only cover the great big giants.

It is not going to work. Everyone is going to be in on this deal. That would not be constitutional. I think everyone knows it. Along with the tailoring rule, I will continue to point out that the endangerment finding is based on IPCC's flawed science.

By the way, the IPCC is the Intergovernmental Panel on Climate Change. It is a part of the United Nations. They are the ones that started this whole thing back in 1988. The problem we have with that is they had an agenda when they started. I can recall, over the years, scientists coming to me and I would stand at this podium and I would make truthful statements about how the science is being fixed.

I have one, if anyone doubts my sincerity when I say this, it is on my Web site. You can look it up. Five years ago, I talked about how the top scientists in America were coming to me and saying: Look, they will not allow people who disagree with their hypothesis, who disagree with their opinions, to even be part of the IPCC.

Well, I was vindicated last December when the Climategate thing came out, and all these people who had been sending stuff in, they uncovered some memos going back and forth on how they were going to try and make people believe that actually anthropogenic gases cause global warming. Anyway, that came at a very appropriate time. I think the people are aware of what is happening.

Let me make one last comment about this endangerment finding. We have tried—not "we" but those who are promoting the idea of the anthropogenic gases cause global warming, they have been trying to introduce the bills to have a cap-and-trade system for the United States. They have been doing this now about for about 9 years. It has not worked.

So President Obama has stated: All right, if the House and the Senate are not going to vote to do this, we will do it administratively. All we have to do is have an endangerment finding, which we could influence, and once the endangerment finding is there, then that would include, with the real pollutants, SO<sub>x</sub>, NO<sub>x</sub>, and mercury, CO<sub>2</sub>. If they do that, then they can start regulating CO<sub>2</sub>.

Well, it is not quite that easy. Lisa Jackson, I have already said some nice things about her, and I appreciated her honesty in response to this question. Right before Copenhagen, I suspected that the Obama administration was going to have an endangerment finding. When they did, I knew it had to be based on science, so I asked her: What science would this, by and large, be based on, if you have the endangerment finding.

She said the IPCC. Well, wait a minute. That is the same science that, through Climategate, has been totally rebuffed and no longer is legitimate, either in reality or in the eyes of the American people and people around the world.

So while I am concerned obviously that we should try to do something such as this through an endangerment finding, do administratively what he is unable to do through the House and Senate, that is not going to work. So I would only say, I know all the Tea Party people are still out there. Keep in mind, you lost your fight with the government-run health care, you lost your fight with the huge deficit, and so far we have not lost on the closing of Gitmo. I think we will be able to keep it open. But the one issue that is up for grabs right now is this endangerment finding.

Let's keep reminding all the people whom you meet with prior to the elections of November, and particularly during the upcoming August recess, that a cap-and-trade system would end up being the largest tax increase in the history of America and it would happen every year and it would not accomplish anything.

I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENZI. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I ask unanimous consent to be able to speak as in morning business but on an amendment that I will bring up later on the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

# FINANCIAL REGULATORY REFORM

Mr. ENZI. Mr. President, I have had some concerns over the consumer protection part of the financial reform bill, mostly because I do not think there are very many limitations on it. Particularly in the area of personal privacy, I have some major concerns. So I have developed an amendment that I think will solve that. It is the kind of amendment I have often seen brought up by both sides of the aisle to make sure no agency is going through your personal finances without your permission or any other thing that is personal.

So if you think full-body scans at the airport security is bad, they do pale in comparison to the consumer protection provisions in the financial regulatory bill we are debating. Even if you are okay with the heightened airport security measures, will you be OK with a full scan of your financial records?

If left alone, this bill will set up a Federal bureaucracy that will be able to comb through the personal financial records of millions of Americans in the name of protecting consumers.

Also, in the name of protecting us from ourselves, this bill would require banks to keep and maintain records of all bank account activity and financial activity of their clients for at least 3 years, while also requiring this information to be sent regularly to the bureau for safekeeping.

I have serious concerns about our government collecting information on the daily activities of its citizens and equal concerns about the government approving or disapproving the financial choices of its citizens. For those who agree with me, and even those who disagree with me on the consequences or meaning of the language in this bill, I have a straightforward and easy solution.

My amendment, 4018, simply says that if the new bureau created in this bill wants to investigate a consumer's individual transactions, then the bureau must get written permission from that individual. All this means is that the bureau cannot investigate someone's banking activities or credit card purchases without that person's permission.

The bill is simply that. This is one page going into thousands of pages. It says:

Notwithstanding any other provision of this Act, any provision of the enumerated consumer laws or any provision of Federal law, the Bureau may not investigate an individual transaction to which a consumer is a party without the written permission of that consumer.

It is pretty straightforward. It makes sure they aren't going to investigate a consumer's individual transactions without written permission from that individual, and they can't investigate someone's banking activities or their credit card purchases without that person's permission.

My amendment would also make it so that the government can't watch over my financial transactions without my saying so or without you saying so on yours. My amendment gives consumers a choice. I don't think the bureau should be allowed to look over my credit card statement to see if I am spending too much money. I don't think the bureau should be allowed to monitor my purchases and note that I bought a new car, a new boat, or a gun.

I recognize there are consumers out there who may want the government in their lives, monitoring their transactions. I don't claim to understand that desire. But my amendment would not take away their choice in the matter. In fact, as a consumer, if I get into credit card trouble and want the bureau's help, all I have to do is contact the bureau and give them permission to look at my financial documents. My amendment would also give consumers that ability. As long as the bureau has my written permission as a consumer, they can look at my financial past, present, and future.

Our State offices have that kind of a procedure when they do case work for individuals. Our State offices have a process where they will look into problems that an individual is having with the Federal Government. But in order to do that, they have to get a signed privacy release. That is so we can't just be looking into constituents' problems that we think might be a problem for them without their knowledge or their permission. That is all I am doing with this government bureau, is making sure the consumer knows that bureau will be going through their records with their permission.

In reality, this bill encourages consumers to rely on the government to protect them from bad decisions instead of empowering due diligence. The role of the Federal Government should not be to stand over our shoulders telling us if our decisions are right or good. I was here on the Senate floor just a few short days ago saying that you and I have the inherent freedom to make choices, even the freedom to make bad choices. In America, that is the way it works. Big Brother is not allowed to hang over your shoulder to decide whether you are making a poor decision.

Because of this bill and the actions of the current administration, people are more concerned about their freedoms right now than they ever have been, and this underlying bill—specifically title X, with its ironic name, “consumer protection”—would take away those freedoms without this amendment.

The Consumer Financial Protection Bureau created through this bill would suddenly become the most powerful agency within the Federal Government. By placing this bureau within the Federal Reserve, Congress's last



ability to oversee this agency would be when the director of the bureau is nominated by the President and the Senate gets to vet that candidate. That is it. Congress would have no oversight of the bureau's budget. Congress would have no oversight of the rules created by the bureau either.

By the way, this bureau would not only have the authority to create its own rules for banks and consumers to follow, it would have the authority to enforce those rules as well. No other agency has that kind of unchecked power. Let me tell my colleagues, unchecked power does not lend itself to accountability.

Why am I so concerned about this supposed consumer protection bureau? I am concerned about our freedoms. I know the Federal Government should not operate with the belief that it always knows best. Protecting consumers doesn't always mean naming advocates to work on their behalf. It also means allowing them the freedom and power to advocate for themselves.

I mentioned this earlier, but I want to illustrate an example of why I am concerned about this bureau's unchecked power and why every citizen in the country should be up in arms, beating down the doors of Congress to keep big government powers from getting even bigger in their lives. The example I am about to give would be small compared to the powers of this proposed bureau.

Let me tell my colleagues, this is not a small issue to the public. Not too long ago, the Transportation Security Administration, TSA, announced its intention to put full body scanning into major airports. Let me remind my colleagues, this was not even in every major airport, only a few. Many may not have seen one of these scanning machines. Travelers go into a three-sided piece of equipment fully clothed, and the machine essentially creates an x-ray-like scan of the traveler. The resulting image from the scan can be used to determine whether someone is carrying an explosive, has objects hidden under their clothing, or merely had a joint replaced. This new step in security was all done in the name of protecting citizens from terrorists. This new measure was for our physical safety.

I have heard from hundreds of Wyoming citizens and from hundreds of citizens across the country desperate not to have the government intrude into their lives even in the name of physical safety from terrorism. There was such a rush of emotion from these folks, anger at the inconvenience and intrusion, nervousness and anxiety that the government would be able to image them for 30 seconds or the possibility that the government could keep the scanned image in a file. I even had some of the more middle-of-the-road folks tell me they just wanted a choice

of whether to have the full body scan or simply an in-person screening. That is what is done over most of the country.

My point with this story is that with TSA screening, we are talking about a single image of a person as they travel through the Nation's airports. What the bureau of consumer protection proposes to do in the name of financial security is not just a snapshot of us during a single day of travel. What the bureau proposes to do is scrutinize the transactions of our daily lives, our spending habits, monitor our financial decisions as we plan for retirement, as we plan and spend for our families, and, as consumers, as we make choices on loans for education, vehicles, homes, and any other expenses. This isn't a single step encroaching on privacy like a body scan image. What the bureau proposes to do skips over the privacy boundary. It is not a single scan; it is a life audit.

This bureau may create some much needed protections for consumers, but it could also go much further. Without my amendment, the bureau will be required to collect daily transactional information on every consumer. The government would see every time you needed money for a college loan, for \$20 from the nearest ATM. The bureau would require your community bank to not only keep all the information on file but to regularly share that data with the government.

Some may say they don't care if the government knows they buy groceries at Safeway every Tuesday, but I dare say allowing the government to assess and analyze every transaction could easily escalate beyond mundane details and consumer protection to truly having Big Brother watching over us. You may not care about the government knowing your shopping habits or how and when you fill your car with gas, but you will care if the government has the ability to say how, when, and why you spend your own money.

We already give the government control of our tax dollars. I would say that isn't going so well for us. A \$12 trillion, almost \$13 trillion deficit shows this. So why should the public be OK with allowing the Federal Government to watch over our shoulders, saying whether our financial decisions are OK? The point is that the Federal Government should not have this power, but this bill will be giving it unless we have this amendment.

I have risen to bring light and awareness to the additional, enormous unchecked power that would be given to the bureau of consumer protection in the name of protecting consumers. This power would be given not in the name of protecting us from physical threat or harm but in the name of making decisions for us.

I offer another choice to my colleagues and to the people. This choice

allows consumers to let the bureau into their personal lives if they so choose. My amendment would not stop the bureau from existing. My amendment would not prevent the bureau from assisting consumers with their finances or debt. My amendment would simply require the bureau to get written permission from consumers. It is that simple. I urge colleagues to consider the amendment so that we are empowering consumers, not perpetuating big government growth in the name of protecting us from ourselves.

I ask unanimous consent that Senator SHELBY be added as a cosponsor to the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ENZI. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, with the permission of the bill manager, I ask unanimous consent to set aside any pending amendments and to call up amendment No. 3986.

The ACTING PRESIDENT pro tempore. The bill is not yet pending.

Mr. CORNYN. Mr. President, I understand the bill has not yet been reported, but I would like to make a few comments on my amendment. As soon as the bill is reported, I will call up the amendment more specifically.

I ask unanimous consent to speak as in morning business for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I am advised the bill is ready to be reported.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 3217, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Pending:

Reid (for Dodd/Lincoln) amendment No. 3739, in the nature of a substitute.

Brownback modified amendment No. 3789 (to amendment No. 3739), to provide for an exclusion from the authority of the Bureau of Consumer Financial Protection for certain automobile manufacturers.



Brownback (for Snowe/Pryor) amendment No. 3883 (to amendment No. 3739), to ensure small business fairness and regulatory transparency.

Specter modified amendment No. 3776 (to amendment No. 3739), to amend section 20 of the Securities Exchange Act of 1934 to allow for a private civil action against a person that provides substantial assistance in violation of such act.

Dodd (for Leahy) amendment No. 3823 (to amendment No. 3739), to restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.

Whitehouse amendment No. 3746 (to amendment No. 3739), to restore to the States the right to protect consumers from usurious lenders.

Dodd (for Rockefeller) amendment No. 3758 (to amendment No. 3739), to preserve the Federal Trade Commission's rulemaking authority.

Udall (CO) amendment No. 4016 (to amendment No. 3739), to improve consumer notification of numerical credit scores used in certain lending transactions.

#### AMENDMENT NO. 3986 TO AMENDMENT NO. 3739

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent to set aside any pending amendments and to call up amendment No. 3986.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN], for himself, and Mr. VITTER, proposes an amendment numbered 3986 to amendment No. 3739.

Mr. CORNYN. I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect United States taxpayers from paying for the bailouts of foreign governments)

On page 1565, after line 23, add the following:

#### TITLE XIII—MISCELLANEOUS

##### SEC. 1301. RESTRICTIONS ON USE OF FEDERAL FUNDS TO FINANCE BAILOUTS OF FOREIGN GOVERNMENTS.

The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

##### "SEC. 68. RESTRICTIONS ON USE OF FEDERAL FUNDS TO FINANCE BAILOUTS OF FOREIGN GOVERNMENTS.

"(a) IN GENERAL.—The President shall direct the United States Executive Director of the International Monetary Fund—

"(1) to evaluate any proposed loan to a country by the Fund if the amount of the public debt of the country exceeds the gross domestic product of the country;

"(2) to determine whether or not the loan will be repaid and certify that determination to Congress.

"(b) OPPOSITION TO LOANS UNLIKELY TO BE REPAYED.—If the Executive Director determines under subsection (a)(2) that a loan by the International Monetary Fund to a country will not be repaid, the President shall direct the Executive Director to use the voice

and vote of the United States to vote in opposition to the proposed loan."

Mr. CORNYN. Mr. President, I continue to have deep concerns about the legislation we are debating. I mentioned some of those concerns last week, including the bailout provisions that still effectively remain in the bill and the so-called orderly liquidation process that could give some firms special treatment outside of the Bankruptcy Code.

I repeat my appreciation to Senator SESSIONS from Alabama for offering his amendment last week which would have corrected that. Unfortunately, it was defeated last Thursday, as most of the amendments have been.

At this time, I offer another amendment that would protect the American taxpayer from bailing out foreign governments. We all know that this scene, which we saw displayed across cable television and in the newspapers, is being played out now in Greece where literally a Greek tragedy is unfolding.

How did this happen? First, Greece's public debt was 115 percent of its gross domestic product, according to the International Monetary Fund. Putting that in context, according to the Congressional Budget Office report of March 2010, the public debt of the United States is currently 53 percent of our gross domestic product. However, the Congressional Budget Office, the official scorekeeper of the government, says, all else being equal—in other words, if nothing else happens—the baseline estimate for that debt in ten years will be 67.5 percent, up from 53 percent last year. Under the President's proposed budget, that number skyrockets to 90 percent of gross domestic product by 2020. While some may say here in America we are in relatively good shape because our debt is only 53 percent of our gross domestic product, the Congressional Budget Office estimates that under the President's own budget, that will soar from 53 percent of the gross domestic product to 90 percent of GDP by the year 2020, which makes that 115 percent number for Greece look not so much higher than what the American number will be come 2020.

Deficits are high in Greece for the same reason they are too high in the United States—too much government and too much reckless spending.

Similar to the U.S. Government, the Greek Government has been financing its operations by borrowing money. But over the last few weeks, the capital markets made clear investors—the people who buy that debt—do not trust the Greeks to be able to pay it back, hence, the need for these extraordinary bailouts by the International Monetary Fund.

But, again, the comparison is unavoidable. What happens if the United States does not change its current trajectory of going to 90 percent of our

gross domestic product when it comes to our debt by 2020, as projected by the Congressional Budget Office? What do we do if we continue to borrow and spend? What do we do if China, for example—which is the primary country that buys that debt—either refuses to continue to finance our deficit spending and our debt or demands higher interest rates.

What is happening now in Greece with these kinds of demonstrations I do not think it takes a great imagination to say could happen in America if we are not more responsible in dealing with our out-of-control spending, our out-of-control debt—unless we say no to the President's proposed spending budget, which would grow that to 90 percent of our gross domestic product by 2020.

But back to my amendment. Why is it people are so upset about bailing out Greece, using the International Monetary Fund to do so? Well, I am referring to an article from the Associated Press entitled "Europe bristles at paying for Greek retirement." Let me read a couple paragraphs:

In Greece, trombone players and pastry chefs get to retire as early as 50 on grounds their work causes them late career breathing problems. Hairdressers enjoy the same perk thanks to the dyes and other chemicals they rub into people's scalps.

Skipping down a couple paragraphs:

Like many [European Union] countries, the general retirement age in Greece is 65, although the actual average [retirement age] is about 61. However, the deeply fragmented system also provides for early retirement—as early as 55 for men and 50 for women—in many professions classified as "arduous and unhealthy."

So we see why people are reluctant, to say the least, to bail out Greece because of these reckless pensions that facilitate these early retirements under the thinnest of pretenses. But we know the European Union and the International Monetary Fund recently approved a \$145 billion bailout for the Greek Government. Mr. President, \$40 billion of that represents loan guarantees from the International Monetary Fund. Since the United States has funded about 17 percent of the IMF's budget, our share—that is, the American taxpayers' share—of that bailout would be at least \$7 billion. That is right, U.S. taxpayers are on the hook to help bail out Greece to the tune of at least \$7 billion.

We know a \$1 trillion bailout fund is being discussed for other European nations. While the details are being discussed, once again, U.S. taxpayer funds could make their way through the International Monetary Fund to bail out irresponsible foreign governments.

As CNBC reported on Tuesday:

U.S. taxpayers could be on the hook for \$50 billion or more as part of the European debt bailout, which is likely to be a close cousin to the strategy used to rescue the American financial system.

CNBC went on to say:

The entire bailout package has been nicknamed "Le Tarp" for its similarity to the Troubled Asset Relief Program that bailed out US companies with taxpayer-backed loans.

They are calling this bailout fund Le Tarp for a reason. Once again, billions of dollars will be in the hands of government bureaucrats, and the U.S. taxpayer will be asked simply to trust those so-called experts who have let us down before and who seem to be making much of this up as they go along.

It is no surprise that 63 percent of respondents to a recent Rasmussen poll have said they oppose using U.S. taxpayer funds to bail out foreign governments. I am actually surprised it is only 63 percent.

American taxpayers should not be involved in bailing out foreign governments. As George Will pointed out last week in the Washington Post, Greece has a gross domestic product that is less than the Dallas-Fort Worth metropolitan area's. Greece is simply not, under any stretch of the imagination, too big to fail. If Greece defaults on its debt, then the European banks that bought the debt need do write it off. If the European governments want to bail out their banks or prop up their currency, let them do it without help from the American taxpayer.

American taxpayers simply should not be involved in this process. Our first priority should be to unwind all the bailouts we have, thanks to this administration, not to create new ones overseas.

Moreover, there is a good chance this Greek bailout is not even going to work; in other words, that we will not even be able to get our money back. It will not be a loan; it will be throwing more good money after bad.

The chief executive of the Deutsche Bank doubts the Greeks can even repay this debt. We have all seen pictures of these protests that have continued under the "austerity measures" that have now been imposed that the government was forced to make in order to secure the deal.

As one blogger recently put it:

It was the Greeks who gave us the word for democracy. They also gave us the words for demagoguery, tyranny, crisis and chaos.

That is what this photograph looks like: chaos as a result of uncontrolled spending and out-of-control debt.

What we are seeing is what Robert Samuelson calls the "Death Spiral of the [Modern] Welfare State." He said: "The reckoning has arrived in Greece, but it awaits most wealthy countries," including, I might add, the United States of America—unless we change our ways.

The President of the European Council put it this way:

We can't finance our social model anymore—with 1 percent structural growth we can't play a role in the world.

What my amendment—which will be among the four amendments voted on when we gather again at 5:30—does is, it says the American people are tired of bailouts, and Congress should protect the American taxpayer from bailing out foreign governments, particularly when we cannot get our money back afterwards.

My amendment would bring needed transparency and accountability to what the International Monetary Fund is doing with American taxpayer dollars, including the roughly \$60 billion our country has already provided to the IMF over the years.

Specifically, this amendment would require the administration to look more closely at any proposed IMF loan to see if that country's debt exceeds its GDP; and when it does, as Greece's does, to certify to Congress that the loan will be repaid.

If the U.S. Executive Director of the IMF cannot certify to Congress that the loan will be repaid, my amendment would require the President of the United States to direct the Executive Director to vote against the bailout by the International Monetary Fund.

The logic of this amendment could not be more clear: Any country that owes more money than its entire economy produces is, by definition, a very bad credit risk, and the United States should not be loaning money to such a nation, unless we are absolutely confident our taxpayers are not subsidizing failure and will ultimately get their money back.

So I urge my colleagues to support this amendment. We must act quickly, so the amendment will apply to future bailouts of nations like Greece that have spent way beyond their means.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3746 TO AMENDMENT NO. 3739

Mr. WHITEHOUSE. Mr. President, I wish to say a few words on the amendment I have pending and that we will be voting on in the next 2 days that will restore the historic power of States to control interest rates they charge to their citizens.

One of the things I hear most about when I am home in Rhode Island is from folks who can't understand why their credit card interest rate suddenly jumped to over 30 percent. For a long time, the tricks and the traps in those long credit card contracts pitched people into these penalty rates. I think a lot of people don't read all the fine print and aren't sure exactly what it

means. We have individual consumers up against the craftiest lawyers the credit card industry can hire, and the result is when they trigger one of these traps and they get caught by one of these little tricks, they end up being kicked into a very high penalty rate.

Recently, after the credit card reform bill passed a year ago, we saw the credit card industry actually not even waiting for the tricks or traps to be triggered. They just began to spontaneously raise people's interest rates; again, very often over 30 percent. The Presiding Officer and I are both of an age where we can remember a time when interest rates of that level would have been a matter to refer to the authorities, not a commonplace business practice of our biggest industries. When we think of the pain and the suffering and the economic stress families get put under when they fall into these burdensome, exorbitant penalty rates—I think we should do something about it. My amendment would allow us to do just that.

It doesn't take any new risks. It doesn't create dramatic new policy. It does things that my friends on the other side of the aisle have been supportive of over the years. It honors the independent authority of States to make decisions to protect their citizens. It supports consumers—the little guy—against the huge corporations, and it puts our local banks on a level playing field with these big out-of-State banks.

We got here because of an unusual loophole that the Supreme Court opened 30 years ago. We did not have a debate on the Senate floor saying: What should our policy be? Should we take away the rights of States to protect their consumers, to protect their citizens from exorbitant out-of-State interest rates? We never had that discussion. This happened inadvertently.

It happened as a result of a Supreme Court decision back in 1978 that said when a bank in one State and a consumer in another State have a transaction, it will be the laws of the home State of the bank that govern. It didn't look like a very big deal at the time. It didn't take the crafty bank lawyers long to see that it opened a very tricky loophole, and they could move to the States in this country that had the worst consumer protection legislation, and from there—from those outposts of the worst consumer protection—they could market into other States. The fact that the other State they were marketing into had good consumer protections and protected those State's citizen didn't matter. It didn't help because of the Supreme Court decision.

I submit if, as a Senate, we were to have debated that proposition, there would not have been many votes for the outcome. The notion of the policy of the United States on protecting consumers from interest rates should be

that the rules of the worst State in the country trump every other State is a rule that nobody in their right mind would vote for. But because of this inadvertent Supreme Court loophole and because of the crafty work of these big national banks and their lawyers, we are now in that exact situation—a situation that none of us would ever have voted for and that we shouldn't tolerate now.

So I urge my colleagues on the other side of the aisle to vote for this amendment. I wish to thank Senator COCHRAN from the other side of the aisle for cosponsoring it, and I wish to ask his colleagues in the Republican caucus to join him in supporting it.

This bill we are looking at right now is very esoteric and technical. It is preventive medicine. It engages in things such as trying to rebuild the Glass-Steagall firewall, trying to promptly regulate collateralized debt obligations, trying to put appropriate leverage limitations on banks. That is all pretty arcane stuff.

The American people want this reform, and it should happen. But here is a deliverable they can take right home. They will see a difference as soon as their States respond. They can be protected from these outrageous 30-percent interest rates as a result of this bill. It is not a big Federal Government that is coming to do this; it is the State governments, State by State. Indeed, if a State wants to have no consumer protections and have its citizens vulnerable to these predatory and exorbitant credit card deals, fine. They can do that. There is nothing in my amendment that requires a State to do anything. It just empowers them with the same power they had at the founding, with the same power they had for 202 years, until 1978 came along and this peculiar Supreme Court decision.

So I think it will be a good argument to go home with, and as voters in this country look at what Congress has done leading up to the November elections, to be able to say: You know what. Those 30-percent rates we never saw when we were children and that our parents never had to pay, the rates that you as a head of a family are now having to deal with with these credit card companies from out of State that you can barely reach on the phone, and if you do, you get pushed from phone tree to phone tree, we have done something about that. We have helped you. We have put you in a position where the States are sovereign again over these big national corporations rather than vice versa.

Right now, we, the big credit card companies, are sovereign over our States. That is not the way things should be in America. That is not the way the Founding Fathers set it up. It is not right for consumers. It violates the principle of the States being laboratories of democracy, and it com-

pletely eviscerates consumer protection.

So I urge my colleagues to support it and to put themselves in a position to be able to go home to their voters and say: We did something tangible for you. We didn't create bigger government. We let your existing State government make the decisions that for two centuries they were capable of making to protect you from the worst practices of the out-of-State credit card companies. The alternative is to have to go back and explain why people are still paying 30 percent when you have the chance to do something about it; why you chose the big out-of-State corporations and exorbitant interest rates over your own home State's protection of your own home State's citizens.

I think the position my colleagues would want to be in on that one is with your home State, with the doctrine of federalism, with the traditions of the United States of America, and with your consumers, rather than on the other side with the big out-of-State banks that charge these exorbitant rates.

So I hope I will have support, and I look forward to working with anyone who has questions.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

AMENDMENT NO. 4020 TO AMENDMENT NO. 3739  
(Purpose: To limit further bailouts of Fannie Mae and Freddie Mac, to enhance the regulation and oversight of such enterprises, and for other purposes)

Mr. CRAPO. Mr. President, I ask unanimous consent to set aside the pending amendment and call up the Crapo amendment No. 4020.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAPO], for himself, Mr. GREGG, Mr. SHELBY, Mr. MCCAIN, Mr. VITTER, and Mrs. HUTCHISON, proposes an amendment numbered 4020 to amendment No. 3739.

Mr. CRAPO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Thursday, May 13, 2010.)

Mr. CRAPO. Thank you very much, Mr. President.

This amendment includes Fannie Mae and Freddie Mac as part of the Federal budget as long as either of these two institutions is under conservatorship or receivership. I wish to thank Senators GREGG, SHELBY, MCCAIN, and VITTER, HUTCHISON, and CORKER for cosponsoring this amendment.

As I believe my colleagues will recall, several days ago we voted on a

broader amendment which would actually have provided some significant coverage of Fannie Mae and Freddie Mac in this so-called financial regulatory reform legislation we are addressing on the floor of the Senate today.

That legislation would have provided a pathway for us to literally stop the bailouts of Fannie and Freddie and move us toward a path of resolving the continued taxpayer exposure to the excesses of Fannie Mae and Freddie Mac. But that amendment was defeated on the floor of the Senate—although I supported that amendment because now, since the amendment has been defeated, there is literally no piece of this legislation before us that addresses the core problem that started the entire collapse in our economy; namely, the securitization of the mortgage industry and the actions of Fannie Mae and Freddie Mac, which ran up so many of these toxic assets and helped to spread them throughout the globe.

As we debated then, the taxpayer is already on the hook for about \$130 billion-plus for the problems Fannie and Freddie caused. Experts tell us, as we move forward, that liability to the taxpayer is likely to reach \$380 billion to \$400 billion. I personally think those are conservative estimates. When we get the full picture, I think the taxpayers will have been put on the hook for way more than that.

This amendment simply says: Let's tell the American public what's happening. Since we lost the fight last week to try to have the bill cover Fannie Mae and Freddie Mac and provide an exit strategy for the taxpayers to continue to bail them out, let's at least be open and clear about what we are doing with regard to Fannie and Freddie.

The purpose of this amendment is to show the American people the true picture of how much our national debt has increased as a result of the bailout of these two institutions—the bailout which I, again, point out is ongoing, uninterrupted in any way by this legislation.

According to the CBO Director Douglas Elmendorf:

After the U.S. Government assumed control in 2008 of Fannie Mae and Freddie Mac—two federally chartered institutions that provide credit guarantees for almost half of the outstanding residential mortgages in the U.S.—

This is his quote now, and because of what happened in the economy, Fannie and Freddie, together with the FHA, account for 96.5 percent of all of the residential mortgages in the U.S. Continuing with the quote:

the Congressional Budget Office concluded that the institutions had effectively become government entities whose operations should be included in the Federal budget.

What is the Director saying? He is saying that since the U.S. Government

has now taken over control and management of Fannie Mae and Freddie Mac, and the taxpayer is on the hook for all of their debts and excesses, we ought to put it on budget and show the American people what is happening to our debt as a result of it, instead of using the creative accounting that we see here in Washington all the time, where we mount up spending and debt and figure out ways to keep it from showing up in the national debt or in the calculations of our spending.

At the end of 2009, per the financial statements, those figures that we are talking about, how much debt is not being reflected in our national debt because we don't choose to count it? Those figures are \$774 billion for Fannie Mae and \$781 billion for Freddie Mac, for a total of \$1.555 trillion, which is out there for which the taxpayer is on the hook, and we have to figure out a way to pay it back. We as a Congress will not tell the American people that in the calculations of our national debt.

To put into perspective how large these entities are, their combined total books of business are nearly \$5.5 trillion. As I indicated, they are currently run and operated by the U.S. Government.

Again, the amendment last week would have put us on a pathway to solve this and take the government out of the business, which should be a private sector business of mortgages. But at least this amendment would put us on record as telling the American people what exposure we are putting them to by not taking those actions.

By the way, the Congressional Budget Office has estimated that, in the wake of the housing bubble and the unprecedented deflation in housing values that resulted, the government's cost to bail out Fannie Mae and Freddie Mac will eventually reach, as indicated before, about \$381 billion. I think that is too conservative.

On May 5, Freddie Mac reported losing another \$8 billion in the first quarter and requested \$10.6 billion from taxpayers, saying in the same breath they are going to need more in the future.

On May 10, Fannie Mae reported losing \$11.5 billion, its 11th consecutive quarterly loss, and itself asked for another \$8.4 billion more from the taxpayers. That is in addition to the \$126.9 billion Fannie Mae and Freddie Mac already cost the taxpayers. Get this—there used to be some limits on this—\$400 billion or \$200 billion for each institution.

Last Christmas—literally on Christmas Eve—the Treasury announced that it was going to lift that \$400 billion loss cap on these two companies, creating a potentially unlimited liability, and effectively providing the full faith and credit of the U.S. Government, the American taxpayers, for their unlimited debt. Now the limit, instead of \$400

billion, which itself is unacceptable, is infinity. We will not even record it for the American people to see.

According to a January 2010 CBO background paper titled “CBO’s Budgetary Treatment of Fannie Mae and Freddie Mac,” the Congressional Budget Office “believes that the Federal Government’s current financial and operational relationship with Fannie Mae and Freddie Mac warrants their inclusion in the budget.”

This isn't just my complaint. The CBO itself has said that now that the status is that the U.S. Government has taken control of the financing of and assumed the debt of the obligations and actions of Fannie Mae and Freddie Mac, we ought to recognize they are government entities, and we ought to include them in our budget. That is what we are seeking in this amendment.

By contrast, the current administration has taken a different approach by continuing to treat Fannie Mae and Freddie Mac as outside the Federal budget, recording and projecting outlays equal to the amounts of any cash infusions made by Treasury into the entities. They are creating the appearance that there is no debt here, no impact on our budget. That is the kind of nontransparency this amendment is aimed at stopping. We are seeking to create some kind of transparency that will at least allow Congress and the public to understand the finances we are now being engaged in and asking the American taxpayers to back.

The Office of Management and Budget, in contrast to the CBO, has said in their Budget of the U.S. Government for Fiscal Year 2011:

Under the approach in the budget, all of the GSEs' transactions with the public are non-budgetary because the GSEs are not considered to be government agencies.

We have the President and the OMB at the White House saying that we don't need to count this in the budget because they are not government agencies. The CBO, however, is saying: Wait a minute, we own them, we run them, we are backing all of their debt, and essentially they are government entities. We can engage in debates about whether Fannie Mae and Freddie Mac are Government entities, but the bottom line question is: Who is responsible for their debt? Who is paying for their debt?

Nobody denies the answer to that question. It is the U.S. taxpayer. If the U.S. taxpayer is on the hook for their debt—and after what I call the “Christmas Eve massacre” of last Christmas—and there is no limit to the amount of that liability, we at least ought to put it on record.

CBO has included the GSEs in its budget baseline but does not include their debt in the computations of debt because CBO took a narrow view of the Federal debt. But as CBO's report says:

CBO's treatment of the entities' debt does not constitute a statement about whether or not that debt should be considered Federal debt.

Figure that out. CBO is saying: We are not going to include this in the debt, even though we think they are government entities and we ought to put them on budget. Their words were “CBO's treatment of the entities' debt”—meaning not counting it—“does not constitute a statement about whether or not that debt should be considered Federal debt.”

Maybe CBO is saying Congress needs to give us some direction. Whether that is what they are saying, Congress does need to give some direction here, and that is the purpose of the amendment.

In light of Treasury's Christmas Eve “taxpayer massacre” and the government's decision to back all losses of Fannie Mae and Freddie Mac, we should include Fannie Mae and Freddie Mac as part of the Federal budget—at least as long as they are in receivership or conservatorship and run and backed up by the American taxpayer.

The amendment would also do a few other things. It would reestablish the \$200 billion cap per entity and accelerate the 10-percent reductions of the mortgage portfolios, effectively requiring the companies to shrink those portfolios by holding a combined \$100 billion from their current levels.

This will also limit the losses that taxpayers will face as a result of the blank check given by the administration last December 24.

The amendment will also require the Secretary of the Treasury and the Director of the Federal Housing Financing Agency to testify before the Banking Committee each time an additional \$10 billion or more in taxpayer funds is provided to Fannie Mae and Freddie Mac combined. In other words, the next time, under this amendment, we have a May like this May, where Fannie and Freddie have asked for more than \$10 billion of additional taxpayer bailout, we at least ought to have the Secretary of the Treasury and the Director of the Federal Housing Finance Agency, who manage this, come before the Banking Committee and testify as to what is happening, why, and where we are headed.

This will provide at least an opportunity for congressional oversight, which is currently totally lacking in the process. All that happens now is that they issue a press release saying we need another \$10 billion and they get it—no limits, no caps, no accountability, no counting of the debt, and no explanation to Congress. It seems to me a little transparency and honesty with the American people about what our finances are doing here is appropriate.

The amendment is also going to require the Secretary of the Treasury to

post on the Treasury Web site, 1, the aggregate portfolio holdings of each enterprise and, 2, a weekly summary of taxpayer funds provided for and at risk for each enterprise.

Again, all we are asking is to have the kind of transparency that will allow the American people to understand what the Federal Government is up to with their money. It will also help explain why some of us don't believe the rhetoric about the bill before us today. There is a lot of talk about ending bailouts. There is a lot of talk about "too big to fail" is never going to be allowed again in America. There are some provisions in the bill that end some of the bailouts and that go quite a bit of the way down the road toward making it clear that a company cannot get too big to fail, and that we will try to move them into a resolution process if they do fail.

It is not ironclad, however, and there is still the possibility that we will see bailouts in the future—something in other amendments we have tried to tighten.

But let's not mistake the fact that the biggest bailouts of all are not even addressed in this legislation and are allowed to not only continue unabated but to continue without even telling the American public what the facts are. When I say the biggest bailouts of all, the last numbers I saw, if you take the auto bailout and the financial bailouts everybody heard about, and total them all up, they won't even equal the amount of money being used to bail out Fannie Mae and Freddie Mac. Yet, Fannie and Freddie continue—because the government now owns them—to be untouched by this legislation.

It is time for true transparency as we debate these issues of bailouts and too big to fail. It is time for us to address the very core of the problem that caused so much of the economic disruption we are now dealing with—the financial mortgage industry and the securitization of those toxic mortgages.

Yet, again, what happens? We are simply asked, as American taxpayers, to pony up with a check for \$10 billion here and \$8 billion there, and we will continue to grow, unrestricted, uncontrolled, unnoticed, and unidentified, because we won't even put it on record and count it in our own budgeting.

It is time for us to include the obligations and the management of Fannie Mae and Freddie Mac in our Federal budget. I encourage all of my colleagues to support this amendment when we get an opportunity to vote on it.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### AMENDMENT NO. 3758, AS MODIFIED

Mr. ROCKEFELLER. Mr. President, I call up Senator HUTCHISON's and my amendment No. 3758 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment is pending. Does the Senator wish it to be the pending question?

Mr. ROCKEFELLER. I ask unanimous consent to modify this amendment with the modification at the desk.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 3758 as modified), is as follows:

On page 1191, line 5, strike "(c)" and insert "(b)".

On page 1191, line 10, strike "6809;" and insert "6809) except for section 505 as it applies to section 501(b);";

On page 1191, line 20, strike "and".

On page 1191, line 22, strike "seq.;" and insert "seq.;" and".

On page 1191, between lines 22 and 23, insert the following:

(Q) section 626 of the Omnibus Appropriations Act, 2009 (Public Law 111-8).

On page 1192, line 5 after "H." insert "The term does not include the Federal Trade Commission Act."

On page 1213, line 24 after "database" insert "or utilizing an existing database".

On page 1214, line 3, after "with" insert "the Federal Trade Commission or".

On page 1214, line 4, strike "other Federal regulators," and insert "such agencies,".

On page 1215, line 11, after "regulators," insert "the Federal Trade Commission,".

On page 1215, line 14, strike "regulators" and insert "regulators, the Federal Trade Commission,".

On page 1221, line 8, after "Trading Commission," insert "the Federal Trade Commission,".

On page 1237, line 6, strike "law," and insert "law and except as provided in section 1061(b)(5)."

On page 1250, line 6, strike "(a)" and insert "(a)(1)".

On page 1250, line 20, strike "(a)," and insert "(a)(1)."

On page 1251, line 19, strike "(a)" and insert "(a)(1)".

On page 1251, line 24, strike "(a)" and insert "(a)(1)".

On page 1252, line 8, strike "(a)," and insert "(a)(1)."

On page 1252, line 22, strike "(a)" and insert "(a)(1)".

On page 1253, line 4, strike "(a)." and insert "(a)(1)."

On page 1253, line 13, strike "(a)" and insert "(a)(1)".

On page 1253, line 15, strike "(a)" and insert "(a)(1)".

On page 1253, line 18, strike "(a)," and insert "(a)(1)."

On page 1253, line 24, strike "(a)," and insert "(a)(1)."

On page 1254, line 13, strike "EXCLUSIVE".

On page 1254, strike lines 14 through 20 and insert the following:

(1) THE BUREAU TO HAVE ENFORCEMENT AUTHORITY.—Except as provided in paragraph (3) and section 1061(b)(5), with respect to any

person described in subsection (a)(1), to the extent that Federal law authorizes the Bureau and another Federal agency to enforce Federal consumer financial law, the Bureau shall have exclusive authority to enforce that Federal consumer financial law.

On page 1255, strike lines 5 through 18, and insert the following:

(A) IN GENERAL.—The Bureau and the Federal Trade Commission shall negotiate an agreement for coordinating with respect to enforcement actions by each agency regarding the offering or provision of consumer financial products or services by any covered person that is described in subsection (a)(1), or service providers thereto. The agreement shall include procedures for notice to the other agency, where feasible, prior to initiating a civil action to enforce any Federal law regarding the offering or provision of consumer financial products or services.

On page 1256, line 25, strike "law," and insert "law and except as provided in section 1061(b)(5)."

On page 1257, line 3, strike "(a)" and insert "(a)(1)".

On page 1257, line 9, strike "(a)," and insert "(a)(1)."

On page 1257, line 12, strike "(a)" and insert "(a)(1)".

On page 1298, line 14, strike "ensure that the rules—" and insert "ensure, to the extent appropriate, that the rules—".

On page 1299, line 9, strike "all".

On page 1301, line 18, strike "to establish" and insert "regarding".

On page 1375, beginning with line 8, strike through line 5 on page 1376 and insert the following:

(A) TRANSFER OF FUNCTIONS.—The authority of the Federal Trade Commission under an enumerated consumer law to prescribe rules, issue guidelines, or conduct a study or issue a report mandated under such law shall be transferred to the Bureau on the designated transfer date. Nothing in this title shall be construed to require a mandatory transfer of any employee of the Federal Trade Commission.

(B) BUREAU AUTHORITY.—

(i) IN GENERAL.—The Bureau shall have all powers and duties under the enumerated consumer laws to prescribe rules, issue guidelines, or to conduct studies or issue reports mandated by such laws, that were vested in the Federal Trade Commission on the day before the designated transfer date.

(ii) FEDERAL TRADE COMMISSION ACT.—Subject to subtitle B, the Bureau may enforce a rule prescribed under the Federal Trade Commission Act by the Federal Trade Commission with respect to an unfair or deceptive act or practice to the extent that such rule applies to a covered person or service provider with respect to the offering or provision of a consumer financial product or service as if it were a rule prescribed under section 1031 of this title.

(C) AUTHORITY OF THE FEDERAL TRADE COMMISSION.—

(i) IN GENERAL.—No provision of this title shall be construed as modifying, limiting, or otherwise affecting the authority of the Federal Trade Commission under the Federal Trade Commission Act or any other law, other than the authority under an enumerated consumer law to prescribe rules, issue official guidelines, or conduct a study or issue a report mandated under such law.

(ii) COMMISSION AUTHORITY RELATING TO RULES PRESCRIBED BY THE BUREAU.—Subject to subtitle B, the Federal Trade Commission shall have authority to enforce under the Federal Trade Commission Act (15 U.S.C. 41

et seq.) a rule prescribed by the Bureau under this title with respect to a covered person subject to the jurisdiction of the Federal Trade Commission under that Act, and a violation of such a rule by such a person shall be treated as a violation of a rule issued under section 18 of that Act (15 U.S.C. 57a) with respect to unfair or deceptive acts or practices.

(D) COORDINATION.—To avoid duplication of or conflict between rules prescribed by the Bureau under section 1031 of this title and the Federal Trade Commission under section 18(a)(1)(B) of the Federal Trade Commission Act that apply to a covered person or service provider with respect to the offering or provision of consumer financial products or services, the agencies shall negotiate an agreement with respect to rulemaking by each agency, including consultation with the other agency prior to proposing a rule and during the comment period.

(E) DEFERENCE.—No provision of this title shall be construed as altering, limiting, expanding, or otherwise affecting the deference that a court affords to the—

(i) Federal Trade Commission in making determinations regarding the meaning or interpretation of any provision of the Federal Trade Commission Act, or of any other Federal law for which the Commission has authority to prescribe rules; or

(ii) Bureau in making determinations regarding the meaning or interpretation of any provision of a Federal consumer financial law (other than any law described in clause (i)).

On page 1382, beginning with line 5, strike through line 2 on page 1383 and insert the following:

(C) FEDERAL TRADE COMMISSION.—Section 1061(b)(5) does not affect the validity of any right, duty, or obligation of the United States, the Federal Trade Commission, or any other person, that—

(1) arises under any provision of law relating to any consumer financial protection function of the Federal Trade Commission transferred to the Bureau by this title; and

(2) existed on the day before the designated transfer date.

On page 1396, line 24, strike “FTC”.

On page 1397, line 1, strike “the Federal Trade Commission.”.

Mr. ROCKEFELLER. Mr. President, at its very core, this amendment is about protecting consumers. It is about making sure the Federal Trade Commission has the authority to act in coordination with the new Consumer Financial Protection Bureau, which is created in the underlying bill.

This amendment would equip the FTC to cover dangerous gaps in consumer protection and to go after dishonest, fly-by-night operators targeting our society's weakest members. In the Commerce Committee, we discovered those folks are frequent and everywhere.

For nearly 100 years, the FTC has been protecting consumers in the gray areas where other regulatory bodies have failed to act. This amendment will make sure the situation of the FTC and its ability to act does not change. Since 1914, the Federal Trade Commission has served the American public as our preeminent consumer watchdog. The Commission's core consumer protection mission is to enforce

and regulate against “unfair or deceptive acts or practices in or affecting interstate commerce.” This broad prohibition is at the heart of the FTC's underlying authority under its authorizing statute, the Federal Trade Commission Act.

This bipartisan amendment is very simple. It is a savings clause. That is really all it is. It fully preserves the FTC's enforcement and regulatory authority under the FTC Act as it is today. The underlying bill creates a new consumer protection bureau within the Federal Reserve, and I fully support that effort. But creating that new bureau should not come at the expense of the FTC's mission, which is consumer protection, which is not, incidentally, a zero sum game.

I emphasize that this amendment is hardly a novel concept. Throughout the FTC's long, distinguished history, Congress has created new regulatory agencies that have overlapped with the FTC's core authority and jurisdiction. The list runs from the Securities and Exchange Commission and the Food and Drug Administration to the Environmental Protection Agency and the Consumer Product Safety Commission. But in order to maximize consumer protection, Congress has always preserved the FTC's authority under the FTC Act, and this latest effort should be no different. Yet the underlying bill currently strips the FTC of its authority and places it within the new bureau, undermining its consumer protection mission and creating, in this Senator's judgment, dangerous holes in our regulatory safety net. That is because the definition and boundaries of the term “financial products and services”—the ruling definition—are entirely vast and entirely vague. Anyone can avoid enforcement simply by claiming they are beyond the FTC's or the new bureau's jurisdiction. Fraudsters and scam artists could and most certainly would tie the courts up in knots. Concurrent authority would solve this problem.

What is more, there is too much financial fraud out there to take a valuable cop off the beat. The FTC has particular expertise in cracking down on bad actors who fleece ordinary Americans of their hard-earned money.

I think it is clear that these small-time crooks would not be at the top of the new bureau's priority list. They will have many things to do. It is just common sense to preserve the FTC's existing authority against these people.

Simply put, the new consumer protection bureau cannot do everything. Neither can the FTC. There will be plenty of work to go around for both agencies.

I wish to be absolutely clear about something. This amendment would not subject businesses to dual regulations. As I said earlier, the FTC has always

coexisted with newly created agencies, and they have avoided tripping over one another with conflicting regulations or enforcement actions. To make absolutely certain this does not happen, the amendment, as modified, directs the FTC and the new bureau to enter into a memorandum of understanding and coordinate their regulatory efforts. That is sensible. The bottom line is that businesses will not be subject to multiple layers of regulation or rules.

I close by thanking particularly Senator HUTCHISON, Senator DORGAN, and Senator PRYOR for their steadfast support and effort, and, of course, Chairman DODD, who has worked long and hard, it seems to me, for months on end, never moving from that seat. He has been crucial in working with me on this issue and with Senator HUTCHISON.

So many of the enormous economic problems we face today are a direct result of weak consumer protections in the financial sector. It is the hard-working families in places such as West Virginia and many other places all across the country who are hurt the most. They are struggling just to scrape by, to pay their bills, and to put food on the table. It is so hard to know, frankly, whom to trust. They need to know somebody is by their side looking out for them. The Restoring American Financial Stability Act of 2010 will be that safeguard. It is a profound achievement that will make a real and lasting difference in the lives of hard-working Americans for generations to come. Our amendment is a small but essential part of that work to make sure consumers are protected.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I will not go into the specifics of the Rockefeller-Hutchison amendment because the distinguished chairman of the Commerce Committee said it very well. Let me make a couple of other points to show what I think is the important reason for this amendment to be adopted.

Over the past 5 years the Federal Trade Commission has filed over 100 actions against providers of financial services, and in the past 10 years the Commission has obtained nearly \$½ billion in redress for consumers of financial services. In 2009 alone, the FTC and the States, working in close coordination, brought more than 200 cases against firms that pedaled phony mortgage modification and foreclosure rescue scams. Despite these successes, the substitute that is before us would transfer all consumer protection functions of the FTC to the newly created Consumer Financial Protection Bureau.

The FTC, in a bipartisan letter signed by all five Commissioners, has expressed concern that the current



Senate language could inadvertently restrict the ability of the FTC to work with this new financial protection bureau to stop unfair and deceptive practices that prey on consumers of financial products and services. The FTC has warned that the current bill, which grants the new agency exclusive rule-making and enforcement authority in several areas, could even inhibit the FTC's authority in consumer protection with respect to consumer protection laws of nonfinancial products and services.

The bottom line is, I do not think it was the intention of the bill to take away from the FTC the authority and the record they have. It is important that they have a record in this area. They have experience. They have experienced staff. And we do not need to reinvent the wheel. We do not need another whole agency to do the same things the FTC already does.

It also is confusing to the regulator. It is confusing when they have two agencies. They may have conflicting rules. Sometimes, as a businessperson, I have been in a position where two agencies have rulings that if you do what one ruling says, the other agency's ruling would be violated. That is unfair to our small businesses. It is unfair to the regulated entities not to have one regulatory authority that does not in any way have a double burden or make a double burden on the regulated. We need to keep commerce going and we also need to protect consumers and our amendment will ensure that happens. So I am very pleased to be a cosponsor.

I will say the leadership for this amendment certainly resided with the chairman of the Commerce Committee, the distinguished Presiding Officer in the chair now, and also I appreciate that Chairman DODD and Ranking Member SHELBY worked on this amendment to make sure it was written in the correct way and that the FTC will keep its basic authority it has now. It will not get new authority, and it will not have authority taken away. It will just be that their staff and their experience will be utilized—and certainly in a more fair way—and particularly in nonfinancial institutions consumers will have the protection of the FTC, where they are the relevant agency, rather than transferring to a new agency that is going to be set up and that doesn't even have rules yet, much less staff.

So I think it is a good amendment, and I appreciate the leadership of the distinguished chairman, Senator ROCKEFELLER.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The clerk will call the roll.

Mr. DODD. Mr. President, I ask unanimous consent to withhold the quorum call.

The PRESIDING OFFICER. Without objection, it is withheld.

Mr. DODD. Mr. President, I wish to take a minute or so to thank both the Presiding Officer and the author of this amendment, along with his coauthor and my good friend, the distinguished Senator from Texas.

This is a good amendment, as my colleague from West Virginia has pointed out. The role of the Federal Trade Commission has been critically important and goes back a long time. I often cite to people that one of my favorite pieces of statuary is outside the Federal Trade Commission. It is an explanation of what the free enterprise system is and how it is supposed to work. It is a rather dated piece of sculpture, goes back I think to the Depression era, and it shows that very powerful horse straining at the bit, trying to charge forward, and a rather muscular farmer holding the horse back. You are not quite sure, looking at the piece of statuary, whether the horse is going to win or the farmer is going to win, which is about as good a visual expression as we have of our free enterprise system.

We want a robust free enterprise system that is charging forward, creating new ideas and innovations in order to allow jobs to be created and wealth to be created. At the same time, we realize we have to have that regulator in place to make sure it doesn't run wild, in the sense that everyone else could be adversely affected by it. So I have always thought that particular piece of statuary captured the essence of what our free enterprise system is that sits outside the FTC.

I think this amendment strengthens the bill and is a very worthwhile addition to it. So I thank both my colleagues for their indulgence and their patience as we took a little time to get to this.

Either we will have a recorded vote or a voice vote, as soon as the leadership decides how they want to handle that in the next hour or so.

Why don't we do this. If there is no objection, we will go to it, and I will call the question.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 3758), as modified, was agreed to.

Mr. DODD. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3746, AS MODIFIED, TO  
AMENDMENT NO. 3739

Mr. WHITEHOUSE. Mr. President, may I ask for regular order with respect to my pending amendment, No. 3746.

The PRESIDING OFFICER. The amendment is now pending.

Mr. WHITEHOUSE. Mr. President, I offer a modification.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 3746), as modified, is as follows:

On page 1320, strike line 23 and all that follows through the end of the undesignated matter on page 1321 between lines 17 and 18 and insert the following:

“(g) TRANSPARENCY OF OCC PREEMPTION DETERMINATIONS.—The Comptroller of the Currency shall publish and update not less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:

“Sec. 5136C. State law preemption standards for national banks and subsidiaries clarified.”.

(c) USURIOUS LENDERS.—Section 5197 of the Revised Statutes of the United States (12 U.S.C. 85) is amended—

(1) by striking “Any association” and inserting the following:

“(a) IN GENERAL.—Any association”; and

(2) by adding at the end the following:

“(b) LIMITS ON ANNUAL PERCENTAGES RATES.—Effective 12 months after the date of enactment of this subsection, the interest applicable to any consumer credit transaction, as that term is defined in section 103 of the Truth in Lending Act (other than a transaction that is secured by real property), including any fees, points, or time-price differential associated with such a transaction, may not exceed the maximum permitted by any law of the State in which the consumer resides. Nothing in this section may be construed to preempt an otherwise applicable provision of State law governing the interest in connection with a consumer credit transaction that is secured by real property.”.

Mr. WHITEHOUSE. Mr. President, I yield the floor.

AMENDMENT NO. 3884 TO AMENDMENT NO. 3739

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent to call up the Cantwell-McCain amendment, No. 3884.

The PRESIDING OFFICER. Is there objection?

If not, the clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Ms. CANTWELL, for herself and Mr. MCCAIN, Mr. KAUFMAN, Mr. HARKIN, Mr. FEINGOLD, and Mr. SANDERS, proposes amendment No. 3884 to amendment No. 3739.

The amendment is as follows:



(Purpose: To impose appropriate limitations on affiliations with certain member banks)

At the end of subtitle C of title I, add the following:

**SEC. 171. LIMITATIONS ON BANK AFFILIATIONS.**

(a) **LIMITATION ON AFFILIATION.**—The Banking Act of 1933 (12 U.S.C. 221a et seq.) is amended by inserting before section 21 the following:

“SEC. 20. Beginning 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010, no member bank may be affiliated, in any manner described in section 2(b), with any corporation, association, business trust, or other similar organization that is engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation stocks, bonds, debenture, notes, or other securities, except that nothing in this section shall apply to any such organization which shall have been placed in formal liquidation and which shall transact no business, except such as may be incidental to the liquidation of its affairs.”

(b) **LIMITATION ON COMPENSATION.**—The Banking Act of 1933 (12 U.S.C. 221 et seq.) is amended by inserting after section 31 the following:

“SEC. 32. Beginning 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010, no officer, director, or employee of any corporation or unincorporated association, no partner or employee of any partnership, and no individual, primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities, shall serve simultaneously as an officer, director, or employee of any member bank, except in limited classes of cases in which the Board of Governors of the Federal Reserve System may allow such service by general regulations when, in the judgment of the Board of Governors, it would not unduly influence the investment policies of such member bank or the advice given to customers by the member bank regarding investments.”

**(c) PROHIBITING DEPOSITORY INSTITUTIONS FROM ENGAGING IN INSURANCE-RELATED ACTIVITIES.**—

(1) **IN GENERAL.**—Beginning 1 year after the date of enactment of this Act, and notwithstanding any other provision of law, in no case may a depository institution engage in the business of insurance or any insurance-related activity.

(2) **DEFINITION.**—As used in this section, the term “business of insurance” means the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary to such writing or reinsuring and the activities relating to the writing of insurance or the reinsuring of risks conducted by persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURRIS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that at 5:30 p.m. today, the Senate proceed to vote in relation to the following amendments in the order listed; that after the first vote there be 2 minutes of debate prior to the succeeding votes, with the succeeding votes limited to 10 minutes in duration: the Crapo amendment, No. 4020; the Cornyn amendment, No. 3986; the Udall of Colorado amendment, No. 4016; provided further that no amendment be in order to any of the amendments covered in this agreement prior to a vote in relation thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. UDALL of Colorado. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FRANKEN). Without objection, it is so ordered.

**AMENDMENT NO. 4020**

Mr. DODD. Mr. President, I understand I have 2 minutes; is that correct?

The PRESIDING OFFICER. There is not a formal order.

Mr. DODD. Let me be brief.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I have a tremendously high regard for my colleague from Idaho. We serve on the Banking Committee together. He is more than just a member; he is an excellent member of the committee and brings great knowledge in the area of financial services. It is always with reluctance that one disagrees with someone they admire. I thank him for his work. For the last 38 or 39 months I have been chairman he has been a very valuable asset to our committee and a solid thinker.

We have had a couple amendments already—the Ensign amendment and the McCain amendments—on the GSEs. We have had three amendments because I offered a side-by-side amendment on the government-sponsored enterprises, including Fannie Mae and Freddie Mac. Clearly, all of us, without exception, understand we must have reform of the GSEs. We need an alternative to the housing financing system. The present one is not working. We also understand in the absence of it, we would be in deep trouble in terms of housing issues today.

The Senate has spoken on the importance of addressing the issue. My colleague from New Hampshire said it well when we were debating whether to include this. As he pointed out, this was so complex an issue, no one really had an alternative idea as to how to come up with a housing financing system, and to include one in this bill

would have been difficult. We have debated that. But aside from the substantive issue, the pending amendment deals with a matter within the Budget Committee's jurisdiction.

Therefore, I raise a point of order that the pending amendment violates section 306 of the Congressional Budget Act of 1974.

For those reasons, the point of order should lie against this, aside from the substantive debate we have already had and the full awareness that we must address this issue in the coming Congress if we are going to be successful in dealing with Fannie Mae and Freddie Mac. For those reasons, I raise the point of order.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974 and section 4(g)(3) of the Statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of my amendment and ask for the yeas and nays.

I also ask unanimous consent that I have an equivalent amount of time to respond on the amendment before we vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I oppose the Crapo amendment because of the limitations that it would impose on Fannie Mae and Freddie Mac.

These institutions have been very helpful to homeowners in West Virginia who are seeking home loan modifications. I do not believe this is the right time to be limiting the assistance that Fannie Mae and Freddie Mac can offer to struggling homeowners in paying for their mortgages and keeping their homes.

Mr. CRAPO. Mr. President, as the Senator from Connecticut indicated—and I appreciate his kind remarks—we have had several votes on the GSE issue. Remarkably, this Senate continues to refuse to deal with Fannie and Freddie, the core issue of the problem on the bill we are debating. Fannie and Freddie are nowhere to be seen in the legislation. Recognizing that the Senate has refused in its votes to allow us to try to focus on Fannie and Freddie, which are the biggest bailouts of all—in fact, the bailouts of Fannie and Freddie are more in volume and cost to the taxpayers than all other bailouts combined—this amendment simply says: Let's be honest with the American taxpayer and at least put the debt that Fannie and Freddie are now becoming responsible for on our calculations of the national debt.

CBO Director Douglas Elmendorf said:

After the U.S. government assumed control in 2008 of Fannie Mae and Freddie Mac—two federally chartered institutions that provide credit guarantees for almost half of the outstanding residential mortgages in the U.S.—the Congressional Budget Office concluded that the institutions had effectively become government entities whose operations should be included in the federal budget.

This amendment simply says: Let's put the calculations of debt for which taxpayers are now on the hook, which now totals over \$130 billion, which we are told is going to rise to \$381 billion, and the debt, which is over \$1.5 trillion, of these two institutions that is now on their books, let's put it in our calculation of the national debt.

We are not asking to solve the problem in the bill with this amendment. We fought that last week. This simply says let's put it on the national debt.

I urge colleagues to support the amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH), the Senator from Iowa (Mr. HARKIN), the Senator from Delaware (Mr. KAUFMAN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from New Hampshire (Mrs. SHAHEEN), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Alaska (Ms. MURKOWSKI).

Further, if present and voting, the Senator from Alaska (Ms. MURKOWSKI) would have voted "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 47, nays 46, as follows:

[Rollcall Vote No. 151 Leg.]

#### YEAS—47

Alexander	Crapo	Lugar
Barrasso	DeMint	McCain
Bayh	Ensign	McConnell
Bennet	Enzi	Nelson (NE)
Bennett	Feingold	Pryor
Bond	Graham	Risch
Brown (MA)	Grassley	Roberts
Brownback	Gregg	Sessions
Bunning	Hatch	Shelby
Burr	Hutchison	Snowe
Chambliss	Inhofe	Thune
Coburn	Isakson	Udall (CO)
Cochran	Johanns	Vitter
Collins	Kohl	Voinovich
Corker	Kyl	Wicker
Cornyn	LeMieux	

#### NAYS—46

Akaka	Cardin	Franken
Baucus	Carper	Gillibrand
Bingaman	Casey	Hagan
Boxer	Conrad	Inouye
Brown (OH)	Dodd	Johnson
Burris	Dorgan	Kerry
Byrd	Durbin	Klobuchar
Cantwell	Feinstein	Landrieu

Lautenberg	Murray	Tester
Leahy	Nelson (FL)	Udall (NM)
Levin	Reed	Warner
Lieberman	Reid	Webb
McCaskill	Rockefeller	Whitehouse
Menendez	Sanders	Wyden
Merkley	Schumer	
Mikulski	Stabenow	

#### NOT VOTING—7

Begich	Lincoln	Specter
Harkin	Murkowski	
Kaufman	Shaheen	

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained, and the amendment falls.

The Senator from Connecticut.

#### AMENDMENT NO. 3986

Mr. DODD. Mr. President, as I understand it, the next vote will occur on the Cornyn amendment.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to the vote in relation to amendment No. 3986 offered by the Senator from Texas, Mr. CORNYN.

Mr. DODD. Mr. President, let me say, if I may—I am looking to the leader here, if I can find him—I believe this will be the last recorded vote this evening. There will be potentially a couple of voice votes after this on matters involving, one, Senator BOND's amendment that I am cosponsoring with him, along with Senator WARNER and Senator CORKER—this will be the last recorded vote, but there will be a voice vote on the angel investor amendment Senator BOND is interested in, and there will be a vote on the amendment offered by Senator UDALL of Colorado dealing with credit scores that I believe we all can support as well. Then we will be laying down a Lugar-Cardin or Cardin-Lugar amendment for discussion this evening, with a possible vote in the morning. Then we will be working this evening, Senator SHELBY and I, to try to lay out some amendments tomorrow to give people a clear picture as to what the roadmap will be for tomorrow as well.

So with that, I turn to Senator CORNYN.

Mr. CORNYN. Mr. President, I will make two points. No. 1: This amendment will help protect American taxpayers from bailouts of foreign governments. Greece is going to get \$40 billion in loans from the IMF, out of which \$7 billion is attributable to the contributions of the American taxpayer. They shouldn't have to do that unless we have an assurance we will be paid back.

The second point is that Greece's current public debt relative to its gross domestic product is 115 percent—meaning it owes more money than its entire economy produces.

Under the President's budget, in 2020, looking at the same metric for the U.S.

Government—our debt will be 90 percent of our gross domestic product. If we are not careful, America will turn into Greece and need a bailout, except there won't be anybody there to bail us out, including the American taxpayer.

I ask my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I intend to support the Cornyn amendment, and I ask my colleagues to do so as well. Our colleague from Massachusetts, the chairman of the Foreign Relations Committee, Senator KERRY, has raised some very legitimate issues about the amendment that may need to be worked on as we move forward in our conference. But I believe the thrust of the amendment is a correct one. We are concerned about some very poor countries that may be in a different position, including some additional thought that may need to be put into that, and I respect the concerns raised by the Senator from Massachusetts.

I believe this is a good amendment deserving of our support; therefore, I ask for the yeas and nays and ask my colleagues to support the Cornyn amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH), the Senator from Iowa (Mr. HARKIN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from New Hampshire (Mrs. SHAHEEN), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Alaska (Ms. MURKOWSKI).

Further, if present and voting, the Senator from Alaska (Ms. MURKOWSKI) would have voted "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 152 Leg.]

#### YEAS—94

Akaka	Cardin	Feinstein
Alexander	Carper	Franken
Barrasso	Casey	Gillibrand
Baucus	Chambliss	Graham
Bayh	Coburn	Grassley
Bennet	Cochran	Gregg
Bennett	Collins	Hagan
Bingaman	Conrad	Hatch
Bond	Corker	Hutchison
Boxer	Cornyn	Inhofe
Brown (MA)	Crapo	Inouye
Brown (OH)	DeMint	Isakson
Brownback	Dodd	Johanns
Bunning	Dorgan	Johnson
Burr	Durbin	Kaufman
Burris	Ensign	Kerry
Byrd	Enzi	Klobuchar
Cantwell	Feingold	Kohl

Kyl	Murray	Stabenow
Landrieu	Nelson (NE)	Tester
Lautenberg	Nelson (FL)	Thune
Leahy	Pryor	Udall (CO)
LeMieux	Reed	Udall (NM)
Levin	Reid	Vitter
Lieberman	Risch	Voinovich
Lugar	Roberts	Warner
McCain	Rockefeller	Webb
McCaskill	Sanders	Whitehouse
McConnell	Schumer	Wicker
Menendez	Sessions	Wyden
Merkley	Shelby	
Mikulski	Snowe	

## NOT VOTING—6

Begich	Lincoln	Shaheen
Harkin	Murkowski	Specter

The amendment (No. 3986) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, there are two amendments I am aware of. The next order of business is the amendment by the Senator from Colorado, Mr. UDALL.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 4016, offered by the Senator from Colorado, Mr. UDALL.

The Senator from Colorado is recognized.

Mr. UDALL of Colorado. Mr. President, we have had a lot of spirited debate on the floor about the Wall Street Accountability Act, and there have been some differences. One area we all agree on is that we ought to empower consumers with this important piece of legislation.

The amendment I am offering with Senator LUGAR does just that. It provides that if you are turned down for credit because you have applied for a loan or you have a higher loan rate, you will have access to your credit score, your FICO score.

I believe this will empower consumers, increase financial literacy in our country, and it is a win-win across the board. I want to thank the group of Senators—some 20-plus—who supported this amendment. I particularly thank the chairman, Senator DODD, for his yeoman's work. I urge an "aye" vote on this important amendment.

I yield the floor.

Mr. DODD. Mr. President, I thank Senator UDALL. He has done a great job on this with Senator LUGAR. They made an alternative suggestion that would allow the release of these credit scores on a transactional basis for the purchase of a automobile or a home, so you will get to know what the credit score is, and that will be a great value.

I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 4016) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I believe the Bond-Warner-Corker amendment is next.

## CLOTURE MOTIONS

Mr. REID. Mr. President, I have two cloture motions at the desk.

The PRESIDING OFFICER. The cloture motions having been presented under rule XXII, the Chair directs the clerk to read the motions.

The legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Dodd substitute amendment No. 3739 to S. 3217, the Restoring American Financial Stability Act of 2010.

Harry Reid, Christopher J. Dodd, Tim Johnson, Jack Reed, Jon Tester, Charles E. Schumer, Patty Murray, Daniel K. Inouye, Kent Conrad, John F. Kerry, Roland W. Burris, Mark R. Warner, Daniel K. Akaka, Sheldon Whitehouse, John D. Rockefeller IV, Michael F. Bennet.

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 3217, the Restoring American Financial Stability Act of 2010.

Harry Reid, Christopher J. Dodd, Tim Johnson, Jack Reed, Jon Tester, Charles E. Schumer, Patty Murray, Daniel K. Inouye, Kent Conrad, John F. Kerry, Roland W. Burris, Mark R. Warner, Daniel K. Akaka, John D. Rockefeller IV, Sheldon Whitehouse, Michael F. Bennet.

Mr. REID. Mr. President, I have conferred with the Republican leader. We are going to process as many amendments tonight as we can, and all day tomorrow. Hopefully, we will be able to work on these Wednesday, also. I hope everybody considers this bill as not having been completed. We will move forward with whatever amendments are appropriate.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

## AMENDMENT NO. 4056 TO AMENDMENT NO. 3739

Mr. DODD. Mr. President, I ask unanimous consent that the amendment offered by Senators BOND, WARNER, CORKER, and myself be considered.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent that the agreement be modified to include the Wyden-Grassley amendment No. 4019 to finally end secret holds and add that amendment to the list of amendments included in the agreement.

I point out that last Thursday, the Wyden-Grassley amendment was pending to the financial reform bill, and it was ready for a vote by the Senate. Then at the last minute, out of nowhere, this bipartisan effort was blindsided without any notice whatever by a second-degree amendment that effectively prevented a vote to open government and end secret holds.

In light of what happened, I think it is only fair that this bipartisan amendment be given the opportunity for a vote as part of this consent agreement.

I also wish to make it clear that, in my view, anyone who objects to adding the bipartisan Wyden-Grassley amendment to this agreement is objecting to ending secret holds. They are objecting to even have a vote in the Senate on ending secret holds, therefore, allowing the Senate to continue to operate in secret and against ending this indefensible denial of the public's right to know.

Therefore, I ask unanimous consent that the agreement be modified to add the Wyden-Grassley amendment to end secret holds, and it is No. 4019.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. RISCH. Reserving the right to object, I do not have any problem with the substance, but I know Senator DEMINT has serious issues with it. We would like to have an opportunity to talk with him.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not have the floor.

Mr. RISCH. I object.

The PRESIDING OFFICER. Objection is heard.

Is there objection to the original request of the Senator from Connecticut? Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. BOND, for himself, Mr. DODD, Mr. WARNER, Mr. BROWN of Massachusetts, Ms. CANTWELL, Mr. BEGICH, Mrs. MURRAY, and Mr. CORKER, proposes an amendment numbered 4056 to amendment No. 3739.

Mr. DODD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve section 412 and section 926)

On page 387, strike line 13 and all that follows through page 388, line 3, and insert the following:

## SEC. 412. ADJUSTING THE ACCREDITED INVESTOR STANDARD.

(a) IN GENERAL.—The Commission shall adjust any net worth standard for an accredited investor, as set forth in the rules of the Commission under the Securities Act of 1933, so that the individual net worth of any natural person, or joint net worth with the spouse of that person, at the time of purchase, is more than \$1,000,000 (as such amount is adjusted periodically by rule of the Commission), excluding the value of the

primary residence of such natural person, except that during the 4-year period that begins on the date of enactment of this Act, any net worth standard shall be \$1,000,000, excluding the value of the primary residence of such natural person.

(b) REVIEW AND ADJUSTMENT.—

(1) INITIAL REVIEW AND ADJUSTMENT.—

(A) INITIAL REVIEW.—The Commission may undertake a review of the definition of the term “accredited investor”, as such term applies to natural persons, to determine whether the requirements of the definition, excluding the requirement relating to the net worth standard described in subsection (a), should be adjusted or modified for the protection of investors, in the public interest, and in light of the economy.

(B) ADJUSTMENT OR MODIFICATION.—Upon completion of a review under subparagraph (A), the Commission may, by notice and comment rulemaking, make such adjustments to the definition of the term “accredited investor”, excluding adjusting or modifying the requirement relating to the net worth standard described in subsection (a), as such term applies to natural persons, as the Commission may deem appropriate for the protection of investors, in the public interest, and in light of the economy.

(2) SUBSEQUENT REVIEWS AND ADJUSTMENT.—

(A) SUBSEQUENT REVIEWS.—Not earlier than 4 years after the date of enactment of this Act, and not less frequently than once every 4 years thereafter, the Commission shall undertake a review of the definition, in its entirety, of the term “accredited investor”, as defined in section 230.215 of title 17, Code of Federal Regulations, or any successor thereto, as such term applies to natural persons, to determine whether the requirements of the definition should be adjusted or modified for the protection of investors, in the public interest, and in light of the economy.

(B) ADJUSTMENT OR MODIFICATION.—Upon completion of a review under subparagraph (A), the Commission may, by notice and comment rulemaking, make such adjustments to the definition of the term “accredited investor”, as defined in section 230.215 of title 17, Code of Federal Regulations, or any successor thereto, as such term applies to natural persons, as the Commission may deem appropriate for the protection of investors, in the public interest, and in light of the economy.

On page 388, line 14, strike “1 year” and insert “3 years”.

On page 998, strike line 12 and all that follows through page 1001, line 25, and insert the following:

**SEC. 926. DISQUALIFYING FELONS AND OTHER “BAD ACTORS” FROM REGULATION D OFFERINGS.**

Not later than 1 year after the date of enactment of this Act, the Commission shall issue rules for the disqualification of offerings and sales of securities made under section 230.506 of title 17, Code of Federal Regulations, that—

(1) are substantially similar to the provisions of section 230.262 of title 17, Code of Federal Regulations, or any successor thereto; and

(2) disqualify any offering or sale of securities by a person that—

(A) is subject to a final order of a State securities commission (or an agency or officer of a State performing like functions), a State authority that supervises or examines banks, savings associations, or credit unions, a State insurance commission (or an agency or officer of a State performing like func-

tions), an appropriate Federal banking agency, or the National Credit Union Administration, that—

(i) bars the person from—

(I) association with an entity regulated by such commission, authority, agency, or officer;

(II) engaging in the business of securities, insurance, or banking; or

(III) engaging in savings association or credit union activities; or

(ii) constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct within the 10-year period ending on the date of the filing of the offer or sale; or

(B) has been convicted of any felony or misdemeanor in connection with the purchase or sale of any security or involving the making of any false filing with the Commission.

Mr. BOND. Mr. President, I am pleased to rise today to discuss a bipartisan amendment critical to small business and job creation, amendment No. 4056.

Thank you to my friend and colleague Senator DODD for his leadership on this amendment. I am proud to cosponsor this amendment with Senators DODD, MARK WARNER, SCOTT BROWN, CANTWELL, BEGICH, and MURRAY.

Senators on both sides of the aisle agree that Wall Street needs to be reformed to protect Main Street from a future crisis.

Senators on both sides of the aisle can also agree that small business job creation is critical to our economic recovery and communities in my State of Missouri and across the Nation.

That is what this bipartisan amendment is all about—protecting the small business startups that are so vital to job creation and economic development.

Specifically, our amendment removes onerous regulations and restrictions in the financial reform bill that would have unintentionally stifled job creation.

The provision would have unintentionally threatened small business startups by delaying and limiting the availability of essential seed capital from qualified investors.

Our country's entrepreneurs need immediate access to capital as they work to move an idea from concept to production—especially when banks or traditional lenders may not be willing to extend large lines of credit to them.

We want to encourage—not discourage—investors to take a chance on these entrepreneurs by providing seed capital to startups in hopes that the business will flourish and remain a viable company.

Our amendment allows this investment and job creation to continue. With our amendment agriculture research and biotechnology startup companies like those in my State of Missouri, will continue to be the engine of job creation.

We all agree that we must reform Wall Street, but we must not punish

Main Street and the very small business startups that are so critical to job creation.

This bipartisan amendment will help protect the small business startups vital to job creation across the country, and I urge my colleagues to support it.

Mr. DODD. Mr. President, what I would like to do, if I may, I would like to make a statement on the Bond, et al, amendment. If my colleague from Oregon would like to make some comments about this consent request he made, if it is not too long, then I will reserve my time.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 4019

Mr. WYDEN. Mr. President, I thank the chairman of the committee. I intend to be very brief in my comments tonight. I thank the chairman for his indulgence.

I note that Senator GRASSLEY, who is on the floor, and I have prosecuted this cause for more open government in the Senate for over a decade. Senator MCCASKILL is here. She has tried relentlessly to do the same thing. I think it is very regrettable, because we have seen, once again, tonight, as we did on Thursday, that defenders of secret holds in the Senate continue to pull out all the stops, employ every tool in the toolbox to throw a monkey wrench into the effort to open the Senate to transparency and accountability.

This has been a bipartisan effort. It has always been a bipartisan effort. I particularly credit my friend from Iowa, Senator GRASSLEY, because when we talked about this over a decade, the two of us said we are going to make this bipartisan every step of the way because sometimes in the Senate you are in the minority, sometimes you are in the Senate as part of the majority, but the cause of open and transparent government ought to be available all the time. It should not matter who is in the majority and who is in the minority.

I will say the American people are furious at the way business is done in Washington, DC. The fact that it has been impossible to even get an up-or-down vote on doing Senate business in public is a textbook case of why people are so angry.

It is my intent to come with colleagues to the floor again and again and try to make sure that once and for all we change this pernicious practice, a practice that, in my view, is an indefensible violation of the public's right to know.

At a minimum, every Senator ought to be on record publicly with respect to how they feel about doing the Senate's business in public. That is what this is all about.

This is not complicated. A hold is one of the most powerful tools a Senator has. With a secret hold, one colleague

can keep the American people from even getting a peak at important Senate business. That is not right. That is not accountable government. That is not transparent government.

What we ought to do—and I commend particularly Senator GRASSLEY, Senator INHOFE, and Senator COLLINS on the other side of the aisle; Senator UDALL has joined me in this effort, Senator BENNET—we have made this bipartisan every step of the way. It is time for an up-or-down vote in the Senate with respect to ending secret holds.

We have not even been able to get a direct vote, though we have been working now for weeks and weeks on a measure that is bipartisan. The American people want public business done in public, and they certainly want Democrats and Republicans to come together. That is what Senator GRASSLEY and I have sought to do.

It is unfortunate that, once again, there has been an objection tonight to doing public business in public. That is something that ought to change around here. There is a bipartisan group of us who are going to stay with it until it does.

I particularly thank the bipartisan group of colleagues on the floor tonight, led by Senator GRASSLEY and Senator MCCASKILL. We will be back, and we will be back at it until there is the kind of transparency and openness in the way the Senate does business so, once and for all, every hold in the Senate has a public owner. That is what this is all about. If you want to put a hold on a bill or a measure, as Senator GRASSLEY has said, you ought to have the guts to go public. Every hold ought to have a public owner. We are going to stay with it until that happens.

I express my appreciation again to the chairman of the Banking Committee who has, at a time when he has a very important piece of legislation on the floor, indulged this Senator repeatedly in giving me the opportunity to be on the floor and prosecute this cause for more openness and transparency. I thank my good friend, the chairman of the committee. He has done an excellent job on this bill. I appreciate the time tonight.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent to add Senator TESTER of Montana as a cosponsor of amendment No. 4056, the Bond-Dodd, et al, amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I should point out that Senator BROWN of Massachusetts, Senator CANTWELL, Senator BEGICH, and Senator MURRAY are cosponsors of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that the following be

the next amendments in order: Senator CARDIN and Senator LUGAR, amendment No. 4050, and an amendment of Senator CORKER of Tennessee regarding preemption, with a Senator CARPER amendment side by side to the Corker amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 4056

Mr. DODD. Mr. President, I am pleased to join my colleagues Senators BOND, WARNER, BROWN, CANTWELL, BEGICH, MURRAY and TESTER in offering this amendment to sections 412 and 926 to protect investors and promote capital formation.

During the Banking Committee's hearings on the financial crisis, the North American Securities Administrators Association, NASAA, testified about a serious investor problem. A growing number of private placement are being used to defraud "accredited investors." An investor is deemed "accredited," or financially sophisticated and able to withstand investment losses, if he or she has \$1 million in net worth, including the value of his or her home, or \$200,000 in annual salary, amounts that have not been changed since 1982. "Accredited investors" are presumed to be able to fend for themselves, receive fewer protections, and are eligible to invest in private placements.

Secretary William F. Galvin, the chief securities regulator of the Commonwealth of Massachusetts, stated that "my office has seen a dramatic increase in the number of 506 [private placement] transactions sold to inexperienced investors who, on paper, may have met the accreditation standards but in reality didn't understand the investments, could not incur the risk of loss these transactions often entail and did not have the financial sophistication to monitor or evaluate their investments."

The committee was concerned to protect such investors, particularly those who fall victim to sellers who repeatedly engage in securities fraud.

NASAA testified that:

These offerings enjoy an exemption from registration under federal securities law, so they receive virtually no regulatory scrutiny even where the promoters or broker-dealers have a criminal or disciplinary history. As a result, Rule 506 offerings have become the favorite vehicle under Regulation D, and many of them are fraudulent.

Regarding the "accredited investor" standard, NASAA testified that "[I]nflation has seriously eroded the efficacy of the existing thresholds in the definition of 'accredited investor' since their adoption in 1982" and supports periodic adjustments of these standards.

For the past several weeks, I have worked with and consulted the North American Securities Administrators Association, Angel Capital Association,

Private Equity Council and others, and I thank them. We have crafted language suited to protect investors from those unscrupulous persons while encouraging capital formation.

New section 926 would disqualify felons and other "bad actors" who have violated Federal and State securities laws from continuing to take advantage of the rule 506 private placement process. This will reduce the danger of fraud in private placements.

New section 412 would amend the "accredited investor" wealth threshold by excluding the value of an investor's primary residence. For example, a widow whose financial wealth was \$1 million but had the majority of that in the value of her home and had a salary of less than \$200,000, would not be deemed to be an "accredited investor." Instead, she would benefit from the broader range of protections available generally to investors. There are several reasons for this change:

The net worth test signals a person's ability to bear a loss. If the cushion for a loss is a person's home, a person making a bad investment could end up losing his or her home.

Net worth is intended to be a proxy for financial experience and sophistication. Some people who own valuable homes may not be sophisticated investors.

Furthermore, real estate prices have greatly appreciated since the net worth standard for accredited investors was adopted in 1982. Accordingly, many more investors are now able to meet the current thresholds based on the value of their homes than was the case in 1982, which is inconsistent with original regulatory intent.

Also, the SEC would be directed to review the financial standards at least 4 years to make sure the standards stay relevant.

I am pleased at the support the legislative proposals have received. The North American Securities Administrators Association on April 27, 2010 issued a letter stating,

We strongly support the adoption of a disqualification provision to prevent recidivists from conducting securities offerings under Regulation D, Rule 506 (a regulatory exemption for private placements). This change would provide much needed investor protection from securities law violators and would not prevent legitimate issuers, including small businesses, who use this exemption, to raise capital. Participants in the Regulation D offerings are "accredited investors" as established under SEC rules. The monetary standards for determining who qualifies for "accredited investor" status haven't changed since it was established in 1982 and inflation has rendered them almost meaningless. Therefore, we support, at a minimum, excluding the investor's primary residence from the net worth standard.

The Angel Capital Association on April 21, 2010 issued a statement saying that "[t]hese amendments will ensure that high growth entrepreneurs have access to a strong pool of angel capital

and that investors are better protected from fraud.”

The purposes of sections 412 and 926 of the bill have been to better protect investors while facilitating capital formation. This amendment more completely accomplishes these goals.

It is an important contribution Senator BOND has made, along with others, to this bill. It was never our intention at all. Startup companies need what are called angel investors who are critically important for startup ideas that do not necessarily attract the traditional capital to get behind them. People who step up and take a chance on new ideas deserve some special recognition. The fact is, they have played a very critical role in capital formation over the years.

Therefore, I was pleased to be able to accept the amendment and make it a part of this bill. This will allow for efficient capital access for entrepreneurs and also provide fraud protection for investors.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Angel Capital Association.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Angel Capital Association, Apr. 21, 2010]

ANGEL CAPITAL ASSOCIATION SUPPORTS AMENDMENTS TO FINANCIAL REFORM BILL  
SEN. DODD'S AMENDMENTS ALLOW FOR EFFICIENT CAPITAL ACCESS FOR ENTREPRENEURS AND ALSO IMPROVE FRAUD PROTECTION FOR INVESTORS

KANSAS CITY, MO.—The Angel Capital Association (ACA) supports two amendments that we understand will be offered by Sen Christopher Dodd on the Restoring American Financial Stability Act of 2010. These amendments will ensure that high growth entrepreneurs have access to a strong pool of angel capital and that investors are better protected from fraud.

ACA has been vocal in our concerns about this bill to date as two of the original sections had the potential of significantly reducing the number of accredited angel investors and creating complicated and potentially expensive regulations for entrepreneurs raising angel financing. “It is clear that concerns conveyed by ACA and many others about hurting start-up businesses struck a chord with Sen. Dodd and his staff,” said Elizabeth Karter, ACA’s public policy committee chair and president of the Angel Investor Forum in Connecticut. “They have worked hard to improve the bill so that it balances the importance of small business capital formation while protecting angels and other types of private investors from securities law violators.”

The amendments bring new meanings to two sections of the bill:

Section 412: Adjusting the Accredited Investor Standard.

The thresholds for “accredited investor” would stay the same as they are currently, although the standard for net worth of \$1 million would now exclude the investor’s primary residence. While ACA would have preferred no adjustment to the standard for angel investors, we believe this is a good compromise.

The act would also have the Securities and Exchange Commission review the thresholds at least every four years, with any adjustments considering the protection of investors, the public interest and the state of the economy. “We appreciate the direction to consider the economic impact of any adjustments to accredited investor standards in the future, as we believe that innovative start-up businesses are some of the most important creators of high quality jobs in the country,” said Karter.

Section 926. Regulation D Offerings.

The amendment deletes all previous language and disqualifies individuals who have been determined to be “bad actors” by Federal and State authorities from using Regulation D 506 private offerings (which include angel investments, but many other types of investments as well).

“ACA particularly likes this amendment because not only does it increase investor protections, but it ensures uniform regulation of these private offerings across the United States and it keeps the reporting requirements for entrepreneurs the same as they are currently. The current uniform system is efficient for small businesses that attract angel capital,” said Marianne Hudson, executive director of ACA.

Mr. DODD. Mr. President, I thank Senator BOND. He is the initiator of the idea. Others joined with him. It is, again, a strong contribution to this bill.

I see my colleagues from Indiana, Kansas, and Maryland. I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to be added as a cosponsor of the Bond amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3789, AS FURTHER MODIFIED

Mr. BROWNBACK. Mr. President, I call up in the regular order my amendment No. 3789 and send a modification to the desk.

The PRESIDING OFFICER. The amendment No. 3789 is now pending. It is further modified.

The amendment, as further modified, is as follows:

(Purpose: To provide for an exclusion from the authority of the Bureau of Consumer Financial Protection for certain automobile manufacturers, and for other purposes)

At the end of subtitle B of title X, add the following:

**SEC. 1030. EXCLUSION FOR AUTO DEALERS.**

(a) IN GENERAL.—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) CERTAIN FUNCTIONS EXCEPTED.—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) NO IMPACT ON PRIOR AUTHORITY.—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) NO TRANSFER OF CERTAIN AUTHORITY.—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) MOTOR VEHICLE.—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) MOTOR VEHICLE DEALER.—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

Mr. BROWNBACK. Mr. President, I am not going to talk on this amendment now. This is the amendment about the auto dealers and that they only be regulated at one time and at one place. That is what we are trying to get to.

I hope we can get to a majority vote on this amendment. I think that would be appropriate. It is a major issue, and I look forward to, at some point in time, when we are considering this bill,



having a vote on it with a majority, not a supermajority, requirement.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 4050 TO AMENDMENT NO. 3739

Mr. CARDIN. Mr. President, I call up amendment No. 4050.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. CARDIN], for himself, Mr. LUGAR, Mr. DURBIN, Mr. SCHUMER, Mr. FEINGOLD, Mr. MERKLEY, Mr. JOHNSON, and Mr. WHITEHOUSE, proposes an amendment numbered 4050 to amendment No. 3739.

Mr. CARDIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the disclosure of payments by resource extraction issuers)

On page 1187, line 9, strike "effective." insert the following: "effective."

#### Subtitle K—Resource Extraction Issuers

##### SEC. 995. FINDINGS.

Congress finds the following:

(1) It is in the interest of the United States to promote good governance in the extractive industries sector. Transparency in revenue payments benefits oil, gas, and mining companies, because it improves the business climate in which such companies work, increases the reliability of commodity supplies upon which businesses and people in the United States rely, and promotes greater energy security.

(2) Companies in the extractive industries sector face unique tax and reputational risks, in the form of country-specific taxes and regulations. Exposure to these risks is heightened by the substantial capital employed in the extractive industries, and the often opaque and unaccountable management of natural resource revenues by foreign governments, which in turn creates unstable and high-cost operating environments for multinational companies. The effects of these risks are material to investors.

##### SEC. 996. DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

"(p) DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.—

"(1) DEFINITIONS.—In this subsection—

"(A) the term 'commercial development of oil, natural gas, or minerals' includes exploration, extraction, processing, export, and other significant actions relating to oil, natural gas, or minerals, or the acquisition of a license for any such activity, as determined by the Commission;

"(B) the term 'foreign government' means a foreign government, a department, agency, or instrumentality of a foreign government, or a company owned by a foreign government, as determined by the Commission;

"(C) the term 'payment'—

"(i) means a payment that is—

"(I) made to further the commercial development of oil, natural gas, or minerals; and

"(II) not de minimis; and

"(ii) includes taxes, royalties, fees (including license fees), production entitlements,

bonuses, and other material benefits, that the Commission, consistent with the guidelines of the Extractive Industries Transparency Initiative (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals;

"(D) the term 'resource extraction issuer' means an issuer that—

"(i) is required to file an annual report with the Commission; and

"(ii) engages in the commercial development of oil, natural gas, or minerals;

"(E) the term 'interactive data format' means an electronic data format in which pieces of information are identified using an interactive data standard; and

"(F) the term 'interactive data standard' means standardized list of electronic tags that mark information included in the annual report of a resource extraction issuer.

"(2) DISCLOSURE.—

"(A) INFORMATION REQUIRED.—Not later than 270 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall issue final rules that require each resource extraction issuer to include in an annual report of the resource extraction issuer information relating to any payment made by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals, including—

"(i) the type and total amount of such payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals; and

"(ii) the type and total amount of such payments made to each government.

"(B) CONSULTATION IN RULEMAKING.—In issuing rules under subparagraph (A), the Commission may consult with any agency or entity that the Commission determines is relevant.

"(C) INTERACTIVE DATA FORMAT.—The rules issued under subparagraph (A) shall require that the information included in the annual report of a resource extraction issuer be submitted in an interactive data format.

"(D) INTERACTIVE DATA STANDARD.—

"(i) IN GENERAL.—The rules issued under subparagraph (A) shall establish an interactive data standard for the information included in the annual report of a resource extraction issuer.

"(ii) ELECTRONIC TAGS.—The interactive data standard shall include electronic tags that identify, for any payments made by a resource extraction issuer to a foreign government or the Federal Government—

"(I) the total amounts of the payments, by category;

"(II) the currency used to make the payments;

"(III) the financial period in which the payments were made;

"(IV) the business segment of the resource extraction issuer that made the payments;

"(V) the government that received the payments, and the country in which the government is located;

"(VI) the project of the resource extraction issuer to which the payments relate; and

"(VII) such other information as the Commission may determine is necessary or appropriate in the public interest or for the protection of investors.

"(E) INTERNATIONAL TRANSPARENCY EFFORTS.—To the extent practicable, the rules

issued under subparagraph (A) shall support the commitment of the Federal Government to international transparency promotion efforts relating to the commercial development of oil, natural gas, or minerals.

"(F) EFFECTIVE DATE.—With respect to each resource extraction issuer, the final rules issued under subparagraph (A) shall take effect on the date on which the resource extraction issuer is required to submit an annual report relating to the fiscal year of the resource extraction issuer that ends not earlier than 1 year after the date on which the Commission issues final rules under subparagraph (A).

"(3) PUBLIC AVAILABILITY OF INFORMATION.—

"(A) IN GENERAL.—To the extent practicable, the Commission shall make available online, to the public, a compilation of the information required to be submitted under the rules issued under paragraph (2)(A).

"(B) OTHER INFORMATION.—Nothing in this paragraph shall require the Commission to make available online information other than the information required to be submitted under the rules issued under paragraph (2)(A).

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this subsection."

Mr. CARDIN. Mr. President, I wish to take a few minutes to thank Senator DODD for his extraordinary leadership on this bill. I know he is working through a lot of amendments. I know a lot of us have been urging him to allow us to present amendments. I know he has been challenged by the efforts on trying to schedule votes on amendments. I thank him, on behalf of all his colleagues in the Senate, for his extraordinary leadership in bringing this bill forward. I thank Senator SHELBY for working with Senator DODD. I know we are close to bringing this bill to completion. I am very proud to be a supporter of this bill. It is critically important that we do what we need to do in regulating Wall Street.

This amendment is a bipartisan amendment. Senator LUGAR has filed a bill, of which I am a proud cosponsor, that accomplishes basically the same purpose. He has been a real leader in the Senate Foreign Relations Committee on transparency in the oil industry and its contracts.

The nature of the oil, gas, and mining sector means that companies often have to operate in countries that are often autocratic, unstable, or both. Investors need to know the full extent of a company's exposure when they are operating in countries where they are subject to expropriation, political and social turmoil, and reputational risks.

In Nigeria, for example, American companies have taken oilfields offline because of rebel activity and instability in the Niger Delta. In 2009, Nigeria was producing almost 1 million barrels less than it is able to produce because of conflict and instability. With so much production offline, American oil companies, such as Chevron and Exxon, have lost jobs and have lost



profits and are forced to pay higher production costs because of added security.

This amendment goes a long way in achieving that transparency by requiring all foreign and domestic companies registered with the U.S. Securities and Exchange Commission to report, in their annual reports to the SEC, how much they pay each government for access to their oil, gas, and minerals.

In short, this amendment is a critical part of the increased transparency and good governance we have been striving to achieve in the financial industry. We have been working with a lot of groups on perfecting this amendment, and we have made some changes that will give the SEC the utmost flexibility in defining how these reports will be made so that we not get the transparency we need without burdening the companies.

I thank all involved in the modifications that have been made to this amendment from how it was originally filed in order to make it not a burden on the industry but to provide the necessary information to investors.

This amendment also is about creating jobs and preserving jobs. This amendment is important because it will help create and preserve U.S. jobs in the oil, gas, and mining sector by improving the conditions in which oil and mining companies have to work.

Transparency will help create more stable governments, which in turn allows U.S. companies to operate more freely—and on a level playing field—in markets that otherwise are too risky or unstable.

This is a bipartisan amendment because Democratic and Republican colleagues both know we are creating a new standard of transparency that will apply to the world's extractive industries and is in the best interest of companies in competing on a level playing field. That has been what Senator LUGAR has been standing for within the Senate Committee on Foreign Relations, and I applaud him on his leadership.

In fact, this amendment would apply to all oil, gas, and mining companies required to file periodic reports with the SEC, which includes 90 percent of the major internationally operating oil companies and 8 out of the 10 largest mining companies in the world—only 2 of which are U.S. companies.

We currently have a voluntary international standard for promoting transparency. A number of countries and companies have joined the Extracted Industries Transparency Initiative, an excellent initiative that has made tremendous strides in changing the cultural secrecy that surrounds extractive industries. But too many countries and too many companies remain outside this voluntary system.

I had the honor of chairing the Helsinki Commission for this Congress. This has been one of our top priorities

because it deals with good governance as well as investors knowing whether a company is making payments. The U.S. needs to take a leadership position in regard to the Extractive Industries Transparency Initiative. This amendment, attached to this bill, will go a long way in promoting that leadership for the United States.

The notion of transparency has been endorsed by the G8, the IMF, the World Bank, and a number of regional development banks. It is clear to the financial leaders of the world that transparency in natural resources development is key to holding government leaders accountable for the needs of their citizens and not just building up their personal offshore bank accounts.

I urge my colleagues to stand up for investors and citizens and give them the information they need to hold governments accountable. I urge my colleagues to join me and the other cosponsors of this amendment and support the creation of a historic transparency standard that will pierce the veil of secrecy that fosters so much corruption and instability in resource-rich countries.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I join my distinguished colleague in commending the work of Senator DODD and Senator SHELBY and the privilege of offering this amendment now with Senator CARDIN.

I rise to support the transparency amendment, No. 4050, introduced by Senator CARDIN on behalf of myself, Senator DURBIN, Senator SCHUMER, Senator FEINGOLD, Senator MERKLEY, Senator JOHNSON, and Senator WHITEHOUSE. This amendment builds on language introduced in the Energy Security Through Transparency Act of 2009. If passed, the amendment would help to reverse the "resource curse" by revealing payments made here and abroad to governments for oil, gas, and minerals.

The Senate debate on financial regulatory reform has included a great deal of debate on transparency. Transparency empowers citizens, investors, regulators, and other watchdogs and is a necessary ingredient of good governance for countries and companies alike. Adoption of the Cardin-Lugar amendment would bring a major step in favor of increased transparency at home and abroad. Its passage would empower investors to have a more complete view of the value of their holdings. It would bring more information to global commodity markets, which would benefit price stability. More importantly, it would help empower citizens to hold their governments to account for the decisions made by their governments in the management of valuable oil, gas, and mineral resources and revenues.

In countries abundant in natural resources, corruption and authoritarianism, transparency is a vital tool. Yet in recent weeks we have also been reminded of the need for greater transparency in management at home. The amendment builds on the findings of a Senate Committee on Foreign Relations staff report entitled the "Petroleum and Poverty Paradox: Assessing U.S. and International Community Efforts to Fight the Resource Curse," which noted that many resource-rich countries that should be well off are, in fact, terribly poor.

History shows that oil, gas reserves, and minerals frequently can be a bane, not a blessing, for poor countries, leading to corruption, wasteful spending, military adventurism, and instability. Too often, oil money intended for a nation's poor ends up lining the pockets of the rich or is squandered on showcase projects instead of productive investments. A classic case is Nigeria, the eighth largest oil exporter. Despite \$½ trillion in revenues since the 1960s, poverty has increased, corruption is rife, and violence roils the oil-rich Niger Delta.

This "resource curse" affects us as well as producing countries. It exacerbates global poverty which can be a seedbed for terrorism, it empowers autocrats and dictators, and it can crimp world petroleum supplies by breeding instability.

The essential issue at stake is a citizen's right to hold its government to account. Americans would not tolerate the Congress denying them access to revenues our Treasury collects. We cannot force foreign governments to treat their citizens as we would hope, but this amendment would make it much more difficult to hide the truth.

Transparency also will benefit Americans at home. Improved governance of extractive industries will improve investment climates for our companies abroad, it will increase the reliability of commodity supplies upon which businesses and people in the United States rely, and it will promote greater energy security.

This amendment requires foreign and domestic companies listed on U.S. stock exchanges and exchanging American depository receipts to disclose in their regular SEC filings their extractive payments to governments for oil, gas, and mining.

Nothing in this amendment accuses companies of malfeasance. Quite the contrary. Several oil, gas, and minerals companies have taken important steps in this arena. The aforementioned Foreign Relations Committee minority staff report details several examples of individuals going the extra mile to convince governments of the importance of transparency and to provide training to meet international standards.

Yet the value of companies themselves can be negatively impacted

when there is not transparency. As noted in the findings of this amendment:

Companies in the extractive sector face unique tax and reputational risks in the form of country-specific taxes and regulations. Exposure to these risks is heightened by the substantial capital employed in the extractive industries, and the often opaque and unaccountable management of natural resource revenues by foreign governments, which in turn creates unstable and high-cost operating environments for multinational companies. The effects of these risks are material to investors.

Many analysts say among the root causes of the current financial crisis was a failure by investors to have access to sufficient information about their investments and an excessive reliance on the judgments of the ratings agencies, which proved to be highly faulty. That experience argues strongly for more disclosure and information.

Considering the well-established link between oil payments and the business climate, many investors might be interested in this information—particularly socially responsible investors.

This domestic action will complement multilateral transparency efforts such as the Extractive Industries Transparency Initiative—the EITI—under which some countries are beginning to require all extractive companies operating in their territories to publicly report their payments.

We encourage the President to work with members of the G8 and the G20 to promote similar disclosures through their exchanges and their jurisdictions. As Secretary Clinton noted in her questions for the record on January 12, 2009:

President-Elect Obama has put a high priority on promoting transparency in government more broadly. I look forward to working with the President-Elect and the Treasury Department to promote greater transparency at the G-8 and now the G-20 as well.

In developing this amendment, our staffs consulted with the Secretary, the Securities and Exchange Commission, the Treasury Department, the Department of the Interior, energy companies, mining companies, the industry representatives, and nongovernmental organizations.

When financial markets see stable economic growth and political organization in resource-rich countries, supplies are more reliable and risk premiums factored into the process at the gas pump are diminished. Information is critical to maintaining healthy economies and healthy political systems. I ask for your support on passage of this important amendment.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I am happy to come to the Senate floor and join in support of the Cardin-Lugar amendment. I am an original cosponsor along with Senators FEINGOLD, WHITEHOUSE, and others. It is very straight-

forward, as Senator LUGAR explained, and Senator CARDIN before him.

It would require companies listed on the New York Stock Exchange to disclose in their SEC filings extractive payments made to governments for oil, gas, and mining. This encourages greater corporate transparency, particularly in terms of those operating in countries where corruption and violence are rampant.

I would also say there is a complementary amendment, which I hope will be considered at the same time because it is in that same vein. It is amendment No. 3997, offered by Senators BROWNBACK, FEINGOLD, and myself, and it basically would make the same requirement related to extractive minerals.

Mr. President, I went to the Democratic Republic of Congo 5 years ago with Senator BROWNBACK. We visited Goma, and I returned to that location just a few months ago with Senator SHERROD BROWN of Ohio. On those two visits I saw a situation in Goma which is almost impossible to describe. Imagine one of the poorest places on Earth, where people literally are starving to death, where they are facing the scourge of disease, where malaria and AIDS cuts short the lives of far too many, where there are thousands who are bunched into these just desolate and desperate refugee camps, and then imagine nearby an active volcano. That is the situation in Goma.

If you think that is the combination that would be the worst on Earth, there is more. Superimpose on this misfortune an ongoing war and unrest that has been part of this section of Africa at least since the time of the Rwandan genocide—that long—more than 16 years ago. Unspeakable crimes are being committed, particularly against women in this region, and one of the major reasons is this turns out to be one of the most powerful sections of Africa. You will find Dian Fossey's gorillas, and you will find some of the richest stores of virgin timber and extractive minerals in the world. The fighting goes on every single day, and these poor people are caught in the crossfire of this terrible conflict. Armed militias—some left over from the genocide in Rwanda—continue to operate in the region, terrorizing citizens and inflicting horrific brutality. The United Nations has a 20,000-member peacekeeping force, known as MONUC, but it isn't enough.

What is really behind this ongoing violence? Money. Some of it is a result of a weak Congolese state, and some of the problem is due to the large number of criminals who have invaded this nation. But what helps fund the continued violence is an illicit minerals trade that enriches and helps arm those who continue this mayhem.

Most people probably don't realize the products we use every day—from

automobiles to cell phones—may use one of these minerals from this area of conflict and that there is a possibility it was mined from an area of great violence.

We can't begin to solve the problems of eastern Congo without addressing where the armed groups are receiving their funding, mainly from the mining of a number of key conflict minerals. We, as a nation of consumers as well as industry, have a responsibility to ensure that our economic activity does not support such violence.

That is why I join with Senators BROWNBACK and FEINGOLD to support the Congo conflict minerals amendment, which is now pending on this bill. It is a requirement that if a company registered in the United States uses any of a small list of key minerals from the Congo—minerals known to be involved in the conflict areas—then such usage must be disclosed in that company's SEC disclosure. Such companies can also include additional information to indicate the steps they have taken to ensure their minerals were mined and paid for legitimately and legally.

The requirement would sunset in 5 years unless the Secretary of State certifies that the violence continues to receive support from the mineral trade. It is a reasonable step to shed some light on this literally life-and-death issue, and it encourages companies using these minerals to source them responsibly.

I thank Senators DODD and SHELBY for their consideration of this amendment. I hope, like the Cardin-Lugar amendment, there will be a chance for this Brownback-Feingold-Durbin amendment to be considered before this bill is completed.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Connecticut.

AMENDMENT NO. 4056

Mr. DODD. I, too, wish to make a comment, but before I do, I think the pending business before the Senate and the request consent is the Bond amendment. Has that been adopted? I urge the question, if I can.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is pending.

Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 4056) was agreed to.

Mr. DODD. I move to reconsider and lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4050

Mr. DODD. Mr. President, I would like to make a few comments on the two proposals. One is, I say to my good friend from Illinois, Senator SHELBY and I have agreed to ac-

cept the Brownback-Cardin—Cardin-Brownback-Durbin amendment. I am not sure who the principal authors are. Maybe we can do that on a voice vote. We submitted that as part of the managers' amendment but, given the pace of the managers' amendment, it may be necessary to deal with that separately. But I thank my colleagues for that.

I commend my good friends, Senator CARDIN and Senator LUGAR from Indiana, once again. He has taken a leadership role. I am struck by the fact that just a little while ago we adopted the Cornyn amendment. The Cornyn amendment puts restraints on the IMF's ability to accept that in some very poor countries they are going to have to repay their IMF obligations. That amendment needs some work. But having adopted that amendment almost unanimously it is now critically important we adopt this amendment, in my view, because it complements, in a sense, the Cornyn amendment. Many of these people living in poor countries have little ability—despite being mineral and resource rich—to accumulate the wealth so they can avoid having to have IMF assistance to bail them out or give them assistance during difficult times.

If we are truly interested in the language of the Cornyn amendment, then we must complement it, in my view, by accepting the Cardin-Lugar amendment because it goes beyond just the Congo. Despite the good work being done on that amendment, this goes beyond that.

So I thank Senators CARDIN and LUGAR for their important bipartisan amendment requiring additional disclosure to millions of investors who are making decisions about investing in the extractive industries—mainly oil, natural gas, and mining—around the world. And I thank them for modifying the original amendment to streamline the reporting requirements, adapt as far as practicable the voluntary Extractive Industries Transparency Initiative disclosure standards, and make other changes to ease implementation.

We have a similar but more targeted amendment from Senator BROWNBACK, Senator DURBIN, and Senator CARDIN, I think, focused on the Congo and adjoining countries, since mining operations there have for years helped fuel the brutally violent militias that have caused so much damage and heartbreak, and killed so many in that strife-torn region. Given the ongoing emergency in the Congo, I am glad that Senator SHELBY and I have been able to work out an agreement to adopt this Congo amendment.

This amendment by Senator CARDIN is much broader, and is designed to impose a new international transparency standard on companies listed and traded on U.S. exchanges who are active in the oil and gas and mining industries.

Senator CARDIN and Senator LUGAR have focused on these industries because in many places, especially in Africa, they involve unique exposures to country- and industry-specific risks—including reputational risks, tax and regulatory risks, expropriation risks, and others—as they conduct business operations in countries where governance and accountability systems are rudimentary, at best—and where corruption, secrecy and a lack of transparency regarding public finance are pervasive. Those risks are heightened by the very large multi-year investments that are required of this industry, their need to gain access to natural resources, and the often compelling national security considerations tied to the products developed by this industry.

In the last few decades many American investors have begun to consider more seriously the ethical and socially responsible implications of their investments, and this amendment is a part of that larger effort. It is also a part of broader international effort to combat corruption, poverty, hunger and disease throughout Africa, Asia and Central America by providing a mechanism to ensure greater transparency for the many ways in which sometimes corrupt and authoritarian governments in these regions take in huge revenue flows from oil and gas producers or mining companies, and then fail to adequately meet the needs of their own vulnerable populations with social spending funded by the income from those projects.

Let me remind my colleagues of the scale of this problem. A recent report by the Senate Foreign Relations Committee under the leadership of Senator LUGAR and Senator KERRY concluded that 3.5 billion people live in countries rich in extractive natural resources such as oil, gas, minerals and timber. With good governance and transparency, these resources can generate vast sums to foster growth and reduce poverty. Instead, many of these countries have weak governance and administrative systems, so the revenues have often served to actually worsen corruption and generate violent conflict.

It is known as the "resource curse," or the "petroleum and poverty paradox," where countries with huge revenue flows from energy development also frequently have some of the highest rates of poverty, corruption and violence. Where is all that money going? This amendment, the Lugar-Cardin amendment, is a first step toward addressing that issue by setting a new international standard for disclosure. I hope that other nations, and those in charge of major exchanges in London, Hong Kong and elsewhere, would follow our lead on this. There is some indication of interest there, especially in the British Parliament.

The amendment would require companies to better account for the risks

associated with such investments by disclosing basic information about payments to governments. I believe that many Americans—including investors and other stakeholders in these firms—would consider this kind of information material and relevant to their decisions about whether or not to invest, or whether to divest their current holdings, from firms engaged in this sort of activity. On its face this interest appears not to rise to the level of materiality for investors that currently governs the disclosure requirements of public companies under Federal securities laws. That is a question we may want to look at more closely in the Banking Committee. There are also questions about the precedent this would set for Congress to require disclosures usually considered to be non-material.

Currently, nearly 30 countries are participants in a voluntary program designed to increase transparency called the EITI. That is an important initiative, and I applaud it. Strengthening America's leadership in the program, with broad new requirements for greater disclosure by resource extractive companies operating around the world, would be an important step. Senators CARDIN and LUGAR have modified his amendment to base some of the reporting on the standards which have evolved within this initiative, supported by many oil, energy and mining companies, and many countries. I am not persuaded by the arguments some make that this would weaken the EITI and make some nations less prone to participate in it. To the contrary, I believe it would strengthen the initiative. And I believe those who have worked closely within EITI agree.

Because we have not yet been able to hold hearings on this measure this year—something which I had hoped to do in the Banking Committee once we had completed this historic financial reform measure—I am not sure we have all the precise details and the language exactly right, but the thrust is exactly right and, therefore, in my view, the amendment by Senators CARDIN and LUGAR ought to be adopted. We can work on the details, if we have to, later on, but we should not miss this opportunity provided by this legislation to make this historic contribution to something that not only benefits investors here at home but might make a huge difference in the wealth and opportunity in these countries.

Again, in some ways I didn't plan it this way, but the fact we have adopted the Cornyn amendment dealing with the International Monetary Fund—now, if you wanted to make a difference in all that, this amendment I think does all that.

I thank my two colleagues—Senator CARDIN, who is relatively new to this institution but has brought a history of his interest in this subject matter. Of

course, my 30 years with Senator LUGAR have been among the most joyous of the relationships I have had in this body. He never ceases to amaze me in his commitment, his energy, and his passion on these issues, and we are a richer and better country because of his participation in these debates over many years. Again, I am delighted to be associated with him in an effort such as this. I urge my colleagues tomorrow, either on voice vote or recorded vote, to adopt the Cardin-Lugar amendment.

I would like to add Senators BAUCUS, and I believe I have, Senator TESTER, as cosponsors of the Bond-Dodd, et al., amendment, No. 4056.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. I commend the work of Senator DODD on this legislation. We have more work to do.

I rise to speak to an amendment I have filed, amendment No. 3891, the homeowners' relief and stabilization amendment.

The reason I rise is to speak about a topic we have all talked about and we have taken action about over the last couple years. We have had some progress made, but unfortunately not enough progress has been made. I speak tonight about foreclosures.

Foreclosures in America are still a huge problem for the American people. RealtyTrac, one of the entities that keeps records on foreclosures and has been a leading source for this information, tells us that the numbers of U.S. residential properties receiving at least one foreclosure filing jumped 21 percent in 2009 to a record of 2.82 million housing units.

Foreclosure activity has increased sharply in March of 2010. The number of homes in some stage of the foreclosure process rose from the previous quarter.

Given the significant Federal response to the foreclosure crisis, it is disheartening—I think that is an understatement—that foreclosure filings in March of 2010 were up nearly 8 percent from March of 2009, the highest monthly total since RealtyTrac began reporting the numbers in January of 2005. So we have a ways to go on this very difficult challenge that our Nation has faced.

I commend the administration for using the so-called TARP funds, the Trouble Asset Relief Program funds, for initiatives to help homeowners, which I think indicates that the Federal Government is concerned about assisting those who have lost their jobs or have seen their home values plummet as a result of Wall Street recklessness.

You could add a few more words to "recklessness," but in the interest of time, I will not.

Despite the actions of the Congress over the last several years, despite the

actions of the prior administration and this administration especially, despite all that effort, according to the Congressional Oversight Panel of the Troubled Asset Relief Fund, as of February of 2010, 6 million borrowers were more than 60 days delinquent on mortgages and only 168,708 homeowners had received final 5-year loan modifications.

We have a long way to go and we have to implement, in my judgment, new and different and more effective strategies to deal with foreclosures. More must be done to stem this tide of foreclosures that has resulted not only from widespread subprime mortgages but also from increasing unemployment, which has devastated communities and neighborhoods across America.

This amendment—which I thank both colleagues from New York, Senators GILLIBRAND and SCHUMER, for cosponsoring—would also use TARP dollars to help unemployed homeowners. It is very simple: \$3 billion would go into a HUD fund to establish a temporary emergency funding relief program based on a very successful program run in Pennsylvania since 1983. It has helped tens of thousands of homeowners in Pennsylvania.

This may be the most successful mortgage foreclosure relief program in the country, at least that I am aware of. Some may want to debate that. But I think in Pennsylvania we have a good track record. We need something akin to that, something very similar to that on a national scale.

This program and this idea are designed to respond to high unemployment situations where homeowners are temporarily unable to afford their monthly mortgage payment due to at least three conditions: unemployment, of course; underemployment is another situation; thirdly, a medical condition could also prevent someone from making their mortgage payment every month.

Subprime mortgage loans and predatory lending sparked a wave of foreclosures, as many borrowers defaulted on loans that they were sold using predatory practices, that they could never afford in the first place to make the payments for. Now the country finds itself in the midst of a second wave—a second wave of foreclosures, where prime borrowers struggle to make their monthly payments after a job loss or unsuccessful attempts at refinancing or modifications.

Despite all of the work that has been done here over the last couple of years, despite all of the work done by the administration, we still find borrowers, homeowners, who, because of a job loss or another adverse circumstance, cannot make their monthly payments. We need direct help for them. We do not need something around the margins; we need direct help for them.

The amendment provides for loans to homeowners only after determining the

borrower has a reasonable prospect of being able to resume making full mortgage payments, and we will consider their ability to repay in establishing loan terms, conditions, or rates.

In addition to the individual homeowner problem—someone who has lost their job or has some circumstance that prevents them from making their payments—in addition to the individual, we have full neighborhoods across the country that continue to suffer from housing price declines, lost property tax revenues, abandoned properties, and, of course, blight. This amendment would also direct \$1 billion of TARP funds to the Neighborhood Stabilization Program created by the Housing and Economic Recovery Act of 2008 to provide grants to State and local governments and eligible entities to purchase and redevelop foreclosed and abandoned properties with the goal of stabilizing communities. So this is a neighborhood problem in addition to being a problem with individual homeowners.

The language from this amendment was included in H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009 which passed the House of Representatives late last year.

In conclusion, I wish to reemphasize the need for this type of an amendment because we still, unfortunately, have not tackled the foreclosure problem in America. In fact, it is a foreclosure crisis which will prevent us from having an economy that is in full recovery. We did the right thing by making sure the TARP dollars were able to sustain what happened in the strategy to help our financial companies around the United States of America, especially those that were in real trouble in 2008 and 2009. We did the right thing on the recovery bill. We did the right thing on the HIRE Act a couple of months ago. We have taken a lot of steps to rescue and stabilize our economy. We are growing now. We have some growth. We have some employment growth. But unless we tackle completely the foreclosure problem with a very direct, focused effort, we are not going to fully recover and we are not going to have the kind of economic growth we should.

So I would urge my colleagues to join Senator SCHUMER, Senator GILLIBRAND, me, and others in voting for and seeking the passage of this amendment, No. 3791, the homeowners relief and neighborhood stabilization amendment.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMENDMENT NO. 4050

Mr. DODD. Mr. President, I ask for the yeas and nays on the Cardin-Lugar amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, I ask unanimous consent that after a period of morning business on Tuesday, May 18, the Senate resume consideration of S. 3217, and there be 30 minutes for debate with respect to the Gregg amendment No. 4051 prior to a vote, with the time equally divided and controlled between Senators DODD and GREGG or their designees; that upon the use or yielding back of time, the Senate proceed to vote in relation to the amendment, with no amendment in order to the amendment prior to the vote; that the Gregg amendment be subject to an affirmative 60-vote threshold, and if the amendment achieves that threshold, then it be agreed to, and the motion to reconsider be laid upon the table; that if it does not achieve that threshold, then it be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that the amendment by Senator CORKER of Tennessee on preemption be in order, and that the side-by-side amendment offered by Senator CARPER be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HONORING OUR ARMED FORCES

## LIEUTENANT BRANDON AARON BARRETT

Mr. BAYH. Mr. President, today I wish to honor the life of Marine LT Brandon Barrett from Marion, IN. Brandon was only 27 years old when he lost his life on May 5 while serving bravely in support of Operation Enduring Freedom in Afghanistan.

Lieutenant Barrett was assigned to the 1st Battalion, 6th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force at Camp Lejeune.

Today, I join family and friends in mourning his death who will forever remember him as a loving son, brother, and friend. He is survived by his mother, Cindy Barrett, his father, Brett Barrett, his sisters, Ashley and Taylor Barrett and his brother, Brock Barrett.

Brandon was a native of Marion. Prior to entering the Marine Corps in 2006, Brandon graduated from Marion

High School and attended the U.S. Naval Academy. His family and friends describe him as a bright student, a gifted football and baseball star, and a proud Hoosier who courageously refused to take freedom for granted.

Brandon was deployed on his second tour of duty in Afghanistan. During his service, Brandon earned an array of awards, including the Navy and Marine Corps Achievement Medal, National Defense Service Medal, Global War on Terrorism Service Medal, Afghanistan Campaign Medal and NATO International Security Assistance Force Medal.

While we struggle to express our sorrow over this loss, we take pride in the example of this American hero. We cherish the legacy of his service and his life.

As I search for words to honor this fallen Marine, I recall President Lincoln's words to the families of the fallen at Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here."

It is my sad duty to enter the name of Brandon Barrett in the RECORD of the U.S. Senate for his service to our country and for his profound commitment to freedom, democracy, and peace.

I pray that Brandon's family finds comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

## TRIBUTE TO DR. JOSEPH BASCUAS

Mr. BROWN of Massachusetts. Mr. President, I would like to recognize Dr. Joseph W. Bascuas for serving as interim president of Becker College and for his dedication to high academic standards and expectations.

The Becker College board of trustees named Dr. Bascuas as interim president on September 26, 2008. Dr. Bascuas gave his leadership and support to the Becker College community in various ways during his tenure and succeeded in bringing a united vision to the college during a challenging time. Throughout his tenure as Becker College's interim president, Dr. Bascuas advocated strong steps to bolster transparency and the fiscal responsibility of the college, such as maintaining a budget surplus at a time of economic uncertainty. As president, Dr. Bascuas championed cost containment for working families by urging the trustees to freeze tuition and room and board for 2009-2010. He promoted high academic standards and expectations, thus increasing pride in the institution.

I have been proud to hear of the record of Becker College under his leadership. Becker College serves more than 1,700 students from 18 States and 12 countries and offers over 25 diverse, top-quality bachelor degree programs in unique, high-demand career niches. Dr. Bascuas brought more than 25 years of experience in higher education to Becker College. In addition to his teaching and leading experiences, he has written and coauthored numerous papers on psychological topics and has presented at symposia and conferences. Dr. Bascuas utilized his great volume of experience and passion for quality higher education in his role as Becker College interim president.

I stand here today to congratulate Dr. Joseph W. Bascuas on the completion of his honorable work as Becker College's interim president. I ask my colleagues to join me in wishing Dr. Joseph W. Bascuas continued success.

## VICTORIOUS SENATE PAGES

Mr. WARNER. Mr. President, on May 16, 2010, the Senate Pages played the House Pages in an annual ultimate Frisbee game on the National Mall. This year the Senate Pages won the game commandingly 6-3.

Congratulations Senate Pages.

## ADDITIONAL STATEMENTS

## REMEMBERING WALTER J. HICKEL

• Ms. MURKOWSKI. Mr. President, on Saturday morning, May 8, Alaskans awakened to the sad news that our beloved former Governor, Walter J. Hickel, passed away at the age of 90.

While those in my State viewed him as an Alaska legend, students of American political history may recall Governor Hickel more vividly as President Nixon's first Secretary of the Interior. They may recall that Hickel left that position after criticizing President Nixon for his handling of the Vietnam war and the student protests that gripped the Nation over our involvement in Southeast Asia.

In 1970, following what has come to be known as the "Kent State Massacre," Secretary Hickel wrote a letter urging President Nixon to give more respect to the views of young people critical of the war. That letter included the passage, "I believe this administration finds itself today embracing a philosophy which appears to lack appropriate concern for the attitude of a great mass of Americans—our young people."

On November 25, 1970, Governor Hickel was fired over the letter. His firing came days after he told "60 Minutes" that he had no intention of quitting. He said he would only go away "with an arrow in my heart, not a bullet in my back." The Nixon administration was all too pleased to oblige.

If President Kennedy were still alive, he surely would have viewed this series of events as a "profile in courage." To this day, when Alaskans are asked for one word that describes Walter Hickel, the word "backbone" immediately comes to mind.

They may have fired Wally Hickel but they didn't silence him. Governor Hickel left the national political scene following this incident to focus on Alaska and the Arctic, and his independence, his judgment, and his backbone inspired leaders of Alaska for decades to come.

Governor Hickel appreciated that public policy is a team effort, not an individual sport. Two of Governor Hickel's enduring legacies to the State—Commonwealth North, Alaska's leading public affairs forum, and the Institute of the North, a public policy think-tank—continue to shape public discourse today. Governor Hickel would be proud that last week, even as Alaskans grieved his loss, the Institute of the North conducted its annual Emerging Leaders Dialogue in Sitka.

Governor Hickel's life was large, as large as all of Alaska. Alaska is one of the few corners of America in which legends can still be made. And Governor Hickel surely will go down in history as an Alaska legend.

Born August 18, 1919, in Kansas, Walter J. Hickel came to Alaska in 1940 with 37 cents in his pocket. As he sailed into Prince William Sound on the S.S. *Yukon*, overwhelmed by the breathtaking natural beauty, Hickel remarked, "You take care of me, and I'll take care of you."

The words were prophetic. After working as a bartender, a carpenter, and an aircraft inspector, Governor Hickel saved enough money to purchase a half-completed house. He finished building the house, sold it, and then built two more. Eventually, he built several hundred homes.

Long time Fairbanks newspaper columnist Dermot Cole recalls Governor Hickel's success in enlisting community support to build Fairbanks' first modern hotel in 1955. Fairbanks needed a hotel, and Governor Hickel needed financing. He asked the Fairbanks community to invest in its future by purchasing bonds to finance the project, and 583 bondholders invested in the project. The smallest investment was \$10, the largest \$25,000. The project was built in 7 months. The bondholders were paid back by 1960. And that hotel, The Travelers Inn, still greets visitors to Alaska's Golden Heart City. Today, it is known as the Westmark Fairbanks.

Governor Hickel went on to build Anchorage's Captain Cook Hotel, as a show of confidence in the economy of Southcentral Alaska following the 1964 earthquake. Today, the Captain Cook Hotel offers 547 rooms, in 3 towers, and is Alaska's member of the Preferred Hotel Group.

Alaska sure took care of Wally Hickel, and Governor Hickel more than fulfilled his promise to take care of Alaska, proving that economic development and environmental conservation are not mutually exclusive concepts. His life demonstrates that a developer can be a conservationist and a conservationist can be a developer. One is left to wonder which title he preferred.

Governor Hickel believed that economies can be grown through big projects. He certainly was not one who shared the view prevalent in some circles of the Lower 48, that Alaska should be locked up as a museum to compensate for poor land use decisions made elsewhere in America. During a 1978 interview, he referred to Alaska as a "happy, young, vibrant country." Blunt and honest, he lamented those who argued, "Don't walk here. Don't walk there. Don't step on the dandelions. You can't use this." He referred to this kind of thinking as "What a bunch of bull."

Yet this is the same Walter Hickel who dispatched legions of Interior Department employees to commemorate the first observance of Earth Day in 1969; the same Walter Hickel who told the National Petroleum Council in 1970, "The right to produce [petroleum] is not the right to pollute. America must prove to itself as well as to others worldwide that it has the ability to clean up the garbage it has left in its wake."

He insisted that those who benefited from the development of Alaska's resources pay Alaskans their due. And during Governor Hickel's second stint as Governor during the 1990s, the major oil companies were persuaded to pay the State more than \$4 billion in disputed back taxes and royalties. Historian Stephen Haycox refers to this as "a very significant legacy . . . because he forced the oil companies to acknowledge that they had a debt they owed to Alaska." In the wake of the Exxon Valdez oilspill, Governor Hickel used settlement funds to purchase land for Kachemak Bay State Park and Afognak State Park.

I could go on all day about the life of Wally Hickel. A man who constantly struggled with dyslexia, he authored several books and monographs and many articles. A self-educated individual, he received numerous honorary degrees and befriended foreign heads of state.

A fighter for Alaska's statehood, Hickel attended the birth of the State of Alaska. And history will remember that very little of significance happened in Alaska in the ensuing 50 years that Walter J. Hickel was not involved in. It is no overstatement to suggest that Governor Hickel had a substantial hand in Alaska's start, its present, and its future.

During Alaska's 50th anniversary of statehood celebration last year, I mar-

veled at the fact that so many of the people who made our history are still alive and available to inspire succeeding generations of Alaskans as we continue to grow our State. I would like to think that giants such as Wally Hickel could live forever.

On behalf of all of our Senate colleagues, I extend condolences to Governor Hickel's wife Ermalee, his children, grandchildren, and great grandchildren. Thank you for sharing this great American with Alaska and our Nation.●

#### TRIBUTE TO WALTER SCOTT, JR.

● Mr. NELSON of Nebraska. Mr. President, on the occasion of his 79th birthday, I want to take this opportunity to honor fellow Nebraskan Walter Scott, Jr. for his exceptional business and civic leadership and his significant contributions to the telecommunications, construction, and mining industries, as well as his community, State, and country.

Walter began his distinguished career at Peter Kiewit Sons' Inc., formerly Kiewit Construction, working during the summers for Kiewit's construction operations, where his father also worked. In 1953 after earning his civil engineering degree from Colorado State University, he became an engineer for Kiewit in Omaha. A year later, Walter joined the U.S. Air Force as an air installation officer, inspecting military construction projects. Upon returning to Kiewit after his service, Walter excelled in the company, being elected to the board of directors, then becoming vice president in 1964. In 1979 Walter was named president and, later that year, succeeded Peter Kiewit as chairman of the board.

Over the next decade, Walter used his leadership and keen insights to advance Kiewit and develop the company to its full potential. Foreseeing the needs of society, Walter began diversifying the company's investment to include mining, energy, and telecommunications interests. By 1992 this expansion had led to the division of Peter Kiewit Sons' Inc. into two major subsidiaries: Kiewit Construction Group, continuing the company's historical excellence in construction and mining; and Kiewit Diversified Group, later renamed Level 3 Communications, focusing on high-speed fiber optics networks and geothermal powerplants. Kiewit is now a Fortune 500 company and is a recognized industry leader.

To this day, Walter remains engaged in the industries he helped to shape, continuing as director and chairman emeritus at Kiewit and serving as chairman of the board at level 3. Walter's numerous contributions to business have been acknowledged with dozens of accolades, including the Horatio Alger Award, the Golden Plate Award



from the American Academy of Achievement, and induction into the Nebraska Business Hall of Fame.

Beyond his notable accomplishments in business, Walter's civic service and philanthropic contributions have enriched Nebraska and left a lasting impact on our home State. In 1996 Walter helped create the Peter Kiewit Institute, working with the University of Nebraska to provide tomorrow's leaders in information science, technology, and engineering with an unparalleled education. Walter has also given his service to numerous community and nonprofit organizations, including Creighton University, Joslyn Art Museum, Boys & Girls Club of the Midlands, Omaha Development Foundation, Omaha Zoological Society, and Nebraska Game and Parks Foundation. Additionally, I have had the pleasure of serving with Walter as a member of the Open World Board of Trustees, providing international leadership and building multi-national relationships to effect positive change in Eurasian countries.

In closing, Walter Scott's illustrious leadership and generous service has strengthened his community, state, and country. On behalf of our fellow Nebraskans and Americans, I thank Walter for his innovation and leadership and wish him the best for the future.●

#### MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Pate, one of his secretaries.

#### EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Commerce, Science, and Transportation.

(The nomination received today is printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE

At 2:06 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 959. An act to increase Federal Pell Grants for the children of fallen public safety officers, and for other purposes.

H.R. 5014. An act to clarify the health care provided by the Secretary of Veterans Affairs that constitutes minimum essential coverage.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 268. A concurrent resolution supporting the goals and ideals of National Women's Health Week, and for other purposes.

The message further announced that pursuant to Executive Order No. 12131, and the order of the House of January 6, 2009, the Speaker appoints the following Members of the House of Representatives to the President's Export Council: Mr. REICHERT of Washington and Mr. TIBERI of Ohio.

The message also announced that pursuant to section 301 of the Congressional Accountability Act of 1995 (2 U.S.C. 1381), as amended by Public Law 111-114, the Speaker and Minority Leader of the House of Representatives and the Majority and Minority Leaders of the Senate jointly reappoint on May 13, 2010, the following individuals to a 5-year term on the Board of Directors of the Office of Compliance: Ms. Barbara L. Camens of Washington, DC, as Chair and Ms. Roberta L. Holzwarth of Illinois.

The message further announced that pursuant to section 13101 of the HITECH Act (Public Law 111-5), and the order of the House of January 6, 2009, the Speaker reappoints the following member on the part of the House of Representatives to the HIT Policy Committee for a term of 3 years: Mr. Paul Egerman of Weston, Massachusetts.

#### ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. BYRD) announced that he had signed the following enrolled bills, which were previously signed by the Speaker of the House:

S. 1067. An act to support the stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 3333. An act to extend the statutory license for secondary transmissions under title 17, United States Code, and for other purposes.

#### MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 959. An act to increase Federal Pell Grants for the children of fallen public safety officers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 268. Concurrent resolution supporting the goals and ideals of National Women's Health Week, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

#### ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, May 17, 2010, she had presented to the President of the United States the following enrolled bills:

S. 1067. An act to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 3333. An act to extend the statutory license for secondary transmissions under title 17, United States Code, and for other purposes.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-100. A concurrent resolution adopted by the Senate of the State of Louisiana urging Congress to establish a National Military Family Relief Fund and create a simple and cost-effective way for taxpayers to lend a helping hand to military families in need; to the Committee on Armed Services.

#### SENATE CONCURRENT RESOLUTION NO. 43

Whereas, United States service members, especially national guardsmen and reservists, often face a significant salary reduction when called upon to serve our country; and

Whereas, recent studies show that fifty-five percent of married national guard members and reservists report a loss of income in relation to their civilian jobs when they are called to active duty, and fifteen percent experience a pay cut of thirty thousand dollars or more; and

Whereas, national guard members and reservists serving in the Global War On Terrorism make up a larger percentage of front-line fighting forces than in any other war in U.S. history; and

Whereas, all military families deserve thanks and recognition for their sacrifices, and helping to ease the financial pressures that challenge so many of America's finest families must be a top priority; and

Whereas, U.S. Congressman Bill Foster has introduced House Resolution 5941, legislation designed to provide relief for military families that would allow taxpayers to contribute to a National Military Family Relief Fund by filling a voluntary donation in a check-off box on federal income tax forms; and

Whereas, the individually determined donation for the National Military Family Relief Fund would be added to the supporter's tax bill or deducted from a rebate allowing U.S. citizens to support military families without placing any extra burden on the federal budget; and

Whereas, all service members and veterans who are serving, or have served, in Iraq or Afghanistan or other regions of service would be eligible for grants from the National Military Family Relief Fund; and

Whereas, military family relief funds have already been introduced or established in at least twenty-seven states with citizens, corporations and community organizations proving an eagerness to lend a helping hand by generously donating to military families in need. Therefore, be it



*Resolved*, That the Legislature of Louisiana memorializes the Congress of the United States to approve H.R. 5941 to establish a National Military Family Relief Fund and create a simple and cost-effective way for taxpayers to lend a helping hand to military families in need; be it further

*Resolved*, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM-101. A concurrent resolution adopted by the Legislature of the State of Utah expressing support for policies that promote and foster energy innovation development in the state of Utah; to the Committee on Commerce, Science, and Transportation.

#### HOUSE CONCURRENT RESOLUTION NO. 15

Whereas, 23 U.S.C. Sec. 159 requires states to enact legislation requiring the revocation or suspension of an individual's driver license for at least six months upon conviction of any drug-related offense;

Whereas, 23 U.S.C. Sec. 159 requires withholding 10% of certain federal aid from states that fail to enact this legislation;

Whereas, the federal government should not dictate policy or legislation of this kind for the state;

Whereas, for Utah to be exempt from this federal requirement, the Governor must submit to the United States Secretary of Transportation a written certification that he is opposed to the enactment or enforcement of a law related to revocation of a person's driver license for any drug-related offense, and also submit a written certification that the Utah Legislature has adopted a resolution expressing opposition to the federal requirement; and

Whereas, the state of Utah shall enforce its own driver license law, which provides that Utah's Driver License Division is not required to suspend a person's license for a violation of certain drug-related offenses if the violation did not involve a motor vehicle and the convicted person is participating in, or has successfully completed, substance abuse treatment at a licensed substance abuse treatment program that is approved by the Division of Substance Abuse and Mental Health or is participating in, or has successfully completed, probation through the Department of Corrections Adult Probation and Parole; Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah, the Governor concurring therein, declare their opposition to the enactment or enforcement of a federal law mandating, in all circumstances, the revocation or suspension of an individual's driver license upon conviction of any drug-related offense; be it further

*Resolved*, That the Legislature and the Governor declare the state's determination to enforce its own law on the subject, which provides that persons convicted of certain drug-related offenses will not have their driver licenses revoked or suspended if the violation did not involve a motor vehicle and the convicted person is participating in, or has successfully completed, substance abuse treatment at a licensed substance abuse treatment program that is approved by the Division of Substance Abuse and Mental Health or is participating in, or has successfully completed, probation through the Department of Corrections Adult Probation and Parole; be it further

*Resolved*, That a copy of this resolution be prepared and delivered to the Governor of

the state of Utah, and that the Governor submit a copy of the resolution to the United States Secretary of Transportation; be it further

*Resolved*, That a copy of this resolution be sent to the Utah Department of Transportation and to the members of Utah's congressional delegation.

POM-102. A concurrent resolution adopted by the Legislature of the State of Utah urging Congress to amend federal law to ensure that consumers have the right to access their Fair Isaac Corporation credit scores or any other source for credit scores used by Fannie Mae, Freddie Mac, or Ginnie Mae from the three major credit agencies annually at no cost; to the Committee on Banking, Housing, and Urban Affairs.

#### HOUSE CONCURRENT RESOLUTION NO. 7

Whereas, under the Fair and Accurate Credit Transactions Act of 2003, consumers are entitled to a free credit report once each year from any credit agency, including the nation's three major credit bureaus, which are Experian, Trans Union, and Equifax;

Whereas, the credit scores used in over 90% of financial transactions, including Fannie Mae, Freddie Mac, and Ginnie Mae, are a version of a Fair Isaac Corporation (FICO) credit score;

Whereas, FICO's website, [www.MyFico.com](http://www.MyFico.com), is the only location where consumers may access their true FICO credit scores;

Whereas, FICO takes the credit information furnished by Experian, Trans Union, and Equifax and calculates that information using an algorithm to develop the three credit scores;

Whereas, after Experian partially severed its relationship with FICO in 2009, consumers can no longer access their FICO/Experian credit score;

Whereas, now consumers can only access their Trans Union/FICO and Equifax/FICO credit scores on FICO's website, and they are charged \$14.95 each, while lenders and other creditors can still access all three FICO credit scores from the three major credit agencies;

Whereas, although other companies have developed their own credit scores using their own formulas, ranges, and scores, lenders and creditors and other financial service companies generally do not consider them reliable;

Whereas, these scores generated by other companies are often found to be substantially different than the FICO credit scores, even though they are widely promoted as the actual consumer credit score;

Whereas, current federal law should be changed to address the consumers' right to access their FICO credit scores from the three major credit agencies once each year;

Whereas, when consumers access their free credit report from [www.AnnualCreditReport.com](http://www.AnnualCreditReport.com), they should be given the right to their FICO credit scores annually at no cost;

Whereas, credit agencies should not be required to bear any pass through costs from FICO in providing free FICO credit scores once each year to consumers;

Whereas, credit agencies should allow consumers the right to access their credit scores from each major credit agency used by Fannie Mae, Freddie Mac, and Ginnie Mae; and

Whereas, by making it possible for consumers to access their credit scores, which are used in almost every financial transaction, true fairness will return to the credit scoring access system: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah, the Governor concurring therein, urge the United States Congress to amend federal law to ensure that consumers have the right to access their Fair Isaac Corporation credit scores or any other source for credit scores used by Fannie Mae, Freddie Mac, or Ginnie Mae from the three major credit agencies annually at no cost; be it further

*Resolved*, That a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and to the members of Utah's congressional delegation.

POM-103. A concurrent resolution adopted by the Legislature of the State of Utah urging the President and Congress to refrain from designating new national monuments in the San Rafael Swell area, the Cedar Mesa area, and any other area in Utah; to the Committee on Energy and Natural Resources.

#### SENATE CONCURRENT RESOLUTION NO. 11

Whereas, the Antiquities Act, 16 U.S.C. Sec. 431, empowers the President of the United States to singlehandedly bypass congressional, state, and local land management policies and tie up any federal land in Utah through national monument declarations;

Whereas, a recent confirmed United States Department of Interior (DOI) internal memorandum declares that the 75-by-40 mile San Rafael Swell and surrounding "canyons, gorges, mesas, and buttes," plus an area of unspecified size referred to as the Cedar Mesa area, among others, "may be good candidates for National Monument designation under the Antiquities Act;"

Whereas, the San Rafael Swell and surrounding areas and the Cedar Mesa area described in the DOI memorandum are in Emery, Wayne, and San Juan Counties, Utah;

Whereas, Article I, Section 8, Clause 17 of the United States Constitution grants the United States government the power to exercise exclusive jurisdiction over the District of Columbia and over all "places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings;"

Whereas, no lands in the San Rafael Swell and Cedar Mesa areas of Utah fit into this category;

Whereas, the United States Constitution delegates to the government of the United States no other power of exclusive jurisdiction over land in Utah, other than that referenced in Article I, Section 8, Clause 17;

Whereas, the Tenth Amendment to the United States Constitution states, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States;"

Whereas, Article IV, Section 4 of the United States Constitution states, "The United States shall guarantee to every State in the Union a Republican Form of Government;"

Whereas, the constitutional guarantee to Utah of a republican form of government is abrogated and violated when the President of the United States purports through the Antiquities Act, 16 U.S.C. Sec. 431, to exercise exclusive jurisdiction with the mere stroke of a pen over lands in the San Rafael and Cedar Mesa areas that do not fit the category of Article I, Section 8, Clause 17, exclusive jurisdiction land;

Whereas, lands in the San Rafael Swell and Cedar Mesa areas of Utah are currently managed by the United States Bureau of Land

Management (BLM) pursuant to the Federal Land Policy Management Act (FLPMA) of 1976, and the Act directs the BLM to manage public lands according to Resource Management Plans (RMPs) which "shall be consistent with State and local plans to the maximum extent [the Secretary of Interior] finds consistent with Federal law and the purpose of [FLPMA]";

Whereas, the state of Utah and the counties of Emery, Wayne, and San Juan have recently completed an expensive and protracted multi-year FLPMA and National Environmental Policy Act (NEPA) process with the BLM and the public to revise and update the BLM's RMPs in planning areas which include the San Rafael Swell and Cedar Mesa areas;

Whereas, the revised RMPs do not call for the creation of national monuments in the San Rafael Swell and Cedar Mesa areas;

Whereas, creating national monuments in the San Rafael Swell and Cedar Mesa areas would violate and undercut the integrity of the RMPs revision process in Emery, Wayne, and San Juan Counties where the San Rafael Swell and Cedar Mesa areas are situated, and would be inconsistent with the plans and policies of the state of Utah and those counties and their duly elected governmental boards and leaders, all in violation of the constitutional guarantee of a republican form of government as well as violating federal statutory consistency requirements of FLPMA;

Whereas, a presidential proclamation declaring national monuments in the San Rafael Swell and Cedar Mesa areas would single-handedly bypass the revised RMPs and the universal opposition by the duly elected leaders of the state of Utah and the counties where those lands lie;

Whereas, a presidential proclamation of this type would constitute an illegitimate arrogation of exclusive jurisdiction over lands by the President, exceeding the bounds of legitimate and lawful authority permitted by the United States Constitution;

Whereas, the Antiquities Act states, "The President . . . may reserve as a part [of a national monument] parcels of land, the limits of which in all cases shall be confined to the smallest areas compatible with the proper care and management of the objects to be protected. . . ."

Whereas, the size of the 1996 Grand Staircase National Monument in Garfield and Kane Counties far exceeded "the smallest areas compatible" with the feigned object of that monument;

Whereas, the size of the San Rafael Swell area stated in the DOI memo, namely 75-by-40 miles plus surrounding canyons, gorges, mesas, and buttes, is staggering in terms of a national monument;

Whereas, Utah favors protecting the remarkably scenic, recreational, and sensitive areas of the San Rafael Swell and Cedar Mesa areas, however highest and best use of vast tracts of land in those areas is continued grazing and environmentally sensitive energy and mineral development done in such a way as to protect and preserve the scenic and recreational values;

Whereas, as history has demonstrated in the case of the Grand Staircase National Monument, many thousands of acres of important grazing and mineral and other multiple use resources and values have been closed to reasonable development due to the multi-hundred thousand acre national monument designation;

Whereas, Senator Bob Bennett has introduced S. 3016 in the United States Senate,

which would prohibit the further extension or establishment of national monuments in Utah, except by express authorization of Congress; and

Whereas, Utah's economy, industry, culture, way of life, and its viability as a sovereign state guaranteed a republican form of government depend on reasonable multiple-use access to the BLM lands in the San Rafael Swell and Cedar Mesa areas of the state, most of which will be taken away through national monument designation: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah, the Governor concurring therein, express their opposition to the presidential creation of any large area national monument, as an abuse and violation of the Antiquities Act's smallest-area-compatible mandate; be it further

*Resolved*, That the Legislature and the Governor oppose the presidential creation of new national monuments in the San Rafael Swell area, Cedar Mesa area, and any other area of Utah; be it further

*Resolved*, That the Legislature and the Governor declare openly to the United States government that this unchecked exercise of power concentrated in the President portends serious consequences for Utah, as nearly 70% of the State is federally owned; be it further

*Resolved*, That the Legislature and the Governor declare openly to the United States government that the exercise of this power would essentially coronate the President, giving him the ultimate ability to determine the fate of nearly 70% of the entire state with the mere stroke of an unchecked presidential pen; be it further

*Resolved*, That the Legislature and the Governor urge Congress to check the President's ability to exercise such power by amending the Antiquities Act to clarify its actual intent, which is to establish small discrete monuments or memorials as existed in Utah prior to the unfortunate creation of the 1996 Grand Staircase National Monument; be it further

*Resolved*, That the Legislature and the Governor strongly urge the federal government to manage federal public lands in Utah according to state and local government plans, policies, and public input as promised by the Federal Land Policy Management Act of 1976 and the United States constitutional guarantee of a republican form of government on equal footing with all states in the Union, or otherwise convey the federal public lands to Utah for proper care and management, consistent with the original intent of the Constitution's Framers; be it further

*Resolved*, That the Legislature and the Governor express support for S. 3016, introduced in the United States Senate, which would prohibit the further extension or establishment of national monuments in Utah, except by express authorization of Congress; be it further

*Resolved*, That copies of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and to the members of Utah's congressional delegation.

POM-104. A joint resolution adopted by the Legislature of the State of Utah expressing support for the Escalante Heritage/Hole-in-the-Rock Center Board's efforts to preserve the history of the Hole-in-the-Rock pioneers and the settlement of the Escalante area; to the Committee on Energy and Natural Resources.

#### SENATE JOINT RESOLUTION NO. 1

Whereas, in 1879, citizens of towns throughout Southern Utah answered the call of John Taylor, President of the Church of Jesus Christ of Latter-day Saints, to colonize one of the most remote parts of the Territory of Utah;

Whereas, taking what these colonizers thought would be a shortcut to the San Juan area, they traveled through the frontier town of Escalante, which was settled in 1876, to the Colorado River where they blasted and chiseled out a road in the crack of the canyon wall, descending one thousand feet to the Colorado River;

Whereas, while this was the most difficult part of the trek, it was only one of many difficulties they experienced before reaching their destination and establishing a settlement at Bluff, Utah;

Whereas, what they thought would be a six-week journey took six months;

Whereas, the road these individuals created on their journey became the first road in the Territory of Utah, traveling from west to east, to be funded by the Legislature, though it cost only a few thousand dollars to purchase dynamite to blast through the walls of the Hole-in-the-Rock;

Whereas, during the winter of 1879-80, 250 men, women, and children, trailing over 1,000 head of livestock, blazed a trail through 200 miles of the most rugged terrain in the West;

Whereas, Elizabeth Decker, a member of the colonizing party described it as ". . . the roughest country you or anybody else ever saw. It's nothing in the world but rocks and holes, hills and hollows";

Whereas, during their six-month journey, the San Juan colonizers were tempered like fine steel for the formidable task of tilling the land and establishing law and order;

Whereas, in reaching the San Juan area, the colonizers demonstrated unwavering faith and devotion to duty and set the standard for future generations;

Whereas, in 2002, the Church of Jesus Christ of Latter-day Saints donated nine acres of land in Escalante to build a Heritage Center, and also donated a water meter, which was critical in allowing the project to move ahead;

Whereas, in 2007, the Richfield office of the Utah Department of Transportation granted the Escalante Heritage Center \$125,000 to do a feasibility study, which was performed by Landmark Design of Salt Lake City and completed in 2008;

Whereas, in 2009, the Salt Lake City office of the Utah Department of Transportation granted the Escalante Heritage Center \$500,000 to build the first of four phases of the project;

Whereas, the Escalante Heritage Center is a nonprofit corporation engaged in raising private and public funds to construct and maintain a center dedicated to preserving the history and heritage of the Hole-in-the-Rock pioneers and the Escalante area;

Whereas, the state transportation improvement program includes \$200,000 for preliminary engineering to improve Hole-in-the-Rock Road;

Whereas, the Bureau of Land Management (BLM) has expressly recognized in an administrative determination in 1988 that Garfield County owns an R.S. 2477 right-of-way for the Hole-in-the-Rock Road;

Whereas, Garfield County, Kane County, and the state of Utah have valid documentation that this road has been in existence since 1879 and has been in continuous use for over 131 years;

Whereas, Garfield County, Kane County, and the state of Utah have expended public

tax monies to improve and maintain this road and other R.S. 2477 roads in their respective counties for access to BLM and National Park Service-managed lands;

Whereas, Kane County has filed a Quiet Title Action to secure forever the property right to this road and other roads in the county;

Whereas, this case, called the Hole-in-the-Rock Quiet Title Action, will be heard in federal court in the near future;

Whereas, the Garfield County Commission fully supports this endeavor and is the government sponsor of the project;

Whereas, the Mayor and City Council of Escalante fully support the Escalante Heritage Center in its endeavor to preserve the history and heritage of the area;

Whereas, the Mormon Pioneer National Heritage Area project has declared the building of the Escalante Heritage Center its top priority project;

Whereas, the Escalante Heritage Center Board has received letters of support from officials of the Church of Jesus Christ of Latter-day Saints, the offices of both Senators Hatch and Bennett, and the office of Congressman Jim Matheson;

Whereas, the Escalante Heritage Center Board has the support of officials of the Grand Staircase Escalante National Monument, who feel that a science center on one side of the town of Escalante and a history center on the other side would represent bookends of learning for everyone visiting the area; and

Whereas, Garfield County has received a letter of support from the Grand Staircase Escalante National Monument for road improvements: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah expresses its support for the Escalante Heritage/Hole-in-the-Rock Center Board's efforts to preserve the history of the Hole-in-the-Rock pioneers and the settlement of the Escalante area, and to construct a building in which to tell the story of these historic pioneers and to improve the road over which they traveled; be it further

*Resolved*, That a copy of this resolution be sent to the Escalante Heritage Center Board, the Garfield County Commission, the Mayor and City Council of Escalante City, the Richfield and Salt Lake City offices of the Utah Department of Transportation, Landmark Design, the Church of Jesus Christ of Latter-day Saints, and to the members of Utah's congressional delegation.

POM-105. A joint resolution adopted by the Legislature of the State of Utah expressing opposition to participating in the Western Climate Initiative; to the Committee on Energy and Natural Resources.

#### HOUSE JOINT RESOLUTION NO. 21

Whereas, Utah's location and natural resources are an economic advantage and catalyst for economic growth and opportunity for Utah's citizens through abundant and affordable power, providing the seventh lowest electric rates in the nation;

Whereas, the nation's coal fired power plants provide for half of the United States' electricity demand, and power generated from Utah's abundant and clean burning coal provides for nearly 90% of the state's power needs;

Whereas, participation in the Western Climate Initiative (WCI) requires Utah, through public policy, to reduce carbon dioxide emissions without legislative consultation or public input;

Whereas, there has been no balanced and unbiased economic analysis of the costs asso-

ciated with carbon reduction mandates, the economic impacts of participation in a regional cap and trade program, and the consequential effect of the increased costs of doing business in Utah;

Whereas, the credibility of global climate science, data, and modeling that cannot explain declining temperatures over the last decade, coupled with indications that the Intergovernmental Panel on Climate Change has incorporated flawed science to push policymakers, requires reevaluation of the "consensus" and full scientific scrutiny of the claims;

Whereas, forcing business, industry, and food producers to reduce carbon emissions through government mandates and cap and trade policies will increase the cost of doing business, push companies to do business with lower cost states or nations, and increase consumer costs for electricity, fuel, and food;

Whereas, the Congressional Budget Office warns that the cost of cap and trade policies under consideration for the WCI, and nationally, will be borne by consumers and will place a disproportionately high burden on poorer households;

Whereas, there are growing scientific concerns that simply implementing carbon reduction in Utah, the United States, or in the developed world will not have a significant impact while countries like China, Russia, Mexico, and India are greatly expanding their carbon footprints;

Whereas, carbon capture and sequestration are new technologies not yet proven, not yet commercially demonstrated, and facing legal and regulatory challenges;

Whereas, if all nations globally met a Kyoto-style carbon dioxide reduction, climate temperature would be reduced only 0.07 of a degree by 2050, and tremendous economic growth would be sacrificed for very little global warming gain; and

Whereas, no state or nation has enhanced economic opportunities for its citizens or increased Gross Domestic Product through cap and trade or other radical carbon reduction policies: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah urges the Governor to withdraw Utah from the WCI; be it further

*Resolved*, That a copy of this resolution be sent to Governor Herbert, the WCI, the Governor's Blue Ribbon Advisory Council on Climate Change, the International Panel on Climate Change, the United States Environmental Protection Agency, the Utah Department of Environmental Quality, and to the members of Utah's congressional delegation.

POM-106. A joint resolution adopted by the Legislature of the State of Utah urging the United States Environmental Protection Agency to immediately halt its carbon dioxide reduction policies and programs and withdraw its "Endangerment Finding" and related regulations until a full and independent investigation of climate data and global warming science can be substantiated; to the Committee on Energy and Natural Resources.

#### HOUSE JOINT RESOLUTION NO. 12

Whereas, proposed cap and trade legislation before the United States Congress, together with potential state actions to reduce carbon dioxide (CO<sub>2</sub>), would result in significantly higher energy costs to American consumers, business, and industry;

Whereas, the United States Environmental Protection Agency's (EPA) "Endangerment Finding" and proposed action to regulate CO<sub>2</sub> under the Clean Air Act is based on questionable climate data and would place

significant regulatory and financial burdens on all sectors of the nation's economy at a time when the nation's unemployment rate exceeds 10%;

Whereas, global temperatures have been level and declining in some areas over the past 12 years;

Whereas, the "hockey stick" global warming assertion has been discredited and climate alarmists' carbon dioxide-related global warming hypothesis is unable to account for the current downturn in global temperatures;

Whereas, there is a statistically more direct correlation between twentieth century temperature rise and Chlorofluorocarbons (CFCs) in the atmosphere than CO<sub>2</sub>;

Whereas, outlawed and largely phased out by 1978, in the year 2000 CFCs began to decline at approximately the same time as global temperatures began to decline;

Whereas, emails and other communications between climate researchers around the globe, referred to as "Climategate," indicate a well organized and ongoing effort to manipulate global temperature data in order to produce a global warming outcome;

Whereas, there has been a concerted effort by climate change alarmists to marginalize those in the scientific community who are skeptical of global warming by manipulating or pressuring peer-reviewed publications to keep contrary or competing scientific viewpoints and findings on global warming from being reviewed and published;

Whereas, the Intergovernmental Panel on Climate Change (IPCC), a blend of government officials and scientists, does no independent climate research but relies on global climate researchers;

Whereas, Earth's climate is constantly changing with recent warming potentially an indication of a return to more normal temperatures following a prolonged cooling period from 1250 to 1860 called the "Little Ice Age";

Whereas, more than \$7 billion annually in federal government grants may have influenced the climate research focus and findings that have produced a "scientific consensus" at research institutions and universities;

Whereas, the recently completed Copenhagen climate change summit resulted in little agreement, especially among growing CO<sub>2</sub>-emitting nations like China and India, and calls on the United States to pay billions of dollars to developing countries to reduce CO<sub>2</sub> emissions at a time when the United States' national debt will exceed \$12 trillion;

Whereas, the United States Department of Agriculture estimates that current legislation providing agriculture offsets and carbon credits to reduce CO<sub>2</sub> emissions would result in tree planting on 59 million acres of crop and pasture land, damaging America's food security and rural communities;

Whereas, according to the World Health Organization, 1.6 billion people do not have adequate food and clean water; and

Whereas, global governance related to global warming and reduction of CO<sub>2</sub> would ultimately lock billions of human beings into long-term poverty: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah urges the United States Environmental Protection Agency to immediately halt its carbon dioxide reduction policies and programs and withdraw its "Endangerment Finding" and related regulations until a full and independent investigation of climate data and global warming science can be substantiated; be it further

*Resolved*, That a copy of this resolution be sent to the United States Environmental

Protection Agency and to the members of Utah's congressional delegation.

POM-107. A concurrent resolution adopted by the Legislature of the State of Utah urging the United States Government and the Secretary of the Interior to provide continued financial assistance to the unincorporated community of Dutch John, Utah; to the Committee on Energy and Natural Resources.

#### HOUSE CONCURRENT RESOLUTION NO. 13

Whereas, the Dutch John Federal Property Disposition and Assistance Act of 1998 disposed of certain federal properties located in Dutch John, Utah, and provided for assistance to Daggett County for the delivery of basic services to the Dutch John community, and for other purposes;

Whereas, for the purpose of defraying costs of administration and provision of basic community services, an annual payment of \$300,000, as adjusted by the Secretary of the Interior for changes in the Consumer Price Index for all-urban consumers published by the Department of Labor, has been provided from the Upper Colorado Basin Fund authorized by Section 5 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620d), to Daggett County, Utah or in accordance with Subsection (c), to Dutch John, Utah, for a period not to exceed 15 years beginning the first January 1 that occurs after the date of the effective date of this resolution;

Whereas, these payments for the purpose of defraying costs of administration and provision of basic community services will terminate December 31, 2013;

Whereas, Dutch John was established in 1958 by the Bureau of Reclamation to provide housing and serve project construction needs for the construction of Flaming Gorge Dam;

Whereas, permanent structures for housing, administrative offices, maintenance, and other public purposes continue to be owned and maintained by the Bureau of Reclamation;

Whereas, during construction of the dam, more than 2,000 people were housed in the town;

Whereas, the Bureau of Reclamation and the United States Forest Service, responsible for land management at Dutch John and surrounding Flaming Gorge National Recreation Area, continue to provide basic services and facilities for the community;

Whereas, basic services for Dutch John, as well as the operating and administrative costs for the town prior to 1998, were financed by the Bureau of Reclamation and the United States Forest Service, then reimbursed by annual power sales revenue;

Whereas, the federal costs of providing the full range of community facilities and services in Dutch John had substantially grown over the years, and in 1998 approached \$1 million annually;

Whereas, currently, Daggett County is providing these basic community services to Dutch John, such as road maintenance, water, and sewer;

Whereas, to offset these costs, while a traditional community tax base was being established in Dutch John, Daggett County received an annual subsidy that is to last for 15 years from public power revenues;

Whereas, the Dutch John Federal Property Disposition and Assistance Act of 1998 anticipated that in the initial 15-year period commercial developments would be established that would help finance local services; and

Whereas, the commercial developments that were anticipated to occur in Dutch John to help finance local services have not been established: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah, the Governor concurring therein, urge the United States Government and the Secretary of the Interior to provide continued financial assistance to the unincorporated community of Dutch John, Utah, in the amount of at least \$500,000 annually, as adjusted by the Secretary of the Interior for changes in the Consumer Price Index for all-urban consumers published by the Department of Labor, from the Upper Colorado River Basin Fund for a period not to exceed 15 years, for the purpose of defraying costs of administration and the provision of basic community services; be it further

*Resolved*, That a copy of this resolution be sent to the United States Secretary of the Interior, the members of Utah's congressional delegation, the United States Forest Service, the Bureau of Reclamation, and the Daggett County Commission.

POM-108. A concurrent resolution adopted by the Legislature of the State of Utah expressing support for the creation of the Statue of Responsibility Monument and recognizing the state of Utah's claim to the honorable moniker as "Utah—Birth Place of the Statue of Responsibility"; to the Committee on Energy and Natural Resources.

#### HOUSE CONCURRENT RESOLUTION NO. 16

Whereas, forty years ago, Holocaust survivor and author of "Man's Search for Meaning", Dr. Viktor E. Frankl, declared that in order for freedom to endure generation after generation, our liberties need to be lived in terms of responsibility;

Whereas, Dr. Frankl then challenged America to create a Statue of Responsibility on the West Coast to complement the message of the Statue of Liberty on the East Coast, and that these two monuments would forever stand as visual reminders of the two principles, liberty and responsibility, required to keep freedom's flame burning bright;

Whereas, for a nation to endure, at crucial times in its history, its core values must be revisited, reenergized, and reenthroned;

Whereas, in 1997, internationally renowned Utah sculptor, Gary Lee Price, was commissioned by the Statue of Responsibility Foundation to design the Statue of Responsibility;

Whereas, Mr. Price's design was approved by the Statue of Responsibility Foundation's Board of Trustees in 2005;

Whereas, the Statue of Responsibility Foundation has received over \$700,000 of in-kind donation support from over 20 Utah companies for the completion of the project's initial phase, which was completed in 2008;

Whereas, Dr. Viktor Frankl's widow, Eleonore Frankl, along with other national and international dignitaries, sits on the Statue of Responsibility Foundation's International Board of Advisors;

Whereas, the Statue of Responsibility Foundation will begin its national public relations campaign once the host city has been awarded;

Whereas, much of the \$300 million cost to build the Statue of Responsibility monument will be raised in the private sector by individuals, supportive non-profit organizations, and public and private corporations;

Whereas, the Statue of Responsibility Foundation is in the process of determining which potential host city on the West Coast will be chosen as the resting spot of the monument, and details of the Statue of Responsibility Monument project can be seen on [www.SORfoundation.org](http://www.SORfoundation.org);

Whereas, the Statue of Responsibility Foundation will gift to the state of Utah a 30-foot tall replica of the Statue of Responsibility to be located in an appropriate location in the state so that visitors to Utah will be able to see and be reminded of the historic role Utah played in the creation of this historic monument;

Whereas, the Statue of Responsibility Monument will become an educational and tourism landmark, equal to the Statue of Liberty, and their combined messages will stand as beacons of hope and lasting freedom to citizens of all nations;

Whereas, Utah will forever be able to lay claim to the moniker "Utah—Birth Place of the Statue of Responsibility"; and

Whereas, the value of this moniker to the state of Utah will grow through the years as millions of world visitors tour both the 300-foot tall monument on the West Coast and the 30-foot tall replica in Utah: Now, therefore, be it

*Resolved*, That the Legislature of the State of Utah, the Governor concurring therein, express support for the creation of the Statue of Responsibility Monument; be it further

*Resolved*, That the Legislature and the Governor recognize the state of Utah's claim to the honorable moniker as "Utah—Birth Place of the Statue of Responsibility;" be it further

*Resolved*, That the Legislature and the Governor encourage concerned Utahns to assist in the building of what has been called "the most compelling monument project to freedom of the 21st Century" in ways that are unique to our private citizens and our corporate citizens; be it further

*Resolved*, That a copy of this resolution be sent to the Statue of Responsibility Foundation's organizational leaders, the Statue of Responsibility Foundation's Board of Trustees, and to the members of Utah's congressional delegation.

POM-109. A concurrent resolution adopted by the Legislature of the State of Utah urging the President and Congress to refrain from designating new national monuments in the San Rafael Swell area, the Cedar Mesa area, and any other area in Utah; to the Committee on Energy and Natural Resources.

#### HOUSE CONCURRENT RESOLUTION NO. 17

Whereas, the Antiquities Act, 16 U.S.C. Sec. 31, empowers the President of the United States to singlehandedly bypass congressional, state, and local land management policies and tie up any federal land in Utah through national monument declarations;

Whereas, a recent confirmed United States Department of Interior (DOI) internal memorandum declares that the 75-by-40 mile San Rafael Swell and surrounding "canyons, gorges, mesas, and buttes," plus an area of unspecified size referred to as the Cedar Mesa area, among others, "may be good candidates for National Monument designation under the Antiquities Act";

Whereas, the San Rafael Swell and surrounding areas and the Cedar Mesa area described in the DOI memorandum are in Emery, Wayne, and San Juan Counties, Utah;

Whereas, Article I, Section 8, Clause 17 of the United States Constitution grants the United States government the power to exercise exclusive jurisdiction over the District of Columbia and over all "places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings";

Whereas, no lands in the San Rafael Swell and Cedar Mesa areas of Utah fit into this category;

Whereas, the United States Constitution delegates to the government of the United States no other power of exclusive jurisdiction over land in Utah, other than that referenced in Article I, Section 8, Clause 17;

Whereas, the Tenth Amendment to the United States Constitution states, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States";

Whereas, Article IV, Section 4 of the United States Constitution states, "The United States shall guarantee to every State in the Union a Republican Form of Government";

Whereas, the constitutional guarantee to Utah of a republican form of government is abrogated and violated when the President of the United States purports through the Antiquities Act, 16 U.S.C. Sec. 431, to exercise exclusive jurisdiction with the mere stroke of a pen over lands in the San Rafael and Cedar Mesa areas that do not fit the category of Article 1, Section 8, Clause 17, exclusive jurisdiction land;

Whereas, lands in the San Rafael Swell and Cedar Mesa areas of Utah are currently managed by the United States Bureau of Land Management (BLM) pursuant to the Federal Land Policy Management Act (FLPMA) of 1976, and, the Act directs the BLM to manage public lands according to Resource Management Plans (RMPs) which "shall be consistent with State and local plans to the maximum extent [the Secretary of Interior] finds consistent with Federal law and the purpose of [FLPMA]";

Whereas, the state of Utah and the counties of Emery, Wayne, and San Juan have recently completed an expensive and protracted multi-year FLPMA and National Environmental Policy Act (NEPA) process with the BLM and the public to revise and update the BLM's RMPs in planning areas which include the San Rafael Swell and Cedar Mesa areas;

Whereas, the revised RMPs do not call for the creation of national monuments in the San Rafael Swell and Cedar Mesa areas;

Whereas, creating national monuments in the San Rafael Swell and Cedar Mesa areas would violate and undercut the integrity of the RMPs revision process in Emery, Wayne, and San Juan Counties where the San Rafael Swell and Cedar Mesa areas are situated, and would be inconsistent with the plans and policies of the state of Utah and those counties and their duly elected governmental boards and leaders, all in violation of the constitutional guarantee of a republican form of government as well as violating federal statutory consistency requirements of FLPMA;

Whereas, a presidential proclamation declaring national monuments in the San Rafael Swell and Cedar Mesa areas would single-handedly bypass the revised RMPs and the universal opposition by the duly elected leaders of the state of Utah and the counties where those lands lie;

Whereas, a presidential proclamation of this type would constitute an illegitimate arrogation of exclusive jurisdiction over lands by the President, exceeding the bounds of legitimate and lawful authority permitted by the United States Constitution;

Whereas, the Antiquities Act states, "The President . . . may reserve as a part [of a national monument] parcels of land, the limits of which in all cases shall be confined to the smallest areas compatible with the proper

care and management of the objects to be protected.

Whereas, the size of the 1996 Grand Staircase National Monument in Garfield and Kane Counties far exceeded "the smallest areas compatible" with the feigned object of that monument;

Whereas, the size of the San Rafael Swell area stated in the DOI memo, namely 75-by-40 miles plus surrounding canyons, gorges, mesas, and buttes, is staggering in terms of a national monument;

Whereas, Utah favors protecting the remarkably scenic, recreational, and sensitive areas of the San Rafael Swell and Cedar Mesa areas, however the highest and best use of vast tracts of land in those areas is continued grazing and environmentally sensitive energy and mineral development done in such a way as to protect and preserve the scenic and recreational values;

Whereas, as history has demonstrated in the case of the Grand Staircase National Monument, many thousands of acres of important grazing and mineral and other multiple use resources and values have been closed to reasonable development due to the multi-hundred thousand acre national monument designation;

Whereas, Senator Bob Bennett has introduced S. 3016 in the United States Senate, which would prohibit the further extension or establishment of national monuments in Utah, except by express authorization of Congress; and

Whereas, Utah's economy, industry, culture, way of life, and its viability as a sovereign state guaranteed a republican form of government depend on reasonable multiple-use access to the BLM lands in the San Rafael Swell and Cedar Mesa areas of the State, most of which will be taken away through national monument designation: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah, the Governor concurring therein, express their opposition to the presidential creation of any large area national monument, as an abuse and violation of the Antiquities Act's smallest-area-compatible mandate; be it further

*Resolved*, That the Legislature and the Governor oppose the presidential creation of new national monuments in the San Rafael Swell area, Cedar Mesa area, and any other area of Utah; be it further

*Resolved*, That the Legislature and the Governor declare openly to the United States government that this unchecked exercise of power concentrated in the President portends serious consequences for Utah, as nearly 70% of the State is federally owned; be it further

*Resolved*, That the Legislature and the Governor declare openly to the United States government that the exercise of this power would essentially coronate the President, giving him the ultimate ability to determine the fate of nearly 70% of the entire state with the mere stroke of an unchecked presidential pen; be it further

*Resolved*, That the Legislature and the Governor urge Congress to check the President's ability to exercise such power by amending the Antiquities Act to clarify its actual intent, which is to establish small discrete monuments or memorials as existed in Utah prior to the unfortunate creation of the 1996 Grand Staircase National Monument; be it further

*Resolved*, That the Legislature and the Governor strongly urge the federal government to manage federal public lands in Utah according to state and local government

plans, policies, and public input as promised by the Federal Land Policy Management Act of 1976 and the United States constitutional guarantee of a republican form of government on equal footing with all states in the Union, or otherwise convey the federal public lands to Utah for proper care and management, consistent with the original intent of the Constitution's Framers; be it further

*Resolved*, That the Legislature and the Governor express support for S 3016, introduced in the United States Senate, which would prohibit the further extension or establishment of national monuments in Utah, except by express authorization of Congress; be it further

*Resolved*, That the Legislature and the Governor express strong opposition to presidential or congressional action that would unnecessarily restrict and reduce public access to federal lands; be it further

*Resolved*, That copies of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and to the members of Utah's congressional delegation.

POM-110. A resolution adopted by the House of Representatives of the State of Utah expressing support for policies that promote and foster energy innovation development in the state of Utah; to the Committee on Energy and Natural Resources.

#### HOUSE RESOLUTION NO. 8

Whereas, energy innovation research and development is occurring in universities within the state dealing with creative and revolutionary ways of gathering and utilizing energy from a vast array of sources including solar power, geothermal power, bio fuels, oil shale, underground storage, hydrogen-upgrading, carbon sequestration, carbon capture, nuclear power, and computer simulation of the energy industry;

Whereas, many agencies and organizations in the state are developing and promoting energy innovation, such as the Utah Geological Survey, the State Energy Program, the Governor's Energy Office, USTAR, the Governor's Office of Economic Development, the Department of Workforce Services, the Department of Administrative Services' Division of Facilities Construction and Management, the Department of Natural Resources' Division of Oil, Gas, and Mining, the Utah Petroleum Association, and the Utah Mining Association;

Whereas, Utah has the potential to be a world leader in energy innovation and the potential to export its technological advances to other states and countries;

Whereas, Utah also has the potential to dramatically improve the health, well-being, and general quality of life for people not just in the state but across the world through implementing innovative new technologies and processes that have the capacity to produce cheap, reliable, and clean energy supplies;

Whereas, another part of Utah's energy policy is to promote the development of resources and infrastructure sufficient to meet the state's growing energy demands, while contributing to the regional and national energy supply and reducing dependence on international energy sources;

Whereas, another part of Utah's energy policy is to have adequate, reliable, affordable, sustainable, and clean energy resources;

Whereas, a focus on energy innovation, development, and commercialization in the state has the potential to create jobs and attract future business to Utah; and

Whereas, energy innovation has the potential to significantly increase the state's education fund through the wise use of the state's trust lands: Now, therefore, be it

*Resolved*, That the House of Representatives of the state of Utah expresses support for policies that promote and foster energy innovation development in the state of Utah to increase employment, potentially increase education funding, and make the state a national and international leader in new processes and technologies; be it further

*Resolved*, That a copy of this resolution be sent to Utah Geological Survey, the State Energy program, the Governor's Energy Office, USTAR, the Governor's Office of Economic Development, the Department of Workforce Services, the Division of Facilities Construction and Management, the Division of Oil, Gas, and Mining, the Utah Petroleum Association, the Utah Mining Association, and to the members of Utah's congressional delegation.

POM-111. A joint resolution adopted by the Legislature of the State of Utah urging recovery plan funds be spent on products made or services performed in the United States; to the Committee on Finance.

#### SENATE JOINT RESOLUTION NO. 5

Whereas, the nation's economic downturn is having a critical impact on everyday Americans who are struggling to maintain or find jobs in an increasingly difficult environment;

Whereas, these Americans are the taxpayers that provide the revenue needed to operate essential government services;

Whereas, Congress approved and President Obama signed into law a taxpayer-sponsored economic recovery package that will provide billions of dollars to help economically devastated cities and states immediately provide jobs to millions of out-of-work Americans through considerable infrastructure rebuilding, green energy projects, and other projects that will require manufactured components;

Whereas, taxpayer dollars should be spent to maximize the creation of American jobs and restore the economic vitality of our communities;

Whereas, any domestically produced products that are purchased with economic recovery plan monies will immediately help struggling American families and will help stabilize the greater economy; and

Whereas, any economic recovery plan spending should, to every extent possible, include a commitment from the citizens of Utah and its elected representatives to buy materials, goods, and services for projects from companies that produce within the United States, thus employing the very workers that pay the taxes for the economic recovery spending plan: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah endorses the efforts of its citizens and government, to work to maximize the creation of American jobs and restore economic growth and opportunity by spending recovery plan funds on products and services that both create jobs and help keep Americans employed; be it further

*Resolved*, That the Legislature of the state of Utah expresses its commitment to purchase only products and services that are made or performed in the United States whenever and wherever possible with any economic recovery monies provided the state of Utah by American taxpayers, as long as the cost of the product or service is competitive and its quality is equal or comparable to others; be it further

*Resolved*, That the Legislature of the state of Utah supports publishing any requests to waive these procurement priorities so as to give American workers and producers the opportunity to identify and provide the American products and services that will maximize the success of the nation's economic recovery program; be it further

*Resolved*, That a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and to the members of Utah's congressional delegation.

POM-112. A concurrent resolution adopted by the Legislature of the State of Utah urging Congress to improve federal-state consultation on international trade, including improving the availability of data to states necessary to evaluate the impact of free trade agreements on economic development within the states and state authority; to the Committee on Finance.

#### HOUSE CONCURRENT RESOLUTION NO. 1

Whereas, the economic prosperity of the United States is best served by embracing free and fair trade in global markets, investing in innovative research and technologies, and providing assistance to workers impacted by technology and trade trends;

Whereas, expanding trade opportunities for American workers and businesses depends on cooperation between the federal government and the states;

Whereas, the trade liberalization efforts of the early 1990s and trade agreements such as the North American Free Trade Agreement and the World Trade Organization Uruguay Round agreements have increased the need for state policymakers to play a greater role in international trade decisions;

Whereas, trade liberalization has transformed the historical state-federal division of power into one of necessary and critical partnership, and thereby taxed state agency resources in determining the impact on state laws and regulations;

Whereas, state sovereignty should be preserved by the federal government in trade promotion activities;

Whereas, states often lack a clearly defined institutional trade policy structure and resources, making it difficult to handle requests from trading partners and federal agencies, and to articulate to a unified state stance on trade issues;

Whereas, recent trade agreements have proceeded beyond just discussion of tariffs and quotas and now substantially address and affect government regulation, taxation, procurement, and economic development policies that are historically legislated and implemented at state and local levels;

Whereas, recent trade agreements that proceed beyond tariffs and quotas intersect with traditional areas of state authority under the Tenth Amendment of the United States Constitution, such as regulating the environment, health, and safety and, thus, have a major impact on the states' continuing authority to legislate and regulate in these areas;

Whereas, international lawsuits may be brought against the United States alleging that its states and localities have violated trade agreements;

Whereas, international trade agreements must ensure that non-discriminatory state laws and regulations adopted for a public purpose and with due process are not preempted or otherwise undermined and weakened by international sanctions or penalties;

Whereas, states' interests must be paramount during the negotiation of inter-

national agreements given the direct impact on their police powers, policies, and programs;

Whereas, there is a need for a strong federal-state trade policy consultation mechanism;

Whereas, the Intergovernmental Policy Advisory Committee, a state-supported advisory committee to the United States Trade Representative, plays an important role in providing state input to the United States Trade Representative but which is limited in its effectiveness by an inability to share classified information with relevant state officials and members of the general public;

Whereas, compartmentalization of information within the Intergovernmental Policy Advisory Committee prevents members from gathering important and relevant information from those state officials and members of the general public;

Whereas, in August 2004, the Intergovernmental Policy Advisory Committee recommended that a federal-state International Trade Policy Commission would be an ideal resource for objective trade policy analysis and would foster communication among federal and state trade policy officials;

Whereas, the creation of an effective federal-state trade policy infrastructure would assist states in understanding the scope of federal trade efforts, would assist federal agencies in understanding the various state trade processes, and would give states meaningful input into the development and implementation of United States Trade Representative's activities;

Whereas, federal-state consultation should include the timely and comprehensive sharing of information on the substance and likely impact of trade agreements on state laws and regulations, appropriate use of the state single points of contact, improved trade data to assess the impact of proposed and existing agreements, and a reasonable opportunity for meaningful input by the states; and

Whereas, in 2006, the Utah State Legislature statutorily created the Utah International Trade Commission to study and make recommendations to the Legislature concerning the impact of international agreements adopted by the United States on the Legislature's constitutional power to regulate state affairs, public and private, and to promote Utah exports: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah, the Governor concurring therein, urge Congress to improve federal-state consultation on international trade, including improving the availability of data to states necessary to evaluate the impact of free trade agreements on economic development within the states and state authority; be it further

*Resolved*, That copies of this resolution be sent to the members of Utah's Congressional Delegation, the Office of the United States Trade Representative, the Intergovernmental Policy Advisory Committee, the U.S. Senate Finance Committee, the U.S. House Ways and Means Committee, the Speaker of the U.S. House of Representatives, and the President of the U.S. Senate.

POM-113. A joint resolution adopted by the Legislature of the State of Utah urging Congress to refrain from instituting a new federal review, oversight, or preemption of state health laws, refrain from creating a federal health insurance exchange or connector, and refrain from creating a federal health insurance public plan option; to the Committee on Finance.

## HOUSE JOINT RESOLUTION NO. 11

Whereas, the Tenth Amendment to the United States Constitution states, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people”;

Whereas, the states primarily regulate today’s health insurance market, provide aggressive oversight on all aspects of this market, and enforce consumer protection as well as ensure local, responsive presence for consumers;

Whereas, the state-based system of health insurance regulation has served all interests well;

Whereas, the United States Congress is considering legislation that may impose restrictions on states’ ability to regulate health plans, including overriding already adopted state patient protections;

Whereas, Congress is considering legislation that would mandate the purchase of health care insurance by all Americans and require those who do not comply to pay a fine, in effect unfairly forcing Americans to buy health insurance;

Whereas, the creation of a new federal system of regulation for health insurance would be inefficient, unnecessary, not cost-effective, and an additional burden on the health care delivery system;

Whereas, private sector health plans are leaders in innovations to improve quality, benefits, and customer service that government-sponsored health plans have been slow to adopt;

Whereas, Congress is considering legislation that would create a federal health insurance exchange or connector to facilitate the purchase of health insurance by individuals and small employers, including offering a new public plan option;

Whereas, a federal exchange would create conflicting state and federal rules, resulting in consumer confusion and leading to adverse selection;

Whereas, a federal exchange would require substantial resources to create a new federal entity that duplicates functions currently performed by states;

Whereas, a federal exchange would undermine states’ oversight role in health insurance and cause a substantial shift in the regulation of the health insurance market from the states to the federal government;

Whereas, a federal exchange would undermine state authority to design programs that reflect local needs;

Whereas, a new public plan would not improve competition, but would result in an uneven playing field that would shift costs to the private sector and undermine private plans;

Whereas, a new public health insurance plan would be subject to constant federal changes; and

Whereas, a new public plan is unnecessary in light of the private sector’s product offerings and innovations: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah urges the United States Congress to refrain from instituting a new federal review, oversight, or preemption of state health insurance laws, refrain from creating a federal health insurance exchange or connector, and refrain from creating a federal health insurance public plan option; be it further

*Resolved*, That copies of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and to the members of Utah’s congressional delegation.

POM-114. A concurrent resolution adopted by the Legislature of the State of Utah urging Congress to refuse to enact, and the President of the United States to refuse to sign, any legislation that imposes further restrictions on any state’s ability to regulate the payment and delivery of health care, imposes additional financial burden related to health care on any state, or limits the ability of consumers and businesses to create innovative models for higher quality, lower cost health care; to the Committee on Finance.

## HOUSE CONCURRENT RESOLUTION NO. 8

Whereas, people’s health affects not only their sense of well being, but their capacity to contribute to their families, to their employers, and to society at large;

Whereas, the improvement and maintenance of individual health depends to a significant extent on the widespread availability of affordable, high quality health care;

Whereas, the widespread availability of affordable, high quality health care is threatened by long-term runaway spending in a system that too often delivers suboptimal care;

Whereas, runaway spending and suboptimal care are attributable to various factors, but are perpetuated to a large extent by a third-party payer system that fails to reward individual effort to preserve and improve one’s health and that fails to reward delivery of the most effective care at the lowest cost;

Whereas, for many years, Utah has been laying the foundation for genuine long-term health system reform;

Whereas, this foundation includes the creation of the Utah Health Data Authority in 1990 and the subsequent collection and publication of hospital charges by facility and adjusted for risk;

Whereas, this foundation includes the establishment in 1993 of the Utah Health Information Network, a nationally recognized statewide system for processing health insurance claims at a small fraction of the cost often charged by other claims processors;

Whereas, this foundation includes the 2005 requirement that the Utah Health Data Authority publish reports that compare health care facilities based on charges, quality, and safety;

Whereas, this foundation includes the 2007–08 development of an all-payer database that will report payments, as opposed to charges, for entire episodes of medical care, and will ultimately allow consumers to choose from among competing providers of treatments for any particular condition based on outcomes, price, and other attributes important to the consumer;

Whereas, this foundation includes the 2008–09 creation of the first statewide system in the nation for standardized electronic exchange of clinical health information across provider systems, including exchange of diagnostic test results and electronic medical record information;

Whereas, this foundation includes the 2008 creation of the Health System Reform Task Force, a legislative body that has engaged consumers, employers, doctors, hospitals, and insurers in a voluntary, cooperative effort spanning two years, and involving thousands of hours, to develop a strategic plan for health system reform;

Whereas, this foundation includes the 2009–10 creation of payment and delivery reform demonstration projects designed to align third-party payment structures with provider practices that result in the highest

quality of care for both chronic and acute conditions;

Whereas, this foundation includes the 2009 creation of the nation’s second-only health insurance exchange, a virtual marketplace where employees may enroll under a defined contribution arrangement, select from a range of plans broader than what an employer traditionally offers, and fund premiums with contributions from multiple sources;

Whereas, this foundation outlined above is the result of an iterative process of creation and refinement that has relied heavily on the input of all major stakeholders in the health care system and has been established largely on the basis of cooperation and consensus rather than compulsion;

Whereas, many of the perverse incentives that plague our health care system are rooted in federal Medicare and Medicaid payment policies, which exert a disproportionate influence on the privately funded portions of our health care system;

Whereas, federal proposals for health system reform recently considered by Congress emphasize enrollment expansion rather than cost containment, much like boarding additional passengers on an already sinking Titanic;

Whereas, those proposals include laudable authorizations for payment and delivery reform demonstration projects but otherwise largely lack significant cost containment provisions;

Whereas, those proposals include many provisions to improve quality of care but fall short of the systemic changes needed to fully link outcomes and payment;

Whereas, states have consistently proven themselves laboratories of policy innovation, in spite of sometimes stifling federal regulatory restrictions;

Whereas, the best hope for health system reform lies with individual states, where an iterative process of experimentation, evaluation, and modification will minimize the unintended consequences of one-size-fits-all national policies and will produce results worth replicating; and

Whereas, states are in need of additional financial resources and flexibility to experiment rather than additional benefit mandates, Medicaid eligibility mandates, and rating restrictions, all of which will inevitably drive up health care spending and costs to states: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah, the Governor concurring therein, urge Congress to refuse to enact, and the President of the United States to refuse to sign, any legislation that imposes further restrictions on any state’s ability to regulate the payment and delivery of health care, imposes additional financial burden related to health care on any state, or limits the ability of consumers and businesses to create innovative models for higher quality, lower cost health care; be it further

*Resolved*, That the Legislature and the Governor urge that Congress pass, and the President sign, legislation that grants states greater flexibility under federal laws and regulations related to health care and encourages states to create health reform demonstration projects with the potential for replication elsewhere; be it further

*Resolved*, That the Legislature and the Governor urge that should Congress pass, and the President sign, legislation that further restricts states in any manner, the legislation recognize states’ efforts to reform health care by grandfathering any state laws, regulations, or practices intended to



contain costs, improve quality, increase consumerism, or otherwise implement health system reform concepts; be it further

*Resolved*, That a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the President of the United States, and the members of Utah's Congressional delegation.

POM-115. A concurrent resolution adopted by the Senate of the State of Louisiana urging Congress to review the GPO and WEP Social Security benefit reductions and to consider eliminating or reducing them by enacting the Social Security Fairness Act of 2009, the Public Servant Retirement Protection Act of 2009, the Windfall Elimination Provision Relief Act of 2009, or a similar instrument; to the Committee on Finance.

#### SENATE CONCURRENT RESOLUTION NO. 6

Whereas, the Congress of the United States has enacted both the Government Pension Offset (GPO), reducing the spousal and survivor Social Security benefit, and the Windfall Elimination Provision (WEP), reducing the earned Social Security benefit for any person who also receives a public pension benefit; and

Whereas, the intent of Congress in enacting the GPO and the WEP provisions was to address concerns that a public employee who had worked primarily in federal, state, or local government employment might receive a public pension in addition to the same Social Security benefit as a person who had worked only in employment covered by Social Security throughout his career; and

Whereas, the purpose of Congress in enacting these reduction provisions was to provide a disincentive for public employees to receive two pensions; and

Whereas, the GPO negatively affects a spouse or survivor receiving a federal, state, or local government retirement or pension benefit who would also be entitled to a Social Security benefit earned by a spouse; and

Whereas, the GPO formula reduces the spousal or survivor Social Security benefit by two-thirds of the amount of the federal, state, or local government retirement or pension benefit received by the spouse or survivor, in many cases completely eliminating the Social Security benefit; and

Whereas, nine out of ten public employees affected by the GPO lose their entire spousal benefits, even though their spouses paid Social Security taxes for many years; and

Whereas, the GPO often reduces spousal benefits so significantly it can make the difference between self-sufficiency and poverty; and

Whereas, the GPO has a harsh effect on thousands of citizens and undermines the original purpose of the Social Security dependent/survivor benefit; and

Whereas, the GPO negatively impacts approximately 21,900 Louisianians; and

Whereas, the WEP applies to those persons who have earned federal, state, or local government retirement or pension benefits, in addition to working in employment covered under Social Security and paying into the Social Security system; and

Whereas, the WEP reduces the earned Social Security benefit using an averaged indexed monthly earnings formula and may reduce Social Security benefits for affected persons by as much as one-half of the retirement benefit earned as a public servant in employment not covered under Social Security; and

Whereas, the WEP causes hard-working individuals to lose a significant portion of the

social security benefits that they earn themselves; and

Whereas, the WEP negatively impacts approximately 18,300 Louisianians; and

Whereas, because of these calculation characteristics, the GPO and the WEP have a disproportionately negative effect on employees working in lower-wage government jobs, like policemen, firefighters, teachers, and state employees; and

Whereas, many workers rely on Social Security Administration Annual Statements that fail to take into account the GPO and WEP when projecting benefits; and

Whereas, because the Social Security benefit statements do not calculate the GPO and the WEP, many public employees in Louisiana are unaware that their expected Social Security benefits shown on such statements will be significantly lower or non-existent due to the service in public employment; and

Whereas, these provisions also have a greater adverse effect on women than on men because of the gender differences in salary that continue to plague our nation and the longer life expectancy of women; and

Whereas, Louisiana is making every effort to improve the quality of life of its citizens and to encourage them to live here lifelong, yet the current GPO and WEP provisions compromise that quality of life; and

Whereas, retired individuals negatively affected by GPO and WEP have significantly less money to support their basic needs and sometimes have to turn to government assistance programs; and

Whereas, the GPO and the WEP penalize individuals who have dedicated their lives to public service by taking away benefits they have earned; and

Whereas, our nation should respect, not penalize, public service; and

Whereas, the number of people affected by GPO and WEP is growing every day as more and more people reach retirement age; and

Whereas, the GPO and WEP are established in federal law and repeal of the GPO and the WEP can only be enacted by the United States Congress: Now therefore, be it

*Resolved*, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to review the GPO and the WEP Social Security benefit reductions and to consider eliminating or reducing them by enacting the Social Security Fairness Act of 2009 (H.R. 235 or S. 484), the Public Servant Retirement Protection Act of 2009 (H.R. 1221, S. 490), the Windfall Elimination Provision Relief Act of 2009 (H.R. 2145), or a similar instrument; be it further

*Resolved*, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM-116. A resolution adopted by the House of Representatives of the State of Utah strongly urging the President to submit the Comprehensive Test Ban Treaty to the United States Senate and the United States Senate to promptly give its advice and consent for ratification of the Comprehensive Test Ban Treaty; to the Committee on Foreign Relations.

#### HOUSE RESOLUTION NO. 4

Whereas, a global halt to nuclear weapons testing has been a bipartisan objective of the United States since the late 1950s when President Dwight D. Eisenhower sought a comprehensive nuclear test ban;

Whereas, the United States has not conducted a nuclear weapons test since the

United States suspended testing and joined with the Union of Soviet Socialist Republics in a nuclear weapons testing moratorium in September 1992;

Whereas, the Comprehensive Test Ban Treaty (CTBT) was opened for signature on September 24, 1996, and President Bill Clinton was the first head of state to sign the Treaty;

Whereas, no nuclear tests have been conducted since that time by the United States, Russia, or China;

Whereas, as of June 2009, 180 states have signed the CTBT and 148 have ratified it;

Whereas, ratification of the CTBT would signal a strong commitment by the United States to fulfill its obligations under the Nuclear Non-Proliferation Treaty, prompt ratification by other states which is necessary for the Treaty to enter into force, reinforce the global taboo against nuclear weapons testing, and set an example for the rest of the world;

Whereas, a global verifiable ban on nuclear weapons testing would prevent potential nuclear powers from proof testing smaller nuclear bombs that can be delivered on ballistic missiles;

Whereas, United States ratification of the CTBT would be a significant step towards preventing the spread of nuclear weapons, reducing nuclear weapons arsenals worldwide, and building confidence among nations that abolition of nuclear weapons can someday be achieved;

Whereas, after 1,030 nuclear test explosions, further nuclear weapons testing is not necessary to maintain the integrity, effectiveness, and deterrence value of the existing United States nuclear weapons stockpile, nor is there any new military requirement for new types of United States nuclear warheads;

Whereas, the United States government acknowledges that 433 of 824 United States underground tests have vented radiation to the atmosphere;

Whereas, as part of its recognition of the 50th anniversary of nuclear weapons testing at the Nevada Test Site, in the 2001 General Session, the 54th Legislature of the state of Utah expressed, "the fervent desire and commitment to assure that such a legacy will never be repeated";

Whereas, resumption of United States nuclear weapons testing would place persons downwind of the Nevada test location at risk of exposure to radioactive emissions from possible venting;

Whereas, citizens of Utah living downwind of the Nevada Test Site have already suffered significant health effects as a result of nuclear weapons testing;

Whereas, in the best interests of their children and grandchildren, Utah's remaining "downwinders" continue to fight the resumption of any nuclear weapons testing;

Whereas, past nuclear weapons testing at the Nevada Test Site has devastated the health and livelihoods of thousands of Utahns;

Whereas, in 2005, the 58th Legislature of the state of Utah voted in support of a Concurrent Resolution Opposing Nuclear Testing, articulating that, "The state of Utah has an obligation to its citizens, especially those who have suffered so much, to do all in its power to ensure that the lingering wounds from nuclear testing are not reopened to afflict both current and future generations";

Whereas, the Legislature of the state of Utah supports a strong military defense, but atomic weapons tests are not a necessary component of that defense;

Whereas, United States' citizens must not be subjected to the hazards of future nuclear weapons tests;

Whereas, the CTBT Organization effectively monitors compliance with the CTBT through an International Monitoring System, consisting of 337 stations using state-of-the-art seismic, hydroacoustic, infrasound and radionuclide technologies and capable of detecting and identifying a nuclear weapons test explosion anywhere in the world within hours;

Whereas, the CTBT is effectively verifiable and would improve the United States' ability to detect, deter, and respond to potential surreptitious nuclear weapons testing by other nations;

Whereas, Article 9 of the CTBT permits withdrawal by the United States in case extraordinary future developments, including the need to respond to a violation by another nation, were to jeopardize our supreme national interests;

Whereas, independent expert assessments commissioned by the National Nuclear Security Administration have concluded that measures under the Stockpile Stewardship Program and Life Extension Program can support certification of today's nuclear warheads as safe, secure, and reliable for decades without the need to resort to underground nuclear weapons testing and

Whereas, the CTBT would increase international safety and security and is in the best interests of Utah, the United States, and the world: Now, therefore, be it

*Resolved*, That the House of Representatives of the state of Utah strongly urges the President of the United States to submit the Comprehensive Test Ban Treaty to the United States Senate; be it further

*Resolved*, That the House of Representatives of the state of Utah strongly urges the United States Senate to promptly give its advice and consent for ratification of the Comprehensive Test Ban Treaty; be it further

*Resolved*, That a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, and to Utah Senators ORRIN HATCH and BOB BENNETT.

POM-117. A concurrent resolution adopted by the Legislature of the State of Utah reaffirming friendship with the people of Taiwan and urging the Obama Administration to support Taiwan's meaningful participation in the United Nations specialized agencies, programs, and conventions; to the Committee on Foreign Relations.

#### HOUSE CONCURRENT RESOLUTION No. 11

Whereas, July 23, 2010, will mark the 30th anniversary of a sister state relationship between Utah and Taiwan;

Whereas, for the past 30 years, four sister county and sister city relationships with Taiwan have also been strengthened, resulting in better mutual understanding of the economic, social, and cultural heritages of Utah and Taiwan;

Whereas, in 2008, Taiwan was Utah's third largest export market;

Whereas, Utah exports to Taiwan have reached \$727,000,000, an increase of over 244% since 2007;

Whereas, Utah companies still have substantial opportunities to expand their businesses and cooperation with Taiwan;

Whereas, Utah has already attracted investment from several Taiwanese companies, and there is significant potential for Taiwanese enterprises to further boost investment and create jobs in Utah;

Whereas, in May 2009, the World Health Organization invited Taiwan to attend the 62nd World Health Assembly as an observer;

Whereas, this development raises the possibility for Taiwan to be meaningfully involved in other United Nations specialized agencies, programs, and conventions;

Whereas, Taiwan is a key air transport hub in the Asia-Pacific region, with approximately 2,600 weekly flights to and from neighboring countries;

Whereas, the Taipei Flight Information Region under Taiwan's jurisdiction currently serves 12 international and four domestic routes and has 1,350,000 controlled flights passing through every year;

Whereas, the 2008 statistics from Airports Council International ranked Taiwan's Taoyuan International Airport as the world's 11th largest airport by international cargo volume, and 19th in terms of international passengers services; and

Whereas, given Taiwan's prominent role in regional air control and transport services, it would be beneficial for Taiwan to have meaningful participation in the International Civil Aviation Organization, in order to safeguard the traveling of passengers from home and abroad: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah, the Governor concurring therein, reaffirm their friendship with the people of Taiwan and urge the Obama Administration to support Taiwan's meaningful participation in United Nations specialized agencies, programs, and conventions; be it further

*Resolved*, That the Legislature and the Governor express support for a strong and deepening relationship between Utah and Taiwan; be it further

*Resolved*, That copies of this resolution be sent to the President of the United States and to the government of Taiwan.

POM-118. A joint resolution adopted by the Legislature of the State of Utah expressing opposition to the establishment of a National Commission on State Workers' Compensation Laws; to the Committee on Health, Education, Labor, and Pensions.

#### HOUSE JOINT RESOLUTION No. 10

Whereas, state workers' compensation laws should provide an injured worker with all reasonable and necessary medical treatment that promotes expeditious healing, a return to work, a fair level of income benefits during disability, and protection against lost wages;

Whereas, state workers' compensation laws should assure that employees receive just compensation at a cost affordable to employers;

Whereas, the state-based workers' compensation system has proven over the near-century of its existence to be an effective means of protecting injured workers against the costs of industrial injury, while protecting employers against the unlimited and unpredictable costs of workplace liability;

Whereas, a state-based benefit delivery system reflects the nature and cost of employment in individual states and is an exemplar of the federal system, in which power is dispersed among the states, facilitating timely response and the ability to tailor remedies to state-specific conditions;

Whereas, the imposition of federal oversight and development of federal mandates on the state workers' compensation system should be opposed, including any proposed legislation that would unnecessarily increase the federal bureaucracy and create federal regulation in an area where states are currently providing adequate oversight;

Whereas, federal requirements on the state-based system would create unnecessary imbalances and unintended consequences for a system that has been operating effectively for decades;

Whereas, a state workers' compensation system, its administration, legal precedents, funding, and fiscal accountability, which is intricately linked to each state's economy, is a much more effective approach in dealing with workers' compensation issues;

Whereas, the state-based system provides the ability to experiment creatively and borrow from experiences in other states without the burden of a rigid, nationwide, one-size-fits-all federal program that is slow to change and administratively cumbersome;

Whereas, the rights of states and their respective legislatures and stakeholders to review the performance of state-based workers' compensation systems should be preserved;

Whereas, it is not the province of Congress to interfere with the state administration of workers' compensation: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah expresses strong support for the current state-based workers' compensation system and opposes any proposed federal legislation that would lead to broadening the federal role in that system; be it further

*Resolved*, That the Legislature of the state of Utah opposes H.R. 635, introduced in the 111th United States Congress, that would establish a National Commission on State Workers' Compensation Laws, because the Commission's evaluation is intended, and will assuredly lead, to recommendations that would erode the independence of the state-based workers' compensation benefit delivery system, would seek to impose federal benefit delivery system rules, which Congress would be expected to approve, that inherently interfere with state benefit systems, would increase system costs nationwide, and would frustrate efforts of the states to contain costs; be it further

*Resolved*, That a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and to the members of Utah's congressional delegation.

POM-119. A joint resolution adopted by the Legislature of the State of Utah urging the United States Department of Veterans Affairs to prioritize Utah for the construction of another veterans' nursing home; to the Committee on Veterans' Affairs.

#### HOUSE JOINT RESOLUTION No. 9

Whereas, there is great need for the construction of an additional nursing home for veterans in Utah;

Whereas, Utah is still significantly below the nation's average for the total number of needed veterans' nursing homes statewide;

Whereas, due to the heavy numbers of veterans in the state of Utah, the United States Department of Veterans Affairs should prioritize Utah for the construction of an additional veterans' nursing home;

Whereas, Utah should also be prioritized based on the absolute promise of the United States Department of Veterans Affairs to reimburse the state for the Veterans' Nursing Home in Ogden;

Whereas, any and all efforts by the state of Utah to continue to help veterans acquire properties and build a home in central and southern Utah should be encouraged;

Whereas, the citizens of Utah and the citizens of the United States owe a debt to our veterans of the past, present, and future; and

Whereas, constructing an additional veterans' nursing home will demonstrate a

measure of gratitude for their service: Now, therefore, be it

*Resolved*, That the Legislature of the state of Utah strongly encourages the United States Department of Veterans Affairs to prioritize Utah for the construction of another veteran's nursing home; be it further

*Resolved*, That the Legislature of the state of Utah encourages any and all efforts by the state of Utah to continue helping veterans acquire properties and build a veterans' nursing home in central and southern Utah; be it further

*Resolved*, That copies of this resolution be sent to the United States Department of Veterans Affairs, the Utah Department of Veterans Affairs, and to the members of Utah's congressional delegation.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. AKAKA, from the Committee on Veterans' Affairs, without amendment:

S. 3378. An original bill to authorize health care for individuals exposed to environmental hazards at Camp Lejeune and the Atsugi Naval Air Facility, to establish an advisory board to examine exposures to environmental hazards during military service, and for other purposes (Rept. No. 111-189).

By Mrs. BOXER, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1214. A bill to conserve fish and aquatic communities in the United States through partnerships that foster fish habitat conservation, to improve the quality of life for the people of the United States, and for other purposes (Rept. No. 111-190).

By Mr. INOUE, from the Committee on Appropriations:

Special Report entitled "Further Revised Budget Allocation to Subcommittees of Budget Totals" (Rept. No. 111-191).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 2868. A bill to provide increased access to the General Services Administration's Schedules Program by the American Red Cross and State and local governments (Rept. No. 111-192).

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. AKAKA:

S. 3378. An original bill to authorize health care for individuals exposed to environmental hazards at Camp Lejeune and the Atsugi Naval Air Facility, to establish an advisory board to examine exposures to environmental hazards during military service, and for other purposes; from the Committee on Veterans' Affairs; placed on the calendar.

By Mrs. BOXER:

S. 3379. A bill to amend the Clean Air Act to reduce carbon pollution and create clean energy jobs; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER (for himself and Mr. KERRY):

S. 3380. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of securities of a controlled corporation exchanged for assets in certain reorganizations; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. CRAPO, and Mr. TESTER):

S. 3381. A bill to amend the Clean Air Act to modify certain definitions of the term "renewable biomass", and for other purposes; to the Committee on Environment and Public Works.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KERRY (for himself, Mrs. FEINSTEIN, and Mr. UDALL of Colorado):

S. Res. 532. A resolution recognizing Expo 2010 Shanghai China and the USA Pavilion at the Expo; to the Committee on Foreign Relations.

By Ms. LANDRIEU (for herself, Mr. GRASSLEY, Mrs. LINCOLN, Mr. LEVIN, Mr. CARDIN, Mr. BEGICH, Mr. KERRY, Mr. INHOFE, Ms. COLLINS, Ms. SNOWE, Mr. BAYH, Mr. FRANKEN, Mr. AKAKA, Mrs. MURRAY, Mrs. GILLIBRAND, Mr. NELSON of Nebraska, Mr. CASEY, Mrs. BOXER, Mr. SPECTER, Mr. COCHRAN, and Mr. LAUTENBERG):

S. Res. 533. A resolution recognizing National Foster Care Month as an opportunity to raise awareness about the challenges of children in the foster care system and encouraging Congress to implement policy to improve the lives of children in the foster care system; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 266

At the request of Mr. NELSON of Florida, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 266, a bill to amend title XVIII of the Social Security Act to reduce the coverage gap in prescription drug coverage under part D of such title based on savings to the Medicare program resulting from the negotiation of prescription drug prices.

S. 311

At the request of Mrs. BOXER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 311, a bill to prohibit the application of certain restrictive eligibility requirements to foreign nongovernmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961.

S. 504

At the request of Mr. ROBERTS, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Missouri (Mr. BOND), the Senator from Ohio (Mr. BROWN), the Senator from Illinois (Mr. BURRIS), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oklahoma (Mr. COBURN), the Senator from Mississippi (Mr. COCHRAN), the Senator from North Dakota (Mr. CONRAD), the Senator from Utah (Mr. HATCH), the Senator from Texas (Mrs. HUTCHISON), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Florida (Mr. LEMIEUX),

the Senator from Indiana (Mr. LUGAR), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Alabama (Mr. SHELBY), the Senator from Maine (Ms. SNOWE), the Senator from Montana (Mr. TESTER), the Senator from Mississippi (Mr. WICKER) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 504, a bill to redesignate the Department of the Navy as the Department of the Navy and Marine Corps.

S. 632

At the request of Mr. BAUCUS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 632, a bill to amend the Internal Revenue Code of 1986 to require that the payment of the manufacturers' excise tax on recreational equipment be paid quarterly.

S. 634

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 634, a bill to amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.

S. 831

At the request of Mr. KERRY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 831, a bill to amend title 10, United States Code, to include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of non-regular service retired pay.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 999, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1239

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1239, a bill to amend section 340B of the Public Health Service Act to revise and expand the drug discount program under that section to improve the provision of discounts on drug purchases for certain safety net providers.

S. 2736

At the request of Mr. FRANKEN, the name of the Senator from New Jersey

(Mr. LAUTENBERG) was added as a cosponsor of S. 2736, a bill to reduce the rape kit backlog and for other purposes.

S. 2749

At the request of Mrs. GILLIBRAND, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2749, a bill to amend the Richard B. Russell National School Lunch Act to improve access to nutritious meals for young children in child care.

S. 3201

At the request of Mr. UDALL of Colorado, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 3201, a bill to amend title 10, United States Code, to extend TRICARE coverage to certain dependents under the age of 26.

S. 3206

At the request of Mr. HARKIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3206, a bill to establish an Education Jobs Fund.

S. 3213

At the request of Mr. LEVIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 3213, a bill to ensure that amounts credited to the Harbor Maintenance Trust Fund are used for harbor maintenance.

S. 3234

At the request of Mrs. MURRAY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 3234, a bill to improve employment, training, and placement services furnished to veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 3266

At the request of Mr. BENNET, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 3266, a bill to ensure the availability of loan guarantees for rural homeowners.

S. 3311

At the request of Mr. KERRY, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. 3311, a bill to improve and enhance the capabilities of the Department of Defense to prevent and respond to sexual assault in the Armed Forces, and for other purposes.

S. 3327

At the request of Mr. LIEBERMAN, the name of the Senator from Nebraska (Mr. JOHANNES) was added as a cosponsor of S. 3327, a bill to add joining a foreign terrorist organization or engaging in or supporting hostilities against the United States or its allies to the list of acts for which United States nationals would lose their nationality.

S. 3329

At the request of Mr. LAUTENBERG, the name of the Senator from Mary-

land (Mr. CARDIN) was added as a cosponsor of S. 3329, a bill to provide triple credits for renewable energy on brownfields, and for other purposes.

S. 3350

At the request of Mr. BINGAMAN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 3350, a bill to amend the Internal Revenue Code of 1986 to permanently modify the limitations on deduction of interest by financial institutions which hold tax-exempt bonds, and for other purposes.

S. 3372

At the request of Mrs. BOXER, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 3372, a bill to modify the date on which the Administrator of the Environmental Protection Agency and applicable States may require permits for discharges from certain vessels.

S. 3377

At the request of Mr. BURR, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 3377, a bill to amend title 38, United States Code, to improve the multifamily transitional housing loan program of the Department of Veterans Affairs by requiring the Secretary of Veterans Affairs to issue loans for the construction of, rehabilitation of, or acquisition of land for multifamily transitional housing projects instead of guaranteeing loans for such purposes, and for other purposes.

AMENDMENT NO. 3746

At the request of Mr. WHITEHOUSE, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 3746 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3883

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of amendment No. 3883 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3887

At the request of Mr. CARPER, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of amendment No. 3887 in-

tended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3919

At the request of Mr. CONRAD, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 3919 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3920

At the request of Mr. HARKIN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of amendment No. 3920 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3931

At the request of Mr. MERKLEY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 3931 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3944

At the request of Mr. CORKER, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of amendment No. 3944 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3949

At the request of Mr. CARPER, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of amendment No. 3949 intended to be proposed to S. 3217, an

original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3986

At the request of Mr. CORNYN, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 3986 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 4006

At the request of Mr. PRYOR, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of amendment No. 4006 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 4008

At the request of Mr. DORGAN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 4008 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 4016

At the request of Mr. UDALL of Colorado, the names of the Senator from Ohio (Mr. BROWN), the Senator from New York (Mrs. GILLIBRAND) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of amendment No. 4016 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 4018

At the request of Mr. ENZI, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of amendment No. 4018 intended to be pro-

posed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 4036

At the request of Mr. BENNETT, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 4036 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS (for himself, Mr. CRAPO, and Mr. TESTER):

S. 3381. A bill to amend the Clean Air Act to modify certain definitions of the term “renewable biomass”, and for other purposes; to the Committee on Environment and Public Works.

Mr. BAUCUS. Mr. President, I rise today to introduce legislation with my colleagues Senator CRAPO and Senator TESTER that will establish a single definition of renewable biomass for the purposes of the Renewable Fuel Standard, RFS, a future Renewable Electricity Standard, RES, and climate change legislation.

When I travel back to my hometown of Helena, MT, trees that line the roads there are turning red. Mountain pine beetles are killing Montana's trees at a terrible rate. Our legendary harsh winters once were enough to keep the beetles at bay, but no longer. Global warming has literally hit home for me. These thousands of acres of red, dead trees are virtually worthless under current law, serving as little more than kindling for wildfires.

This bill can help add value to this biomass while also creating a source of renewable domestic energy. It will establish a simple, broad, single definition for renewable biomass that is consistent with current law—the 2008 Farm Bill.

Some say this definition is too broad and fails to protect ecologically sensitive areas. In fact, there are many laws that dictate Federal forest management, and my amendment does nothing to change these laws. All projects that would create biomass due to my amendment would have to comply with the National Forest Management Act, the Endangered Species Act, the National Environmental Policy Act and others.

All projects on federal forests must go through NEPA where the land man-

agement agency must study potential environmental impacts and mitigate those impacts. The public has many opportunities to comment and shape these projects and nothing in my amendment changes these safeguards. Further, my amendment would do nothing to change designated Wilderness areas or Wilderness Study Areas or otherwise weaken the Wilderness Act.

Right now our national forests are growing 20 billion board feet per year. Eight billion board feet die every year and only two million board feet are removed. This has resulted in overstocked, unhealthy forests. We can either restore forest health, produce renewable energy and local high-wage jobs, or we can allow nature to impose its own will through wildfire and infestation.

I urge my colleagues to support this legislation, and I look forward to working with them to enact this bill this year.

## SUBMITTED RESOLUTIONS

## SENATE RESOLUTION 532—RECOGNIZING EXPO 2010 SHANGHAI CHINA AND THE USA PAVILION AT THE EXPO

Mr. KERRY (for himself, Mrs. FEINSTEIN, and Mr. UDALL of Colorado) submitted the following resolution; which was referred to the Committee on Foreign Relations:

## S. RES. 532

Whereas Expo 2010 Shanghai China (Expo 2010) will take place May 1 through October 31, 2010 with the theme “Better City, Better Life”;

Whereas Expo 2010 will be the largest such event in 150 years of Expo history with an estimated 70,000,000 visitors expected to attend, many of them from within China;

Whereas approximately 192 countries and 52 international organizations will be represented at Expo 2010;

Whereas Expo 2010 is the first world exposition hosted by China, representing an opportunity for the world to celebrate China's progress over the past 30 years and recognize the aspirations of the people of China to continue the process of “reform and opening up” launched by Chinese Premier Deng Xiaoping in 1979;

Whereas Shanghai, the host city of Expo 2010, is the dynamic commercial and financial capital of China, noted in China as a cradle of innovation and openness;

Whereas Expo 2010 represents an unprecedented opportunity for the United States to promote understanding of American society, culture, ideas, and values with millions of Chinese citizens visiting the USA Pavilion;

Whereas United States participation in Expo 2010 demonstrates the United States commitment to a forward-looking, positive relationship with China;

Whereas the USA Pavilion theme “Rising to the Challenge” will entertain and educate audiences on the American spirit of innovation and community-building and celebrate the American ideals of collaboration, freedom, diversity, openness, optimism, achievement, and opportunity;

Whereas Expo 2010 will emphasize sound environmental conservation practices, including a solar energy system that will produce 5 megawatts of power and large rooftop canopies to collect rainwater to be purified for drinking;

Whereas support for the USA Pavilion's construction, staffing, operation, and thematic presentations was provided completely by private-sector and other partners consistent with United States law; and

Whereas many of the USA Pavilion's sponsoring partners are also playing an active role in the beneficial development of China's economy and society: Now, therefore, be it

*Resolved*, That—

(1) the Senate congratulates the people of China for hosting Expo 2010 and wishes them every success with this endeavor;

(2) it is the sense of the Senate that Expo 2010 constitutes an important step along the over 30-year path of reform and opening up in China, and serves as a significant reminder of what can be accomplished if China continues along this path;

(3) the Senate calls on the sponsors and operators of the USA Pavilion to make maximum use of this unique opportunity to showcase the very best attributes that the United States has to offer and to strengthen the cultural, scientific, educational, people-to-people, trade, and investment links between the people of the United States and the people of China; and

(4) the Senate acknowledges the more than 60 private-sector and other sponsor partners of the USA Pavilion for their invaluable contributions to the success of this important project and for providing a positive example of public-private partnerships.

#### SENATE RESOLUTION 533—RECOGNIZING NATIONAL FOSTER CARE MONTH AS AN OPPORTUNITY TO RAISE AWARENESS ABOUT THE CHALLENGES OF CHILDREN IN THE FOSTER CARE SYSTEM AND ENCOURAGING CONGRESS TO IMPLEMENT POLICY TO IMPROVE THE LIVES OF CHILDREN IN THE FOSTER CARE SYSTEM

Ms. LANDRIEU (for herself, Mr. GRASSLEY, Mrs. LINCOLN, Mr. LEVIN, Mr. CARDIN, Mr. BEGICH, Mr. KERRY, Mr. INHOFE, Ms. COLLINS, Ms. SNOWE, Mr. BAYH, Mr. FRANKEN, Mr. AKAKA, Mrs. MURRAY, Mrs. GILLIBRAND, Mr. NELSON of Nebraska, Mr. CASEY, Mrs. BOXER, Mr. SPECTER, Mr. COCHRAN, and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 533

Whereas all children deserve a safe, loving, and permanent home;

Whereas approximately 500,000 children in the United States live in foster care each year;

Whereas children enter the foster care system for a variety of reasons, including inadequate care, abuse, or neglect by a parent or guardian;

Whereas the major factors that contribute to the placement of a child in the foster care system include substance abuse, mental illness, poverty, and a lack of education of a parent or guardian of the child;

Whereas a child entering the foster care system must confront the widespread misperception that children in foster care

are disruptive, unruly, and dangerous, even though placement in the foster care system is based on the actions of a parent or guardian, not the child;

Whereas States and communities should be provided with the resources to invest in preventative and reunification services and post-permanency programs to ensure that more children in the foster care system are provided safe, loving, permanent placements;

Whereas the foster care system is intended to be a temporary solution, yet children remain in the foster care system for an average of 3 years;

Whereas children of color are disproportionately represented in the foster care system and are less likely to be reunited with their biological families;

Whereas the average child in the foster care system—

(1) is 10 years old; and

(2) will be placed in 3 different homes, leading to disruptive transfers to new schools, separation from siblings, and unfamiliar surroundings;

Whereas most children “age out” of the foster care system at the age of 18;

Whereas the number of children who enter the foster care system each year has declined over the decade preceding the date of the agreement to this resolution, but the number of children who “age out” of the foster care system without placement with a permanent family has increased substantially, rising from 20,000 children in 2002 to 29,000 children in 2008;

Whereas children who “age out” of the foster care system lack the security or support of a biological or adoptive family and frequently struggle to secure affordable housing, obtain health insurance, pursue higher education, and acquire adequate employment;

Whereas, of the children who have “aged out” of the foster care system—

(1) 25 percent have been homeless;

(2) 51 percent have been unemployed for significant stretch of time, and

(3) only 2 percent have obtained a bachelor's degree or higher;

Whereas, by age 19, approximately 50 percent of young women who have been in the foster care system have been pregnant, compared to only 20 percent of young women who have been not in the foster care system;

Whereas research reveals that children born to teen parents are exposed to serious and high risks;

Whereas National Foster Care Month is an opportunity to raise awareness about the special needs of children in the foster care system and to recognize the important role that foster parents, social workers, and advocates have in the lives of children in foster care throughout the United States;

Whereas the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351; 122 Stat. 3949) provides for new investments and services to improve the outcomes of children and families in the foster care system; and

Whereas much remains to be done to ensure that all children have a safe, loving, nurturing, and permanent family, regardless of age or special needs: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes National Foster Care Month as an opportunity to raise awareness about the challenges of children in the foster care system;

(2) encourages Congress to implement policy to improve the lives of children in the foster care system;

(3) supports the designation of a “National Foster Care Month”;

(4) acknowledges the needs of the children in the foster care system;

(5) honors the commitment and dedication of those individuals who work tirelessly to provide assistance and services to children in the foster care system; and

(6) recognizes the need to continue working to improve the outcomes of all children in the foster care system through title IV of the Social Security Act (42 U.S.C. 601 et seq.) and other programs designed to help children in the foster care system—

(A) reunite with their biological parents; or

(B) if the children cannot be reunited with their biological parents, find permanent, safe, and loving homes.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 4048. Mrs. FEINSTEIN (for herself, Mr. LEVIN, Ms. CANTWELL, Ms. SNOWE, and Mrs. SHAHEEN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 4049. Mr. HARKIN (for himself and Mr. CASEY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4050. Mr. CARDIN (for himself, Mr. LUGAR, Mr. DURBIN, Mr. SCHUMER, Mr. FEINGOLD, Mr. MERKLEY, Mr. JOHNSON, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 4051. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4052. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4053. Ms. STABENOW (for herself and Mr. BROWN of Ohio) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4054. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4055. Mrs. HUTCHISON (for herself, Mrs. HAGAN, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4056. Mr. BOND (for himself, Mr. DODD, Mr. WARNER, Mr. BROWN of Massachusetts, Ms. CANTWELL, Mr. BEGICH, Mrs. MURRAY,



Mr. CORKER, Mr. TESTER, Mr. BROWNBACK, Mr. BAUCUS, and Mr. REID) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, *supra*.

SA 4057. Mr. ENZI (for himself and Mr. CORKER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, *supra*; which was ordered to lie on the table.

SA 4058. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, *supra*; which was ordered to lie on the table.

SA 4059. Mr. REID (for Mrs. LINCOLN (for herself, Mr. CHAMBLISS, Mr. COCHRAN, and Mr. BROWN of Ohio)) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, *supra*; which was ordered to lie on the table.

SA 4060. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, *supra*; which was ordered to lie on the table.

SA 4061. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, *supra*; which was ordered to lie on the table.

SA 4062. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, *supra*; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 4048.** Mrs. FEINSTEIN (for herself, Mr. LEVIN, Ms. CANTWELL, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 699, strike line 20 and all that follows through page 704, line 13, and insert the following:

“(A) REGISTRATION.—The Commission may adopt rules and regulations requiring registration with the Commission for a foreign board of trade that provides the members of the foreign board of trade or other participants located in the United States with direct access to the electronic trading and order matching system of the foreign board of trade, including rules and regulations prescribing procedures and requirements applicable to the registration of such foreign boards of trade. For purposes of this paragraph, ‘direct access’ refers to an explicit grant of authority by a foreign board of trade to an identified member or other participant located in the United States to

enter trades directly into the trade matching system of the foreign board of trade.

“(B) LINKED CONTRACTS.—It shall be unlawful for a foreign board of trade to provide to the members of the foreign board of trade or other participants located in the United States direct access to the electronic trading and order-matching system of the foreign board of trade with respect to an agreement, contract, or transaction that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, unless the Commission determines that—

“(i) the foreign board of trade makes public daily trading information regarding the agreement, contract, or transaction that is comparable to the daily trading information published by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

“(ii) the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade)—

“(I) adopts position limits (including related hedge exemption provisions) for the agreement, contract, or transaction that are comparable to the position limits (including related hedge exemption provisions) adopted by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles;

“(II) has the authority to require or direct market participants to limit, reduce, or liquidate any position the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade) determines to be necessary to prevent or reduce the threat of price manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process;

“(III) agrees to promptly notify the Commission, with regard to the agreement, contract, or transaction that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, of any change regarding—

“(aa) the information that the foreign board of trade will make publicly available;

“(bb) the position limits that the foreign board of trade or foreign futures authority will adopt and enforce;

“(cc) the position reductions required to prevent manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process; and

“(dd) any other area of interest expressed by the Commission to the foreign board of trade or foreign futures authority;

“(IV) provides information to the Commission regarding large trader positions in the agreement, contract, or transaction that is comparable to the large trader position information collected by the Commission for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

“(V) provides the Commission such information as is necessary to publish reports on aggregate trader positions for the agreement, contract, or transaction traded on the foreign board of trade that are comparable to such reports on aggregate trader positions for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles.

“(C) EXISTING FOREIGN BOARDS OF TRADE.—Subparagraphs (A) and (B) shall not be effective with respect to any foreign board of

trade to which, prior to the date of enactment of this paragraph, the Commission granted direct access permission until the date that is 180 days after that date of enactment.”.

(b) LIABILITY OF REGISTERED PERSONS TRADING ON A FOREIGN BOARD OF TRADE.—Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting “or by subsection (e)” after “Unless exempted by the Commission pursuant to subsection (c)”; and

(2) by adding at the end the following:

“(e) LIABILITY OF REGISTERED PERSONS TRADING ON A FOREIGN BOARD OF TRADE.—A person registered with the Commission, or exempt from registration by the Commission, under this Act may not be found to have violated subsection (a) with respect to a transaction in, or in connection with, a contract of sale of a commodity for future delivery if the person has reason to believe that the transaction and the contract is made on or subject to the rules of a foreign board of trade that has complied with subparagraphs (A) and (B) of subsection (b)(1).”.

**SA 4049.** Mr. HARKIN (for himself and Mr. CASEY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 656, strike line 20 and all that follows through page 657, line 12, and insert the following:

“(2) SPECIAL RULE; DUTY TO PROTECTED CUSTOMERS.—

“(A) DEFINITION OF PROTECTED CUSTOMER.—In this paragraph, the term ‘protected customer’ means any entity that is—

“(i) a Federal agency;

“(ii) a State, State agency, city, county, municipality, or other political subdivision of a State;

“(iii) any employee benefit plan, as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002);

“(iv) any governmental plan, as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002); or

“(v) any endowment that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986.

“(B) PROHIBITION.—

“(i) IN GENERAL.—It shall be unlawful for a swap dealer that provides advice regarding, offers to enter into, or enters into, a swap with a protected customer—

“(I) to employ any device, scheme, or artifice to defraud any protected customer or prospective protected customer;

“(II) to engage in any transaction, practice, or course of business that operates as a fraud or deceit on any protected customer or prospective protected customer;

“(III) if the swap dealer acts as a principal for the account of the swap dealer, to knowingly sell any swap to, or purchase any swap from, a protected customer, or if the swap



dealer acts as a broker for a person other than the protected customer, to knowingly effect any sale or purchase of any swap for the account of the protected customer, without—

“(aa) before the completion of the transaction, disclosing to the protected customer in writing the capacity in which the swap dealer is acting; and

“(bb) obtaining the consent of the protected customer in writing with respect to the transaction; and

“(IV) to engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative.

“(ii) REGULATIONS.—As soon as practicable after the date of enactment of this subparagraph, the Commission shall issue rules and promulgate regulations to prescribe requirements that are reasonably designed to prevent acts, practices, and courses of business that are fraudulent, deceptive, or manipulative.

“(C) REQUIREMENTS.—

“(i) IN GENERAL.—A swap dealer that recommends a swap with a protected customer shall comply with clauses (ii) and (iii).

“(ii) REASONABLE GROUNDS.—In recommending to a protected customer the purchase, sale, or exchange of any swap, a swap dealer shall have reasonable grounds for believing that the recommendation is in the best interests of the protected customer.

“(iii) REASONABLE EFFORTS.—Before the execution of a transaction recommended to a protected customer under clause (ii), a swap dealer shall make reasonable efforts to obtain such information as is necessary to determine whether the transaction is in the best interests of the protected customer, including—

“(I) information relating to—

“(aa) the financial status of the protected customer; and

“(bb) the tax status of the protected customer; and

“(cc) the stated investment objectives of the protected customer; and

“(II) such other information that—

“(aa) is used or considered to be reasonable by the swap dealer in making recommendations to the protected customer; and

“(bb) the Commission may prescribe by rule or regulation.

“(iv) BUSINESS CONDUCT REQUIREMENTS.—A swap dealer shall satisfy each business conduct requirement described in paragraph (3).

“(D) WRITTEN REPRESENTATIONS.—

“(i) IN GENERAL.—Before entering into a swap with a protected customer, a swap dealer shall receive in writing a representation from the protected customer confirming that the swap transaction has been expressly authorized—

“(I) by an advisor that is independent of the swap dealer; and

“(II) in the case of an employee benefit plan subject to the fiduciary duty requirements under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), by a representative independent of the swap dealer that is a fiduciary, as defined in section 3 of that Act (29 U.S.C. 1002).

“(ii) REGULATIONS.—Not later than December 31, 2010, the Commission shall issue rules or promulgate regulations to provide guidelines to determine qualifications for advisors that are authorized to provide advice under clause (i)(I).

Beginning on page 863, strike line 22 and all that follows through page 864, line 16, and insert the following:

“(2) SPECIAL RULE; DUTY TO PROTECTED CUSTOMERS.—

“(A) DEFINITION OF PROTECTED CUSTOMER.—In this paragraph, the term ‘protected customer’ means any entity that is—

“(i) a Federal agency;

“(ii) a State, State agency, city, county, municipality, or other political subdivision of a State;

“(iii) any employee benefit plan, as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002);

“(iv) any governmental plan, as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002); or

“(v) any endowment that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986.

“(B) PROHIBITION.—

“(i) IN GENERAL.—It shall be unlawful for a security-based swap dealer that provides advice regarding, offers to enter into, or enters into, a security-based swap with a protected customer—

“(I) to employ any device, scheme, or artifice to defraud any protected customer or prospective protected customer;

“(II) to engage in any transaction, practice, or course of business that operates as a fraud or deceit on any protected customer or prospective protected customer;

“(III) if the security-based swap dealer acts as a principal for the account of the security-based swap dealer, to knowingly sell any security-based swap to, or purchase any security-based swap from, a protected customer, or if the security-based swap dealer acts as a broker for a person other than the protected customer, to knowingly effect any sale or purchase of any security-based swap for the account of the protected customer, without—

“(aa) before the completion of the transaction, disclosing to the protected customer in writing the capacity in which the security-based swap dealer is acting; and

“(bb) obtaining the consent of the protected customer in writing with respect to the transaction; and

“(IV) to engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative.

“(ii) REGULATIONS.—As soon as practicable after the date of enactment of this subparagraph, the Commission shall issue rules and promulgate regulations to prescribe requirements that are reasonably designed to prevent acts, practices, and courses of business that are fraudulent, deceptive, or manipulative.

“(C) REQUIREMENTS.—

“(i) IN GENERAL.—A security-based swap dealer that recommends a security-based swap with a protected customer shall comply with clauses (ii) and (iii).

“(ii) REASONABLE GROUNDS.—In recommending to a protected customer the purchase, sale, or exchange of any security-based swap, a security-based swap dealer shall have reasonable grounds for believing that the recommendation is in the best interests of the protected customer.

“(iii) REASONABLE EFFORTS.—Before the execution of a transaction recommended to a protected customer under clause (ii), a security-based swap dealer shall make reasonable efforts to obtain such information as is necessary to determine whether the transaction is in the best interests of the protected customer, including—

“(I) information relating to—

“(aa) the financial status of the protected customer; and

“(bb) the tax status of the protected customer; and

“(cc) the stated investment objectives of the protected customer; and

“(II) such other information that—

“(aa) is used or considered to be reasonable by the security-based swap dealer in making recommendations to the protected customer; and

“(bb) the Commission may prescribe by rule or regulation.

“(iv) BUSINESS CONDUCT REQUIREMENTS.—A security-based swap dealer shall satisfy each business conduct requirement described in paragraph (3).

“(D) WRITTEN REPRESENTATIONS.—

“(i) IN GENERAL.—Before entering into a security-based swap with a protected customer, a security-based swap dealer shall receive in writing a representation from the protected customer confirming that the security-based swap transaction has been expressly authorized—

“(I) by an advisor that is independent of the security-based swap dealer; and

“(II) in the case of an employee benefit plan subject to the fiduciary duty requirements under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), by a representative independent of the security-based swap dealer that is a fiduciary, as defined in section 3 of that Act (29 U.S.C. 1002).

“(ii) REGULATIONS.—Not later than December 31, 2010, the Commission shall issue rules or promulgate regulations to provide guidelines to determine qualifications for advisors that are authorized to provide advice under clause (i)(I).

**SA 4050.** Mr. CARDIN (for himself, Mr. LUGAR, Mr. DURBIN, Mr. SCHUMER, Mr. FEINGOLD, Mr. MERKLEY, Mr. JOHNSON, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail,” to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1187, line 9, strike “effective.” insert the following: “effective.”

#### Subtitle K—Resource Extraction Issuers

#### SEC. 995. FINDINGS.

Congress finds the following:

(1) It is in the interest of the United States to promote good governance in the extractive industries sector. Transparency in revenue payments benefits oil, gas, and mining companies, because it improves the business climate in which such companies work, increases the reliability of commodity supplies upon which businesses and people in the United States rely, and promotes greater energy security.

(2) Companies in the extractive industries sector face unique tax and reputational risks, in the form of country-specific taxes and regulations. Exposure to these risks is heightened by the substantial capital employed in the extractive industries, and the often opaque and unaccountable management of natural resource revenues by foreign governments, which in turn creates unstable and high-cost operating environments for multinational companies. The effects of these risks are material to investors.

**SEC. 996. DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.**

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

“(p) DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘commercial development of oil, natural gas, or minerals’ includes exploration, extraction, processing, export, and other significant actions relating to oil, natural gas, or minerals, or the acquisition of a license for any such activity, as determined by the Commission;

“(B) the term ‘foreign government’ means a foreign government, a department, agency, or instrumentality of a foreign government, or a company owned by a foreign government, as determined by the Commission;

“(C) the term ‘payment’—

“(i) means a payment that is—

“(I) made to further the commercial development of oil, natural gas, or minerals; and

“(II) not de minimis; and

“(ii) includes taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the Commission, consistent with the guidelines of the Extractive Industries Transparency Initiative (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals;

“(D) the term ‘resource extraction issuer’ means an issuer that—

“(i) is required to file an annual report with the Commission; and

“(ii) engages in the commercial development of oil, natural gas, or minerals;

“(E) the term ‘interactive data format’ means an electronic data format in which pieces of information are identified using an interactive data standard; and

“(F) the term ‘interactive data standard’ means a standardized list of electronic tags that mark information included in the annual report of a resource extraction issuer.

“(2) DISCLOSURE.—

“(A) INFORMATION REQUIRED.—Not later than 270 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall issue final rules that require each resource extraction issuer to include in an annual report of the resource extraction issuer information relating to any payment made by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals, including—

“(i) the type and total amount of such payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals; and

“(ii) the type and total amount of such payments made to each government.

“(B) CONSULTATION IN RULEMAKING.—In issuing rules under subparagraph (A), the Commission may consult with any agency or entity that the Commission determines is relevant.

“(C) INTERACTIVE DATA FORMAT.—The rules issued under subparagraph (A) shall require that the information included in the annual report of a resource extraction issuer be submitted in an interactive data format.

“(D) INTERACTIVE DATA STANDARD.—

“(i) IN GENERAL.—The rules issued under subparagraph (A) shall establish an interactive data standard for the information included in the annual report of a resource extraction issuer.

“(ii) ELECTRONIC TAGS.—The interactive data standard shall include electronic tags that identify, for any payments made by a resource extraction issuer to a foreign government or the Federal Government—

“(I) the total amounts of the payments, by category;

“(II) the currency used to make the payments;

“(III) the financial period in which the payments were made;

“(IV) the business segment of the resource extraction issuer that made the payments;

“(V) the government that received the payments, and the country in which the government is located;

“(VI) the project of the resource extraction issuer to which the payments relate; and

“(VII) such other information as the Commission may determine is necessary or appropriate in the public interest or for the protection of investors.

“(E) INTERNATIONAL TRANSPARENCY EFFORTS.—To the extent practicable, the rules issued under subparagraph (A) shall support the commitment of the Federal Government to international transparency promotion efforts relating to the commercial development of oil, natural gas, or minerals.

“(F) EFFECTIVE DATE.—With respect to each resource extraction issuer, the final rules issued under subparagraph (A) shall take effect on the date on which the resource extraction issuer is required to submit an annual report relating to the fiscal year of the resource extraction issuer that ends not earlier than 1 year after the date on which the Commission issues final rules under subparagraph (A).

“(3) PUBLIC AVAILABILITY OF INFORMATION.—

“(A) IN GENERAL.—To the extent practicable, the Commission shall make available online, to the public, a compilation of the information required to be submitted under the rules issued under paragraph (2)(A).

“(B) OTHER INFORMATION.—Nothing in this paragraph shall require the Commission to make available online information other than the information required to be submitted under the rules issued under paragraph (2)(A).

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this subsection.”.

**SA 4051.** Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 18, between lines 17 and 18, insert the following:

**SEC. 5. PROHIBITION ON THE USE OF FEDERAL FUNDS TO PAY STATE OBLIGATIONS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, no Federal funds may be used to purchase or guarantee obligations of, issue lines of credit to or provide direct or indirect grants-and-aid to, any State government, municipal government, local government, or county government which has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government.

(b) LIMIT ON USE OF BORROWED FUNDS.—The Secretary shall not, directly or indirectly, use general fund revenues or funds borrowed pursuant to title 31, United States Code, to purchase or guarantee any asset or obligation of any State government, municipal government, local government, or county government or to otherwise assist such governments, in any instance in which the State government, municipal government, or county government has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government.

(c) LIMIT ON FEDERAL RESERVE FUNDS.—The Board of Governors shall not, directly or indirectly, lend against, purchase, or guarantee any asset or obligation of any State government, municipal government, local government, or county government or to otherwise assist such governments, in any instance in which the State government, municipal government, local government, or county government has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government. Notwithstanding any other provision of law, no Federal funds may be used to pay the obligations of any State, or to issue a line of credit to any State.

**SA 4052.** Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1056, line 17, strike the second period and insert the following: “.

**SEC. 946. REPRESENTATIONS AND WARRANTIES FOR POOL ASSETS.**

(a) REPRESENTATIONS AND WARRANTIES.—

(1) DEFINITIONS.—In this subsection—

(A) the terms “asset-backed security”, “servicer”, and “sponsor” have the meanings given those terms under Regulation AB; and

(B) the term “Regulation AB” means subpart 229.1100 of title 17, Code of Federal Regulations, or any successor thereto.

(2) RULES REQUIRED.—

(A) COMPLIANCE.—Not later than 270 days after the date of enactment of this Act, the Commission shall issue rules, as the Commission determines is necessary and appropriate consistent with the protection of investors, that require any issuance of an asset-backed security to comply with paragraph (3).

(B) DEFINITION.—The Commission shall, by rule, define the term “pool assets” for purposes of this subsection.

(3) PERIODIC INDEPENDENT EVALUATION.—The pooling and servicing agreement for an asset-backed security shall contain provisions requiring the sponsor of the asset-backed security to furnish to the trustee of the asset-backed security, on a quarterly basis, a certificate or opinion from an independent evaluator that—

(A) identifies any pool assets that in the prior quarter, the trustee notified, or had the right to notify, the obligor that it had an obligation to repurchase or substitute under the terms of the pooling and servicing agreement because of a breach or violation of a representation or warranty; and

(B) includes facts supporting a finding as to whether any representation or warranty made with respect to any pool asset has been breached or violated.

(4) INDEPENDENT EVALUATOR.—For purposes of paragraph (3), an independent evaluator shall—

(A) be subject to removal upon the vote of 25 percent of the holders of outstanding shares of the asset-backed security; and

(B) have access to the pool asset records and related documents of any party to the pooling and servicing agreement and any person performing work on behalf of any party to the pooling and servicing agreement.

(5) EXEMPTIONS.—The Commission may, by rule, exempt a class of asset-backed securities from the rules issued under this subsection, if the Commission determines that the application of such rules to the class of asset-backed securities would cause undue disruption to a segment of the market affected by the class of asset-backed securities.

(b) DIRECT REVIEW.—An investor or group of investors that holds not less than 20 percent of the outstanding securities of an asset-backed security (including an asset-backed security that is not subject to the requirements under subpart 229.1100 of title 17, Code of Federal Regulations) that is issued or outstanding on or before the date of enactment of this Act shall have access to all loan documents and related documents of any servicer of the asset-backed security (including servicing records), unless otherwise prohibited in a contract with respect to the asset-backed security.

(c) ENFORCEMENT.—The Commission may enforce the rules issued under this section in the same manner as the Commission enforces rules issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

**SA 4053.** Ms. STABENOW (for herself and Mr. BROWN of Ohio) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 540, line 16, strike “purchase” and insert “purchase or lease”.

On page 580, line 20, insert “and involved in hedging activities related to” after “engaged in”.

On page 580, line 21, strike “purchase” and insert “purchase or lease”.

On page 580, line 23, strike “user” and insert “user (including any subsidiary of the commercial end user)”.

On page 580, lines 24 and 25, strike “only if the affiliate” and insert “as can affiliates”.

On page 581, line 1, strike “uses” and insert “using”.

On page 582, between lines 6 and 7, insert the following:

“(iii) TRANSITION RULE.—An affiliate or a wholly owned entity of a commercial end user that is predominantly engaged in providing financing for the purchase or lease of merchandise or manufactured goods of the commercial end user affiliate (including any subsidiary of the commercial end user) shall be exempt from the margin requirement described in section 4s(e) and the clearing requirement described in paragraph (1) with regard to swaps entered into to mitigate the risk of the financing activities for not less than a 3-year period beginning on the date of enactment of this clause.

“(iv) AUTHORITY OF COMMISSION.—On or prior to the date on which the 3-year period described in clause (iii) ends, the Commission may extend the exemption described in that clause for an additional 1-year period if the Commission—

“(I) determines the extension to be in the public interest; and

“(II) publishes in the Federal Register the order granting the extension (including the reasons for the extension).

**SA 4054.** Mr. CORKER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1052, line 3, strike “SEC. 942.” and insert the following:

**SEC. 942. RESIDENTIAL MORTGAGE UNDERWRITING STANDARDS.**

(a) STANDARDS ESTABLISHED.—Notwithstanding any other provision of this Act or any other provision of Federal, State, or local law, the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, shall jointly establish specific minimum standards for mortgage underwriting, including—

(1) a requirement that the mortgagee verify and document the income and assets relied upon to qualify the mortgagor on the residential mortgage, including the previous employment and credit history of the mortgagor;

(2) a down payment requirement that—

(A) is equal to not less than 5 percent of the purchase price of the property securing the residential mortgage; and

(B) in the case of a first lien residential mortgage loan with an initial loan to value ratio that is more than 80 percent and not more than 95 percent, includes a requirement for credit enhancements, as defined by the Federal banking agencies, until the loan to value ratio of the residential mortgage loan

amortizes to a value that is less than 80 percent of the purchase price;

(3) a method for determining the ability of the mortgagor to repay the residential mortgage that is based on factors including—

(A) all terms of the residential mortgage, including principal payments that fully amortize the balance of the residential mortgage over the term of the residential mortgage; and

(B) the debt to income ratio of the mortgagor; and

(4) any other specific standards the Federal banking agencies jointly determine are appropriate to ensure prudent underwriting of residential mortgages.

(b) UPDATES TO STANDARDS.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development—

(1) shall review the standards established under this section not less frequently than every 5 years; and

(2) based on the review under paragraph (1), may revise the standards established under this section, as the Federal banking agencies, in consultation with the Federal Housing Finance Agency and the Department of Housing and Urban Development, determine to be necessary.

(c) COMPLIANCE.—It shall be a violation of Federal law—

(1) for any mortgage loan originator to fail to comply with the minimum standards for mortgage underwriting established under subsection (a) in originating a residential mortgage loan;

(2) for any company to maintain an extension of credit on a revolving basis to any person to fund a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan funded by such credit was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a); or

(3) for any company to purchase, fund by assignment, or guarantee a residential mortgage loan, unless the company reasonably determines that the residential mortgage loan was subject to underwriting standards no less stringent than the minimum standards for mortgage underwriting established under subsection (a).

(d) IMPLEMENTATION.—

(1) REGULATIONS REQUIRED.—The Federal banking agencies, in consultation with the Federal Housing Finance Agency, shall issue regulations to implement subsections (a) and (c), which shall take effect not later than 270 days after the date of enactment of this Act.

(2) REPORT REQUIRED.—If the Federal banking agencies have not issued final regulations under subsections (a) and (c) before the date that is 270 days after the date of enactment of this Act, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) explains why final regulations have not been issued under subsections (a) and (c); and

(B) provides a timeline for the issuance of final regulations under subsections (a) and (c).

(e) ENFORCEMENT.—Compliance with the rules issued under this section shall be enforced by—

(1) the primary financial regulatory agency of an entity, with respect to an entity subject to the jurisdiction of a primary financial regulatory agency, in accordance with

the statutes governing the jurisdiction of the primary financial regulatory agency over the entity and as if the action of the primary financial regulatory agency were taken under such statutes; and

(2) the Bureau, with respect to a company that is not subject to the jurisdiction of a primary financial regulatory agency.

(f) EXEMPTIONS FOR CERTAIN NONPROFIT MORTGAGE LOAN ORIGINATORS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, may jointly issue rules to exempt from the requirements under subsection (a)(2), mortgage loan originators that—

(A) are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986; and

(B) were in existence on January 1, 2009.

(2) DETERMINING FACTORS.—The Federal banking agencies shall ensure that—

(A) the lending activities of a mortgage loan originator that receives an exemption under this subsection do not threaten the safety and soundness of the banking system of the United States; and

(B) a mortgage loan originator that receives an exemption under this subsection—

(i) is not compensated based on the number or value of residential mortgage loan applications accepted, offered, or negotiated by the mortgage loan originator;

(ii) does not offer residential mortgage loans that have an interest rate greater than zero percent;

(iii) does not gain a monetary profit from any residential mortgage product or service provided;

(iv) has the primary purpose of serving low income housing needs;

(v) has not been specifically prohibited, by statute, from receiving Federal funding; and

(vi) meets any other requirements that the Federal banking agencies jointly determine are appropriate for ensuring that a mortgage loan originator that receives an exemption under this subsection does not threaten the safety and soundness of the banking system of the United States.

(3) REPORTS REQUIRED.—Before the issuance of final rules under subsection (a), and annually thereafter, the Federal banking agencies shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that—

(A) identifies the mortgage loan originators that receive an exemption under this subsection; and

(B) for each mortgage loan originator identified under subparagraph (A), the rationale for providing an exemption.

(4) UPDATES TO EXEMPTIONS.—The Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury—

(A) shall review the exemptions established under this subsection not less frequently than every 2 years; and

(B) based on the review under subparagraph (A), may revise the standards established under this subsection, as the Federal banking agencies, in consultation with the Secretary of Housing and Urban Development and the Secretary of the Treasury, determine to be necessary.

(g) RULES OF CONSTRUCTION.—Nothing in this section may be construed to permit—

(1) the Federal National Mortgage Association or the Federal Home Loan Mortgage

Corporation to make or guarantee a residential mortgage loan that does not meet the minimum underwriting standards established under this section; or

(2) the Federal banking agencies to issue an exemption under subsection (f) that is not on a case-by-case basis.

(h) DEFINITIONS.—In this section, the following definitions shall apply:

(1) COMPANY.—The term “company”—

(A) has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)); and

(B) includes a sole proprietorship.

(2) MORTGAGE LOAN ORIGINATOR.—The term “mortgage loan originator” means any company that takes residential mortgage loan applications and offers or negotiates terms of residential mortgage loans.

(3) RESIDENTIAL MORTGAGE LOAN.—The term “residential mortgage loan”—

(A) means any extension of credit primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent security interest in a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling; and

(B) does not include a mortgage loan for which mortgage insurance is provided by the Department of Veterans Affairs or the Rural Housing Administration.

(4) EXTENSION OF CREDIT; DWELLING.—The terms “extension of credit” and “dwelling” shall have the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

#### SEC. 943. STUDY ON FEDERAL HOUSING ADMINISTRATION UNDERWRITING STANDARDS.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study evaluating whether the underwriting criteria used by the Federal Housing Administration are sufficient to ensure the solvency of the Mutual Mortgage Insurance Fund of the Federal Housing Administration and the safety and soundness of the banking system of the United States.

(2) ISSUES TO BE STUDIED.—In conducting the study under paragraph (1), the Comptroller General shall evaluate—

(A) down payment requirements for Federal Housing Administration borrowers;

(B) default rates of mortgages insured by the Federal Housing Administration;

(C) characteristics of Federal Housing Administration borrowers who are most likely to default;

(D) taxpayer exposure to losses incurred by the Federal Housing Administration;

(E) the impact of the market share of the Federal Housing Administration on efforts to sustain a viable private mortgage market; and

(F) any other factors that Comptroller General determines are appropriate.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a) that includes recommendations for statutory improvements to be made to the underwriting criteria used by the Federal Housing Administration, to ensure the solvency of the Mutual Mortgage Insurance Fund of the Federal Housing Administration and the safety and soundness of the banking system of the United States.

#### SEC. 944.

SA 4055. Mrs. HUTCHISON (for herself, Mrs. HAGAN, and Mr. CORNYN) sub-

mitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 485, line 14, strike “and” and all that follows through line 25 and insert the following:

(B) subject to such restrictions as the Federal banking agencies may determine, does not include purchasing or selling, or otherwise acquiring or disposing of, stocks, bonds, options, commodities, derivatives, or other financial instruments on behalf of a customer, as part of market making activities, or otherwise in connection with or in facilitation of customer relationships, including risk-mitigating hedging activities related to such a purchase, sale, acquisition, or disposal; and

(C) does not include the investments of a regulated insurance company, or a regulated insurance affiliate or regulated insurance subsidiary thereof, if—

(i) such investments are in compliance with, and subject to, the insurance company investment laws, regulations, and written guidance of the State or jurisdiction in which each such insurance company is domiciled; and

(ii) the Federal banking agencies, after consultation with the Council and the relevant insurance commissioners of the States and territories of the United States, have not jointly determined, after notice and comment, that a law, a regulation, or written guidance described in clause (i) is insufficient to accomplish the purposes of this section; and

SA 4056. Mr. BOND (for himself, Mr. DODD, Mr. WARNER, Mr. BROWN of Massachusetts, Ms. CANTWELL, Mr. BEGICH, Mrs. MURRAY, Mr. CORKER, Mr. TESTER, Mr. BROWBACK, Mr. BAUCUS, and Mr. REID) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 387, strike line 13 and all that follows through page 388, line 3, and insert the following:

#### SEC. 412. ADJUSTING THE ACCREDITED INVESTOR STANDARD.

(a) IN GENERAL.—The Commission shall adjust any net worth standard for an accredited investor, as set forth in the rules of the Commission under the Securities Act of 1933, so that the individual net worth of any natural person, or joint net worth with the spouse of that person, at the time of purchase, is more than \$1,000,000 (as such

amount is adjusted periodically by rule of the Commission), excluding the value of the primary residence of such natural person, except that during the 4-year period that begins on the date of enactment of this Act, any net worth standard shall be \$1,000,000, excluding the value of the primary residence of such natural person.

(b) REVIEW AND ADJUSTMENT.—

(1) INITIAL REVIEW AND ADJUSTMENT.—

(A) INITIAL REVIEW.—The Commission may undertake a review of the definition of the term “accredited investor”, as such term applies to natural persons, to determine whether the requirements of the definition, excluding the requirement relating to the net worth standard described in subsection (a), should be adjusted or modified for the protection of investors, in the public interest, and in light of the economy.

(B) ADJUSTMENT OR MODIFICATION.—Upon completion of a review under subparagraph (A), the Commission may, by notice and comment rulemaking, make such adjustments to the definition of the term “accredited investor”, excluding adjusting or modifying the requirement relating to the net worth standard described in subsection (a), as such term applies to natural persons, as the Commission may deem appropriate for the protection of investors, in the public interest, and in light of the economy.

(2) SUBSEQUENT REVIEWS AND ADJUSTMENT.—

(A) SUBSEQUENT REVIEWS.—Not earlier than 4 years after the date of enactment of this Act, and not less frequently than once every 4 years thereafter, the Commission shall undertake a review of the definition, in its entirety, of the term “accredited investor”, as defined in section 230.215 of title 17, Code of Federal Regulations, or any successor thereto, as such term applies to natural persons, to determine whether the requirements of the definition should be adjusted or modified for the protection of investors, in the public interest, and in light of the economy.

(B) ADJUSTMENT OR MODIFICATION.—Upon completion of a review under subparagraph (A), the Commission may, by notice and comment rulemaking, make such adjustments to the definition of the term “accredited investor”, as defined in section 230.215 of title 17, Code of Federal Regulations, or any successor thereto, as such term applies to natural persons, as the Commission may deem appropriate for the protection of investors, in the public interest, and in light of the economy.

On page 388, line 14, strike “1 year” and insert “3 years”.

On page 998, strike line 12 and all that follows through page 1001, line 25, and insert the following:

**SEC. 926. DISQUALIFYING FELONS AND OTHER “BAD ACTORS” FROM REGULATION D OFFERINGS.**

Not later than 1 year after the date of enactment of this Act, the Commission shall issue rules for the disqualification of offerings and sales of securities made under section 230.506 of title 17, Code of Federal Regulations, that—

(1) are substantially similar to the provisions of section 230.262 of title 17, Code of Federal Regulations, or any successor thereto; and

(2) disqualify any offering or sale of securities by a person that—

(A) is subject to a final order of a State securities commission (or an agency or officer of a State performing like functions), a State authority that supervises or examines banks, savings associations, or credit unions,

a State insurance commission (or an agency or officer of a State performing like functions), an appropriate Federal banking agency, or the National Credit Union Administration, that—

(i) bars the person from—

(I) association with an entity regulated by such commission, authority, agency, or officer;

(II) engaging in the business of securities, insurance, or banking; or

(III) engaging in savings association or credit union activities; or

(ii) constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct within the 10-year period ending on the date of the filing of the offer or sale; or

(B) has been convicted of any felony or misdemeanor in connection with the purchase or sale of any security or involving the making of any false filing with the Commission.

**SA 4057.** Mr. ENZI (for himself and Mr. CORKER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail,” to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 956, strike line 10 and all that follows through page 957, line 11, and insert the following:

**SEC. 978. FUNDING FOR GOVERNMENTAL ACCOUNTING STANDARDS BOARD.**

(a) AMENDMENT TO SECURITIES ACT OF 1933.—Section 19 of the Securities Act of 1933 (15 U.S.C. 77s), as amended by section 912, is further amended by adding at the end the following:

“(g)(1) The Commission may, subject to the limitations imposed by section 15B of the Securities Exchange Act (15 U.S.C. 78o-4) require a national securities association registered under the Securities Exchange Act of 1934 to establish—

“(A) a reasonable annual accounting support fee to adequately fund the annual budget of the Governmental Accounting Standards Board (hereafter referred to in this subsection as the ‘GASB’); and

“(B) rules and procedures, in consultation with the principal organizations representing State governors, legislators, local elected officials, and State and local finance officers, to provide for the equitable allocation, assessment, and collection of the accounting support fee established under subparagraph (A) from the members of the association, and the remittance of all such accounting support fees to the Financial Accounting Foundation.

“(2) ANNUAL BUDGET.—For purpose of this subsection, the annual budget of the GASB is the annual budget reviewed and approved according to the FAF’s internal procedures.

“(3) USE OF FUNDS.—Any funds collected under this subsection shall be used to support the efforts of the GASB to establish standards of financial accounting and reporting recognized as generally accepted accounting principles applicable to State and local governments of the United States.

“(4) LIMITATION ON FEE.—The annual accounting support fees collected under this subsection for a fiscal year shall not exceed the recoverable annual budgeted expenses of the GASB (which may include operating expenses, capital, and accrued items).

“(5) RULES OF CONSTRUCTION.—

“(A) FEES NOT PUBLIC MONIES.—Accounting support fees collected pursuant to this subsection and other receipts of the GASB shall not be considered public monies of the United States.

“(B) LIMITATION ON AUTHORITY OF THE COMMISSION.—Nothing in this subsection shall be construed to—

“(i) provide the Commission or any national securities association direct or indirect oversight of GASB’s budget or technical agenda; or

“(ii) affect the GASB’s setting of generally accepted accounting principles.

“(C) NONINTERFERENCE WITH STATES.—Nothing in this subsection shall be construed to impair or limit the authority of a State or local government to establish accounting and financial reporting standards.”.

(b) STUDY OF FUNDING FOR GOVERNMENTAL ACCOUNTING STANDARDS BOARD.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study that evaluates—

(A) the role and importance of the Governmental Accounting Standards Board in the municipal securities markets;

(B) the manner and the level at which the Governmental Accounting Standards Board has been funded;

(2) CONSULTATION.—In conducting the study required under paragraph (1), the Comptroller General shall consult with the principal organizations representing State governors, legislators, and local elected officials and State and local finance officers.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the study required under paragraph (1).

**SA 4058.** Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail,” to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1223, line 5, strike “and” and all that follows through line 7, and insert the following:

(8) an Office of Management and Budget (hereafter in this section referred to as “OMB”) analysis of the economic impact of all rules and orders adopted by the Bureau, as well as other initiatives conducted by the Bureau, during the preceding year, which shall include—

(A) the total costs of such rules, orders, and initiatives;

(B) the annual impact on employment, both nationally and by State;

(C) the estimated time for covered persons to comply with such rules, orders, and initiatives, both on average and by size of business covered; and

(D) the number of persons affected by each such rule, order, and initiative;

(9) an OMB analysis of the economic impact of all statutes, rules, regulations, and orders related to this Act, which shall include—

(A) a statement of the need for the proposed action and an analysis of whether there exists a market failure;

(B) an examination of alternative approaches, including a baseline case of not taking the regulatory action;

(C) a statement of the plausible scenarios for which the proposed action could lead to a Government failure;

(D) the total costs of all such rules and orders;

(E) the annual impact on employment nationally, by State, and by industry;

(F) the estimated time for covered persons to comply with all such rules, orders, and initiatives both on average and by size of business covered;

(G) the number of persons affected by each such rule, order, and initiative;

(H) an analysis of estimated effects on market efficiency and market competition, including a Regulatory Flexibility Act (5 U.S.C. chapter 6) analysis to assess the impact on small business and other small entities;

(I) an analysis of estimated effects on United States economic growth, United States economic competitiveness, and international trade;

(J) a Paperwork Reduction Act (44 U.S.C. chapter 35) analysis;

(K) a report of the precision of estimates and a statement of the key assumptions;

(L) a sensitivity analysis, based on plausible alternative assumptions for data, methodologies, and assumed levels of compliance and enforcement;

(M) any other economic analysis of regulatory actions required by Executive Order by the President of the United States;

(10) the annual compensation received by employees of the Bureau, including the total, the average, and the number of employees receiving salaries in excess of \$100,000 and \$200,000 and such calculation of compensation shall include the value of all non-salary compensation (including flex-time, vacation time, retirement benefits, and collective bargaining benefits);

(11) a copy of any collective bargaining agreements, or amendments to such agreements, entered into between the Bureau and its union during the preceding year;

(12) an analysis of the effectiveness of the Bureau, including evidence on whether each rule and regulation it has adopted during the preceding 10 years have produced a reduction in consumer complaints;

(13) a copy of any agreements with State attorneys, State regulators, private attorneys, or any other person or entity relating to the enforcement of consumer financial protection laws; and

(14) an analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau.

(d) ANNUAL REVIEW OF RULES AND REGULATIONS.—

(1) IN GENERAL.—OMB shall review, on a rolling-basis each statute, rule, regulation, and order related to this Act, to determine whether such statute, rule, regulation, order has achieved its intended result and whether such statute, rule, regulation, or order

should be modified or repealed based on changes in the marketplace. Each such statute, rule, regulation, and order shall be reviewed not less frequently than once every 8 years.

(2) REPORT.—In connection with the review required under paragraph (1), OMB shall annually produce a report discussing its findings, including—

(A) providing evidence on whether each statute, rule, regulation, or order under review should be retained, modified, or repealed;

(B) a discussion of the original intent of each statute, rule, regulation, and order;

(C) an analysis of whether each such statute, rule, regulation, and order achieved its intended results; and

(D) a cost benefit analysis of such statute, rule, regulation, and order that estimates the actual costs imposed on the private sector, compared to the actual benefits to the private sector attained, which cost benefit analysis shall include the costs of complying with such statute, rule, regulation, and order, the impact on innovation, and actual litigation costs incurred by private and governmental parties in litigating such statute and regulation.

(3) NOTICE TO BUREAU.—If OMB determines under paragraph (2) that any regulation has not yielded a positive cost-benefit result, the Bureau shall be promptly repealed such regulation or modify such regulation so that it is estimated to produce a positive cost-benefit result.

(4) NOTICE TO CONGRESS.—If OMB determines under paragraph (2) that any statute has not yielded a positive cost-benefit result, OMB shall notify Congress and provide a recommendation on whether the statute should be repealed or modified to produce a positive cost-benefit result.

**SA 4059.** Mr. REID (for Mrs. LINCOLN (for herself, Mr. CHAMBLISS, Mr. COCHRAN, and Mr. BROWN of Ohio)) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 565, between lines 2 and 3, insert the following:

(e) PRESERVATION OF OTHER REGULATORY AUTHORITY.—Section 2(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(C)) (as amended by section 717(a)) is amended by adding at the end the following:

“(vi) No provision of this Act shall be construed—

“(I) to supersede or limit the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.);

“(II) to restrict the Federal Energy Regulatory Commission from carrying out the duties and responsibilities of the Federal Energy Regulatory Commission under the Acts described in subclause (I);

“(III) to affect the authority of the Federal Energy Regulatory Commission to approve,

deny, or otherwise permit any rate or charge made, demanded, or received by any public utility or natural gas company for the transportation or sale of electric energy or natural gas subject to the jurisdiction of the Federal Energy Regulatory Commission; or

“(IV) to supersede or limit the authority of a State regulatory commission that has jurisdiction to regulate rates and charges for the transmission or sale of electric energy within the State, or restrict that State regulatory commission from carrying out the duties and responsibilities of the State regulatory commission pursuant to the jurisdiction of the State regulatory commission to regulate rates and charges for the transmission or sale of electric energy.

“(vii) Nothing in clause (vi) shall affect the Commission’s exclusive jurisdiction under subparagraph (A) with respect to the trading, execution, or clearing of any agreement, contract, or transaction on or subject to the rules of a registered entity, including a designated contract market, derivatives clearing organization, or swap execution facility.”.

(f) PUBLIC INTEREST WAIVER.—Section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) (as amended by section 721(d)) is amended by adding at the end the following:

“(6) If the Commission determines that the exemption would be consistent with the public interest and the purposes of this Act, the Commission shall, in accordance with paragraphs (1) and (2), exempt from the requirements of this Act an agreement, contract, or transaction that is entered into—

“(A) pursuant to a tariff or rate schedule approved or permitted to take effect by the Federal Energy Regulatory Commission;

“(B) pursuant to a tariff or rate schedule establishing rates or charges for, or protocols governing, the sale of electric energy approved or permitted to take effect by the regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy within the State or municipality; or

“(C) between entities described in section 201(f) of the Federal Power Act (16 U.S.C. 824(f)).

“(7)(A) Any person may apply to the Commission for an exemption from the requirements of this Act with respect to an agreement, contract, or transaction described in paragraph (6).

“(B) Not later than 1 business day after the date of receipt of an application described in subparagraph (A), the Commission shall notify, and provide a copy of the application to—

“(i) the Federal Energy Regulatory Commission; and

“(ii) with respect to an application filed with respect to paragraph (6)(B), the relevant State regulatory body or municipality.

“(C) The Commission shall provide not less than a 30-day period for public comment with respect to any application described in subparagraph (A).

“(D)(i) Not later than the date on which the public comment period described in subparagraph (C) expires, the Federal Energy Regulatory Commission (and the relevant State regulatory body or municipality with respect to an application filed with respect to paragraph (6)(B)) may provide to the Commission a recommendation regarding the application for exemption.

“(ii) The Commission shall give due consideration to any recommendation described in clause (i).



“(E) Not later than 120 days after the date of receipt of an application described in subparagraph (A), the Commission shall, by order—

“(i) grant an exemption in accordance with paragraph (6); or

“(ii) provide to the applicant a document that contains a description of each reason relied on by the Commission for not granting an exemption.”.

**SA 4060.** Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 485, strike line 1 and all that follows through page 489, line 13, and insert the following:

(2) the term “insured depository institution” does not include an institution described in section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D));

(3) the term “proprietary trading”—

(A) means purchasing or selling, or otherwise acquiring or disposing of, stocks, bonds, options, commodities, derivatives, or other financial instruments by an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company, for the trading book (or such other portfolio as the Federal banking agencies may determine) of such institution, company, or subsidiary;

(B) subject to such restrictions as the Federal banking agencies may determine, does not include purchasing or selling, or otherwise acquiring or disposing of, stocks, bonds, options, commodities, derivatives, or other financial instruments on behalf of a customer, as part of market making activities, or otherwise in connection with or in facilitation of customer relationships, including risk-mitigating hedging activities related to such a purchase, sale, acquisition, or disposal; and

(C) does not include the investments of a regulated insurance company, or a regulated insurance affiliate or regulated insurance subsidiary thereof, if—

(i) such investments are in compliance with, and subject to, the insurance company investment laws, regulations, and written guidance of the State or jurisdiction in which each such insurance company is domiciled; and

(ii) the Federal banking agencies, after consultation with the Council and the relevant insurance commissioners of the States and territories of the United States, have not jointly determined, after notice and comment, that a law, a regulation, or written guidance described in clause (i) is insufficient to accomplish the purposes of this section; and

(4) the term “sponsoring”, when used with respect to a hedge fund or private equity fund, means—

(A) serving as a general partner, managing member, or trustee of the fund;

(B) in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund; or

(C) sharing with the fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

(b) PROHIBITION ON PROPRIETARY TRADING.—

(1) IN GENERAL.—Subject to the recommendations and modifications of the Council under subsection (g), and except as provided in paragraph (2) or (3), the appropriate Federal banking agencies shall, through a rulemaking under subsection (g), jointly prohibit proprietary trading by an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company.

(2) EXCEPTED OBLIGATIONS.—

(A) IN GENERAL.—The prohibition under this subsection shall not apply with respect to an investment that is otherwise authorized by Federal law in—

(i) obligations of the United States or any agency of the United States, including obligations fully guaranteed as to principal and interest by the United States or an agency of the United States;

(ii) obligations, participations, or other instruments of, or issued by, the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, including obligations fully guaranteed as to principal and interest by such entities; and

(iii) obligations of any State or any political subdivision of a State.

(B) CONDITIONS.—The appropriate Federal banking agencies may impose conditions on the conduct of investments described in subparagraph (A).

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) may be construed to grant any authority to any person that is not otherwise provided in Federal law.

(3) FOREIGN ACTIVITIES.—An investment or activity conducted by a company pursuant to paragraph (9) or (13) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) solely outside of the United States shall not be subject to the prohibition under paragraph (1), provided that the company is not directly or indirectly controlled by a company that is organized under the laws of the United States or of a State.

(c) PROHIBITION ON SPONSORING AND INVESTING IN HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to the recommendations and modifications of the Council under subsection (g), the appropriate Federal banking agencies shall, through a rulemaking under subsection (g), jointly prohibit an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or any subsidiary of such institution or company, from sponsoring or investing in a hedge fund or a private equity fund.

(2) APPLICATION TO FOREIGN ACTIVITIES OF FOREIGN FIRMS.—An investment or activity

conducted by a company pursuant to paragraph (9) or (13) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) solely outside of the United States shall not be subject to the prohibitions and restrictions under paragraph (1), provided that the company is not directly or indirectly controlled by a company that is organized under the laws of the United States or of a State.

(3) EXCEPTION.—Notwithstanding paragraph (1), an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or any subsidiary of such institution or company may sponsor or invest in a hedge fund or a private equity fund, if—

(A) such institution, company, or subsidiary provides trust, fiduciary, or advisory services to the fund;

(B) the fund is sponsored and offered in connection with the provision of trust, fiduciary, or advisory services by such institution, company, or subsidiary to persons who are, or may be, customers or clients of such institution, company, or subsidiary;

(C) such institution, company, or subsidiary—

(i) does not acquire or retain an equity, partnership, or ownership interest in the fund; or

(ii) acquires or retains an equity, partnership, or ownership interest, if—

(I) on the date that is 12 months after the date on which the fund is established, the equity, partnership, or ownership interest is not greater than 5 percent of the total equity of the fund; and

(II) the aggregate equity investments by such institution, company, or subsidiary in the fund do not exceed 5 percent of Tier 1 capital of such institution, company, or subsidiary;

(D) such institution, company, or subsidiary does not enter into or otherwise engage in any transaction with the fund that is a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), except on terms and under circumstances specified in section 23B of the Federal Reserve Act (12 U.S.C. 371c-1);

(E) the obligations of the fund are not guaranteed, directly or indirectly, by such institution, company, or subsidiary any affiliate of such institution, company, or subsidiary; and

(F) such institution, company, or subsidiary does not share with the fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

**SA 4061.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 539, strike line 14 and all that follows through page 584, line 7, and insert the following:



“(33) MAJOR SWAP PARTICIPANT.—

“(A) IN GENERAL.—The term ‘major swap participant’ means any person who is not a swap dealer, and—

“(i)(I) maintains a substantial net position in swaps for any of the major swap categories as determined by the Commission, excluding—

“(aa) positions held for hedging or mitigating commercial risk, including operating risk and balance sheet risk, of such person or its affiliates; and

“(bb) positions maintained by any employee benefit plan (or any contract held by such a plan) as defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) for the primary purpose of hedging or mitigating any risk directly associated with the operation of the plan; and

“(II) whose outstanding swaps create substantial net counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets; or

“(ii)(I) is a financial entity, other than an entity predominantly engaged in providing customer financing for the purchase of an affiliate’s merchandise or manufactured goods, that is highly leveraged relative to the amount of capital it holds;

“(II) maintains a substantial net position in outstanding swaps in any major swap category as determined by the Commission; and

“(III) whose outstanding swaps create substantial net counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets.

“(B) DEFINITION OF SUBSTANTIAL NET POSITION.—For purposes of subparagraph (A), the Commission shall define by rule or regulation the term ‘substantial net position’ to mean a position after application of legally enforceable netting or collateral arrangements that meets a threshold the Commission determines to be prudent for the effective monitoring, management, and oversight of entities that are systemically important or can significantly impact the financial system of the United States.

“(C) SCOPE OF DESIGNATION.—For purposes of subparagraph (A), a person may be designated as a major swap participant for 1 or more categories of swaps without being classified as a major swap participant for all classes of swaps.

“(D) CAPITAL.—In setting capital requirements for a person that is designated as a major swap participant for a single type or single class or category of swaps or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in by virtue of the status of the person as a major swap participant.”;

(17) by inserting after paragraph (38) (as redesignated by paragraph (1)) the following:

“(39) PRUDENTIAL REGULATOR.—The term ‘prudential regulator’ means—

“(A) the Office of the Comptroller of the Currency, in the case of—

“(i) any national banking association;

“(ii) any Federal branch or agency of a foreign bank; or

“(iii) any Federal savings association;

“(B) the Federal Deposit Insurance Corporation, in the case of—

“(i) any insured State bank;

“(ii) any foreign bank having an insured branch; or

“(iii) any State savings association;

“(C) the Board of Governors of the Federal Reserve System, in the case of—

“(i) any noninsured State member bank;

“(ii) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act (12 U.S.C. 221 et seq.) which is made applicable under the International Banking Act of 1978 (12 U.S.C. 3101 et seq.);

“(iii) any foreign bank which does not operate an insured branch;

“(iv) any agency or commercial lending company other than a Federal agency; or

“(v) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978 (12 U.S.C. 3105(c)(1)), including such proceedings under the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1464 et seq.); and

“(D) the Farm Credit Administration, in the case of a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant that is an institution chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).”;

(18) in paragraph (40) (as redesignated by paragraph (1))—

(A) by striking subparagraph (B);

(B) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (F), respectively;

(C) in subparagraph (C) (as so redesignated), by striking “and”;

(D) by inserting after subparagraph (C) (as so redesignated) the following:

“(D) a swap execution facility registered under section 5h;

“(E) a swap data repository; and”;

(19) by inserting after paragraph (41) (as redesignated by paragraph (1)) the following:

“(42) SECURITY-BASED SWAP.—The term ‘security-based swap’ has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

“(43) SECURITY-BASED SWAP DEALER.—The term ‘security-based swap dealer’ has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).”;

(20) in paragraph (46) (as redesignated by paragraph (1)), by striking “subject to section 2(h)(7)” and inserting “subject to section 2(h)(5)”;

(21) by inserting after paragraph (46) (as redesignated by paragraph (1)) the following:

“(47) SWAP.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘swap’ means any agreement, contract, or transaction—

“(i) that is a put, call, cap, floor, collar, or similar option of any kind that is for the purchase or sale, or based on the value, of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind;

“(ii) that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence;

“(iii) that provides on an executory basis for the exchange, on a fixed or contingent basis, of 1 or more payments based on the value or level of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind, or any interest therein or based on the value thereof, and that transfers, as between the parties to the transaction, in whole or in

part, the financial risk associated with a future change in any such value or level without also conveying a current or future direct or indirect ownership interest in an asset (including any enterprise or investment pool) or liability that incorporates the financial risk so transferred, including any agreement, contract, or transaction commonly known as—

“(I) an interest rate swap;

“(II) a rate floor;

“(III) a rate cap;

“(IV) a rate collar;

“(V) a cross-currency rate swap;

“(VI) a basis swap;

“(VII) a currency swap;

“(VIII) a foreign exchange swap;

“(IX) a total return swap;

“(X) an equity index swap;

“(XI) an equity swap;

“(XII) a debt index swap;

“(XIII) a debt swap;

“(XIV) a credit spread;

“(XV) a credit default swap;

“(XVI) a credit swap;

“(XVII) a weather swap;

“(XVIII) an energy swap;

“(XIX) a metal swap;

“(XX) an agricultural swap;

“(XXI) an emissions swap; and

“(XXII) a commodity swap;

“(iv) that is an agreement, contract, or transaction that is, or in the future becomes commonly known to the trade as a swap;

“(v) including any security-based swap agreement which meets the definition of ‘swap agreement’ as defined in section 206A of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) of which a material term is based on the price, yield, value, or volatility of any security or any group or index of securities, or any interest therein; or

“(vi) that is any combination or permutation of, or option on, any agreement, contract, or transaction described in any of clauses (i) through (v).

“(B) EXCLUSIONS.—The term ‘swap’ does not include—

“(i) any contract of sale of a commodity for future delivery (or option on such a contract), leverage contract authorized under section 19, security futures product, or agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);

“(ii) any sale of a nonfinancial commodity or security for deferred shipment or delivery, so long as the transaction is intended to be physically settled;

“(iii) any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof, that is subject to—

“(I) the Securities Act of 1933 (15 U.S.C. 77a et seq.); and

“(II) the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

“(iv) any put, call, straddle, option, or privilege relating to a foreign currency entered into on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a));

“(v) any agreement, contract, or transaction providing for the purchase or sale of 1 or more securities on a fixed basis that is subject to—

“(I) the Securities Act of 1933 (15 U.S.C. 77a et seq.); and

“(II) the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

“(vi) any agreement, contract, or transaction providing for the purchase or sale of 1

or more securities on a contingent basis that is subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless the agreement, contract, or transaction predicates the purchase or sale on the occurrence of a bona fide contingency that might reasonably be expected to affect or be affected by the creditworthiness of a party other than a party to the agreement, contract, or transaction;

“(vii) any note, bond, or evidence of indebtedness that is a security, as defined in section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a));

“(viii) any agreement, contract, or transaction that is—

“(I) based on a security; and

“(II) entered into directly or through an underwriter (as defined in section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a))) by the issuer of such security for the purposes of raising capital, unless the agreement, contract, or transaction is entered into to manage a risk associated with capital raising;

“(ix) any agreement, contract, or transaction a counterparty of which is a Federal Reserve bank, the Federal Government, or a Federal agency that is expressly backed by the full faith and credit of the United States; and

“(x) any security-based swap, other than a security-based swap as described in subparagraph (D).

“(C) RULE OF CONSTRUCTION REGARDING MASTER AGREEMENTS.—

“(i) IN GENERAL.—Except as provided in clause (ii), the term ‘swap’ includes a master agreement that provides for an agreement, contract, or transaction that is a swap under subparagraph (A), together with each supplement to any master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a swap pursuant to subparagraph (A).

“(ii) EXCEPTION.—For purposes of clause (i), the master agreement shall be considered to be a swap only with respect to each agreement, contract, or transaction covered by the master agreement that is a swap pursuant to subparagraph (A).

“(D) MIXED SWAP.—The term ‘security-based swap’ includes any agreement, contract, or transaction that is as described in section 3(a)(68)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(68)(A)) and also is based on the value of 1 or more interest or other rates, currencies, commodities, instruments of indebtedness, indices, quantitative measures, other financial or economic interest or property of any kind (other than a single security or a narrow-based security index), or the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence (other than an event described in subparagraph (A)(iii)).

“(E) TREATMENT OF FOREIGN EXCHANGE SWAPS AND FORWARDS.—

“(i) IN GENERAL.—Foreign exchange swaps and foreign exchange forwards shall be considered swaps under this paragraph unless the Secretary makes a written determination that either foreign exchange swaps or foreign exchange forwards or both—

“(I) should be not be regulated as swaps under this Act; and

“(II) are not structured to evade the Wall Street Transparency and Accountability Act of 2010 in violation of any rule promulgated by the Commission pursuant to section 111(c) of that Act.

“(ii) CONGRESSIONAL NOTICE; EFFECTIVENESS.—The Secretary shall submit any written determination under clause (i) to the appropriate committees of Congress, including the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. Any such written determination by the Secretary shall not be effective until it is submitted to the appropriate committees of Congress.

“(iii) REPORTING.—Notwithstanding a written determination by the Secretary under clause (i), all foreign exchange swaps and foreign exchange forwards shall be reported to either a swap data repository, or, if there is no swap data repository that would accept such swaps or forwards, to the Commission pursuant to section 4r within such time period as the Commission may by rule or regulation prescribe.

“(iv) BUSINESS STANDARDS.—Notwithstanding clauses (ix) and (x) of subparagraph (B) and clause (ii), any party to a foreign exchange swap or forward that is a swap dealer or major swap participant shall conform to the business conduct standards contained in section 4s(h).

“(v) SECRETARY.—For purposes of this subparagraph only, the term ‘Secretary’ means the Secretary of the Treasury.

“(F) EXCEPTION FOR CERTAIN FOREIGN EXCHANGE SWAPS AND FORWARDS.—

“(i) REGISTERED ENTITIES.—Any foreign exchange swap and any foreign exchange forward that is listed and traded on or subject to the rules of a designated contract market or a swap execution facility, or that is cleared by a derivatives clearing organization shall not be exempt from any provision of this Act or amendments made by the Wall Street Transparency and Accountability Act of 2010 prohibiting fraud or manipulation.

“(ii) RETAIL TRANSACTIONS.—Nothing in subparagraph (E) shall affect, or be construed to affect, the applicability of this Act or the jurisdiction of the Commission with respect to agreements, contracts, or transactions in foreign currency pursuant to section 2(c)(2).

“(48) SWAP DATA REPOSITORY.—The term ‘swap data repository’ means any person that collects, calculates, prepares, or maintains information or records with respect to transactions or positions in, or the terms and conditions of, swaps entered into by third parties.

“(49) SWAP DEALER.—

“(A) IN GENERAL.—The term ‘swap dealer’ means any person who—

“(i) holds itself out as a dealer in swaps;

“(ii) makes a market in swaps;

“(iii) regularly engages in the purchase and sale of swaps to customers as its ordinary course of business; and

“(iv) engages in any activity causing the person to be commonly known in the trade as a dealer or market maker in swaps.

“(B) INCLUSION.—A person may be designated as a swap dealer for a single type or single class or category of swap or activities and considered not to be a swap dealer for other types, classes, or categories of swaps or activities.

“(C) CAPITAL.—In setting capital requirements for a person that is designated as a swap dealer for a single type or single class or category of swap or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in by virtue of the status of the person as a swap dealer.

“(D) EXCEPTION.—The term ‘swap dealer’ does not include a person that buys or sells

swaps for such person’s own account, either individually or in a fiduciary capacity, or on behalf of any affiliates of such person, unless it does so as a market maker and as a part of a regular business.

“(50) SWAP EXECUTION FACILITY.—The term ‘swap execution facility’ means a facility in which multiple participants have the ability to execute or trade swaps by accepting bids and offers made by other participants that are open to multiple participants in the facility or system, through any means of interstate commerce, including any trading facility, that—

“(A) facilitates the execution of swaps between persons; and

“(B) is not a designated contract market.”; and

(22) in paragraph (51) (as redesignated by paragraph (1)), in subparagraph (A)(i), by striking “participants” and inserting “participants”.

(b) AUTHORITY TO DEFINE TERMS.—The Commodity Futures Trading Commission may adopt a rule to define—

(1) the term “commercial risk”; and

(2) any other term included in an amendment to the Commodity Exchange Act (7 U.S.C. 1 et seq.) made by this subtitle.

(c) MODIFICATION OF DEFINITIONS.—To include transactions and entities that have been structured to evade this subtitle (or an amendment made by this subtitle), the Commodity Futures Trading Commission shall adopt a rule to further define the terms “swap”, “swap dealer”, “major swap participant”, and “eligible contract participant”.

(d) EXEMPTIONS.—Section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) is amended by striking “except that” and all that follows through the period at the end and inserting the following: “except that—

“(A) unless the Commission is expressly authorized by any provision described in this subparagraph to grant exemptions, with respect to amendments made by subtitle A of the Wall Street Transparency and Accountability Act of 2010—

“(i) with respect to—

“(I) paragraphs (2), (3), (4), (5), and (7), clause (vii)(III) of paragraph (17), paragraphs (23), (24), (31), (32), (38), (39), (41), (42), (46), (47), (48), and (49) of section 1a, and sections 2(a)(13), 2(c)(D), 4a(a), 4a(b), 4d(c), 4d(d), 4r, 4s, 5b(a), 5b(b), 5(d), 5(g), 5(h), 5b(c), 5b(i), 8e, and 21; and

“(II) section 206(e) of the Gramm-Leach-Bliley Act (Public Law 106-102; 15 U.S.C. 78c note); and

“(ii) in subsection (c) of section 111 and section 132; and

“(B) the Commission and the Securities and Exchange Commission may by rule, regulation, or order jointly exclude any agreement, contract, or transaction from section 2(a)(1)(D) if the Commission determines that the exemption would be consistent with the public interest.”.

(e) CONFORMING AMENDMENTS.—

(1) Section 2(c)(2)(B)(i)(II) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)) is amended—

(A) in item (cc)—

(i) in subitem (AA), by striking “section 1a(20)” and inserting “section 1a”; and

(ii) in subitem (BB), by striking “section 1a(20)” and inserting “section 1a”; and

(B) in item (dd), by striking “section 1a(12)(A)(ii)” and inserting “section 1a(18)(A)(ii)”.

(2) Section 4m(3) of the Commodity Exchange Act (7 U.S.C. 6m(3)) is amended by striking “section 1a(6)” and inserting “section 1a”.

(3) Section 4q(a)(1) of the Commodity Exchange Act (7 U.S.C. 60-1(a)(1)) is amended by striking “section 1a(4)” and inserting “section 1a(9)”.

(4) Section 5(e)(1) of the Commodity Exchange Act (7 U.S.C. 7(e)(1)) is amended by striking “section 1a(4)” and inserting “section 1a(9)”.

(5) Section 5a(b)(2)(F) of the Commodity Exchange Act (7 U.S.C. 7a(b)(2)(F)) is amended by striking “section 1a(4)” and inserting “section 1a(9)”.

(6) Section 5b(a) of the Commodity Exchange Act (7 U.S.C. 7a-1(a)) is amended, in the matter preceding paragraph (1), by striking “section 1a(9)” and inserting “section 1a”.

(7) Section 5c(c)(2)(B) of the Commodity Exchange Act (7 U.S.C. 7a-2(c)(2)(B)) is amended by striking “section 1a(4)” and inserting “section 1a(9)”.

(8) Section 6(g)(5)(B)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(g)(5)(B)(i)) is amended—

(A) in subclause (I), by striking “section 1a(12)(B)(ii)” and inserting “section 1a(18)(B)(ii)”; and

(B) in subclause (II), by striking “section 1a(12)” and inserting “section 1a(18)”.

(9) The Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27 et seq.) is amended—

(A) in section 402—

(i) in subsection (a)(7), by striking “section 1a(20)” and inserting “section 1a”;

(ii) in subsection (b)(2), by striking “section 1a(12)” and inserting “section 1a”;

(iii) in subsection (c), by striking “section 1a(4)” and inserting “section 1a”;

(iv) in subsection (d)—

(I) in the matter preceding paragraph (1), by striking “section 1a(4)” and inserting “section 1a(9)”;

(II) in paragraph (1)—

(aa) in subparagraph (A), by striking “section 1a(12)” and inserting “section 1a”;

(bb) in subparagraph (B), by striking “section 1a(33)” and inserting “section 1a”;

(III) in paragraph (2)—

(aa) in subparagraph (A), by striking “section 1a(10)” and inserting “section 1a”;

(bb) in subparagraph (B), by striking “section 1a(12)(B)(ii)” and inserting “section 1a(18)(B)(ii)”; and

(cc) in subparagraph (C), by striking “section 1a(12)” and inserting “section 1a(18)”;

(dd) in subparagraph (D), by striking “section 1a(13)” and inserting “section 1a”;

(B) in section 404(1), by striking “section 1a(4)” and inserting “section 1a”.

#### SEC. 722. JURISDICTION.

(a) EXCLUSIVE JURISDICTION.—Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)) is amended in the first sentence—

(1) by inserting “the Wall Street Transparency and Accountability Act of 2010 (including an amendment made by that Act) and” after “otherwise provided in”;

(2) by striking “(c) through (i) of this section” and inserting “(c) and (f)”;

(3) by striking “contracts of sale” and inserting “swaps or contracts of sale”;

(4) by striking “or derivatives transaction execution facility registered pursuant to section 5 or 5a” and inserting “pursuant to section 5”.

(b) REGULATION OF SWAPS UNDER FEDERAL AND STATE LAW.—Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by adding at the end the following:

“(h) REGULATION OF SWAPS AS INSURANCE UNDER STATE LAW.—A swap—

“(1) shall not be considered to be insurance; and

“(2) may not be regulated as an insurance contract under the law of any State.”.

(c) AGREEMENTS, CONTRACTS, AND TRANSACTIONS TRADED ON AN ORGANIZED EXCHANGE.—Section 2(c)(2)(A) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(A)) is amended—

(1) in clause (i), by striking “or” at the end;

(2) by redesignating clause (ii) as clause (iii); and

(3) by inserting after clause (i) the following:

“(ii) a swap; or”.

(d) APPLICABILITY.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) (as amended by section 723(a)(3)) is amended by adding at the end the following:

“(i) APPLICABILITY.—The provisions of this Act relating to swaps that were enacted by the Wall Street Transparency and Accountability Act of 2010 (including any rule prescribed or regulation promulgated under that Act), shall not apply to activities outside the United States unless those activities—

“(1) have a direct and significant connection with activities in, or effect on, commerce of the United States; or

“(2) contravene such rules or regulations as the Commission may prescribe or promulgate as are necessary or appropriate to prevent the evasion of any provision of this Act that was enacted by the Wall Street Transparency and Accountability Act of 2010.”.

#### SEC. 723. CLEARING.

(a) CLEARING REQUIREMENT.—

(1) IN GENERAL.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(A) by striking subsections (d), (e), (g), and (h); and

(B) by redesignating subsection (i) as subsection (g).

(2) SWAPS; LIMITATION ON PARTICIPATION.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) (as amended by paragraph (1)) is amended by inserting after subsection (c) the following:

“(d) SWAPS.—Nothing in this Act (other than subparagraphs (A), (B), (C), and (D) of subsection (a)(1), subsections (f) and (g), sections 1a, 2(c)(2)(A)(ii), 2(e), 2(h), 4(c), 4a, 4b, and 4b-1, subsections (a), (b), and (g) of section 4c, sections 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4l, 4m, 4n, 4o, 4p, 4r, 4s, 4t, 5, 5b, 5c, 5e, and 5h, subsections (c) and (d) of section 6, sections 6c, 6d, 8, 8a, and 9, subsections (e)(2) and (f) of section 12, subsections (a) and (b) of section 13, sections 17, 20, 21, and 22(a)(4), and any other provision of this Act that is applicable to registered entities and Commission registrants) governs or applies to a swap.

“(e) LIMITATION ON PARTICIPATION.—It shall be unlawful for any person, other than an eligible contract participant, to enter into a swap unless the swap is entered into on, or subject to the rules of, a board of trade designated as a contract market under section 5.”.

(3) MANDATORY CLEARING OF SWAPS.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by inserting after subsection (g) (as redesignated by paragraph (1)(B)) the following:

“(h) CLEARING REQUIREMENT.—

“(1) OPEN ACCESS.—The rules of a registered derivatives clearing organization shall—

“(A) prescribe that all swaps with the same terms and conditions are economically equivalent and may be offset with each other within the derivatives clearing organization; and

“(B) provide for nondiscriminatory clearing of a swap executed bilaterally or on or through the rules of an unaffiliated designated contract market or swap execution facility, subject to the requirements of section 5b.

“(2) SWAPS SUBJECT TO MANDATORY CLEARING REQUIREMENT.—

“(A) IN GENERAL.—In accordance with subparagraph (B), the Commission shall, jointly with the Securities and Exchange Commission and the Federal Reserve Board of Governors, adopt rules to establish criteria for determining that a swap or group, category, type, or class of swap is required to be cleared.

“(B) FACTORS.—In carrying out subparagraph (A), the following factors shall be considered:

“(i) Whether 1 or more derivatives clearing organizations or clearing agencies accepts the swap or group, category, type, or class of swap for clearing.

“(ii) Whether the swap or group, category, type, or class of swap is traded pursuant to standard documentation and terms.

“(iii) The liquidity of the swap or group, category, type, or class of swap and its underlying commodity, security, security of a reference entity, or group or index thereof.

“(iv) The ability to value the swap or group, category, type, or class of swap and its underlying commodity, security, security of a reference entity, or group or index thereof consistent with an accepted pricing methodology, including the availability of intraday prices.

“(v) The size of the market for the swap or group, category, type, or class of swap and the available capacity, operational expertise, and resources of the derivatives clearing organization or clearing agency that accepts it for clearing.

“(vi) Whether a clearing mandate would mitigate risk to the financial system or whether it would unduly concentrate risk in a clearing participant, derivatives clearing organization, or clearing agency in a manner that could threaten the solvency of that clearing participant, the derivatives clearing organization, or the clearing agency.

“(vii) Such other factors as the Commission, the Securities and Exchange Commission, and the Federal Reserve Board of Governors jointly may determine are relevant.

“(C) SWAPS SUBJECT TO CLEARING REQUIREMENT.—The Commission—

“(i) shall review each swap, or any group, category, type, or class of swap that is currently listed for clearing and those which a derivatives clearing organization notifies the Commission that the derivatives clearing organization plans to list for clearing after the date of enactment of this subsection;

“(ii) except as provided in paragraph (3), may require, pursuant to the rules adopted under subparagraph (A) and through notice-and-comment rulemaking, that a particular swap, group, category, type, or class of swap must be cleared; and

“(iii) shall rely on economic analysis provided by economists of the Commission in making any determination under clause (ii).

“(D) EFFECT.—

“(i) IN GENERAL.—Nothing in this paragraph affects the ability of a derivatives clearing organization to list for permissive clearing any swap, or group, category, type, or class of swaps.

“(ii) PROHIBITION.—The Commission shall not compel a derivatives clearing organization to list a swap, group, category, type, or class of swap for clearing if the derivatives clearing organization determines that the

swap, group, category, type, or class of swap would adversely impact its business operations, or impair the financial integrity of the derivatives clearing organization.

“(iii) REQUIRED EXEMPTION.—The Commission shall exempt a swap from the requirements of subparagraph (C), if no derivatives clearing organization registered under this Act or no derivatives clearing organization that is exempt from registration under section 5b(j) of this Act will accept the swap for clearing.

“(E) PREVENTION OF EVASION.—The Commission may prescribe rules, or issue interpretations of such rules, as necessary to prevent evasions of any requirement to clear under subparagraph (C). In issuing such rules or interpretations, the Commission shall consider—

“(i) the extent to which the terms of the swap, group, category, type, or class of swap are similar to the terms of other swaps, groups, categories, types, or classes of swap that are required to be cleared by swap participants under subparagraph (C); and

“(ii) whether there is an economic purpose for any differences in the terms of the swap or group, category, type, or class of swap that are required to be cleared by swap participants under subparagraph (C).

“(F) ELIMINATION OF REQUIREMENT TO CLEAR.—The Commission may, pursuant to the rules adopted under subparagraph (A) and through notice-and-comment rulemaking, rescind a requirement imposed under subparagraph (C) with respect to a swap, group, category, type, or class of swap.

“(G) PETITION FOR RULEMAKING.—Any person may file a petition, pursuant to the rules of practice of the Commission, requesting that the Commission use its authority under subparagraph (C) to require clearing of a particular swap, group, category, type, or class of swap or to use its authority under subparagraph (F) to rescind a requirement for swap participants to clear a particular swap, group, category, type, or class of swap.

“(H) FOREIGN EXCHANGE FORWARDS, SWAPS, AND OPTIONS.—Foreign exchange forwards, swaps, and options shall not be subject to a clearing requirement under subparagraph (C) unless the Department of the Treasury and the Board of Governors determine that such a requirement is appropriate after considering whether there exists an effective settlement system for such foreign exchange forwards, swaps, and options and any other factors that the Department of the Treasury and the Board of Governors deem to be relevant.

“(3) END USER CLEARING EXEMPTION.—

“(A) DEFINITIONS.—In this paragraph:

“(i) COMMERCIAL END USER.—The term ‘commercial end user’ means any person who, as its primary business activity owns, operates, uses, produces, processes, develops, leases, manufactures, distributes, merchandises, provides or markets goods, services, physical assets, or commodities (which shall include but not be limited to coal, natural gas, electricity, biofuels, crude oil, gasoline, propane, distillates, and other hydrocarbons) either individually or in a fiduciary capacity.

“(ii) FINANCIAL ENTITY END USER.—

“(I) IN GENERAL.—The term ‘financial entity end user’ means any person predominantly engaged in activities that are financial in nature, as determined by the Commission.

“(II) EXCLUSIONS.—The term ‘financial entity end user’ does not include—

“(aa) any person who is a swap dealer, security-based swap dealer, major swap partici-

ipant, major security-based swap participant;

“(bb) an investment fund that would be an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) but for paragraph (1) or (7) of section 3(c) of that Act (15 U.S.C. 80a-3(c)); and is not a partnership or other entity or any subsidiary that is primarily invested in physical assets (which shall include but not be limited to commercial real estate) directly or through interests in partnerships or limited liability companies that own such assets;

“(cc) entities defined in section 1303(20) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502(20));

“(dd) a commodity pool; or

“(ee) a commercial end user.

“(B) END USER CLEARING EXEMPTION.—

“(i) IN GENERAL.—Subject to clause (ii), in the event that a swap is subject to the mandatory clearing requirement under paragraph (2), and 1 of the counterparties to the swap is a commercial end user or a financial entity end user, that counterparty—

“(I)(aa) may elect not to clear the swap, as required under paragraph (2); or

“(bb) may elect, prior to entering into the swap transaction, to require clearing of the swap; and

“(II) if the end user makes an election under subclause (I)(bb), shall have the sole right to select the derivatives clearing organization at which the swap will be cleared.

“(ii) LIMITATION.—A commercial end user or a financial entity end user may only make an election under clause (i) if the end user is using the swap to hedge commercial risk, including operating risk and balance sheet risk.

“(C) TREATMENT OF AFFILIATES.—

“(i) IN GENERAL.—An affiliate of a commercial end user (including affiliate entities predominantly engaged in providing financing for the purchase of merchandise or manufactured goods of the commercial end user) or a financial entity end user may make an election under subparagraph (B)(i) only if the affiliate uses the swap to hedge or mitigate the commercial risk, including operating risk and balance sheet risk, of the commercial end user or the financial entity end user or other affiliate of the commercial end user or financial entity end user.

“(ii) PROHIBITION RELATING TO CERTAIN AFFILIATES.—An affiliate of a commercial end user or a financial entity end user shall not use the exemption under subparagraph (B) if the affiliate is—

“(I) a swap dealer;

“(II) a security-based swap dealer;

“(III) a major swap participant;

“(IV) a major security-based swap participant;

“(V) an investment fund that would be an investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) but for paragraph (1) or (7) of section 3(c) of that Act (15 U.S.C. 80a-3(c)); and is not a partnership or other entity or any subsidiary that is primarily invested in physical assets (which shall include but not be limited to commercial real estate) directly or through interests in partnerships or limited liability companies that own such assets; or

“(VI) a commodity pool.

“(D) ABUSE OF EXEMPTION.—The Commission may prescribe such rules or issue interpretations of the rules as the Commission determines to be necessary to prevent abuse of the exemption described in subparagraph (B).

The Commission may also request information from those entities claiming the clearing exemption as necessary to prevent abuse of the exemption described in subparagraph (B).

“(4) REQUIRED REPORTING.—Each swap that is not cleared by any derivatives clearing organization shall be reported either to a registered swap repository described in section 21 or, if there is no repository that would accept the swap, to the Commission pursuant to section 4r.

“(5) TRANSITION RULES.—

“(A) REPORTING TRANSITION RULES.—The Commission shall provide for the reporting of data, as follows:

“(i) SWAPS ENTERED INTO BEFORE DATE OF ENACTMENT OF THIS SUBSECTION.—Swaps entered into before the date of the enactment of this subsection shall be reported to a registered swap repository or the Commission not later than 180 days after the effective date of this subsection.

“(ii) SWAPS ENTERED INTO ON OR AFTER DATE OF ENACTMENT OF THIS SUBSECTION.—Swaps entered into on or after such date of enactment shall be reported to a registered swap repository or the Commission not later than such time period as the Commission prescribe.

“(B) CLEARING TRANSITION RULES.—Swaps entered into before the effective date of any requirement under paragraph (2)(C) are exempt from the clearing requirements of this subsection.

“(6) REPORTING OBLIGATIONS.—

“(A) SWAPS IN WHICH ONLY 1 COUNTERPARTY IS A SWAP DEALER OR MAJOR SWAP PARTICIPANT.—With respect to a swap in which only 1 counterparty is a swap dealer or major swap participant, the swap dealer or major swap participant shall report the swap as required under paragraphs (4) and (5).

“(B) SWAPS IN WHICH 1 COUNTERPARTY IS A SWAP DEALER AND THE OTHER A MAJOR SWAP PARTICIPANT.—With respect to a swap in which 1 counterparty is a swap dealer and the other a major swap participant, the swap dealer shall report the swap as required under paragraphs (4) and (5).

“(C) OTHER SWAPS.—With respect to any other swap not described in subparagraph (A) or (B), the counterparties to the swap shall select a counterparty to report the swap as required under paragraphs (4) and (5).

“(7) TRADE EXECUTION.—

“(A) IN GENERAL.—With respect to transactions involving swaps subject to the clearing requirement established under paragraph (2), counterparties shall—

“(i) execute the transaction on a board of trade designated as a contract market under section 5; or

“(ii) execute the transaction on a swap execution facility registered under section 5h or a swap execution facility that is exempt from registration under section 5h(f).

“(B) EXCEPTION.—The requirements of clauses (i) and (ii) of subparagraph (A) shall not apply if no board of trade or swap execution facility makes the swap available to trade or in the case of a swap transaction for which a commercial end or financial entity user opts to use the clearing exemption under paragraph (3).

“(8) REQUIRED EXEMPTION.—The Commission shall exempt a swap from the requirements of this subsection and any rules issued under this subsection, if no derivatives clearing organization registered under this Act or no derivatives clearing organization that is exempt from registration under section 5b(j) will accept the swap from clearing.”.

**SA 4062.** Mr. WARNER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1204, line 25, strike “or” and all that follows through page 1205, line 4 and insert the following:

(ii) time or space for an advertisement for a consumer financial product or service through print, newspaper, or electronic media;

(iii) information products or services for identity authentication, fraud, or identity theft detection, prevention, or investigation, or anti-money laundering activities, unless such products or services are regulated under the Bank Service Company Act (12 U.S.C. 1861 et seq.); or

(iv) public records information or document retrieval or delivery services, unless such products or services are regulated under the Bank Service Company Act (12 U.S.C. 1861 et seq.).

#### NOTICE OF HEARING

##### COMMITTEE ON RULES AND ADMINISTRATION

Mr. SCHUMER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, May 19, 2010, at 10 a.m., to hear testimony on hearing entitled “Examining the Filibuster: The Filibuster Today and Its Consequences.”

For further information regarding this meeting, please contact Lynden Armstrong at the Rules and Administration Committee on 202-224-6352.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on May 17, 2010, at 2:30 p.m. to conduct a hearing entitled “Gulf Coast Catastrophe: Assessing the Nation’s Response to the Deepwater Horizon Oil Spill.”

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate May 17, 2010, at 5:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECOGNIZING NATIONAL FOSTER CARE MONTH CHALLENGES

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 533, submitted early today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 533) recognizing National Foster Care Month as an opportunity to raise awareness about the challenges of children in the foster care system and encouraging Congress to implement policy to improve the lives of children in the foster care system.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 533) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

##### S. RES. 533

Whereas all children deserve a safe, loving, and permanent home;

Whereas approximately 500,000 children in the United States live in foster care each year;

Whereas children enter the foster care system for a variety of reasons, including inadequate care, abuse, or neglect by a parent or guardian;

Whereas the major factors that contribute to the placement of a child in the foster care system include substance abuse, mental illness, poverty, and a lack of education of a parent or guardian of the child;

Whereas a child entering the foster care system must confront the widespread misperception that children in foster care are disruptive, unruly, and dangerous, even though placement in the foster care system is based on the actions of a parent or guardian, not the child;

Whereas States and communities should be provided with the resources to invest in preventative and reunification services and post-permanency programs to ensure that more children in the foster care system are provided safe, loving, permanent placements;

Whereas the foster care system is intended to be a temporary solution, yet children remain in the foster care system for an average of 3 years;

Whereas children of color are disproportionately represented in the foster care system and are less likely to be reunited with their biological families;

Whereas the average child in the foster care system—

(1) is 10 years old; and

(2) will be placed in 3 different homes, leading to disruptive transfers to new schools, separation from siblings, and unfamiliar surroundings;

Whereas most children “age out” of the foster care system at the age of 18;

Whereas the number of children who enter the foster care system each year has declined over the decade preceding the date of the agreement to this resolution, but the number of children who “age out” of the foster care system without placement with a permanent family has increased substantially, rising from 20,000 children in 2002 to 29,000 children in 2008;

Whereas children who “age out” of the foster care system lack the security or support of a biological or adoptive family and frequently struggle to secure affordable housing, obtain health insurance, pursue higher education, and acquire adequate employment;

Whereas, of the children who have “aged out” of the foster care system—

(1) 25 percent have been homeless;

(2) 51 percent have been unemployed for significant stretch of time, and

(3) only 2 percent have obtained a bachelor’s degree or higher;

Whereas, by age 19, approximately 50 percent of young women who have been in the foster care system have been pregnant, compared to only 20 percent of young women who have been not in the foster care system;

Whereas research reveals that children born to teen parents are exposed to serious and high risks;

Whereas National Foster Care Month is an opportunity to raise awareness about the special needs of children in the foster care system and to recognize the important role that foster parents, social workers, and advocates have in the lives of children in foster care throughout the United States;

Whereas the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351; 122 Stat. 3949) provides for new investments and services to improve the outcomes of children and families in the foster care system; and

Whereas much remains to be done to ensure that all children have a safe, loving, nurturing, and permanent family, regardless of age or special needs: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes National Foster Care Month as an opportunity to raise awareness about the challenges of children in the foster care system;

(2) encourages Congress to implement policy to improve the lives of children in the foster care system;

(3) supports the designation of a “National Foster Care Month”;

(4) acknowledges the needs of the children in the foster care system;

(5) honors the commitment and dedication of those individuals who work tirelessly to provide assistance and services to children in the foster care system; and

(6) recognizes the need to continue working to improve the outcomes of all children in the foster care system through title IV of the Social Security Act (42 U.S.C. 601 et seq.) and other programs designed to help children in the foster care system—

(A) reunite with their biological parents; or

(B) if the children cannot be reunited with their biological parents, find permanent, safe, and loving homes.

#### ORDERS FOR TUESDAY, MAY 18, 2010

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Tuesday, May 18;

that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; that following morning business, the Senate resume consideration of S. 3217, Wall Street reform, as provided under the previous order; that the Senate recess from 12:30

until 2:15 p.m. for the weekly caucus luncheons; that the filing deadline for first-degree amendments be 12 noon tomorrow. Finally, I ask unanimous consent that the mandatory quorums under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

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#### PROGRAM

Mr. DODD. Mr. President, under the previous order, there will be at least one rollcall vote at approximately 11:45 a.m. That will be in relation to the Gregg amendment No. 4051.

ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

Mr. DODD. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:55 p.m., adjourned until Tuesday, May 18, 2010, at 10 a.m.

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#### NOMINATIONS

Executive nomination received by the Senate:

DEPARTMENT OF HOMELAND SECURITY

JOHN S. PISTOLE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY, VICE EDMUND S. HAWLEY, RESIGNED.

## EXTENSIONS OF REMARKS

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 18, 2010 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

MAY 19

9:30 a.m.

## Energy and Natural Resources

To hold hearings to examine the proposed Constitution of the U.S. Virgin Islands, S. 2941, to provide supplemental ex gratia compensation to the Republic of the Marshall Islands for impacts of the nuclear testing program of the United States, H.R. 3940, to amend Public Law 96-597 to clarify the authority of the Secretary of the Interior to extend grants and other assistance to facilitate political status public education programs for the peoples of the non-self-governing territories of the United States, and H.R. 2499, to provide for a federally sanctioned self-determination process for the people of Puerto Rico.

SD-366

## Veterans' Affairs

To hold hearings to examine S. 1780, to amend title 38, United States Code, to deem certain service in the reserve components as active service for purposes of laws administered by the Secretary of Veterans Affairs, S. 1866, to amend title 38, United States Code, to provide for the eligibility of parents of certain deceased veterans for interment in national cemeteries, S. 1939, to amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, S. 1940, to require the Secretary of Veterans Affairs to carry out a study on the effects on children of exposure of their parents to herbicides used in support of the United States and allied military operations in the Republic of Vietnam during the Vietnam era, S.

2751, to designate the Department of Veterans Affairs medical center in Big Spring, Texas, as the George H. O'Brien, Jr., Department of Veterans Medical Center, S. 3035, to require a report on the establishment of a Polytrauma Rehabilitation Center or Polytrauma Network Site of the Department of Veterans Affairs in the northern Rockies or Dakotas, S. 3107, to amend title 38, United States Code, to provide for an increase, effective December 1, 2010, in the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, S. 3192, to amend title 38, United States Code, to provide for the tolling of the timing of review for appeals of final decisions of the Board of Veterans' Appeals, S. 3234, to improve employment, training, and placement services furnished to veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, S. 3286, to require the Secretary of Veterans Affairs to carry out a pilot program on the award of grants to State and local government agencies and nonprofit organizations to provide assistance to veterans with their submittal of claims to the Veterans Benefits Administration, S. 3314, to require the Secretary of Veterans Affairs and the Appalachian Regional Commission to carry out a program of outreach for veterans who reside in Appalachia, S. 3325, to amend title 38, United States Code, to authorize the waiver of the collection of copayments for telehealth and telemedicine visits of veterans, S. 3330, to amend title 38, United States Code, to make certain improvements in the administration of medical facilities of the Department of Veterans Affairs, S. 3348, to amend title 38, United States Code, to provide for the treatment of documents that express disagreement with decisions of the Board of Veterans' Appeals and that are misfiled with the Board within 120 days of such decisions as motions for reconsideration of such decisions, S. 3352, to amend title 38, United States Code, to exempt reimbursements of expenses related to accident, theft, loss, or casualty loss from determinations of annual income with respect to pensions for veterans and surviving spouses and children of veterans, S. 3355, to provide for an Internet website for information on benefits, resource, services, and opportunities for veterans and their families and caregivers, S. 3367, to amend title 38, United States Code, to increase the rate of pension for disabled veterans who are married to one another and both of whom require regular aid and attendance, S. 3368, to amend title 38, United States Code, to authorize certain individuals to sign claims filed with the Secretary of Veterans Affairs on behalf of claimants, and S. 3370, to amend title 38, United States Code, to

improve the process by which an individual files jointly for social security and dependency and indemnity compensation.

SR-418

10 a.m.

## Foreign Relations

To hold hearings to examine empowering Haiti to rebuild better.

SD-419

## Judiciary

To hold hearings to examine renewing America's commitment to the refugee convention, focusing on the Refugee Protection Act of 2010.

SD-226

## Rules and Administration

To resume hearings to examine the filibuster, focusing on the filibuster today and its consequences.

SR-301

## Small Business and Entrepreneurship

To hold hearings to examine the nomination of Marie Collins Johns, of the District of Columbia, to be Deputy Administrator of the Small Business Administration.

SR-428A

11 a.m.

## Small Business and Entrepreneurship

To hold hearings to examine the Small Business Administration (SBA) Disaster Assistance Program and the impact of the Deepwater Horizon oil spill on small businesses.

SR-428A

2:30 p.m.

## Commerce, Science, and Transportation

To hold hearings to examine S. 3302, to amend title 49, United States Code, to establish new automobile safety standards, make better motor vehicle safety information available to the National Highway Traffic Safety Administration and the public.

SR-253

## Foreign Relations

To hold hearings to examine the history and lessons of the Strategic Arms Reduction Treaty (START).

SD-419

## Energy and Natural Resources

## National Parks Subcommittee

To hold hearings to examine S. 349, to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, S. 1596, to authorize the Secretary of the Interior to acquire the Gold Hill Ranch in Coloma, California, S. 1651, to modify a land grant patent issued by the Secretary of the Interior, S. 1750, to authorize the Secretary of the Interior to conduct a special resource study of the General of the Army George Catlett Marshall National Historic Site at Dodona Manor in Leesburg, Virginia, S. 1801, to establish the First State National Historical Park in the State of Delaware, S. 1802 and H.R. 685, bills to require the Secretary of the Interior to conduct a special resource study regarding the proposed United States Civil Rights Trail, S. 2953 and H.R. 3388, bills to modify the boundary of Petersburg National

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



Battlefield in the Commonwealth of Virginia, S. 2976, to designate as wilderness certain land and inland water within the Sleeping Bear Dunes National Lakeshore in the State of Michigan, S. 3159 and H.R. 4395, bills to revise the boundaries of the Gettysburg National Military Park to include the Gettysburg Train Station, S. 3168, to authorize the Secretary of the Interior to acquire certain non-Federal land in the State of Pennsylvania for inclusion in the Fort Necessity National Battlefield, and S. 3303, to establish the Chimney Rock National Monument in the State of Colorado.

SD-366

3:30 p.m.

## Appropriations

Transportation, Housing and Urban Development, and Related Agencies Subcommittee

To hold hearings to examine the President's proposed budget request for fiscal year 2011 for the Washington Metropolitan Area Transit Authority (Metro).

SD-138

MAY 20

9:30 a.m.

## Energy and Natural Resources

To hold hearings to examine S. 2921, to provide for the conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area, to require the Secretary of the Interior to designate certain offices to serve as Renewable Energy Coordination Offices for coordination of Federal permits for renewable energy projects and transmission lines to integrate renewable energy development.

SD-366

## Environment and Public Works

Business meeting to consider S. 3362, to amend the Clean Air Act to direct the Administrator of the Environmental Protection Agency to provide competitive grants to publicly funded schools to implement effective technologies to reduce air pollutants (as defined in section 302 of the Clean Air Act), including greenhouse gas emissions, in accordance with that Act, S. 3250, to provide for the training of Federal building personnel, S. 3372, to modify the date on which the Administrator of the Environmental Protection Agency and applicable States may require permits for discharges from certain vessels, S. 3363, to amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act, S. 3374, to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish a grant program to revitalize brownfield sites for the purpose of locating renewable electricity generation facilities on those sites, S. 3373, to address the health and economic development impacts of nonattainment of federally mandated air quality standards in the San Joaquin Valley, California, by designating air quality empowerment zones, H.R. 4275, to designate the annex building under construction for the Elbert P. Tuttle United States Court of Appeals Building in Atlanta, Georgia,

as the "John C. Godbold Federal Building", S. 3248, to designate the Department of the Interior Building in Washington, District of Columbia, as the "Stewart Lee Udall Department of the Interior Building", an original bill entitled, "Pollution and Costs Reduction Act", and a proposed resolution relating to the General Services Administration.

SD-406

## Foreign Relations

To hold hearings to examine the North Atlantic Treaty Organization (NATO), focusing on a report of the group of experts.

SD-419

10 a.m.

## Judiciary

Business meeting to consider S. 193, to create and extend certain temporary district court judgeships, H.R. 4506, to authorize the appointment of additional bankruptcy judges, H.R. 1933, to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and the nominations of Robert Neil Chatigny, of Connecticut, to be United States Circuit Judge for the Second Circuit, John A. Gibney, Jr., to be United States District Judge for the Eastern District of Virginia, and Stephanie A. Finley, to be United States Attorney for the Western District of Louisiana, Scott Jerome Parker, to be United States Marshal for the Eastern District of North Carolina, and Darryl Keith McPherson, to be United States Marshal for the Northern District of Illinois, all of the Department of Justice.

SD-226

## Appropriations

Military Construction and Veterans Affairs, and Related Agencies Subcommittee

Transportation, Housing and Urban Development, and Related Agencies Subcommittee

To hold joint hearings to examine the progress in ending veterans' homelessness.

SD-124

## Banking, Housing, and Urban Affairs

Securities, Insurance and Investment Subcommittee

To hold hearings to examine the causes and lessons of the May 6th market plunge.

SD-538

10:30 a.m.

Homeland Security and Governmental Affairs

Contracting Oversight Subcommittee

To hold hearings to examine counter-narcotics contracts in Latin America.

SD-342

2 p.m.

## Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings to examine investing in mine safety, focusing on preventing another disaster.

SD-106

2:30 p.m.

Commerce, Science, and Transportation

To hold hearings to examine the nomination of Carl Wieman, of Colorado, to be an Associate Director of the Office of Science and Technology Policy.

SR-253

## Finance

Energy, Natural Resources, and Infrastructure Subcommittee

To hold hearings to examine clean technology manufacturing competitiveness, focusing on the role of tax incentives.

SD-215

## Appropriations

Financial Services and General Government Subcommittee

To hold hearings to examine the President's proposed budget request for fiscal year 2011 for the Federal Trade Commission.

SD-192

Homeland Security and Governmental Affairs

Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee

To hold hearings to examine efforts to right-size the Federal employee-to-contractor mix.

SD-342

## Intelligence

To hold closed hearings to consider certain intelligence matters.

SH-219

MAY 25

9 a.m.

## Armed Services

Airland Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

10:30 a.m.

## Armed Services

Readiness and Management Support Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

2 p.m.

## Armed Services

Emerging Threats and Capabilities Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

2:30 p.m.

Commission on Security and Cooperation in Europe

To hold hearings to examine Holocaust era assets after the Prague conference.

SR-428A

3 p.m.

Homeland Security and Governmental Affairs

State, Local, and Private Sector Preparedness and Integration Subcommittee

To hold hearings to examine assessing the effects of the Deepwater Horizon oil spill on states, localities and the private sector.

SD-342

3:30 p.m. Armed Services Strategic Forces Subcommittee Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011. SR-222	rectors of the Federal Agricultural Mortgage Corporation, Farm Credit Administration. SR-328A	10 a.m. Health, Education, Labor, and Pensions To hold hearings to examine building a secure future for multiemployer pension plans. SD-430
5 p.m. Armed Services Personnel Subcommittee Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011. SR-222	Armed Services SeaPower Subcommittee Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011. SR-222	MAY 28 9:30 a.m. Armed Services Closed business meeting to markup the proposed National Defense Authorization Act for fiscal year 2011. SR-222
MAY 26 9:30 a.m. Agriculture, Nutrition, and Forestry To hold hearings to examine the nominations of Elisabeth Ann Hagen, of Virginia, to be Under Secretary for Food Safety, and Catherine E. Woteki, of the District of Columbia, to be Under Secretary for Research, Education, and Economics, both of the Department of Agriculture, and Sara Louise Faivre-Davis, of Texas, Lowell Lee Junkins, of Iowa, and Myles J. Watts, of Montana, all to be a Member of the Board of Di-	10 a.m. Indian Affairs To hold hearings to examine the nomination of Tracie Stevens, of Washington, to be Chairman of the National Indian Gaming Commission. SD-628 2:30 p.m. Armed Services Closed business meeting to markup the proposed National Defense Authorization Act for fiscal year 2011. SR-222 MAY 27 9:30 a.m. Armed Services Closed business meeting to markup the proposed National Defense Authorization Act for fiscal year 2011. SR-222	JUNE 16 9:30 a.m. Veterans' Affairs To hold hearings to examine veterans' claims processing, focusing on if current efforts are working. SR-418 POSTPONEMENTS MAY 19 10 a.m. Health, Education, Labor, and Pensions Children and Families Subcommittee To hold hearings to examine the state of American children. SD-430

## SENATE—Tuesday, May 18, 2010

The Senate met at 10 a.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Holy God, who alone knows what a day will bring forth, draw our lawmakers closer to what You desire them to think, say, and do. May they find such inspiration in sacred Scripture that they will know and understand Your will, strengthened by the power of Your word. Lord, guide them by the unfolding of Your providence, directing them around obstacles that hinder Your purposes. Provide them with friendships that will enable them to see You more clearly and to follow You more nearly each day. Give them the wisdom to strive for a true faith of good conscience and genuine love that we may live peaceful and quiet lives in all godliness and holiness.

We pray in Your sacred Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable ROLAND W. BURRIS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 18, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. BURRIS thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be an hour of morning business. The majority will control the first 30 minutes; the Republicans will control the next 30 minutes.

The Senate will then resume consideration of the Wall Street reform legislation. There will be 30 minutes of debate prior to a vote in relation to the Gregg amendment No. 4051 regarding State bailouts.

The Senate will recess from 12:30 until 2:15 for the weekly caucus meetings.

Last night, I filed cloture on the substitute to S. 3217, the Wall Street reform legislation. As a result, there is a 12 noon filing deadline for first-degree amendments. The first vote will occur before noon sometime today.

### CLEANING UP THE MESS

Mr. REID. Mr. President, the fundamental principle behind Wall Street reform that we are going to finish this week is accountability. Those who created the mess bear the responsibility for cleaning up the mess. One of its most important provisions promises taxpayers they will never again be asked to bail out big corporations that acted recklessly and put our economy at risk.

When it comes to the ongoing catastrophe in the Gulf of Mexico, our motivation is exactly the same. It is no different. More than 20 million gallons of oil have leaked into and across the waters of the gulf coast since the Deepwater Horizon drilling rig exploded and sank about a month ago. That is double the oil that spewed from the Exxon Valdez.

Eleven crewmen died very quickly, horrific deaths, unnecessary deaths. In the weeks since, an enormous tourism industry has been slowed and business at countless fisheries has been halted at a time when the gulf coast can hardly afford more economic hardship. Our environment has been polluted and life has been disrupted for many along that coast. With every passing day, those consequences are only compounded.

It is the responsibility of Congress and the administration to investigate this disaster and it is the responsibility of BP and anyone else found culpable to foot the bill for the damages. They must be held accountable.

Some estimate this disaster will cost more than \$14 billion. We have to put our foot down and make clear that taxpayers will not pick up that tab. I will do everything in my power to make sure the polluters pay the price, which

they are obligated to do morally and, I believe, legally.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be an hour of debate, equally divided, between the leaders or their designees, with Senators permitted to speak for up to 10 minutes each, with the majority controlling the first half and the Republicans controlling the second half.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I see the Senator from New Jersey is on the floor, and I am happy to follow him or precede him, whichever he chooses.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

### UNANIMOUS-CONSENT REQUEST— S. 3305

Mr. MENENDEZ. Mr. President, I wish to thank my distinguished colleague from Washington State. I appreciate it.

I rise because the Senate has three choices on how it is going to protect coastal communities from the economic ravages of the oil spills we are seeing in the gulf. We can have fishermen, coastal residents, and tourism-based small businesses endure the suffering of lost revenue caused by a man-made disaster that was no fault of their own, which clearly in my mind isn't fair, we can have taxpayers provide them with a safety net, which I oppose, or we can make polluters pay all the damages they caused from a spill, which is the appropriate course.

It is not a hard choice. When I was a kid, my mother taught me all I think we need to know here, and I am sure everybody was taught the same way: You clean up your own mess and you are responsible for it. That is all we are asking BP or any other company to do: Clean up the mess, pay for whatever mess you can't clean up yourself and the damages that flow from what you did.

The current law sets a \$75 million cap on how much an oil company has to pay for damages. That means BP doesn't have to pay more than \$75 million for lost business revenue from fishing or tourism, damage to the environment, the coastline or the lost tax revenues of State and local governments.

So I have introduced a bill, along with a number of my colleagues, raising that liability cap for offshore oil well spills from \$75 million to \$10 billion.

Some of my colleagues have objected to this proposal because they are worried it will drive oil drilling companies in the gulf out of business. Well, in the case of BP, that is a little hard to understand. It is a rather strange argument. After all, BP's profits amounted to \$5.6 billion for the first 3 months of this year—profits, not proceeds, profits. That breaks down to \$94 million in profits each and every day. That means their current damages liability under the law of \$75 million is less than one day's profits—less than one day's profits.

Not every company drilling in the gulf is as big as BP, but why, I say to my colleagues who raise that issue, should an oil company get such a low liability cap when any average person driving down the street has unlimited liability? Why should a company doing an inherently dangerous and potentially polluting activity such as oil drilling enjoy such a low cap on liability, when the guy installing a solar panel on your roof has unlimited liability? It simply doesn't make sense.

The oil companies want it both ways. They want to keep the profits when everything works out well and times are good, but they want taxpayers to bail them out when they spill. It is fundamentally wrong.

Our bill is as simple as it gets. It says no bailout for BP. It says BP pays for its own mess, not the Nation's taxpayers. It says either you want to fully protect the small businesses and communities devastated by the spill or you want to protect multibillion-dollar oil companies from being held fully accountable.

BP says they are going to be liable for all legitimate claims, but they would not define what "legitimate" is. So if they are saying that, why are we hesitant to raise the liability cap to make sure that what they are saying is kept true and that anyone else in the future will have the same responsibility? Does anyone who has been watching the images coming in from the gulf believe we should be protecting multibillion-dollar oil companies instead of the small businesses, fisheries, and coastal residents who are losing their livelihoods?

It seems to me it is time this Senate stand up to big oil and make them pay for their own mess, not taxpayers, small business owners, States or the Federal Government.

I know a number of my colleagues who have cosponsored this legislation with me wish to speak. At the end of that process, I intend to make a unanimous consent request so we can move forward and make sure now—not years later, now—that all those who are damaged as a result of the spill in the gulf

are protected and that taxpayers don't pay one penny toward this liability that BP and others may have.

With that, for the moment, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from New Jersey because I, too, come to the floor to strongly support the Big Oil Bailout Provision Act and to ask some simple questions of the Senators who are objecting to this bill being passed. For whom are you fighting? Whom are you trying to help? Are you here to protect and shield the big oil companies or to fight for families and taxpayers?

I know where I stand. I came to the Senate to fight for families and small business owners in my home State of Washington, and those are the people I work for every single day—moms and dads who are working hard, paying their taxes, doing their best but who have watched, over the last 2 years, as Wall Street executives and big banks derailed our economy and then held out their hands for a bailout from the rest of us, men and women who have seen their friends, family, and neighbors lose their jobs, who have driven by neighborhood shops they have known for decades that are now sitting empty and boarded up. They have seen all this, and they have also seen Wall Street and big banks go right back to their "bonus as usual" mentality, acting as though nothing ever happened, handing out millions of taxpayer dollars to their executives, and shamelessly sending lobbyists to Washington, DC, to try and water down reform.

Families in Washington State and across the country have seen all this and they are angry about it and they have good reason to be. Those families need to know that now we are fighting for them in the Senate. The debate we are having today demonstrates clearly who is standing for them and who is not.

Here are the facts: On April 20, 2010, there was a massive blowout and explosion on a BP oil platform in the Gulf of Mexico. Eleven workers are missing, presumed dead; 17 more injured. The explosion, as we know, caused a gushing spill that has poured hundreds of thousands of barrels of oil into the gulf and threatens to spill millions more. It has created an environmental and economic tragedy the magnitude of which we are only now beginning to comprehend. It is threatening entire communities and businesses. The oil and chemical dispersants being sprayed into the gulf have the potential now to kill underwater wildlife and create underwater dead zones for years and years to come. Those are the facts.

The questions are: Who should be responsible for this cleanup? Who should bear the burden for big oil's mistakes? Should it be the taxpayers, the families

and small business owners who are already being asked to bear so much today or should it be BP, the company that is responsible for this spill and that made \$6.1 billion in profits in the first 3 months of this year alone?

I cosponsored the Big Oil Bailout Prevention Act because, to me, the answer is pretty clear.

I believe BP needs to be held accountable for the environmental and economic damage of this spill. I am going to continue to fight to make sure our taxpayers do not end up losing a single dime to pay for the mess this big oil company created.

To me, this is an issue of fundamental fairness. If an oil company causes a spill, they should be the ones to pay to clean it up, not the taxpayers. The bill raises the cap on oil company liability from the current limit of only \$75 million—that is a pitance considering this spill's potential damage—to \$10 billion.

So taxpayers will not be left holding the bag for big oil's mistakes. This is straightforward common sense, and it is fair. It hits particularly close for families in the Northwest—my area—who saw firsthand the devastation caused by the Exxon Valdez disaster and the long and arduous battle over cleanup costs.

Mr. President, I was disappointed when this bill was blocked by Republicans last week. We are going to keep fighting because we want this bill to pass. I am going to keep fighting for our families and taxpayers in Washington State and across the country.

The bottom line is, if oil companies are going to make billions in profits when times are good, they should not be allowed to leave taxpayers hanging when times are tough. The Big Oil Bailout Prevention Act writes this commonsense policy into law. I urge every Senator to side with the taxpayers and support this important legislation.

I yield the floor.

Mr. MENENDEZ. Mr. President, on behalf of the leadership, I ask unanimous consent that Senator NELSON be next for 5 minutes, and then Senator CARDIN for 4 minutes, and then Senator LAUTENBERG for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I say to my colleagues on the Senate floor, my worst nightmare is becoming reality. Tar balls have been discovered, as reported by CNN, in Key West. Even if they are not the tar balls from this spill, since the spill is flowing southward, it is getting into the Loop Current. That current goes southward into the Gulf of Mexico, around the Florida Keys, and becomes the Gulf Stream.

The University of Miami oceanographer testified to us that once it gets into the Loop Current in the northern Gulf of Mexico, it will take, maximum, 10 days to get to the Florida Keys. Eighty-five percent of North America's living coral reefs are in the Florida Keys. The Gulf Stream hugs the Florida Keys going northward and the southeast coast of Florida. The Gulf Stream parallels the entire eastern coast, the Atlantic seaboard, all the way north to Cape Hatteras, North Carolina, and proceeds across the Atlantic to Scotland.

We are looking at a gargantuan economic and environmental disaster facing this Nation but particularly those States on the gulf coast and the Atlantic seaboard. We have heard all the pronouncements, and we have heard those pronouncements now going on 4 weeks. The oilspill has not been stopped. If it continues until a rescue well reaches it in another 2-plus months, this spill will eventually cover up the gulf coast, the places like the sugary white beaches of northwest Florida, where I will be this Friday, where already the cancellations are coming right and left as their tourist season starts; and hotels that would normally have 85 percent occupancy are less than 20 percent occupancy. You can see the economic consequences from this disaster. You see the economic consequences already to the fishing industry in Louisiana. What about the oyster industry in Apalachicola and those delicate bays and estuaries all along the gulf coast where so much of the marine life is spawned?

Now we hear reports that it is not just on the surface, it is at a depth of 1,500 feet. Then just off the floor of the ocean at 4,500 feet, almost a mile below the surface—a slick that is 10 miles long and 3 miles wide and 2 football fields thick. What happens when that eventually gets to the surface? But in the meantime, what happens when it settles to the ocean floor?

For the life of me, I can't understand someone objecting, as they are going to do, to raising an artificial limit of \$75 million up to at least \$10 billion—and it is probably going to exceed that. The argument you are going to hear is: Oh, it should not be this; it ought to be tied to profit. Is it really responsible public policy to say because a company makes less money, it should be responsible for less damage? No.

If I seem emotional, it is because my people are scared. They are frightened at what they are facing.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized.

Mr. CARDIN. I thank Senator MENENDEZ for his leadership on S. 3305. I hope his request will be granted. As the other Senators have said, basically whose side are you on? Who should pay for this disaster? Should it be the tax-

payers of this country? Should it be the small business owners whose livelihood is now in jeopardy? Should it be the property owners who are going to suffer damage? No. It should be BP Oil and its affiliates.

That is what the Menendez bill does. It places responsibility on the appropriate party. BP should pay, and there are many reasons they should pay. As Senator MENENDEZ points out, their profit was \$6 billion in the last quarter. Another reason: BP, in its exploration plan that it presented to the Mineral Management Service, MMS, to get an environmental waiver, stated "unlikely event of an oil spill as having little risk of contact or impact on the coastlines and associated environmental resources."

Unlikely event? Little risk of contact? They have relied upon proven response technology—these blowout preventers. They were failsafe, according to BP Oil. Yet MMS showed that the blowout preventers had failed or otherwise played a role in at least 14 accidents. There was little information about the blowout preventers at 5,000 feet of water. That was used to avoid a full environmental review.

We have an environmental disaster, and BP should be held fully accountable for many reasons, not the least of which is they misrepresented the environmental risk to the public and the regulators.

Let's talk about the extent of the damage. BP is continuing to underestimate this damage because they don't want the public to fully understand the extent of the damage. First, they tell us 1,000 barrels a day, and then 5,000 barrels a day. The experts tell us the methodology used by BP is not reliable. They should have given us a range, not a specific barrel amount.

We had people who were prepared to come in and do a real assessment without jeopardizing BP Oil's efforts to stop the flow, and BP doesn't let them do that because they don't want the public to know the status of it, as Senator NELSON pointed out, using dispersants, which is a good option but not the better option. The oil is going to stay in the ocean and give us dead zones, and it is going to cause additional damage.

It starts with the Menendez bill, with holding BP Oil responsible for all of the damages it has caused through its misrepresentations and the way it has handled the spill. I hope it will continue so we can reenact a moratorium, particularly for the area that I represent in the Mid-Atlantic, which is so environmentally sensitive that if we had the spill in our area I would hate to see what it would do to the Chesapeake Bay and Assateague Island.

I urge my colleagues to move forward today on the Menendez bill. Let's get the consent necessary to make sure everyone understands that what BP Oil

says it will do, it will do, which is pay for all the damages it has caused. I hope that will not be the last action. I hope we also will reimpose the moratorium for offshore drilling—at least at this point—until we know we can do it safely.

In my area, I hope the moratorium will be permanent.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, first, I commend my colleague from New Jersey for developing this approach to make sure these companies pay for the damage they have done.

We are going to see today, as we saw the other day, a response from the other side. I hope they have the courage, the guts, to stand and say they are with the ordinary American taxpayers or maybe they will say: We like the other guys better—big oil.

Will the Senate stand with the fishing industries and the hard-working men and women who make a living providing sustenance to our Nation or will it continue its stand with big oil? They need all the help. You heard from our colleague from Maryland about their earnings, incredible earnings. BP, in a quarter, had its earnings increased by \$3.2 billion—earnings, not revenue.

So the choice is an easy one: You can stand with the guys who got so much that they are gouging the public or do you want to stand with the working people?

Will the Senate stand with the coastal communities whose families are left jobless, homeless, and hopeless or will it stand steadfast with the big oil companies, as it has done?

Last week, we got an answer. Senators MENENDEZ and NELSON and I asked our colleagues to join with us to end big oil bailouts by raising the liability cap for oil companies from a trifling \$75 million to \$10 billion. Our colleagues stayed true to the big oil companies. They wanted to make sure they blocked any attempt to pass a bill that would raise their liability.

So here we are again urging our colleagues to stand for the American taxpayers who are sick and tired of bailouts. We need to hold big oil accountable so the gulf coast communities don't meet the same fate as those families whose lives were ruined by the Exxon Valdez accident over 20 years ago. We have to hold them accountable because the American taxpayers are staring down the barrel of a disaster that is currently said to exceed \$1 billion in monetary damage.

The fact is, the amount of the monetary damages from the spill in the gulf is on track to surpass those from the Exxon Valdez. As the first Senator to visit Alaska after the Exxon Valdez went ashore, I saw the destruction caused by that oilspill firsthand. But

even after issuing a string of apologies, Exxon fought over every penny with the communities and families and the fishermen whose lives were decimated.

We had a hearing the other day in the Environment Committee with three executives from BP, Transocean, and Halliburton. I asked the simple question: Is your company responsible for the leak? No, no, no. They were pointing fingers at one another. Nobody was willing to say they had an accident, they did this or that—no, not them. Later on I asked could they guarantee we would not have any more spills if there was drilling in the ocean, and they said they could not do that.

Mr. President, they are shamefacedly trying to protect themselves against a legitimate obligation they have. And our friends on the other side are not willing to say to those oil companies: Listen, you did it, you messed it up, pay up. Do what you have to as a corporate citizen and as a company that makes so much money you don't know what to do with it.

Once again, I commend my colleague from New Jersey for developing this program.

I yield the floor.

Mr. MENENDEZ. Mr. President, to summarize, this is very simple: Whose side are you on? Are you on the side of the taxpayers or multibillion-dollar oil companies? Are you on the side of fishermen, working hard to make a living, or on the side of multibillion-dollar oil companies? Are you on the side of the small inns that benefit from the tourism in the gulf region or on the side of multibillion-dollar oil companies? Are you on the side of the coastal communities that are going to be affected by virtue of the spill or on the side of multibillion-dollar oil companies?

Because of the fierce urgency now, we believe it is necessary to ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of S. 3305, the Big Oil Bailout Prevention Liability Act of 2010, and that the Senate then proceed to its consideration; that the bill be read three times, passed, and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Is there objection?

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, I reserve the right to object, and I am going to object in a minute, but I agree with a lot of things that were said by the Senators from New Jersey.

I say to the Senator from New Jersey, I was also there 20 years ago at the Exxon Valdez, which was a transportation accident. We were very much concerned about the recovery. We need to increase the caps. I understand that. But I do agree with the President—he left that blank—because we don't know just how high that should be.

I disagree with the notion that you are either for or against big oil and all

of that. Big oil would love to have these caps up there so they can shut out all the independents. We have independents in my State of Oklahoma, and right now 63 percent of the gulf's natural gas and 36 percent of its oil are produced by independents. What you are going to do if you raise the caps right now, precipitously, this high, you are going to help the five big oil companies, including BP, giving them exclusive rights, and help the nationalized big oil companies, such as those in China and Venezuela, and shut out the small and medium-sized independents. For that reason, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. MENENDEZ. Is there still a minute remaining?

The ACTING PRESIDENT pro tempore. The Senator has 3 minutes 50 seconds remaining.

Mr. MENENDEZ. Look, I regret that my distinguished colleague from Oklahoma has decided to object. I would simply say that if you are an "independent,"—and some of these independent companies are valued at \$40 billion—does that mean that because you are not the BPs of the world, you should have less liability? If this spill in the gulf was done not by a BP or an ExxonMobil or any of those but by some other entity, should there be less liability for them; therefore, they can take the risk and go ahead and drill, and if it works out, they get all the profits, but if they spill, their liability would be limited under the guise they were going to create a monopoly for the big five? I am for creating that liability across the entire range. If you are involved in a dangerous activity, one that can create enormous environmental and economic damage, then you should face the liability for such whether you are BP or you are some intermediate entity.

So I don't quite understand the nature of suggesting that we are going to try to give the big companies some form of monopoly. Actually, it seems to me what we are doing is using that argument—and I have heard this argument several times—to not create the liability that is necessary for everybody, so that regardless of who creates this set of circumstances and has a spill and therefore fishermen, shrimp fishermen, seafood processing companies, tourism, coastal communities, and our environment are damaged, they should be let off the hook because they are not as big as BP.

Mr. NELSON of Florida. Would the Senator yield?

Mr. MENENDEZ. I would be happy to yield to my colleague from Florida.

Mr. NELSON of Florida. I thank the Senator for yielding.

Isn't it interesting how all the different companies are pointing at each other now? And the real question is, Is it going to be the taxpayer who will

pay for this or will the responsible parties? Why should someone say no to raising the liability simply because they say it ought to be tied to the size or the profitability of the particular company? It makes no sense.

Mr. MENENDEZ. I am happy to yield to my colleague from Minnesota.

Ms. KLOBUCHAR. Mr. President, I recently saw firsthand the miles and miles of oil slick in the Gulf of Mexico. The scope of the disaster is staggering, and an oil rig the size of a football field shouldn't suddenly explode in a massive fireball and threaten the entire coast of our country. But beyond that potential, if they closed the Port of New Orleans, think of the effect that would have on Minnesota or the effect it would have on other parts of our country. And I don't believe the taxpayers of this country should have to pay for that.

That is why I support the Big Oil Bailout Prevention Liability Act, which will help ensure that the current liability gap for a single oil spill will not apply to the gulf coast oil disaster and make sure that BP—a company that just a few weeks ago flouted its record profit of \$6 billion in the first quarter of this year alone—will pay for this and that the taxpayers of this country—already burdened with the cost of the difficult economic times and what Wall Street has done—are not stuck with the bill.

Mr. President, I am supportive of the work my colleagues have done, and I thank Senators MENENDEZ, NELSON of Florida, and LAUTENBERG for their efforts.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, let me just make one comment. I don't very often agree with President Obama. Right now, he is unsure what that level should be. I am unsure what that level should be. Maybe it should be the level we are talking about right now, and it may end up there, but we just don't know that.

We know that what the Senator from New Jersey and I experienced up at Exxon Valdez some 20 years ago was not adequate, so that is why we passed the legislation. It should be upgraded. Certainly, we need to raise these limits. Where it should be raised, I don't know. I don't know where the cap should be. We are going to have to find out as this thing moves along.

I would only say this: If you have it up too high, you are going to be singling out BP and the other four largest majors and the nationalized companies, such as China and Venezuela, and shutting out the independent producers. I don't want that to happen. Let's wait and see where that cap should be.

Mr. MENENDEZ. Would the Senator yield for a question?

Mr. INHOFE. I would, yes.

Mr. MENENDEZ. I thank the Senator for yielding.

So is it my understanding that because of your concern about these other independents, let's call them, you would allow them—if they were the cause of this incident—to limit their liability just because they are small?

Mr. INHOFE. No. My answer to the question is, as I said, we don't know where that cap should be. You are coming up with a cap that might end up being the appropriate cap for everyone. But my understanding now would be that the only ones who would be able to live up to that cap would be the five majors and the nationalized companies. If that is the case, yes, I would say we need to have that opened so that we are not just allowing the majors as opposed to the independents. But let's wait and see where the cap should be. Maybe it should be that high. We don't know yet, President Obama doesn't know yet, and I don't know yet. That is the reason I object.

Mr. MENENDEZ. Will the Senator yield for one more question?

Mr. INHOFE. You can ask, but I am going to have to leave here. Go ahead.

Mr. MENENDEZ. If, in fact, it is—I think everybody clearly believes this consequence in damages is at least \$10 billion—some have suggested it should be an unlimited cap. If that is the figure, your concern wouldn't stop you from putting it at that figure and making sure all the independents—

Mr. INHOFE. I would repeat, it is too early to come up with a figure, and I think the President agrees with that. Let's see what kind of cap should apply.

#### HEALTH CARE REFORM

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I wish to speak for a few moments this morning about a subject that is on the minds of many Americans and I think should still be on the minds of everybody in this Chamber because the health care bill that was passed and signed into law recently is going to have impacts across this country for some time to come.

I am interested in the discussion that has occurred here on the floor of the Senate over the past several weeks, as Senator BARRASSO from Wyoming—who also happens to be an orthopedic surgeon, a physician—has come to the floor to engage in a series of remarks, what he calls the “second opinion.” I think his second opinion series of remarks here on the floor has been extremely well pointed in illustrating, in many respects, what is wrong with the health care bill and why this is not something that is going to improve the

lives of most Americans but, in fact, is going to worsen the lives of most Americans because they will be faced with higher health care costs, higher taxes, and probably higher deficits for years and years to come.

There is a lot of supporting data now, validation of those arguments we heard during the course of the health care debate. The Democrats, who were supporting it, as was the President, said this health care legislation was going to, No. 1, reduce health care costs for most Americans, and No. 2, reduce the deficit. Of course, they talked a lot about how it was going to extend the lifespan of Medicare as well, even though they were cutting Medicare and using those funds to create a new entitlement program. So all those promises made by the President and made by the Democrats here in the Senate when we were debating health care are now all being completely rebuffed by evidence that comes out all the time from those who study this issue closely.

Frankly, as we get more and more businesses trying to figure out how to interact with this new health care legislation, they are coming to the conclusion that it might be cheaper for them in the long run to drop their coverage and put everybody in the government plan, which is what we predicted would happen all along.

But I think probably the biggest bombshell—certainly the most damning piece of evidence—came out just a few weeks ago when the Actuary of Health and Human Services, HHS, came out with his analysis of the financial impacts the new law would have once it was passed and implemented. I wish to share a few things from that report because I think it is very important. It does, as I said before, illustrate exactly what Senator BARRASSO and others said throughout the course of the debate in the Senate when health care was under consideration.

The Actuary of the Department of Health and Human Services—bear in mind, this agency is supposed to look at these things in a totally objective, nonpolitical way—the Actuary concluded that the Federal Government and the country will spend \$310 billion more under the new law than we would have without it. The Actuary's report went on to say that national health expenditures would increase from 17 percent of GDP, which is what it is today, to 21 percent under the new law. But what is interesting about this is that the \$310 billion increase in health care costs they now say will result from the passage and implementation of this legislation is more than what would have happened had we done nothing. Had this body done nothing in terms of health care reform, health care costs would have gone up less than they will with this legislation. As I said before, this completely refutes any argument

made by the other side during the course of this debate that their legislation would, in fact, drive down health care costs.

The Actuary has now concluded the point that we made throughout the course of the debate; that is, that health care costs will go up, not down; the cost curve will be bent up, not down; and for most Americans, health insurance premiums are going to go up as a result of this legislation. That is what the Actuary is now saying.

What is even more interesting about that report is it goes on to say that health care shortages and price increases are “plausible and even probable” under the legislation. The report suggests there will be perhaps as many as 15 percent of Part A providers—Part A providers are hospitals—that will become unprofitable within the 10-year projection period absent further legislative action.

In other words, up to 15 percent of hospitals would have to close as a result of this legislation. Because of that, the report says the law will jeopardize “access to care for seniors.” So all these promises about greater access, lower cost—the promises that were made during the course of this debate—are being completely now rebutted by the report that the Actuary came out with just a couple of weeks ago.

The other thing I think is important—we emphasized this as well during the debate—the Actuary concluded that new taxes that are going to be imposed on medical devices, on prescription drugs and insurance plans, were generally passed on through to consumers in the form of higher drug and device prices and higher insurance premiums.

Remember, during the course of the debate we said all the new taxes that will be levied on medical device manufacturers, pharmaceuticals, health insurance plans, would be passed on. This is clearly what they are suggesting as well. So not only do we get the double whammy, we get the whammy of higher insurance premiums, but we get the double whammy of higher taxes that are going to be borne by a lot of people across the country. That also is being substantiated and supported by the Joint Tax Committee, which took a good look at the distribution of the impacts of the tax increases in this bill. A lot of Americans are going to see their tax burdens go up as well.

With respect to the issue of the deficit—which, again, is something I will get to in just a moment—the Actuary notes the bill's Medicare provisions “cannot be simultaneously used to finance other federal outlays—such as the coverage expansions—and to extend the [life of the Medicare] trust fund, despite the appearance of this result from the respective accounting conventions.”

Essentially what they have said is what they said in a letter in response



to questions we posed about how this would impact the Medicare trust fund. Basically, the Actuary is saying what the CBO said; that is, you are double counting revenue, you are basically spending the same money twice. In other words, all the additional revenues that are supposed to become available because of reductions in Medicare benefits or reductions in Medicare payroll taxes that were going to extend the life of Medicare and also going to be used to finance the new health care entitlement program—that is what we said all along, and that is double counting. You can't spend the same money twice, and as a consequence of that you are going to see what they promised in terms of deficit reduction can be very different from what actually happens.

They went on to say that the CLASS Act, which is a long-term care entitlement program—described, believe it or not, by one of my Democratic colleagues as a Ponzi scheme of the highest order, the kind of thing Bernie Madoff would be proud of,—will result in net Federal cost in the longer term. The program is designed to someday down the road to pay long-term care benefits for people who pay premiums into that plan and will face significant risk of failure because of the way they are counting the revenue.

It says it is going to be “a net Federal cost in the longer term” because, obviously, when you take premiums today to pay for the unrelated provisions in the health care reform law, and then there is a demand for the CLASS Act benefits at some point in the future by the people who paid those premiums, you cannot use those revenues to pay for the benefits because they have already been spent. To assume otherwise is double counting that revenue.

So you have all this double counting that went on in the course of this bill which, again, as I said, understated the overall cost of the bill and also the deficit numbers I think were attached to it.

To me, this study, this analysis was absolutely a bombshell in terms of the impacts of the actual implementation of the health care bill. As I said, it completely refutes all the arguments that were made that it would lower costs, reduce deficits, and it would improve access. All three of those points are refuted by the analysis that was done by the Actuary at the Health and Human Services Department.

More recently, last week about this time, the Congressional Budget Office came out with a new report. They predicted that the health care overhaul will likely cost about \$115 billion more in discretionary spending over 10 years than the original cost projections. So the promises that were made about deficit reduction as a result of this—it was going to somehow save \$143 billion

over a 10-year period—now are reduced by \$115 billion because, as we said throughout the course of the debate, it is going to cost a lot to implement this bill both in the form of cost to HHS, as well as cost of the Internal Revenue Service, which is going to be required to now impose the individual mandate that will fall on a lot of people across this country and the penalties associated with that.

So we have all these implementation costs that are going to add an additional \$115 billion in spending over the next 10 years which reduce dramatically any promises about deficit reduction, not to mention what I just stated in terms of the double counting that goes on.

My view on this is, not only is it not going to reduce the deficit, it is going to explode the deficit, particularly in the outyears when the demand for Medicare benefits comes and the demands of the trust fund for those people who paid into the fund and reached the retirement age—a lot of the baby boomers are going to require health care, the Medicare fund is going to be tapped for that, and there will not be any money there to pay for this program.

So you have the Actuary at HHS, you have the CBO coming out with new information which completely validates the argument we made during the course of this debate; that is, it is not only going to increase costs for most people across this country and increase taxes, but it is also going to have a detrimental impact on the budget and the deficit over the long term.

One of the promises that was made, the so-called good points in the health care bill, was that small businesses would benefit from a small business tax credit. That is something administration has been trying to sell to small businesses, putting out notices from the IRS that there are 4 million small businesses that could qualify for the small business tax credit. That kicks in in 2010. But, even there, as is now coming out, there is a lot of fine print I don't think people read very well.

The Chamber of Commerce said of all the small businesses in this country, about 78 percent of those small businesses are self-employed people. Self-employed people are not covered. Families are not covered under this. More important, there is a disincentive to hire people. We have an economy where we are trying to get jobs growing and come out of the recession and get people back to work.

This small business tax credit caps it. In other words, if you get up to 25 employees you are no longer eligible for it. If your average wage is \$50,000 you are no longer eligible for it. So there is a real disincentive to pay people higher wages or hire more people because if you do, you are not going to be eligible anymore for the small busi-

ness tax credit. A lot of those small businesses are saying: What benefit is there to me if I want to grow my business? Yes, I can take advantage of it for a short period of time—a very short period of time—but I am not going to be able, if I am at that threshold where I start hitting—first, it says it is available for businesses with fewer than 10 employees, then it phases out at 25.

But if you get to 24 employees and you are thinking: My gosh, I would like to hire another person; I no longer will be eligible for the small business tax credit, or I want to pay my employees higher wages but then I hit the \$50,000 threshold—it is a real disincentive to create jobs.

One of the things that is being touted as a positive about this legislation is it is, in fact, a disincentive for us to get people back to work and to create jobs.

The overall impacts of this, I think, that are still out there I don't think we are going to know for some time. In fact, I don't think CBO has any idea about what this is going to cost in the second decade. They have estimates of the cost in the second decade. They can make some predictions, but they will admit there is tremendous volatility about that, and unpredictability, when we get into the second decade.

But one thing we know in the first decade, one thing we are finding out now as we get more analysis being completed, is in the first decade, according to the HHS Actuary, this is going to increase the cost of health care more than if we did nothing.

In other words, if we had done nothing and we still had health insurance costs going up as they were about double the rate of inflation, if we had done nothing we would have locked that in. But now we are going to continue to have health insurance costs going up, not only at that rate but a significantly higher rate to the tune of \$310 billion in more, higher health care costs over the course of the decade.

If we look at how that impacts individual people across the country, most Americans are going to see their health insurance premiums go up. In fact, some of the provisions of the bill also, as part of the—it was just reported last week that this provision that would allow people to keep their kids on their health insurance plans until they are 26 years old will, in fact, increase health insurance premiums by about 1 percent. That is something that was hailed as one of the benefits or virtues of this legislation.

My point is, contrary to the assertions that were made during the course of the debate with respect to lower costs, deficit reduction, greater access—none of that, according to these studies and analyses, is going to be the case. In fact, it will be the opposite. We will see higher health care costs for most Americans. We will see higher taxes for a lot of Americans. We will

see higher taxes for sure—for certain—for a lot of small businesses. And I think we are going to see a lot of businesses that are going to just say—and we have already seen reports of that, as a lot of these businesses look at the impact this would have on their bottom lines—it will cost them a lot to cover their employees. It might be cheaper to pay the penalty and to just shove them into one of the government-run exchanges. I think that is something we have yet to see the impact from.

My prediction would be we will see a lot of small businesses, and for that matter a lot of large businesses, that will come to that conclusion and say it makes absolutely no sense for them to continue to provide health coverage for their employees when they can have the government do it and save their companies a lot of money.

So I think the unintended consequences are something we have yet to see, but we do know for certain the consequences of this legislation, these analyses that have been completed, and studies that have been done by those who are supposed to know a lot about this subject—by that I mean the Actuary at the Health and Human Services Department, as well as the Congressional Budget Office—they are now seeing higher insurance costs, higher premiums, and a significant reduction in the so-called deficit reduction that was promised by the administration.

Furthermore, because of the double counting that is done and the way in which Medicare revenues are double counted—CLASS Act revenues are double counted—even for that matter Social Security revenues, payroll taxes are double counted in this—dramatically understate the deficit impact and the long-term debt implications of this legislation and what it will mean to the next generation of Americans who are going to be stuck paying our bills.

I say all that, not to be the Grim Reaper. We tried during the course of this debate to illustrate as much as we could these very points. We tried to offer amendments that we thought made more sense in terms of controlling costs; to actually address the actual underlying drivers of health care costs in this country as opposed to just expanding coverage, which is essentially what the legislation did. It will cover more people. In some ways it will cover more people by putting more people into Medicaid which will pass on more mandates and more costs to our States.

We have already seen a lot of Governors across the country reacting to that, talking about that, how we are going to pay for that. But there is an additional 34 million people, additional people, who are supposed to be covered in this legislation; about 16 million of those are already going into the Medicaid Program which already under-re-

imburses providers and also imposes huge new costs and new burdens on our State governments.

There is not a lot of good news to report about this. I think that is going to be the case. I think, regrettably, we could have gone a different direction. We should have gone a different direction. But that being said, we are where we are. I hope over time we will have an opportunity to revisit this issue. If we do not, it is going to have a dramatic impact on future generations, on our economy, both in the short term and long term, as a result of higher costs built into the cost structure for health insurance, higher taxes that will impact small businesses and families across this country, and higher deficits for which future generations are going to be assessed and have to pay.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

#### BAILOUTS

Mr. GREGG. Mr. President, I know we are in morning business. But at the conclusion of morning business I will be offering an amendment which I understand is the next one in order. Since there is nobody taking the morning business time, I will take that time to begin the discussion of that amendment.

The amendment which I am proposing goes to this whole issue of who the taxpayers of America should bail out. I personally don't think they should bail out anybody, to be honest with you. They certainly should not be bailing out financial institutions that have gotten too big. They should not be bailing out automobile companies that have overextended themselves and are doing a poor job. They should not be bailing out other countries. They certainly should not be bailing out States and local governments that are about to default on their debt.

It is very hard to explain to a citizen of New Hampshire or Illinois, Connecticut, New Jersey, Pennsylvania, why their tax dollars should go to bail out a State which is about to default on the debt it has run up because it has been irresponsible in its spending. The obvious State that comes to mind is the State of California, which has very serious problems. But they are self-inflicted problems. These are not problems which were created as a result of some general problems across the country, and they were not problems created, for example, by an event—an environmental event or emergency such as Katrina.

They were totally self-inflicted problems. The question is, Should the American taxpayer, all the rest of us in this country, be put in a position where we have to bail out that State? I do not

think we should. That is what my amendment is going to go to.

But I see now the Senator from Florida has arrived. He has the morning business time we are in.

I reserve the remainder of my time and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

#### GULF OILSPILL

Mr. LEMIEUX. Mr. President, I wish to thank my friend and colleague from New Hampshire for allowing me to take some time on the floor this morning. If I may, I wish to speak about an issue that is of great impact to Florida; that is, this oilspill. This is not the first time I have come to the floor to speak about the potential impact this gulf oilspill may have upon the coast of Florida.

I have called upon British Petroleum to set up a \$1 billion fund, a replenishing or evergreen fund, if you will, so we can get to work to get ready to prepare, if this oil is to come ashore, to mitigate its effect, to prevent, as much as possible, the oil from coming ashore.

So far, there has been \$25 million given to Florida and other Gulf States, another \$25 million is coming for advertising purposes. The good news is, we believe the oil is not ashore yet. But there is some disturbing new information.

This morning, I had the opportunity to speak to RADM William Baumgartner of the Coast Guard. Reports yesterday afternoon tell us some tar balls have washed ashore in Key West, FL. That is far ahead of any projections of oil from this spill being put onto the Loop Current in the southern part of the Gulf of Mexico and coming in contact with the southernmost point of Florida. It was not expected that that would happen for several days. But it could be that the oil is far more spread out than we anticipated. It is not unusual for there to be oil to come upon the shore of Florida or any other Gulf States. In fact, it naturally occurs. We know from the Florida Department of Environmental Protection that there were at least 600 reports in the past 2 years of tar balls and things such as that because, as we have come to find out, this is a naturally occurring phenomenon as well, that oil will seep from the ocean floor and potentially come upon our shores in the form of tar balls and other small things.

But the concern is, these 20 tar balls that came upon the shore yesterday in Key West are from the gulf oilspill. If that is the case, the oilspill is far larger and has spread far more quickly than we could have anticipated.

Right now those samples of those tar balls are being sent for research and evaluation to determine whether they are, in fact, from the oilspill that happened now almost 1 month ago. Whether those tar balls are from the disaster

or whether they are naturally occurring, we know this oil slick is spreading. We know it is going to get into the Loop Current, the Loop Current which will then bring that oil down close to the Keys, potentially all the way up the Atlantic side of Florida.

We cannot wait to find out what is going to happen. We cannot wait to pay claims after damages have already been incurred by the people of Florida. Florida is reliant upon the beauty of its State for its economy. We have actually more than 80 million tourists who come to Florida each year, more than a \$65 billion tourism industry. Recreational saltwater fishing has a \$5 billion impact on Florida and is responsible for more than 50,000 jobs. Recreational boating has an \$18 billion impact. We have more registered boaters in Florida than any other State in the Union. Some 90 percent of Florida's population lives within 10 miles of its coast. We are the State, besides Alaska, with the largest coastline and more beaches than any other State.

There have been a lot of problems here. One, why did this spill happen; the failure of regulation by the Department of the Interior, the lack of a quick response by this administration, and a lack of a quick response by British Petroleum, mistakes being made at the scene; why did the blowout preventers fail, all the other things we have read about and heard about. We are having hearings in Congress on what caused this tragic incident to happen in the first place.

We are going to get to the bottom of all those things. Right now we need dollars in the hands of our States in the gulf, to get together our volunteers, our businesses, our local governments, county, city, and State, to try to prevent this oil from coming ashore. We need a flotilla of Florida boaters out there trying to scoop up these tar balls before they come ashore.

We need a volunteer effort not unlike what we had in World War II in Europe, where the British came to Dunkirk and rescued the military and brought them ashore when they were fleeing. We need to get the Florida volunteers, senior citizens and others, on the beaches getting ready to help mitigate this damage that I think, unfortunately, is going to come ashore.

We need the funds to do that today. We do not need them a month from now. We do not need them 6 months from now. We do not need them a year from now to pay claims. We need to do everything possible to keep that oil from coming ashore. If we do that, we can keep our economy, our tourism economy strong. Right now, people need to know they should still be coming to Florida to fish, still be coming to Florida for a beach vacation because the oil has not washed upon the shore in west Florida, on the panhandle, and we only have these 20 tar balls in the Keys. Let's hope that is the end of it.

I did not want to miss this opportunity to come to the floor to make the point again that we need to make sure the money comes now. Senator VITTER and I and others have filed legislation to make sure oil companies are responsible well beyond the \$75 million cap for damages to communities that are impacted by these oil spills. It is focused on profits, more than it is focused on a \$10 billion cap, which is a proposal that my friends and colleagues have proposed.

Why does it make more sense? Well, based on profits, we know BP may be liable for up to as much as \$20 billion for this incident. That is more money to help pay for this. Second, if you just put it on \$10 billion, we are only going to have two or three oil companies in this country because no other oil company will be able to get into the business because they will not be able to afford the potential \$10 billion cap.

If you do not have enough money to pay for it, \$10 billion is pretty illusory anyway. What we need to be focused on is making sure those responsible can pay and pay enough to make sure we solve the problem. A lot needs to be done.

A lot of questions need to be asked. A lot of answers need to be forthcoming. But right now we need the dollars to protect our shorelines and our beaches.

I see my colleague and friend from New Hampshire is ready to speak again.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Morning business is closed.

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 3217, which the clerk will report.

The assistant legislative read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Pending:

Reid (for Dodd-Lincoln) amendment No. 3739, in the nature of a substitute.

Brownback further modified amendment No. 3789 (to amendment No. 3739), to provide for an exclusion from the authority of the Bureau of Consumer Financial Protection for certain automobile manufacturers.

Brownback (for Snowe-Pryor) amendment No. 3883 (to amendment No. 3739), to ensure small business fairness and regulatory transparency.

Specter modified amendment No. 3776 (to amendment No. 3739), to amend section 20 of

the Securities Exchange Act of 1934 to allow for a private civil action against a person that provides substantial assistance in violation of such act.

Dodd (for Leahy) amendment No. 3823 (to amendment No. 3739), to restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.

Whitehouse modified amendment No. 3746 (to amendment No. 3739), to restore to the States the right to protect consumers from usurious lenders.

Dodd (for Cantwell) amendment No. 3884 (to amendment No. 3739), to improve appropriate limitations on affiliations with certain member banks.

Cardin amendment No. 4050 (to amendment No. 3739), to require the disclosure of payments by resource extraction issuers.

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes of debate, equally divided and controlled between the Senator from Connecticut, Mr. DODD, and the Senator from New Hampshire, Mr. GREGG, or their designees, prior to a vote in relation to amendment No. 4051.

The Senator from New Hampshire is recognized.

AMENDMENT NO. 4051

Mr. GREGG. Mr. President, I sort of did a trailer version of this bill a few minutes ago while we had some time in morning business. But let me discuss the amendment again.

The PRESIDING OFFICER. Will the Senator call up his amendment.

Mr. GREGG. I call up amendment No. 4051 and ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 4051 to amendment No. 3739.

Mr. GREGG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit taxpayer bailouts of fiscally irresponsible State and local governments)

On page 18, between lines 17 and 18, insert the following:

#### SEC. 5. PROHIBITION ON THE USE OF FEDERAL FUNDS TO PAY STATE OBLIGATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no Federal funds may be used to purchase or guarantee obligations of, issue lines of credit to or provide direct or indirect grants-and-aid to, any State government, municipal government, local government, or county government which has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government.

(b) LIMIT ON USE OF BORROWED FUNDS.—The Secretary shall not, directly or indirectly, use general fund revenues or funds borrowed pursuant to title 31, United States Code, to purchase or guarantee any asset or obligation of any State government, municipal government, local government, or county government or to otherwise assist such

governments, in any instance in which the State government, municipal government, or county government has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government.

(C) LIMIT ON FEDERAL RESERVE FUNDS.—The Board of Governors shall not, directly or indirectly, lend against, purchase, or guarantee any asset or obligation of any State government, municipal government, local government, or county government or to otherwise assist such governments, in any instance in which the State government, municipal government, local government, or county government has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government. Notwithstanding any other provision of law, no Federal funds may be used to pay the obligations of any State, or to issue a line of credit to any State.

Mr. GREGG. Mr. President, this amendment is pretty simple. It says American taxpayers should not be put on the hook for States which have been profligate. It says, specifically, that: Federal funds cannot be used to purchase obligations of States or local communities that are in default or are about to default, unless those States have gone through some sort of crisis such as the Katrina situation.

But if the default that the State or local community is about to experience is the function of their failure to discipline their fiscal house, then we are not going to ask the taxpayers across this country to support that error in judgment and that misguided fiscal policy of that State or that local government.

If we do not have this type of rule in play, basically we will be setting up a situation where the American people will become the guarantor of inappropriate actions across this country by legislators and city governments. You will have this untoward situation where you will basically create an atmosphere that there is an incentive for State governments and local communities to not be fiscally responsible.

It is this moral hazard issue. We debated it at considerable length when we discussed too big to fail in the banking system. This bill has a lot of issues, as far as I am concerned, but one of the things it actually handles reasonably well is the issue of too big to fail. It does need some adjustment. But it basically handles that issue pretty well.

We have designed language in this bill between Senator DODD and Senator SHELBY, which essentially says: No longer will the American taxpayer be presumed or in any way expected or have any obligation at all to support a financial institution which has gotten too large and has taken on too many risky decisions and is therefore in fiscal distress. That institution will fail. Its stockholders will be wiped out. Unsecured bondholders will be wiped out and the American taxpayer will not come in and defend that situation.

Too big to fail ends with this bill, hopefully. But it should apply also to States and local governments. We should not create the moral hazard of having taxpayers in New Hampshire or taxpayers in Nebraska or taxpayers in New Mexico responsible for profligate activity in other States.

In fact, many of our States, of course, have balanced budget requirements. In fact, in Nebraska, they do not even allow any debt, period. They have a constitutional amendment that says, there can be no debt. So they are extremely disciplined, these States, in the way they handle their budgets.

The taxpayers and the citizens of those States expect their leaders to be disciplined. So how can we ask those taxpayers and those citizens in those States that have been disciplined, who have elected people who are willing to live within their means as they govern, whether it is at the community level or at the State level, how can we ask those citizens across this country to go in and bail out other States and our communities that have been totally undisciplined in managing their fiscal house and have put themselves at huge distress and have defaulted on their debt or are about to default on their debt?

This is not acceptable. If we are going to have a bill which addresses the issue of too big to fail, it should apply to this type of a situation. So I have offered this amendment. It is very simple, as I said. It prohibits Federal funds from being used to purchase or guarantee obligations of States and local communities that are in default or about to go into default.

It is a pretty strict standard, pretty clear. If you have a State that for reasons of its own making has created a fiscal mess of inordinate proportions and cannot pay its debt, it cannot come to Washington and say: We want you to bail us out.

That is not right. That is not appropriate. So this bill bans that sort of an event from occurring. Why do we need to do this? It is pretty obvious. There are a couple States in this country that have been irresponsible in their spending, that have not disciplined themselves, and that, I think, are expecting everybody else in this country to bail them out.

I sure do not want to be part that. I do not want my taxpayers in New Hampshire to be part of that. It is not fair that they should be part of that. Those States are going to have to figure out how to straighten out their own fiscal house. They should have to do that within the terms of their own spending streams and their own revenue streams.

They should not expect the Federal Government to come in and take them out of their distress, which was self-imposed and self-created. There is an exception in this bill. There is this lan-

guage so that if a State is put into severe distress because of an emergency situation, such as a Katrina-type situation, this would not apply. Obviously, it should not apply then.

If it is a self-imposed event, simply resulting from the human nature of legislators and city councils to sometimes spend a heck of a lot more money than they have and that they can take in under their structure, they should have to pay for it and figure out how to deal with it themselves. They should not pass that problem on to the American people by financing it through Washington. It is consistent with the theme of this bill that there should be nothing that is too big to fail in this country, including State governments and local governments or financial institutions. I hope my colleagues will support the amendment.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. BURRIS. Mr. President, as I take the floor today, my colleagues and I are caught up in a momentous debate over the shape of our Wall Street reform bill.

This legislation will not only help secure America's continuing economic recovery, it will also help prevent this kind of economic crisis from happening again in the future.

It would create commonsense regulations designed to keep major institutions from gambling with America's economic stability, and it would extend a helping hand to the underserved populations that are currently suffering the most especially minority individuals and the elderly.

I believe when the history of this economic crisis is written, we will judge that its most damaging legacy was the harm it did to people's savings and investments.

It wiped out stock portfolios and 401(K)s. It forced many fixed-income retirees to go back to work, and it undermined the hard-earned retirement security of an entire generation of Americans. So it is time to take action.

We need to do everything we can to protect people's savings, investments, and retirement security.

In a broad sense, this means limiting the risk that big firms can pose to the economy as a whole, and shoring up our overall financial stability. But it also means we need to guard against fraud and abuse.

We need to prevent scam artists and people like Bernie Madoff from taking advantage of hard-working Americans, so folks can breathe a bit easier, so people know that their money is safe.

Today, many Americans—including 39 percent of minority households—invest in the financial markets.

Most of these folks expect their portfolio to be there for them when they retire.

But when big companies sell risky investment packages, and then bet against those investments—when companies have no incentive to be honest about high-risk opportunities—regular folks are bound to get the short end of the stick.

That is why we need to institute basic rules of the road—to cut down on fraud and misrepresentation, and make sure financial institutions are operating fairly.

That is why our Wall Street reform bill includes a number of key protections for American investors.

Our legislation would create a new program at the Securities and Exchange Commission which would mandate an annual assessment of all internal supervisory controls, and encourage folks to report violations.

It would establish a new Office of Credit Rating Agencies to strengthen regulation, expose hidden risks, and make sure a warning system is in place so we are never caught off guard again.

Our bill would also require companies that sell mortgage-backed securities to hold on to at least 5 percent of the credit risk—or meet underlying loan standards—so their performance is tied to the products they are distributing.

It would require these companies to be more transparent about the assets that underlie these securities, and more straightforward in their quality analysis.

Finally, our legislation would give a company's shareholders the right to a nonbinding vote on executive pay so pay can be brought in line with performance, and these folks can make their voices heard.

Together these measures would help to bring transparency and stability back to the financial markets.

This would bolster the integrity of people's investments, and would help ensure that their retirement savings are secure.

There will always be risk associated with making investments, and that is exactly as it should be.

That is how our free market system is designed to work.

But we need to eliminate the possibility that fraud and abuse can undermine the security of our entire economy.

We need to pass rules of the road that will keep financial institutions honest, so ordinary Americans will be protected from serious harm at the hands of those they entrust with their savings.

I yield the floor, suggest the absence of quorum, and ask unanimous consent that the time under the quorum be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. I ask unanimous consent to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. I joined the Senate Banking Committee about a year and a half ago, shortly after failures on Wall Street forced a taxpayer bailout. Bear Stearns, AIG, and other pillars of our economy had collapsed, and we learned that our financial system was built on a foundation of sand. The crisis on Wall Street hit Wisconsin households hard. Families lost their homes, workers lost their jobs, and retirees lost their life savings.

Seventy years ago Congress reacted aggressively to our gravest economic crisis, and put us on the road to prosperity by creating new regulations and institutions that avoided a meltdown for generations. By creating agencies like the Securities and Exchange Commission and establishing margin requirements, the Federal Government helped put the markets back on track.

We are now called on to set up rules to put our economy on the right track just like we did in the 1930s. For over a year, the Senate Banking Committee held hearings to study the financial crisis. We know that the conditions that led to this mess did not occur suddenly in 2008, and these problems cannot be fixed overnight.

Wall Street needs accountability and transparency to avoid future financial meltdowns. The legislation we are considering takes vital steps to end “too big to fail,” bring unregulated shadow markets into the light, and make our financial system work better for everyone.

This bill protects Main Street jobs by focusing on Wall Street, where the crisis began. Community banks and credit unions have continued to act responsibly, and should not be subject to new layers of regulation that will impede their business.

The bill also protects consumers, and I would like to thank Senator AKAKA for working with me on the consumer protections in title XII of this bill. This title will help mainstream financial institutions make small loans on affordable terms to people who are currently limited to riskier choices like payday loans. This title will also help Americans get bank accounts, and encourages banks to offer financial education to their customers.

I would also like to thank my friend and Chairman CHRIS DODD for his leadership on this legislation. Fixing our financial system is a complex challenge, and Chairman DODD has worked tirelessly to get this done right. He has been called upon to do so much in this Congress, and he has done it all with fairness, wisdom, and good humor. We will miss his steady hand in the future.

I hope the Senate will continue to work in a bipartisan manner to com-

plete this important bill. Our economy is slowly recovering from a devastating shock, and we must ensure that our progress is built on a more secure foundation. Continuing business as usual on Wall Street is not an option.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I rise to speak on the Gregg amendment and ask unanimous consent to be included as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. It is important we recognize what a fiscal crisis we face in the United States. Today, America's public debt stands at over \$12.9 trillion. Regrettably, that will be on our children's and grandchildren's credit cards. We have, just last year, raised that debt by \$1.4 trillion, and it will be \$1.6 trillion added this year. This mountain of debt is going on the backs of our children and grandchildren. We will have to pay the interest on it, but they are the ones who will bear the real burden. Taxpayers are already bailing out Wall Street and failed banks with \$700 billion; GM and Chrysler, \$80 billion; the toxic twins, Fannie Mae and Freddie Mac, more than \$1.2 trillion. We have tried unsuccessfully to deal with Fannie and Freddie in this financial regulation bill. When we look at the cause of the financial crisis, it is the subprime market, the bad home loans that were enabled by Fannie and Freddie being willing to purchase them. In my humble estimation, we should not pass a financial regulation bill designed to prevent a reoccurrence of the crisis which we have just gone through without dealing with Fannie and Freddie.

But when you look at the budget deficit, taxpayers are on the hook for \$1 trillion in a failed stimulus package which only created jobs in the governments. It was a government expansion, not a measure to create jobs in the private sector.

The President and majorities in Congress have also recently created a new taxpayer-funded entitlement for health insurance. Many of us in December were pointing out the fact that this bill would add to the debt, it would drive up costs of private health insurance, it would limit the ability of seniors on Medicare to get their services by cutting the amount of money going into Medicare, and it would lead to higher taxes.

Funny thing, the new Actuary at the CMS has just come out and repeated those same four things. The health care bill is not only going to drive up private insurance costs, you are not going to be able to keep the same plan you had, it will continue to squeeze down the services Medicare recipients can receive, and it will add to the deficit and, thus, the debt.

But how much more debt and how many more unfunded liabilities can we take on before destroying the economy? What is happening in Greece, regrettably, could happen here. I strongly support the Gregg amendment, which will ensure that taxpayer funds are not used to bail out States.

We talked about too big to fail in terms of financial institutions. We ought to be talking about it in terms of governments. We adopted an amendment saying we should not use taxpayer money to bail out Greece. But we should not be in the position where we would be called upon to bail out States which have been unable to get their spending under control and get their spending in line with their revenues.

I know a little bit about tight State budgets. When I was Governor of Missouri, we had to make tough decisions. I came back into office as Governor in 1981, with a huge deficit in the middle of the year, and we could not borrow money to cover that deficit. So we made major, drastic cuts in spending, and it was not pleasant. I was picketed by people who had to be laid off from the State government. But we readjusted and managed to provide services our State needed and put the State back on a sound financial footing.

States all across the country are taking tough steps. There are areas where they have agreed to go without services to get their budget back in balance. Most States do not have the ability to run deficits. Those that do have the ability to do that should not be operating on the false assumption that the Federal taxpayers and our children and our grandchildren will come back in and be asked to take the irresponsible and unacceptable task of putting a burden on residents of the States that have made the tough decisions and cut spending to pay for the mounting debt of other States that have spent their way into the red for years.

In fact, a bailout of States would create a disincentive, an ongoing disincentive, for State leaders to make tough decisions and implement necessary reforms to get their budgets in balance and future liabilities under control.

The Missourians I hear from are very angry. They are angry every day at spending money on things that are too big to fail. They are angry that the government continues to use their hard-earned dollars to help companies such as AIG and potentially to help a country such as Greece, which failed, instead of paying down our debt and cutting the runaway spending.

This bailout mentality must end. I thought that was one message we were going to carry with this legislation. I hope this legislation actually does, although I am concerned there are provisions that could enable the Federal Government to continue bailing out and taking over more businesses.

The Federal Government must not continue to be an enabler of those com-

panies or those countries or States that continue to spend beyond their means. It is time for the leadership at the State, as well as the national level, to make the decisions necessary to put all of us on a sound financial footing.

I thank Senator GREGG for his strong leadership on budget issues and for offering this amendment, and I urge my colleagues to support his amendment.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, first, let me thank the Senator from Missouri for his thoughtful and substantive discussion of this amendment. As a former Governor, I think he appreciates how tough it is to maintain balances in the State budget, and you have to make the very difficult decisions to make sure your State does not get its fiscal house into disarray and end up defaulting on debt. That would be the worst thing that could possibly happen if you were a Governor—or one of the worst things. In any event, he certainly did that when he was Governor. I tried to do that when I was Governor.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired.

Mr. GREGG. Mr. President, I ask unanimous consent that after the Senator from Connecticut has used up the time that was originally allocated to him, the remaining time between now and 12:05 be divided equally between the two sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent to speak on that remaining time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I think the Senator from Missouri has made a superb case that it is inappropriate to set up a structure where States can be profligate or communities can be profligate and then basically throw the problems they have created on the rest of the country and the taxpayers of the rest of the country—whether they are from New Mexico or Missouri or Connecticut or New Hampshire. There is no reason why our taxpayers should pay for inappropriate fiscal actions by some other State or some other community. Rather, those States and communities should have to straighten out their own financial house and not expect that they can come to the Federal Government for a bailout if their problems have been self-inflicted, created by their own failure to discipline their fiscal house.

As I said earlier in the discussion, a lot of States have a balanced budget amendment. I am not sure whether Missouri did—New Hampshire did not—but we understood if we did not run fis-

cally responsible budgets in New Hampshire, we would find our debt downgraded. That is what we were worried about—to get to the point where you might actually default, which would be, as I said, a totally terrible situation.

But in States that have balanced budget amendments, States which have worked very hard to keep their fiscal house in order, the taxpayers of those States should not have to suddenly step up and take care of the taxpayers of another State that has failed to do that. It is not fair. It is not equitable. You certainly do not want to create that atmosphere because if you have an atmosphere where one State can throw its problems on to every other State, then you create an incentive for States to be profligate and irresponsible.

AMENDMENT NO. 4051, AS MODIFIED

With those comments, Mr. President, I ask to modify my amendment. I believe the modification is at the desk.

Have we shared the modification with the Chairman?

Mr. DODD. I believe so.

I ask the Senator, this is the modification?

Mr. GREGG. Yes.

Mr. DODD. As I understand it, the modification is a new paragraph:

(d) Limitation.—Subsections (a) and (b) shall not apply to federal assistance provided in response to a natural disaster.

Is that right?

Mr. GREGG. That is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it will be so modified.

The amendment, as modified, is as follows:

On page 18, between lines 17 and 18, insert the following:

**SEC. 5. PROHIBITION ON THE USE OF FEDERAL FUNDS TO PAY STATE OBLIGATIONS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, no Federal funds may be used to purchase or guarantee obligations of, issue lines of credit to or provide direct or indirect grants-and-aid to, any State government, municipal government, local government, or county government which has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government.

(b) LIMIT ON USE OF BORROWED FUNDS.—The Secretary shall not, directly or indirectly, use general fund revenues or funds borrowed pursuant to title 31, United States Code, to purchase or guarantee any asset or obligation of any State government, municipal government, local government, or county government or to otherwise assist such governments, in any instance in which the State government, municipal government, or county government has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government.

(c) LIMIT ON FEDERAL RESERVE FUNDS.—The Board of Governors shall not, directly or indirectly, lend against, purchase, or guarantee any asset or obligation of any State government, municipal government, local



government, or county government or to otherwise assist such governments, in any instance in which the State government, municipal government, local government, or county government has defaulted on its obligations, is at risk of defaulting, or is likely to default, absent such assistance from the United States Government. Notwithstanding any other provision of law, no Federal funds may be used to pay the obligations of any State, or to issue a line of credit to any State.

(d) LIMITATION.—Subsections (a) and (b) shall not apply to Federal assistance provided in response to a natural disaster.

Mr. GREGG. A parliamentary question: Mr. President, don't I have the right to modify without asking for unanimous consent?

The PRESIDING OFFICER. There was a time limit on the amendment. That did require unanimous consent.

Mr. GREGG. I thank the Chair.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent that the time until 12:05 p.m. be divided for debate with respect to the Gregg amendment No. 4051, and that at 12:05 p.m., the Senate proceed to vote in relation to the amendment, with the provisions of the previous order remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, let me address this amendment, if I can.

First of all, let me express my admiration and respect for JUDD GREGG. He and I are good friends. We have worked together on numerous issues over the years, so I have developed a great deal of respect for him. In fact, it was JUDD GREGG and a handful of others who made it possible, 18 months ago, for us to develop the emergency economic stabilization bill. Without his leadership and support, I think our country, unarguably, and, beyond our own borders, the world would have been in much more difficult economic shape—had it not been for his leadership, along with others who pulled together that proposal that passed this body 75 to 24 on that night in late September of 2008. So my admiration for Senator GREGG—and among other accomplishments he has had during his service here—is strong.

This proposal, however, goes way beyond anything I have ever quite seen here, which basically says the Federal Government cannot provide any help to States and local governments. Then the wording of it: even if you might be in trouble.

I go back and I think of New York City, a major metropolitan area of our country, which was in economic difficulties. I do not remember the history, exactly, of what occurred that brought the city to that fiscal brink, but it was serious enough, and there was a serious debate here that occurred before I became a Member of this body over what could be done to help put that city back on its feet again.

As a result of the efforts, both in New York, New York State, as well as here, New York recovered, paid back whatever it was it received in financial assistance, and, arguably, the most important metropolitan area of our Nation survived a fiscal disaster.

Again, now, through the IMF and the World Bank, we appropriate moneys each and every year to support international organizations that have as one of their purposes—or their purpose is to provide financial assistance and stability to nations that are struggling. In many cases, I suspect they are struggling for exactly the same reason my colleague and friend from New Hampshire has identified: They made bad choices, bad decisions. I am not suggesting their problems were afflicted by outside forces, although that could happen.

Certainly what we are watching today in Europe is a classic example, where you have other nations now in trouble because of one Nation's I will even call it fiscal irresponsibility. I am not sure that is the final conclusion, but let's call it that. Yet we find the declining Euro, we find debt in trouble in that country, so other nations are feeling the effects of it.

We have all seen where events could occur in our own country: The automobile industry in Michigan ends up in deep trouble. That has an impact on other States. It certainly affects the economy of Michigan. The idea is "one nation," and we are one nation. We are not Europe where we have separate political structures and separate rules and regulations and one currency which pose difficulties. We are one people here, whether you live in New Hampshire or Connecticut or Arizona or Alaska or Hawaii or Texas or Oklahoma. Wherever it is, we are one people.

Lord knows, we do not want to reward irresponsible behavior on the part of a local government or a State. But the idea that we are going to terminate or not provide any kind of assistance because we have drawn the conclusion, in the wording of this amendment, as I read it in this language here:

The Board of Governors shall not, directly or indirectly, lend against, purchase—

All these things we could do here—

State government, municipal government, local government, or county government [that] has defaulted on its obligations, is at risk of defaulting, or is likely to default. . . .

Who makes that determination: "is likely to default" or "is in danger of"? Is there some omnipotent force that is going to lean over all of this and say: I think such and such a county or such and such a State is "in danger of"? That is pretty vague language here to decide, all of a sudden, regardless of the reasons.

We have excluded natural disasters. I appreciate that addition to this amendment. But there can be other factors

which can contribute to these circumstances in a State.

Again, according to the language on the first page of the amendment, it says:

Notwithstanding any other provision of law, no Federal funds may be used to purchase or guarantee obligations of, issue lines of credit to or provide direct or indirect grants-and-aid to, any State. . . .

I remind my colleagues that is a pretty broad, sweeping proposal.

Medicaid; the Children's Health Insurance Fund; the CDC's disease control, research, and prevention programs; the Special Supplementary Nutrition Program for Women, Infants, and Children; the Unemployment Trust Fund; Veterans Health Administration medical services; Department of Justice, State, and local enforcement assistance; FEMA—FEMA, I guess, may be excluded because of "a natural disaster"—but the idea we would be depriving a State of these resources seems to me would only exacerbate the problem.

Again, I will acknowledge in certain circumstances local governments or State governments have made irresponsible choices. But you do not blame the entire population of that State or locality because some leadership has made a bad choice and then cut off Medicaid, nutrition assistance, and so forth. Do you blame a child living in a State because some Governor, a mayor, a county executive has made dumb decisions, and all of sudden, we say: "I am sorry, you happen to live in that State. You are going to have to move. Go someplace else in order to get help"?

I, for the life of me, do not understand. I understand the frustration we all feel when we read about States and localities that could have made better decisions. But, again, I remind my colleagues here, we are one Nation—one Nation. "E Pluribus Unum"—they are the words right above the Presiding Officer's chair—"from the many, one." We are many: Over 300 million in 50 States and hundreds and hundreds of jurisdictions across the country. Thank the Lord we are not just some collection of disparate entities bound together by a common currency and little else. We are bound together by much more as a nation.

So I hope my colleagues, at 12:05 or thereafter when we vote on this, would say respectfully to our friend from New Hampshire that this amendment ought to be rejected.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I admire the Senator from Connecticut and I appreciate what he has done in his efforts to stabilize the financial industry in this country. At the core of what he has done, of course, is to say: No more bailouts. That is essentially what this



bill is about: No more bailouts; the taxpayers of this country will not step up and bail out large financial institutions which have taken actions which have put them at risk financially, and the only people who should bear that burden are the stockholders and the unsecured bondholders of those institutions.

What this bill also says is no bailouts, no bailouts for States which are in default or about to default on their debt. They are doing it not as a result of some external event forcing them into dire straits but because they simply spent their way into a fiscal situation where they can't pay their own debts. Why should the people of Connecticut, the people of New Hampshire have to bail out the people of California—let's be honest about this; this is about California, the people of California—because their government has been totally irresponsible in spending for a large number of years, has created a massive obligation, especially in their public pension programs, which they can't afford to pay? Why did they run up those obligations? So that people who were running for office in California could get elected. Just promise this, promise that, promise this, promise that. Then, the people in New Hampshire are supposed to pay to help those people get elected on those promises which they could never fulfill and for which they created obligations to pay for? I don't think so. I don't think that is fair or right.

If the people of New Hampshire and the people of Connecticut and the people of New Mexico have been fiscally responsible in the managing of their towns and their cities and their States and their counties, why should they suddenly have to pay for California which hasn't been? Clearly, they shouldn't. If we are going to have a no bailout bill, it ought to apply to California as well as to large financial institutions that have acted inappropriately and unwisely.

That is all this says. It doesn't say you are not going to be able to get your usual Federal assistance that comes through the usual course of action. That is a bit of hyperbole. I appreciate the intensity and energy of the Senator from Connecticut, but that is hyperbole. This is about not having Federal funds be available to States that are in default or about to go into default on their debt as a result of the actions of the State leadership as elected by the people of that State and not asking the people in the rest of the country to have to pay the cost of those inappropriate actions and those actions which were fiscally irresponsible. It seems like a proposal which is totally consistent with the basic purpose of this bill, which is to end bailouts.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I will not take a long time to respond.

First of all, the distinction between a public company—and, again, my colleague is absolutely correct; we want to end bailouts of those companies, and we certainly want to discourage the kind of behavior that can put a county or a city or a community or a State in fiscal jeopardy.

But the legislation also looks backward. On page 2 of the amendment it says: "Municipal government, local government, or county government which has defaulted on its obligation." So it isn't just those that may default. Orange County, CA, for instance, defaulted, and worked itself out of its difficulties. But now I am to understand that because Orange County was in default a number of years ago, got out of its difficulties, yet the adoption of this amendment would preclude Orange County potentially from getting any kind of assistance. I don't understand that.

Again, there are a lot of reasons, aside from natural disasters, why this can happen. Some of them have nothing to do—a major industry which all of a sudden finds itself departed. How many times have we seen a company located in a State or a locality, particularly a county, that is the major employer, employs thousands of people, all of a sudden go offshore. There is a dramatic decline in tax revenues that come in. So that community's obligations to its citizenry on education, health, highways, everything else, all of a sudden are in jeopardy. That is not mismanagement of the government. It is that company made the decision to leave. All of a sudden we find an area in trouble and they turn to their national government for some help, and we are saying: Well, because you are at risk of defaulting—not that you have defaulted; the language is, "is likely to default or at risk to default," you can't get any help because you might be in trouble, not because you have done anything wrong necessarily but because it has happened to you. I just feel that such a step would be draconian, in the extreme, when it comes to the people of our Nation who, from time to time, need help with that list of obligations that would have to be curtailed if a community is likely to or is at risk of defaulting or has defaulted on its obligations. Over what period of time? Are we talking about 10 years, 20 years, over 100 years? How far do I go back to determine whether someone has defaulted? What were the reasons for it that occurred at that time? It provides none of that relief, except that maybe it was a natural disaster.

Ms. STABENOW. Would my distinguished colleague yield for a question?

Mr. DODD. I am happy to yield.

Ms. STABENOW. First, I would say to our distinguished chair of the Banking Committee that when you describe

communities where businesses have collapsed and left communities struggling, certainly we have many of those in Michigan. Through no fault of the communities, and many times through no fault of businesses in terms of our recession right now, we have many communities in this situation.

Would the Senator from Connecticut agree that what we are talking about is not the cities or counties but the local communities and what happens? It is people. It is whether they are going to have a police force, police on the street or whether they are going to have the firefighters being able to answer if there is a fire or whether they are going to be able to pick up the garbage or whether they are going to be able to do snow removal on the streets. Aren't we talking about whether communities—people, families, and communities—if they need help, whether we would be able to respond to them? So it is not about the government; it is about whom it serves and the people who would be hurt through something such as this; would the Senator agree?

Mr. DODD. Mr. President, my colleague from Michigan is absolutely correct and that was the point I made earlier and she makes it even more strongly. Again, I don't want to sound like I am in a civics class, but we are not just sort of a collection of disparate States and communities, we are a country, we are one Nation. It has been a great source of our strength. Our country has been through difficult times periodically, obviously through some natural disasters, through some manmade disasters. We are dealing with one as we speak. That is not a natural disaster occurring in the Gulf of Mexico; that is a manmade one. People didn't put in the proper safeguards and all of a sudden we are looking at the worst environmental disaster maybe in our Nation's history.

What do we say to the States of Louisiana or Alabama or Florida, depending upon where these currents flow, and all of a sudden we find major industries—tourism, for instance, in the State of Florida. I don't know what percentage of the economy of that State depends upon tourism, but I suspect a pretty heavy number. All of a sudden beaches are closed on the west coast of Florida. Maybe that current brings it around to the east coast. All of a sudden hotels and resort areas are shut down. The economy begins to falter. A manmade disaster, created through the fault of some engineers or whoever else, of an oil company: What do we say if this amendment was adopted? I am sorry, Florida. It is in danger of defaulting or at risk of defaulting on its obligations because the revenues that would come into that State through the normal exercise of its business practices was affected not by a natural disaster but by one created through the fault, malfeasance or

misfeasance of a company that caused this kind of danger—or Louisiana, which has already been through a natural disaster and is now facing this one, or Alabama as well and its coastline.

So, again, for all these reasons, I urge my colleagues to reject this amendment. I thank my colleague from Michigan for making her points.

I reserve the remainder of my time, yield the floor, and note the absence of a quorum. I ask unanimous consent that the time be charged equally between the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 3884, AS MODIFIED

Mr. DODD. Mr. President, on behalf of Senator CANTWELL and others, I ask unanimous consent to send a modification to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end of subtitle C of title I, add the following:

#### SEC. 171. LIMITATIONS ON BANK AFFILIATIONS.

(a) LIMITATION ON AFFILIATION.—Beginning 2 years after the date of enactment of the Restoring American Financial Stability Act of 2010, no member bank may be affiliated, in any manner described in section 2(b), with any corporation, association, business trust, or other similar organization that is engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation stocks, bonds, debenture, notes, or other securities, except that nothing in this section shall apply to any such organization which shall have been placed in formal liquidation and which shall transact no business, except such as may be incidental to the liquidation of its affairs.

(b) LIMITATION ON COMPENSATION.—Beginning 2 years after the date of enactment of the Restoring American Financial Stability Act of 2010, no officer, director, or employee of any corporation or unincorporated association, no partner or employee of any partnership, and no individual, primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities, shall serve simultaneously as an officer, director, or employee of any member bank, except in limited classes of cases in which the Board of Governors of the Federal Reserve System may allow such service by general regulations when, in the judgment of the Board of Governors, it would not unduly influence the investment policies of such member bank or the advice given to customers by the member bank regarding investments.

(c) PROHIBITING DEPOSITORY INSTITUTIONS FROM ENGAGING IN INSURANCE-RELATED ACTIVITIES.—

(1) IN GENERAL.—Beginning 2 years after the date of enactment of this Act, in no case

may a depository institution engage in the business of insurance or any insurance-related activity.

(2) DEFINITION.—As used in this section, the term “business of insurance” means the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary to such writing or reinsuring and the activities relating to the writing of insurance or the reinsuring of risks conducted by persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.

Mr. DODD. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent to speak for 2 minutes remaining on Senator GREGG’s time.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 4051

Mr. BOND. Mr. President, the argument has been made that this bill would somehow limit responses to natural or manmade disasters, a natural disaster such as a flood or a tornado, a manmade disaster such as what is occurring in the gulf.

I have read this language. It is very clear. It is talking about defaulting on obligations. It in no way restricts the ability of the Federal Government to respond to disasters.

I used to chair the subcommittee on the Federal Emergency Management Act, and when there was a disaster, we provided money for those disasters, to deal with those disasters. But one cannot continue to present unbalanced budgets and enact them into law and continue to drive up the debt and say it is because of a natural or manmade disaster.

That is a stupid decision. I don’t think the taxpayers of the United States should be in a position of bailing out governments that make bad decisions and that, year after year after year, spend more money than they are taking in on their ongoing obligations. It has nothing to do with a sudden natural disaster or even a manmade disaster such as the spill in the gulf, which is partly natural and partly manmade. I agree that we should not stop providing assistance where there is such a disaster, but that is not the focus of this amendment.

I urge my colleagues who really believe we should not be promising to bail out profligate States that continue to spend more than they take in, we should not bail them out with taxpayer funds.

I yield the floor.

Mr. GREGG. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes 40 seconds.

Mr. GREGG. Mr. President, I really think the Senator from Connecticut is sort of reaching in his arguments here. This is really about a State like California defaulting and the rest of us having to pay for it. That is what this is about. This is about a State that has been irresponsible, to be kind, with its spending and now finds itself in a situation where it cannot pay its debt. You know the legislators of that State are saying: Let’s go to Washington and get the money so that we can get reelected on the basis of spending all this money. That is not fair. That is not how a federalist system is supposed to work. You cannot argue that the American system was set up so that when one State would be profligate, another State would have to pay for the cost of that profligateness.

The Senator’s bill uses this same language. The Senator from Connecticut had phraseology that claimed my language as inappropriate on the issue of default and how he defined it, and it basically mirrors his language in title II. If it works in title II, it ought to work here.

The real issue is that we should not set up a situation where States and communities can expect to spend a lot more than they can take in, know they are spending more than they are taking in, run up a lot of debts they cannot pay, and then come to the rest of America and say: You pay our debts because we want to get reelected. That is what this is about. It is limiting the ability of States to act in a fiscally irresponsible manner and expect the country will stand behind them and bail them out.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I ask unanimous consent that the time run equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I yield the floor.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the Gregg amendment.

Mr. GREGG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 153 Leg.]

## YEAS—47

Alexander	Crapo	McCain
Barrasso	DeMint	McCaskey
Baucus	Ensign	McConnell
Bayh	Enzi	Murkowski
Bennett	Feingold	Risch
Bond	Graham	Roberts
Brown (MA)	Grassley	Sessions
Brownback	Gregg	Shaheen
Bunning	Hatch	Shelby
Burr	Hutchison	Snowe
Chambliss	Inhofe	Tester
Coburn	Isakson	Thune
Cochran	Johanns	Vitter
Collins	Kyl	Voinovich
Corker	LeMieux	Wicker
Cornyn	Lugar	

## NAYS—50

Akaka	Gillibrand	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bingaman	Inouye	Pryor
Boxer	Johnson	Reed
Brown (OH)	Kaufman	Reid
Burris	Kerry	Rockefeller
Cantwell	Klobuchar	Sanders
Cardin	Kohl	Schumer
Carper	Landrieu	Stabenow
Casey	Lautenberg	Udall (CO)
Conrad	Leahy	Udall (NM)
Dodd	Levin	Warner
Dorgan	Lieberman	Webb
Durbin	Menendez	Whitehouse
Feinstein	Merkley	Wyden
Franken	Mikulski	

## NOT VOTING—3

Byrd	Lincoln	Specter
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The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 50. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, in a minute I will note the absence of a quorum, but we are working on a consent agreement that would schedule two votes after the weekly caucus conference lunches. We will possibly be able to do that. We are trying to get that written up. As soon as we get it written up, I will present it. But I see my colleague from Texas is ready to speak, so I will yield the floor and let her go ahead.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I was going to speak on the amendment Senator LANDRIEU and I have, the Hutchison-Landrieu amendment. I will be happy to yield any time the chairman of the committee wishes to clarify. Until he does, I will speak on the Hutchison-Landrieu amendment, which is an amendment that has been filed but is not yet pending.

This is an amendment that will provide a permanent exemption for publicly traded small businesses with less than \$150 million from the costly reporting requirements mandated by section 404(b) of the Sarbanes-Oxley Act. In removing this great burden, our amendment will free small businesses to focus on the capital investment and job creation that we need now to get our Nation's economy back on the right track.

In 2002, Congress passed the Sarbanes-Oxley Act in the aftermath of the huge accounting frauds at Enron, Tyco, and Worldcom. This landmark bill was enacted to restore investor confidence in the wake of these shocking abuses by making it harder for companies to misrepresent corporate earnings.

Hindsight is 20-20, though, and, while the Sarbanes-Oxley Act was well intentioned, it has created unexpected and unprecedented costs for the small to medium sized businesses that serve as the backbone of our economy.

The main culprit of this immense burden on small businesses is section 404 of Sarbanes-Oxley. Here a public company is required to include in its annual report an assessment of the effectiveness of its internal control structure and procedures for financial reporting. The company's auditor must attest to and report on the company's assessment.

The compliance costs of section 404(b) have been far greater than expected. In 2009, the SEC reported that companies paid an average of \$2.3 million to comply with section 404. When taking into account the size of a company, small businesses with less than \$150 million in public float, or the shares held by outside investors, are disproportionately encumbered by section 404(b), facing a compliance cost that is seven times greater than large companies.

Small businesses are being forced to tie up time and money on burdensome amounts of paperwork. They should be directing these resources toward operations and capital investment that will create jobs and spur our economy toward recovery. The Hutchison-Landrieu amendment will fix this issue, ensuring that smaller public companies will no longer be subject to the cost burden imposed by section 404(b).

Under current SEC rules, small public companies with less than \$75 million in public float are now exempt from section 404(b). However, this exemption expires in June. The Hutchison-Landrieu amendment builds on this existing exemption and takes into account recommendations from the SEC to increase the exemption. Our amendment will permanently exempt small businesses with less than \$150 million in public float from the section 404(b).

I am pleased that my amendment has the strong bipartisan support of my colleague, the distinguished chair of the Small Business Committee, Senator LANDRIEU. I also thank our other cosponsors, Senator BOB BENNETT, Senator SCOTT BROWN, Senator CRAPO, Senator DEMINT, and Senator HATCH.

We are offering our amendment on behalf of the small businesses across our country that face this disproportionate burden. We have the support of: The Biotechnology Industry Organiza-

tion, The Competitive Enterprise Institute, TechAmerica, The Association for Competitive Technologies, Advanced Medical Technology Association, and Technet.

These groups represent the companies that want to innovate. That want to grow. They want to excel. But their companies are spending vast amounts of money on compliance costs, and, according to an SEC study, this money is being misdirected. The SEC reports that 75 percent of companies believe that the attestations of auditors required by Sarbanes-Oxley have little to no impact on investor confidence. Thus, rather than devoting important resources to invest and create jobs, small businesses are spending millions of dollars on paperwork that investors don't even care about.

Our amendment also has the support of the Independent Community Bankers of America, and the American Bankers Association. Our community banks want to lend to worthy entrepreneurs and help jump start our economy. But our entrepreneurs and small businesses are hesitant to grow if they are hit with the high costs associated with 404(b) compliance.

We are also offering this amendment because of the unintended consequences on our initial public offering market brought by section 404(b). Since the enactment of Sarbanes-Oxley in 2002, IPOs in the United States have been lower each year than in every year of the 1990s. Even in 2006, the peak year of economic growth after Sarbanes-Oxley, the 162 U.S. IPOs were far below the 295 IPOs issued in 1991 when our economy was mired in recession. This drop-off in IPO's hit the map in 2008 and 2009, when, according to a Renaissance Capital report, the IPO level was lower than any period since the Vietnam war.

Why is this? Why are companies avoiding initial public offerings? Why are companies refusing to access the capital that the stock markets provide? Quite frankly, companies do not want to deal with onerous burden of Sarbanes-Oxley. And based on the costs I mentioned, who can blame them?

This provision incentivizes small businesses to remain private to avoid 404(b) altogether. Worse, it incentivizes small businesses to go abroad to markets such as the London Stock Exchange, which has advertised itself as a Sarbanes-Oxley Free Zone, to encourage our companies to do their IPOs there instead of in America.

Small businesses should not be incentivized to stop growing or list overseas. The Hutchison-Landrieu amendment also has the support of the New York Stock Exchange and NASDAQ, who want to see American companies list here and remain home-grown. Now more than ever, we should be encouraging our Nation's small businesses to invest in new jobs, plants

and markets. Our amendment will help small businesses do this by reducing their paperwork costs. A similar measure was included in the House financial reform language, and with immense bipartisan support. I ask my colleagues to support the Hutchison-Landrieu amendment to permanently exempt small businesses under \$150 million from Sarbanes Oxley section 404(b), to ensure that small businesses can fully devote their resources toward being the engines that drive our Nation's economy.

I ask unanimous consent to have printed in the RECORD the editorial that appeared today in the Wall Street Journal that is entitled "The No-Cost Stimulus."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 18, 2010]

#### THE NO-COST STIMULUS

Senate Majority Leader Harry Reid wants a floor vote this week on financial regulatory reform, and he should first add at least one provision worthy of the name. Senators Kay Bailey Hutchison (R., Texas) and Mary Landrieu (D., La.) have offered an amendment to spare the smallest public companies from the worst bureaucratic horrors of the 2002 Sarbanes-Oxley law.

Sarbox, the Beltway's previous attempt at financial-regulatory reform, was intended to improve the information investors receive about public companies. The law did nothing to prevent poor disclosure at companies like Lehman Brothers but it did saddle the U.S. economy with billions in unexpected costs. Even the Securities and Exchange Commission, a Sarbox cheerleader, found in a 2009 survey that the average public company pays more than \$2 million per year complying with the law's Section 404. The indirect costs may be much greater, as initial public offerings of U.S. companies have never returned to pre-Sarbox levels.

The SEC admits that compliance burdens fall disproportionately on smaller companies. This is one reason the two Senators aim to exempt companies with less than \$150 million of shares held by the public from "internal-controls" audits.

These audits are piled on top of the traditional financial audit, and on top of a company's own internal-controls review. The result is that going public in the U.S., once the dream of entrepreneurs world-wide, has for too many company founders become something to avoid. If President Obama is hoping for an unemployment rate below 9%, encouraging these job creators is an obvious step.

Thanks to New Jersey's Republican Scott Garrett and Democrat John Adler, the House has already passed a similar reform. Now the Senate should allow America's most innovative companies to create jobs at no cost to taxpayers.

Mrs. HUTCHISON. Mr. President, this editorial that appeared in the Wall Street Journal today says we can have a stimulus that will cost taxpayers nothing by freeing our small businesses and especially our entrepreneurial and high-tech businesses from the burdens of all this paperwork and instead let them focus on growing, on listing their IPOs in America for the benefit of the

American economy. That is what we should be doing, and that is what the editorial says.

I hope very much my colleagues will listen and we will be able to pass the Hutchison-Landrieu amendment, hopefully by voice vote. This should be a unanimous amendment passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I want to propound a unanimous consent request. It has been cleared on both sides. I ask unanimous consent that at 2:15 p.m., the Senate consider the following two amendments: Senator CORKER of Tennessee, amendment No. 4034, and Senator CARPER of Delaware, amendment No. 4071, which is side-by-side to the Corker amendment; that the amendments be debated concurrently for a total of 30 minutes, with the time equally divided and controlled between Senators CARPER and CORKER or their designees; that upon the use or yielding back of time, the Senate proceed to vote in relation to the Corker amendment, to be followed by a vote in relation to the Carper amendment, with no amendment in order to either amendment prior to a vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:40 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I ask unanimous consent to speak for 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010—Continued

##### ANTIPERSONNEL LANDMINES

Mr. LEAHY. Mr. President, earlier today I, along with 67 other Senators, sent a letter to President Obama on an issue that has concerned the Congress since the late 1980s.

Our letter, signed by more than two-thirds of the Senate, commends the President for conducting a comprehensive review of the U.S. Government's policy on antipersonnel mines. That review has been underway for some time, and I expect it will be completed later this summer.

It has involved consultations with the Department of Defense including active and retired U.S. military officers, the Department of State including current and former U.S. diplomats, key military allies, and humanitarian

and arms control organizations. The review has examined the historical record, asked rigorous questions, and solicited a wide range of views.

I want to thank the Senators who joined me and Senator VOINOVICH in signing this letter, which states our belief that through a thorough, deliberative review the administration can identify any obstacles to joining the Ottawa Treaty banning the production, use, transfer and stockpiling of antipersonnel mines, and develop a plan to overcome them as soon as possible.

The treaty has been signed by 158 countries, including our NATO allies whose troops are fighting with our forces in Afghanistan and Iraq, and by every other country in this hemisphere except Cuba.

This issue has a long history, and I do not have time to recount it in detail today. But suffice it to say that 13 years ago the United States missed an opportunity to play a leadership role in the international effort to ban antipersonnel mines, which culminated in the treaty. Although our country declined to join the treaty then, as early as 1994 President Clinton announced to the United Nations General Assembly his support for ridding the world of antipersonnel mines, and a plan to develop alternatives to these weapons with the intent of joining the treaty by 2006.

That date came and went, alternatives were developed, and U.S. troops have fought in two wars without, to the best of our knowledge, using these weapons. In the meantime, most of our closest allies have renounced antipersonnel mines, and their militaries long ago made the necessary doctrinal and technological adjustments to meet their force protection needs in accordance with the requirements of the treaty.

Antipersonnel landmines, which are triggered by the victim, have no place in the arsenal of a modern military. They function like some of the IEDs used by insurgents in Afghanistan and Iraq that have caused so many casualties of innocent people, as well as U.S. and coalition forces. Landmines are inherently indiscriminate, and no matter how sophisticated the technology they do not distinguish between a combatant and a civilian. They can be dropped by aircraft or disbursed by artillery by the thousands over wide areas. In today's fast moving battlefield where mobility is a priority, they can pose as much of a danger to our own forces as to the enemy.

Thirteen years ago the Pentagon argued that we should continue to stockpile antipersonnel mines. They said these weapons might be necessary in Korea or in a mechanized war against enemy armor.

But ownership and control of the mines in the Korean DMZ have been transferred to South Korea, and the

United States has renounced the use of these types of mines, including in Korea. While there is the possibility that one day we may find ourselves in a conventional war against a major world power, antipersonnel landmines would have little if any utility or relevance in such a war. Rather than our own troops needing these weapons, if our adversary were so lacking in more effective weapons as to use them, our troops would not need antipersonnel mines they would need effective countermine technology.

There have been other arguments made, none of which are persuasive. For example:

Some have asked, after landmines what is the next weapon the Pentagon will be asked to give up? Isn't this a slippery slope for those seeking to ban other types of weapons? This hypothetical question has nothing to do with antipersonnel landmines, which are in a unique category of weapons that are designed to be triggered by the victim.

They are not like bullets or bombs that are aimed or targeted by a soldier. They are inherently indiscriminate, activated by whoever comes into contact with them, whether an enemy soldier, a refugee woman searching for firewood, or a child. Renouncing landmines should have no bearing on U.S. policy toward other weapons.

I have heard it asked how we can ensure that our troops can operate in coalitions with countries that are not parties to the treaty, for example South Korea. The answer is the same way as the NATO countries that have signed the treaty whose troops are fighting in coalition with our forces in Afghanistan and Iraq.

Why join the treaty when we are in de facto compliance already? What would we gain at this point? First, this question implicitly acknowledges that the United States does not require antipersonnel landmines. We have not used them since 1991, we have not exported them since 1992, we have not produced them since 1997 and the Pentagon has no plan to do so in the future.

It is important to recognize that the United States is not causing the mine problem today, although mines we exported to dozens of countries, or that are left over from past wars involving U.S. forces especially in Southeast Asia, continue to kill and injure civilians.

But most importantly, it would be a mistake to underestimate or devalue the positive reaction, practical effects and depth of goodwill toward the United States and our military that would result from joining the treaty. Other countries know the United States, the world's most powerful nation, needs to be part of multilateral agreements if those agreements are to achieve their goals. And they know the

United States needs to be part of the solution to the landmine problem, which means more than conforming our policy to the treaty and it means more than joining the treaty. It means actively using our influence to persuade other countries to join. Countries like India and Pakistan, China and Russia, Israel and Egypt today make the excuse that the United States has not joined, so why should they?

One particularly farfetched notion is that giving up landmines while Russia, China and other potential adversaries keep theirs is at odds with our usual arms control strategy, which seeks to use disarmament agreements as a means of enhancing U.S. security. This makes sense in the context of long-range missiles and nuclear bombs, but antipersonnel landmines? We have not used these weapons for 19 years, and no one can credibly argue that they are necessary to protect the national security of the United States or that our security is threatened by China's and Russia's antipersonnel landmines which are deployed along their common border.

Today, the United States is the largest contributor to humanitarian demining, a fact I am proud of, and I have been asked if by joining the treaty we would feel less obligated to support it. This question is nonsensical to me. Speaking as the chairman of the Appropriations subcommittee that funds these programs, whether or not we are a party to the treaty has nothing to do with our interest and responsibility in helping get rid of the millions of mines and other unexploded ordnance that litter and plague dozens of countries, including allies like Jordan, Afghanistan and Vietnam whose citizens continue to lose their lives and limbs from these hidden killers. Some of those mines and bombs were manufactured here and left behind by U.S. forces decades ago.

Some might ask why bother developing a plan to join the treaty, since the fact that 68 Senators signed a letter supporting it does not guarantee that two-thirds of the Senate will vote to ratify it. It is true that no one can guarantee what the U.S. Senate will do about treaties or anything else. But that is hardly a reason not to join. The fact that more than two-thirds of the Senate today supports such a policy, including 10 Republicans and 2 Independents, should certainly give momentum to doing so, and convey to the President that the treaty would find wide acceptance in the Senate.

Finally, I have heard it suggested that U.S. troops might need antipersonnel mines in Afghanistan. I find it hard to imagine that the United States, which has spent hundreds of millions of dollars to get rid of mines left over from past wars in Afghanistan that have killed and injured more civilians than in any other country, at a

time when our military leaders are trying to minimize civilian casualties which have caused so many Afghans to turn against us, would use antipersonnel landmines in Afghanistan—a party to the treaty—and risk the public outcry that would result.

We could debate whether the United States should have joined the Ottawa Convention 13 years ago, but there is no point in that. The question today is why not now? Many years have passed and we have seen the benefits of the treaty. The number of antipersonnel mines produced and exported has plummeted, as has the number of victims.

But landmines remain a deadly legacy in many countries, and the world needs the leadership of the United States to help universalize the treaty and put an end to the time when antipersonnel landmines were an acceptable weapon. It will not happen overnight, but it will never happen without U.S. support. As President Obama said in his acceptance speech for the Nobel Peace Prize, "I am convinced that adhering to standards, international standards, strengthens those who do, and isolates and weakens those who don't." We are fortunate to have a President, and top leaders at the Pentagon and commanders on the battlefield, who recognize that civilians far too often bear the brunt of war's misery, and who believe that we can and must do more to prevent it. There is no better way to begin implementing that important principle, and working toward that goal, than by joining the Ottawa Treaty.

The United States is by far the world's strongest military power. We also have the moral authority that no other country has and the obligation to use that authority in ways that set an example for the rest of the world. It was 16 years ago that President Clinton embraced the goal of ridding the world of these indiscriminate weapons. The Obama administration's review of U.S. policy can finally turn that goal into reality.

I ask unanimous consent that a copy of the letter sent to President Obama be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, May 18, 2010.

Hon. BARACK OBAMA,  
The White House,  
Washington, DC.

DEAR MR. PRESIDENT, we are writing to convey our strong support for the Administration's decision to conduct a comprehensive review of United States policy on landmines. The Second Review Conference of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, held last December in Cartagena, Colombia, makes this review particularly timely. It is also consistent with your commitment to reaffirm U.S. leadership in solving global problems and with your remarks in

Oslo when you accepted the Nobel Peace Prize: "I am convinced that adhering to standards, international standards, strengthens those who do, and isolates and weakens those who don't."

These indiscriminate weapons are triggered by the victim, and even those that are designed to self-destruct after a period of time (so-called "smart" mines) pose a risk of being triggered by U.S. forces or civilians, such as a farmer working in the fields or a young child. It is our understanding that the United States has not exported anti-personnel mines since 1992, has not produced anti-personnel mines since 1997, and has not used anti-personnel mines since 1991. We are also proud that the United States is the world's largest contributor to humanitarian demining and rehabilitation programs for landmine survivors.

In the ten years since the Convention came into force, 158 nations have signed including the United Kingdom and other ISAF partners, as well as Iraq and Afghanistan which, like Colombia, are parties to the Convention and have suffered thousands of mine casualties. The Convention has led to a dramatic decline in the use, production, and export of anti-personnel mines.

We note that our NATO allies have addressed their force protection needs in accordance with their obligations under the Convention. We are also mindful that anti-personnel mines pose grave dangers to civilians, and that avoiding civilian casualties and the anger and resentment that result has become a key priority in building public support for our mission in Afghanistan. Finally, we are aware that anti-personnel mines in the Korean DMZ are South Korean mines, and that the U.S. has alternative munitions that are not victim-activated.

We believe the Administration's review should include consultations with the Departments of Defense and State as well as retired senior U.S. military officers and diplomats, allies such as Canada and the United Kingdom that played a key role in the negotiations on the Convention, Members of Congress, the International Committee of the Red Cross, and other experts on landmines, humanitarian law and arms control.

We are confident that through a thorough, deliberative review the Administration can identify any obstacles to joining the Convention and develop a plan to overcome them as soon as possible.

Sincerely,

Patrick Leahy, George V. Voinovich, Richard G. Lugar, John F. Kerry, Jack Reed, Orrin G. Hatch, Daniel K. Inouye, Carl Levin, Olympia J. Snowe, Charles E. Schumer, Joseph I. Lieberman, Robert F. Bennett, Jeff Bingaman, Dianne Feinstein, Susan M. Collins, Ben Nelson, Max Baucus, Lisa Murkowski, Judd Gregg, Robert Menendez, Arlen Specter, Barbara A. Mikulski, Sheldon Whitehouse, Christopher J. Dodd, Harry Reid, Sherrod Brown, Benjamin L. Cardin, Kent Conrad, Mike Crapo, Bill Nelson, Richard J. Durbin, Patty Murray, Ron Wyden, Blanche L. Lincoln, Byron Dorgan, Mark Warner, Evan Bayh, George S. LeMieux, Michael F. Bennet, Mary L. Landrieu, Russell D. Feingold, Tim Johnson, Maria Cantwell, Thomas R. Carper, Herb Kohl, Kirsten E. Gillibrand, Robert C. Byrd, Frank R. Lautenberg, Jon Tester, John D. Rockefeller IV, Edward E. Kaufman, Daniel K. Akaka, Mark L. Pryor, Kay R. Hagan, Tom Udall, Jeanne Shaheen, Claire McCaskill, Al

Franken, Mark Udall, Jeff Merkley, Debbie Stabenow, Robert P. Casey, Jr., Mark Begich, Amy Klobuchar, Tom Harkin, Barbara Boxer, Roland W. Burris, Bernard Sanders.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

AMENDMENT NO. 3997 TO AMENDMENT NO. 3739

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the pending business be set aside and my amendment No. 3997 be called up.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Mr. President, reserving the right to object, I understand the amendment is dealing with the Congo that is being offered by my colleague from Kansas and the Senator from Maryland. Is that correct?

Mr. BROWNBACK. The Senator from Wisconsin and the Senator from Illinois are the cosponsors on this one.

Mr. DODD. This is a good amendment and one that I believe has great value. It has been agreed to across the spectrum in the Senate. So if we can get a quick voice vote, I am prepared to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant bill clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK], for himself, Mr. FEINGOLD, Mr. DURBIN, Mr. SPECTER, Mr. BROWN of Ohio, Mr. JOHNSON, Mr. WHITEHOUSE, Mr. LAUTENBERG, Mrs. BOXER, and Mr. MERKLEY, proposes an amendment numbered 3997 to amendment number 3739.

Mr. BROWNBACK. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require annual disclosure by certain persons to the Securities and Exchange Commission if columbite-tantalite, cassiterite, gold, or wolframite from the Democratic Republic of Congo are necessary to the functionality or production of a product manufactured by the person)

On page 1565, after line 23, add the following:

#### **TITLE XIII—CONGO CONFLICT MINERALS**

##### **SEC. 1301. SENSE OF CONGRESS ON EXPLOITATION AND TRADE OF COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.**

It is the sense of Congress that the exploitation and trade of columbite-tantalite, cassiterite, gold, and wolframite in the eastern Democratic Republic of Congo is helping to finance extreme levels of violence in the eastern Democratic Republic of Congo, particularly sexual and gender-based violence, and contributing to an emergency humanitarian situation therein, warranting the provisions of section 13(o) of the Securities Exchange Act of 1934, as added by section 1302.

##### **SEC. 1302. DISCLOSURE TO SECURITIES AND EXCHANGE COMMISSION RELATING TO COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.**

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by section

763 of this Act, is further amended by adding at the end the following new subsection:

“(o) DISCLOSURES TO COMMISSION RELATING TO COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection, the Commission shall promulgate rules requiring any person described in paragraph (2)—

“(A) to disclose annually to the Commission in a report—

“(i) whether the columbite-tantalite, cassiterite, gold, or wolframite that was necessary as described in paragraph (2)(A)(ii) in the year for which such report is submitted originated or may have originated in the Democratic Republic of Congo or an adjoining country; and

“(ii) a description of the measures taken by the person, which may include an independent audit, to exercise due diligence on the source and chain of custody of such columbite-tantalite, cassiterite, gold, or wolframite, or derivatives of such minerals, in order to ensure that the activities of such person that involve such minerals or derivatives did not directly or indirectly finance or benefit armed groups in the Democratic Republic of Congo or an adjoining country; and

“(B) make the information disclosed under subparagraph (A) available to the public on the Internet website of the person.

“(2) PERSON DESCRIBED.—

“(A) IN GENERAL.—A person is described in this paragraph if—

“(i) the person is required to file reports to the Commission under subsection (a)(2); and

“(ii) columbite-tantalite, cassiterite, gold, or wolframite is necessary to the functionality or production of a product manufactured by such person.

“(B) DERIVATIVES.—For purposes of this paragraph, if a derivative of a mineral is necessary to the functionality or production of a product manufactured by a person, such mineral shall also be considered necessary to the functionality or production of a product manufactured by the person.

“(3) REVISIONS AND WAIVERS.—The Commission shall revise or temporarily waive the requirements described in paragraph (1) if the President determines that such revision or waiver is in the public interest.

“(4) TERMINATION OF DISCLOSURE REQUIREMENTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the requirements of paragraph (1) shall terminate on the date that is 5 years after the date of the enactment of this subsection.

“(B) EXTENSION BY SECRETARY OF STATE.—The date described in subparagraph (A) shall be extended by 1 year for each year in which the Secretary of State certifies that armed parties to the ongoing armed conflict in the Democratic Republic of Congo or adjoining countries continue to be directly involved and benefitting from commercial activity involving columbite-tantalite, cassiterite, gold, or wolframite.

“(5) ADJOINING COUNTRY DEFINED.—In this subsection, the term ‘adjoining country’, with respect to the Democratic Republic of Congo, means a country that shares an internationally recognized border with the Democratic Republic of Congo.”.

##### **SEC. 1303. REPORT.**

Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that includes the following:



(1) An assessment of the effectiveness of section 13(o) of the Securities Exchange Act of 1934, as added by section 1302, in promoting peace and security in the eastern Democratic Republic of Congo.

(2) A description of the problems, if any, encountered by the Securities and Exchange Commission in carrying out the provisions of such section 13(o).

(3) A description of the adverse impacts of carrying out the provisions of such section 13(o), if any, on communities in the eastern Democratic Republic of Congo.

(4) Recommendations for legislative or regulatory actions that can be taken—

(A) to improve the effectiveness of the provisions of such section 13(o) to promote peace and security in the eastern Democratic Republic of Congo;

(B) to resolve the problems described pursuant to paragraph (2), if any; and

(C) to mitigate the adverse impacts described pursuant paragraph (3), if any.

Mr. BROWNBACK. This is an issue that has been around for several years. It is on Congo conflict commodities. It is a narrow SEC reporting requirement. As I understand, both sides have cleared it. I would ask, if possible, if we can get it up for a voice vote. I certainly want to go with the timeframes of the manager and be cognizant of the Senator from Tennessee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3997) was agreed to.

Mr. DODD. Mr. President, I move to reconsider that vote and lay that motion upon the table.

The motion to lay upon the table was agreed to.

Mr. DODD. Mr. President, what is the pending business now?

The PRESIDING OFFICER. The next amendment in order is the Corker amendment.

Mr. DODD. There is 30 minutes equally divided between the proponents and opponents of that and the Carper amendment?

The PRESIDING OFFICER. That is correct.

The Senator from Tennessee.

AMENDMENT NO. 4034 TO AMENDMENT NO. 3739

Mr. CORKER. Mr. President, I hope I have the good fortune our Senator from Kansas just had. I ask unanimous consent to call up amendment No. 4034.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. CORKER] proposes an amendment numbered 4034 to amendment No. 3739.

The amendment is as follows:

(Purpose: To address the applicability of certain State authorities with respect to national banks, and for other purposes)

On page 1315, strike line 18, and all that follows through page 1325, line 20 and insert the following:

“(B) the State consumer financial law is preempted in accordance with the legal standards of the decision of the Supreme Court in *Barnett Bank v. Nelson* (517 U.S. 25 (1996)), and any preemption determination

under this subparagraph may be made by a court or by regulation or order of the Comptroller of the Currency, on a case-by-case basis, in accordance with applicable law; or

“(C) the State consumer financial law is preempted by a provision of Federal law other than this title.

“(2) SAVINGS CLAUSE.—This title does not preempt, annul, or affect the applicability of any State law to any subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank).

“(3) CASE-BY-CASE BASIS.—

“(A) DEFINITION.—As used in this section the term ‘case-by-case basis’ refers to a determination pursuant to this section made by the Comptroller concerning the impact of a particular State consumer financial law on any national bank that is subject to that law, or the law of any other State with substantively equivalent terms.

“(B) CONSULTATION.—When making a determination on a case-by-case basis that a State consumer financial law of another State has substantively equivalent terms as one that the Comptroller is preempting, the Comptroller shall first consult with the Bureau of Consumer Financial Protection and shall take the views of the Bureau into account when making the determination.

“(4) RULE OF CONSTRUCTION.—This title does not occupy the field in any area of State law.

“(5) STANDARDS OF REVIEW.—

“(A) PREEMPTION.—A court reviewing any determinations made by the Comptroller regarding preemption of a State law by this title shall assess the validity of such determinations, depending upon the thoroughness evident in the consideration of the agency, the validity of the reasoning of the agency, the consistency with other valid determinations made by the agency, and other factors which the court finds persuasive and relevant to its decision.

“(B) SAVINGS CLAUSE.—Except as provided in subparagraph (A), nothing in this section shall affect the deference that a court may afford to the Comptroller in making determinations regarding the meaning or interpretation of title LXII of the Revised Statutes of the United States or other Federal laws.

“(6) COMPTROLLER DETERMINATION NOT DELEGABLE.—Any regulation, order, or determination made by the Comptroller of the Currency under paragraph (1)(B) shall be made by the Comptroller, and shall not be delegable to another officer or employee of the Comptroller of the Currency.

“(c) SUBSTANTIAL EVIDENCE.—No regulation or order of the Comptroller of the Currency prescribed under subsection (b)(1)(B), shall be interpreted or applied so as to invalidate, or otherwise declare inapplicable to a national bank, the provision of the State consumer financial law, unless substantial evidence, made on the record of the proceeding, supports the specific finding regarding the preemption of such provision in accordance with the legal standard of the decision of the Supreme Court of the United States in *Barnett Bank of Marion County, N.A. v. Nelson*, Florida Insurance Commissioner, et al., 517 U.S. 25 (1996).

“(d) PERIODIC REVIEW OF PREEMPTION DETERMINATIONS.—

“(1) IN GENERAL.—The Comptroller of the Currency shall periodically conduct a review, through notice and public comment, of each determination that a provision of Federal law preempts a State consumer financial law. The agency shall conduct such re-

view within the 5-year period after prescribing or otherwise issuing such determination, and at least once during each 5-year period thereafter. After conducting the review of, and inspecting the comments made on, the determination, the agency shall publish a notice in the Federal Register announcing the decision to continue or rescind the determination or a proposal to amend the determination. Any such notice of a proposal to amend a determination and the subsequent resolution of such proposal shall comply with the procedures set forth in subsections (a) and (b) of section 5244 of the Revised Statutes of the United States (12 U.S.C. 43 (a), (b)).

“(2) REPORTS TO CONGRESS.—At the time of issuing a review conducted under paragraph (1), the Comptroller of the Currency shall submit a report regarding such review to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report submitted to the respective committees shall address whether the agency intends to continue, rescind, or propose to amend any determination that a provision of Federal law preempts a State consumer financial law, and the reasons therefor.

“(e) APPLICATION OF STATE CONSUMER FINANCIAL LAW TO SUBSIDIARIES AND AFFILIATES.—Notwithstanding any provision of this title, a State consumer financial law shall apply to a subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank) to the same extent that the State consumer financial law applies to any person, corporation, or other entity subject to such State law.

“(f) PRESERVATION OF POWERS RELATED TO CHARGING INTEREST.—No provision of this title shall be construed as altering or otherwise affecting the authority conferred by section 5197 of the Revised Statutes of the United States (12 U.S.C. 85) for the charging of interest by a national bank at the rate allowed by the laws of the State, territory, or district where the bank is located, including with respect to the meaning of ‘interest’ under such provision.

“(g) TRANSPARENCY OF OCC PREEMPTION DETERMINATIONS.—The Comptroller of the Currency shall publish and update no less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:

“Sec. 5136C. State law preemption standards for national banks and subsidiaries clarified.”.

#### SEC. 1045. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES.

Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

“(i) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILIATES OF NATIONAL BANKS.—

“(1) DEFINITIONS.—For purposes of this subsection, the terms ‘depository institution’, ‘subsidiary’, and ‘affiliate’ have the same meanings as in section 3 of the Federal Deposit Insurance Act.



“(2) RULE OF CONSTRUCTION.—No provision of this title shall be construed as preempting, annulling, or affecting the applicability of State law to any subsidiary, affiliate, or agent of a national bank (other than a subsidiary, affiliate, or agent that is chartered as a national bank).”.

**SEC. 1046. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS AND SUBSIDIARIES CLARIFIED.**

(a) IN GENERAL.—The Home Owners’ Loan Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 5 the following new section:

**“SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS CLARIFIED.**

“(a) IN GENERAL.—Any determination by a court or by the Director or any successor officer or agency regarding the relation of State law to a provision of this Act or any regulation or order prescribed under this Act shall be made in accordance with the laws and legal standards applicable to national banks regarding the preemption of State law.

“(b) PRINCIPLES OF CONFLICT PREEMPTION APPLICABLE.—Notwithstanding the authorities granted under sections 4 and 5, this Act does not occupy the field in any area of State law.”.

(b) CLERICAL AMENDMENT.—The table of sections for the Home Owners’ Loan Act (12 U.S.C. 1461 et seq.) is amended by striking the item relating to section 6 and inserting the following new item:

“Sec. 6. State law preemption standards for Federal savings associations and subsidiaries clarified.”.

**SEC. 1047. VISITORIAL STANDARDS FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.**

(a) NATIONAL BANKS.—Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

“(j) VISITORIAL POWERS.—

“(1) IN GENERAL.—In accordance with the decision of the Supreme Court of the United States in *Cuomo v. Clearing House Assn.*, L. L. C., 5 (129 S. Ct. 2710 (2009)), no provision of this title which relates to visitorial powers or otherwise limits or restricts the visitorial authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring an action in a court of appropriate jurisdiction to enforce an applicable nonpreempted State law against a national bank, as authorized by such law, and to seek relief as authorized by such law.

“(2) EXCLUSION.—The powers granted to State attorneys general and State regulators under section 1042 of the Restoring American Financial Stability Act of 2010 shall not apply to any national bank, or any subsidiary thereof, regulated by the Office of the Comptroller of the Currency.

“(k) ENFORCEMENT ACTIONS.—The ability of the Comptroller of the Currency to bring an enforcement action under this title or section 5 of the Federal Trade Commission Act does not preclude any private party from enforcing rights granted under Federal or State law in the courts.”.

(b) SAVINGS ASSOCIATIONS.—Section 6 of the Home Owners’ Loan Act (as added by this title) is amended by adding at the end the following:

“(c) VISITORIAL POWERS.—The provisions of sections 5136C(j) of the Revised Statutes of the United States shall apply to Federal sav-

ings associations, and any subsidiary thereof, to the same extent and in the same manner as if such savings associations, or subsidiaries thereof, were national banks or subsidiaries of national banks, respectively.

Mr. CORKER. Mr. President, I know we have two side-by-side amendments. I know the Senator from Delaware, Mr. CARPER, has an amendment which, by the way, I hope everyone on my side of the aisle will support. It has to do with Federal preemption. I think it is a good amendment. I do not think it goes far enough.

Let me speak to the differences. First of all, both the Carper amendment and the Corker amendment deal with the fact that if there is a Federal law relating to our banking system, that cannot be preempted, generally speaking, by State law. I think that is a good step in the right direction. Certainly, I commend Senator CARPER for doing that.

It is something that, by the way, our national banks obviously fully support. They want the ability to operate around the country and know that the rules of the road are basically going to be the same. Where the Carper amendment falls short, and my amendment deals with an issue, is the fact that there are 50 State AGs around the country who, as a result of the Dodd bill, are going to be turned loose on our community banks.

What I mean by that is, the consumer protection agency, as it has been created in the Dodd bill, has no check and balance. It has a very large budget. It is renting space, if you will, at the Federal Reserve. So it has no prudential regulator that is overseeing the rules that it creates.

This consumer protection agency has the ability to write rules with no veto authority against the safety and soundness of financial institutions. Then it has the ability to enforce those rules. A lot of my friends on the other side of the aisle, and certainly people on my side of the aisle, have sought to protect community banks from this consumer protection agency. Let’s face it. A big part of that was to build political support for this bill so that community bankers all across our country would rally because they were not necessarily going to be directly under the enforcement of consumer protection.

But the Dodd bill does something else that is very detrimental. That is why they still are very concerned. It allows the 50 State AGs around this country to take actions against credit unions, to take actions against community banks, based on the rules that this consumer protection agency creates.

So here we are, we are going to create an organization that has no real check and balance against the rules that it writes. Then when it writes a rule, an AG in Tennessee or an AG in Alabama or an AG in Delaware or Connecticut can take action against a community bank over these rules.

So it does not matter anymore that this consumer protection agency does not enforce directly against that. Instead, what we have is these AGs all around the country who now will be suing credit unions, suing small banks over rules this Federal agency is creating that has no check and balance against it.

I find that very cumbersome. But to add to that, the Dodd bill adds language called “abusive.” In other words, there is a new standard that is going to be created and be the law of the land, a new standard called “abusive” that is very vague. By the way, this “abusive” language comes in after the fact.

So what it means is, if party A and party B enter into a deal and an AG decides that under this abusive standard one party has been aggrieved—this is after the fact—then whatever contract they have entered into, if it was a loan, for instance, which is likely to be the case, that loan is totally done away with. You cannot enforce against it.

I think this is one of the worst attributes of this bill. The fact that community bankers all across this country in some ways may have thought originally that they were not going to get caught up in this consumer protection agency—oh, no, that is not the case. The fact is, again, 50 AGs around this country—not based on statutes, based on rules—in other words, you know they have the enumerated statutes in this bill under which they can make rules. Then there has been some added in title X—the definition of “abusive,” which, again, is very vague, added into this.

But this agency is an agency I believe is going to be very proactive, and I think that is why most people on the other side of the aisle are so excited about this. That is why the White House is very excited about this. They know this is another one of those cases—let no crisis go to waste. We have the opportunity now, because of this crisis, to create this czar, this czar that has no board, and under statutes that are already passed, and some that we are going to pass if this bill passes. This agency can then make rules.

I want to say this one more time. They are going to make rules, and then every AG in the country is going to have the ability, after contracts have been entered into, to say: No, that is abusive, and to basically void those.

This is going to create so much uncertainty out there. Again, to have an organization like this, unfettered, dealing with these types of issues, and then for the first time, for the first time in years, allowing those State AGs to take actions against some of these smaller institutions, I know people in Tennessee—it is not the people on Wall Street. I think we know CitiGroup and Goldman have all come out and said they support this bill.

Why not? The big guys always do better when we create regulations. It is

the small guys back in my State who have great concerns. I just want to say, this is one of the most dangerous and problematic attributes of this bill.

So in the name of ensuring that our community banks and credit unions and other small institutions across our country are not abused, are not abused as it relates to this bill, what I hope will happen is that people will not only support the Carper amendment, which does half the job—when you have a bill like this, certainly I support half a loaf of improvement. I hope they will support the Carper amendment, but I hope my friends on the other side of the aisle will join what I believe will be almost everyone on this side of the aisle to ensure that those very people we talk about, talk about back home, do not have advantage taken of them by this consumer protection agency that is unfettered, that is going to write rules, that is going to give the ability to State AGs around this country to take actions against State banks, local banks, but also national banks, to take actions against them based on Federal rules—not just Federal laws, Federal rules.

I will stop. I know my time is about up. This is a very commonsense amendment. I say to my friends on the other side of the aisle: I have offered no messaging amendments, none. I have tried to offer a few commonsense amendments to deal with frailties in this bill that I believe are real. I know there is a lot of stress on the other side of the aisle with everybody trying to hold together. I know the White House and Treasury are over here meeting in backrooms trying to keep people from supporting things that make common sense. I hope others will join with me to ensure that we don't allow this unfettered organization, this czar over consumer protection, to create rules that then put community banks and others at great risk and have the ability to break contracts after the fact based on very vague language that 50 AGs may interpret in very different ways on a case-by-case basis, in whatever mood they are in on that day. I think that is problematic.

I yield the floor.

AMENDMENT NO. 4071 TO AMENDMENT NO. 3739

(Purpose: To address the applicability and preservation of certain State authorities, and for other purposes)

Mr. CARPER. Mr. President, I call up amendment No. 4071.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. CARPER], for himself, Mr. BAYH, Mr. JOHNSON, and Mr. WARNER, proposes an amendment numbered 4071 to amendment No. 3739.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. CARPER. Mr. President, I would like to state to the manager of the bill, if I could ask a question of Senator

DODD, one of Senator REID's right-hand lieutenants asked me to ask for an additional 5 minutes on both the Corker and Carper amendments. I presume that has been cleared with him.

Mr. DODD. I have no objection.

Mr. CARPER. I ask unanimous consent that both on the Corker amendment and the amendment I have offered, we have an additional 5 minutes for a total of 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Mr. President, let me start off by thanking Senator CORKER for all the time and energy he and Courtney and others on his staff have put into this issue, both in committee and as we come to the floor.

Last week, Senator CORKER and I and about 11 other Republicans and a number of Democrats joined to offer the amendment he is offering at this time. When it became clear to me that we were not going to be able to muster the 60 votes to prevail on what was our amendment, we began working with Senator DODD and his staff—I hope we kept our colleagues in the loop, as we went through the negotiations—to come up with legislation that enables us to get a half a loaf. I think we probably got more than half a loaf. Time will tell. History will judge.

I wish to back up a little bit and say what I think the authors of the legislation had in mind in the bill as it came to the floor. The idea is to create a new unit I call the consumer bureau. Their job is to promulgate the rules and regulations with respect to consumer protections, not only for national banks or State-chartered banks, not just for credit unions or nonbank banks but for all of the above. That is a big part of the job. The job of the new consumer bureau is to promulgate rules and regulations going forward to protect consumers.

Does that entity have an enforcement responsibility as well? Yes, they do. Under the bill as it came to the floor, they would have the obligation for enforcing, among the largest national banks—roughly 100—the rules and regulations with respect to consumer protection which they promulgate.

I like to think of about three or four entities. One is nonbank banks, a second is credit unions, third is State chartered banks, and the fourth is the national banks. Of those four, the one for sure the consumer bureau actually enforces the rules that will be promulgated is with national banks and the largest ones there. Most of the banks we have in this country are State chartered. Under current law and under this legislation, not only would their safety and soundness regulator, the FDIC, be the regulator for consumer protections, but under current law, under the law going forward, State officials can also enter into those frays and again try to

undertake actions to protect consumers. That could be done now, and it can be done the way the bill is written.

With respect to nonbank banks, under current law, the FTC has the responsibility going into this endeavor of enforcing consumer protections. They would have the responsibility of enforcing the protections of the rules promulgated by the consumer bureau. There is a good chance that going forward the FTC will also have responsibility for enforcing the consumer protections for the nonbank banks. Credit unions, correct me if I am wrong, I think the responsibility there lies with the NCUA. They are the safety and soundness regulators for credit unions, and they are also the responsible regulator for consumer protection. I am not sure that will change.

What will change is they will have some additional rules and regulations promulgated by the consumer bureau to enforce at least that much. This is where we have gotten into a big debate.

The question is, How about national banks that operate, in some cases, in all 50 States? Who is going to enforce the rules to protect consumers from them?

The way it has worked for years, we followed the guidance of two Supreme Court decisions in this regard. One of them is called Barnett Bank. It has been a part of the case law for about 14 years. The other is called Cuomo v. Clearinghouse. I am not sure why. That is what it is called.

Essentially, the first case law under Barnett attempts to say: We have these national banks. They are actually supervised by the Office of the Comptroller of the Currency. For the most part, States want to come in and exert their own desire and their own will and they can do that, to some extent, under current law. But when they come in and try to exert influence over national banks, if the national banks think the State is out of line, they can go to court and say: No, the State can't do this. This is preempted. This is something that is governed by the Federal Government, by our regulator, the OCC or by this new regulator. If the national banks think that what a State is trying to do, under Barnett Bank, if they think it is out of order, inappropriate, not permitted, it is preempted, they can go to their primary regulator, the OCC. That is what they can do now. If the bank thinks the States are acting in an inappropriate way, inconsistent with the Barnett ruling, the national banks can go to the OCC or they can go into court to have it cleared up. That is current law. That is the Barnett Bank ruling in its simplest form. What we do in this compromise is to retain that language, essentially to retain that language or the spirit therein. Where we make a change with respect to the amendment Senator CORKER offers today and that he and I

and others had offered to introduce last week, we make a change with respect to who else can enforce the rules and regulations among national banks that are promulgated by this new consumer bureau.

What we have said is, State officials and the AGs can enforce the rules and regulations of the consumer bureau. They can do that. Can they conduct class action lawsuits against with respect to the rules and regulations? They can't do that. Can they go across State lines? Can the attorney general from Alabama go into Florida and try to enforce the rules across State lines? The AGs can't do that. But what they can do under our compromise is, the State AGs in all 50 States can look at the rules and regulations promulgated by the consumer bureau and enforce those in their own State. For us, that is probably the biggest give with respect to what we introduced last week.

This is a confusing issue. It is arcane. I have tried to explain it to my colleagues with mixed success. I hope I am doing better today on the floor. It is not an easily understood issue.

For me, the question is this: If we are going to have national banks—and we have had them for 150 years—if there are going to be national standards and a tough regulator, let's make sure the consumer bureau has the resources and authority it needs to enforce these rules for national banks. When people say: What is the problem with letting the AGs come in, here is the problem. I like to use Washington, DC, as an example. I live in Delaware. I go back and forth on the train just about every day. Let's say I lived in Maryland, and let's say I worked in Washington, as we do. Let's say my bank is home chartered in Virginia. Let's say I travel all over the country, and I use ATM machines in many different States. If you have a situation where the States can impose their own laws or rules or regulations with respect to features of banking and checking accounts, with respect to my ATM cards and access to ATM machines, the fees I have for my debit cards, that authority sort of thing, how would you apply those rules and regulations in this one instance, someone who lives in Maryland, works in Washington, their bank is in Virginia, and they access banking services all over the country? That could be confusing, very confusing. It is not only going to be confusing for the banks themselves, as they try to comply with this patchwork quilt of 50 different rules and regulations, in addition to the national rules and regulations. It is going to be confusing for consumers too.

This is not something we are doing simply to make the banks happy. They are not doing handstands over the amendment I am offering as a side-by-side with the previous Carper-Corker amendment.

I am convinced of this: What we are doing is good for consumers, and it is fair for the banks.

Again, to Senator DODD and his staff, I thank them for working with us. I express my thanks to our Republican colleagues who joined us as cosponsors on the amendment last week and those who support us today.

I retain the remainder of my time.

Mr. JOHNSON. Mr. President, it is the goal of all of us in this body to address the inadequacies in bank regulation that led to the crisis, but also preserve the dual banking system. After many conversations with Senator DODD and his staff, I believe we have found the right balance to preserve Federal preemption for national banks but also allow State AG enforcement of the rules where appropriate. I want to thank Senator DODD for working with us to find common ground.

Throughout the committee consideration and the floor process, I have worked to ensure that our efforts to build strong uniform standards through the new Consumer Financial Protection Bureau were not undermined by ending up with a patchwork of different laws for banks and consumers. As our Nation recovers from the economic crisis, it was important to avoid making it difficult for businesses to operate across State lines, and to prevent consumers already struggling with access to credit from losing access to affordable products and services.

I believe the Carper amendment addresses these concerns while also ensuring the State AGs a role. The Carper amendment provides that preemption determinations are made according to a uniform standard, providing certainty to those that offer financial products and those who use the products. It also codifies the Supreme Court's ruling in the Cuomo case by clearly stating the role State AGs may play in enforcing certain laws against national banks. Last, it also preserves a role for State AGs to ensure that consumers are never again put at risk because Federal regulators are asleep at the switch.

I urge my colleagues to support the Carper-Bayh-Warner-Johnson amendment. This amendment, and the underlying bill creating a new consumer agency, will set strong national standards for consumers, and improve our abilities to detect problems and vastly improve consumer protection.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I will be brief. I commend both the Senator from Delaware and the Senator from Tennessee for their hard work in this area. This is very arcane. It is difficult, but it is very important. I was hoping we could bake a whole loaf of bread, not a half. One-half is better than nothing—but a whole loaf. What we are

doing thus far is Main Street. We are not worried about Wall Street. Wall Street will take care of themselves, as Senator CORKER and others have said on this floor. They always have, always will. But it is Main Street, the smaller banks in our communities, in our towns all across the country. If we could, in the wisdom of the chairman of the committee, if we could move to a whole loaf of bread, that would be commendable. I feel like we are not going to do a whole loaf here today because we don't have the votes. But gosh, a whole loaf is always better than half.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Connecticut has 9 minutes 50 seconds.

Mr. DODD. I will take 5 minutes, if the Chair will advise me.

Mr. President, this is striking a balance. If I were king for a day, I might write a different approach than either the Corker or the Carper amendments. But I am 1 of 100 people in this Chamber. Our goal is to try to find common ground on a very difficult issue. This is a complicated question. It isn't just about Main Street and Wall Street; it is about how we enforce laws, how to make sure we don't overreach and create unnecessary duplication and raise costs. We are trying to balance what should not be necessarily competing goals. One is to have stronger consumer protections. I hope I don't have to make that case again. What got us into this mess to begin with was the lack of consumer protection. It was bad mortgages, no documentation, luring people into deals they could never afford, people making decisions to jump into deals they couldn't handle.

For all those reasons, this problem mushroomed out of a mortgage problem into a large, now almost global, problem we are confronting. So, clearly, as to consumer protection, we are doing that in this bill. For the first time in the history of our country, we will now have an agency exclusively dedicated to protecting the average consumer in this country when it comes to financial services. We have it for products you buy. We have it for the food you eat. But Lord forbid you end up in potential ruin because of a financial product. Where do you go? There is no recall. There is no place to get that financial product recalled if you are running into problems. So we do that in this bill.

Let me be the first to admit there are people who are vehemently opposed to have anything like a Consumer Financial Protection Bureau anywhere in our government at all, and I know that. My colleagues know that. I understand, from time to time, attempts

to try and undermine this in whatever way you can has been a part of this.

The second goal is the one my colleague from Delaware has mentioned: preserving our national banking system, which has been around for 150 years. It is clearly in our interest to do that. So how do we strike this in a way that strikes that balance?

The Carper amendment preserves the States' attorneys general role in protecting their citizens from abusive practices. That is about as Main Street as you can get. As I said, the alternative is to have someone from Washington, I suppose, being able to show up to protect those interests. Why not preserve the right of an attorney general at the State level to protect those interests?

But it also makes clear—the Carper amendment does—that the Office of the Comptroller of the Currency can preempt a State consumer law, while preserving our national banking system. So it strikes that balance, which is so critical.

The Carper amendment does three things: It preserves the State's role in enforcing the Federal consumer financial laws. That is No. 1. Secondly, it returns to the Office of the Comptroller of the Currency the preemption of State consumer financial laws to the 1996 Barnett standard, which is the Supreme Court case, and provides for transparent determination procedures for preemption decisions. Thirdly, the Carper amendment makes clear that the States' attorneys general have the authority to enforce certain laws against national banks in their home States.

That is the balance the Carper amendment provides.

The Corker amendment—if we adopted just the Corker amendment—does two things. One, it completely eliminates the State attorney general from enforcement of the Consumer Financial Protection Act. It eliminates it altogether. I do not think you want that. That does not make sense to me. That is where you get confusion. Secondly, it would confuse the Federal preemption standard under the Barnett case that the OCC should apply when preempting State consumer laws.

We are trying to get clarity, and we get clarity with the Carper amendment. That is what we are looking for: National banking gets preserved. Yet the attorneys general can enforce the laws rather than relying on something at the national level to do the job.

So I urge my colleagues—and I say this respectfully because BOB CORKER and I have worked together on a lot of issues over the last number of months—on this one, I respectfully suggest it goes too far. That is why I urge Senator CARPER, who has a strong interest in this subject matter, to sit down and see if we could fashion a compromise that would maintain the bal-

ance of allowing State AGs to do their jobs when it comes to enforcing the rules under our Consumer Financial Protection Bureau, while preserving the national banking system, where the OCC has the right to preempt. That is what we have done with the Carper amendment. That is the balance that gets struck here. I say respectfully, the adoption of the Corker amendment throws that balance off whack, and that is what I think would be a step backward when it comes to this provision.

So for those reasons, I would urge a “no” vote on the Corker amendment and a “yes” vote on the Carper amendment, which I think strengthens this bill overall.

With that, I see my colleague from Virginia, who may want to be heard on this amendment as well.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I just wish to briefly add to the discussion and thank both the chairman and Senator CARPER and my good friend Senator CORKER as well. We are breaking new ground. We are creating a new national Consumer Financial Protection Bureau.

I share, I think, actually the goals of both Senator CORKER and Senator CARPER that the bureau ought to have a chance to enforce its rules on an orderly national basis. I know my good friend, Senator CORKER, has a slightly different variation, but I think Senator CARPER's amendment has struck that right balance: ensuring there are opportunities for Federal preemption but, at the same time, recognizing that the balance of the attorneys general role ought to be to focus on the regulations—regulations that it will have had an appropriate period to have been commented on by industry, to have gone through an orderly process, rather than simply what the initial draft would have had, which would have allowed the attorneys general to actually focus on the statute itself, that might have allowed them to run a little more without as many restraints.

So I realize this is a new area. We are trying to strike a balance. I agree with the chairman that the Carper amendment strikes that right balance, and I look forward to supporting his amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I do hope the Senator from Virginia and the Senator from Delaware will support my amendment, since they both cosponsored it originally. I know Treasury has been over and has had a talk with people back in these backrooms. I realize the White House has done that. While there may be discussions about “striking the appropriate balance,” the fact is, this was an amendment that

had bipartisan support until that occurred.

Let me just say—

Mr. DODD. Will my colleague yield on that point he made?

Mr. CORKER. OK.

Mr. DODD. There is nothing “in the backroom” about this. This is an honest, open discussion about how to deal with preemption. The suggestion my colleague makes about a backroom arrangement is not the case.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Well, it was these rooms back here.

Mr. DODD. No, it is not a backroom.

Mr. CORKER. OK. Well, these front rooms back here.

Let me just say, if I could: Look, the fact is, we had a bipartisan agreement that has been throttled back. There is a chance—I understand. That is what I am saying. I hope the cosponsors of this amendment will at least support it on the floor. I do not think there has been anything enlightening that has occurred—just the fact that, look, the White House has expressed opposition to this. I understand that, and that is the way things are when the White House is the White House.

But what I would say is, the Senator from Connecticut specifically tried to get support for this consumer protection agency by saying that institutions under \$10 billion in assets would not be enforced upon directly by this consumer protection agency. But what has happened as a result of the bill is the fact that now, instead of that, we now have State AGs—they are going to enforce against these very institutions on rules that emanate from these Federal statutes.

So I would say that is a far worse situation for these community banks and credit unions. I know they view that as far worse from that standpoint. Then, on top of that, we have added language that is vague, language such as “abusive”, where the AG has the ability to come in after the fact and basically break contracts if, in their view, they decide that something may have been abusive. Again, that is a very vague term.

So what I would say to you is that, yes, you are embarking on new territory. You, in essence, are creating a consumer protection agency that has no board. It reports to one person, the President. It has a 5-year term. There is no veto—no veto—authority by the prudential regulators as it relates to the rules. Now you have State AGs all across the country who have the ability to enforce. I think that is a huge step in the wrong direction.

I had hoped earlier—a couple months ago it seemed like we had a place that was far more middle of the road than this, that kept the State AGs in place, that allowed them to do the things with State laws they already have the

power to do. But I think this is vastly expansive.

I realize that with the people talking against my amendment who actually supported my amendment in the past, it is very unlikely my amendment is going to pass. I have heard people on my side of the aisle saying: Look, should we support CARPER or not? It is just really not what ought to happen.

I would say to my friends on this side: Yes, support the Senator's efforts. It is better than what exists.

But there is no question in my mind—and let's face it, the issue that has divided this floor more than anything else is the fact that this consumer protection agency has been created the way it has been created. I think this rulemaking authority it has is the issue that has divided most of us. Now, without my amendment passing, again, what happens is, State AGs, interpreting these in different ways all across the country, will now be taking actions against these institutions on vague language such as "abusive." I think that is inappropriate. I guess I have trouble understanding what that has to do with what we have just gone through.

If underwriting is a problem, let's deal with underwriting. We tried to offer language that dealt with loans. That is the core of this crisis. But, no, we do not want to deal with that. We do not want any crisis to go to waste. We want to create another unfettered organization to get into the lives of Americans, to sort of take over, take over and deal with these kinds of things because we do not want any crisis to go to waste.

So maybe the Senator from Connecticut was a little arisen a minute ago by me saying what I am saying. Look, the fact is, the White House is, I see, going to have its way probably. I still hope as many people as possible will vote for the Corker amendment. I certainly support the Carper amendment. I wish we had done a more balanced job on this issue. I think we would have far more bipartisan support.

I thank the Presiding Officer for the time. I wish to withhold the remainder of my time in case there are other comments that are made. But I do hope the people who originally cosponsored my amendment would at least support it on the floor today.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Delaware.

Mr. CARPER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes 27 seconds.

Mr. CARPER. Mr. President, let me try to be clear on one point, as we come to the close of this discussion.

For States or their national banks, under what is proposed and what would occur under our amendment, if a State AG wants to try to enforce a State law

on a national bank, the bank can go in and say to the courts, they can go in and say to the regulator, the Office of the Comptroller of the Currency, that State law is preempted. That cannot be enforced against a national bank.

The question here—and this is a point where I gave on and our side gave on in negotiations—how about if the State AG or State officials want to come in and enforce the rules that have been developed by the new consumer bureau? Under the compromise we have reached, while they cannot come in and enforce their own State laws, or, really, come in and enforce the Federal law we are debating today, the State AG can come in and enforce the rules, which have been worked out over a period of months—draft regulations, proposed regulations, common periods, revised regulations with guidance, and finally adopted regulations with guidance.

In those instances, when the regulations are adopted in their final form—gone through that whole process—then the AGs can come in and not selectively enforce them, but they have the right to enforce those, along with—for big banks, big national banks—the bureau, and if they are not so big national banks, the Office of the Comptroller of the Currency.

That is where I think we have ended up here. I do not think it is a bad compromise. As our colleague from Tennessee and certainly the Presiding Officer and our two floor managers, Senator DODD and Senator SHELBY, know, we have been sent to govern, and sometimes I cannot get what I want. But what we try to do is to be willing to give, and in an orderly fashion we have a final compromise that I think meets muster.

Let me say, as a former Governor—I think there are five former Governors on our original amendment—I do not think anyone can accuse me or any of the other former Governors of not being for States rights. But sometimes we need a strong Federal regulator with strong enforcement authority, particularly when we are dealing with issues of interstate commerce and our national banking system, which we seek to preserve.

In closing, I wish to assure my colleagues that I believe the amendment I offer with a number of my colleagues preserves the ability of States' attorneys general to provide a backstop to the new Consumer Financial Protection Bureau. While the new bureau will be the main enforcer of its new rules, we have preserved the role for the State AGs to ensure that the consumers are not put at risk because Federal regulators are asleep at the switch.

Again, I wish to thank Senator CORKER for all his work on not just this issue but on others to try to get us to a better place.

With that, I believe our time is just about expired.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There is 4 minutes 10 seconds.

Mr. CORKER. Mr. President, first of all, I thank the Senator from Delaware, who is one of those Senators whom I truly enjoy working with. He truly does try to do responsible things in this body. I thank him for that. I enjoy working with him. I do think the Senator is trying to put an amendment in place that will pass, and I thank him for that.

Again, I think a half a loaf is a half a loaf; it is not a whole loaf. But I hope everybody on my side of the aisle will support the Carper amendment. I hope everybody on this side of the aisle, obviously, will support the Corker amendment.

I do wish to say that the Chamber of Commerce has just sent out a letter. I thought I would make everybody aware they are urging people to vote for both amendments also. As a matter of fact, they are key voting this. This is one of those issues they think is very important. The Chamber of Commerce, as you know, represents all kinds of small businesses across this country that are very concerned about this expansive bill, especially as it relates to consumer protection.

Again, I wish to say one more time, an activist, if it turned out to be—my guess is, it will be; everything else in this administration leads me to believe this is going to be a fairly activist organization, OK—can write rules after the fact—after the fact—declaring a practice abusive.

I don't know how many people think that is good practice, to write a rule after the fact determining that it is abusive—again, a very vague benchmark.

I thank the Presiding Officer for the time. I thank the Senator from Connecticut for the way he has conducted business here on the floor. I certainly wish this was a 50-vote threshold instead of 60, but I realize those things have to take place. I thank him for the way he has conducted himself on the floor. I look forward to both of these amendments being voted on. I urge people on both sides of the aisle to support both amendments, as the Chamber of Commerce has said it does.

Thank you very much. I yield my time.

Mr. DODD. Let me just clarify. No. 1, there is no 60-vote requirement.

Mr. CORKER. Very good. Thank you.

Mr. DODD. No. 2, I know people want to vote for everything around here, but occasionally we run into conflicts, and there is a conflict between the Corker amendment and Carper amendment, and that is the role of the attorneys

general. The Corker amendment excludes the attorneys general from enforcing the regulations of the consumer protection agency. The Carper amendment includes it. With all due respect, I know we would like to vote for all amendments, but somehow we do end up with a conflict. It is a legitimate point. I am not suggesting that my friend from Tennessee doesn't have an argument, but I just think the Carper amendment makes more sense.

So I urge my colleagues, out of respect for each other—I know we like to please each other, but the fact is, we end up with a contradictory conclusion when we are trying to come to some clarity. That is the only point I wish to make.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. If I could, I haven't really noticed that much desire to please each other around here, but I do thank you for the fact that it is a 50-vote threshold. I had been told prior to coming down that it was 60, so thank you for that. But I do hope people will try to please both sides of the aisle by voting for both amendments. Thank you very much.

Mr. DODD. Have the yeas and nays been ordered, Mr. President?

The PRESIDING OFFICER. They have not.

Mr. KYL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the Corker amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 154 Leg.]

#### YEAS—43

Alexander	Crapo	McCain
Barrasso	DeMint	McConnell
Bayh	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Gregg	Sessions
Burr	Hatch	Shelby
Byrd	Hutchison	Snowe
Chambliss	Inhofe	Thune
Coburn	Isakson	Vitter
Cochran	Johanns	Voinovich
Collins	Kyl	Wicker
Corker	LeMieux	
Cornyn	Lugar	

#### NAYS—55

Akaka	Brown (OH)	Dodd
Baucus	Burr	Dorgan
Begich	Cantwell	Durbin
Bennet	Cardin	Feingold
Bingaman	Carper	Feinstein
Boxer	Casey	Franken
Brown (MA)	Conrad	Gillibrand

Hagan	Lieberman	Schumer
Harkin	McCaskill	Shaheen
Inouye	Menendez	Stabenow
Johnson	Merkley	Tester
Kaufman	Mikulski	Udall (CO)
Kerry	Murray	Udall (NM)
Klobuchar	Nelson (FL)	Warner
Kohl	Pryor	Webb
Landrieu	Reed	Whitehouse
Lautenberg	Reid	Wyden
Leahy	Rockefeller	
Levin	Sanders	

#### NOT VOTING—2

Lincoln	Specter
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The amendment (No. 4034) was rejected.

Mr. DODD. Mr. President, what is the pending business?

#### VOTE ON AMENDMENT NO. 4071

The PRESIDING OFFICER. The pending question is the Carper amendment No. 4071.

Mr. DODD. Have the yeas and nays been ordered?

The PRESIDING OFFICER. No, they have not.

Mr. DODD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 18, as follows:

[Rollcall Vote No. 155 Leg.]

#### YEAS—80

Akaka	Crapo	Lieberman
Alexander	DeMint	Lugar
Barrasso	Dodd	McCain
Baucus	Ensign	McConnell
Bayh	Enzi	Menendez
Begich	Feinstein	Mikulski
Bennet	Gillibrand	Murkowski
Bennett	Graham	Murray
Bingaman	Grassley	Nelson (NE)
Bond	Gregg	Nelson (FL)
Brown (MA)	Hagan	Pryor
Brownback	Hatch	Risch
Bunning	Hutchison	Roberts
Burr	Inhofe	Schumer
Burr	Inouye	Sessions
Byrd	Isakson	Shelby
Cantwell	Johanns	Snowe
Cardin	Johnson	Stabenow
Carper	Kaufman	Tester
Casey	Kerry	Thune
Chambliss	Klobuchar	Udall (CO)
Coburn	Kohl	Vitter
Cochran	Kyl	Voinovich
Collins	Landrieu	Warner
Conrad	Lautenberg	Webb
Corker	LeMieux	Wicker
Cornyn	Levin	

#### NAYS—18

Boxer	Harkin	Rockefeller
Brown (OH)	Leahy	Sanders
Dorgan	McCaskill	Shaheen
Durbin	Merkley	Udall (NM)
Feingold	Reed	Whitehouse
Franken	Reid	Wyden

#### NOT VOTING—2

Lincoln	Specter
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The amendment (No. 4071) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mrs. HAGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HAGAN. I ask unanimous consent to speak on amendment No. 3744.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HAGAN. Mr. President, payday lending institutions prey on people who find themselves in need of quick cash often for things like a necessary car repair or a medical problem. The lenders charge astronomical interest rates and expect immediate repayment.

By marketing payday loans as short-term advances, predatory lenders gouge borrowers into a cycle of debt. With repayment due in just days, interest rates that reach 400 percent, and because repayments are due in full, borrowers are often forced to take out new loans to repay the old loan.

The lenders themselves recognize that the loans are not for borrowers who intend to use them repeatedly. For example, one lender notes on its website that, "Since a payday advance is a short-term solution to an immediate need, it is not intended for repeated use in carrying an individual from payday to payday. When an immediate need arises, we're here to help. But a payday advance is not a long-term solution for ongoing budget management. Repeated or frequent use can create serious financial hardship."

But the statistics do not add up. Over 60 percent of payday loans go to borrowers with 12 or more transactions per year and 24 percent of payday loans go to borrowers with 21 or more transactions per year.

This startling statistic illustrates just how devastating this problem can be for families.

Take the story of Sandra Harris from Wilmington, NC. She had a job at Head Start and always paid her bills on time. When her husband lost his job, Sandra got a \$200 payday loan to pay the couple's car insurance. When she went to repay the loan, she was told she could renew. Sandra ultimately found herself indebted to six different payday lenders, paid some \$8,000 in fees.

Now, the payday lending industry will argue that they provide a valuable service. I would simply point out that, whether or not you believe that to be



true, my amendment does not prohibit payday loans.

In fact, it allows up to six payday loans to the same borrower. If your business model relies on your ability to rope borrowers into rolling these loans over again and again, even though you are charging 400 percent per loan, I would have some serious questions about your business model.

By reining in payday lenders, we will protect consumers from racking up endless, long-term debt that can ultimately cause a family to declare bankruptcy.

This amendment protects consumers by ensuring that short-term cash advances remain short-term.

It has three parts to accomplish this goal:

First, it limits rollovers by prohibiting creditors from issuing new payday loans to borrowers with six loans in the previous 12 months or 90 days aggregate indebtedness.

Second, it would require lenders to give borrowers the option to repay their loan over a longer time period. Creditors would need to offer an extended repayment plan for borrowers who are unable to meet repayment obligations.

Finally, the bill gives the Federal Reserve Board the authority to require licensing and bonding of payday lenders.

Leading consumer advocates such as the Center for Responsible Lending strongly support this legislation.

This is a commonsense amendment, it will help protect Main Street borrowers from predatory lenders, and I would urge all of my colleagues to join me in supporting it.

I ask unanimous consent to have printed in the RECORD the following letter of support from Michael Calhoun, the president of the Center for Responsible Lending.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CENTER FOR RESPONSIBLE LENDING,  
May 4, 2010.

Hon. KAY HAGAN,  
United States Senator, Dirksen Senate Office  
Building, Washington, DC.

DEAR SENATOR HAGAN: We are writing to express our support for your bill, the "Payday Limitation Act of 2010," which would help end the cycle of long-term borrowing that traps so many payday borrowers in high-cost debt.

The payday lending debt trap causes families financial harm, with borrowers more likely to become delinquent on their credit cards, face difficulty in paying other bills, delay medical care, and, ultimately, file for bankruptcy. The average borrower has 9 payday loan transactions each year, typically on a back-to-back basis. This results in borrowers paying more in fees than they are extended in credit.

Your bill would codify the Federal Deposit Insurance Corporation's standard, which prohibits new loans to borrowers who have already been indebted 90 days in a given year, the equivalent of six two-week payday loans.

This would ensure that these short-term small loans are used as intended, rather than becoming a long-term financial burden for families already living paycheck-to-paycheck.

If enacted, this legislation would represent a key step forward toward our long-term goal of protecting consumers through a 36 percent annual percentage rate cap on small loans. We commend you on your efforts to reduce the incredible damage caused by this industry to low- and moderate-income families and look forward to working with you to pass this legislation.

Sincerely,

MICHAEL P. CALHOUN,  
President.

Mr. DURBIN. Would the Senator yield for a question?

Mrs. HAGAN. I will yield to the Senator.

Mr. DURBIN. I wish to thank the Senator from North Carolina for her leadership on this issue involving title loans and payday loans. I know she led the fight in her home State of North Carolina before she came here to the Senate.

I wish to ask the Senator from North Carolina, is it not true we passed a law a few years ago to protect military families from being exploited by these same lenders, arguing that, here we are, investing all this money in training and preparing men and women to serve in our military, and then they are ensnared by these payday loan operations, they find themselves at their wit's end, they cannot make their payments, they are facing bankruptcy, and many of them had to take leave or be discharged from the military because of these miserable payday loan operations? Is it not true we passed a law protecting military families from this kind of predatory lending a few years ago?

Mrs. HAGAN. The Senator from Illinois is certainly correct. I believe, instead of anywhere near a 400-percent rate, there are limitations of 36 percent. The Senator is correct.

Mr. DURBIN. So I further ask, through the Chair, the Senator from North Carolina is saying, if we want to protect military families from this outrageous conduct by these lenders, then should not we protect all American families who might be in similar circumstances, ensnared by these people who will continue to roll these loans over and over to the point where a person cannot possibly pay it off?

Does not the Senator's amendment say there has to be a limit to the number of rollovers on the loans, and is not the limit somewhere in the range of six rollovers, six times rolled over as a maximum?

Mrs. HAGAN. The Senator is exactly right. This amendment allows, if a family does need to have a short-term advance, for a short-term advance, renewable six times. They can have six of them within a 1-year period of time. If at that point they cannot repay it, the institution has to give them a longer repayment schedule.

We are not saying these loans cannot be given. But that recurring debt over and over and over again is what should be stopped by limiting it to six a year.

Mr. DURBIN. I thank the Senator from North Carolina for her leadership. These are truly the bottom feeders of the credit industry in America.

Mrs. HAGAN. Mr. President, I ask unanimous consent that the pending amendment be laid aside, and that I be allowed to call up amendment No. 3744.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Mr. President, reserving the right to object, and on behalf of—would the Chair please restate the request.

The PRESIDING OFFICER (Mr. BEGICH.) The Senator seeks permission to call up amendment No. 3744.

Mr. SHELBY. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from North Carolina.

Mrs. HAGAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I am about to make a unanimous consent request, and I will describe what I am going to request first so Members are aware of this.

Senators MERKLEY and LEVIN, along with many others, over the past number of weeks have worked very hard to develop an amendment dealing with proprietary trading; that is, to ban the use of depositors' monies for excessive risk taking on the part of financial institutions.

This is a complicated area, we all admit and acknowledge. It takes a lot of work. The Treasury Department has been involved, and many others in this Chamber, who have had a strong interest in supporting the efforts of Senator MERKLEY and Senator LEVIN, have crafted and worked on this.

We wish to have a vote on that amendment, even, in fact, just a 50 vote, up and down. Over the last 3 or 4 weeks, I have been happy to have more amendments. I think some 40 or 45 amendments have been considered in this Chamber, the overwhelming majority on a simple 50-vote margin. Some have required 60 votes, I acknowledge that. But I am being told that even a 60-vote requirement on this amendment would be objected to. I think that is terribly unfortunate. This is a critical piece of financial reform.



To exclude it, or even the ability to vote on it, I think would be wrong.

I ask unanimous consent that the pending amendment be laid aside and that amendment No. 4101 be called up.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. Mr. President, although I don't necessarily believe I will vote against the Levin-Merkley amendment, if it is brought up and debated, a number of my colleagues are not here on the floor and have asked me to lodge an objection. So on their behalf, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Connecticut.

Mr. DODD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that the next amendments in order be the following: Grassley-McCaskill amendment No. 4072 and Bingaman amendment No. 3892; that the Bingaman amendment be modified with the changes at the desk; that a Lincoln amendment as a side-by-side to the Bingaman amendment also be in order; and that Senators GRASSLEY and MCCASKILL each be recognized for a period of 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object—and I will not object—I want to ask the Senator from Connecticut if he might add to that unanimous-consent request that following that, amendment No. 4109, which I have filed, be considered at that point.

Let me explain. I had filed an amendment. We have modified it. The amendment, properly filed, as I had modified it, is amendment No. 4109. It is the amendment that deals with the issue of naked credit default swaps. As my colleague knows, I have been here for 2 weeks attempting to get it pending.

I ask that the unanimous consent request be modified to include making amendment 4109 pending following the disposition of the other two amendments.

Mr. DODD. I have no objection to that.

First of all, can we get the first unanimous consent agreed to, to deal with those two amendments; that is, Grassley and Bingaman?

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I am OK on the first one.

The PRESIDING OFFICER. If there is no objection to the first part, it is so

ordered. There is no objection on the first part.

Is there objection to the request of the Senator from North Dakota?

Mr. DODD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my understanding is that there is a question now about how to proceed with respect to which amendments might be allowed to be offered by the two sides. It appears to me, at least from my perspective, that some have decided we will only allow amendments we prefer to be allowed and others who have amendments will not be allowed to offer amendments from this point on.

My colleagues know I have been here I guess a couple of weeks with an amendment. It is filed, No. 4109. It deals with trillions and trillions of dollars of what are called naked credit default swaps—one of the significant problems that caused part of the near collapse of our economy. I have been here now attempting to get this amendment pending because if there is a cloture vote tomorrow, those amendments that are not pending will not be allowed to be offered and voted upon. I am attempting to get this pending.

What we have appears to me to be gatekeepers who decide we will only allow these amendments through the gate, and someone else, unnamed, unknown, will decide that we have to have somebody else object for them. So the result is that an amendment such as this—and I assume there are others as well—would not be able to be considered. To have the negotiations between the manager and the ranking member now come together and decide, well, only amendments they will allow us to offer will be offered—if that were the standard, maybe we could go back and I could think of half a dozen or a dozen amendments that we already had offered and had to vote on that probably we should have said: Let's not offer those. Those are inconvenient, uncomfortable. I don't want to vote on that. But we have not done that. None of us have done that.

Now, all of a sudden, we have been told: Someone else wants us to object, so therefore you can't offer your amendment. That is just, in my judgment, not an acceptable way to proceed.

While I guess we are waiting, I encourage somebody, if they wonder whether the amendment I have filed, No. 4109, dealing with naked credit default swaps—if they are wondering whether there is an urgency to this

issue, read the book "The Big Short" by Michael Lewis. When you are finished, come back to the floor and ask if you can support this amendment or how quickly you can support this amendment. It is unbelievably necessary to do if, in fact, we are going to finish financial reform and claim we have reformed the financial system.

It is pretty hard for me to understand how we proceed if the point is that someone else has decided exactly which amendments will be tolerable to be considered and those of us who have amendments that are a little more difficult, perhaps a little more aggressive in trying to fix those things, shut the door on the kinds of practices that caused the near collapse of the American economy, if our amendments are inconvenient to someone, we are told: You will not have an opportunity to do this. We will just pick other amendments that we think are fine, amendments that don't have quite as much bark or bite to them. We will consider those amendments along the way, and when we get to the end, if your amendment is not considered, that is just tough luck.

It is much more than tough luck, it seems to me, for the American people.

I have a series of charts. I would like to offer the amendment and have it pending. I have previously been here asking unanimous consent. It was objected to. I have spoken earlier on the floor and was told it would be considered.

If I may have the attention of my colleague from Connecticut, we didn't get to that second portion of the previous UC. Let me ask unanimous consent that following whatever other business has previously been agreed to, amendment No. 4109, which I have properly filed, be considered pending and that we would be able to consider amendment No. 4109.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DODD. Let me say to my colleague, we have been on this bill now for 3 or 4 weeks. We have considered almost 50 amendments. I have a list of about 49 amendments I sent to the minority several days ago, including amendments offered by Democrats, Republicans, some of them bipartisan amendments, that I would be more than willing to accept. I know the minority is looking at them, and they may accept some and reject others. There is that group of amendments. We have a list of about 20 different amendments here, some of which are, like my friend's from North Dakota, controversial amendments that I would like the opportunity to debate and bring up.

The difficulty of managing from this seat is that, obviously, once consent is given for an amendment to be pending,

it takes consent then to lay it aside and move forward. Then we turn over to any one Member of this Chamber the ability to veto virtually all other amendments because it takes unanimous consent by this Chamber to agree to proceed to something else. So what it does is allow one Senator to tie up—

Mr. DORGAN. Will the Senator yield for a question?

Mr. DODD. Certainly.

Mr. DORGAN. Has that happened at this point? I don't know of a circumstance where someone, during debate on this bill, has objected to setting the pending amendment aside. I have seen it happen, but that is not what has happened on this bill.

Mr. DODD. As my colleague knows, I happen to be supportive of trying to get to his amendment, trying to negotiate so we can get his amendment up at this point. There are also other amendments we might be able to clear out of the way before we do that. If we stop everything from moving before we get this matter resolved, of course, it deprives others of having a chance to have an amendment considered. That is the effect of it.

Again, the Senator has the right to do it, obviously, objecting to anything going forward. Any one Senator can do that. My colleague has as much right as anyone else to do it, but there is an effect on a lot of other amendments to that. I certainly would not argue about the Senator's right to do it, but the consequence of it is such that other amendments then do not go forward.

Mr. DORGAN. Mr. President, will the Senator yield for a further question?

Mr. DODD. Yes.

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

Mr. DORGAN. It is not just me. It is my understanding that the Levin-Merkley amendment is in the same position. So it is a circumstance, it appears to me, where someone said: Well, now, it is inconvenient for us to vote on things that are a little bit controversial or have a little more bite to address these issues. Because it is inconvenient, we are going to object, so you are not going to be able to offer those amendments. I do not know how we got to this cliff, but falling off that cliff is not acceptable to me. We have been voting for 2 weeks and people have been able to offer amendments. I voted on amendments I did not want to vote on from the other side. They had a right to offer them, and I voted on them. That is fine.

Was there a moment when we decided, all of a sudden, that the other side will have a veto authority over our ability to offer amendments of any consequence? I do not know when that happened, but that is totally inappropriate, given the couple weeks we have been through here.

Mr. DODD. Again, my colleague has a right to object if he decides to do so. I

just explained what the consequences are of that decision. That is all.

The PRESIDING OFFICER. The Senator from North Dakota still has the floor.

Mr. DORGAN. Well, Mr. President, listen, my objective is not to obstruct or to try to slow anything down. My objective is to allow people to offer amendments, especially those who have been here for some long while, to offer amendments that are consequential relative to the issue of financial reform.

If from this day forward, we have decided—or from today forward we have decided that if someone on the other side—who is at this point unknown—is going to object to amendments that are uncomfortable, amendments that I think will strengthen the bill, this is not much of a process anymore. We will, I guess, pick out the amendments that deal with tourism or babies or whatever it is that is uncontroversial to everybody and pass those and then go on to final passage. Those who had other amendments of consequence are told: Someone objected. We are not quite sure who.

So I guess what I can do is say that I will object to having people decide we will only deal with noncontroversial amendments and that those amendments of substantial consequence to this bill are not relevant enough to be considered.

So I wish that were not the case. But I am not going to sit here and say: Yes, go ahead and just pass over these amendments and pick out some amendments you like. If everybody can agree on amendments we like, you can offer them and we will have votes and no one will have concern over it. But if there are amendments that somebody does not like, you are not going to be able to offer them because someone is going to object.

It does not make much sense to me.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. McCASKILL. Mr. President, is there still a unanimous-consent request pending that the Senator from Connecticut made some while back that there was never an objection heard on?

The PRESIDING OFFICER. That consent request was granted.

Mrs. McCASKILL. OK. So based on that consent request, I would like to talk about amendment No. 4072, the Grassley-McCaskill IG amendment. This amendment is about having a cop on the beat. We have talked a lot about a cop on the beat as it relates to a consumer agency. But in internal workings of these agencies, there are people who are very special in our government who have eyes and ears inside agencies who can find problems, who in fact are our inspectors general.

This amendment will strengthen the independence and the working role of

the inspectors general in these agencies that have such an important power over our financial sector. In fact, it was the failure, in some ways, of appropriate oversight that got us into this mess in the first place.

Senator GRASSLEY has been a champion of inspectors general for many years, and since I came to the Senate, I have tried to focus on this because I came here from being a government auditor. For 8 years, I did nothing but government auditing, and I have deep and abiding respect for the professional auditors in our Federal Government who are the watchdogs for taxpayers inside the halls of our government.

This amendment will do a couple of important things.

One, it is going to create a council of inspectors general in the financial sector, the SEC and the CFTC and the FDIC, and they will have to meet four times a year. At that meeting, they are going to have a forced opportunity to compare notes, to talk about the investigations they are doing, to make sure they are not duplicating each other's work, and, most importantly, to talk about systemic risk and are they getting at it in a collective way. It does not cost anything. It is just smart. That is one part of this amendment.

The other part of the amendment has to do with how these inspectors general are selected. There are different kinds of inspectors general in our government. Some are appointed by the President. Some are appointed by the agencies. I will say that anybody who thinks those appointed by the President are the most independent is wrong. Anybody who thinks those appointed by the agencies is the most independent is wrong.

I believe the independence of inspectors general has everything to do with whether someone is selected who is professional and who is going to be independent of any influence.

Here is my reason for supporting this amendment so fully. It is a bad idea to change right now how these inspectors general are selected. We need continuity right now. We need consistency. What we have done in this amendment is change it so these inspectors general will now report to the entire boards they serve and not to just the head of the agency. That is where you can get the cozy relationship and get into trouble. That is why, in fact, this amendment is needed.

It also requires that two-thirds of these boards will be required to fire an inspector general. So this amendment will, in fact, make sure we have continuity, we have a cop on the beat in terms of these inspectors general right now and going forward, and it strengthens their independence and their ability to work with each other.

I will say we have lots of nominations pending, and the notion that we

would decide we need five more nominations pending with, I am afraid, secret holds that might come about—we have one inspector general who has a secret hold now—I certainly do not want the inspectors general for these agencies to be held up with secret holds over the next couple years and we have a lack of continuity and certainty in terms of leadership at these important organizations as we move forward to clean up this mess that has occurred in our financial sector.

So I urge my colleagues to support the Grassley-McCaskill amendment, amendment No. 4072.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Senator from Missouri, my friend, has given a very good explanation of this bill. Before I give my version of it, which will be similar to hers, I wish to compliment her because she is in a position of jurisdiction over IGs. She has done a very good job of strengthening these positions in other legislation she has sponsored. So I feel very good to be in the company of the Senator from Missouri on this amendment.

Our amendment would correct serious problems in section 989B of the Dodd-Lincoln substitute. This section of the bill would change the way that five inspectors general are hired and fired.

Currently, these five inspectors general are hired and fired by the agency that they oversee, but section 989B would put the President in charge of hiring and firing them. This provision was included because the sponsors of the legislation believe that making inspectors general Presidentially appointed will make them more independent.

However, rather than strengthening oversight over our financial institutions with more independent watchdogs, section 989B could introduce politics into what have traditionally been career, nonpolitical positions.

Under the Inspector General Act of 1978, there are two types of inspectors general, presidentially appointed IGs and designated Federal entity IGs, DFE IGs. Both types of inspectors general are tasked with hunting down waste, fraud, and abuse at Federal agencies. However, there are some major differences in how they are appointed and removed from office and how they operate.

DFE IGs are appointed by the agency rather than the President. The Inspector General Act created 30 of them, not just the 5 addressed in this bill. The agency-appointed IGs typically run smaller offices than Presidential appointees, often with just a handful of employees. Almost all of them oversee agencies that are headed by a bipartisan board or commission.

By contrast, Presidentially appointed IGs generally run much larger offices

and employ dozens or hundreds of employees to oversee Departments such as the Department of Defense, the Department of Justice, Health and Human Services, and so on. They are nominated by the President and confirmed by the Senate. They are subject to removal at any time by the President. However, the President must provide Congress 30 days notice and a written list of reasons for dismissing the inspector general.

Agency-appointed IGs have a similar protection requiring that the agency notify Congress in advance of the reasons for any removal.

The sponsors of section 989B argue that because agency-appointed IGs are hired and fired by the agency they oversee, they might be tempted to pull their punches more than someone who could only be fired by the President. I actually agree that this is a potential problem. However, the solution in this bill misses the mark.

Unfortunately, section 989B only attempts to address this independence issue at five of the 30 agency-appointed IGs. In my view, this fix is too narrow. In addition, it attempts to ensure independence by replacing these five IGs with Presidential appointees.

There is no evidence that Presidential appointees will be more independent than their predecessors. There have been problems in the past with Presidential appointees being too cozy with the agency they are supposed to oversee or pulling punches for political reasons.

There is strong evidence that agency-appointed IGs can be fiercely independent despite the possibility of being removed by the agency head. It all depends on the quality of the appointment.

For example, David Kotz, the Securities Exchange Commission inspector general has exposed the SEC's failures in the Madoff and Stanford cases, and is currently looking into the timing of the government suit against Goldman Sachs. Similarly, the Pension Benefit Guarantee Corporation's, PBGC, inspector general aggressively investigated the former head of the agency, Charles Millard, and has challenged the acting director about providing inaccurate information to Congress. Despite the potential risks of being replaced, these IGs have not been timid about challenging their agencies to improve.

Because of the way section 989B is currently drafted, these IGs could be summarily dismissed soon after the bill is signed into law. Under this provision, each IG could continue to serve but only until the President nominates a replacement. Once the President makes a nomination, the IGs would no longer enjoy legal protections for their independence and would become instant lame ducks. In fact, SEC Inspector General Kotz recently stated that if

this provision becomes law it will effectively end some of the ongoing investigations his office has at the SEC.

There is a practical problem with Presidential appointments as well. This administration does not have a great track record in filling vacancies in an expeditious manner. Having no watchdog on duty is a concern for all Americans.

There are over a dozen IG positions where there is a vacancy, an acting, or an interim IG. The administration waited 18 months to appoint an IG at the Federal Housing Finance Agency, which oversees Freddie Mac and Fannie Mae. That is 18 months without strong leadership able to direct audits, investigations or examinations of agency policy. That's 18 months without a cop on the beat. Maybe that is the way the administration likes it. I am sure the bureaucrats at these agencies would enjoy life more without an inspector general asking questions. Imagine if the SEC were not held accountable for their failures in stopping the Madoff or Sanford Ponzi schemes.

This bill would create five lame ducks in the IG community and the potential for more extended vacancies unless we fix it. There would be far less oversight during the lengthy transition process under the current bill with no guarantee of vigorous oversight by the new appointees. Essentially, this provision could politicize the positions that have historically been filled by career public servants.

I know the goal of this provision is to enhance IG independence, but there are better ways to protect the independence of these IGs than by replacing them with Presidential appointees.

We should do it more effectively and make sure that all agency-appointed IGs are more independent, not just the five singled out in the bill. That is why I am offering this amendment. The Grassley-McCaskill amendment simply applies the same sort of protections that have worked for one of the 30 agency appointed IGs to the other 29 agency-appointed IGs. The Postal Service inspector general enjoys enhanced protections and my amendment would extend those protections more broadly.

Our amendment would strike section 989B of the bill and replace it with a system that will bring true reform, independence, and accountability.

It would make the IGs report to the entire bipartisan board or commission heading their agency, and the IG could only be removed for cause by a  $\frac{2}{3}$  majority vote of the bipartisan board or commission. This would ensure that should an agency make a political attempt to remove an IG, there would be the possibility of dissent among the board or commission members.

These are serious protections from political interference currently enjoyed by the Postal Service IG, but it

also allows an IG to be held accountable when necessary. These same provisions have worked for the Postal Service inspector general and it is time to extend them to all the agency-appointed IGs.

It also holds IG's accountable by requiring that they disclose the results of all their peer reviews in the semi-annual reports to Congress, thereby making them public.

This amendment strikes the right balance, improving both independence and accountability of all DFE-IGs. In fact, even the White House has gone on the record telling the Center for Public Integrity, "the administration does not support in any way politicizing the function of the Inspector General and we have not proposed these changes" in the Dodd-Lincoln substitute.

The amendment is supported by the nonpartisan Project on Government Oversight and has bipartisan support from members on the committee with jurisdiction over the IG Act. This important amendment deserves an up-or-down vote at the appropriate time.

In summary, our amendment would correct serious problems in section 989B of the Dodd-Lincoln substitute. This section of the bill would change the way that five inspectors general are hired and fired. Currently, these five inspectors general are hired and fired by the agency they oversee, but this section of the bill would put the President in charge of hiring and firing them. This provision was included because sponsors of the legislation believed that making inspectors general presidentially appointed would make them more independent.

However, rather than strengthening oversight over our financial institutions with more independent watchdogs, this section could introduce politics into what has traditionally been career, nonpolitical positions. It is important to ensure that this bill does not then hurt the oversight of these designated Federal regulatory agencies by the inspectors general.

I think our amendment corrects the potential to create long-term vacancies at five important regulatory agencies that, quite frankly, cannot afford to have these sorts of vacancies and not have the proper oversight.

The amendment provides true transparency, and with transparency you get accountability among inspectors general. We are going to bring about real independence—or maybe it would be better for me to say maintain the independence these folks have shown already.

We should take steps to make all agency-appointed IGs more independent, not just the five addressed in the bill. These five should not be singled out. The amendment before us makes the IGs report to the entire bipartisan board or commission heading their agency and requires a two-thirds vote to remove an inspector general.

I will not speak about the peer review Senator MCCASKILL has already spoken about. But I think it is important we have semiannual reports to Congress on the effectiveness of the people in their various positions. By reporting to the entire bipartisan board or commission rather than just the chairs, these IGs will be further insulated from political influence. As a consequence, they will be more independent. So in the final analysis, I think this brings the right balance to the independence of it.

As I said, this amendment is supported by the nonpartisan Project On Government Oversight. Because it comes from another committee of jurisdiction, I am glad that through Senator MCCASKILL and other people on the committee, we have bipartisan support from the committee of jurisdiction.

This is an important amendment and deserves an up-or-down vote at the appropriate time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first, let me commend my colleagues from Iowa and Missouri for raising an issue of this importance. Senator MENENDEZ of our committee, the Senator from New Jersey, has an interest in the subject matter, I explain to my good friends and colleagues from Iowa and Missouri, and he may want to be heard on this amendment.

I understand the purpose and the intent, and in many respects I agree with my colleagues from Iowa and Missouri. But in fairness to my colleague from New Jersey, I wish to give him a chance to respond, as a member of our Banking Committee. So if we could just pause for a few minutes and give him an opportunity to come to the floor and say why he believes the existing language in the bill has merit, I would appreciate that.

So I wish to suggest the absence of a quorum and give him a chance to come on over and make his case. Then, hopefully, we can get to a vote. In the meantime, I do not know if Senator BINGAMAN is here or others are here who would like to be heard on the Bingaman amendment and the side-by-side I think being offered as well. That would certainly be a useful use of the time. People could go and discuss that particular proposition while we are waiting to hear from Senator MENENDEZ.

So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I am going to speak for a few moments about the amendment I just referenced, amendment No. 4109, which was filed and to which there has now been an objection. As I have indicated to my colleague, objections run both ways. I could sit here and object as well to most things that are going to go on here, if we have a gatekeeper or several gatekeepers who decide that two amendments that would get a little tougher on Wall Street are amendments they don't want to vote on; if they don't want to countenance an amendment that would tighten the strings just a little bit.

Let me speak about what this amendment is because it sounds like a foreign language, "naked credit default swaps." "Credit default swaps" by itself sounds like a foreign language. The reason is they haven't been around all that long. This is an exotic financial instrument that was created to allow certain things to happen on Wall Street between banks and big hedge funds and so on. If we have not yet at this point understood the danger of this unbelievable orgy of speculation in credit default swaps—and especially what are called naked credit default swaps—then I guess we are destined to never fully understand what happened, and that is fine. Maybe some people don't want to know what happened.

A naked credit default swap is pretty simple. Someone out there needs some money, so they issue bonds. Someone else buys the bonds. Now they hold the bonds and the person who issued them has the money. The person who bought the bonds wants to make sure the person who issued the bonds won't default, so they want to buy an insurance policy from someone else, a credit default swap. So for a small amount of money, they buy an insurance policy against the bonds defaulting. It is a relatively recent phenomenon where all of this has been created.

Normally speaking, if someone issued bonds, the other people bought the bonds and they did due diligence on the other side to decide if this is a good risk, and that is the way it worked. Now they buy insurance called credit default swaps.

The difficulty is credit default swaps are now called naked credit default swaps if, in fact, they have no insurable interest at all. That is a credit default swap that bets that someone who issued bonds is going to default, despite the fact that neither party to this transaction ever has purchased any of those bonds. They don't have an insurable interest in the bonds; they just made a bet. They have said: We have not bought those bonds over there. But those bonds were issued, and we would like to make a wager. We think those bonds are probably going to default. Someone else says: I don't think they

will. So you have a naked credit default swap with no insurable interest in anything.

Why is that troublesome? Well, I can't buy fire insurance on the house of the Presiding Officer in Alaska. Why would they not allow me to buy fire insurance on his house? Because I don't have an interest in his house, and they don't want about 10 or 15 people having a fire insurance policy on his house. The only way you can get fire insurance is if you have an insurable interest. I can't buy a life insurance policy on someone else's life because I don't have an insurable interest.

Those are rules most of us understand. You can't buy fire insurance against somebody else's house; you can't buy a life insurance policy against somebody else's life. But Wall Street has discovered there is a new way to allow someone to buy insurance policies or speculate in certain kinds of insurance without ever having an interest; that is, allowing two parties to speculate on whether a third party might default on a bond issue they placed with a fourth party, despite the fact that the first two parties have no interest in that at all. It is just as if they went to Las Vegas and one bet on red and the other bet against red on the roulette wheel. It is just a flatout bet. It is not an investment; it is just a bet.

Let me talk about how prevalent this is, just because I think it is important. There was about \$10.9 trillion in naked credit default swaps held by commercial banks in the fourth quarter of last year; \$10.9 trillion held by commercial banks. Those are institutions, by the way, whose deposits are insured by us, by the American taxpayer, by the FDIC. Up to \$19.9 trillion of naked credit default swaps are held by the top 25 holding companies.

It is estimated by one expert that as much as 80 percent of the credit default swap market is traded by firms that don't own the underlying debt. There is also a United Kingdom report shared by the Congressional Research Service that says only 20 percent of the credit default swaps are estimated to be covered. That means 80 percent of all of this paper that is put out there in credit default swaps is so-called naked. It has no insurable interest. It is a bet rather than an investment.

Let me just show what some of the experts are saying about this. One of the editors of the Financial Times says: I can't understand why we are still allowing the trade in credit default swaps—he meant naked swaps—without ownership of the underlying securities. A generalized ban on so-called naked CDS's should be a no-brainer.

It ought to be a no-brainer. It is not a no-brainer in this Chamber, apparently. A naked CDS purchase means someone takes out insurance on bonds

without actually owning them. It is a purely speculative gamble. There is not one social or economic benefit.

My amendment is trying to shut this down, but I am being blocked by those who don't want us to get tough on Wall Street.

Charlie Munger, who is the partner of Warren Buffett and who has spoken a lot about these issues, said:

If I were the governor of the world I would eliminate credit default swaps entirely, 100 percent. That's the best solution. It isn't as though the economic world didn't function quite well without it and it isn't as though what has happened has been so wonderfully desirable that we should logically want more of it.

Do we need to go to the edge of a cliff again with this economy, with tens of trillions of dollars of notional value of credit default swaps before we decide this is a problem for our country and for our future?

Again, the associated editor of the Financial Times:

Another argument I have heard from a lobbyist is that naked CDS's allow investors to hedge more effectively. That is like saying that a bank robbery brings benefits to the robber.

Well, I guess so.

George Soros, a pretty good investor I might say, made \$3 billion last year, I am told in the reports:

CDS's are toxic instruments whose use ought to be strictly regulated: Only those who own the underlying bonds ought to be allowed to buy them.

Well, those are a few thoughts from some people of consequence: editor of the Financial Times, Charlie Munger; George Soros; and others. But it describes a very significant problem. It describes, in my judgment, a fairly large portion of what caused this country's economy to teeter on the edge of a cliff.

The Treasury Secretary one day comes and leans across a lectern on a Friday and says to us: You need to ante up \$700 billion and pass a three-page bill in 3 days or the economy might collapse. Now, a year and a half has passed, a little more, and some, I think, have too quickly forgotten the lessons.

So the question is, Are we going to do something about naked credit default swaps, about the unbelievable orgy of speculation, the bubble of speculation that exists to the tune of tens of trillions of dollars?

Let me read it again:

Up to \$10.9 trillion in naked credit default swaps were held by commercial banks in this country in the fourth quarter of 2009.

I am talking about up to \$10.9 trillion of naked credit default swaps in the bowels of commercial banks. These are institutions that we guarantee, we underwrite.

I don't understand at all the notion that we should be prevented from addressing this issue. It may be that we have people here willing to shake the

pompoms and be cheerleaders for naked credit default swaps. Good for you, if that is the way you feel. It is just you have missed a significant chapter of American financial history. But if you feel that way, vote against my legislation. My legislation would ban the use of naked credit default swaps.

After the phase-in period, they are gone. If you don't have an insurable interest, they are gone. It is a simple enough proposition to say: Why should we have 5 or 10 times the number of insurance policies against bonds than there are bonds to insure? Why should we allow that? We don't allow it in other circumstances.

I understand the offering of this amendment and the shutting down of naked credit default swaps will cost Wall Street a substantial amount of money. They will not get fees on these things. I understand that. This is all about churning and getting fees and making a lot of money. I understand all that. I also understand sometimes this notion of making a lot of money in a short period of time by cutting corners and by doing things that aren't appropriate is the wrong thing.

My colleagues know and I know that we saw banks being robbed in this country. Yes, we saw banks being robbed in the last several years. In the old days, when I used to watch the western movies, you could tell who the bank robber was. They usually had a bandana, they brandished a couple of six-guns. Often they stopped a train or they ran into a bank, and that is the way they robbed things.

In the last several years, there have been some bank robberies going on in this country, and I can refer you to a lot of contemporary writing that describes the way those banks were robbed. Two people driving home from work, each making \$20 million, one supervising the other in one of the biggest investment banks, loading that bank up with unbelievably risky investments because they know at the end of the day, somebody is going to lean over a lectern and say: Oh, by the way, we need to bail all these folks out.

The folks who went to the basement of the Securities and Exchange Commission, I believe, in the year 2004—said: We need you to allow us, the biggest investment banks in the country, to extend our leverage from 12 times to 30 times and more. You need to give us the opportunity to free up some money by exacerbating the leverage capabilities we have. The Securities and Exchange Commission, ever the compliant regulatory agency, said: Yes, sir—saluting handily in the basement of their building—absolutely, go right ahead.

By the way, one of those companies was run by Mr. Paulson who, 2 years later, came back as Treasury Secretary and leaned across the lectern and said: I need \$700 billion to bail out these companies.

What was part and parcel of that which caused these companies to almost ruin this economy? Naked credit default swaps, just flatout gaming. Not investing, just betting. The question is, Do we want to continue to do that?

I fear we are going to pass a piece of legislation that does not address too big to fail. At the end of the day, we will have institutions that are still too big to fail. I have an amendment on that, but I haven't bothered because we already did one amendment on too big to fail, the Brown-Kaufman amendment. That got 33 votes, too big to fail. Banning these unbelievable speculative instruments like naked credit default swaps, if we can't do that, it is very hard, it seems to me, to climb on the high step and say we have taken on this subject. We have really made sure this isn't going to happen again. So I have an amendment that is filed, and now I am told that, no; it is inconvenient and uncomfortable for me to offer this amendment and, therefore, someone has objected.

To my colleague from Alabama, I would say I understand. He is required—when people in the caucus say there is an objection, his job is to reflect the objection of someone in his caucus. So my beef is not with him. But I would just say that it is not acceptable to me to, at 5 o'clock on Tuesday, have a process by which we have now decided that if amendments are inconvenient—getting a little too tough on Wall Street; trying to draw the strings a little tighter on things that have to be fixed in this bill—if that is the case, well, then, you know what. We are not going to allow those things to be offered. We will just sit here and offer amendments on tourism or something else equally benign.

If that is the case, then I will just sit here as well and say that is not a process I respect. It seems to me we ought to have the right to bring to this Chamber at this point, given the shadow of what we have been through as a country, the right to bring amendments to this bill that try to address some very significant problems; the right to bring them to the floor, to have a debate, and to offer them for a vote. If that is not going to be the case, then I am going to sit here and object to proceeding until it is the case.

So my colleague, Senator BINGAMAN, I know is here. I have more to say, but I will save it because I fully expect either to get to this amendment or to be sitting here for some long while, and I will have an opportunity again to talk about naked credit default swaps, their danger to this economy, and why, when this bill is done, it ought to include the provisions of amendment No. 4109 which bans the use of naked credit default swaps and says there is a place to gamble in America and it is not in a bank lobby.

If you want to put a Keno table or a blackjack table in a bank lobby, shame

on you. We ought to pass this amendment, and, most importantly, we ought to allow amendments to be offered. I will sit here until that is the case.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

AMENDMENT NO. 3892, AS MODIFIED, TO  
AMENDMENT NO. 3739

Mr. BINGAMAN. Madam President, I call up amendment No. 3892, as modified, for consideration.

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Ms. MURKOWSKI, Mr. REID, Mr. BROWNBACK, Ms. CANTWELL, Mr. CORNYN, Mr. WYDEN, Mr. CORKER, Mr. INOUE, Mrs. MURRAY, and Mrs. SHAHEEN, proposes an amendment numbered 3892 to amendment No. 3739.

Mr. BINGAMAN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To preserve the authority of the Federal Energy Regulatory Commission to ensure just and reasonable electric and natural gas rates and to protect the public interest)

On page 565, between lines 2 and 3, insert the following:

(e) JUST AND REASONABLE RATES.—Section 2(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(C)) (as amended by section 717(a)) is amended by adding at the end the following:

“(vi) Notwithstanding the exclusive jurisdiction of the Commission with respect to accounts, agreements, and transactions involving swaps or contracts of sale of a commodity for future delivery under this Act, no provision of this Act shall be construed—

“(I) to supersede or limit the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.);

“(II) to restrict the Federal Energy Regulatory Commission from carrying out the duties and responsibilities of the Federal Energy Regulatory Commission to ensure just and reasonable rates and protect the public interest under the Acts described in subclause (I); or

“(III) to supersede or limit the authority of a State regulatory authority (as defined in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)) that has jurisdiction to regulate rates and charges for the sale of electric energy within the State, or restrict that State regulatory authority from carrying out the duties and responsibilities of the State regulatory authority pursuant to the jurisdiction of the State regulatory authority to regulate rates and charges for the transmission or sale of electric energy.”

(f) PUBLIC INTEREST WAIVER.—Section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) (as amended by section 721(d)) is amended by adding at the end the following:

“(6) If the Commission determines that the exemption would be consistent with the public interest and the purposes of this Act, the Commission shall, in accordance with paragraphs (1) and (2), exempt from the requirements of this Act an agreement, contract, or transaction that is entered into—

“(A) pursuant to a tariff or rate schedule approved or permitted to take effect by the Federal Energy Regulatory Commission;

“(B) pursuant to a tariff or rate schedule establishing rates or charges for, or protocols governing, the sale of electric energy approved or permitted to take effect by the regulatory authority of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy within the State or municipality; or

“(C) between entities described in section 201(f) of the Federal Power Act (16 U.S.C. 824(f)).”

Mr. BINGAMAN. Madam President, the amendment that is before the Senate, No. 3892, as modified, is one I talked about at length a week ago last Friday, so it has now been about 11 days ago. I will summarize it again and make some comments about some of the things that have happened since then.

First, let me ask unanimous consent to add Senators SHAHEEN, MURRAY, and INOUE as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Madam President, with the addition of those three Senators, the other cosponsors on the amendment are Senators MURKOWSKI, REID from Nevada, BROWNBACK, CANTWELL, WYDEN, CORNYN, and CORKER.

The amendment preserves the existing authority of the Federal Energy Regulatory Commission and the authority of the States to be sure that electricity and natural gas rates are just and reasonable, while at the same time leaving the Commodity Futures Trading Commission its full authority to police derivatives and futures markets.

First, I applaud the good work Senator DODD and Senator SHELBY have done on this bill. I particularly applaud the provisions that have come from Senators LINCOLN and CHAMBLISS and the Agriculture Committee in setting up a system to get control of derivatives markets.

I am, however, concerned that without this amendment, the law could be interpreted to allow the Commodity Futures Trading Commission to override the jurisdiction the Congress has given to the FERC and that the new provisions included here could make this problem worse.

There is probably not a sector of the economy that is more tightly regulated than the electricity industry. The natural gas industry is not far behind for a claim to that title. FERC regulates wholesale rates and transportation in interstate commerce for both electricity and gas and must approve mergers of utilities. FERC also has authority to police the manipulation of electricity and gas markets, granted by the Congress in 2005 as a response to Enron's manipulation of electricity markets in the West. The States have that same authority for retail sales both with regard to electricity and natural gas. There are tight rules for



transactions among affiliates of holding companies in these industries. There are extensive transparency and reporting requirements for contracts and transactions. This is all intended to be sure that the customers of utilities are getting what they are paying for and that they are paying rates that, in fact, are just and reasonable.

The concern has been that the exclusive jurisdiction of the CFTC under the Commodities Exchange Act could be interpreted to supersede the regulation by FERC of important aspects of these industries.

The amendment I am offering with my cosponsors is a proposed solution that I believe is consistent with the philosophy of consumer protection that underlies other parts of the bill we are considering. The effect is simple. This amendment preserves the authority of both the Federal Energy Regulatory Commission and the individual States to ensure that electricity and natural gas rates are just and reasonable, and in the case of FERC, to prevent market manipulation that could affect prices.

Direct examination of prices is central to each agency's mission. In FERC's case, this authority is longstanding; it was established over 70 years ago. Without this amendment, a critical check on energy prices could be lost, and this is so for two obvious reasons: First, the CFTC's so-called "exclusive jurisdiction" could be interpreted to operate to prevent FERC and State public utility commissions from acting, where their jurisdictions intersect the CFTC's jurisdiction. Second, the CFTC's regulatory mission differs significantly from that of the FERC and the State public utility commissions. The Commodity Futures Trading Commission's mission is to protect market participants and promote fair and orderly trading. It doesn't directly examine commodity prices in its markets, nor does it consider the reasonableness of rates. While properly functioning futures markets are important, the CFTC cannot duplicate the direct ratepayer protections provided by the FERC and by the State public utility commissions.

There are some things this amendment does not do that it has been charged with doing. First, it doesn't give FERC jurisdiction over futures, swaps, or options. FERC has jurisdiction over rates for the sale of electricity and gas and contracts that are associated with those sales. Derivatives that are related are still jurisdictional to the Commodity Futures Trading Commission. Nothing changes in that regard. We are merely preserving that authority that the Federal Power Act and the Natural Gas Act gave to FERC decades ago and in the Energy Policy Act of 2005. Second, the amendment doesn't give FERC jurisdiction over NYMEX or ICE or any other futures exchanges. They are not public

utilities. They do not sell electricity or natural gas.

As I have said, I support this bill generally. I believe it is essential in ensuring that consumers are protected. However, both I and my cosponsors strongly believe it is necessary to preserve enduring consumer protections that might otherwise be lost.

It is a simple, tailored amendment that doesn't create any loopholes in jurisdiction. It also does nothing to diminish the ability of the CFTC to regulate commodity exchanges such as NYMEX or to require public disclosure of swaps or any other public authority they have to regulate the mechanics of commodity markets, including those who trade energy commodities.

We have received letters of support for this amendment from the National Association of Regulatory Utility Commissioners, the FERC, utility industry companies and associations, including Edison Electric Institute, the American Public Power Association, the American Public Gas Association, the Electric Power Supply Association, the American Wind Energy Association, the California Independent System Operator, the American Gas Association, the Large Public Power Council, the Natural Gas Supply Association, Compete, and PJM Interconnection.

I ask unanimous consent to have printed in the RECORD the letters of support I have referred to following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, I have also been informed that the administration supports this amendment. I advise my colleagues that is the case as well.

Once again, I thank my cosponsors and urge my colleagues to support the amendment. I gather that a time will be found during our deliberations of the bill to consider the amendment.

With that, I yield the floor.

MAY 11, 2010.

Hon. HARRY REID,  
Majority Leader, U.S. Senate,  
Washington, DC.

Hon. JEFF BINGAMAN,  
Chairman, Committee on Energy and Natural  
Resources, U.S. Senate, Washington, DC.

Hon. LISA MURKOWSKI,  
Ranking Member, Committee on Energy and  
Natural Resources, U.S. Senate, Wash-  
ington, DC.

DEAR LEADER REID, CHAIRMAN BINGAMAN AND RANKING MEMBER MURKOWSKI: We are writing in support of your amendment to S. 3217, the Restoring American Financial Stability Act, which would preserve the authority of the Federal Energy Regulatory Commission (FERC) and the states to ensure just and reasonable rates for electricity and natural gas consumers. The undersigned associations represent most of the electricity and natural gas consumers in the United States.

FERC and the states already regulate transactions, products, services and agreements in wholesale and retail electricity and

natural gas markets, respectively. In addition, FERC regulates regional transmission organizations (RTOs) and independent system operators (ISOs), which are responsible for the planning and operation of the transmission grid in many areas of the country. There is no regulatory gap that needs to be filled with respect to the transactions, agreements, contracts, products and services that regulated energy companies provide.

The underlying derivatives language in the Senate financial reform bill could cause the Commodity Futures Trading Commission to assert jurisdiction to regulate products offered in wholesale electricity markets, such as financial transmission rights (FTRs), which are used to manage the cost of transmission congestion. This could affect the ability of our member companies and utilities to have continued access to FTRs and other products on reasonable terms and conditions, which is essential to their ability to reliably serve their retail consumers at reasonable rates and with less price volatility.

We thank you and the other co-sponsors of this amendment for recognizing and addressing this issue. While a more clear delineation of FERC's authority would be helpful, we believe this amendment is a significant step in the right direction, and we look forward to passage of the amendment and continuing dialogue on this issue as financial regulatory reform legislation moves forward in Congress.

Sincerely,

American Gas Association; American  
Public Power Association; American  
Wind Energy Association; California  
ISO; COMPETE; Edison Electric Insti-  
tute; Electric Power Supply Associa-  
tion; Large Public Power Council; Nat-  
ural Gas Supply Association; PJM  
Interconnection, L.L.C.

FEDERAL ENERGY REGULATORY COM-  
MISSION, OFFICE OF THE CHAIRMAN,  
Washington, DC, May 12, 2010.

Hon. JEFF BINGAMAN,  
Chairman, Committee on Energy and Natural  
Resources, U.S. Senate, Washington, DC.

Hon. LISA MURKOWSKI,  
Ranking Member, Committee on Energy and  
Natural Resources, U.S. Senate, Wash-  
ington, DC.

DEAR CHAIRMAN BINGAMAN AND RANKING MEMBER MURKOWSKI: I write in support of your bipartisan amendment No. 3892 to amendment No. 3739 to S. 3217, the financial regulatory reform legislation currently being debated by the Senate.

Your amendment preserves existing Federal Energy Regulatory Commission (FERC) authority to protect energy consumers from rate increases and in no way allows FERC to supersede the regulatory jurisdiction of the Commodity Futures Trading Commission (CFTC) with respect to the markets or instruments the CFTC now regulates, especially futures markets. Any suggestion to the contrary flies in the face of the plain language of your amendment.

As you know, FERC is the only federal agency charged with regulating physical electricity and natural gas markets for "just and reasonable rates". But the broad jurisdiction the underlying legislation grants to the CFTC over "swaps" could undermine FERC's ability to regulate the electricity and natural gas markets and thus lead to increased costs to consumers, because CFTC has no ratemaking authority. Your amendment rightly maintains FERC's ratemaking authority within the physical electricity and natural gas markets while preserving CFTC's



role to ensure that the futures markets operate in a fair and orderly manner.

FERC also has an obligation to police the physical electricity and natural gas markets for fraud and manipulation and punish any wrongdoing. In the aftermath of the California energy crisis and the schemes perpetrated by Enron and others, Congress gave FERC under EPAct 2005 more robust authorities to prevent fraud and market manipulation by allowing a penalty of up to \$1 million per violation per day. In Fiscal Year 2009, FERC's policing efforts yielded approximately \$38.3 million in civil penalties and recovered \$38.7 million in ill-gotten gains. We are concerned that the underlying bill could inadvertently undermine those authorities, but your amendment will preserve them.

Finally, I note that the American Gas Association, the American Public Power Association, the American Wind Energy Association, the Edison Electric Institute, the Electric Power Supply Association, the Large Public Power Council, the National Association of Regulatory Utility Commissioners, the Natural Gas Supply Association, California ISO, PJM Interconnection, L.L.C., and COMPETE support your amendment.

Sincerely,

JON WELLINGHOFF,  
Chairman.

NATIONAL ASSOCIATION OF  
REGULATORY UTILITY COMMISSIONERS,  
May 10, 2010.

Re Bingham, Murkowski, Reid Amendment to the "Restoring American Financial Stability Act" (S. 3217).

Hon. JEFF BINGAMAN,  
Chairman, Committee on Energy & Nat. Resources, U.S. Senate.

Hon. LISA MURKOWSKI,  
Ranking Member, Committee on Energy & Nat. Resources, U.S. Senate.

Hon. HARRY REID,  
Majority Leader,  
U.S. Senate.

DEAR CHAIRMAN BINGAMAN, RANKING MEMBER MURKOWSKI, AND MAJORITY LEADER REID: On behalf of the National Association of Regulatory Utility Commissioners (NARUC), I write to you today to express NARUC's strong support for your amendment to the "Restoring American Financial Stability Act" (S. 3217) addressing federal and State electric and gas utility rate jurisdiction. Your Amendment correctly confirms State and federal regulatory authority to ensure that retail and wholesale energy consumers pay just and reasonable rates for utility service.

The FERC and the States are the regulatory agencies with the necessary expertise and statutory mandates to oversee electricity and natural gas markets to protect the public interest and consumers. S. 3217 should not preempt FERC and the States from continuing to exercise their authority under existing law to ensure consumers pay just and reasonable rates for reliable utility service. These markets that are already regulated by FERC and the States under accepted tariffs or rate schedules should remain subject to this existing regulation, which includes jurisdiction over physical and financial transmission rights and market oversight.

NARUC thanks you and your colleagues for offering this important amendment. By continuing FERC and State authority, under S. 3217, to oversee any agreement, contract, transaction, product, market mechanism or service offered or provided pursuant to a tariff or rate schedule filed and accepted by the

FERC and/or the States, we believe this amendment ensures that the consumers and the public interest will be protected.

Sincerely,

CHARLES D. GRAY,  
Executive Director.

AMERICAN FARM BUREAU FEDERATION,  
Washington, DC, May 14, 2010.

DEAR SENATOR: On May 13, the American Farm Bureau Federation (AFBF) wrote you in opposition to Senate Amendment #3892 to be offered by Senator Jeff Bingaman (D-N.M.) to S. 3217, the Senate financial markets reform package. Sen. Bingaman has modified the amendment since that time and we wish to notify you that we can now support it.

The amendment acknowledges and protects continued Federal Energy Regulatory Commission (FERC) jurisdiction over physical natural gas and electricity transactions. In addition, the amendment acknowledges continued Commodity Futures Trading Commission (CFTC) jurisdiction over energy futures and options contracts traded on CFTC-regulated exchanges. The CFTC has long had regulatory authority over exchange-traded futures and options transactions, and this has worked well to maintain the price discovery function of these markets.

Finally, the amendment provides that the new CFTC jurisdiction over "swaps" (contained in S. 3217) does not change this status quo allocation of jurisdiction between FERC and the CFTC. Rather, the amendment now sets forth an expedited and cooperative exemption process to allow both regulatory agencies to fulfill their obligations to the American public.

We appreciate your work on this important legislation.

Sincerely,

BOB STALLMAN,  
President.

Mr. BINGAMAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4072 TO AMENDMENT NO. 3739

Mr. GRASSLEY. Madam President, I ask unanimous consent to set aside the pending amendment for the purpose of calling up amendment No. 4072.

The PRESIDING OFFICER. The clerk will report the amendment.

The Senator from North Dakota.

Mr. DORGAN. Madam President, I object.

The PRESIDING OFFICER. The Senator has the right to call up his amendment under the previous order.

The clerk will report the amendment.

The assistant editor of the Dailey Digest read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 4072 to amendment No. 3739.

Mr. GRASSLEY. Madam President, I ask unanimous consent to waive the reading of the amendment in the whole.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for the independence of Inspectors General of certain designated Federal entities, and for other purposes)

Strike 989B, insert the following:

**SEC. 989B. DESIGNATED FEDERAL ENTITY INSPECTORS GENERAL INDEPENDENCE.**

Section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (a)(4)—

(A) in the matter preceding subparagraph (A), by inserting "the board or commission of the designated Federal entity, or in the event the designated Federal entity does not have a board or commission," after "means";

(B) in subparagraph (A), by striking "and" after the semicolon; and

(C) by adding after subparagraph (B) the following:

"(C) with respect to the Federal Labor Relations Authority, such term means the members of the Authority (described under section 7104 of title 5, United States Code);

"(D) with respect to the National Archives and Records Administration, such term means the Archivist of the United States;

"(E) with respect to the National Credit Union Administration, such term means the National Credit Union Administration Board (described under section 102 of the Federal Credit Union Act (12 U.S.C. 1752a);

"(F) with respect to the National Endowment of the Arts, such term means the National Council on the Arts;

"(G) with respect to the National Endowment for the Humanities, such term means the National Council on the Humanities; and

"(H) with respect to the Peace Corps, such term means the Director of the Peace Corps"; and

(2) in subsection (h), by inserting "if the designated Federal entity is not a board or commission, include" after "designated Federal entities and";

**SEC. 989C. STRENGTHENING INSPECTOR GENERAL ACCOUNTABILITY.**

Section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (12), by striking "and" after the semicolon;

(2) in paragraph (13), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(14)(A) an appendix containing the results of any peer review conducted by another Office of Inspector General during the reporting period; or

"(B) if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another Office of Inspector General;

"(15) a list of any outstanding recommendations from any peer review conducted by another Office of Inspector General that have not been fully implemented, including a statement describing the status of the implementation and why implementation is not complete; and

"(16) a list of any peer reviews conducted by the Inspector General of another Office of the Inspector General during the reporting period, including a list of any outstanding recommendations made from any previous peer review (including any peer review conducted before the reporting period) that remain outstanding or have not been fully implemented."

**SEC. 989D. REMOVAL OF INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.**

Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating the sentences following “(e)” as paragraph (2); and

(2) by striking “(e)” and inserting the following:

“(e)(1) In the case of a designated Federal entity for which a board or commission is the head of the designated Federal entity, a removal under this subsection may only be made upon the written concurrence of a ¾ majority of the board or commission.”.

**SEC. 989E. ADDITIONAL OVERSIGHT OF FINANCIAL REGULATORY SYSTEM.**

(a) COUNCIL OF INSPECTORS GENERAL ON FINANCIAL OVERSIGHT.—

(1) ESTABLISHMENT AND MEMBERSHIP.—There is established a Council of Inspectors General on Financial Oversight (in this section referred to as the “Council of Inspectors General”) chaired by the Inspector General of the Department of the Treasury and composed of the inspectors general of the following:

(A) The Board of Governors of the Federal Reserve System.

(B) The Commodity Futures Trading Commission.

(C) The Department of Housing and Urban Development.

(D) The Department of the Treasury.

(E) The Federal Deposit Insurance Corporation.

(F) The Federal Housing Finance Agency.

(G) The National Credit Union Administration.

(H) The Securities and Exchange Commission.

(I) The Troubled Asset Relief Program (until the termination of the authority of the Special Inspector General for such program under section 121(k) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5231(k))).

(2) DUTIES.—

(A) MEETINGS.—The Council of Inspectors General shall meet not less than once each quarter, or more frequently if the chair considers it appropriate, to facilitate the sharing of information among inspectors general and to discuss the ongoing work of each inspector general who is a member of the Council of Inspectors General, with a focus on concerns that may apply to the broader financial sector and ways to improve financial oversight.

(B) ANNUAL REPORT.—Each year the Council of Inspectors General shall submit to the Council and to Congress a report including—

(i) for each inspector general who is a member of the Council of Inspectors General, a section within the exclusive editorial control of such inspector general that highlights the concerns and recommendations of such inspector general in such inspector general’s ongoing and completed work, with a focus on issues that may apply to the broader financial sector; and

(ii) a summary of the general observations of the Council of Inspectors General based on the views expressed by each inspector general as required by clause (i), with a focus on measures that should be taken to improve financial oversight.

(3) WORKING GROUPS TO EVALUATE COUNCIL.—

(A) CONVENING A WORKING GROUP.—The Council of Inspectors General may, by majority vote, convene a Council of Inspectors General Working Group to evaluate the effectiveness and internal operations of the Council.

(B) PERSONNEL AND RESOURCES.—The inspectors general who are members of the Council of Inspectors General may detail staff and resources to a Council of Inspectors

General Working Group established under this paragraph to enable it to carry out its duties.

(C) REPORTS.—A Council of Inspectors General Working Group established under this paragraph shall submit regular reports to the Council and to Congress on its evaluations pursuant to this paragraph.

(b) RESPONSE TO REPORT BY COUNCIL.—The Council shall respond to the concerns raised in the report of the Council of Inspectors General under subsection (a)(2)(B) for such year.

Mr. GRASSLEY. Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. MENENDEZ. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MENENDEZ. Madam President, I rise to speak on the pending amendment, the amendment by Senator GRASSLEY. I have a great deal of respect for the Senator from Iowa. Actually, there is a series of things I propose that are in the underlying bill that go to the heart of much of what that amendment is going to do.

I would start off by saying I agree with most of what my colleagues are proposing. I agree we need to make sure we have a strong regulatory agency to act as cops on the beat. We need to make sure those cops on the beat are doing their job.

I agree we should require financial regulators to respond when inspectors general identify deficiencies in their agencies—either by taking corrective action or explaining to Congress why they are not taking those actions.

I agree we should require inspectors general to report to the board of the organization rather than the head of the organization.

I agree we should require publication of any negative recommendations from the inspector general’s peer review of the work of other inspectors general.

I also agree inspectors general should not suffer any reduction in pay and that current inspectors general should keep their jobs until the new Presidential appointment system I included in the legislation kicks in.

I think those are great ideas and I proposed them myself. But here is where we have a disagreement. That is that this amendment takes away something I think is incredibly important in the underlying bill. It takes away making these inspectors general at these financial institutions Presidential appointments with Senate confirmation of inspectors general at financial regulatory agencies. In its place, it wants to let the heads of the agencies appoint their own inspectors general.

I think that inures to the possibility of conflicts of interest. Look, if I am

the head of an agency and I am going to put in the cop on the beat who is going to supervise me, the inclination is to pick someone who is going to give me a lot of flexibility at the end of the day.

I want a robust cop on the beat. The way I ensure there is a robust cop on the beat, in terms of the inspector general, is having a Presidentially appointed one, one confirmed by the Senate, to know that in fact this person is worthy of pursuing all of the actions of that particular agency in a robust way so they are independent of the agency, not appointed by the very head of the agency they are now going to supervise and review.

I think that is a fundamental weakness, which is why the Banking Committee agreed with me and put the Presidential appointment there and Senate confirmation of inspectors general at financial regulatory agencies.

It seems to me what we want an inspector general to do is make sure the agency is doing its job. Being appointed by the head of the very agency I have to criticize, that I have to critique, that I may raise actions about, means it is a lot less likely the inspector general is truly independent. It is like going to court and saying let me pick the judge who is going to decide on my case. We wouldn’t tolerate that in a courtroom and I do not see this as being any different.

I have so much with which I am in agreement with my distinguished colleague, as I mentioned at the beginning—all of those elements. I think we need to make sure when an inspector general identifies efficiencies, either by taking corrective action or explaining to Congress why they are not, that needs to be responded to by the regulators. I agree we should require inspectors general to report to the boards of organizations rather than the head of the organization. I agree we should require publication of any negative recommendation from the IG peer review of any other inspector general’s work. I agree the inspectors general should not suffer any reduction in pay and that those who are there should be able to keep their job until the new Presidential appointment system kicks in.

But at the end of the day, if we want a true cop on the beat who is independent of the very agency he or she has to review, I would not want them appointed by the head of the agency and say to themselves, who am I appointing? Am I appointing a robust cop on the beat or am I appointing someone who is far less than robust?

We have forum shopping in the court. Trial lawyers try to pick the best judge from their perspective as to who can best look at their case. I want to be honest. I don’t think we should be having the agency heads picking the IG and looking at who is going to treat them most lightly.

I think that is what is at stake. The underlying bill permits the Presidentially appointed, Senate confirmed. I think we should have that right. I think we need a robust cop on the beat and that is why in that one respect I oppose the Grassley amendment.

I hope we can work something out so we can keep the Presidential appointment and Senate confirmation and have all of the other safeguards, many of which I already offered in the bill to be included, and we would have a harmony of view and a robust inspector general regime.

If we are going to have an up-or-down vote on the existing amendment without any changes, then I urge a "no" vote. But I do hope we can make a change that permits the inspector general to be Presidentially appointed, confirmed by the Senate. That confers the ultimate independence, the ultimate vigilance, the ultimate vigor in pursuing the very same things my colleague from Iowa and I want to see happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I appreciate very much the words of my colleague from New Jersey. He is a very thoughtful Senator. He is a member of the Finance Committee so I have a lot of relationships with him. I am glad he spoke highly of some of the changes we have suggested in the IG system generally through our amendment. But I think the real difference for Senator MCCASKILL and this Senator is the fact of whether they should be Presidentially appointed. That is probably a difference that is going to be hard to bridge. So I will speak to that point and also say I hope Senator MCCASKILL will be able to come over here and rebut Senator MENENDEZ because she is on the committee that has jurisdiction over IGs, and she has been very much involved over her recent tenure in the Senate on strengthening the system of IGs.

She will probably speak with more authority on this issue than I can, from the standpoint that I am not on that committee—even though I am involved very deeply in strengthening IGs because I think they are an extension of the checks and balances of government, particularly the extent to which they work with those of us involved in the constitutional responsibility of oversight performed by the Congress.

I wish to say flat out I do not accept the argument that Presidentially appointed IGs are always more independent. I think Senator MCCASKILL spoke on this point earlier when she was presenting our amendment. In fact, Presidential appointments raise another problem. President Obama has had a problem with filling IG vacancies. It took the President 18 months to appoint the IG at the Federal Housing

Finance Agency. That is one example. Eighteen months without a cop on the beat would be a disaster at these financial agencies. Just think, if the SEC, Securities and Exchange Commission, did not have an IG for 18 months, how many more Madoffs would there be, how many more Sanford Ponzi schemes would there be.

Our amendment provides flexibility with accountability and transparency by reporting to the entire board or commission. The IG is not beholden to one person.

That brings up the point, for 80 years now, since independent agencies have been set up—well, I suppose for 130 years, going back to the setting up of the Interstate Commerce Commission, as an example—they have been meant to be a fourth branch of government, pretty much immune to any one President due to the fact they are appointed to overlapping terms and there has to be representation of both political parties on a commission. Just from the history and purpose of independent agencies, you would also want to make sure that inspector general was independent from the chief executive; not totally independent—because the President appoints them—but at least more independent than inspectors general in Treasury and State and the Justice Department—name any of the Cabinet positions you want.

Also, it provides for accountability by requiring a two-thirds vote to remove an inspector general. If the inspector general were appointed by the President, the IG could be removed, then, by one person. This takes politics out of the equation. Our amendment takes politics out of the equation. It strengthens the IG's independence and obviously that is why we are offering the amendment.

I suppose we are offering the amendment from the standpoint that we want that independence to be there because it has accountability with independence; also, because we think there can be a lapse in the work of an inspector general when a President takes a long time to appoint somebody.

In further response to the reasons Senator MENENDEZ has given, I wish to say that the underlying language in the bill would allow the IGs to serve, yes, until the President appoints someone.

But this means once the President nominates someone, the current IG is removed because there is a long lapse between appointment and Senate confirmation. This means the entire time the Senate debates the nominee, the agency does not have an IG. This is an invitation to allow waste, fraud, and abuse and mismanagement in agencies.

So we come to you—when I say "we," I mean Senator MCCASKILL and myself—with a sincere desire that if something is not broken, do not fix it. We come with a desire to say these agen-

cies are so important there should not be any lapse in time between what they are doing now and some new process of bringing somebody aboard.

I have seen the independence of these IGs to do their job and to help us uncover a lot of things that are wrong, particularly, as I think I have been able to point out with the Securities and Exchange Commission, not only under this administration but under the previous administration.

Probably in the last couple of years of the Bush administration, we were able to, working with IGs, make sure the job was done right and exposed a lot of things that were wrong.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I appreciate the statement of my colleague from Iowa. I will just make one or two observations. First, if we are talking about someone being beholden to one person, well, under the Senator's view that person is going to be beholden to the department authority that appoints him, the very same department authority that person is going to supervise and review. So it seems to me to the extent that there is always going to be an appointing authority, I would rather have the President of the United States, with the interests of the American people, whatever President that might be, be the appointing authority over an agency where the IG is not going to be beholden to the agency that appointed them.

I think that is a much more compelling issue. As it relates to the time, the lapse of time, I would just simply say, well, first of all, if we do not have filibusters and have up-or-down votes on people, then we will not have much of a lapse in time in terms of having an IG come before the Senate for confirmation.

I do not know why Senators would want to give up the right they would have under the bill to confirm inspectors general and make sure that person has a robust quality to them, the integrity and the background and the history to make sure they are going to go after this agency when it is appropriate to do so.

I would say, to the extent that any lapse of time versus the robust nature of how this person gets appointed is worthy of consideration. So I do not find, while I agree with my colleague on so many of the other points I have already mentioned, this one fundamental issue is one that I find difficult to understand how, when it is like—sort of like having the fox be appointed to watch the chicken coop. If I appoint someone to watch over me, I would like to believe I am going to have the most robust, tough cop on the beat do it. But human nature being what it is, I am not so sure that agency heads are going

to do that. I am not so sure they are going to pick the toughest cop on the beat versus actually someone who might have a less vigilant view. I think maybe we can agree that inspectors general have to come for an immediate vote on the Senate floor and not be subject to being filibustered, and this way we could have an up-or-down vote on them and the issue of lapsing time would be taken care of.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, this will be the last time I will speak on it, and just for a couple of minutes. I hope the Senate would give some discretion to the fact that when Senator McCASKILL comes over, that she would be able to speak for 2 or 3 minutes on this issue so that people can hear from the other side of the aisle on the importance of this amendment.

We appear to have a fundamental difference regarding how independent Presidential appointees are. If I were an inspector general, I would feel more independent with a two-thirds vote of a bipartisan panel, meaning commission appointees, as opposed to one person. Our amendment assures IGs, if they are terminated, it will be in a public forum and not the back room of the White House, if they are Presidentially appointed.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 4114 TO AMENDMENT NO. 4072

(Purpose: To ban naked credit default swaps and for other purposes.)

Mr. DORGAN. Madam President, I send a second-degree amendment to the desk to the Grassley amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 4114 to amendment No. 4072.

Mr. DORGAN. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DORGAN. Madam President, the second-degree amendment that I have just sent to the desk to the Grassley amendment is the amendment that there has been an objection to my offering. So it is the only way, apparently, I can offer the amendment. It is the amendment dealing with naked credit default swaps.

We cannot possibly end this discussion without addressing the central issues that caused the near collapse of our economy, one of which is the unbearable speculation, the speculation in exotic financial instruments such as credit default swaps that, by the way,

now is on the rise. It is not receding, it is on the rise.

The fourth quarter of last year the credit default swaps were up by 8 percent, \$14 trillion in notional value, up 8 percent in the fourth quarter of last year alone. I also feel very strongly that the issue of too big to fail is a real issue. We cannot just brush it away saying: I wish it was not an issue.

The too-big-to-fail companies have gotten bigger, much bigger. Well, that is not a solution for this country's economy. The issue of betting in the lobby of our banks, as I have said, they might as well put in a Keno table or a blackjack table and wager that way. These are bets, not investments.

There are tens of trillions of dollars' worth of these bets. Because we want to tighten the laces a little on this, this amendment would ban naked credit default swaps over a period of time. Because we want to tighten the laces a bit, we have folks who object to even offering this because it would take on Wall Street. Well, you know what. That is what this legislation is about. If we go back to 2008 when Wall Street lost—I think, \$36 billion net loss—and they paid out bonuses of \$17 or \$18 billion. They were having a carnival.

What was it all about? It was about big fees, trading all of these unbelievably speculative instruments, things that we had never heard of before—and, by the way, instruments in which they had no insurable interest. I said before you cannot buy fire insurance on someone else's house. You cannot buy life insurance on someone else's life. But what is happening is the biggest financial institutions in this country are buying and selling credit default swaps, are selling insurance policies against bonds that they will never own and have never owned.

It is like buying things they will never get from people who never had it and making fees on both sides of the transaction, except it is building a pyramid of speculation. At some point that pyramid came down and nearly took the entire American economy with it. So we now do something called financial reform.

The central question is, are we going to do it right? Are we going to be tough? Are we going to make sure we get rid of these things, the unbelievable speculation that injured this country's economy? There are trillions of dollars of them out there. And, by the way, the five largest commercial banks in this country hold 90 percent of the total credit derivatives, the \$13.2 trillion of credit derivatives. They are owned by the five largest commercial banks.

Somebody said: Well, you cannot ban these things. The banking industry needs them. Oh, really? Well, if that is the case, why are only five companies doing 90 percent of the business in what are called naked credit default swaps?

I will speak about this at another time. I promised my colleague from Maine I would be a minute. I have gone well over the minute. But I will speak about the second-degree amendment at much greater length. It is the only way, apparently, I can offer an amendment.

So I believe that method, using a parliamentary technique that is perfectly legitimate, gives me an opportunity to force a vote on this amendment at some point.

It is an amendment that should have been able to have been offered as a result of an agreement on both sides to deal with real issues, in real time, on one of the most significant challenges that confront our country: how to put this financial system back together again in which the financial industry plays a very important role in the expansion of this country, as opposed to building more and more and more speculation and seeing that too-big-to-fail institutions get bigger and bigger and bigger.

I yield the floor, and I will come back and speak on the second-degree at some point later.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3883

Ms. SNOWE. Madam President, I rise again to speak on the amendment that is pending that I had offered last week, No. 3883, which I have introduced with my good friend and colleague, Senator PRYOR.

Our amendment would ensure fairness and regulatory transparency for small business in the financial regulatory reform measure that we are now considering. This bipartisan amendment was also cosponsored by my colleagues, Senator GRAHAM, Senator MENENDEZ, Senator FRANKEN, Senator BOND, Senator BURRIS and Senator THUNE.

Our amendment would ensure that this newly created bureau in the bill, the Consumer Financial Protection Bureau, would, before it promulgates proposed rules, fully consider the economic effect that those rules and regulations would impose on our Nation's approximately 30 million small businesses that create 64 percent of all of the net new jobs in America. That certainly has been the case over the last 15 years, and they are the ones that we are depending on to lead us out of this jobless recovery.

Our amendment would designate the Consumer Financial Protection Bureau as a "covered agency" under the Regulatory Flexibility Act—so that small business review panels would apply to the Bureau's rulemaking process. Now, it is critically important to have these advisory small panels that currently only apply to EPA and to OSHA. They have been extremely successful in helping to shape more workable regulations at those agencies for small businesses

to be much more attentive to the impact that these statutes are going to have on the well-being of small businesses.

Since 1996, when these small business panel provisions were passed—unanimously, I might add, in the Senate as part of the Small Business Regulatory Enforcement Fairness Act, SBREFA—and signed into law by then-President Clinton, the EPA has convened 35 panels and OSHA has convened 9 panels. The findings of these panel reports have helped EPA and OSHA improve their proposed rules by tailoring regulatory approaches and alternatives to the unique situations of small businesses. And that is very important.

As we look over the number of panels that have been convened over the last 14 years, we have seen there have been rules regarding groundwater, radon in drinking water, arsenic in drinking water, tuberculosis, ergonomics, and the list goes on and on. It has worked exceptionally well in this process for those agencies that obviously could have a tremendous effect on small businesses by creating unintended consequences.

So is it not better to know potential small business effects at the forefront of the regulatory process, not afterwards, in which the small businesses are consumed not only with time but energy and money in order to fight the regulatory process once it has taken effect?

So our amendment would specify very clearly the same process that has applied to EPA and OSHA for the last 14 years has been supported by the Senate unanimously when SBREFA was adopted; that the bureau must consider the economic effect that these rules will have on the cost of credit for small businesses. This is critical because, as we know, and according to the National Federation of Independent of Business, NFIB, which is the largest voice for small business in this country, 42 percent of small business owners use a personal credit card for business purposes.

So it is absolutely vital that small business interests are fully considered before the bureau issues regulations on consumer credit cards, so that however well intentioned those rules and regulations are, we want to make sure the bureau does not inadvertently cut off or suspend vital small business credit sources, especially during these fragile economic times when, as a recent Federal Deposit Insurance Company survey noted, banks posted their sharpest decline in lending since 1942.

I want to add that there are some fundamental misconceptions about the pending amendment. I would like to address them because I think it is critically important that we sort through the misperceptions and mischaracterizations and get to the truth of what this amendment is all about.

First and foremost, this is a tried-and-true proposal. It has been the law for the last 14 years for EPA and OSHA.

Some, including the Treasury Department, have argued that my amendment would compromise the independence of the new bureau by holding it captive the very businesses it is set to regulate. This argument is flawed for many reasons. Given how many months—in most cases, years—it takes Federal agencies to promulgate new rules under the notice and comment process, how does 60 days built into the process undermine key consumer protections the underlying legislation seeks to achieve? I really don't understand exactly what the Treasury Department is so concerned about, let alone afraid of.

If there are going to be adverse economic effects on small firms, our Nation's primary job creators—at this key juncture when unemployment is at virtually 10 percent and 15 million Americans are unemployed, and we are depending on small businesses to be the job generators—wouldn't we want to know what effect any rules and regulations this bureau is about to promulgate would have on small businesses? Why not know that ahead of time, set up a small business review panel, which has been done in so many instances in the past and worked effectively and successfully, to ascertain exactly what might affect small businesses' well-being so that we can address it at the forefront of the regulatory process and not afterward? That is what this is all about. Wouldn't we want to know before an agency proposes a rule as opposed to afterward? That is what we do with EPA as well as OSHA.

Secondly, it is the bureau itself—not SBA, not OMB or any other agency within government—that is overseeing the small business advisory panel process as well as the report and recommendations. The bureau does this with the input of small business stakeholders that the bureau, in consultation with the independent SBA Office of Advocacy, chooses to include. So the bureau has flexibility in this process.

The bureau gets to choose what small businesses participate, what information it shares with the panel, and it oversees the process and the writing of the report. I ask my colleagues again, how would the bureau be controlled by the regulating community, unless the bureau allows itself to be controlled?

I went back to look at the SBA Office of Advocacy to determine how they view this process and how well it has worked. They said: Invariably, the participation of these panels provides extremely valuable information on the real-world impacts and compliance costs of agency proposals.

The purpose of the panel process is threefold. This is from the independent office within the Small Business Ad-

ministration. The Office of Advocacy has authored their own independent assessment, separate and apart from the SBA, to determine what works and what does not work. First, the panel process ensures that small entities that would be affected by a regulatory proposal are consulted about the pending action and offered an opportunity to provide information on its potential effects. Secondly, a panel can develop, consider, and recommend less burdensome alternatives to a regulatory proposal when warranted. Finally, the rulemaking agency has the benefit of input from both real-world small entities and analysis prior to publication. Wouldn't we want to know the real-world effect? Certainly, we would. We can act theoretically when we pass legislation that becomes law, but ultimately, how is it going to affect the real world? What is it going to do to small businesses on Main Street?

Now I am hearing from the Treasury Department that they simply don't want to know the truth. It is too invasive. It is taking too much time. They want to put all these regulations by this new bureau within the act, this Consumer Financial Protection Bureau that essentially comprises more than 300 pages out of this 1,500-page bill, that is obviously going to have a host of rules and regulations. They are saying: No, it is too invasive. We can't take that kind of time. It might hold us up.

We are saying a 60-day process. It is a 60-day review process. This panel would be convened if the bureau itself determines that, yes, in fact, some of the rules they may propose will have an effect on small businesses. So then they convene a panel. They choose the particular stakeholders across the board within the agencies and with the small business community. They convene for 60 days. Within 60 days, the bureau completes the report and submits it to the bureau. It contains recommendations that are advisory, not mandatory. Then the bureau considers these recommendations as it proposes its rules and regulations. I think that is a pretty logical process. I can't understand why the Treasury Department would be so adamantly opposed to this very logical, straightforward approach that has already been utilized time and again for EPA and OSHA. It is mystifying to me.

The attorneys at the Treasury Department say it could take 6 months to do these panels. Our amendment would adhere to the Regulatory Flexibility Act requirements that specify 60 days. How the bureau handles that 60-day report is obviously up to them. There is list after list of panels where these review panels have been used time and again under OSHA and EPA. It has been very effective—understandably so. We want to make sure these rules work.

Why wouldn't the Treasury Department want to know whether these rules and regulations will work for small businesses? Thirty million small businesses in this country generate two-thirds of all the net new jobs each year. We are surely depending on them to create the jobs in this jobless recovery. I've said it before and I will say it again: A jobless recovery is not a true recovery. We need jobs. But we are saying: No, we don't want to bother with this 60-day review panel. We don't want to bother with that because it could interfere with our process. We want to put everything on a fast track. We will figure out later whether it works for small businesses.

That is unacceptable and objectionable. That is why there is so much anger and frustration across America. Go up and down Main Streets and see what is happening to small businesses. Now we are saying, with this new Consumer Financial Protection Bureau, that we don't want to take the time to consider anything that would have an effect on small businesses. We will find out about it later. Let them pay the price of whether they can survive. Let them pay the price as to whether they can afford these regulations, that it makes sense, that it is workable, or to fight the regulatory process.

Anybody been through that process? We know what it is all about. It is time-consuming, complex, and bureaucratic. It is simply unaffordable for most small businesses. Ultimately, they will have to close their doors or they will not hire or they are going to lay off people. That is what the net result of all this will be. Yet we have had a demonstrable approach with this by virtue of what has happened to EPA and OSHA.

According to the independent SBA Office of Advocacy report:

[t]he panel process does not replace, but enhances, the regular notice-and-comment process.

The Office of Advocacy has also found that these small business review panels have facilitated "revisions or adjustments to be made to an agency draft rule that mitigated its potentially adverse effects on small entities, but did not compromise the rule's public policy objective."

It makes good sense that they would be able to consider less burdensome alternatives in the event this 60-day review process by a small business panel, which would be established and appointed by the bureau itself, would determine they would be more preferable than the ones that originally were being considered.

I understand the majority intends to offer a side-by-side amendment that astoundingly does not have the support of the small business community. An abundance of organizations support this amendment offered by Senator PRYOR and others, along with myself.

We have more than 23 organizations that have supported this legislation.

Let's look at the alternative that may be offered. And I truly hope it isn't offered. As this chart reveals, the side-by-side my colleagues are proposing on behalf of the Treasury Department would be a diluted version of the amendment I am offering.

My amendment with Senator PRYOR would permit the small business voice to be heard before a rule is actually proposed. It certainly makes sense to know the consequences of any potential rules before they take effect, before they go through the rulemaking process.

The side-by-side that my colleagues may be offering includes a loophole under which the bureau could evade entirely its small business panel requirements, so the small business voice would never be heard if their amendment is adopted.

Mind you, the language in their amendment would take 90 days for the small business panel to make its report. My amendment would take 60 days. Their process would take 90 days, and it would be a permanent panel. I am not asking for a permanent panel. I am saying that whenever the bureau determines they will be proposing rules that would have a significant impact on a substantial number of small businesses, that the Bureau convene a small business panel in which they would have to complete their work within 60 days, the bureau would submit their report for consideration, and the bureau would have to consider the small business panel report as they develop their proposed rule, before they promulgate it.

The difference between my amendment and the side-by-side that could potentially be offered is they create a permanent board and it is not even tied to rulemaking. They create a board that will meet four times a year. Now it is a bureaucracy within a bureaucracy. That is essentially what it is all about. It would create a bureaucracy within the bureau to meet four times a year for no particular purpose. Maybe they could consider small business economic effects from a potential rulemaking but maybe not, under this amendment. It clearly doesn't make any sense. And then it is an additional cost to the taxpayers. And it doesn't require, most importantly, the panel recommendations before the rules are actually proposed in the federal register. But even worse than that, they are not even required to consider any of the panel's recommendations, if they have any, before the final rule is issued. So that is a fairly major loophole in their amendment.

So here we are. We have the amendment Senator PRYOR and I have offered that would create a 60-day process that has been utilized time and again for the last 14 years and worked exception-

ally well. They submit their proposal to the bureau. It is a panel established by the bureau. They can determine who will be represented in that panel. They can consider the recommendations as they draft their rules for the rulemaking process, at the outset before a rule is proposed.

In this case, on the other hand, the amendment my colleagues intend to offer—I know it is the Senator from Louisiana, Ms. LANDRIEU contains a loophole under which the Bureau would never have to consider the recommendations of the small business panel. They will meet four times a year for no particular purpose. It is not even tied to a rulemaking process.

I hope our amendment will be adopted. It really has already been established in precedent, in practice, not in theory. It is not conceptual; it is very real. Certainly, it will be real to small businesses in terms of whether it is going to have a major effect on their ability to conduct their business.

Our amendment builds on the current requirements under the Regulatory Flexibility Act. Since the Regulatory Flexibility Act was amended by the Small Business Regulatory Enforcement Fairness Act, SBREFA, back in 1996, to include these small business review panels, EPA has convened 35 panels and OSHA has convened 9 panels. It has worked very well.

Our amendment will ensure transparency in the regulatory process because the small business panel reports would be included in those proposed rules. It will allow the voice of small businesses to be heard at the front end of a regulation, before the proposed regulation has been published in the Federal Register. In contrast, the side-by-side amendment that potentially will be offered would expedite the bureau's rulemaking process and allow it to finalize onerous regulations that could crush small businesses without considering first the small business effects either during the proposed or the final rule stage of the regulatory process.

I urge my colleagues to oppose the side-by-side amendment. It would establish a dangerous precedent of diluting not only current law in the way it now functions with respect to EPA and OSHA but also how it has been extremely successful. My amendment is an extension of current law as it applied to the Consumer Financial Protection Bureau.

As you will see on the next chart, we have strong support from a broad cross section of 23 stakeholders, representing millions and millions of small businesses across the spectrum—of course, the National Federation of Independent Business, known as NFIB; the Associated Building and Contractors; the National Restaurant Association; the National Lumber and Building Material



Dealers Association; S Corporation Association; the U.S. Chamber of Commerce; the United States Black Chamber; the United States Hispanic Chamber of Commerce; Women Impacting Public Policy; the International Franchise Association; the Independent Electrical Contractors; the Hispanic Leadership Fund.

The list goes on, and rightfully so, because they understand what is at stake. They understand the effects it will have on small business. We want to make sure we have a very practical, real process that is going to work for small businesses.

I hope we are not going to disregard the invaluable voices of small businesses to have the ability to have input at the forefront of the regulatory process, and utilizing a process that has worked so well. I hope we would reject any other watered-down, side-by-side amendment because, as I have already pointed out, it has a number of weaknesses and a loophole. It establishes a permanent panel for no apparent reason and that is not necessarily tied to the rulemaking. But more critical is the fact that, under the side-by-side amendment, the Bureau can totally ignore and disregard the input. Even if they created one of these panels for a rule-making process, they do not have to consider it, either before the proposed rule is published or before the final rule is promulgated in the Federal Register.

Something does not make sense. The bottom line is, the side-by-side amendment would be a job killer for small business. So if we are talking about jobs, jobs, jobs—and I hope we are going to get to a small business tax relief bill. I have been hoping since January we are going to get to it because it is so critically important. I know there are a lot of things to consider here on the floor of the Senate, but primary of which should be about creating jobs. So while we are saying we want to create jobs on the one hand, and we are concerned about small businesses' economic well-being on the other hand, we are doing things that are going to undermine the status of small businesses in America, as they are struggling to survive. They are struggling to survive. We know that. We have had an abundance of hearings in the Small Business Committee. As ranking member of the Small Business Committee, I can tell you, we hear it time and again repeatedly. They are desperate. They need our support. We cannot hinder their ability to survive in this very tough, unprecedented environment.

So if we are depending on them to create jobs, then I think we better think very seriously about whether to support my amendment. I hope it would not be rejected. I hope it will be supported. There is no reason, there is no rationale, there is no logical explanation as to why the Treasury Depart-

ment—of all the Departments, frankly, we are here because the Treasury Department did not provide the necessary and effective oversight of financial institutions—we are dealing with a financial regulatory reform bill, so I cannot imagine rejecting something that has been tried before and has worked so effectively.

That is what I am asking, that we would allow my amendment to be adopted. Because, as you can see, this amendment is supported overwhelmingly by critical small business organizations, because they understand the reality. They understand the net effect of what is going to happen. They need this support. This is not a minimalist amendment. It has real consequences, if we fail to adopt it. That is the fact. That is reality that small businesses are facing all across America.

So when we are creating this new entity, this Consumer Financial Protection Bureau, that literally consumes hundreds of pages in the pending legislation, are we not saying we want to make sure, when they are drafting those rules, we are going to consider how it will affect small businesses on a day-to-day basis? Because that is what they are going to live with.

By the way, I think we all know who pays more for regulatory compliance. It is not the large corporations. It is the small business.

In the past, we think about Sarbanes-Oxley. I know there is an amendment that has been filed that has been offered by the Senator from Texas and the Senator from Louisiana that will “spare,” as it says in this Wall Street Journal editorial, “the smallest public companies from the worst bureaucratic horrors of the 2002 Sarbanes-Oxley law.” They said:

This is one reason the two Senators aim to exempt companies with less than \$150 million of shares held by the public from “internal-controls” audits.

Because of the indirect costs, as well as the direct costs, they said that:

[T]he average public company pays more than \$2 million per year complying with the law's Section 404. The indirect costs may be much greater . . .

The indirect costs are even greater from Sarbanes-Oxley. Small firms pay 45 percent more in regulatory compliance costs than larger firms, according to the Office of Advocacy within the Small Business Administration.

That is the point. So on one hand, we are saying: Well, in financial regulatory reform, we should exempt small public companies because of the bureaucratic hindrance that Sarbanes-Oxley has provided. So there is another example of what the effects are, the unintended consequences, when rules have a disproportionate effect on small businesses. That is what has happened in that instance.

So these are legitimate and valid issues based on reality, based on the

experiences of small businesses, what they have had to already endure. So why compel them to have to further endure another regulatory nightmare and quagmire that might ensue as a result of this bureau? We are asking to take an intermediate step: 60 days. Somebody is saying 60 days is too much time to give consideration to the well-being of small businesses in America?

Well, we are offering amendments that say: Gee, we ought to exempt the smallest companies because of what occurred under Sarbanes-Oxley, what it has done with the unintentional effects. We all know the adverse consequences that can emanate and result from legislation that becomes law. So let's be attentive and sensitive to those issues at the forefront of this process. That is what this amendment is all about. I would hope there would be strong support for my amendment because there truly is overwhelming support from all of these organizations and more that are represented on these charts.

I ask unanimous consent to have printed in the RECORD a list of organizations in support of my amendment, as well as a number of letters that have been sent from small business organizations declaring that it is an imperative that this amendment be accepted because of the concern, the abiding concern, of the small businesses community across this country that they are going to suffocate under this rule-making process if they do not have a voice.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### ORGANIZATIONS IN SUPPORT

Associated Builders and Contractors; Association of Kentucky Fried Chicken Franchisees; Hearth, Patio & Barbecue Association; Hispanic Leadership Fund; Independent Electrical Contractors; Institute for Liberty; International Franchise Association; National Association for the Self-Employed; National Federation of Independent Business, which is “key-voting” in support of our amendment and opposing the majority's side-by-side; National Lumber and Building Material Dealers Association; National Restaurant Association; National Roofing Contractors Association; National Small Business Association; Printing Industries of America; S Corporation Association; Small Business & Entrepreneurship Council; Society of American Florists; Society of Chemical Manufacturers & Affiliates; Tire Industry Association; U.S. Chamber of Commerce; United States Black Chamber; United States Hispanic Chamber of Commerce; and Women Impacting Public Policy.



MAY 12, 2010.

Hon. HARRY REID,  
Majority Leader, U.S. Senate,  
Washington, DC.

Hon. MITCH MCCONNELL,  
Minority Leader, U.S. Senate,  
Washington, DC.

Hon. CHRIS DODD,  
Chairman, Committee on Banking, Housing &  
Urban Affairs, U.S. Senate, Washington,  
DC.

Hon. RICHARD SHELBY,  
Ranking Member, Committee on Banking, Housing  
& Urban Affairs, U.S. Senate, Wash-  
ington, DC.

DEAR MAJORITY LEADER, MINORITY LEADER,  
CHAIRMAN DODD, AND RANKING MEMBER  
SHELBY: The undersigned organizations rep-  
resenting millions of American small busi-  
ness owners are writing to urge that the Sen-  
ate consider the Small Business Fairness and  
Regulatory Transparency Amendment (S.  
Amdt. 3883) sponsored by Senator Pryor and  
Senator Snowe as part of the Senate's delib-  
erations on S. 3217, Restoring American Fi-  
nancial Stability Act of 2010.

As you know, new jobs primarily come  
from the small business sector of our econ-  
omy. Small business has created about two  
of every three net new jobs in the United  
States since at least the early 1970s. And  
nearly all job creation since 1980 has oc-  
curred in firms less than five years old. In  
fact, data from the 1990's show small busi-  
ness are the only sector producing jobs com-  
ing out of a recession. The amendment of-  
fered by Senators Pryor and Snowe is an ef-  
fort to prevent unintended consequences by a  
new agency that could harm the small busi-  
ness sector.

According to the U.S. Small Business Ad-  
ministration, small firms shoulder a 45 per-  
cent higher burden to comply with federal  
regulations than their larger business com-  
petitors. This economic distortion can be  
eased when agencies carefully consider how  
their regulations will impact small firms,  
which is why delegates to the 1995 White  
House Conference on Small Business called  
for direct small business participation in the  
rulemaking process. That recommendation  
from the White House Conference was a key  
provision in the Small Business Regulatory  
Enforcement Fairness Act (SBREFA), signed  
by President Clinton in 1996. The amendment  
offered by Senators Pryor and Snowe applies  
the same standards of transparency and  
small business consultation found in  
SBREFA to the Consumer Financial Protec-  
tion Bureau (hereinafter referred to as the  
"Bureau").

Additionally, S. Amdt. 3883 calls upon the  
Bureau to consider how its rules will impact  
small business access to credit. Almost 90  
percent of the nation's 26 million small busi-  
nesses use some form of credit. And, econo-  
mists have raised concerns that actions by  
the Bureau will tighten the credit squeeze,  
raising interest rates and curbing job  
growth. The amendment offered by Senators  
Pryor and Snowe provides assurance that  
small business access to credit is a top con-  
sideration by Bureau officials as they take  
on the important task of overseeing our fi-  
nancial sector.

Small business is a critically important  
sector. America needs their job creation  
strength to bring down unemployment and  
their innovative strength in a global market-  
place. We know you share our desire to take  
every step necessary to protect Main Street  
while you are trying to fix the practices on  
Wall Street and we urge you to include S.  
Amdt. 3883, the Small Business Fairness and

Regulatory Transparency amendment, as  
part of the Senate's debate on S. 3217. Once  
the amendment is under consideration, we  
urge your support for its passage.

Associated Builders and Contractors; As-  
sociation of Kentucky Fried Chicken  
Franchisees; Hearth, Patio & Barbecue  
Association; Hispanic Leadership Fund;  
Independent Electrical Contractors; In-  
stitute for Liberty; International Fran-  
chise Association; National Associa-  
tion for the Self-Employed; National  
Federation of Independent Business;  
National Lumber and Building Mate-  
rial Dealers Association; National Res-  
taurant Association; National Roofing  
Contractors Association; National  
Small Business Association; Printing  
Industries of America; S Corporation  
Association; Small Business & Entre-  
preneurship Council; Society of Amer-  
ican Florists; Society of Chemical  
Manufacturers & Affiliates; Tire Indus-  
try Association; U.S. Chamber of Com-  
merce; United States Black Chamber,  
Inc.; United States Hispanic Chamber  
of Commerce; Women Impacting Public  
Policy.

—  
NATIONAL SMALL BUSINESS  
ASSOCIATION,  
Washington, DC, May 18, 2010.

Hon. CHRISTOPHER J. DODD,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR DODD: The National Small  
Business Association (NSBA) is urging you  
to support the Ensuring Small Business  
Fairness and Regulatory Transparency  
Amendment (S. Amdt. 3883)—or the Snowe/  
Pryor amendment—to the Restoring Amer-  
ican Financial Stability Act (S. 3217). This  
critical amendment, supported by a very  
broad, bipartisan group of Senators, will en-  
sure that the Consumer Financial Protection  
Bureau considers how its rulemakings affect  
America's small businesses. Reaching 150,000  
small firms across the nation, NSBA is the  
country's oldest small-business advocacy or-  
ganization.

As the Consumer Financial Protection Bu-  
reau likely is to be established as an inde-  
pendent agency with rulemaking authority,  
it should be required to consider the unique  
needs and constraints of small firms as it  
promulgates its rules.

NSBA strongly supports requiring the Bu-  
reau to conduct Regulatory Flexibility Anal-  
yses in conjunction with its rulemaking. It  
is critical that the Bureau provide the public  
with transparent information on how its pro-  
posed rules would affect small firms. NSBA  
also supports requiring the Bureau to con-  
sult with a Small Business Advocacy Review  
Panel prior to the publication of any pro-  
posed rule, with the Review Panel's rec-  
ommendations published in any eventual  
proposal.

Small businesses bear a disproportionate  
burden of federal regulations. In fact, the  
smallest firms—those with fewer than 20 em-  
ployees spend 45 percent more per employee  
than larger firms to comply with federal reg-  
ulations. Incorporating the Snowe/Pryor  
amendment in S. 3217 will take the impor-  
tant steps toward alleviating this gross inequity.

Increased transparency is a stated goal of  
the current administration and Congress.  
This is a perfect opportunity to achieve  
progress towards that objective. This amend-  
ment will ensure a public exchange of data,  
analysis, and recommendations, detailing the  
potential benefits and costs to small

businesses of any proposed regulations. This  
is a welcome achievement.

I urge you to consider the many pitfalls  
caused by the absence of such language in  
other sweeping pieces of legislation, namely  
Sarbanes/Oxley, which has constituted a  
major burden for America's small businesses.  
On behalf of the many struggling small busi-  
nesses in the U.S. today, I am calling upon  
you to do everything in your power to pre-  
vent any roadblocks for future entre-  
preneurs, and urge your support of the  
Snowe/Pryor amendment.

Sincerely,

TODD O. MCCracken,  
President.

—  
U.S. BLACK CHAMBER, INC.,  
Washington, DC, May 11, 2010.

The US Black Chamber, Inc. represents  
over 30% of all the Black owned business na-  
tionwide. We have united to ensure that our  
voice is heard. Black business owners are a  
strong economic force in the United States,  
and increasingly throughout the world. Their  
contributions extend beyond the number  
of firms they own, the people they em-  
ploy and the revenues they generate. Their  
economic influence is multiplied many times  
through the direct and indirect economic im-  
pact they generate through their business  
ownership.

We are writing you to urge that the Senate  
consider the Small Business Fairness and  
Regulatory Transparency Amendment (S.  
Amdt. 3883). Small business develop the ma-  
jority of the jobs that have been created in  
the United States. The recession has shown  
that small businesses are in fact the only  
sector that is creating new jobs.

S. Amdt. 3883 calls upon the Bureau to con-  
sider how its rules will impact small busi-  
ness access to credit. Black-owned firms are  
less likely to receive loans than non-white  
firms (23% of non-minority firms receive  
loans compared to 17% of minority firms.)  
Black owned firms receive lower loan  
amounts than white firms. Black-owned  
firms are more likely to be denied loans (42%  
denial rate for Black and 16% denial rate for  
whites). We feel actions by the Bureau will  
tighten the credit squeeze, raise interest and  
slow job growth.

S. Amdt. 3883 provides assurance that our  
members and small business access to credit  
is a top consideration. We urge your support  
for its passage.

Thank you, and we look forward to work-  
ing together with you and our membership,  
to bring this plan into reality.

In the Spirit of Success,

RON BUSBY,  
President & CEO.

Ms. SNOWE. I urge adoption of this  
amendment.

I thank the Presiding Officer and  
yield the floor.

The PRESIDING OFFICER (Mr.  
UDALL of Colorado). The Senator from  
Delaware is recognized.

Mr. KAUFMAN. Mr. President, I am  
on the floor here incredibly dis-  
appointed by the decision by my  
friends across the aisle to block a vote  
on the Merkley-Levin Volcker rule  
amendment and the Dorgan amend-  
ment to ban naked credit default  
swaps.

We have had good comity on this bill.  
I think both sides have taken amend-  
ments for a vote they did not like  
based on how the vote turned out,

where you have votes where a majority of the Republicans voted for an amendment they put forward and a majority of the Democrats voted against it or a vast majority of Democrats voted against it, but we allowed it to come to a vote.

I think we are getting late in the processing of the bill. It would have been nice if we could have gone through the whole process the way we started and the way we were in the middle and allowed these important issues to come up, especially issues as important as this one.

I want to praise Chairman DODD—and I mean it—for an incredible piece of work and all my colleagues who have worked diligently on this bill. It has been incredible in holding this together. There are many provisions in this bill I strongly support.

However, there is one portion of the bill that many of my colleagues and I have discussed on the floor extensively, and that is the question of how we prevent systemic risks from manifesting themselves among our largest Wall Street banks—those that have been deemed too big, too big, too big to fail due to their tendency to engage in highly leveraged and extremely risky speculative trading activities.

As my colleagues know, Senator BROWN and I, along with others, offered an amendment to tackle this problem directly and preemptively. The Brown-Kaufman amendment would have scaled down the size and risk of our megabanks through limits on leverage and on unstable nondeposit liabilities. While I am disappointed the amendment did not pass, I know the debate will persist as long as too-big-to-fail banks continue to exist. For as long as we still have banks so large they are too big to fail, they will pose mortal risks—mortal risks—to the American economy.

Within days of the Senate's consideration of Brown-Kaufman, we saw the EU and IMF scramble to put together an almost \$1 trillion emergency package to forestall a full-blown series of sovereign debt crises throughout the continent. While ostensibly reported in the press as a rescue package for over-leveraged and embattled sovereign nations such as Greece and Spain, it was actually a bailout of Europe's megabanks, not to mention our own. That is what it was about. It was about bailing out Europe's megabanks. German and French banks alone have more than \$900 billion in exposure to Greece and other vulnerable Euro countries, including Ireland, Portugal, and Spain.

Meanwhile, our top five banks have an estimated \$2.5 trillion in exposure to Europe. That is \$2.5 trillion in exposure to Europe.

So long as we have too-big-to-fail institutions, we will continue to go through the "doomsday" cycles of

booms, busts, and bailouts. There are two amendments left that address this critical question directly, two others that would help. I believe at least one of the two represents a critical test of whether we as a body are serious about curbing systemic risk. While I would prefer we pass the Cantwell-McCain amendment, which would restore the Glass-Steagall Act's 60-years-long separation between commercial and investment banking activities—which I have spoken on the floor many times about—I believe very strongly that, at a minimum, we must pass the Merkley-Levin amendment that would ban proprietary trading activities by commercial banks.

This is not a radical amendment. After all, it is President Obama's proposal, which he has named the Volcker rule, after the most respected bank regulator in the last half century, former Federal Reserve Chairman Paul Volcker. It has been represented to us for many weeks that even the current version of the bill includes a mandatory imposition of the Volcker rule after a 6-month study. The Merkley-Levin amendment would remove any doubt about whether the new council could, after its review, recommend modifications to the rule.

Merkley-Levin, in my view, is where the rubber hits the road. It is a true test of whether the administration and the Congress are serious about imposing limitations on the activities of the government-guaranteed part of our financial system—in short, so that casino-like activities can no longer remain centered at the heart of too-big-to-fail institutions.

I also believe that a strong financial reform bill must retain the key provisions on too big to fail that are already in the bill, particularly Senator LINCOLN's provision to prohibit banks with swap dealers from receiving emergency Federal loans, and an amendment to the bill, Senator DORGAN's amendment, which bans naked credit default swaps.

As I said, I am proud to support Senator MERKLEY's and Senator LEVIN's amendment to include a more robust version of the Volcker rule ban on proprietary trading within commercial banks in the bill.

Specifically, the amendment would bar banks and their affiliates from engaging in proprietary trading and from owning a hedge fund or private equity fund. To avoid regulatory arbitrage, it would also increase capital requirements on large nonbank financial institutions engaged in proprietary trading.

The Merkley-Levin amendment would minimize the potential procedural roadblocks to the Volcker rule contained in the current bill by specifically directing the regulators to develop rules to implement the Volcker rule restrictions. It would not give unnecessary discretion to the same regulators who have long had the authority

to prohibit speculative activities at banks but never opted to do so.

I have heard some proposals call for so-called de minimis exceptions and other loopholes to a ban on proprietary trading at banks. Loopholes of this kind, however, undermine the very spirit of the Volcker rule and would allow banks that benefit from federally insured deposits and access to the Fed window to continue to engage in activities that are speculative in nature. Importantly, this amendment would also build upon the work of Senator LEVIN's Permanent Subcommittee on Investigations to address conflicts of interest within the modern investment banking model. The PSI subcommittee hearings, in which I had the privilege to participate, demonstrated how Wall Street firms sold clients securities without disclosing their financial interests in seeing such securities fail or perform poorly—basically betting against the very securities they were selling to their clients. Talk about a conflict of interest. This amendment would address this problem by prohibiting underwriters of an asset-backed security from engaging in transactions that create material conflicts of interest with respect to the securities being sold—something I think everyone, on observation, agrees should be the case.

I strongly urge my colleagues to support Merkley-Levin so we can say to the American people we have acted in Congress to prevent another crisis. I do not want to put my faith in a stability council of regulators detecting "early warning signals" of financial instability. I would rather we move our largest banks off of the San Andreas Fault of leverage and speculation on which they now sit.

I also support strongly Senators CANTWELL's and MCCAIN's amendment to break up the largest banks by reimposing the Glass-Steagall Act. Unless we break the megabanks apart, they will remain too large and interconnected for regulators effectively to control. Once the next inevitable financial crisis occurs and the contagion spreads too quickly for the government to believe that a failing firm won't take down others as well, the American taxpayer—the good old American taxpayer—will again be forced into the breach.

By statutorily splitting apart massive financial institutions that house both banking and security operations, we will both cut our megabanks down to reasonable and manageable sizes and rightfully limit government support to traditional banks. This worked for nearly 60 years and once again will ensure the soundness of commercial banks while placing risky bank investment activities far beyond any government safety net check.

If Congress fails to impose needed structural changes like Glass-Steagall, the same systemic risks to our financial system remain and grow bigger

and bigger and bigger. When the next crisis occurs, however, the legislative pendulum will suddenly shift direction and will fall hard on Wall Street in the form of Glass-Steagall and far more Draconian reforms.

I also believe we must preserve section 716 of the current Senate bill. The provision included in the bill by Senate Agriculture Committee Chairman LINCOLN would prohibit banks with swap dealers from receiving emergency assistance from the Federal Reserve or FDIC. By forcing megabanks to spin off their swap dealers into an affiliate or separate company, this section would help restore the wall between the government-guaranteed part of the financial system and those financial entities that remain free to take on greater risk.

It would also help address the enormous concentration of power among a few too-big-to-fail institutions. As has been quoted many times on this Senate floor over the last several weeks, the five largest banks—Goldman Sachs, Morgan Stanley, JPMorgan Chase, Citigroup, and Bank of America—control over 90 percent of the over-the-counter derivatives market. That is nine zero, 90 percent, our 5 largest banks. Yet there are those who say that forcing these megabanks to spin off their swap dealers to affiliates in only a few years' time would disrupt the derivatives market. The historical record shows repeatedly that financial institutions can adapt to regulatory changes quite quickly. Look at Goldman Sachs. Goldman Sachs has been a bank holding company for fewer than 2 years. Within that time, it has used its newly formed bank, which is just one-tenth the size of the overall holding company, to source the vast majority of its derivatives transactions. That is just in the last 2 years. Amazingly, Goldman Sachs has a \$41 trillion derivatives book attached to a \$91 billion bank. Do you have that? A \$91 billion bank with a \$41 trillion derivatives book attached to it.

Unfortunately, allowing massive derivatives dealers to be housed within banks creates moral hazard, a term often invoked by my conservative colleagues. This was true of AIG, which rented out its AAA rating and the financial strength of its insurance subsidiaries, to write credit default swap contracts that systemically underpriced risk. It is also true of dealer banks whose access to federally insured deposits and the government backstop of emergency lending allows them to underprice risk on swap contracts. Notably, this government subsidy allows these institutions to be lax in their collateral and margin requirements on derivatives transactions.

Some complain that requiring the megabanks to spin off their derivatives dealers would require these dealers to raise extra capital as affiliates. I say

that is precisely the point. Housing a large derivatives dealer book in a bank, even a small one, allows these institutions to arbitrage capital requirements. Requiring them to spin off their dealer to a separate broker-dealer affiliate would appropriately require them to raise more capital based upon the riskiness of their derivatives book. This is good. Currently, these institutions are undercapitalized.

Yet Fed Chairman Bernanke claims:

Forcing these activities out of insured depository institutions would weaken both financial stability and strong prudential regulation derivative activities.

I beg to differ. Spinning off large derivatives dealers would force these institutions to adequately price and capitalize the risks associated with these activities. By ending the aforementioned moral hazard, we are only strengthening financial institutions. By requiring derivative dealers to hold capital commensurate with the risk of their business, we are only strengthening prudential regulation.

Meanwhile, FDIC Chair Bair states that derivatives:

do have legitimate and important functions as risk management tools and ensure banks play an essential role in providing market-making functions for these products.

Requiring banks to spin off their derivatives, however, would not preclude them from using derivatives as risk management tools or as products to service client needs. For example, if a client wanted to hedge the interest rate risk on a floating loan through a swap, the bank would still be able to execute that transaction. Senator LINCOLN's provision doesn't ban banks from using derivatives. Instead, it says that it is inappropriate for a commercial bank to have an almost \$80 trillion derivatives book, as some do.

Of course, anyone can come up with a reason for maintaining the status quo—of saying, for example, that Senator LINCOLN's inspired solution simply goes too far. But after the crisis we just suffered, I would ask my colleagues to support these proposals which represent real reform and change. I would ask my colleagues to see the wisdom of building an enduring structure of laws instead of investing our hopes in unelected regulatory discretion. We have seen the effects of regulators neglecting their duties and banks left to self-regulation.

Instead of trusting our financial stability solely to unelected financial guardians, these amendments and provisions would all address preemptively the persistent problem of too big to fail. They all say speculative securities activity should not be covered by the government's deposit safety net. By reducing the size and scope of our largest banks, we will limit their risky behavior and minimize the possibility of one institution's failure causing an industrywide panic and a subsequent bailout of several failing megabanks.

By adopting these commonsense proposals, we can go a long way toward stabilizing our economy, restoring confidence in our market, and protecting the American people from a future bailout. America cannot afford another financial meltdown. The American people are looking to Congress to assure that it does not happen. We have a precious few remaining days on this bill to follow through on that commitment.

As I started out, I wish to commend Chairman DODD and the committee for the excellent work they have done on this bill. I also commend Chairman DODD for the fact that we have had such good comity and such good relations between both sides of the aisle on this bill. That is why I am so concerned about the decision by the other side to block the Merkley-Levin amendment. This is at the heart of this bill. If you had to look at one of the things that is very important and that everyone commends, it would be this amendment. We have voted for a lot of Republican amendments and accepted a lot of Republican amendments that Democrats were not in favor of. This seems like the wrong time in the process toward the end to do this.

I hope my friends on the other side of the aisle will rethink what we are doing and that we get a chance to vote, because it is absolutely essential to this bill that we have a vote on the Merkley-Levin amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3892, AS FURTHER MODIFIED, TO AMENDMENT NO. 3739

Mr. BINGAMAN. Mr. President, I have an amendment No. 3892, as modified, and I ask unanimous consent to further modify it.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The amendment is further modified.

The amendment, as further modified, is as follows:

On page 565, between lines 2 and 3, insert the following:

(e) JUST AND REASONABLE RATES.—Section 2(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(C)) (as amended by section 717(a)) is amended by adding at the end the following:

“(vi) Notwithstanding the exclusive jurisdiction of the Commission with respect to accounts, agreements, and transactions involving swaps or contracts of sale of a commodity for future delivery under this Act, no provision of this Act shall be construed—

“(I) to supersede or limit the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.);

“(II) to restrict the Federal Energy Regulatory Commission from carrying out the duties and responsibilities of the Federal Energy Regulatory Commission to ensure just and reasonable rates and protect the public interest under the Acts described in subclause (I); or

“(III) to supersede or limit the authority of a State regulatory authority (as defined in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)) that has jurisdiction to regulate rates and charges for the sale of electric energy within the State, or restrict that State regulatory authority from carrying out the duties and responsibilities of the State regulatory authority pursuant to the jurisdiction of the State regulatory authority to regulate rates and charges for the transmission or sale of electric energy.

“(vi) Nothing in clause (vi) shall affect the Commission’s authority with respect to the trading, execution, or clearing of any agreement, contract, or transaction on or subject to the rules of a registered entity, including a designated contract market, derivatives clearing organization, or swaps execution facility.”

(f) PUBLIC INTEREST WAIVER.—Section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) (as amended by section 721(d)) is amended by adding at the end the following:

“(6) If the Commission determines that the exemption would be consistent with the public interest and the purposes of this Act, the Commission shall, in accordance with paragraphs (1) and (2), exempt from the requirements of this Act an agreement, contract, or transaction that is entered into—

“(A) pursuant to a tariff or rate schedule approved or permitted to take effect by the Federal Energy Regulatory Commission;

“(B) pursuant to a tariff or rate schedule establishing rates or charges for, or protocols governing, the sale of electric energy approved or permitted to take effect by the regulatory authority of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy within the State or municipality; or

“(C) between entities described in section 201(f) of the Federal Power Act (16 U.S.C. 824(f)).”

Mr. BINGAMAN. Mr. President, the further modification clarifies that each agency—that is, the FERC and the CFTC—will retain its legitimate authority, whether to review derivatives or to review rates and charges and prevent manipulation, without one agency knocking the other agency out of the box of its respective mission. It is a good improvement.

I believe this amendment is now without substantial objection. I ask that we proceed to a voice vote on the amendment.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 3892), as further modified, was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, our colleague from North Dakota is going to speak over the next several minutes. At the conclusion of that, I will make

some remarks, and then there will be a tabling motion of the Dorgan amendment. To make colleagues aware, that is what will happen.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have spoken on this amendment previously and have waited patiently for several weeks to be able to have an opportunity to vote on it. We have not been able to get it pending. I now have it pending because I offered it as a second-degree amendment to the Grassley amendment.

This is an amendment that would ban the use of naked credit default swaps. You ask, how does a credit default swap get naked? It is an exotic, new financial instrument that has been developed over recent years to be traded back and forth by the big financial institutions. In fact, 90 percent of them are traded by the five biggest financial institutions. When people say you need these—banks need these—just a handful of banks trade most of these.

What is a naked credit default swap? It means someone is buying insurance against some other instrument that they have no interest in, except they want to make a wager. I have said before that I can’t buy fire insurance on the house that the Presiding Officer owns in Colorado. Why? Because I don’t have an insurable interest in that house. If I went to somebody and said: I would like to buy some insurance against fire for that house, they would say: You don’t own that house, so I cannot possibly sell you that policy. Also, I cannot buy a life insurance policy against my colleague from Connecticut because I don’t have an insurable interest either.

But I can go buy \$100 million worth of insurance, right this second, on a bond issue that was issued by some company yesterday, even though I never, ever intend to own the bond, have no interest in the bond, and don’t know much about the company. I just want to bet someone who will take the opposite side of the wager. I believe the bonds will not be repaid, and the counterparty says: No, you are wrong about that. I think that company will repay its bonds. So we make a friendly wager—kind of like one of those Saturday sports wagers. We bet. I am betting this person about the question of whether the bonds will default. It is called synthetic when it is not real or naked when it has no interest. So this would be a synthetic or a naked credit default swap.

It is a different story if I have an interest, where I actually bought those bonds—some company let the bonds and I bought them, so I am the investor in the bonds. But I want to make sure the default doesn’t take me down with it, so I buy an insurance policy. That is a credit default swap that is covered. Naked means you have no in-

terest, just a bet. Covered means it is an investment you made to try to hedge your risk on the default of the bonds.

Here is what is interesting. We expect, based on what we know to be the case, that about 80 percent of all credit default swaps are not covered or what are called naked swaps—80 percent. Some people say to us: Well, we can’t get rid of these financial instruments. These are very important for normal hedging. That is absolutely absurd, total rubbish.

My amendment would say that at some point we have to ban naked credit default swaps. Mr. Pearlstein, who writes for the Washington Post, asked the question many months ago:

Why should there be more insurance policies sold on a bond issue than there are bonds to be insured?

Why should you have 20 times more insurance policies than you do bonds? Because it is wagering, not investing.

I find myself fairly disappointed by what is happening. This is a moment of substantial consequence for our country. We came very close, they say, to a meltdown of our economy. Trillions of dollars were lost. I guess there was about \$14 trillion or \$15 trillion in lost value for the American people. Millions of people lost their jobs. Millions of people have lost their homes. By the way, at graduation time, when colleges all across the country are graduating these bright, young men and women who have now gotten their college diploma—they are out looking for work, and way too many of them cannot find a job because of what happened to this economy in recent years.

What happened? We created a casino economy. You didn’t have to read the newspapers very much to understand what was going on. This unbelievable speculation, a bubble of speculation, occurred in virtually every single area, and there were new financial products on steroids—securitizing everything. Are you loaning somebody some money? Well, put it into a security, wrap it up and sell it to a hedge fund or an investment bank. Securitize everything. By the way, you can get some very bad stuff that is rated AAA. So sell it up. By the way, once you start selling things, you don’t ever have to worry about whom you are issuing credit cards to or that you are wallpapering the room of people who don’t have jobs with more credit cards. You don’t have to do normal underwriting or sit across from somebody who wants to buy a house and look into their eyes and say: Tell us your income. How are you going to repay the loan if we loan you the money? You can put out liars’ loans, no-doc loans. Don’t document your income because we don’t care. Don’t pay any interest or principal now; we will put that on the back side. We will make the first 12 months of payments for you. If you

have no credit or low credit, come to us—I will show you the advertisements that were on the radio, television, and newspapers: Slow credit, no credit, bad credit? We want to loan you money.

They said: Let's securitize it and we will ship it upstream and we will all make big profits and fees and we will create credit default swaps and CDOs and we will all have a great time. When the whole thing crashes down, "Wall Street" will have lost about \$36 billion in 1 year and paid \$17 billion in bonuses at the very same time.

Do you think this wasn't a carnival of greed? Of course it was. There are a number of things we ought to do and too many that we will not do in this legislation. Too big to fail ought to have meant to all of us that you are simply too big. By the way, those who were judged too big to fail and would cause a grave risk to this entire economy if that firm should fail, they have now become much larger by the actions of the Federal Government arranging marriages of companies that weren't making it. So the too-big-to-fail companies are actually much larger now, and the underlying legislation doesn't do a thing about too big to fail in terms of paring it away and deciding if you are too big to fail, you are too big and you must divest until you don't cause a grave risk to the entire economy.

In addition to the issue of too big to fail, there is the Glass-Steagall reconnection. My colleague has an amendment on that. There is this issue I am raising on naked credit default swaps. If we have decided we are not going to get rid of these financial curveballs—financial instruments on steroids that took this country for a huge ride and stuck the American people with trillions and trillions of dollars of loss and bad debt—if we don't do that, let's not crow about what we did because this is essential, in my judgment.

This is what I think happens, as is always the case when it comes to Wall Street versus the rest of us; it is let's pretend time. This is a case of whose side are you on? Are you going to try to see if you can shut the door and deal with those issues that helped cause this near collapse of our economy or are we just going to buff it up a little bit around the edges? I am trying to tighten this bill.

I have not been able to get this amendment up, except by offering it as a second-degree amendment. My understanding is, there will be a tabling motion. Those who decide they want to table it don't want to tighten this bill, don't want to take on Wall Street on these issues. They say: No, let's let Wall Street prance around and trade naked credit default swaps. They were up 8 percent in the fourth quarter of last year. You would think somebody would learn a lesson. They had a \$700

billion bailout fund and so on, so you would think they would tone it down. No. In the fourth quarter of 2009, the use of credit default swaps was up 8 percent. If one wonders how much money is involved in all these things—I have spoken before about John Paulson, whose name came up recently with Goldman in the scandal that was the subject of a congressional hearing. In 2007, he was the highest income earner on Wall Street, earning \$3.6 billion—one person. When he came home and his spouse said: Honey, how are we doing? If she wanted it by the month, he could say that this month we made \$300 million. If she wanted it by the day, he could say: Pretty good. It is Saturday and I made \$10 million—\$10 million a day, \$3.6 billion a year.

There was so much money involved in all these issues, and the reason there was so much was this unbelievable binge of speculation. We can pass financial reform, and we can call it whatever we want, but if we pass it and don't put a cork in this bottle, and we fail to deal with this issue, I will tell you, we will be back and we will find a way to have to confront, once again, the creation of these unbelievable speculative issues—naked credit default swaps—that have no insurable interest. We will regret the day we didn't address this issue head on.

I understand why there is pushback from Wall Street and why some will be nervous about voting for this. They will want to table it because they are getting pushback from Wall Street. Wall Street is wrong—dead wrong. They don't need, nor do American banks need, to be trading credit default swaps in order to make money. Yet, as I indicated to you, five of the largest financial institutions in this country have 90 percent of the credit default swaps. We think about 80 percent of them are without any insurable interest in anything. That is wagering, not investing.

This country deserves better, and the American people deserve for the Congress to stand up to Wall Street and say: You know what, the creation of these instruments exacerbated the economic troubles of this country in a significant way, and at long last it is time to put an end to it. This amendment simply bans the use of naked credit default swaps. It has a provision that says, if such a ban in a certain timeframe would cause undue—Mr. President, the Senate is not in order.

There is a provision in this legislation that, as opposed to a ban on a date certain, if that would prove to be troublesome, it would stretch out for an 18-month period by which such a ban could take effect.

Let me say this. I understand the tabling motion will be made. My hope is that colleagues who believe we ought to take on Wall Street on these issues will stand up for the American people

on these issues and do the right thing on these issues, especially since we are living in the shadow of a near collapse of this economy.

My hope is that my colleagues will vote against tabling this amendment and, thereby, express their support for the amendment I am offering.

I am offering this amendment on behalf of colleagues which I will submit for the RECORD as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I wish to speak a couple of minutes. This is the first opportunity we have had, with all the other amendments we talked about, to even talk about this very critically important part of the legislation, and that is the section dealing with derivatives, which is a source of major interest.

I wish to spend a couple of minutes describing to my colleagues what is in this bill that is before us dealing with derivatives, and then I will express some concerns about the amendment of my good friend and colleague from North Dakota. Then at the conclusion of that, unless others would like to be quickly heard on this matter, I will move to table the Dorgan amendment.

That is normally not what we have done. There have been no tabling motions made over these 2½ weeks. Let me express my regret that Senator DORGAN was unable to get a straight up-or-down vote on his amendment. Even though I have concerns about it, I tried over the last 2 weeks to have everyone have their amendments raised so we could have a good, vibrant, full-throated debate on matters and let Members decide. In some cases, we had a 60-vote margin; in most cases a 50-vote margin. No one has said to anyone yet: Your amendment can't come up.

I say to the Senator from North Dakota, I tried to see to it that everybody has the opportunity to be heard. As he knows and others know, we have had a stalemate this afternoon on whether matters can be heard.

As I said, derivatives, as most of my colleagues and many in the country understand, are essentially hedges or bets whose worth rises and falls with the price of something in the marketplace. They can be very commonsense financial tools to help businesses manage their costs. The word is taken on a pejorative, but actually derivatives are critically important in our economy.

For instance, let's say you make candy for a living; you are a candy manufacturer. The price of sugar is an incredibly important factor in determining your bottom line, and the cost of sugar can fluctuate dramatically. All sorts of factors can raise or lower the price of sugar, which is a critical component in your production of candy, but it is a factor you cannot control. You do not necessarily control

what happens to the price of sugar as a candy manufacturer. Derivatives can help you manage volatility, and that is why they are so valuable in our economy.

If it sounds like insurance, that is because if used properly, that is exactly what it is.

Let's say you are an investor and you will not be able to afford the loss if your company or government whose bonds you bought defaults. Again, you do not have control over that company's or government's ability to pay you back. So a form of insurance has sprung up in the form of derivatives that would protect you against that kind of default. It is called a credit default swap, or CDS.

Just like a derivatives contract on the price of sugar, it is not necessarily a bad thing. In fact, it could be very helpful in terms of managing volatility and protecting against losses totally unconnected with your activity.

Credit default swaps played a huge role, as we now know, in the lead-up to the financial crisis that has cost our country so much.

For instance, take what happened to AIG, the former insurance giant. Before the crisis, institutions around the world bought credit protection against mortgage-backed securities from AIG, just like you or I might have bought some other, more pedestrian insurance policy. When those mortgage-backed securities failed, AIG owed money to all of those protection buyers around the world. But AIG, as a seller of CDSs, had no regulatory requirement that it actually have the capital on hand that it would need to pay those parties if, in fact, it was called.

Guess who ended up having to make those counterparties whole. We, the taxpayers, the taxpayers across the country because AIG lacked the capital behind those derivatives. Even worse, because there was no reporting requirement, regulators did not even know where the risks were in the financial system. Because there was no requirement that these transactions run through a clearinghouse, even people in the financial sector could not figure out for sure who was exposed to AIG's potential failure.

The result, of course, was a total freeze in our markets and our financial system because financial sector actors no longer trusted that their counterparties would be creditworthy. And who could blame them? It is like if you did not trust your bank to be around the next day, you would get your money out in a hurry, as many did back 80 years ago when there were no protections. When the word went out, people took to the streets. That is why the bill drawn up in our Banking Committee and Agriculture Committee contains some very tough new rules for CDSs and the rest of the derivatives market.

Under the terms of our bill, CDSs must centrally be cleared and traded on regulated exchanges in order to reduce counterparty risks and to promote transparency and stability in our financial system.

The central clearinghouse will set margin requirements and position limits. Those ideas have been around for decades, by the way, within the commodities markets, going back to the 1870s or 1880s. Margin requirements and collateral requirements have been required; hence, there are very few problems in the commodities markets because of margin requirements and collateral requirements.

The bill before us includes tough new rules for protection sellers, such as AIG and dealers such as Goldman Sachs, that will be registered and regulated by the SEC and CFTC. They will have to face tough new rules to curb excessive risk taking, and all CDSs will be reported through a central clearinghouse, data repository, or directly to regulators.

For the very first time, financial advisers working with municipalities—the people helping to ensure that our communities invest wisely—will have to register and be subject to rules and regulations.

Our colleague from North Dakota, Senator DORGAN, has offered an important amendment to tackle yet another problem, as he sees it, with CDSs. If you owned a house and bought a policy that would pay you money if the house burned down, we would call that insurance. But if you bought that policy on someone else's house, a house you did not even own, you probably would not get invited to spend the weekend there because you were betting the house would catch on fire.

At best, we call that a cynical bet. Unfortunately, it happens a lot in our financial system. It is called a naked CDS. It is a CDS in which the entity buying protection does not even own the underlying credit.

During the crisis, traders bought protection hoping that borrowers would fail to pay back their loans—borrowers such as the government of Greece or the State of California, for that matter.

Betting on failure, of course, is dangerous, as we know. That is why Senator DORGAN has offered an important amendment, in his mind, to define the problem. In addition to requiring all CDSs to be cleared, it outright bans naked CDSs and synthetic asset-backed securities.

I have described the serious steps we have taken in our underlying bill to reduce the dangers in the CDS market. Senator DORGAN's amendment goes a step further and, in my view, too far at this particular juncture. Let me explain why.

I don't know, nor can anyone say with absolute clarity, what are the im-

plications and the unintended consequences if we have a total ban on the naked synthetic credit default swaps.

Here is my concern. You can have, for instance, people hedging against where they have uninsured interests. In fact Greece—a country that may fall, an entity in which there is no particular financial interest but there is a concern that economy may not be there—they lack insurable interests, necessarily, but it is not illegitimate to want to protect yourself against an event such as the collapse of another country that could cause financial disruptions.

My concern about the Dorgan amendment, and had we been dealing with it in another means—that is, we had offered the Dorgan amendment—I intended to offer a side-by-side amendment that would have allowed this to go forward but asking the security risk management operation we set up in this bill to make valuation to determine how this could work.

I happen to believe in certain instances what Senator DORGAN offers makes sense. My concern is I cannot tell you with certainty what the unintended consequences are. I cannot say with absolute certainty what Senator DORGAN is proposing actually will be doing what it claims or if there are broader implications to it.

This is a very important matter. I do not minimize it at all. But as chairman of this committee responsible for advising colleagues and drafting legislation, I need to talk with some certainty about what I think the implications will be of certain proposals. I cannot tell you what the outcome of this will be. There may be serious consequences negatively to our economy if we adopt this amendment as is.

For those reasons this evening, I feel compelled to disagree with this amendment. The only alternative I have to disagreeing to it is to vote to table because of the procedural position in which we find ourselves. I would have preferred a side-by-side which would have given some room for the Dorgan amendment to move forward with further consideration as to how it is applied.

Lacking that ability, do we accept or reject the amendment? Because of the concerns I have about accepting the amendment without knowing what the consequences may be, I have to recommend the amendment be defeated. Without necessary protections for commercial end users, financial stability, and governments and corporations that depend on credit in which to operate and any alternative, we risk shutting down a \$25 trillion credit default swap market—a \$25 trillion credit default swap market. We need thorough examination and study before taking this kind of dramatic action. That much is at risk if this amendment were to be adopted.



I urge my colleagues, given the circumstances, to support the tabling motion.

I see my colleague from North Dakota. I withhold making the tabling motion and give him a chance to respond.

Mr. DORGAN. Mr. President, I appreciate the courtesy of my colleague from Connecticut. My colleague talks about unintended consequences. We already know the real consequences of what are called naked credit default swaps. That is all we are talking about with this amendment.

My colleague started out by talking about normal hedging by a candy manufacturer with respect to the price of sugar. That is not what this is about at all, and I am not prepared to lose a debate in which I am not involved. That is not what this is about. This is about naked credit default swaps.

My colleague says there is \$25 trillion of notional value of credit default swaps. I have cited two sources—the best two of which I am aware—that says 80 percent of them—think of this—as much as 80 percent of them have no insurable interest. They are just flatout naked, just gambling, betting, not investing.

This is not a case of unintended consequences. We know the real consequences. We have already lived it and experienced it and we ought to understand that we cannot accept it any longer.

This bill allows us to decide what kind of financial system we want going forward. Do we want to leave here saying we want a financial system in which the big shots on Wall Street decide they want to trade \$25 trillion worth of credit default swaps, 90 percent of them in the five biggest banks?

If that is what they want to do and it is betting rather than investing, God bless them; let them do it. Who are we to tell them? Who are we to tell them? We lost about \$15 trillion, that is who we are.

My question is: Are we going to see if we can sober up this system to say this is not the kind of financial system with which we grew up? Only in the last decade and a half did we decide to securitize everything and create these new exotic instruments—CDOs, naked credit default swaps and the like. That has happened recently. It was not because my colleagues from Connecticut and Alabama came to the floor of the Senate and said: Let's decide to create a whole series of new financial instruments in this country that are hard to pronounce and understand. They can all make a lot of money in fees, pay big bonuses, and it will work out just fine. That is not how it happened. It happened because we had a bunch of brain-dead regulators, among other things, who said: Go play. And they all went to play and made a lot of money, and this economy nearly pancaked.

So this amendment, I would say to the Senator from Connecticut, is very simple. It would ban the use of naked credit default swaps in which no one has any insurable interest.

By the way, with respect to unintended consequences, under this modified amendment I have offered, the appropriate Federal regulators, including the chair of the Financial Stability Oversight Board, may phase in the effective date for up to 18 months if they determine the phase-in of the prohibitions and limitations in the amendment is necessary to avoid undue market disruptions.

Having said that, I respect the view of my colleague. I profoundly disagree with it. I hope very much that my colleagues will decide not to table this amendment and to stand on the side of people who say: Let's really make a change here. We understand what happened. It was awful for this country. Let's make sure it doesn't happen again. The only way we will do that is to effect the kind of change that exists in this amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, again very briefly, obviously much of what we have included under our bill, of course, is designed specifically to avoid the kinds of losses that occurred. There are provisions in the bill dealing with those kinds of safeguards—the clearinghouses, the regulators, the mandatory exchanges, and the like. That is in the bill.

Again, I have to say to my colleagues here that there are potentially serious consequences to this. There are no protections for commercial end users if this amendment is adopted. We run the risk of financial instability in governments and corporations that depend upon credit to operate—\$25 trillion.

Again, I would have offered a side-by-side which would have taken some of the good aspects of the Dorgan amendment, but my concern is about exactly the provisions I have mentioned, and there is too much at risk, in my view.

If this is the only choice we are given, I have to provide my recommendation. My recommendation is, given the choice we are given, the choice I have to make in this particular case is that we table this amendment.

For those reasons, Mr. President, I move to table the Dorgan amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

Mr. DODD. Mr. President, I ask unanimous consent that if the Dorgan amendment No. 4114 is disposed of, then the Senate proceed to vote in relation to the Grassley amendment No. 4072, with no intervening amendment in order.

The PRESIDING OFFICER. Without objection, the unanimous consent request is agreed to.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Arkansas (Mrs. LINCOLN), the Senator from New York (Mr. SCHUMER), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Ohio (Mr. VOINOVICH).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 38, as follows:

[Rollcall Vote No. 156 Leg.]

#### YEAS—57

Akaka	DeMint	LeMieux
Alexander	Dodd	Lieberman
Barrasso	Enzi	Lugar
Baucus	Gillibrand	McCain
Bayh	Graham	McConnell
Bennett	Grassley	Mikulski
Bingaman	Gregg	Murkowski
Bond	Hagan	Nelson (NE)
Brown (MA)	Hatch	Reed
Brownback	Hutchison	Risch
Burr	Inhofe	Roberts
Carper	Inouye	Sessions
Chambliss	Isakson	Shelby
Coburn	Johanns	Snowe
Cochran	Johnson	Stabenow
Collins	Kerry	Thune
Corker	Kohl	Vitter
Cornyn	Kyl	Warner
Crapo	Landrieu	Wicker

#### NAYS—38

Begich	Feingold	Nelson (FL)
Bennet	Feinstein	Pryor
Boxer	Franken	Reid
Brown (OH)	Harkin	Rockefeller
Bunning	Kaufman	Sanders
Burris	Klobuchar	Shaheen
Cantwell	Lautenberg	Tester
Cardin	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Conrad	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	Wyden
Ensign	Murray	

#### NOT VOTING—5

Byrd	Schumer	Voinovich
Lincoln	Specter	

The motion was agreed to.

Mr. DODD. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 4072

Mr. DODD. I inquire of the Chair, the pending business is now the Grassley amendment; is that correct?

The PRESIDING OFFICER. The pending amendment is the Grassley amendment.

Mr. DODD. I understand there will be a request for a rollcall vote on the Grassley amendment. After that, we are still anxious—we have additional amendments. I say to my colleagues, many of you have submitted amendments you would like to have considered this evening before we get to a cloture vote tomorrow. I am willing to



stay and try to accommodate as many as possible. I know Members would like to have clarity on whether we will have any more votes. There are a number of other amendments we would take up in relatively short order.

I have submitted some 49 amendments to my good friend, RICHARD SHELBY, the ranking member of the committee, that we could accept, both Democratic and Republican amendments. Some are bipartisan amendments. I am not expecting to accept every one of them, but there are many that could be part of a managers' amendment that could take care of a lot of concerns others have raised. We will have to wait to determine whether they have been cleared.

Tomorrow, there will be a cloture motion. In the meantime, there is still time this evening to consider amendments that otherwise would probably fail in a postcloture environment. I am willing to stay and deal with as many of these amendments as we can before we get to that cloture motion tomorrow, but the pending matter is the Grassley amendment.

There has been a request for the yeas and nays on those votes. That is the immediate business. After that, I cannot tell you with absolute certainty there will be additional rollcall votes. If others ask for them, we may ask you to come back and cast a ballot.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, we are trying to have more votes, but we will have to see if we do. We will have this vote. I think it is fair to say it may be difficult to have more votes tonight.

We are going to work—we are scheduled to have the vote an hour after we come in. I will work with the Republican leader to find out exactly what time we need that to be. I know there are some problems with attendance. We will have it at either 10 o'clock or 11 o'clock, whatever is convenient for everyone. We may be able to dispose of some amendments, even in the morning.

Mr. DODD. While all Members are here, this has been a remarkable 3 weeks. I realize not every amendment has been adopted, but for many of us, we were able to get back to the business where we actually have amendments offered, debates occurring, a good-throated discussion of a very important set of issues.

My hope would be that tomorrow—it is coming to the point where we can go on indefinitely on the subject matter. We need to get to closure at some point. My plea to colleagues, as you are thinking about this evening, amendments tonight, a few amendments tomorrow, some amendments in postcloture, we need to come to closure on this legislation. It is a good bill. The country is expecting us to answer the issue of whether we are going to

protect our people from future bailouts, give them some protection against the kinds of problems that occurred in the past.

I urge you, as the chairman of this committee, to be supportive of our motion tomorrow and begin to reach closure on this bill so we can move on to other matters.

Mr. President, I ask for the yeas and nays on the Grassley amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Ohio (Mr. VOINOVICH).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 75, nays 21, as follows:

[Rollcall Vote No. 157 Leg.]

#### YEAS—75

Alexander	DeMint	Lugar
Barrasso	Dorgan	McCain
Baucus	Durbin	McCaskill
Bayh	Ensign	McConnell
Begich	Enzi	Mikulski
Bennet	Feingold	Murkowski
Bennett	Graham	Murray
Bingaman	Grassley	Nelson (NE)
Bond	Gregg	Nelson (FL)
Brown (MA)	Hagan	Risch
Brown (OH)	Harkin	Roberts
Brownback	Hatch	Sessions
Bunning	Hutchison	Shaheen
Burr	Inhofe	Shelby
Cantwell	Isakson	Snowe
Carper	Johanns	Stabenow
Casey	Johnson	Tester
Chambliss	Kaufman	Thune
Coburn	Kerry	Udall (CO)
Cochran	Klobuchar	Udall (NM)
Collins	Kohl	Vitter
Conrad	Kyl	Webb
Corker	Landrieu	Whitehouse
Cornyn	Leahy	Wicker
Crapo	LeMieux	Wyden

#### NAYS—21

Akaka	Gillibrand	Pryor
Boxer	Inouye	Reed
Burr	Lautenberg	Reid
Cardin	Levin	Rockefeller
Dodd	Lieberman	Sanders
Feinstein	Menendez	Schumer
Franken	Merkley	Warner

#### NOT VOTING—4

Byrd	Specter
Lincoln	Voinovich

The amendment (No. 4072) was agreed to.

Mr. DODD. I move to reconsider the vote and to lay that on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I call up amendment No. 4085 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Mr. ENZI. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. What is the pending amendment?

The PRESIDING OFFICER. The pending amendment is amendment No. 4050, offered by the Senator from Maryland, Mr. CARDIN.

Mr. HARKIN. Mr. President, I wish to be heard on this amendment. We were told to stay here tonight so we could offer amendments. I have had an amendment pending since this bill was brought to the floor. I have not been able to bring it up. We were told we could stay here tonight and offer amendments. In good faith, I stayed here to offer an amendment. Now I am told we can't offer amendments because of the pending amendment, and we can't set it aside. What kind of games are being played around here? I had this amendment pending ever since the beginning, and I have not been allowed to bring it up. With cloture tomorrow, it would fall. What does it mean that we should stay around here to offer amendments tonight, when there is a pending amendment we can't set aside?

If that is the game we are going to play, I am going to put in a quorum call and we will not call it off.

Mr. REID. Will my friend yield without losing his right to the floor?

Mr. HARKIN. Without losing my right to the floor, I yield to the majority leader.

Mr. REID. In the conversations we just continued over here, I tried to work something out. It was my understanding that the minority, the Republicans, agreed to allow the Senator's amendment dealing with annuities to come up.

Mr. HARKIN. I can't hear.

Mr. REID. In a conversation we had over here a few minutes ago, the Republicans and Senator DODD and his staff thought it would be appropriate to bring up your amendment dealing with annuities. That was part of the general agreement we had worked out over here.

Mr. HARKIN. Well, I have my ATM amendment, and then there is an annuities amendment.

Mr. REID. The annuities amendment is what the conversation was about.

Mr. HARKIN. This is the ATM amendment that I have had filed since the beginning. I have had it filed since this bill was brought to the floor.

Mr. REID. So what about the annuity amendment?

Mr. HARKIN. I have that amendment too. I didn't know there was a limit. I have two amendments. I have an annuities amendment and an ATM amendment.

Mr. REID. I guess my question through the Chair to my friend from

Iowa is, rather than going into a quorum call tonight, you could always do that some other time. I think it would be more productive if your amendment, which is dealing with annuities, was lumped into a number of other amendments that have been agreed to on both sides. See if we can dispose of those. Then if you still feel aggrieved at a later time, you could still do whatever you want.

Mr. HARKIN. I will not be able to because there will be a cloture vote tomorrow, and I will have been precluded for 3 weeks from offering my amendment. That is not quite fair ball around here. I said I would do my amendment in 5 minutes. I don't need to take much time.

Mr. REID. I say again through the Chair to my friend, it seems that it would be better that you would have the opportunity at least to get the annuity amendment, which a number of us believe is a very important amendment. I think it would be better if we were able to at least get rid of that amendment in a positive way. I think that is a very important amendment. If I had to choose between the ATM amendment or the amendment dealing with annuities, it would be hard for me to make a choice which one is the most important amendment. It is not a question of not having two amendments. It is a question of couldn't we at least dispose of one of them which is an important amendment; otherwise, the way this train is going, we may never get to the annuity amendment.

Mr. HARKIN. I say to my friend, the leader, that we seem to have an impasse. I have an annuities amendment. I don't know what is going to happen to that. I don't know if they are going to bring it up, vote on it or not vote on it. No one has said to me what they are going to do with it. I have an ATM amendment I have been trying to bring up. I heard my friend from Connecticut—and he is my friend; I respect him highly—say: Stay around here tonight and offer amendments. I just offered an amendment, and now I can't offer the amendment because they will not set aside the pending amendment.

Mr. REID. I am not going to belabor the point, other than to say to my friend, there has been a tentative agreement between the two managers of the bill, including offering your amendment dealing with annuities. That is an important amendment. I support it a lot. I think the other amendment is good too. But we don't have agreement on both of them. We do on one of them.

Mr. HARKIN. Mr. President, until we find some way to work something out, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. NELSON of Florida. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued with the call of the roll.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to vacate the quorum call.

The PRESIDING OFFICER. Is there objection?

Without objection, the quorum call is lifted.

Mr. WYDEN. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 4019, the bipartisan amendment Senator GRASSLEY and I have worked on for years to end secret holds here in the Senate, and permit 10 minutes of debate.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SHELBY. I object on behalf of Senator DEMINT.

The PRESIDING OFFICER. Objection is heard.

The Senator from Oregon.

Mr. WYDEN. Parliamentary inquiry: Could the Senator who objected to my request identify on whose behalf the objection was made?

Mr. SHELBY. I objected on behalf of Senator DEMINT.

Mr. WYDEN. Mr. President, if I could be heard on this very briefly, my friend Senator GRASSLEY is here, and perhaps we could take 3 minutes or so each to discuss this.

We have worked on this now for more than a decade. The American people are furious at the way business is done in Washington, DC, and if ever there were a concrete reason why, we have seen it in the handling of this bipartisan effort to once and for all take business in the Senate out of the shadows and do public business in public. This has widespread, bipartisan support. It is designed to ensure that when a Senator uses one of the most powerful tools at their disposal to actually block the public from seeing public business, that Senator would be publicly accountable. That hasn't been the case, and again and again we have seen colleagues over the last decade abuse this process.

It used to be years ago something that was a courtesy. Now it has come to rule life here in the Senate. Scores and scores of instances of holds have been used by both political parties. There is one Senator in this body—just one—who has objected to this coming up, and that Senator has been unwill-

ing on multiple occasions to come to the floor of the Senate and actually state why he insists on defending secret holds. So the effort to derail secret holds is, in effect, something that is also being done in secret.

We wish to open the Senate to the kind of transparency and accountability the American people deserve, but we can't even get to a debate because the person who wants to derail this effort for new openness and new transparency won't even come to the floor and say it to our face. That is what this is all about. One can have their own views with respect to holds. Colleagues will differ on this, but what we ought to insist on is what Senator GRASSLEY has said over this decade and that is if you are going to object, you ought to have the guts to come forward and do it publicly.

I will tell my colleagues, I believe the secret hold here in the Senate is an absolutely indefensible violation of the public's right to know. Having an office here in the Senate, honored by the people of your State, in my view is a sacred trust. I believe if you told the people of your home State that you are going to go to Washington and keep the public from even getting a peek at a critical nomination or a bill, they wouldn't stand for it for a moment. They certainly wouldn't send you back to the Senate.

I intend to come back to this floor again and again and again. I see my friend Senator GRASSLEY here, who has in my view been a leader in the fight for open and transparent government. I will tell my colleagues, I think the idea that one Senator—because we got this to a vote and we asked for 10 minutes tonight for a debate, this would pass overwhelmingly—but one Senator objects to our even getting a vote for more sunshine in government. Again, that Senator has been unwilling on multiple occasions to come to the floor and say why he favors secrecy.

In fact, yesterday—I say this to my friend, the Senator from Alabama, my good friend—the objector said, Well, he was interested in the Senator from South Carolina having the opportunity to come and talk to Senator GRASSLEY and me about our amendment. He has done nothing of the sort. So he objected the first time without notice when we were minutes away from a victory that would have transformed Senate procedure for new openness. He has objected through colleagues. He has been unwilling to come and talk to us about why he insists on secrecy—and, by the way, what he apparently wants to do is something I have actually voted for.

This strikes me as an absolutely indefensible way to do business. It is a concrete case, in my view, of why the American people are so furious about the way business is done in Washington, DC.

I wish to have my friend from Iowa have a few minutes, and then, with the indulgence of the Chair, we will wrap up. This is our third such effort, and I don't care how many times we have to come back to the floor to win this fight for open, transparent, and accountable government. I think it goes right to the core of our duties in the Senate.

I yield the floor, and I particularly express my appreciation to the Senator from Iowa for his patience. We now have well over 10 years into this cause and we are going to prosecute this issue of openness and accountability until the public interest prevails.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, my friend from Oregon has adequately spoken about the rationale behind what we are trying to do as well as the substance of it, so there is no point in my repeating that. But I think people ought to wake up to what is inevitable around here. When 3 or 4 years ago we had exactly the same substance up, it passed the Senate 84 to 13, I think, and through subterfuge, it was taken out in conference. The House doesn't conference a Senate procedure, so that is why I use the word "subterfuge." So we ended up with something that has not worked in the last 3 or 4 years.

Then we hear, particularly from the other side, about the holds, blaming this side for it. Every side has some guilt of misuse of holds. The fact is there is nothing in our amendment that changes the power of an individual Senator to hold up something. It is not as though we are trying to compromise this very significant power that an individual Senator has, but we are taking the adjective "secret" away from secret hold so that you know who the person is; so you can have dialogue with that person; so you can find out what their objections are; so you can reach compromises. That is the purpose of it. When things are secret, it is not only obnoxious to our principle of representative government; it violates the opportunity for an institution such as this to actually work. We should want to enhance the respect of this institution and one way to do that is to take the adjective out of secret hold, not to change anything else. It will enhance so much public understanding of what we are doing, because the public's business ought to be public. In our democracy, 99 percent of what we do—and maybe the only exception would be privacy of an individual or national security—of the public's business ought to be public, and that is what the people expect. But this word "secret" keeps from the public knowledge a lot of information that ought to be there to make this body work and to make sure we reduce the cynicism of the public toward government operation.

As I said, first, it is inevitable that this is going to happen. Senator WYDEN

and I are going to pursue this, because this is the time to do it. The abuse of this power has gone on way too long.

I yield the floor.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the pending amendment be set aside and that my amendment No. 4101 be brought up, considered as read, and that a vote be held at 9 p.m. this evening.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. MERKLEY. Mr. President, earlier this evening, my colleague noted that philosophically he shared some interest in this amendment. Others were objecting to it. I wonder whether he would share, in the interest of the debate—and Senator WYDEN was just speaking to it, and Senator GRASSLEY was also—who is objecting to this amendment being debated tonight.

Mr. SHELBY. I was objecting on behalf of myself and a lot of other Members.

Mr. MERKLEY. I thank the Senator. I think it would be useful if the citizens of our Nation were to know who was objecting and that the names be read into the RECORD. I think the citizens have a right to know where their Senators stand on this issue. It is an ideal time to let the citizens know who is putting the secret holds on this amendment.

Mr. SHELBY. Mr. President, if I can respond, there is no secret hold here. I am objecting on behalf of myself to his unanimous consent request.

Mr. MERKLEY. Mr. President, I know I put my colleague in a terrible spot by asking that question. But I do think the citizens of our Nation deserve an explanation as to why we are here tonight and not currently debating any of a whole list of amendments that Members of this body wanted to bring forward about how we improve our financial system.

The amendment, No. 4101, is an amendment that is cosponsored by CARL LEVIN and myself and about 20 other Senators in this body. There are not that many amendments that have 20-plus cosponsors. I will tell you that it is not the number of cosponsors, although that indicates a genuine interest among colleagues in debating this; it is the substance that goes to the heart of the conversation between Wall Street and Main Street.

This amendment is about how we aggregate capital in our country and how we allocate it. How do we get money where it does the most good to build our economy and build the success of our families? We have a couple of different ways of doing that in our Nation. One is that we make a deposit in a bank, and the bank also has access to the Federal Reserve window, where they get very low cost loans. The intent of us providing both access to the Fed window and the low-cost loan and providing a government insurance on deposits is that this money is going to go into loans to our families and our small businesses. That access to capital is absolutely essential for building our small businesses.

Right now, our businesses are having a difficult time accessing capital. I bet every Member of this body has gone around their States and heard the stories I hear in Oregon. I hear about credit lines being cut in half or eliminated. I hear about projects where they are ready to seize a business opportunity but that opportunity is blocked because they cannot get a loan they would have gotten in a heartbeat last year or 2 years ago or 3 years ago. Those opportunities are not just about the success of the business; they are about the success of our families because when those small businesses expand, they put people to work.

Right now, access to capital is frozen through much of our economy, inaccessible to our families and small businesses to be able to seize those opportunities to expand. Why is that? It is because we put in the same house both our lending system and our high-risk investing system. Both of these work very well.

Let me explain the high-risk investing side. If you are so fortunate as to have a big chunk of capital, you may say: I am going to put this into this private equity fund or venture capital fund or this hedge fund, and they are going to have some very capable managers who are going to look for investments—often high-risk opportunities. They will scour the United States, and they are going to find opportunities to invest. A lot of the time those investments pay off handsomely. Those who are fortunate enough to have the funds to be able to put them into such investment vehicles often do very well.

Occasionally, the bets that are made go awry. Why is that? Well, a fund says: You know what, there is a huge new opportunity in Russia, for example, because the price of oil is going up and they have a lot of oil they want to develop. They are changing their rules and there are new opportunities for business to thrive and take advantage of those new rules. So they invest in Russia, but something goes wrong and the price of oil drops and their investments blow up—suddenly, the investment fund blows up.

If that investment fund is by itself, it doesn't really hurt the rest of the economy. As long as it is by itself and not systemically so large that it poses a huge risk to the rest of the economy, and it goes bust, the investors simply lose their money. No harm done. But if it is inside of a bank, now you have a problem because when that goes bust, the bank is responsible for the responsibilities of that fund, and the result is that the bank goes down.

We saw that Citibank went down. We saw so many other big banks—when I say “went down,” I mean they had huge losses. Citibank is still alive. I know the folks in South Dakota will be happy to know that. They had huge losses, and the former chair of Citibank believes we need to separate the high-risk investing and the function of depositing, accessing money through the Fed, and making those loans to our families and small businesses so they can thrive. It is a separation between two functions.

I would be happy to yield to my colleague if he wants to explain why he is objecting to having a debate on the floor of the Senate that is a debate that is so important to the success of our small businesses, so important to the success of our families, that is so important because we should have learned over what happened in the last 2 years that if these two functions are combined, they hurt each other. Why would we not want to debate the diversion of money out of the hands of our small businesses and into Wall Street? I would yield if my colleague across the aisle would like to say why he is objecting to having this debate tonight. If he would like to jump up later and explain it, I will take that comment at that time.

We cannot do our job here in the Senate if a Senator blocks the debate of issues that are important to the success of our Republic. We cannot do our job here in the Senate if a Senator blocks the debate of issues that are important to our families. We cannot do our job if folks, on behalf of Wall Street giants, come to the floor and object to the debate of fixing our financial system so our small businesses can thrive.

I can tell you this: Back home, people know that this body helped out the biggest corporations in America last year in a very difficult time for them, when many of them would have gone bust. They want to know why this body, tonight, is unwilling to debate changes in the law that will help the small businesses of America, changes that will help the families of America, debate that will enable us to discuss improving our system so that we can have decades of solid growth in the years ahead. Why should Wall Street veto a debate in this body tonight for Main Street? I can't explain that to the folks back home.

I can't explain to the folks back home that we have an amendment that has been carefully worked on for months; that there are colleagues on both sides of the aisle who wanted to have this debate; that we have an amendment that was worked on very carefully with experts from Wall Street to make sure we got it right; that we have an amendment about which the Treasury Department called in experts, brought them in through meetings and said: Here is the challenge, here is what you need to do and how you can fix it. How do I explain to them that, with all that work, we could have a rational debate. But it isn't going to happen because Wall Street is asking colleagues to block the debate for the American people. Why is Wall Street winning and Main Street losing tonight? I would like an explanation. The American people would like an explanation.

Another piece of this bill says that nonbank financial organizations—by this, you can simply say hedge funds and equity funds, funds that pool money and make risky investments—that if they are so large, they pose a risk to the economy as a whole, then the regulators can add additional capital requirements, so they have to set aside more dollars for every dollar they invest.

Two years ago, the SEC lifted the capital requirements on the largest five investment banks in America. Bear Stearns went from 20-to-1 leverage to 40-to-1 leverage in 1 year. What do I mean by that? For every dollar they set aside in case investments went bad, they invested \$20. So you only had to have a 5-percent drop in value to wipe out what they set aside. At the end of the year, they got 40-to-1 leverage, and that meant for every \$100 invested, they only had \$2.50 set aside, and you only needed 2.5 percent reduction in investments to go bust. What kind of regulation system would allow 40-to-1 leverage?

Should we not have a debate on the second main piece of this amendment, which says that regulators, when you have a systemically significant firm, can increase the leverage requirement, increase the capital set aside, so that firm is not operating in a way that it can bring down our economy or punch a huge hole in our economy?

So the first part of the amendment says that high-risk investing is wonderful for allocating capital but do it away from our lending system so that our small businesses and our families can have access to a steady flow of capital, so that capital will not be frozen when investments go bad.

The second part of the amendment says: Give the regulators the power to increase the capital requirement when they are large and can tear a big hole, so if they do crazy, risky things and they lose, they do not hurt the rest of the economy. I think it is common

sense. Why is that debate so scary to my colleagues who are objecting to it tonight?

This is not about whether the amendment wins. We offered tonight to have this vote with our arms tied behind our back and one leg. What do I mean by that? We offered to have this vote tonight with a 60-vote requirement, even though a number of Democratic Senators are missing—a supermajority requirement so that we can have a debate on Main Street about Main Street, about Main Street working better. But Wall Street asked colleagues to block this debate. That is wrong.

The third part of this amendment says we need integrity in writing securities. This is the superb work of my colleague, Senator LEVIN. I know he will expand on it in due course. But here is the thing. A system with integrity is good for allocating capital efficiently because people want to invest in a system that has integrity. When we established the Securities and Exchange Commission to oversee the stock world, people gained more faith that the system was not rigged. They were more willing to buy stocks and, by that fashion, invest their moneys in the companies of America, build those companies. The success of those companies was good for our families—our working families—and the jobs that went with them.

But now in securities, we have a very opaque, a very dark market where only a few companies have control of the information and people do not know what the price point is, and they do not know what the details are. We have swaps being written where if you participate in it, you do not even know who is on the other side of the deal. There were folks doing deals with middlemen on Wall Street, and they did not know who the insurer was. They did not know it was AIG on the other side of the deal. When you buy insurance, you want to know who the insurer is. They could not get access to that information.

In securities, here is the thing. Right now, we have companies that while they are designing and selling securities also are betting against the success of those securities. I must say, that does not instill much confidence in the integrity of the system.

I ask my colleagues, and I ask the citizens of this country: Would you like to buy a car from someone who would not tell you whether they installed brakes and who was taking out an insurance policy on your life; they are betting you are going to get in a wreck? You would say: No, I would not want to buy a car from someone who is not telling me if they put in the brakes and is taking out a life insurance policy on my life. I would be scared to death to buy that car.

The story goes on. Would you buy a loaf of bread from someone who would

not tell you what the ingredients were and you do not know if it is a good loaf of bread, and they are taking an insurance policy out on your life? You would be worried about the ingredients in that bread.

That is the problem we have in the securities world. It is a very simple approach that Senator LEVIN has laid out in which it calls for integrity in securities. If you are designing and selling them, you do not bet against them.

There are all kinds of details that have been put into these three parts of the amendment to make them work. Actually, there is nothing in this amendment that is very far outside a core set of issues being considered. Modern bank holding companies do a lot of things. They do wealth management. They do broker dealers in securities and other financial products. They do market making where they help bring together this group that wants to buy and this group that wants to sell. They make loans to power up our families and our small businesses. All those functions continue in our bill.

But amidst that set, there is one thing that is being carved out, and that one thing is high-risk investing. When Merrill Lynch blows up, you do not want it to take down Bank of America. Two years ago, Merrill Lynch blew up. It would not have taken down Bank of America because it was not in Bank of America. But it is today. It is a riskier system we have today than 2 years ago.

We should have a debate about this on the floor of the Senate. Bear Stearns, 2 years ago, was by itself. But now it is part of JPMorgan Chase. If Bear Stearns, 10 years from now, makes investments that go awry and it goes down, it blows up a major lender. These types of bankruptcies need to not be a situation where they send shock waves and paralyze our economy. So common sense: more collateral, if you are a huge investor, set by regulators at a rational level with appropriate hearings. That high-risk investing, do it under a different roof so if it blows up, it does not affect lending, and those securities—a little bit of integrity in the marketing of securities.

These are simple ideas. These are commonsense ideas that will make our financial system work better for everyone, making it more feasible for our small businesses to gain access to credit, making it more feasible for our families to gain access to credit, making it less likely that a major disruption in investing is going to freeze up those loans and the result is that credit lines are being cut so they cannot expand business and cannot hire.

That is where we are now. We are frozen. In mortgages, we do not have a functioning securities market right now. It is important because banks make loans and then they sell them on to the market. But they can only sell

them if the market has somebody to sell to. Right now investors are leery, and they should be leery when there are these conflicts of interest that the good work my friend from Michigan has done addresses.

This debate should happen. It is wrong for a Senator to object to the people of the United States having their day to talk about a financial system that works for small businesses and works for families.

I know my colleague from Michigan is prepared to expand on the work he has been doing. At the close of my remarks, I wish to thank many of my colleagues who have been immersed in this effort to design a better financial system. Senator DODD and his team on Banking have been working night and day looking at every angle to get this amendment right. My friends at Treasury—I cannot tell you how many nights they have been up working, consulting with folks who are deep in the industry, to understand what works and does not to get this right. Senator LEVIN's team and my team have been working so hard in consulting and facilitating and writing and rewriting so we could have this debate in a responsible way tonight. We did not want to have a debate where we had an amendment that was illogical or had rough edges that had not been sanded off. We wanted to have a responsible debate.

We may not have had the votes necessary to adopt the amendment. We do not know. That is a mystery. But what we know for sure is that the people of America have been shortchanged tonight by some colleagues at the request of Wall Street blocking consideration of this amendment, and that is not right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I ask unanimous consent that the cloture vote on the Dodd-Lincoln substitute amendment No. 3739 occur at 2 p.m., Wednesday, May 19; and that Members have until 1 p.m. to file germane second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Under a previous order, a Shelby amendment No. 4010 and a Vitter amendment No. 4003 were ordered to be called up. I would like to state for the record that those amendments are still in order to be called up and hope that the RECORD will so reflect.

The PRESIDING OFFICER. The RECORD will so reflect.

Mr. REID. Mr. President, months ago, one of the most respected names in finance, Paul Volcker, the former Chairman of the Federal Reserve Board, made a commonsense proposal to protect taxpayers from the risk-taking on Wall Street.

The essence of the proposal was this: Banks that have an explicit or implicit

backing from taxpayers, through deposit insurance or otherwise, should not be allowed to make investments for their own profits. Banks can do one or the other, but not both.

The goal of the proposal is clear: We will not let Wall Street bankers take advantage of taxpayers to make themselves rich.

Wall Street should be free to serve their clients, help investors save and allow entrepreneurs to raise the money they need to grow their businesses. But big banks should not be taking exaggerated risks that benefit only themselves and their own pocketbooks.

Our Wall Street reform bill has a provision that reflects this principle. Senators LEVIN and MERKLEY have been working for weeks on a proposal that makes the tough underlying bill even tougher by giving taxpayers additional safeguards.

Their amendment would stop big banks from high-risk speculation and stop them from investing in hedge funds or private-equity funds. It would impose tough capital requirements on the biggest firms that pose the biggest risks to the financial system.

And it prohibits the conflicts of interest that allow Wall Street firms to bet against the very products they sell to their clients.

Mr. President, financial instruments and securities trading are complex. But this amendment is nothing more than simple common sense.

It stops Wall Street from gambling away other people's money with little risk and large reward. It rejects the rules in place today—which are the same rules that were in place when our economy nearly collapsed—rules that let big banks take home their winnings but ask for all us to cover the losses. And it says to those who game the system: the game is over.

If Republicans are serious about learning from the mistakes of the past, they'll join us. If they agree that protecting middle-class consumers, safeguarding families' savings and protecting seniors' pensions is more important than carrying water for Wall Street millionaires, they'll join us. If they don't, it will be clear to the American people who's on their side, and who isn't.

And even if—in spite of all the evidence to the contrary—they still disagree that taxpayers shouldn't be on the hook for big banks' bad bets, I ask them to at least let us have a vote on this amendment, and let the majority rule.

The Levin-Merkley amendment and this larger bill will help prevent future financial crises. They will guarantee taxpayers that they won't ever again be asked to bail out a bank that doesn't want to take responsibility for its own mistakes. And they will make sure the disastrous recession our families and businesses have endured for

the last several years does not get worse, and never happens again.

Mr. INOUE. Mr. President, the financial reform bill before the Senate includes a section, subtitle J, section 991, that would permit the Securities and Exchange Commission, SEC, to be "self-funded," meaning that the SEC would set its own budget and collect the subsequent fees from the companies the agency regulates. The effect of this action would be to remove a critical oversight role for the Appropriations Committee.

Currently, Congress sets the amount to be collected and the SEC adjusts their fees during the year accordingly. The provision included in S. 3217 allows the SEC to both set the fee level and adjust the fees accordingly, basically creating a carte blanche approach to SEC budgeting.

I, along with eight of my colleagues, including the vice chairman of the Appropriations Committee, Senator COCHRAN, the chairman and ranking member of the subcommittee with oversight responsibilities for the SEC, Senators DURBIN and COLLINS, along with Senators BYRD, HARKIN, VOINOVICH, MURKOWSKI, and BROWNBACK, have introduced a bipartisan amendment to strike the provision from the underlying bill.

No one disputes the fine job Chairperson Mary Schapiro has done since taking the helm of the SEC. But the foundation of our government is based on checks and balances, not personalities. Agencies should not be given sole authority to negotiate the fees that support their operations with the very institutions over which they regulate. Such a situation allows for absolutely no meaningful oversight by Congress.

However, if Congress is going to concede to the SEC absolute control of its billion-dollar budget, then the agency must have effective internal controls in place. Unfortunately, that is not the case. The Government Accountability Office has faulted the SEC several times in the past for weaknesses in this very area.

So the underlying provision will exempt an agency from the appropriations process and its annual congressional oversight without ensuring that any internal controls are in place for revenue and budget management. While it may not be the intent of the underlying provision, what is clear is that spending for the SEC would go unmonitored.

The amendment I and my colleagues introduced would strike section 991 from the bill, and thus restore the existing fee-based system for the SEC. The existing fee-based system is a successful model that has the annual appropriations bill both trigger the collection of the fees and determine the amount that can be spent. This model is used for other fee-based agencies such as the Federal Communications

Commission, the Federal Trade Commission, the Patents and Trademark Office, and parts of the Federal Drug Administration.

It is clear that the House of Representatives does not support the approach included in the underlying Senate bill as they did not include a provision for the SEC to be self-funded in their legislation. I have spoken with my fellow cosponsors of this amendment, and we have agreed not to offer this amendment during the current debate. We take this action in support of the managers' and leaderships' interest in wrapping up floor consideration of the measure and because it is clear that this issue will be resolved appropriately during the conference negotiations on this bill.

#### MORNING BUSINESS

Mr. REED. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I request to be recognized in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVATE POOLS OF CAPITAL

Mr. REED. Mr. President, like many of my colleagues, I have several amendments that have been filed. At this moment, it is not possible to call up all the amendments, but I wish to speak to one of them and hope that prior to the conclusion of our debate, I will have the opportunity, and I hope my colleagues do have an opportunity, to call up amendments that are still important to the legislation and deserve consideration by the body.

My amendment would require registration with the Securities and Exchange Commission for private equity funds, hedge funds, and venture capital funds that are larger than \$100 million. It recognizes that large pools of capital without any connection to regulatory authority could pose a systemic risk. It is a function, as we found out, in some cases, that if they make erroneous judgments, that could cause a systemic problem.

This proposal has been embraced by a wide cross-section of interested and knowledgeable parties. It has the support of the Obama Administration. It has the support of the North American Securities Administrators Association, who represent State securities regulators. It has the support of the Private Equity Council, the Managed Funds Association, Americans for Financial Reform, the AFL-CIO, and AFSCME. It has broad-based support, and I think it is part of the major effort of this legislation to increase transparency and, as

a result, to preclude and prevent fraud, particularly when we are dealing with these large pools of private capital.

Private equity firms' activities can often make or break companies, resulting in a significant loss of jobs. We have seen of the 163 nonfinancial companies that went bankrupt last year, nearly half were backed by leveraged buyout firms.

There are startling examples of companies, going concerns that employ thousands of Americans, that are acquired by private equity companies. Their business model, in many cases, is to leverage that company by borrowing extensively and by using these proceeds to purchase the company and then hopefully to repay themselves handsomely. If they are at a point in which the company is burdened with too much debt, they will either attempt to sell it off or they are forced into bankruptcy. The result, unfortunately, in many cases, is thousands of working men and women in this country lose their jobs. The company goes bust. There is nothing left.

This behavior has to, at least, be on the radar screen, if you will, of the regulators. They have to know that these funds above \$100 million are operating. There are many other examples we can cite.

The bill before us has one category. That is hedge funds. We have to recognize there are other major private pools of capital, venture capital funds and private equity funds that should also have to register. The other thing we have to recognize is that the regulatory capacity of any agency is limited. What we have seen over the last several years is a situation where regulators may have had the authority, but they did not have the resources, or they saw situations where certain activity was regulated and other activity was not.

What this amendment argues for is to ensure that we recognize both the potential dangers of large pools of private capital and the limitations of regulations to really differentiate between the pools. That is why the amendment I propose provides no categorical exemptions for these private pools. The rationale is that I do not think, frankly, the regulators can keep up with private funds that can describe their business plan in a way to qualify for an exemption but very well might be conducting the same type of behavior that causes concerns. So I have suggested, and it has been supported by a wide number of individuals and institutions, that we provide this broad-based registration requirement—firms above \$100 million would be required to have Federal registration. That is something, I think, that is important. Therefore, we have proposed the amendment.

The investors in these firms deserve, I think, our protection as well. The

benefits to the financial system outweigh, in my view, the modest associated costs, and as a result I think we could and should move forward. Many of these firms, frankly, if you have \$100 million under management or for investment, and if you don't have good financial controls, I think we have to ask ourselves: Should these firms be operating? Should they be allowed to continue to operate?

The second aspect of this, too, is that the infrastructure of compliance—the infrastructure of risk management—is built into these firms. If it is not, frankly, we should ask: Why are they still doing business? The cost of registration—and this is simply registration; simply telling the Federal regulators, the SEC, that we are doing business like this; we have a certain amount of assets under management or investments that we are managing, and several other items of basic information—has been estimated to be rather modest compared to the money under management and the other operational expenses of these firms.

So again, I think this is a valuable amendment. It is a valuable amendment that reinforces the basic tenets of this legislation—transparency, accountability, and giving our regulators an overall view of the financial situation—the money that is there, the types of business activities that are there—so that they can develop appropriate information for their regulatory endeavors.

The other point I would make is that if we were to stop the camera today and look at the financial scene, we might make judgments that, well, this entity is not very large, this particular entity doesn't do the type of business, et cetera. With the dynamism of our economy, which is a value, going forward 2 or 3 years, those firms could change dramatically, and something that seemed innocuous today could be systematically risky in the future. It might be called the same thing, but its functions are different.

I make a final point in this regard. In some respects, legislation that was considered here in the 1990s looked at derivatives, looked at securitization as a phenomenon that would be static and that wouldn't change. But we know it changed, and it changed in a way the regulators didn't anticipate and weren't prepared to anticipate. So mortgage funds in the 1990s were based on those old-fashioned 20 percent down, a FICO score of 680, income sufficient to amortize the mortgage over the lifetime. The mortgages they were securitizing in 2005–2006—no money down, no income statement, liar loans, et cetera—was a different product. And yet we legislated for products and for business entities that transformed dramatically in the subsequent years.

We have to provide our regulators with the flexibility to not only deal

with the problems of today but to fairly anticipate a dynamic and changing financial situation. That is at the heart of this legislation also. So I hope we have an opportunity to further debate this and to offer it and to ask colleagues for their consideration.

With that, I yield the floor to the Senator from Michigan.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I want to briefly come to the floor to talk about what happened here today. We saw the long arm of Wall Street come to the Senate and reach right into this Chamber. It should not have happened. We all should have learned the lesson as to what Wall Street plunged us into. And the idea that Wall Street could do this, through a number of Republican Senators who objected to our even coming to a vote on the so-called Merkley-Levin amendment, is nothing less than shameful. But that is what happened.

We have been going back and forth, a Democrat and a Republican amendment, and it came time for Senator DODD, who is a cosponsor of Merkley-Levin, to offer this amendment, to bring this up to the floor, and it was rejected. It was rejected by the Republican leadership acting through the manager of the bill.

This amendment has been worked for many days. We have attempted very hard, and succeeded in addressing a number of concerns which were raised, but what we insisted upon and will continue to insist upon and will not yield on is our determination that banks not engage in risky bets. Our commercial banks have access to the Fed window. That is taxpayer money. Our commercial banks have access to the Federal Deposit Insurance Corporation. It guarantees that the accounts will be paid. We cannot permit—we cannot allow—banks to engage in risky bets and then expect to be bailed out by taxpayers. That happened to us. It got us into big trouble. We are in a deep recession as a result of what the Wall Street banks did.

There were a lot of other contributors. They were not alone. Our subcommittee hearings were prepared over many months. In fact, the investigation lasted about a year and a half, with millions of documents that were subpoenaed and brought into the subcommittee's offices. What our hearings showed is that upstream we had a number of banks and mortgage companies that were willing to package bad loans, in many cases loans that they knew were fraudulent, and in some very serious cases loans that they knew were likely to go into default. Nonetheless—and the e-mails show this—those upstream banks decided they were going to bundle these mortgages—these dubious risky mortgages, many of which were likely to default—they were going

to securitize these mortgages and ship them downstream, where Wall Street was panting for these bundled securitized mortgages because then they were going to slice them and dice them and cut them up into these collateralized deals, which were so complicated and very difficult to explain to the public.

Nonetheless, what happened is the public took a bath, and a number of firms on Wall Street did very well, including Goldman Sachs. It did extremely well through their dealings. Some of the e-mails from Goldman Sachs show how well they did, while everybody else was losing their homes, losing their jobs, and most banks were losing money. In one of their e-mails Goldman Sachs said:

Much of the plan began working by February as the market dropped by 25 points and our very profitable year was underway.

So the market dropped 25 points and the profitable year at Goldman Sachs was underway. Why? Because they bet against their own clients.

As Senator MERKLEY pointed out—and he has been a real pleasure to work with as a partner—we had a situation here where Goldman Sachs was selling billions of dollars of securities—many of which they knew contained bad assets, and their own e-mails show it—selling to their clients with their right hand and with their left hand betting heavily against those same securities. The way they bet against them is a complicated story—going short, betting short, the big short, using those default swaps, which were described earlier on the floor of the Senate. But they were making a lot of money out of the losses of their clients.

What added insult to injury—the injury was the conflict of interest and betting against something they were selling, and not even disclosing that fact, by the way, to their clients and customers. But the insult that was added was when their own e-mails, over and over again, show that their own salespeople were describing these securities that they were selling to our pension funds and our educational institutions as junk and worse. That is the insult. The underlying injury is the conflict of interest.

Our amendment, as the Senator from Oregon described, goes after the proprietary trading, which is highly risky, in one part of the amendment. Another part of the amendment goes directly at the conflicts of interest which were exemplified by what Goldman Sachs did. Then they tell us in the Permanent Subcommittee on Investigations: Well, that is the way Wall Street does business. You just don't understand.

Well, Main Street understands. We understand the values that Wall Street exemplified in these last years by selling junk to clients and then betting against them. We understand very well what went on, because we, the people



of the United States, ended up paying for those bets. When they won the bets, they made out like bandits. Wall Street—Goldman Sachs—won many of those bets because they bet against the very securities that they thought were dubious. But there were also a lot of banks that lost bets, that didn't do what Goldman Sachs did, but nonetheless got stuck with these bad securities. And what happened then? Because of the proprietary trading of those banks and risky securities, they ended up losing a lot of money and the taxpayers had to bail them out.

So the taxpayers of this country lose either way. Our pension funds, our educational institutions lose out to a Goldman Sachs, with their conflicts of interest against their own clients—essentially dealing with themselves as a client against the interest of the person they were selling securities to. You have the Goldman Sachs on the one hand making a lot of money that way. You have the banks, which lost money because of those risky bets on the other side of the bet, ending up being at the public trough and having to be bailed out because they were too big to fail and would have plunged us even more deeply into a deeper recession or a depression had they not been bailed out.

We are trying to prevent that from happening again. The Merkley-Levin amendment is trying to go right to the heart of that problem, and that problem is a very deep one, involving the examples which the Senator from Oregon I believe cited but, if not, let me very briefly summarize. Wall Street has attempted to argue that proprietary trading, which our amendment would seek to end in a very thoughtful way, without hitting the kind of activities that are client oriented, that should be allowed—Wall Street has attempted to argue that proprietary trading was not a significant factor in the downfall of our financial system. The numbers here tell a very different story.

By April of 2008, the Nation's largest financial firms had suffered \$230 billion in losses based on their proprietary trading. So by the end of 2008, taxpayers put up hundreds of billions of dollars in so-called TARP funds to avoid the collapse of our economy. One example of the damage here: In 1998, Lehman Brothers had \$28 billion in proprietary holdings. Less than 10 years later—2007—its proprietary holdings had soared more than 10 times to \$313 billion in those kind of high-risk bets. When the values of the holdings declined in 2007 and 2008, Lehman Brothers then lost \$32 billion. Those losses exceeded Lehman Brothers' net worth. By September of 2008, the firm collapsed in the largest bankruptcy in our history.

That is what we are trying to prevent a recurrence of in our amendment. And

what happened? Because the Republican leadership decided they would use a parliamentary approach here to stop Merkley-Levin from even being offered, we have been unable to get the remedy for that kind of a catastrophe happening again to the floor of the Senate for a vote.

That is a tragedy which is lying in wait, if we allow it to exist. So Senator MERKLEY and I—the Presiding Officer now and I—are going to do everything we possibly can in the few hours that remain before the cloture vote to prevent the Republican obstruction from succeeding. We are going to continue to try tomorrow morning to see if we can't get our amendment considered by the Senate. We simply cannot stand by and do nothing. We have seen too many massive costs to the taxpayers.

Another example was with Bear Stearns. Bear Stearns lost more than \$3 billion, thanks to an investment of about \$30 million in two hedge funds. So the losses at Bear Stearns, because of the leverage they used and were allowed to use under existing law, which we would not allow them to use—their losses were 100 times greater than the original investment that crippled the bank and led to an emergency sale to JPMorgan Chase.

We have to protect depositors and taxpayers from the risk of this high-risk proprietary trading at the commercial banks. We have to protect taxpayers from the dilemma of having to pay for Wall Street's risky bets or watch our financial system disintegrate. We have to protect investors and the financial system at large from the conflicts of interest that too often represent business as usual on Wall Street.

We worked with Senator DODD. As Senator MERKLEY pointed out, Senator DODD and his staff worked very closely with us. Senator DODD supports our amendment. So the chairman of the Banking Committee wants our amendment to be considered, and even he cannot persuade the Republican leadership to not use a parliamentary gimmick to stop us, to thwart us, to stymie us from bringing this remedy to the floor of the Senate.

I thank Senator DODD, Senator MERKLEY, and his staff for working so closely with us. We have worked with the Treasury Department very closely, with the Securities and Exchange Commission closely, to make sure we would fix the problems we target without endangering legitimate market activity or activity that is on behalf of clients instead of on behalf of the banks. A number of our colleagues worked with us to make sure there would not inadvertently be restriction of activities that did not cause and would not cause this kind of financial crisis again. Federal Reserve Chairman Paul Volcker endorsed our amendment, as did business leaders such as John Reed, former

chairman and CEO of Citibank, and major organizations for Wall Street reform.

But as we stand here and sit here at 9:30, we are stymied. Unless we can unlock this tomorrow morning, there is going to be a cloture vote later on that day which, unless we can figure out a way to make our amendment germane postcloture, will prevent us from getting a vote on this amendment.

Are we serious about reforming the worst excesses of Wall Street? On this side of the aisle, we are. On the Republican side of the aisle, what we have seen now is obstruction, a decision that has been made that they are going to protect Wall Street instead of Main Street. Wall Street has a long arm and hundreds of lobbyists swarming around this Senate. They are determined to stop us from taking up the Merkley-Levin amendment.

There is going to be a dramatic opportunity tomorrow. There is going to be another effort made to have our amendment considered. At least one effort will be made tomorrow, and maybe more, because it is absolutely essential that the average American out there, the average family, that average business on Main Street that we are trying to make sure has funds available to it for its needs—they are going to be looking, hopefully, at this body tomorrow when a decision is going to be made as to whether the reforms that are so critically important to preventing a reoccurrence of this disaster, this economic disaster, will prevail.

Again, I thank Senator MERKLEY for all he has done, for the huge energy he has put in, he and his staff working so closely with us, with the Treasury Department. I am proud to have the name "Levin" come after the name "Merkley" in Merkley-Levin. Someday—hopefully it will be tomorrow—we are going to get Merkley-Levin considered by the Senate. It is a sad day when the power of Wall Street can overwhelm and overcome the determination of the American people to reform it, to get that cop back on the beat on Wall Street.

We will know tomorrow morning or tomorrow afternoon very early as to whether Wall Street's effort to thwart this Chamber's majority view that the Merkley-Levin reform be voted on—and a majority that would clearly adopt it—whether Wall Street succeeds or not we will know, at least short term, by about noon or 1 o'clock tomorrow afternoon.

I yield the floor.

#### TRIBUTE TO RICHARD MOE

Mr. REID. Mr. President, today I wish to recognize Mr. Richard Moe on the occasion of his retirement for the outstanding contributions he has made during his half-century career in American politics and the preservation of

our Nation's rich heritage. On May 31st, he will retire as the National Trust for Historic Preservation's seventh president after 17 years of distinguished work and achievement. He will have been the longest serving president since Congress chartered that organization back in 1949 to protect some of the country's most important historic places.

His legacy, however, is not just limited to a litany of successes in the preservation of our most treasured historic and cultural resources. That stewardship alone is an accomplishment beyond measure because of the priceless value these places and objects provide us and subsequent generations of Americans into posterity. In honoring Richard Moe's decades of work, though, I would be remiss if I did not call attention to his great devotion to public service as well. Some of those years were spent right here in the Halls of the Senate when he worked for our esteemed former colleague, Walter Mondale. It would be difficult to understand his deep commitment to the Nation and its heritage, a hallmark of his presidency at the National Trust, without mentioning his dedication to serving the American people through those whom our voters have elected.

A native of Duluth, MN, Richard Moe graduated with a bachelor of arts degree in political science from Williams College in Massachusetts. He began his career in politics as administrative assistant to Minneapolis Mayor Arthur Naftalin in 1961 and then as administrative assistant to Minnesota Lieutenant Governor A. M. Keith until 1966. He studied law at the University of Minnesota and passed the Minnesota State bar in 1967. That same year, he became financial director of the Minnesota Democratic-Farmer-Labor Party, eventually rising to chairman, the second youngest in DFL's history. He held that post until 1972, when he joined the Washington office of Senator Mondale and served as his administrative assistant. In 1977, Richard Moe became Vice President Mondale's chief of staff and a member of President Carter's senior staff where he undertook a number of special assignments on behalf of that administration. Following those years at the White House, he joined the Washington office of the New York law firm Davis, Polk & Wardwell and became a partner.

In 1993, he was selected president of the National Trust and forever changed the face of that important organization. Richard Moe's leadership there has taken the organization and the historic preservation movement into the 21st century. His first goal was to make it financially independent and strong. A major portion of the National Trust's funding used to come from the Federal Government. This is no longer the case. The National Trust now adheres to his more entrepreneurial focus

on building relationships with private funders. As a result, and through two capital campaigns, the organization's endowment increased by \$200 million during his Presidency.

He has broadened the National Trust's original congressional mandate far beyond the red velvet cords of house museums and brought historic preservation into the full and diverse spectrum of the national public policy arena. When in 1993 the Manassas National Battlefield Park and the surrounding countryside were threatened by an incompatible theme park and commercial development, he rallied such opposition to sprawl, poor planning, and the loss of our country's open spaces that the proposal was defeated.

He has focused his organization's attention beyond the importance of just protecting the historic America we know that was built after Jamestown, and called attention to the earlier cultural and historic treasures of the first Americans on our great public lands. And as our national consciousness has turned increasingly toward protecting our environment and conserving precious resources, Richard Moe has led his organization's role in fostering a more sustainable country under the simple but powerful message that preserving and reusing historic buildings is the greatest form of recycling.

His passionate interest in history and especially the events of the Civil War led to a deep and personal commitment to the restoration of President Lincoln's Cottage just 3 miles north of this Chamber. Now, solely as a result of Richard Moe's vision, this once forgotten "Camp David" of President Lincoln, where one of our most respected and celebrated Presidents lived and worked, is open to the public for the first time.

In the midst of all these accomplishments, Richard Moe wrote a Civil War history in 1993, "The Last Full Measure: The Life and Death of the First Minnesota Volunteers," and coauthored "Changing Places: Rebuilding Community in the Age of Sprawl" in 1997.

In 2007, he was awarded the National Building Museum's Vincent Scully Prize, which recognized his leadership in moving historic preservation into the mainstream of public policy and expanding the public's awareness of our heritage's stewardship. That same year he also received the American Historical Association's Theodore Roosevelt-Woodrow Wilson Award for Public Service. Let me add to the many acknowledgements such as these my gratitude to Richard Moe and that of the entire Senate for his indelible contributions to our American political life and for his unceasing care for our national heritage. I know that even in retirement, he will continue to serve the people of the United States and I wish him well.

## HONORING OUR ARMED FORCES

LANCE CORPORAL JOSHUA M. DAVIS

Mr. GRASSLEY. Mr. President, I rise to recognize the sacrifice of a brave young Iowan, LCpl Joshua M. Davis, who died from wounds he received while supporting combat operations in Helmand Province, Afghanistan. He was 19 years old. Josh's loss will be felt very deeply in his hometown of Perry, IA, where his drive and leadership skills were recognized early on as a member of the football and wrestling teams and SkillsUSA. He was determined to serve his country and joined the Marine Corps right after high school, even graduating a trimester early to start basic training. Accounts describe Lance Corporal Davis as humble, but his sense of patriotism and service humbles me and makes me proud to be an Iowan. Learning about the life of this remarkable young man makes the knowledge of his tremendous sacrifice all the more poignant. My thoughts and prayers will be with his family at this time, including his father Dave, his mother Beverly, and all those touched by his loss. I cannot adequately express the debt of gratitude we owe, but I ask all Senators to reflect on, and pay tribute to, the life of a great American, LCpl Joshua Davis.

## IN SUPPORT OF JUDGE EDWARD CHEN

Mr. INOUE. Mr. President, I rise to speak in support of Edward Chen, nominee for Federal judgeship in the United States District Court for the Northern District of California. Judge Chen has been a respected Federal magistrate judge for over 8 years. He is held in high regard by his judicial colleagues and by the attorneys, litigants, and witnesses who have appeared before him, including non partisan prosecutors and law enforcement officials. Judge Chen has issued hundreds of rulings in accordance with the rule of law, and without bias or unfairness. He has facilitated the fair settlement of hundreds of cases, ranging from complex business disputes to civil rights claims. For these reasons, Judge Chen received the highest possible rating of "well qualified" from the American Bar Association.

Given his wide support from the legal community, and his record of fairness, what could prevent the U.S. Senate from confirming this outstanding jurist's appointment to the District Court of the Northern District of California?

I am in the opinion that nothing should prevent it. But elements of the extremist media have launched cynical attacks against Judge Chen. Unarmed by facts, accusers resort to tired smears that Judge Chen is a "radical leftist," someone "who doesn't appear to love America."

But these charges are completely without basis. Those interested in the true picture of Judge Chen's work and outlook need only look at his actual 8-year record on the Federal bench. I believe that this record is exactly where discussions of his nomination should focus in our Senate Chambers, where good judgment should prevail. Judge Chen has written over 300 published opinions, and what those opinions show is a judge who is committed to the rule of law. He follows case precedent. He checks any personal views at the courthouse door, and rules impartially in each and every case. His decisions reveal a belief in fairness to all.

Judge Chen, like so many others, values diversity in the Federal judiciary. Judges from different backgrounds bring varied life experiences to the court, and this diversity of background and experience helps foster balanced and accurate decisionmaking according to the rule of law.

Judge Chen's belief in the value of diversity is joined also by Supreme Court Justice Samuel Alito. During his 2006 confirmation hearing, Justice Alito stated, "When I get a case about discrimination, I have to think about people in my own family who suffered discrimination because of their ethnic background or because of religion or because of gender. And I do take that into account" in reaching balanced and accurate decisions. Justice Clarence Thomas underscored this very point in his statement about the importance of broad representation in the judiciary: "My goal is to have a court that is fair, and I think it's fair when we are fair in selecting people from all parts of the country, from all walks of life."

I believe Judge Chen brings valuable experience and a solid record of judicial fairness to the Federal court. He is faithful to the rule of law. He is committed to impartiality and equality for all. I believe that upon fair and honest consideration by my Senate colleagues, Judge Chen and his judicial record will earn approval. Judge Chen has my full support and deserves to be confirmed by the Senate without delay.

#### REQUEST FOR CONSULTATION

Mr. COBURN. Mr. President, I ask unanimous consent that my letter to Senator MCCONNELL dated May 18, 2010, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
MAY 18, 2010.

Hon. MITCH MCCONNELL,  
*Senate Minority Leader, U.S. Senate, Washington, DC.*

DEAR SENATOR MCCONNELL: I am requesting that I be consulted before the Senate enters into any unanimous consent agreements or time limitations regarding H.R. 1741, the Witness Security and Protection Grant Program Act of 2009. In short, although I sup-

port the goals of this legislation and believe that witness security and protection is essential to the effective administration of justice, I do not believe that the federal government bears responsibility for witnesses in state and local courts. My concerns about H.R. 1741 include, but are not necessarily limited to, those outlined in this letter.

As you know, I am extremely concerned about the Nation's fiscal well-being. The national debt is nearly \$13 trillion and rising, which amounts to almost \$42,000 owed by each U.S. citizen. Moreover, Congress recently raised the national debt ceiling by nearly \$2 trillion, and the federal government borrows 41 cents for every dollar that it spends. This dire situation demands that Congress address its spending addiction and adhere strictly to the enumerated powers defined by Article I, Section 8 of the U.S. Constitution.

Providing basic services such as witness security and protection in state courts is the obligation of the states. Budgets everywhere are tight, but state and local governments—like the federal government—must set priorities and eliminate wasteful spending in order to ensure that the highest responsibilities are fulfilled.

Although the Nation's debt crisis demonstrates that Congress no longer has the luxury of funding anything other than the highest federal priorities, I would note that federal dollars are already available for the same purposes contained in H.R. 1741. Those funding sources are as follows:

Edward Byrne Memorial Grant Programs—One of the seven permissible purposes of Byrne/JAG funds is "crime victim and witness programs" (P.L. 109162). Significant amounts of federal dollars are available through this program. In FY2009, Congress provided more than \$2.5 billion in JAG funding, and in FY2010, Congress provided \$519 million for the same programs. In addition to this JAG funding, which is awarded on a formula basis, Congress provided a total of \$178.5 million in FY2009 and \$185.3 million in FY2010 in Byrne "discretionary" funding. This money, totaling \$363.8 million, was awarded in the form of congressional earmarks. Competitive funding was limited to \$30 million in FY2009 and \$40 million in FY2010. In total, the federal government sent approximately \$3.4 billion to state and local law enforcement through Byrne grant programs in the last two fiscal years alone. To the extent that states need federal funding for witness protection and security, it would seem that there is ample funding available and that they should consider prioritizing such projects in their requests and budgets.

U.S. Marshals—Current law, 18 U.S.C. §3521, authorizes the Attorney General to provide for relocation and other protection of state witnesses, as well as their family members or close associates, in certain circumstances. That law allows the Attorney General to provide relocation and other protection for state witnesses, as well as their family members or close associates, where there is concern for a witnesses' safety. It allows for, but does not require, reimbursement by the State (18 U.S.C. 3526(b)(1)).

Community-Based Justice Grants for Prosecutors Program—Existing law, 42 U.S.C. §13862, already authorizes federal grants for state and local governments to "create and expand witness and victim protection programs to prevent threats, intimidation, and retaliation against victims of, and witnesses to, violent crimes." This authorization, enacted in 2008, has never been appropriated. Although it remains my belief that Congress

lacks both the resources and the responsibility for funding such programs, it should be noted that the statutory authority to provide for state witness protection already exists.

I regret that I am unable to support H.R. 1741. Again, I share concerns for the safety of citizens who participate in our justice system. I believe, however, that the Nation's skyrocketing debt demands that Congress make tough spending choices. Where responsibility lies with state and local governments to provide a service, and especially where federal money is already available, I cannot consent to spending additional taxpayer dollars for the same purpose.

Sincerely,

TOM A. COBURN, M.D.,  
*United States Senator.*

#### NATIONAL HEPATITIS AWARENESS MONTH

Mr. JOHNSON. Mr. President, I rise today in recognition of National Hepatitis Awareness Month to raise awareness of this public health threat and encourage greater prevention, diagnosis and treatment efforts.

Viral hepatitis is a highly infectious disease that directly attacks the liver and, if left untreated, can lead to life-threatening cirrhosis of the liver, liver failure and liver cancer. The Centers for Disease Control and Prevention—CDC—estimate that roughly 5 to 6 million Americans are infected with viral hepatitis. Yet these chronic infections are silent killers, as those who are infected experience no obvious symptoms until advanced liver damage has occurred after years without treatment. Consequently, up to 50 percent of Americans infected with hepatitis B and 75 percent of Americans infected with hepatitis C are unaware of their disease. Without appropriate screening and management of the disease, viral hepatitis carriers can pass on the infection to others before suffering a premature death from liver cancer or liver disease.

Similar to the human immunodeficiency virus—HIV—hepatitis B and C are spread through infected blood and needles. Despite awareness campaign efforts from advocacy groups and the CDC, there continues to be nearly 50,000 new infections each year in the United States, resulting in 15,000 deaths from chronic viral hepatitis-related diseases. While continued education and outreach is vital to discourage risky behaviors that expose individuals, it is only one part of preventing further spread of hepatitis.

Perhaps most disturbing is the incidence of hepatitis B and C transmission occurring in healthcare settings from exposure to infected blood or the reuse of contaminated syringes. According to the CDC, unsafe injection practices are one of the leading causes of infections in healthcare settings. Although most healthcare workers are aware of the dangers and strictly follow safety guidelines when administering injections, outbreaks of hepatitis in recent

years have shown the continued need for awareness, education, and stringent safety practices in healthcare settings.

Chronic liver disease is among the top ten killers of Americans and hepatitis C accounts for 40 to 60 percent of all cases. While there is a safe vaccine for several types of viral hepatitis, no vaccine exists for hepatitis C. It has been identified as one of the most significant preventable and treatable public health problems facing the United States. Clearly we must continue to increase awareness of the disease to prevent new infections, encourage screening and tests, and link those that are infected with the care they need.

It is my hope that awareness efforts throughout the month of May will bring to light the significant and silent health threat of hepatitis, encourage appropriate screening and management of the disease, promote vigilant safety practices in healthcare settings and prevent further transmissions of the disease.

#### HIV VACCINE AWARENESS DAY

Mr. COBURN. Mr. President, I rise today to express grave concern regarding the misplaced priority of annually deeming this day, May 18, HIV Vaccine Awareness Day. This year marks the 13th annual observance of a day that epitomizes our government's inability to set priorities with the Federal dollars this body is entrusted.

According to the National Institute of Allergy and Infectious Diseases, NIAID, Web site:

This annual observance is a day to recognize and thank the thousands of volunteers, community members, health professionals, and scientists who are working together to find a safe and effective HIV vaccine. It is also a day to educate our communities about the importance of preventive HIV vaccine research.

As a practicing physician and former cochair of the Presidential Advisory Council on HIV and AIDS, I believe the development of a safe and effective HIV vaccine should be among our Nation's highest health care priorities. HIV/AIDS continues to devastate communities in the United States and around the world. In the United States, more than 50,000 people become infected with HIV each year. Approximately 40 million people are living with HIV around the world, with more than 5 million new infections each year. To date, more than 25 million men, women and children are believed to have died from AIDS worldwide.

Unfortunately, we have not yet developed an effective HIV/AIDS vaccine—nor are we close. At a time when our national debt is approaching \$13 trillion and patients suffering from HIV/AIDS are being put on waiting lists for life-saving drug treatments, we simply cannot afford to misspend \$1 million a year to make people aware of a nonexistent vaccine.

Furthermore, this well-intentioned propaganda campaign is being funded at the expense of HIV vaccine research itself. Regardless of the intentions, the unfortunate fact is that finite resources intended for HIV vaccine research are being siphoned away for a project without any potential scientific benefit. With no effective vaccine likely anytime soon, it seems silly, or worse, to waste funding that could be much better spent on research or scientific investments that could one day lead to a vaccine.

The discovery of a vaccine or cure, after all, would be the best way to thank the researchers and volunteers. As every cent counts in this endeavor, it is unconscionable that precious dollars are being squandered by NIAID's well intentioned but unnecessary public relations campaign.

Between 2001 and 2005, NIH spent more than \$5.2 million on this "HIV vaccine awareness" campaign, not including staff time or travel expenses. It is reasonable to assume that the federal government continues to waste over \$1 million annually on HIV vaccine awareness, despite the fact that no vaccine exists and scientists believe that it is unlikely that a HIV vaccine will be developed anytime soon.

Some of the HIV Vaccine Awareness Day events supported in the past include various lunch and dinner receptions, a fashion show in Massachusetts, a bar night in Tennessee, a bar event and entertainment contest in Washington, and other gatherings and media events. Clearly, this awareness campaign serves no obvious public health or scientific value.

There is no doubt, however, that development of an HIV/AIDS vaccine should be a national priority. HIV/AIDS continues to devastate communities in the United States and around the world. At least 56,000 Americans become infected with HIV each year. More than 33 million people are living with HIV around the world, with more than 2.5 million new infections each year. To date, more than 20 million men, women and children are believed to have died from AIDS worldwide.

The development of a safe and effective HIV vaccine should be among our Nation's highest health care priorities. It imperative that not a single dollar of the Federal funds set aside for the development of an effective HIV vaccine is wasted.

This year, Dr. Anthony Fauci, head of the National Institute of Allergy and Infectious Diseases, NIAID, highlighted what he called "significant progress in HIV vaccine research during the past year." The study he referred to was a clinical trial in Thailand finding a vaccine to be 31 percent effective at preventing HIV infection. Unfortunately, the results of this study have been found to be statistically insignificant and the findings of the study have re-

ceived much skepticism. This latest clinical trial is the latest in a long line of promising but unsuccessful attempts at creating an HIV/AIDS vaccine.

Dr. Fauci in recent years has conceded publicly that no one has been very close to developing a vaccine that would prevent infection. Over the past 5 years, in fact, two large clinical trials of HIV vaccines have failed to demonstrate efficacy of the candidate being tested. The disputed Thailand trial aside, this is still the case today.

Most scientists involved in AIDS research believe that an HIV vaccine is further away than ever and some have admitted that effective immunization against the virus may never be possible, according to a survey conducted released in 2008.

A poll of scientists reflects the declaration made at a NIH "summit meeting" in 2008 that was "tantamount to an admission that almost no progress has been made in the search for an AIDS vaccine in the past 25 years and that something close to new start is necessary." The government scientists announced that "more of their budget needs to be spent on basic lab research and less on testing the current crop of vaccines, none of which has proved useful in human trials." In light of these failures and daunting prospects, Dr. Fauci pledged to re-evaluate the use of all \$1.5 billion his agency spends on AIDS noting that "we are going to have to justify what we are doing."

Dr. Anthony Fauci has noted that while Federal funding for the National Institutes of Health, NIH, continues to increase, it will not increase as quickly as it has the past decade, and as a result, NIH must concentrate on more promising research. Fauci said the heads of NIH institutes such as his had been told to reexamine the entire research portfolio to ensure "the most bang for the buck." The AIDS vaccine candidates that don't show early results in clinical trials could be shut down, he said.

That may mean cutting back some AIDS vaccine research even though virtually all health experts agree a vaccine will be the only way to stop the pandemic of a virus that is incurable, always fatal and that continues to spread worldwide and in the U.S.

As I have done in the past, I am sending a letter today to the Secretary of Health and Human Services to inquire about this misuse of funds. It is my sincere hope that the Department of Health and Human Services will cease spending Federal dollars on this misplaced priority and reinvest these HIV/AIDS dollars into actual research or care.

Mr. President, I ask unanimous consent to have printed in the RECORD my letter dated May 18, 2010, to Secretary Kathleen Sebelius.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE

Washington, DC, May 18, 2010.

Hon. KATHLEEN SEBELIUS,  
Secretary, Department of Health and Human  
Services, Washington, DC.

DEAR SECRETARY SEBELIUS: As a practicing physician and former co-chair of the Presidential Advisory Council on HIV and AIDS, I believe the development of a safe and effective HIV vaccine should be among our nation's highest health care priorities. HIV/AIDS continues to devastate communities in the United States and around the world. In the United States, more than 50,000 people become infected with HIV each year. To date, more than 25 million men, women and children are believed to have died from AIDS worldwide.

During this time of fiscal restraint when our nation is faced with an approximately \$13 trillion national debt and over 1,000 individuals on waiting lists for life-saving HIV/AIDS drug treatments, we must be careful that not a single dollar that could pay off this debt or serve some other vital service—such as developing an HIV vaccine—is diverted for less important purposes.

According to the National Institute of Allergy and Infectious Diseases (NIAID) website, May 18, 2010 marks the thirteenth annual HIV Vaccine Awareness Day: "This annual observance is a day to recognize and thank the thousands of volunteers, community members, health professionals, and scientists who are working together to find a safe and effective HIV vaccine. It is also a day to educate our communities about the importance of preventive HIV vaccine research."

In addition to my concern that these funds are diverted from the more important goals of developing a vaccine or providing care to patients in need, HIV Vaccine Awareness Day has been marked by specific examples of wasteful spending. In the past, related expenditures have included various lunch and dinner receptions, a fashion show in Massachusetts, a bar night in Tennessee, a bar event and entertainment contest in Washington, and other gatherings and media events.

Would you please provide:

(1) The total amount of federal funding that was spent to promote "HIV Awareness Day" in 2010 and for each fiscal year since its inception in 2001, including staff time and travel costs;

(2) If this event is planned for next year please, an estimate of its likely cost;

(3) A list of all organizations that received funding from NIAID as part of "HIV Vaccine Awareness Day" since its inception and a description of the activities performed with these funds; and

(4) The total amount NIH has spent on actual HIV vaccine research in each year from fiscal year 2001 through 2010.

Thank you for your attention to this request. I look forward to a prompt reply.

Sincerely,

SENATOR TOM COBURN, MD.

#### ADDITIONAL STATEMENTS

##### REMEMBERING MARGARET JOAN MORGAN FOLEY

• Mrs. BOXER. Mr. President, I ask my colleagues to join me in honoring the memory of Margaret Joan Morgan Foley. Mrs. Foley passed away on May 9 at her home in Visalia. She was 87 years old.

Margaret Foley was born in Dawson Springs, KY, on November 5, 1922. After obtaining her registered nursing license at the age of 21 from the Salem School of Nursing, she enlisted in the U.S. Army in the fall of 1943. During World War II, she would serve in the Philippines and Nagasaki, Japan.

Upon her return home, Mrs. Foley settled in Los Angeles where she worked as a surgical nurse at Saint Luke's Hospital. During this period, she met and married James Foley. A person of remarkable character and determination, Mrs. Foley was undeterred by a bout with tuberculosis that required a 23-month stay at a sanitarium in Altadena, as she fought valiantly to full recovery and continued her education at the University of Southern California.

In 1955, the Foleys moved north to Tulare, where Mr. Foley accepted a job as a reporter for the Tulare Advance-Register. Spurred on by a lifelong passion to improve the education, health and welfare of children and the poor, Mrs. Foley generously lent her time and considerable talents to a number of important community causes; the Parent Teacher Association, the Tulare Mental Health Advisory Board, Tulare County Legal Services, Tulare County Health System Agency, and the Porterville State Board Hospital.

In 1969, Mrs. Foley resumed working as a part-time nurse at Kaweah Delta District Hospital. For the next 21 years, she successfully served as a nursing supervisor for neonatal care and eventually becoming the perinatal manager for the hospital until her retirement in 1990.

Mrs. Foley continued her commitment to help those who are less fortunate during her retirement. In 1990, she was elected to the Kaweah Delta Health Care District Board of Directors. For the next 20 years, she would leave an indelible impact on the board through her tenures as its secretary, vice president, and president. As someone who was always willing to lend a helping hand, she also served on the College of the Sequoias Nursing Advisory Committee, the Good Samaritan Board, and as a staff nurse at the Good News Clinic. Mrs. Foley embodied the best ideals of volunteerism and public service.

A person of great warmth and humility, Mrs. Foley was admired by those who knew her for her kindness, compassion and decency. She was the inaugural recipient of the Tulare County Bar Association Liberty Bell Award in 1976, the 1980 Visalia Chamber of Commerce Woman of the Year, 1983 College of the Sequoias Nursing Faculty's Nurse of the Year and, most recently, the 2006 Rose Ann Vuich Ethical Leadership Award, a well-deserved and prestigious award that celebrates excellence and integrity in public service.

Margaret Foley devoted most of her life to making a positive impact on the

lives of others. Mrs. Foley's generously gave her boundless compassion and precious humanity to uplifting and empowering those who are most often neglected in our society: the young and the poor. Mrs. Foley has left behind a legacy of service and the admiration of those whose lives she touched over the years. She will be dearly missed.

Mrs. Foley was preceded in death by her husband Jim; her parents William Roderick and Florence Pugh Morgan; two brothers, Roderick William and John Paul Morgan; and a sister Ann Trader Schweiger. She is survived by her children, James and his wife Penelope Applegarth; John and his wife Anne Bird; Morgan and his wife Sandra Platt; Sara Foley Fox and her husband Michael; and Patricia Foley Teaford and her husband Elliott; seven grandchildren; and two brothers, William Radtke and James Trader. •

#### TRIBUTE TO UNDERSHERIFF VALERIE HILL

• Mrs. BOXER. Mr. President, I am honored to recognize undersheriff Valerie Hill as she retires from the Riverside County Sheriff's Department. Undersheriff Hill, the highest ranking female in law enforcement in Riverside County, has served the people and the county of Riverside for over 30 years.

When Undersheriff Hill joined the Riverside County Sheriff's Department in 1977, she was assigned patrol duties in Lake Elsinore and later worked in the Riverside and Moreno Valley stations. As a sergeant, she served in Corrections and also at the Moreno Valley station. Over the course of her career she has had many other assignments within the Sheriff's Department. As assistant sheriff she was responsible for Corrections Division, Court Services and CAL-ID. Her numerous assignments over the past 30 years have given her the opportunity to become actively involved in the changes occurring in Riverside County.

Undersheriff Hill was the department's first female hostage negotiator, first female field training officer, first female assistant sheriff, and first female undersheriff. She was also one of two individuals instrumental in the development of the Special Enforcement Team (S.E.T.), which is a highly successful enforcement team in Moreno Valley.

Believing that community service extends beyond her duties in the department, Undersheriff Hill serves on numerous boards and committees, which include: Operation SafeHouse (board president), Riverside Area Rape Crisis Center (2006 and 2007 board president), Southern California Jail Managers Association (2006 president), YWCA (Evening of Achievement chairperson), and is an active member of the Kiwanis Club of Riverside. She volunteers two Sunday evenings a month through her

church at a "hot meal" program that feeds the needy. She believes "We make a living by what we get but, we make a life by what we give."

Undersheriff Hill was honored by the YWCA in 2002 as a Woman of Achievement and in 2004 by the Inland Empire Magazine as a "Woman Who Makes a Difference." In 2005 she was presented the Gold Key Award by Soroptimist International and in 2007 she was presented the Lifetime Achievement Award by the Law Enforcement Appreciation Committee (LEAC).

It is my pleasure to recognize Undersheriff Valerie Hill as she prepares to retire from the Riverside County Sheriff's Department, though I hope she continues her fine service to her community.●

#### TRIBUTE TO ADMIRAL THAD W. ALLEN

● Ms. MURKOWSKI. Mr. President, today I wish to talk about the U.S. Coast Guard and to recognize the 39 years of exemplary service, dedication and leadership that ADM Thad W. Allen has given to the U.S. Coast Guard and the Nation.

Since 1790, the U.S. Coast Guard has been America's Maritime Guardian; the sentinel of the sea, determined to protect the safety and security of the maritime industry. As a multimission military service, the U.S. Coast Guard is unlike any other military branch in the world. The Coast Guard is the fifth branch of the U.S. Armed Forces, the largest component of the Department of Homeland Security, a member of the National Intelligence Community, and the lead U.S. representative at the International Maritime Organization. The Coast Guard is the Nation's oldest, continuous seagoing service and has fought in every major armed conflict the Nation has faced. The service embodies their motto—*Semper Paratus*—Always Ready. Here to protect and serve; ready to rescue, the Coast Guard routinely is at its best when weather conditions are at their worst. Coast Guard servicemen and women throughout the Nation routinely exhibit selfless sacrifice and enduring service, traits that are exuded by their Commandant, ADM Thad Allen.

Throughout his long and distinguished career, those who have been able to observe and admire Admiral Allen's devotion to the Coast Guard, have been nothing short of inspired by his honesty, integrity, determination, and calming influence even in the face of an impending disaster. We all remember the leadership that Admiral Allen demonstrated as he led the Coast Guard in efforts to secure ports along the Atlantic seaboard after the September 11, 2001 terrorist attacks. Several years later, Admiral Allen was again in the national spotlight while serving as the principal Federal official

for the response and recovery efforts in the wake of Hurricanes Katrina and Rita. Through his leadership and the heroic efforts of the men and women of the Coast Guard, over 33,500 gulf coast residents were rescued from their rooftops and flood homes, which included the rescuing of 24,135 people that were saved from eminent peril and the evacuation of 9,409 medical patients to safety. Most recently, Admiral Allen was selected by the Obama administration to be the national incident coordinator, a role that makes him responsible to oversee the Federal response to the Deepwater Horizon oilspill in the Gulf of Mexico.

I have been fortunate enough to work with Admiral Allen on so many issues, including one we are both passionate about, the Arctic. Through his leadership and direction, the Coast Guard is evaluating their role in the Arctic and providing the strongest voice for the strategic and geopolitical importance of the region. Through his astute mind and unrelenting commitment to the betterment of this Nation, Admiral Allen has been an unwavering champion for an expanded U.S. role and presence in the Arctic. While many will argue that as ice recedes in the Arctic, so do the dangers and a Coast Guard presence in the region is not needed. Unfortunately the opposite is true. As the Arctic ice recedes, more commercial shipping, cruise ships and energy companies are increasing their presence, and as a larger contiguous zone and exclusive economic zone are revealed as the ice recedes, the more the jurisdiction of the Coast Guard expands. Admiral Allen, while not engaging in the debate surrounding climate change, clearly understands that more ice-free ocean in the Arctic region means more area that the Coast Guard is responsible for in the Arctic. By championing the National Security Presidential Directive on the Arctic, Admiral Allen was able to host a trip of Bush administration officials to the Arctic so that they were able to see and understand first-hand the conditions and operational challenges that exist in this vast and remote region.

It has been a great honor to have served alongside Admiral Allen and the Coast Guard during his time as Commandant. I have no doubt that he will continue to serve this Nation as a private citizen after his retirement from the service. He has left the Coast Guard on more sound and stable footing than he found it and has been the reassuring face of so many historic events. I, along with the Coast Guard and the Nation, will surely miss him. In the fine tradition of the sea-going services, I wish him "Fair Winds and Following Seas."●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to

the Senate by Mr. Pate, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5866. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Olives Grown in California; Increased Assessment Rate" (Docket Nos. AMS-FV-09-0089; FV10-932-1 FR) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5867. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "a-[p-(1,1,3,3-Tetramethylbutyl)phenyl]-w-hydroxypoly(oxyethylene); Time-Limited Exemption from the Requirement of a Tolerance" (FRL No. 8824-3) received in the Office of the President of the Senate on May 14, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5868. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "a-(p-Nonylphenol)-w-hydroxypoly(oxyethylene) Sulfate and Phosphate Esters; Time-Limited Exemption from the Requirement of a Tolerance" (FRL No. 8826-3) received in the Office of the President of the Senate on May 14, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5869. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Steel for Military Construction Projects" (DFARS Case 2008-D038) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Armed Services.

EC-5870. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Competition Requirements for Purchases from Federal Prison Industries" (DFARS Case 2008-D015) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Armed Services.

EC-5871. A communication from the Director of Defense Procurement and Acquisition



Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Government Rights on the Design of Department of Defense Vessels" (DFARS Case 2008-D039) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Armed Services.

EC-5872. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Authorization for Validated End-User Applied Materials China, Ltd." (RIN0694-AE86) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-5873. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Modification to the Gulf of Maine/Georges Bank Herring Midwater Trawl Gear Letter of Authorization" (RIN0648-AX93) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5874. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Inseason Adjustments" (RIN0648-AY30) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5875. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants: Threatened Status for the Puget Sound/Georgia Basin Distinct Population Segments of Yelloweye and Canary Rockfish and Endangered Status for the Puget Sound/Georgia Basin Distinct Population Segment of Bocaccio Rockfish" (RIN0648-XF89) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Environment and Public Works.

EC-5876. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of California; Legal Authority" (FRL No. 9152-6) received in the Office of the President of the Senate on May 14, 2010; to the Committee on Environment and Public Works.

EC-5877. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Coordinated Issue: Supervisory Goodwill" (LMSB-4-1109-042) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Finance.

EC-5878. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Interim Final Rules for Group Health Plans and Health In-

surance Issuers Relating to Dependent Coverage of Children to Age 26 under the Patient Protection and Affordable Care Act" (RIN1545-BJ46) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Finance.

EC-5879. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—May 2010" (Rev. Rul. No. 2010-12) received in the Office of the President of the Senate on May 17, 2010; to the Committee on Finance.

EC-5880. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Transitional Guidance for Taxpayers Claiming Relief Under the Military Spouses Residency Relief Act for Taxable Year 2009" (Notice No. 2010-30) received in the Office of the President of the Senate on May 17, 2010; to the Committee on Finance.

EC-5881. A communication from the Secretary of Health and Human Services and the Attorney General, transmitting, pursuant to law, an annual report relative to the Health Care Fraud and Abuse Control Program for fiscal year 2009; to the Committee on Finance.

EC-5882. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, including, technical data, and defense services to Japan for the manufacture of AN/VPS-2 RADARs and associated equipment; to the Committee on Foreign Relations.

EC-5883. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, including, technical data, and defense services to the United Kingdom in support of the sale of one C-17 Globemaster III aircraft in the amount of \$100,000,000 or more; to the Committee on Foreign Relations.

EC-5884. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, including, technical data, and defense services to the United Kingdom for repairs, improvements, modifications, and modernization efforts associated with the WAH-64 Apache helicopters in the amount of \$100,000,000 or more; to the Committee on Foreign Relations.

EC-5885. A communication from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Dependent Coverage of Children to Age 26 Under the Patient Protection and Affordable Care Act" (RIN0991-AB66) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-5886. A communication from the Acting Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in

Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" (29 CFR Part 4022) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-5887. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-383, "Uniform Emergency Volunteer Health Practitioners Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5888. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-394, "Department of Parks and Recreation Capital Construction Mentorship Program Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5889. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-395, "Neighborhood Supermarket Tax Relief Clarification Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5890. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-396, "Anti-Graffiti Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5891. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-397, "Bonus and Special Pay Clarification Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-5892. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-400, "OTO Hotel at Constitution Square Economic Development Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 3250. A bill to designate the facility of the United States Postal Service located at 1210 West Main Street in Riverhead, New York, as the "Private First Class Garfield M. Langhorne Post Office Building".

H.R. 3634. A bill to designate the facility of the United States Postal Service located at 109 Main Street in Swifton, Arkansas, as the "George Kell Post Office".

H.R. 3892. A bill to designate the facility of the United States Postal Service located at 101 West Highway 64 Bypass in Roper, North Carolina, as the "E.V. Wilkins Post Office".

H.R. 3951. A bill to designate the facility of the United States Postal Service located at 2000 Louisiana Avenue in New Orleans, Louisiana, as the "Roy Rondeno, Sr. Post Office Building".

H.R. 4017. A bill to designate the facility of the United States Postal Service located at 43 Maple Avenue in Shrewsbury, Massachusetts, as the "Ann Marie Blute Post Office".

H.R. 4095. A bill to designate the facility of the United States Postal Service located at 9727 Antioch Road in Overland Park, Kansas, as the "Congresswoman Jan Meyers Post Office Building".



H.R. 4139. A bill to designate the facility of the United States Postal Service located at 7464 Highway 503 in Hickory, Mississippi, as the "Sergeant Matthew L. Ingram Post Office".

H.R. 4214. A bill to designate the facility of the United States Postal Service located at 45300 Portola Avenue in Palm Desert, California, as the "Roy Wilson Post Office".

H.R. 4238. A bill to designate the facility of the United States Postal Service located at 930 39th Avenue in Greeley, Colorado, as the "W.D. Farr Post Office Building".

H.R. 4425. A bill to designate the facility of the United States Postal Service located at 2-116th Street in North Troy, New York, as the "Martin G. 'Marty' Mahar Post Office".

H.R. 4547. A bill to designate the facility of the United States Postal Service located at 119 Station Road in Cheyney, Pennsylvania, as the "Captain Luther H. Smith, U.S. Army Air Forces Post Office".

H.R. 4624. A bill to designate the facility of the United States Postal Service located at 125 Kerr Avenue in Rome City, Indiana, as the "SPC Nicholas Scott Hartge Post Office".

H.R. 4628. A bill to designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the "Sergeant Christopher R. Hrbek Post Office Building".

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment and an amendment to the title:

H.R. 4840. A bill to designate the facility of the United States Postal Service located at 1979 Cleveland Avenue in Columbus, Ohio, as the "Clarence D. Lumpkin Post Office".

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 2874. A bill to designate the facility of the United States Postal Service located at 2000 Louisiana Avenue in New Orleans, Louisiana, as the "Roy Rondenno, Sr. Post Office Building".

S. 2945. A bill to designate the facility of the United States Postal Service located at 1210 West Main Street in Riverhead, New York, as the "Private First Class Garfield M. Langhorn Post Office Building".

S. 3012. A bill to designate the facility of the United States Postal Service located at 2-116th Street in North Troy, New York, as the Martin G. "Marty" Mahar Post Office.

S. 3013. A bill to designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the "Sergeant Christopher R. Hrbek Post Office Building".

S. 3200. A bill to designate the facility of the United States Postal Service located at 23 Genesee Street in Hornell, New York, as the "Zachary Smith Post Office Building".

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CARDIN:

S. 3382. A bill to authorize the Secretary of the Interior, through the Coastal Program of the United States Fish and Wildlife Service, to work with willing partners and provide support to efforts to assess, protect, restore, and enhance important coastal areas that provide fish and wildlife habitat on which Federal trust species depend; to the Committee on Environment and Public Works.

By Mr. DeMINT:

S. 3383. A bill to temporarily prohibit the United States loans to the International Monetary Fund to be used to provide financing for any member state of the European Union, and for other purposes; to the Committee on Foreign Relations.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JOHNSON:

S. Con. Res. 63. A concurrent resolution expressing the sense of Congress that Taiwan should be accorded observer status in the International Civil Aviation Organization (ICAO); to the Committee on Foreign Relations.

#### ADDITIONAL COSPONSORS

S. 632

At the request of Mr. BAUCUS, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 632, a bill to amend the Internal Revenue Code of 1986 to require that the payment of the manufacturers' excise tax on recreational equipment be paid quarterly.

S. 781

At the request of Mr. ROBERTS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 781, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 1137

At the request of Mr. FEINGOLD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1137, a bill to amend the Elementary and Secondary Education Act of 1965 to establish a Volunteer Teacher Advisory Committee.

S. 1445

At the request of Mr. LAUTENBERG, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1445, a bill to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth.

S. 1619

At the request of Mr. DODD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1619, a bill to establish the Office of Sustainable Housing and Communities, to establish the Interagency Council on Sustainable Communities, to establish a comprehensive planning grant program, to establish a sustainability challenge grant program, and for other purposes.

S. 1966

At the request of Mr. DODD, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of

S. 1966, a bill to provide assistance to improve the health of newborns, children, and mothers in developing countries, and for other purposes.

S. 2885

At the request of Ms. LANDRIEU, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2885, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide adequate benefits for public safety officers injured or killed in the line of duty, and for other purposes.

S. 3036

At the request of Mr. BAYH, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Colorado (Mr. BENNET) were added as cosponsors of S. 3036, a bill to establish the Office of the National Alzheimer's Project.

S. 3078

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 3078, a bill to provide for the establishment of a Health Insurance Rate Authority to establish limits on premium rating, and for other purposes.

S. 3178

At the request of Mr. BROWN of Ohio, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3178, a bill to amend the Workforce Investment Act of 1998 to provide for the establishment of Youth Corps programs and provide for wider dissemination of the Youth Corps model.

S. 3184

At the request of Mrs. BOXER, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 3184, a bill to provide United States assistance for the purpose of eradicating severe forms of trafficking in children in eligible countries through the implementation of Child Protection Compacts, and for other purposes.

S. 3262

At the request of Mr. MENENDEZ, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 3262, a bill to amend the Internal Revenue Code of 1986 to provide that the volume cap for private activity bonds shall not apply to bonds for facilities for the furnishing of water and sewage facilities.

S. 3325

At the request of Mr. BEGICH, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 3325, a bill to amend title 38, United States Code, to authorize the waiver of the collection of copayments for telehealth and telemedicine visits of veterans, and for other purposes.

S. 3326

At the request of Ms. CANTWELL, the name of the Senator from Oregon (Mr.

WYDEN) was added as a cosponsor of S. 3326, a bill to provide grants to States for low-income housing projects in lieu of low-income housing credits, and to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of the low-income housing credit, and for other purposes.

S. 3335

At the request of Mr. COBURN, the names of the Senator from Wyoming (Mr. ENZI), the Senator from South Dakota (Mr. THUNE) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 3335, a bill to require Congress to establish a unified and searchable database on a public website for congressional earmarks as called for by the President in his 2010 State of the Union Address to Congress.

S. 3337

At the request of Mr. LAUTENBERG, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 3357, a bill to establish certain duties for pharmacies to ensure provision of Food and Drug Administration-approved contraception, and for other purposes.

S. 3359

At the request of Mr. THUNE, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 3359, a bill to amend title 38, United States Code, to provide for annual cost-of-living adjustments to be made automatically by law each year in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.

S. 3366

At the request of Mr. LAUTENBERG, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 3366, a bill to prohibit individuals from carrying firearms in certain airports buildings and airfields, and for other purposes.

S. 3376

At the request of Mrs. FEINSTEIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 3376, a bill to authorize to be appropriated \$950,000,000 for each of the fiscal years 2012 through 2015 to carry out the State Criminal Alien Assistance Program.

S.J. RES. 29

At the request of Mrs. FEINSTEIN, the names of the Senator from Minnesota (Ms. KLOBUCHAR) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

At the request of Mr. MCCONNELL, the names of the Senator from Arizona (Mr. KYL), the Senator from Oklahoma (Mr. COBURN) and the Senator from

Tennessee (Mr. ALEXANDER) were added as cosponsors of S.J. Res. 29, *supra*.

S. RES. 452

At the request of Mr. JOHANNIS, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. Res. 452, a resolution supporting increased market access for exports of United States beef and beef products to Japan.

S. RES. 502

At the request of Mr. WYDEN, the name of the Senator from Nebraska (Mr. JOHANNIS) was added as a cosponsor of S. Res. 502, a resolution eliminating secret Senate holds.

AMENDMENT NO. 3738

At the request of Mr. SANDERS, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of amendment No. 3738 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3740

At the request of Mr. SANDERS, the names of the Senator from Virginia (Mr. WEBB) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of amendment No. 3740 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3809

At the request of Mr. INOUE, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of amendment No. 3809 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3883

At the request of Ms. SNOWE, the names of the Senator from Illinois (Mr. BURRIS) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of amendment No. 3883 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3884

At the request of Ms. CANTWELL, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of amendment No. 3884 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3892

At the request of Mr. BINGAMAN, the names of the Senator from Hawaii (Mr. INOUE), the Senator from Washington (Mrs. MURRAY) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of amendment No. 3892 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3920

At the request of Mr. HARKIN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of amendment No. 3920 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3931

At the request of Mr. MERKLEY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 3931 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3951

At the request of Mr. MENENDEZ, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 3951 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3956

At the request of Ms. LANDRIEU, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of amendment No. 3956 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 3978

At the request of Mr. JOHNSON, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of amendment No. 3978 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 4027

At the request of Mrs. MCCASKILL, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of amendment No. 4027 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 4028

At the request of Mrs. MCCASKILL, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of amendment No. 4028 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 4034

At the request of Mr. CORKER, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 4034 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 4051

At the request of Mr. BOND, his name was added as a cosponsor of amendment No. 4051 proposed to S. 3217, an

original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## AMENDMENT NO. 4053

At the request of Ms. STABENOW, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of amendment No. 4053 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 63—EXPRESSING THE SENSE OF CONGRESS THAT TAIWAN SHOULD BE ACCORDED OBSERVER STATUS IN THE INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO)

Mr. JOHNSON submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

## S. CON. RES. 63

Whereas the Convention on International Civil Aviation, signed in Chicago, Illinois, on December 7, 1944, and entered into force April 4, 1947, approved the establishment of the International Civil Aviation Organization (ICAO), stating "The aims and objectives of the Organization are to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport so as to . . . meet the needs of the peoples of the world for safe, regular, efficient and economical air transport";

Whereas, following the terrorist attacks of September 11, 2001, the ICAO convened a High-level Ministerial Conference on Aviation Security that endorsed a global strategy for strengthening aviation security worldwide and issued a public declaration that "a uniform approach in a global system is essential to ensure aviation security throughout the world and that deficiencies in any part of the system constitute a threat to the entire global system," and that there should be a commitment to "foster international cooperation in the field of aviation security and harmonize the implementation of security measures";

Whereas, on January 22, 2010, the Secretary General of the ICAO stated, "The attempted sabotage of Northwest Airlines Flight 253 on December 25, 2009 is a vivid reminder that security threats transcend national boundaries and can only be properly addressed through a global strategy based on effective international cooperation.";

Whereas the Taipei Flight Information Region, under the jurisdiction of the Republic of China (Taiwan), covers an airspace of

176,000 square nautical miles and provides air traffic control services to over 1,350,000 flights annually along 12 international and 4 domestic air routes;

Whereas over 174,000 international flights carrying more than 35,000,000 passengers travel to and from Taiwan annually, reflecting its importance as an air transport hub linking Northeast and Southeast Asia;

Whereas a total of 30 airlines, 23 of which are foreign-owned, provide scheduled flights to Taiwan;

Whereas airports in Taiwan handle more than 1,580,000 metric tons of air cargo annually;

Whereas Taiwan Taoyuan International Airport was ranked in 2009 by the Airports Council International as the world's 8th and 18th largest airport by international cargo volume and number of International passengers, respectively;

Whereas exclusion from the ICAO since 1971 has impeded the efforts of the Government of Taiwan to maintain civil aviation practices that comport with evolving international standards, due to its inability to contact the ICAO for up-to-date information on aviation standards and norms, secure amendments to the organization's regulations in a timely manner, obtain sufficient and timely information needed to prepare for the implementation of new systems and procedures set forth by the ICAO, receive technical assistance in implementing new regulations, and participate in technical and academic seminars hosted by the ICAO;

Whereas, despite these impediments and irrespective of its inability to participate in the ICAO, the Government of Taiwan has made every effort to comply with the operating procedures and guidelines set forth by the organization;

Whereas, despite this effort, the exclusion of Taiwan from the ICAO has prevented the organization from developing a truly global strategy to address security threats based on effective international cooperation, thereby hindering the fulfillment of its overarching mission to "meet the needs of the peoples of the world for safe, regular, efficient and economical air transport";

Whereas the United States, in the 1994 Taiwan Policy Review, clearly declared its support for the participation of Taiwan in appropriate international organizations, in particular, on September 27, 1994, with the announcement by the Assistant Secretary of State for East Asian and Pacific Affairs that, pursuant to the Review and recognizing Taiwan's important role in transnational issues, the United States "will support its membership in organizations where statehood is not a prerequisite, and [the United States] will support opportunities for Taiwan's voice to be heard in organizations where its membership is not possible";

Whereas section 4(d) of the Taiwan Relations Act (22 U.S.C. 3303(d)) declares, "Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution or any other international organization."; and

Whereas ICAO rules and existing practices have allowed for the meaningful participation of noncontracting countries as well as other bodies in its meetings and activities through granting of observer status: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—*

(1) meaningful participation by the Government of Taiwan as an observer in the

meetings and activities of the International Civil Aviation Organization (ICAO) will contribute both to the fulfillment of the ICAO's overarching mission and to the success of a global strategy to address aviation security threats based on effective international cooperation;

(2) the United States Government should take a leading role in gaining international support for the granting of observer status to Taiwan in the ICAO for the purpose of such participation; and

(3) the Department of State should provide briefings to or consult with Congress on any efforts conducted by the United States Government in support of Taiwan's progress toward observer status in the ICAO.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 4063. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 4064. Mr. MENENDEZ (for himself, Ms. SNOWE, Mr. SCHUMER, Mr. LEAHY, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4065. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4066. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4067. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4068. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4069. Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4070. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4071. Mr. CARPER (for himself, Mr. BAYH, Mr. JOHNSON, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 4072. Mr. GRASSLEY (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for

himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 4073. Mr. ENZI (for himself, Mr. SHELBY, and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4074. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 3962 submitted by Mr. MERKLEY (for himself, Ms. KLOBUCHAR, Mr. SCHUMER, Ms. SNOWE, Mr. BROWN of Massachusetts, Mr. BEGICH, Mrs. BOXER, Mr. DODD, Mr. KERRY, Mr. FRANKEN, and Mr. LEVIN) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4075. Ms. LANDRIEU (for herself, Mr. DODD, and Mr. KERRY) submitted an amendment intended to be proposed by her to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4076. Mr. REED (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4077. Mr. REED (for himself, Mr. GRASSLEY, Mr. JOHNSON, Mr. BROWN of Ohio, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4078. Mr. REED (for himself, Mr. GRASSLEY, Mr. JOHNSON, Mr. BROWN of Ohio, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4079. Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4080. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4081. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4082. Mr. DODD submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4083. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4084. Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4085. Mr. HARKIN (for himself, Mr. SANDERS, Mr. WHITEHOUSE, Mr. UDALL, of New Mexico, and Mr. SCHUMER) submitted an

amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4086. Ms. CANTWELL (for herself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4087. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4088. Mr. BAYH submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4089. Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4090. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4091. Mr. JOHNSON (for himself, Ms. LANDRIEU, Mr. BURRIS, Mr. BROWNBACK, Ms. MURKOWSKI, Mr. CRAPO, Mr. ROBERTS, Mr. COBURN, Mr. TESTER, Mr. BROWN of Ohio, Mr. NELSON of Nebraska, Mr. CARDIN, and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4092. Mr. CHAMBLISS (for Mrs. LINCOLN) submitted an amendment intended to be proposed by Mr. CHAMBLISS to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4093. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4094. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4095. Mr. NELSON of Florida (for himself and Mr. WHITEHOUSE) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4096. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4097. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4098. Mr. LEVIN (for himself, Mr. KAUFMAN, Mr. REED, and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4099. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4100. Mr. DODD submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4101. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4102. Mr. MERKLEY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4103. Mr. BURRIS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4104. Mr. MENENDEZ (for himself, Mr. BAYH, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4105. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4106. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4107. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4108. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4109. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4110. Mr. DODD submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4111. Ms. STABENOW submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4112. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4113. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN))

to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4114. Mr. DORGAN proposed an amendment to amendment SA 4072 submitted by Mr. GRASSLEY (for himself and Mrs. MCCASKILL) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

#### TEXT OF AMENDMENTS

**SA 4063.** Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 30, between lines 11 and 12, insert the following:

(3) **ADDITIONAL VIEWS.**—In the annual report required by paragraph (2)(M), the Secretary shall provide additional views, which shall include—

(A) whether the Secretary agrees with the recommendations of the Council and the views of the Council on the financial markets and potential emerging threats;

(B) if the Secretary disagrees with any aspect of the report of the Council, the Secretary's own views, analysis, and recommendations; and

(C) recommendations regarding whether there should be changes made to the laws and rules in place at the time at which the annual report is delivered to Congress to promote the integrity, efficiency, and stability of the United States financial markets or a determination from the Secretary that the laws and rules in place at the time at which the annual report of the Council is delivered to Congress are optimal to achieve the integrity, efficiency, and stability of the United States financial markets.

**SA 4064.** Mr. MENENDEZ (for himself, Ms. SNOWE, Mr. SCHUMER, Mr. LEAHY, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 372, between lines 2 and 3, insert the following:

#### **SEC. 343. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSES.**

The Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is amended by inserting after section 114 (12 U.S.C. 4713) the following:

#### **“SEC. 114A. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSES.**

“(a) **DEFINITIONS.**—In this section, the following definitions shall apply:

“(1) **ELIGIBLE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.**—The term ‘eligible community development financial institution’ means a community development financial institution (as described in section 1805.201 of title 12, Code of Federal Regulations, or any successor thereto) certified by the Secretary that has applied to a qualified issuer for, or been granted by a qualified issuer, a loan under the Program.

“(2) **ELIGIBLE COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSE.**—The term ‘eligible community or economic development purpose’—

“(A) means any purpose described in section 108(b); and

“(B) includes the provision of community or economic development in low-income or underserved rural areas.

“(3) **GUARANTEE.**—The term ‘guarantee’ means a written agreement between the Secretary and a qualified issuer (or trustee), pursuant to which the Secretary ensures repayment of the verifiable losses of principal, interest, and call premium, if any, on notes or bonds issued by a qualified issuer to finance or refinance loans to eligible community development financial institutions.

“(4) **LOAN.**—The term ‘loan’ means any credit instrument that is extended under the Program for any eligible community or economic development purpose.

“(5) **MASTER SERVICER.**—

“(A) **IN GENERAL.**—The term ‘master servicer’ means any entity approved by the Secretary in accordance with subparagraph (B) to oversee the activities of servicers, as provided in subsection (f)(4).

“(B) **APPROVAL CRITERIA FOR MASTER SERVICERS.**—The Secretary shall approve or deny any application to become a master servicer under the Program not later than 90 days after the date on which all required information is submitted to the Secretary, based on the capacity and experience of the applicant in—

“(i) loan administration, servicing, and loan monitoring;

“(ii) managing regional or national loan intake, processing, or servicing operational systems and infrastructure;

“(iii) managing regional or national originator communication systems and infrastructure;

“(iv) developing and implementing training and other risk management strategies on a regional or national basis; and

“(v) compliance monitoring, investor relations, and reporting.

“(6) **PROGRAM.**—The term ‘Program’ means the guarantee Program for bonds and notes issued for eligible community or economic development purposes established under this section.

“(7) **PROGRAM ADMINISTRATOR.**—The term ‘Program administrator’ means an entity designated by the issuer to perform administrative duties, as provided in subsection (f)(2).

“(8) **QUALIFIED ISSUER.**—

“(A) **IN GENERAL.**—The term ‘qualified issuer’ means a community development financial institution (or any entity designated to issue notes or bonds on behalf of such community development financial institution) that meets the qualification requirements of this paragraph.

“(B) **APPROVAL CRITERIA FOR QUALIFIED ISSUERS.**—

“(i) IN GENERAL.—The Secretary shall approve a qualified issuer for a guarantee under the Program in accordance with the requirements of this paragraph, and such additional requirements as the Secretary may establish, by regulation.

“(ii) TERMS AND QUALIFICATIONS.—A qualified issuer shall—

“(I) have appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes;

“(II) provide to the Secretary—

“(aa) an acceptable statement of the proposed sources and uses of the funds; and

“(bb) a capital distribution plan that meets the requirements of subsection (c)(1); and

“(III) certify to the Secretary that the bonds or notes to be guaranteed are to be used for eligible community or economic development purposes.

“(C) DEPARTMENT OPINION; TIMING.—

“(i) DEPARTMENT OPINION.—Not later than 30 days after the date of a request by a qualified issuer for approval of a guarantee under the Program, the Secretary shall provide an opinion regarding compliance by the issuer with the requirements of the Program under this section.

“(ii) TIMING.—The Secretary shall approve or deny a guarantee under this section after consideration of the opinion provided to the Secretary under clause (i), and in no case later than 90 days after receipt of all required information by the Secretary with respect to a request for such guarantee.

“(9) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(10) SERVICER.—The term ‘servicer’ means an entity designated by the issuer to perform various servicing duties, as provided in subsection (f)(3).

“(b) GUARANTEES AUTHORIZED.—The Secretary shall guarantee payments on bonds or notes issued by any qualified issuer, if the proceeds of the bonds or notes are used in accordance with this section to make loans to eligible community development financial institutions—

“(1) for eligible community or economic development purposes; or

“(2) to refinance loans or notes issued for such purposes.

“(c) GENERAL PROGRAM REQUIREMENTS.—

“(1) IN GENERAL.—A capital distribution plan meets the requirements of this subsection, if not less than 90 percent of the principal amount of guaranteed bonds or notes (other than costs of issuance fees) are used to make loans for any eligible community or economic development purpose, measured annually, beginning at the end of the 1-year period beginning on the issuance date of such guaranteed bonds or notes.

“(2) RELENDING ACCOUNT.—Not more than 10 percent of the principal amount of guaranteed bonds or notes, multiplied by an amount equal to the outstanding principal balance of issued notes or bonds, minus the risk-share pool amount under subsection (d), may be held in a relending account and may be made available for new eligible community or economic development purposes.

“(3) LIMITATIONS ON UNPAID PRINCIPAL BALANCES.—The proceeds of guaranteed bonds or notes under the Program may not be used to pay fees (other than costs of issuance fees), and shall be held in—

“(A) community or economic development loans;

“(B) a relending account, to the extent authorized under paragraph (2); or

“(C) a risk-share pool established under subsection (d).

“(4) REPAYMENT.—If a qualified issuer fails to meet the requirements of paragraph (1) by the end of the 90-day period beginning at the end of the annual measurement period, repayment shall be made on that portion of bonds or notes necessary to bring the bonds or notes that remain outstanding after such repayment into compliance with the 90 percent requirement of paragraph (1).

“(5) PROHIBITED USES.—The Secretary shall, by regulation—

“(A) prohibit, as appropriate, certain uses of amounts from the guarantee of a bond or note under the Program, including the use of such funds for political activities, lobbying, outreach, counseling services, or travel expenses; and

“(B) provide that the guarantee of a bond or note under the Program may not be used for salaries or other administrative costs of—

“(i) the qualified issuer; or

“(ii) any recipient of amounts from the guarantee of a bond or note.

“(d) RISK-SHARE POOL.—Each qualified issuer shall, during the term of a guarantee provided under the Program, establish a risk-share pool, capitalized by contributions from eligible community development financial institution participants an amount equal to 3 percent of the guaranteed amount outstanding on the subject notes and bonds.

“(e) GUARANTEES.—

“(1) IN GENERAL.—A guarantee issued under the Program shall—

“(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

“(B) be fully assignable and transferable to the capital market, on terms and conditions that are consistent with comparable Government-guaranteed bonds, and satisfactory to the Secretary;

“(C) represent the full faith and credit of the United States; and

“(D) not exceed 30 years.

“(2) LIMITATIONS.—

“(A) ANNUAL NUMBER OF GUARANTEES.—The Secretary shall issue not more than 10 guarantees in any calendar year under the Program.

“(B) GUARANTEE AMOUNT.—The Secretary may not guarantee any amount under the Program equal to less than \$100,000,000, but the total of all such guarantees in any fiscal year may not exceed \$1,000,000,000.

“(f) SERVICING OF TRANSACTIONS.—

“(1) IN GENERAL.—To maximize efficiencies and minimize cost and interest rates, loans made under this section may be serviced by qualified Program administrators, bond servicers, and a master servicer.

“(2) DUTIES OF PROGRAM ADMINISTRATOR.—The duties of a Program administrator shall include—

“(A) approving and qualifying eligible community development financial institution applications for participation in the Program;

“(B) compliance monitoring;

“(C) bond packaging in connection with the Program; and

“(D) all other duties and related services that are customarily expected of a Program administrator.

“(3) DUTIES OF SERVICER.—The duties of a servicer shall include—

“(A) billing and collecting loan payments;

“(B) initiating collection activities on past-due loans;

“(C) transferring loan payments to the master servicing accounts;

“(D) loan administration and servicing;

“(E) systematic and timely reporting of loan performance through remittance and servicing reports;

“(F) proper measurement of annual outstanding loan requirements; and

“(G) all other duties and related services that are customarily expected of servicers.

“(4) DUTIES OF MASTER SERVICER.—The duties of a master servicer shall include—

“(A) tracking the movement of funds between the accounts of the master servicer and any other servicer;

“(B) ensuring orderly receipt of the monthly remittance and servicing reports of the servicer;

“(C) monitoring the collection comments and foreclosure actions;

“(D) aggregating the reporting and distribution of funds to trustees and investors;

“(E) removing and replacing a servicer, as necessary;

“(F) loan administration and servicing;

“(G) systematic and timely reporting of loan performance compiled from all bond servicers’ reports;

“(H) proper distribution of funds to investors; and

“(I) all other duties and related services that are customarily expected of a master servicer.

“(g) FEES.—

“(1) IN GENERAL.—A qualified issuer that receives a guarantee issued under this section on a bond or note shall pay a fee to the Secretary, in an amount equal to 10 basis points of the amount of the unpaid principal of the bond or note guaranteed.

“(2) PAYMENT.—A qualified issuer shall pay the fee required under this subsection on an annual basis.

“(3) USE OF FEES.—Fees collected by the Secretary under this subsection shall be used to reimburse the Department of the Treasury for any administrative costs incurred by the Department in implementing the Program established under this section.

“(h) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to the Secretary, such sums as are necessary to carry out this section.

“(2) USE OF FEES.—To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Secretary may use the fees collected under subsection (g) for the cost of providing guarantees of bonds and notes under this section.

“(i) INVESTMENT IN GUARANTEED BONDS IN-ELIGIBLE FOR COMMUNITY REINVESTMENT ACT PURPOSES.—Notwithstanding any other provision of law, any investment by a financial institution in bonds or notes guaranteed under the Program shall not be taken into account in assessing the record of such institution for purposes of the Community Reinvestment Act of 1977 (12 U.S.C. 2901).

“(j) ADMINISTRATION.—

“(1) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.

“(2) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall implement this section.

“(k) TERMINATION.—This section is repealed, and the authority provided under this section shall terminate, on September 30, 2014.”.

#### SEC. 344. TAX EXEMPT STATUS OF CERTAIN BONDS.

(a) NO FEDERAL GUARANTEE.—Subparagraph (A) of section 149(b)(3) of the Internal Revenue Code of 1986 is amended—



(1) by striking “or” at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting “, or”; and

(3) by adding at the end the following new clause:

“(v) any guarantee of a qualified community development financial institution bond provided by the Department of the Treasury.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to bonds issued after the date of enactment of this Act.

**SA 4065.** Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

#### **TITLE XIV—EMERGENCY LIQUIDITY FUND**

##### **SEC. 1401. SHORT TITLE.**

This title may be cited as the “Emergency Liquidity Fund”.

##### **SEC. 1402. PURPOSES.**

The purposes of this title are—

(1) to immediately provide authority and facilities that the Secretary of the Treasury can use to restore liquidity in the community development financial system of the United States;

(2) to ensure that such authority and such facilities are used in a manner that—

(A) promotes access to credit for small businesses;

(B) provides access to jobs, particularly for low and moderate income individuals;

(C) serves investment areas or targeted populations, as those terms are defined under the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.); and

(D) provides public accountability for the exercise of such authority; and

(3) to provide grants to eligible entities and the necessary authority to the Secretary of the Treasury to enter into cooperative agreements that—

(A) support small business development;

(B) develop innovative local and regional programs to expand capital access for small businesses; and

(C) support local economic development and business diversification.

##### **SEC. 1403. DEFINITIONS.**

In this title, the following definitions shall apply:

(1) **ELIGIBLE COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSE.**—The term “eligible community or economic development purpose”—

(A) means any purpose described in section 108(b) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.); and

(B) includes the provision of community or economic development in low-income or underserved rural areas.

(2) **ELIGIBLE ENTITY.**—

(A) **IN GENERAL.**—The term “eligible entity” included community development financial institutions, as such institutions are described in section 1805.201 of title 12, Code of Federal Regulations, or any successor thereto.

(B) **ADDITIONAL AUTHORITY OF SECRETARY.**—The Secretary may further expand participation in any grant program established under this title to include entities other than community development financial institutions, if the Secretary, in his discretion, determines that such other entities meet eligible community or economic development purposes.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Treasury.

##### **SEC. 1404. AUTHORIZATION TO MAKE COMMITMENTS TO ASSIST ELIGIBLE ENTITIES.**

(a) **SPECIAL LIQUIDITY FACILITY.**—

(1) **IN GENERAL.**—The Secretary is authorized to establish a special liquidity facility to make and fund commitments and to purchase assets related to eligible community or economic development purposes in accordance with—

(A) the purposes of this title; and

(B) the policies and procedures developed and published by the Secretary.

(2) **RULE OF CONSTRUCTION.**—Commitments made under paragraph (1) may include grants, loans, loan commitments, equity investments, agreements, and similar contracts or undertakings or a combination thereof.

(b) **APPLICATIONS FOR ASSISTANCE.**—An application for assistance under this title shall be submitted in such form and in accordance with such procedures as the Secretary shall establish.

(c) **MATCHING REQUIREMENT.**—Assistance provided to an eligible entity under this title shall be matched with funds from sources other than the Federal Government on the basis of not less than 1 dollar for every 2 dollars provided by the Secretary.

(d) **LIMITATIONS.**—

(1) **ANNUAL NUMBER OF AWARDS.**—The Secretary, acting through the special liquidity facility established under subsection (a), shall not issue more than 5 awards of assistance in any calendar year under the authorities established by this section.

(2) **AWARD AMOUNT.**—In carrying out the requirements of this section, the Secretary, acting through the special liquidity facility established under subsection (a), may not make an award to an eligible entity of less than \$50,000,000.

(3) **IMPLEMENTATION.**—Not later than 1 year after the date of enactment of this title the Secretary shall issue rules and regulations implementing this section.

(e) **FUNDING.**—There are hereby appropriated to the Secretary, out of funds in the Treasury not otherwise appropriated, \$250,000,000 to carry out this section, to remain available until expended, for fiscal years 2010 through 2014.

##### **SEC. 1405. APPROVAL CRITERIA FOR ELIGIBLE ENTITIES.**

(a) **IN GENERAL.**—The Secretary shall approve an eligible entity for participation in the assistance program established under section 1404 in accordance with the requirements of this section, and such additional requirements as the Secretary may establish, by regulation.

(b) **TERMS AND QUALIFICATIONS.**—Recipients of amounts under section 1404 shall—

(1) have appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes;

(2) provide to the Secretary—

(A) an acceptable statement of the proposed sources and uses of the funds; and

(B) a capital distribution plan for eligible community and economic development purposes that details the following:

(i) Management Capacity, by providing the following:

(I) Experience deploying capital.

(II) Experience raising capital.

(III) Financial capacity and asset management capabilities.

(IV) Program compliance track-record.

(V) Community accountability.

(ii) Capitalization Strategy, by providing the following:

(I) Capital raising experience and track-record.

(II) Experience deploying capital.

(III) Strategy for raising investor capital.

(IV) Relationships with investors.

(V) Prospective sources and uses of capital.

(iii) Business strategy, by providing the following:

(I) Products, services, and investment criteria.

(II) Community and economic development investment track-record.

(III) Financial projections or projected business activity.

(iv) Community impact, by providing the following:

(I) Ability to target areas of high unemployment.

(II) Ability to support job creation or job retention.

(III) Ability to further community revitalization.

(IV) Ancillary community benefits.

(v) Capacity, by demonstrating the following:

(I) Ability to distribute and utilize 25 percent of amounts received under this title not later than 1 year after receipt of such amounts.

(II) Ability to distribute and utilize 50 percent of amounts received under this title not later than 2 years after receipt of such amounts.

(III) Ability to distribute and utilize 80 percent of amounts received under this title not later than 5 years after receipt of such amounts.

##### **SEC. 1406. BUSINESS-TO-BUSINESS GRANTS AND COOPERATIVE AGREEMENTS.**

(a) **IN GENERAL.**—In accordance with this section, the Secretary may make grants to and enter into cooperative agreements with any coalition of private entities, public entities, or any combination of private and public entities—

(1) to expand business-to-business relationships between large and small businesses;

(2) to develop innovative local and regional programs to expand access to capital for small businesses;

(3) to provide businesses, directly or indirectly, with online information and a database of—

(A) public sector programs or private companies that are interested in mentor-protégé programs or supplier diversity programs; and

(B) State-wide, local, or community-based business development programs;

(4) to collect, analyze, and publish data that tracks the impact of the coalition's programs on revenue and employment at participating businesses, including disadvantaged business enterprises;

(5) to foster communication and collaboration within and among the coalitions; and

(6) to support efforts to enhance the long-term financial stability of employees, the economic viability of communities, and business diversification within locales and regions.

(b) **MATCHING REQUIREMENT.**—The Secretary may make a grant to a coalition described under subsection (a) only if the grant shall be matched with funds from sources



other than the Federal Government on the basis of not less than 1 dollar for each dollar provided by the Secretary under this section.

(c) **FUNDING.**—There are hereby appropriated to the Secretary, out of funds in the Treasury not otherwise appropriated, \$50,000,000, to carry out this section, including to pay the reasonable costs of administering the grant program established under this section, for each of fiscal years 2010 through 2015.

**SEC. 1407. IMPLEMENTATION AND ADMINISTRATION.**

(a) **GENERAL AUTHORITIES AND DUTIES.**—The Secretary shall—

(1) establish minimum standards for approved use of amounts made available under this title;

(2) provide technical assistance to eligible entities receiving amounts under this title;

(3) manage, administer, and perform necessary integrity functions for the grant programs established under this title; and

(4) ensure adequate oversight of the eligible entities that received amounts under this title.

(b) **ADMINISTRATIVE FUNDING.**—There are hereby appropriated to the Secretary, out of funds in the Treasury not otherwise appropriated, \$15,000,000 to carry out the administrative expenses associated with the grant programs established under title, including to pay reasonable costs of administering such programs. In administering this title and the grant programs established by this title, the Secretary is authorized to use the staff and resources of the Department of the Treasury.

(c) **EXPEDITED CONTRACTING.**—During the 1-year period beginning on the date of enactment of this title, the Secretary may enter into contracts without regard to any other provision of law regarding public contracts, for purposes of carrying out this title.

(d) **TERMINATION OF SECRETARY'S PROGRAM ADMINISTRATION FUNCTIONS.**—The authorities and duties of the Secretary to implement and administer this title shall terminate at the end of the 5-year period beginning on the date of enactment of this title.

**SEC. 1408. REGULATIONS.**

The Secretary may issue such regulations and other guidance as the Secretary determines necessary or appropriate to implement this title including, to define terms, to establish compliance and reporting requirements, and such other terms and conditions necessary to carry out the purposes of this title.

**SA 4066.** Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1290, strike line 5 and all that follows through page 1291, line 9, and insert the following:

**SEC. 1028. AUTHORITY TO RESTRICT MANDATORY PRE-DISPUTE ARBITRATION.**

(a) **STUDY AND REPORT.**—Not later than 1 year after the designated transfer date, the

Bureau shall conduct a study and submit a report to Congress concerning the use of agreements providing for arbitration of any future dispute between covered persons and consumers in connection with the offering or providing of consumer financial products or services.

(b) **FURTHER AUTHORITY.**—The Bureau, by regulation, may prohibit or impose conditions or limitations on the use of an agreement between a covered person and a consumer for a consumer financial product or service providing for arbitration of any future dispute between the parties, if the Bureau determines that such a prohibition or imposition of conditions or limitations is in the public interest and for the protection of consumers. The determination of the Bureau under this subsection shall be consistent with the study conducted under subsection (a).

(c) **LIMITATION.**—The authority described in subsection (b) may not be construed to prohibit or restrict a consumer from entering into a voluntary arbitration agreement with a covered person after a dispute has arisen.

(d) **RULE OF CONSTRUCTION.**—No other provision of Federal law shall be construed to preempt or otherwise affect the applicability of any regulation prescribed by the Bureau under subsection (b).

**SA 4067.** Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1455, after line 25, insert the following:

**SEC. 1077. MANDATORY PREDISPUTE ARBITRATION RULEMAKING.**

(a) **SECTION 921.**—Section 921 of this Act is amended to read as follows:

**“SEC. 921. AUTHORITY TO ISSUE RULES RELATED TO MANDATORY PREDISPUTE ARBITRATION.**

“(a) **AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.**—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o), as amended by section 918, is amended by adding at the end the following:

“(i) **AUTHORITY TO RESTRICT MANDATORY PREDISPUTE ARBITRATION.**—The Commission shall—

“(1) conduct a rulemaking on the use of agreements that require customers or clients of any broker, dealer, or municipal securities dealer to arbitrate any dispute between such customers or clients and such broker, dealer, or municipal securities dealer that arises under the securities laws or the rules of a self-regulatory organization; and

“(2) if the Commission finds that prohibition of, or imposition of conditions or limitations on, the use of agreements described in paragraph (1) is in the public interest and for the protection of investors, promulgate rules or regulations to establish such prohibitions, conditions, or limitations.”.

“(b) **AMENDMENT TO THE INVESTMENT ADVISERS ACT OF 1940.**—Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-

5) is amended by adding at the end the following:

“(f) **AUTHORITY TO ISSUE RULES RELATED TO MANDATORY PREDISPUTE ARBITRATION.**—The Commission shall—

“(1) conduct a rulemaking on the use of agreements that require customers or clients of any investment adviser to arbitrate any dispute between such customers or clients and such investment adviser that arises under the securities laws, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or the rules of a self-regulatory organization; and

“(2) if the Commission finds that prohibition of, or imposition of conditions or limitations on, the use of agreements described in paragraph (1) is in the public interest and for the protection of investors, promulgate rules or regulations to establish such prohibitions, conditions, or limitations.”.

(b) **SECTION 1028.**—Section 1028 of this Act is amended to read as follows:

**“SEC. 1028. AUTHORITY TO RESTRICT MANDATORY PRE-DISPUTE ARBITRATION.**

“(a) **STUDY AND REPORT.**—Not later than 1 year after the designated transfer date, the Bureau shall conduct a study and submit a report to Congress concerning the use of agreements providing for arbitration of any future dispute between covered persons and consumers in connection with the offering or providing of consumer financial products or services.

“(b) **FURTHER AUTHORITY.**—The Bureau, by regulation, may prohibit or impose conditions or limitations on the use of an agreement between a covered person and a consumer for a consumer financial product or service providing for arbitration of any future dispute between the parties, if the Bureau determines that such a prohibition or imposition of conditions or limitations is in the public interest and for the protection of consumers. The determination of the Bureau under this subsection shall be consistent with the study conducted under subsection (a).

“(c) **LIMITATION.**—The authority described in subsection (b) may not be construed to prohibit or restrict a consumer from entering into a voluntary arbitration agreement with a covered person after a dispute has arisen.

“(d) **RULE OF CONSTRUCTION.**—No other provision of Federal law shall be construed to preempt or otherwise affect the applicability of any regulation prescribed by the Bureau under subsection (b).”.

**SA 4068.** Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 89, after line 23, insert the following:

(5) **HART-SCOTT-RODINO FILING REQUIREMENT.**—Solely for purposes of section 7A(c)(8) of the Clayton Act (15 U.S.C. 18a(c)(8)), the transactions subject to the requirements of paragraph (1) shall be treated as if Board of Governors approval is not required.

On page 153, line 4, strike “and”.

On page 153, line 16, strike the period and insert “; and”.

On page 153, after line 16, insert the following:

(IV) if the Secretary, in consultation with the Chairman of the Board of Governors, has found that the Corporation must act immediately with regard to the covered financial company (including any covered financial company that is an insurance company) to preserve financial stability, the approval and prior notification referred to in subclauses (II) and (III) shall not be required and the transaction may be consummated immediately by the Corporation, provided that nothing in this subclause shall otherwise modify, impair, or supersede the operation of any of the antitrust laws (as defined in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section relates to unfair methods of competition).

On page 264, strike line 6, and insert the following:

#### REVIEW.—

(A) IN GENERAL.—If a transaction involving the merger or

On page 264, after line 25, insert the following:

(B) EMERGENCY.—If the Secretary, in consultation with the Chairman of the Board of Governors, has found that the Corporation must act immediately with regard to the bridge financial company (including any bridge financial company that is an insurance company) to preserve financial stability, the approval and prior notification referred to in subparagraph (A) shall not be required and the transaction may be consummated immediately by the Corporation. The preceding sentence shall not otherwise modify, impair, or supersede the operation of any of the antitrust laws (as defined in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section relates to unfair methods of competition).

On page 296, after line 15, insert the following:

(d) ANTITRUST SAVINGS CLAUSE.—Unless otherwise provided, nothing in this Act, or any amendment made by this Act, shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For the purposes of this Act, the term “antitrust laws” has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

On page 441, after line 12, insert the following:

“(iii) HART-SCOTT-RODINO FILING REQUIREMENT.—Solely for purposes of section 7A(c)(8) of the Clayton Act (15 U.S.C. 18a(c)(8)), the transactions subject to the requirements of this paragraph shall be treated as if Board of Governors approval is not required.”.

On page 567, lines 7 and 8, strike “, subject to the requirements of section 5(b)”.

**SA 4069.** Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to

fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1219, line 25, strike the second period and insert the following: “.

(7) STUDY AND REPORT ON PAPER STATEMENT CHARGES.—Not later than 6 months after the designated transfer date, the Office of Financial Literacy shall submit a report to Congress—

(A) on the charging of fees for paper copies of statements related to a consumer financial product or service by covered persons under this title;

(B) on the charging of fees for the use of paper checks as payment to financial institutions;

(C) on the impact of the imposition of such fees on financial literacy, particularly among—

- (i) the elderly;
- (ii) low-income individuals; and
- (iii) individuals that lack computer access; and

(D) that includes recommendations on how to ensure that the individuals described in subparagraph (C) are not negatively impacted by the imposition of fees to receive paper statements, including recommendations—

(i) on whether covered persons under this title should be—

(I) prohibited from charging fees for paper statements;

(II) prohibited from automatically enrolling individuals in e-statement or other electronic delivery programs without the express consent of the individual, in the manner described in section 101(c)(1) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001(c)(1)); and

(III) prevented from charging fees for the use of paper checks as payment; and

(ii) for proposed regulatory or statutory changes to ensure that such individuals are able to access paper copies of financial statements without fees or unnecessary hindrance.

**SA 4070.** Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1304, strike line 10 and all that follows through page 1310, line 16, and insert the following:

#### SEC. 1036. PROHIBITED ACTS.

It shall be unlawful for any covered person—

(1) to—

(A) advertise, market, offer, or sell a consumer financial product or service not in conformity with this title or applicable rules or orders issued by the Bureau;

(B) enforce, or attempt to enforce, any agreement with a consumer (including any term or change in terms in respect of such

agreement), or impose, or attempt to impose, any fee or charge on a consumer in connection with a consumer financial product or service that is not in conformity with this title or applicable rules or orders issued by the Bureau; or

(C) engage in any unfair, deceptive, or abusive act or practice that violates this title or applicable rules or orders issued by the Bureau,

except that no person shall be held to have violated this paragraph solely by virtue of providing or selling time or space to a person placing an advertisement;

(2) to fail or refuse, as required by Federal consumer financial law, or any rule or order issued by the Bureau thereunder—

(A) to permit access to or copying of records;

(B) to establish or maintain records; or

(C) to make reports or provide information to the Bureau; or

(3) knowingly or recklessly to provide substantial assistance to another person in violation of the provisions of section 1031, or any rule or order issued thereunder, and notwithstanding any provision of this title, the provider of such substantial assistance shall be deemed to be in violation of that section to the same extent as the person to whom such assistance is provided.

#### SEC. 1037. EFFECTIVE DATE.

This subtitle shall take effect on the designated transfer date.

#### Subtitle D—Preservation of State Law

#### SEC. 1041. RELATION TO STATE LAW.

(a) IN GENERAL.—

(1) RULE OF CONSTRUCTION.—This title, other than sections 1044 through 1048, may not be construed as annulling, altering, or affecting, or exempting any person subject to the provisions of this title from complying with, the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that any such provision of law is inconsistent with the provisions of this title, and then only to the extent of the inconsistency.

(2) GREATER PROTECTION UNDER STATE LAW.—For purposes of this subsection, a statute, regulation, order, or interpretation in effect in any State is not inconsistent with the provisions of this title if the protection that such statute, regulation, order, or interpretation affords to consumers is greater than the protection provided under this title. A determination regarding whether a statute, regulation, order, or interpretation in effect in any State is inconsistent with the provisions of this title may be made by the Bureau on its own motion or in response to a nonfrivolous petition initiated by any interested person.

(b) RELATION TO OTHER PROVISIONS OF ENUMERATED CONSUMER LAWS THAT RELATE TO STATE LAW.—No provision of this title, except as provided in section 1083, shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the application of a law in effect in any State with respect to such Federal law.

(c) ADDITIONAL CONSUMER PROTECTION REGULATIONS IN RESPONSE TO STATE ACTION.—

(1) NOTICE OF PROPOSED RULE REQUIRED.—The Bureau shall issue a notice of proposed rulemaking whenever a majority of the States has enacted a resolution in support of the establishment or modification of a consumer protection regulation by the Bureau.

(2) BUREAU CONSIDERATIONS REQUIRED FOR ISSUANCE OF FINAL REGULATION.—Before prescribing a final regulation based upon a notice issued pursuant to paragraph (1), the Bureau shall take into account whether—

(A) the proposed regulation would afford greater protection to consumers than any existing regulation;

(B) the intended benefits of the proposed regulation for consumers would outweigh any increased costs or inconveniences for consumers, and would not discriminate unfairly against any category or class of consumers; and

(C) a Federal banking agency has advised that the proposed regulation is likely to present an unacceptable safety and soundness risk to insured depository institutions.

(3) EXPLANATION OF CONSIDERATIONS.—The Bureau—

(A) shall include a discussion of the considerations required in paragraph (2) in the Federal Register notice of a final regulation prescribed pursuant to this subsection; and

(B) whenever the Bureau determines not to prescribe a final regulation, shall publish an explanation of such determination in the Federal Register, and provide a copy of such explanation to each State that enacted a resolution in support of the proposed regulation, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(4) RESERVATION OF AUTHORITY.—No provision of this subsection shall be construed as limiting or restricting the authority of the Bureau to enhance consumer protection standards established pursuant to this title in response to its own motion or in response to a request by any other interested person.

(5) RULE OF CONSTRUCTION.—No provision of this subsection shall be construed as exempting the Bureau from complying with subchapter II of chapter 5 of title 5, United States Code.

(6) DEFINITION.—For purposes of this subsection, the term “consumer protection regulation” means a regulation that the Bureau is authorized to prescribe under the Federal consumer financial laws.

#### SEC. 1042. PRESERVATION OF ENFORCEMENT POWERS OF STATES.

(a) IN GENERAL.—

(1) ACTION BY STATE.—The attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any district court of the United States in that State or in State court having jurisdiction over the defendant, to enforce provisions of this title or regulations issued thereunder and to secure remedies under provisions of this title or remedies otherwise provided under other law. A State regulator may bring a civil action or other appropriate proceeding to enforce the provisions of this title or regulations issued thereunder with respect to any entity that is State-chartered, incorporated, licensed, or otherwise authorized to do business under State law, and to secure remedies under provisions of this title or remedies otherwise provided under other provisions of law with respect to a State-chartered entity.

(2) RULE OF CONSTRUCTION.—Except as provided in paragraph (3), no provision of this title shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the authority of a State attorney general or State regulator to enforce such Federal law.

(3) FEE STRUCTURE.—

(A) IN GENERAL.—Neither an attorney general of a State nor a State regulator may enter into a contingency fee agreement for legal services relating to a civil action or other proceeding under this section.

(B) DEFINITION.—For purposes of this paragraph, the term “contingency fee agreement” means a contract or other agreement to provide services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained.

**SA 4071.** Mr. CARPER (for himself, Mr. BAYH, Mr. JOHNSON, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 1309, strike line 15, and all that follows through page 1325, line 20 and insert the following:

#### SEC. 1042. PRESERVATION OF ENFORCEMENT POWERS OF STATES.

(a) IN GENERAL.—

(1) ACTION BY STATE.—Except as provided in paragraph (2), the attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State in any district court of the United States in that State or in State court that is located in that State and that has jurisdiction over the defendant, to enforce provisions of this title or regulations issued under this title, and to secure remedies under provisions of this title or remedies otherwise provided under other law. A State regulator may bring a civil action or other appropriate proceeding to enforce the provisions of this title or regulations issued under this title with respect to any entity that is State-chartered, incorporated, licensed, or otherwise authorized to do business under State law (except as provided in paragraph (2)), and to secure remedies under provisions of this title or remedies otherwise provided under other provisions of law with respect to such an entity.

(2) ACTION BY STATE AGAINST NATIONAL BANK OR FEDERAL SAVINGS ASSOCIATION TO ENFORCE RULES.—

(A) IN GENERAL.—Except as permitted under subparagraph (B), the attorney general (or equivalent thereof) of any State may not bring a civil action in the name of such State against a national bank or Federal savings association with respect to an act or omission that would be a violation of a provision of this title.

(B) ENFORCEMENT OF RULES PERMITTED.—The attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State against a national bank or Federal savings association in any district court of the United States in the State or in State court that is located in that State and that has jurisdiction over the defendant to enforce a regulation prescribed by the Bureau under a provision of this title and to secure remedies under provisions of this title or remedies otherwise provided under other law.

(3) RULE OF CONSTRUCTION.—No provision of this title shall be construed as modifying,

limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the authority of a State attorney general or State regulator to enforce such Federal law.

(b) CONSULTATION REQUIRED.—

(1) NOTICE.—

(A) IN GENERAL.—Before initiating any action in a court or other administrative or regulatory proceeding against any covered person as authorized by subsection (a) to enforce any provision of this title, including any regulation prescribed by the Bureau under this title, a State attorney general or State regulator shall timely provide a copy of the complete complaint to be filed and written notice describing such action or proceeding to the Bureau and the prudential regulator, if any, or the designee thereof.

(B) EMERGENCY ACTION.—If prior notice is not practicable, the State attorney general or State regulator shall provide a copy of the complete complaint and the notice to the Bureau and the prudential regulator, if any, immediately upon instituting the action or proceeding.

(C) CONTENTS OF NOTICE.—The notification required under this paragraph shall, at a minimum, describe—

(i) the identity of the parties;

(ii) the alleged facts underlying the proceeding; and

(iii) whether there may be a need to coordinate the prosecution of the proceeding so as not to interfere with any action, including any rulemaking, undertaken by the Bureau, a prudential regulator, or another Federal agency.

(2) BUREAU RESPONSE.—In any action described in paragraph (1), the Bureau may—

(A) intervene in the action as a party;

(B) upon intervening—

(i) remove the action to the appropriate United States district court, if the action was not originally brought there; and

(ii) be heard on all matters arising in the action; and

(C) appeal any order or judgment, to the same extent as any other party in the proceeding may.

(c) REGULATIONS.—The Bureau shall prescribe regulations to implement the requirements of this section and, from time to time, provide guidance in order to further coordinate actions with the State attorneys general and other regulators.

(d) PRESERVATION OF STATE AUTHORITY.—

(1) STATE CLAIMS.—No provision of this section shall be construed as altering, limiting, or affecting the authority of a State attorney general or any other regulatory or enforcement agency or authority to bring an action or other regulatory proceeding arising solely under the law in effect in that State.

(2) STATE SECURITIES REGULATORS.—No provision of this title shall be construed as altering, limiting, or affecting the authority of a State securities commission (or any agency or office performing like functions) under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or authority.

(3) STATE INSURANCE REGULATORS.—No provision of this title shall be construed as altering, limiting, or affecting the authority of a State insurance commission or State insurance regulator under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or regulator.

**SEC. 1043. PRESERVATION OF EXISTING CONTRACTS.**

This title, and regulations, orders, guidance, and interpretations prescribed, issued, or established by the Bureau, shall not be construed to alter or affect the applicability of any regulation, order, guidance, or interpretation prescribed, issued, and established by the Comptroller of the Currency or the Director of the Office of Thrift Supervision regarding the applicability of State law under Federal banking law to any contract entered into on or before the date of enactment of this Act, by national banks, Federal savings associations, or subsidiaries thereof that are regulated and supervised by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, respectively.

**SEC. 1044. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.**

(a) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136B the following new section:

**“SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.**

“(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) NATIONAL BANK.—The term ‘national bank’ includes—

“(A) any bank organized under the laws of the United States; and

“(B) any Federal branch established in accordance with the International Banking Act of 1978.

“(2) STATE CONSUMER FINANCIAL LAWS.—The term ‘State consumer financial law’ means a State law that does not directly or indirectly discriminate against national banks and that directly and specifically regulates the manner, content, or terms and conditions of any financial transaction (as may be authorized for national banks to engage in), or any account related thereto, with respect to a consumer.

“(3) OTHER DEFINITIONS.—The terms ‘affiliate’, ‘subsidiary’, ‘includes’, and ‘including’ have the same meanings as in section 3 of the Federal Deposit Insurance Act.

“(b) PREEMPTION STANDARD.—

“(1) IN GENERAL.—State consumer financial laws are preempted, only if—

“(A) application of a State consumer financial law would have a discriminatory effect on national banks, in comparison with the effect of the law on a bank chartered by that State;

“(B) the State consumer financial law is preempted in accordance with the legal standard of the decision of the Supreme Court of the United States in *Barnett Bank of Marion County, N.A. v. Nelson*, Florida Insurance Commissioner, et al., 517 U.S. 25 (1996), and any preemption determination under this subparagraph may be made by a court, or by regulation or order of the Comptroller of the Currency on a case-by-case basis, in accordance with applicable law; or

“(C) the State consumer financial law is preempted by a provision of Federal law other than this title.

“(2) SAVINGS CLAUSE.—This title and section 24 of the Federal Reserve Act (12 U.S.C. 371) do not preempt, annul, or affect the applicability of any State law to any subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank).

“(3) CASE-BY-CASE BASIS.—

“(A) DEFINITION.—As used in this section the term ‘case-by-case basis’ refers to a determination pursuant to this section made

by the Comptroller concerning the impact of a particular State consumer financial law on any national bank that is subject to that law, or the law of any other State with substantively equivalent terms.

“(B) CONSULTATION.—When making a determination on a case-by-case basis that a State consumer financial law of another State has substantively equivalent terms as one that the Comptroller is preempting, the Comptroller shall first consult with the Bureau of Consumer Financial Protection and shall take the views of the Bureau into account when making the determination.

“(4) RULE OF CONSTRUCTION.—This title does not occupy the field in any area of State law.

“(5) STANDARDS OF REVIEW.—

“(A) PREEMPTION.—A court reviewing any determinations made by the Comptroller regarding preemption of a State law by this title or section 24 of the Federal Reserve Act (12 U.S.C. 371) shall assess the validity of such determinations, depending upon the thoroughness evident in the consideration of the agency, the validity of the reasoning of the agency, the consistency with other valid determinations made by the agency, and other factors which the court finds persuasive and relevant to its decision.

“(B) SAVINGS CLAUSE.—Except as provided in subparagraph (A), nothing in this section shall affect the deference that a court may afford to the Comptroller in making determinations regarding the meaning or interpretation of title LXII of the Revised Statutes of the United States or other Federal laws.

“(6) COMPTROLLER DETERMINATION NOT DELEGABLE.—Any regulation, order, or determination made by the Comptroller of the Currency under paragraph (1)(B) shall be made by the Comptroller, and shall not be delegable to another officer or employee of the Comptroller of the Currency.

“(c) SUBSTANTIAL EVIDENCE.—No regulation or order of the Comptroller of the Currency prescribed under subsection (b)(1)(B), shall be interpreted or applied so as to invalidate, or otherwise declare inapplicable to a national bank, the provision of the State consumer financial law, unless substantial evidence, made on the record of the proceeding, supports the specific finding regarding the preemption of such provision in accordance with the legal standard of the decision of the Supreme Court of the United States in *Barnett Bank of Marion County, N.A. v. Nelson*, Florida Insurance Commissioner, et al., 517 U.S. 25 (1996).

“(d) PERIODIC REVIEW OF PREEMPTION DETERMINATIONS.—

“(1) IN GENERAL.—The Comptroller of the Currency shall periodically conduct a review, through notice and public comment, of each determination that a provision of Federal law preempts a State consumer financial law. The agency shall conduct such review within the 5-year period after prescribing or otherwise issuing such determination, and at least once during each 5-year period thereafter. After conducting the review of, and inspecting the comments made on, the determination, the agency shall publish a notice in the Federal Register announcing the decision to continue or rescind the determination or a proposal to amend the determination. Any such notice of a proposal to amend a determination and the subsequent resolution of such proposal shall comply with the procedures set forth in subsections (a) and (b) of section 5244 of the Revised Statutes of the United States (12 U.S.C. 43 (a), (b)).

“(2) REPORTS TO CONGRESS.—At the time of issuing a review conducted under paragraph (1), the Comptroller of the Currency shall submit a report regarding such review to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report submitted to the respective committees shall address whether the agency intends to continue, rescind, or propose to amend any determination that a provision of Federal law preempts a State consumer financial law, and the reasons therefor.

“(e) APPLICATION OF STATE CONSUMER FINANCIAL LAW TO SUBSIDIARIES AND AFFILIATES.—Notwithstanding any provision of this title or section 24 of Federal Reserve Act (12 U.S.C. 371), a State consumer financial law shall apply to a subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank) to the same extent that the State consumer financial law applies to any person, corporation, or other entity subject to such State law.

“(f) PRESERVATION OF POWERS RELATED TO CHARGING INTEREST.—No provision of this title shall be construed as altering or otherwise affecting the authority conferred by section 5197 of the Revised Statutes of the United States (12 U.S.C. 85) for the charging of interest by a national bank at the rate allowed by the laws of the State, territory, or district where the bank is located, including with respect to the meaning of ‘interest’ under such provision.

“(g) TRANSPARENCY OF OCC PREEMPTION DETERMINATIONS.—The Comptroller of the Currency shall publish and update no less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:

“Sec. 5136C. State law preemption standards for national banks and subsidiaries clarified.”

**SEC. 1045. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES.**

Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

“(h) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILIATES OF NATIONAL BANKS.—

“(1) DEFINITIONS.—For purposes of this subsection, the terms ‘depository institution’, ‘subsidiary’, and ‘affiliate’ have the same meanings as in section 3 of the Federal Deposit Insurance Act.

“(2) RULE OF CONSTRUCTION.—No provision of this title or section 24 of the Federal Reserve Act (12 U.S.C. 371) shall be construed as preempting, annulling, or affecting the applicability of State law to any subsidiary, affiliate, or agent of a national bank (other than a subsidiary, affiliate, or agent that is chartered as a national bank).”

**SEC. 1046. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS AND SUBSIDIARIES CLARIFIED.**

(a) IN GENERAL.—The Home Owners’ Loan Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 5 the following new section:

**“SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS CLARIFIED.**

“(a) IN GENERAL.—Any determination by a court or by the Director or any successor officer or agency regarding the relation of State law to a provision of this Act or any regulation or order prescribed under this Act shall be made in accordance with the laws and legal standards applicable to national banks regarding the preemption of State law.

“(b) PRINCIPLES OF CONFLICT PREEMPTION APPLICABLE.—Notwithstanding the authorities granted under sections 4 and 5, this Act does not occupy the field in any area of State law.”.

(b) CLERICAL AMENDMENT.—The table of sections for the Home Owners’ Loan Act (12 U.S.C. 1461 et seq.) is amended by striking the item relating to section 6 and inserting the following new item:

“Sec. 6. State law preemption standards for Federal savings associations and subsidiaries clarified.”.

**SEC. 1047. VISITORIAL STANDARDS FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.**

(a) NATIONAL BANKS.—Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

“(i) VISITORIAL POWERS.—

“(1) IN GENERAL.—In accordance with the decision of the Supreme Court of the United States in *Cuomo v. Clearing House Assn.*, L. L. C. (129 S. Ct. 2710 (2009)), no provision of this title which relates to visitorial powers or otherwise limits or restricts the visitorial authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring an action against a national bank in a court of appropriate jurisdiction to enforce an applicable law and to seek relief as authorized by such law.

“(j) ENFORCEMENT ACTIONS.—The ability of the Comptroller of the Currency to bring an enforcement action under this title or section 5 of the Federal Trade Commission Act does not preclude any private party from enforcing rights granted under Federal or State law in the courts.”.

(b) SAVINGS ASSOCIATIONS.—Section 6 of the Home Owners’ Loan Act (as added by this title) is amended by adding at the end the following:

“(c) VISITORIAL POWERS.—The provisions of sections 5136C(i) of the Revised Statutes of the United States shall apply to Federal savings associations, and any subsidiary thereof, to the same extent and in the same manner as if such savings associations, or subsidiaries thereof, were national banks or subsidiaries of national banks, respectively.

**SA 4072.** Mr. GRASSLEY (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

Strike 989B, insert the following:

**SEC. 989B. DESIGNATED FEDERAL ENTITY INSPECTORS GENERAL INDEPENDENCE.**

Section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (a)(4)—

(A) in the matter preceding subparagraph (A), by inserting “the board or commission of the designated Federal entity, or in the event the designated Federal entity does not have a board or commission,” after “means”;

(B) in subparagraph (A), by striking “and” after the semicolon; and

(C) by adding after subparagraph (B) the following:

“(C) with respect to the Federal Labor Relations Authority, such term means the members of the Authority (described under section 7104 of title 5, United States Code);

“(D) with respect to the National Archives and Records Administration, such term means the Archivist of the United States;

“(E) with respect to the National Credit Union Administration, such term means the National Credit Union Administration Board (described under section 102 of the Federal Credit Union Act (12 U.S.C. 1752a);

“(F) with respect to the National Endowment of the Arts, such term means the National Council on the Arts;

“(G) with respect to the National Endowment for the Humanities, such term means the National Council on the Humanities; and

“(H) with respect to the Peace Corps, such term means the Director of the Peace Corps;”;

(2) in subsection (h), by inserting “if the designated Federal entity is not a board or commission, include” after “designated Federal entities and”.

**SEC. 989C. STRENGTHENING INSPECTOR GENERAL ACCOUNTABILITY.**

Section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (12), by striking “and” after the semicolon;

(2) in paragraph (13), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

“(14)(A) an appendix containing the results of any peer review conducted by another Office of Inspector General during the reporting period; or

“(B) if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another Office of Inspector General;

“(15) a list of any outstanding recommendations from any peer review conducted by another Office of Inspector General that have not been fully implemented, including a statement describing the status of the implementation and why implementation is not complete; and

“(16) a list of any peer reviews conducted by the Inspector General of another Office of the Inspector General during the reporting period, including a list of any outstanding recommendations made from any previous peer review (including any peer review conducted before the reporting period) that remain outstanding or have not been fully implemented.”.

**SEC. 989D. REMOVAL OF INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.**

Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating the sentences following “(e)” as paragraph (2); and

(2) by striking “(e)” and inserting the following:

“(e)(1) In the case of a designated Federal entity for which a board or commission is

the head of the designated Federal entity, a removal under this subsection may only be made upon the written concurrence of a ¾ majority of the board or commission.”.

**SEC. 989E. ADDITIONAL OVERSIGHT OF FINANCIAL REGULATORY SYSTEM.**

(a) COUNCIL OF INSPECTORS GENERAL ON FINANCIAL OVERSIGHT.—

(1) ESTABLISHMENT AND MEMBERSHIP.—There is established a Council of Inspectors General on Financial Oversight (in this section referred to as the “Council of Inspectors General”) chaired by the Inspector General of the Department of the Treasury and composed of the inspectors general of the following:

(A) The Board of Governors of the Federal Reserve System.

(B) The Commodity Futures Trading Commission.

(C) The Department of Housing and Urban Development.

(D) The Department of the Treasury.

(E) The Federal Deposit Insurance Corporation.

(F) The Federal Housing Finance Agency.

(G) The National Credit Union Administration.

(H) The Securities and Exchange Commission.

(I) The Troubled Asset Relief Program (until the termination of the authority of the Special Inspector General for such program under section 121(k) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5231(k))).

(2) DUTIES.—

(A) MEETINGS.—The Council of Inspectors General shall meet not less than once each quarter, or more frequently if the chair considers it appropriate, to facilitate the sharing of information among inspectors general and to discuss the ongoing work of each inspector general who is a member of the Council of Inspectors General, with a focus on concerns that may apply to the broader financial sector and ways to improve financial oversight.

(B) ANNUAL REPORT.—Each year the Council of Inspectors General shall submit to the Council and to Congress a report including—

(i) for each inspector general who is a member of the Council of Inspectors General, a section within the exclusive editorial control of such inspector general that highlights the concerns and recommendations of such inspector general in such inspector general’s ongoing and completed work, with a focus on issues that may apply to the broader financial sector; and

(ii) a summary of the general observations of the Council of Inspectors General based on the views expressed by each inspector general as required by clause (i), with a focus on measures that should be taken to improve financial oversight.

(3) WORKING GROUPS TO EVALUATE COUNCIL.—

(A) CONVENING A WORKING GROUP.—The Council of Inspectors General may, by majority vote, convene a Council of Inspectors General Working Group to evaluate the effectiveness and internal operations of the Council.

(B) PERSONNEL AND RESOURCES.—The inspectors general who are members of the Council of Inspectors General may detail staff and resources to a Council of Inspectors General Working Group established under this paragraph to enable it to carry out its duties.

(C) REPORTS.—A Council of Inspectors General Working Group established under this paragraph shall submit regular reports to

the Council and to Congress on its evaluations pursuant to this paragraph.

(b) **RESPONSE TO REPORT BY COUNCIL.**—The Council shall respond to the concerns raised in the report of the Council of Inspectors General under subsection (a)(2)(B) for such year.

**SA 4073.** Mr. ENZI (for himself and Mr. SHELBY) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1290, line 4, strike “respectively.” insert the following: “respectively.”

(s) **CONSUMER PRIVACY.**—Notwithstanding any other provision of this Act, the Bureau may not investigate an individual transaction to which a consumer is a party without the written permission of the consumer.

**SA 4074.** Mr. KOHL submitted an amendment intended to be proposed to amendment SA 3962 submitted by Mr. MERKLEY (for himself, Ms. KLOBUCHAR, Mr. SCHUMER, Ms. SNOWE, Mr. BROWN of Massachusetts, Mr. BEGICH, Mrs. BOXER, Mr. DODD, Mr. KERRY, Mr. FRANKEN, and Mr. LEVIN) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 7, insert “private mortgage insurance (as defined in section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901)) and” after “premium for”.

**SA 4075.** Ms. LANDRIEU (for herself, Mr. DODD, and Mr. KERRY) submitted an amendment intended to be proposed by her to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title X, add the following:

**SEC. . SMALL BUSINESS CONSULTATION.**

(a) **SMALL BUSINESS ADVISORY BOARD.**—

(1) **ESTABLISHMENT REQUIRED.**—The Director shall establish a Small Business Advisory Board, which shall be responsible for advising and consulting with the Bureau regarding the effects of actions by the Bureau on

small businesses. The Small Business Advisory Board may provide information on emerging practices in consumer financial products or services, including regional trends, and other matters of interest to small businesses.

(2) **MEMBERSHIP.**—In appointing the members of the Small Business Advisory Board, the Director shall seek representation of the interests of small businesses operating in various markets for consumer financial products and services, including depository institutions, credit unions, and non-depository institutions.

(3) **MEETINGS.**—The Small Business Advisory Board shall meet from time to time, at the call of the Director, but not less frequently than 4 times in each year.

(4) **COMPENSATION AND TRAVEL EXPENSES.**—Members of the Small Business Advisory Board who are not full time employees of the United States shall—

(A) be entitled to receive compensation at a rate fixed by the Director while attending meetings of the Small Business Advisory Board, including travel time; and

(B) be allowed travel expenses, including transportation and subsistence, while away from their homes or regular places of business.

(b) **CONSIDERATION OF IMPACT ON SMALL BUSINESSES.**—

(1) **ANALYSIS.**—When conducting an initial regulatory flexibility analysis or final regulatory flexibility analysis, as required under chapter 6 of part I of title 5, United States Code (commonly referred to as the “Regulatory Flexibility Act”) regarding compliance burden on small entities, the Bureau shall provide a description of any increase in the cost of credit to small entities projected as a result of the proposed or final rule, as applicable, and any significant alternatives to the proposed or final rule which would accomplish the stated objectives of applicable statutes and which would minimize any increase in the cost of credit to small entities.

(2) **REVIEW PANELS.**—

(A) **IN GENERAL.**—If the Bureau prepares an initial regulatory flexibility analysis for a proposed rule, the Bureau, after publishing notice of the proposed rulemaking, shall follow the procedures specified in section 609(b) of title 5, United States Code, as if the Bureau were a covered agency.

(B) **CONSIDERATION OF REVIEW PANEL REPORT.**—The Bureau shall consider the report of the review panel issued under this paragraph and include in the adopting release of the final rule a description of the basis for any determination by the Bureau concerning any issues raised by the panel and any issue concerning the cost of credit to small entities, as required in paragraph (1).

(C) **DEADLINE.**—Notwithstanding any other provision of chapter 6 of part I of title 5, United States Code, the report of the review panel shall be submitted not later than 90 days after the date on which the Bureau notifies the Chief Counsel of Advocacy of the Small Business Administration concerning the proposed rule, and the Bureau may proceed with its rulemaking if such report is not timely submitted.

**SA 4076.** Mr. REED (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end

“too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1455, after line 25, insert the following:

**SEC. 1077. OVERSIGHT OF EFFORTS TO REDUCE MORTGAGE DEFAULTS AND FORECLOSURES.**

(a) **DEFINITIONS.**—In this section—

(1) the term “heads of appropriate agencies” means the Secretary of the Treasury, Comptroller of the Currency, the Board of Governors, the Corporation, the National Credit Union Administration, the Council, the Director of the Bureau, the Office of Financial Research, the Federal Housing Finance Agency, and a representative of State banking regulators selected by the Secretary;

(2) the term “mortgagee” means—

(A) an original lender under a mortgage or the holder of a residential mortgage at the time at which that mortgage transaction is consummated;

(B) any affiliate, agent, subsidiary, successor, or assignee of an original lender under a mortgage or the holder of a residential mortgage at the time at which that mortgage transaction is consummated;

(C) any servicer of a mortgage; and

(D) any subsequent purchaser, trustee, or transferee of any mortgage or credit instrument issued by an original lender;

(3) the term “Secretary” means the Secretary of Housing and Urban Development;

(4) the term “servicer” means the person or entity responsible for servicing of a loan (including the person or entity who makes or holds a loan if such person or entity also services the loan); and

(5) the term “servicing” has the meaning given the term in section 6(i) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)).

(b) **MONITORING OF HOME LOANS.**—

(1) **IN GENERAL.**—The Secretary, in consultation with the heads of appropriate agencies, shall develop and implement a plan to monitor—

(A) conditions and trends in homeownership and the mortgage industry, in order to predict trends in foreclosures and to better understand other critical aspects of the mortgage market; and

(B) the effectiveness of public efforts to reduce mortgage defaults and foreclosures.

(2) **REPORT TO CONGRESS.**—Not later than 1 year after the development of the plan under paragraph (1), and each year thereafter, the Secretary shall submit a report to Congress that—

(A) summarizes and describes the findings of the monitoring required under paragraph (1); and

(B) includes recommendations or proposals for legislative or administrative action necessary—

(i) to increase the authority of the Secretary to levy penalties against any mortgagee, or other person or entity, who fails to comply with the requirements described in this section;

(ii) to improve coordination between public and private initiatives to reduce the overall rate of mortgage defaults and foreclosures; and

(iii) to improve coordination between initiatives undertaken by Federal, State, and local governments.

(c) **NATIONAL DATABASE ON DEFAULTS AND FORECLOSURES.**—



(1) IN GENERAL.—The Secretary, in consultation with the heads of appropriate agencies, shall develop recommendations for a national database on mortgage defaults and foreclosures that—

(A) provides information to Federal regulatory agencies on—

(i) mortgagees that generate home loans that go into default or foreclosure at a rate significantly higher than the national average for such mortgagees;

(ii) the factors associated with such higher rates; and

(iii) other factors and indicators that the Secretary determines are critical to monitoring the mortgage markets; and

(B) provides information to Federal, State, and local governments on loans, delinquencies, defaults, foreclosures, deeds in lieu of foreclosure, short sales, and sheriff sales that—

(i) is not otherwise readily available;

(ii) would allow for a better understanding of local, regional, and national trends; and

(iii) helps improve public policies that reduce defaults and foreclosures.

(2) CONSIDERATIONS.—In developing the recommendations under paragraph (1), the Secretary shall take into consideration privacy concerns and legal issues relating to such concerns, including the advisability of establishing rules relating to access, including public access, to information obtained under subsection (d).

(3) REPORT TO CONGRESS ON NATIONAL DATABASE.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to Congress that contains—

(A) the recommendations developed under paragraph (1);

(B) an estimate of the cost of maintaining the database described in paragraph (1); and

(C) a reasonable timetable with a deadline by which a national database on mortgage defaults and foreclosures shall be established by the Secretary.

(d) PROVISION OF DATA.—

(1) DATA REPORT REQUIRED.—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the heads of appropriate agencies, shall issue final rules that require each mortgagee or servicer that originates or services not fewer than 100 loans in the prior calendar year (or any other person that the Secretary determines can effectively provide the data described in paragraph (2)) to submit a report to the Secretary not less frequently than once each quarter that contains data the Secretary determines are necessary to carry out this section.

(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall contain data that—

(A) for each loan, use the identification requirements that are established under the Home Mortgage Disclosure Act (12 U.S.C. 2801 et seq.) for data reporting, including—

(i) the date of origination;

(ii) the agency code of the originator;

(iii) the respondent identification number of the originator; and

(iv) the identifying number for the loan;

(B) describe the characteristics of each home loan originated in the preceding 12 months by the mortgagee or servicer (or, in the case of the first report required to be submitted under this subsection, all active loans originated by the mortgagee or servicer), including—

(i) the loan-to-value ratio at the time of origination for each mortgage on the property; and

(ii) the type of mortgage, such as a fixed-rate or adjustable-rate mortgage; and

(C) include the performance outcome of each home loan originated in the preceding 12 months by the mortgagee or servicer (or, in the case of the first report required to be submitted under this subsection, all active loans originated by the mortgagee or servicer), including—

(i) whether such home loan was in delinquency at any point in such 12-month period; and

(ii) whether any judicial or non-judicial foreclosure was initiated on such home loan during such 12-month period;

(D) are sufficient to establish for each home loan that at any point during the preceding 12 months had become 60 or more days delinquent with respect to a payment on any amount due under the home loan, or for which a judicial or non-judicial foreclosure was initiated, the interest rate on such home loan at the time of such delinquency or foreclosure;

(E) include information relating to foreclosures, including—

(i) the date of all foreclosures initiated by the mortgagee or servicer; and

(ii) the combined loan-to-value ratio of all mortgages on a home at the time foreclosure was initiated;

(F) for a home loan that is in foreclosure, include information on all actions, including loan modifications, taken to mitigate or resolve the problem that led to the initiation of foreclosure and all actions undertaken prior to initiation of a foreclosure to resolve a delinquency or default;

(G) identify each home loan for which foreclosure was completed in the preceding 12 months, including—

(i) foreclosures initiated in such 12-month period; and

(ii) the date of the foreclosure completion; and

(H) include any other information that the Secretary determines is necessary to carry out this section.

(3) COMPLIANCE PLAN AND REPORT.—The Secretary, in consultation with the heads of appropriate agencies, shall—

(A) develop a plan to monitor the compliance with the requirements established in this subsection; and

(B) submit to Congress a report on such plan.

(4) ESTABLISHMENT OF NATIONAL DATABASE.—The Secretary shall establish a national database on mortgage defaults and foreclosures by the deadline established in the report to Congress required by subsection (c)(3) and shall provide public access to such database or portions thereof, subject to the Secretary making reasonable efforts to ensure that such public disclosure adequately addresses privacy, confidentiality, or legal rights under Federal or State law that may reasonably be raised.

(e) CONSOLIDATED DATABASE.—Not later than 6 months after the establishment of the national database described in subsection (d)(4), the Federal Financial Institutions Examination Council, or any successor thereto, shall create a consolidated database that establishes a connection between the data provided under the Home Mortgage Disclosure Act (12 U.S.C. 2801 et seq.) and the data provided under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2010 through 2014.

**SA 4077.** Mr. REED (for himself, Mr. GRASSLEY, Mr. JOHNSON, Mr. BROWN of Ohio, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 384, strike line 1 and all that follows through page 387, line 3 and insert the following:

#### **SEC. 407. FAMILY OFFICES.**

(a) IN GENERAL.—Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)) is amended by striking “or (G)” and inserting the following: “; (G) any family office, as defined by rule, regulation, or order of the Commission, in accordance with the purposes of this title; or (H)”.

(b) RULEMAKING.—The rules, regulations, or orders issued by the Commission pursuant to section 202(a)(11)(G) of the Investment Advisers Act of 1940, as added by this section, regarding the definition of the term “family office” shall provide for an exemption that—

(1) is consistent with the previous exemptive policy of the Commission, as reflected in exemptive orders for family offices in effect on the date of enactment of this Act; and

(2) recognizes the range of organizational, management, and employment structures and arrangements employed by family offices.

#### **SEC. 408. STATE AND FEDERAL RESPONSIBILITIES; ASSET THRESHOLD FOR FEDERAL REGISTRATION OF INVESTMENT ADVISERS.**

Section 203A(a) of the of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3a(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

“(2) TREATMENT OF MID-SIZED INVESTMENT ADVISERS.—

“(A) IN GENERAL.—No investment adviser described in subparagraph (B) shall register under section 203, unless the investment adviser is an adviser to an investment company registered under the Investment Company Act of 1940, or a company which has elected to be a business development company pursuant to section 54 of the Investment Company Act of 1940, and has not withdrawn the election, except that, if by effect of this paragraph an investment adviser would be required to register with 15 or more States, then the adviser may register under section 203.

“(B) COVERED PERSONS.—An investment adviser described in this subparagraph is an investment adviser that—

“(i) is required to be registered as an investment adviser with the securities commissioner (or any agency or office performing like functions) of the State in which it maintains its principal office and place of business and, if registered, would be subject to examination as an investment adviser by any such commissioner, agency, or office; and

“(ii) has assets under management between—



“(I) the amount specified under subparagraph (A) of paragraph (1), as such amount may have been adjusted by the Commission pursuant to that subparagraph; and

“(II) \$100,000,000, or such higher amount as the Commission may, by rule, deem appropriate in accordance with the purposes of this title.”.

#### SEC. 409. CUSTODY OF CLIENT ASSETS.

**SA 4078.** Mr. REED (for himself, Mr. GRASSLEY, Mr. JOHNSON, Mr. BROWN of Ohio, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 384, strike line 1 and all that follows through page 385, line 15.

On page 385, line 16, strike “409” and insert “407”.

On page 386, strike line 10 and all that follows through page 387, line 2 and insert the following:

#### SEC. 408. STATE AND FEDERAL RESPONSIBILITIES; ASSET THRESHOLD FOR FEDERAL REGISTRATION OF INVESTMENT ADVISERS.

Section 203A(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3a(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

“(2) TREATMENT OF MID-SIZED INVESTMENT ADVISERS.—

“(A) IN GENERAL.—No investment adviser described in subparagraph (B) shall register under section 203, unless the investment adviser is an adviser to an investment company registered under the Investment Company Act of 1940, or a company which has elected to be a business development company pursuant to section 54 of the Investment Company Act of 1940, and has not withdrawn the election, except that, if by effect of this paragraph an investment adviser would be required to register with 15 or more States, then the adviser may register under section 203.

“(B) COVERED PERSONS.—An investment adviser described in this subparagraph is an investment adviser that—

“(i) is required to be registered as an investment adviser with the securities commissioner (or any agency or office performing like functions) of the State in which it maintains its principal office and place of business and, if registered, would be subject to examination as an investment adviser by any such commissioner, agency, or office; and

“(ii) has assets under management between—

“(I) the amount specified under subparagraph (A) of paragraph (1), as such amount may have been adjusted by the Commission pursuant to that subparagraph; and

“(II) \$100,000,000, or such higher amount as the Commission may, by rule, deem appropriate in accordance with the purposes of this title.”.

On page 387, line 3, strike “411” and insert “409”.

On page 387, line 13, strike “412” and insert “410”.

On page 388, line 4, strike “413” and insert “411”.

On page 388, line 16, strike “414” and insert “412”.

On page 389, line 3, strike “415” and insert “413”.

On page 390, line 1, strike “416” and insert “414”.

**SA 4079.** Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 71, strike lines 15 through 23 and insert the following:

(1) IN GENERAL.—

(A) AUTHORITY.—To assist the Office in assessing financial stability or otherwise carrying out the functions described in this subtitle, the Director may require, by subpoena, the production of the data requested under subsection (a)(1) and section 154(b)(1), upon a written finding by the Director that—

(i) such data is required to carry out the functions described under this subtitle;

(ii) attempts to obtain such data without the use of a subpoena have been unsuccessful; and

(iii) the Office has coordinated with such agency, as required under section 154(b)(1)(B)(ii).

(B) CONSIDERATIONS.—The Director shall take into consideration the burden imposed by the request of the Director under subparagraph (A).

**SA 4080.** Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1089, strike line 6 and all that follows through “SEC. 973.”

**SA 4081.** Mr. HATCH submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by end-

ing bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1235, line 10, before the semicolon insert “and shall certify that the costs of the rule will not be borne by the consumer”.

**SA 4082.** Mr. DODD submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1242, between lines 14 and 15, insert the following:

(7) CONSUMER PRIVACY.—

(A) IN GENERAL.—The Bureau may not have access to, or obtain copies of, any personally identifiable financial information relating to a consumer contained in the financial records of any covered person from a disclosure of such information by the covered person to the Bureau, except—

(i) if the financial records are reasonably described in a request by the Bureau and the consumer provides written permission for the disclosure of such information by the covered person to the Bureau; or

(ii) as may be specifically permitted or required under other provisions of law, and in accordance with the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.).

(B) TREATMENT OF COVERED PERSON.—With respect to the application of any provision of the Right to Financial Privacy Act of 1978 to a disclosure by a covered person subject to this subsection, the covered person shall be treated as if it were a “financial institution”, as that term is defined in section 1101 of that Act (12 U.S.C. 3401).

**SA 4083.** Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 485, strike line 1 and all that follows through page 489, line 13, and insert the following:

(2) the term “insured depository institution” does not include an institution described in section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D));

(3) the term “proprietary trading”—

(A) means purchasing or selling, or otherwise acquiring or disposing of, stocks, bonds, options, commodities, derivatives, or other financial instruments by an insured depository institution, a company that controls,

directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company, for the trading book (or such other portfolio as the Federal banking agencies may determine) of such institution, company, or subsidiary;

(B) subject to such restrictions as the Federal banking agencies may determine, does not include purchasing or selling, or otherwise acquiring or disposing of, stocks, bonds, options, commodities, derivatives, or other financial instruments on behalf of a customer, as part of market making activities, or otherwise in connection with or in facilitation of customer relationships, including risk-mitigating hedging activities related to such a purchase, sale, acquisition, or disposal; and

(C) does not include the investments by or on behalf of a regulated insurance company, or a regulated insurance affiliate or regulated insurance subsidiary thereof, if—

(i) such investments are in compliance with, and subject to, the insurance company investment laws, regulations, and written guidance of the State or jurisdiction in which each such insurance company is domiciled; and

(ii) the Federal banking agencies, after consultation with the Council and the relevant insurance commissioners of the States and territories of the United States, have not jointly determined, after notice and comment, that a law, a regulation, or written guidance described in clause (i) is insufficient to accomplish the purposes of this section; and

(4) the term “sponsoring”, when used with respect to a hedge fund or private equity fund, means—

(A) serving as a general partner, managing member, or trustee of the fund;

(B) in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund; or

(C) sharing with the fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

(b) PROHIBITION ON PROPRIETARY TRADING.—

(1) IN GENERAL.—Subject to the recommendations and modifications of the Council under subsection (g), and except as provided in paragraph (2) or (3), the appropriate Federal banking agencies shall, through a rulemaking under subsection (g), jointly prohibit proprietary trading by an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company.

(2) EXCEPTED OBLIGATIONS.—

(A) IN GENERAL.—The prohibition under this subsection shall not apply with respect to an investment that is otherwise authorized by Federal law in—

(i) obligations of the United States or any agency of the United States, including obligations fully guaranteed as to principal and interest by the United States or an agency of the United States;

(ii) obligations, participations, or other instruments of, or issued by, the Government National Mortgage Association, the Federal National Mortgage Association, or the Fed-

eral Home Loan Mortgage Corporation, including obligations fully guaranteed as to principal and interest by such entities; and

(iii) obligations of any State or any political subdivision of a State.

(B) CONDITIONS.—The appropriate Federal banking agencies may impose conditions on the conduct of investments described in subparagraph (A).

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) may be construed to grant any authority to any person that is not otherwise provided in Federal law.

(3) FOREIGN ACTIVITIES.—An investment or activity conducted by a company pursuant to paragraph (9) or (13) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) solely outside of the United States shall not be subject to the prohibition under paragraph (1), provided that the company is not directly or indirectly controlled by a company that is organized under the laws of the United States or of a State.

(c) PROHIBITION ON SPONSORING AND INVESTING IN HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to the recommendations and modifications of the Council under subsection (g), the appropriate Federal banking agencies shall, through a rulemaking under subsection (g), jointly prohibit an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or any subsidiary of such institution or company, from sponsoring or investing in a hedge fund or a private equity fund.

(2) APPLICATION TO FOREIGN ACTIVITIES OF FOREIGN FIRMS.—An investment or activity conducted by a company pursuant to paragraph (9) or (13) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) solely outside of the United States shall not be subject to the prohibitions and restrictions under paragraph (1), provided that the company is not directly or indirectly controlled by a company that is organized under the laws of the United States or of a State.

(3) EXCEPTION.—Notwithstanding paragraph (1), an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or any subsidiary of such institution or company may sponsor or invest in a hedge fund or a private equity fund, if—

(A) such institution, company, or subsidiary provides trust, fiduciary, or advisory services to the fund;

(B) the fund is sponsored and offered in connection with the provision of trust, fiduciary, or advisory services by such institution, company, or subsidiary to persons who are, or may be, customers or clients of such institution, company, or subsidiary;

(C) such institution, company, or subsidiary—

(i) does not acquire or retain an equity, partnership, or ownership interest in the fund; or

(ii) acquires or retains an equity, partnership, or ownership interest, if—

(I) on the date that is 12 months after the date on which the fund is established, the equity, partnership, or ownership interest is not greater than 10 percent of the total equity of the fund; and

(II) the aggregate equity investments by such institution, company, or subsidiary in the fund do not exceed 5 percent of Tier 1 capital of such institution, company, or subsidiary;

(D) such institution, company, or subsidiary does not enter into or otherwise engage in any transaction with the fund that is a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), except on terms and under circumstances specified in section 23B of the Federal Reserve Act (12 U.S.C. 371c-1);

(E) the obligations of the fund are not guaranteed, directly or indirectly, by such institution, company, or subsidiary any affiliate of such institution, company, or subsidiary; and

(F) such institution, company, or subsidiary does not share with the fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

**SA 4084.** Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 502, strike lines 4 through 14.

On page 502, between lines 15 and 16, insert the following:

(a) JOINT RULEMAKING.—

(1) DEFINITION OF TERMS.—

(A) IN GENERAL.—Notwithstanding any other provision of this title, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall engage in joint rulemaking to jointly adopt a rule or rules further defining the terms “swap”, “security-based swap”, “swap dealer”, “security-based swap dealer”, “major swap participant”, “major security-based swap participant”, and “eligible contract participant” and such other rules regarding such definitions as the Commodity Futures Trading Commission and the Securities and Exchange Commission determine are necessary and appropriate, in the public interest, and for the protection of investors.

(B) PREVENTION OF EVASIONS.—The Commodity Futures Trading Commission and the Securities and Exchange Commission may jointly prescribe rules defining the term “swap” or “security-based swap” to include transactions that have been structured to evade this title.

(2) TRADE REPOSITORY RECORD KEEPING.—Notwithstanding any other provision of this title, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall engage in joint rulemaking to jointly adopt a rule or rules governing the books and records that are required to be kept and maintained regarding security-based swap agreements by persons that are registered as swap data repositories under the Commodity Exchange Act, including uniform rules that specify the data elements that shall be collected and maintained by each repository.

(3) CAPITAL AND MARGIN.—

(A) Notwithstanding any other provision of this title, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall engage in joint rulemaking to jointly adopt a rule or rules imposing capital and margin requirements under the respective provisions of the Commodity Exchange Act and the Securities Exchange Act of 1934 for swap dealers, security-based swap dealers, major swap participants, and major security-based swap participants for which there is not a prudential regulator.

(B) Notwithstanding any other provision of this title, prudential regulators, the Commodity Futures Trading Commission, and the Securities and Exchange Commission shall engage in joint rulemaking to jointly adopt a rule or rules imposing capital and margin requirements under the respective provisions of the Commodity Exchange Act and the Securities Exchange Act of 1934 for swap dealers, security-based swap dealers, major swap participants, and major security-based swap participants for which there is a prudential regulator.

(4) BOOKS AND RECORDS.—Notwithstanding any other provision of this title, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall engage in joint rulemaking to jointly adopt a rule or rules governing books and records regarding security-based swap agreements, including daily trading records, for swap dealers, major swap participants, security-based swap dealers, and major security-based swap participants.

(5) JOINT RULEMAKING UNDER THIS TITLE.—

(A) COMPARABLE RULES.—Rules and regulations prescribed jointly under this title by the Commodity Futures Trading Commission and the Securities and Exchange Commission shall be comparable to the maximum extent possible, taking into consideration differences in instruments and in the applicable statutory requirements.

(B) CONSULTATION WITH THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—Prior to prescribing jointly any rules and regulations under this title, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall consult with the Board of Governors of the Federal Reserve System.

(6) FINANCIAL STABILITY OVERSIGHT COUNCIL.—In the event that the Commodity Futures Trading Commission and the Securities and Exchange Commission fail to jointly prescribe rules pursuant to paragraphs (1), (2), (3), or (4) of subsection (a) in a timely manner, at the request of either Commission, the Financial Stability Oversight Council shall resolve the dispute—

(A) within a reasonable time after receiving the request;

(B) after consideration of relevant information provided by each Commission; and

(C) by agreeing with one of the Commissions regarding the entirety of the matter or by determining a compromise position.

(7) TREATMENT OF SIMILAR PRODUCTS.—In adopting joint rules and regulations under this title, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall treat functionally or economically similar products similarly.

(8) TREATMENT OF DISSIMILAR PRODUCTS.—Nothing in this title shall be construed to require the Commodity Futures Trading Commission and the Securities and Exchange Commission to adopt joint rules that treat functionally or economically different products identically.

(9) JOINT INTERPRETATION.—Any Commission interpretation of, or guidance regarding,

a provision of this title, shall be effective only if issued jointly by the Commodity Futures Trading Commission and the Securities and Exchange Commission if this title requires the Commodity Futures Trading Commission and the Securities and Exchange Commission to issue joint regulations to implement the provision.

On page 502, line 15, strike “**REVIEW OF**” before “**REGULATORY AUTHORITY**”.

On page 502, line 16, strike “(a)” and insert “(b)”.

On page 502, line 17, insert “subsection (a) and” after “provided in”.

On page 505, line 7, strike “(b)” and insert “(c)”.

On page 506, strike line 23 and all that follows through “any other” on page 507, line 2, and insert the following:

(3) PROHIBITION ON CERTAIN FUTURES ASSOCIATIONS.—Notwithstanding any other

On page 507, strike line 14 and all that follows through page 508, line 2.

On page 508, line 3, strike “(c)” and insert “(d)”.

On page 508, line 8, strike “(a)” and insert “(b)”.

On page 508, line 9, strike “(b)” and insert “(c)”.

On page 509, line 24, strike “(a)(4) or (b)” and insert “(b)(4) or (c)”.

On page 510, line 8, strike “(d)” and insert “(e)”.

On page 510, line 9, strike “(b) and (c)” and insert “(c) and (d)”.

On page 511, line 3, strike “(e)” and insert “(f)”.

On page 511, lines 3 and 4, strike “(b) and (c)” and insert “(c) and (d)”.

On page 511, line 4, insert “ and including subsection (a)” before “, the Commodity”.

On page 511, line 11, strike “(f)” and insert “(g)”.

On page 511, strike line 20 and all that follows through page 512, line 2.

On page 524, line 6, insert “issued pursuant to subsection (a)(3)(A)” after “other Commission”.

On page 524, lines 11 through 12, strike “, including an order or orders issued under subsection (a)(3)(A),”.

On page 528, lines 11 and 12, strike “, security futures product,”.

On page 528, strike lines 13 through 15.

On page 528, line 16, strike “(iii)” and insert “(ii)”.

On page 528, line 16, strike “(iv)” and insert “(iii)”.

On page 528, strike line 20 and all that follows through “Act.” on page 529, line 2.

On page 529, line 19, strike “, security futures product,”.

On page 529, strike lines 20 through 22.

On page 529, line 23, strike “(III)” and insert “(II)”.

On page 530, line 1, strike “(IV)” and insert “(III)”.

On page 530, strike line 5 and all that follows through “Act.” on line 13.

On page 530, lines 20 and 21, strike “, security futures product,”.

On page 530, strike line 22 and all that follows through page 531, line 3.

On page 531, line 5, strike “(iv)” and insert “(ii)”.

On page 531, line 5, strike “(IV) (as so redesignated)” and insert “(III)”.

On page 531, line 8, strike “a semicolon” and insert the following: “the following: ‘; or’”.

On page 531, line 11, strike “; or” and insert a period.

On page 531, strike line 12 and all that follows through “Act.” on line 15.

On page 548, lines 9 and 10, strike “, leveraged contract authorized under section 19,” and insert “or”.

On page 548, line 11, insert “traded on or subject to the rules of a board of trade designated as a contract market under section 5 or 5f” after “product”.

On page 551, strike line 24 and all that follows through page 552, line 14.

On page 552, line 15, strike “(E)” and insert “(D)”.

On page 554, line 14, strike “(F)” and insert “(E)”.

On page 557, line 20, strike “define—” and all that follows through “the term” on line 21, and insert “define the term”.

On page 557, line 21, strike “; and” and insert a period.

On page 557, strike lines 22 through 24.

On page 563, line 25, after the first period, insert the following:

“(i) REGULATION OF SWAPS AS SECURITIES UNDER FEDERAL AND STATE LAW.—Nothing in this section or this Act shall limit the jurisdiction conferred on the Securities and Exchange Commission by the Wall Street Transparency and Accountability Act of 2010 with regard to security-based swap agreements, as such agreements are defined in section 3(a)(79) of the Securities Exchange Act of 1934, and security-based swaps.”.

On page 565, line 17, strike “and (g)” and insert “(g), (j), and (k)”.

On page 565, line 22, strike “and (f)” and insert “(f), and (i)”.

On page 566, line 1, insert “by their terms” before “to registered”.

On page 566, line 7, after the first period insert the following:

“(f) EXCLUSION FOR SECURITIES.—Notwithstanding any other provision of law, the Wall Street Transparency and Accountability Act of 2010 shall not apply to, and the Commodity Futures Trading Commission shall have no jurisdiction under such Act (or any amendments to the Commodity Exchange Act made by such Act) with respect to any security other than a security-based swap.”.

On page 567, line 8, strike “5(b)” and insert “5b”.

On page 616, line 15, strike “books and records” and insert “information (including information on a real-time basis)”.

On page 616, line 18, delete “8” and insert “24 of the Securities Exchange Act of 1934”.

On page 617, between lines 15 and 16, insert the following:

“(ii) foreign financial regulatory authorities;”.

On page 617, line 16, strike “(ii)” and insert “(iii)”.

On page 617, line 17, strike “(iii)” and insert “(iv)”.

On page 629, line 15, delete “8” and insert “24 of the Securities Exchange Act of 1934”.

On page 631, between lines 10 and 11, insert the following:

“(ii) foreign financial regulatory authorities, as defined in section 3(a)(52) of the Securities Exchange Act of 1934;”.

On page 631, line 11, strike “(ii)” and insert “(iii)”.

On page 631, line 12, strike “(iii)” and insert “(iv)”.

On page 642, line 3, delete “8” and insert “24 of the Securities Exchange Act of 1934”.

On page 646, lines 16 and 17, strike “appropriate Federal banking agency” and insert “prudential regulators”.

On page 647, lines 12 and 13, strike “appropriate Federal banking agencies” and insert “prudential regulators”.

On page 647, line 23, insert “, in consultation with the prudential regulators,” after “Commission”.

On page 650, lines 24 and 25, strike “appropriate Federal banking agency” and insert “prudential regulators”.

On page 651, lines 24 and 25, strike “appropriate Federal banking agency” and insert “prudential regulators”.

On page 652, lines 24 and 25, strike “appropriate Federal banking agencies” and insert “prudential regulators”.

On page 676, line 7, before the period insert “taking into consideration the impact of public disclosure on market liquidity”.

On page 676, line 20, strike “and”.

On page 677, line 2, strike the period and insert “; and”.

On page 677, between lines 2 and 3, insert the following:

“(iii) make available to the Securities and Exchange Commission, upon request, all information, including a complete audit trail, relating to transactions in security-based swap agreements (as such term is defined in section 3(a)(79) of the Securities Exchange Act of 1934).”

On page 714, line 10, strike “amended—” and all that follows through “by striking” on line 11, and insert “amended by striking”.

On page 714, line 12, strike the semicolon and insert a period.

On page 714, strike lines 13 through 23.

On page 714, line 25, strike “amended—” and all that follows through “by striking” on page 716, line 1, and insert “amended by striking”.

On page 715, line 2, strike the semicolon and insert a period.

On page 715, strike lines 3 through 23.

On page 717, line 9, insert “or any agreement, contract, or transaction in one or more securities” after “security”.

On page 751, between lines 11 and 12, insert the following:

“(II) the Securities and Exchange Commission.”

On page 751, line 12, strike “(II)” and insert “(III)”.

On page 751, line 16, strike “(III)” and insert “(IV)”.

On page 751, line 21, strike “(IV)” and insert “(V)”.

On page 752, line 1, strike “(V)” and insert “(VI)”.

On page 752, line 3, strike “and” after “jurisdiction”.

On page 752, line 4, strike “(VI)” and insert “(VII)”.

On page 752, line 4, strike the period and insert “; and”.

On page 752, between lines 4 and 5, insert the following:

“(VIII) a foreign financial regulatory authority.”

On page 752, line 7, strike “described in clause (i)” and insert “described in subclauses (I) through (VI) of clause (i)”.

On page 752, line 11, after the period insert the following: “Each of the entities described in subclauses (VII) and (VIII) of clause (i) shall maintain such information in accordance with such assurances of confidentiality as the Commission determines appropriate.”

On page 761, line 24, strike “standards” and insert “principles”.

On page 767, line 18, insert “(without regard to paragraph (47)(B)(x) of such section)” after “Exchange Act”.

On page 768, line 4, insert “or single obligor on a loan” after “a security”.

On page 768, line 4, insert “or obligors on loans” after “securities”.

On page 768, line 9, insert “or obligor” after “issuer”.

On page 769, line 5, strike “references,” and insert “reference or”.

On page 769, beginning line 6, strike “, or settles through the transfer” and all that follows through “other option” on line 16 and insert “a government security”.

On page 769, line 17, strike “(D) MIXED SWAP.—The term” and insert the following:

“(D) MIXED SWAP.—

“(i) IN GENERAL.—The term”.

On page 770, between lines 6 and 7, insert the following:

“(ii) RULE OF CONSTRUCTION.—A security-based swap shall not constitute, nor be construed to constitute, a mixed swap solely because the obligations or rights of 1 party to the swap agreement are defined by reference to 1 or more interest rates or currencies.

“(E) RULE OF CONSTRUCTION REGARDING USE OF THE TERM INDEX.—The term ‘index’ means an index or group of securities, including any interest therein or based on the value thereof.”

On page 775, strike lines 7 through 19.

On page 776, after line 25, insert the following:

(c) CONFORMING AMENDMENTS TO GRAMM-LEACH-BLILEY.—Section 206A(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) is amended in the material preceding paragraph (1), by striking “Except as” and all that follows through “that—” and inserting the following: “Except as provided in subsection (b), as used in this section, the term ‘swap agreement’ means any agreement, contract, or transaction that—”.

On page 776, line 1, strike “(b)” and insert “(c)”.

On page 777, line 1, strike “(c)” and insert “(d)”.

On page 780, line 3, insert “, in each place that such terms appear” before the semicolon.

On page 783, lines 5 through 6, strike “, subject to the requirements of section 5(b)”.

On page 783, line 8, insert “registered” before “clearing agency”.

On page 786, line 14, strike “accepted” and insert “approved”.

On page 789, line 22, strike “listed” and insert “accepted”.

On page 790, line 15, strike “authorize” and insert “authorizes”.

On page 790, line 16, strike “list” and insert “accept”.

On page 794, line 9, strike “from” and insert “for”.

On page 809, strike line 14 through 16, and insert the following:

“(k) EXEMPTIONS.—The Commission may exempt, conditionally or unconditionally, a clearing”.

On page 810, strike lines 3 through 18.

On page 832, line 5, strike “as described in paragraph (68) of section 3(a)”.

On page 833 lines 18 and 19, strike “or narrow-based security narrow-based security index”.

On page 834, line 1, strike “narrow-based security”.

On page 834, line 3, strike “and”.

On page 834, between lines 3 and 4, insert the following:

“(ii) any security or group or index of securities the price, yield, value or volatility of which, or of which any interest therein, is the basis for a material term of such security-based swap; and”.

On page 834, line 4, strike “(ii)” and insert “(iii)”.

On page 834, line 4, strike “security-based swap and any”.

On page 834, line 6, strike “narrow-based security”.

On page 834, line 7, insert “described under subparagraph (B)(ii)” after “securities”.

On page 834, line 13, strike “or narrow-based security index”.

On page 834, lines 18 and 19, strike “or narrow-based security index”.

On page 834, lines 20 and 21, strike “or narrow-based security index”.

On page 843, between lines 8 and 9, insert the following:

“(II) foreign financial regulatory authorities;”.

On page 843, line 9, strike “(II)” and insert “(III)”.

On page 843, line 9, strike “(III)” and insert “(IV)”.

On page 843, lines 11 and 12, strike “AND IDEMNIFICATION AGREEMENT”.

On page 843, line 15, strike “(G)—” and all that follows through “the security-based” on line 16, and insert the following: “(G), the security-based”.

On page 843, line 22, strike “; and” and insert a period.

On page 843, strike line 23 and all that follows through page 844, line 2.

On page 853, lines 6 and 7, strike “appropriate Federal banking agency” and insert “prudential regulators”.

On page 854, lines 5 and 6, strike “appropriate Federal banking agencies” and insert “prudential regulators”.

On page 854, line 18, insert “, in consultation with the prudential regulators,” after “Commission”.

On page 857, lines 17 and 18, strike “appropriate Federal banking agency” and insert “prudential regulators”.

On page 858, lines 15 and 16, strike “appropriate Federal banking agency” and insert “prudential regulators”.

On page 859, lines 5 and 6, strike “appropriate Federal banking agencies” and insert “prudential regulators”.

On page 859, line 7, strike “Securities and Exchange” and insert “Commodity Futures Trading”.

On page 886, line 4, insert “or other derivative instrument” after “security-based swap”.

On page 886, lines 4 through 5, insert “or has defined,” after “Commission may define,”.

On page 886, line 10, insert “as the Commission may designate or has designated by rule” after “section (d)(1)”.

On page 886, line 14, strike “(1)” after “13(f)”.

On page 886, line 15, strike “(1)” and all that follows through “section (d)(1) of this section” on line 20 and insert the following:

(1) in paragraph (1)—

(A) by inserting “(A)” after “accounts holding”; and

(B) by inserting “or (B) security-based swaps or other derivative securities that the Commission may determine or has determined by rule, having such values as the Commission, by rule, may determine” after “less than \$10,000,000) as the Commission, by rule, may determine.”; and

(2) in paragraph (3), by striking “section 13(d)(1) of this title” and inserting “subsection (d)(1) of this section and of security-based swaps or other derivative instruments that the Commission may determine by rule.”

On page 892, line 23, strike “the Commission” and insert “Unless the Commission is expressly authorized, the Commission”.

On page 892, line 24, insert “any provision described in this subsection with respect to subtitle B” after “from”.

On page 892, line 24, strike “the security-based swap provisions”.

On page 893, lines 1 and 2, strike “except as expressly authorized under the provisions of

that Act" and insert "with respect to paragraphs 65, 66, 68, 69, 70, 71, 72, 73, 74, 75, 76, and 79 of section 3(a), and sections 10B(a), 10B(b), 10B(c), 13A, 15F, 17A(g), 17A(h), 17A(i), 17A(j), 17A(k), 17A(l); provided that the Commission also shall have exemptive authority under that Act with respect to security-based swaps as to the same matters that the Commodity Futures Trading Commission has under that Act with respect to swaps, including under section 4(c) of the Commodity Exchange Act".

On page 893, line 2, after the first period insert the following:

"(d) EXPRESS AUTHORITY.—The Commission is expressly authorized to use any authority granted to the Commission under subsection (a) to exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of this title, or of any rule or regulation thereunder, that applies to such person, security, or transaction solely because a 'security-based swap' is a 'security' under section 3(a)."

On page 548, line 11, insert "traded on or subject to the rules of a board of trade designated as a contract market under section 5 or 5f, leverage contract authorized under section 19," after "product".

On page 551, line 5, strike "subparagraph (D)" and insert "other than a security-based swap as described in section 3(a)(68)(D) of the Securities Exchange Act of 1934".

On page 616, line 2, insert "AND SECURITY-BASED SWAPS" after "AGREEMENTS".

On page 616, line 13, insert "or security-based swaps (as defined in section 3(a)(68) of the Securities Exchange Act of 1934)" after "Act)".

On page 616, line 16, insert "or security-based swaps" after "agreements".

On page 616, line 18, delete "8" and insert "24 of the Securities Exchange Act of 1934".

On page 835, strike line 3 and all that follows through page 839, line 12.

On page 887, strike lines 8–25.

**SA 4085.** Mr. HARKIN (for himself, Mr. SANDERS, Mr. WHITEHOUSE, Mr. UDALL of New Mexico, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

**SEC. 1077. FAIR ATM FEES.**

(a) AMENDMENT TO THE ELECTRONIC FUND TRANSFER ACT.—Section 904(d)(3) of the Electronic Fund Transfer Act (15 U.S.C. 1693b(d)(3)) is amended—

(1) in subparagraph (A), by striking the subparagraph heading and inserting the following:

"(A) FEE DISCLOSURE.—";

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following:

"(D) REGULATION OF FEES.—The regulations prescribed under paragraph (1) shall require any fee charged by an automated teller

machine operator for a transaction conducted at that automated teller machine to bear a reasonable relation to the cost of processing the transaction.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective not later than 6 months after the date of enactment of this Act.

(c) RULEMAKING.—The Bureau shall issue such rules as may be necessary to carry out this section, not later than 6 months after the date of enactment of this Act.

**SA 4086.** Ms. CANTWELL (for herself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, line 21, insert before "In adopting" the following: "Except as provided in paragraphs (3) and (10), any swap that is required to be cleared is unlawful unless the swap is cleared."

On page 705, line 19, insert before the period the following: "unless there is a knowing failure by a party to comply with, or reckless disregard for, the terms and conditions of section 2(f) or regulations of the Commission".

On page 705, line 20, strike "No agreement" and insert the following: "Unless there is a knowing failure by a party to comply with, or a reckless disregard for, the definition of the term 'swap' under section 1(a) or the requirements of section 2(h)(1), no agreement".

On page 708, line 17, strike "and other prudential requirements of this Act."

**SA 4087.** Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, line 1, strike "substantially" and insert "predominantly".

On page 20, beginning on line 2, strike "activities" and all that follows through line 5, and insert "financial activities, as defined in paragraph (6)".

On page 20, line 17, strike "substantially" and all that follows through the end of line 20, and insert "predominantly engaged in financial activities as defined in paragraph (6)".

On page 21, line 11, strike "(6)" and insert the following:

(6) PREDOMINANTLY ENGAGED.—A company is "predominantly engaged in financial activities" if—

(A) the annual gross revenues derived by the company and all of its subsidiaries from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) or are incidental to a financial activity, and, if applicable, from the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated annual gross revenues of the company; or

(B) the consolidated assets of the company and all of its subsidiaries related to activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) or are incidental to a financial activity, and, if applicable, related to the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated assets of the company.

(7) On page 21, line 16, strike "criteria" and all the follows through line 22, and insert "requirements for determining if a company is predominantly engaged in financial activities, as defined in paragraph (6)".

On page 37, line 3, strike "(c)" and insert the following:

(c) ANTI-EVASION.—

(1) DETERMINATIONS.—In order to avoid evasion of this Act, the Council, on its own initiative or at the request of the Board of Governors, may determine, on a nondelegable basis and by a vote of not fewer than 2/3 of the members then serving, including an affirmative vote by the Chairperson, that—

(A) material financial distress related to financial activities conducted directly or indirectly by a company incorporated or organized under the laws of the United States or any State or the financial activities in the United States of a company incorporated or organized in a country other than the United States would pose a threat to the financial stability of the United States based on consideration of the factors in subsection (b)(2);

(B) the company is organized or operates in a manner that evades the application of this Act; and

(C) such financial activities of the company shall be supervised by the Board of Governors and subject to prudential standards in accordance with this title.

(2) NOTICE AND OPPORTUNITY FOR HEARING AND FINAL DETERMINATION; JUDICIAL REVIEW.—Subsections (d), (f), and (g) shall apply to determinations made by the Council pursuant to paragraph (1) in the same manner as such subsections apply to nonbank financial companies.

(3) COVERED FINANCIAL ACTIVITIES.—For purposes of this subsection, the term "financial activities" means activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and related to the ownership or control of one or more insured depository institutions and shall not include internal financial activities conducted for the company or any affiliates thereof including internal treasury, investment, and employee benefit functions.

(4) TREATMENT AS A NONBANK FINANCIAL COMPANY.—

(A) ONLY FINANCIAL ACTIVITIES SUBJECT TO PRUDENTIAL SUPERVISION.—Nonfinancial activities of the company shall not be subject to supervision by the Board of Governors and prudential standards of the Board. For purposes of this Act, the financial activities that are the subject of the determination in paragraph (1) shall be subject to the same requirements as a nonbank financial company. Nothing in this paragraph shall prohibit or limit the authority of the Board of Governors to apply prudential standards under

this title to the financial activities that are subject to the determination in paragraph (1).

(B) CONSOLIDATED SUPERVISION OF ONLY FINANCIAL ACTIVITIES.—To facilitate the supervision of the financial activities subject to the determination in paragraph (1), the Board of Governors may require a company to establish an intermediate holding company, as provided for in section 167, which would be subject to the supervision of the Board of Governors and to prudential standards under this title.

(d) On page 37, line 15, strike “(d)” and insert “(e)”.

On page 39, line 3, strike “(e)” and insert “(f)”.

On page 40, line 13, strike “(f)” and insert “(g)”.

On page 40, line 21, strike “(g)” and insert “(h)”.

**SA 4088.** Mr. BAYH submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, strike lines 1 through 12 and insert the following:

(3) the term “sponsoring”—

(A) when used with respect to a hedge fund or private equity fund, means—

(i) serving as a general partner, managing member, or trustee of the fund;

(ii) in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund; or

(iii) sharing with the fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name; and

(B) does not include an activity of a banking entity with respect to a hedge fund or private equity fund, if—

(i) the banking entity provides bona fide trust, fiduciary or investment advisory services;

(ii) the fund is sponsored and offered only in connection with the provision of bona fide trust, fiduciary, or investment advisory services and only to persons that are customers of such services of the banking entity;

(iii) the banking entity does not acquire or retain an equity interest, economic partnership interest, or ownership interest in the fund, other than a partnership or ownership interest acquired or retained solely in connection with the provision of bona fide trust, fiduciary, or investment advisory services;

(iv) the banking entity does not enter into or otherwise engage in any transaction with the fund that is a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c);

(v) the obligations of the fund are not guaranteed, directly or indirectly, by the banking entity or any subsidiary or affiliate of the banking entity; and

(vi) the banking entity does not share with the fund, for corporate, marketing, pro-

motional, or other purposes, the same name or a variation of the same name.

**SA 4089.** Mr. CHAMBLISS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 567, line 8, strike “5(b)” and insert “5b”.

**SA 4090.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ STUDY AND REPORT ON A FEDERAL CHARTER FOR NONBANK FINANCIAL SERVICES BUSINESSES.**

(a) STUDY REQUIRED.—The research unit established by the Director under section 1013 shall conduct a study on the feasibility of establishing a Federal charter for nonbank financial services businesses that offer credit products and other financial services and products to consumers and small businesses that are unbanked, underbanked, or have low credit scores, low credit ratings, or below average credit histories (in this section, referred to as “underserved borrowers”), including an analysis of—

(1) common credit products and other financial services and products available to underserved borrowers and the true availability and costs of such products and services to all underserved borrowers;

(2) the true costs and expenses (including loan losses) of creditors in providing credit products and other financial services and products to underserved borrowers;

(3) the merits, both positive and negative, of establishing a Federal charter to enable nonbank financial services businesses to provide reasonable and fair credit products and other financial products and services to underserved borrowers in a manner that is economically viable to nonbank financial services businesses; and

(4) the potential statutory and regulatory framework for establishing a Federal charter for nonbank financial services businesses that could reduce the costs for such businesses to offer and deliver such products and services to underserved borrowers and provide underserved borrowers throughout the Nation with a reasonable and fair opportunity to access credit and other financial services and products, and in turn build their credit scores and histories.

(b) REPORT TO THE BUREAU.—Not later than 1 year after the date of enactment of this Act, the research unit established under section 1013 shall—

(1) provide to the Bureau a report on the results of the study conducted under subsection (a), together with—

(A) a recommendation as to whether or not it would be in the best interests of all underserved borrowers to establish a Federal charter for nonbank financial services businesses to provide credit products and other financial products and services to underserved borrowers; and

(B) a recommendation for the statutory and regulatory framework for such a charter; and

(2) make such report available to the public.

**SA 4091.** Mr. JOHNSON (for himself, Ms. LANDRIEU, Mr. BURRIS, Mr. BROWNBACK, Ms. MURKOWSKI, Mr. CRAPO, Mr. ROBERTS, Mr. COBURN, Mr. TESTER, Mr. BROWN of Ohio, Mr. NELSON of Nebraska, Mr. CARDIN, and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 99, line 14, strike “risks.” and insert the following: “risks, except that the Board of Governors may not prescribe standards under this title that limit fully secured extensions of credit by a Federal Home Loan Bank to any member or former member of the Federal Home Loan Bank made in compliance with the regulations of the Federal Housing Finance Agency.”

**SA 4092.** Mr. CHAMBLISS (for Mrs. LINCOLN) submitted an amendment intended to be proposed by Mr. CHAMBLISS to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike title VIII and insert the following:

**TITLE VIII—PAYMENT, CLEARING, AND SETTLEMENT SUPERVISION**

**SEC. 801. SHORT TITLE.**

This title may be cited as the “Payment, Clearing, and Settlement Supervision Act of 2010”.

**SEC. 802. FINDINGS.**

Congress finds the following:

(1) The proper functioning of the financial markets is dependent upon safe and efficient arrangements for the clearing and settlement of payment, securities, and other financial transactions.

(2) Financial market utilities that conduct or support multilateral payment, clearing, or settlement activities may reduce risks for their participants and the broader financial system, but such utilities may also concentrate and create new risks and thus must

be well designed and operated in a safe and sound manner.

(3) Payment, clearing, and settlement activities conducted by financial institutions also present important risks to the participating financial institutions and to the financial system.

(4) Enhancements to the regulation and supervision of systemically important financial market utilities and the conduct of systemically important payment, clearing, and settlement activities by financial institutions are necessary—

- (A) to provide consistency;
- (B) to promote robust risk management and safety and soundness;
- (C) to reduce systemic risks; and
- (D) to support the stability of the broader financial system.

#### SEC. 803. DEFINITIONS.

In this title, the following definitions shall apply:

(1) **DESIGNATED ACTIVITY.**—The term “designated activity” means a payment, clearing, or settlement activity (other than a payment, clearing, or settlement activity that is regulated by the Commodity Futures Trading Commission or the Securities and Exchange Commission) that the Council has designated as systemically important under section 804.

(2) **DESIGNATED FINANCIAL MARKET UTILITY.**—The term “designated financial market utility” means a financial market utility that the Council has designated as systemically important under section 804.

(3) **FINANCIAL INSTITUTION.**—The term “financial institution” means—

- (A) a depository institution, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);
- (B) a branch or agency of a foreign bank, as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101);
- (C) an organization operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601–604a and 611 through 631);
- (D) a credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);
- (E) a broker or dealer, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);
- (F) an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3);
- (G) an insurance company, as defined in section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a–2);
- (H) an investment adviser, as defined in section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2);
- (I) a futures commission merchant, commodity trading advisor, or commodity pool operator, as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a); and
- (J) any company engaged in activities that are financial in nature or incidental to a financial activity, as described in section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(4) **FINANCIAL MARKET UTILITY.**—The term “financial market utility” means any person that manages or operates a multilateral system for the purpose of transferring, clearing, or settling payments, securities, or other financial transactions among financial institutions or between financial institutions and the person.

(5) **PAYMENT, CLEARING, OR SETTLEMENT ACTIVITY.**—

(A) **IN GENERAL.**—The term “payment, clearing, or settlement activity” means an activity carried out by 1 or more financial

institutions to facilitate the completion of financial transactions.

(B) **FINANCIAL TRANSACTION.**—For the purposes of subparagraph (A), the term “financial transaction” includes—

- (i) funds transfers;
- (ii) securities contracts;
- (iii) contracts of sale of a commodity for future delivery;
- (iv) forward contracts;
- (v) repurchase agreements;
- (vi) swaps;
- (vii) security-based swaps;
- (viii) foreign exchange swaps and forwards; and
- (ix) any similar transaction that the Council determines to be a financial transaction for purposes of this title.

(C) **INCLUDED ACTIVITIES.**—When conducted with respect to a financial transaction, payment, clearing, and settlement activities may include—

- (i) the calculation and communication of unsettled financial transactions between counterparties;
- (ii) the netting of transactions;
- (iii) provision and maintenance of trade, contract, or instrument information;
- (iv) the management of risks and activities associated with continuing financial transactions;
- (v) transmittal and storage of payment instructions;
- (vi) the movement of funds;
- (vii) the final settlement of financial transactions; and
- (viii) other similar functions that the Council may determine.

(6) **SUPERVISORY AGENCY.**—

(A) **IN GENERAL.**—The term “Supervisory Agency” means the Federal agency that has primary jurisdiction over a designated financial market utility under Federal banking, securities, or commodity futures laws, including—

- (i) the Securities and Exchange Commission, with respect to a designated financial market utility that is registered with the Securities and Exchange Commission;
- (ii) the Commodity Futures Trading Commission, with respect to a designated financial market utility that is registered with the Commodity Futures Trading Commission;
- (iii) the appropriate Federal banking agency, with respect to a designated financial market utility that is an institution described in section 3(q) of the Federal Deposit Insurance Act; and
- (iv) the Board of Governors, with respect to a designated financial market utility that is otherwise not subject to the jurisdiction of any agency listed in clauses (i), (ii), and (iii).

(B) **MULTIPLE AGENCY JURISDICTION.**—

(i) If a designated financial market utility is subject to the primary jurisdictional supervision of more than 1 agency listed in clauses (iii) or (iv) of subparagraph (A), then such agencies should agree on 1 agency to act as the Supervisory Agency, and if such agencies cannot agree on which agency has primary jurisdiction, the Council shall decide which agency is the Supervisory Agency for purposes of this title.

(ii) If a designated financial market utility is subject to the primary jurisdictional supervision of more than 1 agency listed in clauses (i) through (iv) of subparagraph (A), and such designated financial market utility is registered with either the Commodity Futures Trading Commission or the Securities and Exchange Commission, the Commodity Futures Trading Commission or the Securities and Exchange Commission, as applica-

ble, shall be the Supervisory Agency for purposes of this title. If the designated financial market utility is registered with both the Commodity Futures Trading Commission and the Securities and Exchange Commission, then the agency which oversees the predominance of the payment, clearing, and settlement activities conducted by the designated financial market utility shall be the Supervisory Agency for purposes of this title.

(7) **SYSTEMICALLY IMPORTANT AND SYSTEMIC IMPORTANCE.**—The terms “systemically important” and “systemic importance” mean a situation where the failure of or a disruption to the functioning of a financial market utility or the conduct of a payment, clearing, or settlement activity could create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the financial system.

#### SEC. 804. DESIGNATION OF SYSTEMIC IMPORTANCE.

(a) **DESIGNATION.**—

(1) **FINANCIAL STABILITY OVERSIGHT COUNCIL.**—The Council, on a nondelegable basis and by a vote of not fewer than  $\frac{2}{3}$  of members then serving, including an affirmative vote by the Chairperson, shall designate those financial market utilities or payment, clearing, or settlement activities that the Council determines are, or are likely to become, systemically important.

(2) **CONSIDERATIONS.**—In determining whether a financial market utility or payment, clearing, or settlement activity is, or is likely to become, systemically important, the Council shall take into consideration the following:

(A) The aggregate monetary value of transactions processed by the financial market utility or carried out through the payment, clearing, or settlement activity.

(B) The aggregate exposure of the financial market utility or a financial institution engaged in payment, clearing, or settlement activities to its counterparties.

(C) The relationship, interdependencies, or other interactions of the financial market utility or payment, clearing, or settlement activity with other financial market utilities or payment, clearing, or settlement activities.

(D) The effect that the failure of or a disruption to the financial market utility or payment, clearing, or settlement activity would have on critical markets, financial institutions, or the broader financial system.

(E) Any other factors that the Council deems appropriate.

(b) **RESCISSION OF DESIGNATION.**—

(1) **IN GENERAL.**—The Council, on a nondelegable basis and by a vote of not fewer than  $\frac{2}{3}$  of members then serving, including an affirmative vote by the Chairperson, shall rescind a designation of systemic importance for a designated financial market utility or designated activity if the Council determines that the utility or activity no longer meets the standards for systemic importance.

(2) **EFFECT OF RESCISSION.**—Upon rescission, the financial market utility or financial institutions conducting the activity will no longer be subject to the provisions of this title or any rules or orders prescribed by the Council under this title.

(c) **CONSULTATION AND NOTICE AND OPPORTUNITY FOR HEARING.**—

(1) **CONSULTATION.**—Before making any determination under subsection (a) or (b), the Council shall consult with the relevant Supervisory Agency.

(2) **ADVANCE NOTICE AND OPPORTUNITY FOR HEARING.**—



(A) IN GENERAL.—Before making any determination under subsection (a) or (b), the Council shall provide the financial market utility or, in the case of a payment, clearing, or settlement activity, financial institutions with advance notice of the proposed determination of the Council.

(B) NOTICE IN FEDERAL REGISTER.—The Council shall provide such advance notice to financial institutions by publishing a notice in the Federal Register.

(C) REQUESTS FOR HEARING.—Within 30 days from the date of any notice of the proposed determination of the Council, the financial market utility or, in the case of a payment, clearing, or settlement activity, a financial institution engaged in the designated activity may request, in writing, an opportunity for a written or oral hearing before the Council to demonstrate that the proposed designation or rescission of designation is not supported by substantial evidence.

(D) WRITTEN SUBMISSIONS.—Upon receipt of a timely request, the Council shall fix a time, not more than 30 days after receipt of the request, unless extended at the request of the financial market utility or financial institution, and place at which the financial market utility or financial institution may appear, personally or through counsel, to submit written materials, or, at the sole discretion of the Council, oral testimony or oral argument.

(3) EMERGENCY EXCEPTION.—

(A) WAIVER OR MODIFICATION BY VOTE OF THE COUNCIL.—The Council may waive or modify the requirements of paragraph (2) if the Council determines, by an affirmative vote of not less than  $\frac{2}{3}$  of all members then serving, including an affirmative vote by the Chairperson, that the waiver or modification is necessary to prevent or mitigate an immediate threat to the financial system posed by the financial market utility or the payment, clearing, or settlement activity.

(B) NOTICE OF WAIVER OR MODIFICATION.—The Council shall provide notice of the waiver or modification to the financial market utility concerned or, in the case of a payment, clearing, or settlement activity, to financial institutions, as soon as practicable, which shall be no later than 24 hours after the waiver or modification in the case of a financial market utility and 3 business days in the case of financial institutions. The Council shall provide the notice to financial institutions by posting a notice on the website of the Council and by publishing a notice in the Federal Register.

(d) NOTIFICATION OF FINAL DETERMINATION.—

(1) AFTER HEARING.—Within 60 days of any hearing under subsection (c)(2), the Council shall notify the financial market utility or financial institutions of the final determination of the Council in writing, which shall include findings of fact upon which the determination of the Council is based.

(2) WHEN NO HEARING REQUESTED.—If the Council does not receive a timely request for a hearing under subsection (c)(2), the Council shall notify the financial market utility or financial institutions of the final determination of the Council in writing not later than 30 days after the expiration of the date by which a financial market utility or a financial institution could have requested a hearing. All notices to financial institutions under this subsection shall be published in the Federal Register.

(e) EXTENSION OF TIME PERIODS.—The Council may extend the time periods established in subsections (c) and (d) as the Council determines to be necessary or appropriate.

#### SEC. 805. STANDARDS FOR SYSTEMICALLY IMPORTANT DESIGNATED FINANCIAL MARKET UTILITIES AND PAYMENT, CLEARING, OR SETTLEMENT ACTIVITIES.

(a) AUTHORITY TO PRESCRIBE STANDARDS.—The Board of Governors, by rule or order, and in consultation with the Council and the Supervisory Agencies, shall prescribe risk management standards, taking into consideration relevant international standards and existing prudential requirements, governing—

(1) the operations related to the payment, clearing, and settlement activities of designated financial market utilities other than designated financial market utilities for which the Supervisory Agency is either the Commodity Futures Trading Commission or the Securities and Exchange Commission; and

(2) the conduct of designated activities by financial institutions.

(b) RECOMMENDED STANDARDS.—

(1) IN GENERAL.—The Council may recommend risk management standards regarding the operations of payment, clearing, and settlement activities of designated financial market utilities for which the Commodity Futures Trading Commission or the Securities and Exchange Commission is the Supervisory Agency, taking into consideration relevant international standards and existing prudential requirements.

(2) PROCEDURE FOR RECOMMENDATION.—The Council shall consult with the Commodity Futures Trading Commission or the Securities and Exchange Commission, as applicable, and shall provide notice to the public and opportunity for comment for any proposed recommendation under paragraph (1).

(3) CONSIDERATION AND IMPLEMENTATION.—The Commodity Futures Trading Commission or the Securities and Exchange Commission, as applicable, may impose the standards recommended by the Council under paragraph (1), or shall explain in writing to the Council, not later than 90 days after the date on which it receives the Council's recommendation, why the agency has determined not to follow the recommendation of the Council.

(c) OBJECTIVES AND PRINCIPLES.—The objectives and principles for the risk management standards prescribed under subsection (a) or recommended under subsection (b) shall be to—

(1) promote robust risk management;

(2) promote safety and soundness;

(3) reduce systemic risks; and

(4) support the stability of the broader financial system.

(d) SCOPE.—The standards prescribed under subsection (a) or recommended under subsection (b) may address areas such as—

(1) risk management policies and procedures;

(2) margin and collateral requirements;

(3) participant or counterparty default policies and procedures;

(4) the ability to complete timely clearing and settlement of financial transactions;

(5) capital and financial resource requirements for designated financial market utilities; and

(6) other areas that the Board of Governors determines are necessary to achieve the objectives and principles in subsection (c).

(e) THRESHOLD LEVEL.—The standards prescribed under subsection (a) governing the conduct of designated activities by financial institutions shall, where appropriate, establish a threshold as to the level or significance of engagement in the activity at which a financial institution will become subject to the standards with respect to that activity.

(f) COMPLIANCE REQUIRED.—Designated financial market utilities and financial institutions subject to the standards prescribed by the Board of Governors under subsection (a) for a designated activity shall conduct their operations in compliance with the applicable risk management standards prescribed by the Board of Governors.

#### SEC. 806. OPERATIONS OF DESIGNATED FINANCIAL MARKET UTILITIES.

(a) FEDERAL RESERVE ACCOUNT AND SERVICES.—The Board of Governors may authorize a Federal Reserve Bank to establish and maintain an account for a designated financial market utility and provide services to the designated financial market utility that the Federal Reserve Bank is authorized under the Federal Reserve Act to provide to a depository institution, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors.

(b) ADVANCES.—The Board of Governors may authorize a Federal Reserve Bank to provide to a designated financial market utility the same discount and borrowing privileges as the Federal Reserve Bank may provide to a depository institution under the Federal Reserve Act, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors.

(c) EARNINGS ON FEDERAL RESERVE BALANCES.—A Federal Reserve Bank may pay earnings on balances maintained by or on behalf of a designated financial market utility in the same manner and to the same extent as the Federal Reserve Bank may pay earnings to a depository institution under the Federal Reserve Act, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors.

(d) RESERVE REQUIREMENTS.—The Board of Governors may exempt a designated financial market utility from, or modify any, reserve requirements under section 19 of the Federal Reserve Act (12 U.S.C. 461) applicable to a designated financial market utility.

(e) CHANGES TO RULES, PROCEDURES, OR OPERATIONS.—

(1) ADVANCE NOTICE.—

(A) ADVANCE NOTICE OF PROPOSED CHANGES REQUIRED.—A designated financial market utility shall provide 60-days' advance notice to its Supervisory Agency and the Board of Governors of any proposed change to its rules, procedures, or operations that could, as defined in rules of the Board of Governors, materially affect, the nature or level of risks presented by the designated financial market utility.

(B) TERMS AND STANDARDS PRESCRIBED BY THE BOARD OF GOVERNORS.—The Board of Governors shall prescribe regulations that define and describe the standards for determining when notice is required to be provided under subparagraph (A).

(C) CONTENTS OF NOTICE.—The notice of a proposed change shall describe—

(i) the nature of the change and expected effects on risks to the designated financial market utility, its participants, or the market; and

(ii) how the designated financial market utility plans to manage any identified risks.

(D) ADDITIONAL INFORMATION.—The Supervisory Agency or the Board of Governors may require a designated financial market utility to provide any information necessary to assess the effect the proposed change would have on the nature or level of risks associated with the designated financial market utility's payment, clearing, or settlement activities and the sufficiency of any proposed risk management techniques.

(E) NOTICE OF OBJECTION.—The Supervisory Agency or the Board of Governors shall notify the designated financial market utility of any objection regarding the proposed change within 60 days from the later of—

(i) the date that the notice of the proposed change is received; or

(ii) the date any further information requested for consideration of the notice is received.

(F) CHANGE NOT ALLOWED IF OBJECTION.—A designated financial market utility shall not implement a change to which the Board of Governors or the Supervisory Agency has an objection.

(G) CHANGE ALLOWED IF NO OBJECTION WITHIN 60 DAYS.—A designated financial market utility may implement a change if it has not received an objection to the proposed change within 60 days of the later of—

(i) the date that the Supervisory Agency or the Board of Governors receives the notice of proposed change; or

(ii) the date the Supervisory Agency or the Board of Governors receives any further information it requests for consideration of the notice.

(H) REVIEW EXTENSION FOR NOVEL OR COMPLEX ISSUES.—The Supervisory Agency or the Board of Governors may, during the 60-day review period, extend the review period for an additional 60 days for proposed changes that raise novel or complex issues, subject to the Supervisory Agency or the Board of Governors providing the designated financial market utility with prompt written notice of the extension. Any extension under this subparagraph will extend the time periods under subparagraphs (E) and (G).

(I) CHANGE ALLOWED EARLIER IF NOTIFIED OF NO OBJECTION.—A designated financial market utility may implement a change in less than 60 days from the date of receipt of the notice of proposed change by the Supervisory Agency or the Board of Governors, or the date the Supervisory Agency or the Board of Governors receives any further information it requested, if the Supervisory Agency or the Board of Governors notifies the designated financial market utility in writing that it does not object to the proposed change and authorizes the designated financial market utility to implement the change on an earlier date, subject to any conditions imposed by the Supervisory Agency or the Board of Governors.

**(2) EMERGENCY CHANGES.—**

(A) IN GENERAL.—A designated financial market utility may implement a change that would otherwise require advance notice under this subsection if it determines that—

(i) an emergency exists; and

(ii) immediate implementation of the change is necessary for the designated financial market utility to continue to provide its services in a safe and sound manner.

(B) NOTICE REQUIRED WITHIN 24 HOURS.—The designated financial market utility shall provide notice of any such emergency change to its Supervisory Agency and the Board of Governors, as soon as practicable, which shall be no later than 24 hours after implementation of the change.

(C) CONTENTS OF EMERGENCY NOTICE.—In addition to the information required for changes requiring advance notice, the notice of an emergency change shall describe—

(i) the nature of the emergency; and

(ii) the reason the change was necessary for the designated financial market utility to continue to provide its services in a safe and sound manner.

(D) MODIFICATION OR RESCISSION OF CHANGE MAY BE REQUIRED.—The Supervisory Agency

or the Board of Governors may require modification or rescission of the change if it finds that the change is not consistent with the purposes of this Act or any rules, orders, or standards prescribed by the Board of Governors hereunder.

(3) COPYING THE BOARD OF GOVERNORS.—The Supervisory Agency shall provide the Board of Governors concurrently with a complete copy of any notice, request, or other information it issues, submits, or receives under this subsection.

(4) CONSULTATION WITH BOARD OF GOVERNORS.—Before taking any action on, or completing its review of, a change proposed by a designated financial market utility, the Supervisory Agency shall consult with the Board of Governors.

(F) APPLICABILITY.—Nothing in this section shall be applicable to any designated financial market utility for which the Supervisory Agency is the Commodity Futures Trading Commission or the Securities and Exchange Commission. Notwithstanding the previous sentence, nothing in this subsection shall limit or be construed to limit the authority of the Board under section 13(3) of the Federal Reserve Act (12 U.S.C. 343).

**SEC. 807. EXAMINATION OF AND ENFORCEMENT ACTIONS AGAINST DESIGNATED FINANCIAL MARKET UTILITIES.**

(a) EXAMINATION.—Notwithstanding any other provision of law and subject to subsection (d), the Supervisory Agency shall conduct examinations of a designated financial market utility at least once annually in order to determine the following:

(1) The nature of the operations of, and the risks borne by, the designated financial market utility.

(2) The financial and operational risks presented by the designated financial market utility to financial institutions, critical markets, or the broader financial system.

(3) The resources and capabilities of the designated financial market utility to monitor and control such risks.

(4) The safety and soundness of the designated financial market utility.

(5) For a designated financial market utility for which the Supervisory Agency is not the Commodity Futures Trading Commission or the Securities and Exchange Commission, the designated financial market utility's compliance with—

(A) this title; and

(B) the rules and orders prescribed by the Board of Governors under this title.

(b) SERVICE PROVIDERS.—Whenever a service integral to the operation of a designated financial market utility is performed for the designated financial market utility by another entity, whether an affiliate or non-affiliate and whether on or off the premises of the designated financial market utility, the Supervisory Agency may examine whether the provision of that service is in compliance with applicable law, rules, orders, and standards to the same extent as if the designated financial market utility were performing the service on its own premises.

(c) ENFORCEMENT.—For purposes of enforcing the provisions of this section, a designated financial market utility shall be subject to, and the appropriate Supervisory Agency shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the designated financial market utility was an insured depository institution and the Supervisory Agency was the appropriate Federal banking agency for such insured depository institution.

(d) BOARD OF GOVERNORS INVOLVEMENT IN EXAMINATIONS.—

(1) BOARD OF GOVERNORS CONSULTATION ON EXAMINATION PLANNING.—The Supervisory Agency shall consult with the Board of Governors regarding the scope and methodology of any examination conducted under subsections (a) and (b).

(2) BOARD OF GOVERNORS PARTICIPATION IN EXAMINATION.—The Board of Governors may, in its discretion, participate in any examination led by a Supervisory Agency and conducted under subsections (a) and (b).

(e) BOARD OF GOVERNORS ENFORCEMENT RECOMMENDATIONS.—

(1) RECOMMENDATION.—The Board of Governors may at any time recommend to the Supervisory Agency that such agency take enforcement action against a designated financial market utility. Any such recommendation for enforcement action shall provide a detailed analysis supporting the recommendation of the Board of Governors.

(2) CONSIDERATION.—The Supervisory Agency shall consider the recommendation of the Board of Governors and submit a response to the Board of Governors within 60 days.

(3) MEDIATION.—If the Supervisory Agency rejects, in whole or in part, the recommendation of the Board of Governors, the Board of Governors may dispute the matter by referring the recommendation to the Council, which shall attempt to resolve the dispute.

(4) ENFORCEMENT ACTION.—If the Council is unable to resolve the dispute under paragraph (3) within 30 days from the date of referral, the Board of Governors may, upon a vote of its members—

(A) exercise the enforcement authority referenced in subsection (c) as if it were the Supervisory Agency; and

(B) take enforcement action against the designated financial market utility.

(f) EMERGENCY ENFORCEMENT ACTIONS BY THE BOARD OF GOVERNORS.—

(1) IMMINENT RISK OF SUBSTANTIAL HARM.—The Board of Governors may, after consulting with the Council and the Supervisory Agency, take enforcement action against a designated financial market utility if the Board of Governors has reasonable cause to believe that—

(A) either—

(i) an action engaged in, or contemplated by, a designated financial market utility (including any change proposed by the designated financial market utility to its rules, procedures, or operations that would otherwise be subject to section 806(e)) poses an imminent risk of substantial harm to financial institutions, critical markets, or the broader financial system; or

(ii) the condition of a designated financial market utility, poses an imminent risk of substantial harm to financial institutions, critical markets, or the broader financial system; and

(B) the imminent risk of substantial harm precludes the Board of Governors' use of the procedures in subsection (e).

(2) ENFORCEMENT AUTHORITY.—For purposes of taking enforcement action under paragraph (1), a designated financial market utility shall be subject to, and the Board of Governors shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the designated financial market utility was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.

(3) PROMPT NOTICE TO SUPERVISORY AGENCY OF ENFORCEMENT ACTION.—Within 24 hours of

taking an enforcement action under this subsection, the Board of Governors shall provide written notice to the designated financial market utility's Supervisory Agency containing a detailed analysis of the action of the Board of Governors, with supporting documentation included.

(g) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to make the provisions of subsections (c), (d), (e), or (f) applicable with respect to any designated financial market utility for which the Supervisory Agency is the Commodity Futures Trading Commission or the Securities and Exchange Commission.

**SEC. 808. EXAMINATION OF AND ENFORCEMENT ACTIONS AGAINST FINANCIAL INSTITUTIONS SUBJECT TO STANDARDS FOR DESIGNATED ACTIVITIES.**

(a) **EXAMINATION.**—The primary financial regulatory agency is authorized to examine a financial institution subject to the standards prescribed by the Board of Governors for a designated activity in order to determine the following:

(1) The nature and scope of the designated activities engaged in by the financial institution.

(2) The financial and operational risks the designated activities engaged in by the financial institution may pose to the safety and soundness of the financial institution.

(3) The financial and operational risks the designated activities engaged in by the financial institution may pose to other financial institutions, critical markets, or the broader financial system.

(4) The resources available to and the capabilities of the financial institution to monitor and control the risks described in paragraphs (2) and (3).

(5) The financial institution's compliance with this title and the rules and orders prescribed by the Board of Governors under this title.

(b) **ENFORCEMENT.**—For purposes of enforcing the provisions of this section, and the rules and orders prescribed by the Board of Governors under this section, a financial institution subject to the standards prescribed by the Board of Governors for a designated activity shall be subject to, and the primary financial regulatory agency shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the financial institution was an insured depository institution and the primary financial regulatory agency was the appropriate Federal banking agency for such insured depository institution.

(c) **TECHNICAL ASSISTANCE.**—The Board of Governors shall consult with and provide such technical assistance as may be required by the primary financial regulatory agencies to ensure that the rules and orders prescribed by the Board of Governors with respect to a designated activity under this title are interpreted and applied in as consistent and uniform a manner as practicable.

(d) **DELEGATION.**—

(1) **EXAMINATION.**—

(A) **REQUEST TO BOARD OF GOVERNORS.**—The primary financial regulatory agency may request the Board of Governors to conduct or participate in an examination of a financial institution subject to the standards prescribed by the Board of Governors for a designated activity in order to assess the compliance of such financial institution with—

(i) this title; or

(ii) the rules or orders prescribed by the Board of Governors under this title.

(B) **EXAMINATION BY BOARD OF GOVERNORS.**—Upon receipt of an appropriate written re-

quest, the Board of Governors will conduct the examination under such terms and conditions to which the Board of Governors and the primary financial regulatory agency mutually agree.

(2) **ENFORCEMENT.**—

(A) **REQUEST TO BOARD OF GOVERNORS.**—The primary financial regulatory agency may request the Board of Governors to enforce this title or the rules or orders prescribed by the Board of Governors under this title against a financial institution that is subject to the standards prescribed by the Board of Governors for a designated activity.

(B) **ENFORCEMENT BY BOARD OF GOVERNORS.**—Upon receipt of an appropriate written request, the Board of Governors shall determine whether an enforcement action is warranted, and, if so, it shall enforce compliance with this title or the rules or orders prescribed by the Board of Governors with respect to a designated activity under this title and, if so, the financial institution shall be subject to, and the Board of Governors shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the financial institution was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.

(c) **BACK-UP AUTHORITY OF THE BOARD OF GOVERNORS.**—

(1) **EXAMINATION AND ENFORCEMENT.**—Notwithstanding any other provision of law, the Board of Governors may—

(A) conduct an examination of the type described in subsection (a) of any financial institution that is subject to the standards prescribed by the Board of Governors for a designated activity; and

(B) enforce the provisions of this title or any rules or orders prescribed by the Board of Governors under this title against any financial institution that is subject to the standards prescribed by the Board of Governors for a designated activity.

(2) **LIMITATIONS.**—

(A) **EXAMINATION.**—The Board of Governors may exercise the authority described in paragraph (1)(A) only if the Board of Governors has—

(i) reasonable cause to believe that a financial institution is not in compliance with this title or the rules or orders prescribed by the Board of Governors under this title with respect to a designated activity;

(ii) notified, in writing, the primary financial regulatory agency and the Council of its belief under clause (i) with supporting documentation included;

(iii) requested the primary financial regulatory agency to conduct a prompt examination of the financial institution; and

(iv) either—

(I) not been afforded a reasonable opportunity to participate in an examination of the financial institution by the primary financial regulatory agency within 30 days after the date of the Board's notification under clause (ii); or

(II) reasonable cause to believe that the financial institution's noncompliance with this title or the rules or orders prescribed by the Board of Governors with respect to a designated activity under this title poses a substantial risk to other financial institutions, critical markets, or the broader financial system, subject to the Board of Governors affording the primary financial regulatory agency a reasonable opportunity to participate in the examination.

(B) **ENFORCEMENT.**—The Board of Governors may exercise the authority described in paragraph (1)(B) only if the Board of Governors has—

(i) reasonable cause to believe that a financial institution is not in compliance with this title or the rules or orders prescribed by the Board of Governors under this title with respect to a designated activity;

(ii) notified, in writing, the primary financial regulatory agency and the Council of its belief under clause (i) with supporting documentation included and with a recommendation that the primary financial regulatory agency take 1 or more specific enforcement actions against the financial institution; and

(iii) either—

(I) not been notified, in writing, by the primary financial regulatory agency of the commencement of an enforcement action recommended by the Board of Governors against the financial institution within 60 days from the date of the notification under clause (ii); or

(II) reasonable cause to believe that the financial institution's noncompliance with this title or the rules or orders prescribed by the Board of Governors with respect to a designated activity under this title poses a substantial risk to other financial institutions, critical markets, or the broader financial system, subject to the Board of Governors notifying the primary financial regulatory agency of the Board's enforcement action.

(3) **ENFORCEMENT PROVISIONS.**—For purposes of taking enforcement action under paragraph (1), the financial institution shall be subject to, and the Board of Governors shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the financial institution was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.

**SEC. 809. REQUESTS FOR INFORMATION, REPORTS, OR RECORDS.**

(a) **INFORMATION TO ASSESS SYSTEMIC IMPORTANCE.**—

(1) **FINANCIAL MARKET UTILITIES.**—The Council is authorized to require any financial market utility to submit such information as the Council may require for the sole purpose of assessing whether that financial market utility is systemically important, but only if the Council has reasonable cause to believe that the financial market utility meets the standards for systemic importance set forth in section 804.

(2) **FINANCIAL INSTITUTIONS ENGAGED IN PAYMENT, CLEARING, OR SETTLEMENT ACTIVITIES.**—The Council is authorized to require any financial institution to submit such information as the Council may require for the sole purpose of assessing whether any payment, clearing, or settlement activity engaged in or supported by a financial institution is systemically important, but only if the Council has reasonable cause to believe that the activity meets the standards for systemic importance set forth in section 804.

(b) **REPORTING AFTER DESIGNATION.**—

(1) **DESIGNATED FINANCIAL MARKET UTILITIES.**—The Board of Governors and the Council may require a designated financial market utility to submit reports or data to the Board of Governors and the Council in such frequency and form as deemed necessary by the Board of Governors and the Council in order to assess the safety and soundness of the utility and the systemic risk that the utility's operations pose to the financial system.

(2) **FINANCIAL INSTITUTIONS SUBJECT TO STANDARDS DESIGNATED ACTIVITIES.**—The Board of Governors and the Council may require 1 or more financial institutions subject to the standards prescribed by the Board of Governors for a designated activity to submit, in such frequency and form as deemed necessary by the Board of Governors and the Council, reports and data to the Board of Governors and the Council solely with respect to the conduct of the designated activity and solely to assess whether—

(A) the rules, orders, or standards prescribed by the Board of Governors with respect to the designated activity appropriately address the risks to the financial system presented by such activity; and

(B) the financial institutions are in compliance with this title and the rules and orders prescribed by the Board of Governors under this title with respect to the designated activity.

(c) **COORDINATION WITH APPROPRIATE FEDERAL SUPERVISORY AGENCY.**—

(1) **ADVANCE COORDINATION.**—Before directly requesting any material information from, or imposing reporting or record-keeping requirements on, any financial market utility or any financial institution engaged in a payment, clearing, or settlement activity as provided in subsections (a) and (b), the Board of Governors and the Council shall coordinate with the Supervisory Agency for a financial market utility or the primary financial regulatory agency for a financial institution to determine if the information is available from or may be obtained by the agency in the form, format, or detail required by the Board of Governors and the Council.

(2) **SUPERVISORY REPORTS.**—For purposes of the coordination required by paragraph (1), and notwithstanding any other provision of law, the Supervisory Agency, the primary financial regulatory agency, and the Board of Governors are authorized to disclose to each other and the Council copies of its examination reports or similar reports regarding any financial market utility or any financial institution engaged in payment, clearing, or settlement activities.

(d) **TIMING OF RESPONSE FROM APPROPRIATE FEDERAL SUPERVISORY AGENCY.**—

(1) **IN GENERAL.**—If the information, report, records, or data requested by the Board of Governors or the Council under subsection (c)(1) are not provided in full by the Supervisory Agency or the primary financial regulatory agency in less than 15 days after the date on which the material is requested, the Board of Governors or the Council may request the information or impose record-keeping or reporting requirements directly on such persons as provided in subsections (a) and (b) with notice to the agency.

(2) **RULE OF CONSTRUCTION.**—Nothing in this section authorizes or shall be construed to authorize the Board of Governors or the Council to prescribe any recordkeeping or reporting requirements on designated financial market utilities for which the Supervisory Agency is the Commodity Futures Trading Commission or the Securities and Exchange Commission.

(e) **SHARING OF INFORMATION.**—

(1) **MATERIAL CONCERNS.**—Notwithstanding any other provision of law, the Board of Governors, the Council, the primary financial regulatory agency, and any Supervisory Agency are authorized to—

(A) promptly notify each other of material concerns about a designated financial market utility or any financial institution engaged in designated activities; and

(B) share appropriate reports, information or data relating to such concerns.

(2) **OTHER INFORMATION.**—Notwithstanding any other provision of law, the Board of Governors, the Council, the primary financial regulatory agency, or any Supervisory Agency may, under such terms and conditions as it deems appropriate, provide confidential supervisory information and other information obtained under this title to other persons it deems appropriate, including the Secretary, State financial institution supervisory agencies, foreign financial supervisors, foreign central banks, and foreign finance ministries, subject to reasonable assurances of confidentiality.

(f) **PRIVILEGE MAINTAINED.**—The Board of Governors, the Council, the primary financial regulatory agency, and any Supervisory Agency providing reports or data under this section shall not be deemed to have waived any privilege applicable to those reports or data, or any portion thereof, by providing the reports or data under this section or by permitting the reports or data, or any copies thereof, to be used pursuant to this section.

(g) **DISCLOSURE EXEMPTION.**—Information obtained by the Board of Governors or the Council under this section and any materials prepared by the Board of Governors or the Council regarding its assessment of the systemic importance of financial market utilities or any payment, clearing, or settlement activities engaged in by financial institutions, and in connection with its supervision of designated financial market utilities and designated activities, shall be confidential supervisory information exempt from disclosure under section 552 of title 5, United States Code. For purposes of such section 552, this subsection shall be considered a statute described in subsection (b)(3) of such section 552.

#### SEC. 810. RULEMAKING.

The Board of Governors and the Council are authorized to prescribe such rules and issue such orders as may be necessary to administer and carry out the authorities and duties granted to the Board of Governors or the Council, respectively, under this title and prevent evasions thereof.

#### SEC. 811. OTHER AUTHORITY.

Unless otherwise provided by its terms, this title does not divest any primary financial regulatory agency, any Supervisory Agency, or any other Federal or State agency, of any authority derived from any other applicable law, except that any standards prescribed by the Board of Governors under section 805 shall supersede any less stringent requirements established under other authority to the extent of any conflict.

#### SEC. 812. EFFECTIVE DATE.

This title is effective as of the date of enactment of this Act.

**SA 4093.** Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 296, between lines 15 and 16, insert the following:

(d) **REPEAL OF SAFE HARBOR TREATMENT IN THE BANKRUPTCY CODE.**—Title 11, United States Code, is amended—

(1) in section 103(a), by striking “chapter” and all that follows through “apply” and inserting “chapter, sections 307, 362(n), 557, and 562 apply”;

(2) in section 362—

(A) in subsection (b)—

(i) by striking paragraphs (6), (7), (17), and (27);

(ii) by redesignating paragraphs (8) through (16) as paragraphs (5) through (13), respectively;

(iii) by redesignating paragraphs (18) through (26) as paragraphs (14) through (22), respectively;

(iv) by redesignating paragraph (28) as paragraph (23); and

(v) in the undersigned matter at the end, by striking “(12) and (13)” and inserting “(9) and (10)”;

(B) by striking subsection (o);

(3) in section 546—

(A) in subsection (e)—

(i) by striking “101 or”;

(ii) by striking “101, 741,” and inserting “741”; and

(iii) by inserting “and except in a case under chapter 11 or 15,” before “the trustee”;

(B) in subsection (f), by inserting “and except in a case under chapter 11 or chapter 15,” before “the trustee”;

(C) by striking subsections (g) and (j); and

(D) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively;

(4) in section 548(d)(2)—

(A) by striking subparagraphs (C) through (E);

(B) in subparagraph (A), by adding “and” at the end; and

(C) in subparagraph (B), by striking the semicolon at the end and inserting a period;

(5) in section 553—

(A) in subsection (a), by striking “(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)” each place that term appears; and

(B) in subsection (b), by striking “Except with respect to a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561, if a” and inserting “If a”;

(6) by striking sections 555, 556, 559, 560, and 561 and inserting “[Repealed].”;

(7) in the table of sections for subchapter III of chapter 5, by striking the items relating to sections 555, 556, 559, 560, and 561;

(8) in section 901—

(A) by striking “555, 556,”; and

(B) by striking “559, 560, 561,”;

(9) in section 1519, by striking subsection (f); and

(10) in section 1521, by striking subsection (f).

At the end of title II, add the following:

#### SEC. . BANKRUPTCY CODE AMENDMENTS.

(a) **DEFINITION.**—Section 101 of title 11, United States Code, is amended by inserting after paragraph (43) the following:

“(43A) The term ‘qualified financial contract’ means any securities contract, commodity contract, forward contract, repurchase agreement, or swap agreement, that is cleared by or subject to the rules of a clearing organization (as defined in section 201(c)(9)(D) of the Restoring American Financial Stability Act of 2010).”

(b) **LIMITATION ON STAY OF EXERCISE OF CERTAIN CONTRACTUAL RIGHTS.**—Section 541 of title 11, United States Code, is amended by adding at the end the following:

“(g) Notwithstanding any other provision of this title, if the trustee does not assume

or reject a qualified financial contract of the debtor within 3 days after the order for relief, the exercise of any contractual right of any counterparty to such qualified financial contract to cause the liquidation, termination, or acceleration of one or more qualified financial contracts because of a condition of the kind specified in section 365(e)(1), or to offset or net out any termination values or payment amounts arising under or in connection with the termination, liquidation, or acceleration of one or more qualified financial contracts shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court or administrative agency in any proceeding under this title. During such 3-day period the trustee shall make a good faith effort to meet all margin, collateral, and settlement obligations of the debtor that arise under qualified financial contracts, other than any such obligation that is not enforceable against the trustee.”.

(c) **LIMITATION ON AVOIDANCE OF TRANSFER.**—Section 546(j) of title 11, United States Code, is amended to read as follows:

“(j) Notwithstanding any Federal or State law relating to the avoidance of preferential or fraudulent transfers, the trustee may not avoid any transfer of money or other property in connection with any qualified financial contract of the debtor, unless the transferee had actual intent to hinder, delay, or defraud the debtor, the creditors of the debtor, or the trustee.”.

**SA 4094.** Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 209, line 9, insert before the period the following: “, that is cleared by or subject to the rules of a clearing organization (as defined in paragraph (9)(D))”.

**SA 4095.** Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 209, line 9, insert before the period the following: “, that is cleared by or subject to the rules of a clearing organization (as defined in paragraph (9)(D))”.

On page 296, between lines 15 and 16, insert the following:

(d) **REPEAL OF SAFE HARBOR TREATMENT IN THE BANKRUPTCY CODE.**—Title 11, United States Code, is amended—

(1) in section 103(a), by striking “chapter” and all that follows through “apply” and inserting “chapter, sections 307, 362(n), 557, and 562 apply”;

(2) in section 362—

(A) in subsection (b)—

(i) by striking paragraphs (6), (7), (17), and (27);

(ii) by redesignating paragraphs (8) through (16) as paragraphs (5) through (13), respectively;

(iii) by redesignating paragraphs (18) through (26) as paragraphs (14) through (22), respectively;

(iv) by redesignating paragraph (28) as paragraph (23); and

(v) in the undesignated matter at the end, by striking “(12) and (13)” and inserting “(9) and (10)”;

(B) by striking subsection (o);

(3) in section 546—

(A) in subsection (e)—

(i) by striking “101 or”;

(ii) by striking “101, 741,” and inserting “741”; and

(iii) by inserting “and except in a case under chapter 11 or 15,” before “the trustee”;

(B) in subsection (f), by inserting “and except in a case under chapter 11 or chapter 15,” before “the trustee”;

(C) by striking subsections (g) and (j); and

(D) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively;

(4) in section 548(d)(2)—

(A) by striking subparagraphs (C) through (E);

(B) in subparagraph (A), by adding “and” at the end; and

(C) in subparagraph (B), by striking the semicolon at the end and inserting a period;

(5) in section 553—

(A) in subsection (a), by striking “(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)” each place that term appears; and

(B) in subsection (b), by striking “Except with respect to a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561, if a” and inserting “If a”;

(6) by striking sections 555, 556, 559, 560, and 561 and inserting “[Repealed].”;

(7) in the table of sections for subchapter III of chapter 5, by striking the items relating to sections 555, 556, 559, 560, and 561;

(8) in section 901—

(A) by striking “555, 556.”; and

(B) by striking “559, 560, 561.”;

(9) in section 1519, by striking subsection (f); and

(10) in section 1521, by striking subsection (f).

At the end of title II, add the following:

#### **SEC. . . . BANKRUPTCY CODE AMENDMENTS.**

(a) **DEFINITION.**—Section 101 of title 11, United States Code, is amended by inserting after paragraph (43) the following:

“(43A) The term ‘qualified financial contract’ means any securities contract, commodity contract, forward contract, repurchase agreement, or swap agreement, that is cleared by or subject to the rules of a clearing organization (as defined in section 201(c)(9)(D) of the Restoring American Financial Stability Act of 2010.”.

(b) **LIMITATION ON STAY OF EXERCISE OF CERTAIN CONTRACTUAL RIGHTS.**—Section 541 of title 11, United States Code, is amended by adding at the end the following:

“(g) Notwithstanding any other provision of this title, if the trustee does not assume or reject a qualified financial contract of the debtor within 3 days after the order for re-

lief, the exercise of any contractual right of any counterparty to such qualified financial contract to cause the liquidation, termination, or acceleration of one or more qualified financial contracts because of a condition of the kind specified in section 365(e)(1), or to offset or net out any termination values or payment amounts arising under or in connection with the termination, liquidation, or acceleration of one or more qualified financial contracts shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court or administrative agency in any proceeding under this title. During such 3-day period the trustee shall make a good faith effort to meet all margin, collateral, and settlement obligations of the debtor that arise under qualified financial contracts, other than any such obligation that is not enforceable against the trustee.”.

(c) **LIMITATION ON AVOIDANCE OF TRANSFER.**—Section 546(j) of title 11, United States Code, is amended to read as follows:

“(j) Notwithstanding any Federal or State law relating to the avoidance of preferential or fraudulent transfers, the trustee may not avoid any transfer of money or other property in connection with any qualified financial contract of the debtor, unless the transferee had actual intent to hinder, delay, or defraud the debtor, the creditors of the debtor, or the trustee.”.

**SA 4096.** Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 370, between lines 13 and 14, insert the following:

#### **SEC. 333. FDIC EXAMINATION AUTHORITY.**

(a) **EXAMINATION AUTHORITY FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.**—Section 10(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(3)) is amended by striking “whenever the Board” and all that follows through the period at the end and inserting the following: “or depository institution holding company whenever the Chairperson or the Board of Directors determines that a special examination of any such depository institution or depository institution holding company is necessary to determine the condition of such depository institution or depository institution holding company for insurance purposes or for purposes of title II of the Restoring American Financial Stability Act of 2010.”.

(b) **ENFORCEMENT AUTHORITY.**—Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended—

(1) in paragraph (1)—

(A) by striking “based on an examination of an insured depository institution” and inserting “based on an examination of an insured depository institution or depository institution holding company”; and

(B) by striking “with respect to any insured depository institution or” and inserting “with respect to any insured depository

institution, depository institution holding company, or”;

(2) in paragraph (2)—

(A) by striking “Board of Directors determines, upon a vote of its members,” and inserting “Board of Directors, upon a vote of its members, or the Chairperson determines”;

(B) in subparagraph (B), by striking “or” at the end;

(C) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(D) by adding at the end the following:

“(D) the conduct or threatened conduct (including any acts or omissions) of the depository institution holding company poses a risk to the Deposit Insurance Fund or of the exercise of authority under title II of the Restoring American Financial Stability Act of 2010, or may prejudice the interests of the depositors of an affiliated institution.”;

(3) in paragraph (3)(A), by striking “upon a vote of the Board of Directors” and inserting “upon a determination by the Chairperson or upon a vote of the Board of Directors”;

(4) in paragraph (4)(A)—

(A) by striking “any insured depository institution” and inserting “any insured depository institution, depository institution holding company,”; and

(B) by striking “the institution” and inserting “the institution, holding company,”;

(5) in paragraph (4)(B), by striking “the institution” each place that term appears and inserting “the institution, holding company,”; and

(6) in paragraph (5)(A), by striking “an insured depository institution” and inserting “an insured depository institution, depository institution holding company,”.

(c) **BACK-UP EXAMINATION AUTHORITY FOR ORDERLY LIQUIDATION PURPOSES.**—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

**“SEC. 51. BACK-UP EXAMINATION AUTHORITY FOR ORDERLY LIQUIDATION PURPOSES.**

“The Corporation may conduct a special examination of a nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010, if the Chairperson or the Board of Directors determines an examination is necessary to determine the condition of the company for purposes of title II of that Act.”.

(d) **ACCESS TO INFORMATION FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.**—The Federal Deposit Insurance Act is amended by adding at the end the following:

**“SEC. 52. ACCESS TO INFORMATION FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.**

“(a) **ACCESS TO INFORMATION.**—The Corporation may, if the Corporation determines that such action is necessary to carry out its responsibilities relating to deposit insurance or orderly liquidation—

“(1) obtain information from an insured depository institution, depository institution holding company, or nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010;

“(2) obtain information from the appropriate Federal banking agency, or any regulator of a nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010, including examination reports; and

“(3) participate in any examination, visitation, or risk-scoping activity of an insured depository institution, depository institution holding company, or nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010.

“(b) **ENFORCEMENT.**—The Corporation shall have the authority to take any enforcement action under section 8 against any institution or company described in paragraph (1) of subsection (a) that fails to provide any information requested under that paragraph.

“(c) **USE OF AVAILABLE INFORMATION.**—The Corporation shall use, in lieu of a request for information under subsection (a), information provided to another Federal or State regulatory agency, publicly available information, or externally audited financial statements to the extent that the Corporation determines such information is adequate to the needs of the Corporation.”.

**SA 4097.** Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1006, strike line 17 and all that follows through page 1007, line 2, and insert the following:

(A) by striking paragraph (2) and inserting the following:

“(2) **STANDARDS AND OVERSIGHT.**—The Commission shall set standards and exercise oversight of the procedures and methodologies, including qualitative and quantitative data and models, used by nationally recognized statistical rating organizations, to ensure that the credit ratings issued by the nationally recognized statistical rating organizations have a reasonable foundation.”; and

**SA 4098.** Mr. LEVIN (for himself, Mr. KAUFMAN, Mr. REED, and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1056, line 17, strike the second period and insert the following: “.

**SEC. 946. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.**

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15G, as added by this Act, the following new section:

**“SEC. 15H. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.**

“(a) **DEFINITION.**—For purposes of this section, the term ‘synthetic asset-backed security’ means an asset-backed security with respect to which, by design, the self-liquidating financial assets referenced in the synthetic securitization do not provide any direct payment or cash flow to the holder of the security.

“(b) **RESTRICTION.**—No issuer, underwriter, placement agent, sponsor, or initial purchaser may offer, sell, or transfer a synthetic asset-backed security that has no substantial or material economic purpose apart from speculation on a possible future gain or loss associated with the value or condition of the referenced assets. The Commission may determine whether a synthetic asset-backed security meets the requirements of this section. A determination by the Commission under the preceding sentence is not subject to judicial review.”.

**SA 4099.** Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1028 between lines 4 and 5 insert the following:

“(E) **NO RELIANCE ON INADEQUATE REPORT.**—A nationally recognized statistical rating organization may not rely on a third-party due diligence report if the nationally recognized statistical rating organization has reason to believe that the report is inadequate.

**SA 4100.** Mr. DODD submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 584, line 7, after the first period insert the following:

“(k) **CLEARING REQUIREMENTS FOR CREDIT DEFAULT SWAPS.**—Subject to the exemption requirements of paragraphs (9) and (10) of subsection (h), all credit default swaps that are swaps shall be cleared pursuant to the requirements of subsection (h)(1).

“(l) **BAN ON RISKY UNDISCLOSED NAKED CREDIT DEFAULT SWAPS.**—

“(1) **PROHIBITION.**—

“(A) **IN GENERAL.**—It shall be unlawful for a protection buyer to enter into a credit default swap that establishes a short position in a reference entity’s credit instrument unless the protection buyer can demonstrate to



the Commission, in such manner and in such form as may be prescribed jointly by the Commission and the Securities and Exchange Commission, that the protection buyer—

“(i) is undertaking such action to establish a legitimate short position in credit default swaps; or

“(ii) is regulated by the Commission as a swap dealer in credit default swaps, and is acting as a market-maker or is otherwise engaged in a financial transaction on behalf of a customer.

“(B) LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.—A protection buyer's short position in credit default swaps shall be considered a legitimate short position in credit default swaps if—

“(i) the value of the protection buyer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the protection buyer's position in credit default swaps; and

“(ii) the reference entity or entities for the protection buyer's credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a non-narrow-based index credit default swap, is the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

“(C) DETERMINATION OF THE COMMISSION.—

“(i) IN GENERAL.—The Commission and the Securities and Exchange Commission shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term ‘valid credit instrument’.

“(ii) CONSIDERATIONS AND REQUIREMENTS.—In defining the term ‘valid credit instrument’, the Commission and the Securities and Exchange Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

“(iii) RULE OF CONSTRUCTION.—For purposes of this subsection, any instrument with an equity risk exposure or equity-like features shall not be considered by the Commission and the Securities and Exchange Commission to be a valid credit instrument.

“(D) REPORTING.—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the Commission, in such manner, in such frequency, and in such form as the Commission may prescribe.

“(E) HOLDING OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SWAP DEALERS.—Any swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner and in such form as shall be prescribed jointly by the Commission and the Securities and Exchange Commission, that—

“(i) the value of the swap dealer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the swap dealer's position in credit default swaps; and

“(ii) the reference entity or entities for the swap dealer's credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a non-narrow-based index credit default swap, are the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the swap dealer owns.

“(F) PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with the intent of evading the provisions of this subsection.

“(G) AUTHORITY OF THE COMMISSION.—The Commission, in consultation with the Securities and Exchange Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale credit default swaps that are swaps.

“(2) DEFINITIONS.—

“(A) IN GENERAL.—In this subsection, the following definitions shall apply:

“(i) CREDIT DEFAULT SWAP.—The term ‘credit default swap’—

“(I) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

“(II) is not a security issued by a corporation, State, municipality, or sovereign entity.

“(ii) CREDIT EVENT.—The term ‘credit event’ includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

“(iii) PROTECTION BUYER.—The term ‘protection buyer’ means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the ‘protection seller’) upon the occurrence of one or more credit events.

“(iv) REFERENCE ENTITY.—The term ‘reference entity’ means any borrower, such as a corporation, State, municipality, sovereign entity, or special purpose entity, which has issued a debt obligation or obtained a loan that is referenced by a credit default swap.

“(B) FURTHER DEFINITION OF TERMS.—The Commission and the Securities and Exchange Commission shall jointly establish and adopt rules, regulations, or order, in accordance with the public interest, further defining the terms ‘credit default swap’, ‘credit event’, ‘protection buyer’, and ‘reference entity’.

“(3) EFFECTIVE DATE.—This subsection shall take effect 2 years following the date on which the Wall Street Transparency and Accountability Act of 2010 becomes effective, except that the Commission and the Securities and Exchange Commission may require disclosure and reporting of positions and holdings as set forth in this subsection at such earlier date as they may jointly determine.

“(m) PUBLIC REPORTING OF CREDIT DEFAULT SWAPS.—

“(1) IN GENERAL.—Notwithstanding paragraphs (8), (9), and (10) of subsection (h), the Commission and the Securities and Exchange Commission shall jointly adopt rules requiring public reporting by counterparties of all net notional amount of credit default swaps purchased or sold referencing a specific reference entity in an amount greater than 1 percent of the outstanding debt of that reference entity.

“(2) RULEMAKING.—The Commission and the Securities and Exchange Commission may adopt rules setting the public reporting requirement threshold of subparagraph (A) in an amount less than 1 percent and may set a lower reporting requirement threshold for

credit default swaps purchased or sold on governmental entities. In adopting rules implementing this requirement, the Commission and the Securities and Exchange Commission shall require counterparties to report both hedged and unhedged positions. The Commission and the Securities and Exchange Commission shall prescribe rules to specify the form, manner, and timing of such reports.

“(3) FURTHER DEFINITION OF TERMS.—For purposes of this subsection, the Commission and the Securities and Exchange Commission shall jointly establish and adopt rules, regulation, or orders in accordance with the public interest, defining the terms ‘credit default swap’, ‘reference entity’, ‘outstanding debt’, ‘net notional amount of credit default swaps’, and ‘governmental entities’.

On page 808, line 8, after the first period, insert the following:

“(e) CLEARING REQUIREMENTS FOR CREDIT DEFAULT SWAPS.—Subject to the exemption requirements of paragraphs (9) and (10) of subsection (a), all credit default swaps that are security-based swaps shall be cleared pursuant to the requirements of subsection (a)(1).

#### “SEC. 3C-1. BAN ON RISKY UNDISCLOSED NAKED CREDIT DEFAULT SWAPS.

“(a) PROHIBITION.—

“(1) IN GENERAL.—It shall be unlawful for a protection buyer to enter into a credit default swap that establishes a short position in a reference entity's credit instrument unless the protection buyer can demonstrate to the Commission, in such manner and in such form as may be prescribed jointly by the Commission and the Commodity Futures Trading Commission, that the protection buyer—

“(A) is undertaking such action to establish a legitimate short position in credit default swaps; or

“(B) is regulated by the Commission as a security-based swap dealer in credit default swaps, and is acting as a market-maker or is otherwise engaged in a financial transaction on behalf of a customer.

“(2) LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.—A protection buyer's short position in credit default swaps shall be considered a legitimate short position in credit default swaps if—

“(A) the value of the protection buyer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the protection buyer's position in credit default swaps; and

“(B) the reference entity or entities for the protection buyer's credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a non-narrow-based index credit default swap, is the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

“(3) DETERMINATION OF THE COMMISSION.—

“(A) IN GENERAL.—The Commission and the Commodity Futures Trading Commission shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term ‘valid credit instrument’.

“(B) CONSIDERATIONS AND REQUIREMENTS.—In defining the term ‘valid credit instrument’, the Commission and the Commodity Futures Trading Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

“(C) RULE OF CONSTRUCTION.—For purposes of this section, any instrument with an equity risk exposure or equity-like features



shall not be considered by the Commission and the Commodity Futures Trading Commission to be a valid credit instrument.

“(4) REPORTING.—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the Commission, in such manner, in such frequency, and in such form as the Commission may prescribe.

“(5) HOLDING OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SECURITY-BASED SWAP DEALERS.—Any security-based swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner and in such form as shall be prescribed jointly by the Commission and the Commodity Futures Trading Commission, that—

“(A) the value of the security-based swap dealer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the security-based swap dealer's position in credit default swaps; and

“(B) the reference entity or entities for the security-based swap dealer's credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a non-narrow-based index credit default swap, are the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the security-based swap dealer owns.

“(6) PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with the intent of evading the provisions of this section.

“(7) AUTHORITY OF THE COMMISSION.—The Commission, in consultation with the Commodity Futures Trading Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale credit default swaps that are security-based swaps.

“(b) DEFINITIONS.—

“(1) IN GENERAL.—In this section, the following definitions shall apply:

“(A) CREDIT DEFAULT SWAP.—The term ‘credit default swap’—

“(i) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

“(ii) is not a security issued by a corporation, State, municipality, or sovereign entity.

“(B) CREDIT EVENT.—The term ‘credit event’ includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

“(C) PROTECTION BUYER.—The term ‘protection buyer’ means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the ‘protection seller’) upon the occurrence of one or more credit events.

“(D) REFERENCE ENTITY.—The term ‘reference entity’ means any borrower, such as a corporation, State, municipality, sovereign

entity, or special purpose entity, which has issued a debt obligation or obtained a loan that is referenced by a credit default swap.

“(2) FURTHER DEFINITION OF TERMS.—The Commission and the Commodity Futures Trading Commission shall jointly establish and adopt rules, regulations, or order, in accordance with the public interest, further defining the terms ‘credit default swap’, ‘credit event’, ‘protection buyer’, and ‘reference entity’.

“(c) EFFECTIVE DATE.—This section shall take effect 2 years following the date on which the Wall Street Transparency and Accountability Act of 2010 becomes effective, except that the Commission and the Commodity Futures Trading Commission may require disclosure and reporting of positions and holdings as set forth in this section at such earlier date as they may jointly determine.

#### “SEC. 3C-2. PUBLIC REPORTING OF CREDIT DEFAULT SWAPS.

“(a) IN GENERAL.—Notwithstanding paragraphs (8), (9), and (10) of section 3C(a), the Commission and the Commodity Futures Trading Commission shall jointly adopt rules requiring public reporting by counterparties of all net notional amount of credit default swaps purchased or sold referencing a specific reference entity in an amount greater than 1 percent of the outstanding debt of that reference entity.

“(b) RULEMAKING.—The Commission and the Commodity Futures Trading Commission may adopt rules setting the public reporting requirement threshold of subsection (a) in an amount less than 1 percent and may set a lower reporting requirement threshold for credit default swaps purchased or sold on governmental entities. In adopting rules implementing this requirement, the Commission and the Commodity Futures Trading Commission shall require counterparties to report both hedged and unhedged positions. The Commission and the Commodity Futures Trading Commission shall prescribe rules to specify the form, manner, and timing of such reports.

“(c) FURTHER DEFINITION OF TERMS.—For purposes of this section, the Commission and the Commodity Futures Trading Commission shall jointly establish and adopt rules, regulation, or orders in accordance with the public interest, defining the terms ‘credit default swap’, ‘reference entity’, ‘outstanding debt’, ‘net notional amount of credit default swaps’, and ‘governmental entities’.”

On page 893, after line 25, insert the following:

#### SEC. 774. COUNCIL STUDY AND ACTION REGARDING CERTAIN PROHIBITIONS.

(a) IN GENERAL.—

(1) IN GENERAL.—The Financial Stability Oversight Council shall conduct a study of issues involving the purchase and sale of credit default swaps and naked credit default swaps.

(2) RULE OF CONSTRUCTION.—For purposes of this section, a naked credit default swap is a credit default swap entered into by a person that does not own the valid debt instrument or valid debt instruments referenced in the credit default swap or own a valid debt instrument or valid debt instruments of the issuer or borrower, or issuers or borrowers, referenced in the credit default swap, or a similar risk exposure.

(b) MATTERS TO BE ADDRESSED.—The study required under subsection (a) shall address—

(1) the impact of trading of credit default swaps on debt issuers, credit availability, financial markets, and the overall economy of the United States;

(2) the potential uses of naked credit default swaps;

(3) the potential systemic impact of short positions in naked credit default swaps;

(4) existing authority of regulators to address risks to market participants and systemic risk of credit default swaps and naked credit default swaps; and

(5) such other relevant matters as the Council deems necessary or appropriate to address.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, if the Financial Stability Oversight Council agrees by an affirmative vote of the majority of its members then serving to the conclusions and findings of the study required under subsection (a), and to any recommendations for legislative action the Council deems necessary and appropriate based on such conclusions and findings, the Council shall submit such report, together with such recommendations, to Congress.

(d) ACTION BY CHAIRPERSON OF THE COUNCIL.—Following receipt of the report required by subsection (c), and notwithstanding section 2(l) of the Commodity Exchange Act, section 5A of the Securities Act of 1933, and section 3C-1 of the Securities Exchange Act of 1934, the Chairperson of the Council may make a written determination suspending, in whole or in part, the prohibitions of section 2(l) of the Commodity Exchange Act, section 5A of the Securities Act of 1933, and section 3C-1 of the Securities Exchange Act of 1934.

(e) FINDING BY CHAIRPERSON OF THE COUNCIL.—Based upon the conclusions and findings of the study required under subsection (a), the Chairperson of the Council may make a written determination as provided in subsection (d) only upon a finding that the prohibitions in section 2(l) of the Commodity Exchange Act, section 5A of the Securities Act of 1933, and section 3C-1 of the Securities Exchange Act of 1934 would have a material adverse effect on the financial markets and economy of the United States.

(f) CONGRESSIONAL NOTICE; EFFECTIVENESS.—The Chairperson of the Council shall submit any written determination made pursuant to subsection (d) to the Committees on Banking, Housing, and Urban Affairs and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate and the Committees on Financial Services and Agriculture of the United States House of Representatives. Any such written determination by the Chairperson of the Council shall not be effective until such determination has been submitted to the appropriate committees of Congress.

On page 1056, line 17, strike the second period and insert the following: “.

#### SEC. 946. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.

The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 5 the following:

#### “SEC. 5A. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.

“(a) DEFINITION.—For purposes of this section, the term ‘synthetic asset-backed security’ means an asset-backed security, as defined in section 3(a)(77) of the Securities Exchange Act of 1934, with respect to which, by design, the self-liquidating financial assets referenced in the synthetic securitization do not provide any direct payment or cash flow to the holders of the security.

“(b) RESTRICTION.—

“(1) IN GENERAL.—No issuer, underwriter, placement agent, sponsor, or initial purchaser may offer, sell, or transfer a synthetic asset-backed security that has no purpose

apart from speculation on a possible future gain or loss associated with the value or condition of the referenced assets. The Commission may determine, by rule or otherwise, whether a security is included within the description set forth in the preceding sentence. Any such determination by the Commission, other than by rule, is not subject to judicial review.

“(2) RULEMAKING.—Not later than 270 days after the date of enactment of this section, the Commission shall issue rules carry out this section and to prevent evasions thereof.

“(c) EFFECTIVE DATE.—This section shall take effect 2 years following the date on which the Wall Street Transparency and Accountability Act of 2010 becomes effective, except that the Commission may require any disclosure or reporting of information or data pursuant to this section at such earlier date as the Commission may determine.”.

**SA 4101.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 484, strike line 16 and all that follows through page 497, line 8, and insert the following:

**SEC. 619. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following:

**“SEC. 13. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

“(a) IN GENERAL.—

“(1) PROHIBITION.—Unless otherwise provided in this section, a banking entity shall not—

“(A) engage in proprietary trading; or

“(B) acquire or retain any equity, partnership, or other ownership interest in or sponsor a hedge fund or a private equity fund.

“(2) NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD.—Any nonbank financial company supervised by the Board that engages in proprietary trading or takes or retains any equity, partnership, or other ownership interest in or sponsors a hedge fund or a private equity fund shall be subject by the Board to additional capital requirements for and additional quantitative limits with regards to such proprietary trading and taking or retaining any equity, partnership, or other ownership interest in or sponsorship of a hedge fund or a private equity fund, except that permitted activities as described in subsection (d) shall be subject to additional capital and additional quantitative limits as prescribed pursuant to subsection (d)(3).

“(b) STUDY AND RULEMAKING.—

“(1) STUDY.—Not later than 6 months after the date of enactment of this section, the Financial Stability Oversight Council shall study and make recommendations on implementing the provisions of this section so as to—

“(A) promote and enhance the safety and soundness of banking entities;

“(B) protect taxpayers and enhance financial stability by minimizing the risk that insured depository institutions and the affiliates of insured depository institutions will engage in unsafe and unsound activities;

“(C) limit the inappropriate transfer of Federal subsidies from institutions that benefit from deposit insurance and liquidity facilities of the Federal Government to unregulated entities;

“(D) reduce conflicts of interest between the self-interest of banking entities and nonbank financial companies supervised by the Board, and the interests of the customers of such entities and companies;

“(E) limit activities that have caused undue risk or loss in banking entities and nonbank financial companies supervised by the Board, or that might reasonably be expected to create undue risk or loss in such banking entities and nonbank financial companies supervised by the Board;

“(F) appropriately accommodate the business of insurance within an insurance company subject to regulation in accordance with the relevant insurance company investment laws while protecting the safety and soundness of any banking entity with which such insurance company is affiliated, and of the United States financial system; and

“(G) appropriately time the divestiture of illiquid assets that are affected by the implementation of the prohibitions under subsection (a).

“(2) RULEMAKING.—

“(A) IN GENERAL.—Not later than 9 months after the completion of the study under paragraph (1), the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, (unless otherwise provided in this section) shall consider the findings of the study under paragraph (1) and adopt rules to carry out this section, as provided in subparagraph (B).

“(B) COORDINATED RULEMAKING.—

“(i) REGULATORY AUTHORITY.—The regulations issued under this paragraph and subsections (d) and (e) shall be issued by—

“(I) the appropriate Federal banking agencies, jointly, with respect to insured depository institutions;

“(II) the Board, with respect to any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, any subsidiary of such a company (other than a subsidiary described in subparagraph (A) or (C)), and any nonbank financial company supervised by the Board;

“(III) the Commodity Futures Trading Commission, with respect to any entity for which the Commodity Futures Trading Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010; and

“(IV) the Securities and Exchange Commission, with respect to any entity for which the Securities and Exchange Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010.

“(ii) COORDINATION, CONSISTENCY, AND COMPARABILITY.—In developing and issuing regulations pursuant to this section, the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall consult and coordinate with each other, as appropriate, for the purposes of assuring,

to the extent possible, that such regulations are comparable and provide for consistent application and implementation of the applicable provisions of this section to avoid providing advantages or imposing disadvantages to the companies affected by this subsection and to protect the safety and soundness of banking entities and nonbank financial companies supervised by the Board.

“(iii) COUNCIL ROLE.—The Chairperson of the Council shall be responsible for coordination of the regulations issued under this section.

“(c) EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), this section shall take effect on the earlier of—

“(A) 12 months after the issuance of final rules under subsection (b); or

“(B) 2 years after the date of enactment of this section.

“(2) TRANSITION PERIOD FOR DIVESTITURE OF HEDGE FUNDS OR PRIVATE EQUITY FUNDS BY BANKING ENTITIES.—

“(A) NO NEW INVESTMENTS.—

“(i) NO NEW FUNDS.—On and after the date of enactment of this section, a banking entity may not sponsor or invest in a hedge fund or private equity fund that the banking entity did not sponsor or in which the banking entity was not invested on May 1, 2010.

“(ii) NO ADDITIONAL CAPITAL OR ASSETS.—On and after the date of enactment of this section, a banking entity may not sell, transfer, loan, or otherwise provide any additional capital or assets to a hedge fund or private equity fund sponsored by the banking entity or in which the banking entity invests, except to the extent necessary to fulfill a contractual obligation that was in effect on May 1, 2010.

“(B) REDUCTION OF EXISTING INVESTMENTS.—Except as provided in paragraph (3), on and after the date that is 2 years after the effective date of this section, the aggregate amount of equity, partnership, or other ownership interests in all hedge funds and private equity funds held by a banking entity shall not exceed 2 percent of the Tier I capital of the banking entity.

“(C) TOTAL DIVESTITURE.—On and after the date that is 5 years after the effective date of this section, no banking entity may engage in any activity prohibited under subsection (a)(1)(B), except as provided in paragraph (3).

“(3) TRANSITION PERIOD FOR ILLIQUID FUNDS.—

“(A) DEFINITION.—In this paragraph, the term ‘illiquid fund’ means a hedge fund or private equity fund that, as of May 1, 2010, was principally invested in or is invested in illiquid assets, and committed to principally invest in illiquid assets, such as portfolio companies, real estate investments, and venture capital investments, and that maintains the investment strategy of the fund that was in place as of May 1, 2010, regarding principally investing in illiquid assets. In issuing rules under this subparagraph, the Board shall take into consideration the terms of investment for the hedge fund or private equity fund, including contractual obligations, the ability of the fund to divest of assets held by the fund, and any other factors that the Board determines are appropriate.

“(B) TRANSITION.—

“(i) IN GENERAL.—During the 4-year period beginning on the date of enactment of this section, a banking entity may only take an equity, partnership, or ownership interest in, or otherwise provide additional capital to, an illiquid fund to the extent necessary to fulfill a contractual obligation of the banking entity to the illiquid fund that was in effect on May 1, 2010.

“(ii) LIMITATIONS.—A banking entity may not exercise an option to renew, or otherwise extend the duration of, any contractual obligation described in clause (i) and shall exercise any contractual option permitting the banking entity to exit the illiquid fund if and when such option becomes available. A banking entity may elect not to exercise an option described in the preceding sentence, to the extent that the maintenance of an investment would be permitted under paragraph (2).

“(iii) EXTENSION.—

“(I) APPROVAL REQUIRED.—If a contractual obligation of a banking entity described in clause (i) extends beyond the 4-year period beginning on the date of enactment of this section, the banking entity may not continue to make the investment required under the contractual obligation without the prior written approval of the Board. In determining whether to grant an extension under this clause, the Board shall evaluate whether the proposed investment meets the requirements of this subparagraph.

“(II) TIME LIMIT ON APPROVAL.—The Board may approve an investment described in subclause (I) for a period of not longer than 2 years for each extension.

“(III) LIMIT ON NUMBER OF APPROVALS.—The Board may not approve an investment described in subclause (I) more than 3 times.

“(iv) DIVESTITURE REQUIRED.—Except as otherwise permitted under subsection (d), no banking entity may engage in any activity prohibited under subsection (a)(1)(B) after the earlier of—

“(I) the date on which the contractual obligation to invest in the illiquid fund terminates; and

“(II) the date on which the approval by the Board under clause (iii) expires.

“(4) ADDITIONAL CAPITAL.—Notwithstanding paragraph (2) or (3), on and after the effective date under paragraph (1), the Board may impose additional capital requirements, and any other restrictions, as the Board determines appropriate, on any equity, partnership, or ownership interest in or sponsorship of a hedge fund or private equity fund by a banking entity or nonbank financial company supervised by the Board, including on a case-by-case basis, as the Board determines appropriate.

“(5) RULEMAKING.—Not later than 6 months after the date of enactment of this section, the Board shall issue rules to implement paragraphs (2), (3), and (4).

“(d) PERMITTED ACTIVITIES.—

“(1) IN GENERAL.—Notwithstanding the restrictions in subsection (a), to the extent permitted by any other provision of Federal or State law, and subject to the limitations under paragraph (2) and any restrictions or limitations that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, may determine, the following activities (in this section referred to as ‘permitted activities’) are permitted:

“(A) The purchase, sale, acquisition, or disposition of obligations of the United States or any agency thereof; obligations, participations, or other instruments of or issued by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a Federal Home Loan Bank, the Federal Agricultural Mortgage Corporation, or a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and obligations of any State or of any political subdivision thereof.

“(B) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) in connection with underwriting, market-making, or in facilitation of customer relationships, to the extent that any such activities permitted by this subparagraph are designed to not exceed the reasonably expected near term demands of clients, customers, or counterparties.

“(C) Risk-mitigating hedging activities designed to reduce the specific risks to a banking entity or nonbank financial company supervised by the Board.

“(D) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) on behalf of customers.

“(E) Investments in one or more small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or investments designed primarily to promote the public welfare, as provided in paragraph (11) of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24).

“(F) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) by a regulated insurance company directly engaged in the business of insurance for the general account of the company and by any affiliate of such regulated insurance company, provided that such activities by any affiliate are solely for the general account of the regulated insurance company, if—

“(i) the purchase, sale, acquisition, or disposition is conducted in compliance with, and subject to, the insurance company investment laws, regulations, and written guidance of the State or jurisdiction in which each such insurance company is domiciled; and

“(ii) the appropriate Federal banking agencies, after consultation with the Financial Stability Oversight Council and the relevant insurance commissioners of the States and territories of the United States, have not jointly determined, after notice and comment, that a particular law, regulation, or written guidance described in clause (i) is insufficient to protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board, or of the financial stability of the United States.

“(G) Organizing and offering a private equity or hedge fund, including serving as a general partner, managing member, or trustee of the fund and in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund, including any necessary expenses for the foregoing, only if—

“(i) the banking entity provides bona fide trust, fiduciary, or investment advisory services;

“(ii) the fund is organized and offered only in connection with the provision of bona fide trust, fiduciary, or investment advisory services and only to persons that are customers of such services of the banking entity;

“(iii) the banking entity does not acquire or retain an equity interest, partnership interest, or other ownership interest in the funds;

“(iv) the banking entity does not enter into or otherwise engage in any transaction with the hedge fund or private equity fund that is a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c);

“(v) the obligations or performance of the hedge fund or private equity fund are not guaranteed, assumed, or otherwise covered,

directly or indirectly, by the banking entity or any subsidiary or affiliate of the banking entity;

“(vi) the banking entity does not share with the hedge fund or private equity fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name;

“(vii) no director or employee of the banking entity takes or retains an equity interest, partnership interest, or other ownership interest in, except for any director or employee of the banking entity who is directly engaged in providing investment advisory or other services to the hedge fund or private equity fund; and

“(viii) the banking entity complies with any rules of the appropriate Federal banking agencies, the Securities and Exchange Commission, or the Commodity Futures Trading Commission designed to ensure that losses in such hedge fund or private equity fund are borne solely by investors in the fund and not by the banking entity.

“(H) Proprietary trading conducted by a company pursuant to paragraph (9) or (13) of section 4(c), provided that the trading occurs solely outside of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a United States person.

“(I) The acquisition or retention of any equity, partnership, or other ownership interest in, or the sponsorship of, a hedge fund or a private equity fund by a banking entity or nonbank financial company supervised by the Board pursuant to paragraph (9) or (13) of section 4(c) solely outside of the United States, provided that no ownership interest in such hedge fund or private equity fund is offered for sale or sold to a resident of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a company that is organized in the United States.

“(J) Such other activity as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission determine through regulation, as provided in subsection (b)(2)(B), would promote and protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board and the financial stability of the United States.

“(2) LIMITATION ON PERMITTED ACTIVITIES.—

“(A) IN GENERAL.—No transaction, class of transactions, or activity may be deemed a permitted activity under paragraph (1) if it—

“(i) would involve or result in a material conflict of interest (as such term shall be defined jointly by rule) between the banking entity or the nonbank financial company supervised by the Board and its clients, customers, or counterparties;

“(ii) would result, directly or indirectly, in an unsafe and unsound exposure by the banking entity or nonbank financial company supervised by the Board to high-risk assets or high-risk trading strategies (as such terms shall be defined jointly by rule);

“(iii) would pose a threat to the safety and soundness of such banking entity or nonbank financial company supervised by the Board; or

“(iv) would pose a threat to the financial stability of the United States.

“(B) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations to implement subparagraph (A), as part

of the regulations issued under subsection (b)(2).

“(3) CAPITAL AND QUANTITATIVE LIMITATIONS.—The Board shall adopt rules, as provided under subsection (b)(2), imposing additional capital requirements and quantitative limitations regarding the activities permitted under this section if the Board determines that additional capital and quantitative limitations are appropriate to protect the safety and soundness of the banking entities and nonbank financial companies supervised by the Board engaged in such activities.

“(e) ANTI-EVASION.—

“(1) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations as part of the rulemaking provided for in subsection (b)(2) regarding internal controls and recordkeeping in order to insure compliance with this section.

“(2) TERMINATION OF ACTIVITIES OR INVESTMENT.—Notwithstanding any other provision of law, whenever an appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, has reasonable cause to believe that a banking entity or nonbank financial company supervised by the Board under the respective agency’s jurisdiction has made an investment or engaged in an activity in a manner that functions as an evasion of the requirements of this section (including through an abuse of any permitted activity) or otherwise violates the restrictions under this section, the appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, shall order, after due notice and opportunity for hearing, the banking entity or nonbank financial company supervised by the Board to terminate the activity and, as relevant, dispose of the investment. Nothing in this subparagraph shall be construed to limit the inherent authority of any Federal agency or State regulatory authority to further restrict any investments or activities under otherwise applicable provisions of law.

“(f) LIMITATIONS ON RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

“(1) IN GENERAL.—No banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c) with the hedge fund or private equity fund.

“(2) TREATMENT AS MEMBER BANK.—A banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund shall be subject to section 23B of the Federal Reserve Act (12 U.S.C. 371c–1), as if such person were a member bank and such hedge fund or private equity fund were an affiliate thereof.

“(3) COVERED TRANSACTIONS WITH UNAFFILIATED HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—No banking entity may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), with any hedge fund or private equity fund organized and offered by the banking entity or with any hedge fund or private equity fund in which such hedge fund or private equity fund has taken any equity, partnership, or other ownership interest.

“(g) RULES OF CONSTRUCTION.—

“(1) LIMITATION ON CONTRARY AUTHORITY.—Any prohibitions or restrictions under this

section shall apply even though such activities may be authorized for a banking entity or a nonbank financial company supervised by the Board under any other provision of law.

“(2) SALE OR SECURITIZATION OF LOANS.—Nothing in this section shall be construed to limit or restrict the ability of a banking entity or nonbank financial company supervised by the Board to sell or securitize loans in a manner otherwise permitted by law.

“(3) AUTHORITY OF FEDERAL AGENCIES AND STATE REGULATORY AUTHORITIES.—Nothing in this section shall be construed to limit the inherent authority of any Federal agency or State regulatory authority under otherwise applicable provisions of law.

“(h) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) BANKING ENTITY.—The term ‘banking entity’ means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, and any affiliate or subsidiary of any such entity. For purposes of this paragraph, the term ‘insured depository institution’ does not include an institution that functions solely in a trust or fiduciary capacity, if—

“(A) all or substantially all of the deposits of such institution are in trust funds and are received in a bona fide fiduciary capacity;

“(B) no deposits of such institution which are insured by the Federal Deposit Insurance Corporation are offered or marketed by or through an affiliate of such institution;

“(C) such institution does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others or make commercial loans; and

“(D) such institution does not—

“(i) obtain payment or payment related services from any Federal Reserve bank, including any service referred to in section 11(a) of the Federal Reserve Act (12 U.S.C. 248a); or

“(ii) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act (12 U.S.C. 461(b)(7)).

“(2) HEDGE FUND; PRIVATE EQUITY FUND.—The terms ‘hedge fund’ and ‘private equity fund’ mean a company or other entity that is exempt from registration as an investment company pursuant to section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1) or 80a–3(c)(7)), or such similar funds as jointly determined appropriate by the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

“(3) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD.—The term ‘nonbank financial company supervised by the Board’ means a nonbank financial company supervised by the Board of Governors, as defined in section 102 of the Financial Stability Act of 2010.

“(4) PROPRIETARY TRADING.—The term ‘proprietary trading’ means engaging as a principal for its own trading account in any transaction to purchase or sell, or otherwise acquire or dispose of, any security, any derivative, any contract of sale of a commodity for future delivery, any option on any such security, derivative, or contract, or any other security or financial instrument that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.

“(5) SPONSOR.—The term to ‘sponsor’ a fund means—

“(A) to serve as a general partner, managing member, or trustee of a fund;

“(B) in any manner to select or to control (or to have employees, officers, or directors, or agents who constitute) a majority of the directors, trustees, or management of a fund; or

“(C) to share with a fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

“(6) TRADING ACCOUNT.—The term ‘trading account’ means any account used for acquiring or taking positions in the securities and instruments described in paragraph (4) principally for the purpose of selling in the near term (or otherwise with the intent to resell in order to profit from short-term price movements), and any such other accounts as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.”

#### SEC. 619A. STUDY OF BANK ACTIVITIES.

(a) STUDY.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Federal banking agencies shall jointly review and prepare a report on activities that a banking entity may engage in under Federal and State law including activities authorized by statute and by order, interpretation and guidance.

(2) CONTENT.—In carrying out the study under paragraph (1), the Federal banking agencies shall review and consider—

(A) the type of activities or investment;

(B) any financial, operational, managerial, or reputation risks associated with or presented as a result of the banking entity engaged in the activity or making the investment; and

(C) risk mitigation activities undertaken by the banking entity with regard to the risks.

(b) REPORT AND RECOMMENDATIONS TO THE COUNCIL AND TO CONGRESS.—The appropriate Federal banking agencies shall submit to the Council, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate the study conducted pursuant to subsection (a) no later than 2 months after its completion. In addition to the information described in subsection (a), the report shall include recommendations regarding—

(1) whether each activity or investment has or could have a negative effect on the safety and soundness of the banking entity or the United States financial system;

(2) the appropriateness of the conduct of each activity or type of investment by banking entities; and

(3) additional restrictions as may be necessary to address risks to safety and soundness arising from the activities or types of investments described in subsection (a).

#### SEC. 619B. CONFLICTS OF INTEREST.

The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:

#### “SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.

“(a) IN GENERAL.—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not,

during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

“(b) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures.

“(c) EXCEPTION.—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934.”

**SA 4102.** Mr. MERKLEY submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 485, strike line 1 and all that follows through page 496, line 2, and insert the following:

(2) the term “proprietary trading”—

(A) means purchasing or selling, or otherwise acquiring or disposing of, stocks, bonds, options, commodities, derivatives, or other financial instruments by an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company, for the trading book (or such other portfolio as the Federal banking agencies may determine) of such institution, company, or subsidiary, except that the Federal banking agencies may, for the purposes of this subparagraph, exclude from the definition of the term “insured depository institution” an institution that functions principally in a trust or fiduciary capacity; and

(B) subject to such restrictions as the Federal banking agencies may determine, does not include purchasing or selling, or otherwise acquiring or disposing of, stocks, bonds, options, commodities, derivatives, or other financial instruments on behalf of a customer, as part of market making activities, otherwise in connection with or in facilitation of customer relationships, including risk-mitigating hedging activities related to such a purchase, sale, acquisition, or disposal, or in the conduct of regulated insurance investments;

(3) the term “sponsoring”, when used with respect to a hedge fund or private equity fund, means—

(A) serving as a general partner, managing member, or trustee of the fund;

(B) in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund; or

(C) sharing with the fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

(b) PROHIBITION ON PROPRIETARY TRADING.—

(1) IN GENERAL.—Subject to the recommendations of the Council under subsection (g), and except as provided in paragraph (2) or (3), the appropriate Federal banking agencies shall, through a rulemaking under subsection (g), jointly prohibit proprietary trading by an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company.

(2) EXCEPTED OBLIGATIONS.—

(A) IN GENERAL.—The prohibition under this subsection shall not apply with respect to an investment that is otherwise authorized by Federal law in—

(i) obligations of the United States or any agency of the United States, including obligations fully guaranteed as to principal and interest by the United States or an agency of the United States;

(ii) obligations, participations, or other instruments of, or issued by, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or other similar Government-sponsored enterprises, including obligations fully guaranteed as to principal and interest by such entities; and

(iii) obligations of any State or any political subdivision of a State.

(B) CONDITIONS.—The appropriate Federal banking agencies may impose conditions on the conduct of investments described in subparagraph (A).

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) may be construed to grant any authority to any person that is not otherwise provided in Federal law.

(3) FOREIGN ACTIVITIES.—An investment or activity conducted by a company pursuant to paragraph (9) or (13) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) solely outside of the United States shall not be subject to the prohibition under paragraph (1), provided that the company is not directly or indirectly controlled by a company that is organized under the laws of the United States or of a State.

(c) PROHIBITION ON SPONSORING AND INVESTING IN HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to the recommendations of the Council under subsection (g), the appropriate Federal banking agencies shall, through a rulemaking under subsection (g), jointly prohibit an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or any subsidiary of such institution or company, from sponsoring or investing in a hedge fund or a private equity fund.

(2) APPLICATION TO FOREIGN ACTIVITIES OF FOREIGN FIRMS.—An investment or activity

conducted by a company pursuant to paragraph (9) or (13) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) solely outside of the United States shall not be subject to the prohibitions and restrictions under paragraph (1), provided that the company is not directly or indirectly controlled by a company that is organized under the laws of the United States or of a State.

(d) INVESTMENTS IN SMALL BUSINESS INVESTMENT COMPANIES AND INVESTMENTS DESIGNED TO PROMOTE THE PUBLIC WELFARE.—

(1) IN GENERAL.—A prohibition imposed by the appropriate Federal banking agencies under subsection (c) shall not apply with respect to an investment otherwise authorized under Federal law that is—

(A) an investment in a small business investment company, as that term is defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662); or

(B) designed primarily to promote the public welfare, as provided in the 11th paragraph of section 5136 of the Revised Statutes (12 U.S.C. 24).

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) may be construed to grant any authority to any person that is not otherwise provided in Federal law.

(e) LIMITATIONS ON RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

(1) COVERED TRANSACTIONS.—An insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund may not enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c) with such hedge fund or private equity fund.

(2) AFFILIATION.—An insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund shall be subject to section 23B of the Federal Reserve Act (12 U.S.C. 371c-1) as if such institution, company, or subsidiary were a member bank and such hedge fund or private equity fund were an affiliate.

(f) CAPITAL AND QUANTITATIVE LIMITATIONS FOR CERTAIN NONBANK FINANCIAL COMPANIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to the recommendations of the Council under subsection (g), the Board of Governors shall adopt rules imposing additional capital requirements and specifying additional quantitative limits for nonbank financial companies supervised by the Board of Governors under section 113 that engage in proprietary trading or sponsoring and investing in hedge funds and private equity funds.

(2) EXCEPTIONS.—The rules under this subsection shall not apply with respect to the trading of an investment that is otherwise authorized by Federal law—

(A) in obligations of the United States or any agency of the United States, including obligations fully guaranteed as to principal and interest by the United States or an agency of the United States;

(B) in obligations, participations, or other instruments of, or issued by, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or other similar Government-sponsored enterprises, including obligations fully guaranteed as to principal and interest by such entities;

(C) in obligations of any State or any political subdivision of a State;

(D) in a small business investment company, as that term is defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662); or

(E) that is designed primarily to promote the public welfare, as provided in the 11th paragraph of section 5136 of the Revised Statutes (12 U.S.C. 24).

(g) COUNCIL STUDY AND RULEMAKING.—

(1) STUDY AND RECOMMENDATIONS.—Not later than 6 months after the date of enactment of this Act, the Council—

(A) shall complete a study of the definitions under subsection (a) and the other provisions under subsections (b) through (f), to assess the manner in which to implement this section so as to—

(i) promote and enhance the safety and soundness of depository institutions and the affiliates of depository institutions;

(ii) protect taxpayers and enhance financial stability by minimizing the risk that depository institutions and the affiliates of depository institutions will engage in unsafe and unsound activities;

(iii) limit the inappropriate transfer of Federal subsidies from institutions that benefit from deposit insurance and liquidity facilities of the Federal Government to unregulated entities;

(iv) reduce inappropriate conflicts of interest between the self-interest of depository institutions, affiliates of depository institutions, and financial companies supervised by the Board, and the interests of the customers of such institutions and companies;

(v) not raise the cost of credit or other financial services, reduce the availability of credit or other financial services, or impose other costs on households and businesses in the United States;

(vi) limit activities that have caused undue risk or loss in depository institutions, affiliates of depository institutions, and financial companies supervised by the Board of Governors, or that might reasonably be expected to create undue risk or loss in such institutions, affiliates, and companies; and

(vii) appropriately accommodates the business of insurance within an insurance company subject to regulation in accordance with State insurance company investment laws;

(B) shall make recommendations regarding the definitions under subsection (a) and the implementation of other provisions under subsections (b) through (f).

(2) RULEMAKING.—Not earlier than the date of completion of the study required under paragraph (1), and not later than 9 months after the date of completion of such study—

(A) the appropriate Federal banking agencies shall—

(i) jointly issue final regulations implementing subsections (b) through (e); and

(ii) evaluate and consider any recommendations made by the Council pursuant to paragraph (1)(B); and

(B) the Board of Governors shall—

(i) issue final regulations implementing subsection (f); and

(ii) evaluate and consider any recommendations made by the Council pursuant to paragraph (1)(B).

**SA 4103.** Mr. BURRIS submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1023, strike lines 12 through 18 and insert the following:

“(i) the main assumptions and principles used in constructing procedures and methodologies, including—

“(I) qualitative methodologies and quantitative inputs;

“(II) assumptions about the correlation of defaults across obligors used in rating structured products; and

“(III) the 5 assumptions made in the ratings process that, without accounting for any other factor, would have the greatest impact on a rating if such assumptions were proven false or inaccurate, together with an analysis, using concrete examples, of how each of the 5 assumptions impacts the credit rating;

**SA 4104.** Mr. MENENDEZ (for himself, Mr. BAYH, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 615, line 18, strike “all” and all that follows through line 21, and insert the following: “or to the registered swap data repositories, as the Commission may by rule prescribe, all information that is determined by the Commission to be necessary for each to perform their respective responsibilities under this Act”.

On page 623, line 12, strike “In this paragraph” and insert “Subject to subparagraph (E), in this paragraph”.

On page 624, line 18, strike “With” and all that follows through “subsection (h),” on line 22, and insert the following: “The registered swap data repositories and”.

On page 625, strike line 2, and insert the following: “swap trading volumes and positions for both cleared and uncleared trades.”.

On page 625, line 3, strike “With respect” and insert “Subject to subparagraph (E), with respect”.

On page 625, line 6, strike “(10)” and insert “(9)”.

On page 630, line 14, insert “for both cleared and uncleared trades” after “swap data”.

On page 637, strike line 17 and all that follows through page 638, line 12.

On page 810, line 22, after the first period, insert the following:

“(m) DUTY OF CLEARING AGENCY.—Each clearing agency that clears security-based swaps shall provide to the Commission or to the registered security-based swap data repositories, as the Commission may by rule prescribe, all information that is determined by the Commission to be necessary for each to perform their respective responsibilities under this Act.

On page 835, line 7, strike “In this paragraph” and insert “Subject to subparagraph (E), in this paragraph”.

On page 836, line 14, strike “With” and all that follows through “section 3C(a),” on line 18, and insert the following: “The registered security-based swap data repositories and”.

On page 836, strike lines 23 and 24, and insert the following: “security-based swap trading volumes and positions for both cleared and uncleared trades.”.

On page 837, lines 3 and 4, strike “but are subject to the requirements of section 3C(a)(8)” and insert “pursuant to section 3C(a)(9)”.

On page 842, line 9, before the semicolon insert “for both cleared and uncleared trades, including compliance and frequency of end user clearing exemption claims by individual and affiliated entities”.

On page 883, strike line 7 and all that follows through page 884, line 9.

**SA 4105.** Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 621, after line 23, insert the following:

(h) LINKING OF REGULATED CLEARING FACILITIES.—Section 5b(f)(1) of the Commodity Exchange Act (7 U.S.C. 7a-1) is amended to read as follows:

“(1) IN GENERAL.—The Commission shall facilitate the linking or coordination of derivatives clearing organizations registered under this chapter with other regulated clearance facilities for the coordinated settlement of cleared transactions. In order to minimize systemic risk, under no circumstances shall a derivatives clearing organization be compelled to accept the counterparty credit risk of another clearing organization.”.

**SA 4106.** Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, insert the following:

**SEC. 1111. COMPLIANCE WITH OTHER RULES.**

Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting before section 130 the following:



**"SEC. 129B. COMPLIANCE WITH CONSUMER FINANCIAL PROTECTION LAWS.**

"A creditor or other person shall comply with all rules promulgated pursuant to sections 1031 through 1033 of the Consumer Financial Protection Act of 2010 applicable to that person in connection with consumer credit."

**SEC. 1112. CONSUMER LEASING ACT OF 1976.**

Section 183 of the Consumer Leasing Act of 1976 (15 U.S.C. 1667b) is amended—

(1) by striking the section heading and inserting the following:

**"SEC. 183. LESSEE LIABILITY AND LESSOR COMPLIANCE"; and**

(2) by adding at the end the following:

"(d) COMPLIANCE WITH CONSUMER FINANCIAL PROTECTION LAWS.—A lessor shall comply with all rules promulgated pursuant to sections 1031 through 1033 of the Consumer Financial Protection Act of 2010 applicable to the lessor in connection with consumer leases."

**SEC. 1113. ELECTRONIC FUND TRANSFER ACT.**

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended by adding at the end the following:

**"SEC. 922. COMPLIANCE WITH CONSUMER FINANCIAL PROTECTION LAWS.**

"A person shall comply with all rules promulgated pursuant to sections 1031 through 1033 of the Consumer Financial Protection Act of 2010 applicable to that person in connection with electronic fund transfers."

**SEC. 1114. FAIR CREDIT REPORTING ACT.**

The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 615 the following:

**"SEC. 615A. COMPLIANCE WITH CONSUMER FINANCIAL PROTECTION LAWS.**

"A person shall comply with all rules promulgated pursuant to sections 1031 through 1033 of the Consumer Financial Protection Act of 2010 applicable to that person in connection with consumer reports."

**SEC. 1115. FAIR DEBT COLLECTION PRACTICES ACT.**

The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended by inserting after section 812 the following:

**"SEC. 812A. COMPLIANCE WITH CONSUMER FINANCIAL PROTECTION LAWS.**

"A person shall comply with all rules promulgated pursuant to sections 1031 through 1033 of the Consumer Financial Protection Act of 2010 applicable to that person in connection with the collection of debt."

**SEC. 1116. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974.**

(a) COMPLIANCE WITH CONSUMER FINANCIAL PROTECTION LAWS.—The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et. seq) is amended by inserting after section 12 the following:

**"SEC. 13. COMPLIANCE WITH CONSUMER FINANCIAL PROTECTION LAWS.**

"A person shall comply with all rules promulgated pursuant to sections 1031 through 1033 of the Consumer Financial Protection Act of 2010 applicable to that person in connection with settlement services or the servicing of federally related mortgage loans."

(b) JURISDICTION.—Notwithstanding section 1096(8) of this Act, section 16 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2614) is amended to read as follows:

**"SEC. 16. COMPLIANCE WITH CONSUMER FINANCIAL PROTECTION LAWS; JURISDICTION; LIMITATIONS.**

"Any action pursuant to the provisions of section 6, 8, 9, or 13 may be brought in the United States district court or in any other court of competent jurisdiction, for the dis-

trict in which the property involved is located, or where the violation is alleged to have occurred, within 3 years in the case of a violation of section 6 and 1 year in the case of a violation of section 8, 9, or 13 from the date of the occurrence of the violation, except that actions brought by the Bureau, the Secretary, the Attorney General of any State, or the insurance commissioner of any State may be brought within 3 years from the date of the occurrence of the violation."

**SEC. 1117. HOMEOWNERS PROTECTION ACT OF 1998.**

The Homeowners Protection Act of 1998 (12 U.S.C. 4901 et. seq) is amended by inserting after section 7 (12 U.S.C. 4906) the following:

**"SEC. 7A. COMPLIANCE WITH CONSUMER FINANCIAL PROTECTION LAWS.**

"A servicer, mortgagee, or mortgage insurer shall comply with all rules promulgated pursuant to sections 1031 through 1033 of the Consumer Financial Protection Act of 2010 applicable to that person in connection with private mortgage insurance."

**SEC. 1118. TRUTH IN SAVINGS ACT.**

Section 269 of the Truth in Savings Act (12 U.S.C. 4308) is amended by adding at the end the following:

"(c) COMPLIANCE WITH CONSUMER FINANCIAL PROTECTION LAWS.—Any regulation promulgated pursuant to sections 1031 through 1033 of the Consumer Financial Protection Act of 2010 regarding disclosures, payment of interest, or periodic statements in connection with accounts within the scope this Act shall be considered a regulation pursuant to this Act."

**SA 4107.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Sec. 154(1)(A) is amended by inserting on page 69, line 4 after the word 'maintain' the following new language, 'within a single electronic database.'

Sec. 154(b)(1) is amended by striking on page 70 line 3, subparagraph '(C)' and adding the following new subparagraph—

'(C) ADMINISTRATION AND USE OF DATA.—The database described in subparagraph (A) shall—

(i) use accurate data structures and taxonomies to allow for easy cross-referencing, compiling, and reporting of numerous data elements;

(ii) provide for filtering of data content to allow users to screen for events most relevant to identifying waste, fraud, and abuse, such as management changes and material corporate events;

(iii) provide geospatial analysis capabilities; and

(iv) provide for the daily collection of any data necessary to implement this subsection.

'(D) DATA STANDARD.—The Office shall adopt and require a single data standard for the submission of data to the Office by member agencies. The Office shall update the standard as necessary to address changes in technology over time. The standard shall—

(i) be common across all member agencies, to the maximum extent practicable;

(ii) be a widely accepted, non-proprietary, searchable, computer-readable format for business and financial data;

(iii) be consistent with and implement United States generally accepted accounting principles or Federal financial accounting standards (as appropriate), industry best practices, and Federal regulatory requirements; and

(iv) improve the transparency, consistency, and usability of business and financial information.

'(E) TRANSITION AND IMPLEMENTATION.—

(i) TRANSITION.—Not later than 60 days after date of enactment of this subsection, the Office, or the Secretary if a Director has not been confirmed, shall issue a request for proposal for the establishment of the database described in subparagraph (A) and award contract service as required by this subsection.

(ii) IMPLEMENTATION OF DATABASE.—The Office, or the Secretary, if a Director has not been confirmed, shall make operational the database described in subparagraph (A) not later than 180 days after the issuance of request for proposal under clause (i) of this subparagraph.'

(iii) FUTURE MODIFICATIONS.—Modifications to the database following its becoming operational shall be determined by the Office.

Sec. 154(b)(2) is amended by inserting on page 70, line 20 the following subparagraph and reletter accordingly—

(B) The Data Center shall make the database described in subparagraph (1)(A) of this section available to the Comptroller General of the United States and to the Special Inspector General and the Congressional Oversight Panel established under sections 121 and 125 of the Emergency Economic Stabilization Act respectively.'

**SA 4108.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Sec. 154(b)(1) is amended by striking on page 70 line 3, subparagraph '(C)' and adding the following new subparagraph—

'(C) DATA STANDARD.—The Office shall adopt and require a single data standard for submission of data to the Office by member agencies. The Office shall update the standard as necessary to address changes in technology over time. The standard shall—

(i) be common across all member agencies, to the maximum extent practicable;

(ii) be widely accepted, non-proprietary, searchable, computer-readable format for business and financial data;

(iii) be consistent with and implement United States generally accepted accounting principles or Federal financial accounting standards (as appropriate), industry best practices, and Federal regulatory requirements; and

(iv) improve the transparency, consistency, and usability of business and financial information.

**SA 4109.** Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the



United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 893, after line 25, insert the following:

**SEC. 774. CLEARING OF CREDIT DEFAULT SWAPS.**

(a) CLEARING OF CREDIT DEFAULT SWAPS UNDER THE COMMODITY EXCHANGE ACT.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2), as amended by this title, is amended by adding at the end the following:

“(k) CLEARING OF CREDIT DEFAULT SWAPS.—

“(1) SUBMISSION.—It shall be unlawful for any party to enter into a credit default swap unless that person shall submit such credit default swap for clearing to a derivatives clearing organization that is registered under this Act or a derivatives clearing organization that is exempt from registration under section 5b(i) of this Act.

“(2) PROHIBITION.—Notwithstanding any other provisions in this section or of this Act, if no derivatives clearing organization will accept a credit default swap for clearing, it shall be unlawful for any party to enter into the credit default swap.

“(3) LIMITATION ON SHORT POSITIONS.—

“(A) IN GENERAL.—It shall be unlawful for a protection buyer to enter into a credit default swap which establishes a short position in a reference entity's credit instrument unless the protection buyer can demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that the protection buyer—

“(i) is undertaking such action to establish a legitimate short position in credit default swaps; or

“(ii) is regulated by the Commission as a swap dealer in credit default swaps, and is acting as a market-maker or is otherwise engaged in a financial transaction on behalf of a customer.

“(B) LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.—A protection buyer's short position in credit default swaps shall be considered a legitimate short position in credit default swaps if—

“(i) the value of the protection buyer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the protection buyer's credit default swaps; and

“(ii) the reference entity or entities for the protection buyer's credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

“(C) DETERMINATION OF THE COMMISSION.—

“(i) IN GENERAL.—The Commission and the Securities and Exchange Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term ‘valid credit instrument’.

“(ii) CONSIDERATIONS AND REQUIREMENTS.—In defining the term ‘valid credit instrument’, the Commission and the Securities and Exchange Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

“(iii) RULE OF CONSTRUCTION.—For purposes of this paragraph, any instrument with an equity risk exposure or equity-like features shall not be considered by the Commission to be a valid credit instrument.

“(D) REPORTING.—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the Commission, in such manner, in such frequency, and in such form as may be prescribed by the Commission.

“(E) HOLDING OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SWAP DEALERS.—Any swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that—

“(i) the value of the swap dealer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the swap dealer's position in credit default swaps; and

“(ii) the reference entity or entities for the swap dealer's credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the swap dealer owns.

“(F) PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with the intent of evading the provisions of this subsection.

“(G) AUTHORITY OF THE COMMISSION.—The Commission, in consultation with the Securities and Exchange Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale of credit default swaps.

“(4) DETERMINATION OF THE COUNCIL; PHASE IN.—

“(A) EFFECTIVE DATE.—Subject to subparagraph (B), this subsection shall take effect on the earlier of—

“(i) the effective date established under section 753 of the Wall Street Transparency and Accountability Act of 2010; or

“(ii) the date on which the Chairperson of the Financial Stability Oversight Council makes a determination that the prohibitions and limitations established under this subsection would not cause undue market disruptions.

“(B) DETERMINATION OF MARKET DISRUPTION.—Not later than the effective date established under section 753 of the Wall Street Transparency and Accountability Act of 2010, if the Chairperson of the Financial Stability Oversight Council determines that a phase in of the prohibitions and limitations established under this subsection is necessary to avoid undue market disruptions, then the Chairperson shall recommend, and the Commission shall adopt, a phase in period for such prohibitions and limitations. Any phase in period described under this subparagraph shall not exceed 18 months.

“(5) DEFINITIONS.—

“(A) IN GENERAL.—In this subsection, the following definitions shall apply:

“(i) CREDIT DEFAULT SWAP.—The term ‘credit default swap’—

“(I) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

“(II) is not a debt security registered with the Securities and Exchange Commission and issued by a corporation, State, municipality, or sovereign entity.

“(ii) CREDIT EVENT.—The term ‘credit event’ includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

“(iii) PROTECTION BUYER.—The term ‘protection buyer’ means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the ‘protection seller’) upon the occurrence of one or more credit events.

“(iv) REFERENCE ENTITY.—The term ‘reference entity’ means any borrower, such as a corporation, State, municipality, sovereign entity, or special purpose entity, which has issued a public debt obligation or obtained a loan that is referenced by a credit default swap.

“(B) FURTHER DEFINITION OF TERMS.—The Commission and the Securities and Exchange Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, further defining the terms ‘credit default swap’, ‘credit event’, ‘protection buyer’, and ‘reference entity’.

(b) CLEARING OF CREDIT DEFAULT SWAPS UNDER SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 3C, as added by this title, the following:

**“SEC. 3C-1. CLEARING OF CREDIT DEFAULT SWAPS.**

“(a) SUBMISSION.—It shall be unlawful for any party to enter into a credit default swap unless that person shall submit such credit default swap for clearing to a clearing agency that is registered under section 17A of this Act.

“(b) PROHIBITION.—Notwithstanding any other provisions in this section or of this Act, if no clearing agency will accept a credit default swap for clearing, it shall be unlawful for any party to enter into the credit default swap.

“(c) LIMITATION ON SHORT POSITIONS.—

“(1) IN GENERAL.—It shall be unlawful for a protection buyer to enter into a credit default swap which establishes a short position in a reference entity's credit unless the protection buyer can demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that the protection buyer—

“(A) is undertaking such action to establish a legitimate short position in credit default swaps; or

“(B) is regulated by the Commission as a security-based swap dealer in credit default swaps, and is acting as a market-maker or otherwise for the purpose of serving clients.

“(2) LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.—A protection buyer's short position in credit default swaps shall be considered a legitimate short position in credit default swaps if—

“(A) the value of the protection buyer's holdings in valid credit instruments is equal to or greater than the absolute notional

value of the protection buyer's credit default swaps; and

“(B) the reference entity or entities for the protection buyer's credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

“(3) DETERMINATION OF THE COMMISSION.—

“(A) IN GENERAL.—The Commission and the Commodity Futures Trading Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term ‘valid credit instrument’.

“(B) CONSIDERATIONS AND REQUIREMENTS.—In defining the term ‘valid credit instrument’, the Commission and the Commodity Futures Trading Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

“(C) RULE OF CONSTRUCTION.—For purposes of this subsection, any instrument with an equity risk exposure or equity-like features shall not be considered by the Commission to be a valid credit instrument.

“(4) REPORTING.—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the Commission, in such manner, in such frequency, and in such form as may be prescribed by the Commission.

“(5) HOLDINGS OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SECURITY-BASED SWAP DEALERS.—Any security-based swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that—

“(A) the value of the security-based swap dealer's long holdings in valid credit instruments is equal to or greater than the absolute notional value of the security-based swap dealer's position in credit default swaps; and

“(B) the reference entity or entities for the security-based swap dealer's credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the security-based swap dealer owns.

“(6) PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with the intent of evading the provisions of this section.

“(7) AUTHORITY OF THE COMMISSION.—The Commission, in consultation with the Commodity Futures Trading Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale of credit default swaps.

“(d) DETERMINATION OF THE COUNCIL; PHASE IN.—

“(1) EFFECTIVE DATE.—Subject to paragraph (2), this section shall take effect on the earlier of—

“(A) the effective date established under section 773 of the Wall Street Transparency and Accountability Act of 2010; or

“(B) the date on which the Chairperson of the Financial Stability Oversight Council makes a determination that the prohibitions and limitations established under this subsection would not cause undue market disruptions.

“(2) DETERMINATION OF MARKET DISRUPTION.—Not later than the effective date established under section 773 of the Wall Street Transparency and Accountability Act of 2010, if the Chairperson of the Financial Stability Oversight Council determines that a phase in of the prohibitions and limitations established under this section is necessary to avoid undue market disruptions, then the Chairperson shall recommend, and the Commission shall adopt, a phase in period for such prohibitions and limitations. Any phase in period described under this paragraph shall not exceed 18 months.

“(e) DEFINITIONS.—

“(1) IN GENERAL.—In this section, the following definitions shall apply:

“(A) CREDIT DEFAULT SWAP.—The term ‘credit default swap’—

“(i) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

“(ii) is not a debt security registered with the Commission and issued by a corporation, State, municipality, or sovereign entity.

“(B) CREDIT EVENT.—The term ‘credit event’ includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

“(C) PROTECTION BUYER.—The term ‘protection buyer’ means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the ‘protection seller’) upon the occurrence of one or more credit events.

“(D) REFERENCE ENTITY.—The term ‘reference entity’ means any borrower, such as a corporation, State, municipality, sovereign entity, or special purpose entity, which has issued a public debt obligation or obtained a loan that is referenced by a credit default swap.

“(2) FURTHER DEFINITION OF TERMS.—The Commission and the Commodity Futures Trading Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, further defining the terms ‘credit default swap’, ‘credit event’, ‘protection buyer’, and ‘reference entity’.”

#### SEC. 775. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.

The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 5 the following:

#### “SEC. 5A. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.

“(a) DEFINITION.—For purposes of this section, the term ‘synthetic asset-backed security’ means an asset-backed security, as defined in section 3(a)(77) of the Securities Exchange Act of 1934, with respect to which, by design, the self-liquidating financial assets referenced in the synthetic securitization do not provide any direct payment or cash flow to the holders of the security.

“(b) RESTRICTION.—

“(1) IN GENERAL.—No issuer, underwriter, placement agent, sponsor, or initial pur-

chaser may offer, sell, or transfer a synthetic asset-backed security that has no purpose apart from speculation on a possible future gain or loss associated with the value or condition of the referenced assets. The Commission may determine, by rule or otherwise, whether a security is included within the description set forth in the preceding sentence. Any such determination by the Commission, other than by rule, is not subject to judicial review.

“(2) RULEMAKING.—Not later than 270 days after the date of enactment of this section, the Commission shall issue rules carry out this section and to prevent evasions thereof.”

**SA 4110.** Mr. DODD submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 515, between lines 11 and 12, insert the following:

(c) PROHIBITION ON PROPRIETARY TRADING.—No insured depository institution, or company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or any subsidiary of such depository institution or company may purchase or sell, or otherwise acquire or dispose of derivatives, including swaps, security-based swaps, mixed swaps, and security-based swap agreements except in accordance with section 619 of the Restoring American Financial Stability Act of 2010.

(d) STUDY AND REPORT.—

(1) STUDY.—The Financial Stability Oversight Council shall conduct a study of the impact of the prohibitions of this section on the swaps and security-based swaps markets, including the effect of such prohibitions on central clearing and exchange trading of standardized swaps.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, if the Financial Stability Oversight Council agrees by an affirmative vote of the majority of its members then serving to the conclusions and findings of the study required under paragraph (1), and to any recommendations for legislative action the Council deems necessary and appropriate based on such conclusions and findings, the Council shall make such report, together with such recommendations, available to the public.

(e) DETERMINATION AND FINDING.—

(1) DETERMINATION.—Following issuance of the report required under subsection (d) and based upon consideration of the findings and conclusions of the study mandated by such subsection, the Chairperson of the Financial Stability Oversight Council may make a written determination suspending, in whole or in part, the prohibitions of subsection (a) upon the consideration of the recommendations of such report and a finding that the prohibitions in subsection (a) would have a material adverse effect on the financial markets and economy of the United States.

(2) CONGRESSIONAL NOTICE; EFFECTIVENESS.—The Chairperson of the Financial Stability Oversight Council shall submit any written determination under this subsection, together with the report required under subsection (d), and any recommendations for legislative actions, to the Committee on Banking, Housing, and Urban Affairs and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Financial Services and the Committee on Agriculture of the House of Representatives. Any such written determination by the Chairperson of the Financial Stability Oversight Council shall not be effective until such determination has been submitted to the appropriate committees of Congress described in the prior sentence.

(f) PRUDENTIAL MATTERS.—If the prohibition established under subsection (a) is suspended, in whole or in part, pursuant to subsection (e), the swaps entity shall conduct its swap, security-based swap, or other activities in compliance with such minimum standards as shall be prescribed in regulations issued by the prudential regulator of such swaps entity as appropriate and which are reasonably calculated to permit the swaps entity to conduct its swap, security-based swap, or other activities in a safe and sound manner and consistent with protecting taxpayers and the financial system of the United States.

(g) RULES.—In prescribing regulations described in subsection (f), the prudential regulator for a swaps entity shall consider the following factors:

(1) The expertise and managerial strength of the swaps entity, including systems for effective oversight of the swaps entity.

(2) The financial strength of the swaps entity.

(3) Systems for identifying, measuring, and controlling risks arising from the swaps entity's operations and activities.

(4) Systems for identifying, measuring, and controlling the swaps entity's participation in existing markets.

(5) Systems for controlling the swaps entity's participation or entry into in new markets and products.

(h) EFFECTIVE DATE.—Subject to subsection (e), the prohibition established under subsection (a) shall take effect 2 years after the date on which the Wall Street Transparency and Accountability Act of 2010 becomes effective.

**SA 4111.** Ms. STABENOW submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table, as follows:

On page 707, line 19, strike the first period and insert the following:

“(6) RULES, REGULATIONS, AND ORDERS.—Notwithstanding any other provision of law, including any authority granted pursuant to this title or title VII of the Restoring American Financial Stability Act of 2010, the Commission, the Securities and Exchange Commission, or the appropriate Federal

banking agencies shall not issue any rule, regulation, or order that would void, terminate, or require the renegotiation, modification, or amendment of any contract or transaction (including any related credit support arrangement) entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010.

**SA 4112.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table, as follows:

On page 1054, between lines 10 and 11, insert the following:

(c) CONFLICTS OF INTEREST.—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:

**“SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.**

“(a) IN GENERAL.—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

“(b) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures. The disclosure by a person of a material conflict of interest with respect to a transaction prohibited under subsection (a) may not be construed to permit any person to engage in the transaction.

“(c) EXCEPTION.—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934.”

**SA 4113.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the finan-

cial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 699, strike line 20 and all that follows through page 704, line 13, and insert the following:

“(A) REGISTRATION.—The Commission may adopt rules and regulations requiring registration with the Commission for a foreign board of trade that provides the members of the foreign board of trade or other participants located in the United States with direct access to the electronic trading and order matching system of the foreign board of trade, including rules and regulations prescribing procedures and requirements applicable to the registration of such foreign boards of trade. For purposes of this paragraph, ‘direct access’ refers to an explicit grant of authority by a foreign board of trade to an identified member or other participant located in the United States to enter trades directly into the trade matching system of the foreign board of trade. In adopting such rules and regulations, the commission shall consider: (i) whether any such foreign board of trade is subject to comparable, comprehensive supervision and regulation by the appropriate governmental authorities in the foreign board of trade’s home country; and (ii) any previous commission findings that the foreign board of trade is subject to comparable comprehensive supervision and regulation by the appropriate government authorities in the foreign board of trade’s home country.

“(B) LINKED CONTRACTS.—It shall be unlawful for a foreign board of trade to provide to the members of the foreign board of trade or other participants located in the United States direct access to the electronic trading and order-matching system of the foreign board of trade with respect to an agreement, contract, or transaction that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, unless the Commission determines that—

“(i) the foreign board of trade makes public daily trading information regarding the agreement, contract, or transaction that is comparable to the daily trading information published by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

“(ii) the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade)—

“(I) adopts position limits (including related hedge exemption provisions) for the agreement, contract, or transaction that are comparable to the position limits (including related hedge exemption provisions) adopted by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles;

“(II) has the authority to require or direct market participants to limit, reduce, or liquidate any position the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade) determines to be necessary to prevent or reduce the threat of price manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process;

“(III) agrees to promptly notify the Commission, with regard to the agreement, contract, or transaction that settles against any

price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, of any change regarding—

“(aa) the information that the foreign board of trade will make publicly available;

“(bb) the position limits that the foreign board of trade or foreign futures authority will adopt and enforce;

“(cc) the position reductions required to prevent manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process; and

“(dd) any other area of interest expressed by the Commission to the foreign board of trade or foreign futures authority;

“(IV) provides information to the Commission regarding large trader positions in the agreement, contract, or transaction that is comparable to the large trader position information collected by the Commission for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

“(V) provides the Commission such information as is necessary to publish reports on aggregate trader positions for the agreement, contract, or transaction traded on the foreign board of trade that are comparable to such reports on aggregate trader positions for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles.

“(C) EXISTING FOREIGN BOARDS OF TRADE.—Subparagraphs (A) and (B) shall not be effective with respect to any foreign board of trade to which, prior to the date of enactment of this paragraph, the Commission granted direct access permission until the date that is 180 days after that date of enactment.”.

(b) LIABILITY OF REGISTERED PERSONS TRADING ON A FOREIGN BOARD OF TRADE.—Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting “or by subsection (e)” after “Unless exempted by the Commission pursuant to subsection (c)”;

and

(2) by adding at the end the following:

“(e) LIABILITY OF REGISTERED PERSONS TRADING ON A FOREIGN BOARD OF TRADE.—A person registered with the Commission, or exempt from registration by the Commission, under this Act may not be found to have violated subsection (a) with respect to a transaction in, or in connection with, a contract of sale of a commodity for future delivery if the person has reason to believe that the transaction and the contract is made on or subject to the rules of a foreign board of trade that has complied with subparagraphs (A) and (B) of subsection (b)(1).”.

**SA 4114.** Mr. DORGAN proposed an amendment to amendment SA 4072 submitted by Mr. GRASSLEY (for himself and Mrs. McCASKILL) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. CLEARING OF CREDIT DEFAULT SWAPS.**

(a) CLEARING OF CREDIT DEFAULT SWAPS UNDER THE COMMODITY EXCHANGE ACT.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2), as amended by this title, is amended by adding at the end the following:

“(k) CLEARING OF CREDIT DEFAULT SWAPS.—

“(1) SUBMISSION.—It shall be unlawful for any party to enter into a credit default swap unless that person shall submit such credit default swap for clearing to a derivatives clearing organization that is registered under this Act or a derivatives clearing organization that is exempt from registration under section 5b(i) of this Act.

“(2) PROHIBITION.—Notwithstanding any other provisions in this section or of this Act, if no derivatives clearing organization will accept a credit default swap for clearing, it shall be unlawful for any party to enter into the credit default swap.

“(3) LIMITATION ON SHORT POSITIONS.—

“(A) IN GENERAL.—It shall be unlawful for a protection buyer to enter into a credit default swap which establishes a short position in a reference entity's credit instrument unless the protection buyer can demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that the protection buyer—

“(i) is undertaking such action to establish a legitimate short position in credit default swaps; or

“(ii) is regulated by the Commission as a swap dealer in credit default swaps, and is acting as a market-maker or is otherwise engaged in a financial transaction on behalf of a customer.

“(B) LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.—A protection buyer's short position in credit default swaps shall be considered a legitimate short position in credit default swaps if—

“(i) the value of the protection buyer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the protection buyer's credit default swaps; and

“(ii) the reference entity or entities for the protection buyer's credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

“(C) DETERMINATION OF THE COMMISSION.—

“(i) IN GENERAL.—The Commission and the Securities and Exchange Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term ‘valid credit instrument’.

“(ii) CONSIDERATIONS AND REQUIREMENTS.—In defining the term ‘valid credit instrument’, the Commission and the Securities and Exchange Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

“(iii) RULE OF CONSTRUCTION.—For purposes of this paragraph, any instrument with an equity risk exposure or equity-like features shall not be considered by the Commission to be a valid credit instrument.

“(D) REPORTING.—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the

Commission, in such manner, in such frequency, and in such form as may be prescribed by the Commission.

“(E) HOLDING OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SWAP DEALERS.—Any swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that—

“(i) the value of the swap dealer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the swap dealer's position in credit default swaps; and

“(ii) the reference entity or entities for the swap dealer's credit default swaps in clause (i), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the swap dealer owns.

“(F) PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with the intent of evading the provisions of this subsection.

“(G) AUTHORITY OF THE COMMISSION.—The Commission, in consultation with the Securities and Exchange Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale of credit default swaps.

“(4) DETERMINATION OF THE COUNCIL; PHASE IN.—

“(A) EFFECTIVE DATE.—Subject to subparagraph (B), this subsection shall take effect on the earlier of—

“(i) the effective date established under section 753 of the Wall Street Transparency and Accountability Act of 2010; or

“(ii) the date on which the Chairperson of the Financial Stability Oversight Council makes a determination that the prohibitions and limitations established under this subsection would not cause undue market disruptions.

“(B) DETERMINATION OF MARKET DISRUPTION.—Not later than the effective date established under section 753 of the Wall Street Transparency and Accountability Act of 2010, if the Chairperson of the Financial Stability Oversight Council determines that a phase in of the prohibitions and limitations established under this subsection is necessary to avoid undue market disruptions, then the Chairperson shall recommend, and the Commission shall adopt, a phase in period for such prohibitions and limitations. Any phase in period described under this subparagraph shall not exceed 18 months.

“(5) DEFINITIONS.—

“(A) IN GENERAL.—In this subsection, the following definitions shall apply:

“(i) CREDIT DEFAULT SWAP.—The term ‘credit default swap’—

“(I) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

“(II) is not a debt security registered with the Securities and Exchange Commission and issued by a corporation, State, municipality, or sovereign entity.

“(ii) CREDIT EVENT.—The term ‘credit event’ includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

“(iii) PROTECTION BUYER.—The term ‘protection buyer’ means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the ‘protection seller’) upon the occurrence of one or more credit events.

“(iv) REFERENCE ENTITY.—The term ‘reference entity’ means any borrower, such as a corporation, State, municipality, sovereign entity, or special purpose entity, which has issued a public debt obligation or obtained a loan that is referenced by a credit default swap.

“(B) FURTHER DEFINITION OF TERMS.—The Commission and the Securities and Exchange Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, further defining the terms ‘credit default swap’, ‘credit event’, ‘protection buyer’, and ‘reference entity’.”

(b) CLEARING OF CREDIT DEFAULT SWAPS UNDER SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 3C, as added by this title, the following:

**“SEC. 3C-1. CLEARING OF CREDIT DEFAULT SWAPS.**

“(a) SUBMISSION.—It shall be unlawful for any party to enter into a credit default swap unless that person shall submit such credit default swap for clearing to a clearing agency that is registered under section 17A of this Act.

“(b) PROHIBITION.—Notwithstanding any other provisions in this section or of this Act, if no clearing agency will accept a credit default swap for clearing, it shall be unlawful for any party to enter into the credit default swap.

“(c) LIMITATION ON SHORT POSITIONS.—

“(1) IN GENERAL.—It shall be unlawful for a protection buyer to enter into a credit default swap which establishes a short position in a reference entity's credit unless the protection buyer can demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that the protection buyer—

“(A) is undertaking such action to establish a legitimate short position in credit default swaps; or

“(B) is regulated by the Commission as a security-based swap dealer in credit default swaps, and is acting as a market-maker or otherwise for the purpose of serving clients.

“(2) LEGITIMATE SHORT POSITION IN CREDIT DEFAULT SWAPS.—A protection buyer's short position in credit default swaps shall be considered a legitimate short position in credit default swaps if—

“(A) the value of the protection buyer's holdings in valid credit instruments is equal to or greater than the absolute notional value of the protection buyer's credit default swaps; and

“(B) the reference entity or entities for the protection buyer's credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the protection buyer owns.

“(3) DETERMINATION OF THE COMMISSION.—

“(A) IN GENERAL.—The Commission and the Commodity Futures Trading Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, defining the term ‘valid credit instrument’.

“(B) CONSIDERATIONS AND REQUIREMENTS.—In defining the term ‘valid credit instrument’, the Commission and the Commodity Futures Trading Commission shall consider which group, category, type, or class of credit instruments can be effectively hedged using credit default swaps.

“(C) RULE OF CONSTRUCTION.—For purposes of this subsection, any instrument with an equity risk exposure or equity-like features shall not be considered by the Commission to be a valid credit instrument.

“(4) REPORTING.—Each protection buyer shall report all of its legitimate short positions in credit default swaps, as well as any other credit default swap positions and the valid credit instruments that it owns to the Commission, in such manner, in such frequency, and in such form as may be prescribed by the Commission.

“(5) HOLDINGS OF SHORT POSITIONS IN CREDIT DEFAULT SWAPS BY SECURITY-BASED SWAP DEALERS.—Any security-based swap dealer in credit default swaps seeking to establish, possess, or otherwise obtain a short position as the protection buyer of any credit default swap for more than 60 consecutive calendar days or for more than two-thirds of the days in any calendar quarter, shall demonstrate to the Commission, in such manner and in such form as may be prescribed by the Commission, that—

“(A) the value of the security-based swap dealer's long holdings in valid credit instruments is equal to or greater than the absolute notional value of the security-based swap dealer's position in credit default swaps; and

“(B) the reference entity or entities for the security-based swap dealer's credit default swaps in subparagraph (A), whether in a single-name, or a narrow-based index or a broad-based index credit default swap transaction, must be the same as the borrower or issuer, or borrowers or issuers, of the valid credit instrument or valid credit instruments the security-based swap dealer owns.

“(6) PROHIBITION ON EVASIONS AND STRUCTURING OF TRANSACTIONS.—No person, including any protection buyer, protection seller, or counterparty, may take any action in connection with a credit default swap to structure such swap for the purpose and with the intent of evading the provisions of this section.

“(7) AUTHORITY OF THE COMMISSION.—The Commission, in consultation with the Commodity Futures Trading Commission, may, in the public interest, for the protection of investors, for the protection of market participants, and the maintenance of fair and orderly markets, prohibit any other action, practice, or conduct in connection with or related to the direct or indirect purchase or sale of credit default swaps.

“(d) DETERMINATION OF THE COUNCIL; PHASE IN.—

“(1) EFFECTIVE DATE.—Subject to paragraph (2), this section shall take effect on the earlier of—

“(A) the effective date established under section 773 of the Wall Street Transparency and Accountability Act of 2010; or

“(B) the date on which the Chairperson of the Financial Stability Oversight Council makes a determination that the prohibitions and limitations established under this sub-

section would not cause undue market disruptions.

“(2) DETERMINATION OF MARKET DISRUPTION.—Not later than the effective date established under section 773 of the Wall Street Transparency and Accountability Act of 2010, if the Chairperson of the Financial Stability Oversight Council determines that a phase in of the prohibitions and limitations established under this section is necessary to avoid undue market disruptions, then the Chairperson shall recommend, and the Commission shall adopt, a phase in period for such prohibitions and limitations. Any phase in period described under this paragraph shall not exceed 18 months.

“(e) DEFINITIONS.—

“(1) IN GENERAL.—In this section, the following definitions shall apply:

“(A) CREDIT DEFAULT SWAP.—The term ‘credit default swap’—

“(i) means a swap or security-based swap whose payout is determined by the occurrence of a credit event with respect to a single referenced credit instrument or reference entity or multiple referenced credit instruments or reference entities; and

“(ii) is not a debt security registered with the Commission and issued by a corporation, State, municipality, or sovereign entity.

“(B) CREDIT EVENT.—The term ‘credit event’ includes a default, restructuring, insolvency, bankruptcy, credit downgrade, and a violation of a debt covenant.

“(C) PROTECTION BUYER.—The term ‘protection buyer’ means a person that enters into a credit default swap to obtain a payoff from a third party (commonly referred to as the ‘protection seller’) upon the occurrence of one or more credit events.

“(D) REFERENCE ENTITY.—The term ‘reference entity’ means any borrower, such as a corporation, State, municipality, sovereign entity, or special purpose entity, which has issued a public debt obligation or obtained a loan that is referenced by a credit default swap.

“(2) FURTHER DEFINITION OF TERMS.—The Commission and the Commodity Futures Trading Commission, shall jointly establish and adopt rules, regulations, or orders, in accordance with the public interest, further defining the terms ‘credit default swap’, ‘credit event’, ‘protection buyer’, and ‘reference entity’.”

**SEC. 775. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.**

The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 5 the following:

**“SEC. 5A. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.**

“(a) DEFINITION.—For purposes of this section, the term ‘synthetic asset-backed security’ means an asset-backed security, as defined in section 3(a)(77) of the Securities Exchange Act of 1934, with respect to which, by design, the self-liquidating financial assets referenced in the synthetic securitization do not provide any direct payment or cash flow to the holders of the security.

“(b) RESTRICTION.—

“(1) IN GENERAL.—No issuer, underwriter, placement agent, sponsor, or initial purchaser may offer, sell, or transfer a synthetic asset-backed security that has no purpose apart from speculation on a possible future gain or loss associated with the value or condition of the referenced assets. The Commission may determine, by rule or otherwise, whether a security is included within the description set forth in the preceding sentence. Any such determination by the Commission, other than by rule, is not subject to judicial review.

“(2) RULEMAKING.—Not later than 270 days after the date of enactment of this section, the Commission shall issue rules carry out this section and to prevent evasions thereof.”.

## NOTICE OF HEARING

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, May 25, 2010, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the liability and financial responsibility issues related to offshore oil production, including the Deepwater Horizon accident in the Gulf of Mexico, including S. 3346, a bill to increase the limits on liability under the Outer Continental Shelf Lands Act.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by e-mail to [Abigail\\_Campbell@energy.senate.gov](mailto:Abigail_Campbell@energy.senate.gov).

For further information, please contact Linda Lance or Abigail Campbell.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 18, 2010, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on May 18, 2010, at 11 a.m., in room SR-325 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on May 18, 2010, at 2:30 p.m. in room 106 of the Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 18, 2010, at 10 a.m., to hold a hearing entitled “The New START Treaty.”

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate to conduct a hearing entitled “ESEA Reauthorization: Supporting Student Health, Physical Education, and Well-Being” on Tuesday, May 18, 2010. The hearing will commence at 2:30 p.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 18, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Human Rights and the Law, be authorized to meet during the session of the Senate, on May 18, 2010, at 10 a.m. in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled “Drug Enforcement and the Rule of Law: Mexico and Colombia.”

The PRESIDING OFFICER. Without objection, it is so ordered.

## TO CLARIFY HEALTH CARE PROVIDED BY THE SECRETARY OF VETERANS AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5014, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5014) to clarify the health care provided by the Secretary of Veterans Affairs that constitutes minimum essential coverage.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEVIN. I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid on the table, without any inter-

vening action or debate, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5014) was ordered to a third reading, was read the third time, and passed.

## FEDERAL HIRING PROCESS IMPROVEMENT ACT OF 2010

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 373, S. 736.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 736) to provide for improvements in the Federal hiring process and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

### SECTION 1. SHORT TITLE.

*This Act may be cited as the “Federal Hiring Process Improvement Act of 2010”.*

### SEC. 2. DEFINITION.

*In this Act, the term “agency”—*

*(1) means an Executive agency as defined under section 105 of title 5, United States Code; and*

*(2) shall not include the Government Accountability Office.*

### SEC. 3. STRATEGIC WORKFORCE PLAN.

*(a) IN GENERAL.—*

*(1) DEVELOPMENT OF PLAN.—Not later than 180 days after the date of enactment of this Act and in every subsequent year, the head of each agency, in consultation with the Office of Personnel Management and the Office of Management and Budget, shall develop a strategic workforce plan as part of the agency performance plan required under section 1115 of title 31, United States Code, to include—*

*(A) hiring projections, including occupation and grade level;*

*(B) long-term and short-term strategic human capital planning to address critical skills deficiencies;*

*(C) recruitment strategies to attract highly qualified candidates from diverse backgrounds;*

*(D) streamlining the hiring process to conform with the provisions in this Act; and*

*(E) a specific analysis of the contractor workforce, whether the balance between work being performed by the Federal workforce and the contractor workforce should be adjusted, and the capacity of the agency to manage employees who are not Federal employees and are doing the work of the Government.*

*(2) INCLUSION IN PERFORMANCE PLAN.—Section 1115(a) of title 31, United States Code, is amended—*

*(A) in paragraph (5), by striking “and” after the semicolon;*

*(B) in paragraph (6), by striking the period and inserting “; and”; and*

*(C) by adding at the end the following:*

*“(7) include the strategic workforce plan developed under section 3 of the Federal Hiring Process Improvement Act of 2010.”.*

*(b) HIRING PROJECTIONS.—Agencies shall make hiring projections made under strategic workforce plans available to the public, including on agency websites.*



(c) **SUBMISSION TO THE OFFICE OF PERSONNEL MANAGEMENT.**—Each agency strategic workforce plan shall be submitted to the Office of Personnel Management.

(d) **GOVERNMENTWIDE STRATEGIC WORKFORCE PLAN.**—Based on the agency plans submitted under subsection (a), the Office of Personnel Management shall—

(1) develop a governmentwide strategic workforce plan updated at least annually to include the contents described under subsection (a)(1) on a governmentwide basis; and

(2) make such plan available to the President, Congress, and the public.

#### SEC. 4. FEDERAL JOB ANNOUNCEMENTS.

(a) **TARGETED ANNOUNCEMENTS.**—In consultation with the Chief Human Capital Officers Council, the head of each agency shall—

(1) take steps necessary to target highly qualified applicant pools with diverse backgrounds before posting job announcements;

(2) clearly and prominently post job announcements in strategic locations convenient to, and accessible by, such targeted applicant pools;

(3) seek to develop relationships with targeted and diverse applicant pools to develop regular pipelines for high-quality applicants; and

(4) post job announcements for a reasonable period of time.

(b) **PUBLIC NOTICE REQUIREMENTS.**—The requirements of subsection (a) shall not supersede public notice requirements.

(c) **PLAIN WRITING REQUIREMENT.**—

(1) **DEFINITION.**—In this subsection, the term “plain writing” means writing that the intended audience can readily understand and use because that writing is clear, concise, well-organized, and follows other best practices of plain writing.

(2) **REQUIREMENT.**—Not later than 180 days after the date of enactment of this Act, all job announcements for Federal positions shall be in plain writing in accordance with guidance provided by the Office of Management and Budget.

(d) **CONTACT INFORMATION.**—Job announcements shall include contact information for applicants to seek further information.

#### SEC. 5. APPLICATION PROCESS AND NOTIFICATION REQUIREMENTS.

(a) **APPLICATION PROCESS.**—Not later than 180 days after the date of enactment of this Act and in consultation with the Office of Personnel Management and the Office of Management and Budget, the head of each agency shall develop processes to—

(1) ensure that job announcements are open for a reasonable period of time as determined by the head of the agency to allow applicants from diverse backgrounds time to submit an application;

(2) review and revise the hiring process of the agency to create a streamlined and timely system for hiring decisions;

(3) allow applicants to submit a cover letter, resume, and answers to brief questions, such as questions relating to United States citizenship and veterans status, to complete an application;

(4) allow applicants to submit application materials in a variety of formats, including word processing documents and portable document format;

(5) not require any applicant to provide a Social Security number or any other personal identifying information unnecessary for the initial review of an applicant for a position;

(6) not require lengthy writing requirements such as knowledge, skills, and ability essays as part of an initial application;

(7) not require the submission of additional material in support of an application, such as educational transcript, proof of veterans status, and professional certifications, unless necessary to complete the hiring process;

(8) provide for a valid, job-related assessment process to help identify the best candidates for the position to be filled and which does not place an unreasonable burden upon applicants;

(9) ensure that applicants are given a reasonable amount of time after the closing date of the job announcement to provide additional necessary information; and

(10) include the hiring manager in all parts of the hiring process, including—

(A) targeted recruitment;

(B) drafting the job announcement;

(C) review of the initial applications;

(D) interviewing the applicants; and

(E) the final decisionmaking process.

(b) **NOTIFICATION REQUIREMENTS.**—

(1) **IN GENERAL.**—In consultation with the Chief Human Capital Officers Council, the head of each agency shall develop mechanisms under which each applicant for a Federal job vacancy shall receive timely notification of the status of each application or provide the applicant the ability to check on the status of each application.

(2) **CONTENTS OF NOTIFICATION.**—A notification to an applicant under this subsection shall include—

(A) notice of receipt of an application not later than 5 business days after the application was received by the employing agency;

(B) an explanation of the hiring process and an estimated timeline of the next actions in the process;

(C) notice of the qualification and status of an applicant after all applications for the applicable position have been initially reviewed and ranked;

(D) notice of the qualifications and status of the applicant after all interviews for the applicable position are completed;

(E) for all applicants selected for an interview, notice of the ongoing process if selected, including the process for any needed security clearance or suitability review, not later than the date of the interview; and

(F) notice to nonaccepted applicants that the applicable position is not open not later than 10 business days after the date on which—

(i) the selected candidate has accepted an offer of employment; or

(ii) the job announcement has been cancelled.

#### SEC. 6. APPLICANT INVENTORY.

(a) **IN GENERAL.**—Section 3330 of title 5, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

“(e)(1) The Office of Personnel Management shall establish and keep current a comprehensive inventory of individuals seeking employment in the Federal Government.

“(2) The inventory under this subsection shall—

“(A) be made available to agencies for use in filling vacancies;

“(B) contain information voluntarily provided by applicants for employment, including—

“(i) the resume and contact information provided by the applicant; and

“(ii) any other information which the Office considers appropriate;

“(C) retain information for no longer than 1 calendar year;

“(D) not include information relating to—

“(i) the application of the applicant for a specific vacancy announcement; or

“(ii) any other information relating to vacancy announcements; and

“(E) shall provide for a mechanism to allow —

“(i) applicants to update resume, qualifications, and contact information; and

“(ii) agency officials to search information in the inventory by agency and job classification.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

#### SEC. 7. TRAINING.

Not later than 120 days after the date of enactment of this Act—

(1) in consultation with the Chief Human Capital Officers Council, the Office of Personnel Management shall develop and notify agencies of a training program for human resources professionals to implement the requirements of this Act; and

(2) each agency shall develop and submit to the Office of Personnel Management a plan to implement the training program.

#### SEC. 8. REDUCTION IN THE LENGTH OF THE HIRING PROCESS.

(a) **AGENCY PLANS.**—In consultation with the Office of Management and Budget, the head of each agency shall develop a plan to reduce the length of the hiring process, which shall include an analysis of the current hiring process performed in accordance with standards established by the Office of Personnel Management.

(b) **REQUIREMENTS.**—To the extent practical, the plan shall require that each agency fill identified vacancies not later than an average of 80 calendar days after the date of identification of the vacancy.

(c) **REPORTS.**—Each agency shall submit an annual report to Congress on the average period of time required to fill each job, and whether such jobs are cancelled or reopened.

#### SEC. 9. MEASURES OF FEDERAL HIRING EFFECTIVENESS.

(a) **IN GENERAL.**—Each agency shall measure and collect information on indicators of hiring effectiveness with respect to the following:

(1) **RECRUITING AND HIRING.**—

(A) Ability to reach and recruit highly qualified talent from diverse talent pools.

(B) Use and impact of each hiring authority and flexibility to recruit most qualified applicants, including the use of student internships and scholarship programs as a talent pool for permanent hires.

(C) Use and impact of special hiring authorities and flexibilities to recruit diverse candidates, including veteran, minority, and disabled candidates.

(D) The age, educational level, and source of applicants.

(E) Length of time between the time a position is advertised and the time a first offer of employment is made.

(F) Length of time between the time a first offer of employment for a position is made and the time a new hire starts in that position.

(G) Number of internal and external applicants for Federal positions.

(H) Number of positions filled compared to the specific number in the annual workforce plan of the agency, with specific reference to mission-critical occupations or areas of critical shortage deficiencies.

(I) Number of offers accepted compared to the number of offers made for permanent positions.

(2) **HIRING MANAGER ASSESSMENT.**—

(A) Manager satisfaction with the quality of the applicants interviewed and new hires.

(B) Manager satisfaction with the match between the skills of newly hired individuals and the needs of the agency.

(C) Manager satisfaction with the hiring process and hiring outcomes.

(D) Mission-critical deficiencies closed by new hires and the connection between mission-critical deficiencies and annual agency performance.

(E) Manager satisfaction with the length of time to fill a position.

(3) **APPLICANT ASSESSMENT.**—Applicant satisfaction with the hiring process (including clarity of job announcement, reasons for withdrawal of any application, user-friendliness of



the application process, communication regarding status of application, and timeliness of hiring decision).

(4) **NEW HIRE ASSESSMENT.**—

(A) *New hire satisfaction with the hiring process (including clarity of job announcement, user-friendliness of the application process, communication regarding status of application, and timeliness of hiring decision).*

(B) *Satisfaction with the onboarding experience (including timeliness of onboarding after the hiring decision, welcoming and orientation processes, and being provided with timely and useful new employee information and assistance).*

(C) **New hire attrition.**

(D) *Investment in training and development for employees during their first year of employment.*

(E) *Other indicators and measures as required by the Office of Personnel Management.*

(b) **REPORTS.**—

(1) **IN GENERAL.**—Each agency shall submit on an annual basis and in accordance with regulations prescribed under subsection (c) the information collected under subsection (a) to the Office of Personnel Management.

(2) **AVAILABILITY OF RECRUITING AND HIRING INFORMATION.**—Each year the Office of Personnel Management shall provide the information submitted under paragraph (1) in a consistent format to allow for a comparison of hiring effectiveness and experience across demographic groups and agencies to—

(A) Congress before that information is made publicly available; and

(B) the public on the website of the Office not later than 90 days after the submission of the information under paragraph (1).

(c) **REGULATIONS.**—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall prescribe regulations directing the methodology, timing, and reporting of the data described in subsection (a).

**SEC. 10. REGULATIONS.**

(a) **IN GENERAL.**—Except as provided under section 9(c), not later than 120 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall prescribe regulations as necessary to carry out this Act.

(b) **CONSULTATION.**—The Director of the Office of Personnel Management shall consult the Chief Human Capital Officers Council in the development of regulations under this section.

Mr. LEVIN. I ask unanimous consent that the committee-reported substitute amendment be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 736), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

**EXECUTIVE NOMINATION—  
DISCHARGE AND REFERRAL**

Mr. LEVIN. Mr. President, as in executive session, I ask unanimous consent that the Senate now proceed to the nomination of John S. Pistole, to be Assistant Secretary of Department of Homeland Security, Transportation Security Administration, received by the Senate on Monday, May 17, and referred to the Committee on Commerce; that upon the reporting out of or discharge of the nomination the nomination then be referred to the Committee on Homeland Security and Governmental Affairs for a period not to exceed 30 calendar days; after which the nomination, if still in committee, be discharged and placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

**APPOINTMENT**

The PRESIDING OFFICER. The Chair, on behalf of the minority leader, pursuant to Public Law 106-567, appoints the following individual to serve as a member of the Public Interest Declassification Board: William A. Burck of the District of Columbia.

**ORDERS FOR WEDNESDAY, MAY 19,  
2010**

Mr. LEVIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, May 19; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of S. 3217, Wall Street reform, as provided for under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

**PROGRAM**

Mr. LEVIN. Mr. President, under the previous order, the cloture vote on the

substitute amendment will occur at 2 p.m. As a reminder, the filing deadline for second-degree amendments is 1 p.m. tomorrow.

**ADJOURNMENT UNTIL 9:30 A.M.  
TOMORROW**

Mr. LEVIN. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 9:40 p.m., adjourned until Wednesday, May 19, 2010, at 9:30 a.m.

**NOMINATIONS**

Executive nominations received by the Senate:

**DEPARTMENT OF STATE**

HELEN PATRICIA REED-ROWE, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PALAU.

**IN THE AIR FORCE**

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. SCOTT A. VANDER HAMM

**IN THE ARMY**

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

LT. GEN. LLOYD J. AUSTIN III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. DAVID H. HUNTOON, JR.

**IN THE NAVY**

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

VICE ADM. WILLIAM E. GORTNEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) JAMES P. MCMANAMON

**IN THE ARMY**

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be lieutenant colonel*

ADAM H. HAMAWY

**IN THE NAVY**

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

DAVID S. WELDON

## HOUSE OF REPRESENTATIVES—Tuesday, May 18, 2010

The House met at 12:30 p.m. and was called to order by the Speaker.

### MORNING-HOUR DEBATE

The SPEAKER. Pursuant to the order of the House of January 6, 2009, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

### BICYCLING BURNS CALORIES, NOT FOSSIL FUEL

The SPEAKER. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

Mr. BLUMENAUER. Madam Speaker, I just returned from a 2-day livability tour, thanks to the courtesy of my colleague, Congresswoman ALLYSON Y. SCHWARTZ, a champion of sustainability. I visited her district in Pennsylvania, where she represents parts of Montgomery County and Philadelphia, where we saw rural landscapes, small townships, suburban communities, dense urban areas, open space, abandoned industrial land, and an aging but vital transit system. Together, they illustrated all the challenges that we face in our efforts to rebuild and renew America.

I have a special interest in their initiative for a trail network, where their vision and hard work was rewarded by millions of dollars from the Obama administration and the economic Recovery Act to help fill in the gaps of an exciting trail expansion for the two-State region, including New Jersey.

Amidst impressive progress on Mayor Michael Nutter's vision to make Philadelphia the greenest city in America, with innovative water projects, creative private sector efforts in green development, township progress on revitalization, and important progress in open space protection, the bicycle session stood out. The increase in ridership in Philadelphia was impressive, and they have undertaken a spectacular program—in all 172 elementary schools to train young cyclists and pedestrians. It certainly got my attention. But so did the challenges they face as cycling advocates. It didn't appear as though the regional planning agency, or PennDOT, placed a high priority on bicycle safety. I hope I'm wrong, especially since bike fatalities doubled last year in Philadelphia, but it would not be unusual if it didn't capture a priority. Nationally, bicycle and pedestrians represent 15 percent of all

traffic fatalities but only 3 percent of our spending on safety improvements and education, about one-fifth of the proportionate share that would be warranted. It's especially sad, because the bike and pedestrian victims are more likely to be children and the elderly, more vulnerable populations that should, if anything, command more of our attention.

The cycling community is doing its part to change this unfortunate pattern. As part of its effort to raise awareness, tomorrow in 49 States and 21 nations, there will be Rides of Silence. There will be 274 silent processions riding no more than 12 miles an hour to show respect for the families, friends and neighbors of 700 cyclists killed last year in America alone and as a reminder to law enforcement, to motorists and government officials of both the dangers to and the opportunities for cyclists.

You know, it doesn't have to be this dangerous. Facilities, awareness, training and courtesy can all make cycling safer. I have seen it firsthand. I represent Portland, Oregon, the unofficial American cycling capital. We have had spectacular increases in bike riding. It's doubled in the last 10 years alone, the highest participation in any major American city, but the rate of injuries and death was cut in half.

At a time when more and more Americans want to burn calories, not fossil fuel like the oil bubbling out in the Gulf, when they want to fight congestion, obesity and save money cycling, let's work not just to make it convenient and fun but safe, especially for our children.

This is Bicycle Month. On Friday, we have Bike to Work Day all across America. Tomorrow, I hope Americans will join us in respecting the Rides of Silence to raise awareness for cycling safety.

### RECESS

The SPEAKER pro tempore (Mrs. CAPPS). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 38 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BLUMENAUER) at 2 p.m.

### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

You alone are the Lord our God, Father of all, Who is over all and works through all and is in all. Each of us has been endowed with great gifts by You, Almighty God, and we receive these gifts according to personal measure.

Let us therefore no longer act as children, wasting time and playing games with one another for our own satisfaction. Allow us not to be tossed about here and there by every kind of story and rumor born of human trickery, so skilled in half-truths.

Rather, Lord, hold us to that greater truth founded on a unified assessment that will provide common ground upon which we can stand together and achieve lasting security; and as a Nation, give You glory both now and forever. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Illinois (Mr. GUTIERREZ) come forward and lead the House in the Pledge of Allegiance.

Mr. GUTIERREZ led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### BP: BANNED PERMANENTLY

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute.)

Mr. GUTIERREZ. Mr. Speaker, the initials BP used to stand for British Petroleum. But now it stands for Burying People—or Burying Precious natural resources—under a vast sea of oil. But here's what BP, a serial abuser of our safety, our environment, and our legal system, should really stand for. BP: Banned Permanently.

Today, I ask my colleagues to end any and all Federal oil drilling leases for BP and begin an immediate civil and criminal investigation to examine the existing leases under BP. Almost a month into one of the worst manmade

environmental and economic disasters, BP has worked harder to minimize public understanding than to minimize destruction to the Gulf of Mexico. There's plenty of finger-pointing from BP, their \$62 billion in profits, and their multimillion-dollar team of lobbyists. What BP should hear from us, the American people, is simple: BP stands for Banned Permanently.

I urge my colleagues to join me in demanding that Interior Secretary Salazar tell "Banned Permanently" they've made their last dollar from the American people.

#### COURAGEOUS NFIB LAWSUIT

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I applaud the National Federation of Independent Business, better known as NFIB, for standing up for small businesses in the State of South Carolina, like OCS Doors of Beaufort, led by Jay Halloway, and the Sunset Grill of West Columbia, established by Betty Jackson. Employees at small businesses like these all across America are concerned about the impact of the job-killing mandates of the government health care takeover. The NFIB estimates the takeover will kill 1.6 million jobs. The NFIB stood up for small business employees last week when they joined 20 States, including South Carolina, in a lawsuit to overturn this government monstrosity. There are health care alternatives that Congress should consider, like the SWAP Act, which continues to cover preexisting conditions but will repeal the tax hikes and unaffordable mandates on individuals and small business owners.

In conclusion, God bless our troops, and we will never forget September 11th in the Global War on Terrorism.

#### GULF OIL SPILL

(Mr. COHEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COHEN. Mr. Speaker, nearly 1 month after the Deepwater Horizon oil spill began on April 20, oil continues to flow from the well, poisoning and destroying our water environment. The rig activities were considered to be a low-risk drilling exploration. Such a classification sends chills up my spine, given the countless riskier drilling ventures occurring along the coasts of our great Nation.

While millions of Americans watch the news and see the destruction of the gulf coast, the environment, and the economy of that area, I think of the thoughtless, baseless, cavalier Republican energy chant, "Drill Baby Drill."

It echoes in the ears of the American public and anybody who cares about the gulf coast of the United States. "Drill Baby Drill" was a simplistic response.

We use 25.9 percent of the world's oil. We have 2.2 percent of the world's energy reserves. You don't have to be a math scholar or a Nobel Prize winner to know that won't work. You need to find alternative forms of energy. Use America's great research and brainpower. Harness solar. Harness the wind. Find new ways to help us with our problems with energy and not depend on fossil fuels, not ruin our environment, and not risk the flora and the fauna.

Mr. Speaker, we have to find a new direction to be like America has been in the past: innovative and creative.

#### CONFRONTING WASHINGTON'S OUT-OF-CONTROL SPENDING

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, we learned last week that the Federal Government ran up an \$82.7 billion deficit in April. That's the largest April deficit in our Nation's history. The Federal Government is spending Americans' tax dollars at a record clip, so it's no surprise we're facing this mountain of debt.

But we can fix this problem. House Republicans have engaged the American people with an innovative online tool called YouCut. It's simple. Each week, we're giving Americans an opportunity to vote on a slate of wasteful, outdated, or duplicative Federal programs to cut from the budget. The top vote-getter will be offered up by Republicans for a vote in the House.

So far, hundreds of thousands of concerned citizens from across the country have voted on the YouCut Web site and made it clear they're tired of Washington's one-track spending mentality. YouCut is a first step toward changing the culture of always spending and never saving here in Washington. By itself, it won't solve the problem. But it is engaging our constituents in an important, larger discussion about reining in our skyrocketing debt and out-of-control spending.

#### MEXICAN MILITARY HELICOPTER INCURSIONS

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, U.S. Border Patrol agents have spotted yet another Mexican military helicopter incursion into Texas. That makes three times these helicopters have crossed the border into America this year, that we know of. On Saturday, another Mexican military helicopter was in Texas, hovering near the Roma-Miguel

Aleman International Bridge. Two other times this year, Mexican helicopters were photographed in Starr and Zapata Counties in Texas.

These military incursions are becoming routine. What are they doing here? We don't know. Has our government protested this violation of international law? No one is talking. Our own government seems to be blissfully silent about these incursions. That's why I'm asking Homeland Security Secretary Napolitano for some answers.

The Federal Government is MIA on our borders. Our government ought to spend less time protesting States like Arizona, trying to protect their citizens from border violence, and start getting some answers from Mexico about their military helicopters flying into the United States.

And that's just the way it is.

#### PUTTING AMERICANS FIRST

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, yesterday, on the Joe Scarborough Show, Richard Haass, Chairman of the Council on Foreign Relations, said China had been investing in its economy over the last 10 years while we have been investing in Iraq and Afghanistan. Mr. Haass proudly described himself as an elitist. Well, it is elitists like him and the organization he heads who helped lead to the rush to an unnecessary war in Iraq, and continues to push military and civilian spending in Iraq and Afghanistan that we simply cannot afford. These people apparently are not happy unless we are spending hundreds of billions in other countries.

Mr. Haass seemingly did not feel guilty at all when he said China had invested in its economy while we have blown a couple of trillion dollars in Iraq and Afghanistan. Well, it's long past time for us to bring our troops and contractors home and start investing in our own economy. And it is time for us to start putting Americans first and stop spending so much money and sending so many jobs to other countries.

#### NO WORD FROM THE FEDERAL GOVERNMENT ON THE GULF COAST OIL SPILL

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, last week, our committee on Energy and Commerce, the Subcommittee on Oversight and Investigations, held the first of what is likely to be many hearings into the events going on in the Gulf of Mexico. So far, the hearings and investigation have been decidedly "asymmetric." My committee demanded and

obtained thousands of pages of documents and testimony from the four companies involved in the spill, but virtually nothing—nothing—from the administration. In fact, my committee made no document requests and asked for no testimony from the administration.

The Federal role would appear to be an integral part of this story. We should have representatives from the Department of Interior and the Minerals Management Service explain why in March of 2009, in the Initial Exploration Plans for Deepwater Horizon, a blowout scenario was simply not contemplated, and why the Department of Interior did not require a site-specific oil spill response plan.

We've had no word from the Federal Government and related agencies. When will the administration begin to work with Congress, rather than against Congress and against the American people?

#### NETWORKS SHOW DOUBLE STANDARD ON SUPREME COURT NOMINEE

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, when former President George W. Bush nominated John Roberts and Samuel Alito for the Supreme Court, the television networks repeatedly described them as "conservative," and used terms such as "bedrock conservative," "staunch conservative," and "ultra-conservative." In contrast, the networks rarely label President Obama's Supreme Court nominee, Elena Kagan, as "liberal," according to an analysis by the Media Research Center. In fact, the networks called Justice Alito "conservative" 10 times more often than they called Judge Kagan "liberal" after their respective nominations, according to the MRC.

Perhaps that's no surprise, considering the networks' own political philosophy. These are the same networks who called Candidate Obama moderate, even though he had the most liberal voting record in the entire U.S. Senate. The networks should give Americans the facts about Supreme Court nominees, not practice double standards.

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 17, 2010.

Hon. NANCY PELOSI,  
The Speaker, U.S. Capitol, House of Representatives,  
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II

of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 17, 2010 at 12:16 p.m.:

That the Senate passed with amendments H.R. 2711.

Appointments:

With best wishes, I am

Sincerely,

LORRAINE C. MILLER.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

□ 1415

#### ENDANGERED FISH RECOVERY PROGRAMS IMPROVEMENT ACT OF 2010

Mrs. NAPOLITANO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2288) to amend Public Law 106-392 to maintain annual base funding for the Upper Colorado and San Juan fish recovery programs through fiscal year 2023, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2288

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Endangered Fish Recovery Programs Improvement Act of 2010".*

#### SEC. 2. REAUTHORIZATION OF FISH RECOVERY PROGRAMS.

*Section 3(d)(2) of Public Law 106-392 (114 Stat. 1604 and 1605) is amended by inserting at the end the following: "For fiscal years 2012 through 2023, there are hereby authorized to be appropriated such sums as may be necessary to provide for the annual base funding for the Recovery Implementation Programs above and beyond the continued use of power revenues to fund the operation and maintenance of capital projects and monitoring."*

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. NAPOLITANO) and the gentleman from California (Mr. MCCLINTOCK) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Mrs. NAPOLITANO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. NAPOLITANO. Mr. Speaker, H.R. 2288, introduced by our colleague Representative JOHN SALAZAR from Colorado and seven other colleagues, would amend Public Law 106-392 to authorize appropriations for fiscal years 2012 to 2023 to fund fish recovery programs in the Upper Colorado and the San Juan River Basins.

H.R. 2288 will help ensure the continued delivery of water from Federal water projects to irrigators and municipal and industrial contractors throughout the Upper Colorado River Basin through fiscal year 2023. More than 1,500 water projects will continue to have certainty to move forward, based on the support and commitments generated through these recovery programs.

These recovery programs are nationally recognized examples of diverse stakeholders coming together to collaboratively find solutions without litigation that allow everyone to use the river systems to promote economic growth while supporting compliance with the Endangered Species Act and the recovery of native fish species within the Colorado River Basin.

Mr. Speaker, I ask my colleagues to support the passage of H.R. 2288, and I reserve the balance of my time.

Mr. MCCLINTOCK. Mr. Speaker, I yield myself such time as I may consume.

This measure offers yet another example of how the Endangered Species Act has put a gun to the head of the West. The unreasonable effect of this law is now impoverishing millions of people across the country. In California communities, it has devastated the agricultural sector of our economy, and it threatens us all with permanent water shortages, skyrocketing food prices, and chronic unemployment.

The measure before us today seeks to spend roughly \$40 million through 2023 for research, management, operation, and maintenance and other annual noncapital expenditures in order to keep ESA litigation at bay in the Upper Colorado and San Juan River Basins. It's cosponsored by Representatives of both parties, not because it will produce a single drop of additional water for this region but, rather, because it will forestall additional endless ESA lawsuits.

These programs only exist and only command bipartisan support because these steps are mandated by the ESA under threat of the region losing further access to its own water. And at some point, we're going to have to consider major changes to the ESA before it further depresses our economy, strangles our agriculture, and depletes our Treasury.

Let me offer one of the examples of changes that I think needs to be made. The administration is now pursuing the deliberate destruction of four perfectly good hydroelectric dams on the

Klamath River that generate 155 megawatts of the cleanest and cheapest electricity on the planet at the cost to ratepayers and taxpayers of nearly \$500 million to tear down. This is to restore fish habitat for a few hundred salmon. When I visited the region a few weeks ago, I asked, If the salmon population was in decline, why don't we just build a fish hatchery? The Macaulay fish hatchery in Juneau, for example, produces 170 million salmon every year. And the answer was, We already have a fish hatchery below the dams at Iron Gate, but the Endangered Species Act doesn't allow us to count the millions of fish that it produces. This is insane.

In this case, it's going to cost us \$40 million, according to the CBO, on a program that lacks explicit goals and is running outrageous overhead—22 percent in one case. Now, let me emphasize this: This program doesn't even set specific recovery goals, so there's no rational way of judging success or failure either now or in the future. It is simply a bureaucratic perpetual spending machine.

The good news is, this program does include fish hatcheries, but without any numerical standard for success, their production becomes irrelevant to the program. We're squandering the earnings of our citizens on bureaucratic paperwork and Rube Goldberg contraptions with no rational standard for success instead of investing that money for new water supplies.

This bill continues a folly that our Nation and our economy can no longer afford. I realize that many of the supporters feel that this is the path of least resistance within the current legal framework in order to continue to use the water projects that we've already paid for. Well, that may be the case. But the path of least resistance is destroying our economy, bankrupting our country, and perhaps it's time we took the path less well traveled, the path of common sense.

I reserve the balance of my time.

Mrs. NAPOLITANO. Mr. Speaker, I won't go into any other dialogue other than to yield, for as much time as he may consume, to the gentleman from Colorado, Congressman SALAZAR.

Mr. SALAZAR. Mr. Speaker, I want to thank the distinguished chairwoman of the subcommittee for moving this important bill forward. I would like to share with you and my esteemed colleagues the importance of the Upper Colorado River and San Juan River Basin Endangered Fish Recovery Program. This program is a premiere example of how to recover endangered fish species while also providing more than 3 million acre-feet of water per year to Federal, tribal, and non-Federal water projects. It has been cited as the most successful fish recovery program in the United States and is used as a model for other recovery programs developed across the country.

Today I am happy to see that the House is passing H.R. 2288, to ensure the program can finish the restoration projects identified for complete success. This bill extends the authorization of the program until the year 2023. At that time, the fish species in concern will be fully recovered, and the infrastructure will be in place to ensure continued success. The projects completed to date on the Upper Colorado and San Juan River Basins are examples of outstanding cooperation among a diverse group of local, State, Federal Government agencies, environmental groups, water users, farmers, ranchers, and utility consumers.

People ask why they've never heard of the recovery program, and that is because it has been so successful. The fish identified as being under threat have been substantially maintained. This bill is critical for the continued and final success of the projects necessary for recovery of the endangered fish.

I would also like to note that when this program was enacted, it was done with the understanding that power revenues would be used to pay for the costs of implementing the two fish recovery programs. Due to PAYGO rules, the legislation now lets the power customers only pay a part of the cost of these programs while national taxpayers cover the rest. The original program was agreed to based upon the understanding that power customers would pay for the fish recovery programs, and I hope that they will work with the rest of the parties to fulfill this funding obligation after 2011.

Mr. Speaker, this is a prime example of how one ounce of prevention is worth a pound of cure. It is one of the most successful recovery programs in the entire country, and I want to thank the chairwoman, and I want to thank Ranking Member MCCLINTOCK for working with us on this legislation.

Mr. MCCLINTOCK. Mr. Speaker, I thank the gentleman for his kind words, but I do wonder how he can define success in a program that has no standards for success. I also need to correct him on one other point, and that is the claim that this will provide or produce 3 million acre-feet of water. It does no such thing. All it does is allow us to continue to use the 3 million acre-feet of water that we already produce and that we have already paid for without impediments posed by additional ESA litigation.

With that, I reserve the balance of my time.

Mrs. NAPOLITANO. I yield, for as much time as he may consume, to the gentleman from Colorado, Congressman SALAZAR.

Mr. SALAZAR. I thank the chairwoman.

I want to remind the ranking member that the individual who actually ran against me who was the Depart-

ment of Natural Resources director, Greg Walcher, for Colorado was one of the ones who helped to implement this program in Colorado, a very strong supporter. This was done in a bipartisan way, and most recovery programs are actually starting to be modeled after the Upper Colorado Fish Recovery Program. This is a way to keep fish from going on the endangered species list, and so I am very proud of this program.

We do have goals. By the year 2023, everything should be in place. The infrastructure should be in place so that we can maintain the numbers of the endangered fish in the Upper Colorado River and the San Juan.

Mr. MCCLINTOCK. Mr. Speaker, I readily concede that if you put a gun to somebody's head, you can get reasonable people to do unreasonable things. The ESA is a gun to the head of the people of the West. It's time we did something about that.

No one suggests that there's not an important mission for the ESA, but it has gotten completely out of control. It has breached all bounds of reason and logic, and it is time that we visited that issue rather than continue to squander tens of millions of dollars on programs like this, whose sole purpose is simply to keep that ESA litigation at bay.

With that, I reserve the balance of my time.

Mrs. NAPOLITANO. I will yield 30 seconds to the gentleman from Colorado.

Mr. SALAZAR. I just wanted to thank the gentleman for joining us yesterday in Colorado for a specific water hearing that the gentlelady held in Greeley, Colorado, a prime example of how we can all work together to make sure that agriculture can maintain its water rights. So that is why I am so supportive of this program.

Mr. MCCLINTOCK. Does the gentlelady have any additional speakers?

Mrs. NAPOLITANO. I have no further requests for time, and I reserve the balance of my time.

Mr. MCCLINTOCK. Mr. Speaker, I yield back the balance of my time.

Mrs. NAPOLITANO. Mr. Speaker, Congressman SALAZAR was right. We met yesterday in Greeley, Colorado, with a lot of stakeholders of the Colorado River Basin who indicated to us that their economy is at stake. They professed to us that the Endangered Species Act actually helped maintain the quality of the water in the rivers. So, to me, that's a further indication of how important this particular bill is, to continue the collaboration of all the entities who would come to the table, put their differences aside and quit getting into litigation that is more costly to the taxpayer.

With that, I request that we support H.R. 2288.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. NAPOLITANO) that the House suspend the rules and pass the bill, H.R. 2288, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BROUN of Georgia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

### BUFFALO SOLDIERS IN THE NATIONAL PARKS STUDY ACT

Ms. BORDALLO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4491) to authorize the Secretary of the Interior to conduct a study of alternatives for commemorating and interpreting the role of the Buffalo Soldiers in the early years of the National Parks, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4491

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Buffalo Soldiers in the National Parks Study Act".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) In the late 19th century and early 20th century, African-American troops who came to be known as the Buffalo Soldiers served in many critical roles in the western United States, including protecting some of the first National Parks.

(2) Based at the Presidio in San Francisco, Buffalo Soldiers were assigned to Sequoia and Yosemite National Parks where they patrolled the backcountry, built trails, stopped poaching, and otherwise served in the roles later assumed by National Park rangers.

(3) The public would benefit from having opportunities to learn more about the Buffalo Soldiers in the National Parks and their contributions to the management of National Parks and the legacy of African-Americans in the post-Civil War era.

(4) As the centennial of the National Park Service in 2016 approaches, it is an especially appropriate time to conduct research and increase public awareness of the stewardship role the Buffalo Soldiers played in the early years of the National Parks.

(b) PURPOSE.—The purpose of this Act is to authorize a study to determine the most effective ways to increase understanding and public awareness of the critical role that the Buffalo Soldiers played in the early years of the National Parks.

#### SEC. 3. STUDY.

(a) IN GENERAL.—The Secretary of the Interior shall conduct a study of alternatives for commemorating and interpreting the role of the Buffalo Soldiers in the early years of the National Parks.

(b) CONTENTS OF STUDY.—The study shall include—

(1) a historical assessment, based on extensive research, of the Buffalo Soldiers who served in National Parks in the years prior to the establishment of the National Park Service;

(2) an evaluation of the suitability and feasibility of establishing a national historic trail commemorating the route traveled by the Buffalo Soldiers from their post in the Presidio of San Francisco to Sequoia and Yosemite National Parks and to any other National Parks where they may have served;

(3) the identification of properties that could meet criteria for listing in the National Register of Historic Places or criteria for designation as National Historic Landmarks;

(4) an evaluation of appropriate ways to enhance historical research, education, interpretation, and public awareness of the story of the Buffalo Soldiers' stewardship role in the National Parks, including ways to link the story to the development of National Parks and the story of African-American military service following the Civil War; and

(5) any other matters that the Secretary of the Interior deems appropriate for this study.

(c) REPORT.—Not later than 3 years after funds are made available for the study, the Secretary of the Interior shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the study's findings and recommendations.

□ 1430

The SPEAKER pro tempore (Mr. SALAZAR). Pursuant to the rule, the gentlewoman from Guam (Ms. BORDALLO) and the gentleman from California (Mr. MCCLINTOCK) each will control 20 minutes.

The Chair recognizes the gentlewoman from Guam.

GENERAL LEAVE

Ms. BORDALLO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Guam?

There was no objection.

Ms. BORDALLO. Mr. Speaker, H.R. 4491, introduced by Representative JACKIE SPEIER of California, would authorize the National Park Service to conduct a special resource study to determine appropriate and feasible ways to commemorate the African American cavalymen known as the Buffalo Soldiers and the important role that they played in the early years of the national parks. These soldiers played a critical role in protecting Yosemite and Sequoia National Parks and served as the Nation's first park rangers.

Under the proposed legislation, the National Park Service would evaluate alternatives to commemorate and interpret the roles of the Buffalo Soldiers. They would also evaluate the suitability and feasibility of establishing a national historic trail along

the route used by the Buffalo Soldiers from their post in the Presidio of San Francisco to the Sierra Nevada Mountains.

Representative SPEIER is to be commended for her work to highlight this important chapter in African American history and in the history of our national parks.

Mr. Speaker, H.R. 4491 received broad bipartisan support in committee, and I urge its adoption by the House today.

I reserve the balance of my time.

Mr. MCCLINTOCK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in my opinion, the most important role of the national parks is to provide a link to our Nation's proud history. I believe in American exceptionalism. The story of our Nation is the story of the uniquely American principles enshrined in the Declaration of Independence and how they shaped and molded what has become the most successful Republic in the history of human civilization.

One aspect of that story is exemplified by the Buffalo Soldiers, Americans of African descent who transcended the prejudices of the post-Civil War era to serve as the first peacetime Army units comprised of African Americans. They took the heroism and patriotism of the famous 54th Massachusetts and other Civil War units and made them into a proud and permanent fixture within the American Armed Forces. Their members included Medal of Honor winner Louis H. Carpenter and Henry O. Flipper, the first American of African descent to graduate from West Point.

The Buffalo Soldiers made immeasurable contributions to the continental expansion of our Nation, to the protection of our first national parks, but perhaps most important is their immortal contribution to the unification of our Nation as a free people.

As Shakespeare said, Their story should the good man teach his son. This bill would develop a plan to do precisely that within the national park system. I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in support of H.R. 4491, the Buffalo Soldiers in the National Parks Study Act.

I commend this legislation which directs the Secretary of the Interior to study the role the Buffalo Soldiers played in the development of the National Park System. It is time more information comes to light regarding the contributions Buffalo Soldiers made to protect our National Parks until 1914. Few know the story of how Buffalo Soldiers once patrolled Yosemite, Sequoia and Kings Canyon parks.

As their service has been nearly forgotten, I praise this legislation which will ensure their efforts to our Country are remembered. Buffalo Soldiers remain an integral element in founding our National Parks. These American soldiers carried out mounted patrol duties in

the Western frontier and were among the first park rangers and backcountry rangers patrolling parts of the West.

Mr. Speaker, the Buffalo soldiers blazed the trails and paved the way for what we now call our National Park System. I urge my colleagues to join me in supporting H. R. 4491, the Buffalo Soldiers in the National Parks Study Act.

Ms. BORDALLO. Mr. Speaker, I again urge Members to support the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Guam (Ms. BORDALLO) that the House suspend the rules and pass the bill, H.R. 4491.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### RECOGNIZING 75TH ANNIVERSARY OF EAST BAY REGIONAL PARK DISTRICT

Mr. GEORGE MILLER of California. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 211) recognizing the 75th anniversary of the establishment of the East Bay Regional Park District in California, and for other purposes.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

##### H. CON. RES. 211

Whereas, November 6, 2009, will mark the 75th anniversary of the historic passage of a ballot measure to create the East Bay Regional Park District (referred to in this preamble as the "District") in California's San Francisco Bay Area by a convincing "yes" vote of a 2½ to 1 margin in 1934 during the height of the Depression;

Whereas with the help of the Civilian Conservation Corps, the Works Progress Administration, and private contractors, the District began putting people to work to establish the District's first 3 regional parks—Tilden, Temescal, and Sibley;

Whereas over the intervening 75 years, the District has grown to be the largest regional park agency in the United States with nearly 100,000 acres of parklands spread across 65 regional parks and over 1,100 miles of trails in Alameda and Contra Costa Counties;

Whereas approximately 14,000,000 visitors a year from throughout the San Francisco Bay Area and beyond take advantage of the vast and diverse District parklands and trails;

Whereas the vision of the District is to preserve the priceless heritage of the region's natural and cultural resources, open space, parks, and trails for the future, and to set aside park areas for enjoyment and healthful recreation for current and future generations;

Whereas the mission of the District is to acquire, develop, manage, and maintain a high quality, diverse system of interconnected parklands that balances public usage and education programs with the protection and preservation of the East Bay's

most spectacular natural and cultural resources;

Whereas an environmental ethic guides the District in all that it does;

Whereas in 1988, East Bay voters approved the passage of Measure AA, a \$225,000,000 bond to provide 20 years of funding for regional and local park acquisition and development projects;

Whereas in 2008, under the strategic leadership of its Board of Directors and General Manager Pat O'Brien, East Bay voters approved passage of the historic Measure WW, a \$500,000,000 renewal of the original Measure AA bond—the largest regional or local park bond ever passed in the United States; and

Whereas throughout 2009, the District's 75th Anniversary will be recognized through special events and programs: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress—*

(1) recognizes the 75th anniversary of the establishment of the East Bay Regional Park District; and

(2) honors the board members, general managers, and East Bay Regional Park District staff who have dutifully fulfilled the mission of protecting open space and providing outdoor recreation opportunities for generations of families in the East Bay.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. MCCLINTOCK) each will control 20 minutes.

The Chair recognizes the gentleman from California.

##### GENERAL LEAVE

Mr. GEORGE MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a lifelong citizen of Contra Costa County in the East Bay of the San Francisco Bay area, I have witnessed firsthand the East Bay Regional Park District's steady drive to protect open spaces, benefiting millions of East Bay residents over several generations. The East Bay Regional Park District is today the largest regional park agency in the country.

Over the last 75 years, they have preserved nearly 100,000 acres of parkland, established 65 regional parks, and built over 1,100 miles of trails. Almost every weekend, I visit the East Bay Regional Parks on one of their trails, one of the regional park systems, to walk with my family and enjoy the outdoors in the parks. Generally it is the Briones Regional Park that is near my home.

I commend the East Bay Regional Park District and all of the various board members throughout the last 75 years on not only reaching this mile-

stone, but the vision that they conceptualized many, many years ago to provide this incredible asset to the residents of the San Francisco Bay area, specifically to the East Bay of San Francisco Bay.

I rise in strong support of this resolution commending the 75th anniversary of the East Bay Regional Park District. I want to thank Chairman RAHALL, Chairman GRIJALVA, Chairwoman BORDALLO, and Ranking Member BISHOP for their work to bring this resolution to the floor.

As a resident of this area, and very often talking to my neighbors and to people I represent in this area, the pride that our area has in the East Bay Regional Parks, the support that the citizens of this region have given the park district over the last 75 years is testament to a well-run system of parks throughout our area, of recreational facilities, of trails, of support for families with children, for people who ride horses, people who ride bikes, people who run, people who walk, and accommodating the open spaces and historical and cultural uses of the areas within the boundaries of the East Bay Regional Parks in Alameda and Contra Costa counties.

I don't represent this area alone. I share the representation of the park district with Congresswoman BARBARA LEE, Congressman PETE STARK, Congressman JOHN GARAMENDI and Congressman JERRY MCNERNEY, and I know all of them share the pride that I do in the East Bay Regional Park System.

As I stated earlier, the vision that they have presented to the public and the support that it has received, and the cooperation they have received from farmers, from ranchers, from cities, from the counties, has just been an incredible model for other areas that have to deal with the issues of preserving open space and the competing uses of that space by various governmental jurisdictions and private landowners.

I also want to pay tribute to the grand old man in implementing this plan and working with all of the various landowners and the local jurisdictions and procuring these lands at a fair price to the taxpayers of our region, and that is Hewlett Hornbeck, who for so many years brought about the implementation of that vision of the board of directors of the regional parks.

I reserve the balance of my time.

Mr. MCCLINTOCK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the East Bay Regional Park District serves the people of San Francisco, and the test of their satisfaction is the fact that they have continued to support it with voter-approved bonds, each vote being a vote of confidence in its work and each vote



backing that confidence with local funds.

It used to be that local projects that benefited local communities were paid for by those local communities, and the East Bay Regional Park is an example of this bygone era. Today the Federal Treasury is too often treated as a grab bag for local projects, literally robbing St. Petersburg to pay St. Paul. The success of the East Bay Regional Park District is a reminder that the most successful local projects are those that are paid for with local funds and superintended by local voters. It is a reminder that Federalism works and that we need to return to it.

I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I want to thank the gentleman from California (Mr. MCCLINTOCK) for his comments, and what he said is one of the reasons why this park district has such a high level of support among its citizens. They voted many times to tax themselves, knowing this money was going to be wisely used and they were going to get a good and a fair bargain for all parties involved.

At this time, I yield such time as he may consume to Congressman PETE STARK, another longtime supporter and beneficiary of the East Bay Regional Park system.

Mr. STARK. Mr. Speaker, I thank the distinguished chairman for recognizing me.

The 75th anniversary of the East Bay Regional Park District really goes back to the early grassroots days of actually the Depression, when people in our district banded together in that time to organize and tax themselves to create this district. These parks are owned by everyone. In the Great Depression, they created the district and the Civilian Conservation Corps, and the WPA were the initial workers in these parks.

It would be remiss for me not to recognize general manager Pat O'Brien, who has worked so hard to keep these parks open. In my district, you can move from the hills of Freemont to the crown park in Alameda, to the hills behind Oakland and never be beyond walking distance of these marvelous parks. So it is a compliment to the chairman, and I would like to join with him in recognizing the importance of our regional park district, and thanking the local people in hopes that others may follow suit.

Mr. GEORGE MILLER of California. I thank the gentleman, and I yield myself 2 minutes.

Congressman STARK mentioned Pat O'Brien, and I want to thank him because he has been such a wonderful manager of this system, along with his entire staff, and certainly all of the volunteers who come to the park, which number in the thousands, all of the time to take care of these parks and make them accessible to the pub-

lic, to host special events. I thank the magnificent staff, the rangers of the park system, who live in our communities and know the people who use the parks and accommodate them.

It was said at one time, I don't know if it is accurate or not, but it was suggested you could get on horseback and ride for 7 days and never leave the park and never use the same trails. The park hosts numerous stables that the private sector has outside of the park. Again, thousands of people a year use the parks on horseback. It is a great opportunity for children to be around horses and see people riding them and learn about them from their owners.

This is a remarkable community asset in the midst of one of the most urban areas in the United States in terms of density, and clearly highly appreciated by the people. I would hope that all of my colleagues in Congress would join us in voting for and supporting the 75th anniversary recognition of this world class park system of the East Bay Regional Parks.

Mr. MCCLINTOCK. Mr. Speaker, I yield back the balance of my time.

Ms. LEE of California. Mr. Speaker, I rise in support of H. Con. Res. 211 to recognize the 75th anniversary of the establishment of the East Bay Regional Park District in California.

I would also like to thank Representative GEORGE MILLER for his leadership in introducing this resolution and for his tireless work as a representative of California's 7th Congressional District which neighbors my home, the 9th Congressional District.

The success of the East Bay Regional Parks District is rooted in the history of our own country, and in the belief that during times of economic and social adversity, investments in people and environmental preservation can be instrumental in promoting economic recovery while benefiting current and future generations.

This resolution celebrates the 75th anniversary of the ballot measure to create the East Bay Regional Parks District, a measure that passed overwhelmingly during a time of great economic upheaval in 1934.

With the help of federal public works agencies, and sustained public and private engagement, the Parks District established its first regional parks including Tilden, Sibley, and Temescal Parks, all in my home District.

Today the East Bay Regional Park District is the largest local park agency in the United States and serves a population of 2.5 million residents along with countless visitors seeking the unique sights, sounds, and outdoor activities of the District's parks just a short walk or drive from the some of the San Francisco Bay Area's largest urban centers.

I am so proud of the legacy of the East Bay Regional Parks District throughout the California Bay Area and its inspiring illustration of the need to preserve our recreational and wilderness resources across the nation.

I would also like to take a moment to recognize the supporters of the East Bay Regional Park District, as well as its board members, general managers, and staff.

Through the hard work of these individuals, and backed by the unwavering support of local

residents, the East Bay Regional Park District remains committed to conserving and expanding park resources for the recreational, educational, and scenic enjoyment of these open spaces for generations to come.

With that in mind, I strongly urge my colleagues to support this resolution, and in doing so, join in honoring the East Bay Regional Parks District during this historic commemoration of its past, present, and future in serving millions of residents and visitors in the California Bay Area.

Mr. GARAMENDI. Mr. Speaker, I rise today in enthusiastic support of House Concurrent Resolution 211, which honors the board members, general managers, and staff of the East Bay Regional Park District. For 75 years, these public servants and their predecessors have admirably preserved the great outdoors for the Bay Area's communities and millions of visitors.

The East Bay Regional Park District has grown to the largest regional park agency in the United States, covering nearly 100,000 acres. District employees have admirably protected the land and native wildlife while providing invaluable recreational opportunities. This harmonious interaction is demonstrated all over the park system. The stewardship of fisheries allows anglers to catch striped bass, rainbow trout, and sturgeon. The management of livestock grazing reduces the threat of fires and preserves diversity of vegetation. The conservation of water resources permits swimmers to enjoy our lakes and lagoons. The East Bay Regional Park District also provides opportunities for archeologists, hikers, scientists, and other recreationalists and students.

Bay Area residents recognize that the Park System has contributed greatly to their living environment and helped make the region one of the best places in the country to live. In 1934, 1988, and most recently in 2008, Bay Area voters extended its funding, maintaining this natural treasure for the enjoyment of present and future generations.

Lastly, Mr. Speaker, I would like to thank Congressman GEORGE MILLER for introducing this Resolution and Chairman NICK RAHALL for his outstanding leadership of the Natural Resources Committee. From the East Bay to the East Steps of the Capitol, they have been good stewards to this country's natural wonders.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GEORGE MILLER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 211.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

#### HONORING FLOYD DOMINY

Mrs. NAPOLITANO. Mr. Speaker, I move to suspend the rules and agree to

the resolution (H. Res. 1327) honoring the life, achievements, and contributions of Floyd Dominy.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1327

Whereas Floyd Dominy, a legendary Bureau of Reclamation Commissioner dedicated to building dams that would supply society with necessary water and emissions-free power for living and recreation, passed away on April 20, 2010, at the age of 100;

Whereas Floyd Dominy was born on a farm in Hastings, Nebraska, on December 24, 1909, and graduated from the University of Wyoming in 1933;

Whereas Floyd Dominy acquired critical war materials, helped resolve food shortages, and served in the U.S. Naval Reserve during World War II;

Whereas Floyd Dominy joined the Bureau of Reclamation in 1946 as a specialist responsible for procedures by which newly irrigated land on public land could be settled by returning war veterans;

Whereas Floyd Dominy later served as the Associate Commissioner of the Bureau of Reclamation before being sworn in as Commissioner upon appointment by President Dwight D. Eisenhower;

Whereas Floyd Dominy served in the same capacity under Presidents John F. Kennedy, Lyndon Johnson, and Richard Nixon;

Whereas upon his retirement in 1969, Floyd Dominy was and continues to be the longest serving Bureau of Reclamation Commissioner;

Whereas Floyd Dominy, during his tenure as the Commissioner of the Bureau of Reclamation, played a major role in the authorization and the construction of numerous Federal multi-purpose dams and water projects in the western United States, including Glen Canyon, Flaming Gorge, and Navajo Dams, the Central Arizona Project, San Luis Unit, and the Trinity Division of the Central Valley Project;

Whereas many of these projects that Floyd Dominy played such a role in creating and constructing continue to be vital to the Nation's food supply and renewable electricity generation and attract millions of recreationalists each year; and

Whereas Floyd Dominy was named one of the top ten "Public Works Men of the Year" in 1966 and was awarded for "Outstanding Engineering Achievement in Heavy Construction" in 1974: Now, therefore, be it

*Resolved*, That the House of Representatives honors the life and accomplishments of Floyd Dominy, former Bureau of Reclamation Commissioner, for his many contributions to the Nation's water and food supply, recreation, and the environment.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. NAPOLITANO) and the gentleman from California (Mr. MCCLINTOCK) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

#### GENERAL LEAVE

Mrs. NAPOLITANO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. NAPOLITANO. Mr. Speaker, House Resolution 1327 was introduced by our colleague, Representative ADRIAN SMITH, and myself to honor the passing of Mr. Floyd Dominy, the man who was responsible for planning, coordinating, and building many of the Federal water projects that exist in the entire Western United States today.

□ 1445

House Resolution 1327 recognizes the longest-serving commissioner in the history of the Bureau of Reclamation, serving Presidents Eisenhower, Kennedy, Johnson and Nixon. Mr. Dominy, who, until his death, liked to be referred to as Mr. Commissioner, rose from the plains of Nebraska to become one of the most influential water developers in the world.

The legacy of Mr. Floyd Dominy impacts nearly every person in the 17 Western States. Water for cities and agriculture and reservoirs for recreation, along with hydropower from Bureau of Reclamation dams, provided the West with the ability to grow.

The history of the West was built on the shoulders of men and women who saw challenges as opportunities. Floyd Dominy built the Bureau of Reclamation and its engineers into a world-class organization that helped the West and the world develop and manage limited water resources.

Mr. Speaker, I ask my colleagues to support the passage of House Resolution 1327.

I reserve the balance of my time.

Mr. MCCLINTOCK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution honors the life, achievements and contributions of Mr. Floyd Dominy, the longest-serving commissioner in the history of the Bureau of Reclamation.

Our colleague, Congressman ADRIAN SMITH, has introduced this bipartisan resolution because Mr. Dominy was a Nebraskan, having been born on a farm in the western part of that State. But while Mr. Dominy hailed from Nebraska, his achievements are known worldwide.

It was that hard scrabble life of eking out a living on a dry Nebraska farm that propelled Floyd Dominy into building the dams and water projects that have made possible the success of American agriculture in the western United States.

During his tenure at the Bureau of Reclamation, he played a major role in the authorization and construction of numerous Federal multi-purpose dams and water projects in the United States, including the Glen Canyon Dam in Arizona, Flaming Gorge Dam in Utah, the San Luis Unit in Central

California, the Central Arizona Project and the Trinity Division of the Central Valley Project in northern California.

To this day, these projects have created some of the most productive farmland in the world, they have provided water to a growing population in the arid West, and they've generated clean, renewable and emissions-free hydropower.

His contributions to the Nation's water, power and food supply, its recreation and its environment stand as monumental examples of how visionaries like Mr. Dominy have made this country the beacon of freedom and opportunity and prosperity. This resolution honors that legacy.

But more than a legacy, it is a lesson for our Nation. Floyd Dominy stood as a giant in an era when the central objective of our Federal water and power policy was to provide an abundance of both. The great dams and hydroelectric projects of that era, of which Floyd Dominy was a driving force, produced the water and electricity that made possible the prosperity of our Nation.

Imagine an era when water and power was so cheap that many communities didn't even bother to measure the stuff. But in the 1970s, a radical and retrograde ideology seeped into our water and power policy. This ideology rejected abundance as our principal objective and replaced it with the rationing of shortages that have been caused by our abandoning abundance as our principal objective.

The great builders like Floyd Dominy were cast aside and forgotten, even while we continued to rely on the great public works that they had produced. We've now lived a generation under this ideology and the results, chronic shortages of water and power, skyrocketing prices for electricity, withering agriculture and declining prosperity.

Floyd Dominy is an American hero. He deserves so much more than a resolution. But, in a sense, he has it. The great water and hydroelectric projects that he produced stand as a monument to his vision and foresight and dedication. And they stand as a road map for this Nation when we finally get serious about dealing with the chronic shortages that the current generation of policymakers has produced.

I'd urge my colleagues to support this bipartisan measure.

I yield back the balance of my time.

Mr. SMITH of Nebraska. Mr. Speaker, I rise today to honor the life and legacy of Nebraska native Floyd Dominy.

Floyd, the longest serving Commissioner of the Bureau of Reclamation, recently passed away at the age of 100.

His contributions to our nation will continue to be felt for generations. A true Nebraskan, he knew just how important access to water is for farmers, ranchers, and our communities.

He dedicated himself to the projects which would supply the necessary water resources for both agriculture and recreational purposes.

The House of Representatives passed H.Res. 1327—a resolution honoring Floyd for the major role he played in the development of our nation's water infrastructure.

Floyd was well known for his hard work and dedication, and I am proud to sponsor the resolution honoring Floyd's lifetime of service.

Mrs. NAPOLITANO. Mr. Speaker, indeed, Mr. Dominy was a U.S. hero, if nothing else. He left a great legacy for the world, not just the United States; and we're exceedingly proud. He passed away 4 months ago at the age of 100 years old plus 4 months. My condolences to his family.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. NAPOLITANO) that the House suspend the rules and agree to the resolution, H. Res. 1327.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mrs. NAPOLITANO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### JUVENILE ACCOUNTABILITY BLOCK GRANTS PROGRAM REAUTHORIZATION ACT OF 2009

Mr. SCOTT of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1514) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reauthorize the juvenile accountability block grants program through fiscal year 2014.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1514

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Juvenile Accountability Block Grants Program Reauthorization Act of 2009".

#### SEC. 2. REAUTHORIZATION OF JUVENILE ACCOUNTABILITY BLOCK GRANTS PROGRAM THROUGH FISCAL YEAR 2014.

Part R of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee et seq.) is amended—

(1) in section 1801A(a), by striking "section 1810(b)" and inserting "section 1810(c)";

(2) in section 1810(a), by striking "2009" and inserting "2014"; and

(3) in section 1810(b), by inserting "and each of the fiscal years 2009 through 2014" after "2004".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Florida (Mr. ROONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

#### GENERAL LEAVE

Mr. SCOTT of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill reauthorizes the Juvenile Accountability Block Grant program for an additional 3 years.

I worked with my Republican colleagues in 1997 to develop and pass the legislation that created this important initiative. This program directs the Department of Justice to make grants to States and units of local government to strengthen their juvenile justice systems.

The program allows funds to be used for a broad range of purposes that help reduce juvenile crime, such as establishing programs to assess the needs of juvenile offenders in order to facilitate provision of comprehensive services; establishing programs to reduce recidivism amongst juveniles; hiring juvenile court judges, court-appointed defenders and advocates; and developing systems of graduated sanctions for juvenile offenders.

The Juvenile Accountability Block Grant has been an important part of the Federal Government's funding of juvenile justice programs. When we worked together on a bipartisan basis to develop this program, Members recognized that success in preventing juvenile crime and reducing recidivism by juvenile offenders requires something other than tough-sounding slogans and sound bites.

When it comes to dealing with issues of juvenile justice, we're fortunate that there is more and more information available showing that we need to make sure that we approach this problem based on evidence, and we know that that evidence shows what works and what doesn't work.

Those studies show that comprehensive prevention and early intervention programs directed towards youth at risk of involvement, or those already involved in the juvenile justice system, will significantly reduce crime.

For example, we've seen in this program that this program has funded a chemical dependency program in Idaho serving at-risk youth with mental health issues and substance abuse and related offenses.

And in Ohio, the program funded a system of graduated sanctions that provided alternatives to secure detention for pre-adjudicated youth.

These are just two examples of how the program successfully provides juve-

nile justice professionals with alternatives they need so that there is not a one-size-fits-all system of sanctions, regardless of the needs and situation of each juvenile.

We extend and strengthen grants to ensure more accountability for juvenile crime, and so we need to make sure that these principles are kept in mind, and we do more to help communities prevent juvenile crime from occurring in the first place.

I am pleased that this program continues to have bipartisan support. This bill is cosponsored by the chairman of the Judiciary Committee, the gentleman from Michigan (Mr. CONYERS); the ranking member of the Judiciary Committee, the gentleman from Texas (Mr. SMITH); and the Crime Subcommittee ranking member, the gentleman from Texas (Mr. GOHMERT).

I urge my colleagues to support this important legislation.

I reserve the balance of my time.

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 1514, the Juvenile Accountability Block Grants Program Reauthorization Act of 2009. I am encouraged the Judiciary Committee has devoted its time and resources to such an important piece of legislation.

This bipartisan legislation is sponsored by Crime Subcommittee chairman Mr. BOBBY SCOTT. Other notable cosponsors include Judiciary Committee chairman and ranking member JOHN CONYERS and LAMAR SMITH, and Crime Subcommittee ranking member LOUIE GOHMERT.

Crimes committed by children strike at the very core of our communities. Our children are the promise of a better and brighter tomorrow and hope for future generations. Reducing juvenile crimes and improving the juvenile justice system is a vital step in preserving and protecting the future of our children.

H.R. 1514 amends the Omnibus Crime Control and Safe Streets Act of 1968 to extend through fiscal year 2014 the authorization of appropriations for the Juvenile Accountability Block Grant program.

The goal of the Juvenile Accountability Block Grant program is to equip communities with the financial resources to reduce juvenile delinquency and increase the accountability of juvenile offenders in the justice system. The Juvenile Accountability Block Grant program awards Federal block grants to the 50 States, the District of Columbia and the five U.S. Territories, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Northern Mariana Islands.

Grants from this program have helped provide communities with restorative justice programs, police and probation partnerships, drug and teen

courts, and other programs which facilitate the successful re-entry of juvenile offenders from custody back into the community.

In 2009, the Juvenile Accountability Block Grant program provided local communities in my home State of Florida with over \$2 million to assist them in their efforts to make our families and neighborhoods safer. These Federal grants were used to combat gang violence, curb juvenile drug use, and provide mediation services to juvenile offenders and their victims.

Meeting the challenge of reducing juvenile crime extends beyond the traditional punitive criminal justice system. It requires a comprehensive approach to ensuring that juveniles not only receive punishment proportional to their crime, but also receive the support that they need to get back on the right track.

The Juvenile Accountability Block Grant program is an essential tool for the States and communities across the Nation. I support the reauthorization of this program and urge my colleagues to support this legislation.

I yield back the balance of my time.  
Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for his support. I urge colleagues to support this bill.

I yield back the balance of my time.  
The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and pass the bill, H.R. 1514.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SCOTT of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1500

#### NATIONAL MISSING CHILDREN'S DAY

Mr. SCOTT of Virginia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1325) recognizing National Missing Children's Day, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1325

Whereas, May 25, 2010, will be the 28th National Missing Children's Day;

Whereas National Missing Children's Day honors the obligation of the United States to locate and recover missing children by prompting parents, guardians, and other trusted adult role models to make child safety an utmost priority;

Whereas in the United States nearly 800,000 children are reported missing a year, more

than 58,000 children are abducted by non-family members, and more than 2,000 children are reported missing every day;

Whereas efforts of Congress to provide resources, training, and technical assistance have increased the capabilities of State and local law enforcement to find children and to return them home safely;

Whereas the 1979 disappearance of 6-year-old Etan Patz served as the impetus for the creation of National Missing Children's Day, first proclaimed in 1983; and

Whereas Etan's photograph was distributed throughout the United States and appeared in media globally, and the powerful image came to represent the anguish of thousands of searching families: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes National Missing Children's Day and encourages all people in the United States to join together to plan events in communities across the United States to raise public awareness of law enforcement and the issue of missing children and the need to address the national problem of missing children;

(2) recognizes that one of the most important tools for law enforcement to use in the case of a missing child is an up-to-date, good quality photograph of the child and urges all parents and guardians to follow the important precaution of maintaining such a photograph;

(3) recognizes the vital role of law enforcement and the criminal justice system in preventing kidnappings and abduction of children while also leading efforts to locate missing children; and

(4) acknowledges that National Missing Children's Day should remind people in the United States not to forget the children who are still missing and not to waver in the efforts of law enforcement to reunite such children with their families.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Florida (Mr. ROONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

#### GENERAL LEAVE

Mr. SCOTT of Virginia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution recognizes Tuesday, May 25, as National Missing Children's Day. We hope this resolution will continue to raise public awareness about the problem of missing and abducted children. I therefore thank the gentleman from Florida (Mr. ROONEY) and his colleague from Florida (Mr. HASTINGS) for introducing this resolution.

May 25, 1979, was the day that 6-year-old Etan Patz disappeared from New York City while he was on his way to school. The media attention and mas-

sive search efforts that followed his disappearance focused the Nation's attention on the problem of child abduction.

Two years later, in July 1981, 6-year-old Adam Walsh disappeared from a Florida shopping mall. His parents, John and Revere Walsh, turned to law enforcement to find their son. They quickly realized that there was no coordinated effort between Federal, State, and local law enforcement agencies in the search for their son. And to make the situation even more difficult, in 1981, there were no organizations to assist them in their search.

The momentum for a national movement to keep children safe from predators and coordinate efforts by law enforcement to search for missing children began with the disappearance of these two children. As a result of this movement, the National Center for Missing & Exploited Children was established in 1984. Over the past 25 years, the National Center has assisted law enforcement with more than 165,000 missing child cases, resulting in the recovery of more than 151,000 children.

Although the National Center has done a remarkable job in helping to find missing children and raising public awareness about the problem of child abduction and exploitation, the Department of Justice reports that far too many children still go missing every year. We hope that on May 25, the National Missing Children's Day, we hope that on that date everyone's thoughts will be with the families who have missing children and that we will rededicate our efforts to protecting our children from predators.

I urge my colleagues to support this important resolution and reserve the balance of my time.

Mr. ROONEY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I support House Resolution 1325, which I sponsored to recognize National Missing Children's Day. This simple but important resolution recognizes May 25, 2010, as the 28th National Missing Children's Day. The Federal Government first recognized this day in 1983, when President Ronald Reagan proclaimed May 25 as National Missing Children's Day.

The National Center for Missing & Exploited Children tells us that the proclamation followed a series of high-profile missing children cases that drew newspaper headlines across the country. The first involved the disappearance of Etan Patz from a New York City street on his way to school on May 25, 1979. Etan's father, a professional photographer, disseminated black-and-white photographs of Etan in an effort to find him. The massive search and media attention that followed focused the Nation's attention on the problem of child abduction and the lack of coordinated plans to address it.

The second incident was the missing and murdered child tragedy in Atlanta, Georgia. During this episode, the bodies of 29 young boys and girls were discovered over a 3-year period in the late 1970s and early 1980s. A suspect was identified and convicted in 1981, and now he is serving a life sentence in prison.

Also in 1981, in my home State of Florida, 6-year-old Adam Walsh disappeared from a local shopping mall. His parents, John and Reve Walsh, turned to law enforcement agencies to help find their son. To their disappointment, there was little coordinated effort among law enforcement officials to search for Adam on a State or national level.

These tragedies led to the recognition of the dearth of coordination among Federal, State, and local law enforcement agencies, and the lack of a national response system to help our families search for missing children. Since that time, our country has made great strides in this area.

National Missing Children's Day serves as an annual reminder to the Nation to renew efforts to reunite missing children and their families and make child protection a national priority. As the resolution notes, National Missing Children's Day is a reminder to all parents and guardians to take and keep high-quality photographs of their children for use in case of emergency. We should also use this day to remind all Americans of the importance of paying close attention to the posters and photographs of missing children.

The resolution also recognizes the vital role of law enforcement officials in preventing kidnappings and abductions of children, while also leading efforts to locate the missing. This resolution should remind people across the country not to forget the children that are still missing and not to waver in the efforts to reunite these children with their families.

I support this resolution and urge my colleagues to adopt it.

Mr. Speaker, I would like to yield as much time as he may consume to the gentleman from Texas (Mr. POE), a member of the Judiciary Committee.

Mr. POE of Texas. Mr. Speaker, as a former prosecutor and a judge in Texas, and now the founder and co-chair, along with my friend JIM COSTA from California, of the Congressional Victims' Rights Caucus, I rise in strong support of this resolution which seeks to honor May 25 as National Missing Children's Day.

This day is the anniversary of the disappearance of 6-year-old Etan Patz. The momentum that began with the disappearance of Etan and many children that followed him ultimately led to the national movement that we now have today.

As my friend from Florida mentioned, the other notorious case was

the disappearance of Adam Walsh when he was 6, when he was with his mother at a shopping mall and then kidnapped, and later he was found in the Gulf of Mexico. His father, John Walsh, because of the incident that happened against his son, started the program "America's Most Wanted" on television that sought to capture criminals throughout the United States, a program that has been very successful.

In 1983, President Reagan proclaimed May 25 as National Missing Children's Day. This day serves as a reminder to parents to have high-quality photographs of their kids handy, and a reminder to us in Congress that the safety of those children should be a national priority of all Members of Congress.

Every year thousands of children are reported missing. While progress has been made in linking Federal and State law enforcement efforts, these numbers remind us that we must always be vigilant in our efforts to reunite missing children with their families and, of course, to step up our prosecution of those that harm them and to make child protection a national priority.

I am thankful for the work of the National Center for Missing & Exploited Children. The Center provides a national hub and clearinghouse of information about missing children, and their efforts have been great, leading to the capture and prosecution of hundreds of predators and also the recovery of numerous children.

Mr. Speaker, this resolution in honor of National Missing Children's Day is also a timely one. In 2005, we had a string of notorious kidnappings of children throughout the country that were sexually assaulted and then murdered. One of those young victims was Jessica Lunsford, another child from Florida, who at the age of 9 was asleep in her own bed in her own room, and she was kidnapped in the middle of the night by an individual by the name of John Couey, a sexual predator from the State of Georgia. He committed several crimes against her and eventually buried that young lady alive.

Because of her and other children that year, the Adam Walsh Child Safety Act was passed by this Congress and signed into law, an effort to help track sexual predators when they cross State lines. Just yesterday, the Supreme Court of the United States upheld a provision of the Adam Walsh Child Safety Act when the Supreme Court ruled that sex offenders can be held behind bars indefinitely if officials determine them to be sexually dangerous to the community.

Mr. Speaker, sexual predators are among the most dangerous people on Earth to our children. And by upholding this ruling, the Supreme Court has reinforced the role of the Federal Government in protecting children from those who wish to constantly do them harm.

I want to thank my friend from Florida (Mr. ROONEY) for bringing this legislation to the floor, and I urge my colleagues to give it their full-hearted support.

Mr. SCOTT of Virginia. Mr. Speaker, I continue to reserve.

Mr. ROONEY. Mr. Speaker, I would like to yield as much time as he may consume to the gentleman from my State of Florida (Mr. MICA).

Mr. MICA. Might I first inquire as to the remaining time?

The SPEAKER pro tempore. The gentleman from Florida has 13½ minutes.

Mr. MICA. Mr. Speaker, first of all, I want to thank Mr. ROONEY for introducing this resolution. I urge my colleagues to support the resolution. I thank you for remembering today the missing children's law that was passed some 28 years ago.

It's hard to believe time passes by, and sometimes some of the details of how laws or important changes in our legal system and our approach to issues like missing children, how things happen. I thought it would be good to come out to the floor this afternoon, and I again thank you for paying attention to the missing children law. Again, hard to believe that it's almost three decades since it's passed. I heard some of the speakers speak about the law, and I think it's important as we remember today, as we recognize the missing children's law and this anniversary, how it all came about.

If you are here long enough in Congress, you find that certain people get dedicated to a proposition or to an effort or a cause and they spearhead that cause. In 1981, I had the great honor to be selected as chief of staff for United States Senator Paula Hawkins. She was probably the first woman elected to the United States Senate in her own right. She had no husband or family ties. She was just popularly elected to the U.S. Senate. She had a different set of agendas, and it was wonderful to work with her and learn from her. I knew her as a very determined woman who shook up the Public Service Commission. Everything she got ahold of she went after sort of like one of those pit bull dogs.

As chief of staff, I remember calls from a gentleman by the name of John Walsh, who had lost his son, and he and his wife Reve were very distraught trying to find that child. Senator Hawkins became aware of their plight, and she took ahold of that issue and their search for their lost missing son, Adam, and she never stopped. I heard other references to children that were lost or murdered before that, but I can tell you, there would not be today or not have been in 1982 a law passed relating to missing children if it weren't for Senator Hawkins.

I distinctly remember one policy meeting we had with the newly elected

Senator, and she had some interesting advisers. One is well known, a national adviser, Charlie Black, a good friend of mine. Another one is a friend and political consultant many of you have heard of, Dick Morris. We were in a meeting room in her Senate office in the district in Winter Park, Florida, after Adam was missing, and John and Mrs. Walsh had asked the Senator to help find their son.

And they sat in this policy meeting, and at the time they talked about national issues, Social Security, national defense, and what the Senator's priorities should be. And I will never forget at that meeting, Senator Hawkins interjected after each national issue at that time was brought up, "And we have to do something about missing children." Time and time again she brought it up, and she never stopped after that until she passed the law. She guided it through the Senate, through this body, and made it become law because of her determination to make certain, and I remember her saying this, and I want this in the RECORD, "If we can find a missing refrigerator or we can find a missing automobile, why shouldn't we be able to have a law that helped us find missing children?"

And so it was her determination that made this law possible some 28 years ago. It was her determination that helped to create the Center for Missing & Exploited Children.

□ 1515

She doesn't hear this praise because she passed away last December. And during her many testimonials and obituaries, it was written she was the author of the Missing Children's Law in 1982 that President Reagan signed into law. And that, my friends, my colleagues, is the rest of the story.

This law from three decades, nearly three decades later, is a result of a very determined woman who thought children should be a national priority and we should have a law that assisted when a child is lost and a national center to carry on that work. They've done a great job.

John Walsh and his wife have turned unbelievable human tragedy into something positive in their effort. The loss of Adam, a great, great loss. You can't imagine parents losing their child. And I was with the Walshes in New York City when they were notified of their child's remains being found. It's something you cannot even possibly imagine as a parent.

But, again, out of that tragedy came a law that's helped us find, reclaim, and account for thousands, literally thousands of missing children.

So, as you pass this resolution today, I commend you. I urge my colleagues to adopt it and just wanted to provide a little background for the history and CONGRESSIONAL RECORD of how this law came about.

Mr. SCOTT of Virginia. I reserve my time.

Mr. ROONEY. Mr. Speaker, I have no further speakers, and I am prepared to close.

I support this important resolution to recognize National Missing Children's Day. I want to thank Mr. SCOTT, our chairman Mr. CONYERS who's here today, Mr. MICA, Mr. POE. And I urge the rest of my colleagues to support this resolution.

I yield back the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I would like to thank all of our colleagues who've made comments today, particularly the gentleman from Florida for his leadership on this legislation and the leadership of the Judiciary Committee. I thank them for their concern and leadership on the issue of missing children.

I urge my colleagues to support the resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and agree to the resolution, H. Res. 1325, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SCOTT of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### HONORING THE LIFE OF LENA HORNE

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1362) celebrating the life and achievements of Lena Mary Calhoun Horne and honoring her for her triumphs against racial discrimination and her steadfast commitment to the civil rights of all people.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 1362

Whereas Lena Mary Calhoun Horne was a trail-blazing performing artist whose life exemplified her commitment to social justice, peace, and civil rights;

Whereas Ms. Horne was born in Brooklyn, New York on June 30, 1917, and joined the chorus of the famed Cotton Club in Harlem at the age of 16 and debuted on Broadway one year later in the musical "Dance With Your Gods" (1934);

Whereas during the 1940s, Ms. Horne was one of the first African American women to perform with a white band ensemble, the first black performer to play the Copacabana nightclub, and among the first African Americans to sign a long-term Hollywood

film studio contract, garnering her roles in a host of films, including "Thousands Cheer" (1943), "Broadway Rhythm" (1944), "Two Girls and a Sailor" (1944), "Ziegfeld Follies" (1946);

Whereas her rendition of the title song to the 1943 film "Stormy Weather" became a major hit and among her signature pieces, which also included "Deed I Do", "As Long As I Live", and Cole Porter's "Just One of Those Things";

Whereas Ms. Horne recorded prolifically into the 1990s and the record "Lena Horne at the Waldorf-Astoria" became the best-selling album by a female singer in RCA Victor's history;

Whereas Ms. Horne earned four Grammy Awards during the course of her career, including the Recording Academy's Lifetime Achievement Award in 1989, a National Association for the Advancement of Colored People Image Award in 1999, and a Kennedy Center Honor in 1984;

Whereas Ms. Horne appeared extensively on television, including specials with Harry Belafonte, Tony Bennett, numerous musical reviews and variety shows, and appearances on programs like "Sesame Street" and "The Cosby Show";

Whereas she was nominated for her first Tony Award in 1957 for her role in the musical "Jamaica", and her 1981 one-woman Broadway show, "Lena Horne: The Lady and Her Music", earned her a Tony Award, a Grammy Award, and ran for more than 300 performances;

Whereas despite Ms. Horne's pioneering contract with MGM studios, she was never featured in a leading role during the 1940s and 50s because her films had to be reedited for theaters in Southern States that proscribed films with black performers;

Whereas Ms. Horne was outspoken in her fight for racial equality;

Whereas during World War II, she used her own money to travel and entertain the troops;

Whereas while Ms. Horne performed at Army camps for the U.S.O., she became an outspoken critic of the treatment of African American servicemen and refused to sing before segregated audiences and at venues in which German Prisoners of War were seated in front of black soldiers;

Whereas during the late 1940s, Ms. Horne sued a number of restaurants and theaters for racial discrimination;

Whereas Ms. Horne was only two years old when her grandmother, suffragette, and civil rights activist Cora Calhoun enrolled her as a member of the National Association for the Advancement of Colored People, and she worked for years with the Delta Sigma Theta sorority and the Urban League;

Whereas she participated in numerous civil rights rallies and demonstrations—marching with Medgar Evers in Mississippi, performing at rallies throughout the Nation for the National Council of Negro Women, and taking part in the March on Washington in August 1963 at which the Rev. Martin Luther King, Jr., delivered his "I Have a Dream" speech;

Whereas her commitment to civil rights and political views may have resulted in her appearance on Hollywood "blacklists" during the 1950s;

Whereas Ms. Horne worked with Eleanor Roosevelt to pass antilynching legislation;

Whereas with her wide musical range and consummate professionalism, she rose beyond Hollywood's stereotypical portrayals of African American as maids, butlers, and African natives; and



Whereas her poise, grace, and courage paved the way for generations of women and African Americans: Now, therefore, be it

*Resolved*, That the House of Representatives celebrates the life and achievements of Lena Mary Calhoun Horne and honors her for her triumphs against racial discrimination and her steadfast commitment to the civil rights of all people.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Florida (Mr. ROONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

#### GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask that all Members have 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. I yield myself as much time as I may consume.

Mr. Speaker, Lena Horne has now left us, but she has been known around the world as an outstanding actress, singer, and civil rights advocate. And this resolution honors her pioneering success, her unwavering commitment to advancing the civil rights and human rights of all people.

She went on to break numerous racial barriers as a beautiful, talented, gifted artist, and there are very few people who don't remember her. She received four Grammy awards, a Tony award, the highest honor—the National Association for the Advancement of Colored People's Image award, in 1984 the Kennedy Center Honor, and she was a star at MGM studios. She used her own resources to travel during World War II to entertain troops. She did refuse at that time to sing before any segregated audiences.

She marched with Medgar Evers in Mississippi, and she was honored to know and work with Eleanor Roosevelt.

What a legend, what a life, and what a great contribution to this country she made.

Mr. Speaker, on May 9, the actress and civil rights advocate Lena Mary Calhoun Horne passed away at the age of 92. Today the House considers a resolution to honor her pioneering success and her unwavering commitment to advancing the civil rights of all people.

Born in Brooklyn in 1917, Ms. Horne began her prolific career at Harlem's famed Cotton Club at the age of 16 as a chorus-singer, and debuted on Broadway just a year later in the 1934 musical *Dance With Your Gods*.

She would go on to break numerous racial barriers in the 1940s American entertainment industry—including being the first African American woman to perform with a white band ensemble, and among the first to sign a long-term Hollywood film studio contract.

Ms. Horne's films gained her national and international acclaim—her performance of the title song to the 1943 film *Stormy Weather* is still the standard rendition.

Ms. Horne won numerous accolades during her career, among them:

Four Grammy Awards, including the Recording Academy's Lifetime Achievement Award in 1989;

A Tony Award for her one-woman show, *Lena Horne: The Lady and Her Music*;

A National Association for the Advancement of Colored People (NAACP) Image Award in 1999; and

A Kennedy Center Honor in 1984.

But her success did not come without trial—Ms. Horne, like a generation of African American performers, had to overcome the entertainment industry's entrenched race-based discrimination.

Despite her groundbreaking contract with MGM studios, Ms. Horne was never featured in a leading role during the 1940s and 50s because her films had to be re-edited for theaters in the segregated southern States.

Her outspoken political views may also have landed her on Hollywood "blacklists" in the 1950s, further hindering her film and recording career.

Ms. Horne used her own money to travel during World War II to entertain the troops, and while she performed at Army camps with the U.S.O., she became an outspoken critic of how the military treated its black servicemen.

She refused to sing before segregated audiences, or groups in which German prisoners of war were seated in front of black American soldiers.

During the 1940s, she sued a number of restaurants and theaters for racial discrimination, and she participated in numerous civil rights rallies and demonstrations.

She marched with Medgar Evers in Mississippi, performed at rallies throughout the country for the National Council of Negro Women, and took part in the March on Washington in August 1963 at which the Rev. Martin Luther King, Jr., delivered his "I Have a Dream" speech.

She also worked with Eleanor Roosevelt to pass anti-lynching legislation.

Her courageous commitment to civil rights perhaps began as a toddler, when her grandmother—the suffragette and civil rights advocate Cora Calhoun—enrolled her as an NAACP member at the age of 2.

Actively recording and speaking into her 80s, she will forever be remembered as a consummate professional and trailblazer.

She helped to usher in the end of Hollywood's derogatory portrayals of African Americans as servants and African natives, and she did so with unwavering poise and grace.

She led the way for generations of women and African Americans, and I urge my colleagues to support this important resolution to recognize her achievements.

I reserve my time.

Mr. ROONEY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I support House Resolution 1362 commemorating the life of Lena Horne who died earlier this month on Sunday, May 9, 2010.

Ms. Horne's many performances as a singer, dancer, and actress enriched countless lives and influenced the history of jazz, pop, Broadway musicals,

films, and television. She also contributed in significant ways to the civil rights movement, as Mr. CONYERS just stated.

Ms. Horne was born in Brooklyn, New York, in 1917. Her father left the family when she was 3 and her mother was a traveling actress. At the age of 5, she was sent to live in Georgia with her grandparents. After returning to New York, she joined the chorus at the famed Cotton Club in Harlem in 1933. In the late 1930s and the early 1940s, she was primarily a nightclub performer, but she also appeared in a few low-budget movies and was the featured vocalist on NBC's popular jazz series "The Chamber Music Society of Lower Basin Street."

During a nightclub performance in Hollywood in 1943, she gained the attention of some local talent scouts for the movies. She became the first black performer to sign a long-term contract with a major Hollywood studio. She performed in a number of movie musicals throughout the 1940s, including the MGM musical "Cabin in the Sky."

From the late 1950s through the 1960s, Ms. Horne appeared on many television variety shows, including "The Ed Sullivan Show" and "The Dean Martin Show." In the 1970s and 1980s, she continued to perform in television shows, including appearances on "The Muppet Show," "Sesame Street," and "The Cosby Show."

In 1981, she received a special Tony award for a one-woman Broadway show, "Lena Horne: The Lady and Her Music," which ran for more than 300 performances on Broadway. She also received two Grammy awards for the cast recording of her show.

Ms. Horne again won Grammy awards in 1989 honoring her lifetime achievement, and in 1995, when she was almost 80, for best jazz vocal performance.

Throughout her illustrious career, Ms. Horne found time and energy to devote to the civil rights movement. In 1963, she spoke and performed on behalf of the NAACP and the National Council of Negro Women at the famous March on Washington.

I support this resolution's commemoration of Lena Horne's many contributions to music, television, theater, and civil rights. She brought grace and graciousness to every aspect of her work, and I urge my colleagues to join me in supporting this resolution.

I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield to DANNY DAVIS, our dear friend from Chicago, Illinois, as much time as he may consume.

Mr. DAVIS of Illinois. Mr. Speaker, first of all, I want to thank Chairman CONYERS for yielding time, and I also want to thank him for his historical memories of the life of Lena Horne. Some people were fortunate to read about her, but I believe that Chairman



CONYERS is old enough to remember her during her heyday. As a matter of fact, I am also. And I never shall forget my sister and I having the opportunity to go and watch "Cabin in the Sky" when we were little kids. As a matter of fact, Chris and I talked about that experience with each other all the way up until the time that she died a few years ago. I mean, for us, that was the most memorable thing that we had ever seen, that we had ever done, that we had ever been able to do.

We didn't know much about civil rights at that time. As a matter of fact, I guess we were a little young to know much about civil rights. But we did know that we just revered this lady, Lena Horne. And then later on as we got older, we were able to appreciate her in different kinds of roles as not only an entertainer, not only a great performer, but also one who had a tremendous amount of spirit in relationship to what it is that she taught. She taught that you really didn't have to take certain kinds of roles if you didn't want them and if you didn't see yourself that way; that it didn't matter what anybody called you; that what really mattered was what you answered to.

And so Lena Horne, who was ageless, priceless—we never knew what her age was because we could never tell. When she was 60, I guess she might have looked like she was 30, maybe 25. So somehow or another, she found the fountain of youth. But she contributed greatly to the development of this country and to the world in which we live.

So again, I want to thank Chairman CONYERS for introducing this resolution, along with Representative CLARKE and other cosponsors.

Mr. ROONEY. Mr. Speaker, I yield back the balance of my time.

Ms. CLARKE. Mr. Speaker, I rise today in support of H. Res. 1362, Celebrating the Life and Achievements of Lena Mary Calhoun Horne.

I want to first thank my friend, mentor, and co-author, Chairman JOHN CONYERS, Jr. working with me to craft this resolution and for bringing it to the floor for a vote.

I am here today to pay tribute to one of Brooklyn's most treasured gifts to American arts, culture, and civil society. On May 9, 2010, Hollywood actress, jazz singer, and civil rights activist Lena Horne passed away at the age of 92.

Ms. Horne was a trail-blazing performing artist whose life exemplified her commitment to social justice, peace, and civil rights. Born and raised in Brooklyn, Ms. Horne made her debut performance in the famous Cotton Club in Harlem at the age of 16, propelling her into a thriving career that took her from Broadway to Hollywood.

A major contributor to the arts, Ms. Horne's legacy as a Broadway star, movie star, and Grammy-award winning recording artist will never be forgotten. Her long career was punctuated by a number of notable firsts and in-

dustrial accolades. She was the first African-American woman to perform with a white band ensemble, the first black performer to play the Copacabana nightclub, and among the first African Americans to sign a long-term Hollywood film studio contract. Industry recognized her talents with four Grammy Awards, the Recording Academy Lifetime Achievement Award, a Tony Award, and a Kennedy Center Honor.

A member of the NAACP since the age of two, Ms. Horne was an avid supporter of the civil rights movement. She participated in numerous civil rights rallies and demonstrations, including the March on Washington in August 1963. Joining Eleanor Roosevelt, Ms. Horne worked to pass anti-lynching legislation.

A major supporter of the troops, during World War II, Ms. Horne initially toured with the USO performers. After criticizing the treatment of African-American troops, Ms. Horne refused to perform for a segregated military audience. When her studio pulled Horne off the tour as a response to her act of defiance, she ultimately used her own money to finance trips to perform at Army camps. I admire her dedication to honoring our troops.

Ms. Horne left behind a legacy that has forever changed the opportunities available for female African-American performers. But even more important, Ms. Horne is a role model for young women of every race who are brave enough to follow their dreams or speak out against injustice.

One of Brooklyn's finest, Lena Horne will be truly missed, but her legacy will forever remain in our memory, like a sweet . . . sweet . . . melody.

Mr. ROHRBACHER. Mr. Speaker, I rise in support of H. Res. 1362, which celebrates the life and achievements of Lena Mary Calhoun Horne, and honors her for her triumphs against racial discrimination and her steadfast commitment to the civil rights of all people.

Lena Horne was a trail-blazing performing artist whose life exemplified her commitment to social justice, peace, and civil rights. During World War II, she paid her own way to travel and entertain the troops at Army camps for the USO, and became an outspoken critic of the treatment of African-American servicemen, many of whom had to sit behind German Prisoners of War during her performances.

Ms. Horne went on to participate in numerous civil rights rallies and demonstrations, and used her poise, grace, and courage to pave the way for generations of women and African-Americans. Our nation is better because of Lena Horne and those like her, and it is right and fitting that we honor her on the House floor today.

Ms. RICHARDSON. Mr. Speaker, I rise today in support of H. Res. 1362, which honors the tremendous accomplishments of the late Lena Mary Calhoun Horne, who passed away on May 9, 2010 at the age of 92. Born in 1917 in Brooklyn, NY, Lena Horne was one of the most prolific and accomplished performers of her time. At the young age of 16, Ms. Horne began her career when she joined the chorus line of the famous Cotton Club in Harlem. Over the years, her phenomenal talent garnered increasing critical acclaim and widespread recognition, as she became one of the most prominent figures in American entertainment.

I thank Chairman TOWNS for his leadership in bringing this bill to the floor. I also thank the sponsor of this legislation, Congressman CONYERS for honoring the legacy of this superb American actress and songstress.

Despite the segregation-era law that prohibited African Americans from playing leading roles in white films or plays, Ms. Horne's talent attracted widespread national attention. She was beloved for her part in the 1943 musical *Cabin in the Sky*. Additionally, for her role in the Calypso musical *Jamaica*, Ms. Horne was nominated for a Tony Award for "Best Actress in a Musical."

Ms. Horne's musical career was equally impressive. In 1957, her live album entitled *Lena Horne at the Waldorf-Astoria* became the best selling album by a female recording artist in the history of the RCA-Victor label. In the 1950s, Ms. Horne appeared in a number of popular television shows including, *The Ed Sullivan Show*, *The Dean Martin Show*, *The Judy Garland Show*, and *The Andy Williams Show*.

Lena Horne's pursuits were not limited to the stage. She was an outspoken activist committed to fighting racism and Jim Crow. She attended the 1963 March on Washington where Dr. Martin Luther King delivered his famous "I Have a Dream" speech and performed on behalf of the National Association for the Advancement of Colored People (NAACP), the Student Non-Violent Coordinating Committee (SNCC), and the National Council of Negro Women. During World War II, she refused to perform before segregated audiences and protested shows in which German Prisoners of War were seated in front of African American soldiers.

I salute the artistic talent and inspirational life led by Lena Horne. I commend her contribution to the richness of American performance art and vocal stances against oppression and discrimination. Lena Horne captivated and inspired a nation and she will be greatly missed.

I urge my colleagues to join me in supporting H. Res. 1362.

Mr. CONYERS. Mr. Speaker, we have no further requests for speakers. I know that there will be many Members that will be inserting their own statements in the RECORD.

I yield back the balance of my time as well.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and agree to the resolution, H. Res. 1362.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CONYERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1530

# FEDERAL JUDICIARY ADMINISTRATIVE IMPROVEMENTS ACT OF 2010

Mr. JOHNSON of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1782) to provide improvements for the operations of the Federal courts, and for other purposes. The Clerk read the title of the bill.

The text of the bill is as follows:

S. 1782

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Judiciary Administrative Improvements Act of 2010".

## SEC. 2. SENIOR JUDGE GOVERNANCE CORRECTION.

Section 631(a) of title 28, United States Code, is amended in the first sentence by striking "(including any judge in regular active service and any judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed)".

## SEC. 3. REVISION OF STATUTORY DESCRIPTION OF THE DISTRICT OF NORTH DAKOTA.

Chapter 5 of title 28, United States Code, is amended by striking section 114 and inserting the following:

### "§ 114. North Dakota

"North Dakota constitutes one judicial district.

"Court shall be held at Bismarck, Fargo, Grand Forks, and Minot."

## SEC. 4. SEPARATION OF THE JUDGMENT AND STATEMENT OF REASONS FORMS.

Section 3553(c)(2) of title 18, United States Code, is amended by striking "the written order of judgment and commitment" and inserting "a statement of reasons form issued under section 994(w)(1)(B) of title 28".

## SEC. 5. PRETRIAL SERVICES FUNCTIONS FOR JUVENILES.

Section 3154 of title 18, United States Code, is amended—

(1) by redesignating paragraph (14) as paragraph (15); and

(2) by inserting after paragraph (13) the following:

"(14) Perform, in a manner appropriate for juveniles, any of the functions identified in this section with respect to juveniles awaiting adjudication, trial, or disposition under chapter 403 of this title who are not detained."

## SEC. 6. STATISTICAL REPORTING SCHEDULE FOR CRIMINAL WIRETAP ORDERS.

Section 2519 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "Within thirty days after the expiration of an order (or each extension thereof) entered under section 2518, or the denial of an order approving an interception, the issuing or denying judge" and inserting "In January of each year, any judge who has issued an order (or an extension thereof) under section 2518 that expired during the preceding year, or who has denied approval of an interception during that year,";

(2) in paragraph (2), by striking "In January of each year" and inserting "In March of each year"; and

(3) in paragraph (3), by striking "In April of each year" and inserting "In June of each year".

## SEC. 7. THRESHOLDS FOR ADMINISTRATIVE REVIEW OF OTHER THAN COUNSEL CASE COMPENSATION.

Section 3006A of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) in paragraph (2)—

(i) in subparagraph (A), in the second sentence, by striking "\$500" and inserting "\$800"; and

(ii) in subparagraph (B), by striking "\$500" and inserting "\$800"; and

(B) in paragraph (3), in the first sentence, by striking "\$1,600" and inserting "\$2,400"; and

(2) by adding at the end the following:

"(5) The dollar amounts provided in paragraphs (2) and (3) shall be adjusted simultaneously by an amount, rounded to the nearest multiple of \$100, equal to the percentage of the cumulative adjustments taking effect under section 5303 of title 5 in the rates of pay under the General Schedule since the date the dollar amounts provided in paragraphs (2) and (3), respectively, were last enacted or adjusted by statute."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. JOHNSON) and the gentleman from Florida (Mr. ROONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

### GENERAL LEAVE

Mr. JOHNSON of Georgia. I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. JOHNSON of Georgia. I yield myself such time as I may consume.

Mr. Speaker, the Federal Judiciary Administrative Improvements Act of 2010 makes a number of changes to increase the efficiency and effectiveness of the Federal courts. The House passed a substantially similar version of this legislation last October.

H.R. 3632, which I introduced, was cosponsored by Chairman JOHN CONYERS, Ranking Member LAMAR SMITH, and Ranking Member HOWARD COBLE of the Subcommittee on Courts and Competition Policy, which I also chair.

S. 1782 would make a number of modest changes to the law and to the administrative operations of the Federal judiciary.

First, it will fix a minor conflict in the law and make clear that senior judges with a reduced workload are permitted to participate in the selection of magistrate judges.

Second, the bill incorporates a proposal supported by my friend and colleague from North Dakota, EARL POMEROY, to place North Dakota in a single judicial district. This will allow for a more even distribution of the workloads of the Federal courts in North Dakota.

Third, the bill makes some minor adjustments for criminal matters. It re-

quires separating the Statement of Reason from other information relating to the case, enabling confidential information to be more carefully controlled and protected.

The bill also clarifies the scope and authority of Federal Pretrial Service officers to supervise and assist juveniles awaiting delinquency disposition in Federal court as an alternative to incarceration.

Further, the bill adjusts the deadline for both State and Federal judges to file their wiretap totals with the Administrative Office of the Courts so that the annual wiretap report to Congress is accurate and does not later require a later addendum.

Finally, the bill increases the statutory amount that can be paid for experts without requiring approval by the chief judge. This raises the current threshold to accurately reflect the impact of inflation.

While I strongly support passage of the Senate bill, I note that some provisions in the House bill are not included in this bill.

For example, the House bill would have adjusted the disability requirement and cost-of-living annuities of four territorial judges, thereby reducing existing inequities between them and other term judges such as magistrate and bankruptcy judges.

The House bill would have changed the annual lead limit for the judicial branch and adjusted the pay scale.

Finally, the House bill would have allowed four Federal Judicial Center Division directors to receive a salary commensurate with their responsibilities and on par with similar AO personnel.

I intend to introduce new legislation that will include these provisions from my version of the Federal Judiciary Administrative Improvements Act, but let me be clear that passage of the legislation before us today is an important step to improving our Federal judiciary and helping it function in the most efficient way. This legislation is bipartisan and noncontroversial. It passed the Senate under unanimous consent and has the full backing of the Judicial Conference. I ask my colleagues to join me in supporting this important legislation.

I reserve the balance of my time.

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of S. 1782 is to implement noncontroversial administrative provisions that the Judicial Conference and the House Judiciary Committee believe are necessary to improve the operations of the Federal judiciary and provide justice for the American people. The bill retains most of the content of H.R. 3632, which we passed in October of 2009.

The Judicial Conference is the policymaking body of the Federal judiciary and through its committee system

evaluates court operations. The conference endorses all the provisions in this bill.

S. 1782 affects a wide range of judicial branch programs and operations, including those pertaining to financial administration, process improvements, and personnel administration. The bill incorporates five separate items.

First, it clarifies that senior judges must satisfy minimum work thresholds to participate in court government matters, including the selection of magistrates.

Second, the bill eliminates the references to divisions and counties in the statutory description of the Judicial District of North Dakota, which enables the court to better distribute the workload between two active district judges and reduce travel for litigants in the northern central area of the district.

Third, it authorizes the Statement of Reasons that judges must issue upon sentencing to be filed separately with the court. Current law requires that the statement be bundled with other information in the case distributed to the Sentencing Commission, where it can be difficult to maintain a seal related to confidential information.

Fourth, it specifies that the Federal Pretrial Service officers can provide the same services to juveniles as they do for adult offenders, such as drug treatment.

And, finally, it applies an inflationary index to the threshold amount requiring approval by the chief judge of reimbursements for the cost of hiring expert witnesses and conducting investigation for indigent defendants.

The dollar thresholds are statutorily fixed and erode over time. This means chief justices must devote greater time approving what are otherwise not genuine high-dollar requests.

Mr. Speaker, S. 1782 is necessary to improve the functioning of the U.S. courts, which will ultimately benefit the American people. This is a non-controversial bill, and I urge my colleagues to support it.

I yield back the balance of my time.

Mr. JOHNSON of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. JOHNSON) that the House suspend the rules and pass the bill, S. 1782.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### EXPRESSING CONDOLENCES FOR CHATHAM COUNTY COURTHOUSE FIRE

Mr. JOHNSON of Georgia. Mr. Speaker, I move to suspend the rules and

agree to the resolution (H. Res. 1364) honoring the historic and community significance of the Chatham County Courthouse and expressing condolences to Chatham County and the town of Pittsboro for the fire damage sustained by the courthouse on March 25, 2010.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1364

Whereas on March 5, 1881, the General Assembly of North Carolina approved legislation allowing the Board of Justices of Chatham County to replace the existing architecturally unsound Chatham County courthouse with a new facility and provided the county with construction bonds of up to \$12,000;

Whereas Thomas B. Womack designed the plans for the Chatham County Courthouse, and J. Bynum and William Lord London of Pittsboro, North Carolina, were awarded the construction contract;

Whereas on September 1, 1881, members of Columbus Lodge 102 laid the cornerstone of the new courthouse in Pittsboro, and on July 4, 1882, the new courthouse was completed;

Whereas the Chatham County Courthouse is a three-story brick structure with a two-story classical portico topped by a distinguishing three-stage cupola;

Whereas county courthouses are focal points of justice and the rule of law in communities across the country, and the Chatham County Courthouse serves as the central landmark of Pittsboro and Chatham County;

Whereas the historic Chatham County Courthouse was partially destroyed by a tragic fire that broke out on March 25, 2010, at approximately 4:15 p.m.;

Whereas firefighters, led by Chatham County Fire Marshal Thomas Bender, courageously fought the blaze and protected surrounding buildings from damage;

Whereas government officials of the North Carolina Administrative Office of the Courts, Chatham County, and the town of Pittsboro have worked tirelessly to ensure the continuity of judicial operations in Chatham County and to develop a plan to restore the courthouse; and

Whereas the North Carolina court system, Chatham County, and the town of Pittsboro experienced a significant and tragic loss as a result of the March 25, 2010 fire: Now, therefore, be it

Resolved, That the House of Representatives—

(1) expresses condolences to the North Carolina court system, Chatham County, and the town of Pittsboro for the tragic loss of the Chatham County Courthouse;

(2) commends the heroic actions of the Chatham County firefighters and first responders who worked tirelessly to combat the Courthouse fire, minimize the damage to the Courthouse and the historic materials contained therein, and protect the public;

(3) recognizes the community significance of the Courthouse as a cornerstone of justice and the rule of law in Chatham County; and

(4) recognizes the impact that more than a century of landmark court decisions has made on the judicial system of the Town of Pittsboro, Chatham County, and North Carolina.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. JOHNSON) and the gen-

tleman from Florida (Mr. ROONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

#### GENERAL LEAVE

Mr. JOHNSON of Georgia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. JOHNSON of Georgia. I yield myself such time as I may consume.

Mr. Speaker, this resolution honors the Chatham County Courthouse in Pittsboro, North Carolina. This historic courthouse was recently destroyed by a fire on March 25, 2010. It took more than 100 courageous firefighters to put out the blaze.

The town of Pittsboro, population around 3,000, has many important historical attractions. These include numerous 19th century buildings, an old-fashioned soda shop on the main street, and a number of antique stores. And for over 100 years, Chatham County Courthouse stood in the middle of town.

The courthouse was originally built in 1881 and was restored in 1991 to its original appearance. Local residents regarded the courthouse as the heart of the county and as a symbol of their community.

This resolution expresses our condolences to the town of Pittsboro and all of Chatham County, North Carolina, for their loss of this historic and significant building, and I urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support House Resolution 1364. This resolution honors the historic and community significance of the Chatham County Courthouse and expresses condolences to Chatham County and the town of Pittsboro for the fire damage sustained by the courthouse on March 25, 2010.

The cornerstone of the Chatham County Courthouse was laid in 1881. The courthouse was completed in 1882. For nearly 130 years, justice and the rule of law preserved this three-story brick courthouse. It stood as the central landmark and community gathering-place for Pittsboro and Chatham County. It helped form the identity and independence of the people of Chatham County.

On March 25, 2010, the Chatham County Courthouse was partially destroyed by a tragic fire. Firefighters and emergency responders fought courageously to save the structure and the historic archives within it. They also protected the public and surrounding buildings from damage.

State, county, and city officials have since worked to ensure that the administration of justice continues in Chatham County. They also plan to restore the courthouse.

This resolution expresses condolences to the people of Chatham County and the town of Pittsboro for their historic loss. The resolution commends the heroic work of the firefighters and first responders, and it recognizes the significance of the courthouse to the community and to the administration of justice for more than a century. I urge my colleagues to join me in supporting this resolution.

I reserve the balance of my time.

Mr. JOHNSON of Georgia. Mr. Speaker, I yield to the gentleman from North Carolina (Mr. PRICE) for such time as he may consume.

Mr. PRICE of North Carolina. Mr. Speaker, I thank my colleague for yielding and rise in support of H. Res. 1364, recognizing and remembering the Chatham County Courthouse in Pittsboro, North Carolina.

At 4:15 p.m. on March 25 of this year, the upper portion of the courthouse caught fire. The blaze eventually destroyed much of the building, taking with it over 130 years of history and a source of pride and appreciation for Chatham County residents and visitors.

The county the courthouse serves is divided between the Second and Fourth Congressional Districts, and I am pleased to join my colleague, Representative BOB ETHERIDGE, and other North Carolina colleagues today in lamenting the serious damage to this landmark structure.

The Chatham County Courthouse dates back to September 1, 1881, when members of the Columbus Lodge 102 laid its cornerstone at the historic town center of Pittsboro. The building, which is known for its two-story classical portico, topped by a three-stage cupola, was designed by Thomas B. Womack, following the passage of legislation in the North Carolina General Assembly to provide the county with construction bonds of up to \$12,000.

The building was completed less than 1 year later, on Independence Day of 1882, and has served ever since as a landmark to visitors and residents alike and a symbol of constancy to the broader community.

Although the building will be rebuilt in time and many of the records lost will be recreated, I grieve with the Chatham County community today for the loss of this courthouse. County courthouses are the cornerstones of justice and the rule of law in our communities; but we know they attain a greater significance, a significance larger than their day-to-day role.

I also would like to recognize the local first responders who responded to the fire for their heroic action in controlling the blaze and ensuring the

safety of court personnel. Thanks to their efforts and a working fire alarm system, there were no injuries or fatalities as a result of this fire.

I also commend the North Carolina Administrative Office of the Courts and the Chatham County and town of Pittsboro governments, which have worked tirelessly to ensure the continuity of judicial operations and to develop a plan to restore the courthouse.

Mr. Speaker, I want to thank my colleague, Mr. ETHERIDGE, who represents the town of Pittsboro and the majority of Chatham County in Congress, for his leadership on this resolution. I join with him in extending condolences to the community and expressing our hope and expectation that efforts to rebuild the portions of the building that were destroyed and to restore the archives will be swift and successful.

□ 1545

Mr. ROONEY. Mr. Speaker, I yield back the balance of my time.

Mr. JOHNSON of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. JOHNSON) that the House suspend the rules and agree to the resolution, H. Res. 1364.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. JOHNSON of Georgia. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### KATIE SEPICH ENHANCED DNA COLLECTION ACT OF 2010

Mr. JOHNSON of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4614) to amend part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide for incentive payments under the Edward Byrne Memorial Justice Assistance Grant program for States to implement minimum and enhanced DNA collection processes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4614

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Katie Sepich Enhanced DNA Collection Act of 2010".

#### SEC. 2. INCENTIVE PAYMENTS UNDER THE BYRNE GRANTS PROGRAM FOR STATES TO IMPLEMENT MINIMUM AND ENHANCED DNA COLLECTION PROCESSES.

Section 505 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) is amended by adding at the end the following new subsection:

“(i) PAYMENT INCENTIVES FOR STATES TO IMPLEMENT MINIMUM AND ENHANCED DNA COLLECTION PROCESSES.—

“(1) PAYMENT INCENTIVES.—

“(A) BONUS FOR MINIMUM DNA COLLECTION PROCESS.—Subject to subparagraph (B), in the case of a State that receives funds for a fiscal year (beginning with fiscal year 2011) under this subpart and has implemented a minimum DNA collection process and uses such process for such year, the amount of funds that would otherwise be allocated under this subpart to such State for such fiscal year shall be increased by 5 percent.

“(B) BONUS FOR ENHANCED DNA COLLECTION PROCESS.—In the case of a State that receives funds for a fiscal year (beginning with fiscal year 2011) under this subpart and has implemented an enhanced DNA collection process and uses such process for such year, the amount of funds that would otherwise be allocated under this subpart to such State for such fiscal year shall be increased by 10 percent.

“(2) DEFINITIONS.—For purposes of this subsection:

“(A) MINIMUM DNA COLLECTION PROCESS.—The term ‘minimum DNA collection process’ means, with respect to a State, a process under which the Combined DNA Index System (CODIS) of the Federal Bureau of Investigation is searched at least one time against samples from the following individuals who are at least 18 years of age:

“(i) Such individuals who are arrested for, charged with, or indicted for a criminal offense under State law that consists of murder or voluntary manslaughter or any attempt to commit murder or voluntary manslaughter.

“(ii) Such individuals who are arrested for, charged with, or indicted for a criminal offense under State law that has an element involving a sexual act or sexual contact with another and that is punishable by imprisonment for more than 5 years, or an attempt to commit such an offense.

“(iii) Such individuals who are arrested for, charged with, or indicted for a criminal offense under State law that has an element of kidnapping or abduction punishable by imprisonment for 5 years or more.

“(B) ENHANCED DNA COLLECTION PROCESS.—The term ‘enhanced DNA collection process’ means, with respect to a State, a process under which the State provides for the collection, for purposes of inclusion in the Combined DNA Index System (CODIS) of the Federal Bureau of Investigation, of DNA samples from the following individuals who are at least 18 years of age:

“(i) Such individuals who are arrested for or charged with a criminal offense under State law that consists of murder or voluntary manslaughter or any attempt to commit murder or voluntary manslaughter.

“(ii) Such individuals who are arrested for or charged with a criminal offense under State law that has an element involving a sexual act or sexual contact with another and that is punishable by imprisonment for more than 1 year, or an attempt to commit such an offense.

“(iii) Such individuals who are arrested for or charged with a criminal offense under State law that consists of a specified offense

against a minor (as defined in section 111(7) of the Sex Offender Registration and Notification Act (42 U.S.C. 16911(7)), or an attempt to commit such an offense.

“(iv) Such individuals who are arrested for or charged with a criminal offense under State law that consists of burglary or any attempt to commit burglary.

“(v) Such individuals who are arrested for or charged with a criminal offense under State law that consists of aggravated assault.

“(3) EXPUNGEMENT OF PROFILES.—The expungement requirements under section 210304(d) of the DNA Identification Act of 1994 (42 U.S.C. 14132(d)) shall apply to any samples collected pursuant to this subsection for purposes of inclusion in the Combined DNA Index System (CODIS) of the Federal Bureau of Investigation.

“(4) REPORTS.—The Attorney General shall submit to the Committee of the Judiciary of the House of Representatives and the Committee of the Judiciary of the Senate an annual report (which shall be made publicly available) that—

“(A) lists the States, for the year involved—

“(i) which have (and those States which have not) implemented a minimum DNA collection process and use such process; and

“(ii) which have (and those States which have not) implemented an enhanced DNA collection process and use such process;

“(B) describes the increases granted to States under paragraph (1) for the year involved and the amounts that States not receiving an increase under such paragraph would have received if such States had a minimum or enhanced DNA collection process; and

“(C) includes statistics, with respect to the year involved, regarding the benefits to law enforcement resulting from the implementation of minimum and enhanced DNA collection processes, including the number of matches made due to the inclusion of arrestee profiles under such a process.

“(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection for each of the fiscal years 2011 through 2015, in addition to funds made available under section 508, such sums as may be necessary, but not to exceed the amount that is 10 percent of the total amount appropriated pursuant to such section for such fiscal year.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. JOHNSON) and the gentleman from Florida (Mr. ROONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

#### GENERAL LEAVE

Mr. JOHNSON of Georgia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. JOHNSON of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Katie Sepich Enhanced DNA Collection Act of 2010, otherwise known as Katie's Law, will

help prevent violent crime, help exonerate the innocent, give our police access to cutting-edge forensic techniques, and reduce the cost of criminal investigations. More importantly, Katie's Law will help victims of violent crime and their families get answers and the closure that they need.

Katie's Law encourages the States to adopt effective DNA collection procedures. States that meet the minimum standards set by the bill are entitled to a 5 percent bonus in Byrne/JAG funding for State and local law enforcement. States that adopt the enhanced standards are entitled to a 10 percent bonus. These funds are in addition to funds awarded through Byrne/JAG. States that do not adopt collection procedures that meet the new Federal standards are not penalized in any way. Katie's Law also directs the Attorney General to report to Congress once a year on the progress made by the States in adopting new collection procedures.

Katie's Law is named for Katie Sepich, who is remembered as a vibrant young woman and a graduate student at New Mexico State University. In the summer of 2003, Katie was brutally raped and murdered just outside her home. Katie's parents, Jayann and Dave Sepich, waited for 3 long years as the investigation continued, without producing any strong leads. In January, 2006, thanks to the efforts of the Sepich family, the New Mexico State legislature passed a measure to require the collection of DNA evidence in the investigation of certain felonies. Months later, investigators linked a DNA sample from Katie's attacker to a sample taken from a repeat violent offender who had been in and out of police custody for years. Confronted with the evidence, the suspect pled guilty to the crime and is now serving 69 years in prison without parole.

Mr. Speaker, I commend the law enforcement officers who solved this crime. But consider the fact that Katie's assailant was arrested for aggravated burglary just weeks after attacking Katie. If a DNA sample from that individual had matched evidence from the crime scene, the case might have been solved years earlier; police officers could have saved thousands of dollars and hundreds of man hours; and Katie's family might not have spent 3 painful years in investigatory limbo.

Katie's Law provides the resources necessary to solve crimes sooner. This measure passed the House with overwhelming support last Congress, and has cosponsors from both sides of the aisle. I commend my colleagues, HARRY TEAGUE and ADAM SCHIFF, for their tireless work on this issue.

Mr. Speaker, I urge my colleagues to support H.R. 4614.

I reserve the balance of my time.

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4614, which I am proud to be a cospon-

sor of. The Katie Sepich Enhanced DNA Collection Act authorizes incentive grants to States that implement programs to collect DNA samples from felony arrestees. DNA arrestee programs provide an important law enforcement tool to identify the perpetrators of open and unsolved cases. DNA arrestee programs can also prevent crime by linking suspects to crimes and locking them up before they have a chance to strike again.

Katie Sepich's case clearly demonstrates the value of collecting DNA from felony arrestees. Just 3 months after brutally raping and murdering Katie in 2003, Gabriel Avilla committed an aggravated burglary for which he was convicted in 2004, absconded from his sentencing, and was apprehended again in 2005. His DNA was finally taken and matched to Katie's case—a match that could have been obtained just 3 months after Katie's murder, saving valuable law enforcement resources and providing some closure to Katie's families and friends.

New Mexico's DNA arrestee law was passed in 2006. Twenty-one other States now have similar laws, including my home State of Florida. Florida's DNA arrestee program solved a 25-year-old murder when the suspect was arrested last May—and his DNA collected—on felony drug charges. In New York, DNA collected following a drunk-driving arrest linked a suspect to three rape/homicides dating back over 20 years.

By collecting DNA samples from arrestees and uploading them into a national DNA data base, or CODIS, States can empower police and prosecutors not only to solve cold cases but hopefully apprehend violent criminals before more innocent people are victimized and precious lives are lost. H.R. 4614 provides incentive grants to States that implement and use DNA arrestee programs.

The amended version of this bill before us today makes several important improvements to the bill. First, it removes the provision that would have penalized States that do not have arrestee programs by deducting 5 percent of their Federal grant money. Second, it creates a two-tiered system for incentive grant awards based upon whether the State has a “minimum” or “enhanced” arrestee program, which I hope will provide greater flexibility to States receiving those grants. Third, the amended bill places a cap on the authorization level, limiting it to 10 percent of the amount appropriated for the Byrne/JAG grant program.

I support these improvements to the bill. However, I also recognize there are other areas where the bill could also be improved. A significant hurdle to States implementing DNA arrestee programs is the cost. In Georgia, for instance, where legislation was introduced earlier this year to require DNA collection from arrestees, it would cost

as much as \$7 million a year to operate the program. Unfortunately, Georgia will not be eligible for an incentive grant under H.R. 4614 until it fully implements a DNA arrestee process. A possible solution would be to allow States, such as Georgia, to use grant funding to implement their DNA arrestee law, where the costs are arguably their highest.

In addition, H.R. 4614 awards incentive grants to States with DNA arrestee programs not just once, but year after year after year. Perhaps the emphasis should be on those States that have not yet enacted or implemented a DNA arrestee program. Because this grant increase is compulsory under this bill, the Justice Department will be required to administer the additional bonus to States even if Congress does not appropriate additional funds for the program. There is concern that this may ultimately result in depleting Byrne/JAG funds from certain States, thus creating a penalty to States without the DNA arrestee law. I hope to work with all concerned parties and resolve the lingering issues as this legislation moves forward.

I urge my colleagues to support this legislation.

I reserve the balance of my time.

Mr. JOHNSON of Georgia. Mr. Speaker, I now yield such time as he may consume to the sponsor of this bill, the gentleman from New Mexico (Mr. TEAGUE).

Mr. TEAGUE. Mr. Speaker, I rise today in support of the Katie Sepich Enhanced DNA Collection Act, or Katie's Law. First of all, I want to thank my colleagues, Representative SCHIFF and Representative REICHERT, for all their hard work on this important piece of legislation. Most of all, I want to thank Jayann and Dave Sepich, constituents of mine from Carlsbad, New Mexico, for bringing this important issue to my attention and for crusading tirelessly to help pass arrestee DNA laws nationwide.

This bill is named for their daughter, Katie Sepich, who was brutally raped and murdered in Las Cruces, New Mexico, in 2003, at the age of 22. Jayann and Dave have bravely taken this devastating and horrific experience that most people, including myself, could never imagine, and have turned it into something that will save lives and help families across the country. If this law had been on the books in New Mexico at the time of Katie's murder, her case would have been solved 3 months after her death when her killer was arrested for breaking into the home of two women after watching them through a window. Instead, Katie's killer was not identified until over 3 years after her murder and was left to roam the streets for much of that time.

Since Katie's murder in 2003, New Mexico has passed a State law allowing law enforcement to collect DNA from

those arrested for certain felonies. Twenty-two other States as well as the Federal Government have passed similar laws. I have introduced my version of Katie's Law at the Federal level to make sure that this life-saving law that is in effect in my home State of New Mexico and 22 others is the standard for every State.

The Katie's Law I have introduced will incentivize States to, at the very least, match certain arrestees to the national DNA bank, the Combined DNA Information System, or CODIS, by providing the States that comply with a 5-percent increase in their Byrne/JAG funds. There is no requirement for retention of the DNA record after it is checked against CODIS. Katie's Law will also further incentivize those States which not only match arrestees but also contribute to the CODIS with a 10-percent increase in Byrne/JAG funds. Not only do these incentives encourage States to implement arrestee DNA laws, but they provide much needed support to local law enforcement as they work to keep our streets safe.

DNA has rightly been called the fingerprint of the 21st century. By simply swabbing a person's cheek and then coding junk DNA with only 13 indicators, law enforcement can accurately identify perpetrators of a crime without regard to race or criminal history. This practice protects the privacy of arrestees, since any identifying information, such as genetic predisposition to disease, is not coded for use by law enforcement. In addition, my bill contains an expungement clause to make sure there is a way for DNA to be removed from CODIS should a person not be convicted of the crime for which they were arrested.

The full potential of DNA as a crime-solving tool cannot be realized if we're not collecting DNA from those arrestees for certain violent crimes. Statistics show that 70 percent of America's crimes are committed by 6 percent of America's criminals. This means many of those who have committed some of the most heinous crimes in our society are repeat offenders.

□ 1600

One study conducted in Chicago tracked the known criminal activity of eight individuals and determined that 60 violent crimes, including 53 murders, would have been prevented if the eight individuals' DNA had been taken on their first felony arrest. Similarly, a serial killer and rapist from California named Chester Turner raped and murdered at least 12 women between 1987 and 1998, during which time he was also arrested a total of 18 times. Had Turner been swabbed for DNA when he was arrested on January 26, 1987, he would have been linked to his first victim, and 11 women would still be alive

today. These women are not just names in a police report. They are real people with aspirations, with families, with husbands, with people who love them, and they didn't have to die. Worse still, an innocent man named David Jones was wrongfully convicted of three of the Turner murders and served 11 years in prison before he was finally absolved.

Considering the potential for false identification and the number of repeat offenders in our criminal justice system, it's only common sense that if someone is arrested for a crime like rape, murder, or kidnapping, we make sure we identify them fully before we release them back onto the streets. We use fingerprints for this very purpose, and we should use the modern equivalent, junk DNA.

Katie's Law simply allows law enforcement to treat DNA evidence left at the scene of a crime as they do fingerprints. The fact is that the science has advanced, and we should allow law enforcement to use all of the technology available to them, including the fingerprints of the 21st century, to reduce expensive and unjust false convictions, bring closure to victims by solving cold cases, better identify criminals, and keep those who commit violent crime from walking the streets.

Jayann and Dave have experienced something that no parent should ever have to, the loss of a child. We have the power through advanced DNA collection to make one less parent grieve for a child, one less husband grieve for a wife, or one less child lose a parent.

I ask that you support this legislation.

Mr. ROONEY. Madam Speaker, I yield as much time as he may consume to the gentleman from Washington (Mr. REICHERT), a former sheriff and cosponsor of this legislation.

Mr. REICHERT. I thank the gentleman for yielding.

Madam Speaker, I am proud to rise today to join with Mr. TEAGUE and Mr. SCHIFF to fight for Katie's Law. Think about what I just said, "Katie's Law." We have a bill named after a young lady, a 22-year-old woman whose life was ripped away from her, so we name a law, and her name will live on. Katie Sepich from Carlsbad, New Mexico, 22 years old. Her life was ripped away from her by a monster.

I think most Members of Congress know that I had a full career as a police officer, a sheriff's deputy, SWAT commander, homicide detective, hostage negotiator, a street cop for 33 years, and finally as the sheriff before I left the Sheriff's Office. I know firsthand what DNA does.

In 1982, I was a 31-year-old homicide detective standing by the riverside, collecting the bodies of three young women, 16 years old, dead. No DNA then. All we had was blood-typing. We were fortunate, though, that we had



some bodily samples that we could take that we froze and we saved for 19 years. In 1987, the team of detectives that were together on that case had an opportunity to search the home of a suspect and take body fluids from him. He chewed on a piece of gauze. We put it in a test tube, and we froze that. In 1987, "CSI" of course had not been heard of, but we were still using science—entomology, biology, archaeology, forensic pathology, et cetera. No computers. No DNA. Still blood-typing.

In 1998-99, the first DNA science became known to law enforcement, so we sent our sample to the only two labs that were dealing with DNA at that time. They said, Your samples were too fragile, too small. We might destroy them if we tested them further, so come back in a couple of years. In 2001, we submitted the samples, and we came back with a DNA match on three of the bodies. With that DNA match, out of 40,000 tip sheets, 10,000 items of evidence, we solved 48 murders. We closed 50 cases. He pled guilty to 48 murders because of DNA.

I can't tell you how important Katie's Law is to saving lives. That person who committed these 48 crimes and many, many more took the deaths of these young women, ended their lives tragically and ruined the lives of their families for the rest of their lives. There can never be closure for those families and never be closure for their friends. There can only be answers to questions, Who killed my daughter? Who took her life and why? That's what DNA does. But it also protects the innocent, as most of you know. There have been some over the past several years that have actually been released from prison because they found the guilty person.

So there are all kinds of reasons why this law needs to be passed today, and I hope every Member votes "yes" to pass Katie's Law in honor of the tragedy, the loss of Katie's life, and in honor of all those who have been taken so senselessly.

Mr. JOHNSON of Georgia. Madam Speaker, may I inquire as to how many further speakers the floor manager has remaining?

Mr. ROONEY. Madam Speaker, I have no further speakers.

Mr. JOHNSON of Georgia. Madam Speaker, I yield for as much time as he may consume to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. I thank the gentleman for yielding.

DNA is perhaps the most powerful and most reliable tool at the disposal of criminal investigators today. As a former Federal prosecutor during the early days of the DNA revolution, I have seen firsthand the power of DNA to prove the guilt or innocence of a suspect.

In 2008, I proposed an amendment to the Debbie Smith Act reauthorization

that would have put in place a 10 percent bonus in Byrne/JAG grants for States to collect DNA profiles from anyone arrested for certain serious felonies. It passed the House with a strong bipartisan vote, but the clock ran out in the Senate. I could not be more pleased that Congressman HARRY TEAGUE has taken up the banner on this issue. I hope this year we can finally get it across the finish line.

You have heard the tragic story of Katie Sepich, for whom this bill is named. Katie was a bright, vivacious 22-year-old from New Mexico who was murdered in 2003. Police were able to extract the DNA profile of her attacker from beneath Katie's fingernails, but they got no match to anyone in the offender database. When they finally did get a hit on the attacker's DNA, they discovered that the murderer had been arrested repeatedly for burglaries after 2003, but because he was never convicted, he was not required to submit a DNA sample for the database. Had New Mexico had arrestee testing at the time, Katie's killer would have been taken off the streets years earlier.

There are 23 States, including my home State of California, that have now adopted DNA collection upon arrest or indictment for at least some violent felonies. By doing so, these States increase the power of the national database to solve crimes. The bonus in Federal law enforcement grants provided by Katie's Law will encourage additional States to adopt arrestee testing law. The legislation preserves civil liberties protections by requiring the FBI and the States to expunge the DNA of suspects who are acquitted.

We know the power of this technology. We also know the cost of delay, the cost of an inadequate database, and it is simply this: that as we wait to run these samples or if we miss the opportunity to test the samples of those arrested for violent felonies, we know with a virtual statistical certainty that people we could take off the street, people that have committed rape or committed murder, will, in the interim between the time we do take the sample of the arrestee or between the time we do erase the backlog, will go on to murder others, to rape others. And what a tragedy it is when we have this tool not to utilize it to its full extent.

I want to thank my colleagues for their leadership on this issue. HARRY TEAGUE has been a great champion. Congressman REICHERT has been a great champion, and we are indebted to their leadership on this. This legislation is the product of years of work and debate in Congress. It will help law enforcement use DNA to solve crimes, and it will keep in place existing civil liberties protections. So hats off to Representatives TEAGUE and REICHERT for their leadership on this issue and to

Chairman CONYERS and to Chairman SCOTT for their support as well. I urge its adoption.

Mr. ROONEY. Madam Speaker, I want to personally thank Mr. TEAGUE from New Mexico and Mr. REICHERT from Washington for their leadership on this bill.

I yield back the balance of my time.

Mr. JOHNSON of Georgia. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Ms. LORETTA SANCHEZ of California). The question is on the motion offered by the gentleman from Georgia (Mr. JOHNSON) that the House suspend the rules and pass the bill, H.R. 4614, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. ROONEY. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### MICHAEL C. ROTHBERG POST OFFICE

Mr. DAVIS of Illinois. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5099) to designate the facility of the United States Postal Service located at 15 South Main Street in Sharon, Massachusetts, as the "Michael C. Rothberg Post Office".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5099

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. MICHAEL C. ROTHBERG POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 15 South Main Street in Sharon, Massachusetts, shall be known and designated as the "Michael C. Rothberg Post Office".

(b) REFERENCES.—Any references in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Michael C. Rothberg Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentleman from Georgia (Mr. BROUN) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

#### GENERAL LEAVE

Mr. DAVIS of Illinois. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?



There was no objection.

Mr. DAVIS of Illinois. Madam Speaker, I now yield myself such time as I may consume.

On behalf of the House Committee on Oversight and Government Reform, I rise in support of H.R. 5099. This measure designates the United States postal building located at 15 South Main Street in Sharon, Massachusetts, as the Michael C. Rothberg Post Office Building.

Michael Rothberg was a victim of the September 11 terrorist attacks on the World Trade Center in New York City, New York. He worked for Cantor Fitzgerald as a director of program trading. Described by those who knew him as analytical and independent, he had a knack for the high technology used in bond trading, yet he was still able to clearly explain complicated concepts to his clients. Michael liked to be the leader of a team. He enjoyed the autonomy and the freedom to make one's own decisions. He even encouraged his subordinates—"his colleagues," as he called them—to have similar aspirations.

Michael Rothberg was a member of the Sharon High School class of 1980 and a graduate of McGill University. He was a very active supporter of the Dana-Farber Institute's Jimmy Fund, the Multiple Sclerosis Foundation, and Mutual Funds Against Cancer.

He is survived by his parents, Iris and Jay Rothberg, as well as his sister, Rhonda.

□ 1615

The Michael C. Rothberg Memorial Scholarship fund was set up for students from Sharon High School. The Michael C. Rothberg Memorial Race is also held every year in Michael's honor.

H.R. 5099 was introduced by our colleague, the gentleman from Massachusetts (Mr. FRANK) on April 21, 2010. The measure was referred to the Committee on Oversight and Government Reform, which ordered it reported by unanimous consent on May 6, 2010.

The measure has the support of the entire New York House delegation. I thank the gentleman from Massachusetts for introducing this measure. I also would like to thank Chairman TOWNS and Ranking Member ISSA for their support for the bill. I urge my colleagues to support this measure.

I reserve the balance of my time.

Mr. BROUN of Georgia. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H.R. 5099 designating the facility of the United States Postal Service located at 15 South Main Street in Sharon, Massachusetts, as the Michael C. Rothberg Post Office.

A native of Sharon, Massachusetts, Michael graduated from Sharon High School and went on to receive his bach-

elor's and master's degrees from McGill University.

His family and friends described him as kind, generous and selfless. It was Michael who encouraged and financed his sister, Rhonda, to start her own business. Michael was known to work hard, excelling in his position on Wall Street, rising to the 104th floor of the World Trade Center, where he worked for Cantor Fitzgerald. He made friends with many of the clients and associates he worked with, helping them both in and out of the office.

His mother Iris tells of a time a friend found out she had cancer, and Michael immediately went to his staff and raised money for the Jimmy Fund. She also tells of a time a client needed surgery, and Michael sent a car for her and waited during the procedure to take her home.

On September 11, 2001, the United States was attacked by radical Islamic jihadists, those against what America considers good and just. Behind the devastating number of deaths were the individuals, each having family and friends they left behind. One of these victims was Michael C. Rothberg. He was 39 years old.

To honor Michael's dedication to his community, The Michael C. Rothberg September 11th Memorial Scholarship was organized by former classmates, friends, and family. The scholarship is awarded to students at Sharon High School who show qualities of academic integrity, ethical commitment, and service to the community.

Today we honor Michael, whose short life was dedicated selflessly to his friends and family. To celebrate and preserve his legacy, I ask all Members to join in supporting H.R. 5099.

Madam Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I appreciate the prompt action of the committee in processing this bill. Michael Rothberg was one of the talented young Americans who was one of the victims of the mass murder by bloodthirsty terrorists on September 11th. Mr. Rothberg was one of those killed by these vicious thugs in their attack on the World Trade Center.

Understandably, his family, who is proud of him and of the high regard he was held in the town in which he had lived, asked that I act to have the town's post office named for him. It was a request that was enthusiastically supported by the government of the town, not surprisingly, because it is a community that takes its civic responsibilities seriously and elects and appoints people to town offices who are thoughtful, compassionate, and effective.

Mr. Rothberg was born in Sharon and graduated from Sharon High School. He then went on to earn his Bachelors and Masters degrees in math and computer science from McGill University in Montreal. He went to work for Kanter Fitzgerald whose offices were on the 104th floor of the World Trade Center, and on September 11th, he was tragically killed in his office.

Michael Rothberg was both a very successful professional and a man of great generosity, and while he was working in New York, he remembered his Massachusetts roots in his generous support of important medically-related charities, for example the Dana Farber Cancer Institute's Jimmy Fund. He was also a strong supporter of the Multiple Sclerosis Foundation and Mutual Funds against Cancer.

His family has established the Michael C. Rothberg Memorial Scholarship, and his fellow Sharonites have generously contributed to it in his memory in a number of ways.

Madam Speaker, I appreciate the chance to join Michael Rothberg's family and the town of Sharon in memorializing an able, generous man who is sorely missed, and we all take this occasion of course to reaffirm our resolve to do everything that we can to protect all of us against a repeat of this tragedy.

Mr. DAVIS of Illinois. Madam Speaker, I urge my colleagues to join me in support of this measure, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, H.R. 5099.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. DAVIS of Illinois. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### CONGRATULATING PHIL MICKELSON ON WINNING 2010 MASTERS GOLF TOURNAMENT

Mr. DAVIS of Illinois. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1256) congratulating Phil Mickelson on winning the 2010 Masters golf tournament.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1256

Whereas, on April 11, 2010, Phil Mickelson won the Masters golf tournament for the third time at the Augusta National Golf Course in Augusta, Georgia;

Whereas the Augusta National Golf Course was established in 1933;

Whereas the Masters was started by Clifford Roberts and Robert Tyre "Bobby" Jones, Jr., who designed the Augusta National Golf Course with course architect Alister MacKenzie;

Whereas the Augusta National Golf Course has hosted the Masters since 1934;

Whereas the Masters is one of the 4 major championships in professional golf;

Whereas past Masters champions include some of the greatest players in golf history, such as Walter Hagen, Ben Hogan, Arnold Palmer, Gary Player, Byron Nelson, Jack Nicklaus, Gene Sarazen, Sam Snead, Tom Watson, and Tiger Woods;

Whereas Phil Mickelson shot a final round 67 for a 72-hole total of 16 under par, 3 strokes better than any other competitor;

Whereas Phil Mickelson brings great pride and honor to his family and friends through the tremendous skill, patience, and determination he displayed in victory;

Whereas Phil Mickelson has won 4 major championships, including the Masters 3 times, and a total of 38 events on the PGA Tour; and

Whereas the Phil and Amy Mickelson Foundation, through involvement with Start Smart, the Mickelson ExxonMobil Teachers Academy, and other causes, have supported a variety of youth and family initiatives: Now, therefore, be it

*Resolved*, That the House of Representatives congratulates Phil Mickelson on the outstanding accomplishment of winning the 2010 Masters golf tournament.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentleman from Georgia (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

#### GENERAL LEAVE

Mr. DAVIS of Illinois. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

I rise to congratulate professional golfer Phil Mickelson on his stunning victory in the 2010 Masters Golf Tournament.

On April 11, 2010, in Augusta, Georgia, golfer Phil Mickelson sank his last birdie of the game to clinch his third Masters Golf Tournament victory. This was his fourth career championship victory. He finished with the score of 16 under par, the best score in a Masters Tournament since 2001. I would also like to recognize the courage and the tenacity of two extraordinary women who were at Mr. Mickelson's side during his great victory: Amy Mickelson, his wife; and Mary Mickelson, his mother. Both recently have been diagnosed with breast cancer. The Mickelson family has shown amazing bravery in the face of these difficult circumstances. We wish them the very best in the challenges that lie ahead, and let us keep them in our thoughts and prayers.

H. Res. 1256 was introduced by our colleague, the gentleman from Georgia (Mr. BROWN), on April 15, 2010, and was referred to the Committee on Oversight and Government Reform. The committee reported the measure by unanimous consent on May 6, 2010. The measure enjoys the support of over 70 Members of the House. I want to thank the gentleman from Georgia for introducing this measure. I would also like

to thank Chairman TOWNS and Ranking Member ISSA for their support of the resolution. I ask my colleagues to join me in congratulating Mr. Mickelson on his success in the tournament by supporting this resolution.

I reserve the balance of my time.

Mr. BROWN of Georgia. Madam Speaker, I yield myself such time as I may consume.

I rise today in support of House Resolution 1256, which congratulates Phil Mickelson on winning the 2010 Masters Golf Tournament in Augusta, Georgia. His strong performance in the tournament and his exemplary community involvement throughout his career is an example not only for millions of golf fans, but for all Americans.

Mickelson's victory was his third Masters title and his fourth major championship of his stellar career. Despite the loud buzz surrounding this year's tournament, Mickelson quietly and consistently played each hole very well. He did not shoot above par on a single hole in the final round and won the tournament by three strokes. ESPN wrote that "the signature moment came on the 13th, a hole Mickelson has dominated like no other at Augusta. With a 2-shot lead, he was stuck between two Georgia pines and had just over 200 yards to the hole. He never considered anything but a shot at the green."

Mickelson took the risky shot, and as he said, "it came off perfect." Mickelson ended the day by hitting a birdie on the 18th hole to increase his lead to 3. Even though Mickelson has 40 other tournament wins, this Masters victory may have meant the most to him because of all he has been through in the last year. Both his wife and mother were diagnosed with cancer in the past year.

The Masters was the first tournament that Amy, his wife, was able to attend in months since she was diagnosed with breast cancer almost a year ago. Amy had been unable to attend the tournament during the first few rounds and was so tired she did not think that she could attend on Sunday to watch the final round. However, she found the strength to go to the 18th hole and watch her husband win. All of the fans at the tournament and golf fans around the world cheered as Mickelson embraced his wife. It was a very touching moment. Afterwards Mickelson said, "In the last year, we've been through a lot, and it's been tough. And to be on the other end and feel this kind of jubilation is incredible." What a gentleman, what a role model is Phil Mickelson.

Madam Speaker, I urge all of my colleagues to support this resolution that recognizes Phil Mickelson's performance and great character during this Masters Tournament and also Augusta National for hosting another outstanding tournament.

Madam Speaker, I yield back the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I again urge my colleagues to join me in supporting this measure, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 1256.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SALAZAR. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### NATIONAL TEACHER DAY

Mr. DAVIS of Illinois. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 403) expressing the sense of the House of Representatives that there should be established a National Teacher Day to honor and celebrate teachers in the United States, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 403

Whereas the education of children in the United States is the foundation of the future success of the United States;

Whereas education is critical for the creation of an innovative workforce and for increasing the global competitiveness of the United States;

Whereas teachers help students cultivate the knowledge and principles necessary to be successful in life;

Whereas teachers are held to high expectations;

Whereas teachers help instill civic responsibility among students in the United States;

Whereas teachers deserve annual national recognition for their knowledge, selfless dedication to their profession, compassion, and sacrifice; and

Whereas the Tuesday of the first full week of May of each year is an appropriate day for the establishment of National Teacher Day: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the goals and ideals of National Teacher Day; and

(2) calls upon the people of the United States to observe such a day with appropriate ceremonies, programs, and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentleman from Georgia (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

#### GENERAL LEAVE

Mr. DAVIS of Illinois. Madam Speaker, I ask unanimous consent that all

Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H. Res. 403, a resolution that supports the goals and ideals of National Teacher Day to honor and celebrate teachers in the United States of America.

Every day in schools across the country, teachers work tirelessly to educate our country's most precious resource, our children. Oftentimes they work long hours under difficult conditions and don't receive the recognition and appreciation they deserve. The least we can do is designate a day where the teachers of America know that they are appreciated and that they are in our thoughts.

□ 1630

Most of us can think back to that one special teacher who influenced us or changed our lives: the math teacher that took extra time out of their overloaded schedule to help us understand that one difficult algebra problem; the Spanish teacher who stayed late to help us with verb conjugations before the big test, or the history teacher who made the American Revolution come alive off the page of a textbook.

Teachers are the glue that holds our education system together. They ensure that our young people become successful adults by providing the knowledge and skills for them to thrive, even if some of our children don't realize it at the time. Teachers help our children find their way along the path to adulthood, teaching more than facts and figures, but life lessons as well.

I often remember and often talk about my favorite teacher, a woman, Ms. Beadie King, who taught in a one-room school that I attended as a young person. Ms. Beadie taught 8 grades plus what we called the little primer and the big primer, all at the same time. And oftentimes today, when I talk, I use pithy sayings and comments. Most of those I remember from Ms. Beadie, who would often use these little illustrations to try and teach us how to behave.

For example, she used to tell us that a wise old owl sat on an oak. The more he heard, the less he spoke. The more he spoke, the less he heard. Now I want you boys to be like that wise old bird. And of course, if we didn't comply, she had other methods and techniques that she would use to get her message across.

And to this very day—that's been a long, long time ago—I never forget poems that she taught us because by the time I graduated high school, she

had become the English teacher and the literature teacher.

And she taught without thinking about her compensation. As a matter of fact, some days she would walk in the rain, 6 to 8 miles herself, to get to school. Other times, if the weather was just too inclement, her husband would drive her in his wagon. Now, of course, lots of people can't remember times like those, but that was sometime ago.

We still have many dedicated teachers all over America, teachers who give of themselves in such a way that others can experience and have the opportunities to grow and develop to become whatever it is that their talents, ambition, hard work combine to make them. That is the role of teachers. That is the promise of America.

And so we salute teachers on this day. I believe that they are the salt of the Earth, the pillars of the universe, the individuals upon whose shoulders the rest of society stands.

And so I urge my colleagues to join me in supporting this resolution.

I reserve the balance of my time.

Mr. BROWN of Georgia. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I rise today in support of House Resolution 403, expressing the sense that the House of Representatives should establish a National Teachers Day to honor and celebrate teachers in the United States.

Every day thousands of men and women in this country wake up in the morning with a tremendous responsibility, the stressful and sometimes daunting task of educating our Nation's youth. We entrust these special people with our most precious gift, our children.

Education requires commitment and hard work from both students and teachers. Most of us can point to the one or two special educators, as Mr. DAVIS was just talking about his teacher, whose impact allowed us to get to where we are today.

Teachers have guided children throughout history instilling principles of good citizenship, hard work and the reward of doing one's personal best. Across all borders and around the world, teachers are a key factor in engaging the minds of their students and imparting knowledge for a lifetime.

Through their dedication and passion for service, teachers bridge the gap between the resources available and the vital need for a strong education. They provide the tools necessary for success, and their sacrifice deserves national recognition.

Madam Speaker, I ask all Members to join me in supporting this resolution.

I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I might consume.

Madam Speaker, this resolution was introduced by our colleague, the gen-

tleman from Florida, Representative RON KLEIN, on April 22, 2010, and was referred to the Committee on Oversight and Government Reform. The committee reported the measure by unanimous consent on May 6, 2010. The measure enjoys the support of over 70 Members of the House, and so I thank the Member from Florida for introducing this measure. And I'd also like to thank Chairman TOWNS and Ranking Member ISSA for their support. I urge my colleagues to join me in supporting our Nation's teachers by voting in favor of this measure.

I reserve the balance of my time.

Mr. BROWN of Georgia. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, teachers around this country are overworked; they're underpaid. They have the future of our Nation in their hands, and they deserve the recognition that this resolution so duly gives them. And I urge support of this resolution.

I yield back the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, to close, we have noted lately strong conversation about perhaps some school districts having to lay off teachers, not having all of the resources that are needed or the resources that are necessary to keep them engaged and keep them employed.

I urge my colleagues, not only to support this resolution, but I urge this Congress, I urge State legislatures, I urge State officials and Federal officials and local officials all across the country to make absolutely certain that we find the resources necessary to make our education system the very best in the world and to live up to the idea that our teachers deserve all of the support we could possibly provide.

Mr. BROWN of Georgia. Would the gentleman yield?

Mr. DAVIS of Illinois. Yes.

Mr. BROWN of Georgia. I just want to associate myself with the gentleman's remarks. He's absolutely right. We need to focus on teachers, not administrators and a lot of the auxiliary people who are in the educational system today. Teachers should be the primary focus.

In my State of Georgia, we're laying off teachers, and it's a crying shame. Teachers don't get the recognition that they deserve. They don't get the pay that they deserve. They're hamstrung by red tape and paperwork. They're struggling very hard to impart an education to the youth of our Nation. Many of these teachers have to come out of their own pocket to pay for supplies for kids in their own room, and that's a crying shame. It should not be that way.

This is just a simple token, but I hope a tremendous token, to honor the teachers that affect all of us and affect the Nation's future. And so I wanted to

associate myself with Mr. DAVIS' words because he's very, very correct in what he said. These people need the much deserved recognition that this resolution gives them. And I thank the gentleman for yielding.

Mr. DAVIS of Illinois. I want to thank the gentleman from Georgia (Mr. BROUN) very much for his comments, and I join with him.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 403, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. DAVIS of Illinois. Madam Speaker, on that I demand the yeas and nays. The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### AMERICAN CRAFT BEER WEEK

Mr. DAVIS of Illinois. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1297) supporting the goals and ideals of American Craft Beer Week.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1297

Whereas American Craft Beer Week is annually celebrated in breweries, restaurants, and beer stores by craft brewers and home brewers nationwide;

Whereas in 2010, American Craft Beer Week is celebrated from May 17 to May 23;

Whereas craft brewers operate smaller breweries, each producing less than 2,000,000 barrels per year, and produce high-quality beers using traditional brewing techniques;

Whereas more than 1,500 craft breweries are in business across the United States;

Whereas in 2009, 110 new breweries opened, creating jobs and improving economies in communities across the United States;

Whereas in 2009, American craft breweries produced more than 9,000,000 barrels of beer, which was 500,000 more barrels than in 2008;

Whereas American craft brewers export more than 1,300,000 gallons of beer abroad and are creating new markets and new international opportunities each year;

Whereas American craft brewers employ nearly 100,000 full- and part-time workers and generate more than \$3,000,000,000 in wages and benefits;

Whereas American craft brewers support American agriculture by purchasing barley, malt, and hops grown, processed, and distributed in the United States;

Whereas American craft brewers increase awareness of the differences in the flavor, aroma, color, alcohol content, body, and other complex variables of beer, as well as historic brewing traditions dating back to colonial America;

Whereas American craft brewers champion the message of responsible enjoyment to

their customers and work with their communities to prevent alcohol abuse and underage drinking;

Whereas American craft brewers are frequently involved in local communities through philanthropy, volunteerism, and sponsorship of community events;

Whereas craft brewing harnesses the innovative spirit of the United States, creating new and unique styles of beers that consistently win international quality and taste awards; and

Whereas increased Federal and State support of craft brewing is important to fostering growth of an American industry that creates jobs, greatly benefits the economy, and brings international accolades to American small businesses: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of American Craft Beer Week, as founded by the Brewers Association;

(2) recognizes the significant contributions of craft brewers to the economy of the United States; and

(3) encourages beer-lovers of the United States to celebrate American Craft Beer Week through events at microbreweries, brewpubs, and beer stores across the United States to appreciate the accomplishments of craft brewers.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentleman from Georgia (Mr. BROUN) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

#### GENERAL LEAVE

Mr. DAVIS of Illinois. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I might consume.

Madam Speaker, on behalf of the Committee on Oversight and Government Reform, I'm pleased to present H. Res. 1297 for consideration. This measure supports the goals and ideas of American Craft Beer Week.

H. Res. 1297 was introduced by our colleague, the gentlewoman from Colorado, Representative BETSY MARKEY, on April 22, 2010. It was referred to the Committee on Government Reform, which ordered it reported favorably by unanimous consent on May 6, 2010. The measure enjoys the support of over 60 Members of the House.

Madam Speaker, American craft brewers make up a small but fast growing part of the American beer industry, creating a wide variety of beers of many different flavors, colors, aromas, and alcohol strengths. Many commercial craft brewers began as hobbyists, learning about beer by brewing at home. The trade of craft brewing dates back to colonial America, and even George Washington and Thomas Jeffer-

son were known to have produced their own beer.

There are now more than 1,500 craft breweries across the United States. They employ over 100,000 full- and part-time employees and generate over \$3 billion in wages and benefits annually. Their industry supports American agriculture by purchasing ingredients grown, processed, and distributed right here in the United States. They make up only a small percentage of the Nation's beer industry, about 6.9 percent of the sales share in dollars, but craft brewers are growing rapidly in sales and market share, with a 10.3 increase in sales last year, despite a recession. They are a shining example of independent American businesses reaching great levels of success by creating and selling unique, high-quality products.

This industry does much more than simply good business. Craft brewers are often fixtures in local communities, participating in community events and philanthropic works. They promote responsible alcohol consumption and raise awareness of the dangers of alcohol abuse.

And so, Madam Speaker, I thank the gentlewoman from Colorado (Ms. MARKEY) for introducing this measure. And I also thank Chairman TOWNS and Ranking Member ISSA for their support for the bill.

I urge my colleagues to join me in commending our country's craft brewers by supporting this measure.

I reserve the balance of my time.

□ 1645

Mr. BROUN of Georgia. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 1297, recognizing and supporting the goals and ideals of American Craft Beer Week. The small and independent American craft brewing industry is making an increasingly valuable and substantial contribution to the American economy. Currently, the industry provides an estimated 100,000 jobs, and craft breweries are located in every State of the Union.

Not only are craft brewers responsible for providing a variety of quality, local jobs, they are responsible for the increased enjoyment and pleasure of craft beers, while customers discover the intricacies of aroma, color, body, and other variables in the beverage that makes it pleasurable to drink. These craft breweries also support American agriculture through purchases of barley, malt, and hops grown, processed, and distributed in the United States.

In addition, craft brewers are in the forefront of educating people about responsible drinking and the prevention of alcohol abuse, as well as supporting programs created to prevent underage drinking. If Benjamin Franklin were

with us today, perhaps he would revise his famous statement where he said, "Beer is living proof that God loved us and wants us to be happy." He might preface it with the words, "American craft."

I ask my colleagues to support this fine example of American entrepreneurship, and I yield back the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, it looks like George Washington, Thomas Jefferson, Ben Franklin all had something in common in addition to being the Founders of our country. They also liked their beer.

Ms. MARKEY of Colorado. Madam Speaker, I rise today to ask my colleagues to join me in celebrating American Craft Beer Week, May 17 through May 23, 2010. This is a week to celebrate the many accomplishments of craft brewers and home brewers across the nation.

After Prohibition destroyed local and regional breweries around the United States, it took approximately half a century before the American craft beer industry grew to offer so many distinct beer brands and styles. Until this resurgence, beer lovers had few options to choose from and even fewer options when looking for American-made beer.

Today, American Craft Brewers are brewing smaller batches of quality beers using traditional methods but innovative recipes. Craft brewers in this country create ales, lagers, and porters rivaling the best from around the world. American craft beers have won many international taste and quality competitions. I even know of one small brewer in my district whose fastest growing export market is Belgium, a nation well known for its own beer.

Colorado's Front Range is home to six of the country's 50 largest brewers, a concentration of quality brewers that has led some to dub the area the Napa Valley of Beer. These small businesses have created brands well known nationwide and highly sought after by beer lovers across the globe.

In addition to creating quality beers, it is important to remember what craft brewers do for our communities. Craft brewers work with partners to promote the safe consumption of their products. Many are involved in philanthropic activities, helping to improve the communities around them. Further, many are pioneers in the use of alternative energy and other sustainable practices in their businesses, practices that are unique for a product otherwise manufactured in large industrial breweries.

In celebration of the many contributions made by these small businesses, American Craft Beer Week is a wonderful time to bring more focus to the craft brewing industry. Across the nation, celebrations of this week are taking place in breweries, brewpubs, alehouses, and homes.

To sum up the importance of America's craft brewers, I think it best to quote a few lines from the Brewers Association's Declaration of Beer Independence:

"I declare that these are historic times for beer, with today's beer lover having inalienable rights, among these life, liberty, and the pursuit of hops and malt fermented from the finest of U.S. small and independent craft brewers with more than 1400 of them brewing today . . ."

"I declare American craft brewers provide flavorful and diverse American-made beers in more than 100 distinct styles that have made the United States the envy of every beer-drinking nation for the quality and variety of beers brewed. I declare that beer made by American craft brewers helps to reduce dependence on imported products and therefore contributes to balanced trade, and . . ."

" . . . the makers of these beers produce libations of substance and soul that are sincere and authentic, and the enjoyment of them is about savoring the gastronomic qualities including flavor, aroma, body, and mouthfeel, while practicing responsible appreciation."

I encourage my colleagues to support this resolution celebrating May 17 through 23 as American Craft Beer Week and I encourage responsible beer lovers everywhere to enjoy one of the thousands of craft beers brewed across the United States.

Mr. BLUMENAUER. Madam Speaker, America has a long and rich tradition with beer. Many of America's Founding Fathers—including Sam Adams, Thomas Jefferson, Benjamin Franklin, George Washington, and James Madison—who attempted to establish a "Secretary of Beer" as part of the new nation—were all avid small brewers. Thomas Jefferson built a brewery in his kitchen at Monticello and Benjamin Franklin famously wrote that "Beer is proof that God loves us and wants us to be happy."

I have the distinction of serving as a representative from the state of Oregon, which is one of the most enlightened states when it comes to beer. Oregon craft beer represents 3.8 percent of the total volume of beer brewed in the U.S.

Oregon is the second largest producer of hops in the country and the birthplace of the Willamette hop, giving us the IPA and now, the Cascade IPA. The city I represent, Portland, has 33 breweries, more per capita than any city in the world. These breweries provide an economic boost of over \$2.3 billion to the region, promote local agriculture and provide opportunities for social interaction within the community.

Most importantly, the craft brew industry is an engine of job creation. America has over 1500 small brewers. The small brewers in my state employ more than 4,700 individuals while struggling with the higher costs for production, raw materials, and packaging than their larger and in many cases foreign owned competitors. They also operate in one of the most highly regulated business sectors. In spite of this, they are important economic generators in their local communities, avid promoters of our agricultural economy, and tireless in communicating the history and traditions of brewing and the message of responsible enjoyment of their craft made lagers and ales.

I would be remiss if I did not use this time to urge my colleagues to join the Congressional Small Brewers Caucus. The caucus meets regularly to not only celebrate the craft beer industry, but to educate our colleagues on the regulatory challenges these vital small businesses face every day.

I want to thank my colleagues for bringing this resolution to the floor and urge their support of the resolution and of the craft brewers in their district.

Mr. DAVIS of Illinois. I urge support of this resolution and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 1297.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

#### HONORING ROBERT KELLY SLATER ON SURFING ACHIEVEMENTS

Mr. DAVIS of Illinois. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 792) honoring Robert Kelly Slater for his outstanding and unprecedented achievements in the world of surfing and for being an ambassador of the sport and excellent role model, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 792

Whereas Robert Kelly Slater was born on February 11, 1972, in Cocoa Beach, Florida;

Whereas Kelly Slater learned to surf in Cocoa Beach, Florida, with his brothers, Sean and Stephen;

Whereas Kelly Slater was a perennial amateur champion in the 1980s, winning 6 Eastern Surfing Association titles and 4 national titles;

Whereas, in 1992, at the age of 20, Kelly Slater was the youngest surfer to win the Association of Surfing Professionals World Championship;

Whereas, between 1992 and 2008, Kelly Slater was a 6-time winner of the Billabong Pipeline Masters, a competition held annually for the 45 top-ranked surfers by the Association of Surfing Professionals at the Banzai Pipeline in Oahu, Hawaii;

Whereas, between 1994 and 1998, Kelly Slater won 5 consecutive Association of Surfing Professionals titles;

Whereas, in 1995 and 1998, Kelly Slater won the Triple Crown of Surfing, the Reef Hawaiian Pro at Haleiwa Ali'i Beach Park, the O'Neill World Cup of Surfing at Sunset Beach, and the Billabong Pipeline Masters at the Banzai Pipeline;

Whereas Kelly Slater was inducted into the Surfers Hall of Fame in 2002;

Whereas, in 2002, Kelly Slater won the Quicksilver in Memory of Eddie Aikau at Waimea Bay in Oahu, Hawaii, a competition that occurs only when waves reach a minimum height of 20 feet;

Whereas Kelly Slater was the 1st surfer ever to be awarded 2 perfect scores in the final heat of the Billabong Tahiti Pro Contest under the Association of Surfing Professionals 2-wave scoring system;

Whereas Kelly Slater won an Association of Surfing Professionals World Title in 2005, 7 years after his previous win in 1998;

Whereas, in 2007, Kelly Slater started the Kelly Slater Foundation to raise awareness and financial support for socially and environmentally conscious charities;

Whereas, in 2008, at the age of 36, Kelly Slater was the oldest surfer to win an Association of Surfing Professionals World Championship;

Whereas, in 2010, Kelly Slater won the Rip Curl Pro Bell Championship, making him a 4-time winner of this 49-year-old international surfing championship held in Australia;

Whereas Kelly Slater has 39 World Championship Tour victories;

Whereas Kelly Slater holds 9 Association of Surfing Professionals World Championships, a record number; and

Whereas Kelly Slater is surfing's all-time leader in career event wins: Now, therefore, be it

*Resolved*, That the House of Representatives recognizes and honors Robert Kelly Slater for winning the 2010 Rip Curl Pro Bell Championship and for his other outstanding achievements in the world of surfing.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. DAVIS) and the gentleman from Georgia (Mr. BROWN) each will control 20 minutes.

The Chair now recognizes the gentleman from Illinois.

#### GENERAL LEAVE

Mr. DAVIS of Illinois. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, on behalf of the Committee on Oversight and Government Reform, I am pleased to present H. Res. 792 for consideration. This resolution honors Robert Kelly Slater for his outstanding achievements in the world of surfing.

H. Res. 792 was introduced by our colleague, the gentleman from Florida, Representative BILL POSEY, on October 1, 2009. It was referred to the Committee on Oversight and Government Reform, which ordered it to be reported favorably by unanimous consent on May 6, 2010. This measure enjoys the support of 60 cosponsors.

Madam Speaker, Mr. Slater has accomplished a great deal in the world of amateur and professional surfing. As a teenager, he won six Eastern Surfing Association titles and four national titles. At the age of 20, he was the youngest surfer to win the Association of Surfing Professionals World Championship. He has won that title nine times in his career, another record. This year, he won the Rip Curl Pro Bell Championship for the fourth time, earning him yet another international title.

He is, in fact, the all-time leader in career event wins, but his accomplishments are not limited to tackling big waves. In 2007, he founded the Kelly Slater Foundation, an organization

dedicated to raise awareness and financial support for a number of environmental and other charities.

Madam Speaker, Mr. Slater has achieved much in the world of professional surfing. Today we have the opportunity to congratulate him for his successes and to commend him for his charitable works. I thank the gentleman from Florida for introducing this measure, and I also thank Chairman TOWNS and Ranking Member ISSA for their support for the bill.

I urge my colleagues to support its passage and reserve the balance of my time.

Mr. BROWN of Georgia. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 792, honoring Robert Kelly Slater for his outstanding and unprecedented achievements in the world of surfing.

A native of Cocoa Beach, Florida, Kelly Slater has been a dominant surfer since first learning how to surf during his childhood. As an amateur surfer, he quickly entered the spotlight, winning six Eastern Surfing Association and four national titles.

In the 1990s, he was already a household name. In 1992, he won his first Association of Surfing Professionals World Championship when he was only 20 years of age, making him the youngest person ever to win the title. From 1994 to 1998, Slater continued to rack up world titles. He won the world championship title five times in a row, for a combined nine championships. He has won more championships than any other surfer. In 2002, he became a member of the Surfers Hall of Fame.

In addition to his success in surfing competitions, Slater has appeared in commercials and television shows, as well as having a wide variety of surfing sponsorships. Throughout his entire career, Kelly Slater has continued to make surfing more popular as more people across the globe become aware of his expertise in the sport. He also created the Kelly Slater Foundation to raise money for major charities, such as the Cystic Fibrosis Foundation and the World Skin Cancer Foundation.

Madam Speaker, Kelly Slater has continued to excite surfers across the entire country and the world. I ask my colleagues to support this resolution to honor Kelly Slater's work.

Madam Speaker, I yield as much time as he may consume to my distinguished colleague from Florida (Mr. POSEY), the sponsor of this resolution.

Mr. POSEY. I thank the gentleman from Georgia for yielding.

Madam Speaker, I rise also to honor the surfing achievements of Kelly Slater. He is the dominant world champion of surfing. Last month, he became the Rip Curl Pro Bell Champion for the fourth time, adding to the 42 international championships he has won. He

is unmatched, unparalleled in the world of surfing. Obviously, he is an inspiration to many.

Robert Kelly Slater grew up in Cocoa Beach, Florida, born there on February 11, 1972. He learned to surf on Cocoa Beach with his brothers Sean and Stephen. He routinely won amateur championships in the eighties, and six Eastern Surfing Association championships and four national titles.

In 1992, at the age of 20, Kelly Slater was the youngest surfer ever to win the Association of Surfing Professionals World Championship. He is a six-time winner of the Billabong Pipeline Masters. That's 1992 to 2008. The Billabong Pipeline Masters is a competition held annually at the Bonzai Pipeline in Oahu, Hawaii. Forty-five of the top-ranked surfers ranked by the Association of Surfing Professionals compete. Again, Kelly Slater's achievements there are unprecedented.

He won five consecutive Association of Surfing Professionals titles between 1994 and 1998. In 1995 and 1998, Kelly Slater won the surfing triple crown: the Reef Hawaiian Pro at Haleiwa Ali'i Beach Park, the O'Neill World Cup of Surfing at Sunset Beach, and the Billabong Pipeline Masters at the Bonzai Pipeline. In 2002, he won the Quicksilver, in memory of Eddie Aikau, at Waimea Bay in Oahu, Hawaii. Competition occurs there only when the surfing conditions have waves that are at least 20 feet high. He was the first surfer ever to be awarded two perfect scores under the Association of Surfing Professionals two-wave scoring system, awarded in the final heat of the Billabong Tahiti Pro Contest.

In 2005, Kelly Slater won an Association of Surfing Professionals World Title 7 years after his previous win in 1998. In 2008, he was the oldest surfer, at age 36, to win the Association of Surfing Professionals World Championship title. Kelly Slater has 39 Championship Tour victories. He holds the most Association of Surfing Professionals World Championships ever, a total of nine. He is surfing's all-time leader in career event wins and was inducted into the Surfing Hall of Fame in 2002.

As was mentioned, he has established the Kelly Slater Foundation. He did that in 2007. Its purpose is to raise money and awareness for existing social causes, as were previously mentioned, and also environmentally conscious charities.

Just a few words about Florida surfing. Florida has 1,350 miles of coastline suitable for surfing. Forty percent of east coast surfing occurs in Florida. There are over a dozen popular surfing areas in Florida's 15th Congressional District. Ron Jon Surf Shop was opened in Cocoa Beach by Ron DiMenna in 1963. Now there are three such stores in Florida, South Carolina, and Canada. The Cocoa Beach location



is the largest surfing store in the world.

Kelly Slater is Florida's first surfing champion and, obviously, one of the greatest surfers of all time.

For those who may not be familiar with surfing as an industry, it is an important part of our economy. According to SIMA, that's the Surf Industry Manufacturers Association, even during recession and economic challenges, the surf industry remains resilient. It had \$7.22 billion in sales in 2008 and considerable growth over the past several years. In 2009, Ron Jon Surf Shop in Cocoa Beach was named one of the 25 Best Independent Retailers by Business Week. Ron Jon employs 500 people and has over \$50 million in annual revenues.

In conclusion, I state again that Kelly Slater's achievements are unprecedented. In passing this resolution, we are acknowledging his many wonderful achievements.

I want to again thank MAZIE HIRONO of Hawaii and over 60 other cosponsors that we have for participating in this resolution, and I urge my colleagues, each and every one, to support its passage.

Mr. DAVIS of Illinois. Madam Speaker, I want to thank Representative POSEY for bringing surfing and for bringing Mr. Slater to our attention. Both are just unbelievable.

I reserve the balance of my time.

Mr. BROUN of Georgia. Madam Speaker, I yield back the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, it's been a pleasure sharing the floor with the gentleman from Georgia this afternoon, Representative BROUN. I want to thank him for his comments and urge passage of this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 792, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The title was amended so as to read: "Resolution recognizing and honoring Robert Kelly Slater for winning the 2010 Rip Curl Pro Bell Championship and for his other outstanding achievements in the world of surfing."

A motion to reconsider was laid on the table.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 p.m.), the House stood in recess until approximately 6:30 p.m. today.

□ 1833

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HEINRICH) at 6 o'clock and 33 minutes p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 2288, by the yeas and nays;

H.R. 4614, by the yeas and nays;

H. Res. 1327, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

## ENDANGERED FISH RECOVERY PROGRAMS IMPROVEMENT ACT OF 2010

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 2288, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mrs. NAPOLITANO) that the House suspend the rules and pass the bill, H.R. 2288, as amended.

The vote was taken by electronic device, and there were—yeas 264, nays 122, not voting 44, as follows:

[Roll No. 273]

YEAS—264

Ackerman	Castor (FL)	Edwards (MD)
Adler (NJ)	Chaffetz	Edwards (TX)
Altmire	Chandler	Ehlers
Andrews	Childers	Ellison
Arcuri	Chu	Ellsworth
Baca	Clarke	Engel
Bachus	Clay	Eshoo
Baird	Cleaver	Etheridge
Baldwin	Clyburn	Farr
Barrow	Coffman (CO)	Fattah
Bean	Cohen	Filner
Berkley	Connolly (VA)	Fortenberry
Berman	Conyers	Foster
Berry	Cooper	Frank (MA)
Bishop (GA)	Costello	Frelinghuysen
Bishop (NY)	Courtney	Fudge
Bishop (UT)	Crowley	Garamendi
Blumenauer	Cuellar	Giffords
Boccheri	Cummings	Gonzalez
Boren	Dahlkemper	Gordon (TN)
Boswell	Davis (CA)	Green, Al
Boucher	Davis (IL)	Hall (NY)
Boyd	Davis (TN)	Halvorson
Braley (IA)	DeFazio	Hare
Brown, Corrine	DeGette	Harman
Buchanan	Delahunt	Hastings (FL)
Butterfield	DeLauro	Hastings (WA)
Capito	Dent	Heinrich
Capps	Deutch	Heller
Capuano	Diaz-Balart, L.	Herseeth Sandlin
Cardoza	Dingell	Higgins
Carnahan	Doggett	Hill
Carney	Donnelly (IN)	Himes
Carson (IN)	Doyle	Hinojosa
Castle	Driehaus	Hirono

Hodes	McIntyre	Sarbanes
Holt	McMahon	Schakowsky
Honda	McMorris	Schauer
Hoyer	Rodgers	Schiff
Inslee	McNerney	Schrader
Israel	Meek (FL)	Schwartz
Jackson (IL)	Meeks (NY)	Scott (GA)
Johnson (GA)	Michaud	Scott (VA)
Johnson (IL)	Miller (NC)	Serrano
Johnson, E. B.	Miller, George	Shea-Porter
Jones	Minnick	Sherman
Kagen	Mitchell	Shuler
Kanjorski	Mollohan	Simpson
Kaptur	Moore (KS)	Skelton
Kennedy	Moore (WI)	Slaughter
Kildee	Moran (VA)	Smith (NE)
Kilpatrick (MI)	Murphy (CT)	Smith (NJ)
Kilroy	Murphy, Patrick	Smith (TX)
Kind	Nadler (NY)	Smith (WA)
Kirkpatrick (AZ)	Napolitano	Snyder
Kissell	Neal (MA)	Space
Klein (FL)	Nye	Speier
Kosmas	Oberstar	Spratt
Kratovil	Obey	Stark
Kucinich	Oliver	Stupak
Lance	Ortiz	Sutton
Langevin	Pallone	Tanner
Larsen (WA)	Pascarell	Taylor
Larson (CT)	Pastor (AZ)	Teague
Latham	Payne	Terry
LaTourette	Perlmutter	Thompson (MS)
Lee (CA)	Perriello	Tiberi
Lee (NY)	Peters	Tierney
Levin	Peterson	Titus
Lewis (GA)	Pingree (ME)	Tonko
Lipinski	Polis (CO)	Tsongas
LoBiondo	Pomeroy	Turner
Loeback	Posey	Velázquez
Lofgren, Zoe	Price (NC)	Viscosky
Lowey	Quigley	Walden
Luján	Rangel	Walz
Lummis	Reichert	Wasserman
Lynch	Reyes	Schultz
Maffei	Richardson	Waters
Maloney	Rodriguez	Watson
Markey (CO)	Rogers (MI)	Watt
Markey (MA)	Ros-Lehtinen	Waxman
Marshall	Ross	Weiner
Matheson	Roybal-Allard	Welch
Matsui	Ruppersberger	Wilson (OH)
McCarthy (NY)	Ryan (OH)	Wu
McCollum	Salazar	Yarmuth
McCotter	Sánchez, Linda	
McDermott	T.	
McGovern	Sanchez, Loretta	

NAYS—122

Aderholt	Fleming	McHenry
Akin	Forbes	McKeon
Alexander	Fox	Mica
Austria	Franks (AZ)	Miller (FL)
Bartlett	Gallely	Miller (MI)
Barton (TX)	Garrett (NJ)	Miller, Gary
Biggert	Gingrey (GA)	Moran (KS)
Bilirakis	Gohmert	Murphy (NY)
Blackburn	Goodlatte	Murphy, Tim
Boehner	Granger	Myrick
Bonner	Graves	Neugebauer
Bono Mack	Griffith	Nunes
Boustany	Guthrie	Olson
Brady (TX)	Hall (TX)	Owens
Bright	Harper	Paulsen
Broun (GA)	Hensarling	Pence
Brown (SC)	Herger	Petri
Brown-Waite,	Hunter	Pitts
Ginny	Issa	Poe (TX)
Burgess	Jenkins	Radanovich
Burton (IN)	Johnson, Sam	Rehberg
Buyer	Jordan (OH)	Roe (TN)
Calvert	King (IA)	Rogers (AL)
Camp	King (NY)	Rogers (KY)
Campbell	Kingston	Rohrabacher
Cantor	Kline (MN)	Rooney
Cao	Lamborn	Roskam
Carter	Latta	Royce
Cassidy	Lewis (CA)	Ryan (WI)
Coble	Linder	Scalise
Cole	Lucas	Schmidt
Conaway	Luetkemeyer	Schock
Crenshaw	Lungren, Daniel	Sensenbrenner
Davis (KY)	E.	Sessions
Dreier	Mack	Shadegg
Duncan	Marchant	Shimkus
Emerson	McCarthy (CA)	Stearns
Fallin	McClintock	Sullivan



Thompson (PA) Westmoreland Wolf  
Thornberry Whitfield Young (FL)  
Tiahrt Wilson (SC)  
Upton Wittman

## NOT VOTING—44

Bachmann Green, Gene Price (GA)  
Barrett (SC) Grijalva Putnam  
Becerra Gutierrez Rahall  
Bilbray Hinchey Rothman (NJ)  
Blunt Hoekstra Rush  
Boozman Holden Sestak  
Brady (PA) Inglis Shuster  
Costa Jackson Lee Sires  
Culberson (TX) Souder  
Davis (AL) Kirk Thompson (CA)  
Diaz-Balart, M. Manzullo Towns  
Dicks McCaul Van Hollen  
Flake Melancon Wamp  
Gerlach Paul Woolsey  
Grayson Platts Young (AK)

□ 1902

Mr. GINGREY of Georgia changed his vote from “yea” to “nay.”

Messrs. BISHOP of Utah and SKELTON changed their vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## KATIE SEPICH ENHANCED DNA COLLECTION ACT OF 2010

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 4614, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. JOHNSON) that the House suspend the rules and pass the bill, H.R. 4614, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 357, nays 32, not voting 41, as follows:

[Roll No. 274]

## YEAS—357

Ackerman Bono Mack Carter  
Aderholt Boren Cassidy  
Adler (NJ) Boswell Castle  
Alexander Boustany Castor (FL)  
Altmire Boyd Chaffetz  
Andrews Braley (IA) Chandler  
Arcuri Bright Childers  
Austria Brown (SC) Chu  
Baca Brown, Corrine Clarke  
Bachus Brown-Waite, Clay  
Baird Ginny Cleaver  
Baldwin Buchanan Clyburn  
Barrow Burgess Coble  
Bartlett Burton (IN) Cohen  
Bean Butterfield Cole  
Berkley Buyer Connolly (VA)  
Berman Calvert Conyers  
Berry Camp Cooper  
Biggett Cantor Costello  
Bilirakis Cao Courtney  
Bishop (GA) Capito Crenshaw  
Bishop (NY) Capps Crowley  
Bishop (UT) Capuano Cuellar  
Blumenauer Cardoza Cummings  
Bocieri Carnahan Dahlgemper  
Boehner Carney Davis (CA)  
Bonner Carson (IN) Davis (IL)

Davis (KY) Lance  
Davis (TN) Langevin  
DeFazio Larsen (WA)  
DeGette Larson (CT)  
Delahunt Latham  
DeLauro LaTourette  
Dent Latta  
Deutch Lee (CA)  
Diaz-Balart, L. Lee (NY)  
Dingell Levin  
Doggett Lewis (CA)  
Donnelly (IN) Lewis (GA)  
Doyle Linder  
Dreier Lipinski  
Driehaus LoBiondo  
Edwards (MD) Loeb sack  
Edwards (TX) Lofgren, Zoe  
Ehlers Lowey  
Ellison Lucas  
Ellsworth Luetkemeyer  
Emerson Luján  
Engel Lungren, Daniel  
Eshoo E.  
Etheridge Lynch  
Fallin Maffei  
Farr Maloney  
Fattah Markey (CO)  
Finer Markey (MA)  
Fleming Marshall  
Forbes Mathe son  
Fortenberry Matsui  
Foster McCarthy (CA)  
Frank (MA) McCarthy (NY)  
Frelinghuysen McClintock  
Fudge McCollum  
Gallegly McCotter  
Garamendi McDermott  
Giffords McGovern  
Gingrey (GA) McHenry  
Gonzalez McIntyre  
Goodlatte McKeon  
Granger McMahon  
Graves McMorris  
Green, Al Rodgers  
Green, Gene McNeerney  
Griffith Meek (FL)  
Guthrie Meeks (NY)  
Gutierrez Melancon  
Hall (NY) Mica  
Hall (TX) Michaud  
Halvorson Miller (MI)  
Hare Miller (NC)  
Harman Miller, Gary  
Hastings (FL) Miller, George  
Hastings (WA) Minnick  
Heinrich Mitchell  
Heller Mollohan  
Herger Moore (KS)  
Herseth Sandlin Moore (WI)  
Higgins Moran (KS)  
Hill Moran (VA)  
Himes Murphy (CT)  
Hinojosa Murphy (NY)  
Hirono Murphy, Patrick  
Hodes Murphy, Tim  
Holt Myrick  
Honda Nadler (NY)  
Hoyer Napolitano  
Hunter Neal (MA)  
Inslee Nunes  
Israel Nye  
Issa Oberstar  
Jackson (IL) Obey  
Jenkins Olson  
Johnson (IL) Olver  
Johnson, E. B. Ortiz  
Jones Owens  
Kagen Pallone  
Kanjorski Pascarell  
Kaptur Pastor (AZ)  
Kennedy Paulsen  
Kildee Payne  
Kilpatrick (MI) Perlmutter  
Kilroy Perriello  
Kind Peters  
King (IA) Peterson  
King (NY) Petri  
Kirkpatrick (AZ) Pingree (ME)  
Kissell Pitts  
Klein (FL) Polis (CO)  
Kline (MN) Pomeroy  
Kosmas Posey  
Kratovil Price (NC)  
Kucinich Quigley

Radanovich  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Roybal-Allard  
Royce  
Ruppersberger  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sanchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sessions  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Simpson  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Stupak  
Sullivan  
Sutton  
Tanner  
Taylor  
Teague  
Terry  
Thompson (MS)  
Thompson (PA)  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Whitfield  
Wilson (OH)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (FL)

## NAYS—32

Akin  
Barton (TX)  
Blackburn  
Brady (TX)  
Broun (GA)  
Campbell  
Coffman (CO)  
Conaway  
Duncan  
Foxy  
Franks (AZ)  
Garrett (NJ)  
Gohmert  
Harper  
Hensarling  
Hoekstra  
Johnson, Sam  
Jordan (OH)  
Kingston  
Lamborn  
Lummis  
Mack  
Marchant  
Miller (FL)  
Neugebauer  
Pence  
Poe (TX)  
Sensenbrenner  
Shadegg  
Thornberry  
Westmoreland  
Wilson (SC)

## NOT VOTING—41

Bachmann  
Barrett (SC)  
Becerra  
Bilbray  
Blunt  
Boozman  
Boucher  
Brady (PA)  
Costa  
Culberson  
Davis (AL)  
Diaz-Balart, M.  
Dicks  
Flake  
Gerlach  
Gordon (TN)  
Grayson  
Grijalva  
Hinchey  
Holden  
Inglis  
Jackson Lee  
(TX)  
Johnson (GA)  
Kirk  
Manzullo  
McCaul  
Paul  
Platts  
Price (GA)  
Putnam  
Rahall  
Rothman (NJ)  
Rush  
Sestak  
Shuster  
Sires  
Souder  
Thompson (CA)  
Towns  
Wamp  
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes in which to record their vote.

□ 1910

Mr. CANTOR changed his vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## HONORING FLOYD DOMINY

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 1327, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. NAPOLITANO) that the House suspend the rules and agree to the resolution, H. Res. 1327.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 390, nays 0, not voting 40, as follows:

[Roll No. 275]

## YEAS—390

Ackerman Berman Braley (IA)  
Aderholt Berry Bright  
Adler (NJ) Biggert Broun (GA)  
Akin Bishop (GA) Brown (SC)  
Alexander Bishop (NY) Brown, Corrine  
Altmire Bishop (UT) Brown-Waite,  
Andrews Blackburn Ginny  
Arcuri Blumenauer Buchanan  
Austria Bocieri Burgess  
Baca Boehner Burton (IN)  
Bachus Bonner Butterfield  
Baird Bono Mack Buyer  
Baldwin Boren Calvert  
Barrow Boswell Camp  
Bartlett Boucher Campbell  
Bean Boustany Cantor  
Berkley Boyd Cao  
Capito

Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Deutch  
Diaz-Balart, L.  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Fleming  
Forbes  
Fortenberry  
Foster  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Garrett (NJ)  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Green, Al  
Green, Gene  
Griffith  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)

Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holt  
Honda  
Hoyer  
Hunter  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
King (IA)  
King (NY)  
Kingston  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loebsock  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Luján  
Lummis  
Lungren, Daniel E.  
Lynch  
Mack  
Maffei  
Maloney  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)

Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Owens  
Pallone  
Pascarella  
Pastor (AZ)  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (NC)  
Quigley  
Radanovich  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Roybal-Allard  
Royce  
Ruppersberger  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sánchez, Linda T.  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler

Simpson  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stearns  
Stupak  
Sullivan  
Sutton  
Tanner  
Taylor  
Teague

Terry  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz

Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (FL)

## NOT VOTING—40

Bachmann  
Barrett (SC)  
Becerra  
Bilbray  
Bilirakis  
Blunt  
Boozman  
Brady (PA)  
Costa  
Culberson  
Davis (AL)  
Diaz-Balart, M.  
Dicks  
Flake

Gerlach  
Grayson  
Grijalva  
Hinchey  
Holden  
Inglis  
Jackson Lee (TX)  
Kirk  
Manzullo  
McCaul  
Paul  
Platts  
Price (GA)

Putnam  
Rahall  
Rothman (NJ)  
Rush  
Sestak  
Shuster  
Sires  
Souder  
Stark  
Thompson (CA)  
Towns  
Wamp  
Young (AK)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes in which to record their vote.

□ 1917

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5015

Mr. CARSON of Indiana. Mr. Speaker, I ask unanimous consent to be removed as a cosponsor of H.R. 5015.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

## PERMISSION FOR MEMBER TO BE CONSIDERED AS FIRST SPONSOR OF H.R. 1508

Mr. NADLER of New York. Mr. Speaker, I ask unanimous consent that I may hereafter be considered as the first sponsor of H.R. 1508, a bill originally introduced by Representative Wexler of Florida, for the purposes of adding cosponsors and requesting reprintings pursuant to clause 7 of rule XII.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

## JOSHUA'S HEART FOUNDATION

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize two outstanding constituents from my district in South Florida: Claudia McLean and her 9-year-old son Joshua Williams who founded Joshua's Heart Foundation 4 years ago.

Next month, Joshua and Claudia will be honored by the Sodexo Foundation at its annual dinner right here in Washington, DC.

The Joshua Heart Foundation's mission is to work toward ending global hunger as part of an overall community effort. Once a month, Joshua's organization distributes food, in addition to feeding the homeless every week. They deliver food to the sick, the elderly and the helpless. Currently, food is provided for over 100 homeless people and about 450 families on a monthly basis.

Claudia and Joshua, I would like to commend you for your service to our community and indeed our Nation. Thank you for your dedication and your commitment to improving the lives of South Floridians in need.

## PROTECTING THE INNOVATION AND JOBS IN THE MEDICAL DEVICE INDUSTRY

(Mr. PAULSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAULSEN. Mr. Speaker, the medical device industry is a Minnesotan and American success story. The innovation it fosters means longer lives, healthier patients, good-paying jobs, and economic growth.

Just this morning, I attended a town hall meeting in Minnesota with the new head of the FDA's Center for Devices and Radiological Health, Dr. Jeffrey Shuren. Dr. Shuren and his team were in town to hear from device manufacturers, doctors and patients. I applauded his willingness and his team's willingness to listen.

As the FDA looks to the future, it is critical that it strikes the right balance—protecting patients from harm while not hindering the availability of lifesaving innovations. An uncertain, unpredictable approval process for devices could absolutely reduce options for patients down the road. We need to keep the innovation here. We need to keep the jobs here. We need to keep the technology and the patient care here in the United States. That's why we need an effective process that protects patients while fostering the innovation and economic growth that this industry provides.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

### USE MORE STICKS, FEWER CARROTS WITH AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, last week's state visit did absolutely nothing to ease serious concerns about the leadership of Afghanistan President Hamid Karzai. Our counterterrorism strategy is supposed to depend on having a stable, responsive, transparent, democratic government that enjoys the confidence of the Afghan people. Instead, Mr. Karzai's government has proven itself to be irresponsible and ineffective in a way that jeopardizes his country's future and the safety of American troops. Karzai has lashed out at the United States, even threatening at one point to join the Taliban. And our own Ambassador to Afghanistan has publicly questioned his reliability as a strategic partner.

While we have no choice but to have a dialogue with President Karzai, it is critical that our approach to this relationship involve at least as many sticks as carrots. We owe the American people some assurance that we are not letting the Afghan Government misuse our tax dollars with impunity.

Mr. Speaker, the Center for American Progress has a new report that discusses the crisis of governance in Afghanistan. The government, it says, "operates on a highly centralized patronage model in which power and resources are channeled through Karzai's personal and political allies. The system lacks the connection, the rules, and the checks and balances necessary to make leaders truly accountable to the domestic population."

One of the allies, Mr. Speaker, referenced in the report is Karzai's brother, a thuggish political boss who rules Kandahar with an iron fist. There is evidence that he operates his own militia and is actively involved in the drug trade. The report goes on to note that our Afghanistan strategy has over-emphasized the military solution and neglected the critical task of helping build viable state organs, especially at the local level.

In Marja, for example, we left no government infrastructure behind after the military cleared out the Taliban. Our single-minded focus on using hard power to vanquish terrorists just isn't working. The Taliban remains a potent political force; and the more government fails to provide basic services, the more likely are the Afghan people to rush into the arms of the Taliban.

The answer, Mr. Speaker, is the smart security platform. I have been advocating this smart security platform for years. Instead of a military surge which represents more of the same old failed policy, what we clearly need is an aggressive civilian surge.

□ 1930

We need to divert resources away from troop deployment and toward programs that will empower the Afghan people and bolster the capacity and competence of their government, a government that works for their people and with the international community.

At his press conference with President Karzai, President Obama said that "Afghans are a proud people who have suffered and sacrificed greatly because of their determination to shape their own destiny." Mr. Speaker, that is undoubtedly true, and that's why they deserve better than government by cronism, and American troops also deserve better than to shed blood for a corrupt and dysfunctional regime.

So, Mr. Speaker, it's time to bring our troops home and launch a smart security plan, and it's important that we do it today.

### HONORING JUANITA WORSLEY WILLIAMS ON HER 98TH BIRTHDAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, there are not many Members of Congress that have the honor to wish a beautiful lady a happy 98th birthday, especially when the lady was present at his birth. Mrs. Juanita Worsley Williams, from my hometown of Farmville, lived next door, and she and her husband, Dr. Roderick Williams, were good friends of my parents. In fact, Juanita Williams assisted her husband in delivering me on February 10, 1943.

Juanita is the daughter of Lula Lee Blake Worsley and William H. Worsley. She was born in Rocky Mount, North Carolina, at Park View Hospital in 1912.

Mrs. Williams and her husband raised their children in Farmville and lived next door to my family for years. She was very good friends with my mother, and I often played with her children.

Juanita and Dr. Roderick Williams have three children: Nan Williams Gibson, Dr. Roderick Williams, Jr., and Lu Williams Leonard. She also has eight grandchildren and 10 great-grandchildren.

When Juanita's husband died in 1964, she began working at the Sam D. Bundy Elementary School as a secretary. She loved her job, and everyone loved her in return.

Friendship and community service have always been important to Mrs. Williams. She was very active locally and statewide in the Daughters of the American Revolution and Girl Scouts. She also organized the CAR, Children of the American Revolution, in our hometown of Farmville. Because of her love for the youth of our community, Mrs. Williams, who was also a devoted member of the First Baptist Church,

participated in Sunday school, vacation Bible school, and youth fellowship meetings.

Mrs. Williams just returned from a trip to the Panama Canal. While there, she visited with nephews and nieces and had a wonderful time. Juanita was very pleased that the canal will be widened and not replaced.

Juanita Williams has given her life to making her community of Farmville a better place to live, whether it be by organizing the Meals on Wheels program or helping with the Girl Scouts. She is a true American who believes and lives the traditional values of placing God, home, and country first in her life.

Juanita Williams always has two wonderful things to say to everyone: "I love you," and "God bless you." She always says that her secret for longevity is love, love for others and love for God.

I'm truly honored to know such a wonderful lady and have this opportunity to honor her on this special day. I want Mrs. Williams to know how much she meant to the Jones family and that we love her.

May God continue to bless Juanita Williams, her family, and our country. And may God continue to bless America.

### HONORING THE CHATHAM COUNTY COURTHOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. ETHERIDGE) is recognized for 5 minutes.

Mr. ETHERIDGE. Mr. Speaker, I rise today in support of a resolution that was on the floor earlier which I introduced with my friend Congressman DAVID PRICE and which honors the historic and community significance of the Chatham County Courthouse in Pittsboro, North Carolina. I would like to thank Majority Leader HOYER, Judiciary Committee Chairman CONYERS, Subcommittee Chairman JOHNSON, and really the entire North Carolina delegation, each of whom helped bring this important resolution to the floor.

On March 25 of this year, a tragic fire struck and almost totally destroyed the Chatham County Courthouse, which has been a beacon of justice and the rule of law for over 100 years. Anyone who has ever driven through Pittsboro, around the traffic circle surrounding the courthouse, can attest to its beauty and how central its presence has been to the Pittsboro community, the county, and the State of North Carolina. The entire community rose to its defense as the fire blazed and even now is working to rebuild it. Thanks to the heroic actions of the firefighters, first responders, community leaders, and Chatham County citizens, I am confident that Pittsboro will again have a courthouse that the town and the county can be proud of.

I would like to particularly recognize some of the leaders who were instrumental in managing and alleviating this unexpected tragedy and really kept the building from being totally destroyed: Thomas Bender, who is the Chatham County fire marshal; Daryl Griffin, Pittsboro fire chief, and all of the adjoining fire departments that came to help; David Collins, Pittsboro police chief; Richard H. Webster, sheriff of Chatham County; Randy Voller, mayor of the town of Pittsboro; Jim Woodall, Chatham County district attorney; Allen Baddour, superior court judge, Chatham County District 15B; and the entire Chatham County board of commissioners who rallied, who stood the streets, who brought the community together.

I ask my colleagues, as this resolution comes to the floor, to join me in honoring these North Carolina leaders and those who love the community of Pittsboro and the Chatham County Courthouse, a cultural icon and a landmark that will not easily be forgotten. By supporting this resolution, it will be rebuilt by the people of Chatham County.

#### IS PRESIDENT CALDERON HYPOCRITICAL?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Mr. Speaker, Mexican President Felipe Calderon says he thinks Arizona's new illegal immigration enforcement law will open the door to "intolerance, hate, discrimination and abuse in law enforcement." Calderon's coming to the White House to talk to our President about it tomorrow. I wonder if they'll discuss whether or not Calderon supports his own country's immigration policy.

Mr. Speaker, writer Michelle Malkin recently published some really interesting research on Mexican immigration laws. The Mexican Government bars any foreigner from immigrating to Mexico if they upset "the equilibrium of the national demographic." I wonder if President Calderon thinks that's racial or ethnic profiling. Mexican law further bars immigration unless a person enhances Mexico's "economic or national interests." Immigrants are not welcome in Mexico if they're not "physically or mentally healthy" or if they show "contempt against Mexico's national sovereignty or security." Imagine that.

Immigrants to Mexico must have squeaky clean criminal histories. And to apply for Mexican citizenship, immigrants have to show a birth certificate, and they have to provide a bank statement that proves that they are economically independent. In other words, you can't go to Mexico and live off the Mexican Government. And they also

have to prove they can pay for their own private health care.

What are the penalties for failure to comply with Mexican immigration laws? Illegal entry into the country is equivalent to a felony punishable by 2 years' imprisonment. Document fraud is subject to fine and imprisonment; so is alien marriage fraud. Evading deportation is a serious crime in Mexico. Illegal reentry into Mexico after deportation is punishable by 10 years' imprisonment in a Mexican jail. Foreigners may be kicked out of the country without due process; that means without even being given a hearing. Mexico kicks out illegals without a deportation trial.

Law enforcement officials in Mexico at all levels, by national law, must cooperate to enforce Mexico's immigration laws, including illegal alien arrests and deportations. That means Mexican states must enforce federal law, interestingly enough, yet President Calderon is a hypocrite and indignant that the State of Arizona would enforce U.S. immigration law. The Mexican military is also required to assist in immigration enforcement operations. Imagine that. And native born Mexicans—this is interesting to me—are empowered to make citizens' arrests of illegals in that country and turn them over to the government.

In Mexico, get ready to show your papers. Mexico's national Catalog of Foreigners tracks all outside tourists and foreign nationals. A national population registry tracks and verifies the identity of every member of the population who must carry a citizens identity card, and visitors who do not possess the proper documents and identification are subject to arrest as illegals.

All of these provisions are enshrined in Mexico's General Law of the Population and were revealed for the world to see in 2006 in a research paper published by the Washington, D.C.-based Center for Security Policy. But there's been no public outrage from the open borders lobby for Mexican "comprehensive immigration reform." You see, pro-illegal alien free speech in Mexico is illegal. Under the Mexican constitution, political free speech by foreigners doesn't happen because it's banned. Noncitizens cannot "in any way participate in the political affairs of the country." They can't march in the streets in protest. Foreigners are barred in Mexico from participating in everything from education to even owning firearms. Foreigners in Mexico have severely limited private property and employment rights, if any.

Mexico has long been doing the job of illegal alien deportation, and it seems to me it's hypocritical of Mexico and President Calderon to criticize the United States or Arizona for enforcing our illegal immigration laws. They are far less severe than Mexico's illegal im-

migration laws. So when President Calderon comes here tomorrow to complain about America and America's illegal immigration policy, perhaps Calderon would prefer America adopt Mexico's immigration policies.

And that's just the way it is.

#### OIL SPILL IN THE GULF OF MEXICO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mrs. CAPPS) is recognized for 5 minutes.

Mrs. CAPPS. Mr. Speaker, I rise this evening to speak about the unfolding catastrophe in the Gulf of Mexico. It's painfully clear that British Petroleum's oil spill could dwarf any environmental disaster in our Nation's history. This horrific tragedy has claimed 11 lives and contaminated gulf waters with millions of gallons of oil. It's still belching thousands of barrels of oil into the water every day, and now the oil has reached the shores of Louisiana. It's impacting the livelihoods of millions in the Gulf Coast States and threatens even more.

The first steps, of course, are to stop the leaks, contain the spill, and attend to the devastating aftermath on the people and their environment. The Obama administration deserves high marks for its swift response from day one to the BP disaster. It mobilized the government's resources to minimize the harm on the health, the economy, and the environment of the Gulf Coast.

Last week, the President sent to Congress legislation that would do three things: First, provide additional resources to mitigate the damage caused by the spill; second, provide assistance to the people and the businesses affected most by the crisis, and; third, to ensure that companies like BP that are responsible for oil spills are the ones that pay for the harm they cause, not the taxpayers.

□ 1945

In addition, Interior Secretary Salazar is conducting a top-to-bottom reform of the Minerals Management Service. He has proceeded splitting the MMS into two distinct agencies: one responsible for leasing and collecting royalties; and one responsible for inspections and safety. He has also ordered immediate inspections of all deepwater operations currently in the gulf, and he announced that no new permits for drilling new wells will go forward until a safety and environmental review is completed.

Finally, the Obama administration is closing loopholes that allowed some oil companies to bypass critical environmental reviews, and is examining all of the environmental procedures on oil and gas activities.

While these are important and necessary steps, I believe that more must

be done, and that's why I strongly support President Obama's announcement that he will establish an independent commission to investigate the BP oil disaster. This commission, which he will create by Executive order, will mirror legislation that Mr. MARKEY and I introduced earlier this month, the BP Deepwater Horizon Inquiry Commission Act.

I believe this commission should have four goals. First, it should examine the causes of the current spill, as well as the adequacy of oil spill containment and cleanup measures. Second, it should determine whether and how such spills can be avoided in the future. Third, it should assess the implications of its findings for drilling in, or adjacent to sensitive or ecologically important areas, including in the Arctic. And four, it should make recommendations on how to strengthen laws, regulations, and reform agency oversight in order to keep this from happening again.

This commission will serve as an important long-term addition to the Obama administration's excellent short-term efforts to investigate and respond to the oil spill.

Mr. Speaker, I have lived in Santa Barbara, California, since 1964. I saw firsthand the devastating consequences of the blowout on platform A just a few miles off our coastline in 1969. That was 40 years ago. That spill dumped millions of gallons of oil into the Santa Barbara Channel. It killed untold amounts of wildlife and polluted our beaches for years. But it also galvanized a burgeoning environmental movement, and it spurred the first Earth Day. It was true then, as it is true today, our response to this disaster cannot be that we simply have to keep drilling in the gulf and other offshore areas because we have no alternative.

The truth is we do have options that can move us further and faster toward energy security. Today our economy stills relies on fossil fuels for energy, and every day we pay a price in volatile prices, source instability, and in unnecessary pollution. The best way to beat this addiction is by reducing overall demand, by promoting renewables, and developing alternatives.

And since America is not exactly awash in oil, reducing our dependence on it would be good not only for our environment, but for our economy and, perhaps most importantly, for our national security. That's exactly what Democrats have done. We have enacted legislation, the Energy Independence and Security Act, and we have passed the Recovery Act to provide an immediate jolt to the clean-energy economy.

The House has also passed comprehensive legislation that caps global warming pollution and invests in clean-energy solutions that create jobs here in America. Developing clean

power and energy-efficient technologies, while combating global warming, these are the initiatives that will meet our goals.

As bad as things are—and may yet become—the disaster in the gulf will be even more tragic if we fail to learn from it. Some of our colleagues continue to claim we have to choose between endangering our precious coast and relying on oil imports from dangerous regimes. I believe it is time to reject that false choice. Let's pass comprehensive energy legislation so America can take control of our energy situation.

#### THE FAIR TAX AND TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, this year Americans worked almost 100 days, from January 1 to April 9, to pay taxes at the Federal, State, and local levels, which is more than one-fourth of their income. I believe that it is totally unacceptable to require already stressed families to give up such a high share of their income while bloated Federal bureaucracy continues to expand during a severe recession. To reduce this burden, Congress should now focus on reforming the current complicated tax structure which makes it so much more difficult for families and small business owners to experience economic recovery.

As I called for in my last speech on tax reform, the chairman of the House Ways and Means Committee, the gentleman from Michigan (Mr. LEVIN), needs to schedule hearings on tax reform simplicity as soon as possible. The Fair Tax proposal is one of those ideas that I believe the committee must consider. The Fair Tax is definitely a serious proposal that is backed by many Americans, including so many constituents of my congressional district, and it deserves our full consideration.

The Fair Tax would replace all Federal income and payroll-based taxes with a national retail sales tax and includes a rebate to ensure that no American below the poverty level pays Federal taxes. If enacted, the Fair Tax proposal would provide a dollar-for-dollar Federal revenue neutrality. According to the proposal's advocates, the Fair Tax would reform the current tax code. Today's tax code is unfair, costly, and confusing, and is so complex that many of us pay more in taxes per year than we should. It is estimated that the present system costs taxpayers \$265 billion for tax filing, tax record-keeping, tax reduction advice, et cetera, which is \$900 for every man, woman and child in America. This is taxation without comprehension.

The current income tax code inhibits economic growth, it inhibits capital

formation, and it inhibits job creation. Fair Tax supporters believe tax reform can correct these problems by greatly reducing the high cost of compliance in the present system while lifting the income tax burden on production. I believe that a fair and balanced look at the Fair Tax should begin the conversation on tax reform, and I encourage my colleagues who are serious about having this discussion to join me in contacting the chairman.

Congress needs to remember the sacrifices that are made by each American family by making a real effort at tax reform this year.

As the American economy continues to stagnate with a record 10 percent unemployment rate, Congress needs to respond by taking a close look at tax reform, and yes, the Fair Tax also.

#### SUPPORTING ESTABLISHMENT OF NATIONAL TEACHER DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. KLEIN) is recognized for 5 minutes.

Mr. KLEIN of Florida. Mr. Speaker, I rise today in strong support of H. Res. 403, legislation I introduced calling for the establishment of a National Teacher Day. I believe it is important that we recognize the hard work of our Nation's teachers who prepare our students for a stronger America. The education of our children is critical to the future success of our country and our global competitiveness. And despite limited compensation and increasingly high expectations, our teachers rise to the challenge each and every day.

As the son of an elementary school teacher—my mom taught second grade, I was proud to introduce this resolution. My mother, and so many other teachers across the country, spend their lives working to inspire children and open their minds to new ideas so they can grow up to be successful in whatever path they choose.

I am sure that each and every one of my colleagues in Congress can identify at least one teacher from their past who made a difference in their lives. I know that I wouldn't be where I am today without the motivation and encouragement of teachers who challenged me to pursue my dreams of public service. This legislation also comes at an extremely critical time for our Nation's teachers. In this tough economy, State budgets are suffering, and it is important more than ever that we find solutions to budget challenges that threaten to cut academic programs and lay off good teachers to the detriment of our children and the future workforce of our country.

Rather than slash school budgets, increase classroom sizes, and stretch our teachers even thinner than we already have, we must work to keep good teachers in the classroom and

incentivize more people to enter the teacher workforce. We cannot improve our education system in the United States if we don't invest in quality teaching as it is. That is why I have consistently voted to prevent massive statewide layoffs of our education professionals.

I would also like to thank my distinguished colleague, the gentleman from Illinois (Mr. ROSKAM) for joining me in introducing this important piece of legislation, and thank the overwhelming number of Members who have joined me in support of the establishment of a National Teacher Day.

Mr. Speaker, when you get a chance, thank teachers for the great work that they do.

#### STOP IRAN'S NUCLEAR DEVELOPMENT PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, one of the biggest threats to peace in the Middle East and possibly the whole world is for the United States and our friends and allies around the world to stop Iran's nuclear development program. We have been working for months and months to come up with a very strong Iran sanctions bill. The bill has finally passed the House and Senate, and because of the differences, we are in a conference committee. We have a very strong bill, one that will put extreme pressure on Iran and possibly avert a war in the Middle East. But now we are hearing that the bill is going to be watered down. It is going to be made weaker. If it is made weaker, that means the pressure will not be put on Iran that should be, and they will continue with their nuclear development program and we could be in a war in the Middle East that will far exceed what we have seen in Iraq and Afghanistan.

I want to read to you from a report that was issued just last week. "Iran has set up new equipment that will allow it to boost its efficiency at enriching uranium at higher levels. Iran's clandestine enrichment activities were discovered 8 years ago and have expanded since to encompass thousands of centrifuges churning out material enriched to 3.5 percent. But despite three sets of Security Council sanctions meant to enforce demands of a freeze, Tehran moved to a new level in February, when it set up a small program to produce material enriched to near 20 percent." And 20 percent can be used for a nuclear weapon.

The story continued, "But the move has increased concerns because it brings the Islamic Republic closer to the ability to produce warhead material. Uranium at 3.5 percent can be used to fuel reactors, which is Iran's

avowed purpose for enrichment. If enriched to around 95 percent, however, it can be used in building a nuclear bomb. And at 20 percent, uranium can be turned into weapons-grade material much more quickly than from lower levels.

"The 20-percent uranium is being produced by 'a cascade'—164 centrifuges hooked up in series. The diplomats said that Iranian technicians had in recent weeks assembled another 164-centrifuge cascade, and the throw of a switch appeared ready to activate it to support the machines already turning out small amounts of near 20-percent uranium."

We don't know how long it is going to be before Iran has nuclear weapons, but we know it is not going to be too long. And every day we wait to put pressure on Iran is a day they are closer to developing nuclear technology that could start a war over there, obliterate our friends in Israel, and cause a major war that we will have to be involved with.

We get about 40 percent of our energy from the Middle East. And if a war breaks out over there and in the Gulf States, the Persian Gulf could be blocked, and we would lose so much energy we wouldn't even be able to run the lights in this place.

It is extremely important that we have a very strong Iran sanctions bill. I am on the conference committee, and I would say to my colleagues who are conferees, let's make it tough, as tough as possible, because the one thing we want to do is avert a major war with Iran in the Middle East. And I can tell you, I know Bibi Netanyahu, the prime minister of Israel, is not going to stand by and watch a weapon that could obliterate, destroy Israel, be produced right next door there in Iran. So it is important that the United States take the lead by coming up with a very strong bill that will put sanctions on Iran that they will realize will stop them economically if they don't stop their nuclear development program.

This is probably going to be one of the last chances we will have to stop a nuclear program in Iran that will develop a nuclear weapon and possibly cause a major war and proliferation of nuclear weapons throughout the Middle East. This is a very important time not only for them, in the Middle East, Israel and our allies, but it is a big, important time for the United States and all of our allies in Europe. We can't let a terrorist state like Iran get a nuclear weapon, and that is why we need to pass a very strong Iran sanctions bill, and we need to do it right away.

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#### WELCOMING LOCAL LEADERS FROM DENTON COUNTY, TEXAS, TO THE NATION'S CAPITAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I rise tonight to recognize Denton County, Texas and members of the Denton County leadership delegation who are visiting here in Washington, D.C. this week. These local officials and business leaders understand that what goes on here in Washington affects their local communities. So this trip, this trip they make every 2 years, is a very important one.

Over the next several days, these individuals will meet with members of the leadership here in Congress, Senators and Representatives from Texas and across the country and, in addition, will find time to visit the soldiers at Walter Reed Army Medical Center.

I'm pleased to welcome members of some of the chambers of commerce and business associations of Denton County, along with several Denton County local officials to the Nation's Capital.

I also want to thank them for helping to make Denton County a place of entrepreneurship and economic opportunity.

Mr. Speaker, I will submit the names of the Denton County delegation for the RECORD.

Sandra Kathleen Beahm  
Kent Collins  
Patrick L. Davis  
Andrew Thomas Eads  
Ginger Ann Eads  
Al Filidoro  
Chuck Fremeux  
Kelly Leigh Heslep  
Cynthia Rae Howard  
Claude E. King  
John Klaiber  
Michael Leavitt  
Dee Leggett  
Tod Mahoney  
Matthew McCormick  
Tami McCormick  
Scott Ran all McDearmont  
Shannon McGary  
Brandon McGary  
William J. Meek  
Stan Morton  
Jody Smith  
Suzene Thompson  
Harold Dean Ueckert  
Catherine Ann Ueckert  
Charlotte Jeanette Wilcox

#### ACCOMPLISHMENTS OF PRESIDENT OBAMA AND THE 111TH CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) is recognized for 60 minutes as the designee of the majority leader.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, tonight and beginning each week, we will begin the week talking about the accomplishments of both President Obama, as well as the Democratic leadership in the legislature. The efforts of the Democratic Caucus over the last year and a half, particularly since President Obama was sworn in have truly been remarkable. The efforts have been remarkable, but also the accomplishments.

And I think it's important that we continue to talk to the American people about those accomplishments, particularly when compared to some of the commentary that's out there in the media because, from watching some news programs, one would think that we were all here in the Chamber sitting in our chairs, fast asleep, as opposed to working and keeping our heads down and being very focused and working under the leadership of President Obama to make sure that we can turn the absolute nightmare that we were handed by the former Bush administration into the new direction that we talked about and that the American people elected us to take this country in.

And so tonight my colleagues and I are going to spend some time outlining those accomplishments. But I think it's important and instructive to first look at where we were, and then talk about where we are now. So that's some of what we're going to do this evening.

If you look back to January of 2009, which was the month, Mr. TONKO, that President Obama was sworn in, during that month the economy was yet again bleeding 700,000-plus jobs. And I think we have a chart here that I can use to illustrate that. But I think the most illustrative example of where we were, versus where we are today is this chart.

If you look back, this chart begins in December of '07, and you can see through the end of the Bush administration, Mr. Speaker, that the economy was steadily getting worse. We were bleeding jobs. By the time President Obama took office in January of '09, we literally were at 700,000-plus jobs lost, and that continued all the way up until February of '09 with the passage of the American Economic Recovery Act.

Now, I've heard a lot of malarkey in the news media out there, and particularly quite a lot from our friends on the other side of the aisle, about the supposed absence of job creation that the Recovery Act generated.

Well, the numbers don't lie, Mr. Speaker. If you look at the direction that job creation has gone in, and our economic recovery has begun, you look at the blue line beginning in February of '09 with the passage of the Recovery Act, and you progress all the way up where we were losing month by month fewer and fewer jobs; and we talked about how, obviously, any job losses

are unacceptable, until we reached this most recent month in April. And I think actually this chart—it doesn't even, the numbers are even better, Mr. ALTMIRE, than we have on this chart. But this chart shows it up through March where we added 167,000 jobs.

In April, Mrs. DAHLKEMPER, we actually added 290,000 jobs in April. The vast majority of those were private sector jobs. We do know that we have some Census jobs that are temporary. But the point is that, as a direct result of the American Recovery and Reinvestment Act, we are moving in the right direction and beginning to turn the economy around. And I think it's incredibly important that we show the American people the results of our policies.

And, Mr. ALTMIRE, I'd be happy to yield to you.

Mr. ALTMIRE. I appreciate the gentlewoman yielding her time. And it's wonderful to have the opportunity to be here tonight to talk about the success of some of the actions that this Congress has taken on the economy.

I had a town meeting almost a year ago to the day. It was at the end of April in 2009, and there were a lot of folks there who were complaining about the vote for the Recovery Act, the stimulus bill. And I said to them at that time, look, I'll make a deal with you. How about we have this discussion today, but we also have this discussion a year from now. Why don't we reconvene and have a discussion about what has happened over the past year.

And so I would invite anyone who wants to have that discussion in this Chamber or across the country, let's take a walk down memory lane. And as the gentlewoman talked about, let's take a look at where we were at the end of April in 2009.

The 6-month period ending at the end of April 2009 resulted in an average monthly loss of over 600,000 jobs per month every month for that 6-month period. For that same 6-month period, ending at the end of April 2010, we have averaged over 100,000 jobs gained, including 290,000 jobs created in the month of April alone.

The stock market bottomed out in the middle of March 2009 at 6,500. Today, a little bit more than a year later, we're around 1,500.

Gross domestic product, the first quarter of 2009 was minus six. By the end of 2009, it was plus six, which was the largest calendar year turnaround in 30 years in this country. And we've now had three consecutive months of positive growth.

So the job market is exploding. Gross domestic product we're now likely in our fourth straight quarter of positive growth. The stock market has done quite well. And you might say, well, what does that matter? If you have a 401(k) in this country, if you have a retirement plan, as many people do in

this Chamber and certainly in our districts, we care about that, and that's something our constituents care about.

And some other numbers that I took down before I came down here, the consumer confidence level rose in April, reaching its highest level since September of 2008. The consumer spending is up for the sixth straight month, surpassing the pre-recession levels. Manufacturing activity has increased for the ninth straight month.

And what I say to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) and my colleagues from Pennsylvania and New York is all of that happened almost like precision clockwork at exactly the time that the Recovery Act bill passed, that turn-around. The gentlewoman, I'm sure, will show the chart again later and other charts that are similar. These numbers started to turn around exactly at the time that the Recovery Act began to take effect.

Another issue that we're going to talk about tonight, as was reported in the national media very recently with tax day having just passed, is that we have the lowest tax rate in this country in the past 60 years. It hasn't been since 1950 that the tax burden to the individual has been lower in this country because we, in this Congress, as part of the Recovery Act, cut taxes for 95 percent of Americans, 95 percent of families. I'm sure we're going to talk about that.

And all of these things didn't happen by accident. They happened because this Congress took a very difficult vote at a very important time for this country, and the success is there for everyone to see. So I'm proud to have cast that vote, and I'm proud to be here tonight to talk about it.

I would yield now to my colleague from Pennsylvania (Mrs. DAHLKEMPER).

Mrs. DAHLKEMPER. I thank the gentleman for yielding, and I thank the Congresswoman, my friend from Florida, for bringing us together tonight to talk about just the very positive signs that we're seeing in our economy, the positive signs that have really come from the policies enacted by this Congress over the past 17 months since I've come to Congress.

And I wanted to kind of go back to my colleague from Pennsylvania (Mr. ALTMIRE) when he was talking about the GDP numbers and this is, I think, just a great graph to show. You were talking about in 2009, the first quarter, we saw a drop, 6.4 in GDP, just over 6 points there. And that was prior to the President taking over and us just coming into our 111th Congress. And here, with the policies that we've enacted, this shows the fourth quarter of '09, almost 6 points increase. And you can definitely see the change in GDP in the final years of the Bush administration to the first year in the Obama administration and the 111th Congress, very



stark numbers here showing the difference.

I think one of the most exciting things that I've seen is the manufacturing increases. And you mentioned that, Mr. ALTMIRE, the fact that we are seeing manufacturing increase in this country, the largest 10-month gain since 1997. And I think there's so many of us here who believe we've got to be making things in this country. And from western Pennsylvania, my colleague and I, and certainly from New York State and I'm sure from Florida too, we really come from a manufacturing base, and a base that hired many people and gave them a good living wage and produced great product here in this country, and we really have slipped when you look at the global economy in terms of our manufacturing base. And so to see those manufacturing numbers returning and growing stronger to me is very, very encouraging; 290,000 jobs, as was mentioned, created in April. Certainly a small portion of those from the Census, but it is estimated 231,000 of those were created in the private sector.

Looking back over the 8 years of the Bush administration, only 1 million jobs were created over those 8 years. During the President Clinton 8 years, 22 million jobs were created. So far this year, we've created 500,000 jobs. One million during the Bush administration; 500,000 so far this year.

Now, for all of us, losing any jobs is not good. And too many people are still out of work. But I see positive signs that really show that the policies we've enacted, particularly since the American Recovery and Reinvestment Act, have moved our country into a positive direction for those who have really been out there struggling.

And what I think is so exciting is the can-do attitude of American businesses and the American people that, when times are tough, the American people find a way through this, and we end up being stronger, more productive, more innovative, more creative, we diversify, and we find a way to get through this. That can-do attitude that Americans have certainly has worked well, along with the policies that we've had here in Congress in this last year and a half, moving this country from losing hundreds of thousands of jobs every month to gaining hundreds of thousands of jobs. The GDP levels that were dropping significantly are now on the rise.

And now I'd like to yield to my good friend, also a fellow freshman here in the Congress, Mr. TONKO.

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Mr. TONKO. Thank you, Representative DAHLKEMPER, and thank you, Representative WASSERMAN SCHULTZ, for bringing us together this evening to share the facts and just the facts, which I think is an important bit of ex-

change and messaging that needs to be done with the American public. And, you know, if you don't believe what you are hearing here, because perhaps you have been swayed by some very gloom-and-doom news info that's been coming your way, take the word from Fortune magazine of April 16 of this year.

On April 16, Fortune magazine reported that we have taken a sharp U-turn in the past couple of months and that there are better days for American businesses and workers just around the corner. Well, that's telling it like it is. And why? Because this House, the leadership of this House, the President and his administration, working together, we have enabled a very sharp, laser-type focus on American workers, on working families in this country.

And it's now that sort of priority that has been established here in the House of Representatives, working with the administration, to make certain that we crawl out of this economic recession, the Bush recession that gripped this Nation, brought this country to her knees economically, and now people have said, We will give you the keys; we will put you in charge. And there is a spirit of optimism that is obviously being expressed in consumer data that's being recorded now in the past several months where there is a swing upward.

As Representative WASSERMAN SCHULTZ pointed out in the V formation, that downward straight line of the V was under the Bush recession. And then as we swing upward, that upward straight line of the V is that blue portion of this graph that talks about the comeback. You know, it's mimicking a story of the past where under the Clinton administration 22 million jobs were created and under the Bush administration, 1 million. One million. So there is a stark difference there.

The policies that are being initiated here under the watch of President Obama and the leadership of this House have produced a track already that if it's extrapolated over the next 8 months, for a year's worth of data, we will surpass in 1 year what 8 years' worth of information tells us happened during those Bush years. And 8 million jobs lost. That goes beyond what the Great Depression produced for this country.

So I think that the spirit of optimism is driving the comeback. It's perhaps why that optimism spoke to those numbers of the new home sales. The home sales in March alone rose by 27 percent, a record month-to-month increase that goes back 47 years. So it's that sort of consumer confidence, the optimism, as you alluded to, Representative DAHLKEMPER, of growth in the manufacturing activity out there which is extremely valuable.

We see ourselves as a Nation that produces and responds to the needs of

consumers out there. Any nation that wants to stay strong needs to grow its manufacturing sector. We are seeing that happen. So, so many of the indicators out there are suggesting that we are on that comeback trail. We are hoping it's a straight line comeback. We don't want any other format out there but a straight line.

We believe that as we go forward and continue to invest, and I believe that's the right word, invest in the American workers, in businesses, where we have not aligned and put the highest priority value to Wall Street banks, to credit card companies, to the insurance industry, to all of these efforts and the big oil companies; we have instead put our focus and our priority with American workers, working families, job creation and retention, and the numbers are there. They are beginning to show that the proof in the pudding here is that sound policies to turn the thinking around, to pull us out of the economic woes, and we can trail it. We are trailing it now, and the data speak for themselves.

So this is a great hour, a great opportunity to exchange the facts and nothing but the facts and allow people to understand that we are climbing upward with a spirit of optimism and confidence that's being marked by so many measurements out there that are to the good.

Ms. WASSERMAN SCHULTZ. Mr. TONKO, I really appreciate your comments. I know that the folks listening do as well.

Madam Speaker, I think one of the important facts that we need to talk about tonight, as well, is the stark reality that we are in an election year, and in a few months our constituents are going to have a choice. Elections are, after all, about choices. And we have an opportunity here to present the choice that the American people are going to have to make decisions on. They can go back to the ways of the last 8 years prior to President Obama's inauguration in which the tax-cutting policy in America was focused exclusively on the wealthiest few and the middle class was essentially left out of the discussion. There was absolutely no focus on making sure that middle class tax cuts and job creation, targeted tax cuts and job creation would be focused on the middle class.

I served in the minority and the majority during the Bush administration, and I can tell you that in neither 2-year period was there any discussion of how to get the middle class back to work, how to get small business back. Small business was never discussed under the Bush administration or the Republican leadership. Their focus was big business, corporate interests, as we saw with the collapse of Wall Street and, as a result, the collapse of our economy.

And now when, as President Obama said, we have come in, President

Obama was inaugurated and he is trying to clean up the mess he was handed, the Republicans refuse to even grab a mop. I mean, he is here mopping away, and not only do they refuse to grab a mop, to quote President Obama, but they also criticize the way he is holding the mop. I mean, it's just really—well, it's nothing short of brazen behavior. There is an expression for it, but on the House floor I won't use that expression.

I think another important point, Mr. TONKO, that can't be overlooked is when I have been out there at home, I come from a State that does not have a manufacturing base. We are a service-based economy, a tourism-based economy, and our economy was quite focused and dependent upon housing. We had a tremendous bubble in Florida. The bubble burst, and now, because the housing market has not rebounded at the same rates as the rest of the economy, we are still struggling with a higher average unemployment rate.

You will hear our friends on the other side of the aisle, Mr. ALTMIRE, talk about, well, you can talk about all this fabulous job creation, but the unemployment rate still ticked up last month. Well, it's important to understand that the reason that the unemployment rate ticked up is because you have about 800,000 people who began looking for work again who had taken themselves out of the process because it was hopeless, because there was absolutely no chance of a recovery in their minds. And if they looked for a job, in their mind, it would have been pointless.

So in an odd way, it's actually a good thing in the short term that the unemployment rate ticks up a little bit, because we know the unemployment rate has been artificially a little bit lower because of the people who have simply not been looking for work. And now because, as Mr. ALTMIRE noted, U.S. consumer confidence in April reached its highest levels since September of 2008, we have an increase in the GDP, an increase in the manufacturing base, pending home sales up for the fifth straight month. All of these economic indicators are moving dramatically in the right direction. And as a result, we are going to be able to really begin to ramp up our progress, and it's very exciting.

I want to spend some time tonight talking about, besides the Recovery Act, the other things that we have been doing to really put small businesses back in the black, make sure that they can have an opportunity to make hiring decisions and add to their workforce.

With that, if the gentleman from New Mexico is ready, it's a pleasure to be joined by Mr. HEINRICH of New Mexico.

Mr. HEINRICH. Thank you. It's a pleasure to be here.

Madam Speaker, I just wanted to return to sort of where we were a couple of years ago when several of us who are joining you here tonight were running for Congress for the very first time. Mr. TONKO from New York, for example, another mechanical engineer, has only been around here for what is it, 14 months now, 16 months now? And Mrs. DAHLKEMPER from Pennsylvania as well, the gentlelady from Pennsylvania, we didn't run on passing the Recovery Act. None of us went to Congress because we were hoping to pass a Recovery Act. We did what was necessary to be responsible to clean up the mess that we were left with.

You can take the example of how the United States and this Congress has responded to this recession versus how a country like Japan, when it got into its last big recession, responded. They did too little too late, and as a result, they were left with 10 years of recession, a decade of job-killing recession, a decade of reduced tax revenues, when their competitiveness in the world was dramatically reduced because they weren't willing to stand up and to lead and do what was right.

So we passed the Recovery Act. And when you want to look back at history and judge what happened with this Recovery Act, as a mechanical engineer, rather than just listening to the rhetoric, I think it's very critical that we look at the data. And as you have shown here tonight, when you look at, well, let's take the stock market, for example. This graph shows what has happened with our investments over the end of the Bush administration and the beginning of the Obama administration and the leadership that this Congress showed.

It's incredibly important to realize that this isn't about Wall Street. This is about the people in my home State of New Mexico who are relying on their investments for their retirement. It is about the people who have their retirement accounts tied up in investments and their annual and monthly incomes. Whether or not they get to do anything besides pay the mortgage is dependent on the value in those accounts. And we saw a precipitous decline that took real wealth out of the pockets of people all across this country as trillions of dollars of wealth literally disappeared in a matter of months from our constituents.

After the Recovery Act was passed and the many other pieces of legislation that we passed to try and recover this economy, we have seen an increase in that value that you just can't argue with the data, between 10,000 and 11,000 in the Dow for the last month.

Mrs. DAHLKEMPER. Will the gentleman yield?

Mr. HEINRICH. Absolutely.

Mrs. DAHLKEMPER. I thank the gentleman.

The facts are what we are talking about tonight, and I just want to quote

from Business Week, April 8, 2010. This is a quote by Mark Zandi, chief economist at Moody's Economy.com. "When you take it all together, the response to the recession was massive, unprecedented, and ultimately successful." And that's what we are showing by the numbers here tonight.

Even the Obama critics, such as Phil Swagel, Assistant Treasury Secretary for Economic Policy under George Bush, acknowledged the White House policies have been successful. "Their economic policies, including the stimulus," which I like to call the recovery bill, "have helped move the economy in the right direction." And so the facts are what we are showing here tonight.

And I yield back.

Mr. HEINRICH. Thank you. And I think that's a perfect example.

You know, facts are stubborn things, and when you show these graphs, they don't lie. They tell a story of an economy out of control and how we have been able to turn that around and move it back in the right direction. And I think when you talk about the Recovery Act, it's important to realize that an enormous portion of the Recovery Act was about taxes as well.

If you look at the rhetoric versus the data on the whole issue of taxes, you see a very different story than the one you might hear in some of the national media or see on a placard at a Tea Party rally for that matter.

The USA today talked about how, Mr. TONKO, if you would be so kind as to hold this up, a headline, "Tax bills in 2009 at the lowest level since 1950." We passed an enormous tax relief package as part of the Recovery Act so that people would have those hard-earned dollars in their pockets and put them to work for our Nation. And if you look at how much support we had to do that from our colleagues on the other side of the aisle, it was nonexistent, if you look at the work that we did for the homebuyer tax credit, which was absolutely critical to bringing back our housing market and construction jobs in this country.

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I met a man named Julian Gomez who works in construction in Albuquerque, and he lost his job because of this recession. And he's back today swinging a hammer at New Life Homes, building homes in Albuquerque because of the financing that the Recovery Act made possible.

So I think it's incredibly important that we look at the facts versus the rhetoric.

Ms. WASSERMAN SCHULTZ. Will the gentleman yield for a question?

Mr. HEINRICH. Absolutely.

Ms. WASSERMAN SCHULTZ. Does the gentleman recall how many of our friends on the other side of the aisle voted for the Recovery Act?

Mr. HEINRICH. Actually, I don't recall that exact number.

Ms. WASSERMAN SCHULTZ. I think it was none.

Mr. HEINRICH. I knew it was one of those numbers you could count on your hand.

Ms. WASSERMAN SCHULTZ. I think it was none. Goose eggs. And that was the Recovery Act that gave 98 percent of Americans a tax cut, the same one that created a situation where we have the lowest, as you said, the lowest tax bills, the lowest tax rate since 1950, the one that created a situation where the triangle that Mr. TONKO referred to a few minutes ago enabled us to go from bleeding more than 700,000 jobs prior to President Obama being sworn into office to gaining almost 300,000 jobs in this last month.

So we, on our side of the aisle, created, conceived, passed, and President Obama signed the Recovery Act into law, and our friends on the other side of the aisle all said "no." Is that right?

Mr. HEINRICH. I believe you are absolutely correct.

Ms. WASSERMAN SCHULTZ. Okay. I just wanted to make sure that that was accurate. Mr. TONKO, do you have something to add?

Mr. TONKO. I do.

Representative WASSERMAN SCHULTZ, you talked about the comeback issue. One can't help but wonder what would have happened if these economic policies were continued to rule the outcome. If they had continued to rule the outcome, we would have probably hit the Great Depression level. And so I think the effort here is to bring in—it's not like we're excluding people from being part of this solution. But obviously, if we're not getting the support from the other side, we're going to continue to move forward with progressive policies and reforms.

And I think what is inspiring is that this Nation is replete in her history of people responding in the toughest times, responding with their greatest sense of courage and determination at a time when we have faced some of our toughest struggles. We saw that happen in the Depression. We saw a President lead this Nation out of that depression and bring people back to work and invest in a way that grew us to a stronger level than when the economic crisis began.

And certainly when we look at this, I believe that that history of this Nation, our history speaks to us in a very bold and noble measure to continue to pursue, to invest in a way that will create a stronger outcome. And we will put together an organized, structured, progressive bit of policies that will address and plan our future for this economic recovery.

I represent a district that is the home of the Erie Canal and that canal is a series, a necklace, I like to call it, of mill towns. And they were given birth to by the creation of this Erie Canal. But it showcased—my point of

mentioning it here is that it showcased the pioneer spirit that's in the DNA of Americans where these mill towns became the centers of invention and innovation. And it gave birth to a westward movement that built this Nation and continues to allow us to express our manufacturing prowess.

Well, this package, the stimulus package, the American Recovery and Reinvestment Act, invested in America, in her workers, in her businesses, in her small businesses that was mentioned earlier, in a way that is now turning the picture around. It's that U-turn of which Fortune magazine speaks, wrote about it on April 16 of this year, that we are now seeing a brighter day; it's around the corner for business and workers.

And so in the toughest times we have shown our best outcomes. We have come together in a way that allows us to be constructive and instructive on how we're going to crawl out of a mess.

The important thing here is to please join in the effort. Don't thwart the effort, don't deny, diminish it. I see what we tried to do with America COMPETES as an act on this floor to grow the R&D investment, to allow us to compete effectively with China. And what do we have? We have an effort to diminish or deny that sort of progress.

So join us in the constructive efforts. Join us in building the solutions. But do not deny American workers for generations out the sort of solutions that will enable us to be our best in the toughest times, and that's what we're seeing here. The numbers are showing it. We're on a comeback. And it's interesting how history is repeating herself where we have this administration proving that they are going to invest—invest in technology, invest in broadband, communication, hardwiring of communities that are rural or impoverished, as in inner city neighborhoods, allowing us to invest in energy with smart grids, smart meters, smart thermostats, invest in our transmission and distribution systems. All of it is important.

Mr. HEINRICH. Will the gentleman yield?

I know the gentleman from New York, Mr. TONKO, knows a great deal about this whole issue of energy security and of creating a new energy economy. And when we passed the Recovery Act, we made this single biggest investment in changing our economy to a clean energy economy ever in the history of this country.

And I saw it directly. I went out to a company called Ktech that's at the Sandia Science and Tech Park in my district, and they are using Recovery Act grants to figure out new ways to store energy and to seam together a new grid that includes putting renewables into the system, unique storage devices, and how to manage all of that so that our entire grid is more secure

and so that we can put people back to work in those new energy technologies.

And I'd yield back to Mr. TONKO or Ms. WASSERMAN SCHULTZ.

Ms. WASSERMAN SCHULTZ. I thank both gentlemen.

Again, I think it's really important to stress the choices that we have in front of us. The American people have choices over the next few months about the direction that they want to go, whether they want to continue to go in the direction that the job creation chart that we just had up showed, whether they want to continue to go in the direction of the tax rate chart that Mr. HEINRICH just had, or whether they want to go back in this direction because this direction shows us the history of Presidents and the deficit situation that the United States has been in under each President.

So if you look at President Reagan, under President Reagan we had a \$1.4 trillion deficit. Under President Bush 41, we had a \$3.3 trillion deficit by the end of his Presidency. Then President Clinton was in office for 8 years and finished his second term with a \$5.6 trillion surplus—a record surplus which he handed over to President Bush 43, who, in a very short period of time, handed off to President Obama an \$11.5 trillion deficit. And that's because his focus was not on targeted tax cuts for the middle class, not on creating jobs and wealth for small business, not on making sure that we could focus on educational opportunities for our Nation's young people and focusing on investments and innovation and technology and energy, and particularly alternative energy—those weren't the focus of the Bush administration. Their focus was on the wealthiest Americans, the whole notion of trickle-down, which didn't work under President Reagan and clearly, as you can see, as big a red box as you are looking at here on this chart, didn't work under the Bush administration either.

So the choice that the American people will have is to go back to big red boxes like this one and continue to bleed jobs, bleed money, and move in the wrong direction, or under President Obama and the Democratic Congress, continue to focus on job creation, on opportunities for young people, on investments in alternative energy, on weaning ourselves off dependence on foreign oil. I mean if what's going on in the Gulf of Mexico today doesn't prove that we need to do that, I don't know what would.

But those are the choices that the American people have.

But our friends on the other side of the aisle have choices, too, Mr. TONKO. They have choices, and they've repeatedly made them. They've repeatedly showed which side they're on. They've showed that they are not on the side of the American workers struggling to be able to get back to work and find a job.

They've showed that they're only interested in coming back to power, and it's all—unfortunately, sadly, my observation is that that is the only thing that they care about, winning elections and focusing on power.

Their agenda is tough to identify because other than siding with Wall Street, with big banks, with big corporations and the wealthy elite in this country, that's really the only side that I have been able to see that they appear to be on. Their voting records demonstrate that, and I think we have a pretty stark choice that the American people are going to be able to make come November.

Mr. TONKO. Absolutely. And thank you again for bringing us together this evening. It's a pleasure to join with our colleague from New Mexico and you from the State of Florida to really share these regional observations because it's happening across the country.

Just yesterday I was at a community that I represent, a small town, a small city, that is utilizing Recovery Act moneys to produce photovoltaic—to install, I should say, photovoltaic panels at their senior center, at their firehouse, and improvements in energy efficiency at their city hall. This translates to, like, \$65,000 worth of savings per year. Who does that affect? The property taxpayer.

So it's property tax reduction simply by creating jobs and reaching to innovation. That's the beauty of the investments made here. It's not about special interests, it's not about going to the big oil companies and the big Wall Street banks and going to the insurance industry and the like. It is a reform package that talks about long overdue investment.

My gosh. We look at China and her investment in a clean-energy economy, and if we don't understand that we need to be in this global race to win it, we understand I hope—we show it here in this leadership, in the majority, the Democratic majority in the House—that we understand by our actions that whoever wins this global race on clean energy becomes the kingpin of the global economy. We will be the exporter of energy innovation and intellect. These are jobs that will grow, just like we saw technology grow when we won the space race four decades ago.

Mr. HEINRICH. Will the gentleman yield?

Mr. TONKO. Representative HEINRICH, I believe you want to join in.

Mr. HEINRICH. Once again, I think you're painting this picture of contrast of leadership. And the important question here is asking whose side are you on. And our colleagues on the other side are busy protecting BP and making sure that we have a BP bailout, to make sure that their damage cap doesn't get raised. And we're passing legislation like the Recovery Act that

invests directly not only in renewable energy, but in energy efficiency to make us more and more energy independent as a Nation.

And I remember in asking whose side am I on, I spent some time at a gentleman's home just a couple months ago named Juan DeLeon whose house is being retrofitted with some of these Recovery Act loans to put insulation in the roof, to have high-efficiency appliances. And for someone who is low income, fixed income, in retirement, they literally see their bills change in a way that gives them economic freedom and independence for the first time. You know, we're standing up for homeowners like that. Retirees. People who've worked their whole life but who are throwing away huge amounts of money every month on their energy bills, and our colleagues on the other side are standing up for corporations like BP.

Mr. TONKO. You know, when I spoke of the small town, the small city that we shared in the good news with yesterday, the city of Waterbury in Albany County in Upstate New York, that is one expression of what could be repeated, is being repeated over and over again with municipalities in this country.

□ 2045

Then you put that into the business sector and the energy efficiency improvements they are making with the stimulus activity. You talk about households where we put \$5 billion into weatherization programs to again create stronger energy environments within which to live. No family should be asked to live in poor energy environments. They are wasteful. Those are wasteful situations in terms of energy supply and dollars that are expended.

So when we look at the track record here, you talk about whose side are you on, we are looking at over one-half million jobs created since December, 84 percent of which were in the private sector category.

When we look at tax relief, we are not talking about just the upper income strata that was the situation for the Bush administration, but now we are talking about 98 percent of Americans getting relief, to the point where tax bills are at their lowest level since 1950.

So we are talking about a whole different approach, a whole different attitude. And it is embracing the bigger landscape, the people-scape of America, where the masses are brought into consideration and the priority is with the working families. Main Street and side streets come before that Wall Street situation. Wall Street recklessness created Main Street joblessness, and that thinking is over.

That huge red block pointed to by Representative WASSERMAN SCHULTZ is now a situation that meant two wars,

off-budget; it meant a doughnut hole, give it to the insurance industry in the Medicare program area. It meant all sorts of tax cuts to the few in society. That was economic ruination. And, now, this swing upward didn't just happen. It took straightforward thinking, it took laser-sharp focus, it took sensitivity to those who were bearing the brunt here.

Ms. WASSERMAN SCHULTZ. If the gentleman would yield, because I want to focus on results.

We have been talking about the facts tonight. We have been talking about the impact and results of Democratic policies, the policies of the Democratic Congress, the policies of Democratic President Barack Obama, and the results that have occurred. And I think this chart right here is very illustrative of the direction that we continue to go in.

If you look at the very ugly red end of the chart, that is an indication of where we were in terms of household wealth under the Bush administration. And if you look through those years, we had household wealth that dramatically, dramatically declined, so much so that people were in absolute dire straits. So we had an economy that was reeling, spiraling ever downward; we had deficits that were exploding from a President who was handed a record surplus, and that was the mess that President Obama found himself in.

The additional mess that he found himself in was a plummeting statistic of household wealth. If you look at the progress that we have made and the direction that household wealth is going in now, as evidenced by the right side of the chart, you have an indicator that, since the Recovery Act took effect, we have gained nearly 30 percent back of household wealth that was lost under the Bush administration, \$5 trillion in growth in household wealth, compared to \$17.5 trillion in household wealth that was lost. We have gained in just 1 year \$5 trillion of that back.

Mr. TONKO. If the gentlewoman would yield, what the Representative is pointing to in the red is 18 months' worth of activity, \$17.5 trillion worth. That is \$1 trillion per month.

Ms. WASSERMAN SCHULTZ. Again, Mr. TONKO, we talk about choices. This is as stark a choice, Mr. HEINRICH, as we can illustrate.

We could go back to policies that got us in the ditch in the first place and give the keys back to the people who drove us into the ditch; or we can hold on to the keys that we wrested from them in November of 2008 and continue to drive this economy in the direction that the American people want it to go.

Mr. TONKO. And obviously the decline did not happen overnight. We saw that there were months upon months upon years of activity that really did not respond favorably to the needs of

America's consumers, America's business community, in particular her small business community.

So the huge climb back of 30 percent recovered, recaptured, \$5-plus trillion, maybe \$6 trillion, at this point is a remarkable comeback in a relatively few short months. So this is the start of a comeback, and it certainly is not good enough. We want more. We want more good news. But to keep the direction afloat, to keep the momentum rising means to allow for the progress to continue.

And I believe it is very obvious that with the control here in Congress and in the White House, there is a serious desire and design to produce this comeback that was so desperately needed and in a way that is remarkably sound, in investing in issues and areas of activity that were back-burnered for far too long. They held back progress. And now, not only are we producing jobs, producing relief, strengthening confidence, growing the economy; we are doing it with an investment in futuristic outcomes where we are dealing with cutting-edge opportunities in R&D and basic research and job creation in activities from trades to Ph.D.s. This is the full spectrum. This is the beauty of this innovation economy. But at least there is a leadership that gets what needs to be done and is in fact impacting favorably the outcomes here.

Mr. HEINRICH. And as you mentioned, we have a long way to go. We are just getting started trying to rebuild after 8 years of disastrous policies, the recession the likes of which we haven't seen since the Great Depression. But if we can stay on this path, if we can continue to grow these job numbers like the strong job numbers that we saw in March and April; if that trend can continue for the rest of 2010, we would see more jobs created in 2010 than the entire Bush administration, the entire 8 years of the Bush administration. And that is where we need to be headed as a Nation.

We need to keep seeing that line of wealth in the average American family going up, up, up, not going down the way it did continuously during the Bush administration. And it really is about that contrast of responsible leadership versus policies that continue to put our Nation at a competitive disadvantage, not only our families, but versus countries around the world.

Ms. WASSERMAN SCHULTZ. I am thrilled that we are joined by the gentleman from Ohio. He might still be getting organized. So while he does that, I wanted to focus a little bit.

The American Recovery and Reinvestment Act clearly is sort of the jewel in the crown, the linchpin to the beginning of our economic recovery, and all the indicators demonstrate that. But it is sort of a "but that's not all" type thing.

We had the Recovery Act, which gave us a huge boost, but we also passed and

continue to propose numerous pieces of legislation designed to focus on different aspects of the economy: small business, the energy sector, technology and innovation, making sure that we cover as many bases as we can, because we know that there are so many potential gaps in the economy and you don't want to leave anybody behind.

So in addition to the Recovery Act, Madam Speaker, we also passed the Worker Home Ownership and Business Assistance Act, which was legislation that expanded that first-time home-buyer tax credit and gave people an opportunity to purchase a home when they had been unable to previously, provided that tax relief for small businesses.

Mr. HEINRICH. If the gentlewoman would yield for a question. How many of our colleagues pitched in on the other side of the aisle and said, We are going to support that kind of tax relief?

Ms. WASSERMAN SCHULTZ. I am glad you asked. I believe it was approximately 93 percent of Republicans voted against that legislation.

Mr. HEINRICH. So just 7 percent actually said, We are going to be part of the solution?

Ms. WASSERMAN SCHULTZ. Yes.

So, again, it is about choices. The American people have a choice. It is a very stark contrast. They can side with the people who voted 93 percent in this instance with Wall Street and big corporations and continuing to pad their bottom line; or they can vote with the middle class and make sure that we can continue to boost small business and get our economy moving again and put folks back to work. It really is a very stark contrast with a very clear choice.

Mr. BOCCIERI. I thank the gentle lady from Florida for organizing this hour to talk about jobs and the economy and what the Democratic Caucus has been doing to try to put our country back on track.

Let me just say that I applaud all my Members for being here, because there is one singular issue that I hear over and over again in my Midwest district in Ohio: we need to be the producers of wealth. We need to build things here, not just move wealth. And that is why it is so important that we focus on putting our country back on track, creating jobs that can't be outsourced, investing in our green economy, investing in the infrastructure that is going to make our country energy independent, not only for the jobs that it will create, but because it is a matter of national security.

This Congress has gone on lightning speed with great work to try to put that message and drive that message home in Midwest States like Ohio.

And let me just say the fruits of what we have been trying to sow for the last several months here—and you hear the

Just Say No crowd who get up and talk about how they are against everything. We know what they are against, but what are you for? Are you for putting people back to work in Ohio? Are you for growing our economy? Are you for putting our Nation on a path toward security, with lessening our dependence on foreign oil? Those are the things that we are standing for in this Congress, and we want them to join us. These answers aren't Democrat or Republican, they are not conservative or liberal. They are American answers that deserve American solutions.

So if you are just trying to score political points, if you don't believe that you should bet against America and Americans, then join us, because we want to put our country back on track.

Great things are happening in Ohio. We are starting to see the rebirth of our manufacturing sector after consecutive quarters of job loss and a stagnant economy that was handed to us.

I remind my colleagues, when we took over in 2009, in the 111th Congress, we were facing exploding deficits; \$3.5 trillion was handed off to this Congress, two unfunded undeclared wars, an economy that was in free-fall. We didn't know where we were going to land. We had greed on Wall Street and banking chaos. This was a lot of work that this Congress had try to get our arms around, but we see that what we have been able to do is begin to put our country back on track.

Nine consecutive months of manufacturing growth, the best in the last 6 years, that's a strong message. And while we still need to do some work, and we have a lot of work to do on unemployment, this economy is growing again.

And let me just remind, you don't hear this on the conservative talk radio shows, you don't hear this on the conservative cable shows, but this is the reality of what the Congress has been dealing with: one Democratic President in the last 20 years, and we had a \$5.6 trillion surplus that was turned into an \$11 trillion deficit by the previous administration. You don't hear that talked about. You don't hear about the fact that we were handed a \$3.5 trillion deficit just coming into office in 2009, but that is the facts and that is the reality.

I want to tell you that we are beginning to grow this economy and beginning to put people back to work. Just in my district alone, Barbasol Shaving Company is expanding, adding new jobs in Ashland, Ohio. We have the NuEarth Corporation in my hometown of Alliance, adding new jobs and expanding. Luk Manufacturing is expanding, \$40 million investment. TekFor in Worcester ended up bringing back 200 workers. These are real jobs that affect real families in our community, and that's what we have got to champion.

Those are the things that we have been fighting for here in the Congress,

and we want them to join us. We have a message to the Just Say No crowd: join us. Help us put America back on track. We need you.

Mr. TONKO. Mr. BOCCIERI is right on point. I believe that, to the messaging out there, there could be those critics that want to resort to phantom statistics. But when you look at what is happening out there, there is no denying that these bits of fact that we are sharing here this evening are all recorded, they are documented. And it is that sort of fact, not fiction, that will rule and guide the policies as we go forward.

The fact that factory orders have increased by the largest amount in more than 9 years is encouraging news. It is back to the point that Representative BOCCIERI made about people want to produce, they want to create, they want to manufacture in this Nation. And the fact that these factory orders are up beyond limits from 9 years back in recordkeeping is encouraging news. It tells us that there is confidence again, there is optimism that is ruling the day, and that the turnaround, that huge U-turn of which *Fortune Magazine* wrote is becoming more and more real in the lives of people. Car sales rising by 20 percent. That is so important to a region like that of Representative BOCCIERI that is so hooked to the auto industry. Upstate New York in many of its regional economies is directly linked to that auto economy and to the industry.

□ 2100

So a 20 percent rise in sales for automobiles is an important stat that we ought to look at.

So again, the repeated message here this evening—and again, Representative WASSERMAN SCHULTZ, thank you for bringing us together. The tone, the theme that we have talked about, Representative HEINRICH, is this wonderful opportunity to continue along the course of progress, or the reverse is to hand over the keys to those who drove the car into the ditch, and that pulling the car out of the ditch took quite an effort and it took a while.

We're not where we want to be yet, but we're certainly moving in steps forward and upward that are taking us to a new plateau and doing it in a way that is investing in American workers, investing in American business in a way that allows us then to compete more effectively in the global marketplace. That is a multitude of good that we have embraced in the policies that have been established and that are being put into place and then now are obviously working.

The proof is in the pudding, as they say. The facts, only the facts, that's what we need to share here. Forget the scare tactics. Forget the talk of doom and gloom. Let's look at what's happening, and let's embrace it with a spirit of optimism and with that tre-

mendously characteristic sense of pioneer spirit that is part of the DNA of America. Americans, through all ages, have been about creating jobs and creating and discovering new opportunities. We won a space race four decades ago. We need to enter in boldly and armed to do what we can with this clean energy race that is global also.

Mr. HEINRICH. Well, I think we should show that one graph of jobs one more time before we wrap up here tonight, because there's nothing more important than, one, as you said, just the facts, ma'am, and actually looking at data and not rhetoric; and, two, nothing's more important than jobs. We've seen our stock market recover.

We've seen housing starts come back and those kinds of indicators, but what really matters to the American people are jobs; and that precipitous decline that we saw in the run-up to this horrible recession and the irresponsible activity that we saw within housing finance markets and within Wall Street and the reversal with the Recovery Act and new policies put in place by this Congress to jump-start manufacturing again, to jump-start real jobs where we design it in the United States, we build it in the United States, we install it in the United States, and we put more people back to work, and watching that line go up and up to where now we're finally adding jobs at the kind of rates that we need to turn our entire country around.

Ms. WASSERMAN SCHULTZ. And, Mr. HEINRICH, as we wrap up, we really want to talk about over the next weeks and months the choices that the American people will have. Over the next weeks and months, Madam Speaker, we'll be talking about those choices, the choice that the American people have to continue to go in the direction where we're nurturing our economy and helping it thrive or the direction that our colleagues on the other side of the aisle would take us, which is to strangle our recovery in the crib. That's a very stark contrast that we will be presenting to the American people over the next few weeks and months, and we look forward to it.

#### THE U.S.-MEXICAN BORDER

The SPEAKER pro tempore (Ms. TITUS). Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. CARTER) is recognized for 60 minutes as the designee of the minority leader.

Mr. CARTER. Madam Speaker, I've been coming up here on the first day of each week that we're back in session to talk about the rule of law and how the rule of law needs to apply to those of us who serve here in Congress, those who serve in the administration, and that it is the glue that holds our society together. And if we, in turn, are going to circumvent the rules of law,

then we, in fact, are chipping away at the very foundation of the American culture.

Today we're going to shift gears a little bit because we've talked a lot about what's going on up here and some folks that have had some problems following the rules, but I don't think we've ever seen a more glaring example of a violation of the rule of law and the failure to enforce the law than what is happening on the southern borders of the United States.

You see right here on May 17, 2010, Real Clear Politics, Threat on the Border with Mexico: Possible Terrorists Entering the U.S., and it's a picture of people climbing over a barrier, a very strange-looking barrier, to be honest with you. It's got a big hole in the middle of it. I don't understand exactly what it is. But we've had an issue, and those of us who have been in this Congress for a while have been very concerned, and I, in particular, have been very concerned about this situation down on the Texas-Mexico border, the New Mexico-, Arizona-, and California-Mexico border.

So I want to go back with you for a while to when I first went with parts of the Homeland Security Subcommittee of the Appropriations Committee to look at the border between Texas and Mexico. We've made trips. We've gone all up and down that border. I happen to have been on the one that was in my home State down on the border. I went with my colleague on the other side of the aisle, HENRY CUELLAR, down to Nuevo Laredo, Mexico, and Laredo, Texas, across the border. And we talked with the Border Patrol about their issues, and that was way back in, I believe, 2004, maybe 2005.

I sat out in the dark with a Border Patrolman along the banks of the Rio Grande with his surveillance equipment, and it was in the wintertime, but it wasn't cold. It doesn't get real cold down in that part of Texas. "Cool" would be the word. It was not a whole lot colder than it is right now outside in Washington, D.C. And he and I watched, I think it was, 2 miles in either direction of the border. Right there, right next to what I would call the city, because right across the road was a housing project, were apartments, were hundreds of people walking in the streets. It was 10 o'clock at night, and there were people everywhere.

I talked to him about the illegal crossings coming into this country, the danger. And it was a dangerous place. In fact, while we were on the bridge between Nuevo Laredo and Laredo, JOHN CULBERSON picked up a flattened bullet head slug, if you will, from probably a 9-millimeter or something like that, that had flattened out when it hit the bridge, the international bridge between Mexico and the United States. He carries it around in his pocket with



him now to remind people that this is dangerous business that our Border Patrol is dealing with down there.

Well, since that time, international drug cartels have moved to the border of the United States, and they are fighting a border war just a stone's throw from the places where American citizens live up and down the border from Brownsville all the way across to San Diego, to Tijuana. The crime will take your breath away.

I spent 20 years in the judiciary. Many of my colleagues did the same. I have seen lots of crime. I have tried lots of cases involving horrible situations. But while we were down there on that trip with my friend HENRY CUELLAR, we saw pictures in the Nuevo Laredo newspaper of a woman who was the wife of a police official in Laredo who had been kidnapped and burned alive, and she had been set down in a business chair very much like these ladies sitting over here that are taking down the minutes or are recording the proceedings, sat in that chair, had three tires full of gasoline shoved down around her body, and she had been set on fire and burned up alive.

□ 2110

That was done as a threat to the police department in Laredo to either get in line with what the criminal element in Nuevo Laredo wanted to do or suffer the consequences. That was a shocking thing. I carried that back up here and showed it to our committee members. Some of them were ill from looking at it. And I pointed out that this is a lawless society we have created on this border.

Now I have a theory, and I think my theory is based on some pretty good police discoveries we have made over the last 25 years in police work. During the time when they cleaned up New York City and made it a safer place to be, they discovered, and this was the chief of police and the mayor, at that time it was Rudy Giuliani, that a bad criminal environment breeds crime. So if you have a neighborhood where there are old junk cars in the front yard, there is trash in the front yard, they haven't taken things off the stoop, broken windows, that is a neighborhood without pride, and the criminal element breeds in that neighborhood. But if you get the criminal element out of there, you get the criminality of that environment out of there, the neighborhood improves. And you put a beat cop there that allows them to know that law enforcement is there, law enforcement is involved, then the public can feel confident, and they start to take care of their neighborhood and in turn make the crime move elsewhere. And they cleaned up New York City with that basic theory. They went back to the old, walk-the-beat cop theory that came out of the 19th century.

Now, why do I mention that? Well, people say to me why do you think the

cartels who were in Colombia and other parts of the country, why did they come and settle along the southern border of this country? I thought about it a lot. And it came to me that, you know what, lawlessness breeds lawlessness. So what were we creating on the border when we weren't enforcing some basic tenets of the law? We have laws that say you can't come into this country except legally. And millions of people, whether for good purpose or bad, and many, many for good purpose, I am not saying it is not, just for a job, but they were breaking our laws. And they were coming into this country. And where was this community of lawlessness? Along the Mexican border.

That community of lawlessness, which was just sneaking people into the country and people sneaking into the country so, as many will tell you, just so they can get a job to feed their families. Of course there was a little criminal element, and a little more criminal element, and all of a sudden we have estimates of four or five drug cartels from Central and South America fighting a drug war from Brownsville to Tijuana, from Matamoros to Tijuana on the other side of the border. Twenty-three thousand people have been killed in the last 18 months in that war across the border. Mexico has brought in every kind of resource that they can afford to bring in to try to stop this, but it is out of control and it is bleeding across the border into my State and the other States that border Mexico.

We are having a great conversation today in our country about a law that was passed by the State of Arizona. And I would argue that the State of Arizona, that law has a real clear message to the Federal Government: You know what, we have been waiting 10 to 15 years for anybody to realize how bad this is.

Now back in 2004 and 2005, we were beefing up the Border Patrol and pouring homeland security money into building fence. We had resources that were dedicated to trying to stop this flood, but the flood was still coming. But they were doing the best they could, and they were catching a million, million and a half a day, but the estimate was for every one that got caught, 10 got across. The flood was ongoing.

There are many reasons and faults you can lay upon that: employers were hiring these people and maybe they shouldn't; we didn't have a good identification system for people to know whether or not someone was an illegal alien in this country; and the argument goes on and on. But the reality was we were creating a lawless border from Matamoros to Tijuana. And that lawlessness drew in organized crime in the form of these cartels, and those cartels are slaughtering people, fighting it out on the streets. Sometimes

gunfire is as prevalent on the border towns across the river from Texas as it is in Iraq or Afghanistan. Just recently, 35 people were killed in a shootout in Juarez, across the border from El Paso, in one day. Many of those were Federal officers of the Mexican federal police force and the army.

You say well, what does that have to do with us? Phoenix, Arizona, one of the places where a lot of folks up north go to get some warm weather in the wintertime, a really wonderful town. I have been there, it is a great town. It reminds you of a cross between the west of New Mexico and the west of California blending together there. It was a laid-back group of people. They enjoyed life. But now they are the kidnap capital of the United States. And it is not Americans kidnapping Americans, it is illegal people coming across our border and starting a big business of kidnapping people. They kidnap them and hold them for ransom, and if they don't get the ransom on time, they send them a hand or an arm, and ultimately maybe a head of their loved one to let them know that they didn't pay the money, and that is what happened to their loved one. We don't live with that kind of horror in this country, but there it is right there in Phoenix, Arizona. And that means that this lawlessness that exists on the border of this country, the southern border of this country, is bleeding over into the United States. We have got to do something about it.

So the Arizona folks, they wrote themselves a law. And they basically said, they basically defined some stuff that Federal officers have had the ability to do for a long time. And they talked about the fact that if Washington is not going to do something, we are going to do something to try to find out who these people are who are coming across our border illegally. We have international people talking about us. We have the United Nations talking about a law in Arizona.

Well, I want to throw something out, and I see the gentleman from Utah (Mr. BISHOP) is here. And I am happy to have my colleague and classmate to join me tonight. It pleases me to no end, but I want to start off this conversation by pointing out something. Mr. LAMAR SMITH, who serves on the Judiciary Committee, told to a group of us last week, a statistic that he produced, which is very eye opening. We are criticized by the United Nations. We are criticized by China. We are being criticized by Russia. We are being criticized by EU countries over there about our horrible immigration policy.

Over the past year, we have brought in legally through the legal process in this country over 1 million immigrants. By the way, that number and more has been going on for just about as far as you can look back in time and



see in this country. More than 1 million came into this country last year. You say, why do I mention that? What is the big deal about that number? I have news for you, my colleagues, here it is: That number equals more immigration than all the rest of the world combined. So these people that are criticizing the United States and our citizens, who are acting like we should look to some others as example, there are no other great examples of people who welcome immigrants but the United States because the United States by itself welcomes more than all the rest of the world put together.

□ 2120

Now, that ought to make us stop looking at ourselves as evil people. We, through a legal process, bring in more immigrants to our country and welcome them to be law-abiding citizens and come here and help make our country what it's always been, the great melting pot of America; and we do it legally. And they wait their turn. They get in line. They fill out the paperwork. They pay the fees. They do all that it takes to get here legally, and they are legal immigrants, and there are more of them than all the rest of the world combined has in their countries, added together.

With that as our premise, that we are not evil people, we are people who care about immigrants, I'd like to yield such time as my friend, ROB BISHOP from Utah, would like to spend in discussing this matter.

Mr. BISHOP of Utah. I thank the gentleman from Texas (Mr. CARTER) for introducing this issue and yielding the time.

Madam Speaker and the gentleman from Texas, I think there are three terms I want to kind of emphasize over and over because it is the crux of the concern we have on our southern border: once again, it is illegal drugs. The bulk of the illegal drugs coming into this country are coming over on Federal lands in our southern border;

The second one is human trafficking. And all the violence, especially the violence against women that is assumed with that concept of human trafficking coming across our border;

And the fact that we have gaping holes in our border security, which is almost an open invitation for potential terrorists to come into this country.

Now, the same issue, I need to be very clear, of our southern border is a concern in our northern border. But for the purposes of discussion today, I want to talk about the southern border and those three concepts: illegal drugs, human trafficking, and potential terrorists coming into this country. Because the bottom line is, Madam Speaker, Border Patrol is working. They're doing a great job. They are successful in urban areas, which means that most of the illegal traffic, the

drug cartels, the human traffickers, potential terrorists, are now coming in rural areas along our southern borders because simply it is much easier.

You can look at this map from California to El Paso, Texas. Everything that is colored is land owned by the Federal Government. Over 40 percent of the land along our southern border is Federal land. And 4.3 million acres of that Federal land is in wilderness category. This is the area in which we are having the illegal drugs and the human traffickers and potential terrorists coming because, flat out, it is easier to do that. And it's easier simply because our own Department of the Interior, which controls this land, to a lesser extent the Forest Service because they control lesser of the land, have simply placed as their number one policy for control of the land, realizing or protecting endangered species and wilderness categories, which simply means they are looking at the law very literally and, basically, hiding behind it.

And one of the documents sent by the Interior Department says, Federal agencies are mandated to comply with a variety of land use laws, and compliance with that law, meaning wilderness and endangered species, both insulates those entities and agencies from legal liability.

Now, what we're asking people to do is simply what I think should be common sense. But, unfortunately, the Interior Department and, to a lesser extent, the Forest Service, don't use common sense. They're hiding behind legal niceties.

We realize that Homeland Security, which is in charge of our Border Patrol, gets this point. I was reading in the paper just today of a farm in Vermont that is now under potential threat of eminent domain by Homeland Security to take it over to beef up our border security along the north, which is so ironic because in the south that same entity that wants to beef up the security in Vermont is prohibited by another agency of government to do so.

It is ironic because, as you see in this picture, this is part of the Federal land we have in the south, and you can see there are vehicle barriers that are placed in this land. I want you to know those vehicle barriers are not to stop the drug cartels from coming in or the human traffickers. Those barriers are to protect against the Border Patrol driving into endangered species area and wilderness designation. It is to stop us from doing our job.

Now, once again, I'm trying to emphasize again, we're talking about the illegal drugs coming in here, the violence and human trafficking and the potential, once again, of terrorists coming into this land.

One of the eight entities along our southern border, and I read this in the paper on Sunday, it's the brown piece, if you can see it in Arizona—I hope I

pronounce it properly—the Tohono O'odham tribe in Arizona, roughly about 70 miles of that border, recently participated for the first time, their tribal police and the FBI on Saturday of last week with the largest drug enforcement operation in tribal history.

What they said when they raided homes to stop illegal drugs from coming in is that no longer is the tribe satisfied with having a corridor for the drug cartel coming into this country through tribal lands. They were setting down a marker that the tribe was going to enforce the border against illegal drugs coming into this country, which is the exact same thing, the message that should be sent out, but unfortunately the Federal Government isn't. The Department of the Interior, Forest Service, are not sending that same message out. Instead, as was mentioned by the gentleman from Texas (Mr. CARTER), Department of the Interior is holding Homeland Security for hostage, demanding money.

Now, this is one of those strange coincidences. The Congress appropriates money both to Interior and to Homeland Security; and then all of a sudden we find negotiations between the two. Interior is demanding mitigation fees from Homeland Security. It's all coming from the same pot. Common sense would say we work that out ahead of time. But since 2007, at least \$9 million have gone from Homeland Security over to Interior as mitigation fees. And apparently they have agreed to \$50 million to do more than that, to try and protect these wilderness designations against incursion by Border Patrol because of all the damage they may do.

Look, this is where the irony takes place. This is the wilderness we are trying to protect by keeping Border Patrol out. The trash you see in here was not made by Americans visiting this wilderness area. It was not made by the Border Patrol trying to protect the border and security. It was made by the illegal drug cartels and, once again, the human traffickers coming through and leaving the litter behind. In our effort to protect the land, we are destroying the very land we are trying to protect. And once again, this is just, flat out, not common sense.

I could give you some quotes from Secretary Napolitano, a letter she sent out at one time. She said, One of the issues affecting the efficacy of the Border Patrol operations within wilderness is the prohibition against mechanical conveyance. The Border Patrol regularly depends upon these conveyances, and the removal of such advantage is detrimental to the ability to accomplish national security missions. While the Border Patrol recognizes the importance and value of wilderness area designations, they can have a significant impact on Border Patrol operations in border areas.

For example, it may be inadvisable for officers' safety to wait for the arrival of horses to pursue, for pursuit purposes.

One of the major challenges in deploying our SBInet technology to remote locations along the border is ensuring compliance with environmental regulations. Environmental regulations may be subject to varied interpretations, depending on what level of the agency or the organization is involved. The removal of cross-border violators from public lands is a value to the environment, as well as to the mission to land managers. That's what we should be doing.

Here is also where the human element comes in here.

□ 2130

2002, Park Ranger Kris Eggle was shot and killed while in the line of duty while pursuing a member of the drug cartel who had crossed into the U.S. border illegally through one of those areas.

In 2008, Border Patrol Agent Luis Aguilar killed in the line of duty after being intentionally hit by a vehicle that had illegally crossed into the United States through Federal lands again.

Rob Krentz, a long-time pioneer down in the Arizona area. This is an elderly gentleman who just had his back fused and had one hip replacement and was scheduled for another, so the ability to either fight or flee was not in his vocabulary. He was murdered along with his dog, once again by a member of the drug cartel who came across on Federal lands which prohibits the Border Patrol from going into those lands because of endangered species. And when the murder took place, he went a long, circuitous route to get back to Mexico, going once again through those exact same lands that are not open to the border security.

For example, I showed you the picture of the barricades. Well, this is the area in which the murderer entered this country and exited the country. Now, once again, those barricades are not to stop the drug cartels and the murderers from coming in. Those stop the Border Patrol from having mechanical access to these particular areas.

The Krentz family sent out a release that said, "The disregard of our repeated pleas and warnings for impending violence towards our community fell on deaf ears that are shrouded in political correctness, and as a result we have paid the ultimate price for their negligence in credibly securing our border lands."

Because this family came and testified before Congress in 2007, these are the words they told Congress at that time. "The Border Patrol should not be excluded, nor should the national security of the United States be sacrificed, in order to create a wilderness area

that is not even roadless, as required by law. It has almost produced a state of war on drugs. It is now too dangerous to hike. There are break-ins, high-speed chases, fatal and nonfatal shootings. The pristine areas of the proposed wilderness areas have already been trashed. Drug smugglers should not take precedence over honest, hard-working Americans who recreate and whose livelihood is damaged." They estimated \$6.2 million in damage to their ranch and water lines because of illegal foot traffic.

And finally, they gave a plea that was not heard. "We are in fear of our lives and safety and health of ourselves and that of our families and friends. Please defend the law and our rights. We live it. We have been refused legal protection for our property and our lives when dealing with border issues and illegals. We are the victims."

Mr. Krentz is no longer here, once again, because we put a higher priority on the sacredness of the wilderness characteristic of land and endangered species than we did on simple common sense of controlling the border to stop the drug cartels, the human traffickers and the rape trees that go along with them, and the potential of terrorists.

A couple of weeks ago, once again, a deputy was wounded on wilderness land where he was forced to leave his vehicle and walk into the wilderness area, by the rules of how we handle this land, where he walked into an ambush, again by a drug cartel. He lives, but he was wounded for it.

We have an area down in Arizona called the Organ Pipe National Monument, one of those creations of executive fiat that we did so well with. Two-thirds of that national monument within the United States is off limits to Americans because we do not control it. The drug cartel controls that territory. We are talking about the sovereignty of the United States. We are giving it up along the southern border to the bad guys.

These are people who aren't picking tomatoes or milking cows. These are drug runners. These are human traffickers. These are people who create violence of unspeakable levels against women at all times. These are the potential terrorists. And we, because of our inaction, are giving up vast stretches of American property to the drug cartel so that not even Americans can go into these national monuments. There is no common sense. No rational person would ever say this should be our policy. But indeed, we have come to that particular policy.

I am very disgusted with our Secretary of the Interior who talks very good about this issue, but has yet to change the policies, and people are getting shot and killed down there. We mentioned the Arizona law. I think if the law that has been proposed by the ranking Republican on both Judiciary

and Homeland Security and Natural Resources and myself, who is the ranking member on the Public Lands Subcommittee, if we were to have that policy, it would have eliminated a great deal of the fear and anxiety that was the primary motivation of this particular law.

If people realized the priority of this Congress and this Nation is to secure the border to stop the bad people from coming in, to stop the drug runners and the human traffickers and the terrorists, perhaps there wouldn't be the need to create some kind of State entity. But that's what we should be doing. And what is so sad in this Congress is during this past year both Houses of Congress have recognized that.

The Senate added language to an appropriations bill that said, despite our other rules, border security and the securing of our southern border will be the highest priority on our southern border. It was passed in the Senate, stripped in committee before it came to the floor, and therefore was not added to our law.

We here in the House took another bill, and on a motion to recommit, we added almost the exact same language; overwhelmingly passed here in the House in a bill that now sits in the Senate and is now going nowhere. Both Houses, bipartisan, have recognized that this is common sense, this should be our joint policy, but as of yet, we have yet to move forward on that.

Secretary Salazar at one time went to the southern border. We issued four challenges to him. I would like to re-issue those challenges:

End the Interior Department's policy of having Homeland Security and Border Patrol having to gain permission for access to all territory;

Two, acknowledge that environmental damage and destruction is happening by all these illegal crossings;

Three, stop impeding the Border Patrol's access both electronically and on foot to these particular areas, and;

Number four, end the Interior Department's practice of extorting mitigation funds from Homeland Security.

Those are four things that could be done administratively and should be done administratively today. If we could do that, we would know that we would put a great dent on the illegal drugs that are destroying this country, the illegal violence that is taking place on that border, and the potential of terrorists, as we simply have gaping holes in our southern border—and, ironically enough, in our northern border—that need to be stopped simply by saying our number one goal in the southern border is to stop this illegal activity by securing the border. And after that, after that, then we can move on to other issues.

But if a nation is going to be sovereign, we must control all our lands and we must control our border. And

there is nothing that should stop us from doing it. Common sense tells us that. Unfortunately, common sense is not the rule today. It must be the rule today.

I yield back to the gentleman from Texas.

Mr. CARTER. And I thank my friend. Reclaiming my time, I thank you very much for that explanation. And, in fact, I learned a lot from the explanation.

One of the questions that I was always curious about and should have asked is these vehicle barriers that they kept talking about were part of the fence, and they weren't really building a fence, but they were building vehicle barriers where the vehicles couldn't get back in there. And it was my impression from what I had learned from law enforcement that vehicles weren't their problem; it was foot traffic that was their problem. Now I learn the vehicles kept law enforcement's vehicles out.

Mr. BISHOP of Utah. If the gentleman would yield?

Mr. CARTER. I certainly do.

Mr. BISHOP of Utah. It is one of those peculiarities that has happened that some of the barriers that used to be used and are now surplus because a bigger fence is now in place have now been put into other areas. And indeed, it's been a barrier to stop Americans and the Border Patrol from going into road areas in these particular areas.

It is not necessary for us to have a fixed fence along the entire border. But where we do not have a fixed fence, we need to have the electronic devices necessary for monitoring that area, especially the hilly areas, the very mountainous areas along the southern border. That makes a whole lot more sense. The problem is, if once again you have identified wilderness characteristics in that land, you may not put the electronic recording devices on wilderness land. Therefore, the Border Patrol is forced to move their recording devices area, which once again creates these huge gaps in the security. That's what we are trying to say.

There is nothing wrong with trying to protect the wilderness, trying to protect endangered species, but first of all, we have to stop the drugs. We have to stop the human trafficking. We have to close these gaping holes for potential terrorists coming in here. If we can't do that, the wilderness characteristic has no meaning. It has no value to us. That has to be our number one priority. Common sense tells you that.

That's why I am proud that on the bill that we have, Representative KING from Homeland Security, Representative SMITH from Judiciary, Representative HASTINGS from Resources joined together, along with 40 other cosponsors, to try to push this through again and make clear that what we are doing

is simply what common people would say is the right thing to do.

I yield back again.

□ 2140

Mr. CARTER. I think common sense is more in short supply in this place than any place else on Earth. If we had more common sense that makes sense, and you know you mentioned something that—I don't like to use shock value when talking to the American citizens but they ought to know when we say lawlessness on the border, you mentioned something that is a horrible thing. The rape trees.

Now, with all of your imagination just think about this. These are like monuments to women who have been brought across the border from the other side of the border, and then the people who brought them rape them before they move on, and they hang their undergarments on the tree as a monument to that rape. And our folks who patrol the border call those "rape trees."

Now, if that doesn't get your attention about lawlessness, I don't know what's going to. But when I learned about that, you know—and then I talked to a man from Rock Springs—which is a pretty darned good ways from the border in Texas—and the interesting thing is, if you look at that map that Mr. BISHOP laid up there, you didn't see any Federal lands in Texas. Texas is the only State that entered the Union retaining its public lands.

But it even makes for more problems for us, too, because all of the land along the Rio Grande River in Texas belongs to Texans—ranchers and farmers and so forth. And we start dealing with barriers. That even creates a bigger problem in some ways by—because these folks, it's their private land and you have to deal with them.

So whatever you do, the issues of our law, they stay in the way. But putting up barriers to interfere with the enforcement of the law I think is aiding and abetting criminal activity. But then I wouldn't mind taking it to a jury. I think it would be an interesting argument.

But the stories that you just related to me—JOHN CULBERSON, also a Member from Texas, related that he had seen in New Mexico and Arizona lookout posts that are established on the Indian reservations and on the public lands where they sit up there and look for the Border Patrol so they can radio back and bring people across at various areas. It's like they own that. It's like that's their rancho. That's their place on the border. We are having our country invaded. And it's bad enough to talk about people coming over, all of these poor people coming over to get a job. True. Absolutely. Some great folks coming over trying to get a job. But we could do better. We could figure out a way to get them over here without this

lawlessness on the border, because if you're not going to defend your country, then what good are you? What good is this place if we're not going to defend our country?

And your description—in our land. They are invading our land that belongs to the United States of America. My Lord. We ought to be willing to defend that land.

I yield back to my friend

Mr. BISHOP of Utah. If I could just amplify that point in some small degree. And once again, as the gentleman from Texas recognized, as you notice, there's only one national park along the Texas side. Everything else—which is an added benefit because Texas now cooperates a whole lot easier than unfortunately some of the Federal agencies do that are from New Mexico through to the Pacific Coast. But you're right.

There are, within these drug cartels, they do have lookout spots with night vision, machine guns. They have all of the equipment that's necessary as they now are engaged in a war amongst themselves.

The deputy who was recently shot was the 12th shooting that took place in this area. The bulk of those shootings are not necessarily against Americans but cartel versus cartel. The difference was this is the first one that actually got hit with one of these shootings. And what is more illustrative of this situation, as this deputy was basically lured into an ambush, and especially as our good friend, the rancher down there, who was doing nothing more than simply traveling on his land in a cart because he did not have the ability to move very freely, in the past drug cartels when approached would disappear. What we're finding out now is there's a change of attitude. All of a sudden now they are not running away. They stood their ground, and they shot the rancher, and they shot his dog. They stood their ground, and they lured the deputy into an ambush and shot him.

There is a change in the attitude that is taking place there. And as the gentleman from Texas said, this is a change that's not taking place in Mexico—which would be bad enough—this is taking place in the United States. And still the Federal Government does not change its policies and procedures to combat that.

We seem as if there are land managers who are satisfied with making sure that drug cartels control our territory.

In Oregon Pipe National Monument, indeed the land manager down there, Mr. Baiza, seemed to be more concerned about the fact that the Border Patrol, instead of doing a Y to back up and go around, was going in a circular pattern on his land than he was about the fact that two-thirds of his land is controlled by the drug cartel, and

Americans cannot go there unless they are escorted with an armed escort. And even then—it is amazing that as part of our publicity to attract people to visit public lands, we tell them, You can't go here. That seems like a bizarre concept, and it certainly doesn't define sovereignty as I thought sovereignty was defined.

I yield back to the gentleman who was spot-on in that observation.

Mr. CARTER. Here's another thing. We're talking about the rural areas, which, you know, one time we were having a hearing in Homeland Security; we were talking about helicopters, and we were talking about drones. And many people were asking about it. So I asked them, Okay, Now, there's at least some people that—we had DUNCAN HUNTER at that time who was saying we not only needed a double fence for the entire border, but we needed a high-speed highway in between it so that the Border Patrol could respond quickly.

And so I asked this guy about these helicopters. I said, Okay, what do you use these helicopters for? He said Well, we go out and we spot these large groups of immigrants that are crossing in Arizona and New Mexico and some in California. I said, Oh, so if our electronic equipment gives you a signal that there's something there, you go out there and you look at them from your helicopter and you swoop down. No, no, no. We don't swoop down. We check to see if they have adequate water and food supplies. And if they don't, we drop them water and food supplies so they don't die in the desert.

Well, that's very compassionate. But now I hear from my friend in Rock Springs who was talking about sitting on his back porch of his ranch looking down into sort of a drawdown behind his place, and his wife said, Look there. That looks like 20 illegals crossing our property. Get in the truck and go down and run them off. And he said, Mama, wait a minute. And he picked up his binoculars and looked, and he saw at least the two at the front of that line of folks had automatic weapons over their shoulder, and the two at the end of the line had automatic weapons over their shoulder. And all of them had large backpacks on their back, obviously carrying drugs.

And he said, Mama, you don't shoot those people off. They'll kill you. We'll call the Border Patrol. Hopefully they will do something about it. He called them. They didn't get there. They tried but they didn't get there. They were too far away.

But here's something from CNN. This was May 18, 2010. Tuesday, May 18. That's pretty current. Twenty-five people have been killed over this weekend in drug-related violence in the Mexican border city of Ciudad Juarez. Among those slain were 30 Federal police personnel, including three officers who

had been engaged in controlling the ever-increasing spate of violence in the north Mexican City. Ciudad Juarez in Tijuana state is now the world's murder capital with near a thousand murders occurring since January 2010.

This city lying close to the border with Texas of the United States has witnessed a surge of violence in recent times over control of the key drug smuggling routes to the U.S. between rival gangs of Sinaloa and Juarez cartels.

That's a clip out of the newspaper. That's day before yesterday, right? Or today. That's yesterday. Yeah. No, it's today. That's today. That's out of today's newspaper. But that's about this last weekend.

Now, we can't stand still and let this happen on our border. We are sending soldiers into harm's way in places around the world to stop violence and 23,000 people have died across the border in a place where, by the way, by Texas standpoint, many of us call—used to be one of the places that we dearly loved to visit. We have friends that we know of across the border. In my lifetime, I've been across that border more than a hundred times, probably 500 times.

So although there were places you didn't want to go over there, there still was—they were still a sister city. People forget that El Paso-Juarez is a city of I think almost 3 million people. It's a huge metropolitan area. That's a big city over there across the border. And look at the violence that took place this weekend.

We see the shows on television with the gangs shooting at each other. But they are happening across the border from major cities like El Paso.

I yield back.

Mr. BISHOP of Utah. I appreciate that, and I understand we do have some sensitivity to the issues that are taking place in Mexico, and I am proud that the Mexican government is starting to crack down on the illegal drug cartels on their side of the border. And it is a violence that is spilling over. And in some respects, we don't have the ability to control that.

But where we do have the ability to control—and once again I have to go back to the fact that our land policy is now the prime area in which the violence is taking place, in which the drug cartels are trying to go, where we do have the ability to control, it is simply wrong for us not to do that. It is wrong for us to have as our national policy—it's wrong for us to have any other national priority than securing our southern border for the safety of our people.

And once again, what we are talking about is the worst kinds of people we want to keep out of here. We're not talking about stopping, as you mentioned very early on, stopping all immigration in this country. There are

certain kinds of entrepreneurial spirits we want to have in this Nation. The drug cartels are not that person. The human traffickers are not that person, are not that. Those who are bringing in potential prostitutes are not that. Those who are actually doing the rape trees with the monuments—just unthinkable violence—those are not the kind we're after. And the potential terrorists carrying a bomb or any other kind of device is now something that we must have as uppermost in our consideration.

And that's why when we have the opportunity at least to establish policy and procedures on the Federal level that deal specifically with Federal land, it is just flat out wrong of us not to insist that we do that.

□ 2150

Mr. CARTER. If the gentleman would yield for a moment. Question: When America retains or takes public land, aren't we as a body of Americans stewards of that land for this Nation? Isn't it our job to take care of the property that the Federal Government has? Isn't that the job of the Interior Department, to be a good steward of that land, to make sure that land thrives and it is safe and it is a part of the body politic of the whole country's ownership?

Now, how can they possibly think that it is for the well-being of the American populace to have our land that we own as a body politic full of drug dealers, rapists, and prostitute smugglers? Why in the world won't they open the roads up to our law enforcement to go in there and stop this?

Mr. BISHOP of Utah. The gentleman, if I may, asks a pertinent question, a two-part question. First, I wish the Federal Government didn't own quite so much land; I would be happier with that. But if they are going to take control of that land, they have to take control of that land.

In deference to some within the Department of the Interior and Forest Service, because once again I think common sense would say if people were of like mind and people were of good purposes, they should be able to sit down and work these situations out. This is not rocket science. This should be common sense. But in deference to some of them, the law to which they look for guidance says they have to manage it for wilderness designation and endangered species aspects first. That is the way they are interpreting it. I personally think they could reinterpret that very easily administratively if they chose. But that is the interpretation, which is one of the other reasons I think the law that we have proposed, the law that passed in the Senate but didn't get over here, that we passed over here but didn't pass in the Senate, needs to be put in place so we make it very, very clear that on

these public lands, indeed, public security is the number one priority, and that we want to stop the drugs and the violence from coming across here.

Mr. CARTER. And to yield to another question: Isn't it a fact that the kind of people that they are letting in there without any law enforcement being able to stop them are not what you would call good citizens for taking care of the wilderness nor good citizens for protecting endangered species?

Look at that picture you are holding up there: bottles, cans, clothing. It looks like the city dump outside of the city here. Now, is that protecting our wilderness?

Mr. BISHOP of Utah. That's the irony of the situation in which we find ourselves. The very land we are trying to protect is the land that is being destroyed by people who don't care about the quality and purpose of the land. And this is what we must stop. This is, unfortunately, what the reality of today is. And that is sad. And it should be one of the reasons why our policies should be very clear and very open, and why, when you talk to people, they shake their heads in amazement, because this just does not make common sense.

I think you may have some statistics about that.

Mr. CARTER. Just real quickly, we have this issue with the Arizona law. And I think everyone says that the Arizona law really is an outcry from Arizonans saying: if you are not going to do it, we are all going to get involved.

But maybe the administration is setting a policy or a mindset here that is causing some of these things, because public opinion versus the opinion of our Speaker and our President seem to go in opposite directions.

Public opinion, and I believe that after they heard what you said tonight, they would even say it louder, they would say: my Lord, if we are not enforcing our borders and all this horrible stuff is happening down there, somebody has got to. And I don't blame Arizona for saying we want to have the right to ask questions.

So look at these polls: 51 percent, Gallup 59 approved; McClatchy Newspaper 61 approved; Fox News 61 approve. And yet President Obama; Attorney General Eric Holder; the Secretary of State, Posner; and the Department spokeswoman, P.J. Crowley, all seem to take the position that this is some horrible infringement upon goodness and mercy and the Constitution of the United States.

Well, maybe we have got to get our minds set straight. We have got to start realizing that our job as Members of this Congress, this whole body, we take an oath to preserve, protect, and defend the Constitution. And in that Constitution, it tells us one of our responsibilities is to defend our Nation against all enemies.

These are enemies of our country. If you don't believe it, I will be glad to take you down to places in Texas where the abuse of the drugs that are killing our children are clear to be seen on the streets, and you tell me if that's not an attack on our country for those drugs to come pouring in here. And you tell me the rapes are not an attack. Maybe it is happening to poor innocent people from foreign lands getting smuggled in here, but the rapes are taking place in the United States; and that aggravated sexual assault is taking place on those hundreds of women. That is a serious felony offense in every jurisdiction in this country. And we know it is going on, and we are using regulations to hold the hands of those who would protect those innocents. It drives you nuts to listen to this stuff.

□ 2200

Mr. BISHOP of Utah. I appreciate your emphasis on the public attitude there. I do not have a window into the hearts of what Arizona legislators may or may not have done. But in the back of my mind, I cannot keep telling myself, or I cannot keep wondering, that if we as a Federal Government had actually taken charge of our southern border and our northern border, if we as a Federal Government had stopped the most heinous of individuals who are freely coming in here now, perhaps the anxiety level or the anger level would not have made necessary the particular Arizona statute. Now, that's pure speculation on my part as well. But I cannot help thinking that if we were doing our jobs and getting all of the government agencies—Interior, Ag, Forest Service, and Homeland Security—to work together and do the right thing for people, just to take a commonsense approach, that we would lower at least the rhetoric of the discussion, and we would raise the security feeling of people, and maybe people like Rob Krentz would be alive today to be with his family.

Mr. CARTER. Well, I thank the gentleman for coming down here and actually enlightening me on some facts that I was not aware of because, like I say, we retain our public lands in Texas. So we look at Texas, the issues—it's just as serious on the Texas border, but it's a different issue on the Texas border. But they're all serious. The incursions into Texas, New Mexico, Arizona, and California are getting worse every time they occur, and it's time for us to unite and defend our borders.

We need an immigration policy that works. I'm for that. I think everyone is. But I'm not for rewarding criminal behavior. I will never be rewarding criminal behavior. We need to stop the border and seal it up and then come up with an immigration policy that is fair and takes into mind that the law has a

purpose in this country. It is the glue that holds this society together.

I thank my friend for coming and joining me.

#### THE OIL SPILL HAS NOT REACHED FLORIDA'S COAST

The SPEAKER pro tempore (Mr. DRIEHAUS). Under the Speaker's announced policy of January 6, 2009, the gentleman from Florida (Mr. MEEK) is recognized for half the remaining time until midnight.

Mr. MEEK of Florida. Mr. Speaker, it's an honor to come before the House, and as you know, I am no stranger to the floor when it comes down to addressing the House about issues that are not only facing the State of Florida but also facing the country.

You know that we have had a number of incidents that have taken place in the gulf in recent years, Hurricane Katrina and other storms like it, and now we have a threat to not only our environment but also the economy of the Gulf States. Tonight I have come to address some of the issues that are facing the State of Florida right now.

Everyone knows of the effects of the Deepwater Horizon oil spill. They also understand what they see on the news every night of not only environmentalists but also scientists and responders to the incident and what they're doing. America is being educated on what's going on. Our water is deep. It's 5,000 feet.

I can tell you, Mr. Speaker, I just recently left the gulf coast area. I had an opportunity in my own State to be in Tampa and then moving on up to Panama City and the cities in between Panama City and Pensacola. I had the opportunity to meet with some good Floridians, and I picked up some first-hand ideas on what we can do to be able to stabilize not only the economy but also do away with some of the rumors that are out there that are affecting the overall economic outlook for that particular area. I also, after leaving Pensacola, went to the command center there in Mobile, Alabama, and had an opportunity to meet with some of the coordinators that are there on behalf of the Coast Guard, also coordinators for the State of Florida, coordinators also for the recovery effort as it relates to oil companies.

I just want to say from the outset, Mr. Speaker, that those that are responsible for this spill, need it be BP or Halliburton or the number of other companies that have been named, I guarantee you this, that response will not go without them paying. And I think it's very, very important that everyone on this House floor understands that many people have been affected due to the lack of regulation, need it be from the regulatory agency not doing what they should do. And I know that this Congress will find out more about

what did happen and did not happen and the mismanagement that took place, but also as it relates to BP, Halliburton, and others' responsibility of what they were supposed to do to make sure that this did not happen.

Because they were irresponsible—we have individuals that work paycheck by paycheck. Some individuals work cash jobs. Some families have been fishing there in the gulf for a very long time, and they have been affected. I've talked to fishermen in Panama City, and I have also talk to fishermen in Pensacola and those that are concerned about the perception that's out there. We do not have oil on the beaches in Florida; we don't have oil within the Florida waters in Florida. But somehow, somehow, the perception has been that there's oil on the beach, and I can tell you that it's affected the economy of those communities.

I just want to share with the Members that it's very important that we not only get out accurate information but we use every tool we can. And meeting with those fishermen in Panama City where their boats were there in the slips, they're usually out on the water catching fish, but people have canceled their reservations because they feel that the water is unsafe to fish in. That is not the case. Those are some of the things that I'm going to talk about here today.

These communities are already hit. And I want to make sure that Americans understand that they can come to Florida and they can vacation there and they should not cancel their reservations, because it will be affecting the economy not only in Florida but for individuals that work hard every day, that were already on their knees as it relates to an economic slowdown that we're experiencing right now. Now we see fishermen who were saying that they had their books filled all through the snapper season to only find that many individuals are canceling, and corporations that had planned retreats down in the panhandle area from Apalachicola right on up to Escambia County decided to cancel their reservations.

So maybe we can do away with some of the myths that are out there. This is not just about the fishermen. It's about the hotel industry. It's about the tourism industry in Florida that holds our economy as being the number one spot in creating jobs.

I have some charts here, Mr. Speaker, and it talks about the \$65 billion that tourism generates in the State of Florida. And I can tell you, just recreational saltwater fishing impacts Florida's economy \$5 billion, over 50,000 jobs, and I think it's very, very important that everyone understands the economy in Florida is already some 11.3 and above as it relates to unemployment. Some of the communities that are involved—and I will talk

about the unemployment rates that are there as we move along, and people who feel sorry for those individuals that are impacted, I can tell you, you can do something about it. You can go down to that area and enjoy yourself. I think it's important. Come down to Florida.

I also want to also just share a few other statistical data that I have here. "Boating impacts Florida's economy with over \$18 billion and over 220,000 jobs." "Florida averages over 35 million fishing trips per year," and, unfortunately, that industry is hurting, as I described earlier. I think that a number of folks need to understand that many of these fishing families that are along that coastline, I think they're too small to fail.

We talk about "too big to fail" when we look at the financial industry. These individuals are the reason why hotel rooms are filled there and the reason why the restaurants have individuals that are walking in and out of them and the reason why people come to that neck of the woods. And I think it's important that everyone understands what we're facing here.

This is some statistical data that I have already mentioned here, but I think it's important that everyone understands that in Florida we're trying to do everything we can. I met with a hotel owner that said that she has over 40 rooms but only seven reservations. She has a staff that's over 35 individuals, but I know that she's going to have to lay some folks off. That's not because of any act against our country, but there is an environmental perception that the beaches in Panama City have oil on them and that folks can't come down and enjoy themselves.

When I met with them, I said, Listen, I've already filed legislation with Senator BILL NELSON over in the Senate to call for a moratorium until we figure out how we can make these rigs safe and to make sure that there's a moratorium on expansion of offshore oil drilling off the coast of Florida and in the Gulf of Mexico. That's already filed. Legislation is already filed. RUSH HOLT, the Congressman here, in a companion bill over in the Senate, moving the liability cap up to make sure that these oil companies do not get off the hook for the kind of misery that they have put on these individuals who just wanted to work every day.

□ 2210

I shared with them what the SBA is providing for small businesses. But I can tell you in the final analysis, Mr. Speaker, they said, KENDRICK, if you can go back to Congress and let folks know that they can come down here, we are open for business and that we are ready to receive them, that will help us more than everything that you just mentioned. Everything you just mentioned will be for the future, but

for right now, they have mortgages to meet. They can't take a second on their home because they have already taken that second mortgage on their home. They don't have the money to be able to continue to make that payment for the slip that they have at the marina. They have bills that they have to meet. And I can tell you, ladies and gentlemen, it is important. As a Member of Congress, that is the least I can do, to come to the floor tonight and stand up on behalf of the individuals who need someone to stand up on their behalf.

These are some of the guys I met with there in Panama City. As a fisherman myself, I get excited just looking at this picture. I am looking at some king mackerel and grouper and redfish, and I even see a parrot fish. These are the fishermen that are out there. These are some of the guys that I met with that are ready to go to work, but people are canceling on them and saying there is oil in the water. There is not oil in the water.

These pictures were just taken last week. This was not taken 6 months ago. They wanted to take this picture to let people know that they can come down and fish, ready, set, go, and clean. Stay a couple of days and enjoy yourself. It is a seasonal community along this gulf coast area, especially along the panhandle of Florida. They only have 100 to 120 days. They have the most fluctuating economy in the State of Florida because it is seasonal, and I think it is very, very important that we support these individuals.

These individuals are affected because of the lack of responsibility of those who are responsible for oil that is gushing out on the bottom of the gulf right now. I think it is important when we look at leadership that we understand that the economy is going to be affected time after time again when individuals are irresponsible. One, by not standing up as leaders when they are supposed to stand up as leaders and to be consistent and, two, turning their back and not paying attention to the details. I will go back to that, but I think it is important. I am going to bring the fishing picture back up again and I like it.

Visitflorida.com is a Web site that you can go to. I think it is important that you understand you can go to this Web site, get accurate information, and on the Web site you have key points, key areas you can click on, and it lets you know Twitter updates on what is going on on that particular beach in that part of Florida. I think it is important that you understand that coming to Florida for many individuals who are hit by hard times, you don't have the opportunity to get on a plane and fly overseas. It is cheaper to come down.

Here is where the rubber meets the road. I am going to spend a little time

on this map because I think it is important. When we look at our economy, it is not only the Florida economy, it is the U.S. economy. This is Deepwater Horizon's project right there. This is where the incident took place. This map was updated by NOAA as of 6 p.m. today. I think it is important that you understand this red line is the red line of the area that is shut off. This has very little to do with the area I am talking about, from Apalachicola over to Pensacola, you can see this little black line here, the Florida waters that Florida has jurisdiction over, where there is a proposal to call a special session to put in the State Constitution calling for no oil drilling around the State of Florida as it relates to our Constitution. That would be a good move because what is happening right now, our economy is being affected and will be affected. We will not have the resources that we need to deal with schools and health care, a number of other issues that the State has to take responsibility for.

I am filing bills and giving voice to those individuals that I met with that said Listen, if you can do everything you can to help us, it would help us be able to bounce back.

This area right here is the area that was shut down as of 6 p.m. today. This is only 19 percent of the gulf, and this is very, very deep water. The only kind of fishing going on out there is tuna fishing. The fish that you saw and the chart before that are caught in this area, where these boats are going out right here. So it has nothing to do with this. And believe me, the Department of Health will let you know these areas are shut down, and they are not open for fishing.

I know there was some rumor—it wasn't rumor, it was fact; some tar balls were found by the Florida Keys. Those are being analyzed. Being a Florida guy, I can tell you, you get a little tar every now and then. It may not be from the Deepwater Horizon project, who knows. But we don't want hysteria going throughout saying there is oil down in the Keys now. We don't know that as a fact. I think it is very important that we understand that.

I can tell you one thing: As much as I fought against offshore oil drilling in the State of Florida, around the State of Florida, I can tell you I am just as concerned as some, but it is not for alarm; that beach is still open.

This little chart here is just in case people don't want to take my word for it. You can go on to [Grandpanamabeachrentals.com](http://Grandpanamabeachrentals.com). This is a Web cam just to let you know that the beach is open—ready, set, go for visitors. I think that is something that is very, very important that people need to understand.

Now to get to the bread and butter here, Mr. Speaker. I think it is important. You've been hearing a lot about

how we are trying to shut this oil down, how the Coast Guard is a part of that, the EPA, BP, and a number of other agencies. But I can tell you where the rubber meets the road. This Apalachicola area all of the way to Escambia County, you have the counties that are already affected by unemployment. Wakulla County is 7.2 percent unemployment. Gadsden County also has individuals living up in this area, the panhandle we call northwest Florida, that are affected by 9.6 percent unemployment. Liberty County has 5.3 percent unemployment; Franklin County, 7.1 percent unemployment; Gulf County, 9.8 percent unemployment; Calhoun County, 8.2 percent unemployment; Jackson County has 7.2 percent unemployment. Bay County has 8.9 percent unemployment; and Washington County, also up here in the panhandle area, has 9.6 percent unemployment. Holmes County, 7.2 percent unemployment; Walton County, 6.8 percent unemployment; Okaloosa County, 7.2 percent unemployment; Santa Rosa County, 9.4 percent unemployment; and Pensacola has 9.8 percent unemployment.

I say all of that, ladies and gentlemen, because if we don't kill this whole issue that we have oil on the beaches of Florida, those unemployment numbers that I just mentioned are going to get higher. That is not fiction; that is fact. I think it is important that we understand that even though BP and Halliburton and all of these other companies that took advantage of what they were supposed to do and put these individuals in a financial situation that they are not even going to be able to provide for their families, I want those families to know that we are going to do everything we can, at least I am as a Member of Congress, to make sure that these individuals pay.

That is not going to put any food on the table, not right now, but I tell you one thing: That if we don't do our part, as individuals not living in the area that I just mentioned, to make sure that we do everything that we can to support those Floridians and also those Americans, then shame on us. We need to be able to stand up for them.

I think it is also important to understand, we talk about this issue of offshore oil drilling. It is okay to be against it now that you have oil in the gulf. I understand Louisiana and New Orleans, there is a judge that is handling all of the court orders that are coming through. BP is trying to move that hearing to Houston. I wonder why. I guess for a more favorable kind of judge or environment so they can have that as the home base so they can be able to have influence over the jury pool or what have you.

□ 2220

We need to pay very close attention to what's happening. People are scared.

People are concerned. Some people may be looking at it as a vacation situation. We have folks that I just mentioned trying to give some representation here tonight that are directly affected. They have children too. They have mortgages too. They have car notes too and boat notes too. And they have to make ends meet.

Exxon Valdez is the only thing that we can really point to to see the outcome measures of what happened to a community when there was an oil spill.

Now, I commend those workers that are out there trying to rally up and round up this oil off the top of the water. I commend them for their work. I went by their command center. There are a lot of great Americans that are working to try to save communities. The two Coast Guard individuals that I was with, the two captains, they both live in Santa Rosa County. They said, KENDRICK, I have a vested interest in making sure that this oil doesn't hit the beach. And they're out there working some 20-hour days, making sure that they're able to skim and burn and pick up this oil. But they can't get it all.

And it's not on the beaches of Florida, and I think it's very important that everyone understands that. And there are people that are working.

But I'll be doggone if we allow these oil executives to come to Congress with \$1,200 suits on and say they're not going to answer questions, and folks back home are suffering.

I think it's important that everyone understands that this is serious business. The clean-up of this Horizons project is going to take years, not months but years. And I think it's important that everyone understands, when we look at national security and we talk about green initiatives, that folks don't feel that it's some sort of liberal tree-hugging experience. China's doing it. India's doing it. Why do we have to be third or fourth as a country when we look at alternative fuel sources?

We talk about solar power. Folks think that's weak. I look at it as putting folks to work, maybe diversifying opportunities for these people that I've identified for those who have been fishing for generations and generations. Maybe they can have some other opportunities.

Biomass. I speak as a Congressman that has promoted biomass as it relates to our agricultural opportunities that we have and reusing sugar cane and reusing some of our crops as it relates to orange peels and others to turn them into energy, to put power back into the grid.

And to talk about solar power constantly, as coming from the Sunshine State, I talk about solar power because I see opportunities in it. I see homeowners being able to have the opportunity to save on their electric bill.



But it's all about the transition. So if we continue to depend on fossil fuel, especially when it comes down to affecting the economy of so many Gulf State communities, communities along the Gulf States that are affected by this; and the dollars that are being deployed right now is something that we can prevent in the future.

So, Mr. Speaker, I just wanted to do my part here tonight. I wanted to make sure those individuals in this picture here, that I didn't let them down. I told them that I would bring voice to their issue as it relates to, which is my issue too, as it relates to the fact that people are canceling on these guys, and gals I must add.

And I just really want to thank Pamela Anderson for supplying this picture also at Anderson Marina. And they want to go to work, and we need to give them an opportunity to go to work.

But as we look at this issue, Mr. Speaker, it's important that as this Congress moves with the investigation and the legislation that I'm a prime sponsor of and cosponsor of, that's not enough. It's making sure that we're able to look at this situation as though it is a natural disaster, and the Federal response should treat it as though it is.

So we need to make sure that these individuals do not fail, because if we didn't let the banks fail, we should not let these individuals that work every day, pay taxes, and many of whom are veterans in this country, and they're Democrats and they're Republicans and Independent. I can tell you one thing about this oil spill. I don't care what your party affiliation is. The bottom line is the bottom line. And when 50 percent of your business is walk-ups, and that shuts down to 1 or 2 percent, and you have a boat that usually you're taking six people out on and now you're only taking one, and the other person happens to be your cousin, something is really wrong with that; and it's going to affect these families.

So I hope that as we move on, not only with the investigation, because we're an investigative body, but as we look at the effects that this oil spill has brought about, I think that we have to take into account what we're going through right now.

My heart goes out to my brethren in Alabama. My heart goes out to those that are in Mississippi. My heart goes out to Louisiana. I think it's very important that folks understand that this issue is just not a gulf issue. It's a United States issue, and it's a perfect example of why we need to move forward as it relates to alternative fuel and energy in our country so that we don't have to find ourselves in a situation where individuals are affected by some mishap that took place because individuals were irresponsible and brought about pain and suffering for

these individuals that are trying to work and put food on the table for their families.

With that, Mr. Speaker, it was an honor to come to the floor. I want to let the membership know that many Members of the Florida delegation wanted to be here this evening; but due to the hour, they were not able to be here. The Florida delegation will be meeting tomorrow. When I say the Florida delegation, I'm saying the Members of the House and the Senate will come together to talk about this issue of Florida and its deep water Horizons oil spill. This directly affects our economy because our economy is all about tourism.

I hope in that Florida delegation meeting that there is a continued bipartisan spirit to not only help Florida bounce back, but also, as we move forward, as we look at energy, as policymakers, that we remember this moment, that we remember that all of Florida is going to be affected by the perception that there's oil in the water. And so it doesn't matter if you represent the west coast or you represent southern Florida or you represent the east coast of Florida or you're in the middle of Florida, every last one of those Members, the 27 members of the delegation, with two Senators, I think it's very, very important, including two Senators, I think it's very, very important that we remember this moment, remember the Floridians that are being affected, and the fact that our economy already, we're on our knees, and we're getting ready to get hit in the back of the head again if we don't cap this oil from coming out from the bottom of the Gulf of Mexico, and we don't remember this moment as we move forward as it relates to our national energy policy.

Mr. Speaker, I yield back the balance of my time.

#### SUPERVISION OF OFFSHORE DRILLING

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. GOHMERT) is recognized for 60 minutes.

Mr. GOHMERT. Mr. Speaker, I appreciate my friend from Florida, his discussion about energy. It's certainly a timely topic.

I think we're all pretty upset with what BP has done. We heard the President point out that we're not going to have any finger-pointing. But that was yesterday. That was yesterday's news. Then I understand today the White House announces that it's going to have a commission that's going to do the finger-pointing. So one day no finger-pointing, the next day we're going to have a commission to do the finger-pointing.

□ 2230

So I guess we know that nobody that comes in here would ever do anything but tell the truth, but whoever is sending out those messages sure is being inconsistent.

I heard the President say last week that he was tired of all the cozy relationships between Big Oil and government. Well, as long as Big Oil is being properly supervised, then we are okay. But the trouble is in the last year-and-a-half apparently things have not been going so well in the area of supervision. There is an article that the AP put out: Federal inspections on the rigs not as claimed. This was actually from Sunday, May 16.

This article indicates the Federal agency responsible for ensuring the Deepwater Horizon was operating safely before it exploded last month fell well short of its own policy that the rig be inspected at least once per month. The agency's inspection frequency on Deepwater Horizon fell dramatically over the past 5 years, and apparently in the last year-and-a-half that has dropped significantly.

According to the article, let's see, this indicates officials said 83 inspections had been performed since the rig arrived in the gulf 104 months ago, which was September of 2001. And then being questioned about the once per month claim, officials subsequently revised that total up to 88 inspections. And the number of more recent inspections changed from 26 to 48 since January of 2005. No explanation was given for the upward revisions.

But what's amazing to some of us is the fact that you could have a level 5 hurricane as existed in the gulf with Hurricane Katrina before it hit the coast of Louisiana—once it hit the coast it was a level 3, but out there at the rigs it was still a 5—and some of those platforms were completely destroyed, completely destroyed, but the blowout preventers worked. There was no oil leaked. So you wonder, What's the deal?

And relying on the old adage here in Washington that no matter how cynical you get it's never enough to catch up, begin thinking about the President deploring this cozy relationship between Big Oil and the government. Because if he is blowing smoke, then maybe there's fire there.

So we got to looking, as, after all, it is MMS, the Minerals Management Service of the Department of the Interior that's supposed to be monitoring British Petroleum and making sure that our environment's kept safe because we need the energy. My friend from Florida was talking about all the alternative energies. Well, that's going to cost a ton of money to develop. So on the one hand you can shut down this economy and prevent everybody from driving cars, prevent the trains from carrying all the freight that they do,

prevent ships from traveling using the fuel they do, stop all these things, stop commerce completely and somehow come up with money to develop alternative energies, or you can develop what we have and make sure that the government is doing a good enough job as a watchdog to make sure that there are not these kind of violations. That's what could be done.

And some of us have proposed repeatedly that all you have to do is use the resources we have got, take the government's royalty and use that to develop alternative energy sources so that as we deplete our energy resources, more than any nation in the world when you consider all the different resources we have, use the government's share of the royalty to fund alternative energy research so that we keep moving smoothly, transitioning into the day when we don't need any type of carbon-based fuel. But it's not in the next few years.

We saw efforts in the last 2½ years since Republicans properly lost the majority because they were spending too much. Little did we know those that convinced the public to elect them to stop the deficit spending would do 10 times the spending, or create 10 times the deficit in 1 year that we dealt with in 1 year right after I got here. But be that as it may, we have the resources to drive this economy like none in the world. We have the resources that will allow us to take those royalties and to develop resources so we don't need the carbon-based fuel that we are using today.

We could be moving toward nuclear energy, making sure it's a cookie-cutter-type facility and that parts can be utilized in different facilities. You train somebody to work in one, they can work in others. Those things can be done, but we are not moving in that direction. We are still moving, under this majority, toward greater and greater reliance on foreign oil and foreign energy.

So wanting to see, though, what could the President be talking about regarding this cozy relationship? Being on the Natural Resources Committee, I have some institutional recollection of things that have gone on since I have been here the last 5½ years, and one of the things that we have taken up was the fact that during the last 2 or 3 years of the Clinton administration the Department of the Interior had at least a couple of people who intentionally left language regarding price controls out of the Federal leases with major oil for offshore drilling. And it has cost this Nation millions and millions of dollars because it was knowingly done.

We had hearings, brought the Inspector General in. And I was one who inquired, Why hasn't there been a more thorough investigation about why these individuals intentionally, knowingly left the price control language out of the leases? It was always put

there under former President Bush, under George W. Bush. His Department of the Interior always put it in. But for some reason, the last 2 or 3 years of the Clinton administration it was left out. And the Inspector General indicated that, well, he couldn't talk to those two particular individuals in question because they left government service.

Found it a little bit hard myself to understand why you can't investigate gross negligence, and if not gross negligence maybe even intentional misconduct. But we won't know until the proper investigation is done, why wouldn't he, as the Inspector General who was charged with doing the inspection while the Bush administration was in the White House, why he wouldn't do this.

Now, this is a man who had worked in the Clinton administration, and now he is Inspector General. Of course, his idea was to blame Bush, a theme that's followed up today even, even though it wasn't President Bush that negotiated the leases. It was the Clinton administration Department of the Interior. But one of the two individuals that he said, Well, we just can't question her because she is no longer a part of the government. She has gone back in the private sector. There is nothing we can do about it.

And so I certainly wondered myself why you wouldn't pursue that, perhaps turn it over to the FBI, to the Justice Department, let them do some investigation, because nobody is beyond their investigation of potential Federal wrongdoing, certainly mismanagement in costing the country millions and millions of dollars. But it's not just that it cost the country millions and millions of dollars. It made that money for the big oil companies with which the Clinton administration cut these deals.

□ 2240

But anyway, that individual who had worked with the Department of the Interior and had assisted in seeing that the leases did not contain the price control language cost the government taxpayers millions and made those millions, transferred to the big oil companies, whatever happened to her?

Well, a little checking because we know the President said there's a cozy relationship he was concerned about. It turns out that this administration has put her back in the Interior Department as the deputy assistant secretary for Minerals Management Service. The people, MMS, the very people who were supposed to inspect these offshore rigs, the very people who are supposed to make sure that the blowout preventers worked properly so that if there's a catastrophe like Hurricane Katrina, the blowout preventers work and no oil is leaked from those wells. Well, it didn't work out here, as the AP article talks about. The inspections weren't done

with the regularity that they were supposed to.

Now, I agree with the President that we need to be working on issues and not finger-pointing, except that if we—the problem is there are other rigs under operation right now under the supervision of these same folks that let this happen. We can't afford more disasters like this in the gulf or anywhere else.

I've been a strong advocate for offshore drilling, but I anticipated that we would have a government that would not spend days and weeks deciding what to do, that they would get out there and do something. Not do a fly-over and a wave-by, but an actual on-the-job, on-the-ground, you're-going-to-get-this-done.

Now, we've heard that maybe the boot was on the neck of these folks. It feels like maybe it's more on the toe or something because we don't seem to be moving in the right direction. You hear stories—you know, having so many friends that know something about oil and gas. You hear different versions about potential ways to close this well up. God help BP if it turns out they could have closed this with some explosives very quickly but have not acted quickly enough in order to hopefully some day rework the same well, letting this disaster hit the coast in this manner.

So what is the administration doing? I anticipated that with offshore drilling we would make sure that these blowout preventers were regularly tested—which wasn't happening here under this administration—and that if there were an accident, we would see what happened with Katrina; they would shut themselves down.

And we can't see that there's really any strong movement toward inspecting the rest of the rigs that this Minerals Management Service may have neglected just like this BP rig. They ought to be out there on every rig checking and making sure that they're not allowing this to happen somewhere else.

I'm not for shutting down the energy resources. But when you see a major company having more than one problem and other major oil companies not having the same problems, it does make you wonder if they are, number one, not being properly inspected. And if they're not being properly inspected, do they have a cozy relationship?

Well, let's see. This new deputy assistant secretary for Minerals Management Service, what job did she come from? Well, here it is. She was the general manager for social investment programs in strategic partnerships at British Petroleum America in Houston. Previously, other work experience, she had been director of Global Health, Safety, Environment and Emergency Response. That would be people regarding safety and environment and emergencies. They probably dealt with the

company she was with on blowout preventers, things that would prevent emergencies, since she was the director of safety and environmental emergency responses. Oh, yes, that was for British Petroleum of London.

Well, what other experience did she have? Well, previously she had also been a vice president for Health, Safety and Environment. Environment like preventing oil spills? What company would she have gotten her training? Oh, yes. That was British Petroleum of North America in Los Angeles.

But 1995 to 2001 when the Bush administration came in and let her go, she served as the assistant secretary for Land and Minerals Management at the Department of the Interior, where she was the principal policy adviser to the Secretary of the Interior for environmentally responsible stewardship. Isn't that special?

So, once you hear the chief executive of the land talking about chief executives of big oil companies being too cozy with his administration, well, it bears looking into. And you don't have to go very far to see there is a very serious problem here. And the person that worked for British Petroleum that may have worked with MMS officials from the British Petroleum side is now the deputy secretary or assistant secretary with MMS, working with these same people, of which she used to be one. Interesting.

Now, we know that the jobs have not come as was promised. We were told a year and a half ago that if we would move in a socialist direction, give \$787 billion more on top of the ridiculous Wall Street bailout from months before, that if we add another \$787 billion in a so-called stimulus package, that that would prevent the unemployment rate from ever going above 8. We were told if we didn't pass that \$787 billion of a stimulus package, the President said unemployment might reach as high as 8½ percent. Well, doesn't that sound good now?

□ 2250

Wouldn't it have been nice not to have passed that \$787 billion porkulus bill and have unemployment not go beyond 8.5 percent? Because what happens is the government is sucking all the air out of the capital in the country. I keep hearing my friends across the aisle talk about banks not making loans. Well, there are a couple of problems.

Number one, the Federal Government is using up all the capital to build new buildings, hire new people, 60,000. The biggest sector of hiring in the last month was from Census workers. Well, that's not long-term help for the economy. It is a job that needs to be done. I am glad it is not ACORN. Of course, these may be ACORN employees that are now working for the Census Bureau. But that's not good news. How in

the world can anybody go out, as the Speaker and the President have, saying: Great news, the unemployment rate went from 9.7 to 9.9. Isn't that great news?

If you talk to the people that are out of work, it is not good news, which is one of the reasons we have set up a couple of job fairs again to try to marry up people who have jobs open with people that are looking for jobs. We plan on doing one on June 2 in Marshall and then another down in Lufkin July 8. That will be in Nacogdoches, Stephen F. Austin University; and the one in Marshall will be the East Texas Baptist University, and we are going to be trying to marry up people that have some job openings with people that are looking for jobs. The two we have done in the past ended up with hundreds of people having employment that didn't before; but, sadly, not nearly enough people found the employment they needed.

So what is going on? I mean, obviously this government is spending tons of money. We know that Goldman Sachs had the best year they have ever had last year. But then, when you get to scratching, we know the Federal Reserve is refusing to open its books, refusing to be audited. The same people that are demanding that the Intelligence Agency, the FBI, all these other folks, the Department of Defense need to have complete transparency, not demanding the same thing of the Federal Reserve. We have got to keep that secret for some reason, when the truth is we need to know how much trouble the Federal Reserve continues to get us into.

But we were able to pull one contract between the Federal Reserve and New York with someone called Goldman Sachs SF Management, and they got a sweetheart deal here. But it does allow them to basically act on behalf of the Federal Reserve, just do whatever the Federal Reserve could do on their behalf, including hiring people to manage their assets. But in order to be hired to manage assets of the Federal Reserve, the manager, Goldman Sachs, acting on behalf of the Federal Reserve, is restricted to only hiring those outside entities that are listed in Exhibit C of their contract.

So you know that at least restricted them. They couldn't line their own pockets. Except that Goldman Sachs Asset Management LP is the manager acting on behalf of the Federal Reserve; and, lo and behold, Goldman Sachs & Company is an authorized counterparty with whom Goldman Sachs Asset Management can cut a deal as Goldman Sachs Asset Management LP sees fit on behalf of the Federal Reserve Bank of New York. Well, isn't that special. Isn't that convenient.

Those are the kinds of things we are talking about, I guess, when someone

here on the floor or the President talks about these cozy relationships between his administration and others that are not good for America, because that sure doesn't sound good for America.

But you know, there was a time in America when people had a conscience. There was something in this country called morality. And when morality was such an important thing in this country, if someone was greedy and they through greed, avarice, neglect, ran their car off in a ditch, and even though it was their own fault, their own greed, that got them in trouble. If their neighbors came out and helped them get their car out of a ditch, well, there was this conscience, this still small voice that spoke within the greedy person to say, Gee, I am so sorry. I am so sorry. I will never be able to thank you enough for helping me get my car out of the ditch. I owe you. What can I do for you?

Now we are in a day when greed of an entity like Goldman Sachs, I think they gave 4-1 to help the President get elected over MCCAIN, they ran their car into a ditch during the end of the Bush administration. And since the former chairman was the Secretary of the Treasury and he could see his friends were in big trouble, he decided to scare America, tell them the financial sky was falling, to convince the President that the financial sky was falling, and that the only remedy was to give him, Hank Paulson, \$700 billion to play with so that maybe he could keep things from getting too bad.

Well, he kept things from getting bad for Goldman Sachs. That's why it was necessary to bail out AIG. Most of AIG's departments were doing great. It was the credit default swaps that got them in trouble. But, unfortunately, credit default swaps were deals that were done with Goldman Sachs, an awful lot of them. So they had to bail AIG so that of the billions that were paid to AIG to bail them out, most of that would go to Goldman Sachs. So the American taxpayers were on the hook to pull Goldman Sachs' car that their greed drove into the ditch; and once they had it out of the ditch, they run over the rest of America, their neighbors.

There used to be morality. There used to be a conscience. And morality ensured that we could have economic stability. And when you lose morality, you lose economic stability.

There are so many brilliant theologians and philosophers that have talked about this. Chuck Colson was talking about it in a Bible study a little over a year ago, and what he said was true: if you have got morality, you can have economic stability. When you lose economic stability, then throughout history people have always been willing to give up liberty to get economic stability.

But to preserve liberty, wouldn't it have been better just to refine this Nation's morals, our moral foundation? Then we don't lose liberty to get economic stability. You get it by having a moral Nation.

You know, the Miss USA pageant got some notoriety before the pageant this week because the contestants were required to take pictures scantily clad. What was that about? It is about greed. Greed. Figuring, if people saw how thinly clad the contestants were, more people would tune in, which means more money for the pageant. It is about greed. It is about greed. It keeps coming back to that. So if you get back to morality, you can get economic stability.

One of the things that George Washington warned about, he tried to warn us in his farewell address. Washington said:

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness. Let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

So, to be moral, Washington said we need to be a religious people. The Nation once was. In fact, when Washington resigned from the leadership as commanding general of the Revolutionary military, he at the end of his resignation had these words, and this is not the whole thing but I'm shortening it here:

I now make it my earnest prayer, that God would have you, and the State over which you preside, in His holy protection; and, that He would most graciously be pleased to dispose us all, to do Justice, to love mercy, and to demean ourselves with that Charity, humility and pacific temper of mind, which were the Characteristics of the Divine Author of our blessed Religion, and without an humble imitation of whose example in these things, we can never hope to be a happy Nation.

Of course, he was talking about the divine author of our blessed religion is how he referred to Jesus.

□ 2300

But to be moral under Judeo-Christian beliefs, we would need to be tolerant and allow the expression of opinions, even those opinions that we happen to disagree with, even when those opinions disagree with our lifestyle. And, Mr. Speaker, when people become so intolerant that they do not allow people to speak their mind even when it is to say, I believe your lifestyle is

immoral, then we've lost the liberty that so many have fought for and so many have died for and that the Founders pledged their lives, their liberty, their sacred honor.

You see, there was a time during the revolution and for about 150 years after that where people were taught in school—I was taught in school in my early days that this quote from Voltaire—some say Voltaire, some say Cicero, hundreds of years earlier, but that “I disagree with what you say, but I will defend to the death your right to say it.” Now it's become, I'm so angry at you because you have said that you disagree with my lifestyle; therefore, I'm going to get you fired. Not only am I not going to fight to the death for your right to say it, I'm going to get you fired. I'm going to see that you lose all your assets. I'm going to see that property is taken, hopefully, and the government comes after you and hopefully puts you in jail and that you die alone and miserable. What happened to the principles that people fought and died for, “I disagree with what you say, but I will defend to the death your right to say it”?

There are friends from across the other side of the aisle who I disagree with profoundly on many issues that are extremely important to me, but I know them and I know their heart, and I know they really, honestly believe that what they're saying is right. And I would fight to the death. I was in the Army 4 years, active duty, took an oath, willing to fight and die for their right to say what they say even though I disagree.

Now we've come full circle. Those same things that the Pilgrims depicted in the scene in the big mural down in the Rotunda, having a big prayer meeting, praying to God for his protection and guidance, and lo and behold, they ended up in Massachusetts, not where they had intended. But they came to this land to get away from discrimination because of their Christian beliefs, and now we've come full circle to where Christian beliefs are the only ones that it's okay to discriminate against. It's a sad time in America.

You know, we had a recent survey that indicated 70 percent of American adults believe their children will not have it as good as they have had it, will not have the opportunities, the liberties that we have had. And the fact is, if we got back to a national morality—and I'm sure not pointing the finger across the aisle because there's plenty of finger-pointing to go around, but we need to do it. It's wrong no matter which side of the aisle, and we need to not be afraid to stand up and say it and say the immorality needs to be addressed, and we need to protect this country, its liberties, its prosperity, its opportunities, and that can only be done if we do as George Washington suggested.

Now, there is another country around the world, halfway around the world, called Israel that is under threat. Iran has made clear through its leader, Ahmadinejad, that it needs to be wiped off the map. That leader has also made clear that the great Satan—America, in his mind—also needs to be completely destroyed. How do we ignore that? You ignore those kinds of threats by people who are pursuing the means to carry them out at your own peril, and they seem to be getting ignored.

I was at an APAC dinner recently where I heard a great orator, Senator SCHUMER from New York, and he was pointing out all the things that I agreed with about how Iran was running amok, trying to develop nuclear weapons, and it could not be allowed. It must not be allowed. It must be stopped. I was thrilled that he was taking that strong position. And he got to the end, and he basically said, So we need sanctions. Sanctions?

We've been trying to have sanctions for years. And while sanction talk continues to go around this administration and Russia and China and others in the U.N. who despise Israel and would also like to see it wiped off the map, the centrifuges in Iran continue to spin. They continue to enrich uranium. Oh, and now we hear that they may be cutting a deal with Turkey to trade some enriched uranium. I mean, there's plenty of bad news to go around, but that has to be stopped. When you have an enemy who has sworn to wipe you off the map, as Iran's leaders have us and Israel together, and he is working as fast as he can to develop the weaponry to do that, then you sit idly by twiddling your thumbs, talking about sanctions at your own peril.

Now, it is true that before the end of last year we began working on a resolution that basically would run through just a small fraction of some of the comments that Ahmadinejad has made. Apparently he has indicated that he believes the Mahdi is coming, will rule over the world, but that he can speed his return if he simply utilizes nuclear weapons. Then the end and the Mahdi's rule comes that much quicker. And yet we've had so-called journalists who have interviewed him, and the man has talked about wiping out this country, including the journalist asking him questions, and yet they don't have the nerve or the sense to ask him, What about your comments about wiping us off the map? What about your comments about bringing about the end of the world as we know it? What about those things? The journalists have become lapdogs. How sad is that? Not all of them. There's some excellent journalists, and apparently they're the ones that this administration is pursuing vendettas against, the way it sounds.

But somebody needs to do the work because we're at risk, as is our dear

friend Israel on the other side of the world. And not just Israel, not just the United States, but our Muslim friends who are moderate Muslims that don't believe that jihad means to destroy all your enemies, that they believe that the jihad is within. Well, those are the very people that will also, with us, be wiped out if Ahmadinejad has his way, gets his nuclear weaponry, because he has no use for moderate Muslims. He'll kill them with the rest of us that he considers infidels. How can we allow those centrifuges to continue to spin?

I have been reluctant to come to the floor and talk about this because I wanted to make it a very bipartisan thing—it's gone on for over 6 months—hoping that we would quietly be able to have Democrats take the lead, because I didn't care who took the lead. Take the lead, whoever wants to. But it is time to step up and stop Iran from developing and acquiring nuclear weapons that pose a threat to Israel, to moderate Muslims, and to the existence of this country. It's time to step up, and sanctions are not doing it.

We know from the Iraq sanctions when Saddam Hussein was in charge that we had dear friends—France, Germany, Russia—cheating on the sanctions. France's friend Joseph Wilson—not Congressman WILSON, but Joseph Wilson started throwing around allegations about the Bush administration. As his wife said, he has dear friends in France.

Well, France was about to come under fire for cheating on the Oil-for-Food Programme, but Mr. WILSON was able to turn the discussion and focus away from France and their cheating on those sanctions to the Bush administration successfully, and the willing allies in the mainstream media went right with him. But it didn't change the fact that cheating went on and that there will be people who are willing to cheat with Iran as long as they're willing to pay money to get what they want.

□ 2310

I think it is actually to China and Russia's credit that they haven't said, Okay, sure, we will agree to sanctions, knowing that they are going to cheat and sell things to Iran and not have competition because sanctions are in place. I think it is to their credit that they have been honest enough to say we don't think sanctions are a good idea. And all of the while the centrifuges continue to spin, and uranium continues to be enriched, and they move toward a bigger and bigger and bigger bomb that poses such a threat to Israel, to our way of life, to our liberties, because even though our liberties have allowed what the jihadists, the radical Islamists see as nothing but corruption, that our liberties have allowed us to move into complete immorality from their way of seeing it, and

therefore need to be destroyed. The fact is our liberties allow us to move forward and progress and become what has shown the world the greatest Nation in the history of mankind right here in the United States of America. The greatest ever in the history of the world.

We continue to move forward and advance because of the liberties and encouragement of entrepreneurship. But what are we doing now? Now we are moving more and more of the entrepreneurship into the Federal Government and say the Federal Government is going to take over and take care of things. But the truth is if we allow someone like a modern day Hitler named Ahmadinejad to develop a nuclear weapon—and apparently he may have enough fuel now to make a small bomb, if we allow him to get a bomb, Israel is at risk, we are at risk, and it would take a miracle of God to protect us because we have pulled down our own defenses.

I never seek to push my religious belief on others, but it is my belief, and since people have fought and died so I can express my opinion, it is my belief that God does allow us to have freedom of choice. And when we turn from God in our freedom of choice, and we walk away from his direction, teachings, and become the immoral Nation we have moved into where greed and avarice take over, eventually God turns his back, and you go to the dust heap of history. It has happened over and over. And now we seem to be moving ever so quickly in that direction.

Well, the great news is that this incredible experiment in human liberty and democracy does not have to go away, but it is going to have to take a recommitment to the morals, and of course George Washington, as I read, he said you cannot have morality that will sustain this Nation in exclusion of religious principle.

We know that Benjamin Franklin, I have said it so many times, but because there are still people out there saying Ben Franklin was a deist who believed that a deity created the universe and never involves himself in the things of man, it is important for people to know his own words, because he himself said, in 1787 at the Constitutional Convention, I have lived, sir, a long time. And the longer I live, the more convincing proofs I see of this truth: That God governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice, is it possible an empire could rise without his aid?

Franklin said, We are assured in the sacred writing, sir, that except the Lord build a house, they labor in vain that build it. He went on and said, I also firmly believe that without His, the Lord's concurring aid, we shall succeed in this political building no better than the builders of Babel. We shall be

confounded by our local partial interests, and we ourselves will become a byword down to future ages.

And that is what scares me now in America.

We, as Franklin said, have forgotten our powerful friend. That is the question that he asked the Constitutional Convention: Have we now forgotten our powerful friend?

If he were here in this body today asking that question, we would have to answer him "yes." There is a judge in Wisconsin who said you couldn't call upon your powerful friend as a Nation on a National Day of Prayer. We have had a Supreme Court say previously that despite the fact that the Constitution came about after Franklin moved that we begin to have daily prayer in Congress, we had a Supreme Court that was so miseducated that they felt like it was improper to have prayer in public places. How did we get so far off base? Well, we have had people that were miseducated.

There was a lady in Mount Pleasant where I grew up, Ms. Milum, she got into her 90s and she could still cook. And she would call my mother and say, Tell Louie I have some rolls. Her daughter was my mother's best friend, Emma Lou. And one day Emma Lou was talking about a man there in Mount Pleasant. And Ms. Milum said, He's a fool. Emma Lou said, Mother, he has his Ph.D.

And she said, I don't care, he is still a P-H-U-L. Well, I think we have a lot of Ph.D.s and other degrees who are still P-H-U-Ls. They are fools still because they have been educated beyond their means. Or they have become, as scripture refers to them, wise in their own eyes.

As a result, we have people in this country who think that while a madman is spinning centrifuges, developing uranium, and saying that he is going to use it to destroy Israel and America, and of course that will also include destroying moderate Muslims, we are just talking over here about sanctions and can't even agree on them.

We took an oath in this body to support and defend the Constitution. We are supposed to provide for the common defense against all enemies, foreign and domestic, and we have a self-announced enemy to this country that wants to wipe us off the map and he stands there taunting us, developing nuclear weapons, and we are not living up to our oath to provide for the common defense.

I was in West Africa with Mercy Ships, a wonderful charitable institution that helps the lame to walk, the blind to see, provides surgeries for those who do not have health care in Africa. In the country of Togo with around 6 million people, two hospitals, this Mercy Ship is truly a ship of mercy.

But West Africans on the ship wanted to meet with me the last night I was

there. I don't know how well educated those folks were. They had hearts of gold, and they were people of prayer. They were Christian brothers and sisters. The oldest gentleman there, Ebenezer said, in essence, it is so important that you understand what America means to the rest of the world.

□ 2320

And to Christians around the world, and those who want to be free, who have freedom, those who want to be free, if you let your country fall, there is no one else in this world, other than God, to help us. You must keep your country strong in order for the rest of us to have hope of protection.

There were so many words of wisdom from that group, one from a young man who said, yes, but we must not only pray for their leaders—in fact, they said, we're excited that you have a Black President. We're concerned about some of his policies. We're concerned some of them will weaken America. And if you become weak, we have no protection from the forces of evil. Our protection of this country means so much to so many.

As this young man said, we need to also pray for the people around their leaders in America because they all have people whispering and giving them advice and giving them information. We need to pray for them too. I was struck by the wisdom of that young man because he understands.

And in this country, whether it's at the White House, here in the Halls of Congress, we all have people whom we rely on for information and to help us work through and summarize and get information in a nutshell so it can be absorbed and utilized. And if the wrong information is provided, then our leaders have no hope of doing the right thing.

That's what happened with the TARP bailout. We had a good leader in President George W. Bush. He's smarter than people give him credit for. He's witty, one of the wittiest guys to talk with, just a delight to visit with. But the man who was his Secretary of the Treasury was acting in the best interest of Goldman Sachs and his friends on Wall Street, and not for the people across America. And I'll give him the benefit of the doubt and say, okay, through his Wall Street lens he thought, if my friends get rich again and they don't go bankrupt, then everybody in America will do well. Well, we saw that's not the case.

But that's what we've got going on now. Apparently our President, our great President, is getting some very bad advice, just like President Bush did on the TARP bailout. He's got a Secretary of the Treasury that we were told worked with Paulsen in the plan so he'll keep the same things going. I thought that was a good reason not to confirm him, but he was confirmed,

and there he is giving the President advice.

And the jobs still are not being created. And as we move toward the end of the year, we see the tax rates are going to go up in every way, capital gains are going to go up, estate tax is coming back with a vengeance. Some people are beginning to make their moves financially. And as Art Laffer said, it's going to make this, the rest of the year, look like we may be moving into a recovery, but it's a false recovery. It's people preparing for the end of the year when the taxes skyrocket in every area. And that's when the bottom will fall out.

So it's not surprising that there are some economic indicators that are going up. It makes sense.

But we've got people giving the President bad advice. We have people in this Congress, the leaders here who are getting bad advice, and we're hurting the country.

And those wonderful West Africans that I met with, who warned me, don't let your country fall; don't let your country get hurt. You're the hope we have in this world because of the way God's used America in the past.

We owe it to so many. Who will come rushing in to the Haitis, to the international disasters once we're too broke?

You know, the Democrats took the majority in November of 2006 I think largely on the promise that we're going to correct, as Democrats, what the Republicans have done in running up the deficit. And unfortunately, Republicans had done that. When Republicans got the White House, had both Houses of Congress, they got giddy and they could run up a couple of hundred billion in deficit. My first 2 years we were still in the majority, and I couldn't believe some of the things that we were doing. That was not Republican. That's not what we were supposed to do.

But the new majority, over the last—well, since January of '07, have run up deficits. This administration has run up deficits like never before in history. And I was embarrassed when Bush was talking about \$160 billion deficit in one year. And we're talking about a \$1.6 trillion deficit in one year, 10 times what the Bush administration was pushing. And yet no outrage from the same people that were so upset about 160 billion. What happened to that?

Our country is in trouble morally, and because morally, then economically, and because we're economically in trouble, people are allowing their liberties to be taken.

And now we find out that 53 percent of Americans are going to carry all of the income tax burden for the whole country?

Now, there are some in this country who want to work, and they're not able to work. There are others in this coun-

try who are able to work and they're not. There are those who could do more, but we're moving up to 47 percent that are not going to pay any income tax. And we know historically that when one more than 50 percent of the voters in a country get more benefits from the Federal Government, than they put in, you are very close to the end of your Nation's history. You are very close to the end of your Nation as you knew it. And we are moving far too quickly in that direction. It's got to stop.

We need morality in the Department of the Interior, in the MMS, so they don't just wink and nod on the blow-out preventers, that they will step up and do what is morally correct to protect the environment.

We need people who will step up and say, we are not going to destroy this economy. We're going to use the energy we've got, but we will make sure that it's being used environmentally responsibly.

Apparently my time has expired, so I must yield back with a prayer for America that we will regain our morality, our economic stability and keep our liberties.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BILBRAY (at the request of Mr. BOEHNER) for today and the balance of the week on account of a death in the family.

Mr. CULBERSON (at the request of Mr. BOEHNER) for today on account of illness.

Mr. KIRK (at the request of Mr. BOEHNER) for today on account of an illness in the family.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. ETHERIDGE, for 5 minutes, today.

Mrs. CAPPS, for 5 minutes, today.

Mr. KLEIN of Florida, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. GRAYSON, for 5 minutes, today.

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. POE of Texas, for 5 minutes, May 21, 24, and 25.

Mr. JONES, for 5 minutes, May 21, 24, and 25.

Mr. BURTON of Indiana, for 5 minutes, May 21, 24, and 25.

Mr. MORAN of Kansas, for 5 minutes, May 21, 24, and 25.

Mr. BURGESS, for 5 minutes, today.

### BILLS PRESENTED TO THE PRESIDENT

Lorraine C. Miller, Clerk of the House, reports that on May 13, 2010 she presented to the President of the United States, for his approval, the following bills:

H.R. 2802. To provide for an extension of the legislative authority of the Adams Memorial Foundation to establish a commemorative work in honor of former President John Adams and his legacy, and for other purposes.

H.R. 5160. To extend the Caribbean Basin Economic Recovery Act, to provide customs support services to Haiti, and for other purposes.

H.R. 5148. To amend title 39, United States Code, to clarify the instances in which the term "census" may appear on mailable matter.

H.R. 1121. To authorize a land exchange to acquire lands for the Blue Ridge Parkway from the Town of Blowing Rock, North Carolina, and for other purposes.

H.R. 1442. To provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909.

### ADJOURNMENT

Mr. GOHMERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 29 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 19, 2010, at 10 a.m.

### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XIV, executive communications were taken from the Speaker's table and referred as follows:

7501. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket ID: FEMA-2010-0003; Internal Agency Docket No. FEMA-B-1079] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7502. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket ID: FEMA-2010-0003; Internal Agency Docket No. FEMA-B-1113] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7503. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket ID: FEMA-2010-000; Internal Agency Docket No. FEMA-B-1090] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7504. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Changes

in Flood Elevation Determinations [Docket ID: FEMA-2010-0003; Internal Agency Docket No. FEMA-B-1081] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7505. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings [EPA-HQ-OPPT-2010-0173; FRL-8823-6] (RIN: 2070-AJ56) received April 28, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7506. A letter from the Director, International Cooperation, Department of Defense, transmitting Pursuant to Section 27(f) of the Arms Export Control Act and Section 1(f) of Executive Order 11958, Transmittal No. 07-10 informing of an intent to sign a Memorandum of Understanding with the Republic of Italy; to the Committee on Foreign Affairs.

7507. A letter from the Principal Deputy Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 10-003, certification of a proposed technical assistance agreement to include the export of technical data, and defense services, pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

7508. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 10-009, certification of a proposed technical assistance agreement to include the export of technical data, and defense services, pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

7509. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting the Department's fiscal year 2009 report on U.S. Government Assistance to and Cooperative Activities with Eurasia, pursuant to Public Law 102-511, section 104; to the Committee on Foreign Affairs.

7510. A letter from the Equal Employment Opportunity Director, Farm Credit System Insurance Corporation, transmitting the Corporation's annual report for FY 2009 prepared in accordance with the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act); to the Committee on Oversight and Government Reform.

7511. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's annual report for Fiscal Year 2009 prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174; to the Committee on Oversight and Government Reform.

7512. A letter from the Chairman, Federal Mine Safety and Health Review Commission, transmitting the Commission's FY 2009 Annual Report pursuant to Section 203, Title II of the Notification and Federal Anti-discrimination and Retaliation (No FEAR) Act of 2002; to the Committee on Oversight and Government Reform.

7513. A letter from the Chairperson, National Council on Disability, transmitting the Council's report entitled, "Government Performance and Results Act Annual Report to the President and Congress-Fiscal Year 2009"; to the Committee on Oversight and Government Reform.

7514. A letter from the Director, Peace Corps, transmitting a copy of the Peace Corps's Fiscal Year 2009 Notification and Fed-

eral Employee Anti-Discrimination and Retaliation (No FEAR) Act Annual Report; to the Committee on Oversight and Government Reform.

7515. A letter from the Secretary, Department of Health and Human Services, transmitting annual report on the Indian Health Service Funding for contract support Costs of self-determination awards for Fiscal Year 2009, pursuant to Public Law 93-638, section 106(c); to the Committee on Natural Resources.

7516. A letter from the Chief, Strategic Support Section, C.J.I.S., Federal Bureau of Investigation, Department of Justice, transmitting the Department's final rule — FBI Criminal Justice Information Services Division User Fees [Docket No.: FBI 114] (RIN: 1110-AA26) received April 23, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

7517. A letter from the Administrator, Department of Transportation, transmitting the Department's report for fiscal year 2009 on foreign aviation authorities to which the Administrator provided services in the preceding fiscal year, pursuant to Public Law 103-305, section 202; to the Committee on Transportation and Infrastructure.

7518. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes; and Model ERJ 190-100 STD, -100 LR, -100 IGW, -200 STD, -200 LR, and -200 IGW Airplanes [Docket No.: FAA-2009-1231; Directorate Identifier 2009-NM-212-AD; Amendment 39-16261; AD 2010-08-06] (RIN: 2120-AA64) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7519. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; British Aerospace Regional Aircraft Model HP.137 Jetstream Mk.1, Jetstream Series 200, Jetstream Series 3101, and Jetstream Model 3201 Airplanes [Docket No.: FAA-2010-0056; Directorate Identifier 2009-CE-051-AD; Amendment 39-16259; AD 2010-08-04] (RIN: 2120-AA64) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7520. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier, Inc. Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No.: FAA-2009-1068; Directorate Identifier 2009-NM-042-AD; Amendment 39-16258; AD 2010-08-03] (RIN: 2120-AA64) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7521. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and ERJ 190 Airplanes [Docket No.: FAA-2007-28377; Directorate Identifier 2007-NM-063-AD; Amendment 39-16257; AD 2010-08-02] (RIN: 2120-AA64) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7522. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330-243, -341, -342, and -343 Airplanes Equipped with Rolls-Royce Trent 700 Engines [Docket No.: FAA-2010-0391; Directorate Identifier



2010-NM-073-AD; Amendment 39-16263; AD 2010-08-08] (RIN: 2120-AA64) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7523. A letter from the Attorney-Advisor, Department of Transportation, transmitting the Department's final rule — National Standards for Traffic Control Devices; the Manual on Uniform Traffic Control Devices for Streets and Highways; Revision [FHWA Docket No.: FHWA-2007-28977] (RIN: 2125-AF22) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7524. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Direct Payment Subsidy Option for Certain Qualified Tax Credit Bonds and Build America Bonds [Notice 2010-35] received April 28, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7525. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Revision of Form 3115 received April 23, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7526. A letter from the Program Manager, Department of Health and Human Services, transmitting the Department's final rule — Medicare and Medicaid Programs; Waiver of Disapproval of Nurse Aide Training Program in Certain Cases [CMS-2266-F] (RIN: 0938-AO82) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the clerk for printing and reference to the proper calendar, as follows:

Mr. RAHALL: Committee on Natural Resources. H.R. 2288. A bill to amend Public Law 106-392 to maintain annual base funding for the Upper Colorado and San Juan fish recovery programs through fiscal year 2023; with an amendment (Rept. 111-481). Referred to the Committee of the Whole House on the State of the Union.

Mr. RAHALL: Committee on Natural Resources. H.R. 4491. A bill to authorize the Secretary of the Interior to conduct a study of alternatives for commemorating and interpreting the role of the Buffalo Soldiers in the early years of the National Parks, and for other purposes (Rept. 111-482). Referred to the Committee of the Whole House on the State of the Union.

Mr. RAHALL: Committee on Natural Resources. H.R. 3511. A bill to authorize the Secretary of the Interior to establish and operate a visitor facility to fulfill the purposes of the Marianas Trench Marine National Monument, and for other purposes; with an amendment (Rept. 111-483). Referred to the Committee of the Whole House on the State of the Union.

Mr. RAHALL: Committee on Natural Resources. H.R. 4493. A bill to provide for the enhancement of visitor services, fish and wildlife research, and marine and coastal resource management on Guam related to the Marianas Trench Marine National Monument, and for other purposes; with an amendment (Rept. 111-484). Referred to the Committee of the Whole House on the State of the Union.

Mr. OBERSTAR: Committee on Transportation and Infrastructure. H.R. 5128. A bill to designate the Department of the Interior Building in Washington, District of Columbia, as the "Stewart Lee Udall Department of the Interior Building"; with amendments (Rept. 111-485). Referred to the House Calendar.

#### REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred to as follows:

Mr. THOMPSON of Mississippi: Committee on Homeland Security. H.R. 4842. A bill to authorize appropriations for the Directorate of Science and Technology of the Department of Homeland Security for fiscal years 2011 and 2012, and for other purposes; with an amendment, Rept. 111-486, Part 1; referred to the Committee on Science and Technology for a period ending not later than June 18, 2010, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(o), and rule X.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. SAM JOHNSON of Texas:

H.R. 5319. A bill to increase transparency regarding debt instruments of the United States held by foreign governments, to assess the risks to the United States of such holdings, and for other purposes; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself and Mr. MARKEY of Massachusetts):

H.R. 5320. A bill to amend the Safe Drinking Water Act to increase assistance for States, water systems, and disadvantaged communities; to encourage good financial and environmental management of water systems; to strengthen the Environmental Protection Agency's ability to enforce the requirements of the Act; to reduce lead in drinking water; to strengthen the endocrine disruptor screening program; and for other purposes; to the Committee on Energy and Commerce.

By Mr. JOHNSON of Georgia (for himself, Mrs. MCCARTHY of New York, Mr. SCOTT of Georgia, and Mr. LEWIS of Georgia):

H.R. 5321. A bill to prohibit certain individuals from possessing a firearm in an airport, and for other purposes; to the Committee on Homeland Security, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS (for himself and Mr. SMITH of Texas):

H.R. 5322. A bill to provide authority to the Director of the United States Patent and Trademark Office to set or adjust patent and trademark fees, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of Texas (for himself, Mr. OLSON, Mr. BURTON of Indiana, Mr. CONAWAY, Mr. MARCHANT, Mr. MCCLINTOCK, Mr. ISSA, Mrs. BACHMANN, Mr. AKIN, Mr. BILBRAY, Mr.

HERGER, Mr. FRANKS of Arizona, Mr. CULBERSON, Mr. BISHOP of Utah, Mr. KING of Iowa, Mr. HENSARLING, Mr. CHAFFETZ, Mr. LAMBORN, Mr. WILSON of South Carolina, Mr. KLINE of Minnesota, Mr. PRICE of Georgia, Mr. NEUGEBAUER, Mr. DANIEL E. LUNGREN of California, Mr. TIAHRT, Mr. FLEMING, Mrs. SCHMIDT, Mr. PITTS, Mr. LATTA, Mr. GINGREY of Georgia, Mr. SHADEGG, Mr. CARTER, Mr. JORDAN of Ohio, Mr. BURGESS, and Mr. YOUNG of Alaska):

H.R. 5323. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to limit the year-to-year increase in total Federal spending to increases in the Consumer Price Index and population; to the Committee on the Budget.

By Mrs. DAVIS of California (for herself, Mr. GEORGE MILLER of California, Mr. ANDREWS, Mr. COURTNEY, Mr. STARK, Ms. SUTTON, and Mr. WU):

H.R. 5324. A bill to provide for extension of COBRA continuation coverage until coverage is available otherwise under either an employment-based health plan or through an American Health Benefit Exchange under the Patient Protection and Affordable Care Act; to the Committee on Education and Labor, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GORDON of Tennessee:

H.R. 5325. A bill to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes; to the Committee on Science and Technology, and in addition to the Committees on Education and Labor, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONAWAY:

H.R. 5326. A bill to repeal the National Organic Certification Cost-Share Program; to the Committee on Agriculture.

By Mr. NYE (for himself, Ms. GIFFORDS, Mr. MCMAHON, Mr. HIMES, Mr. ACKERMAN, Mr. BERMAN, Ms. KOSMAS, Mr. BISHOP of New York, Mr. TURNER, and Ms. ROS-LEHTINEN):

H.R. 5327. A bill to authorize assistance to Israel for the Iron Dome anti-missile defense system; to the Committee on Foreign Affairs.

By Mr. DOGGETT (for himself, Mr. MCDERMOTT, and Ms. DELAUNO):

H.R. 5328. A bill to amend the Internal Revenue Code of 1986 to reduce international tax avoidance and restore a level playing field for American businesses; to the Committee on Ways and Means.

By Mr. GENE GREEN of Texas:

H.R. 5329. A bill to modify the project for navigation and environmental restoration, Houston-Galveston Navigation Channels, Texas, authorized by the Water Resources Development Act of 1996, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. JOHNSON of Georgia (for himself and Mr. CONYERS):

H.R. 5330. A bill to amend the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 to extend the operation of such Act for a 5-year period ending June 22, 2015, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY:

H.R. 5331. A bill to revise the boundaries of John H. Chaffee Coastal Barrier Resources System Sachuest Point Unit RI-04P, Easton Beach Unit RI-05P, Almy Pond Unit RI-06, and Hazards Beach Unit RI-07 in Rhode Island; to the Committee on Natural Resources.

By Ms. KILROY (for herself, Mr. RYAN of Ohio, and Mr. MILLER of North Carolina):

H.R. 5332. A bill to amend the Small Business Act to establish a small business intermediary lending pilot program; to the Committee on Small Business.

By Mr. LATTI (for himself, Mr. WILSON of South Carolina, Mr. FOSTER, Mr. TURNER, Mr. ROGERS of Alabama, Mr. OWENS, Mr. LAMBORN, Mr. BISHOP of Georgia, Mrs. McMORRIS RODGERS, Mr. CARTER, and Mr. RYAN of Ohio):

H.R. 5333. A bill to amend title 10, United States Code, to recognize the dependent children of members of the Armed Forces who are serving on active duty or who have served on active duty through the presentation of an official lapel button; to the Committee on Armed Services.

By Mr. LUJAN (for himself and Mr. HEINRICH):

H.R. 5334. A bill to establish the Rio Grande del Norte National Conservation Area in the State of New Mexico, and for other purposes; to the Committee on Natural Resources.

By Mr. MARSHALL (for himself and Mr. CASTLE):

H.R. 5335. A bill to amend the Public Health Service Act to authorize the Secretary of Health and Human Services to make grants to eligible local educational agencies for the purpose of reducing the student-to-nurse ratio in public elementary and secondary schools; to the Committee on Energy and Commerce.

By Mrs. MCCARTHY of New York (for herself and Ms. HIRONO):

H.R. 5336. A bill to improve teacher quality, and for other purposes; to the Committee on Education and Labor.

By Mr. PETERS:

H.R. 5337. A bill to amend section 48 (relating to depiction of extreme animal cruelty) of title 18, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. TURNER (for himself, Mr. MARSHALL, Mr. SHUSTER, and Mr. THORBERRY):

H.R. 5338. A bill to strengthen the United States commitment to transatlantic security by implementing the principles outlined in the Declaration on Alliance Security signed by the heads of state and governments of the North Atlantic Treaty Organization; to the Committee on Armed Services, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. McMORRIS RODGERS (for herself and Mr. PENCE):

H. Con. Res. 279. Concurrent resolution disapproving of the participation of the United States in the provision by the International Monetary Fund of a multibillion dollar funding package for the European Union, until the member states of the European Union comply with the economic requirements of membership in the European Union; to the Committee on Financial Services.

By Mr. CONYERS (for himself, Ms. CLARKE, Ms. WATSON, Ms. RICHARD-

SON, Mr. THOMPSON of Mississippi, Mr. COHEN, Mr. COOPER, Mrs. CHRISTENSEN, Ms. KILPATRICK of Michigan, Mr. JOHNSON of Georgia, Mr. HASTINGS of Florida, Mr. CLYBURN, Mr. DAVIS of Illinois, Ms. NOTTON, Mrs. LOWEY, Mr. NADLER of New York, Mrs. MALONEY, Ms. MOORE of Wisconsin, Mr. TOWNS, Mr. TONKO, Mr. SNYDER, Mr. WATT, Ms. FUDGE, Mr. SCOTT of Virginia, Mr. CLAY, Mr. MCGOVERN, Mr. MEEK of Florida, Mr. SERRANO, Mrs. MCCARTHY of New York, and Ms. JACKSON LEE of Texas):

H. Res. 1362. A resolution celebrating the life and achievements of Lena Mary Calhoun Horne and honoring her for her triumphs against racial discrimination and her steadfast commitment to the civil rights of all people; to the Committee on Oversight and Government Reform.

By Mr. GEORGE MILLER of California:

H. Res. 1363. A resolution granting the authority provided under clause 4(c)(3) of rule X of the Rules of the House of Representatives to the Committee on Education and Labor for purposes of its investigation into underground coal mining safety; to the Committee on Rules.

By Mr. ETHERIDGE (for himself, Mr. PRICE of North Carolina, Mr. FILNER, Mr. OWENS, Mr. SHULER, Mrs. MYRICK, Mr. COOPER, Mr. MCINTYRE, Mr. BUTTERFIELD, Mr. JONES, Mr. CHANDLER, Mrs. MALONEY, Mr. COBLE, Mr. KISSELL, Ms. FOXX, Mr. WATT, Mr. MILLER of North Carolina, and Mr. MCHENRY):

H. Res. 1364. A resolution honoring the historic and community significance of the Chatham County Courthouse and expressing condolences to Chatham County and the town of Pittsboro for the fire damage sustained by the courthouse on March 25, 2010; to the Committee on the Judiciary.

By Mr. SHULER (for himself, Mr. HILL, Ms. MARKEY of Colorado, Mr. SIMPSON, Mr. DONNELLY of Indiana, Mr. ELLSWORTH, Mr. LARSEN of Washington, Mr. GRIFFITH, Mr. CONAWAY, Mr. TANNER, Mr. MINNICK, Mr. TAYLOR, Mr. RODRIGUEZ, Mr. CARTER, Mr. SALAZAR, Mr. MELANCON, Ms. HERSETH SANDLIN, Mr. JONES, Ms. GIFFORDS, Mr. ADERHOLT, Mr. KISSELL, Ms. JENKINS, Mr. MORAN of Kansas, Mr. BURTON of Indiana, Mr. ALEXANDER, Mrs. KIRKPATRICK of Arizona, Mr. AUSTRIA, Mr. SMITH of Washington, Mr. RAHALL, Mr. TIAHRT, Mr. WILSON of Ohio, Mr. TERRY, Mr. CHANDLER, Mr. MCHENRY, Mr. SAM JOHNSON of Texas, Mr. COBLE, Mrs. SCHMIDT, Mr. BOYD, Mr. BOUCHER, Mr. POE of Texas, Mr. BOCIERI, Mr. PENCE, Mr. TURNER, Mr. CARDOZA, Mr. SPACE, Mr. CHILDERS, Mrs. MYRICK, Mr. MCCAUL, Mr. DAVIS of Tennessee, Mr. BISHOP of Utah, Mr. CARNEY, Mr. BOREN, Mr. RYAN of Ohio, Mr. POMEROY, Mr. SCALISE, Mr. COURTNEY, Mr. BACHUS, Mr. WILSON of South Carolina, Mr. SCHAUER, Mr. PERRIELLO, Mr. KRATOVIL, Mr. SCHOCK, Mr. HODES, Mr. MCINTYRE, Mrs. EMERSON, Mr. SHUSTER, Mr. BOOZMAN, Mr. BRIGHT, Mr. SMITH of Nebraska, Mr. REBERG, Mrs. CAPITO, Mr. JOHNSON of Illinois, Mr. HUNTER, Mr. REICHERT, Ms. TITUS, Mr. KAGEN, Mr. LUETKEMEYER, Mr. ROSS, Mr. YOUNG of Alaska, Mr. BISHOP of Geor-

gia, Mr. CUELLAR, Mr. LATTI, Mr. SKELTON, Mr. MURPHY of New York, Mr. PETERSON, Mr. TEAGUE, Mr. SOUDER, Ms. FOXX, Mr. ARCURI, Mr. MICHAUD, Mr. OBERSTAR, Mr. GRAVES, Mr. ETHERIDGE, Mr. BACA, Mr. BONNER, Mr. SESSIONS, Mr. STUPAK, Mr. MATHESON, Mr. NYE, Mr. LATHAM, Mr. SPRATT, Mr. WITTMAN, Mr. WALDEN, Mr. GOODLATTE, Mr. ALTMIRE, Mr. GALLEGLY, Mr. MARSHALL, Mr. CALVERT, Mr. GUTHRIE, Mr. COHEN, Mr. GORDON of Tennessee, Mr. COFFMAN of Colorado, Mr. WALZ, Mr. GARRETT of New Jersey, Mrs. BLACKBURN, Mr. MCCARTHY of California, Mr. UPTON, and Mr. FLAKE):

H. Res. 1365. A resolution commending the National Rifle Association for developing the Eddie Eagle GunSafe Program and teaching 23,000,000 children its lifesaving message; to the Committee on Education and Labor.

By Mr. HARE (for himself, Ms. NORTON, Mr. RICHARDSON, Mr. GARAMENDI, Mr. SCHAUER, Mr. HIGGINS, Mr. LARSEN of Washington, Mr. WU, Mr. FILNER, Ms. CORRINE BROWN of Florida, Ms. SCHAKOWSKY, Mr. RUSH, Mr. COSTELLO, Mr. CUMMINGS, Mr. LIPINSKI, Mr. GRIMALVA, Mr. MANZULLO, Mr. BACHUS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DEFazio, and Mr. GARY G. MILLER of California):

H. Res. 1366. A resolution recognizing and honoring the freight rail industry; to the Committee on Transportation and Infrastructure.

By Ms. CLARKE (for herself, Mr. RANGEL, Ms. KILPATRICK of Michigan, Mr. MEEK of Florida, Ms. LORETTA SANCHEZ of California, Mr. PAYNE, Mr. MCMAHON, Mr. CONYERS, Mr. FILNER, Ms. WASSERMAN SCHULTZ, Ms. JACKSON LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LEE of California, and Mr. JOHNSON of Georgia):

H. Res. 1367. A resolution recognizing the significance of the Haitian flag to the people of Haiti and supporting the goals and ideals of Haitian Flag Day; to the Committee on Foreign Affairs.

By Mr. COURTNEY (for himself, Mr. NUNES, Mr. WELCH, Mr. WALZ, Mr. PETRI, Mr. ROONEY, Mr. TEAGUE, Mr. LEE of New York, Mr. BOSWELL, Mr. MAFFEI, Mr. CARNEY, Mr. MURPHY of New York, Mr. HINCHEY, Ms. PINGREE of Maine, Ms. MARKEY of Colorado, Mr. BOYD, Mr. MICHAUD, Mr. SHUSTER, Mr. PERRIELLO, Mrs. McMORRIS RODGERS, Mr. CAMP, Ms. SHEA-PORTER, Mr. PETERSON, Mr. COSTA, Mr. HOLDEN, Mr. BRALEY of Iowa, Mr. KIND, Mr. OBEY, Ms. BALDWIN, Mrs. DAHLKEMPER, Mr. LUJAN, Ms. HIRONO, Mr. OBERSTAR, Mr. RADANOVICH, Mr. SCOTT of Georgia, Mr. SIMPSON, Mr. MINNICK, Mr. RYAN of Wisconsin, Mr. THOMPSON of Pennsylvania, Mr. ARCURI, Mrs. KIRKPATRICK of Arizona, Mr. TONKO, Mr. HODES, Mr. LOEBACK, Mr. GERLACH, Mr. LUETKEMEYER, Ms. MOORE of Wisconsin, Ms. MCCOLLUM, Mr. STUPAK, Mr. LARSEN of Washington, Mr. OWENS, Mr. BARTLETT, Mr. CARDOZA, Mr. OLVER, Mr. RODRIGUEZ, Mr. MCCARTHY of California, Mr. BOCIERI, Mr. KAGEN, Mr. HIGGINS, Ms. DELAURO, Mr. SCALISE, Ms. JENKINS, Mr. BLUNT, and Ms. SLAUGHTER):

H. Res. 1368. A resolution supporting the goals of National Dairy Month; to the Committee on Agriculture.

By Ms. LEE of California (for herself, Mrs. CHRISTENSEN, Ms. CLARKE, Mr. ENGEL, Mr. PAYNE, Mr. RANGEL, Mr. BURTON of Indiana, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. FALOMAVAEGA, Mr. GUTIERREZ, Mr. HINOJOSA, Mr. LEWIS of Georgia, Mr. PIERLUISI, Ms. RICHARDSON, Mr. RUSH, Mr. SERRANO, and Ms. WASSERMAN SCHULTZ):

H. Res. 1369. A resolution recognizing the significance of National Caribbean-American Heritage Month; to the Committee on Oversight and Government Reform.

By Mr. SERRANO (for himself and Mr. MEEKS of New York):

H. Res. 1370. A resolution finding that holding the 2011 Major League Baseball All-Star Game in Arizona is at odds with Major League Baseball's efforts to promote diversity and tolerance, and urging Major League Baseball to find a more suitable location for the Game; to the Committee on Energy and Commerce.

### MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

280. The SPEAKER presented a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 569 urging the President and the Congress to take immediate action to adopt meaningful health care system reform; to the Committee on Energy and Commerce.

281. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 551 urging the Congress to pass legislation that would provide financial assistance to those states with budget deficits; to the Committee on Oversight and Government Reform.

282. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 500 urging the federal government to provide FEMA funding to repair the Metro East levees; to the Committee on Transportation and Infrastructure.

### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Ms. SHEA-PORTER.  
H.R. 43: Ms. ROS-LEHTINEN and Mr. HONDA.  
H.R. 235: Mr. GARAMENDI and Mrs. EMERSON.  
H.R. 413: Mr. WHITFIELD, Ms. RICHARDSON, and Mr. BILBRAY.  
H.R. 442: Mr. CUELLAR.  
H.R. 460: Mr. AL GREEN of Texas.  
H.R. 476: Ms. HIRONO.  
H.R. 678: Mr. INGLIS, Mr. BISHOP of New York, and Mr. RYAN of Ohio.  
H.R. 745: Ms. LEE of California.  
H.R. 832: Mrs. MALONEY.  
H.R. 949: Mr. BLUMENAUER, Mr. MURPHY of Connecticut, and Ms. ROYBAL-ALLARD.  
H.R. 995: Mr. LYNCH.  
H.R. 1017: Mr. TIM MURPHY of Pennsylvania.  
H.R. 1064: Mr. GARAMENDI.  
H.R. 1079: Mr. THOMPSON of Pennsylvania.  
H.R. 1191: Mr. BRADY of Pennsylvania.  
H.R. 1240: Mr. HIMES.  
H.R. 1407: Mr. GARAMENDI.  
H.R. 1547: Mr. COFFMAN of Colorado and Mr. SCOTT of Virginia.

H.R. 1549: Mr. GRAYSON.  
H.R. 1618: Mr. BISHOP of New York.  
H.R. 1670: Mr. MATHESON.  
H.R. 1718: Mr. COBLE and Mr. ALEXANDER.  
H.R. 1770: Mr. WELCH.  
H.R. 2030: Mr. STARK.  
H.R. 2054: Mr. CAPUANO, Mr. TONKO, Mr. WALZ, Mr. BACA, Mr. MURPHY of Connecticut, Ms. BERKLEY, Mr. CROWLEY, Mr. CHANDLER, Mr. PIERLUISI, Mr. MATHESON, Mr. ALTMIRE, Mr. JOHNSON of Georgia, Ms. GIFFORDS, Mr. SABLAN, Ms. HARMAN, and Mrs. NAPOLITANO.  
H.R. 2064: Mr. CASTLE.  
H.R. 2067: Ms. LINDA T. SÁNCHEZ of California, Mr. ELLSWORTH, and Ms. VELÁZQUEZ.  
H.R. 2110: Mr. HODES.  
H.R. 2136: Mr. LOEBSSACK and Mrs. CAPITO.  
H.R. 2149: Mr. MICHAUD.  
H.R. 2212: Ms. BEAN.  
H.R. 2240: Mr. GRIJALVA.  
H.R. 2254: Mrs. SCHMIDT.  
H.R. 2279: Ms. CHU and Mr. LYNCH.  
H.R. 2363: Mr. SERRANO.  
H.R. 2378: Mr. ROSS and Mr. RAHALL.  
H.R. 2381: Ms. JACKSON LEE of Texas, Ms. RICHARDSON, Mr. FILNER, Mr. LYNCH, and Ms. NORTON.  
H.R. 2408: Mr. COURTNEY and Mr. CARNEY.  
H.R. 2414: Mr. KENNEDY.  
H.R. 2478: Mr. GONZALEZ.  
H.R. 2483: Mr. SIREs, Mr. GARAMENDI, Mrs. CHRISTENSEN, and Ms. BERKLEY.  
H.R. 2521: Ms. SCHWARTZ, Ms. RICHARDSON, Mr. HARE, and Mr. PASCRELL.  
H.R. 2546: Mr. SPACE, Ms. FUDGE, and Mr. RYAN of Ohio.  
H.R. 2574: Ms. GINNY BROWN-WAITE of Florida.  
H.R. 2578: Mr. COHEN.  
H.R. 2624: Mr. HIMES.  
H.R. 2807: Mr. JACKSON of Illinois and Mr. PASTOR of Arizona.  
H.R. 2866: Mr. WALDEN.  
H.R. 2906: Mr. WHITFIELD and Mr. ANDREWS.  
H.R. 3164: Mr. HOLT.  
H.R. 3202: Mr. ROTHMAN of New Jersey.  
H.R. 3212: Mr. SARBANES.  
H.R. 3286: Mr. JACKSON of Illinois and Mr. HARE.  
H.R. 3381: Ms. SLAUGHTER.  
H.R. 3408: Mr. CHANDLER, Mr. GUTIERREZ, Ms. KAPTUR, Mr. RUSH, Mr. CARSON of Indiana, Mr. LUJÁN, Mr. SPACE, Ms. DELAURO, Mr. RYAN of Ohio, Ms. MATSUI, Ms. WATERS, and Ms. LEE of California.  
H.R. 3412: Mr. GOHMERT and Mr. GARRETT of New Jersey.  
H.R. 3519: Mr. KINGSTON.  
H.R. 3615: Mr. CALVERT.  
H.R. 3734: Ms. DEGETTE.  
H.R. 3749: Mr. PETRI, Mr. MARCHANT, and Mr. CALVERT.  
H.R. 3764: Ms. DEGETTE.  
H.R. 3790: Ms. MOORE of Wisconsin, Mr. FRANKS of Arizona, Mr. LYNCH, Mr. SMITH of Texas, and Mr. MINNICK.  
H.R. 3924: Mr. MCCOTTER, Mr. SMITH of Texas, and Mr. BACHUS.  
H.R. 3939: Ms. LEE of California.  
H.R. 3974: Ms. WATSON and Mr. PATRICK J. MURPHY of Pennsylvania.  
H.R. 4021: Mr. CLEAVER.  
H.R. 4114: Ms. ROYBAL-ALLARD.  
H.R. 4181: Mr. SCOTT of Virginia, Mr. DAVIS of Illinois, Mr. GRIJALVA, Mr. BACA, Ms. LEE of California, Mr. LUJÁN, Mr. FATTAH, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. REYES, Mr. MEEKS of New York, Mr. MARSHALL, and Mr. HONDA.  
H.R. 4183: Mrs. MALONEY.  
H.R. 4233: Mr. THOMPSON of Pennsylvania.  
H.R. 4237: Mr. HINCHEY.  
H.R. 4269: Ms. ROYBAL-ALLARD and Mrs. NAPOLITANO.  
H.R. 4316: Mr. MOORE of Kansas and Mr. SMITH of Washington.  
H.R. 4324: Mr. VAN HOLLEN and Mr. LATHAM.  
H.R. 4350: Mr. SNYDER, Mr. SPRATT, Mr. BRADY of Pennsylvania, Ms. KILPATRICK of Michigan, and Mr. CLEAVER.  
H.R. 4356: Mr. ROTHMAN of New Jersey.  
H.R. 4378: Ms. DEGETTE.  
H.R. 4509: Mr. BROWN of South Carolina.  
H.R. 4534: Mr. CLAY.  
H.R. 4549: Ms. RICHARDSON.  
H.R. 4553: Mr. RAHALL.  
H.R. 4598: Mr. ELLSWORTH.  
H.R. 4614: Mr. HOLDEN, Mr. WEINER, and Mr. CONNOLLY of Virginia.  
H.R. 4662: Mr. ROTHMAN of New Jersey.  
H.R. 4671: Mr. CLEAVER and Ms. DEGETTE.  
H.R. 4677: Ms. HIRONO.  
H.R. 4678: Mr. SPACE.  
H.R. 4684: Mr. RAHALL, Ms. CORRINE BROWN of Florida, Mr. CONAWAY, Mr. SPRATT, and Mr. WITTMAN.  
H.R. 4689: Ms. SUTTON, Mr. JACKSON of Illinois, Mr. LUETKEMEYER, Mr. ELLSWORTH, and Ms. ESHOO.  
H.R. 4692: Ms. NORTON.  
H.R. 4722: Mr. HARE and Mr. TONKO.  
H.R. 4745: Mr. WOLF, Mr. FOSTER, and Mr. THOMPSON of Mississippi.  
H.R. 4787: Mr. MICHAUD.  
H.R. 4789: Mr. DOGGETT and Mr. ROTHMAN of New Jersey.  
H.R. 4790: Ms. EDWARDS of Maryland and Mr. JACKSON of Illinois.  
H.R. 4806: Ms. ZOE LOFGREN of California.  
H.R. 4809: Mr. GARAMENDI.  
H.R. 4812: Mr. MILLER of North Carolina.  
H.R. 4850: Mr. ETHERIDGE, Ms. NORTON, and Mr. HASTINGS of Florida.  
H.R. 4860: Mr. POLIS and Mr. INSLEE.  
H.R. 4870: Mr. HIMES and Mr. ACKERMAN.  
H.R. 4919: Mrs. LUMMIS.  
H.R. 4925: Mr. YARMUTH and Mr. TOWNS.  
H.R. 4926: Mr. GARAMENDI.  
H.R. 4943: Mr. HERGER.  
H.R. 4947: Ms. NORTON, Mr. CALVERT, and Mr. LATTA.  
H.R. 4956: Mr. DELAHUNT, Mr. KIRK, and Mr. BUCHANAN.  
H.R. 4959: Mr. GRAYSON and Ms. JACKSON LEE of Texas.  
H.R. 4976: Mr. PASCRELL.  
H.R. 4995: Mr. YOUNG of Alaska.  
H.R. 5001: Mr. CONYERS and Ms. RICHARDSON.  
H.R. 5012: Ms. CHU.  
H.R. 5015: Ms. ESHOO and Mr. TIERNEY.  
H.R. 5034: Mr. BRADY of Pennsylvania, Mr. CONNOLLY of Virginia, Mr. TEAGUE, Ms. RICHARDSON, Mr. ELLSWORTH, Mr. TAYLOR, Mr. SMITH of Texas, Ms. BERKLEY, and Mr. REHBURG.  
H.R. 5040: Mr. LYNCH and Mr. BUTTERFIELD.  
H.R. 5041: Mr. SCOTT of Virginia, Mr. HOLDEN, Ms. BALDWIN, and Ms. CHU.  
H.R. 5049: Mr. DONNELLY of Indiana.  
H.R. 5058: Mr. WELCH.  
H.R. 5081: Ms. BERKLEY.  
H.R. 5086: Mr. JONES.  
H.R. 5089: Ms. PINGREE of Maine.  
H.R. 5092: Mr. LOEBSSACK, Mr. MCCARTHY of California, Mr. HIMES, Mr. ADERHOLT, Ms. WASSERMAN SCHULTZ, Ms. NORTON, Ms. EDWARDS of Maryland, Mr. NEAL of Massachusetts, Mr. VAN HOLLEN, Mr. HILL, Mr. MITCHELL, Mr. ARCURI, and Mr. BACA.  
H.R. 5107: Mr. CUMMINGS and Ms. SUTTON.  
H.R. 5114: Mr. STARK and Mr. SIREs.  
H.R. 5137: Mr. DELAHUNT and Mr. FARR.  
H.R. 5141: Mr. THORNBERRY, Mr. WITTMAN, and Mr. LUETKEMEYER.  
H.R. 5142: Ms. GIFFORDS, Mr. ETHERIDGE, and Ms. DELAURO.

H.R. 5143: Mr. LEWIS of Georgia.  
 H.R. 5156: Ms. DEGETTE and Ms. CHU.  
 H.R. 5174: Mr. ARCURI, Mr. LARSON of Connecticut, and Mr. RYAN of Ohio.  
 H.R. 5175: Mr. MEEK of Florida and Mr. ACKERMAN.  
 H.R. 5177: Mr. GOODLATTE.  
 H.R. 5200: Mr. HOLT.  
 H.R. 5202: Mr. SABLAN.  
 H.R. 5206: Mr. COURTNEY, Mr. CONNOLLY of Virginia, Mr. CUMMINGS, and Mr. HOLT.  
 H.R. 5207: Mr. HOLDEN.  
 H.R. 5211: Ms. NORTON, Mr. STARK, and Ms. CLARKE.  
 H.R. 5213: Mr. HONDA, Ms. EDWARDS of Maryland, Ms. LINDA T. SÁNCHEZ of California, Mr. McDERMOTT, and Mr. GRIJALVA.  
 H.R. 5214: Mr. TONKO, Mr. McDERMOTT, and Mr. WU.  
 H.R. 5216: Mrs. BACHMANN.  
 H.R. 5222: Mr. GRAYSON.  
 H.R. 5234: Mr. ROSS.  
 H.R. 5235: Mr. ROGERS of Alabama and Mr. LEE of New York.  
 H.R. 5248: Mr. BLUMENAUER.  
 H.R. 5257: Mr. SMITH of Texas and Mr. LAMBORN.  
 H.R. 5268: Mr. HASTINGS of Florida, Ms. VELÁZQUEZ, Mr. WELCH, Mr. GEORGE MILLER of California, Mr. HODES, and Ms. HIRONO.  
 H.R. 5298: Mr. COURTNEY, Mr. MURPHY of Connecticut, Mr. SHIMKUS, Mr. REICHERT, Mr. WILSON of Ohio, Mr. CARSON of Indiana, Mr. GRAVES, and Mr. DUNCAN.  
 H.R. 5299: Mrs. BLACKBURN, Mr. BURTON of Indiana, Mr. CARTER, Mr. CHAFFETZ, Mr. CULBERSON, Mr. DUNCAN, Mrs. EMERSON, Mr. FORTENBERRY, Mr. GARRETT of New Jersey, Mr. GRAVES, Mr. GRIFFITH, Ms. JENKINS, Mr. JONES, Mr. KING of Iowa, Mr. McCLINTOCK, Mr. TIM MURPHY of Pennsylvania, Mr. ROHRABACHER, Mr. SIMPSON, Mr. TIAHRT, Mr. WILSON of South Carolina, Mr. WITTMAN, and Mr. HOEKSTRA.  
 H.R. 5300: Mr. FILNER, Mr. JOHNSON of Georgia, and Mr. MCCOTTER.  
 H.R. 5301: Ms. PINGREE of Maine and Mr. FRANK of Massachusetts.  
 H.R. 5302: Mr. JOHNSON of Georgia, Mr. DRIEHAUS, Mr. MEEKS of New York, Mr. HOLT, and Mr. HIMES.

H.R. 5308: Ms. JACKSON LEE of Texas.  
 H.R. 5318: Mr. KINGSTON and Mr. SENSENBRENNER.  
 H. J. Res. 61: Mr. VAN HOLLEN and Mr. AL GREEN of Texas.  
 H. Con. Res. 16: Mr. SCHOCK.  
 H. Con. Res. 226: Ms. KAPTUR.  
 H. Con. Res. 266: Mr. MARIO DIAZ-BALART of Florida and Mr. PAYNE.  
 H. Con. Res. 271: Mr. CHAFFETZ, Mr. SHIMKUS, Ms. JENKINS, Mr. BONNER, Mr. PENCE, Ms. FOX, and Mr. ADERHOLT.  
 H. Con. Res. 273: Mr. BARTON of Texas, Mr. ROYCE, and Mr. CALVERT.  
 H. Con. Res. 275: Mr. COURTNEY and Mr. MEEK of Florida.  
 H. Res. 173: Mr. RODRIGUEZ, Ms. ESHOO, Mr. NADLER of New York, Mr. RUPPERSBERGER, Mr. DOYLE, Mr. ELLISON, Mr. HALL of Texas, Mr. INSLEE, Mr. ORTIZ, Mr. SPRATT, Mr. GRAYSON, Mr. KENNEDY, Mr. CAPUANO, Ms. JACKSON LEE of Texas, Ms. LEE of California, and Ms. CLARKE.  
 H. Res. 407: Mr. CAO, Mr. LEE of New York, Mr. SCOTT of Georgia, Ms. GINNY BROWN-WAITE of Florida, and Mr. BOREN.  
 H. Res. 633: Mr. GARAMENDI.  
 H. Res. 649: Mr. CUMMINGS.  
 H. Res. 767: Mr. HALL of New York.  
 H. Res. 992: Mr. MARIO DIAZ-BALART of Florida.  
 H. Res. 996: Mr. REYES.  
 H. Res. 1052: Mr. JONES.  
 H. Res. 1060: Mr. HENSARLING.  
 H. Res. 1110: Mr. MCKEON and Mr. COFFMAN of Colorado.  
 H. Res. 1162: Mr. FRANK of Massachusetts and Mr. COURTNEY.  
 H. Res. 1196: Mr. ADERHOLT.  
 H. Res. 1229: Mr. COURTNEY.  
 H. Res. 1283: Mr. HIMES.  
 H. Res. 1297: Mr. DAVIS of Illinois, Mr. DONNELLY of Indiana, and Mr. NEAL of Massachusetts.  
 H. Res. 1302: Mr. WILSON of South Carolina, Mr. GARRETT of New Jersey, Mr. BURGESS, Mr. MCINTYRE, Mr. BRALEY of Iowa, Mr. DOYLE, Mr. ROGERS of Michigan, Mr. SULLIVAN, Mr. CAPUANO, Ms. BERKLEY, Mr. PITTS, Mr. ROTHMAN of New Jersey, Mr.

LA TOURETTE, Mr. ROSS, Mr. ALEXANDER, and Mr. TERRY.

H. Res. 1319: Ms. HIRONO.  
 H. Res. 1321: Ms. CHU.  
 H. Res. 1322: Ms. FUDGE and Mr. SABLAN.  
 H. Res. 1325: Ms. ROS-LEHTINEN and Mr. GARY G. MILLER of California.  
 H. Res. 1326: Mr. CALVERT, Mr. BURGESS, and Mr. FRANKS of Arizona.  
 H. Res. 1339: Mr. SABLAN.  
 H. Res. 1343: Mr. BARROW, Mr. BROUN of Georgia, and Ms. NORTON.  
 H. Res. 1351: Mr. BACA, Ms. KILROY, Ms. HARMAN, Mr. FILNER, Ms. RICHARDSON, Mr. GEORGE MILLER of California, Mr. CLAY, and Mr. SHERMAN.  
 H. Res. 1353: Mr. SABLAN.  
 H. Res. 1361: Mrs. MYRICK, Mr. JONES, Mr. CONNOLLY of Virginia, Mr. MILLER of North Carolina, Mr. KISSELL, Mr. RUSH, Ms. CASTOR of Florida, Ms. CLARKE, Mr. TOWNS, Mr. DAVIS of Alabama, Mr. MEEKS of New York, Ms. FOX, Mr. MCINTYRE, Mr. JOHNSON of Georgia, Mr. SCOTT of Virginia, Mr. MEEK of Florida, Ms. LEE of California, Mr. CLAY, and Mr. FATTAH.

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#### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H. R. 5015: Mr. CARSON of Indiana.

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#### PETITIONS, ETC.

Under clause 3 of rule XII,

131. The SPEAKER presented a petition of City of Berkeley, California, relative to Resolution No. 64.671-N.S. urging the President to commit to prioritizing aid and relief over military intervention in Haiti; which was referred to the Committee on Foreign Affairs.

## EXTENSIONS OF REMARKS

## CONGRATULATING TRACE ADKINS

## HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mrs. BLACKBURN. Madam Speaker, it is with great pride that I congratulate Trace Adkins on receiving the Daughters of the American Revolution prestigious Medal of Honor award. In accepting, Trace will add his name next to previous Medal of Honor recipients; including former New York City Mayor Rudolph W. Giuliani, Charlton Heston, former U.S. Senator Robert Dole, and fellow recording artist Miss Patti Page.

One of the most unique aspects of my service in the United States Congress is the opportunity to meet talented and dedicated professionals from across the great State of Tennessee. I have long believed the true greatness of our State and country does not lie in its government or institutions, but solely in the creativity, integrity, and passion of its people. We in Tennessee are fortunate to have one of these individuals who exemplify the volunteer spirit and strive to make our community and our country better every day.

Over the years, I have come to know Trace not just as an exceptional artist and performer, but to consider him both a friend and a valued resource. In talking with Trace, his undying love for our country and his genuine support of the brave men and women who currently serve or previously served in the military always stand out.

Earlier this year, Trace went to the Pentagon and received special permission for his heartfelt request to perform his song "Til the Last Shot's Fired" with the West Point Glee Club. At the 44th Annual Academy of Country Music Awards, this performance was not just the highlight of the night, but it allowed Trace to shine a spotlight on the Wounded Warrior Project which provides programs and services for severely injured service members as they transition back to civilian life.

President Ronald Reagan said that if we love our country we should also love our countrymen. One of the clearest examples of living daily these words is Trace Adkins. Whether it's through his successful musical career, his faith community, or other ventures, Trace carries in his heart the spirit of what makes America great. I join with his wife Rhonda and their five daughters in offering praise and thanks to Trace on this wonderful occasion. Please join me in congratulating Trace Adkins and his family on this well-deserved award.

## HONORING DAVID ASHLEIGH

## HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. RADANOVICH. Madam Speaker, I rise today to congratulate David Ashleigh upon the dedication of the Modesto Junior College Swimming Center to be named in his honor. The dedication and naming ceremony will be held on Saturday, May 22, 2010, at the Dave Ashleigh Aquatic Center.

Mr. David Ashleigh attended Whittier High School in southern California, where he participated in water polo from 1957 through 1961. During his high school water polo career the team won the California Interscholastic Federation, CIF, championship in 1957, 1958 and 1959. In 1960, he was selected for the Helm's Hall of Fame second team (equivalent to the High School All-American teams today). During his senior year, Whittier High School took second place in CIF. He served as the team captain, was the leading scorer, named Most Valuable Player and was selected for the Helm's Hall of Fame first team. Upon graduating from high school, Mr. Ashleigh attended Cerritos Junior College.

While attending Cerritos Junior College, Mr. Ashleigh participated on both the water polo and swim teams. He was named team captain of the water polo team and the swim team both years he participated. He was the leading scorer and was awarded Most Valuable Player of the water polo team both years. Mr. Ashleigh was named the Junior College All-American Player of the Year in 1962 and 1963. On the swim team he participated in the 100 and 200 breaststroke as well as the 200 and 400 individual medleys. He set school records in all four events and set junior college national records in the 200 breaststroke and the 400 individual medley. In 1963 Mr. Ashleigh was voted the Cerritos College Athlete of the Year.

In 1963 Mr. Ashleigh played water polo and participated on the swim team while attending the University of California, Los Angeles, UCLA. During his first season he was the leading scorer, named Most Valuable Player and was selected as a first team All-American. Mr. Ashleigh red-shifted the 1964 season so that he was able to be a member of the USA Olympic water polo team in Tokyo, Japan. For the U.S. team he played the defensive hole guard and played every minute of every game from the preliminary through the final games. The team placed ninth.

Returning to the UCLA team in 1965, Mr. Ashleigh was named team captain and led the team to be the first undefeated sports team in UCLA history. He was named Most Valuable Player and was selected as a first team All-American. Mr. Ashleigh also swam in 1964 and 1965 for UCLA, where he became the

first All-American at UCLA in swimming and was the first swimmer in the National Collegiate Athletic Association, NCAA, history to flip-turn all turns in the 1650 meter freestyle. Mr. Ashleigh set UCLA school records in the 1650 and 500 freestyle, the 200 breaststroke and the 400 individual medley.

Mr. Ashleigh was a member of the 1964 through 1968 U.S. National Water Polo team and was the 1968 U.S. Olympic water polo team co-captain. In 1967 he was the team captain of the Pan-American Team, which was the first U.S. team to win gold in International Competition outside of the United States. For his amazing accomplishments, Mr. Ashleigh was awarded the James Lee Award for the Most Outstanding Player at U.S. Nationals in 1965 and from 1963 through 1968 was named All-American in U.S. water polo, AAU.

In 1968 Mr. Ashleigh began coaching water polo and swimming at Modesto Swim and Racquet Club in Modesto, California. During the 3 years that he coached there, he had an overall record of 235 wins and only 43 losses. He coached the boys 14 and under 1971 Junior Olympics National Champion water polo team. Later he coached the boys 12 and under and boys 14 and under swim teams that set national records in the 200 freestyle relay and the 200 medley relay.

Mr. Ashleigh began coaching swimming and water polo at Modesto Junior College in 1971. In his 27-year career at the college he compiled an overall record of 827 wins and 272 losses. He had 51 winning seasons out of 54 total seasons and has 27 Conference Championships, between the two sports. Under his direction, the water polo team has an overall record of 487-178. Eighteen of his water polo teams made it to the California State Championship Tournament, 81 athletes were selected as All-Americans, 13 conference championships and 5 NorCal championships. From 1984 to 1990 his swim team was 73-0 in dual meets; from 1977 to 1992 the team was 158-11-1 in dual meets. He coached 78 All-American swimmers. The swim team won 14 conference championships and 4 state championships.

In 1991, Mr. Ashleigh began participating in Masters water polo. He played on various teams and won three world championships and placed second three times. While playing Masters, he had the opportunity to play water polo in Australia, Germany, New Zealand, Great Britain, Croatia, Hungary, Italy and India. He was inducted into the California Community College Athletic Hall of Fame in two divisions (coach and player) and was named the 2008 S.O.S. Athlete of the Year. In 1978, Mr. Ashleigh was elected into the U.S. Water Polo Hall of Fame and will be inducted into the UCLA Athletic Hall of Fame in 2010.

Madam Speaker, I rise today to commend and congratulate David Ashleigh upon his many achievements being honored at the new Dave Ashleigh Aquatic Center. I invite my colleagues to join me in wishing Mr. Ashleigh

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

congratulations on his many accomplishments and many years of continued success.

**SNOHOMISH COUNTY WORLD WAR II VETERAN'S PROJECT**

**HON. RICK LARSEN**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. LARSEN of Washington. Madam Speaker, today I rise to recognize the Snohomish County World War II Veteran's Project participants and organizers.

I would like to begin by thanking all veterans for their service to our country. From the beaches of Normandy to the mountains of Afghanistan, our men and women in uniform have overcome and continue to overcome tremendous adversity to fulfill their missions.

Our nation's veterans have helped keep us safe, and helped keep us free.

It is important that our community remembers and honors the sacrifices made by the men and women who have served in our military, as well as their families and supporters.

Although future generations may never meet a veteran of World War II, the book assembled by Janell Wood and Christina Moore, "War and Sacrifice," will help all of us understand how our neighbors in and around Snohomish County contributed to this nation's largest war effort at home and abroad.

I thank Janell and Christina for their work recording the individual histories of this diverse group that came together to defeat the Axis Powers. I also recognize the following individuals whose experiences during World War II comprise this book, and honor them for their service:

Lois Auchterlonie, Elwood Barker, William Brayton, Donald Brown, Lawrence "Maggie" Bryant, Joseph Burkard, Dan Burris, H.B. "Chris" Christie, Paul Cormier, Herbert Courtney, William Dean, Ted Dufour, Roy Eastman, Fred Ensslin, Earl Horn, William Husted, Frank Hutchins, Leo Hymas, Stanley Innes, Edwin Kirchgessner, Grace Kortbein, Arthur Langdon, Marcelle "Honey" Langdon, Arthur Larson, Eleanor Leight, Leonard Martin, Harold McMahon, Truman Merritt, William Miller, William Moore, Robert Otto, David Pesznecker, Wallace Pesznecker, Art Poier, Paul Schaus, Ervin Schmidt, Allen Stewart, Jack Terhar, George Thorleifson, William Tygret, Louise Vandervanter, Maurice Vincent, Mick Wagelie, Jack Walter, Maynard Wege, Theodore West, Lonnie Williams, and Robert Willingham.

Our nation's triumph in World War II could not have occurred without the hard work and sacrifice of these men and women and millions of others who gave up ordinary jobs as teachers, factory workers, and businessmen to fight enemies of freedom around the world.

Upon returning to the United States and civilian life, these brave men and women helped America achieve an era of unprecedented economic prosperity.

To the veterans of World War II, and those that supported them, thank you for service to our country, and your involvement in our community.

**EXPRESSING APPRECIATION FOR JOHN TAYLOR'S SERVICE**

**HON. JOHN S. TANNER**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. TANNER. Madam Speaker, I rise today to recognize the accomplishments of John Taylor and honor his more than 40 years of service with the National Wildlife Refuge System.

Refuge Manager John Taylor began his career with the National Wildlife Refuge System in 1969 as a GS-3 Student Trainee. For three years he worked with the Mattamuskeet, Piedmont, and Back Bay National Wildlife Refuges. In 1971 he was promoted to his first assistant manager's position.

His career has taken him across the continent, from North Carolina to Alaska. He has worked with 15 refuges across 9 states. He worked with several refuges just as they were being set up, including the Becharof and Alaska National Wildlife Refuges.

While working with the Alligator River and Currituck National Wildlife Refuges he was instrumental in the Red Wolf Reintroduction Program. Red wolves were nearly extinct ten years ago. Now, thanks to his efforts, they can once again be seen in their natural environment.

John Taylor also supported the establishment of the Clarks River National Wildlife Refuge, the first Refuge in the state of Kentucky.

John Taylor has worked selflessly for more than 40 years to protect and preserve the beauty of our country's natural environment for future generations. For the last 19 years, he has served as the Refuge Manager of the Tennessee Natural Resource Refuge. He has been noted for his leadership abilities and his eagerness to get the public further engaged in conservation efforts.

Tennessee's natural beauty and amazing diversity of plant and animal life remain one of its most treasured endowments for future generations.

Madam Speaker, please join me today in thanking John Taylor for his years of service both to the public and to the environment. He will be missed, and we wish him well on his retirement.

**RECOGNIZING NAVAJO ELEMENTARY SCHOOL—LEGO ROBOTICS TEAM ROBOBUFFS**

**HON. HARRY E. MITCHELL**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. MITCHELL. Madam Speaker, I rise today to commemorate the Navajo Elementary School's Lego Robotics Team, in Scottsdale, Arizona. Building upon their STEM focused education, nine extraordinary students made it to the semi-finals at the FIRST LEGO League State Championship which I attended at ASU's Ira A. Fulton School of Engineering this past winter.

As a teacher for almost 28 years, I understand the importance of hands-on learning ex-

periences and real-life scenarios that help students connect learning in the classroom to the real world. I believe that Navajo's STEM (Science, Technology, Engineering, and Mathematics) curriculum is key to creating a learning environment that fosters innovation and creativity.

The kind of teamwork and creative thinking that was shown in the RoboBuff's design is going to help return our country to economic prosperity. Any one of these students might be the next Bill Gates.

Navajo Elementary is giving its students a head start, preparing them for college and beyond. In this competition, they are not only taking math and science curriculum to the next level through problem-solving and experimentation, but are learning life skills.

Madam Speaker, please join me in recognizing the extraordinary achievement of the Navajo Elementary School Lego Robotics Team: Tatianna Walker, Hailey Freeman, Nick Lowry, Tino Velez, Michael Majercin, Chad Bonfanti, Wade McEachern, Abby White and TJ Smith, along with the exceptional leadership of their coaches Cathy White and Chip Bonfanti, and their mentors Dr. Christine Loots, Dr. Bill Johnson, Jim Deng, Alicia Payne and David Schaeffer.

**HONORING QUINN CHAPEL AME CHURCH**

**HON. DALE E. KILDEE**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. KILDEE. Madam Speaker, on May 28 Quinn Chapel African Methodist Episcopal Church will celebrate 135 years of Christian service in my hometown of Flint, Michigan.

Mrs. Nancy West opened her home for a prayer service in 1875 and Quinn Chapel was formed. Named after Bishop William Paul Quinn, the congregation dedicated their first sanctuary 2 years later. Over the years Quinn Chapel has occupied different structures, dedicating the current edifice in 1958.

For the past 135 years, Quinn Chapel has provided leadership, inspiration, guidance, and strength to individuals and families in the Flint area. The Ministries of Quinn have encouraged the priorities of higher education, healthcare, business and professionalism in the congregation. The Ministries include: The After School Program; The Young People's Department; The Scholarship Committee; The Commission on Christian Social Action, The Commission on Health; The Commission on Public Relations; The Commission on Christian Education; The Commission on Mission and Welfare; The Commission on Membership and The Debutante Cotillion.

The keynote speaker at the 135th Anniversary celebration is Roland Martin, award-winning journalist and nationally syndicated columnist. Named by Ebony Magazine in 2008 and 2009 as one of the 150 Most Influential African Americans in the United States, Mr. Martin is a commentator for TV One Cable Network, host of "Washington Watch with Roland Martin," a CNN Analyst and Senior Analyst with the Tom Joyner Morning Show. He

has authored several books, received numerous awards both in the United States and the United Kingdom and was inducted into the Texas A&M University Journalism Hall of Honor in 2008.

Madam Speaker, under the leadership of Reverend Stanley U. Sims, Quinn Chapel African Methodist Episcopal Church continues the long tradition of Spirit-filled enthusiasm for worship, love, service, and "assisting them to become all that God created them to be." I pray that the ministers, staff, and congregation of Quinn Chapel will continue their work and spread the Gospel of Jesus Christ for many, many years to come.

#### RECOGNIZING PETTIS NORMAN

#### HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today to recognize a truly remarkable man and exceptional citizen of Dallas, Texas, Mr. Pettis Norman. I am very privileged to consider Mr. Norman a dear friend, and it is an honor to recognize him before this Congress and the entire country.

Pettis Norman has always been a man of strong character and deep emotional conviction. He was born to Fessor and Eloise Norman in Lincolntown, Georgia and spent his formative years in North Carolina. As the youngest child in a large family, he learned early on the value of his own personal integrity, and to this day, it remains one of his most admirable qualities.

Mr. Norman received a degree from John-C. Smith University in Charlotte, North Carolina, and it was there that he became active in the civil rights movement. He participated in lunch counter sit-ins that ultimately spread to cities and states across the country. These sit-ins marked a turning point for the movement and served as a spark for the African-American community to organize, be heard, and protest peacefully. Mr. Norman took part in these with a deep sense of integrity and the simple belief that all people should be judged on the depth of their character and not the color of their skin.

After Mr. Norman graduated from college, he moved to Dallas, Texas to play for the Cowboys in 1962. To this day, he is regarded as one of the greatest tight ends the team has ever had, and his resolve on the field has yet to be matched. Truly, the city fell in love with Mr. Norman just as Mr. Norman fell in love with Dallas, and I believe that the city has gained so much because of him. As a football player, Coach Landry held him in high regard, and still says that trading Mr. Norman to the San Diego Chargers was one of the most difficult decisions he ever made.

Mr. Norman returned to Dallas after two seasons in San Diego to settle into a permanent home. He has been active in civic life ever since, and he is still highly regarded in the community. The people of Dallas consider him an all time favorite, and I believe that it is his moral character and steadfast nature that so endear him to the people he meets.

Madam Speaker, Pettis Norman was an amazing football player and is an outstanding citizen today. I ask my fellow colleagues to join me in honoring this great man who has done remarkable things throughout his life and still considers his personal integrity his most variable trait.

#### MR. SHANE KENNEDY

#### HON. TOM COLE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. COLE. Madam Speaker, I rise today in recognition of Mr. Shane Kennedy for his quick thinking and level-headedness during the severe tornado outbreak in Oklahoma on May 10th.

Kennedy, a co-manager at the Country Boy IGA in Norman that was leveled during last week's tornado outbreak, left his place of employment, observed the oncoming tornado, and returned to the store to direct 40 customers and employees to seek shelter in the store's freezer. While the store sustained irreparable damages, none of the 40 patrons suffered significant injuries. As two tornadoes ripped down Highway 9 and through the Country Boy IGA, Kennedy led the group in prayer until the storm system passed.

Madam Speaker, had it not been for Kennedy's foresight and resolve, this severe storm could have ended in great tragedy. But his fortitude and strength protected these 40 lives from grave danger.

Time and again, Oklahomans have risen to the challenge in the face of adversity. I am once more impressed by the strength and resiliency of Oklahomans through Kennedy's swift and skillful response to protect his fellow Oklahomans.

Madam Speaker, Mr. Kennedy deserves our thanks and appreciation. As an American and an Oklahoman, I am proud to be able to represent Mr. Kennedy, and wish him well.

#### RECOGNIZING PROGRESSIVE FINANCIAL SERVICES, INC. ON ITS 15TH ANNIVERSARY

#### HON. HARRY E. MITCHELL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. MITCHELL. Madam Speaker, I rise today to recognize Progressive Financial Services, Inc. as they celebrate their fifteenth year of doing business in Tempe, Arizona.

As our economy recovers, Progressive Financial Services, Inc. has successfully weathered the downturn and managed to create and maintain jobs in our community, building a workforce of more than 200 employees. This, in addition to the company's future plans to add more jobs, embodies the current mission in the United States Congress to stimulate the economy and provide work for its citizens. Therefore, my office would like to thank and congratulate Progressive Financial Services, Inc. and wish the company continued success in the future.

As a former mayor, I am pleased to have such a vibrant and prosperous business in my hometown of Tempe and within my district.

I urge you, Madam Speaker, to join me in rising to applaud the employees, management team of Progressive Financial Services, Inc. for their achievements and growth over the last fifteen years.

#### HONORING CAPTAIN JOSEPH GUYTON

#### HON. ROBERT J. WITTMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. WITTMAN. Madam Speaker, I rise today to honor and pay special tribute to a dedicated American and true patriot for whose service to this country as a Captain in the United States Army deserves our sincere gratitude. Capt. Joseph "Joe" Guyton of Stafford, Virginia served with the U.S. Army's 5th Stryker division in Kandahar, Afghanistan. On August 11th, 2009, while Capt. Guyton was conducting a mounted area reconnaissance his unit was attacked by an improvised explosive device. Against all odds he somehow survived, however, the attack left him with severe injuries that resulted in the bilateral amputation of both of his legs.

Currently Capt. Guyton is continuing his recovery with the aid of his loving wife Amy at Walter Reed Medical Army Center. He amazes and inspires us all with his will to live and a special can do attitude. As he now fights a very different kind of war, rebuilding his life without the aid of his two front legs, he now runs with his heart. His continued faith and courage in the coming years will serve as a source of inspiration to those around him and a lesson to us all. We should all offer our sincere blessings to him and his fine family that has stood with him through this ordeal. Capt. Guyton and his wife, Amy, intend to move back to where they first met at the University of Virginia to raise a family.

This poem, entitled "Stryking Deep!" was penned in Capt. Guyton's honor by a close friend, Albert Caswell.

#### STRYKING DEEP!

Stryking Hard!  
Stryking Fast! Stryking Deep!  
All in our lives, these things that which last!  
All in our lives to keep!  
Are but, all of those things that which count!  
That, all hearts should so seek!  
All in our hearts of love, like our gifts from above . . . that which so makes our Lord so weep!  
All along our life's path, our Full Measure upon this earth as asked . . . to climb mountains, steep!  
For there are only so many minutes, before out life's path is complete!  
To leave behind, all in our lives . . . those things which last, oh how so very sweet!  
For from This Great Old Dominion . . .  
Have but come, such great patriotic sons of distinction! Such Fine Virginians!  
The likes of Washington and Lee, Marshall and Jefferson . . . all of these ones!  
Who for our Country Tis of Thee, did what must so be done!



As when a Cavalier, went off to war . . .  
 To Strike Out, and So Very Deep . . . for our  
 Nations Freedom, to ensure!  
 Yea, he wasn't no regular Joe! For Strength  
 In Honor, was his code!  
 Marching into the face of death . . . for us  
 . . . the things he bore!  
 Remember, you sleep well this night!  
 All because of such men of light, who our  
 Freedom's so ensure!  
 Who So Face Death! And To Us So Bless! Can  
 you, but not ask for more?  
 As when that day came, as all in the midst  
 of hell . . .  
 Near death, as he so lay . . . close to death  
 that day! As when his fine heart would  
 so swell!  
 As when he made that choice, to Stryk Back  
 and Stryk Deep . . . and listen to his  
 inner voice!  
 All in his loss, all in his pain! Looking down,  
 as his strong legs so no longer so re-  
 mained . . .  
 As upon, his most courageous face . . . the  
 tears began to rain!  
 As his new war had begun, for this one of  
 Virginia's finest Southern Sons . . .  
 To Teach Us, To Reach Us, To All Hearts  
 . . . To So Beseech Us!  
 Stryking all of our Hearts, so very deep!  
 With his courage and faith, that he  
 would so keep!  
 Because, men like him . . . who with their  
 hearts, towards Heaven run . . .  
 Our lives, will never be the same! And Capt.  
 Joe Guyton, is his name!  
 And if I ever have a Son, I but hope and pray  
 he could be like this one . . .  
 Moments, are all we have! All in our lives,  
 To Stryk!  
 For What Is True! For What Is Deep! If its  
 Heaven we wish to keep!  
 For such noble things in life, to so live and  
 die for . . . is what is right!  
 For only from such hearts of Magnificence,  
 can come light!  
 WILL WE STAND? WILL WE STRYK!  
 STRYK!

I extend to Captain Guyton my gratitude and  
 deep appreciation for his service to the Nation.

#### RECOGNIZING THE GREATER SEATTLE BUSINESS ASSOCIATION

#### HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. McDERMOTT. Madam Speaker, today I  
 rise to offer special recognition to the Greater  
 Seattle Business Association (GSBA) as it  
 celebrates the 20th anniversary of its Scholar-  
 ship Fund for undergraduate students. For two  
 decades, these scholarships have provided  
 promise and support for Lesbian, Gay, Bisex-  
 ual, and Transgendered (LGBT) and Allied  
 students with strong commitment to civil rights.

In 1990, two teachers witnessed the chal-  
 lenges that confronted LGBT students as they  
 pursued a college education, including dis-  
 crimination from professors, harassment by  
 other students, and unsupportive families.  
 These teachers took matters into their own  
 hands and created the GSBA Scholarship  
 Fund, the first scholarship fund for LGBT stu-  
 dents in the United States. That year, the  
 GSBA gave two scholarships of \$1,500 each.  
 Since then, the Fund has grown significantly,

and now grants a total of \$135,000 in scholar-  
 ships each year, with the individual scholar-  
 ships ranging in size from \$3,000 to \$10,000.

One thing that makes the Scholarship Fund  
 so special is the diversity of the students it  
 supports. GSBA scholars come from every  
 corner of Washington State, from cities and  
 from rural communities. They are people of  
 color, male, female, and transgender. But no  
 matter where they come from, these talented  
 students have the drive and the passion to  
 achieve great things in their lives. Indeed,  
 former GSBA scholars have gone on to be-  
 come doctors, social workers, teachers and  
 public servants. And these scholars have con-  
 tinued to fight for social justice and equality for  
 all, regardless of the careers they chose.

This 20th anniversary marks a particularly  
 special milestone for the GSBA Scholarship  
 Fund—the awarding of its one millionth dollar  
 to support the education of LGBT and Allied  
 students. The unflinching dedication of time,  
 money, and talent by GSBA leadership, mem-  
 bers, and volunteers have made this achieve-  
 ment possible. I extend my thanks and best  
 wishes to the GSBA and its outstanding schol-  
 ars on their twenty years of changing lives and  
 creating hope.

#### HONORING PARAMEDIC BRET ANDERSON

#### HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mrs. BLACKBURN. Madam Speaker, it is a  
 privilege to rise today to honor Paramedic Bret  
 Anderson for being selected as the Bartlett  
 Fire Department's 2009 Firefighter of the Year.

Since joining the Bartlett Fire Department in  
 2006, Bret Anderson has been known around  
 the fire station for his positive attitude, his  
 compassion, and his high regard for patients  
 which has brought peace and comfort to many  
 in times of crisis. After learning the ropes as  
 a rookie and a lot of hard work, Paramedic  
 Anderson has established himself as one of  
 the premier first responders in Shelby County.  
 Paramedic Anderson has displayed this knowl-  
 edge and skill through several high impact in-  
 cidents over the past year where his expertise  
 contributed to positive outcomes.

I am pleased to know that experienced first  
 responders like Bret Anderson are hard at  
 work each day keeping the citizens of Bartlett  
 safe. With his broad knowledge of life saving  
 techniques, many people are alive today due  
 to his quick action and high regard for the  
 people he is treating. Paramedic Anderson  
 has my deep gratitude and respect as he con-  
 tinues to selflessly serve our community each  
 day by providing swift medical treatment wher-  
 ever lives are on the line.

Please join me in honoring Bret Anderson  
 and wishing him and his wife Farrah and their  
 two children Zack and Taylor the best on this  
 well-deserved award.

#### HONORING BOB REYES

#### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. RADANOVICH. Madam Speaker, I rise  
 today to congratulate Bob Reyes upon his re-  
 tirement as the Principal of Fresno High  
 School. After almost 40 years in education,  
 Mr. Reyes will retire in June 2010.

Mr. Reyes spent the first 26 years of his ca-  
 reer with the Kerman Unified School District.  
 He served as a classroom teacher for 13  
 years and then moved into the administration  
 office as an assistant principal at Kerman High  
 School. After 8 years he was promoted to  
 principal and spent 5 years leading Kerman  
 High School.

Mr. Reyes was hired as the principal of  
 Fresno High School in 1997. Over the past 13  
 years, Mr. Reyes has provided tremendous  
 leadership to the school. The school's aca-  
 demic performance index scores have grown  
 149 points since 1999, and there has been a  
 significant improvement in the test scores for  
 the California Standardized Test in more re-  
 cent years. In 2002 Mr. Reyes implemented  
 the International Baccalaureate, IB, Program  
 at Fresno High School, a program that pre-  
 pares students to be independent learners  
 with a focus on higher education. The program  
 is accredited and graduates are looked upon  
 highly by colleges and universities around the  
 world. The IB Program has grown from the  
 original "Great 8" in 2002 to a current enroll-  
 ment of over 500 students.

Mr. Reyes recently started the Parent In-  
 stitute for Quality Education to encourage more  
 parental involvement. Over 200 parents have  
 graduated from the program this year, which is  
 the highest number in the San Joaquin Valley.  
 Beyond the school, Mr. Reyes is active within  
 the community, working to improve community  
 relations by closely working with the Historic  
 Fresno High Neighborhood Association.

Through his years of dedicated service, Mr.  
 Reyes has received many awards from nu-  
 merous organizations, including the "Heart of  
 the City" by the Fresno First Baptist Church  
 three times, "Diversity in Education Award" by  
 the Association of California School Adminis-  
 trators, "Community Service Recognition  
 Award" by the Fresno County Board of Super-  
 visors, and was named "Administrator of the  
 Year" by the Association of Mexican American  
 Educators. Mr. Reyes has also served as a  
 board member for the Community Food Bank  
 in Fresno. The Fresno County Board of Super-  
 visors honored Mr. Reyes in January when  
 they named January 26, 2010 as "Principal  
 Bob Reyes Day" in Fresno County. After his  
 years of commitment and service to the stu-  
 dents, staff and surrounding community, an  
 anonymous donor to Fresno High School hon-  
 ored Mr. Reyes by establishing an annual  
 award given to a student at the school in his  
 honor called "The Bob Reyes Leadership  
 Award."

Madam Speaker, I rise today to commend  
 and congratulate Principal Bob Reyes upon  
 his retirement from Fresno High School. I in-  
 vite my colleagues to join me in wishing Mr.  
 Reyes many years of continued success.

## TRIBUTE TO NESIN THERAPY

**HON. PARKER GRIFFITH**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. GRIFFITH. Madam Speaker, I rise today to pay tribute to a great business in my District, Nesin Therapy Services. In 1987, Janet Nesin founded Nesin Therapy Services from her home in Madison, Alabama.

The initial practice focused on providing contract physical therapy services for home health agencies and nursing homes. Janet's primary goals included controlling the quality of physical therapy services and providing flexible work schedules for her employees. She began the practice with one employee, who remains with the company today.

Despite the turbulence that often accompanies the initial years of small business, the company enjoyed relative success and by 1994 the company had over 15 employees and gross sales were growing. Both of Mrs. Nesin's daughters worked with the business from the beginning and as each completed their respective physical therapy degrees, began to treat patients.

In 1999, gross sales continued to rise. However, with the inherent instability of contracting in the health care industry, the company downsized to 7 employees and began transitioning from contract services to an independent outpatient clinic. This decision by the Nesins, spurred on by the loss of a major contract, proved to be the pivotal point for the ultimate success of the company.

Nesin Therapy focused on providing exceptional care, marketed avidly, and capitalized on changes in the local health care market. By 2001, the outpatient division had rapidly expanded and the clinic was moved to Nesin Therapy's current Madison location. In 2002, the business shifted exclusively to outpatient physical therapy services and gross sales once again began to climb.

In 2003, with 13 employees, the decision was made to expand into Huntsville. During this time, increased profitability allowed for the expansion to be funded in cash and, in addition to providing more competitive salaries, bonuses were given to employees. The second clinic was opened June 2004 in Southeast Huntsville. Nesin Therapy Services has grown into a thriving family-owned business with 35 employees and a newly opened third clinic in January of 2011.

Nesin Therapy Services has been the recipient of a number of awards over the years. The past several years have included the 2008 Huntsville/Madison County Chamber of Commerce Small Business of the Year Award; a 2008, 2009 Best Places to Work Award Winner; a 2009, 2010 United States Chamber Blue Ribbon Small Business Winner; and a 2010 United States Small Business Administration Family Owned Small Business State and Regional Winner.

So, Madam Speaker, I am pleased to highlight this great corporate citizen of North Alabama.

## HONORING OFFICER STEVEN SONES

**HON. MARSHA BLACKBURN**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mrs. BLACKBURN. Madam Speaker, it is a privilege to rise today to honor Officer Steven Sones for being selected as the Bartlett Police Department's 2009 Officer of the Year.

The primary mission of the Bartlett, Tennessee Police Department is to protect and serve the citizens of the community. On April 23, 2009, Officer Steven Sones demonstrated his commitment to mission when he was called to the scene of a mentally disturbed suspect wielding two large kitchen knives and threatening harm to herself and others. As the hours of the intense standoff wore on, the suspect made an abrupt move as if she was going to stab herself. At the moment, the years of dedication, devotion, and training of Officer Sones leaped in as he was able to fire a non-lethal beanbag shot that temporarily disabled the suspect and allowed his fellow officers the opportunity to end the threatening situation without harm to all involved.

Officer Sones began his career with Bartlett Police Department in 2001 when he was hired as a jailer for the City. He stayed with the jail until he was selected as a Patrolman in December of 2004 and participates voluntarily in several special units within the Department. His work with the Crime Suppression Unit and the Special Response Team (S.R.T.) has earned him a reputation as one of the best rounded officers in the Department.

Please join me in honoring Steven Sones and wishing him and his wife, Elisha, and their two children Abby and Bryce, the best on this well-deserved award.

## TAHOMA HIGH SCHOOL "WE THE PEOPLE"

**HON. DAVID G. REICHERT**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. REICHERT. Madam Speaker, in January I recognized students and teachers at Tahoma High School for earning first place in the "We the People" competition.

Now, Madam Speaker, I'm happy to congratulate those same students and teachers for earning the national "Unit Five Award" by accruing the most points in the fifth unit of the "We the People" textbook—a unit that expounds on the rights protected by the Bill of Rights.

The students participated in a three-day academic competition that simulates a congressional hearing. Students demonstrate their knowledge and skills as they evaluate, take, and defend positions on historical and contemporary constitutional issues. Annual surveys consistently show that high school students who take part in "We the People" outperform national samples of high school students participating in the National Assessment of Educational Progress political test by at least 22%.

Madam Speaker, the names of these outstanding students from Tahoma High School are: Mariah Anderson, Austin Arnold, Krzysztof Bieniek, McKenna Blenz, Chad Burgess, Casey Campbell, Matthew Cunningham, Wiley Duerson, Robin Hanson, Matthew Herman, John Iatesta, David Mahoney, Savannah Marstall, Melissa Moorehead, Tucker Murrey, Eric Nucci, Shelby Pelon, Chanse Pierson, Talitha Shiroma, Jordyn Sifferman, Karissa Smith, Carolyn Stevens, and Jonelle Thorsheim.

Also, I want to commend the teacher of the class, Mrs. Gretchen Wulffing, who is responsible for preparing these young constitutional experts for the National Finals. Also worthy of special recognition: Mr. Kathy Hand, the state coordinator, and Mr. Brad Ulrich, the district coordinator, who are responsible for implementing the "We the People" program in the 8th District. I know the "We the People" organization and the students of the 8th District will continue on the path to knowledge and wisdom. Thank you.

## HONORING ANDY COULOURIS

**HON. DALE E. KILDEE**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. KILDEE. Madam Speaker, I ask the House of Representatives to join me in congratulating State Representative Andy Coulouris as he leaves the Michigan Legislature to become the public affairs manager for Dow Corning Corporation in Washington, DC. A farewell event will be held in his honor on May 24 in Saginaw, Michigan.

After graduating from Arthur Hill High School, Andy earned a bachelor's degree in political science from the University of Michigan and a law degree from the University of Michigan Law School. Active in public service, Andy served on the Saginaw City Council for 3 years and was an assistant prosecuting attorney for Saginaw County. He was elected to the Michigan House of Representatives for the 95th District. He recently resigned from his second term on April 30.

Andy has worked with the Saginaw County Domestic Assault Response Team, the Bridge Center for Racial Harmony, the Saginaw County Bar Association, the Saginaw Downtown Development Authority, and he is a Vestry Member at St. John's Episcopal Church in Saginaw. Andy and his wife, Natasha, have 2 daughters, Alexandria and Mia.

Madam Speaker, please join me in congratulating Andy Coulouris as he starts his new position. I wish him the best as he enters the next phase of his life.

## HONORING PATRICIA DAUGHERTY

**HON. GEORGE RADANOVICH**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. RADANOVICH. Madam Speaker, I rise today to honor the life of Patricia Daugherty

for her dedication to her family and community. Mrs. Daugherty passed away in March 2010 at the age of 83.

Mrs. Patricia Daugherty was born on October 5, 1926, in Santa Monica, California. Upon graduating from high school, she attended the University of California, Berkeley for 2 years, and then completed her elementary education major at the University of California, Santa Barbara. In 1949, she married James Harsh and had two children, Betsy and Jim.

Mrs. Daugherty's teaching career began in Ventura, California and continued in Manhattan Beach, California. Mrs. Daugherty moved to Mariposa, California, where she continued her teaching career. She began at the elementary school teaching the fourth grade and later transferred to Mariposa County High School teaching language arts. She also advised the journalism, yearbook, newspaper, competitive speech, Shakespeare, composition and creative writing classes. During her tenure at the high school, Mrs. Daugherty was also involved with drama, as well as the junior and senior plays. She was the first pep club advisor and later served as the senior class advisor.

In 1974, Mrs. Daugherty retired. She and her second husband, Sid Daugherty, moved to Joseph, Oregon. In 1976 they built a house on San Juan Island, where they lived until 1980, when Mr. Daugherty's business took them to Port Townsend, Washington. In 1982, they moved to Santa Barbara, where they remained for the next 10 years. In 1992, Mr. and Mrs. Daugherty returned to San Juan Island for a few years, until Mr. Daugherty's health declined and they moved to Yuba City, California. Mr. Daugherty passed away on October 1, 1999.

Mrs. Daugherty returned to Mariposa in June 2001. She enjoyed visiting with her former students and colleagues and spending time with her children, grandchildren and great-grandchildren. Mrs. Daugherty is survived by her son Jim, his wife Jan and grandsons Jeff and Dillon; her daughter Betsy and her husband John Montoya; her granddaughter Shannon and her husband Joe Marcus; great granddaughters Sydney, Jordan and Delany; her sisters Trudy Allison and Phyllis Coolures; her stepchildren Jeanette Daugherty, Pat Perez, Sam Daugherty and their children and grandchildren, as well as her many nieces and nephews.

Madam Speaker, I rise today to posthumously honor Patricia Daugherty. I invite my colleagues to join me in honoring her life and wishing the best for her family.

#### HOPE CLINIC FOR WOMEN

#### HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mrs. BLACKBURN. Madam Speaker, life is precious. While some vote, some pray, many others put all their efforts to their beliefs and work to offer women alternative choices to abortion. I am proud to join with organizations like the Hope Clinic for Women as they stand with women throughout Middle Tennessee. I

especially congratulate Bob and Janie Yeager as they are honored tonight for their longstanding commitment to the Hope Clinic for Women, at the Hope for the Future Gala.

Rejoicing over birth, saddened through miscarriage, burdened by abortion, or excited for adoption, women facing these crucial moments in life find quality assistance and loving guidance at the Hope Clinic. For 26 years, the Hope Clinic has been a place, regardless of social standing, ability to pay, or religious affiliation, for women to receive free pregnancy tests, counseling, free ultrasounds, and medical care. Staff and volunteers don't simply stop with the health and wellbeing of the mother, they step in to provide formula, diapers, clothing, cribs, and strollers to the very least among us. Seeking to advocate total health for women struggling with Post Partum Depression, a partnership with St. Thomas Health Services began in 2008 as well.

With open doors and open hearts, the Hope Clinic is also a trusted voice, equipping Middle Tennessee's youth with information about abstinence, healthy life choices, and counseling programs.

Whether it's a safe place to call "home" for a woman carrying her child, or a sound clinic offering personal medical services regardless of ability to pay, the Hope Clinic for Women serves onsite over 2,000 clients each year, and reaches thousands more in the Middle Tennessee area. I ask my colleagues to join me in thanking the Hope Clinic for Women, and those who continue to support such worthy efforts, for protecting life through every stage.

#### PERSONAL EXPLANATION

#### HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately, I missed the following recorded votes on the House floor on Thursday, February 4, 2010. I apologize for the delay in submitting this statement.

For Thursday, February 4, 2010, had I been present I would have voted "aye" on rollcall vote No. 39 (on agreeing to the Halvorson amendment to H.R. 4061), "aye" on rollcall vote No. 40 (on agreeing to the Kilroy amendment to H.R. 4061), "aye" on rollcall vote No. 41 (on agreeing to the Kissell amendment to H.R. 4061), "aye" on rollcall vote No. 42 (on agreeing to the Owens amendment to H.R. 4061), "aye" on rollcall vote No. 43 (on passage of H.R. 4061).

#### HONORING COUNCILMAN N. JOHN AMATO FOR HIS RECORD YEARS IN PUBLIC SERVICE

#### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. ANDREWS. Madam Speaker, I rise today to honor the longest serving

councilperson in Cherry Hill Township, Councilman N. John Amato, for his 27 years in public service. Councilman Amato has demonstrated significant leadership and dedication to his community, and for this he deserves great praise.

Councilman Amato is a graduate of Rutgers University and holds a Masters degree from Kean College. He moved to the Erlton neighborhood in Cherry Hill in 1963 where he has resided ever since. He was first elected in 1983 and continues to serve Cherry Hill Township. In addition, as a licensed public accountant, Councilman Amato is an administrator for Rutgers University's LEAP Academy, a magnet school serving the City of Camden, New Jersey.

The Councilman devotes his time and effort to his community in many different ways. He is a Eucharistic minister and lector at the Queen of Heaven Roman Catholic Church and also serves on the board of the Young Adolescent Learning Environment School for children with special needs. He is active in the Sons of Italy and is former Board President of the Camden County Vocational Schools.

Councilman Amato and his wife, Marion, have two daughters, Rosemary and Irena, and two grandchildren, Michael and Francesca. He is famous for playing Santa Claus at Christmastime for charitable organizations and the Cherry Hill Mall.

Madam Speaker, Councilman Amato's contributions to his field and to the state of New Jersey should not go unrecognized. I want to personally thank the Councilman for the exceptional leadership he has provided and the impact he has made in Cherry Hill. I congratulate Councilman Amato on his accomplishments and wish him the best of luck in his future endeavors.

#### HONORING THE SERVICE MEMBERS OF THE 101ST AIRBORNE (AIR ASSAULT) AS THEY DEPART FOR AFGHANISTAN

#### HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. WHITFIELD. Madam Speaker, I rise today to honor the service and sacrifice of the brave men and women stationed at Fort Campbell who I have the distinct privilege to represent in Congress.

Later this week, soldiers from the 101st Airborne, Air Assault will be deploying yet again to Afghanistan to help defeat extremism in a nation not yet completely safe from those who prey on freedom. For many of these courageous Americans, this will be their 4th or 5th tour to either Iraq or Afghanistan.

There is no doubt that these frequent deployments have taken a serious toll on military families. However, when I had the opportunity to visit with the soldiers readying for deployment, they looked at that fact as just an example of the supreme confidence that our military leaders have in their ability to accomplish our mission as efficiently and effectively as possible. I, for one, could not agree more.

In a very short period of time, our country will be marking the 10th anniversary of the

September 11th terrorist attacks. And along with that, we recognize the decade-long commitment from our service members and their families to prosecute the Global War on Terror and bring peace and stability to a war-torn region of the world.

Madam Speaker, I hope that every member of this body will keep the soldiers of the 101st Airborne, as well as all of the members of the Armed Forces, in their thoughts and prayers as they continue to keep our country safe and secure.

May God bless and watch over our Nation's finest and their families, and may He continue to bless the United States of America.

#### HONORING MABEL ROWNEY

#### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. RADANOVICH. Madam Speaker, I rise today to honor the life of Mabel "Gay" Rowney for her dedication to her family and community. Mrs. Rowney passed away on April 23, 2010 at the age of 92.

Mrs. Mabel Rowney was born on August 20, 1917 in Elk River, Idaho. At a young age she met and married Harold Rowney, and together they had eight children. She filled the role of mother and organizer of the family very well. She was a talented musician and taught generations of Mariposa children to play the piano. For over 30 years, Mrs. Rowney served as the organist of Saint Joseph's Church. She sang in various community choirs, performed for many years in the Mariposa Chamber Group and was the pianist for a number of Lion's Follies. Mrs. Rowney was especially well known for her baked goods. The children that went to her house for piano lessons always looked forward to warm, fresh cookies and the smell of homemade bread.

Mrs. Rowney was preceded in death by her husband, Harold. She is survived by her children Beejee Allan, Veronica Gross, Christopher Rowney, Jill Rowney, Teresa Dulberg, Roscoe Rowney, Mark Rowney and Lisa Rowney; sixteen grandchildren and eight great grandchildren.

Madam Speaker, I rise today to posthumously honor Mabel Rowney. I invite my colleagues to join me in honoring her life and wishing the best for her family.

#### HONORING LOUIS HERING

#### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. STARK. Madam Speaker, I rise today to pay tribute to one of the outstanding citizens of our nation's capital, Mr. Louis Hering. I would like to thank Mr. Hering for his extraordinary contributions to the cultural pursuits of his community during the two decades of his residence here and his five plus years of leadership and service to Washington, DC's very own Opera Lafayette.

On June 8, 2010, Opera Lafayette will be holding a Benefit Celebration at La Maison Francaise, Embassy of France, in Washington, DC. During this celebration, Mr. Hering will be honored for his exemplary leadership at the helm of this unique and critically acclaimed opera company. Opera Lafayette is an American period instrument ensemble dedicated to performing 17th and 18th century operas, particularly the French repertoire.

Mr. Hering served on the Board of Opera Lafayette for the last five years, the last three of which he served as Chairman. Under his leadership, the company moved its performance location to the Kennedy Center and also began performing at the Lincoln Center in New York City. In addition, four of the company's five recordings were released on the Naxos label (many never previously recorded). Due to the growth of the company, the DC Commission on the Arts and Humanities and the National Endowment for the Arts are now awarding support to Opera Lafayette and its opera education program, which brings music and opera education to 5th grade students in disadvantaged DC neighborhoods.

This year, under Mr. Hering's leadership and as part of Opera Lafayette's 15th Anniversary Celebration, the company performed to sold out audiences in the 2,400 seat Concert Hall at the Kennedy Center and the 1,200 seat Rose Theater at the Lincoln Center. No seats were priced over \$15 and many children in low income school districts attended for free, including many whom Mr. Hering personally sponsored. If that was not enough, the performances received rave reviews in both the Washington Post and New York Times.

Madam Speaker, I ask my colleagues to join me in thanking Mr. Hering for his leadership and service on behalf of the arts community of our nation's capital and congratulating him for the honor being bestowed on him by Opera Lafayette on June 8, 2010.

#### FINANCIAL NET WORTH

#### HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. SENSENBRENNER. Madam Speaker, through the following statement, I am making my financial net worth as of March 31, 2010, a matter of public record. I have filed similar statements for each of the 31 preceding years I have served in the Congress.

ASSETS			
			Real Property
Single family residence at 609 Ft. Williams Parkway, City of Alexandria, Virginia, at assessed valuation. (Assessed at \$1,363,505). Ratio of assessed to market value: 100% (Unencumbered) .....			\$1,363,505.00
Condominium at N76 W14726 North Point Drive, Village of Menomonee Falls, Waukesha County, Wisconsin, at assessor's estimated market value. (Unencumbered) ..			\$151,900.00
Undivided 25/44ths interest in single family Residence at N52 W32654 Maple Lane, Village of Chenequa, Waukesha County, Wisconsin, at 25/44ths of assessor's estimated market value of \$1,541,500. ....			\$875,852.27
Total Real Property .....			\$2,391,257.27
Common & Preferred Stock			
	# of shares	\$ per share	Value
Abbott Laboratories, Inc. ....	12200	52.68	642,696.00

Common & Preferred Stock	# of shares	\$ per share	Value
Alcatel-Lucent .....	135	3.12	421.20
Allstate Corporation .....	370	32.31	11,954.70
AT&T .....	5996.390447	25.75	154,407.05
JP Morgan Chase .....	4539	44.75	203,120.25
Benton County Mining Company .....	333	0.00	0.00
BP PLC .....	3604	57.07	205,680.28
Centerpoint Energy .....	300	14.36	4,308.00
Chenequa Country Club Realty Co .....	1	0.00	0.00
Comcast .....	634	18.83	11,938.22
Darden Restaurants, Inc. ..	2160	44.54	96,206.40
Discover Financial Services .....	156	14.90	2,324.40
Dun & Bradstreet, Inc. ....	1250	74.42	93,025.00
E.I. DuPont de Nemours Corp .....	1200	37.24	44,688.00
Eastman Chemical Co. ....	270	63.68	17,193.60
Eastman Kodak .....	1080	5.79	6,253.20
El Paso Energy .....	150	10.84	1,626.00
Exxon Mobil Corp .....	9728	66.98	651,581.44
Gartner Inc. ....	651	22.24	14,478.24
General Electric Co. ....	15600	18.20	283,920.00
General Mills, Inc. ....	2280	70.79	161,401.20
Hospira .....	1220	56.65	69,113.00
Imation Corp .....	99	11.01	1,089.99
Kellogg Corp .....	3200	53.43	170,976.00
Merck & Co., Inc. ....	24082	37.35	899,462.70
3M Company .....	2000	83.57	167,140.00
Medco Health Solutions, Inc. ....	8218	64.56	530,554.08
Monsanto Corporation .....	2852.315	71.42	203,712.34
Moody's .....	5000	29.75	148,750.00
Morgan Stanley .....	312	29.29	9,138.48
NCR Corp .....	68	13.80	938.40
Newell Rubbermaid .....	1676	15.20	25,475.20
JP Morgan Money Mkt .....	119.11	1.00	119.11
Pactiv Corp .....	200	25.18	5,036.00
PG & E Corp .....	175	42.42	7,423.50
Pfizer .....	30415	17.15	521,617.25
Qwest .....	571	5.22	2,980.62
RRI Energy, Inc. ....	236	3.69	870.84
Sandusky Voting Trust .....	26	1.00	26.00
Solutia .....	82	16.11	1,321.02
Tenneco Inc .....	182	23.65	4,304.30
Teradata .....	68	28.89	1,964.52
Unisys, Inc. ....	16	34.89	558.24
US Bancorp .....	3081	25.88	79,736.28
Verizon .....	1604.303389	31.02	49,765.49
Vodafone .....	323	23.31	7,529.13
Wisconsin Energy .....	1022	49.41	50,497.02
Total Common & Preferred Stocks & Bonds .....			\$5,567,322.69

Life Insurance Policies	Face \$	Surrender \$
Northwestern Mutual #4378000 .....	12,000	92,092.28
Northwestern Mutual #4574061 .....	30,000	221,513.91
Massachusetts Mutual #4116575 .....	10,000	13,509.93
Massachusetts Mutual #4228344 .....	100,000	345,735.52
American General Life Ins. #5-1607059L .....	175,000	41,845.21
Total Life Insurance Policies .....		\$714,696.85

Bank & Savings & Loan Accounts	Balance
JP Morgan Chase Bank, checking account .....	35,600.24
JP Morgan Chase Bank, savings account .....	99,339.63
M&I Lake Country Bank, Hartland, WI, checking account .....	7,339.76
M&I Lake Country Bank, Hartland, WI, savings account .....	371.56
Burke & Herbert Bank, Alexandria, VA, checking account .....	1,312.51
JP Morgan, IRA accounts .....	142,832.49
Total Bank & Savings & Loan Accounts .....	\$286,847.19

Miscellaneous	Value
2007 Chevrolet Impala .....	10,065.00
1994 Cadillac Deville—retail value .....	2,125.00
1996 Buick Regal—retail value .....	2,050.00
1991 Buick Century automobile—retail value .....	775.00
Office furniture & equipment (estimated) .....	1,000.00
Furniture, clothing & personal property (estimated) .....	180,000.00
Stamp collection (estimated) .....	130,000.00
Deposits in Congressional Retirement Fund .....	196,816.21
Deposits in Federal Thrift Savings Plan .....	368,311.59
Traveler's checks .....	7,800.00
17 ft. Boston Whaler boat & 70 hp Johnson outboard motor (estimated) .....	5,500.00
20 ft. Pontoon boat & 40 hp Mercury outboard motor (estimated) .....	10,500.00
Total Miscellaneous .....	\$914,942.80
Total Assets .....	\$9,875,066.80

Liabilities	
None	
Total Liabilities .....	\$0.00
Net Worth .....	\$9,875,066.80

Federal Income Tax .....	\$107,228.00
Wisconsin Income Tax .....	\$37,253.00
Wisconsin Falls, WI Property Tax .....	\$2,562.00
Chenequa, WI Property Tax .....	\$21,920.00
Alexandria, VA Property Tax .....	\$13,450.00

I further declare that I am trustee of a trust established under the will of my late father, Frank James Sensenbrenner, Sr., for the benefit of my sister, Margaret A. Sensenbrenner, and of my two sons, F. James Sensenbrenner, III, and Robert Alan Sensenbrenner. I am further the direct beneficiary of five trusts, but have no control over the assets of either trust. My wife, Cheryl Warren Sensenbrenner, and I are trustees of separate trusts established for the benefit of each son.

Also, I am neither an officer nor a director of any corporation organized under the laws of the State of Wisconsin or of any other state or foreign country.

HONORING CHARLES D. KIRKHAM,  
JR.

HON. EDDIE BERNICE JOHNSON  
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES  
*Tuesday, May 18, 2010*

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today to honor the life and work of a great Texan and dear friend, Mr. Charles D. Kirkham, Jr. who recently passed away at the age of 84.

Mr. Kirkham was a remarkable person who leaves behind a legacy of excellence and distinction. He led a passionate life that saw many unique events, and he worked diligently throughout his days to better himself and his family. I knew him to be a man that never bought into racial or gender bias, and instead admired people because of their character and sincerity. I send my deep condolences to his family for their loss, and my thoughts will be with them during this difficult time.

Mr. Kirkham was born on July 28, 1925, in Cleburn, Texas, to Charles D. Kirkham, Sr. and Mary Ellen Payne Kirkham. He graduated from Cleburn High School in 1943 and shortly thereafter he left for Europe to fight in World War II with the 94th Infantry Division. It was there that he performed heroic actions that garnered him a Purple Heart and a Unit Commendation Bronze Star. He returned to Texas after the war and received a degree from Texas A&M University in 1950 where he served as President of the Student Senate.

After completing his degree, Mr. Kirkham began a long and industrious career with Merrill Lynch where he worked for 45 years. He was a successful stock broker and made a name for himself that people still regard in high esteem today. He served in the Texas House of Representatives during the 53rd and 54th Legislature representing Cleburn and Johnson counties. Throughout his life, he was active with Texas A&M University and served on the Board of Directors of the Association of Former Students.

Madam Speaker, I am so privileged to be able to bring the life of Charles Kirkham to the attention of this Congress. He was a man of great character and deep personal conviction,

and he will be truly missed. I ask my fellow colleagues to join me today in honoring the life of this great man who led a noble life and gave wholeheartedly to his community.

HONORING JOHN WILLIAM  
"BLIND" BOONE

HON. BLAINE LUETKEMEYER

OF MISSOURI  
IN THE HOUSE OF REPRESENTATIVES  
*Tuesday, May 18, 2010*

Mr. LUETKEMEYER. Madam Speaker, I rise today to recognize the late John William "Blind" Boone, famed ragtime musician and a proud son of Missouri. It is my honor and privilege to participate in the celebration and observance of Boone's birthday, Monday, May 17, 2010. I would also like to recognize the members of the John William "Blind" Boone Heritage Foundation, who plan to restore and preserve the home where "Blind" Boone lived in Columbia, Missouri, coinciding with his birthday.

John William Boone was born on May 17, 1864, in the midst of the Civil War. Soon after his birth, he was diagnosed with a life-threatening illness that doctors referred to as a "brain fever." Doctors believed the only chance for survival would come through a radical operation that would end the brain swelling; they would have to remove his eyes.

The procedure was a success and would alter the course of his life. Boone faced much adversity but soldiered through. His musical talents were noticed early on, and he would later become one of the legendary musicians of his era, with a classical repertoire, which included folk music, religious songs and, most famously, ragtime. In 1912, he was contacted by the QRS Piano Roll Company and became one of the first African American artists to cut piano rolls.

Music allowed Boone to cross many racial boundaries and brought him all over the world, bringing diverse audiences together. Boone enjoyed an illustrious career and spent the remainder of his life in Columbia, Missouri.

In closing, Madam Speaker, I ask all my colleagues to join me in acknowledging John William "Blind" Boone and his contributions to the arts.

COLONEL ANTHONY C.  
FUNKHOUSER

HON. TOM COLE

OF OKLAHOMA  
IN THE HOUSE OF REPRESENTATIVES  
*Tuesday, May 18, 2010*

Mr. COLE. Madam Speaker, I rise today to honor a great public servant, the outgoing Army Corps of Engineers Commander and Division Engineer for the Southwestern Division, Colonel Anthony C. Funkhouser.

Colonel Funkhouser began his public service at West Point, New York where he earned a Bachelor of Science degree in Civil Engineering at the United States Military Academy. During his 25 years of distinguished service as an engineer he has had the opportunity to

serve in theater during Desert Shield/Desert Storm and Operation Iraqi Freedom as well as serving at numerous installations including Eschborn, Germany; Fort Hood, Texas; Fort Leonard Wood, Missouri; and Fort Irwin, California. He has served as the Tulsa District's Commander since 2007 and in 2009, while retaining the Tulsa Command, was promoted to Commander and Division Engineer of the Southwestern Division.

Madam Speaker, his outstanding service and bravery has earned him the Bronze Star Medal with "V" Device, the Combat Action Badge, Marine Corps Expeditionary Medal, Army Achievement Medal with five oak leaf clusters, National Defense Service Medal, Terrorism Expeditionary and Service Medals, Southwest Asia Service Medal, Military Outstanding Volunteer Medal, Meritorious Service Medal with five oak leaf clusters, and Saudi Arabian and Kuwaiti Liberation medals.

During Colonel Funkhouser's service as Commander of the U.S. Army Engineer Division's Tulsa District beginning in June 2007, he has shown tremendous leadership, professionalism, and adaptability. He has performed his duty in such a way as to earn great respect from his colleagues. Immediately at the conclusion of his change of command ceremony on June 29th, he was challenged to address historic flooding issues at Lake Texoma and Lake Waurika. In the past three years of Colonel Funkhouser's service at the Tulsa District, he has addressed infrastructure needs and shown that his skills lie not only in engineering but working well with all of the diverse groups that rely upon his leadership and judgment.

Madam Speaker, it is a great honor to recognize Colonel Anthony Funkhouser for his dedication to the United States Army. We are a better and stronger nation because of his service.

RECOGNIZING DEPUTY CHIEF OF  
STAFF MARVIN "MAC" KING

HON. SOLOMON P. ORTIZ

OF TEXAS  
IN THE HOUSE OF REPRESENTATIVES  
*Tuesday, May 18, 2010*

Mr. ORTIZ. Madam Speaker, I rise today to recognize the service and dedication of my Deputy Chief of Staff, Marvin "Mac" King, who has been on my staff for many years and leaves his work on Capitol Hill to join his wife, Col. Barbara King, a doctor of dental surgery with the Air Force specializing in prosthetic dentistry, in Okinawa, Japan.

Mac first came to my office as an intern in the early 90s after obtaining his law degree. During the time of his internship in my office, Mac excelled in all tasks assigned to him. I knew he would be a valuable and important asset to the Ortiz Team.

Mac, a graduate of Texas A&M University with a bachelor's degree in petroleum engineering and a juris doctor degree from the University of Arkansas in Little Rock, has worked as a reservoir engineer with the Natural Gas Pipeline of America in Houston, Texas, and has served as president and technical manager of Losack Inc. in San Antonio,

Texas. He has also served as acting counsel in the House of Representatives for the House Subcommittee on Oceanography, the Gulf of Mexico, and the Outer Continental Shelf and as a consulting engineer for Research Management Consultants Inc.

Shortly after the conclusion of his internship, Mac became a full-time employee in my Washington, DC, office where he served as legislative director and counsel from 1995 to 2002. I never doubted Mac's skills and in 2002 I named him deputy chief of staff and he continued to serve as my counsel. At that time, Mac oversaw a staff of ten to sixteen employees in my offices in Washington, DC, Corpus Christi and Brownsville, Texas.

Mac became so good at what he did—he was the “go-to” person in our office. Through the years, I saw Mac grow from an intern to an aggressive and well-rounded legislative guru who knew the ins and outs of Congress.

In 2006, Mac left the House of Representatives to work as deputy director for strategic communications with the Joint Improvised Explosive Device Defeat Organization.

However, it was too early for Mac to leave Congress, or that's how I like to think of it. In 2009, after more than three years of being out of the Halls of Congress, Mac returned to my office as legislative director and counsel. Within months Mac was appointed deputy chief of staff, a position he will hold until Friday, May 21, 2010.

Mac leaves the Ortiz Team to go live in Okinawa, Japan, with his lovely wife, Barbara. I take this time to thank Mac for his invaluable and relentless work and service for the 27th District of Texas.

I ask my colleagues to join me in honoring the work and service of Mac for his more than 12 years of employment in the House of Representatives. On behalf of the people of the United States of America, I extend a warm and heartfelt thank you to Marvin “Mac” King for all he has done to better the 27th District of Texas and this great country.

#### INTRODUCTION OF PATENT AND TRADEMARK OFFICE FUNDING STABILIZATION ACT OF 2010

**HON. JOHN CONYERS, JR.**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. CONYERS. Madam Speaker, today we seek to do the right thing for our nation's inventors and innovative businesses—provide the United States Patent and Trademark Office, USPTO, with the resources for reliable and sustainable funding. This bill does this by giving the USPTO fee-setting authority, providing the USPTO with the authority to impose a 15 percent temporary surcharge for all of the USPTO's fees, and preventing fees that the USPTO collects from being diverted away from the agency for unrelated government programs. I strongly support this bill because it would help the USPTO hire additional examiners, help reduce the backlog of patent applications, and improve patent quality.

The USPTO is in the midst of a crisis. According to the Commerce Department's own

figures, the number of unexamined patents has ballooned to over 750,000. Moreover, the pendency time for a final disposition is 35 months—not counting appeals. Yet, despite it taking longer for the USPTO to do examination, many experts believe that the quality of patents has actually declined in recent years. Increased backlogs and poor patent quality affect not only the agency, they hurt American innovation, and delay our economic and jobs recovery.

While I support the current patent reform negotiations between the House and Senate, this bill will help to immediately begin to address the fiscal problems of the USPTO. I am still fully supportive of a larger patent reform effort and look forward to working with our Senate colleagues to bridge the gaps between the current House and Senate versions of reform. We are working with the Senate and have been engaged in discussions to make changes to their bill to improve patent quality and decrease the backlog. We want to continue to work with the Senate on the patent reform bill to get the best proposal. Our members in the House and their staffs have been working to resolve the differences between the House and Senate bills to address the needs of the innovation community. We remain open and willing to have a continuing dialogue with our colleagues in the Senate.

The USPTO does not take money from taxpayers. It is fully funded by user fees and generates revenues from those fees. Unfortunately, fees have been diverted to other uses, and this has made it difficult for the USPTO to hire and retain qualified examiners and address patent backlog issues.

Acknowledging these challenges, the USPTO has developed a number of initiatives to address its backlog and quality issues. These initiatives include giving patent examiners more time to do a quality examination of patent applications, targeted hiring of experienced professionals to become patent examiners, restructuring the incentives framework for examiners, and upgrading and improving the agency's information technology resources.

Together, these initiatives are expected to substantially improve quality and lower the backlog. However, these programs cannot be achieved without adequate funding, which the USPTO currently does not have.

Most of the fees the USPTO currently collects are statutorily set, and the fees are collected by the USPTO and deposited in the federal treasury. According to the Intellectual Properties Owners Association, IPO, \$737 million in fees collected between 1991 and 2004 were never transferred back to the USPTO and instead remained in the general treasury fund for purposes unrelated to intellectual property. As an agency within the Department of Commerce, the USPTO is subject to the appropriations process and collected fees must be transferred back to the USPTO through a yearly appropriation.

It is time for Congress to stop the bleeding and step in. I have worked in a bipartisan manner in the past to solve the problem of fee diversion. The USPTO's problems are not out there on Wall Street or in the Gulf of Mexico, they are right here on our doorstep. People lose jobs when technology does not make it to

the market. These are problems that are in our power to fix, and that we must fix, and that can be traced directly to the current fee structure which is cumbersome, reactionary, and at times arbitrary.

This bill requires the USPTO to consult with its stakeholder Public Advisory Committees before publishing a proposed fee change. It also requires a 45-day public comment period. And, to ensure continued close congressional oversight, it also includes a separate 45-day congressional comment period before fee changes can be implemented. Lastly, the bill will sunset this new authority in 10 years, giving Congress an opportunity to evaluate how well this grant of authority worked and whether it should be continued.

The anti-diversion and 15 percent surcharge language in the bill will help the Patent and Trademark Office address its pressing short-term budgetary needs. The provisions in this bill will go a long way to correct the USPTO's fiscal and infrastructure problems. Without stability the USPTO cannot hire examiners, upgrade IT systems, or institute important operational initiatives that are critical to the PTO's vitality. To remain strong in the increasingly competitive global market, the U.S. must have an efficient and effective patent office. This bill is one step to ensure the U.S. remains a technological leader now and going forward into the future.

Under the current system, fees often do not correspond to the realities of the USPTO's operations or needs. For example, under the current structure, patent applicants pay only about one-third of the costs associated with examination, regardless of whether the patent is granted. Fees are thus out of alignment in terms of what applicants pay and what they cost the office. Not only is this arguably not fair to successful patentees, it is inefficient.

Back-end fees are notoriously hard to predict, especially in an economic downturn. Thus, the agency gets stuck with budgets that do not correspond to its front-end services. The result is that the USPTO's hands are tied, and the agency cannot pursue much-needed modernization and improvements. Accordingly, pendency and quality worsen.

For those who wish to wait for a more comprehensive patent reform bill, I say this: we cannot afford to wait. The provisions of this bill are necessary to make sure that the USPTO has adequate funding, and we recognize the hurdles that lie ahead as we advance these provisions. We plan to work with the Appropriations Committee and the Congressional Budget Office to address any concerns they may have with this legislation. Without action USPTO fees are likely to be diverted, and we must pass this bill to correct this problem that has been going on for far too long. Nothing is more critical to the health of the USPTO than to have the sort of long-term budget stability that this bill will provide.

TRIBUTE TO HAYWOOD HILLYER  
III, LOUISIANA REPUBLICAN  
PARTY PIONEER

**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. BONNER. Madam Speaker, it is with great sadness that I rise to note the recent quieting of a beloved and tireless conservative voice in Louisiana, Mr. Haywood H. Hillyer III.

Mr. Hillyer was a passionate public servant and a man of action. He was a Republican in Louisiana when Republicans were as rare in that state as a July snowfall. His dedication to conservative principles and his boundless enthusiasm played a pivotal role in transforming the Republican Party into a viable political force in Louisiana.

While in college, Haywood Hillyer was among a group of students who interacted with conservative icon William F. Buckley, Jr. His passion for ideas led him to found and edit a conservative college newspaper, *The Liberator*.

When Mr. Hillyer helped take on the monumental task of growing the Republican Party in the Pelican State, there were a mere 10,000 followers statewide. Today, there are over 750,000 Republicans in Louisiana. Haywood Hillyer served on the Republican State Central Committee of Louisiana for 25 years, and ran for governor.

Mr. Hillyer was also a great patron of New Orleans jazz music, and was featured as a commentator in several jazz documentaries, recalling listening to local jazz pioneers in their youth, and he continued to support local jazz organizations throughout the rest of his life.

Haywood Hillyer graduated from Tulane University and Tulane Law School. He served as an attorney for many years for what is now the Milling Benson Woodward law firm. Haywood was elected to several positions within the Louisiana State Bar Association and the Federal Bar Association. He was also an amateur sailor and racer, and a civic leader.

On behalf of conservatives throughout the country, I wish to pay tribute to Mr. Hillyer for his distinguished leadership and exemplary life. Mr. Hillyer is survived by two sons, Haywood Hillyer IV and Richard Quin Hillyer; a stepson, Tyler Wood Duncan; and a stepdaughter, Halley Randolph Rash, as well as countless other friends and family.

They are all in our thoughts and prayers at this difficult time.

TRIBUTE TO MR. WALDESTRUDIS  
"WALTER" TORRES

**HON. JOSÉ E. SERRANO**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. SERRANO. Madam Speaker, I rise today to offer tribute to Mr. Waldestrudis "Walter" Torres, a Puerto Rican Vietnam War hero from my district who recently passed away at the age of 62. Walter was a brave and committed man. He honored himself and his coun-

try on the battlefields of Vietnam before returning home to lead a quiet life of civil service. He spent nearly four decades in service to others, as both soldier and civilian.

Walter was born in Coamo, Puerto Rico, on April 10, 1947. In 1967, at the age of 20, Walter joined the U.S. Marine Corps and was soon sent to Vietnam. Like so many of the more than 48,000 Puerto Ricans who served during Vietnam, Walter distinguished himself in combat. For courage and bravery, Walter received the Battle Star Medal, the National Defense Medal, the Vietnam Campaign Medal and the Vietnam Services Medal with Three Stars.

After leaving the service, Walter was gainfully employed and hardworking his entire life. He held positions with the U.S. Federal Government Printing Office as a pressman, the U.S. Post Office as a letter carrier, and later joined the private sector in the board sales business. In 2003, Walter joined the American Association of Retired Persons' Senior Community Services Employment Program, AARP/SCSEP, as a job developer. Walter flourished in this environment, directly impacting the lives of over 1,000 seniors who participate in the program for employment placement services. In 2010, Walter was promoted to be assistant director of the program. In 6 years, he missed only one day of work.

Madam Speaker, Waldestrudis Torres was an outstanding individual and an extraordinary example of American strength and character. Hardworking and large-hearted, he placed service to community and country above all else and should be remembered for his deep sense of commitment to others. I ask that my colleagues join me in honoring the life of Waldestrudis "Walter" Torres.

ON JESSIE PAVLINAC'S SERVICE  
AS PRESIDENT OF THE AMERICAN  
DIETETIC ASSOCIATION

**HON. KURT SCHRADER**

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. SCHRADER. Madam Speaker, my state of Oregon has its share of remarkable people. One of whom I wish to recognize today is a constituent of mine, Jessie Pavlinac, a registered dietitian from Oregon City.

As a registered dietitian, Jessie directs nutrition and patient services for adult and pediatric patients at Oregon Health and Science University Hospitals and Clinics in Portland. She is an instructor at OHSU's School of Medicine, the preceptor for the dietetic internship program where she has influenced the careers of thousands of dietitians for more than 27 years, and is also a faculty member of the University of Phoenix in Portland. Her specialty in dietetics is the complex area of renal nutrition and transplant nutrition support, both of which will increase in importance owing to our nation's aging population.

She and her husband Randy, and their two sons, lived for nearly 20 years on a small family berry farm, an experience which has given her a life-long commitment to a reliable, sustainable and safe food supply for the health of our nation.

Jessie Pavlinac's commitment to good nutrition and health has led her to numerous leadership positions in the American Dietetic Association, the world's largest organization of food and nutrition professionals. Since June 1, 2009, Jessie has served as ADA's 84th president. Her term as president expires at the end of May. Among the many accomplishments of the American Dietetic Association during Jessie Pavlinac's presidency, ADA will end this Fiscal Year on May 31 with its largest membership ever—more than 71,000.

In addition to serving her patients and students, Jessie has held numerous positions in the dietetics profession, including president of both the Portland Dietetic Association and the Oregon Dietetic Association. A partial listing of her many awards and honors includes the National Kidney Foundation Council on Renal Nutrition Recognized Dietitian Award, OHSU's "Hidden Treasure" Award, ADA's Council on Education Outstanding Dietetics Educator, the Oregon Dietetic Association Award of Merit, and the 2006 Nutrition Ambassador Scholarship.

After completion of her bachelor's degree at Oregon State University, Jessie earned a master's degree from the University of Wisconsin.

Founded in 1917, ADA is committed to improving the nation's health and advancing the profession through research, education and advocacy. Approximately three-fourths of ADA's members are registered dietitians. Other members include dietetic technicians registered, educators, researchers, and students. In fact, nearly half of the membership holds advanced academic degrees. ADA members serve throughout the nation's healthcare system as well as in nonprofit organizations, schools, correctional facilities, government, and community organizations. They can also be found in the food industry, health clubs, weight management clinics, wellness centers, and as consultants.

Madam Speaker, I want to extend my congratulations and best wishes to Jessie Pavlinac for completing a successful term as President of the American Dietetic Association, and for her service to her patients, her colleagues, her profession, and our nation.

TRIBUTE TO VALERIE HILL,  
UNDERSHERIFF OF RIVERSIDE  
COUNTY

**HON. KEN CALVERT**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. CALVERT. Madam Speaker, I rise today to honor and pay tribute to an individual from the 44th congressional district of California for her outstanding contributions and achievements. Valerie Hill, a 31-year veteran of the Riverside County Sheriff's Department, was recently awarded the 2010 "ATHENA" Award of the Inland Valley for being a valued role model who represents excellence in her profession, extensive community service, and generous mentoring. The ATHENA Awards program, which was created in 1982 and is an extension of local Chamber of Commerce's,



recognizes outstanding professional and business women in the community.

Valerie is the first woman to be undersheriff of Riverside County. Prior to this appointment, she received a bachelor's degree in business management and went on to be a female hostage negotiator field training officer and assistant sheriff. She has served in Lake Elsinore, Jurupa, Moreno Valley, and Riverside, where she has mentored many women in the department.

Valerie has received a number of awards recognizing her accomplishments. In 2006, she was president of the Southern California Jail Managers Association, and in 2007, she received the lifetime achievement award from the Law Enforcement Appreciation Committee. In 2002, she was a YWCA Woman of Achievement, in 2004 she was recognized as Inland Empire Magazine's Woman Who Makes a Difference, and in 2005 received the Gold Key Award from Soroptimist International.

She was president of Operation Safe House and the Riverside Area Rape Crisis Center and also served as chair for the YWCA's Evening of Achievement event. Additionally, Valerie makes time with her family to serve hot meals to the homeless and is an active member of Kiwanis of Riverside.

Valerie Hill's tireless passion for community and public service has contributed immensely to the betterment of the community of Riverside, California. I am proud to call Valerie a fellow community member and American. I know that many community members are grateful for her service and salute her as she receives this prestigious recognition of honor.

TRIBUTE TO TIM RUSSELL, BALDWIN COUNTY, ALABAMA PROBATE JUDGE

### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. BONNER. Madam Speaker, I rise today to recognize a distinguished public servant from my home state, a man who has who has served as Mayor of the City of Foley, Revenue Commissioner for the State of Alabama and now, has returned to his beloved home county to assume the responsibilities as Baldwin County's new Probate Judge, the Honorable Tim Russell.

On April 16, Governor Bob Riley appointed Commissioner Russell to be the next Probate Judge of Baldwin County. Tim's selection was an outstanding choice.

As an Army Captain during the Vietnam War, Tim demonstrated leadership and loyalty to his country—vital qualities he still possesses. He was awarded the Army Commendation Medal for his military service.

As a businessman, Tim led Baldwin Mutual Insurance Company as president, while also taking the mantle of public service in his home town. He was elected mayor of Foley in 1996 and was re-elected twice, serving until 2006.

On March 3, 2008, Governor Bob Riley appointed Tim Russell as Alabama Revenue Commissioner. In this statewide position, Tim

was responsible for the operation and management of the state's revenue collections, which exceed \$8 billion annually. And as a key member of Governor Riley's cabinet, Tim used his experience in both business and public life to help advance the governor's agenda of always putting Alabama first. Throughout his 8 years in office, Governor Riley has always prided himself on assembling a truly world-class Cabinet and Tim Russell is one of the reasons why this statement was so true.

Tim's able stewardship of this major state agency made him the logical choice to replace former Baldwin County Probate Judge Adrian Jones, who recently retired to spend more time with his family. Tim officially took office on May 3, 2010.

Madam Speaker, Judge Russell has held numerous posts in many community organizations, including the South Baldwin Chamber of Commerce, the South Baldwin United Way, the Foley Rotary Club, and the Foley Library Board, to name just a few.

Tim has been the epitome of a servant leader and he and his wife, Sandy, are great friends, as well, to Janee and me. With this latest responsibility, I am confident that Judge Russell will continue to make his family, his friends and all of South Alabama extremely proud.

I congratulate Tim on his appointment and wish him and his family continued success and much happiness.

### COBRA HEALTH BENEFITS EXTENSION ACT OF 2010

### HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mrs. DAVIS of California. Madam Speaker, I rise today on behalf of those relying on COBRA benefits for health coverage.

Millions of Americans have lost their jobs since the recession began in 2007. Unfortunately, when you lose your job, you generally lose your health insurance. For those with a preexisting condition or ongoing health problem, this common scenario can leave them with no health insurance and often no way to get coverage.

Section 113 of the House version of the health care reform bill gave unemployed Americans the option of staying on their COBRA insurance beyond the typical 18-month eligibility period. The provision was designed as a stopgap measure to prevent more people from becoming uninsured.

The Senate bill did not include similar provisions extending COBRA. With California's high unemployment rates, my office has received calls from San Diegans on the verge of losing their COBRA benefits with nowhere to turn for health insurance.

We know that COBRA coverage is not perfect. Premiums are generally higher because employers are no longer paying a portion of the cost. However, especially for those with significant health care costs, COBRA coverage is extremely valuable.

In fact, the average medical expenses for a patient with diabetes cost \$13,000 per year,

according to the Centers for Disease Control and Prevention, CDC. The average cost of treating breast cancer rose to nearly \$21,000 and prostate cancer to over \$41,000 in 2008, according to the National Cancer Institute.

Can you imagine facing these types of health care costs without any type of insurance? Because of the high unemployment rates, I fear many Americans are close to losing their COBRA eligibility.

I'm proud to introduce the COBRA Health Benefits Extension Act of 2010 with Chairman GEORGE MILLER, Congressman ROBERT ANDREWS, and Congressman JOE COURTNEY to help Americans keep their health insurance. Those on COBRA can stay with their coverage beyond standard eligibility periods until they find a new job providing insurance or until health insurance exchanges are available in 2014. They can also drop their COBRA coverage and enter a government-sponsored high-risk pool if they so choose. This legislation provides a bridge to those at risk of losing their health coverage so they do not have to go without insurance.

Madam Speaker, thank you very much for your efforts to make health coverage accessible and affordable.

### THE DEEPWATER HORIZON TRAGEDY

### HON. STEVE COHEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. COHEN. Madam Speaker, nearly 1 month after the Deepwater Horizon oil spill began on April 20, oil continues to flow from the well, poisoning the Gulf and destroying the environment. The Deepwater Horizon Rig activities were considered by all to be a low risk drilling exploration. Such a classification sends chills up my spine given the countless riskier drilling ventures occurring along the coasts of this great Nation.

While millions of Americans tune into the news to watch the destruction of the Gulf Coast, the environment, and the economy of that area, I think of the thoughtless, baseless, and cavalier Republican energy chants "Drill Baby Drill." It echoes in the ears of the American public and anybody who cares about the Gulf Coast. Drill Baby Drill—what a farfetched plan given that the U.S. contains 2.2 percent of world oil reserves and consumes 25.9 percent of the world's oil consumption. You do not have to be a math scholar or a Nobel Prize economist to see the flaws of this strategy.

We need to find alternative forms of energy. We must use America's great resource and brainpower to harness the sun and to harness the wind. We must find new ways to help us with our problems of energy which will reduce our dependence on fossil fuels, protect our environment, and safeguard the flora and fauna.

We will never be able to drill our way to energy independence. Rather than invoking our brawn, we must utilize our brains and innovate, as Americans have done for generations. Rather than throwing our limited Federal dollars at the feet of oil giants, let's invest in

American ingenuity and create an American clean energy economy. Rather than sucking out every last drop of oil and coal beneath the earth's surface destroying the air we breathe and water we drink, let's utilize renewable energy sources like solar and wind that enhance our environment.

The choice is clear—we can drill our way further into environmental destruction and oil dependence, or we can create a new energy economy that creates millions of jobs and protects the environment for future generations.

Recently I introduced legislation that will do just that—the 10 Million Solar Roofs and 10 Million Gallons of Solar Water Heating Act. This legislation will create an estimated 1.35 million direct and indirect jobs, lower energy costs, strengthen the economy, and put America on the path to energy independence.

Madam Speaker, we have to find a new direction and be like America has been in the past, innovative and creative.

A TRIBUTE TO BEVERLY LOWRY  
FOR HER FOUR DECADES OF  
PUBLIC SERVICE TO CALIFOR-  
NIA'S MOJAVE DESERT COMMU-  
NITIES

**HON. JERRY LEWIS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. LEWIS of California. Madam Speaker, I rise today to pay tribute to Beverly Lowry, a dear friend and dedicated public servant who has helped guide the city of Barstow and other High Desert communities for nearly 40 years.

A native of Emporia, Kansas, Mrs. Lowry has lived in California since 1947, and moved with her husband Al in 1966 to the Mojave Desert outpost of Barstow. Although she is a veteran traveler, she has called the desert her home ever since, raising two sons and watching two grandsons grow up there.

Friends of Bev Lowry know she is not one to sit on the sidelines, and just a few years after arriving in the desert she was elected to the Barstow Heights Community Services District board, which provided city-like services in an unincorporated area. During her 26-year service on that board, she oversaw the paving of nearly 33 miles of residential streets and the creation of a new off-ramp from Interstate 15 to serve the community.

Bev Lowry's involvement in public policy grew beyond local elected boards when she joined the staff of California State Sen. Walter Stiern in 1974. For the next 20 years, she served the constituents of legislators and county supervisors as a staff member, becoming a recognized expert at solving problems and resolving disagreements with county, State, and even Federal officials. Needless to say, since these were also my constituents as a member of Congress, I came to know Bev well and respect her greatly.

As both a staffer and a local representative, Bev Lowry was one of the leaders in securing State funding to build Silver Valley High School and the Newberry Springs Senior Center, as well as for the improvement of State Highway 58, an important cross-desert link.

Perhaps her most significant contributions to her community came through Bev Lowry's service as a board member of the Mojave Water Agency and her tremendous accomplishment as chairwoman of the committee to bring a State Veteran's Home to Barstow.

The Mojave Water Agency was created to deal with the serious problem of over-drafting of the underground basins that provide nearly all of the water for tens of thousands of desert residents. The agency was tasked with providing State Water Project water to residents of both the Mojave Desert and the eastern desert area known as the Morongo Basin. It was my honor to work with Bev and the other members of the MWA board to provide funding for pipelines to deliver this water, which now serves more than 100,000 people. The district has also begun an ambitious water reclamation plan, and Bev was here in the House Chamber to observe Federal approval for that plan.

Thanks to Bev Lowry's leadership, State officials in the 1990s chose Barstow over 28 competing locations to build the first State Veteran's Home in more than 100 years. The home provides a sanctuary for 400 retired and ambulatory veterans from throughout the High Desert area.

Bev Lowry has been deservedly recognized for her contributions, chosen as Woman of the Year by the Barstow Chamber of Commerce—and then selected by the chamber as Woman of the Decade in 1987.

Madam Speaker, every community in America wishes it had leaders like Beverly Lowry, who can pull people together and get major things accomplished. This weekend, Bev will be paid a wonderful tribute by the Barstow Community College Foundation, which is creating a scholarship in her name. I ask you and my colleagues to join me in congratulating Mrs. Lowry on her achievements, and thank her for her decades of public service.

CONGRESS CALLS FOR COM-  
PREHENSIVE REVIEW OF LAND-  
MINE POLICY

**HON. JAMES P. MCGOVERN**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. MCGOVERN. Madam Speaker, today 68 members of the United States Senate sent a bipartisan letter to President Obama calling for a comprehensive review of the U.S. policy on anti-personnel landmines, urging the Administration to identify any obstacles to joining the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and Their Destruction. I am proud to say that 57 Members of the U.S. House of Representatives also sent a bipartisan letter to the President in support of their Senate colleagues.

Madam Speaker, the United States has not exported anti-personnel mines since 1992; it has not produced anti-personnel landmines since 1997; and it has not used anti-personnel landmines since 1991. During the past decade, the United States has become the world's largest contributor to humanitarian

demining and rehabilitation programs for landmine survivors. I firmly believe that it's time for the United States to formally join the 158 nations of the world who are parties to Convention banning anti-personnel landmines so that we can receive the credit for which our nation is long overdue and restore our leadership in shaping the Convention in the future.

I know that there are military questions that require review so that all sectors of our government are united in joining the Convention. I believe there are answers to these questions, answers that our NATO allies and other nations have confronted and overcome over the past decade as they complied with Convention's requirements. There is a wealth of experience and knowledge among our NATO allies, all of whom are parties to this Treaty, on adopting new military strategies and tactics, working with non-Treaty States, and identifying alternative weaponry as we abandon, once and for all, this indiscriminate, rogue weapon. I encourage our military leaders to reach out to our NATO partners and consult with their military counterparts on how they adapted and complied with the Landmine Ban Treaty.

Madam Speaker, I have seen first-hand the results of anti-personnel landmines on civilians and soldiers in El Salvador and Colombia. I have talked with survivors from around the globe, including men and women who proudly wear the U.S. military uniform. I have met with landmine survivors, including children, who were only working their fields or walking to school when they stepped on a landmine. They are not victims, Madam Speaker—they are survivors and leaders in a global movement to ban this weapon from all current and future arsenals. They are clear-eyed, sophisticated individuals who are determined that no one—in uniform or civilian—shall ever be harmed again by these weapons.

I believe, Madam Speaker, that it is in our best national and security interests to join the Convention. Clearly, the bipartisan letter by our Senate colleagues and the supporting House letter show that the time has come for the United States to once again take up its leadership on this international issue. I ask unanimous consent to enter the House and Senate letters and related materials into the CONGRESSIONAL RECORD.

U.S. SENATE,

*Washington, DC, May 18, 2010.*

Hon. BARACK OBAMA,  
*The White House,*  
*Washington, DC.*

DEAR MR. PRESIDENT: We are writing to convey our strong support for the Administration's decision to conduct a comprehensive review of United States policy on landmines. The Second Review Conference of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, held last December in Cartagena, Colombia, makes this review particularly timely. It is also consistent with your commitment to reaffirm U.S. leadership in solving global problems and with your remarks in Oslo when you accepted the Nobel Peace Prize: "I am convinced that adhering to standards, international standards, strengthens those who do, and isolates and weakens those who don't."

These indiscriminate weapons are triggered by the victim, and even those that are

designed to self-destruct after a period of time (so-called "smart" mines) pose a risk of being triggered by U.S. forces or civilians, such as a farmer working in the fields or a young child. It is our understanding that the United States has not exported anti-personnel mines since 1992, has not produced anti-personnel mines since 1997, and has not used anti-personnel mines since 1991. We are also proud that the United States is the world's largest contributor to humanitarian demining and rehabilitation programs for landmine survivors.

In the ten years since the Convention came into force, 158 nations have signed including the United Kingdom and other ISAF partners, as well as Iraq and Afghanistan which, like Colombia, are parties to the Convention and have suffered thousands of mine casualties. The Convention has led to a dramatic decline in the use, production, and export of anti-personnel mines.

We note that our NATO allies have addressed their force protection needs in accordance with their obligations under the Convention. We are also mindful that anti-personnel mines pose grave dangers to civilians, and that avoiding civilian casualties and the anger and resentment that result has become a key priority in building public support for our mission in Afghanistan. Finally, we are aware that antipersonnel mines in the Korean DMZ are South Korean mines, and that the U.S. has alternative munitions that are not victim-activated.

We believe the Administration's review should include consultations with the Departments of Defense and State as well as retired senior U.S. military officers and diplomats, allies such as Canada and the United Kingdom that played a key role in the negotiations on the Convention, Members of Congress, the International Committee of the Red Cross, and other experts on landmines, humanitarian law and arms control.

We are confident that through a thorough, deliberative review the Administration can identify any obstacles to joining the Convention and develop a plan to overcome them as soon as possible.

Sincerely,

Patrick J. Leahy; Richard G. Lugar; Jack Reed; Daniel K. Inouye; Olympia J. Snowe; Joseph I. Lieberman; George V. Voinovich; John F. Kerry; Orrin G. Hatch; Carl Levin; Charles E. Schumer; Robert F. Bennett; Jeff Bingaman; Susan M. Collins; Max Baucus; Judd Gregg; Arlen Specter; Sheldon Whitehouse; Harry Reid; Benjamin L. Cardin; Dianne Feinstein; Ben Nelson; Lisa Murkowski; Robert Menendez; Barbara A. Mikulski; Christopher J. Dodd; Sherrod Brown; Kent Conrad; Mike Crapo; Richard Durbin; Ron Wyden; Byron L. Dorgan; Evan Bayh; Michael F. Bennet; Russell D. Feingold; Maria Cantwell; Bill Nelson; Patty Murray; Blanche L. Lincoln; Mark R. Warner; George S. Lemieux; Mary L. Landrieu; Tim Johnson; Thomas R. Carper; Herb Kohl; Robert C. Byrd; Jon Tester; Edward E. Kaufman; Mark L. Pryor; Tom Udall; Claire McCaskill; Mark Udall; Kirsten E. Gillibrand; Frank R. Lautenberg; John D. Rockefeller, IV; Daniel K. Akaka; Kay R. Hagan; Jeanne Shaheen; Al Franken; Jeff Merkley; Debbie Stabenow; Mark Begich; Tom Harkin; Roland W. Burris; Robert P. Casey, Jr.; Amy Klobuchar; Barbara Boxer; Bernard Sanders.

CONGRESS OF THE UNITED STATES,  
Washington, DC, May 18, 2010.

Hon. BARACK OBAMA,  
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We write to add our voices to our bipartisan Senate colleagues and convey our strong support for the Administration's decision to conduct a comprehensive review of United States policy on landmines. The Second Review Conference of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, held recently in Cartagena, Colombia, makes this review particularly timely. It is also consistent with your commitment to reaffirm U.S. leadership in solving global problems and with your remarks in Oslo when you accepted the Nobel peace Prize: "I am convinced that adhering to standards, international standards, strengthens those who do, and isolates and weakens those who don't."

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We believe the Administration's review should include consultations with the Departments of Defense and State as well as retired senior U.S. military officers and diplomats, allies such as Canada and the United Kingdom that played a key role in the negotiations on the Convention, Members of Congress, the International Committee of the Red Cross, and other experts on landmines, humanitarian law and arms control. We are confident that through a thorough, deliberative process the Administration can identify any obstacles to joining the Convention and develop a plan to overcome them as soon as possible.

We look forward to hearing from you on plans for the review.

Sincerely,

James P. McGovern; Edward J. Markey; Janice D. Schakowsky; John Lewis; Nick J. Rahall II; Darrell E. Issa; Bob Filner; Sander M. Levin; Rosa L. DeLauro; James L. Oberstar; Collin C.

Peterson; John Conyers, Jr.; Carolyn B. Maloney; Eleanor Holmes Norton; Betty McCollum; Peter Welch; Fortney Pete Stark; Charles B. Rangel; James P. Moran; Chaka Fattah; Raúl M. Grijalva; Lloyd Doggett; Michael M. Honda; Barbara Lee; Maurice D. Hinchey; Paul W. Hodes; Jesse L. Jackson, Jr.; Keith Ellison; Jerrold Nadler; Gary L. Ackerman; Jackie Speier; Tammy Baldwin; Henry C. "Hank" Johnson, Jr.; Sam Farr; Lynn C. Woolsey; Peter A. DeFazio; Melvin L. Watt; Michael H. Michaud; John J. Hall; John W. Oliver; Earl Blumenauer; Marcia L. Fudge; Dennis J. Kucinich; Jim McDermott; Dale E. Kildee; Robert A. Brady; Lois Capps; Judy Chu; Rush D. Holt; Carol Shea-Porter; Michael E. Capuano; John Garamendi; José E. Serrano; Bobby L. Rush; Maxine Waters; Eni F. H. Faleomavaega; Susan A. Davis.

[From the United States Campaign to Ban Landmines, May 18, 2010]

SENATORS AND REPRESENTATIVES SUPPORT BAN ON LANDMINES: LETTERS SENT TO PRESIDENT OBAMA

WASHINGTON, DC.—A letter signed by 68 senators, asking the administration to join the 1997 Landmine Ban Treaty, was delivered to President Obama on Tuesday. The signers include 10 Republicans and two Independents and constitute more than the two-thirds of the Senate needed to ratify a treaty.

Sen. Patrick Leahy (VT-D) and Sen. George Voinovich (OH-R) circulated the Senate letter, and a similar letter in support of the Senate initiative, circulated by Rep. James McGovern (MA-D) and Rep. Darrell Issa (CA-R) in the House of Representatives, was also delivered to President Obama. The existence of the letters was made public on May 8, but the final versions, with all signatures, was delivered Tuesday.

In describing the use of antipersonnel landmines, Sen. Patrick Leahy said, "The idea that a modern military like ours would be using indiscriminate, victim-activated weapons today is hard to reconcile with our current military objectives, particularly when you consider that the two countries (Iraq and Afghanistan) where our troops are fighting are parties to the treaty and the members of the coalition that we are leading in Afghanistan are also parties to the treaty."

The Administration launched a review of U.S. landmine policy late last year, and in the letters the legislators say that they are "confident that through a thorough, deliberative review the Administration can identify any obstacles to joining the Convention and develop a plan to overcome them as soon as possible."

Rep. James McGovern, who circulated the letter in the House, said, "A thorough review will show that the U.S. can play an even greater role in the world on landmines by formally joining the ban. The Senate letter demonstrates the support is there."

The Congressional letters follow a letter sent to President Obama on March 22 by leaders from 65 national nongovernmental organizations that also urge the U.S. to relinquish antipersonnel landmines and join the 1997 Mine Ban Treaty without delay.

"The strong support these letters have received shows that Congress is firmly behind accession to the Mine Ban Treaty," said Zach Hudson, the coordinator of the U.S. Campaign to Ban Landmines (USCBL). "The U.S. has not used these barbaric weapons in 19 years. With these letters, Congress adds its voice to that of the American people in

calling on our government to join our NATO allies—and all of the 158 nations that have joined this treaty—and eliminate the use of landmines once and for all.”

[From the Washington Post, May 8, 2010]

**SENATE PUSHES OBAMA ADMINISTRATION TO SIGN TREATY BANNING LAND MINES**

(By Craig Whitlock and Glenn Kessler)

More than two-thirds of the Senate is urging the Obama administration to consider signing an international treaty that bans land mines, reviving a dormant campaign from the 1990s that left the United States divided from its closest allies.

Sen. Patrick J. Leahy (D-Vt.) said in an interview Friday that 68 senators had signed a letter to President Obama to support a “comprehensive review” of U.S. policy on land mines. The letter is an indication that there are enough votes in the Senate to ratify the treaty—at least 67 would be required—if Obama signs the measure, which has languished in Washington for a decade.

“We want to show we have enough people to ratify a treaty,” Leahy said. “I think there’s an excellent opportunity that we’ll finally do it.”

The pressure from Congress leaves the White House in an awkward position as it tries to navigate between Obama’s desire to work closely with allies on security issues such as nuclear disarmament, while at the same time listening to advisers at the Pentagon, many of whom are leery of such campaigns.

The mine ban treaty was the result of a grass-roots movement championed by celebrities, including Princess Diana, and ordinary citizens such as Jody Williams, a Vermont native who won the 1997 Nobel Peace Prize for her role as founding coordinator of the International Campaign to Ban Land Mines. About 5,000 people a year—the majority of them civilians—are killed or maimed by mines scattered across 70 countries.

Neither President Bill Clinton nor President George W. Bush signed the treaty, which was negotiated in 1997 and took effect in 1999. Their rejections left the United States at odds with more than 150 countries that embraced the accord, including every member of NATO.

The treaty prohibits the manufacture, trade and stockpiling of land mines. The United States has not used antipersonnel mines since the Persian Gulf War in 1991 and stopped producing them in 1997, but the military keeps about 10 million of them in reserve.

In November, State Department spokesman Ian Kelly announced that the Obama administration had decided against signing the treaty, saying, “We would not be able to meet our national defense needs nor our security commitments to our friends and allies.” But after Leahy and human-rights groups condemned the decision, the State Department said it would revisit the issue and conduct a broader policy review.

White House and State Department spokesmen emphasized Friday that the administration is in the midst of a comprehensive review, cutting across all affected agencies, that will not be completed for some months. But two senior U.S. officials speaking on the condition of anonymity indicated that the administration is actively looking for ways to come into compliance with the treaty without endangering national security needs.

“We are asking that if you come into compliance, what would be the costs and the ben-

efits—and if there are costs, how can they be addressed in other ways,” one senior official said.

The official described the administration’s review as “a herculean effort” intended to “cut through reflexive reactions” to the issue of eliminating land mines from the Pentagon’s arsenal.

Officials also said they welcomed the indication of bipartisan support represented by the Leahy letter.

Another senior U.S. official, speaking on the condition of anonymity to discuss internal deliberations, said the administration is looking at what new technologies could be used to bring the United States into compliance with the treaty while also allowing it to respond to threats such as North Korea. Some military officials want to maintain the U.S. stockpile in case it is needed to slow an invasion of South Korea by the North. About 30,000 U.S. forces are stationed in the South.

The Pentagon declined to say whether it would support the treaty, citing the Obama administration’s review. “It would be premature at this time to provide any statement until the review is complete,” said Geoff Morrell, the Pentagon press secretary.

Leahy, who has fought for a land-mine ban for many years, said there was bipartisan support in Congress for ratifying the treaty. Ten Republicans have signed the letter to Obama, which Leahy said will be delivered to the White House next week. The lead Republican co-sponsor is Sen. George V. Voinovich (Ohio), Leahy aides said.

In November, Leahy criticized the Obama administration’s initial decision to reject the treaty as “a default of U.S. leadership.” Since then, he said, White House and State Department officials have left him with the impression that they are seriously considering adopting the treaty, especially if he can help deliver the votes in a Senate that is usually sharply divided along partisan lines.

“It’s been a much more positive response than I’ve seen in a long, long time,” Leahy said of his talks with administration officials.

Leahy noted that Obama has pushed for a global reduction in nuclear arms; ignoring land mines, he added, could undercut U.S. diplomacy on that front. “If we want to keep the high moral ground, then we have to do it,” he said.

Although Clinton did not sign the international mine ban, he ordered the Pentagon in 1998 to develop alternatives to antipersonnel mines, with the goal of giving them up completely by 2006.

In 2004, in response to objections from the Pentagon, Bush adopted a different policy that permits the U.S. military to use sophisticated mines that are designed to self-destruct within a fixed number of days. The idea was to reduce civilian casualties from unexploded mines left on the battlefield.

At the same time, Bush set a deadline of 2010 for the U.S. military to end the use of antipersonnel or anti-vehicle mines that lack timers. Obama administration officials have said that they are on track to meet that deadline this year.

Neither China nor Russia has ratified the international mine ban treaty. Human rights groups say there is little pressure for them to do so as long as the United States doesn’t sign.

**HONORING THE LIFE OF EL HADJ AMADOU THIOUF**

**HON. ED PASTOR**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. PASTOR of Arizona. Madam Speaker, I rise before you today to honor the life of a great educator, El Hadj Amadou Thiouf. Born in Bargny, Senegal, he devoted his entire life to the cause of education. Studying for 4 years at école normale William Ponty, an elite school in Thies, Senegal, he was first assigned to Lamingue, Kaolack, where he served for 2 years and met his wife Adj Fatou Ndoeye. They were married on August 11, 1957.

From 1957 to 1971, he lived in Rufisque where he taught at three different institutions: Diokoul, Fass and Matar Seck. In 1971, he was sent to Matam, a city in northwest Senegal, and then moving again, serving in Bargny, the city of his birth, from 1972 to 1975.

In 1978, he returned to his hometown of Rufisque and became the principal of Thiokho Elementary School, the school close to his home and where his children attended. There, he remained as principal until 1985, when he became the head of El Hadj Ousseynou Diagne, the largest elementary school in Rufisque.

After a long and distinguished career as an educator, Mr. Thiouf retired on September 9, 1992. He is a recipient of the Ordre National du Lion, Senegal’s highest national honor and the Chevalier des Palmes Académiques for his lifelong dedication and commitment to education.

In 1998, Mr. Thiouf and his wife became permanent residents of the United States and spent half their time in the United States and the other half in Senegal.

He is survived by his widow Fatou Ndoeye and their 10 children: Mame, Diaraf, Abdou, Seynabou, Pape, Adj, Sokhna, Awa and Mahomet. Mr. Thiouf also had 13 grandchildren. Their oldest son Alassane, a graduate of the University of Arizona, died in a tragic car accident in September 1990 in Senegal.

Madam Speaker, it is an honor to come before you today and share the life of this great man.

**TRIBUTE TO SONNY CALLAHAN,  
2009 MOBILIAN OF THE YEAR**

**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 18, 2010*

Mr. BONNER. Madam Speaker, I rise to pay tribute to former Alabama Congressman Sonny Callahan, who was honored on April 8 with the Mobilian of the Year Award, presented by the Cottage Hill Civitan Club. Former Congressman Callahan received the Bienville Plaque and a proclamation from Mayor Sam Jones.

I was honored to deliver a tribute to Sonny Callahan’s life and career during the award

celebration on April 8 and below is an excerpt of my remarks.

The Sonny Callahan story is much like that of many other young men his age—and from that time in Mobile's past. But Sonny, according to those who have known him the longest, was always someone special. He had the good looks, the charm and personality that made other people feel good about themselves when they were with him.

He had a natural charisma and intellect, often masked with that Reagan-esque self-deprecating humor, that made Sonny, even to his peers and colleagues, a natural-born leader that people gravitated to for his counsel and advice, for his often unique perspective on life . . . or simply for a little humor and levity to lighten the moment.

As the story goes, we know he used those talents early on in the world of business and it was a success story that made for a natural campaign brochure.

I'll never forget what our wonderful friend, mentor and advisor, the late Bill Yeager, told me when I was first interviewing to be Sonny's campaign press secretary back in 1982 . . . Bill said, "Jo, Sonny's story of a self-made man who grew up with all the reasons not to succeed, but overcoming one obstacle after another, always finding a way to be successful, is not just biographical hype."

"Even if he is sometimes hard to pin-down," Bill told me, Sonny is truly one of the most decent human beings I have ever known."

And as Bill Yeager often was in his judgment of others, he was right on the money as it related to Sonny.

Sonny's early success on the campaign trail . . . he was elected to the Alabama House in 1970 and only once—in the 14 times his name appeared on the ballot—did he not finish first—was an omen of even bigger opportunities that would come.

But Sonny wasn't just someone who loved politics . . . he loved helping people.

And that, my friends, is a distinction that sadly, too few of us make when it comes to lumping everyone in politics in the same vat.

There were the light-hearted moments . . . like the time when Sonny was driving to Montgomery when the legislature was in session and his friend, Tommy Sandusky, had finally gotten one of those Motorola car phones almost a year after Sonny had gotten his first car telephone.

The story goes that Tommy was so proud of the fact that he had finally caught up to Sonny, that he pulled up to Sonny in his car at a stoplight in Montgomery, picked up the phone and called him to say, "hey Sonny, I just wanted you to know that I'm calling you on my car phone."

. . . to which Sonny—with that quick Callahan wit replied without missing a beat—"Tommy that's great . . . unfortunately, I can't talk right now because my other phone is ringing."

Sonny was always one step ahead of most of us. But the light-hearted memories take a back seat to the stories that were never written in the press but were the headlines of Sonny Callahan's amazing life.

I got a call the other day from a lady who said when she heard that Congressman Callahan had been named Mobilian of the Year, she simply wanted me to be sure and mention that had it not been for Sonny, her son . . . who at age two had meningitis which left him deaf and blind . . . would have been institutionalized. When her father arranged for her to go see Sonny to tell him her plight, Sonny promised her that he would help.

And help he did. Sonny found the money to start the area school for Deaf and Blind here in Mobile, patterned after the one in Talledega, and today, some 44 years later, her son was able to graduate from high school, go on to college and is now a successful young businessman. With tears of gratitude, this lady wanted me to say "thank you" to the man who helped give her son a new lease on life.

But that is just one of the many rich sub-chapters of the Sonny Callahan legacy. In truth, they all have a similar storyline.

Also from his days in the Legislature, there was Callahan Tuition tax credit that help Alabama's private colleges, like Spring Hill, Birmingham Southern and Huntington, assist young Alabamians with their dream of a college diploma.

Perhaps most lasting, there was also the Heritage Trust Fund that Sonny's leadership helped establish for the oil and gas leases that were being let in the mid-1970s. This fund mandated that the State invest the principal and instead live off the tens of millions of dollars that would accrue in interest every year, assisting dozens of worthwhile state programs over the past 30 years.

When Jack Edwards retired from Congress in 1984 after an impressive 20 years of service, Sonny got in the race to succeed him—with Jack's full blessings and support, no less—and shortly thereafter he began what would become an equally-impressive 18-year-run.

The kind of commitment to helping others that Sonny had become known for in the legislature soon became the hallmark of his Congressional service as well.

About six months after Sonny had taken office, we had the long-awaited dedication of the Tennessee-Tombigbee Waterway. It was every politician's dream . . . a beautiful, festive day, thousands of people in attendance, and everyone was in an upbeat mood.

Jack, naturally, was invited to sit on the speaker's platform with the governor, both senators, the mayor and all of the other dignitaries of the day. After all, Jack Edwards had spent practically his entire 20-year-tenure in Congress trying to keep the funding going for what was the biggest public works project in American history.

But true to form, when it came Sonny's turn to speak, the newly-minted freshman congressman took the microphone, thanked everyone for coming out and said, "you know, Jack, you certainly accomplished a lot for our area during your 20 years in Congress. But let the record show that it was during my first six months in Congress that we were finally able to finish the Tenn-Tom!"

Jack likes to tell people that he knew then that he had backed the right man to follow in his footsteps.

While others in Congress have spent their time building monuments to themselves, Sonny quietly went about doing the work that a true member of the "People's House" takes pride in doing for it was always about the "people" that Sonny worked for . . . the young mother who had that blind and deaf son . . . the veteran whose government had forgotten him long after his service had ended . . . or the worker who toiled in the hot, un-air conditioned plant and never knew what the inside of a college classroom looked like, but who, when he became injured on the job, turned to Congressman Callahan for the help he needed.

As he gained seniority and certainly after his party had taken the majority in Congress with the historic 1994 election, Sonny never

let the additional titles and responsibilities that came with those leadership positions change what was important to him.

Sure, when he became the Chairman of the House Appropriations Subcommittee on Foreign Operations—the committee that funds all of America's foreign aid—Sonny would come to the office often to find a line of Kings, Presidents and Prime Ministers waiting for just a few minutes of his time.

But Sonny would remind his staff . . . don't get too impressed, these folks are here to see "the chairman." If it were not me, they'd be standing outside someone else's office.

And never once, when Sonny had control of a budget that was greater than the budgets of two or three states combined . . . did he ever think talking to a head of state was more important than talking to Mayor Shell in Atmore, Judge Biggs in Monroe County or some person who didn't have a title, but who just needed to talk to "my congressman about a personal matter."

If our friend, Mayer Mitchell, were still alive, he would be the first to tell you that when Sonny flew to Israel to meet late one night with Prime Minister Benjamin Netanyahu, to discuss a new plan that Sonny had conceived to decrease the economic aid to Israel while, at the same time, increase the military assistance to our best ally in the Middle East, neither Mayer nor even President Bill Clinton, who had told Sonny just hours before the trip that this couldn't be done, gave him any chance for success.

But succeed he did. And that's why when President Clinton needed a Republican to step up and provide the crucial support for his administration's plan for Bosnia—back when most Republicans and a lot of Democrats weren't eager to go along—the president turned to Sonny to provide that leadership.

Soon thereafter, others on both sides of the political aisle followed his leadership and this humble, self-described, "back-bencher" in Congress, was fast becoming a major player on the international stage.

From the pages of the Washington Post to the Wall Street Journal, conservative and liberal pundits alike called Chairman Callahan "an unlikely champion."

But once again, the folks in his hometown were always more comfortable calling him Sonny, not even congressman, and to him, that was his reassurance that he had not lost touch with those for whom he worked.

The list of his signature accomplishments throughout southwest Alabama is literally endless. I honestly don't know of a complete assessment.

But here's just a quick stab at some of the highlights . . . Sonny secured the initial funding for what is today the Mitchell Cancer Center at the University of South Alabama . . . he helped make the initial down-payment on the new library at Spring Hill College . . . he found the funding to restore the historic GM&O Building in downtown Mobile . . . he secured the first installment for a new bridge to replace congested tunnels along Interstate 10 . . .

The money to replace the 14 mile rail road bridge, funding for towns like Fairhope, Bayou La Batre, Jackson and Thomasville . . . Sonny got the money to help refurbish the historic old Monroe County Courthouse, just as he secured the funding for the Foley Beach Express.

When they start construction on the new VA cemetery in Baldwin County, it will be because of Sonny Callahan's determination—and leadership—several years ago, that this dream will one day soon become a reality.

But as I have said before, Sonny never did any of this for personal gratification or recognition. He did it because it was what the people of his district needed and wanted.

After he retired from Congress, grateful communities and groups alike began the naming process . . . a tiny little bridge near Foley, the airport in Fairhope, a building at Mercy Medical, a Boys and Girls Club in West Mobile.

No one did more to help make sure Mobile Bay was included in the National Estuary Program, or build on the work started by his predecessor to help expand and protect Bon Secour National Wildlife Refuge and Weeks Bay Estuary.

A few years ago, The University of Alabama was able to complete work on the finest child development center in the nation, thanks solely to Sonny Callahan's leadership.

At about the same time, the University of Alabama Birmingham established an endowed student scholars program in his honor because, as they said, his creation of the Child Survival and Diseases program—back when he was in Congress—guaranteed that children and adults—“from the Black Belt of Alabama all the way to Bangladesh—today enjoy cleaner water, safer food and a lower incidence of disease because of Sonny's labors.”

In 2004, our local veterans made him the “Patriot of the Year,” Governor Riley appointed him to serve on the board of the Alabama Port Authority . . .

And I'm telling you . . . I literally could go on and on.

There were also the gaffes . . . we've all made them and most of us, when we do, it eats us to the core. Not Sonny. He always kept things like that in perspective . . . like the time he admitted to being in the desert when Operation Desert Storm commenced. Sonny was in the desert . . . at a luxury hotel in Palm Springs playing golf . . . but that wasn't the sand most people were thinking about at the time.

Or the time that he told both President and Mrs. Clinton that they needed to slow down the money spigot going to other countries . . . you can imagine how much fun the press secretary had at the time trying to ex-

plain his comment “it's Halloween in Washington and if you want to get some treats, just put a turban on your head and go knock on the White House door.”

The Washington press corps loved that line, Sonny got the President's attention but I got a migraine dealing with that one.

And of course, when Secretary of State Madeleine Albright was in Mobile, he meant it as a compliment when he said, “Madeleine, you are like a flamingo in the barnyard of politics.”

She has actually told others that she couldn't have had a more supportive chairman to work with than Sonny Callahan so, congressman, I think she knew you were paying her a compliment.

But I'm going to close by saying this to tonight's honoree . . . and I want to say this as all of your friends and family are listening on . . .

As I've been reflecting back over our almost 3 decades together, your story really isn't like most everyone else's . . . for when you were given the opportunity . . . an opportunity that few people in life are really ever afforded . . . to do great things and to make your mark, you did—and I truly mean this—you always did it with humility and with humor . . . without the malice and nasty partisanship that is so prevalent in Washington today . . . you did it because of the greater good that would accrue to the benefit of untold numbers of people that you might not ever meet or know . . . but you did “it” . . . whatever “it” was . . . because “it” was the right thing to do at the right time to do it. Thank you, Sonny, for always being our champion.

Before I turn the microphone over to Mayor Jones, I would be extremely remiss if I did not thank two other groups of people who deserve special recognition . . . first of all, to Sonny's family . . . certainly his brothers and sisters and countless cousins, but most especially, his beloved Karen . . . wife, partner, soul-mate and mother to their six children.

Sonny used to say that Karen must have been the inspiration for the song, “Wind Beneath My Wings,” because she was always there for him, standing off in his shadow, never having the sunlight on her face . . .

but he could fly higher than an eagle, because she was the wind beneath his wings.

I must admit that until I was elected to Congress, myself, in 2002—thanks in no small part to Sonny and the incredible reputation he had earned—you know, when Sonny retired he had the highest approval rating of any sitting member in the entire U.S. Congress at 92 percent—contrast that today with an approval rating for Congress, as a whole, at an embarrassing 13 percent nationally—and I don't know that even I fully appreciated the demanding, difficult—and yet absolutely critical roles—that the spouse and family of a public figure play.

But Karen, for all sacrifices that you, Scott, Patrick, Shawn, Chris, Kelly and the always close-to-our-heart, Cameron, have made . . . for the nights, the days, the weeks and the years that y'all have shared your wonderful husband—and daddy, and now granddaddy—with everyone else . . . thank you.

Mobile—and indeed the entire state of Alabama—is a better place to live because of the man you love and tonight, the man we honor.

Finally, and I know Sonny would be the first to agree with this, but I must also thank the tremendously dedicated, loyal and extremely talented staff that Sonny brought together during his many years in the public arena.

No one person can answer all the mail, return all the phone calls, make all the contacts that are required to be made and do everything else that is expected of a person who has 635,000 constituents—as well as a national responsibility—and while Sonny was the best I have ever seen in this often-misunderstood job, he was able to do what he did because he surrounded himself with a team that was second-to-none.

Together, his family and his staff can take great pride in knowing that the lives Sonny has touched . . . and the legacy Sonny has built . . . is a living testament to your unselfish love, loyalty and admiration of a man known by kings and presidents . . . movie stars and musicians . . . truck drivers and ditch-diggers . . . simply as our friend, Sonny Callahan.

## HOUSE OF REPRESENTATIVES—Wednesday, May 19, 2010

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. CUELLAR).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,

May 19, 2010.

I hereby appoint the Honorable HENRY CUELLAR to act as Speaker pro tempore on this day.

NANCY PELOSI,

*Speaker of the House of Representatives.*

### PRAYER

Reverend Dr. William Smith, Memorial Baptist Church, Arlington, Virginia, offered the following prayer:

Almighty God, we acknowledge and give thanks for the divine order of creation. We are grateful for natural law. We are grateful for revealed law. We are grateful for this Nation in which we live by the rule of law to establish justice for all our people.

Bless this Congress and all the lawmakers who serve our Nation. We pray, too, for those who have the responsibility to enforce law and those charged with the duty of adjudication of law. May all of them, working together, make us a more perfect Union.

We offer ourselves and our work to You. We confess that even at our best, we need Your gracious providence. Guide us. Forgive us. Sustain us.

For Yours is the kingdom and the power and glory forever. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Kansas (Ms. JENKINS) come forward and lead the House in the Pledge of Allegiance.

Ms. JENKINS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 5014. An act to clarify the health care provided by the Secretary of Veterans Affairs that constitutes minimum essential coverage.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 736. An act to provide for improvements in the Federal hiring process, and for other purposes.

The message also announced that pursuant to Public Law 106-567, the Chair, on behalf of the Minority Leader, appoints the following individual to serve as a member of the Public Interest Declassification Board:

William A. Burck of the District of Columbia.

### WELCOMING REVEREND DR. WILLIAM SMITH

The SPEAKER pro tempore. Without objection, the gentleman from Texas, Congressman CULBERSON, is recognized for 1 minute.

There was no objection.

(Mr. CULBERSON asked and was given permission to revise and extend his remarks.)

Mr. CULBERSON. Mr. Speaker and Members, born in Kentucky, Dr. William H. Smith has pastored Memorial Baptist Church in Arlington, Virginia, for the past 19 years. He preached his first sermon there on Father's Day, 1991, which was appropriate as he and his wife, Judy Bracewell Smith, who hails from my hometown of Houston, Texas, are the proud parents of Justin, a physician; Luke, a pastor; and Jason, a surgeon. His family also includes Justin's wife, Mairin, and their precious daughter, Adelaide. Bill and Judy's first grandchild. Bill's parents, Anna and Henry Smith, were powerful models of a Christian home for Bill and his brother, Andre. The students at the Leland Center for Theological Studies where he teaches biblical studies call him Professor. His granddaughter, Adelaide, calls him Pal. And I am proud to call him my teacher and friend.

May God bless you always, Bill and Judy.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 15 further requests for 1-minute speeches on each side of the aisle.

### WHERE ARE THE JOBS?

(Mr. KILDEE asked and was given permission to address the House for 1 minute.)

Mr. KILDEE. Mr. Speaker, I rise today in response to the Chamber of Commerce's recent claim that U.S. free trade agreements have supported 5.4 million jobs. I want someone to show those jobs to me because they certainly aren't in Michigan or my district. Michigan has the highest unemployment in the country. In my hometown of Flint, Michigan, the unemployment rate is nearly 30 percent. At one time, we had nearly 80,000 auto jobs. Now we have about 6,000.

With every free trade agreement, we continue to send more jobs overseas and put American workers at a greater disadvantage. Come to my district and I will show you the empty fields that used to employ thousands of American workers before NAFTA, which I opposed. Our trade policy might help create jobs and improve the quality of life for workers in other countries but not in the United States.

### PIRATES OF THE LAKE

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, Falcon Lake in Zapata County, Texas, is one of the best bass fishing spots in the United States. The lake is an international boundary between Texas and Mexico. That piece of paradise has been intruded on this month by the lawlessness seeping over from the Mexican border. In two separate incidents, U.S. fishermen have been robbed at gunpoint on Falcon Lake by Mexican pirates who held AR-15 rifles to their heads. In one holdup, an American fisherman was robbed of all of his money. In the other pirate raid, fishermen were robbed of their boat, their money and left naked on the Mexican shore. The pirates were in a commercial fishing boat, dressed in black paramilitary garb carrying automatic weapons.

What are these pirates doing on Falcon Lake? Are they moving drugs or people or worse across the water? We

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



don't know. In the 1800s, Thomas Jefferson sent the Navy to protect Americans from pirates in the Mediterranean. This administration is blissfully silent about the pirates on Falcon Lake. Meanwhile, the border war continues.

And that's just the way it is.

#### WHERE ARE THE JOBS?

(Mr. MICHAUD asked and was given permission to address the House for 1 minute.)

Mr. MICHAUD. Mr. Speaker, in response to the Chamber of Commerce's recently released report that claims U.S. free trade agreements have supported 5.4 million jobs, I have only one thing to say: Not in my district. Since January of 1994, employment in the manufacturing industry in Maine has declined by nearly 40 percent. Just ask the Mainers who used to work at Knight C-Low-Tex in Lisbon Falls or those that used to work at Allen Edmonds Shoe Corporation in Lewiston. The Department of Labor recently certified them to receive trade adjustment assistance, proof that their jobs were lost as a result of our failed trade policies. Our U.S. trade policies might create jobs for big corporations based in Washington, D.C., but it takes them away from middle-class families in Maine.

#### SHORT LINE RAILROAD TAX CREDIT

(Ms. JENKINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JENKINS. Short line railroads located in my district, including those in Chanute, Pittsburg and Humboldt, serve a critical role in transporting grain, cement products, steel and other industrial-based products to the national freight rail network. The short line tracks in Kansas and across the Nation have benefited from the section 45(g) short line railroad tax credit which expired at the end of 2009. Without this credit, short line railroads would lose critical resources used to upgrade infrastructure or create jobs, and rural businesses would not have the rail services they need to compete. That's why we must find a responsible way to extend the tax credit, like H.R. 1132, that would extend it until 2012.

I urge all of my colleagues to support this important legislation to ensure short line railroads continue to thrive and provide valuable services on Main Streets across America.

#### CANCEL ALL FEDERAL CONTRACTS WITH BRITISH PETROLEUM

(Mr. GUTIERREZ asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Yesterday I urged my colleagues to stop drilling leases from going to BP. We need action now. If Congress can stop BP from receiving government leases, then BP can and should stand for Banned Permanently.

But why stop here? We must go further. Today I urge my colleagues to join me to cancel all Federal contracts with BP. How much money are we talking about? In 2009 alone, the Department of Defense paid at least \$1.5 billion to BP—\$1.5 billion with a B. In other words, big profits for them.

We need to audit and to stop our taxpayer dollars from going to BP, a company pumping millions of barrels of black poison into our water and towards our shores. Let's ban permanently BP's black poison and eliminate BP's big profits along with their British pollution.

#### VALUE-ADDED TAX

(Mr. GUTHRIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTHRIE. Mr. Speaker, about 1 month ago was Tax Day, the day that hardworking Americans sent their money to Washington. And sadly, the President and the Democrat majority in Congress continue to advocate for policies that increase taxes and add more government spending, both of which are already out of control. President Obama has refused to renounce the idea of forcing a value-added tax on the American people, and his economic team has already run the numbers. The value-added tax is essentially just a national sales tax that hits everyone who buys any goods, which will cost American families thousands of dollars. This European-style tax wouldn't replace income taxes in this country—it would be on top of them. It's time for Congress to put the American people first and simplify a complicated and overreaching tax code. The American people know that we can't spend and tax our way back to a growing economy.

#### COMPREHENSIVE IMMIGRATION REFORM

(Mr. BACA asked and was given permission to address the House for 1 minute.)

Mr. BACA. Congress is elected to solve difficult Federal problems, not walk away from them year after year. Health care reform was a difficult Federal problem with many months of debate and difficult votes, but we did it. Immigration reform is also a difficult Federal problem. At this moment, families are being torn apart. Children and parents live in fear of not seeing each other at the end of the day. In fact, there are cases where our own soldiers

are returning from serving overseas, only to find their spouses deported.

Where Congress comes up short, States like Arizona are in full speed, enacting misguided laws like SB 1070 that are inspired by hate and racism. This bill hurts everyone who looks different, whether they're an American citizen, lawful immigrant, or undocumented immigrant. It violates our civil rights. The question now is, Is Congress willing to work together in a bipartisan fashion to fix a system that is broken? Families across America have waited long enough for immigration reform. We must deliver just like we have on health care reform.

#### FOREIGN-HELD DEBT

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Last week we learned that Uncle Sam ran up the largest deficit for April ever. Equally alarming is that our deficit is being financed by countries such as China, our biggest holder of U.S. Government debt. Equally important, a former Chinese military official recently suggested the Chinese should consider dumping U.S. treasuries in response to the recent Pentagon decision to sell defensive weapon systems to Taiwan.

To raise awareness of the threat to our economy and national security of our exploding deficit and debt, yesterday I introduced the Foreign-Held Debt Transparency and Threat Assessment Act. This bill would require a better accounting of debt held by foreign countries and, more importantly, require the President to submit a plan to cut spending should either a particular foreign creditor or the overall debt pose a risk to the national security interests of America. We must not let any other country hold our national and economic interests hostage.

#### SMALL BUSINESSES NEED CREDIT

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, the Joint Economic Committee released a report this week that looks at how tighter credit standards have hit small businesses especially hard. That means that now, even as big and mid-sized businesses have begun adding jobs once again, small businesses are struggling to expand and put Americans back to work. Small businesses are rightly considered to be the great engine of the American economy. Seventy-five percent of all employees work for businesses with less than 250 employees. And if small businesses are the engine, then credit is the fuel that keeps that engine going. While large and mid-sized

firms have multiple funding sources, including the public debt market, small businesses rely almost completely on financial institutions. Improving credit availability to small businesses will help to grow our economy and create jobs. That is why the Financial Services Committee today is working on legislation to create a small business loan fund. It's an investment in America that is truly worthy of a AAA rating.

□ 1015

#### PASS AMERICA COMPETES ACT

(Mr. EHLERS asked and was given permission to address the House for 1 minute.)

Mr. EHLERS. Mr. Speaker, it is a pleasure to be here today, and especially a pleasure to follow my good friend, the gentleman from Texas (Mr. SAM JOHNSON), who gave us an eloquent warning about what can happen in view of our mounting national debt and the countries that we owe the money to.

If anyone wishes to know more about this, I recommend to you the writings of Mallory Factor, who has written several good pieces on that topic recently. I hope to organize a 1-hour discussion of his writings at some time.

I also want to raise another issue which addresses this problem. One of the first bills to come up today is rewriting and revamping the America COMPETES Act. The original act was generated by President George W. Bush. I had the pleasure of working with the White House and the Office of Management and Budget on that bill, and I believe it is beginning to achieve its objectives, including strengthening American manufacturing. If we do not improve our manufacturing sector in the United States of America, we will continue to borrow more and more and more money from other countries. It is imperative that we pass the America COMPETES Act. If you don't like this bill for some reason, let's change it; but we must pass it, otherwise we will continue to be a debtor Nation over and over again.

#### GOVERNMENT TRANSPARENCY

(Mr. QUIGLEY asked and was given permission to address the House for 1 minute.)

Mr. QUIGLEY. Mr. Speaker, the public's trust in government is near an all-time low. According to a recent CBS/New York Times survey, only 19 percent of the people said they trust the government to do what is right. This deficit of trust is not inconsequential. Without the public's trust, we cannot effectively govern; but we can rebuild this lost confidence by opening up the government and making its inner workings more transparent.

I recently introduced H.R. 4983, the Transparency in Government Act, a

bill that calls for unprecedented government transparency. H.R. 4983 increases disclosures from lobbyists and lawmakers, creates the first centralized earmark database, and improves oversight of Federal contracts.

As Supreme Court Justice Louis Brandeis said: Sunlight is the best of disinfectants. And at a time when the public's trust in government is perilously low, we could use a bit of sunlight.

And go, Black Hawks.

#### WASHINGTON, WAKE UP

(Ms. KAPTUR asked and was given permission to address the House for 1 minute.)

Ms. KAPTUR. Mr. Speaker, how many millions of more jobs have to be outsourced before Washington wakes up? It makes you wonder if the recently released report by the U.S. Chamber of Commerce is some sort of a cruel joke. It claims that U.S. trade agreements have supported 5.4 million jobs. Are we talking about the same country?

Take Ohio: Since 1994, employment just in the manufacturing sector has declined by one-third. Companies like Silgan Holdings, Delphi, Georgia Pacific, GM, Dixon Ticonderoga, and Champion Spark Plug all have moved to Mexico.

Remember when NAFTA promised us the promised land, claiming we would get millions of new jobs and the standard of living would rise? What we got was the giant sucking sound, more jobs going out and a cumulative trade deficit of \$1 trillion to this country as a result of NAFTA. The deficits from NAFTA and NAFTA-like trade agreements have caused our great manufacturing Nation to wither as our workers and companies are asked to compete against state-managed capitalism in places like Mexico, China and Japan.

It is time to wake up, stand up for this country and renegotiate those agreements that keep moving our jobs offshore.

#### SALUTING JACKSON NORTHEAST ELEMENTARY SCHOOL

(Mr. SCHAUER asked and was given permission to address the House for 1 minute.)

Mr. SCHAUER. Mr. Speaker, today I salute Jackson Northeast Elementary School students. I was with them last Tuesday when they presented a flowering plum tree and a plaque at the Jackson Police Station in memory of city police officer James Bonneau who was shot and killed in the line of duty on March 6 while responding to a domestic call. Blackman Township officer Darin McIntosh was also shot and injured in this incident.

On their own, these students raised \$210 for this project. The students also

presented handmade quilts to Chief Matt Heins for the family of Officer Bonneau.

Jackson Northeast Elementary students demonstrated that every person can make a difference no matter their age or size. They reminded my community and our Nation that Officers Bonneau and McIntosh are heroes and so are all men and women in uniform who report to work every day to keep us safe.

Thank you Northeast Elementary students for setting an example for all of us to follow.

#### NEW DIRECTION FOR AMERICA

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, research by USA Today shows Americans are paying the lowest tax rates since the 1950s. On May 7, the Department of Labor reported that 290,000 jobs were added in April, a larger than expected increase and the largest gain since March of 2006.

This is the fourth consecutive month of job growth with 573,000 jobs added since December. In March, sales of new homes surged nearly 27 percent to 411,000 annual rate. Over the last 3 months, we have added an average of 187,000 per month.

Democrats' action on jobs resulted in the HIRE Act, a bipartisan bill to create 300,000 jobs with tax incentives for businesses that hire unemployed Americans, and the American Workers, State and Business Relief Act which has given incentives for new jobs.

#### RECONCILIATION WITH, NOT EXPLOITATION OF, THE NATURAL WORLD

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, the Creator gave us a paradise; and we, appropriating the power of nature's God, are turning our planet into a smoking, glowing, oily mess, through plundering Mother Earth of her treasures and through refusing to recognize the growing evidence that our reliance on oil, coal, and nuclear threatens our health, our security, our economy, our Nation and the world.

It is not as though there are no alternatives. Markets and industries have conspired for years to shelve the massive introduction of wind and solar technologies. Thousands of barrels of oil each day billow from the ocean floor, covering nearly 20 percent of the gulf, heading towards the Florida Keys and the Atlantic coast.

Must we wait until all coastal areas are ruined, all fish, all birds, all animals are injured and killed before we

realize that drilling presents a threat to the fragile ecology of life?

We cannot afford to passively witness the destruction of our natural environment because written in the oily sands of the gulf is the degrading of all life on the planet. Our world exists through fragile interconnected systems of life. Our survival depends upon reconciliation with, not exploitation of, the natural world.

#### COMPREHENSIVE FINANCIAL REFORM

(Mr. WILSON of Ohio asked and was given permission to address the House for 1 minute.)

Mr. WILSON of Ohio. Mr. Speaker, under the leadership of this Congress, my colleagues and I are working non-stop to help Americans that have been struggling with unemployment, failing businesses, and falling home prices. One of our most important tools to ensure our country's recovery is fixing our banking system. Comprehensive regulation reform will protect American consumers and restore common-sense rules to help keep an American crisis like the one we faced this past year from happening again.

For too long, executives on Wall Street bent the rules and dodged the regulations. Basically, reforming Wall Street will mean a return to classic American values. If you work hard and play by the rules, you will be rewarded. We will quite simply put an end to taxpayer-funded bailouts.

I have often said it is hard to play a fair game without a referee on the field, and that is exactly what we are going to do now, is put a referee on Wall Street. I urge my colleagues to work for comprehensive financial reform.

#### DEVASTATING OIL SPILL

(Mr. DEUTCH asked and was given permission to address the House for 1 minute.)

Mr. DEUTCH. Mr. Speaker, fishing has been barred from one-fifth of the Gulf of Mexico. That is 29 million acres off limits to the American citizens who rely upon the seafood industry to support their families. Globes of oil called "tar balls" have landed in the Florida Keys, a warning of the threats to Florida's vibrant tourism industry. The consequences of this devastating oil spill will not be felt by Democrats or Republicans, but by all Americans, and for years to come.

The oil spill cleanup could cost more than \$14 billion; but today oil companies are required only to pay a measly \$75 million toward those damages. For that reason, it is outrageous to see legislation forcing BP to pay for this mess fail once again on partisan lines.

Most shops have a long-recognized policy: you break it; you buy it. The same should apply to oil companies.

I urge my Republican colleagues to join a bipartisan effort protecting taxpayers from a massive bailout of the oil industry. It is time to worry less about oil company profits and more about the American people.

#### ENOUGH IS ENOUGH

(Mr. CARNAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARNAHAN. Mr. Speaker, enough is enough. My constituents in Missouri have had enough excuses and delays from big banks and Wall Street. That is why my Democratic colleagues and I have been fighting for common-sense regulatory reform and consumer protections, holding big banks accountable for their actions and ensuring that the crash like we experienced in 2008 never happens again.

Wall Street reform, which has passed this House, implements protections for consumers so that big banks can no longer gamble with America's economy like it was their own private casino. Bailouts would be a thing of the past.

Before and since this recession, Republicans have repeatedly sided with big banks and Wall Street over consumers, stable community banks, and Main Street. Now is the time to hold big banks accountable, no more standing in the way. Now is the time for comprehensive financial regulatory reform with strong consumer protections. Enough is enough.

#### CHARTING NEW COURSE FOR ECONOMIC FUTURE

(Ms. RICHARDSON asked and was given permission to address the House for 1 minute.)

Ms. RICHARDSON. Mr. Speaker, I rise to talk about the American people today. They are some of the most resilient people in the world. But over the last 2 years, even the most optimistic individual has been fearful. Just 2 years ago, we were losing 727,000 jobs a month. The stock market dropped 3,000 points, making 401(k) plans look like 201(k)s, and we feared for the next generation, that they would have enough money to live on. But what a difference a year makes.

The Democratic Congress, working with the new Obama administration, has moved in a new direction, first of all by passing the Recovery Act. Instead of losing jobs, we have been gaining jobs. Since passing the Recovery Act, the stock market has risen dramatically, real estate is coming back, and home sales are coming back. When you look at the job growth, it is going up again.

These are the changes, and these are the differences that we can see that are facts and not fiction.

□ 1030

#### CONSUMER FINANCIAL PROTECTION

(Mr. ELLISON asked and was given permission to address the House for 1 minute.)

Mr. ELLISON. Mr. Speaker, consumer financial protection is not a punishment to business. It is a level playing field so that consumers and businesses who want to do a fair deal can do so. Consumer financial protection, which is in the financial reform bill, will allow consumers and lenders who want to do a fair deal to get rid of the fine print, the hidden fees, the tricky terms that landed our economy in such an awful condition.

We're climbing out. We're addressing the issues that affect the American people, and we're doing it now. The fact is that we want to see good lenders stay good; lenders who want to have clear terms, well disclosed, underwritten to make sure the consumers can pay that money back, and what we want to see in this economy. And people who want to have fine terms, funny terms, tricky terms or hidden fees will not be able to do that. Our economy will be better for it. It will be stable, transparent, and clear, and we will see continued economic growth in the American economy once we pass consumer financial protection.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

#### AMERICA COMPETES REAUTHORIZATION ACT OF 2010

Mr. GORDON of Tennessee. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5325) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5325

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "America COMPETES Reauthorization Act of 2010".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

## TITLE I—SCIENCE AND TECHNOLOGY POLICY

## Subtitle A—National Nanotechnology Initiative Amendments

- Sec. 101. Short title.
- Sec. 102. National nanotechnology program amendments.
- Sec. 103. Societal dimensions of nanotechnology.
- Sec. 104. Technology transfer.
- Sec. 105. Research in areas of national importance.
- Sec. 106. Nanomanufacturing research.
- Sec. 107. Definitions.

## Subtitle B—Networking and Information Technology Research and Development

- Sec. 111. Short title.
- Sec. 112. Program planning and coordination.
- Sec. 113. Large-scale research in areas of national importance.
- Sec. 114. Cyber-physical systems and information management.
- Sec. 115. National Coordination Office.
- Sec. 116. Improving networking and information technology education.
- Sec. 117. Conforming and technical amendments.

## Subtitle C—Other OSTP Provisions

- Sec. 121. Federal scientific collections.
- Sec. 122. Coordination of manufacturing research and development.
- Sec. 123. Interagency public access committee.
- Sec. 124. Fulfilling the potential of women in academic science and engineering.
- Sec. 125. National Competitiveness and Innovation Strategy.

## TITLE II—NATIONAL SCIENCE FOUNDATION

- Sec. 201. Short title.

## Subtitle A—General Provisions

- Sec. 211. Definitions.
- Sec. 212. Authorization of appropriations.
- Sec. 213. National Science Board administrative amendments.
- Sec. 214. Broader impacts review criterion.
- Sec. 215. National Center for Science and Engineering Statistics.
- Sec. 216. Collection of data on demographics of faculty.

## Subtitle B—Research and Innovation

- Sec. 221. Support for potentially transformative research.
- Sec. 222. Facilitating interdisciplinary collaborations for national needs.
- Sec. 223. National Science Foundation manufacturing research and education.
- Sec. 224. Strengthening institutional research partnerships.
- Sec. 225. National Science Board report on mid-scale instrumentation.
- Sec. 226. Sense of Congress on overall support for research infrastructure at the Foundation.
- Sec. 227. Partnerships for innovation.
- Sec. 228. Prize awards.
- Sec. 229. Green chemistry basic research.
- Sec. 230. Collaboration in planning for stewardship of large-scale facilities.

## Subtitle C—STEM Education and Workforce Training

- Sec. 241. Graduate student support.
- Sec. 242. Postdoctoral fellowship in STEM education research.
- Sec. 243. Robert Noyce teacher scholarship program.
- Sec. 244. Institutions serving persons with disabilities.

- Sec. 245. Institutional integration.
- Sec. 246. Postdoctoral research fellowships.
- Sec. 247. Broadening participation training and outreach.
- Sec. 248. Transforming undergraduate education in STEM.
- Sec. 249. 21st century graduate education.
- Sec. 250. Undergraduate broadening participation program.
- Sec. 251. Grand challenges in education research.
- Sec. 252. Research experiences for undergraduates.
- Sec. 253. Laboratory science pilot program.
- Sec. 254. STEM industry internship programs.
- Sec. 255. Tribal colleges and universities program.
- Sec. 256. Cyber-enabled learning for national challenges.
- Sec. 257. Sense of Congress.

## TITLE III—STEM EDUCATION

- Sec. 301. Coordination of Federal STEM education.
- Sec. 302. Advisory committee on STEM education.
- Sec. 303. STEM education at the Department of Energy.
- Sec. 304. Green energy education.
- Sec. 305. National Academy of Sciences report on strengthening the capacity of 2-year institutions of higher education to provide STEM opportunities.
- Sec. 306. Sense of Congress on engineering education.
- Sec. 307. Sense of Congress on grant application consideration.
- Sec. 308. Encouraging Federal scientists and engineers to participate in STEM education.

## TITLE IV—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

- Sec. 401. Short title.
- Sec. 402. Authorization of appropriations.
- Sec. 403. Under Secretary of Commerce for Standards and Technology.
- Sec. 404. Reorganization of NIST laboratories.
- Sec. 405. Federal Government standards and conformity assessment coordination.
- Sec. 406. Manufacturing extension partnership.
- Sec. 407. Emergency communication and tracking technologies research initiative.
- Sec. 408. TIP Advisory Board.
- Sec. 409. Underrepresented minorities.
- Sec. 410. Cyber security standards and guidelines.
- Sec. 411. Disaster resilient buildings and infrastructure.
- Sec. 412. Definitions.
- Sec. 413. Report on the use of modeling and simulation.
- Sec. 414. Green manufacturing and construction.
- Sec. 415. Nanomaterial initiative.
- Sec. 416. Manufacturing research.

## TITLE V—INNOVATION

- Sec. 501. Office of Innovation and Entrepreneurship.
- Sec. 502. Federal loan guarantees for innovative technologies in manufacturing.
- Sec. 503. Regional innovation program.
- Sec. 504. Clean Energy Consortium.

## TITLE VI—DEPARTMENT OF ENERGY

## Subtitle A—Office of Science

- Sec. 601. Short title.
- Sec. 602. Definitions.

- Sec. 603. Mission of the Office of Science.
- Sec. 604. Basic Energy Sciences Program.
- Sec. 605. Biological and Environmental Research Program.
- Sec. 606. Advanced Scientific Computing Research Program.
- Sec. 607. Fusion energy research program.
- Sec. 608. High Energy Physics Program.
- Sec. 609. Nuclear Physics Program.
- Sec. 610. Science Laboratories Infrastructure Program.
- Sec. 611. Authorization of appropriations.

## Subtitle B—Advanced Research Projects Agency—Energy

- Sec. 621. Short title.
- Sec. 622. ARPA-E amendments.

## Subtitle C—Energy Innovation Hubs

- Sec. 631. Short title.
- Sec. 632. Energy Innovation Hubs.

## Subtitle D—Cooperative Research and Development Fund

- Sec. 641. Short title.
- Sec. 642. Cooperative research and development fund.

## Subtitle E—Technology Transfer Database

- Sec. 651. Technology transfer database.

## TITLE VII—MISCELLANEOUS

- Sec. 701. Sense of Congress.
- Sec. 702. Persons with disabilities.
- Sec. 703. Veterans and service members.
- Sec. 704. Budgetary effects.
- Sec. 705. Limitation on employment and receipt of funds.
- Sec. 706. Prohibition on lobbying.
- Sec. 707. Information requests by labor organizations.
- Sec. 708. Limitation on use of funds.
- Sec. 709. No salaries for viewing pornography.

## TITLE I—SCIENCE AND TECHNOLOGY POLICY

## Subtitle A—National Nanotechnology Initiative Amendments

## SEC. 101. SHORT TITLE.

This subtitle may be cited as the “National Nanotechnology Initiative Amendments Act of 2010”.

## SEC. 102. NATIONAL NANOTECHNOLOGY PROGRAM AMENDMENTS.

The 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501 et seq.) is amended—

(1) by striking section 2(c)(4) and inserting the following new paragraph:

“(4) develop, within 12 months after the date of enactment of the National Nanotechnology Initiative Amendments Act of 2010, and update every 3 years thereafter, a strategic plan to guide the activities described under subsection (b) that specifies near-term and long-term objectives for the Program, the anticipated time frame for achieving the near-term objectives, and the metrics to be used for assessing progress toward the objectives, and that describes—

“(A) how the Program will move results out of the laboratory and into applications for the benefit of society, including through cooperation and collaborations with nanotechnology research, development, and technology transition initiatives supported by the States;

“(B) how the Program will encourage and support interdisciplinary research and development in nanotechnology; and

“(C) proposed research in areas of national importance in accordance with the requirements of section 105 of the National Nanotechnology Initiative Amendments Act of 2010.”;

(2) in section 2—

(A) in subsection (d)—

(i) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively; and

(ii) by inserting the following new paragraph before paragraph (2), as so redesignated by clause (i) of this subparagraph:

“(1) the Program budget, for the previous fiscal year, for each agency that participates in the Program, including a breakout of spending for the development and acquisition of research facilities and instrumentation, for each program component area, and for all activities pursuant to subsection (b)(10);” and

(B) by inserting at the end the following new subsection:

“(e) **STANDARDS SETTING.**—The agencies participating in the Program shall support the activities of committees involved in the development of standards for nanotechnology and may reimburse the travel costs of scientists and engineers who participate in activities of such committees.”;

(3) by striking section 3(b) and inserting the following new subsection:

“(b) **FUNDING.**—(1) The operation of the National Nanotechnology Coordination Office shall be supported by funds from each agency participating in the Program. The portion of such Office's total budget provided by each agency for each fiscal year shall be in the same proportion as the agency's share of the total budget for the Program for the previous fiscal year, as specified in the report required under section 2(d)(1).

“(2) The annual report under section 2(d) shall include—

“(A) a description of the funding required by the National Nanotechnology Coordination Office to perform the functions specified under subsection (a) for the next fiscal year by category of activity, including the funding required to carry out the requirements of section 2(b)(10)(D), subsection (d) of this section, and section 5;

“(B) a description of the funding required by such Office to perform the functions specified under subsection (a) for the current fiscal year by category of activity, including the funding required to carry out the requirements of subsection (d); and

“(C) the amount of funding provided for such Office for the current fiscal year by each agency participating in the Program.”;

(4) by inserting at the end of section 3 the following new subsection:

“(d) **PUBLIC INFORMATION.**—(1) The National Nanotechnology Coordination Office shall develop and maintain a database accessible by the public of projects funded under the Environmental, Health, and Safety, the Education and Societal Dimensions, and the Nanomanufacturing program component areas, or any successor program component areas, including a description of each project, its source of funding by agency, and its funding history. For the Environmental, Health, and Safety program component area, or any successor program component area, projects shall be grouped by major objective as defined by the research plan required under section 103(b) of the National Nanotechnology Initiative Amendments Act of 2010. For the Education and Societal Dimensions program component area, or any successor program component area, the projects shall be grouped in subcategories of—

“(A) education in formal settings;

“(B) education in informal settings;

“(C) public outreach; and

“(D) ethical, legal, and other societal issues.

“(2) The National Nanotechnology Coordination Office shall develop, maintain, and

publicize information on nanotechnology facilities supported under the Program, and may include information on nanotechnology facilities supported by the States, that are accessible for use by individuals from academic institutions and from industry. The information shall include at a minimum the terms and conditions for the use of each facility, a description of the capabilities of the instruments and equipment available for use at the facility, and a description of the technical support available to assist users of the facility.”;

(5) in section 4(a)—

(A) by striking “or designate”;

(B) by inserting “as a distinct entity” after “Advisory Panel”; and

(C) by inserting at the end “The Advisory Panel shall form a subpanel with membership having specific qualifications tailored to enable it to carry out the requirements of subsection (c)(7).”;

(6) in section 4(b)—

(A) by striking “or designated” and “or designating”; and

(B) by adding at the end the following: “At least one member of the Advisory Panel shall be an individual employed by and representing a minority-serving institution.”;

(7) by amending section 5 to read as follows:

**“SEC. 5. TRIENNIAL EXTERNAL REVIEW OF THE NATIONAL NANOTECHNOLOGY PROGRAM.**

“(a) **IN GENERAL.**—The Director of the National Nanotechnology Coordination Office shall enter into an arrangement with the National Research Council of the National Academy of Sciences to conduct a triennial review of the Program. The Director shall ensure that the arrangement with the National Research Council is concluded in order to allow sufficient time for the reporting requirements of subsection (b) to be satisfied. Each triennial review shall include an evaluation of the—

“(1) research priorities and technical content of the Program, including whether the allocation of funding among program component areas, as designated according to section 2(c)(2), is appropriate;

“(2) effectiveness of the Program's management and coordination across agencies and disciplines, including an assessment of the effectiveness of the National Nanotechnology Coordination Office;

“(3) Program's scientific and technological accomplishments and its success in transferring technology to the private sector; and

“(4) adequacy of the Program's activities addressing ethical, legal, environmental, and other appropriate societal concerns, including human health concerns.

“(b) **EVALUATION TO BE TRANSMITTED TO CONGRESS.**—The National Research Council shall document the results of each triennial review carried out in accordance with subsection (a) in a report that includes any recommendations for ways to improve the Program's management and coordination processes and for changes to the Program's objectives, funding priorities, and technical content. Each report shall be submitted to the Director of the National Nanotechnology Coordination Office, who shall transmit it to the Advisory Panel, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Science and Technology of the House of Representatives not later than September 30 of every third year, with the first report due September 30, 2010.

“(c) **FUNDING.**—Of the amounts provided in accordance with section 3(b)(1), the following

amounts shall be available to carry out this section:

“(1) \$500,000 for fiscal year 2010.

“(2) \$500,000 for fiscal year 2011.

“(3) \$500,000 for fiscal year 2012.”; and

(8) in section 10—

(A) by amending paragraph (2) to read as follows:

“(2) **NANOTECHNOLOGY.**—The term ‘nanotechnology’ means the science and technology that will enable one to understand, measure, manipulate, and manufacture at the nanoscale, aimed at creating materials, devices, and systems with fundamentally new properties or functions.”; and

(B) by adding at the end the following new paragraph:

“(7) **NANOSCALE.**—The term ‘nanoscale’ means one or more dimensions of between approximately 1 and 100 nanometers.”.

**SEC. 103. SOCIETAL DIMENSIONS OF NANOTECHNOLOGY.**

(a) **COORDINATOR FOR SOCIETAL DIMENSIONS OF NANOTECHNOLOGY.**—The Director of the Office of Science and Technology Policy shall designate an associate director of the Office of Science and Technology Policy as the Coordinator for Societal Dimensions of Nanotechnology. The Coordinator shall be responsible for oversight of the coordination, planning, and budget prioritization of activities required by section 2(b)(10) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(b)(10)). The Coordinator shall, with the assistance of appropriate senior officials of the agencies funding activities within the Environmental, Health, and Safety and the Education and Societal Dimensions program component areas of the Program, or any successor program component areas, ensure that the requirements of such section 2(b)(10) are satisfied. The responsibilities of the Coordinator shall include—

(1) ensuring that a research plan for the environmental, health, and safety research activities required under subsection (b) is developed, updated, and implemented and that the plan is responsive to the recommendations of the subpanel of the Advisory Panel established under section 4(a) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7503(a)), as amended by this subtitle;

(2) encouraging and monitoring the efforts of the agencies participating in the Program to allocate the level of resources and management attention necessary to ensure that the ethical, legal, environmental, and other appropriate societal concerns related to nanotechnology, including human health concerns, are addressed under the Program, including the implementation of the research plan described in subsection (b); and

(3) encouraging the agencies required to develop the research plan under subsection (b) to identify, assess, and implement suitable mechanisms for the establishment of public-private partnerships for support of environmental, health, and safety research.

(b) **RESEARCH PLAN.**—

(1) **IN GENERAL.**—The Coordinator for Societal Dimensions of Nanotechnology shall convene and chair a panel comprised of representatives from the agencies funding research activities under the Environmental, Health, and Safety program component area of the Program, or any successor program component area, and from such other agencies as the Coordinator considers necessary to develop, periodically update, and coordinate the implementation of a research plan for this program component area. In developing and updating the plan, the panel convened by the Coordinator shall solicit and be

responsive to recommendations and advice from—

(A) the subpanel of the Advisory Panel established under section 4(a) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7503(a)), as amended by this subtitle; and

(B) the agencies responsible for environmental, health, and safety regulations associated with the production, use, and disposal of nanoscale materials and products.

(2) DEVELOPMENT OF STANDARDS.—The plan required under paragraph (1) shall include a description of how the Program will help to ensure the development of—

(A) standards related to nomenclature associated with engineered nanoscale materials;

(B) engineered nanoscale standard reference materials for environmental, health, and safety testing; and

(C) standards related to methods and procedures for detecting, measuring, monitoring, sampling, and testing engineered nanoscale materials for environmental, health, and safety impacts.

(3) COMPONENTS OF PLAN.—The plan required under paragraph (1) shall, with respect to activities described in paragraphs (1) and (2)—

(A) specify near-term research objectives and long-term research objectives;

(B) specify milestones associated with each near-term objective and the estimated time and resources required to reach each milestone;

(C) with respect to subparagraphs (A) and (B), describe the role of each agency carrying out or sponsoring research in order to meet the objectives specified under subparagraph (A) and to achieve the milestones specified under subparagraph (B);

(D) specify the funding allocated to each major objective of the plan and the source of funding by agency for the current fiscal year; and

(E) estimate the funding required for each major objective of the plan and the source of funding by agency for the following 3 fiscal years.

(4) TRANSMITTAL TO CONGRESS.—The plan required under paragraph (1) shall be submitted not later than 60 days after the date of enactment of this Act to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives.

(5) UPDATING AND APPENDING TO REPORT.—The plan required under paragraph (1) shall be updated annually and appended to the report required under section 2(d) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(d)).

(c) NANOTECHNOLOGY PARTNERSHIPS.—

(1) ESTABLISHMENT.—As part of the program authorized by section 9 of the National Science Foundation Authorization Act of 2002, the Director of the National Science Foundation shall provide 1 or more grants to establish partnerships as defined by subsection (a)(2) of that section, except that each such partnership shall include 1 or more businesses engaged in the production of nanoscale materials, products, or devices. Partnerships established in accordance with this subsection shall be designated as “Nanotechnology Education Partnerships”.

(2) PURPOSE.—Nanotechnology Education Partnerships shall be designed to recruit and help prepare secondary school students to pursue postsecondary level courses of instruction in nanotechnology. At a minimum, grants shall be used to support—

(A) professional development activities to enable secondary school teachers to use curricular materials incorporating nanotechnology and to inform teachers about career possibilities for students in nanotechnology;

(B) enrichment programs for students, including access to nanotechnology facilities and equipment at partner institutions, to increase their understanding of nanoscale science and technology and to inform them about career possibilities in nanotechnology as scientists, engineers, and technicians; and

(C) identification of appropriate nanotechnology educational materials and incorporation of nanotechnology into the curriculum for secondary school students at one or more organizations participating in a Partnership.

(3) SELECTION.—Grants under this subsection shall be awarded in accordance with subsection (b) of such section 9, except that paragraph (3)(B) of that subsection shall not apply.

(d) UNDERGRADUATE EDUCATION PROGRAMS.—

(1) ACTIVITIES SUPPORTED.—As part of the activities included under the Education and Societal Dimensions program component area, or any successor program component area, the Program shall support efforts to introduce nanoscale science, engineering, and technology into undergraduate science and engineering education through a variety of interdisciplinary approaches. Activities supported may include—

(A) development of courses of instruction or modules to existing courses;

(B) faculty professional development; and

(C) acquisition of equipment and instrumentation suitable for undergraduate education and research in nanotechnology.

(2) COURSE, CURRICULUM, AND LABORATORY IMPROVEMENT AUTHORIZATION.—There are authorized to be appropriated to the Director of the National Science Foundation to carry out activities described in paragraph (1) through the Course, Curriculum, and Laboratory Improvement program from amounts authorized under section 7002(c)(2)(B) of the America COMPETES Act, \$5,000,000 for fiscal year 2010.

(3) ADVANCED TECHNOLOGY EDUCATION AUTHORIZATION.—There are authorized to be appropriated to the Director of the National Science Foundation to carry out activities described in paragraph (1) through the Advanced Technology Education program from amounts authorized under section 7002(c)(2)(B) of the America COMPETES Act, \$5,000,000 for fiscal year 2010.

(e) INTERAGENCY WORKING GROUP.—The National Science and Technology Council shall establish under the Nanoscale Science, Engineering, and Technology Subcommittee an Education Working Group to coordinate, prioritize, and plan the educational activities supported under the Program.

(f) SOCIETAL DIMENSIONS IN NANOTECHNOLOGY EDUCATION ACTIVITIES.—Activities supported under the Education and Societal Dimensions program component area, or any successor program component area, that involve informal, precollege, or undergraduate nanotechnology education shall include education regarding the environmental, health and safety, and other societal aspects of nanotechnology.

(g) REMOTE ACCESS TO NANOTECHNOLOGY FACILITIES.—(1) Agencies supporting nanotechnology research facilities as part of the Program shall require the entities that operate such facilities to allow access via the Internet, and support the costs associated with the provision of such access, by secondary school students and teachers, to in-

struments and equipment within such facilities for educational purposes. The agencies may waive this requirement for cases when particular facilities would be inappropriate for educational purposes or the costs for providing such access would be prohibitive.

(2) The agencies identified in paragraph (1) shall require the entities that operate such nanotechnology research facilities to establish and publish procedures, guidelines, and conditions for the submission and approval of applications for the use of the facilities for the purpose identified in paragraph (1) and shall authorize personnel who operate the facilities to provide necessary technical support to students and teachers.

#### SEC. 104. TECHNOLOGY TRANSFER.

(a) PROTOTYPING.—

(1) ACCESS TO FACILITIES.—In accordance with section 2(b)(7) of 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(b)(7)), the agencies supporting nanotechnology research facilities as part of the Program shall provide access to such facilities to companies for the purpose of assisting the companies in the development of prototypes of nanoscale products, devices, or processes (or products, devices, or processes enabled by nanotechnology) for determining proof of concept. The agencies shall publicize the availability of these facilities and encourage their use by companies as provided for in this section.

(2) PROCEDURES.—The agencies identified in paragraph (1)—

(A) shall establish and publish procedures, guidelines, and conditions for the submission and approval of applications for use of nanotechnology facilities;

(B) shall publish descriptions of the capabilities of facilities available for use under this subsection, including the availability of technical support; and

(C) may waive recovery, require full recovery, or require partial recovery of the costs associated with use of the facilities for projects under this subsection.

(3) SELECTION AND CRITERIA.—In cases when less than full cost recovery is required pursuant to paragraph (2)(C), projects provided access to nanotechnology facilities in accordance with this subsection shall be selected through a competitive, merit-based process, and the criteria for the selection of such projects shall include at a minimum—

(A) the readiness of the project for technology demonstration;

(B) evidence of a commitment by the applicant for further development of the project to full commercialization if the proof of concept is established by the prototype; and

(C) evidence of the potential for further funding from private sector sources following the successful demonstration of proof of concept.

The agencies may give special consideration in selecting projects to applications that are relevant to important national needs or requirements.

(b) USE OF EXISTING TECHNOLOGY TRANSFER PROGRAMS.—

(1) PARTICIPATING AGENCIES.—Each agency participating in the Program shall—

(A) encourage the submission of applications for support of nanotechnology related projects to the Small Business Innovation Research Program and the Small Business Technology Transfer Program administered by such agencies; and

(B) through the National Nanotechnology Coordination Office and within 6 months after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate

and the Committee on Science and Technology of the House of Representatives—

(i) the plan described in section 2(c)(7) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(7)); and

(ii) a report specifying, if the agency administers a Small Business Innovation Research Program and a Small Business Technology Transfer Program—

(I) the number of proposals received for nanotechnology related projects during the current fiscal year and the previous 2 fiscal years;

(II) the number of such proposals funded in each year;

(III) the total number of nanotechnology related projects funded and the amount of funding provided for fiscal year 2004 through fiscal year 2008; and

(IV) a description of the projects identified in accordance with subclause (III) which received private sector funding beyond the period of phase II support.

(2) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—The Director of the National Institute of Standards and Technology in carrying out the requirements of section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) shall—

(A) in regard to subsection (d) of that section, encourage the submission of proposals for support of nanotechnology related projects; and

(B) in regard to subsection (g) of that section, include a description of how the requirement of subparagraph (A) of this paragraph is being met, the number of proposals for nanotechnology related projects received, the number of such proposals funded, the total number of such projects funded since the beginning of the Technology Innovation Program, and the outcomes of such funded projects in terms of the metrics developed in accordance with such subsection (g).

(3) TIP ADVISORY BOARD.—The TIP Advisory Board established under section 28(k) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(k)), in carrying out its responsibilities under subsection (k)(3), shall provide the Director of the National Institute of Standards and Technology with—

(A) advice on how to accomplish the requirement of paragraph (2)(A) of this subsection; and

(B) an assessment of the adequacy of the allocation of resources for nanotechnology related projects supported under the Technology Innovation Program.

(c) INDUSTRY LIAISON GROUPS.—An objective of the Program shall be to establish industry liaison groups for all industry sectors that would benefit from applications of nanotechnology. The Nanomanufacturing, Industry Liaison, and Innovation Working Group of the National Science and Technology Council shall actively pursue establishing such liaison groups.

(d) COORDINATION WITH STATE INITIATIVES.—Section 2(b)(5) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(b)(5)) is amended to read as follows:

“(5) ensuring United States global leadership in the development and application of nanotechnology, including through coordination and leveraging Federal investments with nanotechnology research, development, and technology transition initiatives supported by the States;”.

#### SEC. 105. RESEARCH IN AREAS OF NATIONAL IMPORTANCE.

(a) IN GENERAL.—The Program shall include support for nanotechnology research

and development activities directed toward application areas that have the potential for significant contributions to national economic competitiveness and for other significant societal benefits. The activities supported shall be designed to advance the development of research discoveries by demonstrating technical solutions to important problems in such areas as nano-electronics, energy efficiency, health care, and water remediation and purification. The Advisory Panel shall make recommendations to the Program for candidate research and development areas for support under this section.

(b) CHARACTERISTICS.—

(1) IN GENERAL.—Research and development activities under this section shall—

(A) include projects selected on the basis of applications for support through a competitive, merit-based process;

(B) involve collaborations among researchers in academic institutions and industry, and may involve nonprofit research institutions and Federal laboratories, as appropriate;

(C) when possible, leverage Federal investments through collaboration with related State initiatives; and

(D) include a plan for fostering the transfer of research discoveries and the results of technology demonstration activities to industry for commercial development.

(2) PROCEDURES.—Determination of the requirements for applications under this subsection, review and selection of applications for support, and subsequent funding of projects shall be carried out by a collaboration of no fewer than 2 agencies participating in the Program. In selecting applications for support, the agencies shall give special consideration to projects that include cost sharing from non-Federal sources.

(3) INTERDISCIPLINARY RESEARCH CENTERS.—Research and development activities under this section may be supported through interdisciplinary nanotechnology research centers, as authorized by section 2(b)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(b)(4)), that are organized to investigate basic research questions and carry out technology demonstration activities in areas such as those identified in subsection (a).

(c) REPORT.—Reports required under section 2(d) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(d)) shall include a description of research and development areas supported in accordance with this section, including the same budget information as is required for program component areas under paragraphs (1) and (2) of such section 2(d).

#### SEC. 106. NANOMANUFACTURING RESEARCH.

(a) RESEARCH AREAS.—The Nanomanufacturing program component area, or any successor program component area, shall include research on—

(1) development of instrumentation and tools required for the rapid characterization of nanoscale materials and for monitoring of nanoscale manufacturing processes; and

(2) approaches and techniques for scaling the synthesis of new nanoscale materials to achieve industrial-level production rates.

(b) GREEN NANOTECHNOLOGY.—Interdisciplinary research centers supported under the Program in accordance with section 2(b)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(b)(4)) that are focused on nanomanufacturing research and centers established under the authority of section 105(b)(3) of this subtitle shall include as part of the activities of such centers—

(1) research on methods and approaches to develop environmentally benign nanoscale products and nanoscale manufacturing processes, taking into consideration relevant findings and results of research supported under the Environmental, Health, and Safety program component area, or any successor program component area;

(2) fostering the transfer of the results of such research to industry; and

(3) providing for the education of scientists and engineers through interdisciplinary studies in the principles and techniques for the design and development of environmentally benign nanoscale products and processes.

(c) REVIEW OF NANOMANUFACTURING RESEARCH AND RESEARCH FACILITIES.—

(1) PUBLIC MEETING.—Not later than 12 months after the date of enactment of this Act, the National Nanotechnology Coordination Office shall sponsor a public meeting, including representation from a wide range of industries engaged in nanoscale manufacturing, to—

(A) obtain the views of participants at the meeting on—

(i) the relevance and value of the research being carried out under the Nanomanufacturing program component area of the Program, or any successor program component area; and

(ii) whether the capabilities of nanotechnology research facilities supported under the Program are adequate—

(I) to meet current and near-term requirements for the fabrication and characterization of nanoscale devices and systems; and

(II) to provide access to and use of instrumentation and equipment at the facilities, by means of networking technology, to individuals who are at locations remote from the facilities; and

(B) receive any recommendations on ways to strengthen the research portfolio supported under the Nanomanufacturing program component area, or any successor program component area, and on improving the capabilities of nanotechnology research facilities supported under the Program.

Companies participating in industry liaison groups shall be invited to participate in the meeting. The Coordination Office shall prepare a report documenting the findings and recommendations resulting from the meeting.

(2) ADVISORY PANEL REVIEW.—The Advisory Panel shall review the Nanomanufacturing program component area of the Program, or any successor program component area, and the capabilities of nanotechnology research facilities supported under the Program to assess—

(A) whether the funding for the Nanomanufacturing program component area, or any successor program component area, is adequate and receiving appropriate priority within the overall resources available for the Program;

(B) the relevance of the research being supported to the identified needs and requirements of industry;

(C) whether the capabilities of nanotechnology research facilities supported under the Program are adequate—

(i) to meet current and near-term requirements for the fabrication and characterization of nanoscale devices and systems; and

(ii) to provide access to and use of instrumentation and equipment at the facilities, by means of networking technology, to individuals who are at locations remote from the facilities; and



(D) the level of funding that would be needed to support—

(i) the acquisition of instrumentation, equipment, and networking technology sufficient to provide the capabilities at nanotechnology research facilities described in subparagraph (C); and

(ii) the operation and maintenance of such facilities.

In carrying out its assessment, the Advisory Panel shall take into consideration the findings and recommendations from the report required under paragraph (1).

(3) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Advisory Panel shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report on its assessment required under paragraph (2), along with any recommendations and a copy of the report prepared in accordance with paragraph (1).

#### SEC. 107. DEFINITIONS.

In this subtitle, terms that are defined in section 10 of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7509) have the meaning given those terms in that section.

#### Subtitle B—Networking and Information Technology Research and Development

#### SEC. 111. SHORT TITLE.

This subtitle may be cited as the “Networking and Information Technology Research and Development Act of 2010”.

#### SEC. 112. PROGRAM PLANNING AND COORDINATION.

(a) **PERIODIC REVIEWS.**—Section 101 of the High-Performance Computing Act of 1991 (15 U.S.C. 5511) is amended by adding at the end the following new subsection:

“(d) **PERIODIC REVIEWS.**—The agencies identified in subsection (a)(3)(B) shall—

“(1) periodically assess the contents and funding levels of the Program Component Areas and restructure the Program when warranted, taking into consideration any relevant recommendations of the advisory committee established under subsection (b); and

“(2) ensure that the Program includes large-scale, long-term, interdisciplinary research and development activities, including activities described in section 104.”.

(b) **DEVELOPMENT OF STRATEGIC PLAN.**—Section 101 of such Act (15 U.S.C. 5511) is amended further by adding after subsection (d), as added by subsection (a) of this section, the following new subsection:

“(e) **STRATEGIC PLAN.**—

“(1) **IN GENERAL.**—The agencies identified in subsection (a)(3)(B), working through the National Science and Technology Council and with the assistance of the National Coordination Office established under section 102, shall develop, within 12 months after the date of enactment of the Networking and Information Technology Research and Development Act of 2010, and update every 3 years thereafter, a 5-year strategic plan to guide the activities described under subsection (a)(1).

“(2) **CONTENTS.**—The strategic plan shall specify near-term and long-term objectives for the Program, the anticipated time frame for achieving the near-term objectives, the metrics to be used for assessing progress toward the objectives, and how the Program will—

“(A) foster the transfer of research and development results into new technologies and applications for the benefit of society, including through cooperation and collabora-

tions with networking and information technology research, development, and technology transition initiatives supported by the States;

“(B) encourage and support mechanisms for interdisciplinary research and development in networking and information technology, including through collaborations across agencies, across Program Component Areas, with industry, with Federal laboratories (as defined in section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703)), and with international organizations;

“(C) address long-term challenges of national importance for which solutions require large-scale, long-term, interdisciplinary research and development;

“(D) place emphasis on innovative and high-risk projects having the potential for substantial societal returns on the research investment;

“(E) strengthen all levels of networking and information technology education and training programs to ensure an adequate, well-trained workforce; and

“(F) attract more women and underrepresented minorities to pursue postsecondary degrees in networking and information technology.

“(3) **NATIONAL RESEARCH INFRASTRUCTURE.**—The strategic plan developed in accordance with paragraph (1) shall be accompanied by milestones and roadmaps for establishing and maintaining the national research infrastructure required to support the Program, including the roadmap required by subsection (a)(2)(E).

“(4) **RECOMMENDATIONS.**—The entities involved in developing the strategic plan under paragraph (1) shall take into consideration the recommendations—

“(A) of the advisory committee established under subsection (b); and

“(B) of the stakeholders whose input was solicited by the National Coordination Office, as required under section 102(b)(3).

“(5) **REPORT TO CONGRESS.**—The Director of the National Coordination Office shall transmit the strategic plan required under paragraph (1) to the advisory committee, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Science and Technology of the House of Representatives.”.

(c) **ADDITIONAL RESPONSIBILITIES OF DIRECTOR.**—Section 101(a)(2) of such Act (15 U.S.C. 5511(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

“(E) encourage and monitor the efforts of the agencies participating in the Program to allocate the level of resources and management attention necessary to ensure that the strategic plan under subsection (e) is developed and executed effectively and that the objectives of the Program are met;”.

(d) **ADVISORY COMMITTEE.**—Section 101(b)(1) of such Act (15 U.S.C. 5511(b)(1)) is amended by inserting after “an advisory committee on high-performance computing,” the following: “in which the co-chairs shall be members of the President’s Council of Advisors on Science and Technology and with the remainder of the committee”.

(e) **REPORT.**—Section 101(a)(3) of such Act (15 U.S.C. 5511(a)(3)) is amended—

(1) in subparagraph (C)—

(A) by striking “is submitted,” and inserting “is submitted, the levels for the previous fiscal year;”;

(B) by striking “each Program Component Area;” and inserting “each Program Component Area and research area supported in accordance with section 104;”;

(2) in subparagraph (D)—

(A) by striking “each Program Component Area,” and inserting “each Program Component Area and research area supported in accordance with section 104;”;

(B) by striking “is submitted,” and inserting “is submitted, the levels for the previous fiscal year;”;

(C) by striking “and” after the semicolon;

(3) by redesignating subparagraph (E) as subparagraph (G); and

(4) by inserting after subparagraph (D) the following new subparagraphs:

“(E) include a description of how the objectives for each Program Component Area, and the objectives for activities that involve multiple Program Component Areas, relate to the objectives of the Program identified in the strategic plan required under subsection (e);

“(F) include—

“(i) a description of the funding required by the National Coordination Office to perform the functions specified under section 102(b) for the next fiscal year by category of activity;

“(ii) a description of the funding required by such Office to perform the functions specified under section 102(b) for the current fiscal year by category of activity; and

“(iii) the amount of funding provided for such Office for the current fiscal year by each agency participating in the Program; and”.

(f) **DEFINITION.**—Section 4 of such Act (15 U.S.C. 5503) is amended—

(1) by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively;

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

“(1) ‘cyber-physical systems’ means physical or engineered systems whose networking and information technology functions and physical elements are deeply integrated and are actively connected to the physical world through sensors, actuators, or other means to perform monitoring and control functions;”;

(3) in paragraph (4), as so redesignated—

(A) by striking “high-performance computing” and inserting “networking and information technology;”;

(B) by striking “supercomputer” and inserting “high-end computing;”;

(4) in paragraph (6), as so redesignated, by striking “network referred to as” and all that follows through the semicolon and inserting “network, including advanced computer networks of Federal agencies and departments;”;

(5) in paragraph (7), as so redesignated, by striking “National High-Performance Computing Program” and inserting “networking and information technology research and development program”.

#### SEC. 113. LARGE-SCALE RESEARCH IN AREAS OF NATIONAL IMPORTANCE.

Title I of such Act (15 U.S.C. 5511) is amended by adding at the end the following new section:

#### “SEC. 104. LARGE-SCALE RESEARCH IN AREAS OF NATIONAL IMPORTANCE.

“(a) **IN GENERAL.**—The Program shall encourage agencies identified in section 101(a)(3)(B) to support large-scale, long-term, interdisciplinary research and development activities in networking and information technology directed toward application areas

that have the potential for significant contributions to national economic competitiveness and for other significant societal benefits. Such activities, ranging from basic research to the demonstration of technical solutions, shall be designed to advance the development of research discoveries. The advisory committee established under section 101(b) shall make recommendations to the Program for candidate research and development areas for support under this section.

**“(b) CHARACTERISTICS.—**

**“(1) IN GENERAL.—**Research and development activities under this section shall—

**“(A) include projects selected on the basis of applications for support through a competitive, merit-based process;**

**“(B) involve collaborations among researchers in institutions of higher education and industry, and may involve nonprofit research institutions and Federal laboratories, as appropriate;**

**“(C) when possible, leverage Federal investments through collaboration with related State initiatives; and**

**“(D) include a plan for fostering the transfer of research discoveries and the results of technology demonstration activities, including from institutions of higher education and Federal laboratories, to industry for commercial development.**

**“(2) COST-SHARING.—**In selecting applications for support, the agencies shall give special consideration to projects that include cost sharing from non-Federal sources.

**“(3) AGENCY COLLABORATION.—**If 2 or more agencies identified in section 101(a)(3)(B), or other appropriate agencies, are working on large-scale research and development activities in the same area of national importance, then such agencies shall strive to collaborate through joint solicitation and selection of applications for support and subsequent funding of projects.

**“(4) INTERDISCIPLINARY RESEARCH CENTERS.—**Research and development activities under this section may be supported through interdisciplinary research centers that are organized to investigate basic research questions and carry out technology demonstration activities in areas described in subsection (a). Research may be carried out through existing interdisciplinary centers, including those authorized under section 7024(b)(2) of the America COMPETES Act (Public Law 110-69; 42 U.S.C. 18620-10).”

**SEC. 114. CYBER-PHYSICAL SYSTEMS AND INFORMATION MANAGEMENT.**

**(a) ADDITIONAL PROGRAM CHARACTERISTICS.—**Section 101(a)(1) of such Act (15 U.S.C. 5511(a)(1)) is amended—

**(1) in subparagraph (H), by striking “and” after the semicolon;**

**(2) in subparagraph (I), by striking the period at the end and inserting a semicolon; and**

**(3) by adding at the end the following new subparagraphs:**

**“(J) provide for increased understanding of the scientific principles of cyber-physical systems and improve the methods available for the design, development, and operation of cyber-physical systems that are characterized by high reliability, safety, and security; and**

**“(K) provide for research and development on human-computer interactions, visualization, and information management.”**

**(b) TASK FORCE.—**Title I of such Act (15 U.S.C. 5511) is amended further by adding after section 104, as added by section 113 of this Act, the following new section:

**“SEC. 105. UNIVERSITY/INDUSTRY TASK FORCE.**

**“(a) ESTABLISHMENT.—**Not later than 180 days after the date of enactment of the Net-

working and Information Technology Research and Development Act of 2010, the Director of the National Coordination Office established under section 102 shall convene a task force to explore mechanisms for carrying out collaborative research and development activities for cyber-physical systems, including the related technologies required to enable these systems, through a consortium or other appropriate entity with participants from institutions of higher education, Federal laboratories, and industry.

**“(b) FUNCTIONS.—**The task force shall—

**“(1) develop options for a collaborative model and an organizational structure for such entity under which the joint research and development activities could be planned, managed, and conducted effectively, including mechanisms for the allocation of resources among the participants in such entity for support of such activities;**

**“(2) propose a process for developing a research and development agenda for such entity, including objectives and milestones;**

**“(3) define the roles and responsibilities for the participants from institutions of higher education, Federal laboratories, and industry in such entity;**

**“(4) propose guidelines for assigning intellectual property rights and for the transfer of research results to the private sector; and**

**“(5) make recommendations for how such entity could be funded from Federal, State, and non-governmental sources.**

**“(c) COMPOSITION.—**In establishing the task force under subsection (a), the Director of the National Coordination Office shall appoint an equal number of individuals from institutions of higher education and from industry with knowledge and expertise in cyber-physical systems, of which 2 may be selected from Federal laboratories.

**“(d) REPORT.—**Not later than 1 year after the date of enactment of the Networking and Information Technology Research and Development Act of 2010, the Director of the National Coordination Office shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report describing the findings and recommendations of the task force.”

**SEC. 115. NATIONAL COORDINATION OFFICE.**

Section 102 of such Act (15 U.S.C. 5512) is amended to read as follows:

**“SEC. 102. NATIONAL COORDINATION OFFICE.**

**“(a) ESTABLISHMENT.—**The Director shall establish a National Coordination Office with a Director and full-time staff.

**“(b) FUNCTIONS.—**The National Coordination Office shall—

**(1) provide technical and administrative support to—**

**(A) the agencies participating in planning and implementing the Program, including such support as needed in the development of the strategic plan under section 101(e); and**

**(B) the advisory committee established under section 101(b);**

**(2) serve as the primary point of contact on Federal networking and information technology activities for government organizations, academia, industry, professional societies, State computing and networking technology programs, interested citizen groups, and others to exchange technical and programmatic information;**

**(3) solicit input and recommendations from a wide range of stakeholders during the development of each strategic plan required under section 101(e) through the convening of at least 1 workshop with invitees from academia, industry, Federal laboratories, and**

other relevant organizations and institutions;

**“(4) conduct public outreach, including the dissemination of findings and recommendations of the advisory committee, as appropriate; and**

**“(5) promote access to and early application of the technologies, innovations, and expertise derived from Program activities to agency missions and systems across the Federal Government and to United States industry.**

**“(c) SOURCE OF FUNDING.—**

**(1) IN GENERAL.—**The operation of the National Coordination Office shall be supported by funds from each agency participating in the Program.

**(2) SPECIFICATIONS.—**The portion of the total budget of such Office that is provided by each agency for each fiscal year shall be in the same proportion as each such agency's share of the total budget for the Program for the previous fiscal year, as specified in the report required under section 101(a)(3).”

**SEC. 116. IMPROVING NETWORKING AND INFORMATION TECHNOLOGY EDUCATION.**

Section 201(a) of such Act (15 U.S.C. 5521(a)) is amended—

**(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and**

**(2) by inserting after paragraph (1) the following new paragraph:**

**“(2) the National Science Foundation shall use its existing programs, in collaboration with other agencies, as appropriate, to improve the teaching and learning of networking and information technology at all levels of education and to increase participation in networking and information technology fields, including by women and underrepresented minorities;”**

**SEC. 117. CONFORMING AND TECHNICAL AMENDMENTS.**

**(a) SECTION 3.—**Section 3 of such Act (15 U.S.C. 5502) is amended—

**(1) in the matter preceding paragraph (1), by striking “high-performance computing” and inserting “networking and information technology”; and**

**(2) in paragraph (1), in the matter preceding subparagraph (A), by striking “high-performance computing” and inserting “networking and information technology”; and**

**(3) in subparagraphs (A) and (F) of paragraph (1), by striking “high-performance computing” each place it appears and inserting “networking and information technology”; and**

**(4) in paragraph (2)—**

**(A) by striking “high-performance computing and” and inserting “networking and information technology and”; and**

**(B) by striking “high-performance computing network” and inserting “networking and information technology”.**

**(b) TITLE I.—**The heading of title I of such Act (15 U.S.C. 5511) is amended by striking **“HIGH-PERFORMANCE COMPUTING”** and inserting **“NETWORKING AND INFORMATION TECHNOLOGY”**.

**(c) SECTION 101.—**Section 101 of such Act (15 U.S.C. 5511) is amended—

**(1) in the section heading, by striking “high-performance computing” and inserting “networking and information technology research and development”; and**

**(2) in subsection (a)—**

**(A) in the subsection heading, by striking “NATIONAL HIGH-PERFORMANCE COMPUTING” and inserting “NETWORKING AND INFORMATION TECHNOLOGY RESEARCH AND DEVELOPMENT”; and**

**(B) in paragraph (1) of such subsection—**  
**(i) in the matter preceding subparagraph (A), by striking “National High-Performance**

Computing Program” and inserting “networking and information technology research and development program”;

(ii) in subparagraph (A), by striking “high-performance computing, including networking” and inserting “networking and information technology”; and

(iii) in subparagraphs (B), (C), and (G), by striking “high-performance” each place it appears and inserting “high-end”; and

(C) in paragraph (2) of such subsection—

(i) in subparagraphs (A) and (C)—

(I) by striking “high-performance computing” each place it appears and inserting “networking and information technology”; and

(II) by striking “development, networking,” each place it appears and inserting “development,”; and

(ii) in subparagraphs (F) and (G), as redesignated by section 112(c)(1) of this Act, by striking “high-performance” each place it appears and inserting “high-end”;

(3) in subsection (b)(1), in the matter preceding subparagraph (A), by striking “high-performance computing” both places it appears and inserting “networking and information technology”; and

(4) in subsection (c)(1)(A), by striking “high-performance computing” and inserting “networking and information technology”.

(d) SECTION 201.—Section 201(a)(1) of such Act (15 U.S.C. 5521(a)(1)) is amended by striking “high-performance computing” and all that follows through “networking,” and inserting “networking and information research and development”;

(e) SECTION 202.—Section 202(a) of such Act (15 U.S.C. 5522(a)) is amended by striking “high-performance computing” and inserting “networking and information technology”.

(f) SECTION 203.—Section 203(a)(1) of such Act (15 U.S.C. 5523(a)(1)) is amended by striking “high-performance computing and networking” and inserting “networking and information technology”.

(g) SECTION 204.—Section 204(a)(1) of such Act (15 U.S.C. 5524(a)(1)) is amended—

(1) in subparagraph (A), by striking “high-performance computing systems and networks” and inserting “networking and information technology systems and capabilities”; and

(2) in subparagraph (C), by striking “high-performance computing” and inserting “networking and information technology”.

(h) SECTION 205.—Section 205(a) of such Act (15 U.S.C. 5525(a)) is amended by striking “computational” and inserting “networking and information technology”.

(i) SECTION 206.—Section 206(a) of such Act (15 U.S.C. 5526(a)) is amended by striking “computational research” and inserting “networking and information technology research”.

(j) SECTION 208.—Section 208 of such Act (15 U.S.C. 5528) is amended—

(1) in the section heading, by striking “**HIGH-PERFORMANCE COMPUTING**” and inserting “**NETWORKING AND INFORMATION TECHNOLOGY**”; and

(2) in subsection (a)—

(A) in paragraph (1), by striking “High-performance computing and associated” and inserting “Networking and information”;

(B) in paragraph (2), by striking “high-performance computing” and inserting “networking and information technologies”;

(C) in paragraph (4), by striking “high-performance computers and associated” and inserting “networking and information”; and

(D) in paragraph (5), by striking “high-performance computing and associated” and inserting “networking and information”.

#### Subtitle C—Other OSTP Provisions

#### SEC. 121. FEDERAL SCIENTIFIC COLLECTIONS.

(a) MANAGEMENT OF SCIENTIFIC COLLECTIONS.—The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall ensure the development of formal policies for the management and use of Federal scientific collections to improve the quality, organization, access, including online access, and long-term preservation of such collections for the benefit of the scientific enterprise.

(b) DEFINITION.—For the purposes of this section, the term “scientific collection” means a set of physical specimens, living or inanimate, created for the purpose of supporting science and serving as a long-term research asset, rather than for their market value as collectibles or their historical, artistic, or cultural significance.

(c) CLEARINGHOUSE.—The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall ensure the development of an online clearinghouse for information on the contents of and access to Federal scientific collections.

(d) DISPOSAL OF COLLECTIONS.—The policies developed under subsection (a) shall—

(1) require that, before disposing of a scientific collection, a Federal agency shall—

(A) conduct a review of the research value of the collection; and

(B) consult with researchers who have used the collection, and other potentially interested parties, concerning—

(i) the collection’s value for research purposes; and

(ii) possible additional educational uses for the collection; and

(2) include procedures for Federal agencies to transfer scientific collections they no longer need to researchers at institutions or other entities qualified to manage the collections.

(e) COST PROJECTIONS.—The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall develop a common set of methodologies to be used by Federal agencies for the assessment and projection of costs associated with the management and preservation of their scientific collections.

#### SEC. 122. COORDINATION OF MANUFACTURING RESEARCH AND DEVELOPMENT.

(a) INTERAGENCY COMMITTEE.—The Director of the Office of Science and Technology Policy shall establish or designate an interagency committee under the National Science and Technology Council with the responsibility for planning and coordinating Federal programs and activities in manufacturing research and development.

(b) RESPONSIBILITIES OF COMMITTEE.—The interagency committee established or designated under subsection (a) shall—

(1) coordinate the manufacturing research and development programs and activities of the Federal agencies;

(2) establish goals and priorities for manufacturing research and development that will strengthen United States manufacturing; and

(3) develop and update every 5 years thereafter a strategic plan to guide Federal programs and activities in support of manufacturing research and development, which shall—

(A) specify and prioritize near-term and long-term research and development objectives, the anticipated time frame for achieving the objectives, and the metrics for use in assessing progress toward the objectives;

(B) specify the role of each Federal agency in carrying out or sponsoring research and development to meet the objectives of the strategic plan;

(C) describe how the Federal agencies supporting manufacturing research and development will foster the transfer of research and development results into new manufacturing technologies, processes, and products for the benefit of society and the national interest; and

(D) describe how the Federal agencies supporting manufacturing research and development will strengthen all levels of manufacturing education and training programs to ensure an adequate, well-trained workforce.

(c) RECOMMENDATIONS.—In the development of the strategic plan required under subsection (b)(3), the Director of the Office of Science and Technology Policy, working through the interagency committee, shall take into consideration the recommendations of a wide range of stakeholders, including representatives from diverse manufacturing companies, academia, and other relevant organizations and institutions.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall transmit the strategic plan developed under subsection (b)(3) to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Science and Technology of the House of Representatives, and shall transmit subsequent updates to those committees when completed.

#### SEC. 123. INTERAGENCY PUBLIC ACCESS COMMITTEE.

(a) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy shall establish a working group under the National Science and Technology Council with the responsibility to coordinate Federal science agency research and policies related to the dissemination and long-term stewardship of the results of unclassified research, including digital data and peer-reviewed scholarly publications, supported wholly, or in part, by funding from the Federal science agencies.

(b) RESPONSIBILITIES.—The working group established under subsection (a) shall—

(1) coordinate the development or designation of uniform standards for research data, the structure of full text and metadata, navigation tools, and other applications to achieve interoperability across Federal science agencies, across science and engineering disciplines, and between research data and scholarly publications, taking into account existing consensus standards, including international standards;

(2) coordinate Federal science agency programs and activities that support research and education on tools and systems required to ensure preservation and stewardship of all forms of digital research data, including scholarly publications;

(3) work with international science and technology counterparts to maximize interoperability between United States based unclassified research databases and international databases and repositories;

(4) solicit input and recommendations from, and collaborate with, non-Federal stakeholders, including universities, non-profit and for-profit publishers, libraries, federally funded research scientists, and other organizations and institutions with a stake in long term preservation and access to the results of federally funded research; and

(5) establish priorities for coordinating the development of any Federal science agency

policies related to public access to the results of federally funded research to maximize uniformity of such policies with respect to their benefit to, and potential economic or other impact on, the science and engineering enterprise and the stakeholders thereof.

(c) **PATENT OR COPYRIGHT LAW.**—Nothing in this section shall be construed to affect any right under the provisions of title 17 or 35, United States Code.

(d) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall transmit a report to Congress describing—

(1) any priorities established under subsection (b)(5);

(2) the status of any Federal science agency policies related to public access to the results of federally funded research; and

(3) how any policies developed or being developed by Federal science agencies, as described in paragraph (2), incorporate input from the non-Federal stakeholders described in subsection (b)(4).

(e) **DEFINITION.**—For the purposes of this section, the term “Federal science agency” means any Federal agency with an annual extramural research expenditure of over \$100,000,000.

(f) **SENSE OF CONGRESS REGARDING PEER REVIEW.**—It is the sense of Congress that peer review is an important part of the process of ensuring the integrity of the record of scientific research, and that the National Science and Technology Council working group established under this section should take into account the role that scientific publishers play in the peer review process.

#### **SEC. 124. FULFILLING THE POTENTIAL OF WOMEN IN ACADEMIC SCIENCE AND ENGINEERING.**

(a) **DEFINITION.**—In this section, the term “Federal science agency” means any Federal agency that is responsible for at least 2 percent of total Federal research and development funding to institutions of higher education, according to the most recent data available from the National Science Foundation.

(b) **WORKSHOPS TO ENHANCE GENDER EQUITY IN ACADEMIC SCIENCE AND ENGINEERING.**—

(1) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall develop a uniform policy for all Federal science agencies to carry out a program of workshops that educate program officers, members of grant review panels, institution of higher education STEM department chairs, and other federally funded researchers about methods that minimize the effects of gender bias in evaluation of Federal research grants and in the related academic advancement of actual and potential recipients of these grants, including hiring, tenure, promotion, and selection for any honor based in part on the recipient's research record.

(2) **INTERAGENCY COORDINATION.**—The Director of the Office of Science and Technology Policy shall ensure that programs of workshops across the Federal science agencies are coordinated and supported jointly as appropriate. As part of this process, the Director of the Office of Science and Technology Policy shall ensure that at least 1 workshop is supported every 2 years among the Federal science agencies in each of the major science and engineering disciplines supported by those agencies.

(3) **ORGANIZATIONS ELIGIBLE TO CARRY OUT WORKSHOPS.**—Federal science agencies may carry out the program of workshops under

this subsection by making grants to eligible organizations. In addition to any other organizations made eligible by the Federal science agencies, the following organizations are eligible for grants under this subsection:

(A) Nonprofit scientific and professional societies and organizations that represent one or more STEM disciplines.

(B) Nonprofit organizations that have the primary mission of advancing the participation of women in STEM.

(4) **CHARACTERISTICS OF WORKSHOPS.**—The workshops shall have the following characteristics:

(A) Invitees to workshops shall include at least—

(i) the chairs of departments in the relevant discipline from at least the top 50 institutions of higher education, as determined by the amount of Federal research and development funds obligated to each institution of higher education in the prior year based on data available from the National Science Foundation;

(ii) members of any standing research grant review panel appointed by the Federal science agencies in the relevant discipline;

(iii) in the case of science and engineering disciplines supported by the Department of Energy, the individuals from each of the Department of Energy National Laboratories with personnel management responsibilities comparable to those of an institution of higher education department chair; and

(iv) Federal science agency program officers in the relevant discipline, other than program officers that participate in comparable workshops organized and run specifically for that agency's program officers.

(B) Activities at the workshops shall include research presentations and interactive discussions or other activities that increase the awareness of the existence of gender bias in the grant-making process and the development of the academic record necessary to qualify as a grant recipient, including recruitment, hiring, tenure review, promotion, and other forms of formal recognition of individual achievement, and provide strategies to overcome such bias.

(C) Research presentations and other workshop programs, as appropriate, shall include a discussion of the unique challenges faced by women who are members of historically underrepresented groups.

(D) Workshop programs shall include information on best practices and the value of mentoring undergraduate and graduate women students as well as outreach to girls earlier in their STEM education.

(5) **REPORT.**—

(A) **IN GENERAL.**—Not later than 5 years after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report evaluating the effectiveness of the program carried out under this subsection to reduce gender bias towards women engaged in research funded by the Federal Government. The Director of the Office of Science and Technology Policy shall include in this report any recommendations for improving the evaluation process described in subparagraph (B).

(B) **MINIMUM CRITERIA FOR EVALUATION.**—In determining the effectiveness of the program, the Director of the Office of Science and Technology Policy shall consider, at a minimum—

(i) the rates of participation by invitees in the workshops authorized under this subsection;

(ii) the results of attitudinal surveys conducted on workshop participants before and after the workshops;

(iii) any relevant institutional policy or practice changes reported by participants; and

(iv) for individuals described in paragraph (4)(A)(i) or (iii) who participated in at least 1 workshop 3 or more years prior to the due date for the report, trends in the data for the department represented by the chair or employee including faculty data related to gender as described in section 216.

(C) **INSTITUTIONAL ATTENDANCE AT WORKSHOPS.**—As part of the report under subparagraph (A), the Director of the Office of Science and Technology Policy shall include a list of institutions of higher education science and engineering departments whose representatives attended the workshops required under this subsection.

(6) **MINIMIZING COSTS.**—To the extent practicable, workshops shall be held in conjunction with national or regional disciplinary meetings to minimize costs associated with participant travel.

(c) **EXTENDED RESEARCH GRANT SUPPORT AND INTERIM TECHNICAL SUPPORT FOR CAREGIVERS.**—

(1) **POLICIES FOR CAREGIVERS.**—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall develop a uniform policy to—

(A) extend the period of grant support for federally funded researchers who have caregiving responsibilities; and

(B) provide funding for interim technical staff support for federally funded researchers who take a leave of absence for caregiving responsibilities.

(2) **REPORT.**—Upon developing the policy required under paragraph (1), the Director of the Office of Science and Technology Policy shall transmit a copy of the policy to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate.

(d) **COLLECTION OF DATA ON FEDERAL RESEARCH GRANTS.**—

(1) **IN GENERAL.**—Each Federal science agency shall collect standardized annual composite information on demographics, field, award type and budget request, review score, and funding outcome for all applications for research and development grants to institutions of higher education supported by that agency.

(2) **REPORTING OF DATA.**—

(A) The Director of the Office of Science and Technology Policy shall establish a policy to ensure uniformity and standardization of data collection required under paragraph (1).

(B) Not later than 2 years after the date of enactment of this Act, and annually thereafter, each Federal science agency shall submit data collected under paragraph (1) to the National Science Foundation.

(C) The National Science Foundation shall be responsible for storing and publishing all of the grant data submitted under subparagraph (B), disaggregated and cross-tabulated by race, ethnicity, and gender, in conjunction with the biennial report required under section 37 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885d).

#### **SEC. 125. NATIONAL COMPETITIVENESS AND INNOVATION STRATEGY.**

Not later than one year after the date of the enactment of this Act, the Director of the White House Office of Science and Technology Policy shall submit to Congress and

the President a national competitiveness and innovation strategy for strengthening the innovative and competitive capacity of the Federal Government, State and local governments, institutions of higher education, and the private sector that includes—

- (1) proposed legislative changes and action;
- (2) proposed actions to be taken collectively by executive agencies, including White House offices;
- (3) proposed actions to be taken by individual executive agencies, including White House offices; and
- (4) a proposal for metrics-based monitoring and oversight of the progress of the Federal Government with respect to improving conditions for the innovation occurring in and the competitiveness of the United States.

## TITLE II—NATIONAL SCIENCE FOUNDATION

### SEC. 201. SHORT TITLE.

This title may be cited as the “National Science Foundation Authorization Act of 2010”.

#### Subtitle A—General Provisions

### SEC. 211. DEFINITIONS.

In this title:

(1) **DIRECTOR.**—The term “Director” means the Director of the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(2) **FOUNDATION.**—The term “Foundation” means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(3) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) **STATE.**—The term “State” means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(5) **STEM.**—The term “STEM” means science, technology, engineering, and mathematics.

(6) **UNITED STATES.**—The term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

### SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

(a) **FISCAL YEAR 2011.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Foundation \$7,481,000,000 for fiscal year 2011.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized under paragraph (1)—

- (A) \$6,020,000,000 shall be made available for research and related activities;
- (B) \$945,000,000 shall be made available for education and human resources;
- (C) \$166,000,000 shall be made available for major research equipment and facilities construction;

(D) \$330,000,000 shall be made available for agency operations and award management;

(E) \$4,840,000 shall be made available for the Office of the National Science Board; and

(F) \$14,830,000 shall be made available for the Office of Inspector General.

(b) **FISCAL YEAR 2012.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Foundation \$8,127,000,000 for fiscal year 2012.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized under paragraph (1)—

(A) \$6,496,000,000 shall be made available for research and related activities;

(B) \$1,020,000,000 shall be made available for education and human resources;

(C) \$235,000,000 shall be made available for major research equipment and facilities construction;

(D) \$356,000,000 shall be made available for agency operations and award management;

(E) \$5,010,000 shall be made available for the Office of the National Science Board; and

(F) \$15,350,000 shall be made available for the Office of Inspector General.

(c) **FISCAL YEAR 2013.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Foundation \$8,764,000,000 for fiscal year 2013.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized under paragraph (1)—

(A) \$7,009,000,000 shall be made available for research and related activities;

(B) \$1,100,000,000 shall be made available for education and human resources;

(C) \$250,000,000 shall be made available for major research equipment and facilities construction;

(D) \$384,000,000 shall be made available for agency operations and award management;

(E) \$5,180,000 shall be made available for the Office of the National Science Board; and

(F) \$15,890,000 shall be made available for the Office of Inspector General.

### SEC. 213. NATIONAL SCIENCE BOARD ADMINISTRATIVE AMENDMENTS.

(a) **STAFFING AT THE NATIONAL SCIENCE BOARD.**—Section 4(g) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended by striking “not more than 5”.

(b) **SCIENCE AND ENGINEERING INDICATORS DUE DATE.**—Section 4(j)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(1)) is amended by striking “January 15” and inserting “May 31”.

(c) **NATIONAL SCIENCE BOARD REPORTS.**—Section 4(j)(2) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(2)) is amended by inserting “within the authority of the Foundation (or otherwise as requested by the appropriate Congressional committees of jurisdiction or the President)” after “individual policy matters”.

(d) **BOARD ADHERENCE TO SUNSHINE ACT.**—Section 15(a) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-5(a)) is amended—

(1) by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in paragraph (3), as so redesignated by paragraph (1) of this subsection—

(A) by striking “February 15” and inserting “April 15”; and

(B) by striking “the audit required under paragraph (3) along with” and inserting “any”; and

(3) in paragraph (4), as so redesignated by paragraph (1) of this subsection, by striking “To facilitate the audit required under paragraph (3) of this subsection, the” and inserting “The”.

### SEC. 214. BROADER IMPACTS REVIEW CRITERION.

(a) **GOALS.**—The Foundation shall apply a Broader Impacts Review Criterion to achieve the following goals:

(1) Increased economic competitiveness of the United States.

(2) Development of a globally competitive STEM workforce.

(3) Increased participation of women and underrepresented minorities in STEM.

(4) Increased partnerships between academia and industry.

(5) Improved pre-K–12 STEM education and teacher development.

(6) Improved undergraduate STEM education.

(7) Increased public scientific literacy.

(8) Increased national security.

(b) **POLICY.**—Not later than 6 months after the date of enactment of this Act, the Director shall develop and implement a policy for the Broader Impacts Review Criterion that—

(1) provides for educating professional staff at the Foundation, merit review panels, and applicants for Foundation research grants on the policy developed under this subsection;

(2) clarifies that the activities of grant recipients undertaken to satisfy the Broader Impacts Review Criterion shall—

(A) to the extent practicable employ proven strategies and models and draw on existing programs and activities; and

(B) when novel approaches are justified, build on the most current research results;

(3) allows for some portion of funds allocated to broader impacts under a research grant to be used for assessment and evaluation of the broader impacts activity;

(4) encourages institutions of higher education and other nonprofit education or research organizations to develop and provide, either as individual institutions or in partnerships thereof, appropriate training and programs to assist Foundation-funded principal investigators at their institutions in achieving the goals of the Broader Impacts Review Criterion as described in subsection (a); and

(5) requires principal investigators applying for Foundation research grants to provide evidence of institutional support for the portion of the investigator’s proposal designed to satisfy the Broader Impacts Review Criterion, including evidence of relevant training, programs, and other institutional resources available to the investigator from either their home institution or organization or another institution or organization with relevant expertise.

### SEC. 215. NATIONAL CENTER FOR SCIENCE AND ENGINEERING STATISTICS.

(a) **ESTABLISHMENT.**—There is established within the Foundation a National Center for Science and Engineering Statistics (in this section referred to as the “Center”), that shall serve as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development.

(b) **DUTIES.**—In carrying out subsection (a) of this section, the Director, acting through the Center shall—

(1) collect, acquire, analyze, report, and disseminate statistical data related to the science and engineering enterprise in the United States and other nations that is relevant and useful to practitioners, researchers, policymakers, and the public, including statistical data on—

(A) research and development trends;

(B) the science and engineering workforce;

(C) United States competitiveness in science, engineering, technology, and research and development; and

(D) the condition and progress of United States STEM education;

(2) support research using the data it collects, and on methodologies in areas related to the work of the Center; and

(3) support the education and training of researchers in the use of large-scale, nationally representative data sets.

(c) **STATISTICAL REPORTS.**—The Director or the National Science Board, acting through the Center, shall issue regular, and as necessary, special statistical reports on topics

related to the national and international science and engineering enterprise such as the biennial report required by section 4 (j)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(1)) on indicators of the state of science and engineering in the United States.

**SEC. 216. COLLECTION OF DATA ON DEMOGRAPHICS OF FACULTY.**

(a) **COLLECTION OF DATA.**—The Director shall report, in conjunction with the biennial report required under section 37 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885d), statistical summary data on the demographics of STEM discipline faculty at institutions of higher education in the United States, disaggregated and cross-tabulated by race, ethnicity, and gender. At a minimum, the Director shall consider—

- (1) the number and percent of faculty by gender, race, and age;
- (2) the number and percent of faculty at each rank, by gender, race, and age;
- (3) the number and percent of faculty who are in nontenure-track positions, including teaching and research, by gender, race, and age;
- (4) the number of faculty who are reviewed for promotion, including tenure, and the percentage of that number who are promoted, by gender, race, and age;
- (5) faculty years in rank by gender, race, and age;
- (6) faculty attrition by gender, race, and age;
- (7) the number and percent of faculty hired by rank, gender, race, and age; and
- (8) the number and percent of faculty in leadership positions, including endowed or named chairs, serving on promotion and tenure committees, by gender, race, and age.

(b) **RECOMMENDATIONS.**—The Director shall solicit input and recommendations from relevant stakeholders, including representatives from institutions of higher education and nonprofit organizations, on the collection of data required under subsection (a), including the development of standard definitions on the terms and categories to be used in the collection of such data.

(c) **REPORT TO CONGRESS.**—Not later than 2 years after the date of enactment of this Act, the Director shall submit a report to Congress on how the Foundation will gather the demographic data on STEM faculty, including—

- (1) a description of the data to be reported and the sources of those data;
- (2) justification for the exclusion of any data described in paragraph (1); and
- (3) a list of the definitions for the terms and categories, such as “faculty” and “leadership positions”, to be applied in the reporting of all data described in paragraph (1).

**Subtitle B—Research and Innovation**

**SEC. 221. SUPPORT FOR POTENTIALLY TRANSFORMATIVE RESEARCH.**

(a) **POLICY.**—The Director shall establish a policy that requires the Foundation to use at least 5 percent of its research budget to fund high-risk, high-reward basic research proposals. Support for facilities and infrastructure, including preconstruction design and operations and maintenance of major research facilities, shall not be counted as part of the research budget for the purposes of this section.

(b) **IMPLEMENTATION.**—In implementing such policy, the Foundation may—

- (1) develop solicitations specifically for high-risk, high-reward basic research;
- (2) establish review panels for the primary purpose of selecting high-risk, high-reward

proposals or modify instructions to standard review panels to require identification of high-risk, high-reward proposals; and

(3) support workshops and participate in conferences with the primary purpose of identifying new opportunities for high-risk, high-reward basic research, especially at interdisciplinary interfaces.

(c) **DEFINITION.**—For purposes of this section, the term “high-risk, high-reward basic research” means research driven by ideas that have the potential to radically change our understanding of an important existing scientific or engineering concept, or leading to the creation of a new paradigm or field of science or engineering, and that is characterized by its challenge to current understanding or its pathway to new frontiers.

**SEC. 222. FACILITATING INTERDISCIPLINARY COLLABORATIONS FOR NATIONAL NEEDS.**

(a) **IN GENERAL.**—The Director shall award competitive, merit-based awards in amounts not to exceed \$5,000,000 over a period of up to 5 years to interdisciplinary research collaborations that are likely to assist in addressing critical challenges to national security, competitiveness, and societal well-being and that—

- (1) involve at least 2 co-equal principal investigators at the same or different institutions;
- (2) draw upon well-integrated, diverse teams of investigators, including students or postdoctoral researchers, from one or more disciplines; and
- (3) foster creativity and pursue high-risk, high-reward research.

(b) **PRIORITY.**—In selecting grant recipients under this section, the Director shall give priority to applicants that propose to utilize advances in cyberinfrastructure and simulation-based science and engineering.

**SEC. 223. NATIONAL SCIENCE FOUNDATION MANUFACTURING RESEARCH AND EDUCATION.**

(a) **MANUFACTURING RESEARCH.**—The Director shall carry out a program to award merit-reviewed, competitive grants to institutions of higher education to support fundamental research leading to transformative advances in manufacturing technologies, processes, and enterprises that will support United States manufacturing through improved performance, productivity, sustainability, and competitiveness. Research areas may include—

- (1) nanomanufacturing;
- (2) manufacturing and construction machines and equipment, including robotics, automation, and other intelligent systems;
- (3) manufacturing enterprise systems;
- (4) advanced sensing and control techniques;
- (5) materials processing; and
- (6) information technologies for manufacturing, including predictive and real-time models and simulations, and virtual manufacturing.

(b) **MANUFACTURING EDUCATION.**—In order to help ensure a well-trained manufacturing workforce, the Director shall award grants to strengthen and expand scientific and technical education and training in advanced manufacturing, including through the Foundation’s Advanced Technological Education program.

**SEC. 224. STRENGTHENING INSTITUTIONAL RESEARCH PARTNERSHIPS.**

(a) **IN GENERAL.**—For any Foundation research grant, in an amount greater than \$2,000,000, to be carried out through a partnership that includes one or more minority-serving institutions or predominantly under-

graduate institutions and one or more institutions described in subsection (b), the Director shall award funds directly, according to the budget justification described in the grant proposal, to at least two of the institutions of higher education in the partnership, including at least one minority-serving institution or one predominantly undergraduate institution, to ensure a strong and equitable partnership.

(b) **INSTITUTIONS.**—The institutions referred to in subsection (a) are institutions of higher education that are among the 100 institutions receiving, over the 3-year period immediately preceding the awarding of grants, the highest amount of research funding from the Foundation.

(c) **REPORT.**—Not later than one year after the date of enactment of this Act, the Director shall provide a report to Congress on institutional research partnerships identified in subsection (a) funded in the previous fiscal year.

**SEC. 225. NATIONAL SCIENCE BOARD REPORT ON MID-SCALE INSTRUMENTATION.**

(a) **MID-SCALE RESEARCH INSTRUMENTATION NEEDS.**—The National Science Board shall evaluate the needs, across all disciplines supported by the Foundation, for mid-scale research instrumentation that falls between the instruments funded by the Major Research Instrumentation program and the very large projects funded by the Major Research Equipment and Facilities Construction program.

(b) **REPORT ON MID-SCALE RESEARCH INSTRUMENTATION PROGRAM.**—Not later than 1 year after the date of enactment of this Act, the National Science Board shall submit to Congress a report on mid-scale research instrumentation at the Foundation. At a minimum, this report shall include—

- (1) the findings from the Board’s evaluation of instrumentation needs required under subsection (a), including a description of differences across disciplines and Foundation research directorates;
- (2) a recommendation or recommendations regarding how the Foundation should set priorities for mid-scale instrumentation across disciplines and Foundation research directorates;

(3) a recommendation or recommendations regarding the appropriateness of expanding existing programs, including the Major Research Instrumentation program or the Major Research Equipment and Facilities Construction program, to support more instrumentation at the mid-scale;

(4) a recommendation or recommendations regarding the need for and appropriateness of a new, Foundation-wide program or initiative in support of mid-scale instrumentation, including any recommendations regarding the administration of and budget for such a program or initiative and the appropriate scope of instruments to be funded under such a program or initiative; and

(5) any recommendation or recommendations regarding other options for supporting mid-scale research instrumentation at the Foundation.

**SEC. 226. SENSE OF CONGRESS ON OVERALL SUPPORT FOR RESEARCH INFRASTRUCTURE AT THE FOUNDATION.**

It is the sense of Congress that the Foundation should strive to keep the percentage of the Foundation budget devoted to research infrastructure in the range of 24 to 27 percent, as recommended in the 2003 National Science Board report entitled “Science and Engineering Infrastructure for the 21st Century”.

**SEC. 227. PARTNERSHIPS FOR INNOVATION.**

(a) **IN GENERAL.**—The Director shall carry out a program to award merit-reviewed,

competitive grants to institutions of higher education to establish and to expand partnerships that promote innovation and increase the economic and social impact of research by developing tools and resources to connect new scientific discoveries to practical uses.

(b) **PARTNERSHIPS.**—

(1) **IN GENERAL.**—To be eligible for funding under this section, an institution of higher education must propose establishment of a partnership that—

(A) includes at least one private sector entity; and

(B) may include other institutions of higher education, public sector institutions, private sector entities, and social enterprise nonprofit organizations.

(2) **PRIORITY.**—In selecting grant recipients under this section, the Director shall give priority to partnerships that include one or more institutions of higher education that are among the 100 institutions receiving, over the 3-year period immediately preceding the awarding of grants, the highest amount of research funding from the Foundation and at least one of the following:

(A) A minority serving institution.

(B) A primarily undergraduate institution.

(C) A 2-year institution of higher education.

(c) **PROGRAM.**—Proposals funded under this section shall seek to—

(1) increase the economic or social impact of the most promising research at the institution or institutions of higher education that are members of the partnership through knowledge transfer or commercialization;

(2) increase the engagement of faculty and students across multiple disciplines and departments, including faculty and students in schools of business and other appropriate non-STEM fields and disciplines in knowledge transfer activities;

(3) enhance education and mentoring of students and faculty in innovation and entrepreneurship through networks, courses, and development of best practices and curricula;

(4) strengthen the culture of the institution or institutions of higher education to undertake and participate in activities related to innovation and leading to economic or social impact;

(5) broaden the participation of all types of institutions of higher education in activities to meet STEM workforce needs and promote innovation and knowledge transfer; and

(6) build lasting partnerships with local and regional businesses, local and State governments, and other relevant entities.

(d) **ADDITIONAL CRITERIA.**—In selecting grant recipients under this section, the Director shall also consider the extent to which the applicants are able to demonstrate evidence of institutional support for, and commitment to—

(1) achieving the goals of the program as described in subsection (c);

(2) expansion to an institution-wide program if the initial proposal is not for an institution-wide program; and

(3) sustaining any new innovation tools and resources generated from funding under this program.

(e) **LIMITATION.**—No funds provided under this section may be used to construct or renovate a building or structure.

**SEC. 228. PRIZE AWARDS.**

(a) **SHORT TITLE.**—This section may be cited as the “Generating Extraordinary New Innovations in the United States Act of 2010”.

(b) **IN GENERAL.**—The Director shall carry out a pilot program to award innovation in-

ducement cash prizes in any area of research supported by the Foundation. The Director may carry out a program of cash prizes only in conformity with this section.

(c) **TOPICS.**—In identifying topics for prize competitions under this section, the Director shall—

(1) consult widely both within and outside the Federal Government;

(2) give priority to high-risk, high-reward research challenges and to problems whose solution could improve the economic competitiveness of the United States; and

(3) give consideration to the extent to which the topics have the potential to raise public awareness about federally sponsored research.

(d) **TYPES OF CONTESTS.**—The Director shall consider all categories of innovation inducement prizes, including—

(1) contests in which the award is to the first team or individual who accomplishes a stated objective; and

(2) contests in which the winner is the team or individual who comes closest to achieving an objective within a specified time.

(e) **ADVERTISING AND ANNOUNCEMENT.**—

(1) **ADVERTISING AND SOLICITATION OF COMPETITORS.**—The Director shall widely advertise prize competitions to encourage broad participation, including by individuals, institutions of higher education, nonprofit organizations, and businesses.

(2) **ANNOUNCEMENT THROUGH FEDERAL REGISTER NOTICE.**—The Director shall announce each prize competition by publishing a notice in the Federal Register. This notice shall include the subject of the competition, the duration of the competition, the eligibility requirements for participation in the competition, the process for participants to register for the competition, the amount of the prize, and the criteria for awarding the prize, including the method by which the prize winner or winners will be selected.

(3) **TIME TO ANNOUNCEMENT.**—The Director shall announce a prize competition within 18 months after receipt of appropriated funds.

(f) **FUNDING.**—

(1) **FUNDING SOURCES.**—Prizes under this section shall consist of Federal appropriated funds and any funds raised pursuant to donations authorized under section 11(f) of the National Science Foundation Act of 1950 (42 U.S.C. 1870(f)) for specific prize competitions.

(2) **ANNOUNCEMENT OF PRIZES.**—The Director may not issue a notice as required by subsection (e)(2) until all of the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by another entity pursuant to paragraph (1).

(g) **ELIGIBILITY.**—To be eligible to win a prize under this section, an individual or entity—

(1) shall have complied with all of the requirements under this section;

(2) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a United States citizen or national, or an alien lawfully admitted to the United States for permanent residence;

(3) shall not be a Federal entity, a Federal employee acting within the scope of his or her employment, or a person employed at a Federal laboratory acting within the scope of his or her employment; and

(4) shall not have utilized Federal funds to engage in research on the topic for which the prize is being awarded.

(h) **AWARDS.**—

(1) **NUMBER OF COMPETITIONS.**—The Director may announce up to 5 prize competitions through the end of fiscal year 2013.

(2) **SIZE OF AWARD.**—The Director may determine the amount of each prize award based on the prize topic, but no award shall be less than \$1,000,000 or greater than \$3,000,000.

(3) **SELECTING WINNERS.**—The Director may convene an expert panel to select a winner of a prize competition. If the panel is unable to select a winner, the Director shall determine the winner of the prize.

(4) **PUBLIC OUTREACH.**—The Director shall publicly award prizes utilizing the Foundation's existing public affairs and public outreach resources.

(i) **ADMINISTERING THE COMPETITION.**—The Director may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of this section.

(j) **INTELLECTUAL PROPERTY.**—The Federal Government shall not, by virtue of offering or awarding a prize under this section, be entitled to any intellectual property rights derived as a consequence of, or in direct relation to, the participation by a registered participant in a competition authorized by this section. This subsection shall not be construed to prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this section.

(k) **LIABILITY.**—The Director may require a registered participant in a prize competition under this section to waive liability against the Federal Government for injuries and damages that result from participation in such competition.

(l) **NONSUBSTITUTION.**—Any programs created under this section shall not be considered a substitute for Federal research and development programs.

(m) **REPORTING REQUIREMENT.**—Not later than 5 years after the date of enactment of this Act, the National Science Board shall transmit to Congress a report containing the results of a review and assessment of the pilot program under this section, including—

(1) a description of the nature and status of all completed or ongoing prize competitions carried out under this section, including any scientific achievements, publications, intellectual property, or commercialized technology that resulted from such competitions;

(2) any recommendations regarding changes to, the termination of, or continuation of the pilot program;

(3) an analysis of whether the program is attracting contestants more diverse than the Foundation's traditional academic constituency;

(4) an analysis of whether public awareness of innovation or of the goal of the particular prize or prizes is enhanced;

(5) an analysis of whether the Foundation's public image or ability to increase public scientific literacy is enhanced through the use of innovation inducement prizes; and

(6) an analysis of the extent to which private funds are being used to support registered participants.

(n) **EARLY TERMINATION OF CONTESTS.**—The Director shall terminate a prize contest before any registered participant wins if the Director determines that an unregistered entity has produced an innovation that would otherwise have qualified for the prize award.

(o) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—

(A) **AWARDS.**—There are authorized to be appropriated to the Director for the period



encompassing fiscal years 2011 through 2013 \$12,000,000 for carrying out this section.

(B) **ADMINISTRATION.**—Of the amounts authorized in subparagraph (A), not more than 15 percent for each fiscal year shall be available for the administrative costs of carrying out this section.

(2) **CARRYOVER OF FUNDS.**—Funds appropriated for prize awards under this section shall remain available until expended, and may be transferred, reprogrammed, or expended for other purposes as authorized by law only after the expiration of 7 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this section permits obligation or payment of funds in violation of section 1341 of title 31 of the United States Code (commonly referred to as the Anti-Deficiency Act).

#### SEC. 229. GREEN CHEMISTRY BASIC RESEARCH.

The Director shall establish a Green Chemistry Basic Research program to award competitive, merit-based grants to support research into green and sustainable chemistry which will lead to clean, safe, and economical alternatives to traditional chemical products and practices. The research program shall provide sustained support for green chemistry research, education, and technology transfer through—

(1) merit-reviewed competitive grants to individual investigators and teams of investigators, including, to the extent practicable, young investigators, for research;

(2) grants to fund collaborative research partnerships among universities, industry, and nonprofit organizations;

(3) symposia, forums, and conferences to increase outreach, collaboration, and dissemination of green chemistry advances and practices; and

(4) education, training, and retraining of undergraduate and graduate students and professional chemists and chemical engineers, including through partnerships with industry, in green chemistry science and engineering.

#### SEC. 230. COLLABORATION IN PLANNING FOR STEWARDSHIP OF LARGE-SCALE FACILITIES.

It is the sense of Congress that the Foundation should, in its planning for construction and stewardship of large facilities, coordinate and collaborate with other Federal agencies, including the Department of Energy's Office of Science, to ensure that joint investments may be made when practicable. In particular, the Foundation should ensure that it responds to recommendations by the National Academy of Sciences and working groups convened by the National Science and Technology Council regarding such facilities and opportunities for partnership with other agencies in the design and construction of such facilities. For facilities in which research in multiple disciplines will be possible, the Director should include multiple units within the Foundation during the planning process.

#### Subtitle C—STEM Education and Workforce Training

#### SEC. 241. GRADUATE STUDENT SUPPORT.

(a) **FINDING.**—The Congress finds that—

(1) the Integrative Graduate Education and Research Traineeship program is an important program for training the next generation of scientists and engineers in team-based interdisciplinary research and problem solving, and for providing them with the many additional skills, such as communication skills, needed to thrive in diverse STEM careers; and

(2) the Integrative Graduate Education and Research Traineeship program is no less val-

uable to the preparation and support of graduate students than the Foundation's Graduate Research Fellowship program.

(b) **EQUAL TREATMENT OF IGERT AND GRF.**—Beginning in fiscal year 2011, the Director shall increase or, if necessary, decrease funding for the Foundation's Integrative Graduate Education and Research Traineeship program (or any program by which it is replaced) at least at the same rate as it increases or decreases funding for the Graduate Research Fellowship program.

(c) **SUPPORT FOR GRADUATE STUDENT RESEARCH FROM THE RESEARCH ACCOUNT.**—For each of the fiscal years 2011 through 2013, at least 50 percent of the total Foundation funds allocated to the Integrative Graduate Education and Research Traineeship program and the Graduate Research Fellowship program shall come from funds appropriated for Research and Related Activities.

(d) **COST OF EDUCATION ALLOWANCE FOR GRF PROGRAM.**—Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) is amended—

(1) by inserting “(a)” before “The Foundation is authorized”; and

(2) by adding at the end the following new subsection:

“(b) The Director shall establish for each year the amount to be awarded for scholarships and fellowships under this section for that year. Each such scholarship and fellowship shall include a cost of education allowance of \$12,000, subject to any restrictions on the use of cost of education allowance as determined by the Director.”.

#### SEC. 242. POSTDOCTORAL FELLOWSHIP IN STEM EDUCATION RESEARCH.

(a) **IN GENERAL.**—The Director shall establish postdoctoral fellowships in STEM education research to provide recent doctoral degree graduates in STEM fields with the necessary skills to assume leadership roles in STEM education research, program development, and evaluation in our Nation's diverse educational institutions.

(b) **AWARDS.**—

(1) **DURATION.**—Fellowships may be awarded under this section for a period of up to 24 months in duration, renewable for an additional 12 months. The Director shall establish criteria for eligibility for renewal of the fellowship.

(2) **STIPEND.**—The Director shall determine the amount of the award for a fellowship, which shall include a stipend and a research allowance, and may include an educational allowance.

(3) **LOCATION.**—A fellowship shall be awarded for research at any institution of higher education that offers degrees in fields supported by the Foundation, or at any institution or organization that the Director determines is eligible for education research grants from the Foundation.

(4) **NUMBER OF AWARDS.**—The Director may award up to 20 new fellowships per year.

(c) **RESEARCH.**—Fellowships under this section shall be awarded for research on STEM education at any educational level, including grades pre-K-12, undergraduate, graduate, and general public education, in both formal and informal settings. Research topics may include—

(1) learning processes and progressions;

(2) knowledge transfer, including curriculum development;

(3) uses of technology as teaching and learning tools;

(4) integrating STEM fields; and

(5) assessment of student learning and program evaluation.

(d) **ELIGIBILITY.**—To be eligible for a fellowship under this section, an individual must—

(1) be a United States citizen or national, or an alien lawfully admitted to the United States for permanent residence, at the time of application; and

(2) have received a doctoral degree in one of the STEM fields supported by the Foundation within 3 years prior to the fellowship application deadline.

(e) **OUTREACH.**—In carrying out the program under this section, the Director shall conduct outreach efforts to encourage applications from underrepresented groups.

#### SEC. 243. ROBERT NOYCE TEACHER SCHOLARSHIP PROGRAM.

(a) **MATCHING REQUIREMENT.**—Section 10A(h)(1) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1a(h)(1)) is amended to read as follows:

“(1) **IN GENERAL.**—An eligible entity receiving a grant under this section shall provide, from non-Federal sources, to carry out the activities supported by the grant—

“(A) in the case of grants in an amount of less than \$1,500,000, an amount equal to at least 30 percent of the amount of the grant, at least one half of which shall be in cash; and

“(B) in the case of grants in an amount of \$1,500,000 or more, an amount equal to at least 50 percent of the amount of the grant, at least one half of which shall be in cash.”.

(b) **RETIRING STEM PROFESSIONALS.**—Section 10A of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1a) is amended in subsection (a)(2)(A) by inserting “including retiring professionals in those fields,” after “mathematics professionals.”.

#### SEC. 244. INSTITUTIONS SERVING PERSONS WITH DISABILITIES.

For the purposes of the activities and programs supported by the Foundation, institutions of higher education chartered to serve large numbers of students with disabilities, including Gallaudet University, Landmark College, and the National Technical Institute for the Deaf, shall have a designation consistent with the designation for other institutions that serve populations underrepresented in STEM to ensure that institutions of higher education chartered to serve persons with disabilities can benefit from STEM bridge programs and from research partnerships with major research universities. Nothing in this section shall be construed to amend or otherwise affect any of the definitions for minority-serving institutions under title III or title V of the Higher Education Act of 1965.

#### SEC. 245. INSTITUTIONAL INTEGRATION.

(a) **INNOVATION THROUGH INSTITUTIONAL INTEGRATION.**—The Director shall award grants for the institutional integration of projects funded by the Foundation with a focus on education, or on broadening participation in STEM by underrepresented groups, for the purpose of increasing collaboration and coordination across funded projects and institutions and expanding the impact of such projects within and among institutions of higher education in an innovative and sustainable manner.

(b) **PROGRAM ACTIVITIES.**—The program under this section shall support integrative activities that involve the strategic and innovative combination of Foundation-funded projects and that provide for—

(1) additional opportunities to increase the recruitment, retention, and degree attainment of underrepresented groups in STEM disciplines;

(2) the inclusion of programming, practices, and policies that encourage the integration of education and research;

(3) seamless transitions from one educational level to another, including from a 2-year to a 4-year institution; and

(4) other activities that expand and deepen the impact of Foundation-funded projects with a focus on education, or on broadening participation in STEM by underrepresented groups, and enhance their sustainability.

(c) **REVIEW CRITERIA.**—In selecting recipients of grants under this section, the Director shall consider at a minimum—

(1) the extent to which the proposed project addresses the goals of project and program integration and adds value to the existing funded projects;

(2) the extent to which there is a proven record of success for the existing projects on which the proposed integration project is based; and

(3) the extent to which the proposed project addresses the modification of programming, practices, and policies necessary to achieve the purpose described in subsection (a).

(d) **PRIORITY.**—In selecting recipients of grants under this section, the Director shall give priority to proposals for which a senior institutional administrator, including a dean or other administrator of equal or higher rank, serves as the principal investigator.

#### **SEC. 246. POSTDOCTORAL RESEARCH FELLOWSHIPS.**

(a) **IN GENERAL.**—The Director shall establish a Foundation-wide postdoctoral research fellowship program, to award competitive, merit-based postdoctoral research fellowships in any field of research supported by the Foundation.

(b) **DURATION AND AMOUNT.**—Fellowships may be awarded under this section for a period of up to 3 years in duration. The Director shall determine the amount of the award for a fellowship, which shall include a stipend and a research allowance, and may include an educational allowance.

(c) **ELIGIBILITY.**—To be eligible to receive a fellowship under this section, an individual—

(1) must be a United States citizen or national, or an alien lawfully admitted to the United States for permanent residence, at the time of application;

(2) must have received a doctoral degree in any field of research supported by the Foundation within 3 years prior to the fellowship application deadline, or will complete a doctoral degree no more than 1 year after the application deadline; and

(3) may not have previously received funding as the principal investigator of a research grant from the Foundation, unless such funding was received as a graduate student.

(d) **PRIORITY.**—In evaluating applications for fellowships under this section, the Director shall give priority to applications that include—

(1) proposals for interdisciplinary research; or

(2) proposals for high-risk, high-reward research.

(e) **ADDITIONAL CONSIDERATIONS.**—

(1) **IN GENERAL.**—In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) and veterans.

(2) **DEFINITION.**—For purposes of this subsection, the term “veteran” means a person who—

(A) served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more

than 180 consecutive days, and who was discharged or released therefrom under conditions other than dishonorable; or

(B) served on active duty (other than active duty for training) in the Armed Forces of the United States and was discharged or released from such service for a service-connected disability before serving 180 consecutive days.

For purposes of subparagraph (B), the term “service-connected” has the meaning given such term under section 101 of title 38, United States Code.

(f) **NONSUBSTITUTION.**—The fellowship program authorized under this section is not intended to replace or reduce support for postdoctoral research through existing programs at the Foundation.

(g) **OUTREACH.**—In carrying out the program under this section, the Director shall conduct outreach efforts to encourage applications from underrepresented groups.

#### **SEC. 247. BROADENING PARTICIPATION TRAINING AND OUTREACH.**

The Director shall provide education and training—

(1) to Foundation staff and grant proposal review panels on effective mechanisms and tools for broadening participation in STEM by underrepresented groups, including reviewer selection and mitigation of implicit bias in the review process; and

(2) to Foundation staff on related outreach approaches.

#### **SEC. 248. TRANSFORMING UNDERGRADUATE EDUCATION IN STEM.**

Section 17 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–6) is amended to read as follows:

#### **“SEC. 17. TRANSFORMING UNDERGRADUATE EDUCATION IN STEM.**

“(a) **IN GENERAL.**—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education (or to consortia thereof) to reform undergraduate STEM education for the purpose of increasing the number and quality of students studying toward and completing baccalaureate degrees in STEM and improving the STEM learning outcomes for all undergraduate students, including through—

“(1) development, implementation, and assessment of innovative, research-based approaches to transforming the teaching and learning of disciplinary or interdisciplinary STEM at the undergraduate level; and

“(2) expansion of successful STEM reform efforts beyond a single course or group of courses to achieve reform within an entire academic unit, or expansion of successful reform efforts beyond a single academic unit to other STEM academic units within an institution or to comparable academic units at other institutions.

“(b) **USES OF FUNDS.**—Activities supported by grants under this section may include—

“(1) creation of multidisciplinary or interdisciplinary courses or programs that formalize collaborations for the purpose of improved student instruction and research in STEM;

“(2) expansion of undergraduate STEM research opportunities to include interdisciplinary research opportunities and research opportunities in industry, at Federal labs, and at international research institutions or research sites;

“(3) implementation or expansion of bridge programs, including programs that address student transition from 2-year to 4-year institutions, and cohort, tutoring, or mentoring programs proven to enhance student recruitment or persistence to degree completion in STEM, including recruitment or per-

sistence to degree completion of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b);

“(4) improvement of undergraduate STEM education for nonmajors, including education majors;

“(5) implementation of evidence-based, technology-driven reform efforts that directly impact undergraduate STEM instruction or research experiences;

“(6) development and implementation of faculty and graduate teaching assistant development programs focused on improved instruction, mentoring, assessment of student learning, and support of undergraduate STEM students;

“(7) support for graduate students and postdoctoral fellows to participate in instructional or assessment activities at primarily undergraduate institutions;

“(8) research on teaching and learning of STEM at the undergraduate level related to the proposed reform effort, including assessment and evaluation of the proposed reform activities, research on scalability and sustainability of approaches to reform, and development and implementation of longitudinal studies of students included in the proposed reform effort; and

“(9) support for initiatives that advance the integration of global challenges such as sustainability into disciplinary and interdisciplinary STEM education.

“(c) **PARTNERSHIP.**—An institution of higher education may partner with one or more other nonprofit education or research organizations, including scientific and engineering societies, for the purposes of carrying out the activities authorized under this section.

“(d) **SELECTION PROCESS.**—

“(1) **APPLICATIONS.**—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

“(A) a description of the proposed reform effort;

“(B) a description of the research findings that will serve as the basis for the proposed reform effort or, in the case of applications that propose an expansion of a previously implemented reform effort, a description of the previously implemented reform effort, including indicators of success such as data on student recruitment, persistence to degree completion, and academic achievement;

“(C) evidence of institutional support for, and commitment to, the proposed reform effort, including long-term commitment to implement successful strategies from the current reform effort beyond the academic unit or units included in the grant proposal or to disseminate successful strategies to other institutions;

“(D) a description of existing or planned institutional policies and practices regarding faculty hiring, promotion, tenure, and teaching assignment that reward faculty contributions to undergraduate STEM education; and

“(E) a description of the plans for assessment and evaluation of the proposed reform activities, including evidence of participation by individuals with experience in assessment and evaluation of teaching and learning programs.

“(2) **REVIEW OF APPLICATIONS.**—In selecting grant recipients under this section, the Director shall consider at a minimum—

“(A) the likelihood of success in undertaking the proposed effort at the institution

submitting the application, including the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit or units;

“(B) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on faculty engagement in undergraduate education;

“(C) the likelihood that the institution will sustain or expand the reform beyond the period of the grant; and

“(D) the degree to which scholarly assessment and evaluation plans are included in the design of the reform effort, including the degree to which such assessment and evaluation contribute to the systematic accumulation of knowledge on STEM education.

“(3) PRIORITY.—For proposals that include an expansion of existing reform efforts beyond a single academic unit, the Director shall give priority to proposals for which a senior institutional administrator, including a dean or other administrator of equal or higher rank, serves as the principal investigator or a coprincipal investigator.

“(4) GRANT DISTRIBUTION.—The Director shall ensure, to the extent practicable, that grants awarded under this section are made to a variety of types of institutions of higher education.”.

#### SEC. 249. 21ST CENTURY GRADUATE EDUCATION.

(a) IN GENERAL.—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to implement or expand research-based reforms in master's and doctoral level STEM education that emphasize preparation for diverse careers utilizing STEM degrees, including at diverse types of institutions of higher education, in industry, and at government agencies and research laboratories.

(b) USES OF FUNDS.—Activities supported by grants under this section may include—

(1) creation of multidisciplinary or interdisciplinary courses or programs for the purpose of improved student instruction and research in STEM;

(2) expansion of graduate STEM research opportunities to include interdisciplinary research opportunities and research opportunities in industry, at Federal laboratories, and at international research institutions or research sites;

(3) development and implementation of future faculty training programs focused on improved instruction, mentoring, assessment of student learning, and support of undergraduate STEM students;

(4) support and training for graduate students to participate in instructional activities beyond the traditional teaching assistantship, and especially as part of ongoing educational reform efforts, including at pre-K-12 schools, informal science education institutions, and primarily undergraduate institutions;

(5) creation, improvement, or expansion of innovative graduate programs such as science master's degree programs;

(6) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to engage in innovation, technology transfer, and entrepreneurship;

(7) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to effectively communicate their research findings to technical audiences outside of their own discipline and to nontechnical audiences;

(8) expansion of successful STEM reform efforts beyond a single academic unit to other STEM academic units within an institution or to comparable academic units at other institutions; and

(9) research on teaching and learning of STEM at the graduate level related to the proposed reform effort, including assessment and evaluation of the proposed reform activities and research on scalability and sustainability of approaches to reform.

(c) PARTNERSHIP.—An institution of higher education may partner with one or more other nonprofit education or research organizations, including scientific and engineering societies, for the purposes of carrying out the activities authorized under this section.

(d) SELECTION PROCESS.—

(1) APPLICATIONS.—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) in the case of applications that propose an expansion of a previously implemented reform effort at the applicant's institution or at other institutions, a description of the previously implemented reform effort;

(C) evidence of institutional support for, and commitment to, the proposed reform effort, including long-term commitment to implement successful strategies from the current reform effort beyond the academic unit or units included in the grant proposal or to disseminate successful strategies to other institutions; and

(D) a description of the plans for assessment and evaluation of the grant proposed reform activities.

(2) REVIEW OF APPLICATIONS.—In selecting grant recipients under this section, the Director shall consider at a minimum—

(A) the likelihood of success in undertaking the proposed effort at the institution submitting the application, including the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit or units;

(B) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on preparing graduate students for diverse careers utilizing STEM degrees;

(C) the likelihood that the institution will sustain or expand the reform beyond the period of the grant; and

(D) the degree to which scholarly assessment and evaluation plans are included in the design of the reform effort.

(e) REPEAL.—Section 7034 of the America COMPETES Act (42 U.S.C. 1862o-13) is repealed.

#### SEC. 250. UNDERGRADUATE BROADENING PARTICIPATION PROGRAM.

(a) UNDERGRADUATE BROADENING PARTICIPATION PROGRAM.—The Foundation shall continue to support the Historically Black Colleges and Universities Undergraduate Program, the Louis Stokes Alliances for Minority Participation program, and the Tribal Colleges and Universities Program as separate programs at least through September 30, 2011.

(b) PLAN.—Prior to any realignment or consolidation of the programs described in subsection (a), in addition to the Hispanic-

Serving Institutions Undergraduate Program required by section 7033 of the America COMPETES Act (42 U.S.C. 1862o-12), the Director shall develop a plan clarifying the objectives and rationale for such changes. The plan shall include a description of how such changes would result in—

(1) meeting or strengthening the common goal of the separate programs to increase the number of individuals from underrepresented groups attaining undergraduate STEM degrees; and

(2) addressing the unique needs of the different types of minority serving institutions and underrepresented groups currently provided for by the separate programs.

(c) RECOMMENDATIONS.—In the development of the plan required under subsection (b), the Director shall at a minimum—

(1) consider the recommendations and findings of the National Academy of Sciences report required by section 7032 of the America COMPETES Act (Public Law 110-69); and

(2) solicit recommendations and feedback from a wide range of stakeholders, including representatives from minority serving institutions, other institutions of higher education, and other entities with expertise on effective mechanisms to increase the recruitment and retention of members of underrepresented groups in STEM fields, and the attainment of STEM degrees by underrepresented groups.

(d) APPROVAL BY CONGRESS.—The plan developed under this section shall be transmitted to Congress at least 3 months prior to the implementation of any realignment or consolidation of the programs described in subsection (a).

#### SEC. 251. GRAND CHALLENGES IN EDUCATION RESEARCH.

(a) IN GENERAL.—The Director and the Secretary of Education shall collaborate, in consultation with the Director of the National Institutes of Health, in—

(1) identifying, prioritizing, and developing strategies to address grand challenges in research and development on the teaching and learning of STEM at the pre-K-12 level, in formal and informal settings, for diverse learning populations, including individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b), and students in rural schools;

(2) carrying out research and development to address the grand challenges identified in paragraph (1); and

(3) ensuring the dissemination of the results of such research and development.

(b) STAKEHOLDER INPUT.—In identifying the grand challenges required in subsection (a), the Director and the Secretary shall—

(1) take into consideration critical research gaps identified in existing reports, including reports by the National Academies, on the teaching and learning of STEM at the pre-K-12 level in formal and informal settings; and

(2) solicit input from a wide range of stakeholders, including local and State education officials, STEM teachers, STEM education researchers, scientific and engineering societies, STEM faculty at institutions of higher education, informal STEM education providers, businesses with a large STEM workforce, and other stakeholders in the teaching and learning of STEM at the pre-K-12 level, and may enter into an arrangement with the National Research Council for these purposes.

(c) TOPICS TO CONSIDER.—In identifying the grand challenges required in subsection (a), the Director and the Secretary, in order to

provide students with increased access to rigorous courses of study in STEM, increase the number of students who are prepared for advanced study and careers in STEM, and increase the effective teaching of STEM subjects, shall at a minimum consider the following topics:

(1) Research on scalability, sustainability, and replication of successful STEM activities, programs, and models, in formal and informal environments.

(2) Research that utilizes a systems approach to identifying challenges and opportunities to improve the teaching and learning of STEM, including development and evaluation of model systems that support improved teaching and learning of STEM across entire school districts and States, and encompassing and integrating the teaching and learning of STEM in formal and informal venues, and in K-12 schools and institutions of higher education.

(3) Research to understand what makes a STEM teacher effective and pre-service and in-service STEM teacher training and professional development effective, including development of tools and methodologies to measure STEM teacher effectiveness.

(4) Research and development on cyber-enabled tools and programs and television based tools and programs for learning and teaching STEM, including development of tools and methodologies for assessing cyber and television enabled teaching and learning.

(5) Research and development on STEM teaching and learning in informal environments, including development of tools and methodologies for assessing STEM teaching and learning in informal environments.

(6) Research and development on how integrating engineering with mathematics and science education may—

(A) improve student learning of mathematics and science;

(B) increase student interest and persistence in STEM; or

(C) improve student understanding of engineering design principles and of the built world.

(7) Research to understand what makes hands-on, inquiry-based classroom experiences effective, including development of tools and methodologies for assessing such experiences.

(d) **REPORT TO CONGRESS.**—Not later than 18 months after the date of enactment of this Act, the Director and the Secretary shall report back to Congress with a description of—

(1) the grand challenges identified pursuant to this section;

(2) the role of each agency in supporting research and development activities to address the grand challenges;

(3) the common metrics that will be used to assess progress toward meeting the grand challenges;

(4) plans for periodically updating the grand challenges;

(5) how the agencies will disseminate the results of research and development activities carried out under this section to STEM education practitioners, to other Federal agencies that support STEM programs and activities, and to non-Federal funders of STEM education; and

(6) how the agencies will support implementation of best practices identified by the research and development activities.

#### **SEC. 252. RESEARCH EXPERIENCES FOR UNDERGRADUATES.**

(a) **RESEARCH SITES.**—The Director shall award grants, on a merit-reviewed, competitive basis, to institutions of higher edu-

cation, nonprofit organizations, or consortia of such institutions and organizations, for sites designated by the Director to provide research experiences for 6 or more undergraduate STEM students for sites designated at primarily undergraduate institutions of higher education and 10 or more undergraduate STEM students for all other sites, with consideration given to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b). The Director shall ensure that—

(1) at least half of the students participating in a program funded by a grant under this subsection at each site shall be recruited from institutions of higher education where research opportunities in STEM are limited, including 2-year institutions;

(2) the awards provide undergraduate research experiences in a wide range of STEM disciplines;

(3) the awards support a variety of projects, including independent investigator-led projects, interdisciplinary projects, and multi-institutional projects (including virtual projects);

(4) students participating in each program funded have mentors, including during the academic year to the extent practicable, to help connect the students' research experiences to the overall academic course of study and to help students achieve success in courses of study leading to a baccalaureate degree in a STEM field;

(5) mentors and students are supported with appropriate salary or stipends; and

(6) student participants are tracked, for employment and continued matriculation in STEM fields, through receipt of the undergraduate degree and for at least 3 years thereafter.

(b) **INCLUSION OF UNDERGRADUATES IN STANDARD RESEARCH GRANTS.**—The Director shall require that every recipient of a research grant from the Foundation proposing to include 1 or more students enrolled in certificate, associate, or baccalaureate degree programs in carrying out the research under the grant shall request support, including stipend support, for such undergraduate students as part of the research proposal itself rather than as a supplement to the research proposal, unless such undergraduate participation was not foreseeable at the time of the original proposal.

#### **SEC. 253. LABORATORY SCIENCE PILOT PROGRAM.**

Section 7026 of the America COMPETES Act (Public Law 110-69) is amended by striking subsections (d) and (e).

#### **SEC. 254. STEM INDUSTRY INTERNSHIP PROGRAMS.**

(a) **IN GENERAL.**—The Director may award grants, on a competitive, merit-reviewed basis, to institutions of higher education, or consortia thereof, to establish or expand partnerships with local or regional private sector entities, for the purpose of providing undergraduate students with integrated internship experiences that connect private sector internship experiences with the students' STEM coursework. Such partnerships may also include industry or professional associations.

(b) **PRIORITY.**—In awarding grants under this section, the Director shall give priority to institutions of higher education or consortia thereof that demonstrate significant outreach to and coordination with local or regional private sector entities in developing academic courses designed to provide students with the skills necessary for employment in local or regional companies.

(c) **OUTREACH TO RURAL COMMUNITIES.**—The Foundation shall conduct outreach to institutions of higher education and private sector entities in rural areas to encourage those entities to participate in partnerships under this section.

(d) **COST-SHARE.**—The Director shall require a 50 percent non-Federal cost-share from partnerships established or expanded under this section.

(e) **RESTRICTION.**—No Federal funds provided under this section may be used—

(1) for the purpose of providing stipends or compensation to students for private sector internships; or

(2) as payment or reimbursement to private sector entities, except for institutions of higher education.

(f) **REPORT.**—Not less than 3 years after the date of enactment of this Act, the Director shall submit a report to Congress on the number and total value of awards made under this section, the number of students affected by those awards, any evidence of the effect of those awards on workforce preparation and jobs placement for participating students, and an economic and ethnic breakdown of the participating students.

#### **SEC. 255. TRIBAL COLLEGES AND UNIVERSITIES PROGRAM.**

(a) **IN GENERAL.**—The Director shall continue to support a program to award grants on a competitive, merit-reviewed basis to tribal colleges and universities (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c)), including institutions described in section 317 of such Act (20 U.S.C. 1059d), to enhance the quality of undergraduate STEM education at such institutions and to increase the retention and graduation rates of Native American students pursuing associate's or baccalaureate degrees in STEM.

(b) **PROGRAM COMPONENTS.**—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in STEM;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) **INSTRUMENTATION.**—Funding provided under this section may be used for instrumentation.

#### **SEC. 256. CYBER-ENABLED LEARNING FOR NATIONAL CHALLENGES.**

The Director shall, in consultation with appropriate Federal agencies, identify ways to use cyber-enabled learning to create an innovative STEM workforce and to help retrain and retain our existing STEM workforce to address national challenges, including national security and competitiveness.

#### **SEC. 257. SENSE OF CONGRESS.**

It is the sense of Congress that retaining graduate-level talent trained at American universities in Science, Technology, Engineering, and Mathematics (STEM) fields is critical to enhancing the competitiveness of American businesses.

### **TITLE III—STEM EDUCATION**

#### **SEC. 301. COORDINATION OF FEDERAL STEM EDUCATION.**

(a) **SHORT TITLE.**—This section may be cited as the "STEM Education Coordination Act of 2010".

(b) **DEFINITION.**—In this section, the term "STEM" means science, technology, engineering, and mathematics.

(c) **ESTABLISHMENT.**—The Director of the Office of Science and Technology Policy shall establish a committee under the National Science and Technology Council with

the responsibility to coordinate Federal programs and activities in support of STEM education, including at the National Science Foundation, the Department of Energy, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Department of Education, and all other Federal agencies that have programs and activities in support of STEM education.

(d) **RESPONSIBILITIES OF THE COMMITTEE.**—The committee established under subsection (c) shall—

(1) coordinate the STEM education activities and programs of the Federal agencies;

(2) develop, implement through the participating agencies, and update once every 5 years a 5-year STEM education strategic plan, which shall—

(A) specify and prioritize annual and long-term objectives;

(B) specify the common metrics that will be used to assess progress toward achieving the objectives;

(C) describe the approaches that will be taken by each participating agency to assess the effectiveness of its STEM education programs and activities;

(D) with respect to subparagraph (A), describe the role of each agency in supporting programs and activities designed to achieve the objectives;

(E) describe the approaches that will be taken by each agency to increase the participation of underrepresented minority groups in STEM studies and careers both for programs specifically designed to broaden participation and for all programs in general, including by providing for programs and activities that increase participation by individuals in these groups at all institutions, and by increasing the engagement of Historically Black Colleges and Universities and minority-serving institutions in the STEM education and outreach activities supported by the agencies; and

(F) describe the approaches that will be taken by each participating agency to conduct outreach designed to promote widespread public understanding of career opportunities in the STEM fields specific to the workforce needs of each agency, including outreach to women, Latinos, African-Americans, Native Americans, and other students from groups underrepresented in STEM;

(3) establish, periodically update, and maintain an inventory of federally sponsored STEM education programs and activities, including documentation of assessments of the effectiveness of such programs and activities and rates of participation by underrepresented minorities in such programs and activities; and

(4) establish and maintain a publically accessible online database of all federally sponsored STEM education programs and activities at all levels and for all audiences, including students, teachers, and the general public.

(e) **RESPONSIBILITIES OF OSTP.**—The Director of the Office of Science and Technology Policy shall encourage and monitor the efforts of the participating agencies to ensure that the strategic plan under subsection (d)(2) is developed and executed effectively and that the objectives of the strategic plan are met.

(f) **REPORT.**—The Director of the Office of Science and Technology Policy shall transmit a report annually to Congress at the time of the President's budget request describing the plan required under subsection (d)(2). The annual report shall include—

(1) a description of the STEM education programs and activities for the previous and

current fiscal years, and the proposed programs and activities under the President's budget request, of each participating Federal agency;

(2) the levels of funding for each participating Federal agency for the programs and activities described under paragraph (1) for the previous fiscal year and under the President's budget request;

(3) except for the initial annual report, a description of the progress made in carrying out the implementation plan, including a description of the outcome of any program assessments completed in the previous year, and any changes made to that plan since the previous annual report; and

(4) a description of how the participating Federal agencies will disseminate information about federally supported resources for STEM education practitioners, including teacher professional development programs, to States and to STEM education practitioners, including to teachers and administrators in high-need schools, as defined in section 200 of the Higher Education Act of 1965 (20 U.S.C. 1021).

#### **SEC. 302. ADVISORY COMMITTEE ON STEM EDUCATION.**

(a) **IN GENERAL.**—The President shall establish or designate an advisory committee on science, technology, engineering, and mathematics (STEM) education.

(b) **MEMBERSHIP.**—The advisory committee established or designated by the President under subsection (a) shall be chaired by at least 2 members of the President's Council of Advisors on Science and Technology, with the remaining advisory committee membership consisting of non-Federal members who are specially qualified to provide the President with advice and information on STEM education. Membership of the advisory committee, at a minimum, shall include individuals from the following categories of individuals and organizations:

(1) Elementary school and secondary school administrator associations.

(2) STEM educator professional associations.

(3) Organizations that provide informal STEM education activities.

(4) Institutions of higher education.

(5) Scientific and engineering professional societies.

(6) Business and industry associations.

(7) Foundations that fund STEM education activities.

(c) **RESPONSIBILITIES.**—The responsibilities of the advisory committee shall include—

(1) soliciting input from teachers and administrators in both public and private schools, local educational agencies, States, and other public and private STEM education stakeholder groups for the purpose of informing the Federal agencies that support STEM education programs on the STEM education needs of States and school districts, including the unique needs of schools in rural areas;

(2) soliciting input from all STEM education stakeholder groups regarding STEM education programs, including STEM education research programs, supported by Federal agencies;

(3) providing advice to the Federal agencies, including through the interagency committee established under section 301, that support STEM education programs on how their programs can be better aligned with the needs of States and school districts as identified in paragraph (1), consistent with the mission of each agency;

(4) offering guidance to the President on current STEM education activities, research

findings, and best practices, with the purpose of increasing connectivity between public and private STEM education efforts;

(5) providing advice to Federal agencies on how their STEM technical training and education programs can be better aligned with the workforce needs of States and regions; and

(6) facilitating improved coordination between federally supported STEM education programs and activities and State level activities, including the efforts of P-16 and P-20 councils in the States.

(d) **DEFINITIONS.**—For purposes of this section:

(1) **P-16.**—The term “P-16” refers to a system of education that encompasses preschool through undergraduate level education.

(2) **P-20.**—The term “P-20” refers to a system of education that encompasses preschool through graduate level education.

#### **SEC. 303. STEM EDUCATION AT THE DEPARTMENT OF ENERGY.**

(a) **DEFINITIONS.**—Section 5002 of the America COMPETES Act (42 U.S.C. 16531) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

“(2) **ENERGY SYSTEMS SCIENCE AND ENGINEERING.**—The term ‘energy systems science and engineering’ means—

“(A) nuclear science and engineering, including—

“(i) nuclear engineering;

“(ii) nuclear chemistry;

“(iii) radiochemistry; and

“(iv) health physics;

“(B) hydrocarbon system science and engineering, including—

“(i) petroleum or reservoir engineering;

“(ii) environmental geoscience;

“(iii) petrophysics;

“(iv) geophysics;

“(v) geochemistry;

“(vi) petroleum geology;

“(vii) ocean engineering;

“(viii) environmental engineering; and

“(ix) carbon capture and sequestration science and engineering;

“(C) energy efficiency and renewable energy technology systems science and engineering, including with respect to—

“(i) solar technology systems;

“(ii) wind technology systems;

“(iii) buildings technology systems;

“(iv) transportation technology systems;

“(v) hydropower systems;

“(vi) marine and hydrokinetic technology systems;

“(vii) geothermal systems; and

“(viii) biomass technology systems; and

“(D) energy storage and distribution systems science and engineering, including with respect to—

“(i) energy storage; and

“(ii) energy delivery.”.

(b) **SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION PROGRAMS.**—Subpart B of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381g et seq.) is amended—

(1) in section 3170—

(A) by amending paragraph (1) to read as follows:

“(1) **DIRECTOR.**—The term ‘Director’ means the Director of STEM Education appointed or designated under section 3171(c)(1).”;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following new paragraph:

“(2) ENERGY SYSTEMS SCIENCE AND ENGINEERING.—The term ‘energy systems science and engineering’ means—

“(A) nuclear science and engineering, including—

- “(i) nuclear engineering;
- “(ii) nuclear chemistry;
- “(iii) radiochemistry; and
- “(iv) health physics;

“(B) hydrocarbon system science and engineering, including—

- “(i) petroleum or reservoir engineering;
- “(ii) environmental geoscience;
- “(iii) petrophysics;
- “(iv) geophysics;
- “(v) geochemistry;
- “(vi) petroleum geology;
- “(vii) ocean engineering;
- “(viii) environmental engineering; and
- “(ix) carbon capture and sequestration science and engineering;

“(C) energy efficiency and renewable energy technology systems science and engineering, including with respect to—

- “(i) solar technology systems;
- “(ii) wind technology systems;
- “(iii) buildings technology systems;
- “(iv) transportation technology systems;
- “(v) hydropower systems;
- “(vi) marine and hydrokinetic technology systems;

- “(vii) geothermal systems; and
- “(viii) biomass technology systems; and

“(D) energy storage and distribution systems science and engineering, including with respect to—

- “(i) energy storage; and
- “(ii) energy delivery.”; and

(D) by adding at the end the following new paragraph:

“(4) STEM.—The term ‘STEM’ means science, technology, engineering, and mathematics.”;

(2) by striking chapters 1, 2, 3, 4, and 6;

(3) by inserting after section 3170 the following new chapter:

#### “CHAPTER 1—STEM EDUCATION

##### “SEC. 3171. STEM EDUCATION.

“(a) IN GENERAL.—The Secretary of Energy shall develop, conduct, support, promote, and coordinate formal and informal educational activities that leverage the Department’s unique content expertise and facilities to contribute to improving STEM education at all levels in the United States, and to enhance awareness and understanding of STEM, including energy sciences, in order to create a diverse skilled scientific and technical workforce essential to meeting the challenges facing the Department and the Nation in the 21st century.

“(b) PROGRAMS.—The Secretary shall carry out evidence-based programs designed to increase student interest and participation, including by women and underrepresented minority students, improve public literacy and support, and improve the teaching and learning of energy systems science and engineering and other STEM disciplines supported by the Department. Programs authorized under this subsection may include—

“(1) informal educational programming designed to excite and inspire students and the general public about energy systems science and engineering and other STEM disciplines supported by the Department, while strengthening their content knowledge in these fields;

“(2) teacher training and professional development opportunities for pre-service and in-service elementary and secondary teachers designed to increase the content knowledge of teachers in energy systems science and engineering and other STEM disciplines

supported by the Department, including through hands-on research experiences;

“(3) research opportunities for secondary school students, including internships at the National Laboratories, that provide secondary school students with hands-on research experiences as well as exposure to working scientists;

“(4) research opportunities at the National Laboratories for undergraduate and graduate students pursuing degrees in energy systems science and engineering and other STEM disciplines supported by the Department;

“(5) competitive scholarships, fellowships, and traineeships for undergraduate and graduate students in energy systems science and engineering and other STEM disciplines supported by the Department;

“(6) competitive grants for institutions of higher education (as defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))), including 2-year institutions of higher education, to establish or expand degree programs or courses in energy systems science and engineering; and

“(7) professional training for energy auditors, field technicians, and building contractors, in the areas of building energy retrofits and audits or related renewable energy technology installations.

“(c) ORGANIZATION OF STEM EDUCATION PROGRAMS.—

“(1) DIRECTOR OF STEM EDUCATION.—The Secretary shall appoint or designate a Director of STEM Education, who shall have the principal responsibility to oversee and coordinate all programs and activities of the Department in support of STEM education, including energy systems science and engineering education, across all functions of the Department.

“(2) QUALIFICATIONS.—The Director shall be an individual, who by reason of professional background and experience, is specially qualified to advise the Secretary on all matters pertaining to STEM education, including energy systems science and engineering education, at the Department.

“(3) DUTIES.—The Director shall—

“(A) oversee and coordinate all programs in support of STEM education, including energy systems science and engineering education, across all functions of the Department;

“(B) represent the Department as the principal interagency liaison for all STEM education programs, unless otherwise represented by the Secretary, the Under Secretary for Science, or the Under Secretary for Energy;

“(C) prepare the annual budget and advise the Under Secretary for Science and the Under Secretary for Energy on all budgetary issues for STEM education, including energy systems science and engineering education, relative to the programs of the Department;

“(D) establish, periodically update, and maintain a publicly accessible online inventory of STEM education programs and activities, including energy systems science and engineering education programs and activities;

“(E) develop, implement, and update the Department of Energy STEM education strategic plan, as required by subsection (d);

“(F) increase, to the maximum extent practicable, the participation and advancement of women and underrepresented minorities at every level of STEM education, including energy systems science and engineering education; and

“(G) perform such other matters relating to STEM education as are required by the Secretary, the Under Secretary for Science, or the Under Secretary for Energy.

“(d) DEPARTMENT OF ENERGY STEM EDUCATION STRATEGIC PLAN.—The Director of STEM education appointed or designated under subsection (c)(1) shall develop, implement, and update once every 3 years a 3-year STEM education strategic plan for the Department, which shall—

“(1) identify and prioritize annual and long-term STEM education goals and objectives for the Department that are aligned with the overall goals of the National Science and Technology Council Committee on STEM Education Strategic plan required under section 301(d)(2) of the STEM Education Coordination Act of 2010;

“(2) describe the role of each program or activity of the Department in contributing to the goals and objectives identified under paragraph (1);

“(3) specify the metrics that will be used to assess progress toward achieving those goals and objectives; and

“(4) describe the approaches that will be taken to assess the effectiveness of each STEM education program and activity supported by the Department.

“(e) OUTREACH TO STUDENTS FROM UNDERREPRESENTED GROUPS.—In carrying out a program authorized under this section, the Secretary shall give consideration to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

“(f) CONSULTATION AND PARTNERSHIP WITH OTHER AGENCIES.—In carrying out the programs and activities authorized under this section, the Secretary shall—

“(1) consult with the Secretary of Education and the Director of the National Science Foundation regarding activities designed to improve elementary and secondary STEM education; and

“(2) consult and partner with the Director of the National Science Foundation in carrying out programs under this section designed to build capacity in STEM education at the undergraduate and graduate level, including by supporting excellent proposals in energy systems science and engineering that are submitted for funding to the Foundation’s Advanced Technological Education Program.”; and

(4) in section 3191—

(A) in subsection (a)—

(i) by striking “web-based” and inserting “, through a publicly available website.”; and

(ii) by inserting “and project-based learning opportunities” after “laboratory experiments”;

(B) in subsection (b)(1), by inserting “, including energy systems science and engineering” after “the science of energy”; and

(C) by striking subsection (d).

(c) ENERGY APPLIED SCIENCE TALENT EXPANSION PROGRAM FOR INSTITUTIONS OF HIGHER EDUCATION.—

(1) AMENDMENT.—Strike sections 5004 and 5005 of the America COMPETES Act (42 U.S.C. 16532 and 16533) and insert the following new section:

#### “SEC. 5004. ENERGY APPLIED SCIENCE TALENT EXPANSION PROGRAM FOR INSTITUTIONS OF HIGHER EDUCATION.

“(a) PURPOSES.—The purposes of this section are—

“(1) to address the decline in the number of and resources available to energy systems science and engineering programs at institutions of higher education, including community colleges; and

“(2) to increase the number of graduates with degrees in energy systems science and

engineering, an area of strategic importance to the economic competitiveness and energy security of the United States.

“(b) ESTABLISHMENT.—The Secretary shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to implement or expand the energy systems science and engineering educational and technical training capabilities of the institution, and to provide merit-based financial support for master’s and doctoral level students pursuing courses of study and research in energy systems sciences and engineering.

“(c) USE OF FUNDS.—An institution of higher education that receives a grant under this section may use the grant to—

“(1) provide traineeships, including stipends and cost of education allowances, to master’s and doctoral students;

“(2) develop or expand multidisciplinary or interdisciplinary courses or programs;

“(3) recruit and retain new faculty;

“(4) develop or improve core and specialized course content;

“(5) encourage interdisciplinary and multidisciplinary research collaborations;

“(6) support outreach efforts to recruit students, including individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b); and

“(7) pursue opportunities for collaboration with industry and National Laboratories.

“(d) CRITERIA.—Criteria for awarding a grant under this section shall be based on—

“(1) the potential to attract new students to the program;

“(2) academic rigor; and

“(3) the ability to offer hands-on education and training opportunities for graduate students in the emerging areas of energy systems science and engineering.

“(e) PRIORITY.—The Secretary shall give priority to proposals that involve active partnerships with a National Laboratory or other energy systems science and engineering related entity, as determined by the Secretary.

“(f) DURATION AND AMOUNT.—

“(1) DURATION.—A grant under this section may be for up to 3 years in duration.

“(2) AMOUNT.—An institution of higher education that receives a grant under this section shall be eligible for up to \$1,000,000 for each year of the grant period.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

“(1) \$30,000,000 for fiscal year 2011;

“(2) \$32,000,000 for fiscal year 2012; and

“(3) \$36,000,000 for fiscal year 2013.”

(2) CONFORMING AMENDMENT.—The table of contents for the America COMPETES Act is amended by striking the items relating to sections 5004 and 5005 and inserting the following:

“Sec. 5004. Energy applied science talent expansion program for institutions of higher education.”

(d) DEPARTMENT OF ENERGY EARLY CAREER AWARDS FOR SCIENCE, ENGINEERING, AND MATHEMATICS RESEARCHERS.—Section 5006 of the America COMPETES Act (42 U.S.C. 16534) is amended—

(1) in subsection (a), by striking “Director of the Office” and all that follows through “shall carry” and inserting “Secretary shall carry”;

(2) in subsection (b)(1)—

(A) in subparagraph (A), by inserting “per year” after “\$80,000”; and

(B) in subparagraph (B), by striking “\$125,000” and inserting “\$175,000 per year”;

(3) in subsection (c)(1), by striking “, as determined by the Director”;

(4) in subsections (c)(2), (e), (f), and (g), by striking “Director” each place it appears and inserting “Secretary”;

(5) in subsection (d), by striking “merit-reviewed” and inserting “merit-based, peer reviewed”; and

(6) in subsection (h)—

(A) by striking “, acting through the Director,”; and

(B) by striking “\$25,000,000 for each of fiscal years 2008 through 2010” and inserting “such sums as are necessary”.

(e) PROTECTING AMERICA’S COMPETITIVE EDGE (PACE) GRADUATE FELLOWSHIP PROGRAM.—Section 5009 of the America COMPETES Act (42 U.S.C. 16536) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking “involving written and oral interviews, that will result in a wide distribution of awards throughout the United States,”; and

(B) in paragraph (2)(B)(iv), by striking “verbal and”;

(2) in subsection (d)(1)(B)(i), by inserting “partial or full” before “graduate tuition”; and

(3) by striking subsection (f).

(f) REPEAL.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is repealed.

#### SEC. 304. GREEN ENERGY EDUCATION.

(a) SHORT TITLE.—This section may be cited as the “Green Energy Education Act of 2010”.

(b) DEFINITION.—For the purposes of this section:

(1) DIRECTOR.—The term “Director” means the Director of the National Science Foundation.

(2) HIGH PERFORMANCE BUILDING.—The term “high performance building” has the meaning given that term in section 914(a) of the Energy Policy Act of 2005 (42 U.S.C. 16194(a)).

(c) GRADUATE TRAINING IN ENERGY RESEARCH AND DEVELOPMENT.—

(1) FUNDING.—In carrying out research, development, demonstration, and commercial application activities authorized for the Department of Energy, the Secretary may contribute funds to the National Science Foundation for the Integrative Graduate Education and Research Traineeship program to support projects that enable graduate education related to such activities.

(2) CONSULTATION.—The Director shall consult with the Secretary when preparing solicitations and awarding grants for projects described in paragraph (1).

(d) CURRICULUM DEVELOPMENT FOR HIGH PERFORMANCE BUILDING DESIGN.—

(1) FUNDING.—In carrying out advanced energy technology research, development, demonstration, and commercial application activities authorized for the Department of Energy related to high performance buildings, the Secretary may contribute funds to curriculum development activities at the National Science Foundation for the purpose of improving undergraduate or graduate interdisciplinary engineering and architecture education related to the design and construction of high performance buildings, including development of curricula, of laboratory activities, of training practicums, or of design projects. A primary goal of curriculum development activities supported under this subsection shall be to improve the ability of engineers, architects, landscape architects, and planners to work together on the incorporation of advanced energy technologies during the design and construction of high performance buildings.

(2) CONSULTATION.—The Director shall consult with the Secretary when preparing solicitations and awarding grants for projects described in paragraph (1).

(3) PRIORITY.—In awarding grants with respect to which the Secretary has contributed funds under this subsection, the Director shall give priority to applications from departments, programs, or centers of a school of engineering that are partnered with schools, departments, or programs of design, architecture, landscape architecture, and city, regional, or urban planning.

#### SEC. 305. NATIONAL ACADEMY OF SCIENCES REPORT ON STRENGTHENING THE CAPACITY OF 2-YEAR INSTITUTIONS OF HIGHER EDUCATION TO PROVIDE STEM OPPORTUNITIES.

Not later than 6 months after the date of enactment of this Act, the Office of Science and Technology Policy shall enter into a contract with the National Academy of Sciences to carry out a study evaluating the role of 2-year institutions of higher education as STEM educators, including in the preparation of students for direct entry into the STEM workforce and in preparation of students for transition into 4-year STEM degree programs, as well as the role of the Federal Government in helping 2-year institutions of higher education build their capacity to be effective STEM educators. At a minimum, the report shall include—

(1) an evaluation of the current capacity of 2-year institutions of higher education to be effective STEM educators, including in the preparation of students for direct entry into the STEM workforce and for transition into 4-year STEM degree programs;

(2) a description of existing challenges to expanding opportunities for 2-year institutions of higher education to provide and enhance STEM learning and provide STEM degrees that prepare students well for direct entry into the STEM workforce or for transition into 4-year degree programs;

(3) identification and description of Federal programs that have successfully strengthened the capacity of 2-year institutions of higher education to provide and enhance STEM opportunities;

(4) a recommendation or recommendations regarding how Federal agencies should set priorities for supporting STEM education at 2-year institutions of higher education;

(5) a recommendation or recommendations regarding ways Federal agencies can provide increased opportunities for 2-year institutions of higher education to participate across their portfolios of STEM education and research programs, including—

(A) ways to engage 2-year institution of higher education faculty and students with research experiences;

(B) strategies for improving the curriculum and teaching of developmental mathematics given that many 2-year institutions of higher education provide remediation in mathematics and other STEM coursework; and

(C) enhancing the basic scientific laboratory infrastructure; and

(6) a recommendation or recommendations regarding the need for and appropriateness of new Federal programs in support of STEM education at 2-year institutions of higher education.

#### SEC. 306. SENSE OF CONGRESS ON ENGINEERING EDUCATION.

It is the Sense of Congress that—

(1) in order to maintain our Nation’s competitiveness, we must improve the quality of STEM education in the Nation;



(2) the incorporation of engineering education at the elementary and secondary levels has the potential to improve student learning and achievement in science and mathematics, and to increase the technological literacy of all students;

(3) formal and informal educational providers, including K–12 schools, should integrate engineering design principles into their curriculum; and

(4) exposing elementary and secondary students to engineering education can expand students' understanding of engineering and their awareness of career opportunities in these fields.

#### **SEC. 307. SENSE OF CONGRESS ON GRANT APPLICATION CONSIDERATION.**

For science, technology, engineering, and mathematics (STEM) education programs or activities authorized under this Act or amendments made by this Act, it is the sense of Congress that when more than 1 applicant is competing for the same grant and the applications from each applicant are considered equal in merit by the grant-awarding authority, the grant-awarding authority shall give additional consideration to any of the following:

(1) An applicant that has not previously received funding.

(2) An applicant that is an institution of higher education in a rural area.

#### **SEC. 308. ENCOURAGING FEDERAL SCIENTISTS AND ENGINEERS TO PARTICIPATE IN STEM EDUCATION.**

Not later than 6 months after the date of enactment of this Act, the Director of the Office of Science and Technology Policy, in consultation with the Department of Education, shall develop a policy to—

(1) increase volunteerism in STEM education activities by encouraging scientists and engineers from Federal science agencies conducting nonmilitary scientific research and development, including scientists and engineers of the federally funded research and development centers supported by those agencies, to volunteer in STEM education activities, and by providing administrative support for such scientists and engineers to engage in such volunteerism; and

(2) support increased communication and partnerships between scientists and engineers from Federal science agencies conducting nonmilitary scientific research and development, including scientists and engineers of the federally funded research and development centers supported by those agencies, and elementary and secondary schools and teachers through volunteerism in STEM education activities.

### **TITLE IV—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY**

#### **SEC. 401. SHORT TITLE.**

This title may be cited as the “National Institute of Standards and Technology Authorization Act of 2010”.

#### **SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

##### **(a) FISCAL YEAR 2011.—**

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce \$991,100,000 for the National Institute of Standards and Technology for fiscal year 2011.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$620,000,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$125,000,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$246,100,000 shall be authorized for industrial technology services activities, of which—

(i) \$95,000,000 shall be authorized for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(ii) \$141,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l); and

(iii) \$10,000,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3711a).

##### **(b) FISCAL YEAR 2012.—**

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce \$992,400,000 for the National Institute of Standards and Technology for fiscal year 2012.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$657,200,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$85,000,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$250,200,000 shall be authorized for industrial technology services activities, of which—

(i) \$89,000,000 shall be authorized for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(ii) \$150,900,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l); and

(iii) \$10,300,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3711a).

##### **(c) FISCAL YEAR 2013.—**

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce \$1,079,809,000 for the National Institute of Standards and Technology for fiscal year 2013.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$696,700,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$122,000,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$261,109,000 shall be authorized for industrial technology services activities, of which—

(i) \$89,000,000 shall be authorized for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(ii) \$161,500,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l); and

(iii) \$10,609,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3711a).

#### **SEC. 403. UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.**

(a) ESTABLISHMENT.—Section 4 of the National Institute of Standards and Technology Act is amended to read as follows:

##### **“SEC. 4. UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.**

“(a) ESTABLISHMENT.—There shall be in the Department of Commerce an Under Secretary of Commerce for Standards and Technology (in this section referred to as the ‘Under Secretary’).

“(b) APPOINTMENT.—The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate.

“(c) COMPENSATION.—The Under Secretary shall be compensated at the rate in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(d) DUTIES.—The Under Secretary shall serve as the Director of the Institute and shall perform such duties as required of the Director by the Secretary under this Act or by law.

“(e) APPLICABILITY.—The individual serving as the Director of the Institute on the date of enactment of the National Institute of Standards and Technology Authorization Act of 2010 shall also serve as the Under Secretary until such time as a successor is appointed under subsection (b).”.

##### **(b) CONFORMING AMENDMENTS.—**

##### **(1) TITLE 5, UNITED STATES CODE.—**

(A) LEVEL III.—Section 5314 of title 5, United States Code, is amended by inserting before the item “Associate Attorney General” the following:

“Under Secretary of Commerce for Standards and Technology, who also serves as Director of the National Institute of Standards and Technology.”.

(B) LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking “Director, National Institute of Standards and Technology, Department of Commerce.”.

(2) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—Section 5 of the National Institute of Standards and Technology Act (15 U.S.C. 274) is amended by striking the first, fifth, and sixth sentences.

#### **SEC. 404. REORGANIZATION OF NIST LABORATORIES.**

(a) ORGANIZATION.—The Director shall reorganize the scientific and technical research and services laboratory program into the following operational units:

(1) The Physical Measurement Laboratory, whose mission is to realize and disseminate the national standards for length, mass, time and frequency, electricity, temperature, force, and radiation by activities including fundamental research in measurement science, the provision of measurement services and standards, and the provision of testing facilities resources for use by the Federal Government.

(2) The Information Technology Laboratory, whose mission is to develop and disseminate standards, measurements, and testing capabilities for interoperability, security, usability, and reliability of information technologies, including cyber security standards and guidelines for Federal agencies, United States industry, and the public, through fundamental and applied research in computer science, mathematics, and statistics.

(3) The Engineering Laboratory, whose mission is to develop and disseminate advanced manufacturing and construction technologies to the United States manufacturing and construction industries through activities including measurement science research, performance metrics, tools for engineering applications, and promotion of standards adoption.

(4) The Material Measurement Laboratory, whose mission is to serve as the national reference laboratory in biological, chemical, and material sciences and engineering through activities including fundamental research in the composition, structure, and properties of biological and environmental materials and processes, the development of certified reference materials and critically evaluated data, and other programs to assure

measurement quality in materials and biotechnology fields.

(5) The Center for Nanoscale Science and Technology, a national shared-use facility for nanoscale fabrication and measurement, whose mission is to develop innovative nanoscale measurement and fabrication capabilities to support researchers from industry, institutions of higher education, the National Institute of Standards and Technology, and other Federal agencies in nanoscale technology from discovery to production.

(6) The NIST Center for Neutron Research, a national user facility, whose mission is to provide neutron-based measurement capabilities to researchers from industry, institutions of higher education, the National Institute of Standards and Technology, and other Federal agencies in support of materials research, nondestructive evaluation, neutron imaging, chemical analysis, neutron standards, dosimetry, and radiation metrology.

(b) ADDITIONAL DUTIES.—The Director may assign additional duties to the operational units listed in subsection (a) that are consistent with the missions of such units.

(c) REVISION.—

(1) IN GENERAL.—Subsequent to the reorganization required under subsection (a), the Director may revise the organization of the scientific and technical research and services laboratory program.

(2) REPORT TO CONGRESS.—Any revision to the organization of such program under paragraph (1) shall be submitted in a report to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate at least 60 days before the effective date of such revision.

#### SEC. 405. FEDERAL GOVERNMENT STANDARDS AND CONFORMITY ASSESSMENT COORDINATION.

(a) COORDINATION.—Section 2(b) of the National Institute of Standards and Technology Act (15 U.S.C. 272(b)) is amended—

(1) in paragraph (12), by striking “and” after the semicolon;

(2) in paragraph (13), by striking the period at the end and inserting a semicolon; and

(3) by adding after paragraph (13) the following:

“(14) to promote collaboration among Federal departments and agencies and private sector stakeholders in the development and implementation of standards and conformity assessment frameworks to address specific Federal Government policy goals; and

“(15) to convene Federal departments and agencies, as appropriate, to—

“(A) coordinate and determine Federal Government positions on specific policy issues related to the development of international technical standards and conformity assessment-related activities; and

“(B) coordinate Federal department and agency engagement in the development of international technical standards and conformity assessment-related activities.”

(b) REPORT.—The Director, in consultation with appropriate Federal agencies, shall submit a report annually to Congress addressing the Federal Government's technical standards and conformity assessment-related activities. The report shall identify—

(1) current and anticipated international standards and conformity assessment-related issues that have the potential to impact the competitiveness and innovation capabilities of the United States;

(2) any action being taken by the Federal Government to address these issues and the Federal agency taking that action; and

(3) any action that the Director is taking or will take to ensure effective Federal Government engagement on technical standards and conformity assessment-related issues, as appropriate, where the Federal Government is not effectively engaged.

#### SEC. 406. MANUFACTURING EXTENSION PARTNERSHIP.

(a) COMMUNITY COLLEGE SUPPORT.—Section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) is amended—

(1) in paragraph (4), by striking “and” after the semicolon;

(2) in paragraph (5), by striking the period at the end and inserting “; and”; and

(3) by adding after paragraph (5) the following:

“(6) providing to community colleges information about the job skills needed in small- and medium-sized manufacturing businesses in the regions they serve.”

(b) INNOVATIVE SERVICES INITIATIVE.—Section 25 of such Act (15 U.S.C. 278k) is amended by adding at the end the following:

“(g) INNOVATIVE SERVICES INITIATIVE.—

“(1) ESTABLISHMENT.—The Director may establish, within the Centers program under this section, an innovative services initiative to assist small- and medium-sized manufacturers in—

“(A) reducing their energy usage and environmental waste to improve profitability; and

“(B) accelerating the domestic commercialization of new product technologies, including components for renewable energy systems.

“(2) MARKET DEMAND.—The Director may not undertake any activity to accelerate the domestic commercialization of a new product technology under this subsection unless an analysis of market demand for the new product technology has been conducted.”

(c) REPORTS.—Section 25 of such Act (15 U.S.C. 278k) is further amended by adding after subsection (g), as added by subsection (b), the following:

“(h) REPORTS.—

“(1) IN GENERAL.—In submitting the 3-year programmatic planning document and annual updates under section 23, the Director shall include an assessment of the Director's governance of the program established under this section.

“(2) CRITERIA.—In conducting such assessment, the Director shall use the criteria established pursuant to the Malcolm Baldrige National Quality Award under section 17(d)(1)(C) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(d)(1)(C)).”

(d) HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP PROGRAM COST-SHARING.—Section 25(c) of such Act (15 U.S.C. 278k(c)) is amended by adding at the end the following:

“(7) Notwithstanding paragraphs (1), (3), and (5), for fiscal year 2011 through fiscal year 2013, the Secretary may not provide to a Center more than 50 percent of the costs incurred by such Center and may not require that a Center's cost share exceed 50 percent.

“(8) Not later than 2 years after the date of enactment of the National Institute of Standards and Technology Authorization Act of 2010, the Secretary shall submit to Congress a report on the cost share requirements under the program. The report shall—

“(A) discuss various cost share structures, including the cost share structure in place prior to such date of enactment and the cost share structure in place under paragraph (7), and the effect of such cost share structures on individual Centers and the overall program; and

“(B) include a recommendation for how best to structure the cost share requirement after fiscal year 2013 to provide for the long-term sustainability of the program.”

(e) ADVISORY BOARD.—Section 25(e)(4) of such Act (15 U.S.C. 278k(e)(4)) is amended to read as follows:

“(4) FEDERAL ADVISORY COMMITTEE ACT APPLICABILITY.—

“(A) IN GENERAL.—In discharging its duties under this subsection, the MEP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

“(B) EXCEPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the MEP Advisory Board.”

(f) DEFINITIONS.—Section 25 of such Act (15 U.S.C. 278k) is further amended by adding after subsection (h), as added by subsection (c), the following:

“(i) DEFINITION.—In this section, the term ‘community college’ means an institution of higher education (as defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) at which the highest degree that is predominately awarded to students is an associate's degree.”

(g) EVALUATION OF OBSTACLES UNIQUE TO SMALL MANUFACTURERS.—Section 25 of such Act (15 U.S.C. 278k) is further amended by adding after subsection (i), as added by subsection (f), the following:

“(j) EVALUATION OF OBSTACLES UNIQUE TO SMALL MANUFACTURERS.—The Director shall—

“(1) evaluate obstacles that are unique to small manufacturers that prevent such manufacturers from effectively competing in the global market;

“(2) implement a comprehensive plan to train the Centers to address such obstacles; and

“(3) facilitate improved communication between the Centers to assist such manufacturers in implementing appropriate, targeted solutions to such obstacles.”

#### SEC. 407. EMERGENCY COMMUNICATION AND TRACKING TECHNOLOGIES RESEARCH INITIATIVE.

(a) ESTABLISHMENT.—The Director shall establish a research initiative to support the development of emergency communication and tracking technologies for use in locating trapped individuals in confined spaces, such as underground mines, and other shielded environments, such as high-rise buildings or collapsed structures, where conventional radio communication is limited.

(b) ACTIVITIES.—In order to carry out this section, the Director shall work with the private sector and appropriate Federal agencies to—

(1) perform a needs assessment to identify and evaluate the measurement, technical standards, and conformity assessment needs required to improve the operation and reliability of such emergency communication and tracking technologies;

(2) support the development of technical standards and conformance architecture to improve the operation and reliability of such emergency communication and tracking technologies; and

(3) incorporate and build upon existing reports and studies on improving emergency communications.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Director shall submit to Congress and make publicly available a report describing the assessment performed under subsection (b)(1)

and making recommendations about research priorities to address gaps in the measurement, technical standards, and conformity assessment needs identified by such assessment.

#### SEC. 408. TIP ADVISORY BOARD.

Section 28(k)(4) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(k)(4)) is amended to read as follows:

“(4) FEDERAL ADVISORY COMMITTEE ACT APPLICABILITY.—

“(A) IN GENERAL.—In discharging its duties under this subsection, the TIP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

“(B) EXCEPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the TIP Advisory Board.”.

#### SEC. 409. UNDERREPRESENTED MINORITIES.

(a) RESEARCH FELLOWSHIPS.—Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-1) is amended by adding at the end the following:

“(c) UNDERREPRESENTED MINORITIES.—In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of underrepresented minorities in research areas supported by the Institute.”.

(b) POSTDOCTORAL FELLOWSHIP PROGRAM.—Section 19 of such Act (15 U.S.C. 278g-2) is amended by adding at the end the following: “In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of underrepresented minorities in research areas supported by the Institute.”.

(c) TEACHER DEVELOPMENT.—Section 19A(c) of such Act (15 U.S.C. 278g-2a(c)) is amended by adding at the end the following: “The Director shall give special consideration to an application from a teacher from a high-need school, as defined in section 200 of the Higher Education Act of 1965 (20 U.S.C. 1021).”.

#### SEC. 410. CYBER SECURITY STANDARDS AND GUIDELINES.

Cyber security standards and guidelines developed by the National Institute of Standards and Technology for use by United States industry and the public shall be voluntary.

#### SEC. 411. DISASTER RESILIENT BUILDINGS AND INFRASTRUCTURE.

(a) ESTABLISHMENT.—The Director shall carry out a disaster resilient buildings and infrastructure program.

(b) REAL-SCALE STRUCTURES.—As part of the program, the Director shall—

(1) develop the capability to test real-scale structures under realistic fire and structural loading conditions; and

(2) assist in the validation of predictive models by developing a database on the performance of large-scale structures under realistic fire and structural loading conditions.

(c) DATABASE.—As part of the program, the Director shall develop a database on the performance of the built environment during natural and man-made hazard events.

#### SEC. 412. DEFINITIONS.

In this title:

(1) DIRECTOR.—The term “Director” means the Director of the National Institute of Standards and Technology.

(2) FEDERAL AGENCY.—The term “Federal agency” has the meaning given such term in section 4 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3703).

#### SEC. 413. REPORT ON THE USE OF MODELING AND SIMULATION.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Director

shall submit a report to Congress examining the use of high-performance computational modeling and simulation by small- and medium-sized manufacturers.

(b) SPECIFIC REQUIREMENTS.—Such report shall include the following:

(1) An assessment of the current utilization of high-performance computational modeling and simulation by small- and medium-sized manufacturers.

(2) An examination of any barriers or challenges to the use of high-performance computational modeling and simulation by small- and medium-sized manufacturers, including—

(A) access to high-performance computing facilities and resources;

(B) the availability of software and other applications tailored to meet the needs of such manufacturers;

(C) appropriate expertise and training; and

(D) the availability of tools and other methods to understand and manage the costs and risks associated with transitioning to the use of computational modeling and simulation.

(3) Recommendations for addressing any barriers or challenges identified in paragraph (2) and, if appropriate, suggestions for action that the Federal Government may take to foster the development and utilization of high-performance computing resources by small- and medium-sized manufacturers.

(c) CONSULTATION.—In carrying out this section, the Director shall consult with the Office of Science and Technology Policy and with other relevant Federal agencies.

#### SEC. 414. GREEN MANUFACTURING AND CONSTRUCTION.

The Director shall carry out a green manufacturing and construction initiative to—

(1) develop accurate sustainability metrics and practices for use in manufacturing;

(2) advance the development of standards and the creation of an information infrastructure to communicate sustainability information about suppliers; and

(3) improve energy performance, service life, and indoor air quality of new and retrofitted buildings through validated measurement data.

#### SEC. 415. NANOMATERIAL INITIATIVE.

The Director shall carry out a nanomaterial research initiative to—

(1) develop reference materials for nanomaterials and derived products to be used in benchmarking toxicity, calibrating instruments, and facilitating laboratory comparisons;

(2) assist in the development of international documentary standards relating to nanomaterials;

(3) develop instruments and measurement methods to determine the physical and chemical properties of nanomaterials; and

(4) gather and develop data to support the correlation of physical and chemical properties of nanomaterials to any environmental, safety, or other risks.

#### SEC. 416. MANUFACTURING RESEARCH.

(a) IN GENERAL.—The Director shall carry out a program to support transformational manufacturing research.

(b) ACTIVITIES.—As part of such program, the Director shall—

(1) develop and disseminate measurement tools and capabilities for new additive manufacturing and robotics technologies and methods;

(2) establish new techniques and methods to efficiently generate and assemble products integrating nanoscale materials and devices; and

(3) carry out other research with significant transformational potential for manufacturing.

#### TITLE V—INNOVATION

#### SEC. 501. OFFICE OF INNOVATION AND ENTREPRENEURSHIP.

The Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following new section:

#### “SEC. 24. OFFICE OF INNOVATION AND ENTREPRENEURSHIP.

“(a) IN GENERAL.—The Secretary shall establish an Office of Innovation and Entrepreneurship to foster innovation and the commercialization of new technologies, products, processes, and services with the goal of promoting productivity and economic growth in the United States.

“(b) DUTIES.—The Office of Innovation and Entrepreneurship shall be responsible for—

“(1) developing policies to accelerate innovation and advance the commercialization of research and development, including federally funded research and development;

“(2) identifying existing barriers to innovation and commercialization, including access to capital and other resources, and ways to overcome those barriers;

“(3) providing access to relevant data, research, and technical assistance on innovation and commercialization;

“(4) strengthening collaboration on and coordination of policies relating to innovation and commercialization, including those focused on the needs of small businesses and rural communities, within the Department of Commerce and between the Department of Commerce and other Federal agencies, as appropriate; and

“(5) any other duties as determined by the Secretary.

“(c) ADVISORY COMMITTEE.—The Secretary shall establish an Advisory Council on Innovation and Entrepreneurship to provide advice to the Secretary on carrying out subsection (b).”.

#### SEC. 502. FEDERAL LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGIES IN MANUFACTURING.

The Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is further amended by adding after section 24, as added by section 501 of this title, the following new section:

#### “SEC. 25. FEDERAL LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGIES IN MANUFACTURING.

“(a) ESTABLISHMENT.—The Secretary shall establish a program to provide loan guarantees for obligations to small- or medium-sized manufacturers for the use or production of innovative technologies.

“(b) ELIGIBLE PROJECTS.—A loan guarantee may be made under such program only for a project that reequips, expands, or establishes a manufacturing facility in the United States to—

“(1) use an innovative technology or an innovative process in manufacturing; or

“(2) manufacture an innovative technology product or an integral component of such product.

“(c) ELIGIBLE BORROWER.—A loan guarantee may be made under such program only for a borrower who is a small- or medium-sized manufacturer, as determined by the Secretary under the criteria established pursuant to subsection (m).

“(d) LIMITATION ON AMOUNT.—A loan guarantee shall not exceed an amount equal to 80 percent of the obligation, as estimated at the time at which the loan guarantee is issued.

“(e) LIMITATIONS ON LOAN GUARANTEE.—No loan guarantee shall be made unless the Secretary determines that—

“(1) there is a reasonable prospect of repayment of the principal and interest on the obligation by the borrower;

“(2) the amount of the obligation (when combined with amounts available to the borrower from other sources) is sufficient to carry out the project;

“(3) the obligation is not subordinate to other financing;

“(4) the obligation bears interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks; and

“(5) the term of an obligation requires full repayment over a period not to exceed the lesser of—

“(A) 30 years; or

“(B) 90 percent of the projected useful life, as determined by the Secretary, of the physical asset to be financed by the obligation.

“(f) DEFAULTS.—

“(1) PAYMENT BY SECRETARY.—

“(A) IN GENERAL.—If a borrower defaults (as defined in regulations promulgated by the Secretary and specified in the loan guarantee) on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

“(B) PAYMENT REQUIRED.—Within such period as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

“(C) FORBEARANCE.—Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

“(2) SUBROGATION.—

“(A) IN GENERAL.—If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights, as specified in the loan guarantee, of the recipient of the payment or related agreements including, if appropriate, the authority (notwithstanding any other provision of law) to—

“(i) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such loan guarantee or related agreement; or

“(ii) permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines that such an agreement is in the public interest.

“(B) SUPERIORITY OF RIGHTS.—The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

“(3) NOTIFICATION.—If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

“(g) PAYMENT OF PRINCIPAL AND INTEREST BY SECRETARY.—With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation for and on behalf of the borrower from funds appropriated for that purpose the principal and interest payments that become due and payable on the unpaid balance of the obligation if the Secretary finds that—

“(1)(A) the borrower is unable to make the payments and is not in default;

“(B) it is in the public interest to permit the borrower to continue to pursue the project; and

“(C) the probable net benefit to the Federal Government in paying the principal and interest will be greater than that which would result in the event of a default;

“(2) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the borrower is obligated to pay under the obligation being guaranteed; and

“(3) the borrower agrees to reimburse the Secretary for the payment (including interest) on terms and conditions that are satisfactory to the Secretary.

“(h) TERMS AND CONDITIONS.—A loan guarantee under this section shall include such detailed terms and conditions as the Secretary determines appropriate to—

“(1) protect the interests of the United States in the case of default; and

“(2) have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project.

“(i) CONSULTATION.—In establishing the terms and conditions of a loan guarantee under this section, the Secretary shall consult with the Secretary of the Treasury.

“(j) FEES.—

“(1) IN GENERAL.—The Secretary shall charge and collect fees for loan guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.

“(2) AVAILABILITY.—Fees collected under this subsection shall—

“(A) be deposited by the Secretary into the Treasury of the United States; and

“(B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

“(3) LIMITATION.—In charging and collecting fees under paragraph (1), the Secretary shall take into consideration the amount of the obligation.

“(k) RECORDS.—

“(1) IN GENERAL.—With respect to a loan guarantee under this section, the borrower, the lender, and any other appropriate party shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

“(2) ACCESS.—The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access to records and other pertinent documents for the purpose of conducting an audit.

“(1) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all loan guarantees issued under this section with respect to principal and interest.

“(m) REGULATIONS.—The Secretary shall issue final regulations before making any loan guarantees under the program. Such regulations shall include—

“(1) criteria that the Secretary shall use to determine eligibility for loan guarantees under this section, including—

“(A) whether a borrower is a small- or medium-sized manufacturer; and

“(B) whether a borrower demonstrates that a market exists for the innovative technology product, or the integral component of such product, to be manufactured, as evidenced by written statements of interest from potential purchasers;

“(2) criteria that the Secretary shall use to determine the amount of any fees charged under subsection (j), including criteria related to the amount of the obligation;

“(3) policies and procedures for selecting and monitoring lenders and loan performance; and

“(4) any other policies, procedures, or information necessary to implement this section.

“(n) AUDIT.—

“(1) ANNUAL INDEPENDENT AUDITS.—The Secretary shall enter into an arrangement with an independent auditor for annual evaluations of the program under this section.

“(2) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall conduct a biennial review of the Secretary's execution of the program under this section.

“(3) REPORT.—The results of the independent audit under paragraph (1) and the Comptroller General's review under paragraph (2) shall be provided directly to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

“(o) REPORT TO CONGRESS.—Concurrent with the submission to Congress of the President's annual budget request in each year after the date of enactment of this section, the Secretary shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of all activities carried out under this section.

“(p) COORDINATION AND NONDUPLICATION.—To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other loan guarantee programs within the Federal Government.

“(q) MEP CENTERS.—The Secretary may use centers established under section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k) to provide information about the program established under this section and to conduct outreach to potential borrowers, as appropriate.

“(r) MINIMIZING RISK.—The Secretary shall promulgate regulations and policies to carry out this section in accordance with Office of Management and Budget Circular No. A-129, entitled ‘Policies for Federal Credit Programs and Non-Tax Receivables’, as in effect on the date of enactment of this section.

“(s) SENSE OF CONGRESS.—It is the sense of Congress that no loan guarantee shall be made under this section unless the borrower agrees to use a federally-approved electronic employment eligibility verification system to verify the employment eligibility of—

“(1) all persons hired during the contract term by the borrower to perform employment duties within the United States; and

“(2) all persons assigned by the borrower to perform work within the United States on the project.

“(t) DEFINITIONS.—In this section:

“(1) COST.—The term ‘cost’ has the meaning given such term under section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

“(2) INNOVATIVE PROCESS.—The term ‘innovative process’ means a process that is significantly improved as compared to the process in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

“(3) INNOVATIVE TECHNOLOGY.—The term ‘innovative technology’ means a technology

that is significantly improved as compared to the technology in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

“(4) **LOAN GUARANTEE.**—The term ‘loan guarantee’ has the meaning given such term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a). The term includes a loan guarantee commitment (as defined in section 502 of such Act (2 U.S.C. 661a)).

“(5) **OBLIGATION.**—The term ‘obligation’ means the loan or other debt obligation that is guaranteed under this section.

“(6) **PROGRAM.**—The term ‘program’ means the loan guarantee program established in subsection (a).

“(u) **AUTHORIZATION OF APPROPRIATIONS.**—

“(1) **COST OF LOAN GUARANTEES.**—There are authorized to be appropriated \$100,000,000 for each of fiscal years 2011 through 2013 to provide the cost of loan guarantees under this section.

“(2) **PRINCIPAL AND INTEREST.**—There are authorized to be appropriated such sums as are necessary to carry out subsection (g).”.

#### **SEC. 503. REGIONAL INNOVATION PROGRAM.**

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is further amended by adding after section 25, as added by section 502 of this title, the following new section:

#### **“SEC. 26. REGIONAL INNOVATION PROGRAM.**

“(a) **ESTABLISHMENT.**—The Secretary shall establish a regional innovation program to encourage and support the development of regional innovation strategies, including regional innovation clusters.

“(b) **REGIONAL INNOVATION CLUSTER GRANTS.**—

“(1) **IN GENERAL.**—As part of the program established under subsection (a), the Secretary may award grants on a competitive basis to eligible recipients for activities relating to the formation and development of regional innovation clusters.

“(2) **PERMISSIBLE ACTIVITIES.**—Grants awarded under this subsection may be used for activities determined appropriate by the Secretary, including the following:

“(A) Feasibility studies.

“(B) Planning activities.

“(C) Technical assistance.

“(D) Developing or strengthening communication and collaboration between and among participants of a regional innovation cluster.

“(E) Attracting additional participants to a regional innovation cluster.

“(F) Facilitating market development of products and services developed by a regional innovation cluster, including through demonstration, deployment, technology transfer, and commercialization activities.

“(G) Developing relationships between a regional innovation cluster and entities or clusters in other regions.

“(H) Interacting with the public and State and local governments to meet the goals of the cluster.

“(3) **ELIGIBLE RECIPIENT.**—For purposes of this subsection, the term ‘eligible recipient’ means any of the following:

“(A) A State.

“(B) An Indian tribe.

“(C) A city or other political subdivision of a State.

“(D) An entity that—

“(i) is a nonprofit organization, an institution of higher education, a public-private partnership, a science park, a Federal laboratory, or an economic development organization or similar entity; and

“(ii) has an application that is supported by a State or a political subdivision of a State.

“(E) A consortium of any of the entities listed in subparagraphs (A) through (D).

“(4) **APPLICATION.**—

“(A) **IN GENERAL.**—An eligible recipient shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

“(B) **COMPONENTS.**—The application shall include, at a minimum, a description of the regional innovation cluster supported by the proposed activity, including a description of the following:

“(i) Whether the regional innovation cluster is supported by the private sector, State and local governments, and other relevant stakeholders.

“(ii) How the existing participants in the regional innovation cluster will encourage and solicit participation by all types of entities that might benefit from participation, including newly formed entities and those rival to existing participants.

“(iii) The extent to which the regional innovation cluster is likely to stimulate innovation and have a positive impact on regional economic growth and development.

“(iv) Whether the participants in the regional innovation cluster have access to, or contribute to, a well-trained workforce.

“(v) Whether the participants in the regional innovation cluster are capable of attracting additional funds from non-Federal sources.

“(vi) The likelihood that the participants in the regional innovation cluster will be able to sustain activities once grant funds under this subsection have been expended.

“(5) **SPECIAL CONSIDERATION.**—The Secretary shall give special consideration to—

“(A) applications from regions that contain communities negatively impacted by trade; and

“(B) an eligible recipient who agrees to collaborate with local workforce investment area boards.

“(6) **COST SHARE.**—The Secretary may not provide more than 50 percent of the total cost of any activity funded under this subsection.

“(7) **USE AND APPLICATION OF RESEARCH AND INFORMATION PROGRAM.**—To the maximum extent practicable, the Secretary shall ensure that activities funded under this subsection use and apply any relevant research, best practices, and metrics developed under the program established in subsection (c).

“(C) **REGIONAL INNOVATION RESEARCH AND INFORMATION PROGRAM.**—

“(1) **IN GENERAL.**—As part of the program established under subsection (a), the Secretary shall establish a regional innovation research and information program to—

“(A) gather, analyze, and disseminate information on best practices for regional innovation strategies (including regional innovation clusters), including information relating to how innovation, productivity, and economic development can be maximized through such strategies;

“(B) provide technical assistance, including through the development of technical assistance guides, for the development and implementation of regional innovation strategies (including regional innovation clusters);

“(C) support the development of relevant metrics and measurement standards to evaluate regional innovation strategies (including regional innovation clusters), including the extent to which such strategies stimulate innovation, productivity, and economic development; and

“(D) collect and make available data on regional innovation cluster activity in the United States, including data on—

“(i) the size, specialization, and competitiveness of regional innovation clusters;

“(ii) the regional domestic product contribution, total jobs and earnings by key occupations, establishment size, nature of specialization, patents, Federal research and development spending, and other relevant information for regional innovation clusters; and

“(iii) supply chain product and service flows within and between regional innovation clusters.

“(2) **RESEARCH GRANTS.**—The Secretary may award research grants on a competitive basis to support and further the goals of the program established under this subsection.

“(3) **DISSEMINATION OF INFORMATION.**—Data and analysis compiled by the Secretary under the program established in this subsection shall be made available to other Federal agencies, State and local governments, and nonprofit and for-profit entities.

“(4) **CLUSTER GRANT PROGRAM.**—The Secretary shall incorporate data and analysis relating to any regional innovation cluster supported by a grant under subsection (b) into the program established under this subsection.

“(d) **INTERAGENCY COORDINATION.**—

“(1) **IN GENERAL.**—To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other programs at the Department of Commerce or other Federal agencies.

“(2) **COLLABORATION.**—

“(A) **IN GENERAL.**—The Secretary shall explore and pursue collaboration with other Federal agencies, including through multi-agency funding opportunities, on regional innovation strategies.

“(B) **SMALL BUSINESSES.**—The Secretary shall ensure that such collaboration with Federal agencies prioritizes the needs and challenges of small businesses.

“(e) **EVALUATION.**—

“(1) **IN GENERAL.**—Not later than 4 years after the date of enactment of this section, the Secretary shall enter into a contract with an independent entity, such as the National Academy of Sciences, to conduct an evaluation of the program established under subsection (a).

“(2) **REQUIREMENTS.**—The evaluation shall include—

“(A) whether such program is achieving its goals;

“(B) any recommendations for how such program may be improved; and

“(C) a recommendation as to whether such program should be continued or terminated.

“(f) **DEFINITIONS.**—In this section:

“(1) **REGIONAL INNOVATION CLUSTER.**—The term ‘regional innovation cluster’ means a geographically bounded network of similar, synergistic, or complementary entities that—

“(A) are engaged in or with a particular industry sector;

“(B) have active channels for business transactions and communication;

“(C) share specialized infrastructure, labor markets, and services; and

“(D) leverage the region’s unique competitive strengths to stimulate innovation and create jobs.

“(2) **STATE.**—The term ‘State’ means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for each of fiscal years 2011 through 2013 to carry out this section, including such sums as are necessary to carry out the evaluation required under subsection (e).”

#### SEC. 504. CLEAN ENERGY CONSORTIUM.

(a) PURPOSE.—The Secretary shall carry out a program to establish a Clean Energy Consortium to enhance the Nation's economic, environmental, and energy security by promoting commercial application of clean energy technology and ensuring that the United States maintains a technological lead in the development and commercial application of state-of-the-art energy technologies. To achieve these purposes the program shall leverage the expertise and resources of the university and private research communities, industry, venture capital, national laboratories, and other participants in energy innovation to support collaborative, cross-disciplinary research and development in areas not being served by the private sector in order to develop and accelerate the commercial application of innovative clean energy technologies.

(b) DEFINITIONS.—For purposes of this section:

(1) CLEAN ENERGY TECHNOLOGY.—The term “clean energy technology” means a technology that—

(A) produces energy from solar, wind, geothermal, biomass, tidal, wave, ocean, and other renewable energy resources (as such term is defined in section 610 of the Public Utility Regulatory Policies Act of 1978);

(B) more efficiently transmits, distributes, or stores energy;

(C) enhances energy efficiency for buildings and industry, including combined heat and power;

(D) enables the development of a Smart Grid (as described in section 1301 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17381)), including integration of renewable energy resources and distributed generation, demand response, demand side management, and systems analysis;

(E) produces an advanced or sustainable material with energy or energy efficiency applications; or

(F) improves energy efficiency for transportation, including electric vehicles.

(2) CLUSTER.—The term “cluster” means a network of entities directly involved in the research, development, finance, and commercial application of clean energy technologies whose geographic proximity facilitates utilization and sharing of skilled human resources, infrastructure, research facilities, educational and training institutions, venture capital, and input suppliers.

(3) CONSORTIUM.—The term “Consortium” means a Clean Energy Consortium established in accordance with this section.

(4) PROJECT.—The term “project” means an activity with respect to which a Consortium provides support under subsection (e).

(5) QUALIFYING ENTITY.—The term “qualifying entity” means each of the following:

(A) A research university.

(B) A State or Federal institution with a focus on the advancement of clean energy technologies.

(C) A nongovernmental organization with research or technology transfer expertise in clean energy technology development.

(6) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(7) TECHNOLOGY DEVELOPMENT FOCUS.—The term “technology development focus” means the unique clean energy technology or technologies in which a Consortium specializes.

(8) TRANSLATIONAL RESEARCH.—The term “translational research” means coordination of basic or applied research with technical applications to enable promising discoveries or inventions to achieve commercial application of energy technology.

(c) ROLE OF THE SECRETARY.—The Secretary shall—

(1) have ultimate responsibility for, and oversight of, all aspects of the program under this section;

(2) select a recipient of a grant for the establishment and operation of a Consortium through a competitive selection process;

(3) coordinate the innovation activities of the Consortium with those occurring through other Department of Energy entities, including the National Laboratories, the Advanced Research Projects Agency—Energy, Energy Innovation Hubs, and Energy Frontier Research Collaborations, and within industry, including by annually—

(A) issuing guidance regarding national energy research and development priorities and strategic objectives; and

(B) convening a conference of staff of the Department of Energy and representatives from such other entities to share research results, program plans, and opportunities for collaboration.

(d) ENTITIES ELIGIBLE FOR SUPPORT.—A consortium shall be eligible to receive support under this section if—

(1) it is composed of—

(A) 2 research universities with a combined annual research budget of \$500,000,000; and

(B) 1 or more additional qualifying entities;

(2) its members have established a binding agreement that documents—

(A) the structure of the partnership agreement;

(B) a governance and management structure to enable cost-effective implementation of the program;

(C) a conflicts of interest policy consistent with subsection (e)(1)(B);

(D) an accounting structure that meets the requirements of the Department of Energy and can be audited under subsection (f)(4); and

(E) that it has an External Advisory Committee consistent with subsection (e)(3);

(3) it receives funding from States, consortium participants, or other non-Federal sources, to be used to support project awards pursuant to subsection (e);

(4) it is part of an existing cluster or demonstrates high potential to develop a new cluster; and

(5) it operates as a nonprofit organization.

(e) CLEAN ENERGY CONSORTIUM.—

(1) ROLE.—The Consortium shall support translational research activities leading to commercial application of clean energy technologies, in accordance with the purposes of this section, through issuance of awards to projects managed by qualifying entities and other entities meeting the Consortium's project criteria, including national laboratories. The Consortium shall—

(A) develop and make available to the public through the Department of Energy's Web site proposed plans, programs, project selection criteria, and terms for individual project awards under this subsection;

(B) establish conflict of interest procedures, consistent with those of the Department of Energy, to ensure that employees and designees for Consortium activities who are in decisionmaking capacities disclose all material conflicts of interest, including financial, organizational, and personal conflicts of interest;

(C) establish policies—

(i) to prevent resources provided to the Consortium from being used to displace private sector investment otherwise likely to occur, including investment from private sector entities that are members of the Consortium;

(ii) to facilitate the participation of private entities that invest in clean energy technologies to perform due diligence on award proposals, to participate in the award review process, and to provide guidance to projects supported by the Consortium; and

(iii) to facilitate the participation of parties with a demonstrated history of commercial application of clean energy technologies in the development of Consortium projects;

(D) oversee project solicitations, review proposed projects, and select projects for awards; and

(E) monitor project implementation.

(2) DISTRIBUTION OF AWARDS.—The Consortium, with prior approval of the Secretary, shall distribute awards under this subsection to support clean energy technology projects conducting translational research, provided that at least 50 percent of such support shall be provided to projects related to the Consortium's clean energy technology development focus. Upon approval by the Secretary, all remaining funds shall be available to support any clean energy technology projects conducting translational research.

(3) EXTERNAL ADVISORY COMMITTEE.—

(A) IN GENERAL.—The Consortium shall establish an External Advisory Committee, the members of which shall have extensive and relevant scientific, technical, industry, financial, or research management expertise. The External Advisory Committee shall review the Consortium's proposed plans, programs, project selection criteria, and projects and shall ensure that projects selected for awards meet the conflict of interest policies of the Consortium. External Advisory Committee members other than those representing Consortium members shall serve for no more than 3 years. All External Advisory Committee members shall comply with the Consortium's conflict of interest policies and procedures.

(B) MEMBERS.—The External Advisory Committee shall consist of—

(i) 5 members selected by the Consortium's research universities;

(ii) 2 members selected by the Consortium's other qualifying entities;

(iii) 2 members selected at large by other External Advisory Committee members to represent the entrepreneur and venture capital communities; and

(iv) 1 member appointed by the Secretary.

(4) CONFLICT OF INTEREST.—The Secretary may disqualify an application or revoke funds distributed to the Consortium if the Secretary discovers a failure to comply with conflict of interest procedures established under paragraph (1)(B).

(f) GRANT.—

(1) IN GENERAL.—The Secretary shall make a grant under this section in accordance with section 989 of the Energy Policy Act of 2005 (42 U.S.C. 16353). The Secretary shall award the grant, on a competitive basis, to 1 regional Consortium, for a term of 3 years.

(2) AMOUNT.—A grant under this subsection shall be in an amount not greater than \$10,000,000 per fiscal year over the 3 years of the term of the grant.

(3) USE.—The grant distributed under this section shall be used exclusively to support project awards pursuant to subsection (e)(1) and (2), provided that the Consortium may use not more than 10 percent of the amount

of such grant for its administrative expenses related to making such awards. The grant made under this section shall not be used for construction of new buildings or facilities, and construction of new buildings or facilities shall not be considered as part of the non-Federal share of a cost sharing agreement under this section.

(4) **AUDIT.**—The Consortium shall conduct, in accordance with such requirements as the Secretary may prescribe, an annual audit to determine the extent to which a grant distributed to the Consortium under this subsection, and awards under subsection (e), have been utilized in a manner consistent with this section. The auditor shall transmit a report of the results of the audit to the Secretary and to the Government Accountability Office. The Secretary shall include such report in an annual report to Congress, along with a plan to remedy any deficiencies cited in the report. The Government Accountability Office may review such audits as appropriate and shall have full access to the books, records, and personnel of the Consortium to ensure that the grant distributed to the Consortium under this subsection, and awards made under subsection (e), have been utilized in a manner consistent with this section.

(5) **REVOCATION OF AWARDS.**—The Secretary shall have authority to review awards made under this subsection and to revoke such awards if the Secretary determines that the Consortium has used the award in a manner not consistent with the requirements of this section.

#### **TITLE VI—DEPARTMENT OF ENERGY** **Subtitle A—Office of Science**

##### **SEC. 601. SHORT TITLE.**

This subtitle may be cited as the “Department of Energy Office of Science Authorization Act of 2010”.

##### **SEC. 602. DEFINITIONS.**

Except as otherwise provided, in this subtitle:

(1) **DEPARTMENT.**—The term “Department” means the Department of Energy.

(2) **DIRECTOR.**—The term “Director” means the Director of the Office of Science.

(3) **OFFICE OF SCIENCE.**—The term “Office of Science” means the Department of Energy Office of Science.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

##### **SEC. 603. MISSION OF THE OFFICE OF SCIENCE.**

(a) **MISSION.**—The mission of the Office of Science shall be the delivery of scientific discoveries, capabilities, and major scientific tools to transform the understanding of nature and to advance the energy, economic, and national security of the United States.

(b) **DUTIES.**—In support of this mission, the Secretary shall carry out, through the Office of Science, programs on basic energy sciences, biological and environmental research, advanced scientific computing research, fusion energy sciences, high energy physics, and nuclear physics through activities focused on—

(1) Science for Discovery to unravel nature’s mysteries through the study of subatomic particles, atoms, and molecules that make up the materials of our everyday world to DNA, proteins, cells, and entire biological systems;

(2) Science for National Need by—  
(A) advancing a clean energy agenda through research on energy production, storage, transmission, efficiency, and use; and

(B) advancing our understanding of the Earth’s climate through research in atmospheric and environmental sciences and climate change; and

(3) National Scientific User Facilities to deliver the 21st century tools of science, engineering, and technology and provide the Nation’s researchers with the most advanced tools of modern science including accelerators, colliders, supercomputers, light sources and neutron sources, and facilities for studying the nanoworld.

(c) **SUPPORTING ACTIVITIES.**—The activities described in subsection (b) shall include providing for relevant facilities and infrastructure, analysis, coordination, and education and outreach activities.

(d) **USER FACILITIES.**—The Director shall carry out the construction, operation, and maintenance of user facilities to support the activities described in subsection (b). As practicable, these facilities shall serve the needs of the Department, industry, the academic community, and other relevant entities for the purposes of advancing the missions of the Department.

(e) **OTHER AUTHORIZED ACTIVITIES.**—In addition to the activities authorized under this subtitle, the Office of Science shall carry out such other activities it is authorized or required to carry out by law.

(f) **COORDINATION AND JOINT ACTIVITIES.**—The Department’s Under Secretary for Science shall ensure the coordination of activities under this subtitle with the other activities of the Department, and shall support joint activities among the programs of the Department.

(g) **DOMESTICALLY SOURCED HARDWARE.**—

(1) **PLAN.**—The Director shall develop a plan to increase the percentage of domestically sourced hardware for planned and ongoing projects of the Office of Science. In developing this plan, the Director shall—

(A) give consideration to technologies that the United States does not currently have the capacity to manufacture and to procurement activities that can strengthen United States high-technology competitiveness broadly;

(B) seek opportunities to engage and partner with domestic manufacturers; and

(C) annually assess levels of domestically available goods relevant to planned and ongoing projects of the Office of Science.

(2) **INTERNATIONAL AGREEMENTS.**—This subsection shall be applied in a manner consistent with United States obligations under international agreements.

(3) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the Director shall transmit the plan developed under this subsection to the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives, and shall transmit any appropriate updates to those committees.

(h) **MERIT-REVIEWED STUDY.**—As part of the President’s annual budget request, the Secretary shall include a detailed summary of the degree to which current research activities are competitive and merit-reviewed, including a list of activities that would have been undertaken in the absence of Congressionally-directed projects and an analysis of the effects of increasing the proportion of competitive, merit-reviewed activities on the strategic objectives of the Office of Science.

##### **SEC. 604. BASIC ENERGY SCIENCES PROGRAM.**

(a) **PROGRAM.**—As part of the activities authorized under section 603, the Director shall carry out a program in basic energy sciences, including materials sciences and engineering, chemical sciences, physical biosciences, and geosciences, for the purpose of providing the scientific foundations for new energy technologies.

(b) **BASIC ENERGY SCIENCES USER FACILITIES.**—

(1) **IN GENERAL.**—The Director shall carry out a program for the construction, operation, and maintenance of national user facilities to support the program under this section. As practicable, these facilities shall serve the needs of the Department, industry, the academic community, and other relevant entities to create and examine new materials and chemical processes for the purposes of advancing new energy technologies and improving the competitiveness of the United States. These facilities shall include—

- (A) x-ray light sources;
- (B) neutron sources;
- (C) electron beam microcharacterization centers;
- (D) nanoscale science research centers; and
- (E) other facilities the Director considers appropriate, consistent with section 603(d).

(2) **FACILITY CONSTRUCTION AND UPGRADES.**—Consistent with the Office of Science’s project management practices, the Director shall support construction of—

- (A) the National Synchrotron Light Source II;
- (B) a Second Target Station at the Spallation Neutron Source; and

(C) an upgrade of the Advanced Photon Source to improve brightness and performance.

(c) **ENERGY FRONTIER RESEARCH CENTERS.**—

(1) **IN GENERAL.**—The Director shall carry out a grant program to provide awards, on a competitive, merit-reviewed basis, to multi-institutional collaborations or other appropriate entities to conduct fundamental and use-inspired energy research to accelerate scientific breakthroughs related to needs identified in—

(A) the Grand Challenges report of the Department’s Basic Energy Sciences Advisory Committee;

(B) the Basic Energy Sciences Basic Research Needs workshop reports;

(C) energy-related Grand Challenges for Engineering, as described by the National Academy of Engineering; or

(D) other relevant reports identified by the Director.

(2) **COLLABORATIONS.**—A collaboration receiving a grant under this subsection may include multiple types of institutions and private sector entities.

(3) **SELECTION AND DURATION.**—

(A) **IN GENERAL.**—A collaboration under this subsection shall be selected for a period of 5 years.

(B) **REAPPLICATION.**—After the end of the period described in subparagraph (A), a grantee may reapply for selection for a second period of 5 years on a competitive, merit-reviewed basis.

(4) **NO FUNDING FOR CONSTRUCTION.**—No funding provided pursuant to this subsection may be used for the construction of new buildings or facilities.

(d) **ACCELERATOR RESEARCH AND DEVELOPMENT.**—The Director shall carry out research and development on advanced accelerator technologies relevant to the development of Basic Energy Sciences user facilities, in consultation with the Office of Science’s High Energy Physics and Nuclear Physics programs.

##### **SEC. 605. BIOLOGICAL AND ENVIRONMENTAL RESEARCH PROGRAM.**

(a) **IN GENERAL.**—As part of the activities authorized under section 603, and coordinated with the activities authorized in section 604, the Director shall carry out a program of research, development, and demonstration in the areas of biological systems



science and climate and environmental science to support the energy and environmental missions of the Department.

(b) BIOLOGICAL SYSTEMS SCIENCE ACTIVITIES.—

(1) ACTIVITIES.—As part of the activities authorized under subsection (a), the Director shall carry out research, development, and demonstration activities in fundamental, structural, computational, and systems biology to increase systems-level understanding of complex biological systems, which shall include activities to—

(A) accelerate breakthroughs and new knowledge that will enable cost-effective sustainable production of—

(i) biomass-based liquid transportation fuels, including hydrogen;

(ii) bioenergy; and

(iii) biobased products, that support the energy and environmental missions of the Department;

(B) improve understanding of the global carbon cycle, including processes for removing carbon dioxide from the atmosphere, through photosynthesis and other biological processes, for sequestration and storage; and

(C) understand the biological mechanisms used to destroy, immobilize, or remove contaminants from subsurface environments.

(2) RESEARCH PLAN.—

(A) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, the Director shall prepare and transmit to Congress a research plan describing how the activities authorized under this subsection will be undertaken.

(B) UTILIZATION OF EXISTING PLAN.—In developing the plan in subparagraph (A), the Director may utilize an existing research plan and update such plan to incorporate the activities identified in paragraph (1).

(C) UPDATES.—Not later than 3 years after the initial report under this paragraph, and at least once every 3 years thereafter, the Director shall update the research plan and transmit it to Congress.

(3) BIOENERGY RESEARCH CENTERS.—

(A) IN GENERAL.—In carrying out the activities under paragraph (1), the Director shall support at least 3 bioenergy research centers to accelerate basic biological research, development, demonstration, and commercial application of biomass-based liquid transportation fuels, bioenergy, and biobased products that support the energy and environmental missions of the Department and are produced from a variety of regionally diverse feedstocks.

(B) GEOGRAPHIC DISTRIBUTION.—The Director shall ensure that the bioenergy research centers under this paragraph are established in geographically diverse locations.

(C) SELECTION AND DURATION.—A center established under subparagraph (A) shall be selected on a competitive, merit-reviewed basis for a period of 5 years beginning on the date of establishment of that center. A center already in existence on the date of enactment of this Act may continue to receive support for a period of 5 years beginning on the date of establishment of that center.

(4) ENABLING SYNTHETIC BIOLOGY PLAN.—

(A) IN GENERAL.—The Secretary, in consultation with other relevant Federal agencies, the academic community, research-based nonprofit entities, and the private sector, shall develop a comprehensive plan for federally supported research and development activities that will support the energy and environmental missions of the Department and enable a competitive synthetic biology industry in the United States.

(B) PLAN.—The plan developed under subparagraph (A) shall assess the need to create

a database for synthetic biology information, the need and process for developing standards for biological parts, components and systems, and the need for a federally funded facility that enables the discovery, design, development, production, and systematic use of parts, components, and systems created through synthetic biology. The plan shall describe the role of the Federal Government in meeting these needs.

(C) SUBMISSION TO CONGRESS.—The Secretary shall transmit the plan developed under subparagraph (A) to the Congress not later than 9 months after the date of enactment of this Act.

(5) COMPUTATIONAL BIOLOGY AND SYSTEMS BIOLOGY KNOWLEDGEBASE.—As part of the activities described in paragraph (1), the Director, in collaboration with the Advanced Scientific Computing Research program described in section 606, shall carry out research in computational biology, acquire or otherwise ensure the availability of hardware for biology-specific computation, and establish and maintain an open virtual database and information management system to centrally integrate systems biology data, analytical software, and computational modeling tools that will allow data sharing and free information exchange within the scientific community.

(6) PROHIBITION ON BIOMEDICAL AND HUMAN CELL AND HUMAN SUBJECT RESEARCH.—

(A) NO BIOMEDICAL RESEARCH.—In carrying out activities under subsection (b), the Secretary shall not conduct biomedical research.

(B) LIMITATIONS.—Nothing in subsection (b) shall authorize the Secretary to conduct any research or demonstrations—

(i) on human cells or human subjects; or

(ii) designed to have direct application with respect to human cells or human subjects.

(C) INFORMATION SHARING.—Nothing in this paragraph shall restrict the Department from sharing information, including research findings, research methodologies, models, or any other information, with any Federal agency.

(7) REPEAL.—Section 977 of the Energy Policy Act of 2005 (42 U.S.C. 16317) is repealed.

(c) CLIMATE AND ENVIRONMENTAL SCIENCES ACTIVITIES.—

(1) IN GENERAL.—As part of the activities authorized under subsection (a), the Director shall carry out climate and environmental science research, which shall include activities to—

(A) understand, observe, and model the response of the Earth's atmosphere and biosphere, including oceans and the Great Lakes, to increased concentrations of greenhouse gas emissions, and any associated changes in climate;

(B) understand the processes for sequestration, destruction, immobilization, or removal of, and understand the movement of, contaminants and carbon in subsurface environments, including at facilities of the Department; and

(C) inform potential mitigation and adaptation options for increased concentrations of greenhouse gas emissions and any associated changes in climate.

(2) SUBSURFACE BIOGEOCHEMISTRY RESEARCH.—

(A) IN GENERAL.—As part of the activities described in paragraph (1), the Director shall carry out research to advance a fundamental understanding of coupled physical, chemical, and biological processes for controlling the movement of sequestered carbon and subsurface environmental contaminants, includ-

ing field observations of subsurface microorganisms and field-scale subsurface research.

(B) COORDINATION.—

(i) DIRECTOR.—The Director shall carry out activities under this paragraph in accordance with priorities established by the Department's Under Secretary for Science to support and accelerate the decontamination of relevant facilities managed by the Department.

(ii) UNDER SECRETARY FOR SCIENCE.—The Department's Under Secretary for Science shall ensure the coordination of the activities of the Department, including activities under this paragraph, to support and accelerate the decontamination of relevant facilities managed by the Department.

(3) NEXT-GENERATION ECOSYSTEM-CLIMATE EXPERIMENT.—

(A) IN GENERAL.—As part of the activities described in paragraph (1), the Director, in collaboration with other relevant agencies that are participants in the United States Global Change Research Program, shall carry out the selection and development of a next-generation ecosystem-climate change experiment to understand the impact and feedbacks of increased temperature and elevated carbon levels on ecosystems.

(B) REPORT.—Not later than 1 year after the date of enactment of this Act, the Director shall transmit to the Congress a report containing—

(i) an identification of the location or locations that have been selected for the experiment described in subparagraph (A);

(ii) a description of the need for additional experiments; and

(iii) an associated research plan.

(4) AMERIPLUX NETWORK COORDINATION AND RESEARCH.—As part of the activities described in paragraph (1), the Director shall carry out research and coordinate the AmeriFlux Network to directly observe and understand the exchange of greenhouse gases, water vapor, and heat energy within terrestrial ecosystems and the response of those systems to climate change and other dynamic terrestrial landscape changes. The Director, in collaboration with other relevant Federal agencies, shall—

(A) identify opportunities to incorporate innovative and emerging observation technologies and practices into the existing Network;

(B) conduct research to determine the need for increased greenhouse gas observation Network facilities across North America to meet future mitigation and adaptation needs of the United States; and

(C) examine how the technologies and practices described in subparagraph (A), and increased coordination among scientific communities through the Network, have the potential to help characterize terrestrial baseline greenhouse gas emission sources and sinks in the United States and internationally.

(5) CLIMATE AND EARTH MODELING.—As part of the activities described in paragraph (1), the Director, in collaboration with the Advanced Scientific Computing Research program described in section 606, shall carry out research to develop, evaluate, and use high-resolution regional climate, global climate, Earth, and predictive models to inform decisions on reducing the impacts of changing climate.

(6) INTEGRATED ASSESSMENT RESEARCH.—As part of the activities described in paragraph (1), the Director shall carry out research into options for mitigation of and adaptation to climate change through multiscale models of

the entire climate system. Such modeling shall include human processes and greenhouse gas emissions, land use, and interaction among human and Earth systems.

(7) **COORDINATION.**—The Director shall coordinate activities under this subsection with other Office of Science activities and with the United States Global Change Research Program.

(d) **USER FACILITIES AND ANCILLARY EQUIPMENT.**—

(1) **IN GENERAL.**—The Director shall carry out a program for the construction, operation, and maintenance of user facilities to support the program under this section. As practicable, these facilities shall serve the needs of the Department, industry, the academic community, and other relevant entities.

(2) **INCLUDED FUNCTIONS.**—User facilities described in paragraph (1) shall include facilities which carry out—

(A) genome sequencing and analysis of plants, microbes, and microbial communities using high throughput tools, technologies, and comparative analysis;

(B) molecular level research in biological, chemical, environmental, and subsurface sciences, including synthesis, dynamic properties, and interactions among natural and engineered materials; and

(C) measurement of cloud and aerosol properties used for examining atmospheric processes and evaluating climate model performance, including ground stations at various locations, mobile resources, and aerial vehicles.

#### **SEC. 606. ADVANCED SCIENTIFIC COMPUTING RESEARCH PROGRAM.**

(a) **IN GENERAL.**—As part of the activities authorized under section 603, the Director shall carry out a research, development, demonstration, and commercial application program to advance computational and networking capabilities to analyze, model, simulate, and predict complex phenomena relevant to the development of new energy technologies and the competitiveness of the United States.

(b) **COORDINATION.**—

(1) **DIRECTOR.**—The Director shall carry out activities under this section in accordance with priorities established by the Department's Under Secretary for Science to determine and meet the computational and networking research and facility needs of the Office of Science and all other relevant energy technology and energy efficiency programs within the Department.

(2) **UNDER SECRETARY FOR SCIENCE.**—The Department's Under Secretary for Science shall ensure the coordination of the activities of the Department, including activities under this section, to determine and meet the computational and networking research and facility needs of the Office of Science and all other relevant energy technology and energy efficiency programs within the Department.

(c) **RESEARCH TO SUPPORT ENERGY APPLICATIONS.**—As part of the activities authorized under subsection (a), the program shall support research in high-performance computing and networking relevant to energy applications, including both basic and applied energy research programs carried out by the Secretary.

(d) **REPORTS.**—

(1) **ADVANCED COMPUTING FOR ENERGY APPLICATIONS.**—Not later than one year after the date of enactment of this Act, the Secretary shall transmit to the Congress a plan to integrate and leverage the expertise and capabilities of the program described in sub-

section (a), as well as other relevant computational and networking research programs and resources supported by the Federal Government, to advance the missions of the Department's applied energy and energy efficiency programs, including the development of smart grid technologies.

(2) **EXASCALE COMPUTING.**—At least 18 months prior to the initiation of construction or installation of any exascale-class computing facility, the Secretary shall transmit a plan to the Congress detailing—

(A) the proposed facility's cost projections and capabilities to significantly accelerate the development of new energy technologies;

(B) technical risks and challenges that must be overcome to achieve successful completion and operation of the facility; and

(C) an assessment of the scientific and technological advances expected from such a facility relative to those expected from a comparable investment in expanded research and applications at terascale-class and petascale-class computing facilities.

(e) **APPLIED MATHEMATICS AND SOFTWARE DEVELOPMENT FOR HIGH-END COMPUTING SYSTEMS.**—The Director shall carry out activities to develop, test, and support mathematics, models, and algorithms for complex systems, as well as programming environments, tools, languages, and operating systems for high-end computing systems (as defined in section 2 of the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5541)).

(f) **HIGH-END COMPUTING FACILITIES.**—The Director shall—

(1) provide for sustained access by the public and private research community in the United States to high-end computing systems, including access to the National Energy Research Scientific Computing Center and to Leadership Systems (as defined in section 2 of the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5541));

(2) provide technical support for users of such systems; and

(3) conduct research and development on next-generation computing architectures and platforms to support the missions of the Department.

(g) **OUTREACH.**—The Secretary shall conduct outreach programs and may form partnerships to increase the use of and access to high-performance computing modeling and simulation capabilities by industry, including manufacturers.

#### **SEC. 607. FUSION ENERGY RESEARCH PROGRAM.**

(a) **PROGRAM.**—As part of the activities authorized under section 603, the Director shall carry out a fusion energy sciences research and enabling technology development program to effectively address the scientific and engineering challenges to building a cost-competitive fusion power plant and a competitive fusion power industry in the United States. As part of this program, the Director shall carry out research activities to expand the fundamental understanding of plasmas and matter at very high temperatures and densities.

(b) **ITER.**—The Director shall coordinate and carry out the responsibilities of the United States with respect to the ITER international fusion project pursuant to the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project.

(c) **IDENTIFICATION OF PRIORITIES.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the Depart-

ment's proposed research and development activities in magnetic fusion over the 10 years following the date of enactment of this Act under four realistic budget scenarios. The report shall—

(1) identify specific areas of fusion energy research and enabling technology development in which the United States can and should establish or solidify a lead in the global fusion energy development effort; and

(2) identify priorities for initiation of facility construction and facility decommissioning under each of those scenarios.

(d) **FUSION MATERIALS RESEARCH AND DEVELOPMENT.**—The Director, in coordination with the Assistant Secretary for Nuclear Energy of the Department, shall carry out research and development activities to identify, characterize, and create materials that can endure the neutron, plasma, and heat fluxes expected in a commercial fusion power plant. As part of the activities authorized under subsection (c), the Secretary shall—

(1) provide an assessment of the need for a facility or facilities that can examine and test potential fusion and next generation fission materials and other enabling technologies relevant to the development of commercial fusion power plants; and

(2) provide an assessment of whether a single new facility that substantially addresses magnetic fusion, inertial fusion, and next generation fission materials research needs is feasible, in conjunction with the expected capabilities of facilities operational as of the date of enactment of this Act.

(e) **ENABLING TECHNOLOGY DEVELOPMENT.**—The Secretary shall carry out activities to develop technologies necessary to enable the reliable, sustainable, safe, and economically competitive operation of a commercial fusion power plant.

(f) **FUSION SIMULATION PROJECT.**—In collaboration with the Office of Science's Advanced Scientific Computing Research program described in section 606, the Director shall carry out a computational project to advance the capability of fusion researchers to accurately simulate an entire fusion energy system.

(g) **INERTIAL FUSION ENERGY RESEARCH AND DEVELOPMENT PROGRAM.**—The Secretary shall carry out a program of research and technology development in inertial fusion for energy applications, including ion beam and laser fusion. Not later than 180 days after the release of a report from the National Academies on inertial fusion energy research, the Secretary shall transmit to Congress a report describing the Department's plan to incorporate any relevant recommendations from the National Academies' report into this program.

#### **SEC. 608. HIGH ENERGY PHYSICS PROGRAM.**

(a) **PROGRAM.**—As part of the activities authorized under section 603, the Director shall carry out a research program on the elementary constituents of matter and energy and the nature of space and time.

(b) **NEUTRINO RESEARCH.**—As part of the program described in subsection (a), the Director shall carry out research activities on rare decay processes and the nature of the neutrino, which may—

(1) include collaborations with the National Science Foundation on relevant projects; and

(2) utilize components of existing accelerator facilities to produce neutrino beams of sufficient intensity to explore research priorities identified by the High Energy Physics Advisory Panel or the National Academy of Sciences.

(c) **DARK ENERGY AND DARK MATTER RESEARCH.**—As part of the program described in

subsection (a), the Director shall carry out research activities on the nature of dark energy and dark matter. These activities shall be consistent with research priorities identified by the High Energy Physics Advisory Panel or the National Academy of Sciences, and may include—

(1) the development of space-based and land-based facilities and experiments; and

(2) collaborations with the National Aeronautics and Space Administration, the National Science Foundation, or international collaborations on relevant research projects.

(d) **ACCELERATOR RESEARCH AND DEVELOPMENT.**—The Director shall carry out research and development in advanced accelerator concepts and technologies to reduce the necessary scope and cost for the next generation of particle accelerators.

(e) **INTERNATIONAL COLLABORATION.**—The Director, as practicable and in coordination with other appropriate Federal agencies as necessary, shall ensure the access of United States researchers to the most advanced accelerator facilities and research capabilities in the world, including the Large Hadron Collider.

#### SEC. 609. NUCLEAR PHYSICS PROGRAM.

(a) **PROGRAM.**—As part of the activities authorized under section 603, the Director shall carry out a research program, and support relevant facilities, to discover and understand various forms of nuclear matter.

(b) **FACILITY CONSTRUCTION AND UPGRADES.**—Consistent with the Office of Science's project management practices, the Director shall carry out—

(1) an upgrade of the Continuous Electron Beam Accelerator Facility to a 12 gigaelectronvolt beam of electrons; and

(2) construction of the Facility for Rare Isotope Beams.

(c) **ISOTOPE DEVELOPMENT AND PRODUCTION FOR RESEARCH APPLICATIONS.**—The Director shall carry out a program for the production of isotopes, including the development of techniques to produce isotopes, that the Secretary determines are needed for research, excluding medical research. In making this determination, the Secretary shall consider any relevant recommendations made by Federal advisory committees, the National Academies, and interagency working groups in which the Department participates.

#### SEC. 610. SCIENCE LABORATORIES INFRASTRUCTURE PROGRAM.

(a) **PROGRAM.**—The Director shall carry out a program to improve the safety, efficiency, and mission readiness of infrastructure at Office of Science laboratories. The program shall include projects to—

(1) renovate or replace space that does not meet research needs;

(2) replace facilities that are no longer cost effective to renovate or operate;

(3) modernize utility systems to prevent failures and ensure efficiency;

(4) remove excess facilities to allow safe and efficient operations; and

(5) construct modern facilities to conduct advanced research in controlled environmental conditions.

(b) **MINOR CONSTRUCTION PROJECTS.**—

(1) **AUTHORITY.**—Using operation and maintenance funds or facilities and infrastructure funds authorized by law, the Secretary may carry out minor construction projects with respect to laboratories administered by the Office of Science.

(2) **ANNUAL REPORT.**—The Secretary shall submit to Congress, as part of the annual budget submission of the Department, a report on each exercise of the authority under subsection (a) during the preceding fiscal

year. Each report shall include a summary of maintenance and infrastructure needs and associated funding requirements at each of the laboratories, including the amount of both planned and deferred infrastructure spending at each laboratory. Each report shall provide a brief description of each minor construction project covered by the report.

(3) **COST VARIATION REPORTS.**—If, at any time during the construction of any minor construction project, the estimated cost of the project is revised and the revised cost of the project exceeds the minor construction threshold, the Secretary shall immediately submit to Congress a report explaining the reasons for the cost variation.

(4) **DEFINITIONS.**—In this section—

(A) the term “minor construction project” means any plant project not specifically authorized by law for which the approved total estimated cost does not exceed the minor construction threshold; and

(B) the term “minor construction threshold” means \$10,000,000, with such amount to be adjusted by the Secretary in accordance with the Engineering News-Record Construction Cost Index, or an appropriate alternative index as determined by the Secretary, once every five years after the date of enactment of this Act.

(5) **NONAPPLICABILITY.**—Sections 4703 and 4704 of the Atomic Energy Defense Act (50 U.S.C. 2743 and 2744) shall not apply to laboratories administered by the Office of Science.

#### SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the activities of the Office of Science—

(1) \$5,247,000,000 for fiscal year 2011, of which—

(A) \$1,875,000,000 shall be for Basic Energy Sciences activities under section 604;

(B) \$667,000,000 shall be for Biological and Environmental Research activities under section 605; and

(C) \$466,000,000 shall be for Advanced Scientific Computing Research activities under section 606;

(2) \$5,614,000,000 for fiscal year 2012, of which—

(A) \$2,025,000,000 shall be for Basic Energy Sciences activities under section 604;

(B) \$720,000,000 shall be for Biological and Environmental Research activities under section 605; and

(C) \$503,000,000 shall be for Advanced Scientific Computing Research activities under section 606; and

(3) \$6,007,000,000 for fiscal year 2013, of which—

(A) \$2,187,000,000 shall be for Basic Energy Sciences activities under section 604;

(B) \$778,000,000 shall be for Biological and Environmental Research activities under section 605; and

(C) \$544,000,000 shall be for Advanced Scientific Computing Research activities under section 606.

#### Subtitle B—Advanced Research Projects Agency—Energy

#### SEC. 621. SHORT TITLE.

This subtitle may be cited as the “ARPA-E Reauthorization Act of 2010”.

#### SEC. 622. ARPA-E AMENDMENTS.

Section 5012 of the America COMPETES Act (42 U.S.C. 16538) is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (A), by inserting “and applied” after “advances in fundamental”;

(B) by striking “and” at the end of subparagraph (B);

(C) by striking the period at the end of subparagraph (C) and inserting “; and”; and

(D) by adding at the end the following new subparagraph:

“(D) promoting the commercial application of advanced energy technologies.”;

(2) in subsection (e)(3), by amending subparagraph (C) to read as follows:

“(C) research and development of advanced manufacturing process and technologies for the domestic manufacturing of novel energy technologies; and”;

(3) in subsection (e)—

(A) by striking “and” at the end of paragraph (3)(D);

(B) by striking the period at the end of paragraph (4) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(5) pursuant to subsection (c)(2)(C)—

“(A) ensuring that applications for funding disclose the extent of current and prior efforts, including monetary investments as appropriate, in pursuit of the technology area for which funding is being requested;

“(B) adopting measures to ensure that, in making awards, program managers adhere to the objectives in subsection (c)(2)(C); and

“(C) providing as part of the annual report required by subsection (h)(1) a summary of the instances of and reasons for ARPA-E funding projects in technology areas already being undertaken by industry.”;

(4) by redesignating subsections (f) through (m) as subsections (g), (h), (i), (j), (l), (m), (n), and (o), respectively;

(5) by inserting after subsection (e) the following new subsection:

“(f) **AWARDS.**—In carrying out this section, the Director may initiate and execute awards in the form of grants, contracts, cooperative agreements, cash prizes, and other transactions. The Director shall make awards designed to overcome the long-term and high-risk barriers relating to the goals and means set forth in subsection (c) and facilitate submissions, where possible by small businesses and entrepreneurs, pursuant to announcements published not less frequently than annually, of funding opportunities for—

“(1) specific areas of technological innovation; and

“(2) broadly defined areas of science and technology,

to remain open for periods of one year.”;

(6) in subsection (g), as so redesignated by paragraph (4) of this section—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2), as so redesignated by subparagraph (A) of this paragraph, the following new paragraph:

“(1) **IN GENERAL.**—The Director shall establish and maintain within ARPA-E a staff with sufficient qualifications and expertise to enable ARPA-E to carry out its responsibilities under this section in conjunction with the operations of the rest of the Department.”;

(C) in paragraph (2)(A), as so redesignated by subparagraph (A) of this paragraph—

(i) in the paragraph heading, by striking “PROGRAM MANAGERS” and inserting “PROGRAM DIRECTORS”;

(ii) by striking “program managers” and inserting “program directors”; and

(iii) by striking “each of”;

(D) in paragraph (2)(B), as so redesignated by subparagraph (A) of this paragraph—

(i) by striking “program manager” and inserting “program director”;

(ii) in clause (iv), by striking “, with advice under subsection (j) as appropriate.”;

(iii) by redesignating clauses (v) and (vi) as clauses (vi) and (viii), respectively;

(iv) by inserting after clause (iv) the following new clause:

“(v) identifying innovative cost-sharing arrangements for ARPA-E projects, including through use of the authority under section 988(b)(3) of the Energy Policy Act of 2005 (42 U.S.C. 16352(b)(3));”;

(v) in clause (vi), as so redesignated by clause (iii) of this subparagraph, by striking “; and” and inserting a semicolon; and

(vi) by inserting after clause (vi), as so redesignated by clause (iii) of this subparagraph, the following new clause:

“(vii) identifying mechanisms for commercial application of successful energy technology development projects, including through establishment of partnerships between awardees and commercial entities; and”;

(E) in paragraph (2)(C), as so redesignated by subparagraph (A) of this paragraph, by inserting “up to” after “shall be”;

(F) in paragraph (3)(B), as so redesignated by subparagraph (A) of this paragraph, by striking “not less than 70, and not more than 120,” and inserting “not more than 120”; and

(G) by adding at the end the following new paragraph:

“(4) FELLOWSHIPS.—The Director is authorized to select exceptional early-career and senior scientific, legal, business, and technical personnel to serve as fellows to work at ARPA-E for terms not to exceed two years. Responsibilities of fellows may include—

“(A) supporting program directors in program creation, design, implementation, and management;

“(B) exploring technical fields for future ARPA-E program areas;

“(C) assisting the Director in the creation of the strategic vision for ARPA-E referred to in subsection (h)(2);

“(D) preparing energy technology and economic analyses; and

“(E) any other appropriate responsibilities identified by the Director.”;

(7) in subsection (h)(2), as so redesignated by paragraph (4) of this section—

(A) by striking “2008” and inserting “2010”; and

(B) by striking “2011” and inserting “2013”;

(8) by amending subsection (j), as so redesignated by paragraph (4) of this section, to read as follows:

“(j) FEDERAL DEMONSTRATION OF TECHNOLOGIES.—The Director shall seek opportunities to partner with purchasing and procurement programs of Federal agencies to demonstrate energy technologies resulting from activities funded through ARPA-E.”;

(9) by inserting after such subsection (j) the following new subsection:

“(k) EVENTS.—

“(1) The Director is authorized to convene, organize, and sponsor events that further the objectives of ARPA-E, including events that assemble awardees, the most promising applicants for ARPA-E funding, and a broad range of ARPA-E stakeholders (which may include members of relevant scientific research and academic communities, government officials, financial institutions, private investors, entrepreneurs, and other private entities), for the purposes of—

“(A) demonstrating projects of ARPA-E awardees;

“(B) demonstrating projects of finalists for ARPA-E awards and other energy technology projects;

“(C) facilitating discussion of the commercial application of energy technologies developed under ARPA-E and other government-sponsored research and development programs; or

“(D) such other purposes as the Director considers appropriate.

“(2) Funding for activities described in paragraph (1) shall be provided as part of the technology transfer and outreach activities authorized under subsection (o)(4)(B).”;

(10) in subsection (m)(1), as so redesignated by paragraph (4) of this section, by striking “4 years” and inserting “6 years”;

(11) in subsection (m)(2)(B), as so redesignated by paragraph (4) of this section, by inserting “,” and how those lessons may apply to the operation of other programs within the Department of Energy” after “ARPA-E”;

(12) by amending subsection (o)(2), as so redesignated by paragraph (4) of this section, to read as follows:

“(2) AUTHORIZATION OF APPROPRIATIONS.—Subject to paragraph (4), there are authorized to be appropriated to the Director for deposit in the Fund, without fiscal year limitation—

“(A) \$300,000,000 for fiscal year 2011;

“(B) \$450,000,000 for fiscal year 2012; and

“(C) \$600,000,000 for fiscal year 2013.”;

(13) in subsection (o), as so redesignated by paragraph (4) of this section, by—

(A) striking paragraph (4); and

(B) redesignating paragraph (5) as paragraph (4); and

(14) in subsection (o)(4)(B), as so redesignated by paragraphs (4) and (13)(B) of this subsection—

(A) by striking “2.5 percent” and inserting “5 percent”; and

(B) by inserting “, consistent with the goal described in subsection (c)(2)(D) and within the responsibilities of program directors as specified in subsection (g)(2)(B)(vii)” after “outreach activities”.

### Subtitle C—Energy Innovation Hubs

#### SEC. 631. SHORT TITLE.

This subtitle may be cited as the “Energy Innovation Hubs Authorization Act of 2010”.

#### SEC. 632. ENERGY INNOVATION HUBS.

##### (a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Secretary of Energy shall carry out a program to enhance the Nation’s economic, environmental, and energy security by making grants to consortia for establishing and operating Energy Innovation Hubs to conduct and support, whenever practicable at one centralized location, multidisciplinary, collaborative research, development, demonstration, and commercial application of advanced energy technologies in areas not being served by the private sector.

(2) TECHNOLOGY DEVELOPMENT FOCUS.—The Secretary shall designate for each Hub a unique advanced energy technology development focus.

(3) COORDINATION.—The Secretary shall ensure the coordination of, and avoid unnecessary duplication of, the activities of Hubs with those of other Department of Energy research entities, including the National Laboratories, the Advanced Research Projects Agency—Energy, and Energy Frontier Research Centers, and within industry. Such coordination shall include convening and consulting with representatives of staff of the Department of Energy, representatives from Hubs and the qualifying entities that are members of the consortia operating the Hubs, and representatives of such other entities as the Secretary considers appropriate, to share research results, program plans, and opportunities for collaboration.

(4) ADMINISTRATION.—The Secretary shall administer this section with respect to each Hub through the Department program office appropriate to administer the subject matter of the technology development focus assigned under paragraph (2) for the Hub.

##### (b) CONSORTIA.—

(1) ELIGIBILITY.—To be eligible to receive a grant under this section for the establishment and operation of a Hub, a consortium shall—

(A) be composed of no fewer than 2 qualifying entities;

(B) operate subject to a binding agreement entered into by its members that documents—

(i) the proposed partnership agreement, including the governance and management structure of the Hub;

(ii) measures to enable cost-effective implementation of the program under this section;

(iii) a proposed budget, including financial contributions from non-Federal sources;

(iv) conflict of interest procedures consistent with subsection (d)(3), all known material conflicts of interest, and corresponding mitigation plans;

(v) an accounting structure that enables the Secretary to ensure that the consortium has complied with the requirements of this section; and

(vi) an external advisory committee consistent with subsection (d)(2); and

(C) operate as a nonprofit organization.

(2) APPLICATION.—A consortium seeking to establish and operate a Hub under this section, acting through a prime applicant, shall transmit to the Secretary an application at such time, in such form, and accompanied by such information as the Secretary shall require, including a detailed description of the elements of the consortium agreement required under paragraph (1)(B). If the consortium members will not be located at one centralized location, such application shall include a communications plan that ensures close coordination and integration of the Hub’s activities.

(c) SELECTION AND SCHEDULE.—The Secretary shall select consortia for grants for the establishment and operation of Hubs through competitive selection processes. In selecting consortia, the Secretary shall consider the information a consortium must disclose according to subsection (b), as well as any existing facilities a consortium will provide for Hub activities. Grants made to a Hub shall be for a period not to exceed 5 years, after which the grant may be renewed, subject to a competitive selection process.

##### (d) HUB OPERATIONS.—

(1) IN GENERAL.—Hubs shall conduct or provide for multidisciplinary, collaborative research, development, demonstration, and commercial application of advanced energy technologies within the technology development focus designated for the Hub by the Secretary under subsection (a)(2). Each Hub shall—

(A) encourage collaboration and communication among the member qualifying entities of the consortium and awardees by conducting activities whenever practicable at one centralized location;

(B) develop and publish on the Department of Energy’s website proposed plans and programs;

(C) submit an annual report to the Secretary summarizing the Hub’s activities, including detailing organizational expenditures, listing external advisory committee members, and describing each project undertaken by the Hub; and

(D) monitor project implementation and coordination.

(2) EXTERNAL ADVISORY COMMITTEE.—Each Hub shall establish an external advisory committee, the membership of which shall

have sufficient expertise to advise and provide guidance on scientific, technical, industry, financial, and research management matters.

(3) **CONFLICTS OF INTEREST.**—

(A) **PROCEDURES.**—Hubs shall establish conflict of interest procedures, consistent with those of the Department of Energy, to ensure that employees and consortia designees for Hub activities who are in decisionmaking capacities disclose all material conflicts of interest, including financial, organizational, and personal conflicts of interest.

(B) **DISQUALIFICATION AND REVOCATION.**—The Secretary may disqualify an application or revoke funds distributed to a Hub if the Secretary discovers a failure to comply with conflict of interest procedures established under subparagraph (A).

(e) **PROHIBITION ON CONSTRUCTION.**—

(1) **IN GENERAL.**—No funds provided pursuant to this section may be used for construction of new buildings or facilities for Hubs. Construction of new buildings or facilities shall not be considered as part of the non-Federal share of a Hub cost-sharing agreement.

(2) **TEST BED AND RENOVATION EXCEPTION.**—Nothing in this subsection shall prohibit the use of funds provided pursuant to this section, or non-Federal cost share funds, for the construction of a test bed or renovations to existing buildings or facilities for the purposes of research if the Oversight Board determines that the test bed or renovations are limited to a scope and scale necessary for the research to be conducted.

(f) **OVERSIGHT BOARD.**—The Secretary shall establish and maintain within the Department an Oversight Board to oversee the progress of Hubs.

(g) **PRIORITY CONSIDERATION.**—The Secretary shall give priority consideration to applications in which 1 or more of the institutions under subsection (b)(1)(A) are 1890 Land Grant Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7061)), Predominantly Black Institutions (as defined in section 318 of the Higher Education Act of 1965 (20 U.S.C. 1059e)), Tribal Colleges or Universities (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))), or Hispanic Serving Institutions (as defined in section 318 of the Higher Education Act of 1965 (20 U.S.C. 1059e)).

(h) **DEFINITIONS.**—For purposes of this section:

(1) **ADVANCED ENERGY TECHNOLOGY.**—The term “advanced energy technology” means an innovative technology—

(A) that produces energy from solar, wind, geothermal, biomass, tidal, wave, ocean, or other renewable energy resources;

(B) that produces nuclear energy;

(C) for carbon capture and sequestration;

(D) that enables advanced vehicles, vehicle components, and related technologies that result in significant energy savings;

(E) that generates, transmits, distributes, utilizes, or stores energy more efficiently than conventional technologies, including through Smart Grid technologies; or

(F) that enhances the energy independence and security of the United States by enabling improved or expanded supply and production of domestic energy resources, including coal, oil, and natural gas.

(2) **HUB.**—The term “Hub” means an Energy Innovation Hub established in accordance with this section.

(3) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has

the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) **QUALIFYING ENTITY.**—The term “qualifying entity” means—

(A) an institution of higher education;

(B) an appropriate State or Federal entity, including the Department of Energy Federally Funded Research and Development Centers;

(C) a nongovernmental organization with expertise in advanced energy technology research, development, demonstration, or commercial application; or

(D) any other relevant entity the Secretary considers appropriate.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this section—

(1) \$110,000,000 for fiscal year 2011;

(2) \$135,000,000 for fiscal year 2012; and

(3) \$195,000,000 for fiscal year 2013.

#### **Subtitle D—Cooperative Research and Development Fund**

##### **SEC. 641. SHORT TITLE.**

This subtitle may be cited as the “Cooperative Research and Development Fund Authorization Act of 2010”.

##### **SEC. 642. COOPERATIVE RESEARCH AND DEVELOPMENT FUND.**

(a) **IN GENERAL.**—The Secretary of Energy shall make funds available to Department of Energy National Laboratories for the Federal share of cooperative research and development agreements. The Secretary of Energy shall determine the apportionment of such funds to each Department of Energy National Laboratory and shall ensure that special consideration is given to small business firms and consortia involving small business firms in the selection process for which cooperative research and development agreements will receive such funds.

(b) **REPORTING.**—Each year the Secretary shall submit to Congress a report that describes how funds were expended under this subtitle.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section each fiscal year. No funds allocated for this section shall come from funds allocated for the Office of Science.

#### **Subtitle E—Technology Transfer Database**

##### **SEC. 651. TECHNOLOGY TRANSFER DATABASE.**

To support the commercial application of new energy technologies development by the Department of Energy, the Secretary of Energy may establish an online database of technologies, capabilities, and resources available to the public at the National Laboratories.

#### **TITLE VII—MISCELLANEOUS**

##### **SEC. 701. SENSE OF CONGRESS.**

It is the sense of Congress that, among the programs and activities authorized in this Act, those that correspond to the recommendations of the National Academy of Sciences’ 2005 report entitled “Rising Above the Gathering Storm” remain critical to maintaining long-term United States economic competitiveness, and accordingly shall receive funding priority.

##### **SEC. 702. PERSONS WITH DISABILITIES.**

For the purposes of the activities and programs supported by this Act and the amendments made by this Act—

(1) institutions of higher education chartered to serve large numbers of students

with disabilities, including Gallaudet University, Landmark College, and the National Technical Institute for the Deaf, and institutions of higher education offering science, technology, engineering, and mathematics research and education activities and programs that serve veterans with disabilities, shall receive special consideration in the review of any proposals by these institutions for funding under the research and education programs authorized in this Act to ensure that institutions of higher education chartered to or serving persons with disabilities benefit from such research and education activities and programs; and

(2) agencies with respect to which appropriations are authorized under this Act shall also conduct outreach to veterans with disabilities pursuing studies in science, technology, engineering, and mathematics to ensure that such veterans are aware of and benefit from the research and education activities and programs authorized by this Act.

##### **SEC. 703. VETERANS AND SERVICE MEMBERS.**

In awarding scholarships and fellowships under this Act, an institution of higher education shall give preference to applications from veterans and service members, including those who have received or will receive the Afghanistan Campaign Medal or the Iraq Campaign Medal as authorized by Public Law 108-234 (10 U.S.C. 1121 note; 118 Stat. 655) and Executive Order No. 13363.

##### **SEC. 704. BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

##### **SEC. 705. LIMITATION ON EMPLOYMENT AND RECEIPT OF FUNDS.**

No funds authorized under this Act shall be used for the employment of, or shall be received by, any individual who has been convicted of, or pleaded guilty to, a crime of child molestation, rape, or any other form of sexual assault.

##### **SEC. 706. PROHIBITION ON LOBBYING.**

Nothing in this Act shall be construed to supercede section 1913 of title 18, United States Code.

##### **SEC. 707. INFORMATION REQUESTS BY LABOR ORGANIZATIONS.**

(a) **ELIGIBILITY FOR FUNDS.**—Notwithstanding any other provision of this Act, an institution of higher education that employs employees who are represented by a labor organization shall be eligible to receive funding for facilities and administrative costs for an activity or program supported by this Act or the amendments made by this Act only if the institution maintains a policy that meets the requirements set forth in subsection (b).

(b) **REQUIREMENTS.**—A policy described under subsection (a) shall require that the institution provide, within 15 days of receipt of a request by a labor organization representing employees of the institution, any information which the labor organization has a lawful right to obtain under applicable labor laws. Such a policy shall provide that, on a case-by-case basis, such 15 days may be extended to a longer time period by mutual agreement of the labor organization and the institution.

(c) **FAILURE TO COMPLY WITH POLICY.**—

(1) **COMPLAINT OF NONCOMPLIANCE.**—In the case of an institution of higher education

that does not provide information requested by a labor organization in compliance with the requirements of a policy described in subsections (a) and (b), the labor organization may file a complaint of noncompliance with the head of the agency overseeing any activity or program supported by this Act or the amendments made by this Act for which the institution is receiving funds.

(2) **NOTIFICATION TO INSTITUTION.**—Upon receiving such a complaint, the head of such agency shall notify the institution of the complaint and provide the institution an additional 30 days to provide the requested information to the labor organization or otherwise explain why the complaint of non-compliance is not valid.

(3) **AGENCY ACTION.**—If the information has not been provided by the institution at the conclusion of such 30 day period and the head of such agency determines the complaint to be valid, the head of such agency shall suspend payment of any funds for facilities and administrative costs that would otherwise be available to such institution for all activities and programs supported by this Act and the amendments made by this Act until such time as the requested information has been provided by the institution.

(d) **DEFINITIONS.**—For purposes of this section—

(1) the term “institution of higher education” has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); and

(2) the term “facilities and administrative costs” means facilities and administrative (F&A) costs as defined in the Office of Management and Budget Revised Circular A-21 (Cost Principles for Educational Institutions, published in the Federal Register on May 10, 2004).

(e) **EFFECTIVE DATE.**—This section shall take effect on January 1, 2011.

#### **SEC. 708. LIMITATION ON USE OF FUNDS.**

No funds authorized to be appropriated by this Act or the amendments made by this Act may be used to purchase gift items, knickknacks, souvenirs, trinkets, or other items without direct educational value.

#### **SEC. 709. NO SALARIES FOR VIEWING PORNOGRAPHY.**

None of the funds authorized under this Act may be used to pay the salary of any individual who has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. GORDON) and the gentleman from Texas (Mr. HALL) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee.

#### **GENERAL LEAVE**

Mr. GORDON of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on H.R. 5325, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. GORDON of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

The bill before us today, H.R. 5325, is similar to the bill the House considered last week, H.R. 5116, including all 52 amendments adopted during floor consideration last week. However, the bill differs in two respects. One, it includes language from the motion to recommit barring money from going to agency employees who were disciplined for viewing pornography at work, and two, the authorization period for all programs in the bill has been changed from 5 years to 3 years.

I understand the concerns of many of my colleagues about the overall size of a 5-year authorization, and this reduction is my sincere attempt to compromise on an issue that is very important to me and our country. The bill before us today includes an overall funding reduction of 50 percent from H.R. 5116, as introduced.

I spoke at length about the background and need for this bill last week, so I'm only going to give the highlights today.

On October 12, 2005, in response to a bipartisan, bicameral request of the Science Committee and our colleagues in the Senate, the National Academies announced the report, “Rising Above the Gathering Storm.” The distinguished panel, led by Norm Augustine, painted a very scary picture and told us that, without action, the future was bleak for our children and grandchildren. This report was, without question, a call to arms.

Congress responded by turning the Gathering Storm recommendation into legislative language. The final result was enactment of the America COMPETES Act of 2007, with the bipartisan support of 365 Members.

Moreover, with the leadership of Senators ALEXANDER and BINGAMAN and 69 Senate cosponsors, the Senate approved the conference report by unanimous consent. Now, after 3 years, we're back to work on reauthorizing COMPETES.

Since enactment of COMPETES, the Science and Technology Committee has held 48 hearings on areas addressed in the bill before us today. What we've heard from those hearings is that if we are to reverse the trend of the last 20 years where our country's technological edge in the world has diminished, we must make the necessary investments today.

The statistics speak for themselves. More than 50 percent of our economic growth since World War II can be directly attributed to investments in research. The path is simple. Research leads to innovation. Innovation leads to economic development and good paying jobs, and ultimately, creating good jobs is the goal of this bill.

During our committee's four mark-ups, we accepted 25 amendments of-

fered by the minority and, in addition, many additional changes have been made at the suggestion of the minority. I believe this is a good bill, both on substance and on inclusive procedure, and it is a better bill because of the contributions of our Members.

I specifically want to thank my friend RALPH HALL for the cooperation and the spirit with which this bill has been brought before us and the way it was handled within our committee.

I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield myself such time as I may consume.

I rise today to speak on H.R. 5325, a bill reauthorizing the America COMPETES Act. I believe long-term investment in science and technology, coupled with policies that reduce tax burdens, streamline Federal regulations, and balance the Federal budget are very vital for our Nation to remain competitive in the global marketplace. However, we must also put our fiscal house in order to ensure that we're not leveraging the future of our children and our grandchildren.

While I remain committed to the underlying goals of the America COMPETES Act, the bill before us today continues to take us in a much more costly direction and authorizes a number of new programs which have little to do with prioritizing investments in basic science, technology, engineering, and math research and development.

On May 12 and 13, this bill was considered by the full House of Representatives. Republican attempts to offer amendments to reduce the spending level in the bill and reduce the length of the authorization from 5 years to 3 years were denied. Our attempt to ensure schools serving the disabled and disabled veterans was also denied.

Because Republicans were denied the opportunity to even offer these amendments on the House floor, have a meaningful dialogue about them, we sought to ensure that these ideas were considered by all of the Members of the House of Representatives through our motion to recommit. Our motion, as you well know, included the proposed compromise language to encourage education opportunities for the disabled and disabled veterans, language to reduce the authorization levels to fiscal year 2010 levels, and to authorize these programs for 3 years rather than 5.

The motion also included provisions to eliminate a number of new spending programs in favor of supporting the core COMPETES programs. Overall spending levels were reduced by around \$47 billion in the motion to recommit, but still remained well above the \$24 billion in the House-passed 2007 version of COMPETES. In addition to the reductions in spending, the motion addressed concerns about Federal employees' misuse of time and government property.



When given the opportunity to consider these issues, the House of Representatives supported them overwhelmingly by a vote of 292-126. While I would have preferred to use the regular amendment process, I believe these changes made the bill better. The spending levels supported by the motion showed that we could be fiscally responsible while still supporting important investments in science and technology. It was disappointing when the majority made the decision to pull this improved bill from consideration by the whole House of Representatives.

I'm pleased that the bill before us today includes a couple of provisions from the successful motion to recommit, such as the reduction in the authorized length from 5 years to 3 years, as well as the prohibition on paying the salaries of workers who misuse government time and property. These are sensible, good government provisions.

Unfortunately, the bill before us today continues to contain new and duplicative programs, including some that were added during floor consideration last week. For example, the bill includes language establishing energy innovation hubs at DOE which are duplicative of a number of programs already in existence at DOE. There is also a new program to pursue commercialization of clean energy technology which is duplicative of the hubs program. Several of these programs fund activities beyond basic science research and development and will divert money away from priority basic research. At a time when the Federal Government spending is out of control, we need to be streamlining and prioritizing programs to protect taxpayers, not duplicating them.

I'm also opposed to a provision that was added on the floor last week that dictates that any public university receiving funds under this bill would be required to maintain an information policy wherein failure to respond within 15 days to any union request for information would result in the threat of losing Federal funding. This provision places Federal agencies awarding funding in the role of administering State labor laws. This is an inappropriate provision that will place added burdens on our university system and certainly does nothing to advance the main goals of the COMPETES legislation.

I also remain concerned with the overall funding levels in this bill. At almost \$48 billion, the bill represents \$9.5 billion above the fiscal year 2010 baseline extended out 3 years. It's also important to note that the core agencies in this bill received an additional \$5 billion in the American Recovery and Reinvestment Act already. Given the current state of our national economy and the fact that our Nation's budget deficit has increased 50 percent since the last authorization 3 years

ago, we must be mindful of our spending if America is to continue to compete globally.

Finally, I'm disappointed that the compromise language for disabled veterans that was included in the motion to recommit is not contained in this bill. This is the second time disabled veterans language has been overwhelmingly accepted by both sides of the aisle, and this is the second time that it has been stripped out of the bill. Every one of us will run into these fine young men and women back in our districts in about 10 days when we speak to them on Memorial Day. I think we ought to be telling these wounded warriors who are returning to civilian life after making life-altering sacrifices in defense of our freedom that we just ensured that the colleges and universities they attend will get the same special consideration as other schools afforded special consideration so that they, too, can take advantage of STEM opportunities and contribute to the competitiveness of this great Nation that they so ably defended.

Unfortunately, this is no longer the case. In my opinion, this is really shameful if we were denied this small opportunity to show our appreciation not only to them but to the schools that are reaching out to them.

Mr. Speaker, I certainly rise today to urge us not to approve the present bill, and I urge my colleagues to oppose this legislation until the language that they all agreed to and agreed to include by a vote of 292-126 is put back in this bill. The will of the House and its Members should be followed.

And I, as a veteran of World War II, would hate to go back 10 days from now and look into the faces of those that we're addressing on Memorial Day, at a time when we should be remembering them, that we do stop here and pray for them and drop our heads for a minute, and I think that's a wonderful thing for the Speaker to do. But I think today's the day for us to raise our head, lift up our thoughts, remember these men and include them. If we can spend this kind of money and ignore the needs of a very dedicated few, I think we'll be making a dreadful mistake.

I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

I will take time a little bit later to try to respond to some of Mr. HALL's concerns, but I want to get to the veterans right now. I want to assure Mr. HALL that when he goes home for Memorial Day, he can look at those veterans and say, I fought for you. I fought for you.

And I want to read the language so there'll be no misunderstanding about this issue. We don't need to have red herrings here. This is an important bill. So I'm going to read the language of the bill.

"For the purposes of the activities and programs supported by this Act and the amendments made by this Act . . . institutions of higher education offering STEM research and education activities and programs that serve veterans with disabilities shall receive special consideration in the review of any proposals by these institutions for funding under research and education programs authorized in this Act . . ."

So let's be sure that we know that has been addressed.

Now, let me also point out that there's 435 Members of Congress, and if we each wrote a bill, we would probably write it a little bit differently. This is a matter of trying to bring folks together, develop consensus, and that's what we did with 49 different hearings, a bipartisan vote through four different markups, so I think that we have addressed that.

I will address other issues later, but I would like to now yield 2 minutes to my friend from Wisconsin (Mr. KIND).

□ 1045

Mr. KIND. I thank my good friend and colleague from Tennessee for recognizing me.

Mr. Speaker, as one of the co-chairs in the New Democrat Coalition, and as a co-chair with Representative RUSH HOLT of our Innovation Task Force, I rise in proud support of the reauthorization of the America COMPETES Act. And I commend our Chairman BART GORDON on the Science Committee for the work that he has put into producing this bipartisan bill. We may be losing him to retirement, but he is leaving one of the most important legacies that we can do around here, and that is to ensure strong and robust job growth in the short term, the mid-term, and the long term. That is what this bill is all about.

This bill is about making crucial investments to make sure that our Nation remains the most innovative and creative Nation in the world, on the cutting edge of scientific, medical, and technological discoveries and breakthroughs. We do that by investing in the STEM fields of study—science, technology, engineering, math—where the job growth is going to be occurring; by investing in basic and applied research in both the private and public sector; by creating innovation centers around the Nation so that we can partner with the private sector to create the jobs of the future, and ensuring that all Americans are full participants in the 21st century global economy. That is what the America COMPETES Act is all about.

I would encourage my colleagues on the other side who may be playing this political gotcha game yet again today to stop. Stop playing this game and do the right thing and support this bill.

If you think that we ought to be prohibiting Federal dollars to be used for



lobbying purposes, that's in the bill. So support it. If you believe that veterans should be full participants in all the programs being offered in the bill, including the STEM education programs, that's in the bill. If you believe that we should prohibit Federal funds from being used to pay the salaries of child molesters and rapists, that's already in the bill. And if you think we should fire any Federal employee who has been looking at pornography on their government computer, that's in this bill. So let's end the political gotcha games that delayed passage of this bill last week and do the right thing today.

I hope it's not something that's going to come up again on the floor today, because this is the right thing to do for the future of our economy. It's the right thing to do for the American people. Let's make sure that we remain the most innovative Nation in the world. That's what the America COMPETES Act does.

This should pass with wide bipartisan majorities, as the first authorization of this bill did a couple of years ago, with roughly 360 Members supporting it. We should support it again today. I urge its passage.

Mr. HALL of Texas. Mr. Speaker, I yield myself such time as I may consume.

I recognize that we all write language differently. However, once the House has voted on and passed that language, I think it ought to be included in the bill that the House is considering. And that's happened not once, but a couple of times. Regretfully, I disagree with the chairman. There is no assurance in the underlying bill that a single institution helping disabled veterans would benefit.

Further, let me say this. I don't say that the gentleman from Tennessee doesn't support disabled veterans, or anybody on this floor. I think we are all mindful of the debt we owe to those people. It's a matter of trying to get together on something that really gives them that that we are intending, that we indicate that we are giving them. And they just don't receive that under the language that's proposed in this bill, but it can be fixed.

I have worked with the chairman. He is an honorable, decent, very good chairman, a good friend, and has worked hard and has improved this bill. He knocked it down from 5 years to 3. And that knocked it down to almost \$47 billion, the cost of this bill. Still, \$11 billion at least too excessive, but he has made an effort.

And we are so close that the language that he just read to you, if we can change two words in it. Instead of on the sixth sentence of what the current bill is that we are looking at today, they put that they serve veterans, change that just "available to veterans." We are that close to settling this, and probably at least giving the

veterans something, not giving them everything they need.

I just think that while it gives some special consideration to schools that are chartered for disabled students and those serving disabled veterans, it's not a consideration that's consistent with other schools in the bill or in schools with unrepresented populations today. And I say based on that, creating yet another tier or class of institutions versus playing them on the same and putting them on the same equal playing field is just not quite enough.

I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

We have all heard the story of two people seeing the same accident, and with their best intentions viewing it differently. You know, I think this is what we have here today. This really has become something of a red herring on a much bigger bill. But let me once again address this veterans issue.

Mr. HALL says he wants to make these programs available to the veterans. I want to require it. We require it. So let me read the language again. "For the purposes of the activities and programs supported by this Act and the amendments made by this Act . . . institutions of higher education offering STEM research and education activities and programs that serve veterans with disabilities shall receive"—not made available—"shall receive special consideration in the review of any proposals by these institutions for funding under the research and education programs authorized in this Act . . ." Shall receive. Not made available; shall receive.

I reserve the balance of my time.

Mr. HALL of Texas. I yield 2 minutes to the gentleman from Michigan, Dr. EHLERS.

Mr. EHLERS. I want to thank Chairman GORDON and Ranking Member HALL for all their hard work on this legislation. It is a complex bill. It has been from the start, beginning in 2006, when President George W. Bush developed the idea of the American Competitiveness Initiative, which launched a three-pronged approach by strengthening research at the NSF, the DOE, and NIST. We must continue that effort.

We heard a speech this morning during the 1-minute segment by the gentleman from Texas (Mr. JOHNSON) about his concern about our debt to the Chinese. It's going to get worse and worse unless we generate more wealth in this country. And any economist will tell you that one of the best ways to generate wealth in this Nation is through manufacturing. We must restore our manufacturing operations in this Nation. We must work together to put our country on a more stable fiscal basis. We must stop overspending. And

we have to restore manufacturing and other wealth-building mechanisms such as mining and farming.

This bill goes a long way to do that, and I support this bill. It's not everything I wanted. None of us ever get everything we want. But at least we can move this bill over to the Senate. And at the very least, we can go into conference with the Senate and try to resolve the issues such as the veterans issue. I believe that we are in total agreement on what we want to achieve. I just encourage us to pass this bill, and get it into conference, where all the viewpoints can be heard and debated.

I hope my colleagues from both sides of the aisle will support the bill before us today. The National Association of Manufacturers supports it. All others who are involved in wealth generation through manufacturing support it. We absolutely have to restore our manufacturing sector. And the President we have now is trying to do that through the Department of Commerce and through the Manufacturing Council that he has appointed.

We have our work cut out for us, but I think we can come together and continue the work with the Senate and finally develop a really good bill we can all vote for.

Mr. GORDON of Tennessee. Mr. Speaker, I yield 2 minutes to the gentledady from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in support of H.R. 5325, the America COMPETES Reauthorization Act for 2010. It was once said, "When the world says, Give up, Hope whispers, Try it one more time." America cannot afford to give up on science, innovation, and education.

I want to applaud my colleagues, the leadership, as well as the entire Committee on Science and Technology for their hard work on this legislation. Our Nation is being outpaced by competitors in graduating scientists and engineers. It is so important to invest wisely in programs that truly make a difference in the achievement of our young people.

America COMPETES is about our future. It's about ensuring that we are taking the right steps toward increasing American competitiveness and innovation. It is also about strengthening diversity in our Nation's scientific enterprise so that all Americans can compete in the 21st century. We have an obligation to the future of our Nation to ensure every segment of our population has equal access and opportunity to pursue these careers in STEM.

The bill was put together in a bipartisan fashion and represents a concerted effort to create a more competitive science and engineering workforce.

This is the goal of America COMPETES, and I am pleased that the provisions are in this bill for all Americans. I will fight for innovation, justice, parity, and equality for all Americans as long as I can.

Mr. HALL of Texas. Mr. Speaker, I yield myself such time as I may consume.

I thank Professor EHLERS for his good explanation of his position on the bill. That's been his position from the word "go." And there were others on the Republican side in committee who differed with those of us that were addressing the bill. And we all have a right to disagree. And I respect that.

This bill got better. It didn't get better out of Rules because it didn't give us a rule that gave us a shot at it. But it got better as they had the vote yesterday. It's a little bit better as the chairman has brought it to us today. And I must say this, that the chairman has improved the ability for the veterans to benefit. And we are very close.

And the chairman has said that he wants to continue to work on this. And when we are just along three or four paragraphs, we are just two words away from it, I certainly take BART GORDON at his word and will work with him. I think that we should have the words "available to" instead of "that serve" those to veterans. What's available to them is very important. And we would like to have that in the bill.

I reserve the balance of my time.

Mr. GORDON of Tennessee. As my friend from Texas says, we have worked together long and hard on many issues. And certainly, again, we are going to continue to try to work to get this language exactly where both parties that are seeing it in good faith can agree. To me it seems "shall receive" is better than "make available," but we are going to work to get that together.

I yield 2 minutes to the chairman of the Research and Science Education Subcommittee, the gentleman from Illinois, Dr. LIPINSKI.

Mr. LIPINSKI. Mr. Speaker, I rise today in strong support of this bill. As chairman of the Research and Science Education Subcommittee, I want to thank Dr. EHLERS not only for his support of the COMPETES Act, but also all the work that he has done as the ranking Republican on the subcommittee and all the years he has put in on these issues in Congress.

I firmly believe that this bill is critical to maintaining America's global competitiveness. I thank Chairman GORDON for all his hard work on this bill and also his work through the years on these issues.

Passage of this bill will help produce a brighter future for our Nation and our Nation's workers. Simply put, this bill creates jobs. As a former college professor and engineer and unceasing advocate for American manufacturing,

I want to focus on the National Science Foundation title. This act keeps funding for the NSF on a doubling path, and it significantly increases support for basic research, graduate education, STEM education, and turning research into jobs. America is at risk of falling behind in all these areas. We cannot stand still while our competitors move forward. If we do, we will see the jobs created on their soil, not here in America.

□ 1100

This bill also contains a number of critical programs that support innovation and manufacturing. These provisions can help reverse the outsourcing of American jobs. In addition, the COMPETES Act also includes provisions that address serious deteriorations in the state of our research infrastructure which threatens America's competitiveness. Our competitors, especially China, are stealing scientists from our country, and I hear this all the time because they are offering better opportunities, better research infrastructure for their scientists. This means they will create the innovations, they will create the jobs over in their countries.

The COMPETES Reauthorization Act takes a proactive bipartisan approach to securing America's position in the 21st century global economy and putting Americans to work.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GORDON of Tennessee. I yield 30 additional seconds to Dr. Lipinski.

Mr. LIPINSKI. With no investment, we have no gains. It's as simple as that. We cannot lose the race of competition to other nations. America's future depends on that. We must have the jobs. People are asking every day where are the jobs going to come from. They are going to come from the innovations that come from Americans, and this bill will help create the environment that will allow that to be done and provide a better future for our Nation.

Mr. HALL of Texas. Mr. Speaker, at this time I yield 2 minutes to the gentleman from Michigan, Dr. EHLERS.

Mr. EHLERS. I thank the gentleman from Texas, the ranking member of the committee, for being generous with his time again.

I want to point out two additional items in the bill that are going to be of great importance to our country. I've already mentioned that we must become more competitive and that we have to develop a better approach to competing with other countries, if we are going to regain or retain the leadership that we have had for several centuries.

But there is something else as well that's very important, and that is innovation. America has not only led through manufacturing but also

through innovation in the products made. We have begun to slip in that category, and that is why it is so important to continue our research efforts at the National Science Foundation, the National Institute of Standards and Technology, and the Department of Energy.

I am pleased this measure before us today focuses on the challenges faced by our Nation's manufacturers, and it will broaden and strengthen manufacturing extension services which will help corporations be more productive and innovative. This will revive manufacturing innovation through research and development.

I hope my colleagues will be able to support this bill, which will be wonderful for our Nation and our financial status if we become more innovative and creative. This bill provides an opportunity to do that.

So I, once again, say let's resolve the difficulties we have with this bill. Let's get them resolved as quickly as possible so we can pass this bill and begin breathing new life into manufacturing in this Nation.

Mr. HALL of Texas. We are concerned with other parts of this program. We're concerned about the duplicative programs in the bill that are a waste of government resources and a waste of taxpayer dollars. In a time where we have scarce resources, we should be thinking about spending money on other things like research and not spending them on the same things that are in several different programs.

One example of this in H.R. 5325 is the energy innovation hubs program which duplicates a number of programs that are already available at the Department of Energy.

So let me say to the chairman and this Congress and anybody who would hear us, this bill has been improved; the chairman has been amenable to working together and making suggestions. He has listened to us. He hasn't always minded me, but he has listened; and I think that's unusual and kind of my friend from Tennessee.

He's changed this bill from an \$86 billion bill to a \$47 billion from 5 years to 3 years. So we feel like we've made considerable progress; and I think any bill, \$86 billion to \$47 billion, with that type of money, that ought to spawn money for the little disabled veterans that just want a small piece of it.

I think as we go along, and I hope that we can work this out, I hope that we will oppose this bill. We have a vote today. It's going to take two-thirds to pass it. Perhaps the chairman has the votes. But if not, I think in the next 48 hours we can improve it substantially, and once again be more proud of a bill that we've been for from the word "go." We've been for the thrust of the bill. We just objected to the cost and to the failure to include little people and

to duplicate so many of these processes.

I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Speaker, how much time do we have left?

The SPEAKER pro tempore. The gentleman from Tennessee has 7½ minutes. The gentleman from Texas has 3 minutes.

Mr. GORDON of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

I would first say to my friend from Texas that I think I probably minded him more than his kids minded him, but probably less than his grandkids have minded him. We have tried to cooperate in a lot of ways.

Let me address a couple of things.

As I said earlier, Mr. HALL has said, and rightfully so, that everyone here is supportive of our veterans and our disabled veterans. So what I would suggest is that we use a suspenders and a belt. Let's make sure. And so, Mr. HALL, I want to assure you that we're going to include your language, but we can also keep our strong language as "shall."

So this is what we would have: institutions of higher education offering STEM research education activities and programs, rather than that "serve," we'll use your language that are available to veterans with disabilities, and then we'll continue to say "shall" receive special consideration. So I think this can be a suspenders and belt to do what we all want, and that is to make sure that our disabled veterans are taken care of.

Let me also mention that there is a discussion about duplicate programs. I guess sometimes that could happen. In that last bill that 365 Members of the Congress voted for, we found that there were nine programs that didn't serve well and so those programs were taken out of this bill, and I think we can have disagreements as to whether a program is duplicative or not, but the funding doesn't go up. And so that is the good news there.

Let me also point out that on page 195, section 502, "Coordination and Nonduplication. To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other loan guarantee programs within the Federal Government." So there is an effort to be sure that we do not have this kind of duplication.

Once again, this is a bill that authorization has been cut by 50 percent from what 365 Members of this House voted for just 3 years ago and that was unanimously approved by the other body.

And I yield 2 minutes to my friend from New Jersey, Dr. RUSH HOLT.

Mr. HOLT. Mr. Speaker, I thank the chair for yielding, and I rise in strong support of the America COMPETES

Reauthorization Act. Our investments in scientific research and education underwrite our national prosperity and success. Yet for decades, we have underinvested in our Nation's tools for advancing innovation and competitiveness.

The America COMPETES Reauthorization Act will build on the successes of the original America COMPETES Act and the American Recovery and Reinvestment Act by authorizing funding levels that will continue to double the budgets of our basic research agencies: NIST, NSF, DOE's Office of Science.

I would have preferred the stability of a 5-year reauthorization, and some of my colleagues on the other side decided to play politics with science and have made that impossible. Still, the 3 years of investments authorized by this bill will pay big dividends as discoveries and innovations lead to new industries that will keep our Nation competitive.

I am pleased that despite objections by some in the minority, the bill also provides assistance for small businesses and manufacturers, strengthens STEM education, enhances the participation of underrepresented groups in technical fields, and supports research in pursuit of clean energy in the United States.

I am pleased that the bill includes a provision that I wrote to require the administration to develop national competitiveness and innovation strategy.

I commend Chairman GORDON and the S&T Committee for their hard work on this important piece of legislation, and I urge my colleagues to support it.

Mr. HALL of Texas. Mr. Speaker, I just want to reiterate that Republican motion to recommit eliminated the new programs in the bill. New programs in the bill shift an emphasis away from basic research towards technology commercialization activities that could potentially divert money away from basic research and could lead to inappropriate market innovation.

Keeping the language in the bill would reduce authorization levels in the bill by \$1.3 billion. The Republican motion to recommit kept all existing programs at fiscal year 2010 appropriated levels. Given that our Nation's debt is currently \$13 trillion and our Nation's budget deficit has increased 50 percent in 3 years, it's prudent to put the brakes on significant increases in spending for years to come.

This bill is better than the bill was when it was introduced. It's not as good as the bill was when it left the committee that first considered it. It's not as good a bill as it was when they accepted and voted "yes"—Republicans and Democrats alike—on the motion to recommit.

So we've made some improvements. I'm not discouraged. I still like the thrust of the bill, and I look forward to working with the chairman from this day forward.

I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Let me make this suggestion: if you want to wait for the absolutely perfect bill that you agree with every word, then you shouldn't vote for this bill because this bill is a bipartisan compromise that was a result of 49 hearings, four bipartisan markups, and so we had to work together. So if you want the perfect bill that is just exactly what you want regardless of what anybody else might want, then this may not be your bill.

But if you want a bill that is going to take America forward, if you want a bill that is supported by the U.S. Chamber of Commerce, by the National Association of Manufacturers, by the Information Technology Industry Association, by the Aerospace Industry Association, by the Business Roundtable, by the Council on Competitiveness, by the National Venture Capitalists Association, by TechAmerica, by TechNet, by Technological CEO Council, by the Telecommunication Industry Association, by the Energy Sciences Coalition, by the Biotech Industry Organization, by the American Council of Education, by the Association of American Colleges and Universities, by the Association of American Universities, by the Association of Public and Land-Grant Universities, and on, and on, and on, and on, then this is the bill for you.

Now, do they agree with every word in it? No, I'm sure they don't. But do they understand that 50 percent of the growth in our GDP in this country since World War II is a direct result of the R&D investment that we made and the benefit from that R&D investment? Yes, they understand that.

And so today we have a chance to cast a vote for our kids, for our grandkids. We have a chance to cast a vote for energy independence in this country. And when I say energy independence, I don't mean just independence from foreign oil; I mean energy independence from foreign technology, also.

This is a good bill. I request everyone to take a look at it, see it, and I think they'll see that on the merits that this is a good bill that serves our country. I think they'll see that this is a good bill that helps our disabled veterans. It was very specific in that.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield myself the amount of time that I may consume subject to my limitations.

Yes, Mr. Chairman, I would like a perfect bill. All of us would like a perfect bill, and I don't wish to pit the National Taxpayers Union who oppose

this bill against the Chamber of Commerce who supports this bill. But I do seek perfection. I don't think we have a perfect bill. I doubt that we could ever get a perfect bill, but we can have a better bill. We've got a better bill than we had when it was introduced. We've got a better bill than we had when it came out of committee.

□ 1115

We can reach perfection if we work long enough. I don't seek perfection, but I would like as good a bill as we can get, treating veterans the way they ought to be treated and not spending money that is needed for other matters, certainly. I urge a "no" vote.

I yield back the balance of my time. Mr. GORDON of Tennessee. Mr. Speaker, how much time do I have left?

The SPEAKER pro tempore. The gentleman from Tennessee has 1 minute.

Mr. GORDON of Tennessee. Mr. Speaker, I yield myself that final minute.

Let me point out to my friend from Texas that the National Taxpayers Union did oppose the previous bill, but they have not taken a position on this bill. We just checked their Web site. If you have something different, we would be glad to see it, because this bill is different than the last bill. This bill cuts the authorization by 50 percent. So we have a different bill here today.

So again, as I have said before, Mr. Speaker, there are 6.5 billion people in the world. Half of those working make less than \$2 a day. That is not the kind of way we want to compete in this country. We have to work at a higher technological level to be more productive. This bill will help us get there.

I thank, once again, the Republican and Democratic Members that have worked together to bring this bipartisan bill. I thank the staff of the minority and majority for working together to bring us this good bill, and I urge passage.

Mr. WU. Mr. Speaker, I rise today in strong support of the America COMPETES reauthorization, and I am particularly proud of the contribution my subcommittee—the Technology and Innovation Subcommittee—has made to this legislation. Innovation is critical to our nation's long-term global competitiveness, and we have a responsibility to support the kind of economic environment that empowers our nation's private sector to innovate and create jobs.

The bipartisan legislation we are considering today will strengthen our nation's economic competitiveness by helping to create an environment that encourages innovation and facilitates growth. Among other things, the bill makes critical investments in, and improvements to, the Manufacturing Extension Partnership, which will help this vital program better address the needs of our nation's small- and medium-sized manufacturers. The bill will also help ensure that students have the training necessary to secure a good-paying job in

their community by requiring MEP centers to inform local and regional community colleges of the skills needed by area manufacturers. America COMPETES also focuses the National Institute of Standards and Technology on creating jobs, supporting competitiveness, and meeting the needs of our nation's private sector.

America COMPETES is the cornerstone of our nation's global competitiveness, and today's reauthorization bill represents another critical step in implementing the innovation agenda. I ask my colleagues to join me in supporting this important legislation.

Mr. GORDON of Tennessee. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. GORDON) that the House suspend the rules and pass the bill, H.R. 5325.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. HALL of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### EUNICE KENNEDY SHRIVER ACT

Ms. FUDGE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5220) to reauthorize the Special Olympics Sport and Empowerment Act of 2004, to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5220

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Eunice Kennedy Shriver Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—REAUTHORIZATION OF SPECIAL OLYMPICS ACT

Sec. 101. Reauthorization.

#### TITLE II—BEST BUDDIES

Sec. 201. Findings and purpose.

Sec. 202. Assistance for Best Buddies.

Sec. 203. Application and annual report.

Sec. 204. Authorization of appropriations.

#### TITLE III—ESTABLISHMENT OF EUNICE KENNEDY SHRIVER INSTITUTES FOR SPORT AND SOCIAL IMPACT

Sec. 301. Findings and purpose.

Sec. 302. Establishment of Institutes.

Sec. 303. Activities of Institutes.

Sec. 304. Authorization of appropriations.

#### TITLE I—REAUTHORIZATION OF SPECIAL OLYMPICS ACT

##### SEC. 101. REAUTHORIZATION.

Sections 2 through 5 of the Special Olympics Sport and Empowerment Act of 2004 (42

U.S.C. 15001 note) are amended to read as follows:

#### "SEC. 2. FINDINGS AND PURPOSE.

"(a) FINDINGS.—Congress finds the following:

"(1) Special Olympics celebrates the possibilities of a world where everybody matters, everybody counts, and every person contributes.

"(2) The Government and the people of the United States recognize the dignity and value the giftedness of children and adults with intellectual disabilities.

"(3) The Government and the people of the United States recognize that children and adults with intellectual disabilities experience significant health disparities, including lack of access to primary care services and difficulties in accessing community-based prevention and treatment programs for chronic diseases.

"(4) The Government and the people of the United States are determined to end the isolation and stigmatization of people with intellectual disabilities, and to ensure that such people are assured of equal opportunities for community participation, access to appropriate health care, and inclusive education, and to experience life in a non-discriminatory manner.

"(5) For more than 40 years, Special Olympics has encouraged skill development, sharing, courage, and confidence through year-round sports training and athletic competition for children and adults with intellectual disabilities.

"(6) Special Olympics provides year-round sports training and competitive opportunities to more than 3,000,000 athletes with intellectual disabilities in 26 sports and plans to expand the benefits of participation through sport to hundreds of thousands of people with intellectual disabilities within the United States and worldwide over the next 5 years.

"(7) Research shows that participation in activities involving both people with intellectual disabilities and nondisabled people results in more positive support for inclusion in society, including in schools.

"(8) Special Olympics has demonstrated its ability to provide a major positive effect on the quality of life of people with intellectual disabilities, improving their health and physical well-being, building their confidence and self-esteem, and giving them a voice to become active and productive members of their communities.

"(9) In society as a whole, Special Olympics has become a vehicle and platform for reducing prejudice, improving public health, promoting inclusion efforts in schools and communities, and encouraging society to value the contributions of all members.

"(10) The Government of the United States enthusiastically supports the Special Olympics movement, recognizes its importance in improving the lives of people with intellectual disabilities, and recognizes Special Olympics as a valued and important component of the global community.

"(b) PURPOSE.—The purposes of this Act are to—

"(1) provide support to Special Olympics to increase athlete participation in, and public awareness about, the Special Olympics movement, including efforts to promote broader community inclusion;

"(2) dispel negative stereotypes about people with intellectual disabilities;

"(3) build community engagement through involvement in sports; and

"(4) promote the extraordinary gifts and contributions of people with intellectual disabilities.

**“SEC. 3. ASSISTANCE FOR SPECIAL OLYMPICS.**

“(a) EDUCATION ACTIVITIES.—The Secretary of Education may award grants to, or enter into contracts or cooperative agreements with, Special Olympics to carry out each of the following:

“(1) Activities to promote the expansion of Special Olympics, including activities to increase the full participation of people with intellectual disabilities in athletics, sports and recreation, and other inclusive school and community activities with non-disabled people.

“(2) The design and implementation of Special Olympics education programs, including character education and volunteer programs that support the purposes of this Act, that can be integrated into classroom instruction and are consistent with academic content standards.

“(b) INTERNATIONAL ACTIVITIES.—The Secretary of State, acting through the Assistant Secretary of State for Educational and Cultural Affairs, may award grants to, or enter into contracts or cooperative agreements with, Special Olympics to carry out each of the following:

“(1) Activities to increase the participation of people with intellectual disabilities in Special Olympics outside of the United States.

“(2) Activities to improve the awareness outside of the United States of the abilities and unique contributions that people with intellectual disabilities can make to society.

**“(c) HEALTHY ATHLETES.—**

“(1) IN GENERAL.—The Secretary of Health and Human Services may award grants to, or enter into contracts or cooperative agreements with, Special Olympics for the implementation of on-site health assessments, screening for health problems, health education, community-based prevention, data collection, and referrals to direct health care services.

“(2) COORDINATION.—Activities under paragraph (1) shall be coordinated with appropriate health care entities, including private health care providers, entities carrying out local, State, Federal, or international programs, and the Department of Health and Human Services, as applicable.

“(d) LIMITATION.—Amounts appropriated to carry out this section shall not be used for direct treatment of diseases, medical conditions, or mental health conditions. Nothing in the preceding sentence shall be construed to limit the use of non-Federal funds by Special Olympics.

**“SEC. 4. APPLICATION AND ANNUAL REPORT.****“(a) APPLICATION.—**

“(1) IN GENERAL.—To be considered for a grant, contract, or cooperative agreement under subsection (a), (b), or (c) of section 3, Special Olympics shall submit an application at such time, in such manner, and containing such information as the Secretary of Education, Secretary of State, or Secretary of Health and Human Services, as applicable, may require.

“(2) CONTENT.—At a minimum, an application under this subsection shall contain each of the following:

“(A) ACTIVITIES.—A description of specific activities to be carried out with the grant, contract, or cooperative agreement.

“(B) MEASURABLE GOALS.—A description of specific measurable annual benchmarks, long-term goals and objectives, and outcomes to be achieved through specified activities carried out with the grant, contract, or cooperative agreement, which shall include, at a minimum, the following:

“(i) Activities to increase the full participation of people with intellectual disabilities

in athletics, sports and recreation, and other inclusive school and community activities with nondisabled people.

“(ii) Education programs that dispel negative stereotypes about people with intellectual disabilities, in the case of applications for a grant under section 3(a).

“(iii) Activities to increase the participation of people with intellectual disabilities in Special Olympics outside of the United States, in the case of applications for a grant under section 3(b).

“(iv) Health-related activities, including on-site health assessments, screening for health problems, health education, community-based prevention, data collection, and referrals to direct health care services, in the case of applications for a grant under section 3(c).

**“(b) ANNUAL REPORT.—**

“(1) IN GENERAL.—As a condition of the receipt of any funds for a program under subsection (a), (b), or (c) of section 3, Special Olympics shall agree to submit an annual report at such time, in such manner, and containing such information as the Secretary of Education, Secretary of State, or Secretary of Health and Human Services, as applicable, may require.

“(2) CONTENT.—At a minimum, each annual report under this subsection shall describe—

“(A) the degree to which progress has been made toward meeting the annual benchmarks, long-term goals and objectives, and outcomes described in the applications submitted under subsection (a); and

“(B) demographic data about Special Olympics participants, including the number of people with intellectual disabilities served in each program referred to in paragraph (1).

**“SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated—

“(1) for grants, contracts, or cooperative agreements under section 3(a), \$9,500,000 for fiscal year 2011, and such sums as may be necessary for each of the 4 succeeding fiscal years;

“(2) for grants, contracts, or cooperative agreements under section 3(b), \$4,500,000 for fiscal year 2011, and such sums as may be necessary for each of the 4 succeeding fiscal years; and

“(3) for grants, contracts, or cooperative agreements under section 3(c), \$8,500,000 for fiscal year 2011, and such sums as may be necessary for each of the 4 succeeding fiscal years.”

**TITLE II—BEST BUDDIES****SEC. 201. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds the following:

(1) Best Buddies operates the first national social and recreational program in the United States for people with intellectual disabilities.

(2) Best Buddies is dedicated to helping people with intellectual disabilities become part of mainstream society.

(3) Best Buddies is determined to end social isolation for people with intellectual disabilities by promoting meaningful friendships between them and their non-disabled peers in order to help increase the self-esteem, confidence, and abilities of people with and without intellectual disabilities.

(4) Since 1989, Best Buddies has enhanced the lives of people with intellectual disabilities by providing opportunities for 1-to-1 friendships and integrated employment.

(5) Best Buddies is an international organization spanning 1,300 middle school, high school, and college campuses.

(6) Best Buddies implements programs that will positively impact more than 700,000 individuals in 2010.

(7) The Best Buddies Middle Schools program matches middle school students with intellectual disabilities with other middle school students and supports 1-to-1 friendships between them.

(8) The Best Buddies High Schools program matches high school students with intellectual disabilities with other high school students and supports 1-to-1 friendships between them.

(9) The Best Buddies Colleges program matches adults with intellectual disabilities with college students and creates 1-to-1 friendships between them.

(10) The Best Buddies e-Buddies program supports e-mail friendships between people with and without intellectual disabilities.

(11) The Best Buddies Citizens program pairs adults with intellectual disabilities in 1-to-1 friendships with other people in the corporate and civic communities.

(12) The Best Buddies Jobs program promotes the integration of people with intellectual disabilities into the community through supported employment.

(b) PURPOSE.—The purposes of this title are to—

(1) provide support to Best Buddies to increase participation in and public awareness about Best Buddies programs that serve people with intellectual disabilities;

(2) dispel negative stereotypes about people with intellectual disabilities; and

(3) promote the extraordinary contributions of people with intellectual disabilities.

**SEC. 202. ASSISTANCE FOR BEST BUDDIES.**

(a) EDUCATION ACTIVITIES.—The Secretary of Education may award grants to, or enter into contracts or cooperative agreements with, Best Buddies to carry out activities to promote the expansion of Best Buddies, including activities to increase the participation of people with intellectual disabilities in social relationships and other aspects of community life, including education and employment, within the United States.

**(b) LIMITATIONS.—**

(1) IN GENERAL.—Amounts appropriated to carry out this title may not be used for direct treatment of diseases, medical conditions, or mental health conditions.

(2) ADMINISTRATIVE ACTIVITIES.—Not more than 5 percent of amounts appropriated to carry out this title for a fiscal year may be used for administrative activities.

(c) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the use of non-Federal funds by Best Buddies.

**SEC. 203. APPLICATION AND ANNUAL REPORT.****(a) APPLICATION.—**

(1) IN GENERAL.—To be considered for a grant, contract, or cooperative agreement under section 202(a), Best Buddies shall submit an application at such time, in such manner, and containing such information as the Secretary of Education may require.

(2) CONTENT.—At a minimum, an application under this subsection shall contain the following:

(A) A description of activities to be carried out under the grant, contract, or cooperative agreement.

(B) Information on specific measurable goals, objectives, and outcomes to be achieved through activities carried out under the grant, contract, or cooperative agreement.

**(b) ANNUAL REPORT.—**

(1) IN GENERAL.—As a condition of receipt of any funds under section 202(a), Best Buddies shall agree to submit an annual report

at such time, in such manner, and containing such information as the Secretary of Education may require.

(2) **CONTENT.**—At a minimum, each annual report under this subsection shall describe the degree to which progress has been made toward meeting the specific measurable goals, objectives, and outcomes described in the applications submitted under subsection (a).

#### SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Education for grants, contracts, or cooperative agreements under section 202(a), \$10,000,000 for fiscal year 2011 and such sums as may be necessary for each of the 4 succeeding fiscal years.

### TITLE III—ESTABLISHMENT OF EUNICE KENNEDY SHRIVER INSTITUTES FOR SPORT AND SOCIAL IMPACT

#### SEC. 301. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—The Congress finds as follows:

(1) For more than 50 years, Eunice Kennedy Shriver dedicated her life, energies, and resources without bounds to improving the lives of people with intellectual and developmental disabilities around the world. She stands as the iconic founder and leader of one of the most important disability rights movements in history.

(2) Eunice Kennedy Shriver founded and influenced the development of Special Olympics and Best Buddies, both of which celebrate the possibilities of a world where everybody matters, everybody counts, every person has value, and every person has worth.

(b) **PURPOSE.**—It is the purpose of this title to improve and advance opportunities for people with intellectual disabilities to fully participate and engage in inclusive sports and recreation, social activities, and other community opportunities, through—

(1) conducting research, data collection, and evaluation activities;

(2) providing technical assistance and training;

(3) fostering and promoting interdisciplinary collaboration, cooperation, and partnerships; and

(4) commemorating the work and contributions of Eunice Kennedy Shriver and encouraging others to emulate her leadership, including her efforts to encourage and promote greater social and community opportunities for people with intellectual disabilities and their families.

#### SEC. 302. ESTABLISHMENT OF INSTITUTES.

(a) **IN GENERAL.**—From the amount made available under section 304 that is not reserved under subsection (g), the Secretary of Education shall award competitive grants to one or more eligible entities for the purpose of establishing Eunice Kennedy Shriver Institutes for Sport and Social Impact (referred to in this title as “Institutes”).

(b) **ELIGIBLE ENTITY.**—In this title, the term “eligible entity” means an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) with demonstrated expertise and experience in research, technical assistance, and training related to improving and advancing opportunities for people with intellectual disabilities to fully participate and engage in inclusive community opportunities, in partnership with a nonprofit organization with demonstrated expertise and experience in inclusive sports, recreation, social, educational, and community opportunities for people with intellectual disabilities.

(c) **GRANT PERIOD.**—Each grant awarded under this title shall be for a 3-year period.

(d) **GRANT RECIPIENT CONTRIBUTION.**—An eligible entity receiving a grant under this title shall provide a contribution (which may include an in-kind contribution), in an amount not less than 25 percent of the costs of the activities assisted under the grant, to carry out such activities.

(e) **SUPPLEMENT, NOT SUPPLANT.**—Funds made available under this title shall be used to supplement, and not supplant, other Federal, State, and local funds expended to carry out the purpose of this title.

(f) **APPLICATION.**—An eligible entity shall submit an application to the Secretary of Education at such time, in such manner, and containing such information and assurances as the Secretary may require. Such application shall, at a minimum, include—

(1) a description of activities to be carried out consistent with section 303; and

(2) annual measurable benchmarks and long-term goals and objectives to be achieved through such activities.

(g) **RESERVATION OF FUNDS FOR NATIONAL ACTIVITIES.**—From the amount appropriated under section 304, the Secretary of Education shall reserve not more than 10 percent to enter into a cooperative agreement, on a competitive basis, with an eligible entity for the purpose of implementing national coordination activities, including development of mechanisms for communication among grantees, dissemination of information resulting from activities under the grants, dissemination of evidence-based practices, and technical assistance to grantees.

#### SEC. 303. ACTIVITIES OF INSTITUTES.

(a) **IN GENERAL.**—Each grantee under this title shall use the grant to advance the quality of life and inclusion of people with intellectual disabilities through research and evaluation, technical assistance, training, data collection, evaluation, collaboration, and dissemination of evidence-based best practices.

(b) **REQUIRED ACTIVITIES.**—

(1) **IN GENERAL.**—Each grantee under this title shall use grant funds to—

(A) establish a research agenda and annual measurable benchmarks and long-term goals, and conduct research and evaluation of evidence-based best practices, with the goal of improving the quality of life and furthering the social inclusion of people with intellectual disabilities, in cooperation and consultation with—

(i) people with intellectual disabilities;

(ii) family members of people with intellectual disabilities;

(iii) University Centers for Excellence in Developmental Disabilities Education, Research, and Service (as designated in section 151 of the Developmental Disabilities Act (42 U.S.C. 15061));

(iv) other relevant Federal, State, and local entities conducting research related to people with intellectual disabilities;

(v) other Federal, State, and local entities serving people with intellectual disabilities; and

(vi) other relevant nonprofit organizations.

(B) provide training and technical assistance to people with intellectual disabilities, families of people with intellectual disabilities, nonprofit organizations, public entities, educational programs, recreation programs, and others to increase opportunities for inclusive participation by such people in sports and recreation, social opportunities, education, and the community, including provision of assistance to programs and entities serving primarily non-disabled people in order to successfully include people with intellectual disabilities in activities with non-disabled people;

(C) collect and analyze data related to barriers to, and factors ensuring, access to full inclusion and participation in community and quality of life for people with intellectual disabilities, including demographic data; and

(D) report on the research, findings, conclusions, and recommendations resulting from the activities of the grant.

(2) **RESEARCH AND EVALUATION.**—Research, evaluation, and data collection described in subparagraph (A) and (C) of paragraph (1) shall include—

(A) best practices in preventive health and wellness for people with intellectual disabilities, including sports and recreational activities;

(B) identification of barriers to, and factors ensuring, access to full inclusion and participation in community and quality of life for people with intellectual disabilities;

(C) best practices in supporting independence, community living, and inclusive social engagement for people with intellectual disabilities;

(D) physical and mental health disparities for people with intellectual disabilities; and

(E) other relevant activities related to the purpose of this title, as described by the eligible entity in the application submitted under section 302(f).

(c) **REPORT.**—Each recipient of a grant under this title shall prepare and submit to the Secretary of Education an annual report that includes information on progress made in achieving the projected goals and outcomes of the activities of the Institute for the previous year, including demographic information on the populations served and measurable accomplishments in advancing the quality of life and inclusion of people with intellectual disabilities in the community.

#### SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal years 2011 through 2015.

The **SPEAKER** pro tempore. Pursuant to the rule, the gentlewoman from Ohio (Ms. FUDGE) and the gentleman from Wisconsin (Mr. PETRI) each will control 20 minutes.

The Chair recognizes the gentlewoman from Ohio.

#### GENERAL LEAVE

Ms. FUDGE. Mr. Speaker, I request 5 legislative days within which Members may revise and extend and insert extraneous materials on H.R. 5220 in the RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. FUDGE. I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5220, the Eunice Kennedy Shriver Act of 2010, which will provide important resources and services to the people with intellectual disabilities. This bill will reauthorize the Special Olympics Sport and Empowerment Act of 2004, provide assistance to Best Buddies to support the expansion and development of mentoring programs, and establish the Eunice Kennedy Shriver Institutes for Sports and Social Impact.

Special Olympics and the Best Buddies program would not be where they



are today or mean so much to so many people without Eunice Kennedy Shriver. She dedicated her life to the goal of a fully inclusive and supportive society for people with intellectual disabilities.

Mrs. Shriver founded Special Olympics and was a longtime supporter and board member of Best Buddies. She knew that all too often people with intellectual disabilities are subject to social isolation because of their different abilities. She fought hard to ensure that children and adults with intellectual disabilities were not subject to stigmatization and prejudice.

This bill makes sure that children and adults can fully participate and engage in education, social activities, and community opportunities. With this bill, we will move closer toward the goal of increased participation and inclusivity in society for people with intellectual disabilities.

For more than 40 years, Special Olympics has provided sports training and competitive opportunities to more than 3 million athletes with intellectual disabilities. Special Olympics has enhanced the quality of life of people with intellectual disabilities, improving their health and physical well-being, building their confidence and self-esteem, and giving them a voice to become active and productive members of their communities.

Since 1989, Best Buddies has worked with 1,300 middle school, high school, and college campuses to create inclusive communities for people with intellectual disabilities through a medium of friendship. Over 700,000 people have benefited from the Best Buddies one-to-one peer matches, citizen programs for adults, and job programs that promote integration in the workplace.

Finally, this bill establishes the Eunice Kennedy Shriver Institutes for Sports and Social Impact. The Institutes support research on effective means for inclusion of people with intellectual disabilities, provide technical assistance to promote inclusion, foster collaboration among people and organizations working toward effective inclusion, and commemorate Mrs. Shriver's dedication to this cause.

As many of you recall, Mrs. Shriver passed away last August, just before her brother the late Senator Ted Kennedy, also a champion of people with disabilities. This bill is fittingly named the Eunice Kennedy Shriver Act of 2010 and honors her vision of a world where people with intellectual disabilities are successfully integrated into our schools, our workplaces, and our general communities. I share that vision and support the activities authorized by this bill.

Once again, I express my support for H.R. 5220 and thank Representative HOYER for introducing this important legislation. I also want to thank Chairman BERMAN of the Foreign Affairs

Committee and Chairman WAXMAN of the Energy and Commerce Committee for working with the Education and Labor Committee on allowing this bill to move expeditiously to the floor.

I submit an exchange of letters dated May 7, May 10, and May 14, 2010, between these chairmen and Chairman MILLER to be included in the RECORD.

COMMITTEE ON FOREIGN AFFAIRS,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 7, 2010.

Hon. GEORGE MILLER,  
Chairman, Committee on Education and Labor,  
Rayburn House Office Building, Wash-  
ington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning H.R. 5220, the Eunice Kennedy Shriver Act, introduced by Representative Hoyer on May 5, 2010.

This bill contains provisions within the Rule X jurisdiction of the Committee on Foreign Affairs. In the interest of permitting your Committee to proceed expeditiously to floor consideration of this important bill, I am willing to waive this Committee's right to mark up this bill. I do so with the understanding that by waiving consideration of the bill, the Committee on Foreign Affairs does not waive any future jurisdictional claim over the subject matters contained in the bill which fall within its Rule X jurisdiction.

Further, I request your support for the appointment of Foreign Affairs Committee conferees during any House-Senate conference convened on this legislation.

Please include a copy of this letter and your response in the Congressional Record during consideration of the measure on the House floor.

Sincerely,  
HOWARD L. BERMAN,  
Chairman.

COMMITTEE ON EDUCATION AND  
LABOR, HOUSE OF REPRESENTA-  
TIVES,  
Washington, DC, May 10, 2010.

Hon. HOWARD L. BERMAN,  
Chairman, Committee on Foreign Affairs, Ray-  
burn House Office Building, House of Rep-  
resentatives, Washington, DC.

DEAR CHAIRMAN BERMAN: Thank you for your May 7, 2010, letter regarding H.R. 5220, the Eunice Kennedy Shriver Act. Your support for this legislation and your assistance in ensuring its timely consideration are greatly appreciated.

I agree that provisions in the bill are within the jurisdiction of the Committee on Foreign Affairs. I acknowledge that by waiving rights to further consideration at this time of H.R. 5220, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on the Foreign Affairs has jurisdiction in H.R. 5220, or similar legislation. A copy of our letters will be placed in the Congressional Record during consideration of the bill on the House floor.

I value your cooperation and look forward to working with you as we move ahead with this important legislation.

Sincerely,  
GEORGE MILLER,  
Chairman.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ENERGY AND COM-  
MERCE,

Washington, DC, May 14, 2010.

Hon. GEORGE MILLER,  
Chairman, Committee on Education and Labor,  
Rayburn House Office Building, Wash-  
ington, DC.

DEAR CHAIRMAN MILLER: I am writing to confirm our understanding regarding H.R. 5220, the "Eunice Kennedy Shriver Act." As you know, this bill was referred to the Committee on Energy and Commerce, which has jurisdictional interest in provisions of the bill.

In light of the interest in moving this bill forward promptly, I do not intend to exercise the jurisdiction of the Committee on Energy and Commerce through further Committee consideration of H.R. 5220. I do this, however, only with the understanding that forgoing further consideration of H.R. 5220 at this time will not be construed as prejudicing this Committee's jurisdictional interests and prerogatives on the subject matter contained in this or similar legislation. In addition, we reserve the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this legislation.

I would appreciate your including this letter in the Congressional Record during consideration of the bill on the House floor. Thank you for your cooperation on this matter.

Sincerely,  
HENRY A. WAXMAN,  
Chairman.

COMMITTEE ON EDUCATION AND  
LABOR, HOUSE OF REPRESENTA-  
TIVES,

Washington, DC, May 14, 2010.

Hon. HENRY WAXMAN,  
Chairman, Committee on Energy and Commerce,  
House of Representatives, Washington, DC.

DEAR CHAIRMAN WAXMAN: Thank you for your May 14, 2010, letter regarding H.R. 5220, the Eunice Kennedy Shriver Act. Your support for this legislation and your assistance in ensuring its timely consideration are greatly appreciated.

I agree that provisions in the bill are within the jurisdiction of the Committee on Energy and Commerce. I acknowledge that by waiving rights to further consideration at this time of H.R. 5220, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on Energy and Commerce has jurisdiction in H.R. 5220, or similar legislation. A copy of our letters will be placed in the Congressional Record during consideration of the bill on the House floor.

I value your cooperation and look forward to working with you as we move ahead with this important legislation.

Sincerely,  
GEORGE MILLER,  
Chairman.

I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of the bill before us, H.R. 5220, the Eunice Kennedy Shriver Act.

Eunice Kennedy Shriver was the founder and honorary chairperson of Special Olympics and a leader in the worldwide effort to improve the lives and understanding of individuals with intellectual disabilities.



For more than three decades, through her work with the Joseph K. Kennedy, Jr. Foundation and Special Olympics, she worked tirelessly to seek the prevention of intellectual disabilities by identifying its causes and improving the means by which society deals with citizens who have intellectual disabilities.

Mrs. Shriver passed away on August 11, 2009, but her work to ensure that individuals with intellectual disabilities are able to lead independent lives in their communities will live on. An estimated 7 million individuals, 2 percent of the population of the United States, have intellectual disabilities which impair daily living skills needed to live and work in the local community as productive citizens. The three major known causes of intellectual disabilities are Down syndrome, fetal alcohol syndrome, and Fragile X.

The Eunice Kennedy Shriver Act will assist individuals with intellectual disabilities by continuing the Federal Government's support of programs that provide early intervention, effective education, research, and appropriate supports for individuals with intellectual disabilities so that they can reach adulthood and become contributing members of our society.

First, the bill reauthorizes the Special Olympics Sport and Empowerment Act of 2004. Special Olympics was established in 1968 and provides year-round sports training and competitive opportunities in 26 sports to more than 3 million athletes with intellectual disabilities. But it does so much more. It dispels negative stereotypes about people with intellectual disabilities, builds community engagement, increases the participation of people with intellectual disabilities in community life, and provides education and health screenings for individuals with intellectual disabilities.

Second, the bill authorizes support for Best Buddies, a nonprofit organization that provides mentors and friends to individuals with intellectual disabilities to increase their social relationships. Best Buddies was founded in 1989 by Anthony Kennedy Shriver as the first national, social, and recreational program for people with intellectual disabilities. Since that time, it has grown from one chapter to more than 1,400 middle school, high school, and college campuses all around the country.

Finally, the bill establishes Eunice Kennedy Shriver Institutes for Sport and Social Impact. Through this effort, institutions will conduct research, collect data, and evaluate evidence-based best practices, with the goal of improving the quality of life and, further, the social inclusion of people with intellectual disabilities.

Mr. Speaker, once again, I want to recognize the life and accomplishments of Eunice Kennedy Shriver. Her dedica-

tion to improving the lives of individuals with intellectual disabilities is awe inspiring, and I hope that this bill will serve as a fitting legacy to her efforts.

I reserve the balance of my time.

Ms. FUDGE. Mr. Speaker, I am pleased to recognize the gentleman from Rhode Island (Mr. KENNEDY) for such time as he may consume.

Mr. KENNEDY. I thank the gentleman from Ohio, and I thank the gentleman, Mr. PETRI, for his wonderful words about my Aunt Eunice. I want to acknowledge my good friend and colleague, Representative BLUNT from the minority side, for his support for this bill. And I want to especially thank our majority leader, Representative HOYER, for his leadership on this issue. It has been steadfast and long appreciated by my family and all of those in the Special Olympics family.

Mr. Speaker, I rise today in support of H.R. 5220, the Eunice Kennedy Shriver Act. This bipartisan bill seeks to reauthorize the Special Olympics Sport and Empowerment Act of 2004 and to advance the development of Best Buddies mentoring and employment programs across this country.

My aunt, Eunice Kennedy Shriver, founded the Special Olympics in 1968. She did so in order to help foster a society that would celebrate and enhance the lives of those with intellectual disabilities.

She had seen those afflicted with intellectual disabilities, including her own sister Rosemary, my Aunt Rosemary, and saw that they were being shut out from fundamental opportunities that life had to offer. She had seen that this entire segment of our population was being denied the basic right to live a fulfilling life because of the stigma, because of the misunderstandings that pervaded our society about people with cognitive disorders. In witnessing these injustices, my aunt sought nothing less than to change our society's perceptions and approach to intellectual disabilities.

Over the 40 years since the inception of Special Olympics, it has done just that. By encouraging involvement in sports, in education, in health programs, Special Olympics has given rise to an entire generation of volunteers, parents, individuals, all encouraging those with intellectual disabilities to embrace their lives and their abilities. And for those who have been involved in Special Olympics, you know that it is not the disabilities. It is the abilities. And it is not just the Special Olympians who benefit from Special Olympics. It is the volunteers. It is anybody who has witnessed a Special Olympics event.

This message of understanding and compassion has led Special Olympics to develop an international organization, and today that organization represents 3 million athletes in 44,000

events all over the country, and 170 countries now have teams for the international games.

I want to commend my cousin, Tim Shriver, who carries on his mother's legacy of being CEO of Special Olympics, and my cousin, Anthony Shriver, who runs Best Buddies.

□ 1130

I want to say that if I had the chance to look back on my family's legacy, and if all of my family who held public office today were all here on the floor thinking about all of the public service in public office; if my cousin Kathleen were here, who's Lieutenant Governor; my cousin Mark, who's in the General Assembly; my cousin Joe, who was here in Congress; if my father, who served in the United States Senate for nearly five decades, who's often said to be one of the greatest Senators to ever serve in this Congress; if my Uncle Bobby, who was not only a Senator but Attorney General, was here; if my uncle, President Kennedy was here, all of them would say if there was a greater legacy in my family, it was probably none other than someone who never served in public office in my family, and that was the legacy of my aunt, Eunice Shriver, when she started the Special Olympics. It's going to be the most enduring legacy that my family ever had a part of, and it's something that all of us are very proud to be part of in the Special Olympics family. Everybody can be part of the Special Olympics. I encourage everybody to go to a Special Olympics event and, in doing so, be part of the Special Olympics spirit. It's something to behold.

Let's pass the Eunice Kennedy Shriver Act.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to my colleague from the State of Michigan, VERN EHLERS, a member of the committee.

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding. That stirring speech by Mr. KENNEDY, which we have just heard, reminds us of why this bill is so important. Let me also read a few passages which really struck me, in which Congress finds the following: Special Olympics celebrates the possibilities of a world where everybody matters, everybody counts, and every person contributes. The Government and the People of the United States are determined to end the isolation and stigmatization of people with intellectual disabilities and to ensure that such people are assured of equal opportunities for community participation, access to appropriate health care, and exclusive education, and to experience life in a nondiscriminatory manner.

I will stop at that point and simply say I'm very pleased to be one of the early cosponsors of this bill. I have attended Special Olympics events, and I can tell you they are more stirring and

more of a blessing to the soul of the spectators than any other sporting event they can possibly go to. The children—and it is primarily for children but adults often participate, too—but they struggle so hard. And they succeed. They succeed admirably in achieving their goals. It just stirs your heart to be involved and help Special Olympics, to watch the Special Olympics, and to share the joy of the participants when they successfully complete the particular activity they're engaged in.

This is a wonderful bill. It's a wonderful opportunity. I had the pleasure of meeting Eunice Shriver a few years ago and discussed the Special Olympics with her shortly before her death. This is a major contribution she has made to the children of this country, and I strongly urge that we pass this bill.

Ms. FUDGE. Mr. Speaker, I am pleased to yield 1 minute to the majority leader, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentlelady from Ohio, Congresswoman FUDGE, for yielding. I thank her for her leadership in bringing this bill to the floor. I thank my friend, Mr. PETRI, for his work on this legislation. I am once again, and too infrequently nowadays, glad to join with one of my best friends in the House of Representatives, ROY BLUNT from Missouri, who has worked with me for many years on this issue with the Shriver and Kennedy families.

I'm pleased that PATRICK KENNEDY is on the floor with us, my good friend and a wonderful Member of Congress, who's done such an extraordinary job representing Rhode Island and our country, and who Eunice Shriver is, I know, very proud of as she watches his commitment to those who have confronted disabilities and medical challenges. PATRICK KENNEDY has been a giant in raising the voice—and showed extraordinary courage. To that extent, that is consistent with the Kennedy legacy of courage in the face of adversity. PATRICK, thank you very much.

I met PATRICK's aunt in 1962, long before many people here were born. It was at a Young Democrats convention at the Washingtonian Motel on Route 70 in Montgomery County. Sargent Shriver was the speaker at that convention. Judy and I were at that convention. I was then 22 or 23 years of age, and I was, of course, properly awestruck by Sargent Shriver and Eunice Shriver, having gotten into politics because of John Kennedy's call for young people to become engaged.

PATRICK is correct in many ways. Certainly, one of, if not the giant of the family, was Eunice Kennedy Shriver, who, through her relationship with her sister, understood firsthand the discrimination, the isolation, the prejudice that can be directed at somebody with a disability, or at least with

somebody that didn't have the same abilities that others have. Not only did she lament that but she lived her life to reverse that. That's what PATRICK was talking about, compellingly. That's why ROY BLUNT and I have joined together over the years to support this legislation.

We have had the privilege of working with Tim Shriver and Anthony Shriver, who carry on the legacy. What a wonderful family, from generation to generation passing the torch of service from one generation to the next. I have had the privilege of being a close friend of, as I said, PATRICK and his father, with whom I worked very closely over the years, and so many other members of his family.

This legislation is named in honor of Eunice Kennedy Shriver, who dedicated her long life to public service—not an elected office, but like so many more of us that served in elected office, millions and millions of Americans who saw a challenge and sought to meet it, especially committed to the inclusion of those with intellectual disabilities in the mainstream of our society. I was proud to call her friend. I was proud to be at NIH the day that we named a center for Eunice Kennedy Shriver. More importantly, she was a friend to millions of people around the world, many of whom never knew her name and will not realize how they are the beneficiaries of her leadership and her commitment.

We have Eunice Kennedy Shriver to thank in large part for the Special Olympics and for better understanding of the challenges and potential of people with intellectual disabilities. This bill carries her legacy of inclusion and public service. It reauthorizes the Special Olympics Act, which continues grant funding for a remarkable movement that has promoted athletic competition and health for more than four decades. It emphasizes the importance of competition and competing and participating. Yes, winning is nice. But in the competition itself is the victory—the victory of spirit, the victory of courage, the victory of self-satisfaction.

Today, the Special Olympics reaches more than 3 million athletes in more than 150 countries. For those athletes, the Special Olympics means the joy of competition and the challenge of pushing themselves to be their very best. For the rest of us, the Special Olympics has increased respect for people with disabilities. From time to time, those of us who have participated in the Special Olympics, particularly some time ago, when huggers were allowed—we were huggers. Huggers simply meant, Congratulations. Well done. Keep on keeping on.

This bill also reauthorizes grants to expand the successful Best Buddies program, which is dedicated to the social integration of children and adults with

intellectual disabilities. Again, Eunice Shriver and John Kennedy, Robert Kennedy, other Kennedy siblings saw Rosemary and they saw the isolation to which she was subjected. I had the opportunity of visiting Anthony in Florida, and Rosemary was at his house. The love and care extended to Rosemary was extraordinary. This was something that they lived, not just fought for.

Its volunteers gain valuable leadership opportunities and its participants with disabilities learn that they are valuable members of our communities. It is a valuable part of Eunice Kennedy Shriver's legacy, one that has found its way to more than a thousand schools and workplaces, and it deserves—and I'm sure will get—our support.

As Mrs. Shriver has said about the athletes whose competition she's supported for so many years, Special Olympic athletes are spokespersons for freedom itself—they ask for the freedom to live, the freedom to belong, the freedom to contribute, the freedom to have a chance. That should be the goal for every American with a disability, and indeed it should be the goal of us all. This bill brings it a little closer to realization.

I, again, want to thank my good friend, ROY BLUNT, who has been so deeply involved in this effort. It has been, as always, a privilege to be his partner in this effort. I urge its overwhelming adoption and again thank Congresswoman FUDGE and Congressman PETRI for their efforts.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to a special leader of this House and coauthor of the bill before us, the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I thank the gentleman for yielding and thank he and Congresswoman FUDGE for bringing this bill to the floor. I'm honored to be here on the floor with my good friend, Mr. HOYER. We first brought this concept of healthy athletes to the floor 6 years ago, when, for the first time, the Federal Government said we can add something to Special Olympics that doesn't change Special Olympics but just simply adds to it. It doesn't change the character of volunteers. It doesn't change the character of charitable contribution. It doesn't change the character of competition. It adds a component to Special Olympics that helps athletes who have many challenges discover some challenges in health that maybe no one has discovered yet.

Today, this bill would simply authorize that program, which I will talk about in some detail, for another 5 years. I hope that we continue to see the kind of things that Mr. HOYER and I have been able to watch as a result of this decision by the Congress 6 years ago. As has already been said, it also passes a bill again that this Congress

has already passed—a bill that Mr. HOYER and I sponsored last year, that would provide a new level of assistance to Best Buddies, a program where adults who work with other adults who have mental challenges become the friend, the mentor, the person who brings that person more deeply into society than they otherwise would be. It also authorizes a new competitive grant program called the Eunice Kennedy Shriver Institutes for Sport and Social Impact to fund organizations that demonstrate commitment to the vision of special needs kids.

□ 1145

Earlier this year, Leanna Krogmann, a Special Olympian from Missouri, came in to see me, and along with her family and other families, Leanna reminded me of the importance of Special Olympics and its Healthy Athletes program, which really focuses on Healthy Athletes in several disciplines: Opening Eyes, Special Smiles, Healthy Hearing, FUNFitness, Health Promotion, Fit Feet and MedFest, so that those medical things that might not otherwise get checked, get checked.

PATRICK KENNEDY has come to the floor, as have others today, including Mr. HOYER, and have talked about the significant contribution that Eunice Kennedy Shriver made to the world and to America in so many ways, and the Special Olympics and Best Buddies were two of them. She grew up, of course, in a family of competitors, but her older sister Rosemary was mentally challenged and couldn't keep up. I had the opportunity a few years ago to meet Rosemary and to learn that every Christmas and every August, no matter where Rosemary was, she came to be wherever Eunice Shriver was. And I was honored to meet her and honored to speak on the floor when her life was ended about the contribution that life had made because of what her sister and her family had decided to do.

In 1962, Mrs. Shriver started the Special Olympics in her big backyard—it was a big backyard, but it was a backyard—a competition that now attracts 3 million athletes from 160 countries around the world. In August of last year, a card with this challenge was part of Eunice Kennedy Shriver's memorial service, talking about Best Buddies and talking about Special Olympians. This card read, "The right to play on any playing field, you have earned it. The right to study in any school, you have earned it. The right to hold a job, you have earned it. The right to be anyone's neighbor, you have earned it." These programs make a difference in people's lives.

In Missouri in just one of the last 5 years, 1,029 athletes went through the Healthy Athlete screening free of charge. Families with many challenges often miss one. And this was something that took me a while to figure out be-

cause these are families who go to doctors, who go to events, who do lots of things, but they're dealing with lots of challenges. And maybe the one challenge they don't know they're dealing with is that this individual also can't see as well as they also thought they could or can't hear. And we find that out in these screenings. In fact, in Healthy Hearing, 18 percent of the Missourians in this year I'm talking about required follow-up care when they had their hearing test. Health Promotion, almost one in five were obese and got advice on healthy choices, on tobacco cessation, on sun safety. Opening Eyes, 230 athletes were screened in Missouri in 2007. Almost half, 45 percent, of the people screened needed prescription eyewear and didn't have it. Special Smiles, 23 percent of the 334 athletes screened were in urgent need of follow-up care. I was told by someone who runs the Missouri Special Olympics program that one young man was looking at the tree tops with his new glasses later on in the day after he had gotten them, and he said, I've always heard the birds, but I never saw the birds. One young woman said about her glasses that now her glasses meant that there was only one ball to catch instead of trying to figure out which of the two balls that had always been coming at her before was the real ball and which one she just saw.

Let's extend these programs. Let's pass this bill. Let's encourage these athletes. And again, to all my friends who have come to the floor, who have worked to make this a program where the government makes some difference but still understands, as others have said, that anybody can volunteer, everybody is touched by being a part of this program. Watch a walk-on at your State's Special Olympics. Go to a local competition. See what it means when that card's handed out that says, "You have earned it," as these Special Olympians and Best Buddies have. And I urge us to pass the bill.

Mr. SALAZAR. Mr. Speaker I rise today in support of H.R. 5220, the Eunice Kennedy Shriver Act.

On behalf of the more than 2,000 Special Olympians from my district I am so proud to honor the legacy of Eunice Kennedy Shriver, who dedicated her life to providing opportunities for children and adults with intellectual and developmental disabilities.

I also want to recognize the remarkable talent and dedication these athletes bring to their sports.

Earlier this year I was lucky to meet Erin Holloway, a Colorado Special Olympian who visited my office in January.

This remarkable young woman has competed in almost every Special Olympic sport over her 30 years in the program, before settling on golf and equestrian as her favorites.

In 2005, she became the first Special Olympian inducted into the Colorado Sports Hall of Fame.

She credits the Special Olympics program with giving her confidence in her abilities,

teaching her to live independently, and the knowledge that she is a good person.

Erin's remarkable story is a testament to the impact this program has had on the lives of thousands of Americans.

This is an important program, and I urge my colleagues to support this legislation.

Mr. PETRI. Mr. Speaker, I urge all of my colleagues to support the bill before us, the Eunice Kennedy Shriver Act, and yield back the balance of my time.

Ms. FUDGE. Mr. Speaker, I, as well, would ask that my colleagues support H.R. 5220, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio (Ms. FUDGE) that the House suspend the rules and pass the bill, H.R. 5220, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### HONORABLE STEPHANIE TUBBS JONES COLLEGE FIRE PREVENTION ACT

Ms. FUDGE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2136) to establish the Honorable Stephanie Tubbs Jones Fire Suppression Demonstration Incentive Program within the Department of Education to promote installation of fire sprinkler systems, or other fire suppression or prevention technologies, in qualified student housing and dormitories, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2136

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Honorable Stephanie Tubbs Jones College Fire Prevention Act".

#### SEC. 2. ESTABLISHMENT OF THE HONORABLE STEPHANIE TUBBS JONES FIRE SUPPRESSION DEMONSTRATION INCENTIVE PROGRAM.

(a) GRANTS.—The Secretary of Education (in this Act referred to as the "Secretary"), in consultation with the United States Fire Administration, shall establish a demonstration program to award grants on a competitive basis to eligible entities for the purpose of installing fire sprinkler systems, or other fire suppression or prevention technologies, in student housing and dormitories owned or controlled by such entities.

(b) ELIGIBLE ENTITY.—For purposes of this Act, the term "eligible entity" means any of the following:

(1) An institution of higher education (as that term is defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)), including an institution eligible to receive assistance under part A or B of title III or title V of such Act.

(2) A social fraternity or sorority exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. 501(a)),

the active membership of which consists primarily of students in attendance at an institution of higher education (as that term is defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)).

(c) **SELECTION PRIORITY.**—In making grants under subsection (a), the Secretary shall give priority to eligible entities that demonstrate the greatest financial need.

(d) **RESERVED AMOUNTS.**—

(1) **IN GENERAL.**—Of the amount made available to the Secretary for grants under this section for each fiscal year, the Secretary shall award—

(A) not less than 10 percent to eligible entities that are institutions described in subsection (b)(1) that are eligible to receive assistance under part A or B of title III or title V of the Higher Education Act of 1965; and

(B) not less than 10 percent to eligible entities that are social fraternities and sororities described in subsection (b)(2).

(2) **PLAN REQUIRED.**—The Secretary shall develop a plan to inform entities described in subparagraphs (A) and (B) of paragraph (1) that such entities may be eligible to apply for grants under this section.

(3) **INSUFFICIENT APPLICANTS.**—If the Secretary determines that there are an insufficient number of qualified applicants to award the reserved amounts required in accordance with paragraph (1), the Secretary shall make available the remainder of such reserved amounts for use by other eligible entities.

(e) **APPLICATION.**—To seek a grant under this section, an eligible entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(f) **MATCHING REQUIREMENT.**—As a condition of receipt of a grant under subsection (a), the applicant shall provide (directly or through donations from public or private entities) non-Federal matching funds in an amount equal to not less than 50 percent of the cost of the activities for which assistance is sought.

(g) **SUPPLEMENT NOT SUPPLANT.**—Funds made available under this program shall be used to supplement, not supplant, other funds that would otherwise be expended to carry out fire safety activities.

(h) **LIMITATION ON ADMINISTRATIVE EXPENSES.**—Not more than 2 percent of a grant made under subsection (a) may be expended for administrative expenses with respect to the grant.

(i) **REPORTS.**—Not later than 12 months after the date of the first award of a grant under this section and annually thereafter until completion of the program, the Secretary shall provide to the Congress a report that includes the following:

(1) The number and types of eligible entities receiving assistance under this section.

(2) The amounts of such assistance, the amounts and sources of non-Federal funding leveraged for activities under grants under this section, and any other relevant financial information.

(3) The number and types of student housing fitted with fire suppression or prevention technologies with assistance under this section, and the number of students protected by such technologies.

(4) The types of fire suppression or prevention technologies installed with assistance under this section, and the costs of such technologies.

(5) Identification of Federal and State policies that present impediments to the development and installation of fire suppression or prevention technologies.

(6) Any other information determined by the Secretary to be useful to evaluating the overall effectiveness of the program established under this section in improving the fire safety of student housing.

(j) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this Act such sums as may be necessary for each of the fiscal years 2010 through 2012.

### SEC. 3. ADMISSIBILITY AS EVIDENCE.

(a) **PROHIBITION.**—Notwithstanding any other provision of law and subject to subsection (b), any application for assistance under this Act, any negative determination on the part of the Secretary with respect to such application, or any statement of reasons for the determination, shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(b) **EXCEPTION.**—This section does not apply to the admission of an application, determination, or statement described in subsection (a) as evidence in a proceeding to enforce an agreement entered into between the Secretary and an eligible entity under section 2.

The **SPEAKER** pro tempore. Pursuant to the rule, the gentlewoman from Ohio (Ms. FUDGE) and the gentleman from Wisconsin (Mr. PETRI) each will control 20 minutes.

The Chair recognizes the gentlewoman from Ohio.

#### GENERAL LEAVE

Ms. FUDGE. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous materials on H.R. 2136 into the RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. FUDGE. Mr. Speaker, I rise today in support of H.R. 2136. I would like to thank Chairman MILLER, Ranking Member KLINE, the members of the Education and Labor Committee, and the 70 Members on both sides of the aisle who cosponsored this important legislation, the Honorable Stephanie Tubbs Jones College Fire Prevention Act.

During the last 8 years of her career in Congress, the Honorable Stephanie Tubbs Jones tirelessly advocated for the passage of this bill. She believed, as I do, that college students must be safeguarded against house fires. When I was elected to Congress last fall, I promised myself and the people of the 11th Congressional District of Ohio that I would use my vote to support policies providing practical and lasting solutions for the district. This bill does just that. H.R. 2136, the Honorable Stephanie Tubbs Jones College Fire Prevention Act, supports the installation and management of fire suppression or fire prevention technologies in student housing, including fraternal houses. The Act directs the Secretary of Education to make competitive grants for up to half the cost of installing fire sprinkler systems or other fire suppression or prevention technologies.

The funding would be disbursed to dormitories at institutions of higher education as well as fraternity and sorority housing. College students deserve safe housing with fire prevention systems, regardless of whether they live in nontraditional student housing, a sorority or fraternity house, or in dormitories. Fraternal organizations have long played a leading role in cultivating the social and intellectual well-being of our college students. We must ensure that these organizations have access to the necessary resources to protect our youth.

So far this year, there have been six deaths attributed to student housing fires. Since the year 2000, Ohio alone has suffered 13 student deaths and 36 related campus incidents due to student housing fires, according to Campus Firewatch. When fire prevention and sprinkler systems are present, students' survival rates increase by 97 percent, and property damage is lowered by 35 percent. Carol Dietz, assistant vice president of facilities at John Carroll University, which is in my district, stresses the importance of fire safety measures. John Carroll is currently planning the implementation of fire fighting technologies which cost \$500,000 for each residence hall. These grants could help us defray the costs of safeguarding our students.

Once again, I would like to thank the Education and Labor Committee, the many supporters of this important legislation, and college students across the Nation who have worked tirelessly to move this legislation forward. Finally, I am grateful for the vision and compassion of my friend, the late Congresswoman Stephanie Tubbs Jones.

COMMITTEE ON THE JUDICIARY,

HOUSE OF REPRESENTATIVES,

Washington, DC, May 6, 2010.

Hon. GEORGE MILLER,

Chairman, Committee on Education and Labor,  
House of Representatives, Washington, DC.

DEAR CHAIRMAN MILLER: In recognition of the desire to expedite consideration of H.R. 2136, the Honorable Stephanie Tubbs Jones College Fire Prevention Act, the Committee on the Judiciary agrees to waive formal consideration of the bill as to provisions that fall within its rule X jurisdiction.

The Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 2136 at this time, it does not waive any jurisdiction over subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as the bill or similar legislation moves forward, so that we may address any remaining issues in our jurisdiction. The Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and requests your support for any such request.

I would appreciate your including this letter in the Congressional Record during consideration of the bill on the House floor.

Thank you for your attention to this matter, and for the cooperative working relationship between our two committees.

Sincerely,

JOHN CONYERS, JR.,  
*Chairman.*

COMMITTEE ON EDUCATION AND  
LABOR, HOUSE OF REPRESENTATIVES,

Washington, DC, May 6, 2010.

Hon. JOHN CONYERS,  
*Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.*

DEAR CHAIRMAN CONYERS: Thank you for your May 6, 2010, letter regarding H.R. 2136, the Honorable Stephanie Tubbs Jones College Fire Prevention Act. Your support for this legislation and your assistance in ensuring its timely consideration are greatly appreciated.

I agree that provisions in the bill are within the jurisdiction of the Committee on the Judiciary. I acknowledge that by waiving rights to further consideration at this time of H.R. 2136, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on the Judiciary has jurisdiction in H.R. 2136, or similar legislation. A copy of our letters will be placed in the Congressional Record during consideration of the bill on the House floor.

I value your cooperation and look forward to working with you as we move ahead with this important legislation.

Sincerely,

GEORGE MILLER,  
*Chairman.*

I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of the bill before us, H.R. 2136, the Honorable Stephanie Tubbs Jones College Fire Prevention Act. Today we have an opportunity to discuss the need to bolster safety on college campuses, specifically fire safety. The name of this bill is appropriate because there was no Member of this body more concerned about protecting our college students from the dangers of fires than the late Representative Stephanie Tubbs Jones. This bill would honor Representative Tubbs Jones by naming a demonstration program in her honor.

Our Nation's college students should be able to live on campus with the confidence that they will be safe in their dorms, apartments or other housing. This measure will take a step toward allowing colleges to ensure their buildings are properly equipped with the latest fire safety measures. Specifically, this bill will allow colleges and universities hoping to participate in the demonstration program to apply for funds that can be used to install fire sprinkler systems or other fire suppression or prevention technologies on campus or in buildings controlled by the university.

This measure, combined with the provisions enacted by Congress in the Higher Education Opportunity Act, will increase campus fire safety at colleges and universities. The provisions

included in the Higher Education Opportunity Act require colleges to provide a fire safety report to the Secretary of Education. The report must include statistics showing the number of fires and injuries resulting from fires on campus over the past year. We will also require colleges to report on the type of fire prevention technologies they are utilizing and any plans the college may have to improve their fire prevention and detection technologies. The bill before us today will help colleges think creatively about fire safety and ensure they have the funds to move forward with their plans.

Today we have the opportunity to provide a commitment to the safety of college students and pass a measure that will help colleges keep our young people safe from devastating fires. I urge my colleagues to support the bill before us.

I understand the majority has no further requests for time, so I yield such time as she may consume to my colleague from West Virginia, the Honorable Representative SHELLEY MOORE CAPITO.

Mrs. CAPITO. Mr. Speaker, I want to thank the gentleman and gentlewoman for bringing this bill forth. I stand today in support of H.R. 2136, the Honorable Stephanie Tubbs Jones College Fire Prevention Act. I had the pleasure of serving with Congresswoman Tubbs Jones. She was a wonderful effervescent Member of our House. She was a very strong advocate for campus fire prevention, and she is greatly missed. But we are thinking about her today.

You know, every parent expects when they send their child off to college that they will be sending them to be protected and to be safe. For the most part, that is true, but unfortunately, that's not always the case. In 2007, a fire broke out in a 64-unit apartment building which was privately owned near Marshall University in Huntington, West Virginia. It housed a number of students from Marshall. Nine people were killed in that fire, including one student who attended Marshall University and two of his siblings who were visiting him there. I was astonished to learn that there was no sprinkler system in the building, and several of the apartments didn't have smoke detectors.

Each year, unfortunately, college and university students on- and off-campus experience hundreds of fire emergencies. Overall, most college-related fires are due to a general lack of knowledge about fire safety and prevention and also the lack of updating fire prevention equipment into the buildings. A lot of the buildings are older and were not equipped with sprinklers and other fire detection methods. This bill goes a long way, I think, to try to help solve that problem.

The great majority of student fire deaths occur in off-campus housing

with insufficient exits and missing or inoperative smoke alarms or automatic fire sprinklers. These are deaths that can and should be prevented. H.R. 2136, would extend Stephanie Tubbs Jones' legacy by providing grants to institutions of higher education, fraternities and sororities to cover up to half the cost of installing fire sprinkler systems and other fire suppression or prevention technologies in student housing and in dormitories.

With that, I would like to thank the sponsors of the bill, and I urge the passage of this legislation.

Mr. PASCRELL. Mr. Speaker, I rise today in strong support of H.R. 2136, the Stephanie Tubbs Jones College Fire Prevention Act. This bill represents an opportunity to improve critical fire safety systems in college facilities across the country.

The issue of campus fire safety became personal for me after a tragic fire swept through a dorm at Seton Hall University in South Orange, New Jersey, in 2000. The blaze took the lives of three students and injured 58 more. Since that terrible day, thousands of fires have cut short the lives of 135 students throughout the country. The sad reality is that that many of those deaths could have been averted with proper fire safety equipment.

The Stephanie Tubbs Jones College Fire Prevention Act will direct the Secretary of Education to provide grants to institutions of higher education toward the installation of sprinklers and other fire prevention systems in student housing and dorms. This essential funding can make the difference in fire emergencies between life and death. No college student should have to live in a building without appropriate fire safeguards.

My home State of New Jersey has been at the forefront of this issue for many years now, mandating sprinkler systems be installed in all on-campus housing facilities at universities in the State. This legislation will enable institutions of higher education in other States to take similar steps to provide security and peace of mind to students and parents—that they will have these basic safety devices to protect them in the event of an emergency.

This bill gives special attention to colleges and universities that need funding most, and gives priority to institutions that demonstrate the greatest financial need. This key provision will help ensure that fire safety technology is not off limits to schools because of financial constraints. I believe we owe it to those students to ensure that each and every college dorm is outfitted with the most comprehensive fire prevention technology available. The Stephanie Tubbs Jones College Fire Prevention Act will provide great assistance in achieving this goal.

In considering this legislation, we should also remember its namesake—the late Congresswoman Stephanie Tubbs Jones. I had the privilege of working closely with Stephanie on critical public safety legislation, and will always remember her as a staunch advocate of life-saving fire prevention.

We are gaining ground in the battle to prevent these deadly college fires, but we must be mindful of the work that remains. The

House has recognized September as Campus Fire Safety Month, which every year has helped to raise awareness of this critical issue. With the Stephanie Tubbs Jones College Fire Prevention Act, we have the opportunity to provide colleges with the funding they need to install lifesaving fire safety technology and come one step closer to extinguishing the threat of college fires once and for all.

I strongly support H.R. 2136, and call on this body to soon pass my legislation, H.R. 4908, the Campus Fire Safety Education Act of 2010, which will help deliver a life saving campus fire safety education curriculum to our Nation's colleges. I will continue to work tirelessly to make our colleges and universities a safe environment for our Nation's students.

Mr. CONYERS. Mr. Speaker, I rise today to honor my former colleague Stephanie Tubbs Jones and to address a cause she championed for much of her career in the Congress. Campus safety is a very complex and important issue. We must protect students as they walk home from their late night studies and we must protect them when they arrive in their dorms or other forms of campus housing.

Our college and universities are more open now than they have been and serve more students than they were originally planned to serve. Often times, housing buildings are the oldest buildings on a campus. This is especially the case for fraternity and sorority housing. The Stephanie Tubbs Jones College Fire Prevention Act addresses the problem many colleges and universities face with housing and fire safety.

Mr. Speaker, what made Congresswoman Tubbs Jones such an effective Member of Congress was her keen ability to see a need and fill it. This bill carries her name and does just that. I am proud to be a cosponsor of this bill and urge its passage.

Ms. RICHARDSON. Mr. Speaker, I rise today in support of H.R. 2136, the Honorable Stephanie Tubbs Jones College Fire Prevention Act, which establishes the Honorable Stephanie Tubbs Jones Fire Suppression Demonstration Incentive Program within the Department of Education to promote installation of fire sprinkler systems or other fire suppression or prevention technologies.

I would like to acknowledge Speaker PELOSI and Majority Leader HOYER for their leadership in bringing this important resolution to the floor. I would also like to thank my colleague Congressman FUDGE, who introduced this legislation in honor of our distinguished colleague Stephanie Tubbs Jones. The late Congresswoman Tubbs Jones introduced the College Fire Prevention Act in each of the last four sessions of Congress and passed a resolution regarding Campus Fire Safety Month. I am pleased that the legislation she worked so hard on is finally coming before the House.

As Chair of the Homeland Security Subcommittee on Emergency Communications, Preparedness, and Response, fire prevention for students is an important issue to me. There are between 1,500 and 1,800 fires each year in college residence halls, dormitories, and sorority or fraternity houses. But when fire suppression technology is present in student housing, the chance of surviving a fire increases by 97 percent and the likelihood of property damage is 35 percent less.

H.R. 2136 establishes an incentive program within the Department of Education (DOE) that will promote the installation of fire sprinkler systems or other fire suppression or prevention technologies, in qualified student housing or dormitories. The program will provide competitive matching grants that will fund up to half of the installation costs and priority will be given to applicants that demonstrate the greatest financial need. In addition, the legislation would reserve at least 10 percent of the funds in grant program for Historically Black Colleges and Universities, Hispanic-serving institutions, tribally controlled colleges and universities, and Alaska Native and Native Hawaiian-serving institutions. At least 10 percent will be reserved for fraternities and sororities.

In conclusion, Mr. Speaker, I support this legislation to keep our students safe. I am pleased that Congress is taking action to promote increased safety measures in college dormitories as well as providing the funds in support.

Mr. Speaker, I urge my colleagues to join me in supporting H.R. 2136.

Mr. PETRI. I have no further requests for time, and I yield back the balance of my time.

Ms. FUDGE. Mr. Speaker, I thank my colleagues for their support, and I urge support of H.R. 2136.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio (Ms. FUDGE) that the House suspend the rules and pass the bill, H.R. 2136.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1200

#### CONGRATULATING EMPORIA STATE UNIVERSITY WOMEN'S BASKETBALL TEAM

Ms. FUDGE. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1292) congratulating the Emporia State University Lady Hornets women's basketball team for winning the 2010 NCAA Division II National Championship, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1292

Whereas the Emporia State University (ESU) Lady Hornet basketball team defeated the Fort Lewis Skyhawks by a score of 65 to 53 to win the 2010 NCAA Women's Division II National Championship in St. Joseph, Missouri, on March 26, 2010;

Whereas this is ESU's first ever women's national basketball championship and the first national championship in any sport since being crowned the 1984 NCAA NAIA Women's Softball National Champions;

Whereas the ESU coaching staff of head coach Brandon Schneider and assistant coaches Jory Collins and Kiel Unruh guided the Lady Hornets to a final record of 30 wins and only 5 losses;

Whereas the 2010 National Champions consisted of seniors Cassandra Boston, Jamie Augustyn, Lacy Corker, and Sophia Lenard, juniors Ashley Ferrell, Negesti Taylor, Kayla Krueger, Dava Logsdon, and Alli Volkens, sophomore Brittney Miller, and freshmen Rachel Hanf, Jocelyn Cummings, and Kelsey Newman;

Whereas ESU was led by the overall Most Outstanding Player of the tournament, Alli Volkens, who recorded 16 points, 15 rebounds, and five blocks in the championship game; and

Whereas the students, staff, alumni, and friends of Emporia State University along with the city of Emporia, Kansas, deserve much credit for their support of the Lady Hornet basketball team: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) congratulates the Emporia State University Lady Hornet basketball team for winning the 2010 NCAA Division II National Championship; and

(2) recognizes the achievements of all the team's players, coaches, and support staff.

The SPEAKER pro tempore (Ms. MCCOLLUM). Pursuant to the rule, the gentlewoman from Ohio (Ms. FUDGE) and the gentleman from Wisconsin (Mr. PETRI) each will control 20 minutes.

The Chair recognizes the gentlewoman from Ohio.

#### GENERAL LEAVE

Ms. FUDGE. Madam Speaker, I ask unanimous consent for 5 legislative days during which Members can revise and extend their remarks on H. Res. 1292.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. FUDGE. Madam Speaker, I rise to congratulate the Emporia State University women's basketball team for winning the 2010 NCAA Division II Women's Basketball National Championship.

The Emporia State Lady Hornets defeated the Fort Lewis College Skyhawks 65-53 in an exciting game. The Lady Hornets took home their school's first-ever women's basketball national championship title. Their victory was also Emporia State's first national championship win in any sport since 1984.

This Lady Hornets women's basketball season marked Coach Brandon Schneider's 10th season with Emporia State University. Coach Schneider and assistant coaches Jory Collins and Kiel Unruh guided the Lady Hornets to a final record of 30 wins and only five losses.

Sensational junior center and Elite 8 Most Outstanding Player Alli Volkens led the Hornets to their victory with 16 points, 15 rebounds, and five blocks in the game. A back-and-forth night for most of the game, the Lady Hornets started to pull away midway through the second half thanks to a 10-0 run. Rachel Hanf scored 15 points and was a perfect 3 for 3 from behind the arc.

The alumni, faculty, and staff of Emporia State University have much to be



proud of. Once again I congratulate the Lady Hornets on winning their first NCAA Division II Women's Basketball National Championship and I thank Mr. MORAN for bringing this resolution forward.

I reserve the balance of my time.

Mr. PETRI. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 1292, congratulating the Emporia State University Lady Hornets women's basketball team for winning the 2010 NCAA Division II National Championship.

On March 26, 2010, the Emporia State University Lady Hornets defeated the Fort Lewis Skyhawks 65-53 in the NCAA Division II women's basketball national championship in St. Joseph, Missouri, and captured the Hornets' first-ever women's basketball national title and the university's first national title since 1984.

The Hornets' success was due, in large part, to Alli Volkens. Alli Volkens was named the overall Most Outstanding Player of the tournament and recorded 16 points, 15 rebounds, and five blocks in the championship game alone. While this player was recognized for her outstanding play, the entire team is responsible for the success of the team as NCAA Division II national champions.

The national accolades bestowed upon this team can only be attributed to Head Coach Brandon Schneider and assistant coaches Jory Collins and Kiel Unruh.

While athletic success is what brings us here today, Emporia State is also known for its excellent academics. Emporia State University aims to provide a dynamic and progressive student-centered learning community that fosters student success through engagement in academic excellence, community and global involvement, and the pursuit of personal and professional fulfillment. Emporia State University is located in the heart of the Flint Hills, Kansas, area. The university serves 6,500 students in four different colleges. Founded in 1863, ESU is noted today for their programs in business, library and information management, and liberal arts and sciences.

I extend my congratulations to Emporia State University Head Coach Brandon Schneider and his entire staff, the hardworking players, and the fans. I urge my colleagues to support this resolution.

Madam Speaker, seeing no other requests for time, I yield such time as he may consume to our colleague from Kansas, JERRY MORAN.

Mr. MORAN of Kansas. Madam Speaker, I rise and join my colleagues here today to recognize a group of young women from Kansas who exemplify the meaning of teamwork: the 2010 Emporia State University Lady Hornets, who this year won the NCAA

Division II Women's Basketball National Championship.

Teams in my home State of Kansas and across the plains know the Emporia State University Lady Hornets all too well. Under the direction of Head Coach Brandon Schneider, the Lady Hornets have developed into a powerhouse of women's college basketball from the Mid-America Intercollegiate Athletics Association, the MIAA.

Heading into the 2009-2010 season, Coach Schneider had led the Lady Hornets to 10 NCAA tournament appearances, six MIAA regular season conference championships, three MIAA tournament conference championships, four NCAA South Central Regional Championships, and two NCAA Division II Final Four appearances. Moreover, at the conclusion of this season, Emporia State University had been ranked as the NCAA Division II Top 25 for the last 13 seasons and has been ranked in the top 10 in weekly polls for a total of 125 weeks since 1998, more than any other program in the country.

So what's the secret to success with this program? Ask anyone at Emporia State University, and they will point out that the young women are more than just a collection of basketball players. As the 2009-2010 Women's Basketball Media Guide explains: "Being part of a women's basketball program is special because not only do the Lady Hornets come together to win games on the court, but they also come together as a family off the court."

Even while players have been selected to the All-MIAA team, the MIAA-All Tournament team and even the Division II All-American Team, being a part of the Lady Hornets is not about the individual accolades, it is about teamwork, and teamwork has been their recipe for success.

Expectations were high for the 2010 season. And the Lady Hornets did not disappoint. They began the season by winning 19 of their first 20 games and were ranked as high as number four in the national polls. However, they lost three of their last five games, including the second round upset in the MIAA tournament in Kansas City. Their season seemed to be heading off track. Most teams with such high hopes and high expectations would have easily lost that hope, but the Lady Hornets were determined to overcome these setbacks and never let their dream of becoming a national championship team die.

After a quiet trip home from Kansas City to Emporia following the loss, and a little time together, the team refocused on their ultimate goal and traveled to Canyon, Texas, for the South Central Regional. Emporia State University dominated the regional and left West Texas with a ticket to the Elite 8 where the Hornets would next meet some of their fiercest competition of the year.

After wins against the number 3-ranked Michigan Technological University Huskies and the number 1-ranked Gannon University Lady Knights, the Hornets headed to the national championship game. On March 26, 2010, the Lady Hornets defeated the Fort Lewis Skyhawks by a score of 65-53 to capture their first-ever women's basketball championship.

Emporia State University athletes, coaches, students, alumni, faculty, and fans have much to be proud of after a season of hard work and dedication. After appearances in six national championship games in four sports, this is the first national championship in any sport since being crowned the 1984 MIAA Women's Softball National Champions. But this victory is special because it a testament to the power of teamwork. Good teams are able to overcome adversity, and that is exactly what the 2010 Emporia State University Lady Hornets managed to do en route to a national championship.

Congratulations to the Lady Hornets team, seniors Cassondra Boston, Jamie Augustyn, Lacy Corker, and Sophia Lenard; juniors Ashley Ferrell, Negesti Taylor, Kayla Krueger, Dava Logsdon, and Alli Volkens; sophomore Brittney Miller; and freshmen Rachel Hanf, Jocelyn Cummings, and Kelsey Newman. Congratulations to the ESU coaches, head coach Brandon Schneider and assistant coaches Jory Collins and Kiel Unruh.

Also, ESU athletic director Kent Weiser and ESU president Michael Lane deserve credit for all of their support of the team, as does assistant athletic director for media relations Donald Weast. Finally, congratulations to the Emporia State fans, some of the most dedicated in all of college basketball who have waited a long time for this accomplishment.

Madam Speaker, I encourage my colleagues to join me in commending the outstanding accomplishments of the 2010 Emporia State University Lady Hornets, a truly great team of players who know there is no "I" in team. Please join me in supporting H. Res. 1292 today.

Mr. TIAHRT. Madam Speaker, I rise today to express my support for H. Res 1292, and to offer my heartfelt congratulations to the Emporia State University Lady Hornets for winning the 2010 NCAA Division II National Championship, their first national championship. They continue the proud tradition of Kansas basketball, going all the way back to James Naismith.

The Lady Hornets had a difficult road to the championship, defeating Tarleton State and West Texas A&M to reach the Sweet Sixteen. Their solid defense helped them advance with an impressive 76-45 win over Northeastern State. They reached the Final Four with a win over Michigan Tech. The very next day they faced top-ranked and undefeated Gannon University. The game went into overtime, but Emporia State prevailed, 97-94. The Lady Hornets earned the national championship with



their 65–53 win over Fort Lewis College. We were impressed with all of the Hornets, and especially with junior Alli Volkens, who led the team with 16 points, 15 rebounds, 5 blocked shots, and earned the title of Most Outstanding Player of the tournament.

I want to recognize head coach Brandon Schneider, assistant coaches Jory Collins and Kiel Unruh, and the entire Lady Hornets team—Cassandra Boston, Jessen Tucker, Rachel Hanf, Jocelyn Cummings, Jamie Augustyn, Lacy Corker, Kelsey Newman, Brittney Miller, Sophia Leonard, Ashley Ferrell, Negesti Taylor, Kayla Kruger, Dava Logsdon, and Alli Volkens. Their championship is a testament to their hard work throughout their season, their effective coaching, and their dedication to teamwork. Congratulations, Lady Hornets.

Mr. PETRI. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. FUDGE. Madam Speaker, I urge support of H. Res. 1292, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio (Ms. FUDGE) that the House suspend the rules and agree to the resolution, H. Res. 1292, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. FUDGE. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 1514, H.R. 5325, House Resolution 1325, and House Resolution 1362, in each case by the yeas and nays.

Remaining postponed votes will be taken at a later time.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

#### JUVENILE ACCOUNTABILITY BLOCK GRANTS PROGRAM REAUTHORIZATION ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 1514, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and pass the bill, H.R. 1514.

The vote was taken by electronic device, and there were—yeas 364, nays 45, not voting 21, as follows:

[Roll No. 276]

YEAS—364

Ackerman	Davis (CA)	Johnson, Sam
Aderholt	Davis (IL)	Jones
Adler (NJ)	Davis (KY)	Kagen
Alexander	Davis (TN)	Kanjorski
Altmire	DeFazio	Kaptur
Andrews	DeGette	Kennedy
Arcuri	Delahunt	Kildee
Austria	DeLauro	Kilpatrick (MI)
Baca	Dent	Kilroy
Bachmann	Deutch	Kind
Baird	Diaz-Balart, L.	King (IA)
Baldwin	Dicks	King (NY)
Barrow	Dingell	Kirkpatrick (AZ)
Barton (TX)	Doggett	Kissell
Bean	Donnelly (IN)	Klein (FL)
Becerra	Doyle	Kline (MN)
Berkley	Dreier	Kosmas
Berman	Driehaus	Kratovil
Berry	Duncan	Kucinich
Biggert	Edwards (MD)	Lance
Bilirakis	Edwards (TX)	Langevin
Bishop (GA)	Ehlers	Larsen (WA)
Bishop (NY)	Ellsworth	Larson (CT)
Bishop (UT)	Emerson	Latham
Blackburn	Engel	LaTourette
Blumenauer	Eshoo	Latta
Blunt	Etheridge	Lee (CA)
Bocieri	Fallin	Lee (NY)
Boehner	Fattah	Levin
Bonner	Filner	Lewis (GA)
Bono Mack	Forbes	Lipinski
Boren	Fortenberry	LoBiondo
Boswell	Foster	Loeback
Boucher	Frank (MA)	Lofgren, Zoe
Boustany	Frelinghuysen	Lowey
Boyd	Fudge	Lucas
Brady (PA)	Gallegly	Luetkemeyer
Brady (IA)	Gerlach	Lujan
Bright	Giffords	Lungren, Daniel
Brown (SC)	Gohmert	E.
Brown, Corrine	Gonzalez	Lynch
Brown-Waite,	Goodlatte	Maffei
Ginny	Gordon (TN)	Maloney
Buchanan	Grayson	Markey (CO)
Burton (IN)	Green, Al	Markey (MA)
Butterfield	Green, Gene	Marshall
Buyer	Griffith	Matheson
Calvert	Grijalva	Matsui
Camp	Guthrie	McCarthy (CA)
Cantor	Gutierrez	McCarthy (NY)
Cao	Hall (NY)	McCaul
Capito	Hall (TX)	McCollum
Capps	Halvorson	McCotter
Capuano	Hare	McDermott
Cardoza	Harman	McGovern
Carnahan	Harper	McHenry
Carney	Hastings (FL)	McIntyre
Carson (IN)	Hastings (WA)	McMahon
Cassidy	Heinrich	McMorris
Castle	Heller	Rodgers
Castor (FL)	Herseth Sandlin	McNerney
Chandler	Higgins	Meek (FL)
Childers	Hill	Meeks (NY)
Chu	Himes	Melancon
Clarke	Hinojosa	Michaud
Clay	Hirono	Miller (MI)
Cleaver	Hodes	Miller (NC)
Clyburn	Hoekstra	Miller, George
Coble	Holt	Minnick
Cohen	Honda	Mitchell
Cole	Hoyer	Mollohan
Connolly (VA)	Hunter	Moore (KS)
Conyers	Inslee	Moore (WI)
Cooper	Israel	Moran (KS)
Costello	Jackson (IL)	Moran (VA)
Courtney	Jackson Lee	Murphy (CT)
Crenshaw	(TX)	Murphy (NY)
Crowley	Jenkins	Murphy, Patrick
Cuellar	Johnson (GA)	Murphy, Tim
Cummings	Johnson (IL)	Myrick
Dahlkemper	Johnson, E. B.	Nadler (NY)

Napolitano	Ruppersberger	Sullivan
Neal (MA)	Rush	Sutton
Nye	Ryan (OH)	Tanner
Oberstar	Ryan (WI)	Taylor
Obey	Salazar	Teague
Olson	Sánchez, Linda	Terry
Olver	T.	Thompson (CA)
Ortiz	Sanchez, Loretta	Thompson (MS)
Pallone	Sarbanes	Thompson (PA)
Pascarella	Scalise	Tiahrt
Pastor (AZ)	Schakowsky	Tiberi
Paulsen	Schauer	Tierney
Payne	Schiff	Titus
Pence	Schmidt	Tonko
Perlmutter	Schock	Towns
Perriello	Schrader	Tsongas
Peters	Schwartz	Turner
Peterson	Scott (GA)	Upton
Petri	Scott (VA)	Van Hollen
Pingree (ME)	Sensenbrenner	Velázquez
Pitts	Serrano	Visclosky
Platts	Sessions	Walden
Polis (CO)	Sestak	Walz
Pomeroy	Shea-Porter	Wasserman
Posey	Sherman	Schultz
Price (NC)	Shimkus	Shuler
Quigley	Shuler	Shuster
Rahall	Shuster	Simpson
Rangel	Simpson	Sires
Rehberg	Sires	Skelton
Reichert	Skelton	Slaughter
Reyes	Slaughter	Smith (NE)
Richardson	Smith (NE)	Smith (NJ)
Rodriguez	Smith (NJ)	Smith (TX)
Roe (TN)	Smith (TX)	Smith (WA)
Rogers (AL)	Smith (WA)	Snyder
Rogers (KY)	Snyder	Space
Rooney	Space	Speler
Ros-Lehtinen	Speler	Spratt
Roskam	Spratt	Stark
Ross	Stark	Stearns
Rothman (NJ)	Stearns	Stupak
Roybal-Allard	Stupak	

NAYS—45

Akin	Garrett (NJ)	McKeon
Bartlett	Gingrey (GA)	Mica
Brady (TX)	Hensarling	Miller (FL)
Broun (GA)	Herger	Miller, Gary
Burgess	Inglis	Neugebauer
Campbell	Issa	Nunes
Carter	Jordan (OH)	Owens
Chaffetz	Kingston	Poe (TX)
Coffman (CO)	Lamborn	Price (GA)
Conaway	Lewis (CA)	Radanovich
Culberson	Linder	Rohrabacher
Flake	Lummis	Royce
Fleming	Manzullo	Shadegg
Foxx	Marchant	Thornberry
Franks (AZ)	McClintock	Westmoreland

NOT VOTING—21

□ 1242

Messrs. COFFMAN of Colorado, GARRETT of New Jersey, AKIN, NUNES, PRICE of Georgia, LINDER, MILLER of Florida, FLEMING, GINGREY of Georgia, NEUGEBAUER, ROHRABACHER, MANZULLO, and GARY G. MILLER of California changed their vote from "yea" to "nay."

Mr. TIAHRT changed his vote from "nay" to "yea."

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ELLISON. Madam Speaker, on May 19, 2010, I inadvertently missed rollcall No. 276,

but had I been present I would have voted "yes."

# AMERICA COMPETES REAUTHORIZATION ACT OF 2010

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 5325, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. GORDON) that the House suspend the rules and pass the bill, H.R. 5325.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 261, nays 148, not voting 22, as follows:

[Roll No. 277]

## YEAS—261

Ackerman	Dingell	Kucinich
Adler (NJ)	Doggett	Langevin
Altmire	Donnelly (IN)	Larsen (WA)
Andrews	Doyle	Larson (CT)
Arcuri	Driehaus	Lee (CA)
Baca	Edwards (MD)	Lee (NY)
Baird	Edwards (TX)	Levin
Baldwin	Ehlers	Lewis (GA)
Barrow	Ellison	Lipinski
Bartlett	Ellsworth	Loeb sack
Bean	Emerson	Lofgren, Zoe
Becerra	Engel	Lowe y
Berkley	Eshoo	Lujan
Berman	Etheridge	Maffei
Berry	Fattah	Maloney
Biggert	Filner	Markey (CO)
Bishop (GA)	Foster	Markey (MA)
Bishop (NY)	Frank (MA)	Marshall
Blumenauer	Fudge	Matheson
Boccheri	Gerlach	Matsui
Boren	Giffords	McCarthy (NY)
Boswell	Gonzalez	McCaul
Boucher	Gordon (TN)	McCollum
Boyd	Grayson	McDermott
Brady (PA)	Green, Al	McGovern
Braley (IA)	Green, Gene	McIntyre
Bright	Grijalva	McMahon
Brown, Corrine	Gutierrez	McNerney
Butterfield	Halvorson	Meek (FL)
Cao	Hare	Meeks (NY)
Capps	Harman	Melancon
Capuano	Hastings (FL)	Michaud
Cardoza	Heinrich	Miller (NC)
Carnahan	Herse th Sandlin	Miller, George
Carney	Higgins	Minnick
Carson (IN)	Hill	Mitchell
Castle	Himes	Mollohan
Castor (FL)	Hinojosa	Moore (KS)
Chandler	Hirono	Moore (WI)
Childers	Hodes	Moran (VA)
Chu	Holt	Murphy (CT)
Clarke	Honda	Murphy (NY)
Clay	Hoyer	Murphy, Patrick
Cleaver	Inslee	Nadler (NY)
Clyburn	Israel	Napolitano
Cohen	Jackson (IL)	Neal (MA)
Connolly (VA)	Jackson Lee	Nye
Conyers	(TX)	Oberstar
Cooper	Johnson (GA)	Obey
Costello	Johnson (IL)	Oliver
Courtney	Johnson, E. B.	Ortiz
Crowley	Jones	Owens
Cuellar	Kagen	Pallone
Cummings	Kanjorski	Pascarell
Dahlkemper	Kaptur	Pastor (AZ)
Davis (CA)	Kennedy	Payne
Davis (IL)	Kildee	Pelosi
Davis (TN)	Kilpatrick (MI)	Perlmutter
DeFazio	Kilroy	Perriello
DeGette	Kind	Peters
Delahunt	Kirkpatrick (AZ)	Peterson
DeLauro	Kissell	Pingree (ME)
Dent	Klein (FL)	Platts
Deutch	Kosmas	Polis (CO)
Dicks	Kratovil	Pomeroy

Price (NC)	Schwartz	Thompson (MS)
Quigley	Scott (GA)	Tierney
Rahall	Scott (VA)	Titus
Rangel	Serrano	Tonko
Reichert	Sestak	Towns
Reyes	Shea-Porter	Tsongas
Richardson	Sherman	Van Hollen
Rodriguez	Shuler	Velázquez
Ross	Sires	Visclosky
Rothman (NJ)	Skelton	Walz
Roybal-Allard	Slaughter	Wasserman
Ruppersberger	Smith (WA)	Schultz
Rush	Snyder	Waters
Ryan (OH)	Space	Watson
Salazar	Speier	Watt
Sánchez, Linda T.	Spratt	Waxman
Sanchez, Loretta	Stark	Weiner
Sarbanes	Stupak	Welch
Schakowsky	Sutton	Wilson (OH)
Schauer	Tanner	Wolf
Schiff	Taylor	Woolsey
Schrader	Teague	Wu
	Thompson (CA)	Yarmuth

## NAYS—148

Aderholt	Gingrey (GA)	Neugebauer
Akin	Gohmert	Nunes
Alexander	Goodlatte	Olson
Austria	Griffith	Paulsen
Bachmann	Guthrie	Petri
Barton (TX)	Hall (TX)	Pitts
Bilirakis	Harper	Poe (TX)
Bishop (UT)	Hastings (WA)	Posey
Blackburn	Heller	Price (GA)
Blunt	Hensarling	Radanovich
Boehner	Herger	Rehberg
Bonner	Hoekstra	Roe (TN)
Bono Mack	Hunter	Rogers (AL)
Boustany	Inglis	Rogers (KY)
Brady (TX)	Issa	Rogers (MI)
Brown (GA)	Jenkins	Rohrabacher
Brown (SC)	Johnson, Sam	Rooney
Brown-Waite,	Jordan (OH)	Ros-Lehtinen
Ginny	King (IA)	Roskam
Buchanan	King (NY)	Royce
Burgess	Kingston	Ryan (WI)
Burton (IN)	Kline (MN)	Scalise
Buyer	Lamborn	Schmidt
Calvert	Lance	Schock
Camp	Latham	Sensenbrenner
Campbell	LaTourette	Sessions
Cantor	Latta	Shadegg
Capito	Lewis (CA)	Shimkus
Carter	Linder	Shuster
Cassidy	LoBiondo	Simpson
Chaffetz	Lucas	Smith (NE)
Coble	Luetkemeyer	Smith (NJ)
Coffman (CO)	Lummis	Smith (TX)
Cole	Lungren, Daniel E.	Stearns
Conaway	Manzullo	Sullivan
Crenshaw	Marchant	Terry
Culberson	McCarthy (CA)	Thompson (PA)
Davis (KY)	McClintock	Thornberry
Diaz-Balart, L.	McCotter	Tiahrt
Dreier	McHenry	Tiberi
Duncan	McKeon	Turner
Fallin	McMorris	Upton
Flake	Rodgers	Walden
Fleming	Mica	Westmoreland
Forbes	Miller (FL)	Whitfield
Fortenberry	Miller (MI)	Wilson (SC)
Fox	Miller, Gary	Wittman
Franks (AZ)	Moran (KS)	Young (AK)
Frelinghuysen	Murphy, Tim	Young (FL)
Gallegly	Myrick	
Garrett (NJ)		

## NOT VOTING—22

Bachus	Garamendi	Mack
Barrett (SC)	Granger	Paul
Bilbray	Graves	Pence
Boozman	Hall (NY)	Putnam
Costa	Hincheny	Souder
Davis (AL)	Holden	Wamp
Diaz-Balart, M.	Kirk	
Farr	Lynch	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1251

Mr. YOUNG of Alaska changed his vote from "yea" to "nay."

So (two-thirds not being in the affirmative) the motion was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. HALL of New York. Madam Speaker, on rollcall No. 277, I was absent due to illness. Had I been present, I would have voted "yea."

## NATIONAL MISSING CHILDREN'S DAY

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 1325, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and agree to the resolution, H. Res. 1325, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 410, nays 0, not voting 20, as follows:

[Roll No. 278]

## YEAS—410

Ackerman	Burton (IN)	Delahunt
Aderholt	Butterfield	DeLauro
Adler (NJ)	Buyer	Dent
Akin	Calvert	Deutch
Alexander	Camp	Diaz-Balart, L.
Altmire	Campbell	Dicks
Andrews	Cantor	Dingell
Arcuri	Cao	Doggett
Austria	Capito	Donnelly (IN)
Baca	Capps	Doyle
Bachmann	Capuano	Dreier
Baird	Cardoza	Driehaus
Baldwin	Carnahan	Duncan
Barrow	Carney	Edwards (MD)
Bartlett	Carson (IN)	Edwards (TX)
Barton (TX)	Carter	Ehlers
Bean	Cassidy	Ellison
Becerra	Castle	Ellsworth
Berkley	Castor (FL)	Emerson
Berman	Chaffetz	Engel
Berry	Chandler	Eshoo
Biggert	Childers	Etheridge
Bilirakis	Chu	Fallin
Bishop (GA)	Clarke	Fattah
Bishop (NY)	Clay	Filner
Bishop (UT)	Cleaver	Flake
Blackburn	Clyburn	Fleming
Blumenauer	Coble	Forbes
Blunt	Coffman (CO)	Fortenberry
Boccheri	Cohen	Foster
Boehner	Cole	Fox
Bonner	Conaway	Frank (MA)
Bono Mack	Connolly (VA)	Franks (AZ)
Boren	Conyers	Frelinghuysen
Boswell	Cooper	Fudge
Boucher	Costello	Gallegly
Boustany	Courtney	Garrett (NJ)
Boyd	Crenshaw	Gerlach
Brady (PA)	Crowley	Giffords
Brady (TX)	Cuellar	Gingrey (GA)
Braley (IA)	Culberson	Gohmert
Bright	Cummings	Gonzalez
Brown (GA)	Dahlkemper	Goodlatte
Brown (SC)	Davis (CA)	Gordon (TN)
Brown, Corrine	Davis (IL)	Grayson
Brown-Waite,	Davis (KY)	Green, Al
Ginny	Davis (TN)	Green, Gene
Buchanan	DeFazio	Griffith
Burgess	DeGette	Grijalva

Guthrie Marshall  
Gutierrez Matheson  
Hall (NY) Matsui  
Hall (TX) McCarthy (CA)  
Halvorson McCarthy (NY)  
Hare McCaul  
Harman McClintock  
Harper McCollum  
Hastings (FL) McCotter  
Hastings (WA) McDermott  
Heinrich McGovern  
Heller McHenry  
Hensarling McIntyre  
Herger McKeon  
Herseth Sandlin McMahon  
Higgins McMorris  
Hill Rodgers  
Himes McNeerney  
Hinojosa Meek (FL)  
Hirono Meeks (NY)  
Hodes Melancon  
Hoekstra Mica  
Holt Michaud  
Honda Miller (FL)  
Hoyer Miller (MI)  
Hunter Miller (NC)  
Inglis Miller, Gary  
Inslee Miller, George  
Israel Minnick  
Issa Mitchell  
Jackson (IL) Mollohan  
Jackson Lee Moore (KS)  
(TX) Moore (WI)  
Jenkins Moran (KS)  
Johnson (GA) Moran (VA)  
Johnson (IL) Murphy (CT)  
Johnson, E. B. Murphy (NY)  
Johnson, Sam Murphy, Patrick  
Jones Murphy, Tim  
Jordan (OH) Myrick  
Kagen Nadler (NY)  
Kanjorski Napolitano  
Kaptur Neal (MA)  
Kennedy Neugebauer  
Kildee Nunes  
Kilpatrick (MI) Nye  
Kilroy Oberstar  
Kind Obey  
King (IA) Olson  
King (NY) Olver  
Kingston Ortiz  
Kirkpatrick (AZ) Owens  
Kissell Pallone  
Klein (FL) Pascrell  
Kline (MN) Pastor (AZ)  
Kosmas Paulsen  
Kratovil Payne  
Kucinich Pence  
Lamborn Perlmutter  
Lance Perriello  
Langevin Peters  
Larsen (WA) Peterson  
Larson (CT) Petri  
Latham Pingree (ME)  
LaTourette Pitts  
Latta Platts  
Lee (CA) Poe (TX)  
Lee (NY) Polis (CO)  
Levin Pomeroy  
Lewis (CA) Posey  
Lewis (GA) Price (GA)  
Linder Price (NC)  
Lipinski Quigley  
LoBiondo Radanovich  
Loeb sack Rahall  
Lofgren, Zoe Rangel  
Lowey Rehberg  
Lucas Reichert  
Luetkemeyer Reyes  
Luján Richardson  
Lummis Rodriguez  
Lungren, Daniel Roe (TN)  
E. Rogers (AL)  
Lynch Rogers (KY)  
Maffei Rogers (MI)  
Maloney Rohrabacher  
Manzullo Rooney  
Marchant Ros-Lehtinen  
Markey (CO) Roskam  
Markey (MA) Ross

## NOT VOTING—20

Bachus Boozman  
Barrett (SC) Costa  
Billbray Davis (AL)

Rothman (NJ) Roybal-Allard  
Granger Royce  
Graves Rumpersberger  
Hinchey Rush  
Holden Ryan (OH)  
Ryan (WI)  
Salazar Salazar  
Sánchez, Linda  
T. Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schradler  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Stupak  
Sullivan  
Sutton  
Tanner  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Arcuri  
Austria  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Visclosky  
Walden  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

Diaz-Balart, M.  
Farr  
Garamendi

Kirk Souder  
Mack Velázquez  
Paul Wamp

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1259

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## HONORING THE LIFE OF LENA HORNE

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 1362, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and agree to the resolution, H. Res. 1362.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 405, nays 1, not voting 24, as follows:

[Roll No. 279]

## YEAS—405

Ackerman Brown, Corrine  
Aderholt Brown-Waite,  
Adler (NJ) Ginny  
Akin Buchanan  
Alexander Burgess  
Altmire Burton (IN)  
Andrews Butterfield  
Arcuri Buyer  
Austria Calvert  
Baca Camp  
Bachmann Campbell  
Baird Cantor  
Baldwin Cao  
Barrow Capito  
Bartlett Capps  
Barton (TX) Capuano  
Bean Cardoza  
Beceerra Carnahan  
Berkley Carney  
Berman Carson (IN)  
Berry Carter  
Biggert Cassidy  
Bilirakis Castle  
Bishop (GA) Castor (FL)  
Bishop (NY) Chaffetz  
Bishop (UT) Chandler  
Blackburn Childers  
Blumenauer Chu  
Blunt Clarke  
Bocciari Clay  
Boehner Cleaver  
Bonner Clyburn  
Bono Mack Coble  
Boren Coffman (CO)  
Bowen Cohen  
Boucher Cole  
Boustany Conaway  
Boyd Connolly (VA)  
Brady (PA) Conyers  
Brady (TX) Cooper  
Braley (IA) Costello  
Bright Courtney  
Broun (GA) Crenshaw  
Brown (SC) Crowley

Fudge Luján  
Gallegly Lummis  
Garrett (NJ) Lungren, Daniel  
Gerlach E.  
Giffords Lynch  
Gingrey (GA) Maffei  
Gohmert Maloney  
Gonzalez Manzullo  
Goodlatte Marchant  
Grayson Markey (CO)  
Green, Al Markey (MA)  
Green, Gene Matheson  
Griffith Matsui  
Grijalva McCarthy (CA)  
Guthrie McCarthy (NY)  
Gutierrez McCaul  
Hall (NY) McClintock  
Hall (TX) McCollum  
Halvorson McCotter  
Hare McDermott  
Harman McGovern  
Harper McHenry  
Hastings (FL) McIntyre  
Hastings (WA) McKeon  
Heinrich McMahon  
Heller McMorris  
Hensarling Rodgers  
Herger McNeerney  
Herseth Sandlin Meek (FL)  
Higgins Meeks (NY)  
Hill Melancon  
Himes Mica  
Hinojosa Michaud  
Hirono Miller (FL)  
Hodes Miller (MI)  
Hoekstra Miller (NC)  
Holt Miller, Gary  
Honda Miller, George  
Hoyer Minnick  
Hunter Mitchell  
Inglis Mollohan  
Inslee Moore (KS)  
Israel Moore (WI)  
Issa Moran (KS)  
Jackson (IL) Moran (VA)  
Jackson Lee Murphy (CT)  
(TX) Murphy (NY)  
Jenkins Murphy, Patrick  
Johnson (GA) Murphy, Tim  
Johnson (IL) Myrick  
Johnson, E. B. Nadler (NY)  
Johnson, Sam Napolitano  
Jones Neal (MA)  
Jordan (OH) Neugebauer  
Kagen Nunes  
Kanjorski Nye  
Kaptur Oberstar  
Kennedy Obey  
Kildee Olson  
Kilpatrick (MI) Olver  
Kilroy Ortiz  
Kind Owens  
King (IA) Pallone  
King (NY) Pascrell  
Kingston Pastor (AZ)  
Kissell Paulsen  
Klein (FL) Payne  
Kline (MN) Pomeroy  
Kosmas Perlmutter  
Kratovil Perriello  
Kucinich Peters  
Lamborn Peterson  
Lance Petri  
Langevin Pingree (ME)  
Larsen (WA) Pitts  
Larson (CT) Platts  
Latham Polis (CO)  
LaTourette Pomeroy  
Latta Posey  
Lee (CA) Price (GA)  
Lee (NY) Price (NC)  
Levin Quigley  
Lewis (CA) Radanovich  
Lewis (GA) Rahall  
Linder Rangel  
Lipinski Rehberg  
LoBiondo Reichert  
Loeb sack Richardson  
Lofgren, Zoe Rodriguez  
Lowey Roe (TN)  
Lucas Rogers (AL)  
Luetkemeyer Rogers (KY)  
Rogers (MI)

Rooney Ros-Lehtinen  
Roskam Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Rumpersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sánchez, Linda  
T. Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schradler  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Space  
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Spratt  
Stark  
Stearns  
Stupak  
Sullivan  
Sutton  
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Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
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Tierney  
Titus  
Tonko  
Towns  
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Turner  
Upton  
Van Hollen  
Visclosky  
Walden  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

## NAYS—1

Rohrabacher

## NOT VOTING—24

Bachus	Garamendi	Marshall
Barrett (SC)	Gordon (TN)	Paul
Bilbray	Granger	Poe (TX)
Boozman	Graves	Putnam
Costa	Hinchey	Reyes
Davis (AL)	Holden	Souder
Diaz-Balart, M.	Kirk	Velázquez
Farr	Mack	Wamp

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1308

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ROHRABACHER. Madam Speaker, on rollcall vote 279, passage of H. Res. 1362, I inadvertently voted "no" and meant to cast a "yea" vote.

## PERSONAL EXPLANATION

Mr. FARR. Madam Speaker, this morning I had the privilege of attending the funeral ceremony for Col. Dan Devlin and his wife Darlene. They were interred at Arlington National Cemetery with full honors. Col. Devlin had served as Commandant at the Defense Language Institute in Monterey in my district.

However, while I was at the funeral I missed four votes. Had I been here I would have voted in this way: "Yes" on H.R. 1514, the Juvenile Accountability Block Grant Program Reauthorization; "yes" on H.R. 5325, the America COMPETES Reauthorization; "yes" on H. Res. 1325, Recognizing National Missing Childrens Day; and "yes" on H. Res. 1362, to commend the life of Lena Horne.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

## CONGRATULATING UNIVERSITY OF TEXAS MEN'S SWIMMING AND DIVING TEAM

Ms. FUDGE. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1336) congratulating the University of Texas men's swimming and diving team for winning the NCAA Division I national championship.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

## H. RES. 1336

Whereas, on March 28, 2010, the University of Texas Longhorns men's swimming and diving team won the 2010 NCAA Division I national championships with 500 points;

Whereas the University of Texas at Austin, located in Austin, Texas, was founded in 1883 and serves over 50,000 students today;

Whereas the University of Texas Longhorns have won more than 40 national championships, and University of Texas athletes have won 116 Olympic medals;

Whereas 2010 marked the 10th NCAA national championship for the University of Texas men's swimming and diving team;

Whereas head coach Eddie Reese led the team to excellence and became the first men's swimming and diving coach to win NCAA team titles in four separate decades; and

Whereas senior Dave Walters and sophomore Jimmy Feigen were named the 2010 Big 12 Co-Swimmers of the Year, and sophomore Drew Livingston was named the 2010 Big 12 Diver of the Year: Now, therefore, be it

*Resolved*, That the House of Representatives congratulates the University of Texas men's swimming and diving team for winning the 2010 NCAA Division I national championship.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Ohio (Ms. FUDGE) and the gentleman from Wisconsin (Mr. PETRI) each will control 20 minutes.

The Chair recognizes the gentlewoman from Ohio.

## GENERAL LEAVE

Ms. FUDGE. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on H. Res. 1336 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. FUDGE. I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H. Res. 1336, which congratulates the University of Texas men's swimming and diving team for winning the NCAA Division I national championship.

On the final day of 2010 NCAA Division I men's swimming and diving championship competition, the University of Texas swim team knew they had a battle to fight. They started the day in second place, with an 18.5-point deficit to California. The Longhorns quickly roared from behind and overtook the Golden Bears, taking first place with 500 points, clinching their 2010 NCAA championship title.

This NCAA championship title is the Longhorns' first title since 2002. It is especially notable because of Head Coach Eddie Reese, the first coach in NCAA Division I men's swimming and diving history to win NCAA team titles in four separate decades. This victory grants the University of Texas its 45th all-time NCAA championship title and 49th overall national championship.

The entire Longhorn men's swim team demonstrated excellence this season and performed their best in their final matchups. I would like to especially recognize sophomore Jimmy Feigen, who took second for a second consecutive year in the 100 freestyle with a time of 41.91, and senior Dave Walters, who took eighth with a time of 42.96 in the event.

Texas expanded its lead over California to 433-408.5, after picking up 29 points in the 200 breaststroke. Texas wrapped up the meet by taking second in the 400 freestyle relay, as Walters, Feigen, Jostes, and Berens finished with a time of 2:49.9. University of Texas sophomore Eric Friedland nailed down his first individual All-American finish by taking seventh with a time of 1:54.8. Congratulations to Walters and Feigen, who were named the 2010 Big 12 Co-Swimmers of the Year, and sophomore Drew Livingston, who was named the 2010 Big 12 Diver of the Year.

Madam Speaker, once again, I express my support for H. Res. 1336 and congratulate the University of Texas men's swimming and diving team, Coach Reese on his outstanding achievements with the team, and each of the Longhorn men's swim team members on this extraordinary victory, and I urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. PETRI. Madam Speaker, I yield myself such time as I may consume.

I rise today in support of the resolution before us, House Resolution 1336, congratulating the University of Texas men's swimming and diving team for winning the NCAA Division I national championship.

The University of Texas at Austin, or UT, is one of the Nation's largest public universities. Founded in 1883, the university has grown to include 21,000 faculty and staff, 17 colleges, and over 50,000 students. UT awards over 8,700 bachelor's degrees annually and is a national leader in graduate degrees awarded. U.S. News and World Report ranked the University of Texas at Austin among the top 50 universities in the Nation in 2009. The university has been especially noted for its schools of engineering, business programs, and college of education.

In addition to academics, the University of Texas at Austin has excelled in athletics as well.

□ 1315

The University of Texas Longhorns have won more than 40 national championships, and UT's athletes have won 116 Olympic medals. The Longhorns men's swimming and diving team added the most recent title to UT's name.

On March 28, 2010, the University of Texas Longhorns men's swimming and diving team accumulated 500 points to win the 2010 NCAA Division I National

Championship. It marked the 10th national title for the team. Head Coach Eddie Reese led the team to excellence and became the first men's swimming coach to win NCAA team titles in four separate decades. Senior Dave Walters and sophomore Jimmy Feigen were named the 2010 Big 12 co-Swimmers of the Year and sophomore Drew Livingston was named the Big 12 Diver of the Year. The University of Texas Longhorns men's swimming and diving team has shown themselves to be exemplary athletes. So I stand to congratulate the University of Texas men's swimming and diving team, Coach Eddie Reese, the students, fans, faculty, and staff of UT.

I understand that there are no requests for time by the majority and therefore would yield such time as he may consume to our colleague, the Representative from Austin and some of the surrounding area, the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Madam Speaker, I want to thank my friend and colleague from Wisconsin (Mr. PETRI) for yielding me time.

Madam Speaker, this resolution recognizes the University of Texas men's swimming and diving team for winning the NCAA Division I National Championship. Under the guidance of head coach Eddie Reese, the University of Texas men's swimming and diving team won their 10th NCAA national championship. Coach Reese became the first men's swimming and diving coach to win NCAA team titles in four separate decades. Special recognition is also owed to senior Dave Walters and sophomore Jimmy Feigen, who were named the 2010 Big 12 co-Swimmers of the Year and sophomore Drew Livingston, who was named the 2010 Big 12 Diver of the Year.

The University of Texas, which is located in my district, has an excellent athletics program. In fact, the University of Texas Longhorns have won more than 40 national championships, and University of Texas athletes have won 116 Olympic medals.

It is a pleasure to recognize the University of Texas men's swimming and diving team for winning another national championship. I hope my colleagues will join me in congratulating them on this outstanding achievement.

Mr. PETRI. Madam Speaker, I urge my colleagues to support the resolution before us.

I have no further requests for time, and yield back the balance of my time.

Ms. FUDGE. Madam Speaker, I, too, would just ask that my colleagues support H. Res. 1336.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio (Ms. FUDGE) that the House suspend the rules and agree to the resolution, H. Res. 1336.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. FUDGE. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### RECOGNIZING 100TH ANNIVERSARY OF NORTH CAROLINA CENTRAL UNIVERSITY

Ms. FUDGE. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1361) recognizing North Carolina Central University on its 100th anniversary, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 1361

Whereas North Carolina Central University (NCCU) in Durham, North Carolina, was chartered in 1909 as a private institution and opened to students on July 5, 1910;

Whereas the school was founded by Dr. James E. Shepard as the National Religious Training School and Chautauqua for the Colored Race with the purpose of developing African-American men and women into citizens of fine character and sound academic training;

Whereas the school's name was changed to the National Training School in 1915, following its sale and reorganization;

Whereas the school became a publicly supported institution in 1923 under the name of the Durham State Normal School, with funding from the North Carolina General Assembly;

Whereas the General Assembly rededicated the institution as the North Carolina College for Negroes in 1925, making it the Nation's first State-supported liberal arts college for African-American students;

Whereas the college saw significant expansion between 1927 and 1929 through additional funding from the General Assembly, a generous gift from B.N. Duke, and contributions from the citizens of Durham;

Whereas the college was accredited by the Southern Association of Colleges and Secondary schools as a class "A" institution in 1937, and gained membership in that association in 1957;

Whereas the college was authorized to offer graduate studies in 1939, which led to the establishment of the School of Law in 1940 and the School of Library Science in 1941;

Whereas the General Assembly changed the name of the institution to North Carolina College at Durham in 1947 and, finally, to North Carolina Central University in 1969;

Whereas NCCU became part of the consolidated University of North Carolina system, which includes all 16 of North Carolina's public institutions that grant baccalaureate degrees, in 1972;

Whereas the university was led by Dr. Shepard from its inception until his death on

October 6, 1947, and was led subsequently by Dr. Alfonso Elder, Dr. Samuel P. Massie, Dr. Albert N. Whiting, Dr. LeRoy T. Walker, Dr. Tyrone R. Richmond, Julius L. Chambers, Dr. James H. Ammons, and Dr. Charlie Nelms;

Whereas NCCU currently offers bachelors degrees in more than 100 fields of study and awards graduate degrees in about 40 disciplines;

Whereas the U.S. News and World Report recently ranked NCCU the number-one Public Historically Black College and University (HBCU) in the country, the number-one HBCU in North Carolina, and one of the top ten HBCUs in the country overall;

Whereas the NCCU School of Law has been named the "Best Value Law School" in the Nation by National Jurist magazine for two consecutive years;

Whereas NCCU has a state-of-the-art biotechnology research institute that collaborates with pharmacy and biotechnology companies in the Research Triangle area of North Carolina and trains students to meet the State's biotechnology workforce needs;

Whereas the university is home to the "Marching Sound Machine," an award-winning marching band that will be performing on New Year's Day 2011 in the Rose Parade, and the NCCU Jazz Ensemble, which recently performed in the Newport Jazz Festival;

Whereas NCCU sports teams have won 41 conference championships, three NCAA regional titles, and two national championships (1989 NCAA Division II men's basketball and 1972 NAIA men's outdoor track and field);

Whereas more than 50 student-athletes from NCCU have won individual NCAA and NAIA national championships;

Whereas student-athletes representing NCCU competed in every Olympic Games from 1956 to 1976 in track and field, capturing eight Olympic medals during that time period, including five gold medals;

Whereas NCCU was the first State university in North Carolina to establish community service as a requirement for graduation and has been recognized by the Carnegie Foundation as a "community-engaged university";

Whereas NCCU has graduated approximately 40,000 students in the century since its founding and now has the largest freshman class in its history, with an overall record enrollment of more than 8,500 students; and

Whereas NCCU and its home city of Durham, North Carolina, have long enjoyed a close and mutually beneficial relationship, with the University's total economic impact on Durham and the surrounding region estimated at more than \$300,000,000 per year, and thousands of NCCU graduates have served Durham and its citizens as leaders, educators, professionals, entrepreneurs, and volunteers: Now, therefore, be it

*Resolved*, that the House of Representatives—

(1) honors the memory of Dr. James E. Shepard for his role in founding North Carolina Central University;

(2) celebrates the 100th anniversary of North Carolina Central University, recognizes the University's accomplishments over the past century, and encourages North Carolina's citizens to participate in activities marking this historic occasion; and

(3) directs the Clerk of the House of Representatives to make available five enrolled copies of this resolution to Dr. Charlie Nelms, the current Chancellor of North Carolina Central University.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Ohio (Ms. FUDGE) and the gentleman from Wisconsin (Mr. PETRI) each will control 20 minutes.

The Chair recognizes the gentlewoman from Ohio.

#### GENERAL LEAVE

Ms. FUDGE. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on H. Res. 1361 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. FUDGE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H. Res. 1361, which celebrates North Carolina Central University for 100 years of leadership and service in higher education. North Carolina Central was originally opened to students in 1910, through the work of the school's founder, Dr. James Shepard. NCCU became a State university in 1923, when it was renamed the Durham State Normal School. In 1969, the institution came to be known as it is today—North Carolina Central University.

The 135-acre campus of North Carolina Central University is situated on the sloping, green hills of Durham, North Carolina. The university is home to over 8,500 students this year—a record enrollment level. In fact, this year, NCCU has the largest freshman class in its history. The university currently offers bachelor's degrees in more than 100 fields of study and awards graduate degrees in about 40 disciplines. NCCU has also achieved athletic distinction. The NCCU Eagles have won 41 conference championships, 3 NCAA regional titles, and 2 national championships. More than 50 student athletes have won individual NCAA and NAIA national championships.

Finally, North Carolina Central University is also known for giving back to the Raleigh-Durham area, thanks to their community service program, which requires each student to contribute 15 hours of community service per semester. NCCU students serve as tutors in local schools, help build Habitat for Humanity housing, assist with a variety of youth programs, and promote the causes of nonprofit service agencies around the campus and neighboring community. This commitment is indicative of NCCU's tradition of cultivating graduates, who will become meaningful contributors to society.

The students, faculty, and staff of North Carolina Central University have much to be proud of as they remember and celebrate the rich cultural and academic history of their university over the past century. Once again, I congratulate North Carolina Central University on its 100-year anniversary,

and thank Representative PRICE for bringing this bill forward.

I reserve the balance of my time.

Mr. PETRI. Madam Speaker, I yield myself such time as I may consume.

I rise in support of House Resolution 1361, recognizing North Carolina Central University on its 100th anniversary. Since 1910, the mission of North Carolina Central University has been to prepare students academically and professionally to become leaders. NCCU was founded by Dr. James E. Shepard as the National Religious Training School and Chautauqua for the Colored Race, with the purpose of developing African American men and women into citizens of fine character and sound academic training. After several name changes in the early 1900s, the college saw a significant expansion between 1927 and 1929 through additional funding from the General Assembly, a generous gift from B.N. Duke, and contributions from the citizens of Durham.

NCCU is a comprehensive institution which offers bachelor's degrees in more than 100 fields of study and awards graduate degrees in an estimated 40 disciplines. The university has a state-of-the-art biotechnology research institute, which collaborates with pharmacy and biotech companies in the much-touted Research Triangle Park area, where NCCU is found.

With nearly 9,000 students enrolled, this Historically Black University is diverse. International studies and exchange programs attract exchange students from more than 12 countries, including Liberia, India, Senegal, Sierra Leone, Nepal, China, the Czech Republic, Nigeria, South Korea, Russia, the Dominican Republic, Mexico, and South Africa. Through the scholarship and teaching of its faculty and the many contributions to society of its alumni, NCCU seeks to fulfill its motto of "Truth and Service."

I'd like to congratulate NCCU Chancellor Charlie Nelms, the faculty, staff, and students, as they celebrate their 100th anniversary. I ask my colleagues to support this resolution.

I reserve the balance of my time.

Ms. FUDGE. Madam Speaker, I am pleased to yield such time as he may consume to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. I thank my colleague for yielding.

Madam Speaker, I rise today in support of H. Res. 1361, which commemorates the centennial anniversary of North Carolina Central University and honors its founder, Dr. James E. Shepard. I've introduced this resolution as the Member of this body privileged to represent North Carolina Central, but I'm proud to say it has the support of the entire North Carolina delegation, as well as a number of other Members who recognize the university's significance.

People frequently talk about the Big Three universities in the Research Triangle area of North Carolina, referring to Duke University, North Carolina State University, and the University of North Carolina at Chapel Hill. But I like to remind them that it actually is the Big Four. North Carolina Central is as fully integral to the historical fabric of our State as its three peer institutions. It is one of the oldest and most prestigious Historically Black Colleges and Universities (HBCUs) in the Nation. And it has rapidly assumed an important role as a research institution.

Established by Dr. James E. Shepard in 1909 in Durham, North Carolina, the university first opened its doors to students a year later as the National Religious Training School and Chautauqua. Dr. Shepard was a visionary leader guided by the conviction that individual self-improvement and collective self-advancement were inextricably intertwined. "There is no economy in ignorance," he declared. "Education is a vastly expensive resource, but ignorance is incomparably more so. Ignorance and poverty are cures for nothing."

Dr. Shepard led the university until his death in 1947, guiding the institution through several name changes, watching the university grow in size and mission, and helping the school gain the support of the North Carolina State Legislature. In 1925, thanks to Dr. Shepard's leadership, the school became the Nation's first State-supported liberal arts college for African American students.

Now an integral part of the University of North Carolina system, NC Central offers bachelor's degrees in more than 100 fields of study and graduate degrees in about 40 disciplines to a student body of around 8,500. U.S. News and World Report recently ranked NC Central as the top public HBCU in the Nation and one of the top 10 HBCUs overall. The NC Central School of Law has been named the "Best Value Law School" in the Nation by National Jurist magazine for 2 consecutive years.

NC Central is also renowned for its contributions to the cultural and performing arts. The university is home to the Marching Sound Machine, an award-winning marching band that will be performing on New Year's Day, 2011, in the Rose Bowl Parade, and the North Carolina Central Jazz Ensemble, which recently performed in the Newport Jazz Festival.

NC Central also has a strong history of athletic prowess. Its sports teams have won 41 conference championships, 3 NCAA regional titles, and 2 national championships. More than 50 of its student athletes have won individual NCAA and NAIA national championships, and student athletes representing NCCU competed at every Olympic games from 1956 to 1976 in

track and field, capturing eight Olympic medals, including five gold medals, during that period.

As a co-chair of the congressional National Service Caucus, I must also note that NC Central was the first State university in North Carolina to establish community service as a requirement for graduation and has been recognized by the Carnegie Foundation as a "community-engaged university." It should therefore come as no surprise that the university has enjoyed a mutually beneficial relationship with its home city of Durham throughout its 100-year history.

Thousands of NC Central graduates have served Durham as community leaders, educators, professionals, entrepreneurs, and volunteers. However, the reach of the university extends far beyond the Triangle region of North Carolina. In the century since its founding, the university has graduated approximately 40,000 students and proudly boasts many distinguished alumni, including civil rights lawyer and educator Julius L. Chambers; basketball Hall-of-Famer Sam Jones; two-time Olympic track gold medalist Lee Calhoun; North Carolina Superior Court Judge Toby Fitch; State Senator and former House Speaker Dan Blue; and State Representative Mickey Michaux; not to mention my friend and the lead cosponsor of this legislation, our own colleague, G.K. BUTTERFIELD.

□ 1330

In the words of NC Central's current chancellor, Dr. Charlie Nelms, "It's no small accomplishment that an institution of higher education—and in this case founded by African Americans at a time when African Americans were barred from most colleges—survived and thrived for 100 years." I could not agree more. Under the visionary leadership of Dr. Shepard, Dr. Nelms and all who served the institution in between, the university has flourished and has touched countless lives in North Carolina and throughout the country and the world.

With that, I urge my colleagues to join me in support of this resolution.

Mr. PETRI. I continue to reserve the balance of my time.

Ms. FUDGE. Madam Speaker, I am pleased to yield as much time as he may consume to the gentleman from North Carolina (Mr. BUTTERFIELD).

Mr. BUTTERFIELD. Let me thank the gentlewoman for yielding the time and thank her for her work on the committee and her work here in the Congress. She is certainly representing her district very well, and I thank her for that. Let me also thank the ranking member, the gentleman from Wisconsin, who is managing the bill on the floor today for his friendship and thank him for the kind words he said about my alma mater, North Carolina Central University. I particularly want to

thank my good friend, Congressman DAVID PRICE, who proudly and effectively represents Durham County and the surrounding counties, which is the home of North Carolina Central University. I thank him for what he means to that community. Congressman PRICE has been so involved in the life of the university for so long, and I want to thank him publicly for that effective leadership.

Madam Speaker, I first arrived on the NCCU campus way back in August of 1965. It was a great year. I remember it so well. At the time, the university was named North Carolina College at Durham. It was while I was there at Central that the name was actually changed to North Carolina Central University. Not only did I receive a very effective and appropriate undergraduate education at the university, but I also received my law degree there at North Carolina Central University School of Law. So I have a lot to be proud of, and I have a lot to be thankful for. That's why I have come to the floor today to pay tribute to this great institution for its service over the past 100 years.

As Congressman PRICE said a moment ago, North Carolina Central University was established in 1910. It has grown into one of our Nation's oldest and most prestigious Historically Black Colleges and Universities, and all of us who attended North Carolina Central know the history of Dr. James E. Shepard. He was an extraordinary leader whose vision for the university has come to fruition. We call ourselves the Eagles. Congressman PRICE referred to that a few moments ago, and so we are certainly Eagles.

NCCU offers degrees in more than 100 fields of study. It awards graduate degrees in approximately 40 disciplines to a student body of 8,500. I believe when I started at the university in 1965, there were some 3,500 students at the school, and so the census and the population of the student body has actually doubled.

North Carolina Central University boasts a state-of-the-art biotechnology research institute that allows students to collaborate with pharmacy and biotechnology companies in North Carolina's Research Triangle Park. North Carolina Central University holds the top spot among public schools in the U.S. News & World Report's latest ranking of the Nation's Historically Black Colleges and Universities.

Finally, Madam Speaker, as I take my seat, I cannot help but mention the fact that we have nine NCCU law students on the Hill serving as interns this summer. They have been placed in various offices throughout the House of Representatives, and they represent the best of North Carolina Central University. They are our future leaders, indeed. And so we honor this great institution today. I ask my colleagues to

join with us in voting "aye" on H. Res. 1361.

Mr. ETHERIDGE. Madam Speaker, I rise in strong support of H. Res. 1361, which celebrates the centennial anniversary of North Carolina Central University, NCCU.

Even in a state like North Carolina, which is blessed with many fine colleges and universities and which honors and respects higher education, NCCU stands out.

It was recently ranked as one of the top HBCUs in the nation. Central has been responsible for the education of many distinguished North Carolinians. To name just a few, these include civil rights lawyer and educator Julius L. Chambers, basketball Hall of Famer Sam Jones, two-time Olympic track gold medalist Lee Calhoun, and former U.S. Congresswoman Eva Clayton.

More personally, several of my staffers or former staffers received a fine education at Central. Carolyn Smith, who has served as a district representative in Raleigh for nearly a decade now, received two degrees in Public Administration from NCCU. Former staffers Courtney Crowder, Mercedes Rustucha, and Jake Parker also studied there.

Central has survived and thrived for 100 years because of its dedication to the education of all Americans. As its founder, Dr. James E. Shepard, said, "Education is a vastly expensive resource, but ignorance is incomparably more so." Our nation is well-served by its investments in education and by its commitment to fine institutions like NCCU.

Madam Speaker, I am proud to be a cosponsor of this resolution. I commend my colleague, Congressman DAVID PRICE for his leadership in authoring this measure, and I urge my colleagues to join me in celebrating 100 years of educational greatness in central North Carolina by voting yes on H. Res. 1361.

Mr. PETRI. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. FUDGE. Madam Speaker, I have no further requests for time. I would urge my colleagues to support H. Res. 1361, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio (Ms. FUDGE) that the House suspend the rules and agree to the resolution, H. Res. 1361, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. FUDGE. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.



# NATIONAL CHILDHOOD OBESITY AWARENESS MONTH

Mrs. CAPPS. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 996) expressing support for designation of September as National Childhood Obesity Awareness Month, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

## H. RES. 996

Whereas during the past four decades, obesity rates have soared among all age groups, increasing more than fourfold among children ages 6 to 11;

Whereas 31.8 percent or 23,000,000 children and teenagers ages 2 to 19 are obese or overweight, a statistic that health and medical experts consider an epidemic;

Whereas significant disparities exist among the obesity rates of children based on race and poverty; for example on average 38 percent of Mexican-American children and 34.9 percent of African-American children ages 2 to 19 are overweight or obese, compared with 30.7 percent of White children and 39.5 percent of low-income American Indian and Alaska Native children ages 2 to 5;

Whereas the financial implications of childhood obesity pose a financial threat to our economy and health care system, carrying up to \$14,000,000,000 per year in direct health care cost, with people in the United States spending about 9 percent of their total medical costs on obesity-related illnesses;

Whereas obese young people have an 80 percent chance of being obese adults and are more likely than children of normal weight to become overweight or obese adults, and therefore more at risk for associated adult health problems, including heart disease, type 2 diabetes, sleep apnea, stroke, several types of cancer, and osteoarthritis;

Whereas in part due to the childhood obesity epidemic, 1 in 3 children (and nearly 1 in 2 minority children) born in the year 2000 will develop type 2 diabetes at some point in their lifetime if current trends continue;

Whereas some consequences of childhood and adolescent obesity are psychosocial and can hinder academic and social functioning and persist into adulthood;

Whereas participating in physical activity is important for children and teens as it may have beneficial effects not only on body weight, but also on blood pressure and bone strength;

Whereas proper nutrition is important for children before birth and through their life span as nutrition has beneficial effects for health and body weight, and is important in the prevention of various chronic diseases;

Whereas childhood obesity is preventable, yet does not appear to be declining;

Whereas public, community-based, and private sector organizations and individuals throughout the United States, including First Lady Michelle Obama, are working to decrease childhood obesity rates for people in the United States of all races through a range of efforts, including educational presentations, media campaigns, Web sites, policies, healthier food options, and greater opportunities for physical activity; and

Whereas America on the Move, American Beverage Association, American College of Sports Medicine, American Diabetes Association, American Dietetic Association, American Heart Association, American Med-

ical Association, American Medical Group Association, American Sleep Apnea Association, American Society of Bariatric Physicians, American Society for Metabolic and Bariatric Surgery, American Society for Nutrition, American Society of Landscape Architects, Amerinet, BET Foundation, Black Leadership Forum, Black Women's Health Imperative, Campaign to End Obesity, Canyon Ranch Institute, Center for Science in the Public Interest, Children's Health Fund, Children's National Medical Center, Children Now, COSHAR Foundation, First Focus, Grocery Manufacturers Association, Healthcare Leadership Council, HealthCorps, Healthways, International Health, Racquet, and Sportsclub Association, Medical Fitness Association, NAACP, National Association of Children's Hospitals, National Association of Chronic Disease Directors, National Association of School Nurses, National Association for Sport and Physical Education, National Black Nurses Association, National Collaboration for Youth, National Congress of Black Women, Inc., National Council of Urban Indian Health, National Family Caregivers Association, National Football League, National Football League Players Association, National Indian Health Board, National Latina Health Network, National League of Cities, National Medical Association, National Recreation and Park Association, Nemours, Obesity Action Coalition, Partnership to Fight Chronic Disease, Partnership for Prevention, PepsiCo, Richard Simmons' Ask America PE Crusade, Safe Routes to School National Partnership, ShapeUp America!, STOP Obesity Alliance, The Coca-Cola Company, The Obesity Society, Trust for America's Health, United Fresh Produce Association, United Way, University Hospitals Rainbow Babies & Children's Hospital, U.S. Conference of Mayors, U.S. Preventive Medicine, Inc., Voices for America's Children, YMCA of the USA, YWCA USA, and other organizations support the designation of September as National Childhood Obesity Awareness Month to educate the public about the need for increased education and proactive steps to prevent childhood obesity in the United States: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the designation of National Childhood Obesity Awareness Month to raise public awareness and mobilize the country to address childhood obesity;

(2) recognizes the importance of preventing childhood obesity and decreasing its prevalence in the United States; and

(3) requests that the President encourage the Federal Government, States, tribes and tribal organizations, localities, schools, non-profit organizations, businesses, other entities, and the people of the United States to observe the month with appropriate programs and activities with the goal of promoting healthy eating and physical activity and increasing awareness of childhood obesity among individuals of all ages and walks of life.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. CAPPS) and the gentleman from Pennsylvania (Mr. PITTS) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

## GENERAL LEAVE

Mrs. CAPPS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and in-

clude extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. CAPPS. Madam Speaker, I yield myself such time as I may consume.

I rise in strong support of House Resolution 996, expressing support for the designation of September as National Childhood Obesity Awareness Month. I would like to commend my colleague from Ohio, MARCIA FUDGE, for introducing this resolution which I am proud to cosponsor.

This is a bipartisan resolution, supported by over 75 national organizations representing both the public and private sectors. By dedicating September, the month when most children have returned to school, to focus attention on combating childhood obesity, we can set our kids on a healthier course for the entire school year. Consideration of this resolution is particularly timely, given last week's release of the Task Force on Childhood Obesity's report by the White House and the strong championship of First Lady Michelle Obama on this issue.

According to the Centers for Disease Control and Prevention, one in every three American children ages 2 to 19 is overweight or obese, and studies conducted at the National Center for Health Statistics of the CDC found that obesity more than tripled among children and adolescents between 1976 and 2008. Childhood obesity is a problem for the entire Nation, but it is more common among certain racial and ethnic groups, with the highest obesity rates present among African American girls and Hispanic boys.

Obesity is a serious health threat. It's estimated to cause 112,000 deaths per year, and one in three children born in the year 2000 are expected to develop diabetes during his or her lifetime. Unless this trend is reversed, at least 23 million American kids will be in danger of becoming the first generation in American history to have shorter life spans than their parents. As a former school nurse, I've seen all too well that the consequences of obesity aren't just manifested physically. There are also devastating behavioral and mental health implications, as obesity is associated with lower self-esteem, poor academic achievement and depression.

Supporting awareness and prevention of childhood obesity can help us eliminate billions of dollars in unnecessary health care costs and help promote a healthier lifestyle that will prolong and improve the lives of the next generation of Americans. I urge my colleagues to vote in favor of this resolution.

I reserve the balance of my time.

Mr. PITTS. Madam Speaker, I yield myself such time as I may consume.

I rise in support of H. Res. 996, to support the designation of September as National Childhood Obesity Awareness Month. A third of the people ages 2 to 19 are obese now, and experience tells us that they probably will grow both literally and figuratively into obese adults. It means that in just a few years, a disproportionately high number of them will hear a doctor explain that they have heart disease or diabetes or cancer or arthritis or an increased chance of having a stroke. But childhood obesity is preventable, and so it doesn't have to lead to bad news in a doctor's office later in life. Exercise and good nutrition that start early not only fight childhood obesity but also instill the habits that promote lifelong health.

Let me say a word about personal responsibility here. No congressional resolution can replace the good sense of concerned parents. I think most parents know instinctively that healthy families produce healthy adults, and I commend them. I also think they deserve our recognition and appreciation and encouragement. In the final analysis, any attempt to raise awareness of a problem like childhood obesity must involve individuals making good choices for the sake of their own health. Raising our voices to help advance public awareness of that crucial, beneficial truth is worthwhile business for the people's House to undertake.

I would like to thank the sponsor of this resolution, Representative MARCIA FUDGE from Ohio, for all of her work on this resolution. I would also like to thank Representative BONO MACK who has labored so hard to bring attention to the childhood obesity problem. We stand in support of this legislation and hope that our colleagues will join us.

Madam Speaker, I reserve the balance of my time.

Mrs. CAPPS. Madam Speaker, I am pleased to yield such time as she may consume to the gentlewoman from Ohio, Congresswoman FUDGE.

Ms. FUDGE. I thank the gentlewoman from California so much. This is something for which I am very, very passionate, and I am pleased and proud to be one of the sponsors of this legislation and to be on this floor today to talk just briefly about it. I, along with Representative KAY GRANGER of Texas, introduced House Resolution 996, designating September 2010 as National Childhood Obesity Awareness Month. This is a bipartisan resolution, supported by over 75 national organizations including the U.S. Conference of Mayors, the National Education Association, the YMCA, the YWCA, the American Medical Association, United Way, NAACP, and the National Indian Health Board.

Dedicating at least one month out of each year to bring awareness to the issue of childhood obesity will help maximize the effect of programming,

messaging and campaigns—all aligned with the sole purpose of eradicating childhood obesity. According to the Alliance for a Healthier Generation, one in three children are already overweight or obese. Unless we work to reverse this epidemic, these 23 million kids will be in danger of never being grandparents. Imagine living a life, and you know that you may never live long enough to be a grandparent. Imagine a day when our children can't play on playgrounds because they can't play kickball because they're winded; or they can't play basketball because they're winded; or they can't run track. This is very, very important. I want to say that it is significant that we today work with the White House and so many others who are looking at how we deal with not just obesity but nutrition. It is important for us to be sure that young people receive a healthy start, and a lot of that is not in the hands of young people. It is in our hands.

The financial implications of childhood obesity are overwhelming, at \$14 billion per year in direct health care costs. Supporting awareness and prevention of childhood obesity will eliminate billions of dollars in unnecessary health care costs and help promote a healthier lifestyle that will prolong and improve the lives of the next generation of Americans.

□ 1345

Mr. PITTS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. CAPPS. Madam Speaker, I am pleased to yield such time as she may consume to the gentlewoman from Nevada (Ms. TITUS).

Ms. TITUS. Madam Speaker, I rise today in support of H. Res. 996, a resolution to recognize September as National Childhood Obesity Awareness Month, and I applaud Congresswoman FUDGE for introducing this resolution to bring awareness to such an important issue.

Obesity has been linked to a wide range of negative health outcomes, and the alarming rise of childhood obesity, if left unchecked, could lead to a national health crisis. Obese children are at greater risk for a number of diseases and are more likely to have health problems that put them at risk throughout their life for diabetes, cardiovascular illness, and cancer.

According to the Centers for Disease Control, childhood obesity has more than tripled in the past 30 years, so it is vital that we take action, recognize the problem, and begin to address it.

I, too, would like to commend First Lady Michele Obama and, in Nevada, State Senator Valerie Weiner for their tireless efforts to combat this problem.

I am also proud to serve on the Education and Labor Committee which will soon be taking up reauthorization

of the Child Nutrition Act. I look forward to the opportunity to address childhood obesity and the crisis it creates through that important legislation.

In the meantime, I am pleased to support the resolution before us today, H. Res. 996, brought by the gentlewoman from Ohio (Ms. FUDGE) because it will help raise awareness of childhood obesity, acknowledge its adverse lifetime consequences, and offer ways to combat the growing problem.

Mrs. CHRISTENSEN. Madam Speaker, I rise in support of H. Res. 966 that will designate September as National Childhood Obesity Awareness Month and raise awareness around addressing childhood obesity.

As this public health crisis continues to grow, we can point to a host of factors that are complicating efforts to reduce childhood obesity such as: prominent advertising of unhealthy foods, the popularity of big-portion meals that are high in calories and fat accompanied with sugary beverages, spending more time in front of the television and sedentary electronic games and fewer school physical education programs. Childhood obesity has more than tripled in the past 30 years. A recent CDC report found that about 14 percent of low-income, pre-school-aged children in the Virgin Islands are obese, which is also the U.S. average.

Childhood obesity disproportionately affects low-income and minority children. Obesity rates are higher in African American, Native American, and Mexican American adolescents than in White adolescents. Type 2 diabetes is disproportionately seen in Hispanic, Native American, and African American adolescents.

Children that live in low-income neighborhoods often do not have access to recreational facilities, parks, or even sidewalks to walk on, limiting virtually any possibility of being physically active.

They often don't have access to grocery stores to buy fruits and vegetables; rather gathering their nutritional content from fast food restaurants and convenience stores. These food deserts are prevalent in poor communities all over the country.

As a physician I have also seen the adult consequences of childhood obesity: overweight and obese children grow up to be overweight or obese adults at increased risk for cardiovascular disease, diabetes, asthma, and some cancers—all of which are increasing exponentially, especially in communities of color.

The time to intervene is now! We must continue to champion legislation and initiatives that will reduce the prevalence of childhood obesity. So on behalf of our Nation's youth, I support this resolution that will bring awareness to this epidemic in hopes of securing brighter, healthier futures for children all across the country.

Mrs. CAPPS. Madam Speaker, I have no further speakers, so I urge my colleagues to support H. Res. 996, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. CAPPS) that the House suspend the rules and agree to the resolution, H. Res. 996, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mrs. CAPPS. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### RECOGNIZING SIGNIFICANT CONTRIBUTIONS OF U.S. AUTOMOBILE DEALERSHIPS

Mrs. CAPPS. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 713) recognizing the significant contributions of United States automobile dealerships, and expressing the sense of the House of Representatives that in the interest of equity, automobile dealers whose franchises have been terminated through no fault of their own be given an opportunity of first consideration once the auto market rebounds and stabilizes, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 713

Whereas auto dealers have deep roots in local communities and have helped manufacturers with long-term customer relationships that create brand loyalty and maintain customer convenience;

Whereas dealerships across the country provide jobs, give direct investments to local economies, and supply tax revenue to State and local governments;

Whereas virtually all new cars and light trucks bought in the United States are sold through franchised dealers;

Whereas dealers are independently owned, and combined, represent the largest retail business in the United States, with approximately \$693,000,000,000 in revenues in 2007;

Whereas auto dealers are significant employers in local communities across the country;

Whereas franchised dealers employ over 1,100,000 people, comprise nearly 20 percent of all retail sales in the United States, and, in total, pay billions annually in state and local taxes;

Whereas the Nation's 20,700 independent franchised new car dealerships comprise an industry that is largely privately held, with private ownership accounting for 92 percent of the market;

Whereas the franchised dealership system in the United States is the independent link between the manufacturer's assembly line and the consumer and its functions include, but are not limited, to the following—

- (1) selling the product and providing information for consumers;
- (2) holding vehicle and parts inventory;
- (3) performing service and providing parts to fulfill manufacturer warranty obligations;
- (4) handling product safety recalls;

(5) facilitating the exchange of used vehicles; and

(6) arranging financing for consumers;

Whereas some restructuring of dealer networks was in the public interest and necessary to increase the competitiveness of automobile manufacturers;

Whereas the economic downturn put thousands of jobs at risk, including those at automobile dealerships and automobile manufacturers; and

Whereas auto dealers will play a key role in any effort to revive the United States auto industry: Now, therefore, be it

*Resolved, That—*

(1) the House of Representatives recognizes the significant contributions of United States automobile dealerships; and

(2) it is the sense of the House of Representatives that automobile dealerships which have been successful and are being closed not of their own doing, but instead as a function of the auto market as a whole, should be given consideration to obtain a dealership franchise when the automobile market rebounds and stabilizes.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. CAPPS) and the gentleman from Pennsylvania (Mr. PITTS) each will control 20 minutes.

The Chair recognizes the gentleman from California.

##### GENERAL LEAVE

Mrs. CAPPS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mrs. CAPPS. Madam Speaker, I am pleased to yield such time as he may consume to the gentleman from Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. Madam Speaker, I thank the managing Member for yielding me this time, and I also thank the Member who is managing for the other side for allowing this important piece of legislation to come to the floor. I want to thank Representative HENSARLING who is not here today. He is in Financial Services, and we have a hearing there that is exceedingly important; but for that, I am confident he would be here. He and I serve on the committee together.

Representative HENSARLING and I have been working on this resolution for some time. For us it has become a means by which we not only developed what I believe to be a good piece of legislation for the House, but also we have developed a good relationship as a result of working together. This is truly a bipartisan piece of legislation. We have 107 cosponsors from both sides of the aisle.

I also would like to thank Representative JOHN DINGELL for helping us with this piece of legislation. He, at a crucial time, stepped forward to help us move the legislation such that we are now on the floor with it. I would also

mention the staff members from Congressman HENSARLING's office and from my office, my staff, I thank you for what you have done, Representative DINGELL's staff, and all of the persons who have been associated with this piece of legislation, especially Representative CAPPS because I thank you for helping us get it to the floor as well.

This resolution, H. Res. 713, does two things: it recognizes the significant contributions of the auto dealerships; and it expresses the sense of the House of Representatives that dealerships which were successful, and I highlight and underline successful, dealerships that were successful and are being closed, some have been closed because of the economic crisis, that these dealerships be given consideration when the market rebounds and we start to bring on new auto dealerships. It is an opportunity for consideration.

With these two things in mind, I would share these thoughts: one, that the auto dealerships are the face of the auto industry within our various communities. As the face of the industry, they do more than simply sell cars, which is a good thing to do. Selling cars promotes growth and jobs, and helps us have people who are employed, but they do more than this. They also engage in being good corporate citizens, which means that they allow their largess to be shared by various not-for-profit organizations in the community, various community organizations that are involved at the grassroots level in communities. For example, the Little League baseball teams will often be sponsored by auto dealerships. Other small, but significant, organizations in our communities benefit from these auto dealerships.

They are across the length and breadth of the community in large cities and small towns. They make it possible for us to experience the opportunity of having largess that we would not ordinarily have, and I will tell you that that largess is being sorely missed at this time of economic crisis. So we want to get them back. We want to get them back online because they are good corporate citizens.

My next point, 20,000 independently owned dealerships exist across the country—maybe a little more, maybe a little less, depending on who is counting and how you count—employing about 900,000 people, new car dealerships alone. These 900,000 jobs are jobs that our country benefits from greatly, and we have missed many of the jobs because of the dealerships going offline. We want to see these dealerships give the community the job base it has enjoyed by virtue of these many persons who were trained to do various and sundry things, giving these jobs back to the community.

Bringing them back will be an important part of these dealerships coming

back online as a result of the rebound in the economy. In 2008, there was about \$650 billion that we can call revenue generated from the dealerships. They are truly small businesses at their best, and some of them large businesses because of just the sheer amount of revenue that they generate. But they are small businesses that benefit greatly from what we are trying to do in Financial Services today, but they are also small businesses that cause a community to benefit greatly because of what they do in the various communities wherein they are located.

I would simply remind us that as we vote on this, please, dear friends, give thought to your community; give thought to the fact that this is a small business that brings jobs back to the community; give thought to the fact that these corporations are good corporate citizens, for the most part; that they are part of the fiber and the fabric of the communities; that they help the Little League baseball teams, the Girl Scouts and Boy Scouts, all of these organizations that benefit from their largess; and give some thought to the fact that but for them, many of our communities would not be as vibrant as they are. In fact, many of our communities are not as vibrant as they were because we have lost some of these various small businesses, these auto dealerships.

I beg all of my colleagues, please support this resolution. It encourages us to do the right thing, and that is give these dealerships that were successful that went offline the opportunity, not because of some fault of their own but because of some economic crisis that they had little control over. In fact, no control over for the most part.

Mr. PITTS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H. Res. 713, expressing the sense of the House of Representatives that the automobile dealers whose franchises were terminated through no fault of their own, be given an opportunity of first consideration once the auto market rebounds and stabilizes.

Dealerships play an important function in the distribution model. It was the economic downturn that exacerbated the already slowing automobile sales. Some dealers assert that they had sufficient sales and should not have been marked for closure. Despite their importance to manufacturers, the fact that they were well-run businesses and the Federal Government's bailout of GM and Chrysler, to the tune of \$80 billion, many franchises were taken away from these dealerships. Jobs supported by these dealerships were eliminated, and this lost income continues to plague American families.

In addition, the lost tax revenue and absence of those dealerships that played an important civic role in their communities has further strained local

communities. When the auto market recovers, these dealerships should be given an opportunity to reclaim their franchises as manufacturers expand their distribution channels.

I would like to commend Congressman GREEN and Congressman HENSARLING for their leadership on this issue. I support the resolution and urge my colleagues to support it.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. CAPPS. Madam Speaker, I would like to make the point that several minor changes were made in House Resolution 713 in order to clarify that the focus of the resolution is on automobile dealerships and not on automobile manufacturers.

Mrs. MILLER of Michigan. Madam Speaker, I rise in strong support of H. Res. 713 which recognizes the contributions of automobile dealerships, both to the American economy, and the economy of my home state of Michigan. Michigan is at the very heart and soul of the domestic auto industry, and it is an industry that has served America well.

Automobile dealerships around the country have provided millions of Americans an opportunity for a good job with good benefits and a secure retirement. The average dealer in this nation, Madam Speaker, employs over 50 people. They are not just a place to purchase a car, but they are community leaders, sponsors of little league teams and rotary club members. In many cases, they are the biggest job providers in their communities.

Automobile dealers create long-term relationships with members of their communities and provide services beyond the sale of a car. They also provide parts and services for vehicles, handle product safety recalls and provide information for customers.

During the economic downturn, 1,900 automobile dealerships, some that were successful, were closed not because of any fault of their own, but because of forces beyond their control. Thankfully, the auto industry is showing signs of recovery, with Ford, Chrysler and General Motors making a profit for the first time in years.

Those dealerships that were closed should be given the first opportunity to obtain a franchise when auto manufacturers seek new partners to open future dealerships.

I recognize the great contributions that the automobile industry has given back to the community, and I fully intend to support this resolution.

Ms. RICHARDSON. Madam Speaker, I rise today as a cosponsor of H. Res. 713, which recognizes the significant contributions of United States automobile dealerships, and expresses the sense of the House of Representatives that automobile dealers that have been forced to close be given a fair opportunity to reenter the automobile market once it rebounds and stabilizes. The automobile dealer industry has an important place in our country's history and is a critical part of our economy. It is critical that we recognize the important role of automobile dealers, help them survive the ongoing economic downturn, and pave the way for their future success.

I thank Chairman WAXMAN for his leadership in bringing this resolution to the floor. I also thank the sponsor of this H. Res. 713, Congressman GREEN, for taking the time to recognize the important contributions of automobile dealers in our nation's history and their vital role in our rebounding economy.

Madam Speaker, the automobile and the automotive industry has long been a symbol of American ingenuity and a source of American prosperity. Franchised automobile dealers have played and continue to play a critical role in the automotive industry: the franchised dealership system in the United States is the independent link between the manufacturer's assembly line and the American consumer.

The automobile dealership industry is a vital part of the national economy. Virtually all new cars and light trucks are sold through franchised dealers. Dealers represent the largest retail business in the United States, with approximately \$693 billion in revenues in 2007. Franchised dealers employ over 1,100,000 people, comprise nearly 20 percent of all retail sales in the United States, and, in total, provide billions of dollars annually in tax revenue.

Madam Speaker, automobile dealers also play an important role in local communities across the country. Auto dealers have deep roots in local communities and have helped manufacturers with long-term customer relationships that create brand loyalty and maintain customer convenience. Dealerships across the country provide jobs, give direct investments to local economies, and supply tax revenue to State and local governments.

The economic downturn of the last two years has put thousands of jobs at risk, including those at automobile dealerships and automobile manufacturers. I have witnessed the effect of the recession on car dealerships in my district. That is why I recently introduced H.R. 4897, the Drivers AID Act of 2010. By making interest payments on new car purchases deductible, this bill will help consumers in buying cars, dealers in selling cars, and auto manufacturers in making cars.

Madam Speaker, we must take action to help auto dealers play a key role in the revival of the United States' economy. I urge my colleagues to join me in supporting H. Res. 713.

Mrs. CAPPS. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. CAPPS) that the House suspend the rules and agree to the resolution, H. Res. 713, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The title of the resolution was amended so as to read: "Recognizing the significant contributions of United States automobile dealerships, and expressing the sense of the House of Representatives that in the interest of equity, automobile dealers be given consideration to enter the automobile market once it rebounds and stabilizes."

A motion to reconsider was laid on the table.

□ 1400

BLUE STAR/GOLD STAR FLAG ACT  
OF 2009

Mr. MOORE of Kansas. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2546) to ensure that the right of an individual to display the Service flag on residential property not be abridged.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2546

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE.

This Act may be cited as the “Blue Star/Gold Star Flag Act of 2009”.

## SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term “Service Flag” has the meaning given such term under section 901 of Public Law 105-225 (36 U.S.C. 901);

(2) the terms “condominium association” and “cooperative association” have the meanings given such terms under section 604 of Public Law 96-399 (15 U.S.C. 3603);

(3) the term “residential real estate management association” has the meaning given such term under section 528 of the Internal Revenue Code of 1986 (26 U.S.C. 528); and

(4) the term “member”—

(A) as used with respect to a condominium association, means an owner of a condominium unit (as defined under section 604 of Public Law 96-399 (15 U.S.C. 3603)) within such association;

(B) as used with respect to a cooperative association, means a cooperative unit owner (as defined under section 604 of Public Law 96-399 (15 U.S.C. 3603)) within such association; and

(C) as used with respect to a residential real estate management association, means an owner of a residential property within a subdivision, development, or similar area subject to any policy or restriction adopted by such association.

## SEC. 3. RIGHT TO DISPLAY THE SERVICE FLAG.

A condominium association, cooperative association, or residential real estate management association may not adopt or enforce any policy, or enter into any agreement, that would restrict or prevent a member of the association from displaying the Service Flag on residential property within the association with respect to which such member has a separate ownership interest or a right to exclusive possession or use.

## SEC. 4. LIMITATIONS.

Nothing in this Act shall be considered to permit any display or use that is inconsistent with—

(1) any regulations prescribed by the United States Secretary of Defense regarding rules or customs pertaining to the proper display or use of the Service Flag; or

(2) any reasonable restriction pertaining to the time, place, or manner of displaying the Service Flag necessary to protect a substantial interest of the condominium association, cooperative association, or residential real estate management association.

The SPEAKER pro tempore (Ms. DEGETTE). Pursuant to the rule, the gentleman from Kansas (Mr. MOORE) and the gentlewoman from Kansas (Ms. JENKINS) each will control 20 minutes.

The Chair recognizes the gentleman from Kansas.

## GENERAL LEAVE

Mr. MOORE of Kansas. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. MOORE of Kansas. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I rise today in strong support of H.R. 2546, the Blue Star/Gold Star Flag Act, drafted by my colleague from Ohio, Representative JOHN BOCCIERI. This bipartisan legislation has 54 Democratic and Republican cosponsors, and I'm proud to be one of them.

The Service flag, which is referred to as either the Blue Star or Gold Star flag, is an official banner authorized by the Defense Department for display by families of members serving in the Armed Forces during a period of war. Each blue star on the flag represents a servicemember in Active Duty, while a gold star signifies a servicemember who was killed in action or who died in service. As authorized by the Defense Department, organizations can fly the Service flag as long as it honors the members of that organization serving during a period of war.

In April of last year, a constituent of Representative BOCCIERI was asked by her condominium association to remove the Service flag she placed in her window in honor of her son who served in Operation Desert Storm in 1991, and again in 2003, for his service defending our country in Iraq. Her son suffered injuries not once but twice from roadside bombs. Thankfully, the condominium association later reversed its decision and allowed the woman to display a Blue Star flag.

This thoughtful legislation drafted in response to this incident will make sure no condominium association, cooperative association, or residential real estate management association is able to prevent residents from displaying the Service flag in honor of their loved ones on or around their homes.

I strongly urge my colleagues to support this legislation.

I reserve the balance of my time.

Ms. JENKINS. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, today I rise in support of H.R. 2546, the Blue Star/Gold Star Flag Act. This bill ensures the rights of an individual to display the Service flag on a residential property without limitation.

The Service flag, also referred to as either the Blue Star or Gold Star flag, is an official banner authorized by the Defense Department for display by

families of members serving in the Armed Forces during a period of war. Since World War II, the Blue Star and Gold Star Service flag has been a way for families and the communities they live in to show their pride and concern for our troops in the field.

Each blue star on the flag represents a servicemember on Active Duty, while a gold star signifies a servicemember who was killed in action or who died in service. The Service flag may also be displayed by an organization to honor the members of that organization serving during a period of war or hostilities.

We must do everything we can to show our support for our troops. For the men and women serving in our military and their families, the Service flag has significant meaning. This flag is a symbol of the sacrifices that our military men and women make as they put their lives on the line to protect our country. Their family members should be allowed to fly the flag in honor of those sacrifices, no matter where they live, and H.R. 2546 ensures the rights of an individual to display the Service flag on residential property without limitation.

The bill we are considering today is similar to the Freedom to Display the American Flag Act of 2005, which passed the House by a voice vote and was later signed into law.

Madam Speaker, I too want to thank my colleague from Ohio (Mr. BOCCIERI) for championing this important legislation. H.R. 2546 ensures that our America's military families are able to honor their loved ones' service to our country by displaying the Service flag no matter where they live.

This bill deserves our support, and I urge the adoption of H.R. 2546, the Blue Star/Gold Star Flag Act.

Madam Speaker, I reserve the balance of my time.

Mr. MOORE of Kansas. Madam Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. BOCCIERI), the chief sponsor of this important legislation.

Mr. BOCCIERI. Madam Speaker, I thank the gentleman from Kansas (Mr. MOORE) and the committee for their work on this important bill that recognizes the service of our strong military members who find themselves on multiple rotations, and some of those who find themselves injured. Today the Blue Star/Gold Star Flag Act of 2009 is a tribute to those military families.

In 2009, one of my constituents was required by her condominium association to remove the Service flag. It was placed in her window in honor of her son, an Iraq war soldier who had served multiple tours and was twice injured in the line of duty while serving over in Iraq. They were both roadside bombs.

The Service flag, or the Blue Star flag or Gold Star flag, is an official banner, as has been said, by the Department of Defense, and it's been on

display by families of members serving in the Armed Forces during a period of war.

The Service flag has significant meaning to our Nation and the families of the men and women who are serving. It's a symbol of the sacrifices and service of our members of the military who put their lives on the line every day to protect all of us, and that's why family members should be allowed to fly the flag in honor of those sacrifices, no matter where they live.

This bipartisan, commonsense measure is based on the Freedom to Display the American Flag Act of 2005 that passed both Chambers overwhelmingly during the 109th Congress. The legislation prohibits residential real estate management associations from preventing residents from displaying the Service flag on or around their homes or places of dwelling. I introduced this measure to ensure that people have the right to display the Service flag without limitation.

As a major in the Air Force Reserve and flying multiple missions in Iraq and Afghanistan, flying those wounded and fallen soldiers out of the country, it is significant that we allow the families to be represented and to be represented of the service of their loved one. I was honored when I learned that the Ohio State Legislature had displayed a Service flag for me while I was serving in Iraq and Afghanistan from 2004 through 2005. It was at the State capitol and on display.

I would like to thank all the supporters of this legislation, as my office has received thousands of signatures from Ohioans and members of the military, as well as those families around the country who support this measure, as well as endorsements from the Air Force Sergeants Association, VoteVets.org, and over 50 of my colleagues have supported this legislation, which will aid in its passage.

I would like to thank Chairman FRANK, Ranking Member SPENCER BACHUS for their help on this important bill that honors the service of our military members and gives all people, no matter where they live, the right to honor them, too.

As I've said before, as a military member myself, I'm proud to stand before you today having worked on those critical measures which can become law for our veterans, including improving access to health care in rural areas for veterans, ensuring the VA can adequately handle mental health issues for those returning vets from the front lines.

You know, today we stand together in a bipartisan way. We intend to make the Blue Star/Gold Star Flag Act of 2009 a law for military families. While they stood up and fought for us, it's now time that we stand up and fight for their families to recognize their service.

Ms. JENKINS. Madam Speaker, I yield as much time as he may consume to the gentleman from Minnesota (Mr. PAULSEN), my friend and colleague.

Mr. PAULSEN. Madam Speaker, I also rise today as a strong supporter of H.R. 2546, the Blue Star/Gold Star Flag Act. This is a straightforward bill that will ensure that those who want to honor the men and women of our Armed Forces can absolutely do so. Specifically, this bill protects the rights of an individual to display the Service flag on residential property without limitation.

Service flags are official banners authorized by the United States Department of Defense for display by families of military members serving our country during periods of war. The blue star, as was mentioned earlier, represents that a family member is currently serving, and the gold star signifies that a family member has given their life in service to our Nation. Both of these flags are a constant reminder of the honor, of the duty, of the service and the sacrifice our members embody that provide that service each and every day.

There should be no question, no question at all that America's military families can display a Service flag in front of their place of residence if they choose to do so. Unfortunately, current law does not allow that to take place. It doesn't guarantee that right to display that Service flag in certain housing condominium associations or in real estate management associations. So this bill merely addresses a commonsense problem in allowing the military families to proudly honor their loved ones.

I just want to thank the gentleman from Ohio (Mr. BOCCIERI) for his leadership on this issue, his service himself. This is important legislation. It goes right to the heart of the servicemember families and what they believe in, and I urge support.

Mr. MOORE of Kansas. Madam Speaker, we have no further speakers and we are prepared to close, so I will reserve the balance of my time.

Ms. JENKINS. Madam Speaker, I yield as much time as he may consume to the gentleman from New York (Mr. LEE), my friend and colleague.

Mr. LEE of New York. Madam Speaker, to follow on to what my colleagues' points have been, first and foremost, I do want to thank my good friend from Ohio (Mr. BOCCIERI) for his hard work with this important bill that ensures the Service flag can be displayed on residential properties, which is key, without limitation.

Each day, millions of Americans proudly display the Service flag in recognition of conflicts overseas. However, due to some unreasonable and misguided policies instituted by some housing associations, the Service flag has been unable to fly free. The bill be-

fore us today will ensure that those who wish to proudly honor those serving in conflicts around the world will be able to do so.

The Service flag is a meaningful symbol used by many to honor brave men and women currently serving in war zones, as well as those killed in action or who have died in service. There should be no restrictions on honoring these courageous souls, and the passage of this bill brings us one step closer to ensuring that this is the case.

Ms. JENKINS. Madam Speaker, I have no further requests for time and yield back the balance of my time.

Mr. MOORE of Kansas. Madam Speaker, H.R. 2546 is a commonsense, bipartisan bill that rightfully honors all of our servicemen and women fighting to protect us and the families that support them. I urge my colleagues to vote in favor of this bill.

Mr. BACHUS. Madam Speaker, when it comes to supporting our troops, it is essential that we as Americans unite as one community.

Our brave men and women in uniform need our support. And so do their families, who live daily with the knowledge that a loved one may be put in harm's way in the defense of freedom.

Since World War I, the Blue Star and Gold Star banners have been a way for families—and the communities they live in—to show their consideration and respect for our troops in the field.

My home State of Alabama has very active Blue Star and Gold Star programs. Glenn Nivens of Blue Star Salute in Alabama, Rachel Clinkscale of Gold Star Wives of America, and Marynell Winslow of Alabama Gold Star families represent, as leaders of their respective organizations, the many citizens of Alabama who are tireless in their support of our troops and their families.

Whenever I see those powerful banners—and in fact, I've had the honor of being presented with a Blue Star banner which I proudly display in my office—I always reflect on what it takes to keep America free. This has been the case for generations of Americans.

There should never be an impediment to displaying the Blue Star and Gold Star banners, whether it is in the window of a house, a business, or in the case of this legislation, a condominium unit. Some of my colleagues may remember that in 2005, we passed similar legislation also referred to the Financial Services Committee that protected the display of the U.S. flag.

If anything, we should be promoting greater participation in the Blue Star and Gold Star programs as a way to show appreciation for our troops and our solidarity with their families.

The Sixth Annual Blue Star Salute will be held at the American Village in Montevallo in my district on Memorial Day. It would be a great pleasure to report to them that the House of Representatives has voted strongly to support the freedom of our families to proudly display the Blue Star and Gold Star banners.

Ms. RICHARDSON. Madam Speaker, I rise today as a proud cosponsor of H.R. 2546, the



Blue Star/Gold Star Flag Act of 2009, which will prohibit a condominium association, cooperative association, or real estate management association from preventing a resident from displaying a military service flag on his or her property or living space. This important measure will ensure that the families of our servicemen and servicewomen have the right to honor their brave loved ones for their service to this country.

I would like to thank Chairman FRANK for his leadership in bringing this bill to the floor. I would also like to thank the sponsor of this legislation, Congressman BOCCIERI. I am deeply grateful to Congressman BOCCIERI for his service to this nation and I thank him for helping to ensure that no American is deprived of the opportunity to honor a family member who is courageously defending our country.

Madam Speaker, I am deeply saddened by accounts of individuals being required by condominium and apartment owners to remove the service flags flown in their windows or on their porches in honor of family members serving overseas. Every American deserves the right to honor a loved one serving in the military. Our Nation should never discourage expressions of support for its troops. Fortunately, this legislation will ensure that never again will a mother be told that she cannot honor her son or daughter, whose service fills her with pride and for whose wellbeing and safety she prays daily.

Madam Speaker, California's 37th district is home to over 24,000 veterans and hundreds of brave men and women currently enlisted in the Armed Forces, many of whom are fighting in the wars in Iraq and Afghanistan. I am forever grateful for their service and consistently work to ensure that they receive recognition for their courage and the support they need upon returning home. I stand in solidarity with their families in honoring their bravery and hoping that those who are currently deployed soon return home to be reunited with their loved ones.

With Memorial Day just over a week away it is important that we take time to honor and express our gratitude for the fallen heroes who made the ultimate sacrifice on behalf of our country. We must also commit ourselves to standing by the families of our brave men and women in uniform. My district has a long history of supporting military families. Long Beach is home to the Gold Star Manor, which provides affordable and quality housing to mothers who have lost sons or daughters in the service of their country. We must continue supporting the family members of our men and women in uniform and always express our gratitude for our troops' willingness to risk their lives on behalf of our Nation.

I urge my colleagues to join me in supporting H.R. 2546.

Ms. FOXX. Madam Speaker, it is no coincidence that the greatest country in the history of civilization also happens to have the world's finest military. The strength and caliber of our military results from a variety of factors, not the least of which is the way in which our government provides for the veterans and their families who have sacrificed so much. Indeed, my love and passion for supporting America's veterans is second-to-none.

Wednesday, May 19, the House passed H.R. 2546, the Blue Star/Gold Star Flag Act of

2009 by voice vote. This legislation would impose a federal prohibition against a homeowners' association policy preventing residents from displaying a Service flag on or around their homes. This proposal is a response to an incident in which a homeowners' association prevented an Ohio woman from displaying a Service flag honoring her son who served in Operation Desert Storm and again in 2003 in Iraq. Although the homeowners' association ultimately made an exception in this circumstance, such policies are offensive to many Americans, such as myself, who hold such great affection for our country's cherished service members and veterans.

In this respect, I can certainly appreciate the support for legislation such as H.R. 2546. However, I take exception with this matter coming before Congress, since this body has no Constitutional authority to impose such a mandate on the private sector. Indeed, matters such as this are best left to the discretion of local governments or civic associations.

Allowing Congress to possess this type of authority could ultimately lead to more controversial proposals. Certainly there would be great objections raised if Congress sought to prohibit homeowners' association policies preventing the display of the Confederate flag or nativity scenes. On the other hand, one must wonder whether Congress could one day prohibit speech of the minority which our Founding Fathers so vehemently sought to protect.

Our Constitution established a set of enumerated powers to prevent Congress from seizing illegitimate powers. Despite the best of intentions, the rule of law rightly supersedes congressional desires to respond to the passions of the moment. Doing otherwise would set a precedent, opening the flood gates to future policies considerably more problematic than the one before us today.

The framers of the Constitution envisioned a nation composed of states empowered to govern according to the will of the people, with a Federal Government tasked with limited responsibilities and powers. As the 10th amendment states so clearly, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Each time the Federal Government, even with the finest motivations, intrudes into the jurisdiction of the States and the people of America, the Constitution is further undermined and the erosion of liberty continues apace.

Good intentions were never meant to stand in for constitutional governance. Congress must rein in its tendency to legislate solutions to even the smallest of "problems" that would be better left to local problem-solvers in either local government or private citizen associations. With each passing usurpation of the rights of State and local governments and with each imposition of a federal one-size-fits-all "solution," Congress dilutes the strength of federalism and pushes our nation closer to dependency upon a power-hungry central government.

Mr. MOORE of Kansas. I yield back my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kansas (Mr. MOORE) that the House suspend the rules and pass the bill, H.R. 2546.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### 5-STAR GENERALS COMMEMORATIVE COIN ACT

Mr. MOORE of Kansas. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1177) to require the Secretary of the Treasury to mint coins in recognition of five United States Army 5-Star Generals, George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry "Hap" Arnold, and Omar Bradley, alumni of the United States Army Command and General Staff College, Fort Leavenworth, Kansas, to coincide with the celebration of the 132nd Anniversary of the founding of the United States Army Command and General Staff College, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1177

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "5-Star Generals Commemorative Coin Act".

#### SEC. 2. FINDINGS.

The Congress finds the following:

(1) The United States Army Command and General Staff College, founded in 1881, has in its many evolutionary forms, served this country consistently and well for 127 years.

(2) The Command and General Staff College has played a decisive role in the education and training of officers, particularly in their field grade years of service, in times of war and peace, since its establishment.

(3) The Command and General Staff College has had a salutatory effect on many fields of battle by providing its officer student bodies the necessary skills of battle management, leadership development, and the most modern and effective command and staff action procedures, all of which have been key to this Nation's success in its many conflicts which, thereby, have preserved its freedoms and way of life.

(4) The Command and General Staff College, the Nation's oldest military staff college, does not have a commemorative coin cast in celebrating its long and honorable history, displaying its heritage, and serving as a reminder to the holder of such coins the service to the Nation its graduates have provided in war and peace.

(5) The United States Army Command and General Staff College is the Nation's largest and oldest military staff college, continuing to educate officers from all United States branches of military services, select members of our civil government, and officers from many friendly and allied nations from around the globe. Located in the middle of the American heartland, will continue to serve as a beacon of light to the proposition of intellectual curiosity and professional military excellence in the development of its students, and serve as a link to American citizenry grateful for the sacrifices, some in the fullest measure of duty and devotion to the Nation, made by the graduates of its Command and Staff College.



(6) The Command and General Staff College Foundation, Inc. (in this Act referred to as the "Foundation") is dedicated to promoting excellence in the faculty and students of the United States Army Command and General Staff College. Seeking new ways to educate and remind our citizens regarding the capable and selfless service of our military officers, and to imbue in them a sense of pride in those who bear the burden of military leadership in our Nation's wars and in times of peace.

(7) The Foundation is a nongovernmental, member-based, and publicly supported nonprofit organization that is entirely dependent on funds from members, donations, and grants for its functions and supports exclusively the United States Army Command and General Staff College.

(8) The Foundation uses funding to provide the Margin of Excellence to the programs and activities of the College in support of the educational needs of the Nation's field grade officer corps, and the faculty and staff attendant thereto.

(9) In 2006, the Secretary of the Army accepted the first Foundation gift to the College in support of the Command and General Staff College.

(10) The Foundation is actively engaged in the initial stages of its first capital campaign to support the Command and General Staff College.

(11) The five 5-Star Generals who attended or taught at the Command and General Staff College; include Douglas MacArthur, George C. Marshall, Henry "Hap" Arnold, Dwight D. Eisenhower, and Omar N. Bradley.

(12) DOUGLAS MACARTHUR, GENERAL OF THE ARMY.—

(A) General MacArthur was a distinguished soldier, scholar, and strategist who gave sixty-one years of service to his country.

(B) He commanded the 42d Division in World War I, and later served as the Chief of the Army General Staff. Prior to retirement, he was the Military Advisor to the Commonwealth of the Philippines.

(C) In 1941, he was recalled to active duty as Commanding General, United States Army Far East.

(D) He was awarded the Medal of Honor for his heroic defense of the Philippines.

(E) After being ordered to depart the Philippines by the President, he inspired the world with his statement, "I shall return."

(F) Forces under his command defeated those of the Empire of Japan.

(G) After accepting the Japanese surrender, he directed the highly successful reconstruction of the Japanese nation, and served as the first commander of United Nations Forces during the Korean War.

(H) General MacArthur, son of General Arthur MacArthur, spent time as a child at Ft. Leavenworth and later in his career, he taught as a Captain in the Field Engineering School, and served as the adjutant, quartermaster, and commanding officer of the 3d Engineer Battalion (later reflagged as the 2d Engineer Battalion).

(13) GEORGE C. MARSHALL, GENERAL OF THE ARMY.—

(A) General George C. Marshall entered the Army from the Virginia Military Institute in 1902.

(B) During a long career of public service, he distinguished himself as a leader, tactician, strategist, statesman, and, truly, as the "Organizer of Victory."

(C) In World War I, he was regarded as one of the most talented staff officers in the United States Army.

(D) After that war, and throughout the many long and challenging duties of the

interwar years, he was appointed United States Army Chief of the General Staff in 1939.

(E) During World War II, he achieved recognition as one of America's greatest military leaders.

(F) As chief strategist of that global war, he materially assisted in directing the Allied Powers to victory.

(G) In 1947 he was appointed Secretary of State for the United States and his outstanding career as a statesman proved equal to his brilliant military career.

(H) He was awarded the Nobel Peace Prize for his conception and implementation of the European Recovery Program, and, subsequently, he served as the Secretary of Defense for 1 year.

(I) General Marshall's service at Ft. Leavenworth included graduation from the United States Army School of the Line in 1907, the United States Army Staff College in 1908, followed by instructor duty at Ft. Leavenworth from 1909 and 1910.

(14) HENRY H. ARNOLD, GENERAL OF THE ARMY.—

(A) General "Hap" Arnold is the only officer in the history of our country to earn the ranks of General of the Army and General of the Air Force.

(B) General Arnold, a graduate of West Point in 1907, received his pilot training in 1911 from the Wright brothers in Dayton, Ohio.

(C) He became one of our Nation's strongest advocates for air power, and personally held numerous records and trophies for flying achievements, to include the first delivery of United States mail by air.

(D) Accomplishments in and from the air in the World Wars, particularly in World War II, were heavily influenced by his genius.

(E) As a result of General Arnold's contributions, massed air power gave a third dimension to battles of World War II, swept the skies of the enemy, and denied him mobility on the ground.

(F) One of General Arnold's citations reads in part: "From conception to execution, General Arnold's leadership guided the mightiest air force in history."

(G) General Arnold's service at Ft. Leavenworth was as a student at the Command and General Staff College, 1928–1929.

(15) DWIGHT D. EISENHOWER, GENERAL OF THE ARMY.—

(A) General Dwight D. Eisenhower, in 1915, began a career of distinguished public service reaching the highest positions of military and civil leadership in the United States.

(B) During World War II, as Commander in Chief, Allied Expeditionary Force, he led the invasion of North Africa and defeated the German force on that continent.

(C) In 1944, as Supreme Allied Commander, Allied Expeditionary Force, he was instructed: "You will enter the continent of Europe, and, in conjunction with other United Nations, undertake operations aimed at the heart of Germany and the destruction of her armed forces."

(D) In accomplishing this mission, he commanded the largest combination of land, sea and air forces in history.

(E) Following World War II, he was instrumental in the development of the North Atlantic Treaty Organization.

(F) After his brilliant military career he was elected 34th President of the United States.

(G) His service at Ft. Leavenworth was 1917–1918 as a tactical instructor officer for a course for lieutenants and in 1925–1926 as a

student at the Command and General Staff College from which he was the honor graduate of his class.

(16) OMAR N. BRADLEY, GENERAL OF THE ARMY.—

(A) Throughout his distinguished military career, General Omar N. Bradley was recognized as an exceptional leader, tactician, and educator.

(B) As Commandant of the Infantry School, he developed the officer candidate program through which more than 45,000 combat leaders of World War II were commissioned.

(C) During the war, he successfully commanded a division, corps, army, and army group. While commanding II Corps, he was instrumental in defeating German forces in North Africa and Sicily.

(D) His successful career as a field commander reached a peak when, as commander of the 12th Army Group, he greatly assisted in the liberation of Europe.

(E) This group contained the largest number of American to ever serve under one commander. He became the Army Chief of Staff in 1948 and the first Chairman of the Joint Chiefs of Staff in 1949.

(F) General Bradley's service at Ft. Leavenworth was as a student at the Command and General Staff College, 1928–1929.

### SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—In recognition and celebration of the 5-Star Generals attendance and graduation from the Command and General Staff College, and notwithstanding any other provision of law, the Secretary of the Treasury (hereafter in this act referred to as the "Secretary") shall mint and issue the following coins:

(1) \$5 GOLD COINS.—Not more than 100,000 \$5 coins, which shall—

(A) weigh 8.359 grams;

(B) have diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) \$1 SILVER COINS.—Not more than 500,000 \$1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(3) HALF DOLLAR CLAD COINS.—Not more than 750,000 half dollar coins which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

### SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall include the portraits of Generals George C. Marshall, Douglas MacArthur, Dwight D. Eisenhower, Henry "Hap" Arnold and Omar N. Bradley.

(2) DESIGNATIONS AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the face value of the coin;

(B) an inscription of the year "2013"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall—

(1) be selected by the Secretary after consultation with the Command and General Staff College Foundation, and the Commission of Fine Arts; and

(2) be reviewed by the Citizens Coinage Advisory Committee.

#### SEC. 5. ISSUANCE OF COINS.

(a) **QUALITY OF COINS.**—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) **MINT FACILITIES.**—For each of the three coins minted under this Act, at least one facility will be used to strike proof quality coins, while at least one other facility will be used to strike the uncirculated quality coins.

(c) **PERIOD FOR ISSUANCE.**—The Secretary may issue coins minted under this Act only during the 1-year period beginning on January 1, 2013.

#### SEC. 6. SALE OF COINS.

(a) **SALE PRICE.**—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) **BULK SALES.**—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) **PREPAID ORDERS.**—

(1) **IN GENERAL.**—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) **DISCOUNT.**—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

#### SEC. 7. SURCHARGES.

(a) **IN GENERAL.**—All sales of coins minted under this Act shall include a surcharge as follows:

(1) A surcharge of \$35 per coin for the \$5 coin.

(2) A surcharge of \$10 per coin for the \$1 coin.

(3) A surcharge of \$5 per coin for the half dollar coin.

(b) **DISTRIBUTION.**—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Command and General Staff College Foundation to help finance its support of the Command and General Staff College.

(c) **AUDITS.**—The Command and General Staff College Foundation shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received by the Foundation under subsection (b).

(d) **LIMITATION.**—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

#### SEC. 8. BUDGET COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory

Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Committee on the Budget of the House of Representatives, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kansas (Mr. MOORE) and the gentlewoman from Kansas (Ms. JENKINS) each will control 20 minutes.

The Chair recognizes the gentleman from Kansas.

#### GENERAL LEAVE

Mr. MOORE of Kansas. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on this legislation and to insert any extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. MOORE of Kansas. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I rise today in strong support of H.R. 1177, the 5-Star Generals Commemorative Coin Act. I was pleased to introduce this bipartisan legislation last year with my colleagues from Kansas, Representatives LYNN JENKINS, TODD TIAHRT, and JERRY MORAN. I appreciate their work in helping to find cosponsors. The legislation now has 300 Republican and Democratic cosponsors, including a very special one of our colleagues that we learned had a very strong connection to this bill after we filed it. I'll discuss his connection in a moment.

H.R. 1177 will authorize the U.S. Treasury to mint a series of commemorative \$5 and \$1 and half-dollar coins bearing the likeness of five U.S. generals who served during World War II. The coins would honor these 5-star generals:

General Dwight D. Eisenhower, who was the Supreme Allied Commander in Europe during World War II, and later President of the United States;

General George Marshall, who was the Army Chief of Staff during World War II, and later Secretary of State and Defense Secretary;

General Douglas MacArthur, who led Allied forces to victory in the Pacific theater during World War II, and later led Allied forces in the Korean War;

General Henry Arnold, who commanded the Army Air Corps in Europe and remains the only person ever to hold the title of General of the Air Force; and

General Omar Bradley, who commanded Allied forces on their march to victory in North Africa and became the first person to hold the position of Chairman of the Joint Chiefs.

□ 1415

All five of these 5-star generals either attended or taught at the U.S. Army

Command and General Staff College located in Leavenworth, Kansas. The commemorative coins would be issued in 2013, and the proceeds would be paid to the Command and General Staff College Foundation to help finance their outstanding work in supporting the college.

Finally, the colleague of ours who I mentioned earlier and who has a very special connection to this bill is my good friend from Iowa, Congressman LEONARD BOSWELL. Like the 5-star generals we honor with this bill, Congressman BOSWELL attended the Command and General Staff College as a student after his first Vietnam tour in 1968, and later served as an instructor at the end of his service career in 1974. He was recently inducted into the Fort Leavenworth Hall of Fame, and after learning about our bill, worked harder than all of us in rounding up the necessary cosponsors to move this bill forward.

I want to dedicate this bill to Congressman LEONARD BOSWELL's long and distinguished service to our country. To honor Congressman BOSWELL, our Nation's 5-star generals, the U.S. Army Command and General Staff College, and all of our servicemen and -women who sacrifice so much to defend our country, I strongly urge my colleagues to support this legislation.

COMMITTEE ON WAYS AND MEANS,

HOUSE OF REPRESENTATIVES,

Washington, DC, May 17, 2010.

Hon. BARNEY FRANK,

Chairman, Financial Services Committee, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN FRANK, I am writing regarding H.R. 1177, the 5-Star Generals Commemorative Coin Act.

As you know, the Committee on Ways and Means maintains jurisdiction over bills that raise revenue. H.R. 1177 contains a provision that establishes a surcharge for the sale of commemorative coins that are minted under the bill, and thus falls within the jurisdiction of the Committee on Ways and Means.

However, as part of our ongoing understanding regarding commemorative coin bills and in order to expedite this bill for floor consideration, the Committee will forgo action. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this bill or similar legislation in the future.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 1177, and would ask that a copy of our exchange of letters on this matter be included in the RECORD.

Sincerely,

SANDER M. LEVIN,  
Chairman.

COMMITTEE ON FINANCIAL SERVICES,

HOUSE OF REPRESENTATIVES,

Washington, DC, May 17, 2010.

Hon. SANDER M. LEVIN,

Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to your letter regarding H.R. 1177, the “5-Star Generals Commemorative Coin Act,”

which was introduced in the House and referred to the Committee on Financial Services on February 25, 2009. It is my understanding that this bill will be scheduled for floor consideration shortly.

I wish to confirm our mutual understanding on this bill. As you know, section 7 of the bill establishes a surcharge for the sale of commemorative coins that are minted under the bill. I acknowledge your committee's jurisdictional interest in such surcharges as revenue matters. However, I appreciate your willingness to forego committee action on H.R. 1177 in order to allow the bill to come to the floor expeditiously. I agree that your decision to forego further action on this bill will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation. I would support your request for conferees on those provisions within your jurisdiction should this bill be the subject of a House-Senate conference.

I will include this exchange of letters in the CONGRESSIONAL RECORD when this bill is considered by the House. Thank you again for your assistance.

BARNEY FRANK,  
*Chairman.*

I reserve the balance of my time.

Ms. JENKINS. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I rise today in support of H.R. 1177, the 5-Star Generals Commemorative Coin Act, and I commend the gentleman from Kansas, Representative MOORE, for introducing this legislation. The Command and General Staff College was founded at Fort Leavenworth, Kansas, in 1881. It is an educational center for excellence, and one of the most prominent leaders in military education and training. The school is the intellectual center of the Army. And in addition to training U.S. military officers, allied nations from around the world send their military officers to train at the staff college.

In fact, over the past 129 years, more than 90,000 U.S. military officers and 7,000 foreign military officers from 153 countries have graduated from the staff college, including Generals Colin Powell and David Petraeus. And upon graduation from the staff college, the majority of the international students attain the rank of general within their respective countries.

This legislation will direct the Secretary of the Treasury to mint coins in recognition of the five men who have achieved the rank of General of the Army, including Generals George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry "Hap" Arnold, and Omar Bradley. These five generals led our forces to victory in World War II, but they also taught or studied at the staff college.

The proceeds from the 5-star generals commemorative coin will help fund the Command and General Staff College Foundation to ensure military officers will be able to train there for years to come. The staff college is critical in the education and training of our military officers during times of war and

peace. At a time when our Nation is working to extend the hand of friendship to nations abroad, there is no better place to fulfill that mission than at the staff college because of the first rate intercultural exchange that the students experience.

Fort Leavenworth is in my congressional district, and I have spent a great deal of time learning about the successes of the staff college over the past 16 months. So today I would like to thank the chief executive officer of the Command and General Staff College Foundation, Col. Bob Ulin, who has championed this legislation from day one, and who hopefully is watching this debate and hopeful passage of the 5-Star Generals Commemorative Coin Act.

I would also like to thank chairman of the Command and General Staff College Foundation, Lt. Gen. Bob Arter. The commitment of Col. Ulin and Gen. Arter to educating and training the best and the brightest military officers who attend the staff college, and their support and tireless efforts to move this legislation forward, is deeply appreciated.

It is for these reasons that I urge all of my colleagues in the House to support this legislation to honor our Nation's military officers.

Madam Speaker, I reserve the balance of my time.

Mr. MOORE of Kansas. Madam Speaker, I yield 5 minutes to the gentleman from Iowa, Representative LEONARD BOSWELL.

Mr. BOSWELL. Madam Speaker, I rise today in strong support of H.R. 1177, the 5-Star Generals Commemorative Coin Act. I believe this legislation is very important to not only recognize the contributions of the Command and General Staff College to our U.S. military, but also to ensure that the program at the college remains strong for our future military leaders.

For over 129 years, the Command and General Staff College has produced some of the best military leaders in the world, including the five 5-star generals who taught or studied at the college, as mentioned, Generals George Marshall, Douglas MacArthur, Dwight Eisenhower, Hap Arnold, Omar Bradley. I might add that Colin Powell and David Petraeus also graduated from the school.

As Mr. MOORE mentioned, I had the honor to both attend the college as a student and then become an instructor during my military career, and I can attest to the fact that those I served with were truly the best in the world. Last fall I had the privilege to be the keynote speaker at the flag ceremony for the international military students at the school. A lot has changed from my time there, and I had the opportunity to see the state-of-the-art training that our military personnel are receiving.

This legislation will require the Treasury to mint and issue \$5 gold coins, \$1 silver coins, and half-dollar coins in recognition of the five U.S. Army 5-star generals. The surcharges in the sale of such coins will be paid to the Command and General Staff College Foundation to help finance support for the college.

The foundation, I can report, is capably led, and I appreciate the dynamic leadership of Ret. Col. Ulin. Some of the activities that the foundation performs include research grants for the faculty, support for the International Military Officer program, and support for guest speakers, professional development and other activities.

During my career in the Army, I had the privilege to serve alongside many great men and women. The passage of H.R. 1177 will ensure that the Command and General Staff College remains the world-respected military institute of higher education that it is today.

I would like to thank Mr. MOORE for introducing such an important bill, and urge my colleagues to support H.R. 1177.

Ms. JENKINS. I yield as much time as he may consume to the gentleman from Kansas, Representative TIAHRT.

Mr. TIAHRT. First of all, Madam Speaker, I would like to thank DENNIS MOORE for his leadership in this legislation. He has always sought during his career in Congress to find bipartisan legislation that we could work together on. I appreciate and also want to thank Congresswoman JENKINS for her participation and leadership in this issue as well as her time here on the floor and in Kansas.

This is a unique bill. It's unique legislation that not only recognizes the service and sacrifice of five United States 5-star generals but also supports important work at the Command and General Staff College Foundation at Fort Leavenworth, Kansas.

During this brief history of World War II, we had great leadership in America. Following that time, from 1944 to 1950, we had five heroic men who were promoted to 5-star status as generals, 5-star generals. These men all exemplified leadership. And when faced with difficult times, they chose to do the right thing and pursued strong goals to keep this world safe. And leadership matters. I think that's why this bill is important and why it matters.

In times that are challenging, whether it's a time of war or a time of peace, we still are confronted with difficult situations, whether it's the economy or the safety of this country, and leadership is an important facet of finding our way through these difficult times. These five men exemplified that kind of leadership.

I am also very pleased with how this bill was designed by Congressman MOORE to allow the revenues to go to

the United States Army Command and General Staff College Foundation. The Command and General Staff Foundation is dedicated to supporting the mission and the people of the U.S. Army Command and General Staff College.

At the Command and General Staff College we not only educate men and women in the United States armed services, but we also have fellows who come from other countries and learn about this country and learn about how we protect freedom. I think it's valuable information.

But one of the side benefits from the school I experienced personally is something I think goes on around the world. In 2001, we had two Kansas missionaries that were taken hostage by Philippine Muslim terrorists. At that time I went to our National Security Adviser and requested that we have our troops rescue these missionaries, our military go out and rescued Martin and Gracia Burnham. At that time we had no plans to do that in this government, so I bought a commercial airline ticket and flew to the Philippines.

The liaison office was kind enough to send with me then a Marine colonel, Col. Regner, who is now Maj. Gen. Regner, and together we went to the Philippines. On the day before New Year's, in 2001, we flew over Basilan Island in the Philippines, where Martin and Gracia Burnham, the two Kansas missionaries, were held hostage.

The next day, on New Year's Day 2002, Col. Regner and I met with President Arroyo at the Presidential Palace. I was greeted by a cold shoulder, if I can use that term, and it was because they really didn't have much, I think, to expect from what they could do on behalf of these missionaries.

But when I walked in the room, Col. Regner recognized a colonel in the Philippine Army that he had attended school with at Fort Leavenworth at the Command and General Staff College. They greeted each other warmly, and the ice in the room melted. We were able to then negotiate several things for our military to help assist the rescue attempts for the Burnhams. And we were able to get, for example, training for the Philippine Army, and we were able to get advisers to travel along with the platoons that had completed their training, and also some assets overhead to find out where they were being held hostage.

Long story short is that Gracia Burnham is home in Rose Hill, Kansas, safely today. Her husband Martin was killed in the rescue attempt. And it was because our advisers were not able to be with that platoon at the time they ran into the Philippine terrorists.

But the good news about the Command and General Staff College is that they open doors all around the globe. This foundation is going to support that organization. So I also want to thank Bob Ulin, the CEO of the CGSC

Foundation, for his dedication to the men and women of the United States Army.

And again, thank you, Congressman MOORE, for your leadership here. And I want to thank the gentlewoman, Congressman LYNN JENKINS, from Kansas for the time.

Ms. JENKINS. I yield as much time as he may consume to the gentleman from Kansas, Representative MORAN.

Mr. MORAN of Kansas. I thank the gentlewoman from Kansas for yielding to me. It's one of the rare occasions in which all four Members of the House delegation from our State are together on the floor. And I am honored to be here with my colleagues.

For nearly 130 years, the U.S. Army Command and General Staff College at Fort Leavenworth, Kansas, has played a central role in educating military commanders and producing world leaders. Many of this college's alumni are the legendary names that my generation grew up reading about and who continue to inspire us and our country today: Marshall, MacArthur, Eisenhower, Arnold, Bradley.

The legislation we consider today, introduced by my colleague, the gentleman from Kansas (Mr. MOORE) directs the Mint to create a coin in recognition of these 5-star generals. The proceeds will benefit the nonprofit foundation formed in 2005 to enhance the education programs offered at the Command and General Staff College.

Ret. Gen. Gordon Sullivan described the Command and General Staff College as the intellectual heart of the Army. Part of what makes the heart beat so strong in recent years is the Command and General Staff College Foundation. Under the leadership of Ret. Col. Bob Ulin, the foundation has successfully supported our country's oldest and largest military staff college by offering many programs and activities to promote excellence. This success was recently acknowledged with a tremendous pledge by Ross Perot for two new education initiatives.

With no shortage of threats today from around our world, our country is demanding much from those who serve us in uniform. Our servicemembers deserve the best education and training to accomplish these missions.

□ 1430

The proceeds of these coins will help ensure that we meet this commitment to America's military men and women.

I want to especially acknowledge my fellow Member from Kansas, the Honorable LYNN JENKINS, for her work in moving this legislation forward. I also want to thank my friend and colleague, Iowa Congressman LEONARD BOSWELL, who personally secured many of the bill's 300 cosponsors. Mr. BOSWELL is a highly decorated Vietnam veteran and a former instructor at the college. Last

week I had the pleasure of watching him be inducted into Fort Leavenworth's Hall of Fame. Congratulations and best regards to my colleague from Iowa (Mr. BOSWELL) on this great honor.

This legislation both honors these great soldiers and alumni of the Command and General Staff College, but also helps the college continue its vital mission of professional military education. I urge my colleagues' support.

Ms. JENKINS. Madam Speaker, I have no further requests for time and yield back the balance of my time.

Mr. MOORE of Kansas. Madam Speaker, H.R. 1177 is a bipartisan measure that honors our 5-star generals, our colleague, Representative BOSWELL, and all of our servicemen and -women fighting to protect us. I urge my colleagues to vote in favor of this bill, and I yield back my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kansas (Mr. MOORE) that the House suspend the rules and pass the bill, H.R. 1177, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. MOORE of Kansas. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### STEWART LEE UDALL DEPARTMENT OF THE INTERIOR BUILDING

Mr. TEAGUE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5128) to designate the Department of the Interior Building in Washington, District of Columbia, as the "Stewart Lee Udall Department of the Interior Building," as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5128

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. DESIGNATION.

*The United States Department of the Interior Building located at 1849 C Street, Northwest, in Washington, District of Columbia, shall be known and designated as the "Stewart Lee Udall Department of the Interior Building".*

#### SEC. 2. REFERENCES.

*Any reference in a law, map, regulation, document, record, or other paper of the United States to the building referred to in section 1 shall be considered to be a reference to the "Stewart Lee Udall Department of the Interior Building".*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. TEAGUE) and the gentleman from Louisiana (Mr. CAO) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico.

GENERAL LEAVE

Mr. TEAGUE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 5128.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. TEAGUE. Madam Speaker, I yield myself as much time as I may consume.

H.R. 5128, as amended, is a bill introduced by Congressman HEINRICH, Congressman LUJÁN, and myself to designate the Department of the Interior building in Washington, District of Columbia, as the Stewart Lee Udall Department of the Interior Building.

Stewart Lee Udall was the consummate public servant, serving four terms in the United States Congress and 9 years as the Secretary of the Interior. Secretary Udall also enlisted in the Armed Forces during World War II, serving as a gunner in Europe with the 15th Air Force until 1944.

After his service in World War II, Secretary Udall later returned to the University of Arizona and earned a law degree in 1948. He opened a law practice with his brother, former U.S. Congressman Morris Udall, and then ran for and won election as a Member of the House of Representatives from Arizona. During his time in the House of Representatives, Secretary Udall served on the Committee on the Interior and Insular Affairs and the Committee on Education and Labor.

Secretary Udall's service in the House ended when he was appointed by John F. Kennedy as Secretary of the Interior in 1961. From this perch, Secretary Udall earned his reputation as a giant amongst men in the environmental community, authoring several major legislative acts that have served as the framework for modern environmental conservation.

Secretary Udall served for 9 years as head of the Interior Department acting as the administration's primary advocate for preservation and responsible environmental stewardship. Among his other accomplishments, Secretary Udall presided over the expansion of several national parks and preserves, including the Redwood National Park, the Appalachian Scenic Trail, and the North Cascades National Park.

After the Secretary's service in the Cabinets of President Kennedy and President Lyndon B. Johnson, he rejoined the private sector as a member of a law firm and focused on environ-

mental advocacy by filing lawsuits on behalf of Native Americans impacted by nuclear pollution.

Secretary Udall also went on to serve as adjunct professor at Yale University and authored several books on conservation and highlighting the national treasures of the United States of America.

Former Interior Secretary Stewart Udall died on March 20, 2010, surrounded by his family and friends. He is survived by six children and eight grandchildren, including his son and his nephew, MARK and TOM UDALL, who were both Members of the House of Representatives before being elected to the other body.

Given his service to his country, it is fitting that we honor the memory of former Interior Secretary Stewart Lee Udall and designate the United States Department of the Interior building located at 1849 C Street, NW, in Washington, DC, as the Stewart Lee Udall Department of the Interior Building. I urge my colleagues to join me in supporting this bill.

Madam Speaker, I reserve the balance of my time.

Mr. CAO. Madam Speaker, I yield myself as much time as I may consume.

H.R. 5128 would designate the Department of the Interior Building in Washington, DC, as the Stewart Lee Udall Department of the Interior Building. Stewart Udall had a long history of service to our country. He served as a gunner in the Army Air Corps during World War II and later was elected to Congress as a Representative from Arizona.

In 1961, he was appointed as Secretary of the Interior, serving during both the Kennedy and Johnson administrations. While Secretary of the Interior, he was a tireless advocate for the environment and the protection of National Park lands.

Secretary Udall was the driving force behind the passage of the Wilderness Act, the Wild and Scenic Rivers Act, the Land and Water Conservation Fund Act, and the expansion and protection of our National Park system. Stewart Udall demonstrated a strong commitment to public service. It is only fitting that the Interior building be named after someone who demonstrated such a commitment to our Nation's natural resources.

As we honor Secretary Udall's service, we must be mindful of the threats that continue to menace our Nation's natural resources. Even as we speak, a rapidly spreading oil slick threatens hundreds of miles of coastline and thousands upon thousands of acres of wetlands in my home State, Louisiana, and throughout the gulf coast. The slick has already dealt a devastating blow to thousands of those whose livelihoods depend upon the protection of our natural resources.

Throughout the gulf coast, fishermen and avid environmentalists are suffering and will continue to suffer for years to come. They have lost more than a few days of fishing. This affects their livelihoods and their way of life. Fishing fleets are idle. Fishermen are without work. Some, in their despair, have told me they've contemplated suicide.

The extent of the damage will not be known for some time, but already I have seen the ravages of this economic and environmental disaster, the effects of which will linger for years.

Secretary Udall understood, indeed, he foresaw, that we would need to manage our natural resources carefully to avert just this type of disaster. Here today in 2010 we are facing one of the worst environmental disasters in history, and we have to ensure that ongoing stewardship of all of our natural resources remains a priority.

While the Coast Guard and countless volunteers burn, skim, and lay miles of boom to mitigate this disaster, we have a unique opportunity to revisit Mr. Udall's legacy of stewardship.

I urge this Congress to go beyond honoring his memory today by paying tribute to what he stood for by taking a proactive approach to ensuring all our natural resources be safeguarded appropriately.

Secretary Udall understood that our happiness and prosperity as a Nation depend upon our wise stewardship of our natural resources. His vision should serve as an example not only to his successors at the Department of the Interior but to all Americans. I support passage of this legislation and urge my colleagues to do the same.

I reserve the balance of my time.

Mr. TEAGUE. Madam Speaker, I yield as much time as he may consume to the gentleman from New Mexico, Mr. MARTIN HEINRICH.

Mr. HEINRICH. Madam Speaker, earlier this year we lost a national treasure and a personal hero of mine, former Interior Secretary Stewart Udall. Though quiet and humble, his impact was that of a giant and his defense of our Nation's wildlands will remain immeasurable.

Secretary Udall's lifetime of achievement will continue to be felt by every American. Thanks to his work, our national parks and public lands belong to every American and will remain a treasured part of our Nation's spirit for generations to come.

Throughout my life, I have drawn personal and professional inspiration from Mr. Udall's remarkable leadership. So I was proud to sponsor H.R. 5128, a bill that will designate the Department of the Interior building in Washington, DC, as the Stewart Lee Udall Department of the Interior Building. It is only fitting that we honor his legacy by naming the Interior building after Secretary Udall. I

would urge all of my colleagues to support this legislation.

Mr. CAO. I continue to reserve the balance of my time.

Mr. TEAGUE. Madam Speaker, I yield as much time as he may consume to the gentleman from New Mexico, Mr. BEN RAY LUJÁN.

Mr. LUJÁN. Thank you very much to my colleague from New Mexico (Mr. TEAGUE).

Secretary Udall, a great American, a great New Mexican, and it's an honor to sponsor this legislation to name the United States Department of the Interior in his name.

Secretary Udall spent his later life in my district in Santa Fe, New Mexico, but his work is seen across the country from our pristine wilderness to our clean rivers. We lost a friend, a hero, a true champion this year, a gentleman who fought to protect resources that will serve us for years to come. He worked to protect our land, our water, and the air we breathe. And we are all better for Secretary Udall's service.

But Secretary Udall's legacy goes beyond our beloved and critical resources. His legacy is about the people he impacted throughout his life—from those in Indian Country who suffered the effects of uranium mining, to inspiring young conservationists and acting as an example to all of us.

In naming the Department of the Interior building after Secretary Udall, we honor not only his incredible professional contributions; we honor a wonderful, compassionate person who tirelessly fought for both our resources and for all of the people who loved him so very much.

It's an honor to be here. I urge adoption of this important legislation.

Mr. OBERSTAR. Madam Speaker, I rise in strong support of H.R. 5128, as amended, a bill to designate the United States Department of the Interior Building located at 1849 C Street, Northwest, in Washington, District of Columbia, as the "Stewart Lee Udall Department of the Interior Building".

I knew Stuart Udall personally, and I have great admiration for the man. He was a great conservationist and environmentalist, and as fine a champion of this country's natural and cultural resources as the nation has ever produced.

Stewart Udall served in the U.S. House of Representatives before President Kennedy appointed him Secretary of the Interior, a position he held from 1960 to 1969. In this role, he spearheaded the enactment of a broad range of groundbreaking conservation laws, including the Clean Air Act, the Water Quality and Clean Water Restoration Acts and Amendments, the Wilderness Act, the Endangered Species Act, the Solid Waste Disposal Act, the National Trail System Act and the Wild and Scenic Rivers Act.

In the arena of historic preservation, Stewart Udall sought to make the Federal Government a partner—not an adversary—in the preservation of America's historic resources. He was instrumental in the passage of the National

Historic Preservation Act of 1966, the most far-reaching preservation legislation ever enacted in the United States. Programs he helped shape include the National Register of Historic Places, the Advisory Council on Historic Preservation, and the Historic Preservation Fund. This framework supports nearly every aspect of historic preservation today.

Stewart Udall was a naturalist, a conservationist, and an environmental activist: during the energy crisis of the 1970s, he advocated the use of solar energy as one means to remedy the country's growing dependence upon fossil fuels. As a member of the National Resources Defense Council, Udall defended the Environmental Protection Agency against closure due to budgetary cuts.

In 2008, High Country News published "A Message to Our Grand Children" signed by Stewart Udall and his late wife. A few excerpts from that document are illustrative of Udall's views:

"Americans must finally cast aside our notion that we can continue the wasteful consumption patterns of our past. We must promote a consciousness attuned to a frugal, highly efficient mode of living. . . . Foster a consciousness that puts a premium on the common good and the protection of the environment. . . . The lifetime crusade of your days must be to develop a new energy ethic to sustain life on earth. . . . Go well, do well, my children. Cherish sunsets, wild creatures and wild places. . . ."

Given Stewart Udall's lifetime commitment to championing, conserving and appreciating the earth's natural resources and beauties, I find that it is entirely fitting and appropriate that we designate the main office building for the Department of Interior as the "Stewart Lee Udall Department of the Interior Building".

I urge my colleagues to join me in supporting H.R. 5128.

Mr. GARAMENDI. Madam Speaker, as a former Deputy Secretary of the Interior under President Bill Clinton, I witnessed firsthand the lasting legacy of Stewart Lee Udall, who served as Secretary of the Interior from 1961 to 1969 under Presidents John F. Kennedy and Lyndon B. Johnson. He left a legacy committed to environmental stewardship, preservation, and wildlife protection. His leadership helped greatly expand America's natural parks and advanced landmark policies to improve air and water protections. Redwood National Park in my home State of California exists because of Udall's leadership.

Naming the Interior Department Building after Udall is the least we can do to honor his legacy. An even greater honor to his towering legacy would be to continue pursuing policies that protect our fragile planet. As he once said, "Plans to protect air and water, wilderness and wildlife are in fact plans to protect man."

Mr. INSLEE. Madam Speaker, today Congress passed H.R. 5128, to designate the Department of the Interior Building in Washington, D.C. as the "Stewart Lee Udall Department of the Interior Building". Mr. Udall, a former Secretary of the Interior, Congressman, outdoorsman and environmental leader, deserves this honor so every American can recognize his long, dedicated service. With his strong leadership, Congress passed monumental environmental laws including the Clean

Water Act, Clean Air Act, the Wilderness Act, the Endangered Species Act, Wild and Scenic Rivers Act, and the Land and Water Conservation Fund. He began, in his early years, by protecting natural resources like the Great Swamp National Wildlife Refuge in 1960, which protected habitat for more than 244 bird species. Mr. Udall's visionary leadership and environmental legacies are enjoyed by all Americans, from the North Cascades to the Canyonlands National Park. Past and future generations alike will be able to enjoy and recreate in some of America's most grand locations because of his service.

Mr. CAO. Madam Speaker, I yield back my time.

Mr. TEAGUE. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. TEAGUE) that the House suspend the rules and pass the bill, H.R. 5128, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TEAGUE. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 1445

#### NATIONAL FOSTER CARE MONTH

Mr. McDERMOTT. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1339) expressing support for designation of May as National Foster Care Month and acknowledging the responsibility that Congress has to promote safety, well-being, improved outcomes, and permanency for the Nation's collective children.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1339

Whereas on average, the Nation's foster care system provides for nearly 500,000 children each day who are unable to live safely with their biological parents;

Whereas there is a shortage of foster parents and great need for their services, as there are fewer than 3 foster homes for every 10 children in care;

Whereas foster parents are the most frontline caregiver for children who cannot safely remain with their biological parents and provide physical care, emotional support, education advocacy, and are the largest single source of families providing permanent homes for kids leaving foster care to adoption;

Whereas 273,000 children entered the foster care system during fiscal year 2008 and an



average of 123,000 children were waiting to be adopted every day;

Whereas almost 55,000 children were adopted out of foster care in fiscal year 2008, but the number of children "aging out" of the foster care system without finding a permanent family increased to an all-time high of nearly 30,000 in fiscal year 2008;

Whereas children "aging out" of foster care need and deserve a support system as they work to secure affordable housing, obtain health insurance, pursue higher education, and acquire adequate employment;

Whereas youth in foster care are much more likely to face educational instability with 65 percent of former foster children experiencing at least 7 school changes while in care;

Whereas an increased emphasis on prevention and reunification services is necessary to reduce the number of children that are forced to enter the foster care system;

Whereas Federal legislation over the past three decades, including the Adoption Assistance and Safe Families Act of 1980, the Adoption and Safe Families Act of 1997, and the Fostering Connections to Success and Increasing Adoptions Act of 2008, provided new investments and services to improve the outcomes of children in the foster care system;

Whereas foster children, like all children, deserve no less than a safe, loving, and permanent home; and

Whereas May would be an appropriate month to designate as National Foster Care Month to provide an opportunity to acknowledge the accomplishments of the child welfare workforce, foster parents, advocacy community, and mentors and the positive impact they have on children's lives: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the designation of National Foster Care Month;

(2) honors the tireless efforts of those who work to improve outcomes for children in the child welfare system;

(3) acknowledges the exceptional alumni of the foster care system who serve as advocates and role models for youth who remain in care;

(4) recognizes the significant improvements to Federal, State, and local child welfare policy; and

(5) reaffirms the need to work through the title IV programs in the Social Security Act and other programs to support vulnerable families, invest in prevention and reunification services, promote adoption in cases where reunification is not in a child's best interest, adequately serve those children brought into the foster care system, and facilitate the successful transition into adulthood for children that "age out" of the foster care system.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington (Mr. McDERMOTT) and the gentleman from Georgia (Mr. LINDER) each will control 20 minutes.

The Chair recognizes the gentleman from Washington.

#### GENERAL LEAVE

Mr. McDERMOTT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. McDERMOTT. I yield myself such time as I may consume.

Madam Speaker, the month of May marks National Foster Care Month, which provides us with an opportunity to recognize the unsung heroes, that is, the frontline workers and the foster parents who work tirelessly to improve the lives of our most vulnerable children, and to reaffirm Congress' commitment to foster care. We have a responsibility to work with State officials to ensure that they have the resources they need to care for these children and to help them move to a permanent home as quickly as possible.

Today, there are 463,000 children in the foster care system. While the number of children placed in care has recently declined, far too many children must wait far too long to safely reunify with their parents or find a new family to call their own. Right now, the average length of stay for a child in foster care is nearly 16 months. That is a significant amount of time in the life of any child, much less those who have been maltreated or separated from their parents, their siblings, their friends, and their community.

More than 120,000 children are currently waiting to find a new family to call their own through adoption. Children who are waiting to be adopted spend an average of nearly 2½ years in foster care as they await a new family.

Sadly, nearly 30,000 children left foster care or emancipated from the system in fiscal year 2008 without finding a permanent home, leaving these young people on their own as they transition from foster care to adulthood.

While we clearly have, still, lots of work to do, Congress made great progress in the last 2 years to improve the outcomes of vulnerable children in care. In 2008, Congress passed, with Jerry Weller on the Republican side and myself, bipartisan legislation called the Fostering Connections to Success and Increasing Adoptions Act.

This bill provided additional services and support to children in foster care, promoting the connection of children in care with their relatives and communities, and providing additional support for caseworker training. It also allowed States to extend foster care services to older youth, up to the age of 21, so that these young people can receive critical support services as they transition to adulthood, as they age out, so to speak.

And, as States began to grapple with fiscal restraints, severe fiscal restraints as a result of the recession, Congress stepped in to provide nearly \$1 billion in targeted State relief for foster care programs as part of the Recovery Act.

While progress has been made over the last few years to support our national foster care system, there is plen-

ty of additional work that still needs to be done. More focus must be placed on providing additional Federal support for prevention services to at-risk children and their families. By providing more resources that are targeted at preventing the incidents of child maltreatment and safely serving children and families in their own homes, we can ultimately reduce the number of children who are placed in foster care.

Foster kids, like all children, can and do grow up to make lasting positive impacts in their community and in the world. Many of you probably have read a recent article in The Washington Post that profiled Jelani Freeman, a foster child who completed a master's degree in history at American University, worked for 3 years in youth-related positions in the District, and graduated from Howard University Law School earlier this month.

I urge my colleagues to pay tribute to these remarkable young men and women in May, and every month of the year, by joining me and my colleague, Representative JOHN LINDER, and President Obama in recognizing May 2010 as National Foster Care Month and supporting this bipartisan resolution.

I reserve the balance of my time.

Mr. LINDER. Madam Speaker, I yield myself such time as I may consume.

This resolution is one that, in a perfect world, would not be necessary. In that perfect world, every child would live with two married parents, and every parent would be unfailingly caring and loving for that child. But even as we promote the best environment for raising children, we know that, sadly, that is not the way the world works. So institutions are needed to ensure that, when biological parents don't adequately care for their children, other responsible adults step in. That is the role played by our foster care system and, most important, the thousands of foster parents who make foster care work to protect children.

Every day, foster parents care for about 500,000 children across America who cannot safely remain with their own parents. For that, as this resolution expresses, our Nation says "thank you."

While we celebrate those who make personal sacrifices to protect and care for children, we must also admit that this system doesn't always work as it should. Just like not every biological parent is up to the task, not every foster parent or caseworker meets expectations either. Sometimes children are subjected to repeated abuse, or worse, from within the very system designed to protect them.

The subcommittee on which I serve has had many hearings on such cases in which children have met with horrific abuse while under the supposed supervision of the child welfare system. Those hearings serve as a sad but important reminder why these systems



require constant monitoring to ensure children are adequately and appropriately protected.

One of those ongoing efforts is to better involve relatives in the care of children. This is a promising approach, with bipartisan support, which recent laws have encouraged. But we won't make the needed progress until the Department of Health and Human Services issues guidance about the "notification of relatives" provisions of section 103 of the Fostering Connections to Success and Increasing Adoptions Act of 2008.

I urge the Department to act without further delay so relatives can play a greater role in the care of vulnerable children. Doing so during this month of May, which this resolution designates as National Foster Care Month, would be a fitting statement of our common desire to better protect children and also relieve some of the strains placed on the foster parents and caseworkers today. That is the intent of what Congress passed and the President signed into law now approaching 2 years ago.

This resolution reminds all Americans of the role foster parents especially play in helping children who have already missed out on so much in life. These children deserve to make progress like any other child. Through the efforts of tens of thousands of dedicated foster parents, they often do, against great odds. We owe these dedicated individuals our thanks and continued support.

Mr. CAMP. Madam Speaker, I rise today in support of H. Res. 1339, to designate May as National Foster Care Month.

Nearly one half million children are currently in foster care. This is a sobering statistic, and one that we must tirelessly work to reduce.

For many children, a positive permanent outcome can be found in reunification with their biological parents, or adoption into a new family.

However, far too many children languish for years without getting the help and love they deserve from permanent families. In 2008 over 10% of children leaving foster care, nearly 30,000 children, did so through emancipation and without the family support they deserve.

Equally alarming, for 2008 the National Child Abuse and Neglect Data System estimated that there were 1,740 child fatalities resulting from abuse or neglect. This is simply unacceptable.

With the passage of the 2008 Fostering Connections to Success and Increasing Adoptions Act, Congress made a significant commitment to reforming our nation's foster care system, giving states and families new tools to cut down on the amount of time that kids spend in foster care and more opportunities to find permanent homes. Yet, more can and should be done to make the system work for foster children.

I am pleased that we are taking the opportunity today to discuss the pressing needs of our foster care system. Children in foster care deserve our unwavering support. We must redouble our efforts to find them permanent fam-

ilies and until then, ensure their safety while in our care.

Mr. CONYERS. Madam Speaker, the number of children in foster care continues to rise in the United States. The current population exceeds 500,000 children. Most of these children are placed into foster care due to parental abuse or neglect making them vulnerable to adverse situations and negative social outcomes. Luckily, the foster care system serves as a safety net for our most vulnerable children. Therefore, both children and parents of the foster care system rely and depend on Congress to improve permanency and support systems for them.

Even though children who enter foster care remain in care for an average of thirty months many of them spend the majority of their childhood being placed from family to family. Without a permanent family, frequent moves from home-to-home and school-to-school creates a difficult level of instability to recover from. As a result, children face poor academic performance and higher rates of grade retention, absenteeism, tardiness, truancy, and dropout. Moreover, those that age out of the system do so without the necessary educational and job training skills. Quite naturally, these factors contribute to the risk of emotional and behavioral problems that lead to very negative future outcomes later in life. Therefore, it is necessary that Congress promotes the safety and well being of children placed into foster care.

I want to acknowledge all the individuals—including, foster parents, community advocates, mentors, and others—in the child welfare workforce for their dedication and commitment to improving outcomes for children placed into foster care.

I support H. Res. 1339 and hope that the month of May be designated as National Foster Care Month to provide an opportunity to acknowledge the accomplishments of the child welfare workforce, foster parents, advocacy community, and mentors and the positive impact they have on children's lives. I encourage my colleagues to support the resolution.

Mr. LINDER. I yield back the balance of my time.

Mr. McDERMOTT. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. McDERMOTT) that the House suspend the rules and agree to the resolution, H. Res. 1339.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. McDERMOTT. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

# EXTENDING IMMUNITIES TO THE OFFICE OF THE HIGH REPRESENTATIVE IN BOSNIA AND HERZEGOVINA AND THE INTERNATIONAL CIVILIAN OFFICE IN KOSOVO ACT OF 2010

Mr. McMAHON. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5139) to provide for the International Organizations Immunities Act to be extended to the Office of the High Representative in Bosnia and Herzegovina and the International Civilian Office in Kosovo, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5139

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE.

This Act may be cited as the "Extending Immunities to the Office of the High Representative in Bosnia and Herzegovina and the International Civilian Office in Kosovo Act of 2010".

## SEC. 2. AUTHORITY TO EXTEND THE PROVISIONS OF THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT TO THE OFFICE OF THE HIGH REPRESENTATIVE IN BOSNIA AND HERZEGOVINA AND THE INTERNATIONAL CIVILIAN OFFICE IN KOSOVO.

The International Organizations Immunities Act (22 U.S.C. 288 et seq.) is amended by adding at the end the following new section:

"SEC. 17. The provisions of this title may be extended to the Office of the High Representative in Bosnia and Herzegovina (and to its officers and employees) or the International Civilian Office in Kosovo (and to its officers and employees) in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation. Any such extension may provide for the provisions of this title to continue to extend to the Office of the High Representative in Bosnia and Herzegovina (and to its officers and employees) or the International Civilian Office in Kosovo (and to its officers and employees) after that Office has been dissolved."

## SEC. 3. BUDGET COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McMAHON) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

## GENERAL LEAVE

Mr. McMAHON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. McMAHON. Madam Speaker, I yield myself such time as I may consume.

I rise in strong support of this bill that provides legal protection for U.S. personnel working in two Balkans-based organizations.

I wish to thank my good friend from California and the chairman of the Foreign Affairs Committee, Representative HOWARD BERMAN, for introducing this important measure.

The Office of the High Representative, or OHR, in Bosnia and Herzegovina and the International Civilian Office, the ICO, in Kosovo arose out of efforts by the international community, with the United States' leadership, to bring peace and stability to the Balkans following the conflicts in the 1990s.

The OHR has been performing an invaluable function in overseeing the civilian implementation of the Dayton Accords, while the ICO has been ensuring implementation of provisions of the Comprehensive Proposal of the Kosovo Status Settlement. Over 200 Americans have worked at these organizations.

H.R. 5139 amends the International Organizations and Immunities Act, or the IOIA, by authorizing the President to extend privileges and immunities to the officers and employees of the OHR and ICO.

This technical fix seeks to help avoid costly and politically sensitive litigation in the United States' courts against employees of these organizations who are not otherwise guaranteed immunity under the IOIA.

Unlike typical international organizations designated under the IOIA, neither the OHR nor the ICO is intended to endure beyond a limited timeframe necessary for implementing their mandates. Thus, H.R. 5139 enables the President to extend the privileges and immunities after these bodies are dissolved, since even then litigation may be brought against former employees or for records of the organization.

It is of utmost importance that the United States Government protects its diplomats who serve in international organizations, often at great personal risk and sacrifice, from financial and personal ruinous litigation. In addition, we must preserve our ability to use informal institutions to conduct foreign policy and attract qualified personnel.

Madam Speaker, I urge my colleagues to support H.R. 5139.

I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 5139.

The Office of High Representative in Bosnia and the International Civilian Office in Kosovo were established to help promote stable, multiethnic democratic governance in those countries in the aftermath of the vicious warfare they suffered throughout the 1990s.

The United States has supported these missions and assigned American diplomats to help them with critical expert advice. Regrettably, these American diplomats could now face costly, politically motivated nuisance lawsuits based on their actions in the course of their official duties while helping those organizations and those nations.

For other international organizations in which the United States participates by treaty or by an act of this Congress, the President may freely extend immunity from such lawsuits to officers and employees under the International Organization Immunities Act. However, due to the ad hoc nature of their establishment, these two offices are not automatically covered by this law. This brief bill seeks to rectify the issue by allowing the President to extend those privileges and immunities to those organizations and their employees.

Congress has similarly amended the IOIA to extend immunities to other organizations falling in similar gray areas, such as the European Space Agency, the Organization of Eastern Caribbean States, and the Global Fund to Fight AIDS, among just a few.

□ 1500

These immunities are not nearly as broad as the personal immunity enjoyed by foreign diplomats in the United States, but will insulate our officers from suit only for their official actions as employees of those organizations, and may be revoked by the President at any time. I'm pleased to support the passage of this measure, which represents a bipartisan text that was worked out with the Department of State and with our Senate colleagues.

With that, Madam Speaker, I yield back the balance of my time.

Mr. POMEROY. Madam Speaker, I rise today in support of H.R. 5139.

I strongly support this needed legislation which extends the diplomatic protections granted under the International Organizations and Immunities Act (IOIA) to employees of the Office of the High Representative (OHR) in Bosnia and Herzegovina and the International Civilian Office (ICO) in Kosovo. The OHR and ICO have been critical institutions for fostering peace and stability in Bosnia and Kosovo, but due to their unique ad hoc structure, the employees of these institutions are at risk of liti-

gation related to the carrying out of their official duties.

This is unacceptable. Other similar institutions have been extended IOIA protections, and we must bring the OHR and ICO under the IOIA umbrella. Acting on this issue in a timely manner is especially important as neither the OHR nor ICO is intended to endure beyond a limited time frame necessary for the implementation of their mandate.

The hard working men and women at the OHR and ICO have worked tirelessly, often at great personal sacrifice, to promote peace in the region. This is especially apparent with respect to their efforts to root out corruption and to freeze assets used by war criminals.

Unfortunately, obstructionist political elements in the region have been all too vocal regarding their intent to take legal action against employees of the OHR and ICO. It is unacceptable that OHR and ICO employees could face potential lawsuits for their official actions carried out with the express purpose of furthering core United States foreign policy objectives.

The bill before us takes the necessary step of bringing the OHR and ICO under the IOIA, and grants well deserved protections to those working to bring peace and stability to the countries of Bosnia and Kosovo. Please support this resolution.

Mr. McMAHON. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McMAHON) that the House suspend the rules and pass the bill, H.R. 5139, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### EXPRESSING CONDOLENCES TO CHINA FOR TRAGIC EARTHQUAKE IN QINGHAI PROVINCE

Mr. McMAHON. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1324) expressing condolences and sympathies for the people of China following the tragic earthquake in the Qinghai province of the Peoples Republic of China on April 14, 2010.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 1324

Whereas, on April 14, 2010, an earthquake measuring 6.9 on the Richter scale struck the Qinghai province of southwest China;

Whereas the China Earthquake Networks Administration confirmed the earthquake struck in Yushu County, a remote and mountainous area sparsely populated by farmers and herdsman;

Whereas the population of Yushu County is overwhelmingly poor, with rural residents earning an average of \$342 a year, largely from agriculture;

Whereas at least 18 aftershocks measuring more than 6.0 on the Richter scale followed the quake throughout the day in the seismically active zone;

Whereas over 2,000 people have been killed and over 10,000 injured, numbers that are feared to climb;

Whereas an unknown number of individuals remain buried in debris as soldiers work around the clock to dig them out by hand;

Whereas at least 40 people remain trapped under a collapsed office building that houses the local Departments of Commerce and Industry of the Peoples Republic of China and many children and young adults still lie beneath the rubble of collapsed primary and vocational schools;

Whereas officials expect the death toll will rise because rescue efforts are stymied by a lack of heavy equipment and the mountainous terrain;

Whereas medical supplies and tents are also in short supply;

Whereas China Central Television and the Red Cross Society of China estimate that 90 percent of homes and 70 percent of schools in the region have been destroyed;

Whereas the region that includes Yushu County is located on the Tibetan plateau, and many villages sit well above 16,000 feet, with freezing temperatures not uncommon in mid-April;

Whereas by the evening of April 14, 2010, temperatures in the county seat had already reached 27 degrees Fahrenheit;

Whereas thousands of Tibetan monks, many of whom traveled long distances from other Tibetan areas, have played a vital role in relief efforts, providing food and assistance, and tending to the basic and spiritual needs of the victims;

Whereas in order to prevent a flood, workers are racing to release water from a reservoir in the disaster area after discovering that a crack had formed in the dam due to the earthquake;

Whereas many survivors have already fled to the surrounding mountains, amid fears that a nearby dam could be ruptured by the aftershocks hitting the area;

Whereas news media reported that 700 paramilitary officers are already working in the quake zone and that more than 4,000 others will be sent to assist in search and rescue efforts;

Whereas the Civil Affairs Ministry said it would also send 5,000 tents and 100,000 coats and blankets; and

Whereas the international community is sending much needed supplies and supporting local Chinese relief efforts: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) expresses its deepest condolences and sympathies for the loss of life and the physical and psychological damage caused by the earthquake of April 14, 2010;

(2) expresses solidarity with the people of the Qinghai province, Tibetan-Americans, Chinese-Americans, and all those who have lost loved ones or have otherwise been affected by the tragedy, including rescue and humanitarian workers;

(3) reaffirms the United States pledge, issued by Secretary of State Hillary Rodham Clinton, to stand ready to assist the people of China during this difficult period; and

(4) expresses support for the recovery and long-term reconstruction needs of the residents of the areas affected by the earthquake, including the restoration of monasteries and other Tibetan Buddhist sites that are integral to the preservation of Tibetan culture and religious traditions.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McMAHON) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. McMAHON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. McMAHON. Madam Speaker, I rise in strong support of this resolution. I thank my colleague, Congressman MANZULLO of Illinois, for his support, and yield myself such time as I may consume.

Madam Speaker, on April 14, 2010, an earthquake measuring 6.9 on the Richter scale struck the Qinghai province of southwest China. With over 18 aftershocks measuring more than 6.0 on the Richter scale, the devastation and suffering that followed was immeasurable. The earthquake killed over 2,000 residents of Yushu Tibetan Autonomous Prefecture, which is 97 percent Tibetan and has been a cradle for Tibetan culture and religion for centuries. Furthermore, in the aftermath of the quake, countless schools, government buildings, and local monasteries stood in ruins.

First on the scene were local Tibetan Buddhist monks who worked in very treacherous conditions to stabilize schools, clinics, and homes to rescue survivors. These monks, many working in their robes with the most basic of tools, worked for hours without breaking until heavy machinery could be moved in. They were joined in their efforts by local and national Chinese authorities who worked in conjunction with the community groups on search and rescue and now join in the rebuilding.

The worst-hit town of Kyegu still contains over 100,000 homeless residents, on top of the 20,000 migrants, described as “mostly herders and farmers,” already living there. Yet, 5 weeks after the earthquake, we are seeing the silver lining, as plans to reconstruct all of Kyegu, including the destroyed Buddhist holy sites, and build new homes for those who tragically lost their own, take place.

On May 1, 2010, Chinese Premier Wen Jiabao announced a plan to rebuild Kyegu in an “eco-friendly” manner during a meeting on postdisaster rehabilitation and reconstruction. I commend the Chinese government’s efforts to rehabilitate and modernize the region, but encourage them also to include the local Tibetan population in their reconstruction plans, given the

distinctiveness of the region as a center of Tibetan culture.

On behalf of the over 50,000 Chinese Americans who reside in my congressional district, I express my condolences for all the people of the Qinghai province, Tibetan Americans, Chinese Americans, and all those who have lost loved ones or are otherwise affected by this tragedy, including rescue and humanitarian workers. I also want to commend Ambassador Huntsmann, who presented a check for \$100,000 to the Chinese Red Cross Society for their efforts to rebuild after the Qinghai earthquake. Ambassador Huntsmann’s remarks demonstrated that we stand with the Chinese people to rebuild Qinghai and further develop stronger ties between our two nations.

Madam Speaker, I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I yield myself such time as I may consume.

I rise in support of this resolution addressing the tragic earthquake which took over 2,000 lives and left over 10,000 injured when it struck on April 14, 2010. I would, however, like to mention an omission in the official American response to this tragedy—one that is only partially rectified in the wording of this resolution. The epicenter of the earthquake struck on the Tibetan plateau and the vast majority of victims were from Tibet. Yet the message of condolence issued in the name of the Secretary of State on April 15, while “offering thoughts and prayers for the people of China on this difficult day,” made no mention of the thousands of Tibetans who lost their lives, their homes, and their places of worship. Madam Speaker, political correctness has no place when addressing human tragedy, no matter where it occurs in the world.

While we mourn the death of both Tibetans and the Chinese migrant workers who were in the area, we should not ignore the fact that this was one more blow to the Tibetan heartland. The damage to Tibetan monasteries caused by this earthquake is only the latest event in the sad chapter of the devastation of this culture over the past half century.

The war waged against Tibetan culture began with the Chinese People’s Liberation Army invasion of the Tibetan plateau in 1959. It continued in the frenzy of fanatic young Red Guards smashing statues of Buddha and assaulting monks and nuns during the infamous “Cultural Revolution.” It continued right up until 2 years ago, when Beijing cracked down once again on dissent by rounding up Tibetan political prisoners and in closing the monasteries. It has been the United States’ stated policy since the passage almost a decade ago of our late colleague, Tom Lantos’ Tibetan Policy Act, to work to protect the Tibetan culture, language,

and their religion. Yet the administration was noticeably silent regarding this latest blow to Tibetan culture and regarding the massive loss of their lives. The Dalai Lama, recipient of the Congressional Gold Medal, addressed this tragic earthquake with these words of appeals. He said, "To fulfill the wishes of many of the people there, I am eager to go there myself to offer them comfort."

I submit for the RECORD the brief remarks the Dalai Lama made on April 14 and April 17, 2010.

[From dalailama.com, Apr. 14, 2010]

HIS HOLINESS OFFERS HIS CONDOLENCES TO THE VICTIMS OF THE EARTHQUAKE IN KYIGUDO

I am deeply saddened by the loss of life and property as a result of the earthquake that struck Kyigudo (Chinese—Yushu) this morning.

We pray for those who have lost their lives in this tragedy and their families and others who have been affected. A special prayer service is being held at the main temple (Tsuglagkhang) here at Dharamsala on their behalf.

It is my hope that all possible assistance and relief work will reach these people. I am also exploring how I, too, can contribute to these efforts.

[From dalailama.com, Apr. 17, 2010]

HIS HOLINESS THE DALAI LAMA EAGER TO VISIT EARTHQUAKE AFFECTED AREA

As I mentioned briefly soon after I heard the news, I was deeply saddened by the effects of the devastating earthquake in the Yushu Tibetan Autonomous Prefecture (Tibetan: Kyigudo) of Qinghai Province which resulted in the tragic loss of many lives, a great number of injured and severe loss of property. Because of the physical distance between us, at present I am unable to comfort those directly affected, but I would like them to know I am praying for them.

I commend the monastic community, young people and many other individuals from nearby areas for their good neighbourly support and assistance to the families of those who have lost everything. May your exemplary compassion continue to grow. This kind of voluntary work in the service of others really puts the bodhisattva aspiration into practice.

I also applaud the Chinese authorities for visiting the affected areas, especially Prime Minister Wen Jiabao, who has not only personally offered comfort to the affected communities, but has also overseen the relief work. I am very appreciative too that the media have been free to report on the tragedy and its aftermath.

In 2008, when a similar earthquake struck Sichuan, Chinese central and local government leaders and auxiliary authorities took great pains to provide relief, allow free access to the media, as well as clearing the way for international relief agencies to provide assistance as required. I applauded these positive moves then and appeal for such ease of access on this occasion too.

The Tibetan community in exile would like to offer whatever support and assistance it can towards the relief work. We hope to be able to do this through the proper and appropriate channels as soon as possible.

When Sichuan was rocked by an earthquake two years ago, I wished to visit the affected areas to pray and comfort the people there, but I was unable to do so. However,

when Taiwan was struck by a typhoon last year, I was able to visit the affected families and pray with them for those who had perished in that disaster. In providing some solace to the people concerned, I was happy to be able to do something useful.

This time the location of the earthquake, Kyigudo (Chinese: Yushu), lies in Qinghai Province, which happens to be where both the late Panchen Lama and I were born. To fulfill the wishes of many of the people there, I am eager to go there myself to offer them comfort.

In conclusion, I appeal to governments, international aid organisations and other agencies to extend whatever assistance they can to enable the families of those devastated by this tragedy to rebuild their lives. At the same time, I also call on the survivors of this catastrophe to recognise what has happened as the workings of karma and to transform this adversity into something positive, keeping their hopes up and meeting setbacks with courage as they struggle to restore what they have lost. Once again, I pray for those who have lost their lives as well as for the well being of those who have survived.

I call upon the administration to hear the cries of the Tibetan victims of this tragic national disaster and to advocate for a visit by their spiritual leader, the Dalai Lama. I urge Beijing leadership to show some mercy and allow a visit to the earthquake area by the Dalai Lama as well—a location very near the site where he was actually born. Only when their spiritual leader is allowed to come and offer solace to their grief and suffering can the Tibetan victims of this national tragic disaster truly begin to heal.

Madam Speaker, I yield back the balance of my time.

Mr. McMAHON. Madam Speaker, I yield myself such time as I may consume.

Just to continue on a point that I failed to mention, the issue of the Tibetan people is, of course, very near and dear to me as well. I have in my district the only Tibetan cultural museum in North America. And it's a site that we have worked with and honored for years—the importance of the Tibetan people, their culture, and what it means to the whole world, and that they are allowed to continue to survive and flourish in this world. And so on many points I agree with the gentleman from Texas.

I have no further requests for time, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McMAHON) that the House suspend the rules and agree to the resolution, H. Res. 1324.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. McMAHON. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### URGING ESTABLISHMENT OF U.S. CONSULATE IN KURDISTAN REGION OF IRAQ

Mr. McMAHON. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 873) establishing a United States Consulate in the Kurdistan Region of Iraq, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 873

Whereas 15 countries, including leading European nations, have diplomatic and consulate representation in Erbil, the capital of the Kurdistan Region of Iraq;

Whereas the United States Department of State modified its Travel Warning for Iraq this year to reflect the relative safety and security of the Kurdistan Region of Iraq;

Whereas the establishment of a United States Consulate in the Kurdistan Region of Iraq, as well as in other regions of Iraq, is consistent with current United States policy to normalize United States-Iraqi relations at the diplomatic, commercial, cultural, and educational levels as United States Armed Forces responsibly redeploy from Iraq in accordance with the Status of Forces Agreement between the United States and Iraq;

Whereas greater United States Government civilian representation throughout Iraq, including in the Kurdistan Region, will serve United States interests during this period of transition;

Whereas the establishment of a United States Consulate in the Kurdistan Region of Iraq will increase travel between the United States and Iraq and thus strengthen people-to-people exchanges between both sides;

Whereas currently, United States citizens either living in or visiting the Kurdistan Region of Iraq must travel to the United States Embassy in Baghdad, 200 miles away, to receive consular services;

Whereas the establishment of a United States Consulate in the Kurdistan Region of Iraq will be helpful both in attracting greater United States business and investment to the region and in ensuring that the region continues to serve as a "gateway" to United States business success in other parts of Iraq, as a number of United States Government agencies have advocated;

Whereas the establishment of a United States Consulate in the Kurdistan Region of Iraq will reaffirm United States support for the stability, prosperity, and democracy that the Kurdistan Region of Iraq has achieved;

Whereas the establishment of a United States Consulate in Iraq, including in the Kurdistan Region will facilitate more governmental and nongovernmental missions between the United States and the Iraq;

Whereas the Kurds of Iraq have been willing partners with the United States in the democratic transition in Iraq since 2003;

Whereas the United States and the Kurdistan Regional Government (KRG) have

been full partners in the battle against terrorists who seek to undermine progress toward an Iraq that is prosperous, free, and federal;

Whereas the establishment of a United States Consulate in the Kurdistan Region and in other regions will play a helpful role in continuing to safeguard Iraq's territorial integrity from external aggression and support United States and Iraqi diplomatic initiatives that seek to prevent outside interference in Iraq's affairs;

Whereas the establishment of a United States Consulate in the Kurdistan Region of Iraq will also foster continued dialogue between the United States and the KRG; and

Whereas the establishment of a United States Consulate in the Kurdistan Region of Iraq will positively contribute to continued diplomatic initiatives between the KRG and Turkey: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) calls on the Department of State to establish a United States Consulate in the Kurdistan Region of Iraq, as well as in other appropriate regions of Iraq; and

(2) affirms that the establishment of a United States Consulate in the Kurdistan Region as well as in other regions of Iraq will be an important United States diplomatic step in supporting stability, prosperity, human rights, and democracy throughout Iraq.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. MCMAHON) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. MCMAHON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MCMAHON. Madam Speaker, I rise in strong support of this resolution, and yield myself such time as I may consume.

This resolution expresses the sense of Congress that the United States should establish a consulate in the Kurdistan region of Iraq. As the United States military presence in Iraq winds down and our diplomatic presence increases, a consulate in northern Iraq will prove indispensable to America. Fifteen countries, including Iran, Turkey, and a leading number of European countries, have already opened consulates in Erbil, the capital of the Kurdistan regional government. It would benefit U.S. national security to follow suit. American economic interests would also be served by opening a consulate in northern Iraq. Indeed, Iraqi Kurdistan offers numerous business opportunities across a number of important sectors, including energy development and infrastructure. The lack of a consulate in northern Iraq is pre-

venting U.S. firms from taking full advantage of these new economic opportunities in a rapidly developing region. Instead, contracts are going to Iranian, European, Turkish, and Asian corporations.

Finally, the absence of a U.S. consulate in northern Iraq makes it extremely difficult for the residents of that region—Kurds, Arabs, and others—to gain access to U.S. consular services. Iraqis from the north must drive more than 200 miles to reach the American Embassy in Baghdad. And some of the territory they are forced to cover is treacherous. This is no way to encourage Iraqi communication with American diplomats or to handle passport issues.

Madam Speaker, this year, the State Department modified its travel warning for Iraq, reflecting the relative safety and security in the Kurdistan region. And we must not forget that the Kurdish people of Iraq have been partners with the United States for many years. I believe that the establishment of the United States consulate in the Kurdistan region of Iraq will demonstrate our strong commitment to maintaining and building upon a success and stability that has already been achieved in that part of Iraq, thanks in large part to the proud, brave, and courageous warriors from our armed services. I also believe that we should open consulates in the majority Shia south and the majority Sunni Arab center of the country to expand America's diplomatic reach and presence throughout Iraq.

Madam Speaker, the future of United States-Iraqi relations will be based on diplomacy and security. Expanding our consular access in northern Iraq will contribute both to our national security goals and to the stabilization and success of the Iraqi nation. I encourage all of my colleagues to support H. Res. 873.

Madam Speaker, I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I yield myself such time as I may consume.

Iraqi Kurds have been willing partners with the United States since the beginning of the transition to democracy in Iraq in 2003. They personally endured the brutal persecution and murder, including the use of chemical weapons, that characterized the tyranny of Saddam Hussein's regime over Iraq. Their determination to prevent the recurrence of such persecution underlies their partnership with us in battling against terrorists, insurgents, and other militant extremists who seek to undermine the progress made in Iraq. They have committed themselves to a future within a Federal Republic of Iraq, a future of stability, of prosperity and democracy, of freedom and human rights. This is their vision, and this is our vision. Indeed, the future of

United States cooperation with the Republic of Iraq in general, including the Kurdistan region, contains great opportunity for us.

□ 1515

As we responsibly redeploy from Iraq in accordance with our Status of Forces Agreement with the Republic of Iraq, we are continuing to normalize our bilateral relations at many different levels, as we should. One way to do so is to establish U.S. consulates in appropriate regions of Iraq, including in the Kurdistan region. Currently, United States citizens living in or visiting the Kurdistan Region of Iraq must travel 200 miles away to our embassy in Baghdad to receive consular services. Increased U.S. Government civilian representation throughout Iraq will serve American interests during this period of transition, increasing opportunities for travel, governmental and nongovernmental missions, people-to-people exchanges between our two nations, and for attracting greater U.S. business and investment in Iraq. And in this respect, establishing a consulate in the Kurdistan Region of Iraq will help ensure that the region continues to serve as a gateway for American businesses and investment to other regions of Iraq. Establishing U.S. consulates will also advance continued dialogue between the United States and the Republic of Iraq, including dialogue with the Kurdistan Regional Government.

Finally, U.S. consulates in Iraq will hopefully help to ensure that stability, security, prosperity, human rights and freedom in Iraq, including in the Kurdistan Region, are protected and strengthened in the days and months and years ahead. Already, 15 countries, including leading European countries, have consular representation in the capital of the Kurdistan Region of Iraq. Therefore, I strongly support House Resolution 873, which calls for the establishment of U.S. consulates in appropriate regions of Iraq, including Kurdistan.

I thank the distinguished ranking member of the Subcommittee on International Organizations, Human Rights, and Oversight, Mr. ROHRBACHER from California, for sponsoring this resolution.

I reserve the balance of my time.

Mr. MCMAHON. Madam Speaker, at this time I yield 5 minutes to the gentleman from Tennessee (Mr. DAVIS).

Mr. DAVIS of Tennessee. Madam Speaker, I thank the chairman.

I rise in strong support of House Resolution 873. On several occasions, I have had the opportunity to visit Iraq and had the privilege of visiting the Kurdistan Region. I have seen firsthand the stability in this rapidly developing part of Iraq. Which is why on October 27 of last year, I joined Congressman ROHRBACHER in introducing H.

Res. 873, a resolution that would encourage the State Department to establish an American consulate in Erbil, which is the capital city of the Kurdistan Region of Iraq. Almost 20 other countries, including developed European allies and other world powers, have already set up their consulates in the Kurdistan Region, and America, I believe, should do the same. Establishing a consulate in Iraqi Kurdistan should be part of our transition in Iraq, from a military presence to a civilian and diplomatic one. This is an important step on Iraq's path to normalization and recognizes the growing stability in that part of the world and in northern Iraq.

A consulate in Erbil will serve both U.S. and Iraqi interests. A consulate will aid in fostering the growing economic, potential commercial and cultural/educational ties between the Kurdistan Region of Iraq and the U.S. The lack of a consulate is putting America at a disadvantage in the region and is a disservice, I believe, to our Iraqi Kurdish partners.

Since introduction of this resolution, the State Department has released plans to set up two permanent consulates in Iraq, readying itself for a larger role in the country as the U.S. military presence prepares to leave. The administration is requesting funds in the military supplemental for a consulate in Basra and one in northern Iraq. I believe the one in northern Iraq should be located in Erbil.

Erbil is one of the longest contiguous residential cities in the world, and as we have engaged in Operation Iraqi Freedom, not a single soldier, not a single American life has been lost in combat in the northern part of Iraq. America's friends throughout the world and America's friends in Kurdistan I believe deserve the presence of a consulate in this country in Erbil in northern Iraq.

Mr. POE of Texas. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROHRABACHER), the ranking member of the Foreign Affairs Subcommittee on International Organizations, Human Rights, and Oversight and the author of this legislation.

Mr. ROHRABACHER. Madam Speaker, I rise in strong support of my resolution, H. Res. 873, and ask my colleagues to join me in this both moral and practical resolution.

A strong relationship with the Kurdish people serves the cause of peace, stability and democratic government in a region that needs a lot of bolstering when it comes to peace, stability and democratic government. It is a strong relationship with the Kurds that will keep radical Islamic forces in other parts of Iraq in check. It is a strong relationship with the Kurds that will offset the support that is going to these radical elements in the rest of

Iraq and the region. As we know, the Kurds over the years have a history of being an oppressed people. Thus, they are natural allies of the United States, a country, our country, whose tradition is supporting oppressed peoples and struggling with them to promote democracy, opportunity and prosperity. If we can count on the Kurds, we will know that there's an opportunity for peace and stability in that area that wouldn't exist otherwise. And if they can count on us, the Kurds, we can count on them. This legislation will codify that relationship and that friendship by establishing an American consulate in Erbil, which is in the Kurdish part of Iraq. Let me note that 20 other countries, including European nations and other world powers, have diplomatic and consulate representation in Erbil, which is the capital of the Kurdistan Region of Iraq.

The Kurds have been willing partners of the United States since that democratic transition in Iraq began in 2003, and the Kurdish part of the country has served as a model for Iraq's democratization ever since Operation Iraqi Freedom.

We should move forward with this. Actually, it really is a sorry comment that we have to have congressional legislation to force the State Department to have a consulate in Kurdistan or in the Kurdish region of Iraq. This makes all the sense in the world. It's good for them. It's good for us. It's good for the people of Iraq. It creates an area of stability in which we are officially recognizing that concept of a peaceful relationship with the Kurds in order to have peace in Iraq.

So I ask my fellow colleagues to join me today in officially recognizing this great friendship that serves us all so well by enabling the State Department to open a consulate in Erbil, Kurdistan, and, again, underscoring the great friendship between the Kurds and the American people, a friendship that serves both our countries well.

Mr. POE of Texas. Madam Speaker, I yield back the balance of my time.

Mr. ROHRABACHER. Madam Speaker, I rise to discuss an omission of a co-sponsor from my resolution, H. Res. 873, which passed the House by voice vote. The resolution calls for the Department of State to establish a U.S. Consulate in the Kurdistan Region of Iraq in order to normalize United States-Iraq relations at the diplomatic, commercial, and cultural levels as the U.S. Armed Forces redeploy from Iraq. The Honorable TOM LATHAM, from Iowa's 5th District, requested to be a co-sponsor on the aforementioned resolution. However, by an error on our part his name was omitted on the list we submitted. To this end, I request that the RECORD reflect he should have also been listed as a co-sponsor.

Mr. DELAHUNT. Madam Speaker, I rise in strong support of this amended resolution calling for the establishment of a United States Consulate in the Kurdistan Region of Iraq, as well as in other regions of Iraq.

For years, I have been closely following issues related to United States policy towards Iraq, as well as that nation's own internal politics as its people develop their democracy. During the previous American Administration, I chaired a series of hearings in the House Foreign Affairs Oversight Subcommittee that examined the bilateral accord—the so-called “status of forces agreement” (SOFA)—between the United States and Iraq, which provides for the withdrawal of our military forces by December 31, 2011. I also closely followed the concurrent negotiation of the civilian-focused Strategic Framework Agreement (SFA), in which the U.S. and Iraq committed to a number of mutually supporting efforts in the areas of economy, culture, science, technology, health and trade.

While I had reservations about the so-called SOFA, I strongly support the SFA, because I believe that America has a moral obligation to the Iraqi people to help their country get back on its feet. Yes, we liberated them from Saddam Hussein, but in doing so we unleashed a wave of horrific violence upon that nation. We now have a duty to alleviate some of the damage, and the SFA will enable that to happen.

Some of those efforts at implementation of the SFA will require Americans to work in Iraq. Currently, most American citizens in that country must receive consular services in Baghdad. Given Iraq's size and challenges to travel, this can be very difficult. Establishing U.S. Consulates in several regions in Iraq would make it easier for Americans to work throughout Iraq and thus fulfill our obligations under the SFA. Therefore I believe that such efforts should get underway immediately.

As a follower of Iraq politics, particularly the controversies regarding the latest parliamentary elections, I am well aware of the sensitivities regarding the establishment of a U.S. Consulate in the Kurdistan Region of Iraq. That is why I am pleased that this resolution has been amended to reflect the need for U.S. Consulates elsewhere in Iraq. Yes, at the moment, the Kurdistan Region of Iraq has been identified by the State Department as one of the more stable and secure regions of Iraq, which is why the resolution mentions that specific region as a site for a U.S. Consulate. But such a designation also comes with responsibility—specifically, the Kurds must demonstrate their commitment to ensuring the stability and security of all of Iraq, not just their region. They can do so by encouraging the creation of an inclusive government that represents all four major coalition in the parliament, including their own.

As peace and security spreads throughout Iraq as a result, America should establish U.S. Consulates in other areas as well. That way, the American and Iraqi people can literally work together in creating a better future for Iraq.

Mr. McMAHON. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McMAHON) that the House suspend the rules and agree to the resolution, H. Res. 873, as amended.

The question was taken; and (two-thirds being in the affirmative) the



rules were suspended and the resolution, as amended, was agreed to.

The title of the resolution was amended so as to read: "Calling for the establishment of a United States Consulate in the Kurdistan Region of Iraq along with similar efforts in other areas of Iraq."

A motion to reconsider was laid on the table.

#### UNITED STATES-ISRAEL ROCKET AND MISSILE DEFENSE COOPERATION AND SUPPORT ACT

Mr. McMAHON. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5327) to authorize assistance to Israel for the Iron Dome anti-missile defense system, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5327

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Israel Rocket and Missile Defense Cooperation and Support Act".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) The Jewish State of Israel, as a close and indispensable ally of the United States, with whom the United States enjoys mutually-beneficial military, intelligence, homeland security, scientific, technological, and other cooperation, deserves all necessary assistance to defend itself and its citizens from the many threats that it continues to face.

(2) The State of Israel has been under grave threat and frequent attack from missiles, rockets, and mortar shells fired at Israeli civilian targets by militants from the Foreign Terrorist Organization Hamas on its southern border and by the Foreign Terrorist Organization Hezbollah on its northern border, which have killed, wounded, or inflicted psychological trauma on countless Israelis.

(3) The United States remains committed to Israel's qualitative military edge, including its advantage over non-state actors such as Hamas and Hezbollah, which boast increasingly sophisticated and powerful weapons as a result of support from Iran, Syria, and other state actors.

(4) Regional stability and lasting peace between Israel and the Palestinians requires that Israel can ensure the safety of its population against rocket, missile, and other threats.

(5) The United States can help to advance its own vital national security interests and the cause of peace by supporting Israel's ability to defend itself against rocket, missile, and other threats.

(6) The State of Israel announced in January 2010 the successful testing of its Iron Dome Short Range Artillery Rocket Defense System which is designed to intercept short-range rockets, missiles, and mortars launched by militants in Gaza and southern Lebanon.

(7) In the face of threats from its neighbors and non-state actors, Israel historically has sought the means to defend itself, by itself.

(8) President Barack Obama has stated: "Our commitment to Israel's security is unshakable."

(9) Vice President Joe Biden has stated: "From my experience, the one precondition

for progress is that the rest of the world knows this—there is no space between the U.S. and Israel when it comes to security—none."

(10) Secretary of Defense Robert M. Gates has stated: "President Obama has affirmed, the United States commitment to Israel's security is unshakable, and our defense relationship is stronger than ever, to the mutual benefit of both nations."

(11) President Obama recently requested funds to help the State of Israel procure and maintain Iron Dome missile batteries.

#### SEC. 3. AUTHORIZATION OF ASSISTANCE TO ISRAEL FOR IRON DOME ANTI-MISSILE DEFENSE SYSTEM.

The President, acting through the Secretary of Defense and the Secretary of State, is authorized to provide assistance to the Government of Israel for the procurement, maintenance, and sustainment of the Iron Dome Short Range Artillery Rocket Defense System for purposes of intercepting short-range rockets, missiles, and mortars launched against Israel.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. McMAHON) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. McMAHON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. McMAHON. Madam Speaker, I rise in strong support of this legislation and yield myself as much time as I may consume.

H.R. 5327, the United States-Israel Rocket and Missile Defense Cooperation and Support Act of which I am a proud original cosponsor, authorizes funds for the State of Israel to facilitate the deployment of the Iron Dome missile defense system. I would like to thank the distinguished gentleman from Virginia (Mr. NYE) for introducing this important legislation.

Madam Speaker, as we all know, the residents of Israel are subject to the constant threat of terrorist attack—not just threat but actual attack. Israelis living in the southern city of Sderot have been terrorized by more than 8,000 indiscriminate rocket and mortar attacks on their homes, schools and communities. Passage of the U.S.-Israel Rocket and Missile Defense Cooperation and Support Act today will help provide Israel with a reliable missile shield that could lead to a major strategic shift in Israel's approach to dealing with the persistent missile threat.

For years, the primary tool that Israel has used to protect its citizens from Hamas and Hezbollah missile attacks is an early warning system that

sets off sirens telling people to hurry into bomb shelters. This is a passive defense which aims to minimize fatalities among helpless, unprotected civilians. The deployment of the Iron Dome missile shield will give Israel the capability to provide active defense. This advanced system has the capability of knocking Qassams, Katyushas, mortars and other deadly projectiles out of the sky, rendering them harmless.

President Obama's decision to provide the necessary funding to support Israel's deployment of the Iron Dome system demonstrates America's enduring commitment to Israel's enduring defense and the Obama administration's commitment to ensuring Israel's security. As Secretary of Defense Robert Gates recently said, "President Obama has affirmed, the United States' commitment to Israel's security is unshakable, and our defense relationship is stronger than ever, to the mutual benefit of both nations." Madam Speaker, U.S.-Israeli cooperation on the Iron Dome system will help advance the cause of peace by supporting Israel's ability to defend herself against terrorist attacks. This will give Israel the security it requires to live in peace and to make difficult sacrifices for peace. I believe defensive technologies like Iron Dome are a real-world necessity for Israel as it moves from proximity talks to direct talks and eventually to a final two-state solution.

Madam Speaker, the United States and our ally Israel share many of the same security challenges, from combating terrorism to confronting the threat posed by Iran's nuclear weapons program. President Obama and the Democrats in Congress recognize the threat posed by Hamas and Hezbollah to Israel, and we will continue to do what is necessary to keep Israel safe and promote the cause of peace, but we cannot have peace until Israel is safe. Today we stand shoulder to shoulder with the people of Israel in their quest for peace and the right to live lives free of terrorism. I encourage all of my colleagues to vote "yea" on this important legislation.

Madam Speaker, I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I yield myself such time as I may consume.

One of the foundations of America's national security policy is and must remain our deep alliance and our friendship with the democratic, Jewish State of Israel. We not only share our deepest values with Israel, but we also enjoy close, mutually beneficial, bilateral cooperation in many fields, including defense, intelligence, homeland security, science, technology and education. And as many have noted, Israel is a stabilizing force, and our alliance with Israel is a force multiplier in a region of great strategic importance to not only Israel but the United States.



In short, the United States' support for Israel advances our own security interests. But every day the threat to the democratic, Jewish State of Israel grows and continues to grow. As the Iranian regime draws closer to obtaining the capabilities for nuclear weapons and the missiles to deliver them, as that same regime sponsors Hezbollah, Hamas and other foreign terrorist organizations, and as the Syrian regime follows in its footsteps in these regards, the goal is very simple: To destroy Israel and the Jewish people, with the United States next.

Madam Speaker, the little fellow from the desert, Ahmadinejad, has denied the Holocaust. He has compared Israel to a "germ," threatened to "wipe Israel off the map," and has spoken of his goal of "a world without America and Zionism." The dictator of Syria has threatened Israel with "violent resistance." Hamas' covenant calls for killing Jews and destroying the nation of Israel. Hezbollah's leader has reportedly stated that "If the Jews all gather in Israel, it will save us the trouble of going after them worldwide."

□ 1530

Madam Speaker, we should take these threats from Syria, Iran, Hezbollah, and Hamas as serious threats to world stability, and specifically to the nation of Israel. They have backed up these threats with their evil deeds. For the last decade, thousands of rockets and mortars have been fired by Hezbollah from the north and Hamas to the south, sponsored by Iran and Syria with reported aid from the nation of North Korea. Since Israel's defense operations against Hezbollah in 2006, Hezbollah has rapidly rearmed again, thanks to Syria and Iran and North Korea, and reports indicate they now have over 40,000 rockets aimed at Israel.

Recent reports indicate that Syria is providing Hezbollah with long-range missiles that could strike most of Israel, and that some of that weaponry was reportedly manufactured by those folks in North Korea. I would add incidentally that it doesn't help matters when senior administration officials say the United States should build up what they call more moderate elements of Hezbollah. There are no moderate elements of Hezbollah. Hezbollah is not a mainstream political party. They are a blood-thirsty terrorist group. But I digress, Madam Speaker.

To Israel's south, Hamas and other violent militant groups in the Gaza area have fired thousands and thousands of rockets and mortars on civilian targets in southern Israel since 2000, killing, wounding and inflicting deep psychological trauma on Israeli citizens.

Madam Speaker, I doubt if we would long put up with rockets coming from

the north of our border and from the south of our border, but the Israelis have to put up with the terror from the north and the south on a constant basis. Since the conclusion of Israel's defensive operation in January 2009, the rockets and mortars have abated, but they have not stopped entirely. In fact, over 200 have been fired in the last 16 months.

To defend the Israeli people, the State of Israel is developing a multi-layered rocket and missile defense system. It is a defense system, not an offensive system. It is called the Iron Dome for short-range threats, the David's Sling for medium- to long-range threats, and the Arrow for long-range ballistic missiles.

But as we know, national security comes at a heavy cost. Israel has a higher ratio of defense spending to gross domestic product and spends more on defense as a percentage of its budget than any developed country. Israel should not bear these costs single-handedly.

Madam Speaker, when Hamas and Hezbollah, backed by Iran and Syria, threaten Israel, they also are threatening us, and we need to respond accordingly. What we should do is stand with Israel just as Israel stands with us, and we should continue to provide Israel with the support it needs to defend itself by addressing and stopping the comprehensive threat posed not only by Hamas and Hezbollah, but their state sponsors, specifically Iran and Syria.

That is why I strongly support H.R. 5327, the United States-Israel Rocket Missile Defense Cooperation and Support Act, which authorizes the United States to support Israel with the procurement, maintenance, and sustainment of the Iron Dome system.

I would like to thank my distinguished gentleman from Virginia (Mr. NYE) and the ranking member of our Foreign Affairs Committee, the gentlewoman from Florida (Ms. ROS-LEHTINEN), and Mr. TURNER from Ohio for sponsoring this vital legislation. I urge my colleagues to pass this legislation and make the message clear: the United States will stand with Israel and our other allies, and we will stand against our mutual enemies, no matter the cost.

I reserve the balance of my time.

Mr. MCMAHON. Madam Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. NYE).

Mr. NYE. Madam Speaker, I rise today to reaffirm and strengthen the U.S.-Israeli bond in mutual defense and security by introducing H.R. 5327, the United States-Israel Missile Defense Cooperation and Support Act.

The relationship between our countries is unlike any found in the world, and our friendship gives both Israel and the United States peace of mind in knowing that we will always support one another's security.

A safe homeland begins abroad, and Israel has long been central to that security. For instance, it is because of Israel's strength and cooperation that the U.S. no longer has to constantly keep a carrier strike group in the Mediterranean, allowing us to use our forces more judiciously.

I am proud to introduce this legislation which is supported by the President's recent decision to provide funding to support Israel's deployment of the Iron Dome missile defense system. The Iron Dome system will help protect Israeli citizens living in cities like Sderot who have been terrorized by over 8,000 indiscriminate rocket and mortar attacks on their homes, schools, and communities. The funds authorized by this bill will allow Israel to build two Iron Dome batteries which will be deployed in the southern and northern areas of the country as needed. Israeli defense officials estimate that Iron Dome could be deployed and functional this year.

Lasting peace between the Israelis and Palestinians requires that Israel can ensure the safety of its population against missile threats. Therefore, U.S.-Israel cooperation on the Iron Dome system will help advance the cause of peace by supporting Israel's ability to defend itself against terrorist attacks. Cooperation on important technologies such as Iron Dome proves that the U.S.-Israeli security cooperation is stronger than ever and is also beneficial to both nations as we continue to collaborate to develop our most sensitive defense technologies.

Congress stands shoulder to shoulder with Israel in their quest for peace and the right to live free from terrorism. This legislation is a tribute to America's commitment to Israel's defense and to the President's continued and expanding support for Israel's security.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MCMAHON. Madam Speaker, I yield an additional 15 seconds to the gentleman from Virginia (Mr. NYE).

Mr. NYE. I would like to thank Chairman BERMAN, Ranking Member ROS-LEHTINEN, Ms. GIFFORDS, Mr. MCMAHON, Mr. HIMES, Mr. ACKERMAN, Ms. KOSMAS, Mr. BISHOP, and Mr. TURNER for their support of this crucial legislation as original cosponsors, and I urge my colleagues to support this measure.

Mr. POE of Texas. I reserve the balance of my time.

Mr. MCMAHON. Madam Speaker, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY), a member of the Permanent Select Committee on Intelligence.

Ms. SCHAKOWSKY. Madam Speaker, I rise in support of the U.S.-Israel Missile Defense Cooperation and Support Act.

Too many Israeli families live under the daily threat of rocket attacks from

Hezbollah and Hamas. President Obama's decision to provide \$205 million in support of the Iron Dome rocket defense system will help Israel defend its citizens against these deadly terrorist attacks.

I traveled to Israel last month, and I believe the status quo in the Middle East is unsustainable. Lasting peace between Israelis and Palestinians will only be possible if Israel can ensure the security of its population. And that is why U.S. support for defensive weapons systems like Iron Dome is so important. This legislation clearly demonstrates that the United States Congress and President Obama will not compromise when it comes to Israel's security. I am proud to support this legislation, and I want to thank its sponsors.

Mr. POE of Texas. I continue to reserve the balance of my time.

Mr. McMAHON. Madam Speaker, I yield 1 minute to Representative MORAN from Virginia, a member of the Committee on Appropriations.

Mr. MORAN of Virginia. Madam Speaker, I rise in support of this bill of which I am also a cosponsor.

Last week, President Obama submitted a request to Congress to authorize funds for this important missile defense system which will shield Israeli civilians from indiscriminate short-range missile attacks. The bill is consistent with support of human rights for Palestinians in Gaza and the West Bank, and of efforts to enhance Israel's security and defense of her citizens from violent rocket and missile attacks.

This reflects the role that the United States can play in saving lives on both sides of the Israeli-Palestinian conflict; and if we can save lives and promote a sustainable peace, then we must play that role from both a moral as well as a geopolitical motivation because when people feel secure, they think differently than when they feel under siege. Their priorities change. And this missile defense system could be a game changer. It deserves our support.

Mr. POE of Texas. I continue to reserve.

Mr. McMAHON. Madam Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. ROTHMAN), a member of the Appropriations Committee and its Subcommittee on Defense.

Mr. ROTHMAN of New Jersey. Madam Speaker, I thank the gentleman from Staten Island, Congressman NYE, and Congressman POE for your work on this important issue.

Madam Speaker, why is it important for the United States to defend the national security of the State of Israel? Well, it is important because the national security of the State of Israel is critically important to the national security of the United States of America.

How is that so? Well, we know first of all that the United States has been

working with Israel and her technicians on improved missile defense technology. The Arrow missile system is a joint U.S.-Israel technological wonder that protects the United States and its forces around the world from incoming missiles from within zero to 600 miles. We know that the U.S. is working on a project with Israel called David's Sling, again a defensive system to protect U.S. forces and Israeli forces and people from rockets and mortars fired between 43 and 150 miles.

We are also working with the State of Israel, the United States is, on a very sophisticated anti-missile system called Arrow 3, which would allow us to defend against ICBMs fired as far as 1,200 miles away and get those missiles 1,200 miles away before they were over American soil or over our troops in the region or over our ally, the State of Israel.

So the money that we invest in missile defense with the State of Israel and having our scientists working jointly together is in the vital national security interest of the United States and in the vital national security interest of the State of Israel which provides Americans so many benefits, not just the benefits of supporting a fellow democracy and a nation who our Founders referred to as people deserving of the right to return to their natural homeland.

Israel has a strategic importance to the United States as well. It is located on the Mediterranean. It is located near the Red Sea. It is a bad neighborhood. A lot of the actors who would want to hurt Americans around the world and on U.S. soil are inspired, if not financed, from that region.

Israel has one of the world's greatest intelligence services. We Americans get day-to-day updates from that intelligence service which benefit us in our fight against terrorists who are trying to kill Americans around the world and on American soil.

And of course the money that we give Israel for its military acquisitions, 70 percent of the money is required to buy American-made munitions; American made.

Those are just some of the reasons. U.S. generals want Israel to have a missile defense system that will be able to be used to protect U.S. troops in the region as well as our ally, the State of Israel.

Also, as one of my colleagues mentioned earlier, we increase the chance for peace if potential adversaries know not only that we have a strong offensive power, but that we have a strong defense. So if they know that whatever they shoot at us won't land, won't blow up on us, and that we will then respond with overwhelming power and they haven't laid a glove on us, so to speak, then they will be deterred. They will say, gee, if I throw everything at them and it won't work because they are

protected by this anti-missile system, and they will respond overwhelmingly, why the heck should we fire at them in the first place.

That is why a missile defense system for the United States has been so important. That's why a missile defense system for our number one strategic military ally in the region, the Jewish State of Israel, is so important for the United States. It will help protect Israel. It will help protect American troops in the region, and it will help reduce the chances of war if those who want to destroy Israel know Israel can survive an attack and then be ready with its own offensive response.

I thank the gentleman for offering this bill, and I urge all of my colleagues to support it as well.

Mr. POE of Texas. I continue to reserve the balance of my time.

Mr. McMAHON. Madam Speaker, I yield 1 minute to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), chairwoman of the Legislative Branch Subcommittee on Appropriations.

□ 1545

Ms. WASSERMAN SCHULTZ. Madam Speaker, I rise today in support of H.R. 5327, the United States-Israel Rocket and Missile Defense Cooperation and Support Act. As a staunch supporter of the Jewish State of Israel, it gives me great pride to be a cosponsor of this resolution, which will provide Israel with the funding it needs to maintain the safety and security of her citizens.

By authorizing funds requested by President Obama for Israel's Iron Dome defense system, Congress and President Obama's message to the people of Israel is loud and clear: Our commitment to Israel's security is unshakable. And, through this funding that will help Israel produce and maintain an effective defense against short-range missiles, rockets, and mortars such as those used by Hamas and Hezbollah, we are backing up our words with action.

I urge my colleagues to vote "yes" on helping to maintain Israel's qualitative military edge and vote "yes" on H.R. 5327. And I commend my colleague, the gentleman from Virginia (Mr. NYE) for his leadership on this very important issue.

Mr. POE of Texas. Madam Speaker, I continue to reserve.

Mr. McMAHON. Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. NADLER), the chairman of the Judiciary Subcommittee on the Constitution, Civil Rights, and Civil Liberties.

Mr. NADLER of New York. Madam Speaker, we all hope for a peace agreement negotiated between Israel and the Palestinians. Such an agreement, providing for adequate security safeguards for Israel, would benefit the citizens of Israel and would benefit the Palestinians. It would also help stabilize the

Middle East and would inure to the national security interests of the United States.

Every American administration for the last 40 years has recognized that prerequisite to the successful conclusion of any peace agreement is the maintenance of Israel's qualitative military superiority over any potential combination of state and nonstate aggressors. In recent years, unfortunately, we have permitted Israel's military superiority to lag, to begin to fall down.

I want to congratulate the administration, the Obama administration for recognizing this and, in the last year and a half, sharply stepping up U.S. military assistance and U.S. military cooperation with Israel.

Now we also face the threat from Iran and the threat of 40,000 rockets and missiles supplied by the Iranians in Lebanon in the possession of Hezbollah, which has said that it wants to kill every Jew. It would be nice if all the Jews moved to Israel so they could kill them with one swoop. And this accumulation of 40,000 rockets has been done in violation of U.N. Security Council Resolution 1701, which has not been enforced. So, hence, this bill.

This bill, which comes to us from the administration, to provide 200-and-some-odd million dollars for the Iron Dome antimissile system is another step in maintaining Israel's military superiority and in protecting Israel's citizens against possibly unprovoked aggression and is an absolute prerequisite if we hope to see any peaceful settlement in the Middle East.

I, therefore, congratulate the administration on taking this step and on the steps it has made to maintain Israel's military superiority. I thank the sponsors, and I urge the passage of this bill.

Mr. POE of Texas. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, the State of Israel, the nation of Israel, is not a big place. It's a little, bitty country. It's smaller than the State of New Jersey. From north to south, at the longest point, it's 200 miles. East to west, it's 75 miles. And ever since their existence, nations all around them have been wanting to destroy the nation of Israel.

Let there be no mistake about it, Madam Speaker. Israel is our ally. Israel has the absolute right of self-defense, to protect the dignity of its country and to protect its citizens. That is the first duty of every government and of every nation. This resolution helps Israel protect itself and its citizens.

Israel has the absolute right to exist. And it should be known to the world that we will stand with Israel to make sure they have the right to exist. Israel is saying to Hezbollah and Hamas, Syria, Iran, and even North Korea, Leave us alone. That is the right that

Israel has, to be left alone in that region.

This resolution also says, Madam Speaker, and reaffirms a statement made 50 years ago by President John F. Kennedy when he made the comment in his inaugural address, and I quote, "Let every nation know, whether it wishes us well or ill, that we will pay any price, bear any burden, meet any hardship, support any friend and oppose any foe to assure the survival and the success of liberty. This we pledge and much more."

This resolution, Madam Speaker, reaffirms that commitment by President Kennedy over 50 years ago.

I yield back the balance of my time.

Mr. McMAHON. Madam Speaker, I yield myself as much time as I shall consume.

Madam Speaker, I join in agreement with all the speakers who have spoken on this resolution, the importance of America's continuing friendship, support, and solidarity with the people of Israel.

Many speak about how this is an issue that is so important for America's national security, and that is true. I'm a New Yorker. You may have noticed that. I know with my accent I didn't have to say it. But I was also in New York on September 11, and like so many New Yorkers, we saw firsthand the threat of terrorism right at our doorstep; not just the threat, but the reality. And it's that threat and that reality that the people of Israel live with every day. They are on the front line. So, yes, it is in our national interest.

But it also speaks to the very morality and soul of our Nation that we stand by our friend, that we stand by our colleague in this world battle, and that is the nation of Israel. And so this bill is just one more step in that statement. It is important for America to do it because, if we didn't, then we would no longer be America.

Mr. MORAN of Kansas. Madam Speaker, the security of our ally Israel is threatened by the proliferation of rockets its enemies possess along its borders. In both the south and the north, millions of Israelis live within range of Hamas and Hizballah rockets.

In the last decade, more than 16,000 rockets and mortars have been launched over Gaza and Lebanese borders into Israel. These attacks have targeted and killed innocent civilians.

With the backing and support of Iran and Syria, Hizballah now has an arsenal of more than 42,000 short- and long-range rockets, which are aimed at Israel. This number of rockets is more than three times larger than what Hizballah had prior to the 2006 war with Israel. U.S. Secretary of Defense Robert Gates has warned that Hizballah's "arsenal of rockets and missiles now dwarfs the inventory of many nation-states."

The ability of Hamas and Hizballah to launch attacks on Israeli civilians is a threat to Israel's security that must be countered. To

protect its people, Israel developed Iron Dome, a short-range rocket defense system that will protect civilians living near Israel's border. H.R. 5327, the United States-Israel Missile Defense Cooperation and Support Act, authorizes U.S. assistance to help Israel speed up production and deployment of this rocket defense system so that more Israelis are protected from the indiscriminate attacks of its enemies.

But this legislation does more than improve Israeli security; it also enhances the security of the U.S. The missile defense technology being developed in cooperation with the U.S. will help us better defend ourselves, and may one day help protect U.S. military bases in the Middle East.

I support the legislation before us and urge my colleagues to vote in favor of this legislation that will help Israel maintain its qualitative military edge.

Ms. SCHWARTZ. Madam Speaker, I rise today in support of the Israel Rocket and Missile Defense Cooperation and Support Act, legislation that recognizes the significance of our partnership with Israel, the mutually beneficial and historic nature of the relationship and our ongoing commitment to ensure its security for the State of Israel.

For decades, support for Israel in Congress has been bi-partisan. In fact, it is one of the few issues where Republicans and Democrats have consistently agreed. Leaders of both parties recognize the importance of a strong and steadfast U.S.-Israeli relationship and work together to strengthen it.

Israel remains one of our most trusted and reliable allies. Terrorist organizations that vow to destroy Israel also vow to destroy the United States. As we continue to combat extremism worldwide and the violence it incites, a strong U.S.-Israeli strategic partnership is essential.

Since coming to Congress, I have consistently and fervently supported America's commitment to the safety and support of Israel. In part, my commitment to Israel is based on the experiences of my mother, who fled Austria to escape the Nazis and emigrated alone at age 16 to the United States. My mother's stories have given me a deep understanding of the importance of Israel as a safe haven for Jews and as a strong voice on behalf of the Jewish people.

The bill before us will better enable Israel to be a safe haven for Jews. It will formalize the United States' commitment to provide support for the deployment of Israel's "Iron Dome" missile defense system. This system will help protect Israeli citizens from the short-range rocket attacks of the Hamas and Hezbollah terrorist attacks.

I thank my colleagues for their support of Israel and for enhancing Israel's ability to defend itself. Our action today reaffirms our commitment to our closest of allies, Israel.

Mr. KUCINICH. Madam Speaker, I rise in opposition to H.R. 5327, the United States-Israel Missile Defense Cooperation and Support Act of 2010. This legislation authorizes \$205 million dollars for the development and implementation of the Iron Dome—a missile defense system—that will be placed on Israel's borders with Gaza and Lebanon, and professes support for the security of Israel. I

strongly support that. However, like many Israelis, I believe that Israel's security depends upon a stable and peaceful relationship with its Palestinian neighbors.

H.R. 5327 proposes that the means to achieve security for Israel is through investing in a missile defense system. I do not support that, and neither should anyone truly supportive of the security of Israel. Physicists have amply demonstrated that missile defense systems do not work. They can't hit a missile with a missile without rigging the tests in ways that are not simulations of realistic operation conditions. The missile system offered in H.R. 5327 will not stop any missiles, except by sheer luck, coming from Gaza or Lebanon.

This missile defense system will give a false sense of security to the Israelis, and it will serve to threaten countries in the region. The missile system proposed in H.R. 5327 will cause more destabilization, not less. It will cause nerves in the Middle East to become more frayed, not less. It will bring about the prospect of a military conflict more than it will bring about peace and reconciliation in the region.

I am also concerned that 43 years of military occupation in the West Bank, and the crippling siege of Gaza that has entered its fourth year, continue to undermine Israel's security. Investment in a missile defense system will not eliminate the need to address these issues that are a fundamental part of securing Israel's future.

Last week, U.S. Special Envoy George Mitchell announced the beginning of proximity talks that require him to address the concerns of both the Palestinian Authority and the Israeli government prior to an attempt to restart direct negotiations on the final status issues. The United States has a responsibility to act in good faith as an honest broker.

Negotiations will not be successful as long as the United States continues to stand by idly as illegal settlements continue to be built in East Jerusalem and the West Bank. Furthermore, 1.5 million people in Gaza continue to suffer without basic services and Palestinians in the West Bank are denied the freedom of movement and prosperity by the separation barrier and hundreds of check points.

The United States can better demonstrate its strong support for Israel by helping it move toward good-faith negotiations that ensure a peaceful and prosperous future for Palestinians as well.

Mrs. MALONEY. Madam Speaker, I am proud to support the U.S.-Israel Rocket and Missile Defense Cooperation and Support Act, H.R. 5327, to provide \$205 million to support Israel's deployment of the Iron Dome rocket defense system.

Israel is our closest ally and the only true democracy in the Middle East, yet throughout its 62-year existence, it has been under attack from neighboring states and terrorist organizations like Hamas and Hezbollah that deny its right to exist as a Jewish State. Funding for this program is consistent with America's promise that there can be no space between the U.S. and Israel when it comes to security. U.S.-Israel cooperation is beneficial to both nations, particularly when we collaborate to develop advanced defense technologies like the Iron Dome rocket defense system.

For nearly five years, Israelis were subjected to a rain of terror as nearly 8,000 missiles were fired over the border from the Gaza Strip following Israel's unilateral withdrawal in 2005, leading to a desperate effort by Israel to end the bombardment with Operation Cast Lead which began on December 27, 2008. Large population centers like Sderot, Ashkelon, Ashdod and Be'er Sheva were hit by rocket and mortar fire. Widely derided as 'home-made' by the international press, these bombs were deadly for those unlucky enough to be in the way. And they fell indiscriminately on homes, schools, hospitals and businesses. A four year old boy was killed at a nursery school in Sderot. Other rockets hit a school and a sports center in Ashkelon. Luck and a system of sirens and bunkers kept the death toll down, but thousands were injured and thousands more were traumatized by living with daily terror.

Similarly, during the Lebanon War of 2006, residents of Northern Israel, including the city of Haifa, were subjected to a barrage of Katyusha rockets from Southern Lebanon. Nearly 4,000 of these rockets fell on Israel during the 5 week conflict.

While incidents are fewer today, Israeli citizens along the border, particularly in the city of Sderot, continue to face occasional rocket fire. Evidence suggests that there are now at least as many rockets targeting Israel from Lebanon and the Gaza Strip as there were before Operation Cast Lead and the 2006 Lebanon War. And while the missiles do not fall regularly, they do fall. For example, on August 8, 2009, a rocket fired from Lebanon went through the roof of a nursing home in Nahariya in Israel, passing through several bedrooms and landing in the kitchen. By chance, the rocket hit while residents were on a lower level waiting for breakfast and there were only minor injuries and shock. Had residents been in their rooms, there would have been many deaths.

Currently, the only defense is a warning siren that sounds 15 seconds before the bombs hit, allowing Israelis a few seconds to scramble for the nearest bomb shelter or safe room. That's fifteen seconds of terror while mothers call frantically for their children and old people painfully try to make it to safety. For those who are bedridden, there's merely the hope that the bombs will fall elsewhere.

The best way to end terrorism is to render the terrorists powerless. Our \$205 million will build a rocket defense system to give Israelis another form of self-defense. This defense system will advance the cause of peace by enhancing Israel's ability to defend itself from attack. Instead of building stronger bunkers and better underground facilities, it gives Israelis the hope that the missiles can be destroyed before they hit. If the missiles cannot get through, then Israelis will not have to cower in their bunkers and basements and safe rooms. And perhaps their dreams of a lasting, secure peace will become a reality.

Madam Speaker, I believe this funding offers hope to Israelis weary of terror, and reason for optimism for those who understand that peace is impossible without the promise of security. Accordingly, I strongly support H.R. 5327 and I urge my colleagues to vote in favor of it.

Ms. LEE of California. Madam Speaker, I have always supported Israel's security and condemned unequivocally violence inflicted upon Israeli and Palestinian civilians. Recognizing the defensive nature of the Iron Dome anti-missile defense system, designed to guard against short-range rocket, missile, and mortar attacks which threaten the lives of innocent Israeli citizens, I voted yes on H.R. 5327.

However, I must express my serious concerns regarding continued and increasing trends of militarization in the region. The soaring costs associated with an unending cycle of military buildup, both human and financial, cannot be ignored in the context of the suffering that continued tensions have inflicted upon Israeli and Palestinian civilians alike. All parties involved must redouble their efforts and resources dedicated to realizing a just and lasting peace between the Israelis, Palestinians and the Arab world, including by refraining from gestures that would jeopardize the progress or viability of meaningful negotiations.

Finally, Madam Speaker, I want to speak to the issue of the urgent need to realign our national security spending priorities—a realignment we must make within the context of both overall U.S. national security interests and in relation to our vital domestic requirements. We in the Congress must focus on the difficult choices associated with reducing our Nation's unsustainable military spending and on investments that will more effectively provide for our enduring security, and that of our allies. We must invest in our people, their education and our economy—always the backbone of our national security. As we scale back the military spending element of our national security investment, we must fill some of that vacuum with smart and highly leveraged investments in regional stability programs, including in the Middle East. Whatever the short-term and tactical defense merit of any one weapon system, such as is claimed for the Iron Dome anti-missile defense system, it pales into insignificance when compared to successfully building regional economic development and confidence building.

Mr. WAXMAN. Madam Speaker, I rise in strong support of H.R. 5327, a bill authorizing critical funding to ensure Israel's security. Ever since President Kennedy first approved the sale of Hawk missiles to Israel in 1962, U.S.-Israel cooperation on defensive missile systems has developed into a productive strategic partnership that safeguards the security of our ally Israel while advancing our own military edge.

Iron Dome, the program supported by this bill, is a system of anti-missile batteries capable of intercepting the short- and medium-range Qassam, Katyusha, and Grad rockets that have been used by Hamas and Hezbollah to terrorize Northern and Southern Israel.

The successful testing of the first two operational batteries earlier this year demonstrated the system's ability to revolutionize Israel's ability to defend against these attacks. The bill before us authorizes \$205 million for Israel to build and deploy 10 more mobile batteries that will be available for rapid deployment whenever and wherever needed. And it is important to note that our own military stands to

benefit from the advanced radar and other technologies that are components of this system.

During its 34-day war with Israel in 2006, the Iranian-backed Hezbollah movement unleashed nearly 4,000 rockets against Northern Israel. In the 5 years following Israel's complete withdrawal from Gaza in 2005, Hamas has unleashed 6,000 rockets on Southern Israel. Until now, Israel has had no defenses against such weapons.

The Obama administration deserves tremendous credit for this initiative and its hands-on efforts to advance Israel's defensive capability at a critical time.

It is no secret that Hezbollah and Hamas are rebuilding their arsenals. Hezbollah is believed to have rearmed with some 45,000 rockets and missiles, including Scud missiles and other weapons that can hit Tel Aviv or Jerusalem. Iran continues smuggling weapons material to Hamas via Egypt.

It is also no secret that Iran has in the past used its terrorist proxies in Lebanon and Gaza to provoke Israel and divert international attention from its nuclear program and its defiance of international law. The 2006 Lebanon war, which was precipitated by Hezbollah's kidnapping of three Israeli soldiers, happened just as the IAEA was recommending that the United Nations demand that Iran suspend all enrichment-related and reprocessing activities.

This investment to upgrade Israel's security is essential as the administration and Congress intensify efforts to pressure Iran with sanctions.

I urge my colleagues to support this measure. I look forward to the full deployment of Iron Dome, and I hope that the region moves toward a peaceful future that will obviate its need.

Mr. HOLT. Madam Speaker, I rise today in strong support of the United States-Israel Missile Defense Cooperation and Support Act (H.R. 5327). I have had the pleasure of traveling to Israel on many occasions, and I have witnessed firsthand the fear that prevents children from running freely for fear of being too far from shelter when the next rocket attack comes. As we try to facilitate peace negotiations in the Middle East, we also have a responsibility to help Israel with the economic, social, and security costs resulting from terrorist attacks. That includes helping our friend and ally develop defensive technologies to protect her population.

I have supported United States-Israel cooperation on the Arrow, Iron Dome, and other antimissile defense systems for years. I am pleased that President Obama has requested \$205 million for this program and that this bill provides the necessary authority for the administration to assist in the procurement, maintenance, and sustainment of these technologies. Our cooperative effort will benefit both the United States and Israel for many years to come. This is a very worthy bill, and I urge my colleagues to support it.

Mr. McMAHON. Madam Speaker, at this time I have no further requests for time, and therefore, I yield the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr.

McMAHON) that the House suspend the rules and pass the bill, H.R. 5327, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. McMAHON. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### REPORT ON RESOLUTION GRANTING AUTHORITY TO COMMITTEE ON EDUCATION AND LABOR FOR PURPOSES OF ITS INVESTIGATION INTO UNDERGROUND COAL MINING SAFETY

Mr. HASTINGS of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 111-487) on the resolution (H. Res. 1363) granting the authority provided under clause 4(c)(3) of rule X of the Rules of the House of Representatives to the Committee on Education and Labor for purposes of its investigation into underground coal mining safety, which was referred to the House Calendar and ordered to be printed.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 5099, by the yeas and nays;

House Resolution 403, by the yeas and nays;

House Resolution 1292, de novo; and

House Resolution 1364, de novo.

Remaining postponed votes will be taken later in the week.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

#### MICHAEL C. ROTHBERG POST OFFICE

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 5099, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, H.R. 5099.

The vote was taken by electronic device, and there were—yeas 410, nays 1, not voting 19, as follows:

[Roll No. 280]

YEAS—410

Ackerman	Davis (KY)	Jones
Aderholt	Jordan (TN)	Jordan (OH)
Adler (NJ)	DeFazio	Kagen
Akin	DeGette	Kanjorski
Alexander	Delahunt	Kaptur
Altmire	DeLauro	Kennedy
Andrews	Dent	Kildee
Arcuri	Deutch	Kilpatrick (MI)
Austria	Diaz-Balart, L.	Kilroy
Baca	Dicks	Kind
Bachmann	Dingell	King (IA)
Baird	Doggett	King (NY)
Baldwin	Donnelly (IN)	Kingston
Barrow	Doyle	Kirkpatrick (AZ)
Bartlett	Dreier	Kissell
Barton (TX)	Driehaus	Klein (FL)
Bean	Duncan	Kline (MN)
Becerra	Edwards (MD)	Kosmas
Berkley	Edwards (TX)	Kratovil
Berman	Ehlers	Kucinich
Berry	Ellison	Lamborn
Biggert	Ellsworth	Lance
Bilirakis	Emerson	Langevin
Bishop (GA)	Engel	Larsen (WA)
Bishop (NY)	Eshoo	Larson (CT)
Bishop (UT)	Etheridge	Latham
Blackburn	Fallin	LaTourette
Blumenauer	Farr	Latta
Blunt	Fattah	Lee (CA)
Boccheri	Filner	Lee (NY)
Boehner	Flake	Levin
Bonner	Fleming	Lewis (CA)
Bono Mack	Forbes	Lewis (GA)
Boren	Fortenberry	Linder
Boswell	Foster	Lipinski
Boucher	Fox	LoBiondo
Boustany	Frank (MA)	Loeb
Boyd	Franks (AZ)	Lofgren, Zoe
Brady (PA)	Frelinghuysen	Lowey
Brady (TX)	Fudge	Lucas
Braley (IA)	Gallegly	Luetkemeyer
Bright	Garrett (NJ)	Lujan
Broun (GA)	Gerlach	Lummis
Brown (SC)	Giffords	Lungren, Daniel
Brown, Corrine	Gingrey (GA)	E.
Brown-Waite,	Gohmert	Mack
Ginny	Gonzalez	Maffei
Buchanan	Goodlatte	Maloney
Burgess	Gordon (TN)	Manzullo
Burton (IN)	Granger	Marchant
Butterfield	Grayson	Markey (CO)
Buyer	Green, Al	Markey (MA)
Calvert	Green, Gene	Marshall
Camp	Griffith	Matheson
Campbell	Grijalva	Matsui
Cao	Guthrie	McCarthy (NY)
Capito	Gutierrez	McCauley
Capps	Hall (NY)	McClintock
Capuano	Hall (TX)	McCollum
Cardoza	Halvorson	McCotter
Carnahan	Hare	McDermott
Carney	Harman	McGovern
Carson (IN)	Harper	McHenry
Carter	Hastings (FL)	McIntyre
Cassidy	Hastings (WA)	McKeon
Castle	Heinrich	McMahon
Castor (FL)	Heller	McMorris
Chaffetz	Hensarling	Rodgers
Chandler	Herger	McNerney
Childers	Herseth Sandlin	Meek (FL)
Chu	Higgins	Meeks (NY)
Clarke	Hill	Melancon
Clay	Himes	Mica
Cleaver	Hinojosa	Michaud
Clyburn	Hirono	Miller (FL)
Coble	Hodes	Miller (MI)
Coffman (CO)	Hoekstra	Miller (NC)
Cohen	Holt	Miller, Gary
Cole	Honda	Miller, George
Conaway	Hoyer	Minnick
Connolly (VA)	Hunter	Mitchell
Conyers	Inglis	Mollohan
Cooper	Inlee	Moore (KS)
Costello	Israel	Moore (WI)
Courtney	Issa	Moran (KS)
Crenshaw	Jackson (IL)	Moran (VA)
Crowley	Jackson Lee	Murphy (CT)
Cuellar	(TX)	Murphy (NY)
Culberson	Jenkins	Murphy, Patrick
Cummings	Johnson (GA)	Murphy, Tim
Dahlkemper	Johnson (IL)	Myrick
Davis (CA)	Johnson, E. B.	Nadler (NY)
Davis (IL)	Johnson, Sam	Napolitano

Neal (MA) Roskam Stark  
Neugebauer Ross Stearns  
Nunes Rothman (NJ) Stupak  
Nye Roybal-Allard Sullivan  
Oberstar Royce Sutton  
Obey Ruppertsberger Tanner  
Olson Rush Taylor  
Olver Ryan (OH) Teague  
Ortiz Ryan (WI) Terry  
Owens Salazar Thompson (CA)  
Pallone Sánchez, Linda Thompson (MS)  
Pascrell T. Thompson (PA)  
Pastor (AZ) Sanchez, Loretta Thornberry  
Paulsen Sarbanes Tiahrt  
Payne Scalise Tiberi  
Pence Schakowsky Tierney  
Perlmutter Schauer Titus  
Perriello Schiff Tonko  
Peters Schmidt Towns  
Peterson Schock Tsongas  
Petri Schrader Turner  
Pingree (ME) Schwartz Upton  
Pitts Scott (GA) Van Hollen  
Platts Scott (VA) Velázquez  
Poe (TX) Sensenbrenner Visclosky  
Polis (CO) Serrano Walden  
Pomeroy Sessions Wasserman  
Posey Sestak Walz  
Price (GA) Shadegg Wasserman  
Price (NC) Shea-Porter Schultz  
Quigley Sherman Waters  
Radanovich Shimkus Watson  
Rahall Shuler Watt  
Rangel Waxman  
Rehberg Weiner  
Reichert Sires Welch  
Reyes Skelton Westmoreland  
Richardson Slaughter Whitfield  
Rodríguez Smith (NE) Wilson (OH)  
Roe (TN) Smith (NJ) Wilson (SC)  
Rogers (AL) Smith (TX) Wittman  
Rogers (KY) Smith (WA) Wolf  
Rogers (MI) Snyder Woolsey  
Rohrabacher Space Wu  
Rooney Speier Yarmuth  
Ros-Lehtinen Spratt Young (FL)

## NAYS—1

Young (AK)

## NOT VOTING—19

Bachus Diaz-Balart, M. McCarthy (CA)  
Barrett (SC) Garamendi Paul  
Bilbray Graves Putnam  
Boozman Hinchey Souder  
Cantor Holden Wamp  
Costa Kirk  
Davis (AL) Lynch

□ 1625

Mr. MCHENRY changed his vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## NATIONAL TEACHER DAY

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 403, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 403, as amended.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 405, nays 2,

answered “present” 1, not voting 22, as follows:

[Roll No. 281]

YEAS—405

Ackerman Davis (CA) Johnson (IL)  
Aderholt Davis (IL) Johnson, E. B.  
Adler (NJ) Davis (KY) Johnson, Sam  
Akin Davis (TN) Jones  
Alexander DeFazio Jordan (OH)  
Altmire DeGette Kagen  
Andrews Delahunt Kanjorski  
Arcuri DeLauro Kaptur  
Austria Dent Kennedy  
Baca Deutch Kildee  
Bachmann Kilpatrick (MI) Jones  
Baird Dicks Kilroy  
Baldwin Dingell Kind  
Barrow Doggett King (IA)  
Bartlett Donnelly (IN) King (NY)  
Barton (TX) Doyle Kingston  
Bean Dreier Kirkpatrick (AZ)  
Becerra Kissell Kissel  
Berkley Duncan Klein (FL)  
Berman Edwards (MD) Kline (MN)  
Berry Edwards (TX) Kosmas  
Biggert Ehlers Kratochvil  
Bilirakis Ellison Kucinich  
Bishop (GA) Ellsworth Lamborn  
Bishop (NY) Emerson Lance  
Blackburn Engel Langevin  
Blumenauer Eshoo Larsen (WA)  
Blunt Etheridge Larson (CT)  
Bocieri Fallin Latham  
Boehner Farr LaTourette  
Bonner Fattah Latta  
Bono Mack Filner Lee (CA)  
Boren Fleming Lee (NY)  
Boswell Forbes Levin  
Boucher Fortenberry Lewis (GA)  
Boustany Foster Linder  
Boyd Foxx Lipinski  
Brady (PA) Frank (MA) LoBiondo  
Brady (TX) Franks (AZ) Loeback  
Braley (IA) Lofgren, Zoe  
Bright Fudge Lowey  
Broun (GA) Gallegly Lucas  
Brown (SC) Garrett (NJ) Luetkemeyer  
Brown, Corrine Gerlach Luján  
Brown-Waite, Giffords Lummis  
Ginny Gingrey (GA) Lungren, Daniel  
Buchanan Gohmert E.  
Burgess Gonzalez Lynch  
Burton (IN) Goodlatte Mack  
Butterfield Gordon (TN) Maffei  
Buyer Grayson Maloney  
Calvert Green, Al Manzullo  
Camp Green, Gene Marchant  
Campbell Griffith Markey (CO)  
Cao Grijalva Markey (MA)  
Capito Guthrie Marshall  
Capps Gutierrez Matheson  
Capuano Hall (NY) Matsui  
Cardoza Hall (TX) McCarthy (CA)  
Carnahan Halvorson McCarthy (NY)  
Carney Hare McClintock  
Carson (IN) Harman McCollum  
Carter Harper McCotter  
Cassidy Hastings (FL) McDermott  
Castle Hastings (WA) McGovern  
Castor (FL) Heinrich McHenry  
Chaffetz Heller McIntyre  
Chandler Hensarling McKeon  
Childers Herger McMahan  
Chu Herseth Sandlin McMorris  
Clarke Higgins Rodgers  
Clay Hill McNeerney  
Cleaver Himes Meek (FL)  
Clyburn Hinojosa Melancon  
Coble Hirono Mica  
Coffman (CO) Hodes Michaud  
Cohen Hoekstra Miller (FL)  
Cole Holt Miller (MI)  
Conaway Honda Miller (NC)  
Connolly (VA) Hoyer Miller, Gary  
Conyers Hunter Miller, George  
Cooper Inglis Minnick  
Costello Inslee Mitchell  
Courtney Israel Mollohan  
Crenshaw Issa Moore (KS)  
Crowley Jackson (IL) Moore (WI)  
Cuellar Jackson Lee Moran (KS)  
Culberson (TX) Moran (VA)  
Cummings Jenkins Murphy (CT)  
Dahlkemper Johnson (GA) Murphy (NY)

Murphy, Patrick Rohrabacher Speier  
Murphy, Tim Rooney Spratt  
Myrick Ros-Lehtinen Stark  
Nadler (NY) Roskam Stearns  
Napitano Ross Stupak  
Neal (MA) Rothman (NJ) Sullivan  
Neugebauer Roybal-Allard Sutton  
Nunes Royce Tanner  
Nye Ruppertsberger Taylor  
Oberstar Rush Teague  
Obey Ryan (OH) Terry  
Olson Ryan (WI) Thompson (CA)  
Olver Salazar Thompson (MS)  
Ortiz Sánchez, Linda Thompson (PA)  
Pallone T. Thornberry  
Pascrell Sanchez, Loretta Tiahrt  
Pastor (AZ) Sarbanes Tiberi  
Paulsen Scalise Tierney  
Payne Schakowsky Titus  
Pence Schauer Tonko  
Perlmutter Schiff Towns  
Perriello Schmidt Tsongas  
Peters Schock Turner  
Peterson Schrader Upton  
Petri Schwartz Van Hollen  
Pingree (ME) Scott (GA) Velázquez  
Pitts Scott (VA) Visclosky  
Platts Sensenbrenner Walden  
Poe (TX) Serrano Wasserman  
Polis (CO) Sessions Walz  
Pomeroy Sestak Schultz  
Posey Shadegg Waters  
Price (GA) Shea-Porter Watson  
Price (NC) Sherman Watt  
Quigley Shimkus Waxman  
Radanovich Shuler Weiner  
Rahall Shuster Welch  
Rangel Simpson Westmoreland  
Rehberg Sires Whitfield  
Reichert Skelton Wilson (OH)  
Reyes Slaughter Wilson (SC)  
Richardson Smith (NE) Wittman  
Rodríguez Smith (NJ) Wolf  
Roe (TN) Smith (TX) Woolsey  
Rogers (AL) Smith (WA) Wu  
Rogers (KY) Snyder Yarmuth  
Rogers (MI) Space Young (FL)

## NAYS—2

Young (AK)

Flake

## ANSWERED “PRESENT”—1

Bishop (UT)

## NOT VOTING—22

Bachus Garamendi Meeks (NY)  
Barrett (SC) Granger Owens  
Bilbray Graves Paul  
Boozman Hinchey Putnam  
Cantor Holden Souder  
Costa Kirk Wamp  
Davis (AL) Lewis (CA)  
Diaz-Balart, M. McCaul

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1633

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## CONGRATULATING EMPORIA STATE UNIVERSITY WOMEN'S BASKETBALL TEAM

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 1292, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio (Ms. FUDGE) that the House suspend the rules and agree to the resolution, H. Res. 1292, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

# RECORDED VOTE

Mr. CONNOLLY of Virginia. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 407, noes 1, answered “present” 1, not voting 21, as follows:

[Roll No. 282]

# AYES—407

Ackerman	Castor (FL)	Gallegly
Aderholt	Chaffetz	Garrett (NJ)
Adler (NJ)	Chandler	Gerlach
Akin	Childers	Giffords
Alexander	Chu	Gingrey (GA)
Altmire	Clarke	Gohmert
Andrews	Clay	Gonzalez
Arcuri	Cleaver	Goodlatte
Austria	Clyburn	Gordon (TN)
Baca	Coble	Granger
Bachmann	Coffman (CO)	Grayson
Baird	Cohen	Green, Al
Baldwin	Cole	Green, Gene
Barrow	Conaway	Griffith
Bartlett	Connolly (VA)	Guthrie
Barton (TX)	Conyers	Gutierrez
Bean	Cooper	Hall (NY)
Becerra	Costello	Hall (TX)
Berkley	Courtney	Halvorson
Berman	Crenshaw	Hare
Berry	Crowley	Harman
Biggart	Cuellar	Harper
Bilirakis	Culberson	Hastings (FL)
Bishop (GA)	Cummings	Hastings (WA)
Bishop (NY)	Dahlkemper	Heinrich
Bishop (UT)	Davis (CA)	Heller
Blackburn	Davis (IL)	Hensarling
Blumenauer	Davis (KY)	Hereth Sandlin
Blunt	Davis (TN)	Higgins
Boccieri	DeGette	Hill
Boehner	Delahunt	Himes
Bonner	DeLauro	Hinojosa
Bono Mack	Dent	Hirono
Boren	Deutch	Hodes
Boswell	Diaz-Balart, L.	Hoekstra
Boucher	Dicks	Holt
Boustany	Dingell	Honda
Boyd	Doggett	Hoyer
Brady (PA)	Donnelly (IN)	Hunter
Brady (TX)	Doyle	Inglis
Braley (IA)	Dreier	Inslee
Bright	Drieaus	Israel
Broun (GA)	Duncan	Issa
Brown (SC)	Edwards (MD)	Jackson (IL)
Brown, Corrine	Edwards (TX)	Jackson Lee
Brown-Waite,	Ehlers	(TX)
Ginny	Ellison	Jenkins
Buchanan	Ellsworth	Johnson (GA)
Burgess	Emerson	Johnson (IL)
Burton (IN)	Engel	Johnson, E. B.
Butterfield	Eshoo	Johnson, Sam
Buyer	Etheridge	Jones
Calvert	Fallin	Jordan (OH)
Campbell	Farr	Kagen
Cantor	Fattah	Kanjorski
Cao	Filner	Kaptur
Capito	Flake	Kennedy
Capps	Fleming	Kildee
Capuano	Forbes	Kilpatrick (MI)
Cardoza	Fortenberry	Kilroy
Carnahan	Foster	Kind
Carney	Fox	King (IA)
Carson (IN)	Frank (MA)	King (NY)
Carter	Franks (AZ)	Kingston
Cassidy	Frelinghuysen	Kirkpatrick (AZ)
Castle	Fudge	Kissell

Klein (FL)	Moran (VA)	Schock
Kline (MN)	Murphy (CT)	Schrader
Kosmas	Murphy (NY)	Schwartz
Kratovil	Murphy, Patrick	Scott (GA)
Kucinich	Murphy, Tim	Scott (VA)
Lamborn	Myrick	Sensenbrenner
Lance	Nadler (NY)	Serrano
Langevin	Napolitano	Sessions
Larsen (WA)	Neal (MA)	Sestak
Larson (CT)	Neugebauer	Shadegg
Latham	Nunes	Shea-Porter
LaTourette	Nye	Sherman
Latta	Oberstar	Shimkus
Lee (CA)	Obey	Shuler
Lee (NY)	Olson	Shuster
Levin	Olver	Simpson
Lewis (CA)	Ortiz	Sires
Lewis (GA)	Owens	Skelton
Linder	Pallone	Slaughter
Lipinski	Pascrell	Smith (NE)
LoBiondo	Pastor (AZ)	Smith (NJ)
Loeb sack	Paulsen	Smith (TX)
Lofgren, Zoe	Payne	Smith (WA)
Lowe	Pence	Snyder
Lucas	Perlmutter	Space
Luetkemeyer	Perriello	Speier
Lujan	Peters	Spratt
Lummis	Peterson	Stark
Lungren, Daniel	Petri	Stearns
E.	Pingree (ME)	Stupak
Lynch	Pitts	Sullivan
Mack	Platts	Sutton
Maffei	Poe (TX)	Tanner
Maloney	Polis (CO)	Taylor
Manzullo	Pomeroy	Teague
Marchant	Posey	Terry
Markey (CO)	Price (GA)	Thompson (CA)
Markey (MA)	Price (NC)	Thompson (MS)
Marshall	Quigley	Thompson (PA)
Matheson	Radanovich	Thornberry
Matsui	Rahall	Tiahrt
McCarthy (CA)	Rangel	Tiberi
McCarthy (NY)	Rehberg	Tierney
McCaul	Reichert	Titus
McClintock	Reyes	Tonko
McCollum	Richardson	Towns
McCotter	Rodriguez	Tsongas
McDermott	Rogers (AL)	Turner
McGovern	Rogers (KY)	Upton
McHenry	Rogers (MI)	Van Hollen
McIntyre	Rohrabacher	Visclosky
McKeon	Rooney	Walden
McMahon	Ros-Lehtinen	Walz
McMorris	Roskam	Wasserman
Rodgers	Ross	Schultz
McNerney	Rothman (NJ)	Waters
Meek (FL)	Roybal-Allard	Watson
Meeks (NY)	Royce	Watt
Melancon	Ruppersberger	Waxman
Mica	Rush	Weiner
Michaud	Ryan (OH)	Welch
Miller (FL)	Ryan (WI)	Westmoreland
Miller (MI)	Salazar	Whitfield
Miller (NC)	Sánchez, Linda	Wilson (OH)
Miller, Gary	T.	Wilson (SC)
Miller, George	Sanchez, Loretta	Wittman
Minnick	Sarbanes	Wolf
Mitchell	Scalise	Woolsey
Mollohan	Schakowsky	Wu
Moore (KS)	Schauer	Yarmuth
Moore (WI)	Schiff	Young (FL)
Moran (KS)	Schmidt	

# NOES—1

Young (AK)

# ANSWERED “PRESENT”—1

DeFazio

# NOT VOTING—21

Bachus	Diaz-Balart, M.	Kirk
Barrett (SC)	Garamendi	Paul
Bilbray	Graves	Putnam
Boozman	Grijalva	Roe (TN)
Camp	Herger	Souder
Costa	Hinche	Velázquez
Davis (AL)	Holden	Wamp

# ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1641

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# EXPRESSING CONDOLENCES FOR CHATHAM COUNTY COURTHOUSE FIRE

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 1364.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. JOHNSON) that the House suspend the rules and agree to the resolution, H. Res. 1364.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

# RECORDED VOTE

Mr. HASTINGS of Florida. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 406, noes 1, not voting 23, as follows:

[Roll No. 283]

# AYES—406

Ackerman	Brown (SC)	Courtney
Aderholt	Brown, Corrine	Crenshaw
Adler (NJ)	Brown-Waite,	Crowley
Akin	Ginny	Cuellar
Alexander	Buchanan	Culberson
Altmire	Burgess	Cummings
Andrews	Burton (IN)	Dahlkemper
Arcuri	Butterfield	Davis (CA)
Austria	Buyer	Davis (IL)
Baca	Calvert	Davis (KY)
Bachmann	Camp	Davis (TN)
Baird	Campbell	DeFazio
Baldwin	Cantor	DeGette
Barrow	Cao	Delahunt
Bartlett	Capito	DeLauro
Barton (TX)	Capps	Dent
Bean	Capuano	Deutch
Becerra	Cardoza	Diaz-Balart, L.
Berkley	Carnahan	Dicks
Berman	Carney	Dingell
Berry	Carson (IN)	Doggett
Biggart	Carter	Donnelly (IN)
Bilirakis	Cassidy	Doyle
Bishop (GA)	Castle	Dreier
Bishop (NY)	Castor (FL)	Drieaus
Bishop (UT)	Chaffetz	Duncan
Blackburn	Chandler	Edwards (MD)
Blumenauer	Childers	Edwards (TX)
Blunt	Chu	Ehlers
Boccieri	Clarke	Ellsworth
Boehner	Clay	Emerson
Bonner	Cleaver	Engel
Bono Mack	Clyburn	Eshoo
Boren	Coble	Etheridge
Boucher	Coffman (CO)	Farr
Boustany	Cohen	Fattah
Boyd	Cole	Filner
Brady (PA)	Conaway	Flake
Brady (TX)	Connolly (VA)	Fleming
Braley (IA)	Conyers	Forbes
Bright	Cooper	Fortenberry
Broun (GA)	Costello	



Foster  
 Foxx  
 Frank (MA)  
 Franks (AZ)  
 Frelinghuysen  
 Fudge  
 Gallegly  
 Garrett (NJ)  
 Gerlach  
 Giffords  
 Gingrey (GA)  
 Gohmert  
 Gonzalez  
 Goodlatte  
 Granger  
 Grayson  
 Green, Al  
 Green, Gene  
 Griffith  
 Grijalva  
 Guthrie  
 Hall (NY)  
 Hall (TX)  
 Halvorson  
 Hare  
 Harman  
 Harper  
 Hastings (FL)  
 Hastings (WA)  
 Heinrich  
 Heller  
 Hensarling  
 Herger  
 Herseth Sandlin  
 Higgins  
 Hill  
 Himes  
 Hinojosa  
 Hirono  
 Hodes  
 Hoekstra  
 Holt  
 Honda  
 Hoyer  
 Hunter  
 Inglis  
 Inslee  
 Israel  
 Issa  
 Jackson (IL)  
 Jackson Lee  
 (TX)  
 Jenkins  
 Johnson (GA)  
 Johnson (IL)  
 Johnson, E. B.  
 Johnson, Sam  
 Jones  
 Jordan (OH)  
 Kagen  
 Kanjorski  
 Kaptur  
 Kennedy  
 Kildee  
 Kilpatrick (MI)  
 Kilroy  
 Kind  
 King (IA)  
 King (NY)  
 Kingston  
 Kirkpatrick (AZ)  
 Kissell  
 Klein (FL)  
 Kline (MN)  
 Kosmas  
 Kratovil  
 Kucinich  
 Lamborn  
 Lance  
 Langevin  
 Larsen (WA)  
 Larson (CT)  
 Latham  
 LaTourette  
 Latta  
 Lee (CA)  
 Lee (NY)  
 Levin  
 Lewis (CA)  
 Lewis (GA)  
 Linder  
 Lipinski  
 LoBiondo  
 Loeback  
 Lofgren, Zoe  
 Lowey

Lucas  
 Luetkemeyer  
 Luján  
 Lummis  
 Lungren, Daniel  
 E.  
 Lynch  
 Mack  
 Maffei  
 Maloney  
 Manzullo  
 Marchant  
 Markey (CO)  
 Markey (MA)  
 Marshall  
 Matheson  
 Matsui  
 McCarthy (CA)  
 McCarthy (NY)  
 McCaul  
 McClintock  
 McColm  
 McCotter  
 McDermott  
 McGovern  
 McHenry  
 McIntyre  
 McKeon  
 McMahon  
 McMorris  
 Rodgers  
 McNerney  
 Meek (FL)  
 Meeks (NY)  
 Melancon  
 Mica  
 Michaud  
 Miller (FL)  
 Miller (MI)  
 Miller (NC)  
 Miller, Gary  
 Miller, George  
 Minnick  
 Mitchell  
 Mollohan  
 Moore (KS)  
 Moore (WI)  
 Moran (KS)  
 Moran (VA)  
 Murphy (CT)  
 Murphy (NY)  
 Murphy, Patrick  
 Murphy, Tim  
 Myrick  
 Nadler (NY)  
 Napolitano  
 Neal (MA)  
 Neugebauer  
 Nunes  
 Nye  
 Oberstar  
 Obey  
 Olson  
 Olver  
 Ortiz  
 Owens  
 Pallone  
 Pascarella  
 Pastor (AZ)  
 Paulsen  
 Payne  
 Pence  
 Perlmutter  
 Perriello  
 Peters  
 Peterson  
 Petri  
 Pingree (ME)  
 Pitts  
 Platts  
 Poe (TX)  
 Polis (CO)  
 Pomeroy  
 Posey  
 Price (GA)  
 Price (NC)  
 Quigley  
 Radanovich  
 Rahall  
 Rangel  
 Rehberg  
 Reichert  
 Reyes  
 Richardson  
 Rodriguez  
 Roe (TN)

Rogers (AL)  
 Rogers (KY)  
 Rohrabacher  
 Rooney  
 Ros-Lehtinen  
 Roskam  
 Ross  
 Rothman (NJ)  
 Roybal-Allard  
 Royce  
 Ruppersberger  
 Rush  
 Ryan (OH)  
 Ryan (WI)  
 Salazar  
 Sánchez, Linda  
 T.  
 Sanchez, Loretta  
 Scalise  
 Schakowsky  
 Schauer  
 Schiff  
 Schmidt  
 Schock  
 Schrader  
 Schwartz  
 Scott (GA)  
 Scott (VA)  
 Sensenbrenner  
 Serrano  
 Sessions  
 Sestak  
 Shadegg  
 Shea-Porter  
 Sherman  
 Shimkus  
 Shuler  
 Shuster  
 Simpson  
 Sires  
 Skelton  
 Slaughter  
 Smith (NE)  
 Smith (NJ)  
 Smith (TX)  
 Smith (WA)  
 Snyder  
 Space  
 Speier  
 Spratt  
 Stark  
 Stearns  
 Stupak  
 Sullivan  
 Sutton  
 Tanner  
 Taylor  
 Teague  
 Terry  
 Thompson (CA)  
 Thompson (MS)  
 Thompson (PA)  
 Thornberry  
 Tiahrt  
 Tiberi  
 Tierney  
 Titus  
 Tonko  
 Towns  
 Tsongas  
 Turner  
 Upton  
 Van Hollen  
 Visclosky  
 Walden  
 Walz  
 Wasserman  
 Schultz  
 Waters  
 Watson  
 Watt  
 Waxman  
 Weiner  
 Welch  
 Westmoreland  
 Whitfield  
 Wilson (OH)  
 Wilson (SC)  
 Wittman  
 Wolf  
 Woolsey  
 Wu  
 Yarmuth  
 Young (FL)

## NOES—1

Young (AK)

## NOT VOTING—23

Bachus  
 Barrett (SC)  
 Bilbray  
 Boozman  
 Boswell  
 Costa  
 Davis (AL)  
 Diaz-Balart, M.  
 Ellison  
 Garamendi  
 Gordon (TN)  
 Graves  
 Gutierrez  
 Hinchey  
 Holden  
 Kirk  
 Paul  
 Putnam  
 Rogers (MI)  
 Sarbanes  
 Souder  
 Velázquez  
 Wamp

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There is 1 minute remaining in this vote.

□ 1648

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### AUTHORIZE ASSISTANCE TO ISRAEL FOR THE IRON DOME ANTI-MISSILE SUPPORT

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, I rise to emphasize my strong support for H.R. 5327, of which I am an original cosponsor. This vital legislation authorizes the support of the United States for Israel's Iron Dome system, designed to intercept short-range missiles and rockets fired by Hezbollah from Israel's north and Hamas from the south. Since the year 2000, Madam Speaker, these violent militant groups, sponsored by Iran and Syria, have fired thousands of missiles, rockets, and mortars against Israeli civilian targets. Hezbollah now has an arsenal that may include Scuds and other long-range weapons. Rockets also continue to be fired from Gaza, including over 200 since January of 2009, putting southern Israel under a state of siege.

Madam Speaker, Israel is developing a multilayered missile defense system, including the Iron Dome, to stop this threat. The U.S. must support our indispensable ally, Israel, in this and other efforts to secure her citizens.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. HALVORSON). Members are reminded to refrain from trafficking the well while another Member is speaking.

#### STARTUP VISA AND EB-5 REFORM ACT

(Mr. POLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POLIS. Madam Speaker, I rise today to talk about the immigration opportunity for our country. Yes, not the immigration problem, but the immigration opportunity. Truly, the human potential and the human capital that wants to come to our shores and work hard and contribute to the productivity of our country is an important asset to our Nation. The countries with an immigration problem are, frankly, where the best and brightest are trying to leave to come to our country to work hard and create jobs for Americans.

One of the components of the House comprehensive immigration reform bill is my Startup Visa and EB-5 Reform Act that would make it easier for foreign investors and entrepreneurs to come start their business here in our country, guaranteeing that they create jobs for Americans. If we pass the EB-5 reforms as part of comprehensive immigration reform, it will create over 50,000 jobs for American citizens here. These are companies that otherwise will set up overseas in other countries. We're not letting them come here. Let's make our immigration system work for us. Let's create jobs for Americans here at home.

#### ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT ADMITS ISRAEL

(Mr. MORAN of Kansas asked and was given permission to address the House for 1 minute.)

Mr. MORAN of Kansas. Madam Speaker, the Organization for Economic Cooperation and Development unanimously voted to admit Israel last week as its newest member. The decision to welcome Israel into this group of 30-plus nations is significant recognition that Israel has much to offer the world and a setback to international efforts to delegitimize the Jewish State.

Israel is a democratic nation with an economy based on free market principles. It shares American goals of creating prosperity and new economic opportunities. Israel's high tech- and innovation-driven economy has been one of the world's strongest. It grew last year during the worldwide economic downturn and is expected to grow by 3.7 percent this year. As a member of OECD, Israel will offer an important perspective on global challenges and will help nations solve difficult problems. I congratulate Israel for overcoming unfounded objections to its membership and look forward to the contributions Israel will make to this international body.

#### DEFENSIVE MEDICINE

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Madam Speaker, a reputable health firm did a survey that they announced this month. Jackson Healthcare in Atlanta, Georgia, surveyed 1,400 physicians on the practice of defensive medicine. Their survey found that the vast majority—83 percent—of physicians between ages 25 and 34 reported being taught to practice defensive medicine. The survey defined defensive medication as medically unnecessary tests and treatments physicians ordered to avoid lawsuits. Only 19 percent of physicians over 65 were taught defensive medicine in medical school or during their residencies.

The conclusion of the Jackson Healthcare survey was that defensive medicine is negatively impacting physicians and patients beyond just costs. It is limiting patient access and quality, slowing the adoption of medical innovations, and discouraging future generations from pursuing the practice of medicine.

Jackson CEO Richard Jackson said, “The U.S. is the only major country in the world where physicians are personally financially liable for mistakes.” He said, “This is a systemic problem that needs to be addressed at State and national levels.” Republicans proposed to do that with medical liability reform, but the new health care law did not address it. That is too bad for all of us.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### MEXICO ABUSES IMMIGRANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Madam Speaker, Mexican President Felipe Calderon is at the White House today complaining about America. He said Arizona's new law “opens the door to intolerance, hate, discrimination, and abuse in law enforcement.” He said he will do everything in his power to protect the rights and dignity of Mexican citizens. He's just not too concerned about human rights abuses of illegals in his own country, however. While he's here falsely accusing officials in Arizona of perhaps maybe one day in the future violating the civil rights of illegals in Arizona, his own Mexican government officials are committing human rights abuses against illegals in Mexico. Just last month, the Associated Press said Amnesty International called the abuse of migrants in Mexico a major human rights crisis. Amnesty accused Mexican officials of turning a blind eye

or even participating in the kidnapping, rape, and murder of migrants.

Now, the Mexican Interior Department said that mainly Central American migrants who pass through Mexico on their way to the United States suffer abuses, saying the criminal cartels branch out into kidnapping and extortion of migrants. Amnesty International said failure by authorities to tackle abuses has made their trip through Mexico one of the most dangerous in the world. They have “virtually no access to justice, fearing reprisals and deportation if they complain of abuses.” The Amnesty report also says Central American migrants are frequently pulled off of trains in Mexico and are kidnapped en masse and held at gang hideouts. They're forced to call relatives in the United States to pay the ransom to the kidnappers. There are thousands of these migrant kidnappings each year in Mexico, according to Amnesty's report.

□ 1700

The report goes on to say, “Kidnappings of migrants—mainly for ransom—reached new heights in 2009. The National Human Rights Commission reported nearly 10,000 migrants in Mexico were abducted during a 6-month period.” Half of the victims said in later interviews that public officials in Mexico were involved in the kidnappings. An estimated six out of 10 migrant women and girls experience sexual violence. Some of the people-smuggling coyotes now demand that women receive contraceptive injections ahead of the journey so they don't become pregnant as a result of rapes they endure in Mexico. Many women are raped, beaten or killed in the process of illegally transporting themselves through the nation of Mexico. Illegals in Mexico can't complain about the abuse to authorities.

According to the report, Article 67 of Mexico's Population Law says, “Authorities, whether Federal, State or municipal, are required to demand that foreigners prove their legal presence in the country” of Mexico. Now President Calderon self-righteously criticizes Arizona for enforcing immigration laws, but his own nation requires the states in Mexico to enforce Mexico's immigration laws.

The Amnesty report goes on to say and talk about an example of one of the horror stories of abuses of illegals that are in Mexico. On January 23 of this year, armed police stopped a freight train carrying 100 migrants in Chiapas State in southern Mexico. A girl who we'll call “Veronica” said that the federal police—the federal government—the federal police forced her and other illegals in Mexico to leave the train they were riding on. They were forced to lay down on the ground where she says Mexican federal police stole their belongings and threatened to kill

them unless they continued their journey by foot along the railway. After walking for hours, the group was assaulted by armed men who sexually assaulted Veronica and killed at least one of the other illegals in Mexico.

Now, Madam Speaker, it seems to me that President Calderon is here at the White House complaining about America, complaining about imagined and fictitious abuses in Arizona's new illegal immigration enforcement law, while he ignores actual human rights abuses of illegals and migrants in his home nation of Mexico. Perhaps he should clean his own glass house before throwing rocks at America, especially Arizona. President Calderon's nation is in economic turmoil. His economic plan is simple. He tells his citizens, Go to America by any means necessary, and send money back home to Mexico. He cannot take care of his citizens. His country abuses immigrants, and he is out of line criticizing the United States for any reason. His comments are hypocritical and irrelevant.

And that's just the way it is.

#### EARLY DETECTION MONTH

The SPEAKER pro tempore (Mrs. DAHLKEMPER). Under a previous order of the House, the gentleman from North Carolina (Mr. ETHERIDGE) is recognized for 5 minutes.

Mr. ETHERIDGE. Madam Speaker, I rise today in support of Early Detection Month for cancer. The House and Senate have concurred in a resolution that I introduced honoring Early Detection Month which is the current month, the month of May. Across the country, individuals and groups are organizing events to raise public awareness of cancer screening and early detection so that any person who gets cancer has a chance at survival. It is fitting that Mother's Day should be celebrated during Early Detection Month because our mothers, our sisters and our daughters are the victims of the second most common form of cancer, breast cancer. Just as it is for other forms of cancer, early detection is the key to reducing deaths from breast cancer.

The 1 in 8 Foundation is one of the leading groups working to fight against cancer, and it is solely focused on early detection. From its headquarters in Cary, North Carolina, Ken Vrana is working to make sure women and men across this country are aware of the difference that early detection can make in the course of cancer. The foundation is engaged in educating and motivating people to become more proactive about their health and live longer. In fact, the concurrent resolution that honors the efforts of Early Detection Month for breast cancer and all forms of cancer only came about because of Ken and the foundation's efforts.

I know personally the difference that early detection can make. Several years ago, I was diagnosed with melanoma. My cancer was found early because I saw my doctor regularly. I am living proof of the importance of early detection. As a cancer survivor myself, I want to enable all Americans to have the knowledge and access to care that early detection of cancer provides so that it can be treated, and cancer survivors can lead long and healthy lives.

Every year, almost 2 million Americans are diagnosed with cancer. Tragically, more than one-quarter of these cases result in death. Early detection can help patients get early treatment. It can stop the spread of the disease before it becomes untreatable or before it requires expensive medical treatment and can be the difference between life and death. Early detection saves tens of thousands of lives annually but also greatly reduces the financial strain on the government and private health care services.

For many common cancers, when the disease is caught early, nine out of 10 patients can be saved. Unfortunately, tens of thousands of people every year are diagnosed with advanced cancer, and all too often, they face painful treatments and poor chances of survival. Through forward-looking investment of taxpayer dollars, we have made great strides in cancer research, but treatment often needs to be provided early if we want cancer victims to become cancer survivors. Organizations like the 1 in 8 Foundation work tirelessly to promote early detection so that folks can do more than survive cancer; they can regain the full and active life they always enjoyed. Organizations like the 1 in 8 Foundation fights to make sure that Mother's Day is a happy day because moms get the caring treatment they need before it is too late.

Madam Speaker, early detection reduces the tragedy of cancer deaths in America. I urge my colleagues to join me in fighting cancer, a disease that has claimed so many lives, but with support for early detection, it can be beaten, and more people will survive.

#### WHERE'S THE BUDGET?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. GOODLATTE) is recognized for 5 minutes.

Mr. GOODLATTE. Madam Speaker, where is the budget? Congress is expected to agree on a budget for the upcoming fiscal year by April 15. The budget process at the beginning of each year sets the goals regarding total Federal spending for the year. It is the budget that sets the stage for how fiscally responsible government spending will be.

Since the passage of the Budget Act of 1974, the House of Representatives

has never failed to pass an initial budget to set the spending priorities for the following fiscal year. Not this year. We are now a month past the deadline, and Speaker PELOSI and the Democratic leadership are showing no signs of complying with the law and coming forward with a budget for fiscal year 2011. In 2006, Congressman STENY HOYER, who is now the House majority leader, was quoted as saying, Enacting a budget was "the most basic responsibility of governing," and Congressman JOHN SPRATT, who is now the chairman of the House Budget Committee said, "If you can't budget, you can't govern."

While I understand that the Congress has the power to name public buildings and post offices, I believe that setting a budget, allowing the government to live within its means, is more important than passing ceremonial resolutions. With total public debt rising to nearly \$13 trillion, according to the Bureau of Public Debt, Congress' priority should remain focused on getting our fiscal house in order. Families and small businesses all across our Nation understand what it means to make tough decisions each day about what they can and cannot afford. They understand the importance of creating and living by a budget. Unfortunately, instead of making the tough choices necessary to reduce spending, the majority in Congress has decided to forgo a budget altogether. Just 4 years ago, the same leaders who are now shirking their responsibility and choosing to move forward without a budget were very clear on how important the budget process is to the operation of the Federal Government.

Madam Speaker, where's the budget? Without the passage of a Federal budget, the reckless spending that has run rampant in Congress will only continue. We have already seen the passage—without my support—of the so-called economic stimulus legislation which was supposed to put Americans back to work. Not only did the stimulus legislation fail to create jobs, but it is now estimated to be costing American taxpayers over \$1 trillion including interest. Not only should Congress produce a budget, but I am a strong supporter of several measures that promote the establishment of a balanced budget and the elimination of wasteful government programs, including a constitutional amendment that I introduced which requires the Federal Government to balance its budget. Congress must steadfastly hold the line on government spending, which is why I have consistently voted for the tightest budgets offered each year. But maybe not this year. No budget is offered.

As elected officials and stewards of the taxpayers' money, we have a responsibility to put together a sustainable budget and stick to it. The Congress must continue to work to rein in

spending and put to practice a spending approach that many Americans already live by: If you don't have it, don't spend it.

Madam Speaker, where's the budget?

#### 1,000 AMERICANS DEAD IN AFGHANISTAN IS FAR TOO MANY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, on Tuesday, a suicide bomber deliberately crashed his minivan on a street in Kabul during one of the busiest times of the day. According to The New York Times account, and I quote them, "The blast blew bodies apart. Limbs and entrails flew hundreds of feet, littering yards and walls and streets. In a passenger bus, an Afghan woman lay dead in her seat, cut in half, with her baby still squirming in her arms. Fifty yards away, a man's head lay on the hood of a truck." It was the most devastating strike seen in the Afghan capital in some time, Madam Speaker. It served as a kind of "welcome home" from the insurgents to President Karzai, just returning home from his visit to the United States, who was getting ready to brief reporters at the Presidential palace, just a short distance away from the site of the explosion.

Aside from the gruesome civilian casualties, this attack is also significant because it claimed the lives of five of our soldiers, which brings the total number of U.S. troop fatalities in the war in Afghanistan to over 1,000. This tragic milestone should fill us with horror, Madam Speaker. It should keep every one of us awake at night.

For years, the failure to make progress in Afghanistan flew under the radar as the war in Iraq grabbed most of the attention and headlines. But more than 100 months into the Afghanistan conflict, the mission is clearly floundering. More than half of those 1,000 deaths have occurred just since September of 2008. The decision to send more troops has only intensified the violence and emboldened the militants, doing nothing to bring lasting stability to Afghanistan and to its people.

This war has not accomplished any of its stated goals. Here we are, 8½ years after we supposedly drove out the Taliban, and lo and behold, the Taliban is resurgent, poised to fill the power vacuum in districts and villages where we've done nothing to build strong and legitimate governing institutions. Remember the reportedly successful military offensive over the winter in Marja? A few months later, it turns out, the residents are fleeing in droves because the Taliban has reasserted itself. One U.S. official now calls Marja "a work in progress but not trending in the right direction." And this is one of the places where we had declared victory.

We have been patient, Madam Speaker. We have given the strategy a chance to work. It failed. It has failed at nearly every turn, and 1,000 deaths is far too many. Before the number grows, let's bring our troops home.

□ 1715

#### AMERICA'S FAILED TRADE POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Madam Speaker, how many millions more jobs have to be outsourced before Washington wakes up? The U.S. Chamber of Commerce this week released a report claiming that U.S. trade agreements have supported 5.4 million jobs. More than 90 percent of the jobs, according to the Chamber, can be attributed to NAFTA and our NAFTA trading partners, Mexico and Canada. Are we talking about the same country in the same continent?

In the United States I know and the district I return to every weekend, the battering effects of NAFTA and NAFTA-like trade agreements are still being felt: lost jobs, shuttered factories, and beleaguered communities. I can't help but wonder if the Chamber of Commerce is some sort of cruel joke: 5.4 million jobs? No way. Try 1 million jobs lost due to NAFTA. Try 2 million manufacturing jobs lost because of all of the off-shoring that has gone on in this country in the last quarter century. Or how about 12,000 to 20,000 service-sector jobs lost every month, many of which have simply been outsourced overseas.

In Ohio, employment just in the manufacturing sector has declined by a third. Companies like Silgan Holdings, Delphi, Georgia Pacific, General Motors, Dixon Ticonderoga, Champion Spark Plug, all have moved to Mexico. Things are not much better in Mexico. By the 10th anniversary of NAFTA, The Washington Post reported that 19 million more Mexicans were living in poverty than 20 years ago; 2 million peasant farmers alone were dispossessed from their land with no adjustment inside that country. So guess what they are doing. They are seeking to live anywhere, including crossing our border because they simply have no other choice. NAFTA didn't take care of them in their home country.

Now over half of the Mexican population is considered poor, while one in four is considered extremely poor and unable to even afford adequate food. The illegal drug trade has swept across that country and locked in fully at our border and across our country. Remember when NAFTA was held out as the ticket to the promised land with millions of new jobs and a rising standard of living? Right here in this very

Chamber, Members voted to outsource America's job to a low-wage country with a state-managed economy.

Ross Perot was right: NAFTA has been a giant sucking sound of jobs leaving our country, leaving us behind with a NAFTA trade deficit of over \$1.3 trillion since 1994. The deficits from NAFTA and NAFTA-like trade agreements have caused the great manufacturing that our Nation knew to wither as we saw our companies compete against state-managed capitalism in places like Mexico, China, Japan and so many others. Trade deficits are at the heart of our economic challenge. They destroyed jobs, millions and millions and millions of good jobs. We will never get our economy out of the ditch without fundamental changes in our trade policy.

When trade accounts began their downward spiral, America's economy started to deteriorate. Do you remember the last time we had a balanced trade account? It was 1974 when we had a thriving middle class.

Is it any wonder that our Nation is paying the price of economic policies that led to the current deep recession that Brad DeLong estimates has put a third of our Nation in depression. This was no accident. It is the direct result of over a quarter century of outsourcing U.S. jobs to penny-wage environments and of allowing other nations to keep their markets closed through managed trade practices, substandard environmental systems, and many undemocratic political systems able to exploit their workforces for the benefit of a few owners.

In essence, our market capitalism is forced to compete with state-managed capitalism. From Mexico to China to Japan, it is just not a fair fight. These unfair trade agreements have been draining the economic lifeblood of our Nation, and every single American knows it to be true. Free trade among free people should be a bedrock principle on which any trade policy is based. And without it, our workers and companies stand no chance.

It is time to wake up, stand up for this country, and renegotiate those trade agreements that keep moving jobs offshore and take more and more and more of our jobs every single year. The same countries block access of our goods into those countries. It hurts our workers, it hurts our communities, and it has hurt this country deeply.

#### WHERE'S THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Georgia (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROWN of Georgia. Madam Speaker, during the 5-minute speeches just a few minutes ago, the gentleman

from Virginia (Mr. GOODLATTE) was showing all of us this poster that he graciously made up: Where's the budget? That is what we will be talking about tonight because we have seen in this Congress this year that the leadership of the Congress is failing its responsibility, failing its duty, failing to bring us a budget.

Now, we saw the President put together a budget that he presented to Congress several months ago. We will talk about that a little bit. But under the Constitution of the United States—and I carry a copy in my pocket because I believe in this document as it was intended by the Founders, the people who wrote this document. One of the prime responsibilities of Congress is to pass a budget. From the original intent of our Constitution and what it says in the Constitution, the Congress should be making the budget, not the President.

Article I lays out all of the premises of the Congress of the United States. Section 1 says all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2 goes on and talks about how the House is made up.

Section 3 is about the Senate.

Section 4 talks about the times and places and manner of holding elections for the same.

Section 7 starts off: All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills. That is the first sentence of article I, section 7.

So all bills for raising revenue should start in the House. All budgets should be started in the House. And that's what our Founding Fathers meant to happen.

Section 8 lists the 18 things that Congress can pass laws about. There are only 18, folks. Obviously, we are passing laws about many more things than 18. In fact, in this little booklet, the Constitution of the United States, article I, section 8, starts right here and it goes to right here. It is one and three-quarter pages. That's all Congress has the constitutional authority to pass laws about.

And the 10th Amendment of the Constitution, the Bill of Rights, says, and I want to read it to get it very clear so the American people can understand. It is basically one sentence. It says: The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

In other words, Congress is only supposed to be doing the 18 things in article I, section 8. We specifically have enumerated powers. That is what limited government is supposed to be all about. It is supposed to be enumerated

powers that we are given by the people. The Constitution starts off with very three powerful words: we the people. "We the people" is the most powerful political force in this country under our Constitution.

But "we the people" is not acting as strongly as it should have been. And one of the things that Congress is supposed to be doing is passing a budget. In fact, families all over this country, State and local governments all over this country, pass a budget. If we don't have a budget, how do we know how to set out bills proposing revenue? How do we know how to spend the money, the taxpayers' money that we take from them through taxes?

Madam Speaker, we are doing a lot of things here in Congress that we shouldn't be doing. But one thing that we should be doing is passing a budget. It is critical. Mr. GOODLATTE said during his 5-minute speech that he has introduced a balanced budget amendment to the Constitution. I have done the same. Mine is a little different. There are three balanced budget amendments that Republicans have introduced. But how can we balance the budget if we don't have a budget? I believe very firmly that the Federal Government should not be spending any more money than it takes in year to year. We should be balancing our budget.

My State of Georgia has to live under a balanced budget. In fact, the general assembly just dismissed a couple of weeks ago because they were desperately trying to balance their budget, which they eventually did, in this economic downturn. They were having tremendous struggles about how to cut the size of State government in the State of Georgia.

But the Federal Government should be doing the same, and the American people need to demand a balanced budget. Republicans are going to be offering a balanced budget. We have done it over and over again. In 1995, a balanced budget amendment to the Constitution passed the U.S. House of Representatives. It lacked one Republican vote in the U.S. Senate from being law today. Unfortunately, we could not get one Republican more to vote for a balanced budget amendment. We wouldn't be spending our grandchildren's future, as we are doing today. The outrageous spending that Congress is doing has to stop. The American people need to demand a balanced budget, but we need to demand from our elected representatives a budget.

It puzzles me why almost at the end of May, Congress still has not enacted a budget resolution and has totally disregarded the April 15 deadline. The deadline. We have missed that deadline, as we miss a lot of things around here.

But we have seen over and over again big bills, big spending bills, a stimulus

bill that has been an abject failure. It has stimulated government; it has not stimulated jobs in the private sector but very minimally. Most of those are temporary jobs. We see unemployment recently was reported at 9.9 percent; but that doesn't tell the whole story. Over 50 million people, workers in America, are out of work today. We have had a rise in the unemployment rate, but the 9.9 percent does not tell the true story.

I was talking to one of the county commission chairmen in my district just a few weeks ago. And he said: PAUL, in our county the unemployment rate today is 10.7 percent; and 1 year ago it was 14.3 percent.

I said: Man, that is great. Where did the jobs come from? Where did you create all of the jobs in this county?

He said: PAUL, sadly, there are no jobs. We have not created new jobs here. People have just fallen off the rolls. They have gotten discouraged and are not on the unemployment rolls any more. In Georgia, we have furloughed teachers. At the University of Georgia that I represent in Athens, Georgia, we have furloughed a lot of the employees of the university. Teachers all across the State of Georgia are going to be put out of work because the State of Georgia just does not have the money in this economic downturn to continue to hire and continue to employ the teachers that we so desperately need.

□ 1730

We just had a resolution that we all voted on, almost unanimously, to honor teachers. Teachers hold the future of our Nation, because what they teach our children is critical for the safety and prosperity of America. Teachers are being put out of work in Georgia, but they're being put out of work all over this country. We have too many people in the administration in the school system. Unfortunately, teachers are losing their jobs and administrators are keeping their jobs.

But we absolutely have to have a budget. We absolutely must have something, a framework of how Congress is going to spend the taxpayers' hard-earned money. And Congress is ignoring the immediate budget picture. But we've also punted the long-term budgeting decisions to a deficit commission that is structured to avoid transparency and accountability. And it looks like we're not going to pass a budget resolution here in the House nor in the Senate. We may not even pass any appropriations bill.

But tonight we're asking, Where is the budget? It's nowhere to be found. I've been just joined by my good friend, Congressman JIM JORDAN, who is very much part of the Budget Committee and has been a stalwart in fighting for a budget that makes sense and informing Members, on our side at least,

about the budget and what's going on. And he's here joining us, and hopefully we'll have some other Members.

I see MARSHA BLACKBURN, a stalwart conservative Congresswoman from Tennessee, from Nashville, a good friend, has joined us, and I appreciate you all joining us here tonight.

And so I want to yield time to Mr. JORDAN. And tell us about the budget. Where is the budget?

Mr. JORDAN of Ohio. Where is the budget?

I thank the gentleman for yielding, thank him for taking the time to do this Special Order this evening on a critical, critical issue.

You know, April 15, by law, the Congress is supposed to have a budget resolution in place. We're supposed to have a document that actually places the parameters, sets the framework for all the spending that the Federal Government plans to do. And yet, here we are, 5 weeks later, still no budget. And, frankly, all the talk from the Democrats in Congress is that they're not going to do a budget resolution.

Look, families have to do a budget. Small business owners have to do a budget. Local school boards do a budget. Village councils do a budget. Mayors and city councils, States, everyone has to do a budget. But somehow the Federal Government, the biggest spender of money in the world, is not going to put a plan together.

Who'd have ever thought we'd see this day? I mean, think about this past year. Who would have ever imagined we'd see the things that we have witnessed from this Congress? Talk about a VAT tax, talk about a—you know, a \$1.4 trillion deficit. Did you ever think we'd see that in America, a \$12 trillion national debt?

And again, the talk of not even putting a budget together.

Look, when the President—part of the reason I think the Democrats don't want to actually do that document and show the American people where they plan on spending their money is because the budget we got from the White House was so ridiculous. The budget from the White House that the President sent to Congress, sent to the Budget Committee, we heard testimony from the various Federal agencies. The budget they sent, by Budget Director Orszag's own testimony, was unsustainable because it ran deficits anywhere from 7 to 10 percent of GDP each and every year of the 9-year budget window. And so it's no wonder they don't want to deal with that document. It's no wonder they don't want to put together their own budget.

But, frankly, you shouldn't be able to take a pass. Families, taxpayers, business owners out there, they don't get to take a pass. They have to put their budget together, and the Federal Government should do no less.

You know, last year the RSC offered a balanced budget, a budget that actually got to balance. We're working on

that document again. We plan to bring it forward. We plan to lay out there what a balanced budget looks like, what fiscal responsibility looks like. We plan to do what families and small business owners have to do.

So it's a troublesome day. It's a sad day today when we have here the Congress of the United States not doing their responsibility and not putting together a budget document.

I yield back.

Mr. BROUN of Georgia. Reclaiming my time, Mr. JORDAN, you're exactly right. And I'd like for you to talk about the Republican balanced budget that we introduced last year and again you're working on it this year.

But you brought up the President's budget. TODD AKIN, our colleague from Missouri, was very generous to loan me this chart. This is about the President's proposed budget that he gave us. We don't have a House budget. We may not get a Senate budget.

This pie chart, I just want to pay attention to two figures. Total receipts proposed, \$2.56 trillion. Total outlays, \$3.834 trillion. Now, \$1 trillion is a lot. People can't get their arms around or mind around what's \$1 trillion. But if you subtract 2.5, in receipts, plus change from 3.8 plus change, you see we have a big budget deficit that's been proposed by this administration. This is actually unsustainable.

I've heard our colleagues on the other side talk over and over again about the deficit that was created by George Bush. And, in fact, all I hear from our colleagues over and over again is about the deficit, and they're still blaming the Bush administration.

Well, I've not been a great fan of the budget deficits that the Bush administration put forward, but if we look at this chart, these are the deficits under the Democratic budgets. This is in billions of dollars. We see in blue the deficits, 2004, 5, 6, 7, that were under the Bush administration. We did have budget deficits, and that was wrong, absolutely wrong. The Federal Government should live within the means that it has. But look at this paltry amount compared to the budgets that have been proposed by this administration and others.

And you hear over and over again the Obama budget—of course, this goes out from 2011 to 2020. These are the proposed budget deficits that the Obama administration has proposed in his budget. Huge, compared to the budget deficits that were actual under the Bush administration. We shouldn't even have had those. We should have been living under a balanced budget since 1995. And I blame the Bush administration and the Republican Congress for—control of Congress for these budgets. But this graph right here was when Nancy PELOSI took over as Speaker of the House. We've got to stop this outrageous spending.

I want to yield to my good friend MARSHA BLACKBURN from Nashville, Tennessee, who represents a huge swath through the middle of Tennessee, and she's a great warrior on this issue. And I want to welcome you, Mrs. BLACKBURN.

Mrs. BLACKBURN. Thank you, and I want to thank the gentleman for yielding.

And my wonderful district that goes from Memphis to Nashville and all the way to the Kentucky border, of course, right now we're fighting floods, and so many of our residents have been, are suffering the adverse effects of all of those floods. And we remember them every day and want to let them know that we're thinking about them.

I'm glad that we're talking about the budget issue because budgets are to lay out the priorities of the Federal Government, and they're to define for our taxpayers and our constituents where this money is going to be spent. And as the gentleman just said, it is our responsibility. This is supposed to be done. Congress is charged with having control of the purse of the Federal Government, and we are to do this, as the gentleman said, by April 15 every year.

Now, what some of my constituents are asking me, as we talk about fiscal responsibility, is: Why aren't they doing a budget this year? What are they afraid of? And what is the reason that they would choose not to do a budget?

Because budgets are to outline those priorities, and they're to be a roadmap. And you know what is so interesting is so many of our constituents like following the budget process. When we send that link to the President's budget, when we send that link through our Blackburn Report to the budget document that the House has under consideration, they follow it, and they like to see where their taxpayer dollars are being spent.

I had one constituent who said, you know, I think this is so disrespectful of the American taxpayer that they would, in their arrogance, say, Trust us. We don't have to do a budget document. Just trust us. We're going to keep spending. We're not going to curtail our spending. Just trust us.

And the American people are listening to that, and they're saying, You've got to be kidding.

As Mr. JORDAN said, you know, families do this, small businesses, everybody's been tightening their belts. Our colleges, our universities, our counties and our cities, they're all doing their budget hearings right now, and they're perplexed that Congress would consider moving forward.

Now, the gentleman from Georgia talked a little bit about past spending. And I think as we talk about deficits and the debt, that the gentleman from Georgia and I probably agree that—and I know I certainly talked with Presi-

dent Bush and I think he did, too, many times. I felt that President Bush spent too much.

CBO says when you look at the years of Republican control from 1994 to 2006, our average annual deficit was about \$104 billion per year. And then you go in, and the gentleman has the chart that shows what happened when there was Democrat control of Congress, the 3 years that they have had it, 2007, 2008, 2009.

Well, our \$104 billion a year deficit, which was way too much—we should never have a deficit, or it should only be in extenuating circumstances. We all support a balanced budget. We support a balanced budget amendment. We support bringing that in, like the RSC did last year, having a balanced budget.

But when you look at the fact that \$104 billion, as opposed to \$1.11 trillion, which has been their average annual deficit, it causes people to say, My goodness. You mean our average annual deficit has become their monthly deficit?

Mr. BROUN of Georgia. Say that again so the people who are listening can understand that, if you would, please, won't you.

Mrs. BLACKBURN. Our average, under Republican control, the average annual deficit has become what now, under Democrat control, they are running in deficit averaging on a month. And I think that's what causes concern to people.

April, the deficit was four times what it was last year. These are numbers that cause people to say, Wait a minute. We have to put the brakes on. We are on the wrong track, and it is time for Washington to get its fiscal house in order.

You know, one of the things that I will ask when someone says, Well, we need to be spending more on this and we need to be spending more on that; people need to be paying more in taxes so that the Federal Government can spend more, is, Well, how much is enough when it comes to taxes? How much is ever going to be enough? How much spending is ever going to be enough?

And those are questions that, when you stop and think about it, is there ever going to be a time when those that want to spend taxpayer money get enough?

I think we would all agree, Washington does not have a revenue problem. Washington has a spending problem. And the way we begin to get the spending under control is to have a budget that is going to spend less. That is going to be the first step.

Now, the gentleman from Georgia had the charts, and he was talking about an estimated, I think it's \$2.3 trillion in revenues and the \$3.8 trillion in outlays, and that was the budget that the President had proposed.

And I ask the gentleman, do I have my figures correct? \$2.3 trillion and change for the revenues and \$3.8 trillion and change for the expenditures?

□ 1745

Mr. BROWN of Georgia. According to this chart, you are close; it is \$2.567 trillion in revenues, and then \$3.834 trillion in outlays.

I yield back.

Mrs. BLACKBURN. I thank the gentleman for yielding.

We know that since the time that that budget was presented to us we have passed a health care bill. And we know that last week even CBO came back and said guess what, we misfigured. We are going to change these projections. So already those expenditure and outlay projections are off because we have the trillion dollar-plus health care bill that we are going to be looking at.

That is something that certainly is on the minds of the taxpayers. They want to see the out of control spending stop. And I think that they are sending a message loud and clear. The focus should be on the economy. It should be on jobs. Constituents every day are saying, Where are the jobs? You have stimulated big government, but you haven't stimulated Main Street. Where are the jobs? And they are focused on the out of control spending from Washington on programs they do not want. And they know that not only they the taxpayer, we the people cannot afford, but the Federal Government cannot afford to be spending our money on those programs.

I yield back.

Mr. BROWN of Georgia. Thank you, Ms. BLACKBURN.

You are exactly right. Not only did we have the health care bill that was passed by this House, passed by the Senate first and then came over here, not one Republican voted for that bill. We just heard from CBO just this last week I think it was when they said, Oops, we made a mistake. It's going to cost at least \$115 billion more than we first estimated. One hundred fifteen billion dollars more. That's not a paltry sum. And actually, it's going to still continue to climb. I think that the government takeover of health care is going to be an even bigger bill.

We saw Congress pass a nonstimulus bill, which is what I called it at the time. That's been an abject failure. That's another trillion dollars that we don't have the money. We have seen bill after bill come to the floor of the House passed by the Democratic leadership, forced down the throats of the American people, with just outrageous spending of money that we just do not have. That's the bottom line. We have got to stop the spending, this outrageous spending. We need to have a budget. The Federal Government needs to live within its budget, period.

Mr. JORDAN, I yield to you.

Mr. JORDAN of Ohio. I thank the gentleman for yielding.

I just want to pick up where the gentlelady from Tennessee was talking about. She says it's irresponsible not to do a budget. It most certainly is. Thirty-four days and counting. April 15, here we are May 19, 34 days the Federal Government hasn't done what the law tells us we are supposed to do in putting a budget resolution together. It is irresponsible, it is arrogant.

It is arrogant to not go through the markup, not have the debate, not have the hearings, not put that out there so the American taxpayer, the American family, the American small business owner can see how in fact this government plans in fact to spend their money.

But it is not just irresponsible, it is not just arrogant, it is immoral to do what this government is doing. It is just plain wrong to tell future generations of Americans, to tell our children and our grandchildren you are going to have to deal with a \$12 trillion debt and counting and growing. You are going to have to pay that back. That is just plain wrong.

I mean one of the things that makes our country so special, one of the things that makes America the greatest Nation ever is the simple concept that parents make sacrifices for their children so that when they become adults they have life better than we did. And then they in turn do it for their kids, and each generation has done it for the next, and we get to be America, the greatest Nation ever, the highest standard of living in human history. And now for the first time we have the political class in this town telling the next generation, telling future generations, You know what, we are going to live for the now, we are going to spend for the moment, we are going to live for the moment, and we are going to send the bill to you.

It's not just arrogant and irresponsible; it is wrong. It is just plain wrong. This money has to be paid back. Way back in one of my first economics classes in college we learned a simple thing: There is no free lunch. You have to pay it back. Somebody's got to pay this back. And it shouldn't be put on the backs of our kids and our grandkids.

Think about where we are at today. And as we talked about the budget that the Democrats are proposing, the budget that the President sent to Capitol Hill makes matters worse. But where we are at today, we have to pay this year \$200 billion just in interest on the debt. Within a couple years the interest payments alone will be a billion dollars a day. So it is not just arrogant and irresponsible, it is immoral. It is just plain wrong to do this.

That's why, because they are addicted to spending, they don't want to

actually make cuts like we do in our budget. That's why they don't want to do this process. That's why they don't want to have a budget. And it is just, as I said, it is just plain wrong. And I appreciate the gentleman taking this hour to talk about this most fundamental issue, this most basic issue, and let people understand what in fact is really going on with their government today.

With that I would yield back.

Mr. BROWN of Georgia. Thank you, Mr. JORDAN.

I agree with STENY HOYER, the majority leader for the Democratic Party here in the House. When he was talking about passing a final budget and a spending blueprint, he said this, quote: "It is the most basic responsibility of governing." The Democratic leader, STENY HOYER, said passing a final budget and a spending blueprint is the most basic responsibility of governing. They are not governing. They are not doing what they should.

It is also real interesting to me, in 2006 the House Budget Committee chairman, JOHN SPRATT, said, quote, "If you can't budget, you cannot govern." "If you can't budget, you cannot govern." Quote and unquote. JOHN SPRATT, the Democratic chairman of the House Budget Committee. They are not governing. They are being irresponsible. The American public deserve better.

We have been joined tonight also by my good friend from Texas who has been an individual that has spent many hours, as I have, here on the floor talking about the ObamaCare bill and about ethics in governing. We are very honored to have Judge JOHN CARTER from Texas.

I yield to you.

Mr. CARTER. I thank my friend for yielding.

You know, some of the Members of this august body that are living just a normal life, they ought to be looking at this, and folks back home ought to be looking at this and thinking how can you spend all that money without having a budget? And then they think about what kind of a great deal would it be at my house if I could just say, you know what, kids, mom, I tell you what, let's do, let's just do whatever makes us happy. Let's pick up all the pet projects in the world that we favor and let's just spend our money on that. Let's go out and buy the things we want to buy. Let's go places we want to go and do things we want to do. And just throw that budget that we used to have, throw it in the trash, and this year let's don't budget. Let's spend the money. And hey, mom, I don't want you to worry that we don't have a budget because we don't need a budget. Hey, we will borrow the money to pay these bills. That's no problem. And if we can't get somebody to loan us the money here, we will go to China and



get the people in China to loan us the money to pay these bills, and we will be fine.

And oh, you are worried about paying it back? Hey, let the grandkids pay it back. You know, they are going to have a good life. Surely they are going to need as good as we got. So let's let them pay it back, and let's put it on their shoulders. And if they are smart, they will figure out a way to stick it down on their grandkids' shoulders. And we will just keep this runaway spending going forever.

I don't think that most people would see that as a way to run your household. Or the businessmen that are sitting down at the board meeting, and they are saying, you know, we had a budget last year, but this year let's throw that budget out and let's just do what we think is going to make us do well this year for ourselves personally, and let's don't worry about what's going to happen in the future because we will borrow the money from China, and then we will put it down the road, far enough down the road that we will get other people's grandkids to pay for it.

That doesn't make sense. And it doesn't make sense to the American people. It means that you are just—and you know, I get really excited when I hear like I heard the other night, when I heard some of my colleagues from the other side over here talking about what a wonderful job they had done, and they talked about PAYGO. PAYGO has saved the world. My gosh, we have just absolutely saved the world with PAYGO because we are paying for what we are spending unless it's an emergency. And so far everything we have done we have declared an emergency on. So, well, we didn't quite get PAYGO done, but that's okay, we believe in it. And it's something we believe in.

What we are hearing from folks back home is, hey, times are tough. We need jobs, and you are doing your little pet projects down there, and you are spending this money that we are never going to be able to pay back, or we are afraid we will never be able to pay back, and we don't want to be Greece. You know, poor Greece. Right now they are kind of the poster child for what happens when you don't pay your bills.

Well, if you crunch the numbers and we continue down the road that the Obama administration is taking this country, at the rate of acceleration of deficit spending that the Obama administration has given us, and by the way last night there were some charts put up there and just conveniently the deficit numbers on those charts stopped at the end of the Bush administration, so we didn't get to see that other line that the Obama administration put on there that drops clear off the charts. There you go. That one

didn't happen to be on the charts when we were told the figures never lie. So it stopped right there at 2007. Let's look at it.

Mr. BROUN of Georgia. Let me reclaim my time and just explain this chart.

Mr. CARTER. Because their chart would have been upside down because it was below the line.

Mr. BROUN of Georgia. We can turn it upside down.

Mr. CARTER. That's the way it ought to be. Turn it upside down.

Mr. BROUN of Georgia. We will turn it upside down. And then we will be coming from the right to the left.

Mr. CARTER. And we got to see last night all those Bush blue lines. And we did get to see the first little Obama line right there. But that's not an Obama line yet, that's just a Democratic Congress line.

Mr. BROUN of Georgia. That's a NANCY PELOSI line right here.

Mr. CARTER. That's a NANCY PELOSI line. And then look what's happened since. And so it's true, figures don't lie. You just don't show them all, it makes a little bit of a difference. So I am glad you got that chart out. I just brought it up because I kept wanting to go raise my hand and say, Aren't there supposed to be some more lines on there?

But anyway, that's another story. Back to what our folks back home were saying. They are looking at that, and they are saying, Who is going to pay for that? Well, it would be their grandchildren and our grandchildren and our colleagues across the aisle's grandchildren. I personally don't have any yet, but I am praying every night to have some grandchildren. When I do, I certainly don't want to start them out behind the eight ball.

In fact, we most of the time work to try to make sure that we start our kids out ahead of where we started out if we can, just like our friend Mr. JORDAN said a minute ago. And that's kind of what makes America great. Now, there are people that say, well, we have been deficit spending forever. But you know, these numbers we see here are on new ideas and new concepts. We don't see the threats, the outside threats the American people face, like the wars and so forth, being that big number. This is new energy, which may be a great idea, but thus far it's not replacing the energy we have got. And it's new projects and it's new concepts of, what I would call in nice language, a centrist form of government. And what we are really seeing here is a group of folks running amok with spending and not even being willing to do what their leader said the most basic responsibility of governing is, to have a budget.

Well, why didn't they do that? Well, I think it's because we are too busy doing pet projects and making sure that we change America. It's more important to change than it is to get it right.

□ 1800

And I think that's a question we need to be asking ourselves. We didn't know what "change" meant. Now we're starting to get a glimmer of what change means. And is that the change we want?

I yield back.

Mr. BROUN of Georgia. I appreciate it.

I just wanted to put in my two cents about the question you just asked about why the Budget Committee hasn't passed out a budget, why the House hasn't passed a budget. We have an April 15 deadline by law. A budget is supposed to be passed. The Senate hasn't passed a budget. We've been very busy this whole year, you know, Mr. CARTER, since this year started under this administration. We've passed all of these big spending bills, and it is my belief that we don't have a Federal budget because they can't balance the budget. They can't show to the American people how awful the spending is up here, how outrageous, how egregious the irresponsibility is, and they do not want anybody to hold them responsible.

My 19-year-old son, Collins Broun, comes to me when he needs some money. And he's been in school. He's a freshman in college. And he's had some little jobs, but he doesn't have a budget because he depends on me to provide his needs.

Well, this government is relying on taxpayers, and the PAYGO, Mr. CARTER, that you were talking about that we keep hearing touted by the Blue Dogs on their side about how great it is. We've suspended PAYGO over and over again on a health care bill the American public still doesn't want. They want it repealed. We, as Republicans, want to repeal and replace it. There's been a nonstimulus bill that's been an abject failure that's going to be over a trillion dollars. This has created some government jobs and some temporary jobs, but hasn't stimulated the private sector.

Most jobs that were created in the private sector were small business. Businesses are scared to death. They are not creating any new jobs because they look at these budget deficits and see spending bills that this Democratic Congress has been passing over and over again—most times without any or sometimes with only very minimal Republican votes for them. But we've seen just over and over again these huge bills. They haven't taken the time. And I don't think they want to be held responsible, frankly. So I think that's a big part of the reason.

So to answer your question, I think that this Congress won't pass a budget in the House, probably not in the Senate because they don't want to be held responsible. They want to continue to do what even the majority leader said. It's the most basic responsibility of

government. They are not doing it. JOHN SPRATT said if you cannot budget, you cannot govern. Well, they're not governing. All they're doing is spending.

Mr. CARTER. Will the gentleman yield?

Mr. BROUN of Georgia. I'll yield back to Mr. CARTER.

Mr. CARTER. One of the reasons you have a budget is so you can make legitimate estimates on how much you're going to spend. If you don't make a budget, you're not tied to a legitimate estimate and what your revenues are going to be coming in to pay for it. That's what you do to make a budget. Everybody back home knows that.

I'm not going to mention the company, but it was a good-size company. I met with one of their folks the other day, and they just finished charting out at their board of directors at just what increasing the health care costs for covering the 26 year olds, in other words, carrying the children of their employees to 26 years old, what it was going to cost their company.

Now, they're a good-size company—\$28 million. Now that's missing it just a little bit, isn't it, for one company is looking at \$28 million just to carry children to 26 years old?

Mr. BROUN of Georgia. Above what they're spending now.

Mr. CARTER. Above what they're spending now on their health insurance.

Now, I don't care how big you are. That's a big chunk of money, and it would shock anybody from the biggest corporation in the world down to the little mom-and-pop to have that kind of percentage of your revenues all of a sudden by government action going out the front door.

That's the kind of thing when you don't think things through and figure out what it's going to cost that those things jump up and bite you. But in this instance when we don't figure out what it's going to cost, it's the American people that get jumped up and bitten, and that's what I think we're seeing happen right now. And I think that's unfortunate.

I yield back.

Mr. BROUN of Georgia. I agree with you it's not only unfortunate, but it's irresponsible.

We're seeing Congress spend money, tons and tons of money that we don't have, trillions of dollars that we don't have, for programs that America doesn't want. It's not in the best interest of America. It's killing jobs. Killing jobs. And it's just not responsible governing.

We've been joined also tonight by my good friend from New Orleans, Louisiana, STEVE SCALISE, who's also been a great fighter for us here on the floor on many issues—on health care and other issues. And I want to welcome

Mr. SCALISE, and I'd like to hear you impart some knowledge in this.

Mr. SCALISE. I thank my colleague and the gentleman from Georgia, and I appreciate you bringing this issue to the forefront because what we're talking about here is responsibility.

And Speaker PELOSI, when she took the gavel 3½ years ago—she's been Speaker for 3½ years—and they talked about doing things differently. They laid out all kinds of promises. They bashed Republicans for being fiscally irresponsible. And yet all we've seen from Speaker PELOSI and her liberal lieutenants who are running this Congress is spending at unprecedented levels. This year a trillion and a half dollars. They're breaking records every day on deficit spending that is being dumped onto the backs of our children and our grandchildren, denying opportunity to the next generation.

And yet when you look at what families are doing across this country—these are tough economic times. People are looking to Washington saying, Where are the jobs? Why isn't Washington focused on creating jobs?

And we've come up with ideas and solutions that we've put on the table to create jobs, to cut taxes, things that have been proven to work to get the economy back on track, and every time we've been turned away. And yet when families are tightening their belts, they're pulling back. They're cutting their budgets.

Our States: in Louisiana, in my State, we've got a Governor right now, our Governor's cutting the budget to balance it. They're going to balance the budget this year even though it's tough economic times, like most States are doing. And like most families are doing. And Washington seems to be the only place where they not only don't get it, but at a time when everybody else is cutting back and tightening their belts to live within their means, Washington's spending out of control in record levels.

And now, as you pointed out, they haven't even brought a budget to this House floor for next year. No budget. Haven't even brought a budget. Now, we think they should bring a balanced budget. In fact, we've proposed a balanced budget. They haven't even brought a budget, any budget.

Maybe you'd say, well, maybe it's because Congress is so busy dealing with so many important issues and creating jobs and all of these other things. Unfortunately, that's not the case. They brought the government takeover of health care. They had time for that. Something that's going to run millions of jobs out of this country, billions of dollars in new taxes. They brought this cap-and-trade energy tax, a tax that would add thousands of dollars to every family's electricity bill.

Just look at today's agenda. My colleague from Georgia, as he points out,

they haven't brought the budget. You say, well, maybe that's because there's a lot of things on the agenda other than a budget that is so important. Let's look at some of the votes we took on the House floor today. We named a post office. We congratulated a basketball team. In fact, we even honored a courthouse. Honored a courthouse. That's what was on the agenda of the United States House of Representatives today.

And yet they haven't even brought a budget to this floor—not only a balanced budget like we think they should bring, but the President's budget—the only document that's sitting out there. The President's budget doubles the national debt in 5 years. Doubles it.

Now, we want to say rein in that spending. Rein it in. Stop this out-of-control spending.

They started last year with the stimulus bill, \$787 billion of money that we don't have. But they said, Oh, it needs to happen so we don't exceed 8 percent unemployment. Well, today we're sitting at 9.9 percent unemployment. It just keeps going up. Millions more Americans have lost their jobs in the year and a half that President Obama has been President. Speaker PELOSI has been running the House, HARRY REID's running the Senate. They control all of government. And all you see is out-of-control spending, more lost jobs, and hundreds of billions of dollars in new taxes. And you wonder why businesses in this country are afraid to hire or afraid to invest, why families are scared to death looking not only at their own pocketbooks, but more concerned with what Washington's doing to deny them, and especially our children and grandchildren, more opportunities.

So I think we need to keep this focus up. We need to address this problem. We need to balance our budget.

I yield back.

Mr. BROUN of Georgia. Thank you, Mr. SCALISE. You're absolutely right. The budget resolution simply sets forth an annual framework of priorities, sets forth the framework for taxes and spending. It's one of the few pieces of legislation that Congress must pass annually. We're not seeing that happen.

Since 1974 when Congress passed the Congressional Budget Act, which created the modern budget process, Congress has failed to enact a budget resolution only four times since 1974. This year will be the fifth. But it's the first time in history, the first time in history that the House does not make any attempt whatsoever, no attempt, to pass a first version of a budget bill—never since 1974 when the Congressional Budget Act was passed. That's just unconscionable.

Mr. CARTER. Will the gentleman yield for a question?

Mr. BROUN of Georgia. Absolutely.

Mr. CARTER. So if I understand you, those other budgets you're talking

about, those four others, there was—in those cases there was an attempt to pass a budget, but they never could reconcile. Maybe they couldn't reconcile the differences with the Senate or they couldn't even reconcile it within the Congress, but they certainly made a good-faith effort to try to get a budget passed and didn't get it done. Is that what you're saying?

Mr. BROWN of Georgia. That's absolutely correct. In fact, an attempt was made to pass a budget. Through our legislative process, they did all of the things. A budget resolution was presented, an attempt was made to pass a budget resolution. And only four times since 1974 has a budget resolution not passed. But this is the first time in history that there is no attempt whatsoever to even pass a first version of a budget in the U.S. House. It's unconscionable.

I yield back.

Mr. CARTER. It seems to me you ought to at least try. I mean, it's almost like, you know, my wife, one time my son wanted to know—he had to drop out of baseball to play football, and he wanted to go back and play baseball. And he was all hanging around the house all moping around. And his mother said, Well, you know what? If you don't try, the answer is “no.” So why don't you go ask the coach if he will let you back on the baseball team.

Well, I'd say to the Budget Committee of the majority party, if you're not even going to give it a try, of course we're not going to have a budget. Let's at least give it a try. Let's at least see if we can't come up with an idea.

And I kind of like Mr. SCALISE's idea of this time let's try to put a balanced budget before the American people and see what happens there.

You know, it was the Republicans back during the Clinton administration that battled and battled and battled Bill Clinton who vetoed and vetoed until they finally got their consent of a balanced budget amendment done. They had a route for a balanced budget, and they fought the administration until they got it there. And it had a lot to do with some of the prosperity that took place in that decade. That seems to be lost in history. Revisionist history is actually current event in this place. It's constantly changing what really happened, when things really happened.

The welfare reform was really done by the Congress, but somehow that got forgotten. There's a lot that gets forgotten. And right now they're forgetting to do a budget, and it's time for the Democratic Party and their leadership and this House to do a budget and it would go forward and let us see just what you're going to spend and where the revenue is coming from. I think it's only logical that they go forward on that.

I yield back.

□ 1815

Mr. BROWN of Georgia. Well, thank you for yielding back.

What are the consequence of not passing a budget? Well, first thing if we don't pass the budget, then there's no cap on discretionary spending for this fiscal year. So they can spend whatever they want to because they have no constraints within a budget.

I've got a friend whose wife said, Well, we have got plenty of money in the bank. I still have checks in my checkbook.

Mr. CARTER. I've heard that before.

Mr. BROWN of Georgia. That's the way this majority is acting. They still have the checks in the checkbook. They still have a credit card that is being held by the Chinese.

But where does the money come from? With all this deficit spending, this outrageous spending that Congress has been doing, it is going to come from our children and great-grandchildren. They are going to live at a lower standard than we live today, be the first generation that has lived at a lower standard than the previous generation, and it is because of this “gimme now” attitude that this Congress, under the leadership of NANCY PELOSI, has been doing.

So passing a budget will at least help stop this outrageous spending and will put some caps, maybe, on the discretionary spending for this year.

Also, not passing a budget means that Congress will not muster the leadership to set any kind of framework for paring back the entitlement spending. We have got to control entitlement spending.

Our colleague who is the ranking member on the Budget Committee, PAUL RYAN, introduced a bill in the last Congress, in the 110th where you and I both were here, that would set forth some parameters for controlling entitlement spending. We have got to do that. There is no question. In fact, about two-thirds of the Federal budget is on autopilot, and it just continues to grow exponentially.

We have got to change the whole budgetary process, and that is what I hope to see us do. And I think Republicans have that as part of what we want to do once we get control back of the House, is to change the budgetary process so that we balance our budget and we control entitlement spending. It is absolutely critical.

But thirdly, most importantly, not passing a budget means not carving out priorities for the spending and giving us an extension of the tax cuts that were put in in 2001 and 2002, even for low-income families. So we are going to see tremendous increases in taxes for everybody in this country, even the people who can afford it the least, those on limited incomes, fixed in-

comes, and the poorest people in this country.

In fact, we hear over and over again that our Democratic colleagues are interested in the middle class; but, actually, the middle class and the lower economic rungs of the ladder are going to be hit hardest by the health care bill that was passed, ObamaCare, by the nonstimulus bill that's been an abject failure, and all the outrageous spending that our Democratic colleagues have been doing here in the Congress.

Beyond all these things, not passing a budget signals to the American people that we are not going to be held accountable. We are not going to deal with the Nation's spending addiction that Congress has, the deficit challenges that this government has.

We have got to stop it.

Families all over this country are balancing their budgets. My State of Georgia and many States have to live under a balanced budget. I believe the Federal Government should live under a balanced budget. But we are not even having a budget.

Mr. CARTER, what do you think we are going to do? Are we going to continue spending? I yield.

Mr. CARTER. I thank the gentleman for yielding.

These are serious times, and we have serious issues to deal with.

Recently, I was privileged to be in a meeting with some conservative economists, and I say that because I want to make sure that we are pretty clear they are conservative. They gave us a whole bunch of projections of spending and projections of debt-to-income, both government debt and private debt to GDP and bank deposits. And they said, but cutting through the chase is, if we continue the policies of the Obama administration into a second term, if he wins a second term, in the third year of his second term we will be Greece. That is pretty serious.

And, you know, you talked about the middle class. I bet if you questioned everybody that lost their job and is out of work and what class they were in, they would all tell you they were in the middle class, because we all consider ourselves to be middle class in this country. We are sort of proud to be middle class.

So these concepts require work, and that means a budget.

I yield back.

Mr. BROWN of Georgia. Thank you, Mr. CARTER.

Just in closing, in the last minute that we have, Americans know that you can't manage what you can't measure. If you don't have a budget, you can't measure anything. You can't set out spending priorities. Failing to enact a budget blueprint just doesn't allow Congress to measure any spending priorities that we see coming forth, and just see big spending after big spending bills.

Democrats are purposefully deciding to not pass a budget bill blueprint to hide the fact that our country's financial picture is in terrible shape and we are going down the same road that Greece is going down.

American families know that this is irresponsible. Congress needs to get its house in order and lead. It can start by passing a responsible budget resolution. American people need to ask: Where is the budget?

#### REBUILDING THE ECONOMY

The SPEAKER pro tempore (Mr. MAFFEI). Under the Speaker's announced policy of January 6, 2009, the gentleman from Virginia (Mr. PERRIELLO) is recognized for 60 minutes as the designee of the majority leader.

Mr. PERRIELLO. Mr. Speaker, Americans are sick of it. They are sick and tired of hearing excuses and finger-pointing. They are sick and tired of other people not having to play by basic rules of decency and fairness. They are sick of it, and they should be. They want Wall Street to play by the rules. They want Washington to play by the rules.

One of the most important moves we can make right now is for the Senate to see through to completion their efforts to clean up the financial system so that those who work hard and play by the rules, save up a little, put it into their home values, put it into their 401(k), know that other people aren't able to gamble away their retirement security and their future. Basic rules of decency and fairness.

We need those similar rules in Washington. That is why many of us have fought hard to make sure that we reinstate PAYGO legislation that the other side of the aisle let die a few years ago that simply says, anything you do, you've got to pay for it. These are the rules of everyday Americans back home on Main Street, and it is time for those Main Street values to apply to Washington and to Wall Street.

But Americans are also sick and tired of those who put slogans ahead of solutions. They want us to solve problems, and none is greater than that of the jobs crisis we face in this country.

On Wall Street, and maybe with our friends in the Senate, there is a sense that this recession has passed and the urgency is gone. But every weekend we go home and we talk to business owners who can't get credit. We talk to people who have been looking for job after job after job just so that they have the dignity of knowing that they can support their family; hardworking people who are willing to go back and get that additional degree or certificate but need to know that there is going to be a job on the other side. What they ask us to do is to come here, play by rules of decency and fairness, and focus on solving problems.

We have an opportunity here before Memorial Day to make the most of the summer construction season, to make this an opportunity to rebuild America, but specifically, to rebuild America's competitive advantage in the world.

This crisis didn't begin a couple of years ago. It began a couple of decades ago, as we saw more and more borrowing from the financial institutions, overleveraging, and the consumer market with consumer credit to cover for falling wage rates, and in the government sector. That cannot go on forever. But at its core was an issue of whether we can continue to compete in the world with a living wage and middle class incomes and jobs.

The answer is to reward innovation and stop bailing out failure. This solution that both parties have had at times of bailing out failure will not succeed. We must begin again to reward innovation, research and development, and creativity so that we can be building the jobs of the future here in the United States.

Many of us have worked hard day and night here to focus on pragmatic solutions, like the HOME STAR program that will help thousands, hundreds of thousands of people renovate their homes and their offices. It will help reduce pressure on an electric grid that is way out of date, and it helps put people back to work in construction and in manufacturing, the insulation, the double-paned glass, the window films that are manufactured right here in the United States.

But we also know that the key of this new job creation, this new competitiveness revolution that we must have in this country, is an understanding that two out of every three new jobs created in this country are created by small business. Small business is the engine of job growth even as big business is too often the engine of our politics.

We must make sure that we are getting those Main Street values and those Main Street businesses back into the equation that have too often been choked out, rolled out by big business for photo ops and by politicians for photo ops, but forgotten when it gets down to policy.

Well, we have been hard at work on programs to get direct lending to small business, get support to our community banks that still tend to support those small businesses, the homegrown businesses that stay in our community, where the CEO still knows the name of every worker, the name of their spouse and their kids, wants to give them a decent wage and help them be able to support their family. These are concrete solutions that make sense back on Main Street instead of the kind of bomb-throwing that goes on here.

And one of the great freshmen in our class who is also focused on the solutions-oriented approach, this prag-

matic approach, what I would call a postpartisan approach that doesn't focus on how we can bring everyone together by watering things down but how we can leave our partisan divisions behind by getting better ideas that help create that competitiveness revolution, JARED POLIS, who has been successful in the private sector, in the nonprofit sector, as well as the government, to talk some about these solutions-oriented approaches that we have.

Mr. POLIS. I thank the gentleman from Virginia.

Like many Members of Congress, I listen to, I visit the small businesses in my community in Colorado. Small businesses are really the backbone of our country. When I visited one of our small towns like Lyons, Colorado, last month, I did what I call a Main Street tour where I stop and introduce myself at many of the local businesses. I have a small business advisory council.

I am not alone as a Member of Congress in hearing from the businesses in our district that one of the biggest impediments to their growth and allowing them to hire people is the lack of credit that they have from their banks. Their traditional borrowing that they have been able to do to fund their activities, whether it is against accounts receivable or future revenue flows, they find themselves cut off and unable to access those credit lines because of the tightening of credit.

There is a swing in the pendulum. Credit was, in all honesty, too loose 3 years or 4 years ago. It has now swung to the other extreme, as it tends to do, and has become too tight. That has become an impediment to job growth. There are businesses in my district that, if they had access to credit, they would be able to grow and expand and hire more people.

Now, when you talk to the banks, the banks in my district and everywhere, they say there is a number of reasons for this. One is increasing capital requirements that the Federal Government is imposing to reduce the rate of bank failures, a very legitimate policy interest. Others include other regulatory reasons that the banks feel that they are having to reduce the amount of money they are effectively able to lend out. But it is something that we need to solve, Mr. Speaker, because it will create jobs for Americans, small and midsize businesses across our country.

There are a number of solutions that people are talking about in this body. It includes the Federal credit facility to small businesses through the banks, includes some actions on the regulatory front, and it includes an idea, a bipartisan idea that I have introduced, H.R. 4877, which would provide an incentive for private money to flow into the equity line of these community banks to get them lending again.

Now, a bank, like any business, has many kinds of capital. So when you deposit your money with a bank, they can certainly loan against that money, but it is not as leverageable as equity capital. If a bank actually sells its shares, they get money in that they can lend against with much higher leverage.

So what we can do is provide an incentive for people to invest in community banks; for community banks to go back out to their communities, to their boards, to say, You know what? We need to sell some more shares of our community bank to raise some more capital. And that capital can be deployed in a very powerful way in lending to our small businesses.

So for any investment in the community bank under H.R. 4877 during an 18-month period when we want to incentivize this investment—and much of it will occur very quickly, I might add, 1 month, 2 months, 3 months, and held for 5 years, then the investors would not have a capital gains tax. There would be an exemption from capital gains on that investment in the community bank.

What will this do? It will get the attention of the people that we want to get the attention of, existing investors at banks, private equity funds, and others who could be doing anything with their money. They could be sitting on the sideline with their money. They could be investing in businesses of any sort. This will get their attention to say, Hey, there is a special incentive, because of the public good that comes from a robust community banking sector and the lending that will help stimulate the demand for a whole host of businesses and help businesses grow, to put your money into community banks.

□ 1830

Many community banks will recapitalize. By the way, this might even prevent some bank failures by allowing community banks on the margin to recapitalize within the bounds of solvency rather than becoming insolvent or having to be bailed out.

There is, rightfully so, great frustration with what has been seen as collusion between the government and big banks; what has been seen as a bailout and what is a bailout of bad behavior. Why not incent a private investment in these banks before we start talking about using taxpayer money for this or that or the other? Let's see what investors out there are willing to do when given the chance to invest in our communities, invest in our banks, and help them extend credit widely to the small businesses.

This is truly one of the highest leverage areas that small businesses have come to me and other Members of Congress and said, If only we can get the banks lending again. Well, we can, Mr.

Speaker. With H.R. 4877, we have the opportunity without the use of taxpayer money to get an infusion into our community banks and get them lending to our small and medium businesses, commercial property across this country, to help get the economy going and create good jobs for Americans.

I yield back to my friend from Virginia.

Mr. PERRIELLO. Thank you so much for your work in this area. We do understand that small business is a lifeline for our communities, a huge job creator, huge engine of that, but it's also an area where we have not seen the kind of behavior that got us into this mess. Our community banks, our credit unions, have often been more solvent through these situations. Didn't see the huge upside, but also continued the old-fashioned tradition of looking someone in the eye and doing their due diligence. In fact, if you look at the people who saw the crash coming within the markets, it was actually people who went out and did old-fashioned due diligence. Going and looking at where these subprime mortgages actually were. Sometimes there's no replacement for old-fashioned hard work, due diligence. And we know that community banks do this.

So a program like this tries to get private-sector solutions to this problem. Help incent that investment in our community banks. Our community banks in turn can invest in our small businesses and our small businesses in turn invest in our families—our working families—and in our communities. This is the sort of thing that can move us forward, as has another thing that we worked on in the House, which was a 1-year freeze on capital gains taxes for small business. Again, something that doesn't say we're giving you free money. It just says we are going to encourage this kind of small business innovation. We know this tends to lead to job creation. It's a good thing. So these pragmatic, private-public partnerships like the Home Star program, like Rural Star, where we're helping to make our country safer, more efficient, and rebuild manufacturing.

The gentlemen on the other side were talking about all the post offices we've renamed today. And we did some of that. They failed to mention that we also had the America COMPETES Act up today, which is actually to support research and development and rebuilding some of the manufacturing base and investment in efficiency technologies and job creation that, too often, they've tried to take down with poison pills about child pornography and this sort of thing. And the American people look at that and say, You've got to be kidding me. We're in the worst job crisis in two generations, and you're up there scoring cheap political points when you have an oppor-

tunity to do something both sides of the aisle know we need to do, which is figure out how to reinvent America's competitive advantage. When we can do that, particularly with these public-private partnerships, like your efforts with the community banks, like the capital gains, these are engines not just of short-term job growth, but of rebuilding America's competitiveness and getting us back to work.

With that, I want to yield to one of our newest Members from California.

Ms. CHU. I rise today to urge the quick passage of H.R. 4213, the American Jobs, Closing Tax Loopholes and Preventing Outsourcing Act. This bill is such a comprehensive approach to improving our economy by providing important tax breaks and to spur innovation and create jobs. But one reason I'm extremely enthusiastic about it is that it extends and expands an extremely successful employment program that is called Jobs NOW, which has created over 156,000 jobs, and in my district alone, 400 jobs.

In Palmdale, California, Jobs NOW helped Jody, a single mother of two, find a job at a local coffeehouse working as a barista. The regular paycheck puts food on the table and is helping her get through a rough patch. Her boss is extremely impressed with her work and plans to permanently hire her and three other subsidized employees that they brought on. It's this kind of success story that makes Jobs NOW such a good model for job creation. Without it, the coffeehouse would not have been able to grow its business or take on new employees. Jody would not have had a chance to learn these new skills and support her family.

Now I came across this innovative program because it's in my district, Los Angeles County. One of the Los Angeles County supervisors, Don Knabe, created a program which provided over 11,000 jobs, all in 1 year, using stimulus funds to create these subsidized jobs. How does it work? Eligible participants are placed into subsidized jobs in all sectors of the economy, from small business to nonprofits to the government sector, and they're matched with jobs that complement their employment goals. The employer must provide supervision equal to 20 percent of the cost of this job and they must ensure that the job will not displace an existing employee or someone who is to be promoted.

What this means is that the county then is paying for 80 percent or more of the payroll costs through Recovery Act funds. Some examples of these jobs are park rangers, receptionists, teachers' assistants, dental assistant trainees, customer service clerks, and child care workers. Workers get paid \$10 per hour for up to 40 hours per week.

Jobs NOW allow small businesses to succeed and the employee to succeed. I've spoken to countless people in my

district about this program and I keep on hearing about how this program is truly a win-win for businesses and workers. This program works because they do both benefit. Workers benefit beyond the paycheck by getting hands-on experience in a setting where they can earn wages and make sure that they put food on the table. They are also developing their skills. Small businesses benefit by getting the help they need to grow or expand while temporarily reducing payroll costs. Companies may ultimately desire to hire these subsidized workers permanently as the economy improves. The jobs generated by the program can help businesses expand in these difficult times by reducing their economic risk and the need for expensive loans.

In April of this year, over 7,000 people were enrolled in the program in Los Angeles County, and 1,100 employers were improving their productivity and putting someone to work with this extra help. These are companies like Punch Television Network in Carson, California. Punch TV is a fledgling channel that is trying to build a new nationwide television network, and they needed quality employees to truly expand. They hired six subsidized employees using Jobs NOW and they recently moved into a new large production center to handle all their new work. They even want to hire these new, highly motivated workers permanently. So now, not only do these employees have hands-on experience, they are going to have a permanent job.

But this great program isn't just putting people to work in my area. It's employing people all across the Nation in 29 States across the Nation. They are using Jobs NOW to keep their residents working, paying taxes, and purchasing groceries that's fueling local economies. In Tennessee, the State focused on rural Perry County, which was hard hit by a plant closure. The unemployment rate had risen to 27.3 percent. Tennessee brought local workforce development and human service agencies and the business community together and developed a subsidized employment program for over 500 individuals. The effort cut local unemployment down to 18.6 percent. Because of successes like this, more States want to join. And if we pass H.R. 4213, Jobs NOW can expand and help thousands more people.

But we can't delay. Already, States are stopping their subsidized jobs programs because the funding will expire at the end of September. Companies aren't as interested in taking on new employees and training them, just to lose them again in 4 months. In my district, Los Angeles County will stop placing participants in new jobs in June, and soon many more counties and States will do the same. Yet, the full amount of funding has yet to be claimed by the States. The Recovery

Act authorized \$5 billion for Jobs NOW's employment program, but less than \$1.5 billion has been accessed by the States, and the program really actually can still expand across the country. That's why H.R. 4213 is so crucial. It not only extends Jobs NOW for another year, it lets the unspent funds for this year pay for next year's salaries for workers hired in 2010.

If we don't act now, 60,000 Americans across the Nation will lose their jobs when this program ends and endless more will not have the opportunity to get the jobs that they need. This bill will keep Americans employed and will create thousands of necessary jobs.

I yield back.

Mr. PERRIELLO. Thank you so much for those remarks and bringing back to the kitchen table those individuals that are involved in this.

With that, I will yield to Mr. POLIS of Colorado.

Mr. POLIS. There are many issues before Congress, both great and small—all of tremendous importance. One of the issues that there's an outcry among the American people for us to deal with is immigration reform. Whether people are conservative or liberal, left or right, Republican or Democrat, we agree that what we are doing now does not work. We have a large population living, working here illegally. We don't have adequate enforcement of our borders, verification of who can work.

Now, within our efforts to solve immigration, to replace our broken immigration system with one that works and reflects our basic American values of, if you follow the law and learn English, you're welcome here, within the comprehensive House immigration reform bill that I'm a cosponsor of there's a provision to create jobs for Americans to help make immigration work for us rather than immigration be a cost for us.

Today, there are investors and foreign entrepreneurs who raise venture capital, ready to start their companies, who can't get the visas to come to this country and start their companies here. And then we wonder why these businesses in China and England and India are so successful. Well, some of them actually wanted to set up shop in this country. The House comprehensive immigration reform bill contains a startup visa provision that would allow an entrepreneur, be they a French entrepreneur, an Indian entrepreneur, that is backed by an investment that has raised several hundred thousand dollars, we would allow them to come here and start their company here as long as they hire five American citizens. This bill will likely create at least 50,000 jobs. And that's just a start. Because, you know what? Some of those companies hiring five people today could be the next Google, could be the next Yahoo of tomorrow, and

employ tens of thousands of Americans.

Yes, America has an immigration challenge on a whole host of issues, but we also have an immigration opportunity—the opportunity to attract the best and brightest from around the world to help make America more competitive and provide jobs for America here at home. It's insourcing instead of outsourcing. Our current immigration code works against us and forces companies that want to hire Americans and be based here to instead set up shop overseas. Through comprehensive immigration reform we have the opportunity to change that. In the House bill there's a startup visa provision. Senator KERRY has introduced that as well in the Senate.

We need to encourage not only financial capital to flow into our country, but also human capital to create jobs for American citizens here at home. And that's an important lens to look at any piece of legislation through. I, for one, am thrilled that the House comprehensive immigration reform bill will create tens of thousands of jobs for American families. And that's one of the reasons that I'm a proud cosponsor.

I yield back to the gentleman from Virginia.

□ 1845

Mr. PERRIELLO. Thank you.

The gentleman talked some about the next Yahoo! or the next Google. I just want to talk for a minute about something that's a little more old fashioned than that—construction. We actually do still need to build things in this country. We need to put down asphalt and concrete. We need to build roads and bridges. The infrastructure of the last century needs to be rebuilt. But we also need to be thinking in terms of leapfrogs in infrastructure. We need to be laying the broadband that is the highway system of the future. We need to be looking at a modern electric grid because our current one is not only so vulnerable to attack, but it's full of inefficiencies. The amount of energy we lose between where we produce the energy and where we consume it is astronomical. It is incredible how inefficient.

So here we have businesses that are trying to compete against very low-cost countries around the world who are still using an electric grid essentially from the 1930s. This is a moment where we need to have the boldness to rebuild our competitive advantage by doing some building again. And construction should certainly not be a Republican or a Democratic issue. We all have construction needs in our districts. We have construction companies in our districts. Ninety percent of construction companies are small businesses, and we are already into the summer building season for many parts of this country. But from Memorial

Day to Thanksgiving, it's going to be an important moment.

We've lost 1.6 million construction jobs since this recession began. We have a 25 percent unemployment rate among skilled construction workers, 1.6 million in losses in construction jobs, 25 percent unemployment, yet we cannot get bipartisan support for the investments in our 21st century infrastructure that could put people back to work in construction, so that instead of receiving an unemployment benefit, they're receiving a paycheck; and we are getting a more efficient, modern infrastructure system. This is common sense. This makes sense back on Main Street. It just doesn't make sense in Washington, where we score points by preventing the other side from doing something smart instead of by solving the problem. We know we need these construction jobs. We know it's where some of the biggest losses have been. We know it's something that exists in every one of our communities, and we know we are well nigh at the beginning of that construction season.

We passed in December through this House a plus-up of some of the infrastructure that's needed. It's desperately needed here in this area. Just try to drive from D.C. to Richmond sometime and see whether we have an infrastructure worthy of the year 2010, worthy of the kind of growth and competitiveness of the Commonwealth of Virginia. Head out 66 and down 29. We need it on the roads and the bridges; we need it on the freight; we need it on the passenger rail, the energy and electric grid as well as the broadband technology. These are important leaps, and we have made some leaps. We are going to be able to wire every public school in central and southern Virginia through some of the stimulus grants. That's going to put people to work now, putting that in place; but it's also going to be creating businesses of the future that people can run out of their homes, out of a small business hub, making sure that the children going to through our school system have the education to be able to compete in the 21st century.

Construction. It may not be the most dramatic thing to talk about, but it is vital. It's where an enormous amount of the job losses have been, and many of us have been trying to get that construction going again in time for the summer building season.

We have bills sitting in the Senate, ready to move as soon as they're done with this Wall Street reform. I hope they will pick up the job initiatives that we have passed here because they are pragmatic; they are powerful; they are effective; and they can put people back to work in areas like construction where we have had some of the biggest losses. I mentioned the Home Star program where we can put people to work immediately, retrofitting and ren-

ovating the building stock of this country. The payback, 12 months, 18 months before you're immediately saving money for decades to come, increasing the home value and value of that commercial building stock, putting Americans to work manufacturing the insulation, the double-paned glass, the wiring and other things that are part of that. It's just common sense. It saves the consumer money. It makes the business more efficient. It's being manufactured here. It's something that makes us more competitive. It protects our environment, and it makes our country safer because we're less dependent on foreign oil—and even domestic oil, as we've seen the costs of that recently.

The Home Star program could put 168,000 people to work. Even before home construction starts to pick back up again, which will vary regionally around the country, we know we can renovate the building stock that we have. Concrete, pragmatic ideas, public-private partnerships. We have the Rural Star program which is going to help rural electric co-ops to forward-fund those sorts of renovations in some of our hardest hit rural communities that are much more likely to have inefficient housing stock, where people are paying a much higher percentage of their very low income sometimes on that electric bill because that housing stock is so inefficient. But it's also costing our electric co-ops and others because there's so much power on our electric grid that we can't even meet that challenge.

This is a moment where we need to look not just at what got us into this mess for the last 2 years but the last two decades. How do we rebuild America's competitiveness? And we must do it by joining forces across the aisle. We must do it by looking for ideas that are pragmatic but bold. The answer can't be to water it down to be so small that it has no chance of making a difference. When you go to Main Street in this country, they're furious at us, they're furious at Wall Street because no one's playing by the same rules they have to play by. We have to get that sense of decency and fairness back into play. We need to play by those rules. That's why we've put PAYGO back into place. That's why we're increasing transparency. But they also want us to focus on pragmatic solutions, Home Star, Rural Star, efforts to get equity and investment going into our community banks. Why would we put all this emphasis into the five or six huge banks that helped get us into this mess in the first place? It makes no sense.

We have to stop bailing out failure and start rewarding innovation, research and development. That's how we get out of this. We can still out-innovate and, therefore, out-compete any country in the world. But we can't do it by looking backwards, and we can't

do it by rewarding and bailing out failure. We have to do it based on innovation. We have concrete, pragmatic things right now that the Senate can move on and, in some cases, that we need to move on here. Home Star, Rural Star, green energy jobs, getting that capital gains tax cut to our small businesses, getting the incentive to invest in our community banks.

If two out of every three jobs come out of small business, this is an area where we can and must put more emphasis, and construction is part of that. Here people may not think it's a big deal to go out and have a small construction company working a couple of crews. Here maybe too many people are focused on the Goldman Sachs of the world. But for those construction companies, for those crews, going out and working is rebuilding America, and it's putting food on the table and knowing they can support their family. And all of us benefit from the efficiencies and quality of that infrastructure investment. We have a building season right now. This town is way too insulated from the urgency of this job crisis back home.

We, just last week, had the announcement of over 500 jobs lost in the town of Martinsville at the Stanley Furniture factory. Tens of thousands of furniture and textile jobs have been lost in southern Virginia over the last 20 years. This was really one of the last, down to a few jobs that have been kept. The unemployment rate in the city already I think is at 22 percent. It could pop up to 25 percent or above. And each one of I think 535 jobs lost represents not just an individual and not just an income but a family and its economic security.

At this time when millions have lost their jobs, when millions feel that they might be next, the American people are sick and tired of us playing games up here. We have concrete solutions on the table that will create real jobs in the construction sector, the manufacturing sector, and the agriculture and forestry sectors. These are things we can still do and do better than anyone in the world, but we are being choked off by the kinds of games being played in Washington and on Wall Street. It is long past time for people in this town to understand the urgency of this job crisis for working-class and middle-class Americans who not only live in fear of losing that job but are getting nicked and dined by the credit card companies, the electric utilities and others as they try to make ends meet day after day, week after week.

We have to be bold right now in rethinking America's competitive advantage. There is no quick fix. We must in the immediate term not miss the summer construction season. I see too many trucks parked in the driveways, in the parking lots of our construction companies at a time that we need to be



rebuilding. Not overbuilding in some of the housing and speculative areas that helped get us into this mess, but building in the areas that reinvent and reinforce America's competitive advantage. Whether that's on the high-end R&D and intellectual property of those areas or whether it's old-fashioned infrastructure, these are areas that mean real business for real working families. Part of how we do that is by putting a solutions-oriented approach over a slogans-oriented approach, and the way we do that is to come together.

In this town, too often bipartisanship means cutting a good idea into half to the point that it means nothing at all, or simply adding one side's support to the other side's support. What Americans want is post-partisanship. They want us to answer the question, What solves the problem, and not, What is the halfway point between the Democrats and the Republicans? Start with the question, What solves America's energy independence? What rebuilds America's middle class? What makes sure that we have basic stability in our financial institutions so that people who have worked their whole lives, saving up money in the value of their home, in their 401(k), know that someone isn't off gambling with that money in ways that are unthinkable and unimaginable.

There is 25 percent unemployment in our skilled construction. Americans are ready to build. They are ready to go to work rebuilding, whether that's housing or infrastructure or building stock, whether it's renovating, whether it's manufacturing here in America the materials that go into that. We need to put that sense, the urgency of the American economy first. We need to remember that small business is the engine. We need to understand that our community banks played by the rules through this crisis, stayed solvent, and still continue to get that lending out to so many of those in our communities.

I look forward to continuing to fight for a jobs agenda and an agenda of decency and accountability. I hope that those in the Senate on the other side of this building will complete a solid reform in the financial sector and turn to these jobs bills we've produced. There are five, six of them now, pragmatic, often private-public partnerships to reward innovation, to get us building again, to get the lending going through our community banks again, through a smart combination of investments and tax credits. I hope the Senate will turn to that and understand that back home, people are desperate for jobs, for economic security, for growth and that they will get some taste of that urgency and move from restoring those basic rules of decency and accountability to Washington and Wall Street and get these jobs bills passed so that we can get America working again, re-

building America's competitive advantage again, and that is a fight I look forward to.

#### ISSUES OF THE TIMES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Mr. Speaker, I appreciate the privilege to be recognized here on the floor of the United States House of Representatives and have the opportunity to address you and hopefully illuminate some of these arguments that come before the American people, that come before this Congress and that reflect down that hallway to the United States Senate. And, Mr. Speaker, I long heard from over on this side in the 30-Something group that for years—actually they went from their thirties to their forties—stood over here, two, three, four, sometimes five or more, and they would make the argument that, if we would just give them the gavels, everything would be all right with the world; that if we would just let them be in the majority, they could fix the problems of America and the world. And they constantly harangued against the Republican majority that existed until the end of 2006, constantly promised that they would fix all the problems that we have, and constantly attacked then the President of the United States.

It's so interesting to me, Mr. Speaker, to have watched the transformation over the last 3-plus years, 3½ years now; and we are almost halfway through and probably, by business days, more than halfway through this Congress and on to the next election in November here of 2010. It's pretty interesting to me, Mr. Speaker, that the people who made all those promises about what was wrong with the world had to do with George Bush and the Republican majority, that were going to fix the problems, now I haven't heard any of them step forward and say, You gave us the gavels. The American people trusted us with the majority—them, not me—and by golly, we've fixed these problems for America. Look how great it is, now that the people who clamored for the gavels were handed the gavels on January 3, 2007, some almost 3½ years ago.

The problems that they were going to fix seem to be worse, not better. The problems we had with our economy got a lot worse, not better. The problems we had with energy got a lot worse, not better. The problems that we have with this society and the understanding and human nature seem to be getting worse, not better. I haven't yet heard the 30-Something group, those that are left of them, come to the floor and do the mea culpa, nor have I heard them point out that they've succeeded in the policies that they said that they would

enact. And, in fact, Mr. Speaker, if you look back on the record, it is the exact opposite.

□ 1900

This Pelosi Congress, when we came in by Constitution on January 3, 2007, there was a great ceremonial and factual passing of the gavel that went from the hand of JOHN BOEHNER to, at that moment, Speaker NANCY PELOSI. And we saw actually right in the aftermath of the election in November of 2006 when that majority was won by the Pelosi Democrats, we saw a shift in the policy of the country. We watched as the, let me say heir-apparent at the time became chairman of the Ways and Means Committee, Mr. CHARLIE RANGEL of New York, go on the talk circuits all over the country, national television, program after program after program, booked solid. And they asked him over and over again, which of the Bush tax cuts would you want to preserve and which would you want to provide that they go away? What will be the burden on capital, and how costly will capital be for business, especially big business, moving forward from that period of time after the election in 2006 and the inauguration, let me say the installation of Speaker PELOSI in January 2007, and that period of time after that as the new Chairs of the committees, their new staff and the new members of the committees were seated and they began to assert their will on American policy.

What I heard from the apparent and future Ways and Means Committee chairman, CHARLIE RANGEL, that he would repeal or work to repeal any of the Bush tax cuts, it simply was by a process of elimination. He was asked over and over again every way that the news pundits could ask him, what would you do with the Bush tax cuts, the May 28, 2003, Bush tax cuts. Because the answer wasn't definitive, but there was a process of elimination. The smart capital in the country concluded that there were none of the tax cuts that CHARLIE RANGEL would like to preserve.

That was in November, December, January, and partway into February of 2006 and early 2007. So what we saw was a dramatic drop in the investment, capital investment that took place into industry in America because capital is smart. It doesn't last very long if it is not. It understands that the cost of capital was going to get more expensive. The more expensive capital was going to be a burden on business, and the profit margin was going to go down if the tax cuts went up and if the tax burden went up. Increased tax burden raises the cost of capital, the profit margin goes down and capital doesn't seek that kind of an environment if it gets too far apart. That is what was going on.

In November and December of 2006 and January through February of 2007,

industrial investment went down because the cost of capital went up and the prospects for profitability went down and that, Mr. Speaker, was the beginning of an economic decline that this country has faced and the globe has faced since that period of time.

Now, the people that stood here on the floor that as Chairs of committees that made these arguments at this microphone here and those microphones there over and over again argued that it was all George Bush's fault, and if they just had the gavel, things would be better. They didn't argue that they needed the Presidency, not at that time. They argued that they needed the majority in the House of Representatives where all spending must begin according to the Constitution.

Well, they achieved their goal, but they never accepted their responsibility for the effect of their actions or inactions. In the case of the Bush tax cuts, it was the inaction to extend the Bush tax cuts that became the culprit that was part of the downward spiral of this overall economy. The actions that came forward were massive spending.

It was also the disruption and the suspension of the deliberative process here in the United States Congress. For more than 200 years, this Congress has had a tradition of open rules in the appropriations process that would allow, Mr. Speaker, anyone, any Member of this Congress who has their own franchise,  $\frac{1}{435}$  of the people of the United States of America, they are duty bound to represent their wills and their wishes, coupled with the principles they have presented to them prior to their election, duty bound. This Congress has for more than 200 years recognized that duty to allow Members of Congress to do their duty and offer amendments to perfect legislation, and particularly in appropriations, where we have had the long, centuries-old tradition of open rules that allows for any Member to bring an amendment down here when there is an appropriations bill that is being considered on the floor and offer that amendment into the RECORD.

And provided that part of the bill hasn't been passed in its deliberation, require that that amendment be debated and can require by request of the Member a recorded vote on that line item that they may be addressing.

I did that more times than anyone else in this United States Congress in the appropriations process in 2007. It was, Mr. Speaker, the last legitimate process that this Congress has had in this legislative arena. The balance of it has been closed rules, modified closed rules, very much tightly held and constrained amendment process that shut down the debate here in this Congress and took away the franchise and the right of a Member who has been elected by their constituents.

And, by the way, the number of constituents that I represent, Mr. Speaker Pro Tempore, or the number of constituents that you represent, or the number of constituents that Speaker PELOSI represents are essentially the same. They don't deserve more representation because they live in San Francisco and NANCY PELOSI's district, or because they live in, let me say, Miami in somebody else's district, or because they live in Iowa in my district. Mr. Speaker, they deserve the same amount of representation. And every Member of Congress needs to be on equal standing and have that opportunity to offer those amendments and require this House to be accountable for the decisions that they make up there on that voting board. But it has been shut down.

Since the appropriation process of 2007, there has not been a legitimate process of debate and amendment that perfects legislation to take place since then. That is how badly this constitutional republic, that is how badly this deliberative process has been usurped by the iron fist of the Speaker. And the American people little know how badly that cripples our ability to reach out across this Nation and pull the best of the wisdom we have of 306 million people and incorporate it into our decisions. Because where I sit, I have input that comes from all over my district, smart people. Smart people that will give up a couple of days from their business and their work and they will reach into their pocket and they will buy a plane ticket here and back and a couple hotel rooms for the opportunity sometimes to sit down with my staff or some other Member's staff even for 15 minutes so they can make their argument. They deserve our more serious ear. They deserve our best effort and our best judgment. They deserve our respect.

But when this process is shut down to where the Speaker decides if an amendment is going to be heard if that pleases her, all of that wisdom, almost all of that wisdom is completely shut out and this process that was devised and determined by the Founding Fathers is suspended until we reach saner times, or maybe forever.

Lord only knows what happens to the majorities in this Congress. But I know this: this American Government cannot function at a high level of efficiency, nor can it produce policy that is good for the people of the United States of America if it is going to have to go through the filter in the Speaker's office before it can be considered on the floor of the House of Representatives.

That would be, if it worked, if that rule applied to our speech outside of this Congress, it would be a violation of the First Amendment. This happens to fall under our rules a process so it circumvents the First Amendment rule

and fortunately I and others can come to this floor and raise this subject and speak to it openly so the American people can understand what is taking place here in the House of Representatives on the floor when the people are being run out of the Rules Committee up on the third floor in the hole in the wall and we are watching partisan votes come through the committees here on the floor of the House that do not deliberate on the policy at all, but deliberate exclusively on the partisanship, which party are you with; therefore, that is how you vote, not an objective consideration of the policy.

But the 30-something Group and those that have come to this floor with them and after them made the argument that if they just had the gavels, all would be right with America. Well, we have seen unemployment rates go from 4.6 percent and less on up to 9.9 percent. We have watched that number of those who are underemployed, those who no longer fit the definition of unemployed, that number go from 5 or 6 or more million, added to the 15.4 million that are unemployed today. There are more than 20 million Americans that fit the definition of unemployment as the American people understand it. More than 20 million.

We have 8 million working illegals in America, and that is a minimum. And if the President of the United States directed Janet Napolitano, with a little assistance from Attorney General Eric Holder, to enforce immigration law, we could open up almost all of those 8 million jobs for the American people, and we could do so in a very short period of time. But there is no will on the part of this administration to enforce immigration law. There is no will. There is a will to pander to an ethnic group that they decide is going to be the future of the future majority of the Democrat Party.

And I watched with something significantly less than respect and with a high degree of cynicism as I watched them posture themselves about fairness and how we should provide amnesty and how we can't fix the immigration problem in America unless we first provide comprehensive amnesty.

And I listened to that argument under the Bush administration, and it didn't make any more sense then that it makes today to argue that we should grant people a path to citizenship because, after all, our law enforcement is being tied down by enforcing immigration law against people that are not criminals, that have minor violations, and if you just required them to pay a fine and learn English and pay their back taxes, you could give them a path to citizenship and all would be right with the world.

Mr. Speaker, how does this fix anything? We have had in the past something like 4 million illegal border crossings on the southern border in a

year. We encounter a single unique individual as many as 27 times down to the border by Arizona; 27 times, one individual. I have stood down there at the station at Nogales and watched as they bring them in after they picked them up for jumping the fence or coming across the border. I watched them come through. They know the drill. They have been stopped by a Border Patrol agent out in the field, and the Border Patrol agent just simply restrains them or, let me say, retains them, and along comes a private contractor with a van.

These people are wearing police-style uniforms in gray, and it is a white van with, let's say, reinforcement built in the side, containment for human beings, sliding door on a white van. The Border Patrol agent picks people up, calls the private contractor, they pull the van in, load them up and drive them over to a holding cell or on up to the station headquarters. They already know that they put their personal items in a Ziploc bag and they walk into the station often, many of them, with a smirk on their face.

They know right where to sit. They sit down against the wall with their little Ziploc bag of their possessions, and they know that they wait their turn. And they will be picked up and go over and have their fingerprints taken one at a time, get their digital photograph taken, now with a flash, and once that data is collected, they go into a holding pen until there is a van available to take them to the port of entry where they waltz out, get in the van, the doors close, the van goes to the port of entry back to Mexico, turns sideways, they open up the van door and the illegals that have been processed and fingerprinted and had their digital photograph taken, get out and they walk back to Mexico. The door closes on the van, the tires squeal, and the van goes back to get another load.

□ 1915

And we do this over and over again, for as many as 4 million people that come across our border, interdicting perhaps 20 to 25 percent of them that do so, realizing that with these 4 million people that pour across our border in a year—think of it, 4 million people. Santa Ana's army was about 4,000 that assaulted the Alamo. This is 4 million people a year, a huge haystack of humanity.

Now, think what it's like to make the argument that the Bush and Obama administration made, that if we would just legalize all these people, then we could focus on the bad elements that are within them. Well, first of all, if you're going to legalize 4 million people or 4 million attempts, and maybe that's not 4 million unique people. If you're going to legalize all of them, how would you avoid legalizing the people that were the bad elements?

This is a haystack of humanity, and in it are the needles that are the bad elements.

And so can you imagine, Mr. Speaker, sorting out, out of that haystack, the needles? So you'd approve a stack of hay, and in that may or may not be a needle. You grab another bundle of hay and you'd approve that and you would give them a path to citizenship. Then they would have a card that would give them the ability to go in and out of United States, stay in America, go to Mexico or wherever they want to go, and that card would let them travel. And we would have automatically anointed them to be acceptable to work in the United States, live in the United States, travel throughout the United States, and go back to their home country and come back in the United States.

Now, first, we don't have any indication that we could possibly do a background check to approve the people that would get a path to citizenship and get this amnesty. I have asked them, I've asked the people that come into the United States, that are living here—they may or may not have come in here legally—Can you produce a birth certificate from Mexico so we can do a background check?

Well, it turns out that those that are born in a hospital can generally produce a birth certificate. But about half of them are not born in hospitals and they cannot produce a birth certificate. That's just the fact.

So when I ask them, Can you get me a birth certificate, their response to me is, Yes, I can do that. What do you want it to say? How old should I be? Where should I have been born? What should the birth certificate say?

In other words, whatever kind of fraudulent document that is necessary to get them legalized in the United States, they'll produce that. And if they produce a fraudulent document, it's unlikely that it's going to have a paper trail of whatever laws they might have violated in a foreign country. So the very idea we could do a background check on them, it is an impossibility to do a background check on people that come from the foreign countries that we are talking about.

Now, we may be able to do a background check on them just off of the fingerprints that we probably already have on record at Nogales or wherever they came across the border, probably could do that background check on what they have done, potentially, to violate the laws in the United States, but that's a very small part of their human history. A larger part is in their home country that can't be traced because we can't trace them back to an individual identity.

So this argument that a huge haystack of humanity of 4 million strong can be legalized and we can focus on the needles in that haystack because

they are the bad elements is simply a flawed premise. No one can present this to me in a rational fashion, how it gets easier if you legalize people; because the people that would be legalized, some would be, the percentage would be very similar to the negative elements that exist in that broader cross section of society anyway, unless you presume that the bad elements will not try to be legalized. Of course they will. They'll try to game the system.

So this huge haystack of humanity with the needles in it would be legalized, granted amnesty, handed cards that allowed them to travel anywhere in the United States and in and out of Mexico or their home country. So a people that would travel more across the border rather than less will cause us more problems rather than less. We have 90 percent of the illegal drugs in America come from or through Mexico. And Mexico is not accountable for all of it, but 90 percent come from or through Mexico.

And of that, all of the illegal drugs that are distributed in America, according to the Drug Enforcement Agency in the interviews that I have done with them, the illegal drug distribution chain has at least—every illegal drug distribution chain has at least one link in that chain that's provided by an illegal. So magically, if everyone that is in America woke up in their home country tomorrow morning, every illegal drug distribution chain in America would be severed, at least one link would be pulled out of that.

Now, I don't propose that that would mean that illegal drugs would stop flowing into America or stop flowing into the consumers in America. I would just say that it would be temporarily suspended, some for a few minutes or hours, some for weeks or longer. But it would be temporarily suspended.

Illegal drug smugglers are protected by the flow of illegal humanity. Even if they are good people, they want a job. They want to take care of their family. They inadvertently provide cover for those who come in here for evil purposes, drug smuggling, people smuggling and worse.

And we've watched as Phoenix has become the second highest kidnap city in the world, second highest in the world. Highest, Mexico City. Why is Mexico City the highest? Kidnapping is part of the criminal culture in Mexico City. Why is Phoenix the second highest? I will suggest, Mr. Speaker, that the kidnapping culture that exists in Mexico City is being transferred into Arizona and into Phoenix, at least to some degree, causing that major kidnapping problem that is in Phoenix.

And so 90 percent of the illegal drugs coming into America come from or through Mexico. And Phoenix has become the second highest kidnap center in the world, partly because of the drug smuggling trade, the people smuggling

trade, the profit margins that are there.

And in deference to President Calderon, who is in this city, I think, right now as we speak, I do reject the criticism that he has provided for the State of Arizona for passing their own immigration legislation. But I also will concede his argument that there's a powerful magnet here in the United States, and that is the use and the purchase of illegal drugs, that the illegal drugs that are the magnet that really brings about the markets that cause the drug wars in South America, Central America, Mexico, coming into the United States.

If we could shut off this illegal drugs magnet—there's two magnets that need to be shut off in America. One is the jobs magnet that hires illegals and pours them into our economy, who work at substandard wages and then the taxpayers have to subsidize the subsistence for the families that should be sustained by the wages and the benefits. That's one thing that is a magnet that needs to be shut off, and there's ways we can do that, Mr. Speaker.

But the other is this huge magnet, which is the demand for illegal drugs in America, that sets up the production and the distribution chain and the drug cartels that are so utterly brutal, especially in Mexico, where I saw a number that I can't substantiate. I will just tell you, Mr. Speaker, that it was reported in the news that over the last several years in the drug wars in Mexico, they've had 23,000 people killed, 23,000. Now, that would be drug cartels killing members of other drug cartels. It would be local law enforcement officers. It would be intimidation attacks on families. It would be the military personnel that are engaged in this fight. But it is a very high amount of casualties that have taken place in Mexico to shut off the illegal drugs in that country.

And I understand the frustration of President Calderon that the United States is providing the magnet for the illegal drugs, and we are critical of them for the human smuggling, the drug smuggling, and the cash smuggling that comes out of the United States down into Mexico and places south.

Well, it's all right for us to be critical of what's going on in Mexico, but we have to acknowledge that the drug abuse problem in the United States is a big part of that. And if we could shut off the magnet of drug abuse in the United States and the magnet of employers who are seeking to hire substandard-wage workers in America, we could solve a lot of the border problems by doing that.

The rest of the border problems that can be solved will be solved by building a fence and a wall on the southern border. Now, this is not that hard to figure out, Mr. Speaker. We spend \$12 billion

a year on the southern border when we add up the costs going into ICE, the Border Patrol, Customs and Border Protection, all the equipment that they need, the benefits, wages, and pension plans that go along with that, and we used a corridor some 40 miles wide or so along the southern border. \$12 billion for a 2,000-mile border. That's \$6 million a mile, Mr. Speaker.

And I constantly hear the message that we have to have more and more boots on the ground, more boots on the ground. And so I suggested to the then-chief of the Border Patrol, if we could produce an impermeable barrier from heaven all the way down to hell so no one could go over the top, no one could go underneath, and they were completely impermeable, how many Border Patrol do we need to protect that border? And the answer that I got was, well, we still need more boots on the ground. Well, that wasn't expert testimony. That was the party line. If you have an impermeable barrier that no one can go over or under, you cannot argue that you need more boots on the ground, Mr. Speaker.

And I make this argument hypothetically because of this: Good solid barriers on the border cut down on the need for personnel, or they improve the effectiveness of the personnel that we have. That's the equation.

You can't envision that if you build a fence and you come inside of that 60 or 100 feet and you build a concrete wall that is 13½ feet high with a wire on top of it and a foundation underneath of it, and you come in behind that and you build another fence, and you've got roads on either side of that concrete wall, triple fencing with a concrete wall, wire on top, cameras, sensory devices that are there and agents that can patrol and come directly to the spots where there's activity and problems, you cannot convince me that you need more Border Patrol agents instead of less. You can't convince me that more people will cross the border if you don't have a fence—or, excuse me. You cannot convince me that more people will cross the border if you do have a fence than if you don't. Of course they're effective. And they're effective. We know they're effective. They're cash flow effective.

Six million dollars a mile, Mr. Speaker, is what we're spending today on open, vast areas of the border where there was only a concrete pylon established from horizon to horizon; \$6 million a mile. And who would not take a check for \$6 million to guard the border for a mile?

My west road, no one lives on it, a mile of gravel. If the Feds came to me and said, Steve, I've got for you \$6 million this year and every year for the next 10 years. I'll give you \$60 million to guard that mile from your house west. And by the way, I'm going to dock from that \$60 million every time

somebody gets across that border illegally. And I'm going to require you to bond that so that the effectiveness, if you—that you will guarantee that you'll get the job done.

I would not as a, let me say, as an astute entrepreneur look at my west mile with no fences on it and hire myself 100 Border Patrol agents with Humvees and radios and put helicopters in the air and guard that border with hovering helicopters and Border Patrol agents that are sitting back 4 or 5 or 6 or 20 miles from that road and go catch them when they come across and get into my cornfield. No, Mr. Speaker, I'd build a fence and a wall, and I'd put sensory devices on that and I'd have cameras. And when somebody approached the wall and tried to get over, we'd know. We'd see it coming, and we would call our handful of Border Patrol agents there to address the problem. That's what needs to happen where there's high crossing rates over our southern border.

It defies common sense to believe that you can chase people around the desert cheaper than you can prevent them getting into the desert. And no one has put the cash to this and the cost to what's going on. I'm the only one I know of in the entire United States Congress, House and Senate, that can tell you \$12 billion on the southern border is the annual cost, \$120 billion for 10 years. That's how our budgets go, \$120 billion.

□ 1930

Six million dollars a mile, \$60 million a mile for 10 years. Sixty million. Think what you could build for every mile that you can imagine in your neighborhood, Mr. Speaker, over 10 years if you had \$60 million. This country would be so full of edifices of construction if we had \$60 million to invest for every mile.

We have got to have it be effective. And we have got to be smart about how we spend our money. And we have got to establish immigration policy that is good for the social, the economic, and the cultural well-being of the United States of America. And I pledged to do that.

I have introduced legislation which will do so, Mr. Speaker. It's called the New IDEA Act. New IDEA stands for the New Illegal Deduction Elimination Act. And what it does is it brings the Internal Revenue Service into the immigration enforcement arena, the IRS. The IRS seems to like to do their job from time to time. In fact, let's just say that they are good at it. I don't want to necessarily accuse them of liking it. And the effectiveness of the IRS is one of the reasons that I brought them into this mix when I introduced the legislation.

So the New IDEA Act stands for the New Illegal Deduction Elimination Act, Mr. Speaker. It clarifies that

wages and benefits paid to illegals are not tax-deductible for income tax purposes. It provides for the IRS, during the course of a normal audit, to come into a company and run the Social Security numbers of the employees through a database. And that database would be the E-Verify database, which has proven to be well more than 99 percent efficient and effective. And if those employees, one or more of them, cannot be verified to be lawful that they could work in the United States, the IRS then will give the employer an opportunity to cure that problem. But the bottom line is that they will deny the business expense of wages and benefits paid to illegals as a tax-deductible item.

So if an employer paid a million dollars in wages to a list of illegals and the E-Verify program could not verify that they could lawfully work in the United States, then the IRS would deny that business expense of a million dollars. It would go from the schedule C exemption side, the business expense side, over to the profit side of the ledger, in which case that all becomes a taxable profit event.

I did this at 34 percent corporate income tax, and that has gone up, but I did the math at 34 percent, and it turns out to be this. Your \$10 an hour illegal becomes a \$16 an hour illegal when you add the tax liability at 34 percent and the interest and the penalty that's assigned by the IRS.

So your \$16 an hour illegal is a pretty expensive ticket. And the million of dollars in wages that would have been paid that were deducted as a business expense now become an additional, well, let me say \$600,000 in costs to the employer. They will make a decision then not to take that risk and to hire an American worker or someone who is lawfully present in the United States that can work here.

I am all for that, Mr. Speaker. It is the right thing to do. Bring the IRS into this. Pass the New IDEA Act, the New Illegal Deduction Elimination Act, and let the IRS join with the Department of Homeland Security and the Social Security Administration to build a team so that the government is all on the same page, singing from the same page of the hymnal, so that the right hand, the left hand, and the middle hand all know what the other one is doing. That's the right thing to do here in America. That shuts down the jobs magnet. It doesn't shut it entirely off.

Some have suggested that we should pass legislation that makes it a felony to hire an illegal. Well, you know, we have document theft that goes on with those employees. And Janet Napolitano has taken a position she is not going to enforce even against document theft in the course of people that are working illegally. We can turn our pressure up against the employers and make it a felony, and we can lock them up in jail

or give them massive fines. I suggest instead we provide the incentive so that all of the employers can be under that kind of scrutiny with a 6-year statute of limitations that's written into the bill that then allows for the IRS to go back 6 years.

Now, think how this works, Mr. Speaker. If you paid a million dollars in wages out to illegals in a year and the IRS came in and did the audit and they took your \$10 an hour and it became \$16 an hour, and \$10 an hour equated into a million dollars, you would have \$600,000 in tax liability for that year. And the interest and the penalty that goes back actually accrues to a greater number, but let's just say it's level across the period of those 6 years. Now your \$600,000 in penalty to the employer that paid a million dollars in wages to illegals becomes \$3.6 million in liability to the IRS. Now, that is a powerful incentive to clean up your employee base to comply with the law, to do due diligence, and to hire people that can legally work in the United States of America.

This argument that we are in that we have to pass comprehensive immigration reform in order to solve our problems here is a false and specious argument. It doesn't hold up to any kind of logical scrutiny that I know. It's only out there because there is a political gain that is being sought on the other side. People that want to expand their political base and make a promise to different groups of people that they would be their benefactors.

And by the way, when I look at the pattern that is taking place between the Secretary of the Department of Homeland Security, Janet Napolitano, the President of the United States, the Attorney General, the Assistant Secretary of State Posner, this is an astonishing thing. The immigration law that was passed in Arizona mirrors Federal immigration law. It was designed to do that. The people that wrote it were smart people that understood Federal immigration law. They intentionally wrote it in such a way that it would not conflict with Federal law and would not be preempted by Federal law.

And here are some things that I know: That local law enforcement has always had the authority to enforce Federal immigration law. One of the ways that I have described that is, could you imagine local law enforcement arguing that they didn't have the authority to enforce another jurisdiction's law? Say for example if it was a county sheriff, can he sit out there and write speeding tickets on a State highway or does it have to be a county highway? If a county sheriff happens to see somebody run a stop sign in the city does he decide that, well, that's the town of Phoenix, but I am a Maricopa County sheriff, therefore I can't write a ticket for running a stop sign

that is a city stop sign in Phoenix? Does a State trooper that watches a national bank be robbed not enforce that because they can only enforce the laws against robbing State banks, not national banks?

I mean how bizarre is it to believe that local law enforcement would have no business enforcing Federal immigration law? I would submit to the RECORD, Mr. Speaker, a case in 2001, a Federal district court that ruled in the case of the United States against Santana Garcia that established that local law enforcement has an inherent right and responsibility to enforce Federal immigration law.

There are several other cases that are on point on this, but I know of none, I know of no cases that would argue that local law enforcement does not have the authority to enforce immigration law. Of course they do, just like they have the authority to enforce other Federal laws. Or for example, I believe it's a Federal violation to murder a Federal agent. I believe it's also a violation of every State law for first- or second-degree murder or manslaughter in the United States of America to murder that same Federal agent.

Now, who would argue that if the Federal Government didn't prosecute the murder of a Federal law enforcement agent that the State couldn't prosecute because it would be a preemption of Federal law? It is complete irrational baloney to believe that there is a preemption that prohibits the States from protecting themselves or ordering their societies.

So Arizona has written their immigration law that simply says, hey, it's against the law to be in Arizona illegally in violation of Federal immigration law. And they went to great pains to establish that there has to be probable cause in order for law enforcement to pull people over and inquire beyond that. Probable cause. So probable cause would be let's say a taillight out, a brake light out, a car that's speeding, a stop sign that's been run. How about a bank that's been robbed?

They chase all of those vehicles down, they approach the vehicle, they ask for a driver's license. If they are handed a matricula consular card, that's almost de facto proof—a person that carries one has no reason to have one in America if they are here legally. If they are here legally, they have got documents that they can use. So a matricula consular card would be probable cause—excuse me, that would be probable cause, but it would be a higher standard than the lower standard of reasonable suspicion. And that law enforcement officer then would get to ask a few more questions and determine if that individual was in the United States legally or illegally.

Now, if he suspects and comes to a conclusion that it's worthy of taking it

to a higher level, he can call ICE and have them go through the process and take care of the situation. If the back of the van opens and 15 people start to run across the field, well, that's reasonable suspicion I would say, Mr. Speaker. But it's not targeting, it's not profiling, it's not prejudice.

And all of this fulmination about the profiling and the prejudice is a great big red herring designed to create this political argument that they think they have got some traction in.

And I, Mr. Speaker, have been through a number of these. It took 6 years to establish English as the official language in the State of Iowa. I had the same discussions and the same debates take place over and over again. And they argued that if we establish English as the official language of Iowa there would be people all over the State that were disparaging other languages and the people that spoke it. And so in the bill we wrote that it's unlawful to disparage any language other than English.

So oddly, and I didn't accept this amendment willingly; it became part of the law nonetheless, oddly people can disparage English in the State of Iowa and no other language. Well, it never really applied. Never heard of a case where anybody was disparaging any language. And I suppose that there may be. I don't know if anybody actually is disparaging English itself either. But all of this hysteria that was being ramped up, it went on for months and in fact for years, and all of the allegations that it was going to destroy our society and it was a bitter pill, it was an insult to people, when the bill was passed and it became law, it went away. All of the worries that were there went away.

I also was principal author in the Iowa Senate side of Iowa's workplace drug testing law. And that law, among other provisions, allows for a drug test to be conducted on an employee provided there is reasonable suspicion that they are using those drugs. Now, reasonable suspicion is credible, objective, identifiable characteristics. It's pretty close, although it's not quite verbatim from the statute. It's been 12 years.

That gives you a bit of the idea, Mr. Speaker of the definition of reasonable suspicion. Objective, credible, identifiable characteristics. And as much noise as was made about that, that we were going to test people on reasonable suspicion, we were going to test them on random testing, we were going to test them post-accident, we were going to test them preemployment, we did all of that. We didn't ask law enforcement officers to go and be trained and come into the workforce and look around for people whose behavior was erratic or maybe their pupils were dilated, or people who were nervous or irritable or whatever it might be.

We just simply directed that the employer designate an employee who

would be the one who could declare that there be a drug test on someone because of reasonable suspicion. And the standard that's written into the bill is that employee has to go through an initial 2 hours of training, 2 hours, and then each year refresh that training with a minimum of 1 hour of training. So that might be the truck driver, could be the nurse, could be the janitor, it could be the CEO. Actually, if it's a small business, it could be about all those things wrapped up in one person.

But these are not people that are necessarily trained by their profession to identify a reasonable suspicion. They are just simply trained within their job to do so. And we for 12 years, for 12 years we have had reasonable suspicion in Iowa applied by employees of companies who have received 2 hours of initial training for the first qualifier and then each year thereafter 1 hour of training.

□ 1945

And they have pointed their fingers at employees and said, I have reason to be suspicious that you are abusing drugs. You go and provide a urinalysis now because that single individual's judgment thinks so. Now, that would give an opportunity for people to be profiled, for them to be discriminated against, for a law to be abused in a broader way than it could possibly be done in the State of Arizona. And yet in 12 years, in Iowa under the reasonable suspicion law, we don't have a single case of any type of persecution or prejudice or profile that has emerged.

Now, it doesn't mean there aren't some people who have not complained along the way. But I know of none. I've not had a complaint come back to me. There's not been a case that's been filed. The language for reasonable suspicion in Iowa that's granted to someone with 2 hours of initial training and 1 hour of annual training after that, it doesn't necessarily have a specific background required, has worked beautifully. And hundreds of companies now provide a drug-free workplace because they have the tools to work with.

And why would we think that an immigration law that applies in Arizona right now, if it's enforced by the Federal Government, somehow becomes a discriminatory law if it's enforced by local government? The very people that have to live with their neighbors and friends. The law enforcement officers that in Arizona are more likely to be Hispanic than the Federal officers that are enforcing immigration law. In some of the communities, that's true.

So why would we presume that law enforcement officers are inherently racist or bigoted or they would use their job to target people? I think this: I think the level of hysteria that exists in Arizona and across the country, especially with the boycotts that are out

there, is proportional to the fear of the open-borders crowd, the whining liberals crowd, proportional to their fear that Arizona's immigration law will actually be effective. That's the answer to what's going on. They don't want to see a law passed that will be effective because they're for open borders, they're erasing the United States of America, they're for allowing people to flow back and forth at will. And, you know, you can't be a Nation if you don't have a border, and you can't call it a border if you don't defend the border.

And we are a Nation that has great respect for the rule of law. All of the people that come here to this country don't have any experience of respect for the rule of law. They don't understand that justice is blind here in America, or is supposed to be blind. They don't understand that there is a provision of, I'll say, a statue of the Lady Justice who holds the scales in her hands and she's blindfolded because she's weighing this justice without being able to see who the person is that the justice is being provided for.

And so this immigration law in Arizona that the President of the United States played the race card on and played to, unnecessarily, to fears falsely and erroneously when he made the statement in a speech a few weeks ago that a mother and her daughter that didn't quite look the right part—and I've forgotten the exact language that he used—could be going out to get some ice cream and they could have somebody stop them and demand their papers.

Well, that's inconsistent with the law that I read. It is demagoguery, Mr. Speaker. It's inaccurate. It's willfully scaring the American people for political reasons.

And it fits right down the path of the President standing right back here and saying to the Supreme Court who sat here that they had unjustly decided a case before them and seeking to intimidate the judicial branch of government, in fact the Supreme Court of the United States.

And so if the President read the bill, he didn't understand it or he willfully misrepresented it. We know if we take his word under oath, and that was the Attorney General Eric Holder last week when he was asked by Congressman TED POE of Texas, did you read the bill—meaning the Arizona immigration bill—he had to admit no, he hadn't read the bill and he hadn't been briefed on it either.

Now an Attorney General of the United States coming before the Judiciary Committee to testify before the committee would be intensively briefed on subject after subject. He would be so boned up and ready that he could respond to anything. And this Attorney General couldn't see fit to bother to read a bill that's less than a dozen and

a half pages long, double spaced? One that he felt free to speak to and make allegations about and imply that it could lead to discrimination and racial profiling or flat out say so in his public statements.

I was shocked to think that the question that I would have not considered was even one that legitimately just couldn't imagine that the Attorney General of the United States would not have read a bill that he was so critical of, but he did not. Thanks to TED POE, we know that.

So the President didn't read the bill or he willfully misinformed the American people. Attorney General Eric Holder said he didn't read the bill, but still he misinformed the American people.

The Secretary of the Department of Homeland Security, Janet Napolitano, admitted before JOHN MCCAIN, her colleague from Arizona, that she hadn't read the bill. She was aware of it, but she hadn't read the bill, but she felt free also to talk about the potential effects of Arizona's immigration law.

And then we have the assistant Secretary of State, Posner, who repeated to us that they brought up the Arizona immigration law to the Chinese early and often and apparently made the statement of mea culpa for the United States that we had laws that were discriminatory and perhaps bigoted. But he hadn't read the bill either.

The President of the United States didn't read the bill. He misinformed the American people, unintentionally or willfully. The Attorney General of the United States, who is looking into suing the State of Arizona, hadn't read the bill, but he misinformed the American people unintentionally or willfully. The Secretary of Homeland Security, Janet Napolitano, hadn't read the bill but was misinforming the American people unintentionally or willfully. And the assistant Secretary of State, Posner, hadn't read the bill or intentionally was misinforming the Chinese. All of this going on in the Department of Justice has been directed by the President of the United States to investigate Arizona's immigration law.

Now, if the President gave that order without reading the bill, you would think he would have someone around him who had read the bill and had briefed the President. There's no sign of that. So apparently they're taking their marching orders from MoveOn.org or the ACLU.

And so the Department of Justice is investigating. They're looking for a way to bring suit against the State of Arizona on what could the basis be. And I asked the Attorney General this last week before the Judiciary Committee, Can you point to a single component of the Constitution that may have been violated by Arizona's law? No. Can you point to a Federal statute

that would be in conflict with Arizona's immigration law? No. Can you point to any case law, any controlling precedent that would indicate that Arizona doesn't have the authority to enforce their immigration—the immigration law? No.

But still at the direction and order of the President of the United States, the Attorney General is using the force of the Justice Department to investigate Arizona and Arizona's immigration law all while inside that Justice Department they have canceled the most open-and-shut voter intimidation case in the history of America—that's the New Black Panthers—smacking billy clubs in their hand, calling white people coming in to vote in Philadelphia “crackers” and intimidating them from voting. And the Justice Department says we don't have enough evidence to convict.

And the Assistant Attorney General, whose name is Thomas Perez, testified before the Judiciary Committee that they achieved the highest possible penalty. And the highest possible penalty was to put an injunction against one of the four New Black Panthers, prohibit him from standing at that same polling place with a billy club and intimidating voters in the 2012 election. But after that, it's apparently not a problem.

It was a false testimony on the part of Assistant Attorney General Thomas Perez. They didn't achieve the highest penalty that was available to them, even though he testified otherwise, and the Justice Department canceled the case, the most open-and-shut voter intimidation case in the history of America.

And then we have the case of Kinston, North Carolina, where the people of Kinston, North Carolina, voted that they wanted to have non-partisan elections in their citywide elections. A lot of communities in America opt for that. Something like 70 percent of the communities in America don't want to have partisan elections. So they say you can't put a Republican or a Democrat, no “R” or “D,” by your name. You get elected to represent this city without having a party identification.

Kinston, North Carolina, voted to do that overwhelmingly. The same person inside the Justice Department that dropped the charges for the voter intimidation in Philadelphia, Loretta King, also sent a letter to Kinston, North Carolina, because they are a covered district and covered by the Voting Rights Act and they have been labeled discriminators since the middle 1960s, have to get approval if they are going to change any system of their elections under the Voting Rights Act because they are a covered district.

So she denied the will of the people of Kinston on the basis that African Americans who wanted to vote for an-

other African American wouldn't know to vote for that African American unless they had a “D” beside their name. Well, that seems to me to be a race-based decision, not one based in law or logic.

I don't think it's logic that people can associate necessarily a “D” with skin color. I'd like to think that they were voting without regard to skin color, that they were actually voting for people that will do the best job of representing them in Kinston, North Carolina.

That's strike number two against Loretta King and the Justice Department.

She had a third strike against her, and that was a rule 11 being applied for filing a specious case that was unfounded, and it cost the Federal Government \$570,000 to pay that out because she brought a case that couldn't be supported that was false and specious and unfounded. And there's better language for that to be found under the rule 11 language that's there.

All of this the Justice Department can investigate and continue with the most open-and-shut voter intimidation case. They canceled the will of the people in Kinston, North Carolina, based on a race decision of Loretta King who had brought this false and specious case that cost the American people \$570,000 all while this Justice Department that has enough resources to investigate Arizona with no rational reason why, with no constitutional thing that he can point to, he can't even investigate ACORN.

With that, Mr. Speaker, I would yield back the balance of my time.

#### ASIAN PACIFIC AMERICAN HERITAGE MONTH

The SPEAKER pro tempore (Mr. MAFFEI). Under the Speaker's announced policy of January 6, 2009, the gentleman from California (Mr. HONDA) is recognized for 60 minutes.

Mr. HONDA. Mr. Speaker, I rise today to recognize the Asian American and Pacific Islander Community and to commemorate Asian Pacific American Heritage Month.

As chairman of the Congressional Asian Pacific American Caucus, better known as CAPAC, I feel privileged to be here tonight with my colleagues to speak of the Asian and Pacific Islander American history accomplishments. Additionally, I will be highlighting those issues affecting our community and the priorities for CAPAC.

In celebrating the APA Heritage Month, I want to give thanks to the late Representative Frank Horton from New York, and to my good friend, former Secretary Norman Mineta, along with Senators DANIEL INOUE and Sparky Matsunaga of Hawaii. It is because of their efforts that May is now designated as Asian Pacific American Heritage Month.



The first 10 days of May coincide with two important anniversaries: the arrival of the first Japanese immigrants on May 7, 1843, to the U.S. and the completion of the transcontinental railroad on May 10, 1869.

In 1992, Congress passed public law number 102-450, the law that officially designated May of each year as Asian Pacific American Heritage Month.

□ 2000

Today I, along with Congresswoman JUDY CHU, introduced a resolution honoring the accomplishments of my dear friend, Norman Mineta, who cut his teeth in politics in California's 15th District in Silicon Valley, which I represent today. Throughout his career, Norm has broken through many glass ceilings, himself, but also for the rest of us. He is a close personal friend, and I consider him a dear mentor.

Norm was the very first Asian American mayor of a major city, the first Asian American to hold a Presidential Cabinet post. Not only did he pierce through the glass ceilings, he dedicated much of his energy building the infrastructure needed for the Asian American and Pacific Islanders to grow and thrive to what it is today.

Norm had a hand in establishing and/or strengthening so many of our key national organizations. They span from policy advocacy, coalitions like National Council of Asian Pacific Americans, to voter engagement organizations like APIA Vote, to organizations and fellowship programs that develop the future leaders of our community such as the Asian Pacific American Institute for Congressional Studies, to the Congressional Asian Pacific American Caucus, which I chair today. CAPAC is a caucus of members dedicated to representing the interests of underserved Asian Americans and Pacific Islanders, and I am proud to honor Norm Mineta today through this resolution, along with my colleague Congresswoman JUDY CHU.

Before I introduce Congresswoman CHU, I would just like to have a couple of personal notes.

Norm Mineta had a great impact, as I have said, on our communities, and the way he has done that is through delicate diplomacy. In the area in San Jose where ethnic groups are growing in political activity, oftentimes our communities would be in conflict with the police department. Rather than taking sides, Norm, as mayor, found ways to bring people together in an amicable way where the outcome was positive, always. And that has always shown us the way, through conflict resolution, that one does not need to have winners and losers, but that we can seek ways to make things happen in a positive way. That's one of the most important lessons I think that Norm has left many of us to pursue today here in Congress, to seek partnerships

across the aisle and with each other on issues of great importance to this country.

And so I want to say to Norm as a friend, as his mentee, thank you very much for all the patience and mentoring that you have done. At times it was on purpose and at times it's just because that's the way you are.

I'd like to turn the microphone over to my colleague, Congresswoman JUDY CHU.

Ms. CHU. Thank you, Chairman HONDA, for convening this Special Order hour on APA Heritage Month.

I stand proud this evening with Chairman HONDA to commemorate the month of May as Asian Pacific Heritage Month. As the first Chinese American Congresswoman, it has been an honor and a privilege to be a representative and work on behalf of Asian Americans, and all Americans, on such critical issues affecting our Nation, like economic recovery, immigration, and, of course, the passage of health care reform.

Though Asian Americans have been here in this country for 160 years, it was not until 1992 when the designation of May as Asian Pacific American Heritage Month was signed into law. It was because of Asian American leaders like Secretary Mineta, then a Congressman, and Senators DANIEL INOUE and Spark Matsunaga who introduced the legislation. They designated this month of May, the very month when Japanese immigrants first set foot on U.S. soil and when Chinese immigrants worked tirelessly to complete the first transcontinental railroad, to celebrate the contributions of APIs to this country.

For far too long, Asian Americans have not been at the table where important decisions were being made. This is despite the fact that we were here for 160 years, and yet we were nearly invisible in State and Federal Government. But in recent years, we have broken the glass ceiling and have ushered in an era of change. Asian Americans are at a historic high in leadership positions in so many different arenas: in politics, in law firms, and in the judicial arena.

In my home State of California, not only do we have three Asian Americans who are statewide-elected constitutional officers, such as State Controller John Chung, we have 11 Asian Americans in the California State Legislature.

And, on the Federal level, it is astounding that out of President Obama's 19 Cabinet members, three are Asian Americans: General Eric Shinseki, Steven Chu, and Gary Locke. And recently, four Federal judges were appointed: Dolly Gee, Jacqueline Nguyen, Denny Chin, and most recently, Goodwin Liu, the first Asian American to the U.S. Court of Appeals. It is the greatest number of Asian Pa-

cific Islanders in State and Federal office in history.

And we've all stood on the shoulders of Asian American leaders like Former Secretary Norman Yoshio Mineta, who was a leader and a role model ahead of his time. It was because of Secretary Mineta that the invaluable contributions of Asian Americans were memorialized and recognized this month. It was Secretary Mineta who spearheaded the long and hard push to get final passage because of the Japanese American reparations bill, because his entire family, along with 120,000 other Japanese Americans, were interned for 2 years during World War II. And it was Secretary Mineta who cofounded and once cochaired the Congressional Asian Pacific American Caucus so that today our caucus, which has grown in number and blossomed, has a unified voice and advocates for issues that are unique to the Asian American community.

That is why Chairman MIKE HONDA and I feel so strongly about introducing legislation to honor the legacy of Norman Mineta, who made history and still is an inspiration to many. We hope that our House colleagues will join us in honoring this veteran, public servant, and great American.

Secretary Mineta, we pay homage to you for all of your service to Asian Americans and all Americans. You are a pioneer, a visionary, and a leader who embodies the true meaning of service.

Of course, we still have much work to do. We must continue to advocate for greater diversity at all levels where important decisions are being made. And, in fact, here in the very Halls of Congress we have seen what diverse and fruitful coalitions are capable of accomplishing when we work together to advance our issues.

When the congressional Asian, Hispanic, and Black caucuses unite as one, we are a strong voice and no longer an invisible minority, but a majority that can advocate effectively for Asian, Latino, and African Americans and, for that matter, all Americans. As a united coalition, we can make a difference on problems that impact us today.

For instance, we can reform our broken immigration system, which has kept families apart for far too long. Today, 12 million people live in the shadows with no hope or path to legalization. Today, young people who are valedictorians and student body presidents are prevented from completing a college education. And today, States like Arizona can pass laws that are discriminatory, anti-immigrant, and, frankly, un-American, when all immigrants want to do is to be productive, contributing citizens and provide for their family and loved ones.

We know immigrants are indispensable to our Nation's economy. In California alone, businesses owned by Latinos and Asians make up more than

one quarter of all businesses and contributed \$183 billion to the State. And that's according to the 2000 census figures, which we know is much undercounted by now, certainly.

We can foster the economic strength and level the playing field for Asian Americans and minority-owned businesses. Today, API and minority businesses still face great obstacles in getting lending and access to capital. When minority-owned firms do receive financing, it is for less money and at a higher interest rate than nonminority-owned firms, regardless of the size of the firm.

Despite the fact that Asian Pacific Islanders are 5 percent of the U.S. population, they only account for 1.9 percent of total Federal contracting dollars, which was worth \$535 billion last year. API and other minority businesses face discrimination by prime contractors and contracting officers in the Federal Government, leaving these businesses very little opportunity to compete for contracts. And this must change.

And, we can make sure that we are counted in the census so that the particular needs of the API and other minority populations can be addressed. Today, we still do not have the proper and disaggregated data to sufficiently address the specific needs of the API and other minority communities. Segments of our API community continue to suffer from a "model minority" myth, and those in our population with the greatest needs continue to go underserved.

And today, we continue to have problems with language accessibility and cultural sensitivity in the current census, even though the language capability is out there to assist in a very, very accurate census. These things, of course, have to change. I truly believe that when the leadership of this country begins to look like the people who live in it, our country will finally reflect the issues and concerns of all its people and we will see the change that we desire.

As I reflect upon the journey and struggles of Asian Americans in this country, I am reminded of the day when I was sworn in. As I stood on the floor of Congress and raised my right hand, I thought about the fact that my grandfather came to this country with nothing. In fact, he faced the hostile laws of the time, the Chinese Exclusion Act, which prohibited him from becoming a naturalized citizen, and the California laws that prevented Asian Americans from owning land and from being hired in any corporation. But he decided to make something of his life anyway and worked day and night and night and day to make ends meet. And now, two generations later, his granddaughter can be a Member of Congress. That is what America is all about, the land of hopes, dreams, and opportunity.

Thank you, Mr. Chairman.

Mr. HONDA. Thank you, Congresswoman JUDY CHU.

I want to thank you very much for initiating the resolution honoring Norm Mineta, but I want to make it very clear to the audience and to Norm that we are doing this not in anticipation of your demise. It sounds like almost a memorial, but it is to acknowledge you while you are around and you can appreciate it. And we want to let you know that we do appreciate all the work that you have done and the kinds of trailblazings that you have done. And so that is our way of doing it, and I want to acknowledge JUDY for doing that.

In terms of growth, today the AAPI community is quickly expanding. Currently, there are approximately 16.6 million AAPIs living in the United States. There are approximately 45 distinct ethnic groups within our populations speaking various dialects within each group. And it is certainly a diverse community, one of the fastest growing ethnic groups in the United States.

By 2050, the Asian Pacific Islander community and population is expected to more than double and reach 40.6 million, or 9 percent, of our population. My own State of California has the largest Asian population at 5.1 million. The States of New York and Texas follow, about 1.5 million and close to 1 million, respectively, in Texas.

The population is also growing in States beyond the usual hubs of New York and California. We are also seeing growth in other areas in our country, such as Virginia, Nevada, Minnesota, Louisiana, Texas, Pennsylvania, and Florida. I encourage my congressional colleagues to learn more about the API populations in their district and become a member of this caucus.

The stereotypes and lack of data around our community—there is a stereotype about Asian Americans that all Asians are healthy, wealthy, and wise. However, our community is extremely diverse in our ethnicities, income, educational attainment, language capabilities, special needs, and challenges. Stereotypes about our communities make it difficult to understand the unique problems faced by individual communities and subgroups. Data that is disaggregated by ethnicity for our various communities is hard to come by but critical to the understanding where we must direct Federal attention.

As a country, we need to better address the needs of the AAPI community when we discuss comprehensive immigration reform, health care, economic recovery, and education. We are also barely visible in corporate America, underrepresented in political offices throughout the country, and misportrayed in our mainstream media. As our community expands, we

must also continue to educate our fellow citizens about the uniqueness of our experiences. And so the whole concept of disaggregation of our data is critical to making sure that we target very accurately the needs of our community.

Despite the daunting challenges we face, this is a time of great optimism and hope for the Asian American Pacific Islander communities. President Obama and the APIs in the administration and new Members of Congress are evidence of that. We are making this month with an American President with close ties to Asia.

President Obama grew up in Hawaii and Indonesia. His sister is half Indonesian; his brother-in-law is Chinese-Canadian, and he has maintained close ties with Asian friends and colleagues throughout his life.

□ 2015

President Barack Obama has a deep understanding of our community and many milestones celebrated may be attributed to his commitment to our community. He has made significant outreach efforts to reestablishment of the White House initiative on Asian Pacific American islanders to coordinate multi-agency efforts to ensure more accurate data collection and access to services for these communities.

The President's Cabinet includes a record of three Asian Americans, as was mentioned by Congresswoman CHU. Energy Secretary Dr. Steven Chu, a Nobel Laureate, the leader of the Livermore Labs in Berkeley; well-suited for the job. Well trained. Commerce Secretary Governor Gary Locke of Seattle, Washington. And Veterans' Affairs Secretary General Eric Shinseki, a man of great integrity and one that has earned his reputation not only among the military folks but all Americans.

The President has also demonstrated a commitment to judicial diversity through the nomination of high-caliber Asian American and other minority jurists at all levels of the Federal bench. Our faces are lacking very much. The nomination of these folks are appreciated because this says a couple of things. One, that we need to be there on the bench. Two, we have capable jurists that can administer and conduct a courthouse, from the very municipal courts to the highest—the Supreme Court.

The service in Congress. The ranks of Asian American Pacific Islander Members of Congress also increased this Congress with the election of ANH "JOSEPH" CAO from Louisiana's Second District, GREGORIO KILILI CAMACHO SABLAN from the Northern Mariana Islands, and CAPAC's newest member, Representative JUDY CHU from California's 32nd District.

Representative CAO has the distinction of being the first Vietnamese

American elected to Congress. He also makes our caucus bipartisan, coming from the Republican Party. Just on top of that, our caucus is also bicameral, with representation from Senators AKAKA and INOUE. Representative SABLAN is the very first member to represent the Northern Marianas and the only Chamorro person serving in Congress today. Representative CHU is the very first Chinese American woman elected to Congress. Representatives CAO, SABLAN, and CHU are also the newest members of CAPAC's executive board. Our newest associate members are Representative JOSEPH CROWLEY of New York and Representative JOHN CONYERS of Michigan. It is a testament to our evolving national character as a Nation of immigrants to have our newest Members of Congress come from upbringings beyond our own shores.

At this time, Mr. Speaker, I'd like to share the microphone and the podium with a gentleman who's been here in excess of 25 years. Probably 30 years. He claims that all the sumo champions of Japan that are over 6'5" are his cousins. I don't deny that. I think that his service to this country representing the island of American Samoa has been long and distinguished. He's an articulate advocate for Asian American issues and, through CAPAC, I believe that he has a platform of bringing the issues of Asian Pacific islanders in that area to the public's attention. And through the last battle for comprehensive health reform, he has been an outspoken leader in making sure that territories such as the Virgin Islands, Samoa, Guam, Marianas, have a greater respect and attention paid to them.

And so it gives me great pleasure to introduce my colleague, the Congressman from American Samoa, ENI FALEOMAVAEGA. Aloha.

Mr. FALEOMAVAEGA. Mr. Speaker, how much time do we have left?

The SPEAKER pro tempore (Mr. PERRIELLO). The gentleman from California has 37 minutes remaining.

Mr. FALEOMAVAEGA. I thank the gentleman for yielding. I am very respectful of my dear friend here. Mr. Speaker, I thank my fellow Members of Congress who join us today in honoring Asia Pacific Heritage Month. I especially want to thank the gentleman from California, my colleague, Mr. HONDA, for his leadership as chairman of the Congressional Asian Pacific American Caucus and in requesting this Special Order to allow members of this institution to pay tribute and to recognize the contributions of the Asian Pacific American community to our Nation.

Founded in 1994 by then-Congressmen and my dear friend and former colleague, Congressman Norman Mineta, this caucus has been a strong advocate for the Asian Pacific American community on critical issues such as housing, health care, immigration, civil

rights, economic development, and education, just to name a few. And so it is fitting that we are gathered here today to advocate as advocates of our community to acknowledge the wide-ranging contributions that Asian Pacific Americans have made in the history of our great Nation.

It's been 18 years now that Congress has given authorization that our Nation pay special tribute in the month of May to the contributions of our Asian Pacific American community. I will try and elaborate on the achievements and successes of Asian Pacific Americans to highlight our rich legacy and diversity but, more importantly, to demonstrate that the greatness of our Nation lies in its diversity and ability to accept people from all over the world as they pledge themselves to become fellow citizens of this great Nation.

Americans of Asian Pacific descent, over 16 million of us, make up about 8 or 9 percent of our Nation's population. In recent years, the Asian Pacific American population has more than doubled. There are some predictions that it is now considered the most active and rapidly growing group in our country.

Time will not permit me to share with you the names and contributions of many of our prominent Asian Pacific American leaders in the fields of law, business, and finance. Too many to mention. One only needs to read today's newspapers or a magazine to know that Asian Pacific American students both in secondary schools and universities are among the brightest minds our Nation offers to the world. I fully expect these students now and in the future will contribute their talents and their expertise to solve major issues and problems confronting our Nation and the world.

Many of our prominent business leaders and entrepreneurs are of Asian Pacific descent. For example, many of the popular brands and icons that we know today were created by the brilliant minds of Asian Pacific Americans. For example, the Bose Corporation, which specializes in audio equipment used by historical venues and facilities such as the Sistine Chapel, the Space Shuttle, and the Olympic Stadium, is headed by Amar Bose, an Indian American. Steve Chen, a Chinese American, and Jawed Karim, a Bangladeshi American, were the co-creators of the popular video-sharing Web site YouTube. Vera Wang, a Chinese American fashion designer and model, established herself as an icon by dressing celebrities and creating one of the most fashionable clothing lines for women in the world today.

In the realm of sports, Asian Pacific Americans have come to the forefront. Five Asian Pacific Americans competed for Team USA in the recent Winter Olympics, including short-track

skaters J.R. Celski, Apolo Ohno, and Simon Cho, and snowboarder Graham Watanabe. Chinese American Julie Chu, who helped lead the U.S. women's ice hockey team to a silver medal, is the first Asian Pacific American to play for the U.S. Olympic women's ice hockey team. Ms. Chu is also the former team captain at Harvard University, where she became the all-time NCAA leading scorer for women's ice hockey.

Before I share the accomplishments of other Asian Pacific Americans in the Olympics, I must first recognize the pioneer of them all, in my humble opinion. It's a native Hawaiian by the name of Duke Kahanamoku, the first Asian Pacific American ever to win Olympic gold for the U.S. in the 1912 games. Duke went on to win two more golds and two more silver medals for the United States. Also considered the "father of modern surfing," Duke was the first person to be inducted to both the Swimming Hall of Fame and the Surfing Hall of Fame.

Other prominent Olympians include Kevin Tan, a Chinese American who was selected as captain of the U.S. men's gymnastics team in the 2008 Summer games; high-diver Greg Louganis, of Samoan descent, who won three gold medals in the 1980s; and a high-diver by the name of Sammy Lee, the first Korean American to win a gold medal for the United States in the 1948 games. Four years after his historic feat, Lee also won his second gold medal at age 32, becoming the oldest person to win a gold medal in diving and the first male diver ever to win back-to-back gold medals.

A very, very interesting story about Dr. Sammy Lee. At that time, the U.S. diving team for the Olympics would not even allow Dr. Sammy Lee to practice with them because he was a Korean American. So he had to be somewhat innovative and creative, diving off the cliffs just to try to get himself practice to prepare for the Olympics. Guess what? Despite all the difficulties that he was confronted with, he still won the gold medals for Uncle Sam.

I remember years ago when I attended the 1988 Olympics in Korea and I ran into Dr. Sammy Lee, and I asked him why the Samoan American named Greg Louganis was so good in high-diving. He said, Eni, look at his legs. Greg Louganis has Samoan legs. The reason for this is because of the strength that he gets from his legs. It allows him to jump higher than any of the other divers to do more difficult tricks. I said, Oh, that's a very interesting thing to know.

I've also mentioned many of our young Asian Pacific Americans in the NFL. Today, in the 2010 NFL draft there were seven young men: four Samoans, one Tongan, and one Hawaiian. Probably even more were selected to seven different teams across the Nation.

Sometimes, Mr. Speaker, I usually have to give a lesson in geography when people ask where I'm from—Samoa, not Somalia. But when I mention Troy Polamalu and Junior Seau, they say, Oh, those guys. They're Samoans. They're Asian Pacific Americans. I must also mention that Asian Pacific Americans excelled in the sport of rugby. Many of you may have heard world-renowned New Zealand All Blacks team, whose name, I might add, describes the color of their uniforms and not the skin of the people that play the game. Some of the world's most famous rugby players are of Samoan descent. And the All Blacks team includes Brian Williams, Va'aiga Tuigamala, Tana Umaga, and Michael Jones.

Also of note, a history of discrimination. At the time of apartheid, New Zealand having one of the most powerful rugby national teams, when the South African Springbok team found out there may be a Samoan or Maori that was included in the All Blacks team, they refused to play them because they did not want to associate with these Polynesians or Asian Americans that made up the All Blacks team in New Zealand.

I must also mention in the sport of sumo, as the gentleman from California had alluded to earlier, yes, Asian Pacific Americans also excel in the sport of sumo. I can only mention that the gentleman that started it was a native Hawaiian named Jesse Kuhaulua, whose wrestling name was Takamiyama. He, in turn, trained a Samoan kid by the name of Saleva'a Atisanoa, whose name later became Konishiki. Of course, Konishiki weighed only 570 pounds after they trained him. And, of course, he was able to bench 600 pounds.

And then we have native Hawaiian Akebono, whose name was Chad Rowen. He was about 6'8" and weighed 500 pounds. Another Samoan Tongan sumo wrestler, also a Yokozuna national champion, by the name of Musashimaru.

As I shared this with my colleagues, I just wanted to mention, Mr. Speaker, in terms of the achievements of these Asian Pacific Americans, in the field of martial arts, the late Chinese American kung fu martial artist Bruce Lee captivated movie audiences all over the world by destroying the common stereotype of the passive, quiet Asian Pacific American male. The tradition continues today with Jackie Chan and Jet Li.

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Mr. Speaker, recently I had the privilege of presenting the Congressional Horizon Award to someone else of interesting making, a gentleman by the name of Dwayne Johnson, commonly known as the Rock. The Rock was featured in movies such as "The Scorpion

King," "Rundown," "Get Smart," "Grid Iron Gang," "Race to Witch Mountain," and most recently the comedy fantasy film "Tooth Fairy."

The unique thing about Dwayne Johnson is his father is part African American European and Native American, but his mother is pure Samoan. Now, just about every Samoan alive claims to be related to the Rock, including myself. Recently I had the privilege of presenting the Congressional Horizon Award to Dwayne Johnson for his contributions and volunteer work in enriching the lives of children worldwide. Dwayne Johnson has made numerous contributions, especially towards terminally ill children through his Rock Foundation.

There are also an unprecedented number of Asian Pacific Americans in top government positions, and I think many already may have been mentioned. For example, President Obama appointed Dr. Steven Chu, a Chinese American to be Secretary of Energy. Secretary Chu's extensive work in physics and molecular biology has earned him many accolades. Most notably, he won a Nobel Prize for his work in physics by developing methods to cool and trap atoms in laser light. I don't know what that means, Mr. Speaker, but it must have been something very important.

Dr. Chu's dedication to physics led him to the academic side of research as a teacher of physics and molecular and cellular biology at Stanford University and also U.C. Berkeley University. Concerning global warming, Secretary Chu has been a leading advocate for the research of finding alternative sources of energy, steering away our dependence on fossil fuels. Secretary Chu is the first person ever appointed to a Presidential Cabinet after receiving a Nobel Prize.

Also, another member of the President's Cabinet, Secretary of Veteran Affairs, my dear and good friend, former General Eric Shinseki, a Japanese American born in Hawaii, a graduate of West Point and a decorated veteran who fought in two combat tours in Vietnam. General Shinseki, wounded from his last tour in Vietnam, understands from personal experience the plight of veterans and the support those veterans and their families really need. General Shinseki is also the only Japanese American and Asian American to be promoted to the Army's top position as Chief of Staff of the Army. He was the first 4-star general of Asian descent in the history of our U.S. military.

I can remember well when General Shinseki was asked how many soldiers would it take to take control of Iraq. Strictly from a purely professional opinion as a soldier, not as a politician, he said something in the order of several hundred thousand soldiers. For that he was vilified and severely criti-

cized by civilian authority, namely, former Secretary Rumsfeld and former Deputy Secretary Wolfowitz in saying this is outrageous and not true. And guess what, Mr. Speaker, everything that General Shinseki said was absolutely true. And what did we do? We operated a war in Iraq on the cheap and that is why we have spent 8 years there, costing many more lives simply because of mismanagement and not taking more serious advice from people who know what it means to be in war.

Another Cabinet member of the Obama administration who exemplifies that through hard work the American Dream can come true, is former Governor of the State of Washington, Gary Locke, a Chinese American. Secretary Locke grew up in public housing, put himself through Yale University with loans and scholarships and the money he earned working part-time jobs. After earning his law degree, Locke broke many glass ceilings. In 1993 he became the first Chinese American to be elected to his county as county executive in the State of Washington, city of Seattle. And, of course, he served two terms as Governor of the State of Washington.

As a Vietnam veteran, Mr. Speaker, I would be remiss if I did not say something to honor and respect the hundreds of thousands of Asian Pacific Americans who served then and now in all branches of the armed services to our Nation. As a former member of the U.S. Army Reserve Unit known today as the 100 Battalion 442nd Combat Infantry Group, I would be remiss if I did not share with you the contributions of the tens of thousands of Japanese American soldiers who volunteered to fight our Nation's enemies in Europe during World War II.

As you probably know, after the surprise attack on Pearl Harbor on December 7, 1941, there was such an outrage and outcry for an all-out war against Japan, and days afterwards President Roosevelt right here in this Chamber and the Congress formally declared war against Japan. But out of this retaliation against Japan, over 100,000 Japanese Americans—men, women and children—were caught in the crossfire. Our national government immediately implemented a policy whereby these Japanese Americans were forced to live in what they called relocation camps, but they were actually concentration camps. Their lands, homes, their properties were confiscated without any due process.

My former colleague and former Secretary of Transportation, Norman Mineta, and the late Congressman Bob Matsui from Sacramento spent their early years in these concentration camps. Secretary Mineta shared with us an interesting feature. In the camps they had machine gun nests posted all over the camp. And everyone in the camp was told that the machine guns

were necessary to protect them against rioters and others who wanted to harm them. But Secretary Mineta observed if the machine guns were posted to guard and protect us, why is that they are all directed and aimed inside the prison camp compound and not outside.

Mr. Speaker, I submit it was a time in our Nation's history when there was so much hatred and bigotry and racism against our Japanese American community. Despite all this, tens of thousands of Japanese American men volunteered to join the Army, thus leaving their wives, their parents, brothers and sisters behind barbed wire fences to go train in order to fight America's enemies in Europe. As a result of such volunteerism, two combat units were organized. The 100th Battalion and the 422nd Infantry Combat Group were created and immediately sent to fight in Europe. History speaks for itself, Mr. Speaker, documenting that none have shed their blood more valiantly for our Nation than the Japanese American soldiers who served in these two combat units while fighting enemy forces in Europe during World War II.

The military records of the 100th Battalion and the 442nd Infantry are without equal in suffering, in my humble opinion. These Japanese American units suffered an unprecedented casualty rate of 314 percent and received over 18,000 individual decorations, many awarded posthumously for bravery and courage in the field of battle. For your information, 53 Distinguished Service Crosses were awarded for the bravery of these Japanese soldiers; 560 Silver Stars; 9,486 Purple Hearts; and seven Presidential Unit Citations, and I find it unusual that only one Medal of Honor was awarded at that time. Nonetheless, it is noted that the 442nd Infantry Group emerged as the most decorated combat unit of its size ever in the military history of the United States.

President Truman was so moved by the bravery in the field of battle, not only by Japanese Americans but African Americans during World War II, that he issued an executive order to finally desegregate all branches of the armed services. And I am proud to say that Senators DANIEL INOUE and the late Senator Spark Matsunaga were members of the original units of the 100th Battalion and 442nd Infantry.

I was very, very happy that the House made a change, reinvestigated and as a result of the investigation in 1999, 19 additional Congressional Medals of Honor were given to these Japanese Americans who were members of these combat groups. Senator INOUE was one of the recipients, and I was privileged to witness this historic moment at a ceremony at the White House.

Mr. Speaker, looking back on history, I submit to you today that the wholesale and arbitrary abolishment of

the constitutional rights of these loyal Japanese Americans should forever serve as a reminder and testament that this must never be allowed to occur again. When this miscarriage of justice unfolded during World War II, Americans of German and Italian ancestry were not similarly jailed en masse. Some declare the incident as an example of outright racism and bigotry in its ugliest form.

After visiting the Holocaust museums in both Washington, D.C. and in Jerusalem, I understand, Mr. Speaker, better why the genocide of some 6 million Jews has prompted the cry, "never again." Likewise, I sincerely hope that the mass internments on the basis of race will never darken the history of our great Nation.

Bruce Yamashita, a Japanese American from Hawaii, was discharged from his training as an officer in the Marine Corps. Marine Corps superiors taunted Bruce with ethnic slurs and told him: We don't want your kind around; go back to your own country.

The situation was made worse when the commandant of the Marine Corps, who appeared on "60 Minutes," said marine officers who are minorities do not shoot, swim or use compasses as well as white officers. Well, the general apologized, but it was too late. After research and investigations, Mr. Yamashita was vindicated and finally commissioned as an officer in the Marine Corps.

Mr. Speaker, when I envision America, I don't see a melting pot designed to reduce and remove racial differences. No, the America I see is a brilliant rainbow, a rainbow of ethnicities, of cultures, different religions and languages with each person proudly contributing in his own distinctive and unique way for a better America.

Asian Pacific Americans wish to find a just and equitable place in our society that would allow them, like all Americans, to grow, to succeed, to achieve, and to contribute to the advancement of this great Nation.

I would like to close my remarks by asking all of us here, my colleagues, and the American people: What is America all about? I think it could not have been said better than on the steps on the Lincoln Memorial in the summer of 1963 when an African American minister by the name of Martin Luther King, Jr., poured out his heart and soul to every American who could hear his voice, when he uttered these profound words: "I have a dream. My dream is that one day my four little children will be judged not by the color of their skin, but by the content of their character."

That is what I believe America is all about and that is what I firmly believe that the 16 million Asian Pacific Americans that are a part and fabric of our great Nation, that it will make us even

a greater country, by looking at the characters of the people and judging them accordingly and not because of race.

I sincerely hope my colleagues will remember this month of May has been dedicated. It has been my privilege to visit several installations over the course of the 20 years I have been here, to share with the American people the contributions that Asian Pacific Americans have made to our great Nation.

Mr. Speaker, I thank my fellow members of Congress who join us today in honoring Asian Pacific Heritage Month. I also thank the gentleman from California, Mr. HONDA, for his leadership as Chairman of the Congressional Asian Pacific American Caucus, CAPAC, and in requesting this Special Order to allow Members of this institution to pay tribute to and recognize the contributions of the Asian Pacific American community to our nation.

Founded in 1994 by then-Congressman and my dear friend, Norman Mineta, CAPAC has been a strong advocate for the Asian Pacific American community on critical issues such as housing, healthcare, immigration, civil rights, economic development, and education, just to name a few. And so it is fitting that we are gathered here today as advocates for our community to acknowledge the wide-ranging contributions Asian Pacific Americans have made in the history of this great nation.

In 1992, Congress passed a joint Congressional Resolution to designate the month of May to give special recognition of the contributions of our Asian-Pacific American community to our nation. Originally, Congress in 1978 designated the first week of May to commemorate the arrival of the first Japanese immigrants and the completion of the trans-continental railroad that was built by the Chinese laborers. Every year since then, the President would issue an Executive proclamation from the White House to honor this month and direct all federal agencies and military installations throughout the country to conduct special events and ceremonies to honor our Asian-Pacific American communities throughout our country.

I will try and elaborate on the achievements and successes of Asian-Pacific Americans to highlight our rich legacy and diversity but, more importantly, to demonstrate that the greatness of our nation lies in its diversity and ability to accept peoples from all over world, as they pledge themselves to become fellow citizens of this great nation.

Americans of Asian and Pacific Islander descent, over 16 million strong, are among the fastest growing demographic groups in the United States today, even though they make up only 9 percent of our nation's population. According to the U.S. Census Bureau, the Asian American and Pacific Islander community is comprised of over 45 distinct ethnicities and over 28 language groups. In recent years, the Asian-Pacific American population has more than doubled and this rapid growth is expected to continue in the years to come—reaching 40.6 million by 2050, according to the U.S. Census Bureau.

Time will not permit me to share with you the names and contributions of many of our prominent Asian-Pacific American leaders in

the fields of law, business, finance, and too many to mention. One only needs to read today's newspaper or a magazine to know that Asian-Pacific American students—both in secondary schools and universities—are among the brightest minds our nation offers to the world. I fully expect that these students—now and in the future—will contribute their talents and expertise to solve major issues and problems confronting our nation and the world.

Many of our prominent business leaders and entrepreneurs are of Asian-Pacific descent. In fact, many of the popular brands and icons that we know today were created by the brilliant minds of Asian-Pacific Americans. For example, the Bose Corporation (note: one syllable, pronounced Boze), which specializes in audio equipment used by historical venues and facilities, such as the Sistine Chapel, the Space Shuttle, and the Olympic stadiums, is currently headed by its founder, Amar Bose—an Indian American. Steve Chen, a Chinese American, and Jawed Karim, a Bangladeshi American, were the co-creators of the popular video sharing Web site, "YouTube." Vera Wang, a Chinese American fashion designer and mogul, established herself as an icon by dressing celebrities and creating one of the most fashionable clothing lines for women in the world.

In the realm of sports, Asian-Pacific Americans have come to the forefront. Of the five Asian-Pacific Americans who competed with Team USA in the recent Winter Olympics—including short track skaters J.R. Celski, Apolo Ohno, and Simon Cho, and snowboarder Graham Watanabe—Chinese American Julie Chu, who helped lead the U.S. women's ice hockey team to a silver medal, is the first Asian American to play for the U.S. Olympic women's ice hockey team. Chu is also the former team captain at Harvard where she became the all-time NCAA leading scorer for women's ice hockey.

Before I share the accomplishments of other Asian-Pacific Americans of Olympic fame, I must first recognize the pioneer of them all—Native Hawaiian Duke Kahanamoku, the first Asian-Pacific American ever to win Olympic gold for the U.S. in the 1912 games. Duke went on to win two more gold and two silver medals. Also considered the "father of modern surfing," Duke was the first person to be inducted to both the Swimming Hall of Fame and the Surfing Hall of Fame.

Other prominent Olympians include: Kevin Tan, a Chinese American who was selected as captain of the U.S. men's gymnastics team in the 2008 summer games; high-diver Greg Louganis, of Samoan descent, who won three gold medals in the 1980s; and high-diver Dr. Sammy Lee, the first Asian-American ever to win Olympic gold for the U.S. in the 1948 Games. Four years after his historic feat, Lee won his second gold medal at age 32, becoming the oldest person to win a gold medal in diving, and the first male diver to win back-to-back gold medals.

As a Korean-American living before the Civil Rights movement, Sammy had to overcome much discrimination to attain his goals. Even finding a place to practice was a struggle. For example, the Brookside pool in Dr. Lee's town would only allow non-Whites to use the pool once a week. Sammy described that at clos-

ing, the pool was emptied, and fresh water was brought in the next day. On other days, he would often practice his diving form by jumping onto a sand pile.

After attaining his goals of becoming both an Olympic diver and a medical doctor—which he promised his father—Sammy turned to coaching and not surprisingly, met with great success. He coached one of his most famous students, then sixteen-year old Greg Louganis, to a silver medal in 1976 Summer Olympics in Montreal.

I remember years ago when I attended the 1988 Olympics in Korea and I ran into Dr. Sammy Lee. I asked him why this Samoan-American named Louganis was so good in the art of diving. He said, "Look at his legs, they are Samoan." The reason for this is it gives him the ability to jump higher than any of his Olympic competitors. He could jump higher than anybody. That's what gives him the opportunity to do flips more difficult than any of the others to accomplish.

Asian-Pacific Americans are more prevalent in American sports now than ever before. We have Yao Ming, a Chinese basketball player, playing for the Houston Rockets; Daisuke Matsuzaka, a Japanese baseball player, playing for the Boston Red Sox; and Yutaka Fukufuji, the first Japanese to play for the National Hockey League, who played for the Los Angeles Kings.

I have to also mention our young Asian-Pacific Americans in the NFL. In the 2010 NFL draft, seven young men—four Samoans, one Tongan and one Hawaiian—were selected by seven different teams across the nation. These young men are ambassadors of goodwill and represent the Asian-Pacific Americans of past and present NFL fame—from pioneers such as Al Lolotai who played for the Washington Redskins in 1945, Charles Ane and Rockne Freitas of Detroit Lions, to the likes of Junior Seau of the New England Patriots and Troy Polamalu of the Pittsburgh Steelers.

I must also mention Polynesians' first love which is rugby. Many of you may have heard of the world-renown New Zealand All Blacks team, whose name—I might add—describes the color of their uniforms and not their skin. Some of our famous Samoan rugby legends of the All Blacks include Bryan Williams, Va'aiga Tuigamala, Tana Umaga, and Michael Jones.

Michael Jones, who was noted for his refusal to play on Sundays (including major semifinal matches) due to his strong Christian beliefs, was once asked how a Christian such as himself could be such an uncompromising tackler. In reply, he quoted a scripture from the Bible saying, "It is better to give than receive."

Also to note is the history of discrimination that the All Blacks faced in international rugby—most notably, while playing the South Africa Springboks. During a time when the white South African government's apartheid views regarded the black majority as second-class citizens, the South African Rugby Union demanded Maori players be excluded from All Blacks teams. Just recently—in fact, last month—South African rugby has given its first indication that it is willing to apologize to the Maori for this discriminatory practice which occurred decades ago.

Asian-Pacific Americans have also made their name in American rugby teams. I must also mention the successes of a young Samoan-American rugby player by the name of Thretton Palamo, who made his World Cup debut in 2007, becoming the youngest player ever to appear in a World Cup match, eight days after his 19th birthday. Palamo, a strong advocate for the sport, was additionally named as captain for the USA Sevens team at the 2009 World Games in Taiwan.

I must also mention our internationally renowned Asian-Pacific Americans who excelled in Japan's most revered and ancient sport—sumo—including: Takmiyama (Native Hawaiian), Konishiki (Samoan), Akebono (Native Hawaiian), and Musashimaru (Samoan-Tongan).

Years ago, an eighteen year old Samoan kid named Saleva'a Atisanoa—then weighing only 384 pounds and an all-state football player intending to play college football—was walking along Waikiki Beach with his buddies when he caught the attention of the famous Native Hawaiian sumo wrestler and teacher, Jesse Kuhaulua or, as he was known as throughout Japan, Takamiyama.

After convincing Saleva'a's parents to have their son try sumo wrestling as an optional sport, Takamiyama brought this young man only with a lavalava and a t-shirt on his back, to start a training program so rigorous and demanding that very few foreigners could endure the first six months.

Saleva'a told me that during his six to seven hours of training every day—in which he didn't understand the language—his body would take about every form of pain and physical punishment including hours of stretching, pushing, and pulling. If you want to know how conditioned a sumo wrestler has to be in order to be successful in this ancient sport, he must be able to do the splits just like a seasoned ballerina dancer at an opera concert.

Saleva'a's name was changed to Konishiki and weighing in at only 570 pounds and standing 6 feet tall, he took the entire sumo wrestling world to a different level. His success in winning matches within two years usually would take most sumo wrestlers five years to, achieve. Although he achieved the second highest level in sumo, which was Oyeki, Konishiki became a household name throughout Japan, and was forerunner to two other Polynesian sumo wrestlers who eventually became Yokozuna, or grand champions.

Indeed, these two sumo wrestlers scaled even greater heights by attaining the highest status in this ancient Japanese sport. A native Hawaiian, Chad Rowen or Akebono as he is known in Japan became Yokozuna. Of course, he weighed about 500 pounds and stood 6 feet 8 inches tall. The other was Samoan-Tongan American Fiamalu Penitani, also known as Musashimaru who tipped the scale at 550 pounds and stood 6 feet 4 inches.

In the field of martial arts, the late Chinese-American kung-fu martial arts expert Bruce Lee captivated the movie audiences all over the world by destroying the common stereotype of the passive, quiet Asian-Pacific American male, and the tradition continues today with Jackie Chan and Jet Li.

Now, another sports and movie icon moving his way through the movie industry—and believed to be the heir apparent to Sylvester



Stallone and Arnold Schwarzenegger—is none other than the former World Wrestling Entertainment champion wrestler, Dwayne Johnson, or commonly known as the Rock. The Rock was featured in movies such as the Scorpion King, Rundown, Get Smart, Grid Iron Gang, Race to Witch Mountain, and most recently the comedy fantasy film Tooth Fairy.

The thing unique about Dwayne Johnson is that his father is of African, European, and Native American descent, but his mother is pure Samoan. Now, just about every Samoan alive claims to be related to the Rock, including myself.

Recently I had the privilege of presenting the Congressional Horizon Award to Chief Seili Dwayne “The Rock” Johnson for his contributions and volunteer work in enriching the lives of children worldwide. Dwayne Johnson has made numerous contributions—especially towards terminally-ill children—through The Rock Foundation.

There are also an unprecedented number of Asian-Pacific Americans in top government positions, and these leaders were not appointed to their positions because of their race and heritage but because they bring vast knowledge, experience and different viewpoints that their APA backgrounds have contributed to.

For example, President Obama appointed Steven Chu, a Chinese American, to be the Secretary of Energy. Secretary Chu's extensive work in physics and molecular biology has earned him accolades and achievements throughout the world—most notably he won a Nobel Prize for his work in physics by developing methods “to cool and trap atoms with laser light.”

Chu's dedication to physics led him to the academic side of research, as a teacher of physics and molecular and cellular biology at Stanford and UC Berkley. Concerning global warming, Secretary Chu has been a leading advocate for the research of finding alternative sources of energy, and steering away from our dependence on fossil fuels. Secretary Chu is the first person ever appointed to the Cabinet after receiving a Nobel Prize.

Our newest Secretary of Veteran Affairs, my good friend General Eric Shinseki, is a Japanese American born in Hawaii, a graduate of West Point, and is a decorated veteran who fought in two combat tours in Vietnam. Secretary Shinseki, wounded from his last tour in Vietnam, understands from personal experience the plight of veterans and the support those veterans and their families need. General Shinseki is also the only Japanese American and Asian American to be promoted to the Army's top position, and was the first four-star general of Asian descent in the history of our U.S. military.

As the Army Chief of Staff during the beginning stages of the war in Iraq, Shinseki publicly clashed with Secretary of Defense Rumsfeld over how many troops the U.S. would need to keep in postwar Iraq. Shinseki testified to the U.S. Senate Armed Services Committee that “something in the order of several hundred thousand soldiers” would probably be required for postwar Iraq, an estimate far higher than the figure being proposed by Secretary Rumsfeld.

As many of you know, Shinseki's counsel was ultimately rejected in strong language by

both Rumsfeld and his Deputy Secretary of Defense Paul Wolfowitz and when the insurgency took hold, his comments and their public rejection were often cited by those who felt the Bush administration deployed too few troops. In his November 2006 testimony before Congress, CENTCOM Commander Gen. John Abizaid stated that General Shinseki had in fact been correct that more troops were needed.

Another cabinet member in Obama's Administration, who has exemplified that with hard work the American dream can come true, is former Governor of the State of Washington Gary Locke, a Chinese American. Locke grew up in public housing and put himself through Yale University with loans, scholarships and the money he earned working part-time jobs. After earning his law degree, Locke broke many glass ceilings. In 1993, he became the first Chinese American to be elected his county's County Executive, and in 1996, he became the first Chinese American to be governor of a state, serving the maximum of two terms.

Secretary Locke's family history is also an important one to emphasize, as it is one of many hardships that our Asian-Pacific American communities have faced. In an interview, Locke mentioned that his grandfather might have claimed that he was born in the U.S. and that the documents were destroyed. Some of you may know that in 1882 our government institutionalized racial discrimination against Chinese immigrants where they were banned from entering the United States. The Chinese people living in the U.S. at the time were excluded from becoming American citizens. And because of the restrictions of this law, it was nearly impossible for Chinese families to reunite. This Exclusion Act was repealed only 66 years ago. Locke's grandfather could have been one of the few Chinese immigrants who managed to get into the United States through ruses of lost documentation, while the immigration of people from all over Europe was unlimited.

Another prominent Obama appointee is Harold Koh, a Korean American, who currently serves as Chief Legal Counsel for the Department of State. What's interesting about Koh's background is that his father, a legal scholar and diplomat, was granted asylum in the U.S. after a military coup in Korea. Moving their family to Connecticut, he and Koh's mother soon became the first Asian Americans to teach at Yale University.

As a Vietnam veteran, I would be remiss if I do not say something to honor and respect the hundreds of thousands of Asian-Pacific Americans who served then and now in all branches of the armed services of our Nation.

As a former member of the U.S. Army's Reserve unit, known today as the 100th Battalion and 442nd Infantry Combat group, I would be remiss if I did not share with you the contributions of the tens of thousands of Japanese American soldiers who volunteered to fight our Nation's enemies in Europe during World War II.

As you probably know, after the surprise attack on Pearl Harbor on December 7, 1941, there was such an outrage and cry for an all out war against Japan and days afterwards our President and the Congress formally de-

clared war. Out of this retaliation against Japan, over 100,000 Japanese Americans were caught in the crossfire.

Our national government immediately implemented a policy whereby these Japanese-Americans were forced to live in what were called relocation camps, but were actually more like prison or concentration camps. Their lands, homes and properties were confiscated by the military without due process of law.

My former colleague and former U.S. Secretary of Transportation, Norman Mineta, and the late Congressman Bob Matsui from Sacramento spent the early years of their lives in these prison camps. Secretary Mineta shared one of the interesting features of these prison camps was the many machine gun nests posted all around.

Everyone in the camps was told that these machine guns were necessary to protect them against rioters or others who wanted to harm them. But then-Secretary Mineta observed, “If these machine guns are posted to guard and protect us, why is it that they are all directed and aimed inside the prison camp compound and not outside?”

It was a time in our Nation's history when there was so much hatred, bigotry and racism against our Japanese American community. Despite all this, the White House accepted the request of tens of thousands of the Japanese Americans to volunteer to join the Army, thus leaving their wives, parents, brothers and sisters behind barbed wire fences. As a result of such volunteerism, two combat units were organized. The 100th Battalion and the 442nd Infantry Combat Group were created and immediately were sent to fight in Europe.

In my humble opinion, history speaks for itself in documenting that none have shed their blood more valiantly for our Nation than the Japanese American soldiers who served in these two combat units while fighting enemy forces in Europe during World War II. The military records of the 100th Battalion and 442nd Infantry are without equal in suffering. These Japanese American units suffered an unprecedented casualty rate of 31.4%, and received over 18,000 individual decorations, many awarded posthumously, for bravery and courage in the field of battle.

For your information, 53 Distinguished Service Crosses, (the second highest medal given for heroism in combat), 560 Silver Stars (third highest medal), 9,486 Purple Hearts, and 7 Presidential Unit Citations, the Nation's top award for combat units, were awarded to the Japanese American soldiers of the 100th Battalion and 442nd Infantry Group. I find it unusual however, that only one Medal of Honor was awarded at the time. Nonetheless, the 442nd Infantry Group emerged as the most decorated combat unit of its size in the history of the United States Army.

President Truman was so moved by their bravery in the field of battle, as well as that of African American soldiers during World War II, that he issued an Executive Order to finally desegregate all branches of the Armed Services.

I am proud to say that we must recognize Senator DANIEL K. INOUE and the late, highly respected Senator Spark Matsunaga of Hawaii, who distinguished themselves in battle as soldiers with the 100th Battalion and 442nd Infantry.



It was while fighting in Europe that Senator INOUE lost his arm while engaged in his personal battle against two German machine gun posts. For his heroism, he was awarded the Distinguished Service Cross. As a result of a Congressional mandate that was passed in 1999 to review the military records of these two combat units, President Clinton presented 19 Congressional Medals of Honor to the Japanese Americans who were members of these two combat groups. Senator INOUE was one of those recipients of the Medal of Honor and I was privileged to witness this historical moment at a White House ceremony.

Just last May, the House unanimously passed H.R. 347, thus granting the Congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

Looking back on history, I submit to you today, that the wholesale and arbitrary abolishment of the constitutional rights of these loyal Japanese Americans should forever serve as a reminder and testament that this must never be allowed to occur again. When this miscarriage of justice unfolded during World War II, Americans of German and Italian ancestry were not similarly jailed en masse. Some declare the incident as an example of outright racism and bigotry in its ugliest form.

After visiting the Holocaust museums in both Washington, DC and in Jerusalem, I understand better why the genocide of 6 million Jews has prompted the cry, "Never Again." Likewise, I sincerely hope that mass internments on the basis of race will never again darken the history of our great Nation.

To those who say, well, that occurred decades ago, I say we must continue to be vigilant in guarding against such evil today.

Not long ago we had the case of Bruce Yamashita, a Japanese American from Hawaii who was discharged from the Marine Corps officer training program in an ugly display of racial discrimination. Marine Corps superiors taunted Yamashita with ethnic slurs and told him, "We don't want your kind around here. Go back to your own country." The situation was made worse by the Commandant of the Marine Corps, General Carl E. Mundy, who appeared on television's "Sixty Minutes" and stated, "Marine officers who are minorities do not shoot, swim or use compasses as well as white officers."

After years of perseverance and appeals, Mr. Yamashita was vindicated after proving he was the target of vicious racial harassment during his officer training program. The Secretary of the Navy's investigation into whether minorities were deliberately being discouraged from becoming officers resulted in Bruce Yamashita receiving his commission as a captain in the Marine Corps.

When I envision America, I don't see a melting pot designed to reduce and remove racial differences. The America I see is a brilliant rainbow—a rainbow of ethnicities, cultures, religions and languages with each person proudly contributing in their own distinctive and unique way for a better America. Asian-Pacific Americans wish to find a just and equitable place in our society that will allow them—like

all Americans—to grow, to succeed, to achieve and to contribute to the advancement of this great Nation.

I would like to close my remarks by asking all of us here—what is America all about? I think it could not have been said better than on the steps of the Lincoln Memorial in that summer of 1963 when an African American minister by the name of Martin Luther King, Jr. poured out his heart and soul to every American who could hear his voice, when he uttered these profound words, "I have a dream. My dream is that one day my four little children will be judged not by the color of their skin, but by the content of their character."

That is what I believe America is all about.

Mr. HONDA. I thank the gentleman from American Samoa (Mr. FALEOMAVAEGA). You have covered a lot of ground. To add a little bit to what you indicated about the internment, during that process of studying the internment, the Commission on Wartime Internment, I believe it was 1985, they came to a conclusion based upon a study that the internment was based upon a racial prejudice, war hysteria and the failure, the failure of political leadership. I believe that is why these kinds of opportunities for us to be able to share our history, our involvement, our contributions in who we are as Americans are critical. I appreciate your help in this.

It is also the episode of the Filipino veterans who were asked by President Roosevelt to serve in the U.S. Army and also by General MacArthur who said that participating in the effort against the Japanese Imperial Army would bring them the possibility of citizenship and also full veterans benefits. Six months after the war, two precisely written rescission acts were written in the budget in 1946 specifically eliminating that possibility and that promise to those who had fought side by side with our soldiers in the Philippines.

□ 2045

These Filipino veterans fought side by side, protected them against the Japanese atrocities during the Bataan Death March, masterminded the release of the largest amount of POWs from Japanese POW camps in the Philippines, and they still, today, carry the pride and the dignity of a veteran. And just recently, we were able to provide them some compensation but did not match the promise that we had offered them as Congress, as a country, and as a government.

So I stand here as a Member of Congress, a Congress that is an organic, living being, that should be responsible for its past, its present, and its future. And certainly in this area we did not do great justice to our brethren who fought alongside of our own soldiers.

The area of comprehensive immigration reform is another area that our Nation needs to address. Our Nation was founded by immigrants who valued

freedom and liberty, who sought to be free from persecution, from tyranny. Families fled from their home countries to seek refuge in the great Nation because they too believed in life, liberty, and freedom for all.

It is in this spirit that CAPAC supports immigration legislation that shifts the debate from the exclusionary, anti-immigrant, enforcement-only approach to one that confronts the social and economic realities behind immigration, honors the dignity of all families and communities, and recognizes the economic, social, and cultural contributions of immigrants to our great country.

Today, AAPIs constitute a growing and vibrant piece of the American fabric. In 2007, approximately 10.2 million of the Nation's foreign born were born in Asia, constituting over 1 quarter of the foreign-born population and over one-half the total AAPI population. Even with the relatively high naturalization rate, Asian undocumented immigrants living, working, or studying in the U.S. represent approximately 12 percent of the undocumented immigrants in the U.S.

We must also recognize that reuniting families gives strength to American communities and is the bedrock of a vibrant and a stable economy. We must eliminate the long backlogs keeping families apart for years and often decades. Let's keep families together. By strengthening the social fabric of our communities and integrating workers, we can get our economy back on track, while reuniting American workers with their families. CAPAC is prepared to work with our colleagues to push through the long-deferred changes needed to ensure a fair, efficient, and secure immigration system.

Mr. FALEOMAVAEGA. Will the gentleman yield?

Mr. HONDA. Certainly.

Mr. FALEOMAVAEGA. I just want to again offer my commendation to the gentleman for his tireless service and also for his leadership in moving so very many important issues affecting the needs of our Asian Pacific American community in the course of the numbers of years that you have served as chairman. And I speak, I'm sure, on behalf of our colleagues and members of our Asian Pacific Congressional Caucus in doing such a splendid job.

My understanding, I think Monday the President's going to invite us to the White House to honor, this month, all the Asian Pacific Americans. And as you said earlier, President Obama is a Hawaiian. He's a Pacific Islander, the first President who at least knows where the Pacific Ocean is.

Mr. HONDA. Well, that's news to me.

Thank you very much. As Chair, I appreciate that information in public. That's wonderful news. And we've been waiting for an invitation for this month, and I appreciate my colleague

for that information. And I'll get my suit pressed.

So, Mr. Speaker, a common misperception of AAPIs is that, as a group, we face fewer health problems than other racial and ethnic groups. In fact, Asians, as a group, and specific populations within this group, do experience disparities in health and health care. For example, Asian Pacific Islanders have the highest hepatitis B rates of any racial group in the United States. We must bring attention to and educate our communities about prevention of hepatitis B through testing and vaccination.

In the United States, 12 million people have been infected at some time in their lives with hepatitis B virus, and more than 5,000 Americans die from hepatitis B-related liver complications every year. Asian Americans and Pacific Islanders account for more than half of the chronic hepatitis B cases and half of the deaths resulting from chronic hepatitis B infections in the United States.

In order to break this silence surrounding this deadly disease and bring awareness to the American people, Congressman EDOLPHUS TOWNS, Congressman CHARLIE DENT, Congressman ANH CAO, and I have introduced the Viral Hepatitis and Liver Cancer Control and Prevention Act. And I hope my colleagues will join me in supporting a Federal strategy to prevent, treat, and manage viral hepatitis, and we invite them to join us.

In education, immigration reform and health expansion is also expanding educational access for all Americans. That's also a high priority for CAPAC. Education is at the very center of our democratic meritocracy, and it is imperative that every American child be afforded a true opportunity to achieve their highest potential.

I have reintroduced the Education Opportunity and Equity Commission Act, H.R. 1758, to begin the process of overhauling the country's education system and to finally address the disparities among America's schools. This legislation creates a national commission charged with gathering public opinions and insights about how government can improve education and eliminate disparities in the educational system. I hope that you'll join me as a cosponsor to this legislation among my colleagues. We must remember the needs of all young people, including Asian American and Pacific Islander students, many of whom struggle in low-income communities, refugee communities, and do not have sufficient English skills.

According to the 2000 census, only 9.1 percent of Cambodian Americans, 7.4 of Hmong Americans, 7.6 percent of Lao Americans, and 19.5 percent of Vietnamese Americans and 16.5 percent of Native Hawaiians and Pacific Islanders who are 25 years and older have a bach-

elor's degree or higher degree. These numbers show that we must do better. We must do a better job of disaggregating data and information about our communities to assess the needs of those hardworking Americans who still falter behind.

To address the disparities between subgroups of the larger AAPI community, we must support greater funding for Asian American and Pacific Islander-serving institutions. This program provides Federal grants to colleges and universities that have an enrollment of undergraduate students that is at least 10 percent AAPI and lets 50 percent of its degree-seeking students receive financial assistance.

On behalf of the Congressional Asian Pacific American Caucus, Congressman DAVID WU and I will work to strengthen the Asian American Pacific Islander-serving institutions program to increase the availability of loan assistance, scholarships and programs to allow AAPI students to attend a higher education institution, to ensure full funding for teachers and bilingual education programs under the No Child Left Behind law to support English language learners, and to support full funding of minority outreach programs for access to higher education such as the TRIO programs, to expand services to serve AAPI students.

Now, there's a lot of firsts, as has been mentioned before by my colleagues. But before I start that, I just wanted to mention that there was a gentleman by the name of Dalip Singh Saud, who, in 1957, became the very first Asian American, Sikh American to be in the Halls of Congress. But he had to overcome some of the anti-Asian legislation that was on our books. Namely, there was one. One was the Chinese Exclusion Act. Another one was the Asian Exclusion Act that particularly named Asians as unfit to be citizens, and then they folded into Americans.

The studies among scholars say that the Indo American folks from that peninsula are not of the Mongolian race but of the Caucasian race. Very wisely, this person, Dalip had argued, as an attorney in the courts, saying that people of his background are not part of the race, are not part of the targeted group. He was able to convince them to change that law that allowed him to run for Congress and become a Representative and walk in the Halls of Congress. He broke the very first rib in the anti-Asian law, and then continued to do that, where folks like Bob Matsui, Norm Mineta and others like myself and ENI are able to serve here. So I just want to recognize him.

And a portrait hangs in the staircase. Going from this floor to the bottom floor, there's a portrait of Congressman Singh that hangs there, and I just would like to point that out to folks, so when they come and visit, or our

Members go down those stairs, that they look up and recognize the person who had been first to break some of the glass ceilings and anti-Asian legislation that kept us from participating.

Very quickly, other firsts were the first person to graduate from Yale University was Yung Wing in 1847. In 1863, William Ah Hang, a Chinese American, became the first to enlist in the U.S. Navy, during the Civil War. And none of them were able to become citizens because of the anti-Asian laws that disqualified them from being citizens. A.K. Mozumdar, in 1915, became the first Indian-born person to earn U.S. citizenship. In 1922, Anna May Wong had her lead role in "Toll of the Sea" at the age of 17.

Mr. Speaker, following is my statement in its entirety.

Mr. Speaker, I rise today to recognize the Asian American and Pacific Islander community and to commemorate Asian Pacific American Heritage Month.

As Chair of the Congressional Asian Pacific American Caucus, CAPAC, I feel privileged to be here tonight with my colleagues to speak of the Asian and Pacific Islander American history and accomplishments.

Additionally, I will be highlighting those issues affecting our community and the priorities for CAPAC.

In celebrating APA Heritage Month, I want to give thanks to the late Representative Frank Horton from New York and my good friend, former Secretary Norman Mineta, along with Senators DANIEL INOUE and Spark Masayuki Matsunaga.

It is because of their efforts that May is now designated as Asian Pacific American Heritage Month.

The first 10 days of May coincide with two important anniversaries: the arrival of the first Japanese immigrants on May 7, 1843 to the U.S. and the completion of the transcontinental railroad on May 10, 1869.

In 1992, Congress passed Public Law No. 102-450, the law that officially designated May of each year as "Asian Pacific American Heritage Month."

NORM MINETA

Today, I along with Congresswoman JUDY CHU introduced a resolution honoring the accomplishments of my dear friend Norm Mineta, who cut his teeth in politics in California's 15th district in Silicon Valley which I represent.

Throughout his career, Norm has broken through many glass ceilings for himself, but also for the rest of us.

He is a close personal friend, and I consider him a dear mentor.

Norm was the first Asian American mayor of a major city, the first Asian American to hold a presidential cabinet position.

Not only did he pierce through glass ceilings, he dedicated much of his energies building the infrastructure needed for the Asian American and Pacific Islander to grow and thrive to what it is today.

Norm had a hand in establishing and/or strengthening so many of our key national organizations.

These span from: policy advocacy coalitions like the National Council of Asian Pacific

Americans; to voter engagement organizations like APIA Vote; to organizations and fellowship programs that develop the future leaders of our community, such as the Asian Pacific American Institute for Congressional Studies; to the Congressional Asian Pacific American Caucus, which I chair today.

CAPAC is a caucus of Members dedicated to representing the interests of underserved Asian Americans and Pacific Islanders, and I am proud to honor Norm Mineta today through this resolution, along with Congresswoman CHU.

#### SERVICE IN CONGRESS

The ranks of Asian American Pacific Islander Members of Congress also increased this Congress with the election of ANH "JOSEPH" CAO from Louisiana's second district, GREGORIO KILILI CAMACHO SABLÁN, from the Northern Mariana Islands, and CAPAC's newest member, Representative JUDY CHU from California's 32nd District.

Representative CAO has the distinction of being the first Vietnamese-American elected to Congress.

Representative SABLÁN is the first Member to represent the Northern Marianas, and the only Chamorro person serving in Congress today.

And Representative CHU is the first Chinese-American woman elected to Congress.

Representatives CAO, SABLÁN, and CHU are also the newest members of the CAPAC executive board. Our newest associate members are Representatives JOSEPH CROWLEY of New York, and Representative JOHN CONYERS of Michigan.

It is a testament to our evolving national character as a nation of immigrants to have our newest members of Congress come from upbringings beyond our shores.

President Barack Obama has a deep understanding of the AAPI community, and many milestones celebrated may be attributed to his commitment to our community.

He has made significant outreach efforts through the reestablishment of the White House Initiative on AAPIs to coordinate multi-agency efforts to ensure more accurate data collection and access to services for this community.

The Presidential Cabinet includes a record three Asian Americans: Energy Secretary Steven Chu; Commerce Secretary Gary Locke, and Veterans Affairs Secretary Eric Shinseki.

The President has also demonstrated commitment to judicial diversity through the nomination of high caliber Asian American and other minority jurists at all levels of the Federal bench.

We are also barely visible in corporate America, underrepresented in political offices throughout the country, and misportrayed in our mainstream media.

As our community expands we must also continue to educate our fellow citizens about the uniqueness of our experiences.

Despite the daunting challenges we face, this is a time of great optimism and hope for the Asian American Pacific Islander American (AAPI) communities.

We are marking APA Heritage Month with an American President with close ties to Asia.

President Obama grew up in Hawaii and Indonesia, his sister is half-Indonesian, his

brother-in-law is Chinese-Canadian, and he has maintained close ties with Asian friends and colleagues throughout his life.

I encourage my congressional colleagues to learn more about the AAPI population in their districts and become a member of CAPAC.

There is a stereotype that all Asians are healthy, wealthy and wise.

However, our community is extremely diverse in our languages, ethnicities, income, educational attainment, language capabilities, special needs, and challenges.

Stereotypes about our communities make it difficult to understand the unique problems faced by individual communities and sub-groups.

Data that is disaggregated by ethnicity for our various communities is hard to come by, but critical to understanding where we must direct Federal attention.

As a country, we need to better address the needs of the AAPI community when we discuss comprehensive immigration reform, healthcare, economic recovery, and education.

Today, the AAPI community is quickly expanding. Currently, there are approximately 16.6 million AAPIs living in the United States.

There are approximately 45 distinct ethnic groups within our populations, speaking various dialects within each group.

It is certainly a diverse community, and one of the fastest growing ethnic groups in the U.S.

By 2050, the Asian Pacific Islander population is expected to more than double, and reach 40.6 million, or 9 percent of the population.

My home State of California has both the largest Asian population at 5.1 million. The States of New York and Texas followed at 1.5 million, and close to 1 million respectively.

The population is also growing States beyond the usual hubs of New York and California.

We are also seeing growth in other areas in our country, such as Virginia, Nevada, Minnesota, Louisiana, Texas, Pennsylvania, and Florida.

#### COMPREHENSIVE IMMIGRATION REFORM

Mr. Speaker, our Nation was founded by immigrants who valued freedom and liberty, who sought to be free from persecution from tyranny.

Families fled their home countries to seek refuge in this great Nation because they, too, believed in "Liberty, Justice, and Freedom for All."

It is in this spirit that CAPAC supports immigration legislation that shifts the debate from an exclusionary, anti-immigrant, enforcement-only approach, to one that confronts the social and economic realities behind immigration, honors the dignity of all families and communities, and recognizes the economic, social, and cultural contributions of immigrants to our great country.

Today, AAPIs constitute a growing and vibrant piece of the American fabric.

In 2007, approximately 10.2 million of the Nation's foreign-born were born in Asia, constituting over one quarter of the foreign born population, and over one half of the total AAPI population.

Even with a relatively high naturalization rate, Asian undocumented immigrants living,

working, or studying in the U.S. representing approximately 12 percent of undocumented immigrants in the U.S.

We must also recognize that reuniting families gives strength to American communities and are the bedrock of a vibrant and stable economy.

We must eliminate the long backlogs keeping families apart for years often decades.

Let's keep families together.

By strengthening the social fabric of our communities and integrating workers, we can get our economy back on track while reuniting American workers with their families.

CAPAC is prepared to work with our colleagues to push through the long-deferred changes needed to ensure a fair, efficient, and secure immigration system.

#### HEALTH

Mr. Speaker, a common misperception of AAPIs is that as a group, we face fewer health problems than other racial and ethnic groups.

In fact, AAPIs as a group, and specific populations within this group, do experience disparities in health and healthcare.

For example, AAPIs have the highest Hepatitis B rates of any racial group in the U.S.

We must bring attention to and educate our communities about prevention of Hepatitis B through testing and vaccination.

In the United States, 12 million people have been infected at some time in their lives with the hepatitis B virus, and more than 5,000 Americans die from hepatitis B-related liver complications each year.

Asian Americans and Pacific Islanders account for more than half of the chronic hepatitis B cases and half of the deaths resulting from chronic hepatitis B infection in the United States.

In order to break the silence surrounding this deadly disease and bring awareness to the American people, Congressman EDOLPHUS TOWNS, Congressman CHARLIE DENT, Congressman ANH CAO, and I have introduced Viral Hepatitis and Liver Cancer Control and Prevention Act.

I hope my colleagues will join me in supporting a Federal strategy to prevent, treat, and manage viral hepatitis.

#### EDUCATION

In addition to immigration reform and health, expanding educational access for all Americans is also a high priority for CAPAC.

Education is at the very center of our democratic meritocracy, and it is imperative that every American child be afforded a true opportunity to achieve their highest potential.

I have re-introduced the Educational Opportunity and Equity Commission Act, H.R. 1758, to begin the process of overhauling the country's education system and to finally address the disparities among America's schools.

This legislation creates a national commission charged with gathering public opinions and insights about how government can improve education and eliminate disparities in the education system.

I hope you will join me as a cosponsor to this legislation.

We must remember the needs of all young people, including Asian American and Pacific Islander students, many of whom struggle in low-income communities, refugee communities, and do not have sufficient English skills.

According to the 2000 Census, only 9.1 percent of Cambodia Americans; 7.4 percent Hmong Americans; 7.6 percent Lao Americans; and 19.5 percent Vietnamese Americans, and 16.5 percent of Native Hawaiians and Pacific Islanders who are 25 years and older have a bachelor's or higher degree.

These numbers show we must do a better job of disaggregating data and information about our communities to assess the needs of those hard working Americans who still falter behind.

To address the disparities between subgroups of the larger AAPI community, we must support greater funding for Asian American and Pacific Islander Serving Institutions.

This program provides federal grants to colleges and universities that have an enrollment of undergraduate students that is at least 10 percent AAPI, and at least 50 percent of its degree-seeking students receive financial assistance.

On behalf of the Congressional Asian Pacific American Caucus, Congressman DAVID WU and I will work to strengthen the Asian American and Pacific Islander Serving Institutions Program: to increase the availability of loan assistance, scholarships, and programs to allow AAPI students to attend a higher education institution; to ensure full funding for teachers and bilingual education programs under the No Child Left Behind law to support English language learners; and to support full funding of minority outreach programs for access to higher education, such as the TRIO programs to expand services to serve AAPI students.

#### AAPI "FIRSTS"

I am proud of our community's accomplishments and I would like to recognize many of the AAPI firsts in areas of art, film, sports, sciences, academia, and politics.

In 1847, Yung Wing, a Chinese American, graduated from Yale University and became the first AAPI to graduate from an American university.

In 1863, William Ah Hang, a Chinese American, became the first AAPI to enlist in the U.S. Navy during the Civil War.

In 1913, A.K. Mozumdar became the first Indian-born person to earn U.S. citizenship, having convinced the court that he was "Caucasian," and therefore met the requirements of naturalization law that restricted citizenship to free white persons.

In 1922, Anna May Wong, in her lead role in "The Toll of the Sea" at the age of 17, became the first AAPI female to become a movie star, achieving stardom at a time when prejudice against Chinese in the U.S. was rampant.

In 1944, An Wang—a Chinese American who invented the magnetic core memory—revolutionized computing and served as the standard method for memory retrieval and storage.

During World War II, the 442nd Regimental Combat Team of the U.S. Army, comprised mostly of Japanese Americans, became the most highly decorated unit of its size in the history of the U.S. Army, including 22 Medal of Honor recipients.

In 1946, Wing F. Ong—a Chinese American of Arizona—became the first AAPI to be elected to a state office.

In 1947, Wataru "Wat" Misaka became the first ethnic minority and the first AAPI to play

in the National Basketball Association for the New York Knicks.

In 1948, two Californian divers, Dr. Samuel Lee, a Korean American, and Victoria Manalo Draves, a Filipina American, became the first AAPIs to win Olympic gold medal for the U.S.

In 1956, Dalip Singh Saud, an Indian American, became the first AAPI to be elected to Congress.

In 1959, Hiram Leong Fong, a Chinese American, became the first AAPI to be elected as a United States Senator, and is the only AAPI to actively seek the Presidential nomination of a majority party.

In 1965, Patsy Takemoto Mink, a Japanese American, became the first AAPI woman and woman of color elected to Congress.

In 1971, Judge Herbert Choy, late Ninth Circuit Court judge, became the first AAPI to sit on the federal bench.

In 1985, Haing Ngor, a Cambodian American survivor of the Khmer Rouge regime, became the first AAPI to win an Academy Award for his role in the "Killing Fields" movie.

In 1985, Ellison Onizuka, grandson of Japanese immigrants, became the first AAPI astronaut in to reach outer space, and in 1986 died in the space shuttle Challenger explosion.

In 1989, Chinese American Julia Chang Bloch became the first AAPI ambassador in the history of the U.S. diplomatic core. She served as ambassador to the Kingdom of Nepal.

In 1990, Indian American Shirin R. Tahir-Kheli became the first AAPI and first Muslim ambassador to represent the U.S. at the United Nations; and the first Muslim senior government official appointed by the President and confirmed by the Senate.

In 1995, Filipina American Sumi Sevilla Haru became the first AAPI to head an international union (AFL-CIO).

In 1999, Filmmaker M. Night Shyamalan makes history with his film "The Sixth Sense" becoming one of the all-time highest-grossing films worldwide, and Rep. DAVID WU becomes the first Chinese American elected to Congress.

In 2000, Secretary Norman Mineta was confirmed as Secretary of Commerce under President Clinton, and became the first AAPI to hold a Cabinet post.

In 2001, Secretary Elaine Chao was confirmed as Secretary of Labor under President George W. Bush, becoming the first AAPI female to hold a Cabinet position.

In 2005, Chinese American Director Ang Lee was the first Asian American to win an Academy Award for Best Director for his film *Brokeback Mountain*.

In 2007, Bobby Jindal became the first South Asian American governor of a U.S. state, and Judge Amul Thapar became the first South Asian judge on the federal bench.

As I mentioned earlier, this Congress, Representative CAO is the first Vietnamese-American elected to Congress.

Representative SABLAN is the first Member to represent the Northern Marianas, and the only Chamorro person serving in Congress today.

And Representative CHU is the first Chinese-American woman elected to Congress.

President Obama has made history by appointing three Asian Americans in a single

presidential cabinet: namely Veterans Affairs Secretary Eric Shinseki; Commerce Secretary Gary Locke, and Energy Secretary Steven Chu.

#### CONCLUSION

Mr. Speaker, the Asian American and Pacific Islander community continues to fight for our civil rights as Americans.

Even after the Chinese Exclusion Act, the internment of the Japanese Americans during World War II, post-9/11 racial profiling and hate crimes, we as a community did not grow embittered, or cowed by discrimination; instead, we progressed and moved forward.

I am proud to be a member of the Asian American and Pacific Islander community, because we continue to serve as positive contributors to our many communities by investing in education, business, and cultural opportunities for all Americans.

In closing, this Asian Pacific American Heritage Month, we take pride in our history, accomplishments, and the promise of our future as we continue to pave the way for a better tomorrow.

The struggles for AAPIs are in large part the same challenges all Americans face. We want a good, transparent government. We want our communities to have a place at the decision-making table, and for our voices to be heard.

Mr. AL GREEN of Texas. Mr. Speaker, on the occasion of this year's Asian Pacific American Heritage Month, I would like to recognize the history and contributions that Asian Pacific Americans have made to the development and progress of this country.

Today, 16.6 million Asian Pacific Americans—approximately 5 percent of the population—call the United States their home. More than 70,000 call the 9th Congressional District of Texas home. And they represent 30 countries and ethnic groups that speak over 100 different languages.

The first Asian Pacific Americans—Filipinos—established a community in present-day Louisiana in 1763 after fleeing mistreatment aboard Spanish ships. Since this beginning, the Asian Pacific American community came to encompass Native Hawaiians who served in the American Civil War, Chinese laborers who built the western end of the Transcontinental Railroad, Japanese Americans interned by the U.S. government during World War II, and extraordinary individuals who continue to shape our nation's history and aspirations.

Today, Asian Pacific Americans have achieved success in many areas. Figures such as Minoru Yamasaki, I. M. Pei, Maya Lin, and Gyo Obata designed magnificent structures including the World Trade Center and the Vietnam War Memorial in Washington, DC.

Authors like Maxine Hong Kingston, Amy Tan, Jumphah Lahiri, and Ha Jin communicate the Asian Pacific American experience through their writing.

The 40 Asian Pacific Americans who have served in Congress since 1903 have been ardent advocates for their community. They include Jonah Kuhio Kalaniana'ole, the first Asian Pacific American in Congress, and Representative Patsy Mink, the first Asian Pacific American woman elected to Congress.

Academics Ji-Yeon Yuh, Gary Okihiro, Madeline Hsu, Ronald Takaki, Frank Wu, Kenji

Yoshino, and Karen Umemoto, continue to challenge our world view through their scholarship.

Entertainers such as Lucy Liu, George Takei, Bruce Lee, Yo-Yo. Ma, Sarah Chang, Ne-Yo, Norah Jones, Leehom Wang, Margaret Cho, and Wah Chung to break stereotypes and showcase the diversity in the Asian Pacific American community.

Despite many successful individuals and the significant progress Asian Pacific Americans have made in this country, they continue to face challenges that hinder their ability to achieve the American Dream.

12.6 percent of Asian Pacific Americans live below the poverty line compared to 12.4 percent for the United States population as a whole. Poverty rates among Southeast Asian Americans are much higher than the national average. 37.8 percent of Hmong, 29.3 percent of Cambodian, 18.5 percent of Laotian, and 16.6 percent of Vietnamese live in poverty.

In the housing market, one in five Asian Pacific Americans faces housing discrimination when buying a home. In 2008, Asian Pacific Americans suffered the largest percentage decline in homeownership of any racial group.

One in four APA students is Limited English Proficient or lives in a linguistically isolated household where parents have Limited English Proficiency. Compounding these challenging educational factors is the high school drop-out rate among Southeast Asian American. 40 percent of Hmong, 38 percent of Laotians, and 35 percent of Cambodians do not complete high school. Moreover, only 14 percent of Native Hawaiians and Pacific Islanders over 25 years old have at least a bachelor's degree, compared to 27 percent for the overall population.

30 percent of Asian Pacific Americans face employment discrimination—the largest of any group—compared with African Americans at 26 percent.

And 17 percent of Asian Americans and 24 percent of Pacific Islanders do not have health coverage.

So as we continue to strive for an America that is more equitable, compassionate, and mindful of our place in the world, we should not forget the contributions and needs of the Asian Pacific American community. For the history and future of Asian Pacific Americans is firmly intertwined with the past and destiny of America. Here in Congress, let us renew our pledge to work for Asian Pacific Americans as we do for all Americans. I wish all Americans a meaningful celebration of Asian Pacific American Heritage Month.

#### ASIAN PACIFIC ISLANDERS HERITAGE MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. CAO) is recognized for 5 minutes.

Mr. CAO. Mr. Speaker, I rise today to express my, I guess my gratitude and appreciation for the Asian Pacific Islanders Heritage Month, which is this month. And I say that on behalf of the Asian Americans, especially Vietnamese Americans who are struggling right now in the City of New Orleans,

as well as in the other Gulf States, because of the oil spill.

□ 2100

Many of the fishermen who are impacted by the oil spills are Vietnamese Americans living in Texas, living in Louisiana, Mississippi, and Alabama. And even though they are struggling, even though they are having a hard time, I know one thing for sure: It's that they will survive and that they will be able to overcome the difficulties and the sufferings that this oil spill is causing to them and their families.

The reason why I am so positive that they will overcome this problem, this disaster, is because of the culture, is because of the family unity, is because of the strength that is inherent within the Asian culture. If we were to reflect on Asians, at least for me, on the Vietnamese history, we see that many Asian American communities, especially the Vietnamese communities, had to start over and to begin many times in our recent history.

I just want to use my family as an example. My father and mother were born in North Vietnam. And in 1954, when the communists took over North Vietnam, they lost everything. They left their family, they left their possessions to escape the communist north and migrated down to South Vietnam to start their lives over.

After many years of struggle, after many years of hard work, they again lost everything that they possessed, even their children, in the spring of 1975 when the communist forces took over South Vietnam.

My father spent 7 years in the Vietnamese reeducation camps. My mother during that time had to care for my five sisters along with her husband, who was in the camp, and also a younger brother, who was also in the reeducation camp. And then they left everything again in 1991 to come over to the United States to start everything over again here. And in 2005, they lost everything again because of Hurricane Katrina.

So just to tell you the history of my own family and the ability of the Vietnamese Americans to survive through all of these struggles, through all of these sufferings. And my family is not unique. My family is only an example of the thousands of Vietnamese American families who have endured the same struggles, who have endured the same sufferings through the brief history that I just outlined. And it just tells you of the resiliency, of the strength that is inherent in the Asian American culture that allows the people like my family to survive, that allows the fishermen along the Gulf Coast to survive, that allows them to excel and to thrive.

So I am here on behalf of the many Asian Americans in the United States

to declare that I am proud to be an Asian American, that I am proud to be a Vietnamese American representing my people in the U.S. Congress.

#### GENERAL LEAVE

Mr. HONDA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. KIRK (at the request of Mr. BOEHNER) for today and the balance of the week on account of an illness in the family.

Mr. BACHUS (at the request of Mr. BOEHNER) for today and May 20 on account of a death in the family.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. ETHERIDGE, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. POLIS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

(The following Members (at the request of Mr. POE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, May 26.

Mr. POE of Texas, for 5 minutes, May 26.

Mr. JONES, for 5 minutes, May 26.

Mr. HASTINGS of Washington, for 5 minutes, May 24.

Mr. GOODLATTE, for 5 minutes, today.

(The following Member (at his request) to revise and extend his remarks and include extraneous material:)

Mr. CAO, for 5 minutes, today.

#### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 736. An act to provide for improvements in the Federal hiring process, and for other purposes; to the Committee on Oversight and Government Reform.

ENROLLED BILL SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:  
H.R. 5014. An act to clarify the health care provided by the Secretary of Veterans Affairs that constitutes minimum essential coverage.

SENATE ENROLLED BILL SIGNED

The Speaker announced her signature to an enrolled bill of the Senate of the following title:  
S. 1782. An act to provide improvements for the operations of the Federal courts, and for other purposes.

ADJOURNMENT

Mr. HONDA. Mr. Speaker, I move that the House do now adjourn.  
The motion was agreed to; accordingly (at 9 o'clock and 4 minutes p.m.), the House adjourned until tomorrow, Thursday, May 20, 2010, at 10 a.m.

BUDGETARY EFFECTS OF PAYGO LEGISLATION

Pursuant to Public Law 111-139, Mr. SPRATT hereby submits, prior to the vote on passage, the attached estimate of the costs of the bill H.R. 1177, the 5-Star Generals Commemorative Coin Act, as amended, for printing in the CONGRESSIONAL RECORD.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 1177, THE 5-STAR GENERALS COMMEMORATIVE COIN ACT, AS PROVIDED BY THE HOUSE COMMITTEE ON MAY 18, 2010

By fiscal year, in millions of dollars—													
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
Statutory Pay-As-You-Go Impact <sup>a</sup>	0	0	0	–10	0	10	0	0	0	0	0	0	0

<sup>a</sup> H.R. 1177 would authorize the U.S. Mint to produce a \$5 gold coin, a \$1 silver coin, and a half dollar clad coin in calendar year 2013 in recognition of the five 5-star generals of the United States Army (Marshall, MacArthur, Eisenhower, Arnold, and Bradley) and the 132nd anniversary of the founding of the United States Army Command and General Staff College. The legislation would specify a surcharge (a credit against direct spending) of \$35 on the gold coin, \$10 on the silver coin, and \$5 on the clad coin. Amounts collected from those surcharges subsequently would be paid to the Command and General Staff Foundation (a nonprofit organization) that supports the college.

Pursuant to Public Law 111-139, Mr. SPRATT hereby submits, prior to the vote on passage, the attached estimate of the costs of the bill H.R. 5139, Extending Immunities to the Office of the High Representative and the International Civilian Office in Kosovo Act, as amended, for printing in the CONGRESSIONAL RECORD.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 5139, AS AMENDED

By fiscal year, in millions of dollars—													
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
Statutory Pay-As-You-Go Impact	0	0	0	0	0	0	0	0	0	0	0	0	0

Pursuant to Public Law 111-139, Mr. SPRATT hereby submits, prior to the vote on passage, the attached estimate of the costs of the bill H.R. 5325, the America COMPETES Reauthorization Act of 2010, for printing in the CONGRESSIONAL RECORD.

ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 5325, THE AMERICA COMPETES REAUTHORIZATION ACT OF 2010

By fiscal year, in millions of dollars—													
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
Statutory Pay-As-You-Go Impact	0	0	0	0	0	0	0	0	0	0	0	0	0

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:  
7527. A letter from the Chief, PRAB Office and Research and Analysis, Department of Agriculture, transmitting the Department's final rule — Supplemental Nutrition Assistance Program, Regulation Restructuring: Issuance Regulation Update and Reorganization To Reflect the End of Coupon Issuance Systems (RIN: 0584-AD48) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.  
7528. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Direct and Counter-Cyclical Program and Average Corp Revenue Election Program, Disaster Assistance Programs, Marketing Assistance Loans and Loan Deficiency Payments Program, Supplemental

Revenue Assistance Payments Program, and Payment Limitation and Payment Eligibility; Clarifying Amendments (RIN: 0560-AH84) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.  
7529. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Tebuconazole; Pesticide Tolerances [EPA-HQ-OPP-2009-0611; FRL-8821-4] received April 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.  
7530. A letter from the Under Secretary, Department of Defense, transmitting the Department's report entitled "Cost and Impact on Recruiting and Retention of Providing Thrift Savings Plan Matching Contributions"; to the Committee on Armed Services.  
7531. A letter from the Under Secretary, Department of Defense, transmitting the annual report on the payment of incentive pay to members of precommissioning programs

pursuing foreign language proficiency for Fiscal Year 2009; to the Committee on Armed Services.  
7532. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket ID: FEMA-2008-0020; Internal Agency Docket No. FEMA-8109] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.  
7533. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket ID: FEMA-2010-0003; Internal Agency Docket No. FEMA-B-1082] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.  
7534. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket ID: FEMA-2010-0003; Internal Agency Docket

No. FEMA-B-1088] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7535. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket ID: FEMA-2010-0003; Internal Agency Docket No. FEMA-B-1086] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7536. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Section 108 Community Development Loan Guarantee Program: Participation of States as Borrowers Pursuant to Section 222 of the Omnibus Appropriations Act, 2009 [Docket No.: 5326-F-02] (RIN: 2506-AC28) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7537. A letter from the General Counsel, Federal Housing Finance Agency, transmitting the Agency's final rule — Board of Directors of Federal Home Loan Bank System Office of Finance (RIN: 2590-AA30) received April 29, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7538. A letter from the Special Inspector General, Office of the Special Inspector General For The Troubled Asset Relief Program, transmitting the Office's quarterly report on the actions undertaken by the Department of the Treasury under the Troubled Asset Relief Program, the activities of SIGTARP, and SIGTARP'S recommendations with respect to operations of TARP, for the period ending March 31, 2010; to the Committee on Financial Services.

7539. A letter from the Chief, PRAB, Office of Research & Analysis, Department of Agriculture, transmitting the Department's final rule — Child and Adult Care Food Program: At-Risk Afterschool Meals in Eligible States [FNS-2007-0022] (RIN: 0584-AD15) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

7540. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's Report entitled "Direct-to-Consumer Advertising's Ability to Communicate to Subsets of the General Population; Barriers to the Participation of Population Subsets in Clinical Drug Tests"; to the Committee on Energy and Commerce.

7541. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Indiana; Volatile Organic Compound Automobile Refinishing Rules for Indiana [EPA-R05-OAR-2009-0513; FRL-9136-7] received April 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7542. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District [EPA-R09-OAR-2009-0960; FRL-9137-8] received April 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7543. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Placer County

Air Pollution Control District, Sacramento Metropolitan Air Quality Management District, San Joaquin Valley Unified Air Pollution Control District, and South Coast Air Quality Management District [EPA-R09-OAR-2010-0218; FRL-9135-3] received April 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7544. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; New Mexico; Interstate Transport of Pollution [EPA-R06-OAR-2007-0993; FRL-9144-4] received April 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7545. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Protection of Stratospheric Ozone: The 2010 Critical Use Exemption from the Phaseout of Methyl Bromide [EPA-HQ-OAR-2009-0351; FRL-9144-5] (RIN: 2060-AP62) received April 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7546. A letter from the Secretary, Department of the Treasury, transmitting a six-month periodic report on the national emergency with respect to the situation in or in relation to the Democratic Republic of the Congo that was declared in Executive Order 13413 of October 27, 2006, pursuant to 50 U.S.C. 1641(c); to the Committee on Foreign Affairs.

7547. A letter from the Acting Deputy Director, Defense Security Cooperation Agency, transmitting a notice of proposed lease with the Government of Canada (Transmittal No. 01-10) pursuant to Section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

7548. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to the stabilization of Iraq that was declared in Executive Order 13303 of May 22, 2003; to the Committee on Foreign Affairs.

7549. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2009, pursuant to 5 U.S.C. 552b(j); to the Committee on Oversight and Government Reform.

7550. A letter from the Associate Administrator for Legislative and Intergovernmental Affairs, National Aeronautics and Space Administration, transmitting the Administration's annual report for FY 2009 prepared in accordance with the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act); to the Committee on Oversight and Government Reform.

7551. A letter from the General Counsel, Trade and Development Agency, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7552. A letter from the Chair, U.S. Election Assistance Commission, transmitting the Commission's final rule — Change of Address received April 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

7553. A letter from the Acting Director, Office of Financial Management, United States

Capitol Police, transmitting the semiannual report of receipts and expenditures of appropriations and other funds for the period October 1, 2009 through March 31, 2010, pursuant to Public Law 109-55, section 1005; (H. Doc. No. 111—106); to the Committee on House Administration and ordered to be printed.

7554. A letter from the Secretary, Department of the Interior, transmitting the Department's report entitled "Preliminary Revised Program Outer Continental Shelf (OCS) Oil and Gas Leasing Programs (PRP) for 2007-2012"; to the Committee on Natural Resources.

7555. A letter from the Acting Fiscal Assistant Secretary, Department of the Treasury, transmitting 2009 annual report on the management of debt collection activities by Federal agencies; to the Committee on the Judiciary.

7556. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Disaster Home Loans: FEMA Interaction (RIN: 3245-AF97) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

7557. A letter from the Special Inspector General for Iraq Reconstruction, transmitting the Special Inspector General for Iraq Reconstruction (SIGIR) April 2010 Quarterly Report; jointly to the Committees on Appropriations and Foreign Affairs.

7558. A letter from the Assistant Secretary for Insular Areas, Department of the Interior, transmitting a report entitled "Report on the Alien Worker Population in the Commonwealth of the Northern Mariana Islands"; jointly to the Committees on the Judiciary and Natural Resources.

7559. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Innovation Research Program Policy Directive (RIN: 3244-AF61) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Small Business and Science and Technology.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. SLAUGHTER: Committee on Rules. House Resolution 1363. Resolution granting the authority provided under clause 4(c)(3) of rule X of the Rules of the House of Representatives to the Committee on Education and Labor for purposes of its investigation into underground coal mining safety (Rept. 111-487). Referred to the House Calendar.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. CHAFFETZ (for himself, Mr. ROHRBACHER, Mrs. McMORRIS RODGERS, Mr. HERGER, Mr. BISHOP of Utah, Mr. CALVERT, and Mr. FRANKS of Arizona):

H.R. 5339. A bill to direct the Secretary of the Interior to sell certain Federal lands in Arizona, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, and Wyoming, previously identified as suitable for disposal, and for other purposes; to the Committee on Natural Resources.



By Mr. GARRETT of New Jersey:

H.R. 5340. A bill to allow a State to opt out of K-12 education grant programs and the requirements of those programs, to amend the Internal Revenue Code of 1986 to provide a credit to taxpayers in such a State, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DINGELL (for himself, Mr. STUPAK, Mr. HOEKSTRA, Mr. EHLERS, Mr. CAMP, Mr. KILDEE, Mr. UPTON, Mr. SCHAUER, Mr. PETERS, Mrs. MILLER of Michigan, Mr. MCCOTTER, Mr. LEVIN, Ms. KILPATRICK of Michigan, and Mr. CONYERS):

H.R. 5341. A bill to designate the facility of the United States Postal Service located at 100 Orndorf Drive in Brighton, Michigan, as the "Joyce Rogers Post Office Building"; to the Committee on Oversight and Government Reform.

By Mr. BISHOP of Utah (for himself, Mrs. MCMORRIS RODGERS, Mrs. LUMMIS, Mr. HERGER, Mr. YOUNG of Alaska, and Mr. CHAFFETZ):

H.R. 5342. A bill to prohibit the use of the National Environmental Policy Act of 1969 to document, predict, or mitigate the climate effects of specific Federal actions; to the Committee on Natural Resources.

By Ms. HERSETH SANDLIN (for herself and Mr. HODES):

H.R. 5343. A bill to amend the Internal Revenue Code of 1986 to provide an investment tax credit for advanced biofuel production property; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KRATOCHVIL:

H.R. 5344. A bill to authorize the Secretary of the Interior, through the Coastal Program of the United States Fish and Wildlife Service, to work with willing partners and provide support to efforts to assess, protect, restore, and enhance important coastal areas that provide fish and wildlife habitat on which Federal trust species depend; to the Committee on Natural Resources.

By Ms. SPEIER (for herself, Ms. ESHOO, and Mr. QUIGLEY):

H.R. 5345. A bill to amend title 49, United States Code, to require the Secretary of Transportation to promulgate rules requiring that motor vehicles of model year 2012 or later be equipped with event data recorders compatible with a universal data retrieval method and that the data in event data recorders on motor vehicles prior to model year 2012 be readable by the National Highway Traffic Safety Administration, and for other purposes; to the Committee on Energy and Commerce.

By Mr. THOMPSON of Mississippi:

H.R. 5346. A bill to enhance homeland security in the ports and waterways of the United States, and for other purposes; to the Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. KILROY (for herself and Mr. AL GREEN of Texas):

H. Con. Res. 280. Concurrent resolution expressing the sense of Congress that BP p.l.c. should reimburse all costs incurred by the Federal Government in assisting with clean-up efforts in the Deepwater Horizon oil spill incident in the Gulf of Mexico; to the Committee on Transportation and Infrastructure.

By Mr. MCCOTTER (for himself, Ms. ROS-LEHTINEN, Mr. BURTON of Indiana, Mr. CAMPBELL, Mr. MCCAUL, Mr. INGLIS, and Mr. POLIS):

H. Res. 1371. A resolution condemning the selection of the Government of Iran to serve on the United Nations Commission on the Status of Women; to the Committee on Foreign Affairs.

By Mr. BROUN of Georgia (for himself, Mr. BARROW, Mr. BISHOP of Georgia, Mr. KINGSTON, Mr. PRICE of Georgia, Mr. WESTMORELAND, Ms. TITUS, Mr. THOMPSON of Pennsylvania, Mr. GINGREY of Georgia, Mr. SCOTT of Georgia, and Mr. LEWIS of Georgia):

H. Res. 1372. A resolution honoring the University of Georgia Graduate School on the occasion of its centennial; to the Committee on Education and Labor.

By Mr. ALTMIRE:

H. Res. 1373. A resolution expressing support for designation of the week beginning May 2, 2010, as "National Physical Education and Sport Week"; to the Committee on Education and Labor.

By Mr. CASSIDY:

H. Res. 1374. A resolution providing that all revenue derived from the excise tax on oil production should continue to pay for the cleanup of, and the damages incurred by all individuals, businesses, States, municipalities, and natural resources negatively impacted by, the current oil spill in the Gulf of Mexico and any future spills; to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COOPER (for himself, Mr. TANNER, Mr. BOSWELL, Mrs. MALONEY, Mrs. NAPOLITANO, Ms. BERKLEY, Mr. COHEN, Mrs. BLACKBURN, Ms. FUDGE, Ms. SHEA-PORTER, Mr. MELANCON, Ms. MARKEY of Colorado, Ms. BORDALLO, Ms. MATSUI, Ms. LEE of California, Ms. ESHOO, Ms. JENKINS, Mr. GORDON of Tennessee, Mr. ROE of Tennessee, Mr. CHANDLER, Mrs. CHRISTENSEN, Mr. BACA, Mrs. SCHMIDT, Mr. MOORE of Kansas, Mr. SCHIFF, Mr. HILL, and Mrs. MCMORRIS RODGERS):

H. Res. 1375. A resolution recognizing the 90th anniversary of the 19th Amendment; to the Committee on the Judiciary.

By Mr. HOEKSTRA:

H. Res. 1376. A resolution expressing the sense of the House of Representatives that the primary safeguard for the well-being and protection of children is the family, and that the primary safeguards for the legal rights of children in the United States are the Constitutions of the United States and the several States, and that, because the use of international treaties to govern policy in the United States on families and children is contrary to principles of self-government and federalism, and that, because the United Nations Convention on the Rights of the Child undermines traditional principles of law in the United States regarding parents and children, the President should not trans-

mit the Convention to the Senate for its advice and consent; to the Committee on Foreign Affairs.

By Mr. HONDA (for himself and Ms. CHU):

H. Res. 1377. A resolution honoring the accomplishments of Norman Yoshio Mineta, and for other purposes; to the Committee on House Administration.

By Mr. LEWIS of California (for himself, Mr. MCKEON, Mr. CALVERT, and Mr. YOUNG of Alaska):

H. Res. 1378. A resolution condemning the theft from the Mojave National Preserve of the national Mojave Cross memorial honoring American soldiers who died in World War I; to the Committee on Natural Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POE of Texas (for himself, Mr. COSTA, Mr. SMITH of New Jersey, and Mrs. MALONEY):

H. Res. 1379. A resolution expressing the sense of Congress with respect to domestic sex trafficking of minors; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 43: Ms. NORTON and Mr. SALAZAR.  
H.R. 82: Mr. MCCOTTER.  
H.R. 275: Mrs. MCMORRIS RODGERS, Ms. HIRONO, and Mr. BUCHANAN.  
H.R. 422: Mr. SENSENBRENNER.  
H.R. 471: Mr. RAHALL.  
H.R. 537: Mr. TERRY.  
H.R. 571: Ms. KILPATRICK of Michigan.  
H.R. 745: Mr. ELLSWORTH.  
H.R. 891: Ms. NORTON.  
H.R. 953: Mr. MCCAUL, Ms. RICHARDSON, and Mr. CARNAHAN.  
H.R. 1036: Ms. NORTON and Mr. YOUNG of Alaska.  
H.R. 1074: Mr. BOYD.  
H.R. 1570: Mr. ELLSWORTH.  
H.R. 1581: Ms. ESHOO.  
H.R. 1618: Ms. HARMAN.  
H.R. 1718: Mr. DUNCAN.  
H.R. 1806: Mr. QUIGLEY, Mr. CLEAVER, and Mr. KANJORSKI.  
H.R. 1844: Mr. DELAHUNT.  
H.R. 2103: Ms. SCHWARTZ, Ms. GRANGER, and Mr. CUMMINGS.  
H.R. 2132: Mr. COURTNEY.  
H.R. 2142: Mr. NYE.  
H.R. 2198: Mr. CALVERT.  
H.R. 2273: Ms. LEE of California, Mr. MOORE of Kansas, and Ms. WOOLSEY.  
H.R. 2275: Mr. SHERMAN.  
H.R. 2324: Ms. CHU.  
H.R. 2483: Mr. CAPUANO, Mr. TERRY, Mr. STARK, Mr. SMITH of New Jersey, and Mr. WEINER.  
H.R. 2485: Mr. SCHAUER.  
H.R. 2527: Mr. ELLSWORTH.  
H.R. 2546: Mr. OWENS and Ms. SUTTON.  
H.R. 2558: Mr. ELLISON.  
H.R. 2570: Ms. NORTON.  
H.R. 2575: Ms. WOOLSEY.  
H.R. 2579: Ms. BORDALLO.  
H.R. 2697: Mr. OWENS, Ms. GIFFORDS, Ms. LEE of California, Mr. LOBIONDO, and Mr. MORAN of Kansas.

H.R. 2849: Mr. LYNCH.  
 H.R. 2963: Mr. LOEBSACK.  
 H.R. 3077: Mr. KENNEDY, Mr. VAN HOLLEN, Ms. WASSERMAN SCHULTZ, Mr. CUMMINGS, Ms. VELÁZQUEZ, Mr. CAPUANO, Mr. CROWLEY, and Mr. CONNOLLY of Virginia.  
 H.R. 3181: Mr. TONKO.  
 H.R. 3267: Mr. KAGEN.  
 H.R. 3421: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GONZALEZ, Mr. SERRANO, and Mr. PETERS.  
 H.R. 3441: Ms. NORTON.  
 H.R. 3464: Mr. LOBIONDO, Mr. DUNCAN, Mr. DONNELLY of Indiana, Mr. HILL, and Mr. LATTA.  
 H.R. 3526: Mr. HINCHEY.  
 H.R. 3595: Mr. CARTER.  
 H.R. 3729: Ms. CLARKE.  
 H.R. 3749: Mr. DUNCAN.  
 H.R. 3888: Ms. SPEIER.  
 H.R. 3924: Mr. BONNER.  
 H.R. 3990: Mr. JACKSON of Illinois.  
 H.R. 4000: Ms. JACKSON LEE of Texas.  
 H.R. 4090: Mr. HOLT.  
 H.R. 4109: Mr. PERRIELLO.  
 H.R. 4123: Mr. MURPHY of Connecticut, Mr. HONDA, Mr. PASTOR of Arizona, Ms. JACKSON-LEE of Texas, Mr. CONYERS, Mr. BACA, and Mr. CARNAHAN.  
 H.R. 4202: Mr. CHANDLER and Ms. CASTOR of Florida.  
 H.R. 4278: Mr. PERRIELLO.  
 H.R. 4309: Ms. BEAN.  
 H.R. 4325: Mr. BISHOP of New York and Mr. PALLONE.  
 H.R. 4351: Mr. RYAN of Ohio and Ms. WOOLSEY.  
 H.R. 4389: Mr. PLATTS.  
 H.R. 4509: Mr. HODES.  
 H.R. 4598: Mr. MOORE of Kansas.  
 H.R. 4638: Mr. BACA and Mr. FARR.  
 H.R. 4650: Ms. ZOE LOFGREN of California and Mr. DOYLE.  
 H.R. 4692: Mr. RAHALL.  
 H.R. 4709: Mr. HOLT.  
 H.R. 4732: Mr. ROHRBACHER.  
 H.R. 4733: Mr. HALL of New York.  
 H.R. 4785: Mr. PRICE of North Carolina, Mr. KRATOVIL, Mr. THOMPSON of Pennsylvania, and Mr. BLUMENAUER.  
 H.R. 4788: Mr. MARSHALL, Mr. TONKO, Mr. SHERMAN, Mr. HINCHEY, Ms. LINDA T. SÁNCHEZ of California, and Mr. BACA.  
 H.R. 4797: Ms. DEGETTE.  
 H.R. 4877: Ms. RICHARDSON and Mr. PASCRELL.  
 H.R. 4914: Ms. SCHAKOWSKY, Mr. WU, Mr. SCOTT of Virginia, and Ms. EDDIE BERNICE JOHNSON of Texas.  
 H.R. 4920: Mr. PASCRELL.  
 H.R. 4925: Mr. GRIJALVA.  
 H.R. 4941: Ms. LORETTA SANCHEZ of California and Mr. OWENS.  
 H.R. 4973: Mr. ROSS.  
 H.R. 4993: Mr. OWENS and Mr. LATHAM.  
 H.R. 4999: Mr. BARRETT of South Carolina.

H.R. 5000: Mr. COURTNEY.  
 H.R. 5015: Ms. KILROY.  
 H.R. 5034: Mr. DEUTCH and Mrs. CAPITO.  
 H.R. 5044: Mr. LUJÁN, Mr. HILL, and Mr. HIMES.  
 H.R. 5078: Ms. BEAN and Mrs. MYRICK.  
 H.R. 5091: Mr. PAYNE and Mr. STARK.  
 H.R. 5092: Mr. WALDEN, Mr. COOPER, Mr. HONDA, Mr. JACKSON of Illinois, Mr. ENGEL, Ms. BEAN, Mrs. DAHLKEMPER, Mr. BAIRD, Mr. OWENS, Mrs. MCCARTHY of New York, Mr. LATHAM, Mr. STEARNS, Mr. TOWNS, Mr. VIS-CLOSKY, Ms. CLARKE, Mr. GRAYSON, and Mr. MAFFEI.  
 H.R. 5095: Mr. CALVERT.  
 H.R. 5113: Mr. BACA and Ms. NORTON.  
 H.R. 5121: Ms. CASTOR of Florida, Ms. JACKSON LEE of Texas, Mr. FILNER, and Ms. WASSERMAN SCHULTZ.  
 H.R. 5137: Ms. ZOE LOFGREN of California.  
 H.R. 5141: Mr. COFFMAN of Colorado, Mrs. MCMORRIS RODGERS, and Mr. POE of Texas.  
 H.R. 5162: Mr. BARRETT of South Carolina.  
 H.R. 5175: Mr. PRICE of North Carolina and Mr. HODES.  
 H.R. 5177: Mr. TERRY, Mr. OLSON, and Mr. YOUNG of Florida.  
 H.R. 5186: Mr. OLSON.  
 H.R. 5206: Mr. KAGEN.  
 H.R. 5207: Mr. ALEXANDER.  
 H.R. 5220: Ms. EDWARDS of Maryland and Mr. SABLAN.  
 H.R. 5241: Mr. COHEN, Mr. HOLT, Mrs. CHRISTENSEN, Mr. GRAYSON, Mr. MICHAUD, Ms. WASSERMAN SCHULTZ, Mr. CHANDLER, Ms. PINGREE of Maine, Mr. ROTHMAN of New Jersey, Mr. HONDA, Ms. SCHAKOWSKY, and Mr. GEORGE MILLER of California.  
 H.R. 5256: Mr. PASTOR of Arizona.  
 H.R. 5258: Mr. HERGER, Mr. INGLIS, and Ms. JENKINS.  
 H.R. 5260: Ms. MOORE of Wisconsin, Mr. COURTNEY, and Mr. TONKO.  
 H.R. 5268: Mr. CAPUANO, Ms. PINGREE of Maine, Mr. STARK, Ms. ESHOO, and Ms. ZOE LOFGREN of California.  
 H.R. 5270: Mr. SABLAN.  
 H.R. 5276: Mr. MORAN of Kansas, Mr. HALL of Texas, Mr. COFFMAN of Colorado, Mr. WAMP, Mr. HARPER, Mr. BURGESS, Mr. TIM MURPHY of Pennsylvania, Mr. MARIO DIAZ-BALART of Florida, and Mr. POSEY.  
 H.R. 5294: Mr. BOREN.  
 H.R. 5298: Ms. KILPATRICK of Michigan, Mr. PASTOR of Arizona, and Mr. YOUNG of Alaska.  
 H.R. 5299: Mr. BACHUS, Mr. CALVERT, Mr. BUCHANAN, Mr. LATTA, Mr. OLSON, Mr. MORAN of Kansas, and Mr. REHBERG.  
 H.R. 5318: Mr. DUNCAN, Mrs. MCMORRIS RODGERS, Mr. BUYER, and Mr. LATTA.  
 H.R. 5319: Mr. CULBERSON, Mr. WILSON of South Carolina, Mr. GOHMERT, Mr. KING of Iowa, Mr. KINGSTON, Mr. GINGREY of Georgia, Mr. DAVIS of Kentucky, Mrs. BACHMANN, Mr. CHAFFETZ, Mrs. SCHMIDT, Mr. MARCHANT, Mr. LATTA, Mr. HERGER, Mr. DANIEL E. LUNGREN of California, and Mr. BISHOP of Utah.

H.R. 5327: Mr. MCKEON, Mr. CUELLAR, Mrs. MCCARTHY of New York, Mr. VAN HOLLEN, Ms. WASSERMAN SCHULTZ, Mr. MITCHELL, Mr. SKELTON, Mr. FALEOMAVAEGA, Mr. MORAN of Virginia, Mrs. MALONEY, Mr. ISRAEL, Mr. POLIS, Mr. BURTON of Indiana, Mr. INGLIS, Mr. POE of Texas, and Mr. HENSARLING.  
 H.J. Res. 42: Mr. ELLSWORTH.  
 H. Con. Res. 198: Mr. CASTLE, Ms. SHEA-PORTER, Mr. WU, Ms. CLARKE, and Mr. KIL-DEE.  
 H. Con. Res. 266: Mr. GALLEGLY.  
 H. Con. Res. 270: Mr. STARK.  
 H. Con. Res. 274: Mr. HOEKSTRA and Mr. YOUNG of Alaska.  
 H. Con. Res. 279: Mrs. SCHMIDT.  
 H. Res. 173: Mr. PLATTS and Mr. SHERMAN.  
 H. Res. 584: Mr. ETHERIDGE and Mr. MCINTYRE.  
 H. Res. 873: Mr. GOODLATTE, Mr. HIMES, and Mr. VAN HOLLEN.  
 H. Res. 1053: Mrs. BLACKBURN.  
 H. Res. 1056: Mrs. BLACKBURN.  
 H. Res. 1073: Mr. COFFMAN of Colorado, Mr. HODES, Mr. COOPER, Mr. TANNER, and Mr. MURPHY of New York.  
 H. Res. 1106: Mr. REYES.  
 H. Res. 1211: Ms. EDWARDS of Maryland, Mr. HINOJOSA, Mr. GRIJALVA, and Mr. FILNER.  
 H. Res. 1241: Mr. ADERHOLT, Mr. BONNER, Mr. SMITH of Texas, and Mr. SHIMKUS.  
 H. Res. 1273: Mr. MCKEON.  
 H. Res. 1285: Mr. MITCHELL.  
 H. Res. 1302: Mr. MURPHY of New York, Mr. SESSIONS, Mr. GONZALEZ, and Mr. RUSH.  
 H. Res. 1313: Mr. COOPER, Mr. SHULER, Mr. HARPER, and Mr. BRIGHT.  
 H. Res. 1325: Mr. PUTNAM.  
 H. Res. 1330: Ms. WASSERMAN SCHULTZ and Mr. CONNOLLY of Virginia.  
 H. Res. 1331: Ms. ZOE LOFGREN of California.  
 H. Res. 1342: Ms. SUTTON, Mr. CONYERS, Mr. ELLISON, Ms. BALDWIN, Mr. PERLMUTTER, Mr. SABLAN, Mr. BRADY of Pennsylvania, Ms. CORRINE BROWN of Florida, Mr. WAXMAN, Mrs. KIRKPATRICK of Arizona, Mr. KUCINICH, and Mr. MURPHY of New York.  
 H. Res. 1352: Mr. MCCAUL.  
 H. Res. 1355: Mr. STARK.  
 H. Res. 1357: Ms. ZOE LOFGREN of California, Ms. ESHOO, Mr. MARKEY of Massachusetts, Mr. FILNER, Mr. HONDA, Ms. MATSUI, Ms. KILROY, Mr. DANIEL E. LUNGREN of California, Mr. DREIER, Mr. ROYCE, and Mr. CARDOZA.  
 H. Res. 1369: Mr. BISHOP of Georgia, Ms. WATERS, Mr. CLEAVER, Ms. FUDGE, Mr. FATTAH, Mr. CLAY, Mr. THOMPSON of Mississippi, Mr. DAVIS of Illinois, Ms. KILPATRICK of Michigan, Mr. TOWNS, Mr. WATT, Ms. EDWARDS of Maryland, Mr. CONYERS, Ms. WATSON, Ms. NORTON, and Ms. EDDIE BERNICE JOHNSON of Texas.

**SENATE—Wednesday, May 19, 2010**

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

**PRAYER**

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord, save us from our disappointments as we realize You can transform setbacks into stepping stones. Remind our Senators that in everything, You are working for the good of those who love You, who are called according to Your purpose. As they persevere through the darkness of challenges, enable our lawmakers to see the stars of Your providential work and to know that nothing can separate them from Your love. Strengthen the Members of this body by Your love. Make them strong in the broken places so that they can become instruments of Your glory. We pray in Your strong Name. Amen.

**PLEDGE OF ALLEGIANCE**

The Honorable TOM UDALL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE**

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 19, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

**RECOGNITION OF THE MAJORITY LEADER**

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

**SCHEDULE**

Mr. REID. Mr. President, following any leader remarks, there will be an

hour of morning business with Senators permitted to speak for up to 10 minutes each. The Republicans will control the first 30 minutes; the majority will control the next 30 minutes.

Following morning business, the Senate will resume consideration of S. 3217, the Wall Street reform legislation.

The cloture vote on the Dodd-Lincoln substitute amendment will occur at 2 p.m. today. As a reminder, the filing deadline for second-degree amendments is 1 p.m. today. Votes may occur on amendments prior to the cloture vote if agreements can be reached.

**UNFINISHED BUSINESS**

Mr. REID. Mr. President, we worked late last night trying to take care of some of the final discussion on this legislation before cloture today. The reason we have an hour of morning business is to give Senators some time to say whatever they want to say as well as to give Senators time to look at the proposed consent agreement that was arrived at last night between the majority and the minority. I hope Senators will allow this agreement to go forward. If people look at what is in it, I think there is a series of amendments that will be accepted by the two managers of the bill. If someone doesn't like something in the consent agreement, be sure and talk to the two managers. It would be good to get some of these matters out of the way. We have had a number of Senators who have waited a long period of time to have their matters resolved. For example, Senator HARKIN last night. We were able to arrive at a conclusion of an amendment that he felt was appropriate. It is an amendment I support and others support it. I just think it wouldn't be—for lack of a better word—fair to not let some of these amendments go forward, but Senators have the right to make whatever decision they feel is appropriate.

As far as the cloture vote, I don't think anyone can criticize our having taken time on this legislation. There are a number of amendments the proponents of which worked to perfect the language on and it took a while for them to do that. There comes a time, however, when we have to put this thing to rest. We have been on this bill for a month. As of tomorrow, it will be 1 month. We have another step we have to go through and that is conference. People have all kinds of opportunities there to make whatever decisions they think are appropriate to make this bill better. It gives both sides all the ade-

quate protection they want when the bill comes back in its conference form.

I hope we can move forward. We have a few hours before cloture. I hope cloture will be invoked. If it isn't, we will continue working until we finish this legislation. As I have told everyone and I will say again, we have to finish this legislation, Wall Street reform; we have to do the supplemental. I wish to get the supplemental started sometime tomorrow. Then we have the extenders we have to do. We have parts of that extenders bill that are essential to the economic recovery. There are many aspects that are important, but one is the tax credit for research and development. Businesses absolutely need that. The uncertainty of it is hurting the overall economy.

We have to do those before we take the Memorial Day break. We can't let the troops go unfunded and we can't let those provisions expire.

**RECOGNITION OF THE MINORITY LEADER**

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

**FINANCIAL REGULATORY REFORM**

Mr. MCCONNELL. Mr. President, as I stand here this morning, the U.S. Government is in dire fiscal condition, with the Federal debt now about to break \$13 trillion for the first time in history, a level that was unthinkable a few years ago. Meanwhile, Democrats in Washington seem to think there is some law out there that will somehow prevent us from experiencing the same kind of crisis that is currently engulfing Europe.

The fact is, Washington can't even pay its bills. Yet over the last 16 months it has taken over banks, insurance companies, car companies, the student loan business, and health care. Now it has its sights set on anyone in America who engages in a financial transaction. The arrogance of this approach to governing is truly astounding.

Everyone recognizes the need to rein in Wall Street to prevent another crisis, but the bill the majority wants to end debate on today does not do that. Instead, it uses this crisis as yet another opportunity to expand the cost and size and reach of government. It punishes Main Street for the sins of Wall Street. Worst of all, it ignores the root of the crisis by doing nothing whatsoever to reform the GSEs.

But all this should sound very familiar to anyone who followed the health

care debate. Remember that the problem with health care was that it cost too much and the administration's solution was to spend even more money on it. This time, the Fed, the SEC, and Treasury all missed the housing bubble and the irresponsible risk-taking that led to the financial crisis, and the administration's solution to this is to hire more of these people to give them even more authority than they had before. So we have been down this road before.

The administration used the cost crisis in health care as an excuse to force a government takeover on a public that didn't want it. Now it is using the financial crisis as a way to intrude into the lives of people and businesses that had absolutely nothing whatsoever to do with the problem, and to hire thousands of government employees and spend billions of dollars in taxpayer money to pay for it all. At the outset of this debate, Republicans argued that getting on to the bill would be a mistake since Democrats had no intention of improving it. As it turns out, we were right. Not only does the bill still contain a massive new government agency with broad new powers over consumer spending and Main Street businesses, it does nothing—nothing—as I indicated, to rein in Fannie Mae and Freddie Mac, the main protagonists in the financial meltdown. This is absolutely worse than irresponsible. It is the legislative equivalent of wrongful conviction.

What is more, Democrats even opposed putting these two government-sponsored companies that were behind the housing crisis on the Federal budget and accounting for the billions they got from taxpayers in bailout funds.

Republicans tried to address the concerns we have been hearing from Main Street, many of them targeted at this new Federal agency that would regulate all aspects—all aspects—of a consumer's life, but Democrats rejected them. We offered an amendment that would sunset this agency if it led to unwanted government intrusion. They rejected it. We offered an amendment that said banks that fail should go bankrupt rather than giving their Wall Street creditors a bailout. They rejected it. We offered an amendment that would have strengthened lending standards. They rejected it. We offered three amendments to rein in Fannie Mae and Freddie Mac. They rejected them.

They can call this bill whatever they want, but there is no way—no way—it can be viewed as a serious effort to rein in Wall Street or to address the problems that caused the crisis. How do you explain to the average American—the average American—that a bill that was meant to rein in Wall Street can be supported—supported—by Goldman Sachs and Citigroup but opposed by car dealers, dentists, florists, furniture

salesmen, plumbers, credit unions, and community banks?

Let me say that one more time. How do you explain to the people of this country a bill designed to rein in Wall Street that is supported by Goldman Sachs and Citigroup but opposed by car dealers, dentists, florists, furniture salesmen, plumbers, credit unions, and community banks? How do you explain how a bill that was supposed to target Wall Street now threatens to subject manufacturers to a broad new financial regulation and new layers of government bureaucracy? How do you justify new costs and regulations on small businesses struggling to dig themselves out of a recession, while the biggest banks—the ones that caused it—don't seem to mind it? How do you explain how a bill that was supposed to end bailouts will be used to collect financial data on Americans?

Look, the only thing we need to know about this bill is that a bill that was meant to rein in Wall Street is now being endorsed—now being endorsed—by Goldman Sachs and is opposed by America's small business owners, community banks, credit unions, and auto dealers. A bill that was supposed to rein in Wall Street is opposed by the Chamber of Commerce but supported by Citigroup.

Small businesses don't like it, but the biggest beneficiaries of the bailouts support it, because regulations never hurt them as much as they hurt the little guys. Our friends on the other side are happy as long as they pass something called reform, and the administration is happy because it is bent—absolutely bent—on expanding government at any cost.

But the American people are watching, and they are not happy. They are astonished at the arrogance of elected leaders who seem to do more to create problems up here than to solve them: Health care costs too much, so let's spend more on it. Regulators missed the housing crisis and the financial panic; hire more of them.

The Federal Government has doubled in size over the past decade, and yet every day this administration devises some new way to make it bigger, costlier, and more intrusive. In my view, the administration has lost all perspective about the limits of government and, frankly, it is losing the confidence and the trust of the American people.

Americans look at what is happening in Europe. They feel as though they are seeing the same movie playing out right here. They feel as though the one way to avoid this crisis from spreading across the Atlantic is to stop the spending and the government expansion that led to it; and they feel as though the administration doesn't see any of this and is so bent on its government-knows-best solution to everything that it can't even see when the government itself is the problem.

The goal of legislating is not to say we have solved the problem when we haven't. It is to prevent or alleviate real hardships and expand opportunities for the people who sent us here.

But until the administration actually delivers on that promise, Americans cannot and should not be expected to endorse its plans for even more government because, for most Americans, what all these crises reveal is not a need for more government but a need for less government. I will vote against this so-called reform bill, and I urge my colleagues to do the same.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half.

The Senator from New Hampshire is recognized.

#### REGULATORY REFORM

Mr. GREGG. Mr. President, first, I congratulate the Republican leader for a superb statement on where we stand relative to the bill on regulatory reform. It is truly a bill that is misnamed. This bill should be called "The Expansion of Government for the Purposes of Making Us More Like Europe Act."

As a very practical matter, the bill does almost nothing about the core issues that have created the issue of financial stability in this country. It does nothing in the area of Fannie Mae and Freddie Mac, which is the real estate issue. It does virtually nothing in the area of making sure we have a workable systemic risk situation and structure so we can address the issue of systemic risk. Instead of addressing it in a constructive way, which would actually put some vitality and usefulness in to regulate the derivatives market, it actually steps back and creates a derivatives regulation that all the major regulators, whom we respect, have said simply will not work.

I wish to talk about that. I didn't think there was anything you could do that would make this regulatory proposal on derivatives worse. But now we see an amendment from the chairman of the committee, which I am sure is well intentioned, but it makes it worse.

The way the derivatives language of the bill has evolved is it gets worse and worse, in an almost incomprehensible and irrational way, which is rather surreal. It is almost as if we were at the Mad Hatter's tea party the way this derivatives language is evolving.

We now have in the bill itself proposed language which the chairman of the FDIC, the Federal Reserve staff, Chairman Volcker, and the OCC have all said will not work. In fact, not only did they say it will not work, they have said it will have a negative impact on the stability of the derivatives market. It will cause the market to move overseas and make America less competitive. It will cause a contraction in credit in this country, and it will hurt consumers and users of derivatives across this Nation.

Those are the words—paraphrased to some degree but essentially accurate—of the major players who actually discipline and look at this market, in defining the bill as it is presently before us. Now, in some sort of bizarre attempt—as if the Mad Hatter had arrived—to correct this issue, we see an amendment from the chairman of the committee suggesting that we should put into place an even more convoluted system, tied to uncertainty of no decision occurring for 2 years. The proposal says we will have the stability council, which is made up of, I think, nine different regulators, take a look at what is in the language of the bill now, relative to taking swap desks out of financial institutions and determine whether that language makes sense. Well, it doesn't. We know that already because a group of regulators has already said it doesn't make sense. So we are going to wait for 2 years to determine it doesn't make sense, when we already know it doesn't. Then they are going to make that recommendation to the Congress, so the Congress gets to legislate to correct what we already know is an error in the bill.

Then, to make this an even more Byzantine exercise in regulatory absurdity, the Secretary of the Treasury has the right to overrule the Congress or maybe act independently of the Congress and take action pursuant to whatever the stability council decided.

On top of this convoluted exercise in chaos, the proposal actually undermines the Lincoln proposal, which is in the bill, and makes it even less workable, by saying the swap desk cannot even be retained by affiliates but must be totally separated, which inevitably leads to swap desks that do not have capital adequacy or stability or the necessary strength to defend the derivatives action which they are making markets in. So you weaken and significantly reduce the stability of the market, making it more risky and, at the same time, the estimate is, you would contract credit in this country by close to \$¾ trillion less credit.

What that means is John and Mary Jones, who are working on Main Street America producing something they are selling to a company that is maybe a little larger, and then they are selling that product overseas, are probably not going to be able to get the credit they need to produce the product, so they will have to contract the size of their business, and we will reduce the number of jobs in this country or certainly the rate of job creation.

This country's great and unique advantage is that we are the best place in the world for an entrepreneur and risk-taker—somebody who is willing to go out there and do something to create jobs—to get capital and credit at a reasonable price and in a reasonably efficient way. This bill fundamentally undermines that unique advantage that we have in this language, and this language compounds that event, undermining that unique situation. It is, as I said, similar to participating in the Mad Hatter's tea party to watch the way this bill has evolved on the issue of derivatives regulation. The product—I guess the Queen of Hearts would be proud of it, but I can tell you the effect on the American people, on commerce, and on Main Street will be extraordinarily negative should we pass it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I ask unanimous consent that I may be recognized for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### BERWICK NOMINATION

Mr. ROBERTS. Mr. President, recently, Leader McConnell and Dr. JOHN BARRASSO, the distinguished Senator from Wyoming, and I engaged in a colloquy regarding President Obama's nominee for the head of CMS, the Centers for Medicare Services, Dr. Donald Berwick.

Simply put, Dr. Berwick has a long history of interesting statements—pertinent statements—that support government rationing of health care, an issue I have vigorously fought against throughout the entire health care debate.

The White House response to our colloquy, it seems to me, was most unfortunate, if not rather incredible. Here is what the Obama administration had to say:

No one is surprised that Republicans plan to use this confirmation process to trot out the same arguments and scare tactics they hoped would block health insurance reform.

The fact is, rationing is rampant in the system today, as insurers make arbitrary decisions about who can get the care that they need. Dr. Don Berwick wants to see a system in which those decisions are transparent—

and that the people who make them are held accountable.

This is a fascinating response. Instead of flatout denials of government rationing, we have excuses. If you read between the lines, you will notice that for the first time ever in this debate, the Obama White House is admitting their health care plan will ration health care. It just doesn't make it transparent.

Remember, when Republicans, such as myself and JON KYL and Dr. COBURN, the Senator from Oklahoma, tried to warn that health care reform would result in government-rationed care, we were dismissed as crazy reactionaries or even worse. President Obama accused us of trying to scare people, and no less than the American Association of Retired Persons, AARP—that organization that purports to represent Medicare patients and seniors all across our great Nation—said our rationing concerns were a mere “myth”—that “none of the health care reforms . . . would stand between individuals and their doctors or prevent any American from choosing the best possible care.”

How interesting that now, after the health care bill has become law, the President is admitting we were right all along. Here is the quote:

Don Berwick wants to see a system in which those [rationing] decisions are transparent—and that the people who make them are held accountable.

That is a complete and utter about-face.

Although cloaked in the typical straw man arguments that have come to characterize this administration, the statement is undeniable. The government is going to ration your health care.

To set the record straight, I don't accept rationing, whether it be transparent or otherwise. I am opposed to rationing whether it is done by the government or by an insurance company. I am not defending any of the practices of insurance companies that have unjustly denied claims.

I am against rationing whether it is proposed by Republicans or Democrats or think tanks or the special interest sidelines in this city.

But the Obama administration's response does nothing to address my concerns that our government will ration health care. Instead, we finally have an admission from the White House that this is what they plan to do.

I am not holding my breath for an apology or a correction from the President or the AARP or any of the other organizations that demonized our concerns for the past year. But I do intend to ask some very tough questions of Dr. Berwick, the President's pick to implement and enforce literally thousands of regulations that will soon come pouring out of the Department of Health and Human Services, and that will inevitably include rationing.

It is nothing personal, as I have said before. I have met Dr. Berwick. He is a very personable, affable, intelligent man. I don't doubt that he has support from his peers who know him. I am not questioning his honor or his motives or his love for this country.

As an aside, I would appreciate it—and I know a lot of other Members of this body would as well—if the White House extended the same courtesy to me and, for that matter, anybody else raising serious policy questions.

But we have a fundamental disagreement about the future of our health care delivery system. I happen to think it is important that we have this conversation so the American people can understand what is going on.

Please quit attacking my motives and the motives of others. Accentuate the policy, eliminate the politics, and don't mess with those in between raising reasonable questions. That is an old song that rather dates me, but I think it is appropriate. Questions such as this: What did Dr. Berwick mean when he said:

I am a romantic about the [British] National Health Service; I love it. All I need to do to rediscover the romance is to look at the health care in my own country.

So he is both romantic and supportive of the British National Health Service.

With cancer survival rates for women 10 percentage points higher in the United States than in England and over 20 points higher for men, why does he think their government-run system is superior to our system?

Please explain this quote:

If I could wave a magic wand . . . health care [would be] a common good—single payer . . . health care [would be] a human right—universality is a nonnegotiable starting place . . . justice [would be] a prerequisite to health equity as a primary goal.

While that may sound very nice, very idealistic, the reality is, declaring health care to be a human right necessarily places some citizens' rights above others—suppressing the rights of some in favor of another government-favored group.

If you are saying health care is a universal right, what you are essentially saying is that some people have a right to someone else's property, whether that be taxable income or doctor services or their health care.

I disagree with this argument. Health care has become an entitlement for some in this country, but it cannot be properly described as a right without egregious government coercion and income redistribution and patient care consequences.

But maybe that is OK with Dr. Berwick. After all, he did say that "any health care funding plan that is just, equitable, civilized, and humane must—must—redistribute wealth from the richer among us to the poorest and less fortunate." I want to hear more from Dr. Berwick on this point.

Furthermore, what did he mean when he said that "equity" is a necessary component of "quality"? Does that mean high-quality care should not be available unless it is available to all? This certainly seems to square with the United Kingdom's practice of delaying access to the latest breakthrough drugs and technologies because of their high costs. What does Dr. Berwick think this attitude will do to investments and innovations in life-saving treatments?

And what about this quote:

Limited resources require decisions about who will have access to care and the extent of their coverage. The complexity and cost of health care delivery systems may set up a tension between what is good for the society as a whole and what is best for an individual patient . . . Hence, those working in health care delivery may be faced with situations in which it seems that the best course is to manipulate the flawed system for the benefit of a specific patient . . . rather than to work to improve the delivery of care of all.

Is this a suggestion that it is a doctor's duty to concentrate on the good of society or the good of his or her patient? That certainly sounds like a proponent of socialized medicine to me. I use that word very carefully.

Finally, this is a question about the following statement by Dr. Berwick:

Most people who have serious pain do not need advanced methods; they just need the morphine and counseling that have been around for centuries.

That is an amazing statement. I know Dr. Berwick is familiar with the Liverpool Care Pathway to death that is employed in the British health care system and its reliance on morphine and counseling. He should also be aware of the growing concerns of many British doctors that this so-called pathway to death is being overused for patients who would have otherwise recovered, especially stroke patients. Is this what is being advocated for the American health care system? For Medicare patients? This certainly sounds like the "death panels" that became so roundly ridiculed and dismissed by ObamaCare supporters during last year's debate.

I know that "socialized medicine" and "death panels" have become loaded terms. I understand that. But if that is what you are for, you should just say so. Don't be afraid to have this discussion. Dr. Berwick certainly has not been shy about his views in the past.

Maybe this is a comment more appropriately directed at the administration than at Dr. Berwick, but do not hide behind straw men and name-calling of those who disagree with you.

I have legitimate concerns—many of us have legitimate concerns—about the direction we are taking in this country with particular regard to health care. The thousands of people in Kansas who have contacted me over the last year have very legitimate concerns, too, and if you do not think I deserve some answers, they certainly do.

The American people are sick and tired of being told that they are crazy or racist or that they do not know what they are talking about or being misled or that any question raised is simply partisan politics. Promise after promise has been broken, from the pledge not to raise taxes to the promise that if you like what you have you can keep it, to the falsehood that this new law does not cut Medicare. And remember the one about lowering premiums. The list goes on and on. Now it is beyond a shadow of a doubt that the law will ration health care. I think we are duty-bound to hold this administration and its nominees accountable for these broken promises and for what lies ahead for patient care. That is why I will continue to ask the hard questions that need to be asked of this nominee.

I will continue to fight against what I truly believe is government rationing of health care. I did so on the HELP Committee when we considered it, the Finance Committee when we considered it, and during the reconciliation process when we considered it. All, of course, were defeated by party-line votes. And I will continue to maintain that the American health care system, with all of its flaws, is the best health care system in the world. We need to fix the flaws. We do not need rationing.

In the case of Dr. Berwick, we need answers.

I yield the floor. It appears to me there is not a quorum, so I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARDIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CARDIN. Mr. President, I ask to speak on the Democratic time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### ENERGY POLICY

Mr. CARDIN. Mr. President, what has happened in the Gulf of Mexico makes one thing very clear; that is, America's energy policy is a disaster. I thank Senator KERRY, Senator LIEBERMAN, and Senator BOXER for their leadership in pointing out the need for America to get off its addiction to oil and promote safe and clean energy sources for America so that we can be independent, so that we can achieve the type of economic growth we need and contribute to a cleaner environment. If we do our energy policy right, as Senator KERRY, Senator LIEBERMAN, and Senator BOXER have been telling us, we can solve all three problems.

I must tell you, I think one of the most urgent needs for an energy policy

is to make America more secure. We spend almost \$1 billion a day on imported oil that goes to many countries that disagree with our way of life. Americans are actually helping to fund those who are trying to compromise America's security. That makes no sense whatsoever.

The Department of Defense has pointed out that our energy policy actually contributes to international instability. We spend a lot of money trying to figure out how we can make the world safer. One way we can make the world safer is to develop an energy policy where we are self-sufficient, where we do not have to rely on imported oil.

We can also solve the second problem, and that is economic growth. Take a look at what is happening in China. They are investing heavily in solar and wind power because they know they are going to create jobs. We want to create these clean jobs in America. We want to manufacture the component parts for solar and wind. We want to be able to manufacture component parts for nuclear. We believe we can create jobs in America by having a policy that relies more on clean energy. There are more jobs to be created, much more so than in oil. For the sake of our economy, we need to develop a comprehensive energy policy.

Then, for our environment, I can talk a great deal about why we need to move forward and get the pollutants out of our air and reward those who use clean technologies. Climate change is real. Tell the people on Smith Island, as they see their island disappearing because of the rising sea level, or tell those who see the traditional seafood industry go in decline because of warmer waters. We know climate change is real, and it is causing instability around the world. We need to deal with it.

If we need a reminder, take a look at what is happening in the Gulf of Mexico. BP originally told us there was 1,000 barrels a day leaking. Now they tell us it is 5,000. We do not know whether that is accurate. We know one thing: It has caused an environmental disaster in the Gulf of Mexico. We can expect dead zones because of oxygen deprivation. We can expect that our wetlands, which are critically important for our ecosystem and to protect our environment, will be invaded by this oil. As Senator NELSON points out frequently, if it gets into the Loop Current, it could very well go through the Keys and the east coast of the United States.

The tragedy of this is, we all know we cannot drill our way out of our energy problem. We have less than 3 percent of the oil reserves and we use over 25 percent. We know we cannot drill our way out of our energy problems.

Additional exploration will give us very little as far as energy independence. I will talk about the mid-Atlantic

because I am most familiar with the mid-Atlantic. We have been told by recent studies that we may have enough oil in the mid-Atlantic to handle our energy needs for 2 months in the United States. Think about that—the risk factor versus the reward. It makes no sense whatsoever.

If we have a Deepwater Horizon episode in the mid-Atlantic, it will be catastrophic to the Chesapeake Bay. Many of us have invested a lot of energy to clean up the Chesapeake Bay. We know we need to do more. EPA has come out with its game plan. I filed legislation with my colleagues to have a stronger effort in cleaning up the bay. But if we had an oilspill in this region anywhere near what happened down in the Gulf of Mexico, it would set us back for generations.

Some say: Is that a real possibility? Could that really happen? Let me tell you about the lease site 220 off of Virginia which is being primed for offshore drilling. That is 60 miles from Assateague Island and 50 miles from the mouth of the Chesapeake Bay. The prevailing winds are toward the coast, which means a spill is likely to come on the coast a lot quicker than we saw in the Gulf of Mexico.

I have a few suggestions for my colleagues. First, we need to stop any further offshore exploration of gas or oil until we have put in place the regulatory structure to make sure we have done adequate environmental assessments before any new drilling is permitted. That is the least we can do.

We know the exploration plans submitted by BP Oil told us there was virtually no risk, and if there was a spill, they had the proven technology to make sure it did not reach our coastlines. The proven technology was these blowout protectors that we note failed in the past, had very little experience at 5,000 feet of water, and as a result we see the disaster that has unfolded.

The regulatory system is not independent. It needs to be changed. We need to make sure other agencies in the Federal Government that are knowledgeable about wildlife are consulted before permits are granted. At least we need to make sure those regulatory changes are in place.

Secondly, we need to protect, as Secretary Salazar has said, those places in America that are environmentally too sensitive to risk drilling. Secretary Salazar points with pride—and I agree—to the west coast of the United States or to the North Atlantic.

The area off the coast of the Chesapeake Bay is environmentally too sensitive to risk drilling for the little bit of oil that may be there. I urge my colleagues to provide protection—permanent protection—from the offshore drilling in the mid-Atlantic.

Then we need to consider legislation for a comprehensive energy policy in this Nation. I applaud Senator KERRY

and Senator LIEBERMAN for bringing forward a proposal. It is a good start. I compliment them for the manner in which they handled offshore drilling because they give States, such as Maryland, a veto if the environmental risks are there. To me, that is far better protection than current law and better than what the administration has proposed.

I hope we can do better. There are provisions in the bill I want to strengthen. There are issues I want to make sure are added to it. But unless we get started on energy legislation, unless we bring to the Senate Floor and are willing to debate, as we should, an environmental and energy policy for our country, we won't have a chance to move on these issues.

I can't tell you how many people I have talked to in the State of Maryland who say: Look, we need to be energy independent, we need to create jobs, we need to be sensitive to the environment. But we can't do that unless we have a bill before us.

I want to applaud Senators KERRY and LIEBERMAN for their efforts. I hope we will have a chance to consider that, and I can assure my colleagues that I will have some suggested changes for that legislation in order to strengthen it so we truly can achieve the goals of making America more secure, of creating the jobs we need and being an international leader on preserving our environment to make sure that polluters do not continue to pollute our environment.

With that, Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRANKEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### FINANCIAL REGULATORY REFORM

Mr. FRANKEN. Mr. President, I rise today to clarify some confusion regarding two amendments adopted by the Senate last week to the Wall Street reform bill. Some in the media have characterized the two amendments as conflicting, incompatible, or rendering one another moot, and I wish to put a quick end to that misunderstanding.

To draw these conclusions means you think there is only one problem with the credit rating industry. In fact, there have been many problems with the credit rating industry, and the two amendments passed last week tackle two different problems. In the end, these two amendments can be implemented concurrently and effectively.

My colleague from Florida offered an amendment that he stated "writes



NRSROs out of the law.” NRSROs are a select group of credit rating agencies recognized by the SEC. But in fact his amendment does not get rid of credit rating agencies and it does not get rid of the category of NRSROs. This is based on our reading of the text in our office, the Senate legislative counsel’s office has confirmed this, and several academics in the field have further confirmed it. The amendment simply does not eliminate NRSROs. Instead, the LeMieux amendment eliminates provisions in Federal laws that require reliance upon ratings from NRSROs.

For example, this amendment eliminates a provision that requires certain State-chartered banks to only buy securities with top NRSRO ratings. It replaces this provision with a requirement that banks may only acquire securities which meet “creditworthiness standards” established by the FDIC.

The amendment also changes a provision in which the Director of the Federal Housing Finance Agency may hire an NRSRO to conduct a review of Fannie Mae, Freddie Mac, or the Federal Home Loan Bank. Under Senator LEMIEUX’s amendment, the reviewer need not be an NRSRO. So while the amendment eliminates reliance upon NRSROs, it does not eliminate the NRSRO designation or eliminate credit rating agencies.

One can argue that there are benefits to reducing overreliance on NRSROs. Regulators gave little thought to the types of debt held by banks because they were rated AAA. Perhaps the regulators should have looked at factors other than the AAA rating before waving through these volatile securities. This is all true, and the LeMieux amendment seeks to address it.

But here is the problem. Here is the problem. Eliminating federally mandated reliance on NRSRO credit ratings doesn’t change the fact that State laws, pension fund policies, and other private market actors will still explicitly rely on NRSRO ratings. Eliminating blind overreliance on NRSRO ratings is a respectable goal, but the amendment will not eliminate reliance on credit ratings entirely, nor should it.

For example, at least 5 of the 10 largest pension funds—California Public Employees, California State Teachers, Texas Teachers, Wisconsin Investment Board, and New Jersey Retirement funds—are required by State law or internal policy to use NRSRO ratings. These are funds totaling over \$½ trillion—and that is just the top 10. In fact, in my colleague’s home State of Florida, the Local Government Surplus Funds Trust Fund controls \$6 billion in assets from 954 local governments and school districts, and the fund explicitly conditions purchases of asset-backed securities on NRSRO credit ratings.

In fact, 42 States, plus the District of Columbia, incorporate NRSRO ratings

into their State laws. So NRSRO ratings are not going anywhere. The LeMieux amendment has absolutely no effect on those requirements. The simple fact is that credit rating agencies have a place in the market and they perform a needed function.

Most institutional investors simply lack the capacity to perform the analysis that credit rating agencies perform. For many small institutional investors, such as a school district’s pension fund, researching its own investments would be cost prohibitive. It needs to rely at least in part on credit ratings issued by a rating agency.

Let’s say we want the LeMieux amendment implemented into law as has been passed. After its implementation we still have the issue of States and pension funds and other investors relying on NRSRO ratings.

I should say, the amendment wasn’t passed into law, but it was passed as an amendment to this bill. So we still will have to rely on NRSRO ratings. But not only that, it is also very likely that Federal regulators will continue to use credit ratings as part of their new creditworthiness standards. So it is safe to say that the credit rating agencies will still be very much a part of the market. What is being done to ensure the accuracy of these ratings?

That is where my amendment comes in. Eliminating government-mandated reliance on NRSRO ratings is one thing, but actually changing the way they play the game to eliminate conflicts of interest is entirely another. My amendment gets to the heart of how they play the game.

Right now, credit rating agencies have incentives to hand out top AAA ratings to every product because they need to maintain their business. If they hand out low ratings, issuers of financial products can go shop around for a higher rating from a different rating agency. My amendment finally puts a stop to the rating shopping process and implements a system that would finally reward accuracy instead of grade inflation.

The board created by my amendment—and contrary to some claims, this board will be a self-regulatory organization, not a part of the government—will create a process to assign a credit rating agency to provide a product’s initial rating. This will eliminate the rating shopping process and the conflict of interest it creates. The board can take past performance into account in handing out further assignments and finally incentivize accuracy in the market.

The amendment offered by my colleague from Florida has an admirable goal—to eliminate blind overreliance on credit ratings. But it does not go far enough and does not get to the heart of the problem. The heart of the problem is that the current market incentivizes inaccurate ratings, which contributed

to the financial crisis—which was a huge part of the financial crisis.

Alone, my colleague’s amendment doesn’t respond to the reality that the market will still demand credit ratings, whether the Federal Government mandates it or not. State laws, pension fund policies, and private investors will continue to exist and continue to need the expertise credit rating agencies can supply, if given proper incentives.

Our amendments each tackle a different part of the problem, and there is nothing about them that would prevent them from both being implemented. That is why this body passed both of them. Together, these two amendments will both reduce the blind overreliance on credit ratings and ensure that the ratings demanded by the marketplace will finally be accurate.

Any assertion implying that these two amendments cannot be reconciled or are contradictory is ill-informed. In fact, these amendments will go a long way in addressing the multiple problems plaguing the credit rating industry. Together, they will create more stability and certainty in our economy.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, I wanted to share with my colleagues an update on where we are with the bipartisan amendment on which I have been working so hard. I see Senator SANDERS of Vermont is here, and he is one of my cosponsors, as is the Presiding Officer, Senator UDALL of New Mexico.

The amendment, as you know, would allow States to protect their citizens from exorbitant interest rates that are charged by out-of-State banks. There is a trick to this. Years ago, the Supreme Court made a decision saying when a bank is in one State and a consumer in another, the transaction between them is governed by the laws—and here they had to pick one State or the other—the bank’s State. It didn’t seem like a big deal at the time, but it opened a loophole that crafty bank lawyers figured out, and that is that you could move and redomicile a bank’s headquarters in the State with the worst consumer protection laws in the country. Then, from that State, you could market back to other States which have consumer protections, which have interest rate limits honoring the tradition of usury restriction that was at the founding of this country and that lasted for hundreds of years but goes back to all our ancient religions and which is a constant in human civilized legal codes. This overruled all of that, allowing them to sneak right by it because they have either gone to or perhaps even cut a deal with their home State to have the worst consumer protection and be able to take advantage of people in other States. It is the proverbial race to the bottom. I am confident if you called up on the Senate

floor as the government's policy proposal the way it is right now, you would not get a single vote. Who would vote for the notion that the consumer protection policy of the country is going to be set by the worst State and have that be a situation in which the worst State is usually getting rewarded by the industry for being the worst State?

It is a bad situation. This amendment has gotten a lot of attention. It has gotten a lot of support—it has bipartisan support. It is a very practical thing we can do for American consumers.

This is a pretty esoteric piece of legislation in a lot of ways, this Wall Street reform bill. This does things like trying to rebuild the Glass-Steagall firewall. Until I got in the middle of this debate, I couldn't tell what that was. This changes the leverage limits and puts restrictions on what banks can do. That is pretty esoteric stuff. This deals with the regulation of derivatives and collateralized debt obligations and credit default swaps and things that nobody ever heard of until we were drilled into this legislation—esoteric, preventive stuff. But this piece of the bill, this amendment would enable all of us to go home and tell our constituents: You know those 30 percent penalty rates that your out-of-State credit card company drops you into if you make a mistake, if you are late in a payment, for no reason at all? We have done something to protect you against that—consistent with the traditions of our country, our laws, consistent with the doctrine of federalism and States rights, consistent with the Founding Fathers' delegation to the States, the ability to protect consumers in this way. We have restored the States rights. They are no longer trumped by an out-of-State corporation. Now they have the sovereign right they should to protect consumers.

I think it is a meritorious piece of legislation. I think it is an amendment that deserves consideration on the floor. It is beginning to appear that it may not actually even get a vote, notwithstanding that it is pending. We may be edged right out.

I want to explain why. People who have been watching this debate have seen long hours of nothing happening on this floor. There has been a lot of delay. There has been a lot of delay allowing us to get to amendments. Why is that? We are up against a time restriction on this bill. It is a practical time restriction. The leader needs to make sure we pass the supplemental Defense appropriations bill that funds our troops. What could be more important than, when we have troops in the field, overseas, serving our country, putting themselves in harm's way, that we provide them the resources they need to be successful? We have to do that.

We have to do something to increase the strength of our economy. In Rhode Island we are at 12.6 percent unemployment. We have been in the top three States for unemployment every single month of the Obama administration.

I think we are in the 28th month of severe recession. So we know how bad this economy is and how much more we need to do to try to bolster it. So we need to get to the next jobs bill, the jobs and tax extenders bill, to make sure we are providing the necessary support to our economy.

We have to get to those things. Because of all the delay that our friends on the other side have built into the process we are now getting into the end point where we are starting to be squeezed for time.

Now that we are squeezed for time, they are refusing to give time agreements to amendments like mine that would actually make a difference. They do not want to vote in favor of out-of-State corporations and against their home State's ability to protect their home State's fellow citizens. But they do want the out-of-State corporations to win. They don't want to vote in their favor, but they want them to win.

If that is your position, the perfect thing is to delay and delay until it gets to be here at the end, crunch time, then take the amendments that worry you, the amendments that will get after the big banks, the amendments that will be fair to consumers, and refuse to give time agreements and vote agreements on those and basically run out the clock.

That is the position we are in right now. It appears there is no willingness on the other side of the aisle to give this a vote—not just at a 50-vote margin, even at a 60-vote margin. They don't want to be on record supporting these out-of-State credit card companies that are gouging their own citizens. They just want them to win, and they figured out this way to do it.

The only alternative is to call up the bill, what is called postcloture, which means I have to be technically something called germane. Right now we are working with the Parliamentarian to argue as strongly as we can that we are indeed germane. It is an open question whether we are indeed germane, and I hope it gets resolved in our favor before the bill comes up in its regular order postcloture.

That is the situation. If people are wondering why this amendment does not appear to be on any list, is not going anywhere, it is because there is a blockade of it on the other side. They are taking advantage of the time crunch that they created with all the delays that led us to this time crunch to squeeze out the amendments where they do not want to vote for the big banks, they don't want to vote for the big credit card companies, but they do want the big banks and the big credit

card companies to win. So it is the squeeze play at the end to try to drive these impactful amendments that will make a tangible, immediate difference in the lives of Rhode Islanders and the lives of their home State citizens, the ones paying that 30-plus percent interest rate that until very recently would be a matter to bring to the authorities of this country, not a matter that the Senate tried to defend. So that is where we are.

I will continue to work with the Parliamentarian to make sure we are germane postcloture, and I will continue to argue to try to get a vote. But forces are arrayed against us at this point, and I want to be perfectly candid about it.

I yield the floor.

Mr. MERKLEY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH.) Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, for weeks now we have been debating the financial reform bill, which is being sold to the American people as the solution to holding Wall Street accountable for the economic crisis that hurt every American family and business in every community across the Nation.

Unfortunately, in this current form, the so-called reform bill will actually punish Main Street America, the families who suffered from and did not cause the financial meltdown. It should be a wakeup call when Lloyd Blankfein of Goldman Sachs says Wall Street will be the big winner under this bill, and we know the people who provide jobs, essentially small business, and the people who provide credit to the rest of America are warning of dire consequences.

Let me make this clear. This bill was meant to rein in Wall Street. Yet it is supported by Goldman Sachs and Citigroup. It is opposed by small business and community bankers. I think that tells you all you need to know about this bill. That is why I rise today in strong opposition to cloture on this bill. Yes, we made some improvements on the bill, and I congratulate the leadership for allowing us to have amendments and debate them, and I thank and I am grateful to my colleague from Connecticut, Senator DODD, for working across the aisle to remove an onerous provision that unintentionally would have killed small business

startups. Senator DODD has worked in good faith in a bipartisan fashion to make real changes in the bill. But despite the progress we have made, the provisions most destructive and harmful to taxpayers, families, and small business still remain.

First, it is completely unbelievable and unacceptable that so many of my colleagues want to turn a blind eye to the government-sponsored enterprises Fannie Mae and Freddie Mac which contributed to the financial meltdown by buying the high-risk loans that banks were pushed to make to people who could not afford them.

They were the enablers of the issuance of bad mortgages. Everyone here knows what I am talking about. Despite the bill's 1,400-plus pages, it completely ignored the 900-pound gorilla in the room. The need to reform Fannie Mae and Freddie Mac, or the "toxic twins" as I refer to them, is completely ignored. How can you ignore the major government-sponsored enterprises that were the enablers for the bad mortgages that brought our system and much of the world's system down?

To add insult, Fannie Mae and Freddie Mac devastated entire neighborhoods and communities as property values diminished. But when they bought up loans and encouraged issuance of loans to people who could not afford them, that turned the American dream of home ownership into the American nightmare for far too many families.

Fannie Mae and Freddie Mac went belly up, and now it is the very Americans who suffered from their irresponsible actions who are left footing the bill for them, because, if it were not bad enough, unless we act now to reform the toxic twins, over the next 10 years, Fannie Mae and Freddie Mac will run up hundreds of billions of dollars.

Let me put that into perspective. Freddie Mac lost \$8 billion in the first quarter, one quarter of this year, and an additional \$10 billion from taxpayers, and warned that it will need more in the future. That comes on top of the \$126 billion that Fannie Mae and Freddie Mac had already lost through the end of 2009.

To make matters worse, this administration has taken off the \$400 billion credit card limit on Fannie Mae and Freddie Mac, and it is our credit card they took the limit off. How much more does the administration think Freddie Mac and Fannie Mae can lose? How much more are they going to force not just us as taxpayers but our children and grandchildren to pay to bail out these toxic twins?

Next, a great concern I have is that this bill lumps in the good guys with the bad guys and treats them all the same, particularly when it comes to derivatives. When it comes to deriva-

tives, this bill lumps in those folks who try to manage risk and control costs by making long-term contracts with their suppliers or with their purchasers to even out the prices at which goods are exchanged. These are normal hedging contracts, and they are very different from the people who are speculating in the market to make a buck by shady bets with money they did not have or they were making insurance bets on property they did not own.

I would urge my colleagues, if they have not read it, to read "The Big Short" which talks about how this whole scam unfolded with the bad underlying mortgages that caused the meltdown.

I have heard some folks say, what actually does this bill mean to you and me? Well, it means, for instance, that utility companies may not be able to lock in steady rates for their customers, leaving them instead at the whim of the volatile market. They will have to clear all of their long-term contracts and pay billions of dollars to Wall Street or Chicago to clear the normal long-term contracts with energy suppliers whom they work with on a regular basis, and whose contracts never contributed a nickel to the volatility.

As a matter of fact, by locking in prices, they were able to produce their energy at a reasonable rate. The billions of dollars these utility companies will be forced to cough up to Wall Street and Chicago will come down to each and every one of us on our utility bills. When the utility companies have to pay more, guess what. We, as ratepayers, get it in the wallet. That is where we will feel it, and that is what it means in every community in this country. You will be paying a higher cost every time you flip on the light switch, turn on the air conditioning, or use a computer. You will pay more for that energy.

For family farms, the backbone, the agricultural backbone of our country, they will not be able to get long-term financing. That may force some of them to quit farming and prevent others from even getting started.

Frankly, I am stunned that any Senator in good conscience would vote for a bill that would increase costs for every American, especially at a time when working families are struggling to make ends meet. What will this do to business? These businesses, who will be forced to pay higher energy costs, who will have requirements on derivatives that have to be cleared, may not create the jobs.

The community bankers who make the loans that families need or that small businesses need may be so strapped they cannot make the loans. That credit will dry up. I cannot vote for a bill that creates a massive new superbureaucracy with unprecedented authority to impose government man-

dates and micromanage any entity that extends credit.

We are not talking just about the Goldman Sachs and AIGs of the world, the ones at the center of this crisis. No, in the real world we are talking about this organization, this Consumer Finance Protection Board or Bureau, regulating the community banks, your car dealers, even your dentist or orthodontist who has to extend some credit to a few people for expensive orthodontic features.

Don't be fooled. Any of the new costs as a result of the new mandates and regulations will be passed on to the consumers. The very people the bill was supposed to protect—you and I—will get to pay for it.

Under this new superbureaucracy misnamed the Consumer Financial Protection Bureau, will safety and soundness requirements for healthy banks give way to a prevailing agenda of the new bureaucracy? There will be political appointees of the President who will be looking over everything as consumer protectors.

Some of these consumer protectors were the ones who forced banks to make loans to people who could not afford them in the past. Will the safety and soundness which is key to assuring a sound banking system be overridden by these rules and regulations?

These regulations can be enforced by every attorney general in the Nation. Attorneys general may decide it is an abusive practice if a community bank does not follow the mandates, the credit allocations, mandated to this CFPB. How would the community banks be able to operate if the attorneys general are suing them? This bill, regrettably, is much like the health care bill recently signed into law, because I fear that small businesses will soon learn that there are many more unintended consequences which have yet to be seen.

I ask unanimous consent that at the end of my remarks, I have printed in the RECORD an article by Meredith Whitney that appeared in yesterday's Wall Street Journal, one of the people who foresaw this crisis coming, who warned of the impact on small business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOND. To sum up my view on this bill, if the goal here is to enact real reform that ensures we never have another financial crisis such as the one we had 18 months ago, this bill falls woefully short of the goal. The bill is light on reform of Wall Street and the bad actors, it is heavy on overreach and unintended consequences throughout our economy, which will affect the ability of people to get and hold jobs.

It will affect the budgets of every family. My colleagues I hope will oppose cloture and continue to work to

pass bipartisan amendments that will make changes to the destructive provisions I have outlined above.

Let us not forget about the rating agencies. The book I mentioned, "The Big Short," pointed out that the brain-dead analysts at the ratings firms routinely put AAA ratings on some of the most toxic, worthless paper, and then other people managed to buy insurance on those bad contracts even though they did not have any interest in them and made millions.

This amendment takes out the rating agencies, but the rating agencies still need to be overlooked and they ought to be funded not by the people who issue the paper but by the people who are buying the paper.

There is no doubt that everybody here knows we need to protect Americans from falling victim to another Wall Street gone wild. This is government gone wild. It benefits Wall Street. It harms small business, community bankers, your local utility company, which sends you your utility bill. Is that on the right track? I do not see how anybody can say it is.

We do not want—and this is why this debate is so important—to punish the everyday Americans for a crisis they did not cause and whose impact they feel the burden, and our children will feel it, for years to come. Unless we succeed in it, the Democrats' bill will do just that. The cost will be paid by Main Street and by each and every one of us. Therefore, I urge my colleagues to oppose cloture and let us get to work on regulating what went bad and not messing with things that work.

I yield the floor.

#### EXHIBIT 1

[From the Wall Street Journal, May 17, 2010]

#### THE SMALL BUSINESS CREDIT CRUNCH

(By Meredith Whitney)

The next several weeks will be critically important for politicians, regulators and the larger U.S. economy. First, over the next week Capitol Hill will decide on potentially game-changing regulatory reform that could result in the unintended consequences of restricting credit and further damaging small businesses.

Second, states will approach their June fiscal year-ends and, as a result of staggering budget gaps, soon announce austerity measures that by my estimates will cost between one million to two million jobs for state and local government workers over the next 12 months.

Typically, government hiring provides a nice tailwind at this point in an economic recovery. Governments have employed this tool through most downturns since 1955, so much so that state and local government jobs have ballooned to 15% of total U.S. employment.

However, over the next 12 months, disappearing state and local government jobs will prove to be a meaningful headwind to an already fragile economic recovery. This is simply how the math shakes out. Collectively, over 40 states face hundreds of billions of dollars in budget gaps over the next two years, and 49 states are constitutionally required to balance their accounts annually.

States will raise taxes, but higher taxes alone will not be enough to make up for the vast shortfall in state budgets. Accordingly, 42 states and the District of Columbia have already articulated plans to cut government jobs.

So the burden on the private sector to create jobs becomes that much more crucial. Just to maintain a steady level of unemployment, the private sector will have to create one million to two million jobs to offset government job losses.

Herein lies the challenge: Small businesses, half of the private sector (and the most important part as far as jobs are concerned), have been heavily impacted by this credit crisis. Small businesses created 64% of new jobs over the past 15 years, but they have cut five million jobs since the onset of this credit crisis. Large businesses, by comparison, have shed three million jobs in the past two years.

Small businesses continue to struggle to gain access to credit and cannot hire in this environment. Thus, the full weight of job creation falls upon large businesses. It would take large businesses rehiring 100% of the three million workers laid off over the past two years to make a substantial change in jobless numbers. Given the productivity gains enjoyed recently, it is improbable that anything near this will occur.

Unless real focus is afforded to re-engaging small businesses in this country, we will have a tragic and dangerous unemployment level for an extended period of time. Small businesses fund themselves exactly the way consumers do, with credit cards and home equity lines. Over the past two years, more than \$1.5 trillion in credit-card lines have been cut, and those cuts are increasing by the day. Due to dramatic declines in home values, home-equity lines as a funding option are effectively off the table. Proposed regulatory reform—specifically interest-rate caps and interchange fees—will merely exacerbate the cycle of credit contraction plaguing small businesses.

If banks are not allowed to effectively price for risk, they will not take the risk. Right now we need banks, and particularly community banks, more than ever to step in and provide liquidity to small businesses. Interest-rate caps and interchange fees will more likely drive consumer credit out of the market and many community banks out of business.

Clearly, the issue of recharging the securitization market as an alternative source of liquidity is one that needs to be addressed over time, but politicians should not force rash regulatory reforms when significant portions of our economy remain fragile. The very actions designed to "protect" the consumer, such as rate caps and interchange fees, will undoubtedly take more credit away from the consumer.

It is important now to support any and all lending activities that would enable small businesses to begin hiring again. If the regulatory reform passes with rate-cap and interchange regulation amendments incorporated, small businesses will be hurt rather than helped. Politicians and regulators need to appreciate the core structural challenges facing unemployment in the U.S.

Elected officials know better than most that an employed voter is better than an unemployed voter. They should improve their odds of re-election and do the right thing on regulatory reform.

Mr. HATCH. Mr. President, I rise today to express my opposition to S. 3217, the Restoring American Financial

Stability Act. I am not opposed to financial regulatory reform, but there is precious little of that in this misnamed bill.

No, real financial regulatory reform is something that should have been done a year ago, but, instead, Democratic leaders and the Obama administration opted to focus on a Washington takeover of our Nation's health care system.

There are a few parts to the Restoring American Financial Stability Act that are worthy of support. In particular, I believe we need to monitor derivatives to require more capitalization and demand issuers maintain a stake in the game when creating and selling certain financial instruments. However, I think this bill is going to do more harm than good to our economy. It will weaken our financial system rather than strengthen it. Furthermore, it not only preserves the fragmented financial regulatory structure that is already in place but adds even more burdensome, costly, and misguided regulations. Before I list my concerns about the bill, I am going to address the specious accusations I have heard from the other side of the aisle that Republicans are being obstructionist or trying to protect the interests of Wall Street over those of Main Street. Give me a break.

These accusations are not only false, they are aimed at diverting attention from our solutions to a bad bill by attacking our credibility and motivations. We are not trying to protect anyone except the American people who are the victims of this economic collapse.

Let me be clear that every Senate Republican and I want financial regulatory reform in order to prevent a recurrence of what happened a couple of years ago with the collapse of our financial markets. But the problem with this proposal is that it not only regulates Wall Street but also Main Street. It goes beyond regulating large financial institutions that caused the problem and proposes to regulate community banks and credit unions, payday lenders, and other small businesses and almost any business that provides financing to their customers. If the other side is implying that we are trying to protect Wall Street because we have some sort of special relationship with large financial institutions, that is blatantly false on its face and simply not true.

Large financial institutions contributed way more to Democrats than Republicans in the last election and elections before that. If anyone is guilty of trying to do a special favor for Wall Street, it certainly isn't this side. That is all I can say. If you look at the financial filings, it is pretty darn clear who Wall Street supported.

If anything, I believe this bill will benefit Wall Street in the sense that it

is something they can always get around. It would provide a perpetual bailout for large financial institutions. I know there is an argument against that, but look at the bill. It would require higher capitalization for many of the companies in which these institutions invest and place larger financial institutions at an unfair advantage over smaller financial institutions.

But don't take it from me. Take it from the CEO of Goldman Sachs, Lloyd Blankfein, who said "the biggest beneficiary of reform is Wall Street itself." He is a smart guy. He deserves to be the president of Goldman Sachs, one of the more important companies on Wall Street. There isn't any way they would not get around whatever we do today. They are the smartest people on Earth. So the claim that Republicans are trying to protect Wall Street doesn't hold very much water at all.

Some on the other side of the aisle have claimed our objective is to obstruct passage of any financial regulatory reform bill. I can't agree with that. In fact, I cannot disagree more. Not only did a Democrat join Republicans in voting against proceeding to this bill, another Democrat who serves on the Banking Committee and has been involved in negotiations noted that the concerns being raised by Republicans about potential bailouts of large financial institutions are legitimate. He validated our concerns by stating that "there are parts that need to be tightened." So at the very least, both Democrats and Republicans believe this bill leaves a lot of room for improvement.

I would like to turn my attention to the substance of the bill. The reasons I am opposed to this legislation are because, along with many others, I have serious misgivings about its effectiveness, specifically the FDIC's orderly liquidation authority, the overregulation of the consumer protection agency, and the lack of reforming Freddie Mac and Fannie Mae. The meltdown of our financial markets highlights a major flaw in our financial regulatory system—the expeditious dissolution of a financial institution.

I recently finished reading former Treasury Secretary Hank Paulson's book, "On The Brink," which details the time leading up to the catastrophic failures and the handling of the crisis. I would like to read a short passage:

Back in my temporary office on the 13th floor, a jolt of fear suddenly overcame me as I thought of what lay ahead of us. Lehman was as good as dead, and AIG's problems were spiraling out of control. With the U.S. sinking deeper into recession, the failure of a large financial institution would reverberate throughout the country—and far beyond our shores. It would take years for us to dig ourselves out from under such a disaster.

What I took away from this book was the enormity and complexity of trying to dissolve these large financial institutions before their assets disappeared.

There is no doubt that our current system is incapable of handling such a complicated task. In fact, over the last few weeks, I not only read "On The Brink," but I read "The Ascent of Money." I read "The Panic of 1907" and was amazed at the correlation between 1907 and 2007. I read "On The Brink" by Hank Paulson. I read Sorkin's book, "Too Big To Fail." Just last weekend I read the book, "The Big Short," by Michael Lewis, which is an excellent read. They have all been excellent reads. That is in the last few weeks.

The Federal Deposit Insurance Corporation, or FDIC, was established in 1933 to insure bank deposits. It mainly deals with the common brick-and-mortar bank that most of us use on a daily basis. It oversees roughly 8,000 depository institutions and \$9 trillion in deposits. In the aftermath of the economic collapse, the FDIC administered 25 bank failures in 2008 and 140 in 2009. That is approximately 2 percent of all the banks they oversee.

Despite such a low percentage, the FDIC's deposit insurance fund was nearly depleted. According to the Federal Reserve, there are approximately 5,000 top-tier bank holding companies with roughly \$17 trillion in assets. The top 10 largest financial institutions hold \$9 trillion in assets. The current financial regulatory reform bill proposes to provide the FDIC with an orderly liquidation authority to unwind not only depository institutions but now large financial institutions that pose a systemic risk to our financial system.

With the passage of this bill, the FDIC would be responsible for unwinding nearly double the total number of assets. However, the magnitude of the task is the least of my concerns. By taking the resolution out of the bankruptcy courts, with all of their expertise, and putting it in an executive branch administrative proceeding conducted by politically appointed bureaucrats, we definitely lose transparency and accountability. It is ridiculous.

If you would like to see a glimpse of the consequences of losing transparency and accountability, just look at the FDIC's behind-closed-doors handling of Washington Mutual. During a Senate investigatory hearing last month, former Washington Mutual Chief Executive Kerry Killinger denounced the FDIC's handling of the bank failure as "unnecessary" and "unfair," partly because the thrift was shut out of hundreds of meetings and phone calls with financial industry executives who determined the "winners and losers" in the crisis.

Our current bankruptcy courts avoid many of the problems associated with creating a government resolution authority and are a superior way of dealing with failed or failing nonbank financial firms. The bankruptcy courts

make dissolving large institutions transparent. That is why we have them. They are experts at it. They know what they are doing. We can all watch what they are doing. We can read the pleadings. We can do a lot of things that bring transparency. The other way will not.

That brings me to my next concern with this bill, the creation of the Consumer Financial Protection Agency. Of course, I think we can all agree we need to strengthen consumer protection within our financial system. But I first believe we need to ask what went wrong with the current system before we create yet another government agency to create more regulations and oversight.

This will only make it more difficult for consumers and small businesses to obtain a loan, a line of credit, or a credit card. The entire alphabet soup of Federal Government agencies—the FDIC, OCC, SEC, FTC, and the Fed—all have consumer protection divisions. However, these divisions did not meet the standard of protection we need. Extracting these consumer protection arms from each of the agencies and putting them in a new agency is like taking the worn parts from several clunkers and using them to build another car. You will still have a clunker.

Furthermore, think of the costs that new local banks, credit unions, payday lenders, and other industries that deal with credit, such as auto dealers and other small businesses, will incur when trying to comply with all these new, overly burdensome regulations.

But the worst part of this legislation is what it is missing—reform of Fannie Mae and Freddie Mac. These two mortgage agencies caused the financial crisis by backing loans to people who couldn't afford them. But that certainly didn't stop Uncle Sam from bailing them out at a cost to taxpayers of some \$145 billion. This financial abuse is swept under the rug because the debt is not put on our books. These companies, which the government now fully owns, are not considered government agencies and, therefore, are not included when tallying up our outrageous trillion-dollar deficits. I might add, that is just the beginning. We all know Fannie and Freddie are about to explode into all kinds of bigger problems, some estimate as much as \$500 billion. That is scary. Yet we are not doing a doggone thing about it in this bill.

We should have faced the music and done whatever we could. A lot of games are played with the budget.

As I said before, I support financial regulatory reform. However, this bill falls short of reform and opens the way for another economic collapse to occur. It will unjustly protect companies that are deemed too big to fail by providing them preferential treatment during FDIC-conducted liquidations. It will create costly burdens for the 99 percent

of financial institutions that did not cause the financial collapse, and it misses the mark by not addressing the reform of Fannie Mae and Freddie Mac.

There are other reasons, but I think I will limit my remarks today to those few. Those few involve trillions of dollars, involve all kinds of future problems for our country, and I think will lead us even further down the path of poor economics, higher debt, higher spending, more and more government, and less and less control by the people.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURRIS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 3217, which the clerk will report.

The bill clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Pending:

Reid (for Dodd-Lincoln) amendment No. 3739, in the nature of a substitute.

Brownback further modified amendment No. 3789 (to amendment No. 3739), to provide for an exclusion from the authority of the Bureau of Consumer Financial Protection for certain automobile manufacturers.

Brownback (for Snowe-Pryor) amendment No. 3883 (to amendment No. 3739), to ensure small business fairness and regulatory transparency.

Specter modified amendment No. 3776 (to amendment No. 3739), to amend section 20 of the Securities Exchange Act of 1934 to allow for a private civil action against a person that provides substantial assistance in violation of such act.

Dodd (for Leahy) amendment No. 3823 (to amendment No. 3739), to restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.

Whitehouse modified amendment No. 3746 (to amendment No. 3739), to restore to the States the right to protect consumers from usurious lenders.

Dodd (for Cantwell) modified amendment No. 3884 (to amendment No. 3739), to impose appropriate limitations on affiliations with certain member banks.

Cardin amendment No. 4050 (to amendment No. 3739), to require the disclosure of payments by resource extraction issuers.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

AMENDMENT NO. 3789

Mr. MERKLEY. Mr. President, I ask for the regular order in regard to amendment No. 3789.

The PRESIDING OFFICER. The amendment is now pending.

AMENDMENT NO. 4115 TO AMENDMENT NO. 3789

(Purpose: To prohibit certain forms of proprietary trading, and for other purposes)

Mr. MERKLEY. Mr. President, I offer a second-degree amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Oregon [Mr. MERKLEY], for himself and Mr. LEVIN, proposes an amendment numbered 4115 to amendment No. 3789.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not have the floor. The Senator from Oregon has the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. SHELBY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. DODD. Madam President, I ask unanimous consent that at 2 p.m. today, the Senate consider the Snowe amendment No. 3883 and a Landrieu side-by-side, No. 4075, and that they be debated concurrently for a total of 30 minutes, with the time equally divided and controlled in the usual form; that upon the use or yielding back of time, the Senate proceed to vote in relation to the Landrieu amendment No. 4075, to be followed by a vote in relation to the Snowe amendment No. 3883; that no amendment be in order to either amendment prior to a vote; that upon disposition of these amendments, the Senate then resume the Whitehouse amendment No. 3746, as modified, and there be 2 minutes of debate equally divided and controlled with respect to the amendment; that upon the use of time, the Senate proceed to vote in relation to the amendment, with the amendment subject to an affirmative

60-vote threshold, and that if the amendment achieves the threshold, it be agreed to and the motion to reconsider be laid upon the table; that if it does not achieve that threshold, then it be withdrawn; that no amendment be in order to the Whitehouse amendment; that upon disposition of the Whitehouse amendment, Senator VITTER be recognized to call up his amendment No. 4003, which is in order to be called up per a previous order; that once the amendment is pending, it be modified with the language of the Pryor amendment No. 4087, and that as modified the amendment be agreed to and the motion to reconsider be laid upon the table; that once this agreement is entered, Senator BARRASSO be recognized to speak in morning business, with no amendments or motions in order during this period; that the cloture vote be delayed until disposition of the above-mentioned amendments; and that upon the conclusion of Senator BARRASSO's remarks, the Senate stand in recess until 2 p.m.

The PRESIDING OFFICER. Is there objection? The Senator from Michigan.

Mr. LEVIN. I object and suggest the absence of a quorum.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MERKLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The legislative clerk continued with the call of the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent the Senator from Wyoming, Mr. BARRASSO, be recognized for up to 15 minutes; that following his remarks, the Senator from Ohio, Mr. BROWN, be recognized for up to 15 minutes; that following that, the Senate go into a recess at that time, after the two Senators finish their speeches, until 3:15 today. The two Senators are going to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Wyoming is recognized.

#### HEALTH CARE REFORM

Mr. BARRASSO. Madam President, I come to the floor as someone who has practiced medicine in Casper, WY, since 1983, as an orthopedic surgeon taking care of many of the families in



the great State of Wyoming. I come to you to talk about the health care bill that has been signed into law and to provide a doctor's second opinion about what is now the law of the land.

I come to you as someone who has worked very hard for many years, working with preventive medicine and early detection of problems as a medical director of the Wyoming Health Fairs, a program designed to give people information to stay healthy and keep down the cost of their care.

I come to you with a second opinion on what is now the health care law because I believe the goal of health care reform should be to lower costs, improve quality, and increase access to care.

Unfortunately, the new health care law, in my opinion, is going to be bad for patients, for providers—the nurses and doctors who take care of them—and for the payers, the people paying the bills—the patients as well as the American taxpayers.

I am concerned that the health care bill signed into law is going to increase the cost of care, provide less access to care, and is going to lessen the quality of the available care in this country.

I come to you with new information that has come to light on the health care bill and, specifically, an article that was in *Politico* this Monday, May 17, written by Kathleen Sebelius, the Secretary of Health and Human Services. What she said in this article is:

We are collaborating with States to set up federally funded high-risk insurance pools to make sure that the Americans with the greatest need for health insurance will be able to get it.

Madam President, you know as well as I that there is an old phrase in politics that goes: "How does it play in Peoria?" It is referring to Peoria, IL, and means what is the average American thinking about this. Regarding this health care law, it is not playing very well in Peoria. Peoria is a place that President Clinton referred to when he was running, as did George W. Bush, Ronald Reagan, and President Obama. Those Presidents went to Peoria to talk with people. Yet, when you look at what the Peoria Journal Star has reported about this health care bill, which is now law, in the President's home State, a place that is felt to be the bellwether for political thought in the country, Peoria, IL, the verdict is not good about this health care bill which is now law. I will start with an article that appeared in the Peoria Journal Star that talks about what is happening in Illinois today. It says:

For thousands of Illinois residents who pay high health insurance premiums because of medical problems, the new federal health care legislation won't offer relief.

It will not offer relief, this says. Continuing:

The 16,000 residents who already pay into Illinois' high-risk health insurance pool will

keep paying high rates, while others who enroll this summer under a new, similar program will get coverage at lower, more reasonable prices.

What happened here? This is one of the fundamental flaws. Only the people who have been uninsured for 6 months are eligible—meaning those in the current State pool cannot switch and save money. How do the people of Illinois feel about this? How is it playing in Peoria? Quite poorly.

Julie Kramer is quoted in the article. She is 53. She said she is "feeling a bit cheated," in her words, by this health care law. She has paid high premiums for nearly 7 years in the Illinois high-risk pool; she has played by the rules and has done what she needed to do. Is she being helped by the new health care law? Not at all, and she is feeling cheated.

She went on to say that:

... it feels very unfair. It goes against the spirit of what health care reform was supposed to be.

Ms. Kramer is a self-employed writer and owner of Full Moon Marketing Communications in Vernon Hills. She said: "This does seem like a low blow."

Members of the Senate voted for the bill about which this person says she feels a bit cheated, it seems unfair, and it seems like a low blow. The existing program is called the Illinois Comprehensive Health Insurance Program. Thirty-four other States have similar programs.

People in this Illinois program pay 25 to 50 percent higher—more than standard rates. So they pay their premium; they pay every month. They continue to pay. Yet they are feeling cheated, they feel it is unfair and is a low blow.

Even the Illinois Department of Insurance—their director—understands this lady's frustrations. To even the playing field, the director said the State legislature would have to act to reduce the premiums. You cannot rely on Washington. Illinois expects to receive money from the Federal Government to start the new high-risk pool. The insurance department says there might be enough money to cover about 5,000 people in the new plan. How does that compare? Far fewer—according to the article in the Peoria, IL, paper, far fewer than the number of people who may qualify. A Government Accountability Office report said about 218,000 people might be eligible for a high-risk pool in Illinois.

Well, what does the Illinois high-risk pool Web site say? They sent a letter to enrollees—the people who pay their premiums month after month and play by the rules—and it says it is unlikely Federal funds will be available to reduce premiums paid by the current enrollees—the people who have played by the rules and have continued to pay the bills. They didn't actually send out this letter. They put it on their Web site. They wanted to send it out, but

they didn't have the \$5,000 for postage to send this letter to the people who have been sending thousands and thousands of dollars into this high-risk pool every year.

The director said: No, we have not mailed the letter because the cost of mailing was prohibitive, given that we have, at this point, not received any actual funding. He said it would be inappropriate to withdraw funds to send such a letter.

Well, Julie Kramer was shown the letter on the Web site, and she said: You know, I did feel a little flash of anger and disappointment when I read it.

I say to the Secretary of Health and Human Services—who wrote a letter to those in Washington via *Politico*, who said we are doing what we can to make sure we are helping these people—the people of Peoria do not agree and do not believe what she has to say.

That is why, across the board, a majority of the Americans who need health care, who are concerned about the cost of care, look at this health care law and believe, in terms of a law this Congress has passed and this President has signed, that it is going to actually make the cost of their own care go up and the quality of their own care go down. That is why, overwhelmingly, the American people have rejected this health care law.

That is why I come to the floor again with my second opinion, and my opinion is it is time to repeal this law and replace it—replace it with solid ideas that will help people lower the cost of their care, improve the quality of their care, and increase their access to care. That would be patient-centered health care, health care that allows people to buy insurance across State lines, that gives people who buy their own policies the opportunity to get the same tax relief that big companies get, to provide individuals incentives to stay healthy and get the cost of their care down by lowering their risk factors for disease because half the money we spend in health care in this country goes to 5 percent of the people—those who eat too much, exercise too little, and smoke. We need to find solutions that deal with lawsuit abuse, to get down the cost of all the defensive medicine that is practiced in this country and allow small businesses to join together to provide less expensive insurance for the people who work for those businesses.

Those are the things we know will work, the things we know will be able to allow us to deliver higher quality care, that will allow us to lower the cost of care. That is why it is my opinion, as a physician who has practiced medicine since 1983, that we need to repeal this health care law and replace it with something that will work for the people of America.

I yield the floor.



The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Mr. President, I came to speak on the Merkley-Levin amendment, which I think is so important. I will speak about that in a moment.

I am a little surprised to hear another health care debate comment. Last year, through much of the year, there was opposition—a lot of opposition—to the health care bill. Most of the opposition came about because of the kinds of things that were said on the Senate floor that simply weren't true: that this bill would mean the government would put a bureaucrat between your doctor and yourself as a patient, that it was a government takeover, that it was socialism.

In fact, the arguments they used last year against the health care bill were the same arguments they used against Medicare in 1965: socialism, government takeover, and bureaucrat between you and your doctor. Those things didn't pan out with Medicare. The same arguments were used, but they clearly weren't true in 1965, when conservatives, including the John Birch Society and others similar to that, did everything they could to defeat Medicare. They were not successful then and they weren't successful on the health care bill now.

When I hear that kind of discussion from colleagues on the other side of the aisle, when I hear the most conservative Members of this institution saying we should repeal the new health care bill, I guess the questions to ask are: Do they want to repeal the provision when my friend's 22-year-old daughter comes home from college or his son comes home from the military and they can't find a job with insurance? Are they going to repeal the section that says they can stay on their parents' health insurance? It was a great idea that the young men and women coming home from the Army or from school can stay on their parents' health care insurance until they are 27. I guess they want to repeal that.

I guess they want to repeal the tax breaks that this health care bill gave to small businesses so they can insure their employees. I guess they want to repeal the support for those who fall into the doughnut hole for prescription drugs, those seniors continuing to pay their premiums and get that benefit from it. They want to repeal the benefit this bill is going to give them. They want to repeal the prohibition on preexisting conditions. During much of last year, I would come to the floor and read letters from constituents—Ohioans from Ravenna, Toledo, Hillsboro, to Wilmington.

These letters would be mostly from people who thought they had good health insurance until they got sick and needed it. This legislation will not

let insurance companies knock people off the rolls because of a preexisting condition or knock them off the rolls because they got too sick and expensive, will not let them knock them off the rolls if they had a child born with a preexisting condition. All of those issues were resolved, and we are beginning to see all of these benefits from this health care bill. The American public knows that.

I wish my colleagues, rather than advocate for repeal of something that has moved this country forward, would work with us on issues such as the Merkley-Levin amendment. Let me for a moment discuss that amendment.

It is a good amendment. It will make this final bill stronger. It is worthy of an independent up-or-down vote. It is worthy of a majority vote. If we get 51 votes, we ought to be able to adopt an amendment in this body to add to this legislation.

Republicans have criticized this bill for weeks. They have blocked us from bringing it up for debate because they said it did not address the problem of too big to fail. But the first major amendment we considered which would have addressed the problem of too big to fail—that is, too big to fail is too big—would have meant those huge banks would have had to sell off a part of their assets.

Let me give a number. The total assets of the six largest banks in this country 15 years ago was 17 percent of gross domestic product. The total assets of those six largest banks today are 63 percent of the gross domestic product. Too big to fail is, in fact, too big.

Every Republican, with the exception of Senator ENSIGN from Nevada, Senator COBURN from Oklahoma, and Senator SHELBY from Alabama, every single Republican voted against that, again siding with the big banks, the six big banks, against the country, against manufacturers in Dayton, OH, against the small-town bank in Dover or New Philadelphia, OH, against the regional banks in Cleveland, Cincinnati, or Columbus, against the small business guy or woman who wants to get a loan. By voting for the big banks and giving them even more advantage, it was discriminating against the regional banks, the community banks. It was hurting the manufacturer in Shelby, OH, or Mansfield, OH, that needs a loan to build their business. That was the first chance.

I cannot think of another proposal that deals with the problem of too big to fail better than the Merkley-Levin amendment. There are all kinds of parliamentary shenanigans going on around this amendment trying to block it. Let me talk about the amendment for a moment.

If they are successful in beating this amendment, it is clearly a win for the Wall Street banks. For too long these

banks used their own capital or borrowed billions of dollars to invest in risky financial products. We know they did that. We know the damage it caused to our system, to our economy, to our country. After telling their clients to buy these risky products, big banks turned around and bet against their own clients to cushion their profits. With one hand, they sold a client a risky financial product—a subprime mortgage or a large debt obligation. With the other hand they placed bets on those products underperforming. That is how proprietary trading works. That is what they want to continue.

It is like me selling you a house and then taking out a fire insurance policy on it and starting the fire. Whether it was greed or arrogance run amok, these megabanks blew our economy apart—we know what happened—leaving taxpayers to piece it back together.

Proprietary trading is not just a gamble. It is a drag on sectors of our economy that traditionally have been supported by the banks. Proprietary trading displaces lending to businesses small and large. It increases Wall Street's bottom line while leaving the rest of the economy behind.

Over the past dozen years, proprietary trading—as this reckless gambling is called—has become an increasingly larger portion of the business conducted by our largest financial institutions.

At the end of 2009, the large banks reported to the FDIC that their trading revenues, as opposed to revenues from lending and other traditional banking activities, accounted for 77 percent of their net operating revenues. At the same time over the last year, FDIC-insured banks' securities holdings have increased by 23 percent. Instead of lending to businesses, they lend to themselves.

It is no coincidence that manufacturing faltered, that millions of jobs were lost, and our Nation's unemployment rate hovers at 9.9 percent and higher in a dozen States such as Ohio. There is no room in the financial sector to absorb good-paying jobs in other sectors; and when banks stop lending, other sectors dry up. That is not sustainable.

We know in this country that 30 years ago one-third of our GDP was in manufacturing. Financial services accounted for only 10 or 11 percent of our gross domestic product. That really tells the story. As manufacturing declined as a percentage of GDP and financial services went up so much, that is clearly why we are where we are today. Financial services has accounted for 44 percent of corporate profits in recent years, again, instead of manufacturing, instead of contributing wealth to our country.

The support of the Merkley-Levin amendment makes sense. It is not a time to play games with the financial

well-being of hard-working, middle-class Americans.

I urge my colleagues to support the amendment.

I yield the floor.

### RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 3:15 p.m.

Thereupon, the Senate, at 2:06 p.m., recessed until 3:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. MERKLEY).

### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010—Continued

The PRESIDING OFFICER. The majority leader.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

Mr. REID. Madam President, we have been trying now for many hours to get a consent agreement to let us move forward on some of these amendments, important amendments—some not so important but amendments. I do not know if we will ever arrive at that now, so I think it would be in the best interests of the body, both Democrats and Republicans, to go ahead and have the cloture vote.

There is a commitment made by the chair of the Banking Committee—and, of course, the Agriculture Committee, but most of the concern right now is with the matters dealing with the Banking Committee jurisdiction—that both the chairman and ranking member will continue. We know what the consent agreement is. We will try to work through all that. I think that is the best way to do it. We have the word of the two managers that is what they will do.

I think that when we get this cloture out of the way, the Republican leader already told me yesterday he wanted to use some time postcloture. We might have some people who will want to talk a little postcloture, and we will continue working.

We have really worked hard together. I think there has been a show of bipartisanship in this bill. We disagree on a number of very important issues, but that doesn't mean we cannot work together, and we have shown that is possible.

I ask that we move to the cloture vote.

### CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented

under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Dodd substitute amendment No. 3739 to S. 3217, the Restoring American Financial Stability Act of 2010.

Harry Reid, Christopher J. Dodd, Tim Johnson, Jack Reed, Jon Tester, Charles E. Schumer, Patty Murray, Daniel K. Inouye, Kent Conrad, John F. Kerry, Roland W. Burris, Mark R. Warner, Daniel K. Akaka, Sheldon Whitehouse, John D. Rockefeller IV, Michael F. Bennet.

Mr. FEINGOLD. Madam President, 3 weeks ago I supported invoking cloture on the motion to proceed to this bill. Proceeding to this measure was essential to being able to debate, amend, and strengthen it. But as I noted at that time, after 30 years of acquiescing to the wishes of Wall Street lobbyists, it is essential that Congress get it right this time, and finally enact tough reforms to prevent Wall Street from driving our economy into the ditch again. In particular, that means eliminating the risk posed to our economy by the massive financial firms that are considered "too big to fail."

Over the last few weeks, this body has repeatedly rejected amendments that address "too big to fail." And perhaps the most important amendment in this respect—one offered by the Senator from Washington, Ms. CANTWELL, to reinstate the protective firewalls of the Glass-Steagall Act—may not be considered if we invoke cloture on the underlying measure.

Three weeks ago, I said that for me the test for this legislation is a simple one—whether or not it will prevent another financial crisis. And central to that test is how this bill will address "too big to fail." Right now, this bill fails that test, and for that reason I will not support ending debate on the measure.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the Dodd substitute amendment No. 3739 to S. 3217, the Restoring American Financial Stability Act of 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 158 Leg.]

### YEAS—57

Akaka	Franken	Mikulski
Baucus	Gillibrand	Murray
Bayh	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Inouye	Pryor
Bingaman	Johnson	Reed
Boxer	Kaufman	Rockefeller
Brown (OH)	Kerry	Sanders
Burris	Klobuchar	Schumer
Byrd	Kohl	Shaheen
Cardin	Landrieu	Snowe
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Dodd	Lincoln	Warner
Dorgan	McCaskey	Webb
Durbin	Menendez	Whitehouse
Feinstein	Merkley	Wyden

### NAYS—42

Alexander	Crapo	LeMieux
Barrasso	DeMint	Lugar
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brown (MA)	Feingold	Murkowski
Brownback	Graham	Reid
Bunning	Grassley	Risch
Burr	Gregg	Roberts
Cantwell	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Voinovich
Cornyn	Kyl	Wicker

### NOT VOTING—1

Specter

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. REID. Madam President, I enter a motion to reconsider the vote.

The PRESIDING OFFICER. The motion to reconsider is entered.

Mr. REID. I ask unanimous consent that the cloture vote on the bill be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FRANKEN). Without objection, it is so ordered.

### AMENDMENT NO. 3883

Mr. DODD. Mr. President, I ask unanimous consent to call up the Snowe amendment No. 3883. It is already pending.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is pending.

Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 3883) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### WALSH NOMINATION

Mr. DORGAN. Mr. President, I will have a unanimous-consent request that has been cleared on both sides. This is a unanimous-consent request about a nomination that has been on the calendar since September 27, which was reported out of the Armed Services Committee by Senators LEVIN and MCCAIN—reported out unanimously—for the promotion of BG Michael J. Walsh.

On October 27, it was determined that the Armed Services Committee agreed with the President for the recommended promotion for the second star for this soldier. It has regrettably been held up; there has been a hold on it since late last year. I have been to the floor several times asking unanimous consent that this nomination for General Walsh be approved.

Our colleague, Senator VITTER, from Louisiana, has been upset with the Corps of Engineers for other reasons and has held this nomination for a period of time now. It has been about 7 months. I have indicated on the floor how unfair I think it is to hold the nomination of a promotion of a soldier who has served this country for 30 years. He has gone to war for this country. I know this soldier. He has done an extraordinary job. On a unanimous vote, the Armed Services Committee decided he should be promoted. But month after month, it has sat on this calendar because of the objection of one Senator.

My understanding is now the Senator has released the hold as of today. I indicated yesterday I would be on the floor today to ask unanimous consent once again. This morning, it is my understanding that the Senator from Louisiana released his hold.

Following yielding to Senator LEVIN, the chairman of the committee that moved this nomination out—and, by the way, who has also been on the floor and asked unanimous consent to move this nomination—if appropriate, I would allow him to say a few words, and then I will ask unanimous consent to move the nomination. I ask unanimous consent that Senator LEVIN be recognized, following which I will move the nomination by consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank the Senator from North Dakota. He has been dogged in his determination to get this nomination before the Senate. It is unconscionable that a military officer in the uniform of the United States, who has put his life on the line for this country, month after month after month, has had his promotion held up by one Senator. It is only one Senator. All the Senators of the Armed Services Committee on both sides wanted to confirm this general. But the rules of the Senate permit one Senator to threaten a filibuster or a so-called hold. In this case, it was an open hold, not a secret hold. He was able to thwart the Senate because we cannot take 2 or 3 or 4 days to take up every nomination of every soldier or civilian because we would get even less done than we do now.

Those are the rules of the Senate. They should not be used this way. We expressed that to Senator VITTER. That hold has been lifted. So a well-qualified soldier is going to be promoted 6 months late by the Senate. We can thank him for his service, but the best way we could have thanked him would have been to have promptly promoted him. Short of that, he knows he has, on a bipartisan basis, the support of the Senate. It is very important to us as an institution that he knows that. He also knows full well the power of one Senator. He should also understand that when it comes to the defense of this country, Republicans and Democrats are going to stand together.

I, again, thank the Senator from North Dakota for his determination. He is kind of the 27th member of the Armed Services Committee, if my memory is correct. I thank the Senator.

Mr. DORGAN. Mr. President, again, Michael Walsh is a good soldier, who served 30 years and has gone to war for this country. The demand that existed and resulted in holding this nomination is a demand that could not be met. He could not possibly do what he was asked to do. He does a good job.

#### EXECUTIVE SESSION

#### NOMINATION OF BRIGADIER GENERAL MICHAEL J. WALSH TO BE MAJOR GENERAL

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 526, the nomination of BG Michael J. Walsh; that the nomination be confirmed; that the motion to reconsider be laid upon the table; that any statements related to the nomination be printed in the RECORD, as if read; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

#### IN THE ARMY

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be major general*

Brigadier General Michael J. Walsh

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

Mr. DORGAN. Mr. President, I thank my colleagues, Senator LEVIN and Senator MCCAIN, and the rest of the Armed Services Committee. I think all of us would say to General Walsh: Congratulations to you. We are sorry it took the time it took. It was unfair. Nonetheless, as of today, you should understand this Senate very much values and respects your duty and dedication to this great country.

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010—Continued

Mr. DORGAN. My understanding is that we would now yield 6 minutes to the Senator from Illinois, after which I have been asked to call for a quorum call.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. BURRIS. Mr. President, I am proud to join my colleagues on the floor of this Chamber today.

Here, in our Nation's Capital, we gather to confront shared challenges. We celebrate our great leaders, and mourn fallen heroes. Here, we carry out the hard work of self-government. We try to make this union a little more perfect every day. It is messy. It is difficult. We make mistakes, and at times we fall short.

In any other country, these flaws and missteps might be fatal—but not in the United States of America. Here, we are defined by our ability to correct injustice to confront problems and move ahead peacefully, with respect for the rule of law even when those problems are great.

Mr. President, much of our history has been written right here in this city. But in some ways, the city itself tells two divergent stories:

More than two centuries ago, the foundation of this country was laid by a group of American patriots, who chose this land for their new Capitol.

They fought—and many died—for principles of freedom and equality. They framed the greatest, most progressive system of government in the history of the world.

And then, in an irony both tragic and unjust, the foundation of this very

building the heart of our democracy was laid by enslaved African Americans.

So, from the very beginning, our Nation has struggled to live up to its highest ideals.

But, in many ways, I believe that is where our greatness truly lies: in our ability to determine our own course, and correct the mistakes of the past.

That is why the American civil rights movement is perhaps one of the greatest periods in our history.

During the 1950s and the 1960s, citizens and activists joined together with lawmakers to overturn policies of hatred and discrimination that created a powerful nonviolent movement for civil rights under the rule of law which brought about one of the most significant social and cultural changes in our Nation's history.

Earlier today, I spoke before the Subcommittee on National Parks, chaired by my friend, the distinguished Senator from Colorado, Mr. UDALL, to advocate for a piece of legislation that is very important to me. I am proud to sponsor the United States Civil Rights Trail Special Resource Study Act, S. 1802, a bill that will help identify and preserve the history of the people and places that defined the civil rights movement. This bill joins a bipartisan companion measure from the House of Representatives, H.R. 685, which passed unanimously last September.

It will honor folks who forever changed the landscape of this Nation. Their stories deserve to be told. In any other country, this kind of progress would have been impossible, but not in America. We have the capacity for sweeping change woven into our very identity, and that is what my bill would recognize, celebrate, and preserve.

This Capitol Building was constructed under slavery. Yet it embodies a system of government that allows subsequent generations to correct this terrible wrong. During the civil rights movement, thanks to ordinary people with extraordinary vision, we witnessed a revolution of values and ideas that changed this Nation forever.

I come to this floor today in celebration of the pioneers who made these changes possible. My bill would direct the Secretary of the Interior to identify the places, the resources, and the themes associated with this movement and consider adding them to the National Trails System. This would include the sites of the famous march in Selma and Montgomery, AL, the Greensboro sit-in, and the Montgomery bus boycotts. We would commemorate these places where peaceful protesters demonstrated for equal rights, and even in some places where violence broke out and lives were lost in the cause of freedom.

My bill would also recognize folks such as the citizens and elected leaders

of Savannah, GA, who were ahead of the rest of the country and took peaceful action to desegregate local communities well before Federal laws were passed.

We need to make sure the next generation learns and does not forget the story of the civil rights movement and the ideals it strove to achieve. That is why this legislation is so important.

This bill, with the companion bill in the House, would highlight this powerful legacy. Yes, these injustices were great and they must never be forgotten, but it would be a mistake to dwell exclusively on the errors of our past. Instead, I believe we should celebrate the progress we have made. We accomplished what many other countries find impossible. We corrected the greatest mistakes of our history. We encountered obstacles and overcame them. We took control of our shared destiny and redefined it.

Our Union remains far from perfect, but challenges persist, and it will be up to future generations to address these challenges. But there is no denying we have come a very long way.

Two centuries ago, my ancestors would not have been allowed in this building except as laborers. Today I stand on the floor of the Senate as a Member of the highest ranking body in this land. That is a powerful affirmation of what this country stands for.

Let's preserve this history and pass it on to the next generation.

I thank Chairman UDALL, Ranking Member BURR, and other members of the Subcommittee on National Parks for allowing me to offer a statement earlier today.

I ask my colleagues to join me in supporting this bill before the full committee and the full Senate so we can send it to the President's desk.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I wish to spend a few minutes talking about our previous vote this evening.

I know many of my colleagues worked hard on regulatory reform legislation, but I also think it is important that we keep our eye on a very critical part of solving this problem. I know many of my colleagues, particularly on the Banking Committee, have had a long history with banking issues and may see things a little differently from the context of the issues they have been dealing with in the committee.

It has been clear to me for a long time that the deregulation of the derivatives market in 2000 led to a very unfortunate situation. Before deregulation, we actually had transparent trades in reporting to the CFTC. We had capital requirements. We had speculation limits. We had antifraud and antimanipulation. We had trader licensing and registration. And we had public exchange trading.

The reason I bring that up is because to me, if the derivative crisis brought on basically a world economic implosion, then the principles of this underlying bill ought to adhere to the principles that have been laid out by the White House and others on what would help us fix this problem.

We know it was deregulated, and we know these things were eliminated. But I take the Treasury Secretary at his word when he wrote earlier this year:

To contain systemic risks, the CEA and the securities laws should be amended to require clearing of all standardized derivatives through regulated central counterparties.

The reason I bring that up is because the underlying bill before us—even though the Agriculture Committee corrected this—the language coming from the Banking Committee created a loophole and basically says that if you go to a clearinghouse and they say you do not need to be cleared, don't worry about it, you don't need to be cleared.

It should be no surprise to anybody that the swaps dealers are the people who own the clearinghouses. In that context, a fundamental tenet of derivative regulatory reform, exchange trading, clearing, aggregate position limits, and transparency, one of those pillars is missing from this bill.

Look at what happened because of this deregulation in 1999. There was less than \$100 billion in the derivatives market, and today we are at a \$600 trillion derivatives market—\$600 trillion. Before deregulation it was a very small amount of money, and now we have this incredible market.

The question is whether we are going to regulate it to have the basic tenets of true competition, which means there is some oversight and some transparency to make sure that there are not manipulative devices or contrivances in this legislation.

The good news is we have tried to say that of these principal tenets of exchange trading, we have to have transparency, real-time monitoring—all these things should be in there. But you also have to have capital behind the trades. That means we have to have a clearinghouse to make sure this type of activity is being cleared.

There were many times before the Senate Finance Committee where the Treasury Secretary said:

I'm fully supportive of moving the standard part of those markets onto central clearinghouses and exchanges . . . We want to make sure that the standardized part of those markets moves into central clearinghouses and onto exchanges as quickly as possible . . .

That was in January.

We had another time where the administration said:

. . . we need to establish a comprehensive framework of oversight, protections and disclosure for the OTC derivatives market, moving the standardized parts of those markets to central clearinghouses, and encouraging further use of exchange-traded instruments.

That was in March.

I don't know why we are still having this debate as to whether we are going to have clearing of these derivatives. To me it is critical.

I know there are other good parts of this legislation about which people care deeply. But if we have this \$600 trillion market and we are not truly going to have exchange trading and clearing and aggregate position limits across all exchanges, we are not going to rein in the derivatives problem. We are not.

I hope my colleagues will take these words from the Treasury Secretary and from the White House and hopefully get a piece of legislation on this floor that will take care of this clearing-house loophole.

I know my colleagues think we can talk about building a dam against this wall of dark derivatives. But even something such as Hoover Dam, with all the great concrete and all the great engineering and all the great things that make that structure work, still has a problem if somebody drills a hole in the bottom of it. Over time, that is where all the water will flow, and that is where this derivative market is, too. If we do not have a regime of exchange trading and clearing, we will have money seeping into a continuation of a dark market.

Would I like other amendments, would I like a vote on an amendment by my colleague from Arizona and me that is the reinstatement of Glass-Steagall? Sure, I would. Sure, I would like to have many other amendments that my colleagues have been talking about, and hopefully they will get votes on them, whether it is Merkley-Levin or other pieces of legislation people have been offering. But this issue is a fundamental one. We will not have reform if we do not have exchange trading and clearing, if we do not bring derivatives onto the same kind of mechanisms we have for other products in the financial markets. If we do not do that, then I don't know what we are doing out here in the context of what brought us to this crisis.

Trading of dark market derivatives is what has brought this challenge to our U.S. economy. Let's bring some transparency into that market. Let's adhere to these words and actually implement this so we can move on with this legislation.

I yield the floor.

Mr. SHELBY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, what is the order of business before the Senate?

The PRESIDING OFFICER. The Merkley amendment is pending.

Mr. DURBIN. Mr. President, I stand in support of the Merkley amendment. This is an effort by JEFF MERKLEY of Oregon and CARL LEVIN of Michigan to try to strengthen the bill that is before us on Wall Street reform; to try to minimize the types of investments made by banks which could, in fact, jeopardize those government institutions that guarantee the deposits at banks because some bankers make bad decisions and bad investments. What Senator MERKLEY is trying to do is to reduce that likelihood, which means banks are less likely to fail and taxpayers are less likely to be holding the bag.

Senator LEVIN of Michigan, you will remember, 3 or 4 weeks ago held a historic hearing with Goldman Sachs representatives, including Mr. Lloyd Blankfein, their CEO, to discuss some of their practices. Those of us who know Senator LEVIN know he is a very studious and thoughtful individual and he doesn't take on complex issues lightly. He spent months in preparation for that hearing, and coincidentally it came up just as we began the debate here on Wall Street reform. It was quite a hearing. It went on for many hours because there was an effort by the witnesses to avoid answering questions, so the committee decided they would keep the witnesses there until the questions were answered. As a result, they stayed into the night. At the end of the day, I think people had a better understanding of some of the practices at Goldman Sachs, one of the largest financial institutions on Wall Street. I think they also may have had some second thoughts about some of the standards being used by that firm and others.

We know Goldman Sachs is currently being investigated by the government for alleged wrongdoing when it comes to the sale of investment products. It turns out, as best I understand it, that this Wall Street firm of Goldman Sachs was selling investments to individuals and then basically betting they would fail—with their own money. It strikes me as a complete abdication of any financial or fiduciary responsibility, to put their customers in that kind of compromised position. It is interesting that I have had a conversation with people in other firms on Wall Street who think this is routine and not extraordinary. That makes it all the more troubling.

The Levin portion of the Merkley-Levin amendment addresses this issue about the ethical considerations of these companies that, in fact, are selling products to their customers and then turning around and secretly, quietly betting with their own investments that those products will fail.

So that sort of thing should be addressed in this bill. The Merkley-Levin

amendment is an amendment which would have been considered regardless of whether today's cloture motion had passed.

For those who do not follow the Senate, the cloture motion is an attempt to at least bring a close to the beginning of a debate and start to wind down the debate toward a vote. So we had a vote today. We needed 60 votes in the Senate out of 100 Members to vote in favor of the cloture vote.

After 4 weeks on the floor of the Senate on this Wall Street reform bill, the majority leader and many of us felt we had reached a point where we needed to start winding this bill down and bring it to a final vote. Well, we needed 60 votes to do it. There are 59 Democratic Senators here when all are present and accounted for. One of our Senators, Mr. SPECTER of Pennsylvania, was not here today, and as a consequence we found ourselves needing help from the other side of the aisle.

We needed at least one—it turns out three—Republican vote in order to move forward and to bring this bill to a vote. At the end of the day, we did not have them. We fell one vote short. We had two Republican Senators who crossed the aisle and voted with us—that would be the two Senators from Maine, SUSAN COLLINS and OLYMPIA SNOWE—and no other Republicans who would join us in trying to bring this bill to a close with some closing amendments and a vote.

If you followed the debate on this bill, it is no surprise that the Republicans are reluctant to be part of Wall Street reform. When the debate started, it started with three—not one but three—straight filibuster votes. Those were efforts by the Republicans to stop us from even bringing this issue and subject to the floor of the Senate. Many of us felt this discussion and debate over this bill was long overdue. We know this recession has cost us dearly in the United States. We know it extracted \$17 trillion out of the American economy.

We felt it personally. You felt it in your savings account, your IRA, your retirement account. You saw it when the business down the street started to lay off its employees and another one closed. You noticed the home across the street going into foreclosure.

You heard all the stories about unemployed people, maybe some in your own family. So we knew what this recession meant and what it cost us, \$17 trillion. What we are trying to do with this Wall Street reform bill is to change the way they do business on Wall Street so we never face another recession such as the one we are in, brought on by the greed and stupidity of the so-called banking experts on Wall Street.

We know what happened. Wall Street got away with murder for years, and taxpayers ended up holding the bag.

Hundreds of billions of dollars out of the Treasury, out of the wallets of families across America in terms of tax payments, that ultimately found their way to Wall Street to rescue the failing businesses there.

Why were they failing? Well, try reading "The Big Short" by Michael Lewis, one of the most popular books now in America. Mr. LEWIS was in my office today. He has written a number of books, and he is pretty good at it. He talked about his experience sitting down with people who were insiders on Wall Street who were describing what went on literally for years.

What you think is that when you get to the top, you will find the smartest people. I guess that is possible and likely. But in this case, when you got to the top, you found some of the dumbest people who were involved in constructing investment ideas that were fundamentally flawed, taking failing mortgages across the United States and packaging them together and then trying to sell them locally and globally and watching the bottom eventually fall out.

Lewis wrote this in this his book, "The Big Short." Many of us have read it. He and I had a chance to talk about it today. But it was that kind of conduct that led to this recession that cost us all these jobs, that wrecked the savings accounts of American families, that has set us back on our heels, and we are finally coming out of it slowly. But it has cost us dearly as a nation.

We are trying to change the way Wall Street does business so we never have to face a recession such as this again. The Republicans in the Senate, with only a few exceptions, have resisted our efforts to pass this bill.

First, with three straight filibusters to stop us from bringing the Wall Street reform bill to the floor, three efforts to stop us from even debating the bill, then 4 weeks of debate on the floor of the Senate, and I will tell you, that is rare. I have been around here for a few years. It is very rare that you would spend 4 weeks on one bill. Well, this is our fourth week on this bill.

During that time, Senator DODD, the chairman of the Senate Banking Committee, has been working with Senator SHELBY, the ranking Republican from Alabama, who is on the floor, and they have been going back and forth with amendments.

I think Senator DODD said today almost 60 amendments have been considered, pretty close. A lot of different ideas have come to the floor back and forth. Some Democratic amendments have been considered and failed, some passed. Some Republican amendments were considered and failed. There were bipartisan rollcalls. It has been a real Senate debate.

It feels good. It does not happen enough around here. This so-called deliberative body spends a lot of time,

such as at this moment, where nothing is going on, on the floor except some profound speeches by the Members. What we have tried to do, during the course of this debate, is give everybody a chance to bring out their point of view. Points of view are much different. That is OK. That is why we are here. We are supposed to debate these things and vote on them.

I had an amendment last week, one that I have been working on for literally 3 years or more, that deals with the credit card companies' charges to merchants and retailers. When a customer uses a credit card, they not only get credit to buy a meal, for example, that restaurant has to pay a percentage of the bill, the cost of the meal, back to the credit card company. This interchange fee has become unfair to small businesses.

Well, after working at it for more than a week, we finally had the amendment called 6 days ago, and it was enacted, passed by the Senate, with a vote of 64 to 33, 17 Republicans joined me. So it was a good bipartisan amendment. It was a surprise to many because the credit card companies and the banks that support them are very powerful. In this case, they came up short. The retailers, the merchants, the convenience stores, the gas stations, the restaurants, grocery stores all across America finally prevailed in this long battle against the credit card companies.

But that was the best of the Senate, I thought, and of course I am partial because my amendment passed. But it was the best of the Senate because it was a real debate and a real vote and an outcome which was bipartisan.

We felt this was a good time, in the course of the debate, to start winding it down and come down to a handful of amendments, vote on them, and then vote for final passage so we can conference this bill, work it out with the House, send to it the President to be signed into law. But we could not get the votes.

The Republicans, but for two Senators, refused to give us the votes to end this part of the debate and bring this bill to a final vote. It is frustrating. I do not know that they can argue that we have been unfair. We have given pretty wide berth to the Republican side to offer the amendments they wanted to offer. They have offered quite a few, and we have, too, on our side of the aisle.

So I do not think you can argue that we should not stop debate over fairness in the course of the debate. They might be arguing they do not want a bill at all. That is possible. First, they filibustered to stop us from bringing the bill to the floor. Now they are basically filibustering to stop us from ending the debate on the bill and bring it to a final vote.

I only know of several groups across the country that want to stop the de-

bate on this bill: Wall Street, the biggest credit card companies, and the biggest banks. They want to stop this bill. They want to kill it. They have spent a fortune on lobbyists, roaming around our offices on Capitol Hill, to try to convince Members to stop this Wall Street reform bill.

Well, they at least were successful today. They convinced all but two Republican Senators to come to their side of the issue and to stop this debate on Wall Street reform. That is unfortunate because I think the American people expect us to get something done. They expect us to hold Wall Street accountable, to make sure the reckless gambling by Wall Street institutions that led to the loss of more than 8 million American jobs comes to an end.

They want to end taxpayer bailouts once and for all. They do not ever want to hear the word "TARP" again, unless it is something you can put over the top of your station wagon. They certainly do not want us in a situation where we are coming up with hundreds of billions of dollars to bail out these banks. Thanks to an amendment by Senator BARBARA BOXER of California, one of the first, we made it clear that we are prohibiting any future bank bailouts under this bill. Senator BOXER was a real leader on that issue.

I think most Americans believe we need to have an agency that is going to be here in Washington which will administer the strongest consumer financial protection law in the history of the United States, a law that will empower consumers when they go through a real estate closing or sign a credit card agreement or sit down next to their son or daughter to sign the student loan forms or take out a loan for a car, knowing they are not going to be cheated and treated poorly.

This agency is there to empower consumers so they are not, in fact, swindled out of their life savings and are not brought into legal deals which are totally unfair. We want to bring sunlight and transparency to shadowy markets. Some of the things we voted on will move us in that direction, to start eliminating some of the trading that has gone on that is an outrage.

I do not think business as usual is the right way to go. But the Republican votes today, all but two Republican Senators voted to continue business as usual on Wall Street. They do not want this bill to pass. So they voted that way today. At the end of the day, 39 out of 41 Republican Senators voted for the status quo, keep things as they are on Wall Street.

In addition, of course, we understand that Wall Street is powerful. When my amendment came up on interchange fees, the banks warned Senators: If you vote for the Durbin amendment, we are not going to support you; that is, contribute, in the next election campaign. That was on the front page of the New

York Times last Saturday. It is the most bald-faced admission I have ever seen by special interest groups that they are putting the pressure on Members who vote for Wall Street reform.

So I say to my colleagues: They may have won today and kept the banks happy. But, ultimately, it is more than the bankers who will be voting in November. It is people all across America who are angry at what happened on Wall Street and do not want it to happen again. They are going to remember the Senators who voted with Wall Street and those who voted for reform, and today we have a rollcall that indicates it.

We have to make sure we make the changes that make the difference across America. Some of the things that have happened here are pretty graphic. Paul Krugman, a writer from the New York Times, wrote a few weeks ago:

The main moral you should draw from the charges against Goldman, though, doesn't involve the fine print of reform; it involves the urgent need to change Wall Street. Listening to financial industry lobbyists and the Republican politicians who have been huddling with them, you'd think that everything will be fine as long as the federal government promises not to do any more bailouts. But that's totally wrong—and not just because no such promise would be credible.

For the fact is that much of the financial industry has become a racket—a game in which a handful of people are lavishly paid to mislead and exploit consumers and investors. And if we don't lower the boom on those practices, the racket will just go on.

That is why this vote today was so critically important. Those who want to stick with the status quo, who want to reward the special interests, who want to load up this bill with lobbyists' loopholes, prevailed today on this vote today by one vote on the floor of the Senate. There will be another vote tomorrow and maybe the day after too. The question is, Will any other Republicans, aside from the two Senators from Maine, break ranks and join the Democrats for Wall Street reform?

This is a once-in-a-political-lifetime opportunity. If they want to stand with the special interests and Wall Street to stop this reform, they will certainly have to answer for it when the time comes and they face the voters.

This attempt we are making to change the rules on Wall Street is an attempt to empower the people of this country to help them make the right decisions personally and to make certain that they do not end up losing their savings and their homes and their jobs because of the greed and selfishness of those on Wall Street.

I can remember many years ago on the floor of the Senate, when I was a brand new Senator, way in the back row there, and offered an amendment to a bankruptcy bill. The amendment said: If you are a predatory lender; that is, if you violated the laws of America in the loans that you are making, such

as mortgages, you cannot then turn around in bankruptcy court and recover from the debtor who has been the victim of your predatory lending practices.

I was arguing on the floor with Senator Phil Gramm of Texas, who was here arguing against my amendment. He was high ranking on the Senate Banking Committee. He said: If the Durbin amendment passes, it is going to kill the subprime mortgage market in America. Well, I lost by one vote. If my amendment had prevailed, who knows, history might have been a little different. That is why one vote makes a difference.

Today, we needed one more Republican Senator to vote for Wall Street reform. We had two. We needed one more. I understand two of our Democratic Senators withheld their votes because they want this bill to be stronger. I hope they will come around. I hope they will vote with us. But at the end of the day, we only had two Republican Senators who stepped up and said they favored Wall Street reform.

Well, I lost my amendment by one vote that might have changed a little bit of financial history if it had passed. Today, we lost by one vote when it came to Wall Street reform.

We are not going to quit. President Obama is committed to it. Democrats in the Senate are committed to it. Democrats in the House already passed their bill. We need to get this done. It is time to stop the obstructionism. It is time to stop the stonewalling. It is time to bring this to a close with a handful of amendments on both sides of the aisle. Let's have an up-or-down vote, and let's get on with it. Let's pass this bill.

On final passage, a number of Republicans who have been holding back and would not support this bill may have second thoughts. They may decide they don't want to be found on the wrong side of history again; that it isn't worth standing up with the special interest groups or Wall Street lobbyists when America is crying for basic reform and accountability.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I appreciate the distinguished majority whip. I voted with him last week on the interchange fees on debit cards. I thought it was a good amendment. But I have to take issue. Don't generically accuse those of us in this body of stonewalling a bill or more or less being interested in looking out for Wall Street or anybody else.

A little history lesson is due. First, what brought us into this recession was the subprime market, which the distinguished Senator mentioned, and the housing market. It happened because Members of this body and the body down the way, 13 years ago, began to

direct Fannie Mae and Freddie Mac to include in their portfolios a portion of affordable housing loans which were the words for what became subprime loans.

Freddie Mac and Fannie Mae created the market that allowed Wall Street to go find capital and collect that capital, put a high premium on the capital, high interest rate, maybe 200 basis points over the going rate, but then make it a higher credit risk to lenders because that is the way credit works. What happened is, those loans became popular, and because of a government-sponsored entity that began the consumption of those loans, they proliferated. Those securities were sold around the world. When they collapsed, and we went all through that, it was a terrible collapse. But the root of this problem is that Freddie Mac and Fannie Mae were under the direction of the Congress as to what they should do in terms of the securities they owned. I am saying the Congress of the United States, not pointing fingers at any particular party.

With that being true—and I don't think anybody can dispute it—we have a financial reform bill before us that exempts Freddie Mac and Fannie Mae from reform. That doesn't make any sense. If you listen to the arguments to why they weren't there, it is because it was too hard.

These are hard times. Americans are having hard times. It is time we did the hard things. It is time we not try and politically label Members as friends of Wall Street or friends of Main Street. We are all Americans. It is our economy. It is not just part of the economy. I take issue with the labeling that takes place sometimes. Let's talk about the facts that are there, one way or another. Let's let the facts determine what we do.

I didn't vote for cloture because I don't think it is right to leave Freddie Mac and Fannie Mae outside the equation and incorporate every other business on Main Street and on Wall Street to the extent we have. It is right for us to take some of the blame in the Congress. A lot of this wouldn't have happened had we not directed the government-sponsored entities with which we had influence, and the implied full faith and credit of the taxpayers would be the consumers that would create the liquidity for subprime loans.

My only statement to the majority whip is this: I understand facts. The facts are that Freddie Mac and Fannie Mae started this. They are exempt from this piece of legislation. I, for one, take issue with that. We cannot reform and address the concerns that happened if we don't address the root of the problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.



Mr. DURBIN. Mr. President, at the risk of a real debate, I invite the Senator from Georgia to stay, if he would, for a moment so we can engage.

Mr. ISAKSON. I am happy to.

Mr. DURBIN. I have the highest respect for the Senator from Georgia personally, and I thank him for his support on my interchange amendment. We have worked on many other issues, and we will in the future. I will concede what he pointed to as a fundamental flaw, a mistake that was made. There was a presumption made that owning a home was such a valuable American ideal—and I know your background; you certainly agree with that—but we went too far. We extended the opportunity for home ownership to people who were not ready. We believed if we pushed them to the limit of how much they could pay, the home would appreciate in value, their incomes would go up, and everything would work out. It turned out that gamble was wrong for some people. Certainly, Fannie Mae and Freddie Mac, as the ultimate guarantors of mortgages, were part of that. There is a government element here. I don't question that for a moment. Certainly some blame lies there.

Blame lies with those people who overextended, bought more than they could afford. They may have been misled into it, but the fact is, they did it. They made mistakes.

Having said that, though, there were a lot of people involved in financial institutions which led them into this, misled them into this. No-doc closings, where people didn't have to present a document proving the amount of income they had, basically telling people: We will give you a mortgage where it is; you will be paying just interest for a few years, and everything will be just fine.

These mortgages where the interest rates would explode in the outyears, and people would not be able to pay, there was a lot of things that went wrong there. But I hope the Senator from Georgia will agree that behind this bill is the notion that some things happened on Wall Street which were outrageous. The fact that we ended up coming up with somewhere in the range of \$700 or \$800 billion to save most Wall Street institutions is an indication that things were out of hand on Wall Street, that we never want to return to that again.

I will concede to the Senator from Georgia his premise. Do we need to reform Fannie Mae and Freddie Mac? Yes, we do. If we don't, we will pay dearly for it. I don't know if we can accomplish it in this bill, accomplish it at this moment, but it literally has to be done. I have never quarreled with that premise in the debate, nor do I question his starting point that this was part of the problem that led to where we are today.

It is always the best is the enemy of the good around here. We have a good

Wall Street reform bill that moves in the right direction to avoid some of the abuses there. To argue that it doesn't include Fannie Mae and Freddie Mac and therefore we can't support it, perhaps we just have a different point of view. I think this is a valuable thing to do to move forward. I will concede his point. He is right in what he said.

Mr. ISAKSON. Will the Senator yield?

Mr. DURBIN. Yes.

Mr. ISAKSON. I appreciate his comment. That was my point. When I was listening to the Senator's speech, I got a little irritated. Then I realized I have probably done the same thing before too. I leaped over some facts that belong in the debate. The fact that the Congress directed Freddie and Fannie to own a percentage of their portfolio in subprime loans was the source of the capital that bought the first securities that created the subprime securities. I do not argue that there are not good things in this bill.

In fact, when the Senator was referring to the liar loans, it was the Isakson-Landrieu amendment that we successfully added to this bill that defined that a qualified loan is to be exempt from risk potential because it requires income verification, requires an employer statement that the employee is hired, and it requires an income ratio that is sufficient to retire debt that is borrowed. I agree with the Senator.

My point was that when all of us make these remarks of what bills are and they are not, we ought to include all of the facts that are in there, not just a select few. I appreciate the Senator's comments. I was proud to be a part of his amendment.

Mr. DURBIN. I thank my colleague from Georgia. It depends on one's perspective. The amendment he just described that he added to the bill is a valuable part of this bill. It wasn't there originally. It is now. I am glad it is. I am happy to support it. That is what we are trying to do today, to move its passage so it becomes the law of the land. But because we fell short by only two Republican votes coming forward today, we can't move forward.

If the position of the Senator is we should not pass his amendment or this underlying bill until we reform Fannie Mae and Freddie Mac, I am with him in terms of the reformation. I don't believe it is reasonable to require this bill to do everything that needs to be done. That is my only difference with the Senator from Georgia.

Mr. ISAKSON. The Senator and I might differ on points, but I defer to the Senator. I wish I had the control to control votes, but I don't. There were two on his side and two on ours. There are people with higher pay grades who were responsible for that. I wanted to make the point about what is, to me, a serious issue with regard to the bill and something that should be considered in the debate.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I don't mean to jump into these things, but I wanted to make a couple comments. First, no one knows real estate like JOHNNY ISAKSON. I have had the privilege of working with the Senator from Georgia over the last year or so on a couple of proposals, one of which I think made a big difference. That was the \$8,000 tax credit for home buyers to go out and encourage home purchases and sales. It has proven to be pretty worthwhile. I haven't seen the latest data. My friend is far more familiar than I. But, clearly, for most Americans, home ownership is the single largest and most important acquisition they ever have. It is the greatest wealth creator for most Americans.

As the Senator from Illinois points out, that additional trajectory is where we increased this, and people used that equity to help with retirement and student loans, a variety of things they need as a family.

As my friend from New Hampshire pointed out the other day, there is a history here. I acknowledge that we in Congress have failed in this responsibility, actually going back to around 2003. The Senator from Alabama can correct me. There were various attempts. A good friend of ours, the former chairman of the House Financial Services Committee, Mike Oxley, a Republican, offered one as chairman. They actually got one done.

It was a bipartisan bill in the House on Fannie and Freddie in 2005. It then came to the Senate, and things got bogged down over here. There were attempts, including the former chairman from Alabama, who offered a proposal. Senator Sarbanes did. It went back and forth. We didn't get the job done.

It is important to remember during times such as this, when we are not hesitant to point an accusing finger at other institutions for having helped create this problem, we in Congress collectively did not get the job done with Fannie and Freddie. I join with my colleague from Illinois, it is important we acknowledge that if we are going to be accusing other institutions for malfeasance or misfeasance. In this case, we should have done a better job.

Here is the problem. As the Senator from New Hampshire pointed out—I am quoting him—this issue was “too complex” for this bill. The reason is, we don't know what to replace it with at this point. There are a number of ideas floating around because all of us recognize we need to have a housing financing system in place. In the absence of having any in place, around 97 percent of all home mortgages are backed by the Federal Government today. If we pull that rug out at this particular juncture, I don't know what the implications would be. I think they would be pretty profound.

We are caught in this quandary, acknowledging the need to reform and replace Fannie and Freddie, the present structure, but doing so without replacing it with something could pose serious problems in the very area the Senator from Georgia is so knowledgeable in; that is, how do we continue to promote home ownership.

What we did—and I would be the first to admit it, being the author of the provision—is fairly anemic in light of what we need to be doing. We have said we are mandating that there be a study completed with options presented within 6 months. The President of the United States I have heard say on one occasion, maybe more, this is a top priority come next January for him and this Congress to grapple with.

Again, there is nothing there that absolutely requires it, but it will be essential that we come up with options.

I recall the previous Secretary of the Treasury advocating for a public utility concept to replace Fannie and Freddie. I would be the last one to tell others whether that is a good idea or a bad one. But it is one option. Clearly, we have conflicting goals—one of home ownership, which is the very one we all support, combined with the goal of satisfying shareholder interests. What happened is, shareholder interests trumped in a sense the kind of manageable, sensible policy that would promote home ownership at the expense of returning investments for shareholders. That is also a laudable goal. But to have the same entity have the two missions, one for home ownership, one for a return on investment, they collided with each other. We have ended up in the situation we are in without a great answer—yet—as to how to replace it.

The point I guess I am making is, I totally agree with the Senator's premise. The question is, as chairman of this committee, how do we fix this thing at this point? And I have never suggested with this bill we were dealing with every financial problem in the country. It would be an impossible task for us to take that on.

So all I can say to the Senator, as someone who will not be here next January, is, I hope whoever sits at this desk—or at this desk, across from my good friend from Alabama chairing the committee—that this will be a priority of our Banking Committee. I cannot dictate that. I cannot even bind the next Congress constitutionally with anything we require here. But my fervent hope would be—I cannot think of a more important priority for the Banking Committee of the Senate than to have the reform of Fannie and Freddie because I think we are going to be in deeper and deeper trouble both financially and in terms of home ownership if we do not. So whatever else happens here in the next few days with regard to this bill, I want to thank my

friend from Georgia for his continuing commitment to the issue and to say that I associate myself with his concerns. I would also plead that failure to deal with that issue in this bill ought not to be justification for walking away from all the other good things we are trying to accomplish in this legislation.

I thank the Senator for hanging around and listening to this filibuster.

Mr. ISAKSON. Mr. President, will the Senator yield for one comment?

Mr. DODD. I am happy to yield to my friend.

Mr. ISAKSON. First of all, my comments were directed specifically to the speech of the Senator from Illinois.

Mr. DODD. I did not hear it. I apologize.

Mr. ISAKSON. They were not a criticism of the chairman, first of all. I think the ranking member would certainly agree with that.

Second of all, there is some good news that was received today, thanks to the Senator's help, because I could not have done it if it were not for him. We had the tax credit we extended and ultimately passed, which terminated April 30. As to the numbers from the most recent month: the average sales price in the 20 top markets in America, for the first time in 36 months, went up by six-tenths of 1 percent. So the distinguished chairman deserves a lot of credit for that contribution as well.

I was just making sure there was a voice over here that reminded everybody of what got us in this to begin with in the context of the speech of the Senator from Illinois. It was never a criticism of the chairman of the committee.

Mr. DODD. I thank my friend from Georgia.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 3746, AS MODIFIED

Mr. ISAKSON. Mr. President, I understand the body may, in a little bit, take up the Whitehouse amendment, and out of an abundance of caution, to be sure my statement is in the RECORD, I want to speak to that amendment for a second.

I have the greatest respect for the Senator from Rhode Island, Mr. WHITEHOUSE, and all of his work. But the amendment he has proposed basically says that the usury rate to apply to any loan shall be the usury rate in the State, which will take us back to a period of time post 1982 or 1983, when interest rates went to 16 and three-quarters percent. And because usury rates

in the United States were 8, 9, or 10 percent in most of the States, there was no money. Usury rates are the maximum ceiling that a loan can do.

Now we have South Dakota and Delaware where there are no usury rates. Most banks are chartered there and, therefore, interest rates on loans are negotiable and competitive. There are a lot of people in public life who think: Well, if you put a ceiling on interest rates, you are guaranteeing the consumer that they are not going to pay a high rate. What you are usually guaranteeing the consumer is, they are going to pay a fixed rate, which is whatever the government says is the usury rate. Floors set by government become ceilings, and ceilings by government become rates.

So I want to caution the body, in considering the Whitehouse amendment, to be very careful what you ask for. Because what you will do is you will put an end to credit in the housing business and in many other types of instruments in the United States, and you will have 50 different usury regimens in 50 different States. You will create a fixed-rate environment by the government, not by competition. What effectively happens is a rise in the cost of credit, a rise in the cost to the consumer, and in the end what I am sure is intended to be beneficial to the consumer will, in fact, cost the consumer more money and be disastrous to the expansion of credit in a time where there is very little credit as it is.

I would respectfully ask the body to consider what we went through in the mid-1980s and early 1980s with interest rates. We hope they will not go up again, but if they do, credit is more important than no credit at all, and usury rates can assure you have no credit at all and end up having the unintended consequence of having a negative impact on the economy.

I would oppose the Whitehouse amendment, should it come up tonight, and I hope the Members of the body will consider the history lesson from the early 1980s.

Mr. President, I yield back and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 3746, AS FURTHER MODIFIED

Mr. DODD. Mr. President, I ask unanimous consent that the Senate now resume consideration of the Whitehouse amendment No. 3746 and that the amendment be further modified with the changes at the desk; that it also be in order for the Ensign amendment to be considered; that they be debated for a total of 10 minutes, with time equally

divided and controlled between Senators WHITEHOUSE and ENSIGN or their designees; that upon the use or yielding back of time, the Senate proceed to vote in relation to the Whitehouse amendment, to be followed by a vote in relation to the Ensign amendment; that each of these amendments be subject to an affirmative 60-vote threshold; that if they achieve that threshold, then they be agreed to and the motion to reconsider be laid upon the table; that if they do not achieve that threshold, then they be withdrawn; further, that prior to the second vote, there be 4 minutes of debate, divided as specified above, and the second vote be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as further modified, is as follows:

On page 1325 between lines 20 and 21 insert the following:

“(g) TRANSPARENCY OF OCC PREEMPTION DETERMINATIONS.—The Comptroller of the Currency shall publish and update not less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:

“Sec. 5136C. State law preemption standards for national banks and subsidiaries clarified.”.

(c) USURIOUS LENDERS.—Section 5197 of the Revised Statutes of the United States (12 U.S.C. 85) is amended—

(1) by striking “Any association” and inserting the following:

“(a) IN GENERAL.—Any association”; and

(2) by adding at the end the following:

“(b) LIMITS ON ANNUAL PERCENTAGES RATES.—Effective 12 months after the date of enactment of this subsection, the interest applicable to any consumer credit transaction, as that term is defined in section 103 of the Truth in Lending Act (other than a transaction that is secured by real property), including any fees, points, or time-price differential associated with such a transaction, may not exceed the maximum permitted by any law of the State in which the consumer resides. Nothing in this section may be construed to preempt an otherwise applicable provision of State law governing the interest in connection with a consumer credit transaction that is secured by real property.”.

Mr. DODD. Mr. President, I further ask unanimous consent that there be no further amendments to those amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Further, Mr. President, I ask unanimous consent that it be in order for the Cantwell amendment No. 4086 to be called up for consideration.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I object.

The PRESIDING OFFICER. Objection is heard.

The Whitehouse amendment is now the pending question.

The Senator from Connecticut.

Mr. DODD. Mr. President, I commend the Senator from Rhode Island for his passionate and persistent advocacy for his amendment. He has been extremely eloquent.

However, I have to oppose the Senator's amendment. I do it with some reluctance.

Nobody has been more concerned about credit card abuses in this body than I have.

We passed strong, new legislation to address many of these abuses just last year, and the Federal Reserve has written regulations to implement these protections.

In addition, the Wall Street Reform Act includes a strong new consumer financial protection bureau that will, for the first time, create an independent entity devoted to empowering consumers with clear, transparent, easy-to-understand disclosures so that they can make smart financial decisions for themselves.

This bureau will help achieve the goals that Senator WHITEHOUSE hopes to accomplish with his amendment, though it will not be done in exactly the way he seeks to do it.

By creating better disclosures, by eliminating confusing fine print, the consumer bureau will help consumers become better shoppers. This will help drive down credit card interest rates.

In addition, as Senator WHITEHOUSE knows, the Wall Street Reform Act will use States as partners in enforcing new rules under the consumer title. This will put additional cops on the beat to make sure American families are not lured into buying unfair, deceptive, or abusive financial products.

In sum, the underlying legislation would be a giant leap forward for consumer protection.

But as I have said earlier, I reluctantly oppose Senator WHITEHOUSE's amendment. One of the reasons is that this amendment does not actually address the problems that it is supposed to solve. It would only stop national banks from exporting interest rates. Out-of-state savings associations and state-chartered banks can still charge a higher interest rate. So it does not restore the states ability to enforce interest rate caps against all out-of-state lenders. And it does not level the playing field for local lenders as intended.

I believe that the Wall Street Reform Act represents an important step forward for consumer protection. If, indeed, the Whitehouse amendment is even the right thing to do, we should not make the perfect the enemy of the very good.

Finally, let me say that the abuses of which Senator WHITEHOUSE speaks are very real. The interest rates so many of these banks charge are outrageous. However, it is a complex issue that will not be solved in this debate.

I urge my colleagues, let's pass the Wall Street reform bill into law, so the consumer bureau can start doing its work and start helping the American people make smart financial choices.

Mr. President, I have great respect for our colleague. He has worked hard on this amendment. He has been trying to get attention over the past 2 weeks, probably as much as anyone in this Chamber, and he is anxious to be heard. So I am grateful to my colleagues for giving him the opportunity to have this debate on a legitimate issue; that is, interest rates. All of us, of course, hear from our constituents about the rising and higher cost of interest rates.

This amendment takes an approach that would, in effect, repeal the so-called Marquette decision reached a number of years ago that allowed for interest rates to basically be determined by the home State of a corporation. That the corporation actually does business in other States is not terribly relevant to whatever the rates would be, but whatever the rate is in the State where their corporate headquarters is domiciled is what would determine that. I may not be stating that quite as eloquently as the author of the amendment will, but it is words to that effect. I am getting tired after days of describing these.

While I respect the effort here, there are some problems associated with this, in my view, so I will vote against the Whitehouse amendment. But, again, I respect my colleague's proposal. I respect the efforts he has made and believe there is legitimacy to the issue. I am not sure, however, the approach is the correct one to pursue.

With that, I see my colleague and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. I thank the chairman. I guess as the old song goes, what a long, strange trip it has been to get to this vote. But I appreciate very much the chairman's efforts and the ranking member's efforts that have allowed this vote.

I thank the cosponsors who have helped me work so hard on this legislation: Senators COCHRAN, MERKLEY, DURBIN, SANDERS, LEVIN, BURRIS, FRANKEN, BROWN of Ohio, MENENDEZ, Chairman LEAHY, Senators WEBB, CASEY, WYDEN, my distinguished senior colleague from Rhode Island, JACK REED, Senator UDALL of New Mexico, and Senator BEGICH, who is now Presiding.

I am very proud of that support and very proud of the support of over 200 consumer groups for this legislation, including AARP, Consumers Union, National Consumer Law Center, Public Citizen, and Common Cause. That is a blue ribbon group of consumer supporters, and it is just the tip of the iceberg of a large organizational push to

correct an inequity in American society that arises out of an inadvertent loophole that the Supreme Court created 30 years ago.

This vote presents all of my colleagues a clear, stark choice. Whose side you are on will be defined by your vote on this amendment. If you are on the side of the big out-of-State banks that are marketing into your home State and that are forcing your home State citizens to pay 30 percent and over interest rates even though those interest rates might be illegal under your home State laws, then you will cast your vote against this amendment and in favor of those big out-of-State banks charging that exorbitant interest. If you support it, you are taking the side of your home State citizens who are being gouged right now by banks over which they have no control because they are pitching their business into the home State from elsewhere and the home State laws, because of this peculiar Supreme Court loophole, have been held not to apply. If you vote in favor of this amendment, you are voting in favor of your home State's laws.

This is not a reach of Federal authority. This is traditional federalism and States rights to honor the laws of the States whose citizens sent us here and who wish to protect them from abusive interest rates.

If you vote in favor of this amendment, you are also voting in favor of your community banks, your local State-chartered banks, which don't take advantage of this loophole, which don't create their headquarters in a faraway State that gives them zero consumer protection restriction and allows them to target their marketing against the laws of the home State. The home State banks have to play by the laws of the home State, and this would level the field for your home State banks.

So it is a pretty clear and stark choice: Are you for your home State citizens, are you for your home State's laws, are you for your home State's banks or do you want to take your stand today with the big out-of-State banks whose interest rates are unregulated, whose behavior is in conflict with 200 years of American history and every civilized legal tradition dating back into the mists of time? Every major religion has limited usury. Every civilized legal code has restricted the ability of one individual to harm another by charging them exorbitant interest rates when they are in need.

This is the aberration we are facing right now. We have the chance to fix it. We have the chance to fix it in a way that is justified and proven by 202 years of history in the United States and thousands of years of tradition before that. I urge my colleagues to stand up for their fellow citizens against these out-of-State banks.

Mr. President, I yield the floor, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. MENENDEZ), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 60, as follows:

[Rollcall Vote No. 159 Leg.]

#### YEAS—35

Akaka	Feinstein	Reed
Begich	Franken	Reid
Bennet	Gillibrand	Rockefeller
Boxer	Harkin	Sanders
Brown (OH)	Lautenberg	Schumer
Burr	Leahy	Stabenow
Cardin	LeMieux	Udall (CO)
Casey	Levin	Udall (NM)
Cochran	McCaskill	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wyden
Feingold	Nelson (FL)	

#### NAYS—60

Alexander	DeMint	Landrieu
Barrasso	Dodd	Lincoln
Baucus	Ensign	Lugar
Bayh	Enzi	McCain
Bennett	Graham	McConnell
Bingaman	Grassley	Murkowski
Bond	Gregg	Murray
Brown (MA)	Hagan	Nelson (NE)
Brownback	Hatch	Pryor
Bunning	Hutchison	Risch
Burr	Inhofe	Roberts
Cantwell	Inouye	Sessions
Carper	Isakson	Shaheen
Chambliss	Johanns	Shelby
Coburn	Johnson	Snowe
Collins	Kaufman	Tester
Conrad	Kerry	Thune
Corker	Klobuchar	Vitter
Cornyn	Kohl	Voinovich
Crapo	Kyl	Wicker

#### NOT VOTING—5

Byrd	Menendez	Warner
Lieberman	Specter	

The PRESIDING OFFICER. Under the previous order requiring 60 votes in the affirmative, the amendment is not agreed to.

AMENDMENT NO. 4146 TO AMENDMENT NO. 3739

Mr. DODD. Mr. President, the pending business is the Ensign amendment; is that correct?

The PRESIDING OFFICER. It has not been called up at this time.

Mr. DODD. I would suggest that we call up the Ensign amendment. I understand the Senator from Nevada has a modification.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. I ask that the amendment be called up for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 4146 to amendment No. 3739.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1273, delete lines 17–18.

Mrs. MCCASKILL. Mr. President, I wish to be recorded as opposing the Ensign amendment. Whether I have been speaking to community banks, consumer advocates, or businesses, I have been clear that the purpose of the Consumer Financial Protection Bureau would be to ensure that everyone plays by the same rules. I said I would not support carve-outs. It was clear from the initial drafts of the Ensign amendment that this was intended to exempt certain lending by casinos from the jurisdiction of the bureau. The underlying bill already clearly exempts sellers of nonfinancial products who offer financing in support of those sales. It is my belief that the Ensign amendment could undermine that goal and I therefore oppose it.

Mr. ENSIGN. Mr. President, from what I understand the amendment is agreeable to both sides.

Mr. DODD. With the modification.

Mr. ENSIGN. It is already modified. I would tell the chairman of the committee, through the Chair, the modification was the amendment we called up. So it is actually the modified amendment at the desk.

Mr. DODD. I understand there is no need for a recorded vote, we can have a voice vote?

Mr. ENSIGN. That is correct. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4146) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote and move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

Mr. REID. Mr. President, I have an announcement to make. Members of the Senate, we have made progress today. We are going to come in at 9:30 tomorrow. There will be amendments processed until we leave to go to the joint session. We will come back as soon as that is over and continue working on this bill.

At 2:30 I will move to reconsider the vote we had earlier today. So we will have a cloture vote at 2:30 tomorrow. Following that, of course, we have to look forward to when we are going to move to the bill of Senator INOUE and Senator COCHRAN, on which I understand they have done some good work.

That will be the next matter we move to. No further votes this evening.

Mr. FRANKEN. Mr. President, I suggested the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4003, AS MODIFIED, TO  
AMENDMENT NO. 3739

Mr. DODD. Mr. President, I ask unanimous consent that the Senate now consider the Vitter amendment No. 4003, and that the amendment then be modified with the Pryor amendment No. 4087; that the amendment, as modified, then be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4003) is as follows:

(Purpose: To protect manufacturers and entrepreneurs from unintended regulation)

On page 19, strike line 16 and all that follows through page 21, line 22 and insert the following:

(4) NONBANK FINANCIAL COMPANY DEFINITIONS.—

(A) FOREIGN NONBANK FINANCIAL COMPANY.—The term “foreign nonbank financial company” means a company (other than a company that is, or is treated in the United States as, a bank holding company or a subsidiary thereof), that is—

(i) incorporated or organized in a country other than the United States; and

(ii) the consolidated revenues of which from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) constitute 85 percent or more of the total consolidated revenues of such company.

(B) U.S. NONBANK FINANCIAL COMPANY.—The term “U.S. nonbank financial company” means a company (other than a bank holding company or a subsidiary thereof, or a Farm Credit System institution chartered and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et. seq.)), that is—

(i) incorporated or organized under the laws of the United States or any State; and

(ii) the consolidated revenues of which from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) constitute 85 percent or more of the total consolidated revenues of such company.

(C) INCLUSION OF DEPOSITORY INSTITUTION REVENUES.—In determining whether a company is a financial company for purposes of this title, the consolidated revenues derived from the ownership or control of a depository institution shall be included.

(5) OFFICE OF FINANCIAL RESEARCH.—The term “Office of Financial Research” means the office established under section 152.

(6) SIGNIFICANT INSTITUTIONS.—The terms “significant nonbank financial company” and “significant bank holding company” have the meanings given those terms by rule of the Board of Governors.

(b) DEFINITIONAL CRITERIA.—The Board of Governors shall establish, by regulation, the

criteria to determine, consistent with the requirements of subsection (a)(4), whether a company is substantially engaged in activities in the United States that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) for purposes of the definitions of the terms “U.S. nonbank financial company” and “foreign nonbank financial company” under subsection (a)(4).

The amendment (No. 4003), as modified, was agreed to, as follows:

(Purpose: To address nonbank financial company definitions and to provide for anti-evasion authority)

On page 20, line 1, strike “substantially” and insert “predominantly”.

On page 20, beginning on line 2, strike “activities” and all that follows through line 5, and insert “financial activities, as defined in paragraph (6).”.

On page 20, line 17, strike “substantially” and all that follows through the end of line 20, and insert “predominantly engaged in financial activities as defined in paragraph (6).”.

On page 21, line 11, strike “(6)” and insert the following:

(6) PREDOMINANTLY ENGAGED.—A company is “predominantly engaged in financial activities” if—

(A) the annual gross revenues derived by the company and all of its subsidiaries from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) or are incidental to a financial activity, and, if applicable, from the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated annual gross revenues of the company; or

(B) the consolidated assets of the company and all of its subsidiaries related to activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) or are incidental to a financial activity, and, if applicable, related to the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated assets of the company.

(7) On page 21, line 16, strike “criteria” and all the follows through line 22, and insert “requirements for determining if a company is predominantly engaged in financial activities, as defined in paragraph (6).”.

On page 37, line 3, strike “(c)” and insert the following:

(c) ANTI-EVASION.—

(1) DETERMINATIONS.—In order to avoid evasion of this Act, the Council, on its own initiative or at the request of the Board of Governors, may determine, on a nondelegable basis and by a vote of not fewer than 2/3 of the members then serving, including an affirmative vote by the Chairperson, that—

(A) material financial distress related to financial activities conducted directly or indirectly by a company incorporated or organized under the laws of the United States or any State or the financial activities in the United States of a company incorporated or organized in a country other than the United States would pose a threat to the financial stability of the United States based on consideration of the factors in subsection (b)(2);

(B) the company is organized or operates in a manner that evades the application of this Act; and

(C) such financial activities of the company shall be supervised by the Board of Governors and subject to prudential standards in accordance with this title.

(2) NOTICE AND OPPORTUNITY FOR HEARING AND FINAL DETERMINATION; JUDICIAL REVIEW.—Subsections (d), (f), and (g) shall apply to determinations made by the Council pursuant to paragraph (1) in the same manner as such subsections apply to nonbank financial companies.

(3) COVERED FINANCIAL ACTIVITIES.—For purposes of this subsection, the term “financial activities” means activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and related to the ownership or control of one or more insured depository institutions and shall not include internal financial activities conducted for the company or any affiliates thereof including internal treasury, investment, and employee benefit functions.

(4) TREATMENT AS A NONBANK FINANCIAL COMPANY.—

(A) ONLY FINANCIAL ACTIVITIES SUBJECT TO PRUDENTIAL SUPERVISION.—Nonfinancial activities of the company shall not be subject to supervision by the Board of Governors and prudential standards of the Board. For purposes of this Act, the financial activities that are the subject of the determination in paragraph (1) shall be subject to the same requirements as a nonbank financial company. Nothing in this paragraph shall prohibit or limit the authority of the Board of Governors to apply prudential standards under this title to the financial activities that are subject to the determination in paragraph (1).

(B) CONSOLIDATED SUPERVISION OF ONLY FINANCIAL ACTIVITIES.—To facilitate the supervision of the financial activities subject to the determination in paragraph (1), the Board of Governors may require a company to establish an intermediate holding company, as provided for in section 167, which would be subject to the supervision of the Board of Governors and to prudential standards under this title.

(d) On page 37, line 15, strike “(d)” and insert “(e)”.

On page 39, line 3, strike “(e)” and insert “(f)”.

On page 40, line 13, strike “(f)” and insert “(g)”.

On page 40, line 21, strike “(g)” and insert “(h)”.

Mr. DODD. With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that at 2:30 p.m. Thursday, May 20, the motion to proceed to the motion to reconsider be agreed to, the motion to reconsider be agreed to, and the Senate then proceed to vote on the motion to invoke cloture on the Dodd-Lincoln substitute, amendment No. 3739.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTIONS

Mr. DODD. Mr. President, I have two cloture motions at the desk.

The PRESIDING OFFICER. The cloture motions having been presented

under rule XXII, the Chair directs the clerk to read the motions.

The legislative clerk read as follows:

**CLOTURE MOTION**

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Dodd substitute amendment No. 3739 to S. 3217, the Restoring American Financial Stability Act of 2010.

Harry Reid, Christopher J. Dodd, Tim Johnson, Jack Reed, Charles E. Schumer, Patty Murray, Daniel K. Inouye, Kent Conrad, John F. Kerry, Jon Tester, Roland W. Burris, Mark R. Warner, Daniel K. Akaka, John D. Rockefeller, IV, Sheldon Whitehouse, Michael F. Bennet.

**CLOTURE MOTION**

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 3217, the Restoring American Financial Stability Act of 2010.

Harry Reid, Christopher J. Dodd, Tim Johnson, Jack Reed, Jon Tester, Charles E. Schumer, Patty Murray, Daniel K. Inouye, Kent Conrad, John F. Kerry, Roland W. Burris, Mark R. Warner, Daniel K. Akaka, John D. Rockefeller, IV, Sheldon Whitehouse, Michael F. Bennet.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

**BUREAU OF CONSUMER PROTECTION**

Mr. JOHANNIS. Mr. President, it is my understanding that title X of the bill would give the Bureau of Consumer Financial Protection the power to regulate not only businesses that provide financial products and services to consumers but also companies that provide services to these businesses. I understand that the purpose of giving the bureau the power to regulate these service providers is to prevent a financial service company's use of a service provider to frustrate the efforts of the bureau to protect consumers because important functions that bear directly on consumers are contracted out to service providers. I also understand that this approach is designed to provide the bureau with authority comparable to the authority that Federal bank regulators have over service providers to banks under the Bank Service Company Act.

Am I correct in understanding that it is the intent of the service provider provisions for the bureau to focus on the service contracted out, not the terms of the service contract? Further, am I correct that it is not the intent of the service provider provisions for the bureau to subject the terms of busi-

ness-to-business contracts, or the agreements between providers of consumer financial products and services and their own service providers, to the jurisdiction of the bureau, even when there may be disputes between these business parties?

Mr. DODD. Mr. President, the gentleman is correct; the purpose of the Bureau of Consumer Protection is to protect consumers and not to address disputes between businesses over the terms of their business relationships.

Ms. COLLINS. Mr. President, I rise to speak in support of an amendment that Appropriations Committee Chairman INOUE, Vice Chairman COCHRAN, Financial Services and General Government Appropriations subcommittee Chairman DURBIN and I filed to the Restoring American Financial Stability Act regarding funding for the Securities and Exchange Commission—SEC.

This amendment would strike the section that would permit the Securities and Exchange Commission to be "self-funded". I have serious concerns with this provision because it would allow the SEC to self finance and thus avoid the scrutiny and oversight of the appropriations process. Our bipartisan amendment would keep SEC funding as part of the appropriations process and maintain critical congressional oversight.

The financial crisis and its consequences have served to remind us all of the critical requirement for more robust oversight and heightened transparency throughout our regulatory environment and financial system. As we have seen, most recently in the review of the SEC's actions in the Bernie Madoff Ponzi scheme, there is clearly a demonstrated need for more Congressional oversight. The annual budget and appropriations process ensures congressional oversight of vital enforcement agencies such as the SEC. As noted by Vice Chairman COCHRAN, our amendment recognizes the need to "regulate the regulators" and to hold accountable those regulators who fail to do their jobs correctly.

And the recent inspector general investigation revealing that high-level SEC employees spent their days looking at porn rather than pursuing wrong-doing demonstrates the need for oversight.

The appropriations process subjects the SEC to a review which must balance the requests of the Commission against the competing needs of other Federal agencies. That process, however, is grounded in the Constitution and the very foundation of our government is based on the concept of checks and balances. While I appreciate the accomplishments Chairman Shapiro has achieved during her tenure as chairman, funding decisions and the process by which they are made, cannot be based on any particular holder of an office, but rather on government-

wide needs and the best interests of the taxpayers.

Allowing the SEC to have sole authority to negotiate the fees that support its operations with the institutions they regulate precludes any meaningful oversight by Congress and invites conflicts of interest. Reports by the Government Accountability Office and the SEC Inspector General regarding enforcement procedures and internal controls over financial reporting highlight the need for congressional oversight. Also, the GAO has noted that SEC's current system of transaction-based fees could provide revenues that are less predictable and more difficult to estimate than the assessments used by bank regulators to fund their operations.

While the budget and appropriations process is challenging for all Federal agencies, Senator DURBIN and I, in our roles as Chairman and ranking member of the Financial Services and General Government Appropriations subcommittee, have given careful review to all resource requests from the SEC and consistently placed a high priority on its requests, recognizing the agency's critical enforcement role. For the current fiscal year, Congress provided \$1.11 billion, a 25 percent increase over the fiscal year 2007 level and \$85 million above the amount that the President and the SEC requested.

The financial reform bill passed by the House of Representatives does not include a provision for the SEC to be self-funding. I share the hope of Chairman INOUE and all of the cosponsors of this amendment that the conference agreement on the bill before the Senate will preserve the critical oversight function inherent in the appropriations process. I urge that the SEC self-funding provision be dropped from the bill in conference to ensure that Congress can continue to play an important role in the oversight of our financial regulators.

Mr. LEAHY. Mr. President, last week, I filed two important amendments to the pending Wall Street reform legislation to protect the identity of whistleblowers and to ensure transparency and accountability to the American public when the government investigates allegations of financial fraud. My amendments on whistleblower confidentiality strike a careful balance between the need to protect the identity of whistleblowers and the public interest in transparency. I hope the Senate will work to include these amendments in the bill.

The recent economic crisis has revealed how corporate greed must be reigned in on Wall Street. While average Americans were suffering, many Wall Street investment banks and insurance companies went to great lengths to hide their shaky finances from stockholder and government regulators. Whistleblowers serve an important role in exposing financial



fraud. This underscores the importance of ensuring that whistleblowers are provided the necessary protections to come forward with allegations of financial fraud and ensuring that the American public has access to critical information about corporate financial wrongdoing.

My amendments addresses two key problems with the whistleblower provisions in the bill: First, the bill would prevent whistleblowers from obtaining information that they themselves have provided to government regulators under any circumstances. Second, the bill creates an unnecessary exemption to the Freedom of Information Act, FOIA, that would, in some cases, shield critical information about financial fraud from the public indefinitely.

To strengthen the protections for whistleblowers, my amendments strike the well-intended, but overbroad confidentiality provisions in sections 748(h) and 922(h) of the bill, and replace those provisions with new language that both protects the confidentiality of whistleblower identity information and ensures the public's right to know. Specifically, the amendments require that government regulators may not disclose whistleblower identity information without the whistleblower's consent. My amendments also require that the government notify the whistleblower if information about the whistleblower's identity will be shared with other government agencies, or foreign authorities assisting with an investigation.

To ensure the public's right to know, my amendments remove language from the bill that, in some cases, would change law and could indefinitely shield critical information about financial fraud from the public. My amendments do not change existing disclosure requirements and exemptions under FOIA, but, rather, they require that government regulators treat information that reveals the identity of whistleblowers as confidential. Other information that a whistleblower provides to the government would remain subject to the existing disclosure requirements and exemptions under FOIA and other Federal laws.

My amendments are modeled after whistleblower protection provisions that Congress has previously and overwhelmingly enacted in other recent legislation. The amendments also complement the whistleblower protections already included in the bill.

My amendments are supported by a broad coalition of open government organizations, including—the Project on Government Oversight, Citizens for Responsibility and Ethics in Washington, OpenTheGovernment.org, Public Citizen, the Progressive States Network, Common Cause, National Community Reinvestment Coalition, Consumer Action, OMB Watch, National Fair Housing Alliance, and Americans for Finan-

cial Reform. I thank each of these organizations for their support of the amendments and for their work on behalf of whistleblowers and the public's right to know.

As the Senate concludes debate on critical reforms to head off the Wall Street fraud and abuses, we must work to ensure accountability and openness in how the government responds to this crisis. The improvements in my amendments will ensure that whistleblowers have the protection that they deserve and that financial firms will be held accountable. I urge all Senators to support these open government amendments.

I ask unanimous consent that a copy of a support letter signed by several open government organizations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 11, 2010.

Hon. PATRICK LEAHY,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR LEAHY: We, the undersigned organizations, write to thank you and share our support for the amendment (SA 3297) you have offered to the Restoring American Financial Stability Act, S. 3217. The amendment will replace two dangerous provisions that would unnecessarily limit public access to critical information and place a gag on whistleblowers with language that instead would provide authentic confidentiality and protection of the identity of whistleblowers. We believe that in order to both preserve government accountability and encourage whistleblowers to come forward this amendment must be incorporated into S. 3217.

Tucked inside two provisions to establish whistleblower incentives and protections to rightly encourage the flow of information of wrongdoing to the Securities and Exchange Commission (SEC) and the Commodities Futures Trading Commission (CFTC) are poison pill secrecy measures. Sections 748(h)(2) and 922(h)(2) bar the public and the whistleblower from ever being able to obtain information about investigations if the government never acts. If a whistleblower faces retaliation there would be no access to government records needed to prove status as a whistleblower. If there is no action due to inept bureaucracy, fraud, collusion, or worse, there would be no way to hold the government accountable.

We must preserve the ability of the whistleblower to gain access to the information if retaliation occurs, as well as public access to hold the Commission and other government agencies accountable, especially if there is no investigation or the investigation leads to no further judicial or administrative action. Your amendment would do just that, and would remove the blanket gag orders creating a permanent seal and government secrecy.

Moreover, as you know, it is unnecessary to add additional exemptions to the Freedom of Information Act (FOIA) in these whistleblower provisions. Forty years of jurisprudence have proven the FOIA's exemptions (amended in 1986 to expand protection for law enforcement records) have stood the test of time, fairly and effectively balancing the agency's interests in confidentiality and personal privacy rights with the public's right to know.

Investigations occur across the federal government every day and information pertaining to the administrative stages of these investigations is protected. In more than two decades, no agency has expressed concern over unwarranted access to investigative information during an open investigation. We not only see no justification to hide closed investigations of possible wrongdoing in the financial industry, whether or not provided by a whistleblower, but find this to be at cross-purposes with making government regulation of the financial industry more transparent and effective.

We thank you for this amendment to preserve whistleblower rights, public access to information, and government accountability, and for your commitment to protecting the public's right to know.

Sincerely,

Project on Government Oversight (POGO); Citizens for Responsibility and Ethics in Washington (CREW); Government Accountability Project (GAP); OpenTheGovernment.org; Public Citizen; Progressive States Network; Common Cause; National Community Reinvestment Coalition; Consumer Action; OMB Watch; National Fair Housing Alliance; Americans for Financial Reform.

Mr. ENZI. Mr. President, I would like to make a point of clarification on my GASB amendment. This amendment creates a new and stable funding source for the Governmental Accounting Standards Board. The GASB serves an important function to provide pronouncements on accounting and financial reporting for State and local governments, and their work should be commended. However, I must clearly make a point that for the purpose of this amendment, and the work of the GASB, that financial reporting be defined as the "presentation of objective historical financial data on the financial position and resource inflows and outflows of State and local governments, as well as information necessary to demonstrate compliance with finance-related legal or contractual provisions."

Mr. FEINGOLD. Mr. President, I am pleased to be an original cosponsor of two amendments to the Restoring American Financial Stability Act that seek to ensure there is greater transparency around how international companies are addressing issues of foreign corruption and violent conflict that relate to their business. Creating these mechanisms to enhance transparency will help the United States and our allies more effectively deal with these complex problems, at the same time that they will also help American consumers and investors make more informed decisions.

Mr. President, I am very pleased that my colleagues agreed yesterday to accept the first amendment, sponsored by Senator BROWBACK. This amendment specifically responds to the continued crisis in the eastern region of the Democratic Republic of Congo. Despite efforts to curb the violence, mass atrocities and widespread sexual violence and rape continue at an alarming



rate. Some have justifiably labeled eastern Congo as “the worst place in the world to be female.” Several of us in this body, including Senators BROWNBACK and DURBIN and I, have traveled to this region and seen firsthand the tragedy of this relentless crisis. Increasingly, American citizens are also learning of the devastating situation in eastern Congo and are actively engaged to bring about policy changes. I am pleased to see Americans so engaged on this issue.

One of the underlying reasons this crisis persists is the exploitation and illicit trade in natural resources, specifically cassiterite, columbite-tantalite, wolframite and gold. The United Nations Group of Experts has reported for years how parties to the conflict in eastern Congo continue to benefit and finance themselves by controlling mines or taxing trading routes for these minerals. In response to these reports, the U.N. Security Council adopted Resolution 1857, 2008, encouraging Member States “to ensure that companies handling minerals from the DRC exercise due diligence on their suppliers.” Over a year ago, Senator BROWNBACK, Senator DURBIN, and I teamed up to author legislation that would do just that: the Congo Conflict Minerals Act, S. 891.

Senator BROWNBACK’s amendment is taken from that bill, but includes modifications based on discussions with representatives from industry, U.S. Government agencies, and the Banking Committee. The amendment applies to companies on the U.S. stock exchanges for which these minerals constitute a necessary part of a product they manufacture. It will require those companies to make public and disclose annually to the Securities and Exchange Commission if the minerals in their products originated or may have originated in Congo or a neighboring country. Furthermore, it will require those companies to provide information on measures they have taken to exercise due diligence on the source and chain of custody to ensure activities involving such minerals did not finance or benefit armed groups.

I recognize that this conflict minerals problem is a complex one, given the importance of this trade to the local economy in eastern Congo and given the extensive supply chains and processing stages between the source and end use of these minerals. The Brownback amendment was narrowly crafted in consideration of those challenges, and it includes waivers and a sunset clause after 5 years. However, I believe strongly that the status quo in eastern Congo is unacceptable to the people there and it should be to us as well. We have put financial resources toward mitigating this crisis, but we need to get serious about addressing the underlying causes of conflict. The Brownback amendment is a significant,

practical step toward doing that, and I thank my colleagues for their support of it. I thank Senator BROWNBACK for his longstanding leadership on these important humanitarian issues.

The second amendment, led by Senator CARDIN and Senator LUGAR, is different than the Congo amendment but would complement it. This amendment would require companies listed on U.S. stock exchanges to disclose in their SEC filings extractive payments made to foreign governments for oil, gas, and mining. This information would then be made public, empowering citizens in resource-rich countries in their efforts to combat corruption and hold their governments accountable. In far too many countries, natural resource wealth has fueled corruption and conflict rather than growth and development. This so-called “resource curse” is especially problematic in Africa, and in 2008, I chaired a subcommittee hearing on this very topic. I said then that we must look for ways that the United States can use our leverage to push for greater corporate transparency in Africa’s extractive industries.

In addition to helping countries combat the “resources curse,” it is also in our national interest to improve transparency in the extractive industries. The amendment was drawn from an important piece of legislation, the Energy Security through Transparency Act, S. 1700. The bill was given this title because enhancing transparency in the extractive industries can have real benefits for U.S. energy security. This will ultimately create a more open investment environment and increase the reliability of commodity supplies. Energy security is a topic that Senator LUGAR and his staff have worked on for years, and we all know how central it is to our national security. I thank Senator LUGAR and Senator CARDIN for their work on this important amendment, and I urge my colleagues to support it.

Mr. DURBIN. Mr. President, I rise today to commend and thank Senators DODD and SHELBY for their extraordinary leadership and tenacity in shepherding this complex bill through the arduous floor consideration process over the past several weeks, and for their years of work to reach this point. Their task has not been an easy one. The amendment process was delicate at times, but certainly collegial and fair. The fruits of our labor are an improved product emerging from the Senate, albeit not a perfect one. Invariably, in a bill of this scope and significance, some matters were not fully addressed or resolved to everyone’s satisfaction.

I am disappointed that we did not consider an important bipartisan amendment submitted by Senators INOUE and COCHRAN relating to the funding of the Securities and Exchange Commission.

Section 991 of the bill would permit the Securities and Exchange Commis-

sion to be “self-funded,” thus removing a critical oversight role for the Appropriations Committee. The Inouye-Cochran amendment would have stricken this section.

Retention of the language in the bill is objectionable for a host of reasons. Section 991 removes the role of Congress in dictating how potentially limitless funds, up to whatever level is generated in fees under a budget that would be set by the SEC itself, are to be spent. It would make the agency potentially less, rather than more, responsive to congressional priorities. Spending would go unmonitored. The critical role of the Office of Management and Budget for apportionment of funds would also disappear.

Congress oversees Federal agencies primarily through two distinct but complementary processes—authorizations and appropriations. The authorizing committees are responsible for creating a program, mandating the terms and conditions under which it operates, and establishing the basis for congressional oversight and control. The appropriations committees and subcommittees are charged with assessing the need for, amount of, and period of availability of appropriations for agencies and programs under their jurisdiction.

Exempting an agency from the appropriations process reduces opportunities for annual congressional oversight. The appropriations process, with its annual budget justifications, hearings, and markups, provides a useful layer of congressional review and scrutiny of agency operations, in addition to what is provided by the authorizing process. In the appropriations subcommittee I am privileged to chair, I have conducted annual hearings on the SEC’s budget through which I have learned much about this agency’s requirements, particularly its staffing and information technology needs.

Allowing an agency to set its own budget is an abdication of the constitutional responsibility of the legislative branch of government. It is a dangerous surrender of the congressional power of the purse.

It does not make sense—in this comprehensive bill aimed at bolstering oversight, transparency, and accountability of the world that the SEC regulates—that we would weaken, in fact, abolish, the vital role of the appropriations committee to evaluate the resource needs and spending by this agency.

This comprehensive bill confers significant new responsibilities on the SEC as a financial regulator. Shouldn’t we evaluate on a regular basis whether this agency is responsive to the mandates we impose? Shouldn’t Congress determine if the SEC has adequate funds and is using those resources wisely, in the right places, to accomplish its mission? Under section 991, we toss

out the important, longstanding role and responsibility of appropriators to do just that.

Public opinion of the SEC as a vigilant investor-protector has been less than stellar in recent years. The SEC has been under withering criticism over the past years with the release of the inspector general's report chronicling the SEC's failure to identify Madoff's Ponzi scheme as far back as 1992. The recent IG report on the Stanford case is another example of years of SEC inaction to act against a Ponzi scheme.

Under the leadership of Chairman Mary Schapiro, the SEC is making strides to turn things around. I think Chairman Schapiro is doing a commendable job leading the charge for reform. However, she herself admits that there's more to do and much room for improvement. Our interest in leaving the appropriations oversight process intact is not a verdict on Chairman Schapiro's ability to effect meaningful change.

Those who contend that the SEC ought to set its own budget argue that requiring the agency to compete for funding in the annual appropriations process will lead to chronic underfunding and limited flexibility. Recent experience suggests to the contrary. My Financial Services and General Government Appropriations Subcommittee has placed high priority on the budgets of several agencies including healthy and justified increases above the President's request. For the current fiscal year, Congress provided \$1.111 billion, a 25-percent increase over the fiscal year 2007 level—and \$85 million above the amount that the President and the SEC requested. We have also acted promptly to consider and approve reprogramming and internal reorganization requests.

Those who claim that the SEC has been shortchanged in past years should consider that in each of the past 7 years, the SEC has had substantial amounts of unobligated balances from prior years. This means there were appropriations provided that the SEC was not able to use.

The SEC has not been reauthorized since the Sarbanes-Oxley Act of 2002, when Congress authorized \$776 million for fiscal year 2003. Instead of putting this agency beyond the reach and oversight of appropriators, we should act to authorize levels of robust funding for each of the ensuing 5 years—like the House did—and thus clearly express the intent of Congress that this agency be adequately funded.

Reauthorization of suitable and reasonable funding levels would certainly send a strong signal about the amount of resources that Congress believes are necessary for this agency to thrive and grow to meet its important mission and satisfy its many new responsibilities. Leaving this agency unchecked in

its budgeting and spending activities is simply the wrong way to go.

I trust that as we reconcile this bill with the version adopted in the House that this matter will be favorably resolved and that the conference agreement will acknowledge and preserve the critical oversight role of the appropriations process.

Mr. DODD. Mr. President, I rise to further discuss the reasons for my votes against two amendments relating to credit rating agencies, amendment No. 3991 creating a new credit rating agency board and amendment No. 3774 which eliminates references to requiring credit ratings from certain financial laws.

First, I want to emphasize that I agree with my colleagues that erroneous credit ratings on asset backed securities played a central role in the financial crisis and that we need to improve the regulation of credit ratings.

Credit rating agency reform is an extremely important area of the Restoring American Financial Stability Act of 2010 passed by the Banking Committee. It has 40 pages of carefully constructed credit rating reforms to improve regulation, transparency and accountability. Let me highlight some of these strong provisions, as they would improve the SEC, reform rating agencies and empower investors.

The SEC will have a new Office of Credit Ratings to regulate and promote accuracy in ratings, staffed with experts in structured, corporate and municipal debt finance. The office's own examination staff will conduct annual inspections and the essential findings will be available to the public. The SEC will have expanded authority to suspend the registration of agencies that consistently produce ratings without integrity. The SEC will also have more authority to sanction ratings agencies that violate the law, including managers who fail to supervise employees.

Credit rating agencies will have to comply with tough new requirements. Rating agency boards will be subject to new rules for independence. Rating analysts must work separately from those who sell the firm's services. Agencies must publicly disclose when they materially change their procedures or methodologies or make significant errors, and update their credit ratings accordingly. Agencies must establish strong internal controls for following procedures and methodologies and have these attested to by their CEO. The agencies must establish hotlines for whistleblowers and retain complaints about the firm's work for regulators to examine. Agency compliance officers must report annually to the SEC. Agencies must consider credible information they receive from sources other than the issuers in making the ratings, rather than relying only on the issuer's representations.

Investors will be empowered. Agencies must disclose their track record of ratings in a way that is comparable so that users can compare ratings for accuracy across different agencies. The agencies must disclose more about their ratings assumptions, limitations, risks, historic accuracy and factors that might lead to changes in ratings. Investors will also have access to due diligence reports prepared at the request of underwriters on asset backed securities, as well as have the benefit of having a new pleading standard when they need to file suit.

The recommendations and ideas underlying these provisions have been considered by the Banking Committee over the course of more than 3 years. The committee held hearings and received analyses from countless experts, regulators, ratings agencies, investors and other users. The provisions in this bill have been extensively vetted, improved and refined.

Regarding conflicts of interest, when I served as ranking member of the Securities Subcommittee, I worked with then-Banking Committee Chairman SHELBY and others to enact legislation to control or eliminate credit rating agency conflicts of interest. Through the Credit Rating Agency Reform Act of 2006, we added section 15E to the Securities Exchange Act of 1934 so that they are controlled or eliminated if they cannot be effectively managed. It gave to the SEC the power:

to prohibit, or require the management and disclosure of, any conflicts of interest relating to the issuance of credit ratings by a nationally recognized statistical rating organization, including, without limitation, conflicts of interest relating to—

(A) the manner in which a nationally recognized statistical rating organization is compensated by the obligor, or any affiliate of the obligor, for issuing credit ratings or providing related services;

(B) the provision of consulting, advisory, or other services by a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, to the obligor, or any affiliate of the obligor;

(C) business relationships, ownership interests, or any other financial or personal interests between a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, and the obligor, or any affiliate of the obligor;

(D) any affiliation of a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, with any person that underwrites the securities or money market instruments that are the subject of a credit rating; and

(E) any other potential conflict of interest, as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

The SEC has adopted several rules under the act to address NRSRO conflicts of interest, amending those rules twice since they took effect in 2007. The first set of amendments took effect in 2009, and the second set of amendments will go live in a few weeks.

Among other things, in addition to prohibiting certain conflicts of interest outright, these rules require each NRSRO—issuer-pay and subscriber-pay—to publicly disclose certain additional conflicts, as well as the policies and procedures it has adopted to address those conflicts. Pursuant to these rules, NRSROs must separate their business activities from their rating activities, so that the analysts, who operate in teams, to reduce the influence of any one person, do not negotiate, arrange or discuss fees. Commission rules designed to address the issuer-pay conflict include prohibitions on issuing credit ratings in certain circumstances, such as when: the NRSRO has received 10 percent or more of its revenue from an issuer or underwriter; the NRSRO makes recommendations on how to structure an instrument; the analyst has participated in fee negotiations with the issuer; or the analyst has received gifts from the issuer. There also is a new requirement that information provided to a hired NRSRO to rate a structured finance product be made available to any other NRSRO to allow the other NRSRO to determine an unsolicited—i.e., non-issuer-paid—credit rating.

Since these rules have been in effect for only a short time, we have yet to see their full benefits. And if more regulation is needed, the SEC has authority to go farther under the 2006 law.

During the consideration of S. 3217, amendment No. 3808 was introduced and passed to direct the SEC to set up a new credit rating agency board, which prohibits the private selection by issuers of rating agencies for initial asset-backed securities ratings and creates a system in which the board makes semi-random ratings assignments to nationally recognized statistical ratings organizations that it deems to be qualified. The intention is to eliminate negative effects of conflicts of interest in the issuer pay business model.

I applaud my colleague's goal of developing a solution to this problem of poor credit ratings. And I appreciate his devoting a tremendous amount of effort in a short period of time to craft his solution.

However, this novel approach raises many questions which have yet to be answered. While I support Senator FRANKEN's goal, I could not vote for this amendment while many questions and uncertainties remained about the impact of this new type of "self-regulatory organization."

Credit ratings have a tremendous impact on the credit markets nationally and internationally. Any significant change in their preparation should be the subject of full examination before enactment. Unresolved questions raise the potential for unintended or unforeseen consequences. In addition to my own concerns, I have received commu-

nications from many interested parties, such as a letter from the Investment Company Institute that I will ask to be printed in the RECORD.

Let me identify some of the questions that, it seems to me, exist with respect to the board and its operations:

Will the board's semi-random assignment of ratings work cause the rating agencies to lose their incentive to do a superior job, which otherwise might get them more initial ratings business?

Will the "reasonable" fees that the legislation directs the SEC to set for QNRSROs to charge issuers generate sufficient revenues for rating agencies of different types of securities to perform the quality of ratings they would like? In this connection, a technical question, what standards should the SEC use to determine the fees—a "reasonable" return on capital? prices comparable to other ratings agencies? sufficient to hire staff at compensation levels comparable to other businesses or to Federal regulatory agencies?

How many of the 10 nationally recognized statistical rating agencies are expected to register as "qualified nationally recognized statistical ratings organizations"? Will the registrants be sufficient to make the board meaningful? Will some ratings agencies choose not to register with the board, to avoid board assessments, costs, regulatory burden or for other reasons, and would this affect the quality of ratings? Will some smaller rating agencies not register because they are unable to meet the board's qualification standards? I understand that after the passage of the amendment, one of the NRSROs has deregistered from providing ratings on asset-backed securities.

The amendment uses an issuer-pay business model. How would the amendment affect the rating agencies that use a different business model, such as a subscriber pay model, and want to provide ratings on asset backed securities?

What will be the costs of operating the new board? The legislation authorizes the board to assess QNRSROs, and how much is the board expected to assess the QNRSROs to cover its budget? How much would it add to the current cost of ratings? What is the expected budget of a board that must hire financial experts who evaluate rating agencies' qualities, institutional and technical capacity and performance and implement systems that can make ratings assignments to QNRSROs on potentially hundreds of thousands of securities in a timely fashion?

How many different categories of securities are expected to be rated and how many rating agencies are expected to be qualified to rate each type? If only two agencies have the capacity or experience to rate some complex types of securities, and an issuer wants two ratings, what will be the purpose of the SRO randomly choosing a rating agency?

How will the board attract, afford and retain top experts who would be needed to perform its statutory mandates to assess the effectiveness of ratings methodologies and assess the accuracy of ratings?

The board would be given substantial powers such as rulemaking authority over NRSROs, allocating business to NRSROs or rejecting an NRSRO's ability to obtain business. Is it certain that the board's establishment and exercise of authority are consistent with the Constitution?

The legislation states that the board will be a "self-regulatory organization." What will be the impact on the new board on the numerous statutory and regulatory restrictions and obligations in the Securities Exchange Act of 1934 affecting "self-regulatory organizations"?

What will be the interaction of the legislation's mandate that the board assess the accuracy of the credit ratings provided by QNRSROs and the "effectiveness of the methodologies used by" QNRSROs and the existing Federal law that states the SEC may not "regulate the substance of credit ratings or the procedures and methodologies by which any nationally recognized statistical rating organization determines credit ratings"?

In this legislation, the Federal Government will obligate one private party to deal with another private party of the government's choosing in a private business transaction. Does this raise any potential legal questions?

It is my understanding that beginning in June, all NRSROs will also have to publish a history of their rating actions since the NRSRO regulatory regime was instituted in June of 2007. When enough data becomes available, issuers can see which NRSRO's ratings were more reliable. Would the board be expected to be better able to identify better QNRSROs than issuers who examine this data on their own?

These are some of the questions that existed at the time of the vote. While I am sure these questions will be fully addressed in the months and years ahead, and hope that the board is successful, these questions are significant and created uncertainty, with the potential for significant unintended consequences. Accordingly, I felt it inappropriate as chairman of the Banking Committee to support the amendment.

Amendment No. 3774, which the Senate passed, removes provisions in banking and securities statutes that use credit ratings of NRSROs to distinguish the creditworthiness of obligors or debt instruments and would replace these provisions with standards promulgated by banking agencies—in the case of the banking statutes—and the SEC—in the case of securities statutes.

I agree with the intent of the provision to reduce investor reliance on NRSRO ratings in making investment

decisions. However, I feel that it is unwise to eliminate all of these statutory requirements without a prior study of the consequences. Therefore, I voted against this provision.

I think it more prudent to carefully study this matter and remove ratings that are found to be unnecessary. This is why I included in S. 3217 passed by the Banking Committee a required 2-year GAO study to examine the scope of provisions in Federal and State law as to the necessity and purposes of NRSRO ratings requirement; which requirements could be removed with minimal disruption to the financial markets; the potential impacts on the financial markets and on investors if the rating requirements were rescinded; and whether the financial markets and investors could benefit from the removal of such requirements. This would be followed by reviews by the Federal financial regulators of all regulations requiring the use of an assessment of a security, requirements related to credit ratings and alternative standards of creditworthiness that are based on market-generated indicators. The bill required each agency to modify references to credit ratings in their regulations and, when removed, to use an appropriate standard of creditworthiness not related to credit ratings, if possible and consistent with the statute or the public interest. This seems to me the more appropriate way to improve the ratings situation while taking appropriate steps to avoid unforeseen and unintended consequences.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from the Investment Company Institute to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INVESTMENT COMPANY INSTITUTE,  
Washington, DC, May 13, 2010.

Hon. HARRY REID,  
*Senate Majority Leader, The Capitol, Washington, DC.*

Hon. MITCH MCCONNELL,  
*Senate Minority Leader, The Capitol, Washington, DC.*

Hon. CHRISTOPHER J. DODD,  
*Chairman, Senate Banking Committee, Dirksen Senate Office Building, Washington, DC.*

Hon. RICHARD C. SHELBY,  
*Ranking Minority Member, Senate Banking Committee, Russell Senate Office Building, Washington, DC.*

Re Senate Amendment #3991, Credit Ratings.

DEAR SENATORS: I am writing on behalf of the Investment Company Institute, the national association of U.S. investment companies, to express our concerns with elements of Senate Amendment 3991 to S. 3217 of the Restoring American Financial Stability Act of 2010 (RAFSA). The Institute is highly supportive of the majority of rating agency reforms contained in the RAFSA, which focus primarily on disclosure and transparency of ratings and the ratings process. As long as ratings continue to play an important role in the investment process, they should provide

investors and other market participants with high-quality, reliable assessments of the credit risks of a particular issuer or financial instrument. We are concerned, however, that Amendment 3991, which would create a Credit Rating Agency Board to regulate structured finance product ratings, may conflict with the RAFSA, create confusion for investors, and hinder competition in the rating agency space. Presented at the last minute, the changes contemplated by the Amendment would significantly alter the current regulatory regime for rating structured finance products and could, ultimately, affect the rating process for other debt securities.

First, to properly address concerns about conflicts of interest, poor disclosure, and lack of accountability, the Institute believes the reform of the regulatory structure for rating agencies must be applied in a uniform and consistent manner and should apply equally to all types of rated securities. This uniformity and consistency is not only critical to improving ratings quality and allowing investors to identify and assess potential conflicts of interest, but also to increasing competition among rating agencies. By focusing solely on structured finance securities, the Amendment would create a different set of rules for different segments of the rated marketplace which, among other issues discussed below, could create confusion among investors.

Second, establishing an additional and distinct oversight system for ratings of structured finance securities, as outlined in the Amendment, does not improve investor access to information about these securities. The Institute believes that issuers, in addition to credit rating agencies, have a role to play in the effort to increase transparency and disclosure about structured finance products, as well as for other debt instruments. To this end, we have recommended that the Commission expand the disclosure of information to investors by rating agencies. We also have recommended that the Commission take additional steps to provide investors with increased information by requiring increased disclosure directly by issuers to investors, and requiring the disclosure be in a standardized format where appropriate. In its recent proposal to revise the asset-backed securities regulatory regime, for example, the Commission has proposed to do just that—expand and standardize issuer disclosure in public and private offerings of asset-backed securities—and we commend the Commission for its efforts.

Third, we are concerned that having a Board assign a rating agency to a structured finance product stifles competition by denying the market of two or more ratings on a security and perhaps differing opinions and insights. Investors should be encouraged to pick and choose investment transactions using, to the extent they desire, the ratings they receive from the various rating agencies, not a single agency. Further, this approach creates the appearance of a “seal of approval” for the assigned rating by placing a government imprimatur on the rating, regardless of the proposed disclaimer contemplated by the Amendment. The fact that the Amendment would permit unsolicited ratings of an assigned security becomes meaningless under the proposed framework; as in the status quo, it will rarely, if ever, be done.

Fourth, a Board designating a rating agency allows for politicizing the rating process, even if it is by a lottery or rotation, whereby the Board could be biased on how it chooses

the “preferred” rating agency. Conflicts can arise because Board members may have a strong interest in ensuring favorable ratings for a particular issuer or security. Consequently, we do not perceive an advantage to the proposed Board-model over the existing rating agency models, all of which possess various beneficial and detrimental characteristics.

Fifth, what will be the criteria used for determining the “best performer” for purposes of assigning a rating agency to a new issue? Is an “A1” rating more correct than an “A” rating? How would the Board define success or failure? Performance of debt securities in the municipal market, for example, has as much to do with structure and maturity of the security as with its credit. Drawing a line in the structured finance market would be even more difficult because of the complexity, diversity, and novelty of this market. Further, who would be responsible for surveillance under this model—the Board, the Commission, the rating agencies?

We believe that education regarding the characteristics and limitations of a rating would be of more value to investors than the operational and policy concerns raised by the Amendment. In the end, credit ratings are informed opinions which play a significant role in the investment process. Accordingly, the Institute has repeatedly stated that improving disclosure and transparency about ratings and the ratings process may be the most important reform for improving the quality and reliability of ratings. Public disclosure of this information allows investors and market participants—the consumers of ratings—to more effectively evaluate a rating agency’s independence, objectivity, capability, and operations. Such disclosure also serves as an additional mechanism for ensuring the integrity and quality of the credit ratings themselves.

We appreciate the substantial progress made in the RAFSA to improve the ratings process and we look forward to continuing to work with the Senate for the benefit of investors in this area.

Sincerely,

PAUL SCHOTT STEVENS,  
*President and Chief Executive Officer.*

#### MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO FORMER NEVADA SUPREME COURT CHIEF JUSTICE E.M. “AL” GUNDERSON

Mr. REID. Mr. President, Al Gunderson was a paratrooper, a blackjack dealer, a sailor and a voracious reader. He was a lawyer, a justice, a mentor and a teacher. He was a humanitarian. And he was a loving husband to Lupe for 45 years and a wonderful father to Randy. Of all the determined leaders I have met in Nevada, no one was tougher than Al. No one was funnier. And no one worked harder than he did.

His wife, Lupe, told me this week about one memory from their time in

Carson City. A young man came up to her once and asked why he kept seeing Al's Jeep at the courthouse at 3 a.m. But everyone knew the answer: Al Gunderson worked round the clock. It would be more strange not to see his car at the office.

The man who as chief justice presided for 6 years over the highest court in our State believed strongly in the phrase that watches over the entryway of the highest court in our Nation: Equal justice under law. He dedicated his life in public service to making sure everyone got a fair hearing and a just ruling. During his 18 years on the court, he steered it away from elitism and shaped it as a forum for everyday Nevadans. And if that meant standing up for the little guy, all the better.

He was a staunch advocate for civil rights. He used his passion for the law to groom future lawyers and judges as a professor at California's Southwestern University. And the same year Al was sworn in and joined the Nevada Supreme Court, he established the Nevada Judges Foundation to extend to more in our State the opportunity to serve as judges, especially in rural communities.

Al found his way to Nevada by way of Minnesota, where he was born of humble means; Nebraska, where he earned his law degree; and Chicago, where he began his legal and public service career with the Federal Trade Commission. We are fortunate that he did.

My friend and mentor and our State's former Governor, Mike O'Callaghan, used to call Al Gunderson a human being first and an outstanding legal mind second. He was right. Al Gunderson brought honor not only to the title of justice but also the pursuit of justice. We were honored to know him and learn from him.

#### THE PRESIDENT'S POLICY: LEADERS WITHOUT FOLLOWERS

Mr. KYL. Mr. President, I ask unanimous consent that the text of my remarks today to the National Policy Conference of The Nixon Center and The Richard Nixon Foundation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A central tenet of the Obama Administration's security policy is that, if the U.S. "leads by example" we can "reassert our moral leadership" and influence other nations to do things. It is the way the President intends to advance his goal of working toward a world free of nuclear weapons and to deal with the stated twin top priorities of the Administration: nuclear proliferation and nuclear terrorism. This morning, I want to test this thesis—to explore whether, for example, limiting our nuclear capability will cause others who pose problems to change their policies.

To begin the discussion, let me mention just three specific examples of things the administration has done to "lead by example."

First, the Administration's Nuclear Posture Review (NPR) changed U.S. declaratory policy to limit the circumstances under which the U.S. would use nuclear weapons to defend the nation on the theory that if we appear to devalue nuclear weapons, other states will similarly devalue them and choose not to obtain them. The downside, of course, is that such emphasis on nuclear weapons only reminds states, including rogue regimes, of their value.

Second, the central point of the START agreement, was a significant draw down of our nuclear stockpiles. And, the Administration has already been talking about a next phase that could even include reductions by countries in addition to the U.S. and Russia.

Third, President Obama wants to commit the U.S. never again to test nuclear weapons under the CTBT so that, hopefully, others will follow our example.

I'll discuss these three examples in more detail in a minute.

Obviously, if the theory is wrong, we could be risking a lot. For example, we could be jeopardizing our own security and the nuclear umbrella that assures 31 other countries of their security. Ironically, as our capacity is reduced, their propensity to build their own deterrent is increased—the opposite of what we intend.

We could be sacrificing our freedom to deploy the full range of missile defenses we need by agreeing to arms control agreements like START or other agreements or unilateral actions like the U.S. statement on missile defense accompanying the START treaty.

Were we to ratify the CTBT, we would forever legally give up our right to test weapons. That's a very serious limitation.

The point is, leading by example means sacrifices on our part that could have significant consequences. The question is whether the risks are justified.

Zero nukes: what does President Obama want to achieve with this strategy? Barack Obama has long advocated zero nuclear weapons going all the way back to his writings as a college student in 1983. In fact, he wrote then that the drive to achieve a ban on all nuclear weapons testing would be "a powerful first step towards a nuclear free world." He's even cast it in moral terms, saying that "as a nuclear power, as the only nuclear power to have used a nuclear weapon, the United States has a moral responsibility to act."

There are four big assumptions here: that the Global Zero idea, a world without nuclear weapons, is necessarily a good thing; that such a world could realistically be achieved; that our leadership here will help to reestablish previously lost moral force behind U.S. policy; and that, if we lead by example, others will follow.

The first three assumptions need to be carefully examined; though this morning, I will focus only on the last.

Suffice it to say the following about the first three assumptions: first, is "zero" really desirable? If nuclear deterrence has kept the peace between superpowers since the end of World War II, which itself cost over 60 million lives by some estimates, are nuclear weapons really a risk to peace or a contributor to peace?

Second, since the know-how exists to build nuclear weapons and they can't be disinvented, is it really realistic to think they could be effectively eliminated? For example, if we get near to zero, any nation that can breakout and build even a few nuclear weapons will become a superpower.

And the superpowers themselves will find it difficult to get close to zero. For example, if Russia deploys ten extra nuclear weapons today, that's not a big deal, we have 2,200 deployed. If, however, each side is at 100 weapons, and one side deploys an extra ten, that's a significant military breakout. And while we will have 1,550 deployed weapons under the new treaty, and China will still have only several hundred, as we go lower, China has every incentive to build up quickly and become a peer competitor to the U.S. How do we deal with these problems? It's not clear we know.

Third, do we really have to "restore our moral leadership" and is it necessarily more moral or moral at all to eschew weapons that have been a deterrent to conflict, but the elimination of which could make the world again safe for conventional wars between the great powers? Again, World War 2 cost an estimated 60 million lives. After 1945, the great powers have been deterred from war with each other.

These three questions deserve full debate—but, it is the last assumption I want to explore today—that if we lead, others will follow.

Put another way: is the world just waiting for the U.S. to further limit or eliminate its nuclear weapons? Is it true that if we lead by example, others will follow, and nuclear weapons will cease to exist? And, does our credibility in the world depend on taking these actions?

The President outlined his vision in an interview with the New York Times last year: "it is naïve for us to think that we can grow our nuclear stockpiles, the Russians continue to grow their nuclear stockpiles, and our allies grow their nuclear stockpiles, and that in that environment we're going to be able to pressure countries like Iran and North Korea not to pursue nuclear weapons themselves."

The first problem with that is that it's factually wrong—we are not growing our nuclear stockpiles, we're reducing them, and we have been for years. The second problem is that, notwithstanding our reductions, others are not following suit.

One of the first places President Obama chose to lead was to modify our approach to the use of nuclear weapons in his new Nuclear Posture Review. I previously mentioned his new policy of non-use against certain kinds of non-nuclear attacks.

A second feature of the NPR was to artificially take off the table some necessary options like replacement of nuclear components to make them more reliable and safe. This is leading by example that other nuclear powers aren't following and we shouldn't be doing if we want to ensure that our weapons will do what we want them to do.

The Administration's next step was signing the NEW START treaty, with significant reductions to our deployed warheads and delivery vehicles and potential limitations on missile defense. But Russia was going to reduce its numbers with or without the treaty—so we should not conclude their acts were because we led by example. And it remains to be seen whether what we gave up will be worth the ostensible "reset" in our relations.

And, after NEW START, there is another arms control treaty. Let me quote Assistant Secretary of State Rose Gottemoeller in a speech titled "The Long Road from Prague": "The second major arms control objective of the Obama Administration is the ratification of the Comprehensive Nuclear Test-Ban

Treaty (CTBT). There is no step that we could take that would more effectively restore our moral leadership and improve our ability to reenergize the international non-proliferation consensus than to ratify the CTBT."

Is it true we have acted badly and must atone to restore our moral leadership? Here's what we've done in disarmament already: the U.S. has reduced its nuclear weapons stockpile by 75 percent since the end of the Cold War and 90 percent since the height of the Cold War (this doesn't even include the NEW START figures). The U.S. has not conducted a nuclear weapons test since 1992. It has not designed a new warhead since the 80s nor has it built one since the 1990s. We have pulled back almost all of our tactical nuclear weapons, and in the new NPR, we will retire our sea launched cruise missile.

And what has this "leadership" gotten us? Has it impressed Iran and North Korea? Has it kept Russia and China and France and Great Britain and India and Pakistan from modernizing (and in some cases growing) their nuclear weapons stockpiles?

Russia is, in fact, deploying a new multi-purpose attack submarine that can launch long range cruise missiles with nuclear warheads against land targets at a range of 5,000 kilometers . . . just barely missing the threshold to be considered a strategic weapon under the New START treaty. Of course, a tactical nuclear weapon has a strategic effect if it is detonated above a U.S. or allied city.

Will Pakistan or North Korea ratify the CTBT just because the U.S. does? Not likely. In fact, both nations continued their nuclear weapons tests after the U.S. unilaterally stopped testing and even after the U.S. signed the CTBT.

Have these steps motivated our allies to be more helpful in dealing with real threats like Iran and North Korea and with nuclear terrorism? If we ratify CTBT, would Great Britain suddenly have a new motivation to help us more on Iran? If we cut more nuclear weapons from our stockpile would France now be willing to cut back on its force de frappe?

Was Russia willing to discuss its tactical nuclear weapons as part of the current START treaty? Russia's President has said that "possessing nuclear weapons is crucial to pursuing independent policies and to safeguarding sovereignty." In fact, Russia appears to be as difficult as ever, announcing that it will build a nuclear reactor in Syria on the same day that the U.S. announced it will begin nuclear cooperation with Russia.

Has all of our work toward disarmament impressed Turkey to play a constructive or obstructive role in reining in Iran?

The recent Nuclear Security Summit saw no meaningful new commitments because of our newfound moral leadership. In fact the most the Administration could say for it is 47 nations signed a non-binding communiqué.

And with regard to the Non Proliferation Treaty review conference, which is underway as we speak in New York, will our moral leadership bring us any benefit there? It is not encouraging to see the conference devolve into a discussion of Israel's nuclear weapons program as opposed to Iran's.

When countries have cut back their nuclear weapons programs, it was for other reasons, namely, their own security interests or economic requirements. Nations, with the exception of the U.S. it seems, take actions that they perceive to be in their best interests. They do not change their national security posture merely because of U.S. disarmament.

They may even observe these steps as weakness and opt to double down on their aggressive outlaw actions as a result.

For example, Russia agreed to the limits in the new START treaty, but, as I noted, that was only because it was already going down to those levels, not because of some U.S. moral leadership.

Nor did South Africa abandon its nuclear weapons program because of our leadership—it was because of the fall of the apartheid regime.

Did Libya end its program because we opted not to go ahead with RNEP or RRW? No, Libya saw 160,000 U.S. troops in Iraq enforcing UN Security Council Resolutions on nuclear proliferation and feared it would be next.

These same interests, security and commercial, also dictate nations' actions with regard to the nuclear terrorism and proliferation issues. For example, Russia says that an Iran with nuclear weapons is a threat. And it will go along with some sanctions, e.g., sanctions that raise the global price of energy, of which Russia is the world's leading exporter—but it won't go along with sanctions cutting off Iran's flow of weapons, which Russia sells in great quantity.

And even a European country like Germany would like the U.S. to remove from that country the tactical nuclear weapons we deploy there for the defense of NATO, but, at the same time, is actually growing its economic links to Iran—and it appears willing only to impose sanctions agreed to by the U.N. and the E.U.

Bottom line: there is no evidence our moral leadership in arms control and disarmament will convince countries to set aside their calculations of the impact of nuclear proliferation and nuclear terrorism on their national security, and help us address these threats.

The Administration's security agenda is based on the notion of the U.S. making substantive changes to our national security posture in the hopes of persuading others to act, frequently contrary to their economic or security interests.

But this good faith assumption that others will reciprocate is not supported by any evidence—it is certainly not informed by any past experience. Before big changes are made to our security posture, the President owes it to the American people to explain exactly how the changes will improve our security. It cannot just be a matter of change and hope. Too much is at stake.

I also think the American people will be quite surprised to learn that their nation lost its moral leadership somewhere and that concessions to their security are now necessary to reestablish it.

As a complete aside, the most recent example of the Obama Administration's thinking in this regard is the Assistant Secretary of State for Democracy and Human Rights' comparison of the immigration law passed by my state of Arizona to the systematic policy of abuse and repression by the "People's Republic of China."

As you can tell by now, I am not much impressed with the notion that we can achieve important U.S. security goals by leadership which stresses concession by the U.S. Rather than change and hope, I adhere to the philosophy of President Reagan epitomized in the words "peace through strength."

A strong America is the best guarantor of a peaceful world that has ever been known. And there is nothing immoral about strength that keeps the peace.

#### NOMINATION OF ELENA KAGAN

Mr. LEAHY. Mr. President, earlier today I announced that the Senate Judiciary Committee will hold its confirmation hearing on the nomination of Solicitor General Elena Kagan to be Associate Justice on the U.S. Supreme Court beginning June 28.

I have reached out to Senator SESSIONS, the committee's ranking Republican, to discuss the scheduling of this hearing, and we were finally able to meet yesterday. We worked cooperatively to send a bipartisan questionnaire to the nominee last week. We joined together to send a letter yesterday to the Clinton Library asking for files from Solicitor General Kagan's work in the White House during the Clinton administration. I will continue to consult with Senator SESSIONS to ensure that we hold a fair hearing.

This is a reasonable schedule that is in line with past practice. The hearing on the nomination of Justice Kennedy was held just 33 days after his designation. The hearing on the nomination of Justice Ginsburg was held 36 days after her nomination. And the hearing on the nomination of Justice Rehnquist to be Chief Justice was held 42 days after his nomination. When John Roberts was first nominated to succeed Justice O'Connor, I agreed with the Republican Chairman to proceed 49 days after his designation even though he had not yet even received his answer to the committee's questionnaire. After Hurricane Katrina, the death of Chief Justice Rehnquist, and the withdrawal of that initial nomination and his nomination, instead, to be Chief Justice, the committee proceeded just days after his nomination and only 55 days from his earlier designation. Of course, last year we proceeded with the hearing on the nomination of Justice Sotomayor 48 days after she was designated. Senate Republicans said that hearing was fair and was conducted fairly. This year, I am scheduling the hearing to start 49 days after Elena Kagan's nomination.

There is no reason to unduly delay consideration of this year's nomination. Justice Stevens announced on April 9 that he would be leaving the Court. He wrote that he would resign effective the day after the Supreme Court concludes its summer session at the end of June. He noted that "it would be in the best interests of the Court to have [his] successor appointed and confirmed well in advance of the commencement of the Court's next Term," and I wholeheartedly agree with Justice Stevens. That is in the best interests of the Court and the country.

Since Justice Stevens' announcement in early April, there has been a good deal of work done in preparation. The President announced his choice a month later, on May 10. During that month, much was written and said



about the eventual nominee who was identified from the outset as a leading candidate for nomination. When the President made it official, Senate Republicans were quick to react. Indeed, one Senate Republican announced on the very day that the President announced his selection that the Senator opposed Solicitor General Kagan's nomination and would be voting against confirmation. Extreme right-wing interest groups and commentators have been savaging her since before the nomination was announced, and that has not subsided. The misstatements and harsh characterizations make proceeding sooner rather than later all the more important. Solicitor General Kagan deserves the earliest opportunity to respond to these attacks and to set the record straight. The American people deserve a process that is fair and thorough but not needlessly prolonged. In selecting this hearing date, I am trying to be fair to all concerned.

I also want to conclude the process without unnecessary delay so that Solicitor General Kagan might participate fully in the deliberations of the Supreme Court in selecting cases and preparing for its new term. I want to complete Senate consideration, as Justice Stevens suggested, so that the new Justice is confirmed well in advance of the commencement of the Supreme Court's next term, so that she may organize her chambers, select her clerks, and fully participate in the work of the Court.

This schedule is also in keeping with the time line Senator MCCONNELL recommended in 2005, when President Bush made his first nomination to the Supreme Court and Senator MCCONNELL, then the Republican whip and now the Senate Republican leader, said that the Senate should consider and confirm the President's Supreme Court nomination within 60 to 70 days. We worked hard to achieve that. The final Senate vote on Chief Justice Roberts' nomination was 72 days after he was designated. Justice Sotomayor was likewise confirmed 72 days after she was named. Seventy-two days after the nomination of Elena Kagan will be July 21.

Unlike the late July nomination of John Roberts, this nomination by President Obama was announced on May 10. Unlike the resignation of Justice O'Connor, which was not announced until July, the retirement of Justice Stevens was made official on April 9. So in this instance the vacancy arose almost 3 months earlier than in 2005. After bipartisan consultation, President Obama made his nomination more than 2 months earlier than President Bush did in 2005.

One of the Republican criticisms of this nomination is that Solicitor General Kagan has not been a judge and does not have years of opinions to be

considered. That should make Senators' preparation for the hearing less labor intensive than that for Justice Sotomayor. In addition, we thoroughly reviewed and considered her record just last year when the Senate, by a bipartisan majority vote, confirmed her nomination to serve as the Solicitor General of the United States, often called the "Tenth Justice."

To delay the confirmation hearing until July, as some have suggested, would mean extending the preparation time from 49 to 63 days. But Republicans complain that there is less to review, nothing like the thousands of opinions they complained about last year. Accordingly, we could actually proceed more quickly to the hearing. This last weekend, Republican Senators said that Solicitor General Kagan's answers at the hearing were going to be the key. If that is true and they will approach the hearing with open minds and listen to her answers to their questions, we should not needlessly delay getting to those questions and answers.

The hearing is the opportunity for all Senators on the Judiciary Committee, both Republicans and Democrats, to ask questions, raise concerns, and evaluate the nomination. It seems to me that Republican Senators are ready to ask questions now. At last week's consideration of the nomination of Goodwin Liu to the Ninth Circuit, much of the discussion from Republican Senators seemed, instead, to be about the Kagan nomination to the Supreme Court. The Republican Senators say that they want to ask her about her actions as the dean of Harvard Law School and about her judicial philosophy. It does not take 2 months to prepare to ask those questions. They have already raised them. They will surely be prepared to ask them by late June. This is a schedule that I think is both fair and adequate—fair to the nominee and adequate for us to prepare for the hearing and Senate consideration. There is no reason to indulge in needless and unreasonable delay.

We already have received Solicitor General Kagan's response to the committee's questionnaire. Senator SESSIONS and I have sent a letter to the National Archives requesting documents related to Elena Kagan's service in the Clinton administration and there should be no cause for concerns that we will have these records before the committee in light of the White House Counsel's request over the weekend for the release of thousands of pages of records from that time. We will be prepared to proceed to a hearing on June 28, almost 6 weeks from today.

The purpose of the hearing is to allow Senators to ask questions and raise their concerns. It is also the time the American people can see the nominee, consider her thoughtfulness, her temperament, and evaluate her char-

acter. I am disappointed that some Republican Senators have already declared that they will vote no on Solicitor General Kagan's nomination and have made that announcement before giving the nominee a fair chance to be heard. It is incumbent on us to allow the nominee an opportunity to be considered fairly and allow her to respond to false criticism of her record and her character. Those who are critical and have doubts should support the promptest possible hearing. That is where questions can be asked and answered. That is why we hold hearings.

President Obama handled the selection process with the care that the American people expect and deserve and met with Senators from both sides of the aisle. I suggested that he nominate someone outside the judicial monastery, whose experiences were not limited to those in the rarified air of the Federal appellate courts. The Supreme Court's decisions have a fundamental impact on Americans' everyday lives. One need look no further than the Lilly Ledbetter and Diana Levine cases to understand how just one vote can determine the Court's decision and impact the lives and freedoms of countless Americans. One need look no further than the Citizens United decision to know that the decisions of the Supreme Court can drown out the voices of individual Americans in favor of wealthy corporate interests. I believe that Solicitor General Kagan understands that our courthouse doors must remain open to hard-working Americans.

President Obama is to be commended for having consulted with Senators from both sides of the aisle. Now the Senate must fulfill its responsibility. The nominee has returned the Judiciary Committee questionnaire and will be completing her meetings with Senators on the Judiciary Committee very soon. I hope that all Senators now will work with me to move forward to consider this nomination in a fair and timely manner.

#### COMMENDING PRIME MINISTER KOSOR OF CROATIA

Mr. BEGICH. Mr. President, today I honor Madame Jadranka Kosor, the Prime Minister of Croatia, on the occasion of her visit to Washington, DC. I congratulate her on becoming the first female Prime Minister of Croatia. Additionally, I commend Croatia for its promotion of genuine cooperation in southeast Europe fostering strong relations, stability and prosperity with her neighbors. As a graduate of the Faculty of Law in Zagreb, Vice Prime Minister, Minister of the Family, Veterans' Affairs and Intergenerational Solidarity, she is a woman of much accomplishment.

Prime Minister Kosor is dedicated to leading Croatia on its final stages of



accession toward membership in the European Union. This is an action strongly supported by the United States. I recognize Prime Minister Kosor's efforts and determination in carrying out all the necessary reforms in this process. She has helped to strengthen the rule of law and the economy of her country in order for it to flourish and enter into the European Union.

Croatia is a strong supporter of the United States and its efforts to restore stability and peace to many parts of the world. Croatia is one of the two newest NATO members and a staunch ally of the United States. In Afghanistan Croatia has assisted the United States for years with troops and other ground personnel.

Many years ago my paternal grandfather left Croatia for a new life in America. His son, my father, was the first Croatian American elected to the House of Representatives. I am proud to be the first Croatian American elected to the U.S. Senate. I am honored to meet with Prime Minister Kosor to discuss our nations' mutual support for democracy around the world.

Mr. President and colleagues, please join me in welcoming Prime Minister Kosor to the United States and honoring the friendship our two countries have.

#### ADDITIONAL STATEMENTS

##### RECOGNIZING THE PUJOLS FAMILY FOUNDATION

• Mrs. McCASKILL. Mr. President, today I commemorate the work and commitment of the Pujols Family Foundation. We all know Albert Pujols as one of today's most notable baseball players and, of course, the first baseman for my home team, the St. Louis Cardinals. However, in addition to his commitments as a professional athlete, Albert has chosen to invest his time and compassion for the past 5 years in the Pujols Family Foundation. In its efforts to provide education, medical relief, and supplies to impoverished children, the Pujols Family Foundation has funded Haitian disaster relief, family-oriented events in St. Louis, and mission trips to the Dominican Republic. Through their efforts and service, the Pujols Family Foundation has become a saving grace for families living with Down's syndrome, disabilities, and life-threatening illnesses without means to afford many of the necessities we take for granted.

Albert Pujols also uses baseball as a way to bring new joy and relief to children in the Dominican Republic. Batey Baseball is a new joint venture for 2010 and is spearheaded by Albert Pujols, the Pujols Family Foundation, and Compassion International. Its mission

is to teach responsibility, teamwork, and leadership to young men in the Dominican Republic through the sport of baseball. Set to launch in the summer of 2010, this program will bring joy and hope to many young baseball enthusiasts in the Dominican Republic.

It is a welcome occurrence when I have the honor to come before this body and acknowledge the selfless and tireless work done by Missourians on behalf of those less fortunate.

On behalf of myself and the people of Missouri, I would like to recognize and congratulate Albert Pujols, his wife Derdre, and the Pujols Family Foundation on their 5 years of service to the people of St. Louis, MO, and the world.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE

At 10:47 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1782. An act to provide improvements for the operations of the Federal courts, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2288. An act to amend Public law 106-392 to maintain annual base funding for the Upper Colorado and San Juan fish recovery programs through fiscal year 2023.

H.R. 4491. An act to authorize the Secretary of the Interior to conduct a study of alternatives for commemorating and interpreting the role of the Buffalo Soldiers in the early years of the National Parks, and for other purposes.

H.R. 4614. An act to amend part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide for incentive payments under the Edward Byrne Memorial Justice Assistance Grant program for States to implement minimum and enhanced DNA collection processes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 211. Concurrent resolution recognizing the 75th anniversary of the estab-

lishment of the East Bay Regional Park District in California, and for other purposes.

#### ENROLLED BILLS SIGNED

At 4:02 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1782. An act to provide improvements for the operations of the Federal courts, and for other purposes.

H.R. 5014. An act to clarify the health care provided by the Secretary of Veterans Affairs that constitutes minimum essential coverage.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4491. An act to authorize the Secretary of the Interior to conduct a study of alternatives for commemorating and interpreting the role of the Buffalo Soldiers in the early years of the National Parks, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4614. An act to amend part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide for incentive payments under the Edward Byrne Memorial Justice Assistance Grant program for States to implement minimum and enhanced DNA collection processes; to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 211. Concurrent resolution recognizing the 75th anniversary of the establishment of the East Bay Regional Park District in California, and for other purposes; to the Committee on the Judiciary.

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2288. An act to amend Public Law 106-392 to maintain annual base funding for the Upper Colorado and San Juan fish recovery programs through fiscal year 2023.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. VITTER:

S. 3384. A bill to direct the General Accountability Office to conduct a full audit of hurricane protection funding and cost estimates associated with post-Katrina hurricane protection; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BENNETT (for himself, Mr. BARRASSO, Mr. ENZI, and Mr. HATCH):

S. 3385. A bill to amend the Mineral Leasing Act to require the Secretary of the Interior to determine the impact of any proposed modification to the policy of the Department of the Interior relating to any onshore oil or natural gas preleasing or leasing activity, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER (for himself, Mr. PRYOR, Mr. NELSON of Florida, Ms. KLOBUCHAR, Mrs. McCASKILL, and Mr. LEMIEUX):

S. 3386. A bill to protect consumers from certain aggressive sales tactics on the Internet; to the Committee on Commerce, Science, and Transportation.

By Mr. UDALL of Colorado:

S. 3387. A bill to provide for the release of water from the marketable yield pool of water stored in the Ruedi Reservoir for the benefit of endangered fish habitat in the Colorado River, and for other purpose; to the Committee on Energy and Natural Resources.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BOND (for himself and Mrs. McCASKILL):

S. Res. 534. A resolution expressing support for designation of May 1, 2010, as "Silver Star Service Banner Day"; considered and agreed to.

By Mr. DODD (for himself, Mr. LUGAR, Mr. BINGAMAN, Mr. DURBIN, Mrs. GILLIBRAND, and Mr. MENENDEZ):

S. Res. 535. A resolution honoring the President of Mexico, Felipe Calderon Fournier, for his service to the people of Mexico, and welcoming the President to the United States; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 28

At the request of Mr. SCHUMER, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 28, a bill to ensure that the courts of the United States may provide an impartial forum for claims brought by United States citizens and others against any railroad organized as a separate legal entity, arising from the deportation of United States citizens and others to Nazi concentration camps on trains owned or operated by such railroad, and by the heirs and survivors of such persons.

S. 354

At the request of Mr. WEBB, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 354, a bill to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes.

S. 504

At the request of Mr. ROBERTS, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Alaska (Mr. BEGICH), the Senator from Nevada (Mr. ENSIGN), the Senator from South Carolina (Mr. GRAHAM), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Vermont (Mr. SANDERS) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 504, a bill to redesignate the Department of the Navy as the Department of the Navy and Marine Corps.

S. 632

At the request of Mr. BAUCUS, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 632, a bill to amend the Internal Revenue Code of 1986 to require that the payment of the manufacturers' excise tax on recreational equipment be paid quarterly.

S. 941

At the request of Mr. CRAPO, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 987

At the request of Mr. DURBIN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1055

At the request of Mr. BENNETT, his name was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1651

At the request of Mr. LEVIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1651, a bill to modify a land grant patent issued by the Secretary of the Interior.

S. 2781

At the request of Ms. MIKULSKI, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 2781, a bill to change references in Federal law to mental retardation to references to an intellectual disability, and to change references to a mentally retarded individual to references to an individual with an intellectual disability.

S. 2854

At the request of Mr. KOHL, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2854, a bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for new qualified hybrid motor vehicles, and for other purposes.

S. 2862

At the request of Ms. SNOWE, the names of the Senator from Illinois (Mr. BURRIS), the Senator from California (Mrs. BOXER), the Senator from Oregon (Mr. MERKLEY), the Senator from Pennsylvania (Mr. SPECTER) and the Senator from New Mexico (Mr. UDALL) were added as cosponsors of S. 2862, a bill to amend the Small Business Act

to improve the Office of International Trade, and for other purposes.

S. 2905

At the request of Mr. INOUE, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Nevada (Mr. ENSIGN) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. 2905, a bill to amend the Internal Revenue Code of 1986 to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 3106

At the request of Mrs. HAGAN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 3106, a bill to authorize States to exempt certain nonprofit housing organizations from the licensing requirements of the S.A.F.E. Mortgage Licensing Act of 2008.

S. 3213

At the request of Mr. LEVIN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 3213, a bill to ensure that amounts credited to the Harbor Maintenance Trust Fund are used for harbor maintenance.

S. 3246

At the request of Mr. WYDEN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 3246, a bill to exclude from consideration as income under the Native American Housing Assistance and Self-Determination Act of 1996 amounts received by a family from the Department of Veterans Affairs for service-related disabilities of a member of the family.

S. 3248

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 3248, a bill to designate the Department of the Interior Building in Washington, District of Columbia, as the "Stewart Lee Udall Department of the Interior Building".

S. 3278

At the request of Mr. BENNETT, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 3278, a bill to establish the Meth Project Prevention Campaign Grant Program.

S. 3305

At the request of Mr. MENENDEZ, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 3305, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills, and for other purposes.

S. 3306

At the request of Mr. MENENDEZ, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 3306, a bill to amend the Internal Revenue Code of 1986 to require polluters to pay the full cost of oil spills, and for other purposes.

S. 3319

At the request of Mr. DODD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3319, a bill to amend the Internal Revenue Code of 1986 to provide recruitment and retention incentives for volunteer emergency service workers.

S. 3339

At the request of Mr. KERRY, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 3339, a bill to amend the Internal Revenue Code of 1986 to provide a reduced rate of excise tax on beer produced domestically by certain small producers.

S. 3363

At the request of Mr. CARDIN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 3363, a bill to amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act.

S. 3372

At the request of Mrs. BOXER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3372, a bill to modify the date on which the Administrator of the Environmental Protection Agency and applicable States may require permits for discharges from certain vessels.

S. 3381

At the request of Mr. BAUCUS, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 3381, a bill to amend the Clean Air Act to modify certain definitions of the term "renewable biomass", and for other purposes.

S.J. RES. 29

At the request of Mrs. FEINSTEIN, the names of the Senator from Ohio (Mr. BROWN), the Senator from Iowa (Mr. HARKIN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

At the request of Mr. McCONNELL, the names of the Senator from Maine (Ms. SNOWE), the Senator from Maine (Ms. COLLINS), the Senator from Ohio (Mr. VOINOVICH) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S.J. Res. 29, *supra*.

AMENDMENT NO. 3799

At the request of Mrs. HAGAN, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of amendment No. 3799 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers

from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3922

At the request of Mr. MERKLEY, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of amendment No. 3922 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3923

At the request of Mr. SCHUMER, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of amendment No. 3923 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 4003

At the request of Mr. PRYOR, his name was added as a cosponsor of amendment No. 4003 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 4085

At the request of Mr. HARKIN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of amendment No. 4085 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 4087

At the request of Mr. PRYOR, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of amendment No. 4087 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

## SUBMITTED RESOLUTIONS

# SENATE RESOLUTION 534—EXPRESSING SUPPORT FOR DESIGNATION OF MAY 1, 2010, AS "SILVER STAR SERVICE BANNER DAY"

Mr. BOND (for himself and Mrs. McCASKILL) submitted the following resolution; which was considered and agreed to:

S. RES. 534

Whereas the Senate has always honored the sacrifices made by the wounded and ill members of the Armed Forces;

Whereas the Silver Star Service Banner has come to represent the members of the Armed Forces and veterans who were wounded or became ill in combat in the wars fought by the United States;

Whereas the Silver Star Families of America was formed to help the American people remember the sacrifices made by the wounded and ill members of the Armed Forces by designing and manufacturing Silver Star Service Banners and Silver Star Flags for that purpose;

Whereas the sole mission of the Silver Star Families of America is to evoke memories of the sacrifices of members and veterans of the Armed Forces on behalf of the United States through the presence of a Silver Star Service Banner in a window or a Silver Star Flag flying;

Whereas the sacrifices of members and veterans of the Armed Forces on behalf of the United States should never be forgotten; and

Whereas May 1, 2010, is an appropriate date to designate as "Silver Star Service Banner Day": Now, therefore, be it

*Resolved*, That the Senate designates May 1, 2010, as "Silver Star Service Banner Day" and calls upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

# SENATE RESOLUTION 535—HONORING THE PRESIDENT OF MEXICO, FELIPE CALDERON HINOJOSA, FOR HIS SERVICE TO THE PEOPLE OF MEXICO, AND WELCOMING THE PRESIDENT TO THE UNITED STATES

Mr. DODD (for himself, Mr. LUGAR, Mr. BINGAMAN, Mr. DURBIN, Mrs. GILLIBRAND, and Mr. MENENDEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 535

Whereas the relationship between the people and Governments of the United States and Mexico is based on trust, mutual respect, and cultural exchanges that have enriched both nations;

Whereas our two nations share not just a border, but also common values and common aspirations;

Whereas millions of Americans proudly claim Mexican ancestry, and the United States is home to the world's second largest Mexican community;

Whereas, when the American people look to their south, they see not only a neighbor, but an ally and a friend;

Whereas mutual interests, including border security, economic prosperity, and clean energy, rely on the continuing development and deepening of the United States-Mexico relationship;

Whereas drug trafficking and related violence has taken a significant toll on both countries, resulting in the deaths of more than 22,000 people in Mexico in the last 3 years, including a number of law enforcement agents and public officials, highlighting the enormous problem of illegal drug use and gang violence in America;

Whereas the Governments of Mexico and the United States have worked together under the principle of shared responsibility to address this scourge through the Merida Initiative and through programs such as cooperative intelligence, border security, and anti-corruption efforts and efforts to stop the flow of weapons and illicit money from the United States into Mexico; and

Whereas the future security and prosperity of both nations depends on our continuing ability to work together in the spirit of our common values and long friendship: Now, therefore, be it

*Resolved*, That the Senate—

(1) warmly welcomes the President of Mexico, Felipe Calderon Hinojosa;

(2) believes that together, the Governments of Mexico and the United States can bring immense benefits to their people and make enormous contributions to addressing the global challenges of the 21st century;

(3) looks forward to the continuing progress in relations between the Governments and people of Mexico and the United States; and

(4) appreciates the social, economic, and cultural contributions of the Mexican community in the United States and desires closer relations between the people of the United States and the people of Mexico.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 4115. Mr. MERKLEY (for himself and Mr. LEVIN) proposed an amendment to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

SA 4116. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4117. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3794 submitted by Mr. LEAHY (for himself, Mr. GRASSLEY, Mr. SPECTER, and Mr. KAUFMAN) and intended to be proposed to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4118. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4119. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4120. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3883 proposed by Ms. SNOWE (for herself and Mr. PRYOR) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4121. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3746 proposed by Mr. WHITEHOUSE (for himself, Mr. MERKLEY, Mr. DURBIN, Mr. SANDERS, Mr. LEVIN, and Mr. BURRIS) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4122. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4055 submitted by Mrs. HUTCHISON (for herself, Mrs. HAGAN, and Mr. CORNYN) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4123. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3944 submitted by Mr. CORKER and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4124. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4081 submitted by Mr. HATCH and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4125. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4083 submitted by Mr. BROWN of Massachusetts and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4126. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4083 submitted by Mr. BROWN of Massachusetts and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4127. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4081 submitted by Mr. HATCH and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4128. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4055 submitted by Mrs. HUTCHISON (for herself, Mrs. HAGAN, and Mr. CORNYN) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4129. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4052 submitted by Mr. CORKER and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4130. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4086 submitted by Ms. CANTWELL (for herself and Mrs. LINCOLN) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4131. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4052 submitted by Mr. CORKER and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4132. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4086 submitted by Ms. CANTWELL (for herself and Mrs. LINCOLN) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4133. Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3944 submitted by Mr. CORKER and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4134. Mr. REED submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4135. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4136. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4137. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4138. Mr. LEVIN (for himself, Mr. KAUFMAN, Mr. REED, and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4139. Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID

(for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4140. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3883 proposed by Ms. SNOWE (for herself and Mr. PRYOR) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4141. Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4142. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4050 submitted by Mr. CARDIN (for himself, Mr. LUGAR, Mr. DURBIN, Mr. SCHUMER, Mr. FEINGOLD, Mr. MERKLEY, Mr. JOHNSON, and Mr. WHITEHOUSE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4143. Mr. DODD submitted an amendment intended to be proposed to amendment SA 4081 submitted by Mr. HATCH and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4144. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4145. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3776 proposed by Mr. SPECTER (for himself, Mr. REED, Mr. KAUFMAN, Mr. DURBIN, Mr. HARKIN, Mr. LEAHY, Mr. LEVIN, Mr. MENENDEZ, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. FEINGOLD, and Mr. MERKLEY) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4146. Mr. ENSIGN proposed an amendment to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 4147. Mr. DODD (for Mr. CARPER (for himself, Ms. COLLINS, Mr. LIEBERMAN, and Mr. VOINOVICH)) proposed an amendment to the bill S. 920, to amend section 11317 of title 40, United States Code, to improve the transparency of the status of information technology investments, to require greater accountability for cost overruns on Federal information technology investment projects, to improve the processes agencies implement to manage information technology investments, to reward excellence in information technology acquisition, and for other purposes.

#### TEXT OF AMENDMENTS

**SA 4115.** Mr. MERKLEY (for himself and Mr. LEVIN) proposed an amendment to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial sys-

tem, to end “too big to fail,” to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

At the appropriate place, insert the following:

#### **SEC. —. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

Notwithstanding any other provision of this Act, section 619 of this act shall have no force or effect, and the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following:

#### **“SEC. 13. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

**“(a) IN GENERAL.—**

**“(1) PROHIBITION.—**Unless otherwise provided in this section, a banking entity shall not—

**“(A) engage in proprietary trading; or**

**“(B) acquire or retain any equity, partnership, or other ownership interest in or sponsor a hedge fund or a private equity fund.**

**“(2) NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD.—**Any nonbank financial company supervised by the Board that engages in proprietary trading or takes or retains any equity, partnership, or other ownership interest in or sponsors a hedge fund or a private equity fund shall be subject by the Board to additional capital requirements for and additional quantitative limits with regards to such proprietary trading and taking or retaining any equity, partnership, or other ownership interest in or sponsorship of a hedge fund or a private equity fund, except that permitted activities as described in subsection (d) shall be subject to additional capital and additional quantitative limits as prescribed pursuant to subsection (d)(3).

**“(b) STUDY AND RULEMAKING.—**

**“(1) STUDY.—**Not later than 6 months after the date of enactment of this section, the Financial Stability Oversight Council shall study and make recommendations on implementing the provisions of this section so as to—

**“(A) promote and enhance the safety and soundness of banking entities;**

**“(B) protect taxpayers and enhance financial stability by minimizing the risk that insured depository institutions and the affiliates of insured depository institutions will engage in unsafe and unsound activities;**

**“(C) limit the inappropriate transfer of Federal subsidies from institutions that benefit from deposit insurance and liquidity facilities of the Federal Government to unregulated entities;**

**“(D) reduce conflicts of interest between the self-interest of banking entities and nonbank financial companies supervised by the Board, and the interests of the customers of such entities and companies;**

**“(E) limit activities that have caused undue risk or loss in banking entities and nonbank financial companies supervised by the Board, or that might reasonably be expected to create undue risk or loss in such banking entities and nonbank financial companies supervised by the Board;**

**“(F) appropriately accommodate the business of insurance within an insurance company subject to regulation in accordance with the relevant insurance company investment laws while protecting the safety and soundness of any banking entity with which such insurance company is affiliated, and of the United States financial system; and**

**“(G) appropriately time the divestiture of illiquid assets that are affected by the implementation of the prohibitions under subsection (a).**

**“(2) RULEMAKING.—**

**“(A) IN GENERAL.—**Not later than 9 months after the completion of the study under paragraph (1), the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, (unless otherwise provided in this section) shall consider the findings of the study under paragraph (1) and adopt rules to carry out this section, as provided in subparagraph (B).

**“(B) COORDINATED RULEMAKING.—**

**“(i) REGULATORY AUTHORITY.—**The regulations issued under this paragraph and subsections (d) and (e) shall be issued by—

**“(I) the appropriate Federal banking agencies, jointly, with respect to insured depository institutions;**

**“(II) the Board, with respect to any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, any subsidiary of such a company (other than a subsidiary described in subparagraph (A) or (C)), and any nonbank financial company supervised by the Board;**

**“(III) the Commodity Futures Trading Commission, with respect to any entity for which the Commodity Futures Trading Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010; and**

**“(IV) the Securities and Exchange Commission, with respect to any entity for which the Securities and Exchange Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010.**

**“(ii) COORDINATION, CONSISTENCY, AND COMPARABILITY.—**In developing and issuing regulations pursuant to this section, the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall consult and coordinate with each other, as appropriate, for the purposes of assuring, to the extent possible, that such regulations are comparable and provide for consistent application and implementation of the applicable provisions of this section to avoid providing advantages or imposing disadvantages to the companies affected by this subsection and to protect the safety and soundness of banking entities and nonbank financial companies supervised by the Board.

**“(iii) COUNCIL ROLE.—**The Chairperson of the Council shall be responsible for coordination of the regulations issued under this section.

**“(c) EFFECTIVE DATE.—**

**“(1) IN GENERAL.—**Except as provided in paragraphs (2) and (3), this section shall take effect on the earlier of—

**“(A) 12 months after the issuance of final rules under subsection (b); or**

**“(B) 2 years after the date of enactment of this section.**

**“(2) TRANSITION PERIOD FOR DIVESTITURE OF HEDGE FUNDS OR PRIVATE EQUITY FUNDS BY BANKING ENTITIES.—**

**“(A) NO NEW INVESTMENTS.—**

**“(i) NO NEW FUNDS.—**On and after the date of enactment of this section, a banking entity may not sponsor or invest in a hedge fund or private equity fund that the banking entity did not sponsor or in which the banking entity was not invested on May 1, 2010.

**“(ii) NO ADDITIONAL CAPITAL OR ASSETS.—**On and after the date of enactment of this

section, a banking entity may not sell, transfer, loan, or otherwise provide any additional capital or assets to a hedge fund or private equity fund sponsored by the banking entity or in which the banking entity invests, except to the extent necessary to fulfill a contractual obligation that was in effect on May 1, 2010.

“(B) REDUCTION OF EXISTING INVESTMENTS.—Except as provided in paragraph (3), on and after the date that is 2 years after the effective date of this section, the aggregate amount of equity, partnership, or other ownership interests in all hedge funds and private equity funds held by a banking entity shall not exceed 2 percent of the Tier I capital of the banking entity.

“(C) TOTAL DIVESTITURE.—On and after the date that is 5 years after the effective date of this section, no banking entity may engage in any activity prohibited under subsection (a)(1)(B), except as provided in paragraph (3).

“(3) TRANSITION PERIOD FOR ILLIQUID FUNDS.—

“(A) DEFINITION.—In this paragraph, the term ‘illiquid fund’ means a hedge fund or private equity fund that, as of May 1, 2010, was principally invested in or is invested in illiquid assets, and committed to principally invest in illiquid assets, such as portfolio companies, real estate investments, and venture capital investments, and that maintains the investment strategy of the fund that was in place as of May 1, 2010, regarding principally investing in illiquid assets. In issuing rules under this subparagraph, the Board shall take into consideration the terms of investment for the hedge fund or private equity fund, including contractual obligations, the ability of the fund to divest of assets held by the fund, and any other factors that the Board determines are appropriate.

“(B) TRANSITION.—

“(i) IN GENERAL.—During the 4-year period beginning on the date of enactment of this section, a banking entity may only take an equity, partnership, or ownership interest in, or otherwise provide additional capital to, an illiquid fund to the extent necessary to fulfill a contractual obligation of the banking entity to the illiquid fund that was in effect on May 1, 2010.

“(ii) LIMITATIONS.—A banking entity may not exercise an option to renew, or otherwise extend the duration of, any contractual obligation described in clause (i) and shall exercise any contractual option permitting the banking entity to exit the illiquid fund if and when such option becomes available. A banking entity may elect not to exercise an option described in the preceding sentence, to the extent that the maintenance of an investment would be permitted under paragraph (2).

“(iii) EXTENSION.—

“(I) APPROVAL REQUIRED.—If a contractual obligation of a banking entity described in clause (i) extends beyond the 4-year period beginning on the date of enactment of this section, the banking entity may not continue to make the investment required under the contractual obligation without the prior written approval of the Board. In determining whether to grant an extension under this clause, the Board shall evaluate whether the proposed investment meets the requirements of this subparagraph.

“(II) TIME LIMIT ON APPROVAL.—The Board may approve an investment described in subclause (I) for a period of not longer than 2 years for each extension.

“(III) LIMIT ON NUMBER OF APPROVALS.—The Board may not approve an investment described in subclause (I) more than 3 times.

“(iv) DIVESTITURE REQUIRED.—Except as otherwise permitted under subsection (d), no banking entity may engage in any activity prohibited under subsection (a)(1)(B) after the earlier of—

“(I) the date on which the contractual obligation to invest in the illiquid fund terminates; and

“(II) the date on which the approval by the Board under clause (iii) expires.

“(4) ADDITIONAL CAPITAL.—Notwithstanding paragraph (2) or (3), on and after the effective date under paragraph (1), the Board may impose additional capital requirements, and any other restrictions, as the Board determines appropriate, on any equity, partnership, or ownership interest in or sponsorship of a hedge fund or private equity fund by a banking entity or nonbank financial company supervised by the Board, including on a case-by-case basis, as the Board determines appropriate.

“(5) RULEMAKING.—Not later than 6 months after the date of enactment of this section, the Board shall issue rules to implement paragraphs (2), (3), and (4).

“(d) PERMITTED ACTIVITIES.—

“(1) IN GENERAL.—Notwithstanding the restrictions in subsection (a), to the extent permitted by any other provision of Federal or State law, and subject to the limitations under paragraph (2) and any restrictions or limitations that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, may determine, the following activities (in this section referred to as ‘permitted activities’) are permitted:

“(A) The purchase, sale, acquisition, or disposition of obligations of the United States or any agency thereof; obligations, participations, or other instruments of or issued by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a Federal Home Loan Bank, the Federal Agricultural Mortgage Corporation, or a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and obligations of any State or of any political subdivision thereof.

“(B) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) in connection with underwriting, market-making, or in facilitation of customer relationships, to the extent that any such activities permitted by this subparagraph are designed to not exceed the reasonably expected near term demands of clients, customers, or counterparties.

“(C) Risk-mitigating hedging activities designed to reduce the specific risks to a banking entity or nonbank financial company supervised by the Board.

“(D) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) on behalf of customers.

“(E) Investments in one or more small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or investments designed primarily to promote the public welfare, as provided in paragraph (11) of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24).

“(F) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) by a regulated insurance company directly engaged in the business of insurance for the general account of the company and by any affiliate of such

regulated insurance company, provided that such activities by any affiliate are solely for the general account of the regulated insurance company, if—

“(i) the purchase, sale, acquisition, or disposition is conducted in compliance with, and subject to, the insurance company investment laws, regulations, and written guidance of the State or jurisdiction in which each such insurance company is domiciled; and

“(ii) the appropriate Federal banking agencies, after consultation with the Financial Stability Oversight Council and the relevant insurance commissioners of the States and territories of the United States, have not jointly determined, after notice and comment, that a particular law, regulation, or written guidance described in clause (i) is insufficient to protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board, or of the financial stability of the United States.

“(G) Organizing and offering a private equity or hedge fund, including serving as a general partner, managing member, or trustee of the fund and in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund, including any necessary expenses for the foregoing, only if—

“(i) the banking entity provides bona fide trust, fiduciary, or investment advisory services;

“(ii) the fund is organized and offered only in connection with the provision of bona fide trust, fiduciary, or investment advisory services and only to persons that are customers of such services of the banking entity;

“(iii) the banking entity does not acquire or retain an equity interest, partnership interest, or other ownership interest in the funds;

“(iv) the banking entity does not enter into or otherwise engage in any transaction with the hedge fund or private equity fund that is a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c);

“(v) the obligations or performance of the hedge fund or private equity fund are not guaranteed, assumed, or otherwise covered, directly or indirectly, by the banking entity or any subsidiary or affiliate of the banking entity;

“(vi) the banking entity does not share with the hedge fund or private equity fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name;

“(vii) no director or employee of the banking entity takes or retains an equity interest, partnership interest, or other ownership interest in, except for any director or employee of the banking entity who is directly engaged in providing investment advisory or other services to the hedge fund or private equity fund; and

“(viii) the banking entity complies with any rules of the appropriate Federal banking agencies, the Securities and Exchange Commission, or the Commodity Futures Trading Commission designed to ensure that losses in such hedge fund or private equity fund are borne solely by investors in the fund and not by the banking entity.

“(H) Proprietary trading conducted by a company pursuant to paragraph (9) or (13) of section 4(c), provided that the trading occurs solely outside of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a United States person.



“(I) The acquisition or retention of any equity, partnership, or other ownership interest in, or the sponsorship of, a hedge fund or a private equity fund by a banking entity or nonbank financial company supervised by the Board pursuant to paragraph (9) or (13) of section 4(c) solely outside of the United States, provided that no ownership interest in such hedge fund or private equity fund is offered for sale or sold to a resident of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a company that is organized in the United States.

“(J) Such other activity as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission determine through regulation, as provided in subsection (b)(2)(B), would promote and protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board and the financial stability of the United States.

“(2) LIMITATION ON PERMITTED ACTIVITIES.—

“(A) IN GENERAL.—No transaction, class of transactions, or activity may be deemed a permitted activity under paragraph (1) if it—

“(i) would involve or result in a material conflict of interest (as such term shall be defined jointly by rule) between the banking entity or the nonbank financial company supervised by the Board and its clients, customers, or counterparties;

“(ii) would result, directly or indirectly, in an unsafe and unsound exposure by the banking entity or nonbank financial company supervised by the Board to high-risk assets or high-risk trading strategies (as such terms shall be defined jointly by rule);

“(iii) would pose a threat to the safety and soundness of such banking entity or nonbank financial company supervised by the Board; or

“(iv) would pose a threat to the financial stability of the United States.

“(B) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations to implement subparagraph (A), as part of the regulations issued under subsection (b)(2).

“(3) CAPITAL AND QUANTITATIVE LIMITATIONS.—The Board shall adopt rules, as provided under subsection (b)(2), imposing additional capital requirements and quantitative limitations regarding the activities permitted under this section if the Board determines that additional capital and quantitative limitations are appropriate to protect the safety and soundness of the banking entities and nonbank financial companies supervised by the Board engaged in such activities.

“(e) ANTI-EVASION.—

“(1) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations as part of the rulemaking provided for in subsection (b)(2) regarding internal controls and recordkeeping in order to insure compliance with this section.

“(2) TERMINATION OF ACTIVITIES OR INVESTMENT.—Whenever an appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, has reasonable cause to believe that a banking entity or nonbank financial company supervised by the Board under the respective agency's jurisdiction has made an invest-

ment or engaged in an activity in a manner that functions as an evasion of the requirements of this section (including through an abuse of any permitted activity) or otherwise violates the restrictions under this section, the appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, shall order, after due notice and opportunity for hearing, the banking entity or nonbank financial company supervised by the Board to terminate the activity and, as relevant, dispose of the investment. Nothing in this subparagraph shall be construed to limit the inherent authority of any Federal agency or State regulatory authority to further restrict any investments or activities under otherwise applicable provisions of law.

“(f) LIMITATIONS ON RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

“(1) IN GENERAL.—No banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c) with the hedge fund or private equity fund.

“(2) TREATMENT AS MEMBER BANK.—A banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund shall be subject to section 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c–1), as if such person were a member bank and such hedge fund or private equity fund were an affiliate thereof.

“(3) COVERED TRANSACTIONS WITH UNAFFILIATED HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—No banking entity may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), with any hedge fund or private equity fund organized and offered by the banking entity or with any hedge fund or private equity fund in which such hedge fund or private equity fund has taken any equity, partnership, or other ownership interest.

“(g) RULES OF CONSTRUCTION.—

“(1) LIMITATION ON CONTRARY AUTHORITY.—Any prohibitions or restrictions under this section shall apply even though such activities may be authorized for a banking entity or a nonbank financial company supervised by the Board under any other provision of law.

“(2) SALE OR SECURITIZATION OF LOANS.—Nothing in this section shall be construed to limit or restrict the ability of a banking entity or nonbank financial company supervised by the Board to sell or securitize loans in a manner otherwise permitted by law.

“(3) AUTHORITY OF FEDERAL AGENCIES AND STATE REGULATORY AUTHORITIES.—Nothing in this section shall be construed to limit the inherent authority of any Federal agency or State regulatory authority under otherwise applicable provisions of law.

“(h) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) BANKING ENTITY.—The term ‘banking entity’ means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, and any affiliate or subsidiary of any such entity. For purposes of this paragraph, the term ‘insured depository institution’ does not include an institution that functions solely in a trust or fiduciary capacity, if—

“(A) all or substantially all of the deposits of such institution are in trust funds and are received in a bona fide fiduciary capacity;

“(B) no deposits of such institution which are insured by the Federal Deposit Insurance Corporation are offered or marketed by or through an affiliate of such institution;

“(C) such institution does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others or make commercial loans; and

“(D) such institution does not—

“(i) obtain payment or payment related services from any Federal Reserve bank, including any service referred to in section 11(a) of the Federal Reserve Act (12 U.S.C. 248a); or

“(ii) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act (12 U.S.C. 461(b)(7)).

“(2) HEDGE FUND; PRIVATE EQUITY FUND.—The terms ‘hedge fund’ and ‘private equity fund’ mean a company or other entity that is exempt from registration as an investment company pursuant to section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1) or 80a–3(c)(7)), or such similar funds as jointly determined appropriate by the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

“(3) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD.—The term ‘nonbank financial company supervised by the Board’ means a nonbank financial company supervised by the Board of Governors, as defined in section 102 of the Financial Stability Act of 2010.

“(4) PROPRIETARY TRADING.—The term ‘proprietary trading’ means engaging as a principal for its own trading account in any transaction to purchase or sell, or otherwise acquire or dispose of, any security, any derivative, any contract of sale of a commodity for future delivery, any option on any such security, derivative, or contract, or any other security or financial instrument that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.

“(5) SPONSOR.—The term to ‘sponsor’ a fund means—

“(A) to serve as a general partner, managing member, or trustee of a fund;

“(B) in any manner to select or to control (or to have employees, officers, or directors, or agents who constitute) a majority of the directors, trustees, or management of a fund; or

“(C) to share with a fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

“(6) TRADING ACCOUNT.—The term ‘trading account’ means any account used for acquiring or taking positions in the securities and instruments described in paragraph (4) principally for the purpose of selling in the near term (or otherwise with the intent to resell in order to profit from short-term price movements), and any such other accounts as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.”.

SEC. . . CONFLICTS OF INTEREST.

The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:



**"SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.**

"(a) IN GENERAL.—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

"(b) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures.

"(c) EXCEPTION.—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934."

**SA 4116.** Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFF) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

(g) **FEDERAL RESERVE MAXIMUM RESERVE RATIOS.**—Effective 90 days after the date of enactment of this Act, the authority of the Federal Reserve to vary the maximum reserve ratios for depository institutions shall be—

(1) 0 to 25 (with respect to transaction deposits); and

(2) 0 to 25 (with respect to time) deposits.

**SA 4117.** Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3794 submitted by Mr. LEAHY (for himself, Mr. GRASSLEY, and Mr. SPECTER, and Mr. KAUFMAN) and intended to be proposed to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services

practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, strike line 24 and all that follows through page 11, line 8, and insert the following:

(c) **AMENDMENTS TO THE FALSE CLAIMS ACT RELATING TO LIMITATIONS ON ACTIONS.**—Section 3730(h) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking "or agent on behalf of the employee, contractor, or agent or associated others in furtherance of other efforts to stop 1 or more violations of this subchapter" and inserting "agent or associated others in furtherance of an action under this section or other efforts to stop 1 or more violations of this subchapter"; and

(2) by adding at the end the following:

"(3) **LIMITATION ON BRINGING CIVIL ACTION.**—A civil action under this subsection may not be brought more than 3 years after the date when the retaliation occurred."

(d) **PROMOTING CRIMINAL ACCOUNTABILITY.**—

(1) **DEFINITIONS.**—In this subsection, the terms "Bureau", "consumer financial product or service", "designated transfer date", and "Federal consumer financial law" have the meanings given those terms in section 1002.

(2) **NOTICE AND COORDINATION.**—

(A) **NOTICE OF OTHER ACTIONS.**—In addition to any notice required under section 1054(d), the Bureau shall notify the Attorney General concerning any action, suit, or proceeding to which the Bureau is a party, except an action, suit, or proceeding that involves the offering or provision of consumer financial products or services.

(B) **COORDINATION.**—In order to avoid conflicts and promote consistency regarding litigation of matters under Federal law, the Attorney General and the Bureau shall consult regarding the coordination of investigations and proceedings, including by negotiating an agreement for coordination by not later than 180 days after the designated transfer date. The agreement under this subparagraph shall include provisions to ensure that parallel investigations and proceedings involving the Federal consumer financial laws are conducted in a manner that avoids conflicts and does not impede the ability of the Attorney General to prosecute violations of Federal criminal laws.

(C) **RULE OF CONSTRUCTION.**—Nothing in this paragraph shall be construed to limit the authority of the Bureau under title X, including the authority to interpret Federal consumer financial law.

**SA 4118.** Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a), add the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term "motor vehicle" means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term "motor vehicle dealer" means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

**SA 4119.** Mr. ENSIGN submitted an amendment intended to be proposed to

amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1032, strike lines 7 through 11 and insert the following:

(7) CREDIT.—The term “credit” means—

(A) the right granted by a person to a consumer to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment for such purchase; and

(B) such right is subject to a finance charge.

**SA 4120.** Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3883 proposed by Ms. SNOWE (for herself and Mr. PRYOR) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1032, strike lines 7 through 11 and insert the following:

(7) CREDIT.—The term “credit” means—

(A) the right granted by a person to a consumer to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment for such purchase; and

(B) such right is subject to a finance charge.

**SA 4121.** Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 3746 proposed by Mr. WHITEHOUSE (for himself, Mr. MERKLEY, Mr. DURBIN, Mr. SANDERS, Mr. LEVIN, and Mr. BURRIS) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1032, strike lines 7 through 11 and insert the following:

(7) CREDIT.—The term “credit” means—

(A) the right granted by a person to a consumer to defer payment of a debt, incur debt and defer its payment, or purchase property

or services and defer payment for such purchase; and

(B) such right is subject to a finance charge.

**SA 4122.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4055 submitted by Mrs. HUTCHISON (for herself, Mrs. HAGAN, and Mr. CORNYN) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page \_\_\_, line \_\_\_, of the amendment insert the following:

(c) CONFLICTS OF INTEREST.—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:

**“SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.**

“(a) IN GENERAL.—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

“(b) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures. The disclosure by a person of a material conflict of interest with respect to a transaction prohibited under subsection (a) may not be construed to permit any person to engage in the transaction.

“(c) EXCEPTION.—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934.”

**SA 4123.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3944 submitted by Mr. CORKER and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the

United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page \_\_\_, line \_\_\_, of the amendment insert the following:

(c) CONFLICTS OF INTEREST.—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:

**“SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.**

“(a) IN GENERAL.—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

“(b) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures. The disclosure by a person of a material conflict of interest with respect to a transaction prohibited under subsection (a) may not be construed to permit any person to engage in the transaction.

“(c) EXCEPTION.—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934.”

**SA 4124.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4081 submitted by Mr. HATCH and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page \_\_\_, line \_\_\_, of the amendment insert the following:

(c) CONFLICTS OF INTEREST.—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:

**"SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.**

"(a) IN GENERAL.—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

"(b) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures. The disclosure by a person of a material conflict of interest with respect to a transaction prohibited under subsection (a) may not be construed to permit any person to engage in the transaction.

"(c) EXCEPTION.—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934."

**SA 4125.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4083 submitted by Mr. BROWN of Massachusetts and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page \_\_\_, line \_\_\_, of the amendment insert the following:

(c) CONFLICTS OF INTEREST.—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:

**"SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.**

"(a) IN GENERAL.—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

"(b) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures. The disclosure by a person of a material conflict of interest with respect to a transaction prohibited under subsection (a) may not be construed to permit any person to engage in the transaction.

"(c) EXCEPTION.—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934."

**SA 4126.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4083 submitted by Mr. BROWN of Massachusetts and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

Notwithstanding any other provision of this Act, section 619 of this act shall have no force or effect, and the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following:

**"SEC. 13. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

"(A) IN GENERAL.—

"(1) PROHIBITION.—Unless otherwise provided in this section, a banking entity shall not—

"(A) engage in proprietary trading; or

"(B) acquire or retain any equity, partnership, or other ownership interest in or sponsor a hedge fund or a private equity fund.

"(2) NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD.—Any nonbank financial company supervised by the Board that engages in proprietary trading or takes or retains any equity, partnership, or other ownership interest in or sponsors a hedge fund or a private equity fund shall be subject by the Board to additional capital requirements for and additional quantitative limits with regards to such proprietary trading and taking or retaining any equity, partnership, or other ownership interest in or sponsorship of a hedge fund or a private equity fund, except that permitted activities as described in subsection (d) shall be subject to additional cap-

ital and additional quantitative limits as prescribed pursuant to subsection (d)(3).

"(b) STUDY AND RULEMAKING.—

"(1) STUDY.—Not later than 6 months after the date of enactment of this section, the Financial Stability Oversight Council shall study and make recommendations on implementing the provisions of this section so as to—

"(A) promote and enhance the safety and soundness of banking entities;

"(B) protect taxpayers and enhance financial stability by minimizing the risk that insured depository institutions and the affiliates of insured depository institutions will engage in unsafe and unsound activities;

"(C) limit the inappropriate transfer of Federal subsidies from institutions that benefit from deposit insurance and liquidity facilities of the Federal Government to unregulated entities;

"(D) reduce conflicts of interest between the self-interest of banking entities and nonbank financial companies supervised by the Board, and the interests of the customers of such entities and companies;

"(E) limit activities that have caused undue risk or loss in banking entities and nonbank financial companies supervised by the Board, or that might reasonably be expected to create undue risk or loss in such banking entities and nonbank financial companies supervised by the Board;

"(F) appropriately accommodate the business of insurance within an insurance company subject to regulation in accordance with the relevant insurance company investment laws while protecting the safety and soundness of any banking entity with which such insurance company is affiliated, and of the United States financial system; and

"(G) appropriately time the divestiture of illiquid assets that are affected by the implementation of the prohibitions under subsection (a).

"(2) RULEMAKING.—

"(A) IN GENERAL.—Not later than 9 months after the completion of the study under paragraph (1), the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, (unless otherwise provided in this section) shall consider the findings of the study under paragraph (1) and adopt rules to carry out this section, as provided in subparagraph (B).

"(B) COORDINATED RULEMAKING.—

"(i) REGULATORY AUTHORITY.—The regulations issued under this paragraph and subsections (d) and (e) shall be issued by—

"(I) the appropriate Federal banking agencies, jointly, with respect to insured depository institutions;

"(II) the Board, with respect to any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, any subsidiary of such a company (other than a subsidiary described in subparagraph (A) or (C)), and any nonbank financial company supervised by the Board;

"(III) the Commodity Futures Trading Commission, with respect to any entity for which the Commodity Futures Trading Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010; and

"(IV) the Securities and Exchange Commission, with respect to any entity for which the Securities and Exchange Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010.

“(ii) COORDINATION, CONSISTENCY, AND COMPARABILITY.—In developing and issuing regulations pursuant to this section, the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall consult and coordinate with each other, as appropriate, for the purposes of assuring, to the extent possible, that such regulations are comparable and provide for consistent application and implementation of the applicable provisions of this section to avoid providing advantages or imposing disadvantages to the companies affected by this subsection and to protect the safety and soundness of banking entities and nonbank financial companies supervised by the Board.

“(iii) COUNCIL ROLE.—The Chairperson of the Council shall be responsible for coordination of the regulations issued under this section.

“(c) EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), this section shall take effect on the earlier of—

“(A) 12 months after the issuance of final rules under subsection (b); or

“(B) 2 years after the date of enactment of this section.

“(2) TRANSITION PERIOD FOR DIVESTITURE OF HEDGE FUNDS OR PRIVATE EQUITY FUNDS BY BANKING ENTITIES.—

“(A) NO NEW INVESTMENTS.—

“(i) NO NEW FUNDS.—On and after the date of enactment of this section, a banking entity may not sponsor or invest in a hedge fund or private equity fund that the banking entity did not sponsor or in which the banking entity was not invested on May 1, 2010.

“(ii) NO ADDITIONAL CAPITAL OR ASSETS.—On and after the date of enactment of this section, a banking entity may not sell, transfer, loan, or otherwise provide any additional capital or assets to a hedge fund or private equity fund sponsored by the banking entity or in which the banking entity invests, except to the extent necessary to fulfill a contractual obligation that was in effect on May 1, 2010.

“(B) REDUCTION OF EXISTING INVESTMENTS.—Except as provided in paragraph (3), on and after the date that is 2 years after the effective date of this section, the aggregate amount of equity, partnership, or other ownership interests in all hedge funds and private equity funds held by a banking entity shall not exceed 2 percent of the Tier I capital of the banking entity.

“(C) TOTAL DIVESTITURE.—On and after the date that is 5 years after the effective date of this section, no banking entity may engage in any activity prohibited under subsection (a)(1)(B), except as provided in paragraph (3).

“(3) TRANSITION PERIOD FOR ILLIQUID FUNDS.—

“(A) DEFINITION.—In this paragraph, the term ‘illiquid fund’ means a hedge fund or private equity fund that, as of May 1, 2010, was principally invested in or is invested in illiquid assets, and committed to principally invest in illiquid assets, such as portfolio companies, real estate investments, and venture capital investments, and that maintains the investment strategy of the fund that was in place as of May 1, 2010, regarding principally investing in illiquid assets. In issuing rules under this subparagraph, the Board shall take into consideration the terms of investment for the hedge fund or private equity fund, including contractual obligations, the ability of the fund to divest of assets held by the fund, and any other factors that the Board determines are appropriate.

“(B) TRANSITION.—

“(i) IN GENERAL.—During the 4-year period beginning on the date of enactment of this section, a banking entity may only take an equity, partnership, or ownership interest in, or otherwise provide additional capital to, an illiquid fund to the extent necessary to fulfill a contractual obligation of the banking entity to the illiquid fund that was in effect on May 1, 2010.

“(ii) LIMITATIONS.—A banking entity may not exercise an option to renew, or otherwise extend the duration of, any contractual obligation described in clause (i) and shall exercise any contractual option permitting the banking entity to exit the illiquid fund if and when such option becomes available. A banking entity may elect not to exercise an option described in the preceding sentence, to the extent that the maintenance of an investment would be permitted under paragraph (2).

“(iii) EXTENSION.—

“(I) APPROVAL REQUIRED.—If a contractual obligation of a banking entity described in clause (i) extends beyond the 4-year period beginning on the date of enactment of this section, the banking entity may not continue to make the investment required under the contractual obligation without the prior written approval of the Board. In determining whether to grant an extension under this clause, the Board shall evaluate whether the proposed investment meets the requirements of this subparagraph.

“(II) TIME LIMIT ON APPROVAL.—The Board may approve an investment described in subclause (I) for a period of not longer than 2 years for each extension.

“(III) LIMIT ON NUMBER OF APPROVALS.—The Board may not approve an investment described in subclause (I) more than 3 times.

“(iv) DIVESTITURE REQUIRED.—Except as otherwise permitted under subsection (d), no banking entity may engage in any activity prohibited under subsection (a)(1)(B) after the earlier of—

“(I) the date on which the contractual obligation to invest in the illiquid fund terminates; and

“(II) the date on which the approval by the Board under clause (iii) expires.

“(4) ADDITIONAL CAPITAL.—Notwithstanding paragraph (2) or (3), on and after the effective date under paragraph (1), the Board may impose additional capital requirements, and any other restrictions, as the Board determines appropriate, on any equity, partnership, or ownership interest in or sponsorship of a hedge fund or private equity fund by a banking entity or nonbank financial company supervised by the Board, including on a case-by-case basis, as the Board determines appropriate.

“(5) RULEMAKING.—Not later than 6 months after the date of enactment of this section, the Board shall issue rules to implement paragraphs (2), (3), and (4).

“(d) PERMITTED ACTIVITIES.—

“(1) IN GENERAL.—Notwithstanding the restrictions in subsection (a), to the extent permitted by any other provision of Federal or State law, and subject to the limitations under paragraph (2) and any restrictions or limitations that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, may determine, the following activities (in this section referred to as ‘permitted activities’) are permitted:

“(A) The purchase, sale, acquisition, or disposition of obligations of the United States or any agency thereof; obligations, participations, or other instruments of or issued by

the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a Federal Home Loan Bank, the Federal Agricultural Mortgage Corporation, or a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and obligations of any State or of any political subdivision thereof.

“(B) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) in connection with underwriting, market-making, or in facilitation of customer relationships, to the extent that any such activities permitted by this subparagraph are designed to not exceed the reasonably expected near term demands of clients, customers, or counterparties.

“(C) Risk-mitigating hedging activities designed to reduce the specific risks to a banking entity or nonbank financial company supervised by the Board.

“(D) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) on behalf of customers.

“(E) Investments in one or more small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or investments designed primarily to promote the public welfare, as provided in paragraph (11) of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24).

“(F) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) by a regulated insurance company directly engaged in the business of insurance for the general account of the company and by any affiliate of such regulated insurance company, provided that such activities by any affiliate are solely for the general account of the regulated insurance company, if—

“(i) the purchase, sale, acquisition, or disposition is conducted in compliance with, and subject to, the insurance company investment laws, regulations, and written guidance of the State or jurisdiction in which each such insurance company is domiciled; and

“(ii) the appropriate Federal banking agencies, after consultation with the Financial Stability Oversight Council and the relevant insurance commissioners of the States and territories of the United States, have not jointly determined, after notice and comment, that a particular law, regulation, or written guidance described in clause (i) is insufficient to protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board, or of the financial stability of the United States.

“(G) Organizing and offering a private equity or hedge fund, including serving as a general partner, managing member, or trustee of the fund and in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund, including any necessary expenses for the foregoing, only if—

“(i) the banking entity provides bona fide trust, fiduciary, or investment advisory services;

“(ii) the fund is organized and offered only in connection with the provision of bona fide trust, fiduciary, or investment advisory services and only to persons that are customers of such services of the banking entity;

“(iii) the banking entity does not acquire or retain an equity interest, partnership interest, or other ownership interest in the funds;

“(iv) the banking entity does not enter into or otherwise engage in any transaction with the hedge fund or private equity fund that is a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c);

“(v) the obligations or performance of the hedge fund or private equity fund are not guaranteed, assumed, or otherwise covered, directly or indirectly, by the banking entity or any subsidiary or affiliate of the banking entity;

“(vi) the banking entity does not share with the hedge fund or private equity fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name;

“(vii) no director or employee of the banking entity takes or retains an equity interest, partnership interest, or other ownership interest in, except for any director or employee of the banking entity who is directly engaged in providing investment advisory or other services to the hedge fund or private equity fund; and

“(viii) the banking entity complies with any rules of the appropriate Federal banking agencies, the Securities and Exchange Commission, or the Commodity Futures Trading Commission designed to ensure that losses in such hedge fund or private equity fund are borne solely by investors in the fund and not by the banking entity.

“(H) Proprietary trading conducted by a company pursuant to paragraph (9) or (13) of section 4(c), provided that the trading occurs solely outside of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a United States person.

“(I) The acquisition or retention of any equity, partnership, or other ownership interest in, or the sponsorship of, a hedge fund or a private equity fund by a banking entity or nonbank financial company supervised by the Board pursuant to paragraph (9) or (13) of section 4(c) solely outside of the United States, provided that no ownership interest in such hedge fund or private equity fund is offered for sale or sold to a resident of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a company that is organized in the United States.

“(J) Such other activity as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission determine through regulation, as provided in subsection (b)(2)(B), would promote and protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board and the financial stability of the United States.

“(2) LIMITATION ON PERMITTED ACTIVITIES.—

“(A) IN GENERAL.—No transaction, class of transactions, or activity may be deemed a permitted activity under paragraph (1) if it—

“(i) would involve or result in a material conflict of interest (as such term shall be defined jointly by rule) between the banking entity or the nonbank financial company supervised by the Board and its clients, customers, or counterparties;

“(ii) would result, directly or indirectly, in an unsafe and unsound exposure by the banking entity or nonbank financial company supervised by the Board to high-risk assets or high-risk trading strategies (as such terms shall be defined jointly by rule);

“(iii) would pose a threat to the safety and soundness of such banking entity or nonbank

financial company supervised by the Board; or

“(iv) would pose a threat to the financial stability of the United States.

“(B) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations to implement subparagraph (A), as part of the regulations issued under subsection (b)(2).

“(3) CAPITAL AND QUANTITATIVE LIMITATIONS.—The Board shall adopt rules, as provided under subsection (b)(2), imposing additional capital requirements and quantitative limitations regarding the activities permitted under this section if the Board determines that additional capital and quantitative limitations are appropriate to protect the safety and soundness of the banking entities and nonbank financial companies supervised by the Board engaged in such activities.

“(e) ANTI-EVASION.—

“(1) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations as part of the rulemaking provided for in subsection (b)(2) regarding internal controls and recordkeeping in order to insure compliance with this section.

“(2) TERMINATION OF ACTIVITIES OR INVESTMENT.—Whenever an appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, has reasonable cause to believe that a banking entity or nonbank financial company supervised by the Board under the respective agency's jurisdiction has made an investment or engaged in an activity in a manner that functions as an evasion of the requirements of this section (including through an abuse of any permitted activity) or otherwise violates the restrictions under this section, the appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, shall order, after due notice and opportunity for hearing, the banking entity or nonbank financial company supervised by the Board to terminate the activity and, as relevant, dispose of the investment. Nothing in this subparagraph shall be construed to limit the inherent authority of any Federal agency or State regulatory authority to further restrict any investments or activities under otherwise applicable provisions of law.

“(f) LIMITATIONS ON RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

“(1) IN GENERAL.—No banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c) with the hedge fund or private equity fund.

“(2) TREATMENT AS MEMBER BANK.—A banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund shall be subject to section 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c–1), as if such person were a member bank and such hedge fund or private equity fund were an affiliate thereof.

“(3) COVERED TRANSACTIONS WITH UNAFFILIATED HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—No banking entity may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C.

371c), with any hedge fund or private equity fund organized and offered by the banking entity or with any hedge fund or private equity fund in which such hedge fund or private equity fund has taken any equity, partnership, or other ownership interest.

“(g) RULES OF CONSTRUCTION.—

“(1) LIMITATION ON CONTRARY AUTHORITY.—Any prohibitions or restrictions under this section shall apply even though such activities may be authorized for a banking entity or a nonbank financial company supervised by the Board under any other provision of law.

“(2) SALE OR SECURITIZATION OF LOANS.—Nothing in this section shall be construed to limit or restrict the ability of a banking entity or nonbank financial company supervised by the Board to sell or securitize loans in a manner otherwise permitted by law.

“(3) AUTHORITY OF FEDERAL AGENCIES AND STATE REGULATORY AUTHORITIES.—Nothing in this section shall be construed to limit the inherent authority of any Federal agency or State regulatory authority under otherwise applicable provisions of law.

“(h) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) BANKING ENTITY.—The term ‘banking entity’ means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, and any affiliate or subsidiary of any such entity. For purposes of this paragraph, the term ‘insured depository institution’ does not include an institution that functions solely in a trust or fiduciary capacity, if—

“(A) all or substantially all of the deposits of such institution are in trust funds and are received in a bona fide fiduciary capacity;

“(B) no deposits of such institution which are insured by the Federal Deposit Insurance Corporation are offered or marketed by or through an affiliate of such institution;

“(C) such institution does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others or make commercial loans; and

“(D) such institution does not—

“(i) obtain payment or payment related services from any Federal Reserve bank, including any service referred to in section 11(a) of the Federal Reserve Act (12 U.S.C. 248a); or

“(ii) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act (12 U.S.C. 461(b)(7)).

“(2) HEDGE FUND; PRIVATE EQUITY FUND.—The terms ‘hedge fund’ and ‘private equity fund’ mean a company or other entity that is exempt from registration as an investment company pursuant to section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1) or 80a–3(c)(7)), or such similar funds as jointly determined appropriate by the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

“(3) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD.—The term ‘nonbank financial company supervised by the Board’ means a nonbank financial company supervised by the Board of Governors, as defined in section 102 of the Financial Stability Act of 2010.

“(4) PROPRIETARY TRADING.—The term ‘proprietary trading’ means engaging as a principal for its own trading account in any

transaction to purchase or sell, or otherwise acquire or dispose of, any security, any derivative, any contract of sale of a commodity for future delivery, any option on any such security, derivative, or contract, or any other security or financial instrument that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.

“(5) SPONSOR.—The term to ‘sponsor’ a fund means—

“(A) to serve as a general partner, managing member, or trustee of a fund;

“(B) in any manner to select or to control (or to have employees, officers, or directors, or agents who constitute) a majority of the directors, trustees, or management of a fund; or

“(C) to share with a fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

“(6) TRADING ACCOUNT.—The term ‘trading account’ means any account used for acquiring or taking positions in the securities and instruments described in paragraph (4) principally for the purpose of selling in the near term (or otherwise with the intent to resell in order to profit from short-term price movements), and any such other accounts as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.”.

#### SEC. . CONFLICTS OF INTEREST.

The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:

#### “SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.

“(a) IN GENERAL.—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

“(b) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures.

“(c) EXCEPTION.—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934.”.

**SA 4127.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4081 submitted by Mr. HATCH and intended to be proposed to the amendment SA 3739 proposed by

Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. . PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.

Notwithstanding any other provision of this Act, section 619 of this act shall have no force or effect, and the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following:

#### “SEC. 13. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.

“(a) IN GENERAL.—

“(1) PROHIBITION.—Unless otherwise provided in this section, a banking entity shall not—

“(A) engage in proprietary trading; or

“(B) acquire or retain any equity, partnership, or other ownership interest in or sponsor a hedge fund or a private equity fund.

“(2) NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD.—Any nonbank financial company supervised by the Board that engages in proprietary trading or takes or retains any equity, partnership, or other ownership interest in or sponsors a hedge fund or a private equity fund shall be subject by the Board to additional capital requirements for and additional quantitative limits with regards to such proprietary trading and taking or retaining any equity, partnership, or other ownership interest in or sponsorship of a hedge fund or a private equity fund, except that permitted activities as described in subsection (d) shall be subject to additional capital and additional quantitative limits as prescribed pursuant to subsection (d)(3).

“(b) STUDY AND RULEMAKING.—

“(1) STUDY.—Not later than 6 months after the date of enactment of this section, the Financial Stability Oversight Council shall study and make recommendations on implementing the provisions of this section so as to—

“(A) promote and enhance the safety and soundness of banking entities;

“(B) protect taxpayers and enhance financial stability by minimizing the risk that insured depository institutions and the affiliates of insured depository institutions will engage in unsafe and unsound activities;

“(C) limit the inappropriate transfer of Federal subsidies from institutions that benefit from deposit insurance and liquidity facilities of the Federal Government to unregulated entities;

“(D) reduce conflicts of interest between the self-interest of banking entities and nonbank financial companies supervised by the Board, and the interests of the customers of such entities and companies;

“(E) limit activities that have caused undue risk or loss in banking entities and nonbank financial companies supervised by the Board, or that might reasonably be expected to create undue risk or loss in such banking entities and nonbank financial companies supervised by the Board;

“(F) appropriately accommodate the business of insurance within an insurance company subject to regulation in accordance with the relevant insurance company investment laws while protecting the safety and soundness of any banking entity with which such insurance company is affiliated, and of the United States financial system; and

“(G) appropriately time the divestiture of illiquid assets that are affected by the implementation of the prohibitions under subsection (a).

“(2) RULEMAKING.—

“(A) IN GENERAL.—Not later than 9 months after the completion of the study under paragraph (1), the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, (unless otherwise provided in this section) shall consider the findings of the study under paragraph (1) and adopt rules to carry out this section, as provided in subparagraph (B).

“(B) COORDINATED RULEMAKING.—

“(i) REGULATORY AUTHORITY.—The regulations issued under this paragraph and subsections (d) and (e) shall be issued by—

“(I) the appropriate Federal banking agencies, jointly, with respect to insured depository institutions;

“(II) the Board, with respect to any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, any subsidiary of such a company (other than a subsidiary described in subparagraph (A) or (C)), and any nonbank financial company supervised by the Board;

“(III) the Commodity Futures Trading Commission, with respect to any entity for which the Commodity Futures Trading Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010; and

“(IV) the Securities and Exchange Commission, with respect to any entity for which the Securities and Exchange Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010.

“(ii) COORDINATION, CONSISTENCY, AND COMPARABILITY.—In developing and issuing regulations pursuant to this section, the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall consult and coordinate with each other, as appropriate, for the purposes of assuring, to the extent possible, that such regulations are comparable and provide for consistent application and implementation of the applicable provisions of this section to avoid providing advantages or imposing disadvantages to the companies affected by this subsection and to protect the safety and soundness of banking entities and nonbank financial companies supervised by the Board.

“(iii) COUNCIL ROLE.—The Chairperson of the Council shall be responsible for coordination of the regulations issued under this section.

“(c) EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), this section shall take effect on the earlier of—

“(A) 12 months after the issuance of final rules under subsection (b); or

“(B) 2 years after the date of enactment of this section.

“(2) TRANSITION PERIOD FOR DIVESTITURE OF HEDGE FUNDS OR PRIVATE EQUITY FUNDS BY BANKING ENTITIES.—



“(A) NO NEW INVESTMENTS.—

“(i) NO NEW FUNDS.—On and after the date of enactment of this section, a banking entity may not sponsor or invest in a hedge fund or private equity fund that the banking entity did not sponsor or in which the banking entity was not invested on May 1, 2010.

“(ii) NO ADDITIONAL CAPITAL OR ASSETS.—On and after the date of enactment of this section, a banking entity may not sell, transfer, loan, or otherwise provide any additional capital or assets to a hedge fund or private equity fund sponsored by the banking entity or in which the banking entity invests, except to the extent necessary to fulfill a contractual obligation that was in effect on May 1, 2010.

“(B) REDUCTION OF EXISTING INVESTMENTS.—Except as provided in paragraph (3), on and after the date that is 2 years after the effective date of this section, the aggregate amount of equity, partnership, or other ownership interests in all hedge funds and private equity funds held by a banking entity shall not exceed 2 percent of the Tier I capital of the banking entity.

“(C) TOTAL DIVESTITURE.—On and after the date that is 5 years after the effective date of this section, no banking entity may engage in any activity prohibited under subsection (a)(1)(B), except as provided in paragraph (3).

“(3) TRANSITION PERIOD FOR ILLIQUID FUNDS.—

“(A) DEFINITION.—In this paragraph, the term ‘illiquid fund’ means a hedge fund or private equity fund that, as of May 1, 2010, was principally invested in or is invested in illiquid assets, and committed to principally invest in illiquid assets, such as portfolio companies, real estate investments, and venture capital investments, and that maintains the investment strategy of the fund that was in place as of May 1, 2010, regarding principally investing in illiquid assets. In issuing rules under this subparagraph, the Board shall take into consideration the terms of investment for the hedge fund or private equity fund, including contractual obligations, the ability of the fund to divest of assets held by the fund, and any other factors that the Board determines are appropriate.

“(B) TRANSITION.—

“(i) IN GENERAL.—During the 4-year period beginning on the date of enactment of this section, a banking entity may only take an equity, partnership, or ownership interest in, or otherwise provide additional capital to, an illiquid fund to the extent necessary to fulfill a contractual obligation of the banking entity to the illiquid fund that was in effect on May 1, 2010.

“(ii) LIMITATIONS.—A banking entity may not exercise an option to renew, or otherwise extend the duration of, any contractual obligation described in clause (i) and shall exercise any contractual option permitting the banking entity to exit the illiquid fund if and when such option becomes available. A banking entity may elect not to exercise an option described in the preceding sentence, to the extent that the maintenance of an investment would be permitted under paragraph (2).

“(iii) EXTENSION.—

“(I) APPROVAL REQUIRED.—If a contractual obligation of a banking entity described in clause (i) extends beyond the 4-year period beginning on the date of enactment of this section, the banking entity may not continue to make the investment required under the contractual obligation without the prior written approval of the Board. In determining whether to grant an extension under this clause, the Board shall evaluate whether

the proposed investment meets the requirements of this subparagraph.

“(II) TIME LIMIT ON APPROVAL.—The Board may approve an investment described in subclause (I) for a period of not longer than 2 years for each extension.

“(III) LIMIT ON NUMBER OF APPROVALS.—The Board may not approve an investment described in subclause (I) more than 3 times.

“(iv) DIVESTITURE REQUIRED.—Except as otherwise permitted under subsection (d), no banking entity may engage in any activity prohibited under subsection (a)(1)(B) after the earlier of—

“(I) the date on which the contractual obligation to invest in the illiquid fund terminates; and

“(II) the date on which the approval by the Board under clause (iii) expires.

“(4) ADDITIONAL CAPITAL.—Notwithstanding paragraph (2) or (3), on and after the effective date under paragraph (1), the Board may impose additional capital requirements, and any other restrictions, as the Board determines appropriate, on any equity, partnership, or ownership interest in or sponsorship of a hedge fund or private equity fund by a banking entity or nonbank financial company supervised by the Board, including on a case-by-case basis, as the Board determines appropriate.

“(5) RULEMAKING.—Not later than 6 months after the date of enactment of this section, the Board shall issue rules to implement paragraphs (2), (3), and (4).

“(d) PERMITTED ACTIVITIES.—

“(1) IN GENERAL.—Notwithstanding the restrictions in subsection (a), to the extent permitted by any other provision of Federal or State law, and subject to the limitations under paragraph (2) and any restrictions or limitations that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, may determine, the following activities (in this section referred to as ‘permitted activities’) are permitted:

“(A) The purchase, sale, acquisition, or disposition of obligations of the United States or any agency thereof; obligations, participations, or other instruments of or issued by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a Federal Home Loan Bank, the Federal Agricultural Mortgage Corporation, or a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and obligations of any State or of any political subdivision thereof.

“(B) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) in connection with underwriting, market-making, or in facilitation of customer relationships, to the extent that any such activities permitted by this subparagraph are designed to not exceed the reasonably expected near term demands of clients, customers, or counterparties.

“(C) Risk-mitigating hedging activities designed to reduce the specific risks to a banking entity or nonbank financial company supervised by the Board.

“(D) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) on behalf of customers.

“(E) Investments in one or more small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or investments designed primarily to promote the public wel-

fare, as provided in paragraph (11) of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24).

“(F) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) by a regulated insurance company directly engaged in the business of insurance for the general account of the company and by any affiliate of such regulated insurance company, provided that such activities by any affiliate are solely for the general account of the regulated insurance company, if—

“(i) the purchase, sale, acquisition, or disposition is conducted in compliance with, and subject to, the insurance company investment laws, regulations, and written guidance of the State or jurisdiction in which each such insurance company is domiciled; and

“(ii) the appropriate Federal banking agencies, after consultation with the Financial Stability Oversight Council and the relevant insurance commissioners of the States and territories of the United States, have not jointly determined, after notice and comment, that a particular law, regulation, or written guidance described in clause (i) is insufficient to protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board, or of the financial stability of the United States.

“(G) Organizing and offering a private equity or hedge fund, including serving as a general partner, managing member, or trustee of the fund and in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund, including any necessary expenses for the foregoing, only if—

“(i) the banking entity provides bona fide trust, fiduciary, or investment advisory services;

“(ii) the fund is organized and offered only in connection with the provision of bona fide trust, fiduciary, or investment advisory services and only to persons that are customers of such services of the banking entity;

“(iii) the banking entity does not acquire or retain an equity interest, partnership interest, or other ownership interest in the funds;

“(iv) the banking entity does not enter into or otherwise engage in any transaction with the hedge fund or private equity fund that is a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c);

“(v) the obligations or performance of the hedge fund or private equity fund are not guaranteed, assumed, or otherwise covered, directly or indirectly, by the banking entity or any subsidiary or affiliate of the banking entity;

“(vi) the banking entity does not share with the hedge fund or private equity fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name;

“(vii) no director or employee of the banking entity takes or retains an equity interest, partnership interest, or other ownership interest in, except for any director or employee of the banking entity who is directly engaged in providing investment advisory or other services to the hedge fund or private equity fund; and

“(viii) the banking entity complies with any rules of the appropriate Federal banking agencies, the Securities and Exchange Commission, or the Commodity Futures Trading Commission designed to ensure that losses in such hedge fund or private equity fund are



borne solely by investors in the fund and not by the banking entity.

“(H) Proprietary trading conducted by a company pursuant to paragraph (9) or (13) of section 4(c), provided that the trading occurs solely outside of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a United States person.

“(I) The acquisition or retention of any equity, partnership, or other ownership interest in, or the sponsorship of, a hedge fund or a private equity fund by a banking entity or nonbank financial company supervised by the Board pursuant to paragraph (9) or (13) of section 4(c) solely outside of the United States, provided that no ownership interest in such hedge fund or private equity fund is offered for sale or sold to a resident of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a company that is organized in the United States.

“(J) Such other activity as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission determine through regulation, as provided in subsection (b)(2)(B), would promote and protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board and the financial stability of the United States.

“(2) LIMITATION ON PERMITTED ACTIVITIES.—

“(A) IN GENERAL.—No transaction, class of transactions, or activity may be deemed a permitted activity under paragraph (1) if it—

“(i) would involve or result in a material conflict of interest (as such term shall be defined jointly by rule) between the banking entity or the nonbank financial company supervised by the Board and its clients, customers, or counterparties;

“(ii) would result, directly or indirectly, in an unsafe and unsound exposure by the banking entity or nonbank financial company supervised by the Board to high-risk assets or high-risk trading strategies (as such terms shall be defined jointly by rule);

“(iii) would pose a threat to the safety and soundness of such banking entity or nonbank financial company supervised by the Board; or

“(iv) would pose a threat to the financial stability of the United States.

“(B) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations to implement subparagraph (A), as part of the regulations issued under subsection (b)(2).

“(3) CAPITAL AND QUANTITATIVE LIMITATIONS.—The Board shall adopt rules, as provided under subsection (b)(2), imposing additional capital requirements and quantitative limitations regarding the activities permitted under this section if the Board determines that additional capital and quantitative limitations are appropriate to protect the safety and soundness of the banking entities and nonbank financial companies supervised by the Board engaged in such activities.

“(e) ANTI-EVASION.—

“(1) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations as part of the rulemaking provided for in subsection (b)(2) regarding internal controls and recordkeeping in order to insure compliance with this section.

“(2) TERMINATION OF ACTIVITIES OR INVESTMENT.—Whenever an appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, has reasonable cause to believe that a banking entity or nonbank financial company supervised by the Board under the respective agency’s jurisdiction has made an investment or engaged in an activity in a manner that functions as an evasion of the requirements of this section (including through an abuse of any permitted activity) or otherwise violates the restrictions under this section, the appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, shall order, after due notice and opportunity for hearing, the banking entity or nonbank financial company supervised by the Board to terminate the activity and, as relevant, dispose of the investment. Nothing in this subparagraph shall be construed to limit the inherent authority of any Federal agency or State regulatory authority to further restrict any investments or activities under otherwise applicable provisions of law.

“(f) LIMITATIONS ON RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

“(1) IN GENERAL.—No banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c) with the hedge fund or private equity fund.

“(2) TREATMENT AS MEMBER BANK.—A banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund shall be subject to section 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c–1), as if such person were a member bank and such hedge fund or private equity fund were an affiliate thereof.

“(3) COVERED TRANSACTIONS WITH UNAFFILIATED HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—No banking entity may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), with any hedge fund or private equity fund organized and offered by the banking entity or with any hedge fund or private equity fund in which such hedge fund or private equity fund has taken any equity, partnership, or other ownership interest.

“(g) RULES OF CONSTRUCTION.—

“(1) LIMITATION ON CONTRARY AUTHORITY.—Any prohibitions or restrictions under this section shall apply even though such activities may be authorized for a banking entity or a nonbank financial company supervised by the Board under any other provision of law.

“(2) SALE OR SECURITIZATION OF LOANS.—Nothing in this section shall be construed to limit or restrict the ability of a banking entity or nonbank financial company supervised by the Board to sell or securitize loans in a manner otherwise permitted by law.

“(3) AUTHORITY OF FEDERAL AGENCIES AND STATE REGULATORY AUTHORITIES.—Nothing in this section shall be construed to limit the inherent authority of any Federal agency or State regulatory authority under otherwise applicable provisions of law.

“(h) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) BANKING ENTITY.—The term ‘banking entity’ means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), any

company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, and any affiliate or subsidiary of any such entity. For purposes of this paragraph, the term ‘insured depository institution’ does not include an institution that functions solely in a trust or fiduciary capacity, if—

“(A) all or substantially all of the deposits of such institution are in trust funds and are received in a bona fide fiduciary capacity;

“(B) no deposits of such institution which are insured by the Federal Deposit Insurance Corporation are offered or marketed by or through an affiliate of such institution;

“(C) such institution does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others or make commercial loans; and

“(D) such institution does not—

“(i) obtain payment or payment related services from any Federal Reserve bank, including any service referred to in section 11(a) of the Federal Reserve Act (12 U.S.C. 248a); or

“(ii) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act (12 U.S.C. 461(b)(7)).

“(2) HEDGE FUND; PRIVATE EQUITY FUND.—The terms ‘hedge fund’ and ‘private equity fund’ mean a company or other entity that is exempt from registration as an investment company pursuant to section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1) or 80a–3(c)(7)), or such similar funds as jointly determined appropriate by the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

“(3) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD.—The term ‘nonbank financial company supervised by the Board’ means a nonbank financial company supervised by the Board of Governors, as defined in section 102 of the Financial Stability Act of 2010.

“(4) PROPRIETARY TRADING.—The term ‘proprietary trading’ means engaging as a principal for its own trading account in any transaction to purchase or sell, or otherwise acquire or dispose of, any security, any derivative, any contract of sale of a commodity for future delivery, any option on any such security, derivative, or contract, or any other security or financial instrument that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.

“(5) SPONSOR.—The term to ‘sponsor’ a fund means—

“(A) to serve as a general partner, managing member, or trustee of a fund;

“(B) in any manner to select or to control (or to have employees, officers, or directors, or agents who constitute) a majority of the directors, trustees, or management of a fund; or

“(C) to share with a fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

“(6) TRADING ACCOUNT.—The term ‘trading account’ means any account used for acquiring or taking positions in the securities and instruments described in paragraph (4) principally for the purpose of selling in the near term (or otherwise with the intent to resell in order to profit from short-term price movements), and any such other accounts as the appropriate Federal banking agencies,

the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.”.

**SEC. (i). CONFLICTS OF INTEREST.**

The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:

**“SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.**

“(a) IN GENERAL.—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

“(b) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures.

“(c) EXCEPTION.—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934.”.

**SA 4128.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4055 submitted by Mrs. HUTCHISON (for herself, Mrs. HAGAN, and Mr. CORNYN) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. —. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

Notwithstanding any other provision of this Act, section 619 of this act shall have no force or effect, and the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following:

**“SEC. 13. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

“(a) IN GENERAL.—

“(1) PROHIBITION.—Unless otherwise provided in this section, a banking entity shall not—

“(A) engage in proprietary trading; or

“(B) acquire or retain any equity, partnership, or other ownership interest in or sponsor a hedge fund or a private equity fund.

“(2) NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD.—Any nonbank financial company supervised by the Board that engages in proprietary trading or takes or retains any equity, partnership, or other ownership interest in or sponsors a hedge fund or a private equity fund shall be subject by the Board to additional capital requirements for and additional quantitative limits with regards to such proprietary trading and taking or retaining any equity, partnership, or other ownership interest in or sponsorship of a hedge fund or a private equity fund, except that permitted activities as described in subsection (d) shall be subject to additional capital and additional quantitative limits as prescribed pursuant to subsection (d)(3).

“(b) STUDY AND RULEMAKING.—

“(1) STUDY.—Not later than 6 months after the date of enactment of this section, the Financial Stability Oversight Council shall study and make recommendations on implementing the provisions of this section so as to—

“(A) promote and enhance the safety and soundness of banking entities;

“(B) protect taxpayers and enhance financial stability by minimizing the risk that insured depository institutions and the affiliates of insured depository institutions will engage in unsafe and unsound activities;

“(C) limit the inappropriate transfer of Federal subsidies from institutions that benefit from deposit insurance and liquidity facilities of the Federal Government to unregulated entities;

“(D) reduce conflicts of interest between the self-interest of banking entities and nonbank financial companies supervised by the Board, and the interests of the customers of such entities and companies;

“(E) limit activities that have caused undue risk or loss in banking entities and nonbank financial companies supervised by the Board, or that might reasonably be expected to create undue risk or loss in such banking entities and nonbank financial companies supervised by the Board;

“(F) appropriately accommodate the business of insurance within an insurance company subject to regulation in accordance with the relevant insurance company investment laws while protecting the safety and soundness of any banking entity with which such insurance company is affiliated, and of the United States financial system; and

“(G) appropriately time the divestiture of illiquid assets that are affected by the implementation of the prohibitions under subsection (a).

“(2) RULEMAKING.—

“(A) IN GENERAL.—Not later than 9 months after the completion of the study under paragraph (1), the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, (unless otherwise provided in this section) shall consider the findings of the study under paragraph (1) and adopt rules to carry out this section, as provided in subparagraph (B).

“(B) COORDINATED RULEMAKING.—

“(i) REGULATORY AUTHORITY.—The regulations issued under this paragraph and subsections (d) and (e) shall be issued by—

“(I) the appropriate Federal banking agencies, jointly, with respect to insured depository institutions;

“(II) the Board, with respect to any company that controls an insured depository in-

stitution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, any subsidiary of such a company (other than a subsidiary described in subparagraph (A) or (C)), and any nonbank financial company supervised by the Board;

“(III) the Commodity Futures Trading Commission, with respect to any entity for which the Commodity Futures Trading Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010; and

“(IV) the Securities and Exchange Commission, with respect to any entity for which the Securities and Exchange Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010.

“(ii) COORDINATION, CONSISTENCY, AND COMPARABILITY.—In developing and issuing regulations pursuant to this section, the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall consult and coordinate with each other, as appropriate, for the purposes of assuring, to the extent possible, that such regulations are comparable and provide for consistent application and implementation of the applicable provisions of this section to avoid providing advantages or imposing disadvantages to the companies affected by this subsection and to protect the safety and soundness of banking entities and nonbank financial companies supervised by the Board.

“(iii) COUNCIL ROLE.—The Chairperson of the Council shall be responsible for coordination of the regulations issued under this section.

“(c) EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), this section shall take effect on the earlier of—

“(A) 12 months after the issuance of final rules under subsection (b); or

“(B) 2 years after the date of enactment of this section.

“(2) TRANSITION PERIOD FOR DIVESTITURE OF HEDGE FUNDS OR PRIVATE EQUITY FUNDS BY BANKING ENTITIES.—

“(A) NO NEW INVESTMENTS.—

“(i) NO NEW FUNDS.—On and after the date of enactment of this section, a banking entity may not sponsor or invest in a hedge fund or private equity fund that the banking entity did not sponsor or in which the banking entity was not invested on May 1, 2010.

“(ii) NO ADDITIONAL CAPITAL OR ASSETS.—On and after the date of enactment of this section, a banking entity may not sell, transfer, loan, or otherwise provide any additional capital or assets to a hedge fund or private equity fund sponsored by the banking entity or in which the banking entity invests, except to the extent necessary to fulfill a contractual obligation that was in effect on May 1, 2010.

“(B) REDUCTION OF EXISTING INVESTMENTS.—Except as provided in paragraph (3), on and after the date that is 2 years after the effective date of this section, the aggregate amount of equity, partnership, or other ownership interests in all hedge funds and private equity funds held by a banking entity shall not exceed 2 percent of the Tier I capital of the banking entity.

“(C) TOTAL DIVESTITURE.—On and after the date that is 5 years after the effective date of this section, no banking entity may engage in any activity prohibited under subsection (a)(1)(B), except as provided in paragraph (3).

“(3) TRANSITION PERIOD FOR ILLIQUID FUNDS.—

“(A) DEFINITION.—In this paragraph, the term ‘illiquid fund’ means a hedge fund or private equity fund that, as of May 1, 2010, was principally invested in or is invested in illiquid assets, and committed to principally invest in illiquid assets, such as portfolio companies, real estate investments, and venture capital investments, and that maintains the investment strategy of the fund that was in place as of May 1, 2010, regarding principally investing in illiquid assets. In issuing rules under this subparagraph, the Board shall take into consideration the terms of investment for the hedge fund or private equity fund, including contractual obligations, the ability of the fund to divest of assets held by the fund, and any other factors that the Board determines are appropriate.

“(B) TRANSITION.—

“(i) IN GENERAL.—During the 4-year period beginning on the date of enactment of this section, a banking entity may only take an equity, partnership, or ownership interest in, or otherwise provide additional capital to, an illiquid fund to the extent necessary to fulfill a contractual obligation of the banking entity to the illiquid fund that was in effect on May 1, 2010.

“(ii) LIMITATIONS.—A banking entity may not exercise an option to renew, or otherwise extend the duration of, any contractual obligation described in clause (i) and shall exercise any contractual option permitting the banking entity to exit the illiquid fund if and when such option becomes available. A banking entity may elect not to exercise an option described in the preceding sentence, to the extent that the maintenance of an investment would be permitted under paragraph (2).

“(iii) EXTENSION.—

“(I) APPROVAL REQUIRED.—If a contractual obligation of a banking entity described in clause (i) extends beyond the 4-year period beginning on the date of enactment of this section, the banking entity may not continue to make the investment required under the contractual obligation without the prior written approval of the Board. In determining whether to grant an extension under this clause, the Board shall evaluate whether the proposed investment meets the requirements of this subparagraph.

“(II) TIME LIMIT ON APPROVAL.—The Board may approve an investment described in subclause (I) for a period of not longer than 2 years for each extension.

“(III) LIMIT ON NUMBER OF APPROVALS.—The Board may not approve an investment described in subclause (I) more than 3 times.

“(iv) DIVESTITURE REQUIRED.—Except as otherwise permitted under subsection (d), no banking entity may engage in any activity prohibited under subsection (a)(1)(B) after the earlier of—

“(I) the date on which the contractual obligation to invest in the illiquid fund terminates; and

“(II) the date on which the approval by the Board under clause (iii) expires.

“(4) ADDITIONAL CAPITAL.—Notwithstanding paragraph (2) or (3), on and after the effective date under paragraph (1), the Board may impose additional capital requirements, and any other restrictions, as the Board determines appropriate, on any equity, partnership, or ownership interest in or sponsorship of a hedge fund or private equity fund by a banking entity or nonbank financial company supervised by the Board, including on a case-by-case basis, as the Board determines appropriate.

“(5) RULEMAKING.—Not later than 6 months after the date of enactment of this section,

the Board shall issue rules to implement paragraphs (2), (3), and (4).

“(d) PERMITTED ACTIVITIES.—

“(1) IN GENERAL.—Notwithstanding the restrictions in subsection (a), to the extent permitted by any other provision of Federal or State law, and subject to the limitations under paragraph (2) and any restrictions or limitations that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, may determine, the following activities (in this section referred to as ‘permitted activities’) are permitted:

“(A) The purchase, sale, acquisition, or disposition of obligations of the United States or any agency thereof; obligations, participations, or other instruments of or issued by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a Federal Home Loan Bank, the Federal Agricultural Mortgage Corporation, or a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and obligations of any State or of any political subdivision thereof.

“(B) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) in connection with underwriting, market-making, or in facilitation of customer relationships, to the extent that any such activities permitted by this subparagraph are designed to not exceed the reasonably expected near term demands of clients, customers, or counterparties.

“(C) Risk-mitigating hedging activities designed to reduce the specific risks to a banking entity or nonbank financial company supervised by the Board.

“(D) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) on behalf of customers.

“(E) Investments in one or more small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or investments designed primarily to promote the public welfare, as provided in paragraph (11) of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24).

“(F) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) by a regulated insurance company directly engaged in the business of insurance for the general account of the company and by any affiliate of such regulated insurance company, provided that such activities by any affiliate are solely for the general account of the regulated insurance company, if—

“(i) the purchase, sale, acquisition, or disposition is conducted in compliance with, and subject to, the insurance company investment laws, regulations, and written guidance of the State or jurisdiction in which each such insurance company is domiciled; and

“(ii) the appropriate Federal banking agencies, after consultation with the Financial Stability Oversight Council and the relevant insurance commissioners of the States and territories of the United States, have not jointly determined, after notice and comment, that a particular law, regulation, or written guidance described in clause (i) is insufficient to protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board, or of the financial stability of the United States.

“(G) Organizing and offering a private equity or hedge fund, including serving as a

general partner, managing member, or trustee of the fund and in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund, including any necessary expenses for the foregoing, only if—

“(i) the banking entity provides bona fide trust, fiduciary, or investment advisory services;

“(ii) the fund is organized and offered only in connection with the provision of bona fide trust, fiduciary, or investment advisory services and only to persons that are customers of such services of the banking entity;

“(iii) the banking entity does not acquire or retain an equity interest, partnership interest, or other ownership interest in the funds;

“(iv) the banking entity does not enter into or otherwise engage in any transaction with the hedge fund or private equity fund that is a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c);

“(v) the obligations or performance of the hedge fund or private equity fund are not guaranteed, assumed, or otherwise covered, directly or indirectly, by the banking entity or any subsidiary or affiliate of the banking entity;

“(vi) the banking entity does not share with the hedge fund or private equity fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name;

“(vii) no director or employee of the banking entity takes or retains an equity interest, partnership interest, or other ownership interest in, except for any director or employee of the banking entity who is directly engaged in providing investment advisory or other services to the hedge fund or private equity fund; and

“(viii) the banking entity complies with any rules of the appropriate Federal banking agencies, the Securities and Exchange Commission, or the Commodity Futures Trading Commission designed to ensure that losses in such hedge fund or private equity fund are borne solely by investors in the fund and not by the banking entity.

“(H) Proprietary trading conducted by a company pursuant to paragraph (9) or (13) of section 4(c), provided that the trading occurs solely outside of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a United States person.

“(I) The acquisition or retention of any equity, partnership, or other ownership interest in, or the sponsorship of, a hedge fund or a private equity fund by a banking entity or nonbank financial company supervised by the Board pursuant to paragraph (9) or (13) of section 4(c) solely outside of the United States, provided that no ownership interest in such hedge fund or private equity fund is offered for sale or sold to a resident of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a company that is organized in the United States.

“(J) Such other activity as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission determine through regulation, as provided in subsection (b)(2)(B), would promote and protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board and the financial stability of the United States.

**“(2) LIMITATION ON PERMITTED ACTIVITIES.—**

“(A) IN GENERAL.—No transaction, class of transactions, or activity may be deemed a permitted activity under paragraph (1) if it—

“(i) would involve or result in a material conflict of interest (as such term shall be defined jointly by rule) between the banking entity or the nonbank financial company supervised by the Board and its clients, customers, or counterparties;

“(ii) would result, directly or indirectly, in an unsafe and unsound exposure by the banking entity or nonbank financial company supervised by the Board to high-risk assets or high-risk trading strategies (as such terms shall be defined jointly by rule);

“(iii) would pose a threat to the safety and soundness of such banking entity or nonbank financial company supervised by the Board; or

“(iv) would pose a threat to the financial stability of the United States.

“(B) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations to implement subparagraph (A), as part of the regulations issued under subsection (b)(2).

“(3) CAPITAL AND QUANTITATIVE LIMITATIONS.—The Board shall adopt rules, as provided under subsection (b)(2), imposing additional capital requirements and quantitative limitations regarding the activities permitted under this section if the Board determines that additional capital and quantitative limitations are appropriate to protect the safety and soundness of the banking entities and nonbank financial companies supervised by the Board engaged in such activities.

**“(e) ANTI-EVASION.—**

“(1) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations as part of the rulemaking provided for in subsection (b)(2) regarding internal controls and recordkeeping in order to insure compliance with this section.

“(2) TERMINATION OF ACTIVITIES OR INVESTMENT.—Whenever an appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, has reasonable cause to believe that a banking entity or nonbank financial company supervised by the Board under the respective agency's jurisdiction has made an investment or engaged in an activity in a manner that functions as an evasion of the requirements of this section (including through an abuse of any permitted activity) or otherwise violates the restrictions under this section, the appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, shall order, after due notice and opportunity for hearing, the banking entity or nonbank financial company supervised by the Board to terminate the activity and, as relevant, dispose of the investment. Nothing in this subparagraph shall be construed to limit the inherent authority of any Federal agency or State regulatory authority to further restrict any investments or activities under otherwise applicable provisions of law.

“(f) LIMITATIONS ON RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

“(1) IN GENERAL.—No banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund may enter

into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c) with the hedge fund or private equity fund.

“(2) TREATMENT AS MEMBER BANK.—A banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund shall be subject to sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c–1), as if such person were a member bank and such hedge fund or private equity fund were an affiliate thereof.

“(3) COVERED TRANSACTIONS WITH UNAFFILIATED HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—No banking entity may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), with any hedge fund or private equity fund organized and offered by the banking entity or with any hedge fund or private equity fund in which such hedge fund or private equity fund has taken any equity, partnership, or other ownership interest.

**“(g) RULES OF CONSTRUCTION.—**

“(1) LIMITATION ON CONTRARY AUTHORITY.—Any prohibitions or restrictions under this section shall apply even though such activities may be authorized for a banking entity or a nonbank financial company supervised by the Board under any other provision of law.

“(2) SALE OR SECURITIZATION OF LOANS.—Nothing in this section shall be construed to limit or restrict the ability of a banking entity or nonbank financial company supervised by the Board to sell or securitize loans in a manner otherwise permitted by law.

“(3) AUTHORITY OF FEDERAL AGENCIES AND STATE REGULATORY AUTHORITIES.—Nothing in this section shall be construed to limit the inherent authority of any Federal agency or State regulatory authority under otherwise applicable provisions of law.

“(h) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) BANKING ENTITY.—The term ‘banking entity’ means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, and any affiliate or subsidiary of any such entity. For purposes of this paragraph, the term ‘insured depository institution’ does not include an institution that functions solely in a trust or fiduciary capacity, if—

“(A) all or substantially all of the deposits of such institution are in trust funds and are received in a bona fide fiduciary capacity;

“(B) no deposits of such institution which are insured by the Federal Deposit Insurance Corporation are offered or marketed by or through an affiliate of such institution;

“(C) such institution does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others or make commercial loans; and

“(D) such institution does not—

“(i) obtain payment or payment related services from any Federal Reserve bank, including any service referred to in section 11(a) of the Federal Reserve Act (12 U.S.C. 248a); or

“(ii) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act (12 U.S.C. 461(b)(7)).

“(2) HEDGE FUND; PRIVATE EQUITY FUND.—The terms ‘hedge fund’ and ‘private equity fund’ mean a company or other entity that is exempt from registration as an investment

company pursuant to section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1) or 80a–3(c)(7)), or such similar funds as jointly determined appropriate by the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

“(3) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD.—The term ‘nonbank financial company supervised by the Board’ means a nonbank financial company supervised by the Board of Governors, as defined in section 102 of the Financial Stability Act of 2010.

“(4) PROPRIETARY TRADING.—The term ‘proprietary trading’ means engaging as a principal for its own trading account in any transaction to purchase or sell, or otherwise acquire or dispose of, any security, any derivative, any contract of sale of a commodity for future delivery, any option on any such security, derivative, or contract, or any other security or financial instrument that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.

“(5) SPONSOR.—The term to ‘sponsor’ a fund means—

“(A) to serve as a general partner, managing member, or trustee of a fund;

“(B) in any manner to select or to control (or to have employees, officers, or directors, or agents who constitute) a majority of the directors, trustees, or management of a fund; or

“(C) to share with a fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

“(6) TRADING ACCOUNT.—The term ‘trading account’ means any account used for acquiring or taking positions in the securities and instruments described in paragraph (4) principally for the purpose of selling in the near term (or otherwise with the intent to resell in order to profit from short-term price movements), and any such other accounts as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.”

**SEC. \_\_. CONFLICTS OF INTEREST.**

The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:

**“SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.**

“(a) IN GENERAL.—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

“(b) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures.

“(c) EXCEPTION.—The prohibitions of subsection (a) shall not apply to risk-mitigating

hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934.”.

**SA 4129.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4052 submitted by Mr. CORKER and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

Notwithstanding any other provision of this Act, section 619 of this act shall have no force or effect, and the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following:

**“SEC. 13. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

“(a) IN GENERAL.—

“(1) PROHIBITION.—Unless otherwise provided in this section, a banking entity shall not—

“(A) engage in proprietary trading; or

“(B) acquire or retain any equity, partnership, or other ownership interest in or sponsor a hedge fund or a private equity fund.

“(2) NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD.—Any nonbank financial company supervised by the Board that engages in proprietary trading or takes or retains any equity, partnership, or other ownership interest in or sponsors a hedge fund or a private equity fund shall be subject by the Board to additional capital requirements for and additional quantitative limits with regards to such proprietary trading and taking or retaining any equity, partnership, or other ownership interest in or sponsorship of a hedge fund or a private equity fund, except that permitted activities as described in subsection (d) shall be subject to additional capital and additional quantitative limits as prescribed pursuant to subsection (d)(3).

“(b) STUDY AND RULEMAKING.—

“(1) STUDY.—Not later than 6 months after the date of enactment of this section, the Financial Stability Oversight Council shall study and make recommendations on implementing the provisions of this section so as to—

“(A) promote and enhance the safety and soundness of banking entities;

“(B) protect taxpayers and enhance financial stability by minimizing the risk that in-

sured depository institutions and the affiliates of insured depository institutions will engage in unsafe and unsound activities;

“(C) limit the inappropriate transfer of Federal subsidies from institutions that benefit from deposit insurance and liquidity facilities of the Federal Government to unregulated entities;

“(D) reduce conflicts of interest between the self-interest of banking entities and nonbank financial companies supervised by the Board, and the interests of the customers of such entities and companies;

“(E) limit activities that have caused undue risk or loss in banking entities and nonbank financial companies supervised by the Board, or that might reasonably be expected to create undue risk or loss in such banking entities and nonbank financial companies supervised by the Board;

“(F) appropriately accommodate the business of insurance within an insurance company subject to regulation in accordance with the relevant insurance company investment laws while protecting the safety and soundness of any banking entity with which such insurance company is affiliated, and of the United States financial system; and

“(G) appropriately time the divestiture of illiquid assets that are affected by the implementation of the prohibitions under subsection (a).

“(2) RULEMAKING.—

“(A) IN GENERAL.—Not later than 9 months after the completion of the study under paragraph (1), the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, (unless otherwise provided in this section) shall consider the findings of the study under paragraph (1) and adopt rules to carry out this section, as provided in subparagraph (B).

“(B) COORDINATED RULEMAKING.—

“(i) REGULATORY AUTHORITY.—The regulations issued under this paragraph and subsections (d) and (e) shall be issued by—

“(I) the appropriate Federal banking agencies, jointly, with respect to insured depository institutions;

“(II) the Board, with respect to any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, any subsidiary of such a company (other than a subsidiary described in subparagraph (A) or (C)), and any nonbank financial company supervised by the Board;

“(III) the Commodity Futures Trading Commission, with respect to any entity for which the Commodity Futures Trading Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010; and

“(IV) the Securities and Exchange Commission, with respect to any entity for which the Securities and Exchange Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010.

“(ii) COORDINATION, CONSISTENCY, AND COMPARABILITY.—In developing and issuing regulations pursuant to this section, the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall consult and coordinate with each other, as appropriate, for the purposes of assuring, to the extent possible, that such regulations are comparable and provide for consistent application and implementation of the applicable provisions of this section to avoid pro-

viding advantages or imposing disadvantages to the companies affected by this subsection and to protect the safety and soundness of banking entities and nonbank financial companies supervised by the Board.

“(iii) COUNCIL ROLE.—The Chairperson of the Council shall be responsible for coordination of the regulations issued under this section.

“(c) EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), this section shall take effect on the earlier of—

“(A) 12 months after the issuance of final rules under subsection (b); or

“(B) 2 years after the date of enactment of this section.

“(2) TRANSITION PERIOD FOR DIVESTITURE OF HEDGE FUNDS OR PRIVATE EQUITY FUNDS BY BANKING ENTITIES.—

“(A) NO NEW INVESTMENTS.—

“(i) NO NEW FUNDS.—On and after the date of enactment of this section, a banking entity may not sponsor or invest in a hedge fund or private equity fund that the banking entity did not sponsor or in which the banking entity was not invested on May 1, 2010.

“(ii) NO ADDITIONAL CAPITAL OR ASSETS.—On and after the date of enactment of this section, a banking entity may not sell, transfer, loan, or otherwise provide any additional capital or assets to a hedge fund or private equity fund sponsored by the banking entity or in which the banking entity invests, except to the extent necessary to fulfill a contractual obligation that was in effect on May 1, 2010.

“(B) REDUCTION OF EXISTING INVESTMENTS.—Except as provided in paragraph (3), on and after the date that is 2 years after the effective date of this section, the aggregate amount of equity, partnership, or other ownership interests in all hedge funds and private equity funds held by a banking entity shall not exceed 2 percent of the Tier I capital of the banking entity.

“(C) TOTAL DIVESTITURE.—On and after the date that is 5 years after the effective date of this section, no banking entity may engage in any activity prohibited under subsection (a)(1)(B), except as provided in paragraph (3).

“(3) TRANSITION PERIOD FOR ILLIQUID FUNDS.—

“(A) DEFINITION.—In this paragraph, the term ‘illiquid fund’ means a hedge fund or private equity fund that, as of May 1, 2010, was principally invested in or is invested in illiquid assets, and committed to principally invest in illiquid assets, such as portfolio companies, real estate investments, and venture capital investments, and that maintains the investment strategy of the fund that was in place as of May 1, 2010, regarding principally investing in illiquid assets. In issuing rules under this subparagraph, the Board shall take into consideration the terms of investment for the hedge fund or private equity fund, including contractual obligations, the ability of the fund to divest of assets held by the fund, and any other factors that the Board determines are appropriate.

“(B) TRANSITION.—

“(i) IN GENERAL.—During the 4-year period beginning on the date of enactment of this section, a banking entity may only take an equity, partnership, or ownership interest in, or otherwise provide additional capital to, an illiquid fund to the extent necessary to fulfill a contractual obligation of the banking entity to the illiquid fund that was in effect on May 1, 2010.

“(ii) LIMITATIONS.—A banking entity may not exercise an option to renew, or otherwise

extend the duration of, any contractual obligation described in clause (i) and shall exercise any contractual option permitting the banking entity to exit the illiquid fund if and when such option becomes available. A banking entity may elect not to exercise an option described in the preceding sentence, to the extent that the maintenance of an investment would be permitted under paragraph (2).

“(iii) EXTENSION.—

“(I) APPROVAL REQUIRED.—If a contractual obligation of a banking entity described in clause (i) extends beyond the 4-year period beginning on the date of enactment of this section, the banking entity may not continue to make the investment required under the contractual obligation without the prior written approval of the Board. In determining whether to grant an extension under this clause, the Board shall evaluate whether the proposed investment meets the requirements of this subparagraph.

“(II) TIME LIMIT ON APPROVAL.—The Board may approve an investment described in subclause (I) for a period of not longer than 2 years for each extension.

“(III) LIMIT ON NUMBER OF APPROVALS.—The Board may not approve an investment described in subclause (I) more than 3 times.

“(iv) DIVESTITURE REQUIRED.—Except as otherwise permitted under subsection (d), no banking entity may engage in any activity prohibited under subsection (a)(1)(B) after the earlier of—

“(I) the date on which the contractual obligation to invest in the illiquid fund terminates; and

“(II) the date on which the approval by the Board under clause (iii) expires.

“(4) ADDITIONAL CAPITAL.—Notwithstanding paragraph (2) or (3), on and after the effective date under paragraph (1), the Board may impose additional capital requirements, and any other restrictions, as the Board determines appropriate, on any equity, partnership, or ownership interest in or sponsorship of a hedge fund or private equity fund by a banking entity or nonbank financial company supervised by the Board, including on a case-by-case basis, as the Board determines appropriate.

“(5) RULEMAKING.—Not later than 6 months after the date of enactment of this section, the Board shall issue rules to implement paragraphs (2), (3), and (4).

“(d) PERMITTED ACTIVITIES.—

“(1) IN GENERAL.—Notwithstanding the restrictions in subsection (a), to the extent permitted by any other provision of Federal or State law, and subject to the limitations under paragraph (2) and any restrictions or limitations that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, may determine, the following activities (in this section referred to as ‘permitted activities’) are permitted:

“(A) The purchase, sale, acquisition, or disposition of obligations of the United States or any agency thereof; obligations, participations, or other instruments of or issued by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a Federal Home Loan Bank, the Federal Agricultural Mortgage Corporation, or a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and obligations of any State or of any political subdivision thereof.

“(B) The purchase, sale, acquisition, or disposition of securities and other instruments

described in subsection (h)(4) in connection with underwriting, market-making, or in facilitation of customer relationships, to the extent that any such activities permitted by this subparagraph are designed to not exceed the reasonably expected near term demands of clients, customers, or counterparties.

“(C) Risk-mitigating hedging activities designed to reduce the specific risks to a banking entity or nonbank financial company supervised by the Board.

“(D) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) on behalf of customers.

“(E) Investments in one or more small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or investments designed primarily to promote the public welfare, as provided in paragraph (11) of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24).

“(F) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) by a regulated insurance company directly engaged in the business of insurance for the general account of the company and by any affiliate of such regulated insurance company, provided that such activities by any affiliate are solely for the general account of the regulated insurance company, if—

“(i) the purchase, sale, acquisition, or disposition is conducted in compliance with, and subject to, the insurance company investment laws, regulations, and written guidance of the State or jurisdiction in which each such insurance company is domiciled; and

“(ii) the appropriate Federal banking agencies, after consultation with the Financial Stability Oversight Council and the relevant insurance commissioners of the States and territories of the United States, have not jointly determined, after notice and comment, that a particular law, regulation, or written guidance described in clause (i) is insufficient to protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board, or of the financial stability of the United States.

“(G) Organizing and offering a private equity or hedge fund, including serving as a general partner, managing member, or trustee of the fund and in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund, including any necessary expenses for the foregoing, only if—

“(i) the banking entity provides bona fide trust, fiduciary, or investment advisory services;

“(ii) the fund is organized and offered only in connection with the provision of bona fide trust, fiduciary, or investment advisory services and only to persons that are customers of such services of the banking entity;

“(iii) the banking entity does not acquire or retain an equity interest, partnership interest, or other ownership interest in the funds;

“(iv) the banking entity does not enter into or otherwise engage in any transaction with the hedge fund or private equity fund that is a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c);

“(v) the obligations or performance of the hedge fund or private equity fund are not guaranteed, assumed, or otherwise covered, directly or indirectly, by the banking entity or any subsidiary or affiliate of the banking entity;

“(vi) the banking entity does not share with the hedge fund or private equity fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name;

“(vii) no director or employee of the banking entity takes or retains an equity interest, partnership interest, or other ownership interest in, except for any director or employee of the banking entity who is directly engaged in providing investment advisory or other services to the hedge fund or private equity fund; and

“(viii) the banking entity complies with any rules of the appropriate Federal banking agencies, the Securities and Exchange Commission, or the Commodity Futures Trading Commission designed to ensure that losses in such hedge fund or private equity fund are borne solely by investors in the fund and not by the banking entity.

“(H) Proprietary trading conducted by a company pursuant to paragraph (9) or (13) of section 4(c), provided that the trading occurs solely outside of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a United States person.

“(I) The acquisition or retention of any equity, partnership, or other ownership interest in, or the sponsorship of, a hedge fund or a private equity fund by a banking entity or nonbank financial company supervised by the Board pursuant to paragraph (9) or (13) of section 4(c) solely outside of the United States, provided that no ownership interest in such hedge fund or private equity fund is offered for sale or sold to a resident of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a company that is organized in the United States.

“(J) Such other activity as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission determine through regulation, as provided in subsection (b)(2)(B), would promote and protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board and the financial stability of the United States.

“(2) LIMITATION ON PERMITTED ACTIVITIES.—

“(A) IN GENERAL.—No transaction, class of transactions, or activity may be deemed a permitted activity under paragraph (1) if it—

“(i) would involve or result in a material conflict of interest (as such term shall be defined jointly by rule) between the banking entity or the nonbank financial company supervised by the Board and its clients, customers, or counterparties;

“(ii) would result, directly or indirectly, in an unsafe and unsound exposure by the banking entity or nonbank financial company supervised by the Board to high-risk assets or high-risk trading strategies (as such terms shall be defined jointly by rule);

“(iii) would pose a threat to the safety and soundness of such banking entity or nonbank financial company supervised by the Board; or

“(iv) would pose a threat to the financial stability of the United States.

“(B) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations to implement subparagraph (A), as part of the regulations issued under subsection (b)(2).



“(3) CAPITAL AND QUANTITATIVE LIMITATIONS.—The Board shall adopt rules, as provided under subsection (b)(2), imposing additional capital requirements and quantitative limitations regarding the activities permitted under this section if the Board determines that additional capital and quantitative limitations are appropriate to protect the safety and soundness of the banking entities and nonbank financial companies supervised by the Board engaged in such activities.

“(e) ANTI-EVASION.—

“(1) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations as part of the rulemaking provided for in subsection (b)(2) regarding internal controls and recordkeeping in order to insure compliance with this section.

“(2) TERMINATION OF ACTIVITIES OR INVESTMENT.—Whenever an appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, has reasonable cause to believe that a banking entity or nonbank financial company supervised by the Board under the respective agency’s jurisdiction has made an investment or engaged in an activity in a manner that functions as an evasion of the requirements of this section (including through an abuse of any permitted activity) or otherwise violates the restrictions under this section, the appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, shall order, after due notice and opportunity for hearing, the banking entity or nonbank financial company supervised by the Board to terminate the activity and, as relevant, dispose of the investment. Nothing in this subparagraph shall be construed to limit the inherent authority of any Federal agency or State regulatory authority to further restrict any investments or activities under otherwise applicable provisions of law.

“(f) LIMITATIONS ON RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

“(1) IN GENERAL.—No banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c) with the hedge fund or private equity fund.

“(2) TREATMENT AS MEMBER BANK.—A banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund shall be subject to section 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c–1), as if such person were a member bank and such hedge fund or private equity fund were an affiliate thereof.

“(3) COVERED TRANSACTIONS WITH UNAFFILIATED HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—No banking entity may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), with any hedge fund or private equity fund organized and offered by the banking entity or with any hedge fund or private equity fund in which such hedge fund or private equity fund has taken any equity, partnership, or other ownership interest.

“(g) RULES OF CONSTRUCTION.—

“(1) LIMITATION ON CONTRARY AUTHORITY.—Any prohibitions or restrictions under this section shall apply even though such activities may be authorized for a banking entity

or a nonbank financial company supervised by the Board under any other provision of law.

“(2) SALE OR SECURITIZATION OF LOANS.—Nothing in this section shall be construed to limit or restrict the ability of a banking entity or nonbank financial company supervised by the Board to sell or securitize loans in a manner otherwise permitted by law.

“(3) AUTHORITY OF FEDERAL AGENCIES AND STATE REGULATORY AUTHORITIES.—Nothing in this section shall be construed to limit the inherent authority of any Federal agency or State regulatory authority under otherwise applicable provisions of law.

“(h) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) BANKING ENTITY.—The term ‘banking entity’ means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, and any affiliate or subsidiary of any such entity. For purposes of this paragraph, the term ‘insured depository institution’ does not include an institution that functions solely in a trust or fiduciary capacity, if—

“(A) all or substantially all of the deposits of such institution are in trust funds and are received in a bona fide fiduciary capacity;

“(B) no deposits of such institution which are insured by the Federal Deposit Insurance Corporation are offered or marketed by or through an affiliate of such institution;

“(C) such institution does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others or make commercial loans; and

“(D) such institution does not—

“(i) obtain payment or payment related services from any Federal Reserve bank, including any service referred to in section 11(a) of the Federal Reserve Act (12 U.S.C. 248a); or

“(ii) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act (12 U.S.C. 461(b)(7)).

“(2) HEDGE FUND; PRIVATE EQUITY FUND.—The terms ‘hedge fund’ and ‘private equity fund’ mean a company or other entity that is exempt from registration as an investment company pursuant to section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1) or 80a–3(c)(7)), or such similar funds as jointly determined appropriate by the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

“(3) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD.—The term ‘nonbank financial company supervised by the Board’ means a nonbank financial company supervised by the Board of Governors, as defined in section 102 of the Financial Stability Act of 2010.

“(4) PROPRIETARY TRADING.—The term ‘proprietary trading’ means engaging as a principal for its own trading account in any transaction to purchase or sell, or otherwise acquire or dispose of, any security, any derivative, any contract of sale of a commodity for future delivery, any option on any such security, derivative, or contract, or any other security or financial instrument that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.

“(5) SPONSOR.—The term to ‘sponsor’ a fund means—

“(A) to serve as a general partner, managing member, or trustee of a fund;

“(B) in any manner to select or to control (or to have employees, officers, or directors, or agents who constitute) a majority of the directors, trustees, or management of a fund; or

“(C) to share with a fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

“(6) TRADING ACCOUNT.—The term ‘trading account’ means any account used for acquiring or taking positions in the securities and instruments described in paragraph (4) principally for the purpose of selling in the near term (or otherwise with the intent to resell in order to profit from short-term price movements), and any such other accounts as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.”

#### SEC. 7. CONFLICTS OF INTEREST.

The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:

#### “SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.

“(a) IN GENERAL.—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

“(b) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures.

“(c) EXCEPTION.—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934.”

**SA 4130.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4086 submitted by Ms. CANTWELL (for herself and Mrs. LINCOLN) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which



was ordered to lie on the table; as follows:

On page \_\_\_, line \_\_\_, of the amendment insert the following:

(c) **CONFLICTS OF INTEREST.**—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following: **“SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.**

“(a) **IN GENERAL.**—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

“(b) **RULEMAKING.**—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures. The disclosure by a person of a material conflict of interest with respect to a transaction prohibited under subsection (a) may not be construed to permit any person to engage in the transaction.

“(c) **EXCEPTION.**—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934.”

**SA 4131.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4052 submitted by Mr. CORKER and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page \_\_\_, line \_\_\_, of the amendment insert the following:

(c) **CONFLICTS OF INTEREST.**—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following: **“SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.**

“(a) **IN GENERAL.**—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which

for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

“(b) **RULEMAKING.**—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures. The disclosure by a person of a material conflict of interest with respect to a transaction prohibited under subsection (a) may not be construed to permit any person to engage in the transaction.

“(c) **EXCEPTION.**—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934.”

**SA 4132.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4086 submitted by Ms. CANTWELL (for herself and Mrs. LINCOLN) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

Notwithstanding any other provision of this Act, section 619 of this act shall have no force or effect, and the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following:

**“SEC. 13. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.**

“(a) **IN GENERAL.**—

“(1) **PROHIBITION.**—Unless otherwise provided in this section, a banking entity shall not—

“(A) engage in proprietary trading; or

“(B) acquire or retain any equity, partnership, or other ownership interest in or sponsor a hedge fund or a private equity fund.

“(2) **NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD.**—Any nonbank financial company supervised by the Board that engages in proprietary trading or takes or retains any equity, partnership, or other own-

ership interest in or sponsors a hedge fund or a private equity fund shall be subject by the Board to additional capital requirements for and additional quantitative limits with regards to such proprietary trading and taking or retaining any equity, partnership, or other ownership interest in or sponsorship of a hedge fund or a private equity fund, except that permitted activities as described in subsection (d) shall be subject to additional capital and additional quantitative limits as prescribed pursuant to subsection (d)(3).

“(b) **STUDY AND RULEMAKING.**—

“(1) **STUDY.**—Not later than 6 months after the date of enactment of this section, the Financial Stability Oversight Council shall study and make recommendations on implementing the provisions of this section so as to—

“(A) promote and enhance the safety and soundness of banking entities;

“(B) protect taxpayers and enhance financial stability by minimizing the risk that insured depository institutions and the affiliates of insured depository institutions will engage in unsafe and unsound activities;

“(C) limit the inappropriate transfer of Federal subsidies from institutions that benefit from deposit insurance and liquidity facilities of the Federal Government to unregulated entities;

“(D) reduce conflicts of interest between the self-interest of banking entities and nonbank financial companies supervised by the Board, and the interests of the customers of such entities and companies;

“(E) limit activities that have caused undue risk or loss in banking entities and nonbank financial companies supervised by the Board, or that might reasonably be expected to create undue risk or loss in such banking entities and nonbank financial companies supervised by the Board;

“(F) appropriately accommodate the business of insurance within an insurance company subject to regulation in accordance with the relevant insurance company investment laws while protecting the safety and soundness of any banking entity with which such insurance company is affiliated, and of the United States financial system; and

“(G) appropriately time the divestiture of illiquid assets that are affected by the implementation of the prohibitions under subsection (a).

“(2) **RULEMAKING.**—

“(A) **IN GENERAL.**—Not later than 9 months after the completion of the study under paragraph (1), the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, (unless otherwise provided in this section) shall consider the findings of the study under paragraph (1) and adopt rules to carry out this section, as provided in subparagraph (B).

“(B) **COORDINATED RULEMAKING.**—

“(i) **REGULATORY AUTHORITY.**—The regulations issued under this paragraph and subsections (d) and (e) shall be issued by—

“(I) the appropriate Federal banking agencies, jointly, with respect to insured depository institutions;

“(II) the Board, with respect to any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, any subsidiary of such a company (other than a subsidiary described in subparagraph (A) or (C)), and any nonbank financial company supervised by the Board;

“(III) the Commodity Futures Trading Commission, with respect to any entity for

which the Commodity Futures Trading Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010; and

“(IV) the Securities and Exchange Commission, with respect to any entity for which the Securities and Exchange Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010.

“(ii) COORDINATION, CONSISTENCY, AND COMPARABILITY.—In developing and issuing regulations pursuant to this section, the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall consult and coordinate with each other, as appropriate, for the purposes of assuring, to the extent possible, that such regulations are comparable and provide for consistent application and implementation of the applicable provisions of this section to avoid providing advantages or imposing disadvantages to the companies affected by this subsection and to protect the safety and soundness of banking entities and nonbank financial companies supervised by the Board.

“(iii) COUNCIL ROLE.—The Chairperson of the Council shall be responsible for coordination of the regulations issued under this section.

“(c) EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), this section shall take effect on the earlier of—

“(A) 12 months after the issuance of final rules under subsection (b); or

“(B) 2 years after the date of enactment of this section.

“(2) TRANSITION PERIOD FOR DIVESTITURE OF HEDGE FUNDS OR PRIVATE EQUITY FUNDS BY BANKING ENTITIES.—

“(A) NO NEW INVESTMENTS.—

“(i) NO NEW FUNDS.—On and after the date of enactment of this section, a banking entity may not sponsor or invest in a hedge fund or private equity fund that the banking entity did not sponsor or in which the banking entity was not invested on May 1, 2010.

“(ii) NO ADDITIONAL CAPITAL OR ASSETS.—On and after the date of enactment of this section, a banking entity may not sell, transfer, loan, or otherwise provide any additional capital or assets to a hedge fund or private equity fund sponsored by the banking entity or in which the banking entity invests, except to the extent necessary to fulfill a contractual obligation that was in effect on May 1, 2010.

“(B) REDUCTION OF EXISTING INVESTMENTS.—Except as provided in paragraph (3), on and after the date that is 2 years after the effective date of this section, the aggregate amount of equity, partnership, or other ownership interests in all hedge funds and private equity funds held by a banking entity shall not exceed 2 percent of the Tier I capital of the banking entity.

“(C) TOTAL DIVESTITURE.—On and after the date that is 5 years after the effective date of this section, no banking entity may engage in any activity prohibited under subsection (a)(1)(B), except as provided in paragraph (3).

“(3) TRANSITION PERIOD FOR ILLIQUID FUNDS.—

“(A) DEFINITION.—In this paragraph, the term ‘illiquid fund’ means a hedge fund or private equity fund that, as of May 1, 2010, was principally invested in or is invested in illiquid assets, and committed to principally invest in illiquid assets, such as portfolio companies, real estate investments, and venture capital investments, and that maintains

the investment strategy of the fund that was in place as of May 1, 2010, regarding principally investing in illiquid assets. In issuing rules under this subparagraph, the Board shall take into consideration the terms of investment for the hedge fund or private equity fund, including contractual obligations, the ability of the fund to divest of assets held by the fund, and any other factors that the Board determines are appropriate.

“(B) TRANSITION.—

“(i) IN GENERAL.—During the 4-year period beginning on the date of enactment of this section, a banking entity may only take an equity, partnership, or ownership interest in, or otherwise provide additional capital to, an illiquid fund to the extent necessary to fulfill a contractual obligation of the banking entity to the illiquid fund that was in effect on May 1, 2010.

“(ii) LIMITATIONS.—A banking entity may not exercise an option to renew, or otherwise extend the duration of, any contractual obligation described in clause (i) and shall exercise any contractual option permitting the banking entity to exit the illiquid fund if and when such option becomes available. A banking entity may elect not to exercise an option described in the preceding sentence, to the extent that the maintenance of an investment would be permitted under paragraph (2).

“(iii) EXTENSION.—

“(I) APPROVAL REQUIRED.—If a contractual obligation of a banking entity described in clause (i) extends beyond the 4-year period beginning on the date of enactment of this section, the banking entity may not continue to make the investment required under the contractual obligation without the prior written approval of the Board. In determining whether to grant an extension under this clause, the Board shall evaluate whether the proposed investment meets the requirements of this subparagraph.

“(II) TIME LIMIT ON APPROVAL.—The Board may approve an investment described in subclause (I) for a period of not longer than 2 years for each extension.

“(III) LIMIT ON NUMBER OF APPROVALS.—The Board may not approve an investment described in subclause (I) more than 3 times.

“(iv) DIVESTITURE REQUIRED.—Except as otherwise permitted under subsection (d), no banking entity may engage in any activity prohibited under subsection (a)(1)(B) after the earlier of—

“(I) the date on which the contractual obligation to invest in the illiquid fund terminates; and

“(II) the date on which the approval by the Board under clause (iii) expires.

“(4) ADDITIONAL CAPITAL.—Notwithstanding paragraph (2) or (3), on and after the effective date under paragraph (1), the Board may impose additional capital requirements, and any other restrictions, as the Board determines appropriate, on any equity, partnership, or ownership interest in or sponsorship of a hedge fund or private equity fund by a banking entity or nonbank financial company supervised by the Board, including on a case-by-case basis, as the Board determines appropriate.

“(5) RULEMAKING.—Not later than 6 months after the date of enactment of this section, the Board shall issue rules to implement paragraphs (2), (3), and (4).

“(d) PERMITTED ACTIVITIES.—

“(1) IN GENERAL.—Notwithstanding the restrictions in subsection (a), to the extent permitted by any other provision of Federal or State law, and subject to the limitations under paragraph (2) and any restrictions or

limitations that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, may determine, the following activities (in this section referred to as ‘permitted activities’) are permitted:

“(A) The purchase, sale, acquisition, or disposition of obligations of the United States or any agency thereof; obligations, participations, or other instruments of or issued by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a Federal Home Loan Bank, the Federal Agricultural Mortgage Corporation, or a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and obligations of any State or of any political subdivision thereof.

“(B) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) in connection with underwriting, market-making, or in facilitation of customer relationships, to the extent that any such activities permitted by this subparagraph are designed to not exceed the reasonably expected near term demands of clients, customers, or counterparties.

“(C) Risk-mitigating hedging activities designed to reduce the specific risks to a banking entity or nonbank financial company supervised by the Board.

“(D) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) on behalf of customers.

“(E) Investments in one or more small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or investments designed primarily to promote the public welfare, as provided in paragraph (1) of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24).

“(F) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) by a regulated insurance company directly engaged in the business of insurance for the general account of the company and by any affiliate of such regulated insurance company, provided that such activities by any affiliate are solely for the general account of the regulated insurance company, if—

“(i) the purchase, sale, acquisition, or disposition is conducted in compliance with, and subject to, the insurance company investment laws, regulations, and written guidance of the State or jurisdiction in which each such insurance company is domiciled; and

“(ii) the appropriate Federal banking agencies, after consultation with the Financial Stability Oversight Council and the relevant insurance commissioners of the States and territories of the United States, have not jointly determined, after notice and comment, that a particular law, regulation, or written guidance described in clause (i) is insufficient to protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board, or of the financial stability of the United States.

“(G) Organizing and offering a private equity or hedge fund, including serving as a general partner, managing member, or trustee of the fund and in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund, including any necessary expenses for the foregoing, only if—

“(i) the banking entity provides bona fide trust, fiduciary, or investment advisory services;

“(ii) the fund is organized and offered only in connection with the provision of bona fide trust, fiduciary, or investment advisory services and only to persons that are customers of such services of the banking entity;

“(iii) the banking entity does not acquire or retain an equity interest, partnership interest, or other ownership interest in the funds;

“(iv) the banking entity does not enter into or otherwise engage in any transaction with the hedge fund or private equity fund that is a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c);

“(v) the obligations or performance of the hedge fund or private equity fund are not guaranteed, assumed, or otherwise covered, directly or indirectly, by the banking entity or any subsidiary or affiliate of the banking entity;

“(vi) the banking entity does not share with the hedge fund or private equity fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name;

“(vii) no director or employee of the banking entity takes or retains an equity interest, partnership interest, or other ownership interest in, except for any director or employee of the banking entity who is directly engaged in providing investment advisory or other services to the hedge fund or private equity fund; and

“(viii) the banking entity complies with any rules of the appropriate Federal banking agencies, the Securities and Exchange Commission, or the Commodity Futures Trading Commission designed to ensure that losses in such hedge fund or private equity fund are borne solely by investors in the fund and not by the banking entity.

“(H) Proprietary trading conducted by a company pursuant to paragraph (9) or (13) of section 4(c), provided that the trading occurs solely outside of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a United States person.

“(I) The acquisition or retention of any equity, partnership, or other ownership interest in, or the sponsorship of, a hedge fund or a private equity fund by a banking entity or nonbank financial company supervised by the Board pursuant to paragraph (9) or (13) of section 4(c) solely outside of the United States, provided that no ownership interest in such hedge fund or private equity fund is offered for sale or sold to a resident of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a company that is organized in the United States.

“(J) Such other activity as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission determine through regulation, as provided in subsection (b)(2)(B), would promote and protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board and the financial stability of the United States.

“(2) LIMITATION ON PERMITTED ACTIVITIES.—

“(A) IN GENERAL.—No transaction, class of transactions, or activity may be deemed a permitted activity under paragraph (1) if it—

“(i) would involve or result in a material conflict of interest (as such term shall be de-

fined jointly by rule) between the banking entity or the nonbank financial company supervised by the Board and its clients, customers, or counterparties;

“(ii) would result, directly or indirectly, in an unsafe and unsound exposure by the banking entity or nonbank financial company supervised by the Board to high-risk assets or high-risk trading strategies (as such terms shall be defined jointly by rule);

“(iii) would pose a threat to the safety and soundness of such banking entity or nonbank financial company supervised by the Board; or

“(iv) would pose a threat to the financial stability of the United States.

“(B) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations to implement subparagraph (A), as part of the regulations issued under subsection (b)(2).

“(3) CAPITAL AND QUANTITATIVE LIMITATIONS.—The Board shall adopt rules, as provided under subsection (b)(2), imposing additional capital requirements and quantitative limitations regarding the activities permitted under this section if the Board determines that additional capital and quantitative limitations are appropriate to protect the safety and soundness of the banking entities and nonbank financial companies supervised by the Board engaged in such activities.

“(e) ANTI-EVASION.—

“(1) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations as part of the rulemaking provided for in subsection (b)(2) regarding internal controls and recordkeeping in order to insure compliance with this section.

“(2) TERMINATION OF ACTIVITIES OR INVESTMENT.—Whenever an appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, has reasonable cause to believe that a banking entity or nonbank financial company supervised by the Board under the respective agency's jurisdiction has made an investment or engaged in an activity in a manner that functions as an evasion of the requirements of this section (including through an abuse of any permitted activity) or otherwise violates the restrictions under this section, the appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, shall order, after due notice and opportunity for hearing, the banking entity or nonbank financial company supervised by the Board to terminate the activity and, as relevant, dispose of the investment. Nothing in this subparagraph shall be construed to limit the inherent authority of any Federal agency or State regulatory authority to further restrict any investments or activities under otherwise applicable provisions of law.

“(f) LIMITATIONS ON RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

“(1) IN GENERAL.—No banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c) with the hedge fund or private equity fund.

“(2) TREATMENT AS MEMBER BANK.—A banking entity that serves, directly or indirectly,

as the investment manager or investment adviser to a hedge fund or private equity fund shall be subject to section 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c-1), as if such person were a member bank and such hedge fund or private equity fund were an affiliate thereof.

“(3) COVERED TRANSACTIONS WITH UNAFFILIATED HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—No banking entity may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), with any hedge fund or private equity fund organized and offered by the banking entity or with any hedge fund or private equity fund in which such hedge fund or private equity fund has taken any equity, partnership, or other ownership interest.

“(g) RULES OF CONSTRUCTION.—

“(1) LIMITATION ON CONTRARY AUTHORITY.—Any prohibitions or restrictions under this section shall apply even though such activities may be authorized for a banking entity or a nonbank financial company supervised by the Board under any other provision of law.

“(2) SALE OR SECURITIZATION OF LOANS.—Nothing in this section shall be construed to limit or restrict the ability of a banking entity or nonbank financial company supervised by the Board to sell or securitize loans in a manner otherwise permitted by law.

“(3) AUTHORITY OF FEDERAL AGENCIES AND STATE REGULATORY AUTHORITIES.—Nothing in this section shall be construed to limit the inherent authority of any Federal agency or State regulatory authority under otherwise applicable provisions of law.

“(h) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) BANKING ENTITY.—The term ‘banking entity’ means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, and any affiliate or subsidiary of any such entity. For purposes of this paragraph, the term ‘insured depository institution’ does not include an institution that functions solely in a trust or fiduciary capacity, if—

“(A) all or substantially all of the deposits of such institution are in trust funds and are received in a bona fide fiduciary capacity;

“(B) no deposits of such institution which are insured by the Federal Deposit Insurance Corporation are offered or marketed by or through an affiliate of such institution;

“(C) such institution does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others or make commercial loans; and

“(D) such institution does not—

“(i) obtain payment or payment related services from any Federal Reserve bank, including any service referred to in section 11(a) of the Federal Reserve Act (12 U.S.C. 248a); or

“(ii) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act (12 U.S.C. 461(b)(7)).

“(2) HEDGE FUND; PRIVATE EQUITY FUND.—The terms ‘hedge fund’ and ‘private equity fund’ mean a company or other entity that is exempt from registration as an investment company pursuant to section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(1) or 80a-3(c)(7)), or such similar funds as jointly determined appropriate by the appropriate Federal banking agencies, the Securities and Exchange Commission,

and the Commodity Futures Trading Commission.

“(3) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD.—The term ‘nonbank financial company supervised by the Board’ means a nonbank financial company supervised by the Board of Governors, as defined in section 102 of the Financial Stability Act of 2010.

“(4) PROPRIETARY TRADING.—The term ‘proprietary trading’ means engaging as a principal for its own trading account in any transaction to purchase or sell, or otherwise acquire or dispose of, any security, any derivative, any contract of sale of a commodity for future delivery, any option on any such security, derivative, or contract, or any other security or financial instrument that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.

“(5) SPONSOR.—The term to ‘sponsor’ a fund means—

“(A) to serve as a general partner, managing member, or trustee of a fund;

“(B) in any manner to select or to control (or to have employees, officers, or directors, or agents who constitute) a majority of the directors, trustees, or management of a fund; or

“(C) to share with a fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

“(6) TRADING ACCOUNT.—The term ‘trading account’ means any account used for acquiring or taking positions in the securities and instruments described in paragraph (4) principally for the purpose of selling in the near term (or otherwise with the intent to resell in order to profit from short-term price movements), and any such other accounts as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.”.

#### SEC. —(i) CONFLICTS OF INTEREST.

The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:

#### “SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.

“(a) IN GENERAL.—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

“(b) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures.

“(c) EXCEPTION.—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising

out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934.”.

**SA 4133.** Mr. MERKLEY (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 3944 submitted by Mr. CORKER and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. — PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.

Notwithstanding any other provision of this Act, section 619 of this act shall have no force or effect, and the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following:

#### “SEC. 13. PROHIBITIONS ON PROPRIETARY TRADING AND CERTAIN RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.

“(a) IN GENERAL.—

“(1) PROHIBITION.—Unless otherwise provided in this section, a banking entity shall not—

“(A) engage in proprietary trading; or

“(B) acquire or retain any equity, partnership, or other ownership interest in or sponsor a hedge fund or a private equity fund.

“(2) NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD.—Any nonbank financial company supervised by the Board that engages in proprietary trading or takes or retains any equity, partnership, or other ownership interest in or sponsors a hedge fund or a private equity fund shall be subject by the Board to additional capital requirements for and additional quantitative limits with regards to such proprietary trading and taking or retaining any equity, partnership, or other ownership interest in or sponsorship of a hedge fund or a private equity fund, except that permitted activities as described in subsection (d) shall be subject to additional capital and additional quantitative limits as prescribed pursuant to subsection (d)(3).

“(b) STUDY AND RULEMAKING.—

“(1) STUDY.—Not later than 6 months after the date of enactment of this section, the Financial Stability Oversight Council shall study and make recommendations on implementing the provisions of this section so as to—

“(A) promote and enhance the safety and soundness of banking entities;

“(B) protect taxpayers and enhance financial stability by minimizing the risk that insured depository institutions and the affiliates of insured depository institutions will engage in unsafe and unsound activities;

“(C) limit the inappropriate transfer of Federal subsidies from institutions that benefit from deposit insurance and liquidity facilities of the Federal Government to unregulated entities;

“(D) reduce conflicts of interest between the self-interest of banking entities and nonbank financial companies supervised by the Board, and the interests of the customers of such entities and companies;

“(E) limit activities that have caused undue risk or loss in banking entities and nonbank financial companies supervised by the Board, or that might reasonably be expected to create undue risk or loss in such banking entities and nonbank financial companies supervised by the Board;

“(F) appropriately accommodate the business of insurance within an insurance company subject to regulation in accordance with the relevant insurance company investment laws while protecting the safety and soundness of any banking entity with which such insurance company is affiliated, and of the United States financial system; and

“(G) appropriately time the divestiture of illiquid assets that are affected by the implementation of the prohibitions under subsection (a).

“(2) RULEMAKING.—

“(A) IN GENERAL.—Not later than 9 months after the completion of the study under paragraph (1), the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, (unless otherwise provided in this section) shall consider the findings of the study under paragraph (1) and adopt rules to carry out this section, as provided in subparagraph (B).

“(B) COORDINATED RULEMAKING.—

“(i) REGULATORY AUTHORITY.—The regulations issued under this paragraph and subsections (d) and (e) shall be issued by—

“(I) the appropriate Federal banking agencies, jointly, with respect to insured depository institutions;

“(II) the Board, with respect to any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, any subsidiary of such a company (other than a subsidiary described in subparagraph (A) or (C)), and any nonbank financial company supervised by the Board;

“(III) the Commodity Futures Trading Commission, with respect to any entity for which the Commodity Futures Trading Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010; and

“(IV) the Securities and Exchange Commission, with respect to any entity for which the Securities and Exchange Commission is the primary financial regulatory agency, as defined in section 2 of the Restoring American Financial Stability Act of 2010.

“(ii) COORDINATION, CONSISTENCY, AND COMPARABILITY.—In developing and issuing regulations pursuant to this section, the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall consult and coordinate with each other, as appropriate, for the purposes of assuring, to the extent possible, that such regulations are comparable and provide for consistent application and implementation of the applicable provisions of this section to avoid providing advantages or imposing disadvantages to the companies affected by this subsection and to protect the safety and soundness of banking entities and nonbank financial companies supervised by the Board.

“(iii) COUNCIL ROLE.—The Chairperson of the Council shall be responsible for coordination of the regulations issued under this section.

“(c) EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), this section shall take effect on the earlier of—

“(A) 12 months after the issuance of final rules under subsection (b); or

“(B) 2 years after the date of enactment of this section.

“(2) TRANSITION PERIOD FOR DIVESTITURE OF HEDGE FUNDS OR PRIVATE EQUITY FUNDS BY BANKING ENTITIES.—

“(A) NO NEW INVESTMENTS.—

“(i) NO NEW FUNDS.—On and after the date of enactment of this section, a banking entity may not sponsor or invest in a hedge fund or private equity fund that the banking entity did not sponsor or in which the banking entity was not invested on May 1, 2010.

“(ii) NO ADDITIONAL CAPITAL OR ASSETS.—On and after the date of enactment of this section, a banking entity may not sell, transfer, loan, or otherwise provide any additional capital or assets to a hedge fund or private equity fund sponsored by the banking entity or in which the banking entity invests, except to the extent necessary to fulfill a contractual obligation that was in effect on May 1, 2010.

“(B) REDUCTION OF EXISTING INVESTMENTS.—Except as provided in paragraph (3), on and after the date that is 2 years after the effective date of this section, the aggregate amount of equity, partnership, or other ownership interests in all hedge funds and private equity funds held by a banking entity shall not exceed 2 percent of the Tier I capital of the banking entity.

“(C) TOTAL DIVESTITURE.—On and after the date that is 5 years after the effective date of this section, no banking entity may engage in any activity prohibited under subsection (a)(1)(B), except as provided in paragraph (3).

“(3) TRANSITION PERIOD FOR ILLIQUID FUNDS.—

“(A) DEFINITION.—In this paragraph, the term ‘illiquid fund’ means a hedge fund or private equity fund that, as of May 1, 2010, was principally invested in or is invested in illiquid assets, and committed to principally invest in illiquid assets, such as portfolio companies, real estate investments, and venture capital investments, and that maintains the investment strategy of the fund that was in place as of May 1, 2010, regarding principally investing in illiquid assets. In issuing rules under this subparagraph, the Board shall take into consideration the terms of investment for the hedge fund or private equity fund, including contractual obligations, the ability of the fund to divest of assets held by the fund, and any other factors that the Board determines are appropriate.

“(B) TRANSITION.—

“(i) IN GENERAL.—During the 4-year period beginning on the date of enactment of this section, a banking entity may only take an equity, partnership, or ownership interest in, or otherwise provide additional capital to, an illiquid fund to the extent necessary to fulfill a contractual obligation of the banking entity to the illiquid fund that was in effect on May 1, 2010.

“(ii) LIMITATIONS.—A banking entity may not exercise an option to renew, or otherwise extend the duration of, any contractual obligation described in clause (i) and shall exercise any contractual option permitting the banking entity to exit the illiquid fund if and when such option becomes available. A banking entity may elect not to exercise an option described in the preceding sentence, to the extent that the maintenance of an investment would be permitted under paragraph (2).

“(iii) EXTENSION.—

“(I) APPROVAL REQUIRED.—If a contractual obligation of a banking entity described in clause (i) extends beyond the 4-year period beginning on the date of enactment of this section, the banking entity may not continue to make the investment required under the contractual obligation without the prior written approval of the Board. In determining whether to grant an extension under this clause, the Board shall evaluate whether the proposed investment meets the requirements of this subparagraph.

“(II) TIME LIMIT ON APPROVAL.—The Board may approve an investment described in subclause (I) for a period of not longer than 2 years for each extension.

“(III) LIMIT ON NUMBER OF APPROVALS.—The Board may not approve an investment described in subclause (I) more than 3 times.

“(iv) DIVESTITURE REQUIRED.—Except as otherwise permitted under subsection (d), no banking entity may engage in any activity prohibited under subsection (a)(1)(B) after the earlier of—

“(I) the date on which the contractual obligation to invest in the illiquid fund terminates; and

“(II) the date on which the approval by the Board under clause (iii) expires.

“(4) ADDITIONAL CAPITAL.—Notwithstanding paragraph (2) or (3), on and after the effective date under paragraph (1), the Board may impose additional capital requirements, and any other restrictions, as the Board determines appropriate, on any equity, partnership, or ownership interest in or sponsorship of a hedge fund or private equity fund by a banking entity or nonbank financial company supervised by the Board, including on a case-by-case basis, as the Board determines appropriate.

“(5) RULEMAKING.—Not later than 6 months after the date of enactment of this section, the Board shall issue rules to implement paragraphs (2), (3), and (4).

“(d) PERMITTED ACTIVITIES.—

“(1) IN GENERAL.—Notwithstanding the restrictions in subsection (a), to the extent permitted by any other provision of Federal or State law, and subject to the limitations under paragraph (2) and any restrictions or limitations that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, may determine, the following activities (in this section referred to as ‘permitted activities’) are permitted:

“(A) The purchase, sale, acquisition, or disposition of obligations of the United States or any agency thereof; obligations, participations, or other instruments of or issued by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a Federal Home Loan Bank, the Federal Agricultural Mortgage Corporation, or a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and obligations of any State or of any political subdivision thereof.

“(B) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) in connection with underwriting, market-making, or in facilitation of customer relationships, to the extent that any such activities permitted by this subparagraph are designed to not exceed the reasonably expected near term demands of clients, customers, or counterparties.

“(C) Risk-mitigating hedging activities designed to reduce the specific risks to a bank-

ing entity or nonbank financial company supervised by the Board.

“(D) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) on behalf of customers.

“(E) Investments in one or more small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or investments designed primarily to promote the public welfare, as provided in paragraph (1) of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24).

“(F) The purchase, sale, acquisition, or disposition of securities and other instruments described in subsection (h)(4) by a regulated insurance company directly engaged in the business of insurance for the general account of the company and by any affiliate of such regulated insurance company, provided that such activities by any affiliate are solely for the general account of the regulated insurance company, if—

“(i) the purchase, sale, acquisition, or disposition is conducted in compliance with, and subject to, the insurance company investment laws, regulations, and written guidance of the State or jurisdiction in which each such insurance company is domiciled; and

“(ii) the appropriate Federal banking agencies, after consultation with the Financial Stability Oversight Council and the relevant insurance commissioners of the States and territories of the United States, have not jointly determined, after notice and comment, that a particular law, regulation, or written guidance described in clause (i) is insufficient to protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board, or of the financial stability of the United States.

“(G) Organizing and offering a private equity or hedge fund, including serving as a general partner, managing member, or trustee of the fund and in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund, including any necessary expenses for the foregoing, only if—

“(i) the banking entity provides bona fide trust, fiduciary, or investment advisory services;

“(ii) the fund is organized and offered only in connection with the provision of bona fide trust, fiduciary, or investment advisory services and only to persons that are customers of such services of the banking entity;

“(iii) the banking entity does not acquire or retain an equity interest, partnership interest, or other ownership interest in the funds;

“(iv) the banking entity does not enter into or otherwise engage in any transaction with the hedge fund or private equity fund that is a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c);

“(v) the obligations or performance of the hedge fund or private equity fund are not guaranteed, assumed, or otherwise covered, directly or indirectly, by the banking entity or any subsidiary or affiliate of the banking entity;

“(vi) the banking entity does not share with the hedge fund or private equity fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name;

“(vii) no director or employee of the banking entity takes or retains an equity interest, partnership interest, or other ownership

interest in, except for any director or employee of the banking entity who is directly engaged in providing investment advisory or other services to the hedge fund or private equity fund; and

“(viii) the banking entity complies with any rules of the appropriate Federal banking agencies, the Securities and Exchange Commission, or the Commodity Futures Trading Commission designed to ensure that losses in such hedge fund or private equity fund are borne solely by investors in the fund and not by the banking entity.

“(H) Proprietary trading conducted by a company pursuant to paragraph (9) or (13) of section 4(c), provided that the trading occurs solely outside of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a United States person.

“(I) The acquisition or retention of any equity, partnership, or other ownership interest in, or the sponsorship of, a hedge fund or a private equity fund by a banking entity or nonbank financial company supervised by the Board pursuant to paragraph (9) or (13) of section 4(c) solely outside of the United States, provided that no ownership interest in such hedge fund or private equity fund is offered for sale or sold to a resident of the United States and that the banking entity or nonbank financial company supervised by the Board is not directly or indirectly controlled by a company that is organized in the United States.

“(J) Such other activity as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission determine through regulation, as provided in subsection (b)(2)(B), would promote and protect the safety and soundness of the banking entity or nonbank financial company supervised by the Board and the financial stability of the United States.

“(2) LIMITATION ON PERMITTED ACTIVITIES.—

“(A) IN GENERAL.—No transaction, class of transactions, or activity may be deemed a permitted activity under paragraph (1) if it—

“(i) would involve or result in a material conflict of interest (as such term shall be defined jointly by rule) between the banking entity or the nonbank financial company supervised by the Board and its clients, customers, or counterparties;

“(ii) would result, directly or indirectly, in an unsafe and unsound exposure by the banking entity or nonbank financial company supervised by the Board to high-risk assets or high-risk trading strategies (as such terms shall be defined jointly by rule);

“(iii) would pose a threat to the safety and soundness of such banking entity or nonbank financial company supervised by the Board; or

“(iv) would pose a threat to the financial stability of the United States.

“(B) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations to implement subparagraph (A), as part of the regulations issued under subsection (b)(2).

“(3) CAPITAL AND QUANTITATIVE LIMITATIONS.—The Board shall adopt rules, as provided under subsection (b)(2), imposing additional capital requirements and quantitative limitations regarding the activities permitted under this section if the Board determines that additional capital and quantitative limitations are appropriate to protect the safety and soundness of the banking

entities and nonbank financial companies supervised by the Board engaged in such activities.

“(e) ANTI-EVASION.—

“(1) RULEMAKING.—The appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission shall issue regulations as part of the rulemaking provided for in subsection (b)(2) regarding internal controls and recordkeeping in order to insure compliance with this section.

“(2) TERMINATION OF ACTIVITIES OR INVESTMENT.—Whenever an appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, has reasonable cause to believe that a banking entity or nonbank financial company supervised by the Board under the respective agency’s jurisdiction has made an investment or engaged in an activity in a manner that functions as an evasion of the requirements of this section (including through an abuse of any permitted activity) or otherwise violates the restrictions under this section, the appropriate Federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as appropriate, shall order, after due notice and opportunity for hearing, the banking entity or nonbank financial company supervised by the Board to terminate the activity and, as relevant, dispose of the investment. Nothing in this subparagraph shall be construed to limit the inherent authority of any Federal agency or State regulatory authority to further restrict any investments or activities under otherwise applicable provisions of law.

“(f) LIMITATIONS ON RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

“(1) IN GENERAL.—No banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c) with the hedge fund or private equity fund.

“(2) TREATMENT AS MEMBER BANK.—A banking entity that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund shall be subject to section 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c–1), as if such person were a member bank and such hedge fund or private equity fund were an affiliate thereof.

“(3) COVERED TRANSACTIONS WITH UNAFFILIATED HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—No banking entity may enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), with any hedge fund or private equity fund organized and offered by the banking entity or with any hedge fund or private equity fund in which such hedge fund or private equity fund has taken any equity, partnership, or other ownership interest.

“(g) RULES OF CONSTRUCTION.—

“(1) LIMITATION ON CONTRARY AUTHORITY.—Any prohibitions or restrictions under this section shall apply even though such activities may be authorized for a banking entity or a nonbank financial company supervised by the Board under any other provision of law.

“(2) SALE OR SECURITIZATION OF LOANS.—Nothing in this section shall be construed to limit or restrict the ability of a banking entity or nonbank financial company supervised by the Board to sell or securitize loans in a manner otherwise permitted by law.

“(3) AUTHORITY OF FEDERAL AGENCIES AND STATE REGULATORY AUTHORITIES.—Nothing in this section shall be construed to limit the inherent authority of any Federal agency or State regulatory authority under otherwise applicable provisions of law.

“(h) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) BANKING ENTITY.—The term ‘banking entity’ means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, and any affiliate or subsidiary of any such entity. For purposes of this paragraph, the term ‘insured depository institution’ does not include an institution that functions solely in a trust or fiduciary capacity, if—

“(A) all or substantially all of the deposits of such institution are in trust funds and are received in a bona fide fiduciary capacity;

“(B) no deposits of such institution which are insured by the Federal Deposit Insurance Corporation are offered or marketed by or through an affiliate of such institution;

“(C) such institution does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others or make commercial loans; and

“(D) such institution does not—

“(i) obtain payment or payment related services from any Federal Reserve bank, including any service referred to in section 11(a) of the Federal Reserve Act (12 U.S.C. 248a); or

“(ii) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act (12 U.S.C. 461(b)(7)).

“(2) HEDGE FUND; PRIVATE EQUITY FUND.—The terms ‘hedge fund’ and ‘private equity fund’ mean a company or other entity that is exempt from registration as an investment company pursuant to section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1) or 80a–3(c)(7)), or such similar funds as jointly determined appropriate by the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

“(3) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD.—The term ‘nonbank financial company supervised by the Board’ means a nonbank financial company supervised by the Board of Governors, as defined in section 102 of the Financial Stability Act of 2010.

“(4) PROPRIETARY TRADING.—The term ‘proprietary trading’ means engaging as a principal for its own trading account in any transaction to purchase or sell, or otherwise acquire or dispose of, any security, any derivative, any contract of sale of a commodity for future delivery, any option on any such security, derivative, or contract, or any other security or financial instrument that the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.

“(5) SPONSOR.—The term to ‘sponsor’ a fund means—

“(A) to serve as a general partner, managing member, or trustee of a fund;

“(B) in any manner to select or to control (or to have employees, officers, or directors, or agents who constitute) a majority of the directors, trustees, or management of a fund; or

“(C) to share with a fund, for corporate, marketing, promotional, or other purposes,



the same name or a variation of the same name.

“(6) **TRADING ACCOUNT.**—The term ‘trading account’ means any account used for acquiring or taking positions in the securities and instruments described in paragraph (4) principally for the purpose of selling in the near term (or otherwise with the intent to resell in order to profit from short-term price movements), and any such other accounts as the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission may jointly, by rule, determine.”.

#### **SEC. . CONFLICTS OF INTEREST.**

The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27A the following:

#### **“SEC. 27B. CONFLICTS OF INTEREST RELATING TO CERTAIN SECURITIZATIONS.**

“(a) **IN GENERAL.**—An underwriter, placement agent, initial purchaser, or sponsor, or any affiliate or subsidiary of any such entity, of an asset-backed security (as such term is defined in section 3 of the Securities and Exchange Act of 1934 (15 U.S.C. 78c), which for the purposes of this section shall include a synthetic asset-backed security), shall not, during such period as the asset-backed security is outstanding or such lesser period as the Commission determines is appropriate, engage in any transaction that would involve or result in any material conflict of interest with respect to any investor in a transaction arising out of such activity.

“(b) **RULEMAKING.**—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules for the purpose of implementing subsection (a) including any appropriate disclosures or other measures.

“(c) **EXCEPTION.**—The prohibitions of subsection (a) shall not apply to risk-mitigating hedging activities in connection with positions or holdings arising out of the underwriting, placement, initial purchase, or sponsorship of an asset-backed security, provided that such activities are designed to reduce the specific risks to the underwriter, placement agent, initial purchaser, or sponsor associated with positions or holdings arising out of such underwriting, placement, initial purchase, or sponsorship. This subsection shall not otherwise limit the application of section 15G of the Securities Exchange Act of 1934.”.

**SA 4134.** Mr. REED submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

(g) **EXCLUSION NOT APPLICABLE TO MILITARY LENDING.**—

(1) **IN GENERAL.**—Subsection (a) shall not apply to any person that extends credit or arranges for the extension of retail credit or retail leases—

(A) subject to paragraph (2), to a consumer who is a covered member of the Armed

Forces or a dependent of a covered member of the Armed Forces, as such terms are defined in section 670(a) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (10 U.S.C. 987(i)(1) and 10 U.S.C. 987(i)(2)); or

(B) for the purchase or lease of motor vehicles if such person sells, leases, or otherwise delivers motor vehicles to consumers from a physical location that is within 50 miles of a United States military installation.

(2) **RULE OF CONSTRUCTION.**—A person shall be deemed to comply with the exclusion under subparagraph (1)(A) if such person uses reasonable and appropriate procedures, in accordance with rules prescribed by the Bureau, to determine that all applicants are not consumers described in subparagraph (1)(A).

**SA 4135.** Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

#### **SEC. . PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.**

(a) **PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.**—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by adding at the end the following:

“(n) **PROHIBITION ON NEGATIVELY AMORTIZING MORTGAGES.**—

“(1) **IN GENERAL.**—Any person who sells, transfers, or plans to sell or transfer at least 1,000 mortgages, mortgage-backed securities, or similar financial instruments within a calendar year shall not include or reference in any of such financial instruments any mortgage in which the loan balance may negatively amortize.

“(2) **APPLICABILITY.**—This subsection does not apply to home equity conversion mortgages, as defined under section 255 of the National Housing Act (commonly referred to as ‘reverse mortgages’) that are otherwise regulated by a Federal or State agency.

“(3) **RULE OF CONSTRUCTION.**—As used in this section, the term ‘mortgage’ shall not be construed to be restricted or limited only to mortgages referred to in section 103(aa).”.

(b) **EFFECTIVE DATE.**—The requirements under subsection (n)(1) of section 129 of the Truth in Lending Act (as added by subsection (b)) shall take effect not later than 180 days after the date of the enactment of this Act.

**SA 4136.** Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill

S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

#### **SEC. . RELIANCE ON REPORTS.**

Notwithstanding section 932, section 15E(s)(4) of the Securities Exchange Act (15 U.S.C. 78o-7), as amended by section 932, is amended by adding at the end the following:

“(E) **NO RELIANCE ON INADEQUATE REPORT.**—A nationally recognized statistical rating organization may not rely on a third-party due diligence report if the nationally recognized statistical rating organization has reason to believe that the report is inadequate.”.

**SA 4137.** Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

#### **SEC. . STANDARDS AND OVERSIGHT.**

Notwithstanding section 932, section 15E(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7(c)(2)) is amended to read as follows:

“(2) **STANDARDS AND OVERSIGHT.**—The Commission shall set standards and exercise oversight of the procedures and methodologies, including qualitative and quantitative data and models, used by nationally recognized statistical rating organizations, to ensure that the credit ratings issued by the nationally recognized statistical rating organizations have a reasonable foundation.”.

**SA 4138.** Mr. LEVIN (for himself, Mr. KAUFMAN, Mr. REED, and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:



At the end of the amendment, add the following:

**SEC. \_\_\_\_ . RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.**

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15G, as added by this Act, the following new section:

**“SEC. 15H. RESTRICTION ON SYNTHETIC ASSET-BACKED SECURITIES.**

“(a) **DEFINITION.**—For purposes of this section, the term ‘synthetic asset-backed security’ means an asset-backed security with respect to which, by design, the self-liquidating financial assets referenced in the synthetic securitization do not provide any direct payment or cash flow to the holder of the security.

“(b) **RESTRICTION.**—No issuer, underwriter, placement agent, sponsor, or initial purchaser may offer, sell, or transfer a synthetic asset-backed security that has no substantial or material economic purpose apart from speculation on a possible future gain or loss associated with the value or condition of the referenced assets. The Commission may determine whether a synthetic asset-backed security meets the requirements of this section. A determination by the Commission under the preceding sentence is not subject to judicial review.”.

**SA 4139.** Mr. LEVIN (for himself, Mr. KAUFMAN, and Mr. REED) submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

**SEC. \_\_\_\_ . FDIC EXAMINATION AUTHORITY.**

(a) **EXAMINATION AUTHORITY FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.**—Section 10(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(3)) is amended by striking “whenever the Board” and all that follows through the period at the end and inserting the following: “or depository institution holding company whenever the Chairperson or the Board of Directors determines that a special examination of any such depository institution or depository institution holding company is necessary to determine the condition of such depository institution or depository institution holding company for insurance purposes or for purposes of title II of the Restoring American Financial Stability Act of 2010.”.

(b) **ENFORCEMENT AUTHORITY.**—Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended—

(1) in paragraph (1)—

(A) by striking “based on an examination of an insured depository institution” and inserting “based on an examination of an insured depository institution or depository institution holding company”; and

(B) by striking “with respect to any insured depository institution or” and inserting “with respect to any insured depository

institution, depository institution holding company, or”;

(2) in paragraph (2)—

(A) by striking “Board of Directors determines, upon a vote of its members,” and inserting “Board of Directors, upon a vote of its members, or the Chairperson determines”;

(B) in subparagraph (B), by striking “or” at the end;

(C) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(D) by adding at the end the following:

“(D) the conduct or threatened conduct (including any acts or omissions) of the depository institution holding company poses a risk to the Deposit Insurance Fund or of the exercise of authority under title II of the Restoring American Financial Stability Act of 2010, or may prejudice the interests of the depositors of an affiliated institution.”;

(3) in paragraph (3)(A), by striking “upon a vote of the Board of Directors” and inserting “upon a determination by the Chairperson or upon a vote of the Board of Directors”;

(4) in paragraph (4)(A)—

(A) by striking “any insured depository institution” and inserting “any insured depository institution, depository institution holding company,”; and

(B) by striking “the institution” and inserting “the institution, holding company,”;

(5) in paragraph (4)(B), by striking “the institution” each place that term appears and inserting “the institution, holding company,”; and

(6) in paragraph (5)(A), by striking “an insured depository institution” and inserting “an insured depository institution, depository institution holding company.”.

(c) **BACK-UP EXAMINATION AUTHORITY FOR ORDERLY LIQUIDATION PURPOSES.**—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

**“SEC. 51. BACK-UP EXAMINATION AUTHORITY FOR ORDERLY LIQUIDATION PURPOSES.**

“The Corporation may conduct a special examination of a nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010, if the Chairperson or the Board of Directors determines an examination is necessary to determine the condition of the company for purposes of title II of that Act.”.

(d) **ACCESS TO INFORMATION FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.**—The Federal Deposit Insurance Act is amended by adding at the end the following:

**“SEC. 52. ACCESS TO INFORMATION FOR INSURANCE AND ORDERLY LIQUIDATION PURPOSES.**

“(a) **ACCESS TO INFORMATION.**—The Corporation may, if the Corporation determines that such action is necessary to carry out its responsibilities relating to deposit insurance or orderly liquidation under this Act, title II of the Restoring American Financial Stability Act of 2010, or otherwise applicable Federal law—

“(1) obtain information from an insured depository institution, depository institution holding company, or nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010;

“(2) obtain information from the appropriate Federal banking agency, or any regulator of a nonbank financial company supervised by the Board of Governors of the Fed-

eral Reserve System under section 113 of the Restoring American Financial Stability Act of 2010, including examination reports; and

“(3) participate in any examination, visitation, or risk-scoping activity of an insured depository institution, depository institution holding company, or nonbank financial company supervised by the Board of Governors of the Federal Reserve System under section 113 of the Restoring American Financial Stability Act of 2010.

“(b) **ENFORCEMENT.**—The Corporation shall have the authority to take any enforcement action under section 8 against any institution or company described in paragraph (1) of subsection (a) that fails to provide any information requested under that paragraph.

“(c) **USE OF AVAILABLE INFORMATION.**—The Corporation shall use, in lieu of a request for information under subsection (a), information provided to another Federal or State regulatory agency, publicly available information, or externally audited financial statements to the extent that the Corporation determines such information is adequate to the needs of the Corporation.”.

**SA 4140.** Mr. BROWN of Massachusetts submitted an amendment intended to be proposed to amendment SA 3883 proposed by Ms. SNOWE (for herself and Mr. PRYOR) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

**SEC. \_\_\_\_ . PROPRIETARY TRADING.**

(a) **DEFINITION.**—Notwithstanding section 619(a), for purposes of section 619, the term “insured depository institution” does not include an institution described in section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)).

(b) **EXCEPTIONS.**—Notwithstanding section 619(c), for purposes of section 619, an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or any subsidiary of such institution or company may sponsor or invest in a hedge fund or a private equity fund, if—

(1) such institution, company, or subsidiary provides trust, fiduciary, or advisory services to the fund;

(2) the fund is sponsored and offered in connection with the provision of trust, fiduciary, or advisory services by such institution, company, or subsidiary to persons who are, or may be, customers or clients of such institution, company, or subsidiary;

(3) such institution, company, or subsidiary—

(A) does not acquire or retain an equity, partnership, or ownership interest in the fund; or

(B) acquires or retains an equity, partnership, or ownership interest, if—

(i) on the date that is 12 months after the date on which the fund is established, the equity, partnership, or ownership interest is

not greater than 10 percent of the total equity of the fund; and

(ii) the aggregate equity investments by such institution, company, or subsidiary in the fund do not exceed 5 percent of Tier 1 capital of such institution, company, or subsidiary;

(4) such institution, company, or subsidiary does not enter into or otherwise engage in any transaction with the fund that is a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), except on terms and under circumstances specified in section 23B of the Federal Reserve Act (12 U.S.C. 371c-1);

(5) the obligations of the fund are not guaranteed, directly or indirectly, by such institution, company, or subsidiary any affiliate of such institution, company, or subsidiary; and

(6) such institution, company, or subsidiary does not share with the fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

**SA 4141.** Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. 1030. ENERGY AND ENVIRONMENTAL MARKETS ADVISORY COMMITTEE.**

(a) **REPEAL.**—Notwithstanding any other provision of this Act, section 911 of this Act is repealed, effective on the date of enactment of this Act, and shall have no force or effect on or after that date of enactment.

(b) **INVESTOR ADVISORY COMMITTEE ESTABLISHED.**—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following:

**“SEC. 39. INVESTOR ADVISORY COMMITTEE.**

“(a) **ESTABLISHMENT AND PURPOSE.**—

“(1) **ESTABLISHMENT.**—There is established within the Commission the Investor Advisory Committee (referred to in this section as the ‘Committee’).

“(2) **PURPOSE.**—The Committee shall—

“(A) advise and consult with the Commission on—

“(i) regulatory priorities of the Commission;

“(ii) issues relating to the regulation of securities products, trading strategies, and fee structures, and the effectiveness of disclosure;

“(iii) initiatives to protect investor interests, including initiatives to protect investors against the material risks to investors associated with companies in the extractive industries sector, including—

“(I) unique tax and reputational risks, in the form of country-specific taxes and regulations;

“(II) the substantial capital employed in the extractive industries, and the often opaque and unaccountable management of

natural resource revenues by foreign governments; and

“(III) the potential for unstable and high-cost operating environments for multinational companies operating in foreign countries; and

“(iv) initiatives to promote investor confidence and the integrity of the securities marketplace; and

“(B) submit to the Commission such findings and recommendations as the Committee determines are appropriate, including recommendations for proposed legislative changes.

“(b) **MEMBERSHIP.**—

“(1) **IN GENERAL.**—The members of the Committee shall be—

“(A) the Investor Advocate;

“(B) a representative of State securities commissions;

“(C) a representative of the interests of senior citizens; and

“(D) not fewer than 10, and not more than 20, members appointed by the Commission, from among individuals who—

“(i) represent the interests of individual equity and debt investors, including investors in mutual funds;

“(ii) represent the interests of institutional investors, including the interests of pension funds and registered investment companies;

“(iii) are knowledgeable about investment issues and decisions; and

“(iv) have reputations of integrity.

“(2) **TERM.**—Each member of the Committee appointed under paragraph (1)(B) shall serve for a term of 4 years.

“(3) **MEMBERS NOT COMMISSION EMPLOYEES.**—Members appointed under paragraph (1)(B) shall not be deemed to be employees or agents of the Commission solely because of membership on the Committee.

“(c) **CHAIRMAN; VICE CHAIRMAN; SECRETARY; ASSISTANT SECRETARY.**—

“(1) **IN GENERAL.**—The members of the Committee shall elect, from among the members of the Committee—

“(A) a chairman, who may not be employed by an issuer;

“(B) a vice chairman, who may not be employed by an issuer;

“(C) a secretary; and

“(D) an assistant secretary.

“(2) **TERM.**—Each member elected under paragraph (1) shall serve for a term of 3 years in the capacity for which the member was elected under paragraph (1).

“(d) **MEETINGS.**—

“(1) **FREQUENCY OF MEETINGS.**—The Committee shall meet—

“(A) not less frequently than twice annually, at the call of the chairman of the Committee; and

“(B) from time to time, at the call of the Commission.

“(2) **NOTICE.**—The chairman of the Committee shall give the members of the Committee written notice of each meeting, not later than 2 weeks before the date of the meeting.

“(e) **COMPENSATION AND TRAVEL EXPENSES.**—Each member of the Committee who is not a full-time employee of the United States shall—

“(1) be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which the member is engaged in the actual performance of the duties of the Committee; and

“(2) while away from the home or regular place of business of the member in the per-

formance of services for the Committee, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

“(f) **STAFF.**—The Commission shall make available to the Committee such staff as the chairman of the Committee determines are necessary to carry out this section.

“(g) **REVIEW BY COMMISSION.**—The Commission shall—

“(1) review the findings and recommendations of the Committee

“(2) make recommendations to the Commission on the advisability of making public the information required to be disclosed under section 13(p)(2); and

“(3) each time the Committee submits a finding or recommendation to the Commission under paragraph (1), issue a public statement—

“(A) assessing the finding or recommendation of the Committee; and

“(B) disclosing the action, if any, the Commission intends to take with respect to the finding or recommendation.

“(h) **COMMITTEE FINDINGS.**—Nothing in this section shall require the Commission to agree to or act upon any finding or recommendation of the Committee.

“(i) **FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee and its activities.

“(j) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Commission such sums as are necessary to carry out this section.”.

(c) **DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.**—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

“(p) **DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.**—

“(1) **DEFINITIONS.**—In this subsection—

“(A) the term ‘commercial development of oil, natural gas, or minerals’ includes exploration, extraction, processing, export, and other significant actions relating to oil, natural gas, or minerals, or the acquisition of a license for any such activity, as determined by the Commission;

“(B) the term ‘foreign government’ means a foreign government, a department, agency, or instrumentality of a foreign government, or a company owned by a foreign government, as determined by the Commission;

“(C) the term ‘payment’—

“(i) means a payment that is—

“(I) made to further the commercial development of oil, natural gas, or minerals; and

“(II) not de minimis; and

“(ii) includes taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the Commission, consistent with the guidelines of the Extractive Industries Transparency Initiative (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals;

“(D) the term ‘resource extraction issuer’ means an issuer that—

“(i) is required to file an annual report with the Commission; and

“(ii) engages in the commercial development of oil, natural gas, or minerals;

“(E) the term ‘interactive data format’ means an electronic data format in which pieces of information are identified using an interactive data standard; and

“(F) the term ‘interactive data standard’ means standardized list of electronic tags that mark information included in the annual report of a resource extraction issuer.

“(2) DISCLOSURE.—

“(A) INFORMATION REQUIRED.—Not later than 270 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall issue final rules that require each resource extraction issuer to include in an annual report of the resource extraction issuer information relating to any payment made by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals, including—

“(i) the type and total amount of such payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals; and

“(ii) the type and total amount of such payments made to each government.

“(B) CONSULTATION IN RULEMAKING.—In issuing rules under subparagraph (A), the Commission may consult with any agency or entity that the Commission determines is relevant.

“(C) INTERACTIVE DATA FORMAT.—The rules issued under subparagraph (A) shall require that the information included in the annual report of a resource extraction issuer be submitted in an interactive data format.

“(D) INTERACTIVE DATA STANDARD.—

“(i) IN GENERAL.—The rules issued under subparagraph (A) shall establish an interactive data standard for the information included in the annual report of a resource extraction issuer.

“(ii) ELECTRONIC TAGS.—The interactive data standard shall include electronic tags that identify, for any payments made by a resource extraction issuer to a foreign government or the Federal Government—

“(I) the total amounts of the payments, by category;

“(II) the currency used to make the payments;

“(III) the financial period in which the payments were made;

“(IV) the business segment of the resource extraction issuer that made the payments;

“(V) the government that received the payments, and the country in which the government is located;

“(VI) the project of the resource extraction issuer to which the payments relate; and

“(VII) such other information as the Commission may determine is necessary or appropriate in the public interest or for the protection of investors.

“(E) INTERNATIONAL TRANSPARENCY EFFORTS.—To the extent practicable, the rules issued under subparagraph (A) shall support the commitment of the Federal Government to international transparency promotion efforts relating to the commercial development of oil, natural gas, or minerals.

“(F) EFFECTIVE DATE.—With respect to each resource extraction issuer, the final rules issued under subparagraph (A) shall take effect on the date on which the resource extraction issuer is required to submit an annual report relating to the fiscal year of the resource extraction issuer that ends not earlier than 1 year after the date on which the Commission issues final rules under subparagraph (A).

“(3) AVAILABILITY OF INFORMATION.—

“(A) PUBLIC AVAILABILITY OF INFORMATION.—To the extent practicable, the Com-

mission shall make available online, to the public, a compilation of the information required to be submitted under the rules issued under paragraph (2)(A).

“(B) OTHER INFORMATION.—Nothing in this paragraph shall require the Commission to make available online information other than the information required to be submitted under the rules issued under paragraph (2)(A).”.

**SA 4142.** Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4050 submitted by Mr. CARDIN (for himself, Mr. LUGAR, Mr. DURBIN, Mr. SCHUMER, Mr. FEINGOLD, Mr. MERKLEY, Mr. JOHNSON, and Mr. WHITEHOUSE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following: “effective.

**SEC. 995. ENERGY AND ENVIRONMENTAL MARKETS ADVISORY COMMITTEE.**

(a) REPEAL.—Notwithstanding any other provision of this Act, section 911 of this Act is repealed, effective on the date of enactment of this Act, and shall have no force or effect on or after that date of enactment.

(b) INVESTOR ADVISORY COMMITTEE ESTABLISHED.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following:

**“SEC. 39. INVESTOR ADVISORY COMMITTEE.**

“(a) ESTABLISHMENT AND PURPOSE.—

“(1) ESTABLISHMENT.—There is established within the Commission the Investor Advisory Committee (referred to in this section as the ‘Committee’).

“(2) PURPOSE.—The Committee shall—

“(A) advise and consult with the Commission on—

“(i) regulatory priorities of the Commission;

“(ii) issues relating to the regulation of securities products, trading strategies, and fee structures, and the effectiveness of disclosure;

“(iii) initiatives to protect investor interests, including initiatives to protect investors against the material risks to investors associated with companies in the extractive industries sector, including—

“(I) unique tax and reputational risks, in the form of country-specific taxes and regulations;

“(II) the substantial capital employed in the extractive industries, and the often opaque and unaccountable management of natural resource revenues by foreign governments; and

“(III) the potential for unstable and high-cost operating environments for multinational companies operating in foreign countries; and

“(iv) initiatives to promote investor confidence and the integrity of the securities marketplace; and

“(B) submit to the Commission such findings and recommendations as the Committee determines are appropriate, including recommendations for proposed legislative changes.

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The members of the Committee shall be—

“(A) the Investor Advocate;

“(B) a representative of State securities commissions;

“(C) a representative of the interests of senior citizens; and

“(D) not fewer than 10, and not more than 20, members appointed by the Commission, from among individuals who—

“(i) represent the interests of individual equity and debt investors, including investors in mutual funds;

“(ii) represent the interests of institutional investors, including the interests of pension funds and registered investment companies;

“(iii) are knowledgeable about investment issues and decisions; and

“(iv) have reputations of integrity.

“(2) TERM.—Each member of the Committee appointed under paragraph (1)(B) shall serve for a term of 4 years.

“(3) MEMBERS NOT COMMISSION EMPLOYEES.—Members appointed under paragraph (1)(B) shall not be deemed to be employees or agents of the Commission solely because of membership on the Committee.

“(c) CHAIRMAN; VICE CHAIRMAN; SECRETARY; ASSISTANT SECRETARY.—

“(1) IN GENERAL.—The members of the Committee shall elect, from among the members of the Committee—

“(A) a chairman, who may not be employed by an issuer;

“(B) a vice chairman, who may not be employed by an issuer;

“(C) a secretary; and

“(D) an assistant secretary.

“(2) TERM.—Each member elected under paragraph (1) shall serve for a term of 3 years in the capacity for which the member was elected under paragraph (1).

“(d) MEETINGS.—

“(1) FREQUENCY OF MEETINGS.—The Committee shall meet—

“(A) not less frequently than twice annually, at the call of the chairman of the Committee; and

“(B) from time to time, at the call of the Commission.

“(2) NOTICE.—The chairman of the Committee shall give the members of the Committee written notice of each meeting, not later than 2 weeks before the date of the meeting.

“(e) COMPENSATION AND TRAVEL EXPENSES.—Each member of the Committee who is not a full-time employee of the United States shall—

“(1) be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which the member is engaged in the actual performance of the duties of the Committee; and

“(2) while away from the home or regular place of business of the member in the performance of services for the Committee, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

“(f) STAFF.—The Commission shall make available to the Committee such staff as the chairman of the Committee determines are necessary to carry out this section.

“(g) REVIEW BY COMMISSION.—The Commission shall—

“(1) review the findings and recommendations of the Committee

“(2) make recommendations to the Commission on the advisability of making public the information required to be disclosed under section 13(p)(2); and

“(3) each time the Committee submits a finding or recommendation to the Commission under paragraph (1), issue a public statement—

“(A) assessing the finding or recommendation of the Committee; and

“(B) disclosing the action, if any, the Commission intends to take with respect to the finding or recommendation.

“(h) COMMITTEE FINDINGS.—Nothing in this section shall require the Commission to agree to or act upon any finding or recommendation of the Committee.

“(i) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee and its activities.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission such sums as are necessary to carry out this section.”.

(c) DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

“(p) DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘commercial development of oil, natural gas, or minerals’ includes exploration, extraction, processing, export, and other significant actions relating to oil, natural gas, or minerals, or the acquisition of a license for any such activity, as determined by the Commission;

“(B) the term ‘foreign government’ means a foreign government, a department, agency, or instrumentality of a foreign government, or a company owned by a foreign government, as determined by the Commission;

“(C) the term ‘payment’—

“(i) means a payment that is—

“(I) made to further the commercial development of oil, natural gas, or minerals; and

“(II) not de minimis; and

“(ii) includes taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the Commission, consistent with the guidelines of the Extractive Industries Transparency Initiative (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals;

“(D) the term ‘resource extraction issuer’ means an issuer that—

“(i) is required to file an annual report with the Commission; and

“(ii) engages in the commercial development of oil, natural gas, or minerals;

“(E) the term ‘interactive data format’ means an electronic data format in which pieces of information are identified using an interactive data standard; and

“(F) the term ‘interactive data standard’ means standardized list of electronic tags that mark information included in the annual report of a resource extraction issuer.

“(2) DISCLOSURE.—

“(A) INFORMATION REQUIRED.—Not later than 270 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall issue final rules that require each resource extraction issuer to include in an annual report of the resource extraction issuer information relating to any payment made by the resource extraction issuer, a subsidiary of the resource

extraction issuer, or an entity under the control of the resource extraction issuer to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals, including—

“(i) the type and total amount of such payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals; and

“(ii) the type and total amount of such payments made to each government.

“(B) CONSULTATION IN RULEMAKING.—In issuing rules under subparagraph (A), the Commission may consult with any agency or entity that the Commission determines is relevant.

“(C) INTERACTIVE DATA FORMAT.—The rules issued under subparagraph (A) shall require that the information included in the annual report of a resource extraction issuer be submitted in an interactive data format.

“(D) INTERACTIVE DATA STANDARD.—

“(i) IN GENERAL.—The rules issued under subparagraph (A) shall establish an interactive data standard for the information included in the annual report of a resource extraction issuer.

“(ii) ELECTRONIC TAGS.—The interactive data standard shall include electronic tags that identify, for any payments made by a resource extraction issuer to a foreign government or the Federal Government—

“(I) the total amounts of the payments, by category;

“(II) the currency used to make the payments;

“(III) the financial period in which the payments were made;

“(IV) the business segment of the resource extraction issuer that made the payments;

“(V) the government that received the payments, and the country in which the government is located;

“(VI) the project of the resource extraction issuer to which the payments relate; and

“(VII) such other information as the Commission may determine is necessary or appropriate in the public interest or for the protection of investors.

“(E) INTERNATIONAL TRANSPARENCY EFFORTS.—To the extent practicable, the rules issued under subparagraph (A) shall support the commitment of the Federal Government to international transparency promotion efforts relating to the commercial development of oil, natural gas, or minerals.

“(F) EFFECTIVE DATE.—With respect to each resource extraction issuer, the final rules issued under subparagraph (A) shall take effect on the date on which the resource extraction issuer is required to submit an annual report relating to the fiscal year of the resource extraction issuer that ends not earlier than 1 year after the date on which the Commission issues final rules under subparagraph (A).

“(3) AVAILABILITY OF INFORMATION.—

“(A) PUBLIC AVAILABILITY OF INFORMATION.—To the extent practicable, the Commission shall make available online, to the public, a compilation of the information required to be submitted under the rules issued under paragraph (2)(A).

“(B) OTHER INFORMATION.—Nothing in this paragraph shall require the Commission to make available online information other than the information required to be submitted under the rules issued under paragraph (2)(A).”.

**SA 4143.** Mr. DODD submitted an amendment intended to be proposed to

amendment SA 4081 submitted by Mr. HATCH and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, after “page 1235,” strike “line 10” and all that follows through line 3, and insert: “on line 6, strike “the Bureau” and all that follows through line 10 and insert: “the Bureau shall consider the potential benefits and costs to covered persons and to consumers, including costs arising from the potential reduction of access by consumers to consumer financial products or service resulting from such rule and, when promulgating a final rule, shall set forth in the adopting release such consideration of the potential benefits and costs of the rule;”.

**SA 4144.** Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, add the following:

#### **SEC. 122. DISCLOSURE OF CONFLICTS OF INTERESTS.**

(a) RECOMMENDATION BY COUNCIL.—The Council shall issue recommendations to the primary financial regulatory agencies to require, as applicable, bank holding companies or nonbank financial companies under their respective jurisdictions to make appropriate disclosures to any purchaser or prospective purchaser of financial products from such companies, if such companies have a direct financial interest that is in material conflict with the interests of the purchaser or prospective purchaser with respect to the transaction involving such financial products.

(b) PROCEDURES AND IMPLEMENTATION.—The procedural and implementation provisions of subsection (b) and (c) of section 120 shall apply to recommendations of the Council under this section. In issuing such recommendations, the Council shall take into account the existence of, and firewalls between, separate business units of such companies.

**SA 4145.** Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3776 proposed by Mr. SPECTER (for himself, Mr. REED, Mr. KAUFMAN, Mr. DURBIN, Mr. HARKIN, Mr. LEAHY, Mr. LEVIN, Mr. MENENDEZ, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. FEINGOLD, and Mr. MERKLEY) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote

the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. 929D. AUTHORITY TO IMPOSE CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.**

(a) UNDER THE SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following:

“(g) **AUTHORITY TO IMPOSE MONEY PENALTIES.**—

“(1) **GROUNDS.**—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil penalty on a person, if the Commission finds, on the record, after notice and opportunity for hearing, that—

“(A) the person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder; and

“(B) the imposition of the penalty is in the public interest.

“(2) **MAXIMUM AMOUNT OF PENALTY.**—

“(A) **FIRST TIER.**—The maximum amount of a penalty for each act or omission described in paragraph (1) shall be \$7,500 for a natural person or \$75,000 for any other person.

“(B) **SECOND TIER.**—Notwithstanding subparagraph (A), if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement, the maximum amount of penalty for each act or omission shall be \$75,000 for a natural person or \$375,000 for any other person.

“(C) **THIRD TIER.**—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be \$150,000 for a natural person or \$725,000 for any other person, if—

“(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

“(ii) the act or omission directly or indirectly resulted in—

“(I) substantial losses or created a significant risk of substantial losses to other persons; or

“(II) substantial pecuniary gain to the person who committed the act or omission.

“(3) **EVIDENCE CONCERNING ABILITY TO PAY.**—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the ability of the respondent to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of the ability of the respondent to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon the assets of the respondent and the amount of the assets of the respondent.”

(b) UNDER THE SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amended—

(1) by striking the undesignated matter immediately following paragraph (4);

(2) in the matter preceding paragraph (1), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest and”;

(3) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and adjusting the subparagraph margins accordingly;

(4) by striking “In any proceeding” and inserting the following:

“(1) **IN GENERAL.**—In any proceeding”; and

(5) by adding at the end the following:

“(2) **CEASE-AND-DESIST PROCEEDINGS.**—In any proceeding instituted under section 21C against any person, the Commission may impose a civil penalty, if the Commission finds, on the record after notice and opportunity for hearing, that such person—

“(A) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(B) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”

(c) UNDER THE INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is amended—

(1) by striking the matter immediately following subparagraph (C);

(2) in the matter preceding subparagraph (A), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest, and”;

(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the clause margins accordingly;

(4) by striking “In any proceeding” and inserting the following:

“(A) **IN GENERAL.**—In any proceeding”; and

(5) by adding at the end the following:

“(B) **CEASE-AND-DESIST PROCEEDINGS.**—In any proceeding instituted pursuant to subsection (f) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”

(d) UNDER THE INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended—

(1) by striking the undesignated matter immediately following subparagraph (D);

(2) in the matter preceding subparagraph (A), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest and”;

(3) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and adjusting the clause margins accordingly;

(4) by striking “In any proceeding” and inserting the following:

“(A) **IN GENERAL.**—In any proceeding”; and

(5) by adding at the end the following:

“(B) **CEASE-AND-DESIST PROCEEDINGS.**—In any proceeding instituted pursuant to subsection (k) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”

**SA 4146.** Mr. ENSIGN proposed an amendment to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

On page 1273, delete lines 17-18.

**SA 4147.** Mr. DODD (for Mr. CARPER (for himself, Ms. COLLINS, Mr. LIEBERMAN, and Mr. VOINOVICH)) proposed an amendment to the bill S. 920, to amend section 11317 of title 40, United States Code, to improve the transparency of the status of information technology investments, to require greater accountability for cost overruns on Federal information technology investment projects, to improve the processes agencies implement to manage information technology investments, to reward excellence in information technology acquisition, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Information Technology (IT) Investment Oversight Enhancement and Waste Prevention Act of 2009”.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) The effective deployment of information technology can make the Federal Government more efficient, effective, and transparent.

(2) Historically, the Federal Government has struggled to properly plan, manage, and deliver information technology investments on time, on budget, and performing as planned.

(3) The Office of Management and Budget has made significant progress overseeing information technology investments made by Federal agencies, but continues to struggle to ensure that such investments meet cost, schedule, and performance expectations.

(4) Congress has limited knowledge of the actual cost, schedule, and performance of agency information technology investments and has difficulty providing the necessary oversight.

(5) In July 2008, an official of the Government Accountability Office testified before the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security of the Committee on Homeland Security and Governmental Affairs of the Senate, stating that—

(A) agencies self-report inaccurate and unreliable project management data to the Office of Management and Budget and Congress; and

(B) the Office of Management and Budget should establish a mechanism that would

provide real-time project management information and force agencies to improve the accuracy and reliability of the information provided.

### SEC. 3. REAL-TIME TRANSPARENCY OF IT INVESTMENT PROJECTS.

Section 11302(c)(1) of title 40, United States Code, is amended by striking the period at the end and inserting the following: “, including ensuring the effective operation of a Web site, updating the Web site, at a minimum, on a quarterly basis, and including on the Web site, not later than 90 days after the date of the enactment of the Information Technology (IT) Investment Oversight Enhancement and Waste Prevention Act of 2009—

“(1) the accurate cost, schedule, and performance information since the commencement of the project of all major information technology investments reported in a manner consistent with policy established by the Office of Management and Budget on the use of earned-value management data, which should be based on the ANSI-EIA-748-B standard or another objective performance-based management system approved by the E-Government Administrator;

“(2) a graphical depiction of trend information, to the extent practicable, since the commencement of the major IT investment;

“(3) a clear delineation of major IT investments that have experienced cost, schedule, or performance variance greater than 10 percent over the life cycle of the investment, and the extent of the variation;

“(4) an explanation of the reasons the investment deviated from the benchmark established at the commencement of the project; and

“(5) the number of times investments were rebaselined and the dates on which such rebaselines occurred.”.

### SEC. 4. IT INVESTMENT PROJECTS.

(a) SIGNIFICANT AND GROSS DEVIATIONS.—Section 11317 of title 40, United States Code, is amended to read as follows:

#### “SEC. 11317. SIGNIFICANT AND GROSS DEVIATIONS.

“(a) DEFINITIONS.—In this subchapter:

“(1) AGENCY HEAD.—The term ‘Agency Head’ means the head of the Federal agency that is primarily responsible for the IT investment project under review.

“(2) ANSI EIA-748-B STANDARD.—The term ‘ANSI EIA-748-B Standard’ means the measurement tool jointly developed by the American National Standards Institute and the Electronic Industries Alliance to analyze Earned Value Management systems.

“(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(B) the Committee on Oversight and Government Reform of the House of Representatives;

“(C) the Committee on Appropriations of the Senate;

“(D) the Committee on Appropriations of the House of Representatives; and

“(E) any other relevant congressional committee with jurisdiction over an agency required to take action under this section.

“(4) CHIEF INFORMATION OFFICER.—The term ‘Chief Information Officer’ means the Chief Information Officer designated under section 3506(a)(2) of title 44 of the Executive department (as defined in section 101 of title 5) that is primarily responsible for the IT investment project under review.

“(5) CORE IT INVESTMENT PROJECT.—The terms ‘core IT investment project’ and ‘core

project’ mean a mission critical IT investment project designated as such by the Chief Information Officer, with approval by the Agency Head under subsection (b).

“(6) DIRECTOR.—The term ‘Director’ means the Director of the Office of Management and Budget.

“(7) EARNED VALUE MANAGEMENT.—The term ‘Earned Value Management’ means the cost, schedule, and performance data used to determine project status and developed in accordance with the ANSI EIA-748-B Standard.

“(8) GROSSLY DEVIATED.—The term ‘grossly deviated’ means cost, schedule, or performance variance that is at least 40 percent from the Original Baseline.

“(9) INDEPENDENT COST ESTIMATE.—The term ‘independent cost estimate’ means a pragmatic and neutral analysis, assessment, and quantification of all costs and risks associated with acquisitions related to an IT investment project, which—

“(A) is based on programmatic and technical specifications provided by the office within the agency with primary responsibility for the development, procurement, and delivery of the project;

“(B) is formulated and provided by an entity other than the office within the agency with primary responsibility for the development, procurement, and delivery of the project;

“(C) contains sufficient detail to inform the selection of an Earned Value Management baseline benchmark measure under the ANSI EIA-748-B standard; and

“(D) accounts for the full life cycle cost plus associated operations and maintenance expenses over the usable life of the project’s deliverables.

“(10) LIFE CYCLE COST.—The term ‘life cycle cost’ means the total cost of an IT investment project for planning, research and development, modernization, enhancement, operation, and maintenance.

“(11) MAJOR IT INVESTMENT PROJECT.—The terms ‘major IT investment project’ and ‘project’ mean an information technology system or information technology acquisition that—

“(A) requires special management attention because of its importance to the mission or function of the agency, a component of the agency, or another organization;

“(B) is for financial management and obligates more than \$500,000 annually;

“(C) has significant program or policy implications;

“(D) has high executive visibility;

“(E) has high development, operating, or maintenance costs;

“(F) is funded through other than direct appropriations; or

“(G) is defined as major by the agency’s capital planning and investment control process.

“(12) ORIGINAL BASELINE.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), the term ‘Original Baseline’ means the ANSI EIA-748-B Standard-compliant Earned Value Management benchmark or an equivalent benchmark approved by the Office of Management and Budget and established at the commencement of an IT investment project.

“(B) GROSSLY DEVIATED PROJECT.—If an IT investment project grossly deviates from its Original Baseline (as defined in subparagraph (A)), the term ‘Original Baseline’ means the ANSI EIA-748-B Standard-compliant Earned Value Management benchmark or an equivalent benchmark approved by the Office of Management and Budget and established under subsection (e)(3)(C).

“(13) SIGNIFICANTLY DEVIATED.—The term ‘significantly deviated’ means cost, schedule, or performance variance that is at least 20 percent from the Original Baseline.

“(b) CORE IT INVESTMENT PROJECTS DESIGNATION.—Each Chief Information Officer, with approval by the Agency Head, shall—

“(1) identify the major IT investments that are the most critical to the agency; and

“(2) designate any project as a ‘core IT investment project’ or a ‘core project’, upon determining that the project is a mission critical IT investment project that—

“(A) represents a significant high dollar value relative to the average IT investment project in the agency’s portfolio;

“(B) delivers a capability critical to the successful completion of the agency mission, or a portion of such mission;

“(C) incorporates unproven or previously undeveloped technology to meet primary project technical requirements; or

“(D) would have a significant negative impact on the successful completion of the agency mission if the project experienced significant cost, schedule, or performance deviations.

“(c) COST, SCHEDULE, AND PERFORMANCE REPORTS.—

“(1) QUARTERLY REPORTS.—Not later than 14 days after the end of each fiscal quarter, the project manager designated by the Agency Head for an IT investment project shall submit information to the Chief Information Officer that includes, as of the last day of the applicable quarter—

“(A) a description of the cost, schedule, and performance of all projects under the project manager’s supervision;

“(B) the original and current project cost, schedule, and performance benchmarks for each project under the project manager’s supervision;

“(C) the quarterly and cumulative cost, schedule, and performance variance related to each IT investment project under the project manager’s supervision since the commencement of the project;

“(D) for each project under the project manager’s supervision, any known, expected, or anticipated changes to project schedule milestones or project performance benchmarks included as part of the original or current baseline description;

“(E) the current cost, schedule, and performance status of all projects under supervision that were previously identified as significantly deviated or grossly deviated; and

“(F) any corrective actions taken to address problems discovered under subparagraphs (C) through (E).

“(2) INTERIM REPORTS.—If the project manager for an IT investment project determines that there is reasonable cause to believe that an IT investment project has significantly deviated or grossly deviated since the issuance of the latest quarterly report, the project manager shall submit to the Chief Information Officer, not later than 21 days after such determination, information on the project that includes, as of the date of the report—

“(A) a description of the original and current program cost, schedule, and performance benchmarks;

“(B) the cost, schedule, or performance variance related to the IT investment project since the commencement of the project;

“(C) any known, expected, or anticipated changes to the project schedule milestones or project performance benchmarks included as part of the original or current baseline description;

“(D) the major reasons underlying the significant or gross deviation of the project; and

“(E) a corrective action plan to correct such deviations.

“(d) DETERMINATION OF SIGNIFICANT DEVIATION.—

“(1) CHIEF INFORMATION OFFICER.—Upon receiving information under subsection (c), the Chief Information Officer shall—

“(A) determine if any IT investment project has significantly deviated; and

“(B) report such determination to the Agency Head.

“(2) CONGRESSIONAL NOTIFICATION.—If the Chief Information Officer determines under paragraph (1) that an IT investment project has significantly deviated and the Agency Head has not submitted information to the appropriate congressional committees of a significant deviation for that project under this section since the project was last required to be rebaselined under this section, the Agency Head shall submit information to the appropriate congressional committees, the Director, and the Government Accountability Office that includes—

“(A) notification of such determination;

“(B) the date on which such determination was made;

“(C) the amount of the cost increases and the extent of the schedule delays with respect to such project;

“(D) any requirements that—

“(i) were added subsequent to the original baseline; or

“(ii) were originally contracted for, but were changed by deferment or deletion from the original baseline, or were otherwise no longer included in the requirements contracted for;

“(E) an explanation of the differences between—

“(i) the estimate at completion between the project manager, any contractor, and any independent analysis; and

“(ii) the original budget at completion;

“(F) a statement of the reasons underlying the project's significant deviation; and

“(G) a summary of the plan of action to remedy the significant deviation.

“(3) DEADLINE.—

“(A) NOTIFICATION BASED ON QUARTERLY REPORT.—If the determination of significant deviation is based on information submitted under subsection (c)(1), the Agency Head shall notify Congress and the Director in accordance with paragraph (2) not later than 21 days after the end of the quarter upon which such information is based.

“(B) NOTIFICATION BASED ON INTERIM REPORT.—If the determination of significant deviation is based on information submitted under subsection (c)(2), the Agency Head shall notify Congress and the Director in accordance with paragraph (2) not later than 21 days after the submission of such information.

“(e) DETERMINATION OF GROSS DEVIATION.—

“(1) CHIEF INFORMATION OFFICER.—Upon receiving information under subsection (c), the Chief Information Officer shall—

“(A) determine if any IT investment project has grossly deviated; and

“(B) report any such determination to the Agency Head.

“(2) CONGRESSIONAL NOTIFICATION.—If the Chief Information Officer determines under paragraph (1) that an IT investment project has grossly deviated and the Agency Head has not submitted information to the appropriate congressional committees of a gross deviation for that project under this section since the project was last required to be

rebaselined under this section, the Agency Head shall submit information to the appropriate congressional committees, the Director, and the Government Accountability Office that includes—

“(A) notification of such determination, which—

“(i) identifies the date on which such determination was made; and

“(ii) indicates whether or not the project has been previously reported as a significant or gross deviation by the Chief Information Officer, and the date of any such report;

“(B) incorporations by reference of all prior reports to Congress on the project required under this section;

“(C) updated accounts of the items described in subparagraphs (C) through (G) of subsection (d)(2);

“(D) the original estimate at completion for the project manager, any contractor, and any independent analysis;

“(E) a graphical depiction that shows monthly planned expenditures against actual expenditures since the commencement of the project;

“(F) the amount, if any, of incentive or award fees any contractor has received since the commencement of the contract and the reasons for receiving such incentive or award fees;

“(G) the project manager's estimated cost at completion and estimated completion date for the project if current requirements are not modified;

“(H) the project manager's estimated cost at completion and estimated completion date for the project based on reasonable modification of such requirements;

“(I) an explanation of the most significant occurrence contributing to the variance identified, including cost, schedule, and performance variances, and the effect such occurrence will have on future project costs and program schedule;

“(J) a statement regarding previous or anticipated rebaselining or replanning of the project and the names of the individuals responsible for approval;

“(K) the original life cycle cost of the investment and the expected life cycle cost of the investment expressed in constant base year dollars and in current dollars; and

“(L) a comprehensive plan of action to remedy the gross deviation, and milestones established to control future cost, schedule, and performance deviations in the future.

“(3) REMEDIAL ACTION.—

“(A) IN GENERAL.—If the Chief Information Officer determines under paragraph (1)(A) that an IT investment project has grossly deviated, the Agency Head, in consultation with the Chief Information Officer and the appropriate project manager, shall develop and implement a remedial action plan that includes—

“(i) a report that—

“(I) describes the primary business case and key functional requirements for the project;

“(II) describes any portions of the project that have technical requirements of sufficient clarity that such portions may be feasibly procured under fixed-price contracts;

“(III) includes a certification by the Agency Head, after consultation with the Chief Information Officer, that all technical and business requirements have been reviewed and validated to ensure alignment with the reported business case;

“(IV) describes any changes to the primary business case or key functional requirements which have occurred since project inception; and

“(V) includes an independent government cost estimate for the project conducted by an entity approved by the Director;

“(ii) an analysis that—

“(I) describes agency business goals that the project was originally designed to address;

“(II) includes a gap analysis of what project deliverables remain in order for the agency to accomplish the business goals referred to in subclause (I);

“(III) identifies the 3 most cost-effective alternative approaches to the project which would achieve the business goals referred to in subclause (I); and

“(IV) includes a cost-benefit analysis, which compares—

“(aa) the completion of the project with the completion of each alternative approach, after factoring in future costs associated with the termination of the project; and

“(bb) the termination of the project without pursuit of alternatives, after factoring in foregone benefits; and

“(iii) a new baseline of the project is established that is consistent with the independent government cost estimate required under clause (i)(V); and

“(iv) the project is designated as a core IT investment project and subjected to the requirements under subsection (f).

“(B) SUBMISSION TO CONGRESS.—The remedial action plan and all corresponding reports, analyses, and actions under this paragraph shall be submitted to the appropriate congressional committees and the Director.

“(C) REPORTING AND ANALYSIS EXEMPTIONS.—

“(i) IN GENERAL.—The Chief Information Officer, in coordination with the Agency Head and the Director, may forego the completion of any element of a report or analysis under clause (i) or (ii) of subparagraph (A) if the Chief Information Officer determines that such element is not relevant to the understanding of the challenges facing the project or that such element does not further the remedial steps necessary to ensure that the project is completed in a timely and cost-efficient manner.

“(ii) IDENTIFICATION OF REASONS.—The Chief Information Officer shall include the reasons for not including any element referred to in clause (i) in the report submitted to Congress under subparagraph (B).

“(4) DEADLINE AND FUNDING CONTINGENCY.—

“(A) NOTIFICATION AND REMEDIAL ACTION BASED ON QUARTERLY REPORT.—

“(i) IN GENERAL.—If the determination of gross deviation is based on a report submitted under subsection (c)(1), the Agency Head shall—

“(I) not later than 45 days after the end of the quarter upon which such report is based, notify the appropriate congressional committees and the Director in accordance with paragraph (2); and

“(II) not later than 180 days after the end of the quarter upon which such report is based, ensure the completion of remedial action under paragraph (3).

“(ii) FAILURE TO MEET DEADLINES.—If the Agency Head fails to meet the deadline described in clause (i)(II), additional funds may not be obligated to support expenditures associated with the project until the requirements of this subsection have been fulfilled, except for expenditures to address reporting notifications, remedial actions, and other requirements under this Act.

“(B) NOTIFICATION AND REMEDIAL ACTION BASED ON INTERIM REPORT.—



“(i) IN GENERAL.—If the determination of gross deviation is based on a report submitted under subsection (c)(2), the Agency Head shall—

“(I) not later than 45 days after the submission of such report, notify the appropriate congressional committees in accordance with paragraph (2); and

“(II) not later than 180 days after the submission of such report, ensure the completion of remedial action in accordance with paragraph (3).

“(ii) FAILURE TO MEET DEADLINES.—If the Agency Head fails to meet the deadline described in clause (i)(II), additional funds may not be obligated to support expenditures associated with the project until the requirements of this subsection have been fulfilled, except for expenditures to address reporting notifications, remedial actions, and other requirements under this Act.

“(f) ADDITIONAL REQUIREMENTS FOR CORE IT INVESTMENT PROJECT REPORTS.—

“(1) INITIAL REPORT.—If a remedial action plan described in subsection (e)(3)(A) has not been submitted for a core IT investment project, the Agency Head, in coordination with the Chief Information Officer and responsible program managers, shall prepare an initial report for inclusion in the first budget submitted to Congress under section 1105(a) of title 31, United States Code, after the designation of a project as a core IT investment project, which includes—

“(A) a description of the primary business case and key functional requirements for the project;

“(B) an identification and description of any portions of the project that have technical requirements of sufficient clarity that such portions may be feasibly procured under fixed-price contracts;

“(C) an independent cost estimate for the project;

“(D) certification by the Chief Information Officer that all technical and business requirements have been reviewed and validated to ensure alignment with the reported business case; and

“(E) any changes to the primary business case or key functional requirements which have occurred since project inception.

“(2) QUARTERLY REVIEW OF BUSINESS CASE.—The Agency Head, in coordination with the Chief Information Officer and responsible program managers, shall—

“(A) monitor the primary business case and core functionality requirements reported to Congress and the Director for designated core IT investment projects; and

“(B) if changes to the primary business case or key functional requirements for a core IT investment project occur in any fiscal quarter, submit a report to Congress and the Director not later than 14 days after the end of such quarter that details the changes and describes the impact the changes will have on the cost and ultimate effectiveness of the project.

“(3) ALTERNATIVE SIGNIFICANT DEVIATION DETERMINATION.—If the Chief Information Officer determines, subsequent to a change in the primary business case or key functional requirements, that without such change the project would have significantly deviated—

“(A) the Chief Information Officer shall notify the Agency Head of the significant deviation; and

“(B) the Agency Head shall fulfill the requirements under subsection (d)(2) in accordance with the deadlines under subsection (d)(3).

“(4) ALTERNATIVE GROSS DEVIATION DETERMINATION.—If the Chief Information Officer

determines, subsequent to a change in the primary business case or key functional requirements, that without such change the project would have grossly deviated—

“(A) the Chief Information Officer shall notify the Agency Head of the gross deviation; and

“(B) the Agency Head shall fulfill the requirements under subsections (e)(2) and (e)(3) in accordance with subsection (e)(4).

“(g) METHOD OF DELIVERY.—Reports and other information required under this section may be submitted through the Web site established under section 11302(c)(1) in a manner consistent with guidance from the Office of Management and Budget to satisfy reporting requirements and to reduce paperwork.

“(h) DEPARTMENT OF DEFENSE ACQUISITIONS.—The requirements of section 2445a of title 10, United States Code, shall apply to the information technology investment projects of the Department of Defense instead of the requirements under this section.”

(b) INCLUSION IN THE BUDGET SUBMITTED TO CONGRESS.—Section 1105(a) of title 31, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking “include in each budget the following:” and inserting “include in each budget—”;

(2) by redesignating the second paragraph (33) (as added by section 889(a) of Public Law 107–296) as paragraph (35);

(3) in each of paragraphs (1) through (34), by striking the period at the end and inserting a semicolon;

(4) in paragraph (35), as redesignated by paragraph (2), by striking the period at the end and inserting “; and”; and

(5) by adding at the end the following:

“(36) the reports prepared under section 11317(f) of title 40, United States Code, relating to the core IT investment projects of the agency.”

(c) IMPROVEMENT OF INFORMATION TECHNOLOGY ACQUISITION AND DEVELOPMENT.—Subchapter II of chapter 113 of title 40, United States Code, is amended by adding at the end the following:

**“SEC. 11319. ACQUISITION AND DEVELOPMENT.**

“(a) PURPOSE.—The objective of this section is to significantly reduce—

“(1) cost overruns and schedule slippage from the estimates established at the time the program is initially approved;

“(2) the number of requirements and business objectives at the time the program is approved that are not met by the delivered products; and

“(3) the number of critical defects and serious defects in delivered information technology.

“(b) OMB GUIDANCE.—The Director of the Office of Management and Budget shall—

“(1) not later than 180 days after the date of the enactment of this section, prescribe uniformly applicable guidance for agencies to implement the requirements of this section, which shall not include any exemptions to such requirements not specifically authorized under this section; and

“(2) take any actions that are necessary to ensure that Federal agencies are in compliance with the guidance prescribed pursuant to paragraph (1) not later than 1 year after the date of the enactment of this section.

“(c) ESTABLISHMENT OF PROGRAM.—Not later than 180 days after the date of the enactment of this section, each Agency Head (as defined in section 11317(a) of title 40, United States Code) shall establish a program to improve the information technology

(referred to in this section as ‘IT’) processes overseen by the Chief Information Officer.

“(d) PROGRAM REQUIREMENTS.—Each program established pursuant to this section shall include—

“(1) a documented process for IT acquisition planning, requirements development and management, project management and oversight, earned-value management, and risk management;

“(2) the development of appropriate metrics that can be implemented and monitored on a real-time dashboard for performance measurement of—

“(A) processes and development status of investments;

“(B) continuous process improvement of the program; and

“(C) achievement of program and investment outcomes;

“(3) a process to ensure that key program personnel have an appropriate level of experience, training, and education, at an institution or institutions approved by the Director, in the planning, acquisition, execution, management, and oversight of IT;

“(4) a process to ensure that the agency implements and adheres to established processes and requirements relating to the planning, acquisition, execution, management, and oversight of IT programs and developments; and

“(5) a process for the Chief Information Officer to intervene or stop the funding of an IT investment if it is at risk of not achieving major project milestones.

“(e) ANNUAL REPORT TO OMB.—Not later than the last day of February of each year, the Agency Head shall submit a report to the Office of Management and Budget that includes—

“(1) a detailed summary of the accomplishments of the program established by the Agency Head pursuant to this section;

“(2) the status of completeness of implementation of each of the program requirements, and the date each such requirement was deemed to be completed;

“(3) the percentage of Federal IT projects covered under the program compared to all of the IT projects of the agency, listed by number of programs and by annual dollars expended;

“(4) a detailed breakdown of the sources and uses of the amounts spent by the agency during the previous fiscal year to support the activities of the program;

“(5) a copy of any guidance issued under the program and a statement regarding whether each such guidance is mandatory;

“(6) the identification of the metrics developed in accordance with subsection (b)(2);

“(7) a description of how paragraphs (3) and (4) of subsection (b) have been implemented and any related agency guidance; and

“(8) a description of how agencies will continue to review and update the implementation and objectives of such guidance.

“(f) ANNUAL REPORT TO CONGRESS.—The Director of the Office of Management and Budget shall provide an annual report to Congress on the status and implementation of the program established pursuant to this section.

“(g) DEPARTMENT OF DEFENSE ACQUISITIONS.—The requirements of section 2223a of title 10, United States Code, shall apply to the information technology investment projects of the Department of Defense instead of the requirements under this section.”

(d) CLERICAL AMENDMENTS.—The table of sections for chapter 113 of title 40, United States Code, is amended—

(1) by striking the item relating to section 11317 and inserting the following:

“11317. Significant and gross deviations.”; and

(2) by inserting after the item relating to section 11318 the following:

“11319. Acquisition and development.”.

**SEC. 5. MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS OF THE DEPARTMENT OF DEFENSE.**

(a) PROGRAM TO IMPROVE INFORMATION TECHNOLOGY PROCESSES.—Chapter 131 of title 10, United States Code, is amended by adding after section 2223 the following:

**“§ 2223a. Information technology acquisition planning and oversight requirements**

“(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall establish a program to improve the planning and oversight processes for the acquisition of major automated information systems by the Department of Defense.

“(b) PROGRAM COMPONENTS.—The program established under subsection (a) shall include—

“(1) a documented process for information technology acquisition planning, requirements development and management, project management and oversight, earned value management, and risk management;

“(2) the development of appropriate metrics that can be implemented and monitored on a real-time basis for performance measurement of—

“(A) processes and development status of investments in major automated information system programs;

“(B) continuous process improvement of the program; and

“(C) achievement of program and investment outcomes;

“(3) a process to ensure that key program personnel have an appropriate level of experience, training, and education in the planning, acquisition, execution, management, and oversight of information technology systems;

“(4) a process to ensure that military departments and defense agencies adhere to established processes and requirements relating to the planning, acquisition, execution, management, and oversight of information technology programs and developments; and

“(5) a process under which an appropriate Department of Defense official may intervene or terminate the funding of an information technology investment if the investment is at risk of not achieving major project milestones.”.

(b) ANNUAL REPORT TO CONGRESS.—Section 2445(b) of title 10, United States Code is amended by adding at the end the following:

“(5) For each major automated information system program for which such information has not been provided in a previous annual report—

“(A) a description of the primary business case and key functional requirements for the program;

“(B) a description of the analysis of alternatives conducted with regard to the program;

“(C) an assessment of the extent to which the program, or portions of the program, have technical requirements of sufficient clarity that the program, or portions of the program, may be feasibly procured under firm, fixed-price contracts;

“(D) the most recent independent cost estimate or cost analysis for the program provided by the Director of Cost Assessment and Program Evaluation in accordance with section 2334(a)(6);

“(E) a certification by a Department of Defense acquisition official with responsibility for the program that all technical and business requirements have been reviewed and validated to ensure alignment with the business case; and

“(F) an explanation of the basis for the certification described in subparagraph (E).

“(6) For each major automated information system program for which the information required under paragraph (5) has been provided in a previous annual report, a summary of any significant changes to the information previously provided.”.

**SEC. 6. IT SWAT TEAM.**

(a) PURPOSE.—The Director of the Office of Management of Budget (referred to in this section as the “Director”), in consultation with the Administrator of the Office of Electronic Government and Information and Technology at the Office of Management and Budget (referred to in this section as the “E-Gov Administrator”), shall assist agencies in avoiding significant and gross deviations in the cost, schedule, and performance of IT investment projects (as such terms are defined in section 11317(a) of title 40, United States Code).

(b) IT SWAT TEAM.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Director shall promulgate policy and guidance for the head of each Federal agency that establishes procedures for the creation of a small group of individuals (referred to in this section as the “IT SWAT Team”) to carry out the purpose described in subsection (a).

(2) QUALIFICATIONS.—Individuals selected for the IT SWAT Team—

(A) shall be certified at the Senior/Expert level according to the Federal Acquisition Certification for Program and Project Managers (FAC-P/PM);

(B) shall have comparable education, certification, training, and experience to successfully manage high-risk IT investment projects; or

(C) shall have expertise in the successful management or oversight of planning, architecture, process, integration, or other technical and management aspects using proven process best practices on high-risk IT investment projects.

(3) NUMBER.—The Director, in consultation with the E-Gov Administrator and the head of the agency primarily responsible for the IT investment, shall determine the number of individuals who will be selected for the IT SWAT Team.

(c) OUTSIDE CONSULTANTS.—

(1) IDENTIFICATION.—The E-Gov Administrator and representatives of the Chief Information Officers Council shall identify consultants in the private sector who have expert knowledge in IT program management and program management review teams. Not more than 20 percent of such consultants may be formally associated with any 1 of the following types of entities:

(A) Commercial firms.

(B) Nonprofit entities.

(C) Federally funded research and development centers.

(2) USE OF CONSULTANTS.—

(A) IN GENERAL.—Consultants identified under paragraph (1) may be used to assist the IT SWAT Team in assessing and improving IT investment projects.

(B) LIMITATION.—Consultants with a formally established relationship with an organization may not participate in any assessment involving an IT investment project for which such organization is under contract to provide technical support.

(C) EXCEPTION.—The limitation described in subparagraph (B) may not be construed as precluding access to anyone having relevant information helpful to the conduct of the assessment.

(3) CONTRACTS.—The E-Gov Administrator, in conjunction with the Administrator of the General Services Administration (GSA), may establish competitively bid contracts with 1 or more qualified consultants, independent of any GSA schedule.

(d) INITIAL RESPONSE TO ANTICIPATED SIGNIFICANT OR GROSS DEVIATION.—If the head of the Federal agency primarily responsible for the major IT investment or the E-Gov Administrator determines that there is reasonable cause to believe that a major IT investment project is likely to significantly or grossly deviate (as defined in section 11317(a) of title 40, United States Code), including the receipt of inconsistent or missing data, or if such agency head or the E-Gov Administrator determines that the assignment of 1 or more members of the IT SWAT Team could meaningfully reduce the possibility of significant or gross deviation, such agency head or the E-Gov Administrator shall carry out the following activities:

(1) Recommend the assignment of 1 or more members of the IT SWAT Team to assess the project in accordance with the scope and time period described in section 11317(c)(1) of title 40, United States Code, beginning not later than 14 days after such recommendation. No member of the SWAT Team who is associated with the department or agency whose IT investment project is the subject of the assessment may be assigned to participate in this assessment. Such limitation may not be construed as precluding access to anyone having relevant information helpful to the conduct of the assessment.

(2) If such agency head or the E-Gov Administrator determines that 1 or more qualified consultants are needed to support the efforts of the IT SWAT Team under paragraph (1), negotiate a contract with the consultant to provide such support during the period in which the IT SWAT Team is conducting the assessment described in paragraph (1).

(3) Ensure that the costs of an assessment under paragraph (1) and the support services of 1 or more consultants under paragraph (2) are paid for by the agency being assessed.

(4) Monitor the progress made by the IT SWAT Team in assessing the project.

(e) REDUCTION OF SIGNIFICANT OR GROSS DEVIATION.—If the agency head described in subsection (d) or the E-Gov Administrator determines that the assessment conducted under subsection (d) confirms that a major IT investment project is likely to significantly or grossly deviate, such agency head or the E-Gov Administrator shall take steps to reduce the deviation, which may include—

(1) providing training, education, or mentoring to improve the qualifications of the program manager;

(2) replacing the program manager or other staff;

(3) supplementing the program management team with Federal Government employees or independent contractors;

(4) terminating the project; or

(5) hiring an independent contractor to report directly to senior management and the E-Gov Administrator.

(f) ENFORCEMENT OF ACCOUNTABILITY.—The Director may use the actions directed under section 11303(b)(5) of title 5, United States Code, to enforce accountability of the head of the agency and for the investments made by the agency in information technology.

(g) REPORT TO CONGRESS.—The Director shall include in the annual Report to Congress on the Benefits of E-Government Initiatives a detailed summary of the composition and activities of the IT SWAT Team, including—

(1) the number and qualifications of individuals on the IT SWAT Team;

(2) a description of the IT investment projects that the IT SWAT Team has worked during the previous fiscal year;

(3) the major issues that necessitated the involvement of the IT SWAT Team to assist agencies with assessing and managing IT investment projects and whether such issues were satisfactorily resolved;

(4) if the issues referred to in paragraph (3) were not satisfactorily resolved, the issues still needed to be resolved and the Agency Head's plan for resolving such issues;

(5) a detailed breakdown of the sources and uses of the amounts spent by the Office of Management and Budget and other Federal agencies during the previous fiscal year to support the activities of the IT SWAT Team; and

(6) a determination of whether the IT SWAT Team has been effective in—

(A) preventing projects from deviating from the original baseline; and

(B) assisting agencies in conducting appropriate analysis and planning before a project is funded.

#### **SEC. 7. AWARDS FOR PERSONNEL FOR EXCELLENCE IN THE ACQUISITION OF INFORMATION SYSTEMS AND INFORMATION TECHNOLOGY.**

(a) IN GENERAL.—Not later than 180 days after the enactment of this Act, the Director of the Office of Personnel Management shall develop policy and guidance for agencies to develop a program to recognize excellent performance by Federal Government employees and teams of such employees in the acquisition of information systems and information technology for the agency.

(b) ELEMENTS.—The program referred to in subsection (a) shall, to the extent practicable—

(1) obtain objective outcome measures; and

(2) include procedures for—

(A) the nomination of Federal Government employees and teams of such employees for eligibility for recognition under the program; and

(B) the evaluation of nominations for recognition under the program by 1 or more agency panels of individuals from government, academia, and the private sector who have such expertise, and are appointed in such a manner, as the Director of the Office of Personal Management shall establish for purposes of the program.

(c) AWARD OF CASH BONUSES AND OTHER INCENTIVES.—As part of the program referred to in subsection (a), the Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, shall establish policies and guidance for agencies to reward any Federal Government employee or teams of such employees recognized pursuant to the program—

(1) by awarding a cash bonus authorized by any other provision of law to the extent that the performance of such individual so recognized warrants the award of such bonus under such provision of law;

(2) through promotions and other non-monetary awards;

(3) by publicizing acquisition accomplishments by individual employees and, as appropriate, the tangible end benefits that resulted from such accomplishments; and

(4) through other awards, incentives, or bonuses that the head of the agency considers appropriate.

#### **AUTHORITY FOR COMMITTEES TO MEET**

##### **COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a meeting during the session of the Senate on May 19, 2010, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### **COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on May 19, 2010, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### **COMMITTEE ON FOREIGN RELATIONS**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 19, 2010, at 10 a.m., to hold a hearing entitled "After the Earthquake: Empowering Haiti to Rebuild Better."

The PRESIDING OFFICER. Without objection, it is so ordered.

##### **COMMITTEE ON FOREIGN RELATIONS**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 19, 2010, at 2:30 p.m., to conduct a hearing entitled "The History and Lessons of START."

The PRESIDING OFFICER. Without objection, it is so ordered.

##### **COMMITTEE ON THE JUDICIARY**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on May 19, 2010, at 10 a.m., in room SD-266 of the Dirksen Senate Office Building, to conduct a hearing entitled "Renewing America's Commitment to the Refugee Convention: The Refugee Protection Act of 2010."

The PRESIDING OFFICER. Without objection, it is so ordered.

##### **COMMITTEE ON RULES AND ADMINISTRATION**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on May 19, 2010, at 10 a.m., to conduct a hearing entitled "Examining the Filibuster: The Filibuster Today and Its Consequences."

The PRESIDING OFFICER. Without objection, it is so ordered.

##### **COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on May 19, 2010, at 10 a.m. to conduct a hearing entitled "Confirmation Hearing of Marie Annette Collins Johns to be the Deputy Administrator of the Small Business Administration."

The PRESIDING OFFICER. Without objection, it is so ordered.

##### **COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on May 19, 2010, at 11 a.m. to conduct a hearing entitled "The SBA Disaster Assistance Program and the Impact of the Deepwater Horizon Oil Spill on Small Businesses."

The PRESIDING OFFICER. Without objection, it is so ordered.

##### **COMMITTEE ON VETERANS' AFFAIRS**

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on May 19, 2010. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### **SUBCOMMITTEE ON NATIONAL PARKS**

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on National Parks be authorized to meet during the session of the Senate in order to conduct a hearing on on May 19, 2010, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### **PRIVILEGES OF THE FLOOR**

Mr. HATCH. Mr. President, I ask unanimous consent that Paul Williams, a detailee in my office from the Food and Drug Administration; Ron Rowe, a detailee in my office from the Secret Service; Ryika Hooshangi, a foreign affairs fellow in my office from the Department of State; MAJ Ken Kuebler, a military fellow in my office from the U.S. Air Force, all be granted the privileges of the floor for the remainder of the second session of the 111th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### **INFORMATION TECHNOLOGY (IT) INVESTMENT OVERSIGHT ENHANCEMENT AND WASTE PREVENTION ACT OF 2009**

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed

to the immediate consideration of Calendar No. 364, S. 920.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 920) to amend section 11317 of title 40, United States Code, to improve the transparency of the status of information technology investments, to require greater accountability for cost overruns on Federal information technology investment projects, to improve the processes agencies implement to manage information technology investments, to reward excellence in information technology acquisition, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Information Technology (IT) Investment Oversight Enhancement and Waste Prevention Act of 2009".*

#### SEC. 2. FINDINGS.

*Congress finds the following:*

(1) The effective deployment of information technology can make the Federal Government more efficient, effective, and transparent.

(2) Historically, the Federal Government has struggled to properly plan, manage, and deliver information technology investments on time, on budget, and performing as planned.

(3) The Office of Management and Budget has made significant progress overseeing information technology investments made by Federal agencies, but continues to struggle to ensure that such investments meet cost, schedule, and performance expectations.

(4) Congress has limited knowledge of the actual cost, schedule, and performance of agency information technology investments and has difficulty providing the necessary oversight.

(5) In July 2008, an official of the Government Accountability Office testified before the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security of the Committee on Homeland Security and Governmental Affairs of the Senate, stating that—

(A) agencies self-report inaccurate and unreliable project management data to the Office of Management and Budget and Congress; and

(B) the Office of Management and Budget should establish a mechanism that would provide real-time project management information and force agencies to improve the accuracy and reliability of the information provided.

#### SEC. 3. REAL-TIME TRANSPARENCY OF IT INVESTMENT PROJECTS.

Section 11302(c)(1) of title 40, United States Code, is amended by striking the period at the end and inserting the following: “, including establishing a Web site, updating the Web site, at a minimum, on a quarterly basis, and including on the Web site, not later than 90 days after the date of the enactment of the Information Technology (IT) Investment Oversight Enhancement and Waste Prevention Act of 2009—

“(1) the cost, schedule, and performance of all major information technology investments using earned-value management data based on the ANSI-EIA-748-B standard;

“(2) accurate quarterly information since the commencement of the project;

“(3) a graphical depiction of trend information since the commencement of the project;

“(4) a clear delineation of investments that have experienced cost, schedule, or performance variance greater than 10 percent over the life cycle of the investment;

“(5) an explanation of the reasons the investment deviated from the benchmark established at the commencement of the project; and

“(6) the number of times investments were rebaselined and the dates on which such rebaselines occurred.”.

#### SEC. 4. IT INVESTMENT PROJECTS.

(a) SIGNIFICANT AND GROSS DEVIATIONS.—Section 11317 of title 40, United States Code, is amended to read as follows:

##### “SEC. 11317. SIGNIFICANT AND GROSS DEVIATIONS.

“(a) DEFINITIONS.—In this subchapter:

“(1) AGENCY HEAD.—The term ‘Agency Head’ means the head of the Federal agency that is primarily responsible for the IT investment project under review.

“(2) ANSI EIA-748-B STANDARD.—The term ‘ANSI EIA-748-B Standard’ means the measurement tool jointly developed by the American National Standards Institute and the Electronic Industries Alliance to analyze Earned Value Management systems.

“(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(B) the Committee on Oversight and Government Reform of the House of Representatives;

“(C) the Committee on Appropriations of the Senate;

“(D) the Committee on Appropriations of the House of Representatives; and

“(E) any other relevant congressional committee with jurisdiction over an agency required to take action under this section.

“(4) CHIEF INFORMATION OFFICER.—The term ‘Chief Information Officer’ means the Chief Information Officer designated under section 3506(a)(2) of title 44 of the Federal agency that is primarily responsible for the IT investment project under review.

“(5) CORE IT INVESTMENT PROJECT.—The terms ‘core IT investment project’ and ‘core project’ mean a mission critical IT investment project designated as such by the Chief Information Officer, with approval by the Agency Head under subsection (b).

“(6) DIRECTOR.—The term ‘Director’ means the Director of the Office of Management and Budget.

“(7) EARNED VALUE MANAGEMENT.—The term ‘Earned Value Management’ means the cost, performance, and schedule data used to determine project status and developed in accordance with the ANSI EIA-748-B Standard.

“(8) GROSSLY DEVIATED.—The term ‘grossly deviated’ means cost, schedule, or performance variance that is at least 40 percent from the Original Baseline.

“(9) INDEPENDENT GOVERNMENT COST ESTIMATE.—The term ‘independent government cost estimate’ means a pragmatic and neutral analysis, assessment, and quantification of all costs and risks associated with the acquisition of an IT investment project, which—

“(A) is based on programmatic and technical specifications provided by the office within the agency with primary responsibility for the development, procurement, and delivery of the project;

“(B) is formulated and provided by an entity other than the office within the agency with primary responsibility for the development, procurement, and delivery of the project;

“(C) contains sufficient detail to inform the selection of an Earned Value Management baseline benchmark measure under the ANSI EIA-748-B standard; and

“(D) accounts for the full life cycle cost plus associated operations and maintenance expenses over the usable life of the project’s deliverables.

“(10) IT INVESTMENT PROJECT.—The terms ‘IT investment project’ and ‘project’ mean an information technology system or information technology acquisition, excluding systems or acquisitions of the Department of Defense, that—

“(A) requires special management attention because of its importance to the mission or function of the agency, a component of the agency, or another organization;

“(B) is for financial management and obligates more than \$500,000 annually;

“(C) has significant program or policy implications;

“(D) has high executive visibility;

“(E) has high development, operating, or maintenance costs;

“(F) is funded through other than direct appropriations; or

“(G) is defined as major by the agency’s capital planning and investment control process.

“(11) LIFE CYCLE COST.—The term ‘life cycle cost’ means the total cost of an IT investment project for planning, research and development, modernization, enhancement, operation, and maintenance.

“(12) ORIGINAL BASELINE.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), the term ‘Original Baseline’ means the ANSI EIA-748-B Standard-compliant Earned Value Management benchmark established at the commencement of an IT investment project.

“(B) GROSSLY DEVIATED PROJECT.—If an IT investment project grossly deviates from its Original Baseline (as defined in subparagraph (A)), the term ‘Original Baseline’ means the ANSI EIA-748-B Standard-compliant Earned Value Management benchmark established under subsection (e)(3)(C).

“(13) SIGNIFICANTLY DEVIATED.—The term ‘significantly deviated’ means Earned Value Management variance that is at least 20 percent from the Original Baseline.

“(b) CORE IT INVESTMENT PROJECTS DESIGNATION.—Each Chief Information Officer, with approval by the Agency Head, shall—

“(1) identify the major IT investments that are the most critical to the agency; and

“(2) designate any project as a ‘core IT investment project’ or a ‘core project’, upon determining that the project is a mission critical IT investment project that—

“(A) represents a significant high dollar value relative to the average IT investment project in the agency’s portfolio;

“(B) delivers a capability critical to the successful completion of the agency mission, or a portion of such mission;

“(C) incorporates unproven or previously undeveloped technology to meet primary project technical requirements; or

“(D) would have a significant negative impact on the successful completion of the agency mission if the project experienced significant cost, schedule, or performance deviations.

“(c) COST, SCHEDULE, AND PERFORMANCE REPORTS.—

“(1) QUARTERLY REPORTS.—Not later than 14 days after the end of each fiscal quarter, the project manager designated by the Agency Head for an IT investment project shall submit a written report to the Chief Information Officer that includes, as of the last day of the applicable quarter—

“(A) a description of the cost, schedule, and performance of all projects under the project manager’s supervision;

“(B) the original and current project cost, schedule, and performance benchmarks for each project under the project manager’s supervision;

“(C) the quarterly and cumulative cost, schedule, and performance variance related to each

IT investment project under the project manager's supervision since the commencement of the project;

"(D) for each project under the project manager's supervision, any known, expected, or anticipated changes to project schedule milestones or project performance benchmarks included as part of the original or current baseline description;

"(E) the current cost, schedule, and performance status of all projects under supervision that were previously identified as significantly deviated or grossly deviated; and

"(F) any corrective actions taken to address problems discovered under subparagraphs (C) through (E).

"(2) INTERIM REPORTS.—If the project manager for an IT investment project determines that there is reasonable cause to believe that an IT investment project has significantly deviated or grossly deviated since the issuance of the latest quarterly report, the project manager shall submit to the Chief Information Officer, not later than 14 days after such determination, a report on the project that includes, as of the date of the report—

"(A) a description of the original and current program cost, schedule, and performance benchmarks;

"(B) the cost, schedule, or performance variance related to the IT investment project since the commencement of the project;

"(C) any known, expected, or anticipated changes to the project schedule milestones or project performance benchmarks included as part of the original or current baseline description;

"(D) the major reasons underlying the significant or gross deviation of the project; and

"(E) a corrective action plan to correct such deviations.

"(d) DETERMINATION OF SIGNIFICANT DEVIATION.—

"(1) CHIEF INFORMATION OFFICER.—Upon receiving a report under subsection (c), the Chief Information Officer shall—

"(A) determine if any IT investment project has significantly deviated; and

"(B) report such determination to the Agency Head.

"(2) CONGRESSIONAL NOTIFICATION.—If the Chief Information Officer determines under paragraph (1) that an IT investment project has significantly deviated and the Agency Head has not issued a report to the appropriate congressional committees of a significant deviation for that project under this section since the project was last required to be rebaselined under this section, the Agency Head shall submit a report to the appropriate congressional committees, the Director, and the Government Accountability Office that includes—

"(A) written notification of such determination;

"(B) the date on which such determination was made;

"(C) the amount of the cost increases and the extent of the schedule delays with respect to such project;

"(D) any requirements that—

"(i) were added subsequent to the original baseline; or

"(ii) were originally contracted for, but were changed by deferment or deletion from the original baseline, or were otherwise no longer included in the requirements contracted for;

"(E) an explanation of the differences between—

"(i) the estimate at completion between the project manager, any contractor, and any independent analysis; and

"(ii) the original budget at completion;

"(F) a statement of the reasons underlying the project's significant deviation; and

"(G) a summary of the plan of action to remedy the significant deviation.

"(3) DEADLINE.—

"(A) NOTIFICATION BASED ON QUARTERLY REPORT.—If the determination of significant deviation is based on a report submitted under subsection (c)(1), the Agency Head shall notify Congress and the Director in accordance with paragraph (2) not later than 21 days after the end of the quarter upon which such report is based.

"(B) NOTIFICATION BASED ON INTERIM REPORT.—If the determination of significant deviation is based on a report submitted under subsection (c)(2), the Agency Head shall notify Congress and the Director in accordance with paragraph (2) not later than 21 days after the submission of such report.

"(e) DETERMINATION OF GROSS DEVIATION.—

"(1) CHIEF INFORMATION OFFICER.—Upon receiving a report under subsection (c), the Chief Information Officer shall—

"(A) determine if any IT investment project has grossly deviated; and

"(B) report any such determination to the Agency Head.

"(2) CONGRESSIONAL NOTIFICATION.—If the Chief Information Officer determines under paragraph (1) that an IT investment project has grossly deviated and the Agency Head has not issued a report to the appropriate congressional committees of a gross deviation for that project under this section since the project was last required to be rebaselined under this section, the Agency Head shall submit a report to the appropriate congressional committees, the Director, and the Government Accountability Office that includes—

"(A) written notification of such determination, which—

"(i) identifies the date on which such determination was made; and

"(ii) indicates whether or not the project has been previously reported as a significant or gross deviation by the Chief Information Officer, and the date of any such report;

"(B) incorporations by reference of all prior reports to Congress on the project required under this section;

"(C) updated accounts of the items described in subparagraphs (C) through (G) of subsection (d)(2);

"(D) the original estimate at completion for the project manager, any contractor, and any independent analysis;

"(E) a graphical depiction that shows monthly planned expenditures against actual expenditures since the commencement of the project;

"(F) the amount, if any, of incentive or award fees any contractor has received since the commencement of the contract and the reasons for receiving such incentive or award fees;

"(G) the project manager's estimated cost at completion and estimated completion date for the project if current requirements are not modified;

"(H) the project manager's estimated cost at completion and estimated completion date for the project based on reasonable modification of such requirements;

"(I) an explanation of the most significant occurrence contributing to the variance identified, including cost, schedule, and performance variances, and the effect such occurrence will have on future project costs and program schedule;

"(J) a statement regarding previous or anticipated rebaselining or replanning of the project and the names of the individuals responsible for approval;

"(K) the original life cycle cost of the investment and the expected life cycle cost of the investment expressed in constant base year dollars and in current dollars; and

"(L) a comprehensive plan of action to remedy the gross deviation, and milestones established to control future cost, schedule, and performance deviations in the future.

"(3) REMEDIAL ACTION.—

"(A) IN GENERAL.—If the Chief Information Officer determines under paragraph (1)(A) that an IT investment project has grossly deviated, the Agency Head, in consultation with the Chief Information Officer and the appropriate project manager, shall develop and implement a remedial action plan that includes—

"(i) a report that—

"(I) describes the primary business case and key functional requirements for the project;

"(II) describes any portions of the project that have technical requirements of sufficient clarity that such portions may be feasibly procured under fixed-price contracts;

"(III) includes a certification by the Agency Head, after consultation with the Chief Information Officer, that all technical and business requirements have been reviewed and validated to ensure alignment with the reported business case;

"(IV) describes any changes to the primary business case or key functional requirements which have occurred since project inception; and

"(V) includes an independent government cost estimate for the project conducted by an entity approved by the Director;

"(ii) an analysis that—

"(I) describes agency business goals that the project was originally designed to address;

"(II) includes a gap analysis of what project deliverables remain in order for the agency to accomplish the business goals referred to in subclause (I);

"(III) identifies the 3 most cost-effective alternative approaches to the project which would achieve the business goals referred to in subclause (I); and

"(IV) includes a cost-benefit analysis, which compares—

"(aa) the completion of the project with the completion of each alternative approach, after factoring in future costs associated with the termination of the project; and

"(bb) the termination of the project without pursuit of alternatives, after factoring in foregone benefits; and

"(iii) a new baseline of the project is established that is consistent with the independent government cost estimate required under clause (i)(V); and

"(iv) the project is designated as a core IT investment project and subjected to the requirements under subsection (f).

"(B) SUBMISSION TO CONGRESS.—The remedial action plan and all corresponding reports, analyses, and actions under this paragraph shall be submitted to the appropriate congressional committees and the Director.

"(C) REPORTING AND ANALYSIS EXEMPTIONS.—

"(i) IN GENERAL.—The Chief Information Officer, in coordination with the Agency Head and the Director, may forego the completion of any element of a report or analysis under clause (i) or (ii) of subparagraph (A) if the Chief Information Officer determines that such element is not relevant to the understanding of the challenges facing the project or that such element does not further the remedial steps necessary to ensure that the project is completed in a timely and cost-efficient manner.

"(ii) IDENTIFICATION OF REASONS.—The Chief Information Officer shall include the reasons for not including any element referred to in clause (i) in the report submitted to Congress under subparagraph (B).

"(4) DEADLINE AND FUNDING CONTINGENCY.—

"(A) NOTIFICATION AND REMEDIAL ACTION BASED ON QUARTERLY REPORT.—

“(i) **IN GENERAL.**—If the determination of gross deviation is based on a report submitted under subsection (c)(1), the Agency Head shall—

“(I) not later than 45 days after the end of the quarter upon which such report is based, notify the appropriate congressional committees and the Director in accordance with paragraph (2); and

“(II) not later than 180 days after the end of the quarter upon which such report is based, ensure the completion of remedial action under paragraph (3).

“(ii) **FAILURE TO MEET DEADLINES.**—If the Agency Head fails to meet the deadline described in clause (i)(II), additional funds may not be obligated to support expenditures associated with the project until the requirements of this subsection have been fulfilled.

“(B) **NOTIFICATION AND REMEDIAL ACTION BASED ON INTERIM REPORT.**—

“(i) **IN GENERAL.**—If the determination of gross deviation is based on a report submitted under subsection (c)(2), the Agency Head shall—

“(I) not later than 45 days after the submission of such report, notify the appropriate congressional committees in accordance with paragraph (2); and

“(II) not later than 180 days after the submission of such report, ensure the completion of remedial action in accordance with paragraph (3).

“(ii) **FAILURE TO MEET DEADLINES.**—If the Agency Head fails to meet the deadline described in clause (i)(II), additional funds may not be obligated to support expenditures associated with the project until the requirements of this subsection have been fulfilled.

“(f) **ADDITIONAL REQUIREMENTS FOR CORE IT INVESTMENT PROJECT REPORTS.**—

“(1) **INITIAL REPORT.**—If a remedial action plan described in subsection (e)(3)(A) has not been submitted for a core IT investment project, the Agency Head, in coordination with the Chief Information Officer and responsible program managers, shall prepare an initial report for inclusion in the first budget submitted to Congress under section 1105(a) of title 31, United States Code, after the designation of a project as a core IT investment project, which includes—

“(A) a description of the primary business case and key functional requirements for the project;

“(B) an identification and description of any portions of the project that have technical requirements of sufficient clarity that such portions may be feasibly procured under fixed-price contracts;

“(C) an independent government cost estimate for the project;

“(D) certification by the Chief Information Officer that all technical and business requirements have been reviewed and validated to ensure alignment with the reported business case; and

“(E) any changes to the primary business case or key functional requirements which have occurred since project inception.

“(2) **QUARTERLY REVIEW OF BUSINESS CASE.**—The Agency Head, in coordination with the Chief Information Officer and responsible program managers, shall—

“(A) monitor the primary business case and core functionality requirements reported to Congress and the Director for designated core IT investment projects; and

“(B) if changes to the primary business case or key functional requirements for a core IT investment project occur in any fiscal quarter, submit a report to Congress and the Director not later than 14 days after the end of such quarter that details the changes and describes the impact the changes will have on the cost and ultimate effectiveness of the project.

“(3) **ALTERNATIVE SIGNIFICANT DEVIATION DETERMINATION.**—If the Chief Information Officer determines, subsequent to a change in the primary business case or key functional requirements, that without such change the project would have significantly deviated—

“(A) the Chief Information Officer shall notify the Agency Head of the significant deviation; and

“(B) the Agency Head shall fulfill the requirements under subsection (d)(2) in accordance with the deadlines under subsection (d)(3).

“(4) **ALTERNATIVE GROSS DEVIATION DETERMINATION.**—If the Chief Information Officer determines, subsequent to a change in the primary business case or key functional requirements, that without such change the project would have grossly deviated—

“(A) the Chief Information Officer shall notify the Agency Head of the gross deviation; and

“(B) the Agency Head shall fulfill the requirements under subsections (e)(2) and (e)(3) in accordance with subsection (e)(4).”

(b) **INCLUSION IN THE BUDGET SUBMITTED TO CONGRESS.**—Section 1105(a) of title 31, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking “include in each budget the following:” and inserting “include in each budget—”;

(2) by redesignating the second paragraph (33) (as added by section 889(a) of Public Law 107–296) as paragraph (35);

(3) in each of paragraphs (1) through (34), by striking the period at the end and inserting a semicolon;

(4) in paragraph (35), as redesignated by paragraph (2), by striking the period at the end and inserting “; and”; and

(5) by adding at the end the following:

“(36) the reports prepared under section 11317(f) of title 40, United States Code, relating to the core IT investment projects of the agency.”

(c) **IMPROVEMENT OF INFORMATION TECHNOLOGY ACQUISITION AND DEVELOPMENT.**—Subchapter II of chapter 113 of title 40, United States Code, is amended by adding at the end the following:

“**SEC. 11319. ACQUISITION AND DEVELOPMENT.**

“(a) **PURPOSE.**—The objective of this section is to significantly reduce—

“(1) cost overruns and schedule slippage from the estimates established at the time the program is initially approved;

“(2) the number of requirements and business objectives at the time the program is approved that are not met by the delivered products; and

“(3) the number of critical defects and serious defects in delivered information technology.

“(b) **OMB GUIDANCE.**—The Director of the Office of Management and Budget shall—

“(1) not later than 180 days after the date of the enactment of this section, prescribe uniformly applicable guidance for agencies to implement the requirements of this section, which shall not include any exemptions to such requirements not specifically authorized under this section; and

“(2) take any actions that are necessary to ensure that Federal agencies are in compliance with the guidance prescribed pursuant to paragraph (1) not later than 1 year after the date of the enactment of this section.

“(c) **ESTABLISHMENT OF PROGRAM.**—Not later than 120 days after the date of the enactment of this section, each Chief Information Officer, upon the approval of the Agency Head (as defined in section 11317(a) of title 40, United States Code) shall establish a program to improve the information technology (referred to in this section as ‘IT’) processes overseen by the Chief Information Officer.

“(d) **PROGRAM REQUIREMENTS.**—Each program established pursuant to this section shall include—

“(1) a documented process for IT acquisition planning, requirements development and management, project management and oversight, earned-value management, and risk management;

“(2) the development of appropriate metrics that can be implemented and monitored on a real-time dashboard for performance measurement of—

“(A) processes and development status of investments;

“(B) continuous process improvement of the program; and

“(C) achievement of program and investment outcomes;

“(3) a process to ensure that key program personnel have an appropriate level of experience, training, and education, at an institution or institutions approved by the Director, in the planning, acquisition, execution, management, and oversight of IT;

“(4) a process to ensure that the agency implements and adheres to established processes and requirements relating to the planning, acquisition, execution, management, and oversight of IT programs and developments; and

“(5) a process for the Chief Information Officer to intervene or stop the funding of an IT investment if it is at risk of not achieving major project milestones.

“(e) **ANNUAL REPORT TO OMB.**—Not later than the last day of February of each year, the Agency Head shall submit a report to the Office of Management and Budget that includes—

“(1) a detailed summary of the accomplishments of the program established by the Agency Head pursuant to this section;

“(2) the status of completeness of implementation of each of the program requirements, and the date each such requirement was deemed to be completed;

“(3) the percentage of Federal IT projects covered under the program compared to all of the IT projects of the agency, listed by number of programs and by annual dollars expended;

“(4) a detailed breakdown of the sources and uses of the amounts spent by the agency during the previous fiscal year to support the activities of the program;

“(5) a copy of any guidance issued under the program and a statement regarding whether each such guidance is mandatory;

“(6) the identification of the metrics developed in accordance with subsection (b)(2);

“(7) a description of how paragraphs (3) and (4) of subsection (b) have been implemented and any related agency guidance; and

“(8) a description of how agencies will continue to review and update the implementation and objectives of such guidance.

“(f) **ANNUAL REPORT TO CONGRESS.**—The Director of the Office of Management and Budget shall provide an annual report to Congress on the status and implementation of the program established pursuant to this section.”

(d) **CLERICAL AMENDMENTS.**—The table of sections for chapter 113 of title 40, United States Code, is amended—

(1) by striking the item relating to section 11317 and inserting the following:

“11317. Significant and gross deviations.”; and

(2) by inserting after the item relating to section 11318 the following:

“11319. Acquisition and development.”

**SEC. 5. MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS.**

(a) **DEFINITIONS.**—Section 2445a of title 10, United States Code, is amended—

(1) by amending the section heading to read as follows:

“§2445a. Definitions”;

(2) in subsection (a)—

(A) in paragraph (1), by striking “or” at the end;



(B) in paragraph (2), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(3) the Chief Information Officer, with the approval of the Secretary of Defense, determines that the program—

“(A) delivers a capability critical to the successful completion of the mission of the Department of Defense, or a portion of such mission;

“(B) incorporates unproven or previously undeveloped technology to meet primary program technical requirements; or

“(C) would have a significant negative impact on the successful completion of the mission of the Department of Defense if the program experienced significant cost, schedule, or performance deviations.”; and

(3) by adding at the end the following:

“(d) DEFINITIONS.—In this chapter:

“(1) CHIEF INFORMATION OFFICER.—The term ‘Chief Information Officer’ means the Chief Information Officer of the Department of Defense, designated under section 3506(a)(2) of title 44.

“(2) EARNED VALUE MANAGEMENT.—The term ‘Earned Value Management’ means the cost, performance, and schedule data used to determine the status of a major automated information system program that has been developed in accordance with the ANSI EIA-748-B Standard.

“(3) INDEPENDENT GOVERNMENT COST ASSESSMENT.—The term ‘independent government cost assessment’ means a pragmatic and neutral analysis, assessment, and quantification of all costs and risks associated with a major automated information system program developed and submitted by the Director of Independent Cost Assessment.”.

(b) COST, SCHEDULE, AND PERFORMANCE INFORMATION.—Section 2445b of title 10, United States Code, is amended—

(1) in subsection (a), by striking “Congress” and inserting “the Office of Management and Budget, the Government Accountability Office, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Government Reform of the House of Representatives”;

(2) in subsection (b), by adding at the end the following:

“(5) A description of the primary business case and key functional requirements for the program, including an analysis of alternatives;

“(6) An identification and description of any portions of the program that have technical requirements of sufficient clarity that such portions may be feasibly procured under firm, fixed-price contracts;

“(7) An independent government cost assessment for the project provided by the Director of Independent Cost Assessment;

“(8) Certification by the Chief Information Officer that all technical and business requirements have been reviewed and validated to ensure alignment with the reported business case; and

“(9) Any changes to the primary business case or key functional requirements which have occurred since the inception of the program.”; and

(3) in subsection (c)—

(A) in paragraph (1), by striking “to Congress”; and

(B) in paragraph (3), by striking “the congressional defense committees” and inserting “the Office of Management and Budget, the Government Accountability Office, the Committee on Armed Services of the Senate, the Committee on Armed Services of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Government Reform of the House of Representatives”.

(c) QUARTERLY REPORTS.—Section 2445c of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “identifying” and inserting the following: “that—

“(1) identifies”;

(B) by striking “to Congress”;

(C) by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

“(2) describes the cost, schedule, and performance of all programs under the program manager’s supervision;

“(3) provides the original and current program cost, schedule, and performance benchmarks for each program under the program manager’s supervision; and

“(4) for each program under the program manager’s supervision, any known, expected, or anticipated changes to program schedule milestones or program performance benchmarks included as part of the original or current baseline description.”;

(2) in subsection (c)—

(A) in paragraph (1), by striking “the congressional defense committees” and inserting “the Office of Management and Budget, the Government Accountability Office, the Committee on Armed Services of the Senate, the Committee on Armed Services of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Government Reform of the House of Representatives”;

(B) in paragraph (2), by striking “to Congress” each place it appears; and

(3) in subsection (d)—

(A) in paragraph (1)(B), by striking “the congressional defense committees” and inserting “the Office of Management and Budget, the Government Accountability Office, the Committee on Armed Services of the Senate, the Committee on Armed Services of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Government Reform of the House of Representatives”;

(B) in paragraph (2), by striking “to Congress” each place it appears.

(d) REPORT ON SIGNIFICANT CHANGES IN PROGRAM.—Section 2445c(e) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking “or” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(D) the Earned Value Management of the program has changed by at least 15 percent, but less than 25 percent.”; and

(2) by adding at the end the following:

“(3) NOTIFICATION REQUIREMENTS.—The notification required under paragraph (1) shall include—

“(A) the date on which the determination described in paragraph (2) was made;

“(B) the amount of the cost increases and the extent of the schedule delays with respect to such program;

“(C) any requirements that—

“(i) were added subsequent to the original contract; or

“(ii) were part of the original contract, but were changed by deferment or deletion from the original schedule, or were otherwise no longer included in the contract;

“(D) an explanation of the differences between—

“(i) the estimate at completion between the program manager, any contractor, and any independent analysis; and

“(ii) the original budget at completion;

“(E) a statement of the reasons underlying the program’s significant changes; and

“(F) a summary of the plan of action to remedy the significant changes.

“(4) ALTERNATIVE SIGNIFICANT CHANGES DETERMINATION.—If the program manager determines, subsequent to a change in the primary business case or key functional requirements, that without such change the program would undergo significant changes—

“(A) the program manager shall notify the Secretary of Defense of the significant changes; and

“(B) the Secretary of Defense shall notify the congressional defense committees in accordance with the requirements of this subsection.”.

(e) REPORT ON CRITICAL CHANGES IN PROGRAM.—Section 2445c(d) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (C), by striking “or” at the end;

(B) in subparagraph (D), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(E) the Earned Value Management of the program has changed by at least 25 percent.”; and

(2) by adding at the end the following:

“(3) ALTERNATIVE CRITICAL CHANGES DETERMINATION.—If the program manager determines, subsequent to a change in the primary business case or key functional requirements, that without such change the program would undergo critical changes—

“(A) the program manager shall notify the Secretary of Defense of the critical changes; and

“(B) the Secretary of Defense shall fulfill the requirements described in subparagraphs (A) and (B) of paragraph (1).”.

(f) PROGRAM EVALUATION.—Section 2445c(e) of title 10, United States Code, is amended by striking “cost and schedule” in paragraphs (1) and (2) and inserting “schedule and an independent government cost assessment provided by the Director of Independent Cost Assessment”.

(g) REPORT ON CRITICAL PROGRAM CHANGES.—Section 2445c(f) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(2) by striking “include a written certification” and inserting the following: “include—

“(1) a written certification”;

(3) by striking the period at the end and inserting “; and”;

(4) by adding at the end the following:

“(E) all technical and business requirements have been reviewed and validated to ensure alignment with the reported business case; and

“(2) a description of—

“(A) the primary business case and key functional requirements for the program, including an analysis of alternatives;

“(B) any portions of the program that have technical requirements of sufficient clarity that such portions may be feasibly procured under firm, fixed-price type contract; and

“(C) any changes to the primary business case or key functional requirements which have occurred since the inception of the program.”.

(h) CLERICAL AMENDMENT.—The table of sections for chapter 144a of title 10, United States Code, is amended by striking the item relating to section 2445a and inserting the following:

“2445a. Definitions.”.

#### SEC. 6. IT SWAT TEAM.

(a) PURPOSE.—The Director of the Office of Management of Budget (referred to in this section as the “Director”), in consultation with the Administrator of the Office of Electronic Government and Information and Technology at the Office of Management and Budget (referred to in this section as the “E-Gov Administrator”), shall assist agencies in avoiding significant and gross deviations in the cost, schedule, and performance of IT investment projects (as such



terms are defined in section 11317(a) of title 40, United States Code).

(b) **IT SWAT TEAM.**—

(1) **ESTABLISHMENT.**—Not later than 180 days after the date of the enactment of this Act, the E-Gov Administrator shall establish a small group of individuals (referred to in this section as the “IT SWAT Team”) to carry out the purpose described in subsection (a).

(2) **QUALIFICATIONS.**—Individuals selected for the IT SWAT Team—

(A) shall be certified at the Senior/Expert level according to the Federal Acquisition Certification for Program and Project Managers (FAC-P/PM);

(B) shall have comparable education, certification, training, and experience to successfully manage high-risk IT investment projects; or

(C) shall have expertise in the successful management or oversight of planning, architecture, process, integration, or other technical and management aspects using proven process best practices on high-risk IT investment projects.

(3) **NUMBER.**—The Director, in consultation with the E-Gov Administrator, shall determine the number of individuals who will be selected for the IT SWAT Team.

(c) **OUTSIDE CONSULTANTS.**—

(1) **IDENTIFICATION.**—The E-Gov Administrator shall identify consultants in the private sector who have expert knowledge in IT program management and program management review teams. Not more than 20 percent of such consultants may be formally associated with any 1 of the following types of entities:

(A) Commercial firms.

(B) Nonprofit entities.

(C) Federally funded research and development centers.

(2) **USE OF CONSULTANTS.**—

(A) **IN GENERAL.**—Consultants identified under paragraph (1) may be used to assist the IT SWAT Team in assessing and improving IT investment projects.

(B) **LIMITATION.**—Consultants with a formally established relationship with an organization may not participate in any assessment involving an IT investment project for which such organization is under contract to provide technical support.

(C) **EXCEPTION.**—The limitation described in subparagraph (B) may not be construed as precluding access to anyone having relevant information helpful to the conduct of the assessment.

(3) **CONTRACTS.**—The E-Gov Administrator, in conjunction with the Administrator of the General Services Administration (GSA), may establish competitively bid contracts with 1 or more qualified consultants, independent of any GSA schedule.

(d) **INITIAL RESPONSE TO ANTICIPATED SIGNIFICANT OR GROSS DEVIATION.**—If the E-Gov Administrator determines there is reasonable cause to believe that a major IT investment project is likely to significantly or grossly deviate (as defined in section 11317(a) of title 40, United States Code), including the receipt of inconsistent or missing data, or if the E-Gov Administrator determines that the assignment of 1 or more members of the IT SWAT Team could meaningfully reduce the possibility of significant or gross deviation, the E-Gov Administrator shall carry out the following activities:

(1) Recommend the assignment of 1 or more members of the IT SWAT Team to assess the project in accordance with the scope and time period described in section 11317(c)(1) of title 40, United States Code, beginning not later than 14 days after such recommendation. No member of the SWAT Team who is associated with the department or agency whose IT investment project is the subject of the assessment may be assigned to participate in this assessment. Such limitation may not be construed as precluding access

to anyone having relevant information helpful to the conduct of the assessment.

(2) If the E-Gov Administrator determines that 1 or more qualified consultants are needed to support the efforts of the IT SWAT Team under paragraph (1), negotiate a contract with the consultant to provide such support during the period in which the IT SWAT Team is conducting the assessment described in paragraph (1).

(3) Ensure that the costs of an assessment under paragraph (1) and the support services of 1 or more consultants under paragraph (2) are paid by the major IT investment project being assessed.

(4) Monitor the progress made by the IT SWAT Team in assessing the project.

(e) **REDUCTION OF SIGNIFICANT OR GROSS DEVIATION.**—If the E-Gov Administrator determines that the assessment conducted under subsection (d) confirms that a major IT investment project is likely to significantly or grossly deviate, the E-Gov Administrator shall recommend that the Agency Head (as defined in section 11317(a)(1) of title 40, United States Code) take steps to reduce the deviation, which may include—

(1) providing training, education, or mentoring to improve the qualifications of the program manager;

(2) replacing the program manager or other staff;

(3) supplementing the program management team with Federal Government employees or independent contractors;

(4) terminating the project; or

(5) hiring an independent contractor to report directly to senior management and the E-Gov Administrator.

(f) **REPROGRAMMING OF FUNDS.**—

(1) **AUTHORIZATION.**—The Director may direct an Agency Head to reprogram amounts which have been appropriated for such agency to pay for an assessment under subsection (d).

(2) **NOTIFICATION.**—An Agency Head who reprograms appropriations under paragraph (1) shall notify the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives of any such reprogramming.

(g) **REPORT TO CONGRESS.**—The Director shall include in the annual Report to Congress on the Benefits of E-Government Initiatives a detailed summary of the composition and activities of the IT SWAT Team, including—

(1) the number and qualifications of individuals on the IT SWAT Team;

(2) a description of the IT investment projects that the IT SWAT Team has worked during the previous fiscal year;

(3) the major issues that necessitated the involvement of the IT SWAT Team to assist agencies with assessing and managing IT investment projects and whether such issues were satisfactorily resolved;

(4) if the issues referred to in paragraph (3) were not satisfactorily resolved, the issues still needed to be resolved and the Agency Head's plan for resolving such issues;

(5) a detailed breakdown of the sources and uses of the amounts spent by the Office of Management and Budget and other Federal agencies during the previous fiscal year to support the activities of the IT SWAT Team; and

(6) a determination of whether the IT SWAT Team has been effective in—

(A) preventing projects from deviating from the original baseline; and

(B) assisting agencies in conducting appropriate analysis and planning before a project is funded.

**SEC. 7. AWARDS FOR PERSONNEL FOR EXCELLENCE IN THE ACQUISITION OF INFORMATION SYSTEMS AND INFORMATION TECHNOLOGY.**

(a) **IN GENERAL.**—Not later than 180 days after the enactment of this Act, the Director of

the Office of Personnel Management shall develop policy and guidance for agencies to develop a program to recognize excellent performance by Federal Government employees and teams of such employees in the acquisition of information systems and information technology for the agency.

(b) **ELEMENTS.**—The program referred to in subsection (a) shall, to the extent practicable—

(1) obtain objective outcome measures; and

(2) include procedures for—

(A) the nomination of Federal Government employees and teams of such employees for eligibility for recognition under the program; and

(B) the evaluation of nominations for recognition under the program by 1 or more agency panels of individuals from government, academia, and the private sector who have such expertise, and are appointed in such a manner, as the Director of the Office of Personnel Management shall establish for purposes of the program.

(c) **AWARD OF CASH BONUSES AND OTHER INCENTIVES.**—As part of the program referred to in subsection (a), the Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, shall establish policies and guidance for agencies to reward any Federal Government employee or teams of such employees recognized pursuant to the program—

(1) by awarding a cash bonus authorized by any other provision of law to the extent that the performance of such individual so recognized warrants the award of such bonus under such provision of law;

(2) through promotions and other nonmonetary awards;

(3) by publicizing acquisition accomplishments by individual employees and, as appropriate, the tangible end benefits that resulted from such accomplishments; and

(4) through other awards, incentives, or bonuses that the head of the agency considers appropriate.

Mr. DODD. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be considered; that a Carper-Collins amendment, which is at the desk, be agreed to; that the committee substitute, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4147) was agreed to.

(The amendment is printed in today's RECORD under “Text of Amendments.”)

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 920), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

#### SILVER STAR SERVICE BANNER DAY

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 534, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 534) expressing support for designation of May 1, 2010, as "Silver Star Service Banner Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 534) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 534

Whereas the Senate has always honored the sacrifices made by the wounded and ill members of the Armed Forces;

Whereas the Silver Star Service Banner has come to represent the members of the Armed Forces and veterans who were wounded or became ill in combat in the wars fought by the United States;

Whereas the Silver Star Families of America was formed to help the American people remember the sacrifices made by the wounded and ill members of the Armed Forces by designing and manufacturing Silver Star Service Banners and Silver Star Flags for that purpose;

Whereas the sole mission of the Silver Star Families of America is to evoke memories of the sacrifices of members and veterans of the Armed Forces on behalf of the United States through the presence of a Silver Star Service Banner in a window or a Silver Star Flag flying;

Whereas the sacrifices of members and veterans of the Armed Forces on behalf of the United States should never be forgotten; and

Whereas May 1, 2010, is an appropriate date to designate as "Silver Star Service Banner Day": Now, therefore, be it

*Resolved*, That the Senate designates May 1, 2010, as "Silver Star Service Banner Day" and calls upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

#### HONORING THE PRESIDENT OF MEXICO

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 535, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 535) honoring the President of Mexico, Felipe Calderon Hinojosa, for his service to the people of Mexico, and welcoming the President to the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action

or debate, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 535) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 535

Whereas the relationship between the people and Governments of the United States and Mexico is based on trust, mutual respect, and cultural exchanges that have enriched both nations;

Whereas our two nations share not just a border, but also common values and common aspirations;

Whereas millions of Americans proudly claim Mexican ancestry, and the United States is home to the world's second largest Mexican community;

Whereas, when the American people look to their south, they see not only a neighbor, but an ally and a friend;

Whereas mutual interests, including border security, economic prosperity, and clean energy, rely on the continuing development and deepening of the United States-Mexico relationship;

Whereas drug trafficking and related violence has taken a significant toll on both countries, resulting in the deaths of more than 22,000 people in Mexico in the last 3 years, including a number of law enforcement agents and public officials, highlighting the enormous problem of illegal drug use and gang violence in America;

Whereas the Governments of Mexico and the United States have worked together under the principle of shared responsibility to address this scourge through the Merida Initiative and through programs such as cooperative intelligence, border security, and anti-corruption efforts and efforts to stop the flow of weapons and illicit money from the United States into Mexico; and

Whereas the future security and prosperity of both nations depends on our continuing ability to work together in the spirit of our common values and long friendship: Now, therefore, be it

*Resolved*, That the Senate—

(1) warmly welcomes the President of Mexico, Felipe Calderon Hinojosa;

(2) believes that together, the Governments of Mexico and the United States can bring immense benefits to their people and make enormous contributions to addressing the global challenges of the 21st century;

(3) looks forward to the continuing progress in relations between the Governments and people of Mexico and the United States; and

(4) appreciates the social, economic, and cultural contributions of the Mexican community in the United States and desires closer relations between the people of the United States and the people of Mexico.

Mr. DODD. Mr. President, that was my resolution, so I am glad it passed unanimously.

#### ORDERS FOR THURSDAY, MAY 20, 2010

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, May

20; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 3217, Wall Street reform; further, that the filing deadline for second-degree amendments be 1:30 p.m.; the mandatory quorum with respect to the substitute amendment No. 3739 and S. 3217 be waived. Finally, I ask unanimous consent that the Senate recess from 10:40 a.m. to 12 noon to allow for a joint meeting of Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. DODD. Mr. President, tomorrow, His Excellency Felipe Calderon Hinojosa, the President of Mexico, will address a joint meeting of Congress from the Hall of the House of Representatives. Senators are invited to attend the joint meeting. The Senate will gather in the Chamber at 10:30 a.m. and depart at 10:40 a.m. to proceed as a body to the Hall of the House.

Under a previous order, the cloture vote on the Dodd-Lincoln substitute amendment will occur at 2:30 p.m. tomorrow. Votes in relation to amendments prior to the cloture vote are possible.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DODD. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 8:27 p.m., adjourned until Thursday, May 20, 2010, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### DEPARTMENT OF STATE

PATRICK S. MOON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BOSNIA AND HERZEGOVINA.

CHRISTOPHER W. MURRAY, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE CONGO.

##### IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS CHAPLAINS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be lieutenant colonel*

STEPHEN W. AUSTIN  
JAMES R. BOULWARE  
DAVID S. BOWERMAN  
GARY W. BRAGG  
DOYLE M. COFFMAN  
CLOYD L. COLBY  
DAVID E. COOPER  
THOMAS W. COX  
BETH M. ECHOLS  
JONATHAN J. EITTEBEEK  
MARK A. FREDERICK  
ALBERT J. GHERGICH, JR.

WILLIAM C. HARRISON  
 DARRYL E. HOLLOWELL  
 STEVEN R. JERLES  
 MILTON JOHNSON  
 MARK R. JOHNSTON  
 JOHN W. KAISER, JR.  
 JOSEPH H. KO  
 RODIE L. LAMB  
 DAVID M. LOCKHART  
 ROBERT C. LYONS  
 GIAN S. MARTIN  
 ROBERT NAY  
 KEVIN M. PIES  
 CHARLES B. RIZER  
 STEVEN J. ROBERTS  
 SCOTT R. SHERRETZ  
 JERRY C. SIEG  
 SID A. TAYLOR, SR.  
 ADGER S. TURNER  
 DAVID E. WAKE  
 JEFFREY B. WALDEN  
 DALLAS M. WALKER  
 STANLEY E. WHITTEN  
 NATHAN L. ZIMMERMAN

## IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
 IN THE GRADES INDICATED IN THE REGULAR NAVY  
 UNDER TITLE 10, U.S.C., SECTION 531:

*To be captain*

JAMES L. BROWN  
 RONALD L. HARRELL  
 STEPHEN W. PAULETTE

*To be commander*

MARK D. BOWMAN  
 KENNETH D. SMITH

*To be lieutenant commander*

DAVID K. HAZELHURST  
 MICHAEL A. OGDEN  
 MATTHEW B. REED

## CONFIRMATION

Executive nomination confirmed by  
 the Senate, Wednesday, May 19, 2010:

## IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT  
 IN THE UNITED STATES ARMY TO THE GRADE INDICATED  
 UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIGADIER GENERAL MICHAEL J. WALSH

## WITHDRAWAL

Executive Message transmitted by  
 the President to the Senate on May 19,  
 2010 withdrawing from further Senate  
 consideration the following nomina-  
 tion:

ARMY NOMINATION OF MAJ. GEN. JOSEPH J. TALUTO,  
 TO BE LIEUTENANT GENERAL, WHICH WAS SENT TO THE  
 SENATE ON MAY 12, 2009.

## EXTENSIONS OF REMARKS

## TRIBUTE TO DR. RODNEY WILLIAM BORGER

## HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. BACA. Madam Speaker, I stand here today to honor a respected citizen, and dedicated practitioner of the art of medicine, Dr. Rodney William Borger.

Today, I rise to congratulate Dr. Borger for his loyalty, service and commitment to the Community of San Bernardino. I congratulate him on a job well done as the outgoing president of the San Bernardino County Medical Society.

Dr. Borger is a devoted servant-leader in our community. For this reason, I join today with my district to express our gratitude to Dr. Borger for his exemplary commitment to Hippocratic values, and their application to society.

Dr. Borger received his medical degree from Loma Linda University, completing his internship and residency in emergency medicine at Loma Linda University Medical Center. Today, he is Chair of the Department of Emergency Medicine at Arrowhead Regional Medical Center in Colton.

Dr. Borger is actively involved with the San Bernardino County Medical Society and California Medical Association. He sits on the San Bernardino County Medical Society Board of Directors, while chairing the Emergency Medical Service Funds Committee and the Finance Committee, and serving on the Executive, Nominating and Legislative Committees.

Dr. Borger is Commander of the San Bernardino County Sheriff Medical Reserve Corps, a community based group of volunteers who donate their time and expertise to respond to emergencies, by supplementing existing emergency response and public health resources.

A tireless champion, Dr. Borger is also Medical Director of the San Bernardino County Jail's Medical Care System and serves on the State of California's Public Health Advisory Committee.

He is a Fellow of the American College of Emergency Physicians and volunteers for the Speakers Bureau of physician volunteers, addressing community organizations on health issues.

This past March, Dr. Borger, medical student leaders and physician leaders traveled to the American Medical Association National Advocacy Conference to personally meet with members of Congress to advocate on the behalf of seniors, veterans, Medicare and Medicaid reform.

Thanks in part to these efforts, Congress has informed the California Medical Association that it is passing a temporary measure to allow the possibility of passing a more permanent solution to Sustainable Growth Rate cuts.

Revered for extensive awards, honors, certifications, biomedical research, affiliations, teaching experience, and charitable service, Dr. Borger has volunteered at a hospital in Botswana, Africa, and with Social Action Corps, UC Irvine Medical Center Family Practice Clinic and the Looking Good Program.

Madam Speaker, all of this philanthropy makes Dr. Borger "look good." Not only is he a generous human being but he is a renowned and compassionate physician.

Madam Speaker, Dr. Borger will be completing his term as the 117th president of the San Bernardino County Medical Society on Wednesday, June 23, 2010. It is fitting, on such an occasion, that we stand here today to honor Dr. Borger, for exceptional service and leadership in a profession respected by all people and in all times.

## TRIBUTE TO MS. KAY FRANCIS LANCE (DYSON) MURRAY

## HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. RUSH. Madam Speaker, it is often difficult to find words to express the depth of one's feelings with the passing of a friend and constituent, nevertheless, I rise today to pay tribute to a public administrator, community leader, entrepreneur, humanitarian and family woman, the late Kay Francis Lance (Dyson) Murray, who made her heavenly transition on Tuesday, May 11, 2010.

Kay dedicated her life towards making a difference in the lives of other people. She was a shining example of how God can use even the ordinary to accomplish the extraordinary. Indeed, many who have had the privilege of knowing and associating with her have come to recognize that they are much better the person as a result.

The first woman Assistant Commissioner and Deputy Commissioner of the Chicago Department of Streets and Sanitation, Kay also served as Chief of Staff in the Illinois Department of Professional Regulation and Executive Assistant in the Cook County Circuit Court Clerk's Office. Kay received a Bachelor's of Science degree from Roosevelt University, Master's of Education degree from Northeastern Illinois University, a graduate certificate from Cortez Peters Business School, a Management Development Program Certificate from Harvard University and a State of Illinois Real Estate License. Kay also co-partnered two designer clothing ventures and co-owned a limousine service in Chicago's Hyde Park community.

Kay was a faithful member of the Apostolic Church of God and served with distinction as Secretary/Treasurer of the North Washington Park Community Organization; President of

Jackson Park Hospital Women's Board; Member of the Jackson Park Hospital Board of Directors; Member of Jackson Park Hospital Foundation and President of the Genesis House Board of Directors. In addition to helping me in my congressional re-election efforts, Kay worked at the grass roots and community level for numerous public officials including the late Chicago Alderman Claude Holman, former Alderman and current Cook County Chief Judge Timothy Evans, the late Mayor Harold Washington and Clerk of the Circuit Court Dorothy Brown.

Madam Speaker, I want to encourage her devoted son Gary, her siblings, the entire family and the many friends of Ms. Kay Francis Lance (Dyson) Murray to always remember to look to the hills from which comes all of their help, trusting that their help will surely come from the Lord. I am truly blessed to have known and worked with her. I am honored to pay tribute to this outstanding public servant and privileged to enter these words into the CONGRESSIONAL RECORD of the United States House of Representatives.

## CHRISTIAN G. FOLSOM

## HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Christian G. Folsom. Christian is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America in both Troops 9 and 271, and earning the most prestigious award of Eagle Scout.

Christian has been very active with his troops, participating in many scout activities. Over the many years Christian has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community. Most notably, Christian has contributed to his community through his Eagle Scout project. Christian planned and built five parking bollards with handicap signs to protect children playing in the First United Methodist Church of North Kansas City's playground.

Madam Speaker, I proudly ask you to join me in commending Christian G. Folsom for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

# RECOGNIZING THE WORK OF CHAD BOUTON

## HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2010

Mr. TIBERI. Madam Speaker, with great pleasure I rise to recognize the distinguished work and accomplishments of Chad Bouton.

The economic prosperity of our nation has always derived from the vitality of the American innovator. Through firm resolve and unparalleled imagination, these men and women help discover the ideas, practices or products that fuel our country's progress. During these challenging economic times, it is all the more important to recognize their influence in affirming the limitless potential of our great country; therefore, I am happy to recognize one such individual: Mr. Chad Bouton, who was recently honored by Central Ohio's own Battelle Memorial Institute as the Battelle Inventor of the Year.

Since 1997, Chad Bouton has marked himself as a stand-out talent at Battelle. He worked as the primary innovator, inventor and principal investigator for dozens of medical device projects, from enabling paraplegics to control wheelchairs with their thoughts to providing surgeons with tools to enable minimally invasive surgical procedures. His passion for his work has led Chad to be honored with two R&D Magazine "Top 100" awards, several Battelle Outstanding Technical Achievement Awards, as well as, having nine of his works published in numerous scholarly journals.

Through the ingenuity of his thinking and tenacity of his work, Chad stands as an example to many across our country. Therefore, I am very pleased to thank him for all he has done for our country, and on behalf of Ohio's 12th Congressional District, congratulate him on his most recent award.

# CONGRATULATING EDDIE REYES, WINNER OF THE 2010 MINORITY SMALL BUSINESS CHAMPION OF THE YEAR AWARD

## HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2010

Mr. BURGESS. Madam Speaker, today I rise to congratulate Eddie Reyes, who has been named the 2010 Minority Small Business Champion of the Year by the United States Small Business Administration.

Reyes, coordinator of the Historically Underutilized Business (HUB) program at the University of North Texas (UNT) in Denton, Texas, will be honored at the Small Business Administration's National Small Business Week celebration in Washington, DC, May 23-25, 2010. Joining award winners from across the country, Reyes will be recognized for his personal successes as a small business owner, the contributions he has made to small businesses and the economic well-being of the country, and the special impact made by outstanding entrepreneurs and small business owners.

Reyes works with UNT and state programs to reveal opportunities to bid on goods or services and helps small business owners navigate the procurement process. He also informs them on how to obtain certification as a HUB vendor. Reyes deserves many thanks for his outstanding achievements and continuing dedication to UNT and to small business.

Reyes has received many notable honors, including being the first-ever International Business Achievement Award Recipient by the Greater Dallas Chamber, the Texas Association of Mexican-American Chambers of Commerce's H.U.B. Coordinator of the Year Award, the Pillar of the Community Award from the D/FW Association of Hispanic Contractors, and Small Business Advocate of the Year by Alliance Texas, among others.

Reyes was born and raised in the Dallas-Fort Worth area and continues to live in the area with his wife. He hosts "Diversity in Action with Eddie Reyes," a business radio program that offers information about being a successful minority or woman-owned business.

Madam Speaker, it is with great honor that I rise today and congratulate Eddie Reyes, winner of the 2010 Minority Small Business Champion of the Year award. It is an honor to represent Reyes and many small businesses across North Texas in the United States Congress.

# IN HONOR OF RANCOCAS VALLEY REGIONAL HIGH SCHOOL'S NJROTC PROGRAM

## HON. JOHN H. ADLER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2010

Mr. ADLER of New Jersey. Madam Speaker, I rise today for the purpose of honoring the Rancocas Valley Regional High School's NJROTC program, which has been honored as a distinguished unit by the United States Navy. The program, which was established at the school in 1975, has been recognized for the seventh straight year for its academic, leadership and professional development.

The Rancocas Valley Regional High School's Navy Junior ROTC program, led by Bert DeJong, a retired lieutenant commander from the Coast Guard, and Dave Aupperle, a retired Navy chief petty officer, includes more than 100 students. The cadets learn about various naval topics and participate in such activities as drill competitions, community service and physical fitness training. Throughout their history, the Rancocas Valley unit has won many awards, including a state championship in drills and a first-runner up in the Northeast regional drills competition.

Additionally, the unit performs a great deal of community service, including parades, a walk to benefit children with Down syndrome, a cleanup day in Eastampton, NJ, veterans and senior citizens dinners, recycling efforts, work with the local Elks lodge, and assisting families of military personnel serving abroad.

I am extremely proud of the unit for their continuous example of leadership and community service. Madam Speaker, I hope that you

will join me in commending the Rancocas Valley Regional High School's Navy Junior ROTC program.

# HONORING DIETER HEINZ DUBBERKE

## HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2010

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Dieter Heinz Dubberke upon being awarded with the Americanism Medal from the National Society Daughters of the American Revolution. Mr. Dubberke will be recognized and honored by the Merced River Chapter, National Society Daughters of the American Revolution on Saturday, April 24, 2010.

Mr. Dieter Dubberke grew up in Natzlaff, Germany in the late 1930s. As a young child, his mother and brother moved around Germany, attempting to flee from the Russians as they swept through parts of Germany. The three were finally able to reach Reinbek, a city in the Western Sector, where they were reunited with his maternal grandmother. At the age of 13, Mr. Dubberke's mother passed away, leaving him and his brother to care for their elderly grandmother. It was decided that the brothers would travel to the United States, where they would be adopted by their uncle Max Dubberke.

Arriving in the United States, Mr. Dubberke settled in with his uncle and attended high school in Culver City, California. Upon graduating from high school, he joined the United States Army. He served in the Army for 3 years, and then returned to California to marry his high school sweetheart, Diane, and began working for the Safeway Corporation.

Mr. Dubberke eventually moved to Mariposa, California. With his strong entrepreneurial spirit and grocery experience, he opened a small mini-mart. Later, he established Pioneer Market in Mariposa, and Dubberke and Dubberke Investments. Today, he serves as Chief Executive Officer of Dubberke and Dubberke Investments, which has five entities and eighty employees.

Mr. Dubberke is an instrumental part of the Mariposa community. He values and displays hard work, common sense, determination, honor and integrity. He is a champion of small business owners' rights and in his own business he hires local people, especially high school students, and provides generous benefits to his employees. Mr. Dubberke sponsors the annual Grizzly Family Hoedown, an event that has raised more than \$20,000 in funds for transportation to non-league athletic events. He also sponsors the annual Mariposa High School Golf Tournament, in support of the school's athletic programs. He initiated the Sports Challenge program, whereby he contributes one percent of collected receipts to school sports and exercise programs to Mariposa Elementary School. Mr. Dubberke often supplies ice to booths, concessions and exhibitors during the annual Mariposa County Fair, Homecoming and other community events.

Mr. Dubberke has held numerous leadership positions. He was appointed by the Governor of the Mariposa County Fair, Board of Directors. He has also served on the Mariposa County Water Agency Advisory Board and is past president of the Sierra Edelweiss German Club. For his tremendous service to his community, Mr. Dubberke has been honored with the Western Fairs Association's Blue Ribbon Award, Central California Excellence in Business Award in 2005, California Outstanding Retailer of the Month and was named Businessman of the Year in 2000 by the Mariposa County Chamber of Commerce.

The Americanism Medal is awarded to a person that has demonstrated extraordinary qualities of leadership, trustworthiness, service and patriotism. Mr. Dubberke has certainly met those qualifications; he understands the responsibility as an American citizen to respect the flag, teach others to support our Constitution, participate in government and to give back to our country. Mr. Dubberke recently published a book, "Three Times Blessed," in which he teaches valuable lessons on what it takes to find true happiness and success.

Mr. Dubberke and his wife have been married for over 50 years; they have four children and eight grandchildren.

Madam Speaker, I rise today to commend and congratulate Dieter Dubberke upon being honored with the Americanism Medal. I invite my colleagues to join me in wishing Mr. Dubberke many years of continued success.

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#### HONORING DONALD OETMAN ON HIS RETIREMENT

#### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. STUPAK. Madam Speaker, I rise to recognize Donald Oetman of Allegan as he retires from the International Union UAW after 45 years of loyal and dedicated service as a member and officer of the United Auto Workers. Since 2002, Don has served as director of UAW Region 1D, a vast district covering 62 counties that spans western, central and northern regions of Michigan, including the Upper Peninsula. During his service he has been a committed and enthusiastic voice for the working men and women and retirees of UAW Region 1D.

In 1963, shortly after graduating high school, Don went to work at Micromatic Textron in Holland, Michigan. Two years later, Don served as a member on the committee of plant workers that came together to form their own UAW local union—UAW Local 1502. Not only did these union supporters win the organizing drive, they also successfully negotiated the first contract with management.

Don quickly rose within the UAW when he was asked to serve as vice president of the newly formed UAW Local 1502, becoming president in 1967. Don was also chosen as bargaining chairperson of his local, in addition to his duties as president. He served in these capacities until 1984 when he was appointed by UAW President Owen Bieber and Director

Robert Fliearman to the International Union UAW staff as a service representative of the Region 1D staff. Don went on to serve as assistant director to the 1D region from 1995–2002 and was elected director of Region 1D in 2002, and re-elected in 2006.

From the beginning, Don has understood the importance of community and has been active throughout the labor community and his community in West Michigan. He has served on the board of directors for several community organizations, including the Michigan Association of United Ways, the Red Cross, and the Michigan State University Labor Studies program. He also serves on the Muskegon and Kalamazoo Labor/Management Joint Participation Committees, the Workforce Development Board for Allegan and Kent Counties, the Coalition for Labor Union Women, and was a Local Union Discussion Leader for the Stewards/Committeemen training and for high school labor studies classes.

It is indicative of Don's big heart and giving nature that when he looks back over the past 45 years, he considers his greatest accomplishment as having served so many UAW members, retirees and their families. He was especially fond of telling the stories of the UAW in days past to the young staff he worked with, and in sharing this history Don has helped to pass his knowledge and enthusiasm onto the next generation of UAW leaders. For Don, it truly is the people within the UAW family that have made his many years with the UAW so rewarding.

While he is closing one chapter in his life, Don is looking forward to another that includes being at home with his wife Corlyn and helping with the yard work, spending more time with his three children and his grandchildren, enjoying a few more rounds of golf, and doing some fishing. He will also stay active in his church and the Allegan Democratic Party.

Madam Speaker, Don has made a lifetime of contributions to organized labor and his community, looking out for the best interests of workers across Michigan. He has exceeded the call to service in his professional and personal life, demonstrating leadership by example for generations of UAW members. Therefore Madam Speaker, I ask that you, and all of my colleagues in the U.S. House of Representatives, join me in honoring UAW Region 1D Director Donald Oetman and congratulating him on his retirement from International Union UAW.

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#### TRIBUTE TO THE MORRISTOWN JEWISH CENTER BEIT ISRAEL

#### HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. FRELINGHUYSEN. Madam Speaker, I rise today to honor the Morristown Jewish Center Beit Israel, of Morristown, New Jersey, which is celebrating its 80th Anniversary in 2010.

The Morristown Jewish community was first incorporated as a formal religious body on January 5, 1899 as the House of Israel. Their first meeting place was at 4 Race Street,

where Hebrew School classes were held and services were conducted. As the congregation grew, it moved several times to accommodate the expanding membership. In 1918, the religious body purchased a three-story Victorian home at 177 Speedwell Avenue in Morristown. The building was remodeled to accommodate religious services and religious school classes.

Between 1921 and 1924, the idea of creating a multi-purpose community center arose. During this time period, a demand for wider use of the facility for religious, cultural and social purposes developed. The desire for a building suited to these multiple purposes gained momentum. Maurice Epstein, founder of the M. Epstein Department Store, led a campaign to raise \$34,000 toward this goal. Shortly thereafter, plans were presented to the membership and the cornerstone of the new building was laid on March 3, 1929.

From the 1930's through the 1950's, Jewish community life revolved around the center. In the 1960's additional classrooms and a new social hall were built and in the 1980's the former gymnasium was converted into a ballroom. In 1987, the building, listed on the National Register, received a Heritage Commission marker. A nursery school was added in 1992.

Culturally, socially and spiritually, the Morristown Jewish Center Beit Israel has been a positive force in people's lives, and its members continue to enrich the well-being of Morristown and the surrounding area through its presence.

Madam Speaker, I ask you and my colleagues to join me in congratulating the Morristown Jewish Center Beit Israel as it celebrates its 80th Anniversary.

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#### COMMEMORATING NATIONAL TEACHER WEEK

#### HON. BETTY MCCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Ms. MCCOLLUM. Madam Speaker, I rise today in support of H. Res. 1312, a resolution commemorating National Teacher Week. This week in May recognizes the millions of educators who play an integral role in shaping the lives of children across the country.

Teachers are charged with the essential responsibility of preparing the youngest generation of Americans to compete and excel in our global economy. Every day, they sacrifice for the sake of their students. They are relentless and admirable in performing a difficult and sometimes thankless job. They walk into their classrooms and face a daunting task—ensuring each student learns and succeeds.

That is why I'm working for our students, teachers and schools, especially during these economic hard times. Without federal aid to protect education jobs, budget crises at the State and local level will result in increased class sizes and massive layoffs. As a Member of Congress, it is my job to do what I can to make sure classroom doors stay open so students can learn. Last year, I voted for the American Recovery and Reinvestment Act (P.L. 111–5), which saved or created over

400,000 teaching jobs nationally, and nearly 7,000 in Minnesota.

In addition, I support the creation of a \$23 billion Education Jobs Fund. Without this injection of federal funding, hundreds of thousands of teachers across the country will be laid off, resulting in increased class sizes and reduced quality of education. This job-saving provision was incorporated in two bills I supported: the Jobs for Main Street Act, H.R. 2847, which passed the House last December, and the Local Jobs for America Act, H.R. 4812, still pending in the House. I join many of my colleagues in urging the Senate to include this fund in their next jobs package.

Each one of us has had a teacher who made a difference in our lives. I am honored to commemorate this valuable core of our community. I am also pleased to join students and teachers at Maxfield Elementary in St. Paul Public School District 625 and all Minnesotans in congratulating 6th grade teacher Ryan Vernosh as the 2010 Minnesota Teacher of the Year. This recognition is a reflection of his commitment and dedication to making a positive impact on students' academic success in his classroom. Mr. Vernosh is one of our finest teachers and is deserving of this honor.

For these reasons, I urge my colleagues to thank the teachers who have made differences in their lives and honor them by supporting H. Res. 1312.

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IN HONOR OF TIMOTHY E. RYAN

**HON. JOHN H. ADLER**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. ADLER of New Jersey. Madam Speaker, as a representative of the nearly 66,000 veterans in my district, I rise today to recognize the men and women who have selflessly sacrificed their lives to serve our country. On May 28, 2010, the Ocean County Veterans Memorial Association will conduct a wreath laying ceremony to honor all deceased veterans.

I would further like to recognize the host of the memorial service, Mr. Timothy E. Ryan, for the extraordinary contributions that he has done for the local veterans of Ocean County.

Mr. Ryan is a charter member of the Ocean County Deceased Veterans Memorial Association and a longtime sponsor of the annual wreath laying memorial service. He has been named 'Outstanding Citizen of the Year' by local VFW groups, and has been awarded several high honors by the Jersey Shore Council of the Boy Scouts of America. He serves as Director of Timothy E. Ryan Home for Funerals, the largest family-owned firm in New Jersey.

The 14th Annual Veterans Wreath Laying Ceremony and Memorial Service honoring the deceased veterans of Ocean County will occur on May 28, 2010 at the Ocean County Library. In recognition of his outstanding contributions and service to our veteran community, I urge my colleagues to join me in honoring Mr. Timothy E. Ryan.

HONORING MR. DAVID PRINCE

**HON. BRIAN HIGGINS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. HIGGINS. Madam Speaker, I rise today to pay tribute to the years of service given to the people of Chautauqua County by Mr. David Prince. Mr. Prince served his constituency faithfully and justly during his tenure as the Village Justice in the Village of Fredonia.

Public service is a difficult and fulfilling career. Any person with a dream may enter but only a few are able to reach the end. Mr. Prince served his term with his head held high and a smile on his face the entire way. I have no doubt that his kind demeanor left a lasting impression on the people of Chautauqua County.

We are truly blessed to have such strong individuals with a desire to make this county the wonderful place that we all know it can be. Mr. Prince is one of those people and that is why, Madam Speaker, I rise to pay tribute to him today.

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CONGRATULATING LINDA GRANT

**HON. RODNEY ALEXANDER**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. ALEXANDER. Madam Speaker, it is with great pride that I rise today to congratulate Linda Grant for being named the 2010 Direct Support Professional (DSP) of the Year for Louisiana. The American Network of Community Options and Resources (ANCOR) recently honored Linda with this wonderful recognition.

As a DSP, Linda works to support people with disabilities through community-based services that promote independence and inclusion for individuals with intellectual, behavior and other disabilities. This award is testament that Linda is a true leader for her work assisting those with disabilities to live meaningful and productive lives.

She is an example of how one person can change the lives of many, and I commend Linda for her hard work and dedication to making a positive difference in the community. I ask my colleagues to join me in honoring Linda Grant for this significant achievement.

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A TRIBUTE TO JOSEPH W. COTCHETT ON THE OCCASION OF NOTRE DAME DE NAMUR UNIVERSITY'S 2010 COMMUNITY SPIRIT AWARD GALA

**HON. ANNA G. ESHOO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Ms. ESHOO. Madam Speaker, it can be said that the word extraordinary has become too commonplace a term used in all-too-ordinary circumstances.

I rise today in appreciation of a man who fully embodies that word, a truly extraordinary man—Joseph W. Cotchett.

He is a man of passion and great intellect, a man of incredible attention to detail, a broad, sweeping embrace for all life has to offer, and a serious man capable of great joy. He has a thirst for fairness, a passion for justice and an unquenchable desire to speak for those who cannot speak for themselves.

On the evening of May 22, 2010, Joe is being honored with the Notre Dame de Namur University 2010 Community Spirit Award. The event is sold out and will be attended by friends, colleagues and admirers, each with a story about Joe standing at their side in a time of need. Similarly, the Honorary Gala Committee is more than 150 names long and represents every profession and every walk of life that Joe has touched—labor, sports, finance, entertainment, the environment, politics . . . including the Speaker of the House, and, of course, his beloved profession of the law.

Joe embodies the finest values of our great nation. With an abiding love for his country, Joe served in the U.S. Army in the Intelligence Corps, the Judge Advocate General's Corps, and as a paratrooper in Special Forces. After active duty, he remained in the Army Reserve for more than 30 years, retiring as a Colonel.

His generosity is legendary . . . whether making a major gift to his alma mater, California Polytechnic University, San Luis Obispo, where he received a degree in Engineering, or the University of California Hastings College of the Law, where he received his law degree. He gives everywhere and to everyone and in countless ways—rebuilding a landmark grocery store in Half Moon Bay, buying a table at the annual fundraising events of dozens of local nonprofits, or serving as a board member to dozens of others.

Then there is Joe Cotchett, the lawyer. He has been named one of our nation's pre-eminent trial lawyers for more than decade, winning every recognition in his profession. He has won judgment after judgment—totaling billions of dollars—on behalf of investors defrauded by modern-day robber barons.

Often donating the time and resources of his talented law firm, Joe has defended the First Amendment against corporate bullying, defended citizens against the oppressive hand of government, brought suit on behalf of the dispossessed children of American servicemen in the Philippines and defended the judicial system against Wall Street.

Wherever power is abused, greed runs rampant or injustice flourishes, Joe is there to stand up and to bring to account those who would twist the American system to their own ends.

Remarkably, after decades of fighting the good fight, he has not grown weary.

He has not lost his capacity to get angry.

For all this, he is a man of old-fashioned values . . . carry your own weight, pay your own way, tend to your family and your friends. He has an unending pride in his five children and six grandchildren, who he organizes as if they, too, served in the Armed Forces.

And he does all these things with an endearing quirkiness that can take the form of worrying whether all the chairs in the conference room are facing in the right direction or eliminating every speck of dust around.



Joe is tender and kind. He honors each of us with his presence and does so in a way that makes us feel special when we are blessed to be with him.

Madam Speaker, I ask the entire House of Representatives to join me and the community of friends who will gather in an expression of appreciation for Joseph W. Cotchett—a lion of the courtroom, a lover of life, a benefactor, a patriot and a great American.

#### HONORING THE 100TH ANNIVERSARY OF BETHLEHEM MISSIONARY BAPTIST CHURCH

##### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. BONNER. Madam Speaker, I rise today to recognize the congregation of Bethlehem Missionary Baptist Church of Bay Minette, Alabama upon the occasion of their 100th Anniversary which they celebrate this week.

Bethlehem Missionary Baptist Church was founded in 1910, when a group of concerned Christians realized a need to fellowship in a church of their own, rather than having to travel to a neighboring community. The name of Bethlehem Baptist was adopted and Reverend Issac Jones was named the first pastor.

Initially, before they had a building, the congregation met under a brush arbor and in the homes of various members.

Over the last century, the faithful congregation of Bethlehem Baptist encountered many trials and tribulations, including a fire that destroyed their first building, yet they never lost their faith or their love for their church. Their present sanctuary was built in 1963 and has been enhanced over the following 47 years, adding on an annex, two classrooms and an office complex.

In August of 2000, the Bethlehem Missionary Baptist congregation was the proud host of the Eastern Shore Baptist Convention.

I wish to extend my congratulations to Pastor Jimmy Price, and all the congregation of Bethlehem Missionary Baptist Church as they proudly celebrate their 100th year, and I wish them every success as they look to a future of continued service to the Lord and their community.

#### CLEARWATER COAST GUARD AUXILIARY FLOTILLA CELEBRATES ITS 60TH ANNIVERSARY

##### HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. YOUNG of Florida. Madam Speaker, The U.S. Coast Guard Auxiliary was established by Congress in June 1939 to support the Coast Guard with its boat safety mission. This June, the Clearwater Chapter, Flotilla 11-1, celebrates its 60th anniversary of service to the boating public throughout the Tampa Bay area.

The Coast Guard Auxiliary and Flotilla 11-1 provide invaluable support to the active duty

Coast Guard through a variety of non-law enforcement programs. These include search and rescue missions, marine environmental patrols, youth programs, public education and safety patrols. As the Coast Guard's homeland and national security responsibilities continue to expand, the men and women of the auxiliary have stepped up to increase their port security patrols to provide for the defense of our nation's and in our case Florida's coastline and waterways.

Clearwater Flotilla 11-1's service to the Clearwater area actually predates the Coast Guard's presence in the city. Today, though, the auxiliary provides direct and continuing support to Coast Guard Air Station Clearwater and to Coast Guard Station Sand Key. Their missions include search and rescue "call outs", back up marine radio coverage and near shore patrols as part of the America's Waterway Watch Program. Last year alone, the Flotilla conducted more than 300 vessel safety checks, made 130 visits to recreational boating programs and conducted 11 boating safety classes. In addition to supporting the Coast Guard on the water, the Flotilla also supports the Coast Guard from the air. Its three aircraft flew 250 sorties last year totaling more than 1,000 hours and included 24 separate search and rescue cases.

Madam Speaker, it is with great pride that Flotilla 11-1 will join together this Saturday in Clearwater to celebrate its history and for the community to come together to thank the men and women of the auxiliary for their selfless volunteer service to our area.

Flotilla 11-1 operates under the leadership of Commander Jim Rudolph and Vice Commander Jerry Osburn. With their breadth of responsibilities, the Flotilla draws upon many, many dedicated officers and volunteers with specific expertise in a large number of areas. The auxiliary's officers include: Barbara Masson, communications; Val Lewis, communications services; Debbie Mallory, finance; Kimberly Clark, information systems; Teresa Kasper, materials; John Caddigan, marine safety and environmental protection; Karen Miller, member training and publications; Harry Bickford, navigation services; Don Smith, operations; Jeff Lawlor, public affairs; Ann Bennett, public education and program visits; Peter Palmieri, personnel services; Scott Signorini, secretary and records; and Dale Folson, vessel examinations.

It is my hope that my colleagues will join me in thanking the men and women of Clearwater Coast Guard Auxiliary Flotilla 11-1 for their 60 years of service to our community and for a job well done.

#### PERSONAL EXPLANATION

##### HON. ALAN GRAYSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. GRAYSON. Madam Speaker, on rollcall No. 273, 274 and 275, I would have voted "yes" if I had been present. I missed the votes because of a long flight delay caused by the weather. Had I been present, I would have voted "aye."

#### EXPRESSING SUPPORT FOR SHORT LINE RAILROADS

##### HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. COSTELLO. Madam Speaker, I rise today to express my support for the extension of the Section 45G Short Line Railroad Tax Credit, which expired on December 31, 2009.

As a senior member of the House Transportation and Infrastructure Committee, I appreciate the economic benefits a strong, reliable rail network provides our economy. Rail has kept our economy connected and competitive for decades and is critical to driving our economic recovery.

Key to the rail network are short line railroads, which keep 13,000 small and rural rail customers connected to the main line railroad network and the global economy. However, short line railroads must invest heavily in repairing and maintaining track, more than any other segment of the rail industry. To address this, Congress enacted the Section 45G short line railroad tax credit, which encourages short line railroads to invest in critical track maintenance. These improvements are necessary to improve the efficiency of our national rail network and keep our economy moving. This tax credit expired on December 31, 2009.

Without an extension of this tax credit, short line railroads are unable to initiate long-term plans, and have halted much needed infrastructure projects across the country—projects that create good-paying jobs on and off the tracks. The Section 45G credit generates approximately 3,305 full-time jobs annually and supports tens of thousands of jobs in America's steel and timber industries that make railroad ties or steel rail.

Madam Speaker, it makes economic sense to provide certainty to this industry and extend this tax credit. Short line railroads are too important to our economy. As a cosponsor of H.R. 1132, legislation to extend the credit through 2012, I urge swift action on extending the Section 45G short line railroad tax credit and urge my colleagues to support it.

#### HONORING JANET DAVIS

##### HON. LYNN A. WESTMORELAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. WESTMORELAND. Madam Speaker, I rise today to pay tribute to Janet Davis, president and CEO of the TIC Federal Credit Union, who is the recipient of the prestigious Lifetime Achievement Award from the Georgia Credit Union Affiliates.

As one news report put it, it takes five pages to list what Janet Davis has done for the Columbus area and her profession. Therefore, it should come as no surprise that she's the youngest recipient in the history of the award.

Janet has served as president and CEO for 18 years. Her leadership has brought tremendous growth and success to the credit union—

including an increase of \$152 million in assets during her tenure. In fact, TIC is currently the ninth largest credit union in the state. This is a real testament to her dedication and ability.

Janet's own words perfectly sum up what she believes is her greatest accomplishment—giving back to her community. Janet said she “takes joy in helping to create a workforce that is in tune with the community and its needs.”

Fortunately, giving back to the community doesn't stop at the end of her work day. For Janet, her talents touch many organizations and individuals. She has provided leadership for the Rotary Club, Better Business Bureau, Columbus Literacy Alliance, Columbus Chamber of Commerce, Columbus Partners in Education, Columbus Hospice and Columbus State University, her alma mater.

This award isn't presented annually because it's reserved for an individual whose career and leadership stands as the ultimate example for others. In that case, there is no better person to receive such an award than Janet Davis.

Because Janet embodies everything that's great about America and serves as an example of the kind of folks we need to keep our communities strong, I ask the House to join me in congratulating her on a distinguished career and sending best wishes for many more years of valuable contribution to the Columbus area.

#### HONORING EXCEPTIONAL PARENTS UNLIMITED

#### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. RADANOVICH. Madam Speaker, I rise today to congratulate Exceptional Parents Unlimited upon the celebration of the 20th anniversary of their annual fundraiser “Fiesta! A Celebration of Children.” The annual event will be held at the Clovis Memorial Building on Friday, May 7, 2010.

Exceptional Parents Unlimited, EPU, was founded in 1976, as a support group for the parents of children with Down's syndrome. The name Exceptional Parents Unlimited was chosen because EPU was designed to provide services to children with all different special needs. Since it was established, EPU has developed a wide range of programs and services in response to the expressed needs of the families in the community. EPU has become a national leader in providing and promoting comprehensive, family-centered services through five major programs including early intervention, family support, supporting the development of the parent-child relationship, providing parent education and training, as well as assisting in preventing child abuse. EPU has also created a successful Family Resource Center, providing training and support to families through the Parent Training and Information Center Grant and the Family Empowerment Center Grant.

Currently, EPU provides direct services to more than three thousand families. They provide services in English, Spanish and Hmong, reflecting the most common languages spoken

in the Fresno area. The services provided by EPU include home visits as well as locations in urban and rural centers. The EPU staff has grown to one hundred employees including experienced management personnel, a Chief Financial Officer, a Human Resource Director, a Development Director, a Director of Evaluation and Data and five program managers.

EPU has been recognized by many organizations over the years. In 1998 EPU was honored with the Daily Points of Light Award by the Points of Light Foundation, a foundation that honors individuals and volunteer groups with a commitment to connect Americans through service to meet critical needs in their communities. In 2003, EPU was honored with the Central Valley Excellence in Business Award by The Fresno Bee, the Fresno Economic Development Corporation and the Fresno Chamber of Commerce.

Madam Speaker, I rise today to commend and congratulate Exceptional Parents Unlimited. I invite my colleagues to join me in wishing EPU many years of continued success.

#### HONORING DAN AND DEE DEVLIN

#### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. FARR. Madam Speaker, I rise today to honor the memory of Dan and Dee Devlin, who through their 42 year marriage embodied the deepest love for each other, their family, their community, and the greater world around them. Earlier this year, tragically, these two wonderful people died within weeks of each other.

It's not often that one meets a couple who are so completely one. I count it as a great honor to have known Dan and Dee Devlin and I extend to their family and many friends my deepest sympathies and those of the whole House of Representatives.

I first met these two wonderful people in 1996 when COL Dan Devlin came to Monterey, Calif., to assume command of the Defense Language Institute, our Nation's premier foreign language training center. Colonel Devlin personified DLI's thoughtful, disciplined, and cosmopolitan commitment to our Nation's defense. At DLI, he built a stronger and more vibrant academic and military institution. He boosted student achievement by enhancing the teaching environment for DLI's native speaker faculty, focusing on professional growth, curriculum development, and performance-based merit pay. These efforts positioned DLI for its rapid response to the post 9/11 wave of new language training demands.

Dee was born January 16, 1947, in Williston, ND, to Roman and Ardell Daniel. A few months later, on April 21, Dan was born to Robert and Marion Devlin in nearby Northwood, ND. They both graduated from Ray High School in 1965 and North Dakota State University in 1969. After dating for 6 years, the high school and college sweethearts married in Ray, ND on June 4, 1968.

Upon graduation, Dan began his military career as a second lieutenant in the U.S. Army. His Army service included duty as an intel-

ligence officer, a DLI student of Russian, commanding officer of the 6th Psychological Operations Battalion, Airborne, deputy commander of 4th Psychological Operations during the first Gulf War, and just prior to his DLI assignment, chief of Psychological Operations and Civil Affairs for the Joint Staff in the Pentagon.

Following a distinguished 31 year military career, Colonel Devlin retired from the Army in 2000 and became, once again, simply Dan. He continued to work in the language field as a DoD civilian employee.

Dee held numerous civil service positions as she accompanied Dan in his military career both at home and abroad: library technician in Garmisch, human resources specialist at the American Elementary/High School in Munich, and administrative officer at the Naval Postgraduate School in Monterey. Above all, Dee was the light of a family that grew to include Daniel Devlin, Jr. and his wife, Tara, their daughters Reilly and Elliott, and son, Robert Devlin and his wife, Lara.

Madam Speaker, Dan and Dee Devlin represented the best of our Nation and humanity: family, faith, public service, and an appetite for life that made the world a better place for everyone they touched. May God bless them and their memory.

#### HONORING GERALD VIRGIL MYERS, LAKELAND, FL

#### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Ms. GINNY BROWN-WAITE of Florida. Madam Speaker, I rise today to honor Gerald Virgil Myers who, on July 6 of this year, will celebrate his 92nd birthday. Mr. Myers is a dedicated father, grandfather and veteran. Today, we celebrate his life, career and this momentous occasion.

Gerald Virgil Myers is part of our “Greatest Generation”; he served our country honorably in World War II earning both the silver and bronze stars for his service, as well as the Purple Heart.

He served in the 80th infantry division, which was responsible for discovering and liberating the Buchenwald concentration camp. He recently returned to Germany to attend the 65th anniversary celebration honoring this occasion.

Mr. Myers also served in the Battle of the Bulge. He returns to Luxembourg annually to participate in the festivities marking the end of the conflict. Mr. Myers has even been named an honorary citizen of Luxembourg.

In his post military career, Mr. Myers made a living as a sales manager for Quaker Oats and Allied Feeds. He retired to Lakeland, Florida where his son, Gary and daughter, Ronna live close by. He is a grandfather to literally dozens of grandchildren and great grandchildren; most of whom live nearby as well.

In his spare time, he does his part to keep our Nation's history alive. He frequently visits local school groups and shares with them stories of his service to our country. He also enjoys crafting his own stained glass.

Madam Speaker, please join me in congratulating Mr. Myers on the occasion of his

92nd birthday and thanking him for his dedicated service to our great Nation.

**ANTITRUST CRIMINAL PENALTY  
ENHANCEMENT AND REFORM  
ACT OF 2004 EXTENSION**

**HON. HENRY C. "HANK" JOHNSON, JR.**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. JOHNSON of Georgia. Madam Speaker, today, I introduce legislation that extends expiring provisions of the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 and reviews its efficacy. I am pleased to have as cosponsor of this bill the Chairman of the Judiciary Committee, JOHN CONYERS, JR.

ACPERA promotes the detection and prosecution of illegal cartel behavior by giving participants in a price-fixing cartel powerful incentives to report the cartel to the Justice Department and cooperate in its prosecution.

Cartel violations are some of the worst crimes perpetrated on the American consumer, yet they are too often crimes we cannot see, as all the criminal activity takes place in secret meetings behind closed doors.

Price-fixing cartels can go undetected for years, possibly forever. With hundreds of millions (or even billions) of dollars worth of unlawful profits at stake, these criminal cartels are very effective at finding ways to keep their actions secret.

In August 1993, the Department of Justice Antitrust Division revised its corporate leniency program. Designed to destabilize these cartels, the program offered amnesty from criminal prosecution for companies and their executives involved in these conspiracies if they were the first of the conspirators (and not the ringleader) to reach out to the DOJ's Antitrust Division and fully cooperate with its criminal investigation.

But there was still a disincentive for cartel participants to come forward, because they remained liable for treble damages and joint and several liability in accompanying civil litigation.

Five years ago, Congress gave the Justice Department's Antitrust Division a new weapon to attack this disincentive head-on. ACPERA addressed this shortcoming in the leniency program by also limiting the cooperating party's exposure to liability in related civil litigation.

ACPERA empowers the Justice Department to limit the civil liability of a cooperating party to single damages. The remaining co-conspirators, however, remain jointly and severally liable for all damages.

In this way, the Act strikes a carefully-crafted balance, encouraging the cartel members to turn on each other, while ensuring full compensation to the victims.

The positive impact of this law cannot be overstated. ACPERA aided the Antitrust Division in obtaining just over \$1 billion in criminal fines in Fiscal Year 2009.

Last year, confronted with the expiration of key provisions of ACPERA, I sponsored a bipartisan 1-year extension of the statute. We solicited input from a number of parties, including the Department of Justice, the Amer-

ican Bar Association, noted academics such as William Kovacic, and representatives of civil litigants, leniency applicants, and cartel whistleblowers.

As Chairman of the Judiciary Committee's Subcommittee on Courts and Competition Policy, I want to ensure that the Justice Department has all the tools it needs to continue its excellent work protecting consumers against price-fixing cartels.

During this process, I heard a number of suggestions for how to improve ACPERA's effectiveness. The legislation I introduce today incorporates a number of these suggestions, and also commissions the Government Accountability Office to perform a 1-year study to examine several others.

Again, I thank Chairman CONYERS for joining me as cosponsor of this important legislation, and I look forward to working with our colleagues in the other body to reauthorize this very important program.

**HONORING MR. HAKAN EVIN**

**HON. ED WHITFIELD**

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. WHITFIELD. Madam Speaker, I rise today to recognize Mr. Hakan Evin for all that he has done over the past 20 years to promote and foster U.S.-Turkish relations. Mr. Evin has used his role as an esteemed Turkish businessman to forge friendships with leaders, diplomats and everyday citizens from the United States, and around the world. Through these efforts he has become an 'Ambassador of Goodwill' and has helped to strengthen the ties between Turkey and the United States.

For nearly 2 decades Mr. Evin has run a successful carpet business at the Grand Bazaar in Istanbul, one of the world's oldest and largest shopping centers. A third-generation shopkeeper, he learned about the art, culture and science of carpet making before joining the family business as an apprentice after high school. Now the owner of several shops in the Bazaar, Mr. Evin has built a reputation for excellence and established a loyal customer base which spans the globe.

Mr. Evin has played host to countless heads of state, foreign dignitaries, business leaders, government officials and celebrities over the past 20 years including President George H. Bush and First Lady Barbara Bush, First Lady Laura Bush, President Bill Clinton and Secretary of State Hillary Clinton and former President of the Soviet Union Mikhail Gorbachev. Still, he remains committed to providing outstanding service and top quality products to everyday patrons from around the world. Mr. Evin has made it a point throughout his career to reach out to foreigners living, working and traveling in Turkey, fostering positive feelings among the many individuals he has met towards the Nation.

Additionally, Mr. Evin has brought the deep-rooted history and culture of Turkish rugs to the United States on numerous occasions. He frequently brings many of his rugs to the U.S. and a few years ago brought hundreds of rugs

to Lexington, Kentucky. As the guest of L.V. Harkness and its owner Meg Jewett, Lexington became the site of a temporary Grand Bazaar.

Mr. Evin's acumen as a businessman, integrity, honesty and genuine love for America and its people make it easy to be his friend. Thanks Hakan Evin.

**IN TRIBUTE TO DEAN RASMUSSEN**

**HON. ELTON GALLEGLY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. GALLEGLY. Madam Speaker, I rise in tribute to Dean Rasmussen, businessman, philanthropist and recipient of this year's ALS Association's Lifetime Achievement Award.

Dean's father died from ALS, commonly called Lou Gehrig's Disease, more than 20 years ago. Always a man of action, Dean joined the National Board of Directors for The ALS Association. He spearheaded advocacy programs in Washington, DC, and Sacramento, California, and was instrumental in the growth and success of the Los Angeles Chapter.

Known as the godfather of The ALS Association's advocacy efforts, he served as the catalyst and provided seed money for the creation of the association's Advocacy Department. Subsequent advocacy efforts have resulted in nearly \$1 billion of support for research, patient care and advocacy that helps people with ALS throughout the United States.

Dean's success in driving The ALS Association to new heights is typical of his drive in business, sports and advocacy for education and our children.

Dean graduated from the U.S. Merchant Marine Academy and served 2 years aboard Standard Oil of California tankers as a third mate before enrolling in Arizona State University, where he graduated with a bachelor's of science degree in construction. In 1968, he joined the company his father founded 4 years earlier as vice president and general manager.

Dean is now the managing member of C. A. Rasmussen Co., LLC, and emeritus chairman of the board of C. A. Rasmussen, Inc., a privately-held, general engineering contracting firm that builds highways and other infrastructure throughout California.

Among Dean's other activities, he is a former member of the Liberty Mutual Insurance Company Advisory Board, emeritus member of the board of trustees of Harvey Mudd College and former trustee/president of Harvey Mudd College's Friends Committee. He is also a former trustee and campaign chairman of Viewpoint School in Calabasas, California, past president of the Southern California Contractors Association and emeritus director of Casa Pacifica (an abused children's home serving Ventura County).

Dean enjoys spending time with his wife, Kathleen, and his four children; reading history; collecting shotguns and fine wines; as well as bird hunting and other shooting sports. He is a member the Ventura County Game Preserve Association, the Point Mugu Gun Club, a life member of the National Rifle Association, and is on the Board of the L. C. Smith Collectors Association.

Madam Speaker, I know my colleagues will join me in congratulating my wife, Janice's, and my friend of 40 years, Dean Rasmussen for earning The ALS Association Lifetime Achievement Award and in thanking him for a lifetime of service to his community and country.

#### PERSONAL EXPLANATION

### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Ms. WOOLSEY. Madam Speaker, on May 18, 2010, I was unavoidably detained and was unable to record my vote for rollcall No. 261. Had I been present I would have voted: Rollcall No. 273: "yes"—Endangered Fish Recovery Programs Improvement Act of 2009.

#### COMMENDING TAM TRAN

### HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Ms. ZOE LOFGREN of California. Madam Speaker, as the Chair of the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, I rise today to honor the life of Tam Tran.

Tam and her family overcame great odds to come to America. The Vietnamese government sent Tam's father, Mr. Tuan Ngoc Tran, to a "re-education" camp for anti-communist activities. Mr. Tran and his wife, Ms. Loc Thi Pham, escaped political persecution in Vietnam by fleeing in a boat and were rescued at sea by the German navy. They lived in Germany as refugees where Tam and her brother, Mr. Thien Ngoc Tran, were born.

The Tran family came to the United States when Tam was 6 years old to reunite with family members who had settled in California. Her parents applied for political asylum. Their asylum request was denied, but the family received withholding of deportation because they would have faced persecution if they were sent to Vietnam. But withholding does not lead to a green card or U.S. citizenship. Tam and her brother were born in Germany, but were not German citizens. They were stateless, trapped in immigration limbo.

In the meantime, Tam and her brother grew up in Garden Grove. She graduated from Santiago High School, and was accepted into the University of California at Los Angeles. She worked multiple jobs while carrying a full load of classes, but still managed to graduate from UCLA in 2006 with a bachelor's degree in American Literature and Culture and with Latin, Departmental, and College honors.

Tam also became one of the leading advocates for the "Development, Relief and Education for Alien Minors" Act, commonly known as the DREAM Act. The DREAM Act would provide a path to citizenship for undocumented immigrants who were brought to the United States as innocent children, if they graduate from a U.S. high school and serve in

the military or attend at least two years of college. The DREAM Act would finally allow Tam to officially become what she always felt herself to be—an American.

I had the pleasure of meeting Tam when she testified before the Immigration Subcommittee on May 18, 2007, on the DREAM Act. Tam described growing up in California, "watching Speed Racer and Mighty Mouse every Saturday morning." She described her frustration at the work permits that never arrived on time even though she was in the country legally, and at not being able to afford the \$50,000 out-of-state tuition and living expenses a year for the Ph.D. program at UCLA, even though she had grown up in California and had been accepted into the program. Tam nonetheless hoped that she would overcome these odds and become an "academic researcher and socially conscious video documentarian." The poise and eloquence of Tam and the other student witnesses at the hearing was the best evidence of how America would benefit from their skills and talents by the passage of the DREAM Act.

Tam came one step closer to achieving her dream when she was accepted into the Ph.D. program in American Civilization at Brown University. She was excelling in her studies and continuing her leadership and advocacy on the DREAM Act, when she was tragically and unexpectedly taken from us. Tam and one of her close friends, Cinthya Felix, also a DREAM Act student, died in a car crash on May 15, 2010.

My heart goes out to the Tran family at their unthinkable loss. I have no doubt that Tam would have contributed much to America. Even though our broken immigration system constantly threw roadblocks in her way, Tam always persevered and fought to live the American dream. I will redouble my effort and commitment to pass the DREAM Act in her memory, so that other innocent children in her predicament will not have to suffer the hardships that Tam had to endure just to become a productive member of this country.

#### REGARDING H. RES. 1187

### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. VAN HOLLEN. Madam Speaker, I rise as an original sponsor of H. Res. 1187 with my colleague Mr. MORAN. This resolution recognizes the contributions of our federal employees and supports the goal of protecting their safety and security.

It is a federal crime to assault or forcefully interfere with a federal employee while they are engaged in their official duties. Yet, between 2001 and 2008, there were more than 1,200 attacks made on just IRS employees alone. The most recent incident involved a pilot flying a small plane into an IRS office complex in Austin, Texas, killing Vernon Hunter, a Vietnam veteran and IRS employee.

The Federal workforce is comprised of millions of employees who provide every kind of public service from fighting crime and fires, to protecting health, to preserving the environ-

ment and securing our borders. These dedicated public servants deserve our support, respect and protection.

I ask my colleagues to join me in supporting this resolution to express our appreciation to federal employees for the work they do, and to urge the government to seek out ways to ensure their safety.

#### HONORING DELTA KAPPA GAMMA SOCIETY INTERNATIONAL

### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. RADANOVICH. Madam Speaker, I rise today to commend the California Chapter of Delta Kappa Gamma Society International upon their 74th anniversary. The organization will be holding its annual convention at the Fresno Radisson Hotel and Conference Center in Fresno, California from Friday, April 30 through Sunday, May 2, 2010. This is the first time that the annual meeting has been held in Fresno.

Delta Kappa Gamma Society International was established in 1929, with the desire to promote professional and personal growth in women educators and excellence in education. Chi State is the State Chapter of Delta Kappa Gamma Society International and was established in 1936. The organization is involved in literacy and philanthropy projects throughout the state. The membership is made up of active administrators, teachers from kindergarten through college and retirees who continue to substitute or volunteer in classrooms and community centers. Today, there are over six thousand members in California and one hundred and forty thousand members from sixteen countries. Many individual members are also members of other district-level, state and national education organizations.

Delta Kappa Gamma Society International offers financial aid to outstanding educational and community projects; as well as women students outside of the United States and Canada pursuing professional careers. The goal of the organization is to provide guidance and inspiration to women educators helping them to excel in their professional careers. They have a strong mentorship program and provide mutual support and interaction in all educational fields and at all levels.

Madam Speaker, I rise today to commend and congratulate the California Chapter of Delta Kappa Gamma Society International on their success in assisting women educators from around the world. I invite my colleagues to join me in wishing the organization many years of continued success.

LETTER TO PRESIDENT OBAMA ON  
PREVENTING TERRORISM**HON. FRANK R. WOLF**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. WOLF. Madam Speaker, I want to share the following letter that I have sent to President Obama urging him to implement several bipartisan proposals that would strengthen our national security. These proposals include bringing back the co-chairs of the 9/11 Commission for a 6-month period to review the implementation of the commission's recommendations and creating a "Team B" of experts outside of government to review our counterterrorism strategy.

In light of the Senate Select Committee on Intelligence's report of the 14 "points of failure" with regard to the attempted Christmas Day bombing, it is disappointing that the administration has not adopted these proposals that would make our country safer.

HOUSE OF REPRESENTATIVES,  
CONGRESS OF THE UNITED STATES,  
Washington, DC, May 19, 2010.

Hon. BARACK H. OBAMA,  
The President, The White House,  
Washington, DC.

DEAR MR. PRESIDENT: Yesterday, the Senate Select Committee on Intelligence (SSCI) released an unclassified summary of its report on the attempted terrorist attack on Christmas Day. In reviewing the report's conclusions, including the 14 specific "points of failure" in U.S. intelligence prior to the attack, it occurred to me that many of these "points of failure" could have been prevented through greater outside review of our national counterterrorism operations and strategy.

As you know, over the last five months I have repeatedly urged your administration to adopt four bipartisan proposals that would strengthen our national security. These ideas include bringing back the co-chairs of the 9/11 Commission for a six-month review, making the Transportation Security Administration (TSA) administrator a set 10-year term to bring greater stability and expertise to the agency, collocating the new High Value Detainee Interrogation Group (HIG) at the National Counterterrorism Center, and creating a "Team B" of outside counterterrorism experts to review and challenge our strategy and assumptions across the intelligence community.

In reviewing the 14 "points of failure" identified in the SSCI report, I believe many of the operational missteps could have been prevented if the co-chairs of the 9/11 Commission—former Rep. Lee Hamilton and former Gov. Thomas Kean—had been able to conduct a 6-month review of the implementation of the commission's original recommendations. Specifically, I believe that points 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, and 13, listed in the enclosed report could have been mitigated by a follow-up review of the 9/11 Commission's recommendations.

Additionally, I believe that points 7 and 14, "Intelligence Analysts Were Primarily Focused on Al-Qaeda in the Arabian Peninsula (AQAP) Threats to U.S. Interests in Yemen, Rather than on Potential AQAP Threats to the U.S. Homeland," could have been mitigated if a "Team B" of outside experts had been able to challenge institutionalized assumptions throughout the intelligence com-

munity. The team would represent a "new approach to counterterrorism" which focuses not just on connecting the dots of intelligence, but which seeks to stay a step ahead in understanding how to break the radicalization and recruitment cycle that sustains our enemy, how to disrupt their network globally and how to strategically isolate them.

Last month, I wrote you to share a recent article from respected Georgetown University professor Bruce Hoffman, who endorses the "Team B" approach. He said, "One important yet currently languishing congressional initiative that would help counter this strategy is Representative Frank Wolf's proposal to institutionalize a 'red team' or 'Team B' counterterrorist capability as an essential element of our efforts to combat terrorism and in the war against al-Qaeda." I believe that, in light of the SSCI report, such an approach is needed now more than ever.

Although we now have the benefit of hindsight, it is critical that we take the lessons from the failed attack and implement measures to further review our counterterrorism processes and strategy. It is inexcusable that we would not draw on these valuable outside experts' wisdom to strengthen our homeland and ensure that these mistakes are not repeated.

Best wishes.  
Sincerely,

FRANK R. WOLF,  
Member of Congress.

## PLUMBERS LOCAL UNION 210 ANNUAL APPRENTICE GRADUATION

**HON. PETER J. VISCLOSKY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. VISCLOSKY. Madam Speaker, it is with great sincerity and respect that I offer congratulations to several of Northwest Indiana's most talented, dedicated, and hardworking individuals. On Friday, June 4, 2010, the Plumbers Local Union 210 will honor the graduating class of 2010 at the Annual Apprentice Graduation Banquet, which will be held at Tiebel's Restaurant in Schererville, Indiana.

At this year's banquet, the Plumbers Local Union 210 will recognize and honor the 2010 Apprentice Graduates. The individuals who have completed their apprentice training in 2010 are: Jonathan Banaszak, Matthew Czarnecki, Bernard Jewett, Kevin Kuzma, Bryan Lain, William Linebaugh, Roy Swearengin, Jeremy VanHoose, and Dustin Weber.

Northwest Indiana has a rich history of excellence in its craftsmanship and loyalty by its tradesmen. These graduates are outstanding examples of each. They have mastered their trade and have demonstrated their loyalty to both the union and the community through their hard work and selfless dedication.

Madam Speaker, I ask that you and my other distinguished colleagues join me in congratulating these dedicated and hardworking individuals. Along with the other men and women of Northwest Indiana's unions, these individuals have committed themselves to making a significant contribution to the growth and development of the economy of the First

Congressional District, and I am very proud to represent them in Washington, DC.

A TRIBUTE TO THE SALVATION  
ARMY SERVING SACRAMENTO  
FOR 125 YEARS**HON. DANIEL E. LUNGREN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. DANIEL E. LUNGREN of California. Madam Speaker, I rise to pay tribute to the Salvation Army, and to honor its 125th anniversary in the Sacramento region today on May 19, 2010.

The founder and first general of the Salvation Army, William Booth, was born in economic and spiritual poverty, yet he founded a worldwide organization dedicated to their eradication—an organization that now serves the neediest of the needy in 120 countries.

In 1865, the Salvation Army began in the East Side of London, and several years later General Booth sent a few of his followers to establish army roots in America.

In 1885, Major Alfred Wells arrived in Sacramento with the determination to follow the lead of General Booth by ministering to anyone in need. Back then, there were many families and individuals looking for work, looking for food and looking for hope. Fast forward to the present time—125 years later—and the Salvation Army is still in Sacramento, still reaching out to people who need assistance with jobs, food, and of course, hope.

Today, on May 19, 2010, the Salvation Army marks 125 years of service to Sacramento. As they look to the future, they know times may become even more challenging. And yet, they are ready to accept that challenge. Nothing will deter the Salvation Army from continuing its service to the Sacramento community.

Over the years as the needs of the Sacramento region have changed, the army's programs in Sacramento have reflected those needs. There have been shelter programs for men, women, and families; rehabilitation programs for those overcoming alcohol or drug problems; programs for emergency and disaster response, and disaster preparedness training; programs providing sports leagues, youth activities, tutoring, and child development centers, and many more.

Now, I thank the Salvation Army—on behalf of our community—as it continues its legacy in the Sacramento region.

## TRIBUTE TO MUFTIAH MCCARTIN

**HON. JERRY LEWIS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. LEWIS of California. Madam Speaker, over the last several months several of our colleagues have announced they plan to retire from Congress and in a few months some may not return to us due to the workings of our democracy. All of their departures will, in

some way or another, impact this body—the peoples' House.

But there will be one loss this year that will be felt most by the members and staff on both sides of the aisle—that of Muftiah McCartin. Now Muftiah's name may not be well known to the people who live in our districts, but I would hazard a guess that there is not one member of the House of Representatives who has served in the last 30-plus years who does not know and love Muftiah—whether in her role as a parliamentarian, as a staff member on the Committee on Appropriations, or in her most recent role as the staff director of the Rules Committee. In every instance she brought a fundamental fairness, openmindedness, kindness and an incredible work ethic. She handled herself with the utmost professionalism even in the most trying of circumstances—namely having to deal with the 435 of us, and on occasion having to tell us something we did not want to hear.

As I look back on the words of tribute spoken last week by so many of my colleagues I am most impressed by the fact that those words were all spoken from the heart, as are mine. They were not words of canned praise, nor were they sterile platitudes—they were expressions of genuine friendship and respect. I will not repeat what was said about Muftiah's distinguished career—although it bears remembering. Rather I will share a few reflections from her time working for the Appropriations Committee when I was chairman.

In 2005 during my first year as Chairman of the Appropriations Committee, it was Muftiah who patiently schooled me and my staff in the complexities of House Rules as we worked on the 11 appropriations bills that came to the House floor that year. I think it is fair to say that had it not been for Muftiah, we would not have successfully completed our important work in a manner that was open and fair to all the Members. In 2006 I had the good fortune to be able to convince Muftiah to leave the parliamentarian's office and come to work on the Committee on Appropriations. I expect the parliamentarian and his able colleagues might still be angry with me for that, but they have, as usual, been very gracious. While Muftiah knew the rules under which we consider appropriations bills each year better than anyone else on my staff, especially the intricacies of the Budget Act, she did not have a background in the minutia of the appropriations and budgeting process. What she did have—and still does—is an incredibly keen mind and a tenacious work ethic.

I assigned Muftiah to the Subcommittee on Labor, Health and Human Services, Education and Related Agencies, the second largest and one of the most important bills that touch the lives of every one of our constituents. As soon as she got there I observed her dig into budgets and programs as if she had been doing it all of her life. She quickly grasped arcane budgetary concepts, made the difficult recommendations that the committee staff must make to Members every day, asked the tough questions that must be asked in order to produce a responsible budget, and mentored younger staff in the rules and procedures of the House. As we knew would happen when she was hired, Muftiah could not learn enough, soaking up every bit of knowledge she could come by.

Now we bid a fond farewell to a loving wife and mother, a fierce friend, a great employee and a true institutionalist when it comes to this House. Muftiah has demonstrated a love and commitment to this institution and to public service that unfortunately we don't see often enough. Her work is an example that all of us should take note of and aspire to emulate. I can think of no greater role model for girls and young women than Muftiah McCartin—a woman who put herself through law school while holding down a full-time job and raising a family; one who understands that we have far more in common than we have differences; one who never put politics before principle; and a woman who faced every challenge, no matter how difficult, with a smile on her face and a kind word for all. My wife, Arlene, and I wish her all the best in the many years to come.

#### HONORING MRS. MAY TO

#### HON. JUDY CHU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Ms. CHU. Madam Speaker, I rise today to recognize a great loss to our community, Mrs. May To, who passed way on May 8, 2010, at the young age of 60. My heart goes out to her husband, Alex To; her sons, Jonathan and Brian To; and the rest of her family, friends and loved ones.

Mrs. To was an extraordinary citizen, an activist for immigrant children, youth and families in the San Gabriel Valley for more than a quarter century. Her volunteerism and service spanned several organizations including the Chinatown Service Center, Alhambra School District and the International Institute of Los Angeles.

Born in Canton, China in 1950, May grew up in Hong Kong, where she completed her bachelor's degree in sociology from the Chinese University of Hong Kong in 1975. She came to the United States on an exchange scholarship to study at UCLA in 1977 and received her master's degree in education in two years.

She spent the late 1970s and early 80s helping her fellow immigrants to make the most of the opportunities provided by her adopted country, teaching ESL courses to fifth-graders and serving as assistant director of The Chinatown Service Center, where she oversaw refugee employment, social service and youth programs among others.

In 1984, May worked with the Asian Task Force of the United Way to create the Asian Youth Center, which was meant to fill a gap in critical services for immigrant children, youth and families in the San Gabriel Valley. In 1984, she became the Center's Executive Director.

Since then and under her leadership, Asian Youth Center has grown from a three-person project to a large, community-based organization with a budget of over \$1.7 million and a 57-person staff, serving more than 8,500 Asian and non-Asian children, youth and families.

May's tireless efforts have helped shape the Asian American, Latino American, and other

immigrant communities residing in the San Gabriel Valley. Her commitment to improving access to health services, social services, and youth development opportunities for immigrants have improved the lives of countless children, youth and families over the last 20 years.

I urge my House colleagues to join me in honoring Mrs. May To for her stellar record of personal, professional and civic leadership, her indomitable spirit and her remarkable service and contributions to her community and to our nation.

#### 317TH MILITARY POLICE BATTALION ANNUAL LAW ENFORCEMENT MEMORIAL AND CANDLELIGHT VIGIL

#### HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mrs. BLACKBURN. Madam Speaker, for the past 48 years, members of this great government have taken pause to honor law enforcement officers who died in the line of duty. Remembering the sacrifice of their fallen brethren, the men and women of the 317th Military Police Battalion gathered to hold their annual Law Enforcement Memorial and Candlelight Vigil.

I am proud to join with them as they pay tribute to the last great offering of freedom given by thirty-eight United States Army soldiers, eight United States Air Force airmen, eight United States Navy sailors, five United States Marine Corp Marines, and four civilian police professionals. As the roll was called and Taps played, the 317th memorialized those who fulfilled their mission in support of Operation Iraqi Freedom.

Bannered this event the words from Tacitus: "In valor, there is hope." I ask my colleagues to join with me in thanking those who protect the liberties of this great Nation. May these words from ancient Rome remind us all of our duty to service, and may they offer us a light of gratitude for those whose service does not lead them home.

#### SECTION 45G SHORT LINE RAILROAD TAX CREDIT

#### HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. MICHAUD. Madam Speaker, I rise today to urge my colleagues in the House of Representatives to support the extension of the Section 45G Short Line Railroad Tax Credit.

The Section 45G Short Line Railroad Tax Credit expired on December 31, 2009 and has yet to be extended. Because this credit has not been renewed, the St. Lawrence & Atlantic Railroad, a 165 mile short line railroad in my district, has been unable to move forward on necessary infrastructure improvements. The St. Lawrence & Atlantic Railroad provides rail

freight service through towns like Lewiston-Auburn, Mechanic Falls and Bethel in my district. An extension of the Section 45G tax credit will ensure that they can continue to put Mainers to work making the track improvements necessary to serve communities throughout Maine.

Many businesses in my district use the St. Lawrence & Atlantic to connect to the national freight rail network. An extension of the Section 45G tax credit will help short line railroads make the improvements necessary to continue connecting Maine businesses with the national rail network, aiding economic development efforts and promoting business growth throughout Maine.

Nationally, the Section 45G tax credit generates 3,305 full-time jobs nationwide each year. This does not include the tens of thousands of jobs in the American steel and timber industries that produce the raw materials necessary to make the track improvements. It is imperative that the House and the Senate come to an agreement so that we can get railroad employees back to work and make sure that the St. Lawrence and Atlantic Railroad continues to operate smoothly.

Madam Speaker, I urge my colleagues to support the extension of the Section 45G Short Line Railroad Tax Credit.

IN RECOGNITION OF THOMAS  
TESHARA

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Ms. SPEIER. Madam Speaker, I rise to honor Tom Teshara, a San Francisco native who has been responsible for mentoring and recruiting hundreds of women and men for admission to the United States Naval Academy. Starting in 1966 as a volunteer Tom personally recruited 82 young men who were accepted by the Academy during a 4-year period. In 1972 the Academy's Candidate Guidance Office established a West Coast branch office and named Tom as its first director with responsibility for ten Western states. At one time there were 1,049 Midshipmen enrolled at the Academy from these ten Western States. Before his recent retirement Tom led a network of 125 Academy Information Officers who counseled about 6,000 candidates annually.

Tom Teshara's work involved many evenings and weekends where he represented the Academy at area school events. He founded the USNA Parents Club and coordinated all club activities. When midshipmen returned home for the holidays, it was Tom who arranged for new candidates and their parents to sit down and discuss the Academy experience with the midshipmen. It is commonly accepted that no other person in the country has recruited more candidates for the Naval Academy than Tom Teshara.

Tom, born in 1927, was drafted out of high school by the U.S. Army where he served for 13 months before another draft of sorts—he signed a baseball contract with the San Francisco Seals where he played second base in the minor league system. His interest in sports

has continued through the years. He founded the PeeWee Training League in the South San Francisco/San Bruno area and was athletic director at St. Veronica's School for nine years while playing semipro baseball.

Tom Teshara and his wife, Jeannine, were married in October 1949. They have a son, Steve, and a daughter, Debra, and two granddaughters. Madam Speaker, Tom's family has every right to be proud of his efforts of the past 50 years to bring the best and the brightest young women and men into service for our country. He deserves a big salute from all of us.

PERSONAL EXPLANATION

**HON. LUIS V. GUTIERREZ**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. GUTIERREZ. Madam Speaker, I was unavoidably delayed for votes in the House chamber yesterday, May 18, 2010. Had I been present, I would have voted "yea" on rollcall vote 273.

THE ONE-YEAR ANNIVERSARY OF  
THE END OF THE SRI LANKAN  
CIVIL WAR

**HON. BRAD MILLER**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. MILLER of North Carolina. Madam Speaker, today marks the one-year anniversary of the end of the civil war in Sri Lanka, which is a reason to be hopeful about the future of Sri Lanka. However, I also rise to voice my concern for a community at risk. The viability of a traditionally Tamil region in Sri Lanka is under threat. Since the beginning of the war, one third of the Tamil population was driven off the island and many more were displaced. A large area in the north central part of the island that was a predominantly Tamil area is now almost devoid of Tamils. According to the United Nations, more than 60 percent of homes in the north have been seriously damaged by the fighting. To make matters worse, many Sinhalese families moved into traditional Tamil areas while Tamil inhabitants were kept in detention camps following the end of the war. Finally, Tamil homes, churches, temples and cemeteries were destroyed during the war with no assurance from the Sri Lankan Government that they will be rebuilt. Sri Lanka's Tamil population is in danger of losing their identity and their traditional homeland. The United Nations has warned that "donor fatigue" in Sri Lanka has resulted in the United Nations receiving only 24 percent of the donor funds it needs to help displaced Tamils. Madam Speaker, I urge the international community to renew their efforts and take action so the Tamil culture and history is not lost.

PERSONAL EXPLANATION

**HON. MIKE THOMPSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. THOMPSON of California. Madam Speaker, on May 18, 2010, I was unavoidably unable to cast my votes for Rollcall 273, Rollcall 274 and Rollcall 275. Had I been present, I would have voted "aye."

H.R. 24, TO REDESIGNATE THE DEPARTMENT OF THE NAVY AS THE DEPARTMENT OF THE NAVY AND MARINE CORPS

**HON. CHRISTOPHER P. CARNEY**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. CARNEY. Madam Speaker, I rise today in opposition to H.R. 24, a bill to redesignate the Department of the Navy as the Department of the Navy and Marine Corps. This legislation was passed out of this chamber on a voice vote yesterday. Had a recorded vote been requested on the bill, I would like the RECORD to reflect that I would have cast a vote in opposition.

I have been a member of the United States Navy for more than 15 years and I am proud to be one of three Members of Congress still serving in the Navy Reserve.

Not a day goes by that I don't recognize the sacrifices the brave men and women of the Marine Corps have made in service to our country. Frankly, there isn't a sight that brings more fear to our enemy than that of an approaching line of determined Marines with a mission to execute.

Past, present and future Marines should certainly be proud of the Corps, but also of the Department of the Navy. The Marine Corps was, is, and should remain, part of the Navy, both in name and in mission. A name change at the Department level will do nothing but foster animosity in the ranks of the Navy and Marine Corps. We should focus instead on the fight at hand and not worry about a change in nomenclature. Unfortunately, the spirit of H.R. 24 is counter to that notion.

Changing the name of the Department of Navy would cast away over 200 years of tradition. Our founding fathers created the Department of the Navy in 1798. Passing legislation by voice vote that simply does away with the name "United States Department of the Navy" is a disservice to the history of the Department and its various components. Millions of sailors and Marines have been killed or maimed in service to our Nation as part of the Department of the Navy. That name meant something to them and it should to all of us as well.

As the esteemed body on the other side of this building considers this bill, I hope that it will examine all potential repercussions. Namely, they should consider the traditions the United States Navy holds dear.

I encourage my fellow statesmen to speak both with Navy leadership and Navy veterans in their district before casting a vote in support of this legislation.



## PERSONAL EXPLANATION

**HON. J. GRESHAM BARRETT**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately, I missed the following recorded votes on the House floor on Wednesday, March 24, 2010.

For Wednesday, March 24, 2010, had I been present I would have voted "aye" on rollcall vote No. 183, on motion to suspend the rules and agree to H.R. 4098, "aye" on rollcall vote No. 184, on motion to suspend the rules and agree to H.R. 1879, "no" on rollcall vote No. 185, on motion to table the appeal of the ruling of the chair, "no" on rollcall vote No. 186, on passage of H.R. 4899.

## OUR UNCONSCIONABLE NATIONAL DEBT

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. COFFMAN of Colorado. Madam Speaker, today our national debt is \$12,984,666,665,110.57.

On January 6, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$2,346,240,918,816.77 so far this Congress.

This debt and its interest payments we are passing to our children and all future Americans.

## HONORING ASIAN PACIFIC AMERICAN HERITAGE MONTH

**HON. DORIS O. MATSUI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Ms. MATSUI. Madam Speaker, I rise today to commemorate May as Asian Pacific American Heritage Month.

One hundred sixty-seven years ago this May, the first Japanese immigrants arrived in the United States in search of a promise of freedom and in pursuit of their own American dreams. Since that time, Asian Pacific Americans have contributed to the unique fabric of American culture in countless ways, becoming leaders in business, government, arts, and entertainment. It is entirely fitting that we have chosen May to commemorate these significant contributions, and to honor the 15.2 million Asian Pacific Americans who continue the legacy that their ancestors began in the 1840s.

During the past several decades, Congress has recognized the importance of the Asian Pacific American community to our nation's history. In 1977, Representatives Frank Horton and Norman Mineta introduced legislation to establish the first ten days of May as Asian Pacific American Heritage Week. After similar

legislation was introduced and passed in the Senate, President Jimmy Carter signed into law a joint resolution to establish this annual commemoration. Later, in 1990, we celebrated the first Asian Pacific American Heritage Month. Since that time, May has officially become a yearly tribute to the Asian Pacific American community.

While it is important that we continue recognizing these important dates—which have raised awareness of the many critical contributions of the Asian Pacific American community—we must also look to the work being done each day to make certain that the interests of Asian Pacific Americans are being considered. Members of the House of Representatives and the Senate consistently honor the heritage of this important community. The Congressional Asian Pacific American Caucus—known as CAPAC—advocates for all Asian Pacific Americans, working to ensure their voices are heard at the federal level. Additionally, the Presidential Cabinet includes three Asian American dignitaries: Energy Secretary Steven Chu, Commerce Secretary Gary Locke and Veterans Affairs Secretary Eric Shinseki.

Building on this active involvement of Asian Pacific Americans in the workings of our national government, President Obama has also stepped up his own efforts to restore the broad mission of the White House Initiative on Asian Americans and Pacific Islanders. This vital initiative—which I helped to establish while serving in the administration of President Bill Clinton—has been successful in increasing the participation of Asian Pacific Americans in federal programs. By doing so, the Initiative has helped make dramatic improvements in the quality of life of underserved Asian Pacific Americans.

Madam Speaker, in recognizing the countless contributions Asian Pacific Americans have made to our nation and to our history, I join my colleagues this May in celebrating Asian Pacific American Heritage Month.

## IN RECOGNITION OF THE I.C. NORCOM BOYS' BASKETBALL TEAM

**HON. ROBERT C. "BOBBY" SCOTT**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. SCOTT of Virginia. Madam Speaker, I rise with great pride to call attention to a group of young students who have distinguished themselves, their school, their community, and the city of Portsmouth, Virginia.

The I.C. Norcom Greyhounds boys' basketball team had a remarkable season and I believe the Greyhounds deserve formal recognition for their accomplishments. On March 12, 2010, the I.C. Norcom Greyhounds won the Group AAA boys' state basketball championship. The Greyhounds completed their 2010 season with an impressive 25–4 record.

I.C. Norcom won the championship in memorable fashion. Down ten points with 7:48 left in the game, the team rallied back to trail 54–53 with a minute left to play. A buzzer-beating shot by Shelton Haskins with 1.5 seconds left

sealed the 55–54 victory over a previously unbeaten team from Petersburg High School.

I.C. Norcom made history throughout the tournament. They were the first Portsmouth team to ever reach a semifinal game. In a similar comeback victory against Chantilly High, Norcom advanced to the AAA Championship, again the first team from Portsmouth to do so. The win gives the school and the city of Portsmouth its first Group AAA state basketball title.

I.C. Norcom was founded in 1913 as the High Street School, the first public high school for black students in Portsmouth. It was renamed in 1953 in honor of its first supervising principal, Israel Charles Norcom, a pioneering educator, civic leader and businessman. Now, more than 50 years and three locations later, I.C. Norcom High School is still an innovating and inspiring place for Portsmouth students.

In addition to excelling on the basketball court, the Greyhounds are also doing great things in the classroom. I.C. Norcom houses a Center of Excellence in Math and Science, which provides students with additional classes in science, math, and technology. Fifty seniors this year will be receiving their Center of Excellence Diplomas which require five science course credits, one more than required under the advanced diploma. In addition 23 I.C. Norcom seniors have been participating in the First College program—attending Tidewater Community College this semester and taking up to 14 college credits before they graduate. I.C. Norcom is doing a great job cultivating excellence both on and off the athletic field.

I would like to extend my enthusiastic congratulations to the I.C. Norcom players, their families, principal Lynn Briley, coach Leon Goolsby and the rest of his coaching staff, on the occasion of this historic Boy's basketball championship. On behalf of the people of the Third Congressional district of Virginia, I.C. Norcom alumni, and the entire city of Portsmouth, I commend them for this historic win and wish the program years of success in the future.

## HONORING DR. THOMAS CROW

**HON. GEORGE RADANOVICH**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 19, 2010*

Mr. RADANOVICH. Madam Speaker, I rise today to congratulate Thomas Crow upon his retirement as the Chancellor of State Center Community College District (SCCCD). After serving over 20 years with the college district, Dr. Crow will be honored by the State Center Community College District Board of Trustees and Foundation Board of Directors on Friday, May 7, 2010.

Dr. Thomas Crow earned a Bachelor of Arts degree and a Master of Arts degree in Physical Education from California State University, Fresno. Later, he attended Arizona State University, where he earned a Doctor of Philosophy degree in Education. Dr. Crow has a long history in education which includes a broad spectrum of experience in kindergarten through twelfth grade; including his service as

Superintendent of Fowler Unified School District.

Prior to his appointment as Chancellor, Dr. Crow served as President of Reedley College for 7 years. While with SCCCD he also served as Vice Chancellor, External Operations and Assistant to the Chancellor.

Outside of SCCCD, Dr. Crow is active in the community. He is the past president of the Reedley Rotary Club. He is also an active member of the Fresno Business Council, Fresno County Economic Development Corporation, the Greater Fresno Area Chamber of Commerce, The Regional Jobs Initiative, Fresno Compact and the Workforce Investment Board.

Madam Speaker, I rise today to commend and congratulate Dr. Thomas Crow upon his retirement from the State Center Community College District. I invite my colleagues to join me in wishing Dr. Crow many years of continued success.

#### CROWN POINT BULLDOGS 8 AND UNDER GIRLS SOFTBALL TEAM

#### HON. PETER J. VISCLOSKY

STATE OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2010

Mr. VISCLOSKY. Madam Speaker, it gives me great pleasure to pay tribute to the exceptional achievements of the 2009 Crown Point Bulldogs 8 and Under Girls Softball Team. This truly remarkable softball team accomplished extraordinary feats during their undefeated season. For their great ability and skill, as well as their tremendous dedication and hard work, these outstanding young athletes are to be congratulated.

On July 12, 2009, the Crown Point Bulldogs 8 and Under Girls Softball team won the National Softball Association's Indiana State Championship. They went undefeated with a record of 4-0 in the tournament. The team then went on to win the National Softball Association World Series, with a record of 5-1. This victory marked the first World Series Championship in Crown Point history.

The people of Crown Point as well as the community of Northwest Indiana can be proud of this successful and talented softball team. The team consists of: Maggie Ballentine, Kari Bauner, Hannah Bond, Madelyn Elish, Gracie Frazier, Skylar Hekkel, Hailey Herbert, Brooke Manhatton, Mallory McMahon, Caitlyn Phillips, Emma Van Prooyen, and Megan Van Prooyen.

Madam Speaker, I would like to once again extend my most heartfelt congratulations to the members of the 2009 Crown Point Bulldogs 8 and Under Girls Softball Team, as well as head coach Kevin Frazier, assistant coaches Mike Manhatton, Shawn Ballentine, and Matt McMahon, and all of the community, including parents and caregivers, who have instilled in this team the desire to succeed, as well as the great value and discipline found in sports activities. I look forward to watching their future athletic achievements as they continue to rise to the top.

#### PERSONAL EXPLANATION

#### HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2010

Mr. MANZULLO. Madam Speaker, on Tuesday, May 18, 2010, I missed a series of votes because I was not feeling well. If I had been here, I would have voted "no" on rollcall No. 273, "yea" on rollcall No. 274, and "yea" on rollcall No. 275.

#### INVESTIGATE ALLEGED WAR CRIMES IN SRI LANKA

#### HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2010

Mr. DAVIS of Illinois. Madam Speaker, May 19 commemorates the one-year anniversary of the end of the war and the remembrance of the many lives lost during the civil war in Sri Lanka. I call on the international community to pursue independent investigations into the alleged war crimes that occurred. The U.S. would not be alone in calling for these investigations. The UN High Commissioner for Human Rights and the European Union have already called for independent investigations. Amnesty International, Human Rights Watch and other NGOs have called for similar investigations of war crimes, crimes against humanity and human rights violations. The alleged crimes include:

- Extrajudicial abuse and detention of unarmed civilians and former combatants;
- use of child soldiers;
- harm to civilians and civilian objects;
- the killing of captives or combatants seeking to surrender;
- individual disappearances; and
- inhumane conditions.

All parties complicit in violating human rights must be held accountable. Only then can the Sri Lankan people really move forward in trying to achieve peace and stability on the island.

#### CONGRATULATING OUTSTANDING HIGH SCHOOL ARTISTS OF NEW JERSEY'S 9TH CONGRESSIONAL DISTRICT

#### HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2010

Mr. FRELINGHUYSEN. Madam Speaker, once again, I come to the floor to recognize the great success of strong local schools working with dedicated parents and teachers. I rise today to congratulate and honor a number of outstanding high school artists from the 11th Congressional District of New Jersey. Each of these talented students participated in the 2010 Congressional Arts competition, "An Artistic Discovery." Their works of art are exceptional.

Sixty-one students participated. That is a wonderful response, and I would very much like to build on that participation for future competitions.

Madam Speaker, I would like to congratulate the three winners of our art competition. First Place was awarded to Christina Eng from Oak Knoll School of the Holy Child for her work, "Capitol Building in Winter." Second Place was awarded to Austin Dimare from Parsippany Christian School for his work, "Italiano Donna." Third Place was awarded to Elizabeth Frino from Pequannock Township High School for her work, "Rock Star".

I would like to recognize each artist for their participation by indicating their high school, their name, and the title of their contest entry for the official record:

Boonton High School: Zenab Kahn's "Faiza"; Joseph Park's "Self Portrait with Friends"; Nicole van de Vliet's "Out of Africa"; Arielle Winters' "Meow".

Bridgewater Raritan Regional High School: MingZhu Hai's "Self Portrait as a Child"; Dana Li's "Guitar Playing"; Amanda Wong's "Friends".

Chatham High School: Hannah Drossman's "Giverny"; Ria Iizuka's "Aries After 8th Period: Reduced to Mathematical Component"; David Daniel Melgar's "Lust".

Hopatcong High School: Kristen Fahy's "Chroma Lily".

Livingston High School: Jennifer Brodsky's "A City in the Sun"; Amy Friedman's "Walking into the Shadows"; Sarah Tse's "Utilities"; Mark Zlotzky's "A Frickin' Tree".

Madison High School: Rachel Fico's "Mixer"; Vandela Larsson's "Glow"; Stephanie Riveros' "Deadlock"; Bailey Theado's "Kavala Village".

Millburn High School: Chanthia Ma's "Self Portrait"; Sona Roy's "Green-eyed"; Dana Serruto's "Movie Time"; Jordan Scharf's "Chair in a Field of Roses".

Montville High School: Allison Au's "Caribbean Still Life"; Victoria Eng's "Light"; Michael Johnston's "Short Sighted"; Micah Schure's "Trombone".

Morris Catholic High School: Josh Gilardi's "Empire State of Mind"; Liz McCormick's "Christmas in the City".

Morris Knolls High School: Jennifer Hastings' "The Lake Monster"; Meredith McCabe's "A Safe Place to Hide"; Rebecca Syracuse's "Fear of Intimacy"; Irina Walter's "Hero of War".

Morristown High School: Demetria Jorge's "Sunset Salute".

Morristown-Beard School: Ashley Young's "Anor Hinge".

Mount Olive High School: Daniel Gillette's "Stripping Down the Media"; Vanessa Lorenzo's "Ghosts of Chernobyl".

Oak Knoll School: Christina Eng's "Capitol Building in Winter"; Gioia Topazio's "Leaves".

Parsippany Christian School: Sydney Dahl's "Insecurity"; Austin Dimare's "Italiano Donna"; Lexie Reilly's "I Love You".

Parsippany High School: Ashley Del Rio's "Murano Glass"; Brittany Ann Serrao's "Untitled".

Pequannock Township High School: Kristin Brian's "Scale"; Elizabeth Frino's "Rock Star".

Ridge High School: Lillian Chen's "No Treasure After All"; Edward Kowalewski's

"Helix"; Mary Petras' "Peace"; Howard Wei's "Guardian of the Trolls Lair".

Roxbury High School: Sam Knopka's "Self Portrait"; Nick Griffin's "Free Your Mind"; Alessandra Varillas' "Innocent Soldiers"; Ruth Vega's "Plastic Beauty".

Seton Hall Preparatory School: Dylan Hughes' "Students in Blue"; Charles Kohaut's "Eye".

Watchung Hills High School: Sofia Lizza's "Spoons"; Lisa Monetti's "Clouds Are Shrouding in Moments Unforgettable"; Alex Nahorniak's "Untitled"; Carolyn Thornton's "Maggie".

West Morris Central High School: Courtney Dietsche's "Fish of Fantasy: Nightly Wanderers".

Each year the winner of the competition has their art work displayed with other winners from across the country in a special corridor here at the U.S. Capitol. Thousands of our fellow Americans walk through the exhibition and are reminded of the vast talents of our young men and women. Indeed, all of these young artists are winners, and we should be proud of their achievements so early in life.

Madam Speaker, I urge my colleagues to join me in congratulating these talented young people from New Jersey's 11th Congressional District.

#### PERSONAL EXPLANATION

#### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2010

Mr. BECERRA. Madam Speaker, on Tuesday, May 18, 2010, I missed rollcall Nos. 273, 274, and 275. If present, I would have voted "yea" on rollcall Nos. 273, 274, and 275.

#### EMILY ENGLAND CLYBURN— LIBRARIAN AND HUMANITARIAN

#### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2010

Mr. HASTINGS of Florida. Madam Speaker, on May 7, 2010 a good friend of mine, Emily England Clyburn, received a much deserved reward for her extraordinary service to South Carolina State College and our Nation. Her alma mater and beloved institution marked her distinguished career of public service with an honorary doctorate degree. Emily's honorary degree embodies her humanitarian spirit, a gift she shares as a lifelong librarian.

Emily's career began with her belief in earning a strong education. She graduated from Berkeley Training High School in Moncks Corner, South Carolina in 1956 before going on to receive her bachelor's degree from S.C. State in 1961. Here, she met her husband, U.S. Congressman JAMES E. CLYBURN. Mrs. Clyburn went on to earn her Masters in Librarianship from the University of South Carolina in May 1977.

Mrs. Clyburn employed her education by dedicating her career to libraries. She gave

her students the gift of learning by establishing the first library at Fairwold Middle School in Columbia, SC. She worked at Simonton Elementary School in Charleston, SC and was assistant librarian at Burke High School. Mrs. Clyburn was also head librarian at the Naval Hospital in Charleston, SC and eventually went on to retire in 1994 after serving two tours as Assistant Librarian at the Veterans Administration Hospital in Columbia, SC.

Congressman and Mrs. Clyburn continue to support educational initiatives through the James E. and Emily E. Clyburn Endowment for Archives and History at their alma mater, S.C. State. S.C. State will honor Mrs. Clyburn's lifetime of achievement with the Emily E. Clyburn Archives and History Center in the soon to be constructed James E. Clyburn University Transportation Center, a lasting symbol to a woman who will leave an everlasting legacy.

Mrs. Clyburn has been bestowed many honors in her career, none more important than that of mother and wife. Since their marriage in 1961, Congressman and Mrs. Clyburn have dedicated their lives to a sense of purpose and the betterment of society and have instilled these same values into their three wonderful daughters, Mignon, Jennifer, and Angela. I'm certain these same lasting principles will also influence their two grandchildren, Walter and Sydney.

Madam Speaker, here is someone we can all look up to and be proud of—a strong woman who overcame the many boundaries of her time and a sterling model of how we should define true success by our ability to give back. Emily England Clyburn has accomplished far more than any honorary doctorate can appropriately signify. I am proud to call Emily my friend, her husband a colleague, and their service to this Nation extraordinary.

#### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 20, 2010 may be found in the Daily Digest of today's RECORD.

#### MEETINGS SCHEDULED

MAY 25

9 a.m.

Armed Services

Airland Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

10 a.m.

Energy and Natural Resources

To hold hearings to examine the liability and financial responsibility issues related to offshore oil production, including the Deepwater Horizon accident in the Gulf of Mexico, including S. 3346, to increase the limits on liability under the Outer Continental Shelf Lands Act.

SR-325

Finance

To hold hearings to examine reducing overpayments and increasing quality in the unemployment system.

SD-215

Rules and Administration

To hold hearings to examine the nomination of William J. Boardman, of Maryland, to be Public Printer.

SR-301

10:30 a.m.

Armed Services

Readiness and Management Support Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

Joint Economic Committee

To hold hearings to examine how to minimize the impact of the great recession on young workers.

210, Cannon Building

2 p.m.

Armed Services

Emerging Threats and Capabilities Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

Health, Education, Labor, and Pensions

To resume hearings to examine Elementary and Secondary Education Act (ESEA) reauthorization, focusing on early childhood education.

SD-430

2:15 p.m.

Foreign Relations

Business meeting to consider S. 3317, to authorize appropriations for fiscal years 2010 through 2014 to promote long-term, sustainable rebuilding and development in Haiti, S. 3193, to establish within the office of the Secretary of State a Coordinator for Cyberspace and Cybersecurity Issues, S. 3104, to permanently authorize Radio Free Asia, S. Res. 469, recognizing the 60th Anniversary of the Fulbright Program in Thailand, S. Res. 532, recognizing Expo 2010 Shanghai China and the USA Pavilion at the Expo, and the nominations of Michael P. Meehan, of Virginia, and Dana M. Perino, of the District of Columbia, both to be a Member of the Broadcasting Board of Governors.

S-116, Capitol

2:30 p.m.

## Intelligence

To hold closed hearings to consider certain intelligence matters.

SH-219

## Commission on Security and Cooperation in Europe

To hold hearings to examine Holocaust era assets after the Prague conference.

SR-428A

3 p.m.

## Homeland Security and Governmental Affairs

## State, Local, and Private Sector Preparedness and Integration Subcommittee

To hold hearings to examine assessing the effects of the Deepwater Horizon oil spill on states, localities and the private sector.

SD-342

3:30 p.m.

## Armed Services

## Strategic Forces Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

5 p.m.

## Armed Services

## Personnel Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

MAY 26

9:30 a.m.

## Agriculture, Nutrition, and Forestry

To hold hearings to examine the nominations of Elisabeth Ann Hagen, of Virginia, to be Under Secretary for Food Safety, and Catherine E. Woteki, of the District of Columbia, to be Under Secretary for Research, Education, and Economics, both of the Department of Agriculture, and Sara Louise Faivre-Davis, of Texas, Lowell Lee Junkins, of Iowa, and Myles J. Watts, of Montana, all to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation, Farm Credit Administration.

SR-328A

## Appropriations

## Interior, Environment, and Related Agencies Subcommittee

To hold hearings to examine firefighting policy with the U.S. Forest Service and the Department of the Interior.

SD-124

## Armed Services

## SeaPower Subcommittee

Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

10 a.m.

## Judiciary

## Constitution Subcommittee

To hold hearings to examine the legality and efficacy of line-item veto proposals.

SD-226

## Finance

To hold hearings to examine certain nominations.

SD-215

## Health, Education, Labor, and Pensions

Business meeting to consider S. 2781, to change references in Federal law to mental retardation to references to an intellectual disability, and to change references to a mentally retarded individual to references to an individual with an intellectual disability, and the nominations of David K. Mineta, of California, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy, and Adam Gamoran, of Wisconsin, Deborah Loewenberg Ball, of Michigan, Margaret R. McLeod, of the District of Columbia, and Bridget Terry Long, of Massachusetts, all to be a Member of the Board of Directors of the National Board for Education Sciences.

SD-430

## Indian Affairs

To hold hearings to examine the nomination of Tracie Stevens, of Washington, to be Chairman of the National Indian Gaming Commission.

SD-628

2 p.m.

## Aging

To hold hearings to examine dietary supplements, focusing on what seniors need to know.

SD-562

2:30 p.m.

## Armed Services

Closed business meeting to markup the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

## Commerce, Science, and Transportation

## Communications and Technology Subcommittee

To hold hearings to examine innovation and inclusion, focusing on the Americans with Disabilities Act at 20.

SR-253

MAY 27

9:30 a.m.

## Armed Services

Closed business meeting to markup the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

10 a.m.

## Health, Education, Labor, and Pensions

To hold hearings to examine building a secure future for multiemployer pension plans.

SD-430

2:15 p.m.

## Judiciary

## Antitrust, Competition Policy and Consumer Rights Subcommittee

To hold hearings to examine the United/Continental Airlines merger, focusing on how consumers will fare.

SD-226

2:30 p.m.

## Intelligence

To hold closed hearings to consider certain intelligence matters.

SH-219

MAY 28

9:30 a.m.

## Armed Services

Closed business meeting to markup the proposed National Defense Authorization Act for fiscal year 2011.

SR-222

JUNE 16

9:30 a.m.

## Veterans' Affairs

To hold hearings to examine veterans' claims processing, focusing on if current efforts are working.

SR-418

## HOUSE OF REPRESENTATIVES—Thursday, May 20, 2010

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Ms. LORETTA SANCHEZ of California).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
May 20, 2010.

I hereby appoint the Honorable LORETTA SANCHEZ to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

### PRAYER

Reverend Dr. Roderick Lewis, Sr., Parkwood Institutional CME Church, Charlotte, North Carolina, offered the following prayer:

Almighty God, with thanksgiving we pray for the sustaining of our lives. May we be thankful for the creation which You have shared with us, as You are the Sovereign, Holy and Almighty God.

Grant wisdom and knowledge for the Members of this great body. May this cadre of leaders be sensitive to Your voice, to the people of America and to the world. We pray for President Barack Obama, the House of Representatives, the Senate floor, and all governmental leaders.

Lord, we pray for the men and women serving in our Armed Forces, for their protection and for their families as they serve on distant shores. Continue to be a guiding light to those who have lost loved ones in the defense of our Nation.

May each person here find wisdom to conduct the people's business so to be pleasing to You. In the precious name of Christ we pray. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina (Mr. WATT) come forward and lead the House in the Pledge of Allegiance.

Mr. WATT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 920. An act to amend section 11317 of title 40, United States Code, to improve the transparency of the status of information technology investments, to require greater accountability for cost overruns on Federal information technology investment projects, to improve the processes agencies implement to manage information technology investments, to reward excellence in information technology acquisition, and for other purposes.

### WELCOMING REVEREND DR. RODERICK D. LEWIS, SR.

The SPEAKER pro tempore. Without objection, the gentleman from North Carolina, Congressman WATT, is recognized for 1 minute.

There was no objection.

Mr. WATT. Madam Speaker, I am honored to welcome Reverend Dr. Roderick D. Lewis, Sr., as the guest chaplain for the United States House of Representatives for today. Since July of 2001, Reverend Dr. Lewis has served as pastor of Parkwood Institutional CME Church which is located in my congressional district in Charlotte, North Carolina.

Reverend Dr. Lewis is a native of Columbia, South Carolina. He received his bachelor of social work from Livingston College, also in my congressional district, his master of divinity from Howard University's School of Divinity, and his doctor of ministry from Hood Theological Seminary. He is an active member of the community and has served as a clinical social worker with the W.G. Hefner VA Medical Center in Salisbury, North Carolina, which is also in my congressional district, and with the South Carolina Department of Mental Health.

On behalf of my constituents in the 12th Congressional District and my colleagues here in the House, I thank Reverend Dr. Lewis for his service to his community and for his prayer today.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. After consultation among the Speaker and the majority and minority leaders, and with their consent, the Chair announces that, when the two Houses meet in joint meeting to hear an address by His Excellency Felipe Calderon Hinojosa, President of Mexico, only the doors immediately opposite the Speaker and those immediately to her left and right will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House. Due to the large attendance that is anticipated, the rule regarding the privilege of the floor must be strictly enforced. Children of Members will not be permitted on the floor. The cooperation of all Members is requested.

The practice of reserving seats prior to the joint meeting by placard will not be allowed. Members may reserve their seats by physical presence only following the security sweep of the Chamber.

### RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, May 13, 2010, the House stands in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 6 minutes a.m.), the House stood in recess subject to the call of the Chair.

During the recess, beginning at 10:53 a.m., the following proceedings were had:

### JOINT MEETING TO HEAR AN ADDRESS BY HIS EXCELLENCY FELIPE CALDERON HINOJOSA, PRESIDENT OF MEXICO

The Speaker of the House presided.

The Majority Floor Services Chief, Mr. Barry Sullivan, announced the Vice President and Members of the U.S. Senate who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort His Excellency Felipe Calderon Hinojosa, President of Mexico, into the Chamber:

The gentleman from Maryland (Mr. HOYER);

The gentleman from South Carolina (Mr. CLYBURN);

The gentleman from Connecticut (Mr. LARSON);

The gentleman from California (Mr. BECERRA);

The gentleman from Arizona (Mr. PASTOR);

The gentlewoman from New York (Ms. VELÁZQUEZ);

The gentleman from Texas (Mr. REYES);

The gentlewoman from California (Ms. LORETTA SANCHEZ);

The gentleman from Texas (Mr. CUELLAR);

The gentleman from Ohio (Mr. BOEHNER);

The gentleman from Virginia (Mr. CANTOR);

The gentleman from Indiana (Mr. PENCE);

The gentleman from Michigan (Mr. MCCOTTER);

The gentlewoman from Washington (Mrs. MCMORRIS RODGERS);

The gentleman from Texas (Mr. SESSIONS);

The gentleman from California (Mr. MCCARTHY);

The gentleman from Oregon (Mr. WALDEN); and

The gentleman from California (Mr. DREIER).

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators as members of the committee on the part of the Senate to escort His Excellency Felipe Calderon Hinojosa, President of Mexico, into the House Chamber:

The Senator from Nevada (Mr. REID);  
The Senator from Illinois (Mr. DURBIN);

The Senator from Connecticut (Mr. DODD);

The Senator from Massachusetts (Mr. KERRY);

The Senator from North Dakota (Mr. DORGAN);

The Senator from New Jersey (Mr. MENENDEZ);

The Senator from Kentucky (Mr. MCCONNELL);

The Senator from Alaska (Ms. MURKOWSKI);

The Senator from Texas (Mr. CORNYN); and

The Senator from Texas (Mrs. HUTCHISON).

The Majority Floor Services Chief announced the Acting Dean of the Diplomatic Corps, Her Excellency Faida Mitifu, Ambassador of the Democratic Republic of Congo.

The Acting Dean of the Diplomatic Corps entered the Hall of the House of Representatives and took the seat reserved for her.

The Majority Floor Services Chief announced the Cabinet of the President of the United States.

The Members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 11 o'clock and 12 minutes a.m., the Majority Floor Services Chief announced His Excellency Felipe Calderon Hinojosa, President of Mexico.

The President of Mexico, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives and stood at the Clerk's desk.

(Applause, the Members rising.)

The SPEAKER. Members of Congress, I have the high privilege and the distinct honor of presenting to you His Excellency Felipe Calderon Hinojosa, President of Mexico.

(Applause, the Members rising.)

President CALDERON. Thank you very much.

Madam Speaker, Mr. Vice President, Honorable Members of Congress, and as we say in Mexico, *amigas y amigos* Congressistas, it's a great honor to stand before you today. I would like to thank Congress and the American people for this invitation. I want to express my gratitude to all of you here who have supported Mexico during very challenging times. I also salute the Mexican Americans and all Latinos who work every day for the prosperity of this great Nation.

Mexico is a young country but a very old nation. Our roots go back thousands of years. However, this year is especially significant for us. We are celebrating the bicentennial of our independence, 200 years of being proudly free and proudly Mexican. At that time, Mexico was the first nation to abolish slavery in the whole of continental America. And it is exactly 100 years since the Mexican Revolution, a revolution against oppression, a revolution for justice and democracy. As you can see, Mexico was founded on the same values and principles as the United States of America. We are very proud of this past. However, the Mexican people and the government are focused on the future. That is why Mexico is a country in a continuous process of transformation. We are determined to change, and we are taking the decisions that are going to make Mexico a more prosperous democracy.

One of the main changes taking place in Mexico is our commitment to firmly establish the rule of law. That is why we are deploying the full force of the State to confront organized crime with determination and courage. But let me explain. This fight is not only and not mainly about stopping the drug trade. It is first and foremost a drive to guarantee the security of Mexican families who are under threat from the abuses and the vicious acts of criminals. As I told the Mexican people in my inaugural speech, restoring public security will not be easy and will not be quick. It will take time; it will take money; and unfortunately, to our deep sorrow, it will take human lives as well. This is a battle that has to be fought because

the future of our families is at stake. But I told them then, you can be sure of one thing: This is a battle that, united, we, the Mexican people, will win.

We cannot ignore the fact that the challenge to our security has roots on both sides of the border. At the end of the day, its origin is the high demand for drugs here and in other places. Secretary of State Clinton has said, "We accept our share of the responsibility. We know that the demand for drugs drives much of this illicit trade." This is symbolic of our new relationship. We have moved from the suspicion and the mutual recrimination of the past to the cooperation and mutual understanding of the present.

Let me take this opportunity to congratulate President Obama for his recent initiative to reduce the consumption of drugs. I hope, for the good of both nations and the entire hemisphere, that this succeeds. Now let me tell you what Mexico is doing to confront and overcome this problem. First, we have not hesitated to use all the power of the State, including the federal police and the armed forces, in order to support the local governments that are facing the greatest threat from organized crime. This is a temporary measure to restore order. The goal is to provide local governments time and the opportunity to rebuild and strengthen their security and judicial institutions. Second, we are weakening the financial and operational capabilities of criminal gangs. Federal operations have led to record seizures of drugs, cash, and weapons from the criminals. We are hitting them, and we are hitting them hard. The federal forces have also arrested many important felons who are now facing Mexican justice, and we have extradited a record number of criminals to face justice here in the United States. Third, we are rebuilding our institutions and security forces, especially at the federal level. We have more than tripled the federal police budget since the beginning of my administration and multiplied the size of its force. We are recruiting honest young men and women with values who are better trained, better paid, and better equipped. Fourth, we are transforming our judicial system to make it more transparent and efficient. We are moving towards open and oral trials that are the basis of your own judicial system. And fifth, we have set up social programs to prevent young people from turning to crime, including prevention and treatment for addictions. As you can see, we are doing everything we can to fight this threat and to secure our common future.

We are fulfilling our duty as a good neighbor, taking care of business on our side of the border. The U.S. is also helping. Congress approved the Merida Initiative, which we greatly appreciate,

and our administrations are sharing more information than ever to fight crime. However, there is one issue where Mexico needs your cooperation, and that is stopping the flow of assault weapons and other deadly arms across the border. Let me be clear on this. I fully respect, I admire the American Constitution, and I understand that the purpose of the Second Amendment is to guarantee good American citizens the ability to defend themselves and their Nation. But believe me, many of these guns are not going to honest American hands. Instead, thousands are ending up in the hands of criminals. Just to give you an idea, we have seized 75,000 guns and assault weapons in Mexico in the last 3 years, and more than 80 percent of those we have been able to trace came from the United States. And if you look carefully, you will notice that the violence in Mexico started to grow a couple of years before I took office in 2006. This coincides with the lifting of the assault weapons ban in 2004. One day, criminals in Mexico, having gained access to these weapons, decided to challenge the authorities in my country. Today, these weapons are aimed by the criminals not only at rival gangs but also at Mexican civilians and authorities. And with all due respect, if you do not regulate the sale of these weapons in the right way, nothing guarantees that criminals here in the United States with access to the same power of weapons will not decide to challenge the American authorities and civilians.

It is true that the U.S. Government is now carrying out operations against gun traffickers. But it is also true that there are more than 7,000 gun shops along the border with Mexico, where almost anyone can purchase these powerful weapons. I also fully understand the political sensitivity of this issue. But I would ask Congress to help us, with respect, and to understand how important it is for us that you enforce current laws to stem the supply of these weapons to criminals and consider reinstating the assault weapons ban. By any legal way that you consider, let us work together to end this lethal trade that threatens Mexico and your own people.

I have spoken at length on this issue, about security, because I know it is a big concern of the American people. However, as I said, Mexico is a country undergoing deep transformations, and our relationship is about much more than just security. We are turning our economy into one that is competitive and strong, capable of generating the jobs Mexicans need. I believe in freedom. I believe in market. I believe in all those principles that are able to empower economies and provide well-being for the people.

We are carrying out a set of structural reforms that had been ignored for decades in Mexico. We started, for in-

stance, by reforming the public pension system, and with this, we guaranteed the retirement of public servants, and at the same time, we will save 30 points of GDP at net present value in our public finances. We passed a tax reform that reduced our dependence on oil and allowed us to continue financing our development, keeping our public deficit close to 1 percent of GDP. We also made important changes to the oil sector. This will allow Pemex, the public oil company, to award more flexible contracts to specialized global companies and so become more efficient and increase its operational and financial capacity in order to get more oil and natural gas. This will ensure our energy independence and strengthen regional energy security as well. And finally, we have increased investment in infrastructure from 3 points of GDP to 5 points of GDP a year, building the roads, ports, airports, and energy plants we need to modernize. This is the highest investment level in infrastructure in decades. These changes are making us a more modern country and a stronger partner of the United States.

The energy reform, the fiscal reform, the pension reform, the investment in infrastructure, among others, have all prepared us for a better tomorrow but also allowed us to overcome the terrible economic crisis last year. Then, Mexico's economy experienced its worst contraction in modern times. However, thanks to strong regulations, not one cent from taxpayers went to a single bank in Mexico last year. We were also able to quickly implement countercyclical measures, such as a temporary public works program and increased credits for small businesses. In this way, we were able to save hundreds of thousands of Mexican jobs. We managed this even though we had to face a series of emergencies, any one of which would have derailed a weaker country. We faced the perfect storm last year. Besides the crisis, we overcame the second worst drought in 70 years, the biggest ever drop in oil production, and the outbreak of the H1N1 flu virus. So today I can come here before you and say with confidence that Mexico is standing tall, a stronger and more determined nation than ever, a nation and a people ready to face the future and take their rightful place in the world. And the future starts now, now that the Mexican economy is recovering.

So far this year, Mexico has created more than 400,000 new jobs, which is the highest number ever created in a 4-month period in Mexico. In the first quarter, the Mexican economy grew 4.3 percent, and we are expecting to grow more than 4 percent this year in our economy, which means, among other things, more well-being for our people and more Mexicans buying more American products. We have made struc-

tural reforms to modernize our economy, and we want more. Today our Congress is debating stronger antitrust regulation as well as new labor legislation that will provide more opportunities for women and young people. And my government is auctioning both wireless frequencies and an optic fiber backbone in order to increase competition and coverage in telecoms. Mexico is on the right track towards development now.

As well as promoting economic progress, we are improving the quality of life of all Mexicans under the principle of equal opportunities for all. Thanks to Oportunidades, an advanced poverty relief program, Mexico was able to reduce the number of people living in extreme poverty from 35 million in 1996 to 14 million in 2006. This program reaches the 6 million poorest families, which means one in four Mexicans. Equal opportunity means more and better education, and we have provided scholarships to 6 million poor children of all ages. At the same time, we are investing more than ever in free public universities. And today, almost 90,000 students graduate as engineers and technicians every year in my country. We want all our young people to have the chance to study. Equal opportunity means access to health services for everyone. We have tripled the budget for Popular Health Insurance and rebuilt or renovated 1,700 public hospitals and clinics in 3 years, more than one a day. This will allow us to reach a goal any nation would be proud of, universal health coverage by 2012. A doctor, medicine, and treatment for any Mexican that needs it. Equal opportunity means more and better education, cutting-edge poverty fighting programs, and universal health coverage. By improving opportunities for all, we are giving people one less reason to leave Mexico.

As you can see, Mexico is a country in transformation. This is making us an even more strategic partner for the future prosperity of the American people. The world is more global and more interconnected every day. It is also divided into large economic regions. Those regions that maximize their comparative advantages will be the ones that succeed. And we both need to compete with Asia and with Europe. Mexico and the United States are stronger together than they are apart. Our economic ties have made both economies stronger, and together, we can renew our partnership to restore stronger and faster economic growth on both sides of the border. A stronger Mexico means a stronger United States. Let us not forget, Mexicans are the second-largest foreign buyers of American goods in the world. And a stronger United States, of course, means a stronger Mexico. So I invite you to work with Mexico and consolidate North America as the most competitive region in the world. I believe



in that. Let us create more jobs for American workers and more jobs for Mexican workers.

Members of Congress, I am not a President who likes to see Mexicans leave our country searching for opportunities abroad. With migration, our communities lose their best people, the hardest working, the most dynamic, the leaders of the communities. Each migrant is a parent who will never see his children again.

Quiero decirles a los migrantes, a quienes estan trabajando aqui por la grandeza de este pais, que los admiramos, que los extranamos, que estamos luchando por sus derechos y que estamos trabajando duro por Mexico y por sus familias.

I want to say to the migrants, all those who are working really hard for this great country that we admire them, we miss them, we are working hard for their rights, and we are working really hard for Mexico and for the families. Today we are doing the best we can do in order to reduce migration, to create opportunities, and to create jobs for Mexicans in our own country, where their homes are and where their families are. As many jobs as we can. And Mexico will one day be a country in which our people will find the opportunities that today they look for outside of the country. Until then, Mexico is determined to assume its responsibility. For us, migration is not just your problem. We see migration as our problem as well.

My government does not favor the breaking of the rules. I fully respect the right of any country to enact and enforce its own laws. But what we need today is to fix a broken and inefficient system. We favor the establishment of laws that work and work well for us all. So the time has come for the United States and Mexico to work together on this issue. The time has come to reduce the causes of migration and to turn this phenomenon into one of legal, ordered, and secure flows of workers and visitors. We want to provide the Mexican people with the opportunities they are looking for. That is our goal, that is our mission as government; to transform Mexico into a land of opportunities, to provide our people with jobs and opportunities, to live in peace and to be happy.

I want to recognize the hard work and leadership of many of you in the Senate, and in the House, and of President Obama, who are determined to find responsible and objective answers to this issue. I am convinced that comprehensive immigration reform is also crucial to secure our common border. However, I strongly disagree with the recently adopted law in Arizona. It is a law that not only ignores a reality that cannot be erased by decree but also introduces a terrible idea: using racial profiling as a basis for law enforcement. And that is why I agree with

President Obama, who said the new law "carries a great amount of risk when core values that we all care about are breached." I want to bridge the gap of feelings and emotions between our countries and our peoples. I believe in this. I believe in communications, I believe in cooperation, and we together must find a better way to face and fix this common problem.

And finally, the well-being of both our peoples depends not only on our ability to face regional challenges but global ones as well. That is the case of climate change. That is the case, for instance, of nonproliferation of nuclear weapons in the world. Climate change is one of humanity's most pressing threats. Global warming demands the commitment of all nations, both developed and developing countries. That is why Mexico was the first developing country to commit to emissions reduction targets and programs. As host of the upcoming COP 16, we are working hard to make progress in the fight against climate change. Because of your global leadership, we will need your support to make the meeting in Cancun next November a success.

Madam Speaker, Mr. Vice President, Honorable Members of the United States Congress, Mexico is a country in deep transformation, indeed. We are building the future our people deserve, a future of opportunity, a future of freedom, of equality, of the rule of law, a future of security in which families and children can go out to work, study, and play without fear, and most of all, a future in which our children and their children will see their dreams come true. I have come here as your neighbor, as your partner, as your ally, and as your friend. Our two great nations are joined by geography and by history, but more important, we are joined by a shared brilliant future. I believe in the future of North America as the strongest, most prosperous region in the world. That is possible.

President Franklin Roosevelt once said that "the only limit to our realization of tomorrow will be our doubts of today. Let us move forward with strong and active faith." And I say, let us work together with a strong and active faith in order to give our people the future they deserve.

Thank you very much for your invitation. God bless America. Viva Mexico.

(Applause, the Members rising.)

At 11 o'clock and 52 minutes a.m., His Excellency Felipe Calderon Fournier, President of Mexico, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Majority Floor Services Chief escorted the invited guests from the Chamber in the following order:

The Members of the President's Cabinet;

The Acting Dean of the Diplomatic Corps.

#### JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses now dissolved.

Accordingly, (at 11 o'clock and 54 minutes a.m.), the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

#### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will continue in recess subject to the call of the Chair.

□ 1301

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BLUMENAUER) at 1 o'clock and 1 minute p.m.

#### PRINTING OF PROCEEDINGS HAD DURING THE RECESS

Ms. MARKEY of Colorado. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to ten 1-minute per side.

#### DEPENDENT CARE COVERAGE EXPANSION

(Mr. COURTNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTNEY. Mr. Speaker, on May 7 the largest private employer in the State of Connecticut, United Technologies Corporation, announced a decision to implement dependent coverage up to age 26 for their 30,000 employees and families. They took advantage of an IRS ruling which was issued April 23 to implement this change, which will make a huge difference for adult children of their workforce.

Too often at commencement ceremonies, which are taking place all across the country, kids are given a diploma and then a notice that they are coming off their parents' health insurance plan. With the health insurance reform bill, this is now a thing of the past, and UTC has set a great example for employers all across the country to implement this change as soon as possible.

Yesterday, Mohegan Sun Casino, with 10,000 employees, issued the same

decision for its employees. This is going to make a difference for families and adult children. I spoke to a mother of a 22-year-old who has been hospitalized numerous times, and she was in tears. She was so excited that her daughter will be able to continue to receive the care that she needs, which otherwise would never have been available if we had not passed the health care reform bill.

#### STOP BAILING OUT COUNTRIES, STATES, AND COMPANIES

(Mr. FLEMING asked and was given permission to address the House for 1 minute.)

Mr. FLEMING. Mr. Speaker, recently the IMF announced a giant bailout to keep Greece from defaulting, defaulting on its own debt, debt for its socialistic economy. The U.S. is the largest contributor to the IMF; therefore, we are the largest bailout source for this. That's right, Mr. Speaker, the U.S. taxpayer is now in the business of rescuing Greece from its debt crisis, which was brought on by reckless borrowing and spending to fund welfare programs.

While the U.S. is putting itself on the hook for another bailout, liberals in Washington are working hard to copycat the Greek model: taxing, spending, borrowing, and increasing entitlement programs across the board. Behind Greece are other European countries on the verge of default. Are we going to bail them out, too? And that's not to mention States like California and the many companies this government has already bailed out. Who will bail out our country when we can't borrow our way out of trouble?

Mr. Speaker, let's stop bailing out countries, States, and companies, and hold all entities, including ourselves, accountable for runaway spending.

#### PASS WALL STREET REFORM

(Ms. MARKEY of Colorado asked and was given permission to address the House for 1 minute.)

Ms. MARKEY of Colorado. Mr. Speaker, I rise today to urge this Congress to pass meaningful Wall Street reform to protect American taxpayers from ever again being forced to bail out Wall Street banks. It's time to end "too big to fail" financial firms whose irresponsible behavior almost crashed our entire economy. And it's time to end predatory lending practices with tougher enforcement.

We must pass a bill that will end bailouts and ensure that banks and taxpayers are never again on the hook for Wall Street's risky gambles. We must act to protect families' retirement funds, college savings, homes, and small businesses, and bring transparency and accountability back to a financial system run amok.

I wasn't in Congress while some Wall Street banks were running our finan-

cial system into the ground, but I came here to clean up the mess and get America's economy back on track. So I ask my colleagues, whose side do you stand on? Do you stand with the reckless Wall Street banks or will you stand with American families? I urge my colleagues to pass this bill.

#### FLORIDA IS STILL OPEN FOR BUSINESS

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, on Wednesday the U.S. Coast Guard announced that the tar balls discovered on the Florida Keys shoreline were not linked to the gulf oil spill. What does this mean? It means that Florida is still open for business.

Mr. Speaker, public beaches in my congressional district of Miami Beach and the Florida Keys are open. Their waters are warm and inviting. Charter boat captains eagerly await the opportunity to take tourists deep sea fishing. Similarly, dive shops stand by to take visitors on a tour of some of the greatest underwater treasures in this world, the Florida Keys coral reef.

For those outside of Florida, it is important to note that fresh-caught fish from our Sunshine State is just as fresh as ever, as are our stone crabs, spiny lobster, and shrimp. Recent news reports have caused a premature panic for visitors. And while it is important that coastal communities prepare for the possibility of oil coming ashore, Florida is open for business.

Come on down; the water's fine.

#### ARIZONA'S MISGUIDED LAW

(Mr. BACA asked and was given permission to address the House for 1 minute.)

Mr. BACA. Mr. Speaker, America's immigration system is broken. Congress' failure to act has opened the doors for laws like Arizona SB 1070 that are inspired by hate and racism. Sadly, this misguided law hurts everyone who looks different, whether they are American citizens, lawful immigrants, or undocumented immigrants.

Everyone deserves the right to live free from unwarranted suspicion, but Arizona SB 1070 legalizes racial profiling, taking away our basic freedoms.

Later today, I will introduce legislation in the House to fight this law that clarifies the role of the Federal Government as the sole enforcer of immigration laws.

I urge all of you who value fairness and justice to join me in an economic boycott of Arizona and wear a red and yellow wristband in opposing this hateful law.

#### YOCUT

(Mr. NEUGEBAUER asked and was given permission to address the House for 1 minute.)

Mr. NEUGEBAUER. Mr. Speaker, every day all across America right now families are sitting down at the dinner table trying to figure out how to make ends meet. Many of them have lost their jobs. Others have seen that their mortgage payments have gone up, their utility costs are going up. And you know what they are having to do? They are having to sit down and revise their budget. They are trying to figure out instead of taking a vacation if they need to go and fix the car.

What we have seen is the American people are realizing that you can't borrow and spend, borrow and spend, that someday there is a day of reckoning. And they are wondering why their government hasn't figured that out.

Last week, Republicans gave the American people an opportunity to voice their opinion about whether we should cut expenses or not; 280,000 people said we should start cutting spending. And they are going to be given an opportunity this week to express themselves as well.

Mr. Speaker, what they wonder is why Congress doesn't get the message. We saw today that the jobless rate is up to 471,000 people. People are out of work, Mr. Speaker. We need to get Americans back to work and we need to cut the spending. We need to listen to the American people.

#### THE SMALL BUSINESS INTERMEDIARY LENDING PILOT ACT

(Ms. KILROY asked and was given permission to address the House for 1 minute.)

Ms. KILROY. Mr. Speaker, when I talk to people in my community, the thing that they are most concerned about are jobs and the economy. When we took office, when I was sworn in last January, we were losing jobs at an atrocious rate, over 600,000 jobs per month. Now we are seeing months of job growth and adding jobs to our economy. That's the good news.

We must continue to stay on this pathway. That's why I have supported bills like the HIRE Act to help employers add more people to their businesses, and recently filed the Small Business Intermediary Lending Pilot Act so that people who are starting businesses and need smaller loans, in that gap between \$35,000 and \$200,000, that there can be a pilot program to set that in motion. Because when I talk to people and business people in the community, the one thing that they tell me that they really need is access to credit and access to capital.

The Small Business Intermediary Lending Pilot Act will help that. And another bill that we are working on in our Financial Services Committee,

putting money into community banks to make loans to business, small business, will do just that.

#### READ THE ARIZONA LAW

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, administration officials are criticizing Arizona's new illegal immigration enforcement law, and they haven't read the bill. The Attorney General hasn't read it. The Secretary of Homeland Security hasn't read it. Some State Department radical compared the Arizona law to human rights violations in China, but he hadn't read the bill either. But that hasn't stopped them all from criticizing the Arizona law they know nothing about.

Mexico President Calderon spoke here today and lectured us on our illegal immigration laws. He said the Arizona law opens the door to racial profiling. If the President had read the law he would know it does nothing of the sort. In fact, in four places the law prohibits any profiling.

I wonder if President Calderon has read the law he has been criticizing. It doesn't appear he has read his own country's tough illegal immigration laws either, but he takes the time to arrogantly denounce our laws. All of these critics don't want the truth of the law to get in the way of their indignant demagoguery and political agenda.

And that's just the way it is.

#### IN TRIBUTE TO SGT NATHAN KENNEDY

(Mr. TIM MURPHY of Pennsylvania asked and was given permission to address the House for 1 minute.)

Mr. TIM MURPHY of Pennsylvania. Mr. Speaker, I rise today to pay tribute to an American hero. On April 27, the Kennedy family in the Town of Claysville, Pennsylvania, in my district, lost a son and a brother. Sergeant Nathan Kennedy was less than a month away from completing his second tour with the U.S. Army when he was fatally wounded by enemy sniper fire in Afghanistan.

Nathan Kennedy was a 2004 graduate of McGuffey High School, where he excelled as a champion wrestler. In 2006, he enlisted in the Army, and served in Iraq and Afghanistan. Sadly, he was killed in battle on his late mother Penelope's birthday, and Nathan was laid to rest beside her this past Mother's Day.

While Sergeant Kennedy returned a few weeks too early, he returned to a grateful group of friends and neighbors standing along the flag-lined streets of Claysville to honor his sacrifice. In joining the procession, I will never forget the overwhelming solemn presence

of that silent crowd. Not a sound was made during Sergeant Kennedy's procession, none but for the strut of the team of horses that pulled the caisson carrying his flag-draped coffin.

Although our hearts are heavy in remembrance of Nathan, we may rejoice, because while the small town of Claysville has lost a son, a grateful Nation has gained a hero.

□ 1315

#### "INTELLIGENT TALK" IN WASHINGTON, D.C.

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I am happy to inform our colleagues that common sense has come to Washington, D.C., at least by way of the airwaves. WRC 1260 is now offering "Intelligent Talk," which includes people like Bill Bennett, Michael Medved, Hugh Hewitt, Dennis Prager, and more.

And we all know that with the 24-hour news cycle, bloggers, talk radio, satellite radio, Facebook, and YouTube, there's no shortage of commentary out there at all. But these hosts are consistently thoughtful voices for sound public policy. They have built large audiences and broad respect not by being the loudest or most outrageous, but by consistently offering reasoned sound analysis and positive center-right solutions.

Some might think that "Intelligent Talk" in Washington, D.C., was an idea whose time would never come. Thanks to Bennett, Hewitt, Prager, Medved, and more, there is a little more common sense kicking around now in our Nation's Capital.

#### THE NEED TO EXTEND THE SHORT LINE RAILROAD REHABILITATION TAX CREDIT

(Mr. LIPINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIPINSKI. Mr. Speaker, investing in transportation and infrastructure is one of the best ways to put people back to work while increasing our global competitiveness. These investments must be made not just publicly but also by private companies. So we need to support policies that encourage private investment.

One such policy is the Short Line Railroad Rehabilitation Tax Credit, which has been critical in boosting private investment in rail infrastructure. In Chicagoland, which suffers greatly from rail congestion, this credit has been put to good use by railroads such as the Belt Railway Company and the Indiana Harbor Belt. These railroads have made improvements that reduce

congestion, boosting local business competitiveness and easing traffic on the roads.

Unfortunately, this credit expired at the end of last year. So we must act now. Let's help put people to work and improve American transportation and enhance and extend the short line tax credit.

#### COSTA MESA, A "RULE OF LAW" CITY

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, I rise to praise the courageous and responsible stand taken by the city of Costa Mesa. In stark contrast to the municipalities that have declared themselves sanctuary cities, Costa Mesa, under the leadership of Mayor Allen Mansour, has declared itself a "rule of law" city, a city where citizens and law enforcement will support, rather than undermine, our efforts to deter and enforce our immigration laws.

I am proud to represent Costa Mesa and, yes, to reside in that city. It follows Arizona in its efforts to protect the interests of the American people from the municipality up. This isn't just a job for the United States Government.

Today the citizens of the United States see their well-being threatened, whether it's their education, their health care, or the criminal justice systems on which they depend undermined by this massive, out-of-control flow of illegals into our country.

I praise those people who are taking a stand there locally, whether it's Costa Mesa or Arizona, and I think we should be taking a cue from them to do our job in Washington to watch out for the interests of the American people.

#### NATIONAL MEDIA IGNORE NEWS STORIES THEY DON'T LIKE

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, here are a few recent examples of the national media ignoring stories they don't like.

Number one, Attorney General Eric Holder has criticized Arizona's new immigration enforcement law and may file suit against it. However, during a Judiciary Committee hearing last week, the Attorney General admitted he had not even read the law. The national media largely ignored his admission.

Number two, the City of Los Angeles recently voted to boycott the State of Arizona because of its new immigration law. A Los Angeles Times online

poll found that more than 9 out of 10 respondents opposed the city's boycott. The L.A. Times ignored their own poll results.

Number three, hundreds of scientists gathered this week at an international conference to discuss the scientific problems with the theory of human-caused global warming. The media largely ignored the conference.

The national media should report all of the facts, not just the ones that support their liberal agenda.

#### CONGRESS NEEDS TO STRENGTHEN FOREIGN STUDENT VISA SECURITY

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, recent events have highlighted gaps in our student visa laws that can be exploited by terrorists who attempt to enter our country under false pretenses and then disappear as they plot to attack us.

Earlier this year, the Department of Homeland Security disrupted schemes involving individuals holding student visas despite their violation of the terms. In addition, the recent Times Square bomber reportedly first entered the United States on a student visa in 1998. On top of that, several of the 9/11 hijackers had violated the terms of their student visas.

Foreign students play an important role in our society, but we must ensure that terrorists do not use our student visa process as a back door into our country. The need to improve the system is clear.

I introduced the Student Visa Security Improvement Act in order to improve screening of foreign students before they enter the U.S. and to ensure that they abide by the terms of their visa once they are here. Congress must act now to strengthen student visa security and pass H.R. 5208.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 5327, by the yeas and nays;

House Resolution 1256, by the yeas and nays;

House Resolution 1336, de novo;

House Resolution 1361, de novo.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

#### UNITED STATES-ISRAEL ROCKET AND MISSILE DEFENSE CO-OPERATION AND SUPPORT ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 5327, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MCMAHON) that the House suspend the rules and pass the bill, H.R. 5327, as amended.

The vote was taken by electronic device, and there were—yeas 410, nays 4, not voting 16, as follows:

[Roll No. 284]

YEAS—410

Ackerman	Chandler	Gingrey (GA)
Aderholt	Childers	Gohmert
Adler (NJ)	Chu	Gonzalez
Akin	Clarke	Goodlatte
Alexander	Clay	Granger
Altmire	Cleaver	Graves
Andrews	Clyburn	Grayson
Arcuri	Coble	Green, Al
Austria	Coffman (CO)	Green, Gene
Baca	Cohen	Griffith
Bachmann	Cole	Grijalva
Baird	Conaway	Guthrie
Baldwin	Connolly (VA)	Gutierrez
Barrow	Cooper	Hall (NY)
Bartlett	Costa	Hall (TX)
Barton (TX)	Costello	Halvorson
Bean	Courtney	Hare
Becerra	Crenshaw	Harman
Berkley	Crowley	Harper
Berman	Cuellar	Hastings (FL)
Berry	Culberson	Hastings (WA)
Biggert	Cummings	Heinrich
Bilirakis	Dahlkemper	Heller
Bishop (GA)	Davis (AL)	Hensarling
Bishop (NY)	Davis (CA)	Herge
Bishop (UT)	Davis (IL)	Herseth Sandlin
Blackburn	Davis (KY)	Higgins
Blumenauer	Davis (TN)	Hill
Blunt	DeFazio	Himes
Boccieri	DeGette	Hinchey
Boehner	DeLauro	Hinojosa
Bono Mack	Dent	Hirono
Boozman	Deutch	Hodes
Boren	Diaz-Balart, L.	Holden
Boswell	Dicks	Holt
Boucher	Dingell	Honda
Boustany	Doggett	Hoyer
Boyd	Donnelly (IN)	Hunter
Brady (PA)	Doyle	Inglis
Brady (TX)	Dreier	Inslee
Braley (IA)	Driebehaus	Israel
Bright	Duncan	Issa
Broun (GA)	Edwards (MD)	Jackson (IL)
Brown (SC)	Edwards (TX)	Jenkins
Brown, Corrine	Ehlers	Johnson (IL)
Brown-Waite,	Ellison	Johnson, E. B.
Ginny	Ellsworth	Johnson, Sam
Buchanan	Emerson	Jones
Burgess	Eshoo	Jordan (OH)
Burton (IN)	Etheridge	Kagen
Butterfield	Fallin	Kanjorski
Buyer	Farr	Kaptur
Calvert	Fattah	Kennedy
Camp	Filner	Kildee
Campbell	Flake	Kilpatrick (MI)
Cantor	Fleming	Kilroy
Cao	Forbes	Kind
Capito	Fortenberry	King (IA)
Capps	Foster	King (NY)
Capuano	Fox	Kingston
Cardoza	Frank (MA)	Kirkpatrick (AZ)
Carnahan	Franks (AZ)	Kissell
Carney	Frelinghuysen	Klein (FL)
Carson (IN)	Fudge	Kline (MN)
Carter	Gallagher	Kosmas
Cassidy	Garrett (NJ)	Kratovil
Castle	Gerlach	Lamborn
Castor (FL)	Giffords	Lance
Chaffetz		Langevin

Larsen (WA)	Myrick	Scott (GA)
Larson (CT)	Nadler (NY)	Scott (VA)
Latham	Napolitano	Sensenbrenner
LaTourette	Neal (MA)	Serrano
Latta	Neugebauer	Sessions
Lee (CA)	Nunes	Sestak
Lee (NY)	Nye	Shadegg
Levin	Oberstar	Shea-Porter
Lewis (CA)	Obey	Sherman
Lewis (GA)	Olson	Shimkus
Linder	Olver	Shuler
Lipinski	Ortiz	Shuster
LoBiondo	Owens	Simpson
Loeback	Pallone	Sires
Lofgren, Zoe	Pascarella	Skelton
Lowe	Pastor (AZ)	Slaughter
Lucas	Paulsen	Smith (NE)
Luetkemeyer	Payne	Smith (NJ)
Lujan	Pence	Smith (TX)
Lummis	Perlmutter	Smith (WA)
Lungren, Daniel	Perrillo	Snyder
E.	Peters	Space
Lynch	Peterson	Speier
Mack	Petri	Spratt
Maffei	Pingree (ME)	Stearns
Maloney	Pitts	Stupak
Manzullo	Platts	Sullivan
Marchant	Poe (TX)	Sutton
Markey (CO)	Polis (CO)	Tanner
Markey (MA)	Pomeroy	Taylor
Marshall	Posey	Teague
Matheson	Price (GA)	Terry
Matsui	Price (NC)	Thompson (CA)
McCarthy (CA)	Putnam	Thompson (MS)
McCarthy (NY)	Quigley	Thompson (PA)
McCaul	Radanovich	Thornberry
McClintock	Rahall	Tiahrt
McCollum	Rangel	Tiberi
McCotter	Rehberg	Tierney
McDermott	Reichert	Titus
McGovern	Reyes	Tonko
McHenry	Richardson	Towns
McIntyre	Rodriguez	Tsongas
McKeon	Roe (TN)	Turner
McMahon	Rogers (AL)	Upton
McMorris	Rogers (KY)	Van Hollen
Rodgers	Rogers (MI)	Velázquez
McNerney	Rohrabacher	Visclosky
Meek (FL)	Rooney	Walden
Meeks (NY)	Ros-Lehtinen	Walz
Melancon	Roskam	Wasserman
Mica	Ross	Schultz
Michaud	Rothman (NJ)	Waters
Miller (FL)	Roybal-Allard	Watson
Miller (MI)	Royce	Watt
Miller (NC)	Ruppersberger	Waxman
Miller, Gary	Rush	Weiner
Miller, George	Ryan (OH)	Welch
Minnick	Ryan (WI)	Westmoreland
Mitchell	Salazar	Whitfield
Mollohan	Sanchez, Loretta	Wilson (OH)
Moore (KS)	Sarbanes	Wilson (SC)
Moore (WI)	Scalise	Wittman
Moran (KS)	Schakowsky	Wolf
Moran (VA)	Schauer	Woolsey
Murphy (CT)	Schiff	Wu
Murphy (NY)	Schmidt	Yarmuth
Murphy, Patrick	Schrader	Young (AK)
Murphy, Tim	Schwartz	Young (FL)

NAYS—4

Conyers  
Kucinich

Paul  
Stark

NOT VOTING—16

Bachus	Garamendi	Kirk
Barrett (SC)	Gordon (TN)	Sánchez, Linda
Bilbray	Hoekstra	T.
Bonner	Jackson Lee	Schock
Diaz-Balart, M.	(TX)	Souder
Engel	Johnson (GA)	Wamp

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1348

Mr. McDERMOTT changed his vote from "nay" to "yea."

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ENGEL. Mr. Speaker, on rollcall No. 284 I was detained at a luncheon honoring the President of Mexico, since I am Chairman of the Western Hemisphere Committee of the Foreign Affairs Committee, and was unable to get back to the vote on time. Had I been present, I would have voted "aye."

#### CONGRATULATING PHIL MICKELSON ON WINNING 2010 MASTERS GOLF TOURNAMENT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 1256, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 1256.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 401, nays 0, answered "present" 8, not voting 21, as follows:

[Roll No. 285]

YEAS—401

Ackerman	Burgess	Davis (TN)
Aderholt	Burton (IN)	DeGette
Adler (NJ)	Butterfield	Delahunt
Akin	Buyer	DeLauro
Alexander	Calvert	Dent
Altmire	Camp	Deutch
Andrews	Campbell	Diaz-Balart, L.
Arcuri	Cantor	Dicks
Austria	Cao	Dingell
Baca	Capito	Doggett
Bachmann	Capps	Donnelly (IN)
Baird	Capuano	Doyle
Baldwin	Cardoza	Dreier
Barrow	Carnahan	Driehaus
Bartlett	Carney	Duncan
Barton (TX)	Carson (IN)	Edwards (MD)
Bean	Carter	Ellison
Becerra	Castle	Ellsworth
Berkley	Castor (FL)	Emerson
Berman	Chandler	Eshoo
Biggert	Childers	Etheridge
Bilirakis	Chu	Fallin
Bishop (GA)	Clarke	Farr
Bishop (NY)	Clay	Fattah
Bishop (UT)	Cleaver	Filner
Blackburn	Clyburn	Flake
Blumenauer	Coble	Fleming
Blunt	Coffman (CO)	Forbes
Boccieri	Cohen	Fortenberry
Boehner	Cole	Foster
Bono Mack	Conaway	Fox
Boozman	Connolly (VA)	Frank (MA)
Boren	Conyers	Franks (AZ)
Boswell	Cooper	Frelinghuysen
Boucher	Costa	Fudge
Boustany	Costello	Gallegly
Boyd	Courtney	Garrett (NJ)
Brady (PA)	Crenshaw	Gerlach
Brady (TX)	Crowley	Giffords
Braley (IA)	Cuellar	Gingrey (GA)
Bright	Culberson	Gohmert
Brown (GA)	Cummings	Gonzalez
Brown (SC)	Dahlkemper	Goodlatte
Brown, Corrine	Davis (AL)	Granger
Brown-Waite,	Davis (CA)	Graves
Ginny	Davis (IL)	Grayson
Buchanan	Davis (KY)	Green, Gene

Griffith	Marchant	Ros-Lehtinen
Grijalva	Markey (CO)	Roskam
Guthrie	Matheson	Ross
Gutierrez	Matsui	Rothman (NJ)
Hall (NY)	McCarthy (CA)	Roybal-Allard
Hall (TX)	McCarthy (NY)	Royce
Halvorson	McCaul	Ruppersberger
Hare	McClintock	Rush
Harman	McCollum	Ryan (OH)
Harper	McCotter	Ryan (WI)
Hastings (FL)	McDermott	Salazar
Hastings (WA)	McGovern	Sanchez, Loretta
Heinrich	McHenry	Sarbanes
Heller	McIntyre	Scalise
Hensarling	McKeon	Schakowsky
Herger	McMahon	Schauer
Herseht Sandlin	McMorris	Schiff
Higgins	Rodgers	Schmidt
Hill	McNerney	Schock
Himes	Meek (FL)	Schrader
Hinche	Meeks (NY)	Scott (GA)
Hinojosa	Melancon	Scott (VA)
Hirono	Mica	Sensenbrenner
Hodes	Michaud	Serrano
Holden	Miller (FL)	Sessions
Holt	Miller (MI)	Sestak
Honda	Miller (NC)	Shadegg
Hoyer	Miller, Gary	Shea-Porter
Hunter	Miller, George	Sherman
Inglis	Minnick	Shimkus
Inslee	Mitchell	Shuler
Israel	Mollohan	Shuster
Issa	Moore (KS)	Simpson
Jackson (IL)	Moore (WI)	Sires
Jenkins	Moran (KS)	Skelton
Johnson (GA)	Moran (VA)	Slaughter
Johnson (IL)	Murphy (CT)	Smith (NE)
Johnson, E. B.	Murphy (NY)	Smith (NJ)
Johnson, Sam	Murphy, Patrick	Smith (TX)
Jones	Murphy	Smith (WA)
Jordan (OH)	Myrick	Snyder
Kagen	Nadler (NY)	Space
Kanjorski	Napolitano	Speier
Kaptur	Neal (MA)	Spratt
Kennedy	Neugebauer	Stark
Kildee	Nunes	Stearns
Kilpatrick (MI)	Nye	Stupak
Kilroy	Obe	Sullivan
Kind	Olson	Sutton
King (IA)	Olver	Tanner
King (NY)	Ortiz	Taylor
Kingston	Owens	Teague
Kirkpatrick (AZ)	Pallone	Terry
Kissell	Pascarell	Thompson (CA)
Klein (FL)	Pastor (AZ)	Thompson (MS)
Kline (MN)	Paul	Thompson (PA)
Kosmas	Paulsen	Thornberry
Kratovil	Payne	Tiahrt
Kucinich	Pence	Tiberi
Lamborn	Perlmutter	Tierney
Lance	Perriello	Titus
Langevin	Peters	Tonko
Larsen (WA)	Peterson	Towns
Larson (CT)	Petri	Tsongas
Latham	Pingree (ME)	Turner
LaTourette	Pitts	Upton
Latta	Platts	Van Hollen
Lee (CA)	Poe (TX)	Velázquez
Lee (NY)	Polis (CO)	Visclosky
Levin	Pomeroy	Walden
Lewis (CA)	Posey	Walz
Lewis (GA)	Price (GA)	Wasserman
Linder	Price (NC)	Schultz
Lipinski	Putnam	Waters
LoBiondo	Quigley	Watson
Loebach	Radanovich	Watt
Lofgren, Zoe	Rahall	Weiner
Lowe	Rangel	Welch
Lucas	Rehberg	Westmoreland
Luetkemeyer	Reichert	Whitfield
Lujan	Reyes	Wilson (OH)
Lungren, Daniel	Richardson	Wilson (SC)
E.	Rodriguez	Wittman
Lynch	Roe (TN)	Wolf
Mack	Rogers (AL)	Woolsey
Maffei	Rogers (KY)	Wu
Manoney	Rogers (MI)	Yarmuth
Manzullo	Rohrabacher	Young (FL)

ANSWERED "PRESENT"—8

Berry	DeFazio	Oberstar
Cassidy	Lummis	Rooney
Chaffetz	Marshall	

NOT VOTING—21

Bachus	Garamendi	Sánchez, Linda
Barrett (SC)	Gordon (TN)	T.
Bilbray	Green, Al	Schwartz
Bonner	Hoekstra	Souder
Diaz-Balart, M.	Jackson Lee	Wamp
Edwards (TX)	(TX)	Waxman
Ehlers	Kirk	Young (AK)
Engel	Markey (MA)	

□ 1357

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. EHLERS. Mr. Speaker, on rollcall No. 285 I was involved in a meeting off the floor of the House and reached the floor after the voting board had been closed. Had I been present, I would have voted "aye."

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 19, 2010.

Hon. NANCY PELOSI,  
*The Speaker, House of Representatives, Washington, DC.*

DEAR MADAM SPEAKER: I have the honor to transmit herewith a scanned copy of a letter received from Mr. Chet Harhut, Commissioner, Bureau of Commissions, Elections, and Legislation, Pennsylvania Department of State, Commonwealth of Pennsylvania, indicating that, according to the unofficial returns of the Special Election held May 18, 2010, the Honorable Mark S. Critz was elected Representative to Congress for the Twelfth Congressional District, Commonwealth of Pennsylvania.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,  
*Clerk.*

Enclosure.

COMMONWEALTH OF PENNSYLVANIA,  
BUREAU OF COMMISSIONS, ELECTIONS & LEGISLATION,

Harrisburg, PA, May 19, 2010.

Hon. LORRAINE C. MILLER,  
*Clerk, House of Representatives, The Capitol, Washington, DC.*

DEAR MS. MILLER: This is to advise you that the unofficial results of the Special Election held on Tuesday, May 18, 2010, for Representative in Congress from the Twelfth Congressional District of Pennsylvania, show that Mark S. Critz received 70,710 or 52.6% of the total number of votes cast for that office.

It would appear from these unofficial results that Mark S. Critz was elected as Representative in Congress from the Twelfth Congressional District of Pennsylvania.

To the best of our knowledge and belief at this time, there is no contest to this election.

As soon as the official results are certified to this office by all counties involved, an official Certificate of Election will be prepared for transmittal as required by law.

CHET HARHUT,  
*Commissioner.*

# **SWEARING IN OF THE HONORABLE MARK S. CRITZ, OF PENNSYLVANIA, AS A MEMBER OF THE HOUSE**

Mr. KANJORSKI. Madam Speaker, I ask unanimous consent that the gentleman from Pennsylvania, the Honorable MARK S. CRITZ, be permitted to take the oath of office today.

His certificate of election has not arrived, but there is no contest and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. Will the Representative-elect and the members of the Pennsylvania delegation present themselves in the well.

Mr. CRITZ appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear or affirm that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations. You are now a Member of the 111th Congress.

## **WELCOMING THE HONORABLE MARK S. CRITZ TO THE HOUSE OF REPRESENTATIVES**

The SPEAKER. The gentleman from Pennsylvania (Mr. KANJORSKI) is recognized for 1 minute.

Mr. KANJORSKI. Madam Speaker, it is my honor to introduce to you and to our colleagues today our newest member of the Pennsylvania delegation, MARK CRITZ. Congressman CRITZ is a dedicated public servant to the people of western Pennsylvania. For more than a decade, MARK has served in many roles for the late Jack Murtha, including as his district director. As I am sure many of you know, a Member's district director knows the ins and outs of a Member's congressional district, and MARK was an integral part of the communities for which he served and a strong advocate for them. He deeply understands the needs of western Pennsylvanians and comprehends what needs to be done to help them. MARK is a proven problem solver, and residents of western Pennsylvania can clearly see the results of his and Jack's efforts throughout their district. These experiences have prepared him well for his job as a Member of Congress.

This is a bittersweet moment for me. Jack passed away too soon. I recently said that Jack was always there when

Pennsylvania needed him, and that he was emblematic of the hardworking Pennsylvanians that he represented for so many years. During many of his years in Congress working right next to him and helping Jack get the job done was MARK. I could think of no better person to take over his seat and continue Jack's efforts than MARK. It is a true honor to introduce him as the newest Congressman from Pennsylvania.

Madam Speaker, I yield to a Member of Congress from Pennsylvania, JOE PITTS.

□ 1400

Mr. PITTS. Madam Speaker, the Pennsylvania Republican delegation is also proud to welcome Representative CRITZ to the House. MARK, I am sure that you will try to emulate your old boss' record of service to the people of the 12th Congressional District. He is missed by the delegation, but we're glad to have a good friend of his representing Pennsylvania in this House. I'm certain that your prior service to the 12th District will be invaluable as you serve here in Washington. On behalf of the Republican delegation, please do not hesitate to contact any of us if we can be of help as you begin your service to the people of Pennsylvania.

Again, welcome to the House of Representatives.

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania.

Mr. CRITZ. Thank you, Madam Speaker.

I also would like to thank my wife, Nancy, my two beautiful children, Sadie and Joe, my entire family and Mrs. Murtha for their support. I also want to thank the people of Pennsylvania's 12th Congressional District, who I am honored to represent. Today I begin your work.

This moment is bittersweet for me because I wouldn't be here right now if Jack Murtha hadn't left us too soon. I have thought about the many lessons Congressman Murtha taught me. He always said to me, "It's always about the work." It is. And I'm going to work tirelessly every day in Congress for the families of western Pennsylvania. The people of western Pennsylvania, just like so many across the country, are struggling right now. The challenges we are facing are unprecedented. My priority is to put western Pennsylvanians and families across the country back to work, and I am going to fight every day, moving forward to do my part to help create good-paying American jobs. I know all of us share this commitment to getting our country back to work, and I'm optimistic that we can all come together to make this a reality on behalf of all of our constituents.

Jack Murtha spent his life working to bring jobs and opportunity to our

communities. That was his fight for 36 years, and our communities are far better because of it. While nobody can fill his shoes, I now have the extraordinary honor of continuing his fight for jobs and following in his footsteps to Congress. I am honored to be here, and I pledge to my constituents that no one will work harder for them than I will. Thank you very much.

## **ANNOUNCEMENT BY THE SPEAKER**

The SPEAKER. Under clause 5(d) of rule XX, the Chair announces to the House that, in light of the administration of the oath to the gentleman from Pennsylvania (Mr. CRITZ), the whole number of the House is 432.

## **CONGRATULATING UNIVERSITY OF TEXAS MEN'S SWIMMING AND DIVING TEAM**

The SPEAKER pro tempore (Mr. SERRANO). Without objection, 5-minute voting will continue.

There was no objection.

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 1336.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio (Ms. FUDGE) that the House suspend the rules and agree to the resolution, H. Res. 1336.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

## **RECORDED VOTE**

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 405, noes 0, answered "present" 7, not voting 19, as follows:

[Roll No. 286]

## **AYES—405**

Ackerman	Bishop (GA)	Brown-Waite,
Aderholt	Bishop (NY)	Ginny
Adler (NJ)	Bishop (UT)	Buchanan
Akin	Blackburn	Burgess
Alexander	Blumenauer	Burton (IN)
Altmire	Blunt	Butterfield
Andrews	Boccheri	Buyer
Arcuri	Boehner	Calvert
Austria	Bono Mack	Camp
Baca	Boozman	Campbell
Bachmann	Boren	Cantor
Baird	Boswell	Cao
Baldwin	Boucher	Capito
Barrow	Boustany	Capps
Bartlett	Boyd	Capuano
Barton (TX)	Brady (PA)	Cardoza
Bean	Brady (TX)	Carnahan
Becerra	Braley (IA)	Carney
Berkley	Bright	Carson (IN)
Berman	Brown (GA)	Carter
Biggert	Brown (SC)	Cassidy
Bilirakis	Brown, Corrine	Castle

Castor (FL)	Herseth Sandlin	Michael	Skelton	Thompson (CA)	Wasserman	Andrews	Diaz-Balart, L.	Kirkpatrick (AZ)
Chandler	Higgins	Miller (FL)	Slaughter	Thompson (MS)	Schultz	Arcuri	Dicks	Kissell
Childers	Hill	Miller (MI)	Smith (NE)	Thompson (PA)	Waters	Austria	Dingell	Klein (FL)
Chu	Himes	Miller (NC)	Smith (NJ)	Thornberry	Watson	Baca	Doggett	Kline (MN)
Clarke	Hinchey	Miller, Gary	Smith (TX)	Tiahrt	Watt	Bachmann	Donnelly (IN)	Kosmas
Clay	Hirono	Miller, George	Smith (WA)	Tiberi	Waxman	Baird	Doyle	Kratovil
Cleaver	Hodes	Minnick	Snyder	Tierney	Weiner	Baldwin	Dreier	Kucinich
Clyburn	Holden	Mitchell	Space	Titus	Welch	Drieaus	Drieaus	Lamborn
Coble	Holt	Mollohan	Speier	Tonko	Whitfield	Duncan	Duncan	Lance
Coffman (CO)	Honda	Moore (KS)	Spratt	Towns	Wilson (OH)	Bartlett	Edwards (MD)	Langevin
Cohen	Hoyer	Moore (WI)	Stark	Tsongas	Wilson (SC)	Barton (TX)	Edwards (TX)	Larsen (WA)
Cole	Hunter	Moran (KS)	Stearns	Turner	Wittman	Bean	Ehlers	Larson (CT)
Conaway	Inglis	Moran (VA)	Stupak	Upton	Wolf	Becerra	Ellison	Latham
Connolly (VA)	Inslee	Murphy (CT)	Sullivan	Van Hollen	Woolsey	Berkley	Ellsworth	LaTourette
Conyers	Israel	Murphy (NY)	Sutton	Velázquez	Wu	Berman	Emerson	Latta
Cooper	Issa	Murphy, Patrick	Tanner	Visclosky	Yarmuth	Biggert	Engel	Lee (CA)
Costa	Jackson (IL)	Murphy, Tim	Taylor	Walden	Young (AK)	Bishop (GA)	Eshoo	Lee (NY)
Costello	Jenkins	Myrick	Teague	Walz	Young (FL)	Bishop (NY)	Etheridge	Levin
Courtney	Johnson (GA)	Nadler (NY)	Terry			Bishop (UT)	Fallin	Lewis (CA)
Crenshaw	Johnson (IL)	Napolitano				Blackburn	Farr	Lewis (GA)
Critz	Johnson, E. B.	Neal (MA)				Blumenauer	Fattah	Linder
Crowley	Johnson, Sam	Neugebauer				Blunt	Filner	Lipinski
Cuellar	Jones	Nunes	Berry	Lummis	Westmoreland	Bocieri	Flake	LoBiondo
Culberson	Jordan (OH)	Nye	Chaffetz	Oberstar		Bono Mack	Fleming	Loebach
Cummings	Kagen	Obey	DeFazio	Rooney		Boozman	Forbes	Lofgren, Zoe
Dahlkemper	Kanjorski	Olson				Boren	Fortenberry	Lowey
Davis (AL)	Kaptur	Oliver				Boswell	Foster	Lucas
Davis (CA)	Kennedy	Owens	Bachus	Gordon (TN)	Reyes	Boucher	Fox	Luetkemeyer
Davis (IL)	Kildee	Pallone	Barrett (SC)	Hinojosa	Rush	Boustany	Frank (MA)	Lujan
Davis (KY)	Kilpatrick (MI)	Pascarell	Bilbray	Hoekstra	Sánchez, Linda	Boyd	Franks (AZ)	Lummis
Davis (TN)	Kilroy	Pastor (AZ)	Bonner	Jackson Lee	T.	Brady (PA)	Frelinghuysen	Lungren, Daniel
DeGette	Kind	Paul	Diaz-Balart, M.	(TX)	Schwartz	Brady (TX)	Fudge	E.
Delahunt	King (IA)	Paulsen	Engel	Kirk	Souder	Braley (IA)	Gallely	Lynch
DeLauro	King (NY)	Payne	Garamendi	Ortiz	Wamp	Bright	Garrett (NJ)	Mack
Dent	Kingston	Pence				Brown (GA)	Gerlach	Maffei
Deutch	Kirkpatrick (AZ)	Perlmutter				Brown (SC)	Giffords	Maloney
Diaz-Balart, L.	Kissell	Perriello				Brown, Corrine	Gingrey (GA)	Manzullo
Dicks	Klein (FL)	Peters				Brown-Waite,	Gohmert	Marchant
Dingell	Kline (MN)	Peterson				Ginny	Gonzalez	Markey (CO)
Doggett	Kosmas	Petri				Buchanan	Goodlatte	Markey (MA)
Donnelly (IN)	Kratovil	Pingree (ME)				Burgess	Granger	Marshall
Doyle	Kucinich	Pitts				Burton (IN)	Graves	Matheson
Dreier	Lamborn	Platts				Butterfield	Grayson	Matsui
Drieaus	Lance	Poe (TX)				Buyer	Green, Al	McCarthy (CA)
Duncan	Langevin	Polis (CO)				Calvert	Green, Gene	McCarthy (NY)
Edwards (MD)	Larsen (WA)	Pomeroy				Camp	Griffith	McCaul
Edwards (TX)	Larson (CT)	Posey				Campbell	Grijalva	McClintock
Ehlers	Latham	Price (GA)				Cantor	Guthrie	McCollum
Ellison	LaTourette	Price (NC)				Cao	Gutierrez	McCotter
Ellsworth	Latta	Putnam				Capito	Hall (NY)	McDermott
Emerson	Lee (CA)	Quigley				Capps	Hall (TX)	McGovern
Eshoo	Lee (NY)	Radanovich				Capuano	Halvorson	McHenry
Etheridge	Levin	Rahall				Cardoza	Hare	McIntyre
Fallin	Lewis (CA)	Rangel				Carnahan	Harman	McKeon
Farr	Lewis (GA)	Rehberg				Carney	Harper	McMahon
Fattah	Linder	Reichert				Carson (IN)	Hastings (FL)	McMorris
Filner	Lipinski	Richardson				Carter	Hastings (WA)	Rodgers
Flake	LoBiondo	Rodriguez				Cassidy	Heller	McNerney
Fleming	Loebach	Roe (TN)				Castle	Heller	Meek (FL)
Forbes	Lofgren, Zoe	Rogers (AL)				Castor (FL)	Hensarling	Meeks (NY)
Fortenberry	Lowey	Rogers (KY)				Chaffetz	Herger	Melancon
Foster	Lucas	Rogers (MI)				Chandler	Herseth Sandlin	
Fox	Luetkemeyer	Rohrabacher				Childers	Higgins	Mica
Frank (MA)	Lujan	Ros-Lehtinen				Chu	Hill	Michael
Franks (AZ)	Lungren, Daniel	Roskam				Clarke	Himes	Miller (FL)
Frelinghuysen	E.	Ross				Clay	Hinchey	Miller (MI)
Fudge	Lynch	Rothman (NJ)				Cleaver	Hirono	Miller (NC)
Gallely	Mack	Roybal-Allard				Clyburn	Hodes	Miller, Gary
Garrett (NJ)	Maffei	Royce				Coble	Holden	Miller, George
Gerlach	Maloney	Ruppersberger				Coffman (CO)	Holt	Mitchell
Giffords	Manzullo	Ryan (OH)				Cohen	Honda	Mollohan
Gingrey (GA)	Marchant	Ryan (WI)				Cole	Hoyer	Moore (KS)
Gohmert	Markey (CO)	Salazar				Conaway	Hunter	Moore (WI)
Gonzalez	Markey (MA)	Sanchez, Loretta				Connolly (VA)	Inglis	Moran (KS)
Goodlatte	Marshall	Sarbanes				Conyers	Inslee	Moran (VA)
Granger	Matheson	Scalise				Cooper	Israel	Murphy (CT)
Graves	Matsui	Schakowsky				Costa	Issa	Murphy (NY)
Grayson	McCarthy (CA)	Schauer				Costello	Jackson (IL)	Murphy, Patrick
Green, Al	McCarthy (NY)	Schiff				Courtney	Jenkins	Murphy, Tim
Green, Gene	McCaul	Schmidt				Crenshaw	Johnson (GA)	Myrick
Griffith	McClintock	Schock				Critz	Johnson (IL)	Nadler (NY)
Grijalva	McCollum	Schrader				Crowley	Johnson, E. B.	Napolitano
Guthrie	McCotter	Scott (GA)				Cuellar	Johnson, Sam	Neal (MA)
Gutierrez	McDermott	Scott (VA)				Culberson	Jones	Neugebauer
Hall (NY)	McGovern	Sensenbrenner				Cummings	Jordan (OH)	Nunes
Hall (TX)	McHenry	Serrano				Dahlkemper	Kagen	Oberstar
Halvorson	McIntyre	Sessions				Davis (AL)	Kanjorski	Obey
Hare	McKeon	Sestak				Davis (CA)	Kaptur	Olson
Harman	McMahon	Shadegg				Davis (IL)	Kennedy	Oliver
Harper	McMorris	Shea-Porter				Davis (KY)	Kildee	Owens
Hastings (FL)	Rodgers	Sherman				Davis (TN)	Kilpatrick (MI)	Pallone
Hastings (WA)	McNerney	Shimkus				DeFazio	Kilroy	Pascarell
Heinrich	Meek (FL)	Shuler				DeGette	Kilroy	Pastor (AZ)
Heller	Meeks (NY)	Shuster				DeLauro	Kind	Paul
Hensarling	Melancon	Simpson				Dent	King (IA)	Paulsen
Herger	Mica	Sires				Deutch	King (NY)	Payne
							Kingston	Pence

## ANSWERED "PRESENT"—7

## NOT VOTING—19

□ 1418

Mr. CONYERS changed his vote from "no" to "aye."

Mr. DEFAZIO changed his vote from "aye" to "present."

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## RECOGNIZING 100TH ANNIVERSARY OF NORTH CAROLINA CENTRAL UNIVERSITY

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 1361, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio (Ms. FUDGE) that the House suspend the rules and agree to the resolution, H. Res. 1361, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

## RECORDED VOTE

Mr. DRIEHAUS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 408, noes 1, not voting 22, as follows:

[Roll No. 287]

AYES—408

Ackerman	Adler (NJ)	Alexander
Aderholt	Akin	Altmire



Perlmutter	Sanchez, Loretta	Teague
Perriello	Sarbanes	Terry
Peters	Scalise	Thompson (CA)
Peterson	Schakowsky	Thompson (MS)
Petri	Schauer	Thompson (PA)
Pingree (ME)	Schiff	Thornberry
Pitts	Schmidt	Tiahrt
Platts	Schock	Tiberi
Poe (TX)	Schrader	Tierney
Polis (CO)	Scott (GA)	Titus
Pomeroy	Scott (VA)	Tonko
Posey	Sensenbrenner	Towns
Price (GA)	Serrano	Tsongas
Price (NC)	Sessions	Turner
Putnam	Sestak	Upton
Quigley	Shadegg	Van Hollen
Radanovich	Shea-Porter	Velázquez
Rahall	Sherman	Visclosky
Rangel	Shimkus	Walden
Rehberg	Shuler	Walsh
Reichert	Shuster	Wasserman
Richardson	Simpson	Schultz
Rodriguez	Sires	Waters
Roe (TN)	Skelton	Watson
Rogers (AL)	Slaughter	Watt
Rogers (KY)	Smith (NE)	Waxman
Rogers (MI)	Smith (NJ)	Weiner
Rohrabacher	Smith (TX)	Welch
Rooney	Smith (WA)	Westmoreland
Ros-Lehtinen	Snyder	Whitfield
Roskam	Space	Wilson (OH)
Ross	Speier	Wilson (SC)
Rothman (NJ)	Spratt	Wittman
Roybal-Allard	Stark	Wolf
Royce	Stearns	Woolsey
Ruppersberger	Stupak	Wu
Rush	Sullivan	Yarmuth
Ryan (OH)	Sutton	Young (FL)
Ryan (WI)	Tanner	
Salazar	Taylor	

## NOES—1

Young (AK)

## NOT VOTING—22

Bachus	Garamendi	Nye
Barrett (SC)	Gordon (TN)	Ortiz
Berry	Hinojosa	Reyes
Bilbray	Hoekstra	Sánchez, Linda
Bilirakis	Jackson Lee	T.
Bonner	(TX)	Schwartz
Delahunt	Kirk	Souder
Diaz-Balart, M.	Minnick	Wamp

□ 1426

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BILIRAKIS. Mr. Speaker, on rollcall No. 287, had I present, I would have voted "yea."

## PERSONAL EXPLANATION

Mr. HINOJOSA. Mr. Speaker, on rollcall Nos. 286 and 287, had I been present, I would have voted "yes" on both votes.

## PERSONAL EXPLANATION

Mr. ORTIZ. Mr. Speaker, on rollcall Nos. 286 and 287, if I had been present, I would have voted "yes".

# GRANTING AUTHORITY TO COMMITTEE ON EDUCATION AND LABOR FOR PURPOSES OF ITS INVESTIGATION INTO UNDERGROUND COAL MINING SAFETY

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I

call up House Resolution 1363 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

## H. RES. 1363

*Resolved*, That the Committee on Education and Labor is granted the authority provided under clause 4(c)(3) of rule X of the Rules of the House of Representatives in furtherance of the investigation by such committee into underground coal mine operator compliance with the Federal Mine Safety and Health Act of 1977, as amended, and into other related matters.

SEC. 2. (a) The chair of the Committee on Education and Labor shall transmit to the Committee on Rules, not later than 2 days following an adjournment sine die of the second session of the 111th Congress, or January 2, 2011, whichever occurs first, a report on the activities of the Committee on Education and Labor undertaken pursuant to this resolution. Such report shall indicate—

(1) the total number of depositions taken;

(2) the number of depositions taken pursuant to subpoenas; and

(3) the name of each deponent that the committee has publicly identified by name as a deponent.

(b) Upon receipt of the report described in subsection (a) by the Committee on Rules, the chair of the Committee on Rules shall submit such report for publication in the Congressional Record.

The SPEAKER pro tempore. The gentlewoman from New York is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California (Mr. DREIER). All time yielded during consideration of the rule is for debate only.

## GENERAL LEAVE

Ms. SLAUGHTER. I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material into the CONGRESSIONAL RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution provides the Committee on Education and Labor with deposition authority in connection with its investigation of underground mine safety. The resolution also requires the Education and Labor Committee to report to the Rules Committee on its use of the authority by the end of this congressional session.

□ 1430

Mr. Speaker, we're here today with a pretty straightforward mission. We want to empower the men and women who are investigating the causes of the serious safety problems facing miners in America.

As we saw recently with the terrible disaster at Upper Big Branch Mine in Raleigh County, West Virginia, there's some combination of industrial wrong-

doing there and inadequate regulation that we must address. The explosion at Upper Big Branch in April killed 29 coal miners, ripped apart an entire community and State, and was the worst mine disaster in this country since 1970.

Why is Congress involved? Because one of our most serious responsibilities as lawmakers is oversight and investigation. And from what we've been able to tell from the facts so far, there is an urgent and compelling need for the public to know all the facts surrounding this and other recent mining tragedies.

I come to this issue with a personal feeling. Many of my constituents back home and some here know that I was born in Harlan County, Kentucky, in the midst of some of the best bituminous coal on Earth. Some of my earliest memories are hearing the whistle blow at night over at the mine. Even the smallest child, as I was then, knew what that whistle meant. It meant serious trouble at the mine.

The pain and suffering endured by miners in Kentucky and West Virginia and everywhere else should inspire us to do everything in our power to make this dangerous and volatile work environment as safe as we possibly can. The bottom line should never supersede a human life.

The resolution before us today would give the House Committee on Education and Labor staff authority to take depositions as they pursue their investigation. We know that greater review of this issue is sorely needed. There are far too many unanswered questions surrounding underground coal mine operator compliance with the Federal Mine Safety and Health Act, and the safety of every single miner in this country depends on answering those questions.

Getting to the truth on mining safety is not a partisan issue, and empowering staff to get the truth is in everyone's interest. Granting a committee this sort of authority is not without precedent. In numerous times over the years, Congress has approved resolutions such as this to provide temporary powers to committees trying to get at the truth. And every piece of information that comes from the questioning will be obtained by and shared with members of the committee from both parties.

The House gave the Education and Labor Committee similar authority during a probe into a mining accident just a few years ago. It was in the 110th Congress that the Education and Labor Committee was given staff deposition authority in their 2007–2008 investigation into the deaths of nine miners and rescue workers at the Crandall Canyon Mine near Huntington, Utah. That led to strengthening mine safety with laws that may be too lax in enforcement.

Among the issues the committee wishes to delve into is the growth of

the number of mine safety enforcement cases that are pending before the Federal Mine Safety and Health Review Commission. The Commission is meant to serve as an independent agency that provides administrative trial and appellate review to contested citations, penalties, and worker retaliation cases.

In reality, though, the increased enforcement and tougher penalties that followed several high-profile mine accidents in 2005 and 2006 has swamped the Commission. Mine owners have tripled the number of violations that they appeal, and they contest 67 percent of all penalties that are assessed. As a result, the government is facing a lengthy backlog of cases at the Commission that has surged from 2,100 in 2006 to approximately 16,000 in February of this year.

This deposition power for the committee will help to prod reluctant witnesses who have important insight into this issue but might otherwise not be willing to offer testimony. This is an important tool, and I urge my colleagues to rise and support me on this plan here today.

I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I am going to do something that is somewhat unusual. I would like to, as I did in the Rules Committee yesterday, associate myself completely with everything that has been said by the distinguished chair of the Committee on Rules.

As I said yesterday in the Rules Committee, it's difficult to fathom the challenge that a young person would go through, as she did, hearing that whistle and knowing that there was difficulty ahead and the threat of the loss of life. And that's the reason that we are very proud to stand here, having had an exchange with Mr. MILLER—and I see Mr. RAHALL here, who obviously has suffered greatly through this; Mrs. CAPITO is here as well—to say that we would have been extraordinarily proud, Mr. Speaker, to have done this instantaneously under a unanimous consent agreement. Mr. KLINE would have agreed to that.

In our exchange with Chairman MILLER yesterday, we talked about the important rights of the minority, the fact that we are simply expanding authority that already does exist, but it is very important that we do this. That tragedy with the loss of those 29 lives is something that is—we have got to remain committed in a bipartisan way to ensure we have adequate oversight to ensure that it never, ever happens again.

We know that a hearing has taken place in the Senate today, and serious questions have come to the forefront.

And I will say, Mr. Speaker, that we were privileged to approach the majority and say that there was no reason for us to be here, no reason for us to be

here, because we would have granted unanimous consent and we would not have taken this time of the House of Representatives to consider this measure.

And so the only thing that I'm in disagreement with is the fact that we are taking the time of the House to do this. And so it's for that reason, Mr. Speaker, that I'm going to move to defeat the previous question. I'm going to move to defeat the previous question, not so that we, in any way, would undermine this very important authority that the Committee on Education and Labor is going to have, but to enhance this and get us back to an issue which I think is very near and dear to the American people since we've all agreed that this kind of authority, Democrats and Republicans alike, is essential. We believe that if we can defeat the previous question, we will have the opportunity to take on the issue of deficit spending, which has been incredibly painful all the way around.

Just today, when I last looked earlier today, the Dow Jones Industrial Average was down over 350 points. I saw it had come back a little. But we are dealing with at least a 3-month low on the Dow now.

And then we saw the numbers this morning on the dramatic increase in the jobless claims, 417,000. We are going through difficult times. We all know that. And it is essential that we do everything in our power to rein in massive Federal spending, which we believe, and I believe the American people by and large believe, has exacerbated rather than ameliorated the economic challenges that we're facing.

Americans are tired of the reckless spending, and they're outraged, Mr. Speaker, by the lack of accountability, and deeply concerned about the consequences of our fledgling economic recovery, now and for future generations as well.

After months and months of countless phone calls, emails, letters, town hall meetings, the American people are asking themselves, Why won't Washington listen? Why is our demand for fiscal responsibility not getting through? Why is the majority refusing, for the first time in modern Congressional history, to not even consider a budget?

My answer to them is that some of us, Mr. Speaker, some of us are getting the message from the American people very loudly and clearly. The Democratic majority might refuse to listen, but Republicans are serious about the issue of reining in spending. Though we've been barred by the majority from making significant reforms, we're using every tool at our disposal to force some accountability into the spending process.

One such effort is what we are calling the YouCut project, Y-O-U-C-U-T, which was launched last week on the

Republican whip's Web site. Americans had the opportunity to voice their opinion on five specific spending cuts, and nearly 300,000 votes were cast, people making their thoughts known. Nearly 300,000. The proposed cuts, among those five, that drew the most votes was a welfare program that was expanded in the so-called economic stimulus bill without including any requirements that able-bodied recipients return to work. It was a concept that came forward by our friends, Messrs. PRICE and JORDAN, who've worked long and hard on this.

Now, Mr. Speaker, common sense dictates that an era of fiscal crisis is no time for creating an open-ended welfare program. Cutting this program will save taxpayers \$2.5 billion. And today, we're going to hold the Democratic majority's feet to the fire and demand a vote on this spending cut.

Again, Mr. Speaker, let me say that today, when we vote on the previous question, members of both political parties will have the opportunity to state very clearly whether they are in the camp of fiscal discipline, reining in the size and scope and reach of the Federal Government, or continuing down the path of reckless spending.

Now, Mr. Speaker, we are going to continue this YouCut program in the weeks ahead. Every single week Americans will have the opportunity to vote for the spending cut that they'd like to see most, and every week Republicans will demand a vote on the winning cut.

Can we eliminate the deficit in one fell swoop? Absolutely not. Everybody knows that we can't do that. Anyone who's ever had to take responsibility for a budget knows that no magic wand will fix the problem. It takes very hard choices, one cut at a time. But with discipline and perseverance, we can restore fiscal accountability here in Washington.

The Democratic majority has made it clear that, left to their own devices, they will continue to spend our Nation into insolvency. And we've seen a projection that just came out: the notion of our national debt being 110 percent of our Nation's gross domestic product within the next 5 years, extraordinarily troubling, based on the path that we're on today.

They've put up every conceivable roadblock so far, Mr. Speaker, to accountability, but they're not going to be able to sidestep today's vote. We're ensuring that 300,000 American voices are being heard.

Mr. Speaker, anyone who cares about spending in Washington will have the opportunity to see how their Representative voted, and they'll continue to have that opportunity week after week as the YouCut program goes forward.

Now, there are a number of tactics that can be employed to prevent fiscal accountability, and the Democratic

majority has tried them all. But ultimately, Mr. Speaker, the will of the American people will find a way around the roadblocks and their voices will be heard. We are determined to make sure that the voices of the American people are heard here on the floor of the people's House.

So, Mr. Speaker, I urge my colleagues to defeat the previous question so that Members of this body will have the chance to take on the issue of fiscal discipline and accountability and support the Price-Jordan measure, which will finally bring us the kind of responsibility we need to our Nation's welfare program.

I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Speaker, I thank the distinguished chair of the Rules Committee for yielding to me, and I certainly want to commend her for bringing this resolution to the floor and for the manner in which she has spoken from personal knowledge of the troubles and trials and tribulations, that is, that we go through in coal country, as she hails from coal country herself.

Mr. Speaker, I do want to commend, as well, the chairman of our Education and Labor Committee, Mr. GEORGE MILLER, within whose jurisdiction the Mine Safety Health Administration resides. Mr. MILLER is certainly a true champion of our coal miners and one who has coal mine health and safety deep in his bones. He will be traveling to our district in southern West Virginia on Monday to have a hearing to listen to family members or those who lost loved ones at UBB in that horrific tragedy on April 5.

□ 1445

I also wish to commend the House of Representatives in a bipartisan fashion for the very swift action in which the House passed a resolution after this tragedy commending those 29 fallen miners and expressing condolences to their families. We continue to work with the family members to help them through what is a difficult process known as healing and trying to get by in life now without their loved ones.

This resolution is to grant the Committee on Education and Labor deposition authority as part of the committee's oversight activities relating to coal mine health and safety. While I am not a member of the Education and Labor Committee, the disaster which took place on April 5 at the Upper Big Branch mine in Raleigh County, West Virginia, claiming the lives of 29 men, occurred in the congressional district of which I am honored to represent.

This resolution reflects the seriousness with which the House of Representatives takes the issue of coal

mine health and safety, the loss of these 29 brave souls, and the grief of their families and friends.

The UBB mine disaster was the worst in our Nation, as the gentlelady from New York, the chair of the Rules Committee, has stated, the worst disaster in our coal mines in our Nation since 1970.

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. SLAUGHTER. I yield the gentleman 2 additional minutes.

Mr. RAHALL. It follows in the wake of the Sago mine disaster in 2006, which claimed 12 lives; the Darby mine disaster was also in 2006, which claimed 12 lives; and Crandall Canyon mine disaster in 2007, which claimed nine lives. While Congress responded in 2006, again under the very capable leadership of the Education and Labor Committee chairman, Mr. MILLER, with the enactment of what is referred to as the MINER Act, the focus then was on emergency response.

In the wake of the UBB disaster, it is now entirely appropriate that we investigate coal mine health and safety matters further. And the committee on Education and Labor is the appropriate forum for that to take place.

I again commend Chairman GEORGE MILLER and his ranking member, Mr. JOHN KLINE, for pursuing a responsible course in the conduct of this, their oversight responsibilities. I do urge the adoption of the resolution. And I would note and thank the ranking member of the Rules Committee, Mr. DREIER, as well for the bipartisan support that he and members of the Rules Committee and on the minority side are giving this particular resolution, although they are trying to of course hijack it for other purposes.

Mr. DREIER. Mr. Speaker, let me first thank my friend for his very thoughtful remarks and say again how horribly we all feel about the tragedy that he and Mrs. CAPITO and others from his State have suffered. And once again, we totally agree with exactly what it is we are attempting to do here.

With that, I am happy to yield 4 minutes to our distinguished Republican whip, who has launched the YouCut item on his Web site, Mr. CANTOR.

Mr. CANTOR. I thank the gentleman from California.

I would just like to follow up on the remarks that we, too, would tell the gentleman from West Virginia, we agree entirely with the thrust of his remarks and express our sorrow for the folks of West Virginia who have experienced such a tragic loss.

I would say again, the ranking member on the Rules Committee has indicated already that we could have already embarked upon the effort that the gentleman from West Virginia and the lady from New York speak about because we did offer unanimous con-

sent on this. So we are in total agreement there. However, I will rise in opposition to the previous question.

Mr. Speaker, for the millions of Americans demanding accountability for the culture of reckless runaway spending in Washington, meet YouCut. At a time when approval of congressional spending has reached its lowest ebb, this first-of-its-kind initiative empowers taxpayers with the ability to contribute directly to a new culture of savings in our Nation's capital.

Each week the public votes on one of five wasteful spending items that they would like to strip from the Federal budget. Once the votes are tallied, the House will vote on whether or not to cut the winning provision from the Federal balance sheet.

Within 5 days of the experiment, over 280,000 Americans cast their vote either online or by text message. That's a rate, Mr. Speaker, of more than 2,000 votes per hour, with less than 1 percent of the votes originating from inside the Beltway, I might add. The overwhelming response speaks to the extreme frustration taxpayers feel toward a Congress that refuses to listen to them.

Make no mistake: America is at a critical crossroads. The American people are tired of the spending binges. They look across the Atlantic and see Europe collapsing under the weight of its debt. With our own deficit swelling, it's only natural to fear that we are heading down the same road to ruin.

YouCut is not a political venture. It is about shifting the pendulum in Washington back towards the direction of saving money. Rooting out unnecessary spending should be a bipartisan endeavor. This week the House has considered two bills to name a post office and a Federal building, 11 resolutions honoring different individuals, sports teams, or causes, including even recognizing Craft Beer Week. We have considered bills to spend more money and create new programs.

Mr. Speaker, what we have not considered is a single bill to reduce spending. Unfortunately, this is a pretty typical week. Today we have a chance to change that. During the first week of YouCut, a plurality of voters chose to axe a recently created \$2.5 billion annual welfare program that undercuts cost-saving welfare reforms made in 1996 by a Republican Congress and a Democratic President. It was bipartisan reform. This new program undermines those reforms.

While it was just created last year, the reports of waste and fraud are already trickling in: perverse incentives for States to increase welfare caseloads, reports of cash being given out to welfare recipients that is then used to buy flat-screen TVs, iPods, and video gaming systems. Enough is enough.

To put it simply, even when the funds are not being so extravagantly

wasted, we cannot afford this program. The American people understand this. That is why they asked us to vote on this proposal to terminate this program and to use that money to reduce the deficit. This previous question vote is the vote to do just that.

Today, over a quarter-million Americans will get to see whether their Representatives in Congress share their specific fiscal priorities. I urge my colleagues to listen to the voice of the people and take up this vote today and vote "no" on the previous question.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 7 minutes to the gentleman from California, the chairman of the Committee on Education and Labor and a champion of all working people, Mr. MILLER.

Mr. GEORGE MILLER of California. Mr. Speaker, I want to thank the chair of the Rules Committee for bringing this rule to the floor of the House and to thank the ranking member, Mr. DREIER, from California for his cooperation and support for this resolution. I, too, associate myself with the remarks of the gentlewoman from New York (Ms. SLAUGHTER), who probably has more experience and understanding of these tragedies than any Member who doesn't live in the coal regions of our country, and has spent a lot of time with myself and others on our committee discussing these issues of coal mine safety, tragically throughout the years as we have had one accident after another over that time.

The resolution that the Rules Committee brings to the House floor today reflects the seriousness with which Congress takes the issue of mine safety. Last month we watched the tragic events unfold in the Upper Big Branch mine in West Virginia. The memory of the 29 miners who lost their lives in that disaster must stand as a reminder of the work that remains to be done to keep our Nation's miners safe.

There is much to be learned about the disaster at the Upper Big Branch mine. I have been heartened by the swift and decisive action taken so far by the Department of Labor and the Mine Safety and Health Administration. I expect their investigations into this particular tragedy will be comprehensive. The resolution we are discussing today, however, will be in furtherance of our committee's broader oversight duties regarding the health and the safety of our Nation's coal miners.

Last year, our committee staff began looking into issues relating to the backlog of cases at the Federal Mine Safety Review Commission. This commission and its administrative law judges hear mine operators' contests of the citations Mine Safety and Health Administration inspectors issue against the operators. This backlog has potentially severe ramifications for miners' safety.

The backlog has prevented MSHA from placing mines on what is called a pattern of violations because so many of those mine citations remain bound up in the litigation. Because of this increased scrutiny it would bring, mines warned by MSHA that they are about to be designated as having a potential pattern of violations generally significantly improve their mine safety record. But the mine owners have figured out a way to game that system, and therefore, the miners and their families are robbed of this very powerful tool that would ensure greater safety of their workplace and perhaps avoid some of the tragedies that we have just witnessed.

In February, our committee explored a recent uptick in the citation contests and how it might ultimately affect safety in the mines. In the wake of the Upper Big Branch mine disaster and our hearings on mine operator citation appeals and backlogs, I am deeply concerned about what coal mining conglomerates have done to encourage or discourage safe mining practices. That is why I believe that our committee's oversight responsibility would benefit from the authority to hold and compel witnesses' attendance at depositions.

Deposition authority is a powerful tool for many investigations, but some investigations would particularly benefit from the tool. Last Congress, Congress granted the committee deposition authority in our investigation of the Crandall Canyon mine disaster in Utah. This successful investigation led to a criminal referral to the Department of Justice, in large part because of the evidence that our staff obtained in those depositions. I understand that the Department of Justice continues to investigate our referral.

I believe that the deposition authority is equally justified in this case. A deposition can serve as an intermediate step between a full public hearing, an executive session, and informal staff interviews. It creates a formal record; yet it allows us to explore issues in a more sustained manner than would be practical at a hearing. Indeed, it allows us to realize that the potential witness does not have the knowledge of particular issues to justify calling them at a hearing.

It was because of the usefulness of this investigative tool that our committee this Congress approved the committee rules package to include deposition procedural rules. We wanted to build on our successes and our execution of the deposition authority granted last Congress, and we wanted to be ready should the circumstances justify seeking the authority again. Unfortunately, the tragic deaths at Upper Big Branch have again highlighted the importance of our investigative work on mine safety and that our committee again investigate the issues related to mine safety.

The committee's deposition rule respects and affirms the rights of those individuals being deposed and respects the rights of the minority on our committee. It has been worked out with the minority on our committee. It is the result of a bipartisan process began last Congress and reaffirmed with the adoption of our committee rules this Congress. We have used the tool sparingly and effectively in the past, and I assure the committee that we will use it sparingly and effectively in this investigation.

Next week, my committee will be conducting a field hearing in West Virginia with Congressman RAHALL. We will be hearing from the families of the victims of the Upper Big Branch mine explosion. Just as we made sure to hear from the families of Sago and the Crandall Canyon, we will hear the concerns of these families. With every such hearing we pledge to the families to never turn a deaf ear to their concerns, their knowledge, to make sure that mining is safer. I intend to keep that pledge, and the resolution before us is part of keeping that pledge.

Again, I want to thank the ranking Republican on our committee, Congressman KLINE, and his staff who worked closely and effectively with me and my staff in framing the deposition rules and in framing our future investigations and going before the Rules Committee to ask for this authority from the Rules Committee.

Again, I want to thank the chair and the ranking member for bringing this matter to the floor and thank Congressman RAHALL for his support for our committee having this authority.

Mr. DREIER. Mr. Speaker, let me thank my friend from California (Mr. GEORGE MILLER) for his thoughtful remarks.

At this time, I would like to yield 2 minutes to the gentlewoman from Charleston, West Virginia, who clearly has suffered greatly through this extraordinary tragedy, Mrs. CAPITO.

Mrs. CAPITO. I thank the gentleman from California for yielding me time.

I understand that there is no controversy really on this underlying resolution. I wish we could have done this, and I think we could have done it several days earlier to get started on this under unanimous consent. So I wish that was the direction that we had gone.

But as we have said, on April 5, 2010, an explosion occurred at the Upper Big Branch mine in West Virginia, killing 29 miners. And our hearts and prayers still are with the families and with the communities who have suffered greatly. This disaster was the worst mine disaster in West Virginia and the third mining disaster over the last 4 years. In 2006 in my district, 13 coal miners were trapped for nearly 2 hours at the Sago mine, and one miner miraculously survived.

I agree, my colleagues, that Congress has a very important oversight role to ensure that the laws are properly executed and to prevent future mining accidents. There must be a thorough investigation by Congress to determine whether the executive branch agencies charged with protecting miners are performing their job and whether changes need to be made to ensure that those agencies fulfill their obligations to the miners, their families, and the public.

□ 1500

Also, the Congress needs to have a thorough investigation into the company practices and whether safety is the top priority and the one priority first considered whenever beginning or starting to pursue coal mining and while it's in operation. Congress, however, must be wary not to compromise the integrity of any future or pending investigations and potentially jeopardize the executive branch's ability to enforce and hold violators accountable.

Keeping our miners safe requires all of us to work together to prevent mine disasters from happening in the first place. I support this rule, and I vow to take whatever measures are necessary to ensure the safety and health of all miners.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from California, the Chair of the Workforce Protection Committee, Ms. WOOLSEY.

Ms. WOOLSEY. Mr. Speaker, I thank the gentlewoman from New York for allowing me this time, and I appreciate the cooperation we're getting from both sides of the aisle on this very important issue.

On April 5, 29 miners were killed and two injured in a massive explosion which ripped through Massey Energy's Upper Big Branch mine in Montcoal, West Virginia. It was a shock to all of us. Unfortunately since then, there have been two other mine accidents, one in Kentucky and another in West Virginia, that have resulted in even more fatalities.

The explosion at the Upper Big Branch mine was the worst mine accident since 1970 when 38 miners were killed in an explosion at a mine in Kentucky.

We are now, Mr. Speaker, in the 21st century, and there is absolutely no excuse for these tragedies. There are ongoing investigations into the explosion at the Upper Big Branch mine so we don't yet know exactly what caused this blast, but we do know that Massey Energy has a long, long history of health and safety violations at this mine and others of theirs and that it has received hundreds—not a few—but hundreds of citations before the blast occurred.

This tragedy and the conduct of this mine owner towards the safety of its

workers further highlight the need for the Education and Labor Committee to fully perform oversight functions. We owe this much to the families of the fallen miners and to those miners who go to work each and every day so that they can come home safely to their families every night.

The deposition authority provided by this resolution, which is the product of a bipartisan agreement, as we all know, is a vital tool for the committee, and I urge passage of this resolution by every Member of the House of Representatives.

Mr. DREIER. Mr. Speaker, at this time I am happy to yield 3 minutes to the coauthor of the very important issue that's going to bring back accountability to welfare, the gentleman from Roswell, Georgia (Mr. PRICE).

Mr. PRICE of Georgia. I thank the gentleman.

We all are strongly sympathetic and unanimously support the underlying resolution, and our thoughts and prayers go out to the victims and the families of all mine disasters.

We should take this as an opportunity, however, Mr. Speaker, to unanimously decrease spending. Everybody across this land knows that Washington spends too much and it borrows too much and it taxes too much. Washington has grown fat on bloated, wasteful spending for far too long. It's collapsing our fiscal house; it's jeopardizing our kids' and our grandkids' future; and it is undermining our economy. And it's high time that we put the Federal Government on a diet, and that can begin today.

With the YouCut program, Republicans are partnering with the American people to restore fiscal sanity. This is a unique initiative where we are asking the American people to help prioritize which special-interest handouts and other wasteful spending they want to target for elimination. This YouCut initiative combines two crucial components of commonsense governing: listening to the people and cutting waste from government spending.

So I'm grateful for the huge participation that we have already seen, over 281,000 votes cast, of which less than 1 percent are from the District of Columbia. So Americans all across this land are participating.

The spending reduction that Representative JORDAN and I proposed received more than 81,000 votes. We identified, and America supported the repeal, of a \$2.5 billion-per-year program that has gutted the positive bipartisan welfare reforms of the 1990s.

As part of their failed stimulus package, Democrats added a new program to incentivize States to increase, yes increase, Mr. Speaker, their welfare caseloads without requiring work from those able to work or get job training or make other efforts to move off taxpayer assistance. Welfare reform was

one of the most important bipartisan achievements of the last two decades, and it's been terribly undermined by this little-noticed provision.

So rather than take our Nation backwards, we need to vote today to restore welfare reform by refocusing temporary assistance on people getting back on their feet as quickly as possible. So I hope that our Democrat colleagues will follow our lead and, yes, the lead of the American people in working together to put Washington's fiscal house back in order.

Mr. Speaker, we have tried to partner with our Democrat colleagues to rein in wasteful spending; but their help in this matter has not, frankly, been forthcoming. In fact, they have chosen to explode the annual deficits to over a trillion dollars and add costly new government mandates and tax hikes that stand in the way of job creation.

So let's start today, together, to begin the job of getting our Nation back on track. Vote "no" on the previous question. Vote for fiscal responsibility.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New Jersey, a member of the Education and Labor Committee, Mr. HOLT.

Mr. HOLT. Mr. Speaker, I thank the gentlelady, the chair of the Rules Committee.

I rise in support of H. Res. 1363, which gives the Committee on Education and Labor, on which I sit, the ability to investigate the Upper Big Branch mine disaster. This resolution allows us to do our work, and I would like to speak about that subject.

In a greater sense, this resolution honors the coal miners who perished in the tragedy and works to ensure that such a tragedy never happens again. We owe it to the remaining families and to all mining families.

I feel strongly and personally about the concerns of miners because I was born and reared in West Virginia where my father, the late U.S. Senator many decades ago, was known as one of the best friends the miner has ever had.

There's no question that mining has been a dangerous job. Although the number of deaths in America's mines has been reduced, today coal mining is rated still among the most dangerous jobs in America, and it does not have to be that way.

I support the Education and Labor Committee's work to investigate any possible health and safety violations at Upper Big Branch and to see if laws were circumvented and miners' lives were put recklessly at risk. Those responsible must be held accountable.

Too many families have suffered the loss of a loved one in a mining disaster. We in Congress need to investigate fully the factors that led to these tragedies. We need to investigate fully the deficiencies in laws, regulations, and

enforcement that may have contributed. We owe it to the families of the miners lost and the miners who work every day to take action.

We must prevent these accidents from happening again, and I urge my colleagues to support H. Res. 1363.

Mr. DREIER. Mr. Speaker, at this time I am happy to yield 2 minutes to a hardworking member of the House Ways and Means Committee, the gentleman from Duluth, Georgia (Mr. LINDER).

Mr. LINDER. I thank my friend for yielding.

Mr. Speaker, I would like to express my sincere sorrow to the families of those who were killed or wounded in that accident and all mine accidents and remind our friends that this could have been done on unanimous consent without a rule, but since the rule is here, I rise in support of defeating the previous question to the rule so that we can consider Mr. PRICE's motion.

The 1996 Republican welfare reform successfully reduced welfare dependence and poverty and increased work and earnings. But despite that success, opponents have spent years trying to undermine welfare reform. They saw a new opening in the Democrats' 2009 stimulus law. In that trillion-dollar bill, they created a new \$5 billion welfare emergency fund designed to promote welfare dependence all over again.

The new fund pays States if they increase welfare caseloads, among other outcomes. States have been less than eager to collect. By mid-May, less than half, \$2.4 billion, had actually been claimed by States. Only three States received full shares. You know something is wrong when the Federal Government has trouble giving away money.

Mr. PRICE's motion would end this program right here and right now. And that is the right policy for a program that should never have been begun. Just consider how this emergency money has been spent so far. One of the largest chunks has been spent on something called "non-recurrent short-term assistance." A program operated in New York last summer offers an example: New York used these funds to make one-time \$200 payments to welfare and food stamp recipients supposedly for back-to-school purchases. But that's not how the money was really used. Some recipients used the money, as CBS News put it, to buy "flat screen TVs, iPods, and video gaming systems." Convenience stores in low-income areas noted marked "increases in beer, lotto, and cigarette sales."

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DREIER. I yield my friend an additional 30 seconds.

Mr. LINDER. ATMs ran out of cash, so now we have no idea how those funds

were spent, but I suspect many can guess.

The Subcommittee on Welfare, on which I serve, recently had a hearing on this fund. One witness noted taxpayers already spend an incredible \$953 billion per year on welfare and other low-income benefits. I asked the administration witness sent to us is she still asking for more welfare spending. I said, Is it your testimony that \$953 billion is not enough? Her answer was telling: Who's to say what is enough?

It is time that the American people are saying this is enough and so should we.

[From the Political Hotsheet, Sept. 2, 2009]

UNPLUGGED EXCLUSIVE: STIMULUS FUNDS FOR SCHOOL SUPPLIES MISUSED

(By Sharyl Attkisson)

Getting kids back to school with the clothes and supplies they need can strain the family budget. That's why the Governor of New York decided to use federal stimulus funds for a back-to-school program. Needy families got a one-time payment of \$200 dollars per child to buy school supplies. It adds up to \$140 million of your tax dollars.

Neasey Hendricks, single mother of five, says she's putting the money to good use.

"Definitely sneakers, try to save a little bit for a haircut, a couple of pairs of pants, some shirts, get the girls a few skirts," Hendricks says.

While few argued with the concept of helping low-income families, nobody anticipated the chaos that would come next.

On August 11th, the state of New York deposited the \$140 million in stimulus money into the individual food stamp and welfare accounts of people on public assistance. Some saw their balance shoot up by a thousand dollars all at once. The idea was they would use their regular welfare benefits card, which acts like a debit card, to buy the school supplies. There was just one problem. The letter from the state telling them what the money was for didn't arrive until days later. By then, it was too late.

"No one questions the intention of this particular program. However there is an extraordinary distance between the good intention of the program and the implementation of the program," Monroe County's Commissioner of Health Services Kelly Reed said on Wednesday's edition of "Washington Unplugged," which first reported the story.

County Executive Maggie Brooks says social workers were flooded with calls from merchants who were afraid fraud was being committed.

"We had different retailers calling us and saying people were coming in with their benefit transaction card, and they are purchasing flat screen TVs, iPods and video gaming systems," Brooks told CBS News. Brooks doesn't blame the recipients—she blames the state for not ensuring the funds were spent for school.

Businessman Josh Babin says the day stimulus money went into the welfare accounts, business at his Rochester Cell phone store doubled. And he doesn't sell school supplies. "Most of them came in, picked up most of their accessories, most of their products."

Welfare recipients were also free to withdraw the money as cash. That led to an unexpected run on ATM's across the state. Brenda Smith, manager of a Wilson Farms store in Monroe County, said most of her increase in sales when the stimulus funds were dis-

bursed were not in school supplies, but in "pre-pay cell or credit cards." She said her store's ATM was wiped empty.

Managers of three Wilson Farms convenience stores in Rochester also reported empty ATM machines and increases in beer, lotto and cigarette sales.

Managers of four Tops Markets stores in Rochester had similar stories. On West Avenue, the store's three ATM's were all depleted by noon on August 11th. "Large increase in volume of customers but minimal spoke in sales which were not in school supplies but rather candy racks at the register," stated investigative notes obtained by CBS News. So many welfare customers were seeking cash back; the stores implemented a \$50.00 cash back limit on-the-spot. At the East Ridge Road location, the ATM ran out of money on August 11 as well. "Numerous clients came in and purchase minimal items to withdraw the \$50.00 limit and then returned to other cashiers in the store in order to retrieve all the money out of their account," reads investigative notes. And on Upper Falls Blvd., the Tops Market reported "500 more customers" but "\$4,000 less in sales" than usual. Also, ATM's containing \$60,000 were entirely depleted.

On "Unplugged" Reed said one recipient "had \$1000 dollars on their card and jumped over a period of a few minutes over eighteen lines in a Tops store buying something for forty nine cents for two dollars for fifty cents and getting fifty dollars back in cash," each time.

ATM's were also wiped out in hours at many Wegman's stores statewide and the owner of a Sunoco station described "scenes of panic" at her store, with public assistance customers flooding her ATM machine. Some of them, she says, immediately used the cash to buy cigarettes and beer.

Monroe County investigators sampled the accounts of more than 70 drug and alcohol rehabilitation clients and found more than half of them withdrew their back-to-stimulus funds entirely in cash.

New York Congressman Eric Massa (D-NY) supports the stimulus bill, but said this program is flawed. "It's a matter of accountability," Massa said. "Ensuring what's happening with the funding. You and I both know where there's crevices, the water will go through those crevices."

New York State officials defend the stimulus program saying no matter what welfare recipients purchased with the taxpayer funds, it served to stimulate the economy. State spokesman for the program, Kristen Proud said it stimulated the economy. Supporters accuse critics of making unfair stereotypes about welfare recipients. "We have as many examples of families using the dollars for school clothes, school uniforms, school supplies," Proud said when asked about reports of luxury items being purchased with the back-to-school stimulus funds.

In Rochester, the Rev. Marlowe V.N. Washington, Pastor of the Baber African Methodist Episcopal Church, contacted CBS News to say that hundreds of grateful local residents have been helped by the back-to-school funds, and that it's unfair for anyone to assume they didn't spend the money on school supplies. "That is offensive, attacking and mean spirited," Washington told us. "People need to hear how stimulus funds have benefited American families and not hurt them."

We asked the Inspector General on stimulus funds for comment on this stimulus project. Based on our report, I.G. spokesman Edward Pound told CBS News that his office



has notified the HHS Inspector General to make sure that agency is aware of the problem. HHS is the department from which the back-to-school stimulus funds to New York State originated.

Because debit cards don't list what was bought, state officials say they'll never know how much of the \$140 million actually went for school supplies. Those who bought luxury items didn't break any laws, because there were no strings attached to the money. Little consolation to taxpayers who were promised that they'd know how every dime of stimulus funds was spent.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, at this time I am happy to yield 2 minutes to the coauthor of the amendment who's joined Mr. PRICE in bringing about welfare accountability, the gentleman from Urbana, Ohio (Mr. JORDAN).

Mr. JORDAN of Ohio. I thank the gentleman for yielding.

Mr. Speaker, the people have spoken. They said stop the ridiculous spending, and with the YouCut proposal, they have said stop the ridiculous spending which incentivizes the wrong behavior and insults basic American values. Think about the old welfare system. Think about what it said in particular to the single mother out there. It said, Don't get a job, don't get married, have more children, and we will pay you more money. That's exactly the wrong kind of incentives you want to send in government policies, but that's exactly where the Democrats' proposal takes us back to.

Our amendment would change that. Our previous question would change that.

Democrats want to move back in the wrong direction. We think that it's completely the wrong way to go, particularly at a time, particularly at a time when we have a \$1.4 trillion deficit, a \$12 trillion national debt. It is the wrong thing to do.

You know, one of the things that makes our country so special, one of the things that makes America the greatest Nation in history is this simple little concept: parents make sacrifices for their children so that when they grow up, they have life better than we did. And when they, in turn, become adults and become parents, they'll do the same things for their kids. Each generation in this country has done that for the next.

Now we find ourselves with the policymakers, where the political class is making decisions that say spend now, focus on the moment, and send the bill to somebody else. And it is wrong. It is wrong to trap people in this welfare system. It is wrong to keep spending and spending. It is wrong for future generations of Americans, and that's why, Mr. Speaker, I urge a "no" vote on the previous question.

□ 1515

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. PERLMUTTER).

Mr. PERLMUTTER. Let's talk about jobs.

My friends on the Republican side of the aisle have completely forgotten what the subject of today's presentation is, and that's about mine safety, about protecting the people who are going deep underground to help fuel this country. They have completely forgotten about that. That's not of any interest to them, obviously, because they want to talk about other things. What they want to come in here and talk about is completely off topic. They would like America to continue to be afraid, to continue to be in doom and gloom. That's their whole argument.

What is happening here—and they would like everybody to forget about it. Their prescription for this country is mass amnesia. They want to forget about the fact that under George Bush this country was dropping into the abyss in terms of jobs.

The last month of George Bush, this country lost 780,000 jobs in that month alone. Last month, in April, 14 months later, we gained 290,000 jobs. That is a swing of over 1 million jobs a month. In 1 month, a million-job swing. But, no, they don't want to talk about that. They want to talk about, Hey, we've got too many problems. We don't want to put the 8 million people who lost their jobs back to work. We don't want to take care of them. Okay?

Well, as this country gets back on its feet, its economy starts booming, it takes care of a lot of what they are talking about in terms of debt and deficit. But once we are back on our feet, then we can look at these numbers that they are talking about. But we have got to get this country back on its feet. It has got to be strong.

So we should be here dealing with a serious subject like mine safety and all those men and women that were killed a couple months ago. That's a serious discussion, and we are not even having that discussion.

The SPEAKER pro tempore (Mr. JACKSON of Illinois). The time of the gentleman has expired.

Ms. SLAUGHTER. I yield to the gentleman another 30 seconds.

Mr. PERLMUTTER. So let's talk about what actually happened.

Under George Bush, this economy fell off the planet, dropped 6.4 percent the last quarter of 2008. We haven't seen anything like that since 1929. During the last 9 months, all of a sudden our GDP is going up so that this country is getting back on its feet and heading in the right direction.

Job loss, as I said, was at a level unseen before. We are reversing that, but we have got a long way to go. And today, we should be worried about mine safety and getting this bill passed.

Mr. DREIER. Mr. Speaker, I yield myself 30 seconds to say that, with all

due respect to my very good friend and Rules Committee colleague, that he obviously has not followed the debate.

We approached the majority and said, under unanimous consent, we wanted this kind of authority to be granted so that we could ensure that never, ever again will we see the kind of tragic loss of life because of a mine disaster that we have faced.

Now, my friend said that we were talking about some extraneous issue. Then, he takes the well and begins talking about jobs under George Bush, where, in fact, we are dealing with the issue that we have all said needs to be addressed, and that is, from the very outset, Mr. Speaker, we concurred with the desire to ensure that this authority exists.

At this point, I yield 1 minute to my very, very good friend from Michigan, a hardworking, very, very thoughtful Member, Mrs. MILLER.

Mrs. MILLER of Michigan. I thank the gentleman for yielding. And, Mr. Speaker, all Americans, all Americans, share the grief of the families of the miners of West Virginia.

Mr. Speaker, spending by this Congress is out of control. In the next few days, our national debt will surpass \$13 trillion, and today the Federal Government borrows about 40 cents of every dollar that it spends. The American people have been speaking out, saying that this out-of-control spending is not sustainable. They are very frustrated that Washington and the Democrat majority is not listening.

Mr. Speaker, the House Republicans are listening. We have heard their voices.

YouCut allows the American people to vote on specific spending cuts. We actually had over 300,000 folks just vote this week. The goal of YouCut is simple, and it should not be a novel concept on Capitol Hill: Stop spending and start cutting. The question, again, is, Will Washington listen? Can you hear them now?

A "no" vote on the previous question will allow us to debate this spending cut put forward by the American people. Is that too much to ask?

Ms. SLAUGHTER. Because he didn't really get the chance to finish, I yield 2 minutes to Mr. PERLMUTTER from Colorado.

Mr. PERLMUTTER. I would like to speak to my friend from Michigan, and she probably knows as much as anybody the trauma that so many families have felt by the economy, by the recession, by the layoffs. And as we start moving forward, we have got to make sure that those people who lost their jobs find employment.

Now, they say Washington is not listening about cuts. We know spending needs to be managed, but we need to be smart in how we spend. But I would say to my friends on the Republican side of the aisle, they should have been thinking about this back in 2001 when they



cut the taxes for the wealthiest of Americans, prosecute two wars without paying for them, fail to police Wall Street, and leave this country in the worst financial shape it has been since 1929. George Bush left; Obama received a \$1.3 trillion deficit.

Now, they want to complain about it. Okay, go ahead and complain about it, but take a look at yourselves. That's what I would say to my friends on the other side of the aisle. And I would say, on Tuesday, they made all of these arguments. The one race that was up between Democrats and Republicans, people were worried about jobs. The Democrat won. They worried about jobs. And that's what this country needs is to get people back to work.

Mr. DREIER. Mr. Speaker, at this time I am happy to yield 1 minute to my good friend from Dallas, Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman for yielding.

Mine safety is a very serious issue. So is national bankruptcy.

Under Democratic control, the deficit has exploded tenfold in just 2 years. We are seeing the national debt triple before our very eyes. We are borrowing 40 cents on the dollar from the Chinese and sending the bill to our children and our grandchildren.

The Democrats have been on a spending spree that puts us on the road to becoming Greece. House Republicans are fighting back with a new program called YouCut, where the American people can participate in voting themselves to cut spending and to save their children money. And in just this week alone, 280,000 voted to cut a wasteful welfare program that has been associated with fraud.

Mr. Speaker, the choice is simple: Either you cut or your children and grandchildren go bankrupt paying the national debt.

Vote "no" on the previous question and vote "yes" for fiscal sanity. Vote "yes" for saving your children and grandchildren \$2.5 billion that doesn't have to be borrowed from the Chinese.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. I thank you, Mr. Speaker, and I thank the chairlady for yielding.

I think it is important for the House to reflect on what we are and are not doing.

What we are doing is considering a procedure by which the Congress can investigate what may or may not have happened in the tragedy that occurred in West Virginia that cost the miners their lives, setting that process in motion.

What the minority is doing is trying to bring to the floor a vote on a different matter regarding the TANF program. And that is well within their

rights, so I am not going to object to their procedural efforts to do that. I am going to object to the substance of their argument.

If I understand it correctly, the cut that they are interested in making is in a program that I think most Americans think makes pretty good sense. And what it essentially says is, if you are able-bodied and you receive welfare benefits, you should work. Most Americans, when they hear that, would say it is a pretty good idea.

And I want to read to the minority that this program that they want to debate today was commented on by a gentleman from a think tank in Washington who said: Given the state of the labor market, it is hard to imagine how any sensible person could oppose extending the emergency fund that they are talking about.

This was not from the Obama administration or one of the more liberal groups in town. It was Kevin Hassett of the American Enterprise Institute.

So I would say to the minority that their thirst for spending cuts was somehow missing when the Bush administration raised spending by 8 percent per year, when the Bush administration launched two wars on borrowed money, when the Bush administration cut taxes for the wealthiest Americans and paid for it by borrowing money from the Chinese.

There is a record on spending increases in recent history. During the Clinton years, Federal spending increased by 4 percent per year on the average. During the Bush years, spending increased by 8 percent per year on the average. In the first 2 years of the President's term, spending has increased by 6 percent, given the economic emergency. But during the 8 years of President Reagan's term, spending increased by 7 percent per year.

So I am with the minority, Mr. Speaker. I think spending restraint is something we need to have, which is why we should make sure we never have another Republican majority in the House of Representatives.

Mr. DREIER. Will the gentleman yield?

Mr. ANDREWS. I yield to my friend from California.

Mr. DREIER. I will just say to my friend that the closing was very, very inappropriate, because the solution that the gentleman has offered to the 8 percent increase that existed during the Bush administration is to have an 85 percent increase in nondefense discretionary spending, which is what has taken place in the last 2 years. And I thank my friend for yielding.

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. SLAUGHTER. I yield the gentleman another 45 seconds.

Mr. ANDREWS. I would ask my friend from California if it is true or

false that spending increases in the Obama years have been 6 percent and 8 during the Bush years. Is that true or false?

Mr. DREIER. And I will say that it is absolutely false. What has happened is, we did see the 8 percent increase for defense, homeland security, and veteran spending, which did increase during that period of time.

Mr. ANDREWS. Reclaiming my time. If I understand it correctly, the gentleman is denying that the spending increases averaged 8 percent during the Bush years. Is that correct?

Mr. DREIER. Correct. I agree with the gentleman.

Mr. ANDREWS. Well, then you are agreeing with me. You are not denying it.

Mr. DREIER. I agree with the gentleman that they increased 8 percent during the Bush administration, but they have increased 85 percent in nondefense discretionary spending in the Obama administration.

Mr. ANDREWS. Reclaiming my time, the best insurance policy against spending increases is a Democratic majority.

Mr. DREIER. Mr. Speaker, I yield myself 10 seconds to say to my friend that we have had an 85 percent increase in nondefense discretionary spending since President Obama has been in office.

Mr. ANDREWS. Will the gentleman yield?

□ 1530

Mr. DREIER. I yield to the gentleman from New Jersey.

Mr. ANDREWS. How much of that 85 percent was the Recovery Act?

Mr. DREIER. Eighty-five percent increase in nondefense discretionary spending. If we look at the 417,000 increase in the jobless and if we look at the markets now, we can see it's failed.

With that, I am happy to yield 1 minute to my very good friend from Wheaton, Illinois (Mr. ROSKAM).

Mr. ROSKAM. Mr. Speaker, I thank the gentleman for yielding.

I found the gentleman from New Jersey's logic dizzying. It took 43 American Presidents, from George Washington to George W. Bush, for us to accumulate \$5 trillion in debt. This Congress and this administration unambiguously are tripling that number in a decade. I also found it sobering and kind of surprising that the gentleman from Colorado a couple of minutes ago—and I wrote it down immediately—said, Once we're back on our feet, then we can talk about it, or words to that effect. Once we're back on our feet, then we can talk about cutting spending? It is this bloated budget that is the restraining influence on prosperity in this country. It is the hidebound orthodoxy on the other side that says we can borrow and spend our way into prosperity—and that is an

economic fool's errand. It is the sink-hole of self-absorption of this Congress and this generation that says we want to spend, spend, spend, and pass the bill on to another generation. We need to defeat this previous question so we can get serious about these cuts.

Ms. SLAUGHTER. Mr. Speaker, I would like to know the time remaining, please.

Mr. DREIER. Mr. Speaker, I will join the distinguished Chair in asking how much time is remaining on each side, Mr. Speaker.

The SPEAKER pro tempore. The gentlelady from New York has 4¼ minutes remaining. The gentleman from California has 4¾ time remaining.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. PERLMUTTER).

Mr. PERLMUTTER. I thank the chairwoman of our Rules Committee.

I think what is key here is this country needs to get back on its feet. We're moving in that direction. We had a bill up this week called the America COMPETES Act, which is about investing in this country's future through grants and funding of our National Science Foundation, National Institutes of Health, those kinds of investments which are jobs today and investment in the future so that this country is on the best footing to compete with every other country on the globe. My friends on the other side have now twice undercut that whole operation, that whole bill. But this Congress is going to keep this country moving forward so that we have jobs today and we invest in the future so that we don't have the kind of job loss that we saw at the end of the Bush administration.

People in this country, as much as my friends would like it to be doom and gloom and blame, what they want is a can-do approach, because the spirit of America is that we can do this. We can make this better. We will make this better. We're not taking "no" for an answer. Failure is not an option. We are going to invest in this country today, help people get back to work, and we will be a stronger Nation for it.

Mr. DREIER. Mr. Speaker, at this time I am happy to yield 1½ minutes to my good friend from Lubbock, Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Speaker, in a minute, we're going to have a vote on the previous question. It's going to be a very simple vote. If you vote "yes"—and I think a lot of my colleagues on the other side are going to do that—that means yes, keep on spending money we don't have. Now I'm going to vote "no" because I believe that the American people are speaking out—and I'm listening—that they're tired of spending.

There's a picture in the cloakroom of a little girl standing next to a dollhouse. She says, You know, I owe \$41,966, and all I own is a dollhouse.

Really, that's what this is about. This is about the future of our children and our grandchildren. And what we're doing every day is mortgaging that future. Today, we have almost \$13 trillion in debt. We're on course here to double that debt in 5 years and triple it in 10 years.

What are we going to say to our children and our grandchildren when we leave them with a legacy that, basically, all they get to do is service the debt service? We've got to stop it. And so that's the reason the right vote on the previous question is "yes" if you want to keep on spending. But if you want to stop spending, you want to bring fiscal responsibility to this country, you want to leave a legacy of opportunity and empowerment for our future generations, you're going to vote "no." It's time to listen to the 280,000 people that participated in YouCut last week that said, Stop the spending. Vote "no" on the previous question.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time. May I request from my colleague if he is ready to close?

Mr. DREIER. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore. The gentleman has 2¼ minutes remaining.

Mr. DREIER. Mr. Speaker, let me close as I began, saying first that we could have done this under unanimous consent. We all concur with the need to ensure that we take steps to ensure adequate oversight to ensure that we never, ever see the kind of loss of life that we did in West Virginia or any other mine disaster.

Mr. Speaker, the American people, the hundreds of millions of Americans who want us to rein in Federal spending have, unfortunately, because of the Democratic majority, they have been denied a voice here on the House floor. They're saying, Try and bring down the size and scope and reach of government.

My friend, Dennis Prager, says, very correctly, the bigger the government grows, the smaller the individual becomes. And so we decided to utilize a procedure here known as defeating the previous question. And we said, Why don't we let the American people actually have a chance to be heard? And so what we did is we put five proposals out there on the Republican Whip's Web site and asked the American people to vote. Nearly 300,000 Americans cast votes, and they ended up with 81,000 votes being cast in favor of a measure that said, Gosh, should people be required to work for welfare or should we have an open-ended policy that allows them, without any kind of accountability, to see States actually rewarded for not having people have a work component in the welfare program?

So, Mr. Speaker, we said with that overwhelming vote that we would use

this procedure to ensure that Democrats and Republicans alike would have an opportunity to make a decision whether or not they want to go down the road towards continued spending where, again, we've had an 85 percent increase in nondefense discretionary spending since President Obama has been in office. And that's why I couldn't understand why my friend from New Jersey was arguing that we had an 8 percent increase when President Bush was there, and his answer is a tenfold increase and that's going to solve the problem.

We know that we are deeper in the hole. We have more serious problems now, and the American people want us to cut Federal spending, and every Democrat and Republican will have a chance when we move to defeat the previous question to do just that.

So, Mr. Speaker, I ask unanimous consent that the text of the amendment and extraneous material be included in the RECORD just before the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Speaker, with that, I urge my colleagues to vote for reduced spending by defeating the previous question.

I yield back the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, this has been a most interesting debate. As I started, I am terribly concerned about what caused the awful mine disaster in West Virginia. I look forward to finding out why that was. Lack of government oversight, without any question in my mind, will be a large part of it, just as we're finding out in the oil spill.

This has also been an interesting afternoon of playing charades. I have a 6-year-old granddaughter who loves to play a game with me. She will tell me a tall tale, and then I pretend to believe it. Then, at a moment of her choosing, she says, "Gotcha." Don't let them "getcha" today. What they have been doing here is totally nongermane to this bill. And if you all run up and vote "no" on the previous question, they're not going to bring this up, because they can't.

Don't be taken in by this again. The Obama administration did not create this awful problem, but we're totally aware of it, and we have undertaken responsibility to clean it up. And we're going to do that. As soon as the supplemental bill comes, we're going to have one of the best chances in the world if we start to cut back the money that we're spending on wars in Iraq and Afghanistan, where we've already spent a trillion dollars, lost enormous numbers of our young soldiers, maimed many, many more. And it is time for us to cut that out. That, again, will start, along with other things we are doing, to get

this country back on some solid footing.

Let me say to you once again, Please come down here and vote "yes." Don't be fooled by this. I imagine that this is the beginning of every charade every week, sort of like what Mr. PERLMUTTER said about the COMPETES Act. Please don't forget, my colleagues, that twice we tried to vote out that bill to create jobs, put people back to work, and procedural games have killed it, to the great concern of the National Association of Manufacturers and the Chamber of Commerce, to name a couple.

So this afternoon I want you to come down here as quick as you can, wherever you are, and put your "yes" in here so that we can get this done and to give Chairman MILLER the opportunity to use this deposition authority with his staff to get to the bottom of this mine disaster. We have many disasters of all stripes that we're working on, as you know. Don't be held up by what we have been through here today. There's no question about it, it's non-germane.

The material previously referred to by Mr. DREIER is as follows:

#### AMENDMENT TO H. RES. 1363

OFFERED BY MR. DREIER OF CALIFORNIA

At the end of the resolution add the following new section:

SEC. 3. Immediately upon the adoption of this resolution the Speaker shall, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 1277) to repeal the emergency fund for the TANF program. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the Majority Leader and the Minority Leader or their respective designees. After general debate the bill shall be considered for amendment under the five-minute rule. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of the bill. Clause 1(c) of rule XIX shall not apply to the consideration of H.R. 1277.

(The information contained below was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

#### THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's "American Congressional Dictionary": "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Ms. SLAUGHTER. I yield back the balance of my time, and I move the previous question.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adopting House Resolution 1363, if ordered; and suspending the rules and passing H.R. 5128, if ordered.

The vote was taken by electronic device, and there were—yeas 240, nays 177, not voting 14, as follows:

[Roll No. 288]

#### YEAS—240

Ackerman	Engel	McCarthy (NY)
Adler (NJ)	Eshoo	McCollum
Altmire	Etheridge	McDermott
Andrews	Farr	McGovern
Arcuri	Fattah	McMahon
Baca	Filner	McNerney
Baird	Foster	Meek (FL)
Baldwin	Frank (MA)	Meeks (NY)
Barrow	Fudge	Melancon
Bean	Gonzalez	Michaud
Becerra	Grayson	Miller (NC)
Berkley	Green, Al	Miller, George
Berman	Green, Gene	Mollohan
Berry	Grijalva	Moore (KS)
Bishop (GA)	Gutierrez	Moore (WI)
Bishop (NY)	Hall (NY)	Moran (VA)
Blumenauer	Halvorson	Murphy (CT)
Bocchieri	Hare	Murphy (NY)
Boren	Harman	Murphy, Patrick
Boswell	Hastings (FL)	Nadler (NY)
Boucher	Heinrich	Napolitano
Boyd	Herseth Sandlin	Neal (MA)
Brady (PA)	Higgins	Oberstar
Braley (IA)	Hill	Obey
Brown, Corrine	Himes	Oliver
Butterfield	Hinchey	Ortiz
Capps	Hinojosa	Owens
Capuano	Hirono	Pallone
Cardoza	Hodes	Pascarell
Carnahan	Holden	Pastor (AZ)
Carney	Holt	Payne
Carson (IN)	Honda	Perlmutter
Castor (FL)	Hoyer	Perriello
Chandler	Inslee	Peters
Childers	Israel	Peterson
Chu	Jackson (IL)	Pingree (ME)
Clarke	Johnson (GA)	Polis (CO)
Clay	Johnson, E. B.	Pomeroy
Cleaver	Kagen	Price (NC)
Clyburn	Kanjorski	Quigley
Cohen	Kaptur	Rahall
Connolly (VA)	Kennedy	Rangel
Conyers	Kildee	Reyes
Cooper	Kilpatrick (MI)	Richardson
Costa	Kilroy	Rodriguez
Costello	Kind	Ross
Courtney	Kissell	Rothman (NJ)
Critz	Klein (FL)	Roybal-Allard
Crowley	Kosmas	Ruppersberger
Cuellar	Kratovil	Rush
Cummings	Kucinich	Ryan (OH)
Dahlkemper	Langevin	Salazar
Davis (AL)	Larsen (WA)	Sanchez, Loretta
Davis (CA)	Larson (CT)	Sarbanes
Davis (IL)	Lee (CA)	Schakowsky
Davis (TN)	Levin	Schauer
DeFazio	Lewis (GA)	Schiff
DeGette	Lipinski	Schrader
Delahunt	Loeb sack	Scott (GA)
DeLauro	Lofgren, Zoe	Scott (VA)
Deutch	Lowey	Serrano
Dicks	Lujan	Sestak
Dingell	Lynch	Shea-Porter
Doggett	Maffei	Sherman
Doyle	Maloney	Shuler
Driehaus	Markey (CO)	Sires
Edwards (MD)	Markey (MA)	Skelton
Edwards (TX)	Marshall	Slaughter
Ellison	Matheson	Smith (WA)
Ellsworth	Matsui	Snyder

Space  
Speier  
Spratt  
Stark  
Stupak  
Sutton  
Tanner  
Teague  
Thompson (CA)  
Thompson (MS)  
Tierney

Titus  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters

Watson  
Watt  
Waxman  
Weiner  
Welch  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth

## NAYS—177

Aderholt  
Akin  
Alexander  
Austria  
Bachmann  
Bartlett  
Barton (TX)  
Biggart  
Bilirakis  
Bishop (UT)  
Blackburn  
Blunt  
Boehner  
Bono Mack  
Boozman  
Boustany  
Brady (TX)  
Bright  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Carter  
Cassidy  
Castle  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson  
Davis (KY)  
Dent  
Diaz-Balart, L.  
Donnelly (IN)  
Dreier  
Duncan  
Ehlers  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)

Moran (KS)  
Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Nye  
Olson  
Paul  
Paulsen  
Pence  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Schmidt  
Schock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Stearns  
Sullivan  
Taylor  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (AK)  
Young (FL)

## NOT VOTING—14

Bachus  
Barrett (SC)  
Bilbray  
Bonner  
Diaz-Balart, M.  
Garamendi

Gordon (TN)  
Hoekstra  
Jackson Lee  
(TX)  
Kirk

Sánchez, Linda  
T.  
Schwartz  
Souder  
Wamp

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1608

Messrs. WHITFIELD, GINGREY of Georgia, POSEY, ROGERS of Alabama, JORDAN of Ohio, LEE of New York, SIMPSON, GOHMERT, BROWN of Georgia, EHLERS, BLUNT, INGLIS,

OLSON and Mrs. McMORRIS RODGERS changed their vote from “yea” to “nay.”

Mr. CHILDERS changed his vote from “nay” to “yea.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 413, nays 1, not voting 17, as follows:

[Roll No. 289]

## YEAS—413

Ackerman  
Aderholt  
Adler (NJ)  
Akin  
Alexander  
Altmire  
Andrews  
Arcuri  
Austria  
Baca  
Bachmann  
Baird  
Baldwin  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggart  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blackburn  
Blumenauer  
Blunt  
Bocchieri  
Boehner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Bright  
Brown (GA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter

Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Clever  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Critz  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeFazio  
DeGette  
DeLauro  
Dent  
Deutch  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Fortenberry

Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel  
E.  
Mack  
Maffei  
Maloney  
Manzullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick

Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Owens  
Pallone  
Pascrell  
Pastor (AZ)  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Pollis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Putnam  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Ryan (OH)  
Ryan (WI)  
Salazar  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer

Schiff  
Schmidt  
Schock  
Schradler  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Sherman  
Shimkus  
Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Slaughter  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Stupak  
Sullivan  
Sutton  
Tanner  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (AK)  
Young (FL)

## NAYS—1

Paul

## NOT VOTING—17

Bachus  
Barrett (SC)  
Bilbray  
Bonner  
Davis (KY)  
Diaz-Balart, M.  
Garamendi

Gordon (TN)  
Hoekstra  
Jackson Lee  
(TX)  
Kirk  
Lynch  
Rush

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain on this vote.

□ 1615

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# STEWART LEE UDALL DEPARTMENT OF THE INTERIOR BUILDING

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill, H.R. 5128, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. TEAGUE) that the House suspend the rules and pass the bill, H.R. 5128, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

RECORDED VOTE

Mr. HEINRICH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 409, noes 1, not voting 21, as follows:

[Roll No. 290]

AYES—409

Ackerman	Buyer	Delahunt
Aderholt	Calvert	DeLauro
Adler (NJ)	Camp	Dent
Akin	Campbell	Deutch
Alexander	Cantor	Diaz-Balart, L.
Altmire	Cao	Dicks
Andrews	Capito	Dingell
Arcuri	Capps	Doggett
Austria	Capuano	Donnelly (IN)
Baca	Cardoza	Doyle
Bachmann	Carnahan	Dreier
Baird	Carney	Driehaus
Baldwin	Carson (IN)	Duncan
Barrow	Carter	Edwards (MD)
Bartlett	Cassidy	Edwards (TX)
Barton (TX)	Castle	Ehlers
Bean	Castor (FL)	Ellison
Becerra	Chaffetz	Ellsworth
Berkley	Chandler	Emerson
Berman	Childers	Engel
Berry	Chu	Eshoo
Biggert	Clarke	Etheridge
Bilirakis	Clay	Fallin
Bishop (GA)	Cleaver	Farr
Bishop (NY)	Clyburn	Fattah
Bishop (UT)	Coble	Filner
Blackburn	Coffman (CO)	Flake
Blumenauer	Cohen	Fleming
Blunt	Cole	Forbes
Bocieri	Conaway	Fortenberry
Boehner	Connolly (VA)	Foster
Bono Mack	Conyers	Fox
Boozman	Cooper	Frank (MA)
Boren	Costa	Franks (AZ)
Boswell	Costello	Frelinghuysen
Boucher	Courtney	Fudge
Boustany	Crenshaw	Gallely
Boyd	Critz	Garrett (NJ)
Brady (PA)	Crowley	Gerlach
Brady (TX)	Cuellar	Giffords
Bright	Culberson	Gingrey (GA)
Brown (GA)	Cummings	Gohmert
Brown (SC)	Dahlkemper	Gonzalez
Brown, Corrine	Davis (AL)	Goodlatte
Brown-Waite,	Davis (CA)	Granger
Ginny	Davis (IL)	Graves
Buchanan	Davis (TN)	Grayson
Burton (IN)	DeFazio	Green, Al
Butterfield	DeGette	Green, Gene

Griffith	Markey (CO)	Roskam
Grijalva	Markey (MA)	Ross
Guthrie	Marshall	Rothman (NJ)
Gutierrez	Matheson	Roybal-Allard
Hall (NY)	Matsui	Royce
Hall (TX)	McCarthy (CA)	Ruppersberger
Halvorson	McCarthy (NY)	Rush
Hare	McCauley	Ryan (OH)
Harman	McClintock	Ryan (WI)
Harper	McCollum	Salazar
Hastings (FL)	McCotter	Sanchez, Loretta
Hastings (WA)	McDermott	Sarbanes
Heinrich	McGovern	Scalise
Heller	McHenry	Schakowsky
Hensarling	McIntyre	Schauer
Herger	McKeon	Schiff
Herseht Sandlin	McMahon	Schmidt
Higgins	McMorris	Schock
Hill	Rodgers	Schrader
Himes	McNerney	Scott (GA)
Hinchee	Meek (FL)	Scott (VA)
Hirono	Meeks (NY)	Sensenbrenner
Hodes	Melancon	Serrano
Holden	Mica	Sessions
Holt	Michaud	Sestak
Honda	Miller (FL)	Shadeegg
Hoyer	Miller (MI)	Shea-Porter
Hunter	Miller, Gary	Sherman
Inglis	Miller, George	Shimkus
Inslee	Minnick	Shuler
Israel	Mitchell	Shuster
Issa	Mollohan	Simpson
Jackson (IL)	Moore (WI)	Sires
Jenkins	Moran (VA)	Skelton
Johnson (GA)	Murphy (CT)	Slaughter
Johnson (IL)	Murphy (NY)	Smith (NE)
Johnson, E. B.	Murphy, Patrick	Smith (NJ)
Johnson, Sam	Murphy, Tim	Smith (TX)
Jones	Myrick	Smith (WA)
Jordan (OH)	Nadler (NY)	Snyder
Kagen	Napolitano	Space
Kanjorski	Neal (MA)	Speier
Kaptur	Neugebauer	Spratt
Kennedy	Nunes	Stark
Kildee	Nye	Stearns
Kilpatrick (MI)	Oberstar	Stupak
Kilroy	Obey	Sullivan
Kind	Olson	Sutton
King (IA)	Olver	Tanner
King (NY)	Ortiz	Taylor
Kingston	Owens	Teague
Kirkpatrick (AZ)	Pallone	Terry
Kissell	Pascarella	Thompson (CA)
Klein (FL)	Pastor (AZ)	Thompson (MS)
Kline (MN)	Paul	Thompson (PA)
Kosmas	Paulsen	Thornberry
Kratovil	Payne	Tiahrt
Kucinich	Pence	Tiberi
Lamborn	Perlmutter	Tierney
Lance	Perriello	Titus
Langevin	Peters	Tonko
Larsen (WA)	Peterson	Towns
Larson (CT)	Petri	Tsongas
Latham	Pingree (ME)	Turner
LaTourette	Pitts	Upton
Latta	Platts	Van Hollen
Lee (CA)	Poe (TX)	Velázquez
Lee (NY)	Polis (CO)	Visclosky
Levin	Pomeroy	Walden
Lewis (CA)	Posey	Walz
Lewis (GA)	Price (GA)	Wasserman
Linder	Price (NC)	Schultz
Lipinski	Putnam	Waters
LoBiondo	Quigley	Watson
Loebach	Radanovich	Watt
Lofgren, Zoe	Rahall	Waxman
Lowe	Rangel	Weiner
Lucas	Rehberg	Welch
Luetkemeyer	Reichert	Westmoreland
Lujan	Reyes	Whitfield
Lummis	Richardson	Wilson (OH)
Lungren, Daniel	Rodriguez	Wilson (SC)
E.	Roe (TN)	Wittman
Lynch	Rogers (AL)	Wolf
Mack	Rogers (KY)	Woolsey
Maffei	Rogers (MI)	Wu
Maloney	Rohrabacher	Yarmuth
Manzullo	Rooney	Young (FL)
Marchant	Ros-Lehtinen	

NOES—1

Young (AK)

NOT VOTING—21

Bachus	Garamendi	Moore (KS)
Barrett (SC)	Gordon (TN)	Moran (KS)
Bilbray	Hinojosa	Sánchez, Linda
Bonner	Hoekstra	T.
Braley (IA)	Jackson Lee	Schwartz
Burgess	(TX)	Souder
Davis (KY)	Kirk	Wamp
Diaz-Balart, M.	Miller (NC)	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1623

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to designate the United States Department of the Interior Building in Washington, District of Columbia, as the 'Stewart Lee Udall Department of the Interior Building'."

A motion to reconsider was laid on the table.

Stated for:

Mr. GARAMENDI. Mr. Speaker, on rollcall No. 290 taken today, H.R. 5128, to designate the Department of the Interior Building in Washington, DC, as the "Stewart Lee Udall Department of the Interior Building", had I not had a family emergency which required my return to California, I would have proudly voted "yes."

## NATIONAL CHILDHOOD OBESITY AWARENESS MONTH

The SPEAKER pro tempore (Mr. KISSELL). The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 996, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. CAPPs) that the House suspend the rules and agree to the resolution, H. Res. 996, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The title was amended so as to read: "A resolution expressing support for the designation of September as National Childhood Obesity Awareness Month."

A motion to reconsider was laid on the table.

## 5-STAR GENERALS COMMEMORATIVE COIN ACT

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill, H.R. 1177, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Kansas (Mr. MOORE) that the House suspend the rules and pass the bill, H.R. 1177, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### NATIONAL FOSTER CARE MONTH

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 1339.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. McDERMOTT) that the House suspend the rules and agree to the resolution, H. Res. 1339.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

#### EXPRESSING CONDOLENCES TO CHINA FOR TRAGIC EARTHQUAKE IN QINGHAI PROVINCE

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 1324.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McMAHON) that the House suspend the rules and agree to the resolution, H. Res. 1324.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

#### LEGISLATIVE PROGRAM

(Mr. CANTOR asked and was given permission to address the House for 1 minute.)

Mr. CANTOR. Mr. Speaker, I yield to the gentleman from Maryland (Mr. HOYER), the majority leader, for the purposes of announcing next week's schedule.

Mr. HOYER. I thank the Republican whip for yielding.

On Monday, the House will meet at 12:30 p.m. for morning-hour debate and 2 p.m. for legislative business, with votes postponed until 6:30 p.m. On Tuesday, the House will meet at 10:30 a.m. for morning-hour debate and 12 p.m. for legislative business. Wednes-

day and Thursday, the House will meet at 10 a.m. for legislative business, and on Friday, the House will meet at 9 a.m.

We will consider several bills under suspension of the rules, as is usual. The complete list of suspension bills will be announced by the close of business tomorrow.

In addition, we will consider Senate amendments to H.R. 4213, the American Jobs Closing Tax Loopholes and Preventing Outsourcing Act, and H.R. 5136, the National Defense Authorization Act for fiscal year 2011. And we will take further action on the America COMPETES legislation to make our economy more vibrant.

Mr. CANTOR. I thank the gentleman.

Mr. Speaker, I'd ask, with the Memorial Day recess beginning the week after next, does the gentleman expect the House to be in session next Friday. I yield.

□ 1630

Mr. HOYER. I expect us to reserve that day for session. I have urged Members, and I would urge Members on both sides of the aisle, to reserve that day, not to plan for that day. Clearly, if we can complete the week's business then we will not have to meet.

But I remind the gentleman, as I am sure he knows, there are a number of items that have expiration dates either on the 31st of May or the 1st of June: unemployment insurance, COBRA health insurance, the sustainable growth rate for doctors' reimbursement for services, and other items that are critical to continue. So that I do not want to give away Friday because it is the last day we will be here for 10 days, and therefore we need to address those issues.

Mr. CANTOR. Mr. Speaker, as the gentleman indicated, the Defense authorization bill is coming to the floor next week. Usually, I think Members expect several days' worth of debate on a variety of amendments. Typically, there are a large number of amendments made in order.

I would ask the gentleman, does he expect the House to follow that general precedent on the Defense authorization and the lengthy number of amendments and discussion on the House floor next week?

Mr. HOYER. We expect to take such time as is necessary to complete the appropriate debate on that bill. If we can do it in 1 day, we will do it in 1 day. If it takes more than that, we will allot more time.

Mr. CANTOR. Mr. Speaker, there are a number of items the gentleman did not mention for next week's schedule, including a budget resolution as well as a troop funding supplemental. I would like to ask the gentleman, Mr. Speaker, whether he expects either of these two items to come to the floor next week.

Mr. HOYER. I thank the gentleman for his question and for yielding. With respect to the budget, as the gentleman knows, I personally want to see a budget move forward. Mr. SPRATT has been working very hard to try to see if we can reach consensus on the parameters of such a budget. He continues to do that. I frankly want to tell the gentleman honestly that my assessment is that that probably will not be done by Thursday or Wednesday of next week, and therefore even if it were completed Wednesday, not appropriate time for notice to be given. So that my expectation is that will not be done next week, but my expectation is that we will continue to work on that, and hopefully do that shortly after our return.

Mr. CANTOR. Mr. Speaker, I thank the gentleman.

Mr. HOYER. You asked another question I didn't answer. I apologize. On the war supplemental, very important bill that I know the gentleman and I are very interested in. As you know, the Senate has marked up its supplemental in committee. Chairman OBEY I know is working to get a bill ready for committee consideration. It is possible that we would consider that next week if, in fact, Mr. OBEY and the committee are ready to report that out.

Mr. CANTOR. Mr. Speaker, as the gentleman knows, the House voted today on the first YouCut proposal. It was a spending cut selected by the American people. Unfortunately, only nine Members from the gentleman's side of the aisle joined with all Republicans in voting to save the taxpayers \$2.5 billion. I wish more Members of the Democratic Caucus had voted with Republicans.

The good news is Members will have the opportunity to vote on another cut again next week. Right now as we speak, Mr. Speaker, Americans are casting their votes at [Republicanwhip.house.gov/YouCut](http://Republicanwhip.house.gov/YouCut) for what they would like the House to cut next week.

So, in keeping with the gentleman's announcement about next week's floor schedule, I would like to announce that the House will vote on one of these five spending cut proposals next week: first, to eliminate the Byrd Honor Scholarship Program, a \$420 million item for savings; second, stop the proposed Federal employee pay raise next year, a potential \$30 billion worth of savings; third, to suspend the Federal land purchases, a \$2.6 billion potential savings, Mr. Speaker; fourth, an ability to terminate U.S. funding for UNESCO, a potential item for \$810 million worth of savings to the taxpayers; or fifth, a move to eliminate mohair subsidies, something that would save the taxpayers \$10 million.

Mr. Speaker, I would say again, the gentleman knows about this program. It is nothing but an attempt for us to try and change the culture here in

Washington towards one of saving taxpayer dollars. Reducing the budget deficit should be a bipartisan effort, and we would hope that the gentleman and his colleagues could join with us as we bring up the next YouCut proposal next week.

Mr. HOYER. Mr. BOEHNER and I did attempt to pursue some meaningful restraints last week, and unfortunately, we couldn't get agreement to do so on your side of the aisle. Having said that, we certainly agree that we need to get a handle on the extraordinary deficit picture that confronts us.

I know I am repetitive, but in 2001, President Bush came before the Congress and said we have a \$5.6 trillion surplus. Unfortunately, that \$5.6 trillion surplus was eliminated, and in fact, \$5 trillion of additional deficit was incurred, giving us a \$10 trillion deficit when this administration took over. That's unfortunate.

I will tell the gentleman, as he knows, he and others have voted for trillions, that's with a T, of dollars of unfunded liabilities for the Federal Government, either reduction in revenues, which of course you say will grow the economy—unfortunately, it did not—or a prescription drug bill which was not paid for which was hundreds of billions of dollars, not minimal dollars. But I will tell the gentleman that we are interested in working with you in a meaningful way, not in procedural vote ways, but in meaningful ways to reduce the deficit that confronts us, including reducing areas of spending, which we think is appropriate.

With respect to the motion that you made today, a procedural motion, if it hadn't been a procedural motion, maybe a real motion—and of course many of those programs were in existence for the 12 years that you controlled the Congress of the United States, as the gentleman well knows. The motion today, of course, would have affected a program which is going to create, we believe, 185,000 jobs. We think that's important in an economy that is still struggling to get jobs back. But we applaud the efforts to bring forward meaningful, important ideas. Unfortunately, that has not always been our experience.

I am sure you read there have been a lot of motions to recommit that have been made. Now we are onto previous questions now, but motions to recommit. Norm Ornstein wrote an article about those just the other day in which he said, The unfortunate fact is that the motion to recommit with instructions has for more than a decade become a hollow vehicle and farce. Now, the American people don't want to see us participate in hollow vehicles and farces. What they want to see is us work together in real ways to effect the kind of fiscal responsibility that we had in the nineties, and unfortunately we did not have in the last decade. We need to return to that.

We have, as you know, taken very substantive steps. One was to pay for what we buy—not a previous question—legislation on this floor which said we are going to pay for what we buy. That was in place in the nineties, put in place in a bipartisan way with Mr. Bush and Mr. Gephardt leading the way and others. Again adopted in a bipartisan way with Mr. Gingrich and President Clinton working together. And then of course jettisoned under not your personal leadership, but under the leadership of the Republican Party in 2001, 2002, 2003, formally jettisoned in 2003, in which we said, no, we don't believe that paying for what we buy is the policy that we are going to pursue. And in fact you didn't pursue it. You created large deficits every year that you controlled the Congress: the House, the Senate, and the Presidency. Every year without fail.

So I tell my friend that we want to join together in real efforts. We are sorry that in a partisan way PAYGO was jettisoned. We are also sorry that the commission that the President established by Executive order didn't pass because so many of your colleagues in the Senate who said they were for the idea of setting up a commission to propose real restraint in spending, not only in terms of discretionary dollars but in terms of entitlement dollars, that so many of your colleagues in the Senate opposed that, and as result we don't have a statutory commission, we have a Presidentially appointed commission.

I am hopeful that they will make substantive recommendations. I am hopeful that our Members and your Members will join together in making recommendations to us. And as you know, both Mr. REID, the leader in the Senate, and Speaker PELOSI have indicated that we will put their recommendations on the floor. If the Senate passes them, we will put them on the floor here. Hopefully, we can work together toward the end that I think we both seek even though there may be disagreement on the process that is being pursued.

Mr. CANTOR. Mr. Speaker, the gentleman loves to talk about spending under the Bush years and under the years that our party controlled Congress. But I find it somewhat ironic at this point to go on talking about the inability to control spending when it is his party and the majority currently that is unable to produce a budget. He and I have had discussions again about the inability of this House to do its work, and in fact, I know the gentleman recalls, because it has been reported before that he himself says that when we are unable to pass a budget, and I quote, "it is failing to meet the most basic responsibility of governing, that is enacting a budget."

In the same way, the gentleman's chairman of the Budget Committee

from South Carolina (Mr. SPRATT) said, quote, "If you can't budget, you can't govern. In a parliamentary system it's more than an adage."

Mr. HOYER. Will the gentleman yield?

Mr. CANTOR. Not yet, Mr. Speaker.

Mr. HOYER. I was just going to say that I still agree with both of those statements, Mr. SPRATT's and my own.

Mr. CANTOR. I appreciate that. I would say instead of casting stones and pointing blame and saying you too did this, I believe that it is most important for us to recognize now the failure of this body to do what the American people expect us to do to control spending, and that is to produce a budget.

Mr. Speaker, I go on to say the gentleman was quick to, if I could say, malign the attempt to reduce the \$2.4 billion program under the expanded welfare program under the stimulus bill that we just had a vote on. But I would point out that there were nine Members on his side of the aisle—Mr. BRIGHT, Mr. DONNELLY, Ms. GIFFORDS, Mrs. KIRKPATRICK, Mr. MCINTYRE, Mr. MINNICK, Mr. MITCHELL, Mr. NYE, and Mr. TAYLOR—these individual Members felt that perhaps we were and did have a valid point to make, that we ought to be cutting spending right now.

I would say to the gentleman, perhaps he is suggesting that these individuals voted to kill 185,000 jobs. I wouldn't say that those Members tried to do that in that vote. Again, I would just ask the gentleman whether that was his intention. I would probably think he wouldn't think his Members would vote to kill jobs.

Mr. HOYER. Will the gentleman yield?

Mr. CANTOR. I yield.

Mr. HOYER. I think there is a lot of concern, not necessarily on these Members' parts, and we all know this, about 30-second simplistic "gotcha" ads on television which don't discuss the substance of the ramifications of actions. The bill that passed passed overwhelmingly. The previous question would have stopped that bill going forward. Obviously, when you were in control you wanted the previous question passed so you could move your substantive legislation forward. There is no difference over here. But the "gotcha" ads certainly are something that in the minds of everybody on both sides of the aisle—

Mr. CANTOR. Reclaiming my time, Mr. Speaker, there are no "gotcha" ads here. There was a statement made by the gentleman that said that the program that we were attempting to cut was a program that could create or has created 185,000 jobs. I just say to the gentleman, nine of his Members voted with us on that vote, and I would ask the gentleman does he think those nine Members voted to kill 185,000 jobs the way he in his statement sort of implied that Republicans intended to do?



□ 1645

Mr. HOYER. Well, first of all, we don't believe this is a real vote. Our Members don't believe it's a real vote. Our Members are cognizant of why it's being done. But the 185,000 jobs, clearly, those nine Members that you referenced did not vote to eliminate 185,000 jobs. But all your Members did. The difference is because you are not going to run ads against your Members.

The fact of the matter is that if you want to do real things to create real jobs, we're prepared to work with you. We believe the program you wanted to eliminate does in fact score at creating 185,000 jobs. You call it welfare. We call it work. We think it was an appropriate expenditure. As a matter of fact, as the gentleman may know, we have that expenditure in our jobs bill. Why? Because it's scored to create 185,000 jobs, put people to work, allow them to support their families, allow them to live with some degree of dignity. And we think that's appropriate in a very, very strained economy to this date.

We're coming back, but as we've seen lately, it is fragile and this gum, grease, and oil has caused us problems in terms of confidence. And we need to keep confidence up and not make the mistakes that have been made in the past.

Mr. CANTOR. I would say to the gentleman that obviously we have a real difference and the program we propose to cut is number one. The kind of debate that we're having should be the kind of debate we are having on this floor every day—not voting for post offices and naming Federal buildings.

Mr. HOYER. Will the gentleman yield on that particular point?

Mr. CANTOR. I yield.

Mr. HOYER. As you know, I schedule the legislation. Are you asking me not to schedule the 40 percent of those post office bills that your Members are requesting? Because if you are, I will not schedule them.

Mr. CANTOR. Mr. Speaker, what I am asking the gentleman to do is to work with us in bringing to the floor and scheduling bills that actually reduce spending here in Washington because the gentleman indicated that he knows why all of this is being done, and I think that perhaps maybe he's thinking it's being done under the old construct.

Where we are now, Mr. Speaker, in my opinion, is that the American people expect some accountability here in Washington. They want us to stop spending money we don't have. The reason we launched the YouCut program is, number one, we want to say to the American people, we're listening, that we're not setting aside their wishes and their desires, that we care about what they think. That's what YouCut is all about. It's about empowering folks to go online and to tell us what

they think, given the options presented to cut the Federal budget deficit. That's why we're doing this program, Mr. Speaker, and that's what YouCut is all about.

I would say to the gentleman, not one bill on the floor this week cut a single dollar from the Federal deficit. That's why we brought this proposal up.

Now, as to why we chose the PQ, I think the gentleman knows that the rules put in place and make it so that the minority has no other way to posit their alternatives or posit wishes that we may have other than to use a PQ, and that's why we elected to do this. If the gentleman wants to schedule a bill that we are discussing on substantive grounds, that's what we're about. Bring these bills to the floor for open and fair debate.

Lastly, Mr. Speaker, I would say to the gentleman, he mentions the disappointment that he has over some on our side of the aisle and the other side of this building in not supporting the President's commission addressing the fiscal outlook for this country. The gentleman knows well the reason many Members on our side of the aisle refused to participate in that vote was because, in fact, the focus was not going to be on that commission cutting spending.

We think that Washington doesn't have a revenue problem; we have a spending problem here. So why couldn't we just set aside the need for additional revenues, put that off the table, and focus on spending?

Again, that's what the YouCut program is about. That's why we're bringing these things to the floor, and I would hope that the gentleman could join us in demonstrating that we're listening to the people and actually moving towards a sense of fiscal discipline here in Washington.

Mr. HOYER. Would the gentleman yield?

Mr. CANTOR. I yield.

Mr. HOYER. I ask the gentleman, there is a Member on your side of the aisle who has, in my opinion, a very thoughtful, courageous, and substantive proposal. I happen not to agree with it, but I think it is a courageous, intellectually honest proposal. And that is Mr. RYAN, who's the ranking member of the Budget Committee. If the gentleman would like us to put that budget on the floor—which is from his chair when he was in the majority of the Budget Committee—that is a really substantive proposal. Again, I don't agree with it, but I think it intellectually is an honest, effective proposal to deal with a very serious problem, not a little problem, but a trillion-dollar problem; not a little problem that sounds good in sound bites but is not going to get us to where we need to be.

I think Mr. RYAN has such a proposal, and I certainly would urge the chair-

man of the Budget Committee to agree to make sure that's on the floor because I believe that is a substantive proposal. The gentleman says we don't put his substantive proposals on the floor. That's made by the ranking member of the Budget Committee, one of the leaders of his party, representing your party on the Budget Committee. And I would be glad to make arrangements to have that proposal on the floor.

Would the gentleman want me to do that?

Mr. CANTOR. I say to the Speaker, the gentleman suggests that our ranking member on the Budget Committee, Mr. RYAN's roadmap proposal, is the budget. That is not the budget. That's a 75-year document. The gentleman, I think, knows, if he's looked at that, it is a plan to try and address the very real fiscal challenges that this country faces.

Mr. HOYER. I agree with that.

Mr. CANTOR. And our job here in this Congress is to go about trying to address the problems through the processes that his party has put in place.

Right now, priority one should be a budget. Okay. So if the gentleman is suggesting that perhaps we bring Mr. RYAN's roadmap bill to the floor, a 75-year document, how is that even something that we could expect is a serious gesture to do something about the fiscal needs this country has when his party can't even produce a budget for this fiscal year?

So again I say, Mr. Speaker, let's get serious now. There are a lot of things we can agree on. The budget cut that we brought to the floor today is something that I believe, up-or-down, if his Members were given the opportunity to vote on again and think about without being tainted by some accusation that it may not be for real, these are cuts that are serious. We've got to start somewhere, and the American people have said start here.

So this is what we're about, Mr. Speaker, and I'd ask the gentleman to work with us and bring these types of cuts to the floor.

Mr. HOYER. Will the gentleman yield?

Mr. CANTOR. If the gentleman is really saying that \$2.5 billion is not something that we could start with—as if that's no money. I know he doesn't mean that. And only in Washington somehow has that become a sense that \$2.5 billion is not real money. Of course it is.

But we've got to find ways to work together. And if the gentleman says he'll bring up this bill but he can't support it, then the purpose is not for us to work together. We've got to work together to find a way to solve these problems.

And I'll yield.

Mr. HOYER. I thank the gentleman for yielding.

I take that as a “no,” that you’re not interested in having that bill brought up.

But \$2.5 billion is a lot of money, and to the extent we cut \$2.5 billion or \$2.5 million, we ought to do it. You are going to have an opportunity to vote on that \$2.4 billion, 185,000 job-creation bill probably next week. We’re going to have it on the floor. So you’ll have a chance to vote on that, I tell my friend.

We do want to work together. And the reason I keep bringing up is not to blame—I said this a couple of weeks ago—not to blame, but to point out the failure of the premise under which you have operated to do what you said it was going to do: create jobs, lower the deficit. In fact, it did the opposite. We followed that economic policy for 6 years. The American public said, We don’t like this. And we couldn’t change it because President Bush didn’t want to change it.

In 2008, they said, We want new leadership. Unfortunately, the legacy we were left was the deepest economic recession as a result of those policies that this country has seen in 75 years. We’re trying to dig out. It’s difficult to dig out. We have a responsibility, however, to make the tough decisions to dig out.

You and I made a tough decision at President Bush’s request in September. In February, we had to make another tough decision. You and I disagreed on that, and that was trying to put money into the economy, trying to stabilize it and bring jobs back. I suggest to the gentleman that that is working. It’s not working as well as we would have liked, but we’ve had 4 months of job growth. Those 4 months, if they’re replicated over the next two-thirds of the year, would create more jobs than were created in the 96 months of the Bush administration—1.7 million jobs. One million were created during the entire 8 years of the Bush administration, net.

We have a hole. We need to dig out. The gentleman is absolutely correct: to the extent that we dig together, America will be better. We want to do that.

Mr. CANTOR. I thank the gentleman.

Again, I would respond by saying it is just not all that black and white, and he knows it. There is no way that the blame for what happened can go singly to one party, one administration, or what have you. We all have to come here with the best of intentions to work together and to point to the good in this country and what made us who we are, and that is the freedom and the economic freedom afforded by our system.

Those are the principles by which we come to this building, Mr. Speaker. And some of us have a strong objection to the increasing sense that somehow we’ve got all of the answers here in Washington, that we don’t have to listen to the people.

I’m glad to hear that the gentleman is going to bring some YouCut proposals to the floor. That’s a great start. We need to keep listening to the people, doing what it is they expect, which is to get the Federal spending under control.

Mr. Speaker, in closing, I look forward to working with Mr. HOYER.

Mr. HOYER. Will the gentleman yield?

Mr. CANTOR. I yield.

Mr. HOYER. What I said was we’ll bring the proposal to create those jobs to the floor—not to cut it, but to spend it because we believe that that will create 185,000 jobs. So I just didn’t want to be misconstrued in what I said.

The gentleman will have an opportunity to vote against that, of course.

Mr. CANTOR. I apologize, Mr. Speaker, for misunderstanding the gentleman.

I would respond to that statement then by saying the American people have told us to stop spending, to stop spending money we don’t have. And that’s the purpose for our sponsoring this provision today, the purpose for our launching YouCut, and we will expect to continue to have the votes on listening to the American people to begin to cut the Federal deficit.

But, again, Mr. Speaker, in closing, I look forward to working with the gentleman from Maryland in a fiscally responsible manner which, again, we would hope starts with passing a budget blueprint this year, making some of the tough decisions to cut spending just like the American families and small business people are doing as we speak.

And with that, I thank the gentleman for his time, and I yield back.

ADJOURNMENT FROM FRIDAY, MAY 21, 2010, TO MONDAY, MAY 24, 2010

Mr. HOYER. Mr. Speaker. I ask unanimous consent that when the House adjourns tomorrow, it adjourn to meet at 12:30 p.m. on Monday next for morning-hour debate; and further, that when the House adjourns on that day, it adjourn to meet at 10:30 a.m. on Tuesday, May 25, 2010, for morning-hour debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

#### RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore laid before the House the following resignation from the House of Representatives:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 18, 2020.

Hon. NANCY PELOSI,  
Speaker, House of Representatives, U.S. Capitol,  
Washington, DC.

DEAR MADAM SPEAKER: This letter is to inform you that I have sent the enclosed letter to Governor Mitch Daniels of Indiana resigning my office as the United States Representative for the Third District of Indiana, effective Friday, May 21, 2010.

It has been an honor and a privilege to serve the people of Indiana.

Sincerely,

MARK E. SOUDER,  
Member of Congress.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 18, 2020.

Hon. MITCH DANIELS,  
Governor,  
State of Indiana.

I write to inform you that effective Friday, May 21, 2010, I resign from the office of the United States Representatives for the Third Congressional District of Indiana.

It has been an honor and privilege to serve the people of Indiana.

Sincerely,

MARK E. SOUDER,  
Member of Congress.

#### COMMUNICATION FROM THE HONORABLE JESSE L. JACKSON, JR., MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable JESSE L. JACKSON, Jr., Member of Congress:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, May 20, 2010.

Hon. NANCY PELOSI,  
Speaker, House of Representatives,  
Washington, DC.

DEAR MADAM SPEAKER: I write to formally notify you that I have been served with a subpoena for testimony issued by the U.S. District Court for the Northern District of Illinois in a criminal case pending there.

While it is unclear at this time whether the testimony sought “relates to the official functions of the House” within the meaning of Rule VIII.1 of the Rules of the House of Representatives, I am electing to notify the House of the subpoena out of an abundance of caution.

After consultation with counsel, I have determined that compliance with the subpoena is consistent with the privileges and rights of the House.

Sincerely,

JESSE L. JACKSON, JR.,  
Member of Congress.

□ 1700

#### FIFTY-SIXTH ANNIVERSARY OF BROWN v. BOARD OF EDUCATION

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Mr. Speaker, this week marks the 56th anniversary of the Supreme Court ruling of Brown v. Board of Education. It

was a landmark case known throughout this country for putting an end to segregated schools.

The case was argued before the Supreme Court by the chief counsel for the NAACP, Thurgood Marshall. The decision by the Justices was unanimous when they declared that the State laws establishing separate public schools for black and white students was unconstitutional.

There followed a period of national debate and unrest over the decision. Then, in 1965, Congress passed the Elementary and Secondary Education Act, which emphasized equal access to education and established high standards and accountability in schools.

Fifty-six years after Brown and 45 years after the first ESEA, we are not finished with our common goal of education equity for all students, whether they attend schools in the inner city or rural America.

As we contemplate ESEA reauthorization, I call upon my colleagues here in the House to support a world-class education system that provides every student with the opportunity to live up to his or her individual potential regardless of race, class, or geographic location. This would be the greatest and best remembrance of this landmark case.

#### HONORING REV. BOBBY JOHNSON, FIRST ASSEMBLY OF GOD, VAN BUREN

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today to honor Pastor Bobby L. Johnson for 30 years of leadership at Van Buren's First Assembly of God.

Under Pastor Johnson's guidance, First Assembly of God has enjoyed much success, and it continues to reach new heights. From revivals and youth camps to ministers' retreats and mission crusades, Pastor Johnson's message resonates with community members, both young and old. Its Sunday school program, which started with 270 students, now has more than 2,000 students. In addition, its campus houses a retirement center, which enables it to reach more seniors.

Pastor Johnson has served in the ministry for many years and has touched the lives of countless individuals, including myself. In addition to being pastor at First Assembly of God, Pastor Johnson serves as a General Presbyterian of the Assemblies of God. Prior to joining the First Assembly of God, Van Buren, he served as the Arkansas District Assemblies of God Youth Director.

Mr. Speaker, Pastor Johnson's dedication to spreading the gospel is unparalleled; his leadership is unsurpassed. I ask that my colleagues recognized Pas-

tor Johnson for his commitment and service to the ministry and continued success.

#### WORLD TRADE WEEK

(Ms. BEAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BEAN. Mr. Speaker, I rise today with my fellow New Dems to highlight the value of trade and exports to our economy. During World Trade Week, it is important for America to demonstrate our commitment to competing and leading in the global marketplace.

To bolster economic recovery and build sustainable economic growth and employment opportunities, America cannot cede emerging markets to our global competitors. Instead, we must recognize, target, and seek to gain share in high-growth, high-population markets.

Trade agreements that give American workers and products access to new markets, and greater share, are critical to removing barriers to sustainable growth and competitiveness. By ensuring these agreements do not disadvantage American employers but, instead, create a level playing field and are enforced, American innovation and work ethic can and will prevail in the global economy.

I applaud and support the President's National Export Initiative to double our exports in the next 5 years, and I encourage the administration and Congress to resolve remaining issues and move forward on passage of the pending trade agreements. New Dems look forward to working with the administration to do just that.

#### YOU CUT

(Mr. HASTINGS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTINGS of Florida. Mr. Speaker, yesterday in the Rules Committee, we met the newest ploy of the Republicans, YouCut.

The rule under consideration was to grant deposition authority to the staff of Ed and Labor regarding the safety issues surrounding the tragic loss of life and limb of coal miners. Enter YouCut.

So-called 240,000 Americans voted on the Internet. The Republicans then chose to offer an amendment to the previous question so that we could not go forward on substantive business, and to cut poor people's opportunities.

First, this is not "American Idol" or "Dancing With the Stars." This is America's legislature. For all we know, on YouCut, Osama bin Laden could be voting.

Please know that not a handful of organized "gotcha" Republicans are going to control this legislature.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### COMMENTS OF MR. RAND PAUL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. AL GREEN) is recognized for 5 minutes.

Mr. AL GREEN of Texas. Mr. Speaker, I rise because I love America. No one loves the Constitution more than I. No one recites the Pledge of Allegiance with greater spirit than I. No one loves the Declaration of Independence more than I.

I must tell you, Mr. Speaker, that I was shocked last night beyond belief when I heard the comments of a person who has been nominated for the Senate of the United States of America. I heard the comments of one Mr. Rand Paul, and his comments were shocking because his comments caused me to reflect on a bygone era that I would hate to see us return to.

You see, Mr. Speaker, I have sat in the back of the bus even when there were seats available up near the front. I have had to go to the backdoor to get my food even when there was a facility with no one inside. I have had to drink my water from colored water fountains even when there were other water fountains available, and we had to have a line to go to the colored water fountain. I have had to suffer the indignation and humiliation that segregation imposes upon a person.

I was shocked because I could not believe that a person nominated for the Senate of the United States of America could not say that he would support continuing what we have already fought for and won, and that is, to have persons of color go in the front door at a private facility.

I was shocked. I am still shocked. And I come before this House today not to condemn the person. I don't condemn people, but I do condemn what they do. I condemn what they say.

I come before this House today not to condemn him but, rather, to give him the opportunity to explain himself. And I admonish him that if he does not explain himself, others will explain his position. Either he will explain his position or others will do it for him. I believe that he should explain it, and he should do it with words that are as conspicuously clear as possible, because what he has said is painful to those of us who had to endure these indignations and these humiliations.

I was one of those persons who grew up in the 1960s. I know what it is like to have to do the things that we would have to revisit should he have his way, based upon what I have heard. But maybe he was not given a fair opportunity, and there is time now for him

to do for himself what others will do for him if he does not.

I do not know the person who hosts the show "Morning Joe," but I think that he made a significant point. He said that he has 24 hours to explain himself.

I accept the 24-hour pronouncement, and I beg that, within the next 24 hours, that he will explain himself so that we will not misunderstand that on one hand he says he would march with Dr. King but, on the other hand, he does not say that he would allow me, a Member of the House of Representatives in the greatest country in the world, to continue to enter the front door of a private business.

It is a painful revelation. It is a past that we don't like talking about, but it is a past that I had to suffer and live through. And I beg that my colleagues understand that this is no attempt to defeat him in his election. That is for the people of Kentucky.

But there is an attempt to give a person the opportunity to speak up, to stand up and stand for what this country has made possible by virtue of the great and noble ideals presented in the Declaration of Independence: All persons are created equal and endowed by their Creator with certain unalienable rights: life, liberty, and the pursuit of happiness.

I beg that the gentleman will honor my request.

#### OIL SPILL IN THE GULF OF MEXICO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, in the short time that I speak here today, thousands of gallons of oil will burst out of a broken well in the floor of the Gulf of Mexico. That oil will add to a catastrophic spill that is now spreading across a widening swath of ocean, coming ashore in Louisiana and devastating the economy of the gulf coast. Every attempt to cap the gusher has thus far failed, and it seems we can anticipate several more months of damage to our coastline, our fisheries, and our environment.

As a Nation, we have been on an oil binge since the 1850s, when we started running out of our previous nonrenewable energy resource, whale oil. The wide-scale destruction that the whale hunts of the 19th century visited on our seas is now mirrored by the damage that offshore drilling is visiting upon the gulf.

Two decades ago, Congress first recognized the danger of offshore drilling and passed a moratorium banning it outside of Alaska and the gulf.

In California, many will remember the 1969 Santa Barbara oil spill that spewed out almost 100,000 barrels of oil

over 8 days. Lax safety standards and corner-cutting were the immediate culprits in that spill, but the gulf spill shows that, even with today's advanced technology, offshore drilling is fundamentally dangerous.

□ 1715

Thousands of gallons of oil is spilled each year during normal operations. Hurricanes Katrina and Rita sent over half a million gallons into the Gulf. And even without spills, piping and onshore operations destroy wetlands, disturb wildlife, and limit tourism. Californians are not willing to risk our tourism and fishing industries or our pristine environment with additional offshore drilling, and I'm happy that the Governor has stepped back from his plan for more drilling off the coast near Santa Barbara. Instead of more drilling and more spills, Californians are leading the way to a high-tech, clean energy future.

A few blocks from my office in Pasadena, you'll find a business incubator that has turned clean-energy ideas into successful companies employing hundreds of Americans. One of these companies is now deploying modular concentrating solar power stations in the Mojave Desert, using mass-produced panels and modern manufacturing techniques to create some of the cheapest solar power in the world. Others are working on more efficient solar cells for rooftops and many other revolutionary technologies.

This kind of technological innovation isn't limited to Southern California. Renewable energy is booming in Texas and Massachusetts, South Dakota and Georgia. And with the first mass-produced plug-in hybrid cars appearing this fall, clean energy will soon be fueling our vehicles as well. But our American-made high-tech boom is threatened by subsidies that keep fossil fuel prices artificially low, stifling competition and sustaining our dangerous dependence on foreign oil. Some of those subsidies are directed, like tax breaks for oil companies. The administration's budget proposes ending \$45 billion worth of subsidies that tilt the playing field away from clean energy.

Other subsidies are indirect, like limited liability for oil spills and air pollution. In the L.A. Basin, endemic smog caused by fossil fuels is a hidden tax on every resident, costing millions of dollars in additional health care and lost work hours. Last year, the National Academy of Sciences estimated that health care and other costs created by gasoline consumption come to about 30 cents a gallon, without considering global warming. That cost is absorbed by all of us in the form of hospital bills and asthma attacks. We must rebalance our energy subsidies so that clean energy can compete on an equal footing with oil, coal, and natural gas.

We need to act quickly because China is now a leader in clean energy tech-

nology. In a few short years, the Chinese have developed a vibrant industrial base that produces more photovoltaic cells than any other nation. Meanwhile, China's demand continues to grow. It's the world leader in hydropower, second in wind power, stimulating a job-intensive domestic industry to meet the demand. To boost its green economy, China created a stimulus package worth hundreds of billions of dollars. And Chinese universities and research centers are quickly gaining expertise in developing the green technologies that will power economic growth for upcoming decades.

We can recapture our leadership role by supporting renewable energy companies here at home, realigning our energy incentives, and investing in research and development that will create new technologies. This week, we considered the America COMPETES Act, which outlines a doubling of Federal research over the next decade. Although this bill is opposed by those that favor the same energy sources now devastating the Gulf, I'm confident we will pass this critical measure, and with this investment we will ensure that new energy ideas are created here at home by American students and American entrepreneurs. But we must also ensure these ideas are turned into American companies, providing green-tech business with the tools it needs to grow, train, and hire workers. We must establish renewable energy standards like the one in California that is stimulating investment up and down our State.

Mr. Speaker. In the short time I speak here today, thousands of gallons of oil will burst out of a broken well in the floor of the Gulf of Mexico. That oil will add to a catastrophic spill that is now spreading across a widening swath of ocean, coming ashore in Louisiana, and devastating the economy of the Gulf Coast. Every attempt to cap the gusher has failed, and it seems we can anticipate several more months of damage to our coastline, our fisheries and our environment.

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Two decades ago, Congress first recognized the danger of offshore drilling and passed a moratorium banning it outside Alaska and the Gulf. In California, many will remember the 1969 Santa Barbara oil spill that spewed out almost 100,000 barrels of oil over eight days. Lax safety standards and corner-cutting were the immediate culprits in that spill, but the Gulf spill shows us that even with today's advanced technology, offshore drilling is fundamentally dangerous. Thousands of gallons of oil is spilled each year during normal operations. Hurricanes Katrina and Rita sent over half a million gallons into the Gulf. And even without spills, piping and onshore

operations destroy wetlands, disturb wildlife and limit tourism.

Californians are not willing to risk our tourism and fishing industries, or our pristine environment, with additional off-shore drilling, and I'm happy that the governor has stepped back from his plan for more drilling off the coast near Santa Barbara. Instead of more drilling, and more spills, Californians are leading the way to a high-tech, clean energy future.

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Other subsidies are indirect, like limited liability for oil spills and air pollution. In the Los Angeles basin, endemic smog caused by fossil fuels is a hidden tax on every resident, costing millions of dollars in additional health care and lost work hours. Last year, the National Academy of Sciences estimated that health care and other costs created by gasoline consumption come to about 30 cents a gallon, without considering global warming. That cost is absorbed by all of us, in the form of hospital bills and asthma attacks. We must rebalance our energy subsidies so that clean energy can compete on an equal footing with oil, coal and natural gas.

And we need to adapt quickly, because China is now the leader in clean-energy technology. In a few short years, the Chinese have developed a vibrant industrial base that produces more photovoltaic cells than any other nation. Meanwhile, China's demand continues to grow—it is the world leader in hydropower and second in wind power, stimulating a job-intensive domestic industry to meet the demand. To boost its green economy, China created a stimulus package worth hundreds of billions of dollars. And Chinese universities and research centers are quickly gaining expertise in developing the new green technologies that will power economic growth for upcoming decades.

We can recapture our leadership role by supporting renewable energy companies here at home, realigning our energy incentives, and investing in the research and development that will create new technologies. This week, we considered the America COMPETES Act,

which outlines a doubling of federal research over the next decade. Although this bill is opposed by those that favor the same energy sources now devastating the Gulf, I am confident we will pass this critical measure. And with this investment, we will ensure that new energy ideas are created here at home, by American students and American entrepreneurs.

But we also must ensure that those ideas turn into American companies. We must provide green-tech business with the tools they need to grow, train and hire new workers. We must establish renewable energy standards, like the one in California that is stimulating investment up and down the state. We must strengthen our electrical grid, so that new sources of energy can be added without stressing the system. And we must update our electrical meters, so that homeowners can pay less if they shift some of their energy use to off-peak hours.

Our new whale oil has lasted longer than the original, but it is easy to see now that it no longer makes sense, for our economy, for our national security, or for our environment. We face a challenge we can and will meet, but it is not one we can face if we put our heads in the sand and invest more money, lives and effort in the last century's energy source. Instead we must move forward to the new renewable energy future, that awaits us—the most industrious and inventive nation on Earth.

#### PIRATES ON THE LAKE—PAGE 2

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Mr. Speaker, heavily armed Mexican pirates have been shaking down U.S. boaters on Falcon Lake in Texas. It's a reservoir and a bass fishing haven that straddles the Rio Grande River in Texas—between Texas and Mexico. It's the international boundary between Zapata County, Texas, and Mexico.

According to recent San Antonio news reports, several such incidents have been reported with pirates on Falcon Lake since April 30, the latest being this past Sunday. According to the Texas Department of Public Safety, which issued warnings Tuesday, the robberies are linked to northern Mexico's increasing lawlessness. According to the descriptions of the incidents, the pirates in at least one case posed as Mexican federal law enforcement officers. They searched fishermen's boats for guns and drugs and then demanded cash at gunpoint. According to the Texas Department of Public Safety, the robbers are believed to be members of a drug trafficking organization or members of an enforcer group linked to a drug trafficking organization. They use AK-47s or AR-15 rifles to threaten their victims. They appear to be using local Mexican fishermen to operate the boats to rob the American fishermen.

It was unclear why sport fishermen were targeted, but the warning comes

only a few weeks before bass fishing tournaments that are among the south Texas border region's biggest tourist draws. DPS spokesman Tom Vinger said the warning was issued, in part, because of the upcoming bass tournaments. Zapata County Sheriff Sigi Gonzalez said he would be reviewing protective measures with the DPS Border Security Operations Center and the region's Fusion Center, which is a Federal information clearinghouse for terrorism prevention.

Reported victims included, one, five people in two boats who were approached by four men on April 30, claiming to be federales near the church at Old Guerrero. That is now a submerged town in the bottom of the lake. The men boarded the boats, demanded cash, and wanted to know where the drugs were. They then robbed the Americans.

A second incident. Three fishermen were approached on May 6 by a boat containing two men pointing AR-15s. Those are assault rifles, Mr. Speaker. One boarded the fishing boat, searched for drugs, cash and guns, chambered a round in the rifle and told the fishermen he would shoot them if they did not give him the money. In another pirate raid, fishermen were robbed of their money and boat and clothes and left naked on the Mexican side of the lake. Yet in a fourth incident, boaters on the U.S. side of the lake were approached by a boat containing five armed men. It's still unclear what else happened because this just happened 2 days ago.

Falcon Lake is approximately 60 miles long. It's a reservoir on the Rio Grande, fronting Starr and Zapata Counties in Texas, and it is shared between the United States and Mexico. It was formed by a dam in 1953 to conserve water for agriculture and control downstream flooding.

Mr. Speaker, piracy is a centuries-old problem that many nations have had to deal with. In the 1800s, Thomas Jefferson sent the United States Navy to the Mediterranean Sea, where pirates roamed at will and robbed American ships. That President fought piracy on the high seas. But the difference now is our administration would rather criticize people in States like Arizona that demand more border security rather than do anything about illegal border crossers, including the pirates of Falcon Lake.

Meanwhile, today, President Calderon of Mexico arrogantly lectured us in a joint session of Congress, chastising the United States—especially Arizona—for passing legislation trying to prevent people from illegally coming into the United States. Mr. Speaker, when 65 percent of the American people support Arizona's new law regarding illegal immigration, his comments were disingenuous and disrespectful to our Nation.

I commend President Calderon for fighting the international drug cartels in his Nation, but the President of Mexico should deal with his own issues and solve Mexico's economic problems, human rights problems, organized crime problems, violence problems, government corruption problems, and illegal immigration problems before President Calderon lectures anybody about anything.

And that's just the way it is.

#### H.R. 5353, THE WAR IS MAKING YOU POOR ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GRAYSON) is recognized for 5 minutes.

Mr. GRAYSON. Mr. Speaker, today I introduced H.R. 5353, the War is Making You Poor Act. The War is Making You Poor Act does three things: First, it requires the administration to carry out the wars in Iraq and Afghanistan with only—only—the \$549 billion set forth in the President's budget for defense spending, without the additional \$159 billion the President has asked for for the sake of the so-called emergency war, which now stretches on to 9 years in one case and 7 years in the other. My view is that \$549 billion is enough for these wars or any other wars the President plans to engage in.

What this does, secondly, is that it takes the money that is saved from the war separate allocation and it uses that for a very important purpose with our economy the way it is and people in America suffering. It takes that money—or 90 percent of it—and it uses that to make \$35,000 of everyone's income in America tax-free. And \$70,000 for married couples. Let's be clear about that. Let's be clear about what I said. With the money that is being saved by the War is Making You Poor Act, we can make \$35,000 of every American's income tax-free. And \$70,000 for married couples. And in addition to that, it takes the remaining money and reduces the Federal deficit and the Federal debt. I think those are three things, all of which need to be done. This bill brings them all together.

Let's start with the fact that the administration has asked for \$549 billion to basically keep the lights on at the Pentagon, and beyond that, asked for another \$159 billion for the wars. Let's see exactly how much that means. On this chart here, you can see that U.S. military spending is as much as the entire rest of the world combined. As much as the entire rest of the world combined. And in fact, the ones who come in second are NATO allies in Europe, who I don't expect to be attacking us any time soon. Beyond that, you have to go all the way down to China to get to any country that is conceivably ever going to be a military enemy.

And we outspend China by over five to one. Beyond that, we get into our allies in East Asia and Australia, and you have to go all the way down to Russia, whom we outspend by almost ten to one, before you get to any country that could conceivably be a military opponent.

Why is this necessary? If we're going to have military spending that amounts to this much—half of all the military spending the world—do we need to have on top of that—on top of that base budget—another \$150 billion for the war? I think not, particularly when the people in America are suffering.

So I believe that the thing we need to do is to take that \$159 billion that the President has set aside. We're not saying he has to stop the war. We're not giving a cutoff date for the war. We're simply saying you need to fund that out of the base budget of \$549 billion. And we take 90 percent of that money and give it back to the American people.

I think most people would be surprised to learn that that is so much money that we have been spending on the war in Afghanistan and the war in Iraq that every single taxpayer in America will be able to get his first or her first \$35,000 of income completely tax-free. You won't see dollar one in tax until you make more than that. In fact, almost a third of Americans don't make more than that so they will simply be excused from the Federal income tax system. And all we need to do is to stop separately funding the wars in Iraq and Afghanistan.

Now I've heard a lot of complaints from the other side and complaints from people on our side about the Federal debt and the Federal deficit. Here's something concrete that you can do. If this bill passes, we'll be able to reduce the Federal deficit by \$16 billion. You don't have to take my word for it. It's already been scored by the Joint Committee on Taxation. The Joint Committee on Taxation staff has determined that the tax cut that's needed to get every single person in America \$35,000 tax-free—their first \$35,000—would cost less than the wars and would leave over after that another \$16 billion.

Mr. Speaker, this is an idea whose time has come. It's time for the American people to see that there is no longer any need to go beyond the base, exorbitant defense budget that's presented to us by the President, notwithstanding the fact that there are wars in Afghanistan in Iraq. It's simply not necessary. You can see for yourself. Enough is enough. \$549 billion is plenty, particularly when we're using a Chinese credit card to pay for it all.

So I ask for your support, Mr. Speaker, and I hope that the Chamber will consider H.R. 5353, the War is Making You Poor Act.

□ 1730

#### DR. HAROLD A. CARTER, SR.—A LEGACY OF PRINCIPLE AND FAITH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, I rise to honor a great American and true leader, Dr. Harold A. Carter, Sr., of Baltimore. His is a vision and a mission, grounded in the civil rights movement of the 1960s, that has compelling importance for our Nation today. More than half a century ago when Dr. Harold Carter, Sr., was still a young man in Selma, Alabama, Dr. Ralph Abernathy and Dr. Martin Luther King, Jr., both offered Harold Carter his first opportunities to speak to their congregations as a newly ordained minister. "I was a young college student, and they wanted to give me a boost from the beginning," Dr. Carter observed in a 2005 article written by Mr. Sean Yoes of the Baltimore Afro-American newspaper. Mr. Speaker, it was a strong, inspiring, and enduring "boost," indeed. This same visionary foundation has inspired Dr. Carter throughout his ministry, both in the mission to proclaim the gospel to which he had been called and in the Social Gospel work of his faith. And I can say for a fact that not only does he preach the Word, but he lives it.

This year, Dr. Carter celebrates 45 years as the principal shepherd of Baltimore's New Shiloh Baptist Church. In his own words, he is, above all, "a God man," the primary trustee of his congregation's spiritual life. Yet at a time when our urban areas are in danger of crumbling under the stress of decades of disinvestment, Dr. Carter and his New Shiloh congregation also offer the people of Baltimore both hope and a concrete plan for social and economic renewal. A past leader of Baltimore's chapter of the Southern Christian Leadership Conference and the local chapter of the Poor People's Campaign, Dr. Carter has readily acknowledged Dr. King's influence upon his vision for community renewal as an integral element of his New Shiloh ministry. "I learned from him that we have to take responsibility for our condition, whatever that might be," Dr. Carter once observed. "People in power do not concede anything to others freely, so we have to equip ourselves and do for ourselves based on the principles of unconditional love." That's Dr. Harold Carter, Sr.

Aided by the strength and talents of his wonderful wife, the late Dr. Weptanomah Carter, whom I also knew, his son and copastor, Dr. Harold A. Carter, Jr., and a dedicated congregation that has grown to number in the thousands, New Shiloh is, indeed, equipping its community to move forward on empowering principles. Every



day, people from the neighborhood can find inspiration and opportunity in its beautiful church and Family Life Center, its School of Music, Theological Center, Child Development Center and other facilities. These accomplishments of the congregation's Social Gospel mission are important aspects of Dr. Carter's vision, but they are far from the end. Already underway are plans for technical training for the community, a computer center, a senior center and senior housing.

Mr. Speaker, it is more appropriate under our constitutional system for me to leave it to others to commend Dr. Carter for the other wonderful ministers whom he has trained, including my own pastor, Bishop Walter Scott Thomas, Sr., and many, many others. Others are better qualified than I to attest to the lasting importance of Dr. Carter's spiritual writings, which have been many. However, I have been honored to serve as a spokesman for the Congressional Black Caucus to our Nation's faith communities, and in that duty, I have gained a thorough understanding of faith-based initiatives that are working. A part of what my teacher, my mentor and friend Dr. Harold Carter, Sr., has taught me is that the inspiration for faith-based programs that work cannot be found in a strategy to transfer public responsibility for greater social equity to the faith centers of our country. Rather, that motivating force must first arise from the hearts and minds of people of faith themselves.

This, I submit, is why Dr. Harold A. Carter, Sr., should stand as an example for all of our citizenry, whatever our respective faith traditions may be. This, I believe, is what Dr. Carter means when he speaks of how our local communities must undertake greater responsibility for themselves and their neighbors and how they must equip themselves for opportunity.

Unlike other megachurches that have left the inner cities of our Nation, New Shiloh Baptist Church has followed Dr. Carter's vision and his mission for his congregation. It has constructed its foundation on an unwavering commitment to the people of our great urban community.

#### RESPONSE TO PRESIDENT CALDERON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MCCLINTOCK) is recognized for 5 minutes.

Mr. MCCLINTOCK. Mr. Speaker, I rise to take strong exception to the speech by the President of Mexico here in this Chamber today. The Mexican Government has made it very clear for many years that it holds American sovereignty in contempt, and President Calderon's behavior as a guest of the Congress today confirms and under-

scores this attitude. It is highly inappropriate for the President of Mexico to lecture Americans on American immigration law, just as it would be for Americans to lecture Mexico on its own laws. It is obvious that President Calderon does not understand the nature of America or the purpose of our immigration law. Unlike Mexico's immigration law, which is brutally exclusionary, the purpose of America's law is not to keep people out. It is to assure that as people come to the United States, they do so with the intention of becoming Americans and of raising their children as Americans. Unlike Mexico, our Nation embraces legal immigration, and what makes that possible is assimilation.

A century ago, President Teddy Roosevelt put it this way. He said, "In the first place, we should insist that if the immigrant who comes here in good faith becomes an American and assimilates himself to us, he shall be treated on an exact equality with everyone else, for it is an outrage to discriminate against any such man because of creed, or birthplace, or origin. But this is predicated upon the person's becoming in every facet an American and nothing but an American. There can be no divided allegiance here. Any man who says he is an American, but something else also, isn't an American at all. We have room for but one flag, the American flag. We have room for but one language here, and that is the English language. And we have room for but one sole loyalty, and that is a loyalty to the American people." That is how we've created one great Nation from all the peoples of the world.

The largest group of immigrants now comes from Mexico. A recent RAND study found that during the 20th century, while our immigration laws were actually enforced, assimilation worked, and it made possible the swift attainment of the American Dream for millions of immigrants seeking to escape the conditions of Mexico. That is the broader meaning of our Nation's motto, "e pluribus unum"—from many people, one people, the American people. But there is now an element in our political structure that seeks to undermine that concept of e pluribus unum. It seeks to hyphenate Americans, to develop linguistic divisions, to assign rights and preferences based on race and ethnicity, and to elevate devotion to foreign ideologies and traditions while at the same time denigrating American culture, American values, and American founding principles. In order to do so, they know that they have to stop the process of assimilation. And in order to do that, they have to undermine our immigration laws. It is an outrage that a foreign head of state would appear in this Chamber and actively seek to do so. And it is a disgrace that he would be cheered on from the left wing of the White House

and from many Democrats here in Congress.

Arizona has not adopted a new immigration law. All it has done is to enforce existing law that this President refuses to enforce. It's hardly a radical policy to suggest that if an officer on a routine traffic stop encounters a driver with no driver's license, no passport, and who doesn't speak English, that maybe that individual might be here illegally. And to those who say we must reform our immigration laws, I reply, We don't need to reform them. We need to enforce them, just as every other government does, just as Mexico does. Above all, this is a debate of, by, and for the American people. If President Calderon wishes to participate in that debate, I invite him to obey our immigration laws, apply for citizenship, do what 600,000 legal immigrants to our Nation are doing right now, learn our history and our customs, and become an American, and then he will have every right to participate in that debate. Until then, I would politely invite him to have the courtesy while a guest of this Congress to abide by the fundamental rules of diplomacy between civilized nations not to meddle in each other's domestic debates.

#### IMMIGRATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes as the designee of the minority leader.

Mr. KING of Iowa. Mr. Speaker, it's a privilege and an honor to be recognized to address you here on the floor of the House. I listened intently to the dialogue that took place before with Mr. MCCLINTOCK of California and Mr. POE of Texas. And as I sat back here and listened to the speech of President Calderon, I had some thoughts of my own that I wish to impart here into the record and for your attention, Mr. Speaker.

First I want to say that on the plus side of the speech that was delivered here to this joint session of Congress by President Calderon of Mexico, there were some up sides to it. He made some points that I think were constructive and needed to be said. One of the things that he said—and I am just going from my scratch notes—was that they are going to finally reestablish the rule of law in Mexico. Excuse me. To correct that, I want to make sure I'm accurate for the record, Mr. Speaker. I have the text of the speech here. It says, "firmly establish the rule of law in Mexico." That's an important point.

As I go to some of the worst places in the world, and I go there intentionally because I think to have that contrast, to understand where it's the toughest place in the world to operate, then it gives us that contrast to understand how well we're blessed here in America,



and it helps us understand the functions of the institutions here in America and the functions of the culture and our values. Those pillars of American exceptionalism need to be understood and polished and refurbished, and we need to do that on a daily basis here in this Congress instead of have them chiseled away at by the other side of the aisle.

But the contrast of how bad it might be, AIDS villages in southern Africa where there's not a single person there of reproductive age unless they're a missionary because the rest have died of AIDS. I go to Iraq, I go to Afghanistan, I go into those places in the world where poverty is a dominant force. Up into Tibet, for example. And most of those places that I go to—in fact, almost every place I go to, I can at least put together a formula on how to fix it, to be able to identify what's wrong and processes and procedures to put in place to put it on the right track. Most of us in this Congress believe we can at least gather the information to address these situations. When I come back from Mexico, I have this other sense. It's a different feeling. I can see a lot of the things that are wrong, but I don't know how to fix it, because the corruption goes so deep, it threads through so many components of their society. Unless there's a good formula to fix the culture of corruption, I don't know how you fix the rest of the institutions in Mexico.

I want to give a hats-off to President Calderon for taking on the drug cartels. I know, being down there in part of the exchange program, as he was a candidate for office shortly before he was elected, one of the things that I was advised, sitting in those meetings and sometimes it was one-on-one with the door closed, was that he is going to have to take on some of the forces that helped get him elected in order to straighten things out in Mexico. So when I see the numbers that show the thousands of casualties in the drug cartel wars that are going on and the federal officers that have been lost in that battle and the local police departments that are either afraid to enforce the law or are corrupt and wrapped up in the cartels, it's a very difficult task that he has faced.

I will give another point to the point that he has made that the consumption of illegal drugs here in the United States is one of the huge forces that drive the illegality that comes through Mexico. I have to concede that point. We need to address the illegal drug consumption in America. We lack the ability to do that. Our society, our culture, our civilization has accepted a certain level of illegal drug consumption and abuse in America. We've accepted the violence that goes with it. We've accepted the child abuse, the domestic problems that go along with it as simply a component of our society,

as we accept the rotting inner cities in America, and we essentially send money there to start a new inner city economy that isn't based on something productive as a rule. Those are American problems that we need to address. He spoke to those lightly. He spoke to those gently. He referenced them. But President Calderon came on very strong against the Arizona immigration law. And I'm wondering who briefed him before he gave his speech here today. It almost looks as though the speech was prepared by the Obama White House.

□ 1745

When you look at the language that was used and the language that he emphatically disagrees with Arizona's immigration law, SB 1070, that's the bill, he emphatically disagrees with the bill, even though he says that he recognizes our constitutional right to pass laws and establish immigration laws and enforce those immigration laws.

So I am wondering what it is that offends President Calderon so much about the Arizona immigration law since it mirrors the Federal immigration law. Was he offended then by the Federal immigration law? And when he sat down in the Oval Office with President Obama, did he say, I think you ought to amend the Federal immigration law so people here as legal immigrants don't have to carry their papers after the age of 18. That is the law. It has been the law for a long time. It is not something that offended people before. I hadn't heard about it before Arizona stepped forward and made it part of their State law.

So if President Calderon is offended and disagrees with Arizona immigration law, which mirrors Federal immigration law, if he hasn't voiced an objection to Federal immigration law, by the law of deductive reasoning, you would just boil it down to he is only offended because local law enforcement in Arizona will be enforcing the mirror of the Federal immigration law, because it can't be the law itself that he is offended by or he would also be offended by the Federal immigration law. I think that is a simple law of deductive reasoning to take it down to that. I am not sure that the people on the opposite side of the aisle from us have the capability to do that deductive reasoning any more.

And when I look at the people in the administration who have taken on Arizona's immigration law and willfully misinformed the American people, and I will include President Calderon of willfully misinforming the American people on the Arizona immigration law, but I look at the President of the United States who made comments that there could be a woman in Arizona taking her daughter off to get some ice cream and apparently because of the way they looked, they could be called over and asked to produce their papers.

Now that was playing the race card, and that divides the American people. And that recognizes a statement made by Mr. MCCLINTOCK a few minutes ago that there is an intentional effort to divide people for political purposes. The President has done it. And I can't imagine that he had read the bill until last night. He sounded a little more like he had, but he couldn't have read it if he was going to say the things that he said.

He knows Arizona law doesn't allow for a woman or her daughter to be stopped for no other reason than their skin color when they are going off to get some ice cream. It specifically states that in the bill, not the ice cream part. But it specifically states there has to be probable cause; and in order to investigate the immigration status, there has to be a reasonable suspicion.

We understand reasonable suspicion. I happen to have written reasonable suspicion language in Iowa's workplace drug-testing law. We didn't ask a trained law enforcement officer to evaluate the reasonable suspicion. We simply asked an employer to either appoint himself or designate an employee to take 2 hours of course training in identifying reasonable suspicion. And then with that 2 hours of training and 1 hour per year refreshing training could be able to point to an individual and say I have a reasonable suspicion you are a drug abuser; you have to provide a urine sample. Here is the clinic. Here is the nurse. Go in there and we are going to test you.

For 12 years it has been in the law in Iowa, and I heard all of the same things when we passed that law. That reasonable suspicion would be used to discriminate against people because someone didn't like them because of their skin color, sexual orientation, gender identity, or whatever it might be. All of this hysteria that gets built up around this legislation and the willful misrepresentation of the language and the effect of the law turns out to be—what do we call it, a tempest in a teapot in the end, not something that is going to produce substance on the other side of this, but a lot of hysteria created.

As Tom Tancredo, who used to say these things on the floor of this House, he said the level of hysteria is proportional to the degree to which they are afraid the law will actually work and that Arizona will be able to enforce the mirror of Federal immigration law and they will be able to effectively outlaw sanctuary cities in Arizona. That is what this is about.

The people who object to Arizona immigration law are lying to the American people. Many of them know it. The Attorney General sat right here in that seat today and when President Calderon said that he objected to Arizona's immigration law, who led the

standing ovation, the Attorney General of the United States who confessed to the gentleman from Texas that he didn't read the bill.

But he would commit the resources of the Justice Department to investigate Arizona for constitutionality questions, statutory questions, case law questions that had to do with Arizona's immigration law, not having read the bill, not having examined this or been even briefed by his own people, but having been directed by the President of the United States to use the full—well, use the force of the Justice Department to examine Arizona's immigration law and could not to me in that same hearing respond to a question, Could you point to a single place in the United States Constitution that causes you concern? Can you point to a single Federal statute that you think might preempt Arizona's immigration law? Can you point to a single piece of case law that would indicate that Arizona doesn't have the authority to enforce Federal immigration law.

He could do none of those things, and subsequently the gentleman from Texas asked him if he had read the bill. I thought when that question was asked that it was a question to set up something else because I thought it was a given that the Attorney General of the United States would have read the bill before he misrepresented it to the American people.

I yield to Judge POE.

Mr. POE of Texas. Regarding the Attorney General not reading the bill, he is a knowledgeable lawyer. Any knowledgeable lawyer who read the Arizona statute would know what he was saying was incorrect. That is why I asked him the question because I believed he hadn't read the law.

The law states in four places that racial profiling is prohibited under the statute. In four different places it says that. To make it very clear to everybody in Arizona and the world that will read the law, that racial profiling is prohibited under Arizona's new illegal immigration law that they have passed which, as you have said, is a mirror copy of U.S. immigration laws, and because the Federal Government does all kinds of things except protect the border, they are desperate in Arizona to protect their citizens; and, therefore, they passed that legislation.

I just wanted to mention, part of the problem with the Border Patrol in Arizona and other places along the Texas border, and why States like Arizona have decided they must enforce immigration laws is because of what is occurring.

Here is a chart of the assaults that have occurred against our Border Patrol agents. Border Patrol agents, as you know, the gentleman from Iowa, patrol the border within 25–30 miles of our southern border.

In the year 2004, there were about 380 assaults on our Border Patrol agents. I think that is a lot.

Then in 2005, there were 687.

In 2006, there were 752.

And then in the last 3 years, 2007, 2008 and 2009, there have been almost a thousand assaults on border agents. And those are folks that protect the dignity of the U.S. These assaults primarily come from people crossing the border illegally and they assault our Border Patrol agents who are just trying to protect the dignity and sovereignty of the United States. People are not supposed to come here unless they have permission. They are supposed to come here legally.

It has gotten so bad down at the border, they have improvised—and being in the construction business, Mr. KING, you would appreciate this—they call these Border Patrol vehicles “war wagons.” And the reason they call them war wagons is because these patrol right up next to the Texas-Mexico border and also the Arizona-Mexico border. And people crossing into the United States illegally pelt the Border Patrol with rocks, heavy rocks.

So they have put all of these meshed wire contraptions on their vehicles to protect the windows and protect themselves from bodily harm from the rock throwers who are arrogantly coming into the United States illegally. They see the Border Patrol, they start throwing rocks, and they come into the United States anyway.

So that is just one example of why the State of Arizona and other States are in dire straits. They want to protect the dignity and sovereignty of their State. They want to protect it from people coming in, from everybody, the good, the bad, and the ugly. And right now we are getting everybody, the good, the bad, and the ugly; a lot of bad and a lot of ugly.

It just seems to me that our government, rather than criticizing the State of Arizona, ought to be supporting Arizona, ought to enforce the rule of law on the border. If our government, the Federal Government, enforced the rule of law on the border, we wouldn't be having any of these discussions, but it doesn't. It is unfortunate that our Attorney General, and also the Secretary of Homeland Security, talked about this legislation and neither one of them before they made all of these statements about how bad the law was had read the legislation.

I yield back to the gentleman from Iowa.

Mr. KING of Iowa. I thank the gentleman from Texas for bringing that perspective in.

I have also spent time down on the border and ridden in the war wagons. I have seen the screen that hinged that goes over the windshield, and you can tip it back over the hood when you get away from the border and out of rock range.

I have watched them climb the fence, come into the United States, take a look and watch the Border Patrol move towards them, and they run at the speed they need to run to climb back over the fence, hang over the fence, and smile and wave and smirk. Sometimes the same individuals get caught, and they come to the Border Patrol station.

It is interesting to note that the Border Patrol in the Nogales area in particular, they will go out and pick people up, and they have a private contractor that comes and does the transport. They have paramilitary or military-type uniforms on these officers, gray uniforms, and they are riding in a white van. It has a cage built inside it. They will come along and pick them up. When a Border Patrol officer picks them up, they will call the wagon and the contractor picks them up and delivers them to the station. And they walk in there. They already know the drill. They have their personal items in a Ziploc bag. They waltz in. Some have a smirk on their face. They know that the consequences are zero.

They will sit down along the wall. They know there is a little time while they take their turn to get fingerprinted and get their digital photograph. Then they will be sorted into cells and then loaded back on sometimes the same van, within an hour or so and taken back down to the port of entry on the border. They turn the van sideways, open the door, and they walk back into Mexico to come back again the next day or the next hour. We don't have catch and release any more the way we used to have it. We have now catch and return.

It occurs to me that we aren't really making progress. The mission statement down there on the border is not that we are going to get operational control of the border, even though Janet Napolitano seems to think that they are doing so because they have fewer interdictions, but I know you don't measure border crossings necessarily by how many people you stop coming in. You do it by how many people actually make the attempt and/or get through.

So to lower the law enforcement and interdict fewer people doesn't mean there are fewer attempts necessarily, but that is the metric that we are using.

I am happy to yield to the gentleman from Louisiana who has some comments on this issue.

Mr. FLEMING. I thank the gentleman from Iowa. I would like to state emphatically here this evening, Mr. Speaker, that I support the law of Arizona. Just as the gentleman said, it is really a mirror image of the United States law. I would say that those who are against the law who criticize it, some in our own government, do so for

very interesting reasons. It is not really the law that they have such a problem with. It is the fact that we are enforcing a law that already exists. If that were not the case, then why, Mr. Speaker, do these people who are against this Arizona law, why don't they simply bring a bill to the floor and vote to repeal the existing American law. But that is not happening.

What we have had is a wink and a nod for many years, in which case we have a law on the books—I think it is a good law, it is not a perfect law—but a law that if we enforced it, we wouldn't have the problems that we have today. Let's just take a moment to understand why we have the problems that we have.

I lived in the San Diego, California, area some years ago, and it was very interesting. When you would leave San Diego and drive across the border into Tijuana, here we are, two cities that are so close together that they abut one another, and yet on one side of the border you have beautiful homes, million dollar homes. You have wonderful bridges and infrastructure. And then as you cross the border, you find poverty. You find dirt roads. You find people in some cases living in the streets.

□ 1800

So there is such a chasm between the standard of living below the border than above that border, no wonder people try to cross the border for opportunity. I can't blame them for doing that.

But the problem is that it's a cultural and political problem that exists in Mexico today. And so rather than pointing his finger at us, President Calderon should, I think, address the problems in his country, and that is the fact that they have a high level of corruption, a high level of poverty.

I do agree with the gentleman from Iowa (Mr. KING) that he is doing a much better job about the drug cartels and enforcing those laws than any President in modern times from Mexico, so I definitely tip my hat to him for that.

But there is also no middle class in Mexico today. And like many third world countries, it's mostly a poverty-driven country, where many people are desperate for work and desperate for opportunities. But on the other hand, there is 10 percent or so of the population that lives a wealthy lifestyle. But there's very few opportunities for upward mobility.

And let's just finally look at it. We're all descendants of immigrants at one point or another, and our ancestors came here because they were looking for opportunity. And we have many people around the world who come here looking for opportunity, and we have a way for them to do that.

I think it was the gentleman from California earlier that mentioned that

600-something thousand legal immigrants came to this country last year. So we have a way of doing that, although we, I think, could make it better. We could make it more efficient. But the truth is there is a legal way to immigrate to the United States, and we should make that available, and we do make that available.

On the other hand—and I welcome those immigrants. But on the other hand, those who come across our borders illegally, inappropriately, and who, in many ways, create danger for our own citizens, create problems for our own economy in terms of the need for education for their children and for health care, doing that illegally is not a solution to the problem. It may be a short-term solution for their immediate economic problems, but Mexico has got to address its own economic and cultural problems. And we, on the other hand, have got to take care of our borders, our sovereignty here.

And so, again, I would just reiterate that I do support Arizona's bold move, I think a necessary move, to protect their borders, to protect their economy. I believe it's Phoenix that is considered the kidnapping capital of at least the United States, if not the world. And who can blame the people of Arizona for doing for themselves what the Federal Government refuses to do, even though it has an obligation to do that?

And then, as the gentleman from Texas (Mr. POE) points out, and the gentleman from Iowa (Mr. KING) as well, we have the Attorney General sitting here today right in front of this body and having already admitted, confessed that he didn't read the law to begin with; and, after all, it's essentially the same law that he's agreed to uphold and defend as Attorney General, and somehow agreeing with the President from another country who says we should turn a blind eye to the illegal immigrants who are coming across the border.

So I would just say that I agree with the two gentlemen here tonight. It's time something is done. And I agree with the efforts of Arizona, and I do think other States are going to take this up as well and come up with similar laws.

And I think we here in the body of the U.S. Congress should also move forward with immigration reform, but not in the form of amnesty that we hear about from the other side, but a true reform where we can more efficiently allow people to come across the border to work here temporarily if there are jobs for them in a legal way, but make sure that they return when they're done; and, on the other hand, those who are here illegally return and never come back in an illegal status.

Mr. KING of Iowa. Reclaiming my time, and I thank the gentleman from Louisiana (Mr. FLEMING).

A number of things come to mind as I listened to the dialog here. One of them was lurking in the back of my mind that I had to go back and find. It was a statement that was made by President Calderon that I'd like to have a sit-down conversation with him on, when he said in the early part of his speech today, he said, As you can see, Mexico was founded on the same values and principles as the United States of America. I don't think I can see that. I'd like to know what he's thinking about and talking about when he makes that statement. There are certainly principles that are similar and principles that are identical, but there are principles on the way the United States was founded that are unique to the United States of America. And that's a conversation for another time.

I pose that question out there, and if anybody has an answer to that, I'm not illuminated enough on that subject matter to see into his mind to understand what he's actually saying so that I can agree with him. No, I disagree with him until I can find a better explanation.

When the gentleman earlier, Mr. MCCLINTOCK, talked about 600,000 legals, he must have been referring to 600,000 naturalizations a year in America. And when I look at the numbers of people that come into the United States legally, under a visa, we're up now to about 1.5 million in the last 2 or 3 years. That number over the last 10 years averages about 1 million a year. There is no nation in the world that is as generous with its legal immigration as the United States of America is, and there is no nation in the world that we're more generous to with legal immigration than the nation of Mexico. Those are simply facts.

We saw some facts, I think, today that showed about 111,000 legal immigrants from Mexico on an annual basis. And I remember seeing some data that showed about 14½ percent of the legal immigrants into the United States come from Mexico. Those numbers would comport pretty closely to each other. That's pretty generous.

And we saw also, our economy, we've had an increase in the numbers of unemployment, up to 470,000 new applications for unemployment. It was interesting that President Calderon talked about their economy creating 400,000 new jobs in the last quarter in Mexico, and here we're watching 470,000 new applicants for unemployment in the United States of America. And if I go back to the workforce in the United States 10 years ago, the workforce was 142 million, and today it's a little over 153 million in the workforce. And if you would add up the legal immigrants that have received green cards and processed through this process of, some to naturalization, some not to naturalization, about half that come to the

United States legally actually follow through on the citizenship application component. But the legal immigration over the last 10 years and the jobs that have been opened up for people that came here that received green cards or workers' visas almost mirrors the size of the growth in our workforce.

And so we have 15.4 million unemployed in America. We have another 5 to 6 million that are looking for jobs. Around 20 million or more in America would meet my definition of unemployment, people that need work and are looking for it. We have a workforce that could be expanded dramatically if we would simply take those of working age who are not engaged in the workforce, that aren't working for one reason or another. That's about 80 million.

So we have 20 million looking for work in America, unemployed, and those that have given up trying to look, and then you add another 60 million that are simply not in the workforce for one reason or another that are of working age. That's 80 million Americans we can draw from. And we have 8 million illegals in America, at least, that are going to work on a regular basis.

Now, enforcing immigration law would open up 8 million jobs. That would be half of the unemployment problem, roughly that 15.4 million that are technically unemployed. About half of those could go to work to fill the slots of those that are now being occupied by illegals.

And when people say that there's work that Americans won't do, there's not a single job they can point to that they can't say an American won't do. And about 3 years ago, I looked into that when President Bush was making that statement constantly, there's work that Americans won't do and so we have to bring in immigrants, and the illegal ones are the ones that first come and he wants to legalize them.

So I asked the question: What is the toughest, dirtiest, most dangerous, most difficult job there is that any American would be asked to do? And the answer to that, as I polled the people around me, came back, well, rooting terrorists out of places like Fallujah would be about the toughest job there is.

And so, well, what do you pay the lowest ranking marine to go into Fallujah and put his life on the line to root the terrorist out of there?

Well, if you paid him a 40-hour week instead, and it's 60 or 70 hours a week or more, but a 40-hour week, that comes to about \$8.09 an hour. So if a marine will go in and root terrorists out of Fallujah, for his country, granted, at \$8.09 an hour, I don't think you can find a job picking lettuce that an American won't do for the going rate.

And what's happened is our economy has gotten so distorted, we've become such a welfare state that, according to

Robert Rector of the Heritage Foundation, a study that he did a couple of years ago, if you would take a typical family of four that was headed by a high school dropout, without regard to their immigration status, legal or illegal, American, natural born, naturalized, but a high school dropout heading a household, a typical family of four, the net draw—well, first I have to say, they pay taxes. They pay about an average of \$9,000 in taxes. But they'll draw down an average of \$32,000 in benefits, and the net cost to the taxpayer is \$22,449 a year. That's \$1.5 million over the 50-year span of heading that household.

And so now America's become a welfare state. And the lower skilled people, natural born, naturalized, legal or illegal, can't sustain their household in this economy because their skill level isn't high enough. And we would argue, we need more unskilled people in America so we can pay more people not to work and subsidize more families because the pressure on those jobs at the lower skills is so high that the highest percentages of unemployment in America are exactly in the lowest skilled jobs that we have.

I would say we need a tighter labor market so the wages and benefits can come up in the lower skilled workers so they can sustain themselves. And those other folks, the taxpayers don't have to subsidize that household and the households of the people that aren't working at all. That's one of those economic equations.

Mr. FLEMING. Would the gentleman yield?

Mr. KING of Iowa. The gentleman from Louisiana.

Mr. FLEMING. I'd just like to expand on that point real quickly, and that is that we're moving rapidly in this country towards paying people not to work. So, obviously, that creates that vacuum that you're talking about where people from Mexico want to come across the border illegally to find jobs.

But what's very interesting about President Calderon is, as I understand it, that the rules for immigration into Mexico from its southern border are far more onerous than our own laws. In fact, ours are much more generous, and yet he's again criticizing us. That really makes no sense. It doesn't add up. It's hypocritical, of course.

So I think you're absolutely right, Mr. KING, because not only should we make sure that the opportunities are there for our own citizens, but we should take away, I think, any incentives for people not to work when, in fact, they're fully able bodied to do so.

Mr. KING of Iowa. Reclaiming my time, I'd just make this point, and that would be that when we have people that are being subsidized, their families are being subsidized because they can't make enough wages to sustain their household, and, for example,

working in the packing plant in my neighborhood 20 years ago paid about the same amount that a teacher makes today. It paid about the same amount as a teacher 20 years ago, but today a teacher makes about twice as much as the person that works in the packing plant. The person that works in the packing plant now has trouble sustaining themselves without some kind of support.

There was a day when a young person growing up in my neighborhood, if they wanted to, they could go get a job in the packing plant and they could buy a modest house and pay for the home and prepare for retirement and send their kids off to college. There'd be some student loans in that, and significant ones, but they could manage their life and they could go to work and, with respect in the community, be able to sustain their family. Today, that's been driven out because of an oversupply of cheap labor.

I'd yield to the gentleman from Texas.

Mr. POE of Texas. I thank the gentleman for yielding.

A couple of points. One thing that President Calderon said today that I totally agree with is that the rule of law is important. He said he believed in the rule of law. So do I. But I think the rule of law ought to be enforced not only in Mexico, but ought to be enforced in the United States.

And as the gentleman from Iowa has mentioned, the United States is the most generous country on Earth when it comes to legal immigration. It is a policy of this country to allow people to come here. And if you travel around the world, everybody wants to come to the United States, and that's a good thing. And they want to come for a lot of reasons. As the gentleman from Louisiana (Mr. FLEMING) says, opportunity is one of those reasons. But they want to come also for other reasons, including the word "liberty" that we don't talk about too much.

But, in any event, we allow people to come here the right way. And when people come here the right way, they appreciate being here, especially those who have gone through that long process of becoming citizens. They make fine American citizens because they are Americans after they take that oath to uphold the Constitution.

□ 1815

But the rule of law should also apply in the areas where people want to come here illegally. People who cross our borders illegally disrespect the rule of law. They disrespect our rule of law. They should come here the right way. They should get in line the right way. And they should not disrespect not only Americans, but those who do it the right way.

You know, one of the things we do in our office, as both of you do in your offices, we help people come to the

United States legally. We probably do more case work on immigration issues than everything else put together except maybe veterans and military issues. We help people come here all the time. We get those calls, and people want to come to the United States to visit, to work, to be a tourist, to go to school, or to become citizens. And we do everything we can to help those people come the right way.

I too, like I think most Members of the House, are for legal immigration. But people should not sidestep that process and ignore the rule of law, as President Calderon says he is for the rule of law, and come around that process and just come in the United States any way they can and then take the benefits of being in the United States without being here legally.

So I think when it comes to legislation, we hear about comprehensive immigration reform. What that means is, really that's disguise for the word amnesty. I think what we ought to start doing right now is before we start with more legislation, why don't we just enforce the laws we already have? We have plenty of laws already that talk about the rule of law and securing the border and making sure people don't come in here. We just don't enforce those laws. I think those laws are not enforced for political reasons. That's my opinion.

But I will yield back to the gentleman from Iowa because I can tell you want to say something.

Mr. KING of Iowa. Reclaiming my time from the gentleman from Texas, actually I was looking to see if I could come up with within the text of President Calderon's speech, it seems to me that I heard him say, and it wasn't clear enough in my memory, that our immigration laws were broken or needed to be repaired. And I want to find the exact text of that. And I will do that.

But I wanted to add to the dialogue here on amnesty. Because amnesty has been the central word in the immigration debate from the beginning of immigration debate, and we go back to 1986, when President Reagan signed the amnesty bill. And even though I disagreed with that act, it was one of the very few times that President Reagan let me down, but he was in a position where he believed he had to sign the bill. And the bargain was if we would grant amnesty to a million people that were in the United States illegally, then they would turn up the enforcement of immigration law, and there would never be another amnesty again. And that's been, well, 1986. So 24 years ago when he signed that bill he was at least straight up and honest about it and said it's amnesty.

Now, we understood what amnesty was in 1986, but I watched them try to change the meaning and the definition of the word amnesty throughout this

debate going back to President Bush's immigration speech that he gave in about January of 2005. And throughout all of that I heard them argue, many people from that administration, and then the concept was pushed forward from the Obama administration that it's not amnesty if you make them pay a fine, learn English, and pay back taxes.

Well, what is it that you wouldn't require of an American citizen? Learning English is something we would require of someone that would want to be naturalized. So that's not an extra burden to give somebody a path to citizenship to require them to learn English. That's already law. You have to demonstrate proficiency in both the spoken and the written English language. So paying your back taxes? We wouldn't accept somebody as a naturalized citizen that had back taxes that they didn't pay. That's an obligation to pay your taxes.

So the only other thing, the thing that makes it not amnesty in the minds of the people that argue that it's not amnesty to give somebody amnesty, is to require them to pay a fine. So the fine started out at \$500. And I pointed out that a coyote's average price is \$1,500. Could you at least get it up there to where if they can pay a coyote \$1,500 to bring them into the United States, to smuggle them in, couldn't they at least match the pot to become a citizen of the United States? Well, then they raised the ante to \$1,500. Now they said it's not amnesty, surely, because now it's the going rate for citizenship.

You can't sell citizenship to America. You cannot do that. Citizenship is precious, it's sacred. It's something that when you go and speak at a naturalization service, and I have done that on a number of occasions, and I presume my colleagues have done that as well, it's a very, very rewarding thing to do. I recall one in particular in the Old Executive Office Building right across from the White House itself, in the Indian Room. This was presided over by the Secretary of Citizenship Immigration Services, USCIS, Emilio Gonzalez at the time, who happens to also be an immigrant from Cuba. And he understands this in perspective.

And as he gave the speech to the several score that received their naturalization that day. He said, When they ask you where are you from, you tell them, "I am from America." From this day forward, you tell them, "I am from America." Tell them you are the first American. Don't answer you are from anywhere else; you are an American. You are the first American, you are the first generation of Americans in the lineage that will follow from you. And when you look out that window and you think of the person that lives in that House next door, the President of the United States—he didn't say Presi-

dent, but that's the scenario that we were in—to remember, from this day forward you are as much an American as he is.

I have never heard it so eloquently put how much we embrace the naturalized American citizen that comes through and follows through the right way. And when we embrace American citizenship, we also embrace the Declaration, the Constitution, our history, the rule of law, the experiences that bind us together. And we should understand that words mean things, and you can't redefine them because they are inconvenient. And the word amnesty, to grant amnesty is to pardon immigration lawbreakers and reward them with the objective of their crime.

Now, if their objective is citizenship and you grant them a path to that, and they broke the law and you give them a path to citizenship, that's a reward. If the objective is they want to work in the United States, and you tell them you can do so and we are going to leave you alone now, then you have rewarded them with the objective of their crime. If they falsified their identity, stolen someone's identity, and you waive that identity theft that steals from someone else their security, their credit rating, their confidence that they can be secure in their person and you waive that because you would give them a path to citizenship, that's amnesty. Time after time again rewarding people with the objective of their crime.

They might have come here just to deal in drugs. Well, so are we going to let them falsify their identification documents and become part of the—last time it was two-thirds of those who came in under the amnesty plan falsified their records. There was that much corruption. About a million that were designed to receive the amnesty, and then the fraud and corruption expanded that to about 3 million all together in the 1986 amnesty act that rewarded them for violation of their crimes.

And when I ask the illegal immigrants that come into the United States, We want to do a background check on you, how do we do that? Can you get me your birth certificate? We want to track and see if you have any violations in your old country. And their answer would be, well, yeah, I can get a birth certificate. Well, then why don't you get me one? Well, first, what do you want it to say? What do you want this birth certificate to say? Why do you ask me such a thing? Well, I want to make sure I get you a birth certificate that says what you need it to say. How old do I need to be? Where do I need to be born? Can I have a clean record?

And so you can't trust the data that comes from a country that only half the people are born in hospitals, and the ones that aren't don't have birth certificates as a rule. And so there are

many myopic things going on in this country.

You have people over on this side of the aisle that are completely pandering for political power. And some will argue that Republicans want cheap labor and Democrats want all the political power that comes with that. I will argue there are a lot of Democrats in business that think they have a birth-right to cheap labor. And it isn't even a majority I don't think any longer of Republicans that take that position.

Sometimes they just simply have to compete because the people that they are competing against are hiring a lot of cheap labor. Then they rationalize and they decide I will hire some of this cheap labor, too. And pretty soon it becomes a virus that just takes over the economy, and the rule of law is the victim.

But I would like to yield to the gentleman from Louisiana.

Mr. FLEMING. I thank you for yielding.

To expand on that point, I have spoken to a number of business owners who have said just that. They really do not want to hire illegals but feel compelled to because the only way they can compete is to do the very same thing that their competitors are doing as well. So even those who wish not to be corrupt and wish not to break the laws are forced either out of business or forced to violate those laws that we should be enforcing in the first place.

But the other thing, just to touch on amnesty again, it seems like we have gone through this cycle twice before. And the first thing that we do towards a solution has been to generate amnesty. And where has it gotten us? We have more illegals in this country and more problems with illegals than we have ever had before. So if starting with amnesty with or without a fine was a solution to the problem, the problem would be solved already. So obviously amnesty is not the answer. So I oppose amnesty.

I support the enforcement of the laws on the book, both Federal and the Arizona State laws, and perhaps other States that will take up those laws.

And the other thing, Mr. Speaker, that I support is that English should be our national language. It's really I think insulting when you are in your own country and you have to sort through all sorts of phone messages to just get to the right language you should be in. If someone is serious enough about coming to this country and staying or working here, then I think they should at least make the effort to learn our language, at least the basics of our language. And rather than citizens being forced to in effect learn other people's languages just because they are coming here illegally, or in some cases legally.

So those are I think three solid requirements that we should have: That

we should have English as our official national language; that we should not grant amnesty under any sort of reform bill; and that we enforce the laws that exist on the book today.

With that, I yield back.

Mr. KING of Iowa. I thank the gentleman from Louisiana as I reclaim.

I certainly agree. And I would add to this that it is one of my very solidly held beliefs, and if you look across history and the forces of culture and civilization, that the single most powerful unifying force for humanity known throughout all of history is a common language. When you look, the most successful institutions over the last 200 years have been the nation states. And the borders of nation states have been shaped around the lines where people speak a common language.

Why is France France? Because they speak French there. Why is Germany the reunified Germany? Because they speak German there. In Switzerland it's a little bit different. But that's a lot longer story. And they have actually not had a lot of agreement there for the last 700 years until after World War II. But it's a powerful unifying force.

And if you look back 2,500 years ago in China, there was an emperor there. He was the first emperor of China. And I can never pronounce this in Chinese, so somebody out there is going to cringe. I can probably spell it, but it's close to Qin Shi Huang, the first emperor of China. It was actually about 245 B.C. when he lived.

And he looked at that vast area of China, and there were 300-some different dialects and languages that were spoken. They had all of those separate provinces. They were not unified. But as he traveled around, he looked and he realized these are similar people. They look the same. They don't speak the same language. They wear similar clothes, they eat similar food, they are of a similar ethnic background just by looks. And he decided he wanted to unify the Chinese people for the next 10,000 years.

So he hired some scribes to produce a language that could unify them. And that's where all of these 5,000 characters in the commonly used Chinese written language that are common to all the Chinese, or up to 50,000 different varieties of all these 5,000 characters, came from. That's why it's picture writing. The intelligent people that he hired were intellectuals. They sat down and decided, well, we don't know how to make this make sense unless we draw a picture. So they did these pictures. Now we have the Chinese language. And the goal to unify the Chinese people for the next 10,000 years has been pretty effective. He is a fourth of the way along the way.

He is also the one who standardized the width of the axles on the oxcarts so they could fit in or out of the ruts. And

he standardized a number of things. The terra-cotta guards are another component of that. But it's a piece of wisdom that has been holding together for a quarter of a millennia. And it's a piece of wisdom that we can't seem to get figured out here in the United States of America. It's the only country in the world that doesn't have an official language. That's my research. Some others will disagree with that. But that's, again, a longer story.

□ 1830

But I would be very happy to yield to the gentleman from Texas to add to this wisdom, as we have about 12 minutes left on the clock.

Mr. POE of Texas. I agree to the comment that we all should speak the same language. Now, being from Iowa, you would probably think those of us in Texas and Louisiana don't speak the same language you do even though it is a version of English, they tell us.

I'd like to make one more comment about how difficult it is to live on the border.

Everybody in this House needs to go down to the southern border and just travel the border and just observe what's taking place. The border, as a local Texas Ranger tells me, he says after dark, the border gets western. And what he means by that is it gets violent on both sides. Good people in Mexico and in the United States live in fear if they live close to the border, primarily the drug cartels. But it's also the international gangs that operate freely back and forth across the border.

And the brunt of that, of course, occurs in the border counties, all the way from Brownville, Texas, to San Diego, California. So there are 14 counties in Texas that are close to the border or border the northern border of Mexico. And periodically I will call the Texas sheriffs and I ask them this question. Pick the same day every month, and I call them and say, How many people are in your jail today that are foreign nationals? Don't distinguish between legal or illegal or where they're from. But how many are foreign nationals?

So the most recent call that I made—called all 14 sheriffs on the same day—and they told me how many people, percentage-wise, were in their jail. It goes all the way from Terrell County, where a hundred percent of the people in the jail are foreign nationals. True, small county, small jail. But the average across all of the southern counties in Texas on the day certain about 3 weeks ago, 4 weeks ago, was 37 percent. Thirty-seven percent of the people, Texas border county jails, are foreign nationals. Now, that's expensive to take care of these people.

Now, these aren't people charged with immigration violations. These are people charged with felonies and misdemeanors committed in the United States. These are poor counties. They can't afford to prosecute these folks.

And so that is just one of the problems that occurs in the southern portion of the United States when the Federal Government does not enforce the rule of law on the border. Secure the border so that people come here with permission or they don't come. And that includes folks who come over here—not all, by any means—but those who come over here illegally to commit crimes.

And because the border is porous, many of these people in the county jails down there, when they make bond, they head back south, commit crimes back and forth across the border on both sides of the border. If they commit a crime in Mexico, they hide in the United States. If they commit a crime in the United States, they run back to Mexico.

So this, I think, is a phenomenal statistic. Thirty-seven percent of the people, border county jails, on this one day were foreign nationals.

So I think the obligation of the Federal Government is to quit talking about this, get rid of the politics, and do what governments are supposed to do: protect the people, especially the people of the United States, not just the ones on the border but all of the people in the United States from those who wish to come over here illegally, primarily the criminal gangs and drug cartels.

With that, I'll yield back to the gentleman from Iowa.

Mr. KING of Iowa. I thank the judge from Texas as I reclaim.

I came across the language that I said I would look for in President Calderon's speech where he said, I fully respect the right of any country to enact and enforce its own laws, but what we need today is to fix a broken system.

I would argue that, yes, there's a lot of burden on the system, but I am not seeing the Department of Justice come to us and ask for more money for judges, more money for prosecutors. We also heard in our dialogue today that they are bringing charges and prosecuting if someone has 500 or more pounds of marijuana they are smuggling into the United States.

I have personally pulled out of the false bed of a pickup about 240 pounds of marijuana. That wasn't enough to get him prosecuted when the threshold was 250.

It's astonishing for me to think how much is 500 pounds of marijuana and how you might let somebody go and not prosecute. No wonder there's not a restraint there if we're not willing to put these resources in.

And I'm not getting a number when I ask how much money are we spending on the southern border to defend that border. I want to know how much a mile. I can't get that answer back from Janet Napolitano because the budget is broken up in different categories and

they mix and match and slide it around.

We put this together and we've just tracked now the increases. But about 3 years ago, the numbers turned out to be \$8 billion on our southern border. Now it's increased by an additional 50 percent. So one has to presume that 8 and 4 is 12—\$12 billion on our southern border. Instead of it being \$4 million a mile, now it's \$6 million a mile. \$12 billion.

With all of that money that's being spent with boots on the ground, and we're doing a catch-and-return and we're not able to prosecute in some of these sectors of the border unless they have 500 or more pounds of marijuana with them, how can we expect that that is a deterrent or that it is effective? I don't know that the system is broken, but neither can I see that we're using the laws that we have and enforcing them to their fullest effect. And neither can I see that there's a mission understanding on the border that is articulated from the White House on down to the Border Patrol agents who punch the clock, go in and do their job. And some of them do a great job. But it's a difficult thing to do if there's not an overall mission understanding.

We've got about 5 minutes, and I'd yield to the gentleman from Louisiana.

Mr. FLEMING. I thank the gentleman. I won't need much time to close out my remarks, and that is that, again, the Federal Government has failed to do its job. It's failed to protect its citizens, it's failed to protect its borders, it's failed to protect its sovereignty. And we have a State, the State of Arizona, which has stepped up, very carefully crafted a law that mirrors that of the Federal Government that's not being enforced. They've stepped up to the plate and said this is costing us in terms of human lives, really. And in terms of other costs, financial and otherwise, we're better off to step forward and do something about this even though the Federal Government refuses to send troops or whatever protection we need to have.

So I think that that is the beauty of this Republic, and that is that each State has its own government and becomes a test tube for the entire Nation. It's going to be very interesting going forward to see what the results of this in Arizona are, and I think the results are going to be very good. And I think very soon we're going to see other States replicating this, and it will force the hand of the Federal Government to finally step up and do the right thing.

And with that, I yield back.

Mr. KING of Iowa. I briefly reclaim and make the point also that the ACLU and a number of other left-wing organizations have filed a lawsuit against Arizona's immigration law, and they intend to press that in the courts. So if they're worried about discrimination

taking place, I don't know why they're out there beating the drum.

We've got other organizations out there that have announced, as of today, that they're going to continue and accelerate civil disobedience against Arizona's immigration law.

And on top of that you have some of the cities in the country that are boycotting Arizona. You saw the basketball players that weren't able to go down to Arizona even though they'd earned their place in the tournament because apparently the school administration wants to make a political statement.

All of these huge mistakes that are made to pit Americans against Americans. And we should stand together and stand behind and stand with the rule of law, which is represented so well by the judge of Texas, who I'd offer a final word to.

Mr. POE of Texas. Thank you, gentlemen, for yielding briefly.

I want to comment about our border protectors.

The Border Patrol, the sheriffs all along the border do everything they can to secure the sovereignty to protect us from those who come into the United States illegally. The Border Patrol has asked, and we have asked—myself and others—have asked the President to grant the request of the Texas Governor to send the National Guard to the border. We need more boots on the ground. The National Guard can do that. The President has not answered that request, a yes or no or we're looking at your letter.

So I would hope that the National Guard could work together with the Border Patrol, the sheriffs, secure the border. Let's mean it when we say we want border security and protect the people of the United States.

I'll yield back the remaining time to the gentleman from Iowa.

Mr. KING of Iowa. Reclaiming and thanking the gentlemen from Texas and Louisiana for being here tonight to add so much to this dialogue that we had.

We're a Nation. We can't call ourselves a Nation if we can't define ourselves by borders; and the border must be defended, and we must protect it, and we must control who goes in and who goes out.

The Constitution has a couple of places where it addresses immigration. I'd point that out if the Attorney General were still sitting in this seat here that we're required, the Federal Government, is required to protect us from invasion. That's one of the components. And then in article 1, section 8, it says that Congress should establish a uniform naturalization law. Well, we have done that for a uniform naturalization. That means whatever nation you come from, you go through the same tests and meet the same standards and there won't be different



criteria from one State to another, so that people can become Americans under a standardized formula.

But it doesn't say anywhere in the Constitution that the States cannot support Federal immigration law.

And I add that there was a lot of misinformation that was presented around this country, and it continues to be presented around this country that argues that local law enforcement doesn't have authority enough to enforce immigration law. And it's never been true in this country. It's been something that's a fabrication, but it's never been true. The case of U.S. v. Santana Garcia, 2001 establishes the implicit authority of local government to enforce Federal immigration law.

I appreciate the attendance and the dialogue and the contribution of my friends from Louisiana and Texas and the job they do in this Congress.

I appreciate your attention, Mr. Speaker, and I yield back.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. JACKSON LEE of Texas (at the request of Mr. HOYER) for today and the balance of the week on account of bereavement leave.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. AL GREEN of Texas) to re-

vise and extend their remarks and include extraneous material:)

Mr. AL GREEN of Texas, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. GRAYSON, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

(The following Members (at the request of Mr. POE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. MCCLINTOCK, for 5 minutes, today.

Mr. POE of Texas, for 5 minutes, May 27.

Mr. JONES, for 5 minutes, May 27.

#### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 920. An act to amend section 11317 of title 40, United States Code, to improve the transparency of the status of information technology investments, to require greater accountability for cost overruns on Federal information technology investment projects, to improve the processes agencies implement to manage information technology investments, to reward excellence in information technology acquisition, and for other purposes; to the Committee on Oversight and Government Reform in addition to the Committee on Armed Services for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

#### ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Friday, May 21, 2010, at 9 a.m.

#### OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

"I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 111th Congress, pursuant to the provisions of 2 U.S.C. 25:

MARK S. CRITZ, Pennsylvania, Twelfth.

#### EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for Speaker-Authorized Official Travel during the first quarter of 2010 pursuant to Public Law 95-384 are as follows:

##### REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RULES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2010

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Lale Mamaux .....	1/04	1/06	Turkey .....		344.00		7,220.40				7,564.40
	1/06	1/08	Syria .....		308.00						308.00
	1/08	1/11	Egypt .....		419.00						419.00
	1/11	1/12	Jordan .....		542.82						542.82
	1/12	1/14	Israel .....		364.00						364.00
	1/14	1/18	Ukraine .....		1,664.00						1,664.00
Hon. Lincoln Diaz-Balart .....	3/11	3/14	Lithuania .....		577.91		6,230.27		729.55		7,537.73
Muftiah McCartin .....	1/14	1/18	Ukraine .....		646.00				960.00		1,606.00
Brad Smith .....	1/22	1/28	Republic of Georgia .....		1,940.00		10,794.00		1,223.00		13,957.00
Committee totals .....					6,805.73		24,244.67		2,912.55		33,962.95

<sup>1</sup> Per diem constitutes lodging and meals.

<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON ENERGY INDEPENDENCE AND GLOBAL WARMING, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2010

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Hon. Edward J. Markey .....	1/28	1/31	Switzerland .....		1,700.28		1,115.50				1,815.78
Hon. F. James Sensenbrenner, Jr. ....	3/28	3/31	Switzerland .....		612.00		9,024.40				9,636.40
Barton Forsyth .....	3/28	3/31	Switzerland .....		612.00		7,138.60				7,750.60
Thomas Schreifel .....	3/28	3/31	Switzerland .....		612.00		9,024.40				9,636.40
Committee totals .....					3,536.28		25,302.90				28,839.18

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

SARAH E. BUTLER.

## (AMENDED) REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON ENERGY INDEPENDENCE AND GLOBAL WARMING, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2010

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Barton Forsyth .....	3/28	3/30	Switzerland .....		408.00		7,138.60				7,546.60
Committee totals .....											28,635.60

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

SARAH E. BUTLER, May 12, 2010.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON TAXATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2010

Name of Member or employee	Date		Country	Per diem <sup>1</sup>		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>

## HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. SANDER M. LEVIN, May 4, 2010.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XIV, executive communications were taken from the Speaker's table and referred as follows:

7560. A letter from the Administrator, Risk Management Agency, Department of Agriculture, transmitting the Department's final rule — Common Crop Insurance Regulations; Florida Avocado Crop Insurance Provisions (RIN: 0563-AC22) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7561. A letter from the Administrator, Risk Management Agency, Department of Agriculture, transmitting the Department's final rule — Common Crop Insurance Regulations, Basic Provisions; and Various Crop Insurance Provisions (RIN: 0563-AB96) received April 27, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7562. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — a-(p-Nonylphenol)-w-hydroxypoly(oxyethylene) Sulfate and Phosphate Esters; Time-Limited Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2008-0892; FRL-8826-3] received May 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7563. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — a-[p-(1,1,3,3-Tetramethylbutyl)phenyl]-w-hydroxypoly(oxyethylene);

Time-Limited Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2008-0890; FRL-8824-3] received May 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7564. A letter from the Deputy Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Prevention of Salmonella Enteritidis in Shell Eggs During Production, Storage, and Transportation; Change of Registration Date, Address, and Telephone Number; Technical Amendment [Docket No.: FDA-2000-N-0190] received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7565. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of California; Legal Authority [EPA-R09-OAR-2009-0269; FRL-9152-6] received May 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7566. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's "Major" final rule — Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule [EPA-HQ-OAR-2009-0517; FRL-9152-8] (RIN: 2060-AP86) received May 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7567. A letter from the Executive Analyst, Department of Health and Human Services,

transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7568. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7569. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7570. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7571. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7572. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7573. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the

Committee on Oversight and Government Reform.

7574. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

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7576. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

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7578. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7579. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7580. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7581. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7582. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7583. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7584. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

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7586. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7587. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the

Committee on Oversight and Government Reform.

7588. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7589. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7590. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7591. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7592. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7593. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7594. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7595. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7596. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7597. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7598. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7599. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7600. A letter from the Executive Analyst, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7601. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Adminis-

tration's final rule — Pacific Halibut Fisheries; Catch Sharing Plan [Docket No.: 100119028-0123-02] (RIN: 0648-AY31) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7602. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska [Docket No.: 0910131362-0087-02] (RIN: 0648-XV45) received April 27, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7603. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska [Docket No.: 0910091344-9056-02] (RIN: 0648-XU72) received April 27, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7604. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less than 60 feet (18.3m) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-02] (RIN: 0648-XV54) received April 27, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7605. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Modification of the Yellowtail Flounder Landing Limit for the U.S./Canada Management Area [Docket No.: 080521698-9067-02] (RIN: 0648-XV49) received April 27, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7606. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the West Yakutat District of the Gulf of Alaska [Docket No.: 0910131362-0087-02] (RIN: 0648-XV61) received April 27, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7607. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska [Docket No.: 0910131362-0087-02] (RIN: 0648-XV32) received April 27, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7608. A letter from the Director Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollack in Statistical Area 630 in the Gulf of Alaska [Docket No.: 0910091344-

9056-02] (RIN: 0648-XU73) received April 27, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7609. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-02] (RIN: 0648-XV52) received April 27, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7610. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Removal of Gear Restriction for the U.S./Canada Management Area [Docket No.: 080521698-9067-02] (RIN: 0648-XU84) received April 27, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7611. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No.: 0810141351-9087-02] (RIN: 0648-XV21) received April 27, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7612. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod for American Fisheries Act Catcher Processors Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-02] (RIN: 0648-XV66) received April 27, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FILNER: Committee on Veterans' Affairs. H.R. 1017. A bill to amend the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 and title 38, United States Code, to require the provision of chiropractic care and services to veterans at all Department of Veterans Affairs medical centers and to expand access to such care and services; with an amendment (Rept. 111-488). Referred to the Committee of the Whole House on the State of the Union.

Mr. FILNER: Committee on Veterans' Affairs. H.R. 5145. A bill to amend title 38, United States Code, to improve the continuing professional education reimbursement provided to health professionals employed by the Department of Veterans Affairs (Rept. 111-489). Referred to the Committee of the Whole House on the State of the Union.

Mr. FILNER: Committee on Veterans' Affairs. H.R. 3885. A bill to direct the Secretary of Veterans Affairs to carry out a pilot program on dog training therapy (Rept. 111-490).

Referred to the Committee of the Whole House on the State of the Union.

#### REPORTED BILL SEQUENTIALLY REFERRED

[Corrected from the Record of May 18, 2010]

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. THOMPSON of Mississippi: Committee on Homeland Security. H.R. 4842. A bill to authorize appropriations for the Directorate of Science and Technology of the Department of Homeland Security for fiscal years 2011 and 2012, and for other purposes; with an amendment, Rept. 111-486, Part 1; referred to the Committee on Science and Technology for a period ending not later than June 18, 2010, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(o), rule X.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Ms. SLAUGHTER (for herself and Ms. HARMAN):

H.R. 5347. A bill to prevent and end the occurrence of sexual assaults involving members of the Armed Forces; to the Committee on Armed Services.

By Mrs. LUMMIS (for herself, Mr. SAM JOHNSON of Texas, Mr. HENSARLING, Mr. PENCE, Mr. POSEY, Mr. NEUGEBAUER, Mr. PITTS, Mr. HUNTER, Mr. FRANKS of Arizona, Mr. CAMPBELL, Mr. LUETKEMEYER, Mr. AKIN, Ms. FALLIN, and Mr. GINGREY of Georgia):

H.R. 5348. A bill to amend title 5, United States Code, to reduce the number of civil service positions within the executive branch, and for other purposes; to the Committee on Oversight and Government Reform.

By Mr. DELAHUNT (for himself and Mr. ROHRABACHER):

H.R. 5349. A bill to provide that Cambodia's debt to the United States may not be reduced or forgiven, and textile and apparel articles that are the product of Cambodia and imported into the United States may not be extended duty free treatment; to the Committee on Foreign Affairs, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ROS-LEHTINEN (for herself, Mr. BURTON of Indiana, Mrs. BACHMANN, Mr. PENCE, Mr. MACK, Mr. MANZULLO, Mr. ROYCE, and Mr. ROHRABACHER):

H.R. 5350. A bill to continue restrictions against and prohibit diplomatic recognition of the Government of North Korea, and for other purposes; to the Committee on Foreign Affairs.

By Ms. ROS-LEHTINEN (for herself, Mr. MCKEON, Mr. HOEKSTRA, Mr. KING of New York, Mr. SMITH of Texas, Mr. PENCE, Mr. MCCOTTER, Mr. LAMBORN, and Mr. GARRETT of New Jersey):

H.R. 5351. A bill to safeguard the sovereignty and right to self-defense of the United States and its allies, to prohibit

United States participation in the International Criminal Court, and for other purposes; to the Committee on Foreign Affairs.

By Mr. YOUNG of Alaska:

H.R. 5352. A bill to require hydroelectric energy generated in Alaska to be considered as renewable energy for purposes of Federal programs and standards; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GRAYSON (for himself, Mr. KUCINICH, Ms. WOOLSEY, Mr. CONYERS, Ms. LEE of California, Mr. PAUL, and Mr. JONES):

H.R. 5353. A bill to reduce the \$159.3 billion from the discretionary overseas contingency operations funds in the President's fiscal year 2011 budget for operations in Iraq, Afghanistan, and Pakistan (without preventing use of mandatory funds from the Department of Defense budget to execute the War on Terror), and amend the Internal Revenue Code of 1986 to provide individuals a "War is Making You Poor" tax credit against the savings attributable to the overseas contingency operations reduction; to the Committee on Armed Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL (for himself, Mr. BURGESS, Ms. DEGETTE, Mr. CASTLE, Mr. GENE GREEN of Texas, Mr. KING of New York, Mrs. CAPPS, Mr. GONZALEZ, Ms. BALDWIN, Mr. RANGEL, Mr. HIGGINS, Mrs. MALONEY, Mr. ACKERMAN, Ms. CLARKE, Ms. LEE of California, Mr. SERRANO, and Mr. DOYLE):

H.R. 5354. A bill to establish an Advisory Committee on Gestational Diabetes, to provide grants to better understand and reduce gestational diabetes, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GRIJALVA:

H.R. 5355. A bill to amend the Oil Pollution Act of 1990 to repeal the limitation of liability of a responsible party for a discharge or substantial threat of a discharge of oil from an offshore oil facility; to the Committee on Transportation and Infrastructure.

By Mr. BLUNT (for himself, Mr. MILLER of Florida, and Mr. BONNER):

H.R. 5356. A bill to amend the Oil Pollution Act of 1990 to increase the cap on liability for economic damages resulting from an oil spill, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MITCHELL (for himself and Mr. ROHRABACHER):

H.R. 5357. A bill to provide for the deployment of additional National Guard troops along the international border between the United States and Mexico in support of the border control activities of the United States Customs and Border Protection of the Department of Homeland Security; to the Committee on Armed Services.

By Ms. CASTOR of Florida:

H.R. 5358. A bill to amend the Outer Continental Shelf Lands Act to prohibit oil and gas preleasing, leasing, and related activities in certain areas of the Outer Continental Shelf off the coast of Florida, and for other purposes; to the Committee on Natural Resources.

By Mr. HASTINGS of Florida (for himself, Mr. CAO, Mr. GRIJALVA, Ms. NORTON, Mr. THOMPSON of Mississippi,

Mr. LEWIS of Georgia, Ms. WATSON, Mr. RUPPERSBERGER, Ms. CLARKE, Ms. CORRINE BROWN of Florida, Ms. FUDGE, Mr. MEEK of Florida, Ms. JACKSON LEE of Texas, Ms. KILPATRICK of Michigan, Mrs. CHRISTENSEN, Mr. SCOTT of Virginia, Mr. DAVIS of Illinois, Mr. RANGEL, Mr. ROHRABACHER, Mr. DAVIS of Alabama, Mr. MEEKS of New York, and Mr. CONYERS):

H.R. 5359. A bill to posthumously award a Congressional Gold Medal to Lena Horne in recognition of her achievements and contributions to American culture and the civil rights movement; to the Committee on Financial Services.

By Ms. HERSETH SANDLIN (for herself and Mr. BOOZMAN):

H.R. 5360. A bill to amend title 38, United States Code, to modify the standard of visual acuity required for eligibility for specially adapted housing assistance provided by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mrs. MALONEY (for herself, Mr. NADLER of New York, Ms. VELÁZQUEZ, and Mr. MEEKS of New York):

H.R. 5361. A bill to amend section 1333 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 to ensure that multifamily housing mortgage purchases by Fannie Mae and Freddie Mac that are credited toward fulfillment of such enterprises multifamily special affordable housing goal increase or preserve the number of dwelling units affordable to low-income families; to the Committee on Financial Services.

By Mr. SALAZAR:

H.R. 5362. A bill to provide for the release of water from the marketable yield pool of water stored in the Ruedi Reservoir for the benefit of endangered fish habitat in the Colorado River, and for other purposes; to the Committee on Natural Resources.

By Mr. SCHRADER (for himself, Mr. ARCURI, Mr. BOREN, Mr. BOYD, Mr. CARDOZA, Mr. CHANDLER, Mr. CHILDERS, Mr. COOPER, Mr. COSTA, Mr. CUELLAR, Mr. DAVIS of Tennessee, Mr. ELLSWORTH, Ms. GIFFORDS, Ms. HARMAN, Ms. HERSETH SANDLIN, Mr. HILL, Mr. HOLDEN, Mr. KAGEN, Mr. KRATOVIL, Ms. MARKEY of Colorado, Mr. MATHESON, Mr. MCINTYRE, Mr. MELANCON, Mr. MICHAUD, Mr. MINNICK, Mr. MOORE of Kansas, Mr. MURPHY of New York, Mr. NYE, Mr. ROSS, Ms. LORETTA SANCHEZ of California, Mr. SCHIFF, Mr. SHULER, Mr. TANNER, and Mr. WILSON of Ohio):

H.R. 5363. A bill to make funds available to increase program integrity efforts and reduce wasteful government spending of taxpayer's dollars; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 5364. A bill to amend title XIX of the Social Security Act to require States to provide oral health services to aged, blind, or disabled individuals under the Medicaid Program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TIAHRT (for himself, Mr. DUNCAN, and Mr. LAMBORN):

H.R. 5365. A bill to limit the relief available to persons who have been unconsti-

tutionally prohibited from protesting at military and other funerals; to the Committee on the Judiciary.

By Mr. WELCH:

H.R. 5366. A bill to require the proposal for debarment from contracting with the Federal Government of persons violating the Foreign Corrupt Practices Act of 1977; to the Committee on Oversight and Government Reform.

By Mr. MARKEY of Massachusetts (for himself and Mr. FORTENBERRY):

H.J. Res. 85. A joint resolution expressing the disfavor of the Congress regarding the proposed agreement for cooperation between the United States and the Russian Federation pursuant to the Atomic Energy Act of 1954; to the Committee on Foreign Affairs.

By Mr. BARRETT of South Carolina:

H. Res. 1380. A resolution applauding the State of Arizona for asserting its 10th amendment rights, protecting its citizens, and safeguarding its jobs, and calling upon the Administration to act immediately to enforce our Nation's immigration laws; to the Committee on the Judiciary.

By Mr. BRADY of Pennsylvania (for himself, Ms. SCHWARTZ, Mr. KAGEN, Ms. RICHARDSON, Mr. HODES, Ms. BERKLEY, Mr. LEVIN, Mr. HOLT, Mr. CLAY, Mr. COHEN, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. FATTAH, Ms. WASSERMAN SCHULTZ, Mr. ADLER of New Jersey, Mr. BURTON of Indiana, Mr. BERMAN, Mr. HASTINGS of Florida, Mr. ENGEL, Mr. ALTMIRE, Mr. SHUSTER, Mr. KIRK, Mr. CARNEY, Mr. PLATTS, Mr. HALL of New York, and Mr. QUIGLEY):

H. Res. 1381. A resolution recognizing the National Museum of American Jewish History, an affiliate of the Smithsonian Institution, as the only museum in the Nation dedicated exclusively to exploring and preserving the American Jewish experience; to the Committee on House Administration.

By Mr. FALOMAVAEGA (for himself, Ms. ROS-LEHTINEN, Mr. ACKERMAN, Mr. MANZULLO, and Mr. BERMAN):

H. Res. 1382. A resolution expressing sympathy to the families of those killed by North Korea in the sinking of the Republic of Korea Ship Cheonan, and solidarity with the Republic of Korea in the aftermath of this tragic incident; to the Committee on Foreign Affairs.

By Mr. LUETKEMEYER (for himself, Mr. GRAVES, Mr. BLUNT, Mrs. EMERSON, Mr. CLAY, and Mr. CLEAVER):

H. Res. 1383. A resolution honoring Dr. Larry Case on his retirement as National FFA Advisor; to the Committee on Agriculture.

By Mr. GARY G. MILLER of California (for himself, Mrs. MYRICK, and Mr. SMITH of Texas):

H. Res. 1384. A resolution expressing the sense of the House of Representatives that State and local governments, and State and local law enforcement personnel in the course of carrying out routine duties, have the inherent authority of a sovereign entity to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States, for the purpose of assisting in the enforcement of the immigration laws of the United States; to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SKELTON (for himself and Mr. McKEON):

H. Res. 1385. A resolution recognizing and honoring the courage and sacrifice of the members of the Armed Forces and veterans, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

## MEMORIALS

Under clause 4 of Rule XXII, memorials were presented and referred as follows:

283. The SPEAKER presented a memorial of the Senate of the State of Illinois, relative to Senate Resolution No. 643 urging the Congress to allocate \$2 billion of the next proposed economic stimulus to create an employment program throughout the year; to the Committee on Appropriations.

284. Also, a memorial of the Senate of the State of Idaho, relative to Senate Joint Resolution No. 103 urging the Congress to pass legislation to fully fund forty percent of the costs of IDEA; to the Committee on Education and Labor.

285. Also, a memorial of the House of Representatives of the State of Iowa, relative to House Resolution 117 urging the Congress to require more healthful options for students under the Richard B. Russell National School Lunch Act; to the Committee on Education and Labor.

286. Also, a memorial of the Senate of the Commonwealth of Massachusetts, relative to Senate Resolution urging the Congress to adopt a more accurate measure and limitation on the passage of Federal mandates on state and local governments; to the Committee on Oversight and Government Reform.

287. Also, a memorial of the Senate of the State of Idaho, relative to Senate Joint Resolution No. 105 urging the Congress to undertake an immediate and thorough review of federal expenditures under the Equal Access to Justice Act; to the Committee on the Judiciary.

288. Also, a memorial of the Senate of the State of Idaho, relative to Senate Joint Resolution No. 106 urging the Congress to add a Twenty-Eighth Amendment to the Constitution of the United States; to the Committee on the Judiciary.

289. Also, a memorial of the Senate of the State of Kansas, relative to Senate Concurrent Resolution No. 1615 claiming sovereignty under the Tenth Amendment to the Constitution of the United States; to the Committee on the Judiciary.

290. Also, a memorial of the Senate of the State of Idaho, relative to Senate Joint Resolution No. 104 urging the Congress to oppose federal legislation that interferes with a state's ability to direct the transport and processing of horses; jointly to the Committees on Energy and Commerce and Agriculture.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 29: Mr. KILDEE.

H.R. 40: Ms. SCHAKOWSKY and Ms. JACKSON LEE of Texas.

H.R. 208: Mr. TAYLOR.

H.R. 275: Mr. RAHALL.

- H.R. 303: Mr. JOHNSON of Illinois and Mr. ARCURI.  
H.R. 305: Mr. CONNOLLY of Virginia.  
H.R. 510: Mr. SMITH of Washington.  
H.R. 622: Ms. RICHARDSON.  
H.R. 673: Mr. CARNEY, Mr. HARE, Mr. ORTIZ, Ms. RICHARDSON, and Mr. MITCHELL.  
H.R. 848: Mr. KENNEDY.  
H.R. 873: Mr. ALTMIRE.  
H.R. 949: Ms. LEE of California.  
H.R. 988: Mr. BOREN and Mr. AKIN.  
H.R. 1017: Mr. ROSKAM.  
H.R. 1054: Mr. CALVERT, Mr. MILLER of Florida, and Mr. SIMPSON.  
H.R. 1193: Mr. POLIS and Ms. SCHWARTZ.  
H.R. 1250: Mr. TERRY.  
H.R. 1255: Ms. SPEIER.  
H.R. 1351: Mr. SCOTT of Georgia and Mr. LYNCH.  
H.R. 1352: Mr. TIAHRT.  
H.R. 1547: Mr. YOUNG of Alaska.  
H.R. 1829: Mr. SALAZAR and Mr. HONDA.  
H.R. 1961: Mr. ELLISON.  
H.R. 2067: Ms. KILROY and Mr. McDERMOTT.  
H.R. 2109: Mr. LIPINSKI.  
H.R. 2222: Ms. DEGETTE.  
H.R. 2273: Mr. MEEK of Florida.  
H.R. 2298: Mr. CLEAVER.  
H.R. 2328: Mr. PASCRELL.  
H.R. 2381: Ms. TITUS.  
H.R. 2408: Mr. LARSON of Connecticut.  
H.R. 2443: Ms. BALDWIN.  
H.R. 2456: Ms. KILPATRICK of Michigan.  
H.R. 2565: Mr. THOMPSON of Pennsylvania.  
H.R. 2575: Ms. SCHWARTZ.  
H.R. 2625: Mr. TOWNS.  
H.R. 2845: Mr. McCOTTER.  
H.R. 2870: Mr. BISHOP of New York.  
H.R. 2946: Mr. GARAMENDI.  
H.R. 2962: Ms. SLAUGHTER, Mr. BRALEY of Iowa, and Mr. KAGEN.  
H.R. 3240: Mr. CALVERT.  
H.R. 3251: Mr. DUNCAN.  
H.R. 3301: Mr. BOOZMAN.  
H.R. 3333: Mr. ELLSWORTH.  
H.R. 3408: Mr. BACA, Mr. WILSON of Ohio, and Ms. MOORE of Wisconsin.  
H.R. 3441: Mr. PERLMUTTER.  
H.R. 3636: Mr. GONZALEZ.  
H.R. 3652: Mr. ALEXANDER, Mr. SHIMKUS, Mr. PASTOR of Arizona, Mr. WHITFIELD, Mr. MITCHELL, and Mr. HIGGINS.  
H.R. 3666: Mr. BRALEY of Iowa.  
H.R. 3668: Ms. MOORE of Wisconsin, Mr. LIPINSKI, Mr. SCOTT of Virginia, Mr. LANCE, Mr. UPTON, Mr. WITTMAN, Mr. RODRIGUEZ, Mr. JONES, Ms. ESHOO, Ms. BERKLEY, Mrs. HALVORSON, Mr. DOYLE, Mr. THOMPSON of Mississippi, Mrs. SCHMIDT, Ms. TITUS, Mr. MAFFEI, Ms. FUDGE, Mr. KISSELL, Mr. BOOZMAN, Ms. LORETTA SANCHEZ of California, Mr. CAO, Mr. DAVIS of Alabama, Mr. HASTINGS of Florida, Mr. MEEK of Florida, Mr. SPRATT, Mr. BILIRAKIS, Mr. McCAUL, Ms. ROSS-LEHTINEN, Mr. CRENSHAW, and Mr. McMAHON.  
H.R. 3715: Mr. LYNCH.  
H.R. 3745: Mr. FRANK of Massachusetts.  
H.R. 3974: Ms. VELÁZQUEZ, Ms. FUDGE, Mr. McDERMOTT, and Mr. YOUNG of Florida.  
H.R. 4037: Ms. PINGREE of Maine.  
H.R. 4070: Mrs. EMERSON and Mr. AKIN.  
H.R. 4072: Mr. LEE of New York.  
H.R. 4085: Mr. LUJÁN.  
H.R. 4136: Mr. HOLDEN.  
H.R. 4150: Mr. HINOJOSA.  
H.R. 4199: Mr. RAHALL.  
H.R. 4233: Mr. DANIEL E. LUNGREN of California.  
H.R. 4278: Ms. LINDA T. SÁNCHEZ of California.  
H.R. 4299: Mr. McDERMOTT.  
H.R. 4306: Mr. ELLSWORTH, Mr. BURTON of Indiana, and Mrs. BIGGERT.  
H.R. 4310: Mr. SABLAN, Ms. MOORE of Wisconsin, Mr. CUMMINGS, Mr. HONDA, Mr. KENNEDY, Mr. HARE, and Ms. WATERS.  
H.R. 4354: Ms. PINGREE of Maine.  
H.R. 4386: Ms. KILPATRICK of Michigan.  
H.R. 4410: Mr. CAMP, Mr. QUIGLEY, and Mr. ELLSWORTH.  
H.R. 4525: Mr. TEAGUE.  
H.R. 4530: Mr. MAFFEI.  
H.R. 4544: Mrs. CHRISTENSEN.  
H.R. 4549: Mr. HASTINGS of Florida.  
H.R. 4684: Mr. JOHNSON of Georgia, Mr. LATTA, Mr. HOLT, Ms. WASSERMAN SCHULTZ, Ms. WATSON, and Mrs. NAPOLITANO.  
H.R. 4710: Mr. PATRICK J. MURPHY of Pennsylvania.  
H.R. 4746: Mr. GARRETT of New Jersey.  
H.R. 4806: Ms. DELAULO and Ms. PINGREE of Maine.  
H.R. 4807: Mr. MITCHELL.  
H.R. 4843: Mrs. NAPOLITANO.  
H.R. 4870: Mr. SCHIFF.  
H.R. 4903: Mr. FRANKS of Arizona.  
H.R. 4943: Mr. LAMBORN and Mr. JONES.  
H.R. 4961: Ms. SCHAKOWSKY.  
H.R. 4972: Mr. TERRY and Mr. CULBERSON.  
H.R. 4973: Mrs. CAPPS.  
H.R. 5000: Mr. ARCURI and Mr. WU.  
H.R. 5012: Mrs. EMERSON.  
H.R. 5015: Mr. WHITFIELD, Mr. SARBANES, and Mr. PRICE of North Carolina.  
H.R. 5029: Mr. FORBES, Mr. BROWN of Georgia, Mr. CALVERT, Mr. CARTER, Mrs. McMORRIS RODGERS, and Mrs. MYRICK.  
H.R. 5032: Mrs. LOWEY.  
H.R. 5034: Mr. PETERS and Mr. FATTAH.  
H.R. 5035: Ms. BORDALLO.  
H.R. 5040: Mr. PETERSON and Mrs. MYRICK.  
H.R. 5041: Ms. PINGREE of Maine, Mr. HOLT, Mr. ELLSWORTH, and Mr. WU.  
H.R. 5065: Mr. CALVERT.  
H.R. 5081: Mr. CARTER, Mr. OBERSTAR, Mr. WITTMAN, Mr. BONNER, and Mr. LATHAM.  
H.R. 5091: Mr. PERLMUTTER.  
H.R. 5092: Ms. ROYBAL-ALLARD, Mr. KLEIN of Florida, Ms. MCCOLLUM, Mr. PRICE of North Carolina, Mr. SCHRADER, Mr. SESSIONS, Mr. LUJÁN, Mr. REYES, Mr. BRIGHT, Mr. PALONE, Mr. CAMP, Ms. ZOE LOFGREN of California, Mr. LEE of New York, Mr. ELLSWORTH, Mr. TIBERI, and Mr. TANNER.  
H.R. 5111: Mr. ROHRBACHER, Mr. CARTER, Mr. HALL of Texas, Mr. CAO, and Mr. LUETKEMEYER.  
H.R. 5115: Mr. OBERSTAR.  
H.R. 5121: Ms. HIRONO and Mr. WEINER.  
H.R. 5137: Mr. SERRANO, Mr. LEWIS of Georgia, Mr. PAYNE, Ms. WATERS, Mr. DICKS, Mr. WALZ, Ms. HARMAN, Mr. SHADEGG, Mr. JONES, Mr. REHBERG, Mr. ALEXANDER, Mr. ORTIZ, Mr. REYES, Mr. BOSWELL, Mr. OBERSTAR, Mr. SPACE, Mr. RODRIGUEZ, Mr. RYAN of Ohio, Mr. LARSON of Connecticut, Mr. FATTAH, Ms. DEGETTE, Mr. VAN HOLLEN, Ms. KOSMAS, Ms. CASTOR of Florida, Mr. KLEIN of Florida, Ms. HIRONO, Ms. SUTTON, Mrs. HALVORSON, Ms. TITUS, Mr. HIMES, Mr. ADLER of New Jersey, Mr. CUELLAR, Mr. MEEKS of New York, Mr. PERLMUTTER, Mr. BISHOP of New York, Mr. STUPAK, Mr. HINCHEY, Mr. DRIEHAUS, and Mr. CHANDLER.  
H.R. 5142: Mr. CARNAHAN and Mr. SALAZAR.  
H.R. 5143: Mr. FILNER.  
H.R. 5156: Mr. CONYERS.  
H.R. 5162: Mr. ROGERS of Alabama.  
H.R. 5175: Ms. CASTOR of Florida, Mr. MORAN of Virginia, Mrs. MCCARTHY of New York, and Mr. CARNAHAN.  
H.R. 5177: Ms. HERSETH SANDLIN.  
H.R. 5200: Ms. EDWARDS of Maryland.  
H.R. 5213: Ms. WATSON and Mr. LARSEN of Washington.  
H.R. 5214: Ms. SLAUGHTER, Mr. AL GREEN of Texas, Mr. MICHAUD, Ms. CORRINE BROWN of Florida, Mr. COHEN, Ms. LEE of California, and Mr. FILNER.  
H.R. 5217: Mr. CHAFFETZ, Mr. BISHOP of Utah, and Mr. HERGER.  
H.R. 5226: Mr. RYAN of Ohio.  
H.R. 5234: Mr. WELCH.  
H.R. 5258: Mr. QUIGLEY and Mr. CHAFFETZ.  
H.R. 5268: Mr. DELAHUNT and Ms. BALDWIN.  
H.R. 5294: Mr. BISHOP of Utah and Mrs. LUMMIS.  
H.R. 5295: Mr. CALVERT.  
H.R. 5297: Ms. NORTON.  
H.R. 5298: Mr. WALZ.  
H.R. 5312: Mr. HALL of New York, Mr. LIPINSKI, Mr. SHULER, and Mr. KISSELL.  
H.R. 5319: Mr. PITTS.  
H.R. 5322: Ms. ZOE LOFGREN of California and Mr. JOHNSON of Georgia.  
H.R. 5324: Mr. ARCURI.  
H.R. 5327: Mr. SMITH of New Jersey, Mr. BOOZMAN, Mr. DONNELLY of Indiana, Mrs. BACHMANN, Ms. JENKINS, Mrs. LUMMIS, Mr. KIRK, Mr. MORAN of Kansas, Mr. ALEXANDER, Mrs. McMORRIS RODGERS, Mr. LANCE, Mr. ROE of Tennessee, Mr. CHAFFETZ, Mr. SCHOCK, Mr. GRIFFITH, Mr. HALL of New York, Mr. HOEKSTRA, Mr. TIAHRT, Mr. SCALISE, Mr. McCOTTER, Mr. BILBRAY, Ms. FOXX, Mr. BROWN of Georgia, Mr. RYAN of Wisconsin, Mr. LAMBORN, Mr. COFFMAN of Colorado, Mr. MCCLINTOCK, Mr. LEE of New York, and Mr. LOBIONDO.  
H.J. Res. 14: Mr. INGLIS.  
H. Con. Res. 226: Ms. SHEA-PORTER.  
H. Con. Res. 252: Mr. PENCE.  
H. Con. Res. 260: Mr. VAN HOLLEN, Mr. BOCIERI, Mr. PAULSEN, Mr. DRIEHAUS, Ms. HERSETH SANDLIN, Mr. TURNER, Mr. HARE, Mr. WESTMORELAND, Mr. SPACE, Mr. RUSH, Mr. SULLIVAN, Mr. GOODLATTE, Mr. SIREs, and Mr. WITTMAN.  
H. Con. Res. 267: Mr. LIPINSKI and Mr. YOUNG of Florida.  
H. Con. Res. 271: Mr. MCHENRY.  
H. Con. Res. 274: Mr. DAVIS of Kentucky.  
H. Res. 111: Mr. ELLSWORTH and Mr. NEAL of Massachusetts.  
H. Res. 536: Mr. OBERSTAR, Mr. FARR, Mr. CAPUANO, Mr. RYAN of Ohio, Mr. COSTA, and Mr. KILDEE.  
H. Res. 764: Mr. BROWN of Georgia.  
H. Res. 1073: Mr. HOLDEN, Mr. ADLER of New Jersey, Mr. FOSTER, Mr. SHULER, Mr. BRIGHT, Mr. PATRICK J. MURPHY of Pennsylvania, and Mrs. HALVORSON.  
H. Res. 1207: Mr. BOUSTANY, Ms. GIFFORDS, Mr. ROGERS of Alabama, and Mr. PERLMUTTER.  
H. Res. 1226: Mr. ENGEL and Mr. LAMBORN.  
H. Res. 1275: Mr. WELCH, Mr. COURTNEY, Mr. WALZ, Mr. HARE, Mr. BRALEY of Iowa, Mr. CONNOLLY of Virginia, Ms. KAPTUR, Mr. KAGEN, Ms. SUTTON, Ms. CASTOR of Florida, Ms. TITUS, Ms. KOSMAS, Ms. TSONGAS, Mr. DOGGETT, Mr. KLEIN of Florida, and Mr. ANDREWS.  
H. Res. 1285: Mr. MILLER of Florida.  
H. Res. 1302: Mr. LANGEVIN, Mr. HINCHEY, and Mr. LUETKEMEYER.  
H. Res. 1309: Mr. GRIJALVA.  
H. Res. 1313: Mr. INGLIS, Mr. THOMPSON of Pennsylvania, Mrs. BACHMANN, Mr. CAO, Mr. BLUNT, Mr. OLSON, Mr. DAVIS of Alabama, Mr. GINGREY of Georgia, Mr. PITTS, Mrs. BLACKBURN, and Mr. TAYLOR.  
H. Res. 1335: Mr. HINCHEY, Mr. MORAN of Virginia, and Mr. GONZALEZ.  
H. Res. 1346: Mr. YOUNG of Florida, Mr. GINGREY of Georgia, Mr. REHBERG, Mr. ALEXANDER, Mr. GRIFFITH, Mr. ROGERS of Alabama, Mr. BROWN of South Carolina, and Mr. DUNCAN.  
H. Res. 1351: Ms. ZOE LOFGREN of California and Mr. SHULER.  
H. Res. 1365: Mr. COOPER and Mr. LAMBORN.  
H. Res. 1366: Mr. SHULER.  
H. Res. 1372: Mr. JOHNSON of Georgia, Mr. GUTHRIE, Mr. AKIN, Mr. MCCLINTOCK, Mr.

BISHOP of Utah, Mrs. LUMMIS, Mr. KLINE of Minnesota, Mr. HENSARLING, Mr. CASSIDY, Mr. FLEMING, Mr. SCALISE, Mr. BOUSTANY, Mr. GRIFFITH, Mr. ALEXANDER, Mr. LATTA, Mrs. SCHMIDT, Mr. CASTLE, Mrs. MYRICK, Mr. EHLERS, Mr. ROE of Tennessee, Mr. MILLER of Florida, Mr. BOOZMAN, Mr. MCHENRY, Mr. JORDAN of Ohio, and Mr. BRADY of Texas.

H Res. 1374: Mr. CAO.

H. Res. 1378: Mr. BURTON of Indiana, Mr. ROGERS of Alabama, Mr. WILSON of South Carolina, and Mr. ADERHOLT.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

OFFERED BY MR. LEVIN

The House amendment to the Senate amendment to H.R. 4213, the American Jobs

and Closing Tax Loopholes Act, contains the following limited tariff benefits as defined in clause 9(g) of rule XXI.

List of limited tariff benefits as defined in clause 9, rule XXI:

1. Title VI contains a limited tariff benefit requested by Representative ETHERIDGE, initially introduced as H.R. 4136, a bill to extend the temporary duty suspensions on certain cotton shirting fabrics, and for other purposes.



## SENATE—Thursday, May 20, 2010

The Senate met at 9:30 a.m. and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, whom to know is life eternal, by the might of Your spirit, give our lawmakers faith in what You are willing to do with and for them. May no challenge seem too daunting when they remember Your power and love as well as the many ways You have already intervened to save us in the past. Lord, be their abiding reality, leading them into the paths of faithful service that honors You. Stay near when they are weary, as they learn to anchor their trust in Your saving grace. Help them to trust You to guide and provide, as You inspire them with Your presence and power.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mrs. GILLIBRAND). The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 20, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Madam President, following any leader remarks, the Senate will resume consideration of S. 3217, the Wall Street reform legislation.

The cloture vote on the Dodd-Lincoln substitute amendment will occur at 2:30 p.m. today, and everyone should be reminded that the filing deadline for second-degree amendments is 1:30.

Votes may occur on amendments prior to the cloture vote, if agreement is reached.

The Senate will recess from 10:40 until 12 noon today for a joint meeting of Congress at 11 a.m. where we will hear an address by His Excellency Felipe Calderon Fournier, the President of Mexico. This will be a joint meeting of Congress. We will gather here, and I encourage all Senators to be here by 10:30 so we may proceed to the House at about 10:40 as a body.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 3217, which the clerk will report.

The bill clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

Pending:

Reid (for Dodd/Lincoln) amendment No. 3739, in the nature of a substitute.

Brownback further modified amendment No. 3789 (to amendment No. 3739), to provide for an exclusion from the authority of the Bureau of Consumer Financial Protection for certain automobile manufacturers.

Specter modified amendment No. 3776 (to amendment No. 3739), to amend section 20 of the Securities Exchange Act of 1934 to allow for a private civil action against a person that provides substantial assistance in violation of such act.

Dodd (for Leahy) amendment No. 3823 (to amendment No. 3739), to restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.

Dodd (for Cantwell) modified amendment No. 3884 (to amendment No. 3739), to impose appropriate limitations on affiliations with certain member banks.

Cardin amendment No. 4050 (to amendment No. 3739), to require the disclosure of payments by resource extraction issuers.

Merkley/Levin amendment No. 4115 (to amendment No. 3789), to prohibit certain forms of proprietary trading.

Mr. REID. Madam President, I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### NEW HEALTH CARE LAW

Mr. McCONNELL. Madam President, ever since they passed their new health care bill, Democrats promised to help small businesses offset some of the costs of the new taxes and mandates it will impose.

Yet, according to an AP story this morning, that is looking like yet another empty promise.

According to the story, a furniture supply store owner in Springfield, IL, Zach Hoffman, was confident he qualified for the new small business tax credit. Yet buried in the new law's fine print was language disqualifying his 24 employees from this needed help.

According to the law, Mr. Hoffman created too many jobs to get help, and he paid them too much, even though his average employees only made \$35,000 a year.

Mr. Hoffman called this a bait and switch and noted that in order to get the most out of the new credit, he would have to cut his workforce to 10 employees and slash their wages.

"That seems like a strange outcome," he said, "given we've got 10 percent unemployment."

Speaker PELOSI told Americans we had to pass the health care bill so we could know what was in it. Now that Americans are learning what was buried in the fine print, they are rightly upset.

They see that small businesses are denied the help they were promised, while facing new job-killing taxes and government mandates. They have learned that health care costs will go up, not down, as the administration and Democrats in Congress promised.

Americans want this bill repealed and replaced with something that will work for people such as Zach Hoffman and all the Nation's job creators and small businesses.

Madam President, what is the pending business?

The ACTING PRESIDENT pro tempore. The Merkley second-degree amendment to the Brownback amendment.

Mr. McCONNELL. Madam President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, parliamentary inquiry: What is before the Senate at the present time?

The ACTING PRESIDENT pro tempore. The Merkley second-degree amendment.

Mr. HARKIN. Madam President, I have been, for some time, trying to bring up an amendment that has been filed which deals with a kind of, some might say, a little-known part of the insurance industry, called indexed annuities.

A little bit of background. Indexed annuities have been sold for some time. They are an annuity that people would buy, and there is an upside limit. In other words, if the S&P index goes up by, let's say, 500 percent, the holder of the annuity does not get all of that 500 percent; the insurance company gets a big portion of that. But in exchange for that, there is no downside risk. The holder of that annuity, if the S&P goes down 500 percent, doesn't lose anything if held to its term. It has been a very valuable instrument for a lot of people to have these indexed annuities.

During the recent recession of 2008 and 2009, no one lost any capital in any of their indexed annuities based on the stock market going down. They lost nothing because they had that downside protection. That was not true of other instruments, obviously. If you had a security, obviously, you lost a lot of money in the downturn of the stock market. Owners of the indexed annuities didn't lose any principal whatsoever when they held it to term. That is the value of these indexed annuities.

Two years ago in the waning days of the last administration, the Securities and Exchange Commission decided they wanted to have jurisdiction over these. There had been some abuses by sellers of indexed annuities sold to individuals—mostly elderly individuals—when it was not the best investment for them. They were sold an annuity instrument that was not in their best interest.

The SEC, under Chairman Cox, decided they were going to take jurisdiction of this. They were going to have this within their jurisdiction. It was a divided vote at the SEC as to whether they would do this, but the vote was in favor, so the SEC pulled this under their umbrella. The SEC was taken to court by certain companies. It went to the district court and then it was appealed to the circuit court of appeals in the District of Columbia.

The circuit court of appeals decided this on July 21, 2009, not even 1 year ago.

The circuit court said:

We hold that the Commission's consideration—

That is the Securities and Exchange Commission, SEC—

We hold that the Commission's consideration of the effect of Rule 151A—

That was the rule that would govern the indexed annuities over which the SEC now wants to have jurisdiction, which they never had before.

We hold that the Commission's consideration of the effect of Rule 151A on efficiency, competition, and capital formation was arbitrary and capricious.

"Arbitrary and capricious," held by the circuit court.

What did the circuit court say? They said: We remand this. Having determined that their analysis is lacking, "we conclude that this matter should be remanded to the SEC to address the deficiencies with its 2(b) analysis."

It is back at the SEC. The SEC could at some point jiggle things around and decide, yes, now they have a better analysis and now they have jurisdiction. They will be taken to court again, and this will go on and on. In the meantime, the status of the companies selling indexed annuities, are in limbo.

Again, if someone says: We had some problems with this in the past, I understand that. But the insurance commissioners who have jurisdiction over insurance fix the problems. In fact, the National Association of Insurance Commissioners, in a letter to Senator DODD, the chairman of the committee, dated April 30, basically points out what they have done to fix this problem.

The insurance commissioners said: Yes, there is a problem. Let's get together. Let's change the rules and regulations under which these are sold. And they did.

Some might say: Why shouldn't we give this to the SEC? Is the SEC the final and best word and the best protector of consumers, I ask you? Is the SEC the best protector of consumers in this country when it comes to financial instruments? Ask Bernie Madoff's customers.

Did we say because of Bernie Madoff and all the money he cheated and stole from people—and he was under the jurisdiction of the SEC—we have to take that jurisdiction away from the SEC now and give it to somebody else? No. We said: SEC, change your policies and change your regulations so a Bernie Madoff cannot happen again. That is what we are doing.

These indexed annuities have always been insurance products, governed by the insurance commissioners in each State and the National Association of Insurance Commissioners. If there was a problem, it went to them. They addressed the problem. They fixed it. We have a new regulatory regime in which indexed annuities can be sold so the problems that occurred in the past will

not happen again. Will there be violations? Yes, but now there are strong enforced regulatory rules in place.

The SEC wants the oversight shared. But, two regulators in conflict create problems and considerable costs.

I am not one who says to protect the consumer against everything we have to give it to the SEC. The SEC did a lousy job—a lousy job—in protecting consumers who held securities. I mean stocks, securities. Not one person who had an indexed annuity lost one single dime in the downturn in 2008, 2009. We cannot say that about Bernie Madoff's accounts, can we?

I have been trying to get my amendment up to basically say: Look, the SEC does not have jurisdiction right now over these insurance instruments—that is what they principally are, insurance instruments. We left insurance to the States. If the SEC is able to grab hold of this kind of an instrument, what is to keep them from whole life? Now we are going to take over whole life insurance policies, too, because we have had problems in whole life policies, too and the value of their cash value can change with the markets, I say to my colleagues. Insurance commissioners keep track of this, they strengthened their regulation. They change their rules and regulations to cover these kinds of happenings.

Unless we are to the point where we are saying we are going to have federal regulation of insurance in America, if we are there, OK. I would like to see that vote happen. This is one more overreaching by a Federal department to gain jurisdiction over an area of State regulation over which they have never had jurisdiction. SEC has never had jurisdiction, and the circuit court said the analysis on which they reached their basis to grab this was "arbitrary and capricious."

I have an amendment, amendment No. 3920, at the desk. It has broad cosponsorship on both sides of the aisle—Democrats, Republicans, conservatives, liberals, up and down—to say, no, this ought to stay with the insurance commissioners because it is, in its essence, an insurance product.

The new rules that have been promulgated by the insurance commissioners basically cover the problems that happened in the past. The rules require certain amounts of liquidity and take into account the age of the consumer. That was the problem in the past. They were selling these to people who were way too old who would not live long enough to get their annuities. They look at the tax status, the financial objectives of the consumer, and whether this is some kind of churning policies. These are all new regulations instituted by the insurance commissioners to answer a problem that came up because of, let's face it, some agents out there who were taking advantage of elderly people.

There are always going to be some bad actors. I do not care if it is under SEC or the insurance commissioners, there is always going to be someone trying to game the system. This has always been under the insurance commissioners' jurisdictions. They have taken these steps.

We have a letter from the AARP saying they were opposed to my amendment. I have a great deal of respect for the AARP. I do a lot of work with them. More often than not, they do good things. But here is an article from the April 10, 2007, New York Times, titled "Income for Life? Sounds Good, But Do Your Homework."

It points out that AARP has teamed up with New York Life Insurance to—guess what—to sell annuities. I detect, I smell a little bit of a flavor of a conflict of interest.

Oh, the AARP does not want the indexed annuities sold out there. They want the elderly to buy their annuities. I don't care. Fine. If they want to be in the business of selling annuities, I don't care if AARP does that. But to send out a letter dated May 19 to the chairman of the Banking Committee talking about how bad my amendment is—did they say in their letter to the chairman of the committee, in all due candor, the AARP has joined with New York Life Insurance to sell annuities? No, they did not say that at all. So there is a little hint of a conflict of interest.

Madam President, I ask unanimous consent to have printed in the RECORD two items: a letter from AARP dated May 19 to the Honorable CHRISTOPHER DODD; and immediately following that, an article from the New York Times dated April 10, 2007.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AARP,

Washington, DC, May 19, 2010.

Hon. CHRISTOPHER DODD,  
U.S. Senate, Committee on Banking, Housing  
and Urban Affairs, Dirksen Senate Office  
Building, Washington, DC.

DEAR SENATOR DODD: AARP writes to strongly oppose Harkin Amendment #3920, which would deprive investors in equity-indexed annuities of needed protections provided by state and federal securities laws.

These hybrid products combine elements of insurance and securities, but they are sold primarily as investments, not insurance, especially to people who are investing for their own retirement. Growth in equity-indexed annuity value is tied to one of several securities indexes (e.g. the S&P 500 or the Dow Jones Industrial Average), and comparing and choosing suitable products can be difficult for investors. These products also come with high fees and have long surrender periods, which may make them unsuitable as investments for most seniors.

In the fall of 2008, the Securities and Exchange Commission adopted a rule to regulate equity-indexed annuities as securities (Rule 151A). The rule was later challenged, and the Court of Appeals for the District of Columbia Circuit upheld the legal foundation for the SEC's action.

Because seniors are a target audience for these products, AARP submitted comments to the SEC supporting the rule, stating it was important that Rule 151A supplement, not supplant, state insurance law. In fact, the rule applies specifically to annuities regulated under state insurance law. AARP also submitted a joint amicus brief, along with the North American Securities Administrators Association and MetLife, supporting Rule 151A.

The Harkin amendment would overturn the SEC rule, which is designed to provide disclosure, suitability, and sales practice protections afforded by state and federal securities laws. The amendment would preempt any further ability of the SEC to regulate in this area. This not only deprives investors of needed protections against widespread abusive sales practices associated with these complex financial products, it also sets a dangerous precedent. If this amendment is adopted, the industry will be encouraged to develop hybrid products in the future specifically designed to evade a regulatory regime designed to protect consumers. Regulating indexed annuities as securities is long overdue and vitally important for our nation's investors saving for a secure retirement.

The SEC's rule on indexed annuities accomplishes this goal in a thoughtful and reasonable fashion, and it should be allowed to take effect. AARP therefore opposes the Harkin amendment.

Sincerely,

DAVID SLOANE,  
Senior Vice President,  
Government Relations and Advocacy.

[From the New York Times, Apr. 10, 2007]  
INCOME FOR LIFE? SOUNDS GOOD, BUT DO  
YOUR HOMEWORK  
(By Jan M. Rosen)

What if I outlive my money? The fear of such a thing happening haunts many older Americans. So when a reputable company, New York Life Insurance, teams up with AARP to offer an investment with the absolute promise of lifetime income, it can sound like an answered prayer.

Indeed, the investment, an immediate annuity, may be ideal for some retirees, but financial advisers say it is not for everyone. Prospective buyers need to do some homework—studying both their own finances and the annuities available in comparison with other investments.

After all, an immediate annuity is an investment for the rest of a person's life or a couple's lives, and it is not easily liquidated if either personal circumstances or financial markets change.

"If you live beyond your life expectancy, you win," said Avery E. Neumark, a partner in the New York accounting firm Rosen Seymour Shapss Martin & Company, who specializes in retirement planning. "If you die early, you lose and your heirs lose." The reason is that annuities, like life insurance, are based on pooling of risks and average life expectancies. Three trends have converged to make immediate annuities especially attractive to retirees: Americans' increased longevity, the decline of traditional defined benefit pension plans that make secure monthly payments, and early—thus longer—retirements.

Larry C. Renfro, the president of AARP Financial, a subsidiary of AARP Services, said, "Mindful that they run the risk of outliving their assets without ongoing income, many AARP members have expressed interest in the potential of annuities to help fill their income gap."

According to the National Center for Health Statistics, an American's life expectancy at birth is 77.8 years, up from 69.7 years in 1960. Those who live until age 65 will on average live until age 83.7, up from 79.3 in 1960. As people age, their life expectancies increase, so a 75-year-old today can expect to live until age 86.9. Depending on their health, family history and genetics, some people can expect to live far longer than average.

In its basic form, an immediate annuity is bought with a single upfront payment; for the AARP Lifetime Income Program, that can be as little as \$5,000. Then the annuity holder receives monthly payments for life. The size of the payment depends on how much money is invested, the investors' age and sex and whether the annuity is for an individual or a couple.

Buyers may also choose optional features, including inflation protection and a withdrawal benefit in an emergency. There are also various payment choices; under one, if the annuitant dies before receiving an amount equal to the initial premium, a beneficiary receives the difference. When optional features are added, the monthly payout is reduced.

A 65-year-old man who buys a \$100,000 AARP-New York Life annuity can expect payments of 6.5 to 8 percent a year, or \$542 to \$667 a month, depending on the features chosen. At age 75, the payout rate would be 7 to 10 percent.

"Returns are very conservative, but you can sleep at night knowing this much is coming in," Mr. Neumark said. "It's reliable income and provides an opportunity for flexibility with your other investments. You can be in stocks with less worry when you have that secure monthly income stream."

Martha Priddy Patterson, a retirement expert and director of Deloitte Consulting in Washington, said, "In retirement we would feel more secure and happy if we knew that every month, X number of dollars will be rolling through the door." But, she said, "you wouldn't want to make that your only investment," for several reasons.

It is always good to diversify investments, she said, adding, "Inflation is my No. 1 fear, so I would want some TIPS," or Treasury inflation-protected securities. And, she said, annuities are relatively illiquid; surrender or unwind charges may be steep.

Among the other highly rated life insurance companies that offer immediate annuities are AIG, Genworth, Hartford, Integrity, John Hancock, Metropolitan, Mutual of Omaha, Principal and Prudential.

Comparison shopping can be difficult "because so many bells and whistles are available," Ms. Patterson said, and they are costly. "Decide what you want and what your goals are, and when you talk to sellers be firm about what you want and resist the others," she added.

Kim Holland, the Oklahoma insurance commissioner, said, "There are certain benefits that you just can't get from other products," notably the assurance of lifetime income and a greater payout rate than would be available from certificates of deposit or bonds at present. And income is not taxed until it is paid out.

Still, Ms. Holland, who has waged an aggressive campaign to root out and prosecute insurance fraud, said that "seniors are vulnerable—they are often targeted by scam artists." She stressed the need to check the rating of the insurance company issuing an annuity, the reputation of the individual agent selling it and whether the annuity is appropriate for the prospective buyer.

Two years ago, she enlisted AARP in a consumer education campaign on annuities, warning of “predatory sales practices and the solicitation of unsuitable annuity products.” In one case, an agent sold a lifetime annuity to a 104-year-old man, Ms. Holland said, and, in another, an agent brought cookies to a woman and planted flowers in her garden to win her confidence.

When approached by an agent, do not provide any information, Ms. Holland said. Instead, if you are interested, get the person’s card and “do your homework.” She added: “Check with peers, friends, relatives, bankers, your accountant. Don’t respond to telephone solicitations or ads for free seminars or dinners.”

“New York Life is a very fine company, and AARP and New York Life have very fine products,” Ms. Holland said, “but that doesn’t mean they are appropriate for every individual.”

An immediate annuity can be right for people who need a monthly income, just as they had when they were working, and as their parents’ generation had with payments from defined benefit pensions, which only a fifth of Americans have today. They also appeal to people who fear they lack the financial expertise to make their savings last a lifetime.

On the other hand, the very rich do not need immediate annuities, said Paul Pasteris, New York Life’s senior vice president in charge of retirement income. They could put their capital into Treasury bonds and live on the income. Studies have shown that it is safe to take about 4 percent a year from a retirement portfolio, he said. But relatively few people are in that position.

“For the last 20 or 30 years, the financial services sector has been telling people to save for retirement,” Mr. Pasteris said, but once people retire they “face a new discipline called retirement income planning.”

Immediate annuities can provide income and help people cope financially with several risks.

“The first risk is longevity,” he said, “the risk that you could be in a pickle if you live too long.

“The next is market risk. With a portfolio of stocks, bonds and cash, what are the returns going to be? More than just returns—the timing is critical.” Suppose the market tumbles just when a person retires. “Losses early can have a devastating effect,” he said, because a shrunken portfolio will not produce enough income. “If a poor return period is later, everything can be fine.”

Inflation is the third risk, and on annuities, inflation protection is available as an option. “Even if it is only 2 or 3 percent, if you retire at 65 and live till 85, 90 or 95, inflation could have a huge impact,” Mr. Pasteris said.

Health problems are another risk. A comfortable monthly income stream can ease those costs not covered by Medicare and secondary insurance.

Overspending is a risk for some retirees who have been looking forward to travel and the good life. “Can you resist the urge to dip into your nest egg and withdraw too much too early?” he asked. If not, putting the principal into an immediate annuity and living on the cash flow will require some financial discipline.

The median policy size is around \$60,000, Mr. Pasteris said, and about half the policies are bought through I.R.A.’s or retirement plan rollovers, continuing the tax-deferment on those plans until income is paid out. If an annuity is bought with after-tax money, part

of the payout is considered a return of principal and is not taxed.

Mr. Pasteris said, “We work with customers to figure their basic income expenses—food, clothing, rent, medical.” The next step is to calculate how much will be met by pensions and Social Security. If the amount is not enough, a lifetime annuity can be purchased to make up the difference. “With the remainder of their savings, people can get more aggressive if they want,” he said.

His colleague, Michael Gallo, who is also a senior vice president, said: “We don’t encourage people to be more aggressive. In general it’s better to be more conservative.”

Mr. Gallo added, “We don’t want people putting all their money into this.” The general recommendation is 25 to 50 percent of assets available for investment, although more could sometimes be appropriate. People should hold some cash in more liquid investments for emergencies, he said, and they may want to try a laddering approach, buying more annuities as they age and costs rise.

Tim Kochis, the president of Kochis Fitz, a San Francisco wealth management firm, would put far less into it. “I would devote no more than 10 percent at the outside,” he said. “It is a function of risk tolerance, risk management—it can be for someone who is very risk averse and would otherwise be paralyzed.”

“It’s much better than a money market fund,” Mr. Kochis added, but he advises putting the bulk of a portfolio into stocks. “There’s so much opportunity for long-term growth if you can withstand the short-term volatility. That’s the price you pay for long-term performance, the price of entry. Most people need to make a portfolio grow.”

Of course, they also need to sleep at night.

Mr. HARKIN. Madam President, I also ask unanimous consent to have printed in the RECORD a letter dated April 30 from the National Association of Insurance Commissioners.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, THE CENTER FOR INSURANCE POLICY AND RESEARCH,

Washington, DC, Apr. 30, 2010.

Hon. CHRISTOPHER DODD  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR DODD: We are writing to convey the support of the National Association of Insurance Commissioners (NAIC) for efforts to preserve state regulatory authority over indexed annuities inherent in S. 1389, the Fixed Indexed Annuities and Insurance Products Classification Act of 2009. This legislation, which would nullify the Securities and Exchange Commission’s (SEC) Rule 151A and clarify the scope of the exemption for annuities and insurance contracts from federal regulation, will help ensure that consumers continue to benefit from the vital consumer protections provided by state insurance regulators.

The NAIC represents the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories, whose primary objectives are to protect consumers and promote healthy insurance markets. As regulators vigilantly working towards these goals, we strongly believe that this SEC rule is unnecessary and distracts from important ongoing efforts at the NAIC and in the states

to address emerging issues concerning indexed annuities.

Rule 151A ignores the fact that, at their core, indexed annuities are insurance products that guarantee purchasers’ principal and a minimum rate of return. Though index performance may reduce payments above the minimum rate of return, the consumer still has a guaranteed benefit and the fundamental risk lies with the company, not the consumer. For this reason, indexed annuities are fundamentally insurance products and should be regulated by state insurance regulators who can approve annuities contracts before they can be introduced to the market, monitor individuals involved with the sales and marketing of the annuities, and regulate the investments and financial strength of the issuing company. We believe that the uncertainties and ambiguities created by the new SEC regulatory scheme could greatly hinder these rigorous consumer protections.

Additionally, Rule 151A will greatly constrain the product distribution channel. Indexed annuities can be sold through several distribution channels by companies, but under Rule 151A indexed annuities would only be sold through one distribution system—the broker dealer channel. Since fewer people have a broker dealer connection, especially in the less populated areas, whereas almost all have an insurance representative, this product will become less available to consumers.

Thank you for your efforts to ensure that states can continue to protect consumers of annuities. We look forward to working with you to enact this important piece of legislation.

Sincerely,

JANE L. CLINE,  
West Virginia Insurance Commissioner,  
NAIC President.

SUSAN E. VOSS,  
Iowa Insurance Commissioner,  
NAIC President-Elect.

KEVIN MCCARTY,  
Florida Insurance Commissioner, NAIC Vice President.

KIM HOLLAND,  
Oklahoma Insurance Commissioner, NAIC Secretary-Treasurer.

THERESE M. VAUGHAN,  
PHD,  
NAIC Chief Executive Officer.

Mr. HARKIN. Madam President, AARP does not come to this in a neutral position, not a neutral position at all. They have their own annuities, but they are not indexed annuities. With their product. When the downturn comes, people can lose. People can lose money in annuities but not in indexed annuities if held to term. They do not get the upside; the insurance companies get that. But they are protected. If the market goes down, they lose none of their annuity. That is exactly what happened in the last downturn.

I would like to call up my amendment, but I guess I am precluded from doing so. I was waiting for the ranking member to come back before I made a request. I was waiting for the ranking member to come back because I had been discussing this with him. I know we are going out at 10:30; is that right, Madam President?

The ACTING PRESIDENT pro tempore. At 10:40.

Mr. HARKIN. What time does the Senate reconvene?

The ACTING PRESIDENT pro tempore. At 12 noon.

Mr. HARKIN. Has there been a consent agreement entered as to a certain time for a vote on cloture?

The ACTING PRESIDENT pro tempore. Yes, 2:30.

Mr. HARKIN. Madam President, I am going to ask unanimous consent to call up my amendment.

I ask unanimous consent to set aside the pending amendment and to call up my amendment No. 3920.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. AKAKA. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. HARKIN. Madam President, I ask unanimous consent then to call up my amendment No. 3920, with 20 minutes evenly divided, with a vote on the amendment prior to the cloture vote.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. AKAKA. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. HARKIN. Madam President, the Senator from Hawaii objects to even having a vote on this amendment. I can see the Senator wanting to object to the unanimous-consent request. I just asked unanimous consent to have a vote on the amendment, and the Senator from Hawaii objects to even having an up-or-down vote. I wish the Senator would explain why he is afraid to have an up-or-down vote. That is just what I asked for. Isn't that what the Senate is for, to try to vote on issues?

I want the record to show that only one person objected to having a vote on this amendment, and that is my friend from Hawaii—and he is my friend—to say we cannot even have a vote. I did not hear any objection from the Republican side or anybody else. All I ask for is an up-or-down vote.

Why does the Senator from Hawaii not even want an up-or-down vote on this amendment?

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. DODD. Madam President, will my colleague and friend yield for 1 minute so I may make a couple of unanimous-consent requests?

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 4003, AS FURTHER MODIFIED

Mr. DODD. Madam President, I ask unanimous consent that notwithstanding the adoption of the Vitter-Pryor amendment No. 4003, as modified, it be further modified with the changes that are at the desk.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment, as further modified, is as follows:

On page 20, line 1, strike “substantially” and insert “predominantly”.

On page 20, beginning on line 2, strike “activities” and all that follows through line 5, and insert “financial activities, as defined in paragraph (6).”.

On page 20, line 17, strike “substantially” and all that follows through the end of line 20, and insert “predominantly engaged in financial activities as defined in paragraph (6).”.

On page 21, line 11, strike “(6)” and insert the following:

(6) PREDOMINANTLY ENGAGED.—A company is “predominantly engaged in financial activities” if—

(A) the annual gross revenues derived by the company and all of its subsidiaries from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and, if applicable, from the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated annual gross revenues of the company; or

(B) the consolidated assets of the company and all of its subsidiaries related to activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and, if applicable, related to the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated assets of the company.

(7)

On page 21, line 16, strike “criteria” and all that follows through line 22, and insert “requirements for determining if a company is predominantly engaged in financial activities, as defined in subsection (a)(6).”.

On page 37, line 3, strike “(c)” and insert the following:

(c) ANTI-EVASION.—

(1) DETERMINATIONS.—In order to avoid evasion of this Act, the Council, on its own initiative or at the request of the Board of Governors, may determine, on a nondelegable basis and by a vote of not fewer than ¾ of the members then serving, including an affirmative vote by the Chairperson, that—

(A) material financial distress related to financial activities conducted directly or indirectly by a company incorporated or organized under the laws of the United States or any State or the financial activities in the United States of a company incorporated or organized in a country other than the United States would pose a threat to the financial stability of the United States based on consideration of the factors in subsection (b)(2);

(B) the company is organized or operates in such a manner as to evade the application of this title;

(C) such financial activities of the company shall be supervised by the Board of Governors and subject to prudential standards in accordance with this title consistent with paragraph (2); and

(D) upon making a determination under subsection (c)(1), the Council shall submit a report to the appropriate committees of Congress detailing the reasons for making such determination under this subsection.

(2) CONSOLIDATED SUPERVISION OF ONLY FINANCIAL ACTIVITIES; ESTABLISHMENT OF AN INTERMEDIATE HOLDING COMPANY.—

(A) ESTABLISHMENT OF AN INTERMEDIATE HOLDING COMPANY.—Upon a determination under paragraph (1), the company may establish an intermediate holding company in which the financial activities of such company and its subsidiaries will be conducted

(other than activities described in section 167(b)(2) in compliance with any regulations or guidance provided by the Board of Governors). Such intermediate holding company shall be subject to the supervision of the Board of Governors and to prudential standards under this title as if the intermediate holding company is a nonbank financial company supervised by the Board of Governors.

(B) ACTION OF THE BOARD OF GOVERNORS.—To facilitate the supervision of the financial activities subject to the determination in paragraph (1), the Board of Governors may require a company to establish an intermediate holding company, as provided for in section 167, which would be subject to the supervision of the Board of Governors and to prudential standards under this title as if the intermediate holding company is a nonbank financial company supervised by the Board of Governors.

(3) NOTICE AND OPPORTUNITY FOR HEARING AND FINAL DETERMINATION; JUDICIAL REVIEW.—Subsections (d), (f), and (g) shall apply to determinations made by the Council pursuant to paragraph (1) in the same manner as such subsections apply to nonbank financial companies.

(4) COVERED FINANCIAL ACTIVITIES.—For purposes of this subsection, the term “financial activities” means activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and include the ownership or control of one or more insured depository institutions and shall not include internal financial activities conducted for the company or any affiliates thereof including internal treasury, investment, and employee benefit functions.

(5) ONLY FINANCIAL ACTIVITIES SUBJECT TO PRUDENTIAL SUPERVISION.—Nonfinancial activities of the company shall not be subject to supervision by the Board of Governors and prudential standards of the Board. For purposes of this Act, the financial activities that are the subject of the determination in paragraph (1) shall be subject to the same requirements as a nonbank financial company. Nothing in this paragraph shall prohibit or limit the authority of the Board of Governors to apply prudential standards under this title to the financial activities that are subject to the determination in paragraph (1).

(d)

On page 37, line 15, strike “(d)” and insert “(e)”.

On page 39, line 3, strike “(e)” and insert “(f)”.

On page 40, line 13, strike “(f)” and insert “(g)”.

On page 40, line 21, strike “(g)” and insert “(h)”.

APPOINTMENT OF COMMITTEE TO ESCORT HIS EXCELLENCY FELIPE CALDERON HINOJOSA, PRESIDENT OF MEXICO

Mr. DODD. Madam President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort His Excellency Felipe Calderon Hinojosa, the President of Mexico, into the House Chamber for a joint meeting.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Madam President, I further ask unanimous consent—I am looking at my friend from Arizona—

that after the remarks of the Senator from Hawaii, the Senator from Arizona be recognized.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Hawaii.

AMENDMENT NO. 3920

Mr. AKAKA. Madam President, amendment No. 3920 would prevent indexed annuities investors from benefiting from the strong protections provided by Federal securities laws. That is the reason I am objecting.

Some consumers have been hurt, including some in Hawaii. Deceptive sales practices have been found to be used in these products. An individual in Hawaii pushed equity indexed annuities to collect high commissions at the expense of senior investors. Those investors least able to effectively evaluate financial products need these Federal protections, without question, and they have been suffering.

I am not alone in my opposition to the amendment. As my friend from Iowa mentioned, AARP is opposed. The Consumer Federation of America and the North American Securities Administrators Association also oppose it.

This matter is under litigation and under review within the SEC rule-making process.

Equity indexed annuities are financial products that combine aspects of insurance and securities but which are sold primarily as investments. These products must have the strong disclosure, suitability, and sales practice standards provided within the context of our Nation's securities laws. The amendment would preclude State and Federal securities regulators from protecting investors from inappropriate and harmful products.

I am willing to work with my friend from Iowa to look into this matter further. We need to have hearings to know more about the situation before taking such a potentially precedent-setting action as this amendment would. If this were to prevent securities regulation of a product that clearly has characteristics of a security, we would encourage the development of financial products created to avoid the stronger protection standards.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Madam President, in the final hours of debate on this bill, I think we should be asking ourselves why we started the whole exercise in the first place. What is the purpose of financial regulatory reform? I wish to address that for a moment this morning.

Presumably, we all agree the purpose should have been to tackle the problems that led to the financial crisis in the first place. That means serious reform must address root causes: most prominently, too big to fail—ending

that and reining in the two government-sponsored enterprises, Fannie Mae and Freddie Mac, that had a lot to do with causing the problem in the first place. Amazingly, despite its size—and this is the legislation—and all of the hype that has attended it, the bill before us fails to address these root causes.

Moreover, even though Main Street didn't cause the problem, the bill is so extensive in its regulatory reach, it creates new burdens on Main Street while continuing the recent pattern—and one, by the way, Americans are very fed up with—of using every crisis as an excuse to involve government in almost every sector and every aspect of American life.

Republicans had hoped that once the bill came to the Senate, improvements would be made and the final product would be less partisan. We offered amendments to improve the bill, but almost all of these have been defeated. Along the way, Democratic amendments have been adopted that actually make the bill worse.

I hoped the bill would be amended to actually end taxpayer-financed bailouts and the concept that companies can be too big to fail and that it would protect small businesses from the regulatory burdens imposed by the bill and protect the rights of privacy for people's financial information. But that didn't happen, so we are left with a bill that enshrines into law failed policies of the past, imposes a massive new bureaucracy on small businesses that had nothing to do with creating the financial crisis, and threatens jobs and our economic growth.

Today, let me address these three problems in a bit more detail—first, too big to fail. The very first amendment offered by the majority purported to end too big to fail. While that sounds good, the amendment that passed won't accomplish the goal. The amendment has the effect only of declaring the intent of Congress. It does not actually prohibit taxpayer funds from being used to assist banks, and that is why I voted against it. It expresses a sentiment, but it is not actually operative.

As I will discuss, provisions remain in this bill that enshrine taxpayer bailouts forever, even after the removal of the \$50 billion bailout fund. For instance, section 113 establishes a Financial Stability Oversight Council. This section would give the Federal Reserve the authority to prop up any nonbank financial company the council deems to be a potential threat to systemic stability.

The council would designate certain firms as "systematically significant." Market participants would obviously interpret this to mean too big to fail. Therefore, the designations would increase moral hazard and perpetuate the very problem we are trying to fix. So a

new government board based in Washington would decide which institutions get special treatment, giving unaccountable government officials tremendous authority to pick winners and losers, resulting in a competitive advantage for the winners.

What determines whether a nonbank financial institution is a threat to stability? Among other possible considerations, "any other factors that the Council deems appropriate," according to the bill. Such broad authority would allow the council to protect and promote or to hamper firms based on whatever it deems appropriate—"any other factors."

Section 1155 of the bill, entitled "Emergency Financial Stabilization," also guarantees bailouts. Here, the FDIC would be allowed to create a new program of unlimited size to guarantee the obligations of depositories and holding companies with depositories. Since there is no requirement that a company that receives the guarantees and defaults on its obligations be taken into bankruptcy, the FDIC and Treasury could prop up whatever company they choose.

So this bill does not end too big to fail. If we had truly wanted to do that, we would have passed the Sessions amendment. This amendment would have struck the entire liquidation authority section from the bill and replaced it with a bankruptcy process for nonbank financial institutions. It also would have prohibited bailout authority and made needed adjustments so that a few provisions of the U.S. Bankruptcy Code to provide necessary flexibility to deal with the failure of large financial firms, such as Lehman Brothers, would work. In other words, it would have ended too big to fail.

The second area I mentioned was the government-sponsored enterprises. No debate on too big to fail would be complete without a discussion of Fannie Mae and Freddie Mac. These are the two government-sponsored enterprises given the authority to acquire mortgages. It seems to me almost unconscionable that this bill does not even attempt any reform of these two institutions given the fact they were a large part of the creation of the problem. And it is not because Republicans haven't tried. We have. The reckless behavior of these two institutions—by the way, institutions that have come to epitomize too big to fail—has surged through the entire commercial banking sector and our economy as a whole.

Let's recall how central these two government-sponsored enterprises were to the housing bubble and the ensuing collapse of that bubble. For years, Fannie and Freddie backed mortgages that were issued to too many people who could not really afford them. The two GSEs reaped enormous profits, while recklessly taking advantage of the government's intrinsic guarantee



of purchasing trillions of dollars' worth of these bad mortgages, including all those made to risky subprime borrowers. This is the model that allowed Fannie and Freddie to inflate the subprime mortgage bubble. But when the housing market collapsed, the two GSEs were left with billions of dollars of bad debt. And guess who is on the hook for those billions. The American taxpayers.

These two institutions had their own dedicated regulator—the Office of Federal Housing Enterprise Oversight, or OFHEO. Republicans tried to give OFHEO more authority, Democrats objected, and so they allowed the situation to spiral out of control. The easy credit fueled rapidly rising home prices. As prices rose, so, too, did the demand for even larger mortgages. So Fannie and Freddie looked for ways to make even more mortgage credit available to borrowers with a questionable ability to repay.

By 2008, the two GSEs had nearly \$5 trillion in mortgages and mortgage-backed securities. They were overleveraged and too big to fail. It was a textbook example of moral hazard on a massive scale. I warned about it repeatedly.

Today, they hold a combined \$8.1 trillion of total outstanding debt. Because the Federal Government has decided to cover this debt—by the way, even though there has never been a vote in the Congress to authorize this—both of these entities have recently asked taxpayers for billions more to cover their rapidly mounting losses. Recently, Freddie Mac announced it will need an additional taxpayer bailout of \$10.6 billion, and that is after it lost \$6.7 billion during the first quarter of this year. In 10 of the last 11 quarters, Freddie Mac has lost a total of \$82 billion, which is twice the amount it earned over the previous 30 years. Fannie, too, just recently asked taxpayers for more money—\$8.4 billion—to cover its soaring losses.

Since the Federal takeover of Fannie and Freddie, taxpayers have lost \$145 billion propping them up—just two companies. And since the Treasury Secretary recently lifted the bailout cap, taxpayers are responsible for unlimited losses at these institutions.

The Associated Press summed up the situation succinctly. It wrote last week:

The rescue of Fannie Mae and sister company Freddie Mac is turning out to be one of the most expensive after effects of the financial meltdown.

So why not embrace real reform and relieve the taxpayers? We know some of our friends on the other side believe we have an obligation to trim Fannie's and Freddie's sails. Republicans offered three amendments, all of which attracted bipartisan support—one each from Senators MCCAIN, CRAPO and ENSIGN—that would have done exactly

that. But they were all rejected by the majority.

The alternative side-by-side amendment that was adopted instead is meaningless. Rather than rein in Fannie and Freddie, this amendment really established that Congress will commission a study on conservatorship of the two GSEs from Treasury Secretary Timothy Geithner. As the Wall Street Journal asked in an editorial, if a study is so key to dealing with the GSEs, what has Mr. Geithner been doing in the last 17 months since the crisis? Let's also remember that it was Mr. Geithner's Treasury Department that lifted the \$400 billion GSA bailout cap last Christmas Eve.

Let's be absolutely clear: Every day Fannie and Freddie remain in their current form is a day U.S. taxpayers are subsidizing their activities. This bill does nothing to change the status quo, and I think taxpayers deserve better.

The third area I wanted to mention is the so-called consumer protection and its effect on small businesses—this Bureau of Consumer Financial Protection. Well, small businesses across my home State of Arizona and, indeed, across the country are very worried about the intrusive new bureaucracy here intended for consumer protection. Of course, all of us support consumer protection. I don't know of anybody who doesn't. The question is how you do it and to whom it applies.

We create a lot more cost to consumers if we make the regulation so expensive and inefficient that consumers actually wind up paying more money than they would have otherwise. That is what has happened with the credit card legislation we previously passed, and it could happen with this legislation as well, thanks to a newly created Bureau of Consumer Financial Protection.

The bill establishes new restrictions on credit through so-called consumer protection provisions by limiting or reconfiguring credit options that are currently available to us. The bill gives the new bureau a budget of up to \$650 million—an amount that is more than double what the FTC has requested for its economy-wide consumer protection activities. This money is to be spent as the director of the BCFP wishes, with no oversight or veto authority by Congress or the administration.

Moving regulatory authority for consumer protection to a new bureau with broad powers would add to an already complex layer of regulation these businesses are forced to navigate, creating uncertainty that would likely make it more difficult to comply with existing regulations.

My staff and I regularly hear from constituents who are trying to find ways to pay off their outstanding debts. I am concerned that duplicative regulation has the potential to have

the unintended consequence of making it more difficult for individuals and families to manage their debts.

Moreover, the proposed consumer protections reach beyond credit cards, restricting the availability of all forms of credit. These reductions in credit also mean declines in job creation since many small business startups use things such as home equity debt and sometimes credit cards as their sources of funding. Obviously, this poses a serious threat to our economy.

A recent New York Post op-ed by Mark Calabria stated:

New restrictions on credit are likely to cost our economy tens of thousands of jobs a year.

Of course, no one intends this result. No one wants to raise costs on small businesses. But that is the inevitable result of a policy that is written too broadly. That is one reason the Chamber of Commerce, for example, opposes this bill.

Some of my colleagues have suggested that the Bureau of Consumer Financial Protection would be significantly different from the Consumer Financial Protection Agency that was written into the House bill that passed last year. Well, I respectfully disagree. While the new bureau would not be officially independent, it would effectively function as an independent, stand-alone agency with rule-writing powers and enforcement authority; whereas, the Consumer Financial Protection Agency would be responsible for its own financing, this Bureau of Consumer Financial Protection would enjoy an automatic funding stream from the Federal Reserve. Given the close similarities between the two proposed consumer units, it is constructive to consult a study released last year by economists David Evans and Joshua Wright. After analyzing the Consumer Financial Protection Agency Act, they concluded it would "most likely result in a significant reduction in the availability of credit to consumers."

"A significant reduction in the availability of credit." Of course, that is not what the authors intend, but that would be the probable result.

In my view, the potentially serious costs of this Consumer Financial Protection Bureau do not justify its purported benefits. We all want to shield consumers from real abuses and exploitation, but this is not the right way to do it.

As the National Review recently editorialized, "To the extent that existing consumer safeguards need strengthening, the task can be accomplished without launching a massive new bureaucracy that would negatively affect credit access and economic growth."

In conclusion, I hope my colleagues will ask themselves this question: Why is it that the CEOs of large companies such as Goldman Sachs and Citigroup



favor this bill? The reason is simple: The legislation would entrench their privileged status. It would institutionalize the idea that certain big financial firms deserve preferential treatment by Federal regulators. These firms would be insulated from the negative effects of the new consumer protection bureaucracy. However, that bureaucracy would severely diminish credit access for small businesses and middle-class Americans.

What we have before us is a bill that is supported by Wall Street but opposed by the Chamber of Commerce, the Business Roundtable, and many others on Main Street.

For all these reasons that I have discussed and others, despite my strong desire to enact prudent financial reform, I cannot support this legislation. It does not effectively take on the fundamental problems that we all agree needed to be addressed.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Madam President, I ask unanimous consent the call of the quorum be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### JOINT MEETING OF THE TWO HOUSES—ADDRESS BY PRESIDENT FELIPE CALDERON HINOJOSA OF MEXICO

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 12 noon.

Thereupon, the Senate, at 10:40 a.m., recessed until 12 noon, and the Senate, preceded by the Vice President, JOSEPH R. BIDEN, Jr., the Secretary of the Senate, Nancy Erickson, and the Deputy Sergeant at Arms, Drew Willison, proceeded to the Hall of the House of Representatives to hear an address to be delivered by President Felipe Calderon Hinojosa of Mexico.

(For the address delivered by the President of Mexico, see today's proceedings of the House of Representatives.)

Whereupon, at 12 noon, the Senate, having returned to its Chamber, reassembled and was called to order by the Presiding Officer (Mrs. HAGAN).

#### RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010—Continued

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mrs. SHAHEEN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### IMMIGRATION REFORM

Mr. DURBIN. Madam President, I just left the address of President Calderon to the joint session of Congress in the House of Representatives. I think President Calderon's speech to Congress and to the American people was important and timely and really touched some issues of controversy which we cannot ignore.

He acknowledged the fact that his country is being torn apart by drug gangs and drug cartels. He acknowledged the obvious: the object of their commerce is to sell drugs in the United States of America. Our insatiable appetite for narcotics is creating a situation where people are engaged in lawlessness and violence and murder and mayhem in his country. We have to acknowledge that as the reality of the relationship between our two countries. It is not enough for us to lament the violence in Mexico without equally being prepared to say we have to do something on our side of the border to deal with drugs moving into the United States and the market for those drugs in our cities and States.

He also raised the important issue about the firearms that are flowing from the United States of America into Mexico, into the hands of these lawless members of these drug cartels. In the last several years, he told us, some 75,000 firearms have been confiscated. They believe 80 percent of them came from the United States, and many of them were military-type weapons, assault weapons and the like. He said—and I am sure it was not welcome to all corners on Capitol Hill—that we have to accept our responsibility when it comes to sensible gun safety and sensible gun laws.

The Supreme Court has said that under the second amendment, individuals are entitled to possess firearms for self-defense and for legitimate and legal purposes. The President of Mexico doesn't question that. I don't either. But the people who are buying and shipping guns into Mexico from the United States are not engaged in the type of protected constitutional activity the Supreme Court has noted. They have gone way beyond that. They are using, unfortunately, an open system in the United States to feed a drug war in a country south of us. So what are the results of this drug war? Thousands of innocent people are being killed. It is true that the gang violence back and forth results in the death of criminals on both sides, but innocent people are being caught in this crossfire in Mexico as well.

I might also add that the lawless nature of the situation in the northern part of the border is forcing more people into migration into the United States. It is not just the economics that drives people across the border; it is also the fear that they have to continue to live within communities and cities that are rife with violence.

I am glad the President of Mexico came forward to speak to these issues. We addressed them earlier this week in my Subcommittee on Human Rights and the Law in the Senate Judiciary Committee. We had testimony from experts in the administration and outside the administration. It is obvious we need to do more to support Mexico, to try to do what we can to end this violence and the root causes of it on both sides of the border.

But there was one other issue the President of Mexico raised which needs to be discussed honestly. Yesterday, the First Lady of the United States visited an elementary school in a suburb of Washington with the First Lady of Mexico. Their purpose was to salute this school because of the physical activities that were available to the students and their commitment to a healthy lifestyle, which has been one of the real causes the First Lady has espoused in her role.

Then she had a little meeting there. You probably saw it on television. There were some small children around who asked questions, and one little girl said to the First Lady—she wanted to know why Obama, the President, was taking everybody away who does not have papers. This first-grader asked that question, sitting in with about a dozen other schoolchildren. And, of course, the First Lady of Mexico was sitting alongside our First Lady.

The First Lady, Michelle Obama, said: That is something we have to work on, right, to make sure people can be here with the right kind of papers.

Then this first-grader, this six- or seven-year-old girl, said: But my mom does not have any papers.

She blurted that out. I would say that was a telling moment for us in the United States to pause and reflect on what we are engaged in and what we are refusing to do in Congress. Had this young girl, this first-grader, made that statement in the State of Arizona today, it is my understanding their new law would have compelled an investigation of her family. What she said could create reasonable suspicion that someone in her family was here illegally. That innocent statement by that first-grader could have launched an investigation and an arrest and deportation. Is that where we are in America today? Is that what we have come to? I hope not.

I hope we accept our responsibility here in Congress. The President of Mexico invited us, challenged us—and

he should—to do our job here to deal with comprehensive immigration reform. It is long overdue. We have to deal with our border situation, with the workplace situation, and with the fact that there are millions of people here today undocumented. We have to decide what is a just outcome for their fate.

I listened to many of my colleagues say: Well, I will not talk about any comprehensive immigration reform until we seal the border. Seal the border.

We should reflect on the obvious. The border between the United States and Mexico is the longest international border in the world between two countries, almost 2,000 miles long. And across that border every day, tens of thousands of people travel legally between the two countries—in commerce, on vacation, moving from one place to another, tens of thousands each day. We estimate that 250 million people legally cross the border between the United States and Mexico every single year. We also estimate that during the course of a year, 500,000 people cross that border illegally—250 million legally, 500,000 illegally.

I hope those who stand and say we have to seal the border are not suggesting we end all commerce and all travel between the United States and Mexico. That would work a great hardship on both nations as we try to ship our goods and services to them for purchase, and they do the same. The trade between the two countries is an important part of both of our economies.

But we do have to do what is reasonable and as complete as possible to deal with those borders, to make certain we reduce the flow of those who are coming in illegally. To say we are going to seal them off to the point where no one crosses illegally is perhaps to set a standard no one would ever be able to meet. I analogize it to saying that on I-95 near Washington, DC, we want to guarantee that no car or truck will pass along that interstate today illegally carrying narcotics or firearms. How would you enforce it? Could you stop all of the traffic? I assume that is one way to do it. But could you guarantee that each car and truck is coming through legally should you do it?

So let's start with the premise that we need to have better enforcement at the borders. We need more people there even though we have dramatically increased the agents who are working there. We need the very best technology to stop the illegal flow of people or other goods across that border. We need to have obstacles where they work but acknowledge that they are not the complete answer to the challenge. But let's not stop the conversation by requiring that we have a perfect border. There is not a perfect border in the world today. People get across borders. Things cross borders. They may not do it legally.

Secondly, we need to move forward with enforcement in the workplace. I salute Senator SCHUMER from New York, who has been working on this issue for quite a long time now.

He has come up with the notion that there would be an identification card associated with Social Security numbers so we would be able to establish when a person goes for a job that that, in fact, is a valid Social Security number belonging to a person with a certain name whom we can identify perhaps by biometric identification as the person standing before you. That would give employers peace of mind to know they are not hiring someone who is here in undocumented or illegal status. It is an important step forward so we can make sure the workplace is not an opportunity for those who come here illegally.

Finally, we have to deal with people who are here and do it in an honest and humane way, making certain we don't allow anyone who is a danger to America to remain but also say to those who have obeyed the laws and are willing to pay taxes and fines that they will be given a chance—a chance.

The last point I wish to make goes to this particular instance that was in the paper this morning involving the First Lady. Ten years ago I got a call in my office in Chicago from a Korean American, a woman who was a single mom who owned a dry cleaners. She had four children. Her oldest daughter had come to the United States with her from Korea when she was 1 or 2 years old. She was now 18 or 19 years of age and had been accepted to college. Her mom called because when she was filling out the application, there was a question about her daughter's citizenship and nationality. She said she was not certain because they had never filed any papers for her daughter, and they wanted to know what to do. They called Senator DURBIN's office. So we checked into it with the immigration service and were advised that the girl, 18 or 19 years old, in the United States for 16 or 17 years, since she was a baby was, in fact, here illegally. The immigration service said there was only one recourse. She had to leave the United States and return to Korea for 10 years before she could be considered for legal status, 10 years to a country she has never known. It was because of that situation that I introduced the DREAM Act.

The DREAM Act says if you were brought here to America as a child, if you have lived in this country without a criminal record that would disqualify you, if you graduate from high school, if you have no moral flaws that might disqualify you otherwise, you have an opportunity to reach legalization one of two ways: You may volunteer to serve in our military or you may complete 2 years of college. I introduced that 10 years ago because I thought it

was reasonable. We are not a nation that penalizes children for the crimes of their parents. The tens of thousands of young people who have never known another country but the United States and only want to be part of our future deserve a chance. We cannot, we should not, deport them.

When I think about what happened to the First Lady yesterday with the 6-year-old girl, I wonder, 10 or 11 years from now, if she is still here in the only country she has ever known, if she came here perhaps in undocumented status, what will happen to her? I have met many like her, many who have completed high school, college, graduate school, and beyond. They have nowhere to go. They have no country. Their talents cannot be used to make this a better nation in and of itself. They could be our next nurse, teacher, doctor, engineer, business leader. They don't have a chance.

I hope my colleagues will consider cosponsoring the DREAM Act. We can save the big debate for comprehensive immigration reform. I support it. But I hope they will believe and join me in this one part of it to say that we won't penalize the children for this contentious, divisive political debate on immigration. Before the end of the year, I want us to take up comprehensive immigration reform. I thank Senator SCHUMER and others who have included the DREAM Act in the bill. I hope we can move forward. I think the experience of the First Lady yesterday is an indication that immigration is an issue whose time has come.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MENENDEZ. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4064

Mr. MENENDEZ. Madam President, I rise to speak about an amendment I hope is noncontroversial and one that creates jobs. When one of my colleagues on the other side of the aisle is present, I will make a unanimous consent request, but I will start off by speaking on the amendment.

Amendment No. 4064 would create more than 40,000 new jobs. It would help revitalize Main Street in some of the economically hardest hit communities all around the country and at no cost to the taxpayer. We have been talking a lot about the financial crisis and how to prevent the next one. That is obviously important. It is essential work. But what we cannot lose sight of is the devastating impact this crisis has had on small businesses and economic development in local neighborhoods and communities.

I, like many in this Chamber, watched in frustration as the ranks of the unemployed rose to 15 million people and the unemployment rate increased to nearly 10 percent. I, like many of you, have watched in frustration as small businesses shut their doors, unable to get the credit they needed to keep the lights on.

The problem is the big banks—the same banks that took billions upon billions of dollars in TARP funds—are not making loans to small businesses. According to a just-released report by the Congressional Oversight Panel, Wall Street's largest banks reduced their small business loan portfolios between 2008 and 2009 by more than double the overall drop in lending.

Let me read you the conclusion of that report. It says:

Small business credit remains severely constricted. Unable to find credit, many small businesses have had to shut their doors, and some of the survivors are still struggling to find adequate financing.

So despite all of our efforts to restore liquidity in banks, they refuse to hold up their end of the bargain and are not lending to small businesses.

We know small businesses are the engines of growth. More than 99 percent of American businesses employ 500 or fewer employees, and together these companies employ half of the private workforce and create 2 of every 3 new jobs. So the question throughout the recession has always been, How can small businesses get the credit they need not only to keep the lights on but to grow and create jobs, to get the economy humming again?

Today, we are showing signs of improvement. We have stopped job losses, from three-quarters of a million jobs, to over 260,000 jobs created last month. The economy is recovering, but there are still millions of people who do not have work—people who expect us to do something to help them.

I believe this bill we are passing is essential to an economic recovery. In making our banking system more secure and stable, we are directing banks to focus on the core business of lending and extending credit, rather than the reckless casino speculation that brought us to this recession.

But we can also do something that is more direct and more immediate to help jump-start more job growth. We can invest directly in small businesses and local communities by supporting community development financial institutions or, as they are called, CDFIs. Based on what we know about this community from its historic performance, the amendment I am proposing will create approximately 40,000 new jobs by authorizing the government to guarantee bonds issued by qualified CDFIs for community and economic development loans. And best of all, there are no pay-go implications.

As their name implies, the primary mission of community development fi-

nancial institutions is to foster economic and community development in underserved areas. They have a proven track record of job creation and are arguably the most effective way to infuse capital in underserved areas for community and economic development.

CDFIs leverage public and private dollars to support economic development projects, such as job-training clinics and startup loans for small businesses in areas full of potential but desperate for development. CDFIs have been hit hard by the recession because they have had to rely on big banks for capital. As we have seen, that capital is neither affordable nor accessible.

I am proud to have bipartisan support on this amendment. Senator SNOWE is a cosponsor, as are Senators JOHNSON, LEAHY, and SCHUMER, and I want to say to all of our cosponsors, we thank you for your support.

The idea is simple: If big banks do not care about lending to small businesses and communities in need of capital, then we should empower the very organizations that do care, that make it their mission every day to rebuild Main Streets across this country, and that are ready and willing to do even more if they only had the resources and tools to meet the growing demand.

So I ask all of us in this Chamber, do we want to go home to our States and tell the folks on Main Street that, no, we did not think they deserved the loan guarantees—that would not cost taxpayers a dollar but would create more than 40,000 new jobs? I certainly do not think so.

We have talked a lot about protecting Main Street from Wall Street here in the last few weeks, but we have not talked about doing anything directly to benefit Main Street. Here is our chance. Again, we know the big banks have dried up their lending to small businesses. We know small businesses are the engine of economic growth.

I am proposing an amendment that would not wait around for the big banks to start lending again while Main Street businesses continue to struggle to meet payroll. I am proposing an amendment that would give our communities the guarantees they need to get lending started again to put money into our engines of job growth—and all without any pay-go implications, without any cost to the Federal taxpayers.

I urge my colleagues to join us in supporting this important amendment and to help small businesses create jobs on Main Street. I appreciate that Senator SNOWE, Senator JOHNSON, and others—Senator SCHUMER—have joined us on this effort.

Madam President, seeing the distinguished ranking member of the Banking Committee is now on the floor, I ask unanimous consent to set aside the pending amendment and call up my

amendment No. 4064, which is the CDFI amendment, and ask unanimous consent for a vote on this amendment prior to the cloture vote.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MENENDEZ. Madam President, I regret that my dear friend and colleague from Alabama has the need to object. This is an opportunity, with a bipartisan amendment, to help Main Street and small businesses; an opportunity to create 40,000 jobs; an opportunity to do it without cost to the taxpayers; an opportunity to do it with organizations, CDFIs, that have a proven track record; an opportunity to lend to Main Street because big banks are not doing it.

We all lament the lack of job growth. We all lament the lack of access to capital. This would be a tremendous opportunity to do that. So I do hope I can work with Senator DODD and Senator SHELBY to get this in order prior to the cloture vote or hopefully, if we do not achieve that, to be able to get this in any managers' amendment. It is bipartisan. It creates jobs. It does not cost the taxpayers any money. I do not know how much more you can come to the floor and offer an amendment that should have bipartisan support than an effort like that.

With that, Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. FRANKEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRANKEN. Madam President, I ask unanimous consent that it be in order to offer amendment No. 3902, my amendment with Senator SNOWE, to create an Office of the Homeowner Advocate to help prevent mistaken home foreclosures, and that it be voted upon at the appropriate time.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRANKEN. Madam President, I am truly disappointed that my colleague would object to an amendment such as this one. This amendment does not contain any new appropriations or authorization of appropriations. But, more importantly, it is about helping people who have worked their whole lives to own homes but now are at risk of losing them, often through absolutely no fault of their own.

When I last spoke about this on the Senate floor, I told my colleagues about a woman named Tecora, a homeowner from south Minneapolis. Tecora now owes \$317,000 on a \$288,000 loan due to an exotic mortgage called an option ARM—or option adjustable rate mortgage—that made her monthly payments double.

Tecora has not missed a mortgage payment, but unless something changes, she is going to lose her home. She had been looking forward to retirement, but now she looks at her future with a sense of dread. “I’m squeaking by,” she told the Minneapolis Star Tribune, “by the plaque on my teeth.”

It shouldn’t have to be this way. President Obama created a program known as HAMP to encourage mortgage servicers to modify people’s loans and help keep homeowners in their homes. But this program, while a good start, has been plagued by mistakes. Tecora’s mortgage servicer told her that her file is closed because she voluntarily left HAMP, but she never did. In other words, the servicer made a mistake. Now she is fighting to get her mortgage modified so she can afford to keep her house.

The amendment Senator SNOWE and I are proposing would set up a temporary—temporary—homeowner advocate within the Treasury Department to fix problems with HAMP. This amendment is supported by the Treasury Department. The White House declared it 1 of the top 10 amendments that would improve the Wall Street reform bill. Also, it is supported by consumer groups from around the country, ranging from Americans for Financial Reform to Consumers Unions, SEIU, and the National Council of La Raza. It is also supported by the superintendent of the New York State banking system who called it a “big step forward for homeowners.”

When you boil it down, this amendment is about one thing: making sure homeowners know someone has their backs. The amendment would establish a temporary office that homeowners can call when they are having problems with HAMP. Homeowners need to know someone is looking out for them, someone with the authority to actually fix the problems. People should not be losing their homes just because the mortgage servicers lose their paperwork or misunderstand eligibility for HAMP.

When homeowners call in with a concern, this new office has two important powers. First, it could make sure servicers obey the rules of the program or suffer the consequences. But at least as important, it makes sure people’s homes don’t get sold right away, giving the homeowner advocate time to resolve the problem. People’s homes are being lost to mistakes—let me repeat that. People’s homes are being lost to mistakes every day in Minnesota, in Nevada, in South Carolina, in Georgia.

We need a homeowner advocate to stop these mistakes before it is too late for these homeowners.

The homeowner advocate is modeled after the Office of the Taxpayer Advocate. That office has been extremely successful, looking out for taxpayers when the system fails them. The Homeowner Advocate’s Office, while temporary, would do exactly the same.

As I mentioned before, this amendment does not authorize any additional appropriations. It would be funded by existing HAMP administrative funds.

I am glad this amendment is a bipartisan effort, and I am sorry to hear the objection from my colleague. I hope we can work together to figure something out. I think we have been doing a lot of that during this whole process, and I certainly respect the ranking member for the work he has been doing in that regard.

I wish to end with this: Protecting homeowners isn’t left or right. It isn’t liberal or conservative. It is just the right thing to do. It is the smart thing to do.

Thank you. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. Madam President, I wanted to discuss very briefly an amendment that I have filed with respect to the independence of compensation consultants.

As we all know, executive compensation has been a significant issue in this country. Much of executive compensation is set on the advice of compensation consultants. I had an interesting meeting earlier this year with the Obama administration’s “pay czar,” he is called, and he said when he was in the process of trying to work out how he should try to restructure executive compensation, he tried to find an independent compensation consultant to advise him. He found he could not find a single compensation consultant in the country who met his standards for independence.

This amendment would ask the Securities and Exchange Commission to set standards for independence for compensation consultants, so that when, consistent with this legislation, the compensation committee of a board has to evaluate which compensation consultant to hire, they get an independent seal of approval from the SEC, and they can know they are doing the right thing; and, of course, we can assure that we have independent compensation consultants and not people who get paid in order to encourage higher salaries for CEOs in our country.

I had a brief discussion about this with the chairman. He expressed some interest in it. I understand we will be continuing to work together to try to get this language incorporated into the final bill. I expressed my appreciation to him for his consideration. I believe it matches the language on the House side, so maybe it is something we can do in conference. But, clearly, this question of compensation is an area where the chairman has been a leader, and I look forward to working with him.

Mr. DODD. Madam President, in response to my colleague, I thank him. He was been very active in the debate on this bill. I am grateful for his thoughts and ideas. This is a very important proposal—one that we have not adopted. It is in the House bill. I told my friend I would be anxious to pursue the idea he has incorporated because, obviously, this is subject matter that has probably evoked more public interest almost more than any other aspect of the crisis over the last 2 years. Obviously, people have lost homes and jobs and retirement income and the economic damage done to the country; but people seemed to understand this issue from the very beginning more than almost anything else, particularly in light of the fact that taxpayers were writing the check of \$700 billion to stabilize, we are told, and preserve many of these institutions.

What was degrading to many people is, in the midst of all that, we watched some executives take excessive bonuses who could only receive them because the American taxpayer stabilized and preserved those companies as a result of that legislation.

What also bothered me beyond that, I might have thought at some particular point the executives might have expressed their appreciation to the American taxpayers for stabilizing and saving some of these institutions. They not only didn’t do that, in most instances they went out and took significant bonuses that were only available because the companies had been saved by the American taxpayer. So this issue is one that I think had more to do with inflaming public passions about what happened almost more than anything else I can think of.

Our colleague from Rhode Island has crafted a proposal that would go to deal with this issue. I applaud him for that. I hope we can work something out that will meet his concerns.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. BURRIS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENSIGN. Mr. President, the American people have accused Washington and this Chamber of being far too partisan, and they have been right. But I would venture to guess that we can reach a bipartisan agreement on the fact that our economy has taken a major hit over the last few years—a hit that I would argue we have yet to recover from. So here we are, debating another massive bill that is supposed to stave off another economic disaster. But does it do that?

I am sure that most here are familiar with the children's tale of the boy who cried wolf far too often. The problem faced by this character was that when there was an emergency—such as the wolf verging on attack—there wasn't anyone around to take that alarm seriously. This is the path we are heading down.

The Senate is passing a massive bill, after many other massive bills that we have passed, and expanding the Federal Government to an unsustainable level, all in the name of avoiding another economic downturn. But what we are doing here is setting our country up on a course that we cannot correct and creating unintended consequences that may ultimately rain more economic damage down on the American people.

I think it is important to remind the American people why the government felt it necessary to use taxpayer dollars to bail out the GSEs—Fannie Mae and Freddie Mac. They did this because they claimed the two companies were too big to fail. The idea that the failure of two mortgage companies could bring down the whole U.S. economy was frightening to many, but confusing to many more. Make no mistake about it, this was a problem the Congress created.

Beginning in the 1990s, Congress decided to expand the goals of the Community Reinvestment Act by writing laws designed to encourage the GSEs—Fannie Mae and Freddie Mac—to meet certain affordable housing goals, giving Fannie and Freddie government permission to buy subprime home loans. This of course created an incentive for lenders to make more and more bad loans since the GSEs would stand ready to buy them and take on the risk.

We now know, however, that it is the American taxpayer who actually was taking on this risk. Before September 2008, few Americans realized that Fannie and Freddie had taken over the subprime markets and were single-handedly making the dream of home ownership a reality for thousands of Americans. However, those Americans were realistically unable to afford the mortgages Fannie and Freddie guaranteed. As home after home and neighborhood after neighborhood fell victim to the home foreclosure plague, Fannie and Freddie's losses started to greatly impact the U.S. economy—hence the notion of being too big to fail.

I have spent the last 2 years arguing that the government's interference in the situation with a taxpayer bailout was not the right move to make. By stepping in, blank taxpayer check in hand, the government set the American people up for bailout after bailout of Fannie and Freddie, with no plan in place to reform these government-sponsored companies so that taxpayer support would eventually end.

Last Christmas, the Obama administration lifted its \$400 billion—\$400 billion—limit to aid Fannie and Freddie. They took the cap off. They pledged unlimited support through 2012. This is unlimited support for Fannie and Freddie. Imagine what that means. We don't have the funds to provide that kind of support, and the American people should not be on the hook for an indefinite blank check.

In this last month, while we were debating this bill on the floor, Fannie Mae asked for another \$8.4 billion from the taxpayer and Freddie has asked for an additional \$10.6 billion from the taxpayer. Is the American taxpayer to assume we will continue to fund the demands for more and more money every single time they ask? What if this happens to be a monthly request for the next 2 years? The American taxpayer right now has no choice but to pay up. Simply put, I believe this is ridiculous.

Fannie and Freddie are referred to as government-sponsored entities because the wallets of the American people go straight into the bank accounts of these companies. The purpose of this financial reform bill before us should be to protect taxpayers against this concept known as too big to fail, but unfortunately it does little to address this issue.

I offered an amendment to address the too-big-to-fail issue with Fannie and Freddie. However, it was defeated, mostly along party lines. My amendment would have protected the taxpayers from future bailouts of Fannie and Freddie by restricting their size so they do not continue to be too big to fail. Fannie and Freddie remain large enough to threaten the stability of our economy in another economic downturn. My amendment would have limited their size to less than 3 percent of our GDP. Again, the amendment was defeated, mostly along party lines.

If the government is arguing we have to continue bailouts of Fannie and Freddie because they are too big to fail, shouldn't we be doing something to fix the internal problems of Fannie and Freddie? Senator MCCAIN and Senator SHELBY introduced an amendment to protect the taxpayers from Fannie and Freddie and their too-big-to-fail state, but once again their amendment was also defeated along party lines.

Their amendment, of which I was a cosponsor, would have meaningfully reformed these government-sponsored entities in an orderly fashion. It would

have ended the government takeover of Fannie and Freddie within 3 years, would have provided more oversight to the companies, and would have eventually eliminated all government subsidies to Fannie and Freddie. This amendment was a thoughtful, clear-eyed approach to dealing with the two companies that drove my State of Nevada and our country into the housing foreclosure crisis. But again, this amendment was defeated along party lines.

Instead of seeking meaningful reform of Fannie and Freddie through the financial reform bill, those on the other side of the aisle have decided they will study the issue of Fannie and Freddie. They have asked the Treasury Department to make recommendations on these companies in 2011. In simple terms, this means we have punted dealing with the risk of Fannie and Freddie, the risk they pose to our economy for another year and, undoubtedly, more blank checks are on the way to Fannie and Freddie.

By the time the Democrats and the Treasury Department have further evaluated their risk, 30 months—2½ years—will have come and gone, with taxpayers holding up these two companies with their hard-earned money. I believe that is unacceptable and, frankly, it is unconscionable to ask the hard-working taxpayers of this country to foot the bill for hundreds of billions of dollars of bailouts when Congress and the administration cannot even come up with a plan for Fannie and Freddie within 2½ years of taking them over.

Additionally, the bill before us creates this new Financial Stability Oversight Council that will have the authority to vote on which companies are, in their opinion, too big to fail. As we saw during the height of the financial crisis, the government, given the opportunity, is willing to arbitrarily select which companies can get government support and sponsorship. I believe this sets a dangerous precedent that will encourage large companies to take more unnecessary risk, since they will ultimately pass any losses associated with that risk on to the taxpayers in the form of a bailout.

Under the bill before us, the Financial Stability Oversight Council, under the guise of monitoring systemic risk to the financial system, will have the unintended consequences of encouraging more taxpayer bailouts. This is because the council has the authority to identify firms that would "pose a threat to the financial stability of the United States," and would place those firms under the Federal Reserve's supervision.

The benefit of being placed on this exclusive list is that it comes with a market understanding that the U.S. Government stands ready to keep the company afloat when it gets in trouble.

It means that company will have certain advantages over its competitors, including access to cheaper funds from the Fed. This will consolidate the market and enable the company to use the savings to take bigger and unnecessary risks. A regulatory structure that facilitates this kind of moral hazard does not work.

Remember the boy who cried wolf I was rehashing earlier? Well, the wolf came when confronted with the collapse of Fannie and Freddie and the government rushed in, no plan in hand, to bail out these companies. Now we are sitting around debating legislation that does not even address the risks they will pose in another economic downturn. We have to ask the question: Do we honestly think we are protecting ourselves from another too-big-to-fail bailout of Fannie and Freddie?

This bill should have been our chance to protect the taxpayer and reform Fannie and Freddie, but we are ignoring this issue altogether and the systemic risk that follows with it.

More simply put: We are ignoring the American people. The next time the government cries wolf and steps in to bail out Fannie and Freddie again, the American people are going to be up in arms, as they should be.

We are ignoring the American people at a time when they have joined together across this country to shout from every rooftop, mountaintop, and platform they can find that they are done with bailouts. Unfortunately, Washington isn't listening. People in this body believe we know better than the American people; and if the American people would just sit back and let us do our jobs, we will figure all this out. Is that the reality? When Washington is in charge of something, we undoubtedly make a larger mess than what there was to begin with.

Some of us just don't get it. Some don't get that the taxpayer should not be on the hook for bailing out the financial industry when there is a proper course of action for companies that are struggling to pay their debts—it is called bankruptcy. Wouldn't you agree that if the bankruptcy process is good enough for Main Street it should be good enough for Wall Street?

When the automakers were struggling with an economic downturn, I argued they should utilize the orderly bankruptcy process to reorganize. But the government thought it knew better and decided to bail them out. The government then decided who the winners and losers would be in that process instead of following the rule of law.

The same has happened with the financial industry. Instead of declaring bankruptcy, the financial giants waited for the government to step in and lend them an American taxpayer hand. The executives who drove these companies into the ground when the bailout came are those same executives who

later received huge bonuses. Does this make sense to anybody? Moving forward, this needs to end. But this bill does not do that.

Under this bill, the Federal Deposit Insurance Corporation—the FDIC—would have expanded authority to take over, manage, and liquidate troubled financial companies. The FDIC would take over the assets and operate the financial company with all of the powers of management, shareholders. In that way, the government acting through the FDIC, will continue to determine financial companies continue and which do not.

This bill would essentially institutionalize the kinds of bailouts that have occurred in the recent crisis. Rather than providing an alternative to policy of bailouts, it would permanently establish such a policy. Second, the expanded resolution authority would be operated with a considerable degree of discretion about when to start the intervention and about the priority to give different creditors.

People talk about the impact of Lehman Brothers' sudden collapse on sparking a market panic, and the authors of this bill seem to think that the answer is to create a system to prop up future banks. It was not the collapse, but rather the surprise involvement and then abandonment by the government, that created market turmoil.

Do you understand why one bank might be bailed, but another would be left to collapse?

It was all done behind closed doors. The better lesson learned from the crisis is that we need a predictable, rule-based bankruptcy process rather than an expanded discretionary resolution authority.

These bailouts do not incentivize these institutions to minimize their risk, instead they go as far as to privatize their profits while socializing their losses. In other words, putting that risk onto the taxpayer.

Senator SESSIONS introduced an amendment, that I cosponsored, to offer hard-working American families a reprieve from footing another financial sector bailout, while also discouraging these companies from continuing the irresponsible practices that got them into trouble in the first place. Again, this amendment was defeated along party lines.

The amendment would have made these companies utilize an enhanced bankruptcy process to ensure that the costs are covered by the financial institutions and their creditors, not the taxpayer.

Additionally it would have created a new chapter 14 in the Bankruptcy Code that would utilize many of the tenets of chapter 11 bankruptcy, but would be for the specific use of these financial institutions. This addition to the Bankruptcy Code would have created a

new pathway to limit the cascading spread of risk and panic through the financial system and assured the more orderly winddown of financial institutions—insulated from bailouts and political influence.

The Sessions amendment would have delivered much-needed transparency, accountability, stability, and due process through the use of bankruptcy courts. Further, to protect taxpayers, it specifically denied the Federal Government the authority to take over firms, dictate the terms of their reorganization or liquidation and support them with Federal bailouts. It protected the taxpayer.

The amendment guaranteed real reform that would have resulted in real stability. Unfortunately, the Democrats decided to go in a different direction, one that moves away from protecting the taxpayers, and swiftly defeated this bankruptcy amendment. So, what does this mean for the average American?

It means that this financial reform bill does not end “too big to fail” and ensures more taxpayer bailouts with the next financial crisis.

In fact, this legislation goes as far as to create unnecessary and burdensome regulatory requirements that will ultimately hurt small businesses. Nowhere is this clearer than the creation of the new Consumer Financial Protection Bureau.

This new government bureaucracy will have the authority to write and enforce rules that could ultimately tighten the availability of credit and discourage business investment at a time when we can least afford it. I am deeply concerned about the jurisdictional reach of this new agency.

I was pleased that the Senate adopted my amendment last night that would exempt from the new agency all sellers of nonfinancial goods that give customers the option of making installment payments.

At a time when the economy has taken its toll on many American families, it is vital that businesses are not discouraged from offering their customers flexible payment options. This is classic overreach by Washington, and I am glad that my colleagues narrowed the scope of the agency so that we don't further stunt our country's economic growth.

However, my amendment fixes but one problem with the Consumer Financial Protection Bureau. This new bureau has no oversight and has access to billions of dollars. We have seen too often bureaucracies grow and grow normally; that's simply what bureaucracies do.

Can you imagine what this monstrosity with no size restriction and no oversight can become?

So, I ask you, do you feel like we are really reforming this financial industry with this legislation?

The purpose of my speech today was to highlight all that is wrong with this bill for the American people, but I ran into a problem when doing this because what's wrong with the bill is literally every single line in the bill. I point out the issues of Fannie and Freddie, bailouts versus bankruptcy, because had those amendments been offered to this legislation, they would have been the sole examples of what is right with this financial reform bill; but they were not adopted and were defeated along party lines.

The American people are tired and frankly, so am I. I am tired of standing up to speak about real reform, all the while, watching as my colleagues pass massive pieces of legislation through this body as solutions looking for a problem, while continuing to ignore that we have real problems that need real solutions.

This financial reform bill does nothing to address real reform of the financial industry, but it does ensure that the taxpayers guarantee the bad debt of Fannie and Freddie and Wall Street, just as these companies guaranteed bad debt that eventually brought them to their knees.

At the rate we are going, this will become our reality. The economic issues plaguing Greece aren't just a scary thing to watch unfold on TV, it is the future of our country, the great United States of America, if we don't start shaping up.

Rushing legislation through Congress and into law doesn't mean that we are addressing pressing issues, it means that we are passing time and passing unintended consequences on the taxpayers' dime. We are passing time that we do not have, using money that we do not have, and doing so in a country that can not afford another bailout or another collapse of another "too big to fail" company.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. KAUFMAN. I ask to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### IN PRAISE OF STUART LEVEY

Mr. KAUFMAN. I rise today to speak once more about our Nation's great Federal employees.

The United States and our allies are engaged in an ongoing effort to disrupt and dismantle terrorist groups overseas. Every day, our troops act with great courage and commitment to take the fight to al-Qaida and its allies. Complementing their efforts are public servants who target individuals providing financial backing and other forms of support to terrorists overseas.

One of the key government officials leading that effort here in Washington is a great Federal employee at the Treasury Department.

Stuart Levey has served as the Under Secretary of the Treasury for Ter-

rorism and Financial Intelligence since 2004. Appointed to the position by President Bush, he was asked to continue after President Obama took office as a testament to his effectiveness and unique abilities. Stuart has done an outstanding job cutting off the flow of money to terror groups and their sponsors, and support for his efforts crosses political divides.

Today, one of the leading state-sponsors of terrorism is Iran. While an array of unilateral and multilateral sanctions remain in place with regard to Iran, many foreign businesses, banks, and other entities do business with Iran, which helps the Iranian government finance its nuclear program and terrorist activities.

In 2006, Stuart adopted a new tactic to deal with this problem. Instead of focusing solely on government action, he began exploring opportunities for cooperation with the private sector and urging private sector institutions to take action.

In this regard, Stuart led an effort to convince foreign banks to cease conducting business with Iran until that country agreed to comply with international banking standards. By showing companies and banks that doing business in Iran has financial and diplomatic repercussions, he has convinced corporations to cut off business with Iran. All of this was done in addition to the more traditional strategies of adding Iranian banks to the U.S. terrorist list and imposing more stringent regulations on American financial institutions.

As Stuart's efforts took off, banks throughout the world—including in China and Muslim-majority countries—began cutting financial ties with Iran. Energy companies have been persuaded to avoid initiating deals to extract Iranian oil and gas, and such action has had far-reaching financial implications.

Our multilateral efforts against terrorism and nuclear nonproliferation have also been strengthened by Stuart's work.

At the Treasury Department, Stuart oversees the Office of Terrorist Finance and Financial Crime, the Office of Intelligence and Analysis, the Financial Crimes Enforcement Network, the Office of Foreign Assets Control, and the Treasury Executive Office of Asset Forfeiture. In his leadership of these offices, Stuart has shaped a new role for the Treasury Department as a key player in national security matters and decisions, ranging from Iran to North Korea.

Before coming to the Treasury Department, Stuart served as Principal Associate Deputy Attorney General at the Justice Department. There, he coordinated a number of the department's counterterrorism activities. He worked for several years in private practice before entering public service

in 2001, and he holds undergraduate and law degrees from Harvard University.

I hope my colleagues will join me in thanking Stuart Levy for his achievements and wish him continued success in his efforts, which are ongoing. He and his colleagues working at the Treasury Department on counterterrorism and financial intelligence are deserving of both praise and recognition for all they do to keep Americans safe and to secure American interests, both domestically and abroad.

They are all truly great Federal employees.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MCCASKILL. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### REVERSE MORTGAGES

Mrs. MCCASKILL. Mr. President, there are many issues that are pending on this bill that we are currently considering; unfortunately, many of them that we will not get to. But I did want to take a minute to sound the alarm about a very important topic that is, in all likelihood, not going to get addressed but something that everyone needs to be aware of because it is a subprime mess in the making. That is the area of reverse mortgages.

You cannot turn on TV these days without seeing an advertisement from someone about an important government benefit that you should take advantage of, get cash out of your home now and participate in a reverse mortgage.

Senator KOHL has been great to work with on the Committee on Aging. We had an oversight hearing on reverse mortgages. In fact, we conducted one of them in St. Louis. These are tricky financial vehicles.

Keep in mind to whom these are being marketed. They are being marketed to seniors. So seniors are being told: Enter into a reverse mortgage and you can get all of the money out of your house, and you never have to worry about paying it back and everything is great.

The problem is, they are very expensive and not everyone is well suited for a reverse mortgage. In some instances, a reverse mortgage might be appropriate. But, frankly, they are certainly not appropriate if someone is selling you a reserve mortgage when you are 80 years old and turns around and sells you an annuity in the same sales pitch.

Believe it or not, we had testimony from families saying that is exactly



what had happened to them. There is not enough consumer protection in the area of reverse mortgages.

Here is the other shoe that is going to drop. Unlike the subprime mess which occurred because people were selling mortgages to people who were not suited for them, and they were trying to sell them because they had no skin in the game, they did not care if they were ever paid back, they were making money by selling the mortgages and had no risk if the loans were not paid back. Guess what. Same thing. The people selling these mortgages have no risk. Now, in the subprime mess, the risk was transferred to all of these financial institutions that sliced and diced these mortgages and securitized them and sold them short, sold them long.

Guess who takes the risk in a reverse mortgage, every stinking dime. The Federal Government, which is short-hand for the taxpayers of this great country. So if someone does a phony appraisal on a reverse mortgage and says the property is worth more than it is, and they get the money out of there or if property values were to drop again in 15 or 20 years when these mortgages came due, guess what happens. The Federal Government and the Federal taxpayers get left holding the bag for every darn dime.

Clearly, this is a problem. The amendment I had was going to address some of the deficiencies in this area as it relates to consumer protection and would put in a suitability standard.

Here is the other scary part about this cautionary tale. They have started securitizing reverse mortgages. Securitizing is the process that we saw in subprime where they gathered all of those subprime mortgages together and said: OK, let's slice them all up, and we will do it at levels. This top level is not very risky, and we will slap a AAA on that. Then we will slap another AAA on the second tranche, and maybe down here at the bottom we will get a AA.

Then the different tranches will pay different rates. Guess what is happening now to reverse mortgages because that market has dried up because of the subprime mess. All of a sudden we are seeing an explosion in the securitization of reverse mortgages.

In the security market for these mortgages, in the past year, the security market for reverse mortgages went—in 1 year—from \$1.5 billion to \$13 billion—in the last 12 months. In 1 year. That gives you some indication of what is happening.

I know we may not be the brightest lights in the marquis sometimes around here, and I know sometimes we may not get it. But, goodness gracious, that ought to set off some alarm bells somewhere. So I urge my colleagues to take a look at the reverse mortgage problem.

I urge them to convey to their seniors in their States, through the senior centers and other ways that you can communicate with your constituents, to be careful of reverse mortgages. They are very expensive.

I did not really make a true confession, and I probably ought to do that. There is a reason this place likes reverse mortgages. We are busy trying to find pay-fors in our budget. We are busy trying to find ways to pay for things. Well, guess who gets a cut of the initial fees on a reverse mortgage. The Federal Government.

So one part of this place loves the idea that more reverse mortgages are occurring. In fact, we took the cap off how many could occur for this year because we can count that money and spend it in the appropriations process, just hoping that maybe we are not around when we have to pay the piper at the end of the rainbow when perhaps the value of that home is not sufficient when sold to pay off the loan.

So I am disappointed it appears that we are not going to get to this amendment. I will continue to work on this issue. I urge my colleagues to continue to work on this issue. I will say this: If this body tries to lift the cap—the cap will go back on in September—if this body tries to lift the cap and allow unlimited reverse mortgages out there this year, under the guise of, oh, we need to be doing this because it helps the economy, or it is going to help the—no. No. No. No. I say no.

We need to go back to a cap on reverse mortgages so we have a firm handle on what potential liabilities down the road could be to the taxpayers of the country for this program.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### GULF OILSPILL

Mr. NELSON of Florida. Mr. President, British Petroleum has just announced that it has conceded that the amount of oil gushing from the floor of the Gulf of Mexico is much more than what they admitted several weeks ago. You will recall that they first said it was gushing about 1,000 barrels a day. They then revised that up to 5,000 barrels a day.

All along they refused the entreaties of Senator BOXER and me to release the video that is being done by the little remote submersibles that are down

there in two places: at the wellhead where the broken pipe is partially broken, at the wellhead 5,000 feet below the surface, and at the other end of that pipe that used to go up to the surface with the rig that sank but is now lying on the floor of the ocean. At the end of that pipe called the riser is where additional oil is coming out.

I am happy to tell you Senator BOXER and I just announced that we now have gotten BP to release the live feed of those remote submersibles, and we should be able to go on any number of sites and see this live—those two places: at the wellhead and at the end of the riser pipe.

When you look at it, what you should note is—and why BP has now publicly admitted, and AP just moved the story—that they concede the amount gushing out is much more than 5,000 barrels a day. That is obvious when you see the live feed.

Now, in addition, they released to Senator BOXER and me—and I want to hear from her in just a second. What they released was 9 hours of archival value tape of this video.

What we found in there is the part where they are injecting the dispersant into the gushing oil. There is a picture of that we have put on my Web site, and what is astounding is that dispersant in this photograph is so much, is it any wonder, then, at midnight last night the Environmental Protection Agency ordered the stoppage of the use of this dispersant, as it is harmful to the environment?

What we have is a gusher that is out of control. Remember, this has been gushing now for a month. They say it is going to be at least another 2 months before the relief well gets there with which they can stop it. If it does gush for another 2 months, it is going to cover up the Gulf of Mexico. And we already know it is in the Loop Current on the way to the Florida Keys.

Mrs. BOXER. Will the Senator yield?

Mr. NELSON of Florida. Certainly. And I thank the Senator from California, the chairman of the Environment Committee, for her leadership in getting the truth out.

Mrs. BOXER. I thank the Senator from Florida. He represents a State that relies on a beautiful coastline, beautiful ocean, the ability for the fishermen to earn their living, the ability of the tourism industry to thrive, the jobs that are related in both of our States.

I see Senator CANTWELL and Senator FEINSTEIN in the Chamber. The six Senators from the west coast came together in an unusual press conference, an unusual moment to say: We don't want to put our coastlines at risk. We can't afford to do it, let alone our moral responsibility to future generations.

What we are seeing here are the limits of the technology. I know the Senator saw the words BP wrote on the

permit application when they wanted to move forward with this exploratory well. They said the chances of a spill were remote. But even if there would be a spill, they said the technology was up to the task. After the spill, the first thing they said was: We have never had experience in cleaning up a spill in this deep water.

Doesn't this strike my friend as something the Justice Department ought to look at, which several of us on the Environment Committee have asked for? Did they, in fact, tell the truth on their permit application or did they not? I ask my friend to respond to that.

One more thing—and I thank the Senator from Florida so much. We are a good, strong team. It is a good east coast-west coast team. When we looked at that riser, the technique that is kind of a straw that they say is siphoning off the oil, they claimed it was taking out 1,000 barrels a day. Then they said 2,000 barrels a day. Now they say it is 3,000 barrels a day. Remember, they told us it was 5,000 in total that was being spilled. Now they are claiming 3,000. When we looked at that—and now the American people can look at this—didn't you see what I saw? It is a fraction of the oil that is being siphoned off. In fact, most of the oil is gushing like mad out there, with just a little bit being siphoned off, which tells us there is a much greater volume than BP said.

If I may ask my friend to answer the two questions. Does he believe the Justice Department ought to take a look at these reassurances BP gave before they got the permit and then what they said after, and also comment on this whole notion of siphoning off the oil that they said was successful.

Mr. NELSON of Florida. The answer to the first question is yes. I am not sure we have had the truth, the whole truth, and nothing but the truth. That would suggest why BP was so reluctant to release the video. Each step, it was like pulling teeth to get the video released. Live video pictures don't lie. What they are showing at this moment, anyone who looks at the live video, is exactly what Senator BOXER said. There is this huge gusher of oil at the wellhead that is spewing into the gulf. There is a little pipe that one can see in the video that is coming in and is being inserted, and that was supposed to be sucking most of the oil out. But, in fact, the pictures don't lie. The live video is showing the gusher spewing black oil 5,000 feet below the surface of the Gulf of Mexico.

Again, I thank my colleague from California for her cooperation. As chairman of the Environment Committee, she has the access of snapping her fingers and making things happen.

I hope other Senators don't have to suffer what it looks as if those of us on the gulf coast and now in the Florida

Keys and the east coast, the Atlantic coast are going to have to suffer.

Mr. JOHANNES. Mr. President, I rise today to talk about why cloture should not be invoked on this so-called financial reform bill. The events that transpired in the fall of 2008 and into 2009 are times that no one wants to repeat. That time was marked with extreme market volatility; credit all but drying up; a housing crisis we are still struggling to overcome; and taxpayers bailing out Wall Street. History books will undoubtedly look at that period with a magnifying glass. Hearings were held, testimony was heard—all in an attempt to identify what went wrong and what Congress could do to fix the broken parts of our system. I began this multiyear process with a resolve to the American people to fix the system. It is our job to protect taxpayers from ever again being on the hook for reckless and risky Wall Street players.

Unfortunately, this final bill is anything but reform. Instead, this bill pays little regard to its massive government expansion or host of unintended consequences. In addition, it ignores some of the major causes of the last crisis. Proponents simply say reforming Fannie and Freddie will have to wait for another day. And in a twist of irony, it turns out that supporters of this bill are the Wall Street giants themselves such as Goldman Sachs and Citigroup. Yet, proponents of the bill are attempting to paint those opposed to the bill as attempting to protect Wall Street. The American people are not buying it. Those actually opposing the bill are Main Street businesses, those with little, if anything, to do with the last crisis. Groups like the Chamber and the NFIB hardly represent Wall Street insiders. And when the average American thinks of a Wall Street reform bill, they do not expect it to regulate the local HyVee grocery or Tractor Supply Store.

Today, I would like to highlight some of my biggest concerns. If this bill becomes law, we are going to see a massive new government bureaucracy with unchecked powers and limitless authority. The new Consumer Financial Protection Bureau's powers are so broad—it will be allowed to creep into every area of American business and monitor consumer behavior. Have we not listened to anything the American people are telling us? They want less, not more government intrusion into their lives. We have now seen the U.S. Government become the majority owner of an American car company. We have seen government take over the student loan business. Most recently, a health care law added massive new costs and a massive new government entitlement program. And now the Consumer Financial Protection Bureau adds the potential for the government to creep into every avenue of our economy.

How can we claim we are addressing the root causes of the financial crisis by creating new consumer rules that cause a restriction in credit? How will regulating community banks, florists, dentists, and manufacturers help prevent another Wall Street meltdown? What other agency in our system has this type of authority? It is telling that NFIB is against this new agency. They don't represent the big banks, but instead the businesses and job creators of our country. They are worried they will be swept under these new rules and I don't blame them.

I also have deep reservations with the legislation's derivatives title. What started out as a bipartisan Agriculture Committee agreement has morphed into what almost everyone agrees is unworkable. The White House has concerns, Treasury Secretary Geithner has concerns, Obama administration adviser Volcker has concerns, Federal Reserve Chairman Bernanke has concerns, FDIC Chair Sheila Bair has concerns. Yet Senators just keep ignoring the warnings. This is legislative malpractice.

The derivatives title seeks to address the largest dealers. Yet this derivatives title overreaches—impacting community banks, farmers, manufacturers, and thousands of others who use these instruments to manage their risks. A failure to provide an appropriate end user exemption will have the perverse effect of actually making businesses more risky. As derivatives contracts become more expensive, legitimate businesses will be unable to adequately plan for unexpected events. Furthermore, by banning the large dealers from engaging in derivative transactions, we won't really be banning them. We will only prevent them from occurring in the United States. No one should kid themselves into thinking our global competitors won't step in. A massive migration of derivative contracts into areas of the world that are unregulated, helps no one. By pushing these contracts into the dark, we are only increasing our global systemic risk. The problems at AIG have clouded our judgment regarding the usefulness of the rest of the derivatives market. Now are reforms needed? Without a doubt. However, the current approach unfortunately throws the baby out with the bathwater. It will only harm our U.S. competitiveness and those that use derivatives to legitimately protect their business from risks.

And finally, let me say what this legislation is missing. Shocking as it is, nothing in the bill addresses Fannie Mae and Freddie Mac. Already, the taxpayer has given these mortgage giants \$130 billion and now we find they want another \$18 billion more. Unfortunately, once you have turned on this faucet, it is hard to turn off. And the taxpayer well is running dry. The government took over these mega firms in

2008 and we have done nothing to extricate ourselves from them. In fact, since the United States guarantees Fannie and Freddie, taxpayers are on the hook for roughly \$5 trillion in mortgage liabilities. So if everyone knows we must do something, how can we ignore them in this massive 1,400-page bill?

Furthermore, how could my colleagues reject an amendment that would have—at the very least—provided transparent accounting of the liabilities of Fannie and Freddie? If the taxpayers are on the hook for these liabilities, shouldn't this risk be on the Federal balance sheet? Wasn't it President Obama himself who advocated for honest accounting in our budget? This elephant in the room will cause further destruction to our fragile economy if we don't take serious action. The root cause of the housing crisis was that people bought houses they couldn't afford. No one can claim that the mortgage market was not a major factor in our financial meltdown. Yet we ignore underwriting standards. Unfortunately, the Senate rejected an amendment that would have mandated stricter underwriting standards including a 5-percent downpayment requirement.

Instead, we kicked the problem to the financial protection bureau to put on their already long to-do list. It is with regret that I will not be supporting the final regulatory bill. Government expansion, overreaching regulations, and impacting Main Street businesses that had nothing to do with the crisis are not the reforms the American people want.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the motion to proceed to the motion to reconsider is agreed to, the motion to reconsider is agreed to.

#### CLOTURE MOTION

The question is on agreeing to the motion to invoke cloture, upon reconsideration, on amendment No. 3739.

The Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Dodd substitute amendment No. 3739 to S. 3217, the Restoring American Financial Stability Act of 2010.

Harry Reid, Christopher J. Dodd, Tim Johnson, Jack Reed, Jon Tester, Charles E. Schumer, Patty Murray,

Daniel K. Inouye, Kent Conrad, John F. Kerry, Roland W. Burris, Mark R. Warner, Daniel K. Akaka, Sheldon Whitehouse, John D. Rockefeller, IV, Michael F. Bennet

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on amendment No. 3739 to S. 3217, the Restoring American Financial Stability Act of 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 60, nays 40, as follows:

[Rollcall Vote No. 160 Leg.]

#### YEAS—60

Akaka	Franken	Murray
Baucus	Gillibrand	Nelson (NE)
Bayh	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown (MA)	Kerry	Sanders
Brown (OH)	Klobuchar	Schumer
Burris	Kohl	Shaheen
Byrd	Landrieu	Snowe
Cardin	Lautenberg	Specter
Carper	Leahy	Stabenow
Casey	Levin	Tester
Collins	Lieberman	Udall (CO)
Conrad	Lincoln	Udall (NM)
Dodd	McCaskill	Warner
Dorgan	Menendez	Webb
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wyden

#### NAYS—40

Alexander	DeMint	Lugar
Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Bond	Feingold	Murkowski
Brownback	Graham	Risch
Bunning	Grassley	Roberts
Burr	Gregg	Sessions
Cantwell	Hatch	Shelby
Chambliss	Hutchison	Thune
Coburn	Inhofe	Vitter
Cochran	Isakson	Voinovich
Corker	Johanns	Wicker
Cornyn	Kyl	
Crapo	LeMieux	

Mr. BURRIS. On this vote, the yeas are 60, the nays are 40. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader.

Mr. REID. Mr. President, for the benefit of all Senators, we are now postcloture 30 hours. I have been speaking off and on over the last couple of days with the Republican leader. We are trying to work our way through this. There are a lot of procedural things we have to work through. There are only a couple of amendments that are germane postcloture, but they are ones we have to figure out a way to get resolved. I am in communication with the Republican leader. I am in communication regarding an amendment that is germane over here, a germane amendment over here, and we are going to try to work through this.

We could have some more votes this afternoon. In the best of all worlds we

would finish this thing and move on to other issues. We are going to try to do that, but as everyone has heard over the last few days, it is hard to get that extra little distance we need.

We have made great progress. I don't want to belabor the point, but it has been hard to get to this point. This has been a good debate. I wish we had more of my friends over here join us on the cloture vote. We didn't, but I think it has been a good debate, and I think it is the way the Senate should operate more often than it has, and maybe this is setting a good tone for the future.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. CORKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

Mr. CORKER. Madam President, I wish to talk for a few moments about the pending legislation. My guess is we will have final passage, after reaching cloture a few minutes ago.

I would like to go back and say we began the process of looking at financial regulation after the crisis that occurred a couple years ago, where institutions all across this country made loans—very poor loans—to people who used that money to buy homes. That was the genesis of this crisis, the fact that institutions across this country made those bad loans and made them to people who could not pay them back.

Certainly, that was exacerbated by the fact, with all the easy credit that occurred, there was a housing bubble that no doubt was going to put housing back into its normal state at some point. The combination of those two factors created a tremendous crisis in our country.

When the banks involved in all these loans got into trouble, there was not a good mechanism to deal with so many of them being in trouble at the same time. We ended up with a moral hazard with which this legislation is trying to deal; that is, we had institutions around this country that had capital injected into them because many people at that time felt the Bankruptcy Code or other mechanisms were not there to deal with these institutions.

A process began where we in this body and people on the other side of the Capitol tried to pass legislation to deal with this situation.

I know there has been a good attempt to deal with it. I have been involved in some of those negotiations. As my colleagues can tell by my vote, I am disappointed with the outcome of that involvement. Still, it is an issue that is important to this country.

In spite of my disappointment with the outcome, I will say, on the front

end, I think the process we have had on the floor has been a good one. We have had a lot of amendments voted on, and that speaks well for this body.

The one issue we did not deal with in this 1,400-page bill—that I am sure will be lengthened by a managers' amendment and other things—the one issue we did not deal with is the fact that underwriting has been so terrible. This bill absolutely does not address loan underwriting.

I offered an amendment to try to deal with that issue, where when Americans apply for a loan, there has to be a verification of their income, people will look at their debt-to-equity ratio to make sure they have the ability, with all their indebtedness, to pay back everything they have before they are able to take out a home mortgage and the fact they would have a 5-percent down-payment.

All of us know that in other countries—Canada just to the north of us did not have this crisis because most people there put 15 percent down on their home mortgages. We did not want to deal with that.

There is no one in this body who would say the genesis of this crisis was not the fact that a lot of loans were made to people who could not pay them back. We did not deal with that in this bill. That, to me, is a major oversight and one of the reasons I am disappointed with the outcome.

I do think, by the way, much of that has been dealt with appropriately. I appreciate the chairman allowing me to work on that title with the Senator from—I say “allowing.” We were working on it anyway—allowing us to be engaged in a way that I think helped improve this bill on resolution.

One of the issues we did not deal with was trying to strengthen bankruptcy. Resolution, as we discussed over this last year, was to be the last resource—orderly liquidation I guess we would call it. One of the things we had hoped to do was, working with the Judiciary Committee, to strengthen our bankruptcy laws so bankruptcy could work for these large institutions that failed.

We did not do that. We not only did not do that, we did not deal with some of the judicial checks that I thought were important as related to ensuring that as we pay creditors off through this resolution mechanism, we do it in a way that is appropriate.

I am also disappointed we have not ended up with what I call orderly liquidation. We are now giving the FDIC 5 years to resolve a firm. That means, if a large firm fails in this country, we have the possibility of the FDIC running a large financial holding company for 5 years. I think that is inappropriate. I do not think many Americans would view a government taking over an entity and running it for 5 years as actually resolving it out of business.

Obviously, I am disappointed. I do think the chairman and others have

tried to deal with resolution in a responsible manner. To me, it did not get to where it needed to go.

On derivatives, I agree with the thrust of trying to make sure the derivatives activity that takes place in this country, that major participants actually have to clear and making sure that the plumbing of ensuring things are margined and that people are money bad on that day occurs. I think that is very appropriate.

I am very concerned, on the other hand, with the fact that end users still feel—and I think there is still a lot of concern about end users being caught up in this legislation. I handed something to the chairman. I hope there are some clarifications that can occur before this bill actually becomes law.

At present, here is what has happened. We have people on Wall Street, obviously, who deal with these on a daily basis. They need to clear. We have, on the other hand, people across this country who are part of our heartland who manufacture products, process products, who use derivatives to make sure metal prices down the road, if they are trying to make heavy equipment, do not fluctuate in such a way that they end up losing money.

Maybe they are selling their goods to a company in another country, and they want to make sure the money they are being paid is in U.S. dollars. They might buy a currency swap.

The way this legislation is now crafted, there is great question as to whether these people who are spread across this country, who create great manufacturing and other kinds of jobs, are going to be without capital. They are going to have to unnecessarily tie up capital which takes away from their ability to create jobs.

For some reason, the Agriculture Committee sent over something called 106 or 716, which basically moves the swap desk out of a commercial bank into an affiliate, which means a whole new round of capitalization has to take place—again, money that is taken out of the markets at a time when we would hope these institutions would be creating loans.

What happens when a company is trying to formulate capital? They go to an institution, a commercial bank. They may borrow or have a line of credit to make payroll or maybe even out payments. Their accounts receivable may be uneven. They go there and work out a line of credit. While they are doing that, they also deal with these other activities. They deal with currency swaps. They deal with making sure metal prices are hedged or other commodity prices.

What this would do is alleviate the ability for an institution to use capital they already have. I am talking about the actual financial institution. It also makes it far less convenient and far more difficult, I might add, for those

people across our country who create these great jobs from being able to do so. There is absolutely no reason for it. People on both sides of the aisle understand this is a problem. My sense is the chairman possibly believes this to be a problem. Yet we still have not dealt with that issue.

If this bill passes, which it looks like it may in 3 or 4 hours, we have ended up doing something that accomplishes nothing as relates to financial stability in our country and yet creates a situation where there is less capital available for lending, and it is far more difficult for those institutions that are trying to form that capital.

The one thing that is difficult for me to understand is why we did not take the time to deal with Fannie and Freddie. There are people in this body, on both sides of the aisle, who have concerns about these two GSEs against which we all know we have incredible liabilities.

We had an amendment that I thought was thoughtful. That was the McCain amendment. It did not prescribe what we did with Fannie and Freddie, but it made sure we as a body dealt with them over the next couple years.

We know they have been enablers because of their mixed messages with two divergent missions. They have created lots of problems for this country. They have enabled lots of bad things to happen in this country as relates to home mortgages. I also know they are a big part of the market and we have to deal with them over time.

The McCain amendment gave us the ability to do that. This body chose not to deal with underwriting, the core issue, not to deal with creating a Bankruptcy Code that would work, in most cases—I am one of those who believes that even with that, we ought to have some ability to resolve, in the event there is a systemic risk—but we also did not deal with Fannie and Freddie.

The credit rating amendment we added is a good step in the right direction. I voted for it. Again, we did not take the time, within our committee, to even understand what we ought to do with credit rating agencies. So we had an amendment that was drafted a day before a vote, and we voted on it. It is pretty draconian, but what it does mean—and I thank my friend from Florida for offering it—is that we will actually deal with credit rating agencies down the road.

Right as this bill was in committee, something was sort of air-dropped out of the sky, and that was the Volcker language. Certainly, Chairman Volcker, who used to be head of the Federal Reserve—somebody I respect—came up with some language out of the blue that is a part of this bill. We had one hearing on it and the person who was the author of the Volcker language couldn't even describe to us exactly what he meant. I mean, he said you

know it when you see it. So we are going to have this Volcker language, and we may need to do something on it, but I would hope we would have a neutral study first before we decide. In essence, we are doing something and sort of sending it off in a direction.

I realize there is still a degree of study language, but we are sending it off in a direction when, in fact, prop trading—as much as people like to talk negative about it—and private equity and hedge funds had absolutely nothing to do with this last crisis. Nada, zero, not a single institution in this country was negatively affected by those activities—not one—as it relates to creating a systemic crisis. Yet, again, it is a part of this bill. I think these types of things go under the adage of what we have heard from the White House for the last year and a half; that is, “never let a good crisis go to waste.”

Another area of concern is proxy access. I know the Senator from New York has been a proponent of proxy access. For those of you not paying much attention to this, what this means is, if you own a very small portion of a publicly traded company, you have access to their proxy documents and, therefore, you have the ability to call people to be voting on up to 25 percent of the board. To me, all this does is put board members of these companies in the same place we in the Senate and those in the House are in, and that is subject to political whims.

You can imagine a special interest group, whether it be labor or an environmentalist group, basically targeting a company in order to make a statement; basically taking those board members away from dealing with the long-term interests of the company. By the way, proxy access has absolutely nothing, zero to do with financial regulation. But this has become a Christmas tree for those kinds of things because people realize it is something that is going to pass.

I think the best example I can possibly imagine of using a piece of legislation or using a crisis to create something through legislation that is, in my opinion, way overreaching, is this consumer protection agency. I still am sort of shocked at where we have gone with this. I agree with people in this body that mortgage brokers in many cases took advantage of people who were borrowing money. I agree with that, and I think we ought to have a regulation to deal with that. But instead of dealing surgically with that particular issue, which is something that was a part—a small part but a part—of this crisis, what we have done is create another czar—a czar that has no board.

This czar is appointed for 5 years and has absolutely no board, no governance, but does have the ability to create rules with no real veto authority. The agency will have the ability to en-

force those rules, and it has a very generous budget.

One of the worst issues regarding this agency is that it has the ability to deal with underwriting loans. So we have a consumer organization—not a banking regulator but a consumer organization—that is going to be dealing with underwriting of loans. I know this may sound a little far-fetched, but you can have the wrong person in this position—again, there is no board, no check and balance—and that person could use this organization to create social justice, if you will, in the financial system. On top of that, we have turned back from where we were in having a national banking system. Now we are allowing 50 State AGs across this country to take the rules that are created by this consumer czar, without veto—these rules we now will place on banks and other financial institutions across the country—and for the first time in a long time, these 50 AGs will have the ability to sue those firms over the rules this consumer organization writes—without any check and balance from Congress; certainly no real check and balance, in my opinion, from the prudential regulators that oversee the safety and soundness of these institutions.

So, Madam President, I am obviously disappointed. I think I have spent as much time as any Senator on this floor—maybe slightly less than the chairman—on policy regarding our financial system and trying to make sure we create stability for the future. I think any bill—even this bill—has good things in it. There is no question. And I appreciate the thrust. But I think there is a lot of overreaching, and I think not enough time was spent on some of the core issues that are important.

To add insult to injury, Madam President, this bill is not paid for. This bill is going to add \$17 billion to \$23 billion in debt to our country, and we haven't even addressed that in this bill. So I know there has been some discussion of bipartisanship, and I think certainly the chairman put out some effort toward bipartisanship, but I must say it has begun to feel, in many ways—not necessarily as it relates to this bill—that bipartisanship means everybody on the other side of the aisle, with maybe one or two exceptions, being supportive of something, and a few people, less than a handful, on our side of the aisle being supportive. That is not the kind of bipartisanship I thought we were all pushing for when this bill began.

So I think the process on this floor has been good—on the Senate floor—but I do wish we had spent more time developing a bipartisan template. I think there have been plenty of missed opportunities. I am proud of the role I was able to play on this bill and believe I have had some input in its shaping,

but I wish the policy was far different than it is. It is my hope that in the next 6 months or so there will be a little different balance in this body where we take each other a little more seriously than we now do, and we actually end up with centrist, middle-of-the-road policies.

I know the President has to be very happy. It seems to me this bill, as it has turned out, is exactly the bill he talked about some time ago. I know it has to be a major victory for him. In my opinion, it is an overreach. I believe we could have done better, and I am regretful of the fact that we did not do better in the process. I think some steps were made, over the last month in particular, that I hope will cause this body to function better.

Obviously, Madam President, I don't support this legislation and wish it could have been better. I think we have had opportunities where we could have made it better, but we didn't. I think over the course of the next decade we are going to be unwinding much of what we have done. It is my hope that in conference—and I think there is actually a possibility of this—many of the issues that are problematic will be unwound. As a matter of fact, I sense there is a desire to do that, and I hope that is the case.

Madam President, I came to this body because I wanted to see good policies put in place for this country. I wanted to see us become a stronger country than we already are in the world—the greatest Nation on Earth. I hope, as this piece of legislation moves through conference and comes back to this body, it is strengthened. I did support amendments on this floor that made the bill better. I think some improvements were made, but I think we also stepped backwards in a number of cases.

In spite of the outcome, Madam President, I want to thank the chairman and the ranking member for their efforts in trying to create a piece of legislation for this body.

The PRESIDING OFFICER (Mr. FRANKEN). The majority leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent that when the Senator from Iowa finishes his statement, I be recognized.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I hope we have a chance now, during the final hours of debate, to take into consideration some of the reasons we got from where we have been over the last 3 or 4 years with the bubble, and that bubble bursting a couple of years ago, and the financial crisis and the recession that has come as a result of it.

I want to start out with something that is familiar to all my colleagues, something that George Santayana said:

Those who cannot remember the past are condemned to repeat it.

As the Senate continues to debate the financial regulation bill, I think it is important to consider how we got from where we are today.

Many people believe the housing and financial crisis was the result of too much greed on Wall Street. No doubt. No doubt whatsoever; there was plenty of greed on Wall Street. But greed is like gravity—it is a constant of nature. When planes crash we don't blame gravity. If you search the Internet for the term "decade of greed," you will discover that is what some people called the 1980s. There is no reason to believe people are greedier now than they were then. Greed has always existed. The Ten Commandments admonish us not to covet our neighbor's possessions. Everyone is tempted by greed. Some are more successful than others in resisting temptation. But greed alone does not explain our current crisis. We need to look further.

Many people blame the crisis on deregulation. According to this explanation, Congress repealed all the rules and let Wall Street run wild. Greedy bankers tricked innocent consumers into taking out risky mortgages and sold them to unsuspecting investors. This explanation views the crisis in terms of victims and villains. If it were only that simple.

Obviously, anyone who has committed a crime should be prosecuted to the fullest extent of the law. But this explanation overlooks several important facts: First, the United States is not alone in this crisis. Housing booms and busts are occurring all around the world resulting in government bailouts. According to the Organization for Economic Cooperation and Development—we refer to this as the OECD—nearly a dozen European countries are experiencing bigger housing bubbles than our own. These countries include Australia, Canada, Denmark, France, Ireland, Italy, New Zealand, Norway, Spain, Sweden, and the United Kingdom. The global nature of this crisis shows the problem is not ours alone.

Second, we do not have an unregulated free market. Let me underscore that point. This crisis occurred with lots of government involvement. The Federal Reserve controls the money supply. The Federal Deposit Insurance Corporation insures bank deposits. The Fannie, Freddie, Ginnie, FHA, and the Federal Home Loan Bank boards insure subsidized or guaranteed mortgages. We have an entire alphabet soup of government agencies that regulate our financial institutions—CFTC, FDIC, FHFA, FTC, NCUA, OCC, OTS, SEC, plus all the State agencies and the Federal Reserve. Finally, we have adopted a policy of too big to fail.

The essence of a free market is the opportunity to succeed and the potential to fail. As economist Milton Fried-

man observed: capitalism is a profit-and-loss system. The loss part is just as important as the profit part. Profits encourage risk taking and losses encourage what they should—prudence.

Unfortunately, we have privatized the profits and socialized the risks. In some cases, we have bailed out individual companies. In others, we have bailed out the financial markets. In recent years, market participants even coined a phrase for such bailouts—"the Greenspan put." In other words, Wall Street was betting on former Federal Reserve Chairman Alan Greenspan to protect them from their own mistakes.

Recent government bailouts, both industry-specific and market-wide, include Lockheed in 1971; Penn Central Railroad in 1974; Franklin National Bank in 1974; New York City in 1975 and 1978; Chrysler in 1980; Continental Illinois in 1984; the stock market crisis in 1987; Latin American debt crisis in the early-1980s; the Savings & Loan crisis in the late-1980s; the Mexican peso crisis in 1994; Asian financial crisis in 1997; Long-Term Capital Management in 1998; the stock market crisis in 2000; the airline industry in 2001; AIG, Bank of America, Bear Stearns; Citigroup, Chrysler, GM, Fannie and Freddie in 2008.

Reducing the cost of failure encourages reckless behavior. When people come to expect and accept government bailouts that's not capitalism—it is cronyism. Until we eliminate the perverse incentives created by these bailouts, no one can honestly say we have an unregulated free market.

I do not mean to say regulation is unnecessary. Indeed, the exact opposite is true. Free markets are not possible without laws to protect property and enforce contracts. The problem is government regulation often has unintended consequences.

The desire to control human greed through regulation is understandable. But we forget regulators are human too. They are subject to the same temptations as everyone else. History is replete with examples of regulatory capture and government corruption. The revolving door between Washington, Wall Street, and the Fed make these problems even worse. Second, regulation can provide a false sense of security. They encourage people to rely on the government instead of their own common sense. Third, regulation designed to solve one problem often create another problem. That can lead to more regulation and more problems.

But most of all, regulation cannot succeed when it is undermined by good intentions.

For most of the past century our government—under both Democrats and Republicans—has pursued an ad hoc industrial policy. We have encouraged home building to stimulate the economy, and home ownership to promote a better society. Unfortunately, we pur-

sued these policies by undermining the safety and soundness of our financial system, which was already a house built upon sand. I will have more to say on that later.

A review of U.S. housing policy during the 20th century illustrates this point. Consider the government's first major campaign to boost homeownership as described by Steven Malanga of the Manhattan Institute.

As Secretary of Commerce, Herbert Hoover declared that nothing was worse than increased tenancy and landlordism. In 1922, Hoover launched the "Own Your Own Home" campaign, urging Americans to buy homes. According to Hoover, homeowners work harder, spend leisure time more profitably, live finer lives, and enjoy more comforts of civilization. He urged the lending institutions, the construction industry, and the great real estate men to counteract the growing menace of tenancy.

Hoover called for new rules that would allow nationally chartered banks to devote a greater share of their lending to residential properties. Until that time mortgage lending had primarily been conducted by savings and loans, or as they were originally known, building and loans.

In 1927, Congress responded by passing the McFadden Act, which allowed national banks to expand their residential lending to encourage homeownership. The act also prohibited interstate branching to protect smaller local financial institutions.

Congress would later pass the Riegle-Neal Act of 1994, which repealed the ban on interstate banking, subject to certain limits. This partial repeal followed the savings and loan crisis in the 1980s. Many observers suggest the lack of diversification and concentration of risk among smaller local institutions contributed to the S&L crisis.

The housing market boomed during the 1920s right along with the stock market. When stocks crashed in 1929, so did housing. According to one study, nearly 50 percent of the mortgages in America were in default by 1934. As panicked depositors withdrew their money, banks were forced to call in loans or stop rolling them over.

Before the Great Depression, home mortgages typically required a substantial down payment—as much as 50 percent. They usually had a very short maturity—as few as 5 years. They often had a balloon payment at the end. Homeowners had to refinance their mortgage or give up their home if they could not afford to pay off the balance when their loan came due.

In response to the housing and financial crisis caused by the Great Depression, Congress enacted the Home Owners' Loan Corporation and the Reconstruction Finance Corporation. These programs were designed to bailout insolvent financial institutions; buy up



troubled mortgages; and refinance them on more affordable terms. A report by HUD on the history of the era, noted that many borrowers deliberately defaulted on their mortgages to take advantage of these bailouts.

One might think of these earlier programs as the original versions of the current TARP and HAMP.

In 1934, Congress attempted to strengthen the housing and financial markets by creating the Federal Home Loan Banks—FHLB—to lend money to other banks; the Federal Housing Administration—FHA—to guarantee home loans; the Federal Deposit Insurance Corporation—FDIC—to insure bank deposits, the Federal Savings and Loan Insurance Corporation—FSLIC—to insure the deposits of S&Ls; and the Federal National Mortgage Association—Fannie Mae—to create a secondary market for government insured mortgages.

Congress would later abolish FSLIC by merging it with the FDIC following the S&L crisis in the late 1980s.

In 1944, Congress passed the GI bill, which provided low interest, zero down payment home loans for servicemen. This enabled millions of American families to move out of urban apartments and into suburban homes.

In 1945, President Truman proposed the "Fair Deal," which included several housing proposals, including temporary price controls. President Truman declared:

Such measures are necessary stopgaps—but only stopgaps. This emergency action, taken alone, is good—but not enough. The housing shortage did not start with the war or with demobilization; it began years before that and has steadily accumulated. The speed with which the Congress establishes the foundation for a permanent, long-range housing program will determine how effectively we grasp the immense opportunity to achieve our goal of decent housing and to make housing a major instrument of continuing prosperity and full employment in the years ahead. It will determine whether we move forward to a stable and healthy housing enterprise and toward providing a decent home for every American family.

I ask unanimous consent to include President Truman's full statement on housing policy in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered. (See Exhibit 1.)

Mr. GRASSLEY. In 1949, Congress enacted the Federal Housing Act, which provided Federal funding for slum clearance, urban renewal, and public housing. The act also expanded the FHA mortgage insurance program.

To understand the origins of our current housing and financial crisis, it is critical to recognize the role played by the FHA—the Federal Housing Administration. The FHA was created in 1934. At the time, State and Federal laws prevented lenders from reducing their down payments and lengthening the terms of their loans. As I noted earlier, the typical mortgage required a 50-per-

cent down payment and had a maturity of 5 years. These features were considered essential to maintaining the safety and soundness of the banking system.

Lower down payments increased the risk of foreclosure because buyers had less equity in their houses. If home values declined, more borrowers might walk away from their homes instead of continuing to make payments on their mortgage. Longer terms increased the risk of insolvency among financial institutions because of an increase in interest rates or a decline in the economy.

The FHA challenged conventional wisdom. It sought to waive all of the safety and soundness regulations that applied to the mortgages it insured. According to an article by Adam Gordon published in the *Yale Law Journal*:

The FHA had a compelling economic case for requesting such waivers: Treating insured loans differently from uninsured loans made sense from a safety-and-soundness standpoint. From the banks' perspective, insurance balanced out the risks of lower-down-payment, longer-term loans by guaranteeing that, even if the property value went down and the buyer quit making payments, or if the buyer defaulted twenty years into a 25-year loan, the bank would be made whole by the insurance fund. These assurances and the political pressure for new ways to support homeownership led Congress and every state legislature to rapidly pass the requisite exemptions from bank safety-and-soundness laws.

By 1937, all 50 States had enacted legislation giving the FHA free rein to write its own rules with respect to the mortgages that it insured. The results were predictable. Delinquencies, defaults, and foreclosures increased dramatically.

The FHA lowered down payments from 20 percent, to 10 percent, and finally to 3 percent by the mid-1960s. As a result, the foreclosure rate increased sixfold, from less than 2 for every 1,000 mortgages to more than 12 per 1,000 mortgages.

Almost everyone seemed prepared to accept rising foreclosure rates as the price to be paid for expanding homeownership. However, the FHA soon faced a bigger scandal.

Today, we often forget just how much of the pre-civil rights era in America was marked by racial discrimination. The FHA program was a prime example. During its first 30 years in existence, the FHA maintained various policies to deny insurance to minorities. These policies effectively prevented most African Americans from obtaining FHA insured mortgages.

Being denied an FHA loan usually meant being denied any opportunity to obtain lower down payments and longer terms because such provisions were still illegal for conventional loans.

FHA's discriminatory policies did not end until Congress passed the Fair Housing Act of 1968. Unfortunately, ef-

forts to end racial discrimination marked the beginning of what we now call predatory lending. According to Beryl Satter of Rutgers University:

After decades of refusing to insure mortgages in areas with black residents no matter what their economic status, in 1968 the FHA went to the other extreme and told mortgage companies that if they would loan in low-income minority neighborhoods, the FHA would guarantee those loans 100%.

Speculators immediately exploited the new policy by buying slum properties, and then bribing someone to appraise the properties at, say, quadruple their real value. Speculators might buy a house for \$5000 but get a corrupt FHA appraiser to say it was worth \$20,000. Once they had that appraisal, they could easily sell that property for \$20,000. So what if the price seemed high? The mortgage lender couldn't lose—after all, \$20,000 was the property's appraised value, and more importantly, the FHA insured the loan 100%. [Speculators] enticed buyers by emphasizing the low down payment rather than the high final cost. People eager to buy on such terms were easy to find. They were usually black or Latino, and often low income. Given the desperate housing shortage facing low income families during that decade of massive inflation, an offer of a home of one's own for \$200 down was often irresistible.

The speculators made the procedure quick and easy. They did all the paperwork, routinely falsifying the buyers' income to make it look like they could carry the overpriced loan. The lenders didn't ask any questions about these loan applications because the mortgages were fully insured; the creditworthiness of the borrower was therefore of no relevance. Since mortgage companies also made profits through the exorbitant service fees they charged for FHA loans, they made money on every sale, with no risk whatsoever.

By 1972, similar abuses of FHA programs were being reported in Boston, New York, Newark, Philadelphia, Wilmington, Miami, Detroit, St. Louis, Seattle, Los Angeles, and Lubbock, Texas. The *New York Times* noted that FHA-guaranteed loans were being given on "substandard" buildings that lacked "such essentials as adequate heating and plumbing." The confluence of inflated mortgage payments and high repair costs meant that the low-income buyer never had a chance. The repossessed buildings sometimes ended up back in the hands of the speculators, who started the cycle anew.

While the scandal meant ruin for low and moderate-income home buyers, it meant huge profits for those in the game. . . .

The companies exploiting FHA policies were not marginal. In New York top officials of three of the largest mortgage lenders in the region were convicted of housing fraud in 1975. In Brooklyn alone, the U.S. Attorney's office produced a five hundred-count indictment demonstrating that "real estate speculators, brokers, lawyers, appraisers and bribed FHA employees conspired in the scheme" to get FHA insurance on slums sold at inflated prices.

The FHA planted many of the seeds that ultimately grew into the current housing crisis.

The goal of making homes affordable was used to justify the weakening of traditional standards of safety and soundness. The goal of eliminating discrimination was used to justify extending both FHA and conventional loans



to borrowers with poor credit and low income. These changes led to rising foreclosures. Lenders responded by charging higher rates and fees to cover their losses. Higher rates and fees increased the cost of buying a home and led to new charges of discrimination on the basis of predatory lending. That led to renewed calls for innovative ways to reduce the cost of housing. That led to a further weakening of safety and soundness standards. All of that brings us to where we are today.

Before discussing our current crisis, however, let me conclude my brief review of the history of U.S. housing policy.

In the midst of the FHA scandal, Congress created more programs to promote the American dream of home ownership.

In 1968, Congress enacted the Truth in Lending Act to require clear disclosure of lending arrangements and costs associated with a loan.

Also in 1968, Congress split Fannie Mae into two parts creating the Government National Mortgage Association, Ginnie Mae, which now deals with government guaranteed mortgages, primarily those insured by the Department of Veterans and the FHA.

In 1970, Congress created the Federal Home Loan Mortgage Corporation, Freddie Mac, to compete with Fannie Mae.

In 1974, Congress passed the Real Estate Settlement Procedures Act to prohibit kickbacks between lenders and settlement agents and require a good faith estimate of all closing costs.

In 1977, Congress enacted the Community Reinvestment Act, CRA, to encourage banks to meet the needs of their local communities in a manner consistent with safe and sound lending practices. According to Peter Wallison of the American Enterprise Institute, the CRA had a vague mandate to prevent banks from refusing to lend to qualified borrowers, which was enforced by denying mergers and acquisitions among banks. Initially, enforcement actions were rare. But over time, Congress shifted its emphasis from "encouraging" to "requiring" and from "safe and sound" to "innovative and flexible." Ultimately, the CRA helped undermine the banking system by encouraging more risky loans.

As Stan Liebowitz of the University of Texas at Dallas observed: "From the current hand-wringing, you'd think that the banks came up with the idea of looser underwriting standards on their own, with regulators just asleep on the job. In fact, it was the regulators who relaxed these standards—at the behest of community groups and 'progressive' political forces . . ."

But before faulty underwriting helped create the current housing crisis, there was the S&L crisis.

The late 1970s and early 1980s saw a dramatic rise in inflation due to the

steady erosion of sound monetary policy in previous decades. Rising inflation led to higher interest rates, which threatened to destroy the Savings and Loan industry.

S&Ls relied on short-term deposits to fund long-term, fixed-rate mortgages. Rising inflation forced them to pay higher rates to attract new deposits. But they continued to earn the same rate on their existing mortgages. Rising costs relative to a fixed income undermined profits and threatened insolvency.

The S&Ls were further hampered by Regulation Q, which limited the interest rate they could pay to attract new deposits. The origin of Regulation Q dates back to the 1930s when Congress authorized the Federal Reserve to set interest rate ceilings.

According to proponents, the ceiling on interest rates would encourage smaller rural banks to lend in their own communities rather than send their money to larger urban banks where they might earn more. The ceiling was also seen as a way to increase bank profits by limiting the competition for deposits; in other words, it would prevent banks from engaging in a bidding war for new customers. Regulation Q was extended to S&Ls in 1966.

State usury laws also placed limits on the interest rate paid to depositors as well as the interest rate charged to borrowers further undermining the S&Ls' financial viability.

Congress took numerous steps throughout the 1980s to forestall the S&L crisis. These steps ultimately failed as more than 1,600 banks and S&Ls were either closed or bailed out by the government. The S&L crisis ultimately cost taxpayers more than \$120 billion.

The S&L crisis shows the failure of many small banks can be just as costly as the failure of a few large banks. That is a lesson we must not forget as we consider ways to address the problem of too big to fail.

In 1980, Congress enacted the Depository Institutions Deregulation and Monetary Control Act to abolish caps on both the interest paid and the interest received.

The Alternative Mortgage Transactions Parity Act of 1982 preempted State laws to enable the nationwide use of adjustable rate mortgages, balloon payments, and negative amortization.

These flexible features proved useful during the inflationary 1970s and 1980s. But they also set the stage for the emergence of the housing crisis of today.

The Secondary Mortgage Market Enhancement Act of 1984 made it easier to issue mortgage backed securities and enabled financial institutions, pension funds, and insurance companies to invest in the top rated tranches of these securities.

The Tax Reform Act of 1986 eliminated the double taxation of dividends paid to those who invest in real estate mortgage investment conduits, REMICs. The act also eliminated the tax deduction for interest paid on consumer loans, except for those secured by a home mortgage.

These two acts established the path toward the creation of collateralized debt obligations, CDO, and the off-balance sheet entities known as special investment vehicles, SIVs, which featured prominently in the latest crisis. The tax deduction for home equity loans contributed to the overleveraging of housing.

The Financial Institutions Reform and Recovery and Enforcement Act of 1989 abolished the Federal Savings and Loan Insurance Corporation; it transferred the regulation of thrift institutions from the Federal Home Loan Bank board to the Office of Thrift Supervision; it allowed bank holding companies to acquire thrifts; it established new regulations for real estate appraisals; it established new capital reserve requirements; it required the publication of CRA evaluations.

This act also included reforms of the real estate appraisal system, which had broken down during the FHA scandal in the 1970s, and contributed to the S&L crisis. Despite these reforms, faulty or fraudulent appraisals contributed to the most recent crisis as well.

Federal Deposit Insurance Corporation Improvement Act of 1991 allowed the FDIC to borrow from the Treasury and created new capital requirements and risk-based deposit insurance premiums. Moreover, it granted the Federal Reserve authority to lend directly to nonbank firms during times of emergency.

This authority increased the moral hazard problem by expanding the scope of potential Federal bailout recipients. This authority played a critical role in bailing out AIG.

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 was enacted, in part, to encourage Fannie Mae and Freddie Mac to increase their service to low- and moderate-income families and neighborhoods. These changes, along with others that followed, served to undermine standards of safety and soundness by allowing Fannie and Freddie to receive credit toward its affordable housing goals by purchasing subprime loans from other lenders. This increased the demand for such loans as well as the amount of funds available to finance them.

The 1992 act coincided with a Boston Federal Reserve Bank study on discrimination in mortgage lending. In theory, lenders evaluated the collateral and creditworthiness of those seeking to borrow money. Those applicants who qualify get credit, and those who do not are denied. The Boston Fed

study suggested qualified minority applicants were being denied.

In response to growing concerns that traditional underwriting standards had a discriminatory impact on low-income and minority families, many housing advocates began to urge the widespread adoption of risk-based pricing. Unlike traditional underwriting, risk-based pricing assumes everyone can qualify as long as they pay an interest rate, or other fee, that reflects their individual risk. Thus, risk-based pricing was viewed as a way to safely implement the flexible underwriting standards needed to eliminate discrimination and expand homeownership.

In 1993, the Federal Reserve Bank of Boston published a report entitled "Closing the Gap." This report included recommendations on "best practice" from lending institutions and consumer groups. It offered lenders a "comprehensive program" to ensure all loan applicants are treated fairly and to reach a more diverse customer base. The report stated:

While the banking industry is not expected to cure the nation's social and racial ills, lenders do have a specific legal responsibility to ensure that negative perceptions, attitudes, and prejudices do not systematically affect the fair and even-handed distribution of credit in our society. Fair lending must be an integral part of a financial institution's business plan . . . Even the most determined lending institution will have difficulty cultivating business from minority customers if its underwriting standards contain arbitrary or unreasonable measures of creditworthiness. . . . Institutions that sell loans to the secondary market should be fully aware of the efforts of Fannie Mae and Freddie Mac to modify their guidelines to address the needs of borrowers who are lower-income, live in urban areas, or do not have extensive credit histories.

In 1995, the Department of Housing and Urban Development announced a National Homeownership Strategy which stated:

The inability (either real or perceived) of many younger families to qualify for a mortgage is widely recognized as a very serious barrier to homeownership. [The Strategy] commits both government and the mortgage industry to a number of initiatives designed to: (1) Cut transaction costs through streamlined regulations and technological and procedural efficiencies; (2) Reduce down-payment requirements and interest costs by making terms more flexible, providing subsidies to low- and moderate-income families, and creating incentives to save for homeownership; (3) Increase the availability of alternative financing products in housing markets throughout the country.

Efforts to expand the use of flexible underwriting standards raised obvious concerns about the potential for increased defaults and foreclosures. To address these concerns, numerous groups, both inside and outside government, conducted studies, and proposed new laws and regulations.

In 1996, Freddie Mac issued a report to Congress based on its effort to develop an automated underwriting sys-

tem. The report concluded that it was possible to replace "subjective human judgment" with computers that could accurately assess "multiple risk factors" and "identify which loans would wind up in foreclosure and which would not." By fairly and objectively accessing individual credit risk, an automated system could eliminate discrimination and strengthen the underwriting process.

This study was primarily focused on improving the prime mortgage market by identifying applicants who received prime loans, but shouldn't have, and applicants who did not receive prime loans, but should have. However, the ability to identify risk within the prime market led to the conclusion that it was possible to do the same thing in the subprime market as well. In relatively short order, Fannie, Freddie, and almost every other participant in the home mortgage market adopted computerized systems to analyze and securitize home loans. These new procedures were applied to subprime loans.

Of course, risk based pricing also raised concerns that lenders might charge borrowers more than their risk profile would justify. Such overcharges raised the specter of predatory lending.

In response, Congress enacted the Home Ownership and Equity Protection Act of 1994 which required disclosures and imposed restrictions on high-cost loans. This act served to highlight once again the difficulty of promoting flexible underwriting to expand homeownership while at the same time trying to protect consumers from discriminatory lending.

The Taxpayer Relief Act of 1997 exempted from taxation profits on the sale of a personal residence of up to \$500,000, couples, or \$250,000, singles. This change provided a boost to home prices by increasing the after-tax rate of return on housing.

The Interstate Banking and Branching Efficiency Act of 1994 repealed restrictions on interstate banking. This act was designed to address the lack of diversification and the concentration of risk among smaller local financial institutions that contributed to the S&L crisis.

The Financial Services Modernization Act of 1999—also known as Gramm-Leach-Bliley—repealed part of the Glass-Steagall Act of 1933. The extent to which this repeal contributed to the current crisis is the subject of much debate.

Glass-Steagall prohibited commercial banks from underwriting or dealing in securities. It also prohibited them from having affiliates that were principally or primarily engaged in underwriting or dealing in securities. It is important to understand exactly what this means.

As Peter Wallison of the American Enterprise Institute has explained:

Underwriting refers to the business of assuming the risk that an issue of securities will be fully sold to investors, while "dealing" refers to the business of holding an inventory of securities for trading purposes. Nevertheless, banks are in the business of making investments, and Glass-Steagall did not attempt to interfere with that activity. Thus, although Glass-Steagall prohibited underwriting and dealing, it did not interfere with the ability of banks to "purchase and sell" securities they acquired for investment. The difference between "purchasing and selling" and "underwriting and dealing" is crucially important. A bank may purchase a security—say, a bond—and then decide to sell it when the bank needs cash or believes that the bond is no longer a good investment. This activity is different from buying an inventory of bonds for the purpose of selling them, which would be considered dealing.

The Gramm-Leach-Bliley Act did not repeal the restriction on underwriting or dealing by commercial banks. It only repealed the restriction on affiliates. There is no evidence the activities of any affiliates were large enough to cause the current crisis.

On the other hand, as Mr. Wallison noted, there was a critical exception to the Glass-Steagall prohibition on underwriting or dealing by commercial banks. It did not apply to securities issued by Fannie Mae and Freddie Mac.

The major commercial banks—such as Citibank, Wachovia, Bank of America, JP Morgan Chase, and Wells Fargo—that got into trouble did so by engaging in activities that were never prohibited by Glass-Steagall. These banks suffered heavy losses because they invested in poorly underwritten, overvalued mortgage-backed securities, including those of Fannie and Freddie.

Likewise, the major investment banks—such as Lehman Brothers, Bear Stearns, Merrill Lynch, Morgan Stanley and Goldman Sachs—that got into trouble have always been exempt from Glass-Steagall. As I will discuss later, the demise of these investment banks was due to a new variation on the classic bank run.

The Commodity Futures Modernization Act of 2000 authorized over-the-counter financial derivatives. Although over-the-counter derivatives, like credit default swaps, CDS, are exempt from most regulation, those who buy and sell them are not. For example, the acting director of the Office of Thrift Supervision, OTS, recently testified about the American International Group, AIG, one of the major participants in the CDS market. According to his testimony, ". . . in hindsight, OTS should have directed the company to stop originating CDS products . . . [and] OTS should also have directed AIG try to divest a portion of this portfolio."

Although AIG was comprised of more than 220 companies operating in more than 130 countries, its primary line of business was insurance. According to a Government Accountability Office report:

State insurance regulators are responsible for monitoring the solvency of insurance companies generally, as well as for approving transactions regarding those companies, such as changes in control or significant transactions with the parent company or other subsidiaries . . .

In other words, Federal and State regulators had the authority to monitor the financial institutions which were among the largest buyers and sellers of CDS contracts, and take appropriate action to protect their safety and soundness. Unfortunately, the regulators failed to recognize the inherent dangers created by the bubble in the housing market.

The Federal Deposit Insurance Reform Act of 2005 raised the limit on deposit insurance; merged the various deposit insurance funds; provided credits for banks for prior contributions; and required rebates when the deposit fund goes above 1.5 percent of deposits.

The Credit Agency Reform Act of 2006 required rating agencies to register with the SEC. Despite these requirements, the ratings agency contributed to the most recent crisis as well.

Credit ratings agencies—such as Fitch, Moody's, and Standard & Poor's—have been given privileged status as Nationally Recognized Statistical Rating Organizations, NRSROs, since 1975.

These agencies played a significant role in the recent financial crisis in two different ways. First, they placed their AAA seal of approval on subprime mortgages that were converted into tranches—or tiers—of securitized loans. Second, they contributed to excessive borrowing because of flawed capital standards. According to government regulations, banks needed \$1 in capital for every \$25 of single-family home loans. But, if those mortgages were converted into AAA securities, the banks could hold \$60 in loans for every \$1 in capital. Higher leverage entails greater risk to the financial system.

This brief legislative history produces an unmistakable feeling of *Deja Vu* as one considers where we are today. The current crisis has been summarized along the following lines:

In response to the high-tech, dot-com bust in 2000, the Federal Reserve began a series of interest rate cuts reducing the Fed Funds rate from 6.5 percent to 1.0 percent. As cheap credit flooded the markets, financial institutions adopted reckless lending practices under the political banner of increasing homeownership. These practices included liar loans, no verification of income or assets; no-money down, including seller-financed and other third-party contributions, and wrap-around loans; interest-only loans; negative amortization, missed payments are added to the principal; adjustable-rates; and balloon payments.

As these risky loans were extended to marginal borrowers who could not af-

ford their overpriced homes, the financial wizards on Wall Street devised schemes to theoretically insure themselves against default. These so called credit default swaps allowed investors who purchased mortgage-backed securities to pay fees to underwriters, like AIG, in exchange for a promise to cover any losses. Because regulators and other market participants did not seriously consider the possibility of falling home prices and rising default rates, these CDS contracts were not backed by adequate collateral to cover potential losses.

By allowing those who bought and sold mortgage-backed securities to transfer risk to other market participants, it became more difficult to determine who would suffer the actual losses as home prices began to fall and default rates began to rise. The house of cards collapsed as financial institutions became less willing to lend to each other under the growing cloud of uncertainty.

While there is plenty of blame to go around for getting us into this mess, and there were lots of contributing factors, ultimately this crisis was triggered by a new variation on the classic bank run. Here's how Gary Gordon of Yale University describes what happened:

In a banking panic, depositors rush en masse to their banks and demand their money back. The banking system cannot possibly honor these demands because they have lent the money out or they are holding long-term bonds [which can only be sold at fire sale prices] . . . the panic in 2007 was not like the previous panics in American history . . . it was not a mass run on banks by individual depositors, but instead was a run by firms and institutional investors on financial firms.

According to Mr. Gordon, this run was caused by the collapse of the repurchase agreement—or repo—market. Before the crisis, trillions of dollars were traded in the repo market. No one knows the exact amount because there are no data on the total size of this market or the identity of all its participants. Estimates suggest it could be as much as \$10 trillion, which is roughly equal to the total assets of the entire U.S. banking system.

As tempting as it may be to blame our current crisis on Wall Street greed and irresponsible deregulation, the truth is a bit more complicated, as I think I have tried to show. To understand how we got to where we are today, it is necessary to review some history and some economics.

There have been financial booms and busts throughout recorded history—from tulip mania, the South-Sea bubble, and the Mississippi scheme, to the Mexican peso crisis, the Asian crisis, and the dot-com boom.

Economist Hyman Minsky argued there are five stages of a financial bubble: stage 1, investors get excited about some asset or commodity; stage 2,

prices rise as more investors enter the market; stage 3, euphoria occurs as financial markets devise new ways to inflate the bubble; stage 4, investors begin to cash-out of the market; and, stage 5, panic sets in as the bubble pops and everyone tries to get out before it is too late.

There have been alternating cycles of financial fear and euphoria throughout history. While greed and speculation played an important role, there is another essential element that is all too often overlooked. That critical ingredient is money.

The nature of money, the source of its value, and the determination of its supply are topics of extreme importance. Historically, money is believed to have developed from the concept of barter or exchange. Individuals wished to trade one good for another. The most desirable, divisible, and non-perishable goods were designated as money. Cows, wheat, rice, rocks, sea shells, silver, and gold have all served as money throughout history.

The development of money soon led to the introduction of banking. Banks served not only as a place to store money, but also as a means to facilitate commerce by granting various types of loans.

The deposit of money involves two different concepts. First, a demand, or checking, deposit implies a custody arrangement. The bank maintains 100 percent reserves. Thus, the funds are available at all times to meet the needs of the depositor. Second, a loan, or time, deposit implies a temporary transfer of ownership. The bank is authorized to make loans. Thus, the funds are transferred to someone else who is obligated to repay them at some future date.

Initially, most banks recognized and accepted the distinction between these two different kinds of deposits. Moreover, they confined their lending activities within the limits of their total deposits. But they quickly discovered that not everyone sought to withdraw their money at the same time. Thus, they decided they could safely issue as much credit as they desired, as long they retained enough money to meet expected withdrawals. So began the practice of fractional reserve banking.

According to economist Jesus Huerta de Soto, early European bankers often sought to conceal their use of fractional reserves while claiming to maintain 100 percent reserves. Only later upon receiving official government sanction did they openly admit to and defend the practice of fractional reserves.

The most common defense of fractional reserve banking is that it is highly unlikely that most depositors will seek to withdraw their funds simultaneously. Thus, it is said the law of large numbers permits a bank to safely lend out most of its funds. But as Huerta de Soto observes:

... in the field of human action the future is always uncertain, ... The open, permanent nature of the uncertainty ... differs radically from the notion of risk applicable within the sphere of physics and natural science.

History shows beyond a doubt that we cannot predict when a bank run will occur. The creation of deposit insurance and the establishment of a central bank as a lender of last resort would not be necessary if we could predict such events with any degree of certainty.

The dangers created by misguided efforts to treat uncertainty of human action as some form of statistical risk is evident in the current crisis. The use of computer models to convert subprime loans into AAA securities ignored the human action of declining underwriting standards and the growing bubble in the housing market.

Some observers may be tempted to conclude this crisis is simply the latest in the cycle of booms and busts that inevitably plague mankind. Others may be tempted to conclude we need a brand new systemic risk regulator—in other words, we need someone to oversee the safety and soundness of our entire financial system. The logic behind this approach is that our current hodgepodge of Federal and State regulatory agencies was too busy looking at the individual institutions within their jurisdiction. No one saw the big picture.

However, the problem is not that we lack a systemic risk regulator. The problem is we already have a system risk creator, namely the Federal Reserve.

Mark Thornton of the Ludwig von Mises Institute describes central banking as a confidence game:

The Federal Reserve plays a confidence game with us. A confidence game ... is described as an attempt to defraud a person or group by gaining their confidence. ... [The] Fed's basic confidence game [is] trying to gain and maintain our confidence in its system and getting us not to take proper precaution against the negative effects of its policies. ... [The] Fed's mission [is] to instill confidence in us about the economy while simultaneously instilling confidence in us about the abilities of the Fed itself. The first mission is easy to see because Fed officials are almost always publicly bullish and hardly ever publicly bearish about the economy. The economy always looks good, if not great. If there are some problems, don't worry, the Fed will come to the rescue with truckloads of money, lower interest rates, and easy credit. If things were to get worse, which they won't, the Fed would be able to respond with monetary weapons of mass stimulation. All this is consistent with the viewpoint of mainstream economists who see the business cycle as caused by psychological problems and random shocks. In their view, it is your fault for becoming overly speculative and risky and then lapsing into risk aversion and depression. It is your fault!

This may seem like an unfair characterization of the Fed, but consider the following quotes from 2007. Remember,

by early 2007 housing prices were falling in many areas.

In January of 2007, Chairman Bernanke described the Fed's superhero-like ability to access information, identify risk, anticipate crisis, and respond to any challenge.

Mr. Bernanke said:

Many large banking organizations are sophisticated participants in financial markets, including the markets for derivatives and securitized assets. In monitoring and analyzing the activities of these banks, the Fed obtains valuable information about trends and current developments in these markets. Together with the knowledge obtained through its monetary-policy and payments activities, information gained through its supervisory activities gives the Fed an exceptionally broad and deep understanding of developments in financial markets and financial institutions. ...

In its capacity as a bank supervisor, the Fed can obtain detailed information from these institutions about their operations and risk-management practices and can take action as needed to address risks and deficiencies. The Fed is also either the direct or umbrella supervisor of several large commercial banks that are critical to the payments system through their clearing and settlement activities. ...

In my view, however, the greatest external benefits of the Fed's supervisory activities are those related to the institution's role in preventing and managing financial crises.

Finally, the wide scope of the Fed's activities in financial markets—including not only bank supervision and its roles in the payments system but also the interaction with primary dealers and the monitoring of capital markets associated with the making of monetary policy—has given the Fed a uniquely broad expertise in evaluating and responding to emerging financial strains.

I could go on at length reading similar quotes from various Fed officials. But to save on time and embarrassment, I will simply put Mr. Thornton's article in the RECORD, and skip to his conclusion. Mr. Thornton says:

We can see that the Fed is a confidence game. Their public pronouncements, while heavily nuanced and hedged, uniformly present the American people with a rosy scenario of the economy, the future, and the ability of the Fed to manage the market. Ben Bernanke told Congress [in March of 2010] that we are in the early stages of an economic recovery. Of course, he has been saying that since the spring of 2009 (if not earlier). ... These are the people who said that there was no housing bubble, that there was no danger of financial crisis, and then that a financial crisis would not impact the real economy. These are the same people who said they needed a multi-trillion dollar bailout of the financial industry, or we would get severe trouble in the economy. They got their bailout, and we got the severe trouble anyways. It is time to bring this confidence game to an end.

Mr. President, I ask unanimous consent that Mr. Thornton's article be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.  
(See exhibit 2.)

Mr. GRASSLEY. The current financial reform bill will not end the cycle of financial booms and busts. This

cycle is not the result of green, or capitalism, or animal spirits, or irrational exuberance. Ultimately, it is caused by our failure to recognize and enforce traditional legal principles, namely, the protection of private property.

According to Huerta de Soto: It is a remarkable fact that three of the most noted monetary theorists of the eighteenth and early nineteenth centuries were bankers: John Law, Richard Cantillon, and Henry Thornton. Their banks all failed.

Law was involved in the infamous Mississippi scheme, and Cantillon was involved in a fraudulent stock trading scheme. Only Thornton escaped controversy because his bank did not fail until after his death. All of these bankers were actively involved in convincing their colleagues and customers of the safety, soundness, and wisdom of violating traditional legal principles.

Once upon a time, common sense as well as the law recognized the difference between a demand deposit and a loan deposit.

According to Huerta de Soto, ancient Roman law made it clear that bankers carried out two different types of operations. On one hand, they accepted demand deposits, which involved no right to interest and obligated the bank to maintain the continuous availability of the money; and the depositor had absolute privilege in the case of bankruptcy. On the other hand, bankers also received loan deposits, which obligated the banker to pay interest on the money; and the depositor lacked all privileges in the case of bankruptcy.

The clear distinction between these two types of deposits began to break down with the unfortunate choice of a penalty for the failure to return a demand deposit. A banker who accepted a demand deposit and later failed to return the money upon demand was obligated to pay a penalty in the form of interest.

According to Huerta de Soto, the ban on usury by the three major monotheistic religions—Judaism, Islam, and Christianity—did much to complicate and obscure medieval financial practices. Historically, usury meant charging any interest on a loan. Today, it means charging excessive interest on a loan.

Since it was forbidden to pay interest on loans, it is easy to understand how convenient it was in the Middle Ages to disguise a loan as a deposit in order to make the payment of interest legal, legitimate and socially acceptable. For this reason, bankers started to systematically engage in operations in which the parties openly declared they were entering into a deposit contract and not a loan contract.

The method of concealment ... was a simulated [demand] deposit which ... was not a true [demand] deposit at all, but rather a loan [deposit]. At the end of the agreed-upon term, the supposed depositor claimed his money. When the [bank] failed to return [the money], [the bank] was forced to pay a "penalty" in the [form] of interest on [its] presumed "delay."

Disguising loans as deposits became an effective way to get around the canonical ban on interest and escape severe sanctions, both secular and spiritual.

It would appear the history of banking consists of a continuous effort to eliminate the distinction between these two types of deposits. I do not mean to criticize modern day bankers. I suspect they are largely unaware of this history. They simply operate under the rules as they exist today. Anyone who studies money and banking in college is taught about fractional reserves, deposit insurance, and the need for a central bank to serve as lender of last resort. This is standard fare that passes for higher education around the world.

As economist John Maynard Keynes once observed, "even the most practical man of affairs is usually in the thrall of the ideas of some long-dead economist."

Having said all this, the question remains: Where do we go from here?

To answer that question let me return to the topic of money. In a world of paper currency—without the backing of any tangible commodity—the supply of money is ultimately determined by the government.

In most countries, the power to create money has been delegated by the government to a central bank. The central bank in turn controls the money supply in a number of ways: buying and selling financial assets—so-called discount window or open-market operations—and requiring banks to keep deposits at the central bank—so-called reserve requirements.

As our Nation's central bank, it is often suggested that the Federal Reserve controls both interest rates and the money supply. However, the only interest rate the Fed controls is the discount rate. That is the rate the Fed charges other banks when they borrow money from the Fed. The Fed generally prefers that banks borrow from each other. So, it usually sets the discount rate higher than the rate banks charge each other. That rate is called the Federal funds rate.

U.S. banks are required to hold reserves as a percentage of their demand deposits, but not their loan deposits. These reserves are designed to cover daily withdrawals. On any given day, some banks may have a reserve shortfall, while others may have excess reserves. Thus, banks borrow from each other on an overnight basis. The Fed sets a target for the interest rate banks charge each other—the Federal funds rate—and then it attempts to achieve its target.

According to the textbook explanation, when the Fed wants to lower the Federal funds rate, it buys financial assets, such as government bonds, from other banks and pays for them by creating additional reserves. This is sometimes referred to as creating

money out of thin air. Since the banks now have more reserves, they are generally willing to lend at a lower rate. When the Fed wants to raise the Federal funds rate, it sells financial assets back to the banks and withdraws the additional reserves. Since the banks now have fewer reserves, they will usually require borrowers to pay a higher interest rate.

The Fed can also change the supply of money by changing the reserve requirement. By raising or lowering the reserve requirement, the Fed can control how much money banks must hold in reserve. Higher reserves mean less money is available for banks to lend, and lower reserves mean more money to lend.

Although central banks control the money supply in the long run, in the short run individual banks are largely in control.

As the Federal Reserve Bank of Chicago explained in its publication *Modern Money Mechanics*:

In the real world, a bank's lending is not normally constrained by the amount of reserves it has at any given moment. Rather, loans are made, or not made, depending on the bank's credit policies and its expectations about its ability to obtain the funds necessary to pay its customers' checks and maintain required reserves in a timely fashion.

In other words, when banks make loans, they create new deposits, thereby increasing the money supply. In the short run, banks are free to make as many loans as they want based solely on their expectation of future repayment and their ability to meet required reserves and expected withdrawals, plus their capital requirements.

In the long run, central banks control reserve requirements and the cost of borrowing excess reserves. Thus, they can eventually prevent individual banks from endlessly expanding the money supply.

Money can be defined as the thing that all other goods and services are traded for, or as the means to achieve final settlement of all transactions. As the means of final payment, money is uniquely valued above all other assets. It is considered to be the most liquid because it is accepted by everyone and it trades at face value. That is, \$1 is always equal to \$1.

Because banks have the power to create money—within limits set by the central bank—they are viewed with a high degree of suspicion. But banks are ultimately at the mercy of their customers because they are obligated to convert deposits into cash. When banks lose the confidence of their customers, they are subject to bankruptcy if too many customers try to withdraw their money. Banking panics in the past led to the creation of central banking and deposit insurance. These government safety nets were designed to prevent the collapse of the banking system.

To further limit the risk of a banking failure, the government imposed var-

ious standards of safety and soundness. These standards range from underwriting loans to maintaining adequate levels of capital and reserves. While these standards make banking safer, they also make it more expensive. It takes time and effort to evaluate the creditworthiness of borrowers. Likewise, money that is set aside in reserves cannot be used to make a loan and earn a rate of return.

As I have outlined earlier, Congress undermined both underwriting standards and capital requirements in an effort to expand home ownership. However, these actions alone would not have likely caused the crisis.

Another major contributing factor was the fact that all of the limits placed on traditional deposit-based commercial banking led to the expansion of the alternative securities-based investment banking system. This system is sometimes referred to as the "shadow" banking system. While both types of banks are arguably clouded by a fog of confusion, the differences are very clear.

Investment banks do not accept or create deposits. Instead, they help businesses and governments raise money by selling their stocks and bonds to investors. To accomplish this goal, they also perform two other important functions. They transform stocks, bonds, or mortgages into securities. This securitization process is designed to diversify the investments and reduce market risk. Many investment banks also serve as market-makers.

Just as a commercial bank must meet a depositor's demand for cash, a market-maker must buy securities for cash. However, there are two important differences. Unlike deposits that must be redeemed \$1-for-\$1, securities are redeemable at the market-price, which could be more or less than the amount originally paid. The other important difference is that investment banks do not have an established government safety net.

They do not have access to deposit insurance because they do not have deposits. They do not typically have the ability to borrow from the central bank as the lender of last resort, again because they do not have deposits. Nevertheless, when they lose the confidence of their customers, they are subject to the equivalent of a bank run.

That is basically what happened. Investment banks borrowed short term, primarily through repos, and invested long term, primarily in mortgage-backed securities. When it finally became apparent to everyone that mortgage default rates were going up and home prices were going down, the short-term lending came to an end. Without the ability to borrow more short-term money or sell long-term securities at their original price, the investment banks faced insolvency.

This was not our first crisis, and it won't be our last. Increased transparency and accountability are necessary, but they are not sufficient. A sound financial system requires a sound monetary policy. That means a strong and stable dollar.

The history of U.S. monetary policy, indeed the history of monetary policy around the world, reveals an ongoing effort to devalue money through endless inflation.

The reform we need most is to overcome the temptation to purchase prosperity with inflated dollars. Until that goal is achieved, I am afraid the current reform effort will amount to little more than rearranging the deckchairs on the Titanic.

Mr. President, I yield the floor.

#### EXHIBIT 1

PRESIDENT HARRY S. TRUMAN MESSAGE TO THE CONGRESS ON THE STATE OF THE UNION AND ON THE BUDGET FOR 1947

January 21, 1946

#### NATIONAL HOUSING PROGRAM

Last September I stated in my message to the Congress that housing was high on the list of matters calling for decisive action.

Since then the housing shortage in countless communities, affecting millions of families, has magnified this call to action.

Today we face both an immediate emergency and a major postwar problem. Since VJ-day the wartime housing shortage has been growing steadily worse and pressure on real estate values has increased. Returning veterans often cannot find a satisfactory place for their families to live, and many who buy have to pay exorbitant prices. Rapid demobilization inevitably means further overcrowding.

A realistic and practical attack on the emergency will require aggressive action by local governments, with Federal aid, to exploit all opportunities and to give the veterans as far as possible first chance at vacancies. It will require continuation of rent control in shortage areas as well as legislation to permit control of sales prices. It will require maximum conversion of temporary war units for veterans' housing and their transportation to communities with the most pressing needs; the Congress has already appropriated funds for this purpose.

The inflation in the price of housing is growing daily.

As a result of the housing shortage, it is inevitable that the present dangers of inflation in home values will continue unless the Congress takes action in the immediate future.

Legislation is now pending in the Congress which would provide for ceiling prices for old and new houses. The authority to fix such ceilings is essential. With such authority, our veterans and other prospective home owners would be protected against a skyrocketing of home prices. The country would be protected from the extension of the present inflation in home values which, if allowed to continue, will threaten not only the stabilization program but our opportunities for attaining a sustained high level of home construction.

Such measures are necessary stopgaps—but only stopgaps. This emergency action, taken alone, is good—but not enough. The housing shortage did not start with the war or with demobilization; it began years before that and has steadily accumulated. The

speed with which the Congress establishes the foundation for a permanent, long-range housing program will determine how effectively we grasp the immense opportunity to achieve our goal of decent housing and to make housing a major instrument of continuing prosperity and full employment in the years ahead. It will determine whether we move forward to a stable and healthy housing enterprise and toward providing a decent home for every American family.

Production is the only fully effective answer. To get the wheels turning, I have appointed an emergency housing expeditor. I have approved establishment of priorities designed to assure an ample share of scarce materials to builders of houses for which veterans will have preference. Additional price and wage adjustments will be made where necessary, and other steps will be taken to stimulate greater production of bottleneck items. I recommend consideration of every sound method for expansion in facilities for insurance of privately financed housing by the Federal Housing Administration and resumption of previously authorized low-rent public housing projects suspended during the war.

In order to meet as many demands of the emergency situation as possible, a program of emergency measures is now being formulated for action. These will include steps in addition to those already taken. As quickly as this program can be formulated, announcement will be made. Last September I also outlined to the Congress the basic principles for the kind of decisive, permanent legislation necessary for a long-range housing program.

These principles place paramount the fact that housing construction and financing for the overwhelming majority of our citizens should be done by private enterprise. They contemplate also that we afford governmental encouragement to privately financed house construction for families of moderate income, through extension of the successful system of insurance of housing investment; that research be undertaken to develop better and cheaper methods of building homes; that communities be assisted in appraising their housing needs; that we commence a program of Federal aid, with fair local participation, to stimulate and promote the rebuilding and redevelopment of slums and blighted areas—with maximum use of private capital. It is equally essential that we use public funds to assist families of low income who could not otherwise enjoy adequate housing, and that we quicken our rate of progress in rural housing.

Legislation now under consideration by the Congress provides for a comprehensive attack jointly by private enterprise, State and local authorities, and the Federal Government. This legislation would make permanent the National Housing Agency and give it authority and funds for much needed technical and economic research. It would provide additional stimulus for privately financed housing construction. This stimulus consists of establishing a new system of yield insurance to encourage large-scale investment in rental housing and broadening the insuring powers of the Federal Housing Administration and the lending powers of the Federal savings and loan associations.

Where private industry cannot build, the Government must step in to do the job. The bill would encourage expansion in housing available for the lowest income groups by continuing to provide direct subsidies for low-rent housing and rural housing. It would facilitate land assembly for urban redevelopment

by loans and contributions to local public agencies where the localities do their share.

Prompt enactment of permanent housing legislation along these lines will not interfere with the emergency action already under way. On the contrary, it would lift us out of a potentially perpetual state of housing emergency. It would offer the best hope and prospect to millions of veterans and other American families that the American system can offer more to them than temporary makeshifts.

I have said before that the people of the United States can be the best housed people in the world. I repeat that assertion, and I welcome the cooperation of the Congress in achieving that goal.

#### EXHIBIT 2

[From Mises Daily, Mar. 24, 2010]

THE FEDERAL RESERVE AS A CONFIDENCE GAME: WHAT THEY WERE SAYING IN 2007

(By Mark Thornton)

In February of 2004, I published an article entitled "Greenspan." The general lesson was not to listen to Greenspan's deceptive testimony. Delete it from your mind like spam email messages. Watch what he has done and what he is doing, in order to protect your wealth and capital. Discount anything you read about his testimony, except Congressmen Paul's questions and commentary.

This talk will be a follow up to that article. I will describe central banking as a confidence game. The Federal Reserve plays a confidence game with us. A confidence game (also known as a bunko, con, flimflam, hustle, scam, scheme, or swindle) is defined as an attempt to defraud a person or group by gaining their confidence. The victim is known as the mark, the trickster is called a confidence man, con man, or con artist, and any accomplices are known as shills. Confidence men exploit human characteristics such as greed, vanity, honesty, compassion, credulity, and naiveté. The common factor is that the mark relies on the good faith of the con artist.

Here I will concentrate on the Fed's basic confidence game of trying to gain and maintain our confidence in its system and getting us to not take proper precautions against the negative effects of its policies.

Inflation is surely a scam and part of the confidence game—printing up money and lowering the value of all dollar-denominated assets while simultaneously benefiting political friends and accomplices is surely a fraud that could be classified as a confidence game. This is even more true because when the people finally lose confidence in the Fed system and realize what the Fed has been doing, the game will be up, the dollar will go down, and the Fed will come to an end!

There are some more basic aspects of the fraudulent nature of the Fed that I will not address here. Is the Fed a "conspiracy"? This is an aspect that is probably addressed most fully by the G. Edward Griffin book, *The Creature from Jekyll Island*. Or is the Federal Reserve just a cover for a banking cartel? This question has been fully addressed in the works of Murray Rothbard.

We will set aside some other fraudulent issues with the Fed. Issues like, why hasn't the nation's gold supply been audited in decades? Why hasn't the Fed itself been properly audited? And has the Fed been manipulating the gold market or surreptitiously leasing out the nation's gold supply? I suppose all of these issues are related to the



basic general con game, but they are not necessary to make our general point here today.

The basic focus here will be on the Fed's mission to instill confidence in us about the economy while simultaneously instilling confidence in us about the abilities of the Fed itself. The first mission is easy to see because Fed officials are almost always publically bullish and hardly ever publically bearish about the economy. The economy always looks good, if not great. If there are some problems, don't worry, the Fed will come to the rescue with truckloads of money, lower interest rates, and easy credit. If things were to get worse, which they won't, the Fed would be able to respond with monetary weapons of mass stimulation.

All this is consistent with the viewpoint of mainstream economists who see the business cycle as caused by psychological problems and random shocks. In their view, it is your fault for becoming overly speculative and risky and then lapsing into risk aversion and depression. It is your fault!

I will also limit my analysis in terms of time. When the subject of this talk was first constructed—so many months ago—the only reason it was limited to 2007 was because that was the period just prior to the onset of the current crisis. The crisis finally revealed itself in 2007. With all the data at their disposal, surely the Fed would have been alerting the people to prepare for what was to come. In fact, we could probably pick any time frame and find the consistently bullish sentiment expressed by the establishment community. I had no particular statements or testimony in mind when the title of the talk was chosen, only the conviction that the “confidence game” was a consistent and dependable part of how the Fed operates.

I also limit my analysis to the leading officials of the Federal Reserve. It is, after all, their game. However, we could also extend the investigation and dependably find similar statements and testimony from other government officials from the Treasury Department and White House, as well as the advocates and promoters of malinvestments from Wall Street and the real-estate complex. What I will do here is to cut and paste their words and present the relevant highlights from their speeches. Predictably, their testimony and speeches are highly nuanced and hedged.

BERNANKE

“Central Banking and Bank Supervision in the United States.”—Speech given at the Allied Social Science Association Annual Meeting, Chicago, January 5, 2007.

Let us begin at the beginning of 2007 with the chairman of the Fed, Ben Bernanke. The former economics professor from Princeton gave an address to the annual meeting of the American Economic Association. Bernanke is the first chairman of the Fed from academia since Arthur Burns. It was Burns who helped take us off the gold standard. God only knows where Bernanke is leading us!

In addressing his fellow mainstream academic economists, Bernanke was unusually bold in describing the Fed's access and ability to use information and data concerning financial markets. This knowledge and expertise includes the market for derivatives and securitized assets. He describes the Fed as a type of superhero for financial markets. In discussing the Fed's role as chief regulator of financial markets he makes powerful claims concerning the Fed's ability to identify risks, anticipate financial crises, and effectively respond to any financial challenge.

“Many large banking organizations are sophisticated participants in financial mar-

kets, including the markets for derivatives and securitized assets. In monitoring and analyzing the activities of these banks, the Fed obtains valuable information about trends and current developments in these markets. Together with the knowledge obtained through its monetary-policy and payments activities, information gained through its supervisory activities gives the Fed an exceptionally broad and deep understanding of developments in financial markets and financial institutions. . . .

In its capacity as a bank supervisor, the Fed can obtain detailed information from these institutions about their operations and risk-management practices and can take action as needed to address risks and deficiencies. The Fed is also either the direct or umbrella supervisor of several large commercial banks that are critical to the payments system through their clearing and settlement activities.”

In other words, the Fed knows everything about financial markets. But it gets worse:

“In my view, however, the greatest external benefits of the Fed's supervisory activities are those related to the institution's role in preventing and managing financial crises.”

In other words, the Fed can prevent most crises and manage the ones that do occur.

“Finally, the wide scope of the Fed's activities in financial markets—including not only bank supervision and its roles in the payments system but also the interaction with primary dealers and the monitoring of capital markets associated with the making of monetary policy—has given the Fed a uniquely broad expertise in evaluating and responding to emerging financial strains.”

In other words, the Fed is an experienced, forward-looking preventer of financial crises. This is a strong claim given Bernanke's own abysmal record of forecasting near-term events.

Chairman Bernanke is infamous on the internet because of the YouTube video that chronicles his rosy view of the developing crisis from 2005 to 2007. He denied there was a housing bubble in 2005, he denied that housing prices could decrease substantively in 2005 and that it would affect the real economy and employment in 2006, and he tried to calm fears about the subprime-mortgage market. He stated that he expected reasonable growth and strength in the economy in 2007, and that the problem in the subprime market (which had then become apparent) would not impact the overall mortgage market or the market in general. In mid-2007 he declared the global economy strong and predicted a quick return to normal growth in the United States. Remember, Austrians were writing about the housing bubble, its cause, and the probable outcomes as early as 2003. Possibly the worst of Bernanke's statements occurred in 2006, near the zenith of the housing bubble and at a time when all the exotic mortgage manipulations were in their “prime.” This was the era of the subprime mortgage, the interest-only mortgage, the no-documentation loan, and the heyday of mortgage-backed securities. The new Fed chairman admitted the possibility of “slower growth in house prices,” but confidently declared that if this did happen he would just lower interest rates.

Bernanke also stated in 2006 that he believed that the mortgage market was more stable than in the past. He noted in particular that “our examiners tell us that lending standards are generally sound and are not comparable to the standards that contributed to broad problems in the bank-

ing industry two decades ago. In particular, real estate appraisal practices have improved.”

This, my friends, is what the Fed is all about. Take a \$100-billion budget, thousands of economists and statisticians, add in every piece of economic data, including detailed information concerning every major financial firm, and what do you come up with? They produced consistently wrong answers, or answers that were designed to maintain the “confidence” of the average citizen.

MISHKIN

“Enterprise Risk Management and Mortgage Lending.”—Speech given at the Forecaster's Club of New York on January 17, 2007.

Less than two weeks after Bernanke's address to the American Economic Association, fellow academic Fred Mishkin, a governor of the Federal Reserve Board, took the stage at the Forecaster's Club of New York. A leading mainstream economist and expert on money and banking, Mishkin addressed the group on the topic of “Enterprise Risk Management and Mortgage Lending.”

He begins, “Over the past ten years, we have seen extraordinary run-ups in house prices . . . but . . . it is extremely hard to say whether they are above their fundamental value. . . . Nevertheless, when asset prices increase explosively, concern always arises that a bubble may be developing and that its bursting might lead to a sharp fall in prices that could severely damage the economy. . . .

The issue here is the same one that applies to how central banks should respond to potential bubbles in asset prices in general: Because subsequent collapses of these asset prices might be highly damaging to the economy . . . should the monetary authority try to prick, or at least slow the growth of, developing bubbles? I view the answer as no.”

In other words, if the Fed is not worried, you shouldn't be either.

“There is no question that asset price bubbles have potential negative effects on the economy. The departure of asset prices from fundamentals can lead to inappropriate investments that decrease the efficiency of the economy.”

In other words, there are some theoretical problems with bubbles. But Mishkin has a theory that says there can be no such things as bubbles.

“If the central bank has no informational advantage, and if it knows that a bubble has developed, the market will know this too, and the bubble will burst. Thus, any bubble that could be identified with certainty by the central bank would be unlikely ever to develop much further.”

He then tells his listeners that in the unlikely event of a bubble, it really would not be a problem:

“Asset price crashes can sometimes lead to severe episodes of financial instability. . . . Yet there are several reasons to believe that this concern about burst bubbles may be overstated.

To begin with, the bursting of asset price bubbles often does not lead to financial instability. . . .

There are even stronger reasons to believe that a bursting of a bubble in house prices is unlikely to produce financial instability. House prices are far less volatile than stock prices, outright declines after a run-up are not the norm, and declines that do occur are typically relatively small. . . . Hence, declines in home prices are far less likely to cause losses to financial institutions, default rates on residential mortgages typically are



low, and recovery rates on foreclosures are high. Not surprisingly, declines in home prices generally have not led to financial instability. The financial instability that many countries experienced in the 1990s, including Japan, was caused by bad loans that resulted from declines in commercial property prices and not declines in home prices."

Boy, I bet he would like to take back his words today. Everything he just said turned out to be untrue; and he should have known that all of the assumptions he used to quell fear and instill confidence were simply not true.

"My discussion so far indicates that central banks should not put a special emphasis on prices of houses or other assets in the conduct of monetary policy. This does not mean that central banks should stand by idly when such prices climb steeply. . . .

Large run-ups in prices of assets such as houses present serious challenges to central bankers. I have argued that central banks should not give a special role to house prices in the conduct of monetary policy but should respond to them only to the extent that they have foreseeable effects on inflation and employment. Nevertheless, central banks can take measures to prepare for possible sharp reversals in the prices of homes or other assets to ensure that they will not do serious harm to the economy."

In other words, the Fed likes bubbles. Mishkin says the Fed is prepared to protect us from the bursting of the bubble, but obviously he was wrong on that point too. Of course the issue of the Fed causing bubbles is never broached, and if it is, Fed officials will chime in to squash any such notion.

KOHN

"Financial Stability: Preventing and Managing Crises."—Speech given at the Exchequer Club Luncheon, Washington, DC, February 21, 2007.

Fed Vice Chairman Donald L. Kohn downplayed the possibility of a crisis but said,

"In such a world, it would be imprudent to rule out sharp movements in asset prices and deterioration in market liquidity that would test the resiliency of market infrastructure and financial institutions.

While these factors have stimulated interest in both crisis deterrence and crisis management, the development of financial markets has also increased the resiliency of the financial system. Indeed, U.S. financial markets have proved to be notably robust during some significant recent shocks."

In other words, just thinking about crises makes them less likely.

"The Federal Reserve, in its roles as a central bank, a bank supervisor, and a participant in the payments system, has been working in various ways and with other supervisors to deter financial crises. As the central bank, we strive to foster economic stability. As a bank supervisor, we are working with others to improve risk management and market discipline. And in the payments and settlement area, we have been active in managing our risk and encouraging others to manage theirs."

In other words, the Fed will deter any crisis.

"The first line of defense against financial crises is to try to prevent them. A number of our current efforts to encourage sound risk-taking practices and to enhance market discipline are a continuation of the response to the banking and thrift institution crises of the 1980s and early 1990s."

"Encourage sound risk-taking practices"—did I hear that right?

"Identifying risk and encouraging management responses are also at the heart of our efforts to encourage enterprise wide risk-management practices at financial firms. Essential to those practices is the stress testing of portfolios for extreme, or "tail," events. Stress testing per se is not new, but it has become much more important. The evolution of financial markets and instruments and the increased importance of market liquidity for managing risks have made risk managers in both the public and private sectors acutely aware of the need to ensure that financial firms' risk-measurement and management systems are taking sufficient account of stresses that might not have been threatening ten or twenty years ago."

In other words, the Fed's number one job is to prevent "extreme" events—or was that, to cause such events?

"A second core reform that emerged from past crises was the need to limit the moral hazard of the safety net extended to insured depository institutions—a safety net that is required to help maintain financial stability. Moral hazard refers to the heightened incentive to take risk that can be created by an insurance system. Private insurance companies attempt to control moral hazard by, for example, charging risk-based premiums and imposing deductibles. In the public sector, things are often more complicated."

I guess they are! In other words the Fed must refrain from bailing out markets or it will encourage risk and speculation.

"The systemic-risk exception has never been invoked, and efforts are currently underway to lower the chances that it ever will be."

Well, I think that record has now been broken—into several trillion pieces.

KROSZNER

"Recent Innovations in Credit Markets."—Speech given at the Credit Markets Symposium at the Charlotte Branch of the Federal Reserve Bank in North Carolina, March 22, 2007.

Fed Governor Randall S. Kroszner was the Fed's number-one guy in terms of regulation of financial markets. He was the point man in preventing things like systemic risk, but he considered all this financial "innovation" and "engineering" to be a good thing:

"Credit markets have been evolving very rapidly in recent years. New instruments for transferring credit risk have been introduced and loan markets have become more liquid. . . . Taken together, these changes have transformed the process through which credit demands are met and credit risks are allocated and managed. . . . I believe these developments generally have enhanced the efficiency and the stability of the credit markets and the broader financial system by making credit markets more transparent and liquid, by creating new instruments for unbundling and managing credit risks, and by dispersing credit risks more broadly. . . .

The new instruments, markets, and participants I just described have brought some important benefits to credit markets. I will touch on three of these benefits: enhanced liquidity and transparency, the availability of new tools for managing credit risk, and a greater dispersion of credit risk."

What he then goes on to discuss are "recent developments" such as credit default swaps (CDS) of which the "fastest growing and most liquid" are credit-derivative indexes involving such things as packages of subprime residential mortgages. He says that "Among the more complex credit derivatives, the credit index tranches stand out as an important development."

He goes on to state that, historically, secondary markets were illiquid and nontransparent (banks held their own loans!). Now liquidity has improved and transparency has improved. This promotes better risk management as risk is measured and priced better because market participants have better tools to manage risk. The result has been a "wider dispersion of risk."

"On its face, a wider dispersion of credit risk would seem to enhance the stability of the financial system by reducing the likelihood that credit defaults will weaken any one financial institution or class of financial institutions."

Yes, there are some concerns, but most of these concerns are "based on questionable assumptions." Yes, there is risk, but it's the risk that has been out there all along; now we can trade this risk among ourselves. There is "nothing fundamentally new to investors . . . credit derivative indexes simply replicate the sort of credit exposures that have always existed." Plus, remember that this risk is greatly diminished because lenders require borrowers to put up collateral.

What Kroszner has failed to realize is that by allowing institutions to disperse their risk, the regulators have encouraged and allowed for a huge increase in the aggregate amount of risk. When banks kept their own loans on their own books, they were careful to make prudent loans, but with nearly free money available from the Fed, they wanted to make more loans, and the only way to do that is to make riskier loans. They didn't want to hold the risky loans so they "dispersed" them.

Kroszner told his audience that the market already experienced a surprise in May of 2005, but that since that time much energy has been expended by market participants to improve risk management.

We don't have to worry, Kroszner tells us, because Gerald Corrigan is in charge of making sure nothing goes wrong. Corrigan—a former president of the New York Fed and a managing director in the Office of the Chairman of Goldman Sachs—has been in charge of a private-sector group that controls "counterparty risk management policy" for the financial industry.

"Cooperative initiatives, such as [this one led by Corrigan] can contribute greatly to ensuring that those challenges are met successfully by identifying effective risk-management practices and by stimulating collective action when it is necessary. . . . The recent success of such initiatives strengthens my confidence that future innovations in the market will serve to enhance market efficiency and stability, notwithstanding the challenges that inevitably accompany change."

Checking ahead, we find Kroszner still bullish later that same year.

"Risk Management and the Economic Outlook."—Speech given at the Conference on Competitive Markets and Effective Regulation, Institute of International Finance, New York, November 16, 2007.

"Looking further ahead, the current stance of monetary policy should help the economy get through the rough patch [yes, he called it a rough patch] during the next year, with growth then likely to return to its longer-run sustainable rate. As conditions in mortgage markets gradually normalize, home sales should pick up, and homebuilders are likely to make progress in reducing their inventory overhang. With the drag from the housing sector waning, the growth of employment and income should pick up and support somewhat larger increases in consumer spending. And as long as demand from

domestic consumers and our export partners expand, increases in business investment would be expected to broadly keep pace with the rise in consumption."

Over the next year, the Dow would lose 6,000 points; we have now doubled the amount of unemployment, adding more than 7 million unemployed. Consumer confidence hit a 27-year low this week, and sales of new homes hit the lowest level in a half a century—the lowest level on record! Kroszner, an economist groomed by the Institute for Humane Studies, has since returned to the University of Chicago and the directorship of the George Stigler Center.

#### CONCLUSION

We can see that the Fed is a confidence game. Their public pronouncements, while heavily nuanced and hedged, uniformly present the American people with a rosy scenario of the economy, the future, and the ability of the Fed to manage the market. Ben Bernanke told Congress this week that we are in the early stages of an economic recovery. Of course, he has been saying that since the spring of 2009 (if not earlier). These are the people who said that there was no housing bubble, that there was no danger of financial crisis, and then that a financial crisis would not impact the real economy. These are the same people who said they needed a multitrillion dollar bailout of the financial industry, or we would get severe trouble in the economy. They got their bailout, and we got the severe trouble anyways. It is time to bring this game, this confidence game, to an end.

Mr. REID. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that the Senate now be in a period of debate only with a 10-minute limitation on speeches, to accommodate the speakers on Wall Street reform or other matters; that there be no amendments or motions in order during this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I want to amend my shortcoming. Sorry about that. I would ask that unanimous consent agreement be modified so that Senators DODD and SHELBY, the two managers of this banking bill, be recognized for up to 30 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana is recognized.

#### FLOOD INSURANCE

Mr. VITTER. I rise to discuss flood insurance extension and our need to address that now, to get rid of uncertainty in the market and real concern that this will not be done in time, and the vital National Flood Insurance Program may be allowed to lapse yet again, as happened in the recent past.

Obviously, the National Flood Insurance Program is basic; it is necessary. It is necessary for the entire country, for real estate transactions everywhere. But it is certainly necessary in my home State of Louisiana and in a hurricane and flood zone.

As we sit here today, the National Flood Insurance Program will expire in the first few days of June, during the Memorial Day recess. So it is necessary and important that program be extended. I suggest we take up this non-controversial matter now, do it now. There is no controversy. There is no objection on the substance of the program.

This will accomplish two things. First of all, our taking it up now rather than at the last moment right when we are pushed up against the Memorial Day recess will take care of real uncertainty in the market and give everyone—homeowners, those who need these extensions, those who need these policies, everyone in real estate—the security that this will be extended properly through at least the end of the year.

Secondly, I think it is reasonable to take it out of the context of the extenders package, which is otherwise very controversial. There are a lot of elements of the extenders package which will merit debate. There are a lot of elements of the extenders package which will be controversial and which will garner legitimate "no" votes.

This flood insurance extension is not one of them. This flood insurance extension, on its merits, does not have controversy and does not have objection, including because of the fact that it does not cost us anything. It is completely budget neutral, this extension through the end of the year.

This approach, which would erase uncertainty, which would calm the markets, which would remove it from other unrelated more controversial issues, is supported by everyone in the marketplace. In that regard, I ask unanimous consent to have printed in the RECORD this letter from the National Association of REALTORS in strong agreement with this approach and a similar letter from the National Association of Mortgage Brokers in strong agreement with this approach.

The PRESIDING OFFICER (Mr. BURRIS). Is there objection?

Mr. REID. Reserving the right to object, did my friend propound a unanimous consent request?

Mr. VITTER. Simply to make these letters a part of the RECORD.

Mr. REID. No objection.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### NATIONAL ASSOCIATION OF REALTORS®

MAY 13, 2010.

Hon. DAVID VITTER,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR VITTER: the National Association of REALTORS® supports S. 3347, to extend authority for the National Flood Insurance Program (NFIP) until December 31, 2010. The authority should be extended to provide market certainty and give Congress sufficient time to enact meaningful reform.

Most property buyers obtain federally related mortgage loans to purchase property; for property located in a federally designated floodplain, flood insurance is required to obtain such a mortgage. When the NFIP expired earlier this year, thousands of real-estate transactions were delayed, if not cancelled. Extending the program until year's end will provide much needed certainty to a recovering real estate market and the millions of taxpayers nationwide who rely on the program for basic flood protection.

We urge the Senate to pass S. 3347 to extend the NFIP, and look forward to working with you as legislation is developed to reform and reauthorize the program.

Sincerely,

VICKI COX GOLDER, CRB,  
2010 President.

#### NATIONAL ASSOCIATION OF MORTGAGE BROKERS

MAY 13, 2010.

DEAR SENATOR, on behalf of the members of the National Association of Mortgage Brokers (NAMB), I urge you to support S. 3347, a bill introduced by Senator Vitter (R-LA) to extend the National Flood Insurance Program through December 31, 2010. NAMB applauds Senator Vitter for his diligent work on this necessary bill to ensure continued availability of coverage for homeowners living in areas prone to flooding.

NAMB strongly supports this bill to extend the National Flood Insurance Program to protect the nearly 5 million homeowners living in high flood risk areas from losing their property without being covered. This is particularly significant for those home buyers in high flood risk areas where flood insurance is required by law in order to qualify for mortgage loans from federally regulated lenders. The program has lapsed twice this year, severely hindering borrowers from obtain homeownership in flood areas, and countering any relief to the housing market. This legislation is critical to the housing recovery, but is also equally important to small businesses, which have suffered through the economic decline. An extension to the program will prevent any further disruptions to homeowners, and provide much needed stability to the market.

We urge timely passage of this critical legislation and believe it will provide necessary protections for consumers in high flood risk areas, as well as help in the housing recovery and relieve small businesses.

Sincerely,

JIM PAIR, CMC,  
NAMB President 2009–2010.

#### UNANIMOUS-CONSENT REQUEST—S. 3347

Mr. VITTER. Mr. President, with that introduction, I would now propound my underlying unanimous-consent request. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 372, which is the Vitter bill, S. 3347, a bill

that extends the National Flood Insurance Program at no cost, deficit neutral, through December 31, 2010; that the bill be read a third time and passed, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, my friend knows we have an extenders package which we have to complete before we leave for the Memorial Day recess. There are a number of matters in that bill that are extremely important to people throughout this country, vital to people throughout this country.

My friend said his issue is non-controversial. The controversy is in the eye of the beholder. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. VITTER. Mr. President, reclaiming my time, if I could inquire, through the Chair, what the basis of the objection is, I think that would further the debate.

The PRESIDING OFFICER. Is there objection to the Senator propounding an inquiry to other Senators? There is no right to ask a question of another Senator who does not have the floor.

Mr. VITTER. Well, again, I was inquiring through the Chair. I ask unanimous consent to inquire through the Chair and to propound the question, What is the nature of the objection?

The PRESIDING OFFICER. There is no objection to the request. No Senator is compelled to respond.

Mr. VITTER. I would simply make the request that we have a brief conversation about it, in that case. I realize no one is compelled to respond.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. VITTER. Well, it was a compelling argument. But, again, I am saddened by the fact that we cannot proceed in a straightforward way. There is no objection to the substance of this extension. This is a necessary program. It is a vital program. The extension, which my bill would accomplish through December 31, 2010, would be budget neutral and deficit neutral.

We would take this out of a much more controversial debate. We would settle the issue well before the program would otherwise expire. We would give people confidence. We would settle the markets. We would help people in real estate. We would help people in the economy. I suppose they are all compelling reasons not to travel down that path up here in Washington.

I think that is a shame. I think it is really sad because this should be, and is, on its substance noncontroversial.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I ask unanimous consent that the speakers on this side be in the following order: Senator CARDIN be rec-

ognized for 5 minutes; then the Senator from Oregon, Mr. MERKLEY, be recognized for 10 minutes; then that I be recognized for 10 minutes on this side.

Mr. REID. Mr. President, I ask my friend to modify his request so that if there are Republicans who wish to be recognized, we would do that alternately.

Mr. LEVIN. I thank the Leader. I intended that when I said "on this side" there would be alternates.

The PRESIDING OFFICER. The request is so modified. Without objection, it is so ordered.

The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I take this time to call to my colleague's attention my pending amendment, amendment No. 4050. This is the amendment that would require the oil companies to disclose the payments that they make to countries for mineral rights.

It is in order to give investors transparency and knowledge about the risks that may be involved in regards to oil companies. This is real if you look at what is happening in Nigeria and other countries.

Investors have a right to know where oil companies are making payments. This amendment would also further good governance. I think most of us are familiar with the mineral curse; that is, countries that have mineral wealth are some of the poorest in the world. It also helps finance corruption because the government leaders are taking these payments for themselves rather than for the people of the country. My amendment would require the SEC to allow for the disclosure of the payments made by oil companies that are regulated by the SEC.

This is mostly foreign companies. These are not U.S. companies by and large. It puts U.S. companies on a level playing field because U.S. companies are prohibited by law from being involved in any part of corruption.

This is a bipartisan amendment. It is cosponsored by Senator LUGAR. He has been one of the true leaders on this issue for many years. My cosponsors include Senators DURBIN, SCHUMER, FEINGOLD, MERKLEY, JOHNSON, and WHITEHOUSE. It comes out of the work of the Helsinki Commission. We have held hearings on this within the Commission. This is one of the priorities we have on basic human rights. It is supported by the Obama administration.

I say all that knowing full well we are now postcloture. It is unlikely we will get a vote on this amendment. I find that disturbing. We have made the technical changes in order to make sure we adhere to the concerns expressed by Members. Quite frankly, I am not aware of any Senator who objects to the substance of this amendment. I hoped perhaps we could move forward and include this, but I am a re-

alist, and I understand the current circumstances.

I want my colleagues to know I will try to work with the chairman and ranking member in conference to see whether we can get some of these provisions included. We do have a similar provision on disclosure related to the Congo. We do have this subject matter that will be before the conferees.

I am hopeful, after conversations with Senators DODD and SHELBY, that we will be able to continue this discussion as this bill moves forward to conference. I will also look for other opportunities to bring this issue back.

I know Senator DODD has voiced his support for the amendment. I have talked to Senator SHELBY. He has indicated to me that he is sympathetic to the amendment. I hope we will be able to find a way to prevent the citizens of Third World countries from being denied a share of the wealth of their own countries and to give investors the information they need in order to make intelligent decisions as to whether they want to invest in a particular company.

I want my colleagues to know that if we don't get a chance to vote on this amendment tonight, it will not be the end. We will look for other opportunities, whether it is in conference or other bills that move forward.

I thank many of my colleagues who have been supportive. I know we will succeed in protecting the mineral wealth of Third World nations for the people of the country rather than to fund corruption and giving investors the information they should have as to whether they want to invest in a mineral company.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEVIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, under the current unanimous consent agreement, there will be 10 minutes now for Senator MERKLEY, then to be alternated to the Republican side. Actually, it would go first to the Republican side, then back to Senator MERKLEY. Then, if there is a Republican, it would go back to the Republican and then back to me. That is the current agreement.

Senator ENZI wishes to speak for up to 30 minutes. He has been gracious enough to agree that both Senator MERKLEY and I go with our 10-minute remarks before him. I modify the unanimous consent agreement and ask unanimous consent that Senator MERKLEY be recognized for 10 minutes and then I be recognized for up to 10 minutes and then Senator ENZI be recognized for up to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

Mr. MERKLEY. Mr. President, we are coming to the end of a long path of consideration of fundamental financial reforms. A key piece of the discussion along that trail has been whether we are going to modify the way securities operate, how high-risk investment pools operate, and how ordinary banking that takes deposits and makes loans operate, so that all three will do better in their role of aggregating capital and allocating capital.

We have some fundamental challenges in our society. One is that inside of a bank holding company, we have both the high-risk investing and the standard process of taking deposits and making loans. These two are both excellent systems, but they don't belong under the same roof. When they are under the same roof, they create two problems. The first problem is the bank that is providing the loans has access to a discount window in insured deposits. All of that is intended to make sure money gets to small businesses and families. But when they are under the same roof, we have the temptation of the resources being directed to high-risk investing rather than getting into the hands of our families and small businesses.

In every corner of Oregon and in every corner of every State, folks are finding it hard to get loans. Lines of credit are being cut in half. Projects to expand and hire additional employees are being thwarted because the local bank says: We can't do any more lending because we have hit our limit on leverage and our capital is such-and-such.

We do not want large banks that have both functions to be diverting their energy and resources from the lending that is so important to Main Street into high-risk investing. They need to be separate for that reason.

The second reason is that when the investing blows up, as it does periodically, then we have a situation where it blows up the lending, sends shock waves through lending. It causes lending to freeze. When that happens, the economy suffers, Main Street suffers, and families suffer. That is where we are right now.

Let's take a look at the facts. We have a situation where over the past couple years we have seen Lehman Brothers, which had high-risk trading losses of over \$30 billion, go down. Merrill Lynch had \$20 billion of loss, saved by TARP; Morgan Stanley, \$10 billion, saved by TARP; JPMorgan Chase, \$25 billion from TARP; Goldman Sachs, \$10 billion from TARP; Bank of America, over \$45 billion in TARP funds. Proprietary trading blew up some of our biggest financial institutions and froze lending to businesses on Main Street across this Nation.

We need to have a firm separation. We need to make sure that if you are buying fireworks for the Fourth of July, you are not storing those in the living room. By that I mean high-risk investing is the fireworks, and you don't store them in your living room where you are doing the lending so important to Main Street.

This is a Wall Street-Main Street battle. My colleague Senator LEVIN and I have been working on this for quite some time. We need to make our financial system work better for America.

Two days ago, we offered to have our amendment voted on, not with a 50-vote standard but with 60 votes. The leadership across the aisle thwarted that unanimous consent request and said: You may not have a vote on your amendment.

Not even at 60 votes?

No, you may not.

Not even with two Democratic Senators off in their home States because they had primary elections?

No, you may not. You may not debate this amendment on the floor.

Quite frankly, that is the result of pressure from Wall Street saying that fundamental financial reform should not be discussed in this Chamber. What is this Chamber? Is this Chamber a puppet to Wall Street or are we a serious gathering of men and women from across the Nation whose responsibility is to build a better financial system?

Another fundamental piece of this amendment is to end the conflict in securities. This is simple. If you design securities and you sell them, you don't take out insurance on them because you think they might fail after you have sold them. That is a fundamental conflict of interest.

That is like somebody who wires your house; you bring them to your house and you say: Please do the wiring or fix the wiring. And they take out a fire policy on your house because they know they did such a bad job, they think your house is going to burn down. You would never hire that electrician. Or it is like a car dealer. The dealer says: I will sell you this car. And after they sell it to you, they take out a life insurance policy on you because they didn't do the brakes right. It would make you pretty nervous. You would not buy a car from an auto dealer who has taken out an insurance policy on your life. That is a simple issue addressed in the securities provision of this bill.

We are hearing word that Republicans are going to go through a parliamentary maneuver, even though our amendment is now in order and pending, to kill debate on the pending Merkley-Levin amendment. We hope that is not true, but we are hearing that in not so many minutes, sometime this evening, there is going to be a process to kill the amendment our

amendment is attached to so there will be no debate on this issue.

I cannot believe the Senate of the United States is afraid to have a debate and vote on fundamental financial reforms important to the integrity of our securities and important to Main Street getting loans. But that seems to be where we are headed. I hope I am wrong. I hope my colleagues from across the aisle will come out and say: No, we have reconsidered. We think this body should debate serious issues. You might win, you might lose, but we should hold the debate.

We have asked the Republican leadership to sever the connection between our amendment and the Brownback amendment, which are on different topics. One is on fundamental financial structures, and one is on automobile dealers and whether they are covered by the Consumer Financial Protection Bureau. We said: Sever them. Let each have a separate debate. They have told us no. They will not sever the connection and allow a debate on each topic. That is why, if the primary amendment is withdrawn, ours will go down, too, and the people of the United States will be deprived of having a legislature that debates seriously the structure of reform.

I will wrap it up. I know my colleague is going to expand on these remarks. It has been a pleasure working with him. It has been a pleasure working with the Banking staff.

But before I conclude, I want my colleagues to know that based on the conversations I have had in this body, if we were to have this vote, we would win tonight, based on the comments of folks who say they either support or are strongly leaning toward supporting it. That means we would go to conference with a very strong position, as we should. If this is withdrawn tonight, if we are not able to have this debate and vote, I hope the leadership on both sides of the aisle will say, even though we didn't debate it, we will take this strong position for financial reform to the conference.

The USAA, which is a group that serves our veterans, has commented about this amendment. They said:

Senators Merkley and Levin recognize the value of insurance company investments which already are subject to well-defined state insurance restrictions. . . . In that vein, we urge you to support the amendment and include it in the Restoring American Financial Stability Act that is passed out of the United States Senate.

May 13, 2010.

A person from the Washington Post writes:

Probably the most important amendment comes from Sens. Carl Levin and Jeff Merkley, Democrats from Michigan and Oregon, respectively. It would replace the vague language of the Dodd bill, which gives discretion to regulators as to how much proprietary trading they would allow, with a clear provision banning federally insured

banks from such trading respectively (the "Volcker rule"). If the banks want to turn themselves into casinos, they can—but if Merkley-Levin passes, they would do so without taxpayer support when their bets go sour.

A New York Times editorial:

The Senate bill also imposes needless delays on the enactment of the so-called Volcker rule, which would bar banks from making risky market trades for their own accounts and from owning hedge funds and private equity funds. Senators Carl Levin of Michigan and Jeff Merkley of Oregon, both Democrats, have an amendment to enact the Volcker rule without undue delays or tinkering.

The Independent Community Bankers of America is asking for this to be passed to strengthen our financial system.

The Campaign for America's Future, the former head of Citibank, who watched as the two sides of his bank collided in a spectacular disaster, are supporting this amendment. This amendment should be debated and voted on on the floor of the Senate. To do otherwise would not fulfill our responsibility to the people of the United States of America.

Thank you very much, Mr. President.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 10 minutes.

MR. LEVIN. Mr. President, first of all, I thank Senator MERKLEY for his extraordinary work on this amendment of ours. We are very hopeful we are going to be able to get to a vote. As it stands right now, we are going to get to a vote because we are the pending amendment. That is where it stands. We are in order. We are germane. It is postcloture but we are germane. The only way we know of where we could be thwarted from getting to a vote is if there were a decision made on the other side to withdraw the underlying amendment. We hope that decision will not be made.

These issues are too important not to be voted on. A parliamentary trick should not be used now to avoid a vote on this critically important amendment, which will strengthen in very significant ways the underlying Dodd bill.

We saw, weeks ago, that the Republican leadership was going to try to deny us the opportunity to even get to this bill, and there was such a public outrage at the Republican filibuster that they had to back off from that. Well, if we do not get to a vote tonight on Merkley-Levin, there is going to be similar outrage from people because they understand what the stakes are. The stakes are whether we are going to take the steps to avoid a repeat of the deep recession we are now in—a recession that was brought about in large measure by the excesses, the extreme greed of Wall Street, taking high-risk mortgages, dubious mortgages, securitizing them, dicing them, slicing

them in different ways, enlarging the risk dramatically, selling them to clients and customers, and then, to add insult to injury, betting against them—in the case of Goldman Sachs, making a fortune on those bets; in the case of the banks that bet the other way, ending up being bailed out by the taxpayers on the losing bets.

That is what has happened. While our constituents may not be able to define what a collateralized debt obligation is or what a naked default swap is—and there are very few people in the country who can—they do know they have been had. They know how many houses in their neighborhoods have been vacated, have been foreclosed upon. They know because they themselves or their neighbors have been unable to keep up with mortgage payments because the value of housing has gone down, and they sense that the Wall Street greed was a big part of this.

It is more than the greed. It is the conflicts of interest which accompanied that greed. Our bill addresses some of the major problems that got us here, and some of that is proprietary trading where the Wall Street banks put their own interests ahead of their clients' interests and gambled—gambled, as it ended up—with our taxpayers' money.

So our constituents understand this. What I want to do is spend the few minutes I have left talking about the conflict of interest that existed on Wall Street: betting against themselves. I think yesterday's New York Times perhaps quoted someone who put it best—a man named Cornelius Hurley, director of the Morin Center for Banking and Financial Law at Boston University and former counsel to the Federal Reserve Board. This is what he said:

Their business model—

The business model that now exists at banks such as Goldman—

has completely blurred the difference between executing trades on behalf of customers versus executing trades for themselves. It's a huge problem.

That shift in the business model has to be addressed by us. We have to act to put an end to the conflict of interest which exists when a Goldman Sachs—as we showed at our hearing—is able to sell securities to customers, packaging these mortgage-based debts, these asset-backed securities or these securities which referred to assets—these are the synthetic ones where there is nothing there but a reference to some other security, a bet—and then betting against their own customers.

This was one of the most dramatic findings of our subcommittee. Our subcommittee investigated this matter for about a year and a half. We had four hearings. We had millions of pages of documents. We started with a bank in the State of Washington which took dubious mortgages—fraudulent mortgages, in many cases, in a large per-

centage of the cases—based on liar loans, where the mortgage companies would fill in the amount of people's income and then securitize them. Because they saw—and we had the evidence in their e-mails, where the mortgage companies saw—there was a high default rate in these mortgages, they decided they better get them off their books quick because there were high defaults coming down the river.

So what happened? They securitized them, shipped these to a very welcoming Wall Street that would then res securitize them, slice them in a different way, sell them to their customers, and then bet against them. The added insult was when, inside the same bank, the salespeople knew they were selling junk and said so in e-mails in words that are even worse than "junk"—treating customers that way, putting their own interests at Goldman Sachs ahead of the interests of their customers.

That is what happened. We have to end this conflict, and we have to give the Securities and Exchange Commission the running orders to end the conflict. That is what our amendment does. We do it in a very thoughtful way, a very careful way. We set forth the requirement that the conflict of interest be ended, but we assign the Securities and Exchange Commission the responsibility to end it, to implement the conflict of interest prohibition we have in our bill.

As Senator MERKLEY said, we have heard there is a possibility that the Republicans are going to withdraw the underlying amendment. That would be an incredible signal of the power of Wall Street that the underlying amendment, which has the support of so many people on both sides of the aisle—and probably majority support in this body relative to the treatment of car loans—that that amendment might be withdrawn in order to kill Merkley-Levin. That is the rumor we keep hearing this afternoon. It is the only way they can stop this amendment from coming to a vote that we know of.

We believe, as Senator MERKLEY said, there should be a vote on both amendments; that these two matters should be split. The only way we could get a vote on Merkley-Levin—this incredibly important strengthening amendment to the underlying Dodd bill—was by offering it as a second-degree amendment to the Brownback amendment. We are perfectly happy to have separate votes. That is the best way to do it. We cannot do that without unanimous consent. But rather than agreeing to separate votes, so both matters could be voted on and disposed of by the Senate, what we keep hearing is they may withdraw the underlying amendment and bring down the pending Merkley-Levin amendment with it.

If you needed any additional evidence of the power of Wall Street around this

body, that would be it. If that happened—to withdraw an amendment which is so important to a majority, probably, of the body—to make it impossible for us to vote on Merkley-Levin would be some of the most powerful evidence—and there has been plenty of it—of the power of Wall Street, the long arm of Wall Street reaching into this body.

I hope it is not true. But being honest with our colleagues, this is what we hear is possibly in the wings. It would be a disservice to the people of the United States not to have a vote on Merkley-Levin.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 30 minutes.

Mr. ENZI. Mr. President, there was a request made to me by the Senator from Delaware if he could have 1 minute to add his name to this discussion that has just been held. I ask unanimous consent that it not be taken out of my time, but that 1 minute be given to the Senator from Delaware.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. KAUFMAN. Mr. President, I thank my neighbor across the hall from Wyoming. He is a gentleman, as always, and I appreciate it.

I just want to stand and say, from the beginning I have talked about one of the most important parts of this bill is that we make sure we separate commercial banking activities from investment banking activities. It is very important we have commercial banks that are safe, with deposits supported by the FDIC, but that they not be in risky business.

I just want to say, I agree with the Senator from Michigan and the Senator from Oregon that it is absolutely essential we have a vote on Merkley-Levin and find the will of the Senate on the fact that we should not have banks involved in proprietary betting, and that we go with what the President and former Fed Chairman Volcker said, and go with a bill that separates these and does not allow banks to be involved in proprietary trading. It is absolutely essential.

Again, I thank the Senator from Wyoming, a gentleman, as always.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 30 minutes.

Mr. ENZI. Mr. President, I want to make it clear that the amendment that has just been talked about is not the only one that is not getting a vote that is absolutely essential to making this bill work—the amendments the American people expect.

There was some comment about the Brownback amendment. That is one to allow automobile dealers to still sell automobiles, which they may not be

able to do under this bill the way it is written. Another concern, of course, comes from anybody else who sells something on installment. That would include dentists and realtors and a whole range of people who sell things that way, and they are not going to be allowed to get a fix under this bill.

So I want you to understand how wide-ranging this bill is. This is going to get into everybody's pockets. I am not talking about businesses; I am talking about individuals. The dadgum government is going to be in everybody's pockets with this bill. This gives the government permission to look at your records. In fact, it requires your bank to keep them and send them to the Federal Government—to this new bureau we are creating.

This little 1,408-page bill, which with amendments I think is now over 1,500 pages, probably should have been three bills. It probably should have been three bills. We could have worked it properly, and maybe people would have read it.

The Republicans did stop cloture twice, and they did it so they could amend the too big to fail. Too big to fail was actually a bailout—a perpetual bailout—for big banks. That is why Goldman Sachs, at a hearing here, said: Well, we can live with that. That is why Citi said they could live with it. The big banks did not have any problem with it. But it has been revised now because it was held up, and we were finally able to get some amendments on the first section.

There is another section in here. It is called derivatives. We talk about “derivatives” because we know America will not understand that, so they, again, will not understand how we are getting into their pockets. But that is a section that needed changes. I think the Senator from Connecticut, the chairman, Mr. DODD, realized that and drew up some. But it is my understanding he was not allowed to put those in here, even though I read in the paper one morning, joyously, that he had some amendments that were going to make some corrections. But he was forced not to put them in.

So that is one-third of the bill that, obviously, has some faults in it yet. But that is not even the part I am really concerned about. I am concerned about this last third of the bill. It is 268 pages. Of course, there are another 100 pages that follow that of other acts that are going to be affected by it.

This is a brandnew bureau. We don't have enough government? We are going to start a whole new bureau, and we are going to turn everything financial over to that bureau. But don't worry about it. We are going to stick it into the Federal Reserve, which we don't have any control over, and we are telling the Federal Reserve: You don't have any control over this new bureau,

but you have to give up to 12 percent of your money to operate this bureau. That is why we put it under there; it will be off budget so it will not show up right away in the deficits, but it does. It is going to cost us 12 percent of the operating revenue of the Federal Reserve. Does anybody know how much that is? Well, they are going to get 12 percent of it. What fascinates me is that following that, there is a paragraph that says it will be adjusted for inflation. Wow. Let's see. If I get 12 percent of something, it is probably an expanding amount from year to year anyway, but if it doesn't expand one year, this bureau is still going to get the money as though the economy had expanded.

I get worked up over it because I had an amendment that I think might have solved things for people—it certainly would have calmed me down a little bit—and that is one that would have provided for personal, individual privacy. I wasn't allowed to bring that up. I wasn't allowed to make it pending, in which case it would have been germane now and in which case we would have been able to vote on it now. I was kept from doing that. That is because somebody intends to give this bureau unlimited power to snoop. It is going to be devoted to snooping into personal records. My amendment very simply would have prevented Big Brother from looking over your shoulder at your personal financial records unless you give permission.

Part of what we want to do is, if you are having a problem with your credit card company, we are hoping there is some way to fix it. Sometimes that happens in your State, but it doesn't always happen in the State. So the way this was sold is if you are having a problem with your credit card and you get ahold of this bureau, by golly, they will straighten it out. They will be looking at your records whether you have a problem or not. Maybe they are going to decide whether you have a problem or not. There is no real jurisdiction in here. There are 268 pages, but it doesn't say exactly what this outfit is going to do and they get to write their own rules and nobody gets to oversee the rules. Then they enforce those rules, and there isn't any real limit on that except for the amount of fines they can charge, which they mention, and they are pretty drastic anyway.

So your bank is going to have to keep your records for 3 years, and they are going to have to send them to this bureaucracy. I will point out some other things they are going to require with your personal accounts. It should have been in there.

When I was talking about this, I picked up several people on the other side of the aisle. It would have been a bipartisan amendment that I am sure would have passed, but it created a little concern over there, so they came



out with their own version of the privacy amendment. Mine was a mere couple sentences long; theirs was considerably longer than that. But mine did something, theirs didn't. So I proposed an amendment to protect consumer privacy to give each of us a choice in how little or how much financial data the Federal Government and this bureau would be able to access and if we wanted their help. My amendment very simply prevented Big Brother from looking over your shoulder on a daily basis at your personal financial records.

Rather than fixing the problem, I mentioned this side-by-side amendment, No. 4082, that makes the government intrusion even worse. Under that privacy amendment, it didn't do anything to stop the so-called Consumer Financial Protection Bureau—I think it ought to be called the Consumer Financial Control Bureau—from snooping wherever they want. In fact, your bank, as I mentioned, would have to send them records.

I wish to be a little bit more specific. I will explain why the Dodd amendment is worse than the underlying bill because it tries to trick the people with the promise of privacy and, at the same time, uses weasel words to comb through your personal lives anyway. I will lay out how the Federal Government will be watching over your shoulders with freedoms just slipping away a little at a time.

The underlying bill and the Dodd amendment both use slippery sleight of words, but this isn't some magic trick that will suddenly disappear. No, my friends, this would be one of the sickest jokes you can imagine.

I stand before you to educate the people of America about the fallacies in this underlying bill. I stood before my colleagues a few days ago saying that I recognize some consumers out there may want the government in their lives monitoring their transactions. I still do not claim to understand that desire, but my amendment would not take away their choice in the matter. In fact, my amendment would allow me as a consumer—if I get into credit card trouble and want the bureau's help, all I have to do is contact the bureau and give them permission to look at my financial documents. People who are having problems with the Federal Government get ahold of our staff people in our State all the time so we can work on straightening out that problem with the Federal Government. But you know what. You better have them sign a privacy release or you could be in big trouble. This bureau isn't going to have to get a privacy release. My amendment would give consumers the ability and the personal option. As long as the bureau has written permission from a consumer, they can look at the financial past, present, and future. Without my amendment, they can look

at your financial past, present, and future without your permission.

I am adamantly opposed to this privacy amendment that was drafted by the other side. It paves the way for a radical shift away from your right to privacy. I hope you will take a few seconds necessary to read the two-page amendment, No. 4083, the side-by-side to my privacy amendment. If you do, you will instantly notice the weasel words in this amendment. That amendment and the underlying bill promote yet another government takeover of another portion of our lives. They want to take over how we spend our money.

Think of all the takeovers there have been in the last year and a half. This one is the big one—your finances. The American people have had enough government takeovers already, and I don't think they will stand for the Federal Government accessing one more facet of our lives. Although I respect my colleague from Connecticut and the other people on the other side of the aisle, this version of sham privacy would actually encourage a takeover of your finances behind your back or merely in the name of protecting us from ourselves. As I mentioned, one-third of this bill is devoted to snooping into records. This bill was supposed to be about regulating Wall Street. Instead, it is creating a Google Earth of your every financial transaction. That is right. The government will be able to see every detail from the 50,000-foot perspective or they can look right down into the tiny details to the time and place where you pulled cash out of an ATM. The real kicker is, despite claiming the Dodd amendment creates privacy protection, it doesn't do anything to stop this snooping into individuals' lives.

Yesterday, I read an article in the Philadelphia Enquirer from former Senator Rick Santorum, who is a former colleague of mine from Pennsylvania. In this article, he talks about the lack of reform of the housing markets and more specifically how the greatest contributors to the collapse of the housing market—the GSEs, Fannie Mae, and Freddie Mac—have gone untouched and unreformed in this bill. We had a discussion on that in the Budget Committee. We had a little amendment that would have made sure the liabilities of Fannie Mae and Freddie Mac would show up on the Federal financial statement because the Federal Government is liable for them. The answer was: Well, we can't take it off their balance sheet and put it on ours because that would make them look good. I said: Oh, no, no. You wouldn't take it off theirs. It would be a consolidated statement. It would show up on both of them. But what the Federal Government owes ought to be clear—not that we do good governmental accounting around here.

This bill even leaves their \$800 billion spending ability intact for Fannie Mae and Freddie Mac.

So then Senator Santorum asked if Fannie and Freddie had gone untouched and this entire bill was meant to rein in Wall Street—"What is the 1,565-page"—looking at the printed copy on our desks—"financial reform bill that's up for a vote this week in the Senate?"

He says:

My favorite among the bill's assaults on free enterprise—and, more important, individual liberty—is the proposed Consumer Financial Protection Bureau. This latest concept to come from the Obama administration's ivory tower types is not your run-of-the-mill bureaucracy. The theory behind it is behavioral regulation.

Let's talk about that a little more. Behavioral regulation is studying human behavior interactions and habits such as how we spend our money, go about our daily lives, so humans can be better governed, ruled, or controlled. You can pick your verb, but no matter what, this "behavioral regulation" sets up the government to interject and use its strong arm in our daily financial transactions.

To continue with the Senator's article, he says:

The academic-turned-bureaucrat who came up with the bureau is Assistant Treasury Secretary Michael Barr, who has penned such articles as "Behaviorally Informed Financial Services Regulation." Wonder what might be in store? Think czar for checking accounts and credit cards. According to Barr himself, "... regulatory choice ought to be analyzed according to the market's stance towards human fallibility." That's right: He thinks our market-based economy is composed of businesses designed to bilk people by exploiting their flaws. I assume his research shows that government bureaucrats don't share that human fallibility.

Let me say that again. He talks about business trying to bilk people, but evidently his research doesn't show that government bureaucrats would have that same potential flaw.

Continuing:

How would the Consumer Financial Protection Bureau come to know you and what financial products are best for you? It would be given the power to collect information on businesses and individuals. It would even be able to require you—

Now listen carefully to this—

It would even be able to require you to answer questions under oath about your personal finances.

Barr and his nanny-state administration colleagues are working to require that some banks "geo-code" deposits to allow tracking of their origins and provide other information about their accounts. Think Google Earth for all our personal financial transactions. I hope the data are more secure than the Department of Veterans Affairs.

While the President has deceptively characterized this debate as being about Wall Street vs. Main Street, congressional Democrats have refused to police their side of the street—Fannie and Freddie. Instead, they continue to deny public opinion and push a bill that will further expand government, invade our privacy, and assume even more control over our lives.



That is the end of the quote from former Senator Santorum.

Think about this: The Federal Government would now be allowed to collect all kinds of financial data about consumers, not just about potentially deceptive practices or even shady Wall Street actions, but, more specifically, monitoring how we as consumers do our banking, how and why we purchase products, where and when we pull \$20 out of the ATM. I ask you: How does this snooping into our daily personal lives protect consumers? This bill was sold to the public as a way to rein in Wall Street, but near as I can tell, this one section that we haven't talked much about is the perfect excuse for Big Brother to worm his way even further into our lives and our privacy.

I now wish to read two paragraphs in the underlying bill. These paragraphs are from the misnamed "Consumer Protection" title X. On page 1,239, section 1022(c)(4)(b)—isn't that fascinating—it says:

The Bureau may: (B) require persons to file with the Bureau, under oath or otherwise, in such form and within such reasonable period of time as the Bureau may prescribe, by rule or order, annual or special reports, or answers in writing to specific questions, furnishing such information as the Bureau may require.

The reference on that was section 1022(c)(4)(b), which in the printed copy is on a different page than the page I stated. It is closer to the beginning of the section.

So the paragraph I just read says the bureau can gather and comb through your financial information "as the Bureau may require."

Remember, I said they get to set their own rules. Nobody approves their rules. They do the enforcement. Nobody is over them in enforcement.

So continuing on to the following paragraph (c), which is on page 1,240 if you are looking on the computer:

The Bureau may: Make public such information obtained by the Bureau under this section, as is in the public interest in reports or otherwise in the manner best suited for public information and use.

In case you missed the implications of this, I will spell it out further. Not only does the bureau have the power under this bill to make consumers testify under oath, the bureau could then publish any or all information they have gathered about consumers and publish or use this information as they see fit.

In reality, this bill encourages consumers to rely on government to protect us from ourselves, from bad decisions we make, instead of empowering personal due diligence. We have the inherent freedom in this country to make choices and even the freedom to make bad choices. In America, that is the way it works, and that is how it is supposed to work.

I went to an honor flight yesterday for Wyomingites who fought in World

War II, to visit their memorial—it was very late in happening—and all of them are over 80 years old. They are paying more attention than they ever have in my lifetime to what is going on in the Federal Government. They had questions about what is going on here. They said: You know, we didn't fight for that. We fought for freedom.

This bureau may create some much needed protections for consumers, but it goes too far. Without my amendment, the bureau will be required to collect daily transactional financial services information on every consumer. The government would see every time you need money or buy anything online, if they want to.

I offer another choice to my colleagues and the people of the United States. This choice allows consumers to let the bureau into their personal lives if they so choose. I am hoping that before this comes back from conference committee, they build privacy into section 10. They really need to. If there was going to be a managers' amendment, it wasn't going to have the privacy piece. But there is not going to be a managers' amendment now because we are limiting amendments because this is taking so long. There are 1,408 pages, and it ought to take a while to talk about this.

I had a visit from the economic adviser of the President, Mr. Summers. I just talked about this section. He said: No, no, no, this will work like the FDA and OSHA.

I know people aren't too pleased about OSHA, but I couldn't buy that argument because I am ranking member on the HELP Committee. OSHA is under us and FDA is under us. We know about oversight and who has control and who writes the regulations and who gets to oversee the regulations and, just as important, where they get their budget, the appropriations, the money to operate.

Remember, I said this one is going to get 12 percent of the operating revenues of the Federal Reserve. That won't show up in the score because the Federal Reserve is over on the side. The amendment we had to have an audit of the Federal Reserve—which is probably long overdue—will show that. But it won't show up in the score because they are spending it before it comes into the Federal Government's budget. But it will reduce the amount of money that comes to the Federal Government. So it will add to the debt and the deficit.

I think we ought to require this new bureau—new bureau? How many people do you think they will hire? In the health bill, we gave permission and I guess it is for IRS agents to look at who is buying insurance and who is not and whether they are buying the mandatory insurance, the mandatory minimum we put on there—we hired 16,000 IRS agents. That is where the growth

is in the job market. It is still stagnant, but we are adding a lot of government employees—16,000 IRS agents—to see if you are buying the right kind of insurance or paying a fee if you don't.

Well, that is minor in light of this one. We didn't even say how big this bureau could be. We didn't limit their money. We didn't say we would ever look at anything they do. I am sure we are going to have to because we are going to have people from all over this country yelling and screaming about somebody getting into their pockets.

I urge my colleagues to consider the amendment I have offered when they get to conference committee. I am certain they are going to make a conference committee or I hope they have a conference. There are still problems in every single section, and maybe they can solve some of them.

The way we do it now is we lay down a bill and say: This is the way it is going to be. If you want to make a little tweak, OK, but don't count on making any major changes.

When Senator Kennedy and I worked on bills, we went through the committee process, and we looked at every amendment that came in, recognizing there was this seed of an idea there that maybe needed to be included in the bill. The whole thing might not work, but there ought to at least be a seed there because somebody thought of a way the bill ought to be improved.

We have eliminated that this year. Now we are going to take it to the floor, and if you want to try to make an amendment, you can. But remember, we have the majority of the votes, and we will put a 60-vote threshold on it, which means neither side will be able to do many amendments, and that has been shown here. Immediately, we will complain about how much time has been taken to debate this bill. Let me tell you, a whole lot more time should have been taken to debate this bill, and more amendments should have been looked at with this bill. We might have made a unanimous consent that they all had to be relevant, but we should have considered the relevant ones and not gone off into different areas.

A lot of people are complaining about this. They have looked at their part of the bill, and they know it is going to damage their business. That is why there was the amendment to fix things for the auto dealers. That is just one small part of people who do things on a series of payments. An orthodontist talked to us, and they do dental work over a period of time and take payments. I don't know if that will be possible anymore. We are not going to exempt anybody; we are not going to exempt any individual. They are all going to be required to pony up and show what they have, no matter how personal their finances are to them.

I ask my colleagues and all Americans to think about what this amendment and underlying bill will do to their privacy. To my colleagues especially, your constituents will not stand for this invasion of privacy or these sham attempts at privacy. Do them a favor: let them make their own choices about who can get in their bank accounts and who can't.

I don't very often get upset. But I am upset. I think I am just a reflection of the average person out there—the average person who might have looked through a little bit of this, and they can do that on the computer now—and they expect us to read it, and I expect a lot of people have not read title X. If they did, I think they would be just as upset as I am—all 268 pages of it. A brandnew bureau, new bureaucracy, total autonomy, funded by the Federal Reserve, as I mentioned—12 percent of their operating revenues. Does anybody know how much that is? Again, they do that so it is off budget. The Federal Reserve will not have any control over this outfit. It is just under there for the purpose of the money.

Here is another thing that fascinates me. If they have revenue left over at the end of the year, they get to invest it. It doesn't say we can look and see how much they have and how much they are investing and how much autonomy they have because of the money they banked. It doesn't say that if they have excess money one year, the amount they will get will be less the next year. No, they are guaranteed 12 percent the next year, plus inflation. I don't know how we write bills like that.

They have the exclusive enforcement authority. They can coordinate examinations with other regulators, but they are the primary enforcement authority, not anybody who might have some oversight. They are the primary authority, and you will find that on page 1103 of the hard copy.

Let's see. At first, when you are reading this section, you think this is just going to cover banks that have over \$10 billion. That is page 1101. Then you think, I don't have very many banks over \$10 billion, and I am for small business anyway. So my community banks and credit unions are going to be OK. Then you get to page 1110, which says the rules cover everybody under \$10 billion. Let's see. If it covers everybody over \$10 billion and everybody under \$10 billion, with my math, that is everybody. Everybody is going to be controlled by this new consumer protection bureau. It really ought to be called a consumer control bureau.

Well, let's move to page 1139, the mortgage loan disclosure document. You are going to get another disclosure document now when you buy a house. We get to oversee the director, but that is the last oversight we get. He gets to hire anybody he wants. Then he gets—

if he gets around to it—to write rules and regulations and make up a new mortgage loan disclosure document. You don't have any obligation to maintain personal records—1141. They are going to look at them, and you are going to want to answer when they do that.

Page 1145 is going to provide a private education loan ombudsman. Normally, that sounds good. This would be somebody who straightens things out, I guess, with your loan operator or maybe even with the consumer protection bureau that will have all this control over you. Page 1146 says the ombudsman evaluates his own effectiveness annually. How zealous is he going to be?

I have a whole list of things here I won't go into. My time is up. I should have asked for my whole hour under postclosure. Look at this bill, and you will be just as upset as I am.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I rise to talk about a bipartisan amendment I have spent many weeks working on with Senator BROWN of Massachusetts. It is an amendment dealing with a very crucial issue—a major gap in our system of financial regulation. It has been approved by Senator SHELBY, the distinguished ranking Republican, and also by Senator DODD. In fact, I think it is fair to say that if we can get a vote on it tonight, it would have enormous bipartisan support in the Senate.

I am concerned that we won't get a vote on amendment No. 3982, and as a result it is very likely this bill will pass.

After all the problems the country has seen with these large banks and large financial institutions, it still will be possible for a bank to sell a product to an institution or a consumer, bet against that product, and it will not be disclosed to the buyer. That is not right.

What Senator BROWN and I have been able to do, working with Senator SHELBY's very capable staff and Senator DODD's very capable staff, is we have been able to put together a bipartisan amendment—the new Senator from Massachusetts and myself—that would close this loophole, that would ensure there is at least simple, garden-variety, basic disclosure so that someone purchasing one of these financial products would know that the seller is actually betting against the product that is being sold to the consumer.

If I were to sell you a financial product and without your knowledge placed a separate bet that the product would decline in value, there is no question in my mind that the distinguished Presiding Officer, the Senator from Illinois, would feel wronged by that transaction and everyone would say: Rightly so. If I stood to gain by convincing my

clients to buy something that I knew would fail, they would have every reason to feel betrayed, to feel swindled, to feel they had been had.

The fact is, some of these major financial institutions invented and sold incredibly complicated financial products that they actually were hoping would fail, and they hid their positions behind a wall of omission and complexity.

I think it would surprise most Americans to learn that somehow this kind of mischievous—actually devious—business behavior was actually legal. The tragedy, of course, is it may be legal but it is certainly not right.

At present, under current law and if this bill clears the Senate tonight in its current form, the major financial institutions, these Wall Street banks, would not be required to disclose an absolutely essential piece of information to a client, what, in my view, would be a material conflict of interest.

From everything I have heard, the folks on Wall Street see these transactions in which a bank constructs and invests in a financial product that is designed to fail and then markets this product to those with an interest in its success as an honest transaction. Boy, I do not know of anybody at home in Oregon who sees something like this as honest or, in light of the recent hearings, fabulous.

Senator BROWN of Massachusetts and I said: We are going to get together on a bipartisan basis and do something about it. We put together an amendment, which I wish to point out to colleagues tonight is acceptable to Senator SHELBY, is acceptable to Chairman DODD. We are getting ready to vote on an amendment where we have bipartisan Senate sponsorship, we have the very constructive and very valuable input of Senator SHELBY's staff, and we have Chairman DODD's involvement. If we got it before a vote, we would have an overwhelming, bipartisan vote for a simple proposition that everybody can understand on the streets of Illinois, Oregon, or anywhere else, and that is, you ought to disclose when, in fact, you are selling a product that you are betting against.

The disclosure of conflicts amendment I am describing, coauthored by Senator BROWN of Massachusetts, would direct the new financial stability oversight council, which is established in the underlying bill, to put forward rules requiring banks to disclose to their clients whether they have a material conflict of interest with respect to a financial product they are selling. It comes down to a simple proposition: If these firms are willing to create and sell these products, they ought to stand behind them and be honest with their clients. It is a very short amendment.

On Main Street, all across the country, everybody would understand what

the bipartisan amendment that Senator BROWN and I are offering—disclosure. We are not saying we are going to ban all of these sales. Colleagues made a very compelling case, by the way, on going further than we do. But certainly there ought to be disclosure. We want to bring greater honesty and transparency to the relationship between buyers and sellers of complicated financial products.

It is fair to say—and I surely consider myself a market-oriented Democrat. That is what I tried to do on health care and what I continued to try to do in a bipartisan proposal with Senator GREGG to fix our tax system—you cannot have functioning markets without honesty and transparency. Without it, we end up with a game that is rigged against the typical American investor and taxpayer.

I also wish to express my appreciation to my new colleague from Massachusetts for working with me to advance this simple and straightforward proposition. As I stated, I am very appreciative of Chairman DODD and Senator SHELBY and their counsel with respect to our bipartisan idea.

I also want to make it clear that I do not see a problem with financial firms taking steps to manage their risks. In fact, I encourage it. If firms had done so in the early part of this decade, our economy might not have suffered in the meltdown we have seen in financial services.

My concern—and I see the chairman of the full committee, Senator DODD, in the Chamber—my concern from the very beginning, as Chairman DODD has done his very good work on this legislation, is the opaque nature of these transactions. The fact is, it is so hard for the American people and the purchaser to understand what these transactions are all about, and certainly they ought to be given information when the person selling it is taking a very different financial position than the person who is buying.

We ought to turn this curtain back on the current financial model and show it to the rest of the country. Let's pull the curtain back on the Wall Street business model and show it to the rest of the country.

I have wracked my brain to try and find another industry that would bet against their own product while selling it to the American people. Does the person selling me a toy for the Wyden twins stand to make additional money if the toy breaks? Obviously not.

Mr. President, I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator still has 30 seconds left on his original time.

Mr. WYDEN. Mr. President, it is obvious that in no other part of the American economy do we have people betting against their own product

while selling it to the American people. You do not see Apple creating the iPod in the hope that sales will be far below expectations and then going out and betting some of its own money on the failure. No industry—none—thinks of betting against their own product while selling it to the American people. I do not even think that owners of racehorses bet against their own ponies.

The kind of disclosure that Senator BROWN and I have called for is fundamental for investment confidence in the integrity of the U.S. financial system. If financial firms can market products they are betting will fail without disclosing that to their clients, the conditions that caused the current financial crisis, in my view, will be recreated with Wall Street firms packaging up toxic assets and marketing them as securities to unsuspecting buyers. "Buyer beware" will again become "taxpayer beware." That should not be acceptable to any Senator.

I know colleagues are waiting to speak. I repeat, amendment No. 3982, authored by Senator BROWN of Massachusetts and myself, will fill a loophole in this bill that is going to be passed tonight that, in my view, is a glaring omission that does not meet the test of the consumer protection the American people deserve.

This bill is clearing the Senate tonight without even minimal consumer protection, without even disclosure of financial institutions betting against products they are going to sell. That is not right. I hope we will return to this subject as soon as possible.

I see Chairman DODD on the floor. I thank him for the time he has given me in the course of this legislation. I commend him for all his efforts on this bill.

I also thank Senator SHELBY and his very able staff director, Mr. Duhnke, whom we know from our Intelligence work, for their support in putting together this amendment. I surely hope it will come out of conference because the American people deserve this kind of consumer protection and this kind of disclosure.

I yield the floor.

#### EXEMPTIONS

Mr. DODD. Mr. President, it is my understanding that one of the reasons for providing the Federal Reserve Board, and, eventually, the bureau, with authority to provide exemptions under paragraph (7) of this new section 129(l) of the Truth in Lending Act, is to allow the regulator to make adjustments to the points and fees cap with respect to smaller loans. I further understand that it is not the intent of the new section 129(l) to cover a streamline refinancing as provided by government programs such as FHA, and that the Board/bureau will establish appropriate guidelines for exemption. Is this view correct?

Ms. SNOWE. Mr. President, I want to associate myself with the words of Chairman DODD. There are a number of lenders in Maine that make smaller size loans. Because the points and fees cap in the Merkley-Klobuchar amendment, which I supported, is based on a percentage of the principal amount of the loan, the points and fees cap established in the amendment may limit the ability of some lenders to make smaller-size loans. As a result, like Senator DODD, I assume that it is the Senator's intention that the regulator use the authority to make adjustments to the standards in the case of these smaller loans. Is this correct?

Mr. MERKLEY. Mr. President, the points made by my colleagues from Maine and Connecticut are correct. The purpose of the amendment is to ensure that consumers are sold loans that they are able to repay. The authority granted to the agency to prescribe rules establishing other criteria—and to "revise, add to, or subtract from" the existing criteria—relating to the presumption of compliance is intended to allow the agency to craft criteria that would permit lenders who extend low-dollar loans to meet the presumption of compliance, while promoting fair pricing and sustainable lending. This is particularly important in rural areas and other areas where home values are lower.

Mr. President, the gentleman is also correct in regard to streamline refinancing under rules of the FHA, the VA, and other government agencies. It is intended that the Federal Reserve Board, or the bureau, will exempt such loans under the exemption authority of paragraph (7)(A).

Mr. DODD. I thank the Senator very much. I agree with the Senator.

Mr. KOHL. Mr. President, I understand that it is not the intent of paragraph (6)(C) of this new section 129(l) of the Truth in Lending Act to include regular periodic mortgage insurance premiums that are paid after the closing date in meaning of "points and fees payable in connection with the loan."

Mr. MERKLEY. The gentleman is correct that we would expect the Federal Reserve Board, and, in time, the bureau, to exempt any mortgage insurance premiums that are required to be paid after closing that might otherwise be covered, consistent with the exemption authority under paragraph (7)(A). Post-closing mortgage insurance premiums are distinct from points and fees charged at the time the loan is obtained, and those post-closing premiums are not contemplated to be covered under this section.

Mr. KOHL. I thank the Senator very much. I agree with the Senator.

#### SC ACCREDITED INVESTORS

Mr. BEGICH. Would the distinguished chairman of the Banking Committee yield for a question on provisions of the bill relating to SEC rules on "accredited investors."

Mr. DODD. I would be happy to yield for a question.

Mr. BEGICH. Section 412 of the legislation requires the Securities and Exchange Commission to conduct a rulemaking to implement changes to the definition of “accredited investor” in regulation D, and other sections of the legislation will require the SEC to conduct other rulemaking to implement the new law. It is my understanding, and I believe the understanding of my colleague from Alaska, that the SEC has authority under existing law to amend the definitions of “accredited investor” in Regulation D and related SEC rules and “qualified institutional buyer” in rule 144A under the Securities Act of 1933, to expressly include Federal, State and local government bodies within those definitions. In fact, the SEC proposed to do so in 2007 but has not completed that rulemaking. Does the Senator from Connecticut concur that the SEC already has the authority to amend these definitions?

Mr. DODD. The Senator from Alaska is correct. The SEC certainly has existing authority to add State and local governments to the definitions of “accredited investor” and “qualified institutional buyer” under its Securities Act rules.

Ms. MURKOWSKI. Would the Senator from Connecticut yield for another question?

Mr. DODD. I would be happy to yield for a question.

Ms. MURKOWSKI. Our State—the great State of Alaska—believes that it would be appropriate and in the public interest and, in the interests of State and local governments across the Nation, for the SEC to add governmental entities to the definitions of “accredited investor” and “qualified institutional buyer” when it promulgates rules pursuant to this legislation. The reasons for including governmental entities in these definitions are as sound today as they were 3 years ago. In particular, governments are large and sophisticated investors with professional treasury management staffs that manage large amounts of the government's own money and seek to invest in bonds and other securities investments in order to prudently diversify their investment portfolios and obtain a favorable return. Many of the most attractive investments are offered only in private placements to institutional investors conducted under regulation D or rule 144A. Without access to these investments, the government earns a lower return and has less diversification in its investments than would be optimal. Does the chairman agree with us that when the SEC promulgates its rules under this legislation, it should address, while taking care to ensure appropriate minimum asset protections are in place, the inclusion of State and local governments in the definitions of accredited investor and qualified institutional buyer?

Mr. DODD. I believe it would be appropriate for the SEC to take the opportunity presented by the rulemakings under this legislation, to consider whether to include State and local government bodies within those definitions.

#### CREDIT SALES

Ms. SNOWE. During the Senate's consideration of this legislation, I authored an amendment approved by voice vote to confirm that small business merchants and retailers would not be subject to regulation by the Consumer Financial Protection Bureau, CFPB, when they engage in credit sales. This amendment was supported by a number of key small business stakeholders, including the National Federation of Independent Business, IBNF, and the U.S. Chamber of Commerce. The amendment included a three-prong test that excludes such entities from the CFPB when they (1) only extend credit for the sale of non-financial goods and services; (2) retain the credit they have extended on their books; and (3) meet the relevant industry size threshold to be a small business, based on annual receipts, pursuant to the Small Business Act. It is my understanding that wholesale merchants and distributors and manufacturers would not generally need to avail themselves of that exclusion because their sales of nonfinancial goods and any related financing they may provide, are not to consumers in the first instance. Is this view correct?

Mr. DODD. I believe point of the Senator from Maine is well taken. Wholesalers and manufacturers do not provide any products to consumers for their personal, family, or household use, let alone consumer financial products or services. Thus, wholesalers' and manufacturers' sales of nonfinancial goods to other businesses would be outside the bureau's jurisdiction.

Mr. LEVIN. Mr. President, I would support the Feinstein amendment No. 4113 to close the London loophole. Senator FEINSTEIN and I and other colleagues have been working together for years to put a cop back on the beat in U.S. commodity markets, and it is a pleasure to be here today at the verge of Senate approval of a bill that has so many strong disclosure and regulatory provisions for commodity markets. The prices paid for energy commodities like oil, natural gas, jet fuel, diesel fuel, not to mention food commodities like wheat, corn and soybeans have a profound impact on our economy, our markets, and our way of life. They matter to consumers, business, and governments. For too long, our commodity markets have been out of control, with undisclosed trades in unregulated markets, wildly gyrating prices unconnected to market forces, and unconscionable profits for commodity traders operating outside the real economy. This bill will go a long way to-

ward rectifying those problems, and I commend Senators DODD, REED, LINCOLN, and so many others for their hard work.

The amendment introduced by Senator FEINSTEIN focuses on an area that has long concerned me and other observers of the commodity markets—the way that commodity traders living right here in the United States are using terminals located here to trade U.S. produced goods on foreign markets outside of U.S. regulatory control. I am talking, for example, about U.S. West Texas Intermediate crude oil traded on the ICE exchange in London. That oil is produced and used right here—it never leaves our shores—but U.S. traders are trading its oil futures in London—in part to duck U.S. position limits and other regulatory controls. Other countries are trying to set up similar exchanges and win permission for U.S. traders to trade on their foreign exchanges, affecting U.S. commodity prices, without those commodity traders ever leaving our soil.

The bill as currently drafted takes a number of steps to get foreign boards of trade to enforce the same rules for U.S. commodities that we have here at home. But the bill fails to take one critical step that is essential to U.S. enforcement authority—it doesn't require foreign boards of trade to formally register with the Commodity Futures Trading Commission or CFTC, our watchdog agency for commodity markets, in order to obtain approval for their trading terminals to be physically located here in the United States. Most of the CFTC's enforcement authority applies only to entities that are registered with the Commission. Right now, foreign boards of trade don't have to register here before installing trading terminals here. That constituted regulatory evasion and defies common sense.

I know my colleagues want a cop on the beat in all commodity markets where U.S. commodities are traded. And they want a cop that can enforce the law to prevent excessive speculation and market manipulation. That means we need to require foreign boards of trade seeking to locate trading terminals here in the United States to register with the CFTC. It is straightforward, it is simple, and it is essential. The CFTC has asked for this registration requirement, and I commend Senator FEINSTEIN for her determination to get this done. I urge my colleagues to vote for this amendment to ensure U.S. commodities are traded on fair and open commodity markets free of excessive speculation, manipulation, and deception.

Mr. FEINGOLD. Mr. President, there were two amendments I supported during debate on the financial reform bill that would take steps to improve our Nation's housing policy. Unfortunately, only one of these amendments

was adopted by the Senate. Senator MCCAIN offered an amendment, that I supported, that would have required the Federal Government to end its conservatorship of Fannie Mae and Freddie Mac 2 years after the financial reform bill was signed into law. While the amendment was not perfect, I supported it because neither the current structure of Fannie and Freddie nor the billions of taxpayer dollars that the Federal Government is using to prop up Fannie and Freddie are sustainable. Federal taxpayer support of Fannie and Freddie needs to end, and the McCain amendment would have provided a timetable for bringing that Federal support to an end.

I was pleased that the Senate did adopt an amendment I supported, offered by Senator MERKLEY, to curb predatory lending practices throughout the Nation. These unconscionable predatory lending practices contributed to the subprime housing mess, and the Merkley amendment included common-sense provisions to address some of these practices. Too often, loan originators received higher compensation if they steered borrowers into subprime loans than if they had placed those borrowers into qualifying prime loans. The Merkley amendment would address this perverse financial incentive to put borrowers into predatory loan products by preventing loan originators from receiving payments based on the terms of loans. The amendment, which also includes stronger underwriting standards, provides sensible protections to Wisconsin's borrowers.

Mr. KAUFMAN. Mr. President, I rise today, as I have many times this Congress, to talk about the role of fraud at the heart of the financial crisis.

I have previously discussed the urgent need for law enforcement to give high priority to the investigation and prosecution of financial fraud, and for Congress to provide law enforcement with the tools it needs to do so, including increased funding and stiffer sentences.

I was proud to work with Senator LEAHY last year on the Fraud Enforcement and Recovery Act. I was proud to work again with Senator LEAHY, as well as Senator BAUCUS, the leader, and many others to include key antifraud provisions in the health care legislation signed into law in March.

Last month, I, along with the other members of the Permanent Subcommittee on Investigations, my Senate colleagues, and Americans watching at home, were treated to a truly revelatory series of hearings chaired by Senator LEVIN.

Chairman LEVIN and his staff deserve high praise for their tenacity and diligence: Beginning in the fall of 2008 and culminating this spring, the chairman and his staff reviewed millions of pages of documents, conducted over 100 interviews, and consulted with dozens of experts.

Thanks to the Levin hearings, we now have a thorough accounting of what happened—and what went wrong.

Mortgage origination practices were rife with fraud, and bank management and bank regulators failed miserably in their oversight.

The practice of mortgage securitization allowed everyone in the financial industry to earn lucrative fees and commissions, even though banks knew that these securitized mortgages were filled with liar's loans and other fraudulent products that practically guaranteed their eventual collapse.

At all levels of the industry, compensation structures favored the riskiest loans and the most minimal oversight. As a result, underwriting standards were laughable. Banks didn't care that they were writing bad loans because they did not believe those loans would stay on their books.

The regulators and ratings agencies were totally captured by the banks, due in part to their absolute dependence on the banks for revenue. The Office of Thrift Supervision relied on Washington Mutual for 12–15 percent of its operating budget.

The credit ratings agencies gamed by investment banks, which had reverse engineered their models—bent over backwards to stamp AAA and other investment grade ratings on what was actually junk because they needed the fees.

Investment banks marketed synthetic CDOs, which they had permitted the “big shorts” to design so that they were most likely to fail, in some cases without disclosing that material information to their customers and despite their own inherent conflict of interest.

As long as the music played, there was plenty of money to go around. But when the music stopped, banks were bailed out and the American taxpayers were left without a chair.

Fixing the system requires an all out effort by the bank regulators, the FBI, the SEC, and the Justice Department. And Congress should not rest until in its oversight capacity we are convinced that a systemic, strategic and foundational approach to targeting and prosecuting fraud is well funded and well underway.

Bank regulators, especially, must execute a 180-degree cultural turn, assisting the FBI by providing roadmaps to the fraud that has occurred.

But we still need to do far more than just add more cops to the beat and ensure that they're looking in all the right places. We also need to realign incentives so that banks are encouraged to make sound loans, so that credit ratings agencies can dispense untainted evaluations of creditworthiness, and so regulators aren't beholden to those they regulate.

That is why I am proud to support Senator LEVIN's package of amend-

ments. Each of the eight proposals in the package grows directly out of lessons learned through the Levin hearings.

The Levin-Kaufman package will restore regulatory independence by instituting a cooling off period for regulators—putting a stop to the revolving door between industry and regulator. The amendment will also guarantee that the FDIC as secondary regulator can never again be shut out of an examination by the primary regulator.

To realign bankers' incentives, the Levin-Kaufman package will require that anybody who securitizes a pool of loans must maintain at least a 5-percent stake in a representative sampling of those securities. Other risky lending practices would be banned outright, such as synthetic asset-backed securities, which have no purpose other than speculation.

Finally, the package will improve oversight and operation of the credit ratings agencies by prohibiting them from relying on faulty due diligence and by permitting the SEC to monitor and regulate the methodologies that the ratings agencies employ.

The Levin hearings also set in stark relief the untenable conflicts that rest at the heart of our financial system.

The Levin hearings focused on the residential housing market. But conflicts of interest permeate almost every corner of our capital markets, whether in the context of asset backed securities, or proprietary trading, or a broker selling private order flow into a private dark pool, or the prioritization of trades by a broker ahead of its clients.

We simply cannot leave it to the banks and the brokers to manage conflicts of interest in any way they see fit. If we can learn one thing from the financial crisis, surely, it is that.

Under current law, broker-dealers are not required to disclose conflicts of interest to their clients. They are not required to resolve conflicts in favor of their clients. They are not required to act in the best interests of their clients.

In fact, they are permitted to knowingly fleece their clients, provided the client is “sophisticated” enough and provided the broker has disclosed the requisite information about the product.

This must change. We can't expect a full economic recovery without restoring the public's trust in markets. This is why I support, and have cosponsored, two amendments that would impose a fiduciary duty on the part of broker-dealers to their customers, one sponsored by Senator SPECTER and the other by Senator AKAKA.

Imposing such a duty would protect investors and improve the level of integrity in our capital markets. No longer would brokers like Goldman

Sachs be able to withhold critical information about its conduct from clients and conceal fraud under the cover of caveat emptor.

Just as important, it would help address the widespread and understandable mistrust of the securitization process, which in turn makes capital more expensive and hinders recovery.

I also support Senator SPECTER's aiding and abetting amendment, which would reinstate an important deterrent to the sorts of fraud that contributed to our current financial crisis.

On March 15, 2010, I came to the Senate floor to discuss the Bankruptcy Examiner's report on Lehman Brothers and said—as many of us have suspected all along—that there was fraud at the heart of the financial crisis.

Lehman Brothers could not have accomplished this apparent fraud—the use of so-called Repo 105 transactions to “window dress” its balance sheet and mislead investors—without the help of its accounting firm.

And that is true of many sophisticated fraud schemes, where the advice or analysis of third parties enables or facilitates the fraud.

Those third parties were answerable to their victims in court, and therefore faced a real deterrent, at least until 1994. That year, in *Central Bank of Denver v. First Interstate Bank of Denver*, a divided Supreme Court rejected years of settled precedent and limited Federal law in this area to so-called “primary violators.” The Central Bank decision, like many others since, reflected the Court's probusiness bias. It also left the SEC alone to bring civil suits against aiders and abettors, and too often left victims holding the bag.

Regulators will fail. When they do, however, we must depend on professionals such as accountants and lawyers to acquit their roles as gatekeepers against accounting fraud, not to materially aid that fraud. One way to make sure they learn their lesson this time around is to reinstitute the ability of victims to seek compensation from these fraud facilitators.

Senator SPECTER and I have worked hard to make sure that this amendment is narrowly drawn, ensuring that only truly culpable third parties are subject to liability.

The amendment allows suits only against those who have actual knowledge that their conduct is assisting another person to violate the Federal securities laws.

Until those who facilitate the fraud of others understand that they will be held accountable, whether criminally or civilly, we can't hope to change their behavior.

Finally, I want to mention a bipartisan package of antifraud measures that I have worked on with Chairman LEAHY and Senators GRASSLEY and SPECTER.

These measures will deter schemes that damage the economy and hurt

hard-working Americans by increasing sentences for securities fraud and bank fraud. They will give prosecutors new tools to investigate and prosecute fraud cases and will foster vital cooperation between regulators and prosecutors. And they will extend important whistleblower protections.

Whistleblowers provide a vital early warning system to detect and expose fraud in the financial system. With the right protections, whistleblowers can help root out the kinds of massive Wall Street fraud that contributed to the current financial crisis.

As I have said before, this is ultimately a test of whether we have one justice system in this country or two. For our citizens to have faith in the rule of law, we must treat fraud on Wall Street like we treat fraud on Main Street. And for our economy to work for all Americans, investors must have faith in the honest and open functioning of our financial markets.

The amendments I have discussed today will promote both the rule of law and faith in the markets two cornerstones of our democracy.

I urge my colleagues to support these amendments.

Mr. President, today I will support the Wall Street Reform Act.

I applaud Chairman CHRIS DODD and my colleagues for having crafted a bill that includes many provisions that I support, in particular the establishment of a consumer finance protection division and urgently needed reforms of the over-the-counter derivatives markets. These are legislative achievements that will significantly improve our financial system. I am also pleased that the bill bans stated income loans, which were a major source of fraud at the root of the crisis. I will be watching carefully to ensure the bill is not weakened in conference.

I remain deeply concerned, however, that when it comes to the stability and health of the U.S. financial markets and its institutions, much unfinished business remains. We must never rest in our efforts to prevent another financial crisis like that which occurred in 2007–08, which shattered the American economy and deeply harmed the lives of millions of our fellow Americans. Indeed, much work remains to be done so that we can restore the credibility of our financial markets and the rule of law on Wall Street, both of which are badly in need of repair.

Some of my concerns are rooted in shortcomings of the bill; others neither fell within the scope of the bill's ambitions nor were a part of the Senate debate; and still others fall legitimately on the shoulders of our regulatory and law enforcement agencies.

As for the bill, for the past 4 months I have addressed at length what I believe to be the central issue to preventing future financial crises: Passing laws that will stand for generations to

ensure financial stability by separating speculative risky activities from the government-guaranteed portion of our financial industry, as well as by mandating limits on the size and leverage of our shadow banks.

Instead, the bill reshuffles existing regulatory powers that banking regulators already possessed—and failed to exercise in ways that would have prevented the financial crisis. It relies on regulatory discretion to decide limits on the size, leverage and activities of dangerously concentrated financial institutions. Rather than statutorily limit the size and risk of megabanks through limits on unstable nondeposit liabilities, rather than statutorily impose specific and higher leverage requirements on our largest banks, the bill simply hands the responsibility for regulating “too big to fail” banks back to the regulators. Moreover, it vests the hopes of the American taxpayers—who should never again be forced to step into the breach in a banking crisis—in a resolution authority limited by U.S. law, which I fear cannot possibly work to resolve large global institutions. I remain deeply concerned that it does not represent lasting and effective reform of our largest financial institutions, which I have said repeatedly have become too big to manage, too big to regulate and too big to fail.

In the next few years, chastened U.S. regulators may try their best to insist that U.S. megabanks not gorge themselves again on highly leveraged risky investments. But one need only look to Europe today to understand that, without additional preventive measures, bailouts lie in our future, too.

I predict Congress will one day revisit these issues, unfortunately in the wake of a future crisis in which average Americans again will be forced to come to Wall Street's rescue to fend off a possible depression. When that day arrives, Congress I expect will pass needed structural reforms, including a version of the Brown-Kaufman amendment preemptively to address the problem of dangerous financial concentration—and also a restoration of the Glass-Steagall separation of commercial and investment banking activities, the repeal of which in 1999 was one of this country's costliest mistakes.

There are other issues that this debate never addressed.

Naked Short Selling—We still have not restored the uptick rule, which worked for 70 years as a systemic check on predatory bear raids. We still have an unenforceable rule that fails to prevent naked short selling of stocks. I remain concerned that until we impose a pre-trade “hard locate” requirement, bank stocks in particular will remain vulnerable to predatory bear raids.

Market Structure issues—High frequency trading has echoes of the derivatives market: I have said repeatedly that whenever you have a lot of

money pouring into a financial activity, markets that are changing dramatically, no transparency in those dark markets, and therefore no effective regulation, that is a prescription for disaster. That was the case in the over-the-counter derivatives market. And I believe the so-called flash crash of May 6 in our stock market revealed the fault lines that have long concerned me about the structure of our equity markets and how it has come to be dominated by high frequency traders. Congress cannot simply look backward at the last financial crisis; Congress and regulators alike must instead try also to look over the horizon and identify systemic risks before they occur.

As I wrote to the SEC on August 21, 2009, "The current market structure appears to be a consequence of regulatory structures designed to increase efficiency and thereby provide the greatest benefits to the highest volume traders. The implications of the current system for buy-and-hold investors have not been the subject of a thorough analysis." Nine months later, our stock markets failed for 20 minutes to meet their essential function: discover the prices of securities by balancing buyers and sellers. Two weeks later, the SEC and CFTC still cannot say why, but the answer is no doubt wrapped up in the fact that in the past few years technology developments have moved us rapidly from an investor's to a trader's market. Our fragmented market of more than 50 market centers have become dominated by black-box algorithmic and high-frequency traders, and they are too opaque for our regulators to understand or to police.

Fannie Mae and Freddie Mac—My Republican colleagues are correct in pointing out that we must deal with the problems of Fannie Mae and Freddie Mac, which continue to siphon off billions in taxpayer funds. It is wrong and irresponsible to offer rash and unwise solutions, however. Almost all mortgage originations currently receive government support, whether from Fannie Mae or Freddie Mac or from the FHA. Lest there be any confusion, without this government backstop, our housing system and economy could have collapsed. Solving these problems and developing a new mortgage finance system will take a great deal of thoughtful consideration, and I urge the Congress to begin this important work.

Finally, and perhaps of most concern, we simply must concentrate the needed resources and effort that will return the rule of law to Wall Street. The hearings of the Permanent Subcommittee on Investigations, chaired by Senator CARL LEVIN and in which I was proud to participate, revealed that the U.S. real estate boom was fueled in part by pervasive fraud within the

mortgage-securitization-derivatives complex effectively at the heart of Wall Street. Congress in its oversight capacity must ensure that bank regulators, the Federal Bureau of Investigation, the Securities and Exchange Commission and the Justice Department are working together in a foundational, strategic, and coordinated fashion to ensure that every last perpetrator of fraud—from the smallest mortgage broker to the senior-most executives of our most powerful Wall Street institutions—is thoroughly investigated and, where appropriate, brought to justice.

Mr. KERRY. Mr. President, in order to protect the economic health of our Nation and the security of the financial system on which it depends, I will support the financial reform legislation before the Senate today. I want to thank Majority Leader REID and Senate Banking Committee Chairman DODD for their efforts to bring to the floor legislation that is so critical to our Nation's prosperity.

Over the past decade, the greed on Wall Street has destroyed millions of jobs and wiped out the life savings of too many Americans. That greed turned our Nation's financial markets into a casino where fairness and full disclosure were lost in complexity of riskier and more lucrative new financial products. Unfortunately, even those running the casino didn't understand the dangerous hand they were dealing to unsuspecting consumers.

As a result, American taxpayers had to bail out the big financial companies that made the mess. It didn't seem fair and nobody liked it, except those getting the bail out. But it had to be done in order to stop the economy from going over the cliff not just ours but the whole global economy.

It all started in 2008 with the Federal Government stepping in to prevent financial institutions, investment banks, mortgage providers, and insurance companies from going under. Even though these steps were necessary, they certainly reinforced the view of many Americans that bad behavior was being rewarded with taxpayer bailouts.

The experience made it clear that Congress needs to update our outdated financial regulatory scheme and reestablish transparency, fairness and long-term stability to our financial system.

We have an obligation to restore responsibility and accountability to our financial system to insure this never happens again. We have got no choice. Strong medicine is needed to avoid a future economic catastrophe.

I believe this critical legislation will reign in Wall Street, create jobs on Main Street, and protect consumers from fraud and abuse. It also will help restore confidence in our capital markets and our financial institutions.

We have to make sure that taxpayers never again pick up this tab. And this bill does just that.

Under this legislation, firms that are supposedly "too big to fail" can be shut down and liquidated before their systemic failure endangers our financial markets. No more taxpayer bailouts that increase our Federal debt.

The Financial Reform Act creates the Federal Stability Oversight Council to identify and address systemic risks posed by large, complex companies, products, and activities before they threaten the stability of the economy. It also imposes new capital and leverage requirements that make it more difficult for financial companies to become "too big to fail". It will require such companies to periodically submit so called "funeral plans" for their rapid and orderly shutdown should they fail. And those who fail to submit acceptable plans will be subject to higher capital requirements as well as restrictions on growth and activity.

A critical part of this legislation deals with the costs of future bank failures. There is no rationale for banks to continue gambling with taxpayer-backed funds in the stock market or anywhere else. I am pleased the bill includes a recommendation from the Obama administration, called "the Volcker rule" after the former Federal Reserve Bank Chair and current National Economic Recovery Advisory Board Chairman, Paul Volcker. The Volcker rule will stop financial institutions from using their assets to invest in the stock market or engage in privately owned trading operations, unrelated to serving customers for its own profit. Banks can once again focus on lending, especially to small businesses, which is why they receive special access to the Federal Reserve in the first place.

Some of the things that have happened on Wall Street are unbelievable. For example, the Securities and Exchange Commission alleges that that Goldman Sachs worked with a third party, Paulsen and Company, to select pools of subprime mortgages sold the securities to investors without telling them they were designed to fail. Then both Goldman Sachs and Paulsen bet against those securities. How can that be fair?

Over the past decade, irresponsible lending, irresponsible borrowing and a lack of basic oversight and effective regulation put millions of families in homes they could not afford. Too many Americans took unreasonable risks to buy a home when markets were booming. Too many financial institutions lowered their lending standards but didn't plan appropriately for increased risk. At the same time, some borrowers inflated their incomes and misrepresented themselves in order to buy expensive homes that they could not afford.

The damage has been staggering. Millions of homeowners are facing foreclosure. The loans financing these



homes are now frozen on the balance sheets of banks and other financial institutions, preventing them from providing new loans. Today we are living with the consequences: an economy teetering on the edge.

One of the most important provisions of this legislation sets up a new independent Consumer Financial Protection Bureau to protect consumers from unfair, deceptive and abusive financial products and practices. The goal of the new bureau is to insure that when families apply for a mortgage, a bank loan or other complicated financial products, they will also receive clear information that they need to make the best decision possible. With a watchdog in place, families will be less likely to enter into mortgages they don't understand or be a victim of unfair and deceptive loan practices. It will increase fairness and help reduce the casino atmosphere of too many financial products.

Another crucial ingredient in today's crisis is the use of complex financial derivatives. Warren Buffett has called them "financial weapons of mass destruction, carrying dangers that, while now latent, are potentially lethal."

These complex financial maneuvers hidden from the view of most Americans have quietly become a crucial part of managing risk in our economy. In May, the Bank for International Settlements estimated that the total value of derivative contracts was approximately \$600 trillion. To put this speculation in context—that's 200 times larger than the Federal budget.

Derivatives are essentially bets on future economic behavior: financial contracts which can gain or lose value as the price of some underlying commodity, financial indicator or other variable changes. Unfortunately their rise to prominence in our economy was not matched with an increase in regulation or transparency.

The legislation gives the SEC and CFTC the authority to regulate over-the-counter derivatives to stop irresponsible practices and excessive risk-taking. It requires central clearing and exchange trading for derivatives that can be cleared. It requires margin for uncleared trades in order to offset the greater risk they pose to the financial system and encourage more trading to take place in transparent, regulated markets. It increases data collection and publication through clearing houses or swap repositories to improve market transparency and provide regulators important tools for monitoring and responding to risks.

When you add it all up, the financial crisis is a result of failures over the past generation to provide appropriate regulation and supervision of the financial services industry. During the Bush administration, however, what was effectively a trend toward deregulation turned into a stampede.

We have an obligation to prevent another stampede. We have an obligation to restore responsibility and accountability to our financial system. We have an obligation to make sure America's taxpayers are not left with the casino's bill.

So I urge my colleagues to support this financial reform legislation because it will protect the continued health of our economy. It will revamp our regulatory practices, fix the derivatives market, and provide liquidity for small businesses and families looking to buy a home. More importantly, it will rebuild the trust that the American people have lost in our financial system.

Mr. LEAHY. Mr. President, I strongly support the reform bill before us, S. 3217, the Restoring American Financial Stability Act of 2010.

I commend Banking Committee Chairman CHRISTOPHER DODD and Majority Leader HARRY REID for shepherding this significant piece of legislation through the Senate. Getting to this point was no small feat given the near-unanimous opposition to Wall Street reform that this effort has encountered from the other side of the aisle. But Senators DODD and REID persevered because they know that fixing our troubled financial system is absolutely, unequivocally in the best interests of our country and its citizens.

The recent financial crisis revealed several flaws in our current regulatory system. Many large Wall Street investment banks and insurance companies hid their shaky finances from stockholders and government regulators. Corporate executives saw their salaries rise to extreme heights, even as their companies were failing and seeking government assistance. Through it all, federal regulatory agencies failed to provide the necessary oversight to rein in reckless actions. If this crisis has taught us anything, it is that the look-the-other way, hands-off deregulatory policies that were in vogue in recent times can jeopardize not only private investments, but our entire economy.

The bill we are voting on today goes directly at the heart of the Wall Street excesses that brought our economy to the brink. For far too long Wall Street firms made risky bets in the dark and reaped enormous profits. Then, when their bets went sour, they turned to America's taxpayers to bail them out. This bill is about changing the culture of rampant Wall Street speculation and doing what needs to be done to get our economy back on track. We need more transparency and oversight of Wall Street, and this legislation finally will allow regulators to go after the fraud, manipulation, and excessive speculation on Wall Street.

As chairman of the Senate Judiciary Committee, I am particularly pleased that the bill includes provisions I authored to ensure law enforcement and

federal agencies have the necessary tools to investigate and uncover financial crimes; to protect whistleblowers who help uncover these crimes; and to introduce true transparency and sunshine into the complex operations of large financial institutions and the federal agencies that regulate them.

Another major step forward is the derivatives section of the bill, which was authored by the Agriculture Committee on which I serve. These reforms will finally bring the \$600 trillion derivatives market out of the dark and into the light of day, ending the days of backroom deals that put our entire economy at risk. The narrow end-user exemption in the bill will allow legitimate commercial interests, such as electric cooperatives and heating oil dealers, to continue hedging their business risks, but it will stop Wall Street traders from artificially driving up prices of heating oil, gasoline, diesel fuel and other commodities through unchecked speculation.

The bill also includes an amendment by Senator DICK DURBIN that I supported to protect our small businesses from complicated predatory rules that big credit card companies impose on Vermont grocers and convenience stores. The Durbin amendment will ensure that a small business will be able to advertise a discount for paying cash, or for using one card instead of another. I do not want Vermonters to pay more for a gallon of milk just because the credit card companies are demanding a high fee on small transactions and are not allowing the grocer to ask for cash instead of credit.

I am also pleased that the bill includes an amendment I cosponsored with Senator BERNIE SANDERS to shine more sunshine on the bailout transactions made by the Federal Reserve. Under the Sanders amendment, the Government Accountability Office will conduct a one-time audit of all of the emergency actions the Federal Reserve has taken since the financial crisis began, to determine whether there were any conflicts of interest surrounding the Federal Reserve's emergency activities. It is time we know more about the closed-door decisions made by the Federal Reserve throughout this financial crisis.

The Senate has before it today a bill that will reign in Wall Street abuses, end government bailouts, and give everyday Americans the consumer protection they deserve and expect. I believe that cleaning up these Wall Street abuses will help build confidence in our economy and continue our progress toward economic recovery.

Mr. AKAKA. Mr. President, I strongly support the Wall Street reform bill. The chairman of the Banking Committee, my friend from Connecticut, has done such tremendous work on this historic legislation. Senator DODD has

worked with me and other members to create a bill that will better educate, protect, and empower consumers and investors. I am extremely proud of this legislation and appreciate the willingness of the chairman to work to address so many issues important to working families.

Education is a primary component of financial literacy. In this bill, we create an Office of Financial Literacy within the Consumer Financial Protection Bureau. The Office will develop and implement initiatives to educate and empower consumers. A strategy to improve the financial literacy among consumers, that includes measurable goals and benchmarks, must be developed.

The Administrator of the bureau will serve as vice chairman of the Financial Literacy and Education Commission to ensure meaningful participation in Federal efforts intended to help educate, protect, and empower working families.

The legislation also requires a financial literacy study to be conducted by the Securities and Exchange Commission, SEC. The SEC will be required to develop an investor financial literacy strategy intended to bring about positive behavioral change among investors.

This legislation provides essential consumer and investor protections for working families. It establishes a regulatory structure that will have a greater emphasis on investor and consumer protections. Regulators failed to protect consumers and that contributed significantly to the financial crisis. Prospective homebuyers were steered into mortgage products that had risks and costs that they could not understand or afford. The Consumer Financial Protection Bureau will be empowered to restrict predatory financial products and unfair business practices in order to prevent unscrupulous financial services providers from taking advantage of consumers.

I take great pride in my contributions to the investor protection portion of the legislation. Section 914 will strengthen the ability of the SEC to better represent the interests of retail investors by creating an Investor Advocate within the SEC. The Investor Advocate is tasked with assisting retail investors to resolve significant problems with the SEC or the self-regulatory organizations, SROs. The Investor Advocate's mission includes identifying areas where investors would benefit from changes in Commission or SRO policies and problems that investors have with financial service providers and investment products. The Investor Advocate will recommend policy changes to the Commission and Congress on behalf of investors.

The SEC's existing Office of Investor Education and Advocacy provides a variety of services and tools to address

the problems and questions that confront investors. The Office posts information to warn people about scams, compiles complaints, and provides help for people seeking to recover funds.

The proposed Office of the Investor Advocate will be a very different office. The Investor Advocate is precisely the kind of external check, with independent reporting lines and independently determined compensation, that cannot be provided within the current structure of the SEC. It is not that the SEC does not advocate on behalf of investors, it is that it does not have a structure by which any meaningful self-evaluation can be conducted. This would be an entirely new function. The Investor Advocate would help to ensure that the interests of retail investors are built into rulemaking proposals from the outset and that agency priorities reflect the issues confronting investors. The Investor Advocate will act as the chief ombudsman for retail investors and increase transparency and accountability at the SEC. The Investor Advocate will be best equipped to act in response to feedback from investors and potentially avoid situations such as the mishandling of information that could have exposed Ponzi schemes much earlier.

Organizations in support of section 914 include the Consumer Federation of America, CFP Board of Standards, Inc., Consumer Action, Consumer Assistance Council, Consumers for Auto Reliability and Safety, Community Reinvestment Association of North Carolina, Financial Planning Association, Fund Democracy, International Brotherhood of Teamsters, Massachusetts Consumers' Council, National Association of Consumer Advocates, National Consumers League, New Jersey Citizen Action, North American Securities Administrators Association, Oregon Consumer League, Sargent Shriver Center on Poverty Law, and Virginia Citizens Consumer Council.

I also worked to include in the legislation clarified authority for the SEC to effectively require disclosures prior to the sale of financial products and services. Working families rely on their mutual fund investments and other financial products to pay for their children's education, prepare for retirement, and be better able to attain other financial goals. This provision will ensure that working families have the relevant and useful information they need when they are making decisions that determine their financial future.

This legislation also includes important protections for remittance transactions. Working families often send substantial portions of their earnings to family members living abroad. In Hawaii, many of my constituents remit money to their family members living in the Philippines. Consumers can have serious problems with their remittance

transactions, such as being overcharged or not having their money reach the intended recipient. Remittances are not currently regulated under Federal law, and State laws provide inadequate consumer protections.

The bill will modify the Electronic Fund Transfer Act to establish consumer protections. It will require simple disclosures about the cost of sending remittances to be provided to the consumer prior to and after the transaction. A complaint and error resolution process for remittance transactions would be established.

This legislation also includes essential economic empowerment opportunities for working families. Title XII is the most important economic empowerment provision in the bill. I appreciate the efforts of Senator KOHL in helping me put this title together. I appreciate the support and contributions made to this title provided Senators SCHUMER, BROWN, MERKLEY, and MENENDEZ. I appreciated the work done by Chairman DODD to include this amendment at the committee mark up.

I grew up in a family that did not have a bank account. My parents kept their money in a box divided into different sections so that money could be separated for various purposes. Church donations were kept in one part. Money for clothes was kept in another and there was a portion of the box reserved for food expenses. When there was no longer any money in the food section, we did not eat. Obviously, money in the box was not earning interest. It was not secure.

I know personally the challenges that are presented to families unable to save or borrow when they need small loans to pay for unexpected expenses. Unexpected medical expenses or a car repair bill may require small loans to help working families overcome these obstacles.

Mainstream financial institutions are a vital component to economic empowerment. Unbanked or underbanked families need access to credit unions and banks and they need to be able to borrow on affordable terms. Banks and credit unions provide alternatives to high-cost and often predatory fringe financial service providers such as check cashers and payday lenders. Unfortunately, approximately one in four families are unbanked or underbanked.

Many of the unbanked and underbanked are low- and moderate-income families that cannot afford to have their earnings diminished by reliance on these high-cost and often predatory financial services. Unbanked families are unable to save securely for education expenses, a down payment on a first home, or other future financial needs. Underbanked consumers rely on non-traditional forms of credit that often have extraordinarily high interest rates. Regular checking accounts may be too expensive for some consumers unable to maintain minimum

balances or afford monthly fees. Poor credit histories may also limit their ability to open accounts. Cultural differences or language barriers also present challenges that can hinder the ability of consumers to access financial services. I also want to clarify that in section 1204, small dollar-value loans and financial education and counseling relating to conducting transactions in and managing accounts are only examples of, and not limitations on, eligible activities.

More must be done to promote product development, outreach, and financial education opportunities intended to empower consumers. Title XII authorizes programs intended to assist low- and moderate-income individuals establish bank or credit union accounts and encourage greater use of mainstream financial services. It will also encourage the development of small, affordable loans as an alternative to more costly payday loans.

There is a great need for working families to have access to affordable small loans. This legislation would encourage banks and credit unions to develop consumer friendly payday loan alternatives. Consumers who apply for these loans would be provided with financial literacy and educational opportunities.

The National Credit Union Administration has provided assistance to develop these small consumer-friendly loans. Windward Community Credit Union in Hawaii implemented a very successful program for the U.S. Marines and other community members in need of affordable short term credit. More working families need access to affordable small loans. This program will encourage mainstream financial service providers to develop affordable small loan products.

I am proud of the work we have done on this legislation. However, there is one issue that still has not been resolved. There is one provision in the legislation that needs to be changed. Section 913, contains a study and rule-making regarding obligations of brokers, dealers, and investment advisers. This study is unnecessary. The section does not provide the authority needed by the Securities and Exchange Commission to effectively protect investors. The decisions that the heads of households make with their investment choices determine their future financial condition. Investment professionals that provide personalized advice can significantly influence investor decisions.

Imposing a fiduciary duty on brokers, when giving personalized investment advice is necessary because it will ensure that all financial professionals, whether they are an investment advisor or a broker, have the same duty to act in the best interests of their clients. Investors must be able to trust that their broker is acting in their best interest.

Unfortunately, too many investors do not know the difference between a broker and an investment advisor. Even fewer are likely to know that their broker has no obligation to act in their best interest. Investment advisors currently have fiduciary obligations. However, brokers must only meet a suitability standard that fails to sufficiently protect investors.

In a complicated financial marketplace, for investors in which revenue sharing agreements and commissions can vary significantly for similar products, we must ensure that all investment professionals that offer personalized investment advice have a fiduciary duty imposed on them.

In 2005, I first introduced legislation that would have imposed a fiduciary duty on brokers. I knew then that action was necessary. In the wake of the Permanent Subcommittee on Investigations hearing highlighting the activities of Goldman Sachs that appeared to put firm profits before the interest of their clients, this issue becomes even more important to include in the bill.

We must act to ensure that brokers have an obligation to do what is best for their clients and not allow brokers to push higher commission products that may be inappropriate for a particular client. The imposition of a fiduciary duty on brokers has extensive support.

There are brokers that are supportive of doing what is in the best interest of their clients. I greatly admire the recent bold statements made by Ms. Sallie Krawcheck, president of Bank of America Global Wealth and Investment Management. Ms. Krawcheck said that brokers should "do right by our clients by embracing our fiduciary responsibilities for them . . . embracing reform will enable us to champion what is indisputably right for clients."

There is widespread support for imposing a fiduciary duty on brokers. AARP, the Consumer Federation of America, the North American Securities Administrators Association, the National Association of Secretaries of State, the National Governors Association, Americans for Financial Reform, the Investment Advisers Association, the National Association of Personal Financial Advisers, the Council of Institutional Investors, and the Financial Planning Association are several examples of organizations that support this important investor protection.

There are not many that continue to oppose imposition of a fiduciary duty. Insurance agents and the insurance industry remain among the few that oppose this investor protection. Some within the industry have even chosen to misrepresent our efforts as ending the commission-based model. If they were to merely read the proposed legislative language, they would know that this is not true.

I thank my friend from New Jersey, Senator MENENDEZ, and his staff, for working with me on this issue. I also want to acknowledge all of the tremendous work done to advance this vital consumer protection by House Financial Services Chairman BARNEY FRANK. I will continue to work to ensure that that this obligation is included in the final version of the legislation that is enacted.

I also thank the Banking Committee staff for all of their extraordinary work, including Levon Bagramian, Julie Chon, Brian Filipowich, Amy Friend, Catherine Galicia, Lynsey Graham Rea, Matthew Green, Marc Jarsulic, Mark Jickling, Deborah Katz, Jonathan Miller, Misha Mintz-Roth, Dean Shahnian, Ed Silverman, and Charles Yi.

Also, I appreciate all of the work done by the legislative assistants of Members of the Committee, including Laura Swanson, Kara Stein, Jonah Crane, Ellen Chube, Michael Passante, Lee Drutman, Graham Steele, Alison O'Donnell, Hilary Swab, Harry Stein, Karolina Arias, Nathan Steinwald, Andy Green, Brian Appel, and Matt Pippin.

In conclusion, this bill will improve the lives of working families. I will continue to work to bring about enactment of this legislation that will educate, protect, and empower consumers and investors.

Mr. CHAMBLISS. Mr. President, I rise to express my disappointment at the posture of the massive legislative overhaul of our financial markets that appears set to pass this body.

I am disappointed at what this bill, as written, means for businesses on Main Street and for the livelihoods of Americans who had nothing to do with the financial meltdown.

I am also disheartened at how this body has made a bad bill even worse. For all the times the other side of the aisle has accused the minority of being obstructionists, for all the claims of partisanship, the process by which this bill has become the government power-grab it is today illustrates how the majority has served as its own "party of no".

After repeated efforts by Republicans in the past 18 months to reach a middle ground on necessary reforms for America's financial regulatory structure, reasonable compromises we presented were rejected at every turn.

And two years after the jolt of the economic crisis, and with no hope in sight for cooperation from the White House, a 1,400-page, one-sided piece of legislation was brought to the Senate floor.

Now with more than 400 amendments filed, and just 10 percent of those considered, this administration is again set to sign into law another mammoth piece of legislation—one with enormous and long-lasting repercussions

for this country—with little to no Republican input.

The consequences of actions we take here in the coming days will be drastic in their reach into American businesses of all sizes.

Make no mistake: This bill will not punish Wall Street. In fact, the CEOs of Wall Street firms are supportive of this bill as written.

After all, it is difficult to say this bill goes after Wall Street when the CEO of one of its largest financial institutions says “. . . the biggest beneficiaries of reform will be Wall Street itself.” Lloyd Blankfein, CEO, Goldman Sachs, Homeland Security & Government Affairs hearing, 4/27/10.

No, the real targets will be businesses across America, not just big firms on Wall Street but auto dealers in suburbs or appliance stores on small-town Main Streets. Everywhere a small business allows its customers to pay with lines of credit, the Federal Government will be there.

One of the biggest problems with this legislation is that it does not address one of the root causes of America's economic crisis: Fannie Mae and Freddie Mac.

These entities—effectively deemed by the White House and others as “too big to legislate”—continue to perpetuate a sickness on the American economy.

As structured, these “bailout behemoths” continue to rely on taxpayer money to maintain their fiscal imprudence—to the tune of \$145 billion. But nothing in this bill attempts to stop that drain on taxpayers' wallets.

Another glaring example of government intrusion in this bill is the creation of a Consumer Financial Protection Bureau empowered to collect any information it chooses from private businesses and consumers, including personal and financial information.

This new agency will have the authority to share that information with the very financial firms it is attempting to regulate. In other words, taxpayers will be paying for Wall Street's market research.

As for Title VII—the derivatives title—it is simply a debacle.

As ranking member of the Agriculture Committee, I have spent a great deal of time examining how derivatives have played a role in the market meltdown, and not surprisingly, we have found that there are a number of regulatory improvements we need to make relative to the oversight of swap market participants.

However the language we are considering today is, quite frankly, another power grab by the administration and the regulators for provisions in law that had absolutely nothing to do with the crisis we experienced in the market place 2 years ago.

This administration, along with the majority in this body, want to regulate Ford Motor Credit the same as they

regulate large banks such as JP MorganChase and Goldman Sachs. Guess who is going to end up paying the price for that change in regulation? My Georgia constituents who want to buy cars. They will be paying more in the form of interest because if this bill is enacted into law, Ford will be forced to pay more to hedge its interest-rate risk.

The majority wants to make it more difficult for clearinghouses to approve swaps for listing, which is senseless, as they also require mandated clearing.

The majority claims that by forcing more swaps into a clearinghouse it will lessen systemic risk. Why, then, are we making the clearinghouses jump through more hoops to clear these contracts?

As I understand it, the current system where clearinghouses have the discretion to list contracts for clearing have experienced no problems. And as we know, the clearinghouses certainly aren't responsible for the financial crisis.

The majority is also requiring major swap participants to hold more capital in reserve. I can understand the need for requiring those who hold large swaps positions to margin, or collateralize, their positions. But why are we also going to make them set aside capital? Again, we are treating them like banks and they are not banks.

If we make manufacturers set aside capital, it will only tie up money they would otherwise have available to hire workers, pay benefits and run their companies. With unemployment approaching 10 percent, we should not make it more difficult for employers to hire. We should not apply a banking model to market participants that are not banks.

As for market participants that need swaps to manage risk and have negotiated individualized arrangements where they pledge noncash collateral: How are they going to pledge collateral to a clearinghouse? Last time I checked, the Chicago Mercantile Exchange, CME, and International Continental Exchange, ICE, did not accept natural-gas leases as margin.

This bill will now require theses customers to post cash collateral to the clearinghouse, thereby tying up resources they would otherwise be investing in locating more natural gas or petroleum. This is not a very smart plan when we so desperately need to become less dependent on foreign sources of energy.

Rather than focusing on perfecting what actually could help lessen risk within the derivatives system, we have a clear case of what I believe the administration and some in this body see as an opportunity to regulate simply for the sake of regulating.

The financial crisis and its causes seem to have become afterthoughts.

The objective has shifted from regulating Wall Street to regulating manufacturers, energy producers, food producers, hospitals and anyone else who might seek to enter into a contract to manage their risk.

Meanwhile, consumers will pay the price. Why? Because the White House and the majority in Congress lost sight of the problem that should be fixed and seized the opportunity to insert government into every industry, financial and otherwise.

Mr. President, our side came to the table in good faith with ideas on necessary reforms to America's financial markets.

We presented our thoughts on how best to prevent another meltdown. We negotiated, we compromised, and we tried to work across the aisle toward a common goal.

Ultimately, these efforts were fruitless. The other side stonewalled, and our ideas were opposed.

Now this bill—which will have a similar economic impact as the health care bill, yet which has only been debated for a fraction of the time—will soon be law. And our economy and the livelihoods of Americans who work in large and small businesses will be worse for it.

I yield the floor.

Mr. McCAIN. Mr. President, it is with regret that I come to the floor to announce my opposition to this piece of legislation. I express regret not because this is somehow a good bill with a few flaws serious enough to warrant a no vote—I express regret because this bill is an abysmal failure and serves as yet another example of Congress' inability to tackle tough problems and institute real, meaningful and comprehensive reform.

In the past 2 years America has faced her greatest fiscal challenges since the Great Depression. When the financial markets collapsed it was the American taxpayer who came to the rescue of the banks and big Wall Street firms—but who has come to the rescue of the American taxpayer? Certainly not Congress. So what has Congress done? By enacting policies that can only be described as inexplicable generational theft—we've saddled future generations with literally trillions of dollars of debt. Since January of 2009 we have been on a spending binge the likes of which this nation has never seen. In that time our debt has grown by \$2 trillion. We passed a \$1.1 trillion “stimulus” bill. We spent \$83 billion to bail out the domestic auto industry. We passed a \$2.5 trillion health care bill. The President submitted a budget for next year totaling \$3.8 trillion. We now have a deficit of over \$1.4 trillion and a debt of over \$12.9 trillion. Unemployment remains at almost 10 percent. And, according to Forbes.com, a record 2.8 million American households were threatened with foreclosure last year,

and that number is expected to rise to well over 3 million homes this year. And how has the Senate responded to this crisis of staggering debt, catastrophic job loss and unimaginable foreclosure rates? Did the majority take on the special interests? Did they seize the opportunity to develop a bill that goes right to the heart of the problem and make serious, meaningful and comprehensive reforms? Nope. They punted. Out of pure political expediency, they shrugged their shoulders and kicked the can down the road and left the tough decisions for an unluckier group of Americans.

It is clear to any rational observer that the housing market has been the catalyst of our current economic turmoil. And it is impossible to ignore the significant role played by the government-sponsored enterprises—GSEs—Fannie Mae and Freddie Mac. The events of the past two years have made it clear that never again can we allow the taxpayer to be responsible for poorly-managed financial entities who gambled away billions of dollars. Fannie Mae and Freddie Mac are synonymous with mismanagement and waste and have become the face of ‘too big to fail’.

A May 6th editorial in the Wall Street Journal stated:

Fan and Fred owned or guaranteed \$5 trillion in mortgages and mortgage-backed securities when they collapsed in September 2008. Reforming the financial system without fixing Fannie and Freddie is like declaring a war on terror and ignoring al Qaeda.

Unreformed, they are sure to kill taxpayers again. Only yesterday, Freddie said it lost \$8 billion in the first quarter, requested another \$10.6 billion from Uncle Sam, and warned that it would need more in the future. This comes on top of the \$126.9 billion that Fan and Fred had already lost through the end of 2009. The duo are by far the biggest losers of the entire financial panic—bigger than AIG, Citigroup and the rest.

From the 2008 meltdown through 2020, the toxic twins will cost taxpayers close to \$380 billion, according to the Congressional Budget Office's cautious estimate. The Obama Administration won't even put the companies on budget for fear of the deficit impact, but it realizes the problem because last Christmas Eve it raised the \$400 billion cap on their potential taxpayer losses to . . . infinity.

Moreover, these taxpayer losses understate the financial destruction wrought by Fan and Fred. By concealing how much they were gambling on risky subprime and Alt-A mortgages, the companies sent bogus signals on the size of these markets and distorted decision-making throughout the system. Their implicit government guarantee also let them sell mortgage-backed securities around the world, attracting capital to U.S. housing and thus turbocharging the mania.

During the debate on this financial reform bill, we heard much about how the U.S. Government will never again allow a financial institution to become too big to fail. We heard countless calls for more regulation to ensure that taxpayers are never again placed at such tremendous risk. Sadly, the bill before

us now completely ignores the elephant in the room—because no other entities' failure would be as disastrous to our economy as Fannie Mae's and Freddie Mac's. Yet the majority chose not to address them at all in the bill before us.

There have been numerous warnings about the mismanagement of both Fannie and Freddie over the years. In May of 2006, after a 27 month investigation into the corrupt corporate culture and accounting practices at Fannie Mae, the Office of Federal Housing Enterprise Oversight—OFHEO—the Federal regulator charged with overseeing Fannie Mae—issued a blistering, 348-page report which highlighted the culture of corruption which was rampant at Fannie Mae. The report stated things such as:

Fannie Mae senior management promoted an image of the Enterprise as one of the lowest-risk financial institutions in the world and as “best in class” in terms of risk management, financial reporting, internal control, and corporate governance. The findings in this report show that risks at Fannie Mae were greatly understated and that the image was false.

During the period covered by this report—1998 to mid-2004—Fannie Mae reported extremely smooth profit growth and hit announced targets for earnings per share precisely each quarter. Those achievements were illusions deliberately and systematically created by the Enterprise's senior management with the aid of inappropriate accounting and improper earnings management.

A large number of Fannie Mae's accounting policies and practices did not comply with Generally Accepted Accounting Principles (GAAP). The Enterprise also had serious problems of internal control, financial reporting, and corporate governance. Those errors resulted in Fannie Mae overstating reported income and capital by a currently estimated \$10.6 billion.

By deliberately and intentionally manipulating accounting to hit earnings targets, senior management maximized the bonuses and other executive compensation they received, at the expense of shareholders. Earnings management made a significant contribution to the compensation of Fannie Mae Chairman and CEO Franklin Raines, which totaled over \$90 million from 1998 through 2003. Of that total, over \$52 million was directly tied to achieving earnings per share targets.

Fannie Mae consistently took a significant amount of interest rate risk and, when interest rates fell in 2002, incurred billions of dollars in economic losses. The Enterprise also had large operational and reputational risk exposures.

Fannie Mae's Board of Directors contributed to those problems by failing to be sufficiently informed and to act independently of its chairman, Franklin Raines, and other senior executives; by failing to exercise the requisite oversight over the Enterprise's operations; and by failing to discover or ensure the correction of a wide variety of unsafe and unsound practices.

Fannie Mae senior management sought to interfere with OFHEO's special examination by directing the Enterprise's lobbyists to use their ties to Congressional staff to (1) generate a Congressional request for the Inspector General of the Department of Housing

and Urban Development (HUD) to investigate OFHEO's conduct of that examination and (2) insert into an appropriations bill language that would reduce the agency's appropriations until the Director of OFHEO was replaced.

So what steps were taken by the Congress to punish Fannie Mae for such deliberate manipulation and outright corruption at that time? Basically: none. And nothing is done to rein them in under this bill either.

Just this morning the Heritage Foundation wrote the following:

There is still nothing in this bill that addresses the perverse incentives and moral hazard that is created when the federal government sticks its nose into the housing market. Last year, the two financed or backed about 70 percent of single-family mortgage loans. They hold about \$5 trillion in their investment portfolios. Both are losing money fast, with those losses being covered by the U.S. taxpayer. Last month, Freddie announced it had lost \$8 billion in the first quarter of 2010 and would be asking for another \$10.6 billion in taxpayer help. Not to be outdone, Fannie announced an \$11.5 billion loss and asked for another \$8.4 billion from taxpayers. That's atop the nearly \$145 billion of your dollars that Fannie and Freddie have already received. Fannie and Freddie alone prove this bill does nothing to end “too big to fail.” Fannie and Freddie should be partly wound down, the rest broken up and sold off—not replaced, reformed, or rejuvenated. The Dodd bill does none of that.

As my colleagues know, I offered a good, common-sense amendment designed to end the taxpayer-backed conservatorship of Fannie Mae and Freddie Mac by putting in place an orderly transition period and eventually requiring them to operate—without government subsidies—on a level playing field with their private sector competitors. Unfortunately that amendment was defeated by a near-party-line vote.

The majority, however, did offer an alternative proposal to my amendment. Was it a good, well thought out, comprehensive plan to end the taxpayer-backed free ride of Fannie and Freddie and require them to operate on a level playing field with their private sector competitors? Nope. It was a study. The majority included language in this bill to study the problem of Fannie and Freddie for six months. Wow! Instead of dealing head-on with the two enterprises that brought our entire economy to its knees—entities which have already cost taxpayers over \$145 billion in bailouts—the Democrats want to study them for 6 more months. It is no wonder the American people view us with such contempt.

Additionally, I cosponsored an amendment with my colleague from Washington, Senator CANTWELL, to ensure that we never again stick the American taxpayer with another \$700 billion-plus tab to bailout the financial industry. If big Wall Street institutions want to take part in risky transactions—fine. But we should not allow

them to do so with federally insured deposits.

Paul Volcker, a top economist in the Obama administration and former Federal Reserve Chairman, wants the nation's banks to be prohibited from owning and trading risky securities, the very practice that got the biggest ones into deep trouble in 2008. Mr. Volcker argues that regulation by itself will not work. Sooner or later, the giants, in pursuit of profits, will get into trouble. Congress and the administration should accept this and shield commercial banking from Wall Street's wild ways. "The banks are there to serve the public," Mr. Volcker said, "and that is what they should concentrate on. These other activities create conflicts of interest. They create risks, and if you try to control the risks with supervision, that just creates friction and difficulties" and ultimately fails.

The amendment we offered precluded any member bank of the Federal Reserve System from being affiliated with any entity or organization that is engaged principally in the issue, flotation, underwriting, public sale or distribution of stocks, bonds or other securities. Essentially, commercial banks may no longer inter-mingle their business activities with investment banks. It is that simple.

Since the repeal of the Glass-Steagall Act in 1999, this country has seen a new culture emerge in the financial industry: one of dangerous greed and excessive risk-taking. Commercial banks traditionally used people's deposits for the constructive purpose of main street loans. They did not engage in high risk ventures. Investment banks, however, managed rich people's money—those who can afford to take bigger risks in order to get a bigger return, and who bore their own losses. When these two worlds collided, the investment bank culture prevailed, cutting off the credit lifeline of Main Street firms, demanding greater returns that were achievable only through high leverage and huge risk taking, and leaving taxpayers with the fallout.

When the glass wall dividing banks and securities firms was shattered, common sense and caution went out the door. The new mantra of "bigger is better" took over—and the path forward focused on short-term gains rather than long-term planning. Banks became overleveraged in their haste to keep up in the race. The more they lent, the more they made. Aggressive mortgages were underwritten for unqualified individuals who became homeowners saddled with loans they couldn't afford. Banks turned right around and bought portfolios of these shaky loans.

Sub-prime loans made up only 5 percent of all mortgage lending in 1998, but by the time the financial crisis peaked in late 2008, they were approaching 30 percent. Since January

2008, we have seen 264 state and national banks fail. In my home State of Arizona, eight banks have shut their doors, leaving small businesses scrambling to find credit from other banks that may have already been overleveraged.

Banks sold sub-prime mortgages to their affiliates and other securities firms for securitization, while other financial institutions made risky bets on these and other assets for which they had no financial interest. As the market grew bigger, its foundation became shakier. It was like a house of cards waiting to fall. And fall it did.

In October 2008, the financial system was on the brink of collapse when Congress was forced to risk \$700 billion of taxpayer dollars to bailout the industry. These financial institutions had become too big to fail. In fact, the special inspector general of Troubled Asset Relief Program—TARP—testified before Congress last year that "total potential Federal Government support could reach \$23.7 trillion" to stabilize and support the financial system. Ironically, some of these "too big to fail" institutions have now become even bigger. A recent editorial from the New York Times stated:

The truth is that the taxpayers are still very much on the hook for a banking system that is shaping up to be much riskier than the one that led to disaster.

Big bank profits, for instance, still come mostly courtesy of taxpayers. Their trading earnings are financed by more than a trillion dollars' worth of cheap loans from the Federal Reserve, for which some of their most noxious assets are collateral. They benefit from immense federal loan guarantees, but they are not lending much. Lending to business, notably, is very tight.

What profits the banks make come mostly from trading. Many big banks are happy to depend on the lifeline from the Fed and hang onto their toxic assets hoping for a rebound in prices. And the whole system has grown more concentrated. Bank of America was considered too big to fail before the meltdown. Since then, it has acquired Merrill Lynch. Wells Fargo took over Wachovia. And JPMorgan Chase gobbled up Bear Stearns.

If the goal is to reduce the number of huge banks that taxpayers must rescue at any cost, the nation is moving in the wrong direction. The growth of the biggest banks ensures that the next bailout will have to be even bigger. These banks will be more likely to take on excessive risk because they have the implicit assurance of rescue.

The Federal Government has set a dangerous precedent here. We sent the wrong message to the financial industry: you engage in bad, risky business practices, and when you get into trouble, the government will be there to save your hide. It amounts to nothing more than a taxpayer-funded subsidy for risky behavior.

The consolidation of the banking world was also riddled with conflicts of interest, despite the purported firewalls that were put into place. If an investment bank had underwritten shares for a company that was now in

financial trouble, the investment bank's commercial arm would feel pressure to lend the company money, despite the lack of merits to do so. This amendment would have eliminated some of these conflicts.

It is time to put a stop to the taxpayer financed excesses of Wall Street. No single financial institution should be so big that its failure would bring ruin to our economy and destroy millions of American jobs. This country would be better served if we limit the activities of these financial institutions. Banks should accept consumer deposits and invest conservatively, while investment banks engage in underwriting and sales of securities.

In an op-ed titled "Bring Back Glass-Steagall," Wall Street Journal columnist Thomas Frank summed up the situation very nicely recently when he wrote:

One of these days, we will finally dispel the 'New Economy' mysticism that beclouds this issue and begin to think seriously about how to re-regulate the financial sector. And when we do, we may find the answer involves some version of the idea behind Glass-Steagall—drawing a line between banks that the government effectively guarantees and banks that behave like big hedge funds, experimenting with the latest financial toxins. Hopefully, that day will come before Wall Street decides to take another headlong run at some attractive cliff.

Unfortunately, our amendment was defeated by a procedural motion and was not even brought up for a vote.

Again, I regret that I have to vote against this bill. I assure my colleagues, and the American people, that if this were truly a bill that instituted real, serious and effective reforms—I would be the first in line to cast a vote in its favor. But it is not. It serves as evidence of a dereliction of our duty and a missed opportunity to provide the American people with the protections necessary to avert yet another financial disaster. They deserve better from us.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, tonight we are nearing the end of the Senate's consideration of a historic piece of legislation. In response to the most significant financial crisis this country has seen in a generation, we have been engaged in a debate about the future of our financial system.

Two years ago, our economy came to a grinding halt. Credit markets shut down, business activity basically stopped in some areas, and world trade virtually collapsed. Millions of Americans lost their jobs and their homes, and they saw trillions in savings wiped out.

As a witness to the near collapse of our financial system and the economic devastation it has wrought, I am fully aware of the fundamental importance of the legislative effort we will soon complete. Because the financial system



serves as the heart of our economy, this legislation will have a profound effect on the economic future of this country. The decisions we have made will have an impact on the lives of Americans for decades to come. Furthermore, the impact of this legislation will extend far beyond our shores.

For these reasons, I believe we must get it right. In the end, we will be judged by whether we have created a more stable, durable, and competitive financial system. That judgment will not be rendered by self-congratulatory press releases, but, rather, by the marketplace. And the marketplace does not give credit for good intentions.

Knowing that millions of Americans suffered greatly because of the financial crisis and that generations of future Americans are relying on us to get this right, how did we go about this proceeding that brought us to where we are tonight? I am going to pose a number of questions.

Did we conduct a thorough review of every facet of the crisis?

Did we look at the structure of our markets, examine the role of the regulators, and determine how the existing regulations drove certain market actions?

Did we investigate the GSEs, examine their capital and leverage, address the inherent weaknesses in their dual and conflicting objectives of maximizing returns for private owners while serving as a public housing mission?

Did we explain Bear Stearns and the causes of its collapse, along with the SEC regulatory program entrusted at that time with its oversight?

Did we collect and analyze data regarding the areas hardest hit by foreclosures?

Did we determine whether there were any specific loan types, however characterized, that led to the foreclosures?

Did we take time to learn lessons from the debacle of the AIG financial products division or securities lending operations or of overheated tri-party repo activity?

Did we analyze how maturity transformation allowed the shadow banking system to, in effect, create money out of AAA rated securities?

Did we analyze how activities in the shadow banking system led to an increased concentration of inherently runnable activities?

Did we analyze liquidity buffers at broker dealers?

And did we wait for the Financial Crisis Inquiring Commission, a creation of this Congress, to deliver lessons that it learned about the financial crisis so as to inform our deliberations even more?

The answer to all of these questions I posed is no, we did not. In my view, this represents a fundamental failure of this body to do its own due diligence before we even attempt such a significant undertaking as we are about to tonight.

Millions of people lost their jobs, their homes, and trillions of dollars of wealth. The American people expect more and certainly deserve more, I believe, from us.

Nonetheless, it certainly did not take much investigation to know that the heart of the crisis was massive failures in our mortgage underwriting and securitization systems. Therefore, the most incredulous shortcoming of this bill, in my judgment, is the lack of any serious attention by the Senate being paid to the government-sponsored enterprises that we know as Fannie Mae and Freddie Mac.

Yesterday, one of my colleagues on the other side of the aisle said we were not dealing with the GSEs in this bill because it is too hard. I have to say we certainly have come a long way in the wrong direction.

There was a time not long ago when we did things because they are hard and because they are worth doing. What a difference a few years makes. It is simply a failure of will that nothing is being done to reform the GSEs or, at the very least, cap the allowable losses.

This bill has 12 titles totaling well over 1,500 pages. It has been amended dozens of times. Yet the bill does nothing to affect the ongoing, unlimited bailouts of Fannie Mae and Freddie Mac that to date have cost the American taxpayers at least \$146 billion, one of the largest bailouts in history, and it is growing. Our distinguished chairman, the Senator from Connecticut, has expressed his outrage on a number of occasions that consumers paid around \$40 billion in overdraft fees in 2009, and he is right. The GSEs now have cost the American taxpayers over 3½ times that amount and counting. To quote my old friend and former majority leader, Bob Dole: Where is the outrage here?

Perhaps what is most disappointing about the lack of attention to Fannie and Freddie is the fact that there is no end in sight. Losses continue to mount and the taxpayer exposure is unlimited. For example, in a recent SEC filing, Fannie Mae reported a need for another \$8½ billion from the taxpayers. Hardworking Americans in my State of Alabama and throughout the Nation will be asked to pony up again and again until we do something to stop it. When will it stop? According to my Democratic friends, not yet. The best they can do for the American people in this bill is a study. That is simply incredible.

The GSEs should have been our primary focus. Instead, they were ignored and further enabled by the administration when they raised the cap on losses in December of last year. In an attempt to do something about the GSEs, Senators MCCAIN, GREGG, and I, joined by several of our Republican colleagues, introduced an amendment to this bill that would have ended these bailouts.

However, just as they presented action to rein in Fannie and Freddie in the past, Democrats once again embraced the status quo and blocked the road to real GSE reform.

Once our amendment failed, several of my Republican colleagues and I, led by Senator CRAPO of Idaho, decided that if we could not end these unlimited bailouts, we would try to cap the losses and provide for a true accounting of the costs. Our amendment would have capped these bailouts at \$400 billion, which is a lot of money. Yet even at nearly \$½ trillion, the Democrats could not bring themselves to stop the hemorrhaging of Fannie and Freddie and voted against the amendment.

How much will the GSEs have to lose before my Democratic friends will say enough is enough? Will \$½ trillion be enough? Will Democrats allow reform of Fannie and Freddie before it costs the taxpayers \$1 trillion? How much is too much?

The supporters of this bill have argued that it will stabilize our financial sector—the bill itself. I am not sure, however, it can stabilize anything when it does nothing—nothing—to address the two largest destabilizing forces of the crisis, Fannie Mae and Freddie Mac. The fact that it is costing taxpayers nearly \$7 billion every month should be enough to convince anyone that something needs to be done and done now. Unfortunately, my Democratic friends, led by the President, are telling the American people they are going to have to pony up and wait again.

The failure to address the GSEs is the most glaring omission in this legislation. There are, however, many things that are in this bill that raise similar concerns for the future of our economy, and I will go through some of them.

A major component of the bill deals with the creation of a massive new consumer bureaucracy, along with a separate title 12, which is a liberal activist's dream come true. Provisions in this title will compel financial institutions to provide free services to selected community groups. This is the exact same model that led us to the crisis in the first place, except for one distinct difference. The government bailout is built in from the beginning through the use of taxpayer guarantees.

The American people are being misled. The authors of this bill are telling them this legislation has been drafted to address the recent financial crisis and that it will tame Wall Street. I am afraid they are going to be disappointed. By the Democrats' own admission, the most important facet of this legislation is the creation of a massive new consumer bureaucracy. It has been described by my Democratic friends as the "third rail" of this bill.

During our negotiations on the consumer bureaucracy, my Democratic



friends were not focused on the mortgage market. Their sights were set on the rest of the economy. Make no mistake, behind the veil of anti-Wall Street rhetoric is an unrelenting desire to manage every facet of commerce under the guise of consumer protection. They may be interested in protecting consumers, but they are more interested in managing them. All one has to do is read the academic writings of the authors of this new bureaucracy and it becomes very clear what their goals are.

The Democrats' new bureaucracy is an enormous reach across virtually every segment of our economy and a massive expansion of government influence in our daily financial lives. The people of America have been clear: They do not want a massively intrusive, continuously growing, and overly expansive government. They do not want a continuation of our unsustainable government promises, government spending, government deficits, and government debt. They saw what happened in Greece when it overpromised and overspent, and Americans do not want to leave European fiscal legacy to their children.

Yet this bill does not listen to the American people. It promises massive government overreach into even routine daily financial transactions of ordinary Americans and businesses, large and small. Why does the Federal Government need information on "pertinent characteristics"—whatever that might mean—of persons covered by the new consumer bureaucracy?

This new consumer bureaucracy will become massive, populated with thousands of bureaucrats who will create, within the new bureau, what administration officials have referred to as a correct "culture" of consumerism. What is that? The new consumer protection bureaucracy is funded by over \$½ billion per year, funded through an Argentina-style raid on our central bank. Of course, this opens the door for unlimited Federal taxpayer funds for community organizers and groups such as ACORN.

I favor consumer protection. I believe all of us do. This new bureau, however, promises to be more abusive than protective. By abuse, I mean that the bureau will lower the living standards of Americans. This new consumer bureaucracy is intended, by its architects in the Treasury, to begin the process of financial regulation with the intent of changing the behaviors of the American people.

I have faith in the American people and their ability to make good choices. Granted, we do not always choose well, but that is the human condition. I believe a poor choice freely made is far superior to a good choice that is made for me. I am afraid the architects of this bill do not share this sentiment, nor do they share my faith in the American people.

They view us as victims in need of their guidance. They view us as fallible and in need of government bureaucrats to protect us from ourselves. It is a bit ironic, however, that the sponsors of this new bureaucracy seem to believe regulators do not share the same fallibility of ordinary Americans. Tell that to the hundreds of Bernie Madoff victims.

This is the world view that is driving this bill, and it should concern every American. It seems, increasingly, that the view of the Democrats toward virtually all American business is a cynical view that Americans are out to take advantage of one another. I don't share that view either. My presumption is Americans are honest and hardworking and history has shown that to be true.

This bill promises to slow economic growth and kill jobs because it will place onerous regulatory burdens on businesses large and small. This bill will stifle innovation in consumer financial products and reduce small business activity. It will lead to reduced consumer credit and higher costs for available credit. Less credit at a higher price will dampen the very small business engines of job creation so desperately needed right now, when unemployment hovers near double digits nationally and is at 11 percent in my home State of Alabama. I cannot support legislation that threatens business conditions and the potential for job creation, especially at a time when we are crawling out of a severe recession.

Aside from onerous new consumer regulations, another avenue through which the bill will slow economic activity is in the treatment of derivatives. This bill will chase risky financial trades overseas and further into the unregulated shadow banking system, thereby magnifying, not reducing, unmonitored systemic risks.

This bill demonstrates an imprudent disregard for the economic effects of a severely misguided approach to derivatives. Given the treatment of derivatives in this bill, end users—that is everyone from candy bar makers to beer brewers—who rely on these financial instruments to manage their risks will face massive increases in costs. Because risk management will now be significantly more expensive, we can expect lower business investment, which, again, means fewer jobs.

Why are we increasing costs to ordinary end users of derivatives, such as your home heating provider or makers of candy bars? There seems to be an irrational desire to make all financial products of certain types standard, whether that can or should be done. Once again, the attitude seems to be: We are government and we know best. That attitude will almost surely lead to massive concentrations of risks in central derivatives clearinghouses. It will also, ironically, chase derivatives

activities overseas and into the unregulated shadow banking system. Who will back up these clearinghouses at the end of the day should market stresses prove to be severe? The Federal Government and the Federal Reserve will back them up, promising even more bailouts in the future—this time possibly for clearinghouses.

The approach to hedge fund oversight in this bill is symptomatic of an overall careless approach to assigning regulatory responsibility. Hedge funds have not been identified as a cause of the financial crisis, but hedge funds have been identified as a potential source of systemic risk.

However, rather than subjecting hedge funds to a systemic risk oversight regime, hedge fund advisers will be subject to a registration regime and the investor-protection oriented requirements that go along with it.

On its face, registration sounds reasonable.

The SEC, however, is not a systemic risk regulator, and when it tried to be one through the Consolidated Supervised Entity—"CSE"—program, it failed. Yet, now, we are doubling down on the SEC, the very agency that failed us to begin with.

An unfortunate consequence of the treatment of hedge funds in the bill is that investors will likely treat SEC registration as an SEC seal of approval. Fraudulent hedge fund advisers will be virtually invited to use registration as a marketing tool.

Investor protection is an important job for the SEC, but its resources are not endless, and the SEC has been notoriously unable to inspect advisers on a regular basis.

Limited SEC resources should not be diverted from regulated public investment companies, such as mutual funds, to the monitoring of hedge fund advisers, as the reported bill proposes to do.

If the SEC is spending its resources in this manner, it will not be long before investors that do not meet the accredited investor threshold start demanding to be allowed to invest in hedge funds.

It will be hard to counter the argument that they should have access to such investments when the SEC is on the case.

Mr. President, there are dozens of problems with the Lincoln-Dodd over-the-counter—OTC—derivatives title, which I would be more than happy to document. In the interest of brevity, however, I will point out just a few of the most egregious examples:

The Lincoln-Dodd derivatives title does not provide regulators with access to the information they need to do their job.

The title is unworkable. In a 6-month marathon rulemaking session, regulators are to make massive changes in a huge market without the usual notice-and-comment that allows for broad public input.

Neither the SEC nor the CFTC has the staff that it needs to write the rules, let alone implement them. Companies, including Main Street businesses, all across the United States will also face operational, legal, and financial challenges as they strive to come into compliance with record keeping, reporting, capital, margin, clearing, and business conduct requirements.

Key provisions in the Lincoln-Dodd derivatives title directly contradict key provisions in other titles and current law. Section 716, for example, would preclude a clearinghouse—even one that does not clear swaps—from receiving access to the discount window. This is directly contrary to title 8, which empowers the Federal Reserve to grant discount window access to clearinghouses.

The proposed regulatory framework in the Lincoln-Dodd derivatives title poses new risks to the system. For-profit clearinghouses will have an incentive to clear as many swaps as possible.

If they do not properly assess and collect margin for risks associated with these products or do not have sufficient operational capacity, an unanticipated event in the market could topple a clearinghouse and send shock waves throughout the rest of the system.

The Lincoln-Dodd derivatives title will benefit big dealers who can shift their swaps business overseas over small dealers who cannot.

The so-called end user exemption contained in the Lincoln-Dodd derivatives title is illusory. Main Street businesses will not be able to continue hedging their business risks as they now do.

Many end users will find themselves subject to clearing mandates, bank-like capital requirements, and extensive dealer-like business conduct requirements. As a result, Main Street businesses will face higher costs that will ultimately be borne by consumers.

Consumers will be paying more for everything from electricity to candy bars. The Lincoln-Dodd derivatives title will work as an antistimulus plan that will pull resources out of the economy, hurt growth, and slow job creation. The derivatives title has real world consequences that cannot be wished away with a few technical fixes at the margins.

Those are but a few of nearly one hundred flaws in the derivatives title. Yet there is another title—title 8—which has received less attention than derivatives, but is equally troublesome.

Title 8 would give a stability Council broad power to identify financial market utilities, payment, clearing, or settlement activities that it deems to be now, or likely to become, systemically important. Those entities and activities would then be subject to risk regu-

lation by the Federal Reserve Board of Governors.

This title is another example of an inappropriate delegation of an congressional responsibility to decide who should be regulated and by which regulator. The extent of delegation is left uncomfortably open, as it depends on open-ended language in which key terms are undefined.

The definition of “payment, clearing, and settlement activities,” for example, include any “activity carried out by 1 or more financial institutions to facilitate the completion of financial transactions.” With definitions like this one guiding the Council, it could decide to assign any aspect of the financial market to the Fed.

Lack of regulatory accountability contributed to the recent financial crisis. Title 8 exacerbates the problem by allowing the Council to bring the Fed into significant sectors of the financial system as a back-up regulator. If a problem arises, both the Fed and the relevant supervisory agency will have someone else to blame. And both will be able to blame Congress for its careless delegation of its own responsibilities.

Yet another troublesome title is title 9, which could appropriately be labeled the “Grab-Bag” title, since it is a grab-bag of items on the years-old wish lists of special-interest groups.

These items are not designed to respond to problems identified in the last crisis or likely in any crisis, and have not been considered in hearings.

The grab bag includes puzzling items, like a provision that would create a redundant office at the SEC and another provision that requires disclosure of the ratio of the median employee's compensation to the chief executive officer's compensation.

It looks to me like the way is being paved to achieve so-called “social justice” in income distribution. This is another disturbing example of the government getting its nose under the private sector's tent.

The grab bag also includes anti-investor provisions. The proxy access provision, for example, enables special interest groups to push their agendas at the expense of the rest of the shareholders.

It also includes a surprising self-funding provision that will give the SEC complete control over the size and allocation of its budget. Let me repeat that. The Democrats are going to give the SEC virtual budget autonomy from congressional oversight after the SEC dropped the ball in the Madoff and Stanford frauds, and in the wake of the SEC's pornography scandal.

When the “grab bag” title does attempt to address issues related to the crisis, it takes the wrong approach.

With respect to credit rating agencies, for example, the effort to pull ratings out of the statutes and regulations

is lost in a complicated new regulatory framework that only the big credit rating agencies will be able to navigate. This will stifle competition—the very thing we need to be encouraging. The failure of the ratings agencies was central to the crisis and this bill represents half measures at best.

The heightened liability standards, corporate governance requirements, and qualification standards for credit rating analysts will lull investors into greater apathy and discourage competition.

With respect to securitization, rather than focus on the root cause of the housing bubble by establishing clear, tough, and fair underwriting standards, this title imposes a 5 percent risk-retention requirement across-the-board for securitizations.

In combination with changes in accounting and bank capital rules, a risk retention requirement could force an entire securitization to be retained on a bank's balance sheet for accounting and capital purposes. Securitization activity would then become economically unviable.

This approach to securitization is a risky gamble to take at a time when our securitization markets are just starting to recover and show some signs of life.

The whistleblower provisions are well-intentioned attempts to address the SEC's failure during the Madoff scandal.

However, the guaranteed massive minimum payouts and limited SEC flexibility ensure that a line of claimants will form at the SEC's door hoping for some of the hundreds of millions in the whistleblower pot. The SEC will spend limited resources sorting through these claims that would have been better spent bringing enforcement cases.

Title 9 devotes 250 pages to provisions that either have nothing to do with the crisis or purport to provide solutions that will not actually solve problems but, rather, promise to give rise to many new problems.

This bill has been largely outsourced to Treasury officials and to regulators who have written key provisions to bolster their own power and authority.

This bill reflects a series of deals made, not by lobbyists, but by the executive branch along with the existing financial regulators who failed to do their jobs during the last crisis.

In negotiating key features of the bill, delays were the norm as responses to my offers or inquiries had to pass through a long and winding road of approval from Treasury, the Fed, the FDIC and on and on.

Unfortunately, we have outsourced the writing of this legislation to the Fed, Treasury, OCC, SEC, CFTC, among other government bureaucracies.

Let me give an example. Consider the derivatives title in the bill. This title

was largely authored by the CFTC. We see this manifested in numerous provisions that give the CFTC broad new authority, sometimes to the exclusion of other regulators.

The CFTC used this bill as an opportunity to grab jurisdiction from the SEC, which was purposely excluded from the negotiating room during critical meetings.

As a result, the derivatives title gives the CFTC regulatory authority over a wide swath of Wall Street and Main Street companies.

The CFTC, in addition to its traditional role of overseeing the commodity futures markets, will be charged with protecting retail investors, assessing systemic risk, imposing capital requirements on manufacturing companies, regulating banks, and assessing the regulatory capability of the Securities and Exchange Commission.

This is the sort of result you get when you hand the legislative pen to the regulators.

My Democrat colleagues like to talk about the influence of Wall Street lobbyists, but the real influence in this process has been exerted by the bureaucracies. I thought that one of the main objectives of this legislation was to plug regulatory gaps and streamline our financial regulatory structure?

We still have the Fed, the FDIC, the SEC, the CFTC, and the OCC. We have also added some new letters to the alphabet soup, as with the CFPB and the OFR.

We have also seen a complete about face with respect to the Federal Reserve.

The process seemed to have begun with a commitment to rein in their bailout powers and take away their consumer protection authority, given the Fed's failures. By contrast, this legislation actually expands the Fed's powers.

Americans see developments in Europe, where a monetary union faces a severe test and market participants are running away from the debts of profligate governments. Americans are increasingly worried that the out-of-control spending here in the U.S. and the massive expansion of government will very soon test American fiscal viability.

An appropriate response would be to rein in the costs and breadth of runaway government spending and bureaucratic expansion. The wrong response would be the financial regulation bill before us.

From legislative process to the final bill language, this bill is flawed. This bill promises more government, more costs, slower economic growth, and fewer jobs. It threatens privacy rights and fails to address crucial elements of the recent crisis.

I urge my colleagues to vote against this bill.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, on behalf of the Republican leader, and I and the managers of the bill and a number of others who worked long and hard on this consent agreement, I now ask unanimous consent that all postcloture time be yielded back; except for 5 minutes for the Republican leader or his designee to raise a budget point of order against the Dodd-Lincoln substitute amendment No. 3739; Senator DODD or his designee be recognized to waive the applicable point of order; that the Senate then vote on the motion to waive the budget point of order without further intervening action or debate; that if the waiver is successful, then all pending amendments be withdrawn; the substitute amendment, as amended, be agreed to; the bill, as amended, be read a third time; and the Banking Committee then be discharged of H.R. 4173, the House companion; that the Senate then proceed to its consideration; that the text of the Senate bill, as read a third time, be inserted in lieu thereof, the bill be advanced to a third reading and the Senate then proceed to vote on passage of the bill; that upon passage, the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses; further, that on Monday, May 24, it be in order for Senator BROWNBACK to be recognized for a period not to exceed 10 minutes, and Senator DODD for the same period; prior to Senator BROWNBACK offering a motion to instruct the conferees with respect to H.R. 4173 on the subject of auto dealers; that after the motion is made, the Senate then proceed to vote on the motion to instruct; upon disposition of the motion to instruct, Senator HUTCHISON or her designee be recognized for a period of up to 10 minutes to make a motion to instruct with respect to proprietary trading, and Senator DODD also be recognized for the same period of time; that upon the use or yielding back of the time, the Senate then proceed to vote on the Hutchison motion to instruct; that upon disposition of the above-referenced motions to instruct, no further motions be in order, and that the Chair be authorized to appoint conferees on the part of the Senate with a ratio of 7-5; that the Senate bill then be returned to the Calendar; provided further that if the waiver is not agreed to, then this agreement be null and void; and the cloture motion on the bill be withdrawn; provided further, no amendments or motions be in order to the motion to instruct; and the title

amendment, which is at the desk, be agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DODD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I am here to raise a budget point of order. The substitute and the underlying bill came to the floor spending money the Banking Committee did not have in its 302(a) budget allocation. It has exceeded the budget allocation. How much direct spending is in the Dodd-Lincoln substitute as amended? About \$21 billion, partially offset by raising revenues resulting in an increase to the deficit by \$10.6 billion over the 5-year timeframe—that is the timeframe we are using for budget enforcement—and over the 10-year period, reflected in the baseline, it would increase the deficit by \$19.7 billion.

So our 10-year deficit outlook—the Obama administration policies will contribute to the debt by running massive deficits for the next 10 years, averaging nearly \$1 trillion a year from 2011 through 2020. The projected deficit of 8.9 percent of GDP for 2011 will come at a time when the administration is predicting a return to prerecession economic growth. The total public debt stands at over \$13 trillion, with fiscal year 2009's \$1.4 trillion deficit having contributed significantly to our Nation's credit card bill. With unsustainable levels like this, the Senate must knowingly, consciously, and with full awareness decide each time a bill comes to the floor to increase our debt burden further.

I object and therefore raise a budget point of order under section 302(f) of the Congressional Budget Act, which prohibits consideration of legislation that exceeds an authorizing committee's 302(a) allocation. The substitute, as amended, provides for net increases in direct spending of \$21 billion and, if adopted, would cause the underlying bill to exceed the allocation to the Banking Committee over the 2010-2014 period.

Mr. DODD. Reserving the right to object, I want to be heard on the matter.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. First of all, the Budget Committee, like all authorizing committees, has the option, at the outset, when the budget resolution is considered, to set aside a reserve fund in anticipation of some piece of legislation coming along that may cost more. We

did not do that. We did not know what that would be. That is what we are talking about.

If we had spent \$1, since we had zero in terms of a budget allocation for our committee, \$1 over it would have provoked a potential budget point of order. So the fact that the committee has spent money in this bill on a major restructuring of our financial structures of the Nation should not come as any great surprise. But, secondly, it is somewhat ironic the only reason we find ourselves at the point of \$19.7 billion over is because—at the request, I might point out, of my good friends on the minority side—we eliminated the upfront prepayment cost of the \$50 billion we had in the bill.

Many believed the optics of that just did not look good so we took that money out, as you recall, in the Shelby-Dodd amendment, one of the first amendments we considered.

Had that money stayed in, of course we would not be talking about any deficit at all in this bill. The fact is, of course, that post payments coming out of creditors, coming out of the industry itself, and the fact the bankrupt company does not have the assets, then it will be paid for.

I say to my colleagues respectfully here, it is a very technical amendment dealing primarily with 302. It has to do with the allocations given to committees. Had we been \$1 over, we would have been subjected to this point of order. But we have not. But on that basis, theoretically we ought to be waiving.

Pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. The point of order must first be raised.

Mr. DODD. Was a point of order made?

Mr. SESSIONS. I raise a point of order under section 302(f) of the Congressional Budget Act, which prohibits the consideration of legislation that exceeds an authorizing committee's 302(a) allocation. The substitute, as amended, provides for net increases in direct spending of \$21 billion, and if adopted it would cause the underlying bill to exceed the allocation of the Banking Committee over the 2010–2014 period.

Mr. DODD. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 60, nays 39, as follows:

[Rollcall Vote No. 161 Leg.]

#### YEAS—60

Akaka	Feinstein	Mikulski
Baucus	Franken	Murray
Bayh	Gillibrand	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Brown (MA)	Kaufman	Rockefeller
Brown (OH)	Kerry	Sanders
Burris	Klobuchar	Schumer
Byrd	Kohl	Shaheen
Cantwell	Landrieu	Snowe
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Collins	Lieberman	Udall (NM)
Conrad	Lincoln	Warner
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	Wyden

#### NAYS—39

Alexander	DeMint	LeMieux
Barrasso	Ensign	Lugar
Bennett	Enzi	McCain
Bond	Feingold	McConnell
Brownback	Graham	Murkowski
Bunning	Grassley	Risch
Burr	Gregg	Roberts
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Thune
Corker	Isakson	Vitter
Cornyn	Johanns	Voinovich
Crapo	Kyl	Wicker

#### NOT VOTING—1

Specter

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 39. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, all postcloture time is yielded back. All pending amendments are withdrawn, and the substitute amendment, as amended, is agreed to.

The amendment (No. 3739), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill, as amended, was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, H.R. 4173 is discharged and the Senate will proceed to consideration of the bill, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the text of the Sen-

ate bill, as amended, is inserted in lieu of the text of H.R. 4173.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is on passage of H.R. 4173, as amended.

Mr. DURBIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 162 Leg.]

#### YEAS—59

Akaka	Gillibrand	Murray
Baucus	Grassley	Nelson (NE)
Bayh	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown (MA)	Kerry	Sanders
Brown (OH)	Klobuchar	Schumer
Burris	Kohl	Shaheen
Cardin	Landrieu	Snowe
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Dodd	Lincoln	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feinstein	Merkley	Wyden
Franken	Mikulski	

#### NAYS—39

Alexander	Crapo	LeMieux
Barrasso	DeMint	Lugar
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brownback	Feingold	Murkowski
Bunning	Graham	Risch
Burr	Gregg	Roberts
Cantwell	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Voinovich
Cornyn	Kyl	Wicker

#### NOT VOTING—2

Byrd Specter

The bill (H.R. 4173), as amended, was passed.

Mr. DODD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the title amendment which is at the desk is agreed to.

The amendment (No. 4172) is as follows:

Amend the title so as to read:

"A bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes."

The bill (H.R. 4173), as amended, will be printed in a future edition of the RECORD.

The PRESIDING OFFICER. The Senate insists on its amendments and requests a conference with the House of Representatives on the disagreeing votes of the two Houses.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

#### CUBAN INDEPENDENCE DAY

Mr. NELSON of Florida. Mr. President, I rise to commemorate the 108th anniversary of Cuba's independence. On May 20, 1902, after a long and bitter struggle, the people of Cuba established a democratic Republic. Today, the Cuban people are again fighting for democratic change and independence in their homeland.

On this day, we honor Orlando Zapata Tamayo, who died this year after a prolonged hunger strike while protesting his inhumane treatment at the hands of the Cuban prison authorities. We stand in solidarity with the Ladies in White, including Zapata Tamayo's mother Reina Luisa Tamayo, who through their quiet dignity, continue to call the world's attention to the arrests of their fathers, husbands, and brothers for exercising free speech and daring to challenge the regime. We also recognize the contributions of Cuba's journalists, bloggers, and activists, who undertake great personal risk to tell the world about the realities of life in Cuba.

The legacy of Cuban independence endures with these heroes past and present, who fight against the forces of repression and totalitarianism for the promise of a free and democratic society. Now more than ever, the U.S. and the international community must press the Cuban regime to free all political prisoners. On behalf of the people of Florida and all Americans, we stand in solidarity with the Cuban people in their struggle in the hope that one day freedom of expression and basic liberty are possible in Cuba without the fear of persecution.

#### U.S.-JAPAN COOPERATION ON NUCLEAR POWER

Mr. ALEXANDER. Mr. President, as the U.S. Ambassador to Japan Mike Mansfield once said, "the U.S.-Japan relationship is the most important bilateral relationship in the world, bar none."

About a month ago, China Daily ran an article in which they compared the United States' nuclear program to Rip Van Winkle, the legendary American folk hero who fell asleep for 20 years after a night of carousing with Henry Hudson's men in the Catskill Mountains. "A thunder from China has woken up Uncle Sam, like Rip Van Winkle, from a 20-year nap, to a different world," boasted the China Daily article. "This world is in the midst of a Green Revolution. It is the biggest sea change since the Industrial Revolution, and Uncle Sam has slept too long to take the lead in this new movement."

I am not sure that this is really the case, but the point is well taken. Out of fear and mistrust, and after a few bad accidents, the U.S. 30 years ago decided to put aside construction of new nuclear powerplants. Our domestic nuclear industry still kept plodding along, learning to operate the plants we had more efficiently and trying to sell new plants abroad. But overall we atrophied. Our nuclear construction capabilities withered while other countries' capabilities flourished. And so here we are, 30 years later, with a much smaller nuclear industry that is missing critical parts, like the ability to manufacture the largest components.

Meanwhile the rest of the world kept moving forward. And recently, we have started seeing something new—the entrance into the nuclear market by countries that are considered low-cost manufacturers, like China and South Korea.

When China recently bought Westinghouse AP1000 reactors from Toshiba, they insisted on getting all the engineering specifications as well. It is no secret what they are planning. They are going to reverse-engineer the reactor and come up with their own design. In another 5 years, don't be surprised

to see the Chinese marketing their own reactors around the world. Also look what Korea has accomplished. Before 1996 they only built imported reactors in Korea, from companies like Westinghouse and Areva. Then they took an old design from Combustion Engineering, an American company, and came up with the APR1400. Last year the Koreans shocked the world by beating out Areva and Westinghouse for a \$20 billion contract to build four new reactors in the United Arab Emirates. What is going to happen when China enters this market? I suspect in 20 years the Chinese will be selling nuclear reactors in Wal-Mart.

Now there are two ways of looking at this. One is to say this is a world of cutthroat competition and that if China wins then Japan and the United States and everyone else must lose as well. That is one interpretation. But the other way to look at it is to say we are all improving each other's game and that all this competition helps turn us all into better players.

And that is where international competition helps. If other countries start making progress in a technology, we soon realize we had better emulate them. We saw this with the auto industry. There was a time when America's big three—Ford, Chrysler and General Motors seemed invincible in a way nothing could ever change. Each year they competed to see who could put the biggest tailfins on their new models and nobody ever gave a thought to quality control or gas mileage or whether the car would fall apart after 50,000 miles.

Then these strange new companies named Toyota and Datsun and Honda started to enter the market. Their cars weren't all that stylish but they were small and efficient, got good gas mileage, and ran like tops. You didn't have to "fix or repair daily," as they used to say about Ford products. And some people bought them. But they still didn't rival the big American manufacturers. Then the oil crisis arrived and all of a sudden those cars that could get 30 miles to the gallon started to look awfully good.

Well, you know the rest of the story. Toyota recently passed General Motors as the largest car company in the world. GM is in Federal receivership. Half the cars sold in America are made by foreign companies. But of course the traffic flows the other way as well. Nissan will be building its new all-electric Leaf in my home state of Tennessee and we are very happy to have them as a good corporate neighbor.

There is a certain irony to all this as well. A lot of the concern for maintaining quality that made Toyota and Honda and Nissan such great companies came from a man named W. Edwards Deming, a college professor who developed a lot of ideas in the 1950s about maintaining quality in

manufactured products. Deming never attracted much attention in this country but he found a receptive audience in Japan. This led to the tremendous emphasis on quality that made Toyota and other car companies such a huge success. It wasn't until NBC ran a documentary in 1980 entitled "If Japan Can, Why Can't We?" that Americans became aware of what Deming had done for Japanese manufacturing. One of the first American companies to turn to him for advice was Ford Motors. That is one of the reasons why Ford has now gone from the old "Fix or Repair Daily" to become what is arguably America's strongest auto competitor.

So we have taught each other a lot about auto manufacturing. Now what can we learn from each other about nuclear power?

Well, the first thing to note, I think, is that while China gets 2 percent of its electricity from nuclear and America gets 20 percent, Japan gets 30 percent. In terms of shifting to nuclear, Japan is ahead of us. At the same time, the U.S. still leads all countries with 104 operating commercial reactors, one-fourth the world's total. That great building spree from 1970 to 1990, when we constructed about 100 reactors in 20 years, still stands us in good stead. But it isn't going to last forever. There are now 55 reactors under construction around the world in 13 different countries, including one in Japan with four more likely to start. Meanwhile, American reactors are aging fast and we are just getting ready to break ground on our first new reactor in 30 years. By the way, I should mention that South Korea leads both our countries with 35 percent of its electricity from nuclear.

One place where Americans can feel proud is the way we run our reactors. The entire industry now operates at 90 percent capacity. That means reactors are up and running more than 90 percent of the time. Many of them now go for almost 2 years without shutting down. And when they do shut down it is for refueling, which used to take 3 months and is now done in only 5 weeks. We have learned a lot about efficiency and quality control and getting things done on time. Japan runs its fleet at 75 percent capacity and France is just behind us at 85 percent. But that is a special case. The French are now the world's biggest net exporters of electricity and still have so much nuclear capacity that they often close down their reactors for the weekend. You know how much the French like their weekends. Once again, though, I have to note the Koreans are running their reactors at 95 percent, so we all have something to learn there. We have figured out how to run reactors efficiently and ultimately that means cheaper.

We also run our reactors safely. Since the Three Mile Island Incident

we have improved our safety record and reduced risk at our nuclear reactors. The American nuclear industry is proud to say that there has never been a death from a nuclear incident at an American reactor. We have learned that safe does not have to equal expensive.

What about new technologies? Our Secretary of Energy, Stephen Chu, has recommended that the United States find a niche in mini-reactors, the so-called "nuclear batteries." He's willing to concede that the Japanese and the French and the Koreans and possibly the Chinese will effectively compete against us for sales of large traditional reactors. But maybe we can specialize in these 25-to-300-megawatt reactors that can be assembled at the factory and shipped to the site where they are put together like Lego blocks.

I think mini-reactors are a great idea. You could power a whole town of 20,000 people with something that could be buried 60 feet underground and refueled every 30 years. But I wonder how quickly we are going to be able to move into this market? It's taking us 5 years to get a design approval through the Nuclear Regulatory Commission. The NRC has told one manufacturer they do not even have time to consider small reactors because they are so involved in looking at big ones. If there is real money to be made in the field of mini-reactors, won't other countries jump in well before we do? Toshiba already has a model they are offering to isolated Alaskan villages. The Russians have one they are barging into Siberian villages. We had better get going or we will be left behind there as well.

One area in which nearly everyone seems to be progressing is fuel reprocessing. The United States gave up reprocessing in this country in the 1970s. In retrospect, I think that it was a mistake. We thought we were saving the world from nuclear proliferation. It was a noble experiment, but it wasn't very practical. We thought if we didn't isolate plutonium in this country nobody else would be able to figure out how to manufacture it and rogue nations wouldn't be able to acquire nuclear weapons. Well, North Korea has developed a nuclear weapon and they didn't do it by stealing American or someone else's—plutonium. They simply built their own reactor and manufactured weapons themselves. Iran is doing the same thing with enriched uranium. Nuclear technology is no secret anymore. Controlling nuclear proliferation is going to be a diplomatic task, not a technological one.

While America has hung back from reprocessing, however, Japan and other countries have forged ahead. The Japanese have been burning excess plutonium in mixed oxide MOX fuel at several reactors. Now they have built the world's first reactor designed specifically to burn MOX fuel, at Hokkaido.

The French do the reprocessing and the first boatload of MOX fuel just made it back to Japan from France without being hijacked by rowboats from Greenpeace. This is all plutonium that will never find its way into nuclear weapons.

In the U.S., we have been turning swords into ploughshares. In an agreement struck in 1996 by Senators Sam Nunn, Pete Domenici and RICHARD LUGAR, the United States has been purchasing enriched uranium from Soviet weapons stocks and blending it down for use in American nuclear reactors. Half our reactor fuel now comes from the program, meaning 1 out of every 10 lightbulbs in America is lit by a former Soviet weapon.

Another place where America remains on the cutting edge is in basic research. We have designed generation III reactors, which are much more simplified and oriented toward safety. Now we are looking for a fourth generation of reactors that will make reprocessing much easier. One of the ideas on the drawing board is the "Traveling Wave" reactor, which will consume its own waste and burn for up to twenty years without refueling. America's favorite innovator, Bill Gates, has invested in a company that is exploring the Traveling Wave. If Bill Gates is embracing nuclear, I think it's safe to say America will soon be back in the game.

But we need to continue our commitment to basic science research. We must rebuild our industrial capacity and continue producing a skilled workforce for the future. We need to start building new reactors in America and we need to bring the next generation of reactors to market to recognize the benefits of full-recycling. It all starts with learning from our experience and the experience of other nations like Japan.

So these two nations as well as others—are prepared to move forward together in the great nuclear renaissance that is sweeping the world. Japan is on the cutting edge of reactor construction and reprocessing technology and I hope we will soon be able to join them by expanding our own nuclear fleet and adding our research capabilities. We have come a long, long way in 70 years since the closing day of World War II when scientists unlocked the energy buried at the heart of the atom. Nuclear power has since been used for threats, it has been used for destruction, and it has been used to frighten humanity into confronting the idea that we might be capable of destroying ourselves and the planet along with us. But I think right now we can safely say that these two nations are poised on the edge of an era of cooperation when we will turn the benefits of nuclear power to the greater good of all mankind.

## ADDITIONAL STATEMENTS

## TRIBUTE TO NIEL ELLERBROOK

• Mr. BAYH. Mr. President, on behalf of myself and Senator LUGAR, I would like to bring to the Senate's attention the service of Niel Ellerbrook, who is retiring as chief executive officer of Evansville-based Vectren Corporation after more than 30 years of service with the company and its predecessor. Mr. Ellerbrook's accomplishments as a business leader in Indiana are well documented and too numerous to mention. Suffice it to say, Niel has been a strong and positive force for change in the State for many years. He successfully engineered the merger between two utility companies and built the resulting company Vectren Corporation into one of Indiana's largest publically traded corporations with more than 3,700 employees and operations encompassing half of the United States. Under Niel's leadership, Vectren has embarked on an impressive campaign to provide consumers cleaner energy and cost-saving energy conservation programs all of which have become models for others in the industry to follow.

Niel's business acumen tells only a part of the story, however. The son of a minister and elementary schoolteacher, Niel was born into a household that put a premium on sacrifice and doing for others. Niel's generous commitment of time and resources to civic endeavors in Evansville has benefited untold numbers of Hoosiers. Niel is an active supporter of the United Way and devotes significant energies toward education serving as chairman of the board of trustees at the University of Evansville, on the board of Signature Learning Center in Evansville, and as cochair, with his wife Karen, of the fundraising campaign that led to the opening of the Koch Children's Museum of Evansville in 2006.

Born in Rensselaer, growing up in Franklin and graduating from Ball State University, Niel is a born-and-bred Hoosier success story. Fortunately for us Hoosiers, he decided to remain in the State and place his significant mark on the history of Indiana business and civic leadership.

Speaking for my colleague Senator LUGAR, I can say how fortunate we are to call Niel a friend.

It is with great appreciation that Senator LUGAR and I congratulate Niel Ellerbrook on his remarkable career, and wish him and his wife Karen the very best in their future endeavors together.●

50TH ANNIVERSARY OF  
BALTIMORE HERITAGE, INC.

• Mr. CARDIN. Mr. President, today I wish to pay special tribute to Baltimore Heritage, Inc. as it celebrates its

50th anniversary. Baltimore Heritage, Inc.—BHI—is beginning its fifth decade of service to Baltimore City. BHI was founded in 1960 by leaders of the Baltimore business and cultural community, including members of the Greater Baltimore Committee, the Maryland Historical Society, the Peale Museum, and the Junior Chamber of Commerce. For decades, the organization has effectively advocated for actions and broader policies that protect the city's irreplaceable historic buildings and neighborhoods.

BHI works in three primary areas: education, planning and advocacy, and technical assistance. Its education programs seek to involve people and promote the city's heritage. To further that effort, it conducts monthly guided tours of historic sites, spring walking tours, a fall history lecture, and a reception to recognize the best historic preservation projects.

Through its planning and advocacy work, BHI has helped preserve city landmarks and develop strategies to use Baltimore's historic buildings and neighborhoods as the basis for economic growth. Some successes include: reversing plans to demolish the historic buildings surrounding Mt. Vernon Place; saving the City Hall dome; and establishing the Baltimore City Commission for Historical and Architectural Preservation, CHAP, which has gone on to help designate more than 60 local and national neighborhood historic districts and achieve protected landmark status for more than 100 historic structures, parks, and monuments. BHI was a partner in blocking the extension of I-83 through Fells Point and Canton and in preserving and reusing Camden Station and Camden Warehouse as integrated parts of the new downtown ballpark.

Baltimore Heritage leaders also were partners with Preservation Maryland in crafting and advocating for an alternative proposal for revitalizing the West Side of Baltimore's downtown—an alternative that proved the feasibility and great economic potential of integrating, rather than demolishing, the district's historic structures. This alternative plan now serves as the guideline for the city's official redevelopment plan for this important downtown district.

I ask my colleagues to join me in applauding Baltimore Heritage for its dedication to showcasing our rich historic and cultural heritage. Baltimore is one of our Nation's most historic cities, and Baltimore Heritage, Inc. understands the importance of preserving the past while building for the future. To paraphrase Sir Christopher Wren's epitaph, "If you seek Baltimore Heritage's monument, look around you."●

## RECOGNIZING ALCOM, INC.

• Ms. SNOWE. Mr. President, next week marks National Small Business

Week, a time when we honor our Nation's entrepreneurs and the tremendous accomplishments they have made. As small business owners and advocates from across America gather in Washington, DC, for several days of events, among that group will be two Mainers who have earned the U.S. Small Business Administration's prestigious 2010 Maine Small Business Persons of the Year award. Today I wish to recognize Trapper Clark and Tom Sturtevant, the president and corporate vice president, respectively, of Alcom, Inc., a major manufacturer of aluminum trailers located in the town of Winslow.

Alcom got its start in 2006 when Trapper Clark opened the firm in 8,000 square feet of space at the historic Wyandotte Mill in Waterville. Trapper, a graduate of the University of Maine, had previously worked for aluminum sport and utility manufacturer SnoPro, giving him a deep familiarity with the industry and how it operates. When he decided to open his own small business, he approached Tom, his stepfather who had been retired for a decade, to help get his company off the ground. Mr. Sturtevant is an entrepreneur in his own right, having founded Gazelle Products—the third-largest fiberglass-canoe manufacturer in the country when he sold it in 1990—and Benton Plastics—the third-largest manufacturer of plastic bed liners in the world when he sold the firm in 1994. Clearly, both Trapper and Tom had the knowledge, background, and expertise to launch Alcom in early 2006.

When the company opened its doors, it employed just a handful of people but sold 105 of its trailers to dealers on its first day of operation. Business continued to stay strong, and within a year, Alcom was using all 46,000 available square feet at the mill. Facing a dilemma that could have easily forced their company out of State, Trapper and Tom instead chose to utilize a \$1.1 million SBA loan guarantee to move into an expanded, 70,000 square foot facility in the Winslow Industrial Park. In part because of the expansion, Alcom now employs 80 and is slated to complete \$18 million in sales in 2010. The company sells its trailers to 200 dealers throughout the United States and Canada. Additionally, the company's 5-year plan anticipates the company having 196 employees and \$44 million in sales in 2013, an incredible measurement of the company's success and growth.

The ability of Alcom to grow and thrive during such difficult economic times is a testament to the dedication and commitment of Trapper Clark and Tom Sturtevant, who vividly represent America's entrepreneurial spirit. Indeed, Alcom is truly one of our Nation's shining small business success stories, and has quickly become a nationwide leader in the design and manufacturing of recreational aluminum



trailers. I am proud that Maine is home to such a vibrant and resilient firm, and I am optimistic for the company's future prospects. Once again, I congratulate Trapper and Tom for being exceptional models for Maine and the Nation, and I wish them and everyone at Alcom all the best for many more successful years to come.●

#### TRIBUTE TO DEREK JOHNSON

● Mr. THUNE. Mr. President, today I wish to recognize Derek Johnson, son of Wayne and Nancy Johnson, of Aberdeen, SD. Derek will graduate from Aberdeen Central High School on May 23, 2010.

Derek has a very unique and touching story. He has overcome much adversity to become the positive role model and impressive young leader he is today. While playing for the Aberdeen Central Golden Eagles' high school football team in the fall of 2007, Derek suffered a serious injury that would change life as he knew it. After much contemplation and several extensive surgeries, Derek's lower left leg was amputated. Throughout his struggles, and the long painful recovery process, Derek maintained a positive attitude and steadfast work ethic that served as an inspiration to his teammates, classmates, the community, and entire State of South Dakota.

In March 2009, Derek's invincible attitude and courageous spirit were highlighted when he was selected as one of seven nationwide regional winners of the National High School Spirit of Sport Award. This award, selected by the National Federation of State High School Associations, is presented to high school athletes, coaches, administrators, managers and trainers that best exemplify the ideals of the positive spirit of sport.

Perhaps nothing embodied Derek's spirit more than when he returned to the athletic field this past school year. He returned to the football team to provide encouragement for his teammates. Through his hard work and determination, he was also able to compete as part of the Aberdeen Central Golden Eagles' varsity wrestling team. As a reflection of his athletic talent and perseverance, Derek earned eighth place in the South Dakota Class A Wrestling Championships.

Throughout his high school career, Derek has served as a shining example and genuine role model. I want to thank Derek for being such a positive influence on all of the lives he has touched and wish him the best of luck in his future endeavors. On behalf of the Aberdeen community, the entire State of South Dakota, and all of us here serving in the U.S. Congress, I am pleased to extend my sincere congratulations to Aberdeen Central's Derek Johnson. This young South Dakotan will continue to be a true hero and in-

spiration. He has made us all very proud. Congratulations.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE

At 9:38 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1514. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reauthorize the juvenile accountability block grants program through fiscal year 2014.

H.R. 2136. An act to establish the Honorable Stephanie Tubbs Jones Fire Suppression Demonstration Incentive Program within the Department of Education to promote installation of fire sprinkler systems, or other fire suppression or prevention technologies, in qualified student housing and dormitories, and for other purposes.

H.R. 2546. An act to ensure that the right of an individual to display the Service Flag on residential property not be abridged.

H.R. 5099. An act to designate the facility of the United States Postal Service located at 15 South Main Street in Sharon, Massachusetts, as the "Michael C. Rothberg Post Office".

H.R. 5139. An act to provide for the International Organizations Immunities Act to be extended to the Office of the High Representative in Bosnia and Herzegovina and the International Civilian Office in Kosovo.

H.R. 5220. An act to reauthorize the Special Olympics Sport and Empowerment Act of 2004, to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes.

#### ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. BYRD) announced that he had signed the following enrolled bills, which were previously signed by the Speaker of the House:

S. 1782. An act to provide improvements for the operations of the Federal courts, and for other purposes.

H.R. 5014. An act to clarify the health care provided by the Secretary of Veterans Affairs that constitutes minimum essential coverage.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1514. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reauthorize the juvenile accountability block grants program through fiscal year 2014; to the Committee on the Judiciary.

H.R. 2136. An act to establish the Honorable Stephanie Tubbs Jones Fire Suppression Demonstration Incentive Program within the Department of Education to promote installation of fire sprinkler systems, or other fire suppression or prevention technologies, in qualified student housing and dormitories, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 2546. An act to ensure that the right of an individual to display the Service flag on residential property not be abridged; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 5099. An act to designate the facility of the United States Postal Service located at 15 South Main Street in Sharon, Massachusetts, as the "Michael C. Rothberg Post Office"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5220. An act to reauthorize the Special Olympics Sport and Empowerment Act of 2004, to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5893. A communication from the Acting Administrator, Rural Business-Cooperative Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Rural Microentrepreneur Assistance Program" (RIN0570-AA71) received in the Office of the President of the Senate on May 18, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5894. A joint communication from the Under Secretary of Defense (Comptroller) and the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to a multiyear procurement that is being sought for F/A-18E/F and EA-18G aircraft in fiscal year 2010 through fiscal year 2013; to the Committee on Armed Services.

EC-5895. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the continuation of the national emergency with respect to Iran that was originally declared in Executive Order 12170 on November 14, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-5896. A communication from the Deputy Assistant Administrator for Fisheries, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Correction" (RIN0648-AY37) received in the Office of the President of the Senate on May 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-5897. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and

South Atlantic; Emergency Fisheries Closure in the Gulf of Mexico Due to the Deepwater Horizon Oil Spill" (RIN0648–AY87) received in the Office of the President of the Senate on May 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5898. A communication from the Division Chief of Regulatory Affairs, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Visitor Services" (RIN1004–AD96) received in the Office of the President of the Senate on May 18, 2010; to the Committee on Energy and Natural Resources.

EC–5899. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: NUHOMS HD System Revision 1" (RIN3150–AI75) received in the Office of the President of the Senate on May 14, 2010; to the Committee on Environment and Public Works.

EC–5900. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement for the export of defense articles, including, technical data, and defense services to Israel for the manufacture of components for the TF33, J52, and F100 aircraft engines in the amount of \$50,000,000 or more; to the Committee on Foreign Relations.

EC–5901. A communication from the Secretary of the Department of Commerce, transmitting, pursuant to law, a report relative to the export to the People's Republic of China of items not detrimental to the U.S. space launch industry; to the Committee on Foreign Relations.

EC–5902. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to the activities of the Western Hemisphere Institute for Security Cooperation; to the Committee on Foreign Relations.

EC–5903. A communication from the Vice President, Congressional and Public Affairs, Millennium Challenge Corporation, transmitting, pursuant to law, a report relative to the Millennium Challenge Corporation's actual performance during fiscal year 2009; to the Committee on Foreign Relations.

EC–5904. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report relative to the General Services Administration's Fiscal Year 2011 Capital Investment and Leasing Program; to the Committee on Homeland Security and Governmental Affairs.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. INHOFE:

S. 3388. A bill to protect the rights under the second amendment to the Constitution of the United States of members of the Armed Forces and civilian employees of the Department of Defense by prohibiting the Department of Defense from requiring the registration of privately-owned firearms, ammunition, or other weapons not stored in facilities owned or operated by the Department of Defense, and by prohibiting the De-

partment of Defense from infringing on the right of individuals to lawfully acquire, possess, own, carry, or otherwise use privately owned firearms, ammunition, or other weapons on property not owned or operated by the Department of Defense; to the Committee on Armed Services.

By Mrs. HAGAN:

S. 3389. A bill to amend title 38, United States Code, to exempt individuals who receive certain educational assistance for service in the Selected Reserve from limitations on the receipt of assistance under Post-9/11 Educational Assistance Program for additional service in the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FRANKEN (for himself, Ms. MIKULSKI, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. KERRY, Mr. HARKIN, Mr. CASEY, Mrs. MURRAY, Mr. BINGAMAN, Mr. FEINGOLD, Mr. CARDIN, Mr. SANDERS, Ms. CANTWELL, Mr. BROWN of Ohio, Mr. DODD, Mr. BEGICH, Mr. DURBIN, Mr. LAUTENBERG, Mr. LEAHY, Mr. MENENDEZ, Mr. WHITEHOUSE, Mr. WYDEN, Mr. AKAKA, and Ms. KLOBUCHAR):

S. 3390. A bill to end the discrimination based on actual or perceived sexual orientation or gender identity in public schools, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU:

S. 3391. A bill to provide for accelerated revenue sharing of Outer Continental Shelf revenues to promote coastal resiliency among Gulf producing states; to the Committee on Energy and Natural Resources.

By Mrs. GILLIBRAND:

S. 3392. A bill to direct the Secretary of the Interior to conduct a special resource study to evaluate the significance of the Newtown Battlefield located in Chemung County, New York, and the suitability and feasibility of its inclusion in the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWN of Ohio:

S. 3393. A bill to provide for extension of COBRA continuation coverage until coverage is available otherwise under either an employment-based health plan or through an American Health Benefit Exchange under the Patient Protection and Affordable Care Act; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU (for herself and Ms. SNOWE):

S. 3394. A bill to establish the veterans' business center program, to improve the programs for veterans of the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. UDALL of Colorado (for himself, Mr. WYDEN, Mr. BURRIS, and Ms. STABENOW):

S. 3395. A bill to provide cost-sharing assistance to improve access to the markets of foreign countries for energy efficiency products and renewable energy products exported by small- and medium-sized businesses in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE (for herself and Ms. COLLINS):

S. Res. 536. A resolution designating June 1, 2010, as "Declaration of Conscience Day" in commemoration of the 60th anniversary of the landmark "Declaration of Conscience" speech delivered by Senator Margaret Chase Smith on the floor of the United States Senate; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 292

At the request of Mr. SPECTER, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 292, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 334

At the request of Mr. LUGAR, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 334, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Moldova.

S. 504

At the request of Mr. ROBERTS, the names of the Senator from Delaware (Mr. CARPER), the Senator from Illinois (Mr. DURBIN), the Senator from Minnesota (Mr. FRANKEN), the Senator from New York (Mrs. GILLIBRAND), the Senator from Hawaii (Mr. INOUE), the Senator from Nebraska (Mr. JOHANNES), the Senator from Delaware (Mr. KAUFMAN), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. 504, a bill to redesignate the Department of the Navy as the Department of the Navy and Marine Corps.

S. 632

At the request of Mr. BAUCUS, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 632, a bill to amend the Internal Revenue Code of 1986 to require that the payment of the manufacturers' excise tax on recreational equipment be paid quarterly.

S. 752

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 752, a bill to reform the financing of Senate elections, and for other purposes.

S. 1445

At the request of Mr. LAUTENBERG, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1445, a bill to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth.

S. 1674

At the request of Mr. WYDEN, the name of the Senator from Kansas (Mr.

ROBERTS) was added as a cosponsor of S. 1674, a bill to provide for an exclusion under the Supplemental Security Income program and the Medicaid program for compensation provided to individuals who participate in clinical trials for rare diseases or conditions.

S. 1788

At the request of Mr. FRANKEN, the names of the Senator from Hawaii (Mr. INOUE) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 1788, a bill to direct the Secretary of Labor to issue an occupational safety and health standard to reduce injuries to patients, direct-care registered nurses, and all other health care workers by establishing a safe patient handling and injury prevention standard, and for other purposes.

S. 2781

At the request of Ms. MIKULSKI, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 2781, a bill to change references in Federal law to mental retardation to references to an intellectual disability, and to change references to a mentally retarded individual to references to an individual with an intellectual disability.

S. 2900

At the request of Mrs. GILLIBRAND, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2900, a bill to establish a research, development, and technology demonstration program to improve the efficiency of gas turbines used in combined cycle and simple cycle power generation systems.

S. 3039

At the request of Mr. UDALL of New Mexico, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 3039, a bill to prevent drunk driving injuries and fatalities, and for other purposes.

S. 3058

At the request of Mr. DORGAN, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3141

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 3141, a bill to amend the Internal Revenue Code of 1986 to provide special rules for treatment of low-income housing credits, and for other purposes.

S. 3223

At the request of Ms. SNOWE, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 3223, a bill to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to provide parity under group health plans and group health insur-

ance coverage for the provision of benefits for prosthetics and custom orthotics and benefits for other medical and surgical services.

S. 3227

At the request of Mr. HATCH, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3227, a bill to authorize the Archivist of the United States to make grants to States for the preservation and dissemination of historical records.

S. 3248

At the request of Mr. BINGAMAN, the names of the Senator from California (Mrs. BOXER), the Senator from Maryland (Mr. CARDIN), the Senator from Delaware (Mr. CARPER), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Vermont (Mr. SANDERS) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 3248, a bill to designate the Department of the Interior Building in Washington, District of Columbia, as the "Stewart Lee Udall Department of the Interior Building".

S. 3250

At the request of Mr. CARPER, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3250, a bill to provide for the training of Federal building personnel, and for other purposes.

S. 3262

At the request of Mr. MENENDEZ, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 3262, a bill to amend the Internal Revenue Code of 1986 to provide that the volume cap for private activity bonds shall not apply to bonds for facilities for the furnishing of water and sewage facilities.

S. 3266

At the request of Mr. BENNET, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 3266, a bill to ensure the availability of loan guarantees for rural homeowners.

S. 3278

At the request of Mr. BENNET, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 3278, a bill to establish the Meth Project Prevention Campaign Grant Program.

S. 3293

At the request of Mr. HATCH, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 3293, a bill to reauthorize the Special Olympics Sport and Empowerment Act of 2004, to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes.

S. 3305

At the request of Mr. MENENDEZ, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S.

3305, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills, and for other purposes.

S. 3306

At the request of Mr. MENENDEZ, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 3306, a bill to amend the Internal Revenue Code of 1986 to require polluters to pay the full cost of oil spills, and for other purposes.

S. 3326

At the request of Ms. CANTWELL, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 3326, a bill to provide grants to States for low-income housing projects in lieu of low-income housing credits, and to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of the low-income housing credit, and for other purposes.

S. 3339

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 3339, a bill to amend the Internal Revenue Code of 1986 to provide a reduced rate of excise tax on beer produced domestically by certain small producers.

At the request of Mr. CORNYN, his name was added as a cosponsor of S. 3339, *supra*.

S. 3345

At the request of Mr. WHITEHOUSE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3345, a bill to amend title 46, United States Code, to remove the cap on punitive damages established by the Supreme Court in *Exxon Shipping Company v. Baker*.

S. 3346

At the request of Mr. WHITEHOUSE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3346, a bill to increase the limits on liability under the Outer Continental Shelf Lands Act.

S. 3358

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3358, a bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf off the coast of California, Oregon, and Washington.

S. 3361

At the request of Mr. BROWNBACK, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 3361, a bill to require the Secretary of Defense to take illegal subsidization into account in evaluating proposals for contracts for major defense acquisition programs, and for other purposes.

S. 3362

At the request of Mr. SANDERS, the name of the Senator from Maryland

(Mr. CARDIN) was added as a cosponsor of S. 3362, a bill to amend the Clean Air Act to direct the Administrator of the Environmental Protection Agency to provide competitive grants to publicly funded schools to implement effective technologies to reduce air pollutants (as defined in section 302 of the Clean Air Act), including greenhouse gas emissions, in accordance with that Act.

S. 3372

At the request of Mrs. BOXER, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3372, a bill to modify the date on which the Administrator of the Environmental Protection Agency and applicable States may require permits for discharges from certain vessels.

S.J. RES. 29

At the request of Mr. MCCONNELL, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

AMENDMENT NO. 3920

At the request of Mr. HARKIN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 3920 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3922

At the request of Mr. MERKLEY, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of amendment No. 3922 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3931

At the request of Mr. MERKLEY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 3931 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 3978

At the request of Mr. JOHNSON, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of amendment No. 3978 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 4091

At the request of Mr. JOHNSON, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of amendment No. 4091 intended to be proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

AMENDMENT NO. 4115

At the request of Mr. MERKLEY, the names of the Senator from Ohio (Mr. BROWN), the Senator from Delaware (Mr. KAUFMAN), the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from California (Mrs. FEINSTEIN), the Senator from Pennsylvania (Mr. CASEY), the Senator from Florida (Mr. NELSON), the Senator from Illinois (Mr. BURRIS), the Senator from Alaska (Mr. BEGICH), the Senator from Hawaii (Mr. INOUE), the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Colorado (Mr. UDALL), the Senator from Maryland (Ms. MIKULSKI), the Senator from Vermont (Mr. SANDERS), the Senator from New Mexico (Mr. UDALL), the Senator from Rhode Island (Mr. REED), the Senator from Illinois (Mr. DURBIN), the Senator from Virginia (Mr. WEBB), the Senator from Iowa (Mr. HARKIN), the Senator from Washington (Mrs. MURRAY), the Senator from Massachusetts (Mr. KERRY), the Senator from California (Mrs. BOXER) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 4115 proposed to S. 3217, an original bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRANKEN (for himself, Ms. MIKULSKI, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. KERRY, Mr. HARKIN, Mr.

CASEY, Mrs. MURRAY, Mr. BINGAMAN, Mr. FEINGOLD, Mr. CARDIN, Mr. SANDERS, Ms. CANTWELL, Mr. BROWN of Ohio, Mr. DODD, Mr. BEGICH, Mr. DURBIN, Mr. LAUTENBERG, Mr. LEAHY, Mr. MENENDEZ, Mr. WHITEHOUSE, Mr. WYDEN, Mr. AKAKA, and Ms. KLOBUCHAR):

S. 3390. A bill to end the discrimination based on actual or perceived sexual orientation or gender identity in public schools, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRANKEN. Mr. President, all men are created equal. Our Nation's greatest leaders, like Thomas Jefferson, Susan B. Anthony, and Martin Luther King, Jr. have shaped the course of our history by furthering our understanding of this principle. It is because of their struggle to illuminate it that we now live under a system of laws that provides equal protection to Americans, regardless of their race, gender, or religion. It is because of their chutzpah that I, a Jew, can stand before you today as a United States Senator.

But there is one group for whom our realization of that principle has not advanced quickly enough. Gay Americans continue to be treated as second-class citizens in our society and under our laws. Nowhere is the unequal treatment of gay Americans more destructive than in our nation's public schools.

Currently, Federal law provides no explicit protection to gay students against discrimination and harassment. While Federal civil rights statutes prohibit discrimination and harassment against students based on race, sex, religion, and national origin, these laws do not explicitly address sexual orientation or gender identity.

To remedy this injustice, I and 22 of my Senate colleagues are introducing the Student Non-Discrimination Act today. This legislation will prohibit schools from discriminating against or ignoring the harassment of students based on their sexual orientation or gender identity. The bill would also provide meaningful remedies for such discrimination, modeled on Title IX.

These protections are sorely needed. Let me tell you a sad fact—nearly nine out of ten LGBT students are harassed in school. This harassment deprives them of an equal education. Rochelle, a gay high school student from California who was harassed in school, explains why with a simple question. She asks, "How was I supposed to learn when I was constantly scared?" For students like Rochelle, school is not a place to learn. Rather it is a place to be bullied, beaten down, and humiliated. It is no wonder that gay students who are harassed in school are more likely to skip school, underachieve, and eventually drop out.

In its worst form, the harassment of LGBT students can lead to life-threatening violence and suicide. We have

seen this in all too many high-profile cases in recent years, such as that of Carl Walker Hoover, an 11-year-old boy from Massachusetts who hung himself last April. Before he committed suicide, Carl was taunted by his classmates on a daily basis for allegedly being gay despite his mother's weekly pleas to his school to address the problem. Carl's death came only about a year after Lawrence King, an eighth grader in California, was shot and killed by a classmate for allegedly being gay.

To be clear, it is not simply students who are to blame for the harassment of their gay classmates. Students who harass their gay peers have often internalized the anti-gay bias of the adults around them. Sometimes their bullying is even condoned by adults at school—through the silence of school staff who witness the bullying or through their encouragement of the behavior.

This was certainly the case for Alex, a 16-year-old boy from Anoka, MN, whose teachers mocked him in front of his classmates for allegedly being gay. When Alex mentioned Benjamin Franklin in a paper, his social studies teacher taunted him for "having a thing for older men." A second teacher who taught a course on law enforcement volunteered Alex for a student fashion show, joking that Alex "loves to dress in women's clothes." Alex's peers soon caught on to the joke, and began taunting him too. The harassment grew so severe that Alex eventually switched schools.

Because Alex lives in Minnesota—one of 14 States that prohibit discrimination based on sexual orientation in school—Alex and his family were able to hold his school district accountable. They filed a complaint with the Minnesota Department of Human Rights. After the Department found that Alex had been subjected to "severe and pervasive" harassment, the school district settled the case. The district provided Alex and his family financial compensation, and adopted new rules to prevent the harassment of LGBT students.

Minnesota's law is effective not only because it holds school districts accountable for discrimination, but also because it provides a powerful incentive for districts to adopt policies to prevent discrimination from occurring in the first place.

It is time that we extend the equal rights afforded to Minnesota students to students all across the country. No student should be subjected to the ridicule and physical violence that LGBT students so often experience in school. I urge my colleagues to join me today in supporting the Student Non-Discrimination Act. It is time we demanded equal treatment for all of our children under the law.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3390

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Nondiscrimination Act of 2010".

#### SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Public school students who are lesbian, gay, bisexual, or transgender (referred to in this Act as "LGBT"), or are perceived to be LGBT, or who associate with LGBT people, have been and are subjected to pervasive discrimination, including harassment, bullying, intimidation, and violence, and have been deprived of equal educational opportunities, in schools in every part of the Nation.

(2) While discrimination, including harassment, bullying, intimidation, and violence, of any kind is harmful to students and to the education system, actions that target students based on sexual orientation or gender identity represent a distinct and especially severe problem.

(3) Numerous social science studies demonstrate that discrimination, including harassment, bullying, intimidation, and violence, at school has contributed to high rates of absenteeism, dropping out, adverse health consequences, and academic underachievement, among LGBT youth.

(4) When left unchecked, discrimination, including harassment, bullying, intimidation, and violence, in schools based on sexual orientation or gender identity can lead, and has led, to life-threatening violence and to suicide.

(5) Public school students enjoy a variety of constitutional rights, including rights to equal protection, privacy, and free expression, which are infringed when school officials engage in or are indifferent to discrimination, including harassment, bullying, intimidation, and violence, on the basis of sexual orientation or gender identity.

(6) While Federal statutory provisions expressly address discrimination on the basis of race, color, sex, religion, disability, and national origin, Federal civil rights statutes do not expressly address discrimination on the basis of sexual orientation or gender identity. As a result, students and parents have often had limited recourse to law for remedies for discrimination on the basis of sexual orientation or gender identity.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure that all students have access to public education in a safe environment free from discrimination, including harassment, bullying, intimidation, and violence, on the basis of sexual orientation or gender identity;

(2) to provide a comprehensive Federal prohibition of discrimination in public schools based on actual or perceived sexual orientation or gender identity;

(3) to provide meaningful and effective remedies for discrimination in public schools based on actual or perceived sexual orientation or gender identity; and

(4) to invoke congressional powers, including the power to enforce the 14th amendment to the Constitution and to provide for the general welfare pursuant to section 8 of article I of the Constitution and the power to make all laws necessary and proper for the execution of the foregoing powers pursuant

to section 8 of article I of the Constitution, in order to prohibit discrimination in public schools on the basis of sexual orientation or gender identity.

#### SEC. 3. DEFINITIONS AND RULE.

(a) DEFINITIONS.—For purposes of this Act:

(1) EDUCATIONAL AGENCY.—The term "educational agency" means a local educational agency, an educational service agency, and a State educational agency, as those terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) GENDER IDENTITY.—The term "gender identity" means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

(3) HARASSMENT.—The term "harassment" means conduct that is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from a program or activity of a public school or educational agency, or to create a hostile or abusive educational environment at a program or activity of a public school or educational agency, including acts of verbal, nonverbal, or physical aggression, intimidation, or hostility, if such conduct is based on—

(A) a student's actual or perceived sexual orientation or gender identity; or

(B) the actual or perceived sexual orientation or gender identity of a person with whom a student associates or has associated.

(4) PROGRAM OR ACTIVITY.—The terms "program or activity" and "program" have the same meanings given such terms as applied under section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-4a) to the operations of public entities under paragraph (2)(B) of such section.

(5) PUBLIC SCHOOL.—The term "public school" means an elementary school (as the term is defined in section 9101 of the Elementary and Secondary Education Act of 1965) that is a public institution, and a secondary school (as so defined) that is a public institution.

(6) SEXUAL ORIENTATION.—The term "sexual orientation" means homosexuality, heterosexuality, or bisexuality.

(7) STUDENT.—The term "student" means an individual who is enrolled in a public school or who, regardless of official enrollment status, attends classes or participates in the programs or activities of a public school or educational agency.

(b) RULE.—Consistent with Federal law, in this Act the term "includes" means "includes but is not limited to".

#### SEC. 4. PROHIBITION AGAINST DISCRIMINATION.

(a) IN GENERAL.—No student shall, on the basis of actual or perceived sexual orientation or gender identity of such individual or of a person with whom the student associates or has associated, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) HARASSMENT.—For purposes of this Act, discrimination includes harassment of a student on the basis of actual or perceived sexual orientation or gender identity of such student or of a person with whom the student associates or has associated.

(c) RETALIATION PROHIBITED.—

(1) PROHIBITION.—No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination, retaliation, or reprisal under any program or activity receiving Federal financial

assistance based on the person's opposition to conduct made unlawful by this Act.

(2) **DEFINITION.**—For purposes of this subsection, “opposition to conduct made unlawful by this Act” includes—

(A) opposition to conduct reasonably believed to be made unlawful by this Act;

(B) any formal or informal report, whether oral or written, to any governmental entity, including public schools and educational agencies and employees of the public schools or educational agencies, regarding conduct made unlawful by this Act or reasonably believed to be made unlawful by this Act;

(C) participation in any investigation, proceeding, or hearing related to conduct made unlawful by this Act or reasonably believed to be made unlawful by this Act; and

(D) assistance or encouragement provided to any other person in the exercise or enjoyment of any right granted or protected by this Act,

if in the course of that expression, the person involved does not purposefully provide information known to be false to any public school or educational agency or other governmental entity regarding conduct made unlawful, or reasonably believed to be made unlawful, by this Act.

**SEC. 5. FEDERAL ADMINISTRATIVE ENFORCEMENT; REPORT TO CONGRESSIONAL COMMITTEES.**

(a) **REQUIREMENTS.**—Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 4 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President.

(b) **ENFORCEMENT.**—Compliance with any requirement adopted pursuant to this section may be effected—

(1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such non-compliance has been so found; or

(2) by any other means authorized by law, except that no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means.

(c) **REPORTS.**—In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House of Representatives and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until 30 days have elapsed after the filing of such report.

**SEC. 6. CAUSE OF ACTION.**

(a) **CAUSE OF ACTION.**—Subject to subsection (c), an aggrieved individual may bring an action in a court of competent jurisdiction, asserting a violation of this Act. Aggrieved individuals may be awarded all appropriate relief, including equitable relief, compensatory damages, and costs of the action.

(b) **RULE OF CONSTRUCTION.**—This section shall not be construed to preclude an aggrieved individual from obtaining remedies under any other provision of law or to require such individual to exhaust any administrative complaint process or notice of claim requirement before seeking redress under this section.

(c) **STATUTE OF LIMITATIONS.**—For actions brought pursuant to this section, the statute of limitations period shall be determined in accordance with section 1658(a) of title 28, United States Code. The tolling of any such limitations period shall be determined in accordance with the law governing actions under section 1979 of the Revised Statutes (42 U.S.C. 1983) in the State in which the action is brought.

**SEC. 7. STATE IMMUNITY.**

(a) **STATE IMMUNITY.**—A State shall not be immune under the 11th amendment to the Constitution from suit in Federal court for a violation of this Act.

(b) **WAIVER.**—A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment or otherwise, to a suit brought by an aggrieved individual for a violation of section 4.

(c) **REMEDIES.**—In a suit against a State for a violation of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public or private entity other than a State.

**SEC. 8. ATTORNEY'S FEES.**

Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended by inserting “the Student Nondiscrimination Act of 2010,” after “Religious Land Use and Institutionalized Persons Act of 2000.”

**SEC. 9. EFFECT ON OTHER LAWS.**

(a) **FEDERAL AND STATE NONDISCRIMINATION LAWS.**—Nothing in this Act shall be construed to preempt, invalidate, or limit rights, remedies, procedures, or legal standards available to victims of discrimination or retaliation, under any other Federal law or law of a State or political subdivision of a State, including title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), or section 1979 of the Revised Statutes (42 U.S.C. 1983). The obligations imposed by this Act are in addition to those imposed by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and section 1979 of the Revised Statutes (42 U.S.C. 1983).

(b) **FREE SPEECH AND EXPRESSION LAWS AND RELIGIOUS STUDENT GROUPS.**—Nothing in this Act shall be construed to alter legal standards regarding, or affect the rights available to individuals or groups under, other Federal laws that establish protections for freedom of speech and expression, such as legal stand-

ards and rights available to religious and other student groups under the first amendment and the Equal Access Act (20 U.S.C. 4071 et seq.).

**SEC. 10. SEVERABILITY.**

If any provision of this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, and the application of the provision to any other person or circumstance shall not be impacted.

**SEC. 11. EFFECTIVE DATE.**

This Act shall take effect 60 days after the date of enactment of this Act and shall not apply to conduct occurring before the effective date of this Act.

Mr. LEAHY. Mr. President, I am proud to join Senator FRANKEN in sponsoring the Student Non-Discrimination Act of 2010, SNDA, an important step in our march toward a more inclusive Nation. This bill continues the civil rights work we began earlier this Congress when I offered the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act as an amendment to the defense authorization bill last year. The Student Non-Discrimination Act will ensure that under Federal law, all public school children are protected equally from discrimination. Children deserve a safe environment where they can learn the skills and knowledge necessary to be good citizens.

More than 55 years ago, in the landmark case of Brown v. Board of Education, the Supreme Court reaffirmed our Nation's commitment to justice and equal rights for all Americans by ending racial segregation in our public schools. A unanimous Court recognized that “it is doubtful that any child may reasonably be expected to succeed in life if he [or she] is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.”

Congress continued on the path of progress by passing laws like the Civil Rights Act of 1964, the Education Amendments of 1972, and the Rehabilitation Act of 1973. These laws protected students in federally-funded public schools from discrimination and harassment based on race, national origin, sex, and disability. President John F. Kennedy said in 1963, “Simple justice requires that public funds, to which all taxpayers . . . contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in . . . discrimination.”

Tragically, for far too long, U.S. taxpayer dollars have gone to public school systems that tolerate or perpetuate discrimination, harassment, and even violence based on sexual orientation and gender identity. To paraphrase Dr. Martin Luther King, Jr., “now is the time to make justice a reality” for all of our children—now is the time for Congress to extend existing Federal protections against discrimination to all public school students.



The legislation we introduce today does just that by prohibiting discrimination and harassment based on actual or perceived sexual orientation and gender identity in public, non-religious, federally-funded schools.

Vermont has recognized the importance of creating a safe school environment for our children. In 1993, the State legislature enacted a law to protect school children from harassment based on sexual orientation, and in 2007, the law was strengthened to protect against harassment based on gender identity. Nine other States and the District of Columbia protect school children from discrimination based on gender identity and sexual orientation. This legislation makes clear that it would not preempt state laws such as those in Vermont, which provide additional protections and remedies.

The Student Non-Discrimination Act also preserves our First Amendment freedoms of expression and religion. The bill is narrowly tailored to comply with the Supreme Court's First Amendment precedents. It includes provisions that explicitly exempt parochial schools, and to make clear that religious groups in public schools continue to be protected by the First Amendment and the Equal Access Act.

I urge all Senators to come together to support this important bill to ensure that all of our students are given the opportunity to succeed, free from harassment or discrimination.

By Ms. LANDRIEU (for herself and Ms. SNOWE):

S. 3394. A bill to establish the veterans' business center program, to improve the programs for veterans of the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. LANDRIEU. Mr. President, as Chair of the Committee on Small Business and Entrepreneurship, I am pleased to introduce the Strengthening Entrepreneurship for America's Veterans Act of 2010. This vital and timely legislation builds upon the Small Business Administration's, SBA, existing counseling programs that successfully assist hundreds of thousands of veterans, service-disabled veterans and reservists annually, creating thousands of jobs. By strengthening and improving these programs, the SBA will be able to reach even more veterans, helping them to achieve their dream of starting or growing their own small businesses.

According to the Department of Veteran Affairs, there are currently more than 23.8 million veterans in the United States. Since 2001 alone, more than 2 million of these servicemembers have been deployed in support of Operation Enduring Freedom and Operation Iraqi Freedom. This means that every day, hundreds of new veterans are returning home from service in Iraq and

Afghanistan. Seeking to move on with their lives after long deployments, many veterans become entrepreneurs to support both themselves and their families.

However, in the face of historically high unemployment and tight credit, starting a business has never been more difficult. During the 111th Congress, the Committee has heard from many small business owners throughout the country. They have told me that the programs and services currently offered by SBA provide access to important resources that enable them to start, grow and expand their businesses. But in the face of the worst economic recession since the Great Depression, demand for these services is at an all time high. For these reasons, it is critical that we do more to help our entrepreneurs and small businesses, especially the hundreds of veterans returning home each day who are significantly more likely to struggle to find work.

That is why today I am introducing the Strengthening Entrepreneurship for America's Veterans Act of 2010. Since the passage of legislation establishing the Office of Veterans Business Development, OVBD, in 1999, the SBA has operated a network of centers and programs that provide technical assistance and support to veterans interested in starting or growing their own small businesses. This legislation will further enhance and improve these existing programs by providing more increased access to business counseling and technical assistance through a new network of Veterans Business Centers, modeled after the successful Small Business Development Centers, SBDC, and Women's Business Centers, WBC, programs. The Veterans Business Center Program will not only provide services to returning veterans and service-disabled veterans, but also to the families, spouses and surviving spouses of these heroic men and women.

In closing, I would like to thank Senator SNOWE for her continued leadership on small business issues and especially for her cosponsorship of this important legislation. Senator SNOWE has been a tireless advocate for the many veterans and reservists in her home state of Maine and I am pleased to have her support on this legislation.

I would also note that many of the provisions in this bill were included in S. 1229, the Entrepreneurial Development Act of 2009, which I introduced earlier this Congress with Senator SNOWE's support. S. 1229 passed out of Committee with unanimous and bipartisan support in June of 2009. However, given the importance of this legislation to our more than 23 million veterans, I have decided to reintroduce these provisions as a standalone bill. I look forward to working with my colleagues in the Senate to bring this legislation to the President's desk in the coming months.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3394

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Strengthening Entrepreneurship for America's Veterans Act of 2010".

#### SEC. 2. VETERANS' BUSINESS CENTER PROGRAM; OFFICE OF VETERANS BUSINESS DEVELOPMENT.

(a) IN GENERAL.—Section 32 of the Small Business Act (15 U.S.C. 657b) is amended by striking subsection (f) and inserting the following:

“(f) ONLINE COORDINATION.—

“(1) DEFINITION.—In this subsection, the term ‘veterans’ assistance provider’ means—

“(A) a veterans’ business center established under subsection (g);

“(B) an employee of the Administration assigned to the Office of Veterans Business Development; and

“(C) a veterans business ownership representative designated under subsection (g)(13)(B).

“(2) ESTABLISHMENT.—The Associate Administrator shall establish an online mechanism to—

“(A) provide information that assists veterans’ assistance providers in carrying out the activities of the veterans’ assistance providers; and

“(B) coordinate and leverage the work of the veterans’ assistance providers, including by allowing a veterans’ assistance provider to—

“(i) distribute best practices and other materials;

“(ii) communicate with other veterans’ assistance providers regarding the activities of the veterans’ assistance provider on behalf of veterans; and

“(iii) pose questions to and request input from other veterans’ assistance providers.

“(g) VETERANS’ BUSINESS CENTER PROGRAM.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘active duty’ has the meaning given that term in section 101 of title 10, United States Code;

“(B) the term ‘private nonprofit organization’ means an entity that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;

“(C) the term ‘Reservist’ means a member of a reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code;

“(D) the term ‘Service Corps of Retired Executives’ means the Service Corps of Retired Executives authorized under section 8(b)(1);

“(E) the term ‘small business concern owned and controlled by veterans’—

“(i) has the same meaning as in section 3(q); and

“(ii) includes a small business concern—

“(I) not less than 51 percent of which is owned by one or more spouses of veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more spouses of veterans; and

“(II) the management and daily business operations of which are controlled by one or more spouses of veterans;



“(F) the term ‘spouse’, relating to a veteran, service-disabled veteran, or Reservist, includes an individual who is the spouse of a veteran, service-disabled veteran, or Reservist on the date on which the veteran, service-disabled veteran, or Reservist died;

“(G) the term ‘veterans’ business center program’ means the program established under paragraph (2)(A); and

“(H) the term ‘women’s business center’ means a women’s business center described in section 29.

“(2) PROGRAM ESTABLISHED.—

“(A) IN GENERAL.—The Administrator, acting through the Associate Administrator, shall establish a veterans’ business center program, under which the Associate Administrator may provide financial assistance to a private nonprofit organization to conduct a 5-year project for the benefit of small business concerns owned and controlled by veterans, which may be renewed for one or more additional 5-year periods.

“(B) FORM OF FINANCIAL ASSISTANCE.—Financial assistance under this subsection may be in the form of a grant, a contract, or a cooperative agreement.

“(3) VETERANS’ BUSINESS CENTERS.—Each private nonprofit organization that receives financial assistance under this subsection shall establish or operate a veterans’ business center (which may include establishing or operating satellite offices in the region described in paragraph (5) served by that private nonprofit organization) that provides to veterans (including service-disabled veterans), Reservists, and the spouses of veterans (including service-disabled veterans) and Reservists—

“(A) financial advice, including training and counseling on applying for and securing business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a small business concern;

“(B) management advice, including training and counseling on the planning, organization, staffing, direction, and control of each major activity and function of a small business concern;

“(C) marketing advice, including training and counseling on identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and using public relations and advertising techniques; and

“(D) advice, including training and counseling, for Reservists and the spouses of Reservists.

“(4) APPLICATION.—

“(A) IN GENERAL.—A private nonprofit organization desiring to receive financial assistance under this subsection shall submit an application to the Associate Administrator at such time and in such manner as the Associate Administrator may require.

“(B) 5-YEAR PLAN.—Each application described in subparagraph (A) shall include a 5-year plan on proposed fundraising and training activities relating to the veterans’ business center.

“(C) DETERMINATION AND NOTIFICATION.—Not later than 60 days after the date on which a private nonprofit organization submits an application under subparagraph (A), the Associate Administrator shall approve or deny the application and notify the applicant of the determination.

“(D) AVAILABILITY OF APPLICATION.—The Associate Administrator shall make every effort to make the application under subparagraph (A) available online.

“(5) ELIGIBILITY.—The Associate Administrator may select to receive financial assistance under this subsection—

“(A) a Veterans Business Outreach Center established by the Administrator under section 8(b)(17) on or before the day before the date of enactment of this subsection; or

“(B) private nonprofit organizations located in various regions of the United States, as the Associate Administrator determines is appropriate.

“(6) SELECTION CRITERIA.—

“(A) IN GENERAL.—The Associate Administrator shall establish selection criteria, stated in terms of relative importance, to evaluate and rank applicants under paragraph (5)(C) for financial assistance under this subsection.

“(B) CRITERIA.—The selection criteria established under this paragraph shall include—

“(i) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of veterans, and the spouses of veterans, who own or may own small business concerns;

“(ii) for an applicant for initial financial assistance under this subsection—

“(I) the ability of the applicant to begin operating a veterans’ business center within a minimum amount of time; and

“(II) the geographic region to be served by the veterans business center;

“(iii) the demonstrated ability of the applicant to—

“(I) provide managerial counseling and technical assistance to entrepreneurs; and

“(II) coordinate services provided by veterans services organizations and other public or private entities; and

“(iv) for any applicant for a renewal of financial assistance under this subsection, the results of the most recent examination under paragraph (10) of the veterans’ business center operated by the applicant.

“(C) CRITERIA PUBLICLY AVAILABLE.—The Associate Administrator shall—

“(i) make publicly available the selection criteria established under this paragraph; and

“(ii) include the criteria in each solicitation for applications for financial assistance under this subsection.

“(7) AMOUNT OF ASSISTANCE.—The amount of financial assistance provided under this subsection to a private nonprofit organization for each fiscal year shall be—

“(A) not less than \$150,000; and

“(B) not more than \$200,000.

“(8) FEDERAL SHARE.—

“(A) IN GENERAL.—

“(i) INITIAL FINANCIAL ASSISTANCE.—Except as provided in clause (ii) and subparagraph (E), a private nonprofit organization that receives financial assistance under this subsection shall provide non-Federal contributions for the operation of the veterans business center established by the private nonprofit organization in an amount equal to—

“(I) in each of the first and second years of the project, not less than 33 percent of the amount of the financial assistance received under this subsection; and

“(II) in each of the third through fifth years of the project, not less than 50 percent of the amount of the financial assistance received under this subsection.

“(ii) RENEWALS.—A private nonprofit organization that receives a renewal of financial assistance under this subsection shall provide non-Federal contributions for the operation of the veterans business center established by the private nonprofit organization in an amount equal to not less than 50 per-

cent of the amount of the financial assistance received under this subsection.

“(B) FORM OF NON-FEDERAL SHARE.—Not more than 50 percent of the non-Federal share for a project carried out using financial assistance under this subsection may be in the form of in-kind contributions.

“(C) TIMING OF DISBURSEMENT.—The Associate Administrator may disburse not more than 25 percent of the financial assistance awarded to a private nonprofit organization before the private nonprofit organization obtains the non-Federal share required under this paragraph with respect to that award.

“(D) FAILURE TO OBTAIN NON-FEDERAL FUNDING.—

“(i) IN GENERAL.—If a private nonprofit organization that receives financial assistance under this subsection fails to obtain the non-Federal share required under this paragraph during any fiscal year, the private nonprofit organization may not receive a disbursement under this subsection in a subsequent fiscal year or a disbursement for any other project funded by the Administration, unless the Administrator makes a written determination that the private nonprofit organization will be able to obtain a non-Federal contribution.

“(ii) RESTORATION.—A private nonprofit organization prohibited from receiving a disbursement under clause (i) in a fiscal year may receive financial assistance in a subsequent fiscal year if the organization obtains the non-Federal share required under this paragraph for the subsequent fiscal year.

“(E) WAIVER OF NON-FEDERAL SHARE.—

“(i) IN GENERAL.—Upon request by a private nonprofit organization, and in accordance with this subparagraph, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under subparagraph (A) for a fiscal year. The Administrator may not waive the requirement for a private nonprofit organization to obtain non-Federal funds under this subparagraph for more than a total of 2 fiscal years.

“(ii) CONSIDERATIONS.—In determining whether to waive the requirement to obtain non-Federal funds under this subparagraph, the Administrator shall consider—

“(I) the economic conditions affecting the private nonprofit organization;

“(II) the impact a waiver under this subparagraph would have on the credibility of the veterans’ business center program;

“(III) the demonstrated ability of the private nonprofit organization to raise non-Federal funds; and

“(IV) the performance of the private nonprofit organization.

“(iii) LIMITATION.—The Administrator may not waive the requirement to obtain non-Federal funds under this subparagraph if granting the waiver would undermine the credibility of the veterans’ business center program.

“(9) CONTRACT AUTHORITY.—A veterans’ business center may enter into a contract with a Federal department or agency to provide specific assistance to veterans, service-disabled veterans, Reservists, or the spouses of veterans, service-disabled veterans, or Reservists. Performance of such contract shall not hinder the veterans’ business center in carrying out the terms of the grant received by the veterans’ business centers from the Administrator.

“(10) EXAMINATION AND DETERMINATION OF VIABILITY.—

“(A) EXAMINATION.—

“(i) IN GENERAL.—The Associate Administrator shall conduct an annual examination

of the programs and finances of each veterans' business center established or operated using financial assistance under this subsection.

"(ii) FACTORS.—In conducting the examination under clause (i), the Associate Administrator shall consider whether the veterans business center has failed—

"(I) to provide the information required to be provided under subparagraph (B), or the information provided by the center is inadequate;

"(II) the center has failed to comply with a requirement for participation in the veterans' business center program, as determined by the Assistant Administrator, including—

"(aa) failure to acquire or properly document a non-Federal share;

"(bb) failure to establish an appropriate partnership or program for marketing and outreach to small business concerns;

"(cc) failure to achieve results described in a financial assistance agreement; and

"(dd) failure to provide to the Administrator a description of the amount and sources of any non-Federal funding received by the center;

"(III) to carry out the 5-year plan under in paragraph (4)(B); or

"(IV) to meet the eligibility requirements under paragraph (5).

"(B) INFORMATION PROVIDED.—In the course of an examination under subparagraph (A), the veterans' business center shall provide to the Associate Administrator—

"(i) an itemized cost breakdown of actual expenditures for costs incurred during the most recent full fiscal year;

"(ii) documentation of the amount of non-Federal contributions obtained and expended by the veterans' business center during the most recent full fiscal year; and

"(iii) with respect to any in-kind contribution under paragraph (8)(B), verification of the existence and valuation of such contributions.

"(C) DETERMINATION OF VIABILITY.—The Associate Administrator shall analyze the results of each examination under this paragraph and, based on that analysis, make a determination regarding the viability of the programs and finances of each veterans' business center.

"(D) DISCONTINUATION OF FUNDING.—

"(i) IN GENERAL.—The Associate Administrator may discontinue an award of financial assistance to a private nonprofit organization at any time if the Associate Administrator determines under subparagraph (C) that the veterans' business center operated by that organization is not viable.

"(ii) RESTORATION.—The Associate Administrator may continue to provide financial assistance to a private nonprofit organization in a subsequent fiscal year if the Associate Administrator determines under subparagraph (C) that the veterans' business center is viable.

"(11) PRIVACY REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a veterans' business center established or operated using financial assistance provided under this subsection may not disclose the name, address, or telephone number of any individual or small business concern that receives advice from the veterans' business center without the consent of the individual or small business concern.

"(B) EXCEPTION.—A veterans' business center may disclose information described in subparagraph (A)—

"(i) if the Administrator or Associate Administrator is ordered to make such a disclo-

sure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

"(ii) to the extent that the Administrator or Associate Administrator determines that such a disclosure is necessary to conduct a financial audit of a veterans' business center.

"(C) ADMINISTRATION USE OF INFORMATION.—This paragraph does not—

"(i) restrict access by the Administrator to program activity data; or

"(ii) prevent the Administrator from using information not described in subparagraph (A) to conduct surveys of individuals or small business concerns that receive advice from a veterans' business center.

"(D) REGULATIONS.—The Administrator shall issue regulations to establish standards for requiring disclosures under subparagraph (B)(ii).

"(12) REPORT.—

"(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year, the Associate Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the effectiveness of the veterans' business center program in each region during the most recent full fiscal year.

"(B) CONTENTS.—Each report under this paragraph shall include, at a minimum, for each veterans' business center established or operated using financial assistance provided under this subsection—

"(i) the number of individuals receiving assistance from the veterans' business center, including the number of such individuals who are—

"(I) veterans or spouses of veterans;

"(II) service-disabled veterans or spouses of service-disabled veterans; or

"(III) Reservists or spouses of Reservists;

"(ii) the number of startup small business concerns formed by individuals receiving assistance from the veterans' business center, including—

"(I) veterans or spouses of veterans;

"(II) service-disabled veterans or spouses of service-disabled veterans; or

"(III) Reservists or spouses of Reservists;

"(iii) the gross receipts of small business concerns that receive advice from the veterans' business center;

"(iv) the employment increases or decreases of small business concerns that receive advice from the veterans' business center;

"(v) to the maximum extent practicable, the increases or decreases in profits of small business concerns that receive advice from the veterans' business center; and

"(vi) the results of the examination of the veterans' business center under paragraph (10).

"(13) COORDINATION OF EFFORTS AND CONSULTATION.—

"(A) COORDINATION AND CONSULTATION.—To the extent practicable, the Associate Administrator and each private nonprofit organization that receives financial assistance under this subsection shall—

"(i) coordinate outreach and other activities with other programs of the Administration and the programs of other Federal agencies;

"(ii) consult with technical representatives of the district offices of the Administration in carrying out activities using financial assistance under this subsection; and

"(iii) provide information to the veterans business ownership representatives designated under subparagraph (B) and coordi-

nate with the veterans business ownership representatives to increase the ability of the veterans business ownership representatives to provide services throughout the area served by the veterans business ownership representatives.

"(B) VETERANS BUSINESS OWNERSHIP REPRESENTATIVES.—

"(i) DESIGNATION.—The Administrator shall designate not fewer than 1 individual in each district office of the Administration as a veterans business ownership representative, who shall communicate and coordinate activities of the district office with private nonprofit organizations that receive financial assistance under this subsection.

"(ii) INITIAL DESIGNATION.—The first individual in each district office of the Administration designated by the Administrator as a veterans business ownership representative under clause (i) shall be an individual that is employed by the Administration on the date of enactment of this subsection.

"(14) EXISTING CONTRACTS.—An award of financial assistance under this subsection shall not void any contract between a private nonprofit organization and the Administration that is in effect on the date of such award.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to carry out subsections (a) through (f), \$2,000,000 for each of fiscal years 2011 through 2013; and

"(2) to carry out subsection (g)—

"(A) \$8,000,000 for fiscal year 2011;

"(B) \$8,500,000 for fiscal year 2012; and

"(C) \$9,000,000 for fiscal year 2013."

(b) GAO REPORTS.—

(1) DEFINITIONS.—In this subsection—

(A) the terms "small business concern" and "veteran" have the meanings given those terms under section 3 of the Small Business Act (15 U.S.C. 632); and

(B) the terms "Reservist", "small business concern owned and controlled by veterans", and "veterans' business center program" have the meanings given those terms in section 32(g) of the Small Business Act, as added by this section.

(2) REPORT ON ACCESS TO CREDIT.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit a report regarding the ability of small business concern owned and controlled by veterans to access credit to—

(i) the Committee on Veterans' Affairs and the Committee on Small Business and Entrepreneurship of the Senate; and

(ii) the Committee on Veterans' Affairs and the Committee on Small Business of the House of Representatives.

(B) CONTENTS.—The report submitted under subparagraph (A) shall include an analysis of—

(i) the sources of credit used by small business concerns owned and controlled by veterans and percentage of the credit obtained by small business concern owned and controlled by veterans that is obtained from each source;

(ii) the default rate for small business concerns owned and controlled by veterans separately for each source of credit described in clause (i), as compared to the default rate for the source of credit for small business concerns generally;

(iii) the Federal lending programs available to provide credit to small business concerns owned and controlled by veterans;

(iv) gaps, if any, in the availability of credit for small business concerns owned and controlled by veterans that are not being

filled by the Federal Government or private sources;

(v) obstacles faced by veterans in trying to access credit;

(vi) the extent to which deployment and other military responsibilities affect the credit history of veterans and Reservists; and

(vii) the extent to which veterans are aware of Federal programs targeted towards helping veterans access credit.

**(3) REPORT ON VETERANS' BUSINESS CENTER PROGRAM.—**

(A) IN GENERAL.—Not later than 60 days after the end of the second fiscal year beginning after the date on which the veterans' business center program is established, the Comptroller General of the United States shall evaluate the effectiveness of the veterans' business center program, and submit to Congress a report on the results of that evaluation.

(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

(i) an assessment of—

(I) the use of amounts made available to carry out the veterans' business center program;

(II) the effectiveness of the services provided by each private nonprofit organization receiving financial assistance under the veterans' business center program;

(III) whether the services described in clause (ii) are duplicative of services provided by other veteran service organizations, programs of the Small Business Administration, or programs of another Federal department or agency and, if so, recommendations regarding how to alleviate the duplication of the services; and

(IV) whether there are areas of the United States in which there are not adequate entrepreneurial services for small business concerns owned and controlled by veterans and, if so, whether there is a veterans' business center established under the veterans' business center program providing services to that area; and

(ii) recommendations, if any, for improving the veteran's business center program.

**SEC. 3. REPORTING REQUIREMENT FOR INTER-AGENCY TASK FORCE.**

Section 32(c) of the Small Business Act (15 U.S.C. 657b(c)) is amended by adding at the end the following:

“(4) REPORT.—Not less frequently than twice each year, the Administrator shall submit to Congress a report on the appointments made to and activities of the task force.”.

**SEC. 4. REPEAL AND RENEWAL OF GRANTS.**

(a) DEFINITION.—In this section, the term “covered grant, contract, or cooperative agreement” means a grant, contract, or cooperative agreement that was—

(1) made or entered into under section 8(b)(17) of the Small Business Act (15 U.S.C. 637(b)(17)); and

(2) in effect on or before the date described in subsection (b)(2).

(b) REPEAL.—

(1) IN GENERAL.—Section 8(b) of the Small Business Act (15 U.S.C. 637(b)) is amended—

(A) in paragraph (15), by adding “and” at the end;

(B) in paragraph (16), by striking “; and” and inserting a period; and

(C) by striking paragraph (17).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect 60 days after the date of enactment of this Act.

(c) TRANSITIONAL RULES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a covered grant, con-

tract, or cooperative agreement shall remain in full force and effect under the terms, and for the duration, of the covered grant, contract, or agreement.

(2) ADDITIONAL REQUIREMENTS.—Any organization that was awarded or entered into a covered grant, contract, or cooperative agreement shall be subject to the requirements of section 32(g) of the Small Business Act (15 U.S.C. 657b(g)) (as added by this Act).

(d) RENEWAL OF FINANCIAL ASSISTANCE.—An organization that was awarded or entered into a covered grant, contract, or cooperative agreement may apply for a renewal of the grant, contract, or agreement under the terms and conditions described in section 32(g) of the Small Business Act (15 U.S.C. 657b(g)) (as added by this Act).

Ms. SNOWE. Mr. President, I rise today, along with Senator MARY LANDRIEU, Chair of the Senate Committee on Small Business and Entrepreneurship, to introduce the Strengthening Entrepreneurship for America's Veterans Act. This critical legislation, which is a slightly modified version of language we included in S. 1229, the Entrepreneurial Development Act of 2009, will establish a nationwide Veterans' Business Center program, housed at the Small Business Administration, or SBA, to tailor counseling and outreach programs for aspiring veteran entrepreneurs. This program will build on the extraordinary work of the SBA's Office of Veterans Business Development, headed by Bill Elmore, which currently oversees eight such centers and last year counseled or trained over 120,000 veterans.

According to the Department of Veteran Affairs, almost 2 million brave American men and women have deployed to Afghanistan and Iraq since the beginning of combat operations in September 2001, nearly 1.2 million of whom are now veterans. Regrettably, the unemployment rate among these veterans stands at 13.1 percent over three percentage points higher than the national average. It is critical that when our Nation's service-members return from duty, they receive the assistance they deserve to seamlessly assimilate back to civilian life.

Many of these veterans are aspiring entrepreneurs seeking to open their own business and live the American dream. To assist them in their efforts, our legislation establishes a Veterans' Business Center program to create a nationwide network of entrepreneurial assistance centers for veterans and reservists, along with their spouses and surviving spouses. Each center would receive an annual grant between \$150,000 and \$200,000 for a 5-year period, followed by the opportunity for additional 5-year renewal periods. These centers would provide specific education, training, advice, and counseling tailored to eligible individuals regarding financing planning and access to capital; management and business operations; marketing and advertising; procurement and contracting opportunities; and other general small business

opportunities for reservists and their spouses.

Furthermore, each district office under the auspices of the SBA would be required to designate one employee to serve as a “veterans business ownership representative” responsible for increasing coordination between that region's Veterans' Business Center and SBA district office, to leverage resources and perform outreach to a greater number of veterans.

Additionally, our legislation will ensure proper oversight of the recently formed Interagency Task Force on Veterans Small Business Development by requiring the SBA to issue biennial reports to Congress regarding the establishment and progress of this body. This task force was included in the Military Reservist and Veteran Small Business Reauthorization and Opportunity Act which Senator JOHN KERRY and I fought for last Congress and which was signed into law by former President George W. Bush on February 14, 2008. After more than 2 years of delay, the task force was finally established by Executive Order on April 26 of this year.

The purpose of the task force is to coordinate the efforts of Federal agencies necessary to increase capital and business development opportunities for, and increase the award of Federal contracting opportunities to, small businesses owned and controlled by veterans. Given that we are fast approaching the ninth anniversary of the commencement of Operation Enduring Freedom, this type of coordinated and targeted effort by our Federal government is long overdue.

Finally, our bill includes several additional reporting requirements to ensure that the Veterans' Business Center program is being administered effectively and providing truly unique and proper resources, counseling, assistance, and training to veterans. Because credit to small businesses remains stifled, one of these reports will explore the sources of credit utilized by veteran-owned small businesses, obstacles faced by veterans trying to access credit, and the extent to which deployment and other military responsibilities affect the credit history of veterans and reservists. This crucial report will provide a detailed picture of the access to credit landscape confronting veteran entrepreneurs, and will afford us an opportunity to make necessary policy changes that alleviate any challenges they face.

As our service-members and reservists answer our Nation's call to duty, we must similarly fulfill our obligations to help protect their livelihood back home. That is why I am pleased to be introducing this critical legislation today with Chair LANDRIEU, and I pledge to push for its passage before the end of this Congress.

Mr. UDALL of Colorado (for himself, Mr. WYDEN, Mr. BURRIS, and Ms. STABENOW):

S. 3395. A bill to provide cost-sharing assistance to improve access to the markets of foreign countries for energy efficiency products and renewable energy products exported by small- and medium-sized businesses in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. UDALL of Colorado. Mr. President, I rise today to speak about the Renewable Energy Market Access Program Act, or REMAP Act, which I introduced to help grow American renewable energy and energy efficiency exports abroad. This bill would help small- and medium-sized renewable energy businesses promote, export and ultimately penetrate foreign markets.

I know my colleagues are well aware of the importance of exports to our Nation's economy, as evidenced by their support for efforts to increase American competitiveness abroad. I am also encouraged by the President's National Export Initiative and its goal to double American exports over the next five years. This effort will be critical to a full economic recovery and I encourage the administration to continue its work; however, I believe that we need to do more to support a sector that shows tremendous growth potential.

In 2009, \$162 billion was invested in clean energy worldwide, and it is estimated that this investment will increase to \$200 billion in 2010. Additionally, 90 percent of worldwide investments in renewable energy goods occur in G-20 countries and the developing world is projected to comprise 80 percent of the world's future energy demand. While I continue in my belief that the United States must remain competitive in both public and private domestic investments in renewable energy, I also believe that we cannot ignore the growing potential for American businesses to access markets abroad. Growing private and public investment in the global economy means growing markets for American companies of all sizes here at home—which translates into sustainable, well-paying jobs. In this economic climate, I know the most important thing on everyone's mind—Democrats and Republicans alike—is putting people back to work. However, those small- and medium-sized businesses and companies, which are the engine for our domestic economy, are likely to need more assistance in accessing these growing foreign renewable energy markets. This is why I have filed legislation that focuses on equipping small- and medium-sized enterprises with the tools they need to access foreign markets and thereby strengthening our domestic economy and creating jobs.

My legislation would support the promotion of American renewable energy

and energy efficiency products abroad by creating a Renewable Energy Market Access Program or REMAP. Through REMAP, trade associations and State-regional trade groups would apply to the U.S. Department of Commerce and enter into cooperative agreements to provide marketing and trade assistance to small and medium-sized companies in the renewable energy and energy efficiency sectors. The assistance would help facilitate the export of their goods to existing and new foreign markets. The agreements would also offer eligible participants an opportunity to share the costs related to innovative marketing and promotion activities. The public funding for any one application would never exceed 50 percent of the total cost of the proposal, ensuring buy-in from the applicant and an ongoing working relationship with the Department of Commerce. In sum, this bill will help streamline access to the global marketplace for small business and help promote American renewable energy and energy efficiency products overseas.

I would like to highlight a sector in the renewable energy industry that could make good use of the REMAP program and in turn help strengthen the American clean energy manufacturing sector. The small wind sector is just one renewable energy area that has recently experienced strong growth and has great potential. According to industry statistics, the U.S. small wind market grew by 15 percent in 2009 despite our economic challenges. What has been even more encouraging is that approximately 95 percent of units sold in the U.S. in 2009 were produced by U.S. manufacturers. Not only is the U.S. small wind industry working to meet our growing domestic appetite for small-wind generation, it is also poised to be a growing force in the global market. In 2009, U.S. manufacturers accounted for 47 percent of global small wind sales and exports accounted for approximately 36 percent of U.S. manufacturers' sales, which represents an eight percent increase from 2008. As countries develop energy policies that drive investment in their renewable energy economy, our domestic renewable energy industry will see its potential to export grow. The question that remains is: how do we ensure that American small wind producers realize their full potential to help meet the global demand for the goods they produce? The answer is through efforts to promote U.S. renewable energy and energy efficiency products abroad. I believe that the U.S. can grow as a leader, not just in small wind, but in all sectors of renewable energy and I believe that REMAP can help take us there.

I want to be clear that I strongly believe that this legislation is an important step in the right direction to support a growing industry, but I want to

acknowledge that there is more that needs to be done to ensure that our country's renewable energy goods have fair access to foreign markets. Congress must find sensible policy mechanisms to address the unfair trade barriers and other anti-competitive tactics that are used to keep our goods from the shores of other nations with which we have stable relations, and we should continue having conversations on how these matters can be best addressed. But no matter the situation, we must stand in support of our domestic small businesses and provide them the resources they need to help them access new and growing markets, while we fight to ensure fairness in the global economy. I urge my colleagues to join me in supporting this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3395

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Renewable Energy Market Access Program Act".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) **ENERGY EFFICIENCY PRODUCT.**—The term "energy efficiency product" means any product, technology, or component of a product that—

(A) as compared with products, technologies, or components of products being deployed at the time for widespread commercial use in the country in which the product, technology, or component will be used—

(i) substantially increases the energy efficiency of buildings, industrial or agricultural processes, or electricity transmission, distribution, or end-use consumption; or

(ii) substantially increases the energy efficiency of the transportation system; and

(B) results in no significant incremental adverse effects on public health or the environment.

(2) **RENEWABLE ENERGY.**—The term "renewable energy" means energy generated by a renewable energy resource.

(3) **RENEWABLE ENERGY PRODUCT.**—The term "renewable energy product" means any product, technology, or component of a product used in the development or production of renewable energy.

(4) **RENEWABLE ENERGY RESOURCE.**—The term "renewable energy resource" means solar, wind, ocean, tidal, geothermal energy, biofuel, biomass, hydropower, or hydrokinetic energy.

(5) **SMALL- AND MEDIUM-SIZED BUSINESS.**—The term "small- and medium-sized business" means—

(A) a small business concern (as that term used in section 3 of the Small Business Act (15 U.S.C. 632)); and

(B) a business the Secretary of Commerce determines to be small- or medium-sized, based on factors that include the structure of the industry, the amount of competition in the industry, the average size of businesses in the industry, and costs and barriers associated with entering the industry.

### SEC. 3. COST-SHARING ASSISTANCE WITH RESPECT TO THE EXPORTATION OF ENERGY EFFICIENCY PRODUCTS AND RENEWABLE ENERGY PRODUCTS.

(a) IN GENERAL.—The Under Secretary for International Trade of the Department of Commerce (in this section referred to as the “Under Secretary”) shall establish and carry out a program to provide cost-sharing assistance to eligible organizations—

(1) to improve access to the markets of foreign countries for energy efficiency products and renewable energy products exported by small- and medium-sized businesses in the United States; and

(2) to assist small- and medium-sized businesses in the United States in obtaining services and other assistance with respect to exporting energy efficiency products and renewable energy products, including services and assistance available from the Department of Commerce and other Federal agencies.

(b) ELIGIBLE ORGANIZATIONS.—An eligible organization is a nonprofit trade association in the United States or a State or regional organization that promotes the exportation and sale of energy efficiency products or renewable energy products.

(c) APPLICATION PROCESS.—An eligible organization shall submit an application for cost-sharing assistance under subsection (a)—

(1) at such time and in such manner as the Under Secretary may require; and

(2) that contains a plan that describes the activities the organization plans to carry out using the cost-sharing assistance provided under subsection (a).

(d) AWARDING COST-SHARING ASSISTANCE.—

(1) IN GENERAL.—The Under Secretary shall establish a process for granting applications for cost-sharing assistance under subsection (a) that includes a competitive review process.

(2) PRIORITY FOR INNOVATIVE IDEAS.—In awarding cost-sharing assistance under subsection (a), the Under Secretary shall give priority to an eligible organization that includes in the plan of the organization submitted under subsection (c)(2) innovative ideas for improving access to the markets of foreign countries for energy efficiency products and renewable energy products exported by small- and medium-sized businesses in the United States.

(e) LEVEL OF COST-SHARING ASSISTANCE.—

(1) IN GENERAL.—Subject to paragraph (2), the Under Secretary shall determine an appropriate percentage of the cost of carrying out a plan submitted by an eligible organization under subsection (c)(2) to be provided in the form of assistance under this section.

(2) LIMITATION.—Assistance provided under this section may not exceed 50 percent of the cost of carrying out the plan of an eligible organization.

### SEC. 4. REPORT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of Energy, shall submit to Congress a report on the export promotion needs of businesses in the United States that export energy efficiency products or renewable energy products.

### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce to carry out this Act—

- (1) \$15,000,000 for fiscal year 2011;
- (2) \$16,000,000 for fiscal year 2012;
- (3) \$17,000,000 for fiscal year 2013;
- (4) \$18,000,000 for fiscal year 2014; and

(5) \$19,000,000 for fiscal year 2015.

### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 536—DESIGNATING JUNE 1, 2010, AS “DECLARATION OF CONSCIENCE DAY” IN COMMEMORATION OF THE 60TH ANNIVERSARY OF THE LANDMARK “DECLARATION OF CONSCIENCE” SPEECH DELIVERED BY SENATOR MARGARET CHASE SMITH ON THE FLOOR OF THE UNITED STATES SENATE

Ms. SNOWE (for herself and Ms. COLLINS) submitted the following resolution; which was considered and agreed to:

S. RES. 536

Whereas on June 1, 1950, Senator Margaret Chase Smith of the State of Maine, in her first major speech on the floor of the Senate, delivered a courageous and heroic speech responding to the contemptible actions and words of Senator Joseph McCarthy from the State of Wisconsin;

Whereas in 15 minutes, Senator Smith accomplished a task that 94 of her male colleagues did not dare to attempt;

Whereas Senator Smith had the will and integrity to speak out vigorously when silence was a safer course;

Whereas through the power of her iconic words, Senator Smith challenged a giant of demagoguery, prompting financier and presidential advisor, Bernard Baruch, to say that “had a man made that speech, he would have become the next President of the United States”;

Whereas Senator Smith, because of her bravery both in politics and in life, inspired millions of young girls, and became a role model for countless more women across the United States, who had never before thought that women could aspire to any kind of public office;

Whereas Senator Smith was a legendary and undeniable force of civic good and political courage, whose bravery, civility, compassion, and integrity are woven indelibly into the fabric of the greatness of the United States;

Whereas Senator Smith was a much-beloved and universally admired daughter of the State of Maine and forever the pride of Skowhegan, Maine, her birthplace and home;

Whereas Senator Smith was a teacher, telephone operator, newspaper woman, office manager, secretary, wife, Congresswoman, and Senator;

Whereas Senator Smith was the first woman to be elected to both Houses of Congress; and

Whereas Senator Smith was—

(1) a timeless leader for the State of Maine and the United States;

(2) a friend to freedom and the public trust;

(3) a fearless defender of democracy and the bedrock principles of democracy; and

(4) above all else, a Stateswoman and public servant who belongs not just to the State of Maine and the United States, but to the ages: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates June 1, 2010, as “Declaration of Conscience Day”;

(2) recognizes the 60th anniversary of the landmark “Declaration of Conscience” speech delivered by Senator Margaret Chase Smith;

(3) honors the heroism of the immortal words and actions of Senator Smith; and

(4) pays tribute to the integrity and courage of Senator Smith, which reverberates to this day.

### AMENDMENTS SUBMITTED AND PROPOSED

SA 4148. Mr. DODD submitted an amendment intended to be proposed to amendment SA 4081 submitted by Mr. HATCH and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 4149. Mr. LUGAR submitted an amendment intended to be proposed to amendment SA 4050 submitted by Mr. CARDIN (for himself, Mr. LUGAR, Mr. DURBIN, Mr. SCHUMER, Mr. FEINGOLD, Mr. MERKLEY, Mr. JOHNSON, and Mr. WHITEHOUSE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4150. Mr. DODD submitted an amendment intended to be proposed to amendment SA 4073 submitted by Mr. ENZI (for himself, Mr. SHELBY, and Mr. GRASSLEY) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4151. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4152. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3776 proposed by Mr. SPECTER (for himself, Mr. REED, Mr. KAUFMAN, Mr. DURBIN, Mr. HARKIN, Mr. LEAHY, Mr. LEVIN, Mr. MENENDEZ, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. FEINGOLD, and Mr. MERKLEY) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4153. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4154. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4155. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4156. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4157. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4158. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4159. Mr. MCCONNELL submitted an amendment intended to be proposed by him

to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4160. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4161. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4162. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4163. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4164. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4165. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4166. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4167. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4168. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4169. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4170. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4171. Mr. MCCONNELL submitted an amendment intended to be proposed to amendment SA 3776 proposed by Mr. SPECTER (for himself, Mr. REED, Mr. KAUFMAN, Mr. DURBIN, Mr. HARKIN, Mr. LEAHY, Mr. LEVIN, Mr. MENENDEZ, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. FEINGOLD, and Mr. MERKLEY) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 4172. Mr. DODD proposed an amendment to the bill H.R. 4173, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

#### TEXT OF AMENDMENTS

**SA 4148.** Mr. DODD submitted an amendment intended to be proposed to amendment SA 4081 submitted by Mr. HATCH and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers

from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following: "and, when promulgating a final rule, shall set forth in the adopting release such consideration of the potential benefits and costs of the rule".

**SA 4149.** Mr. LUGAR submitted an amendment intended to be proposed to amendment SA 4050 submitted by Mr. CARDIN (for himself, Mr. LUGAR, Mr. DURBIN, Mr. SCHUMER, Mr. FEINGOLD, Mr. MERKLEY, Mr. JOHNSON, and Mr. WHITEHOUSE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following: "effective.

#### **SEC. 995. ENERGY AND ENVIRONMENTAL MARKETS ADVISORY COMMITTEE.**

(a) **REPEAL.**—Notwithstanding any other provision of this Act, section 911 of this Act is repealed, effective on the date of enactment of this Act, and shall have no force or effect on or after that date of enactment.

(b) **INVESTOR ADVISORY COMMITTEE ESTABLISHED.**—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following:

#### **"SEC. 39. INVESTOR ADVISORY COMMITTEE.**

"(a) **ESTABLISHMENT AND PURPOSE.**—

"(1) **ESTABLISHMENT.**—There is established within the Commission the Investor Advisory Committee (referred to in this section as the 'Committee').

"(2) **PURPOSE.**—The Committee shall—

"(A) advise and consult with the Commission on—

"(i) regulatory priorities of the Commission;

"(ii) issues relating to the regulation of securities products, trading strategies, and fee structures, and the effectiveness of disclosure;

"(iii) initiatives to protect investor interests, including initiatives to protect investors against the material risks to investors associated with companies in the extractive industries sector, including—

"(I) unique tax, regulatory, and reputational risks, in the form of country-specific considerations;

"(II) the substantial capital employed in the extractive industries, and the often opaque and unaccountable management of natural resource revenues by foreign governments; and

"(III) the potential for unstable and high-cost operating environments for multinational companies operating in foreign countries; and

"(iv) initiatives to promote investor confidence and the integrity of the securities marketplace;

"(B) submit to the Commission such findings and recommendations as the Committee determines are appropriate, including recommendations for proposed legislative changes; and

"(C) submit to the Commission and to Congress an annual report on significant investor exposure to risk, potential for market disruption, or other information, as the Committee determines is necessary to ensure investor protection, including information reported to the Commission under subsection (k).

"(b) **MEMBERSHIP.**—

"(1) **IN GENERAL.**—The members of the Committee shall be—

"(A) the Investor Advocate;

"(B) a representative of State securities commissions;

"(C) a representative of the interests of senior citizens; and

"(D) not fewer than 10, and not more than 20, members appointed by the Commission, from among individuals who—

"(i) represent the interests of individual equity and debt investors, including investors in mutual funds;

"(ii) represent the interests of institutional investors, including the interests of pension funds and registered investment companies;

"(iii) are knowledgeable about investment issues and decisions; and

"(iv) have reputations of integrity.

"(2) **TERM.**—Each member of the Committee appointed under paragraph (1)(B) shall serve for a term of 4 years.

"(3) **MEMBERS NOT COMMISSION EMPLOYEES.**—Members appointed under paragraph (1)(B) shall not be deemed to be employees or agents of the Commission solely because of membership on the Committee.

"(c) **CHAIRMAN; VICE CHAIRMAN; SECRETARY; ASSISTANT SECRETARY.**—

"(1) **IN GENERAL.**—The members of the Committee shall elect, from among the members of the Committee—

"(A) a chairman, who may not be employed by an issuer;

"(B) a vice chairman, who may not be employed by an issuer;

"(C) a secretary; and

"(D) an assistant secretary.

"(2) **TERM.**—Each member elected under paragraph (1) shall serve for a term of 3 years in the capacity for which the member was elected under paragraph (1).

"(d) **MEETINGS.**—

"(1) **FREQUENCY OF MEETINGS.**—The Committee shall meet—

"(A) not less frequently than twice annually, at the call of the chairman of the Committee; and

"(B) from time to time, at the call of the Commission.

"(2) **NOTICE.**—The chairman of the Committee shall give the members of the Committee written notice of each meeting, not later than 2 weeks before the date of the meeting.

"(e) **COMPENSATION AND TRAVEL EXPENSES.**—Each member of the Committee who is not a full-time employee of the United States shall—

"(1) be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which the member is engaged in the actual performance of the duties of the Committee; and

"(2) while away from the home or regular place of business of the member in the performance of services for the Committee, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.



“(f) STAFF.—The Commission shall make available to the Committee such staff as the chairman of the Committee determines are necessary to carry out this section.

“(g) REVIEW BY COMMISSION.—The Commission shall—

“(1) review the findings and recommendations of the Committee;

“(2) make recommendations to the Commission on the advisability of making public the information required to be disclosed under subsection (k); and

“(3) each time the Committee submits a finding or recommendation to the Commission under paragraph (1), issue a public statement—

“(A) assessing the finding or recommendation of the Committee; and

“(B) disclosing the action, if any, the Commission intends to take with respect to the finding or recommendation.

“(h) COMMITTEE FINDINGS.—Nothing in this section shall require the Commission to agree to or act upon any finding or recommendation of the Committee.

“(i) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee and its activities.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission such sums as are necessary to carry out this section.

“(k) DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘commercial development of oil, natural gas, or minerals’ includes exploration, extraction, processing, export, and other significant actions relating to oil, natural gas, or minerals, or the acquisition of a license for any such activity, as determined by the Commission;

“(B) the term ‘foreign government’ means a foreign government, a department, agency, or instrumentality of a foreign government, or a company owned by a foreign government, as determined by the Commission;

“(C) the term ‘payment’—

“(i) means a payment that is—

“(I) made to further the commercial development of oil, natural gas, or minerals; and

“(II) not de minimis; and

“(ii) includes taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the Commission, consistent with the guidelines of the Extractive Industries Transparency Initiative (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals; and

“(D) the term ‘resource extraction issuer’ means an issuer that—

“(i) is required to file an annual report with the Commission; and

“(ii) engages in the commercial development of oil, natural gas, or minerals.

“(2) DISCLOSURE.—

“(A) INFORMATION REQUIRED.—In order to assist the Committee in carrying out the duties of the Committee under subsection (a)(2), not later than 270 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall issue final rules that require each resource extraction issuer to include in an annual report of the resource extraction issuer information relating to any payment made by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer to a foreign govern-

ment or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals, including—

“(i) the type and total amount of such payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals; and

“(ii) the type and total amount of such payments made to each government.

“(B) CONSULTATION IN RULEMAKING.—In issuing rules under subparagraph (A), the Commission may consult with any agency or entity that the Commission determines is relevant.

“(C) EFFECTIVE DATE.—With respect to each resource extraction issuer, the final rules issued under subparagraph (A) shall take effect on the date on which the resource extraction issuer is required to submit an annual report relating to the fiscal year of the resource extraction issuer that ends not earlier than 1 year after the date on which the Commission issues final rules under subparagraph (A).

“(3) AVAILABILITY OF INFORMATION.—The Commission shall make available to the Committee a compilation of the information required to be submitted under the rules issued under paragraph (2)(A).”.

**SA 4150.** Mr. DODD submitted an amendment intended to be proposed to amendment SA 4073 submitted by Mr. ENZI (for himself, Mr. SHELBY, and Mr. GRASSLEY) and intended to be proposed to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike lines 3 through 6 and insert the following:

(s) CONSUMER PRIVACY.—

(1) IN GENERAL.—Notwithstanding any other provision of this title, the Bureau may not obtain from a covered person any personally identifiable financial information about a consumer from the financial records of the covered person, except—

(A) if the financial records are reasonably described in a request by the Bureau and the consumer provides written permission for the disclosure of such information by the covered person to the Bureau; or

(B) as may be specifically permitted or required under other provisions of law, and in accordance with the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.).

(2) TREATMENT OF COVERED PERSON.—With respect to the application of any provision of the Right to Financial Privacy Act of 1978 to a disclosure by a covered person subject to section 1022(c), the covered person shall be treated as if it were a “financial institution”, as that term is defined in section 1101 of that Act (12 U.S.C. 3401).

**SA 4151.** Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3789 proposed by Mr. BROWNBACK (for himself, Mr. BOND, and Mr. INHOFE) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for

himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . CONTRACT ENFORCEMENT BETWEEN ELIGIBLE COUNTERPARTIES.**

Notwithstanding any other provision of this Act, section 22(a) of the Commodity Exchange Act (7 U.S.C. 25(a)) is amended by striking paragraph (4) and inserting the following:

“(4) CONTRACT ENFORCEMENT BETWEEN ELIGIBLE COUNTERPARTIES.—

“(A) IN GENERAL.—No hybrid instrument sold to any investor shall be void, voidable, or unenforceable, and no party to a hybrid instrument shall be entitled to rescind, or recover any payment made with respect to, the hybrid instrument under this section or any other provision of Federal or State law, based solely on the failure of the hybrid instrument to comply with the terms or conditions of section 2(f) or regulations of the Commission, unless there is a knowing failure by a party to comply with the terms and conditions of section 2(f) or regulations of the Commission.

“(B) SWAPS.—Unless there is a knowing failure by a party to comply with the mandatory clearing requirement for swaps under section 2(h), no agreement, contract, or transaction between eligible contract participants or persons reasonably believed to be eligible contract participants shall be void, voidable, or unenforceable, and no party to an agreement, contract, or transaction shall be entitled to rescind, or recover any payment made with respect to, the agreement, contract, or transaction under this section or any other provision of Federal or State law, based solely on the failure of the agreement, contract, or transaction—

“(i) to meet the definition of a swap under section 1a; or

“(ii) to be cleared in accordance with section 2(h)(1).”.

**SA 4152.** Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 3776 proposed by Mr. SPECTER (for himself, Mr. REED, Mr. KAUFMAN, Mr. DURBIN, Mr. HARKIN, Mr. LEAHY, Mr. LEVIN, Mr. MENENDEZ, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. FEINGOLD, and Mr. MERKLEY) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the word “sec.” and insert the following:



**929D. AUTHORITY TO IMPOSE CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.**

(a) UNDER THE SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following:

“(g) AUTHORITY TO IMPOSE MONEY PENALTIES.—

“(1) GROUNDS.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil penalty on a person, if the Commission finds, on the record, after notice and opportunity for hearing, that—

“(A) the person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder; and

“(B) the imposition of the penalty is in the public interest.

“(2) MAXIMUM AMOUNT OF PENALTY.—

“(A) FIRST TIER.—The maximum amount of a penalty for each act or omission described in paragraph (1) shall be \$7,500 for a natural person or \$75,000 for any other person.

“(B) SECOND TIER.—Notwithstanding subparagraph (A), if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement, the maximum amount of penalty for each act or omission shall be \$75,000 for a natural person or \$375,000 for any other person.

“(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be \$150,000 for a natural person or \$725,000 for any other person, if—

“(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

“(ii) the act or omission directly or indirectly resulted in—

“(I) substantial losses or created a significant risk of substantial losses to other persons; or

“(II) substantial pecuniary gain to the person who committed the act or omission.

“(3) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the ability of the respondent to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of the ability of the respondent to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon the assets of the respondent and the amount of the assets of the respondent.”.

(b) UNDER THE SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amended—

(1) by striking the undesignated matter immediately following paragraph (4);

(2) in the matter preceding paragraph (1), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest and”;

(3) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and adjusting the subparagraph margins accordingly;

(4) by striking “In any proceeding” and inserting the following:

“(1) IN GENERAL.—In any proceeding”;

(5) by adding at the end the following:

“(2) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted under section 21C against any person, the Commission may impose a civil penalty, if the Commission finds, on the record after notice and opportunity for hearing, that such person—

“(A) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(B) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”.

(c) UNDER THE INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is amended—

(1) by striking the matter immediately following subparagraph (C);

(2) in the matter preceding subparagraph (A), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest, and”;

(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the clause margins accordingly;

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding”;

(5) by adding at the end the following:

“(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (f) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”.

(d) UNDER THE INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended—

(1) by striking the undesignated matter immediately following subparagraph (D);

(2) in the matter preceding subparagraph (A), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest and”;

(3) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and adjusting the clause margins accordingly;

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding”;

(5) by adding at the end the following:

“(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (k) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”.

**SA 4153.** Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bail-outs, to protect consumers from abu-

sive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) IN GENERAL.—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) CERTAIN FUNCTIONS EXCEPTED.—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) NO IMPACT ON PRIOR AUTHORITY.—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) NO TRANSFER OF CERTAIN AUTHORITY.—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) MOTOR VEHICLE.—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms

are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 1 day after the date of enactment.

**SA 4154.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 2 days after the date of enactment.

**SA 4155.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to

the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 3 days after the date of enactment.

**SA 4156.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments

over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or

the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 1 day after the date of enactment.

**SA 4157.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and re-

sponded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103(d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 2 days after the date of enactment.

**SA 4158.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle

dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103(d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 5 days after the date of enactment.

**SA 4159.** Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 6 days after the date of enactment.

**SA 4160.** Mr. MCDONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote

the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 7 days after the date of enactment.

**SA 4161.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be trans-

ferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103(d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 8 days after the date of enactment.

**SA 4162.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103(d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 9 days after the date of enactment.

**SA 4163.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and

for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of

title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 10 days after the date of enactment.

**SA 4164.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**SEC. 1030. EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better in-

formed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 11 days after the date of enactment.

**SA 4165.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts,

or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 3 days after the date of enactment.

**SA 4166.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of

motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 4 days after the date of enactment.

**SA 4167.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.



(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) MOTOR VEHICLE.—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) MOTOR VEHICLE DEALER.—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 12 days after the date of enactment.

**SA 4168.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) IN GENERAL.—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) CERTAIN FUNCTIONS EXCEPTED.—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) NO IMPACT ON PRIOR AUTHORITY.—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) NO TRANSFER OF CERTAIN AUTHORITY.—Notwithstanding any other provision of this

Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) MOTOR VEHICLE.—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) MOTOR VEHICLE DEALER.—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 13 days after the date of enactment.

**SA 4169.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following.

**EXCLUSION FOR AUTO DEALERS.**

(a) IN GENERAL.—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) CERTAIN FUNCTIONS EXCEPTED.—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) NO IMPACT ON PRIOR AUTHORITY.—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) NO TRANSFER OF CERTAIN AUTHORITY.—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) MOTOR VEHICLE.—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) MOTOR VEHICLE DEALER.—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 14 days after the date of enactment.

**SA 4170.** Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect

the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after (a) and insert the following:

**EXCLUSION FOR AUTO DEALERS.**

(a) **IN GENERAL.**—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority, including authority to order assessments over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

(b) **CERTAIN FUNCTIONS EXCEPTED.**—The provisions of subsection (a) shall not apply to any person, to the extent that such person—

(1) provides consumers with any services related to residential or commercial mortgages and self-financing transactions involving real property;

(2) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which—

(A) the extension of retail credit or retail leases are provided directly to consumers; and

(B) the contract governing such extension of retail credit or retail leases is not predominantly assigned to a third-party finance or leasing source; or

(3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

(c) **NO IMPACT ON PRIOR AUTHORITY.**—Nothing in this section shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day before the date of enactment of this Act.

(d) **NO TRANSFER OF CERTAIN AUTHORITY.**—Notwithstanding any other provision of this Act, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Bureau to the extent such functions are with respect to a person described under subsection (a).

(e) **COORDINATION WITH OFFICE OF SERVICE MEMBER AFFAIRS.**—The Board of Governors and the Federal Trade Commission shall coordinate with the Office of Service Member Affairs, to ensure that—

(1) service members and their families are educated and empowered to make better informed decisions regarding consumer financial products and services offered by motor vehicle dealers, with a focus on motor vehicle dealers in the proximity of military installations; and

(2) complaints by service members and their families concerning such motor vehicle dealers are effectively monitored and responded to, and where appropriate, enforcement action is pursued by the authorized agencies.

(f) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **MOTOR VEHICLE.**—The term “motor vehicle” means—

(A) any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103 (d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

(2) **MOTOR VEHICLE DEALER.**—The term “motor vehicle dealer” means any person or resident in the United States, or any territory of the United States, who is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.

This section shall take effect 15 days after the date of enactment.

**SA 4171.** Mr. MCCONNELL submitted an amendment intended to be proposed to amendment SA 3776 proposed by Mr. SPECTER (for himself, Mr. REED, Mr. KAUFMAN, Mr. DURBIN, Mr. HARKIN, Mr. LEAHY, Mr. LEVIN, Mr. MENENDEZ, Mr. WHITEHOUSE, Mr. FRANKEN, Mr. FEINGOLD, and Mr. MERKLEY) to the amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 3, of the amendment, strike “929D” and all that follows through the end of the amendment, and insert the following:

**929D. AUTHORITY TO IMPOSE CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.**

(a) **UNDER THE SECURITIES ACT OF 1933.**—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following:

“(g) **AUTHORITY TO IMPOSE MONEY PENALTIES.**—

“(1) **GROUND.**—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil penalty on a person, if the Commission finds, on the record, after notice and opportunity for hearing, that—

“(A) the person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder; and

“(B) the imposition of the penalty is in the public interest.

“(2) **MAXIMUM AMOUNT OF PENALTY.**—

“(A) **FIRST TIER.**—The maximum amount of a penalty for each act or omission described in paragraph (1) shall be \$7,500 for a natural person or \$75,000 for any other person.

“(B) **SECOND TIER.**—Notwithstanding subparagraph (A), if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement, the maximum amount of penalty for each act or omission shall be \$75,000 for a natural person or \$375,000 for any other person.

“(C) **THIRD TIER.**—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be \$150,000

for a natural person or \$725,000 for any other person, if—

“(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

“(ii) the act or omission directly or indirectly resulted in—

“(I) substantial losses or created a significant risk of substantial losses to other persons; or

“(II) substantial pecuniary gain to the person who committed the act or omission.

“(3) **EVIDENCE CONCERNING ABILITY TO PAY.**—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the ability of the respondent to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of the ability of the respondent to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon the assets of the respondent and the amount of the assets of the respondent.”

(b) **UNDER THE SECURITIES EXCHANGE ACT OF 1934.**—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amended—

(1) by striking the undesignated matter immediately following paragraph (4);

(2) in the matter preceding paragraph (1), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest and”;

(3) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and adjusting the subparagraph margins accordingly;

(4) by striking “In any proceeding” and inserting the following:

“(1) **IN GENERAL.**—In any proceeding”; and

(5) by adding at the end the following:

“(2) **CEASE-AND-DESIST PROCEEDINGS.**—In any proceeding instituted under section 21C against any person, the Commission may impose a civil penalty, if the Commission finds, on the record after notice and opportunity for hearing, that such person—

“(A) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(B) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”

(c) **UNDER THE INVESTMENT COMPANY ACT OF 1940.**—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is amended—

(1) by striking the matter immediately following subparagraph (C);

(2) in the matter preceding subparagraph (A), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest, and”;

(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the clause margins accordingly;

(4) by striking “In any proceeding” and inserting the following:

“(A) **IN GENERAL.**—In any proceeding”; and

(5) by adding at the end the following:

“(B) **CEASE-AND-DESIST PROCEEDINGS.**—In any proceeding instituted pursuant to subsection (f) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”.

(d) UNDER THE INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended—

(1) by striking the undesignated matter immediately following subparagraph (D);

(2) in the matter preceding subparagraph (A), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest and”;

(3) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and adjusting the clause margins accordingly;

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding”; and

(5) by adding at the end the following:

“(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (k) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”.

(e) TREBLED PENALTIES IN SEC ACTIONS AGAINST AIDERS AND ABETTORS.—Section 20(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78t(e)) is amended by adding at the end the following: “The maximum monetary sanction that otherwise would be permissible in an action brought pursuant to the Commission’s authority under this subsection shall be trebled if the Commission finds on the record that the party on which the penalty is to be imposed is not subject to any private action under the securities laws for the conduct that is the subject of the action.”.

**SA 4172.** Mr. DODD proposed an amendment to the bill H.R. 4173, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

Amend the title so as to read:

“A bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.”

#### NOTICE OF HEARING

##### COMMITTEE ON RULES AND ADMINISTRATION

Mr. SCHUMER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Tuesday, May 25, 2010, at 10 a.m. to hear testimony on the nomination of William J. Boarman, of Maryland, to be the Public Printer.

For further information regarding this hearing, please contact Lynden Armstrong at the Rules and Administration Committee on (202) 224-6325.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, be authorized to meet during the session of the Senate on May 20, 2010, at 9:30 a.m., to conduct a hearing entitled “Examining the Causes and Lessons of the May 6th market plunge.”

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 20, 2010, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on May 20, 2010, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on May 20, 2010, at 9:30 a.m. in room 406 of the Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FINANCE

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 20, 2010, at 2:30 p.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled “Clean Technology Manufacturing Competitiveness: The Role of Tax Incentives.”

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FOREIGN RELATIONS

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 20, 2010, at 9:15 a.m., to conduct a hearing entitled “NATO: Report of the Group of Experts.”

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON THE JUDICIARY

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Com-

mittee on the Judiciary be authorized to meet during the session of the Senate, on May 20, 2010, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on May 20, 2010, at 10:30 a.m., to conduct a hearing entitled, “Counternarcotics Contracts in Latin America.”

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs’ Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on May 20, 2010, at 2:30 p.m., to conduct a hearing entitled “Balancing Act: Efforts to Right-Size the Federal Employee-to-Contractor Mix.”

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGES OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent that a committee intern, Robert Courtney, be granted the privilege of the floor for the duration of today’s session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UNANIMOUS-CONSENT AGREEMENT—H.R. 4173

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the order with respect to H.R. 4173 and the motions to instruct be modified to provide that the Senate consider the motions beginning at 4:45 p.m., Monday, May 24, and that the Senate proceed to vote on the motions after the use or yielding back of all time available for debate with respect to both motions, and that the other provisions of the previous order remain in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL ORGANIZATIONS  
IMMUNITIES ACT EXTENSIONS

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5139, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5139) to provide for the International Organizations Immunities Act to be extended to the Office of the High Representative in Bosnia and Herzegovina and the International Civilian Office in Kosovo.

There being no objection, the Senate proceeded to consider the bill.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5139) was ordered to a third reading, was read the third time, and passed.

DECLARATION OF CONSCIENCE  
DAY

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 536, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 536) designating June 1, 2010, as "Declaration of Conscience Day" in commemoration of the 60th anniversary of the landmark "Declaration of Conscience" speech delivered by Senator Margaret Chase Smith on the floor of the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Ms. SNOWE. Mr. President, unwavering in principle and hewing always to her Maine roots and hallmark independence, Margaret Chase Smith exemplified the finest qualities of our great state of Maine which she represented with the highest distinction in the U.S. House of Representatives and the U.S. Senate. A true American political icon and esteemed stateswoman, she was and remains the embodiment of Maine's motto, *Dirigo* or "I Lead." And lead she did.

As I said 10 years ago, on the 50th anniversary of her groundbreaking remarks, in order to lead, one must first be able to follow—follow one's conscience, follow one's own ideals, and follow what you know in your heart to be right. In taking the path less travelled, Senator Smith became a truly

distinguished leader, not just of her time, but for all time, and delivered what we remember as her signature contribution to America and the very freedoms we cherish.

Indeed, on this momentous occasion, we pay tribute to a political giant and legend, who rose from the most humble of beginnings to the highest corridors of power—the heights of which she never sought for personal gain, but rather in order to serve the state she loved and the Nation she revered. And we honor her uncommon courage in confronting a scourge no other Senator sought to challenge, which she demonstrated without equivocation on June 1, 1950.

During a time enveloped by a crucible of hatred and fear, it was Senator Margaret Chase Smith who became the first U.S. Senator to speak the words that much of America had been thinking to itself back in the dark spring of 1950—as Senator Joseph McCarthy made sensational and unsubstantiated charges that, through blatant opportunism, had turned him into a national celebrity.

But while her colleagues hid behind their silence, with her famous "Declaration of Conscience" speech, Margaret Chase Smith articulated the truth and, in so doing, courageously challenged a giant of demagoguery. Senator Smith stood and bravely defended what she termed "some of the basic principles of Americanism." She managed to accomplish in 15 minutes what 94 of her colleagues had not dared to do, prompting American financier and presidential adviser, Bernard Baruch, to say that, "had a man made that speech, he would have become the next President of the United States."

Margaret Chase Smith was a teacher, a telephone operator, a newspaper woman, an office manager, a secretary, a wife, a Congresswoman, and a U.S. Senator. She was a visionary of endless "firsts" . . . the first woman to be elected to both Houses of Congress . . . the first woman to be nominated for President by a major party . . . even the first woman to break the sound barrier in an F-100F Super Sabre Air Force jet.

But because of her bravery—both in politics and in life itself—she inspired millions of young girls, and became a role model for countless more women across America who never before thought they could aspire to any kind of public office. She certainly paved the way for Senator COLLINS and me—after all, who could have predicted that, one day, Maine would make history by electing two Republican women to serve concurrently in the U.S. Senate. That is why, as direct beneficiaries of Senator Smith's groundbreaking public service in the U.S. Congress, it is a tremendous privilege to introduce this resolution.

In the end, the measure of Senator Smith's life is in the standard of lead-

ership established by her resonating words and powerful actions. We cannot begin to overstate the legacy she has bequeathed to us, the hallmark of which was her Declaration of Conscience speech. In the words of the ancient Greek, Aeschylus, she "was not to seem, but to be, the best." Simply put, she was and she will always be! Her example will forever illuminate this chamber and light our way.

Mr. President, I ask unanimous consent that Margaret Chase Smith's "Declaration of Conscience" speech be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARGARET CHASE SMITH  
DECLARATION OF CONSCIENCE

June 1, 1950

(In the Senate)

Mr. President, I would like to speak briefly and simply about a serious national condition. It is a national feeling of fear and frustration that could result in national suicide and the end of everything that we Americans hold dear. It is a condition that comes from the lack of effective leadership either in the legislative branch or the executive branch of our government.

That leadership is so lacking that serious and responsible proposals are being made that national advisory commissions be appointed to provide such critically needed leadership.

I speak as briefly as possible because too much harm has already been done with irresponsible words of bitterness and selfish political opportunism. I speak as simply as possible because the issue is too great to be obscured by eloquence. I speak simply and briefly in the hope that my words will be taken to heart.

Mr. President, I speak as a Republican. I speak as a woman. I speak as a United States senator. I speak as an American.

A FORUM OF HATE AND CHARACTER  
ASSASSINATION

The United States Senate has long enjoyed worldwide respect as the greatest deliberative body in the world. But recently that deliberative character has too often been debased to the level of a forum of hate and character assassination sheltered by the shield of congressional immunity.

It is ironic that we senators can in debate in the Senate, directly or indirectly, by any form of words, impute to any American who is not a senator any conduct or motive unworthy or unbecoming an American—and without that non-senator American having any legal redress against us—yet if we say the same thing in the Senate about our colleagues we can be stopped on the grounds of being out of order.

It is strange that we can verbally attack anyone else without restraint and with full protection, and yet we hold ourselves above the same type of criticism here on the Senate floor. Surely the United States Senate is big enough to take self-criticism and self-appraisal. Surely we should be able to take the same kind of character attacks that we "dish out" to outsiders.

I think that it is high time for the United States Senate and its members to do some real soul searching and to weigh our consciences as to the manner in which we are performing our duty to the people of America and the manner in which we are using or abusing our individual powers and privileges.

I think that it is high time that we remembered that we have sworn to uphold and defend the Constitution. I think that it is high time that we remembered that the Constitution, as amended, speaks not only of the freedom of speech but also of trial by jury instead of trial by accusation.

Whether it be a criminal prosecution in court or a character prosecution in the Senate, there is little practical distinction when the life of a person has been ruined.

#### THE BASIC PRINCIPLES OF AMERICANISM

Those of us who shout the loudest about Americanism in making character assassinations are all too frequently those who, by our own words and acts, ignore some of the basic principles of Americanism—

The right to criticize.

The right to hold unpopular beliefs.

The right to protest.

The right of independent thought.

The exercise of these rights should not cost one single American citizen his reputation or his right to a livelihood nor should he be in danger of losing his reputation or livelihood merely because he happens to know someone who holds unpopular beliefs. Who of us does not? Otherwise none of us could call our souls our own. Otherwise thought control would have set in.

The American people are sick and tired of being afraid to speak their minds lest they be politically smeared as "Communists" or "Fascists" by their opponents. Freedom of speech is not what it used to be in America. It has been so abused by some that it is not exercised by others.

The American people are sick and tired of seeing innocent people smeared and guilty people whitewashed. But there have been enough proved cases, such as the Amerasia case, the Hiss case, the Coplon case, the Gold case, to cause nationwide distrust and strong suspicion that there may be something to the unproved, sensational accusations.

#### A CHALLENGE TO THE REPUBLICAN PARTY

As a Republican, I say to my colleagues on this side of the aisle that the Republican party faces a challenge today that is not unlike the challenge which it faced back in Lincoln's day. The Republican party so successfully met that challenge that it emerged from the Civil War as the champion of a united nation—in addition to being a party which unrelentingly fought loose spending and loose programs.

Today our country is being psychologically divided by the confusion and the suspicions that are bred in the United States Senate to spread like cancerous tentacles of "know nothing, suspect everything" attitudes. Today we have a Democratic administration which has developed a mania for loose spending and loose programs. History is repeating itself—and the Republican party again has the opportunity to emerge as the champion of unity and prudence. The record of the present Democratic administration has provided us with sufficient campaign issues without the necessity of resorting to political smears. America is rapidly losing its position as leader of the world simply because the Democratic administration has pitifully failed to provide effective leadership.

The Democratic administration has completely confused the American people by its daily contradictory grave warnings and optimistic assurances, which show the people that our Democratic administration has no idea of where it is going.

The Democratic administration has greatly lost the confidence of the American people by its complacency to the threat of com-

munist here at home and the leak of vital secrets to Russia through key officials of the Democratic administration. There are enough proved cases to make this point without diluting our criticism with unproved charges.

Surely these are sufficient reasons to make it clear to the American people that it is time for a change and that a Republican victory is necessary to the security of the country. Surely it is clear that this nation will continue to suffer so long as it is governed by the present ineffective Democratic administration.

#### "THE FOUR HORSEMEN OF CALUMNY"

Yet to displace it with a Republican regime embracing a philosophy that lacks political integrity or intellectual honesty would prove equally disastrous to the nation. The nation sorely needs a Republican victory. But I do not want to see the Republican party ride to political victory on the Four Horsemen of Calumny—Fear, Ignorance, Bigotry, and Smear.

I doubt if the Republican party could do so, simply because I do not believe the American people will uphold any political party that puts political exploitation above national interest. Surely we Republicans are not that desperate for victory.

I do not want to see the Republican party win that way. While it might be a fleeting victory for the Republican party, it would be a more lasting defeat for the American people. Surely it would ultimately be suicide for the Republican party and the two-party system that has protected our American liberties from the dictatorship of a one-party system.

As members of the minority party, we do not have the primary authority to formulate the policy of our government. But we do have the responsibility of rendering constructive criticism, of clarifying issues, of allaying fears by acting as responsible citizens.

As a woman, I wonder how the mothers, wives, sisters, and daughters feel about the way in which members of their families have been politically mangled in Senate debate—and I use the word "debate" advisedly.

#### "IRRESPONSIBLE SENSATIONALISM"

As a United States senator, I am not proud of the way in which the Senate has been made a publicity platform for irresponsible sensationalism. I am not proud of the reckless abandon in which unproved charges have been hurled from this side of the aisle. I am not proud of the obviously staged, undignified countercharges which have been attempted in retaliation from the other side of the aisle.

I do not like the way the Senate has been made a rendezvous for vilification, for selfish political gain at the sacrifice of individual reputations and national unity. I am not proud of the way we smear outsiders from the floor of the Senate and hide behind the cloak of congressional immunity and still place ourselves beyond criticism on the floor of the Senate.

As an American, I am shocked at the way Republicans and Democrats alike are playing directly into the Communist design of "confuse, divide, and conquer." As an American, I do not want a Democratic administration "whitewash" or "coverup" any more than I want a Republican smear or witch hunt.

As an American, I condemn a Republican Fascist just as much as I condemn a Democrat Communist. I condemn a Democrat Fascist just as much as I condemn a Republican

Communist. They are equally dangerous to you and me and to our country. As an American, I want to see our nation recapture the strength and unity it once had when we fought the enemy instead of ourselves.

It is with these thoughts that I have drafted what I call a Declaration of Conscience. I am gratified that the senator from New Hampshire [Mr. TOBEY], the senator from Vermont [Mr. AIKEN], the senator from Oregon [Mr. MORSE], the senator from New York [Mr. IVES], the senator from Minnesota [Mr. THYE], and the senator from New Jersey [Mr. HENDRICKSON] have concurred in that declaration and have authorized me to announce their concurrence.

The declaration reads as follows:

#### Statement of Seven Republican Senators

1. We are Republicans. But we are Americans first. It is as Americans that we express our concern with the growing confusion that threatens the security and stability of our country. Democrats and Republicans alike have contributed to that confusion.

2. The Democratic administration has initially created the confusion by its lack of effective leadership, by its contradictory grave warnings and optimistic assurances, by its complacency to the threat of communism here at home, by its oversensitiveness to rightful criticism, by its petty bitterness against its critics.

3. Certain elements of the Republican party have materially added to this confusion in the hopes of riding the Republican party to victory through the selfish political exploitation of fear, bigotry, ignorance, and intolerance. There are enough mistakes of the Democrats for Republicans to criticize constructively without resorting to political smears.

4. To this extent, Democrats and Republicans alike have unwittingly, but undeniably, played directly into the Communist design of "confuse, divide, and conquer."

5. It is high time that we stopped thinking politically as Republicans and Democrats about elections and started thinking patriotically as Americans about national security based on individual freedom. It is high time that we all stopped being tools and victims of totalitarian techniques—techniques that, if continued here unchecked, will surely end what we have come to cherish as the American way of life.

MARGARET CHASE SMITH,

Maine.

CHARLES W. TOBEY,

New Hampshire.

GEORGE D. AIKEN,

Vermont.

WAYNE L. MORSE,

Oregon.

IRVING M. IVES,

New York.

EDWARD J. THYE,

Minnesota.

ROBERT C. HENDRICKSON,

New Jersey.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 536) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 536

Whereas on June 1, 1950, Senator Margaret Chase Smith of the State of Maine, in her

first major speech on the floor of the Senate, delivered a courageous and heroic speech responding to the contemptible actions and words of Senator Joseph McCarthy from the State of Wisconsin;

Whereas in 15 minutes, Senator Smith accomplished a task that 94 of her male colleagues did not dare to attempt;

Whereas Senator Smith had the will and integrity to speak out vigorously when silence was a safer course;

Whereas through the power of her iconic words, Senator Smith challenged a giant of demagoguery, prompting financier and presidential advisor, Bernard Baruch, to say that "had a man made that speech, he would have become the next President of the United States";

Whereas Senator Smith, because of her bravery both in politics and in life, inspired millions of young girls, and became a role model for countless more women across the United States, who had never before thought that women could aspire to any kind of public office;

Whereas Senator Smith was a legendary and undeniable force of civic good and political courage, whose bravery, civility, compassion, and integrity are woven indelibly into the fabric of the greatness of the United States;

Whereas Senator Smith was a much-beloved and universally admired daughter of the State of Maine and forever the pride of Skowhegan, Maine, her birthplace and home;

Whereas Senator Smith was a teacher, telephone operator, newspaper woman, office manager, secretary, wife, Congresswoman, and Senator;

Whereas Senator Smith was the first woman to be elected to both Houses of Congress; and

Whereas Senator Smith was—

(1) a timeless leader for the State of Maine and the United States;

(2) a friend to freedom and the public trust;

(3) a fearless defender of democracy and the bedrock principles of democracy; and

(4) above all else, a Stateswoman and public servant who belongs not just to the State of Maine and the United States, but to the ages: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates June 1, 2010, as "Declaration of Conscience Day";

(2) recognizes the 60th anniversary of the landmark "Declaration of Conscience" speech delivered by Senator Margaret Chase Smith;

(3) honors the heroism of the immortal words and actions of Senator Smith; and

(4) pays tribute to the integrity and courage of Senator Smith, which reverberates to this day.

#### ACTION ON H.R. 3951 VITIATED

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that action with respect to the reporting of H.R. 3951 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to provisions of Public Law 110-343, appoints the following individual as a member of the Congressional Oversight Panel: Mr. Kenneth R. Troske of Kentucky, vice Mr. Paul Atkins of Virginia.

#### ORDERS FOR MONDAY, MAY 24, 2010

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Monday, May 24; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each; that at 3 p.m., the Senate proceed to the consideration of H.R. 4899, the emergency supplemental appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. UDALL of Colorado. Mr. President, Senators should expect two roll-call votes beginning at approximately 5:30 p.m. Those votes will be in relation to the Brownback and Hutchison motions to instruct conferees with respect to H.R. 4173, the Wall Street reform legislation.

#### ADJOURNMENT UNTIL MONDAY, MAY 24, 2010, AT 2 P.M.

Mr. UDALL of Colorado. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 9:12 p.m., adjourned until Monday, May 24, 2010, at 2 p.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### THE JUDICIARY

SUSAN L. CARNEY, OF CONNECTICUT, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE BARRINGTON D. PARKER, RETIRED.

ANTHONY J. BATTAGLIA, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA, VICE M. JAMES LORENZ, RETIRED.

EDWARD J. DAVILA, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, VICE MARILYN HALL PATEL, RETIRED.

ROBERT LEON WILKINS, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE JAMES ROBERTSON, RETIRED.

##### DEPARTMENT OF JUSTICE

DAVID J. HICKTON, OF PENNSYLVANIA, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS, VICE MARY BETH BUCHANAN, TERM EXPIRED.

WILLIAM C. KILLIAN, OF TENNESSEE, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF TENNESSEE FOR THE TERM OF FOUR YEARS, VICE JAMES RUSSELL DEDRICK.

## EXTENSIONS OF REMARKS

REMARKS ON THE PASSING OF  
GRACE STENGEL THOMPSON

## HON. K. MICHAEL CONAWAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. CONAWAY. Madam Speaker, I rise today to remember and pay tribute to the life of Grace Stengel Thompson.

Grace was born in Menard, Texas, to a German pioneering family on August 12, 1916. Her grandparents were Peter and Emma Jordan, who settled on Upper Willow Creek in Mason County in 1856. Her parents were George and Louise Stengel, who were prominent members of the Menard community. Grace and her husband, Claude, had three children—Toni Thompson Hurlbut, Judith Thompson Hunter and Claude John Thompson. Grace also has six grandchildren, ten great-grandchildren, one great-great-grandchild, and many nieces, nephews and cousins.

Grace was proud of her heritage and of her large extended family; she kept up with many of her cousins, aunts, uncles, nieces, and nephews, loved them all, and loved being with them especially at family gatherings. Her front door was always open, as was her table. The family remembers many fine “spur of the moment” meals she fixed for whoever showed up. To say that she was a wonderful cook and hostess is quite an understatement.

After graduating from Menard High School, Grace attended Texas Tech University, and it was at Tech that Grace met her husband, Claude, who was President of the Student Body while she was Secretary of the Student Body. They were married in Menard in July of 1937. Grace was a life-long supporter of Texas Tech, and especially the university's athletic programs.

Grace moved from Menard to Lubbock when son John enrolled at Texas Tech University. While there, she served as administrative assistant to three Deans of Students from 1972 until 1983. Grace belonged to the PEO Sisterhood and she was also a member of Delta Delta Delta Sorority. Grace was a life-long Methodist who loved the Lord and all around her.

Grace passed away on May 13, 2010, in Fredericksburg, Texas. Services were held on May 15, 2010 at the First United Methodist Church of Mason, Texas, and the burial followed at Rest Haven Cemetery in Menard, Texas.

Madam Speaker, I rise today to honor Grace's life and to offer her many family and friends my deepest condolences. Grace was adored by all those who knew her, and she will be missed.

HONORING REBECCA ACORS OF  
SPOTSYLVANIA, VIRGINIA

## HON. ROBERT J. WITTMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. WITTMAN. Madam Speaker, I rise today to pay tribute to Rebecca Acors, a dedicated educator from Spotsylvania County, Virginia, retiring after fifty-two years of teaching at Robert E. Lee Elementary School.

Mrs. Acors began her teaching career in 1957 after graduating from Mary Washington College with a degree in psychology. Over the first part of her career, she taught first, second, third, and fifth grades. In 1974 she graduated from the University of Virginia's Curry School of Education with a Master's in Education degree. After receiving her Virginia state certification as a Reading Specialist, she began serving as Robert E. Lee's Reading Specialist and has served in that position to the present day. She has taught children and grandchildren of her early students, and this year she is teaching her first great-grandchild.

Mrs. Acors has taught through many changes—new trends in education and the ever-increasing use of technology in the classroom. She made it her goal to embrace and utilize innovative teaching methods in accordance with new research findings. In 2001, she was named the University of Virginia's Elementary Teacher of the Year and in 2008 she was named Robert E. Lee Elementary School's Teacher of the Year. To summarize her outstanding career, Mrs. Rebecca Acors has had a positive impact on colleagues, parents, community members, and most importantly, children. As she described it, “To be able to help children accept themselves, to challenge each child to reach his/her full potential and to give the gift of reading is invaluable. I am content in knowing that I have changed lives and made a difference in this world.”

Rebecca Acors devoted her life to the children of Virginia and I congratulate and commend her on this significant achievement.

CONGRATULATING STAFF SGT.  
GREENDEER ON RECEIVING THE  
BRONZE STAR

## HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. KIND. Madam Speaker, I rise today in recognition of Staff Sgt. Jessica Greendeer, who has been awarded the Bronze Star for her services in the United States Army.

Jessika is a member of the Ho-Chunk Nation, and has served in the United States

Army since 2004. She is the daughter of Conroy and Janet Greendeer, and the great-granddaughter of Corporal Mitchell Red Cloud, Jr. The Ho-Chunk Nation has stated that she is the first Ho-Chunk woman to have been awarded the Bronze Star.

Her services during Operation Iraqi Freedom, and her outstanding performance during combat operations therein helped to make the command's mission a success. For her actions, she was awarded the Bronze Star, one of the highest military awards available to members of the Armed Services.

I am proud to stand before you today and commend Staff Sgt. Jessica Greendeer for her service to our country. As a citizen of the United States, I am personally grateful to Jessica for her excellence in the U.S. Army. She has demonstrated the kind of sacrifice and service to our country that not only makes her a role model to members of the Ho-Chunk Nation, but to all Americans.

RECOGNIZING MARGARET HUNNICUTT—TEMPE CHAMBER'S 2010  
BUSINESSWOMAN OF THE YEAR

## HON. HARRY E. MITCHELL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. MITCHELL. Madam Speaker, I rise today in recognition of Margaret Hunnicutt, who was recently named 2010 Businesswoman of the Year by the Tempe Chamber of Commerce.

Ms. Hunnicutt is currently the President and CEO of Tempe Schools Credit Union, an institution where she has served for nine years as both CFO and now CEO. Under her leadership, Ms. Hunnicutt has worked to keep the institution successful in both financial terms and in social responsibility. She brought the Volunteer Income Tax Assistance Program, or VITA, to the Tempe and Guadalupe communities where low-income families can take advantage of free tax preparation help. The program has been met with great success and recognized by the City of Tempe as improving the quality of life for countless residents.

In addition to her accomplishments at the credit union, Ms. Hunnicutt is a graduate of the Tempe Leadership program, a board member for the Tempe Union High School District Education Foundation, and she received the Bank of America Neighborhood Excellence Award in 2009.

Ms. Hunnicutt has also overcome great personal challenges in her path to success. She persevered to attain an education as a single mother, tirelessly working full time for 13 years while attending school part time and raising her three children.

I am honored to call Margaret a friend, and I am very proud to recognize her amazing achievements in my hometown community.

● This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



Madam Speaker, please join me in recognizing Margaret Hunnicutt's many contributions to our community.

RECOGNIZING COACH REX  
BERRYMAN

**HON. TRAVIS W. CHILDERS**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. CHILDERS. Madam Speaker, I rise today to recognize a special Mississippian, Coach Rex Berryman of Mooreville, Mississippi.

Coach Berryman has served as an educator and community leader at Mooreville High School for thirty-eight years. In 2004, he was inducted into the Mississippi Associates of Coaches Hall of Fame for his achievements. Throughout his career he has championed over 2,100 victories in all sports. Coach Berryman has led the Mooreville Troopers to win thirteen State Championships, including basketball, slow-pitch softball, and baseball.

I applaud Coach Rex Berryman's achievements and I know he will continue to support the Mooreville Troopers and victoriously represent Mississippi's First District. I urge my colleagues to join me in recognizing Coach Rex Berryman for his commitment and years of service mentoring young students in Mississippi.

CELEBRATION OF MRS. MATTIE  
LEE TOMLIN'S 80TH BIRTHDAY

**HON. DAVID SCOTT**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. SCOTT of Georgia. Madam Speaker, I rise today to recognize Mrs. Mattie Lee Tomlin on the occasion of her 80th birthday and to commend her on 46 years of dedicated service as a school bus driver.

While serving our nation's public school system, Mrs. Tomlin was responsible for providing a safe environment for her students. Each school day for over 40 years, her promptness and dependability allowed her to transport school children from home to school. Her commitment made it possible for countless children to attend public school.

Mrs. Tomlin was born on June 23rd, 1930 in Jeffersonville, Georgia. After graduating from the Twiggs County School System, she served as a public school bus driver for six years. After relocating to Jackson, Michigan, she continued serving her community for a further 40 years. Throughout her years of enthusiastic support to our nation's school children, she has been widely recognized for her punctuality and commitment to safety.

Even in her retirement Mrs. Tomlin has continued her commitment to public service. For the past four years, she has volunteered her time at the Charlie Griswold Senior Center, where she currently serves as a VIP volunteer.

Madam Speaker, distinguished colleagues, it is with great pride that I recognize Mrs.

Mattie Lee Tomlin for her years of service to our nation's school children. I invite my colleagues to join me in honoring this exceptional woman on her 80th birthday.

IN REMEMBRANCE OF DEBORAH  
VERNICE REYNOLDS-HAZEN OF  
FORT WORTH, TEXAS

**HON. MICHAEL C. BURGESS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. BURGESS. Madam Speaker, I rise today to remember Deborah Vernice Reynolds-Hazen of Fort Worth, Texas.

Debbie danced her way into the lives of her parents, Alverta and Clarence Reynolds on January 12, 1953 in Fort Worth, Texas. She graduated from Our Mother of Mercy Catholic School, Nolan Catholic High School, and Paul Quinn College. Before her college graduation, she attended Tarrant County Junior College, where she was crowned Miss TCJC, and she attended Texas Wesleyan College.

Debbie was one of the first Black finalists for the Miss Texas pageant and one of the first Black models for the Kim Dawson modeling agency. In her work in the Water Quality Protection Division of the Environmental Protection Agency, she served as both a water specialist and the Texas Tribal Outreach Education Coordinator. Debbie also worked for the Corps of Engineers.

Debbie loved Fort Worth and she dedicated her life to helping others through her very active community involvement. Mrs. Reynolds-Hazen was the first African-American chair of the Tarrant County Historical Commission. She also served on the Kupferle Board of the Harris Methodist Hospital system, as well as the boards of the Tarrant County Black Historical and Genealogical Society, the Arlington Landmarks Commission, Historic Preservation Council for Tarrant County and Historic Fort Worth.

Debbie was a Fort Worth Assembly debutante and she continued her involvement with the distinguished organization as a general member and as a member of the Executive Board. She was a member of the Fort Worth chapter of the Links. She was a graduate of Leadership Fort Worth and was involved in her church of 57 years, the historic Our Mother of Mercy Catholic Church in Fort Worth's beautiful South Side. It was there that she was a member of St. Anne's Altar Society and had sung with the first OMM Gospel Choir.

Always the life of anyone's party, Debbie was an enthusiastic and great dancer. In her lifetime, she had won many dance contests. It was not uncommon for her to make any floor her dancing arena. Her passion for dancing was infectious. She would pull people on the dance floor and made everyone want to dance with her, including those who were the most shy.

Debbie never met a stranger. She had an unparalleled flair about her. She could sashay into any crowd of people she didn't know and would walk away knowing the majority of them or the majority of people would walk away knowing who Debbie was.

This social butterfly was a very well-rounded person. An avid supporter of visual and performing arts, Debbie was a patron of museums and theatre, she travelled around the world, won many trivia contests, and played classical piano. She even recorded an album showcasing her musical talent.

She is survived by her beloved and devoted husband of 15 years, Robert J. Hazen, stepdaughters Robin Renee Black, UVanna Miller, brother, Clarence Reynolds, Jr., nieces, Judith M. Bell, Shelly Bell, and Jessica Reynolds, cousin (and unofficial younger sister), Glenda Batts Williams and uncles Roscoe Marion Means, Marshall Batts, and Melvin Buckner, and a whole host of loving relatives and dear friends.

Debbie was preceded in death by her parents, Alverta and Clarence, by her sister, Clarece, sister-in-law, Alma, and stepson Wes Hazen. She danced her way back into these beloved relatives' lives on May 14, 2010.

A Wake will be held in Debbie's memory on Friday, May 21, 2010, at 7:00 p.m. at Our Mother of Mercy Catholic Church at 1001 Terrell Avenue, in Fort Worth, Texas. The funeral Mass will be held at Our Mother of Mercy Catholic Church on Saturday, May 22, 2010, at 1:00 p.m. The family asks that in lieu of flowers, a gift to the National Kidney Foundation be made in Mrs. Reynolds-Hazen's memory.

Madam Speaker, today I rise in remembrance of the very talented, enthusiastic, dedicated and selfless Deborah Vernice Reynolds-Hazen. She has had a profound effect on many, and will be dearly missed.

TRIBUTE TO DREW KELLY

**HON. TOM LATHAM**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. LATHAM. Madam Speaker, I rise today to congratulate and recognize Coach Drew Kelly of Ames, Iowa, for his induction into the Iowa High School Athletic Association (IHSAA) Wrestling Hall of Fame.

Drew has one of the most storied and impeccable high school wrestling careers the state of Iowa has ever seen. He is one of the 65 Iowa high school wrestlers of all time to win three career state championships, which he did from 1997 to 1999. As a four-time state qualifier while wrestling at Charles City High School, Drew compiled a 133-10 record, closing out his career winning 110 of his final 111 matches. While at Charles City High School, Drew was also a three time all-state baseball player, a two-time all-state football player and a three-time state track meet qualifier.

After high school, he then went on to wrestle at the University of Northern Iowa. He was an assistant coach for two years in Fort Dodge, Iowa before beginning his current coaching job at Ames High School in 2008.

I know that my colleagues in the United States Congress join me in congratulating Coach Drew Kelly on his fine wrestling and coaching career, and on his induction into the IHSAA Wrestling Hall of Fame. It is an honor to represent Coach Kelly and his students in

Congress, and I wish him the best as he continues to provide a positive impact as a role model and educator at Ames High School.

#### PERSONAL EXPLANATION

### HON. STEVE KING

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. KING of Iowa. Madam Speaker, on roll-call No. 261, I was detained while attempting to reach the House floor to cast my vote. Had I been present, I would have voted "yes."

#### IN HONOR OF EDNA MERLE WILKINSON

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. FARR. Madam Speaker, on Wednesday my friends Patti and JOHN GARAMENDI experienced the loss of Patti's mother, Edna Merle Wilkinson, who passed away at the age of 92.

I ask my colleagues to join me in honoring Edna's rich life, which brought so much happiness to so many people.

Edna lived for many years in my district, graduating from high school in Watsonville. She married John Wilkinson, owner of Granite Construction Company, and helped build that small local company into one of the largest construction firms in the Nation.

Edna offers us many lessons on life, how to live happily and have a positive effect on others. I request that the following tribute to this great woman be included in the CONGRESSIONAL RECORD.

Edna Merle Wilkinson passed away peacefully on May 19th, 2010, after nearly 92 long years of life. Merle was born May 26, 1918 in Marlow, Oklahoma to Mary Alma Wright Twyman and Harvey Hinton Twyman.

Merle was the 5th of their seven children. Her siblings included brothers Louie and Col. Richard Twyman, and sisters Miriam Lister, Evelyn Halward, Erline Flores, and Alice Flournoy.

Merle lived and attended schools in Watsonville and Alturas, California where her accomplishments and actions are evidence of her compassionate and driven nature. In 1936 she graduated from Watsonville High School where she was awarded the American Legion Award for leadership, courage and academic excellence. She also was elected Student Body Secretary, served as the captain of the field hockey team and competed in ice skating events. After her graduation, Merle attended Business College and was a legal assistant to the Superior Court Judge in Salinas, CA.

Merle found her partner for life at a young age—on June 16, 1940 she married John "Jack" E. Wilkinson, the son of Walter J. Wilkinson, the founder of Granite Construction Company. Together they built the highway and road construction firm into what is today one of the half dozen largest in the country.

Merle and Jack were blessed with three daughters. Susan, Patti and Nancy were all born in Watsonville and attended the same

high school their great grandmother Carrie Earle Wilkinson had graduated from in 1894.

Merle, a bright loving mother and wife, was also known for her community involvement. She was active in the Eastern Star and the Johnny Appleseed Auxiliary where she hosted fundraisers for local charities. Her deep involvement with the activities of her children blended with her community spirit and she often spent hours cooking for major events and volunteering in the schools.

From the kitchen to the football field and great outdoors, Merle was also an avid sports fan and athlete. She enjoyed fishing, camping, hiking and could often be found in the rooting section of Cal Berkeley football games when her son-in-law John Garamendi was playing.

After her husband passed away in October of 1969, Merle moved to Stockton to be closer to her daughters. Always one for adventure and challenges, she spent the next several years travelling the world. With a fearless spirit she rode horseback at the Treetops Lodge at Richard Holden's in Kenya, rode camels in Egypt and even elephants in India, keeping wonderful postcard journals for her grandchildren. She visited over 60 countries and was a true pioneer.

Merle's energy and heart of service has never wavered throughout her life. In Stockton she was one of the founders of the Lady Bugs Auxiliary; an organization that supports the developmentally disabled. Having lost her daughter, Nancy, to juvenile diabetes in 1995, she was supportive of the American Diabetes Association and could always be found taking casseroles to families of cancer patients.

While living in Stockton in the latter years of her life, Merle also became involved in local politics, making incredible lunches for volunteers and walking precincts with her grandchildren.

Merle's life is celebrated by her daughter, Patti, and her son-in-law, Congressman John Garamendi, who lovingly cared for her in their home over the past two-and-a-half years. Her 12 grandchildren and her 21 great-grandchildren also celebrate her life. Her work ethic, generosity, spirit of service and adventure, and love for family continues to serve as an inspiration to all who knew her.

The pioneering spirit that her family brought to America over 350 years ago lives on through her legacy.

Madam Speaker, on behalf of the House of Representatives, I would like to extend our sincere condolences to my friends Patti and JOHN GARAMENDI, both fellow Peace Corps volunteers, and our sincere thanks to Edna Merle Wilkinson for serving as such a great example to us all.

#### TRIBUTE TO COL MICHAEL R. SHOULTS

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. SKELTON. Madam Speaker, it has come to my attention that Col Michael R. Shoultz will retire from the United States Air Force after 27 years of active duty service. He currently serves as the Chief of the Nuclear Plans, Policy, and Strategy Division of the Air Force.

A native of Bridgeton, Missouri, Col Shoultz earned his Bachelor's degree in Aircraft Maintenance Management from Parks College of St. Louis University. From there, he went on to receive degrees from the Squadron Officer School at Maxwell Air Force Base, Webster University, the Armed Forces Staff College, and the National Defense University, among others.

This extensive education did much to further Col Shoultz' long, diverse, and successful career. In the Air Force, he served as the Air Force operations readiness officer at U.S. Atlantic Command and the commander of the 28th Bomb Squadron and deputy commander for the 7th Operations Group at Dyess Air Force Base. Most recently he served as the vice commander of the 2nd Bomb Wing and the Chief of Staff of Air Combat Command's 8th Air Force. Additionally, as a command pilot he has logged over 3,800 hours in the B-52 and B-1 aircraft.

For his service, Col Shoultz received numerous awards and decorations including the Defense Superior Service Medal, the Legion of Merit, the Joint Service Commendation Medal, and the National Defense Service Medal.

Madam Speaker, let me take this means to extend my congratulations to Col Shoultz on his well-earned retirement and to wish him, his wife Elaine, and his two sons, Robert and Neil, the very best in the days ahead.

#### TRIBUTE TO THE LIFE AND LEGACY OF THE LATE TROOPER PATRICK AMBROISE

### HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. MEEK of Florida. Madam Speaker, I rise to pay tribute to the life and legacy of the late Trooper Patrick Ambroise, a constituent in the 17th Congressional district I represent. It is with both profound sadness, but also an enduring sense of gratitude for the dedication he provided to Florida Highway Patrol Troop K.

A native Miamian, Trooper Ambroise graduated from Miami Edison Senior High School. He began his career with Florida Highway Patrol in January 2006. At the time of his death he lived in Miramar, Florida with his wife and two daughters, 5 years and 3 months old. Often noted as a dedicated and religious man, Trooper Ambroise was a tenor in a gospel group.

"I want his family to know that he really loved them," said Trooper Ambroise's partner, Trooper Shenaqua Stringer.

As a former Florida Highway Patrolman myself, it is quite clear that Trooper Ambroise demonstrated a passion for law enforcement and commitment to helping others, qualities that enabled him to become a respected and model member throughout Miami-Dade County. Florida Highway Patrol District Commander Captain Sammie Thomas said at a ceremony, "Any time we lose a member of this family, it quite naturally is going to affect us. We take these highways personal. We work every day and put our lives on the line to protect the public, and that's what Patrick did."

Madam Speaker, I ask that my distinguished colleagues join me in recognizing Trooper Patrick Ambrose's extraordinary life and many accomplishments. I appreciate this opportunity to pay tribute to him before the United States House of Representatives. Trooper Ambrose was an outstanding American worthy of our collective honor and appreciation. It is with deep respect and admiration that I commend him for his contributions to his community and the many lives that he touched while serving as a shining example of his legacy.

#### TRIBUTE TO MABLE VOSHELL

#### HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. LATHAM. Madam Speaker, I rise today to congratulate Mable Voshell of Osage, Iowa on the celebration of her 100th birthday which was on February 24th, 2010.

Mable has been an inspiration to all active seniors. Since 1991 Mable has been dancing almost every Saturday night at the VFW in Mason City, Iowa. When she was younger she would go to ballrooms across the Midwest and dance the traditional version of dances like the foxtrot. Her current dance partner, Clyde Martin, has been with her every step of the way since both of their spouses passed away. For Mable's 100th birthday celebration, Mable and Clyde provided a moment not soon to be forgotten at the VFW in Mason City, by dancing the first dance of the night.

There have been many changes that have occurred during the past one hundred years. Since Mable's birth we have revolutionized air travel and walked on the moon. We have invented the television and the Internet. We have fought in wars overseas, seen the rise and fall of Soviet communism and the birth of new democracies. Mable has lived through eighteen United States Presidents and twenty-two Governors of Iowa. In her lifetime the population of the United States has more than tripled.

I congratulate Mable Voshell for reaching this milestone of a birthday. I am extremely honored to represent Mable in Congress, and I wish her happiness, health and many more dances in her future years.

#### HONORING ROY ISOM

#### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. RADANOVICH. Madam Speaker, I rise today to posthumously honor the life of Roy Isom. Mr. Isom passed away on Thursday, April 15, 2010, at the age of seventy-two.

Mr. Roy Isom was born in 1937. He grew up in Kingsburg, California. Shortly after graduating from high school, Mr. Isom joined the United States Air Force and served in Korea. Upon fulfilling his duties with the military, he returned to Central California and started his career in broadcasting.

After forty years of working for radio and television broadcasts, Mr. Isom has become known as the "voice of agriculture" in the San Joaquin Valley. After working many years in television news, Mr. Isom went to work as the news director and farm news editor for KMJ Radio, a local news talk channel, in 1981. He produced a daily hour-long morning agriculture news show, reporting on the concerns and activities of farming and agribusiness. The daily news segment provided a forum for educating farmers and non-farmers about the important role agriculture plays in the San Joaquin Valley. He was a friend to the Fresno County Farm Bureau and interviewed many of the officers, members and staff. Mr. Isom was a true advocate for farmers and agriculture.

Mr. Isom was a member of the National Association of Farm Broadcasters and was active in the Sanger Masonic Lodge and community. He was regularly recognized for his work. In 1994, he was named "Agricultural Reporter of the Year" by the California Farm Bureau Federation and in 2005 he received the "Heavy Puller Award" from the Fresno County Farm Bureau.

Madam Speaker, I invite my colleagues to join me in honoring the life of Roy Isom and wishing the best for his family.

#### CELEBRATING THE DEDICATION OF THE VETERANS FREEDOM FLAG MONUMENT

#### HON. JIM JORDAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. JORDAN of Ohio. Madam Speaker, it is with great pride that I commend to the House the dedication of the Veterans Freedom Flag Monument in Lima, Ohio.

Twenty-five feet high and 36 feet long, this unique, five-panel monument is the largest free-standing American flag in the nation. It pays rich tribute to the more than 43 million veterans who have sacrificed for the many freedoms we enjoy.

The idea for the monument dates back to 2002, with design bids solicited the following year. Ground was broken and construction commenced in 2007, with much of the work performed by volunteers of all ages working regardless of weather conditions.

Appropriately, it sits on land adjacent to Lima's Joint Systems Manufacturing Center, where so many have worked since World War II to provide cutting-edge military equipment to our armed forces. This land was leased in part from the Norfolk Southern Corporation and the General Dynamics Corporation, which operates JSMC for the federal government.

Members of United Auto Workers Local 2075 at JSMC spearheaded construction efforts and worked diligently to raise money for this important project.

Madam Speaker, the UAW will host a dedication ceremony at the monument this Saturday, when it will be formally accepted into the Johnny Appleseed Metropolitan Park District. On behalf of the Fourth Congressional District of Ohio, I congratulate the monument committee and everyone else who aided in construction and fundraising to make this fitting tribute to our veterans a reality.

struction and fundraising to make this fitting tribute to our veterans a reality.

#### HONORING WESTMINSTER CHRISTIAN ACADEMY 2010 WE THE PEOPLE NATIONAL FINALS

#### HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. CLAY. Madam Speaker, from April 24–26, 2010 more than 1,200 students from across the country visited Washington, D.C. to take part in the We the People: The Citizen and the Constitution National Finals. We the People is the most extensive educational program in the country that educates young people about the U.S. Constitution and Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education under the Education for Democracy Act approved by the United States Congress.

I am proud to announce that a class from Westminster Christian Academy represented the state of Missouri at this prestigious national event. These outstanding students, through their knowledge of the U.S. Constitution, won their statewide competition and captured ninth place at the national level.

While in Washington, the students participated in a three-day academic competition that simulates a congressional hearing in which students demonstrate their knowledge and skills as they evaluate, take, and defend positions on historical and contemporary constitutional issues. Annual surveys consistently show that high school students who take part in the We the People academic competition outperform national samples of high school students participating in the National Assessment of Educational Progress political test by at least 22 percent.

Madam Speaker, the names of these outstanding students from Westminster Christian Academy are:

Molly Anderson, Nick Arnold, Olivia Atkinson, Cheyenne Bartlett, Daniel Chae, Jacob Dahl, Kevin Goldfarb, Jake Grimes, Grace Johnson, Sarah Johnson, Alex Lindstrom, Jimmy Myers, Andrew Nichols, David Rasche, Matt Schwartz, Michael Scott, Ashley Segrave, Emily Sherman, and Curtis Stump.

I also wish to commend the teacher of the class, Ken Boesch, who is responsible for preparing these young constitutional experts for the National Finals. Also worthy of special recognition are Millie Aulbur, the state coordinator, and Sandra Diamond, the district coordinator who are responsible for implementing the We the People program in my district.

I congratulate these young "constitutional experts" on their outstanding achievement at the We the People national finals.

## TRIBUTE TO THERESA DATERS

**HON. TOM LATHAM**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. LATHAM. Madam Speaker, I rise to recognize and congratulate Theresa Daters of Melbourne, Iowa who was recently honored as the city's citizen of the year.

Theresa was honored as Melbourne's 2009 Citizen of the Year at the February 2010 Melbourne City Council meeting. Theresa was nominated for her hard work and dedication to the Melbourne city swimming pool project. She serves on the local Park and Recreational Board and put in many hours to make the pool a reality. With Melbourne being a community of about 800 citizens, it is an immense challenge to keep a community swimming pool in business and up to date. Theresa's efforts and service to her community deserves our acknowledgment and appreciation.

I know my colleagues in the United States Congress join me in congratulating Theresa Daters for receiving the Citizen of the Year Award. I consider it a great honor to represent Theresa in Congress and I wish her the best in her future endeavors.

## PERSONAL EXPLANATION

**HON. MICHELE BACHMANN**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mrs. BACHMANN. Madam Speaker, on May 18, 2010, I missed rollcall votes Nos. 273–275. Had I been present, I would have voted: rollcall vote No. 273, On Motion to Suspend the Rules and Pass H.R. 2288, the Endangered Fish Recovery Programs Improvement Act, "nay;" rollcall vote No. 274, On Motion to Suspend the Rules and Pass H.R. 4614, Katie Sepich Enhanced DNA Collection Act, "aye;" and rollcall vote No. 275, On Motion to Suspend the Rules and Agree to H. Res. 1327, Honoring the life, achievements, and contributions of Floyd Dominy, "aye."

## SUSPEND MILLENNIUM CHALLENGE CORPORATION FUNDING FOR MOROCCO

**HON. FRANK R. WOLF**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. WOLF. Madam Speaker, I would like to draw the attention of my colleagues to the following letter I sent to Secretary of State Hillary Rodham Clinton asking that the Millennium Challenge Corporation compact with Morocco be suspended in light of Morocco's deportation of Americans and other foreign nationals without due process.

HOUSE OF REPRESENTATIVES,

Washington, DC, May 19, 2010.

Hon. HILLARY RODHAM CLINTON,  
Secretary of State,  
Washington DC.

DEAR SECRETARY CLINTON: I write today to express my grave concern regarding the re-

cent deportation of approximately 40 American citizens from Morocco without due process, which I believe calls into question the continuance of Morocco's Millennium Challenge Corporation (MCC) funding.

In September 2008, the clock started for the official five-year period for project implementation under the MCC Compact with Morocco. The United States has pledged \$697.5 million in assistance to the Kingdom of Morocco through this Compact. As a precondition to receiving MCC funds, the government of Morocco was evaluated on 17 key indicators of eligibility, six of which fall under the category of "ruling justly." I submit, however, that these recent events raise valid questions regarding the Moroccan government's willingness to abide by the principles outlined in the MCC indicators.

In early March, the Moroccan government deported approximately 40 U.S. citizens and scores of other foreign nationals for allegedly proselytizing, which is against Moroccan law. However, authorities presented no evidence or explanation of the proselytizing allegations. Among the individuals who were deported or denied reentry were businessmen, educators, and humanitarian and social workers. Many of these individuals have resided in Morocco for over a decade in full compliance with Moroccan law.

Additionally, those deported were forced to leave the country within two hours of being questioned by authorities, leaving all their belongings behind. The manner in which these expulsions were carried out and the Moroccan government's refusal to grant those affected with a hearing flies in the face of the principles of due process. Furthermore, the manner in which authorities expelled these individuals violates not only the general principles of international law but Moroccan law, as well.

The mandate of the MCC is based on the assumption that "aid is most effective when it reinforces good governance." Rather than making strides toward accountable and democratic governance since receiving the MCC grant, Morocco has regressed. Freedom House's annual Freedom in the World Report noted backsliding in Morocco "due to the increased concentration of power in the hands of political elites aligned with the monarchy" over the course of the last year.

At a time when the United States owes more in debts and commitments than the total combined net worth of all Americans, it is unacceptable to provide \$697.5 million in taxpayer dollars to a nation which blatantly disregards the rights of American citizens residing in Morocco and forcibly expels American citizens without due process of law.

The decision to suspend a MCC Compact due to a significant deterioration in good governance is not unprecedented. At my urging, the Board chose to suspend the MCC Compact with Nicaragua due to the violence and blatant thuggery exhibited by the regime of President Daniel Ortega surrounding the November 2008 elections.

The United States must send a message to the Moroccan government that it is unacceptable to expel American citizens without due process under the law. I ask that you withhold Morocco's MCC funding until the government of Morocco demonstrates that it is willing to follow its own laws thus ensure that those expelled receive a fair trial and work toward a mutually acceptable solution to this matter.

Thank you for your attention to this matter and I look forward to your prompt response.

Sincerely,

FRANK R. WOLF,  
Member of Congress.

## PERSONAL EXPLANATION

**HON. STEVE KING**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. KING of Iowa. Madam Speaker, on roll call no. 256, I was detained while attempting to reach the House floor to cast my vote.

Had I been present, I would have voted "yes."

## PERSONAL EXPLANATION

**HON. TOM COLE**

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. COLE. Madam Speaker, during the week of May 10, 2010, I was not in Washington, DC because I was surveying extensive damage that occurred in my Congressional District due to several tornadoes on May 10, 2010.

My vote explanations for the week are as follows:

On Tuesday, May 11, 2010, I missed rollcall votes Nos. 256, 257, and 258. Had I been present and voting, I would have voted as follows: rollcall vote No. 256: "aye" (On agreeing to H. Res. 1294); rollcall vote No. 257: "aye" (On agreeing to H. Res. 1328); rollcall vote No. 258: "aye" (On agreeing to H. Res. 1299).

On Wednesday, May 12, 2010, I missed rollcall votes Nos. 259, 260, 261, 262, 263, 264, 265, and 266. Had I been present and voting, I would have voted as follows: rollcall vote No. 259: "no" (On agreeing to H. Res. 1344—the Rule for H.R. 5116); rollcall vote No. 260: "aye" (On agreeing to H.R. 5014); rollcall vote No. 261: "aye" (On agreeing to H. Con. Res. 268); rollcall vote No. 262: "aye" (On agreeing to Gordon (TN): Manager's Amendment No. 1); rollcall vote No. 263: "aye" (On agreeing to Hall (TX): Amendment No. 6); rollcall vote No. 264: "no" (On agreeing to Markey (MA): Amendment No. 10); rollcall vote No. 265: "no" (On agreeing to Miller (CA): Amendment No. 12); rollcall vote No. 266: "aye" (On agreeing to Reyes (TX): Amendment No. 13).

On Thursday, May 13, 2010, I missed rollcall votes Nos. 267, 268, 269, 270, 271, 272, and 273. Had I been present and voting, I would have voted as follows: rollcall vote No. 267: "no" (On agreeing to Boccieri (OH): Amendment No. 34); rollcall vote No. 268: "aye" (On agreeing to Halvorson Amendment No. 38); rollcall vote No. 269: "aye" (On agreeing to Quigley (IL): Amendment No. 50); rollcall vote No. 270: "aye" (On agreeing to the Motion to Recommit to H.R. 5116); rollcall vote No. 271: "aye" (On agreeing to H. Res. 1338); rollcall vote No. 272: "aye" (On agreeing to H. Res. 1337).

## TRIBUTE TO DONALD DYE

**HON. TOM LATHAM**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. LATHAM. Madam Speaker, I rise today to recognize Donald Dye, English teacher at Belmond-Klemme Junior and Senior High School, on being named one of five finalists for a Top Teacher Search award sponsored by the "Live with Regis and Kelly" television show.

Mr. Dye is an English teacher and has been teaching at Belmond-Klemme since 1973. He is a native of Oskaloosa, Iowa and briefly taught in New Providence, Iowa before arriving at Belmond-Klemme. Mr. Dye was nominated by Jim and Dianna Suntken of Belmond and Diane and Curt Stadlander of Goodell, Iowa. They submitted a letter describing Mr. Dye's positive impact on the lives of the youth he teaches.

Mr. Dye will be in New York City during the week of May 17th for the taping of the "Live with Regis and Kelly" television show. Each day of the week they will be featuring the top five finalists. This certainly is an exciting occasion to honor Mr. Dye for his hard work and dedication to opening the doors of opportunity to the students he reaches each day in the classroom.

I am honored to represent Donald Dye in the United States Congress, and I wish him the best of luck in New York City during Live with Regis and Kelly's Top Teacher Week. I also wish Mr. Dye the very best as he continues to serve as a mentor and role model to the students at Belmond-Klemme Junior and Senior High School.

## IN HONOR OF CRISTINA ROSE

**HON. SAM FARR**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. FARR. Madam Speaker, I rise today to honor Cristina Rose, who today is receiving the prestigious Crystal Eagle Award at Coro Southern California's 35th Annual Awards Gala.

Cristina is co-founder and senior counsel at Rose & Kindel, one of the premier public affairs firms in California. But more importantly, she has a long and successful career in public service, communications and public affairs in California, stretching back to her days of service under Governors Ronald Reagan and Edmund G. Brown, Jr.

Cristina is a board member of the American Council of Young Political Leaders and the California Historical Society. She also serves on the Board of Governors of the HOPE PAC, on the Board of Directors of the Literacy Network of L.A., and on the Board of Directors of the Metropolitan Los Angeles Y.M.C.A. She is also a member of the Pacific Council on International Policy, the Trusteeship and the International Women's Forum.

She is former vice president of the city of Los Angeles Environmental Quality Board,

served on UCLA Governmental Affairs Steering Committee, as a member of the Board of Trustees of the California Journal Foundation and on the Editorial Advisory Board of the California Journal, and was a founding board member of the California Channel.

The Crystal Eagle Award being presented to Cristina is given each year to four leaders "whose involvement in public life has made an extraordinary contribution to our region." Cristina is a perfect example of how we can make a difference in our communities.

Coro is a nonprofit, nonpartisan organization that works to prepare leaders to deal creatively, ethically and effectively with the challenges of democratic governance. Its competitive fellowship programs give these leaders the tools to make responsible decisions in the face of change, ambiguity and differing points of view. Coro embodies that belief, and its many highly esteemed graduates have demonstrated that an individual can truly make a significant difference in society.

Madam Speaker, on behalf of the House of Representatives, I would like to extend our congratulations to Cristina on winning this well-deserved award.

## PERSONAL EXPLANATION

**HON. NICK J. RAHALL II**

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. RAHALL. Madam Speaker, on the evening of Tuesday, May 18, 2010, I was unavoidably delayed and not present to vote on the following bills:

H.R. 2288—Endangered Fish Recovery Programs Improvement Act (Rep. SALAZAR—Natural Resources) rollcall No. 273.

H.R. 4614—Katie Sepich Enhanced DNA Collection Act of 2010 (Rep. TEAGUE—Judiciary) rollcall No. 274.

H. Res. 1327—Honoring the life, achievements, and contributions of Floyd Dominy (Rep. SMITH (NE)—Natural Resources) rollcall No. 275.

In the event I was present, I would have voted "aye" on all of them.

## RECOGNIZING THE MANY CONTRIBUTIONS OF ALAN GINSBURG

**HON. ALAN GRAYSON**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. GRAYSON. Madam Speaker, I rise today in honor of Jewish American Heritage Month and to recognize an extraordinary businessman and philanthropist from Central Florida who is making a distinguished contribution to the Jewish community in the 8th district of Florida, Alan Ginsburg.

For over 45 years, Mr. Alan Ginsburg has been involved in developing real estate projects such as, single family and multi-family housing projects with HUD, LIHTC, and FHA in several States including the great State of Florida. His career began years ago at a local

sporting goods store in Grand Rapids, MI where he did not make enough money to pay for parking and lunch. Determined to be a self starter, Mr. Ginsburg, quit his job to become a self-employed entrepreneur. In 1981, he founded CED Construction Companies specializing in building multi-family communities.

Mr. Ginsburg is a role model for generosity and selflessness not only with his money, but with his time and dedication. He serves as the Director of Greater Orlando Jewish Welfare Federation and was an active member of National Young Leadership Cabinet for the United Jewish Appeal. Mr. Alan Ginsburg's community activism is not just within the Jewish Community, but throughout Central Florida. He has served as a trustee for Rollins College, where he gave \$5 million for a scholarship endowment at Rollins College, and serves as a trustee for the Orlando Arts Foundation.

During the past few years, Mr. Ginsburg has donated millions of dollars to Central Florida organizations. In 2007, The Alan Ginsburg Family Foundation gave Florida Hospital \$20 million, the largest donation in its history, for its new \$255 million patient tower. The 15 story, 440 bed Ginsburg Tower opened in December 2008 and features one of the largest emergency departments and cardiac catheterization labs in the country. At his request, the tower's lobby was designed to be welcoming to people of all faiths and features a memorial to Ginsburg's late wife, Harriet, and son, Jeffrey.

Mr. Ginsburg's philanthropic values are a reflection of his philosophy in life, "to never forget the importance of the community in which you are creating new development and to give back as much and as often as possible." This philosophy corresponds with the Jewish concept of tikkun olam, repairing the world. Jews are not only responsible for helping to create a better world for themselves, but for the entire society as a whole. Mr. Ginsburg's community service has accomplished just that.

Madam Speaker, during Jewish American Heritage Month, it is my privilege to recognize this dedicated community member whose devotion to our community can be shown through his great contributions not only to the Jewish community, but the larger Florida community as well. Alan Ginsburg has given so much to the people of Florida and I applaud his accomplishments and service in our Central Florida community and our State of Florida.

## HONORING THE LIFE OF EDNA MERLE WILKINSON

**HON. JOHN GARAMENDI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. GARAMENDI. Madam Speaker, I rise today to honor the life of my mother-in-law, Edna Merle Wilkinson, who passed away May 19th, 2010. I ask all my colleagues to join me in recognizing the many outstanding achievements of Merle during her lifetime.

Merle Wilkinson touched the lives of many with dedication and grace. Evidenced since

her early childhood, Merle's driven and compassionate nature laid the foundation for a legacy of inspiration to all who knew her.

Merle's drive led her to be awarded the American Legion Award for leadership, courage and academic excellence at her high school in Watsonville, CA. There she was also elected Student Body Secretary, served as the captain of the field hockey team, and was a competitive ice skater. After high school, Merle attended business college and was a legal assistant to the Superior Court Judge in Salinas, CA before marrying her life partner, John E. Wilkinson, the son of the founder of Granite Construction Company Walter J. Wilkinson. Together, Merle and John built the highway and road construction firm into one of the largest companies in its field today.

With great compassion and a heart of service, Merle became known for her community involvement. She was active in the Eastern Star and the Johnny Appleseed Auxiliary where she hosted fundraisers for local charities. Merle was a founder of the Lady Bugs Auxiliary in Stockton, an organization that supports the developmentally disabled, as well as an avid supporter of the American Diabetes Association. Her desire to brighten the lives of others was so strong that, if there was ever a time when Merle could not be found, she was most likely taking casseroles to the families of cancer patients, as she often liked to do.

Merle's greatest source of pride and happiness, though, was her family—her three daughters Susan, Patti and Nancy, and her 12 grandchildren and 21 great-grandchildren that survive her today. Merle always put family first, and I am forever grateful for her gift of a mother's eternal love.

Madam Speaker, while it is with great sadness, I am truly honored to recognize and pay tribute to a woman who has had such a positively profound impact on my life and the lives of so many others. I ask all of my colleagues to join with me in recognizing Merle Wilkinson's lifetime of achievements.

TRIBUTE TO IOWA FIRE CHIEF  
LARRY SQUIRES

**HON. TOM LATHAM**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. LATHAM. Madam Speaker, I rise to recognize Marshalltown, Iowa Fire Chief Larry Squires on the occasion of his retirement.

Chief Squires has honorably served with the Marshalltown Fire Department for the past 30 years. During the past three decades, Chief Squires played an instrumental role in the many changes and improvements in fire protection and EMS delivery throughout the city. Even during his last days as fire chief, Chief Squires is continually looking for ways to improve safety and response times with the suggestion of an additional fire station on the opposite side of town. His forward thinking and dedication to public safety speaks volumes of his job as a public servant who is well respected and loved by the people of Marshalltown.

I know that my colleagues in the United States Congress join me in commending Chief

Squires for his many years of loyalty and service in protecting the community of Marshalltown. It is an immense honor to represent Chief Squires in Congress, and I wish all the best to him as he embarks on this next chapter in life.

RESETTLEMENT OF INTERNALLY  
DISPLACED PERSONS (IDPS) IN  
SRI LANKA

**HON. MAURICE D. HINCHEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. HINCHEY. Madam Speaker, I rise today to mark the first anniversary of the end of the civil war in Sri Lanka. President Rajapaksa promised to promote reconciliation on the island and resettle Internally Displaced Persons (IDPs).

One year after the end of the war, there are still over 90,000 people who remain in detention and transit centers, including many women and children. Not only have they not been able to return to their homes, but they still don't have access to basic necessities. Food and medical care are scarce, and international aid organizations are still not allowed into many northern areas occupied by Tamils.

The Sri Lankan government should immediately begin resettling IDPs in their original homes. They must be allowed to return to their families, livelihoods, schools, and places of worship. Addressing humanitarian needs and protecting the basic human rights of all Sri Lankans should be the top priority of the Rajapaksa government.

IN TRIBUTE TO THE NOGUCHI MU-  
SEUM ON THE OCCASION OF ITS  
TWENTY-FIFTH ANNIVERSARY

**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mrs. MALONEY. Madam Speaker, I ask my distinguished colleagues to join me in celebrating the twenty-fifth anniversary of the Noguchi Museum. Isamu Noguchi was one of the twentieth century's most influential and critically acclaimed Japanese-American sculptors. The museum, which he established and designed, is considered by many to be one of his greatest achievements. It is also the first museum in the United States to be founded by a living artist in his lifetime.

Noguchi's innovation is evident in the museum's construction. He converted a 1920s photo-engraving plant in Long Island City into a two-story, 27,000 square foot exhibition space divided into ten galleries, along with a serene sculpture garden. The museum houses the world's largest and most extensive collection of Noguchi's work, including his complete archives. There is a comprehensive selection of his sculptures in stone, metal, wood, and clay, as well as drawings, models for public projects and gardens, stage sets, furniture, and his Akari Light Sculptures.

An internationalist, Noguchi drew inspiration from his extensive world travels. This influence is evident in the materials and techniques he chose to use in his projects. Noguchi believed in the social role of sculpture and created public works all over the world including a playground in Japan, a plaza in Texas, a garden in Paris, a fountain in New Orleans and this museum in Long Island City. He did not belong to any particular movement; often his choices reflect his commitment to creating art around public spaces.

Through his collaborations with international artists, Noguchi became fluent in a range of different media and schools and set a new standard for artistic achievement. The museum repays his debt to the international community, by organizing traveling exhibitions and loaning works to other institutions for special exhibitions. It serves as an international center for the study and interpretation of Noguchi's vision, life, and the influence of his work on later artists.

The museum's steadfast commitment to education is reflected in the myriad of public and academic programs and tours offered to children, teens, and adults of all ages. Particularly popular are the "Second Sundays" series, which convene renowned experts in art, architecture, and design to explore a variety of timely topics and complement the museum's mission and exhibits, and the summer "Music in the Garden" series. Other programs vary from panel discussions to curators' talks, artist-led gallery tours, and poetry readings.

The Noguchi Museum recently underwent a renovation which has not only preserved the artist's vision, but has better enabled its facilities to meet the needs of its ever expanding audience.

Madam Speaker, I rise to pay tribute to all the friends, family and supporters of the Noguchi Museum on the occasion of its twenty-fifth anniversary.

REMEMBERING JOAN SUE HUEY

**HON. TOM McCLINTOCK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. McCLINTOCK. Madam Speaker, I rise today to honor the memory of Joan Sue Huey.

Joan Huey was born on September 29, 1928 in a small farming village in China. In 1947, she married her life's love, Albert Huey, who served in the United States Army during World War II. In 1948 they welcomed the birth of their son, Dennis. They immigrated to the United States in 1951, settling in San Francisco to seek a better life for their growing family, which by then included two beautiful daughters, Dora and Diana.

Throughout the years, Joan juggled the hectic duties of being a wife and mother. She helped manage the family finances and worked as a seamstress to provide extra income. But she was happiest when cooking traditional Chinese meals and delicacies; taking great pride in being an excellent chef and she especially looked forward to cooking for her grandsons. Joan was an accomplished orchid horticulturist, who proudly displayed her

flowering orchids throughout her home and generously shared the lovely blooms with family and friends.

After the passing of her husband, Joan devoted her time to her family until her own passing on May 15, 2010 at the age of 81. The legacy embodied by her loving family is a testament to the ongoing story of American opportunity. Madam Speaker, Joan Huey was a devoted wife, mother, and grandmother and I am proud to rise today in remembrance of her life, and to express my condolences to her family.

TRIBUTE TO IOWA'S BEST AND  
BRIGHTEST HIGH SCHOOL SENIORS

**HON. TOM LATHAM**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. LATHAM. Madam Speaker, I rise to honor the 48 high school seniors from Iowa's 4th Congressional District who were named by the Des Moines Register as some of "Iowa's best and brightest high school seniors". Each high school was asked to select a senior who is among the brightest and the best—with a mix of good grades, test scores, activities and accomplishments that made them stand out amongst their peers.

I would like to recognize: Katrina Even from Bishop Garrigan High School (Algona), Kyle Klingbell from Estherville-Lincoln Central High School, Karina Haas from Algona High School, Tyler Thorson from Forest City High School, Danielle Carda from Humboldt High School, Kelsey Frerichs from Laurens-Marathon High School, Samantha Gelhaus from North Iowa High School (Buffalo Center), Brent Sexton from Rockwell City-Lytton High School, Logan Fischer from Ruthven-Ayrshire High School, Elizabeth Bruns from West Hancock High School (Britt), Lawrence Chiou from Ames High School, Nathan Lippert from AGWSR High School (Ackley), Cassandra Bryan from Ballard High School (Huxley), Amy Soma from Belmont-Klemme High School, Brett Herring from Carlisle High School, Matthew Mueller from Dallas Center-Grimes High School, Stephanie Choquette from Eagle Grove High School, Kaly Adkins from Earlham, Taylor Johnson from East Marshall High School (Le Grand), Paul Jacobson from Gilbert High School, Kala Busby from Interstate 35 High School (Truro), Emily DeWall from Madrid High School, Patrick Fink from Marshalltown High School, Addison Bates from Nevada High School, Austin Ward from Norwalk High School, Audra Haglund from Ogden High School, Chad Tenold from Perry High School, Matt Hauer from Roland-Story High School, Sandra Samuelson from South Hamilton High School (Jewell), Grant Seufferer from Southeast Warren, Janine Cibert from Van Meter High School, Jordan Jones from Waukee High School, Katelynn McCollough from Webster City High School, Luke Byerly from West Marshall High School (State Center), Chance Sullivan from Winterset High School, Gwendolyn Walton from Woodward-Granger High School, Jonathan Garrett from Indianola High School, Emily McQuiston from

Collins-Maxwell High School, Abigail Swartz from South Hardin High School (Eldora), Sean Michalson from Charles City High School, Justin Mikesell from Clear Lake High School, Kristen Flak from Decorah High School, Hans Wagner from Kee High School (Lansing), Bryan Dannen from Mason City High School, Laura Tempus from Northwood-Kensett High School, Amanda Huisman from Osage High School, Danielle Stockdale from Riceville High School, Thomas Meirick from Turkey Valley High School (Jackson Junction), and Brittany Kruger from Waukon High School.

I applaud each of these students—the next generation of leaders in Iowa and this Nation—for their hard work and accomplishments, and I am proud to represent them, their families, teachers and fellow students in the United States Congress. I know that my colleagues join me in congratulating these students and wishing them well as they begin the journey down their next paths in life.

RECOGNIZING THE CAREER OF  
JANET BRENNEMAN

**HON. PATRICK J. TIBERI**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. TIBERI. Madam Speaker, I am pleased to honor Janet Brenneman on the occasion of her retirement from the Delaware County Board of Elections.

Throughout our history, countless individuals have striven to preserve and expand one of our most fundamental rights — the right of every American to cast a ballot. Informed, thoughtful participation in our electoral process by all citizens has been valued by generations of Americans as the quintessential action helping propel the United States onto the world stage as the foremost example of self-government.

The dedicated men and women working at our local boards of election can trace their civic lineage to the suffragettes and freedom riders of the past. They are the defenders of our most cherished public act. In this pursuit, Janet Brenneman has devoted the last 35 years of her life to the people of Delaware County. Whether through long hours on election night or her tireless advocacy to inform the voters, Janet established an unparalleled standard of excellence for all other election officers to emulate.

The Delaware Board of Elections stands out as an example for other counties throughout Ohio. Janet's quality of service is matched only by the quality of her character. A devoted friend to colleagues and a trustworthy public servant to voters, Janet's many virtues, both professional and personal, will certainly be missed and hard to replace.

I offer my congratulations to Janet Brenneman on her retirement and join her friends and family in celebrating this great milestone. On behalf of the citizens of Delaware County and the 12th Congressional District of Ohio, I offer my thanks and gratitude for her many years of service.

HONORING MS. GLORIA CHAO,  
RUTGERS LAW LIBRARIAN

**HON. ROBERT E. ANDREWS**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. ANDREWS. Madam Speaker, I rise today to honor Gloria Chao for both her service as a librarian at the Rutgers School of Law-Camden and for her infectious positive attitude.

Ms. Chao received her Bachelor of Arts from Providence University in 1967 and a Master of Science in Library Science (M.S.L.S.) from the Graduate School of Library and Information Science at Villanova University in 1970. After graduation, Ms. Chao worked with Temple Law Library and Air Asia in Taiwan. In 1979, Ms. Chao joined the library staff at Rutgers School of Law in Camden, New Jersey. Upon joining the library team, she immediately played an integral role in establishing the cataloging department and Research Library Information Network (RLIN) system. By 1984, Ms. Chao was appointed Head of Technical and Automated Services.

In her 31 years with Rutgers School of Law-Camden, Ms. Chao has been a model of success, hard work and positivity. She is affectionately referred to as the "sunshine" of the law library and the law school. Currently she is using her bravery, optimism and strength to battle stage 4 lung cancer. She is facing the disease while keeping her sense of humor intact.

Madam Speaker, Ms. Gloria Chao has helped students and faculty find and secure knowledgeable resources and information while brightening the days of all around her. I congratulate Ms. Chao on her accomplishments at Rutgers and wish her the utmost strength and courage in this time of sickness.

HONORING LAKEVIEW CENTENNIAL  
HIGH SCHOOL LAW MAGNET  
STUDENTS

**HON. JEB HENSARLING**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. HENSARLING. Madam Speaker, today I would like to honor the students of Lakeview Centennial High School's Law Magnet program and their teacher, Mr. David Lanman.

As a part of the SkillsUSA program, thirty-three students from Lakeview Centennial High School (LCHS) traveled to Corpus Christi, Texas, to represent their school and community at the 2010 Texas SkillsUSA Leadership and Skills Conference. The students won four of the five team events they entered and several of the students competed in and excelled at individual competitions, as well.

I am pleased to recognize Aaron Winton, Courtney Shaw, Hayle Shipley, Stephanie Ilda, Kaitlyn Walker, Kyle Cunningham, Joshua Waller, Kalen Lewis, Omar Roman, Celeste Leal, Katherine Bosler, Katherine Willis, Jade Flowers, Maria Barnett, Kaytlyn Plake, Kalina Edwards, Shone George, Kevin Garcia, Maria



Villanueva, Alyssa Villafranco, Nicholas Barber, Aristephanes Angulo, Anthony Tarango, Samuel Johnson, Lincoln Mondy, Gabriella Filzow-Perez, Abigail Holcom, Diamond Hunt, Jazmin Morgan, Nicholas Foster, Adam Colclasure, Victor Foreman and Justin Mathers.

In addition, the students of the Chapter Business Team will advance to the SkillsUSA National Leadership and Skills Conference in Kansas City where they will represent LCHS for the fourth year in a row. I congratulate Thomas Byham, Jade Crutch, Francely Martinez, Katherine Willis, Ashley Walker, Rebecca Ojini and Brittney Brockman on this outstanding accomplishment and wish them the best of luck as they represent their school and their community.

Lakeview students learn leadership skills and prepare for their future and their careers. These students, with the support and guidance of their teacher, Mr. Lanman, are making an impact at their school, in their community, and beyond. I am honored to recognize them today and to represent them in the United States House of Representatives.

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REMEMBERING JERRY  
HILDEBRAND

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**HON. JIM McDERMOTT**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. McDERMOTT. Madam Speaker, our Nation recently lost one of the great champions of the unemployment insurance system.

Jerry Hildebrand was the Chief of Legislation for Unemployment Insurance at the Department of Labor, and he was intricately involved in every major UI reform over the past several decades.

Most recently, Jerry had been instrumental in ensuring the delivery of extended unemployment benefits and in helping States navigate reforms to their unemployment systems with the help of UI Modernization Grants.

His advice about the possible impact of policy before enactment and his skillful work on implementation after the passage of legislation will be sorely missed.

Our thoughts and prayers go out to Jerry's family, as well as to his colleagues at the Department of Labor. Jerry Hildebrand made our government work for the people, and that contribution will surely live on.

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MY FIRST STEPS: A TRIBUTE TO  
SPC DAVID MAYER, AN AMERICAN HERO, THE UNITED STATES  
ARMY

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**HON. WALLY HERGER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. HERGER. Madam Speaker, I rise today to honor a hometown hero . . . SPC David Mayer from Placentia, California. As you know, our men and women of honor who wear the uniform . . . must come back home and

start all over again. As each has their own personal mountains to climb. In our daily lives, we take for granted the little things, like having two legs and being able to walk. And the littlest things can sometimes become the greatest of all mountains to climb. Like a soldier who comes back home from war, and must start all over again. And take . . . those first steps. This poem is dedicated to such an American Hero from California, who was ready to give his life for all of us. As he did give his two strong legs in the name of freedom, and now his new battle has begun. . . . This poem is dedicated to SPC David Mayer, and the thousands just like him, who by their actions teach us everyday. Teach us all about faith and courage. As David has lost both of his legs in an IED explosion in Iraq. I ask that the following poem penned in honor of him by Capitol Guide Albert Caswell be put in the RECORD. And remember this Memorial Day our troops sacrifice, and the loving parents like that have helped David.

My . . .  
My First . . .  
My First Steps . . .  
Are but, my first ones. . . .  
My First Steps, that I've begun. . . .  
My new footprints, that I have won . . .  
All in this new battle, all in what must be done!  
All in what is said, and so too what must be won . . .  
All in these, my new baby steps, please . . .  
all in courage's sun . . .  
Are but, really giant steps . . . as so are each . . .  
yes, each and everyone. . . .  
With all of that pain, and will . . . as my heart to me so instills . . . TO RUN.  
. . . .  
To fight! One by one . . . Day by Day . . .  
Night by Night . . . I will say, I'm not done. . . .  
All along heartbreak's way . . . I will walk and I will run . . . and I will see The Rising Sun . . .  
As I will rise . . . and wipe away all of those tears from my eyes . . . look at me, I've just begun. . . .  
For it was but not a long ago, when as a child . . . a memory I will not know . . . when I took . . .  
I took, those very first steps. . . .  
And now, in the coming years . . . as the time so passes here . . .  
I will look back, and I will remember. . . .  
Carried in my heart, all in to warm my soul.  
. . . .  
Forever, the memory . . . these embers . . .  
Of My First Steps!

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HONORING THE TOWNSHIP OF  
PEQUANNOCK, NEW JERSEY

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**HON. RODNEY P. FRELINGHUYSEN**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. FRELINGHUYSEN. Madam Speaker, I rise today to honor the Township of Pequannock, in Morris County, New Jersey, which is celebrating the 270th anniversary of their incorporation.

The Township of Pequannock, with its northern portion Pompton Plains, is one of the oldest European settlements in northwestern New Jersey. Its lands were purchased from

the Lenni-Lenape Indians between 1695 and 1696 and it was incorporated as a township in 1740, making it at the time the largest township in Morris County.

Evidence reports tool-making and hunting activity by Paleo-Indian hunters as early as 3000 B.C.E. Examples of Paleolithic tools are part of the town's historic collections. Later, the area was occupied by Lenni-Lenape Indians who camped, hunted, fished, settled and tilled the fertile lands along the river plains formed by the confluence of the Ramapo, Pompton and Pequannock Rivers. Dutch and English farmers began to settle and farm its flat plains by 1710.

During the Revolutionary War, the Township was an important interior travel route and convenient rest stop for George Washington and other Revolutionary War patriots. Nearby "Poquanic Knob" was the site of a lookout during British Generals Clinton's and Cornwallis' occupation of New York City. Hessian soldiers from the American victory of Saratoga were temporarily imprisoned in the Township. Soldiers of Washington and French General Comte de Rochambeau camped in the town on their march from Rhode Island to the Yorktown Battlefield in Virginia in 1781. General Lafayette and his soldiers passed through Pequannock to Virginia in his quest to capture Benedict Arnold. In June of 1782, General Von Steuben reviewed the troops on the "flat fields" of Pompton Plains.

Once encompassing a sprawling 176 square miles, Pequannock now consists of 6.8 square miles of suburban community. The Township has, within its confines, a portion of one of the remaining historic New Jersey turnpikes, the Newark-Pompton Turnpike, built between 1806 and 1811. Earlier during the colonial period, this road was known as the "King's Highway." And, shortly after America's independence it was known as the "Road through the Plains."

In addition, the Township is part of the remains of a long extinct glacial lake called "Lake Passaic." There are wooded walking and horseback riding paths that overlook a "feeder dam" of the historical 1827 Morris Canal, an engineering marvel of its day, and rivers for fishing and canoeing that exist along this historic dam site. A State Green Acres mountain park, containing the remains of Indian trails, enables hikers to see the New York City skyline.

Pequannock is home to the First Reformed Church of Pompton Plains founded in 1771, with a churchyard containing the graves of veterans from the Revolutionary War and the War of 1812. The community features an early 19th century general store, a recently restored historic site and National Registered railroad station, which currently serves as the Township's history museum, and many privately owned houses dating back to the 18th and 19th centuries.

Between 1943 and 1946 Pequannock Township was the home of the plant and rocket test site of Reaction Motors, Inc., a pioneer manufacturer of liquid-fueled rocket engines. Reaction Motors designed, produced and test-fired in Pompton Plains the XLR-1 rocket engine, which ultimately powered the first aircraft flight to break the sound barrier and the Bell X-1 rocket aircraft, the Glorious Glennis, piloted by

Air Force Captain/Test Pilot, Charles (Chuck) Yeager, at Mach 1 speed. This event served as a precursor to the Nation's space program.

The Township of Pequannock has been a vital part of the history of our Nation from the Revolutionary War through the infancy of mass-transportation of goods to the beginning of the space age.

Madam Speaker, I ask you and my colleagues to join me in congratulating the Township of Pequannock as they celebrate their 270th anniversary of their incorporation into the State of New Jersey.

RECOGNIZING MR. LONNIE MYERS  
FOR HIS CONTRIBUTIONS TO  
VAN BUREN

**HON. JOHN BOOZMAN**

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. BOOZMAN. Madam Speaker, I rise today to recognize Mr. Lonnie Myers for earning the Iverson Riggs Memorial Citizen of the Year Award for his dedication and commitment to Van Buren, Arkansas.

Mr. Myers, an assistant superintendent for the Van Buren School District, has been a big influence in the school system first as a teacher and coach, then as an assistant principal, principal and athletic director. Many in the community regard him as the driving force behind the creation of Van Buren High School Hall of Honor and he played a big role in getting a multi-billion dollar tax package passed to upgrade school facilities.

Neighbors and community leaders agree that Mr. Myers is a caring man with a big heart who always leads by example and is always working in the best interest of the community and students of the school district.

It's clear that Mr. Myers is very deserving of the Iverson Riggs Memorial Citizen of the Year Award. Now, after decades of calling Van Buren home, he's moving to take a job in a nearby community. Lonnie Myers will be greatly missed in Van Buren, but his impact and influence won't be forgotten.

TRIBUTE TO FORMER MAYOR TOM  
HAYES

**HON. IKE SKELTON**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. SKELTON. Madam Speaker, let me extend my gratitude and appreciation for the twelve years Mr. Tom Hayes served as Mayor of my hometown of Lexington, Missouri. For over a decade, Mr. Hayes selflessly dedicated his life to the betterment of all who call Lexington home.

For twelve years, Mr. Hayes oversaw top to bottom improvements in Lexington that led to economic growth and increased safety. He tackled the problem of an aging infrastructure by overseeing the repaving of major thoroughfares and improving the city's intersections. These investments in the city's streets com-

plimented Mr. Hayes' focus on economic development. He led the effort to refresh and improve the River Front Park, an important historical marker and central meeting place for the city, and he oversaw the development of the city's new theater. These improvements and the acquisition of the existing City Hall facility ensured the city was on sound fiscal footing.

Mr. Hayes' approach to governing the city was innovative and refreshing. He harnessed the collective wisdom of Lexington's best and brightest by establishing numerous boards and committees, such as the Transportation Board and the Marina Committee. He also maintained and strengthened relationships with Wentworth Military Academy and other local institutions. These partnerships will continue to benefit Lexington for years to come.

Mr. Hayes serves our community in many capacities outside of his role as Mayor. An active member of the First Baptist Church and a dedicated family man, he is a committed member of numerous community boards and foundations. As a man of good character with a high moral standard, he has set a wonderful example for all of Lexington's residents. He has and will continue to make the City of Lexington a wonderful place to live, do business, and raise a family.

Madam Speaker, the commitment to service that Mr. Hayes has shown throughout his life is an inspiration to me personally and to us all. I trust my fellow members of the House will join me in thanking him for his unyielding service to the City and the citizens of Lexington.

HONORING MR. MAX COLLEY, JR.

**HON. VERNON J. EHLERS**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. EHLERS. Madam Speaker, it is my distinct pleasure to join with students, parents, staff, and friends of the Northview Public Schools to mark the retirement of Mr. Max Colley, Jr. I have had the privilege of attending several exceptional Veteran's Day concerts directed by Max, and I am very pleased to honor him today.

Max Colley, Jr., received his Bachelor of Arts degree from Calvin College in Grand Rapids, Michigan, and his Masters of Arts degree from Grand Valley State University. He has taught music at Northview since 1970 and served as a saxophone instructor at Grand Rapids Community College and Calvin College, and was Associate Professor of Music at Calvin where he taught the jazz band.

Throughout his career, Max has received widespread recognition for his considerable talents in directing and teaching music. In 1985, Max was the first teacher in the Northview District to be recognized by the School Board for "Exemplary Service" and has been awarded the "Outstanding Teacher Award" of Northview High School on three occasions. In 1988, he was selected Michigan's "Band Teacher of the Year" by the Michigan School Band and Orchestra Association (MSBOA), and he received the "National Impact Teacher of the Year" award given by

Cedarville University. In 1989, he was selected as conductor of the first West Michigan All-Star Band. In 2006, he was awarded the "Outstanding Educator Award" by the Michigan Competing Band Association. In 2009, he was director of the MSBOA Youth Arts All-State Jazz Band. Under his direction, the Northview marching band has placed in the top 10 bands numerous times with the 2009 Marching Band winning 2nd place this past fall. Recently, he was named the MSBOA District X Teacher of the Year.

However, as a devoted teacher, Max is most proud of his students' accomplishments. Northview students have received numerous DOWNBEAT and International Association for Jazz Education awards. His bands have performed at every Detroit Jazz Festival, and the Montreux, Switzerland Jazz Festival two times. They have performed at the Midwest Conference five times, have been on eight European Tours, and have had 48 students selected to the All-State Jazz Band in just the past 12 years. They have won several university jazz festivals in the State of Michigan and have received first-division ratings at every MSBOA Festival since 1975. They also were selected by Lincoln Center of New York to perform at the Essentially Ellington Band Directors Academy.

I sincerely wish Max the best in his upcoming retirement, and commend him for his service to our community. May his music never end!

IN RECOGNITION OF THE HONORARY DEGREES BESTOWED  
UPON JAPANESE AMERICAN STUDENTS WHO WERE REMOVED  
FROM SACRAMENTO JUNIOR  
COLLEGE DURING WORLD WAR II

**HON. DORIS O. MATSUI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Ms. MATSUI. Madam Speaker, I rise today to recognize and congratulate the Japanese American men and women who will be receiving honorary degrees from Sacramento City College. During World War II, thousands of Japanese-American students had to suspend their studies to report to gathering sites before being sent to U.S. internment camps. Because of this, many never returned or completed their studies at Sacramento Junior College. 68 years later they will receive honorary degrees.

In one of our nation's darkest hours, on February 19, 1942, through the authorization of Executive Order 9066, more than 110,000 Japanese-Americans and Japanese immigrants were relocated and interned at War Relocation Centers. Because of Executive Order 9066, thousands of Japanese-American young adults were forced to halt their studies, withdraw from school and report to assembly centers solely because of their Japanese ancestry.

With the passage of California Assembly Bill 37 on October 11, 2009, the Regents of the University of California, Trustees of the California State University, and the Board of Governors of the California Community Colleges

were authorized by the State of California to confer an honorary degree upon each person, living or deceased, who was forced to leave his or her postsecondary studies as a result of Executive Order 9066. It is an honor long overdue.

Sacramento City College has taken the important steps toward correcting an injustice that occurred more than 68 years ago, and has embraced California Assembly Bill 37. The California Nisei Diploma Project is a way of recognizing the many sacrifices made by Japanese-Americans in my home state of California.

On May 19, 2010, Sacramento City College will bestow 49 honorary degrees upon Japanese-Americans students, alive and deceased, who were forced to discontinue their studies at what was then known as Sacramento Junior College because of Executive Order 9066. Sacramento City College has looked forward to this moment with great anticipation, has received its former students and their families with great humility, and acknowledges their pursuit of higher education with honorary degrees.

Madam Speaker, it is with great honor and pride that I stand today to recognize the Japanese-American men and women who will receive honorary diplomas from Sacramento City College. I ask all my colleagues to join me in honoring these American citizens for their sacrifice and dedication to our country. Let this ceremony stand as a stark reminder that the darkest moments in the history of our country must be remembered so that they are never repeated. Thank you for joining me in honoring these proud Americans.

#### HONORING MARILYN OLLER

#### HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. RADANOVICH. Madam Speaker, I rise today to honor the life of Marilyn Oller for her dedicated service to her family and community. Mrs. Oller passed away on Sunday, April 18, 2010 surrounded by her family.

Mrs. Marilyn Oller was born on October 26, 1939 to Ronald and Lois. She grew up in Palo Alto, California where she attended Notre Dame High School. Upon graduating from high school, she attended the University of California, Davis. While in college she met her future husband, Ben Oller.

As a young woman, Mrs. Oller was a teacher and then became a domestic engineer. She was the owner of a dress store, "Sweet Pea", and later built homes in Madera, California. Over the years, Mrs. Oller was involved with countless community organizations including the Red Cross, Les Amis Guild, House of Hope, Evangel Home and the Amici Del Poverello Guild. She was instrumental in starting the Brunch for Elvis fundraiser for the Poverello House in Fresno, California. She was dedicated to helping those in need. Mrs. Oller also volunteered during my initial campaign and continued to volunteer, on a weekly basis, in my district office answering phones and keeping the staff up-to-date on the most recent celebrity news and movie reviews.

Mrs. Oller had a wonderful sense of humor and loved to laugh. She was always the life of the party and was known for her many escapades. She loved entertainment news and gossip; she attended countless concerts, plays and weekly movies. Mrs. Oller was most known for her love and dedication to her family. She and her husband created a nurturing and loving home for their two children, and in her later years she found tremendous joy in her role as a grandmother to her three grandchildren.

Mrs. Oller is survived by her husband of forty-nine years; her daughter, Lisa and her husband Jay; her son, Marty and his wife Dianne; her sisters-in-law, Darlene and Shelly; her brother-in-law, Chuck; her grandchildren, Dyllan, Benjamin, and Mallory; and many cousins, nieces and nephews.

Madam Speaker, I rise today to posthumously honor Marilyn Oller. I invite my colleagues to join me in honoring her life and wishing the best for her family.

#### TRIBUTE TO CHIEF STAN CROSLLEY, SIDNEY DEPARTMENT OF FIRE AND EMERGENCY SERVICES

#### HON. JIM JORDAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. JORDAN of Ohio. Madam Speaker, it is my honor to commend to the House the admirable service of R. Stanley Crosley, chief of the city of Sidney's Department of Fire and Emergency Services, as he retires after a career of more than three decades with the city.

Joining the department in 1978, Stan was tapped to serve as chief in 1992. Under his leadership, the department has continually met the challenges inherent to the lifesaving work entrusted to it. The chief is hailed by his colleagues and peers for setting up a joint city-county fire investigation unit, initiating firefighter wellness programs, and expanding Sidney's fire prevention program.

Stan was named Shelby County Firefighter of the Year in 1977. He received the county's Distinguished Service Award in 2002 and the Ohio Fire Chiefs Association's Distinguished Service Award in 2006. In addition, he served as President of the OFCA from 2002 to 2004.

His dedication to civic duty is further expressed in his work with the Shelby County United Way and Wilson Memorial Hospital.

Stan received the department's Distinguished Service Award, its highest honor, at a Sidney City Council meeting earlier this month. This Friday, the department will host an open house where the public will gather to thank him for his 32 years of service on their behalf.

I am proud to join the Chief's fellow firefighters in congratulating him on his long and distinguished career in public safety. He established a solid foundation on which his successor can continue to build to the benefit of everyone in Sidney.

We wish Stan and his wife, Carole, every success as they move to a new chapter in their lives.

TAKE COMFORT, IN HONOR OF A REAL AMERICAN HERO, CPT KYLE A. COMFORT, THE UNITED STATES ARMY 3RD BATTALION 75TH RANGER REGIMENT

#### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. ROGERS of Alabama. Madam Speaker, I rise today to honor, and to mourn the death of a brilliant American hero, from my great state of Alabama, Ranger Captain Kyle A. Comfort. On May 8, 2010, Kyle gave that last full measure for God and country in Afghanistan. Our prayers are with him, his lovely wife Brooke Catherine, and their new daughter Kinleigh Ann. May our Lord hold them in his arms, I ask that this poem penned in honor of him, by Albert Caswell be placed in the RECORD.

#### TAKE COMFORT

Take Comfort!

As you lay your head down to sleep . . .  
All in your hearts of love, so very deep . . .  
Of all of those most precious memories, so to keep!

Of all of those Magnificent Ones, who have so brought us peace . . .

But, with their fine lives . . . as it's but for them we now so weep!

Take Comfort!

In such hearts of honor and love . . . so very deep!

Who to all of ours so brilliantly do so speak!  
As a gentle rain, rolls across Alabama this night . . . All in our sleep . . .

Are but our Lord's tears, coming down from Heaven from his heart so very deep . . .  
All because of you Kyle, and your most selfless sacrifice so very sweet . . .

And all of this pain, your family must now so ever keep!

Take Comfort!

In hearts, now so very deep . . .

As this you must, believe!

That a new Angel, our Lord God . . . up in Heaven, has so received!

To watch over us, indeed!

To fight the darkness, you see!

And on this day, as you hold your family so very tight!

And all, seems so very right!

All because of a Hero, who for us has so died this night!

Because, Freedom is not Free!

But, bought and paid for . . . by all of these, most selfless souls . . . so indeed!

By men like Kyle, our Most Brilliant of All Lights!

And the families, who now so cry . . . all in their tears of heartache, this night!

So, hush little baby Kinleigh Ann . . . don't you cry!

For one day, up in Heaven you will look into your fine Father's eyes!

And you, Brooke . . . his lovely wife . . .

Your Hero Kyle, but wants you to have a happy life!

For there will be an eternity together, up in Heaven so very bright!

So this night, as you lay your head down to rest . . . but remember, all of our very best!

Take Comfort, all in how . . . our world they bless!

My Lord, Take Comfort . . . he's yours . . . as we lay his body down to rest!

Amen!

## PERSONAL EXPLANATION

**HON. J. GRESHAM BARRETT**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately, I missed the following recorded votes on the House floor the legislative week of Tuesday, May 11, 2010.

For Tuesday, May 11, 2010, had I been present I would have voted "aye" on rollcall vote No. 256 (on motion to suspend the rules and agree to H. Res. 1294), "aye" on rollcall vote No. 257 (on motion to suspend the rules and agree to H. Res. 1328), "aye" on rollcall vote No. 258 (on motion to suspend the rules and agree to H. Res. 1299).

For Wednesday, May 12, 2010, had I been present I would have voted "no" on rollcall vote No. 259 (on agreeing to H. Res. 1344, providing for consideration of H.R. 5116), "aye" on rollcall vote No. 260 (on motion to suspend the rules and agree to H.R. 5014), "aye" on rollcall vote No. 261 (on motion to suspend the rules and agree to H. Con. Res. 268), "aye" on rollcall vote No. 262 (on agreeing to the Gordon amendment to H.R. 5116), "aye" on rollcall vote No. 263 (on agreeing to the Hall amendment to H.R. 5116), "no" on rollcall vote No. 264 (on agreeing to the Markey amendment to H.R. 5116), "no" on rollcall vote No. 265 (on agreeing to the Miller (CA) amendment to H.R. 5116), "aye" on rollcall vote No. 266 (on agreeing to the Reyes amendment to H.R. 5116).

For Thursday, May 13, 2010, had I been present I would have voted "no" on rollcall vote No. 267 (on agreeing to the Boccieri amendment to H.R. 5116), "aye" on rollcall vote No. 268 (on agreeing to the Halvorson amendment to H.R. 5116), "aye" on rollcall vote No. 269 (on agreeing to the Flake amendment to H.R. 5116), "aye" on rollcall vote No. 270 (on motion to recommit H.R. 5116 with instructions), "no" on rollcall vote No. 271 (on motion to suspend the rules and agree to H. Res. 1338), "aye" on rollcall vote No. 272 (on motion to suspend the rules and agree to H. Res. 1337).

## DEFEND AMERICA PLAN

**HON. JOE WILSON**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. WILSON of South Carolina. Madam Speaker, last night, members of the House Armed Services Committee completed the markup of the 2011 National Defense Authorization Act. I want to thank Chairman IKE SKELTON and Ranking Member BUCK McKEON for working to ensure America's heroes and military families are recognized for their service.

I am grateful for the "Defend America Plan" comprised of several amendments that include: labeling the Fort Hood and Little Rock shootings as part of the Global War on Terrorism; preventing the transfer of detainees from Guantanamo Bay; and demanding strate-

gies to deal with Iran's missile and nuclear threat.

I want to thank my colleagues for supporting my amendment to ensure TRICARE is protected from the health care takeover. Their support is also appreciated on my Yucca Mountain amendment to help examine the reckless decision to close the waste repository and my amendment to promote the State Guard.

In conclusion, God bless our troops, and we will never forget September 11th in the Global War on Terrorism.

CONGRATULATING PASTOR  
ARTHUR JACKSON, III**HON. KENDRICK B. MEEK**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. MEEK OF Florida. Madam Speaker, I am pleased to recognize and extend my congratulations to Pastor Arthur Jackson, III on his 19th anniversary of pastoral ministry in service to Antioch Missionary Baptist Church of Carol City, Florida.

A native of South Florida, Pastor Jackson was born to Reverend and Mrs. Arthur Jackson, Jr. on May 5, 1964. Pastor Jackson was licensed as a Minister on October 9, 1988, at the New Shiloh Missionary Baptist church in Miami, Florida where he served as an Associate Minister under the leadership of his father, Rev. Arthur Jackson, Jr.

Pastor Jackson became Senior Pastor of Antioch Missionary Baptist Church of Carol City on March 8, 1991. Under his leadership, the Church has grown from the "Faithful Fifty" members to a blossoming ministry of over 7,000 that continues to grow at record pace.

To accommodate the tremendous membership growth, several phases of building expansions have been realized under the direction of Pastor Jackson. Phase One, a 17,500 square foot Worship Center, has already been completed. Another building project is in the planning and design stages and should be completed within the next three years. This project will add an additionally 126,000 square feet to the Worship Compound. The Church has 75 established ministries.

Often sought over much of the United States as an evangelist, speaker and lecturer, Pastor Jackson often travels to spread "Good News of the Gospel." His radio broadcast can be heard weekly on WMBM-AM 1490 in Miami, Florida. He is married to Jacquaneise Jackson. They are blessed with one daughter, Jaden.

Madam Speaker and my colleagues, I ask that you join me in honoring Pastor Arthur Jackson, III, a humble servant of God, a true beacon of hope and a guiding light in the 17th Congressional District of Florida.

RECOGNIZING SISTER DAMIAN MURPHY'S SERVICE TO GOD AND HIS PEOPLE AS SHE CONCLUDES HER MINISTRY AT CHRISTUS ST. MICHAEL HEALTH SYSTEM

**HON. RALPH M. HALL**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. HALL of Texas. Madam Speaker, it is a privilege to rise today in honor of a dear woman of God, and my friend Sister Damian Murphy, Vice President of Mission Integration at Christus St. Michael Health System in Texarkana, Texas.

A native of County Cork, Ireland, Sister Damian joined the Sisters of Charity of the Incarnate Word in 1950. She graduated from Sacred Heart Dominican College in Houston, TX, with a B.S. in Nursing and holds a Master of Science in Health Care Administration from the University of Houston, Clear Lake City. She also completed one year of intensive study in theology at the School of Applied Theology, Berkeley, CA; one year of study in pastoral ministry at St. Madeleine Sophie Center for the Mentally Underdeveloped in El Cajon, CA; and study in clinical pastoral education from St. John's Regional Medical Center, Oxnard, CA.

She joined the St. Michael Pastoral Ministry staff in July of 1991, and has since impacted the lives of many patients, their family members, physicians, associates, volunteers, board members, and area residents. Her role developed into that of Vice President of Mission Integration, where she daily reaffirms to staff and community the mission of Christus St. Michael which is extending the healing ministry of Jesus Christ.

Sister Damian's career has been expansive and varied to include areas of patient care, management, and education. Her professional experience prior to joining the Christus St. Michael team included Director of Critical Care Nursing at St. Joseph, Houston, and Administrator of St. Elizabeth Hospital in Houston.

Her ministerial and civic contributions in Texarkana and the surrounding area will forever be remembered.

Madam Speaker, I have been extremely blessed by knowing this wonderful lady and I ask that you and the rest of my colleagues join me in congratulating and honoring Sister Damian Murphy as she enters into retirement and new ministry opportunities.

COURT APPOINTED SPECIAL  
ADVOCATES (CASA)**HON. LORETTA SANCHEZ**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Ms. LORETTA SANCHEZ of California. Madam Speaker, I rise today in recognition of a very special non-profit organization in my district, Court Appointed Special Advocates (CASA), who celebrates 25 years of being the voice for abused and neglected children in Orange County.

Founded in 1985, CASA of Orange County is dedicated to providing quality intervention and advocacy services for children who are caught up in the courts and unable to safely live at home—many of whom are abused, abandoned and neglected children.

CASA of Orange County began with 15 volunteers and now has over 700 volunteers serving as mentors and advocates for child abuse victims.

In Orange County, on any given day, there are over 2,500 children and teens in foster care who have been removed from their homes due to chronic or severe abuse.

In a sea of social workers, attorneys, therapists and caregivers, it's the court appointed volunteer who is a consistent and caring friend and advocate for the child.

I want to commend CASA's volunteers and staff who are heroes to many of these children.

Thank you for your compassion and commitment to positively influencing the lives of these very special children—one child at a time.

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#### DRILLING MORATORIUM—NOT SO FAST

**HON. TED POE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. POE of Texas. Madam Speaker, in response to the BP oil spill, Secretary Salazar ordered a prohibition for the Minerals Management Service from issuing any new offshore drilling permits including both shallow water and deep water offshore drilling. While it is important to fully determine the cause of any accident of this magnitude, and learn from the mistakes, the unintended consequences of this wide ranging ruling are far reaching. I believe that a ban on new permits for both shallow water and deepwater drilling is an overreaction that has the potential to cause widespread economic damage to the Gulf Coast.

Shallow water drilling is fundamentally different from deep water drilling, and has operated in the Gulf safely for 60 years. First of all, drilling in shallow waters is primarily for natural gas. The oil remaining in these reservoirs has been largely produced, so it is at lower pressures than the oil found at deeper depths. Second, the blowout preventers in shallow water drilling are located above the sea surface, as opposed to the sea floor with deep water drilling. So, most of the problems we have seen with the blowout preventer in the BP spill would not be present in shallow water drilling.

Additionally, water temperatures are warmer in shallow water, and relief wells can be drilled much quicker and easier than in deeper water. The bottom line is that shallow water and deep water drilling are fundamentally different—yet this prohibition treats them the same.

For these reasons, I believe the Secretary of the Interior should allow new drilling permits to be issued for shallow water drilling in the Gulf immediately. Swift action is imperative, as up to 50 drilling rigs will complete wells in the

next six weeks and will be unable to accept new work as long as the current ban on new permits is in effect. Additionally, shallow water drilling wells operate on a much shorter time frame for permitting than deep water wells, sometimes as little as 30–60 days. Therefore, it will be the shallow water drilling that is the most adversely affected in the short term by this ban on new permitting.

With over 180,000 Americans directly employed in the oil and gas and mining industries along the Gulf Coast, the prospect for severe economic hardship is very real. This hardship will only be compounded by the already high unemployment rates found along the Gulf Coast and throughout our country. In Port Arthur, Texas, unemployment is hovering around 15 percent.

Additionally, offshore crude production accounts for around 30 percent of total U.S. crude oil production, so it is vital to our energy supply that safe offshore drilling resume as quickly as possible. We cannot afford to give up a source of domestic energy and American jobs at this time. I urge Secretary Salazar to immediately lift the ban on new permitting for shallow water drilling.

And that's just the way it is.

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#### INTRODUCING THE LENA HORNE RECOGNITION ACT

**HON. ALCEE L. HASTINGS**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. HASTINGS of Florida. Madam Speaker, I rise today to introduce the Lena Horne Recognition Act, a bill to posthumously honor Lena Horne with a Congressional Gold Medal in recognition of her many achievements and contributions to American culture and the Civil Rights Movement. A symbol of elegance and grace, the legendary Lena Horne entertained America and broke racial barriers as a singer, dancer, and actress for over 60 years. Ms. Horne passed away in New York City on May 9, 2010 at the age of 92. My thoughts and prayers go out to her daughter, Ms. Gail Lumet Buckley, and the rest of her family and friends at this most difficult time.

Lena Mary Calhoun Horne was born on June 30, 1917, in Brooklyn, New York. Her path to international stardom would take her from Harlem's famous Cotton Club, where she was hired as a chorus dancer at the age of 16, to Charlie Barnet's jazz band, where she became one of the first African American women to tour with an all-white band, to Hollywood and Broadway.

In the 1940s, Ms. Horne was discovered by a Metro-Goldwyn-Mayer (MGM) talent scout and moved to Hollywood to be an actress, becoming the first black artist to sign a long-term contract with a major studio. Despite her extraordinary beauty and talent, however, she was often limited to minor acting roles because of her race. Among many lost opportunities, studio executives cast fellow actress Ava Gardner as Julie in the film adaptation of *Show Boat* instead of Ms. Horne because they did not want it to star a black actress. However, she dazzled audiences and critics in a

number of films, including *Cabin in the Sky* and *Stormy Weather*.

The struggle for equal and fair treatment was an inseparable and increasingly political part of Ms. Horne's life. During World War II, Ms. Horne toured extensively with the United Service Organizations (USO) on the West Coast and in the South in support of the troops. She was outspoken in her criticism of the way black soldiers were treated, refusing to sing for segregated audiences or to groups in which German prisoners of war were seated in front of African American servicemen.

During the period of McCarthyism in the 1950s, Ms. Horne was blacklisted as a communist for seven years because of her civil rights activism and friendship with Paul Robeson and W.E.B. Du Bois. Although she continued to face discrimination, Ms. Horne's career flourished in television and on nightclub stages across the country. It was during this time that she also established herself as a major recording artist. In 1957, she recorded *Lena Horne at the Waldorf-Astoria*, which reached the Top 10 and became the best-selling album by a female singer in RCA Victor's history.

Sharing the stage with such names as Count Basie, Tony Bennett, Billy Eckstein, Vic Damone, and Harry Belafonte, Ms. Horne rose to international stardom and toured the world. She also starred in musical and television specials with such giants as Judy Garland, Bing Crosby, and Frank Sinatra.

Ms. Horne used her talent and fame to become a powerful voice for civil rights and equality. In 1963, she participated in the historic March on Washington for Jobs and Freedom, at which Dr. Martin Luther King, Jr. delivered his immortal "I Have a Dream" speech. She also performed at rallies throughout the country for the National Council for Negro Women and worked with the National Association for the Advancement of Colored People (NAACP), of which she was a member since the age of two, the National Council of Negro Women, the Delta Sigma Theta sorority, and the Urban League throughout her career.

In 1981, Ms. Horne finally received the big break she had waited for her whole life. Her one-woman Broadway show, *Lena Horne: The Lady and Her Music*, was the culmination of her triumphs and struggles. It enjoyed a 14-month run before going on tour and earned her a special Tony and two Grammy awards.

Madam Speaker, Lena Horne was an extraordinary woman who refused to give up her dreams and used her beauty, talent, and intelligence to fight racial discrimination.

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#### INTRODUCTION OF THE DEPLOY NATIONAL GUARD TROOPS TO THE BORDER ACT

**HON. HARRY E. MITCHELL**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. MITCHELL. Madam Speaker, I rise in support of bipartisan legislation I introduced earlier today with my colleague Representative DANA ROHRBACHER of California: The Deploy National Guard Troops to the Border Act.

The Federal Government has a responsibility to secure the border, and it simply hasn't

done it. As a result, we are once again facing an emergency. Not just an emergency at the border, I might add, but an emergency in the interior—in places like Phoenix, where smugglers and Mexican drug cartels have set up vast networks of drop houses, which operate as way stations for their illegal activities. The crime and violence associated with these drop houses is horrendous. Phoenix has become a kidnapping capital.

This is completely unacceptable.

While, undoubtedly, Congress needs to secure the border and fix our broken immigration system—the situation at the border cannot wait simply because it is an election year. This is an urgent threat to our national security.

I have urged President Obama to send additional National Guard troops to the border, much like I urged President Bush to extend the deployment of National Guard troops to the border in 2008. Sadly, to no avail.

That is why, today, I am introducing legislation to deploy 3,000 National Guard troops to the border to assist U.S. Customs and Border Protection.

Taking this step will help secure the border while Congress works on a more comprehensive, permanent fix.

The National Guard has successfully assisted with border security in the past. Operation Jump Start, which concluded its mission in 2008 proved remarkably effective. According to the U.S. Customs and Border Patrol, the Yuma Sector experienced a 68-percent decrease in apprehensions between October 1, 2006, and July 31, 2007, compared with the previous year. Border-wide, the National Guard helped seize more than 1,080 vehicles used to transport drugs and/or illegal immigrants, more than 300,600 pounds of marijuana, and 5,060 pounds of cocaine.

I thought the National Guard was drawn down too quickly and offered an amendment at the time to extend their deployment. Unfortunately my amendment was blocked from floor consideration.

I know there are strong views about immigration reform, and I know this is an election year. But we cannot let petty political concerns or inflammatory rhetoric to continue to compromise our national security. We cannot continue to kick this down the road for future Congresses to deal with. Now is the time to tone down the rhetoric, come together and take this critical step.

I urge my colleagues on both sides of the aisle to pass this bill, and continue to work on a permanent security solution, as well as a fix to our broken and ineffectual immigration system.

#### PERSONAL EXPLANATION

### HON. JOHN GARAMENDI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2010

Mr. GARAMENDI. Madam Speaker, on roll-call No. 277 taken May 19, 2010, H.R. 5325, the America COMPETES Reauthorization Act of 2010, had I not had a family emergency which required my immediate return to California, I would have proudly voted "yes".

With increasing global competition, it is critically important that we boost our country's research potential and expand our commitment to STEM (Science, Technology, Engineering, and Mathematics) education. Economic growth requires innovation; innovation requires robust research; and effective research requires a broadly educated workforce. I am deeply saddened that COMPETES fell victim to short-sighted Republican political gamesmanship, and I look forward to working with House Science and Technology Chair BART GORDON to get COMPETES reauthorized through another legislative vehicle.

#### JEWISH AMERICAN HERITAGE MONTH

### HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2010

Mr. CLAY. Madam Speaker, I rise today to celebrate the rich heritage and invaluable contributions that Jewish Americans have made to our Nation and to the community that I am proud to represent in Missouri's First Congressional District.

The earliest Jewish immigrants came to St. Louis over two hundred years ago.

Like most new Americans, they came seeking a refuge from persecution and discrimination, with the hope of building productive lives and practicing their faith, without fear.

In St. Louis, and across the Nation, Jewish Americans have excelled in every facet of our society. From commerce, to the arts, to education, medicine, the law, government, and in our armed forces.

Jewish Americans have enriched our Nation and contributed much to our shared cultural heritage.

I also want to make special mention of the long and historic partnership between the African American and the Jewish American communities, in the pursuit of social justice, civil rights, voting rights and equal protection under the law.

During the most trying times of the civil rights movement, Jewish Americans and African Americans marched together, stood together, protested together, prayed together, and even died together, to advance the cause of full citizenship and real equality for all.

That partnership and common pursuit of justice endures today.

In my district, I am blessed to represent a large, vibrant Jewish community with many outstanding congregations, educational and cultural groups and social service agencies; including: the Jewish Federation of St. Louis; the Jewish Community Center; Jewish Family and Children's Services; the Jewish Community Relations Council; the St. Louis Holocaust Museum and Learning Center, Barnes-Jewish Hospital, the Central Agency for Jewish Education, and many others.

Jewish Americans have helped shape our Nation's history, and their unending commitment to faith, family, learning and social justice will continue to strengthen the United States.

I am proud to join with my colleagues to mark Jewish American Heritage Month.

COMMENDING DAVID BARTON FOR EDUCATING AMERICA ABOUT OUR NATION'S RELIGIOUS HERITAGE

### HON. BILL POSEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2010

Mr. POSEY. Madam Speaker, recently, I had the opportunity to tour our nation's Capitol building with one of our nation's leading scholars, David Barton. David Barton is an accomplished author, speaker, and historian who focuses on helping Americans explore and understand our nation's moral, religious, and constitutional heritage. It is critically important that all of us have a deeper understanding and appreciation of our nation's founding.

Mr. Barton has dedicated his life to studying historical documents from the foundation of our nation and helping Americans understand the impact moral and religious teaching and beliefs had on our nation's Founding Fathers and the direction of our nation. Through his work, he teaches that in addition to a constitutional foundation, our nation has undeniable religious and moral underpinnings.

Mr. Barton is founder and president of Wallbuilders, a national organization that presents "America's forgotten history and heroes." The organization seeks to educate citizens about the important role that religious faith had on our Founding Fathers and our nation's institutions, including our government.

Mr. Barton has received substantial recognition for his work, including being named "one of the 25 Most Influential Evangelicals" by TIME magazine and receiving several Angel, Who's Who in Education, and Telly Awards, as well as the George Washington Honor medal.

I commend Mr. Barton for his commitment to fostering a scholarly understanding of America's heritage and for the important work he does in studying and teaching regarding the Biblical values that guided our Founders during the birth of our nation more than 225 years ago. I have been on several Capitol tours with Mr. Barton, and his knowledge about the religious foundation of our country never ceases to amaze me. It is through this type of work that Americans gain a better understanding of what the Founders expected our nation to be like and what we should expect from our elected leaders and the laws they create.

Madam Speaker, I encourage my colleagues to join me in recognizing Mr. Barton and the work that he does to educate Americans about our nation's past so that America can be a beacon to the world.

#### OUR UNCONSCIONABLE NATIONAL DEBT

### HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2010

Mr. COFFMAN of Colorado. Madam Speaker, today our national debt is \$12,975,292,327,567.97.

On January 6, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$2,336,866,581,274.10 so far this Congress.

This debt and its interest payments we are passing to our children and all future Americans.

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IN CELEBRATION OF THE DEDICATION CEREMONY FOR CONGREGATION OLAM TIKVAH

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**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to congratulate Congregation Olam Tikvah on the occasion of the Dedication Ceremony for their recent expansion.

Congregation Olam Tikvah was formed in 1964 by six Fairfax County families who recognized the need for a synagogue that would serve the Kings Park, Springfield, Fairfax and Annandale areas. The congregation was initially led by Reb Jack Frankel who, although not an ordained rabbi, provided religious leadership and guidance in those early days.

From these modest beginnings, Olam Tikvah has grown into a vibrant community and is the spiritual and religious home to over 620 Jewish families in the Northern Virginia area. Along with this growth in membership has come an expansion of programs which now include a preschool, child and adult education classes, ritual support, a Men's Club, a Sisterhood and a senior social group.

In addition to religious education and development, Congregation Olam Tikvah supports involvement by its members in a number of organizations and projects dedicated to the betterment of the secular community. These efforts include aid to victims of domestic violence, providing support to our military families, blood, food and clothing drives, elementary school mentoring programs and Sukkot in April which performs needed home repairs to our elderly, disabled and low-income neighbors.

On May 23, 2010, Olam Tikvah will celebrate the Dedication Ceremony for their most recent expansion. This expansion will provide a new library/learning center, a new social hall and new kitchen and support areas for the social hall. I am confident that these new facilities will provide the resources that will allow Congregation Olam Tikvah to continue its growth.

Madam Speaker, I ask my colleagues to join me in congratulating Congregation Olam Tikvah on the occasion of this Dedication Ceremony as well as in thanking Rabbi Kalender, Rabbi Shalva and the entire congregation for their commitment to Judaism, their synagogue and the residents of Northern Virginia.

HONORING THE ONE YEAR ANNIVERSARY OF THE END OF THE SRI LANKA CONFLICT

**HON. MICHAEL E. McMAHON**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. McMAHON. Madam Speaker, I rise today to honor the one year anniversary of the end of the civil war in Sri Lanka. Although the war ended on May 19th, 2009, much work still needs to be done to ensure peace and stability on the island. Despite a pending debt crisis, the Sri Lankan government is still expanding its military footprint, including a \$300 million loan from Russia to purchase new weapons systems. I would urge the Congress to include language in the FY11 Foreign Operations Appropriations bill similar to language included last year. This would restrict all military assistance to Sri Lanka until the government: First, suspends and brings to justice members of the military who have violated internationally recognized human rights or international law; respects internationally recognized human rights, including the right of due process for suspected ex-combatants; treats IDPs in accordance with international standards, and is actively working to resettle individuals in their former homes; provides unrestricted access to conflict-affected areas and populations by humanitarian organizations and journalists; and implements policies to promote reconciliation and justice.

I would encourage my colleagues to support this language until the Government of Sri Lanka can prove it is taking the necessary steps to secure lasting peace and stability for the island.

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IN CELEBRATION OF THE RETIREMENT OF REVEREND JOHN H. RICE, SR.

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**HON. DEBORAH L. HALVORSON**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mrs. HALVORSON. Madam Speaker, I rise today to recognize the retirement of the Reverend John H. Rice, Sr. upon the fortieth anniversary of beginning his tenure at St. Bethel Missionary Baptist Church in Chicago Heights, Illinois.

Born in Starkville, Mississippi, Reverend Rice moved to Chicago Heights, Illinois at the age of four. There he spent his childhood, graduating from Bloom Township High School. After receiving his Associate's Degree in Masonry from Los Angeles City College, he returned to the area in 1959 and married Movita Tate, a classmate from Bloom Township High School. He continued his education, graduating from the Moody Bible Institute's evening school in 1967 and receiving his Bachelor's Degree in Interpersonal Communications from Governors State University in 1982.

As pastor at St. Bethel Missionary Baptist Church, Reverend Rice tended to a congregation of 600 families. He spent his 40 years

serving the local community, caring for the poor and the homeless. In 1986, he opened the Bethel Community Facility, which became known as the "Miracle on Portland Street" for the year-round services it provides to the homeless. The Facility provides not only food, clothing and shelter for the homeless, but also a doctor's office and several job training programs. In 1990, he opened the Bethel Annex, which provided a "rent-a-church" space for small congregations to worship and now serves as a warming and cooling center for the homeless.

Reverend Rice retires next month after a fulfilling, impressive, and inspirational career. He is truly an asset to Chicago Heights and the Southland area. It is with great pride that I celebrate the career of Reverend John H. Rice, Sr. May his retirement be as fruitful and joyous as his ministry has been.

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THE RESPONSIBLE GSE AFFORDABLE HOUSING INVESTMENT ACT OF 2010

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**HON. CAROLYN B. MALONEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mrs. MALONEY. Madam Speaker, I rise today to introduce the Responsible GSE Affordable Housing Investment Act of 2010. I would like to recognize my colleagues Representatives NADLER, VELÁZQUEZ and MEEKS for their co-sponsorship of the legislation.

The bill will curtail the ability of Government Sponsored Enterprises (GSEs) such as Fannie Mae and Freddie Mac to invest in future deals—like in the case of Stuyvesant Town/Peter Cooper Village in my district—that do not result in an increase in, or preservation of, affordable housing.

Since 1992, GSEs like Fannie Mae and Freddie Mac have been required to meet certain affordable housing goals each year. "Housing Goals Credit" is awarded numerically based on the types of transactions that they enter into. GSEs in turn make decisions about their investments based on whether these investments would be eligible for Housing Goals Credit.

In 2007, Fannie Mae and Freddie Mac invested in a \$22 billion commercial mortgage-backed securities transaction that contained the debt on the Stuyvesant Town/Peter Cooper Village project. The deal was one of the largest commercial mortgage-back securities (CMBS) deals ever; Fannie Mae and Freddie Mac's participation as senior debt holders of \$3 billion was critical.

At the time of the deal it was clear that the Stuyvesant Town property was overleveraged—the debt on the property was larger than the rental income it was receiving. After the transaction closed, over the course of several years, the new owners of the property engaged in aggressive tactics to convert affordable units to market rate so that they could increase their rental income—yet the GSEs received affordable housing goals credit for this investment. The investment on the part of the GSEs secured completion of the deal and the GSEs were incentivized to make it because of the housing goals credit they received.



The GSEs should be incentivized to invest in projects that actually do increase or preserve affordable housing. That is what my bill will do. It will require the Federal Housing Finance Agency to rewrite its rules for distributing housing goals credit so that Freddie and Fannie cannot receive credit for investments like the one they made in the Stuyvesant Town project. It would also require the GSEs to use the same underwriting standards for investments in the secondary market that they do for their direct investments which are much stricter. That way, the GSEs won't invest in the secondary market in projects where the rental income is insufficient to cover the payments on the debt on the property.

Madam Speaker, this bill addresses a critical component of GSE decision-making when it comes to their investments: whether or not they will receive housing goals credit. It does not prohibit them from making investments, it merely says that if those investments do not lead to an increase or a preservation of affordable housing, the GSEs cannot receive credit for them.

#### PERSONAL EXPLANATION

#### HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2010

Mr. GERLACH. Madam Speaker, unfortunately, on Tuesday, May 18, 2010, I missed three recorded votes on the House floor. I ask that the RECORD reflect that had I been present, I would have voted "yea" on rollcall 273, "yea" on rollcall 274 and "yea" on rollcall 275.

IN HONOR OF DR. DONALD F. CROSSAN

#### HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2010

Mr. CASTLE. Madam Speaker, it is with great honor but a heavy heart that I rise today to pay tribute to Dr. Donald F. Crossan, a Delaware native who devoted his life to his community and his career to academics at the University of Delaware. Dr. Crossan will be missed by many throughout our state, but his legacy lives on in the lives he touched through his service as a professor and community member, and with the agricultural academic scholarship endowed in his name.

Born in 1926 and raised in Wilmington, Don was a Veteran of the Second World War, an avid outdoorsman, and had visited all seven continents over his lifetime. Don's interest in plants, animals, and the outdoors was established early in his life. As a boy, he learned about hunting and fishing in the nearby ponds and fields and acted as an Assistant Boy Scout Leader. After graduating from P.S. Dupont High School in 1944, Don enlisted in the Army Air Corps and was stationed in Guam, serving as a tail gunner. Upon returning home, he married his 'girl next door,' Ruth Swanson,

and went on to earn his Bachelor of Science at the University of Delaware and his Master of Science and Doctor of Philosophy in Plant Pathology at North Carolina State College.

Don spent his entire 39-year career at the University of Delaware, working as a Professor, Vice President of University Relations and Business Management, Dean of the College of Agricultural Sciences and Director of the Agricultural Experiment Station. Don's academic and administrative contributions truly embodied the tradition of excellence held by our state's flagship university; his knowledge, his expertise, and his dedication enhanced the curriculum of the College of Agricultural Sciences, as well as its focus on service to the University and the broader community. Among the numerous academic and community awards he received are both the University of Delaware's Medal of Distinction and its Outstanding Alumnus Award, the Arthur Trabant Women's Equity Award, and the New Castle County and State of Delaware Farm Bureau Awards for Outstanding Service to Agriculture.

An integral part of our economy in Delaware, agriculture is ingrained in our state's history and Don's leadership and involvement in this issue has extended well beyond the walls of the University. As the first Chairman of the Delaware Farmland Preservation Foundation, Don fought to ensure that agriculture would always remain a part of the fabric of our culture. He sat on a number of boards—including those of the National Corn Breeders Association, the Delaware Agricultural Museum, the Delaware Nature Education Society, the Newark Senior Center, and Longwood Gardens—and was Chairman of the Coastal Zone Industrial Control Board under three different Governors. Moreover, because of Don's direct leadership in the preservation and permanent protection of more than 60,000 acres of Delaware farmland, former Governor Ruth Ann Minner declared July 26th, 2001 as Dr. Donald F. Crossan Day.

Don was a loving husband to his wife, with whom he enjoyed entertaining family and friends in the Swedish tradition. With Ruth at his side, their recent travel to Antarctica saw them reach their goal of visiting all seven continents. Don will be missed immensely by his wife and their family, including his sister, Delores, his children, Connie, Donna and Eric, grandchildren, great-grandchildren, and nieces and nephews.

We in Delaware are grateful for the contributions of Dr. Donald F. Crossan as both a scholar and dedicated community member, and I am honored to be able to recognize and pay tribute today to the life of such a good friend and leader.

HONORING THE LIFE OF WILLIAM F. McELROY, JR.

#### HON. STEVE COHEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 20, 2010

Mr. COHEN. Madam Speaker, I rise today to honor William McElroy, Jr., a man who contributed greatly to Memphis, Tennessee's busi-

ness and sports community. He was born in Memphis on May 19, 1929, to William and Kathryn McElroy. He graduated from Germantown High School in 1946 and later attended the University of Tennessee and Memphis State University—after which he enlisted in the U.S. Navy and served 46 months with two tours in Korea. Mr. McElroy then returned to Memphis and worked as President in his family business, McElroy Insurance Agency.

William McElroy, Jr. made many contributions to the Memphis sports community. In 1958, he was involved in the creation of the University of Memphis' Tigers Football booster club, the Highland Hundred, for which he served as President in 1963 and Chairman of the Board. In 1963, he co-founded the Memphis Chapter of the National Football Foundation and College Hall of Fame which recognizes top area high school and college football scholar-athletes. Mr. McElroy was a recipient of the National Football Foundation's "Distinguished American Award."

In the mid-1960s, Mr. McElroy was involved in the development of the Memphis Memorial Stadium which originally had a seating capacity of 50,160. In 1965, he was the driving force behind convincing Bud Dudley to move the Liberty Bowl from Atlantic City, New Jersey to the new stadium which was preparing for its grand opening. Mr. McElroy served as President in 1970 of the Liberty Bowl Festival Association and Chairman of the Board in 1971. The Liberty Bowl was such a success for Memphis that the stadium was renamed Liberty Bowl Memorial Stadium in 1976.

William McElroy, Jr. remained involved with the growth of the stadium for 30 years afterwards. Today, the Liberty Bowl Memorial Stadium, now called the AutoZone Liberty Bowl Stadium, has a seating capacity of over 61,000 and is home to the University of Memphis Tigers football team, the AutoZone Liberty Bowl and the Southern Heritage Classic.

Mr. McElroy's enthusiasm for sports also included baseball. He helped establish the Service Academy Spring Classic, a baseball tournament comprised of teams including the University of Memphis, the Air Force Academy, the Naval Academy and three other teams that changed yearly.

William McElroy, Jr. was active in numerous local organizations throughout his life. He served over 50 years in the Kiwanis Club where he was named "Kiwanian of the Year" and later served as President. Mr. McElroy was on the Board of Directors and Gala Committee for the Marguerite Piazza Gala, the longest-running annual charity event of its kind in Memphis that raises money for St. Jude Children's Research Hospital. He was also active in the President's Circle at Christian Brothers University, the Grand Krewe of RaMet of Carnival Memphis, the Kroger LeBonheur Senior Challenge and Lindenwood Christian Church.

William McElroy, Jr. passed away on May 16, 2010, at the age of 80. He is survived by his children Trip, Mary and Susan, all of whom worked at McElroy Insurance Agency with their father. Memphis mourns the loss of Mr. McElroy, Jr. who was a leader in the community continuously involved with its improvement and overall a really nice guy. Thank you, William McElroy, Jr., for coming our way.

HONORING MR. HILTON R. SEGLER

**HON. SANFORD D. BISHOP, JR.**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 2010*

Mr. BISHOP of Georgia. Madam Speaker, I rise today to honor Mr. Hilton R. Segler, a man I am proud to call my friend and constituent. He is an accomplished public servant who has devoted his life to his community, state and country.

Mr. Segler was born in Ozark, Alabama and moved to Albany, Georgia in 1948. He graduated from Albany High School and went on to pursue several correspondence degrees in Law and Business. In 1957, Mr. Segler started working for Southeastern Liquid Fertilizer in Albany, Georgia, and then served as the Assistant to the President of Planters Chemical Company in Virginia. He then moved back to Albany in 1964 to work for the Thompson/Hayward Chemical Company and was appointed Regional Manager for the company in 1981.

Mr. Segler also has served the TIDA Farm Service Center as a salesman; his sales exceeded \$1.5 million in his first year, and \$3 million in his second year, thus proving his acuity as a salesman. In the early 1990s he purchased a pecan farm and farmed over 1900 acres of pecan trees for almost 6 years. He later started a nickel nutrient supplement company named Nipan, LLC in 2003. Products from his company have gained tremendous popularity in the last few years and are shipped all over the United States.

In 2002, Mr. Segler, along with Bucky Geer and James Lee Adams, testified to the federal board at the Risk Management Agency on behalf of pecan growers. His undying efforts helped pecan growers across the United States attain crop insurance. Mr. Segler testified before the House and Senate Committees on Agriculture in an effort to obtain larger provisions for the pecan industry in the 2008 Farm bill. Consequently, pecans were included in the Country of Origin labeling requirements and also in the crop insurance program.

He also worked to expand pecan exports to China and other agricultural economies, by partnering with the United States Department of Agriculture and Georgia Department of Agriculture. He pushed for pecan farmers' participation in the Market Access program, a program that helps finance promotional activities for U.S. agricultural products.

In 2004, Hilton championed to obtain "clean up" assistance for pecan farmers who were hurt by hurricanes that devastated parts of Georgia and Alabama. Earlier this year, Mr. Segler testified before the House Agriculture Committee on the future of the pecan industry and the importance of nutrition and trade to this industry, for the 2010 Farm bill.

Madam Speaker, the State of Georgia, especially the Second Congressional District, and our nation are truly blessed to have benefited from the tremendous leadership of Mr. Hilton R. Segler. We greatly appreciate his compassion, his love and concern for the farmers of this State and of his intense desire to help others.

## HOUSE OF REPRESENTATIVES—*Friday, May 21, 2010*

The House met at 9 a.m. and was called to order by the Speaker.

### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: In You, Lord, we find the fullness of life. You guide us daily on the path that leads to salvation.

Send the power of Your Holy Spirit upon us, that this Congress will prove faithful to its constitutional commitments, and bring peace and security to the people of this Nation.

Empower Your people to do Your will so that we will place all the more our trust in You, now and forever.

Amen.

### THE JOURNAL

The SPEAKER pro tempore (Mr. DRIEHAUS). The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under clause 5(d) of rule XX, the Chair announces to the House that, in light of the resignation of the gentleman from Indiana (Mr. SOUDER), the whole number of the House is 431.

### ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. Monday next for morning-hour debate.

There was no objection.

Accordingly (at 9 o'clock and 4 minutes a.m.), under its previous order, the House adjourned until Monday, May 24, 2010, at 12:30 p.m.

### OATH FOR ACCESS TO CLASSIFIED INFORMATION

Under clause 13 of rule XXIII, the following Members executed the oath for access to classified information.

Neil Abercrombie\*, Gary L. Ackerman, Robert B. Aderholt, John H. Adler, W. Todd Akin, Rodney Alexander, Jason Altmire, Robert E. Andrews, Michael A. Arcuri, Steve Austria, Joe Baca, Michele Bachmann, Spencer Bachus, Brian Baird, Tammy Baldwin, J. Gresham Barrett, John Barrow, Roscoe G. Bartlett, Joe Barton, Melissa L. Bean, Xavier Becerra, Shelley Berkley, Howard L. Berman, Marion Berry, Judy Biggert, Brian P. Bilbray, Gus M. Bilirakis, Rob Bishop, Sanford D. Bishop Jr., Timothy H. Bishop, Marsha Blackburn, Earl Blumenauer, Roy Blunt, John A. Boccieri, John A. Boehner, Jo Bonner, Mary Bono Mack, John Boozman, Madeleine Z. Bordallo, Dan Boren, Leonard L. Boswell, Rick Boucher, Charles W. Boustany Jr., Allen Boyd, Bruce L. Braley, Kevin Brady, Robert A. Brady, Bobby Bright, Paul C. Broun, Corrine Brown, Ginny Brown-Waite, Henry E. Brown Jr., Vern Buchanan, Michael C. Burgess, Dan Burton, G.K. Butterfield, Steve Buyer, Ken Calvert, Dave Camp, John Campbell, Eric Cantor, Anh "Joseph" Cao, Shelley Moore Capito, Lois Capps, Michael E. Capuano, Dennis A. Cardoza, Russ Carnahan, Christopher P. Carney, André Carson, John R. Carter, Bill Cassidy, Michael N. Castle, Kathy Castor, Jason Chaffetz, Ben Chandler, Travis W. Childers, Judy Chu, Donna M. Christensen, Yvette D. Clarke, Wm. Lacy Clay, Emanuel Cleaver, James E. Clyburn, Howard Coble, Mike Coffman, Steve Cohen, Tom Cole, K. Michael Conaway, Gerald E. Connolly, John Conyers Jr., Jim Cooper, Jim Costa, Jerry F. Costello, Joe Courtney, Ander Crenshaw, Mark S. Critz, Joseph Crowley, Henry Cuellar, John Abney Culberson, Elijah E. Cummings, Kathleen A. Dahlkemper, Artur Davis, Danny K. Davis, Geoff Davis, Lincoln Davis, Susan A. Davis, Nathan Deal\*, Peter A. DeFazio, Diana DeGette, Bill Delahunt, Rosa L. DeLauro, Charles W. Dent, Theodore E. Deutch, Lincoln Diaz-Balart, Mario Diaz-Balart, Norman D. Dicks, John D. Dingell, Lloyd Doggett, Joe Donnelly, Michael F. Doyle, David Dreier, Steve Driehaus, John J. Duncan Jr., Chet Edwards, Donna F. Edwards, Vernon J. Ehlers, Keith Ellison, Brad Ellsworth, Jo Ann Emerson, Eliot L. Engel, Anna G. Eshoo, Bob Etheridge, Eni F.H. Faleomavaega, Mary Fallin, Sam Farr, Chaka Fattah, Bob Filner, Jeff Flake, John Fleming, J. Randy Forbes, Jeff Fortenberry, Bill Foster, Virginia Foxx, Barney Frank, Trent Franks, Rodney P. Frelinghuysen, Marcia L. Fudge, Elton Gallegly, John Garamendi, Scott Garrett, Jim Gerlach, Gabrielle Giffords, Kirsten E. Gillibrand\*, Phil Gingrey, Louie Gohmert, Bob Goodlatte, Charles A. Gonzalez, Bart Gordon, Kay Granger, Sam Graves, Alan Grayson, Al Green, Gene Green, Parker Griffith, Raúl M. Grijalva, Brett Guthrie, Luis V. Gutierrez, John J. Hall, Ralph M. Hall, Deborah L. Halvorson, Phil Hare, Jane Harman, Gregg Harper, Alcee L. Hastings, Doc Hastings, Martin

Heinrich, Dean Heller, Jeb Hensarling, Wally Herger, Stephanie Herseth Sandlin, Brian Higgins, Baron P. Hill, James A. Himes, Maurice D. Hinchey, Rubén Hinojosa, Mazie Hirono, Paul W. Hodes, Peter Hoekstra, Tim Holden, Rush D. Holt, Michael M. Honda, Steny H. Hoyer, Duncan Hunter, Bob Inglis, Jay Inslee, Steve Israel, Darrell E. Issa, Jesse L. Jackson Jr., Sheila Jackson Lee, Lynn Jenkins, Eddie Bernice Johnson, Henry C. "Hank" Johnson Jr., Sam Johnson, Timothy V. Johnson, Walter B. Jones, Jim Jordan, Steve Kagen, Paul E. Kanjorski, Marcy Kaptur, Patrick J. Kennedy, Dale E. Kildee, Carolyn C. Kilpatrick, Mary Jo Kilroy, Ron Kind, Peter T. King, Steve King, Jack Kingston, Mark Steven Kirk, Ann Kirkpatrick, Larry Kissell, Ron Klein, John Kline, Suzanne M. Kosmas, Frank Kratovil Jr., Doug Lamborn, Leonard Lance, James R. Langevin, Rick Larsen, John B. Larson, Tom Latham, Steven C. LaTourette, Robert E. Latta, Barbara Lee, Christopher John Lee, Sander M. Levin, Jerry Lewis, John Lewis, John Linder, Daniel Lipinski, Frank A. LoBiondo, David Loebsack, Zoe Lofgren, Nita M. Lowey, Frank D. Lucas, Blaine Luetkemeyer, Ben Ray Lujan, Cynthia M. Lummis, Daniel E. Lungren, Stephen F. Lynch, Carolyn McCarthy, Kevin McCarthy, Michael T. McCaul, Tom McClintock, Betty McCollum, Thaddeus G. McCotter, Jim McDermott, James P. McGovern, Patrick T. McHenry, John M. McHugh\*, Mike McIntyre, Howard P. "Buck" McKeon, Michael E. McMahon, Cathy McMorris Rodgers, Jerry McNerney, Connie Mack, Daniel B. Maffei, Carolyn B. Maloney, Donald A. Manzullo, Kenny Marchant, Betsy Markey, Edward J. Markey, Jim Marshall, Eric J.J. Massa\*, Jim Matheson, Doris O. Matsui, Kendrick B. Meek, Gregory W. Meeks, Charlie Melancon, John L. Mica, Michael H. Michaud, Brad Miller, Candice S. Miller, Gary G. Miller, George Miller, Jeff Miller, Walt Minnick, Harry E. Mitchell, Alan B. Mollohan, Dennis Moore, Gwen Moore, James P. Moran, Jerry Moran, Christopher S. Murphy, Patrick J. Murphy, Scott Murphy, Tim Murphy, John P. Murtha\*, Sue Wilkins Myrick, Jerrold Nadler, Grace F. Napolitano, Richard E. Neal, Randy Neugebauer, Eleanor Holmes Norton, Devin Nunes, Glenn C. Nye, James L. Oberstar, David R. Obey, John W. Olver, Pete Olson, Solomon P. Ortiz, William L. Owens, Frank Pallone Jr., Bill Pascrell Jr., Ed Pastor, Ron Paul, Erik Paulsen, Donald M. Payne, Nancy Pelosi, Mike Pence, Ed Perlmutter, Thomas S.P. Perriello, Gary C. Peters, Collin C. Peterson, Thomas E. Petri, Pedro R. Pierluisi, Chellie Pingree, Joseph R. Pitts, Todd Russell Platts, Ted Poe, Jared Polis, Earl Pomeroy, Bill Posey, David E. Price, Tom Price, Adam H. Putnam, Mike Quigley, George Radanovich, Nick J. Rahall II, Charles B. Rangel, Denny Rehberg, David G. Reichert, Silvestre Reyes, Laura Richardson, Ciro D. Rodriguez, David P. Roe, Harold Rogers, Mike Rogers (AL-03), Mike Rogers (MI-08), Dana Rohrabacher, Thomas J. Rooney, Peter J. Roskam, Ileana Ros-Lehtinen, Mike Ross, Steven R. Rothman, Lucille Roybal-Allard, Edward R. Royce, C.A. Dutch Ruppersberger, Bobby L. Rush, Paul Ryan, Tim Ryan, Gregorio Sablan, John T. Salazar,

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Linda T. Sánchez, Loretta Sanchez, John P. Sarbanes, Steve Scalise, Janice D. Schakowsky, Adam B. Schiff, Jean Schmidt, Aaron Schock, Kurt Schrader, Allyson Y. Schwartz, David Scott, Robert C. "Bobby" Scott, F. James Sensenbrenner Jr., José E. Serrano, Pete Sessions, Joe Sestak, John B. Shadegg, Mark Shauer, Carol Shea-Porter, Brad Sherman, John Shimkus, Heath Shuler, Bill Shuster, Michael K. Simpson, Albio Sires, Ike Skelton, Louise McIntosh Slaughter, Adam Smith, Adrian Smith, Christopher H. Smith, Lamar Smith, Vic Snyder, Hilda L. Solis\*, Mark E. Souder, Zachary T. Space, Jackie Speier, John M. Spratt Jr., Bart Stupak, Cliff Stearns, John Sullivan, Betty Sutton, John S. Tanner, Ellen O. Tauscher\*, Gene Taylor, Harry Teague, Lee Terry, Bennie G. Thompson, Glenn Thompson, Mike Thompson, Mac Thornberry, Todd Tiahrt, Patrick J. Tiberi, John F. Tierney, Dina Titus, Paul Tonko, Edolphus Towns, Niki Tsongas, Michael R. Turner, Fred Upton, Chris Van Hollen, Nydia M. Velázquez, Peter J. Visclosky, Greg Walden, Timothy J. Walz, Zach Wamp, Debbie Wasserman Schultz, Maxine Waters, Diane Watson, Melvin L. Watt, Henry A. Waxman, Anthony D. Weiner, Peter Welch, Lynn A. Westmoreland, Robert Wexler\*, Ed Whitfield, Charles A. Wilson, Joe Wilson, Robert J. Wittman, Frank R. Wolf, Lynn C. Woolsey, David Wu, John A. Yarmuth, C.W. Bill Young, Don Young

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

7613. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Noxious Weeds; Old World Climbing Fern and Maidenhair Creeper [Docket No.: APHIS-2008-0097] received May 4, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7614. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Service Contract Surveillance (DFARS Case 2008-D032) (RIN: 0750-AG49) received April 29, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

7615. A letter from the Under Secretary, Department of Defense, transmitting the Department's quarterly report entitled, "Acceptance of contributions for defense programs, projects, and activities; Defense Cooperation Account", for the period ending March 31, 2010, pursuant to 10 U.S.C. 2608; to the Committee on Armed Services.

7616. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Regulatory Reporting Requirements for the Indian Community Development Block Grant Program [Docket No.: FR-5232-F-02] (RIN: 2577-AC79) received May 11, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7617. A letter from the Deputy to the Chairman for External Affairs, Federal Deposit Insurance Corporation, transmitting

the Corporation's final rule — Amendment of the Temporary Liquidity Guarantee Program To Extend the Transaction Account Guarantee Program With Opportunity To Opt Out (RIN: 3064-AD37) received May 11, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7618. A letter from the Assistant Deputy Secretary for Safe and Drug-Free Schools, Department of Education, transmitting the Department's final rule — Emergency Management for Higher Education Grant Program received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

7619. A letter from the Acting Director, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits received May 11, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

7620. A letter from the Assistant General Counsel for Regulatory Affairs, U.S. Consumer Product Safety Commission, transmitting the Commission's final rule — Civil Penalty Factors received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7621. A letter from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting report prepared by the Department of State concerning international agreements other than treaties entered into by the United States to be transmitted to the Congress within the sixty-day period specified in the Case-Zablocki Act; to the Committee on Foreign Affairs.

7622. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a report detailing the activities of U.S. mentors and trainers as they relate to the progress of current police training programs in Afghanistan, pursuant to Public Law 110-53; to the Committee on Foreign Affairs.

7623. A letter from the Secretary, Smithsonian Institution, transmitting a copy of the Institution's audited financial statement for fiscal year 2009, pursuant to 20 U.S.C. 57; to the Committee on Oversight and Government Reform.

7624. A letter from the Assistant Secretary — Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Update of Revised and Reaffirmed Documents Incorporated by Reference [Docket ID: MMS-2008-OMM-0044] (RIN: 1010-AD54) received April 29, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7625. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries in the Western Pacific; Hawaii Bottomfish and Seamount Groundfish Fisheries; Fishery Closure (RIN: 0648-XU60) received April 26, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7626. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Tax Treatment of Health Care Benefits Provided With Respect to Children Under Age 27 [Notice 2010-38] received April 29, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7627. A letter from the Secretary, Department of Transportation, transmitting report entitled "Transportation's Role in Reducing U.S. Greenhouse Gas Emissions"; jointly to the Committees on Transportation and Infrastructure and Energy and Commerce.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SKELTON: Committee on Armed Services. H.R. 5136. A bill to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, to prescribe military personnel strengths for such fiscal year, and for other purposes; with amendments (Rept. 111-491). Referred to the Committee of the Whole House on the State of the Union.

#### MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

291. The SPEAKER presented a memorial of the House of Representatives of the State of Louisiana, relative to House Concurrent Resolution No. 109 memorializing the United States Congress to take such actions as are necessary to enact legislation that will result in meaningful reforms to the regulation of the financial services industry; to the Committee on Financial Services.

292. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Concurrent Resolution No. 32 supporting efforts whether state, local or private, to utilize outreach methods to contact, counsel, and refer veterans and their family members; to the Committee on Veterans' Affairs.

#### PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

132. The SPEAKER presented a petition of Kent City Council, Washington, relative to Resolution No. 1824 urging the Congress to appropriate sufficient funds to provide for interim and permanent repairs to the Howard Hanson Dam; to the Committee on Appropriations.

133. Also, a petition of American Bar Association, Illinois, relative to Resolution 107 urging the Congress to enact legislation that would provide more effective remedies, procedures and protections to those subjected to pay discrimination; jointly to the Committees on the Judiciary and Education and Labor.

134. Also, a petition of American Bar Association, Illinois, relative to Resolution 102A urging federal, state, territorial and local governments to increase the opportunities of youth involved with the juvenile or criminal justice systems; jointly to the Committees on the Judiciary and Education and Labor.

## EXTENSIONS OF REMARKS

HONORING JEANETTE ELDRIDGE  
ON THE OCCASION OF HER RE-  
TIREMENT FROM 42 YEARS OF  
FEDERAL SERVICE

**HON. GLENN C. NYE**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 21, 2010*

Mr. NYE. Madam Speaker, I rise today to honor my constituent, Ms. Jeanette Eldridge, of the Naval Criminal Investigative Service (NCIS). Ms. Eldridge is retiring from the U.S. Government with 42 years of service, 32 of those years with NCIS. She started her career with NCIS as a Support Services Clerk (Typing) and has risen steadily through the ranks to her current leadership position as the Field Office Support Officer (FOSO) of the Norfolk Field Office.

Ms. Eldridge has set an outstanding example for government service. She has exceptional technical skills in many areas and a calm and graceful leadership style that make her a role model. She is a proactive manager and sets the standard by which others are measured. She is amazingly effective, while being a careful steward of the public's resources and trust. On behalf of the United States Government, I congratulate Jeanette on her well-deserved retirement and thank her for her service.

TRIBUTE TO MR. JOSEPH W.  
LUTER III

**HON. J. RANDY FORBES**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 21, 2010*

Mr. FORBES. Madam Speaker, I rise today to pay tribute to Mr. Joe Luter, on the occasion of his life-long dedication and contributions to Smithfield and Isle of Wight County, Virginia.

Mr. Luter's commitment to the community he has called home for more than 70 years cannot be overstated. As a family man, business owner, community leader and philanthropist, his impact on the lives of thousands of people has been measurable and meaningful.

Mr. Luter graduated from Smithfield High School and went on to attend Wake Forest University, where he graduated from in 1962. Upon his graduation from college, he returned home to work in the family business, Smithfield Packing Company, and served as its president until 1970. After moving to Bayse, Virginia and developing Bryce Mountain Resort, Mr. Luter returned to Smithfield in 1975 as Chairman of the Board and CEO of Smithfield Foods, Inc., where he held that position until 2006.

Under his leadership, Smithfield Foods, Inc. has become a \$12.5 billion company that employs over 52,000 people world-wide. Mr. Luter's love for people and his community led to his creation of the Smithfield-Luter Foundation in 2002. In 8 short years, it has granted 74 scholarships worth over \$800,000. In addition, it donated \$5 million in 2005 to Christopher Newport University, an institution located just a few miles away from the town of Smithfield. In 2006, the Foundation announced a \$5 million gift for cancer research and treatment to the University of Virginia Health System in honor of longtime Smithfield employee Palmer Weber.

Tomorrow, the citizens of Smithfield and Isle of Wight County will honor Mr. Luter at the Grand Opening Dedication of Windsor Castle Park, a 210 acre riverside park located in the heart of downtown Smithfield. Mr. Luter's generous contribution made possible the purchase of 162 acres of farmland and development of the park, which he subsequently donated to the Town of Smithfield. Another 46 acres was gifted to the town by Mr. and Mrs. Lewis McMurrin. The park includes a woodland trail system, picnic and play areas, a dog park, kayak and canoe launch, scenic overlook and the Windsor Castle Historic Site.

Madam Speaker, please join me and the citizens of Smithfield and Isle of Wight in offering our sincere gratitude to Mr. Luter for his exemplary service and commitment to his community.

THE FIRST ANNIVERSARY OF THE  
END OF THE SRI LANKAN CIVIL  
WAR

**HON. DAVID E. PRICE**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 21, 2010*

Mr. PRICE of North Carolina. Madam Speaker, I rise today to remember the end of Sri Lanka's civil war and call attention to the continued plight of the thousands of Sri Lankans who have been affected by the conflict.

One year ago this week, after more than 25 years of violence, the Sri Lankan military declared victory in its major military offensive against the Liberation Tigers of Tamil Eelam (LTTE). In so doing, it brought an end to one of the most devastating civil wars of the century, offering the Sri Lankan people hope of a brighter future characterized by peace, reconciliation, and economic prosperity for all citizens.

Unfortunately, this hope has yet to be realized. The Sri Lankan military's final offensive against the LTTE left hundreds of thousands of civilians—most of them Tamils—dislocated, deprived of basic necessities, and without effective legal or political recourse. Since the

end of the conflict, the Sri Lankan government has blatantly and repeatedly defied the demands of the international community and commonly accepted norms of justice and human rights by failing to reintegrate large numbers of Tamil citizens, denying access by journalists and humanitarian organizations to conflict-affected areas, and detaining former combatants indefinitely.

It has also become apparent that the Sri Lankan military may have committed serious abuses during the fighting itself, including the indiscriminate shelling of areas designated as civilian safe zones. A growing number of respected human rights organizations—including the International Crisis Group, Amnesty International, and Human Rights Watch—have called for an independent international investigation into potential war crimes, yet the Sri Lankan government has yet to open any meaningful inquiry into the allegations.

On this anniversary of the end of the civil war, I call on the government of Sri Lanka to act earnestly and expeditiously to grant safe passage home to the approximately 80,000 Tamil civilians who remain confined to camps, provide ex-combatants with appropriate legal recourse and a path toward reintegration, and end its restrictions on humanitarian and media organizations. It is also past time for the international community to pursue real accountability, including a credible, independent investigation into the potential abuses committed during the 2009 conflict. I urge the Obama Administration to play a leading role in this effort by calling for an investigation at the United Nations and maintaining current restrictions on U.S. foreign assistance to Sri Lanka until the government has demonstrated credible progress toward meeting the international community's demands.

If we do not act soon, this moment of opportunity for lasting peace, justice and reconciliation—which seemed so promising one year ago—may slip away forever.

### PERSONAL EXPLANATION

**HON. GEOFF DAVIS**

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 21, 2010*

Mr. DAVIS of Kentucky. Madam Speaker, on Thursday, May 20, 2010, I was unable to participate in all of the day's votes due to a family emergency.

Had I been present I would have voted: on rollcall No. 289, "yes", H. Res. 1363, Granting the authority provided under clause 4(c)(3) of rule X of the Rules of the House of Representatives to the Committee on Education and Labor for purposes of its investigation into underground coal mining safety; on rollcall No.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

290, "yes", H.R. 5128, To designate the Department of the Interior Building in Washington, District of Columbia, as the "Stewart Lee Udall Department of the Interior Building."

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ENDANGERED SPECIES DAY

**HON. ALCEE L. HASTINGS**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 21, 2010*

Mr. HASTINGS of Florida. Madam Speaker, I rise today to celebrate Endangered Species Day. I hope that events around the country continue to be successful. It is important to shed light on success stories about recovering species and the importance of continued protection of those at risk.

The protection of endangered species has become increasingly relevant in our country and around the world in the past century. In the early 1970s, Congress passed the Endangered Species Act to protect plant and animal life from reaching the brinks of extinction. This

act has been further developed and amended since its original enactment to protect and preserve more species and the habitats they depend on.

To date, the Endangered Species Act has shown great progress and results. Almost 50 species have been recovered and delisted, while 23 other species have been reclassified from endangered to threatened. According to the U.S. Fish and Wildlife Service, the Endangered Species Act has saved more than 99 percent of its listed species from extinction.

Endangered Species Day was created in 2006 to recognize the national conservation effort to protect our nation's endangered species and their habitats. Local zoos, schools, libraries, museums, and community organizations around the country have taken the opportunity to host educational activities and events to generate awareness about the importance of protecting endangered species worldwide.

In spite of these successes, we are still losing species at alarming rates. Worldwide, more than 16,000 species are threatened with extinction. Up to one-third of U.S. species are

at increased risk of extinction, and more than 1,300 U.S. plants and animals have already been federally listed as threatened or endangered, and protected under the Endangered Species Act.

As a Floridian, I am particularly concerned about endangered species in the Everglades. Florida has the third highest number of endangered species in the nation. Of the 108 species listed under the Endangered Species Act throughout Florida, 65 of them are located in the Everglades. If we do not act fast, we may lose some of our most incredible species, such as the Florida panther, the woodrat and the manatee.

Madam Speaker, it is crucial to protect the diversity of our planet's species and educate ourselves about the issues and challenges affecting these species and their habitats. Wildlife conservation must continue to be one of our top priorities. I urge my colleagues to join me in celebrating Endangered Species Day and continuing to promote wildlife conservation.